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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Saturday, July 21, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, we know not what a day may bring; but we know who rules supreme, unchangeable, ever present. We pray for all people in the service of our country—the President, the Congress, our diplomats, judges, and persons in the military forces. By Thy strength and in Thy spirit help each one to do his best. Keep us temperate and truthful in speech, faithful and diligent in work, honorable and generous in dealing with others, loyal to every hallowed memory, and mindful of our eternal destiny. We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 21, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader (Mr. CRANSTON) is recognized.

THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I reserve the remainder of the leader's time at this point.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader (Mr. STEVENS) is recognized.

THE SENATE PARLIAMENTARIAN

Mr. STEVENS. Mr. President, I think the Senate should thank the Parliamentarian for lighting up the Senate Chamber so well this morning.

It is difficult to come to work this early on Saturday morning. Some of us had a little difficulty opening our eyes. I certainly did not have any difficulty after I looked twice in his direction.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. STEVENS. I am happy to.

Mr. PROXMIRE. I would like to point out the Parliamentarian seems to be a beneficiary of Gale McGee's generosity.

Gale was here the other day. It is good to see that at least his clothing is still lighting up the Senate.

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair in its capacity as Senator from Vermont remarks that it is easier proceeding at this hour with the bright beacon represented by the Parliamentarian's multicolored attire. It makes it easier to look beyond the table to my distinguished colleagues who blend into somewhat of uniformity by comparison.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I am glad to give such time as the Senator from Wisconsin may need of the majority leader's time.

Mr. PROXMIRE. I thank my friend.

INTENT, NOT NUMBERS, IS THE CRUCIAL FACTOR

Mr. PROXMIRE. Mr. President, the Convention on the Prevention and Punishment of the Crime of Genocide is a noble effort on an international scale that warns unambiguously that crimes of genocide will not be overlooked. The Genocide Treaty seeks to clarify the very difficult problem of what actually constitutes an act of genocide. It also addresses the issue of how to handle those accused of committing genocide.

As would be expected, there has been a great deal of discussion concerning the provisions of the treaty and in particular article II. The particular point in question I will address today is the question of whether or not the phrase "in whole or in part" of article II is ambiguous to the point of being meaningless as has been charged by critics of the treaty.

In discussing this issue, the problem seems to stem from taking the phrase out of context.

The question is not really a question of what percentage of the group must be killed before a crime of genocide is committed. Rather, the "in whole or in part" clause is an explanatory phrase.

Its purpose is to make it clear that the entire group does not have to be killed for a crime of genocide to have been committed. Not "how many" but "intent" is the critical element.

If there was intent on the part of the accused to destroy the whole group but in fact he killed only a few members, he would be guilty of genocide.

There is no ambiguity here.

Of course if intent to destroy the whole group could not be proven, it is also clear under article II that no crime of genocide would have been committed.

The focus is clearly not on how many are killed, but whether or not "intent" can be proven.

Mr. President, I think it is important the Senate ratify this treaty and ratify it now. The treaty has been discussed, explained, and clarified time and again. Ratification by the Senate remains the only action consistent with the merits and provisions of the Genocide Treaty.

I thank the distinguished Senator from California for so graciously yielding me time.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. CRANSTON. Mr. President, I reserve the remainder of the majority leader's time.

Mr. STEVENS. Mr. President, I believe there is a request for the minority

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

leader's time, and I would like to reserve the remainder of my time until the completion of the standing order of the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR WEICKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

PRESIDENT CARTER'S ADDRESS

Mr. WEICKER. Mr. President, I listened to Mr. Carter's address last Sunday night, as I am sure most of you did, and I think I have discovered the secret of his public philosophy. He has gone around Lincoln's observation that you can fool all of the people some of the time and some of the people all of the time, but not all of the people all of the time, to the conclusion that it is only necessary to fool a plurality every 4 years. He did it in 1976, and we are being set up for a replay next year.

Jimmy Carter, we have to believe, took his best shot last Sunday night. And typically, he did not aim at the problem, he did not shoot for an energy program that makes sense, he did not target the overall problems of a gravely mismanaged economy—no, he drew a bead on another scapegoat. In the campaign in 1976, it was the Congress, and it was the bureaucracy, and it was the professional politicians. After he got in office, it was the special interest groups, and the oil companies, and then it was the press, then the doctors, then the lawyers, and then the American people and finally, his own Cabinet. Scapegoating helped him into office, but it could not help him govern, and the more he sought to destroy confidence in legitimate public institutions, the more he destroyed confidence in himself until, finally, he had sqandered the power of his office and had, for all practical purposes, ceased to be President.

This left him with the choice of resigning, as some have suggested he do—including John Roche, the former head of Americans for Democratic Action—or launch one more Rafshoon balloon to see if the public's tolerance could be taken just a little more advantage of.

His aides suggested that OPEC should be the scapegoat this time out, but Jimmy had bigger ideas. This time he chose nothing less than the American people themselves. And the choice has a kind of predictable perverse logic to it: Three years ago Mr. Carter traveled the country promising a government as good as the American people. Having failed miserably, he came last week to tell us that the American people are not good enough. They lacked confidence in themselves. After telling us that we are losing our grip as a people, he then paused, gave us his pious little smile, and asked us all to say something nice about America.

Just to be evenhanded, he followed up by throwing in his Cabinet. Disloyal, he said. Well, he picked them. And I think what bothers him is that some of them are being loyal to the taxpayers who pay their salary and not worrying about covering Carter's mistakes.

So there it all was last Sunday, with a handy list of endorsements to quote—Ms. R. J. from Bayonne writes "* * * The way they used to advertise Carter's Little Liver Pills, except now it was Carter's Little Presidency." There it all was, sly little formulations which appeared to be self-criticism and turned out to be upside down compliments: "You're not leading the country, Mr. President, you're only managing the Government."

Wrong! Wrong! Managing the Government is leading the country. And Mr. Carter is by no stretch of anybody's imagination managing the Government. He cannot even manage the White House, much less the whole Government.

If any single thing needed to be done last Sunday once and for all, it was to announce an energy program, not to announce the latest excuse for failure. And we did not get an energy program.

With a look of grim determination, pounding his little fist on the desk, he declared that we would never import more oil than we did in 1977. Well, hell, we know that 1977 was the peak year, and our imports have been declining since then; they were down in 1978, and the projection is that they will be further down this year. That is just playing on what he thinks is the Nation's ignorance.

We are not where we are because people do not have confidence in themselves; the problem is that they do not have confidence in Mr. Carter. And it is compounded by the fact that Mr. Carter does not have confidence in the American people or the basic institutions of either the private or the public sector.

Jimmy Carter represents the one soft spot in our Presidential system, and that is that we have no way of removing a President who lacks the capacity for the job unless he is at the point where he has to be chased down with a net. If this were a parliamentary system, with the Nation's lack of confidence in him and his party's lack of confidence in him, he would have been removed long ago. If he were the chief executive of a corporation, he would have been retired long ago. Neither option is available to us, and we are suffering for it as we suffered in 1974.

There is an alternative, however, and it relies not on institutional means, but on the man himself. I do not suggest that Mr. Carter resign. His ego would not permit it. But there is a middle ground between resignation and running for office again, and that is to take himself out of consideration for the Democratic nomination so that he can put the Nation's energy and economic problems ahead of his own political problems.

I think if he took that step, and gave that evidence of good faith and selflessness, then he could gather the guidance and support necessary to restore the Nation, to solve the difficulties he has created, and to get started on dealing with the intrinsic difficulties which he inherited.

Lyndon Johnson took this step in 1968 in a vain but noble effort to end the controversy surrounding himself and to devote himself full time to ending the Vietnam war. He set a precedent for selflessness in troubled times, and proved that even a strong President may be overwhelmed by difficulties. How much more essential is it that a weak President have the courage to confront reality and make an accommodation with it. I see no alternative to it.

The results of the President's last and best effort to restore his authority are in, and they confirm that the only course left to him is to reduce the extent to which he is a national liability. His speech and his actions produced an insignificant increase in his popularity in the polls. The dollar dropped and gold went over $300 an ounce. Foreign governments are holding their breath, waiting for the last act. The stock market dropped. And we got a little bread-and-butter note from the Saudi's as a way of telling Jimmy they are the only real friends he has left, for which he is foolishly grateful.

In short, the world and the Nation are underwhelmed. And Mr. Carter's response to it all has been to make his campaign chief his Chief of Staff. It will not do. It just will not do at all.

QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I yield back the remaining time of the majority.

Mr. HEINZ. Mr. President, I yield back the remaining time of the minority.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:40 a.m. with statements therein limited to 2 minutes each.

Mr. CRANSTON. Mr. President, if there be no further morning business I suggest we end that period and go to the bill.

IF WE CAN GO TO THE MOON * * *

Mr. BAKER. Mr. President, yesterday the American people celebrated the 10th anniversary of our Nation's greatest technological triumph—the landing of American astronauts on the Moon.

That surpassing achievement—that combination of organizational and technical genius with the courage of the human spirit—has led us in our time to believe that "if we can go to the Moon," we can do anything.

I believe that to be true, Mr. President. I believe the capacity of the American people to set goals for themselves and then to reach them—no matter what the odds against them—is what sets this Nation apart from all others.

It is this capacity which has won us our independence, which helped us conquer a wilderness continent, which helped us to go to the Moon. This capacity in our people is undiminished by time or circumstance, and waits only for the inspiration and the new goal.

Space exploration itself has reserved for our generation a special place in the history of mankind. It may well define our most important and enduring contribution to that history. Having set the Nation on course to a new and endless frontier, we have laid a foundation on which a hundred generations can build.

The distinguished gentleman from New Mexico, Mr. SCHMITT, is one of the handful of men who have walked the barren plains of the Moon and into the history of our country and our human race.

On the 10th anniversary of man's first landing on the Moon, Senator SCHMITT has proposed exciting new objectives for space exploration, through the end of this century.

I believe each of my colleagues will find Mr. SCHMITT's vision compelling and his timetable invigorating. I ask unanimous consent that his article entitled "Space Is Our Destiny," which appeared in Friday's Washington Star, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPACE IS OUR DESTINY

(By HARRISON SCHMITT)

I would like to tell you about a place I have seen: a valley on the moon known as the Valley of Taurus-Littrow. Taurus-Littrow is a name not chosen with poetry in mind; but, as with many names, the mind's poetry is created by events. Events surrounding not only three days in the lives of three men, but also the close of an unparalleled era in human history.

The Valley of Taurus-Littrow is confined by one of the most majestic panoramas within the view and experience of mankind. The roll of dark hills across the valley floor blends with bright slopes that sweep evenly upwards, tracked like snow, to the rocky tops of the massifs. The valley does not have the jagged youthful majesty of the Himalayas or the glacially symmetrical fjords of the north countries or even the now intriguing rifts of Mars. Rather, it has the subdued and ancient majesty of a valley whose origins appear as one with the sun.

The valley has watched the unfolding of thousands of millions of years of time. Now it has dimly and impermanently noted man's homage and footprints. Man's return is not the concern of the valley ... only the concern of man.

Those words, spoken before the House of Representatives in 1973, expressed my thoughts after returning from the moon. They set part of the stage for my views on future space policy.

The main thrust of what must be this nation's space policy can be summarized in one phrase: Our destiny is space.

The expansion of human activities in space is of fundamental significance to the history of our civilization. We are lucky that it is our destiny to be the vanguard for the movement of both routine and unimaginable activities into outer space; to be the first truly spacefaring nation.

Can anyone imagine what awaits us in space? Did the Europeans really know how the "New World" would benefit them? Did Jefferson do a cost/benefit analysis of the Louisiana territory? In these instances the leaders realized that there were opportunities for social and economic benefits in the new territories, even though they could not quantify those benefits or even perceive most of them. We need an aggressive space policy to expand our opportunities for such benefits in space.

My proposed policy entails a number of goals. The first involves the development of a world information system. The second is the establishment of orbital enterprise facilities and the third is a second period of solar system exploration by man.

A world information system can be seen within the context of our private enterprise system. We must find ways to provide incentives to expand private enterprise in outer space, to smooth the way so that government space and aeronautics research can be integrated into the private sector.

My second goal is by the year 2000 to create the basic facilities necessary for orbital enterprise activities, such as education, health care, manufacturing and solar power utilization. Permanent facilities in orbit will help alleviate many problems facing this nation and provide many new opportunities. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations.

Many in this country, particularly young Americans, have an increasing awareness of outer-space activities and how they can be exciting and how they can benefit society. They accept the vision.

This leads me to my third goal which is, by the year 2010, for the United States to undertake further solar system exploration, which includes a base for research and test activities on the moon. A lunar base would permit us to develop and test the systems necessary to sustain a permanent mining, agricultural and research settlement. And other exploratory missions may be more economically staged from the moon.

These directions are part of an aggressive space policy which reflects our destiny in space. What is needed is a space policy of support for such activities.

The greatest of all accomplishments that we can achieve in our lifetime is to assure our children of their destiny in space.

BROCK ADAMS—SECRETARY OF TRANSPORTATION

Mr. BAYH. Mr. President, I have always felt that it was the responsibility of a President of the United States to run the executive branch of our Government. As impossible as that job is, it is critically important for the legislative branch to give great leeway to the President in the choice of those Cabinet and other executive officials that he gathers around him and on whom he must rely to run the Government.

I frankly believe at this particular time, when changes are being made, I have no desire to comment on the wisdom of these particular changes, trusting that if the President feels a greater degree of confidence in those he chooses he should be given this leeway and we should support him and hope the decisions are right.

I would like to say, however, Mr. President, that, having had the opportunity over the past few years to have the privilege of chairing the Senate Subcommittee on Transportation, I have considered it a real privilege to have the opportunity to serve with and work with a former colleague from the House of Representatives, who was chosen by President Carter to serve as Secretary of Transportation. I am speaking, of course, of Secretary Brock Adams.

In my judgment, he has done a remarkable job over the past 2½ years in addressing the many complex transportation issues facing this Nation in an aggressive and forthright way. He has demonstrated outstanding leadership in championing the accessibility needs of our elderly and handicapped citizens, the merits of a modern and fully functional public transportation system, the need to stick by and improve upon our previous commitments to make automobiles as fuel efficient and nonpolluting as possible, enhanced safety in all modes of transportation, and regulatory reforms which make sense for a major portion of our country's transportation system.

Mr. President, I have not always agreed with the Secretary of Transportation, my friend, Brock Adams, on every issue. But I must say, as chairman of the Appropriations Subcommittee on Transportation, I always found Secretary Adams to be a strong and eloquent spokesman for the President's policy.

When he found his personal views on funding levels and policy matters overridden by the President's need to balance our transportation spending with the overall Federal budget, Brock was insistent that we should keep the

DOT budget at or near the President's request. We have done that each year that I have chaired the subcommittee and I hope to be able to do so this year.

Brock Adams will be sorely missed in the coming months, and I hope he will keep in close touch with those of us who have responsibilities on transportation issues as legislation is moving through the Senate. The President will not easily find a successor to Brock Adams who is dedicated, enthusiastic and able to do the job. It is important that the momentum that Secretary Adams and the administration have obtained on many important transportation issues not be lost at this very critical time in our Nation's struggle to become more energy independent and as we attempt to help control inflation through wiser transportation priorities and less burdensome regulatory policies.

In the Congress and the Cabinet, Brock Adams has been a man of conscience, a dedicated American who has served his country with distinction. I am proud to call him my friend.

CONCLUSION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXPORT ADMINISTRATION ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 737 which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 340.

Who yields time?

Mr. STEVENSON. Mr. President, I ask that this statement be taken from the time on the bill and not on the amendment that is now pending.

The ACTING PRESIDENT pro tempore. The Senate has that right. It will be.

Mr. STEVENSON. Mr. President, S. 737 is necessary to extend and revise authority to control U.S. exports and to authorize appropriations to meet the expenses of administering export controls. The existing authority which is provided in the Export Administration Act of 1969 expires September 30.

S. 737 would establish a new export control statute, the Export Administration Act of 1979, superseding the 1969 act. S. 737 incorporates many provisions of the 1969 act, but also makes extensive improvements to insure that export control authority is exercised with maximum efficiency and controls confined to those necessary to achieve important national purposes.

Mr. President, this legislation is one product of a year long study of U.S. export policy by the Subcommittee on International Finance. The subcommittee report based on that study concluded that:

> Delays in export licensing decisions * * * are a significant cause of U.S. export loss. * * * Because U.S. licensing policy is often unclear, foreign purchasers come to regard the U.S. as an unreliable supplier. In areas of rapidly expanding technology, the control levels should be revised more frequently. Too often the Commerce Department responds to a rapidly evolving state of the art around the world only when deluged by license applications which should not have been required in the first place. If the Executive departments will not devise a more efficient way to provide essential monitoring and control without excessive disruption of U.S. exports, Congress must.

Mr. President, the U.S. trade deficit continues to set records. The United States has now run a trade deficit each month for the past 36 months. There is no end in sight, and imported oil is only part of the problem.

The United States is becoming less competitive at home and abroad. In 1975 the Nation had a $20 billion trade surplus in manufactured goods; last year it ran a $5.8 billion defict. Other nations more dependent on imported oil run trade surpluses. They go all out to beat us, and they win.

A factor in declining U.S. competitiveness is Government restriction of U.S. exports. U.S. exporters face export license controls, antitrust, antibribery, antiboycott, antinuclear proliferation, human rights, environmental reviews and other restrictions not faced by foreign competitors. We are the only nation in the world which treats exports as a favor to bestow upon worthy foreigners rather than an essential contribution to our economic well-being.

S. 737 is an important step in the development of a national export policy. It can become a symbol of our willingness to revamp our laws to meet the competitive challenge without sacrificing other major objectives.

Mr. President, S. 737 would establish an export control policy which protects vital security and foreign policy interests without unnecessarily restricting U. S. exports. It would reduce the number of controlled items and focus national security controls on technologies and related products critical to military systems. It would set criteria which the President must consider before imposing export controls for foreign policy purposes. It would reduce paperwork by establishing licenses under which multiple shipments could be made to a specified purchaser for a stated end use. It would expedite interagency review by requiring agreement in writing on types and categories of applications requiring interagency referral and setting a 30-day deadline for returning comments to the Commerce Department. It would insure final decisions on all applications within a maximum of 180 days.

The bill is lengthy. I will not take up the time of the Senate to go through each provision. Senate Report 96–169 contains a thorough description of the provisions of S. 737. I will mention only a few key provisions.

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every 3 years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology, and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited, to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred.

As the committee noted in its report on S. 737:

> The number of license applications received by the Department of Commerce is expanding rapidly, nearing an annual level of 80,000 applications per year. The increased applications reflect a failure to prune the control lists and to concentrate licensing requirements where they can be most effective. The Defense Science Board Task Force on Export of U.S. Technololgy recommended, in a report released February 27, 1976, that export controls for national security purposes be focused upon retarding transfers of technology which could significantly enhance the military capacity of potential adversaries. The Task Force report suggested that other controls, particularly on end products, could be reduced once effective controls on the transfer of militarily critical technology were in place. Three years after the Task Force report, a critical technology approach has still to be devised and implemented. Failure to implement the Task Force report could result in controls which limit some exports unnecessarily while controlling insufficiently other exports which could be seriously detrimental to national security.

Mr. President, S. 737 provides the statutory basis for implementing the critical technologies approach recommended in the report of the Defense Science Board Task Force.

S. 737 also sets forth criteria to be considered by the President when imposing export controls for foreign policy purposes, including:

First. Alternative means to further the foreign policy purposes in question;

Second. The likelihood that foreign competitors will join the United States in effectively controlling the exports in question;

Third. The probability that such controls will achieve the intended foreign policy purpose;

Fourth. The effect of such controls on U.S. exports, employment and production and on the international reputation of the United States as a supplier of goods and technology;

Fifth. The reaction of other countries to the imposition or enlargement of such export controls by the United States; and

Sixth. The foreign policy consequences of not imposing controls. The bill provdies that the President shall report to Congress his reasons for imposing such controls, and that such controls must be reconsidered annually.

No aspect of U.S. export controls policy received sharper criticism during committee and subcommittee hearings than controls maintained for foreign policy purposes. Former Under Secretary of State George Ball testified that "such controls should be used very sparingly."

Former Under Secretary of Defense David Packard testified:

> I do not believe these unilateral constraints are effective in changing the policies or the behavior of the targeted countries. In fact, I think the only thing such policies do is to guarantee the loss of business for the United States.

Former Secretary of State Dean Rusk testified that the United States should reconsider its attitude toward the use of export controls for foreign policy purposes:

> We should begin by reminding ourselves that trade occurs when it is of benefit to both parties. When we refuse to trade for security or political reasons, we should recall that we are depriving ourselves of the benefits of that trade, whether in the form of convertible currencies or goods and services which we ourselves need for our own national life. I would strongly advise against a drift into self-imposed economic isolationism by weighing trade in terms of approval or disapproval of the institutions of other trading nations.

Uncertainty over U.S. policy toward the use of export controls for foreign policy purposes has discouraged potential exports and tarnished the reputation of U.S. exporters as reliable suppliers to foreign countries. Controls applied for foreign policy reasons often restrict the export of goods and technology freely available from foreign suppliers, often from our allies. Yet there is no evidence that the effects of such controls are receiving due consideration, nor that efforts are being made to obtain agreement by our allies to adopt similar restrictions on their exports.

S. 737 requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite foreign availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

S. 737 would not interfere with the President's ability to respond immediately to foreign policy crises. The President could decide that one, several, or all of the factors listed in section 4(a)(2)(C) and referred to in section 4(a)(2)(D) were not relevant to imposing export controls in a given situation. He could also impose export controls before it is known whether foreign availability, as referred to in section 4(a)(2)(E), exists.

Moreover, controls could be continued if they were inconsistent with these factors or if it later became apparent that foreign availability does exist. These factors are to be taken into consideration, but they are not conditions which must be met. Controls may be continued notwithstanding foreign availability if the President determines that failure to do so would be detrimental to U.S. foreign policy.

S. 737 assigns clear responsibility for assessing the foreign availability of goods and technology subject to U.S. export controls. A report by the General Accounting Office notes that no one in the executive branch is given responsibility to determine whether products or technology are freely available to controlled countries from our foreign competitors. Each agency makes its own assessment, leading to needless duplication of effort and delays in license reviews.

The GAO recommended that foreign availability be assessed by a single office drawing as necessary on expertise and information from other Federal agencies. Our bill requires establishment of an Office of Foreign Product and Technology Assessment in the Department of Commerce. This office could call upon any Federal agency for assistance in assessing foreign availability, and would also receive information from the business sector. Centralizing responsibility for foreign availability assessments should yield substantial savings in administrative expense and license processing time.

S. 737 authorizes the President to delegate authority under the act to such departments, agencies, or officials as he chooses, but not to any official of any department or agency whose head is not appointed by and with the consent of the Senate. The committee intends the provision to applv in particular to the National Security Council which is reported to have been assigned a role in formulating export control policy and in reviewing particular export license applications. The expanded role of the NSC staff in export licensing and export control policy has frustrated effective congressional oversight and diffused responsibility for export controls in the executive branch.

Mr. President, former Secretary of State Dean Rusk made the following comments before the Banking Committee last year:

> Mr. Chairman, as far as the National Security Council staff is concerned, I think it's of the utmost importance they remain in the staff capacity and they not be injected into the line responsibility of command . . .
>
> The National Security staff does not carry major statutory responsibilities as do Cabinet officers. They do not appear regularly down here before committees and subcommittees of the Congress. They do not hold press conferences in which they can be interrogated regularly by the press. Theirs is a staff responsibility.

S. 737 is intended to discourage the assignment of export licensing responsibilities to the NSC.

S. 737 contains all the antiboycott provisions of the Export Administration Act of 1969, as amended, and makes no changes in those provisions. The committee received letters from major business organizations and Jewish groups recommending that no change be made in the boycott provisions this year. This bill does not amend the antiboycott provisions of the act as implemented by regulations issued by the Commerce Department.

S. 737 provides a 4-year extension of export control authority from September 30, 1979, to September 30, 1983. Congress will have an opportunity each year to exercise effective oversight of export control policy and to make statutory changes, because S. 737 requires that appropriations for administering the act be authorized annually.

Mr. President, S. 737 would streamline U.S. exports control, eliminating unnecessary restrictions on U.S. exports while providing more effective control over exports which trulv threaten our national security. The approach adopted in the bill is realistic; it recognizes that the United States is no longer the world's only producer of advanced technology; it recognizes the intensitv of foreign competition and the impossibility of preventing the spread of technology; it recognizes that trulv effective export controls must be multilateral controls. The United States must continue to work in cooperation with NATO allies and Japan to design and implement an export control policy which effectively serves our mutual securitv interests, without needlessly sacrificing our economic well-being. S. 737 provides the foundation for an export control policy to serve all our principal interests, neglecting none.

Mr. HEINZ. Mr. President, I yield myself such time as I may consume from the bill.

Mr. President, I join mv distinguished colleague, the senior Senator from Illinois, in urging passage of the Export Administration Act of 1979, S. 737. This bill is a significant improvement over its predecessor, the 1969 act. It incorporates many of the recommendations for improvements made by the General Accounting Office's two extensive reports on the export licensing process, the National Governors' Association's special task force report on this subject, and numerous expert private witnesses, who detailed the defects of the current system during the four hearings we held on this subject.

Mr. President, when the original Export Control Act legislation was enacted after World War II, America was the technological leader in the world and could maintain unilateral controls on much of its technology. This is no longer the case. We are now in a highly competitive international trading arena. During the past decade alone, for example, U.S. exports as a percentage of gross national product increased from approximately 4 percent to 7 percent, while our share of total world trade nonetheless declined.

We still have the greatest absolute volume of exports with $143 billion in 1978, but increasingly our trading takes on the pattern of a less developed country, with agricultural raw materials acounting for an ever greater percentage of the volume. Our defeated enemies, Germany and Japan, have surpassed our share of the world market in manufactured goods. Our once substantial lead in technology has been overtaken in many significant areas of medium and high technology—machine tools, power turbines, reactors, jet aircraft, naval vessels. Foreign competitors from Europe and Japan export goods that approach or surpass the best American designs. Thus, in a good many cases, countries denied American goods, or countries which experience inordinate delays in obtaining those goods, can easily find them elsewhere. They will not pay a double price—both economic and political—for U.S. exports.

Mr. President, in recent years there has been a dangerous decline in the ability of U.S. industry to compete in the world marketplace. We had a trade deficit which totaled $31 million in 1977, $34 billion last year, and which could reach the same abysmal level in 1979 despite the significant devaluation of the dollar which has taken place in the meantime. S. 737 is a crucial step in the development of a national export policy. Our national security depends not only on our military hardware and our men under arms but also on the strength and the vitality of our economy.

S. 737 strikes a delicate balance between controlling the transfer of technologies which might convey some military advantage to potential enemies while at the same time attempting to enhance the export of U.S. manufactured products to provide jobs for American workers and to assist the U.S. balance of payments. The bill, as reported, offers a rational basis for a positive export program, with adequate safeguards for national security.

Mr. President, I urge my colleagues to reject any attempts to attach crippling amendments to S. 737. One such amendment which has been proposed would create a cumbersome validated licensing procedure for trade with even our closest allies, such as Britain and West Germany, where none existed before. The case for such controls is obscure at best, and through this action we may very well undermine whatever hope we have for strengthening the collective efforts to control technology transfer. This type of arbitrary, unilateral control at this time is both unnecessary and unwise. Moreover, it is likely to cost U.S. exporters billions of dollars in lost business in their strongest product area, high technology, with no palpable increase in security resulting from this futile exercise in self-denial.

Adding more countries and goods to the validated licensing process is likely to be counterproductive to the goal of preventing technology transfer, an objective which I share with authors of such amendments. But the consequence would be an additional licensing burden of undefined dimension, with no assurance that our allies would apply equivalent controls. For example, while Japanese semiconductor manufacturers are seizing Asian and European markets, U.S. companies will be waiting months for validated licenses to be approved. Moreover, it is likely that more dual use technology and equipment will slip through the bureaucratic cracks if we increase the paperwork burden.

Mr. President, I urge my colleagues to consider the fact that our Nation's edge in high technology—and many other industrial goods—is a precious resource for jobs and capital growth which we must aggressively promote in foreign markets. Each time a license is denied for insufficient cause, or delayed to the point where customers are discouraged and begin to look elsewhere, that precious resource is squandered. Worse still, there is a multiplier effect, in which potential exporters lose patience with the export licensing process and potential importers of U.S. goods turn to other, more reliable sources for their needs, in some cases despite the U.S. edge in quality, technology, or price.

I believe U.S. citizens have a right to engage in international as well as domestic commerce unfettered by government restriction unless the Nation's vital interests are affected. Present controls on U.S. exports are more stringent than is consistent with the right of citizens, the national interest, or commonsense.

S. 737 mandates annual review of export controls and requires consideration of foreign availability—which applies at present only to national security controls. Before imposing new controls for foreign policy reasons the President would have to consider the economic costs, the reaction of other countries, and alternative ways to further U.S. foreign policy. The President would be required to report his conclusions to the Congress and the public.

Mr. President the message I have received from exporters is not that they are asking for a removal of restraints. Rather, what they want—and what this S. 737 provides—is a streamlined and predictable export control policy, which can be used as a reliable guide to marketing and long-term commitments.

I urge my colleagues to reject crippling support.

The ACTING PRESIDENT pro tempore. Time continues running equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Charged to the Senator's time on the bill?

Mr. HEINZ. I withdraw the request.

The ACTING PRESIDENT pro tempore. Time continues to run equally against both sides.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and that the time be charged equally to both sides, if that is all right with the majority manager.

The ACTING PRESIDENT pro tempore. Does the Senator wish time to run against the bill or against the amendment?

Mr. HEINZ. Against the bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEWART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEWART. Mr. President, I ask unanimous consent that the Jackson amendment be temporarily laid aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 422

(Purpose: To revise the petitioning process in section 7)

Mr. STEWART. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 422.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 73, lines 24 and 25, strike out ", any sector thereof, or any industry or substantial segment" and insert in lieu thereof "or any sector".

Beginning with page 92, line 24, strike out all through page 95, line 5, and insert in lieu thereof the following:

SEC. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to

the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within 15 days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a)(1) with respect to the material or commodity which is the subject of the petition or at the request of any entity representative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the 30-day period shall be extended to 45 days.

(c) Within 45 days after the end of the 30-day or 45-day period described in subsection (b) or within 75 days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within 15 days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

Mr. STEWART. Mr. President, I will speak very briefly to the amendment.

This amendment, which would be known as section 7 of the bill, was originally offered by Senator HEINZ and myself during the Banking Committee markup of this legislation. It establishes a petitioning process in the procedure in the Department of Commerce for the filing of petitions seeking the monitoring or control of certain materials or commodities. It provides for interested parties from both sides to present their views in a public hearing and it lays out a specified time frame for a final decision from the Department of Commerce to be published in the Federal Register. In short, it is a sunshine amendment which attempts to bring a measure of fairness and openness to a process, which for too long has been made behind closed doors without the benefit of free and open public debate.

The amendment I am offering today represents a balanced revision of the original section 7. We have sought to tighten the requirements a petitioner must meet and have included a more specific outline of what information the petition itself must include.

An important addition to the section is a new subsection which specifically excludes agricultural commodities from participation in the petitioning process. The reason for this addition is that regardless of the petitioning process an agricultural commodity might have gone through under the provisions of this section, the final decision of whether to implement monitoring or controls on such commodities would still remain with the Secretary of Agriculture under existing law. Because the petitioning process in section 7 applies only to the Department of Commerce, it is only fair to eliminate Agricultural commodities from the petitioning process altogether.

The amendment I am offering today has incorporated certain recommendations of the Department of Commerce as well as suggestions of Senator STEVENSON, and I am pleased that they have removed their objections to the amendment.

It is my understanding that the distinguished floor managers of the bill have agreed to accept the provisions of this amendment, and with that I yield to the Senator from Illinois and the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Alabama for his cooperation and for the contribution he has made to this bill.

The amendment which he now offers will make it clear that new procedures which permit petitions for export controls do not include agricultural commodities, and those procedures are clarified by this amendment. I think it is a good amendment, and I am happy to accept it.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, if the Senator will yield, I have examined the amendment and find it consistent with the spirit of the bill. Indeed, I think it improves the bill, and I think the Senator from Alabama is making a very good contribution, and I would like to see the committee accept it.

Mr. STEWART. Mr. President, before I yield back my time I want to thank the Senator from Illinois for his contribution to the amendment and for his consideration for me and those I represent in proposing this amendment.

I thank the Senator from Pennsylvania for his consideration.

I yield back the remainder of my time on the amendment.

The ACTING PRESIDENT pro tempore. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. STEWART. I thank the distinguished floor managers.

AMENDMENT NO. 340

The ACTING PRESIDENT pro tempore. The question recurs on the amendment of the Senator from the State of Washington. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of my distinguished colleague from Indiana (Mr. BAYH) be added as a cosponsor to amendments 340 through 352 to S. 737.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, amendment No. 340 would amend the bill to give the Secretary of Defense primary responsibility for identifying the list of goods and technologies subject to national security controls. Under present law the Secretary of Commerce has this responsibility, and the Secretary of Defense has a role as consultant. The bill would confirm the status quo, despite the fact that the Department of Commerce is unqualified to carry out this important task. Under its administration, the export control process is in total shambles, as acknowledged by Larry Brady, the Deputy Director of the Office of Export Administration, in testimony before a House subcommittee. As a result of its mismanagement and failure to develop a coherent export control policy, the Department of Commerce is too overburdened with paperwork involved in processing well over 70,000 license applications per year. Commerce is too preoccupied with the movement of paper within the statutory deadlines to make the necessary reappraisal of our export controls.

Mr. Brady also acknowledged in his

House testimony what has long been known by persons familiar with the export control system—that the Department of Commerce's judgments on license applications are not reliable because of Commerce's very strong trade promotion focus. Despite its trade promotion bias, however, the Department of Commerce has failed to take any initiatives to effect a comprehensive relaxation of controls on noncritical end products.

Recent events further seriously call into question the judgment of the Department of Commerce. There are confirmed reports that the Kama River truck plant in the Soviet Union, built with hundreds of millions of dolars of American technology and equipment, is turning out diesel engines for military vehicles. Deputy Director of OEA, Larry Brady, told a House subcommittee that this evidence demonstrated the ineffectiveness of safeguards and end-use restrictions in preventing diversion of U.S. technologies and goods to military use by the Soviet Union.

In the past few days I received an unsolicited letter from the Secretary of Commerce making the preposterous suggestion that the military use of the Kama plant by the Soviets did not constitute a "diversion" of the plant to military use and, therefore, no violation of U.S. export controls had occurred and the Department of Commerce was not guilty of lack of vigilance. This letter reads like a legal brief in defense of the Russian's gross misconduct, especially when it asserts that there is no evidence that the Russians specifically agreed not to divert the plant to military use. The Secretary also makes inappropriate use of a memorandum by Mr. Brady to support her assertion that there was no such evidence. Mr. Brady has so noted in a letter to the Secretary of Commerce. His letter points out that it was the clear understanding of the U.S. Government, including the Department of Defense, that the plant would produce general purpose trucks for industrial and agricultural use. Mr. Brady correctly points out that the issue facing the Commerce Department is not whether diversion has occurred—that is indisputable—but whether Commerce will deny future licenses to further support the Kama plant and cancel outstanding licenses. The Secretary of Commerce is clearly creating legalistic and sophistical obstacles to rationalize its past nonfeasance and reluctance to take present action which would cut off further exports to the Kama plant—an action which it apparently perceives to be incompatible with its trade promotion function.

The extent to which the Department of Commerce is willing to go to prevent taking remedial action against the Soviet Union is best illustrated by the fact that the new Acting Director of OEA asked Mr. Brady to consider changing his testimony to the House subcommittee because it was causing the administration problems in dealing with the amendments that I and several of my colleagues have sponsored.

Mr. President, these actions by the Department of Commerce underscore its inability to grasp the realities of protecting national security and do little to commend it for the leading role in implementing an export control approach upon which the future security of our Nation so vitally depends.

Mr. President, I ask unanimous consent that the letter to me from Secretary of Commerce and Mr. Brady's letter to the Secretary be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., June 18, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all relevant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

[From the U.S. Department of Commerce]

Memorandum for Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military vs. civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and S49801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the Kama River plant.

Attachments.

Memorandum for Juanita M. Kreps, Secretary, Department of Commerce.

Subject: Your letter to Chairman Ichord of July 18, 1979.

In your letter to members of Congress on the subject of diversion from the Kama River Truck plant, you have indicated that my testimony to the effect that trucks produced at Kama were being diverted to military use was in error. You also indicate that stories implying that Soviet military capabilities have been helped as a result of an apparent lack of vigilence by the Commerce Department are in error.

You base this statement on your definition of diversion as an activity which only occurs when end-use restrictions pertaining to a patricular license are violated. You further state that the Kama River licenses contained no restrictions on the use of the trucks and engines produced at the factory. Therefore, you conclude, military use of the trucks is not diversion.

I believe this definition of diversion is excessively narrow. Diversion occurs when the product exported, or the product manufactured from the technology exported, is used in a manner contrary to the end-use representation made to the U.S. Government at the time of licensing. We know this has occurred at the Kama River Truck plant.

The issue before the Department is not one of prosecuting a "violator" as in a situation when an exporter illegally exports, but rather the issue is what position the Commerce Department will take on pending and future license applications for the Kama River plant.

Now, exactly what kind of end-use representations were made to the U.S. Government at the time the licenses were granted? Basically, there were three kinds. First, the files reveal that in high-level government to government discussions the Kama project was discussed. Second, the U.S. Government received many end-use statements attached to license applications to the effect that the end use was to manufacture "trucks." Third, a protocol had been signed in May of 1971 between the USSR and Mack Truck, Satra Consultant Corp., and the Greg Gary Intl. Corp. stating that the Kama River Truck plant was to produce eight-to-eleven-ton trucks for agricultural and industrial use in the USSR.

How reliable are these representations of end use? Taken as a whole, there is no doubt that the U.S. Government was led to believe that these trucks were general-purpose to be used for agricultural-industrial use.

You refer to my June 22 memorandum to support the position that no distinction was made between military and civilian use in the licenses. My memorandum is quoted out of context to support a much broader conclusion than I intended. I was asked specifically to search the files to determine whether the words "civilian" or "military" appeared in any document. I had this done and made a preliminary report.

The Government issued licenses on the basis that general purpose trucks would be produced at Kama. We would not have wanted to build a plant for military products. The Mack Truck protocol terms, which apparently became null and void in September, 1971 after Mack Truck pulled out of the project, specifically stated that the trucks to be built were for agricultural and industrial uses. That protocol helped form the context in which the U.S. Government made its decision to approve licenses for the Kama River plant in 1971 and became void only after the government had already made some licensing determinations.

Even if there is a question about what end-use conditions or restrictions were applied in this case, we would not want such a situation to be repeated again. Commerce, therefore, now has the responsiblity to assure that no future licenses are issued which further support the plant.

With regard to the conclusion that no diversion of the Foundry computer has occurred, I believe this is open to serious question. As I have said before, the wealth of evidence presented to the Government was that the entire facility was to produce civilian trucks. The Foundry is the heart of the facility, and the computer essentially controls the Foundry. According to your definition, computer time is only being diverted if it were to be programmed to guide an ICBM.

Next, I would like to address the matter of my demotion. I was not replaced by a new permanent Director, but by a new Acting Director. Mr. Kent Knowles had to assume active military duty when appointed as Acting Director and was absent from the office for two weeks. There was a real question as to who was in command and by whom official documents should be signed. I was informed the next day to continue to sign everything and deal with all office matters, but as Deputy instead of Acting Director.

Furthermore, I had been repeatedly promised by the Personnel Office that the Director's job would go through normal personnel procedures and be open to competition, and that I would have an opportunity to compete for it. This procedure was not carried out.

In summary, I believe your letter confirms my testimony on the export control system. It is in essence, a "shambles". We have before us the fact that the Soviets are diverting trucks to military use, when end-use representations made to the U.S. Government signified that they were to build civilian, general-purpose trucks. We do not deny that the Kama Factory is engaging in military activity, but through a legalistic and bureaucratic definition of diversion, we take the position that this is not diversion. We do not even indicate what position we will take in the future.

This all points up what I said in my testimony, namely that:

(1) The Soviets are diverting U.S. equipment and technology whenever they have the ability or the need to do so;

(2) There are no adequate safeguards against diversion;

(3) The end-use certification basis upon which the export control system functions presently is meaningless.

If your letter indicates that the good faith reached between the U.S. and the U.S.S.R. on this project was meaningless, this will not bode well for the SALT II Treaty in which we are told that verification rests partly on good faith between the parties and the "spirit" of the agreement.

Lastly, I was not asked to participate in the meetings which resulted in preparation of the letter which you signed. I wished I had been asked.

Mr. Knowles did approach me yesterday afternoon however, and asked me whether I would consider reviewing my testimony and perhaps changing my statement on diversion, because he said my statement was causing the Administration problems. He was referring, he said, to the amendments Senator Jackson intends to propose to the Stevenson Bill. I told him that trucks were going to the military at Kama and that regardless of the semantics one used, I believed that was diversion because it was contrary to the intended end-use.

Because your letter and a copy of my June 22 memorandum (taken out of context) has been sent to the Hill, I am making this memorandum, along with the final report I was preparing in answer to the Deputy Bureau Director available as well.

Sincerely,

Lawrence J. Brady,
Deputy Director,
Office of Export Administration.

July 19, 1979.

Memorandum for: Robin Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River.

This statement constitutes my final report on my review of the Kama River Truck Factory export licenses and is my response to your July 12th note to me. I feel bound to write this statement because I have been omitted from all meetings discussing this case. I strongly disagree with your draft memorandum which concludes that no conditions whatever were attached to the Kama export licenses, and that no diversion of U.S. equipment to Soviet military use has occurred. I strongly object to the use of a memorandum of mine to support these conclusions.

I feel this case clearly involves the Commerce Department's responsibility to protect U.S. national security as required by the Export Administration Act of 1969, as amended. Resolution of the diversion issue calls for a judgment based on the U.S. Government's commitment to enforce that Act.

In connection with the Act, as a part of its export control policy, the Government conceived the end-use/end user system including consignee statements and "safeguard conditions" as a warning signal to go off if U.S. exports were being used to contribute significantly to the military activity of its potential adversaries. Presumably, the U.S. Government was sincere in its commitment to take action if this "warning signal" were sounded, and to apply sanctions if improper use were made of its exports of equipment and technology to controlled designations.

The first test of such a safeguard system is verification or confirmation of the use of U.S. exports to significantly contribute to the military activity of a potential adversary. I have testified that such verification is almost impossible, and therefore the first test of the system always fails, not only due to secrecy, but because of the conflict of interest for businessmen expected to report on such use. Nevertheless, in the Kama case, the use of U.S. equipment and technology to perpetuate a Soviet military program was reported and confirmed by U.S. intelligence sources. So, in this rare instance, the first test was passed.

The second test of the system is whether it can be enforced. That judgment should carry out the Government's responsibility to enforce the Export Administration Act as the law of the land.

End-use statement, protocols, political understandings and written conditions attached to computer licenses are all part of the imput into the judgment of whether diversion has or is taking place. In the case of Kama, the Government must make a decision. Either it will take some sanction against the consignee, the Kama River plant, (the only real sanction available is to cease further support of the plant by denying pending and future licenses) or it will avoid action by rationalizing the control process.

In the case of Kama, it is clear from the evidence surrounding the granting of licenses that the Government should exercise its judgment to enforce the Foundry Safeguards attached to the IBM computer used to run the foundry. These conditions clearly state that:

The reason for taking such action would be to clearly demonstrate that the United States no longer wishes to contribute to the on-going military function of the world's largest truck and engine manufacturing plant.

SPECIFIC FACTS ABOUT THE CASE

Having thus expressed my general assessment of the Kama case, I'd like to address your draft memorandum of July 10, 1979 to Stanley Marcuss. (See Attachment A) In your first paragraph, you misquote and misinterpret the content of my report of June 22, 1979, on Kama. You state that:

The Office of Export Administration has reviewed the files of over 175 cases identified as part of the Kama River Truck Plant complex (KAMAZ). Its reports and additional personal review support the conclusion that dedication to military use of trucks or engines produced by KAMAZ would not violate the terms of U.S. export licenses issued to companies which supplied technology and equipment for the plant.

According to this logic, if the Kama River facility were to tomorrow shift into full-scale production of tanks or armored personnel carriers, this would not constitute a violation of the licensing conditions attached to the IBM computer. The only condition which you would have us believe is attached to the computer is that in which it is programmed for direct use in a military activity, such as guiding an ICBM.

The Office of Export Administration's review did not support that conclusion. In my June 22 memorandum (See Attachment B), I reported that our review of the applications had produced two documents which could be construed as agreements between parties as to the specific application of the products of the truck manufacturing process. These were two copies of a protocol signed in 1971, which had been attached to two license applications.

I clearly stated in my fourth paragraph that, "I intend to go through all the license applications to see whether or not we referenced the protocol in subsequent license actions." This was obviously not my final report on safeguard conditions in the Kama case, and it did not support the conclusion you drew in the first paragraph of your memorandum to Mr. Marcuss, stated above. My report, in fact, implied that certain terms of our licensing policy (which included any protocol which may have applied), had been violated.

THE PROTOCOL

The May protocol formed the control context in which the U.S. Government made its decision to approve licenses for the Kama River Plant. Before Henry A. Kissinger, Nixon's National Security Advisor, ordered approval for further Kama licenses, with stipulation for White House review, a series of discussions took place between Soviet and U.S. policy makers. In addition, a protocol was signed which applied to MACK Trucks, Inc., Greg Gary Int'l. Corp., Satra Consulting Corp., and the Soviet Union. The protocol was signed on about May 11, 1971 and the first licenses for Kama were approved in August. It was not until September 16 that MACK Trucks withdrew from the transaction and by the terms of the protocol, apparently became void. The protocol understanding, was a viable instrument at the time license applications were being reviewed in the interagency system.

The protocol stated that:

> Mack Trucks, Inc. later did not fulfill its contract with the Soviet trade delegation, but some of the other parties to the protocol went on to receive licenses for the sale of equipment to the Kama River Truck factory.

In your memorandum, you quote Dr. Maurice Mountain as saying in a report on the computer safeguards that the United States Government never required the Soviet Union to promise not to use trucks or engines produced at Kamaz for military purposes. However, you also quote Dr. Mountain as saying that he predicated his report on the fact that the civil nature of the end-user was assumed to have been established presumably by Commerce. Dr. Mountain presumably assumed that the suitability of the plant's end product was made in 1971 when the President ordered the issuance of the first KAMAZ license. I suggest that this assumption could be made largely on the basis of the protocol and its context in U.S.-Soviet discussions on Kama.

According to your logic, however, Dr. Mountain's report assumed that the Commerce Department had already established peaceful use of the end-products, whereas in fact you say it had not. If your argument is correct the licenses were ordered approved without peaceful end-use requirements. Furthermore, just to argue in the same logic, it was certainly never stated in any understanding between parties or any document that military use of the trucks or engines was to be acceptable.

No one ever realized, either, how high the value of U.S. equipment and technology going to Kama actually was. A current tabulation shows that the U.S. licensed about 1.5 billion dollars worth of equipment and technology for the Kama factory. The actual extent of U.S. involvement in this factory's present activity must be part of the context in which decision is made.

END-USE STATEMENTS

In addition to the protocol, some of the licenses also contained end-use statements, which makes the second paragraph of your memorandum of July 10 incorrect when it states:

> On the contrary, the licenses for equipment for the KAMAZ production line for which President Nixon acting through his National Security Advisor, ordered approved over a period of years beginning in 1971 contained no end-use conditions whatever.

This is incorrect. In addition to the computer conditions the end-use statements which we found attached to some licenses in the files usually stipulated that the U.S. equipment was to produce "trucks." This ordinarily leaves room for interpretation but there is no doubt that at the time the general understanding was that these statements referred to "general-purpose" trucks.

I gather also that it was this understanding that "general-purpose" trucks were to be produced at KAMAZ that led to the formulation of the licensing conditions for the computer by Dr. Maury Mountain, who according to your memorandum assumed the civil use of the factory's end-products when he wrote the conditions.

When I stated in my June 22 memorandum that no document (except the May protocol) could be found which could be construed to assure an agreement as to the "specific application of products," (Exhibit B), I did not go into the complex matter of the general-purpose trucks. Further I told you orally that my statement did not apply to the end-use consignee statements. I fully intended to amplify that report at a future date, after searching for further references to the May protocol, as clearly implied in my memorandum.

I therefore consider your memorandum to be misrepresentation of the facts pertaining to end-use statements, while I was merely stating the literal findings of my investigation to that point.

This is not a "compliance" case. Let me make that clear. The Export Administration Regulations were not written to include the "enforcement" of a controlled consignee's end-use representation under the safeguard system.

The definition of diversion is therefore different from the one which refers to a U.S. firm's unlawful shipment of an export to a consignee not stated on the consignee statement.

Rather, this is a case calling for a decision based on the enforcement of the Export Administration Act of 1969, as amended.

In sum on the basis of all the above, I suggest that your analysis and conclusions do not apply in this case. Peaceful use of the end-products produced at KAMAZ were assumed by Dr. Maury Mountain when he wrote the computer conditions. Peaceful use was also part of the understanding that end-use statements referred to "general-purpose" trucks. Peaceful use was also stipulated in the May Protocol as "agricultural and industrial use." Whether or not some officials at the time who opposed the licenses questioned the extent to which the Soviets could be held to those conditions, this Department relied on all these factors, involving end-use statements and safeguards.

Mr. JACKSON. Mr. President, the implementation of the critical technologies approach endorsed by the bill will not be realized unless independent judgments are made of the national security risks of exporting America's most sophisticated technology. The Department of Defense has expertise to carry out these reforms. The Department of Commerce—which has proven itself institutionally and philosophically incapable of developing a coherent export policy which protects national security without impairing legitimate trade—cannot be entrusted a lead role in this important undertaking.

Mr. President, I wish to say further that the amendment that is pending is a product of bipartisan effort, as reflected by the cosponsorship of the amendment by our distinguished colleagues Mr. Nunn, Mr. Hollings, Mr. Cohen, Mr. Hatch, Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Moynihan, Mr. Thurmond, and Mr. Bayh. I hope that the Senate will agree to this amendment.

Mr. President, an amendment such as the one we have proposed is necessary if we are to turn an approach that everyone agrees is sensible into an effective instrument for balancing the requirements of national security against the requirements of international trade.

Mr. President, I suggest the absence of a quorum.

Mr. BAYH. Mr. President, will the Senator withhold that, and yield to me?

Mr. JACKSON. Yes; I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I compliment the Senator from Washington for his initiative in introducing this amendment. I appreciate the opportunity to cosponsor it with him.

I think the trade relationships which exist between the Soviet Union and the United States offer a good deal of benefit for the citizens of the United States, if those trade relationships are handled properly. But for the life of me I do not see why some of our corporations and some of our businessmen and women in this country should insist that we give their companies the opportunity to trade technology to the Soviet Union that, in the event of a major difference of opinion between ourselves and the Soviets, could accrue to the detriment of the United States.

The Senator from Washington has pointed out that some of this very trade has occurred; and this amendment is designed to make impossible the repetition of that practice in the future.

As chairman of the Senate Intelligence Committee, it has been my good fortune, together with the Senator from Illinois (Mr. Stevenson), who is managing this bill, the Senator from Washington (Mr. Jackson), who is the sponsor of the amendment, and several of our colleagues, to have had the opportunity, indeed the privilege, to examine carefully what we have had the capacity to do in intelligence.

All of us have had the opportunity and the responsibility to carefully monitor the overall defensive capability of the United States of America; and, although there are things about our defensive posture that I suppose all of us would like to see strengthened a bit, and hopefully as time goes by in this session we can take steps to do that very thing, I have been extremely proud of the kind of work that many of our intelligence people have been doing in collecting information all over the world.

One of the major elements is that available to our military and to our intelligence is sophisticated space age technology. Yet we have a handful of people in this country who would like to open the doors and sell for profit this very critical technology, which could be all that would save this country in the event of a major confrontation.

So it is a privilege to join with the Senator from Washington to help our colleagues understand, recognizing the benefits we can have from trade with the Soviet Union—certainly many of our farmers are getting tremendous benefits from that trade—and at the same time, the Senator from Washington would put on a "safety valve" and say, "Wait just a minute; let us make sure we are not giving the Soviet Union or some other country the critical technology which is the real basis of the military strength of this country."

It seems to me utterly reasonable that we finally place the responsibility for the determination of what items and products can be effectively utilized by the military of a potential adversary with the Secretary of Defense and that is what amendment No. 340 does. In addition, this amendment makes it clear that a list will be prepared by the Secretary of Commerce subject to the authority of the Secretary of Defense to provide a full record of those critical items and technologies which will be prohibited under the act. Finally the amendment places the Secretary of Defense in a position to make a determination of foreign availability of an item or technology which might be put to military use by a potential adversary.

By making these important changes in existing law, we are recognizing the dangers which might result in an unbridled and uncontrolled transfer of technologies to the Soviet Union. At a time when we depend more than ever before on the vast technological capability of our Nation's military to sustain our security in an age of essential equivalence, we simply must be sure that no door is left ajar in protecting our Nation's security. This is one prudent step which is probably long overdue. I certainly hope that the Senate will take that step today.

Mr. President, one of the events which prompted this amendment was the revelation that the U.S. technology provided at the Kama River truck plant is turning out diesel engines for military vehicles. This was disturbing. But what was even more disturbing was to learn that in fact, during the Nixon administration. no provision was made against end-use diversion to military purposes.

As the Department of Commerce indicated, "* * * military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines." This being the case, it is theoretically possible that if a means could be found to utilize the Kama foundry American computer to make engines for a BMP infantry fighting vehicle or other type of troop transport, there is nothing we could do because it is already too late to insist on restrictions once the technology is transferred.

This example of what can be done through the utilization of technology transfer for military purposes is, however, of much greater concern in the area of computer technology used in look-down/shoot-down radars, target discrimination and sonar capability in antisubmarine warfare, flight control technology for V/STOL aircraft, precision guidance systems in antitank guided weapons and the list goes on and on.

The late Hubert Humphrey said that he was in favor of selling to those Communist bloc countries who would be our adversary "anything they can't shoot back." It is pretty clear that the critical items and technologies which we are talking about today are things that can be shot back at us with deadly precision and destabilizing accuracies. I would hope, therefore, that the Senate overwhelmingly adopts the amendment now being considered and hope that it will put us on the road to a more coherent and rational process whereby the technologies critical to our national security are accordingly controlled by those in a position to correctly assess their military potential.

At an appropriate time during the debate on this amendment I would like to propose to the Senator from Washington an amendment that has been suggested by the intelligence community, which would protect the sources and methods that are utilized in the collection of intelligence.

I again compliment the Senator from Washington, and yield the floor.

Mr. HAYAKAWA. Mr. President, will the Senator from Washington yield me a couple of minutes? I would like to speak in support of his amendment.

Mr. JACKSON. I yield the Senator from California 3 minutes.

Mr. HAYAKAWA. Mr. President, I wish to speak in support of this amendment.

Mr. President, one of the most important things about the Soviet system is the complete suppression of freedom and personal liberty. Therefore, technological breakthroughs are most likely to occur in free countries where researchers and scientists can proceed with their own experiments, experiments of their choice.

I do not see why, when we have something of great value which is beyond the capacity of Soviet technicians and scientists to produce. we should let them have free access to it at our own cost and at our own peril, especially in the case of all of that equipment which the Senator from Indiana has mentioned which has to do with the procuring of intelligence and military information, and which also has to do with the development of further armaments.

I am very, very much in support of our not giving our technology away to others. I am happy to support the amendment of the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from California for a very fine statement.

Mr. President, I have received letters from both the AFL-CIO and the Industrial Union Department of the AFL-CIO, expressing full support for this amendment and the other amendments that I will be proposing.

I ask unanimous consent that the letters of support from the two labor organizations be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL–CIO,
Washington, D.C., July 19, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: The AFL–CIO fully supports the amendments which you and seven of your colleagues have proposed to S. 737, the Export Administration Act of 1979.

As Larry Brady, the Acting Director of the Office of Export Administration, indicated in his testimony, controls on exports of security-sensitive technologies are seriously defective. The Commerce Department is so overburdened with export license applications that it cannot effectively enforce the existing weak provisions in the law. More fundamentally, the responsibility for protecting national security should not rest with an agency whose primary concern is to increase exports. We agree with you that the chief responsibility for formulating a list of goods and technologies to be controlled for national security purposes should be shifted to the Secretary of Defense.

Your amendment designed to produce a "reliable evidence test" with regard to determining the foreign availability of advance technology would provide the assurance a sound policy requires that foreign availability is not merely an excuse for otherwise improvident licensing.

The current SALT debate has focused on the presumed U.S. technological advantage in the strategic competition. Every step must be taken to prevent the Soviets from closing that gap. Your amendments are an important step in that direction.

Sincerely,

LANE KIRKLAND,
Secretary-Treasurer.

AFL–CIO,
INDUSTRIAL UNION DEPARTMENT,
Washington, D.C., July 17, 1979.

DEAR SENATOR:

The Senate is expected to vote this week on S. 737, the Export Administration Act of 1979.. There are two issues which will be raised during the debate that are of critical importance to the Industrial Union Department, AFL–CIO.

Senator Jackson will offer a series of amendments designed to restrict the flow of critical technologies to controlled nations. These amendments would not impose any additional burdens on trade. They would, however, provide a more effective framework for the identification and effective control of security related technologies and for the relaxation and elimination of unnecessary controls.

The Acting Director of the Office of Export Administration (OEA) at the Commerce Department recently testified to a House Subcommittee that the export controls process is "a shambles." It is clear that a loose and inefficient export control system threatens to undermine the narrowing technology gap on which our security increasingly depends. What we need to create is an effective sieve through which our technology will flow, and the Jackson amendments seek to do that.

One series of proposed amendments would give the Secretary of Defense primary responsibility for formulating a list of technologies and goods that would be subject to national security controls. The Commerce Department is presently overburdened with some 70,000 license applications each year, and lacks the expertise to formulate the list of critical technologies.

Another series of amendments would address the important area of foreign availability. Too often a mere assertion of "foreign availability" on export license applications is used by the Commerce Department to justify license approval when close investigation might have revealed that U.S. suppliers exercised effective control over the goods ar technologies involved. The proposed amendments set down a more serious evidentiary test before concluding that advanced technologies or goods are available from sources other than the U.S. This "reliable evidence test" is clearly the only logical way to go.

At the present time, licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" of the technology will be non-military; or on the basis that there are effective safeguards against diversions to military use. Past experience tells us that such safeguards cannot be devised. A proposed amendment would direct that, to the maximum practicable extent consistent with the provisions of the act, export of critical items shall be prohibited to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings. A related amendment would provide that exports to non-communist nations be subject to validating controls which are reasonably designed to prevent the re-export of such critical items to communist nations, as present export regulations generally do not control such exports of technologies.

These amendments dealing with the transfer of technology are the only amendments to the Export Administration Act which we support.

The bill also contains language which would extend and strengthen current restrictions on the export of Alaska oil. *We urge your support.* This is no time to ship millions of barrels of oil to foreign lands while Americans are sitting in gas lines. Only if all Alaska oil remains in the U.S. will the oil companies have any incentive to build the west to east pipelines our country so badly needs, and to rebuild the west coast refineries. An efficient energy transportation system is an essential element of national energy self reliance. There is already more than enough profit incentive in Alaska oil's decontrolled price to encourage increased production. Alaska oil belongs at home where it can be used by the American people.

The Industrial Union Department, AFL–CIO urges your support of the restriction on Alaska oil contained in S. 737 and of the amendments which would provide restrictions on the transfer of technology to controlled nations.

Sincerely,

Jacob Clayman,
President-Secretary-Treasurer.

The ACTING PRESIDENT pro tempore. Who yields time?

Time will be charged equally on the amendment.

Mr. HEINZ. Mr. President, I yield not to exceed 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise as a cosponsor of the amendments proposed by the junior Senator from Washington (Mr. Jackson) and others, to tighten controls on the export of technology with military application to the Soviet Union and other Communist states.

When the war machine of the Soviet Union becomes stronger, our own security and the security of the entire free world is adversely affected. Obviously, we have no way of imposing an absolute prohibition on the Soviet military buildup—a buildup which already far eclipses the Nazi military power growth which preceded World War II.

However, at a time when we are spending $130 billion a year for the defense of the United States, it simply makes no sense that we should be aiding the Soviets in improving the mobility and the deadliness of their enormous war machine by permitting, and even encouraging, the export to the Soviets of high technology equipment, including entire industrial plants.

As a member of the Senate Armed Services Committee, I believe the repeated reports that the administration intends to further relax the already sadly inadequate limitations on the control of exports to the Soviet Union is a challenge Congress must meet headon.

The amendments proposed by Senator Jackson and his cosponsors will result in realistic and effective controls on this most serious situation. The need for these amendments is obvious and I would like to relate to the Senate why I believe these changes are necessary.

In one of his statements before a congressional committee, Dr. Malcolm R. Currie, then director of Defense Research and Engineering stated:

> American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology, while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area.

But, instead of attempting to retain and expand our technological lead in order to compensate for the numerical inferiority of our Armed Forces, we appear to be determined on helping the Soviets to catch up with us by providing them with access to our most sophisticated technologies and equipment.

Mr. President, the able Senator from Washington (Mr. Jackson) wrote to President Carter on July 25, 1977:

> . . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West. . . . In my judgment, our current condition can best be described as acute hemorrhaging.

The situation has, if anything, become worse since this statement was made.

In the paragraphs that follow, I intend to examine several case histories, from a much longer list of such histories, dealing with the export of technology and equipment that have dramatically augmented the Soviet military threat to the United States.

THE CASE OF THE BRYANT GRINDERS

Back in 1960–61 the Soviet Union sought to purchase from the United States 45 Bryant Centalign-B grinders, which are machines used in the mass production of ultra-high precision miniature ball bearings. Our ability to produce these miniature ball bearings and the Soviet inability to do so, gave us at that time a substantial lead in the fields of miniaturization, missile accuracy, and the precision control of our firing systems. The sale of the Bryant grinders at that time was approved first by the Eisenhower administration and then by the Kennedy administration. Fortunately, the Senate Subcommittee on Internal Security held hearings on the proposed export of the Byrant machines to the Soviet Union. After taking testimony from 13 of the top ball bearing engineers in the country, it wrote a report so persuasive that President Kennedy, when he read it, overruled the CIA, the Advisory Committee on Export Control, and his own Cabinet, and ordered the cancellation of the shipment.

I should like to quote just two brief paragraphs from the report which changed President Kennedy's mind, because these paragraphs have an across-the-board application to the entire problem of technology transfer.

One of the ball bearing engineers who testified, Mr. Henry Konet, told the subcommittee that—

> It is necessary to distinguish between giving away secrets, and know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. . . . The situation is not one of selling our adversary a club—but machines which help to produce better clubs faster and cheaper.

After summarizing the testimony, the subcommittee's report offered this basic conclusion:

> . . . our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is within our power, that we make things more difficult for them rather than easier.
>
> . . . the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

Unfortunately, the Nixon administration in 1972 approved the export of 164 Bryant Centalign grinders to the Soviet Union. In the 12 years that had elapsed since they had first attempted to buy the Bryant machines, the Soviets had desperately been seeking to duplicate their technology. Left to their own resources, the Soviets were unable to do so. That is one of the chief reasons why we were able to retain our technological lead in inertial navigation controls and missile accuracy throughout the 1960's and into the early 1970's. Conversely, our sale of the Bryant grinders to the Soviet Union, according to members of our intelligence community, has played a major role in the dramatic rate at which the Soviets have been able to improve the precision of their own missiles and to catch up with us in the field of MIRVing.

The improved accuracy of the Soviet missiles has made our own Minuteman system increasingly vulnerable to the threat of a Soviet first strike—as a result of which we may now have to spend as much as $40 to $45 billion to replace the Minuteman system with a mobile missile system.

THE KAMA RIVER TRUCK PLANT

In the early 1970's, the administration approved a project under which an American engineering combine, headed by the Swindell-Dressler Co., contracted to build a giant truck plant for the Soviet Union on the Kama River in Siberia. This plant is now nearing completion. When it is completed, it will, reportedly, have an annual production capacity of 250,000 multiple axle trucks, which, according to the noted expert, Dr. Miles Costick, is "more than the capacity of the entire U.S. heavy truck industry."

It is not just the size of the project that is disturbing. In testifying before a congressional committee on April 23, 1974, Donald E. Stingel, president of the Swindell-Dressler Co., stated that the technology that was being built into the Kama River plant was in advance of that in any plant in the United States.

The export of the Kama River plant to the Soviet Union was approved by the Commerce and State Departments on the ground that the equipment involved was "nonstrategic." In addition, the Soviets had to sign a statement in this case, as they do in importing other high technology equipment, pledging not to use the technology for military purposes. All this, in my opinion, is nonsense because we have absolutely no way of enforcing such a pledge. In fact, it should have been obvious from the beginning that the Kama River plant was going to be used to service the Soviet military establishment rather than to service the non-military sector of the Soviet economy.

Mr. President, it came as no surprise to me—and it should not have come as a surprise to anyone who knows anything about the Soviet Union—that Moscow has been using the Kama River plant not only to build conventional transport and scout vehicles for the Soviet Armed Forces, but also for the purpose of producing armored personnel carriers and assault vehicles, including the T-72 battle tank—the most advanced tank in the Soviet military inventory. This information was developed in the course of a hearing of the House Armed Services Committee in May 1979.

In this hearing, Representative Richard Ichord, quoted from a classified intelligence report and from the testimony of Hans Heymann, the CIA's national intelligence officer for political and economic affairs. Mr. Ichord noted that, according to Heymann, the Kama River plant, although not in full production, has been turning out some 50,000 diesel engines a year for installation in military vehicles.

When the Senator from the State of Washington (Mr. Jackson) spoke of "acute hemorrhaging" the export of the Kama River truck plant was one of the things he had in mind.

In the case of the Bryant grinders, we were selling Moscow technology that has helped it to enormously upgrade the quality of its strategic missile arsenal. In the case of the Kama River plant, we have sold them technology which greatly enhances the Red Army's capability to launch a blitzkrieg attack against Western Europe.

THE SALE OF DEEP-WELL PETROLEUM TECHNOLOGY

Only last year, the Carter administration approved a total of 74 applications for the export of oil technology to the Soviet Union. One of these applications involved the sale by Dresser Industries of a $144 million plant designed to produce the highly specialized bits used in deep-well petroleum drilling. Writing about this transaction in the April 1979 issue of Commentary, Mr. Carl Gershman said:

> This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 percent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology.

I want to call to the attention of the Senators the fact that the Dresser Industries application to export deep-well technology to the Soviet Union was strongly opposed by Energy Secretary James Schlesinger, by members of the National Security Council and by a special task force set up by the Defense Science Board. The report of the task force stated that the petroleum drill bit technology we have now sold to the Soviet Union was "wholly concentrated in the United States," that it "has strong strategic value in the 1980's," and that the construction of the plant by Dresser Industries would make it possible for the Soviets "to enter world markets with advanced drilling capabilities," thus giving them access to enhanced influence in the oil producing areas. The report also noted that, as a by-product of the new technology which we are helping them to acquire, the Russians would also be enabled to manufacture more sophisticated armor piercing projectiles.

These are only three examples of a much longer list of technology transfers that have had the effect of enhancing—dangerously enhancing in my opinion—the military capabilities of our only serious adversary. Dr. Miles Costik, director of the Institute on Strategic Trade, has compiled a much longer list of such technology transfers in a recent paper entitled "The Soviet Military Power as a Function of Technology Transfer from the West." Among the other items in Mr. Costick's compendium are "American wide-body jet aircraft technology (critical in deployment of air-launch cruise missiles; numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.);" and highly advanced computers that have obvious military applications and which the Soviets could not possibly have produced left to their own technological resources.

Summing up this entire situation, Mr. Costick stated:

> The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Mr. President, so that the Senators will have available the documentation on which I have based my statement, I ask unanimous consent to have printed in the Record at this point the following items:

An article by Dr. Miles Costick, published March 22, 1979 by the Institute on Strategic Trade entitled "The Soviet Military Power as a Function of Technology Transfer from the West;" an article by Carl Gershman published in the April 1979 issue of the Commentary magazine entitled "Selling Them The Rope;" an article published in Human Events on May 26, 1979 entitled "Carter Begins Drive to Step Up Soviet Trade;" a report by the Senate Subcommittee on Internal Security printed in March 1961 entitled "Proposed Export of Ball Bearing Machines to the Soviet Union;" and another article in Human Events published June 2, 1979 entitled "Will House Beef Up USSR Military Capability?"

Mr. President, in conclusion, I wish to state that these amendments which I am cosponsoring are of great importance to the national security of our country. I urge the Senate to consider them carefully and I believe in so doing each member will find that by adopting these amendments, we will be enhancing our own security and helping to protect the free world.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE SOVIET MILITARY POWER AS A FUNCTION OF TECHNOLOGY TRANSFER FROM THE WEST

(By Dr. Miles Costick)

> Due to its implications for national and international security, the trade between the industrialized democracies of the West and communist governments cannot be treated as a strictly economic proposition. The perennial protracted conflict between two socio-economic systems, which prevail in the world today, clearly demonstrates that in international commerce, economic and strategic elements are inextricably intertwined. In recent years, more than ever, the strategic elements in commerce have come to outweigh the economic as far as the so called "superpowers" are concerned. One thing that must be understood is the need for consistency between a nation's

strategic objectives and its foreign economic policies.

DETENTE AND TRADE

On February 10, 1922, British Prime Minister Lloyd George made a statement:

"I believe we can save her (Russia) by trade. Commerce has a sobering influence . . . trade, in my opinion, will bring an end to ferocity, the rapine, and the crudity of Bolshevism surer than any other method."

Since the early days of Soviet Bolshevism, the Western world has been trying to coax the communists into not being communists with periodic injections of credits and technology. The hoped-for result echoed in British Prime Minister Lloyd George's statement—now more than 57 years past—has failed to materialize. Yet leaders of the capitalist world continue to charge ahead like so many modern-day Don Quixotes in search of their impossible dream: The merger of totalitarian dictatorship with capitalism.

NOTE.—Nothing written here is to be construed as an attempt to aid or hinder the passage of any bill before Congress.

It is not a common perception that the industrialized democracies and the Soviet Union—with its surrogates around the globe are currently engaged in World War III, and the battlefields are economic. The economic warfare conducted by the Soviet Union is an intrinsic part of its ideology and the world wide revolutionary process. On the free world side of the equation, this is not perceived for what it is, and the result is "economic detente" which facilitates transfer of wealth from the West to the East. By providing critical technology, governments and entrepreneurs of the industrialized democracies strengthen Soviet strategic capabilities and enhance Soviet self-assurance, which translates itself in the international arena into more and more daring actions. The United States and its allies do not have a clear commercial policy tailored to their strategic and economic interests vis-a-vis the communists. Instead they conduct commerce with the totalitarians based on a vulgar assumption that "one can tame them or buy them through commerce".

Current U.S. policy on trade with the communists was the brainchild of Henry Kissinger. However, the same policy has continued unabated under the Carter administration. Kissinger's concept of "economic detente" was based on an attempt to link the Soviet geostrategic behavior with availability or denial of economic benefits from the United States and its allies. Kissinger envisioned that "through a set of strategic and economic agreements, the U.S. could spin a web of vested interests thereby encouraging the Soviet Union to temper its international behavior."

This, of course, has not happened. The U.S.S.R. continues to pursue its strategic and ideological objectives and through that process seriously threatens U.S. national interests.

After the infusion of $64 billion worth of credits from the Western world and Japan, and about 1.000 joint manufacturing ventures with Western and Japanese firms, as well as about 1,200 contracts on industrial cooperation signed between COMECON governments and Western firms, the Soviet Union using proxy Cuban troops and its Eastern European satellites threatens the free world's access to the critical resources of Africa and the Middle East.

The massive transfer of technology and capital from the West to the East instead of enhancing Soviet interest in peace and tranquility has accomplished exactly the opposite. It made a tremendous contribution to the Soviet strategic capabilities and in consequences encouraged its belligerency.

The aforementioned development is absolutely in accordance with the plans laid down by Leonid Brezhnev to Warsaw Pact communist parties' leaders in Prague in June 1973. In a secret meeting Brezhnev spoke very frankly about using "economic detente" to consolidate the strength of Soviet bloc economies and to advance their standing strategic objectives.

Brezhnev told the Soviet bloc party leaders that by 1985 they will have achieved most of their objectives in Western Europe, that they will have consolidated the Warsaw Pact position, improved the economy, and achieved a decisive shift in the correlation of forces, and that they will be able to exert their will wherever they need to.

In his famous treatise on Soviet military strategy, Soviet Marshal V. D. Sokolovskiy commented,

"In the present epoch, the struggle for peace and the fight to gain time depends above all on an unremitting increase in Soviet military power and that of the entire socialist camp based on the development of productive forces and the continuous growth of its material and technological base."

TECHNOLOGICAL COMPETITION

With respect to national security, the term "technological competition" refers to the efforts of competing political-economic systems to maintain, or to achieve, superiority in high-technological areas that are important in effective military systems. In this era of unprecedented change, our technological strength is the key to our long-range survival as a nation.

In one of his statements before a Congressional committee, Dr. Malcolm R. Currie, then Director of Defense Research and Engineering, stated:

"American security . . . stands on a foundation of technological superiority. We need superiority in defense technology. First, because the openness of our society tells our adversaries what we are planning in military technology while their secrecy forces us to provide for many possibilities. Second, in military operations, we traditionally depend on superior quality to compensate for inferior numbers. Third, in order to interpret vital but fragmentary intelligence information, we must have extensive prior experience in the area."

In some very important areas our technological lead over the Soviet Union is gone; in others the Soviets are ahead—(i.e.— directed energy weapons based on laser beams or charged particle beams, surface-effect vehicles, anti-personnel pressure weapons, application of certain technologies including computers in entirely new military systems and operations, etc.).

The technology balance is dynamic. In evaluating the current technology balance and its dynamics, the experts agree that the Soviet Union has a very substantial and determined effort. According to a recent statement by Defense Secretary Harold Brown, the Soviet R. & D. expenditures are three times greater than that which the U.S. spends on its R. & D. Moreover, the Soviets are inexorably increasing their level of technology relative to ours and are, in fact, seizing the initiative in numerous important areas.

The technology development is molding future Soviet strategy. From all indications, the future Soviet strategy will be world dominance, with technology as a central factor.

TRANSFER OF TECHNOLOGY

Design and manufacturing know-how lie at the foundation of America's world position—both economic and military. Until relatively recently, the United States had out-distanced the rest of the world through its particular genius to turn laboratory dreams into realities.

"Yet today that mastery of design and manufacturing is being rapidly transferred to friendly nations, to non-aligned nations and to Warsaw Pact nations." So wrote, not too long ago, J. Fred Bucy of Texas Instruments. Bucy wrote, "Exporting design and manufacturing know-how to potential enemies strengthens them militarily. And exporting that same know-how to potential economic competitors—friends or foes—strengthens them to compete against us for world markets. Yet we continue to transfer know-how by many means."

Over the past 10 years, the outflow of technology to the Communist dominated countries has dramatically increased. The amount of significant technology that has been transferred and its impact on the military capability of the Communist countries, particularly the Soviet Union, is not exactly known.

Some will argue that its impact has been minimal. Our concern is that the transfer of militarily significant technology has been of major proportions, and that the Soviet Union has narrowed the gap in its relative weapons capability with the United States to our detriment. The change will become evident over the next five years. Unfortunately, by the time it becomes apparent, it will be too late to act.

The Soviet Union and Eastern Europe have consistently lagged behind the West in industrial technology and have used detente as a means to pursue access to the latest technology from the United States and other industrialized nations. Increasingly, they are insisting that continued updating of the technology be a part of all new contracts. They are not interested in pure science, which they can get free through scientific publications and exchanges or for the price of tuition at major graduate schools and technical institutes. They are highly skilled in scientific theory. They also don't want to purchase products over an extended period of time, but only to fill in the gaps that they cannot currently make themselves.

Technology acquisition is their objective because, once acquired, it provides them a capability to produce their own goods and services to satisfy both present and future needs. And technology provides a base to support subsequent advances in the performances of products.

The Soviet Union and Eastern European governments have used a variety of mechanisms to acquire Western technology. They include the purchase of turnkey factories from the United States and other free industrialized nations; protocol and technical exchange agreements with Western and Japanese firms; government-to-government science and technology exchange agreements; visitations and consultations with U.S. technical experts in industry and universities; enrollment at the best technical universities; unauthorized transfers from third countries; and outright espionage.

Concern, for this threat to the United States security, has led Senator Henry Jackson to write President Carter on July 25, 1977: ". . . I am persuaded that the effect of our past and current policies in this area has been to enable the Soviets and their allies to acquire technology that bears importantly on the military balance between East and West." ". . . In my judgment, our current conditions can best be described as acute hemorrhaging."

DUAL PURPOSE TECHNOLOGIES

Many of the technologies of greatest interest to the COMECON governments have important military as well as commercial applications. In recent years, the leading edge of these technologies have increasingly been developed by the private sector for commercial applications and only later for military applications.

As a consequence, increased commercial contacts with the U.S.S.R. and its COMECON partners may result in the outflow of significant technologies, before the application of these technologies to advanced weapon systems in the United States.

Soviet intelligence agencies have a long tradition of focusing heavily on acquiring industrial know-how. The Soviets have made major covert efforts to acquire key components of high technology, particularly in the computer field. They often focus on very small firms which can supply particular critical components or facilities.

The Soviet agency which actually uses a product may be different from the agency that comes to purchase it. End use controls are, therefore, often ineffective; particularly with sales to a completely state owned economies of the Soviet bloc. This problem of multiple end uses is, if anything, more acute with the most modern technology. Reprocessing plants may produce plutonium for bombs as well as for fuel. Technology for the production of wide-body aircraft can contribute to military airlift capabilities as easily as to civilian transportation. The equipment for producing circuits used in pocket calculators may also be used for guidance computers of missiles. New technology used in medicine may have highly important military or intelligence applications. Computers for processing seismic signals in geological exploration might also be used to process sonar signals in antisubmarine warfare. Capabilities for launching communications satellites may be used for military missiles. The technology for high-bypass turbofan engines and high inlet temperature turbines can be used in military as well as civilian aircraft. And NASA's "joint ventures" in space exploration will inevitably help Soviet experts to run their military space program.

MILITARY DIMENSION OF TRADE

It is important to realize that what the Soviet Union needs to improve its strategic tactical and conventional forces is not purely military in character. What the Soviet Union needs is certain key applied technology to improve its guidance systems, avionics, missile technology, and key bomb components. Such technology is now available in commercial applications from the U.S., France, Germany, Japan, and the United Kingdom. The acquisition of such "non-military" technology should enable the Soviet Union to quickly upgrade its bomber force; and allow it to make almost instant improvements in its targeting and warning technologies.

As a consequence of the lack of coherent national policy—controlling the transfer of technology to communist dominated countries—numerous critical technologies have been transferred to the Soviet's either directly or through "the back door". Here are some of the major technological transfers that took place:

The Soviets succeeded in obtaining American wide-bodied jet aircraft technology (critical in deployment of air-launched cruise missiles).

The Soviets obtained RB-211 high-bypass ratio turbo fan jet engine technology, developed on $300 million in U.S. government R. & D. grants to the Lockheed Corp. (The engine powers wide-bodied jet aircraft, and is suitable for long-range bombers.)

The Soviets succeeded in obtaining U.S. semi-conductor technology of critical importance in guidance systems for ICBM's and other missiles as well as in miniaturized military computers.

The key technology for the Soviet KAMA River heavy duty truck plant came from the United States. This is the largest truck factory in the world with an annual production capacity of 250,000 10-ton multiple-axle trucks and 350,000 diesel engines, which can be used to power tanks. In addition, KAMAZ, will have the capacity to produce tanks, tank turrets, tank engine blocks, scout cars and rocket launchers.

The Soviet Union obtained from the U.S. numerous space technologies also relevant for military effort in space (space capsules coupling technology, astronaut's space-suit technology, relevant computer technology, etc.).

The U.S.S.R. used the U.S. heat-seeking shoulder-launched "Redeye" missile for development of its own SA-7 Grail missile.

The Soviets purchased 164 Centalign-B machines, and accompanying technology, to produce precision miniature ball-bearings without which ICBM's guidance mechanism could not be built. This technology is also an imperative for MIRVing and MARVing mechanisms. As a result of this deal the Soviets were able to close up the critical MIRV gap.

The most modern and only effective air traffic control center in the U.S.S.R. at Moscow's Vnukovo Airport (the contract is valued at $74 million) is being constructed with integrated circuits from the U.S. This computerized air traffic control system has a direct military spillover.

Soviet dissident Anatoly Sharansky was sentenced to a long jail term for informing Western reporters that the Soviets have violated agreements signed with the U.S. Department of Commerce regarding the use of U.S. purchased computers. According to Sharansky, in his capacity as computer expert within the Soviet military establishment, he worked on American computers sold to the U.S.S.R. for civilian purposes only.

The Soviet Union is making every attempt to obtain a critical military technology from the U.S.—the small high-efficiency aircraft gas turbine engine of the type currently used in the U.S. Air Force/Boeing ALCM-B—and the Navy/General Dynamics Tomahawk cruise missiles. The manufacturer in the U.S. is Detroit Diesel Allison, the engine, ironically, is classified as "commercial" and consequently easy to obtain by any communist government. The export application is pending for engines and manufacturing technology to Poland and Rumania. The amazing aspect of the potential sale is in fact that the Carter administration denied this technology to U.S. NATO allies and is considering the sale of the same to the Soviet Warsaw Pact allies.

The success of the continuing Soviet raids on Western technology, but most importantly U.S. technology, that can be used in systems for ICBM guidance, anti-submarine warfare, automatic fire-control and other military applications has clearly demonstrated a critical need for an intensified reexamination of what, how, and why it is being sold to the Soviet Union, its satellites around the globe and Communist China.

Just how fast and how far the Soviets have moved in overcoming what was believed to be a major disadvantage in miniaturized electronics and precision guidance systems was made clear last year. The Soviets then tested prototypes of two new intercontinental ballistic missile systems and demonstrated they could deliver nuclear warheads within 600 ft. of a designated target.

The tests sent a "shock wave" through high-level defense planning sanctums because it had been believed the Soviets would not achieve such accuracy with their ICBM's until the mid-1980's or later.

The test results have led Secretary of Defense Harold Brown to revise the Pentagon's latest military posture statement to show that the Soviets may deploy the more-accurate ICBM system in the "early to mid-1980's," giving them the ability to destroy a large percentage of the U.S. ICBM force by direct hits.

The mass production of the Soviet MIRV's and the accuracy of the new, so called "5th generation" Soviet ICBM's also is a major reason and argument for deployment of the new, $35-40 billion MX missile system that Secretary Brown insists the United States must have to counter the rapid Soviet advances in missile technology.

Just how much US-derived technology is represented in the new Soviet ICBM system is not totally known. This analyst as well as a number of policy makers of the past and present believe that the US export and policy moves during the last 10 years have given the Soviets the know-how and equipment needed for increased ICBM accuracy.

One case, which was already mentioned, involves a 1972 deal by the Bryant Chucking Grinder Co. of Vermont, to sell the Soviets 164 precision ball-bearing grinding machines capable of producing pin head-size ball bearings (size roughly 0.04 inch in diameter), having tolerances of less than one-twenty-five millionth of an inch. The $20 million sale approved by the Nixon administration, at the peak of detente euphoria, is to a great extent responsible for the $40 billion MX missile system program. In 1976, Edwin E. Speaker, a weapons expert for the Defense Intelligence Agency, testified before a Congressional subcommittee.

"It is a certainty that the products of these grinders could and will be found in a wide variety of current and future ground, air, sea, and space military hardware that require precision guidance equipment, optical recording devices as well as associated scientific test equipment.

Another sale that caused "a broad concensus of concern" among specialists at the CIA and Defense Department was a 1974 sale of a turn-key plant for manufacture of integrated circuits. The plant, which was based on technology licensed by US semi-conductor firm—Fairchild, was sold by a French consortium to Poland after the deal was approved by the Nixon administration.

Large-scale integrated circuits, are listed among nine key categories in which defense and intelligence officials, as well as U.S. industry are trying to clarify export controls. However, while the intelligence community and Department of Defense believe that it is an imperative to tighten technology export controls, the business community, Commerce Department, and State Department are working in the opposite direction.

The devices in question are complex electronic circuits that are reduced photographically and etched on tiny silicon chips. They can be used, for example in missile-guidance and aircraft-fighter fire-control systems, giving computer-like control while contributing miniscule weight, bulk, and electrical drain. They are typical dual-purpose technology end-products also used in the non-military items such as pocket calculators, digital wrist watches, microwave-oven controls, and television and high fidelity sets.

The Soviet Union has also acquired by clandestine means the integrated circuits technology and manufacturing capabilities from Japan in one of the most daring undertakings of their industrial espionage.

The Soviet acquisition of sophisticated U.S. ICBM technology goes beyond integrated circuits and precision ball bearing technologies without which they could not build the gyroscopes for ICBM's and for the individual MIRVs. Major General George J. Keegan Jr., former head of Air Force Intelligence has stated:

"The Soviet Union has acquired all of our inertial guidance technology for ballistic missiles."

Many other technologies which protect the current U.S. military lead in certain areas are also little-known, dual-purpose items. Small array transform processors, called ATP's, are used, for instance, in seismic oil exploration equipment. ATP's are electronic devices which enhance the computer speed so computers can interpret millions of tiny variations in the sounds of geologic formations below the earth.

Attached to shipboard computers, ATP's perform one of the central functions of antisubmarine warfare: They assist the computer in digital signal processing and signal analysis which enables the computer to identify tiny differences in the sounds under the ocean's surface, a process that yields the location of enemy submarines.

It is known that Geo Space Corp. of Houston, Texas, has sold 36 ATP systems, critical for submarine detection systems, to the Soviet Union and Communist China.

Litton Industries is another business enterprise which has also been involved in the sale of similar anti-sub warfare systems.

The sale of the submarine detection system and technology, especially to the Soviet Union, has created an entirely new problem. We have already observed that the transfer of precision miniature ball bearings technology and integrated circuits technology to the Soviet Union have resulted in a direct threat to the survivability of our Minuteman ICBM's. And to offset this we must have a new ICBM system which involves not only time to develop and deploy after prolonged and tedious debates, defense policy disputes, and political maneuvering but it also imposes an additional cost of $35–40 billion.

Our latest submarine class—Trident, enormously expensive, has been developed on the basis that the Soviets had no submarine detection technology. However, a Soviet breakthrough in submarine detection technology would make our latest generation of submarines vulnerable. At the time of the development of the Trident class submarines the US military experts saw no evidence that the Soviets were close to a breakthrough in submarine detection technology. In the absence of a breakthrough a given number of missiles in 10 Trident class size and weight submarines (the sub due to its big and heavy reactor had required a huge hull, and that huge hull, in turn, had to be fitted with an unprecedently large number of missiles to justify its size and cost) would clearly be cheaper than the same number of missiles in 20 subs, even though the smaller subs would be individually cheaper. As a result we have been building large subs. On the other hand, if we were to assume a highly effective Soviet detection capability, the 20 subs would permit many more of the missiles to survive to arrive at Soviet targets. However, we are stuck with expensive large submarines vulnerable due to the transferred sub detection technology and due to transferred guidance technology for the Soviet ICBM's.

The vulnerability of our Trident class subs clearly requires a remedy. That remedy spells time consuming, frustrating defense policy debates and disputes, tedious political and congressional processes, again time consuming development and deployment of new class subs, and billions upon billions of dollars for the development and deployment of the new subs.

THE CAUSE OF THE PROBLEM

U.S. policy on international trade consists of two elements that are not always reconcilable: 1) to promote trade and commerce with other nations, and 2) to control exports of goods and technology which could make a significant contribution to the military potential of any other government or governments when this would prove detrimental to the national security of the United States.

Our chief concern is with the second of these goals. Our concern, however, must be discharged without restricting free trade flow with the free nations around the globe.

The given empirical evidence proves that, since the onset of "economic detente"—that has resulted in the liberalization of trade legislation pertaining to commerce with the communist governments—the export control efforts have failed. Also, due to political detente with the U.S.S.R. and its satellites, there was a flood of communist agents to the U.S. Numerous government-to-government scientific, technological, and cultural exchanges have created tremendous opportunities for stealing U.S. scientific and technological secrets. All these, as we have demonstrated, has had and is having a detrimental impact on U.S. national security.

SOLUTION

The U.S. government's objective in the control of exports of U.S. technology should be to protect the United State's lead time relative to its principal adversaries in the application of technology to military capabilities. In addition, it is in the national interest not to make it easy for any country to advance its technology in ways that could be detrimental to U.S. interests. These controls, however, are to be applied so as to result in minimum interference in the conduct of commerce between free trading partners.

For the purpose of effective export controls we perceive a need for new definitions and for new administrative procedures. First, one has to define what is to be understood under the term "critical technology." The term "critical technology" should refer to the classified and unclassified nuclear and non-nuclear unpublished technical data, whose acquisition by Warsaw Pact members, or any other potential adversary, could make a significant contribution, which would prove detrimental to the national security of the U.S., to the military potential of such country—irrespective of whether such technology is acquired directly from the United States or indirectly through another recipient, or whether the declared intended end-use by the recipient is of military or non-military use.

"Technical data" means information of any kind that can be used, or adopted for use, in the design, production, manufacture, utilization, testing, maintenance or reconstruction of articles or materials. The data may take a tangible form such as a model, prototype, blueprint, or an operational manual, or they may take an intangible form such as technical service or scientific and technological exchanges.

Control of such critical technology also requires the control of certain associated critical end products defined as "keystone" that can contribute significantly in and of themselves to the transfer of critical technology because they 1) embody extractable critical technology and/or 2) are equipment that completes a process line and allows it to be fully utilized.

Second, it is our conclusion that the key role in definition of what constitutes critical technology should be assigned to the Defense Department. Also, the Defense Department should be responsible to designate those items which shall be considered as defense articles and defense services so that they can be properly placed on the United States Munitions List administered by the State Department. In its present form the Security Assistance Act and Arms Export Control Act of 1976 does not require this procedure. At this time, there is no specific provision under any of the individual classifications of the Act for the identification of any design, production or test data as "significant combat equipment." The criteria for the selection of categories to be designated "significant combat equipment" does not necessarily involve judgment as to strategic or advanced technology. For example, while category "significant combat equipment" includes M1 rifles and bayonetts, it excludes CDC's Cyber-76 computer, and certain technologies and equipment necessary for the production of nuclear warheads.

In order to protect and strengthen U.S. defense production capabilities, procedures need to be established to separate the military articles required by most foreign countries from the design and manufacturing know-how essential to the production of the articles. Under existing agreements with our NATO Allies, a number of projects involving coproduction and standardization require the transfer of such information in both directions, but this flow of technology with other friendly countries requires more control than is presently possible. Similarly, while the export of some commercial, technological products could be more readily available to even the Soviet Union, it is essential to restrict the export of the associated design and manufacturing of those products which are also on the U.S. Munitions List.

The present Commerce Department's Commodity Control List is derived from the Munitions List by way of the Battle Act and the Mutual Security Assistance Act, which are administered by the State Department. Because the role of the Defense Department has not yet been specified in any legislation as the basic source for the definition of "defense articles" or "strategic technology", there continues to be uncertainty and delay in the processing of Commerce Department and Munitions Department license applications. The present reports required by the Arms Export Control Act and the studies to be required when the Export Administration Act comes for deliberation before U.S. Congress, should provide the Administration with the unique opportunity, now, to restructure the entire Arms and Export Control process.

Note: This Current Analysis No. 2 is part one dealing with the titled subject matter. Forthcoming part two will be based on the results of the interviews conducted with former Soviet scientists, engineers, military officers, and intelligence officials.

Selling Them the Rope—Business and the Soviets

(By Carl Gershman)

> I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western Capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: they will bring it themselves without thinking about their future. And, in a difficult moment, at a party meeting in Moscow, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."
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> Then, Karl Radek, . . . who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied: "They'll supply us with it."—Aleksandr Solzhenitsyn, June 30, 1975, in a speech to the AFL–CIO

The issue of trade has figured prominently in relations between the United States and the Soviet Union ever since the Nixon administration initiated the policy of détente almost a decade ago. Already in 1969, even before détente had become the central theme of the Nixon administration's foreign policy, the President signed into law the Export Administration Act, replacing the Export Control Act which had been adopted two decades earlier. The new act greatly liberalized restrictions on the export of goods and technology to the Soviet Union. While continuing to prohibit exports that would "make a significant contribution to the military potential" of the Soviet Union, it lifted the ban against those that would strengthen the

Soviet Union's "economic potential." The change grew out of pressure from American corporations anxious to do business with Moscow and fearful of losing contracts to competitors in Europe and Japan. But to President Nixon and his principal foreign-policy adviser, Henry Kissinger, the change had chiefly political, not economic, significance. They saw increased U.S.-Soviet trade as an essential component of détente.

The idea of using trade to promote détente with the Soviet Union did not originate with the Nixon administration. President Johnson too had expressed the desire to "build bridges" to the Communist world through trade. A special committee he appointed to look into the matter had concluded that trade could be "one of our most powerful tools of national policy," since it would enable us to "influence the internal development and the external policies of European Communist societies along paths favorable to our purpose and to world peace." Kissinger's version of this general view was the concept of linkage, according to which increased U.S.-Soviet trade would help to establish "a web of constructive relationships" that would give the Soviet Union a stake in peace by making it "more conscious of what it would lose by a return to confrontation." Finally, increased trade might also, in Kissinger's words, "leaven the autarchic tendencies of the Soviet system" and eventually lead to the integration of the Soviet Union into the world economic system and thus to the gradual liberalization of Soviet society.

The Nixon administration's eagerness to embark on this new course was evident in the terms of the trade agreement reached with Moscow on October 18, 1972. It provided both for the financing of Soviet purchases with long-term loans through the Export-Import Bank, and for a request to Congress to grant most-favored-nation tariffs for Soviet imports. Congress, however, reacting to the Yom Kippur War and the continuing harassment of Sakharov, Solzhenitsyn, and other Soviet dissidents, was in no mood to grant Moscow such generous terms. It added the Jackson amendment to the Trade Reform Act, making freer immigration from the Soviet Union the condition for lowering tariffs and qualifying for Export-Import Bank loans. Subsequently, Congress adopted the Stevenson amendment limiting Export-Import Bank credits to $300 million without further congressional approval. The Russians objected to these amendments—especially the credit ceiling, for they had been willing to compromise on the emigration issue—and in early 1975 canceled the whole agreement.

The issue of U.S.-Soviet trade became a point of controversy once again last summer when President Carter, in reponse to the trials of Soviet dissidents Anatoly Shcharansky and Aleksandr Ginsburg, blocked the sale of a Sperry-Univac computer system to the USSR and placed the export of oil and gas technology to the Soviet Union under government control. Moscow immediately charged that the President was taking a "path of confrontation," and a U.S. Commerce Department official warned that the trade curbs would have "a substantial chilling effect on exports." The Carter administration quickly backed off, and approved all 74 of the applications submitted for the export of oil technology to the Soviet Union. Last December, the President dispatched Commerce Secretary Juanita M. Kreps and Treasury Secretary Michael Blumenthal to Moscow with the message that the administation wanted more trade between the two countries and was in favor of removing some of the obstacles standing in its way—presumably the Stevenson and Jackson amendments.

It appears, then, that another round is looming in the ongoing battle over the trade issue. Once again it is being argued that the United States, with its balance-of-payments deficit running at record levels, has a vital economic stake in trade with the Soviet Union and a vital political stake as well, since closer economic ties will promote the liberalizing tendencies inside the Soviet Union and establish a foundation for improved U.S.-Soviet relations. William Verity, the chairman of Armco Steel Corporation and co-chairman of the U.S.-USSR Trade and Economic Council, said recently that "a policy of holding trade hostage for political reasons is self-defeating." And Averell Harriman, at a luncheon meeting of U.S. business leaders in Moscow, blamed U.S. congressional leaders for the "outrage that for all these years we cannot have normal trade relations with the second greatest nation in the world." In Harriman's view, which is shared by many businessmen, U.S.-Soviet trade would blossom were it not for anti-Soviet forces in this country.

And yet from a strictly economic point of view, trade with the Soviet Union hardly merits the attention that has been lavished upon it by U.S. businessmen and trade officials. In 1978, for example, the volume of trade with the USSR was $2.8 billion, an all-time high, but just over one-third the amount of trade that was carried on with Taiwan last year. One would hardly know this from comparing the sheer volume of congressional studies, books, conferences, and news articles devoted to the two subjects; and yet in a sense it is beside the point. It is not the present level of trade with the Soviet Union that excites U.S. businessmen, but the possibility of exploiting the vast, hitherto forbidden Soviet market. "Otherwise cautious executives," Marshall I. Goldman has written, "all but trample over one another in their effort to establish a foothold on this new frontier."[1]

But how new is this frontier? When the question of trade is debated, it is frequently forgotten that there are many historical precedents for the current efforts to expand trade with the Soviet Union, and while they explain why Russia is so interested in trade, they do little to justify business's continuing optimism.

There was substantial Western investment in Russia during the half-century preceding the Bolshevik revolution. The coal, iron, and steel-producing region of southern Russia was developed with capital and technical assistance from British, French, and Belgian companies, and German and Dutch firms helped develop these industries in the north. The "iron king" of Russia was an Englishman, John Hughes, who built the mining and metallurgical factories of Yuzovka—named in his honor—in the Donets Basin. The Swedish Nobel brothers developed the oil fields of Baku on the shores of the Caspian Sea, which helped make Russia the world's leading oil producer by 1901. The Trans-Siberian railway was built with Western (principally French) capital and technology, and the parallel telegraph line was built and operated by the Danes. Many American firms, too, participated in Russia's industrial development during this period. International Harvester was the largest manufacturer of agricultural equipment in pre-war Russia and Singer Sewing Machine had holdings worth over $100 million and employed a sales force in Russia of over 27,000 people in 1914.

When the Bolsheviks seized power in 1917, all this came to an end, as the new regime expropriated all Western capital investment and financial assets. But even this unprecedented act of industrial theft did not discourage Western business interests, eager to regain access to the alluring Russian market. the opportunity came soon enough. Just three years after the revolution, with the Russian economy in a state of total wreckage, Lenin invited Western firms back to Moscow and asked them to set up concessions. In the West this new policy was welcomed as a sign of moderation and a move toward "peaceful coexistence," but Lenin, as it turned out, had not ceased to be a Bolshevik. "Concessions—," he told a meeting of the Soviet Communist party in 1920, "these do not mean peace with capitalism, but war on a new plane." Lenin's sole objective was to revive Soviet industry, and, as subsequent events revealed, he had every intention of expropriating the concessions after production had been organized and sufficient capital, equipment, and skills had been brought into the country.

Nevertheless, Western firms, oblivious to the risks involved, flocked to the Soviet Union once more, bringing with them technicians, machinery, technology, and capital. From Germany came such major companies as Krupp, Thyssens, Otto Wolff, Siemens, the AEG, Junkers, Telefunken, and I. G. Farben; from the United States, General Electric, Westinghouse, International Harvester, RCA, Alcoa, Singer, Du Pont, Ford, and Standard Oil of New York. Concessions were also established by important English, French, Swedish, Danish, and Austrian companies. All told, the government granted about 350 concessions, and their impact on the Soviet economy was extraordinary. A recent study, which analyzes in painstaking detail the impact of the concessions on each sector of the Soviet economy, concluded that by 1930 there was not a single important industrial process—from mining, oil production, metallurgy, chemicals, transportation, communications, textiles, and forestry to the production of industrial and agricultural equipment and the generation of electrical power—which did not derive from transferred Western technology.[2]

If the advantages to the Soviets from all this are obvious, one is hard-pressed to identify any benefits accruing to the Western firms involved. By 1933, there were no foreign manufacturing concessions left in the Soviet Union, even though many firms had signed contracts covering periods of thirty and even fifty years. Some of the concessions were closed down by force, but the more common methods were punitive taxation, breach of contract, legal harassment, and disruptions by workers. The largest concession of all, the British mining company Lena Goldfields Ltd., had assembled its technicians, invested almost $80 million in equipment, and completed its surveys when it was attacked as a "weed in the socialist system." The OGPU raided its units, threw out many of its personnel, and jailed several of its leading technicians on charges of "industrial espionage."

In only a handful of special cases was compensation granted. Armand Hammer, who represented 38 large American firms in their dealings with Moscow and was a political sympathizer (his father had been a member of the steering committee that founded the U.S. Communist party in 1919), was compensated for the liquidation of his asbestos and pencil-manufacturing concessions. (Interestingly, these were also the only concessions to earn significant profits.) The Soviet authorities also agreed to compensate Averell Harriman for the liquidation of his manganese concession in Chiaturi in 1928, but only after Harriman had agreed to arrange a long-term loan for them in the United States (aimed both at demonstrating Soviet credit-worthiness and undermining official U.S. policy against such loans). Most firms were not so lucky, however, and those which had lost their holdings once before in 1917 had the dubious distinction of being expropriated twice.

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Far from signaling the end of Western business involvement in the Soviet Union, the liquidation of foreign concessions marked the beginning of the most massive transfer of Western technical resources yet undertaken in the form of American assistance to the first Five-Year Plan (1928–33). The plan, still thought by many to have been a remarkable Soviet achievement, turns out to have been largely the work of American management and engineering, as Stalin acknowledged in 1944, when he told Eric Johnston, the president of the U.S. Chamber of Commerce, that two-thirds of the large industrial projects in the Soviet Union had been built with American assistance.

America's leading industrial-architecture firm, the Albert Kahn Company, was contracted to design and supervise the major units of the plan, as well as to organize Gosproektstroi, the Soviet Design Bureau. Kahn's engineer, G.K. Scrymgeour, directed Gosproektstroi and also chaired the Building Commission of the Supreme Council of the National Economy, while various other American companies got individual contracts to build the mammoth separate projects outlined in the plan.[3] Du Pont built two nitric-acid plants at Kalinin and Shostka; the Arthur G. McKee Company of Cleveland managed the construction of the steelworks at Magnitogorsk, a replica of U.S. Steel's Gary Indiana plant and the largest steel complex in the world; Colonel Hugh Cooper, the builder of the great Wilson Dam at Muscle Shoals, supervised the construction of the even larger Dniepr Dam, for which he received the Order of the Toilers of the Red Banner. In addition, General Electric built and installed the massive generators at the Dniepr and also designed the Kharkov turbine works which had a manufacturing capacity two-and-a-half times greater than its own central plant in Schenectady. The Austin Company, builder of Ford's River Rouge factory, constructed the great auto plant at Gorki (known as "the Detroit of Russia"), while the U.S.S.R.'s other auto plants, at Moscow and Yaroslavl, were built respectively by the A.J. Brandt Company of Detroit and the Hercules Motor Corporation of Canton, Ohio. Austin's John Calden (whom Maurice Hindus called "Russia's miracle man" at the time) managed the construction of the Stalingrad Tractor Plant, Europe's largest, which was first built in the United States then dismantled and shipped to Russia, where it was put together again. For this achievement (and for salvaging the construction of another plant at Chelyabinsk after an abortive effort by a Russian team of engineers) Calder received the Order of Lenin, as did his colleague, Leon A. Swajian, who was chief engineer for the construction of an identical tract or plant at Kharkov.

In 1930, Business Week proclaimed that Russia, though unrecognized politically, had "come to the aid of depressed American industry." American businessmen, delighted with these Russian contracts, looked forward to a period of expanding U.S.-Soviet trade. Unfortunately, the benefits that American business actually derived from this unprecedented burst of commercial activity proved to be meager and short-lived—as well as absurdly disproportionate to what the Russians gained. In 1930, U.S. exports to Russia reached the all-time high of $230 million, but it was still only a small fraction of total U.S. exports. By 1932, exports had dropped to less than $28 million, and the following year they dropped still further to $14 million. The Soviet government (which had sold grain to finance imports while millions of Russians starved) had simply run out of money.

But even after the Export-Import Bank had been set up in 1934, primarily to finance Soviet purchases, exports still did not increase significantly. The main reason for this was that Russia had by then attained a considerable degree of industrial self-sufficiency, made possible by the willingness of American companies to construct finished plants and assist in their duplication, and to transfer essential technology to the USSR. To its $30-million sale of auto parts, for example, the Ford Motor Company threw in an extra bonus in the form of an agreement to send its technicians to Gorki to introduce Ford production methods[4] and to bring Soviet engineers to its River Rouge plant for training. (Of the 1,039 Soviet nationals arriving in the U.S. between January 1, 1929 and June 15, 1930, 81 per cent came for industrial-training programs.)

America's wartime alliance with the Soviet Union produced still another wave of euphoria at the prospects of trade with the USSR. In 1944, soon after his meeting with Stalin, Eric Johnston wrote in Nation's Business that "Russia will be, if not our biggest, at least our most eager customer when the war ends." The following year Fortune published a poll showing business leaders to be the "most friendly" toward the USSR of all American groups and also the most hopeful about postwar relations—annual exports to Russia, the magazine predicted, would be between $1 billion and $2 billion. Alas, in 1946 annual U.S. exports to Russia, though still financed by Lend-Lease credits, totalled only $236 million, and even that level would not be reached again for more than a quarter of a century.

While the export controls imposed by the U.S. in 1949 played a part in delaying a new round of Soviet purchases, they had nothing to do with the initial drop in exports after 1946. What happened to cause this drop was precisely what had happened fifteen years earlier when Russia reverted to autarchy immediately after having absorbed an enormous amount of Western technology and equipment. Under Lend-Lease, Russia had received $2.6 billion worth of nonmilitary goods from the U.S. (in addition to $8.5 billion in military hardware), including $1.25 billion of the latest American industrial equipment. Even more significant, however, was the more than $10 billion worth of industrial and military equipment dismantled in Germany and shipped to Russia in the greatest and most systematic looting of a defeated country in the history of war.[5] From the Soviet Zone the Russians acquired several thousands plants representing 41 per cent of Germany's 1943 industrial capacity, and still more was removed from the Western Allied zones under an agreement allocating 25 per cent of the plants there to the Russians. The booty included such plants as the famous Karl Zeiss factory at Jena which manufactured optical precision instruments, and the Opel autoworks at Brandenburg. (Small wonder that the 1947 Moskvich 401 was a replica of the 1939 Opel Kadett!) Berlin's entire electrical-equipment industry was removed, as was two-thirds of Germany's aircraft and rocket industry, including the enormous underground V–2 rocket plant at Nordhausen which provided the foundation for the Soviet Union's Sputnik program.

Since specialists were needed to bring this new industrial capacity into operation and to develop it further, technicians were also shipped off to Russia. On a single night—October 22, 1946—6,000 German scientists, engineers, and aviation experts, along with 20,000 dependents, were placed on trains and transported to various points throughout the Soviet Union where German industry had been reassembled. Once again Russia had become "self-sufficient."

Contemporary champions of U.S.-Soviet trade[6] view this historical background as relevant only to the extent that it helps to explain why psychological barriers to the unrestricted expansion of commercial relations with the USSR still exist in the United States. Fears based on past experience are groundless, they argue, since the Soviet Union is a vastly different country today—less oppressive, more stable, and more committed to consumerism—than it was after the devastations of World War II, not to mention during the periods of revolutionary consolidation and forced industrialization. Samuel Pisar, for example, a leading trade advocate, is confident that the American and Soviet economic systems, at one time diametric opposites, are now "actually creeping toward convergence," a process that will accelerate if there is increased trade.[7]

But how different is the Soviet Union today? Like every other country in the world, the USSR has of course changed over the past thirty years, but nothing has happened to alter the nature of its economic relations with the West in any fundamental way. The Soviet Union's chief priority is still the procurement from the West of advanced technology for its heavy industry (machine-building, metalworking, chemicals, and so forth). Though the new emphasis on consumer needs in the ninth Five-Year Plan (1971–75) raised hopes that the Soviet Union would enter the market for consumer goods, this emphasis was dropped when the plan was actually implemented, and the current Five-Year Plan restores producer goods to their traditional preeminence.

The continuing Soviet need for Western technology results directly from the weaknesses of its centralized, state-run, command economy. Much has been written about the inefficiencies of the Soviet economy which produces about half the American GNP using a larger workforce (and which now suffers from a labor shortage). What is not sufficiently appreciated is the degree to which the system, because of its stifling rigidity, is structurally resistant to technological innovation. This problem became acute in the 1960's with the slowdown in the Soviet growth rate and with the realization by Soviet leaders that the country could not keep pace with the West, let alone catch up with it, if it did not obtain access to revolutionary Western innovations in computers and electronics. There is no question that the need for such access was a critical factor in the Soviet conversion to détente.

Indeed, the one change that can be detected in the pattern of Soviet trade relations with the West involves the absorption of Western technology, which no longer occurs at fitful intervals, as it did in the 30's and 40's, but appears, at the moment at least, to have become an uninterrupted process.

Still, the importance of this development should not be exaggerated. It is not the result of changes that have taken place inside the Soviet Union, nor is it evidence that Russia has been drawn into "the disciplines of international economic life," as the original linkage policy had hoped. It merely means that Soviet leaders are satisfied with an economic relationship in which, according to the Soviet journal Foreign Trade (1977), the USSR "efficiently uses the benefits of the international division of labor and constantly imports technically advanced plant and the latest licenses and know-how."

And why indeed should they not be satisfied with an arrangement which virtually guarantees greater advantages to the USSR than to its Western partners? If for no other reason, the Soviet Union stands to benefit simply by virtue of its technical backwardness. During the early years of détente, for example, the Nixon administration encouraged top American firms to sign "technological-exchange" agreements with Moscow. The firms had nothing to gain technologically from such agreements, but went along with them in the hope that "exchanges" of this

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sort might eventually lead to large contracts. The contracts rarely materialized, but the Russians received valuable technology in the meantime. A spokesman for Control Data Corporation, which signed a ten-year agreement with the Soviet Ministry of Science and Technology that included a plan for the joint development of a new super computer, admitted not long ago that the Russians gained fifteen years in research and development by spending just $3 million over three years. And government-to-government exchange agreements, another by-product of the early euphoria over détente, have had the same result. The Apollo-Soyuz space program, one of the better known examples, has been called by Zbigniew Brzezinski "a vehicle for the one-sided transfer from the United States to the USSR of a technology that has obvious military applications."

The asymmetry of the technological "exchange" relationship is reinforced by the Soviet Union's obsession with secrecy and by its unabashedly predatory approach. While American firms are expected to be forthcoming with technical information, especially if they hope to win contracts, the Russians have been extremely reluctant to divulge information on plant operations, let alone to allow American technicians to visit the plants for which they have been asked to design systems.

At the same time, American firms have trained hundreds of Soviet technicians in the U.S., and teams of Soviet specialists—ostensibly looking into possible purchases—have been allowed to tour defense-related American plants. A member of one such group, which closely inspected the Boeing, Lockheed, and McDonnell Douglas factories in 1973 and 1974, admitted privately to a Boeing official that purchases had never been contemplated—meaning, of course, that the group's real purpose had been industrial espionage. Within the FBI, concern has been expressed that Moscow's espionage efforts have expanded in recent years owing to the sharp increase in the number of Soviet citizen's here on official business and to the treaty arrangement allowing Soviet ships to call at 40 American ports.

Still another factor that works to the USSR's advantage is that Soviet foreign trade is a state monopoly. As the sole buyer in a situation where there are many sellers—competing American firms as well as firms from Europe and Japan—it has unequal bargaining leverage which it uses not only to bring down prices but also to secure maximum technological benefits that include the provision of technical data and licenses, extensive training of Soviet personnel, and, increasingly, longterm arrangements for the continuous supply of new technology. American firms in high-technology fields like computers, aerospace, and automotives are willing to agree to such arrangements in order to compensate for the high cost of research and development. But the end results favor the Russians, as exemplified in the Soviet purchase not too long ago of space suits for $150,000 which had cost the Americans $20 million apiece to develop.

There have even been some instances where American firms have provided valuable technology in the hope of landing a major contract, only to lose the contract to a competitor. In 1973 the Raytheon Corporation, seeking direct contract with the USSR's Ministry of Civil Aviation to promote the sale of an advanced air-traffic control system (ATC), mounted an elaborate exhibition in Moscow in cooperation with the U.S. Federal Aviation Administration. After Raytheon had invested $220,000 in the exhibition and presented plans for an ATC system more advanced than the one in the United States, the Russians asked for competing bids from four other American and two European companies. They also indicated in the course of the negotiations that an American bid would receive more favorable attention if it were accompanied by an offset purchase of Soviet-made YAK-40 jet aircraft, and if the U.S. granted increased landing rights to Aeroflot. In all, the U.S. companies spent over $500,000 and provided the Russians with quite a lot of valuable technical work before the contract was awarded to a Swedish-Italian consortium.

Not all the American firms dealing with Moscow have been quite so unsuccessful as Raytheon, but according to a prominent U.S. businessman quoted in a recent report in the Wall Street Journal, "Nobody is doing the business he expected." (Even the modest U.S. export figures—$2.26 billion in 1978—overstate the amount of trade carried on by high-technology firms, since agricultural products account for more than 75 per cent of U.S. exports to the Soviet Union.) In addition, U.S. businessmen stationed in Moscow have had to work under extremely trying conditions: the enormous, impenetrable Soviet bureaucracy; the bugging of their offices, conference rooms, and private residences by what the Journal report called "the omnipresent official eavesdroppers"; the fear for their personal safety, as pointed up by the arrest last June of International Harvester's F. Jay Crawford.

Still, it is all worth it in the opinion of Harold B. Scott, the former president of the U.S.-USSR Trade and Economic Council, for the Soviet Union "will one day be the largest market in the world. The systems put in place there now will determine the patterns of trade. Now is the time when it is crucially important to put our technology there."

With all due respect to Mr. Scott, it is hard to believe that this perpetually alluring Russian market really exists, or if it does exist, that it will one day be ours, especially if we continue to "put our technology there," as he urges. Why should such a market come into being when by selling whole factories (called "turnkey" plants) and training Soviet personnel, we help Russia produce by itself what it might otherwise have to buy from us or from other Western countries? Ironically enough, the way trade has been conducted with the Soviet Union not only does not discourage those autarchic tendencies Kissinger was talking about, but actually reinforces them, even as Soviet purchases of Western technology continue.

Many businessmen claim that the chief obstacle to more U.S.-Soviet trade is the Jackson amendment tying lower tariffs to freer emigration. But even if the USSR were granted most-favored-nation tariffs, Soviet exports to the U.S. would still not increase significantly (which means that its ability to import American goods would also not increase by very much). Even now, the great bulk of Soviet exports consists of raw materials and semi-manufactured goods which are not subject to discriminatory tariffs. The only exports which would be affected if the Jackson amendment were withdrawn are manufactured goods, and there just is not very much of a market in the U.S. for Soviet products.

The congressional limitation on Export-Import Bank credits is far more important in this connection since the Soviet Union simply does not have the hard currency to finance its purchases. The amendment limiting credits, adopted in 1974 in the climate of growing disillusionment with détente, resulted in the U.S. government's withdrawal from a reckless economic venture, the financing of the huge Soviet-bloc debt. This debt was about $8 billion at the end of 1970. By the end of 1975, it had mushroomed to $38 billion, according to an estimate by the Chase Manhattan Bank, and by 1976, it had increased still further to $48 billion. Today it has reached $55 billion and is still growing. At a ministerial meeting of the OECD in June 1976, Henry Kissinger described the debt surge as "sudden" and "striking" and went on to raise questions about its economic and political implications. Kissinger also voiced concern that the debtor countries had acquired substantial leverage over the creditor countries through the latter's fear of default.

The Soviet Union's lack of hard currency has led to another practice which also skews the trade relationship in its favor. This is the so-called compensation agreement whereby a Western firm builds a plant in a Communist country and supplies equipment and know-how in return for part of the plant's eventual output. Once again, the advantages of this arrangement to the Soviet Union and its satellites are considerable. They not only increase their production with Western financing and advanced machinery and technology, but are also given access to Western markets in the course of "repayment"—and all this without spending any hard currency. The advantages to Western firms are cheap, strike-free labor (which, however, means a loss of jobs in the West) and access to untapped sources of raw materials. At the same time, however, they risk substantial losses if the market is glutted at the time of repayment, which is what happened to Armand Hammer's Occidental Petroleum, for instance, in its $20-billion fertilizer deal with the USSR.

Furthermore, they have no protection against repayment in substandard products, or against market disruption if the Communists, seeking hard currency or market penetration, choose to dump goods in the West. Fiat, for example, had no idea that it was creating a trade rival when it built the Volga Auto Plant at Togliatti (since it was assumed that Soviet domestic needs would easily absorb the plant's production). But the Fiat-like Lada is being sold right now in Europe and Canada at well below the cost of production. Similarly, unions throughout Europe's depressed chemical industry have expressed alarm that the products of the massive petrochemical plants to be built with Western support at Tomsk and Tobolsk will one day flood the European market.

In addition to the problems of market disruption and job displacement, Western firms run the added risk—always present when dealing with Communist countries—that political relations may deteriorate before compensation has been received. In some agreements the payback period is twenty years, a longer time than "détente" (by any prudent estimate) can be expected to hold up. If the Russians, for whatever reasons, should decide to cancel the compensation agreement at any time during that period, it will not do a Western firm much good to know that its collateral consists of oil pipelines buried beneath the Siberian steppes, or industrial machinery installed in Tobolsk. The knowledge that their investments have made them hostages to political circumstances could well turn Western businessmen into fervent defenders of appeasement.

Among votaries of U.S.-Soviet trade, however, the idea that political relations might deteriorate even in the face of expanded trade is virtually ruled out, since it is taken as axiomatic that trade will strengthen the liberalizing, peaceful tendencies in the Soviet Union. This is an old notion. In 1922, British Prime Minister Lloyd George said that trade "will bring an end to the ferocity, rapine, and the crudity of Bolshevism surer than any other method." In our own time it is widely believed that trade, in Daniel Yergin's words, "draws the Soviet Union into the community of advanced industrial nations." From this point of view, of course, trade with the Soviet Union is valuable even if it does entail certain economic disadvantages. But is there any evidence so far of this happy outcome?

The view that trade will lead to liberalization in Russia is partly based on the not illogical belief that exposure to the West will encourage the development of Western norms and values in the USSR. Unfortunately, the present Soviet leaders, like the Czars before them, are as mindful of this possibility as anyone else, which is why they take great care to shut out Western cultural influences even while helping themselves to Western products and technology. To realize how far the Soviet authorities are willing to go to prevent any contacts from taking place outside of very tightly controlled official channels, one need only think of the confiscation of follow-up cards passed out at a seminar in Moscow conducted by Singer personnel, or the removal of subscription forms from all copies of *Aviation Week and Space Technology* distributed at the Raytheon exhibition, or the totally self-contained office, hotel, and apartment complex for foreigners that is being constructed in Moscow—the modern equivalent of the *Nyemetskaya Sloboda*, or "foreigners' quarter" (literally, "German Quarter") built by Vassily III almost 500 years ago.

But the Soviet regime not only isolates Westerners, it also tightens internal controls to prevent Western influences from seeping through. Particularly during periods of détente—the last decade is a good example—there seems to be an increased tendency for the regime to step up repression and ideological vigilance. All of this would seem to suggest that trade does not promote liberalization, and may actually have the opposite effect.

The fact, too, that trade is used as a way to obtain the technology needed for rapid modernization means, in the context of a command economy, that it is frequently associated with forced industrialization and the use of slave labor. The program of Westernization under Peter the Great was achieved at the cost of immense sacrifice and suffering imposed on the Russian people. Two centuries later, Stalin's first Five-Year Plan, which marked another period of intense absorption of Western technology, took an even greater toll in freedom and human life.[8]

The argument is also made—again to show the link between trade and freedom—that the Soviet Union must liberalize its system in order to solve its economic problems, and that increased exposure to our superior economic methods will encourage Soviet leaders to take this course. This argument might be valid if the Soviet leaders were interested in nothing more than promoting economic efficiency and technological innovation. But they also have a stake in maintaining their totalitarian system which is inherently inefficient and uncreative. If this fundamental contradiction were allowed to work itself out, it might conceivably lead to real reforms inside Russia, but Soviet leaders have been able to avoid the choice between reform and stagnation precisely by turning to the West for totalitarianism's "missing dynamic." (It is instructive to recall that Brezhnev's decision to import Western technology on a large scale followed a brief but politically costly experiment in the 60's with economic decentralization.)

Thus trade, by injecting into the Communist system the technological innovations without which it could not survive but which it cannot achieve on its own, actually helps to sustain totalitarianism.

The strategic as well as the moral implications of this fact have thus far been ignored. The idea that trade promotes East-West peace, central to the thinking of those who shaped the policy of détente, remains basically unchallenged among U.S. policymakers today, despite evidence that the increase in trade since 1970 has not been accompanied by reduced Soviet military spending or greater moderation in the Middle East, Africa, or elsewhere. In fact, increased trade (or, more specifically, the increased pace of technology transfers) has been accompanied by the continuing buildup of Soviet military forces and by a greater Soviet readiness to intervene in local conflicts.

Pre-revolutionary Russian history offers numerous examples of the rulers of Russia importing technology from the West to strengthen their country's military capacity. And far from ending the practice of importing Western technology for military use, the Bolshevik rulers have simply recast its revolutionary terms. Occasionally these acquisitions have been accomplished by theft—as in the case of the atomic espionage of the 40's—but more often the same result has been achieved through political and trade agreements, in accordance with Lenin's famous statement that the capitalists "will supply us with the materials and technology which . . . we need for our future victorious attacks upon our supplier."

In the 20's Germany was the main foreign source of military assistance. Thereafter, the United States took over, becoming the main supplier of military-related technology, along with Germany and Britain, until the cold war. Fertilizer plants supplied by the West were used to produce explosives, machine plants turned out gun barrels, and—most important—the automotive industry which had been set up by U.S. firms produced tanks and armored trucks.[9] For years after World War II, Lend-Lease transfers and the dismantling of German industry were providing the Soviet Union with the foundation for military production.

This process is still going on today. Indeed, there is now a growing concern in the United States that the technology we have already supplied to the Soviet Union, particularly in the computer field, has contributed to Soviet advances in strategic weaponry and strengthened the USSR's overall economic and military capability. The president of Texas Instruments, J. Fred Bucy, who chaired the Defense Science Board Task Force on the Export of U.S. Technology, told a Senate panel in 1977 that "the transfer of militarily significant technology has been of major proportions," and the full consequences of this development "will become evident over the next five years."

Presumably the U.S. government approves only technology transfers which have no military significance, but the problem is that most modern technologies have both civilian and military uses. The air-traffic control system, for example, can also be used for air defense and vectoring fighter aircraft; the semiconductor technology used in computers has numerous military applications, including missile-guidance systems; technology for the manufacture of wide-body aircraft and high-bypass turbofan jet engines can be used in the production of military aircraft. And while precision ball bearings certainly have many industrial uses, they are also essential for the production of the guidance mechanism in MIRV warheads.

The problem is further complicated by the fact that the technologies of greatest interest to the Soviet Union are first developed by the private sector in the U.S. for commercial use, and are only later adapted to military programs. As Bucy pointed out, this means that "increased pressures for commercial trade with the USSR and its Comecon partners may result in the flow of significant technologies before similar technologies are applied to advanced weapon systems in the U.S."

To add to the problem, many Soviet factories have both civilian and military lines of production. It would be most surprising, for example, if the Western-built Kama River truck factory, which is slated to be the largest industrial complex in the world, did not produce military vehicles upon its completion, in addition to diesel trucks and engines. This has been standard procedure in Soviet motor plants for some time, and, given the regime's obsessive secrecy—which is not, after all, a psychological aberration but has a rational purpose—it will be impossible to verify whether or not the Kama plant is producing for the military. Indeed, when one considers for a moment that military production is the first priority of the centralized Soviet economy, and that it is the sector in which the best available technological and human resources are concentrated, the notion that imported Western technology will not be used for military purposes seems rather farfetched.

Nor need this technology be directly used by the military in order for it to be "militarily significant." Even if applied to industry, it serves the purpose of freeing scarce research talent for military work. It seems perfectly obvious that if foreign technology relieves the labor shortage by modernizing Soviet industry, it makes it easier for Moscow to maintain a standing army of 4 million men. And if this modernization is financed with Western credits, it reduces the burden of a military budget that now consumes somewhere between 11 and 15 per cent of the Soviet GNP.

An example of how technological transfers to Russia of great strategic importance can take place with the approval of the U.S. government is provided by the recent controversial sale by Dresser Industries of a $144-million turnkey plant for the manufacture of deep-well drilling equipment. This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980's. Lacking adequate energy sources, the Soviet economy's growth rate could slow to about 3 per cent, which would make it exceedingly difficult for Moscow to continue to increase military spending by 4 to 5 per cent every year, or to finance Cuban expeditions to Africa. Hence the Soviet interest in American oil technology.

Nevertheless, last summer, only weeks after President Carter announced that the government would assume control over all sales of oil technology and equipment to the Soviet Union, the administration approved the Dresser sale. Its reasoning, summed up by the Washington Post in an approving editorial, was that "the technology is widely available" outside the U.S., and that in view of the energy shortage "it serves American interests to get the maximum number of explorers "into operation as soon as possible."

The administration appears to have given no consideration at all to the strategic significance of this sale, which greatly enhances the USSR's oil-production capabilities by giving it the capacity to manufacture premium rock-drill bits equal to the entire U.S. output, and greater than the Soviet Union's anticipated deep-well drilling requirements for the 1980's!

In the controversy surrounding the sale, attention was focused on only two items of the manufacturing equipment which were thought to have possible military application. These two items were subsequently approved by the Defense Department, despite expert opinion which held that one of them could produce armor-piercing projectiles. Senator Jackson, chairman of the Senate subcommittee which investigated the sale, cited pressure by both the Commerce Department and Dresser Industries as a factor that "may have contributed to what ap-

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pears to have been a less than thorough assessment of national-security questions."

Following protests by Energy Secretary Schlesinger and members of the National Security Council, approval of the sale was suspended pending a review by a special task force of the Defense Science Board. The task-force report concluded that the deep-well technology in question "has strong strategic value in its application to Soviet energy needs of the 1980's" and that it is "wholly concentrated in the U.S.," thus giving this country effective control over its export to the Soviet Union. The report also pointed out that the transfer of this technology to the Soviets would allow them "to enter world markets with advanced drilling capabilities," thereby enabling them to increase their presence and influence in the Middle East and other oil-producing areas of the world. On the question of the two supporting technologies which the Defense Department had previously approved, the report concluded that both would contribute significantly to the Soviet Union's military potential.

Despite these warnings, the President approved the Dresser sale a second time. Subsequently, he told a news conference that the administration takes adequate precautions "to be sure that we are not deliberately or inadvertently giving to [Communist] countries a means by which their military capability would be greatly escalated. This would be contrary to the existing law."

But what exactly did the President mean when he used the words "greatly escalated" here? The ambiguity of the formulation cannot be attributed only to the informal conditions prevailing at a news conference. It also serves to point up the fact that the United States does not at present have an effective or even coherent policy governing the export through commercial trade of strategic technology to the Soviet Union. The agency authorized to control commercial exports affecting national security is the Commerce Department, and since this department is interested primarily in promoting trade and reducing the U.S. balance-of-payments deficit, these considerations play a great part in influencing judgments on what is "militarily significant."

But the fundamental reason for the absence of a sound policy in this area is political. As long as it is assumed that trade promotes peace, no matter what is being traded, the problem of the flow of strategic technology to our principal adversary is not likely to be given serious consideration.

The argument heard most often—that controls cannot work since other nations will export what we embargo—is a rationalization for having no policy at all. In the Dresser case, for instance, there was no foreign producer the Russians could have turned to if we had denied the sale, but we approved it nonetheless. It is hard to see how the U.S. can expect to gain the cooperation of its allies in denying strategic technology to the Soviet Union if we ourselves continue to supply it in abundance. In fact, the relaxation of U.S. controls over the last decade is a major reason for the diminishing effectiveness of CoCom, the international body established in 1950 to regulate the export of strategic items to Communist nations.[10]

Only a rigorous control policy can be expected to shore up the faltering CoCom arrangement and win broad support in the U.S. The objective of such a policy need not be to restrict trade with the Soviet Union, but only to shut off the flow of strategic technology in accordance with the Defense Science Board's crucial distinction between products and technology—that is, between the item produced and the know-how required to produce it.

This distinction did not matter so much thirty years ago, when the U.S. and its CoCom allies first attempted to work out a control policy for trading with the Soviet Union. At that time a favorite Soviet method of acquiring technology was to copy Western prototypes which had been procured through single-item purchases. But as technology became more complex and the pace of technological change increased, this kind of "reverse engineering" became less feasible—by the time a process had been mastered and brought to production the product would have become obsolete. So the Russians naturally dropped their interest in individual products, and turned instead to the direct acquisition of critical technologies and production capability.

Control policies, however, have been oblivious to these changes and are still focused on the regulation of product transfers, so that items of secondary importance to the Soviet Union are now regulated while the U.S. and other Western countries actually encourage the transfer of what the Russians want most. We now have a policy, in other words, which allows Western firms to build whole production facilities in the Soviet Union, transfer vital manufacturing information, and train Soviet personnel, while withholding one particular item in the sale because it is on the CoCom list of embargoed goods. Small wonder that our allies are cynical about it.

It seems clear that this must change. While controls on selected critical products should be maintained, policy must be revised to take account of the central importance of technology transfers which contribute in any way at all to the Soviet Union's military and industrial strength. To be sure, in a world where technology is widely diffused, a policy aimed at denying the Soviet Union access to such technologies cannot be airtight. But as Fred Charles Iklé, the former director of the Arms Control and Disarmament. Agency, has observed, "gradual seepage is one thing. It is quite another matter to expedite the spillage of some of the most advanced and complex technologies." And even if Soviet acquisition of such technologies cannot be prevented, it can at least be delayed, which may serve to maintain and perhaps extend what is called "the strategic lead time" of the United States over the Soviet Union. Our present lead in strategic technologies, estimated at three to ten years, is smaller than it was before "détente," but it is still a factor that restores some stability to the growing imbalance between U.S. and Soviet military forces.

Despite the current avidity for trade, it should be possible to win at least a measure of business support for a policy of stricter controls on technology transfers to the Soviet Union. In his new book, A Time for Truth, former Treasury Secretary William E. Simon traces the history of U.S. business aid to the Soviet Union by way of demonstrating the economic superiority of capitalism over Communism. But except in a footnoted afterthought in which he calls the whole enterprise "desperately unwise," Simon never comes to grips with the basic question of who stands to benefit most from current U.S.-Soviet trade ventures. Lenin put it rather succinctly in his famous question, "kto kogo?" ("Who [will defeat] whom?"), and perhaps it is time this question was asked by more than a small handful of business leaders. Capitalism is indeed more efficient than Communism, but if this very efficiency is used to sustain and fortify the enemies of free society, does this not, in the words of Seymour Martin Lipset, constitute "the ultimate failure of capitalism"?

But business need not even bother about such ultimate conclusions in order to support a policy of controls on the transfer of technology to the Soviet Union—it need only recognize its own economic self-interest. The transfer of production capability will dry up markets and create competitors far sooner than it will enhance trade or profits. All it takes is one firm—poorly managed, perhaps, and needing a Soviet deal to balance its books—to transfer the technology of an entire industry; surely this consideration should provide sufficient incentive for business to demand an effective policy of controls. Then, too, there is the question of the competitive disadvantage individual firms now face in negotiating with the Soviet state trading monopoly. Should not businessmen see the need for a central clearing house for U.S.-Soviet trade to offset this disadvantage?

A policy of control on technology transfers differs significantly from the so-called policy of "economic diplomacy" which has stirred up so much pointless controversy in recent months. The former would shut off technology transfers to the Soviet Union while the latter would offer technology as an incentive to moderation and deny it as punishment for hostile acts. But "economic diplomacy" is no substitute for a policy of military deterrence, and common sense should dictate that anything the Russians might want badly enough to forgo opportunities for expansion is probably something they should not have in the first place. A policy of controls, on the other hand, would not be tied to politics, but for reasons that should already be clear, it could in the long run limit the Soviet Union's ability to threaten the security of the West.

The denial of foreign technology might very well succeed—where the present policy has failed—in bringing about a greater degree of decentralization and liberalization within the Soviet Union, but such a policy should not be aimed at changing the Soviet system. Nor should controls be loosened in response to favorable Soviet gestures on human rights. Technology is too valuable to be turned into a pawn in a game which the Soviet Union could easily manipulate in its favor. (This criticism, incidentally, does not bear upon the Jackson amendment, which in any case does not offer technology in exchange for freer emigration but only a modest amount of hard currency in the form of credits and lower tariffs on Soviet imports. There is nothing wrong with buying people's freedom, which is what the Jackson amendment amounts to. On the contrary, it is an objective worthy of a democratic society.)

It is difficult to speculate on future trends inside the Soviet Union and more difficult to influence them from the outside. If we have learned anything at this late date in our relations with the USSR it is that interaction with the West does not necessarily yield helpful results, and that the rich creations of a free system become distorted when absorbed by a system that is not free. Those who wish to build bridges to the East through trade might recall that Brezhnev, on the eve of détente, observed that "scientific-technical progress has now become one of the main bridgeheads of the historical struggle of the two systems."

It would be ironic if the one system able to generate such progress lost the struggle because it lacked the wisdom to understand its advantage and the will to protect it.

FOOTNOTES

[1] *Détente and Dollars: Doing Business with the Soviets*, Basic Books, 1975, p. 5.

[2] See Anthony C. Sutton's *Western Technology and Soviet Economic Development 1917-1930*, Hoover Institution Publications, 1968. Two subsequent volumes by Sutton describe the transfer process and assess its contribution to Soviet economic development for the periods 1930–45 and 1945–65.

[3] Anthony C. Sutton, in this context, defines the phrase "built by Western companies" to mean not just the management of construction and equipment installation, but also the supply of technology, patents, engine-test results, and operator training, as well as supervision of the plant during its

initial period of operation. The Russians supplied labor, semi-fabricated materials, and middle-level engineers whose chief job was to learn from the Americans.

[4] One of these Americans, Victor Herman, has just published an extraordinary memoir of his experiences in Russia (*Coming Out of the Ice,* Harcourt Brace Jovanovich, 369 pp., $12.95). At the age of sixteen, Herman accompanied his family from their home in Detroit to Gorki, where they were planning to stay for three years working in the auto plants. He ended up spending forty-five years in Russia, eighteen of them in the Gulag, where he encountered many Americans. Herman describes his ordeal with an austerity that makes it all the more horrifying. He claims to be the only survivor of all the men, women, and children from the American village at Gorki who were sent to the Siberian camps—forgotten victims of an earlier period of Soviet-American "cooperation."

[5] Germany was not the only country looted by Russia. A U.S. mission headed by Ambassador Edwin Pauley in the spring of 1946 concluded that Russia had dismantled and removed $895 million worth of industrial equipment from Manchuria. In addition, $400 million worth of equipment was taken from the Soviet Zone in Austria, while peace treaties with Finland and Rumania resulted in the transfer of $600 million of equipment.

[6] See, for example, *The Psychology of East-West Trade,* by Zygmunt Nagorski, Jr., Mason & Lipscomb, 1974.

[7] *Coexistence and Commerce: Guidelines for Transactions Between East and West,* McGraw Hill, 1970, p. 8.

[8] The American-Russian Chamber of Commerce, whose board included representatives of the top American corporations doing business in Moscow, did what it could to whitewash the Soviet Union on charges of forced labor during this period. In a speech at the Bankers Club in New York in 1932, Colonel Hugh Cooper said that "The Chamber has made a real study of these charges. It has obtained signed statements from many leading American businessmen, who have actually been to Russia and have personally observed labor conditions there, and I am glad to say that not one of these men think labor in Russia is forced." Since American firms instructed their engineers not to discuss conditions in the USSR, only the apologists were heard from. Alcan Hirsch, who supervisted the construction of the Du Pont nitric acid plant at Chernorechenski, claimed in his book, *Industrialized Russia* (1934), that while the Soviet Union had "not as yet reached unprecedented eminence in the arts, science, or industry, . . . sociologically it is far ahead of the rest of the world." With all the attention paid to intellectual fellow-traveling with Stalinism in the 30's, it appears that the subject of business complicity has been sorely overlooked.

[9] Much of this was known to American officials. In 1933, for example, the American engineer, Zara Witkin, who supervised construction of some of the "secret industry" plants in Russia (Eugene Lyons called this task "the most important given to any single foreign specialist"), told a U.S. Consul in Poland that every tractor plant "is of course a tank factory and an automobile plant [is] a factory which may at any time produce mobile artillery."

[10] CoCom's full name is the Coordinating Committee of the Consultative Group of Nations, and its membership consists of NATO nations (except Iceland) and Japan. It maintains a common list of embargoed strategic items.

Carter Begins Drive To Step Up Soviet Trade

The Administration will move quickly in coming weeks to step up exports to the Soviet Union. Eager to increase trade with the Peoples Republic of China, the Departments of State, Treasury and Commerce have convinced the White House it must also take positive steps to reassure the Soviets that we are not tilting in favor of Peking.

Thus, as the Washington Post reported last week, the Administration has launched a "diplomatic initiative" to press for the resumption of U.S. trade and tariff benefits for the Soviet Union—all before President Carter meets with Soviet chief Leonid I. Brezhnev to sign the SALT II agreement June 15 in Vienna.

To this end, Secretary of State Cyrus Vance and Secretary of the Treasury Michael Blumenthal met with Soviet Ambasador Anatoly F. Dobrynin April 27 to stress the Administration's commitment to increased trade. And they discussed, frankly, ways to circumvent the Jackson-Vanik amendment of 1974 which has limited East-West trade.

That amendment, adopted at a time the Soviets were engaged in brutal persecution of their dissidents, makes freer emigration from the USSR the price for lowering U.S. tariffs and qualifying for Export-Import Bank loans. Asserting that the Congress had no right to interfere in their "internal affairs," the Soviets cancelled the 1972 trade agreement designed to increase commerce between the two nations.

Under the terms of the 1974 law, the President can grant trade benefits for one year if he receives "assurances" that Soviet policies will in the future "lead substantially" to freer emigration. Some State Department lawyers argue that the "assurances" must be in writing. Others—aware that the Soviets are unlikely to provide written guarantees about their "internal" affairs—have suggested that the assurances can take some other form.

Thus the April 27 meeting. According to the Post, Vance and Blumenthal stated it was the Administration's understanding that the recent liberalization of Soviet emigration policies has become the norm and is expected to continue. If Moscow will accept this, Washington will consider the transaction to be the necessary assurances under the Jackson-Vanik amendment.

How Jackson will react to the Administration interpretation of his statute was not known at press time. He is known, however, to be gravely concerned that in pushing detente the Administration has completely disregarded the strategic consequences of its technological exports.

Last summer, for instance, in the wake of the trials of Soviet dissidents Anatoly Shcharansky and Alexander Ginzburg, President Carter announced that he was placing the export of oil and gas technology to the Soviet Union under government control.

When Moscow issued a blustery attack on Carter's decision, the Administration backed away. All 74 of the applications for export of the oil technology were quietly issued. As Carl Gershman notes in a brilliant article in the April Commentary, the $144-million Dresser industries deal approved by Carter conferred enormous strategic benefits:

"This particular deep-well technology is needed by the Soviet Union if it is to develop major new oil reserves, an urgent priority since it is now expected to become a net importer of oil by the mid-1980s. Lacking adequate energy sources, the Soviet economic growth rate could slow to about 3 per cent, which would make it exceedingly difficult to increase military spending by 4 or 5 percent every year, or to finance a Cuban expedition to Africa. Hence the Soviet interest in American oil technology."

Energy Secretary James Schlesinger and members of the National Security Council raised similar objections, and a special task force of the Defense Science Board was set up to study the deal. The task force concluded that the deep-well technology "has strong strategic value in the 1980s" and that it is "wholly concentrated in the United States," thus giving us the power to deny critical oil technology to the Soviets.

The report also noted that the transfer of the technology would enable the Kremlin "to enter world markets with advance drilling capabilities," thereby permitting them to increase their presence and influence in the Middle East and other oil producing areas. Finally, the report concluded that two of the items involved in the deal could enable the Russians to manufacture armor-piercing projectiles, clearly increasing their military potential.

Nevertheless, the President himself approved the sale. It was only the latest in a long line of strategic items which profit-hungry businessmen have funneled to the enemy. As a former Polish intelligence officer, Michael Checinski, has reported, "every machine, device, or instrument imported from the West is sent to a special analytic group. Their job is not only to copy technical solutions, but to adapt them to the specifications of the Soviet military."

Consider the 1972 approval of the sale of 164 Centalign-B machines, and accompanying technology, to produce miniature ball bearings. This windfall drastically reduced the time required by the Soviets to improve the accuracy of their missile warheads. As a result, says former CIA official Cord Meyer, "the U.S. must spend $30 billion on new mobile missiles because of the vulnerability of our fixed silos."

Meyer also cites a recent Soviet defector still under security wraps who has spelled out just how the export of technology for peaceful purposes can backfire. Equipment sold to the Soviets to modernize their weather forecasting has been secretly diverted to improve the efficiency of their spy satellites.

There is a sense of *deja vu* in all of this as the Administration moves to remove the few remaining curbs on Soviet bloc exports in an effort to build the profits of American business and somehow improve East-West relations. Solzhenitsyn referred to it in his June 1975 speech to the AFL–CIO:

"I must say that Lenin foretold this whole process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from one rather than from the other. He said: 'They will bring it themselves without thinking about their future.' And, in a difficult moment, at a Party meeting in Moscow, he said: 'Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie and the bourgeoisie will hang itself.'

"Then, Karl Radek . . . who was a very resourceful wit said: 'Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?' Lenin effortlessly replied: 'They'll supply us with it.' "

Will House Beef Up USSR Military Capability?

At the precise moment the Administration has begun a determined drive to expand U.S.-Soviet trade, the intelligence community has informed Rep. Richard Ichord (D.-Mo.) that the Russians have illegally diverted for military usage American technology poured into the Soviet Kama River truck plant.

Ichord is chairman of the Research and Development subcommittee of the House Armed Services panel. In hearings on May 23, Ichord, basing his information on a classified intelligence document and testimony on Hans Heymann, the CIA's national intelligence officer for political and economic affairs, told witness Stanley Marcuss, a senior Department of Commerce official, "We know for a fact that the Kama River project was diverted to military use." Heymann confirmed to Ichord that some 50,000 diesel engines annually produced by the plant were being installed in military vehicles.

Ichord later informed a Human Events reporter that the Soviets were using U.S. technology furnished for the Kama River plant to produce "armored personnel carriers and assault vehicles," the latter a euphemism for tanks and heavy assault guns. Kama River technology, in fact, has reportedly been incorporated into the most advanced Soviet battle tank, the T–72, now being introduced into Central Europe.

Started in the early 1970s, the Soviet plant, supposedly designed for the production of civilian vehicles, has been largely constructed with advanced American technology. Donald E. Stingel, president of Swindell-Dressler Co., which was the principal engineering contractor for this huge project, testified before Congress on April 23, 1974, that his firm was providing the Soviets with a technology that had not even been realized in the United States.

The plant is scheduled to have an annual production capacity of 250,000 10-ton multiple-axle trucks, "more than the capacity of the entire U.S. heavy-duty truck industry," noted Miles Costick in his study, "The Strategic Dimensions of East-West Trade." The Kama River project's foundry, the largest and most modern in the world, is completely automated and equipped with one of the biggest industrial computer systems extant, courtesy of IBM. The foundry will be capable of manufacturing no fewer than 350,000 diesel engines annually.

The irony, wrote Costick, is that the project will have the "capacity to produce tanks, military scout cars, rocket launchers and trucks for military transport, but it was approved by the Commerce and State Departments as 'non-strategic'!"

The Kama River diversion was not the only explosive news to come out of the hearings, though it may have the most significant impact on the Congress in terms of dealing with the East-West trade issue.

Rep. Larry McDonald (D.-Ga.), a member of the Ichord panel, also brought out another critical point: that the United States, not our European allies, has taken the lead in undermining the CoCom strategic trade list. All the member nations that comprise NATO (save Iceland) and Japan have drawn up a common list of items—the CoCom list—that they agree will not be sold to the Soviet bloc because of their potential military value. Over the years, the U.S. government has alleged that the Europeans have been taking the lead in trying to make the list less restrictive.

But McDonald's questioning prompted Administration officials to admit, at least indirectly, that the U.S. has taken the lead. McDonald, for instance, asked Marcuss if some of our allies didn't think we were being hypocritical about the list because of the number of times this country has sought waivers of various items. Marcuss initially replied: "From time to time we hear that argument, but it's not credible in our view."

But Larry Brady, acting director of the Export Administration, who accompanied Marcuss, later released figures showing that in 1978 the U.S. sold 1,050 restricted CoCom items to the bloc, receiving more than 62 per cent of the waivers granted.

Brady also acknowledged what Commerce has denied in the past—that it is extremely difficult to find out if the Soviets divert our technology for military use. Although the Soviets must sign a statement pledging not to use American technology for such purposes, Brady admitted that U.S. safeguards "have only marginal utility." Thus, despite the "safeguards"—which largely consist of U.S. company executives informing Commerce if their supplies are being misused—the Soviets could easily be engaged in a massive effort to divert U.S. technology for military purposes. And judging from those Kama River intelligence reports, they are.

While this information was tumbling out of the Ichord hearings, however, the House moved a step closer to passing a new bill (HR 4034) which will actually expand trade with the Soviets and even loosen restrictions on items of trade with military potential.

Reported out of the Foreign Affairs Committee on May 15 and expected to come to the House floor in the next week or two, the bill has as its primary sponsor Rep. Jonathan Bingham (D.-N.Y.). The chairman of the panel, Rep. Clement Zablocki (D.-Wis.), is also a sponsor, as, surprisingly, is Rep. Robert Lagomarsino (R.-Calif.), a conservative. Indeed it is clear that even conservative members of the Foreign Affairs Committee who are not sponsors, such as Representatives Ed Derwinski (R.-Ill.) and Dan Quayle (R.-Ind.), appear unconcerned about the measure insofar as it would vastly increase Soviet opportunities to receive the most advanced American technology.

Yet the Bingham bill is considered "disastrous" for the U.S., according to such Red trade experts as Costick. The Pentagon's role in determining what goods should be sold to the Soviet Union, for instance, has been considerably reduced. Under the Jackson amendment as it applies to present law, the President, if he overrules the Defense Department's objection to the sale of a certain item, must submit a report to Congress telling why. But this requirement for a report has been eliminated, thus clearly making it easier for this soft-on-Red trade President to veto the Pentagon.

Of even greater consequence is the so-called "indexing" provision, which comes close to mandating that the secretary of commerce make important U.S. technology available to the Soviets on a steady basis. Indeed, this provision calls for the secretary of commerce to annually remove U.S. technology from the restricted list.

"In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed," this section says, the secretary may "provide for annual increases in the performance levels of goods of technology subject to any such licensing requirements." In sum, the secretary of commerce can unilaterally remove huge quantities of computers and machine tools from our restricted list by simply claiming that the newest technology makes even advanced but less new technology out of date.

Still another gigantic loophole eliminates any right on our part to block Western Europe or Japan from reselling our technology to the Soviet bloc or other enemy or adversary nations. That section reads that "no condition shall be imposed by the United States" on such reselling ventures.

While this bill is marching through the House (with a similar version being readied by Senators Proxmire and Stevenson in the upper chamber), conservatives, moderates and liberals who oppose expansion of Soviet trade are rallying around H.R. 3216, a bill mainly sponsored by Representatives Clarence Miller (R.-Ohio), Richard Ichord (D.-Mo.), Lester Wolff (D.-N.Y.) and Robert Dornan (R.-Calif.).

That measure would drastically change the method by which export licenses for the Soviet Union are approved, shifting the major responsibility from Commerce and the State Department to the Pentagon. Many think it will be offered in whole or in part as an amendment to the Bingham measure when it reaches the floor. And if it fails to win, the Soviets are almost certain to be the beneficiaries of even more advanced U.S. technology.

As Rep. Miller testified before Ichord on May 15, there is already considerable evidence that U.S. technological sales to the Soviets in recent years have enabled them to perfect the guidance systems and MIRV capabilities for their monster SS–18 intercontinental missiles which so threaten our nation. And Congress, it seems, may end up fortifying our enemies even more.

Proposed Shipment of Ball Bearing Machines to the U.S.S.R.

The Senate Subcommittee on Internal Security has undertaken its investigation of this matter not in any desire to find scapegoats, but because we felt that the larger issue involved in the Bryant case was, potentially, of life-or-death importance to America and the free world. We are now convinced, for reasons that are set forth below, that the decision to grant the license was a grave error—an error in judgment which stems from a more basic error in procedure.

In justifying the decision to grant the license for the export of the Bryant machines to the Soviet Union, Secretary Mueller wrote to Senator Dodd on January 18:

"We had originally issued the licenses on evidence which satisfied us that: first, denial of the licenses would not be effective in preventing or significantly delaying procurement of substantially comparable machines (our emphasis) by the U.S.S.R. from other sources than the United States; and second, the potential output and utilization of the machines is not such as to represent a significant strategic hazard to the United States. And because our denial action would not be substantially effective from a national security standpoint, its only result would be to withhold a business opportunity from a member of a particular American industry * * *."

With minor modification, this, in essence, has been the position of the Commerce Department in its testimony to the subcommittee and in subsequent correspondence.

This position was restated by Secretary Hodges in his letter of February 9 to Senator Dodd. The letter reads in its concluding paragraph:

"May I emphasize, in closing, I made the decision to release the Bryant machines for shipment to the Soviet Union on the basis of the best technical information and evaluation that was available to me. This technical information was to the effect that the national interest would not be prejudiced by the export of these machines by an American company, but on the contrary our national interest would be served. In my own judgment of the matter I have paramounted considerations of security and have given only secondary consideration to the commercial or trade aspects."

Any Secretary of Commerce, by the nature of things, must rely on the reports of his experts for guidance in such matters. One of the serious questions raised by this investigation is whether the Secretary of Commerce has had at his disposal the highly specialized expert opinion which is essential in making determinations about highly specialized machinery.

The conflict of testimony between the Commerce Department and Defense Department revolved around the following points:

(1) The Defense Department and Miniature Precision Ball Bearing Co. (hereafter referred to as MPB) held the Bryant Model B Centalign machine to be unique. The Commerce Department said that equal, or approximately equal machines could be obtained from European firms or built by the Soviets themselves.

(2) MPB emphasized that the function performed by the Bryant Model B machine is of critical importance in facilitating the mass production of high precision miniature bearings. The Department of Commerce and

the Bryant Co. contended that it is simply one among many equally important functions in the production of precision bearings.

(3) The Defense Department and MPB contended that the possession of these machines would enable the Soviet Union to produce smaller and better missile guidance systems, gyros, and other military items. The Bryant Co. held it probable that the Kremlin plans to use these machines for the manufacture of bearings of lower quality, largely destined for conventional uses.

The subcommittee was greatly impressed by the testimony of the Miniature Precision Ball Bearing Co. and of others who opposed the shipment. But to help throw some independent light on the matter, Senator Thomas J. Dodd, on behalf of the subcommittee, asked for the opinions of 12 private experts in the ball bearing field.

So that they would be familiar with arguments on both sides, the experts we retained as consultants were provided with transcripts of the hearings on the proposed export of the Bryant machines plus the briefs submitted by the Bryant Co. and MPB. They were encouraged to contact the Bryant Co. and the Miniature Precision Ball Bearing Co., and other companies in the field.

All told, we have now received opinions from 12 men recognized as experts in the ball bearing field. Eleven of them are Americans, one is an Englishman. A list of our consultants, stating their present positions and their qualifications, is appended to this report. We have also taken testimony, in a staff interview, from a Russian expert employed by the Library of Congress, who has made an intensive study of the literature relating to the Soviet ball bearing industry.

The list of our consultants is attached to this report. Their statements are printed in the hearing record.

We believe that this testimony gives overwhelming support to the stand taken by the Department of Defense in this matter, and to the arguments presented by MPB in opposing the shipment. This testimony establishes conclusively (1) that the miniature bearings produced with the help of the Bryant machine are used primarily for defense purposes; (2) that the function performed by the Bryant machine is of critical importance; (3) that no comparable machines can at present be obtained from other sources; (4) that Soviet industry has not been able to master the problems involved in mass producing high precision miniature bearings; that the industry is in fact plagued by poor quality and obsolete equipment; that, with its own resources, it would probably take a number of years to develop the capability; (5) that the possession of these machines would greatly accelerate Soviet mastery of the art of miniaturization.

Before proceeding to the recommendations which we wish to submit, we think it would be helpful if we briefly summarized some of the high points of this testimony, and recapitulated some of the essential facts.

1. At least 85 percent of the bearings manufactured with the help of the Bryant machine are used by defense industries:

Subject machine is a key factor in the economical production of the highest quality ball bearing parts. It enables us to produce a bearing assembly of the highest precision for many important Department of Defense applications, such as the latest guidance systems, navigation, fire control, computer, synchro and servo mechanisms used for aircraft, ordnance, ships, missiles and other space vehicles (statement of Mr. J. R. Tomlinson, president, and Mr. B. L. Mims, vice president in charge of engineering, the Barden Corp., Danbury, Conn.).

2. The function performed by the Bryant machine is of critical importance:

The outer ball track grinding operation is one of the last and most vital of those performed on the bearing outer ring. It is the operation which, until the advent of this machine, could probably be called the bottleneck opposing the precision performance of miniature bearings. The necessary perfection of other operations has been achieved 5 to 20 years ago (statement by Mr. H. B. Van Doren, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.).

3. The Bryant machine is unique in its field: Secretary Mueller in his letter of January 18, 1961, to Senator Dodd, said that "substantially comparable" machines could be obtained from other sources. Mr. Bradley Fisk, Assistant Secretary of Commerce for International Affairs, in his testimony before the subcommittee on January 24 said that there are "five factories outside of Russia that could make similar machines" (p. 156, transcript). It was not clear from his statement whether the companies he named do, in fact, make such machines, or whether they are theoretically capable of making them. A careful check has revealed that none of the companies named by Mr. Fisk produce machines that can be considered equal or "substantially comparable" to the Bryant machine.

(i) The Manganti Co. of Italy was one of the five listed by Mr. Fisk. Miniature Precision Ball Bearing, in its memorandum to the subcommittee, pointed out that it—

"Was consulted as to the capabilities of the Italian machine when it was in the final stage of development and obtained samples of bearings in late July (1960), tests upon which were completed in August. It was found that on "concentricity of bore" 90 percent of the bearings were not within the allowed tolerance and 30 percent had to be rejected because the bore roundness was not within the specified tolerance."

Such a machine cannot be considered "substantially comparable."

(ii) UVA of Sweden was another company named by Mr. Fisk. Mr. Stanley Hensby, technical director of the EMO Instrumentation Co. of Bracknell, England (an affiliate of the Barden Corp.), cabled this information on the UVA "machine" in response to a query from the subcommittee.

UVA: No equipment machine available. Work is now progressing in field and machine will probably be shown at Brussels show on September 2–12. Feel that it would take several years before production of this machine would become surplus to SKF requirements and available to world market.

A machine that will not be commercially available for several years cannot, again, be considered "substantially comparable."

(iii) The Studer Co. of Germany was also included in the list submitted by Mr. Fisk. Studer machines are in operation, under the same roof as Bryant machines, in both the Barden Corp. of Danbury, Conn., and in the EMO Co. of England. Eyewitness testimony on the relative working capabilities of the Studer machine is therefore available.

Mr. Hensby of TMO said in his cable:

"Studer: No equivalent available. Studer approach is for universal application rather (than) mass production. We have several of these machines in use. Only suitable for small-scale production."

Mr. Tomlinson and Mr. Mims of the Barden Corp., reported:

"* * * the Studer grinder, manufactured in Germany, is a machine which the Barden Corp. has recently purchased and is using in its experimental laboratory in Danbury. This machine is basically a very accurate toolroom machine, but it is not capable of producing accurate bearing races in large quantities with great efficiency."

Such a machine can also not be considered "substantially comparable."

(iv) The Voumard Co. of Switzerland was the fourth company named by Mr. Fisk. The Voumard machine was examined at the Swiss Industries Fair in Basel in the spring of 1960 by Mr. Donald Williams, chief process engineer of the New Departure Ball Bearing Co. Mr. Williams reported that—"these machines were presumably capable of relatively accurate work. However, these machines do not incorporate features such as fully automatic cycles, including loading and unloading, centerless chucking, and automatic wheel dress and compensation, which are considered prerequisites for production equipment. The Bryant Model B Centalign machine incorporates all of these features."

So much for the fourth "substantially comparable" machine.

Why has American industry been able to produce a machine that the European machine tool industry, with all its capabilities, has thus far not approached? The answer to this was stated by Mr. Tomlinson and Mr. Mims.

"It seems quite logical that, since the large market for highly precise bearings in the United States is supported almost entirely by the Department of Defense, there would be no reason for anyone in Europe to have manufactured a machine tool specifically for highly precise miniature bearings, since the quantities of these bearings used in Europe have been infinitely small compared to the quantities used in the United States."

4. Soviet industry, left to its own resources, is years removed from the production of a machine comparable to the Bryant model B.

Mr. Fisk in his testimony gave some credence to reports that the Soviets were on the verge of producing a comparable or even superior machine.

Mr. Joseph Gwyer, senior research specialist of the Library of Congress had this to say on the subject of the capabilities of the Soviet ball bearing industry and of that portion of the machine tool industry that supplies it:

"During the last year, the Soviets published a terrific amount of data on the ball bearing industry, the difficulties the Soviet ball bearing industry is facing today, and the availability of modern technologically advanced equipment suitable for the manufacture of ball bearings."

Mr. Gwyer quoted an article in the Soviet "Economic Gazette" (Aug. 27, 1960) as stating that the ball bearing industry had received little of the equipment planned for it, that the production of centerless grinders was entrusted to the Vitebsk Plant, which is not in a position to cope with this task, that the Saratov Machine Tool Plant and the Voronezh Plant had not yet produced internal grinders that satisfy the needs of the industry.

The articles published during the fall period of 1960—said Mr. Gwyer—"have created great concern. As a result of the reports showing the great deficiencies in precision machine tools specifically used by the bearing industry, the Council for Automation and Mechanization, with the Council of Ministers, initiated a field survey during which the machine tool plants responsible for manufacturing equipment for the ball bearing industry were visited. The findings of this special group, or this special investigating body, showed that the complaints were justified, and consequently, the Committee for Automation and Mechanization set a number of points, clarification points and recommendations, in order to improve the condition or actually remedy this situation."

Gwyer quoted a report in the Economic Gazette of October 20, 1960, as stating that "production problems of automatic size control equipment have not been solved for centerless grinders." In the same issue of the Economic Gazette, it was pointed out that it had taken 5 years to build the prototype of a semiautomatic internal grinder, after the machine had first been designed, that this prototype was only half as fast as the machine it was designed to replace, and that it did not produce a cylindrical surface.

Bryant Co., in defending the shipment, argued that, if the Soviet Union could not buy the machines, it would copy them, and little would be gained from a national security standpoint. In support of this, it is pointed out that the Soviet Government is already in possession of certain assembly plans for the Bryant machine.

Addressing himself to this point, Mr. Henry Konet, consulting engineer in the field of instrumentation, said:

"It is necessary to distinguish between giving away secrets, know-how and capability. Our manufacture of these small devices is no secret—even the manner is not difficult to determine—but the capability to do it well and economically has taken years to develop and should not be sold to a potential adversary. * * * The situation is not one of selling our adversary a 'club'—but machines which help to produce better 'clubs,' faster and cheaper."

When queried about this matter, several of the committee's consultants estimated that, if the Soviets had to build the machines on their own, it would take at least another year to manufacture 45 machines. Mr. Gwyer's estimate was even more pessimistic.

He said that the—"copying of equipment of the nature of precision machine tools enters into a new realm, where the Russians have demonstrated inability and consistent failures * * *."

He pointed out that the Bryant machine was much more complex than the internal grinder which had taken 5 years to move from design to prototype. On the basis of their past record, Mr. Gwyer estimated that it might take the Soviets as long as 5 years to build a prototype of the Bryant machine, iron out the bugs, and then build 45 machines of high quality.

Whether it would take 5 years or 2 years, or 1 year, our national security obviously demands that we stop helping Soviet industry, especially the Soviet defense industry, to overcome its weaknesses. It demands, on the contrary, that we inflict delays on them whenever this is in our power, that we make things more difficult for them rather than easier.

Based on the testimony given at our hearings and on the additional statements which we herewith transmit, the Senate Subcommittee on Internal Security is strongly of the opinion that the machines in question should not be shipped to the Soviet Union.

The Soviets have a considerable edge over us in the thrust of their rockets. We have compensated, or more than compensated for this disadvantage by our own very considerable lead in miniaturization and high-precision instrumentation. If the Soviets could ever achieve near equality with us in these areas, their lead in missile thrust would become a very serious matter.

Before they can close the miniaturization and precision gaps, the Soviets will have to develop an ability similar to our own to mass produce quality miniature bearings. Their press indicates that they are intent on doing this; and this is confirmed again by their eagerness to acquire the Bryant machines. They can obtain, or have already obtained from European sources, machine tools used at other points in the process of manufacturing precision miniature bearings. What they cannot obtain in Europe is a machine equivalent to the Bryant machine in the critical process of grinding the races.

There are 72 Bryant model B machines installed in the United States. We have been informed that on these 72 machines, all of the precision miniature bearings used by the Department of Defense are, at one point, processed. The 45 machines that will be shipped to the Soviet Union, unless the Bryant license is revoked, include 35 of this model, thus will give them a capability half as large as our own.

If we ship these machines, therefore, we will endow them with a readymade ability to produce precision miniature bearings in quantity. If we withhold these machines, it will almost certainly take them another several years to achieve this capability.

There can be no doubt about the course we should follow.

The subcommittee believes that the Bryant Chucking Grinder Co. acted in good faith and followed all the established procedures in arranging for the export of the Bryant grinders to the Soviet Union. Is it to be noted in this connection that it waited until the Department of Commerce had approved the sale before it concluded the contract.

The subcommittee also recognizes that in delivering plans, or partial plans, for the assembly of the Bryant grinder to the Soviet purchasing agency, the Bryant Co., was following an accepted and unavoidable procedure which is the natural concomitant of the sale of equipment. The subcommittee believes, however, that in future, companies which obtain Department of Commerce approval for shipments of machines tools or other complex equipment to the Communist bloc, should be instructed to wait until their equipment has been shipped before transmitting assembly plans or other technical diagrams.

LIST OF INDEPENDENT EXPERTS RETAINED AS CONSULTANTS BY THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY IN THE MATTER OF THE BRYANT EXPORT LICENSE

Mr. Richard H. Valentine, director of research and development, New Departure Co., Bristol, Conn.

Mr. Seth H. Stoner, general manager, New Departure Co., Bristol, Conn.

Mr. D. L. Williams, chief process engineer, New Departure Co., Bristol, Conn.

Mr. Kenneth V. Knebel, general works manager, New Departure Co., Bristol, Conn.

Mr. J. R. Tomlinson, president, Barden Corp., Danbury, Conn.

Mr. Bruce L. Mims, vice president in charge of engineering, Barden Corp., Danbury, Conn.

Mr. E. J. Karkut, vice president in charge of manufacturing, Barden Corp., Danbury, Conn.

Mr. H. B. Van Dorn, vice president in charge of engineering, Fafnir Bearing Co., New Britain, Conn.

Dr. Charles Stark Draper, professor and head of the Department of Aeronautics and Astronautics and director of the Instrumentation Laboratory, Massachusetts Institute of Technology.

Mr. William G. Denhard, assistant director, instrumentation laboratory, Department of Aeronautics and Astronautics, Massachusetts Institute of Technology, Cambridge 39, Mass.

Mr. Henry Konet, consulting engineer in instrumentation, Konet Co., Hohokus, N.J.

Mr. John S. Towresey, consulting engineer (in ball-bearing field), the Franklin Institute, Philadelphia, Pa.

Mr. Stanley Hensby, technical director, EMO Instrumentation Co., Bracknell, England.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell, Andrew Carothers, and Bruce Hubbard of my staff and the Banking Committee staff, and Ellen Lessard of Senator EAGLETON's staff be given the privilege of the floor during consideration of this bill and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, will the Senator be kind enough to add Chris Aldrich and Eve Lubalin to that list, please?

Mr. STEVENSON. Yes, Mr. President.

Mr. DOMENICI. Mr President, will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. Of course.

Mr. DOMENICI. I ask unanimous consent that Bruce Barr and George Ramonas of my staff be granted the privilege of the floor also.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the objectives of the proponents and opponents of this amendment and others which may be offered by the distinguished Senator from Washington are the same. Our objective is to strike a fair balance between the necessity of national security on the one hand and a strong, competitive economy on the other. The risk is that the balance will not be struck and that the United States will, once again and in the name of national security, shoot itself in the foot, depriving itself of national security.

Technology tends to float in the winds, and the United States no longer is the dominant resource of technology in the world.

More technology is now created outside of the United States than within. Often a control on technology by the United States simply gives the business to some other nation, a foreign competitor of the United States, with the result that our economy is hurt, that the technology is transferred, and without the safeguards that are frequently associated with transfers of U.S. technology.

So the result is not only injury to our economy, but also to our national security.

This argument so far implies there are no controls on technology. Well, that is nonsense. There are controls and there are effective controls.

In fact, the Defense Department has never been turned down by the Department of Commerce. In every instance in which it has sought controls on exports of technology, it has been granted the controls by the Department of Commerce.

I suggest to the Senate that the administration of export controls will not be improved, as this amendment intends, by spreading and dividing the authority for the imposition of controls.

The lead agency for that purpose is now the Department of Commerce. But in exercising that authority, it is required by law to consult with the Department of Defense. During those consultations, the Department has adequate opportunity to identify critical technologies, to urge controls where they are necessary for purposes of national security, and, in all such instances, they are granted and will continue to be granted.

I do not mean to suggest the administration of export controls cannot be improved. It can be. The recommendations of the Defense Science Board Task Force for improving controls are being implemented now and they are being implemented within the existing framework. We do not need to change it in order to improve it.

But some of the statements about the inadequacy of the present procedures for the imposition of export controls on technology are very misleading, and in certain respects they are not true.

The Kama River truck factory has been cited. Well, there were no diversions in that case because there were no controls in that case.

The decision was made by the Nixon administration to permit the exports to go forward without safeguards or end use controls. So there were no such controls to have been violated in that instance.

Why the administration at that time took that position, I cannot say. But the reason may have been the obvious one, that, had the United States not got the business, it would have gone to Italy, and how would the authority of the United States be enhanced in this world, or its economy strengthened, by simply giving the business to the Italians?

The Italians supply the factories for the manufacture of automobiles. They could do so for trucks. And if not the Italians, the West Germans or the Japanese could supply them.

Engines are engines, and trucks are trucks, and it is naive to think nations, especially a great superpower, is not going to get them by one means or another.

The main point is that there were no controls and, therefore, there could not have been any diversions.

Mr. President, I ask unanimous consent to have printed in the Record at this point a letter to me dated June 18, from the Secretary of Commerce setting forth the facts in this matter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C., *June 18, 1979.*

Hon. Adlai E. Stevenson, III,
Chairman, Subcommittee on International Finance, Committee on Housing, Banking and Urban Affairs, Washington, D.C.

Dear Mr. Chairman: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all revelant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

Juanita M. Kreps,
Secretary of Commerce.

Washington, D.C., *June 22, 1979.*

Memorandum for: Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project. The results of this examination, with two exceptions, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military versus civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and 849801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the KAMA River plant.

Washington, D.C. *June 14, 1979.*

Memorandum for: Lawrence Brady.

Subject: Kama River Truck Plant Licenses.

At your request all case files which could be identified as part of the Kama River Truck complex have been retrieved from Archives.

Staff members reviewed each case file, examining all documents including actual applications, supporting documents, Single Transaction Statements, internal memoranda and chron sheets for any indication which would show:

1. Limitation on the truck usage for civilian versus military applications.
2. Conditions attached to individual licenses.
3. Letters of conditions attached to licenses.

Over 175 case files were reviewed and there was no indication of limitation of use for the trucks to be produced at Kama River. The computer equipment licenses issued to IBM have the visitation conditions which are a part of all major computer sales to Bloc countries.

At the time these licenses were issued, they were microfilmed and sent to Archives. The procedure did not include microfilming letters or supporting documents accompanying licenses as is done now in our microfiching processes. We are retrieving these microfilm files and will review the face of all licenses issued to insure that conditions were not typed on the license itself.

All cases and the Capital Goods & Production Materials Kama River file have been given to Paige Bryan.

Richard Isadore.

Mr. STEVENSON. Mr. President, I also have a letter from Mr. Charles Duncan in his capacity as the Deputy Secretary of Defense, dated July 20, 1979, in which he expresses the views of the Department of Defense on this amendment.

Let me read from the letter:

> The Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.
>
> Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of

them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

Mr. President, I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Deputy Secretary of Defense,
Washington, D.C. July 20, 1979.
Senator Adlai E. Stevenson,
U.S. Senate,
Washington, D.C.

Dear Senator Stevenson: In response to your letter of July 19, 1979, the Department of Defense supports the Administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

The other amendment would authorize inclusion in the Defense budget of funds especially appropriated for export control functions. Our opposition to this proposal is that such an authorization is not currently needed.

By means of a separate letter, I plan to answer the other questions you raised about the adequacy of U.S. export controls maintained for national security purposes. In the meantime, I thought it might be helpful to let you know at once where we stand on the amendments issue.

Sincerely,

C. W. Duncan, Jr.

Mr. STEVENSON. Mr. President, I have another letter from the Assistant Secretary of Defense for International Security Affairs addressed to me and dated July 20, 1979, which says, in reference to the Kama River truck plant, as follows:

The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

In other words, not only could there have been no diversions, because there was no safeguard or end use restriction, it cannot even be verified that there has been any use of engines or trucks from this plant for military purposes.

Now, this letter, Mr. President, goes on to address other amendments which may be offered.

I ask unanimous consent that it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Assistant Secretary of Defense,
Washington, D.C., July 20, 1979.
Hon. Adlai E. Stevenson III,
U.S. Senate,
Washington, D.C.

Dear Senator Stevenson: We have reviewed your 19 July 1979 letter in which you requested Department of Defense views on several amendments which are expected to be offered to S. 37. Our views on the questions raised in your numbered paragraphs are as follows:

1. The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

2. A number of technologies employed in the Cruise Missile System can be exported to most non-Communist countries without a validated export license. None of them, however, are either sensitive or "critical" because they are not unique to cruise missile design, development or production and are readily available in a number of countries in the West. Those few technologies which are both unique to cruise missiles and available only in the U.S. require validated licenses from either the Departments of State or Commerce. An example is the technology associated with the small jet engine which is currently under development for the cruise missile. This technology can only be exported under a Munitions license.

3. The existing allocation of responsibility under the Export Administration Act for export controls does not hinder the Department of Defense's efforts to formulate a list of critical military technologies or otherwise interfere with the implementation of an effective and fully adequate system of export controls for national security purposes. In particular, the Department of Defense would oppose any amendment which would tend to reverse the relative roles of the Secretary of Defense and the Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. It is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

4. Statutory authority is already available to embargo exports of "critical" goods and technologies to all controlled country destinations. We would oppose any amendment which would make this a mandatory requirement because, on the one hand, the items to be covered are not presently fully determined, and, on the other hand, there may be occasions, even though rare, on which such action would be, ill-advised.

With regard to end use statements and safeguard provisions, we do not regard them as applicable to transactions in which technology, either in the form of technical data or equipment from which technology may be extracted, is involved. It is our judgment that technology once transferred can be neither controlled nor recalled. We consider the usefulness of safeguards as limited to hardware items whose diversion to other than their stated purpose we wish to deter. We do not count end use statements as a safeguard.

As for computers, there are some applications for which we have unable to devise technically and economically feasible safeguards. These are automatically recommended for denial. For others, experienced USG technical and intelligence experts have determined that safeguard provisions, judiciously applied, provide a reasonable assurance of detecting and thus deterring significant diversion of the system from its stated end use.

5. The Department of Defense has no evidence that Moscow has used American seismic equipment to enhance its antisubmarine warfare potential or that American machine tools for producing precision ball-bearings have probably helped Soviet engineers to develop multiple warheads for new intercontinental missiles.

I trust this is the information you desire.

Sincerely,

David E. McGiffert.

Mr. STEVENSON. Mr. President, in sum, I commend the Senator from Washington for his concern about the transfer of technology which could have adverse national security implications for the United States. I share that concern, but existing procedures are adequate. Existing procedures are being improved. The danger of this amendment is that by transferring this authority and changing a procedure which is adequate and is functioning adequately, we will end up harming ourselves economically, and with no improvement in our national security.

So I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Peter Clark and Jacques Gorlin, of Senator Javits' staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois (Mr. Stevenson), regarding Senator Jackson's amendment.

I say to my good friend the Senator from Washington that I do share his many concerns, and I compliment him on being a very consistent and a very thoughtful advocate of maintaining a strong national defense and making sure that our defense is in no way dissipated through thoughtless moves by any administration.

Nonetheless, Mr. President, I oppose this amendment because I really do not think it accomplishes the goal the Senator from Washington wishes to achieve. Also, it would create a terribly complicated and counterproductive situation for those seeking to export, those who do not export, and those who do not seek to export critical technology.

I suspect—this is hypothesis, but it is hypothesis based on the Senator from Washington's discussion of the Kama River Truck Plant—that what he really seeks to do is to try to constrain the President. In the case of the Kama River

Truck Plant, it was President Nixon and Secretary Kissinger who simply, I suspect, told the Defense Department to lie low, and that they would impose, for foreign policy reasons, a decision to go ahead and build the Kama River Truck Plant.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. JACKSON. I think the Senator might be interested to know that then Secretary of Defense Melvin Laird took a very strong position against the position taken by the Commerce Department and the State Department. He believed that there was a significant risk that the Kama River Plant would turn out military vehicles. It is rather interesting, and I want to give Melvin Laird credit for his foresight. They went ahead, nevertheless, and overruled Melvin Laird in that situation.

Mr. HEINZ. Mr. President, I am glad that the Senator from Washington put that on the record, because I think it illustrates exactly the problem, the problem with which this amendment does not deal.

The real objective of the Senator from Washington is to find a way to constrain a President's foreign policy. I must say that I share the concern of the Senator from Washington about this President's foreign policy. I wish I knew what to do about it.

However, the fact is that I do not think that legislating a procedure, as this amendment would do, which attempts by a cumbersome legislative process, after the fact, to second guess a Presidential decision in foreign policy by indirect means, is the way to do this.

The Senator from Washington has a very interesting amendment that I think he intends to bring up later today, which would require the President, when he seeks to override the advice of the Defense Department, to put that on the record. The Senator from Pennsylvania has no objection to that.

I say to the Senator from Washington that it is problematical whether a very loyal Secretary of Defense, loyal to the President, will handle the business of the Defense Department in such a way that that record will be necessary, but in some instances it may. I have no objection to that approach. It deals with the problem. This amendment, I fear, does not.

What it does, Mr. President, is to change the whole thrust of our Export Administration Act. It really will give—for the first time—very significant authority to the Defense Department over the Secretary of Commerce on these critical technology issues.

So far as we have been able to tell on the record, the Secretary of Commerce never has overruled—in any administration that we have been able to research—the recommendations of the Defense Department on the commodity control list. Obviously, there have been instances in which Presidents, as is their due in foreign policy under our Constitution, have overridden the Defense Department. But I think the amendment of the Senator from Washington seeks to impose a brandnew bureaucratic maze that does not deal with the problem and will only slow down our ability to export those items we need to export.

Let me give the Senate one example. One of the items on the commodity control list right now—or at least it was until recently—is a microprocessing unit. That microprocessing unit is available currently at the low bargain price of $12.95 from Radio Shack anywhere in the United States.

We cannot export—or at least until recently, we have not been able to export—that microprocessing unit because the Secretary of Commerce, being true to the Department of Defense, which listed this microprocessing unit as critical technology, has been restrained from exporting it, despite the fact that the Soviets or the Chinese or the Albanians or Idi Amin, if he were still with us today, could walk into Radio Shack and buy a dozen or several thousand.

So I say to the Senator from Washington that I understand his goal. But what his amendment seeks to do would not in any way achieve that goal.

To the contrary, it would change the system and would make it even more complicated for us to consider questions of foreign availability, because the Secretary of Defense would be publishing this list and the Secretary of Commerce could only consult. If the Secretary of Commerce found that there was broad availability of microprocessing units at Radio Shack for $12.95, for example, he would have to seek an appointment with the Secretary of Defense to try to convince him. But we do not need that extra layer of bureaucracy.

I urge my colleagues to bear this in mind and to reject the amendment of the Senator from Washington.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of amendments 340 through 352.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 423

(Purpose: To clarify the responsibility of the Secretary of Defense to prepare lists of critical goods and technology)

Mr. STEVENSON. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the amendment to the amendment is not in order until the time has been used or yielded back on the first amendment.

Mr. STEVENSON. I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 423 to amendment No. 340.

Mr. STEVENSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 1 through 4 on page 1 and lines 1 and 2 on page 2 and insert in lieu thereof the following:

"On page 60 at line 25, strike the word "The" following the period and insert in lieu thereof the following:

"The Secretary of Defense shall bear primary responsibility for indentifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of", ".

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Illinois add me as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. STEVENSON. Mr. President, as I indicated earlier and as has the distinguished Senator from Pennsylvania, we have the same objective as the distinguished Senator from Washington.

Mr. JACKSON. There is no question about that.

Mr. STEVENSON. And we have, as the Senator from Washington indicated, been working to try to resolve our differences on this subject.

This amendment, I hope, does so. It leaves the responsibility in the law for the imposition of export controls where it is, in the Secretary of Commerce. But it also recognizes, as does the amendment offered by the Senator from Washington and his distinguished cosponsor, that the primary responsibility for identifying such militarily critical goods and technologies should rest with the Secretary of Defense.

I think with this clarification we can accomplish our purposes, that is to say, protect the national security against improvident exports of technology without unnecessarily injuring our economy and hence our national security.

So I am hopeful that the distinguished Senator from Washington will accept this as an amendment to his amendment.

Mr. JACKSON. Mr. President, I commend the Senator from Illinois (Mr. STEVENSON) for his cooperation as well as the understanding and support of the Senator from Pennsylvania (Mr. HEINZ).

I am pleased to accept it.

I understood, and I understand that is the situation, that the goods and technologies identified by the Department of Defense will go on the critical list and that in that connection, in connection with this amendment, the Department of Defense will consult with other departments, agencies, advisory committees, and others within the executive branch so that there is some coordination in the administration of the program. But, as the amendment states, the Secretary of Defense shall have "primary responsibility."

I take it that the authors of the amendment have that same understanding as to how it shall be administered.

Mr. STEVENSON. Mr. President, we have no misunderstanding. It is our purpose to require such consultation and indeed the bill does require such consultation as a matter of law. As I indicated earlier, requests that critical technologies be placed on the control lists have always been honored by the Secretary of Commerce, and it is certainly our hope and expectation that they continue to be.

Mr. JACKSON. Mr. President, I believe the yeas and nays have been ordered previously, and I ask unanimous consent that that request be withdrawn. There is no point in going through with it.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment in the first degree.

Mr. JACKSON. On the original amendment.

The PRESIDING OFFICER. But not on the amendment in the second degree. Does the Senator yield back his time?

Mr. JACKSON. I yield back my time on the amendment.

Mr. STEVENSON. I did not realize the yeas and nays had been ordered.

I ask unanimous consent that the yeas and nays on the second amendment be withdrawn.

The PRESIDING OFFICER. No yeas and nays were ordered on the second degree amendment.

Mr. JACKSON. On the original amendment.

Mr. STEVENSON. On the original amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Now we shall vote.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Therefore, the question now is on agreeing to the second degree amendment offered by the Senator from Illinois.

(Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JACKSON. I yield back my time on amendment. No. 340.

Mr. STEVENSON. I yield back my time, Mr. President.

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. The question then is on agreeing to the amendment of the Senator from Washington, as amended.

(Putting the question.)

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 341

(Purpose: To clarify the meaning of critical technology)

Mr. JACKSON. Mr. President, I call up amendment No. 341 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself, Mr. Nunn, Mr. Hollings, Mr. Cohen, Mr. Hatch, Mr. Harry F. Byrd, Jr., Mr. Tower, Mr. Moynihan, Mr. Bayh, and Mr. Domenici proposes amendment numbered 341.

Mr. JACKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 22, strike out "military systems" and insert in lieu thereof "capabilities".

On page 61, lines 6 through 10, strike out "for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred" and insert in lieu thereof "for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred".

Mr. JACKSON. Mr. President, amendment No. 341 would amend the bill to clarify the meaning of "critical technologies." The bill declares that it is important that the administration of export controls imposed for national security purposes give special emphasis to controlling exports of technology and goods which contribute significantly to the transfer of such technology which could make a significant contribution to the military potential of any nation which threatens U.S. national security. (Section 2(a).) The bill further provides that priority should be given to preventing the effective transfer to such nations of goods and technology— and I quote— "critical to the design, development, production or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States"—end quote. (Section 4(a)(2)(B).) These provisions constituted an endorsement of a "critical technologies" approach. However, the reference to "military systems" may be read incorrectly to imply that the particular goods and technologies must be used in "military systems," a term which is not defined nor is it used in the present law.

The amendment would substitute the word "capabilities" for the words "military systems" in order to remove this ambiguity and avoid possible misapplications of the critical technology concept.

The concept of critical technologies and goods is not limited to items which are critical to the design, production, and use of military systems, but applies to any "capabilities" which would make a significant contribution to the military potential of an adversary nation. These technologies may not have any present use in U.S. military systems because they may be obsolete by United States, but not by Soviet standards. Also, these technologies may enhance the capability of the Soviet Union to develop counter measures against U.S. weapons systems, as distinguished from manufacturing a specific military product. The technologies may be crucial to civilian communications networks, but could be adapted to military use by the Soviets.

The reference to military systems also ignores an important change that has occurred in U.S. military and commercial technology. For many years the military provided the cutting edge of the development of new technologies. Funds for military research and development were used extensively to push outwards the frontiers of commercial scientific technological innovation. However, all of that has been significantly reversed. Now new technology is developed with commercial applications in mind. Indeed the integration of sophisticated technology into military systems now lags behind the use of high technology in consumer goods and industrial products. One result of this radical change is that military research and development is no longer a reliable guide as to whether advanced technology has military implications.

It is important that the statutory framework for our modern export control policy makes it crystal clear the dual civilian/military uses of critical technologies.

The other amendment would merely conform other language in section 4(a)(2)(B) of the bill to the foregoing amendment and would make it clear that the purpose of the review of export controls is to insure that controls cover critical goods and technologies, as well as to insure that they are limited to such critical items.

Mr. President, I reserve my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, once again our objectives are similar if not identical. The bill states:

> In administering export controls for national security purposes, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States.

Now, I can see reason why some might feel that that use of the expression "military systems" was too narrow. It is possible that advanced technology, lasers, for example, might be transferred with no known present use in military systems, but with a potential for such use as rapidly changing technology evolves and new application for technology are developed.

On the other hand, the substitution of the expression "capabilities for military systems" strikes me as being entirely too broad. Most anything contributes to the capability of a foreign nation, and most any articles, even including wheat or corn, could make a significant contribution to the military potential of a nation. Food is essential, shoes are essential. I cannot offhand think of anything that is not essential to the military potential of a foreign nation that could not be used in conjunction with, and to enhance, its capabilities.

So while I am sympathetic to the purpose of this amendment, I think it goes too far and, perhaps, farther than the Senator really intends to go.

So, Mr. President, once again I am hopeful we can agree on some language which will express what I believe to be a common concern, and without running the risk of writing into law something that goes far beyond anything we intend, and could have adverse consequences for our economy, an economy which, I add, is much in need of increased exports.

The trade deficit was about $34 billion last year. There is very little relief in sight. The dollar is weak, and the results include inflation, recession and rising unemployment. Here we are at some risk of shooting ourselves in the foot again, and with no or very little chance of enhancing our national security, because every time we impose controls that do not enhance our national security, why other countries come along and get the business.

The word "capabilities" could lead to a broadening of the critical technologies approach to cover nonmilitary critical goods and technologies, and transform that critical word "critical" into a euphemism for what contributes to the Soviet economy, in other words, any export. Then the door would be opened to a vast expansion of controls to cover nondual use items as well as those which do have military and dual uses.

So unless the Senator from Indiana or another Member wants some time, I propose to——

Mr. BAYH. Mr. President, I would like to make an observation or two, but I apologize for interrupting the Senator.

Mr. STEVENSON. I am happy to yield to the Senator.

Mr. BAYH. Mr. President, I guess what I want to do is to make an observation, and I appreciate the courtesy of my friend from Illinois, and to point out the concern I have, and to raise a couple of questions either to him or to the Senator from Washington.

I said earlier that I thought there were great advantages to be gained by opening the doors of trade, and I think really we are after the same goal, or trying to refine the language so that we can take advantage of trade opportunities and not damage the country. None of us wants to do that, even though we might disagree on the final craftsmanship of the language.

The truck factory has been used as an example. As the Senator from Illinois pointed out, that was an example where there were no restrictions placed on it, so what might happen really would not violate any restrictions. That is unfortunate, but that is the case.

However, I think that truck factory also points out one of the important elements of this whole effort to try to perfect what we are doing here. We naturally are concerned about taking a computer or a machine that is designed to make civilian trucks and not permitting it to be used in such a way so that it can be used in the manufacture of military vehicles. But I understand that there is another element of technology that was not immediately available in the case we are discussing, and that is one of the reasons why this particular plant is valuable in making trucks. It has a rather sophisticated computer system that is intricately involved in the casting of the motor blocks.

So, it seems to me, it is important for us to be absolutely certain that this kind of computer technology, which can be taken away and separated from the mission it now has in perfecting the casting of engine blocks, will not enhance Soviet capabilities in this area that I mentioned earlier of intelligence collection and in compilation and analysis, with which the Senator from Illinois is very familiar, both in his capacity as a member of the intelligence committee and in his significant role in another committee dealing with advanced space age technology. So that concern is the major concern the Senator from Indiana has.

As far as the redtape and the dragging out interminably which has been the case in the past is concerned, is the Senator from Indiana accurate—I realize I am transgressing on the Senator from Illinois' time, and if he would rather I will find some other way to handle it, but I was of the opinion that the same time there will be for resolving this problem could be imposed upon whoever might seek to make an objection or suggestion that there needs to be a broader decision or that the defense position has to be taken into consideration; all of this would have to be resolved in the same time frame, would it not?

Mr. STEVENSON. We may be talking about two subjects. There is a time frame for action on license applications, but there is none for preparation of the control list, the list which identifies the technologies that are critical and for which export license applications must be obtained.

There are no time restrains on technology lists except as to the processing of those lists, the preparation of which, as a matter of fact, is an ongoing process. The preparation of critical technology lists has been going on for about 3 years now.

Once a technology goes on the list and is proposed for export to a controlled country, then a license has to be applied for, and within that framework there is a time limitation for action on the application.

Mr. BAYH. I would think that would help alleviate the problem where it shows the existence of some military or advanced technology in question which might drag it on, to where we could speed it up to conform to the limits.

Correct me if I am not right on this, but do we not have a provision where foreign achievements in technology would be taken into account, so that the issue raised by our distinguished colleague from Pennsylvania would be clarified by the bill? In other words, if the Germans are going to do it and the Japanese are going to do it, then we are not going to permit our business people to suffer as a consequence?

Mr. STEVENSON. The role of the Department of Defenss includes the assessment of foreign availability and involves agencies over which the Senator from Indiana has some important oversight responsibilities. Intelligence comes into play at that point.

We are attempting by this legislation to expedite all these procedures; and the procedures involving the marketing of advanced technology and the problems associated therewith are troubling.

The Senator mentioned computer technology with respect to the Kama River Truck Factory. This year, the Japanese come onstream with fourth generation computer technology. There is very little American technology that is unique anymore. That is why it seems to this Senator extremely important to rely on cooperative efforts with other nations to jointly control exports of military significance, and why we have for that purpose COCOM.

Unilateral efforts to control technology simply undermine COCOM and risk giving advantage to foreign competitors. We end up diminishing our authority in the world.

The bottom line, it seems to this Senator, is that the United States must maintain its preeminence in the development of science and technology. Technology itself is increasingly difficult to control. It is also increasingly of importance to our economy, especially facing, as we do, the foreign oil bill, the shrinking dollar, and the trade deficits.

I believe the way to maintain the economic strength of our country, as well as our national security, is by staying ahead of everybody. They are getting ahead of us. There is a larger investment in technology outside the United States than in the United States. In fact, there is evidence of a larger investment in commercial technology in Japan alone, now, than in this country. If we continue to concentrate simply on perfecting the technology we already have, we will end up producing the best toilet paper in the world, and Japan will end up producing the best computers for truck factories and every other application.

I think this is a useful debate. It underscores the importance of export controls, but above all, the importance of maintaining our investment in basic research and enhancing our capacity for technological innovation, the lack of which is the real threat to our national security.

Mr. SCHMITT. Mr. President, will the Senator from Illinois yield? If the Senator will yield briefly, I underscore and italicize everything I have heard the Senator from Illinois say, that the real danger is that we do not keep up and that we allow, through a variety of means, regulatory taxes and just lack of commonsense, our research and innovation capability in this country to further decay and not increase, as it must, both in the public and private sectors. It is that reservoir of new ideas and innovation coming from those new ideas and the practical applications that result, that is running dry relative to other countries.

I suggest that controls of any kind will not solve our particular problems. I hope that the Senate does hear this debate. It is going to continue. It will come up in many different avenues, that this country has for the past decade or so allowed itself to think that it was investing in new technologies, to think it was keeping ahead of the world in basic research, when in fact it was not.

Until we fully recognize that in the budget process, in the authorization process, and in the country as a whole, and in our tax policies in particular, we are going to see increasing pressure from other nations on our export economy, and increasing adverse impacts to our economy.

So the Senator from Illinois is exactly right on that score.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield to me?

Mr. HEINZ. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. I thank my friend from Pennsylvania. Before the Senator from New Mexico leaves the floor, if that is his purpose——

Mr. SCHMITT. It is not my purpose.

Mr. MOYNIHAN. I am happy to hear that. I wonder if I might call attention to several distinctions which are compounded in the remarks he has just made.

Mr. President, we have heard some wise remarks and observations from the first natural scientist to serve in the U.S. Senate, if my understanding is correct, since Thomas Jefferson presided as Vice President. It is a happy commentary on the American political system. Among other things, it may suggest that ours is the greatest political system. In the main, it is true that scientists have had better things to do, and did them, and were left free for such purposes. But the arrival of the Senator from New Hampshire in this body means we are at least entering the 19th century, if not attaining as yet to a contemporaneous condition.

I take the occasion to make these remarks in that yesterday was, of necessity, a special day for him. He is not only the first scientist in this body in the modern period, but he is one of those blessed and historic men who have walked on the moon.

He made some observations about that in a superbly concise and intelligent—well. we would note the intelligence; it need not be concise—article in the Washington Evening Star yesterday, which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 20, 1979]

SPACE IS OUR DESTINY

(By HARRISON SCHMITT)

I would like to tell you about a place I have seen: a valley on the moon known as the Valley of Taurus-Littrow. Taurus-Littrow is a name not chosen with poetry in mind; but, as with many names, the mind's poetry is created by events. Events surrounding not only three days in the lives of three men, but also the close of an unparalleled era in human history.

The Valley of Taurus-Littrow is confined by one of the most majestic panoramas within the view and experience of mankind. The roll of dark hills across the valley floor blends with bright slopes that sweep evenly upwards, tracked like snow, to the rocky tops of the massifs. The valley does not have the jagged youthful majesty of the Himalayas or the glacially symmetrical fjords of the north countries or even the now intriguing rifts of Mars. Rather, it has the subdued and ancient majesty of a valley whose origins appear as one with the sun.

The valley has watched the unfolding of thousands of millions of years of time. Now it has dimly and impermanently noted man's homage and footprints. Man's return is not the concern of the valley . . . only the concern of man.

Those words, spoken before the House of Representatives in 1973, expressed my thoughts after returning from the moon. They set part of the stage for my views on future space policy.

The main thrust of what must be this nation's space policy can be summarized in one phrase: Our destiny is space.

The expansion of human activities in space is of fundamental significance to the history of our civilization. We are lucky that it is our destiny to be the vanguard for the movement of both routine and unimaginable activities into outer space; to be the first truly spacefaring nation.

Can anyone imagine what awaits us in space? Did the Europeans really know how the "New World" would benefit them? Did Jefferson do a cost/benefit analysis of the Louisiana territory? In these instances the leaders realized that there were opportunities for social and economic benefits in the new territories, even though they could not quantify those benefits or even perceive most of them. We need an aggressive space policy to expand our opportunities for such benefits in space.

My proposed policy entails a number of goals. The first involves the development of a world information system. The second is the establishment of orbital enterprise facilities and the third is a second period of solar system exploration by man.

A world information system can be seen within the context of our private enterprise system. We must find ways to provide incentives to expand private enterprise in outer space, to smooth the way so that government space and aeronautics research can be integrated into the private sector.

My second goal is by the year 2000 to create the basic facilities necessary for orbital enterprise activities, such as education, health care, manufacturing and solar power utilization. Permanent facilities in orbit will help alleviate many problems facing this nation and provide many new opportunities. For example, the creation of new export commodities and the supply of inexhaustible energy are needs that cannot be ignored by this generation nor denied to future generations.

Many in this country, particularly young Americans, have an increasing awareness of outer-space activities and how they can be exciting and how they can benefit society. They accept the vision.

This leads me to my third goal which is, by the year 2010, for the United States to undertake further solar system exploration, which includes a base for research and test activities on the moon. A lunar base would permit us to develop and test the systems necessary to sustain a permanent mining, agricultural and research settlement. And other exploratory missions may be more economically staged from the moon.

These directions are part of an aggressive space policy which reflects our destiny in space. What is needed is a space policy of support for such activities.

The greatest of all accomplishments that we can achieve in our lifetime is to assure our children of their destiny in space.

Mr. MOYNIHAN. I rise simply to join with what I am sure would be all of my colleagues in congratulating our astronaut colleague on that wild and incomparable adventure in which he participated.

Mr. SCHMITT. If the Senator from Pennsylvania will yield further, I thank my distinguished colleague from New York. It is said that the only thing New Mexico and New York have in common is the word "New." I would hope that they have a great deal more in common. I think over the last 2½ years we are finding, as a consequence of the interaction of the delegations from those two States, that there is a great deal we have in common and a great deal of interaction between our two States. I would make a slight correction to the remarks of the Senator, or maybe two. One is they were overgenerous, but appreciated. The other is that my roots are in New Hampshire, but my life is in New Mexico.

I would add, apropos of this subject, that I find it extremely unfortunate that scientists, technologists, engineers, too many business people, too many people from all professions, have felt that the business of making law, the business of politics, the people's business, was something to be left to someone else, that they had no interaction, no concern about what was done within the halls of Congress, within the halls of the State houses, of the State legislatures.

I hope that is changing because, if we are going to meet the challenges of our third century of national existence, we are going to need as broad a breadth of understanding of human existence as did our Founding Fathers, as did the writers of the Declaration of Independence, the framers of the Constitution, the Congress in which Jefferson served.

If we do not develop that breadth and understanding, that aggregation of all of the pertinent aspects of human knowledge, and knowledge of the human condition, then we run a great risk of failure in framing the pathway and framing the roadmaps for our future in our third century. It is probably the greatest political challenge over all that faces this country, to develop within this body and other legislative bodies, and within the administration as a whole, the capability to view these problems in all their complexities but view them with understanding and not just an awareness of their complexities.

We must view them with an understanding of what those complexities are and how we interweave the solutions to affect such complexities.

I am glad that my friend from New York pointed this out in the way he did. I appreciated his remarks and I am sure the country will appreciate his remarks.

Mr. HEINZ. Mr. President, first of all, I commend the Senator from New Mexico and the Senator from New York for adding to the quality of this already highly elevated debate. I also rise with Senator Stevenson to oppose this amendment by my good friend from Washington, Senator Jackson.

I believe we both understand his goals and his goals, indeed as always, are quite sensible. His goals, I think, recognize the fact that there are certain uses of militarily related equipment that may not necessarily be subsumed in the words military systems.

For example, certain kinds of electronic countermeasures equipment may in fact not fall within the term "military systems." But there is a real danger with the Senator's amendment as drawn because I fear that the word "capabilities" is a bit too broad. There is practically no technology I can think of that does not have some indirect bearing on military capability. It would not be too farfetched to characterize the word "capabilities" as the buttons, belts, and boots approach. Every military force is suitably attired in a way that requires buttons, belts, and boots, and without those clothes I do not know of any Army which would be able to fulfill its military capabilities.

I know the Senator from Washington did not intend to put restraints on buttons, belts, and boots, and I would hope, therefore, that we would be able to find a way to tighten up this language so that we address the real problem the Senator from Washington has identified for us.

I have one final word, Mr. President. Senator Stevenson and Senator Schmitt have stated that the real danger to the United States is that we are not keeping up the kind of pace we have relied upon in the past for the development of new technology. Indeed, last year some 63 percent of the patents filed in this country were filed by and granted to foreign nationals, not to Americans. The Department of Defense, therefore, has a tremendous stake in the health of U.S. industry.

Only a U.S. industry that has appropriate access to foreign markets as well as domestic markets will be healthy. Therefore, it seems to me that the Department of Defense, having the great stake that it does in technology, must have an equally great interest in having our technological base continue to be premised upon a strong, healthy, financially sound American enterprise system and the companies that comprise it so that they can make the investments in research and development leading to new technology, which is the base, as the Senator from New Mexico eloquently pointed out, of the real strength of this country.

Mr. TSONGAS. Will the Senator yield?

Mr. HEINZ. I am happy to yield.

Mr. TSONGAS. I would like to comment concerning the remarks of the Senator from New Mexico about the reason we do not have many scientists in Government. If you look at scientists, with many of them located in Massachusetts, and then talk to them about Government redtape and about the problems about expanding the export market, many of them face frustration. Here we are legislating in very broad terms. When we get down to the various technologies involved, they are much more complicated, with great distinctions. This time of developing language, although making sense to us, is met in the technical community with great dismay. I would hope as the day goes on that we consider that there is indeed a community out there involved with high technology, which wants to expand foreign trade and wants to try to compete with the renewed vigor displayed by the Japanese and others. It seems to me that given our balance-of-payments problem we would be encouraging that and not discouraging it. I think today will be a critical day in the long-term outlook for this country. I thank the Senator from Pennsylvania for yielding.

Mr. SCHMITT. Will the Senator yield me some time?

Mr. HEINZ. I am happy to yield time to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, the only additional remarks I have are that, in geology, which is my profession, we often say that the past is the key to the present. That is a fairly good remark so long as you do not go too far back in the past, where you find that things may have been much different on our planet than they are today. I think it is clear that, in the area of political technology, if you will, and technology in general, the past is no longer the key to the present or the future; because, as Toffler pointed out in his book, "Future Shock," and as many others have pointed out in other ways, the rate of change in our society, particularly the rate of our technological society, is accelerated. That is basically a new condition for human beings on this planet.

Another example, since the distinguished Senator from New York has mentioned Thomas Jefferson. I say what I think can clearly be demonstrated, that when he was in this body and was looking into the future, he would be able to predict the kind of life that his children and the children around him would live 50 years ahead with some considerable degree of accuracy. You cannot do that any longer. We cannot even predict what our situation is going to be personally 10 years ahead, much less what kind of life our children will lead.

That may be the simplest way to illustrate what I mean and what we mean when we say the rate of change of society and of technology in particular, is increasing. It is increasing at a rate that is going to get larger and larger. So, every time we try to protect ourselves, every time we forget that we are a maritime nation in the historic sense, every time we draw barriers between ourselves and the rest of the world or between ourselves and each other in technological ways and economical ways, all we are doing is acting to our own disservice. We are restricting the rate at which we can grow, whereas the rest of the world is growing at this ever-increasing rate.

I am afraid that aspects of the proposals of the Senator from Washington do exactly that. They fly in the face of something we cannot control. We cannot control this changing rate of change of our society, this ever-increasing availability of new technologies, of new ideas, not only to our own people, but to all of the people of the world.

UP AMENDMENT NO. 424

(Purpose: To clarify the scope of critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk and ask unanimous consent that it be considered and that Senator Heinz be added as a cosponsor.

The PRESIDING OFFICER. (Mr. Church). The Chair advises the Senator that until the time on this amendment has either expired or been yielded back on both sides, the amendment of the Senator is not in order.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Very well. Is there objection?

There being no objection, it is so ordered.

Mr. STEVENSON. I also asked unanimous consent that Mr. Heinz be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. Stevenson) for himself and Mr. Heinz, proposes an unprinted amendment numbered 424 to amendment 341.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 1 and 2, and insert in lieu thereof the following:

"On page 60, line 22, strike the words 'military systems' and insert in lieu thereof the following: 'existing or potential military systems including weapons, command, control, communications, intelligence systems and other military capabilities, such as countermeasures.'."

Mr. STEVENSON. Mr. President, I have discussed this amendment with the distinguished Senator from Washington and I am hopeful that it clarifies the intent of this amendment in a way that makes it acceptable to myself and to the Senator from Pennsylvania. As he and I have already indicated, the use of the expression, "capabilities," may have consequences not fully intended.

This amendment would strike the phrase, "military systems," and instead of inserting "capabilities," would insert the following: "existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities such as countermeasures."

I believe and hope, Mr. President, that with this change, the amended amendment will carry out the Senator's purposes, and they are purposes that I share, without going beyond them at some risk of unnecessarily interfering with exports from the United States. I am hopeful, therefore, that he will accept it.

Mr. JACKSON. Mr. President, I am in accord with the proposal of the two Senators. I think it does reach the result that both sides seek. In all of these situations, we are simply trying to find a solution that will address properly and effectively the national security area and, at the same time, not create an impasse in trade and commerce.

I commend the Senator from Illinois and the Senator from Pennsylvania for having offered this amendment to the amendment.

Mr. STEVENSON. Mr. President, I thank the Senator. I believe that neither of us intends, by the use of the word "communications," to include ordinary commercial communications.

Mr. JACKSON. Ordinary civilian or commercial communication; only if it has military, specific military application.

Mr. STEVENSON. I thank the Senator for that clarification.

Mr. HEINZ. Mr. President, I, too, thank the Senator from Washington for his cooperation in this. I am prepared to yield back our time.

Mr. JACKSON. I yield my time.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. JACKSON. I yield back my time on the amendment itself.

Mr. HEINZ. Mr. President, I yield back the minority's time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 344

(Purpose: To modify foreign availability criteria)

AMENDMENT NO. 345

(Purpose: To provide for the elimination of foreign availability through negotiations and trade of commercial sanctions to secure cooperation)

Mr. MOYNIHAN. Mr. President, I call up amendment No. 344 and amendment No. 345 and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, the two amendments will be considered en bloc.

The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 344.

On page 63, line 6, after the period insert "With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.".

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, and Mr. MOYNIHAN, proposes an amendment numbered 345.

On page 63, line 11, after the period insert the following: "A technology or good which is proposed for, or subject to, export control for national security purposes and which is not possessed in comparable quality or quantity by a nation or combination of nations threatening the national security of the United States shall not be deemed to be available to such nation or nations from foreign sources until the Secretary of State certifies in writing that negotiations with the appropriate foreign governments for the purpose of eliminating foreign availability have not been successful. In order to secure cooperation of foreign governments in eliminating availability of critical goods and technologies, the President is authorized, except as otherwise prohibited by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation. Within one year after the date of enactment of this Act, the President shall submit a report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this subparagraph, together with his recommendations.".

Mr. MOYNIHAN. Mr. President, I shall take the time of the Chamber very briefly to make the general observation about the concerns we are dealing with this morning. It seems to me the public ought to know something of the larger understandings behind the specific actions attempting to control and limit the amount of technology transferred to the totalitarian states of this age, which, for practical purposes, are the Marxist totalitarian states.

Mr. President, because we use, sometimes, such different words and there is almost a proposition that there are different cultures involved in the culture of science and technology on the one hand and of the liberal, humane arts on the other, it is easy to miss the essential continuum of all these activities of the human mind and of society. Particularly, it is easy to miss that freedom of inquiry, freedom of association, freedom of dissent is as essential to science as ever it is to any of the liberal professions—more so.

Indeed, if we were to look for the basis of the ideas of freedom and independence and the autonomy of individual opinion in the West today, we would find their origins as much in scientific inquiry as we would ever do in theological or legal thought.

When science first confronted the traditional doctrines with contrary evidence, that it became necessary to seek the question of society, is there a place for dissent, is there a place for orthodox opinion, having accepted that, answered that question in the affirmative, we have entered into the most extraordinary creative period of technological advance, such as the Senator from New Mexico has described, somewhat Faustian, almost, in the degree to which it challenges us to deal with the consequences of our wishes.

But the fact that free inquiry is at the base of this phenomenon is nowhere more dramatically shown than in the totalitarian societies where the absence of freedom of inquiry and of dissent in the basic political realms has inevitably contaminated the same processes in the scientific realms. We see them coming directly, one from the other.

Perhaps it is no accident, as the Marxists would say, that there have been scientists who have been the leading dissenters of the Soviet Union at this point, that Nobel prize winner Sakharov is the symbol of dissent.

And what we say when we ask to limit export of technology to these nations is that we wish to limit the degree to which those regimes do not suffer because of their very obscenity. I put it in this way, these regimes know that repressing political freedoms involves them with a repression of scientific and technological innovation, as well, and they hope that if they can import the science, which is the result of our free inquiring, they need not free up their own societies that might otherwise produce this freedom.

Remember that we have a bad habit of thinking of the Soviets in terms of the primitive standards of their political life. But the Soviet Union of the 19th century was among the most creative scientific societies in the world. I see the Senator from New Mexico is agreeing. In mathematics, physics, chemistry, and certain basic forms of metallurgy, they were among the leading nations on Earth. It is totalitarianism that destroyed their science and it is the totalitarians who wish to use our science in order to preserve their totalitarianism.

Mr. SCHMITT. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. SCHMITT. There are so many examples that prove the point the Senator from New York is making that I will not pose the whole litany at this point.

However, I just happen to recall, because we are 1 day after the 10th anniversary of Apollo landings, looking at the panorama of craters as we circled the Moon, and others have also circled the Moon, and looking at the maps and seeing the names of those craters. So many of them are commemorating the advances of human knowledge that occurred within the minds of Russian citizens, or citizens of that vast land, whatever name might have been applied to the politics.

Mr. MOYNIHAN. The astronomers.

Mr. SCHMITT. The names go on and on.

Of course, many other nationalities are

represented. Copernicus, Galileo, it goes on through.

I think about this, as the Senator obviously has, the totalitarian regime has generally been completely unsuccessful in tying up the imagination and the fruits that come from that imagination of the human mind.

But they have been extraordinarily successful in preventing the translation of the fruits of the human mind into practical applications for the benefit of people, or the benefit of mankind, or whatever one may want to define.

That is exactly the point I believe the Senator is trying to make.

Mr. MOYNIHAN. It is, indeed.

Mr. SCHMITT. The intellectual capacity of the Russian people, all the people under Soviet domination, is no different today than it ever was.

It is an intellectual capacity based, as everywhere else in this world, on freedom of inquiry, the basic scientific principles that relate to freedom of inquiry. That is what science is all about.

If it is done right, it is fruitful. If it is not done right, then it is so much garbage.

With Copernicus and others before and after him, we saw a great revolution in this freedom of inquiry, an inquiry that went against the established policies and dogma of their times.

Also, if we look back in history, those persons persecuted throughout recorded history, more often than not because they were practicing science in some form or another, have been practicing the freedom of inquiry in its broadest definition, relative to the human mind.

I would agree completely with the Senator that we have to be extraordinarily careful that we do not allow our freedom to be exported, and to substitute, and, therefore, shore up this deficiency——

Mr. MOYNIHAN. Precisely.

Mr. SCHMITT (continuing). That exists within totalitarian regimes.

On the other hand, we have to be realistic about what we do and make sure, in preventing that transfer and that shoring up, that we do not also prevent ourselves from benefiting from the fruits of our own freedom.

Mr. MOYNIHAN. It seems to me the Senator, our only scientific source in this body, has made the case explicitly and incomparably well.

I simply note that American science, as well as the science of some other countries, has incomparably benefited from the mass exodus of scientists from Nazi Germany. Indeed, I put the Senator's point, who resists totalitarian societies, who flees them? The first persons almost, after the very thin veneer of political opposition is overcome, the first culture that has to resist is science, and it does.

Mr. SCHMITT. The Senator is entirely correct. I guess he has in mind Albert Einstein in modern times. If we go back to our own times we can see the scientific imprint of inquiry on the creation of our basic foundations of political life, Jefferson and Franklin being two that come to mind immediately, having that basic discipline and freedom of inquiry in their minds, and they were some of the leaders—obviously, the leader—not only of the Revolution, but the beautiful documents and foundations that came from that Revolution.

Mr. MOYNIHAN. In a happy age, when the political and natural sciences were thought to be part of a single continuum.

Mr. SCHMITT. If the Senator will yield again, the reaction to that, that is, that they still are. We tend to forget that.

Mr. MOYNIHAN. I will not disagree.

Mr. President, the purpose of these two amendments is to advance the general understandings that the Senator from New Mexico and I have just spoken about.

Amendment No. 344 has the simple declaratory purpose of stating that when the Department of Commerce produces a finding of foreign availability—a matter now under discussion—that it document that finding, not a large proposition, and one would have thought one not necessary, but, alas, it turns out to be.

The operating sentences state:

> In assessing foreign availability, no weight may be accorded representations as to foreign availability by an applicant for an export license, unless sworn to in writing by the chief executive officer of the applicant. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence.

One must think that that would be a normal procedural standard. It has not been followed. This amendment would require that it be.

Amendment No. 345, in fact, would constitute an extension of our efforts and a deepening of our commitment in this field. It simply states, with respect to this whole question of availability elsewhere, that in order to secure cooperation of foreign governments in eliminating the availability of critical goods and technologies, the President is authorized, except as otherwise provided by law, to impose trade or other commercial sanctions, including but not limited to prohibiting exports of all or certain technology or goods to such a nation, or prohibiting imports of all or certain technology or goods from such a nation.

Within a year after the enactment of this legislation, if it is enacted, the President will report to Congress on the specific limitations other provisions of law impose on the exercise of his authority under this paragraph, together with his recommendations.

So it is a limited measure, but an important one. What it says is that we mean it when we ask other nations not to join in a competitive export of technology to the totalitarian states.

What it says, in effect, is that the Secretary of State, who will make these representations, has some sanctions, has some potential influence, can speak from a government whose Congress has made its intention clear that it takes this seriously, that these are not just gestures, that we are prepared to act in ways which are not agreeable to us but which we feel to be necessary.

Mr. President, the most difficult of all political undertakings is to maintain an alliance in concert. We perhaps underestimate the extraordinary duration of the NATO alliance. In the history of the world, no such political alinement has endured into now its second generation. Yet, there are constant efforts to weaken it that are dynamics internal to any such arrangement.

The Senator from New Mexico has mentioned one of the dynamics at the present time, which is the very great expansion of technological rates of change in countries with which the United States is allied and which are fellow members of COCOM.

At a time when technological initiatives were overwhelmingly to be located in the United States and in Britain, it was easier to maintain these standards. Today, it is harder. The societies that are producing the technology pay for it.

The Senator from New Mexico and the Senator from Pennsylvania observed the higher rates of investment in technology in these other nations. Those nations necessarily will hope to see a return on that investment.

These markets present such opportunities for return that if the United States is to dissuade them, it has to have some sanctions—economic sanctions, obviously—to provide the economic incentives that are involved.

Accordingly, Mr. President, we submit these modest but we feel not unimportant amendments and wonder what is to be the reaction to them by the Senator from Illinois and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, will the distinguished Senator yield a couple of minutes?

Mr. STEVENSON. I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I commend Senator STEVENSON and Senator HEINZ. As they know, the Senator from Illinois served on the Banking Committee at the time the 1969 so-called Export Control Act was up.

I have had many years of industrial experience and have seen, time after time, a policy that was shortsighted, that was not realistic, that was not adapted to the real world in which we live. We worked mightily at that time to change this from a control act to an administration act, whereby we had an even-handed approach to it.

In the experience I had in industry, we were faced with a very ludicrous situation. Bell & Howell Co. manufactured, in this country, film printers and perforators, a quarter of a million dollars apiece, ordered by the Soviet Union for their film industry. We were restricted from shipping it from the United States, using American labor. But there was no problem in the Soviet Union buying it from J. Arthur Rank Organization, the licensee of Bell & Howell, who made identical equipment. This was a piece of machinery that cost a quarter of a million dollars and was used in the printing and perforation of motion picture film. The only change in the thousands of parts was a nameplate. It was just a nameplate. It was "Bell and Howell-Rank" instead of "Bell and Howell." But it was made in England instead of in the United States.

Back in the 1960's, the restrictive laws of the United States were such that, time after time, we were dealing ourselves out of business.

In visiting the Soviet Union with Hubert Humphrey, on our last trip there, we met with the business community and found many times that they were absolutely frustrated. Here was a huge growing market.

So, instead of trying to make it as tough as possible to earn extra dollars, we tried to find an even-handed way to do it and to protect our national security—this is paramount—but not to go in the direction of making it more and more onerous and difficult for American companies to compete against Germany, the United Kingdom, Italy, and many other countries that were doing business successfully.

Here I hope that some compromise can be worked out on the pending amendment. I cannot imagine any of our competitors abroad—Japan, Italy, Germany, Great Britain—adopting an amendment which would require the chief executive officer, who is not the most competent person, to sit there and sign the certificate, certifying something that would take research on his part. He is not necessarily the best person to do it. But it adds to him as a paperwork signer rather than a policy director dealing with the immediately urgent, rather than a chief executive who should be dealing with long-range plans and programs. It assigns to him a clerical function that he should not be designated to do.

I think, also, that some compromise should be worked out so that if the statement of a company is the only evidence you have, I would say it is not sufficient evidence. But it should be looked at as a part of the evidence.

I hope something can be worked out on this point between the manager of the bill and the distinguished Senator from New York, who represents a very large business community, who would be interested in working out something special.

Mr. MOYNIHAN. Mr. President, I believe that the senior Senator from Illinois has made some wise observations based upon real experience.

I understand that the distinguished manager of this legislation has some thoughts as to how, in fact, his specific concerns might be accommodated.

UP AMENDMENT NO. 425

(Purpose: To prevent undue reliance on self-serving representations as to foreign availability)

Mr. STEVENSON. Mr. President, I send an amendment to the amendment to the desk. I do so on behalf of myself and the Senator from Pennsylvania.

Mr. PERCY. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment. Having looked at the wording of the amendment, I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that it be in order to consider the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) for himself, Mr. HEINZ, and Mr. PERCY proposes an unprinted amendment numbered 425 as an amendment to amendment No. 344.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the second sentence and substitute in lieu the following:

"In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability."

Mr. STEVENSON. Mr. President, as my good friend from Illinois has pointed out, amendment No. 344 offered by the Senator from New York requires the executive officers of exporters when applying for export licenses in effect to certify as to point of availability under oath.

This amendment, which I offer to that amendment, simply strikes that language, the last sentence of the amendment that starts on page 2 of the amendment, and substitutes the following language:

> In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

In other words, the statements of applicants can only be taken into consideration on foreign availability if they are corroborated by other evidence.

I believe this is just what the other Senator, my distinguished colleague from Illinois, was suggesting, and I think it is a reasonable means of accomplishing the objective of the Senator from New York and hope, therefore, that it is acceptable on both sides.

Mr. MOYNIHAN. Mr. President, if I may respond, this is indeed a reasonable accommodation to the real concern addressed by the senior Senator from Illinois, and on behalf of the sponsors of the amendment, I am happy to accept the substitution of my friend from Illinois and the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I think we have a reasonable arrangement that will seek to accommodate the concerns and objectives here of the Senator from New York and the Senator from Washington. I am very strongly in support of Senator STEVENSON'S amendment, and I am grateful to the Senator from New York for accepting it.

Mr. MOYNIHAN. Those are very generous remarks.

Mr. STEVENSON. I am prepared to yield back my time.

Mr. HEINZ. I am prepared to yield back my time.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. This referred to the first of the amendments to be considered en bloc.

Mr. MOYNIHAN. That is right. These amendments are being considered en bloc although if the Senator wishes just to dispose of this one and move to amendment No. 345, that would be agreeable to the Senator from New York.

Mr. STEVENSON. Mr. President, the pending amendment is an amendment to amendment No. 344. After the Senate acts on this amendment, it would be my intention to offer another amendment. That one would be to amendment No. 345, which I hope will become a basis for it in that event.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. May the Senator from New York ask to vitiate his request that amendments 344 and 345 be considered en bloc and substitute a request that we have before us simply amendment No. 344?

The PRESIDING OFFICER. The Senator may do so.

Mr. MOYNIHAN. In that case, I so request, Mr. President.

The PRESIDING OFFICER. Very well.

If there be no objection, the amendments will now be considered separately.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time on amendment No. 344.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, unprinted amendment No. 425.

The amendment was agreed to.

AMENDMENT NO. 344, AS AMENDED

The PRESIDING OFFICER. Is all time yielded back on amendment No. 344?

Mr. HEINZ. Yes, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 344, as amended.

The amendment, as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 345

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I understand that the distinguished manager of the legislation and his not-less-distinguished colleague from Pennsylvania have a proposal that would modify amendment No. 345 without in any way losing sight of these objectives nor of the desire that the executive be given greater powers with which to pursue those objectives.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Does the Senator from Massachusetts request time?

Mr. TSONGAS. Yes.

Mr. STEVENSON. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I wish to speak to the practical implications of amendment No. 426 which is now before the body, and let me try to take out the relevant parts of the amendment. So the suggestion that we are indeed in the real world will take place.

The amendment speaks to, if you will, suppress the exported technology not by the United States but by another country, to nations that are not friendly to the United States.

Indeed, if that attempt is unsuccessful to the negotiations process, the President, "in order to secure the cooperation of foreign governments" is authorized to impose trade or other commercial sanctions of all goods and imports and exports from and to such a nation. What does that mean? The only countries we are really concerned with that export technology are countries like France.

So what we are saying here is that: If we do not like what France is doing vis-a-vis the Soviets, we will ask them to cease and desist. In order to improve the changes of negotiations we may impose economic sanctions against France, including prohibiting all exports of American goods to France and all French imports into the United States.

Does anyone believe that prohibiting France from importing American blue jeans and exporting French wine is going to make the French any more amenable to negotiations with the United States?

Anyone who has had experience in dealing with foreign governments—and certainly the distinguished Senator from New York is probably preeminent in this body in terms of that qualifications—knows that the one way to insure France would not cooperate would be to impose these kinds of sanctions.

We are not talking about less-developed countries. We are not talking about an Iran, for example. We are talking about very sophisticated countries which view the United States as an equal. There is no wav you can possibly assume that in negotiations where hanging over them is the specter of a U.S. trade embargo that that is going to be anything but counterproductive.

I think this amendment has serious long-term implications that could only hurt the very ends that the proponents of the legislation are seeking, and I would ask that the amendment be defeated.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I would like to thank the distinguished Senator from Massachusetts for his observations, which are serious and deserve to be considered.

I would say two things: First, in the actual dynamics of government negotiations in areas such as this no government would ever, the United States would ever, in fact, be threatening some large proposition such as the embargoing of the French wine industry. You do not negotiate that way. But the U.S. Government would be saying to the French Government, "Look, we are under pressures from the Congress, which you understand. These are, in effect, our instructions."

The French Government, in dealing with its own private sector, would be in a position—why use France? But why not—to say that while the government itself did not necessarily agree with the United States, the United States was in a situation where the government was under pressure and legitimate legislative actions in this country such that, in fact, the weight of the American representation is greater than otherwise it would be. This is a judgment you always have to make.

But, Mr. President, the United States can just go on providing the military defense of the industrial democracies of the world so long whilst they undermine our efforts, when they do, by enhancing the defense, the military aggressive capacity, of the totalitarians we are defending them against.

We have to give our Secretary of State at least an opportunity to make the case which this Congress expects of him.

I will say to the Senator from Massachusetts that I understand we have alternative language which will meet some of his concerns. I think they do—I will not speak for the Senator from Illinois—but I wonder if the Senator from Illinois would address this matter.

UP AMENDMENT NO. 426

(Purpose: To require negotiations to prevent foreign availability from undermining U.S. export controls)

Mr. STEVENSON. Mr. President, I send an amendment to amendment 345 to the desk on behalf of myself and Mr. HEINZ and ask unanimous consent that it be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be in order. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 426.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In lieu of the language to be inserted, insert the following: "Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability."

Mr. STEVENSON. Mr. President, as the distinguished Senator from Massachusetts indicated, amendment 345 appeared to threaten sanctions against foreign competitors of the United States who did not impose controls on exports to controlled countries which the United States felt should be controlled.

The amendment, it seemed to me, threatened delays in action on license applications to the advantage of foreign competitors, and by threatening sanctions, it implied we might again hurt ourselves in order to advantage our foreign competitors.

I think this amendment accomplishes the purpose of the distinguished Senator from New York without any danger of adverse consequences. It simply says:

> Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiation with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such availability.

Mr. President, of course such measures could include sanctions. This is not intended to eliminate that possibility, but it does make it a little less explicit. It does, as does the distinguished Senator from New York, recognize that in such cases where technology is available from foreign sources to controlled countries which the United States feels should be controlled, the President will initiate negotiations, and I agree completely he certainly should.

So I think it retains the purpose and eliminates one troublesome feature, and I am hopeful, therefore, that it will meet with the approval of the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. Of course.

Mr. MOYNIHAN. On the examples of appropriate measures he mentioned sanctions, if the President thinks of it.

There is a whole armamentarium here that might be useful to note, to see if the Senator from Illinois agrees, that the President could speak of the procurement policies of the U.S. Government, of the position of the U.S. Government in trade and commercial negotiations, and similar measures in addition to more conventional approaches.

Mr. STEVENSON. Yes, of course he could. His arsenal is large, and my own feeling is that procurement policies of the United States might be more appropriate than some of the other sanctions contemplated.

To suggest that another nation will be deprived of the right to buy goods from us——

Mr. MOYNIHAN. To sell.

Mr. STEVENSON (continuing). Implies to me that we may harm ourselves more in this highly competitive world than another country. But procurement is the other side of the situation.

But procurement is the other side.

Mr. MOYNIHAN. Yes. The Senator will agree with me that it entirely is up to the U.S. Government to give to other countries a percentage of the market; if they wish to concentrate on the Bulgarian market, as it were, well, that would leave the U.S. market to others, and that is a legitimate point we might make.

Mr. STEVENSON. I agree completely with the Senator. It is certainly the intention of the authors of the amendment to his amendment to encourage the President to use whatever assertions of authority are available to him, including those that have been mentioned by the Senator.

Mr. HEINZ. Mr. President, first let me concur with the remarks of the Senator from Illinois and in the understanding that he and the Senator from New York have developed in their colloquy.

Let me also commend the Senator from Massachusetts (Mr. TSONGAS) for having, I think, put his finger on the particular problem with the amendment as originally drafted. I share his concerns in that regard.

Thirdly, I wish to commend and thank the Senator from New York for his willingness to understand the concerns expressed and to appropriately modify the amendment; and I hope, Mr. President, that we do now have an agreement.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania is characteristically gracious on behalf of the sponsorship of this amendment. We do accept the substitute, which I believe is jointly proposed by the Senator from Illinois and the Senator from Pennsylvania; and I, too, would like to thank our colleague from Massachusetts for his timely and fructifying intervension.

I yield back my time.

Mr. TSONGAS. Mr. President, I would like to indicate my concurrence in the compromise language, which gives the President a weapon which, while in the nonmegaton range, may be more useful.

The PRESIDING OFFICER. Is the remaining time yielded back?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time. The amendment is offered as a substitute.

The PRESIDING OFFICER. Yes. The question is on agreeing to the substitute amendment.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from New York, as amended. Do the Senators yield back their time?

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 353

(Purpose: To limit exports of animal hides and skins until the President determines that there are adequate domestic supplies)

Mr. MUSKIE. Mr. President, I call up amendment No. 353, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. BAKER, Mr. DURKIN, Mr. ROTH, Mr. COHEN, Mr. TSONGAS, Mr. HUMPHREY, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. LEAHY, Mr. NELSON, and Mr. KENNEDY, proposes an amendment numbered 353.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 11, after the period insert the following: "Notwithstanding any other provision of this paragraph, in order to carry out the policies set forth in section 3(2)(C) and 3(7) of this Act with respect to animal hides or skins, until the President, after receiving the advice of the Secretaries of Commerce and Agriculture, determines that (A) hide producing countries which have enacted skin and hide export restrictions over the past ten years have resumed reasonable levels of skin and hide exports, or (B) the supply of animal hides or skins, after deducting export demand, is sufficient to meet the requirements of the domestic economy; animal hide and skin exports shall be limited to a total volume, per year, equivalent to the most recent period which the President determines is representative of exports of such products. Before providing their advice to the President under the foregoing sentence, the Secretaries of Commerce and Agriculture shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.".

Mr. MUSKIE. Mr. President, I ask unanimous consent that Anita Jensen and Jim Case be granted privileges of the floor during Senate consideration of S. 737, Export Administration Act, including all votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I ask unanimous consent, if their names are not already listed, that the names of Senators MOYNIHAN, ROBERT C. BYRD, RANDOLPH, and SASSER be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, unless they are already listed, the named Senators will be added as cosponsors of the amendment.

Mr. MUSKIE. Mr. President, the threat facing the American leather industry is the worst in its history.

The situation is critical.

The facts are simple: A reduction in cattle slaughter has reduced the supply of cattle hides on the world market. The American supply has come under increased pressure from the major importing countries. Prices have skyrocketed.

The tanning and leather industries depend almost exclusively on cattle hides for their existence. These industries need the raw material. Tanneries cannot turn to alternative raw materials—there are no alternatives. And shoe factories cannot retool to make some other product. No adequate substitute for leather exists. Canvas shoes cannot replace leather shoes. And plastic saddles cannot replace leather saddles.

The shortage is worldwide. It is part of the cyclical downturn in the cattle industry. But this cyclical shortage has been artificially aggravated by embargoes on hide exports by major producing countries. So America, which produces 15 percent of the total world skin and hide supply, now supplies 75 percent of the cattlehides being traded worldwide.

The U.S. supply dropped 6.8 percent last year. Twenty-four and one-half million hides were exported, from a total supply of 39.5 million. This year's domestic supply will be 34.2 million hides, but exports are not expected to decline.

If we sell 24 million hides from a supply of 34 million, we will be left with 10 million for domestic needs.

Yet the domestic industry needs a minimum of 18 million hides to operate at current levels. Industry withdrew 2.4 million hides from inventory last year. This year, there is no inventory left to fall back on.

I do not know of any industry that could survive such a drastic curtailment of its basic raw materials without virtual collapse.

Four hundred thousand workers depend directly on the tanning and leather industries. The implications for these 400,000 jobs—and for the $8 billion in retail sales of leather products—are clear.

The inflationary impact of foreign demand is evident in the doubling of hide prices since last year. Footwear prices have already risen 17 percent, and are being forced higher, since the price inflation in the basic commodity has not yet been fully reflected in the prices of finished goods. When the inflated price of those hides has worked its way through the production pipeline, $30 leather shoes may well be a fond memory—just as U.S.-made baseball gloves are today.

If this situation arose from a supply shortage aggravated by increased demand, operating in a free international market, the results would be serious for the domestic tanning and leather industries. The outlook for their workers would be bleak. And the inflationary effects would be just as severe. But the case for Government intervention in the market would be less strong.

The fact is that this situation does not result from a free international market. The shortfall in hide production has been aggravated and sustained by Government actions in major hide-producing countries to protect their domestic leather industries by embargoes on hide exports. The leather industries of countries like Brazil are being protected—

Against threats of shortages;

Against high world prices; and

Against the competition of a free world market.

Foreign buyers are bidding up the price of our hides and taking advantage of the dollar's weakness because other sources of supply have been closed off. And it has long been the case that those countries which import our hides are among the most protective against imports of U.S.-finished leather goods.

Brazil's Government embargoes hide exports to protect its domestic leather industry, while our tanneries and shoe factories close down. And Brazil is manufacturing for the U.S. market. Brazil's shoe sales to the United States are up 40 percent from last year's levels.

Uruguay embargoed exports in 1974. Argentina quickly followed suit. Since 1975, Brazil has exported no hides whatever, South African hides are available only under a Government licensing system and exports are limited to 1.5 million hides a year.

The fact is that the United States is the only nation which remains totally committed to a free market philosophy.

The American tanning industry, the American leather industry, and the hundreds of thousands of Americans they employ are being asked to bear the entire burden of a shortage that is worldwide. Importers of our hides are unwilling to reduce their imports and share the shortage—they want to protect their industries and workers. I think American workers and American industries warrant that kind of consideration from their own Government.

The Senate will soon be asked to review the implementing legislation for the multilateral trade agreements. One of the principal results of that agreement, we are told, is to increase freedom and reciprocity in world trade. Nontariff barriers to trade are to be reduced and eliminated. The market is to provide the means by which supply and demand of world goods is adjusted.

In theory, it sounds ideal.

But when I look at the situation facing us today in connection with hides, I am compelled to ask at what point can we expect some of that reciprocity?

We have made our supplies available to the world. Other hide-producing countries do not do so. The hide shortfall is worldwide, but the United States' domestic industry is being asked to absorb the entire world shortfall—not merely that portion attributable to our own production decline.

Our Government's efforts to make more supplies available to the international market have failed. Special Trade Representative Strauss stated in a letter to me:

> One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls . . . We made a major effort in the multilateral trade negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request.

The fact is, all countries did.

Clearly, when our Nation, which produces 15 percent of the world's skins and hides, simultaneously provides 75 percent of the total hides traded internationally, price inflation and domestic shortages are inevitable.

It is for that reason I seek an amendment to the Export Administration Act.

The policy outlined by this act—and I had something to do with writing the current version of the act when I was a member of the Banking Committee—in section 3(2)(C) specifies that Congress finds a need for export restrictions "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand."

Mr. President, either that language in the act has meaning or it does not, and if it does not have meaning in this case I cannot imagine a case in which it would have meaning.

No clearer case for export restrictions exists today than the hide situation.

This amendment is moderate and carefully targeted. It recognizes the temporary nature of this shortfall. It will have effect only for the duration of the shortage. It conditions unlimited hide exports on one of two factors:

Reasonable export levels from other hide-producing countries; or

An adequate domestic supply, taking into account export demands.

If neither condition is met, the President could limit the export of U.S. hides to guarantee an adequate domestic supply. No quotas are specified in the law. No rigid limits are demanded. There is no attempt to stifle world trade.

The amendment is simply a recognition that as long as other countries are unwilling to share the worldwide shortage, the United States must look to its own resources to meet demand here at home.

If the amendment results in improved and more successful negotiations with the countries which now restrict their exports, no one will be more pleased than the leather industry.

Our domestic industry does not ask for special treatment to protect itself against fair competition in a free international market.

It requests legitimate and limited Government intervention where free market economics are inoperative. Our amendment would give the industry the limited and temporary help it must have to survive.

Mr. President, I will yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I rise today to address an issue which is critically important to 40,000 Tennesseans and almost 400,000 other Americans. I join in urging the Senate to take action to secure the jobs of the workers in one of the most labor intensive industries in the United States.

Today, thousands of Tennesseans and hundreds of thousands of Americans are in danger because we have for too long failed to put adequate restraints on the export of cattlehides.

This amendment to the Export Administration Act of 1979 is an attempt to correct that failure. Currently, the leathergoods industry is faced with the possibility of not being able to purchase its most basic raw material—cowhides.

Three-fourths of all cowhides on the world market are produced by the United States. Seventy percent of the American supply is exported. During the last quarter of this year, the United States exported 83 percent of the cowhide supply. We are not just selling cowhides—we are sending American jobs overseas.

As a result of these massive and unrestrained exports, the cost of cowhides has become almost prohibitive for American producers—and the cost of leather products has become almost prohibitive for the American consumer.

The cost of cowhides has risen faster than the price of gasoline. A cowhide that cost 37 cents a pound in 1977 now costs a dollar.

In the shoeshops and department stores of America, our constitutents are paying $10 more for a pair of shoes and $12 more for the price of a handbag. In all, our failure to restrain the export of cowhides could cost Americans $2 billion.

The primary buyer of our cattlehides is Japan. Japan will take our cowhides, but it will not allow us to send her our finished leather products—we cannot sell her the products made by American workers. This allows Japan to buy as much leather as she can with no consideration for cost. The increased costs can be passed on to the buyer in Japan because there is no competition.

Of course, the American producer must also raise the price of finished products because the price of raw materials has gone up. This can be seen in the price of shoes. A pair of leather shoes that costs $20 2 years ago now costs $30.

In the meantime, those people who have traditionally earned their living in the leathergoods industry find it harder to buy shoes and food. They are losing their jobs.

In Tennessee alone, there are 43 shoe manufacturing plants which employ over 12,000 men and women. The shoe industry in my State supports 25,000 other people whose jobs are indirectly related. Thousands of others work in other leather related industries, the furniture, luggage, and handbag industries.

Those people know what exports of cowhides are doing to their industry and their jobs. In the last 2 years, they have seen thousands of their friends go unemployed because we have put no restraint on the export of cowhides. And they are afraid that they will be next.

Mr. President, other major cattlehide exporting nations such as Argentina, Brazil, and Uruguay, have stopped exporting cattlehides altogether. We do not seek to do that today. We simply ask that exports be limited to a reasonable level.

We seek to limit the export of cowhides to a level at which the leather industries of the United States can survive. We seek to limit exports to a level at which the jobs of 400,000 hard working Americans can be secure. We seek to keep the cost of a pair of shoes at a reasonable and affordable level.

Mr. President, we cannot allow the continuation of massive, unrestrained, and dangerous exports of American cowhides. I strongly urge the passage of this amendment.

(Mr. SASSER assumed the chair.)

Mr. MOYNIHAN. Mr. President, the Senator from Maine has spoken with great clarity and forceful fact with respect to the situation we address in the amendment before us. I would like to supplement his remarks only to the point of stressing the compatibility of what we are doing here with the Multilateral Trade Negotiations (MTN) that have now been concluded by Ambassador Strauss.

I am a member of the Subcommittee on International Trade of the Committee on Finance, and one of those who introduced the implementing legislation to the MTN some 3 weeks ago.

The Senator from Maine is absolutely correct. In these negotiations which have extended over 7 years and which are now completed, Ambassador Strauss on behalf of the United States raised the question of the restrictions on exports from the other hide-producing countries, and pointed out that these restrictions are altogether incompatible with the General Agreements on Tariffs and Trade (GATT). He properly pointed out that other countries' restrictions on exports are incompatible with the principles and thrust of American trade policy since the time of the reciprocal trade agreements of Cordell Hull. Accordingly, the Ambassador asked for a general lowering of these kinds of restrictive activities and that the particular one on hides be given up. The reaction was "No." Not a single exporter would agree to do that.

Their reaction in this instance is part of a pattern of world trade which, in the end, eventually became the focus of the MTN itself. The MTN began as tariff negotiations, as they traditionally had been. But it was realized that it is the actions by government to prohibit exports or imports in one form or another, to impede and effectively to prohibit trade, and not tariffs, that have become the principle inhibiting element in international trade.

Accordingly, the whole focus of the MTN changed to a regime of non-tariff-barrier codes. The purpose of these codes is to prevent such trade restrictive activities or, when they do take place, to authorize governments to respond appropriately when their own economies have been injured.

Now, in the matter before us our economy has been injured in a way that seems altogether inappropriate. And the injury comes from the refusal of other countries to export. We continue to export our hides, following the rules of the game, and our hides are sucked up by nations which ironically are the ones notorious for the nontariff barriers they put on our goods. It is fascinating, for example, that the country most anxious to get our hides is least anxious to get the beef that is under those hides. But try to find the beef that goes with the hide in that country. We cannot. That country uses the hides to make products and export them back here and we lose even more jobs.

What we are doing in this proposal is to give the Government direct authority from the Congress to go out and negotiate further reductions of nontariff barriers—in this case the export restrictions that result in injury to our domestic shoe and leather apparel industries. If they will not do away with those restrictions, the world should know that we will exercise our right under the MTN to act in a similar manner—restrict our own exports to save the industries that would otherwise suffer.

We are asking for equity here. We are supporting the MTN; but we are supporting American workers. We are supporting principles of international trade which, unless our trading partners begin to abide by them, are going to break down a system which has been a half century in construction and has brought incomparable economic benefits to all involved. It is being lost because of the shortsightedness of our trading partners.

I am happy to be a cosponsor with the Senator from Maine. I hope I made clear that, in this Senator's view, this action is wholly consistent with the MTN and, indeed, addresses the central question of the MTN at this time.

Mr. MELCHER. Will the Senator yield?

Mr. MUSKIE. Mr. President, may I ask what time I have? I have only one-half hour and I know several Senators wish to speak.

The PRESIDING OFFICER. The Senator has just under 12 minutes.

Mr. MUSKIE. Then I do not think I should yield to any Senator for more than 2 minutes.

Mr. JAVITS. Mr. President, if I may have 30 seconds.

Mr. MUSKIE. I yield to the Senator from New York 30 seconds; then to the Senator from Massachusetts 2 minutes. Then I shall be happy to yield for a question to the senior Senator from Montana (Mr. MELCHER).

Mr. JAVITS. Mr. President, I have two points. One, I should like to join as a cosponsor of this amendment. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, second, may I say I do not think any Senator on the floor, for a longer time, has advocated an open trading policy for our country as essential not only to our country's interest but to the peace of the world. But I deeply believe that this is a situation in which we are being imposed upon and that, therefore, unless we take action against such imposition, I think we make ourselves impotent in terms of world trade.

May I just give the Senate this fact, which supplements what my beloved friend, PAT MOYNIHAN, has said. I have a letter from the Special Trade Representative dated July 17, in which he says:

> We made a major effort in the Multilateral Trade Negotiations to get those countries to take such action—to wit, export controls on hides—thereby increasing worldwide availability. Unfortunately, most countries responded unfavorably to our request.

Mr. President, I hope this amendment will get their attention. It is for that reason that I join it.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Senator GLENN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I yield to my friend and cosponsor (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Senator from Maine, my good friend (Mr. MUSKIE) who is continuing a fight he has pursued before and which I have been privileged to join him in on other occasions. I shall not detain the Senate long except to say I believe in this amendment. I think it is appropriate, I think it is fair, and I think it is essential to preserve industry in this country. It is not only important to my State, where approximately 30,000 jobs are in jeopardy unless something is done to provide against the excesses that burden the industry at this time, but also because there are 400,000 American citizens who are directly involved in industries affected by this concept.

Mr. President, I have joined 10 of my colleagues in support of this amendment to S. 737, to allow restrictions on the U.S. exportation of cattle hides.

The leather manufacturing industry in this country is in trouble. It is a difficulty not of their own making and not due to any failure of ability to compete effectively. The problem is that the foreign competition in this extremely important industry, that employs over 400,000 Americans (approximately 30,000 in the State of Tennessee) is absorbing between 70 and 80 percent of the raw materials available in this country.

At the same time, American access to the raw material market in cattle hides is severely restricted by embargoes on exports in the major hide-producing countries. The leather industry is facing not only reduced availability, but also a doubled price of its basic raw material. Jobs are jeopardized, and the costs of leather goods are escalating.

The United States is the only "free-trader" in the world hide market. We are simply asking that the President, after receiving the advice of the Secretaries of Commerce and Agriculture be empowered to keep available for sale to American leather goods manufacturers a supply of hides ample to meet domestic demand. In an equitable, fully reciprocable market environment, the leather industry in the United States can compete with anyone. It is our task either to restore fairness to the competition or follow suit and begin protecting our own raw materials.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time at this point because I have used up the bulk of it and have not given the opposition an opportunity to speak. Later, I shall yield to Senator KENNEDY, Senator TSONGAS and other Senators.

Mr. MELCHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I want to take a minute on Senator STEVENSON'S time. He has been called away from the floor temporarily. I ask those who are in opposition to the amendment to let me know approximately how much time they want, because there are 30 minutes allocated to Senator STEVENSON, which is the time for the opponents. Senator MUSKIE and others have used up most of the time, I understand, except 6 or 7 minutes, of the proponents.

There are seven Senators. Then we shall try to make it about 4 minutes each, if that is fair.

Mr. MELCHER. Will the Senator yield?

Mr. HEINZ. I ask unanimous consent that I be allowed to yield 4 minutes from Senator STEVENSON'S time to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I thank the Senator.

I oppose the amendent of the Senator from Maine. Has there been any CBO study on the inflationary impact if the price of hides is reduced and what result would that have on the cost of hamburger, beef roasts or steaks, in the supermarket? It is a rhetorical question, because if you take it out of the hides, you increase the beef price in the supermarket.

Mr. MUSKIE. I shall be glad to answer that.

Mr. MELCHER. If I had more than 4 minutes, I would be delighted to have the response.

The fact is that there is only a price for a fat steer or for a cow and if you decrease the price of the hide, the price of the meat from the steer or cow is going to be higher.

When considering somebody else's business, perhaps it is good to turn for information to a reliable source of that information from that business. I think every Member of the Senate has in his office or in his possession a telegram from the American Association of Hides, Skins, & Leather Merchants. It says:

> The American Association of Hides, Skins and Leather Merchants suggests that the recent alarm about a purported shortage of hides is a result of a misunderstanding of the basic supply and demand factors that affect cattle hides.

The supply and demand situation is such that hides that, earlier this year, were selling as high as 94 cents a pound for Midwest native unbranded premium hides, but has dropped to an average of 78 cents last week for those same premium hides.

It is continuing to drop, and we can probably expect, when we total up what the average price is for this current week, we shall find it is about 70 cents per pound.

That is the situation as it exists now. The telegram goes on to say:

> You have recently received information from a U.S. tanner and shoe manufacturing group operating under the name of "Hide Action Program" that there exists a need for export controls of U.S. "animal hides and skins" because the domestic users of these raw materials are unable to buy sufficient quantities to run their factories, and that the reason for their inability to buy the needed quantities is the export of these cattle hides.
>
> The arguments put forth to you are distortions of the fact and the truth. Many statements have been made by the hide action program which are insinuations of malpractice in the export of cattle hides supposedly causing higher hide prices.
>
> By admission of those making these accusations, there is no substantiation of these charges as they are not rue.
>
> The true facts are:
>
> 1) U.S. tanners have free and total access to every U.S. hide produced, if they are willing to pay the market price, and if they would make use of hides of all origins within the United States.
>
> Naturally, they are competing with foreign buyers and this is part of the free enterprise system.
>
> 2) Hide prices have risen in the United States and world-wide because the U.S. cattle herds are in the process of rebuilding and so are the herds in other countries.
>
> The production of cattle hides in the first five months of this year, due to a reduced kill of animals, was about 14½% lower than last year. Traditionally the kill in the second half of the year, especially after September, increases.
>
> The demand for leather world-wide is large, and consequently the prices for hides, the by-products of the meat packing industry, are influenced greatly under the "old rule of supply and demand".
>
> 3) The return meat packers receive for their hides is an important source of revenue. By retaining more hides in this country than the domestic tanning industry can possible use, again, because of supply and demand, hide prices would decline. This would lead to lower prices for cattle which would hurt farmers, cattle ranchers and cattle feeders and which would result in higher prices for meat at supermarkets and the biggest losers will be the consumers.
>
> 4) The price of hides represents only 5 to 15% of the total cost of producing a pair of shoes in the U.S. Over the past twenty years, hide prices have risen and fallen reacting to supply and demand, but shoe prices being administered have never declined. In fact, in recent weeks hide prices have declined 15 to 20% from their highs. If, when lower prices prevail, shoe prices remain at their high levels, then it cannot be claimed that only hide prices are to be blamed for higher shoe prices. It should be noted that even with hide prices as they are now, they have not kept up with the inflation rate of the last twenty years due to hides being a surplus commodity.
>
> 5) U.S. tanners are working on a reduced scale (approximately 14–15 million hides/yr) because of a lack of orders for their leathers, not because they cannot obtain the hides to tan.
>
> The United States is importing large amounts of shoes and other leather goods and also domestic tanners are buying large amounts of semi-finished leather produced in South America which augments their tanning supplies.
>
> 6) Export controls of hides could hurt the United States' balance of payments, especially at a time when we are attempting to increase our exports.
>
> 7) From past experience, we know that export controls are extremely difficult and costly to administrate on a fair basis.
>
> Many U.S. shoe manufacturers are also involved in the import of shoes, and the facts indicate that many shoe manufacturers have a good and profitable business.
>
> The U.S. leather industry does need assistance in the form of equitable access for their leather to other countries the same as the other countries can sell to the U.S.A., but not in the reduction in export of cattle hides, a surplus commodity. We support the recent action taken by the U.S. Government special trade group which is trying to rectify the inequities of other countries in permitting access of U.S. leather goods into their markets. We do not support any restriction of exports of cattle hides, a surplus commodity.
>
> We respectfully request you to look into all the facts, past and present, concerned with this industry before voting on any changes in the existing Export Administration Act of 1969 as amended, and to leave this act as it concerns "animal hides and skins" unchanged. We feel that after you have gathered all the true facts from all sides, and after you have disseminated and analyzed the deliberate distorted information which you have received from the "hide action program", that you will agree with us.
>
> Please do not allow jurisdiction for animal hides and skins to be shifted from the Department of Agriculture to the Department of Commerce and please do not pass any legislation which would lead to the unnecessary and dangerous imposition of export controls on animal hides and skins.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. MELCHER. Mr. President, they cannot have it both ways. When hide prices go down, the price of beef in the supermarket has to rise. The whole animal, hide, beef, and byproducts are sold. When fat steers on the hoof have been selling for 65 cents–70 cents per pound, the total cost of a 1,000-pound steer is $650–$700. If the hide weighs 60 pounds at 75 cents per pound, that means $45 of the total cost of the steer, the slaughtering cost, the transportation and handling costs of the beef going to the supermarket, the cutting, wrapping and retail costs are offset by that amount received for the value of the hide. If the hide value decreases $20, the consumer at the supermarket is going to pay that much more for the beef from that steer. And the cattle producer receives either less for the steer or the consumer pays more.

You cannot have less value for the hide without adding price to the meat. The effect of the amendment would lower hide prices, cause beef retail prices to be higher, or give a lower return to the cattle producer.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN addressed the Chair.

Mr. HEINZ. Mr. President, I ask unanimous consent that 4 minutes be yielded to the Senator from Texas on Senator STEVENSON'S time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I thank

the distinguished Senator from Pennsylvania.

I can understand the concern of the Senator from Maine. I have shoe manufacturers in the State of Texas, and have them in substantial numbers.

I sympathize with their plight and want to be responsive. But when we talk about export controls, we are looking for a short-term fix that will not work.

We saw what happened several years ago on soybeans. What did the Japanese do when they found they were an uncertain source of products? They invested over $1 billion in Brazil to develop soybeans, and now the Brazilians are our principal competitors in the soybean business.

When we talk about placing export controls on hides, the point is made that the consumer will benefit. But if the price of hides dropped by 40 to 50 percent, that would result in a 2-percent saving on a pair of shoes. You could buy $20 shoes for $19.60; that is, if the retailer did not take the markup for himself.

That is not the sort of price break that will restore the competitive position of our domestic producers. It will not rout our foreign competition. And it will not save the consumer much money.

We have been working, and we did work, with the STR trying to develop quotas and some protection for our shoe-producing industry in this country. We have made some progress, but the basic problem still remains.

One of the reasons we have a problem with hide prices today is that we have artificial controls on the price of beef, which has resulted in liquidation of herds and increasing prices.

If we get into beef production and talk about butchering and packaging, that is a high volume, low profit business.

The Senator from Iowa has one of the major producing plants in the entire country in that business.

Our meatpackers operate on a high volume, thin margin basis. They sell the whole cow after they buy it and, if we reduce the selling of the hide, or depress the price that can be paid, it only means the price of beef goes up.

We have artificial controls working. We do not have supply and demand working in that situation. In effect, we have hurt the consumer.

We would increase the price of beef, a price the housewife already thinks is too high, by this kind of action. We are looking for a very short-term fix that will not work and will not solve the problems of shoe production in this country.

The problems are more basic than that. They require tax incentives that bring about the renovation of the manufacturing—of shoe production in this country so we can be competitive with foreign production.

That is the kind of approaches we should make, trying to do things to modify and strengthen the supply side of our economy instead of saying we will put artificial restrictions on the export of American products.

We are in tough enough shape today with the dollar, but if we take away the surplus we have in exports of agricultural products and begin to depress them, then we will find the dollar is in even worse shape than it is now.

I know the prices of hides are high, and that the price of hide is only a small component of the price paid for a steer or a beef. Buy if we take artificial measures to drive down hide prices, we must consider the psychological impact on the rancher, who is just now getting back off his knees and is finally able to meet the payments at the bank so he can stay in business. Just when this is happening, along comes the big arm of the American Government putting artificial controls on, to see that we do not get the free market price. Such action can only discourage the rancher and put more of them out of business.

I think that is the wrong way to approach the problem of shoe production in this country.

I urge my colleagues to defeat this amendment. I say that we need to do something more substantive that will have a long-term positive effect on the domestic leather industry. We've got to increase productivity in that industry and make it more competitive. We should work to see that our trading partners eliminate their controls on hide exports, and their barriers to our products. I want to help our leather industry, but we're not going to accomplish that objective by taking it out of the hide of the cattle industry.

Thank you, Mr. President.

Mr. CULVER addressed the Chair.

Mr. STEVENSON. I yield to the distinguished Senator from Iowa.

Mr. CULVER. I thank the distinguished Senator.

Mr. President, I rise in opposition to the amendment by the Senator from Maine to impose export controls on cattle hides.

The situation we face here on the floor today is, in my opinion, most unfortunate. I can certainly sympathize with the Senator from Maine's position. The high price of hides, though a temporary phenomenon, is placing in jeopardy several thousand jobs in his State and in other States. These are jobs of relatively low paid workers with few, if any, employment alternatives.

But I hope the Senator can also understand the position in which his amendment places me, and the over 70,000 cattle producers in my State of Iowa. I am sure he will recall that prior to this year, cattle producers in this country lost money for almost 4 consecutive years. As a result, many individuals in Iowa and other cattle producing States, either lost their farms—their jobs—or had to severely reduce their standard of living.

These are not easy circumstances for those of us who have a responsibility to our constituents. Nor am I asking the Senator from Maine to stand by and do nothing for the dedicated, hard working people of his State whose livelihoods are threatened by current economic conditions.

I must, however, voice my opposition to this attempt to assist the leather goods industry at the direct expense of Iowa's and the Nation's cattlemen. And that is precisely what the Senator's amendment proposes to do.

I think we are all aware of the fact that the cattle cycle is now at a point where fewer animals are being slaughtered. This means that fewer cattle hides are being produced. Those of us from cattle States have been watching this situation develop for several years. We all knew it was coming and we have a pretty good idea when supplies will increase: That is, if the Government keeps its hands out of the market and does not destroy the incentives that are necessary for cattlemen to rebuild their herds.

If we have learned anything about consumer protection and agricultural policy over the past 4 years it should have been that interference in the livestock market to the detriment of producers will have the effect opposite to that intended. Every barrier raised to reduce prices will only further reduce supplies available to the American consumer. Without sufficient supplies, neither the consumer nor the leather goods industry can enjoy the economic health we seek for all Americans.

The case against this amendment was well stated in the December 1976, report on the national commission on supplies and shortages which said:

> It is short-sighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

Earlier this week the U.S. Department of Agriculture released a task force report entitled, "The Structure, Pricing Characteristics, and Trade Policy of the Hides, Skins, Leather, and Leather Products Industry."

The report concluded:

> There is serious question about the legality of export controls for hides. Moreover, analysis indicates that they probably would provide no long-term benefits to either the industry or consumers.

Mr. President, the American cattleman persevered through 4 years of negative income. They depleted their savings and mortgaged their land in the hope that the lives and the work they knew and loved would be rescued by better times. Finally those better times arrived, only a few short months ago, Cattle prices have been at record levels this year, at least, for those producers who survived.

Yet already consumer resistance to high prices has led to a 15 percent decline in cattle prices since mid-May. This situation appears to be stabilizing now with prices at a profitable, but certainly not an unrealistically high level. Any action by the Congress that would upset the delicate balance that for the first time in years has restored some confidence, some stability in the often volatile cattle market, would be totally unfair to producers and unwise public policy.

Export controls on cattle hides would

have ramifications that reach far beyond the impact intended by this amendment's sponsors. In 1978, the United States exported $686 million worth of cattle hides. Due to improved prices, the total will be substantially higher this year. These export dollars will make a significant contribution to balance of payments problems caused by energy and other imports.

In addition, other agricultural exports could be adversely affected by such action. We are still experiencing the repercussions of the 1973 embargo on soybean exports. In the recent Tokyo round of the multilateral trade negotiations, significant gains were made in gaining access for our high quality beef to the Japanese market. Japan is one of the biggest customers for U.S. hides as well as our largest customer for all agricultural commodities. Any limitation on hide exports to Japan could jeopardize trade in beef and other areas.

In conclusion, the policy advocated by the proponents of this amendment is a dangerous means of providing short term relief to a narrow segment of the U.S. economy. It is an attempt to take from the half-full pockets of American cattlemen to fill the half-empty pockets of the leather goods industry. I oppose this amendment and urge my colleagues to defeat it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I will need 3 minutes.

Mr. President, I am in sympathy with the statements of the distinguished Senator from Maine and others who are attempting to help tanners and footwear producers, and other industries, in this country.

They are undergoing some hardship because of the hide supply situation. But I just do not believe that what they pursue today by this amendment will accomplish what they might like to do.

Mr. President, no one can deny that the tanners, footwear producers, and other industries in this country are undergoing some hardships as a result of the hides supply situation. However, the method by which this amendment would seek to remedy the problem contradicts the spirit of the bill we are now considering, runs afoul of congressional precedent on this subject, would not really remedy the situation, and would, in the long run, have a broader and more devastating impact on the cost of living in this country than the current state of affairs.

As I have recognized, Mr. President, such industries as the tanners and footwear producers have a legitimate argument in stating that they are undergoing hard times. We have repeatedly been made aware of their plight. For over 10 years, the hide processing industry in this country has been on decline. This year, Congress will be asked to approve the reduction of duties on dye-stuffs so that the tanners can reduce their cost of production—that will be a plus for them. For the past few years, a massive trade adjustment assistance program has been focused on the footwear industry to help it with trade problems which it has been suffering for practically a decade.

So there is no question about the need for special attention to these industries.

I agree that these industries need special attention and innovative ideas to help them out of their quandary. But limiting exports of a product which is in great demand on the international market and which is supplied almost entirely by the United States is not sound economic policy. Right now, the United States supplies about 75 percent of the hides traded on the international market—which is a seller's market currently. Our livestock and meatpacking industries are receiving top dollar for these exports—which is a happy note for our livestock producers, who are just beginning to recover financially from a 6-year economic drought due to the cattle cycle. The hide exports are also a happy note for our entire country, because they are one of the few pluses in an otherwise disastrous trade balance picture.

The bill before us clearly intends to ease up on export restrictions. This amendment flies in the face of this general policy objective. Past attempts to limit hide exports have run afoul of congressional objectives. In 1966 and 1972 attempts to limit hide exports were opposed by Congress. Probably the most convincing argument in opposition to the mechanism proposed in the amendment is that it would have more of an adverse impact on consumers of beef and producers of livestock than it would help the consumers of hides and the consumers of the products they sell. The result of export limitations, and a consequent reduction in hide prices, would be that the meatpackers would raise the cost of retail beef and lower the price they pay for livestock in order to cover their extremely narrow profit margin. Thus, it seems to me that the impact of the proposed amendment will have a greater adverse effect on our livestock sector and consumers of beef—and therefore inflation—than it would have in helping the tanning and footwear industries.

In effect, if we approve this amendment, we will not be robbing Peter to pay Paul, we will be robbing Peter and Paul to pay Simon. It appears that what we will be giving Simon will not buy him much more than a cup of coffee. What I mean is that livestock producers and beef consumers will be adversely affected while the positive effect for tanners and footwear manufacturers will be minimal. For example, estimates are that hides represent only 5 to 15 percent of the total cost of producing shoes domestically. Export controls probably would reduce hide prices, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

Mr. President, I would like to suggest to my colleagues an alternative to this ill-advised amendment. My alternative pays Peter, pays Paul, and pays Simon—among others. We can take an affirmative step toward solving the hides problem by adopting a program which provides a relatively predictable and steady volume of domestic hides. This will help even out the drastic price swings which the tanners and others encounter and will also give them some predictability in their business planning. At the same time, this program can help the livestock producers by giving them a mechanism whereby they can make more accurate herd management plans and avoid the drastic price swings attendant to the cattle cycle. Of course, such a mechanism would benefit the consumer by stabilizing beef and leather prices and would promote greater job security in the trade-impacted industries. The program I am suggesting is embodied in the countercyclical formula of the proposed meat import law of 1979. That legislation, if enacted into law, would set up a mechanism which would take a positive approach to solving the problems of all the parties of interest in this matter. Of course, the results of the countercyclical formula may not provide an absolute fix for all the problems we are discussing here today, but it certainly would be a more positive and sound economic method of dealing with the matter than that dangerous precedent the proposed amendment would establish.

Mr. President, I urge my colleagues to defeat the proposed amendment. Instead, I suggest they take advantage of a rare opportunity in which we can help each one of the domestic interests involved by supporting the meat import law of 1979.

Mr. President, I ask unanimous consent to have printed in the Record some questions and answers raised by those who support and those who oppose this amendment, together with a letter from the Special Trade Representative, Ambassador Strauss, dated June 26, 1979, along with a statement by the administration opposing the proposed legislation.

There being no objection, the material was ordered to be printed in the Record, as follows:

Questions and Answers on Hide Export Controls

1. Why are hide export controls being advocated?

The cattle cycle is now at the point where less animals are being slaughtered. This, coupled with a continued strong demand for leather and leather products, has increased the price for hides. Tanners, leather users and shoe manufacturers argue that these higher prices are very burdensome to their industry. They want controls on hide exports to drive down the price, thus allowing them to hold down the price of shoes.

2. Do they have a point?

It is doubtful. First, hides represent only 5–15% of the total cost of producing shoes domestically. Export controls probably would reduce hide prices to some degree, but it is unlikely that shoe prices would be substantially lower because of lower hide prices.

3. Have hides been embargoed before?

Yes. Attempts were made to control hide exports in 1966 and 1972, but both times Congress objected.

4. What if export controls were imposed on hides?

Meat packers operate on an extremely narrow profit margin, earning approximately 1¢ per sales dollar. Without being able to sell hides—the single most valuable animal byproduct—at a fair price, packers would be forced simultaneously to (1) lower what they pay for live cattle and (2) seek higher wholesale beef prices.

5. You mean export controls would lead to still higher meat prices?

Yes. Higher wholesale beef prices would be passed through to the retail level, thus further pushing up the cost of meat to consumers.

6. Would export controls on hides cause other problems?

Yes. Controls would damage the nation's balance of payments. Farm exports now total nearly $30 billion annually (including over $600 million in cattle hides), which helps to offset the large trade deficits we have been incurring in recent years. Any attempt to restrict exports will once again cause our trading partners to question whether they can continue to depend on America for much of their food and fiber supply. If the U.S. restricts trade in one farm commodity, other nations may conclude that we will do so with others, thus making their reliance on our farm exports seem risky.

7. You are saying that imposing controls would set a dangerous precedent?

Yes. If the U.S. blocks exports every time domestic prices rise rapidly in a certain sector of the economy, other nations will be increasingly unwilling to trade with us—and that will hurt all Americans.

Take Japan, for example. As our number one customer for U.S. hides, Japan has already agreed to limit its purchase of them. For us to limit hide exports now, according to Special Trade Representative Robert Strauss, would simply reinforce the Japanese fear that the U.S. is an unreliable supplier, a fear they have harbored since we embargoed soybeans several years ago.

8. Should anything be done about the current high price of hides?

No. It is a cyclical occurrence, and the forces of the world market place will eventually provide the best solution.

9. Shouldn't the government do anything then to help the shoe and leather industries?

Maybe so. But we should not help one industry by penalizing others, especially with a shortsighted policy which will damage our balance of trade. If these industries are legitimately suffering, the government could establish some kind of economic assistance plan. Another approach is to adopt a countercyclical meat import law which would even out the supply-demand imbalance.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS,
Washington, D.C., June 26, 1979.

Hon. RUSSELL B. LONG,
Chairman, U.S. Senate, Committee on Finance, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your May 24 request for the views of this Office concerning Senate Resolution 168, which calls upon the President and this Office to take action to protect the American leather and tanning industry.

I agree fully with the concerns that have led to the introduction of Senate Resolution 168. The price increases we have experienced in raw cattlehides and in leather have resulted in serious economic pressures for our tanning industry, as well as the leather products industry and American consumers. As a result of these concerns, I recently organized a meeting between Members of Congress representing the tanning, shoe, and cattle industries and Administration officials, including Secretary Bergland and Assistant Secretary Weil from the Department of Commerce, to discuss this problem and to explore remedial measures that might be taken. Several of your colleagues from the Finance Committee attended this meeting.

During the meeting, general agreement was reached that the rapid increase in hide and leather prices is due primarily to a reduction in cattlehide supplies resulting from the decrease in U.S. domestic cattle slaughter. In fact, this has occurred previously in four to six year cycles, most recently in 1966 and 1972. It was also apparent that the alternatives for bringing the supply of cattlehides into closer balance with demand are limited.

One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multilateral Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results wtih those countries with whom we are still negotiating, especially Argentina.

Another approach which has been suggested by some is the imposition of controls on U.S. cattlehide exports. However, this approach does not appear feasible for several reasons. First, the Executive does not have clear authority to impose controls on hide exports. When controls were imposed in 1966 and in 1972 as a remedy to high and rising cattlehide prices, the Congress acted quickly in response to strong opposition from the domestic cattle industry to terminate the controls. Given this experience, there is a real question whether controls could again be imposed and remain in place for long without being contested in the Courts or removed by Congressional action.

Secondly, any benefit in terms of reduced hide prices from export controls could be offset by increased prices in the longer term. The cattle industry is now undergoing the process of rebuilding its inventory of cattle. This rebuilding process could be slowed or stopped by action which reduces hide prices significantly. This would aggravate the supply problem in the longer term as cattleherds fail to increase sufficiently to provide a greater supply of hides in the future.

Since there are no good solutions to the supply side of the problem, it was concluded that other alternatives should be explored, including the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to see whether such a program can be developed.

Thank you for giving this Office the opportunity to comment on Senate Resolution 168, and please be assured of my concern regarding this important matter. I believe that we are now on the right track toward finding a solution to this problem.

Sincerely,

ROBERT S. STRAUSS.

ADMINISTRATION POSITION ON PROPOSED EXPORT ADMINISTRATION ACT AMENDMENTS

CATTLEHIDE AMENDMENT

1. This amendment is contrary to the spirit of the recently concluded Multilateral Trade Agreements.

It would severely inhibit our efforts to induce other countries to remove their tariff and nontariff impediments to free trade, including those which restrict the export of cattlehides.

It could encourage other countries to impose restrictions on their exports of basic materials for which the United States is heavily dependent on imports.

2. The amendment is too inflexible.

It would make export controls and quotas on cattlehides mandatory unless the President determines that other hide producing countries which have enacted hide export controls during the past ten years have resumed reasonable levels of hide exports (this would appear to mean that all or nearly all of such countries must have already resumed reasonable levels of exports) or that the domestic supply of hides less exports is sufficient to meet the requirements of the domestic economy. (This would appear to mean that they are now sufficient, not that they are forecast to be sufficient to meet domestic needs during the forthcoming marketing year.)

3. The amendment would appear to require a new Presidential determination each marketing year, failing which export quotas would automatically be imposed. The President is already so overburdened with findings and determinations that he has scant time left for addressing major foreign and domestic issues. It is an unreasonable burden to expect him to act as an individual commodity licensing officer as well.

4. Under this amendment, the determinations which the President would be required to make would not in and of themselves assure the adequacy of domestic supply to meet domestic demand.

The mere fact that other major hide producers have or have not resumed current exports, or that the current domestic supply of hides less export demand is or is not sufficient to meet current domestic demand, would not assure the adequacy (or lack thereof) of the domestic supply during the forthcoming marketing year.

To determine this, other factors would also have to be taken into consideration.

Even if both the determinations in the amendment could be made they would not necessarily constitute adequate criteria on which to base a decision that export controls were not warranted.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. PERCY. Mr. President, I rise to discuss the amendment offered by my distinguished colleague, the senior Senator from Maine, and to state my position on it.

In Illinois, 101 firms are engaged in the manufacture of leather products and they have, without question, been adversely affected by the recent rapid rise in the price of cattlehides. The Commerce Department tells us that, through their monitoring, they have observed a steady increase in the export of hides. Exports have jumped from just over 50 percent of U.S. production in 1973 to well over 74 percent in the first 5 months of this year.

What is more, the price of cattlehides has climbed from about 33 cents per pound in 1973 to a record high of 96 cents a pound in May of this year.

This cannot but pinch domestic users of leather and it is a situation that deserves our serious attention. Imposition of export controls is one way to attack this problem. But it is not the only way nor is it necessarily the best. I believe the adoption of the amendment would actually be counterproductive to both consumers, cattlemen, and leather manufacturers in the long run. Export controls, just like price controls in meat a few years ago, are purely a short-run solution that will not help us with a long-run solution to the export drain. In fact, they often backfire soon after being imposed, harming the very interests they were meant to protect.

Let us just take a minute to look at the origin of this export drain. It stems from export controls imposed by other major cattlehide exporters—Argentina, Brazil, and Uruguay. The shutoff of these supplies have meant that the U.S. market is the only large supply of hides available to other leather-using countries.

And yet, U.S. cattlehide production is in the downward side of a cycle. As the Commerce Department has reported:

> Because cattle hides are a by-product of meat slaughtering operations, the demand for hides has no effect on the supply. Beginning in 1974, high feed costs and low returns on investment forced cattle growers to send more calves and cows to market. This liquidation of breeding stock resulted in a decline in herd population which subsequently led to annual declines in cattle slaughter beginning in 1977. Cattle slaughter is expected to decline further through 1980.

In other words, supplies of hides are tight in this country because of the condition of the overall cattle industry. If we had a buoyant and growing cattle industry, we could accommodate more of the demand from abroad.

Mr. President, I might digress a moment at this point to remind my colleagues that one reason for the low number of cattle hides produced in recent years is the volume of imported meat that has been entering the country, deterring the rebuilding of cattle stocks. If we had a more comprehensive policy, recognizing the link between hides and beef production, we might not be in this situation today. That is the type of long-run solution that will help both industries, and it is the type of solution we should pursue.

Our Special Trade Representative acknowledged the importance of a long-run solution in a July 17 letter to my colleague from New York, Senator JAVITS.

In that letter, he said:

> One approach to the problem is to encourage beef-producing countries with export controls on hides to ease their controls, thereby increasing the worldwide availability of hides. We made a major effort in the Multinational Trade Negotiations to get these countries to take such action. Unfortunately, most countries responded unfavorably to our request. Nevertheless, we will continue to press hard for results in this area during future bilateral negotiations. We are now working closely with Argentina in search of a mutual satisfactory means for that country to liberalize its embargo on hides.

He continued by noting that:

> It was, therefore, concluded at the recent meeting between several Congressmen and Administration officials that we should examine the possibility of a program to provide financial assistance for the industry until such time as the domestic supply of cattlehides increases and prices begin to decline. We expect supplies to increase in 1981. The Departments of Commerce and Agriculture will be working with interested Congressmen to develop such a program.

Mr. President, let me conclude by pointing out that the Council on Wage and Price Stability (COWPS) and the Department of Agriculture (USDA) joined together this year to study the hides situation and issued a report earlier this month. They came out against export controls on hides as not in the long-term interest of either the industry or consumers. The report also made these points:

Productivity in the U.S. leather manufacturing industry has not kept pace with other industries and "although many factors contribute to this stagnant productivity, it remains a major cause of the current problems";

The most feasible long-run approach to the hide shortage is for the United States to continue pressing for freer trade. "In terms of liberalizing trade, freeing up hide supplies for the world market from countries such as Argentina, Brazil and Uruguay probably offers the most relief"; and

Increased assistance should be offered to the domestic industry for R. & D. so they can improve their productivity.

The USDA report also quoted the National Commission on Supplies and Shortages of 1976 on the subject of export controls, which said:

> It is shortsighted to use export controls for the prevention of domestic price increases, no matter how unpopular these price increases may be. Not only are export controls harmful to the income of exporters and to the credibility of the United States as a reliable source of supply, but they are not in the long-run interest of consumers either.

This is the kind, an issue when you are damned if you do and damned if you do not. On balance, I feel the weight of evidence would be to protect the overall national interest in both the short- and long-run by defeating the pending amendment.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. WALLOP. Mr. President, I rarely feel paranoid. It just is not one of the characteristics that God laid on my personality. But the issue of limiting hide exports, in fact, does get down to that point.

The Senator from Maine has suggested that his amendment is important and fair, and guess it all depends on whose ox—if you will forgive the phrase—is being flayed here.

In this instance the amendment has an immoral characteristic which I think needs to be pointed out. I do not say this is the actual intent of the cosponsors. But, I do say that you cannot take an industry in which, on the one hand, you consistently allow imports into this country, which creates a lush level of competition and then, on the other hand, tell cattle and hide producers that they cannot export the only product that remains of their domestic industry. It is an almost unbelievable set of circumstances.

Mr. President, I used to be in the packing plant business. I had my own packing plant, and I worked all phases of it. The last year I was in that business, I got an average of about $6.18 a hide. I understand that now they are getting closer to $23 a hide, and this is a small packer's market. You will find different figures if you look at the national packer's market. The small packers always have a discount as opposed to big ones.

I did not see a soul coming and saying, "You need a little support in your industry to raise the prices." Nobody from the shoe industry approached anybody in the small packing or large packing industry at that time. But at that time they were resisting any attempt to limit imports, and we today have the imports of beef products into this country at higher than the legal limit.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WALLOP. Mr. President, the Senator has his own time and he can answer me at that moment. I have only 3 minutes.

What is happening is that you are exercising your right at the expense of somebody else's right, and it is not a fair approach.

I point out that in 1972, we had a limited supply, and we had a hide export prohibition. It has been concluded that why we do not limit hide exports today is because the 1972 law did not function.

I quote:

> The present version of section 4(f)1 resulted directly from the Commerce Department's imposition of short supply in this case on cattle hide exports in 1972.

Can we not learn from the experience of the past?

I wish the Senate, in the interest of fair play, would use the multilateral trade negotiations, use the other means of countercyclical imports, to adjust some fairness of supply and demand on hide prices, and not, take it out on the cattle industry who already bears the brunt of massive imports.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. DANFORTH. Mr. President, I find that this amendment puts me in an almost intolerable position.

Back in the 1940's, at the time the St. Louis Browns were still in existence, it was said that St. Louis was first in shoes, first in booze, and last in the American League. Shoe production was a major industry there.

In fact, the State of Missouri is the third largest employer in leather and leather products—third only behind the States of New York and Massachusetts.

Clearly, this amendment would be of benefit to a number—thousands—of my constituents who are in a very hard-pressed industry right now.

However, at the same time that Missouri is third in employment of people who work in the leather industry, we are second to Texas in calf production. So, clearly, the amendment, which would be helpful to some of my constituents, would be most injurious to many others.

Therefore, I fall back on a basic philosophical question to try to resolve this conflict, and it is this: Is the future of America, is the direction we are going to take as a country, going to be one of restrictions on trade policy; or, instead, is our future and the opportunity for growth of our economy going to be in the direction not of restrictions but of expansion of trade.

It is my hope that the plight of leather workers can be helped by the Tokyo round of GATT which was just completed. I have written to Ambassador Strauss, asking him to do everything he can to put pressure on other governments to lift the embargoes that exist in their countries so that more hides would be available for export into our market. It is my hope that as a result of the completion of the Tokyo round, the use of an embargo by other countries to depress their domestic prices of hides will be viewed as a subsidy which is subject to countervailing duty.

Therefore, it is my hope that as a result of GATT, and as a result of the freer trade policy arising from it, some assistance will be on the way for leather workers.

I do not believe that embargoes work. I believe that the history of embargoes has been disastrous, particularly for the agricultural sector of our economy. For that reason, Mr. President, I oppose this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Senator Muskie has yielded me 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as Senator Muskie has stated, I believe this amendment offers a reasonable and moderate solution to what is truly an extraordinary problem for over 400,000 leathergoods workers and every American consumer.

This measure is a last resort. Numerous attempts have been made to negotiate a solution with other hide producing countries. The fact is that our special trade representative, in trying to deal with the two countries which refuse to export hides—Argentina and Brazil—was essentially rebuffed. When this issue was raised at the multilateral trade negotiations, he effectively reached a stone wall.

The amendment of the distinguished Senator from Maine, of which I am a cosponsor, is a measured response. It is an interim response which attempts to deal with a matter of enormous importance not just to an industry, not just to leather and footwear employees, but also to the consumers of this Nation.

The fact is that from 20 percent to 40 percent of the wholesale price of shoes is attributable to the price of hides. This translates into a price increase of between 9 and 10 dollars at retail for a pair of leather shoes. Consumers, already hard hit by skyrocketing prices in most other sectors of the economy, deserve some measure of relief.

I have listened with interest to those Senators from agricultural States who have spoken. I share their deep concern for the interests of the American cattle industry. I share their concern over past mistakes which have jeopardized the interests of this vital industry. I would not support this amendment if I thought those interests would be jeopardized. But the fact remains that when we have had stability in beef prices, we effectively had stability in the hide prices. And the price of hides, which account for only 7–10 percent of the value of a steer, is not a significant factor in the decision to rebuild stocks. Beef and grain prices have much more to do with these decisions.

This amendment offers a reasonable and interim solution to the serious problem of artificially high hide prices. It says: Let us try to work this out through negotiation. Let us be sensitive to the unique problems posed by the lack of free and fair trade. Let us take this approach until we are able to build up the beef herds in this Nation, which have diminished and which were the result of adverse policy decisions. But at least let us have the opportunity to assure that the consumers of this country are not going to once again find that as a direct result of foreign government restrictions, they are paying outrageous prices for one of the essential commodities of their lives.

Mr. President, I strongly support this amendment. It will correct a trade imbalance which both jeopardizes the future of our footwear and leather industries, and strikes at the pocketbooks of all Americans.

Since 1978, cattlehide prices have risen an astounding 126 percent. Hides that cost 37 cents a pound in 1977 now cost over one dollar a pound. One shoe manufacturer told me that a family of five can expect a total shoe bill of at least $500 in 1980—about $100 more than the bill for last year's shoes. Of course, all leather products are affected by this dramatic rise in the price of hides. And if we don't act now to moderate these price increases, all Americans will be forced to pay $2 billion more for leather products. Two recent articles, in Forbes and Retailweek magazines, provide excellent summaries of the consumer impact of these price increases. I ask unanimous consent that these articles be inserted in the Record at the conclusion of my remarks.

The severity of the problem stems primarily from the fact that foreign purchases of U.S. hides have reached unprecedented levels. Historically, export demand has taken about half of U.S. hide production. In the last few years, however, exports have skyrocketed. From March through May of this year, 83 percent of U.S. hides were exported.

This extremely high level of exports is not the result of substantially increased world demand for hides. If hide prices were only the result of worldwide demand that the free international market could not satisfy, I would not be recommending this government response.

The fact is that the world market in hides is not free. As I mentioned earlier, major hide-producing nations—Argentina and Brazil—are now protecting their own domestic industries by embargoing the export of their hides. As a result, the United States has become the primary source of supply for hides in the world market. Even though we produce only 15 percent of the world supply, U.S. hides account for 75 percent of those traded in the world market.

This huge demand for cattle hides overseas, particularly in Japan and Korea—coupled with hide export restrictions in other countries—now threatens the jobs of 400,000 employees in the footwear and leather industries. And it threatens every American consumer who has been forced to bear high prices for all leather goods.

To say that we should simply wait for substantial increases in cattle production ignores the imediate problem. I met with Secretary Bergland last month to discuss this issue, and he advised me that herds would not be substantially increased for at least 2 years. Production is not expected to return to 1978 levels until sometime between 1983 and 1985. We simply cannot afford to wait that long.

This amendment provides a reasonable form of relief, and is designed to be effective only for the duration of the hide shortfall. Most importantly, it is designed to promote the free trade of hides. Under this amendment, any U.S. export controls would be lifted as soon as other hide producing countries resume reasonable levels of exports.

This is a reasonable amendment which takes into account the legitimate interests of both the leather industry and the cattle industry. It provides the consumer with badly needed relief from rising prices. It provides a fair share of cattle hides to allow our industries to keep producing, and the more than 400,000 employees in the leathergoods industry to keep working.

I urge my colleagues to join me in supporting this measure.

Mr. President, I ask unanimous consent that the articles written by Richard Greene be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

The Last Roundup for Leather?

(By Richard Greene)

The signs are there, like vultures flying over a diseased, but still breathing, man. It's been years since you could easily find a leather baseball glove made in the U.S. The pair of leather shoes that cost $20 two years ago goes for over $30 today, and it's difficult to find them at *that* price. All-leather attache cases are out of sight, many selling in the hundreds of dollars.

At the same time, the fashionable gent in Tokyo is wearing all-leather shoes, carrying a leather attache case, and probably playing baseball with a Japanese-made leather glove. Which wouldn't be so ironic if it weren't for the fact that the Japanese raise virtually no cattle—the raw material for leather. No, it's the U.S. that raises all those cattle.

Says Lawrence McGourty, president of Melville's Thom McAn shoe division, "The Japanese wear leather because they know Americans wear leather and they want to be like Americans. But if they keep it up, they'll be the *only* ones wearing leather."

So, naturally, with skyrocketing prices and high international demand, the tanners are cleaning up, right? Wrong. Dead wrong. The tanning industry, which has been dismal for years, may be on its last legs. Take Newark, for example. Pre-World War II, there were some 60 tanneries in that New Jersey city. Now there are three. Just ten years ago some 30 million hides were processed domestically for leather; now it's half that.

The problem, basically, is that there is a leather shortage. Last year 40 million head of cattle were slaughtered in the U.S. and this year it will probably be down to 34 million. So, the supply of hides is down. Meanwhile, the demand remains high. It is hardly surprising, then, the prices in December 1978 were 52 percent higher than a year earlier, and by last April they had risen 147 percent since December 1977, to 94.2 cents a pound.

The pressure driving these prices up is not only the decreasing number of hides—a phenomenon of the cattle cycle—but also the huge demand overseas, particularly in Japan and Korea, for those hides. Since 1976 the U.S. has been exporting a larger and larger percentage of its hides; 71 percent of U.S. output is now being exported, to supply about 75 percent of the hides traded on world markets.

According to Eugene Kilik, president of the Tanners' Council of America, domestic tanners just don't have much of a chance at getting to the hides. There are arrangements, he claims, in which the Japanese offer to pay 10 cents a pound more than the best bid made by American firms. That's the kind of offer you just can't beat. Especially as the Japanese restrict U.S. incursions into their profitable market.

To add to the problem, the U.S. is virtually the only nation supplying Japan's lust for hides. The other major cattle-producing countries, like Brazil, Argentina and Uruguay, ban export of hides, preferring to compete with finished leather goods. That's a good idea for developing nations because it means jobs; shoes, handbags and the like are labor intensive. Unfortunately, this leaves the U.S. as virtually the only free-market nation in an unfree market.

Since there is little that can be done to persuade the Brazilians and others to sell their raw hides, the U.S. leather industry is in a quandary. The shortage doesn't hurt only the tanners, it hurts manufacturers of shoes, handbags and garments as well as retailers who find it difficult to sell a pair of $25 shoes for toddlers.

Says McGourty, "This is the first time I can remember in the shoe business that everybody—the tanners, the high price shoe retailers, the popular price shoe retailers and the manufacturers—is working together to persuade the government to do something."

Last year they had some success. The government negotiated some concessions from the Japanese. Said the leather industry: Too little, too late.

Essentially, the leather industry wants a limited embargo on the hides being exported. This will ease the market here and provide blessed price relief. And Congress listens—at least a little—to an industry that employs about 300,000.

There is even precedent for this kind of limited embargo in the 1969 Export Administration Act, which President Nixon tried to use in July 1972 to put some restrictions on hide exports. By August the cattle lobby had pushed in an amendment and the restriction disappeared.

The fact is, not everybody thinks the leather industry needs—or deserves—help from the government. The producers of hides—cattlemen and meat packers—would be hurt in the pocketbook by any form of restriction on their exporting hides. They argue that they should be able to get the highest price possible for their goods. Listen to Bill Delph, vice president of Iowa Beef Processors, one of the largest U.S. hide producers: "The tanners are not being shut out. They can buy hides. They can get all the hides they want. But they're going to have to pay for them." The cattlemen mirror that sentiment—perhaps even more strongly.

Funny, isn't it? These are the same people who scream bloody murder if the U.S. lets in foreign meat to hold prices down. They are about as protectionist as they can be then. But when it comes to their precious hides—why, there's nobody here but us free-traders.

ON THE TRAIL FOR CATTLEHIDES

The recently launched Hide Action Program may turn out to be the domestic leather industry's last stand. Unless export controls are imposed, the U.S. leather industry won't be able to afford the price of U.S. cattlehides.

Time was, the leather industry—from tanning to turning out the finished product—was a major U.S. industry ranking right up there along with the likes of the steel industry. Today, those who are still left in the U.S. leather industry are finding it necessary to band together and attempt to impress upon Washington that this industry is in danger of becoming as extinct as the buggy whip.

Yes, everyone in Washington already knows that the shoe people in particular have been living with a knife in the back known as imports. But what the entire leather industry is trying to explain to Washington is that as difficult as it is to compete with imports of finished goods, the manufacturers of footwear as well as handbags, luggage, outerwear, sportswear, et al., might as well throw in the sponge if they cannot buy the U.S. hides needed to make U.S. products because the majority of them are being sold to those same countries which produce the finished products, which come back to the U.S. to haunt the industry for the second time around.

The irony of the situation is that the United States is the major supplier of cattle hides to the world, representing about 15 percent of the world supply. But the majority are sold abroad with these exports representing about 75 percent to 80 percent of the world supply. This world-wide demand for U.S. cattlehides is exacerbated by the fact that other countries with substantial herds—such as all the South American countries—totally prohibit the export of hides; preferring to keep them at home to develop and protect their own leather industries. These restrictions create an inordinately high demand for U.S. cattlehides that has been abetted by the cattlemen's restrictions in the size of the cattle slaughter.

This combination of foreign demand, South America's refusal to sell hides, and a reduced U.S. cattle slaughter have caused the price of U.S. hides to skyrocket. The domestic industry's dilemma began in 1972 when Argentina cut off its sale of hides, eliminating about 12-million hides from the world market. Hide prices then jumped from 14 cents to 32 cents a pound, then stabilized in the area of 38 cents a pound. At that time the U.S. exported about 48 percent of its hide supply.

But between 1975 and 1977 U.S. cattlemen began to reduce the size of their herds. Cattle slaughter peaked in 1976 when 43.2-million hides were available, but it is estimated that the number of hides available in 1979 will be down to 34.2 million. While supply has been dwindling, however, world demand for U.S. hides has been escalating; exports are expected to take 24.5-million of the 34.2-million in 1979. This means that the U.S. in 1979 will be exporting 71.6 percent of its hide supply and supplying 75 percent to 80 percent of the world hide trade. This export level also means only about 10-million hides will be left for U.S. producers when domestic requirements for hides are between 18- and 20-million a year.

the industry cannot afford to pay, even if enough hides were available. The jump from 14 cents to 38 cents in the early 1970s looks

This shortage has created price levels that like the good old days. By December 1978 prices reached 58 cents a pound; but between December 1978 and May 1979 prices zoomed to more than $1 a pound.

Neither declining supply nor higher prices have dampened the foreign appetite for U.S. hides. Where else are the Far Eastern and Eastern Bloc countries—anxious to build a business in finished leather goods but without a cattle supply of their own—to go for hides? The U.S. is virtually the only country left with both a large cattle supply and free-buying access to this supply.

The country taking the greatest advantage of U.S. policy is Japan. Though it closes its doors to U.S. finished leather products, Japan, neverthless, has an insatiable appetite for U.S. hides; buying 35.9 percent of U.S. hide exports in 1978. The purchases of Japan and Korea combined account for more than 50 percent of exports with 30 other countries accounting for the rest. Due to an exchange rate advantageous for Japan, the price of U.S. hides has not deterred Japanese purchases. On the contrary, the Japanese have been buying more.

The upshot is that neither Brazil, Argentina, Uruguay, Mexico, India nor Pakistan—countries with substantial herds—will sell hides in the open market. They want to protect their domestic industries. Japan, Korea and the Eastern Bloc will buy almost all the hides the U.S. has to sell, but they will not take finished leather goods. They want to protect their domestic industries. That leaves countries such as Canada, Australia, New Zeland and those in western Europe as world markets for the sale of hides; but it is the U.S. that has the greatest supply. Now the U.S. leather industry is saying—enough is enough. It is saying it doesn't object to operating within the traditional laws of supply and demand; but it cannot survive when, in reality, this means only the U.S. has the supply and every other country makes the demand.

That is why several trade associations in the industry have banded together to launch what is called the Hide Action Program (HAP). This program is an attempt to bring the plight of the industry to the forefront through demonstrations in cities hosting leather-using industries and by blitzing members of Congress and President Carter with letters and personal visits. The program's goal is to convince Washington that action is needed now in the form of export controls on U.S. hides that would both bring down the price of hides and make more of them available to U.S. producers.

HAP's message is that the alternative to action from Washington is the ultimate extinction of the domestic leather industry with the resulting loss of thousands of jobs or, at best, price increases in leather products that the industry estimates could cost customers over $1-billion a year. Given the high U.S. hide prices and the fact that foreign countries are dependent on these hides, customers switching to imported leather products is no longer a viable alternative in an effort to economize. Neither U.S. nor imported leather goods may be affordable by U.S. consumers.

Unfortunately, this recent mobilization by the industry has only a slim chance of producing results. Though it has been aware of the hide situation since 1972, Washington has never displayed any great sense of urgency in alleviating the problem. In 1972, following Argentina's action, the concept of export controls was entertained and then quickly dropped. Since then, despite preferential tariff treatment for the so-called developing countries, these same countries have ignored Washington's efforts to persuade them to sell their hides on the open market. And, negotiations with Japan have extracted only an unofficial promise that it will reduce purchases of U.S. hides by 10 percent. But, even if Japan were to honor this "promise"—which it hasn't—this 10 percent figure is meaningless since U.S. cattlehide supplies have decreased by much more than this 10 percent figure.

Leather industry members claim that it is only their current desperate plight and past failures in attempting to resolve the problem through negotiations with foreign countries that have left no choice but to push for export controls. If this means that the U.S. leather industry is going to have to explain this "protectionist" move—so be it. The industry prefers free trade in hides but has been unable to achieve it. Understandably, the industry is now tired of being "the unwitting patsy in the international free trade game". So it is shooting for export controls because all else has failed.

Unfortunately, there is another and more powerful lobby in Washington; they know how to use a sixshooter, too. This lobby consists of the cattlemen, or as the leather industry prefers to call them, the cowboys. They have already made it clear to Congress and the Administration that they don't hanker for hide controls. They like things just the way they are. Evidently their message has been heard, for the Administration has already also declared itself against export control of hides.

But, never fear, Washington will concoct a solution, even if it is the wrong one. Right now Washington has suggested that it might be willing to provide subsidized loans to enable U.S. industry members to afford U.S. hides. Unfortunately, Washington has overlooked the fact that loaning money to U.S. manufacturers for the purpose of buying hides at already inflated prices will merely drive the price of hides even higher, insuring that more and more of the domestic leather industry will surely go down the drain.

It is now high noon for the domestic leather industry. The HAP program is, at least, a sure sign that it intends to go down fighting.

Mr. MUSKIE. Mr. President, I yield 1 minute to Senator Tsongas, 1 minute to Senator Durkin, and 1 minute to Senator Humphrey out of, I think, 6 minutes remaining.

Mr. TSONGAS. Mr. President, I thank the Senator for yielding.

Mr. President, I ask unanimous consent that a resolution passed by the legislature of the Commonwealth of Massachusetts adopted June 26, 1979, 4 weeks ago, be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

"Whereas, American shoe manufacturers, who recently began to rebound from the flood of cheap imported footwear, now find themselves shod with a potentially more crippling problem, the steadily increasing prices for a shrinking supply of domestic cattlehides; and

"Whereas, the price of American cattlehides has more than tripled in the past 17 months, and hide prices have risen by more than 68 per cent since January, from 59.3 cents per pound to one dollar per pound as of last month; and

"Whereas, the impact of such increases on consumers will probably be felt next year, and at least two of New England's major shoe firms fear continued higher prices could lead to layoffs and possibly shutdowns in leather-related industries; and

"Whereas, primarily because of Taiwanese and Korean imports, the footwear industry currently employs about 14,000 workers in Massachusetts as opposed to an employment figure of more than 20,000 eight years ago, but the hide market situation may prove a more serious aggravation, hitting the industry from the inside; and

"Whereas, as the United States provides 75 per cent of the world's commerce in hides yet accounts for only 15 percent of the supply, the main reason for the bleak outlook is that most of the domestic hides are being exported to nations which capitalize on the devalued dollar, where they fetch a higher price than if they were sold to American tanneries and leather processors; and

"Whereas, the high amount of exports combined with a steadily declining slaughter rate have resulted in scarce supplies at inflated prices of raw materials needed by producers of shoes, handbags, belts and other leather goods, so that increased hide prices could cost consumers from 1 to 2 billion dollars; therefore be it

"Resolved, that the Massachusetts House of Representatives hereby urges the President and the Congress of the United States to pass legislation whereby a limit shall be placed on the number of hides which may be exported from the United States; and be it further

"Resolved, that the President's special trade advisor, Robert Strauss, be exhorted to convince Brazil and Argentina to cease and desist from restricting the export of their own hide supplies, which would relieve some of the demand in foreign quarters on the purchase of material from the United States; and be it further

"Resolved, that copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, special trade advisor Robert Strauss, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

Mr. TSONGAS. Mr. President, I rise in support of the amendment introduced by my distinguished colleagues, Senators Muskie and Baker.

It is not necessary for me to repeat the overwhelming supply/price statistics that have dominated the debate this afternoon. All of my colleagues in the Chamber today are aware of the conditions that have led to this amendment.

The situation that confronts us is not one of narrow parochial interests. Rather, the action that the amendment proposes is remedial. The United States is the world's only major producer of hides that does not restrict exports. I believe in free trade. But a free market does not exist. While the United States produces a scant 15 percent of the world's hides, it supplies over 75 percent of the world market. If we could convince other hide producers to follow our lead, there would be no problem. But that is not our current situation. Argentina and Brazil have effectively imposed export controls for over a decade, resulting in a tightening of world supplies. The United States has singlehandedly assumed this burden.

Next week the Senate will consider the implementing legislation for the multilateral trade agreements. These agreements constitute a major achievement of Special Trade Representative Robert Strauss and the Carter administration.

A number of tariff and nontariff barriers that have traditionally obstructed world trade have been effectively removed. Impressive inroads have been made for the export of a wide range of American goods, particularly agricultural and technological goods. Negotiations were undertaken and successfully completed protecting a number of particularly sensitive domestic industries. But little action was taken to alleviate the very real crisis facing our Nation's leather and tanning industry. As long as several of our key trading partners persist in controlling the free flow of trade in hides, to the direct detriment of U.S. consumers and leather producers, we do not have an atmosphere of free trade.

The Muskie-Baker amendment is a moderate, reasonable solution to a critical problem. The amendment as proposed gives the administration the preferable option of bargaining with the principal hide-producing countries. Only if the United States fails to put an end to the protectionist measures of trading partners, and at the same time domestic supplies are not adequate to meet domestic needs, would some sort of limit be placed on the quantity of U.S. exports. This amendment carries no quantitative restrictions. Exports would be limited to a level that the President determines is representative of hide export levels.

Mr. President, I ask the Senate to remedy this grossly inequitable and inflationary condition. Consider the American consumer, and the future health of our Nation's economy.

Mr. President, I think it is quite true that there is a certain regional conflict here, and that is unfortunate. But the conflict is really between one section of the country that has an industry that is on the ropes and another section of the country that has an industry that is experiencing a bonanza.

If you look at the prices of cattle hides over the last 6 years going from 33 cents to 85 cents, that certainly outstrips any definition of the rate of inflation.

What we are seeking is simply the capacity of our industry to survive, not necessarily to prosper, and it is in that direction that I commend the Senator from Maine.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

The Senator from New Hampshire is recognized.

Mr. DURKIN. I thank the Chair.

Mr. President, I am pleased to be a cosponsor of this amendment being offered by the distinguished Senator from Maine, Mr. Muskie, to amend S. 737, the Export Administration Act. I commend the Senator from Maine for his leadership on a very important issue not just to our area of the country but to many areas of the country.

The purpose of this amendment is to insure domestic users of leather of adequate supplies of their basic raw material. And let us face it. Today there is no free world market in hides. Although the United States produces only 15 percent of the total world supply of cattle hides, we provide over 75 percent of the world market. Many foreign hide-producing nations have placed embargoes on the extent of their own hide supplies and refuse to import U.S.-finished leather goods.

I think we have seen the failure of the trade negotiations. Countries are not willing to cooperate. Japan is not willing to cooperate. Japan takes almost 24 percent of U.S. hide exports, but refuses to permit sales of U.S. leather goods in Japan. Free trade must mean fair trade.

In my area of the country we have seen thousands and thousands of shoe workers who witness the factory door swinging shut for the last time. It is at least once a month that we see that some shoe company has closed its door for the last time.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DURKIN. Mr. President, I ask unanimous consent to revise and extend my remarks.

Mr. President, only immediate and forceful action can reverse the dire plight that the American Tanning and Leather Industry presently faces.

The world-wide situation is this: At a time when cattle hide supply is in the course of a cyclical downturn, as a result of a slide introduction by the beef industry, the United States with only 15 percent of the total supply is in the unenviable position of providing over 75 percent of the world market. Last year 39.5 million cattle skins were produced. This year production levels will drop to 34.5 million. The leather industry anticipates there will be a shortfall in domestic supply requirements of almost 10 million cattle hides. As late as May of this year we were exporting 83 percent of our hide supply. The logic of this situation completely escapes me.

Massive foreign purchases of our cattle hides resulted in prices going through the roof. No industry can sustain a 900-percent increase in its basic raw material over a 4-year period, and expect to survive. With a question of inflation preying on everybody's mind we ought to recognize that the estimated cost to American consumers of increased leather goods prices is $2 billion in the next year. In an $8-billion industry, an increase of that magnitude is too significant to be ignored by a country waging a war on inflation.

It is unconscionable that we could continue to allow a drain of our own natural resources to the detriment of an American industry so as to provide for free trade of this commodity. We are not talking about free trade here. There is no free trade when the other major hide producing countries have placed embargoes on the exports of their own cattle hide supplies, creating an artificial world marketplace. The very viability of an entire industry is being called into question as we fiddle here with talk of "free trade."

In testimony before the U.S. Senate Agricultural Committee a member of the board of directors of the Montana Cattlemen's Association stated:

> The senseless policy of exporting hides and skins—raw leather—has all but phased out the American tanning industry and therefore the American leather goods industry.

She concluded in stating that:

> We are Americans. We live by American standards, pay American taxes and believe that as Americans we have the first right to provide goods and services for our fellow Americans.

I could not have better stated the situation myself.

I cannot continue to stand by and watch as 400,000 American jobs are threatened in the tanning and leather industry. At least once a month the doors of a New Hampshire footwear manufacturer are slammed shut; in direct response to the adverse impact of shoe imports upon domestic industry.

The amendment we are submitting today is tailored to the exigencies of the immediate situation, stipulating that until foreign governments move their own export controls or adequate supplies are available to domestic users, the United States will limit our cattle hide exports to reasonable historical levels. The amendment is both reasonable and flexible.

All other avenues of action have failed to produce a solution, however valiant our negotiated attempts. At the Office of the Special Trade Representative's own admission, they have failed to arrive at an acceptable conclusion in bilateral or multilateral negotiations. We are then left with the unavoidable choice of implementing export controls or witnessing the total demise of the American tanning and leather industry.

I believe the choice is clear. I urge you to join me in supporting the Muskie amendment to S. 737.

FREE TRADE

There is no free world market in hides. The United States produces 15 percent of world supply—provides 75 percent of trade in cattle hides.

Argentina and Brazil produce 10 percent, but export none. India and Pakistan export none.

Italy asked for export controls at Brussels meeting, EEC. Purchased 1.2 million hides last year. Already in this first quarter of the year—Italy has purchased over half a million—524,000.

Italy has sold us 11.6 million more shoes this year than last—a 70-percent increase.

Mexico embargos all hide exports. Mexico bought 1.9 million hides last year and had purchased 863,000 by end of May 1979. Mexican exports shoes to United States—up 61 percent from 1978.

Romania is the fifth largest purchaser of U.S. hides—bought 1.9 million last year. Value of Romanian exports to United States up 7.8 percent from last year.

We are importing inflation—not just shoes.

TRADE RECIPROCITY AND FAIRNESS

Eastern Europe purchasing decisions are not based on economic determinations as we understand them. They buy as a matter of government policy.

Eastern Europe buys 13 percent of U.S. hides, but does not buy U.S. finished leather goods. Romanian exports to the United States are up seven-eighths percent in value over 1978.

Brazil exports to United States are up 41 percent from 1978. Their value is up 13 percent.

Brazil is building up and protecting her leather industries and using United States as a market. Brazil argues that it is a developing nation and should be treated differently. I disagree.

This is not free trade. The U.S. leather worker is being asked to help subsidize and protect Brazilian leather workers, at our expense.

Japan buys from behind a protected market. It can pay these prices because Japanese leather products do not have to compete in price with others, such as ours.

Japan takes almost 24 percent of U.S. exports, but refuses to permit sales of U.S.-finished leather goods in Japan.

The recent modest agreement to sell leather to Japan is not being implemented.

Korea and Taiwan took 4.7 million hides between them and sold the shoes to the United States. We were forced to undertake orderly marketing agreements because of the flood of imports. Our overseas competitors have tried to circumvent these by selling quasi-finished products instead.

Let us look at the balance of payments in leather.

[In millions]

1978 figures:	
U.S. sold $687 million in hides abroad	+$687
U.S. sold $194 million in leather and shoes	+194
Total	881
U.S. imported $222 million in leather	−222
U.S. imported $2.22 billion in leather products	−2, 220
Total deficit	2, 424

Our adverse balance of payments in leather accounts for 8 percent of the total U.S. trade deficit. Selling hides when we import finished products at this rate does not help the balance of trade. Other agricultural products are exported, but do not come back as finished food for resale in the United States at the expense of our workers.

INFLATION

Lower hide prices domestically will not result in higher meat prices. Export prices would not drop—the contrary would occur in fact. Evidence that domestic hide prices would drop is nonexistent. They would stabilize. Why should that increase beef prices?

If we care about inflation, look at inflation in hides: Barry Bosworth; last October, when hides were bringing 58 cents a pound—up 100 percent from 1977—said:

> Prices of hides and skins have exploded during 1978.

What would he say now, when hides are bringing $1 per pound?

This inflationary pressure has a delayed-action impact that will hurt us all.

Hide prices are up 162 percent over the last 18 months, the largest increase has occurred in the last 5 months. Leather prices are also up—111.7 percent from the first quarter of 1978. Finished leather goods prices have shown relatively little of this explosion yet. In fact, the industry has a good inflation record.

But it cannot keep it up at this rate. Shoe prices rose 6.3 percent from 1978 in the first quarter—compared to a 9.8-percent CPI for the same period.

At wholesale, shoe prices are now rising 17 percent over last year—and that price will be reflected in our retail stores. Leather goods constitute $8 billion annually in consumer purchases. Price increases already in the pipeline may add $2 billion to that. Hide price increases in 1979, which have been much worse, will aggravate inflation in 1980 and 1981.

Bosworth said last October: "Footwear prices could move up sharply later this year." He was right.

As prices go up, competitive restraint on imported items is lessened.

Brazil's exports to the United States are up 13 percent in value from 1978. Romania's are up 7 percent. Korean sales to the United States are up 30 percent. Taiwan's unit value for imports is up 40 percent. Imported shoes have gone up well over 16 percent in value on average.

When our domestic shoe prices go through the roof, what restraint will exist against massive price increases from overseas? None.

Expenditures on shoes in the United States rose 13.7 percent from 1978 and will continue to rise.

Footwear increased its total share of expenditures on the joint clothing/shoes index from 14.96 cents on the dollar to 15.07 cents. This is a foretaste of what will come. Shoe industry records show that when prices skyrocket, for example, people buy fewer shoes. They do not switch to nonleather shoes.

Let us look at the employment figures in the United States; 400,000 jobs in tanning and leather industries directly.

Retail sales—105,000 retail stores, depending in part or wholly on leather goods sales.

Layoffs are up over 7.7 percent from last year. Thousands of New Hampshire shoes workers have seen the factory doors swing shut for the last time. Productivity in the footwear industry is good. The industry is trying to recover its vitality. It has registered a productivity gain of 3 percent over last year—at a time when productivity was declining elsewhere in our economy. We should not let an efficient industry collapse at this time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it is U.S. trade policy to promote exports of agricultural products when supplies are greater than what the American consumer needs or wants, not to deprive him of basic commodities he desires and should be able to buy.

We are not exporting a surplus of hides, but rather the bulk of the hides in this country, over 70 percent, as a matter of fact.

Our domestic industry needs 10 to 20 million hides and they have to get by on 10 million.

Mr. President, no other agricultural commodity is exported as the same high rate, 83 percent in March, April and May of this year. Last fiscal year, 54 percent of soybeans, 55 percent of wheat, 73 percent of rice, 40 percent of cotton, 40 percent of almonds, 35 percent of tobacco, 30 percent of corn; other cattle byproducts—40 percent of tallow, 16 percent of edible offal.

Mr. President, immediate action is needed to alleviate the crisis that now exists in our leather products industry. I rise to support the Muskie-Baker amendment in an effort to insure that adequate supplies of cattlehides will be available for domestic leather users.

Cattlehides are the principal raw material for the production of leather products. Foreign governments, such as Brazil and Argentina, have refused to export their own cattlehides which in turn has caused a disproportionately high demand for reduced U.S. supplies. In March through May of this year, 83 percent of our U.S. hides were exported, resulting in a price increase of over 150 percent in just over a year. Although the United States has only 15 percent of the world's hide supply, it presently accounts for 75 percent of the hides traded on the world market.

This is not a free market situation. Export restrictions are maintained by the other major cattlehide-producing countries. The U.S. Department of Commerce has stated, that approaches recently made by the Office of the Special Representative for Trade Negotiations to the government of these countries to encourage them to relax their restrictions on hide exports, have proven unsuccessful.

These anticompetitive practices of foreign trading partners are injuring our manufacturers, tanners, retailers, workers, and consumers. Some 400,000 U.S. jobs are threatened by such practices. Without the raw material of cattlehides, factories are going to close up.

In New Hampshire, over 11,000 people are employed in leather products industry. Tanneries are closing. Factories are extending vacations and consolidating plants. Jobs are being lost.

The Muskie-Baker amendment to S. 737 is a fair and equitable way of assuring our domestic industry their fair share of an American raw material. I support this amendment which helps assure U.S. jobs, helps keep down inflation in leather good prices and helps assure the continuation of a viable leather goods industry in the United States.

This is not just a shoe problem. The leather crisis affects over 400,000 workers and every industry using leather—gloves, sportswear, handbags, belts, and furniture.

As long as the rest of the world continues to embargo hide exports and prohibits import of our leather products, the United States must take steps to protect its own workers and consumers.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time, and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time. I do not have much remaining.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, is one of the Senators seeking recognition

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized? Who yields time to the Senator from Iowa?

Mr. HEINZ. I yield to the Senator from Iowa 1 minute on the bill.

Mr. JEPSEN. Mr. President, I join my colleagues, Senators CULVER, PERCY, DOLE, WALLOP, BENTSEN, and others, in opposing this amendment.

I point out that if our Nation seriously wants to reduce our trade deficit, if our Nation truly wants to live up to the years and years of work and the thrust and the goals that will soon be presented in the form of a treaty called the Multilateral Trade Negotiations. In light of all of our efforts, with this new trade agreement and other efforts to develop world trade, I believe we should and must oppose this kind of action that is proposed in this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. I yield to the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise to ask unanimous consent that a letter originated by the National Cattlemen's Association, with great concern about the result of lowering the price of cattle hides, initially by restricting exports, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *June 19, 1979.*

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRESSLER: We are concerned about an effort to lower the price of cattle hides artificially by restricting exports. We oppose such government interference in the free market which would directly raise beef prices for consumers and would be damaging to the nation's balance of payments.

The full Senate will soon be considering S. 737, the Export Administration Act of 1979. At that time, a floor amendment may be offered to treat the exporting of animal hides differently from the exporting of other agricultural commodities. In its present form, Section 4(1) of S. 737—consistent with current law—prohibits export controls on any agricultural commodity, including animal hides, unless the Secretary of Agriculture approves such controls. The Secretary could not approve controls during any period he determined the supply to exceed the requirements of the domestic economy.

The real purpose of such an amendment to treat hides differently—thus removing the Secretary's veto power—would be to make it easier for the government to impose export controls on them. We think such an amendment is unwise and urge you to oppose it. We also urge you to oppose other legislative or administrative efforts to limit hide exports. Enclosed is a brief Question and Answer paper which explains the issue in more detail and why we oppose export controls on hides.

C. W. MCMILLAN, Vice President, Government Affairs, National Cattlemen's

> Association; John G. Mobay, President, National Independent Meat Packers Association; John W. Scott, Master, the National Grange; Richard Lyng, President, American Meat Institute; Roy W. Lennartson, Washington Representative, Western States Meat Packers Association; Charles L. Frazier, Director, Washington Staff, National Farmers Organization.

Mr. PRESSLER. Mr. President, I think the letter speaks for itself. It is also signed by the American Meat Institute representative, the National Independent Meatpackers Association, the National Grange, the Western States Meatpacker Association, the National Farmers Organization, and others.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I yield myself 30 seconds on the bill.

Mr. President, I rise in strong support of the amendment to the Export Administration Act of 1979, S. 737, offered by the distinguished Senator from Maine (Mr. Muskie) and the distinguished Senator from Tennessee (Mr. Baker) to limit U.S. exports of animal hides and skins to their traditional level until either foreign governments remove their own export controls or adequate supplies are available to domestic users.

My reasons for supporting this amendment are many and varied. The amendment addresses an urgent problem facing the domestic leather industry. It is needed in order to assure domestic users of leather adequate supplies of hides, and American consumers of fair prices for finished leather products.

Although the United States has only 15 percent of the world's supply of cattle hides, it accounts for 75 percent of the hides freely traded in the world. From March through May 1979, 83 percent of our hides were exported, leaving our domestic leather industries with just over half their necessary supply. During this same time period, foreign governments have imposed export restrictions on their own hides, causing export demand to shift to the U.S. market. The United States has now become the only supplier of hides to the world.

The cattle hide export problem affects every consumer in this country. Excessive foreign demand for domestic hides, particularly in Japan and Korea, has caused prices to increase as much as 150 percent in just over a year. If action is not taken immediately, consumers could be forced to pay an additional $2 billion for leather goods within the next year. Even worse, it is possible that leather products may not be available at any price unless American industry is allowed to buy more domestically produced hides.

The price of American hides has more than tripled in the past 17 months. Cattle hide for shoe leather that cost 37 cents a pound in 1977 costs as much as $1 a pound today. This is the largest inflationary increase of any primary raw material produced in our economy. American consumers cannot afford price increases of this magnitude.

More than 500,000 workers are affected by the current leather crisis. Indirectly, an additional 600,000 work in jobs serving industries which use leather. Many of these jobs will be lost if an adequate supply of hides is not readily available for domestic users, or if price increases make these U.S. industries uncompetitive.

I believe it is important to emphasize that export controls on hides will not damage our balance of payments. Hide exports account for only one two-hundredth of the total value of U.S. exports. The balance-of-payments problems result from the fact that the United States is not permitted to export its finished leather goods to foreign markets. Hide exports frequently return to the United States as higher value, finished products. In 1978, the deficit in the leather and leather products industry was almost $2.5 billion, 10 percent of the total U.S. trade deficit.

In addition, Mr. President, I think we ought to keep in mind the international implications of this situation.

Far from being a protectionist action, export controls are not designed to keep anything out; and if applied equitably, are not violative of the GATT. As I indicated we have 15 percent of the world's supply but are supplying 75 percent of the freely traded hides. This is not an equitable marketing situation, and it cannot truthfully be said we have a free market in hides.

Under these circumstances, it is imperative that we take the action necessary to insure adequate domestic supplies while at the same time are trying to rectify this situation internationally by persuading the hide producers to export.

It is a travesty that American consumers may soon be unable to afford or even obtain leather products, despite the fact that the United States is the world's major producer of cattle hides. As long as the rest of the world continues to embargo hide exports and prohibit importation of our leather goods, the United States must take action to protect its own workers and consumers. It is my hope that my fellow Senators will join me in supporting this much needed amendment to moderate the number of exported hides, and I urge its immediate adoption.

Mr. MUSKIE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maine has 59 seconds remaining.

Mr. MUSKIE. Mr. President, I simply wish to make two brief points.

No. 1, hides constitute, according to the best information that I have, 7 to 8 percent of the profit or price of beef cattle. Leather constitutes from 20 to 45 percent of finished product value.

What we are asking for here is a reasonable and equitable sharing of the economic prospects of this country.

The beef industry is not in trouble at the present time. If it is, then I do not know what prices have to soar to. I do not buy beef as often as I used to because of the price.

And here these representatives from beef States tell me that this amendment is going to damage the beef industry. The fact is, Mr. President, that the shoe industry is in deep trouble and it is in deep trouble on two fronts. One, because the shortage of raw material is closing down tanneries and closing down shoe industries. Two, because our leather hides are being converted by competition abroad into manufactured leather goods that come into this country at lower prices than our own, and undercutting our own people.

For Heaven's sake, I am for a healthy beef industry. But does that require that we deal a death blow to another important American industry? How greedy can you get? Beef prices are up, profits are up. My good friend from Oklahoma, Senator Bellmon, tells me constantly in the Budget Committee that farmers are making money this year. And here we have New England losing jobs because of this. We have a modest amendment, and I urge my colleagues to vote for it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Time is up.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I oppose this amendment. It is apparent from this debate that what is good for the leather industry is not good for the livestock producers.

I opt for exports, against Government regulation and for efforts to enhance the productivity and the competitiveness of the leather industry.

Mr. MUSKIE. Mr. President, will the Senator yield on that point? How can you get more productivity if you cannot get the raw material? Has the Senator got an answer for that?

Mr. STEVENSON. The raw material in this case, Mr. President, is substantially in excess of domestic supply. There is no shortage of raw material. It is the price.

Mr. MUSKIE. Price is no problem. There is a shortage of hides in this country that is less than half of the domestic requirements. The facts speak for themselves.

The Senator can choose to ignore those facts. The price has gone up, and our people are paying for it, but they are shipping abroad and the Japanese are speculating the price upward, and that speculation is attracting the hides and taking them away from our market.

Mr. STEVENSON. Mr. President, if what the Senator says is a fact—and I deny that it is a fact—then controls are available under existing authority and without this amendment.

With that I am prepared to yield back our time.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to cosponsor the pending amendment introduced by my distinguished colleague, Mr. Muskie.

The American leather goods industry is facing a monumental crisis. It is faced by a rapid rise in the price of domestic leather hides—over 160 percent since December 1977—which threatens its very ability to compete with exports.

The leather goods and tanning industries in West Virginia and the other

States are hard-pressed to pay the higher prices for hides which, I might add, will eventually be passed on to the American consumer in the form of higher prices for shoes and other leather products.

What is the cause of these higher prices? There is an artifically created shortage of hides on the international market because major hides producers, including Uruguay, Brazil, and Argentina, are embargoing the shipment of hides produced in their countries in order to protect their own leather goods industries.

The net result is that U.S. hides, which represent only 15 percent of world production, account for 75 percent of the world hides trade. And the prices of U.S. hides are going sky high.

This is clear and simply an unfair trade situation. The amendment before us is the appropriate remedy.

It conditions free exports of U.S. hides on one of two factors:

First. Reasonable export levels from hide producing countries, and

Second. An adequate domestic supply, taking into account export demands.

Mr. President, I support the expansion of international trade—international trade that is fair. This amendment confronts a trade situation that is blatantly unfair.

● Mr. NELSON. Mr. President, I rise in support of the Muskie-Baker amendment to S. 737, the Export Administration Act.

In the United States today there is a trade deficit in the hide, leather, and leather products sector of our economy of $2.5 billion. This dollar figure is even more startling when we consider that this $2.5 billion represents nearly 9 percent of the total U.S. trade deficit for 1978. With the exception of textiles, it is the largest trade deficit for any industry sector.

The trade deficit is only a small part of the story. Hidden behind this deficit are about 300,000 jobs nationwide as well as the possible demise of many tanning and leather manufacturing companies. In the last 10 years, the number of tanners nationwide has decreased from nearly 500 to approximately 250 today.

The problem that confronts the Senate today is whether our leather products industry needs to be protected from unfair foreign export restrictions. I believe it does.

In 1971, the Governments of Argentina and Brazil and, subsequently, most of the countries of South America, Africa, and Asia banned the export of hides. As a result, the United States has become the only country that has a large supply of cattlehides and calfskins and allows unlimited foreign access to this supply. At the same time, major foreign markets for leather and leather products are closed to U.S. producers because of high, restrictive quotas on imports of leather products or, as in the case of Korea, Mexico, and Spain, total restrictions on leather imports.

The United States has only 15 percent of the world's hide supply, yet it accounts for almost 75 percent of the hides freely traded on the world market. Clearly, the interests of U.S. consumers, workers, and industries should not be sacrificed to the anticompetitive practices of our foreign trading partners.

The restrictions on access to foreign raw materials and foreign markets has led to the existing crisis for the U.S. tanning and leather industries:

In 1975, hide exports were less than 50 percent of total commercial slaughter in the United States;

In 1977, hide exports were over 56 percent of commercial slaughter;

In 1978, hide exports were 62 percent; and

In 1979, indications are that with slaughter declining to 37 million head or less, exports will amount to 68 percent or more of commercial slaughter.

If our leather products industry is to remain strong, competitive, and a viable sector of our economy, domestic exports of cattlehides and calfskins must be limited to 50 percent of total U.S. hide supply.

The Muskie-Baker amendment to S. 737 could accomplish this goal by limiting U.S. exports to reasonable historical levels until adequate supplies are available to domestic users or foreign governments remove their own export controls.

I urge Senate passage of this amendment.●

COWHIDES

● Mr. BAUCUS. Mr. President, I rise to oppose an amendment that may result in an export embargo on cowhides.

Leather industry representatives have lobbied hard for this amendment. I don't deny that the leather industry has problems. Nevertheless, an export embargo is not the way to deal with these problems.

Wednesday, I submitted for the record a statement explaining my opposition to the cowhide embargo. I would like to make just a few additional comments at this time.

First, there is not a shortage of American cowhides. The United States will produce 34 million hides this year. The domestic demand is 18 million hides.

So there is not a shortage—the domestic industry is just unwilling or unable to pay world prices.

Second, cowhide prices have been going down. They reached a peak of $94 per hundred pounds on April 19. Thus, the price of $1 per pound that leather industry representatives quoted was only temporary.

Representatives from agricultural regions will remember disruptions caused by President Nixon's embargoes on wheat and soybean exports in 1974. These embargoes not only drove down farm prices and income, but they did lasting damage to our trade relationships.

It would be just as serious a mistake to impose an embargo on cowhide exports. I would strongly urge my colleagues to oppose this amendment.●

● Mr. ROTH. Mr. President, I am cosponsoring the proposed Baker-Muskie amendment to the Export Administration Act, because it is fair in terms of other countries' practices in world trade in hides and because it will help deal with some of the real problems of the 400,000 men and women employed in the leather goods industry.

The United States is the producer of just 15 percent of the world's hides, yet is the supplier of some 75 percent of all hides involved in world trade. This is largely because other major producing countries, such as Brazil and Argentina, restrict export of their hides, thus putting an undue burden on American supplies.

The United States attempted to get international agreement on the principles that ought to be followed in access to supplies during the recent Geneva trade negotiations. Other countries, however, were unwilling to agree to reasonable principles. Consequently, we should feel free to take reasonable steps, such as proposed here, to protect the interests of our Nation. Forceful U.S. action to protect our interests, in fact, can only help in continuing U.S. efforts to negotiate general international principles governing supply access.

In addition to the fact that other cattlehide producing countries restrict export of their hides, Japan, a major buyer of hides, will not allow the United States to sell them finished leather products. This double whammy in the trade areas causes our industry major economic problems.

Others will describe the economic effects of this unfortunate situation in terms of employment and increased prices for the consumer. Our only recourse, however, is to hold a sufficient supply of hides in the United States so we can produce some finished goods, also. This will not only help our industry economically, but will aid in dealing with the fair trade practices now faced by our industry.

For these reasons, I support this amendment.●

Mr. LEAHY. Mr. President, I rise today to speak in support of the amendment sponsored by the Senators from Maine and Tennessee, and to say that I am happy to be a cosponsor of this most critical amendment.

I had planned to be in Vermont today, but I canceled those plans so that I could be here to promote this amendment.

The current crisis facing the leather products industry in this country not only threatens the jobs of some 400,000 American workers, but also stands to add upward of $2 billion to the prices Americans will pay for leather goods next year.

Mr. President, I am a strong proponent of free world trade, but trade relationships must be based on reciprocity, and the current trade patterns in hides are far from reciprocal.

At a time when world hide production is at a low, other hide producing nations have not responded by limiting their hide imports or increasing their exports. In fact, they have done just the opposite.

The world's major hide-producing nations, Argentina and Brazil, have embargoed all hide exports to protect their domestic industries. As a result, U.S. hides, which constitute 15 percent of world hide production, comprise a full 75 percent of world trade in hides.

To meet the increased world demand for hides, the share of U.S. hide production devoted to exports has risen from a historical level of 50 percent to an alarming 83 percent. Domestic users are getting just 17 percent of U.S. production. They need more than twice that amount. They are literally being chocked out of business.

This Government cannot sit back and do nothing about this outrageous situation.

We cannot turn our backs on 400,000 domestic leather manufacturers and retailers.

We cannot acquiesce to 25-percent increases in the prices of leather goods to consumers.

We cannot allow a clearly unjust trade relationship to continue unchallenged.

I am, therefore, pleased to support this amendment which will appropriately restrict U.S. exports of hides unless domestic supplies are adequate, or the export levels from other hide producing nations are more reasonable.

I urge my colleagues to support this amendment, and thus afford our domestic leather products industry and the American consumers the protection which they deserve.

Mr. MUSKIE. I do not have any more time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

Mr. STEVENSON. The yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NUNN (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "nay."

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. CHILES). The Senate will be in order. The clerk will suspend the call of the roll until order is restored.

The clerk may proceed.

The call of the roll was resumed.

Mr. DOLE. Regular order, Mr. President. Regular order.

The PRESIDING OFFICER. Have all Senators who wish to be recorded voted?

The result was announced—yeas 38, nays 46, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—38

Baker
Bradley
Bumpers
Byrd, Robert C.
Chafee
Cranston
Durkin
Eagleton
Glenn
Heinz
Helms
Hollings
Huddleston
Humphrey
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Thurmond
Tsongas
Warner
Williams

NAYS—46

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Cochran
Culver
Danforth
DeConcini
Dole
Domenici
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Matsunaga
McClure
McGovern
Melcher
Packwood
Percy
Pressler
Schmitt
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Wallop
Zorinsky

ANSWERED "PRESENT"—1

Nunn

NOT VOTING—15

Biden
Burdick
Cohen
Durenberger
Exon
Ford
Gravel
Hart
Heflin
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So Mr. MUSKIE's amendment (No. 353) was rejected.

(Later the following occurred:)

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my vote on the last amendment be changed from "yea" to "nay." I do not believe it will change the result of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 427

(Purpose: To permit the export of defense articles and services which have a nonlethal design and which are to be used in furtherance of the safety and well-being of the civilian population)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 427.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82, between lines 20 and 21, insert the following:

"(q) Notwithstanding any other provision of law, the export to a country, other than a country referred to in section 620(f) of the Foreign Assistance Act of 1961, of defense articles or defense services which have no direct lethal mission design and which are to be used in furtherance of the safety and well-being of the civilian population of the country to which the items are being exported, shall not be prohibited unless the President determines and reports promptly to the Congress that such criteria of nonlethality and usage are not met.".

Mr. HELMS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will Senators please take their conversations to the cloakroom? Maybe the Chair should observe that the Sergeant at Arms is sitting at the right hand of the Chair and ready to go into action if necessary. [Laughter.]

Will the Senate please be in order?

Mr. HELMS. Mr. President, I will be relatively brief.

This amendment will modify current legislative restrictions on the sale to non-Communist countries of so-called defense articles and services so as to allow the sale of those articles which are now on the U.S. munitions list but which have no direct lethal mission design, which have a nonlethal application and which are to be used in furtherance of the safety and well-being of the civilian population.

All industries and unions in the United States who are involved in the production and export of medium and high technology products—particularly the electronics, general aviation, commercial aviation, heavy electrical, and specialized computer industries, will be positively affected by this amendment. It will provide additional jobs and the U.S. balance of trade will benefit, thus reducing inflation and strengthening the dollar in the international marketplace.

Currently, section 38, Arms Export Control Act (AECA), authorizes the President to control the export of "defense articles and defense services," and to designate those items which are to be controlled. The items so designated constitute the U.S. munitions list.

However, the U.S. munitions list controls many items other than weapons and implements of war. These include such items as trucks, transport, and general purpose aircraft and helicopters, oxygen masks, propulsion units and engines, parachutes, navigational systems, training equipment, cameras, and protective clothing. Thus, the sale of these articles is strictly controlled and, in some cases, prohibited.

Congress has previously acted to remove many of these articles from such stringent control. Section 27 of the International Security Assistance Act of 1977 directed the President to "undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and nonlethal products and establishing the appropriate level of control for each category."

However, the administration failed to comply. In the absence of any indication that such a review had been accomplished, section 25 of the International Security Assistance Act of 1978 further directed the President, within 120 days after enactment, to report in writing to the Congress the results of the review which was supposed to have been conducted the previous year.

The administration report was presented to the Congress on January 26, 1978. After this lengthy review, the administration concluded:

> It would be extremely difficult to formulate a useful definition of "lethality" or "lethal impact" for control purposes. Such a definition would offer no basis for any substantial revision in the level or type of export control currently accorded defense articles and defense services on the U.S. Munitions List.

A recent Library of Congress study reached conclusions somewhat different from that of the Administration. The CRS study concluded:

> The use of the concept of lethality as a key ingredient in export regulations is reasonable * * *.

This amendment, therefore, is needed in order to move a reluctant executive branch down a road that the Congress has previously laid out. Most U.S. sales of "defense articles and defense services" do not involve weapons, ammunition, implements of war, lethal, or wound-inflicting articles. Of stated sales agreements for U.S. defense articles and equipment, only some 40 percent in recent years has consisted of arms and ammunition; the remaining 60 percent was comprised of spare parts, supporting equipment, and supporting services.

Supporting equipment includes training and cargo aircraft, tankers, tugs, barges, trucks, trailers, radar, communications equipment, and other equipment and supplies. Supporting services include construction, supply operations, training, technical, and administrative services. It seems obvious that most U.S. foreign military sales have not actually involved "arms" in the strictest sense, although the ancillary supplies and services may contribute to the military capabilities of buyers.

These nonweapons articles whose sale is controlled or prohibited by the United States are easily obtainable elsewhere.

Thus, these U.S. restrictions on the sale of "defense articles and defense services" lead to ludicrous decisions.

For example, cargo helicopters and general purpose aircraft are on the U.S. munitions list and are thus controlled or even prohibited from export to certain countries. These articles, to include spare parts and maintenance service for previously sold systems, often cannot be exported.

But these products are easily obtained from other countries. When the United States controls or denies these exports, other nations in their own self-interest must seek other sources of supply or must develop their own indigenous industries to assure future supplies.

These controls accomplish little except that U.S. business loses important export markets, and American labor loses jobs. America can no longer influence the behavior of other nations by economic retaliation. Our preeminent position in the world economy has eroded. Our once substantial lead in technology has been overtaken in many significant areas. In many areas of medium and high technology, foreign competitors from Europe, Japan, and even some developing countries export goods that approach or surpass the best American designs.

In this climate, using export embargoes to achieve political goals is a policy that can boomerang. In most cases, countries denied U.S. goods can easily find them elsewhere. If we use economic boycotts as a political tool, we cannot complain when others use this action against us or our close friends.

Thus, our restriction of nonarms exports damages only American workers and the American balance of payments. Increasingly, the other side of the trade coin becomes important. America needs the benefits of trade, the exports needed to sustain U.S. employment and to pay for our imports of machinery, manufactured goods, and oil. The only way open to us to influence other nations through trade without harming American workers is to ban imports to the United States, the world's largest consumer market, of offending nations.

By voluntarily limiting or eliminating our own nonmilitary export markets, America's overseas economic and political power is weakened. In the short run, the U.S. trade balance suffers, and the value of the dollar drops; this undermines confidence abroad in America's economic vitality. In the long run, the U.S. competitive position permanently deteriorates from a willful sacrifice of markets. Paradoxically, the more the United States seeks to use the levers of trade to achieve political results, the more it may weaken its economic and political power.

This unnecessary restriction on American nonmilitary exports should be removed and that is the purpose of this amendment. I urge its adoption.

I reserve the remainder of my time.

Mr. JACKSON. Will the Senator yield?

Mr. HELMS. Gladly.

Mr. JACKSON. Mr. President, I have not had an opportunity to read the Senator's amendment, but he refers to nonlethal systems. I make a point of caution here that nonlethal systems would include, for example, sending sophisticated commercial guidance systems on a commercial basis. That would be a matter of great concern.

I do not disagree with what the Senator is trying to do, but I think it might be helpful if we could take a look at the amendment to make sure that we are not sending out highly sophisticated technology.

Mr. HELMS. I agree with the Senator absolutely. Why do we not consult for a few moments? I agree with him, I say again, about the export of sophisticated technology.

Mr. JACKSON. I know that, and I appreciate that fact. I am wondering if I can suggest the absence of a quorum while we take a look at the matter.

Mr. HELMS. Let's do that.

Mr. JACKSON. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, I ask unanimous consent that we have a brief quorum, with the time to be charged to nobody. I assure Senators we shall not take much time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to lay aside this amendment temporarily so the distinguished Senator from Colorado may call up his amendment, at the conclusion of which another quorum call will be instituted on the basis that the Senator from North Carolina suggested a while ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 428

(Purpose: To assure the submission on a confidential basis of information relevant to the authority under section 7)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 428.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 95, between lines 5 and 6, insert the following:
>
> "(h) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.".

Mr. ARMSTRONG. Mr. President, under section 7 of the bill—

> Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or com-

modity may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

And a procedure is established for doing so. The purpose of my amendment is to make it clear that, in addition to the hearings and other public submissions, it would be in order for such a person or firm or organization to provide such information on a confidential basis to the Secretary, for the Secretary to receive that information and take it into account, and, nonetheless, to keep it on a confidential basis.

Obviously, what we are addressing here are those things which are proprietary in nature and which ought to be, in fairness, protected for the individuals and firms concerned. I urge the approval of the amendment.

Mr. STEVENSON. Mr. President, I have discussed this with the cosponsors. This amendment clarifies the intent of the law. It is a useful amendment. We are happy to accept it.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 427

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Kansas such time as she may require.

Mrs. KASSEBAUM. Mr. President, I have been very supportive of what Senator HELMS was trying to address in exempting nonlethal systems. After discussing this with the distinguished Senator from Washington, I think we do feel that, in the version that has been passed by the House, this has been sufficiently taken care of. It is my concern—and I hate to speak from parochial interests, but Beech and Cessna and Boeing and Gates and General are all in Kansas and have recently suffered some setbacks in sales because they have not been able to do the proper negotiating. I think if there can be these exemptions made for small aircraft which is used for training purposes and so forth, I would feel this has been taken care of.

Mr. HELMS. I thank the distinguished Senator. This is the point I wanted to clear up with my friend from Washington.

Mr. JACKSON. Mr. President, I concur in the comments made by the distinguished Senator from Kansas. I should say that the language in the bill reported by the House committee dealing with this matter addresses the subject properly. It is my understanding that the House committee language permits export of what the Senator has in mind to friendly countries so that there is not any problem.

The problem here is the danger of highly sophisticated systems, inertial navigation systems, for example, going to the Soviet Union. The language in the House bill, I do believe, takes care of the point that the Senator from North Carolina has endeavored to make as sponsor of the amendment and the point made by the distinguished Senator from Kansas. So I hope that the Senator will see fit to withdraw the amendment in light of this colloquy.

Mr. HELMS. I intend to do so in just a moment, Mr. President. I want to underscore that I agree with my friend from Washington with reference to the export of sophisticated computer technology directly or indirectly to the Soviet Union. A couple of years ago, I voted against this piece of legislation—I was the only Senator who did so—because I saw in that bill some loopholes which alarmed me considerably concerning the potential export of sophisticated technology to the Soviet Union. I know that the Senator from Washington has longheld similar apprehensions.

Let me be sure that I understand not only the Senator from Washington but the professional staff members who have worked on this legislation. The provisions already in the House bill will permit the export of nonlethal items to such Latin American countries such as Chile, who wants to be our friends, is that right?

Mr. JACKSON. I am sorry. I did not hear the Senator's question.

Mr. HELMS. The House provision to which the Senator alluded a moment ago would permit nonlethal exports to, say, Latin American countries such as Chile, who want friendly relations with the United States?

Mr. JACKSON. That is correct, friendly countries.

Mr. HELMS. Chile is one of those. Chile is trying to move in a direction to pacify her critics in this country, some of whom are highly selective, to say the least, in their human rights assessments. This Senator has seen no point in our failing to encourage Chile in that regard. In fact, there is an element of folly in it.

So with the assurance that there is agreement in the Senate that we will have an open mind about all friendly countries in terms of nonlethal exports, and with the opinion of the able Senator from Washington, which I share, that the House bill provision does, indeed, make that clear, if properly interpreted by the executive branch, I am inclined to withdraw the amendment.

Mr. JACKSON. Just for the record, so we complete it, the House bill, on page 47, section 111, covers this. The title is "Civil Aircraft Equipment." And I think we can print that at this point in the RECORD.

Mr. HELMS. I ask unanimous consent that it be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CIVIL AIRCRAFT EQUIPMENT

SEC. 111. Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the Export Administration Act of 1969. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this section, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Mr. JACKSON. I thank the Senator.

Mr. HELMS. I thank my friend from Washington.

With those assurances and with that understanding, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 348, AS MODIFIED

(Purpose: To specify the obligation of government departments and agencies to share foreign availability information)

Mr. JACKSON. Mr. President, I call up my amendment No. 348.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, MOYNIHAN, THURMOND, BAYH and DOMENICI, proposes an amendment No. 348.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, I have conferred with the majority and minority on this and wish to modify the amendment, which I send to the desk and ask the clerk to state the modification.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The amendment, as modified, is as follows:

On page 64, line 7, after the period, insert the following: "Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office when requested or where appropriate shall furnish the information it gathers and receives to such departments and agencies.".

Mr. JACKSON. Mr. President, this is the Bayh amendment to the amendment that I proposed and, to avoid voting on each one, we made my amendment conform to his.

But it is the amendment that the Senator recommended and it is really his amendment.

Mr. BAYH. Mr. President, I just want to say to my colleagues, I compliment the Senator from Washington for introducing this amendment.

I had intended to have a similar amendment myself and I think the way he has handled it is consistent with trying to move the legislation along.

Mr. President, I ask: Was the word "protection" or "protector"? It should be "protection."

Mr. JACKSON. This is "protection."

Mr. BAYH. Good. I thought it came out "protector," and "protection" is the word.

I thank the Senator from Washington.

Mr. JACKSON. I want to thank the distinguished Senator from Indiana for his most helpful suggestion.

He is chairman of the Senate Intelligence Committee and, in that capacity, of course, is keenly aware of the importance of his responsibilities, and the Bayh amendment makes the amendment that much more effective.

Mr. President, this amendment is intended to make it clear that the various departments and agencies involved in the export control process have an obligation to furnish foreign availability information to the Office of Export Administration and that OEA, in turn, is obligated to make it available to those departments and agencies. OEA's role should be viewed primarily as one of coordination of the existing efforts by departments and agencies to avoid duplication and to assure that information is shared. The provisions of the bill and amendment relative to OEA's foreign availability functions should not be considered as an authorization by departments and agencies to reduce present efforts, unless they are determined to be duplicative.

Indeed, the GAO found there is too frequently inadequate foreign availability information and that foreign availability determinations go unattended. Thus, there is a need for more, not less, of an effort to obtain foreign availability information, especially by our intelligence agencies. Obviously, OEA is not capable of performing intelligence gathering functions. Also, other departments and agencies, including DOD, which have important export control functions must continue to make independent assessments of foreign availability and to marshall foreign availability data that they obtain in their research and development, intelligence, and other activities.

Thus, the intent of the Senate should be clear that the foreign availability functions of OEA shall be deemed to be primarily those of a coordinator and should not be deemed to authorize reduced functions by other agencies except to the extent to avoid unnecessary duplication.

● Mr. KENNEDY. Mr. President, I rise in opposition to the amendments offered by my dear friend and colleague from the State of Washington. These amendments could in fact undermine U.S. security by imposing unnecessary controls on critical goods and technologies to the detriment of U.S. exports.

Adoption of these amendments will be a step back from the progress this bill has made in removing unnecessary restrictions on U.S. exports. These amendments will not only reduce the competitiveness of U.S. high technology exports, but could also have a negative impact on U.S. employment and technological innovation.

One amendment seeks to transfer primary responsibility for identifying goods and technologies controlled for national security purposes from the Department of Commerce to the Department of Defense. Such action is unnecessary and could serve to weaken the export control system. The current system, in which the Commerce Department holds coordinating authority, is much more effective. The Commerce Department is in a superior position to possess knowledge on the products U.S. industry produces and, more importantly, what the technical capabilities of those products are.

Another proposed amendment could lead to the disintegration of COCOM. Threatening our allies with trade boycotts if they refuse to adopt U.S. export control standards is clearly not the course which responsible U.S. diplomacy should follow. The breakdown of COCOM would lead to decreased control over critical goods and technologies, create unnecessary friction in U.S. relations with our closest allies and friends, place U.S. technology exports at a disadvantage, and certainly damage United States security interests.

The fact is that in today's international economy the United States is no longer in a position to unilaterally impose effective controls on technology exports. I therefore believe we must rely on close coordination with our allies to maintain effective export controls in those areas where they continue to be needed. Only when effective multilateral coordination takes place can both the security and the legitimate export interests of the United States and our allies be productive.

Mr. President, this bill accomplishes the difficult task of assuring that effective controls of goods and technologies important to U.S. security are maintained while, at the same time, streamlining the bureaucratic process which U.S. firms must undergo before they can export abroad. The bottom line is an increase in U.S. exports, employment, and technological innovation while assuring that U.S. national security interests are not sacrificed. The Jackson amendments would greatly undermine these benefits. I urge my colleagues to join me in opposing these amendments and in supporting the bill as reported by the committee.●

Mr. HATCH. Mr. President, I was pleased to sponsor the package of amendments with the distinguished Senator from Washington. As we debated each one, we see the many-faceted issue of technology transfer. This problem is one that I myself have been following for quite some time and one that concerns me a great deal. I compliment the committee for their work on the bill, but I would like to point up during the course of this debate some of the major flaws in our system which would continue to exist even after its enactment.

DEFENSE DEPARTMENT IDENTIFICATION

Mr. President, the bill provides us with the start of a "critical technologies approach" to controlling exports to certain nations for national security purposes. It does not, however, fully outline the plan or the processes involved in this approach, nor does it make us aware of the advantages to adopting it.

The measure presently vests the responsibility to determine critical technologies with the Commerce Department and the Defense Department with an advisory role. It would seem to me that the effectiveness of a critical technologies approach would be greatly enhanced if the Defense Department was delegated the duty to identify those technologies which were critical to our national security in the first instance.

The Defense Department currently has the capacity for making these determinations both in terms of interpreting the sophistication of various technologies, and knowing the impact of exportation of critical technology on United States and foreign military systems. Valuable time could be saved were DOD given the authority to identify these technologies in the first place instead of having their input on a secondary referral basis. We would recognize the identifications process as a technical function rather than an administrative one. Further, exporters would have the advantage of knowing precisely which technologies were listed in the militarily critical category prior to making a license application to the Commerce Department. This seems to me to be a key ingredient in streamlining our export licensing procedure.

EMBARGO OF CRITICAL TECHNOLOGIES

Mr. President, for the small percentage of applications which propose a transfer of critical military technology to a controlled nation, S. 737 makes no clear policy statement. All of these applications are reviewed individually as to their national security implications, a process which leaves the door wide open for inconsistency and political favoritism. One amendment rightfully recommends a general embargo of critical technologies to controlled nations, and I support this policy as a means to guarantee both our security and our fairness in granting licenses. It makes good sense that we should grant licenses based on policy, not have policy made on a case-by-case basis.

FOREIGN AVAILABILTY

Mr. President, from what we have heard, the core of the argument in favor of a liberalized export policy is the assumption that our goods and technologies are available in the same quantities and qualities from foreign countries. We assume that if the United States does not permit the export of a technology or good that another nation will, causing

American business a loss of sales and credibility in the foreign marketplace. This is a situation with which we are all concerned, and I am most sympathetic to the objective here, that is, to enhance the ability of American suppliers to compete in foreign markets. However, many sources have testified that there is no accurate data on the foreign availability of critical technologies. We simply do not know for sure that a controlled nation could buy comparable technologies elsewhere.

I maintain that our undocumented assumptions are insufficient on which to base export policy affecting our national security. Another amendment which I feel is fair, calls for the establishment of an evidentiary test of foreign availability on a given critical technology to assist in the decisionmaking process. To export or not to export is a question which demands all the information possible to render a correct answer.

INDEXING

Mr. President, I join my colleagues in opposing the present provision of technology indexing. I believe that this provision would have two adverse effects. What the present language suggests is automatic export decontrol for any technology or good which cannot keep pace with accelerated performance standards established by the Department of Commerce.

First, we must guard against the false assumption that because American technology has advanced that our old technology is expendable. In many cases, our outdated knowhow is still superior to that of a controlled nation, and we should not permit the automatic export of such a technology or good without a reapplication for licensing. Such a proposed technology transfer should be reevaluated with the new information taken into account.

Second, I am concerned about the effect such a provision would have on U.S. industry incentives to develop new technologies. If this system of performance levels is implemented, I am afraid that it could retard our industrial research and innovation activity since under this new aspect of export policy, it may be to industry's advantage in some circumstances to allow technologies to become outmoded in terms in our potential technological capability in order to avoid the export administration process. We should be careful not to overlook the inherent effects export policy will have on our own domestic R. & D. policies.

CONCLUSION

Our export process can be improved to incorporate maximum trade opportunity for American business, efficient procedures for the monitoring of licenses and controls, and protection for our critical technologies. We recognize all of these needs, but I believe greater emphasis should be given to the defense and national security ramifications of technology transfer. Once technology has been sold it can never be returned. It is the knowhow which will assist foreign nations in producing their own goods and limit the markets for U.S. product exports in the future, the knowhow which will fill in the gaps in our enemies' defense systems.

I have enthusiastically supported these amendments and feel they are constructive to achieving these objectives.

Mr. STEVENSON. Mr. President, this is a sound amendment. I am prepared to accept it and yield back our time.

Mr. HEINZ. The minority is prepared to accept the amendment and yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 348, as modified) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 349

(Purpose: To provide specific authorization for appropriations to the Department of Defense to carry out functions under the Act)

Mr. JACKSON. Mr. President, I call up amendment No. 349.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself and Messrs. Nunn, Hollings, Cohen, Hatch, Harry F. Byrd, Jr., Tower, Moynihan, Thurmond, Bayh, and Domenici, proposes an amendment numbered 349.

Mr. JACKSON. Mr. President, I ask unanimous consent that further readings of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 11 and 12, insert the following:

(c) There are authorized to be appropriated to the Department of Defense for fiscal years commencing on or after October 1, 1979, such sums as may be necessary for the Secretary of Defense to carry out his functions under this Act.

Mr. JACKSON. Mr. President, this amendment would provide a specific authorization for appropriations to the Department of Defense to carry out its functions under the act. At present DOD's export control activities are not adequately funded. A major part of the problem is that DOD does not have a specific line item in its budget for this activity. Thus, personnel and funds must be borrowed from other activities. As a consequence, the manpower and financial resources devoted to DOD's export control efforts are grossly inadequate given the importance of this work. This is one important reason for the fact that DOD's undertaking to identify critical goods and technologies is far from completed even though it has been over 3 years since the Defense Science Board recommended this concept.

UP AMENDMENT NO. 429

(Purpose: To authorize an appropriation to the Defense Department for the purpose of identifying militarily critical goods and technology)

Mr. STEVENSON. Mr. President, I send an amendment in the nature of a substitute to the desk and ask for its consideration.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that this be in order in spite of the fact that time has not been yielded back?

Mr. STEVENSON. I so request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. Stevenson) proposes an unprinted amendment numbered 429.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

On page 111, line 11, insert after subsection (b), the following new subsection (c):

"There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act."

Mr. STEVENSON. Mr. President, the amendment offered by the Senator and this substitute both recognize that the Department of Defense's duties under this bill will require an expenditure of funds.

This amendment would, therefore, authorize appropriations to the Department for purposes of carrying out its duties under the Export Administration Act for fiscal year 1980 in the amount of $2.5 million.

I think that is a reasonable amount. I am hopeful the Senator from Washington will accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment and prepared to yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree.

The amendment (UP No. 429) was agreed to.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. Yes.

Mr. JACKSON. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 349) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 350

(Purpose: To provide for the maintenance of records of license and control)

Mr. JACKSON. Mr. President, I call up amendment No. 350.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Jackson), for himself and Messrs. Nunn, Hollings, Cohen, Hatch, Harry F. Byrd, Jr., Tower, and Moynihan, proposes an amendment numbered 350:

On page 73, strike out lines 12 through 15 and insert in lieu thereof the following:

(9) The Secretary of Commerce, the Secretary of Defense, and any department or agency consulted in connection with a license application or a revision of a list of controlled goods and technologies and applicable controls shall make and keep accurate records of their respective advice, recommendations, or decisions, including the factual and analytical basis of such advice, recommendations, and decisions.

Mr. STEVENSON. Mr. President, I have discussed this with my comanager. We believe it is a sound amendment. We believe we are prepared to accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JACKSON. Wait a minute. There is the modification. I did not modify it.

UP AMENDMENT NO. 430

(Purpose: To provide for adequate recordkeeping with respect to license decisions and control list revisions)

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment which is now at the clerk's desk, be modified.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment is as follows:

On page 73, line 15, change the period to a comma, and insert the following: "including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency." and on page 63, line 23, after the period add the following:

"The Secretary and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, together with the dissenting recommendations received from any agency."

Mr. JACKSON. Mr. President, the language of the recordkeeping provision of the bill applies only to license applications. However, of equal, if not greater importance are the more basic decisions as to what and how to control goods and technologies. The amendment thus makes it clear that the recordkeeping requirement extends to the control process. The amendment also specifies that the factual and analytical basis be recorded. These records should facilitate consistency in control and license decisions as well as permit responsible executive branch officials and congressional committees with export oversight duties to ascertain whether decisions are factually supported and consistent with the policies and provisions of the act.

The PRESIDING OFFICER. The amendment is so modified.

Is all time yielded back?

Mr. STEVENSON. Mr. President, it is the amendment, as modified, that we accept. I thought it had been modified.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back our time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment (No. 430), the modified version of amendment No. 350, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 351

(Purpose: To provide for a report to Congress if the President overrules the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 351.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Messrs. NUNN, HOLLINGS, COHEN, HATCH, HARRY F. BYRD, JR., TOWER, and MOYNIHAN, proposes amendment No. 351:

At the bottom of page 72, add the following:

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a) (2) (B) or 4(b) (1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

Mr. JACKSON. Mr. President, this amendment requires the President to report to Congress if he overrules any recommendation or determination by the Secretary of Defense. As it pertains to the requirement for a report if the President overrules or modifies a licensing recommendation by the Secretary of Defense—the amendment merely provides what is now a part of section 4(h) of the act. This provision is not in the bill. In this connection, the Banking Committee report (page 10) states that the bill makes "no substantive changes from those contained in [existing] section 4 (h)" of the act. By deleting this reporting provision, the bill would effect a substantive change with no apparent justification for doing so. In addition, the amendment would extend the reporting requirement to situations in which the President overrules any determination made by the Secretary of Defense pursuant to the Secretary's authority to formulate a list of goods and technologies to be controlled for national security purposes.

Mr. President, it is my understanding that this amendment is acceptable.

Mr. STEVENSON. Mr. President, this amendment continues the existing law. It is acceptable.

I am prepared to yield back the remainder of my time.

Mr. HEINZ. Mr. President, I am prepared to accept the amendment, and I yield back the remainder of my time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 352, AS MODIFIED

(Purpose: To clarify that the President cannot delegate his authority to overrule the Secretary of Defense)

Mr. JACKSON. Mr. President, I call up amendment No. 352, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWERS, and Mr. MOYNIHAN, proposes an amendment numbered 352, as modified:

On page 79, line 17, after the period, add the following new sentence: "The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense and the Secretary of State, pursuant to the provisions of this Act.".

Mr. JACKSON. Mr. President, this amendment would clarify that the President cannot delegate this authority to overrule the Secretary of Defense. This merely makes explicit what is already implicit in the present act and the bill.

It is my understanding that we have an accord on this amendment with the majority and the minority sides.

Mr. STEVENSON. I have no objection to this amendment.

Mr. HEINZ. I have no objection.

Mr. JACKSON. I yield back my time.

Mr. STEVENSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 431

(Purpose: To clarify provisions restricting export of Alaskan oil)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and others, proposes an unprinted amendment numbered 431.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 74, line 22, insert new section (g) as follows:

(g) (1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30

U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are in the national interest;

(v) are in accordance with the provisions of this Act; and

(vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the 30 days preceding July 1, 1979; and

(B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.

3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251 (d) of the Energy Policy and Conservation Act (42 U.S.C. 6271); *Provided further*, That the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, we have a time agreement on a series of amendments that I had considered offering to deal with the question in the bill of the treatment of Alaskan oil. It is obvious that because of the hour, the day, and the situation in which we are involved, this is not the time to offer a package of amendments merely to make a record, and therefore, I am not going to offer some of those amendments.

A copy of my principal amendment, together with an accompanying "Dear Colleague" letter, is on the deck of each Senator. It is submitted on behalf of Senators STEVENSON, KASSEBAUM, DOLE, TOWER, DOMENICI, WALLOP, and myself, as well as my colleague, Senator GRAVEL.

This amendment deletes the entire section (g) of the bill and replaces it with a new section (g).

The new section begins by making it clear that the restrictions apply to oil shipped through pipelines which have rights-of-way granted under section 28(u) of the Mineral Leasing Act of 1920 and section 203 of the Trans-Alaska Pipeline Authorization Act. Most pipelines in this Nation, which cross Federal land, have section 28(u) rights-of-way. The only exception is the trans-Alaska pipeline, which was granted a right-of-way under special congressional action. This amendment is intended to apply to all pipelines in the Nation, which have rights-of-ways granted under either of these two laws.

The amendment in subsection 1, provides for a general prohibition on exports of oil unless they meet the conditions allowing a swap in subsection 2.

However, oil which is exported to an adjacent foreign state: that is, Canada or Mexico, falls into two possible special exemptions from the general prohibition on export of oil.

Any oil sent to either Canada or Mexico in exchange for the same amount of oil being exported from that nation to the United States, and which does not result in any increase in prices to U.S. consumers, may be exported.

At the present time, such swaps are common with Canada and refiners in the Northern Tier of States. Large amounts of petroleum (28.7 million barrels last year) were swapped, and we do not intend to interfere with those ongoing exchanges.

A second general exception occurs in subsection 1, which permits the export of oil which is temporarily transported across parts of an adjacent foreign nation, like Canada or Mexico, and which is returned to the United States. We do not intend to stop those exports and so have incorporated this exemption.

Section 2 of this amendment requires that the President make several findings before any crude oil can be exported. The effect is to eliminate straight exports. We are dealing with exchange, not sale of oil. Section 2 of this amendment, as I stated, specifically requires the President to make these findings.

First, he must find that the proposed swap would not diminish the total quantity of petroleum available to the United States. We must find that the quantity, or volume, of oil to be refined within, or stored within, or legally committed to the United States will not be diminished. It is not necessary that he find there is no decrease in oil available for each of these categories, but only that he find that the total amount available for all of these categories is not diminished.

This criterion is different from the Riegle amendment, which requires that there be no decrease in quality of oil as well. Because of the different chemical makeup of oil this requirement is impossible to meet. Alaska oil is low in sulphur but high in specific gravity. It is heavy and many refineries cannot handle it. But, since it is low in sulphur content, it is valuable to some refineries in areas of higher air pollution.

The second criterion in the amendment provides that, except for minor adjustments due to quality and gravity adjustments, any swap or exchange must have no adverse impact on wholesale or consumer prices of the products refined from such crude.

The Riegle amendment provides that at least 75 percent of the savings of any swap be passed on to the consumers. This finding is impossible to make without price controls on refined products, and without massive auditing.

It is our intention that any swap not increase consumer or wholesale prices. Conducted properly swaps should have no impact and, hopefully, would reduce prices somewhat. They would result in transportation savings and I hope that the savings will benefit consumers. But there is no way to require that and no way to force that. It is much better merely to prohibit any increase in prices from such swaps.

In any swap, because of the difference of the oils available, some minor adjustments in prices will be necessary. Early this year, when Mexican oil was selling at about $14 a barrel, it was estimated that the adjustment would be 38 cents. This is the magnitude of the "minor adjustments." They will be small and limited strictly to the normal kinds of adjustments used by the oil industry to compensate for differences in oil quality.

The third condition the President must find before any swap is perhaps the most important. It requires that any contract be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished. Any swap must be completely contingent upon delivery of the foreign oil to this Nation. Any interruption of the delivery of foreign oil must terminate the contract and all our obligations to provide oil. Without these protections and absolute certainty of delivery of the foreign oil no swap can be permitted.

The fifth criterion requires any export to meet the provisions of the other sections of the Export Administration Act. This condition was in the Riegle amendment and in the former restrictions in the Export Administration Act.

The sixth condition in our amendment is that if oil, which passed through the Trans-Alaska pipeline is exported, it must be oil in excess of the amount transported on an average daily basis during the month of June 1979. It is our intention that the only Alaska oil that is exported be that which is new production. This will insure that the current level of maritime activity will be preserved. No jobs will be lost, no ships will have to be drydocked. This will also insure that any exported oil comes from increased production. Not from current production.

This condition is not in the Riegle amendment.

This amendment revises the congressional review process of the current bill. As reported, the bill requires that the Congress pass a concurrent resolution of approval within 60 days before any swap or exchange can proceed. It is a cumbersome and unwieldly process, which greatly diminishes the chances of a swap. No provision is made for recess periods, or days when Congress is not in session.

This amendment substitutes a provision allowing the Congress to reject any swap. The swap can proceed while the congressional review is underway. We require that of the 60 days in which Congress must act, we must have been in session 30 days, thereby insuring that Congress will have a chance to review the swap. This language is the procedure in the Mineral Leasing Act, which was originally agreed upon during the debate of the Trans-Alaska Pipeline Authorization Act. It is a good flexible procedure which guarantees congressional oversight.

Our amendment places a time limit on the restrictions. They will remain in effect only until July 1, 1980. The previous restrictions in the Export Administration Act contained a 2-year limit. It is our strong belief that with the speed with which the world oil situation changes, we should not tie the hands of the administration for too long a period. A reexamination of this subject on a regular basis is valuable and needed.

The final section of the amendment is taken verbatim from the Riegle amendment and provides that the restrictions on exports do not apply to exports needed to meet our international obligations. The agreement with Israel, we entered into as a result of the peace treaty with Egypt, must be honored, as well as our obligations under the international energy agreement, when it is implemented and oil sharing is required.

In sum, I feel this is a good balanced amendment. It is not what I would like. I would like to eliminate entirely the discrimination that some people are waging against Alaskan oil. But this amendment will revise the requirements of the Riegle amendment in a reasonable and careful fashion. Swaps or exchanges will be permitted, but only when they are in the national interest, only when our consumers are protected against any drastic price increase, and only with the guarantee of receiving an equal or greater amount of oil. The amendment gives the President the flexibility he needs.

I hope that we will support it.

Let me state, Mr. President, that there are other problems with the Riegle amendment. One of these is that it does not recognize that some swaps take place between gas and oil. We are in the process of trying to get the gas pipeline constructed. If it is constructed, I envision the swap of gas to northern Canada in exchange for the delivery of oil to the eastern part of the United States. Yet the Riegle amendment would preclude that from happening.

I cannot understand, in the first place, why Alaskan oil should be restricted by Congress. It is clear that with the bill before us, as passed the House of Representatives, most of its provisions will survive, therefore I think this is the best we can do at the present time.

I hope that the time will come when some Members of Congress will understand that 40 percent of the potential oil production for the United States in the future will be from my State.

The Riegle amendment will deter the industry from making the investments that are necessary to expand production because the Riegle amendment will commit us to a process of not utilizing an exchange process to increase production in Alaska in order to assure that the transportation will be to the benefit of the Nation as a whole.

I supported at the time of the Alaska Pipeline Act the amendment that was offered by Senator Pastore. We sought to bring about an equitable distribution of the crude oil supplies, particularly those from Alaska, to regions throughout the Nation.

With the completion of the gas pipeline and the adoption of this amendment, I can assure the Senate that we will, in fact, increase our production in Alaska by at least 800,000 barrels a day.

There is no incentive today to increase that production because of what some call the glut on the west coast. It really is a surplus of Alaskan oil over the ability of the western refineries to run Alaskan oil, and that oil currently has to go through the Panama Canal at an increased price to the consumers. It is taken into the gulf coast or to the Virgin Islands for refining.

If we are to increase our production up to at least the capacity of the trans-Alaska pipeline's 2 million barrels a day, we need to know that there is an ability to transport that oil; that our transportation system will work, and that that oil can be transported by virtue of exchanges that will inure to the benefit of the country as a whole and increase the quality of oil available to the United States.

As I said, I had a series of amendments, and this might be literally called the last trench in which to fall back if we failed on the other two. In the interest of time, and because it is Saturday, I have not even put those in the Record. I am hopeful that the Senate and my Alaskan constituents will understand that.

But I do believe the current provision in the bill is discriminatory, is contrary to the best interests of the United States, ties the hands of the President, and will not allow us to increase our production in Alaska.

If we are to increase our production, the Members of Congress must stop discriminating against my State's oil. I firmly believe that passage of the Riegle amendment will result in this scenario. There is no prohibition on the export of products, and I do not think Congress would ever legislate one because almost every oil-producing State and every refinery exports some kind of product. If the Riegle amendment stays in this bill, the net result will be that my State will have to adopt a policy of assuring that Alaskan oil which is owned by the State and refined in Alaska, and those products resulting from it will be exported.

The net long-term effect of the Riegle amendment is contrary to the best interest of the United States and it is contrary to the continuation of the refineries that exist throughout the country that are already constructed. It will lead to construction of new refineries in my State and, incidentally, that would not be too bad from an economic point of view for us over the long run, but in the short run it would not give us the incentive to increase production.

We are committed to increasing production. We have the capability of increasing production.

And I hope that the Members of the Senate will understand that if we are forced to delay increased production in order to get time to build refineries, it is just totally contrary to the best interest of the United States.

I feel strongly that this amendment should be adopted and I hope it will be.

I thank those who have supported me in offering it.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. McGovern). Who yields time?

Mr. RIEGLE. Mr. President, I have heard some interesting things from the Senator from Alaska, and I always thought that——

The PRESIDING OFFICER. The Senator from Michigan will withhold. I do not believe he has time. Will someone yield to the Senator from Michigan?

Mr. RIEGLE. Mr. President, I will say to the Chair under the time agreement there were 4 hours evenly divided, and I was in charge of 2 of those 4 hours.

The PRESIDING OFFICER. The Senator is correct.

The Chair stands corrected.

Mr. RIEGLE. I yield myself whatever time I may use at this point.

I have always thought that Alaska was part of the United States. I thought it was one of the 50 States and we were all tied together. Frankly, I detect what I gather is something of a threatening tone there that if Alaska is not satisfied with the arrangements in terms of oil, it is going to take this step and that step and another step and find ways to export that oil abroad. I hope that that will not happen. I think that that would be an exceedingly shortsighted thing to do and even that suggestion is based on a set of assertions that I have just heard that are just not correct.

Alaska is not having any trouble selling the oil today that it has. In fact, it is selling it very readily, and there are a lot of people who want to buy it, and they are prepared to buy more of it if it is available.

We have a crude oil shortage in the United States, and I am speaking now of all the 50 States, and not just 1 of them.

We have a shortage in the other 49 States, and the oil is badly needed. The notion that somehow or another we are in a situation where we should start exporting Alaskan crude abroad just does not make any sense at all. Yes, it may make sense to the Japanese because Japan would like to be in a position where it can get oil from the United States for less than it is presently paying Mexico or other suppliers. But it hardly seems that it makes sense from a point of view of our trade situation with Japan to facilitate them getting oil at less money than they presently have to pay and particularly because we gain nothing, if we make it easier for Japan to acquire Mexican oil under some kind of a swap arrangement.

One of the advantages we have with respect to the supply of oil in Mexico today is proximity, and the fact that the cost of transporting Mexican oil into Houston is a relatively minor cost, about 45 cents per barrel, whereas, on the other hand, the Japanese, if they are going to buy Mexican crude, have to end up spending $1.80 a barrel.

So it is clear to the extent we make it easier and actually subsidize through these kinds of swap arrangements the movement of scarce American oil to Japan at a lower price than they otherwise would have to pay, makes absolutely no sense at all.

Frankly, I think it in some respects is even an insulting notion in terms of what it means to the rest of the United States.

If there is one thing that is obvious, and was obvious before the President spoke, to most people, and certainly ought to have been obvious to all people after he spoke the other evening, it was that we have an energy problem in the United States, and that we need oil.

What is being proposed by this amendment, and what previously was defeated in the Banking Committee, is the proposition that says that scarce American crude oil can leave this country and go to foreign buyers.

Of course, my friend from Alaska skips over the point that Alaskan oil is some of the best in the world in terms of its quality. It is not just the issue of quantity, as serious as that issue is, but it is also the fact that oil from Alaska can yield more unleaded gas. It has other beneficial qualities to it that have to be considered. So the notion that somehow, through some sort of an arrangement, we should be unloading short-supply high-quality American crude oil on foreign buyers is basically absurd right on its face.

In terms of the notion that there is a need here to provide additional markets, foreign markets, in order to bring Alaskan crude on line, I find not a scrap of evidence to support that assertion. I know of no document, no statement by any of the major oil companies that are participating in Alaska today and who own the leases there, I know of no statement in writing by any chief executive of those firms saying that they need the export market for oil in order to increase production in Alaska.

If anybody here can produce that in the course of the debate, I would like to see it. But, frankly, it does not exist. It does not exist because they know they can sell this oil quite readily.

We desperately need not only to have that oil available in the lower States but we need the pipeline facilities to be able to use it. I will tell you this: If the Stevens amendment passes so that this oil starts leaving the United States and goes to Japan and to other buyers, we are never going to get the pipeline built that we need. In fact, the Northern Tier pipeline, which is now ready to go, cannot possibly succeed or be viable unless we can depend upon that additional production from Alaska to be available to come through that pipeline to serve all of these States in the lower 48 States of the United States.

The Senator from Alaska knows that but he is prepared to see that oil go to foreign countries and, as a matter of fact, it does absolutely nothing to provide any benefit to American consumers or do anything to improve our balance-of-payments situation. In fact, if one traces through all the transactions here it is obvious in virtually every instance that it would hurt our balance-of-payments situation. How that makes sense is absolutely beyond me.

The only people who stand to gain from the Stevens proposition are the State of Alaska, at the expense of the other 49 States, and the oil producers who will make a little more money. In fact, they will make a lot more money if you multiply it by the number of barrels.

So basically, to have that kind of special legislation—and that is clearly what it is—coming in in the midst of an energy crisis that everybody understands really, I think, stretches what we ought to be trying to accomplish around here.

Frankly, I am not happy to see us have to debate on a Saturday afternoon this matter because this issue is a strategic issue in terms of the security of the United States.

We are sitting in the United States with about a 5- or 6-day supply of oil, and if there should be another foreign interruption, and we should have some other problem arise, the notion we should take this dwindling resource and start sending it abroad ought to be something we should be debating and voting on it when there are 100 Senators present, and not in the waning and, presumably, fading hours of a Saturday afternoon. This is an absolutely vital national strategic issue.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Yes, I yield without losing my right to the floor.

WHY THE SENATE IS IN SESSION TODAY

Mr. ROBERT C. BYRD. Lest there be any misunderstanding as to why we are doing this on a Saturday afternoon, before the Independence holiday on two occasions I took the floor and explained the situation. I stated that from the day that Congress convened until the Independence Day holiday the Senate had been in for only two Fridays, and no Saturdays, and that following the Independence Day holiday, in order to get our work done, we would have to be in every Saturday through July.

Fortunately, we were able to avoid a session last Saturday because of time agreements and the waiver of the 3-day rule, et cetera. We made more progress by getting those concessions than we would have made had we come in.

All Senators were on notice that there would be Saturday sessions, that notice was given before the Independence Day break; only moments ago 85 Senators cast their votes on the last rollcall.

I do not think anyone should be under the impression that this was a sudden move to have a Saturday session.

We are here on Saturday and we are discussing an important matter. But Senators have a full-time job, and it is very difficult for the leadership to keep the legislative process moving if we are only going to come in an Saturday for a few hours and then go out.

Those Senators who do come in—and there are 85 of them,—deserve consideration, too. They are here, they are ready to do business, and they are willing to see this bill disposed of before they go home.

Some Members may be out, but they left knowing there was going to be a session and knowing there were going to be rollcall votes.

I would hesitate to see us put this bill over until Monday if it can be disposed of today. This bill could not be brought up before now. The distinguished manager was chairing the Ethics Committee hearings, and he was unable to give his attention to this bill. But he is here today, and I say let us dispose of the bill today.

I understand the strong feelings of the distinguished Senator from Michigan. He may win. I hope we will not put this vote over until Monday. I may vote with him, but let us have a vote. Who knows, on Monday there may be more than 85 here or there may be fewer.

I hope we will not put a vote over until Monday on the basis that two or three of our colleagues are away. I will be happy to pair. Maybe we can get pairs from the opposite side of the issue to make up for any votes that the Senator feels are lost to him due to absences today. But let us try to get a vote and dispose of the matter today.

I thank the Senator for being so patient and for yielding.

Mr. RIEGLE. I am delighted to yield to the majority leader. Let me just say I think everyone appreciates, and certainly I appreciate, the fact that you put everybody certainly on notice about Saturday sessions, and we need to work on Saturdays, and I do not think there is any question about that, and I do not want my remarks earlier to sound as if that is not clearly understood in terms of where we begin from.

But I think it is also important to note, and I think the majority leader knows, that we were ready to go with this bill as of the 1st of June, and the sponsor of the amendment had a hold on this bill for many weeks, and we were not able to get that resolved. So an awful lot of time has gone by.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIEGLE. Sure.

Mr. ROBERT C. BYRD. The delay was solely because the sponsor of this amendment had a hold. There were holds on both sides, and some of my colleagues on this side of the aisle had holds on this bill. Let us not say that it was only because the author of the amendment had a hold on it.

I guess my point, Mr. Leader, is this: We have been ready to go on this matter, and, from a legislative point of view, the action of the committee has been taken, and for whatever the reasons, a month and a half has now passed without our being able to bring the matter up.

I think I and those on my side have been ready to deal with it for that entire month and a half. We are ready to deal with it today, and we will deal with it today. But my concern is this: This is a vital issue. What the President said the other night was correct, as you and I know, and it is a vital matter.

I want to vote with the Senator.

Mr. RIEGLE. I understand. But the problem is that this bill has to be debated. There may be other amendments. I have no way of knowing how many other amendments may come up. My concern is that we are starting very late in the afternoon. This is a Saturday, I am prepared to stay here, and will stay all night long, but I do not know whether everyone else is in the same situation. That is also a factor.

I do not understand why, when we have waited a month and a half, it must be debated and voted on today. Why not debate it today and let a vote take place on Monday, when everyone will have the opportunity to vote?

Mr. ROBERT C. BYRD. That may be the only way the matter can be disposed of, in the interest of fairness to all and in the interest of trying to accommodate Senators on both sides of the issue.

I would say one quick way to find out where the votes are is to call up the amendment and quickly move to table it. That would bring the votes in in a hurry. I would not try to influence the Senator to do that; he feels strongly about the matter, and wants it debated.

But is it not a reasonable suggestion that while the Senator is debating the issue and holding the floor, that some of those who are with him on the question might explore the possibility of reducing the time and voting on the amendment today?

I am told that the Senator's side will win if he will bring it to a vote today.

Mr. RIEGLE. I hope that is right.

Mr. MELCHER. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. RIEGLE. Yes, I yield without relinquishing my right to the floor.

Mr. MELCHER. I think without a doubt we ought to win overwhelmingly in defeating the amendment. What is the advantage to the Stevens amendment? Who gets help?

First, the oil companies get help, because they can get their crude sold in a better way. I do not question that. There has not been one moment since we started talking about clearing the way for the Alaskan pipeline bill that the owners of the crude on the North Slope have not made it abundantly clear that the best place for them to sell that oil was in Japan.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. STEVENS. I hope the Senator does not talk about sale, because he knows that is what got us all the headlines before and that this solely involves the question of exchanges.

Mr. MELCHER. Let us talk about exchange, then.

Mr. STEVENS. Nobody is talking about selling oil to Japan. There is a specific prohibition against selling the oil to Japan.

Mr. MELCHER. I want to get to that point, because that is the biggest turkey of all. The exchange of oil, with whom? Canada or Mexico? Canada is not going to do it. Mexico will sell us all the oil we want to buy from them that they have available to sell, except for what they need, and some other pressing commitments they might have. We are getting 500,000 barrels a day out of Mexico now. If they get their production up to a million, I suppose we will purchase about 750,000 barrels a day from Mexico.

We do not need the amendment for crude exchange, sending Alaskan crude to Japan, to buy Mexican oil. The fact is that the effect of the Stevens amendment is to decrease the amount of oil that will be coming to the United States. We cannot gain from Mexico in that way; they have got it for sale, all we have to do is offer them the money. As their production increases, our opportunity to purchase more from Mexico will be there. So we do not gain from the exchange.

I do not begrudge the State of Alaska wanting to get the biggest price they can for Alaskan crude. An exchange arrangement would give them a better return. I do not begrudge the Alaskan Natives getting the best return they can from Alaskan crude from the North Slope. An exchange with Japan would give them a better price. But I do begrudge decreasing the stable supply that is near and available for the entire United States. I do not want to do that at all.

One of the tough agreements that we had with the trans-Alaska pipeline bill, on is passage, insisted upon by the New England coalition, was the equitable distribution clause, which is cited here as clause U.

Mr. STEVENS. Mr. President——

Mr. RIEGLE. Mr. President, I have not yielded the floor. I yield to the Senator from Montana (Mr. MELCHER).

Mr. MELCHER. I would like to make one further point, then, if the Senator from Michigan will yield to the Senator from Alaska, perhaps the Senator from Alaska will want to address this point, too.

We are about ready, I hope, in this country, to develop an energy policy, including the transportation of oil within the lower 48 States. The Northern Tier pipeline has been mentioned, a pipeline that would go from Port Angeles, Wash., across Idaho, through my State, through North Dakota, and then to Clearbrook Minn., to hook up with existing pipelines. It is a big proposal. It would have the capacity of 90,000 barrels a day.

The hope is we are going to be able to clear up the environmental impact statement by late August, and by October 15 the Secretary of the Interior is to make a recommendation to the President for selection of a route.

Hopefully, from my point of view and I hope from that of most people in the Northwest, that route will be the Northern Tier pipeline system. When that happens, Federal permits are issued, and if State permits are issued, the first thing Northern Tier will have to do is go to the bonding market and try to sell some bonds. Without an assured supply, a great deal of which must be Alaskan crude, those people will have a very tough time. The Northern Tier officials would have a very tough time in the bonding market selling their bonds without available Alaskan crude supplies. With Alaskan crude being available, it will be a fairly easy job selling the bonds.

The Senator from Alaska says this is an exchange which could be interrupted. I want to tell you, if there is anything that queers the money markets in this country today, it is the doubt or uncertainty about decisions of executive branches of government to change market supply conditions that exist. And once this exchange goes into place, what is the hope, or even the opportunity, for Northern Tier going into the bonding market and selling its bonds? It would put their AAA rating down to A–, or maybe B+; but it would be a tough job.

So we are tampering here with the opportunity of a very key part of satisfying our energy needs. We are tampering here with the problem of distribution of crude from Alaska by the proper construction of pipelines to the refineries that need the crude. I thank the Senator for yielding.

Mr. RIEGLE. Mr. President, let me make it clear—on my time, now; I still have the floor—what my intention is. That is to yield briefly to the Senator from Indiana. There are other Senators who have asked to speak, and who want to insert statements in the RECORD. I am going to ask unanimous consent that they have the opportunity to do that, and then I want to yield a couple of minutes to the Senator from Alaska, so that he can say whatever in addition he wants to in response to these points, and then I intend to move to table the amendment.

In any event, that is what I will very shortly do. So let me yield to the Senator from Indiana.

Mr. STEVENS. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. RIEGLE. I yield.

Mr. STEVENS. The Senator has no right to do what he has just said he plans to do. We are under controlled time, and a motion to table is not in order until time is yielded back.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. If the mover of the motion to table yields back his time, then a motion to table is in order, is it not?

The PRESIDING OFFICER. The time of the proponents of the amendment must be yielded back before a tabling motion can be in order.

Mr. STEVENS. I will be happy to work out a time agreement to shorten the time allotted for the consideration of this amendment, Mr. President. If the Senator from Michigan wants to discuss that time limitation now, I am sure he can be accommodated.

Mr. RIEGLE. Let me say I thought the Senator had yielded back his time earlier.

Mr. STEVENS. I had reserved the remainder of my time.

Mr. DURKIN. Will the Senator yield?

Mr. RIEGLE. I will yield to the Senator shortly, but I agreed to yield first to the Senator from Indiana. I will yield 3 minutes to the Senator without losing my right to the floor.

Mr. BAYH. Mr. President, I rise to join with my colleague from Michigan to state my strong opposition to unbridled exports of Alaskan oil, and urge my colleagues to support the restrictions on exporting Alaskan oil contained in the Export Administration Act amendments now before the Senate. The limits on Alaskan oil swaps or exports in the bill, which were sponsored by Senator RIEGLE, and adopted by a majority of the Banking Committee, will insure that no oil will leave our shores unless it can be demonstrated, beyond a doubt, to both Houses of Congress, as well as the President, that such action is clearly in the national interest. These provisions, it seems to me, set only minimum standards for permitting exports or swaps of Alaskan oil:

That exports will not diminish the quality or quantity of oil in the United States;

That exports will result in lower acquisition costs to our refiners;

That these lower costs will be passed on to consumers; and

That contracts for exports can be terminated by the United States if our oil supplies are interrupted.

Exports to meet our bilateral commitments to Israel, in the event of Israeli supply problems, are exempt from these restrictions, as are any exports that might be necessary to meet our commitments to the International Energy Agency in the event of sudden worldwide shortages.

Finally, any Presidential recommendation for swaps will have to be approved by both Houses of Congress, a reasonable review process given the importance of the issue before us.

Mr. President, I consider these provisions minimum requirements. If I had my druthers, I would permit no exports of Alaskan oil except for the most extraordinary circumstances. The question before the Senate today is whether Alaskan oil should be consumed in this country or sent abroad. I submit that it should stay here, that it must stay here, and that it is our responsibility to do everything in our power to end one of the most glaring ironies of our times—the presence of a surplus of oil on the west coast coincident with hour-long gas lines and shortages at service stations all over the Nation.

Mr. President, there is a great skepticism among the people of my State and the rest of this Nation about the causes for recent oil shortages and soaring prices. In the face of this skepticism, and the sacrifices that are going to be asked of the American people, I do not see how we can permit exports of Alaskan oil and still expect the public to contribute to our conservation efforts or have any confidence that we are making real efforts to equitably resolve our energy problems.

The Alaska pipeline has been operating for almost 2 years now, and approximately 1.2 million barrels of oil flow daily through the line from Alaska's North Slope to Valdez for tanker shipment to California and east coast refiners. By the end of this year, production will increase to 1.4 or 1.5 barrels per day. The pipeline could handle a throughput of 2 million barrels per day. But this additional oil is not being produced, and the pipeline has not been modified to handle it, because west coast refineries are incapable of absorbing all of this oil. Therefore, approximately 350.000 to 400,000 barrels per day must be shipped through the Panama Canal to the eastern part of the country, and Alaskan producers have chosen not to increase production by another 500.000 barrels because of the expense of shipping oil through the canal. Conservative estimates place the cost of this transshipment at $3 per barrel which comes out of the producer's pockets. According to a General Accounting Office study released last July, the west coast surplus could reach up to 2 million barrels per day by 1985. at the same time that large sections of the country—the Midwest and East especially—will become more dependent on imported oil and petroleum products.

Mr. President, the discovery of oil on the North Slope of Alaska has been a godsend to this Nation. Oil production during the first year of the pipeline's operation was responsible for keeping $1.3 billion in this country and reducing oil imports by 13 percent. North Slope oil and reserves off the east and west coasts, and the Alaskan coast, represent the only new major sources of domestic petroleum we are likely to have. Proven reserves on Alaska's North Slope have been estimated at 10 billion barrels, and in all likelihood these reserves are probably closer to 50 billion barrels. At a rate of 2 million barrels per day, this oil supply will continue to serve America's needs for liquid energy for decades—if we preserve it for our own use.

Mr. President, the oil companies want to export this oil, which they ironically dub "surplus" oil. And, if they are given the freedom to export domestic oil, you can be sure that as production increases in Alaska this oil will end up in Tokyo and not in Butte or Des Moines, or Milwaukee or Indianapolis.

Mr. President, at a time when we are lifting price controls on domestic oil, at a cost of untold billions of dollars to our constituents, in the hopes of maybe producing a couple of hundred thousand additional barrels of domestic oil, it is incredible to me that we would permit what is likely to be considerably more oil than this to leave our shores so that the Alaskan oil producers can enlarge their coffers even further.

We are going to need that Alaskan oil down the road for ourselves, make no mistake about it. Despite our best efforts at conservation, and at conversion to alternative fuels, we are going to start running out of liquid fuels in this country sooner than we would like to admit. It would be the height of folly and shortsightedness to construct a situation which rewards those who export our rapidly diminishing and increasingly precious supplies of petroleum, rather than fashioning a long-term, durable and equitable solution to our oil distribution problems.

I would like to see us produce every drop of Alaskan oil we can, Mr. President and I am sure my colleagues who support exports of Alaskan oil feel the same way. However, I part company from them in that I believe we should reserve Alaskan oil solely for our own needs and not set up a situation where it will be more attractive for American oil producers to sell our fossil fuels abroad than it is for them to sell them at home. This is exactly what will happen without strong and permanent legislative restrictions which reduce the likelihood of Alaskan oil exports.

EXPORTS ARE NOT NECESSARY FOR INCREASED ALASKAN PRODUCTION

The argument has been made, Mr. President, that we must permit exports in order to provide increased incentives—that is, profits—for the major Alaskan oil producers to step up their production on the North Slope. By providing the President with greater leeway to authorize exports, the argument goes and by allowing the producers to export even greater amounts of Alaskan oil to Japan, they will have the necessary incentive to go out and find and produce more Alaskan oil.

I, for one, simply cannot buy this argument, Mr. President. I do not think extra profits are the necessary key to increased production in Alaska. Instead, it seems clear to me that a transportation system that can efficiently move that oil to domestic markets is the key to increased production. And permitting exports of Alaskan oil is the surest way I know of guaranteeing that that system is never put in place.

Mr. President, I can certainly understand the desire of the major Alaskan oil producers—Exxon, Sohio, and Arco—to sell domestic oil abroad. Right now, Alaskan producers receive OPEC prices, minus transportation costs, for their product. Thus, they have been absorbing the $3-per-barrel cost of shipping their oil to gulf coast ports. The desire of the producers to export Alaskan oil stems from their hope of capturing the savings in transportation costs that would accrue to them by shipping Alaskan oil to Japan, which is cheaper than shipping it to American refiners through the Panama Canal.

Frankly, Mr. President, I am getting tired of being told that ever larger oil company profits is the only sure fire method of decreasing our dependence on foreign oil. The question before us is as clear a refutation of that argument as I have seen. It is clear to this Senator that the oil companies are already making a healthy profit on Alaskan oil, especially in light of producers' original expectations and recent OPEC price increases.

The return of Alaskan producers at the wellhead was about $7 per barrel before the most recent round of OPEC price increases. In the first 6 months of this year, producer wellhead profits have increased by more than 70 percent, according to the Petroleum Intelligence Weekly. If Alaskan producers were not making enough to increase exploration activities before 1979, it seems to me they have plenty of incentive for increased exploration and production in Alaska now. On the average, prices for Alaskan oil are up as much as 40 percent over 1978 end of the year prices on the west coast. Alaskan oil is also going for much higher prices on the gulf coast, because of Mexican price increases. Mr. President, I ask unanimous consent that this article, which appeared on June 18, be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. A clear indication that producers have sufficient incentive to further develop Alaskan resources is the announcement made by North Slope producers that production will increase by up to 300,000 barrels a day by the end of 1979. It does not seem, therefore, that the limitations contained in the expiring provisions of the Export Administration Act have been much of a disincentive to increased production. Nor do I think the restrictions placed in this bill will be either. The plain fact is that we can expect higher production in Alaska because the oil companies are sitting on a gold mine up there and it is already profitable for them now to develop Alaskan resources. Further evidence of this fact is Arco's intention to actively develop the Kuparuk field, which should yield 60,000 barrels of oil per day by 1982. Mr. President, those producers just want to squeeze every penny they can from that oil. That is their responsibility to their shareholders and I do not fault them for it. But our responsibility is to safeguard the public's interest by keeping that oil here in America.

CONSUMERS WILL NOT BENEFIT FROM EXPORTS

Who can expect to benefit from arrangements to swap Alaskan oil with Japan? Certainly the oil companies will benefit. And the State of Alaska will benefit. But the American people will not benefit. Even the proponents of Alaskan oil swaps do not argue that the transportation savings that would result from such swaps will go to American consumers. If such were the case, the proponents of swaps would have a stronger case. And the language in this bill permits swaps that will reduce costs to American citizens if they are substantial. I urge the Senate not to backtrack on these provisions. While I believe exports may be a bad idea under any but the most extraordinary conditions, they certainly must not even be considered unless they will benefit American consumers through lower prices.

EXPORTS WILL HEIGHTEN OUR VULNERABILITY TO FOREIGN SUPPLIES

Mr. President, the trans-Alaskan pipeline was sold to the Congress and the American people as a means of reducing our dependence on imported oil. Our reliance on unstable foreign oil is universally perceived to be one of our most pressing national problems. Therefore, it is essential that we consider the impact of permitting swaps on our efforts to minimize disruptions stemming from interruptions in the flow of foreign oil to the United States.

Our dependence on foreign oil has actually increased in the 2 years since production in Alaska began. I think it is central to our understanding of this issue to observe that the exchange of Alaskan oil for Mexican or Indonesian crude oil will not reduce in any way our reliance on imported oil. Simply put, oil swaps will at best leave us just as vulnerable to oil supply distruptions as we currently are, and at worst, increase our dependence on foreign oil.

Mr. President, although we cannot address the specifics of an oil swap arrangement, since none has yet been negotiated, the general outlines of such a plan are clear. In all likelihood, the United States would agree to send an amount of Alaskan oil to Japan in exchange for receiving oil purchased by Japan fom Mexico or Indonesia in the United States.

I think it is a very telling reminder of the degree to which such an arrangement would place U.S. energy supplies at the mercy of foreign producers to recall that only recently it was assumed that a swap proposal would involve Iranian oil. We need no more graphic illustration of the foolishness of continuing to rely on foreign suppliers for our crude oil needs than the Iranian oil cutoff earlier this year. We cannot afford to overlook the possibility that events in Mexico or Indonesia sometime down the road could result in disruption of oil shipments from these countries. Where would the United States be left then? We would still have a commitment to ship U.S. oil to Japan. Even if we were able to break such an obligation, we would find ourselves in precisely the same situation we face now with a glut of oil on the west coast and no transportation system in place to move supplies to the eastern part of the country. In addition to subjecting ourselves to these uncertainties, I believe that swaps would retard progress on our real problem; the inability to get Alaskan oil where it is needed and where it can be refined. It is clear to me, that encouraging even greater dependence on foreign suppliers is irresponsible and shortsighted. Instead, we must look toward a long-term solution to our Alaskan oil distribution problem.

NEED TO BUILD WEST-EAST PIPELINES

Mr. President, I want to see oil imports decline and not increase. Rather than sending our Alaskan oil to Japan in exchange for foreign oil, I want to see it going to Indiana, Ohio, Montana, and Wisconsin and Michigan and Minnesota and other States along the Northern Tier and in the Midwest. And I would like to see New England rely less on imported oil and refined petroleum products, and more on domestic oil.

Right now, our only alternative to shutting Alaskan oil in the ground, or exporting it, is to ship it through the Panama Canal all the way from Alaska to Puerto Rico and the gulf coast. We all agree that this process is cumbersome, expensive and wasteful. But rather than throw up our hands and give in to the longstanding desire of the Alaskan oil producers to export American oil, we must take decisive action to establish an oil distribution system that can efficiently move Alaskan energy resources to the lower 48.

Mr. President, permitting exportation of Alaskan oil is the worst possible step we can take right now if we are truly interested in stimulating construction of new pipelines to move this vast natural resource to factories and farms and homeowners all around this country.

What is so very frustrating about this debate, Mr. President, is that it is not a new issue. This is a fight many of us have been waging for over 6 years now. Back in 1973 I, along with our distinguished Vice President, opposed the Alaskan oil pipeline route, as opposed to a trans-Canadian route, because it was obous to us, even at that time, that an Alaskan route rather than a trans-Canadian route would not provide oil to the sections of the country that needed it most, but would likely result in a surplus of oil on the west coast instead. How ironic it is that the route touted as superior because it was "all-American" should now be the stimulus for exports of American oil, and increased dependence on foreign suppliers.

Mr. President, I certainly take no satisfaction in noting that our most dire predictions in 1973 have come true. When we lost the fight for a trans-Canadian route 6 years ago, by a hair-splitting vote, we tried to flat out prohibit the export of North Slope oil to make sure that it would be equitably distributed within our country. We lost that fight too and the problem is still with us. However, back in 1973, we did at least manage to get language restricting the conditions under which Alaskan oil could be exported. Under the terms of that 1973 legislation, any exports of Alaskan oil, with the exception of those to Mexico or Canada, would have required a Presidential finding, subject to a two-House congressional veto, that such exports would not diminish the quality or quantity of petroleum available in the United States and that such exports would be in the national interest.

In 1976, the Alaskan oil problem was addressed once again when the Congress passed the Alaskan Natural Gas Act. A provision in that bill, sponsored, I believe, by my colleague from Montana (Mr. MELCHER), required the old Federal Energy Administration to recommend a means of expediting the construction of new pipelines designed to distribute Alaskan oil in an equitable manner around the country. Early in 1977, I joined with Senator MELCHER and 14 other colleagues in urging the FEA to live up to its statutory responsibilities. Unfortunately, decisive recommendations were not forthcoming, although FEA did acknowledge that several suggested pipeline proposals were technically feasible and could be made operational within a few years.

Impatient with the clear desire of the oil companies to export Alaskan oil, and the foot dragging on this issue downtown, and, in the face of rumors that possible oil swaps with Japan were in the offing, in May of 1977 I joined with many of my colleagues, who are today supporting the tough provisions in this bill, to prohibit, outright, any export of domestic oil. While our amendment failed to pass the Senate, it carried in the House, with the result that restrictions on Alaskan oil imports placed in the 1973 trans-Alaskan pipeline authorization bill were strengthened.

These new provisions required a finding beyond that in the 1973 bill—that any swaps or exports of Alaskan oil would not result in increases in consumer prices as a consequence of their implementation. Further, it provided that one House of Congress could override any Presidential decision to export or swap Alaskan oil.

Finally, Mr. President, almost 2 years ago, I joined with Senator MELCHER of Montana in introducing legislation designed to stimulate constructon of pipelines to carry surplus Alaskan oil from the west coast to the interior of our country. This bill was meant to expedite Federal permitting processes, better coordinate Federal and State permitting, make these projects a top priority in Federal agencies with jurisdiction over interstate pipelines, and provide adequate, but not protracted, opportunities to challenge these projects in the courts. In other words, our legislation was an attempt to free ourselves from bureaucratic redtape and delay.

Last fall, a modified version of this bill was incorporated into the National Energy Act. The studies that bill required are now in preparation. In fact, the Department of Energy has just released its findings, and was expect the President to recommend one or more pipelines for expedited Federal procedures by the year's end. Loosening export restrictions now, when the administration is ready to act, would be exactly the wrong signal at the wrong time.

Mr. President, permitting Alaskan oil exports now is the best way I know to make sure that these proposed pipelines to carry oil east will never be built. The more we procrastinate in providing for the redistribution of Alaskan oil, the heavier the pressure from the oil companies will be to export it. Let us not forget that back in 1973, the oil companies denied that there would be an oil glut on the west coast, or even that they had any intention of exporting any oil. But, clearly, this has been their preferred option all along. This lingering hope has slowed investments in increased refining capacity on the west coast, and made investors leery of backing proposed west-east pipeline projects.

Mr. President, the most sensible way for us as a nation to take advantage of Alaska's mammoth hydrocarbon reserves is through increased refining capacity on the west coast and constructiton of west-east pipelines. Rather than viewing swaps, as the administration does, as an acceptabale option in the event that these goals are not accomplished, it is high time that we here in Congress make it clear, once and for all, that exports will not be permitted. A clear signal on this issue will do more to remove uncertainty in the private sector about the wisdom of investing in these projects, than hours of moral exhortation. To my mind, we have alreadv wasted 6 years on this. I say it is time to send a message loud and clear to all those watching these deliberations: "There will be no exporting of Alaskan oil so get on with the job."

BALANCE OF TRADE

I think it is also important, Mr. President, that we look very closely at one additional argument made by those who would allow for oil exports—the supposed positive impact that they would have on our overall balance of trade. I have a great deal of trouble accepting the argument that exporting a scarce and precious commodity is the best way to deal with our admittedly troublesome trade deficit with Japan. As a Senator from a State that is desirous of exporting both agricultural and manufactured products, I have spent a good deal of my time recently pondering this situation. I would suggest that exporting Alaskan oil offers more a seductive remedy or "quick fix" for our present trade problems with Japan than a well thought out proposal for addressing this legitimate concern. This problem must be addressed in a more efficient and effective way than by shipping American oil to Tokyo that will be desperately needed in Northern Tier States when the Canadians cut off their oil exports to us in 1982 and which could be used in Indianapolis, where the major oil supplier for that metropolitan area almost had to shut down this winter because of the disruptions in the world oil market. Events in the past 4 months have demonstrated that we can reduce our trade deficit through enforcement of fair trade laws and an aggressive trade negotiating strategy to open more of the Japanese public and prvate market to U.S. exports.

With the perseverence of our trade negotiators, Mr. President, we have seen the dollar recover against the yen, sharp reductions in steel imports from Japan and at least some promise through multilateral trade negotiations that Indiana farmers will be able to export more soybeans and other agricultural products to Japan.

Mr. President, this is certainly not to suggest that our trade problems with Japan have been solved—far from it. It is, however, to recognize that progress can be made on these issues in a way that can have a beneficial long-term impact on strengthening the dollar abroad and defeating inflation here at home without mortgaging our energy security. We can do this without shedding a drop of U.S. oil, which should be used to fuel our own steel mills, and the tractors on our family farms, and not in Japan.

In closing, Mr. President, I again strongly urge my colleagues to support the language the Banking Committee has put in the bill. As I said earlier, it is hard for me to conjure up any circumstances under which I think we should be exporting Alaskan oil. To my mind, the conditions set in this bill regarding exports—that they will not diminish the quality or quantity of oil in the United States, that they will result in lower costs to American refiners within 3 months, at least 75 percent of which will be passed on to American consumers, and that they could be terminated in the event of an interruption of U.S. oil supplies—are absolute minimums necessary to even consider exports. Should the President find that exports would meet these conditions, the Congress would still have an opportunity to evaluate this judgment and both Houses would have to concur in this decision.

It seems to me this is an entirely appropriate exercise of congressional oversight—something we should be doing more of.

Mr. President, at a time when we are asking the American people to recognize our serious energy problems, and asking them to dig down deeper into their pockets and pay more for energy, and asking them to turn down their thermostats and drive their cars less, I do not believe we should give American oil producers the opportunity to export nearly half a million barrels of oil per day to Japan so they can make even greater profits. And I believe that is what this fight boils down to. Such an action would remove all incentive for the construction of pipelines that can efficiently and equitably distribute Alaskan oil throughout the Nation. It would remove all incentive for increased refinery capacity. It can only deepen our dependence on other nations for our energy supplies, increase our susceptibility to economic disruption and political blackmail and deplete a precious and shrinking national resource that we desperately need for ourselves. Further, it will only serve to increase the confusion and skepticism of the American people about the nature of our energy problems and our ability to deal with them equitably.

Mr. President, I hope the Senate will decisively defeat any attempts to delete or weaken the language in this bill restricting exports of Alaskan oil and put this issue behind us once and for all. By so doing, we will send a clear message to all concerned that this Congress wants to see Alaskan oil used at home. This is essential for stimulating investment in new refining capacity and pipelines. I suggest that it is the simplest, most direct and fairest way to make headway on the need to move the vast energy sources of Alaska to the lower 48 so that they will truly serve as a replacement for imported oil, and not as a stimulus to increased imports.

Mr. President, I have just a few additional remarks so we can move on to try to get a vote on this issue. I am hopeful that the Senator from Alaska and the Senator from Michigan can resolve this so we can get about voting on this and move to other items.

It seems to me that at this particular time we are being asked again to decide whether the energy policy of this country is going to be based on what is in the national interest or whether it will be based on what is good for a small vested interest. Some of us stood on this floor when the pipeline issue in Alaska was being debated. We did not say, "Do not build a pipeline," or that we were more concerned about the environment, but what we said was that when the corporations of this country moved to make a major investment to get Alaskan oil to the lower 48, it ought to be distributed in a way to meet the needs of all of our citizens. The pipeline should have ended in the center part of the country, so that States east and west could benefit from it. It does not do any good to say, "I told you so," about the glut. I do not like people who say that. But right now it is time to reinforce what we said then; that if we are short of energy it does not make any sense to take Alaskan oil and ship it to Japan in exchange for Iranian, Indonesian, Kuwaitian, Mexican, or Nigerian oil that we can get anyhow; or buy foreign oil to put into the strategic petroleum reserve in Louisiana. That makes about as little sense as anything we have been asked to do.

We need to have a permanent way to distribute this petroleum. We need to be utilizing that pipeline 100 percent. The price Alaskan oil producers are getting, thanks to OPEC, has increased significantly, providing more than enough incentive to go out and produce more oil on the North Slope.

We need to do what the Senator from Montana, the Senator from Michigan, the Senator from Indiana, and others have been trying to do, get a pipeline built so that Alaskan oil can efficiently get to our part of the country, and the eastern part of the country, instead of being confined to the west coast.

Permitting Alaskan oil exports is the wrong signal to send to the people of this country right now. They do not believe we have an energy problem. They think they are being ripped off by the oil companies. What do we do? We confirm that by doing what the oil companies want us to do with Alaskan oil.

EXHIBIT 1

ALASKA PROFITS BOOM AS OIL PRICES TRACK OPEC'S UPPER TIER

Oil companies producing Alaskan North Slope crude have increased their profits by more than 70% thus far this year by tracking the leading edge of OPEC price increases. After-tax profits on Alaskan sales to the United States West Coast and Gulf Coast markets have soared past $3 a barrel and could reach as much as $4.10 (an 85% jump) when the latest boost is fully applied, according to a Petroleum Intelligence Weekly analysis. Alaskan crude oil prices are effectively free of U.S. price controls and can be sold at world market levels, delivered to West or Gulf Coast markets. The price of Alaskan oil at the wellhead is now between $9.50 and $10.50 a barrel and could move as high as $12.93 under present price control rules.

Alaskan crude oil prices have traditionally been linked with Saudi Arabian Light crude (with some adjustments for quality). But producers are clearly not following Saudi price "moderation" this year. In fact, one company openly endorses a higher $17 a barrel "de facto" price for marker crude, rather than the official $14.55. The higher de facto marker price was first proposed by Algerian Sonatrach's Nordine Ait-Laoussine (PIW May 28, p. 3) and other African OPEC nations and North Sea producers have raised their prices accordingly. North Slope producers are following suit, and one key seller (ironically, a Sonatrach customer) says "Ait-Laoussine's view of the world isn't all that crazy."

Higher Alaskan prices are emerging from a rough-and-tumble of hectic price moves in recent weeks. While the specifics vary depending on buyer and seller, prices are up as much as 40 percent over end-1978, an increase of more than $5 a barrel on both the West and Gulf Coasts. Buyers say Sohio has been the most aggressive in seeking price increases (it has 52.6 percent of the North Slope's 1.22-million b/d, while Exxon and Arco (with 20.6 percent each) are said to be more "moderate." Last year when crude oil was in surplus, Alaskan crude buyers put producers in a squeeze, forcing substantial price reductions. "Those that squeezed hardest then are probably regretting it most now," a supplier notes.

The target price on North Slope contract sales to West Coast buyers is now about $17.80 a barrel. That's $2.00 a barrel higher than the theoretical delivered price of "cheap" Arabian light crude, but a real bargain compared with alternative imported crude supplies. By comparison, North Slope crude, last December, was selling for $1.30 less than the landed price of Saudi Arabian Light. "Even if you could get extra Iranian or Kuwait or Abu Dhabi crude at official prices—and you can't—Alaskan looks good. Compared to $35 spot crude, North Slope is a steal at $17.80," according to a West Coast refiner.

At a $17.80 selling price on the West Coast, producers would reap an overall profit of $4.11 a barrel after tax, PIW estimates. That's at least 40% more than the profit possible on sales to the more distant Gulf Coast markets and explains why producers are moving to boost West Coast sales. Volumes are already up to 875,000 b/d, more than anyone originally expected, and the companies now talk confidently of selling 950,000 b/d in that market as total North Slope production rises to 1.4-million b/d later this year. The limitation is the ability of California refiners to handle relatively high sulfur Alaskan, though this has not proved a major obstacle in recent times. Demand is strong for the crude's larger fuel oil fraction, and refiners are a lot less picky now that crude is short.

Alaskan suppliers are clearly not interested in selling to Gulf Coast buyers at the moment and have cancelled many deals as soon as contract terms allowed. Some have even refused offers to "fully match" West Coast prices, PIW understands. The nominal Gulf Coast selling price sought by some suppliers is now about $18.55 a barrel, leaving producers a very substantial $3.71 after-tax profit. This price is basically connected with Mexico's pricing. One buyer tells PIW: "The Saudi price isn't the basis for the Gulf Coast any more; we're watching Mexico." The big $3 jump in Mexican prices April 1 (to $17.10) was largely the basis for the $2 May jump in Alaskan prices at the Gulf. Much of the Alaskan crude moving to the Gulf is part of exchange deals involving higher quality imported crudes. A large volume also moves to the Virgin Islands refinery of Amerada Hess.

The following tabulation shows PIW's analysis of costs and profits on North Slope oil production based on prices asked and paid in early June. But it doesn't reflect the latest $1 a barrel that North Slope sellers are seeking and West Coast buyers will probably pay. Profits are shown on both crude oil production and the Alaskan pipeline operation, with overall margins presuming an equal share in both sectors (though shares vary among the companies). PIW has selected "typical" prices for each time period, though there are substantial differences due to the confused nature of the market (prices were changed in mid-quarter and even mid-month). The "June" price was typically asked by sellers early this month, though some are still selling for much less. In May, for example, the prices under Gulf Coast contracts varied between $16.38 and $17.10 a barrel.

ESTIMATED TYPICAL TAX-PAID COST AND PROFIT AND ALASKAN NORTH SLOPE CRUDE OIL

[In dollars per barrel]

	Delivered to west coast					Delivered to gulf coast				
	4th quarter, 1978	1st quarter, 1979	April	May	June	4th quarter, 1978	1st quarter, 1979	April	May	June
Delivered price	$12.65	$13.76	$14.41	$15.44	$16.80	$13.30	$14.25	$14.75	$16.75	$17.55
Less: Shipping cost [1]	.90	.95	.95	.95	.95	3.05	2.90	2.95	2.90	2.85
Valdex f.o.b. price	11.75	12.81	13.46	14.49	15.85	10.25	11.35	11.80	13.85	14.70
Less:										
Liability fund	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline loss	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline tariff	6.20	6.22	6.22	6.22	6.22	6.20	6.22	6.22	6.22	6.22
Wellhead price	5.45	6.49	7.14	8.17	9.53	3.35	5.03	5.48	7.53	8.38
Less:										
Royalty (12.5 percent [2])	.60	.73	.81	.94	1.11	.41	.55	.60	.86	.97
Severance tax [3]	.67	.75	.82	.94	1.10	.67	.67	.67	.87	.97
Property tax	.17	.17	.17	.17	.17	.17	.17	.17	.17	.17
Field operating cost	.44	.44	.44	.44	.44	.44	.44	.44	.44	.44
Field financing cost	.22	.24	.24	.24	.24	.22	.24	.24	.24	.24
Depreciation [4]	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85
Oil profit before income tax	2.50	3.31	3.81	4.59	5.62	1.1	2.11	2.51	4.10	4.74
Less:										
State income tax (9.4 percent)	.24	.31	.36	.43	.53	.11	.20	.24	.39	.45
U.S. income tax [5]	1.20	1.52	1.75	2.11	2.59	.57	.97	1.16	1.89	2.18
Oil profit after tax	1.06	1.48	1.70	2.05	2.50	.51	.94	1.11	1.82	2.11
Pipeline profit [6]	1.20	1.30	1.30	1.30	1.30	1.20	1.30	1.30	1.30	1.30
Overall post-tax profit	2.26	2.78	3.00	3.35	3.80	1.71	2.24	2.41	3.12	3.41

[1] Shipping costs to the Gulf of Mexico often involve producers' internal charges and are estimates.

[2] Assumes average 6.5 cents deduction from wellhead price to cover collection and transport to Pump Station 1 before calculation of royalty. This deduction has been challenged successfully in the courts by the State of Alaska but companies are continuing to take deduction on tax returns pending appeal.

[3] 11.7 percent in 1978 and 11.54 percent in 1979, with a minimum 66.5 cents per barrel.

[4] Includes depreciation and amortization.

[5] 48 percent in 1978 and 46 percent in 1979.

[6] After tax. Estimate based on average 1,100,000 bbl/d throughput in 1978 and 1,200,000 currently

Mr. RIEGLE. I yield 1 minute to the Senator from New Hampshire without losing my right to the floor.

Mr. DURKIN. I thank the Senator from Michigan and rise in support of the provisions my distinguished colleague has placed in the S. 737, Export Administration Act of 1979. I appreciate his efforts in opposing the transfer of Alaskan oil to our Pacific competitors under any sort of arrangement. Alaskan oil and Alaskan resources must be preserved for Americans. We must move Alaska's oil east to the New England market now. It is as simple as the rules in cards. I lost a lot of money in playing cards as a young gentleman, in the process of learning that you do not bet on the next card.

The President stood in Portsmouth High School and promised 240 million barrels of home heating oil would be reserved by the 1st of October. They are 20 million barrels behind at this time. Notwithstanding all the assurances of the Department of Energy, the President, and whoever is in the Cabinet today, we are running short of home heating oil this winter in the Northeast.

We have the Alaskan pipeline. If it had not been for the Department of Energy we would have had a pipeline now, or it would have been under construction, to bring that oil east, to the midwestern refineries and to the east coast. To send the oil overseas in the hopes of making up a replacement somewhere else is the height of folly.

I need remind no one in this Chamber that toughening the export restrictions on this valuable commodity—Alaskan oil—is clearly in the national interests. At a time when Americans are suffering from long gasoline lines and reduced stocks of home heating oil, it would be totally unreasonable to export Alaskan oil.

There now exists only a very weak restriction on the export of Alaskan oil. The strong check on the export of Alaskan oil contained within the Export Administration Act expired on June 22. Unless the Congress moves to restore and strengthen these restrictions, it is likely that the President will seek ways to send Alaskan oil to Japan. Permitting such exports, which are being disguised as a "swap" of oil, would be contrary to a sound energy policy and particularly harmful to New Hampshire and New England.

Alaskan oil must be saved for Americans and not shipped to some distant shore to deplete further our declining domestic supplies of energy. I realize that there is a problem in getting the Alaskan oil to the east coast, the area of the country that is perhaps most in need of this oil, but exporting the oil is not the way to solve this problem.

We could be receiving much more of this oil on the east coast if we had a pipeline from the Pacific Northwest to the East. However, ever since the oil started to flow through the trans-Alaska pipeline system, the major oil companies have resisted efforts to build this pipeline so that they might export this oil to the Far East and increase their profits. Passage of this bill will halt this campaign in its tracks and aid considerably in getting this pipeline and other needed facilities built. We must convince the President that the Congress is resolute in its conviction that Alaskan oil not be exported.

Unfortunately for my constituents in New Hampshire and the people of the Northeast, the trans-Alaska oil pipeline has become a monument to the lack of energy planning that existed in this country for so long. The Congress allowed the pipeline to be built in the wrong place at the insistence of the oil companies who naturally assumed that they would be able to ship their product to distant countries. The oil companies stand to make billions of dollars in excess profits by selling the oil to Japan, getting the world price for their product and avoiding the costly transportation charges to send the oil to those areas of the United States where it is really needed. We cannot allow the majors to blackmail the Federal Government into allowing the export of oil because of the shortsightedness of our energy policy in the past. We must not become the captive of those who seek to profit from the crisis rather than solve it.

Mr. President, I would urge all of my colleagues to refuse steadfastly to send American oil out of this country. We must undertake a national commitment of building the necessary refineries and pipelines on the west coast so that this oil can be used for our own internal needs, not the needs of a foreign country. We spend almost $50 billion annually to purchase costly imported oil. Does it make any sense whatsoever to export this oil so that we can increase our dependency on the OPEC nations.

My home State of New Hampshire is at the empty and expensive end of the energy pipeline. The export of Alaskan oil will make a bad situation worse. I urge you to retain this provision in the export bill.

Mr. RIEGLE. I wonder if we can reach a time agreement that everyone could understand.

UP AMENDMENT NO. 431, AS MODIFIED

(Purpose: To clarify provisions restricting export of Alaskan Oil)

Mr. STEVENS. Mr. President, on my time, and I think the Senator yielded to me on that basis, I wish to modify my amendment in section 3, line 4, to delete the words "otherwise subject to this subsection." That is on the last page.

The modification of this amendment is being made at the request of the State Department to insure that there is no impinging upon the agreement with

Israel as far as that provision is concerned.

Subsection 4g(3) of S. 737—the Export Administration Act of 1979—provides that:

> Notwithstanding the foregoing provisions of this subsection or any other provisions of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.

This language exempts from the restrictions on the export of Alaskan oil contained in subsections 4(g)(1) and (2), exports to Israel under our bilateral agreement and exports to fulfill our obligations under the emergency sharing plan of the International Energy Agency.

The phrase "otherwise subject to this subsection" 4(g)(3) limits the exemption of exports to Israel to oil. Covered by this section—presently there is an exemption for Israel in the OCS Act but that applies only to agreements existing in February 1977. At present, if our commitment were activated and we had to make U.S. oil available to Israel, we believe that providing Alaskan oil would best suit United States and Israeli interests. However, this may change over the course of our 15-year commitment. The President may decide that providing oil from another source would cause less disruption to the U.S. economy or the U.S. energy market. If the phrase "otherwise subject to this subsection" were removed from 106(3), the United States would be able to export the oil which best meets our interests.

I would like to delete the phrase "otherwise subject to this subsection." The effect of this amendment will be to allow the export of U.S. oil from any source to Israel under our bilateral oil supply agreement of March 26 and its implementing arrangements. Presently, the bill exempts just the export of Alaskan oil to Israel from the restrictions of this and previous legislation. If our commitment to Israel were activated now and we had to make U.S. oil available to Israel, providing oil from Alaska might well be the best way of fulfilling our commitment. However, over the course of this 15-year agreement, the President should have as well the authority to allow the export of oil from a non-Alaskan source if that would be most easily absorbed by the U.S. energy market and better suit the interests of the United States and Israel.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. JAVITS. Reserving the right to object, Mr. President, and I will not object——

Mr. STEVENS. This is just a modification.

Mr. JAVITS. I would like to ask Senator RIEGLE if he will do the same thing respecting any part of what is contained in the bill which relates to the same problem.

Mr. RIEGLE. I am sorry, I do not believe I understood the question.

Mr. JAVITS. The problem that Senator STEVENS is now dealing with enables the United States to fulfill its contract with Israel which runs for 15 years, even though the oil may not be Alaskan oil. That is quite a proper amendment. The question I ask is this: Is the Senator prepared to do the same thing as to the bill?

Mr. RIEGLE. It is certainly my intent to accomplish the same objective.

Mr. JAVITS. That is all I need to know. I have no objection.

Mr. STEVENS. I ask that my amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

> On page 74, line 22, insert new section (g) as follows:
>
> (g) (1) Notwithstanding any other provision of this Act, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the requirements of either subsection (u) of section 28 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 185), or section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must meet the price standard of paragraph 2(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.
>
> (2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—
>
> (A) The President makes and publishes an express finding that exports of such crude oil, including exchanges—
>
> (i) will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;
>
> (ii) except for minor impacts due to quality or gravity adjustments, will have no adverse impact on wholesale or retail prices of products refined from such imported crude oil;
>
> (iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;
>
> (iv) are in the national interest;
>
> (v) are in accordance with the provisions of this Act; and
>
> (vi) in the case of crude oil which is transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653), the oil to be exported consists of volumes in excess of that which was so transported on an average daily basis during the thirty days preceding July 1, 1979; and
>
> (B) The President submits reports to the Congress containing findings made under this subsection and after date of receipt of such report, the Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's findings concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.
>
> (C) Paragraphs 1 and 2 shall remain in effect only until July 1, 1980.
>
> 3. Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271): *Provided further*, That, the President promptly notifies Congress of each such agreement.

Mr. STEVENS. Mr. President, I just want to make a brief statement and then yield to two of my friends who wish time.

In answer to the Senator from Montana, I call attention to the provisions which state categorically that the President must make and publish an expressed finding that such an exchange will not diminish the total quantity of petroleum refined within, stored within, or legally committed to be transported to, or sold within the United States.

The charge that this would in any way reduce the supply of oil is fallacious. As a matter of fact, until we are certain that we can transport this oil once it is produced, the 800,000 barrels a day that could be increased in this next calendar year will not be available in the United States.

I support the Northern Tier line. I am surprised at my friend from Montana. The production must be there before it can be financed.

Mr. MELCHER. Will the Senator yield?

Mr. STEVENS. I am delighted to yield to my friend from North Carolina for 1 minute or whatever time he needs, 2 minutes, and to the Senator from Illinois after that. Again, we are doing so without the Senator from Michigan losing his right to the floor. I am prepared, following their comments, to agree that we would vote on the tabling motion of the Senator from Michigan at 5 minutes of 3 with neither of us yielding back the remainder of our time, if that is agreeable.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. I have discussed this with Senator BAYH, who indicates it would be agreeable with the Senator from Michigan (Mr. RIEGLE).

I ask unanimous consent that a vote occur on the motion to table at 5 minutes to 3.

Mr. STEVENS. If it is on the condition that we evenly divide this time, because I have commitments to Senators STEVENSON, PERCY, and HELMS. I shall take no more time myself.

Mr. ROBERT C. BYRD. Yes, with the understanding that the 15 minutes be equally divided and controlled in the usual form, and that the tabling motion be in order even though the time has not been yielded back.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none.

Without objection, it is so ordered.

Who yields time?

Mr. STEVENS. I yield to the Senator from North Carolina first, then to the senior Senator from Illinois, and then to the junior Senator from Illinois.

Mr. HELMS. Mr. President, I thank the Senator from Alaska for yielding to me.

Recently I learned the details relating to a lack of refining facilities and transportation pipelines that has resulted in Alaskan oil not being produced or developed as rapidly as would otherwise be the case.

Specifically, I am informed that production capacity of the North Slope field is presently at a 1.5-million-barrel per-day level, but actual production is only 1.2 million barrels per day.

The stated reason for this was the lack of facilities to refine the oil on the west coast and the lack of pipelines on the west coast to carry the heavy Alaskan oil to refineries in the interior of the United States.

After assessing Senator STEVENS' proposal, I view it as only a temporary situation to be in effect only until we can build additional refining capacity on the west coast or a pipeline to carry this oil to America's inland refineries.

Having said that, I should emphasize that I do not believe that it is in America's long-term or broader interests to permit a long-term oil sales program to Japan, although there may be some temporary and short-term benefits. And I believe that it would be a great misfortune if Alaskan exports of oil to Japan result in a failure to build the pipelines and refining facilities which are so necessary to process Alaskan oil in the United States.

Let me explain why I feel so strongly about this:

In my view, the superficial economies and short-term benefits which appear to be offered by a long-term oil sales program to Japan are completely overridden by broader and longer term considerations. I am convinced that the so-called swap arrangements with Japan on a long-term basis would not be America's best interests.

In the past we have seen a certain amount of erratic behavior on the part of this administration concerning energy policy. And while I hope the administration eventually does the right thing as far as energy is concerned, I believe that it is important for the Congress to make its own views on important parts of America's energy policy crystal clear.

One of the most important aspects of today's energy policy is the whole question of Alaskan oil. Some have advocated a permanent sales program to Japan, and to other countries, because of the difficulty in transporting Alaskan oil to midcontinent refineries where it could be converted into gasoline, heating oil, and other products urgently needed by the American people.

This may be justified on a temporary basis but, I believe the Senate should make it clear that it believes that our Nation's interests would not be best served by a long-term program of sales of Alaskan oil to foreign countries.

No one knows for sure what the production potential of Alaska might be. But there is one thing upon which there is virtually unanimous agreement: Alaska has significant promise for future oil discoveries and expanded production. If America is ever to achieve a greater degree of energy independence, clearly, Alaskan oil must play a prominent role.

At present, many experts appear to believe that Alaskan oil is not being developed as rapidly as might be the case. And there are a number of bottlenecks, according to these experts. Until recently, leasing in some areas has been held up. In California, a pipeline proposed by the Sohio Co. to transport Alaskan oil to the large midcontinent oil refineries was delayed for years by the requirement for literally hundreds of permits and environmental procedures. Eventually the entire project was scrapped. And today, it appears that the full capacity of California's refineries is being used to process the limited quantities of oil now coming from Alaska and elsewhere.

It would seem to me to be prudent for the United States to be taking steps to increase its capacity to transport and process oil on the west coast.

Part of President Carter's energy program calls for the rapid exploitation of the massive deposits of very heavy grade California petroleum. Assuming this project actually happens—and I have reason to believe it may—the resulting crude oil will swamp suitable existing refining capacity on the west coast.

Rather than exporting Californian and Alaskan oil to Japan or elsewhere, I urge, as part of the President's new energy initiatives, that Governor Brown, in the interests of the Nation and in the interest of Californians, be encouraged to facilitate the construction of a pipeline to the Texas and Oklahoma refineries so that greatly increased amounts of Alaskan and heavy Californian oil can be refined and used directly by the people of the United States.

This project should be near the very top of the list of projects to be handled by the President's proposed new Energy Mobilization Board—whose very purpose is to cut through redtape on projects exactly like this one.

There are a number of reasons why I urge we follow this course of action—and refine our own crude oil rather than selling it to Japan or other nations.

In the first place, the entire rationale behind the construction of the Alaskan oil pipeline was to permit Americans to use this oil. At the time the pipeline was under consideration, environmentalists claimed that the whole pipeline was unnecessary because the oil companies planned to sell most of the Alaskan oil to Japan anyway. This was denied in the strongest terms by the American oil companies at the time, and after some delays, the pipeline, with a potential capacity of 2 million barrels per day, was actually constructed, at great cost.

Sadly, the pipeline has never to this day been used to its full capacity. Because of a lack of suitably equipped refineries on the west coast to process this oil, and the unfortunate delays which blocked early attempts to build unloading facilities and pipelines to carry the oil to the huge inland refineries, Americans have not been able to take advantage of the Alaskan oil to the extent that had been earlier envisioned.

Instead, we are importing extra oil from the Middle East, and putting added strains upon our balance of payments.

Now, what is wrong with selling Alaskan oil to Japanese?

Well, in the first place, these fields will then be rapidly exploited. Japan, like the United States, has a vast appetite for oil. So with Japan's unlimited requirements, Alaskan oil fields can become rapidly depleted. And, given the unsettled state of the world, I am not sure that this is really in American interests.

More importantly, however, it is becoming increasingly clear that oil on the international market is beginning to carry not only a heavy and direct purchase price, but also heavy additional indirect costs and political price tags. Take three recent cases:

First. The nations in the Middle East have made it quite clear that unless there is progress on the West Bank, the United States may find it difficult to obtain oil supplies in required amounts from that quarter.

Second. Nigeria recently threatened to reconsider its oil sales to the United States if we were to drop sanctions and recognize Zimbabwe-Rhodesia.

Third. Mexico has made it abundantly clear that increased access to Mexican oil by the United States will probably require the United States to permit large-scale immigration of unemployed Mexicans into the United States, and equally important, much more open access to the American market by Mexican manufactured and agricultural goods. Thus, in the case of Mexico, the United States will not only have to pay to Mexico $7 billion per year for every million barrels per day of oil that we import, but we will also have to shoulder the additional billions of dollars of balance of payments that will come from imported Mexican manufactured and agricultural goods.

Here, there is also an indirect price tag. Increased Mexican export of manufactured goods to the United States means fewer jobs for Americans, and unless the process is carefully controlled, it also means increased unemployment and labor unrest. Finally, increased Mexican immigration in the United States also means higher demands for energy in the United States. Although every additional million immigrants from Mexico contributes in some measure to the American economy, they also obviously require additional millions of barrels of oil for the gasoline which they use to run their cars, the fuel to heat their homes, and for the energy requirements of their jobs, schooling, and so forth.

Thus, increased access to Mexican oil, with its potential double-whammy extra price tag on balance of payments, increased immigration, and import of manufactured goods, is also no simple or cheap solution to our oil requirements.

What I am suggesting here is that there are big liabilities, both political and economic, to our continued dependence on imported oil. And, because of the long leadtimes required to change this situation, we are very foolish to mortgage our future to an increased extent by selling U.S. oil to Japan, and thus increasing our own future dependence on imported oil with the political price tags and indirect costs associated with it. I urge instead that we move rapidly to increase our ability to use our own oil.

There is, however, a second problem associated with the selling of our Alaskan oil to Japan.

For years now, U.S. trade negotiators have been unhappy about the fact that the trading relationship between the United States and Japan is not only grossly out of proportion from a balance-of-payments point of view, but more importantly, they have become increasingly concerned about the structure of this trading relationship, which has increasingly taken the form of the classic colony—motherland trading relationship.

That is, cheap raw materials from the colony are traded in return for expensive processed manufactured goods from the mother country.

At the same time, the mother country prevents manufactured goods from being imported from the colony by a combination of tariffs and nontariff barriers of various kinds.

Except for specialized super high technology items, this is exactly the economic relationship which Japan has increasingly developed with the United States. And from the Japanese point of view, this is just great. Japan buys from us logs, raw grain and cereals, soy beans, cotton, coal, metal ores and scrap metal, raw skins and hides, pulp wood, et cetera. Japan runs these raw materials through her manufacturing plant, and then exports the resulting goods to the United States in the form of finished steel, television sets, textiles, et cetera.

Now, a certain amount of this is acceptable, even desirable. But when major American industries—such as the electronics and television industries—are pushed to the point where serious unemployment and structural harm is beginning to occur, then it becomes important to change the situation.

Right now, Japan is under the gun to make major changes in her own economy to permit American manufactured goods and farm products to be sold at a fair price on the Japanese market.

Our negotiators can now point to the enormous gap in our balance of payments, and rightly demand that Japan take corrective action to prevent discrimination against American manufactured goods and agricultural products in Japan.

But, if we permit Japan to purchase our oil, then although the bilateral balance of payments problems with Japan will be eased, our overall balance of payments will be worsened.

And our trade negotiators' efforts to get the Japanese economy opened up to American manufactured goods and other products will be undercut.

We will then have the worst of both worlds: A balance-of-payments problem that is worsened—but the trading partner which is causing much of our problem with its aggressive export programs and domestic protectionist measures—will be able to point to our bilateral trade accounts and say that it is not their fault, that our balance of payments problems are with the Persian Gulf, Mexico, et cetera.

Then, more American industries will be weakened, our unemployment problems will worsen, and only the Japanese will have gained.

In my own view, Japan already profits more than she should by her relationship with the United States. The U.S. taxpayers are shouldering much of the burden of the defense of the free world, including Japan.

But our ability to continue to defend the free world depends to a large degree on the health of the American dollar.

Balance-of-payments problems are undermining this dollar, and it is a combination of energy payments and Japanese protectionism which contributes massively to the dollar's present woes.

It is, therefore, essential in my view that we prohibit the export of crude American petroleum, except under very special and controlled circumstances. We have a commitment to our allies to sell oil in the event that certain disasters should strike. We should keep these commitments, under most circumstances.

But an open-ended oil export program, in my view, is a classic case of being pennywise and pound foolish. For the sake of small economies in transport, and for the sake of slightly increased profits for the oil companies which the immediate sale of Alaskan oil to Japan would facilitate, we are endangering broader and vastly important long-term American interests.

In summary, then, I urge the Senate to exert its leadership in pushing for every possible means to keep American oil in America for Americans. Let us rapidly build the pipeline and loading facilities which are necessary to transport the Alaskan and west coast oil to the inland refineries for subsequent use by the American people. Then the question raised by this amendment will be moot, and the best interest of the American people will be served.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I know that this issue is filled with emotion. We have seen evidence of that right on the floor. It is subject to great misunderstanding in the country.

There is no misunderstanding, any longer, I believe, that we have an energy crisis. There is no misunderstanding that we need now to cut through an awful lot of things to have maximum flexibility. The problem with the bill as it now stands is that the process involving swaps would make them almost impossible. I think the administration supports this Stevens amendment because maximum flexibility is required. The Senator from Illinois supports it because I think we need maximum flexibility.

This amendment is good for the consumer, and good for the producer and, I think, is an amendment supportive of the national interest to provide the maximum flexibility that we need to face the crisis we have today. For that reason, Mr. President, I support the Stevens amendment and urge its adoption.

Mr. STEVENSON. Mr. President, I opposed the location of the pipeline in Alaska. I oppose decontrol of oil. I do not come from Alaska. And I support this amendment.

It is the policy of the United States to increase exports. It is also the policy of the United States to increase oil production. This amendment serves both of those objectives.

It only applies to increases in production from Alaska. It would only permit transfers of volumes in excess of those now flowing through the pipeline. So it cannot decrease production. By creating a market for additional production, it will increase oil production. In doing so, it will increase world oil supplies. That has the effect of putting pressure downward on the world oil price, with benefits for everybody, including the American consumer, including all the people of the United States, not just those in Alaska.

If necessary, of course, the swaps that are authorized by this amendment could be terminated. If there were ever an emergency situation or any event which interrupted the supplies or threatened shortages in the United States or any region of the United States, the swaps could be interrupted and the Alaskan oil made available.

The fact of the matter is that there is no way of absorbing the increased production that is possible from Alaska. Unless this amendment is adopted, the oil is going to stay in the ground. In the ground, it benefits no one, least of all the people of the United States. This amendment, Mr. President, is also, for those reasons, supported by the administration.

Mr. STEVENS. Mr. President, will my friend allow me to find out how much time I have left?

Mr. RIEGLE. Yes.

Mr. STEVENS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. STEVENS. At such time as is convenient to the Senator from Michigan, I yield to the Senator from New Mexico.

Mr. RIEGLE. I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my friend from Michigan. I support him enthusiastically.

Mr. President, we ought to ask ourseves, what is the reaction of our own constituents? Can you imagine going out on the streets in Oshkosh and Milwaukee and saying you favor our export of oil to Japan? They would laugh you right off the street. This is one issue that is very clear in my State, no question about it.

I think the Senator from Michigan has answered all the real problems here. The real beneficiaries from this are going to be (a), the oil companies; and (b), the State of Alaska. Americans are going to have to pay more, we are going to have less gas, less reliable and high-quality gasoline, no question about that, and oil.

I hope that the position taken by my friend from Michigan and others will be supported and the amendment will be defeated.

Mr. RIEGLE. Mr. President, I yield 2 minutes to the Senator from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. President, certain provisions of S. 737, the Export Administration Act, prohibit an export or exchange of Alaskan oil unless several stringent findings affecting oil supply security and consumer interest are made by the President and the proposal is submitted for congressional approval.

I support this committee language because it is necessary to reduce our dependence on foreign oil by encouraging domestic means of efficiency handling Alaskan oil.

There is a Northern Tier pipeline proposal now moving forward that is of real significance to my area of the United States. Its completion will mean a great deal to the long-range benefit of the Midwest States, specifically, and to the United States, generally.

I am concerned, Mr. President, that this area not be impacted adversely. That is one of the reasons why I think the committee language should be maintained.

How did we reach this sad state of affairs where we even consider an export of this vital natural resource?

How is it that, in the face of a severe crude shortage and skyrocketing prices, there are those who advocate exporting Alaskan oil through some convoluted exchange mechanism?

The basic reason, I submit, is that—early on—we failed to differentiate between the national interest and the interest of several major oil companies.

Specifically, Congress was mistakenly led to believe that a Trans-Alaskan pipeline was preferable to a plan that would have brought Alaskan oil to where it is needed—the Midwest and East. And, I might add, many of the same voices that urged us to build Trans-Alaskan are now equally supportive of an export.

The National Journal was correct when it described as a "great irony" the fact that, 10 years after discovering America's biggest reserve of oil and gas under Alaska's North Slope, neither the companies nor the Government have figured out where or how to sell it all. Incredibly, after spending billions of dollars to construct a pipeline in Alaska that was supposed to help meet California's needs, we find that California is unable to use all of that crude. What California cannot use—the so-called glut which currently amounts to about 300,000 barrels per day—is shipped through the Panama Canal to eager buyers on the gulf and east coasts.

Lest I be misunderstood, Mr. President, I emphasize, all available Alaskan crude is being used in the United States; the problem is the oil is not going directly to where it is needed, the Midwest and East. The additional transportation costs resulting from the longer, more costly ocean route must be absorbed by the producer. These costs cannot be passed along to the consumer because the producers already receive top dollar for every barrel of oil. This is because ANS crude is effectively free of any control, and its price mirrors OPEC prices.

In the case of Alaskan oil, the main producers are Standard Oil of Ohio (Sohio)—the same corporation that recently abandoned the plan to retrofit the pipeline from California to Texas—Exxon and Arco.

To relieve the oil companies of the burden of transporting ANS crude to the gulf coast, the administration has proposed sending the oil to Japan in an exchange arrangement where the United States would receive oil that otherwise would have gone to Japan. Producer profits will rise to still greater levels and, so goes the argument, production will increase. The economics of the situation are intriguing. In order of profitability, an export ranks first then a west-to-east pipeline and lastly shipping the oil through the Panama Canal.

An export, as opposed to the canal route, would increase producer profits by about $2 per barrel. What is more unsettling is that an export is also more profitable than transporting the oil through a pipeline. According to a recent Department of Energy study, Sohio stands to make 70 to 90 cents more per barrel by exporting than by building and using a pipeline. In short, exports will always be favored by the oil companies to the exclusion of finding more efficient means of handling Alaskan oil domestically.

And, at the same time that oil company proponents of Trans-Alaska pipeline system were assuring us or California's ability to absorb full Alaskan North Slope production, they were also denying any intention of exporting ANS crude to Japan. Yet, a close examination of the record shows that early on oil companies recognized the attraction of the Japanese markets and took steps in that direction. For example, in 1970, Edward L. Patton, president of Alyeska Pipeline Service Co., submitted confidential estimates to the Interior Department targeting 25 percent of North Slope crude for sale beyond the west coast of the United States, including direct sale to Japan by 1980.

In that same year, Phillips Petroleum president, John H. Houchin, proposed that Alaska oil be exported to Japan in exchange for that country's share of Persian Gulf oil. Similarly, Atlantic Richfield quickly detected the attraction of oil sales to Japan. Rollin Eckins, Arco's vice chairman, in a 1970 presentation to the Alaskan science conference said that Japan would be willing to pay a premium for a secure supply of Alaskan oil.

In view of this history, Mr. President, some observers of oil company behavior were not at all surprised when, contrary to earlier public estimates by the oil companies, a surplus of Alaskan North Slope crude appeared on the west coast and the idea of an export was revived.

We are now told to ignore this tortuous history and instead to concentrate on the future, specifically, the need to export and to increase producer profits.

While I agree wholeheartedly that we should not make policy on the basis of exacting a pound of flesh for past transgressions, it would be equally foolhardy to disregard the clear lessons of recent history.

There are times when what is good for the oil companies is not good for the great majority of America. The legislation before us presents such an occasion.

Restricting exports, while contrary to the interest of the oil companies, is absolutely imperative if we are to stimulate those developments that will put us on the road to energy independence.

Mr. President, I urge my colleagues to support the provisions affecting Alaskan oil in S. 737—as reported by the committee—and to oppose any weakening amendments.

Mr. JAVITS. Will the Senator yield time to me?

Mr. RIEGLE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, at the bottom of page 76 of the bill, line 25, the words appear, "otherwise subject to this subsection." For the same reason that Senator STEVENS struck them from his amendment, because it does interfere with something nobody intended to interfere with, I ask unanimous consent that they may be stricken from the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time. I know the Senator from Alaska wanted to use the remainder of his time.

Mr. STEVENS. Let me yield briefly to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Alaska has 3½ minutes remaining.

Mr. STEVENS. I yield such time as he may need to the Senator from New Mexico.

Mr. DOMENICI. I shall try to be brief.

Mr. President, let me say to my good friends on the Senate floor, many of whom have argued against the Stevens amendment, that in this Senator's opinion, so long as the discussion about the energy situation in the United States continues to receive attention in the way it is receiving attention here today, we are not going to solve the energy problem. That is because most of the positions being taken have nothing whatsoever to do with American energy independence, but have to do with picking on somebody or blaming somebody or being really concerned that somebody is going to make a profit.

Let me tell you, this amendment says that we will not swap—and I call to your attention that swapping means at least a barrel for a barrel. So in the swap itself, how can you lose?

Second, it cannot occur if you are cutting America's oil imports. That is in it. So it must be for more oil rather than less.

Now, let us sit here today and talk about those obscene oil companies and do the ridiculous: Let us add $3 or $4 a barrel in transportation costs just because we want to be sure, positively sure, that we do not let a couple of steamers cross the ocean and we bring one to us that is closer, started out closer to us, so it ought ultimately to be cheaper for the cutting of costs of transportation. Do not do that because some oil company might make some money. So you ought to support Senator RIEGLE.

Mr. STONE. Will the Senator yield?

Mr. DOMENICI. Yes, I only have 30 seconds remaining.

Mr. STONE. I shall be brief.

Is it not true, if this amendment passes, we would have an increased leverage to work something out for increased Mexican production?

Mr. DOMENICI. Precisely.

Mr. STONE. Not only oil, gas?

Mr. DOMENICI. Precisely.

Tie the hands of the President so it will be harder to make any deal with Mexico. But in 2 or 3 years, we can come back and say, however, that we did not let anybody make an extra penny on this because we needed to bring every bit into America, whether it was economically right, or the thing to do to our President.

I close by saying that I am certain President Carter really wants this authority to let American oil companies get rich.

Mr. STEVENS. Mr. President, I have committed a minute to my good friend, Senator JEPSEN.

Mr. JEPSEN. Mr. President, the problem is that there is a "glut" of oil on the west coast of the United States. This is due to environmental restrictions which effectively prohibit the building of new refineries or pipelines to the central part of the country. Thus we are presently unable to effectively use Alaskan oil. It is believed that if the oil could be efficiently transported and refined that the Alaskan oil fields could substantially increase their output.

From this situation the idea of a swap arrangement has arisen. We would swap Alaskan oil to the Mexicans or Japanese in return for Mexican oil or oil the Japanese had previously contracted for. The result would be a much more efficient use of available oil resources and the United States would not lose one drop of oil.

It is unfortunately not feasible to transport the oil from Alaska to the gulf coast, where it could be used, because only small freighters can fit through the Panama Canal, rather than the more efficient supertankers which bring oil from the Middle East. It is possible that a pipeline may still be built through Canada to bring Alaskan oil to the Lower 48, but this is not certain and is many years away anyhow.

In conclusion, I think you should support amendments to the Export Administration Act to allow for swap arrangements for Alaskan oil.

Let us do something in this Senate for a change that is commonsense.

Mr. STEVENS. Mr. President, if I have 1 minute remaining, let me again state that this amendment is necessary to allow my State to increase production of oil by 800,000 barrels a day.

Today we are producing 1.1 million barrels a day. We have a pipeline designed to carry 2 million barrels.

Unless we are assured there would be a way to transport and effectively use that oil in the United States, and by agreeing to this amendment we will increase the availability of oil in the United States, then I do not believe the investment will be made to increase the pumping capacity or increase the production of the wells required to make certain we use the pipeline to full capacity.

Mr. RIEGLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. RIEGLE. I yield a minute-and-a-half to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Mr. President, the question of production is a red herring. With the world oil prices at $20 a barrel and moving upward, we are going to produce all the oil we can find in Alaska and ship it.

What this fight is all about is a fight between big oil and American seamen. It is not even big American oil. It is BP, which is British Petroleum, which owns over half of that Alaskan oil.

The question is, do we give BP more profit or put it in the hands of American seamen, because American seamen, under the Jones Act, of course, have to go in American flagships. That is what the question is all about.

It is a tough question because it is a question of economic efficiency.

I come down on the side of American seamen because American jobs are involved.

We are not going to do anything for the American consumers by leasing them to Japan.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. Mr. President, I want to say, in addition to the comments of the Senator from Louisiana, it is currently U.S. policy to keep U.S. crude in the United States, and it is by reason of the fact that we need it.

There is no gain to consumers in the proposition put forward by Senator STEVENS. Yet, he says this is needed to increase production.

The oil companies already announced, without any export action being taken, they plan to increase production this year to 1.6 million barrels. As stated by the Senator from Louisiana, with the price levels being what they are, and rising, every drop that can be produced from Alaska will be, and it will be used.

So I find the situation is that all we can do, if we adopt the Stevens amendment, is to hurt the United States because we do not have any oil for export today that we can afford to let go.

It would benefit Japan. I grant it would. It would make it easier for Japan to receive oil at lower prices than otherwise.

But I do not for the life of me see how that creates any advantage for the United States.

I would like Mexico to view us as their principal market and not the Japanese.

Finally, if we are going to have a pipeline in the Northern Tier, we will have to count on all the Alaskan oil.

Several Senators addressed the Chair.

Mr. RIEGLE. Mr. President, due to a longstanding speaking engagement of great importance to his State, the junior Senator from Alaska (Mr. GRAVEL) was unable to be present for this Saturday session. However, those provisions of S. 737 relating to the export of Alaskan oil are of serious concern to him, and he has asked that I submit on his behalf prepared remarks on this subject. I therefore ask unanimous consent that there be printed at this point in the RECORD a statement by the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement is as follows:

STATEMENT OF SENATOR MIKE GRAVEL OPPOSING S. 737 AND THE BAN ON EXPORTATION OF ALASKAN OIL

In 1973 the proven oil reserves of this country totalled over 36 billion barrels with domestic production of 9.2 million barrels per day. Today our reserves have fallen to less than 29 billion barrels while domestic production has declined by 800,000 barrels to 8.4 million barrels per day. During this same period, we have seen the President shift his emphasis from an energy crisis to a crisis of confidence. However, Presidential misdirection of energy policy is not the only reason for declining reserves. With the one exception of approval of the trans-Alaska pipeline, legislation by the Congress has done nothing to improve the concoction of regulations which has passed for energy policy in this country.

S. 737 is a continuing example of the energy menu which has been served to the American people. I have long opposed the prejudicial treatment of Alaska's North Slope resources which has surfaced from Congress to Congress since 1973. This bill, like its predecessor, restricts the ability of Alaska to export its surplus oil production. Unlike its predecessor, S. 737, with its series of criteria and one-house veto provision, results in an outright prohibition on any export, regardless of the net advantage to the United States.

The arguments supporting export are persuasive. Export could ultimately improve our balance of trade by billions of dollars, with the dollar-yen exchange rate showing favorable activity immediately.

Export would also mean that more North Slope oil would be produced. The TAPS line today is operating at less than its design capacity, flowing at a rate of 1.2 million barrels per day with a potential of 2.0 million barrels. Even at this rate there is a glut of oil on the West Coast of over 200,000 barrels per day. The glut is now transshipped through the Panama Canal at much higher transportation costs than it would obetain were an exchange with Japan initiated. The only existing plan for a West-East pipeline can accommodate only the existing West Coast glut. Therefore, if the domestic production capacity of the country is to be increased, export of excess Alaskan oil is the only reasonable course. Not only would domestic production be returned to its 1973 high, but the 800,000 barrels per day which are not being produced represent a potential of $6.336 billion per year to offset our deficit with Japan.

From my State's standpoint, export could mean new pipeline construction spending, as well as additional oil revenues, on the order of $500 million per year. The expansion would also allow increased production from proven reserves, as well as expanded programs of exploration.

Many months ago I wrote President Carter expressing my concern about the energy policy and urging export. I pointed out that North Slope oil is of no use to the United States, either in trade, in domestic consumption, or in an embargo emergency, if the infrastructure to bring it to market does not exist. That domestic infrastructure does not exist today, and it will not until its cost can be justified. The West Coast oil glut makes it impracticable now to expand the pipeline to full capacity. Export to Japan would make the expansion possible.

I continue in those sentiments and strongly oppose the export prohibition contained in S. 737.

● **Mr. INOUYE.** Mr. President, in your committee report on S. 737, specifically on page 14, within the section of the report pertaining to the export of Alaskan crude oil, we are told that the committee feels that there should be increased refinery capacity on the west coast, especially capacity which will be able to utilize Alaskan crude oil and produce unleaded gasoline and other light transportation fuels. We are told on that same page 14 that the committee believes that—

> The Department of Commerce, should in carrying out its responsibilities under Section 4(g), review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naptha (sic), refined in new or reconfigured refineries. For example, the Department should not interpret any provision of S. 737 in a manner that would preclude the export of petrochemical feedstocks, including naptha (sic), if such export would facilitate the construction of a new refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.

In my State of Hawaii, a refining company which has historically processed 100 percent imported crude oil has been seeking Alaskan crude oil to use in a projected expansion of its refinery capacity. The use of Alaskan crude oil in the expanded portion of this refinery would stimulate the use of domestic oil in Hawaii, which has been almost 90 percent dependent upon foreign sources for its crude oil.

Hawaii has a heavy demand for transportation fuels—jet fuel, gasoline and diesel fuel—for its tourist-oriented economy and has minimal needs for residual fuel oil. The fuel balance situation in Hawaii is further compounded by the military needs for the same fuels. The refineries in Hawaii are unable to make a sufficient quantity of required transportation fuels without producing an excess of other products especially residual oil.

Due to the composition of available Alaskan North Slope crude oil its use in Hawaii's refineries would result in the production of high sulphur residual fuel oil as a byproduct of the refining process. United States environmental restrictions preclude the marketing of high sulfur residual oil on the west coast, therefore, the only market available for residual fuel oil of such a sulphur content—1.74 percent sulphur by weight—would be in the export market.

I believe that we can help to stimulate production of domestic crude oils, provide products which meet stringent environmental regulations to U.S. firms and provide additional fuels of the types required to meet both civilian and U.S. military defense needs in Hawaii. This can be accomplished by utilizing Alaskan crude oil in incrementally increased refinery capacity.

I, therefore, submit that the intent of the committee as outlined in the report language on page 14 would be enhanced by the addition of "refinery byproducts including high sulphur residual fuel oil," to the provision instructing the Department of Commerce in carrying out its responsibilities under section 4(g) to review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naphtha refined in new, or reconfigured refineries and that this provision should be applied to expanded as well as new or reconfigured refineries. Is that consistent with your view?

Mr. STEVENSON. The senior Senator from Hawaii is correct. We want to encourage the utilization and refining of Alaskan crude in west coast and Hawaii refineries and the export of certain byproducts in surplus in our western domestic markets should be assured. For example, the Department should not interpret any provisions in S. 737 in a manner that would preclude the export of refinery byproducts including high sulphur residual oil, petrochemical feedstocks, including naphtha, if such export would facilitate the construction of a new or expanded refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.●

PRESERVING ALASKAN OIL FOR THE UNITED STATES

● **Mr. McGOVERN.** Mr. President, I rise in support of maintaining the existing language of the Export Administration Act amendments as reported by the Committee on Banking, Housing, and Urban Affairs.

In light of the enormous implications which Alaska oil exports would have on our precarious petroleum supply picture, we cannot condone either exports at this time or give the President complete authority to authorize such exports.

Congressional control is essential.

The basic underlying premise of the Export Administration Act is to protect the domestic economy from an excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal demand. This policy has become more important today than at any other time since this act was first implemented 10 years ago.

Clearly, the intent of Congress when we passed legislation to provide for the transportation of Alaskan oil, was to mandate that Alaskan crude would be used domestically—to ease our shortages, reduce our dependence on foreign imports, and to assist in restoring our devastating balance-of-payments problem.

Both the congressional intent of this legislation and U.S. policy under the Export Administration Act, as well as our energy security objectives would be dangerously jeopardized by any attempt to export Alaska North Slope oil at this time.

In point of fact, the administration, in 1977, rejected the option to exchange surplus North Slope crude with Japan, despite the anticipated transportation savings. The administration cited very convincing reasons for their decision—including the fact the consumers would probably not realize any benefit from the anticipated transportation savings.

A recent GAO report stated that,

> Given the uncertainty and concerns associated with the exchange agreement as outlined above, in the interim, continued shipment of oil through the Panama Canal to the Gulf and East Coasts would appear to be the most sound course of action.

I urge my colleagues to support the existing policy and language contained in the Export Administration Act.●

ALASKAN OIL AND ENERGY INDEPENDENCE

● **Mr. CHURCH.** Mr. President, with this bill we have the opportunity to help place our country on the road to energy independence. Alaskan oil is a vital part of our Nation's energy strategy because it represents over 13 percent of our domestic reserves. Congress has played a part in each stage of the development of Alaskan oil. Congress approved the route for the Trans-Alaska pipeline; Congress provided the necessary right-of-ways; Congress lifted price controls to stimulate production and now Congress must decide if we are to keep the oil for domestic use or export it overseas. It would be tragic to have gone to such enormous effort to develop this vital resource only to have it slip through our fingers.

Recent OPEC price increases have spurred another round of inflation. Each new economic forecast projects a recession. I am concerned that very soon the Senate will be confronted with inflation and rising unemployment as our people are thrown out of work as business feels the shock of the latest OPEC price squeeze. We need an energy strategy before it is too late; a strategy that protects our citizens from reliance on the instability of the world oil market; a strategy that provides workers with job security not affected by Iranian revolutions or Middle East hostilities. A central part of any such strategy is the full development of our own domestic energy supplies, including Alaskan North Slope oil.

Three steps should be taken to fully utilize North Slope oil supplies. First, we should bar the export of Alaskan oil. Second, we should encourage west coast refineries to retrofit their facilities to handle Alaskan heavy crude. Third, we should improve and secure our delivery of Alaskan crude through the development of pipelines to carry it to inland refineries that need it.

By acting to ban the export option we

will create an incentive for producers to invest domestically in pipelines, and also to retrofit their refineries to handle larger volumes of North Slope oil. When the Trans-Alaska pipeline was built, the oil companies were promising to make the investment required to retrofit west coast refineries to handle Alaska crude. Those investments have not been made, because the oil companies have never abandoned their desire to export North Slope oil at OPEC cartel prices to foreign purchasers.

The combination of increased refinery capacity for Alaskan crude and the development of a pipeline would provide us with the maximum energy security obtainable from Alaskan oil. The proposed Northern Tier pipeline would cross over our oil-starved Northern States making connections to deliver Alaskan crude to 66 refineries in 14 States with a total capacity for more than 4 million barrels of oil per day.

The United States relies on imported oil for nearly half of its petroleum needs. Our vulnerability in the event of an embargo, an international crisis, or a prolonged cutoff by one of our major suppliers has increased daily. Despite this serious predicament, the multinational oil companies are advocating the export of Alaska oil on the grounds it would yield greater profit for them if they could sell it abroad.

When the Senate Banking, Housing, and Urban Affairs Committee reported this bill, it clearly indicated that energy security was more important.

> The American people fully expected that production of oil from Alaskan fields would relieve some of our dependence on imported crude oil. The hazards of that dependence, which has actually increased since production began in Alaska, are vividly evident today in the shortages suffered in California and other areas. Proposals to export Alaskan oil, in exchange for Mexican or Persian Gulf crude oil, will not serve to reduce our need for imported oil . . . Once West Coast refining capacity is increased, the East-West pipelines are built, the United States will have a little more protection from the vagaries of international oil price increases and the attendant political and economic consequences. In view of this, the Committee feels that this amendment serves a national purpose and will have a positive effect on efforts to rebuild our domestic petroleum infrastructure.

The need for us to develop a stable Alaskan oil supply and delivery system is evident. We must reduce our dependence on foreign oil. We cannot accomplish this goal if we export American oil. I urge my colleagues to join me in supporting the oil export restrictions contained in this bill.

The amendment offered by the Senator from Alaska (Mr. STEVENS) should be rejected.●

● Mr. DOLE. Mr. President, as we all know, recently the President determined that the United States must establish a positive energy program, based on responsible programs and strong leadership. The key in his decision to activate such a policy was to seek a cut in the level of imported oil, and at the same time insure that significant incentives for domestic production be provided.

In Alaska, however, the search for domestic oil was successful in the early 1970's and as many of my colleagues here in the Senate may recall, the Federal Lands Right-of-Way Act of 1973 provided for construction of a Trans-Alaska pipeline to bring the massive amounts of crude from the North Slope to the Lower 48 States. Unfortunately, this crude must be shipped to refineries of the east coast due to the shortage of refining capability of the west coast. This is one reason for the "glut" of oil on the west coast, and also for the high cost which consumers now pay.

SWAPPING OF ALASKAN OIL

The export bill reported by the Banking Committee makes it impossible for the United States to effectively deal with this "glut." Under the amendment offered by the Senator from Alaska, reasonable restrictions on the exportation of Alaskan crude through swapping could occur. This could only be done, however, in the national interest and prove to be of no adverse effect on the American consumer.

This amendment will not allow foreign sale, but permit exchanges or swaps of oil which would effectively and efficiently reduce our oil costs, and at the same time minimize the current inefficient and wasteful system of shipping Alaskan oil through the Panama Canal where it is shipped to the gulf coast and on east.

IMPACT OF THE PANAMA CANAL

The Senator from Kansas believes that serious consideration should be given to this amendment if only for the cost factors alone. The passage of the Panama Canal Treaty last year by this body not only alters our international position with the South American nations, but also alters our domestic affairs, particularly in regards to its impact on our energy supplies.

The Senate will soon be taking up the implementing legislation for the Panama Canal Treaty, and what will be raised in this measure will be costs and who will bear them. One issue that has already been made very clear has been the sharp increase in toll rates for the United States in use of the canal for transit. This is of enormous concern to this country's energy problem—due to the passage of tankers carrying North Slope Alaskan crude.

Up to 500,000 barrels per day of Alaskan crude oil is shipped through the canal to gulf coast refineries. These refineries supply the east coast with half its requirements for refined petroleum, and the proposed toll increases of 30 percent will drastically affect prices of heating oil and other products just prior to this 1979–80 winter season. This Alaskan crude is necessary to keep the refineries operating at a more economical capacity, and supplies 7 percent of the petroleum supply itself; therefore any price increase will immediately be felt by the American consumer.

In light of the ramification of this administration's foreign policy, it is my hope that we will realize this past mistake and prevent ourselves from continuing to be locked in by decisions that time has proved to be unwise and uneconomical. We must have the flexibility to swap our Alaskan oil to Japan and avoid the pitfall of our past Panama Canal strategy. Our west coast refineries unable to handle the heavy North Slope oil, can make use of the lighter oil to be swapped with Japan, and at considerable energy savings for all Americans.

SOLVING OUR TRADE IMBALANCE

Our trade imbalance with Japan is responsible for about $12 billion of our $30 billion annual deficit, nearly as much as our oil deficit. Obviously, it is an area on which we must focus immediate attention—perhaps as much as we are now on the oil situation. Oil imports do not put Americans out of work, but Japanese imports do. Through the passage of this amendment, perhaps we can help solve these problems and reflect the concern that we are acting for what is best for our national interest, rather than what is convenient or consistent with failed policies of the past. Time has shown we made a mistake in our assumptions with the Panama Canal Treaty. This Senator believes that our policy in allowing for the swap of Alaskan oil would be wiser and beneficial for the American people.

DECISION TO SWAP

In the future, should a swap be proposed, that decision would be a matter for the Executive and Congress. Some swaps would be useful, others not. However, this amendment would provide flexibility for the Executive to propose swaps which may become necessitated by future events.

The increasing production from the North Slope will not only reduce this Nation's dependency on the OPEC cartel, but also increase the world's available supplies. Our net oil imports would be reduced and higher Federal tax revenues result.

In emergency, a swap would be terminated and the security of the Nation would not be threatened.

BENEFIT THE NATION

Undoubtedly, Mr. President, passage of this amendment will benefit this Nation at a time when relief is desperately needed. The costs of drilling in Alaska would be reduced, transportation costs would be minimized, and of particular importance, such swaps would bring the nations of Japan and Mexico closer in relationship with the United States. The Senator from Kansas is pleased to join in cosponsoring this amendment by the distinguished Senator of Alaska, and urges the Senate to act affirmatively on this measure.●

● Mr. HAYAKAWA. I am very concerned with the provision in this bill which would tighten existing restrictions on exports and thus preclude any type of oil exchange with Mexico and Japan.

Currently, California is suffering from a glut of sour heavy oil because it does not have the refining capacity to handle the high sulphur Alaska crude. There is no room for storage on the west coast and no pipeline to send the excess to needy refineries in the Midwest. Therefore, in many instances, producers are leaving oil in the ground instead of paying the exhorbitant cost of shipping excess supplies through the Panama Canal. Certainly, construction of a pipeline or refinery retrofitting would be the ideal solution. However, both of these are long-range solutions and continue to face innumerable regulatory and environmental barriers.

The quickest, most effective way to solve this problem is to allow the excess oil to be shipped directly to Japan in exchange for the sweet, light Mexican crude which would be shipped to our Atlantic and gulf coast ports. The United States would not lose one drop of oil, and it would result in transportation savings of approximately $2 per barrel. It would help diminish our trade deficit with Japan and strengthen ties with Japan and Mexico. We must not deny the administration the flexibility of allowing such a swap which would end the disruption of the California oil industry, and benefit the Nation.●

Mr. LEVIN. Mr. President, I oppose the Stevens amendment and support the position taken by the committee for many reasons. One basic reason is that I believe that only when the present destination of Alaskan crude is retained will we as a nation face up to the need to build the new refining capacity we require and construct the pipelines that we need. Those requirements and that need are beyond debate—and only when we have stated clearly and definitively that there is no way to evade our responsibilities in that area, will we finally have the compelling motive to do what needs to be done.

We may argue, Mr. President, about the impact of this proposal on prices, balance of payments, jobs, and energy supply—but we cannot debate the fact that only by preventing the sorts of swaps suggested by the Stevens amendments will we take the first steps toward making the transportation and refining decisions we need to make in order to face up to the needs of the Nation.

Mr. RIEGLE. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Under the previous order, a motion to table is in order at this time.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Iowa (Mr. Culver), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Alabama (Mr. Heflin), the Senator from North Carolina (Mr. Morgan), the Senator from Connecticut (Mr. Ribicoff) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Minnesota (Mr. Durenberger), the Senator from Oregon (Mr. Hatfield), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker) and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Durenberger) would vote "yea."

The PRESIDING OFFICER (Mr. Levin). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 52, nays 30, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—52

Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Cranston
Danforth
DeConcini
Durkin
Eagleton
Glenn
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stewart
Tsongas
Warner
Williams
Zorinsky

NAYS—30

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Robert C.
Chafee
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Jepsen
Kassebaum
Laxalt
Long
Lugar
McClure
Percy
Roth
Schmitt
Simpson
Stennis
Stevens
Stevenson
Stone
Thurmond
Wallop

NOT VOTING—18

Biden
Burdick
Cochran
Cohen
Culver
Durenberger
Exon
Ford
Gravel
Hart
Hatfield
Heflin
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So the motion to table the amendment of Mr. Stevens (UP No. 431) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Alaska was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, will the manager of the bill yield me 4 minutes?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 432

(Purpose: To modify method of approval with regard to certain crude oil exports)

Mr. EAGLETON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton) proposes an unprinted amendment numbered 432.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, strike lines 19 through 21 and substitute the following:

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 60-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

On page 76, line 22, strike out "(3)" and insert in lieu thereof "(5)".

Mr. EAGLETON. Mr. President, I yield 4 minutes to the Senator from Pennsylvania and the Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment has been tabled and in so doing the most restrictive provision against a producing State that Congress has ever leveled has just been, in effect, approved by the Senate.

I can understand what the Senator from New Mexico said when he stated that we have provincial differences here. But we will not solve the problem of increasing production of oil in this country if these differences persist. I just wanted to state to the Senate that in some ways the people of Alaska will be very pleased by this vote. I was urged by some not to press this amendment because the net result of the Riegle amendment is to prohibit entirely any exchange. It will deter any future expansion of our production capacity until we put refineries in Alaska.

So what Senators really have done now is, they have deferred the production cycle for Alaska until the refineries are built. I hope that as they see plans for these refineries as announced, and as the result of this vote I predict that one will be announced in the next month, they will understand that with the refinery capacity we have now become associated with OPEC whether we like it or not.

The Senator from South Carolina was there when we were told OPEC was saying, "In the future, if you want our oil, you are going to have to refine it here."

Now what Senators have told Alaska is, if Alaska is to get a fair price for its oil, if Alaska is to work out incentives for increased production, it must have refineries in the State of Alaska.

I have never seen a decision, which in the long-term best interests of the people from the Midwest and the east coast, in particular, will do more harm.

I just want people to understand that we tried today to make the record that we were willing to work with the Nation, that we in Alaska tried not to become associated with OPEC. We will be producing within the next decade at least 3.5 million barrels of oil. There is no transportation mechanism for that oil, and it will be refined, I believe, in Alaska, and the products will be sent where the people who manage the refineries in Alaska will decide they will be sent.

And the Senator from Michigan may say that this is a threat. It is not a threat. It is a statement of sheer economics. Senators have transformed Alaska into an OPEC producer rather than making it a part of the productive capacity of the United States, a decision I sincerely regret and one that I think the Nation will regret in the not too distant future.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, the amendment before us is a very narrow and targeted one dealing solely with the issue of whether there should be a one-House veto or a two-House veto. I do not think the debate on this amendment will consume any great length. It deals with the question of whether with respect to this bill there should be a one-House veto of Presidential action—that is what the committee bill calls for—or in my opinion a two-House veto.

Section 4(g) of the committee bill sets out certain restrictions on any exchange of Alaskan oil for a like quantity of foreign-produced crude oil. I support those restrictions especially the requirement that the President certify that at least 75 percent of the transportation costs saved by the exchange be passed on to consumers.

My only objection to the provision as reported is the requirement that, in addition to meeting the conditions written into law, the final exchange plan also be approved by concurrent resolution of the two Houses. That means either the Senate or the House can block the plan by disapproving the resolution or simply not bringing it to a vote. In short the language in the bill would allow a one-House legislative veto.

Mr. President, the Senate soon will be debating in a broader context the wisdom of the legislative veto. I will oppose any such authority. I am convinced that it would lead to chaotic congressional intervention in the day-to-day activities of executive departments and agencies and further deflect Congress from its policy-setting responsibilities.

I am particularly opposed to a legislative veto in energy matters where we already suffer from fragmented leadership, indecision, and confusion. Somebody has to lead this country. I think it is essential that Congress invest some measure of trust and confidence in the President who is the only person in a position to provide that leadership. That is the issue here.

My amendment simply substitutes for the one-House veto now in the bill a provision for disapproval of any final plan by both Houses within 60 days. The amendment incorporates the expedited procedures of section 551 of the Energy Policy and Conservation Act, which assures that resolutions of disapproval will not be bottled up in committee or filibustered on the floor.

Mr. President, in no way would my amendment alter the purposes of this section which is to assure that any exchange of Alaskan oil meet the tests of national and consumer interest spelled out. The amendment merely eliminates the unnecessary and divisive provision for a legislative veto. I hope the amendment will be accepted by the floor manager.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Does the Senator from Illinois yield time?

Mr. HEINZ. I will yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. First, let me say that I have a great regard for my friend from Missouri and, therefore, never happily find myself on the other side of an issue from him.

But I think his amendment here will substantially weaken what the committee has done in terms of drafting this legislation that is before us.

The committee approved a provision here which the Senator from Missouri would replace, which requires that the President would have to report a finding to the Congress if he wants to engage in the export of American oil abroad, and after he had reported the findings to the Congress, Congress would then have 60 days in which to pass a resolution approving and affirming that transaction that he was proposing to us. That requires an active and an affirmative act by Congress.

The reason, in my view, why the committee chose to go with that affirmative requirement by Congress is because this is such a vital issue. As the President said to us the other night,

> We are into a war, in effect, with our fight on the energy problem, and we are going to respond to it in wartime fashion.

So the notion of taking the commodity that is in the shortest supply and that strikes right at the heart of our ability to function as a country, namely our oil reserves, and to start sending those abroad, is a matter of such importance in terms of its economic effect, in terms of its strategic military effect, that that is the kind of an issue that Congress should have to join the President in making an affirmative judgment about it.

What the Senator from Missouri is proposing is something very different, and it takes away that requirement of affirmative action by Congress and substitutes in its place what I would characterize as a very passive kind of involvement by Congress. It simply says that if Congress fails to act within a 60-day period then the action of the President would therefore go forward.

I think that is quite a different requirement. That, in my mind, puts quite a different burden on Congress than what the committee has chosen to insert in the language of the bill, which is that we address the question directly and make an affirmative judgment on it.

So I hope we will not accept the language of the Senator from Missouri, although I must say that, generally speaking, I support the proposition that we ought not to be involved in legislative vetoes on each and every item. We have got plenty of work to do. Also I think as a general proposition we ought not to move further in that direction.

But, quite frankly, I do not see this as a legislative veto. I think this crosses the line into the kind of national policy and foreign policy questions of a size and of an import where it requires the President and Congress, I think, to act together, if we are going to go ahead and engage in the export of American oil to foreign customers.

Therefore, I hope we will stay with the committee language as adopted and defeat the amendment of the Senator from Missouri.

I thank the Senator from Pennsylvania for yielding the time.

Mr. EAGLETON. Mr. President, if nobody else desires to speak on the amendment, I am about at the point where I will yield my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. HEINZ. We are prepared to yield back the remainder of our time on this side.

Mr. EAGLETON. Mr. President, I have just a few more words and then I will yield back the remainder of my time if no one else decides to speak on the amendment.

I think Senator RIEGLE has espoused his views very ably, as he always does. It is a choice of what is being presented here, a question of a one-House veto or a two-House veto.

I do not under any circumstances think that a one-House veto is the appropriate remedy. Senator RIEGLE has pointed out from his point of view why he thinks it is proper under the circumstances.

The issue is joined.

I yield back the remainder of my time.

Mr. RIEGLE. Mr. President, I wonder if the Senator from Pennsylvania will yield 1 more minute to me?

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, will the Senator from Pennsylvania yield an additional minute—reluctantly? [Laughter.]

Mr. HEINZ. With joy in my heart.

Mr. RIEGLE. Mr. President, I just want to say one other thing, and that is we do have precedents that exist today for the exact language that is in the committee bill. In the Public Utility Regulatory Policies Act of 1978 we had virtually identical language to what has been proposed in the bill here. Also in the Alaska National Gas Transportation Act of 1976. We again would make the same requirement we have written into the legislation before the Senate and which the Senator from Missouri would strike.

So, having already in two other important measures related to energy taken this step, I hope we will, consistent with those precedents, stick with the committee language here.

When all time is yielded back, it will be my intention to make a motion to table the amendment.

Mr. EAGLETON. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. RIEGLE. Mr. President, I move to table the amendment of the Senator from Missouri.

Mr. EAGLETON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Missouri. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 34, nays 48, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—34

Baker
Baucus
Bayh
Bentsen
Boren
Byrd, Robert C.
Church
DeConcini
Durkin
Goldwater
Humphrey
Javits
Kennedy
Leahy
Levin
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pressler
Proxmire
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stewart
Tsongas
Warner
Williams
Zorinsky

NAYS—48

Armstrong
Bellmon
Boschwitz
Bradley
Bumpers
Byrd,
Harry F., Jr.
Cannon
Chafee
Chiles
Cranston
Danforth
Dole
Domenici
Eagleton
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
Matsunaga
McClure
Muskie
Nunn
Pell
Percy
Pryor
Randolph
Roth
Schmitt
Simpson
Stennis
Stevens
Stevenson
Stone
Thurmond
Wallop

NOT VOTING—18

Biden
Burdick
Cochran
Cohen
Culver
Durenberger
Exon
Ford
Gravel
Hart
Heflin
Helms
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri. Does the Senator from New Mexico wish to be recognized?

Mr. SCHMITT. Will the Senate yield me 1 minute?

The PRESIDING OFFICER. All time has been yielded back on the amendment, unless the Senator gets time from the bill.

Mr. STEVENSON. Mr. President, I yield 1 minute on the bill.

Mr. SCHMITT. Mr. President, I just want to be sure my colleagues who are interested in the legislative veto as applied to rulemaking activities in the rulemaking agencies in the executive branch draw a sharp distinction concerning the discussion which has gone on here, which is the executive veto applied to legislative action. The legislative veto as applied to rulemaking activities is another subject which will be coming up in the next few months.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri, UP amendment No. 432.

(Putting the question.)

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 343, AS MODIFIED

(Purpose: To remove automatic decontrol through "indexing")

Mr. JACKSON. Mr. President, I call up my amendment No. 343, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

> The Senator from Washington (Mr. JACKSON), for himself, Mr. NUNN, Mr. HOLLINGS, Mr. COHEN, Mr. HATCH, Mr. HARRY F. BYRD, JR., Mr. TOWER, Mr. MOYNIHAN, Mr. BAYH, Mr. DOMENICI, and Mr. THURMOND, proposes a printed amendment numbered 343, as modified.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

> Beginning with "In" on page 81, line 14, strike out through the period on page 82, line 4, and in lieu thereof add the following:
>
> In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls.

Mr. JACKSON. Mr. President, this amendment would delete a provision of the bill which would permit the automatic decontrol of goods and technologies based upon projections of obsolescence. This decontrol provision is predicated upon the erroneous assumption that the extent to which goods and technologies become "obsolete with respect to the national security of the United States" is a predictable and measurable phenomenon. The provision does not define "obsolescence." The ordinary dictionary meaning is "no longer used." It is extremely difficult to predict with any reasonable degree of accuracy when goods and technologies will become obsolete by U.S. standards. However, it is impossible to predict the rate of obsolescence by the standards of the Soviet Union or other adversary nations. In any event, an item which is obsolete by U.S. standards may nevertheless make a significant contribution to the military potential of such an adversary nation.

The thrust of the provision—which this amendment would delete—is to substitute factual investigation and technical analysis with a simple-minded litmus paper test. To suggest by law that the relative rates of obsolescence of United States and Soviet technology is predictable and measurable is dangerous folly.

Mr. President, the amendment that I have offered has been modified after consultation with the distinguished Senator from Massachusetts (Mr. TSONGAS). In place of the current language, the following language would be substituted: "In order to assure that requirements for national security controls are removed when no longer necessary"—and that, I think, is what the Senator from Massachusetts has in mind; I support that—"the Secretary of Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached according to law to remove or relax such controls."

I yield to the distinguished junior Senator from Massachusetts.

Mr. TSONGAS. Mr. President, the Export Administration Act of 1979 creates a climate for export expansion to reverse the enormous trade deficits of recent years. We were very careful to retain export controls for security and foreign policy purposes. In fact, section 4(o) of the bill encourages the development of a process that will allow more time to review controlled items by removing items which no longer present a risk to our security. The administration supports the provision.

During the current round of COCOM negotiations on control lists, the United States proposed a limited system for automatically increasing the performance levels of goods and technology. This has been partially adopted.

High-technology products advance at a rapid rate, but performance levels are reviewed infrequently—only every 3 to 4 years when COCOM reviews take place. Maufacturers are forced to continue product lines for export that have been superseded by more cost-effective items with a slightly higher level of technology. The licensing process becomes bogged down with products that should no longer be controlled because it has no systematic approach for their removal.

It is estimated that the Commerce Department handled more than 77,000 applications for validated licenses last year, and the number is growing by nearly 20 percent each year. We must institute procedures to trim obsolete items from the lists. If we do not, the staffs at Commerce and Defense will remain mired in a blacklog of applications, and exporters will continue to be frustrated by delays.

For example, the U.S. computer industry has reached the end of the 100 megabyte disk drive life cycle. Most, if not all, U.S. companies have terminated production of this drive in favor of more cost-effective products. The artificial extension of a product's life not only ties down valuable resources which could be better utilized on other projects, but increases the unit cost on current products due to lower production volumes.

Performance guidelines indexing could enable U.S. industry to:

Offer competitive equipment at competitive prices;

Avoid the burdensome marketing and production expense of selling and installing obsolete products; and

Proceed on a planned basis to install and upgrade systems.

This is a very technical issue, Mr. President, and I shall not take the Senate's time, but there are two tables here which so much simplify the issue that I should like to have them printed in the Record at this point.

(The charts submitted are not reproducible in the Record.)

Mr. TSONGAS. Mr. President, the issue, very briefly, is that in high technology industries, the process of review, which is a function of the so-called COCOM—which is the United States-NATO minus Japan—includes Japan without Iceland. The review of high technology equipment takes place every 4 years where, indeed, the increase in the technology is simply much more expansive. I have worked with the distinguished Senator from Washington State. If I could ask him just two questions, I think we may resolve this issue.

One, is there not agreement that this amendment would not preclude indexing if it were found to be appropriate within the national security terms as defined?

Mr. JACKSON. The Senator is correct.

Mr. TSONGAS. Second, would he agree that we would not jeopardize our efforts to implement indexing in COCOM, based on the same assurances that we had previously?

Mr. JACKSON. The Senator again is correct. The amendment would not jeopardize on-going efforts within COCOM.

Mr. TSONGAS. Within those constraints, Mr. President, I am prepared to support the amendment.

Mr. STEVENSON. Mr. President, I understand this would, in no way, affect the administration's authority to index.

Mr. JACKSON. The Senator is correct, it would not affect it. We were both in agreement as to the need to get rid of some of the regulations and controls. The question here was some ambiguities which I think we have resolved and the objectives that the Senator from Massachusetts had in mind—he, I believe, was the author of the amendment in committee—will be achieved.

Mr. STEVENSON. Mr. President, with that assurance, I have no objection to the amendment.

Mr. HEINZ. Mr. President, we have no objection on this side. I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Washington yield back his time?

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

(Purpose: To provide a legislative veto)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure), for himself, Mr. Jepsen, and Mr. Bellmon, proposes an unprinted amendment numbered 433.

Mr. McCLURE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, insert the following between lines 6 and 7:

(3)(A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B)(i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii)(I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the Presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five * * *

* * * * *

days thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

Mr. McCLURE. Mr. President, I ask unanimous consent to yield to the Senator from New York to handle an amendment which he has without losing my right to the floor.

Mr. JAVITS. Mr. President, if my amendment is contested, I shall withdraw it.

The PRESIDING OFFICER. Is there any objection to the amendment of the Senator from Idaho being temporarily laid aside? Without objection, it is so ordered.

The Senator from New York is recognized.

UP AMENDMENT 434

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself and Mr. Ribicoff, proposes unprinted amendment numbered 434.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Section 4 (page 82 after line 20) insert the following new Section:

Sec. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and 2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this Section with respect to any particular country or any particular transaction if he finds that the national interest so require.

Mr. JAVITS. Mr. President, this is an amendment directed at international terrorism and provides that the Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has determined that such country has demonstrated a pattern of support for acts of international terrorism, and that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

The amendment also contains a provision allowing the President to suspend it if, in his judgment, the national interest so requires.

It is a fact, Mr. President, that three countries are now named by the Department as aiding and abetting international terrorism. Those countries are Iraq, South Yemen, and Libya. There may be others, or some of them may be delisted. As, for example, Somalia, which was originally listed, is now delisted.

Mr. President, all this does is erect a signpost for the President. I have discussed this matter with the managers of the bill and I have advised them that I have talked with the Secretary of State and he would like to provide for this particular matter by letter to Senator RIBICOFF and myself. That is satisfactory to us. The difficulty is that we may finish this bill today and there will be no vestige of anything that we propose to do.

Under those circumstances, if agreeable to the managers, I hope they can take the amendment and if we can arrive at a suitable letter, then we shall ask them to drop it in conference. If not, we shall ask them to negotiate it in conference under whatever conditions they think are wise.

Mr. STEVENSON. Mr. President, with the understanding just stated by the distinguished Senator from New York, I support this amendment. The understanding is that we shall have a chance to reconsider the matter in conference and with the benefit of views that will be received from the Department of State.

Mr. JAVITS. Of course, and I hope to agree with them on a suitable letter in this instance.

Mr. STEVENSON. I am assured of that.

Mr. JAVITS. Mr. President, I ask unanimous consent that the occupant of the chair (Mr. LEVIN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I compliment the Senator from New York on this amendment. It is quite consistent with some things he and I and Senator RIBICOFF have worked on for some time. I think the majority will accept it.

I am prepared to yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the motion by which the amendment was agreed to

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 433

Mr. McCLURE. Mr. President, the amendment I am offering seeks to strike a middle ground with respect to the positions taken by the Congress on the legislative veto with a Presidential veto or with a two-House veto. The law as presently written, with the amendment offered by the Senator from Kansas, has a two-House veto on the Presidential embargo of the export of agricultural commodities. As I understand it, this bill, if passed, will wipe out that provision. My amendment would provide that either House could veto the action taken by the President in embargoing such export but would give the other House the opportunity to override that veto, thus siding with the President and reinstating the embargo.

Mr. President, without belaboring the subject of whether or not an agricultural embargo ought to be subject to this action specifically, let me address just that question of the legislative veto. It has been a very difficult thing for both the executive and the legislative branch to deal with.

It seems to me this middle ground, which seems to be emerging from the deliberations in the other body, and as I understand it the deliberations on the Federal Trade Commission legislation amendment which may be offered, is to try to find a way around the arguments that the one-House veto is too arbitrary and involves only one House and does not have in it any element of action by the other body.

This permits both Houses of the Congress to be involved, if they desire to be involved, permits one to veto the action of the Executive in such an embargo, but does not leave it there if the other body desires to be involved.

Mr. President, I think it is a reasonable compromise between what is existing law and wiping out the legislative veto provision altogether.

Mr. President, I do not want to belabor the subject if, as a matter of fact, the managers will accept the amendment. I know that they are both puzzled and intrigued, and I hope favorably so, by this attempt to compromise that issue.

If, on the other hand, they are not prepared to accept the amendment, I would like to discuss for a moment the reasons for my concern about the embargo of the export of agricultural commodities.

Mr. HEINZ. The Senator may go ahead.

Mr. McCLURE. Mr. President, without belaboring that subject, and because I have been invited by the manager of the bill to do so, let me indicate that a number of years ago, when we had been for a number of years pushing the export of soybeans and urging on our friends in Japan that they should accept more and more soybeans, they had done so to the point that 43 percent of the protein in their diet was then in soybeans in one form or another.

Suddenly, without any notice to the Japanese at all, there was an embargo imposed on the export of soybeans.

I remember that incident particularly because I was in Japan at the time, sitting down talking with a number of the members on the Japanese Diet, and one young man who was involved in those discussions seemed extremely exercised by the action that had been taken by the President of the United States in that precipitate embargo.

It turned out that I understood, when I became informed that he was the Deputy Minister of Agriculture in that country and, therefore, was responsible for the Government action that had allowed themselves to be so dependent upon U.S. soybeans as the source of basic nutrition in their diet.

It was a very damaging blow, not only to the Japanese-American relations, but it was also a very damaging blow to the soybean industry in the United States, because we have never been able to recover the credibility we had before that time as a supplier, as a secure source of supply, for the dietary requirements of that specific ally of ours, and a very important trading partner.

Mr. President, I do not have to underscore the importance of soybean exports to the agricultural markets in this country. They have been the salvation for agriculture over a number of years, and far too many farmers in the United States, to have to demonstrate that any action that destroys foreign markets for soybeans has a tremendously crippling effect on the economic being of agriculture in the United States.

I mention this incident, Mr. President—because I am not from a State that produces any soybeans, I cannot be accused of any direct parochial interest because of my interest in soybean export—because I am interested in the health of the agricultural economy.

Mr. President, it seems to me that there needs to be some kind of a congressional involvement in a sudden change of direction with respect to the agricultural commodity exports. This amendment which I have offered would provide that mechanism by which the Congress could, if it desired, exercise some influence upon the negative effects of a suddenly imposed embargo which can be and sometimes, as has been demonstrated, is invoked by the legislative branch.

Mr. President, I would hope that the managers of the bill, knowing of the importance of this subject, as so many Members of this body and the other body, recognizing the sincere effort to try to find a compromise between the various proposals that have been made, would see fit to accept this proposal as a compromise and take it to conference with the hope we can get the Members of the other body to agree with us with regard to this provision.

Mr. President, I bring before the Senate today an amendment designed to minimize the Government's ability to grossly interfere with the export of agricultural commodities..

Back in 1972, we saw for the first time in many, many years a prosperous domestic wheat industry. U.S. wheat yields were good while world stocks were down, thus giving the American farmer the brief, unusual possibility to market his wheat for premium prices. For many producers, this meant paid-up mortgages, new and better equipment, or maybe the opportunity to finally buy up—after so many years of waiting—that adjoining quarter section wanted so badly.

For all too many, these dreams were literally shuttered by the administration's sudden, harsh, and unnecessary embargo of all export wheat stocks. And the farmers were not the only parties injured in the move. Grain companies and farm cooperatives found themselves unable to fulfill export contracts. Dockworkers and ship companies had to find work elsewhere. And, perhaps worst of all, those foreign nations we would like to call our trading partners, suddenly learned what kind of risk it took to do business with the United States. Some are only now getting over those wounds.

Mr. President, this amendment I offer today will minimize—if not eliminate—the chances that such capricious embargoes can ever again be imposed by the executive branch. My amendment provides a 60-day buffer zone between the time any such embargo action on agricultural commodities is proposed and the time it can go into effect; and within that time period, either House can stop the action by adoption of a resolution of disapproval. There is a further safeguard here, however, in that if one House approves a resolution of disapproval the other House may, within 30 days, vote to agree with the Executive's proposed embargo action rather than that of the other House. In such cases, the Executive's action would go into effect as planned.

The net result of this amendment is not merely a shift of power away from the executive to the legislative branch. On the contrary, the Executive's action may in the end prevail, however, in the meantime, the Congress would be given the opportunity they fully should by law have to oversee all aspects of commerce. Moreover, my amendment, at the very least, will provide an adequate time period in which current export contracts could be completed, new jobs could be found, and, for the foreign nations, new—and perhaps more reliable—sources for their so badly needed foodstuffs can be located.

It is my feeling this is the very least we can and must do to protect our farmers, our export cooperatives and companies, and, indeed, our reputation as a reliable and trustworthy trading partner.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WILLIAMS). The Senator from Illinois.

Mr. STEVENSON. Mr. President, I share the Senator's feelings about embargoes on exports of agricultural commodities. I am against them. But I believe there are adequate safeguards in existing law to make us all confident that there will not be such embargoes.

For one thing, they cannot even be imposed unless agricultural commodities are insufficient to meet domestic requirements.

For another thing, if embargoes were to be imposed on exports of any commodity, the effect would be to immediately peg the loan level at 90 percent.

That would put the rate up for corn to $3.75; $1.94 for oats.

There is no chance that the administration would do that.

But, Mr. President, my main objection to this amendment is based on the veto provision which it contains.

This measure provides for a one-House veto of any embargo and, as I understand it, it establishes a new procerure which would give one House a veto over the other House.

It is a 1½-House veto.

I can appreciate that the Senator is trying to strike a compromise on this issue of one-House vetoes. But I think it is of doubtful wisdom and constitutionality.

For that reason, mainly, not because I do not share his concern about embargoes against agricultural commodities, I have to oppose this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I associate myself with the comments of the Senator from Illinois.

I say to my good friend from Idaho that I, too, remember well the case he cites. Obviously, it was a question of being very shortsighted. We not only upset the Japanese diet, but we upset their appetite and their parliamentary diet, as well.

Yet, I really do believe that the provisions we have will protect us in the future much better than we have been protected in the past and will protect us from the kinds of very arbitrary actions that have been taken.

Second, I think even the Senator from Idaho will admit his procedure is innovative and unique. I have some grave reluctance about trying out such a new procedure in this situation.

I am not a particular fan of one-House vetoes. Because there is a one-House veto and a one-House override of the veto, I find that that does not double my pleasure or double my fun.

Mr. McCLURE. Does it double the Senator's displeasure with the one-House veto?

Mr. HEINZ. In moves in that direction. So I must reluctantly oppose the Senator's amendment.

Mr. McCLURE. Mr. President, I am sorry that the floor managers of the bill have seen fit to oppose the amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will not belabor the subject, except to say that this device of trying to strike a balance between the arguments of a one-house veto versus a two-house veto, I predict, will be adopted. If not in this amendment, it will be adopted as we go forward, not just on this particular subject but also on the broad array of areas in which Congress legitimately desires to give the Executive some discretion and legitimately desires to restrain that discretion by saying, "We want to see how you use it," without having to come in and pass a law, which then must be accepted by the Executive to overcome what the Executive has just done.

We must find some way, or we are going to find more and more developing a resistance to the delegation of authority to the executive branch of Government and the retention of that authority in the hands of the legislative body.

Mr. President, I think this is a constructive effort. I hope the Senate will agree with me and adopt this amendment.

If the managers of the bill are prepared to yield back the remainder of my time, I am prepared to do so.

Before doing that, Mr. President, I ask unanimous consent that the names of the Senator from Iowa (Mr. JEPSEN) and the Senator from Oklahoma (Mr. BELLMON be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I submit a statement by the senior Senator from Georgia (Mr. TALMADGE) and ask unanimous consent that it may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TALMADGE

I would like to take this opportunity to express my support for S. 737 the Export Administration Act of 1979. This legislation provides long overdue revisions to the existing U.S. export licensing procedures to cut through the myriad of redtape and paper shuffling which has needlessly burdened and delayed American businessmen and exports.

Increased export of American products is vitally needed as an important component in strengthening our American economy and the value of the American dollar worldwide. Certainly, the enhancement of American exports and increased trade should be given a very high priority in all U.S. policy planning now and in the future.

I would like to join my colleagues in expressing appreciation for the fine job which the Subcommittee on International Finance, so ably chaired by the Senator from Illinois, Mr. Stevenson, has done in pulling together this desparately needed legislation. In addition, I would like to pay particular tribute to the voluntary contributions to this effort that have been made by the distinguished Governor of my state, the Honorable George Busbee. As Chairman of the International Trade and Foreign Relations Committee of the National Governor's Association, Governor Busbee has generously given of his time and effort in directing the initiatives of our nation's governors towards improving the opportunities for the export of American goods and commodities. His committee has conducted seminars and met with thousands of businessmen nationwide in order to make available to the Congress and the American public the kind of information which will enable us to devise effective legislative remedies to the complex obstacles that have plagued U.S. export policies and procedures in recent years.

I would also like to commend and recognize the efforts of the students and staff of the Rusk Center of International Law of the University of Georgia Law School for the research and technical support and advise it has provided to the Governor's Association and to the Congress during the development of this legislation. Under the able guidance of my warm friend Dean Rusk, the Rusk Center has been a tremendous success during its two years of existence and is making significant contributions in the area of international trade and U.S. foreign policy.

The state of Georgia is most fortunate to be able to claim the talents of our outstanding Governor and the Rusk Center of International Law, and I am happy on behalf of the people of Georgia to have had this opportunity to recognize the contributions to this legislation made by our Governor and the Rusk Center.

Mr. STEVENSON. Mr. President, if no other Members wish to be heard on this matter, it is my intention to move to table the amendment.

Mr. McCLURE. Before doing that, I ask the Senator from Illinois, since he plainly is intrigued by the idea, and the Senator from Pennsylvania says he is half-pleased by the idea, whether we might have an up and down vote on the merits, rather than a motion to table.

Mr. HEINZ. I would not go that far.

Mr. STEVENSON. I am not pleased with this amendment.

Mr. HEINZ. I did not say I was half-pleased with the amendment.

Mr. McCLURE. I thought the Senator from Pennsylvania said he was half-pleased.

Mr. HEINZ. No. I said it did not double my pleasure or double my fun.

Mr. McCLURE. But the Senator from Pennsylvania admitted that it cut in half his displeasure over the single-House veto.

Mr. HEINZ. No, it tended to double it. [Laughter.]

Mr. STEVENSON. Mr. President, I sense that the happy hour is approaching. [Laughter.] We had better get moving.

Is such motion in order?

The PRESIDING OFFICER. If all time has been yielded back.

Mr. STEVENSON. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

Mr. STEVENSON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Idaho. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Iowa (Mr. Culver), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Alabama (Mr. Heflin), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from North Carolina (Mr. Morgan), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Minnesota (Mr. Durenberger), the Senator from North Carolina (Mr. Helms), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 46, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—33

Bentsen
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Durkin
Eagleton
Glenn
Hatfield
Heinz
Hollings
Huddleston
Inouye
Javits
Mathias
Matsunaga
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Pryor
Randolph
Riegle
Sarbanes
Stafford
Stevenson
Stone
Tsongas
Williams

NAYS—46

Armstrong
Baker
Baucus
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Church
Danforth
DeConcini
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
McClure
McGovern
Melcher
Nunn
Packwood
Percy
Pressler
Proxmire
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—21

Bayh
Biden
Burdick
Cochran
Cohen
Culver
Durenberger
Exon
Ford
Gravel
Hart
Heflin
Helms
Kennedy
Leahy
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So the motion to lay on the table Mr. McClure's amendment (UP No. 433) was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent to vitiate the order for the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

UP AMENDMENT NO. 435

(Purpose: To exempt from disclosure information collected from exporters under a pledge of confidentiality until June 30, 1980, but thereafter exempt only license applications. 96th Congress, 1st Session)

Mr. HATCH. Mr. President, I call up an unprinted amendment, send it to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Hatch) proposes an unprinted amendment numbered 435.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104 beginning on line 16, strike out all through the last complete sentence on line 25, and insert in lieu thereof the following:

"(c) Except as otherwise provided by the third sentence of section 5(b)(2) and by section 9(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 (b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted."

Mr. HATCH. Mr. President, I am introducing an amendment to delete the indefinite blanket exemption to Freedom of Information Act requests and replace it with an exemption until June 30, 1980. This will give exporters almost a year's time to prepare for a change in the law at that time, which would result in all export control information being subject to the Freedom of Information Act except for license applications. These license applications are the items that exporters are most concerned about becoming available to their competitors, plus they contain sensitive national security information. I have been informed that this issue of access to export control information will be coming up again next year, so we will have an opportunity to more fully explore this issue at that time.

It is my understanding that the managers of the bill will accept this amendment and, therefore, I reserve the remainder of my time.

Mr. STEVENSON. Mr. President, I think this is a sound amendment and I am prepared to accept it.

Mr. HEINZ. Mr. President, I want to compliment the Senator from Utah for offering this amendment. I think it is a well-balanced amendment and is deserving of support.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. STEVENSON. I yield back my time.

Mr. HATCH. I move the adoption of the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 436

(Purpose: to revise the time periods and procedures for reviewing export licenses)

Mr. CHAFEE. Mr. President, I send to the desk on behalf of myself and Senator NUNN a printed amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself and Mr. NUNN, proposes an unprinted amendment numbered 436.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, lines 13 through 15, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, lines 5 through 7, strike out ", unless additional time is required and the applicant specifically requests an extension".

On page 70, line 7, after the period insert "All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period.".

On page 71, between lines 3 and 4, insert the following:

"(D) If the Secretary determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.".

Mr. CHAFEE. Mr. President, what this amendment does is to remove a provision that permits the Secretary to say to the applicant that she, the Secretary, requests an extension of time, which the applicant therefore goes along with, because of the fear that if the applicant does not there will be further delay or that the application will be denied.

It is my understanding that the managers of the bill agree with this provision, and in lieu of that particular provision it provides that the Secretary, in cases of exceptional importance or complexity, can request additional time. But if she does she must notify Congress and the applicant of such extension and the reasons therefor.

I reserve the remainder of my time, Mr. President.

Mr. HEINZ. Mr. President, I earlier examined this amendment and I think it is quite consistent with what we are trying to do, with the spirit of the law, and I compliment the Senator from Rhode Island in offering the amendment. On this side we are prepared to accept it.

Mr. CHAFEE. I thank the Senator.

Mr. STEVENSON. Mr. President, I am prepared to accept the amendment.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 437

Mr. JACKSON. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 437.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 10, after the period add the following:

"Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from non-controlled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.".

Mr. JACKSON. Mr. President, amendment No. 437 is being offered as an alternative for printed amendment No. 342. Effective implementation of the critical technologies approach endorsed by the bill requires far more than the creation of a list of goods and technologies. Unfortunately, the bill would accomplish little more than the formulation of such a new list by its failure to remedy important loopholes in the existing system.

Indeed, the bill would make it U.S. policy to subject critical technologies to traditional validated license controls only to the extent that multilateral control agreements could be secured. Instead of establishing effective control of critical technologies and goods as our highest national priority, the bill would lay the groundwork for a lowest common denominator approach whereby one noncooperating nation could undermine controls.

Amendment No. 342 would correct this deficiency, but in a manner consistent with the highly desirable objective of achieving multilateral control agreements. Amendment No. 342 would do this by specifying the policy that should generally be followed with respect to exports of critical technologies and goods. As to nations threatening U.S. national security, exports of critical items should be prohibited. As to free world nations, effective safeguards against reexports should be provided by validated export license. Both of these control policies are to be implemented "to the maximum extent consistent with the other provisions of the act." Thus, if efforts to eliminate foreign availability of any critical item by multilateral agreement or otherwise are not successful, then the provisions removal or relaxation of the control would be operative, unless the President invoked a special exception in the bill.

If a critical technologies approach to national security export controls is to achieve its purpose, there must be a clear policy directive from Congress as to how these technologies and related goods should be controlled. Experience has shown that the Soviet Union and other Warsaw Pact nations have acquired and will continue to seek advanced American technologies in order to enhance their military power. Even where multilateral controls are obtained, the bill would merely continue the status quo in which determinations of whether to permit export of an item to a Communist nation are made on an ad hoc basis in the licensing process.

Licenses may be granted on the basis that the recipient nation makes a representation that the "end-use" will be non-military or on the basis that there are safeguards against diversions to military use. However, end-use statements and safeguards provide no protection against the diversion of "critical" technology or goods. By definition, they consist of know-how or products which transfer know-how for which safeguards against diversion cannot be devised. Amendment No. 342 would direct that, to the maximum practicable extent consistent with the provisions of the act, exports of critical items shall be prohibited or embargoed to nations threatening U.S. security. This would also have the benefit of obviating many unnecessary license proceedings.

Amendment No. 342 would also direct that, to the maximum possible extent consistent with the provision of the act, export of critical goods and technologies to non-Communist nations be subject to validated license controls which are reasonably designed to prevent the re-export of such critical items to Communist nations. Present export regulations generally do not control exports of technologies to most non-Communist nations. As a consequence, many sensitive technologies—including those employed in the cruise missile system—can be exported to most non-Communist nations without having to obtain advance clearance from the Government. Given this loophole, the opportunities for Soviet acquisition of U.S. technologies are most disturbing.

Amendment No. 342 would not—as some critics have asserted—increase controls on exports of goods to non-Communist nations. Most high technology products are subject to controls even to CoCom member nations. Of course, the danger of re-export of items subject to CoCom controls is significantly less than the danger present by exports to non-CoCom member nations. It is the purpose of this amendment No. 342 that the risk of re-export of critical goods in these situations be carefully considered—which is not the case under the present system of cursory review of such license cases.

The most important objective of this policy on free-world controls is to close the glaring loopholes whereby exports of many critical technologies are completely unregulated.

Amendment No. 342 provides sufficient flexibility to take into account our traditional special relationship with Canada. Most items the export of which are controlled to other nations do not require validated licenses for export to Canada. The policy with respect to exports to free-world destinations is designed to prevent re-exports. Amendment No. 342 provides that to "the maximum extent consistent with the provisions of the act" that the re-exports of critical technologies are to be prevented by validated license controls.

One section of the bill—which is the same as current law—provides that U.S. policy toward individual countries shall take into account all factors, including its relationship to countries friendly and hostile to the United States and its ability and willingness to control retransfers of U.S. exports in accordance with U.S. policy. Given the special relationship between the United States and Canada and its reliable export controls, there would be no reason to disturb the present open borders policy.

Mr. President as I previously indicated, amendment No. 437 is being offered as an alternative for amendment No. 342. I have conferred with the managers of the bill, and I believe it represents a fair compromise in trying to deal with this problem of diversions of U.S. exports to military use by hostile nations and diversions of U.S. exports by nonhostile countries to hostile countries. In the case of critical technologies and goods this problem is of special importance.

It is my understanding that the amendment is acceptable to both sides.

Mr. MATHIAS. Mr. President, will the Senator yield for an inquiry?

Mr. JACKSON. Yes.

Mr. MATHIAS. Do I understand it is an unprinted amendment?

Mr. JACKSON. We have amended my original amendment No. 342, and this is really an alternative for that. We have stricken everything out of my amendment 342 which involved some problems that the administration felt would not be workable.

Mr. MATHIAS. Is the text available?

Mr. JACKSON. I will give you a copy.

Mr. MATHIAS. Committee counsel has just handed me a copy.

Mr. CHAFEE. Mr. President, will the proponent of the amendment yield for a question?

Mr. JACKSON. Yes.

Mr. CHAFEE. Is this amendment acceptable to the administration?

Mr. JACKSON. Yes. We worked it out with the representative of the Department of Commerce, who is off the floor.

Mr CHAFEE. I thank the Senator.

Mr. HEINZ. Mr. President, the minority has examined the amendment and, at this time, I know of no objection to it. My staff and I have worked with Senator STEVENSON's staff, with the administration and, of course, with my good friend from Washington, Senator JACKSON.

We believe it is a realistic approach to a very difficult question which is nothing less than how do you approach the question of making sure that critical technologies do not somehow drift into the wrong hands. I think it is fair to say this is about the best we can do.

Mr. JACKSON. Mr. President, I think we have made a real effort to at least make a beginning in dealing with this problem of diversion as it affects critical technologies, and I am prepared to yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENSON. I yield back my time.

Mr. HEINZ. We yield back our time if everybody else does.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 438

(Purpose: (1) To provide an opportunity for license applicants to petition for consideration of licenses in conformity with the Act. (2) To require the Secretary of Commerce to issue regulations providing for export control list reviews. (3) To provide an opportunity for interested Governernment agencies and other affected parties to submit views on export control list revisions. (4) To require reports on the domestic economic impact of export controls. (5) To require that applicants be informed of the reasons for license denials or deferrals and to establish appeals procedures)

Mr. STEVENSON. Mr. President, I have five amendments at the desk. They are all procedural amendments. I believe no one objects to them. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes five unprinted amendments, en bloc, numbered 438:

Mr. STEVENSON. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 73, after line 15 insert a new paragraph as follows:

"(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action."

On page 63, line 18, strike out the phrase "The Secretary shall review" and insert in lieu thereof:

"The Secretary shall issue regulations providing for review of."

On page 63, strike out the last word of line 21 and strike out all of lines 22, 23, and 24 and insert in lieu thereof: "carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of".

On page 66, line 7, insert the following immediately after "controls": "and the estimated domestic economic impact on the various industries affected by such controls". trols".

On page 71, strike out the phrase, "to the maximum" on line 1 and strike out all of lines 2 and 3 and insert in lieu thereof: "in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials."

Mr. STEVENSON. I offer these amendments on behalf of myself, Mr. HEINZ, and Mr. JEPSEN. These amendments all originated with the Governors' Committee on Exports, chaired by the Governor of Georgia, Mr. Busby. They provide opportunities for the public to comment on proposed provisions for export control; they provide an appeals process for license applications which are delayed beyond the time limits set forth in the act, or are denied; they provide that license applicants be notified promptly if their license applications are delayed more than 5 days beyond the deadlines in the act; they require the Secretary of Commerce to require reports on the domestic impact of export controls; and they also permit applicants to petition to have their applications considered in accordance with the provisions of the act.

These amendments are designed to expedite procedures to carry out the provisions of the act and to improve congressional oversight.

The administration has no objections to them.

Mr. HEINZ. We have no objection.

Mr. STEVENSON. So, Mr. President, I am prepared to yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Illinois (Mr. STEVENSON) (No. 438).

The amendments, en bloc, were agreed to.

UP AMENDMENT NO. 439

(Purpose: To provide validated license control for crime equipment exports)

Mr. STEVENSON. Mr. President, I send another amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 439:

On page 82, after line 20, add a new subsection as follows:

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 82, after line 20, add a new subsection as follows:

"(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.".

Mr. STEVENSON. Mr. President, this amendment would carry over the existing provisions of law with respect to exports of crime control and detection equipment, with one minor modification: It requires that the primary law with relation to crime control and detection equipments be approved by the Secretary of Commerce to validate a license, except for export to countries which are members of the North Atlantic Treaty Organization, Japan, Australia, and New Zealand.

The modification simply adds to that list of countries such other countries as the President shall designate consistent with the purposes of the Foreign Assistance Act of 1961.

I know of no objection to this amendment.

Mr. HEINZ. Mr. President, I have examined the amendment. I know of no objection to it, or reason why it should not be adopted. I am prepared to accept the amendment, and yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (UP No. 439) of the Senator from Illinois (Mr. STEVENSON).

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, if there are no further amendments, I am prepared to yield back all time on the bill.

UP AMENDMENT NO. 440

(Purpose: To insure that the Commodity Credit Corporation does not act as a National Grain Marketing Board)

Mr. BELLMON. Mr. President, I have an amendment at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as folows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 440.

On page 78, strike out all after the period in line 1 down through line 11.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The remainder of the material is simply explanation, not a part of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, this provision of the bill would seem to give the Government, through the Commodity Credit Corporation, authority to go back in the business of buying and owning agricultural commodities. Some Members may remember the time when the Commodity Credit Corporation owned enormous quantities of various kinds of agricultural commodities, and the great difficulties that were experienced when the Government tried to dispose of those commodities, and also the fact that a great many producers of agricultural commodities felt that the Secretary of Agriculture was using his power in the marketplace to control the prices of various kinds of agricultural commodities.

I can see no reason for this bill to get us back in the business of buying or giving the Secretary of Agriculture or the Commodity Credit Corporation authority to buy agricultural commodities. I believe the bill would be greatly improved if this section were simply stricken.

Mr. STEVENSON. Mr. President, this provision in the bill gives no authority to the Secretary of Agriculture, to the CCC, or to anybody else for export controls. It does absolutely nothing to enlarge on any existing authority in the law for control of the exports of agricultural commodities.

I am against controls on exports of agricultural commodities. There are more of them now than we need.

What the bill does is suggest that, if there is a short supply situation, we would have some alternatives to another across-the-board embargo, such as the soybean embargo. One of the alternatives suggested in the bill is to license exports. It is not only in this bill; it is in the law.

The situation that the authors of this provision had in mind would be a case though it is hard to conceive, of a soybean embargo, far enough. That requires a short supply situation to begin with, and then, instead of an across-the-board embargo, this provision would have the President consider the alternative of using the CCC as the exclusive sales agent for sales to foreign governments. The bill is just permissive; it does not provide any new authority.

The countries that we have in mind are nonmarket countries, the PRC and the U.S.S.R. Any sales to those countries could be channeled through the CCC in order to obtain for the United States maximum economic advantage, instead of leaving ourselves to the choice of either embargoes across the board or the multinational corporations.

But I point out to the Senator again that this does not add any additional authority. The President is controlling the volume of grain sales to the U.S.S.R. right now under current law.

Mr. BELLMON. Mr. President, if the language gives no additional authority, it seems to me to be superfluous. But the language of the section seems to me, say very plainly—I will read beginning on page 78, beginning on line 3:

Given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Commodity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers.

Mr. President, that is precisely what the Commodity Credit Corporation did for 20 years, and almost bankrupted the agricultural sector. I can see no reason for putting the Commodity Credit Corporation back in the grain business with this kind of bill. If that is to be done, let it be done by an agricultural bill, where we will know what the circumstances are.

This business of putting the Commodity Credit Corporation into the business of stabilizing markets and maximizing returns to agricultural producers is not a proper function of a trade bill.

Mr. STEVENSON. Mr. President, the Commodity Credit Corporation already has this authority. All we are saying in this bill is: instead of soybean embargoes across the board, which I want to get away from, you can use the CCC under its existing authority. You do not give it any additional authority to control your sales to the Peoples Republic of China or to the U.S.S.R. We do not even go that far really. The bill just says you have to give attention to the authority you already have before you impose an embargo on soybeans, corn, wheat, or any other agricultural commodity. What, Mr. Prsident, is wrong with giving attention to that kind of a possibility?

I suggest that it not only would enhance our competitive position in the world, but it might begin to signify to the world that the United States is getting its act together, instead of giving, as we do now, all the advantage in the marketplace to the People's Republic of China and the U.S.S.R.

This would mean that if those countries need exports and we have to embargo, they are going to have to come to any agency of the U.S. Government, as they would with any other exporting country in the world. They would have to bargain instead of sneaking into our markets quietly as they do over and over again with prices of commodities skyrocketing as the word gets out, to the disadvantage of American farmers and the advantage of the Soviet Union, which can then turn around and sell food at a profit and at our expense.

As I say, it does nothing to change existing authority. It just points out that there are some alternatives under existing authority by which the United States can enlarge its power, its economic power and its political power, in the world by using an instrumentality that already exists, and only as an alternative to an across-the-board soybean embargo or wheat embargo.

Mr. BELLMON. Mr. President, in the first place, it does do something else. If the Members will look at page 15 of the committee report, the top of the page, under the subtitle Agricultural Commodities, it says:

> S. 737 revises provisions concerning the export of agricultural commodities which are contained in the present Act. S. 737 adds a requirement that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments in order to stabilize markets and maximize returns to agricultural producers. The Committee believes that in circumstances in which purchases by foreign governments are the principal cause of a tight supply situation for a particular agricultural commodity, it may be preferable to have the CCC take over sales to that country than to apply comprehensive export controls on sales of the commodity in question.

What we are talking about here is putting the CCC in the business of buying and hopefully exporting agricultural commodities. It is a very large, new authority that the CCC has not used in the past and, in my opinion, is not in the national interest.

I would remind the Senator from Illinois that agriculture generally has fought for years to keep the CCC out of the marketplcae, that we have even opposed establishing a so-called strategic reserve for the reason that we do not want the Secretary of Agriculture to have commodities he can dump on the market and control prices in that way. This, no matter what good intentions the manager of the bill may have, is exactly what we are doing here. If we let the Commodity Credit Corporation start buying commodities for one purpose we have no way of knowing that they will not use them for market control.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, the Senator from Minnesota is to be added as a cosponosr of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I have no desire to prolong this. I will reiterate that this is no authority that is not already in the law. All it does is require that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments. The only governments that I have in mind, or that the authors of this provision have in mind, are the People's Republic of China and the Soviet Union, and only then in circumstances that authorize across-the-board embargoes.

Under those circumstances, Mr. President, if embargoes would be imposed, it would behoove us as an alternative not to impose them except with respect to those countries and then give ourselves all the leverage and all the power we can get in the marketplace. The way to do that is through the CCC and it requires no additional authority. They can do it right now.

With that, Mr. President, unless there are further comments, I intend to move to table the amendment.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Stone). Do Senators yield back their time?

Mr. STEVENSON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table UP Amendment No. 440. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Iowa (Mr. Culver), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Alabama (Mr. Heflin), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), the Senator from Connecticut (Mr. Ribicoff), the Senator from Georgia (Mr. Talmadge), and the Senator from Texas (Mr. Bentsen) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Minnesota (Mr. Durenberger), the Senator from North Carolina (Mr. Helms), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator wishing to vote in the Chamber?

The result was announced—yeas 20, nays 57, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—20

Bradley
Byrd, Robert C.
Cannon
Cranston
Durkin
Glenn
Inouye
Levin
Matsunaga
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Riegle
Sarbanes
Sasser
Stevenson
Tsongas
Williams

NAYS—57

Armstrong
Baker
Baucus
Bellmon
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Chafee
Chiles
Church
Danforth
DeConcini
Dole
Domenici
Eagleton
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
Mathias
McClure
McGovern
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—23

Bayh
Bentsen
Biden
Burdick
Cochran
Cohen
Culver
Durenberger
Exon
Ford
Gravel
Hart
Heflin
Helms
Kennedy
Leahy
Melcher
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So the motion to lay on the table UP amendment No. 440 was rejected.

Mr. HEINZ. Mr. President, I ask unanimous consent that the yeas and nays on the Bellmon amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 440) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I do not know if there are any more amendments.

Mr. President, we have today adopted a number of amendments which strengthen and improve the bill. Taken together, they leave the existing array of responsibilities for the administration of export controls within the executive branch unchanged and impose no new constraints on export licensing. The Secretary of Commerce retains the responsibility for maintaining the export control list, and the responsibility of the Secretary of Defense to identify critical goods and technologies for possible inclusion on that list is made clear.

I note in particular the provision in amendment No. 340 which states that the Secretary of Commerce shall prepare and maintain the control list "subject to the authority of the Secretary of Defense under subsection [4](a)(2)(B)." The cross reference in this provision refers to the authority of the Secretary of Defense, newly recognized by the amendment, to develop a list of militarily critical goods and technologies for possible inclusion on the commodity control list. The present procedure whereby the Secretary of Commerce prepares and maintains the actual commodity control list would not be altered.

I urge the Senate to approve this bill.

Several Senators. Third reading!

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PERCY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank all Senators who remained here today for their services in disposing of this important piece of legislation.

ORDER TO CONSIDER S. 1309—THE FOOD STAMP BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this measure the Senate proceed, with the understanding there will be no action thereon tonight, to the consideration of S. 1309, the food stamp bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall it pass? All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll on final passage.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Iowa (Mr. Culver), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Alabama (Mr. Heflin), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Iowa (Mr. Culver), the Senator from Montana (Mr. Melcher), the Senator from North Carolina (Mr. Morgan), and the Senator from Vermont (Mr. Leahy) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Minnesota (Mr. Durenberger), the Senator from North Carolina (Mr. Helms), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 74, nays 3, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—74

Armstrong
Baker
Baucus
Bellmon
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Garn
Glenn
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Williams
Zorinsky

NAYS—3

Goldwater
Hatch
Stevens

NOT VOTING—23

Bayh
Bentsen
Biden
Burdick
Cochran
Cohen
Culver
Durenberger
Exon
Ford
Gravel
Hart
Heflin
Helms
Kennedy
Leahy
Melcher
Morgan
Ribicoff
Talmadge
Tower
Weicker
Young

So the bill (S. 737) was passed, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

Sec. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

(3) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the needs to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

Sec. 3. The Congress makes following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance

of a uniform export control policy by all nations with which the United States has defense, treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a counrty friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including liecnse fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

SEC. 4. (a) (1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose of section 6 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation thereof by any person. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2) (A) In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2)(A) of this Act may provide for denial of any request of application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of existing or potential military systems, including weapons, command, control, communications, intelligence systems, and other military capabilities, such as countermeasures, which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Defense shall bear primary responsibility for identifying such militarily critical goods and technologies. Taking this fully into account, the Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls cover and (to the maximum extent consistent with the purposes of this Act) are limited to such critical goods and technologies and the mechanisms through which they may be effectively transferred. Rules and Regulations shall reflect the difficulty of devising effective safeguards which would prevent a nation which poses a threat to the United States from diverting critical technologies to military use, the difficulty in devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the re-export of critical technologies from noncontrolled countries to nations that pose a threat to the security of the United States. Such rules and regulations shall not assume that effective safeguards can be devised.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

(i) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. With respect to controls imposed for national security purposes, a finding of foreign availability which is the basis of a decision to grant a license for, or to remove a control on the export of a good or technology, shall be made in writing and be supported by reliable evidence, such as a scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability. Such sworn representations without adequate independent corroboration shall not constitute reliable evidence. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available to controlled countries from other countries, the President shall promptly initiate negotiations with the governments of such countries to prevent such foreign availability. In any instance in which such negotiations fail to prevent or secure the removal of such foreign availability and the President requires additional authority to take effective action toward that end, the President shall report fully to the Congress and where appropriate recommend measures to secure the removal of such foreign availability.

(b) (1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. Subject to the authority of the Secretary of Defense under subsection (a) (2) (B) of this section, the Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall issue regulations providing for review of such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to carry out the policies of this Act, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments with or without oral presentation. Such regulations shall further provide that as part of such review, there shall be an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. The provisions of this paragraph relating to revisions and changes in such list and assessment of foreign availability apply also to the functions of the Secretary of Defense under subsection (a) (2) (B) of this section. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availabiilty of goods and technology subject to export control.

Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, consistent with the protection of intelligence sources and methods, shall furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration and such Office upon request or where appropriate shall furnish the information it gathers and receives to such departments and agencies.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.

(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such control. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d) (1) (A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6) (A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license. All agency reviews of preliminary decisions and appeals to the appropriate authorities set forth in this Act shall be accomplished within that ninety-day period. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendations of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, in writing within five days of such decision of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with national security and foreign policy, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this subsection, the applicant shall be informed in writing within five days of such deferral. The Secretary shall establish appropriate procedures for applicants to appeal such deferrals or denials.

(D) If the Secretary determines that a particular application or set of applications is of exceptional importance in complexity, and that additional time is required for negotiations to modify the application or applications, or otherwise to arrive at a decision, the Secretary may extend any time period prescribed in this subsection. The Secretary shall notify the Congress and the applicant of such extension and the reasons therefor.

(7) (A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be reviewed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.

(D) Whenever the President exercises his authority under this paragraph to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any determination made by the Secretary of Defense pursuant to section 4(a)(2)(B) or 4(b)(1) of this Act with respect to list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency, including the factual and analytical basis for the decision, together with any dissenting recommendations received from any agency.

(10) The Secretary shall establish appropriate procedures for applicants to appeal denials of export licenses. In any case where the absence of a license approval exists because of agency action or inaction that clearly conflicts with the procedures, standards, or policies of this Act, the applicant may file a petition with the Secretary requesting that such action or inaction be brought in conformity with the appropriate provisions of this Act. When such petition is filed, the Secretary shall determine the validity of the petition and, if valid, shall take appropriate corrective action.

(e) (1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 8(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 11(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g) (1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the report is approved in accordance with paragraph (3).

(3) The report of the findings of the President required by paragraph (2) shall be considered approved, and shall take effect at the end of the first period of sixty calendar days of continuous session of the Congress after such report is submitted, unless the House of Representatives and the Senate adopt a resolution during such period stating that it does not favor such findings. For the purposes of this paragraph—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than three days to a day certain are excluded in computing the sixty-day period.

(4) A resolution under paragraph (3) shall be considered in accordance with the procedures established by section 551 of the Energy Policy and Conservation Act.

(5) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act; *Provided*, That the President promptly notifies Congress of each such agreement.

(h) Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2) (C) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(i) (1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2) (A) or (B) of this Act.

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2) (C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3) (A) The Secretary of Commerce shall transmit to the House of Representatives and the Senate a summary of any proposed exercise of the authority conferred by this section with regard to agricultural commodities.

(B) (i) Except as provided in subparagraph (ii), such proposal shall not become effective if within sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, one House agrees to a resolution of disapproval and at the end of thirty additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

(ii) Notwithstanding subparagraph (i), if at the end of sixty calendar days of continuous session of the Congress after the date of transmittal of the proposal to the Congress, neither House has agreed to a resolution of disapproval concerning such proposal, and the committee to which a resolution of disapproval concerning such proposal has been referred has not reported and has not been discharged from further consideration of such a resolution, such proposal shall be effective at the end of such sixty-day period or such later date as may be prescribed by such proposal.

(C) For the purposes of this chapter—

(i) continuity of session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of calendar days of continuous session.

(D) The provisions of this section are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith;

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House; and

(iii) (I) resolutions of disapproval, and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the appropriate standing committee of the Senate or the House of Representatives;

(II) if the committee to which a resolution has been referred does not report a resolution within forty-five calendar days of continuous session of Congress after the date of transmittal of the proposal to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution; and

(III) such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same proposal); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees.

An amendment to the motion is not in order.

(E) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

(ii) When the committee has reported or has been discharged from further consideration of a resolution with respect to a proposal, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order.

(iii) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Secretary of Commerce, the Secretary of Defense, and Secretary of State pursuant to the provisions of this Act.

(l) (1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a) (1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to assure that requirements for national security controls are removed when no longer necessary, the Secretary of

Commerce shall adopt regulations which eliminate unnecessary delay in implementing decisions reached, according to law, to remove or relax such controls. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

DISAPPROVAL OF LICENSE FOR THE EXPORT OF GOODS OR TECHNOLOGY TO COUNTRY WHICH SUPPORT ACTS OF INTERNATIONAL TERRORISM

SEC. 5. (a) The Secretary of Commerce shall approve no license for the export of goods or technology to any country with respect to which the Secretary of State has made the following determinations:

(1) that such country has demonstrated a pattern of support for acts of international terrorism, and

(2) that the exports in question would make a significant contribution to the military potential of such country or would otherwise enhance its ability to support acts of international terrorism.

(b) The President may suspend the applicability of paragraph (a) of this section with respect to any particular country or any particular transaction if he finds that the national interest so require.

(p)(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(q)(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, and such other countries as the President shall designate consistent with the purposes of this subsection 502(b) of the Foreign Assistance Act of 1961, as amended.

FOREIGN BOYCOTTS

SEC. 6. (a)(1) For the purpose of implementing the policies set forth in section 3 (5), (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycottng country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that

section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 7. (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and (2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

SEC. 8. (a) (1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity for which an increase in domestic prices or a domestic shortage has or may have a significant adverse effect on the national economy or any sector thereof may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested. The petition shall include information reasonably available to the petitioner indicating (A) that there has been a significant increase over a representative period in exports of such material or commodity in relation to domestic supply, and (B) that there has been a significant increase in the price of such material or commodity under circumstances indicating that the price increase may be related to exports.

(b) Within fifteen days after receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported From the United States, (3) notice of whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) notice that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of the petitioner or any other entity described in subsection (a) (1) with respect to the material or commodity which is the subject of the petition or at the request of any entity represenative of the producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within forty-five days after the end of the thirty-day or forty-five-day period described in subsection (b) or within seventy-five days of publication of the petition in the Federal Register, whichever is the later, the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; and

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) For the purposes of publishing notices in the Federal Register and the scheduling of public hearings, the Secretary shall have the authority to consolidate petitions and responses thereto with respect to the same or related commodities.

(f) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

(g) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(h) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and the Secretary's determination under subsection (c) if the Secretary deems such action to be necessary to effectuate the policy set forth in section 3(2)(C) of this Act. If such authority is used the Secretary shall afford interested persons an opportunity to submit written comments thereon and such comments shall be considered by the Secretary in making the determination required under subsection (c) and in the development of any final regulations.

(i) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under section 4(e)(1) or any other provision of this Act.

(j) The provisions of this section shall not apply to any agricultural commodity.

(k) Nothing contained in this section shall be construed to preclude submission on a confidential basis to the Secretary of Commerce of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, nor consideration of such information by the Secretary in reaching decisions required under this section. The provisions of this subsection are not intended to change the applicability of section 552(b) of title 5, United States Code.

CONSULTATION AND STANDARDS

SEC. 9 (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, and department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2)(C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gassification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, after Government departments and agencies. No person serving on any such committee who is representative of indsutry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribes by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.

(d) The Secretary of Defense shall have the same authorities and responsibilities as the Secretary of Commerce under paragraphs (1) through (5) of subsection (c) in order to carry out his responsibilities under this Act.

VIOLATIONS

SEC. 10. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or $100,000, whichever is greater, or imprisoned not more than ten years, or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 6(a) of this Act may be imposed only after notice and opoprtunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 6(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 11. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section 6(b)(2) and by section 10(c)(2)(C) of this Act, information obtained prior to June 30, 1980, under this Act, which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Information obtained after June 30, 1980, under this Act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary of Commerce to be in the national interest. Enactment of this subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 12. (a) Except as provided in section 10(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

SEC. 13. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the antiboycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a)(2)(A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a)(2)(B);

(7) actions taken pursuant to section 4(b)(1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a)(2)(E);

(9) the information contained in the reports required by section 4(e)(2) of this Act, together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than ninety days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 9(c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 11(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

SEC. 14. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

SEC. 15. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce $8,000,000 (and such additional amounts as may be neecssary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).

(c) There are authorized to be appropriated to the Department of Defense $2,500,000 for fiscal year 1980 to carry out its functions under subsection 4(a) of this Act.

EFFECTIVE DATE

SEC. 17. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 18. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

The title was amended so as to read: "A bill to provide authority to regulate exports, improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished chairman of the Subcommittee on International Finance of the Banking Committee, Mr. STEVENSON, for his leadership and extensive work on the Export Administration Act of 1979. He has guided the Senate in its consideration of a matter of the most vital importance for our Nation.

The U.S. Government needs the authority to impose export controls for the purpose of pursuing national security, foreign policy, and domestic economic goals. Particularly in the area of critical technology, we require controls on exports which could make a significant contribution to the military potential of adversary nations. At the same time, recognizing that restrictions on U.S. exports from the United States can have serious adverse effects on our balance of payments and on the availability of jobs for American workers, we must strive to limit restrictions on exports to those absolutely necessary.

The Senator from Illinois, together with the ranking minority member of the subcommittee, Mr. HEINZ, and the other members of the Banking Committee, have carefully evaluated these issues. In developing the Export Administration Act of 1979, they sought to maintain the balance between our need to protect critical technology from our adversaries with the need to allow and encourage U.S. foreign trade.

Mr. President, the task before the drafters of S. 737 was no easy one. They are to be congratulated for a job well done.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. MAGNUSON. Mr. President, as much as I hate to revive the Labor-HEW appropriations bill, I must.

This will correct a printing error in the bill.

It conforms with the action taken by the subcommittee, approved by the full committee, and explained fully on page 27 of the report.

Senator MATHIAS had moved this deletion of bill language in the committee. I believe Senator KASSEBAUM also had an interest in this matter.

While the committee was supportive of the "intent" of the House action, such a broad, all-inclusive prohibition went too far. The Department of HEW was offbase in their interpretation of existing law and corrective action is taking place.

This technical amendment will merely bring the Senate-passed bill into conformation with the action taken by the committee and adopted Thursday and Friday during consideration of H.R. 4389.

There is a printer's error in the Labor-HEW appropriations bill, H.R. 4380, which the Senate passed last night and I move the following technical amendment.

On page 53, strike out lines 8 through 11.

This was the intent of the Senate.

The amendment was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 263.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, my reservation was for the purpose of advising the majority leader that the calendar item is cleared on this side and we have no objection to consideration and passage.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. 195) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1309.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. 195) was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 1309. a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program. Such waiver is necessary because S. 1309 authorizes the enactment of new budget authority that would first become available in fiscal year 1979, and the bill was reported after May 15, 1978.

S. 1309 is emergency legislation that would authorize increased appropriations for the 1979 food stamp program. The amount of appropriations currently authorized for the 1979 program will not be sufficient to provide participants in the food stamp program with full program benefits through the end of the 1979 fiscal year.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

FORMER SECRETARY OF TRANSPORTATION BROCK ADAMS

Mr. MOYNIHAN. Mr. President, I rise to call attention and to pay tribute to an extraordinary act of political integrity and of constitutional insight that occurred yesterday when Mr. Brock Adams, formerly a member of the House of Representatives and until yesterday a member of the President's Cabinet as Secretary of Transportation, chose to leave the Cabinet rather than to submit to conditions which in his view were incompatible with the institution as we have known it and in which he has served with such distinction as Secretary of Transportation.

This morning, Mr. President, there was an editorial in The Washington Post praising the Transportation Secretary for his courage under pressure and the clarity of his understanding of his role.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

... AND A CLASS ACT AT DOT

Transportation Secretary Brock Adams acted with class. He was a good team player for two and a half years. But the president misjudged the man if he assumed that Mr. Adams would react gratefully or compliantly to the declaration that he could stay at DOT only if he would just jettison some of his top staff. Mr. Adams's reply was that he, too, had a few points to get settled before he made up his mind.

The most refreshing aspect of his rejoinder was that it reached beyond conflicts of personnel and personalities to the issues on which Mr. Adams has felt most frustrated: promotion of mass transit and development of a more efficient automobile.

On both questions, Mr. Adams has been very strong—and very right. He drove this region's Metro system through the most searching reexamination that it has ever received—because he wanted to ensure its success. For three years, too, he has been arguing for a larger federal investment in mass transit nationwide. Just last weekend it seemed that energy problems had finally brought Mr. Carter around to that view. Then on Monday, officials from the White House and the Office of Management and Budget made frantic last-minute efforts to get the $1.7-billion Metro financing bill deferred in the House. And by Wednesday, Mr. Adams had been told that the president's commitment to a new, $10-billion mass-transit program did not mean a $10-billion increase in transit aid after all. So once again the secretary had to go up to Capitol Hill and defend the administration's backing-off.

It is no wonder that Mr. Adams got fed up with White House bungling and the OMB's penny-wise approach. By spelling out the causes of his discontent, he has left Mr. Carter doubly on the spot. Apparently DOT, an increasingly vital and visible department, is now to be managed largely from the White House; the new acting secretary, W. Graham Claytor, is serving only in an interim role. So the burden is now on Mr. Carter to clarify not only how that arrangement is going to work—but also what kinds of transportation policies are going to be pursued.

Mr. MOYNIHAN. Mr. President, the essence of the position that Mr. Adams took was that it was inappropriate for a Cabinet officer to be asked to report to a member of the White House staff rather than directly to the President. The specific situation arose when a member of the White House staff had instructed him that while he could remain in his recent Cabinet arrangement he would have to dismiss certain of the Presidential appointees who were in his Cabinet.

He took the position that he reported to the President and would abide by the President's wishes in any matter but that it was inappropriate to receive such instructions secondhand when this was to be institutionalized. Any such ordinary occasion such as messages can be transmitted. But the question is what is a Cabinet officer's position?

I believe Mr. Adams was right in this, and I think the American political institutions owe him a debt, if it may be said institutions owe debts. We who depend on such institutions owe him a debt.

Mr. President, perhaps it is not generally recognized, but the Cabinet is not an informal institution of American Government wholly malleable to the purposes of any particular President.

A Cabinet was very carefully foreseen in the constitutional convention. At one point a Council of Ministers of the executive department was envisaged to advise the President.

It finally was not done because it was felt the President should not have an inhibition on his power.

But article II, section 2, of the Constitution specifically provides the President:

> May require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.

A head of an executive department is an officer and holds an office under the Constitution.

It was from the first assumed that they would meet in council with the President, although totally subject to his direction.

It is perhaps worth noting that Prof. Richard F. Fenno, Jr., in his fine work, a standard book, the book on the subject, The President's Cabinet, notes that in 1781 when we were still at war the Continental Congress established four executive departments, a Secretary of Foreign Affairs, a Superintendent of Finance, a Secretary of War, and a Secretary of Maine. This in itself was a departure.

In Britain at that time and under colonial governments, departments of this kind would be run by committees. The Prime Minister in England is merely the first Lord of the Treasury. The Lord of the Admiralty was a multiple leadership.

We chose to have single department heads and to have the President make such appointments.

This is a system that has endured for two centuries and has acquired traditions of which the most important, I think, is that a President may call any citizen of these United States and ask him to serve in the Cabinet with a high order of assumption that he will do so; that a Cabinet office is of such importance that no one capable of serving ought to reasonably decline and, with some exceptions, that has been our experience, I believe.

But it is no accident that within the very same week that these new arrangements appeared in the White House with respect to one of the senior departments, a department that was in the original Cabinet, two men of impeccable qualifications and demonstrated capacity and patriotism were offered that position by the President and declined, the new arrangements being such that while no one might decline to serve a President, anyone might feel free to decline to serve a Presidential aide, and the capacity of this Nation for governance is diminished when the range of persons who can be called upon to govern is so narrow.

I think this was the point which Mr. Adams made, and I rise simply to pay my respect to his unconcern for his personal position in face of the question of the integrity of so important an institution of Government.

I know if there were more persons on hand at this very late hour, they would wish to join me in expressing their admiration for the way in which a former Member of this Congress, Brock Adams, acquitted himself under circumstances of great personal difficulty.

I thank the Chair.

GROWTH IN THE PRESIDENTIAL STAFF

Mr. MOYNIHAN. Mr. President, in some supplementary remarks on the first budget resolution I drew attention to the observations of Arthur S. Link, the biographer of Woodrow Wilson, on the way the Presidency has been hampered by the extraordinary growth in Presidential staff.

This is not something about which one wishes to and would normally speak, but contrasting the experience of Wilson with the experience of our present President, two men with very similar interests and formations, Link describes Wilson's greater success and flexibility due to the fact that he did his own work, wrote his own speeches, made his own telephone calls to Congress with much greater success than, perhaps, so far agreed, with the institutionalized Presidency which becomes increasingly introverted and cut off from both the executive department and Congress itself.

Mr. President, I ask unanimous consent, in closing, that the passages in my remarks on the institutionalization of the White House be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Our objective, like the President's, was to carry out responsibilities more effectively; to get more work done. Any who question this need only consider in the exceptional talents and often heroic exertions of the staffs of the White House and the Congress. No two cadres in American society work harder. In the case of Congressional staff the exertions are compounded by no less incredible crowding.
>
> Yet it is necessary to ask just how effective these changes have been. Memories of the earlier era have quite vanished in the White House, and are fast fading on Capitol Hill. In such circumstances, historians are of help. To those interested, I would call attention to some recent observations of Arthur S. Link, the distinguished biographer of Woodrow Wilson. Professor Link notes that Wilson "had a very warm working relationship with Congress." Asked why such a relationship seems to elude President Carter—and, one might add, so many recent Presidents—Link replied:
>
> "The answer is complicated, but one main reason is the enormous White House staff, which has been a buffer in recent years between the President and Congress, and the people, too, and the heads of governmental departments. The President now has so many assistants of one kind and another that he spends his time running the staff, and the staff runs the country, or tries to. That was definitely not true in Wilson's time. . . .
>
> "A President with a staff of 400 has to spend most of his time dealing with that staff. You have to take the position that you are the leader. Truman put it very well: 'The buck stops here.' FDR had only two or three assistants in the White House before 1938."
>
> The common assumption, Link continues, that it "has to be this way" is simply wrong: "If we had a Wilson in the White House we'd see a dramatic change."
>
> This was not intended as personal criticism but was simply the observation of a wise and practiced historian concerning the effect institutions have on those who preside over them. Link concludes:
>
> "It's axiomatic today that the President has to have a battery of speechwriters. This began with FDR, and it's been assumed ever since that a President hasn't the time—or the capacity!—to write his own speeches. The whole office of the Presidency has become so bureaucratized and overstaffed that there isn't time for the President to perform a leadership role."
>
> "There isn't time." This is the heart of it. After a point—reached sooner, perhaps, than generally realized—increased assistance begins to defeat its purpose by consuming the very time and energy it was supposed to free up. The small group takes on a life of its own: it becomes an organization in its own right, and commences to behave like organizations behave.

FLEECE OF THE MONTH AWARD FOR JULY

Mr. PROXMIRE. Mr. President, yesterday I gave my Fleece of the Month Award for July—the first since the June 26 Supreme Court decision on this issue—to the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) for spending at least $6,000 to determine if pot smoking has a bad effect on scuba divers. While the amount may be relatively small, the taxpayers should get high over this one. One might seriously ask, "Were these trips really necessary?"

I intend to continue to issue the Fleece of the Month, to criticize vigorously the wasteful spending of public money, and to strive to be just as emphatic, vivid and, if possible, as humorous in the denunciation of waste as I can be.

The experiment was a minor part of an otherwise useful appearing $726,000 Federal grant, matched by $625,000 from the University of Hawaii, into human performance in the sea.

Ten pot-smoking men students aged 21 to 28 were recruited from a large class at the University of Hawaii. According to the published results entitled "Marijuana Smoking and Cold Tolerance in Man," appearing in the Journal of Aviation, Space, and Environmental Medicine:

> Specifically we were interested in cold stress similar to that encountered by scuba divers off Hawaii.

The effects of marihuana smoking after 1- or 2-hour exposures to both mildly cold water and cold air were undertaken.

After a preliminary hour's rest, the 10 were subjected to 1 hour immersions with only their heads above the 28°C (82.4°F) water. This was done three times, each on a separate day with a day in between, after smoking pot, after smoking a placebo, and after no smoking at all.

Similar cold air experiments were performed on the subjects lasting 2 hours in a chamber with the air temperature at 20° Centrigrade (68° Fahrenheit). Dressed only in bathing suits, they were hooked up to temperature gauges attached to nine parts of the body. In addition, breath holding tests taking from 15 to 30 minutes were involved.

While the body core temperatures were essentially unaffected, there were significant losses of body heat, elevated heart action, and shivering after smoking pot.

The diving aspects of the study were summarized as follows:

> Marijuana did not produce simple hypothermia [1] during cold exposure at rest, but it did increase heat production, probably due to more rapid and intensive shivering. Thus, it would appear hypothermia during diving is not anticipated. However, the consequences of tachycardia [2] due to marijuana interacting with diving bradycardia [3] may be consequential. Similarly, the observed increase in oxygen uptake might conflict with the normally higher vo_2 during swimming. In either case, caution should be suggested until cannabis action on swimmers can be determined. (Emphasis in italics.)

In my view, the Government was at sea on this one. What the study tells us is that if you smoke pot, do not go swimming, scuba diving, or mountain climbing.

If there were an unlimited budget, perhaps it might be undertaken. But on the scale of national needs, this experiment seems to have a very low priority.

Mr. President, I think many Americans might be amused by this, but I think when we recognize the fact that two families, two typical American families, pay all of their taxes, $6,000, for an activity of this kind, I think it is an outrage, and I would hope that the agency would be more careful in the future in spending the taxpayers' dollar.

Finally, a word about costs. While no detailed figures for this specific part of the overall project were available, the Commerce Department estimated the cost at $6,000, which seems misleadingly low. Here is why.

Some seven professional researchers signed the academic article.

The 10 students were involved for more than 200 hours.

A similar amount of time was involved with the lab, breathing equipment, smoking equipment—spirometer techniques were used—et cetera.

The routine charges by universities for lab time, professional salaries, equipment costs, and overhead, apparently not available for this study, are not routinely insignificant.

All this, plus the cost of the pot itself—I am told $40 to $45 an ounce is not an unusual price—would indicate that, at best, the Department's estimate is based on the marginal rather than the total costs.

DR. A. AUSTIN PEARRE OF MARYLAND

Mr. MATHIAS. Mr. President, Mrs. Mathias and I were saddened today to learn of the death of Dr. A. Austin Pearre of Frederick, Md. Dr. Pearre died peacefully in his sleep last night after a lifetime of service to his friends and neighbors in the community in which he was born and spent his whole life.

"Success" is a word that can be applied to almost every aspect of Dr. Pearre's career. He was chosen by his colleagues as president of the Frederick County Medical Association and later elected president of the medical and chirurgical faculty of Maryland. He was never satisfied with his current level of knowledge and constantly enrolled in courses and programs that advanced his professional skill. "Success" to a physician does not, however, depend on such material factors, but rather upon the relief he brings to people who suffer the pain and fear of illness.

By this test, Dr. Pearre would be acclaimed an outstanding success by the thousands he helped restore to health, not only by treating their bodies but by calming their fears and raising their confidence.

Dr. Pearre took a long view of his profession. Many years ago he commented to me that the previous century of medical research had been devoted to the fight against infection, but that the next century would concentrate on body chemistry. As the miracles of medical science have continued to unfold they have underscored his insight and his accuracy.

But with all the recognition that Dr. Pearre received in his profession and for all the advanced training he disciplined himself to absorb, I personally think nothing better can be said of him than that he was the ideal "family doctor."

Our own family experience in benefiting from his skill and kindness is merely an example of many such relationships that made the community so dependent on him.

When I was a child my parents took me to see him for the usual variety of childhood complaints. He was my grandmother's doctor. He helped my father through his last illness and came to his beside at the time of his death. He continued to be my mother's doctor until his recent retirement and ever since has been on call for her when she needed him. He responded to the crises in our own lives whenever Mrs. Mathias and I called upon him whether the occasion was childbirth or bee stings.

And so I take this moment to bid farewell to Dr. Pearre and to express my appreciation not only for his work, but also for his example. His colleagues in the healing arts will do well to remember the standard of humane service rendered by Dr. A. Austin Pearre to the men, women, and children with whom he shared his life.

Mrs. Mathias and I want to express our sympathy to Mrs. Pearre and to the children and grandchildren who were Dr. Pearre's special pride and joy.

RESIGNATION OF SECRETARY CALIFANO

Mr. BAYH. Mr. President, it is with great regret that I note the resignation of the Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr. As a member of the Labor-Health, Education, and Welfare Appropriations Subcommittee, I have had the opportunity to work closely with Joe Califano over the past 2½ years. There are few jobs in Washington more difficult or more often the subject of criticism than the job of Secretary of the Department of HEW. I feel that few have performed the duties of that office with greater skill or dedication than Secretary Califano.

He developed bold strategies for combating disease and serious illness. I applaud his efforts in calling for a national antismoking campaign. His program to educate young people, particularly teenage girls, to the potential health hazards associated with smoking is an important step toward ending our citizens' addiction to smoking and will eventually lead to a reduction of the large number of deaths annually linked to cancer. This program is not popular in many parts of the country, but Joe Califano had the courage to fight a serious health hazard affecting the people of the Nation. We can ask no more of a dedicated public servant than to have him stand up for his beliefs, act on them, and then be prepared to accept any adverse reaction. None was more adamant than Joe Califano in pointing out the needless suffering from diseases such as lung cancer, heart disease and respiratory ailments linked to smoking.

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[1] Subnormal temperature of the body.

[2] Swift action of the heart.

[3] Slow action of the heart.

Secretary Califano also worked diligently to control and reduce the rising costs of hospital care and was instrumental in the development of the administration's national health care plan. I strongly supported his program to reduce the high number of adolescent pregnancies. He was an experienced and professional administrator as illustrated by his efforts to reduce fraud in HEW and streamline many procedures within the Department. Joe Califano fulfilled his duties as Secretary for the administration with great energy and enthusiasm. He created new programs with bold brush strokes and always had a grasp of the diverse nature of the tasks ahead. He is an individual with a great sense of compassion and a strong commitment to improving the quality of human life in this country.

I wish Joe Califano the best in his future endeavors and am sure he will be successful in whatever he undertakes. Congress will miss his presence in the Government. We are all better off for having worked with him and known him. He has served his country as a dedicated American and future generations will live a better life because of his efforts. I am proud to know him as a friend.

JACOBO TIMERMAN

Mr. SARBANES. Mr. President, in April 1977, Jacobo Timerman, editor and publisher of the widely respected Argentine newspaper La Opinion, was kidnaped from his home in Buenos Aires and imprisoned. Although he was never formally accused of any crime, his case was heard, first by a military tribunal and eventually by the highest civilian court in Argentina, the supreme court. In both instances he was exonerated, ironically of charges never officially filed against him. Released from prison in April 1978, he has been held since that time under house arrest. Recently La Opinion, seized at the time of his arrest, was definitively confiscated by the Argentine Government. His children have emigrated to Israel. Jacobo Timerman, in poor health, separated from his family, and deprived of the right to speak through the newspaper which he established in 1969, is seeking to emigrate to Israel. Thus far his efforts have been callously rejected by the Argentine regime.

On June 17 of this year the Anti-Defamation League of the B'nai B'rith presented its third annual Hubert Humphrey Freedom Prize to Jacobo Timerman. The honesty and courage which have characterized Mr. Timerman's distinguished career as a journalist certainly made him a clear choice to receive the prize, which was established in Senator Humphrey's memory "to give public recognition and honor to individuals and institutions who have made significant and lasting contributions to the protection and advancement of freedom of the press." Because the house arrest of Mr. Timerman obviously precluded him from making the trip to New York to receive the award in person, it was accepted on his behalf by his son Hector Timerman.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement made by Benjamin R. Epstein, executive vice president of the Anti-Defamation League Foundation and for many years the extraordinarily able executive director of the ADL, in presenting the Hubert H. Humphrey Freedom Prize in abstentia to Jacobo Timerman, along with Hector Timerman's moving response in accepting this award on behalf of his father.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRESENTATION TO HECTOR TIMERMAN

(By Benjamin R. Epstein)

I am here representing the family of Dwayne Andreas whose foundation has endowed the Hubert H. Humphrey Freedom Award.

Someone is missing from this luncheon.

He was supposed to be here. He was invited. He just couldn't make it. Not because he didn't want to. He would have loved to be with us.

He's not here because he has been prevented from attending.

Instead, he is in prison. The fact that the prison is his own home does not make it any less a prison because it has become a place of confinement. It is a jail just as if its doors were iron gates and its windows barred.

That man who should be here is named Jacobo Timerman.

Although his person is incarcerated in Argentina, his name and fame have crossed international borders. He has come to symbolize the world wide struggle for freedom of the press. Of more than 600 journalists and writers who at this very moment are victims of repressive government action in some 55 countries, he is the most prominent and his case the most outstanding. He is one of 119 Argentinian journalists—the best and brightest of the country's newspapermen—who have been either imprisoned, placed under house arrest, or forced into exile.

Why did it happen to him? Why was he, the founder of two weekly magazines and the independent newspaper La Opinion, dragged from his home by a group of armed men on the morning of April 15, 1977? Why, if no charge was brought against him then or since, did he spend the next year in prison? Why was he tortured and stripped of his civil rights? Why is he under house arrest if the military tribunal which tried him found no evidence linking him to subversion?

The answer to these questions? There has been no answer. So far as anyone can determine he is an Argentinian Jew who has been a conscientious newspaperman doing an exemplary journalistic job which managed to shock and offend the powers that be in Buenos Aires.

I have searched my mind for a parallel in history. Is his case like that of the American, Peter Zenger? Not quite, Zenger was permitted to plead his case and defend his right to press freedom! Timerman did not get his day in court.

Is there a closer parallel to the French Dreyfus case? The unspoken charge against Captain Dreyfus was that he was a Jew. Is it thus with Timerman? But Dreyfus was brought to trial, and though falsely convicted was able to defend himself, to bring the anti-Semitic charges out into the open, and ultimately win his freedom.

Not so with Timerman! He has had no day in court. In fact, the Supreme Court of the Argentine has decreed that there is no basis in law, no charges have been presented, and there are no grounds for detaining him. The anti-Semitism has not come out into the open, but it lurks in the shadow behind the official silence.

Because he is forcibly detained, he cannot be with us to accept the Hubert H. Humphrey Award for his devotion and dedication to a free press. He is absent even though permission for his presence was requested from President Jorge Rafael Videla of Argentina. Regrettably, there has been no answer to this request either.

Therefore, as we did with Anatoly Scharansky who is held in a Soviet Gulag, this presentation must be made in absentia.

Fittingly, a son will stand in for his father.

This is not the first time Hector Timerman, who flew here from Israel, has substituted for his father. He took over the editorship of La Opinion when Jacobo Timerman was arrested, a most courageous act under the circumstances.

He remained in that post until the military junta expropriated the paper and it became apparent that he, too, might be marked for imprisonment.

Fortunately, he was able to leave for Israel, where he now lives.

I hope that soon he and his father will be reunited so that he can pass on to him this very richly merited award that we are now presenting .

STATEMENT OF HECTOR TIMMERMAN, UPON ACCEPTING THE HUBERT HUMPHREY FREEDOM PRIZE

For reasons which are publicly known, I've come in behalf of my father to receive and thank you for the Hubert Humphrey award bestowed upon him.

When I told him about his having been awarded such honor, his remark was "Once again Hubert Humphrey comes out to defend a man persecuted for his struggle for freedom".

Political instability and ideological confrontations have always been one of the features in most Latin American countries. Fear and prejudice, passion and vested interest, economic inequality and social frustration have contributed to build up in this continent's countries, which lacking a democratic tradition, a climate of violence which, in the last few years, has grown into terrifying proportions.

And it is in such climate wherein a journalist in Argentina has to cope with the hard, thankless and dangerous task of bringing back a sane attitude, an attitude of peaceful coexistence among citizens, of respect for human rights and of denunciation of violence.

And because, for painful reasons, I have the honor of receiving the award in my father's name, allow me to—modestly but justly—point out that Jacobo Timerman fulfilled this aim fervently and passionately, without letting himself be discouraged by threats both from the right and the left wings.

I know for certain that he had the opportunity to safeguard his own interest, and avoid a painful imprisonment; however, he chose to fight for his principles and the values advocated by him. No other way for someone who decided "to your own self be true" as well as true to the world he believed in.

Jacobo Timerman was imprisoned by the Argentine authorities, charged with numerous and terrible crimes. None, however, could be proved in any way whatsoever by the Military Court which tried him. The military courts said he should be released.

My father has been imprisoned for over two years, and up to this day the authorities in Argentina have been unable to explain the reasons for his arrest. I can tell you he is a political prisoner. But there were not only political reasons which caused my father's arrest and the fact that the same authorities ignored the order for his release, issued by the Supreme Court of Justice, the highest judicial power in Argentina.

There is another conspicuous reason, a well-known one, and one which arose during the frightful questioning he was subject to. Jacobo Timerman is a Jew. Among the absurd humbugs woven about him and the arbitrary, never-proven charges, my father was questioned about his links with the Elders of Zion and his activity in behalf of projects for world dominance by the jews.

To defend democratic principles was already a serious crime; but for a jew to do so caused an impact exceeding the acceptance capabilities of some military leaders of Argentina. Only in a country wherein antisemitism is well-rooted, where it is attempted to deny to the jews the right to take part, as any other citizen, in the political activities, can official enquirers pose such unheard of questions.

As a member of the Argentine Jewish Community, my father's activity is open and well-known. The newspaper "La Opinion", which he founded and managed up to the time of his arrest, did at all times defend the interests of the country's jewish community and resolutely waged war against manifestations of antisemitism as well as the restriction of political rights of jews and their status as a national minority.

In the climate of prejudice and antijewish hostility endured in Argentina, such attitude requires unique daring. According to the criteria of the rulers, his daring could not be left unpunished.

Jacobo Timerman is paying the high, the painful price for such attitude, both as a man and as a jew.

A contemporary thinker stated that "violence is unlearned"; and my father had chosen the dangerous road of letters.

I thank the antidefamation league of the B'nai Brith authorities, consistent fighters for human rights and against discrimination, for having decided to bestow the Hubert Humphrey award upon my father as a symbol of persecuted and discriminated men, and as a protest against the conspicuous violation of human rights in Argentna.

OIL IMPORTS QUOTAS

Mr. THURMOND. Mr. President, the American people have, once again, had the opportunity to hear President Carter's comments about this Nation's energy problems. He correctly identified the energy crisis as real and as a clear and present danger to our Nation. He further emphasized that our dependence on foreign oil threatens our economic independence and the very security of the United States.

Mr. President, while the administration's emphasis seemed correctly placed, we still heard only generalities with respect to positive programs. Hopefully, the much needed specifics of these general program suggestions will be provided soon.

Mr. President, I rise today to comment briefly regarding two points of President Carter's remarks. One, that this Nation will never again use more foreign oil than we did in 1977 and, second, that he will set import quotas to insure a reduction in imports of foreign oil. Certainly these are important and meaningful goals and we of the Congress will be watching very carefully the implementation of these import quotas and restrictions.

One decade ago, following extensive hearings in several committees of the Senate, there was a forceful, but unsuccessful warning given by several distinguished Senators—and I refer most particularly to the efforts led by Senators Hruska and Dirksen—that the removal or relaxation of oil import quotas would be severely detrimental to this Nation's economy, to the national security, and to the consuming public. This warning went unheeded by the Democratic and liberal Members of the Congress. Thus, for 10 years, we have experienced this continually worsening energy situation that could, and should, have been avoided.

Mr. President, we face today an energy crisis that is several orders of magnitude greater than that of a decade ago. We must meet resolutely the hard decisions that will move this Nation toward economic independence with respect to energy. It is most regrettable that the lack of appropriate action over the past decade has been so costly to this Nation and its effects will continue to plague us for many years in the future. We must, however, no longer delay the development and implementation of effective energy measures that will once again provide our American citizens with their rightful rewards in terms of energy supplies for their everyday needs and the needs for our Nation's security and economic independence.

Mr. President, in order that my colleagues might have the opportunity to review the pertinent and still relevant comments made on this issue by Senator Hruska nearly a decade ago, I ask unanimous consent that this opening statement to the March 3, 1970, hearings before the Senate Subcommittee on Antitrust and Monopoly be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I look forward to joining with my fellow Senators in the development of positive and effective programs that will meet this Nation's energy needs.

EXHIBIT 1

OPENING STATEMENT OF SENATOR ROMAN HRUSKA

President Richard M. Nixon, on February 9, received the task force report on oil import control from Secretary George Shultz, whom he appointed last March as the chairman of a seven-Cabinet-member task force. This task force was the first Cabinet-level study on the subject since its inception in 1959. The report was not unanimously agreed to by the seven members and no one expected such agreement. I quote from the President's message of February 20, 1970:

"Reasonable men can and will differ about the information, premises, and conclusions contained in the report. None, however, can fail to be impressed by the depth and breadth of this study . . .

"It is not surprising that the members of the task force did not reach unanimous agreement on a set of recommendations. The conclusions reached by the Secretary of Commerce and the Secretary of the Interior differ sharply from those reached by the remaining five members of the task force.

"Among the majority there is also divergence of views with the Secretaries of State and Defense expressing particular concern over the implications of the report's conclusions for the Nation's security and our international relations."

As I view the above quotes and the general message of the President, I conclude that a plan was not submitted to the President which he could put into immediate operation. But, the report did refer to several items and he acted immediately as I will note later. However, a report was submitted to the President, though not complete, but one that raises pertinent issues requiring further study and attention.

I shall briefly refer to some of these issues that I consider pertinent:

(1) The issue of the advantages in substituting tariffs for the present quota system. Discussions with our neighbors and our allies as recommended by the report could have a significant impact on the issue. So could a further study of the issue by the new management system that has been recommended and immediately put into effect by the President.

(2) The question of national security in its fullest application under existing law.

(3) The issue of pollution and the alternative products needed, such as no-lead gasoline, to reach future goals for lessening pollution.

(4) What impact has the Tax Reform Act passed by the 91st Congress on domestic oil production, exploration, reserves, and their appropriate place in the national security issue. This issue is significant because at page 166 of the appendix of the report, reference is made to "tax incentives" as point 6 of report on energy supplies and resources policy issued on February 26, 1955, at the White House.

The President responded immediately to the areas of agreement that a new management system be inaugurated to set policy for an oil import program. He ordered the director of the Office of Emergency Preparedness to chair an interdepartmental panel which will initially include the Secretaries of State, Treasury, Defense, Interior, and Commerce, the Attorney General, and the Chairman of the Economic Advisers.

The President noted further that while the day-to-day administrative functions will continue to be performed by the Oil Import Administration of the Department of Interior, the policy direction, coordination and surveillance of the program will be provided by the Director of OEP, acting with the advice of this permanent oil policy committee.

I read with interest the press conference on the task force report where Presidential Assistant Peter Flanigan spoke for the administration. Several of the questions by reporters referred to why do you need to study the whole thing.

The answer was clear that "we are not going to restudy the whole thing," and "the study suggested, one, that there be created this management system, and two, the results of this study is the recommendation that before anything is done, we have discussions with Canada regarding the common energy policy, and Mexico, and that we have discussions with our allies and other affected nations."

I ask unanimous consent that the President's statement, the press conference statement and the summary guide to task force report on oil import control be placed at the conclusion of my statement.

We all recall that President Nixon, about 1 year ago, reinvested in the President the responsibility to make the decisions in dealing with the mandatory oil import program, which responsibility President Johnson had placed in the hands of the Secretary of Interior.

Hence, the President has the sole responsibility of making the decisions under existing law. He has been and is aware of the many public hearings by the Interior committees of both Houses and by the Finance and Ways and Means Committees in the past few years pertaining to the changes in the mandatory oil import quota program created by Presidential proclamations in the Johnson administration. President Nixon acted promptly to appoint that task force on March 23, 1969, and he acted quickly on February 20 of this year, 11 days after receiving the report. He has made his decision.

The President also stated:

"The Congress properly has a vital interest in this program which affects every area of our country and many facets of our economy. Committees of both the House of Representatives and the Senate have indicated interest in holding hearings on the oil import program and any recommended changes in it. I expect much additional valuable information will result from these Congressional hearings, and I direct the Oil Policy Committee to carefully review all such information."

Thus, we of the Congress must devote our efforts toward legislative action, if any is needed. This subcommittee held 19 days of hearings in 1969 on the oil import quota program. At times the subcommittee went far afield in areas which belong, under our rules, to other committees which live regularly with the specific problems discussed in our subcommittee. As I noted earlier, those committees held hearings of the dangers created by opening up the oil import quotas from the established figure of 12.2 percent of U.S. crude production to approximately 20 percent of U.S. crude production. Predictions were that the percentage would go higher.

Reports of those committees sustained the fears of the dangerous impact of the removal of import quotas on the all-inclusive national security issue.

Among us today is Secretary Shultz, the task force chairman. He has with him some of his advisers during the study. The report speaks for itself. The divergent views of the various members speak for themselves. This raises the question of why then does the Senate Antitrust Subcommittee call Secretary Shultz when the report speaks for itself and he has many other things of significance for his immediate attention.

Certainly, the subcommittee has no legislative jurisdiction over the Senate bill S. 3477, introduced by Senators Stevens and Bellmon. This bill will impose statutory quotas on imports of petroleum, et cetera, and has been referred to the Finance Committee under our rules.

It is my understanding that the Senate Finance Committee will conduct hearings on these issues this month.

With the members of the Senate being pressed with daily and Saturday sessions, and with many committee and subcommittee hearings so early in this session, I was hoping that the antitrust subcommittee would leave the oil import control issue to the appropriate legislative Senate committee. However, I reluctantly agreed not to oppose this 1-day hearing from being held, but that is as far as my agreement shall go, because I believe this subcommittee is setting a bad precedent to continue to inject itself in this area for the reasons noted above.

MARSHALL SPACE FLIGHT CENTER

Mr. STEWART. Mr. President, 10 years ago today this Nation watched with wonder, anxiety and pride as an American citizen planted a flag on the surface of the moon. That was an accomplishment of such scientific and technological genius that I sincerely doubt its impact will be equaled in our generation.

I am rising today to recognize not only American ingenuity. I don't think too many folks will argue with the fact that it really takes a total national commitment to land a man on the moon. I am also rising to remind my colleagues of the invaluable role Alabama played in the Apollo 11 mission. For it was the Marshall Space Flight Center, which is located in Huntsville, Ala., that literally catapulted mankind into its greatest space adventure.

The Saturn V rocket—which stands 363 feet tall and weighs 6.5 million pounds at full load—was developed by the National Aeronautic and Space Administration at the Marshall Center, under the leadership of the internationally recognized rocket pioneer, Dr. Wernher von Braun.

While Marshall itself played a number of key roles in the drama that unfolded around the Saturn V program, it was the center's program-management philosophy that was perhaps the prime element in the successful development of the launch vehicle. For Marshall personnel were involved in virtually every phase of the development process, from qualification testing to systems engineering to program control and budgeting to actual flight operations.

But, Mr. President, it did not stop there. The center took an active role in the design and development, the checkout and tests and the fabrication and transportation of all stages, engines and instrument units for the Saturn V. The first four stages of the vehicle, two designed for testing and two designed for flight, were manufactured at Marshall.

And, as if all that were not enough, the Marshall Center was responsible for managing the transportation of the Saturn V hardware. This proved to be a massive understanding, requiring a fleet of cargo airplanes and a fleet of ocean-going barges to transport the stages, engines, instrument units and other hardware among manufacturing sites, test facilities and launch facilities.

Mr. President, Marshall rose to the occasion with resounding success. The launch vehicle that the center produced was tested five times before the Appollo 11 mission, and from its very first flight, the Saturn V performed successfully. The first two of these tests were unmanned, followed by three manned flights, one in near-Earth orbit and two to the vicinity of the moon.

Then, of course, came the launch of Apollo 11 and, as they say, the rest is history.

But Marshall's role in American scientific genius did not end with the Apollo program. And while the center has played a key role in the Space Shuttle program, the benefits it affords for the future should not be underestimated. During a recent tour of the installation, I saw some significant projects that could have an important role on our energy planning for the future.

So, Mr. President, the Marshall Space Flight Center and the people of Alabama have cause to be proud today. For the support and faith of the folks of Huntsville, Madison County and the entire State contributed to an endeavor so incredible that its impact will be felt forever.

THIRD PARTY PRIVACY ACT: A BILL WHOSE TIME HAS COME

Mr. PERCY. Mr. President, recently, lawyers' offices in Los Angeles, Calif., and St. Paul, Minn., were visited unannounced by law enforcement officials representing State or local prosecutors. The officers brought warrants to search the lawyers' offices. These attorneys had no warning. They were not suspected of committing any crime. The law enforcement officials did not know that the attorneys would withhold the evidence of alleged crimes being sought.

To the attorneys whose private offices were searched, it may well appear that their constitutional rights to protection against unreasonable search and seizure were violated. However, under a recent Supreme Court decision, Zurcher against Stanford Daily, law enforcement officials can search and seize, as long as they have a warrant, virtually anywhere they wish—from an attorney's office to that of a psychiatrist.

It is for these reasons that I enthusiastically join my distinguished colleague, Senator MATHIAS, in cosponsoring S. 115, the Third Party Privacy Act of 1979.

This bill is urgently needed to protect the rights of all Americans, for a gaping hole in the protection against unreasonable searches has been opened by the Supreme Court in the Zurcher case. In that case, the Court held that police, as long as they had a warrant, could conduct surprise searches of a newsroom for evidence of a crime even though no one in the office to be searched was suspected of any complicity in the crime.

These police raids, increasing in frequency since the Zurcher decision, conjure up an America we never knew before, where the press is no longer free and the sacred privileges of privacy are sacrificed without probable cause to limit such rights.

The Third Party Privacy Act would protect all citizens—journalists as well as accountants, physicians, lawyers and social workers, to name a few—from a Zurcher-type raid. Law-abiding citizens who are not suspected of a crime should be able to challenge the Government's demands for evidence and should be permitted to provide such evidence without being searched. This is simple due process. It is our obligation in the Congress to insure that those who enforce the law respect the dignity of those who abide by it.

This bill requires Federal, State, and local law enforcement officials to first obtain a subpena for evidence of a crime when it is believed to be in the possession of someone not connected with the crime. The measure would still allow police to obtain a search warrant if probable cause can be established that the evidence is contraband or that it would be destroyed, hidden or removed.

A subpena would provide prior notice to the individual or organization, enabling a legal challenge if the subject of the search chooses to do so. At the same time, this due process guarantee would permit the subject of the subpena to voluntarily produce the evidence requested without suffering the indignity of a legally warranted but procedurally unnecessary search.

I believe that the Zurcher decision has diluted the protection of private citizens against unreasonable searches. Restoration of this protection is up to the Congress. As Justice Byron White said in his majority opinion, nothing in the Constitution prevents Congress from providing more protection than the Court found for innocent third parties in the first and fourth amendments. Clearly, Congress has an obligation to close the doors to our homes, offices, and newsrooms thrown open by the Court.

The gradual erosion of our rights to privacy must be stopped now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEVIN, from the Committee on Armed Services, without amendment:

S. Res. 202. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 111. Referred to the Committee on the Budget.

By Mr. LEVIN, from the Committee on Armed Services, with an amendment and an amendment to the title:

H.R. 111. An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977 (Rept. No. 96-255).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WILLIAMS (for himself, Mr. Baker, Mr. Bradley, Mr. Cranston, Mr. Javits, Mr. Metzenbaum, and Mr. Sarbanes):

S. 1552. A bill to amend the copyright law, title 17 of the United States Code, to create public performance rights with respect to sound recordings, and for other purposes; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself, Mr. Williams, Mr. Javits, Mr. Inouye, Mr. Huddleston, Mr. Johnston, Mr. Lugar, Mr. Riegle, and Mr. Tsongas):

S. 1553. A bill to amend the Higher Education Act of 1965 to establish a system of grants or urban universities; to the Committee on Labor and Human Resources.

By Mr. DURKIN:

S. 1554. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Finance;

S. 1555. A bill to provide a program for the rehabilitation of the Nation's railroads; to the Committee on Commerce, Science, and Transportation;

S. 1556. A bill to provide for grants to the States to employ State foresters, to provide for a current determination of the number of woodlot owners in each State, to provide for the availability of forest fuel utilization training, and to increase the assistance and information provided by the Department of Energy to the Forest Service and by the Small Business Administration to small woodlot owners and wood fuel distributors and marketers; to the Committee on Agriculture, Nutrition, and Forestry;

S. 1557. A bill to authorize construction of a turnaround basin on the Piscataqua River, Portsmouth, N.H.; to the Committee on Environment and Public Works;

S. 1558. A bill to amend the Federal Power Act to permit the Federal Energy Regulatory Commission to enter into agreements with States under which State authorities may exercise the licensing authority of the Commission with respect to small hydroelectric projects at existing dams, and for other purposes; to the Committee on Energy and Natural Resources; and

S. 1559. A bill authorizing a study to develop small hydroelectric projects for rural areas or communities; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS (for himself, Mr. Baker, Mr. Bradley, Mr. Cranston, Mr. Javits, Mr. Metzenbaum, and Mr. Sarbanes):

S. 1552. A bill to amend the copyright law, title 17 of the United States Code, to create public performance rights with respect to sound recordings, and for other purposes; to the Committee on the Judiciary.

SOUND RECORDING PERFORMANCE RIGHTS AMENDMENT

● Mr. WILLIAMS. Mr. President, I am pleased to introduce legislation today to remedy a long-standing inequity in the copyright laws of this Nation. My bill, S. 1552 would create a performance right in sound recordings.

The sound recording is the only copyrighted product that does not now have a performance right.

This measure would, for the first time, require broadcasters and others who use sound recordings for their profit to compensate performers, musicians and record companies for the exploitation of their creative efforts. Seventy-five percent of all radio broadacst time sold to advertisers is devoted to playing sound recordings. As it is, broadcasters already pay for all their other types of programing—sports, news, disc jockeys, even the publishers and composers of the musical compositions underlying the records they play. It is only appropriate that broadcasters likewise pay for the prime programing material they use to secure their audiences, advertising revenues and equity values.

At one time, broadcasters did pay for "live" performers. Many radio stations employed musicians and vocalists as "staff." These artists have now been replaced by their own recordings.

Who knows what kind of "technological unemployment" we will see in the future if we do not enact a performance right. Who knows what developments technology will bring. Imagine what would have happened to the movie industry if motion pictures had not had a performance right, and television stations were free to broadcast movies at will, without compensation to the creators.

The Register of Copyrights said it exceptionally well when she explained why Congress should create a performance right in sound recordings:

> The lack of copyright protection for performers since the commercial development of phonograph records has had a drastic and destructive effect on both the performing and the recording arts. . . . It is too late to repair past wrongs, but this does not mean they should be allowed to continue. Congress should now do whatever it can to protect and encourage a vital artistic profession under the statute Constitutionally intended for this purpose: the copyright law.
>
> Broadcasters and other commercial users of recordings have performed them without permission or payment for generations. Users today look upon any requirement that they pay royalties as an unfair imposition in the nature of a "tax." However, any economic burden on the users of recordings for public performance is heavily outweighed, not only by the commercial benefits accruing directly from the use of copyrighted sound recordings, but also by the direct and indirect damage done to performers whenever recordings are used as a substitute for live performances. In all other areas the unauthorized use of a creative work is considered a copyright infringement if it results either in damage to the creator or in profits to the user. Sound recordings are creative works, and their unauthorized performance results in both damage and profits. To leave the creators of sound recordings without any protection or compensation for their widespread commercial use can no longer be justified.

It is for these reasons and others that the performance rights principle has received the strong endorsement of such diverse groups as the AFL/CIO, the American Federation of Musicians, the American Federation of Television and Radio Artists, the Consumer Federation of America, the Recording Industry Association of America, Actors' Equity, the Screen Actors Guild, the National Endowment for the Arts, the American Council for the Arts, the Department of Commerce, the copyright section of the American Bar Association, the National Citizens Communications Lobby, and the Copyright Office.

The royalty rate in S. 1552 is fair and easily affordable. The National Radio Broadcasters' Association admitted as much in a congressional hearing last year. The maximum royalty provided for in the bill is 1 percent of the advertising receipts for a station with revenues of more than $200,000 a year. For the great number of stations with lesser revenues—61 percent of the stations nationwide—only a token royalty fee is required: Stations with revenues between $100,000 and $200,000 pay only $750 a year. Stations with revenues under $100,000 pay only $250. Stations with revenues under $25,000 are totally exempt from the royalty payment.

In any event, these added expenses properly would be passed along to advertisers who benefit from the enormous audiences that recorded music draws to radio. Thus, the minimal fee should have little, if any, impact on broadcasters' profit picture. The Copyright Office so concluded in a study of the performance rights issue commissioned by Congress.

In addition to the royalties earned from radio stations, American performing artists and copyright owners would, for the first time, be eligible to receive performance royalties from abroad. Virtually every other nation in the Western world recognizes a performance right in sound recordings, yet the nation whose music dominates the world has no equivalent right. Enactment of this legislation would put the United States back in step with the rest of the world.

The time has come for the enactment of this legislation. It has already been the subject of intensive study and extensive debate. The scholarly report prepared by the Copyright Office analyzing the subject in comprehensive detail emphatically endorses the creation of a performance right in sound recordings.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Sound Recording Performance Rights Amendment".

Sec. 2. Section 101 of title 17 of the United States Code is hereby amended by deleting the definition of "perform" and inserting the following:

"To 'perform' a work means to recite, render, play, dance, or act it, either directly or by means of any device or process. In the case of a motion picture or other audiovisual work, to 'perform' the work means to show its images in any sequence or to make the sounds accompanying it audible. In the case of a sound recording, to 'perform' the work means to make audible the sounds of which it consists.".

Sec. 3. Section 106 of title 17 of the United States Code is hereby amended by deleting clause (4) and inserting the following:

"(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures, and other audiovisual works, and sound recordings, to perfrom the copyright work publicly; and"

Sec. 4. Section 110 of title 17 of the United States Code is hereby amended as follows:

(a) in clause (2) insert the words ", or of a sound recording," between the words "performance of a non-dramatic literary or musical work" and "or display of a work,";

(b) in clause (3), insert the words "or of a sound recording," between the words "of a religious nature," and the words "or display of a work,";

(c) in clause (4), insert the words "or of a sound recording," between the words "literary or musical work" and "otherwise than in a transmission";

(d) in clause (6), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a governmental body";

(e) in clause (7), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a vending establishment";

(f) in clause (8), insert the words "or of a sound recording embodying a performance of a nondramatic literary work," between the words "nondramatic literary work," and "by or in the course of a transmission"; and

(g) in clause (9), insert the words "or of a sound recording embodying a performance of a dramatic literary work that has been so published," between the words "date of the performance," and the words "by or in the course of a transmission".

Sec. 5. Section 111 of title 17 of the United States Code is hereby amended by inserting, in the second sentence of subsection (d)(5)(A), between the words "provisions of the antitrust laws," and "for purposes of this clause" the words "and subject to the provisions of section 114(c),".

Sec. 6. Section 112 of title 17 of the United States Code is hereby amended as follows:

(a) in subsection (a), delete the words "or under the limitations on exclusive rights in sound recordings specified by section 114 (a)," and insert in their place "or under a compulsory license obtained in accordance with the provisions of section 114(c)," and

(b) in subsection (b), delete the reference to "section 114(a)" and insert "section 114 (a)(5)".

Sec. 7. Section 114 of title 17 of the United States Code is hereby amended in its entirety to read as follows:

"§ 114. Scope of exclusive rights in sound recordings

"(a) Limitations on Exclusive Rights.—In addition to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the compulsory licensing provisions of subsection (c) and the exemptions of subsection (d) of this section, the exclusive rights of the owner of copyright in a sound recording under clauses (1) through (4) of section 106 are further limited as follows:

"(1) the exclusive right under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording;

"(2) the exclusive right under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality;

"(3) the exclusive right under clause (4) of section 106 is limited to the right to perform publicly the actual sounds fixed in the recording.

"(4) the exclusive rights under clauses (1) through (4) of section 106 do not extend to the making, duplication, reproduction, distribution, or performance of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; and

"(5) the exclusive rights under clauses (1) through (4) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

"(b) Rights in Sound Recording Distinct From Rights in Underlying Works Embodied in Recording.—The exclusive rights specified in clauses (1) through (4) of section 106 with respect to a copyrighted literary, musical, or dramatic work, and such rights with respect to a sound recording in which such literary, musical, or dramatic work is embodied, are separate and independent rights under this title.

"(c) Compulsory License for Public Performance of Sound Recordings.—

"(1) Subject to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the other limitations on exclusive rights provided by this section, the exclusive right provided by clause (4) of section 106, to perform a sound recording publicly, is subject to compulsory licensing under the conditions specified by this subsection.

"(2) When phonorecords of a sound recording have been distributed to the public in the United States or elsewhere under the authority of a copyright owner, any other person may, by complying with the provisions of this subsection, obtain a compulsory license to perform that sound recording publicly.

"(3) Any person who wishes to obtain a compulsory license under this subsection shall fulfill the following requirements:

"(A) On or before January 1, 1981, or at least thirty days before the public performance, if it occurs later, such person shall record in the Copyright Office a notice stating an intention to obtain a compulsory license under this subsection. Such notice shall be filed in accordance with requirements that the Register of Copyright, after consultation with the Copyright Royalty Tribunal, shall prescribe by regulation, and shall contain the name and address of the compulsory licensee and any other information that such regulations may require. Such regulations shall also prescribe requirements for bringing the information in the statement up to date at regular intervals.

"(B) The compulsory licensee shall deposit with the Register of Copyrights, at annual intervals, a statement of account covering the preceding calendar year, and a total royalty fee for all public performances during that calendar year, based on the royalty provisions of clause (7) or (8) of this subsection. After consultation with the Copyright Royalty Tribunal, the Register of Copyrights shall prescribe regulations prescribing the time limits and requirements for the filing and contents of the statement of account and royalty payment.

"(4) Failure to record the notice, file the statement, or deposit the royalty fee as required by clause (3) of this subsection renders the public performance of a sound recording actionable as an act of infringement under section 501 and fully subject to the remedies provided by section 502 through 506 and 509.

"(5) Royalties under this subsection shall be payable only for performances of copyrighted sound recordings fixed on or after February 15, 1972.

"(6) The compulsory licensee shall have the option of computing the royalty fees payable under this subsection on either a prorated basis, as provided in clause (7), or on a blanket basis, as provided in clause (8), and the annual statement of account filed by the compulsory licensee shall state the basis used for computing the fee.

"(7) If computed on a prorated basis, the annual royalty fees payable under this subsection shall be calculated in accordance with standard formulas that the Copyright Royalty Tribunal shall prescribe by regulation, taking into account such factors as the proportion of commercial time, if any, devoted to the use of copyrighted sound recordings by the compulsory licensee during the applicable calendar year, the extent to which the compulsory licensee is also the owner of copyright in the sound recordings performed during said year, and, if considered relevant by the Tribunal, the actual number of performances of copyrighted sound recordings during said year. The Tribunal shall prescribe separate formulas in accordance with the following:

"(A) for radio or television stations licensed by the Federal Communications Commission, the fee shall be a specified fraction of the 1 per centum of the station's net receipts from advertising sponsors during the applicable calendar year;

"(B) for other transmitters of performances of copyrighted sound recordings, including background music services, the fee shall be a specified fraction of 2 per centum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable calendar year; and

"(C) for other users not otherwise exempted, the fee shall be based on the number of days during the applicable calendar year on which performances of recordings took place, and shall not exceed $5 per day of use.

"(8) If computed on a blanket basis, the annual royalty fees payable under this section shall be calculated in accordance with the following:

"(A) for a radio broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend upon the total amount of the station's gross receipts from advertising sponsors during the applicable calendar year:

"(i) receipts of at least $1,000,000 but less than $100,000: $250;

"(ii) receipts of at least $100,000 but less than $200,000: $750;

"(iii) receipts of $200,000 or more: 1 per centum of the station's net receipts from advertising sponsors during the applicable calendar year;

"(B) for a television broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend on the total amount of the station's gross receipts from advertising sponsors during the applicable calendar year:

"(i) receipts of at least $1,000,000 but less than $4,000.000: $750;

"(i) receipts of $4,000,000 or more: $1,500;

"(C) for other transmitters of performances of copyrighted sound recordings, including background music services, the blanket royalty shall be 2 per centum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable calendar year;

"(D) for commercial establishments such as discotheques, nightclubs, cafes, and bars at which the principal form of entertainment is dancing to the accompaniment of sound recordings, the blanket royalty shall be $100 per calendar year for each location at which copyrighted sound recordings are performed. This royalty fee shall not be applicable to establishments at which the performance of sound recordings is solely by means of coin-operated phonorecord players as defined in section 116(e)(1);

"(E) for other users not otherwise exempted, the blanket royalty shall be $25 per calendar year for each location at which copyrighted sound recordings are performed.

"(9) Public performances of copyrighted sound recordings by operators of coin-operated machines, as that term is defined by section 116, and by cable systems, as that term is defined by section 111, are subject to compulsory licensing under those respective sections, and not under this section. However, in distributing royalties to the owners of copyright in sound recordings under sections 116 and 111, the Copyright Royalty Tribunal shall be governed by clause (14) of this subsection. Nothing in this section excuses an operator of a coin-operated machine or a cable system from full liability for copyright infringement under this title for the performance of a copyrighted sound recording in case of failure to comply with the requirements of section 116 or 111, respectively.

"(10) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal, as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a compilation of all statements of account covering the relevant calendar year provided by subsection (c)(3) of this section.

"(11) During the month of May in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding calendar year shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(3) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may, subject to the provisions of clause (14) of this subsection, agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(12) After the first day of June of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees for which claims have been filed under clause (11) of this section. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(13) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(14) One-half of the royalties available for distribution by the Copyright Royalty Tribunal shall be paid to the copyright owners, as defined in subsection (e), and the other half shall be paid to the performers, as also defined in subsection (e). With respect to the various performers who contributed to the sounds fixed in a particular sound recording, the performers' share of royalties payable with respect to that sound recording shall be divided among them on a per capita basis, without regard to the nature, value, or length of their respective contributions. With respect to a particular sound recording, neither a performer nor a copyright owner shall be entitled to transfer his or her right to the royalties provided in this subsection to the copyright owner or the performer, respectively.

"(d) Exemptions From Liability and Compulsory Licensing.—In addition to users exempted from liability by other sections of this title or by other provisions of this section, any person who publicly performs a copyrighted sound recording and who would otherwise be subject to liability for such performance or to the compulsory licensing requirements of this section, is exempted from liability for infringement and from the compulsory licensing requirements of this section, during the applicable calendar year, if during such year—

"(1) in the case of a radio broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $25,000; or

"(2) in the case of a television broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $1,000,000; or

"(3) in the case of other transmitters of performances of copyrighted sound recordings, including background music services, its gross receipt from subscribers or others who pay to receive transmissions were less than $10,000.

"(e) Definitions.—As used in this section, the following terms and their variant forms mean the following:

"(1) 'Commercial time' is any transmission program, the time for which is paid for by a commercial sponsor, or any transmission program that is interrupted by or includes commercial matter.

"(2) 'Performers' are instrumental musicians, singers, conductors, actors, narrators, and others whose performance of a literary, musical, or dramatic work is embodied in a sound recording, and, in the case of a sound recording embodying a musical work, the arrangers, orchestrators, and copyists who prepared or adapted the musical work for the particular performance of the sounds fixed in the sound recording. For puposes of this section, a person coming within this definition is regarded as a 'performer' with respect to a particular sound recording whether or not that person's contribution to the sound recording was a 'work made for hire' within the meaning of section 101.

"(3) A 'copyright owner' is the owner of the right to perform a copyrighted sound recording publicly.

"(4) 'Net receipts from advertising sponsors' consist of gross receipts from advertising sponsors less any commissions paid by a radio station to advertising agencies.

"(f) Sounds Accompanying a Motion Picture or Other Audiovisual Work.—The sounds accompanying a motion picture or other audiovisual work are considered an integral part of the work that they accompany, and any person who uses the sounds accompanying a motion picture or other audiovisual work in violation of any of the exclusive rights of the owner of copyright in such work under clauses (1) through (4) of section 106 is an infringer of that owner's copyright. However, if such owner authorizes the public distribution of material objects that reproduce such sounds but do not include any accompanying motion picture or other audiovisual work, a compulsory licensee under sections 116 or 111 or under section (c) of this section shall be freed from further liability for the public performance of the sounds by means of such material objects.".

Sec. 8. Section 116 of title 17 of the United States Code is hereby amended as follows:

(a) in the title of the section insert the words "and sound recordings" after the words "nondramatic musical works" and before the colon;

(b) in subsection (a), between the words "nondramatic musical work embodied in a phonorecord," and the words "the exclusive right" insert the words "or of a sound recording of a performance of a nondramatic musical work,";

(c) in the first sentence of subclause (A) of clause (1) of subsection (b), delete the word "$8" and insert in lieu thereof the word "$9". In the second sentence of the same provision, delete the word "$4" and insert in lieu thereof the word "$4.50";

(d) in the second sentence of clause (2) of subsection (c), between the words "provisions of the antitrust laws," and "for purposes of this subsection," insert the words "and subject to the provisions of section 114(c),";

(e)(1) in clause (4) of subsection (c), redesignate subclauses (A), (B), and (C) as (B), (C), and (D), respectively, and insert a new subclause (A) as follows:

"(A) to performers and owners of copyright in sound recordings, or their authorized agents, one-ninth of the total distributable royalties under this section, to be distributed as provided by section 114(c)(14);" and

(2) in the newly designated subclause (B), between the words "every copyright owner" and the words "not affiliated with" insert the words "of a non-dramatic musical work".

Sec. 9. In section 801 of title 17 of the United States Code, amend subsection (b)(1) as follows: In the first sentence, between the words "as provided in sections" and "115 and 116, and" insert "114,"; and in the second sentence, between the words "applicable under sections" and "115 and 116 shall be calculated" insert "114,". Amend subsection (b)(3) by inserting, between the words "Copyrights under sections 111" and "116, and to determine" the following: ", 114,".

Sec. 10. In section 803 of title 17 of the United States Code, insert at the end of that section a new subsection (c) as follows:

"(c) with respect to the distribution of royalties under section 114, the Tribunal shall retain the services of one or more private, nongovernmental entities to perform the functions necessary to monitor the performance of sound recordings, to value said performances, to distribute royalty funds to recipients, and to perform such other functions as the Tribunal shall deem necessary, unless the Tribunal shall detremine that it is inappropriate to do so. The performance of said functions by private entities shall not relieve the Tribunal of the responsibility to insure the fair and equitable distribution of royalty fees in accordance with section 801(b)(3).".

Sec. 11. In subsection (a) of section 804 of title 17 of the United States Code, insert "114," following the words "as provided in sections" and "115 and 116, and with", and at the end of clause (2) of subsection (a) add a new subclause (D), as follows:

"(D) In proceedings under section 801 (b)(1) concerning the adjustment of royalty rates under section 114, such petition may be filed five years after the effective date of this Act and in each subsequent fifth calendar year.".

In subsection (d) of section 804, insert ", 114," between the words "circumstances under sections 111" and "or 116, the Chairman".

Sec. 12. Amend section 809 of title 17 of the United States Code by inserting ", 114," between the words "royalty fees under sections 111" and "or 116, the Tribunal".

Sec. 13. (a) Except as provided in subsection (b) of this section, this Act becomes effective on January 1, 1981.

(b) The provisions of section 114(c)(3) (A) of title 17 of the United States Code, as amended by section 7 of this Act, become effective upon the enactment of this Act.●

By Mr. EAGLETON (for himself, Mr. Williams, Mr. Javits, Mr. Inouye, Mr. Huddleston, Mr. Johnston, Mr. Lugar, Mr. Riegle, and Mr. Tsongas):

S. 1553. A bill to amend the Higher Education Act of 1965 to establish a system of grants or urban universities; to the Committee on Labor and Human Resources.

URBAN GRANT UNIVERSITY ACT OF 1980

● Mr. EAGLETON. Mr. President, during the past 40 years, higher education in America has undergone what can only be described as a major upheaval. Before World War II, higher education in this country was much the same as it had been in this country for hundreds of years, and in Europe for hundreds more. It was the province of the rich and the privileged. Of course, there were no laws which kept the sons and daughters of working class men and women out of college. But as a matter of social custom, it usually was the children of the upper classes who went to college, while the children of the working classes went to work.

Following World War II, things changed rapidly. Our young men by the millions were marching back from war, and a grateful Nation wanted to give them all a boost toward a better life. To show our gratitude, we passed the GI bill with the aim of making college affordable for every American.

The impact of the GI bill was overwhelming. Anyone who attended college in the decade after the war remembers the crowded classrooms as American colleges struggled to catch up with the exploding student population.

The temporary swell of college students was only the beginning. For what the GI bill did in the long run was to take an entire generation of young men and women who had perceived higher education as a privilege, and teach them that higher education is a right. By instilling that belief in the GI generation, the shape and purpose of higher education was forever altered.

One outgrowth of this change has been the emergence of urban universities located in major metropolitan areas. This was partly in response to the population migration to the cities. But a larger factor in the emergence of these institutions is the changing character of today's students. Today, not only are Americans routinely staying in school into their twenties, but they are coming back to school in their thirties, forties, fifties, and beyond. Some are picking up where they left off, some are starting anew. Some are seeking the traditional liberal arts curricula, but many are looking for programs designed to foster professional and personal development. Whereas in the 1950s, only seven percent of the adult population was engaged in formal academic activity, today about 15 percent of adults are in school, and that percentage continues to grow.

Mr. President, the bill I am introducing today seeks to strengthen these new urban universities and encourage their new thrust of responding to concerns within the metropolitan environment by establishing a competitive grant program for project assistance to join their research efforts with the planning efforts of local government agencies.

My view of the Federal Government's role in urban higher education is to act as a catalyst to stimulate local cooperative efforts to alleviate the problems plaguing our cities. That is precisely what this legislation will do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Urban Grant University Act of 1980".

Sec. 2. The Higher Education Act of 1965 is amended—

(1) by redesignating title XII as title XIII, by redesignating 1201 through 1208 as sections 1301 through 1308, respectively, and by redesignating any reference to such title or such sections accordingly; and

(2) by inserting immediately after title XI the following new title:

"TITLE XII—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"Sec. 1201. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that these skills, talents, and knowledge must be applied in a systematic and sustained manner to impact successfully upon these problems;

"(3) that the application of these skills, talents, and knowledge is impeded due to the limited funds available to sustain their commitment; and

"(4) that it is the public policy of the United States to encourage and facilitate the application of these skills, talents, and knowledge toward serving the needs of the Nation's urban centers.

"(b) The Commissioner shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"Sec. 1202. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $25,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $70,000,000 for the fiscal year 1983, and $90,000,000 for the fiscal year 1984.

"(b) Funds appropriated under this section shall remain available to the Commissioner for the duration of the period for which funds are authorized to be appropriated under subsection (a), in order to permit multiple-year funding of projects under this title.

"PROJECT ASSISTANCE

"Sec. 1203. (a) The Commissioner may make grants to urban universities to assist them in carrying out urban-oriented projects consistent with the purposes of this title.

"(b) An application submitted under this section must show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants, the Commissioner shall consider the degree to which there is evidence in the application of: (1) the participation of such local agency or agencies of general government in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and

(3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section.

"(c) The Commissioner may request the advice of any Federal agency he considers appropriate before approving an application for project assistance under this section.

"(d) No grant under this section shall exceed 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution which receives a grant under this section shall be designated by the Commissioner as an 'urban grant university'. The Commissioner shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"Sec. 1204. (a) The total amount of payments in any fiscal year under section 1203 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1203 of this title, the Commissioner shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"Sec. 1205. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the Commissioner may designate one urban area for the purposes of this part.

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2);

"(4) 'resources' are programs of institutions of higher education including specialized training, research, services and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

Sec. 3. Reference in any provision of law (other than the Higher Education Act of 1965) to title XII of that Act, or to any provision of title XII, shall be deemed to refer to title XIII or to the appropriate provision thereof as redesignated by section 2(1) of this Act.

By Mr. DURKIN:

S. 1554. A bill to amend title II of the Social Security Act to provide that renewal commissions, received by a retired insurance agent from insurance policies which were sold by him before his retirement, shall not be taken into account in determining his net earnings from self-employment for purposes of the earnings test; to the Committee on Finance.

● Mr. DURKIN. Mr. President, today I am introducing legislation to insure fair treatment under the social security retirement test. My bill is deliberately aimed at helping self-employed insurance agents who currently face unjust benefit denial for receiving renewal commissions on policies previously written, before their retirement.

As a result of the 1977 Social Security Act amendments, which changed the test of retirement from a monthly exemption to an annual limit, the independent underwriter stands to lose hard-earned benefits even though he or she may be completely retired. Unlike an insurance agent employed by a firm, "the independent" is forced to allow his or her renewal premium to be counted as employment income under the new retirement standard. In my view, this is a gross injustice, to be explained but not excused as a technical, legislative oversight.

Legislation similar to the needed social security reform I propose today is before the House of Representatives with two bills pending in the Ways and Means Committee. Under my bill, so long as a self-employed insurance agent is 65 years of age and retired, the renewal commissions he or she receives on policies sold before quitting work will no longer wrongly be considered self-employment income. In keeping with congressional intent of current law, this measure realizes that the social security earnings limitation is a test of retirement, not need. It recognizes an individual's employment activity, and respects the rewards of one's earlier labors.

Mr. President, the issue of social security reform is a matter of on-going concern to me. Modifying the social security retirement test as I now propose will rid the system of a major inequity. Rather than allowing problems which plague this complex program to mount, I urge favorable Senate action be taken on my bill. It is narrowly drawn in an effort to ensure much needed enactment. Like every American, self-employed insurance agents who retire expect and deserve a fair return on their investment in the social security system. The reform I am recommending meets this critical challenge.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary—

"(i) that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65, and that the property to which the copyright or patent relates was created by his own personal efforts, or

"(ii) that he is receiving renewal commissions from insurance policies which were sold, in whole or in part, by his own personal efforts before the taxable year in which he attained the age of 65,

there shall be excluded from gross income any such royalties or commissions."

Sec. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning January 1, 1978.●

By Mr. DURKIN:

S. 1555. A bill to provide a program for the rehabilitation of the Nation's railroads; to the Committee on Commerce, Science, and Transportation.

NEW ENGLAND RAILROAD IMPROVEMENT ACT OF 1979

● Mr. DURKIN. Mr. President, today I am introducing legislation that will move us one step closer toward a faster, less costly, more energy-efficient railroad system. This bill, the New England Railroad Improvement Act (NERIA), creates a Federal administration to acquire, maintain, and modernize the railbeds of New England as the basis of a pilot project designed to revitalize the Nation's railroads, long the forgotten stepchild of this country's transportation system. The bill would give the railroads the benefits of full Federal support long enjoyed by the automotive, trucking, airline, and river-users industries.

The railroads have historically played an important role in the economic development and industrial expansion of this country. The New England economy and the region's rail system have evolved over the course of time in a mutual relationship, serving the needs of commerce, national defense, and long-range goals of energy-efficient transportation and environmental preservation. In promulgating the Regional Rail Reorganization Act of 1973, popularly known as the 3R Act, the Congress recognized the fundamental dependency characterizing the relationship between the Northeast and its rail lines. The vitality of the railroad industry is critical to the economic health of the Northeast.

Just as importantly, an unsound rail system adds to the fires of inflation by pushing up transportation costs, which in turn raise the price of all the goods coming into New Hampshire and New England. To fight inflation we need good railroads.

The railroads are caught in a classic "Catch 22" of deteriorating track and equipment, subsequent decline in service, and resultant loss of revenues. The declining profit picture of the railroads has forced deferred capital maintenance to a point where trains are now traveling slower than they did 20 years ago. This vicious cycle must be brought to a halt.

The legislation I am proposing provides for the rehabilitation and maintenance of the railroads' roadbeds and rights-of-way. My bill establishes a Federal Rail Property Administration (FRPA) to acquire and upgrade to modern standards the railroads' rights-of-way. The acquisition process will be achieved through the voluntary transfer of rail properties by those rails seeking to participate. The FRPA will enter into long-term lease agreements with the railroads' carriers, allowing them exclusive use of the line. The Federal Government would contract to pay the cost of rehabilitation, with the leaseholding railroads performing the task. In turn railroads would be charged an annual "rail user's fee."

The burdensome costs to railroads of maintaining their rights-of-way has often been cited as the estimated 6 to 10 percent difference in expenditures which determine whether a railroad operates in the red, or in the black. Total outlays by the industry in 1977 for maintenance costs on rights-of-way and structures amounted to close to $3.5 billion. The attraction of having the Government assume the cost of improving the roadbeds and providing upkeep should serve as sufficient fiscal encouragement to railroads, profitable as well as bankrupt, to participate voluntarily.

By assuming these costs, the Federal Government would be creating the rail's counterpart to the Federal Highway Administration, the outlays for rails roughly comparable to the level of public investment in competing modes of transportation, with user charges levied as a partial source of income recovery. Let me add, the legislation is constructed so as to safeguard the public investment, establishing that schedules will be adhered to and modern standards achieved in capital improvements—it is not a blank check written in blind faith to the private rail carriers.

I have worked for similar legislation during the past two Congresses. Since the drafting of the original bill, circumstances for the rail industry have only worsened. The task of rebuilding our railroads has always been desirable; now it has become an absolute necessity. The northeast rail crisis only signifies the most glaring example of the national financial and physical deterioration of the railroads. The gravity of the situation requires an immediate response, with many railroads running literally in, or on the borderline of, bankruptcy. The failure of previous efforts to date requires an urgent and immediate response.

In simple and stark terms the industrial base of the New England region is dependent upon the Northeast Corridor. The area cannot continue to be economically viable without improvement of the railbeds and rail service. For example, in my home State more than 12 percent of the entire New Hampshire work force, some 38,000 employees, work in jobs which are touched by the rails in some direct way, shipping either finished products or raw materials.

The present set of circumstances, coupled with the impending consideration of the President's railroad deregulation proposal, mandates that accelerated measures be taken to address the specifics of New England's transportation needs.

Many would prefer to cast New England adrift from the rest of the Nation, preferring to ignore the particular problems the region faces. That sort of mindset reveals a parochialism of the lowest order. It ignores the basic fact that as one country we reap benefits and share losses together. What is good for New England, is good for America. We, here in Congress, have a collective responsibility to assure that New England, and all regions of this country, have a viable transportation system.

The irony of the present uncompetitive status of the railroads in relation to the trucking, airline, and the domestic shipping industries, is that it is the responsibility of the Federal Government, more than any other single entity. In the words of the Department of Transportation's "Study of Federal Aid to Rail Transportation."

> The Federal aid provided to the competing modes (of transport) vastly accelerated and increased the adjustment problems which the railroads had to face with the new technologies.

Federal spending for highways in the postwar period has been 19 times greater than railroads, with airways enjoying 5 times the level of funding offered rail transportation. Yet the inequities in Federal aid to transportation continue.

It seems to me inconceivable in a time when we are declaring "the moral equivalent of war" on our impending energy crisis, talking about gas rationing, and asking all Americans to make greater use of mass transit alternatives, that the Secretary of Transportation can simultaneously, and quite consciously, recommend a rail transportation policy which fails to promote the use of this fuel-efficient mode of transportation.

DOT has estimated that on long-haul routes, railroads can move four times the tonnage of freight per gallon of fuel used than trucks. The Secretary of Transportation pretends to be able to justify a 43-percent cutback in Amtrak passenger services as "cost-saving measures." The farcical nature of those savings becomes all the more apparent when seen in the context of our total transportation outlays. We are spending $30 billion annually on highways and $50 billion on foreign oil, most of which goes into our cars and trucks. This meat-ax assault on railroad passenger service subsidies contradicts Secretary Adams' assurances that future transportation decisions would be studied for their impact on energy usage.

There are no easy answers to America's transportation problems. A blanket policy will not serve to achieve those ends. Congress must attempt a variety of approaches. The solution to our energy, economic, and environmental problems must be predicated upon a balanced transportation system. This is exactly what the legislation that I am introducing today will do.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New England Railroad Improvement Act of 1979".

TITLE I—FINDINGS, PURPOSE, AND DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds and declares that—

(1) essential rail service in the northeast region of the United States is provided by railroads which are not meeting essential needs;

(2) essential rail service is threatened with cessation or significant curtailment because of the inability of such railroads to formulate acceptable plans for service;

(3) such rail service is operated over rail properties which were acquired for a public use, but which have been permitted to deteriorate and now require extensive rehabilitation and modernization;

(4) the public convenience and necessity require adequate and efficient rail service in this region and throughout the Nation to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, United States mail, shippers, States and their political subdivisions, and consumers;

(5) continuation and improvement of essential rail service in this region is also necessary to preserve and maintain adequate national rail services and an efficient national rail transportation system;

(6) rail service and rail transportation offer economic and environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety, and cost per ton-mile of movement to such extent that the preservation and maintenance of adequate and efficient rail service is in the national interest; and

(7) such needs cannot be met without substantial action by the Federal Government.

(b) The purpose of this Act is to—

(1) designate an Interstate Railroad System to serve the New England States;

(2) organize an Administration of the Department of Transportation to acquire, rehabilitate, maintain, modernize, and to restructure the rail lines included within such System;

(3) require minimum standards of maintenance for all such rail lines;

(4) establish rights of access by rail carriers to rail lines they do not own; and

(5) provide Federal funding to the Administration and to the States for rehabilitation of rail lines.

DEFINITIONS

Sec. 132. For the purpose of this Act, the term—

(1) "Administration" means the Federal Rail Property Administration created by this Act;

(2) "Administrator" means the Administrator of the Federal Rail Property Administration as established by this Act;

(3) "Association" means the United States Railway Association established by the Regional Rail Reorganization Act of 1973;

(4) "bridge traffic" means any traffic carried by a railroad which neither originates nor terminates on the railroad, but is received from and delivered to another carrier for further movement;

(5) "Commission" means the Interstate Commerce Commission;

(6) "Conrail" means the Consolidated Rail Corporation established by the Regional Rail Reorganization Act of 1973;

(7) "Governor" means the Governor of any State and includes the Mayor of the District of Columbia;

(8) "Office" means the Rail Services Planning Office of the Interstate Commerce Commission established by the Regional Rail Reorganization Act of 1973;

(9) "overhead traffic" means any freight traffic carried over a rail line but which neither originates nor terminates on the line, nor is halted in its movement over the line for any purpose other than those incidental to freight transportation operations;

(10) "rail carrier" has the same meaning as in section 10102 (17) of title 49, United States Code;

(11) "railroad" has the same meaning as in section 10102 (18) of title 49, United States Code;

(12) "rail line" includes any main rail track (or tracks), side track, and yard track

adjacent to such main track; the roadbed supporting such track, any signaling, communication, and power transmission structure and device as is permanently installed on or adjacent to such track and roadbed; any bridge, culvert, fill, tunnel, and other structure occupied by such track and roadbed; any real estate occupied by such track and roadbed; real estate adjacent to such track and roadbed which is used for drainage of, maintenance of, access to, and protection of such track and roadbed; any rail yard; any station and terminal track and facility, including air rights over, and mineral rights under, such track and roadbed and other property as acquired;

(13) "railroad company" means any railroad or rail carrier, including the Consolidated Rail Corporation and switching and terminal companies, as designated by the Interstate Commerce Commission and subject to subtitle IV, title 49, United States Code, together with all subsidiaries, affiliates, and leased lines of such railroads;

(14) "Secretary" means the Secretary of Transportation;

(15) "State" includes the several States and the District of Columbia;

(16) "System" means the Interstate Railroad System established by this Act; and

(17) "transportation property other than rail lines", includes any facility or equipment used for the repair and maintenance of rolling stock, track, signals, power transmission, facilities or any moveable property specifically designed for primary operation on rails; but shall not include any vehicle used or designed for personal transportation use primarily on highways, air or water.

TITLE II—INTERSTATE RAILROAD SYSTEM

ESTABLISHMENT OF SYSTEM

SEC. 201. (a) Within ninety days after the date of enactment of this Act, each railroad company shall provide the Secretary with the following items:

(1) A map showing each rail line owned, controlled, operated, or any combination thereof by the rail carrier including any leased line, rail property operated for the account of another, and rail line out of service but not abandoned or taken out of service pursuant to subchapter I of chapter 109 of title 49, United States Code.

(2) One copy of the latest edition of each employee operating timetable of such carrier with related special instructions; all temporary and semipermanent "slow orders" on such track in effect on the date of transmittal to the Secretary; all other restrictions on train operations on such date not included in the preceding items.

(3) A statement verified by the chief operating officer of such railroad, identifying each rail line or portion of rail line which is out of service on date of transmittal to the Secretary, but which has not been abandoned, or taken out of service pursuant to subchapter I of chapter 109 of title 49, United States Code.

(4) A statement verified by the chief operating officer of such railroad identifying the reasons why each rail line identified, pursuant to paragraph (3) of this subsection is out of service together with an estimate, if available, of the cost of restoring each of such rail lines to operation.

(5) Track charts, or other documents sufficient to identify all parameters of track geometry, including but not limited to radius of curvature, which preclude improving the track to Federal Railroad Administration class VI for each main line and Federal Railroad Administrator class IV for all other lines.

(6) A statement verified by the chief operating officer of such railroad identifying the maximum speed authorized on each rail line identified pursuant to paragraph (1) of this subsection at any time since January 1, 1935, including the dates between which such speed was authorized.

(7) A statement verified by the chief operating officer of such railroad concerning each rail line where the present authorized speed for such line, identified pursuant to paragraph (2) of this subsection, is less than the highest maximum authorized speed authorized on such line since January 1, 1935, identified pursuant to paragraph (6) of this subsection; and identifying for each such rail line the reasons why the present authorized speed is less than previously authorized highest maximum speed.

(8) A statement verified by the chief operating officer of such railroad identifying the location, type, and condition of all signals, interlockings, and controls.

(9) Such data as is deemed by the Secretary as adequate to determine all rail lines owned or used by such rail carrier, which consist of more than one track, and identification of the information required pursuant to paragraphs (1) through (8), inclusive, of this subsection for each track in such rail lines containing more than one track.

(b) Upon request by the railroad company, the Secretary may modify or waive any of the provisions specified in subsection (a) for any railroad company provided that alternative information is offered by the railroad company which the Secretary finds adequate to satisfy the intent of this section.

(c) Additions, deletions, and changes in the information required pursuant to subsection (a) shall be forwarded by the railroad company to the Secretary within seven days of any event which causes such additions, deletions, and changes to be made. The provisions of this subsection shall apply during the period of time beginning with the submission required in subection (a) and ending with conveyance of any such rail line to the Administration pursuant to the provisions of this Act. Notwithstanding any other provisions of this subsection, no notice is required to be given of temporary show order which are expected to be removed within fifteen days.

(d) Within one hundred and twenty days after the date of enactment of this Act, each rail carrier shall provide to the Secretary a verified statement identifying all rail lines of such carrier, or segments of such rail lines upon which have originated and terminated a total average of less than fifty loaded carloads of revenue traffic per mile during the three hundred and sixty-five days preceding the date of enactment of this Act. Such statement shall identify the stations on such rail lines where revenue traffic originated or terminated along with the number of carloads which originated or terminated at each station during the three hundred and sixty-five days preceding the date of enactment of this Act. Such statement shall also identify the amount of overhead traffic carried on each such rail line during the three hundred and sixty-five days preceding date of enactment of this Act, the points of each such rail line between which such overhead traffic was carried, and the number of days that each such rail line was out of service during the three hundred and sixty-five days preceding the date of enactment of this Act.

(e) Information supplied by the rail carrier to the Secretary pursuant to this section shall be, when practicable, on magnetic tape or other machine-readable form determined by the Secretary to be acceptable.

(f) The Secretary may waive or modify any of the provisions of subsections (a) and (d) of this section for any individual track within terminal and yard areas provided that such waiver or modification is deemed by the Secretary to be consistent with the intent of this Act.

INITIAL DESIGNATION OF THE SYSTEM

SEC. 202. (a) Except as provided in subsection (b) of this section, the Initial Interstate Railroad System (hereinafter called the "Initial System") shall consist of:

(1) all rail lines operated within the United States by railroad companies on the date of enactment of this Act;

(2) all rail lines within the United States owned, leased or otherwise controlled by domestic railroad companies which are out of service on the date of enactment of the Act, but which have not been abandoned or taken out of service pursuant to subchapter I, chapter 109 of title 49, United States Code; and

(3) such rail lines outside the United States which are operated by a railroad company which primarily operates within the United States and which are deemed essential to the System by the Secretary.

(b) Notwithstanding the provisions of subsection (a) of this section, the Initial System shall not include any rail line which meets any of the following criteria:

(1) A rail line which has carried no overhead traffic during the three-hundred-and-sixty-five-day period preceding date of enactment of this Act, except overhead traffic to and from other rail lines not in the Initial System, provided that such a rail line has been designated as unnecessary by the Governor of each State in which the rail line is located.

(2) A rail line ten miles or less in length which—

(A) has been in service for not less than three hundred and fifty of the three hundred and sixty-five days preceding the date of enactment of this Act:

(B) which has carried no overhead traffic in the three hundred and sixty-five days preceding the date of enactment of this Act, except overhead traffic to and from other rail lines not in the Initial System;

(C) which has carried no passenger service in the three hundred and sixty-five days preceding the date of enactment of this Act;

(D) upon which service has been offered at least one hundred times in the preceding three hundred and sixty-five days; and

(E) upon which has originated and terminated a total average of less than twenty-five loaded carloads of revenue traffic per mile in the three hundred and sixty-five days preceding the date of enactment of this Act.

(3) Rail lines between ten and fifty miles in length which have been maintained during the three hundred and sixty-five days prior to the date of enactment of this Act to, or better than the Federal Railroad Administration class II track standard, and which otherwise satisfy all of the conditions specified in subsection (b)(2).

(4) Rail lines fifty miles or more in length which have been maintained during the three hundred and sixty-five days prior to enactment of this Act to, or better than, the Federal Railroad Administration class III track standard and which otherwise satisfy all of the conditions specified in subsection (b)(2).

(c) Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall prepare a report containing a concise description or summary, together with a map, of all rail lines included within the Initial System. Copies of the report shall be transmitted by the Secretary to the Association, the Office, the Governor of each State, the Public Utilities Commission of each State, the Congress, each court having jurisdiction over a railroad in reorganization, and interested persons. The Secretary shall further cause a copy of the report to be published in the Federal Register.

(d) Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall prepare a statement identifying all rail lines excluded from the Initial

System pursuant to subsection (b), along with a statement of the reason for each such exclusion, and along with the data upon which each such exclusion is based. Copies of the statement shall be transmitted by the Secretary to the Association, the Office, the Governor of each State, the Public Utilities Commission of each State, the Congress, each court having jurisdiction over a railroad in reorganization, and interested persons. The Secretary shall further cause a copy of the statement to be published in the Federal Register.

HEARING BY THE OFFICE

SEC. 203. (a) Thirty days after release of the Initial System, pursuant to section 202 of this Act, the Office shall hold public hearings to solicit comments on the Initial System. Notice of date, time, and place of each such hearing shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, rail carriers, rail passengers, industry, labor, State and local governments, and other interested persons.

(b) The Office shall employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason, such as their size or location, might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct and perform under other provisions of this Act.

RECOMMENDATIONS OF THE OFFICE

SEC. 204. (a) Within one hundred and fifty days after release of the Initial System by the Secretary under sections 202 (c) and (d), the Office shall release and report to the Secretary its recommendations for additions to and deletions from such System.

(b)(1) Such recommendations shall include, whenever possible, proposals for rerouting of through-train operations of one or more railroad companies onto a single rail line as long as adequate capacity appears to exist on such rail line for all present traffic and for all rerouted traffic and so long as such a rerouting will not seriously harm the quality or cost of rail services presently available, and so long as such a rerouting shall not constitute the granting of access to additional markets to the railroad companies whose traffic is to be rerouted, and so long as such reroutings do not create unreasonable circuitry to require the use of connections with significant operational problems for any rail carrier so rerouted.

(2) Recommendations made under paragraph (1) shall be reviewed by an independent panel established by the Secretary and such panel shall provide the Secretary with an impact analysis of such recommendations.

(c) Each recommended rerouting of through-train traffic operations shall be accompanied by a recommendation by the Office as to how adequate local rail service is to be maintained on the rail line from which through-train operations are recommended to be rerouted.

(d) The Office may recommend inclusion of any individual rail line into the System that was excluded by the Secretary pursuant to section 202(b). Each such recommended inclusion shall be accompanied by a report of findings by the Office that continued rail service on such line recommended for inclusion appears to be necessary to provide adequate rail service, to avoid significant violation of the Clean Air Act, to prevent excessive unemployment, to provide efficient transportation of fossil fuels resources from their source to their user, or to provide for the continued transportation of hazardous materials that should for reasons of safety, be transported via rail rather than via alternative modes.

(e) The Office may recommend exclusion from the System of rail lines designated by the Secretary as part of the Initial System. Each such recommended exclusion shall be accompanied by a report of findings by the Office that continued rail service on each such line recommended for exclusion appears to be not necessary to provide adequate rail services, to prevent excessive unemployment, to provide efficient transportation of fossil fuel resources from their source to their user, or to provide for the continued transportation of hazardous materials that should, for reasons of safety, be transported via rail rather than via an alternative mode.

(f) The Office may, as it deems necessary, publish addenda to the recommendations released pursuant to this section.

INTERMEDIATE DESIGNATION OF THE SYSTEM

SEC. 205. (a) Upon receiving the recommendations of the Office, the Secretary shall within ninety days, after giving full consideration to such recommendations and after giving consideration to such other pertinent information that is available to the Secretary, prepare and release a concise descriptive summary, along with map and other description adequate to enable specific identification of the rail properties involved, of an Intermediate Interstate Railroad System (hereafter called the Intermediate System).

(b) The report of the Secretary shall include findings in support of each addition to or deletion from the Initial System.

(c) The Intermediate System shall reflect to the extent possible, the result of potential rerouted through-train operations recommended by the Office pursuant to section 204(b).

(d) The report of the Secretary shall include a detailed description of revisions to the System which would be necessary if rerouted through-train operations were not implemented due to failure of a railroad company to convey its rail facilities to the Administration pursuant to section 304.

(e) The Intermediate System shall designate the future maintenance standards of each rail line in the System according to the following criteria:

(1) On all rail lines, ten miles or less in length, on which the Secretary anticipates no overhead traffic: FRA class I.

(2) Or all rail lines, between ten miles and fifty miles in length, on which the Secretary anticipates no overhead traffic: FSA class II.

(3) On all rail lines, fifty miles or greater in length on which the Secretary anticipates no overhead traffic: FRA class III.

(4) On all rail lines on which the Secretary anticipates overhead traffic: FRA standards allowing the highest speeds operated at any previous time since January 1, 1935, on each given rail line.

(5) On all rail lines greater than ten miles on which the Secretary anticipates more than ten million gross ton miles per mile per year: FRA class IV.

(6) Or all rail lines on which the Secretary anticipates a total of more than twenty intercity passenger trains in all directions, daily: FRA class IV.

(7) For the passenger corridor between Boston, Massachusetts, and Washington, D.C.: Standards allowing one hundred and fifty miles per hour operation.

(8) For all lines upon which the Secretary anticipates a total of more than two intercity passenger trains in all directions daily: FRA class III.

(f) When more than one standard applies to a given rail line pursuant to subsection (e), the higher standard shall apply.

(g) Notwithstanding the provisions of subsection (f), the Secretary may designate the maximum track standards allowed by the geometry of the right-of-way of a given right-of-way where such standards are lower than the standard prescribed pursuant to subsection (e). Such lower track standards shall apply only to portions of the rail line where such limited right-of-way geometry exists.

(h) The Secretary may set standards for any rail line higher than those specified in subsection (e).

(i) The Secretary may upon publication of findings that passenger service or service to freight shippers will not be adversely affected, reduce the standards otherwise specified in this section for a given rail line by not more than one FRA class, provided that no reduction of standards below FRA class I shall be made.

HEARINGS BY OFFICE

SEC. 206. (a) Not later than thirty days after release of the Intermediate System, the Office shall hold public hearings to solicit comments on the Intermediate System. Notice of date, time, and places of such hearing shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, rail carriers, rail passengers, industry, labor, State, and local governments, and other interested persons.

(b) The Office may employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason, such as their size or location, might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct and perform under other provisions of this Act.

RECOMMENDATIONS BY THE OFFICE

SEC. 207. Within ninety days after release of the Intermediate System by the Secretary, pursuant to section 205, the Office shall release and report to the Secretary its recommendations for additions to and deletions from and changes to the System along with the reasons for such recommendations. A copy of the recommendations shall be published in the Federal Register.

FINAL DESIGNATION OF THE SYSTEM

SEC. 208. (a) Upon receiving the recommendations of the Office, the Secretary shall within sixty days, after giving full consideration to such recommendations, and with the cooperation and assistance of the Office, prepare and transmit to the Congress the Final Interstate Railroad System (hereinafter called the "Final System"). The Final System shall be designed to promote and enhance the ability of rail carriers to provide modern, efficient, and economical interstate rail freight and passenger service responsive to present and future needs and demands. The report of the Secretary shall include findings in support of each addition to or deletion from the Intermediate System and findings with regard to recommendations of the Office which were not included.

(b) The Final System shall contain no deletions from the Intermediate System other than deletions which were recommended by the Office pursuant to section 207 or deletions which were approved by the Governor of the State in which the rail lines to be deleted are located. The Secretary may choose to designate as part of the Final System any rail line designated as part of the Intermediate System notwithstanding recommendations by the Office or approval of deletion by the Governor of the State in which the rail line is located.

(c) The Final System shall contain future maintenance standards for each rail line which are no lower than those contained in the Intermediate System unless:

(1) a lower standard for any individual rail line was recommended by the Office pursuant to section 207,

(2) such lower standard was approved by the Governor of the State in which such rail line is located,

(3) the individual rail line was recommended for deletion from the Final System by the Office pursuant to section 207, and

(4) deletion of the individual rail line from the System was approved by the Governor of the State in which the rail line is located.

(d) The Final System shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal thereto unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the System. If either such body passes a resolution of disapproval, the Secretary with the cooperation and assistance of the Office shall prepare and transmit to Congress a revised System within sixty days of the date of passage of such resolution. Each such revised System shall be submitted to Congress for review pursuant to this subsection. Each such revised System shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal thereto unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the System. For purposes of this subsection, continuity of session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period. Upon becoming effective after review by Congress, the System shall not be subject to review by any court.

REHABILITATION, CAPITAL IMPROVEMENT, AND MAINTENANCE PROGRAM

SEC. 209. (a) Upon receiving the recommendations of the Office made pursuant to section 207, the Secretary shall within ninety days determine and publish a rehabilitation, capital improvement, and maintenance program for the restoration of all rail lines in the System to the future maintenance standards set forth in the Final System. Within such program projects scheduled to take place during the four years following enactment of this Act shall be individually scheduled. Each project within such program scheduled to take place more than four years after the enactment of this Act shall be identified as to approximate year of expected completion. If either body of Congress passes a resolution of disapproval of such program pursuant to subsection 208(d), the Secretary shall, within ninety days of passage of such resolution, publish a revised rehabilitation, capital improvement and maintenance program to correspond with the revised system prepared pursuant to subsection 208(d).

(b) The entire program shall be scheduled by the Secretary for completion within twelve years following enactment of this Act.

(c)(1) Not later than three years after the date of enactment of this Act, the Secretary and the Secretary of the Army shall jointly undertake and carry out a study of the long-term capital needs for modernization of signal systems, line relocation, tunneling, highway grade crossing elimination, electrification, and other major upgrading to the Final System as revised. The study shall include recommendations for investment priorities among the various upgrading projects.

(2) Upon completion of such study, the Secretary and the Secretary of the Army shall submit to the President and to the Congress, and shall release to the public, a full report thereon together with their recommendations for such legislative, administrative, and other actions as they deem appropriate for implementing the report.

(3) Not later than ninety days after completion of such study, the Administrator shall determine and release a revised rehabilitation, capital improvement and maintenance program showing the schedule for completion of each element of the program. All elements of the program shall be scheduled for completion within twelve years following the date of enactment of this Act. Provision shall be made for revision of such schedule should one or more railroad companies fail to transfer railroad facilities to the Administration pursuant to section 305.

(4) The Administrator may revise the program as necessary because of failure of one or more railroad companies to transfer in a timely fashion, railroad facilities to the Administration pursuant to section 305.

RAIL PROPERTIES REORGANIZED UNDER THE REGIONAL RAIL REOGRANIZATION ACT OF 1973

SEC. 210. Notwithstanding the contrary provisions in sections 201 through 208 of this title, all rail lines designated to be transferred to Conrail or to be offered for sale to a profitable railroad or to be purchased, leased or otherwise acquired by the National Railroad Passenger Corporation pursuant to the Final System Plan of the Association developed under section 206(c) of the Regional Rail Reorganization Act of 1973, shall be part of the Final System.

REVISION OF FUTURE MAINTENANCE STANDARDS

SEC. 211. The Administrator shall revise the future maintenance standards designated pursuant to subsection (e) of section 205 and pursuant to subsection (c) of section 208 so long as such revision shall reflect changes in the anticipated use of the individual rail lines. The Administrator may at any time specify future maintenance standards higher than those required to be specified pursuant to sections 205 and 208.

VERIFICATION OF DATA SUPPLIED BY RAILROADS

SEC. 212. (a) Not later than two hundred and ten days of the date of enactment of this Act, the Secretary shall publish an inventory of all rail lines in the United States. Such inventory shall include a listing of the maximum allowable speed for freight and passenger trains on July 1, 1979, on each portion of each rail line.

(b) Not later than one hundred and twenty days after the date of enactment of this Act, all rail carriers shall supply the Secretary with a verified statement describing each slow order, speed restriction, and change in employee operating timetable that became effective on or after July 1, 1979. Such verified statement shall also give the reason for each such slow order, speed restriction, and timetable revision.

(c) The Secretary may make whatever physical inspections or other investigations necessary to insure that the inventory is correct.

(d) Upon receipt of satisfactory evidence that the inventory is incorrect, the Secretary shall correct such inventory.

TITLE III—FEDERAL RAIL PROPERTY ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 301. (a) There is established an Administration of the Department of Transportation to be known as the Federal Rail Property Administration. The Administration shall be deemed not to be a railroad for purposes of subtitle IV of title 49, United States Code.

(b) The management, powers, and duties of the Administration shall be vested in an Administrator to be appointed by the President, by and with the advice and consent of the Senate.

(c) To assist the Administrator there shall be a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(d) To further assist the Administrator, there shall be four Assistant Administrators who shall be appointed by the Administrator. The Assistant Administrators shall perform such duties as the Administrator may designate.

(e) The Administrator shall prepare a budget and staffing plan within sixty days from his appointment, and shall submit the proposed budget and plan to Congress for review. Congress shall have sixty legislative days in which to revise this budget or failing, shall allow the budget to stand as if approved. The staffing plan shall make provision for the employment of sufficient personnel at all levels to carry out the purpose of this Act.

GENERAL POWERS OF THE ADMINISTRATION

SEC. 302. (a) The Administration may acquire rail lines and transportation property other than rail lines from any railroad company operating in the United States or whose principal place of business is in the United States. Such property may include properties of United States railroads outside the United States in contiguous portions of Canada and Mexico where such properties are part of and necessary to the functioning and operational integrity of the Interstate Rail System established pursuant to this Act.

(b) The Secretary shall promulgate regulations establishing the basis for determinations of fit, willing, and able with regard to operators under this Act. Such regulations may include the establishment of requirements that an applicant—

(1) register with the Secretary;

(2) demonstrate knowledge of, agree to, and provide evidence, including accident and compliance histories and out of service ratios, of his ability to operate in compliance with all applicable standards promulgated by the Secretary, pursuant to this Act, the Department of Transportation Act, the Hazardous Materials Transportation Act, and sections 831–835 of title 18 of the United States Code;

(3) carry such documentation as the Secretary may require;

(4) carry adequate liability insurance or enter into comparable bonding arrangements; and

(5) designate an agent for service of process.

The Secretary may also promulgate such regulations as the Secretary may determine appropriate to assist in the implementation of this section, including rules to require that applications filed with the Commission include such information as the Secretary may require to assist the Secretary in making determinations as to whether a person is fit, willing, and able.

(c) The Administration may, pursuant to section 303, enter into leases with a railroad company which deeds rail lines to the Administration. Any such lease shall be for the purpose of providing common carriage rail service over rail lines previously owned by the railroad, and shall be granted for a term of not more than ten years and shall be renewable upon certification by the Interstate Commerce Commission that the carrier is fit, willing and able to perform common carriage services in the territory and over the tracks covered by the lease. The Commission shall, not later than ninety days before the expiration of the lease, make a determination as to whether the carrier is fit, willing and able to perform common carriage services in the territory and over the tracks covered by the lease. In the event that the Commission fails to make such a timely determination, the Administrator shall grant an extension in time of the lease for a period of one year from the date of termination of the lease. No further extension or renewal shall be granted until the Commission has issued such certificate. Each such lease shall provide, at a minimum, the following—

(1) that during the term of the initial lease, the railroad company shall have exclusive rights to use the rail facilities, except as provided in paragraphs (7) and (9);

(2) that the carrier shall provide common carriage freight service to all stations, shippers and receivers located along or adjacent to the properties leased in the manner normally prescribed in law;

(3) that the rail carrier shall agree to pay the Administration a user charge pursuant to section 402;

(4) that the maintenance of the rail properties shall be as determined pursuant to section 305;

(5) that rehabilitation and capital improvement projects on the rail properties determined pursuant to section 304 in accordance with the program and schedule established pursuant to section 209 or pursuant to section 303(d) or 304(g);

(6) that in the event that the Commission finds that a carrier is not fit, willing, and able to provide services as required under the provision of the lease, the Commission shall order the termination of the lease and shall evoke the provisions of paragraphs (15) and (16) of section 1 of the Interstate Commerce Act;

(7) for the exclusive use of the property previously owned or controlled by the carrier, except that—

(A) the terms and conditions of existing agreements for joint usage of rail properties shall remain in force unless terminated by mutual consent of the parties to the agreement and with the concurrence of the Administrator;

(B) the Administrator may grant bridge trackage rights to another railroad (hereinafter referred to as the "bridge railroad"), if the Administrator finds that:

(i) sufficient capacity exists on the rail property of the leaseholding railroad so that the bridge traffic does not materially impair the operations of the leaseholding railroad company;

(ii) said bridge trackage rights do not permit diversion of traffic to the bridge railroad from the leaseholding railroad;

(iii) the bridge trackage rights do not permit the bridge railroad to serve markets previously not served by the bridge railroad; and

(iv) the bridge railroad shall pay to the leaseholding railroad $0.10 per thousand gross ton-miles carried as bridge traffic;

(C) the Administrator may grant operating rights to the National Railroad Passenger Corporation or to a State, local, or regional rail passenger authority for the operation of a passenger service over the former property of the leaseholding railroad company if—

(i) the operation of such passenger service does not materially impair the operations of the leaseholding railroad;

(ii) the leaseholding railroad is fully compensated by the operator of the passenger service for all costs resulting from the operation of said passenger service including the costs resulting from the operation of such passenger service and including the cost of delays to freight trains because of the passenger train operations; and

(iii) the Administrator specifies operating rules to give passenger trains priority over freight trains when appropriate;

(D) the lease may allow other operating rights to railroads other than the leaseholding railroad: *Provided*, That the granting of such operations rights to another carrier be for the purposes of system rationalization and shall not constitute a penetration of the market served by the leaseholding carrier unless such a penetration shall have been agreed to by the leaseholding carrier;

(8) for modification to exclude service over properties over which discontinuance of service has been ordered by the Commission whenever such orders are issued;

(9) not later than one year from the enactment of this Act, the Administrator shall establish regulations for the planning and implementation of plans for projects to coordinate, consolidate, and rationalize operations of railroads, which shall specify—

(A) the parties to the planning process, including States;

(B) goals, standards and criteria for such planning;

(C) social, economic, and environmental impact standards to be met under the process;

(D) the times and places for public hearings and methods for public participation; and

(E) such other criteria as may be required by the Administrator;

(10) that the Administrator shall under no circumstances grant any operating rights for private or contract carriage on properties owned by the Administration;

(11) that upon application by the leaseholding carrier, the Commission may grant permission for the lease or a portion of the lease to be assigned to another carrier so long as such assignment is consistent with the standards which the Commission normally uses in allowing the voluntary transfer of operating rights from one carrier to another, and the Commission shall not later than one hundred and eighty days from receipt of such an application either grant permission to assign or shall refuse such permission for specific reasons; and

(12) that such other necessary provisions to ensure reasonable reuse of materials removed from existing track or other properties owned by the Administration during maintenance and rehabilitation of such properties, and shall further apply such conditions as shall ensure that materials provided by the Administration shall not be used in a wasteful manner.

(d) The Administrator shall specify operating rules for bridge traffic under paragraph (7)(B) of subsection (C) to ensure that the operations of the leaseholding railroad are not materially affected by the bridge operations. The Administrator shall suspend or revoke such bridge trackage rights if he finds that traffic normally carried by the leaseholding railroad is being diverted to the bridge railroad because of such bridge trackage rights.

TRANSFER OF RAIL FACILITIES

SEC. 303. (a) At any time after the Final System as designated by the Secretary is approved pursuant to section 208, any railroad company may offer to transfer all of its rail facilities which are included in the System to the Administration. For purposes of this subsection, the term "railroad company" shall include all and not less than all railroad subsidiaries of the company and railroad subsidiaries of its parent company.

(b) Not later than one hundred and twenty days of receipt of an offer to transfer rail properties of a railroad company pursuant to subsection (a), the Administration shall enter into a lease described in section 302, and shall accept title of the rail facilities so offered.

(c) At any time after one hundred and twenty days after the date of enactment of this Act, Conrail may offer to transfer to the Administration all of its rail facilities, as designated by the Association in the Association's Final System Plan pursuant to section 206(a)(1) of the Regional Rail Reorganization Act of 1973: *Provided, however*, That the Corporation has not previously disposed of such rail facilities so designated in the Final System plan.

(d) Not later than thirty days of receipt of notification of an offer pursuant to subsection (c), the Association shall submit to the Corporation and to the Administration a detailed program plan for the rehabilitation, modernization, and maintenance of the rail lines to be transferred by Conrail.

(e) Not later than one hundred and twenty days of receipt of an offer from Conrail to transfer its rail facilities pursuant to subsection (c), the Administration shall enter into a lease as described in section 303, and shall accept title of the rail facilities so offered. For purposes of such lease, the program plan submitted by the Association pursuant to subsection (d) shall be used rather than the program plan to be published pursuant to section 209, until such program plan published pursuant to section 209 becomes available.

(f) At any time after one hundred and twenty days after the date of enactment of this Act, but prior to the date that the Final System is approved pursuant to section 208, any railroad company other than Conrail may offer to transfer to the Administration of all its rail facilities, except that (1) such rail facilities shall include all rail facilities owned or operated by the railroad company on July 1, 1979, (2) the railroad company agrees to accept a return transfer of any such rail property which is not included in the Final System and which the Administrator wishes to return to the railroad company within thirty days of the date that the Final System is deemed approved pursuant to section 208.

(g) Not later than one hundred and twenty days of receipt of an offer of transfer of rail facilities pursuant to subsection (f), the Administration shall enter into a lease as described in section 302 and shall accept title to rail facilities so offered if there exists an interim program plan for rehabilitation, modernization, and maintenance agreeable to both the Administration and the railroad company and which shall be applicable until the date that the Final System is deemed acceptable pursuant to section 208. The Administration shall set forth as a term of the lease an interim maintenance program specifying track standards not lower than those existing on the rail facilities on the date of transfer, and not higher than standards which the Administrator anticipates will be specified in the Final System, the interim standard offered shall be equal to the standard existing on the date of transfer. Any lease entered into pursuant to this subsection shall contain a provision under which the Administrator may, within thirty days of the date that the Final System is accepted pursuant to section 208, transfer any such rail property not included in the Final System to the railroad company and under which the railroad company shall accept any rail facility so transferred. Upon the date that the Final System is accepted, the interim standards specified pursuant to this subsection shall be superseded by the program plan published pursuant to section 209.

(h) At any time after the date that the Final System is accepted pursuant to section 208, a railroad company may offer to transfer to the Administration any portion of the rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System, as revised pursuant to section 208.

(1) The Administrator may enter into a lease and accept title to rail facilities offered for transfer pursuant to subsection (h) where—

(1) the Administrator finds that the rail facilities offered for transfer will represent a lower cost per mile to the Administration for rehabilitation, modernization, and maintenance less any user fees that would exist if all of the rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System as revised were transferred to the Administration; and

(2) the Administrator finds the transfer of rail facilities so offered to be more consistent with the intent of this Act than would be the transfer of all rail facilities owned or operated by the railroad company on July 1, 1979, and included in the Final System as revised.

For purposes of this subsection, the Administrator may set user charges greater than those specified in section 402, and may specify the conditions of lease agreements more favorable to the Administration than the conditions specified in section 302.

(j) Notwithstanding any other provision of this Act, the Administrator shall not enter a lease agreement, or accept title to rail facilities pursuant to subsection (b), (e), (g), or (i) where any of such rail facilities are restricted to maximum speeds lower than those existing on July 1, 1979, unless payment is made to the Administration by the railroad company to fully compensate the Administration for the costs of restoration of the rail facilities to either the condition existing on July 1, 1979, or the condition specified in the future maintenance standards in the Final System as revised, whichever condition is lower.

(k) At any time after the Final System is deemed approved pursuant to section 208, any State which has acquired railroad properties excluded from the Final System plan pursuant to the Regional Rail Reorganization Act of 1973, may offer to the Administration transfer of all properties which are included in the Final System. Not later than one hundred and twenty days of such an offer of conveyance, the Administration shall accept title to such properties and shall make payment to the State for any State funds expended in the acquisition and modernization of such rail properties.

REHABILITATION OF RAIL FACILITIES

Sec. 304. (a) The Secretary shall develop programs of rehabilitation and capital improvements for rail properties owned by the Administration and such programs shall be incorporated into and be made terms of the lease of such property. Programs developed under this section shall be consistent with the provisions of sections 209, 303 (d) and (g).

(b) The Administrator shall pay the costs of implementation of such programs. The Administrator shall contract with the leaseholding railroad to implement such programs unless, in the determination of the Administrator the railroad does not possess forces sufficiently large or skilled to perform the work, or unless in the determination of the Administrator, the terms and conditions of such a contract make it a cost to the Administration sufficiently greater than the cost of having the project performed by some other responsible party.

(c) The Administrator shall, within 30 days of completion of any program or project for rehabilitation of a line or facility, or of the completion of a capital project on any line or facility make an inspection of the property, and shall make a determination of compliance of the work with the standards set forth in the contract and the program covering such work. If, in the determination of the Administrator, work has been performed in a fully satisfactory manner, he shall issue a certificate of rehabilitation or a certificate of completion as the case may be.

MAINTENANCE OF RAIL PROPERTIES

Sec. 305. (a) The Administrator and any rail carrier leasing property from the Administration shall establish within thirty days after the date of certification by the Administrator that the property has been rehabilitated to the standard set by the Secretary under section 208(c), a schedule of maintenance whereby such leased property shall be maintained at a standard not less than that established under section 208(c).

(b) Maintenance of facilities of the Administration used exclusively by one carrier shall be the responsibility of that carrier. Where more than one carrier utilizes a facility of the Administration, responsibility for maintenance shall be shared as provided in the respective leases. In all cases maintenance shall be to standards set by the Secretary in designating the System, which standards shall be incorporated in the lease. The Administrator shall make all materials and equipment necessary for maintenance available to the responsible carrier or carriers.

(c) Failure to maintain to standards shall be a violation of the lease and shall require the payment by the carrier to the Administration of $1,000 per day per mile of track not meeting standards as specified in the lease unless in the determination of the Administrator, such failure shall have been for causes beyond the control of the carrier.

ANNUAL REPORT

Sec. 306. The Administrator shall report annually on the first of January of each year to the President and to Congress on the extent and condition of all properties owned by the Administration, and on the condition of all other rail properties in the Nation.

TITLE IV—FUNDING

AUTHORIZATIONS FOR REHABILITATION AND MAINTENANCE

Sec. 401. There are authorized to be appropriated each year beginning with the year in which this Act is enacted and continuing for a period of ten years such sums as are necessary for (1) rehabilitation of lines as required under section 209, and (2) to provide the materials used in maintenance as required under section 209.

RAIL USER CHARGE AND OTHER REVENUES

Sec. 402. There shall be a Rail User Charge (hereinafter referred to as "User Charge"), imposed on all railroads operating on facilities of the Administration. The User Charge shall be $0.20 annually per thousand gross ton-miles of freight, passengers, and rail equipment moved on the facilities of the Administration. The User Charge shall be collected from the railroad by the Administration at the end of each calendar quarter for the period of the preceding quarter, and shall be deposited in the Treasury as miscellaneous receipts together with such revenues as the Administration shall earn from the sale or lease of property, or interests or uses thereof or from all other sources.

ADDITIONAL AUTHORIZATIONS

Sec. 403. (a) There are authorized to be appropriated to carry out the provisions of this Act such sums as are necessary, not to exceed $20,000,000 to remain available until expended.

(b) There are authorized to be appropriated to the Commission for the use of the Office in carrying out its functions under this Act such sums as are necessary, not to exceed $5,000,000 to remain available until expended. The budget for the Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any money appropriated pursuant to this subsection.

(c) There are authorized to be appropriated for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $50,000,000 to remain available until expended.

(d) Sums authorized under this section may be adjusted in accordance with the Consumer Price Index as determined under appropriation Acts.

MAINTENANCE MATERIALS

Sec. 404. (a) The Administrator is authorized to make necessary expenditures for purchase of materials to be used in maintenance, modernization or improvement of facilities owned by the Administration.

(b) There are authorized to be appropriated such amounts as are necessary for the purpose of this section.●

By Mr. DURKIN:

S. 1556. A bill to provide for grants to the States to employ State foresters, to provide for a current determination of the number of woodlot owners in each State, to provide for the availability of forest fuel utilization training, and to increase the assistance and information provided by the Department of Energy to the Forest Service and by the Small Business Administration to small woodlot owners and wood fuel distributors and marketers; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST FUEL UTILIZATION ACT OF 1979

● Mr. DURKIN. Mr. President, the bill I introduce today is designed to increase the availability of wood fuel in New Hampshire and throughout the United States.

I need tell no one in this Chamber that this Nation is moving into an era of severe oil shortages. In my home State of New Hampshire, our predicament is particularly serious because we rely so heavily on the automobile for transportation and oil for heating our homes. Indeed, it appears likely that New Hampshire will not have sufficient stocks of home heating oil to see us through the coming winter.

The energy situation in New Hampshire would be even graver were it not for the abundance of unused natural resources which have the potential of lessening our dependency on costly imported foreign oil. Small-scale hydroelectric, wood, wind, and solar power all hold significant promise for making New Hampshire more energy independent. Of these energy sources, wood may hold the most promise.

New Hampshire is almost 90 percent forested, and the wood harvested from my home State on a sustained yield basis has the ability to save hundreds of millions of gallons of home heating oil.

The thrust of my bill is a simple one: It lists the woodlot owners in an individual State, establishes training programs for those owners, and provides for increased assistance from the Department of Energy, the U.S. Forest Service, and the Small Business Administration to those owners and wood fuel distributors. It also provides grants to the States to employ foresters.

Because of anticipated shortages of home heating oil this winter, the woods in my home State and throughout the Nation will be subjected to heavy cutting pressures. It is absolutely essential that we meet this demand for firewood with a sound program of forest management and public education on proper cutting techniques. It is also vital that we aid the small woodlot owner and wood distributor—who will play a pivotal role in keeping people warm in New Hampshire—in their business endeavors so that they will be able to harvest and deliver their product efficiently and reliably, and at a reasonable cost.

Mr. President, wood will undoubtedly play an increasingly important role in the energy picture of New England. This bill helps wood to fill that role.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest Fuel Utilization Act of 1979".

SEC. 2. (a) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") is authorized to make grants through the rural forestry assistance program of the Forest Service to the States for the employment by the States of additional State foresters or equivalent State officials.

(b) In determining the amount of financial assistance to be provided to a State under subsection (a) the Secretary shall consider the underutilization of forest growth in the State and the potential utilization in the State of wood as a fuel in place of oil.

(c) In addition to any sums otherwise authorized to be appropriated, there is authorized to be appropriated to the Secretary to carry out subsection (a) the sum of $6,500,000 for the fiscal year ending on September 30, 1980, and the sum of $6,500,000 for the fiscal year ending on September 30, 1981.

SEC. 3. (a) The Secretary shall determine not later than one year after the date of the enactment of this Act the number of woodlot owners in each State (as of the date the determination with respect to such State is made).

(b) The determination with respect to each State made pursuant to subsection (a) shall be used after that determination is made whenever the number of woodlot owners in such State is a factor in any law, regulation, custom, or usage or is a factor in the application of any law, regulation, custom, or usage.

SEC. 4. (a) The Secretary is authorized to take such actions as the Secretary deems are necessary to make forest fuel utilization training programs available to State foresters, or equivalent State officials, in States in which forest growth is underutilized and in which there is a potential for the utilization of wood as a fuel in place of oil.

(b) The Secretary shall submit to the House of Representatives and the Senate not later than one year after the date of the enactment of this Act a report on the actions taken by the Secretary under subsection (a).

SEC. 5. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall—

(1) after consulting with the Secretary, develop a plan to increase the assistance and information provided to the Forest Service by the Department of Energy; and

(2) submit to the House of Representatives and the Senate a report (including a copy of the plan developed pursuant to paragraph (1)) on the progress made since the date of the enactment of this Act in increasing the assistance and information provided to the Forest Service by the Department of Energy.

SEC. 6. Not later than one year after the date of the enactment of this Act, the Administrator of the Small Business Administration shall—

(1) after consulting with the Secretary, develop a plan to increase the managerial assistance and information provided to small woodlot owners and wood fuel distributors and marketers by the Small Business Administration; and

(2) submit to the House of Representatives and the Senate a report (including a copy of the plan developed pursuant to paragraph (1)) on the progress made since the date of the enactment of this Act in increasing the managerial assistance and information provided to small woodlot owners and wood fuel distributors and marketers by the Small Business Administration.●

By Mr. DURKIN:

S. 1557. A bill to authorize construction of a turnaround basin on the Piscataqua River, Portsmouth, N.H.; to the Committee on Environment and Public Works.

● Mr. DURKIN. Mr. President, the bill I offer today is designed to correct a very serious situation regarding the safety of navigation along the Piscataqua River in Portsmouth, N.H.

The safe passage of large ships is something that all of us take for granted. Unfortunately, we often lose sight of the fact that it takes more than just good fortune and skillful navigating to guide a ship from the open sea to a dock for unloading. It takes safe waterways—well-dredged channels that are deep and wide enough—to insure that these ships can pass through congested areas without incident.

In the Portsmouth area, there is a critical need for improvement in the river channel to alleviate a very serious safety problem. My bill authorizes that these improvements be done now, not after a tragic accident occurs. Portsmouth and the neighboring town of Newington are a major terminus for energy supplies, especially heating oil, liquid propane and jet fuel, and it is a rare day when loaded tankers are not negotiating the tricky waters of the Piscataqua to deliver their products.

The implications of a tanker accident to Portsmouth are devastating. An explosion on a gas-carrying tanker has the potential to do tremendous damage to lives and property. A major oil spill could seriously harm the beauty and ecological integrity of the seacoast. And even a relatively minor accident in the channel could disrupt the traffic flow along the river and with it the vital delivery of energy supplies. Indeed, it is a testament to the exceptional skill of our river pilots that there has never been a serious accident involving tankers in the Portsmouth area.

Against this backdrop of extremely hazardous cargoes and an oftentimes unpredictable river current, one would think that the Federal Government would do everything possible to see that the hazards of navigating tankers in the rivers are minimized. That, unfortunately, has not been the case. In 1970 the Senate Environment and Public Works Committee authorized a study to investigate the possibility of making navigation improvements along the river. Although 9 years have elapsed since that initial authorization, I am sorry to report that the study is still not complete and the much-needed improvements are no closer to reality than they were when the study began.

I believe there is near-unanimous agreement that what the Piscataqua needs most is a turnaround basin between the first and second lift bridges. This basin will allow ships that have been disabled or damaged near the center of population to turn around and head back for the open sea, out of harm's way.

Because of the pressing need for this turning basin, this legislation will direct the Army Corps of Engineers to proceed with the dredging of this much-needed safety improvement. While I am not demeaning studies, I think that we have an unfortunate tendency in government to study everything to death. From my investigation of this issue, it is clear that a pressing safety issue exists here. The time to perform this work is now, not 10 years in the future.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake construction, in such a manner as he may deem necessary, of a turnaround basin between the first and second lift-bridges on the Piscataqua River at Portsmouth, New Hampshire.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. DURKIN:

S. 1558. A bill to amend the Federal Power Act to permit the Federal Energy Regulatory Commission to enter into agreements with States under which State authorities may exercise the licensing authority of the Commission with respect to small hydroelectric projects at existing dams, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. DURKIN. Mr. President, the bill that I offer today is designed to halt bureaucratic redtape involved in getting small-scale hydroelectric power back into operation in New Hampshire and New England. This bill amends the Federal Power Act to allow the Federal Energy Regulatory Commission (FERC) to enter into agreements with States under which State authorities may exercise FERC's licensing authority for small-scale hydro projects at existing dams.

Small hydropower facilities played a prominent role in the early growth and development of New Hampshire and New England. The numerous rivers and streams privided a ready source of power which could be harnessed quickly, easily and cheaply and made the region the center of commerce and industry in the early days of our Nation. In modern times, however, these small powerplants were abandoned in favor of huge centralized plants fired by oil that used to be cheap and abundant, but now is neither.

The days of cheap oil are long gone now, and it has become an absolute necessity to get small-scale hydropower back into operation. The white water in New Hampshire that tumbles unused down our rivers and streams to the sea has the capability of saving us millions of barrels of costly imported oil each year. We cannot allow in good conscience such waste to continue.

One of the real problems associated in putting small hydro facilities back on line has been the Government redtape, the requirements that various agencies place on the developer. This bill will allow FERC—which has the prime responsibility for licensing projects—to surrender that responsibility to the appropriate State agency, such as the State Public Utilities Commission.

During a recent Senate hearing I held in New Hampshire on small-scale hydroelectric power, numerous witnesses testified that the FERC licensing requirements were cumbersome, time-consuming and costly. In fact, these requirements are sometimes so burdensome that the individual developer without corporate money is unable to proceed with the project. Because most of the small-scale hydro projects also need State approval before they can move forward, this change in the law will speed up the process and permit the developer to bypass unnecessary redtape.

I need to remind no one in this Chamber that this Nation is in the throes of a grave energy crisis. The development of small-scale hydro power is one small way to promote energy independence. We have a responsibility to explore every avenue which furthers that aim, and that is the purpose of the bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) The Commission may enter into cooperative agreements with the States for purposes of avoiding duplication and delay in the licensing of small hydroelectric power projects at existing dams. Such agreements may provide that, with respect to any small hydroelectric power project at an existing dam, the licensing authority of the Commission under this part may be exercised, in accordance with the requirements of this Act and other applicable law, by an appropriate authority of the State.

"(b) As used in this section, the terms 'small hydroelectric power project' and 'existing dam' have the meanings prescribed for such terms in title IV of the Public Utility Regulatory Policies Act of 1978."●

By Mr. DURKIN:

S. 1559. A bill authorizing a study to develop small hydroelectric projects for rural areas or communities; to the Committee on Environment and Public Works.

● Mr. DURKIN. Mr. President, today I offer a bill which is designed to get more small-scale hydroelectric plants back into operation. This bill authorizes the U.S. Army Corps of Engineers to study ways to develop small hydroelectric facilities for rural communities.

Residents of New Hampshire and New England are very familiar with the vital part that waterpower played in the growth and development of the region. In the early days of our Nation, the moving waters of our rivers and streams fueled the industrial revolution and made the area into the commercial and manufacturing hub of the Nation.

Despite a record of long and efficient service, waterpower was gradually phased out as a source of energy in favor of huge centralized powerplants fired by cheap oil and nuclear fuel. The Department of Energy has estimated that in the past 30 years hundreds of small hydro facilities throughout New England have been abandoned, causing us to consume hundreds of millions of barrels of oil that would otherwise have been conserved.

The time is long overdue for us to bring these dams back into service, especially in New England where we are at the end of the energy pipeline. We must now stop relying on costly imported oil to take care of our future energy needs. In the rural areas of New Hampshire and New England—areas that have probably suffered the most at the hands of rising energy costs—there is, quite literally a gold mine of power flowing downstream to the sea every day. We have an absolute responsibility to harness that power and bring it to the persons who need it the most. I am convinced that this study will begin to lead us in that direction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a study of the possible rehabilitation of the hydroelectric potential at former industrial sites, millraces, or other types of facilities constructed in the past, and the possible conversion of such sites for use as new, small hydroelectric projects that will serve rural areas or communities. For the New England area, sites with a potential capacity of twenty-five kilowatts and up will be considered. Studies should stress systematic hydroelectric development and operation on a regional and individual project basis fully considering potential benefits from water storage, conservation, flow regulation, and integrated operation of multiproject systems. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to provide technical assistance to local public agencies or cooperatives in any such rehabilitations at sites identified under this section, or that would qualify under the terms of this section.●

ADDITIONAL COSPONSORS

S. 23

At the request of Mr. CHURCH, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 23, a bill to amend the Plant Variety Protection Act.

S. 246

At the request of Mr. BENTSEN, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 391

At the request of Mr. ROTH, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 391, the Federal Administrative Improvements in Reports Act.

S. 535

At the request of Mr. SCHMITT, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 535, the Nuclear Waste Transportation Safety Act.

S. 1446

At the request of Mr. DURKIN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1446, a bill to reserve funds for small, medium, and nonhub airports.

S. 1532

At the request of Mr. MOYNIHAN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1532, the Kennedy Center Act Amendments of 1979.

SENATE JOINT RESOLUTION 43

At the request of Mr. DURKIN, the Senator from Florida (Mr. STONE) was added as a cosponsor of Senate Joint Resolution 43, to proclaim March 21, 1980, as "National Energy Education Day."

SENATE RESOLUTION 194

At the request of Mr. DURKIN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Resolution 194, entitled "Wheat for Oil."

AMENDMENTS NOS. 340 THROUGH 352

At the request of Mr. JACKSON, the Senator from Indiana (Mr. BAYH) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendments Nos. 340 through 352 intended to be proposed to S. 737, the Export Administration Act of 1979.

SENATE RESOLUTION 202—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LEVIN, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget.:

S. RES. 202

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 111, the Panama Canal implementing legislation. Such waiver is necessary to permit the consideration of legislation authorizing new budget authority for fiscal year 1980 for programs relating to the implementation of the Panama Canal Treaty. The Committee on Armed Services was unable to consider and dispose of the proposed legislation prior to May 15, 1979, because it was deemed prudent to await House passage of the legislation before marking up the Senate version.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 111 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED APPROPRIATIONS, 1980—H.R. 4392

AMENDMENT NO. —

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to H.R. 4392, an act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration I announce that on Tuesday, July 24, at 2:30 p.m., the committee will meet in room 301 of the Russell Senate Office Building to consider and mark up proposed amendments to the Federal Election Campaign Act, along with other legislative and administrative business.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GOVERNMENT HARASSMENT OF A CIVIL SERVANT—LAWRENCE BRADY

● Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate a matter of serious concern to me and I am sure to all of my colleagues.

Apparently a deception was perpetrated on the Congress recently with testimony presented in executive session by Mr. Stanley Marcuss, Deputy Assistant Secretary of Commerce for Industry and Trade before the House Armed Services Committee.

In his testimony, he portrayed the U.S. export control laws in glowing terms. When the chairman of the committee, Representative RICHARD ICHORD, called upon Marcuss' assistant, Lawrence Brady, Acting Director of the Office of Export Administration, to comment on the state of our export control system, he characterized them as "in a complete shambles."

In his testimony, he revealed that the Soviet Union was using the Kama River Truck Factory—a factory built with some $500 million in American designs, tools and computers—to make military vehicles and parts.

Under the agreement with the Soviet Union to help construct that factory, the United States was led to believe that such a diversion was not to have taken place. But it did.

Now, trucks produced at the factory reportedly are being used for military purposes.

Shortly thereafter, Mr. Brady, a New Hampshire constituent, made this information available to Congress, he was demoted to the lesser post of Deputy Director of the Export Control Unit.

He was demoted because he had the courage and, yes, the responsibility, to come before Congress and, as a responsible public servant, report this serious violation of U.S. export control laws.

Because his testimony was at variance with that of Mr. Marcuss, however, Mr. Brady was immediately demoted.

To add insult to injury, although he no longer held the post of Acting Director, Mr. Brady was asked to continue to carry out the responsibilities of that position until a replacement could report to duty.

And now, Mr. President, I understand that Mr. Brady may be eased out of the export control office altogether.

He has now become the victim of harassment by his superiors.

For example, I understand that a letter recently was sent under the signature of Commerce Secretary Juanita Kreps to Representative ICHORD and to Senator HENRY JACKSON, saying that Mr. Brady's testimony on the diversion of trucks from the Soviet Kama River factory for military purposes was not true.

Mr. Brady attempted to draft a memorandum to respond to that letter, a letter which I am now informed was not approved either by the Office of Management and Budget or the National Security Agency.

I was informed yesterday that as Mr. Brady's secretary was typing the memorandum to respond to Kreps' letter to the Members of Congress, Mr. Brady's immediate boss attempted to tear the memorandum from the typewriter of Mr. Brady's secretary.

In addition, when my staff called Mr. Brady on the telephone to discuss this matter with him, Mr. Brady had to request permission to accept the phone call from my staff and to be left alone in the room to do so.

Mr. President, such inexcusable action by the superiors of Mr. Brady is nothing less than harassment. It is this kind of harassment which even President Carter publicly condemned on the occasion of pushing his Civil Service reform legislation which passed Congress last session.

Mr. President, for a person in the position of Mr. Brady to perform responsibly, it is necessary for him to alert Congress to gaps in our export control laws. That is what Mr. Brady did. Certainly, he should not be penalized for his diligence.

Mr. Brady's opinion on the state of U.S. export control laws was sought by a congressional committee charged with the responsibility of insuring their effectiveness.

For Mr. Brady to receive this kind of treatment of immediate demotion and now threat of dismissal at the hands of his bosses is inexcusable and Congress has an obligation to protect such individuals.

As a consequence, I have written a strong letter of protest to Secretary Kreps. In that letter, I called upon her to consider dismissing Mr. Marcuss for his deceptive testimony before a congressional committee and to immediately reinstate Mr. Brady.

If that was not forthcoming, I also said that I would vigorously seek a congressional investigation into the treatment of Mr. Brady. I view such harassment as so serious, Mr. President, that such an occasion warrants a strong response.

Mr. President, I ask that my letter to Secretary Kreps be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 19, 1979.

Hon. JUANITA M. KREPS,
Secretary of Commerce,
Washington, D.C.

DEAR SECRETARY KREPS: I strongly protest the treatment accorded a New Hampshire constituent, Lawrence Brady, who was recently demoted as Acting Director of the Export Administration.

In addition to the demotion, apparently because of his recent testimony before a Congressional Committee, Mr. Brady reportedly is being eased out of his job altogether.

For a person in his position to perform responsibly, it is necessary for him to alert Congress to gaps in our export laws. That is what he has done. Certainly, he should not be penalized for his diligence.

Mr. Brady's opinion on the state of U.S. export control laws was sought by a Congressional Committee charged with the responsibility of insuring their effectiveness.

His testimony followed that of Mr. Stanley Marcuss, Mr. Brady's boss, which portrayed U.S. export laws in glowing terms.

Mr. Brady's testimony, however, told a different story—a story which pointed directly to a clear and present danger that such laws were posing to U.S. national security, particularly with respect to the sale of highly sophisticated U.S. technology to East Europe.

Mr. Brady bolstered his testimony with the revelation that the Soviet Union was using the Kama River truck factory—a factory built with some $500 million in U.S. designs, tools and computers—to make military vehicles and parts.

While this is only the most recent example of how our export control laws are like sieves, there are other confirmed instances of U.S. sophisticated technology either unwittingly arriving in Soviet hands or being diverted for military purposes.

In the attempt by Mr. Marcuss to present Congress with a glowing report on the state of U.S. export control laws, it is now apparent that Congress was, in fact, deceived by his testimony.

By the action of Mr. Brady's superior to purposely deceive Congress, a very serious breach of trust has resulted between Congress and your Department.

As a result of Mr. Brady's testimony, and the fact that he came forward to inform Congress of the serious nature of U.S. export control laws, I intend to offer a series of amendments designed to strengthen them once and for all.

Because Mr. Brady, one American concerned for the security of his country, had the courage to step forward and alert Congress to these serious problems, I am now calling on you to dismiss Mr. Stanley Marcuss, whose testimony before Congress was a laundry list of deception.

In addition, I ask for Mr. Brady's immediate reinstatement, and I further request to be kept informed of your actions in regard to this serious matter.

I want to hear from you at the earliest possible date on this matter of importance to me and my constituent. If I do not, I shall be compelled to ask Senator William Proxmire, Chairman of the Banking, Housing and Urban Affairs Committee, which has jurisdiction over U.S. export control laws, to immediately investigate the treatment of Mr. Brady by your Department.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senator.●

THE ELECTORAL COLLEGE

○ Mr. MOYNIHAN. Mr. President, I rise to speak briefly and for the first time in what I believe will be an extended debate on the matter before us, Senate Joint Resolution 28. I wish to address this subject in the context, as I see it, of the historical experience of the American Constitution and the American political system.

There is no fact more singular about our Constitution than its durability. As a written constitution, it is the oldest in the world save for the medieval Constitution of Iceland, which still persists in that small nation. No other large industrial, and certainly no continental, nation has anything like our experience of a sustained and stable government under a written constitution basically unchanged from its original construction.

We, perhaps, do not understand how singular this history is. If I may make a personal comment, I recall that one afternoon in the General Assembly Hall of the United Nations, in the course of a long debate on a not altogether absorbing subject, I found myself looking at the two large scoreboards, as one might say, located in the front of the Assembly Hall, on which the member nations are listed and where their votes are recorded.

I found myself asking how many of the 143—now 151—nation members of the U.N. both had existed in 1914 and had not had their governments changed by force since 1914. It was not a great exercise to determine that in that great universe of nations exactly seven met both criteria: that they both existed in 1914 and had not had their form of government changed since.

There are some who might ascribe our good fortune to the insularity of the Nation in its early years, and the size and strength of the Nation in its later years. But I would say that in no small measure it has also been the result of the genius of the American Constitution and the way it has served this political community for almost two centuries.

I would not disguise, at the outset, my sense of the measure before the Senate today, proposing the abolition of the electoral college. In the guise of perfecting an alleged weakness in the Constitution, it in fact proposes the most radical transformation in our political system that has ever been considered, a transformation so radical and so ominous, in my view, as to require of this body the most solemn, prolonged and prayerful consideration. In particular, it requires a consideration that will reach back to our beginning, to learn how we built and how it came about that we built better than we knew.

Mr. President, at the base of Capitol Hill, just a few feet outside this Chamber to the west, looking west past Shrady's great equestrian statue of Grant, past the Washington Monument, and on to French's seated Lincoln, is a bronze statue of John Marshall, also seated. It cannot be altogether by chance that these four men, defining the unity and the tension of the active and the contemplative in American public life, should be the only persons so honored on the central axis of the mall. Nor is it chance at all that a marble tableau on the northeast face of the plinth of the Marshall statue depicts, in the allusive but plain language of the time, the scene "Minerva Dictating the Constitution to Young America."

This statue, erected in 1884, suggests that a century into our constitutional experience we had a live and vibrant sense that our Constitution was constructed by persons who had studied history and had come to what they viewed as a new and better understanding of what they thought might be judged the most elevated principles of government.

I begin at the beginning with the Declaration of Independence and the "self-evident truths," as they were termed, by which the new Nation sought to justify its revolution and its new form of government.

As the late Martin Diamond has reminded us, the political credo of the Founding Fathers, encapsulated in the words of Jefferson, was based upon the scientific and philosophic advances of the 17th and 18th centuries. The respect for human rights, which constituted liberty as they understood it, was not in their view an idiosyncratic value of a remote group of Anglo-Saxons with no claim on any other political culture. It was not a tribal aspect of our inheritance. Rather, it was seen as the primary political good, of whose goodness any intelligent man would convince himself if he knew enough science. In Diamond's words:

> They regarded liberty as a modern idea, as the extraordinary achievement of 17th and 18th century political thought. With that achievement in mind, George Washington, for example, said that Americans lived in "an epoch when the rights of mankind are better understood and more clearly defined, than at any former period."

This understanding and clarity were all part of the new "science of politics" to which Hamilton referred in the Ninth Federalist Paper. I would cite that passage of Hamilton and his sense of how relevant it was.

He noted that previous republics had had such stormy histories that republicanism had admittedly fallen somewhat into disrepute. This tendency, however, could be overcome, thanks to progress in political science. He went on to say:

> The science of politics, . . . like most other sciences, has received great improvement. The efficacy of various principles is now well understood, which were either not known at all or imperfectly known to the ancients.

Hamilton went on to cite as examples of "new discoveries" the various constitutional institutions with which we are now familiar: separation of powers, the system of checks and balances, representation of the people in the legislature, the independent judiciary, and so on.

I would stress once again the idea the Founding Fathers had learned from history. They had studied its principles and judged that liberty was not just a quality characteristic of the ancient peoples from which the American peoples sprang, but was a principle of government of which any person who would learn enough natural science would persuade himself.

They recognized that republics in the past had been turbulent. They had all studied with great attention the history of Greece and of Rome. There had been democracies in both places—or republics if they were not democracies—which at certain times witnessed the appeal of one man or of one issue which came along and swept away the judgment of the people. And in the aftermath, what did they find but a ruined and defunct republic and a tyranny in its place?

So the Americans developed these new discoveries—as they saw them—separation of powers, the independent judiciary, the representation directly and indirectly of people and States in the Congress, a principle that involved not just one majority, but in the most important sense, many majorities.

Dr. Judith Best, the distinguished professor of political science at the State University of New York in Cortland, N.Y., and one of the foremost authorities on the electoral college, has spoken at length and with special clarity on the principle of concurrent majorities. In her testimony earlier this year before the Subcommittee on the Constitution, she put it quite luculently when she said:

> * * * the principle of concurrent majority, is, has been, and was intended to be the American idea of democracy because the size of the popular vote is not sufficient to maintain liberty.

All through our system we find majorities at work, but they have to be at work simultaneously. John C. Calhoun referred to them as concurrent majorities, and while he often spoke only of the States and the Federal Government, he perceived a self-evident property of our constitutional arrangements to be found everywhere. A concurrent majority is required between the House of Representatives, based upon the direct election of the people, and a majority in the U.S. Senate, Members of which at that time were indirectly elected through the State legislatures and which to this day represents the States and the people of the several States, regardless of their actual numbers. It is a majority of the States which counts in this body, not the majority of the population, per se.

Concurrent majorities are also required between sufficient majorities in both Houses of this Congress and the Presidency to enact a law, while the President himself comes to office by having achieved a majority of the electoral votes cast. The power subsequently evolved, but clearly anticipated by the framers—and I think this is settled—that the Supreme Court may review the acts of the Congress and the President in their concurrent majorities, and the majority of the court could judge upon constitutionality.

This pervasive and understood principle of the Constitution was thought to be—and who would argue that history has not supported that expectation—learned from history. And of all these majorities, none was more subtle or more central to their thinking than the majorities required to elect a President.

Again there would be several majorities, not in any rigid, absolute sense but in the sense that a clear preponderance of choice would emerge. The President would be elected by a majority of the popular vote and by a majority of the States. That has been our principle ever since. It is the principle enshrined in the electoral college, and it has been the basic institution which has given structure to American politics, and the politics of our Presidency.

At an early time in our history the electoral college changed its nature from a deliberative body which followed its own will, to a body which simply reflected the majority of the electors as they voted in their several States.

While we are a people very much given to the principle of written constitutional arrangements, I believe we have shown a capacity in our Government to adopt through practice matters which attain to the condition of principle. As an example, early in the Republic it became understood that a President would only serve two terms. George Washington established that. It was a century and a half before it was written into the Constitution. Yet it had the effect of a constitutional principle for all but the administration of one President in a wartime situation, and that was very special indeed. Even so, that experience led to its being written down as an amendment to the Constitution itself. When, in fact, an informal constitutional principle was violated it soon became a formal one.

That tradition served us well for a very long period. It served us with respect to the single great problem which republics have always dealt with, which is how to persuade persons in power to leave power. It is a problem which, for example, the republics founded in Latin America in the early 19th century never successfully coped with, or rarely did. This led, in the Mexican Republic, for example, to an eventual recognition that no one ever left power of his own accord, resulting in a constitutional provision for only one term and one term only.

Our election of 1800 marked the most remarkable and most enduring of all political events in our history the party out of power won an election and the party in power voluntarily left office. It was John Adams who was defeated when the votes finally came in from the South, and he went back to Quincy, Mass., thinking himself a failure, having turned over the Treasury, the Great Seal, and the Army of the United States to Thomas Jefferson. Far from being a failure, he began democracy in the modern world.

He proved that it could work. It does not work everywhere. We are reduced, to this day, to some 35 democratic societies in the world, about the same number there were in 1914. But the oldest constitutional democracy is ours, and it lives under the Constitution established with great sensitivity for the need to see that power is never installed, save when it is consented to by more than one majority. That was the principle of the electoral college.

There is another aspect of our Constitution, one, I think, perhaps not always recognized that assume conflict in political systems. This is not ordinary; this is unusual.

There is no prior constitution anywhere, even in the ancient constitutions of the Greeks, which recognized that conflict is normal to a political system and needs to be organized and channeled. A much more common assumption was that of monarchy, in which the king is assumed to represent the interests of all, and what the king does, is by definition, harmonious with the interests of all; or, consider the curious doctrine of the Soviets, which they acquire from Marx, that such are the basic harmonies of communist society that, after a period of socialism, that state will wither away, the state being coercive by nature and there being no need to coerce in a society where natural harmonies had been allowed to evolve.

James Madison knew better. He knew conflict is normal and perpetual. He also believed it could be controlled. And, of course, again, an extraconstitutional institution emerged, one which, interestingly, the founders had feared, but to which they very clearly lent their formidable energies and enterprise. The political party emerged. And from the beginning of the Republic, or to be more precise, from 1796, our third Presidential election, political parties developed for the purpose of organzing conflict and limiting conflict.

Only once have we seen them disappear in that brief period, in the 1820's. In the election of 1820, with the first appearance of the so-called faithless elector, Mr. Plumer of New Hampshire decided that only George Washington should be entitled to the honor of having been unanimously elected by the electoral college, and so cast his vote for John Quincy Adams. Even there, we see the electoral college being used as an institution to define majorities, and the parties that emerged had as their single most characteristic quality—again different from anything else in the experience of republics—that they were not ideological, that they were not sectional nor confessional, and rarely, in the two great parties, extremist.

It has been a source of frustration in the youth of as many generations as this Republic can measure that our parties have not been extremist. And if we look to the question, why have they not been this way, the answer is that the electoral college makes it impossible for them to be extremist if they are to continue effectively to be parties. Indeed, when some have begun to do so, they have ceased to exist.

The electoral college requires the assembly of consent—again, concurrent majorities—in one part of the country and another part of the country, and yet another part, all defined in terms of several States. It has as its extraordinary ability the formation of consensus as between widely differing regions, political purposes and styles, and political agendas. It has as its purpose and function the narrowing of differeces, a narrowing which is repeatedly to be encountered in the narrow range of votes as between the parties in Presidential elections. There are few landslides as we call them.

And these landslides are really nothing of the sort. They rarely attain to 60 percent of the vote. When, in fact, one party momentarily belongs to an extreme faction it almost instantly is hugely rebuffed. It has been the experience of two centuries that just as instantly, they resort to a traditional practice of obtaining consensus, retaining a structure or concurrent majorities around the Nation that makes it possible to win a majority of the votes and electoral college, and thereafter, to govern with the legitimacy that has come of attaining to such diverse majorities.

Mr. President, I recapitulate, to state my judgment—and it can only be mine—that the proposal before us, in the guise of perfecting an alleged weakness in the Constitution, proposes the most radical transformation in our constitutional system that has ever been considered.

I remarked that the Founders devised our system with the idea of a network of concurrent majorities which would be required to exercise power. The fundamental thrust of this measure, however unintended—nonetheless it seems to be ineluctably clear—would be to abolish that principle of concurrent majority.

If there is once introduced into the Constitution the proposition that a President may routinely be elected by 40 percent of the vote, you have the most ironic of all outcomes, that in the name of majoritarianism we have abolished even that single majority which the Founders so feared.

Mr. President, politics is an argument about the future, and no one knows that future. However, as Hamilton and his colleagues argued, the study of history can give you some sense of probabilities. If we would study the modern history of Europe as they studied the ancient history of Greece, what would we repeatedly encounter but a democratic republican society succumbing to a plebiscitary majority, to one man, and to the end of the republic?

It happened in France; it happened in Italy; it happened in Germany. Almost the only places it has not happened in Europe on one occasion or another—I dare to suggest that it is an interesting point—are the constitutional monarchies.

Indeed, there was a moment, recently, when the only democracies left in Europe were constitutional monarchies. Having a hereditary chief of state, they never had to elect one with real power, and they could govern from their legislatures, where members were elected in individual constituencies as is the case in Britain today. They never succumbed to the ever-present threat of an overwhelming issue, an overpowering person, and the end of liberty. That is precisely what we invite if we adopt this radical measure.

Consider the situation: We shall have introduced the runoff, the very symbol of splintered European political systems, where no majority ever can be accumulated by the political process of one party presenting itself to the country and asking for a majority.

Why? Because it maintains its internal cohesion by the narrowness of its agenda, which is always and repeatedly reflected in the narrowness of its votes.

There are two ways to maintain a political party. Roughly speaking, there are two models.

On the one hand, one can assemble a narrow agenda of issues and find a constituency that cares strongly about those issues and will vote for one's party regardless, as long as it maintains that narrow agenda, that purity of doctrine, for that constituency will begin to dissolve when that purity begins to be diluted. That is the fate of democracies where it is not necessary to win a majority of the vote the first time out, and where it becomes possible to take the chance on winning a majority in the runoff.

The nature of the American political party which, as I said, has been the despair of every generation of college youth since John Quincy Adams, is that it seeks a majority to begin with. It is broad. It tends to dull conflict that is inspiring to youth and to seek much that is consoling to age, to wit, a not always pristine consensus.

What will we see if this resolution should come into law? To repeat, Mr. President, we do not know what we will see, but we know what others have encountered. We will see a situation in which at the very least we will have four parties because both of the major parties incorporates within themselves two parties.

One of the great influences of the electoral college is that after the party convention takes place the party that loses stays in the party, so to speak. Otherwise, there would be no prospect, even for the minimal rewards that go to the losing faction. But under this amendment, why not go off and run on your own?

Conceivably, at least four people will run. It will become normal. It would not be abnormal for 14. And you get a kind of randomness in outcome that is characteristic of a purposeless system. Anyone feeling strongly, as people will, and legitimately, about issues, will say:

> What if I run and get 19 percent of the vote, and the next highest person gets 24 or 39, and together we go into the runoff, and who knows but that I will emerge?

It will be a normal and legitimate calculation, and it will be a calculation that will have as its most distinguishing characteristic that no one would any longer think of those units of Government, the States, which more and more, as we progress into the 20th century, become indispensible to the management of a governmental system which is increasingly loaded with tasks.

Theodore H. White, in a graphic description of events on election night as he would foresee them, suggests all the drama we know so well—as the early returns from Massachusetts, South Carolina, and Florida come in and then the great progression across the continent to California, Alaska, and Hawaii begins—would dissipate. To the contrary, as the undifferentiated votes mounted up, the pressures would be on the mountain States and then the coastal States and the island State, to get out votes to change outcomes. There would be genuine pressures to fraud and abuse. It would be an election no one understood until the next day or the day after, with recounts that go on forever, and in any event, with no conclusion, and a runoff to come. The drama, the dignity, the decisiveness and finality of the American political system would be drained away in an endless sequence of contests, disputed outcomes, and more contests to resolve outcomes already disputed.

That is how legitimacy is lost. That is how a nation trivializes those solemn events that make for the single most important ingredient of a civil society, which is trust.

There was once, Mr. President, an acquaintance of mine who served as a diplomatic officer in Southeast Asia during the period of American aid who had a poignant conversation with a friend he had made in that country. The friend was a native to that country. As he was leaving, the friend said to him:

> You know, you come here and you give us this technical assistance and that material assistance but we know that you never give us the one secret you have and we do not and makes all the difference, which is that you trust one another.

And that is what we have to show for two centuries of a Constitution that has made trust possible, partly because it has made conflict visible and manageable.

Mr. President, the present craze for amending the Constitution to cure every imperfection from the common cold to the cold war is not new. But I can suggest that it should be looked at with great care.

There is an experience in my own State. I think how frequently each of us in this Chamber thinks of his own State because that is what he represents and he is unique in that representation. No other State is alike and no two Senators from one State come from quite the same constituency.

In 1858, on March 3, the New York Times reported from Albany that 86 State senators had presented a petition so brief and so explicit to the times that they gave it lines in the Times, and I read the petition. It said:

> The undersigned citizens of the State respectfully represent that owing to the great falling off of the Canal revenue as well as the increasing drafts upon the State Treasury and the large expenses of carrying on the several departments of the State Government thereby swelling up the taxes, therefore, with the view of relieving the people from the large amount now unnecessarily expended to sustain the executive and legislative departments and to secure the honest and better administration thereof, your petitioners respectfully ask that your honorable body pass an act calling a convention so to alter the Constitution as to abolish both the executive and legislative departments as they now exist and to vest the powers and duties thereof in the President, Vice President, and directors of the New York Central Railroad Company.

The Times reported that this was intended as a joke. But in no time at all it passed the senate. It thereupon passed the assembly and the following autumn failed of adoption on the ballot by 6,360 votes.

I mean no immediate parallel, Mr. President, but we have before us an amendment designed to abolish the Democratic and Republican Parties and vest their present powers in the President, Vice President, and the directors of the National Broadcasting Corporation.

The reign of television would be Orwellian and the Republic would decline. Have we not had enough of this? Do we not realize that we are on the edge of being required by the States to call a constitutional convention, for the purpose of putting algebra into the Constitution? But once the constitutional convention convenes they need no more stop than when they gathered in Philadelphia for the same purpose in 1787.

Mr. President, there is a solemn obligation of persons who have been blessed, as we have been blessed by a stable political system to look to that stability as the most precious inheritance anyone can have. Look about the world and think of the experience of mankind in this generation. Ask what society has lived from 1813 without foreign invasion. Ask what society has never known a break in its congressional or Presidential or judicial successions. Ask what society so accepts the principles of the Constitution as to enable the Supreme Court, appointed for life, to strike down laws of this very legislature, and to do so with heightened respect when it fulfills its constitutional mandate.

Ask what the legitimacy of justice is once we tinker with the balancing phenomenon of the electoral college.

We have a republic. It has endured. We trifle with its arrangement at a risk not only to the future of that republic, but, most assuredly, to the reputation of this generation of political men and women.

It is one thing to be, as often we must feel we are, outthought and outperformed by our predecessors, but are we so to undervalue our own worth as to fall into an almost destructive and adversarial relation to their work?

I would hope not, Mr. President. I respect altogether the purposes that prompt this amendment. I suggest they may easily be remedied by an arrangement which abolishes the individual office of the elector. Indeed 19 States already require that electors vote as their majority dictates. But the remedies are simple, and surely the experience of a people long accustomed to successful government, in a given arrangement, ought not to tamper with that arrangement owing to hypothetical problems, emergencies that do not arise, and which have never in our time arisen.

Mr. President, there was a time in the 19th century when on patriotic occasions, and almost any occasion that gave the opportunity, Americans would rise and offer the toast: "To the President and the Constitution of the United States," so intimately did they associate those institutions.

I hope the day does not come when tearing the Constitution asunder we effectively diminish the role of the President of the United States that as men or women are elected with so narrow a base that in order to continue in office—given the intensity of factions there that brought the person there in the first place, and the narrowness of base that threatens that incumbency—they commence to consider the most unpresidential and antirepublican temptations.

We have prospered and endured. Let us hope that we shall continue to do so. There is work aplenty before this Congress. Let us get on with that work and leave the Constitution be. If the time comes when the true experience of an emergency arises because of the extraconstitutional practices that obtain as to the condition of principle, as was the case when the two-term practice was broken and Congress and the State legislatures therein did react, then the time to consider a measure such as this will be upon us. But let us wait until its necessity is plain.●

JOSEPH SOBRAN'S SYNDICATED COLUMN

● Mr. GARN. Mr. President, it gives me a great deal of pleasure to bring to the attention of our colleagues the latest success of a remarkable young writer and critic, M. J. Sobran. Joe Sobran has begun writing a syndicated column that is distributed by the Los Angeles Times Syndicate. The column appears in the Washington Post.

Mr. Sobran has distinguished himself as one of the bright new talents recruited by William F. Buckley, Jr. for National Review. Now, after several years with National Review, Joe Sobran is a senior editor. His work for National Review encompasses such diverse topics as constitutional law and history, sociology, theology, and book and movie reviews. Almost always, he has something to say which places him among the Nation's best analysts and writers. I am happy to see that through his syndication he will be read by a larger and more politically varied audience. His new readers will be well rewarded, and soon come to regard his work as highly as I do.

The Sobran brain and pen have also been turned toward longer essays in the excellent quarterly, the Human Life Review. Human Life Review is the foremost American publication dealing with the important issues of life and death, birth and abortion, euthanasia, and other aspects of human dignity that are central to our traditional ideals. The Human Life Review and its creator and editor, J. P. McFadden, are performing one of the most important services in American publishing, and, when the Nation regards its senses about the value of human life, it will have a debt of gratitude to pay to Jim McFadden and his journal. And McFadden—himself just falling short of being able to do the whole job alone—has recruited people like Joe Sobran—who has contributed to nearly every issue of Human Life Review.

The Op Ed pages in this country will be better written now that Joe Sobran is writing a syndicated column. I request that the following example of his work be printed in the RECORD to prove my point.

The article follows:

Whose Child Is This, Anyway?

(By Joseph Sobran)

Why is it that every time somebody asserts a new right, all of us wind up less free than we were before?

The Supreme Court has now ruled unconstitutional a Massachusetts law requiring minors to get parental approval before obtaining an abortion. Though divided, the majority seems to think a girl should be able to get the necessary permission from a judge who deems her "mature." And if the judge deems her immature, he himself should be the one to decide whether the abortion is in her best interest.

Leave aside the ethics of abortion. Leave aside the question how these minutia are quarried from the Constitution. Let us simply consider what the court's ruling implies about the rights of parents, the relations of parents and children, and the scope of state power.

In the first place, the court holds that the girl who wants an abortion owes no obedience to her own father and mother. In the second place, it holds that she does owe obedience to the court, which has the discretionary power of deciding whether she may or may not make the abortion decision for herself.

To put it another way: The court assumes the right to act in loco parentis—while denying parents themselves that right.

The girl herself has no new freedom. She has, it is true, a right to defy her parents, but not to defy the court. She has merely exchanged submission to her father and mother for submission to some judge who barely knows her.

Justice Byron White, the lone dissenter, asked how on earth the Constitution can be construed to deprive parents of the right to decide whether their minor child shall have surgery. It is a question that should give pause even to those who regard abortion as a valid freedom.

So-called children's rights mean, in practice, increased state power over parents. In Sweden, it is now illegal to spank your own children. Whether this makes children freer in any real sense is very doubtful. What is certain is that the state has a new jurisdiction over the home and the family. In effect, Swedish parents are being whittled down into minor-grade civil servants. That is the shape of things to come in the totally bureaucratized society our social reformers aspire to.

Every right requires some agency to enforce it. The perennial political problem is how to establish a power to protect our real rights, while ensuring that such power won't itself be used to violate our rights.

A peculiarly modern problem is this: that many of the so-called "rights" we enjoy—or are about to have inflicted on us—are not protections against power, but claims against the freedom of our fellow citizens for the discretionary use of their own property.

They do more. They create a power in the state to set explicit standards for what was formerly private behavior. Every citizen becomes answerable to some public authority, usually a federal bureaucrat, for an ever-broader range of personal decisions.

The last stronghold of private freedom is the family. A few weeks ago, the court recognized this when it held that parents have the right to commit their children to mental hospitals. In so ruling, it acknowledged that this is a decision better made by parents than by public officials. It would be unfair, therefore, to characterize the court simply as an enemy of the family as an institution.

Nevertheless, the court is afflicted by the general confusion about the public and private spheres. In limiting the range of private discretion—even in the name of "rights"—it limits our freedom. This is nowhere more obvious than in its increasing tendency to treat the family as nothing but the lowest administrative level of the state.

By conferring on children so-called "rights," the state actually alters the structure of the family. Some think this a fine thing: Reform should know no bounds. But we have come a long way from the days when it was assumed that there were some things no man could put asunder. And what has been the result of all our tampering with the traditional family? Soaring rates of divorce and abortion; a tripling of the number of children who grow up with a single parent. If there is any evidence of a corresponding increase in human happiness, I have yet to hear of it.●

SPORT FISHING

○ Mr. DURKIN. Mr. President, if any recreation speaks a universal language, then that recreation must be sport fishing. It is done by millions of Americans, young and old, rich and poor, famous and not so famous. There is a real bond between fishermen, no matter where they are: the Floridian who seeks the feisty bonefish off the Florida Keys feels the same excitement and anticipation as the New Hampshirite in search of brook trout on a gently flowing stream.

I can think of no better pastime than fishing in my home State of New Hampshire. There is a real pleasure in loading a boat with live bait and heading off New Hampshire's seacoast to pursue bluefish. Inland, in New Hampshire's rivers, streams, and lakes, the bass, trout, and salmon lurk beneath the surface, ready to bite at the lure or fly the fisherman throws at them. As an ardent fisherman, I know firsthand the tremendous value this sport has for an individual. It is relaxing, healthy and a wonderful form of recreation for the family. More important, it develops a concern and appreciation for the scenic beauty and natural resources found throughout this great Nation. When I am fishing for trout on a remote stream in northern New Hampshire, I realize how lucky I am to experience this peaceful and beautiful landscape.

Mr. President, Nelson Bryant, the outdoor writer for the New York Times and a former resident of New Hampshire, has written two excellent articles on fishing for bass and trout in New Hampshire.

I ask that these articles be printed in the RECORD.

The articles are as follows:

Outdoors: Some Big Smallmouth Fishing

(By Nelson Bryant)

CORNISH, N.H.—A passion for trout and landlocked salmon on the part of most New Hampshire freshwater anglers has resulted in a sublime neglect of the smallmouth bass, one of the country's most exciting game fishes.

Scattered throughout the state are dozens of warm-water lakes and ponds with excellent populations of smallmouths, and some rivers, including the Connecticut and the Merrimack, are similarly blessed. But these bass are so seldom sought in the state that there is no closed season for them and no length or weight limit. The daily creel limit, with certain exceptions, is five.

More than a quarter of a century ago, when I served as managing editor of The Claremont (N.H.) Daily Eagle, I discovered the Connecticut's bass and pursued them diligently from a two-man kayak with my young son, Steve. After some prospecting, we found that the most productive spots in our area were over the rocky shoals at the heads of three islands, one upstream (Jarvis) and two downstream (Woolcott and Hubbard) of the old ferry landing—still a public access with considerable space for parking and launching—in West Claremont.

At that time, I too was most interested in trout, and many of our bass were taken with fly-rod popping bugs, the bass man's equivalent of the dry flies.

Others were caught on bait, usually live crickets, also fished with a fly rod. On a few occasions, we used worms. And once in a while we set a little wire pop for crayfish, and they, if I recall correctly, usually resulted in the largest fish.

Since then, I have never lost my interest in smallmouth angling, but except in special circumstances—as when I can fish a fly-rod popping bug over bass spawning beds—I've gone to conventional (revolving spool reel) gear and the myriad plug, spoons, jigs and artificial worms designed for such outfits.

A year ago a Claremont hunting and fishing companion, Victor Pomiecko, told me that he and another angler had experienced incredibly good smallmouth fishing on the Connecticut River north of Claremont in Cornish. In 1978, they visited the spot half a dozen times in mid and late summer and often hooked and released 20 or 30 bass in an afternoon's angling. (Vic has learned to enjoy fishing for bass but has not taken the next step, which is eating them. He should, The bass has firm, white, sweet meat and few onerous small bones.)

So titillated, I waited impatiently for the time when we could fish the area together. And a few days ago, we launched his car-top boat from the public landing in Cornish, about a quarter of a mile upstream from the covered bridge that spans the river and links Cornish to Windsor, Vt.

In three hours, we fished both shores for about a mile upstream of the landing and caught eight bass, the largest about a pound and a half.

Vic was disappointed.

"That's the slowest fishing I've had here," he said.

He thought that our success had been limited by high water. The river was running strong enough (though it was not muddy), so strong that our three-horsepower outboard could barely shove us upstream.

"When the water is low," Vic said, "I never seem to have any trouble finding fish. It's really high today—I guess three and one half feet above the usual level."

(The Connecticut in this area is affected by the hydroelectric dam about 10 miles upstream, a few miles south of Hanover. This New England Power Company plant is usually generating from 9 until noon, from 1 P.M. until 3:30 or 4 P.M. and for a few hours in the evening. There are also three major streams entering the Connecticut below the main stem dam: the Mascoma, from the New Hampshire side, and the White and Ottauquechee, from Vermont. Under stable conditions—that is, no heavy rainfall in the areas drained by these rivers—one may expect the Connecticut in the Cornish area to be at its lowest in early morning.)

I was eminently pleased with our angling, but Vic suggested that we try again. The next morning we were on the river at 8 and were delighted to see that it had dropped nearly four feet.

The day was brilliantly clear and crisp. A plover stilted along the shore where we launched our boat, and, a few hundred yards upstream, cliff swallows were busily sallying forth for insects from myriad holes in a bluff. An osprey screamed overhead, and a muskrat plowed a furrow in a quiet eddy.

Vic, who was running the boat, chose to troll a small swimming plug, while I cast a popping plug to the shore as we moved slowly upstream.

On my fifth or sixth cast, a bass of about two pounds hit two feet from shore. A moment later my companion was also fast to a fish.

In about an hour and a half, always using the popper, I had my limit of five fish, and Vic had done equally well.

All my bass had struck the lure within four feet of shore, and I surmised that they were over their spawning beds. When guarding thier nests, bass will savagely attack anything that moves close by.

Upon cleaning my fish, I discovered that several were roe-laden females. And in most of these the eggs were full and firm, indicating that spawning was at least a week away.

IF YOU'RE GOING

Smallmouth bass were introduced into New Hampshire about a century ago. The less common largemouths arrived much later and were quite rare until two decades ago.

Smallmouths are in perhaps 150 New Hampshire lakes and ponds. Three-thousand-acre Lake Wentworth in Wolfeboro is probably the best smallmouth lake in the state, but there is first-class bassing in dozens of other places as well.

Knights Pond in Alton, Northwood Lake in Northwood, Pawtuckaway Lake in Nottingham and Onway Lake in Raymond hold good populations of largemouths.

Upon request, the New Hampshire Fish and Game Department—34 Bridge Street, Concord, N.H. 03301—will mail a pamphlet listing, county by county, warmwater lakes and streams (for bass, perch, pickerel, etc.) as well as trout and salmon waters.

In general, top-water lures are best for New Hampshire bass fishing in May, June and the first week of July. After that, subsurface plugs, the plastic worms often favored by Southern largemouth anglers and bait are usually more productive.

Bass will take minnows, worms, grasshoppers and crickets readily. Crayfish are also excellent, though of course you must have a means of procuring them.

On some of the larger lakes, only single-hook lures or flies may be used from May 1 through June 30, and on these lakes in this period the daily bag limit is two. This regulation is designed to afford some protection to the fish during their spawning period.

REMOTE TROUT POND FRUSTRATES 2 ANGLERS

(By Nelson Bryant)

ALSTEAD, N.H.—There are times—more than I care to acknowledge—when anglers with decades of experience fail miserably.

Such was the case a few days ago when a fly-fishing companion and I, who together have nearly 80 years of tossing flies at trout, visited Caldwell Pond here.

Caldwell is one of New Hampshire's so-called remote trout ponds: those places far from the beaten track, accessible only by four-wheel drive vehicle and, sometimes, only on foot.

On the eastern slope of an unnamed mountain about three miles south of Lake Warren in East Alstead, Caldwell covers 28 acres and is one of the state's best brook trout ponds. Fish of two pounds are not uncommon.

SOME LOCAL ADVICE HELPS

I had never been to Caldwell, so some time was wasted trying to locate the woods access road to it. My topographic map—such maps are essential when visiting remote ponds—showed two possible approaches, but a conversation with a young man working with a highway crew revealed that one might be better than the other. We found the access road off the dirt-surface town road that links Roundys Corner with East Alstead.

A mile up the woods road to the pond—it is perhaps 2½ miles long—I realized that the vehicle I was driving, a four-wheel drive truck with a fold-top camper, was too high and too wide for the terrain, but there was no room to turn around even if I had so desired.

There was one truly difficult moment in negotiating a crumbling log bridge that crosses the stream that drains the lake, but we eventually reached the spot and launched our boat.

No trout were rising, but that did not trouble us for the sun was high and one does not usually see surface activity at midday in June on such waters.

I rigged up one flyrod with a fast-sinking line and another with a floater in anticipation of evening topwater activity. My companion chose to go all the way with the first-named.

Except in May or during the fall, one cannot expect much action with dry flies on New Hampshire's trout ponds. The exceptions to this would be early in the morning or at dusk or thereafter. A sinking line is a necessity most of the time. Because lakes and ponds warm in the summer, one must let a fly down to the cold depths the trout prefer, and the quicker it gets there, the more water one can prospect.

After rowing to the western shore, where a little shade was provided by the mountain, we cast for 45 minutes with no success.

I decided to row and troll my fly while my friend cast to the shore. Over the years we often have located trout in this manner, and have taken our limits by anchoring and casting to the spot.

WHEN PATIENCE DIDN'T PAY

An hour later a fish hit my Muddler Minnow. Brought aboard, it proved to be a fat, 10-inch brookie, its stomach crammed with three still-alive dragon-fly nymphs and a host of other tiny nymphal aquatic insects I could not identify.

We worked that area for two more hours. My companion got one follow and I two strikes, but that was all.

At one point our spirits soared when we saw splashing on the water's edge 50 yards ahead. For all the world it looked like several surface-feeding trout, but it proved to be a flotilla of seven baby wood ducks, their tiny wings flailing the water as they raced along. Their mother was nowhere to be seen (although she undoubtedly was watching us from the woods), quite unlike the mother grouse who, as we drove up the mountain, had staged a broken wing ritual for us to call attention from her brood of chicks.

Toward sundown, a few hatching mayflies joined the dozens of dragon-flies that were zooming across the water, but we saw only two fish rise.

FLOTATION DEVICES ARE NECESSARY

The breeze died, the water became glass-smooth and we could look down through it 25 feet or more to sunken trees and boulders. The lake's deepest spot is 51 feet and its average depth 18 feet. It is a classic brook trout pond, and each year the state's Fish and Game Department stocks it with fingerling, yearling and two-year-old fish. There is little or no natural reproduction by these pond trout because the species needs water flowing over (or welling up through) gravel for spawning, conditions that do not exist to any appreciable degree in any of New Hampshire's remote ponds.

On nearly all such waters, fly fishermen must have a boat, canoe or some flotation device to get out on the water. The forest usually grows to the pond's edge leaving no room for a backcast, and the pond bottom is usually too mucky for wading.

The sun slid behind the mountain, the chill of dusk descended, and, even then, no trout were feeding on top.

ARRIVAL OF THE BUG SEASON

Conceding defeat, we rowed to shore where hordes of mosquitoes went to work on us. As we were loading, two lads in a new Jeep drove up, chatted awhile, then drove off, saying they were going to explore an old woods road in the area.

Less than a quarter of a mile from the pond on the way out, we had some mechanical trouble. The truck could not be driven, so, as the mosquitoes harassed and the light failed, I searched through my tool kit until I found a clamp to repair the truck.

As we were driving off one of the aforementioned youths arrived, redfaced, panting and frantically slapping mosquitoes from his body. He was wearing shorts and a short-sleeved shirt, scarcely suitable woods garb in prime bug time.

"We hung up our Jeep on a rock about a mile back in the woods," he said. "We heard you start up and I ran like hell. I didn't want to have to walk down the mountain dressed like this. We'll get my dad to bring his skidder in tomorrow and pull us out."

Four of us crowded into the truck's cab and jounced our way back out, finding the downhill negotiation of the log bridge less onerous.

"That's the first time I ever hitched a ride in the woods, and I hope it's the last," one of the lads said as we let him out at his trailer park home.

A list of New Hampshire's remote trout ponds may be had by writing the Fish and Game Department at 34 Bridge Street, Concord, N.H. 03301.●

GASOLINE CONSUMPTION PATTERNS

● Mr. BUMPERS. Mr. President, I asked the Library of Congress to prepare information comparing the gasoline consumption patterns and the cost of gasoline in certain Western European countries and Japan with the United States.

These statistics are most revealing. As costs have increased in each country, consumption has continued to increase. We have been told that raising the price of gasoline will have a dampening effect on consumption patterns in this country. This has not been true where prices have risen even more dramatically than in the United States. I am convinced that rising prices will only make life more difficult for those who are least able to afford increased prices, and will result in very little increased production.

For many Americans, the energy crisis is just an annoyance, but energy costs are rising far faster than the ability of the poor to pay for them. There are approximately 25 million Americans living below the Federal poverty level—$3,140 a year for a single person living in a city. In many parts of the country, these people spend 20 to 30 percent of monthly income on heating and utility bills during the winter.

The attached statistics dramatically reveal the amount of gasoline consumed in the United States as compared to other nations. It is also interesting to note the amount of taxes included in the pump price of gasoline in foreign countries as compared to the United States.

Mr. President, I ask that the report prepared by the Congressional Research Service of the Library of Congress be printed at the conclusion of my remarks.

The report follows:

LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

A COMPARISON OF ANNUAL GASOLINE CONSUMPTION, REPRESENTATIVE SUMMER PRICES, AND GASOLINE TAXES IN SELECTED COUNTRIES, 1975–79 [1]

[Consumption in billion gallons, price and tax data in U.S. dollars per U.S. gallon equivalent]

	1975	1976	1977	1978	1979
United States: [2]					
(a) Motor gasoline consumed	102.45	107.68	110.48	114.03	NA
(b) Pump price of regular gasoline (New York)	0.64	0.64	0.66	0.68	[3] 0.90
(c) Taxes included in the pump price	0.13	0.13	0.13	0.13	0.13
(d) Oil industry cost/price factor [4]	0.51	0.51	0.53	0.55	0.77
France: [5]					
(a) Motor gasoline consumed	5.86	5.97	6.08	6.28	NA
(b) Pump price of regular gasoline (Paris)	1.56	1.40	1.70	2.15	[6] 2.22
(c) Taxes included in the pump price	0.88	0.77	1.03	1.22	1.53
(d) Oil industry cost/price factor [4]	0.68	0.63	0.67	0.93	0.69
Great Britain: [7]					
(a) Motor gasoline consumed	NA	6.03	6.20	6.56	NA
(b) Pump price of regular gasoline (London)	1.27	1.25	1.18	1.40	[8] 2.10
(c) Taxes included in the pump price	0.50	0.53	0.64	0.72	0.96
(d) Oil industry cost/price factor [4]	0.77	0.72	0.54	0.68	1.14
Italy: [5]					
(a) Motor gasoline consumed	NA	3.87	3.79	3.96	NA
(b) Pump price of regular gasoline (Rome)	1.67	1.70	2.06	2.15	[6] 2.25
(c) Taxes included in the pump price	1.26	1.22	1.48	1.59	1.60
(d) Oil industry cost/price factor [4]	0.41	0.48	0.58	0.56	0.65
West Germany: [7]					
(a) Motor gasoline consumed	NA	7.56	8.06	8.38	NA
(b) Pump price of regular gasoline (Bonn)	1.25	1.39	1.44	1.68	[6] 1.80
(c) Taxes included in the pump price	0.82	0.84	0.92	1.05	1.09
(d) Oil industry cost/price factor [4]	0.43	0.55	0.52	0.63	0.71
Japan: [7]					
(a) Motor gasoline consumed	NA	7.96	8.27	8.86	NA
(b) Pump price of regular gasoline (Tokyo)	1.36	1.36	1.62	2.07	[6] 2.24
(c) Taxes included in the pump price	0.48	0.59	0.64	0.98	0.92
(d) Oil industry cost/price factor [4]	0.88	0.77	0.98	1.09	1.32

[1] Original information has been obtained from various sources and reconciled for inconsistencies and different methods of computing taxes. Figures shown are best estimates for regular gasoline pump prices during summer in key cities (unless noted otherwise) computed from local currencies and either metric or British measurements.

[2] Government price controls in effect.

[3] Last week of June 1979.

[4] The oil industry price/cost factor as considered here is the difference between the price the consumer pays and the revenue the consuming government collects. It naturally includes the cost of crude oil whether domestic or imported. Its significance derives from the fact that this amount, although heavily influenced by the actual cost of delivered crude oil is also largely dependent on how much income retention the industry is allowed in the various economic systems and at various times within the same economic system.

[5] Government price ceilings in effect.

[6] May/June 1979.

[7] Free market for oil products has been traditional in West Germany and Japan; the new British Conservative Government inaugurated a free market in June 1979.

[8] This estimate is an average of varying prices in a recently freed market which reflects imported oil acquired at substantially different prices in addition to a new amount of the gasoline excise tax and a new higher VAT rate. If the Government keeps its total tax amount at present levels as the market works off the large fluctuations of the international spot market the pump price is expected to decline from the present highs.

Note: All figures have been rounded to full cents.

General note: Because of the fluctuating value of the U.S. dollar in foreign exchange markets some price changes shown in this table may be due more to changes in the relative value of the dollar with local currencies than actual changes in local prices.

Sources: OECD, Quarterly Oil Statistics; OPEC, Annual Statistical Bulletins: Energy Week; DOE, International Petroleum Annuals; direct communications with embassies; CRS estimates and computations.●

THE PRESIDENT'S SPEECH ON ENERGY

● Mr. GOLDWATER. Mr. President, when I was asked by my local press in Arizona to state my thoughts relative to the President's speech on Sunday night, I stated, in a general way, as follows: I will give him "A" for effort. He recited campaign speeches that he made before his election. He brought to the attention of the American people those things that many of us have long observed; namely, a growing interest in material things, a lessening of morals, a lessening of a desire to really produce and no real desire to participate in anything that would mean personal sacrifice. I think we are indebted to him for that, but when we get into the meat of what he had to say, particularly on energy, I had to declare that after his speaking so highly of what America had practiced to get where we are, he failed to mention the free market anywhere in his points on energy.

I think that was a mistake because without deregulating the oil industry, regardless of what happens to the price of fuel, this country will be dragged further and further down on shortages. Why he cannot understand the free market is beyond me; why he has a fear of it is beyond me and why he should place the average American in a line to buy gasoline when sufficient gasoline and synthetic fuel could be had very readily is also beyond me. In trying to put together my total thoughts on the speech, I suddenly came across the Wall Street Journal of Tuesday, July 17, and in it there are two articles, one an editorial and the other a story by Mr. Lindley H. Clark, Jr., which I think sum up the general feeling about the President's speech as well as anything I have seen, and I ask that they be printed in the RECORD.

The material follows:

[From the Wall Street Journal, July 17, 1979]

THE REAL JIMMY CARTER

Out of all the sermonic and confusing rhetoric President Carter has showered on the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

There'll be a new government "Energy Security Corp." to siphon $140 billion in "windfall profits" from the oil companies over the next 10 years. That would pretty much eliminate oil profits of any kind. While the oil companies quietly pass out of business, the ESC would squander this money on expensive and technologically risky forms of energy.

There'll be an Energy Mobilization Board to ride roughshod over normal legal processes, except maybe those that are mainly responsible for retarding energy development, the environmental laws, for example.

There'll be a new army of government inspectors scouring the country, levying $10,000 fines on any hapless building operator whose thermostats are showing something less than 78 degrees. Electric utilities will be "made" to switch out of oil—as if they themselves, and not the government, are to blame for their not doing that.

There'll be a federal "Solar Bank" finally to capture the elusive riches of solar power. The President will set conservation goals for states, import quotas for the nation, etc.

In short, Mr. Carter has reacted to the public's low opinion of his administration by "getting tough" and proposing a further suspension of private freedoms. He justifies this on grounds that it is the American people, not his administration and the Congress, who deserve the blame for our economic problems. He summons up the memory of Franklin Roosevelt as he casts himself in the role of a President leading the country out of awful crisis; except where FDR confronted Depression and poverty, Mr. Carter seems to find his crisis in excessive affluence:

"Too many of us now tend to worship self-indulgence and consumption . . . we have learned that piling up material goods cannot fill the emptiness of lives which have no confidence or purpose . . . the symptoms of this crisis of the American spirit are all around us: two-thirds of our people do not even vote, the productivity of American workers is actually dropping and the willingness of Americans to save for the future has fallen below that of all other people in the Western world . . . there is a growing disrespect for government and for churches and for schools, the news media and other institutions. . . ."

Quite an indictment. It is the kind of indictment clergymen use to lash their congregations with on Sunday mornings and it is appropriate in that setting of spiritual redemption. But it is highly inappropriate coming from the man who is supposed to be managing the affairs of the United States government. The two key problems that provoked this rhetorical outburst—inflation and gasoline lines—are clearly and directly attributable to the policies of the Carter administration.

The gasoline lines are caused by the government's refusal to remove price controls, and hence supply allocations. Given the enormous economic inefficiencies that have resulted from this refusal, it now seems clear that prices of gasoline would fall, not rise further, after decontrol. Other forms of government intervention—energy use regulation and draconian environmental rules, in particular—have added to the dislocations and inefficiencies. It doesn't take a $140 billion government program to solve the energy problem; the problem would evaporate if the government would simply get out of energy.

As to those other problems of the American "spirit," low savings and productivity and low confidence in institutions—the main cause is inflation. Why should anyone have confidence in a government that can't balance its budget or run a stable monetary policy? Or why should they save the money it prints?

Now, it seems, it will be necessary to print still more money, and generate still more inflation, to finance the latest grandiose schemes dreamed up by the statists who hold the President in their grip. They are in the saddle and they are exultant about the President's vigorous showmanship Sunday night and Monday. The only trouble is that the policies he has proposed will only get the country into a deeper tangle. And next year, the voters will have a chance to decide which side they're on—or at least so we hope.

FROM HOMILY TO DEMAGOGY

For about five minutes Sunday night, President Carter's rhetorical offensive struck the right note. The appeal to American confidence and the attack on the isolation of the federal governmental recalled the best of the grass-roots campaign that brought this political unknown to the White House. But just 12 hours later, in his Kansas City speech to the National Association of Counties, the President reverted to the dark side of grass-roots rhetoric. Instead of providing "honest answers" and "clear leadership," he sought to obscure the true causes of the current energy debacle with some old-fashioned populist scape-goating.

This tactic was signaled Sunday in the untrue statement that our excessive dependence on OPEC "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline." OPEC can be attacked for high prices, but the one thing this cartel has not been able to enforce are production cutbacks by its members. The current shortfall in world oil production comes directly from a revolution in Iran, in which U.S. foreign policy played a considerably larger role than OPEC decisions. But even this shortfall wouldn't have caused the gas lines, as it didn't in most of Europe, were it not for the massive market distortions of the federal price control and allocation systems. But it's far easier to attack dark-skinned foreigners, along the lines of the famous Eizenstat memo, than to admit that one's own policies and administrators have failed.

The Kansas City speech broadened the rhetorical offensive. "The oil companies must cooperate!" Mr. Carter declared. "We will bring the full force of the law to bear on those who profiteer . . . or who try to cheat the American public." Six hundred auditors will be deployed to keep refiners and oil dealers in line. Energy statistics will be checked and rechecked.

The President must know that auditors dont' drill oil wells and that collecting figures on energy reserves doesn't create energy reserves. But government policies can depress production and keep drilling rigs idle. When these policies go wrong, as they have to an awesome extent, it's easy and popular to shift the blame to the refiner unwilling to produce unleaded gasoline at a loss or the wildcatter so confused by new natural gas legislation that he suspends drilling.

But even these scapegoats may not be enough. Say President Carter raises $140 billion to develop uneconomic fuels through a "strong permanent windfall profits tax" on the supposed bonanza from a price decontrol which now seems indefinitely postponed. And suppose that through his "shuffling allocations," the gas lines and disruptions broaden. Then who will he blame for the grumbling and dissatisfaction?

Since Americans are not at all demoralized and corrupt, they will respond to President Carter's challenge with more enthusiasm than his policies deserve. Throughout history, the call to war has been the easy way to gain public support. But the public has the right to demand that the war strategy be sound, that the generals know their business, and that they are fighting the right enemies. When the first flush of support dies down, it will become clear that President Carter's strategy for energy war will produce disasters that no amount of demagogy conceal.

THE CARTER SPEECH: NOTHING NEW . . .

(By Lindley H. Clark, Jr.)

Jimmy Carter was clear and forceful. There were none of those odd pauses in the middle of sentences, none of the hesitancy that has marred other presentations. It was, without doubt, his best television performance.

It's too bad he found nothing worthwhile to say.

On Sunday night he told the nation that its economic and energy problems were the fault of the Organization of Petroleum Exporting Countries. "This," he said, with a perfectly straight face, "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline. It's a cause of the increased inflation and unemployment that we now face."

He didn't explain how OPEC could so neatly have arranged for gasoline lines in New York and Washington and none in the Midwest. There was no hint that a congressionally mandated allocations system could have played a part in the mess. Nor did Mr. Carter suggest that big budget deficits and expansive monetary policy could have had something to do with the inflation.

Instead he urged more government to attack the problems fundamentally caused by too much government. It was ever thus.

Last week I talked with William E. Simon, who served as Treasury Secretary from 1974 to 1977 and before that spent several uneasy months in the midst of Energy Crisis I.

Mr. Simon set down his thoughts on energy in his best-selling book, "A Time for Truth" (Reader's Digest Press). He feels that matters were badly mishandled under a Republican administration and that things haven't gotten any better under Mr. Carter.

LOSS OF CONFIDENCE

"This fellow in the White House is a bigger disaster than even his worst detractors said," Mr. Simon commented. "He has lost confidence in himself. Traveling around the world, talking with former colleagues, government officials and businessmen, it's embarrassing. This man is held in contempt."

Mr. Simon's energy plan is simple enough: "The U.S. is blessed with a superabundance of natural resources and technology. We should use that technology to achieve energy self-sufficiency. We should exercise the leadership that would persuade OPEC to moderate its prices. All the pieces are there; the only reason the right things aren't done is politics."

The former Treasury Secretary would like to see the Energy Department abolished, but he isn't optimistic. In his book he recalls the time when the Federal Energy Administration, the ancestor of the Energy Department, was scheduled to go out of existence. A newspaper reporter called him at the Treasury and asked what he thought of extending the life of the FEA:

"I exclaimed, 'Extend its life! That place is a menace. It's strangling the energy industry at the very time when we need production. It should be wiped out of existence.' . . . But that day I learned that President Ford had already decided to extend the life of this bureaucratic abortion."

Republicans tend to oppose regulation

firmly—unless they're doing the regulating. What they forget, Mr. Simon warns, is that Republicans go out of office and their sins sometimes linger on behind them.

One Republican sin that didn't get anywhere, fortunately, was Nelson Rockefeller's $100 billion energy corporation that would have lent money to private industry to develop new fuel technologies. Mr. Carter's energy subsidy scheme differs from the Rockefeller-Ford boondoggle in detail but not in substance, so Mr. Simon's comments on the earlier incarnation are appropriate:

"Even with taxation and inflation set aside," he wrote, "there is no conceivable justification for the government to subsidize a massive construction program for an industry that the same government has actively prevented from functioning. If the energy industries are simply freed from their regulatory bondage and are allowed to function sanely, they will pay for their own expansion out of their own profits.

"That is free enterprise, and in the entire history of mankind nothing has ever served better as a 'catalyst and stiumlant' to invention and innovation than the profit system. That system will quickly bring about the increase production necessary for self-sufficiency. There is time, using fossil fuels alone, the resources yet to be discovered . . . and nuclear energy for the energy industries to devise synthetic fuels and new technologies like solar, geothermal and tidal energy."

Ralph Nader, the self-appointed consumer spokesman, found only one flaw in Mr. Carter's speech: no specific attack on nuclear energy. Nuclear power does entail risks, as the accident at Pennsylvania's Three Mile Island plant has emphasized.

"Three Mile Island hasn't changed the need for nuclear energy," Mr. Simon says. "Some people talk as though we should have a govenment that removes all risks. Nothing is risk-free, but we should minimize the risk." He calls for frequent inspections and safety checks.

ENERGY MOBILIZATION BOARD

One of the more touching aspects of Mr. Carter's speech was the proposal to create an energy mobilization board which "like the War Production Board in World War II." would have the responsibility and authority to "cut through red tape, the delay and the endless roadblocks to completing key energy projects."

The first question that sparks is whether Mr. Carter (or his writers) bothered to read the history of World War II and WPB. War production got rolling in spite of the WPB and its competing agencies, not because of them.

Donald Nelson, the Sears executive who headed WPB, tried hard to gear the nation for war. But for some time he was still surrounded by conflicting agencies. He found it impossible to strictly control priorities or to prevent expansion of production in unneeded directions.

The second question is whether Mr. Carter or anyone else considered the fact that the best way to deal with the red tape and delays would be to eliminate or drastically cut the governmental regulations that are the root of the problem. That would free a few regulators (and an entire energy mobilization board) for more productive tasks.

In Washington, of course, things don't work that way. As Mr. Simon says, "People spend hours down there figuring out the best way for the government to do things that it shouldn't be doing in the first place. The regulatory system has gotten completely out of control. No matter how well-intentioned the administration may be, it won't be able to persuade the regulators to behave any differently."

All in all, it seems that 10 days on the mountain at Camp David did not produce much. The New York Times noted that one of the television programs canceled for the Sunday night speech was an episode of "Moses the Lawgiver" in which Moses comes down from the mountain with the Ten Commandments.

Mr. Carter is out of his league.

ANNIVERSARY OF THE BIRTH OF THE SLOVAK PATRIOT GEN. MILAN RASTISLAV STEFANIK

● Mr. PELL. Mr. President, today, July 21, marks the anniversary of the birth of the Slovak patriot, Gen. Milan Rastislav Stefanik, a cofounder of the Czechoslovak Republic. A scientists, soldier, diplomat, and statesman, General Stefanik made an enormous contribution to the liberation of the Slovak people when the Austro-Hungarian Empire collapsed at the end of World War I. He was a close collaborator of Thomas G. Masaryk—who was to become the first President of an independent Czechoslovakia—when he served as Deputy Prime Minister and Minister of War in the first Czechoslovak Government which was constituted in exile in Paris prior to independence. Tragically, Stefanik died a short time after the founding of Czechoslovakia.

Stefanik was a man of enormous energy and of great determination. In all his undertakings, he was guided by his personal motto: "To believe, to love, to work." Stefanik deeply loved his native Slovakia and his affection for the Slovak people was a constant inspiration to him as he worked to bring them freedom. Stefanik strongly believed in the justice of history, confident that it would fulfill the destiny of the Slovak people. General Stefanik shared with Masaryk the conviction and hope that Slovaks and Czechs form a single national community and he worked tirelessly toward this goal. His contribution to the liberation of the Slovak people and to the foundation of a common state with the Czechs stand as great monuments in the history of the Czechoslovak Republic.

Stefanik shared Masaryk's rejection of communism. He expressed it with great eloquence in February 1919 while addressing the 1st Czechoslovak Regiment in Russia:

> Our nation has through its history, with steadfastness and determination, defended the idea of justice for all humanity, being well aware of the fact that this ideal will be realized only through ardent and disciplined effort and nobility of spirit. The idea of freedom, of resistance to brutal force twines as a golden thread through all our national history. * * * Communism is the very negation of democracy. Democracy is productive, it is a foundation of normal life and well-being. Communism is not a philosophic orientation but an expression of sickness, and apocalyptic chaos in which occasionally the basic human instincts find expression. I tell you from the depth of my soul: the struggle against communism, in all its forms and expressions, must permeate all our political life. Let us pursue this guideline with all our energy while there is still time; if we relent in our efforts. communism will subvert small nations and transform them into weak nations and eventually into decaying nations.

In his love for his native country, his persistent efforts on behalf of freedom for his people and, finally, his unequivocal opposition to an alien ideology, General Stefanik is a shining example and a lasting source of inspiration to all of us.

The present regime in Czechoslovakia forbids its citizens to honor Stefanik's memory and to remember his legacy. His name was removed from institutions and streets, his statutes from town and village squares. However, the events of 1968 clearly demonstrated the failure of this regime's efforts. A spontaneous pilgrimage, attended by huge masses of young people, proceeded to the symbolic grave mound at Bradlo to show that Stefanik's memory remains deeply ingrained in the soul of his grateful nation and all Czechoslovak people.

As one who lived in Czechoslovakia, both in Prague and Bratislava, in the late 1940's, as an American diplomat, I came to admire greatly the indomitable love of freedom and justice of the Czechoslovak people; a spirit symbolized so well by the life and ideals of Gen. Milan Stefanik. It is, therefore, particularly fitting that we pause on the anniversary of his birth to pay tribute to the legacy of this great patriot.●

TRUTH-IN-LENDING REFORM MUST BE ENACTED

● Mr. GARN. Mr. President, on May 1, 1979, the Senate passed and forwarded to the House an extremely important reform measure known as the Truth in Lending Simplification and Reform Act. This legislation has been urgently needed for a number of years, and the Senate Banking Committee has spent a considerable amount of time in the past few years developing this very comprehensive and equitable bill.

Now I regret to say that 2½ months after the Senate acted—and I might add, without a dissenting vote—the House Banking Committee gives no indication of even considering similar reform legislation. This is particularly disappointing and troublesome in view of the virtually unanimous acknowledgement of the need for such legislation, the time and energy that has been expended on this issue, and the promise that was made at the close of the last Congress.

The movement to simplify the Truth in Lending Act really began in April of 1976 when I introduced S. 3302. Subsequent to that a series of reform bills were introduced, and in the 95th Congress the Senate Banking Committee set about the long and difficult process of developing a comprehensive reform bill. After hearings and a total of seven markup sessions, S. 2802 was reported out of the committee and passed the Senate on May 10, 1978.

No action was ever taken in the House on that bill. However, in the waning days of the 95th Congress the Honorable FRANK ANNUNZIO, chairman of the Consumer Affairs Subcommittee of the House Banking Committee, made a pledge to hold hearings on truth-in-lending legislation early in this Congress and to hopefully have a bill through the House by "early summer." (CONGRESSIONAL RECORD, Oct. 14, 1978, 38324).

Because of our commitment to truth-in-lending reform and our expectation of similar legislation in the House, the Senate Banking Committee moved expeditiously to get its own bill through the Senate again and on to the House early in this Congress.

"Early summer" has come and gone and no hearings have been scheduled by Mr. ANNUNZIO. Concerned with this evidence of inactivity, I wrote a letter to my colleague in the House urging him to act promptly on truth-in-lending legislation. His response was anything but reassuring. It seems that not only have hearings not been scheduled, but none are contemplated either. I find this response very troubling in light of the dire need by consumers and creditors alike for relief from the complexities of the present Truth in Lending Act.

Mr. President, for illustrative purposes, I would like to mention two items respecting the Truth in Lending Act which have recently come to my attention. Both of these points are interesting since they demonstrate through two very different examples the awful complexity of the Truth in Lending Act.

The first item I would like to bring to the attention of the Senate is the fact that the Supreme Court of the United States has just granted certiorari in the case of *Milhollin* v. *Ford Motor Credit Company*, 588 F.2d 753 (9th Cir. 1978), cert. granted, 47 U.S.L.W. 3813 (U.S. June 18, 1979) (78-1487). This case is significant because it provides a graphic illustration of the complexity of the Truth in Lending Act and the utter chaos that has been created through efforts by the judicial system to make sense out of the present law.

The Milhollin case involves the question of the proper disclosure under the act of an acceleration clause. To date, six different Circuit Courts of Appeals have ruled upon this issue, resulting in a different rule for compliance in practically each circuit. The confusion for consumers and creditors which is caused by so many divergent interpretations is shocking in light of the fact that the purpose of truth in lending is to provide for uniform disclosure practices which enable consumers to comparison shop for credit.

Milhollin is also significant since it is the first truth-in-lending case to be accepted by the Supreme Court since 1973. With even the Supreme Court now acknowledging the need to address the complexity of the Truth in Lending Act, how can the House Banking Committee sit back and allow this chaos to continue?

The second item which I find extremely illustrative of the great regulatory burden that has developed from the Truth in Lending Act, is a recent announcement which appeared in a CCH publication.

Mr. President, I request that the following portion of that announcement be printed in the RECORD.

The material follows:

"TRUTH-IN-LENDING SPECIAL RELEASES—
CORRESPONDENCE"

(Now Available in New CCH Book)

In the almost eleven years since the May 1968 enactment of the Truth in Lending Act, the federal agencies charged with enforcing this landmark legislation have issued voluminous materials characterized as Truth-in-Lending Special Releases — Correspondence. These have included staff interpretations, staff correspondence, policy statements, advisory opinions and other materials helpful in understanding and complying with the federal consumer credit disclosure rules.

A new CCH book, "Truth-in-Lending Special Releases—Correspondence April 1969 to October 1978", reproduces the federal agency Truth-in-Lending releases and correspondence as they appeared in the CCH Consumer Credit Guide from April 1969 to October 1978. In addition to the texts of the federal agency items, the CCH editorial staff has included in the book a topical index, a correspondence index to law and regulation sections and a table of Federal Reserve Board numbered letters and official staff interpretations.

In all, 1,080 pages, 6" x 9", heavy paper cover. Price, $17.50 a copy. (Pub. April 1979)

Mr. GARN. Does this say something about the state of the present Truth in Lending Act? If it takes 1,080 pages of agency releases and correspondence to help understand and comply with the law—and in fact, this volume does not include the law or the regulation—how are creditors and consumers expected to understand it?

As these examples demonstrate, there is a need on the part of both consumers and creditors for relief from this great regulatory burden. I urge Chairman REUSS and Mr. ANNUNZIO of the House Banking Committee to address this most important matter and act promptly to simplify the Truth in Lending Act.

SYNTHETIC FUELS

● Mr. GLENN. Mr. President, I have maintained ever since coming to the Senate that our energy problems are not going to be resolved until we adopt reasonable national goals regarding energy production and conservation, and follow that up with an aggressive program of research, development, demonstration, and commercialization to achieve those goals. When I was a member of the Interior Committee in the Senate before it became the Senate Energy Committee, I did all that I could to increase the amount of money available for R. & D. in the area of synfuels and by that I mean the production of hydrocarbon fuels from coal, oil shale, tar sands, biomass, and methanol.

We need commercial-size demonstration plants in all these areas if we are to understand how to deal not only with the technological problems associated with these processes, but the environmental and regulatory problems as well. I do not believe, Mr. President, that there is anyone in the U.S. Congress who does not believe at this time that we need to take bold action in dealing with our energy problems. The statistics speak for themselves. The United States consumed about 18.7 million barrels of oil a day in 1978, with 8.1 million barrels a day being imported.

Just 5 years earlier the United States consumed 17.3 million barrels a day of which only 6.3 million barrels was imported. The domestic output of oil and gas liquids slipped from 11 million barrels a day in 1973 to 10.6 million last year, even though the oil industry drilled almost twice as many wells in 1978 as it did in 1973. And finally, our bill for imported oil this year is going to be well over $50 billion.

Having said all this, Mr. President, and having recently listened to the President of the United States issue a warning to the American people about the direction in which our society seems to be heading, I wish to issue my own warning about the manner in which the Congress, in order to show the American people that it is willing to take positive action, is presently dealing with energy policy. The cost of a large-scale commercialized synthetic fuels program to produce up to 5 million barrels a day by 1990 is likely to be something in the neighborhood of $200 billion.

We must ask ourselves whether such an investment would not produce even more dividends if it were more balanced with respect to production and conservation, through more efficient automobiles and industrial machinery, more efficient appliances, better insulation of buildings, and the encouragement of the use of mass transit facilities. In the very long term, it is renewable resuorces that we will have to depend on as our society evolves. That suggests that investments should be geared at least in part to developing those renewable resources that will be the mainstay of our future.

This week, Mr. President, the Governmental Affairs Committee, in hearings on S. 1377, the Synthetic Fuels Production Act of 1979, was fortunate to receive the testimony of Mr. Raymond Scheppach, Assistant Director of the Congressional Budget Office, Natural Resources and Commerce Division. In this testimony, a number of important points are made that I wish to emphasize as the Senate considers the President's proposals.

First, I support the proposition that if the United States sets a goal to reduce projected oil import levels, then the first programs chosen to meet this objective should be those that will give us the highest oil import savings per dollar.

With this as a premise, it behooves us to compare synthetic fuel production to alternatives in terms of oil import savings per dollar between now and 1990. To quote the CBO testimony:

> Some alternatives appear to rank higher than additional synthetic fuel production in terms of oil import savings per dollar; these include aggressive residential and even commercial insulation programs, accelerated retirement of oil and gas boilers in both utilities and the industrial sector, production of tight gas and heavy oils, and expanded solar hot water and space heating and cooling. Synthetic fuel production above the level of 200,000–400,000 barrels per day becomes attractive only if the United States desires to reduce the oil import levels by 1990 below the 8 million barrels a day.

This suggests, Mr. President, that the Senate should be giving high priority to legislation containing provisions for incentives to use the quoted methods to produce oil import savings, and I intend to produce such legislation myself.

There is an additional point made in the CBO testimony that also demands our scrutiny. Allow me to quote again:

> A production goal of 3 million barrels per day would require a capital investment of more than $120 billion over a ten-year period, which could create shortages in a number of materials as well as skilled labor. Such shortages would undoubtedly be inflationary and may in fact be more inflationary than the impact of significant increases in future OPEC prices.

The message of this testimony is clear. The U.S. Congress should not allow itself to be stampeded into adopting synthetic fuel energy goals and programs that are likely to be capital exhausting, inflationary excessively environmentally damaging, and inefficient from the viewpoint of reducing our dependence on imported oil.

I wish to emphasize that I am not arguing against synthetic fuel demonstration projects; quite the contrary. I believe that they are important, indeed even critical, and that we should learn as much as we can as quickly as we can about these technologies. But that is not the same as plunging ahead blindly to turn ourselves into a synthetic fuels society with long-range consequences that may, in fact, turn out to be adverse.

I ask to have the entire CBO testimony printed in the RECORD.

The statement follows:

STATEMENT OF RAYMOND C. SCHEPPACH

Mr. Chairman, I am pleased to appear before this Committee to discuss the development of a synthetic fuel industry in the United States. In my remarks, I will address four major issues:

The costs and benefits of developing a domestic capacity to produce synthetic feuls;

The appropriate production goal for synthetic fuels;

The advantages and disadvantages of alternative financing mechanisms.

Technical issues regarding fuel type and mix of resources and technologies.

BENEFITS AND COSTS

Benefits

The benefits attributable to synthetic fuel production are essentially the same as those of any program intended to reduce oil imports. First, it would provide protection against future shortages or interruptions in the supply of oil. As both the current and the 1973–1974 experience indicate, oil shortages do have a negative effect on the economy and, in extreme cases, could even affect national security. Second, synthetic fuel production might reduce the rate of future OPEC price increases. This would improve the U.S. balance-of-payments position and would provide some relief from inflationary pressures. Finally, a unique advantage of synthetic fuel production is that it would provide information about the feasibility and costs of alternative technologies that would be helpful in designing our long-term transition to alternative energy resources.

Costs

Synthetic fuel production involves two potential costs. First, it would likely cause additional environmental degradation, especially from intensive surface mining. Second, synthetic fuels will probably be more expensive than conventional fuels, at least in the intermediate term, and thus they will likely entail higher consumer prices or government subsidies. It must be stressed, however, that there is great uncertainty about the future price of synthetic fuels relative to conventional oil. The price of conventional oil is determined largely by a cartel and reflects political as well as economic factors; the price of synfuels, on the other hand, will depend on scale economies, environmental and technological unknowns, and the effects of future inflation on the construction of large plants. Consequently, if a synthetic fuel program is developed, it should be viewed as insurance against future supply shortages and OPEC price increases, and not necessarily as an economically efficient investment.

APPROPRIATE PRODUCTION GOALS

Most of the synthetic fuels bills that are under active consideration by the Congress have production goals between 500,000 and 5 million barrels a day for various points in time between 1985 and 1990. These goals, however, need to be considered relative to time constraints and alternative ways to reduce oil imports.

With respect to construction time, synthetic fuel plants can be compared with new nuclear power plants because both have high costs and similar siting and environmental concerns. At present, nuclear power plants are taking over 11 years to bring on-line. Even under accelerated siting procedures, it will most likely take a minimum of 8 years to bring into production commercial-scale synthetic fuel plants that produce the equivalent of 50,000 barrels of oil per day, which is the size needed to achieve the appropriate economies of scale.

With respect to the level of production, it should be noted that a certain threshold is necessary in order to develop the critical technical, environmental, and economic information that is required to choose the most efficient technologies and resources that should be developed over the long run; any goal above that threshold is essentially to reduce oil imports. This threshold is obviously difficult to estimate, but it is most likely between 200,000 and 400,000 barrels per day. This represents four to eight commercial-size plants of alternative technologies and resources. A strong case can be made to set a program at this level on the grounds that the United States will eventually have to change to alternative fuels and that such a base of knowledge will help in choosing those resources and technologies that would allow an efficient transition.

Whether or not a synthetic fuel production goal will be set above this threshold depends on the level of dependence on imported oil that the United States desires to maintain; this decision depends on economic and defense risks, as well as on how additional synthetic fuel production ranks in relation to other oil import reduction programs. For example, if the United States is going to lower its 1990 oil import level from the projected 12 million barrels a day to 8 million, then the first programs chosen to meet this objective should be those that rank highest in terms of oil import savings per dollar. While the Congressional Budget Office (CBO) has not performed a comprehensive analysis of this issue, some alternatives appear to rank higher than additional synthetic fuel production in terms of oil import savings per dollar; these include aggressive residential and even commercial insulation programs, accelerated retirement of oil and gas boilers in both utilities and the industrial sector, production of tight gas and heavy oils, and expanded solar hot water and space heating and cooling. Synthetic fuel production above the level of 200,000–400,000 barrels per day becomes attractive only if the United States desires to reduce the oil import levels by 1990 below the 8 million barrels a day.

A synthetic fuel program on the order of several million barrels per day of oil equivalent could, of course, provide the United States with considerably increased economic and defense security, but could pose substantial economic and possible environmental strains. For example, a production goal of 3 million barrels per day would require a capital investment of more than $120 billion over a ten-year period, which could create shortages in a number of materials as well as skilled labor. Such shortages would undoubtedly be inflationary and may in fact be more inflationary than the impact of significant increases in future OPEC prices. The primary potential environmental problem is that we do not have sufficient information to know how to develop future environmental regulations.

THE ADVANTAGES AND DISADVANTAGES OF ALTERNATIVE FINANCING MECHANISMS

The private sector has not yet been willing to invest the approximately $2 billion necessary to build a synfuel plant of sufficient size to take advantage of the economies of scale common to such processes. The various risks are just too high. First, while it is almost certain that synthetic fuels can be produced, specific processes have not been demonstrated on a sufficiently large scale to offer businessmen the level of certainty that they traditionally desire regarding cost and technology. Second, regulatory uncertainties complicate both the cost and technological problems. For example, synfuel plants quite commonly require 25,000 tons per day of coal for feedstock; consequently, a change in surface mining regulations or in Interstate Commerce Commission transportation rates could create havoc with the financial viability of a synthetic fuel project. Finally, it is possible that future world oil prices will not increase as rapidly as they have in the last few years and that they may in fact fall in real terms, thus increasing the relative cost of synfuels.

In developing a synfuels program, the federal government should choose the financing mechanism that will allow the government to absorb the risk that future OPEC prices will not decrease in real terms or even increase as fast as expected. The nation as a whole benefits from lower OPEC prices and, therefore, government should be willing to absorb that risk. On the other hand, the technological and cost risks should be absorbed by the private sector, which traditionally accepts these risks in making investment decisions. Such a separation of risks should maintain the incentives within the private sector to construct and operate synthetic fuel plants efficiently. In addition to the goal of efficiency, the financing mechanism chosen should have a predictable impact on the budget and should be considered in the normal budget process.

The financing mechanisms available to the federal government include loans, loan guarantees, purchase agreements, and actual government construction of the plants.

Given the size of the investment required for these plants, as well as the overall risk, it is very doubtful that federal government loans, even at subsidized rates, would be sufficient stimulus for the private sector to construct the plants. Alternatively, if the federal government were to build these plants directly, it would then absorb all the risks—that is, the technological and cost risks, as well as the risk associated with any future changes in OPEC prices. This would give contractors less incentive to build the most cost-effective plants, since no private sector money would be at risk. Overall efficiency would, therefore, be reduced.

Loan guarantees have a similar problem in that much of the cost and technological risk of building plants would be shifted from the private sector to the government sector, and this would reduce the incentives for efficiency. Furthermore, from a budgetary standpoint, loan guarantees for large-scale projects are undesirable since they tend to obligate the federal government to a possible future outlay that does not have sufficient appropriations and is not included in the normal budget resolutions. Loan guarantees are more appropriately used for programs such as housing, in which the individual projects are small and the default rates can be predicted with a reasonable degree of accuracy. Extremely large loan guarantees could also tend to reallocate capital within the normal capital markets.

Purchase agreements, whereby the federal government contracts to buy a given amount of synthetic fuel production, have a distinct advantage over alternative funding mechanisms in that the private sector absorbs the technological and cost risk and, therefore, maintains a strong incentive to build cost-effective plants. The federal government, on the other hand, absorbs the risk that OPEC prices will fall in real terms or not increase as fast as expected. From a budgetary standpoint, they also have the advantage of being included in the budget resolutions and are predictable outlays over time.

FUEL TYPE, RESOURCES, AND TECHNOLOGIES

Fuel type

Since the United States has an abundant supply of solid coal and the potential for domestic, Alaskan, and Mexican gas, and since low- and medium-Btu gas production processes are economically and technologically viable, the most probable future shortages will occur in liquid fuels. Consequently, any synfuel program would most profitably be oriented toward producing either liquid fuels or fuels that can free up liquids for alternative uses.

The Federal Government should probably ensure that diverse resources and technologies are developed so that ample technological, cost, and environmental information is obtained. Therefore, certain minimum levels of synfuel production by resources should be established. For example, levels could be set at 100,000 barrels per day of shale oil and coal liquids, and at 50,000 barrels per day for biomass. Failure to set minimum levels would run the risk that all synfuel production would be produced via one technology with little information gain. Other than requiring that several alternative technologies be utilized, however, the Federal Government should leave the specific technology choices to the private sector, where the technological expertise currently resides.

CONCLUSION

In conclusion, Mr. Chairman, a member of benefits—such as economic and defense security and lower future OPEC prices—would occur from synthetic fuel production; most of these benefits, however, would be similar to those flowing from any federal program that reduces oil imports. The unique benefit of a synfuels program is that it would develop a critical information base to assist in the eventual conversion to alternative fuels. Synfuels programs producing more barrels per day than this information threshold, however, should be implemented only if the United States wishes to reduce its 1990 import levels below 8 million barrels per day, since a number of alternatives are most likely more cost-effective than synfuels in reducing oil imports to about that level. Finally, with respect to financing mechanisms, purchase agreements appear to be more desirable than loan guarantees in stimulating an efficient synfuels industry.

Mr. Chairman, I would be happy to answer any questions.●

THE ENERGY SUPPLY ACT

● Mr. DURKIN. Mr. President, I am pleased to be an original cosponsor of one of the most important pieces of energy legislation the Congress will consider this session—the Energy Supply Act, S. 1308, introduced by the distinguished chairman of the Senate Committee on Energy and Natural Resources, Senator Jackson, and several other of my Senate colleagues.

America is in the throes of a deepening energy crisis—a crisis that threatens the very foundation of this Nation. Our absolute dependence on costly imported oil has grave consequences for this and future generations of Americans. It promises to erode the dollar at an accelerated pace and push us toward a harmful recession.

The Federal Government has a responsibility to halt the uncontrolled flow of oil dollars to the Middle East. We must go to extraordinary lengths to develop domestic supplies of energy and rid ourselves of the addiction we have for costly imported oil. The American people are frustrated and angry about the energy situation. They expect and deserve action from us.

The Energy Supply Act addresses this situation head on and meets the tremendous challenge of producing adequate domestic energy supplies for this country.

The bill covers three basic areas. First, it allows all energy projects other than nuclear plants to undergo an expedited and accelerated review process. All too often energy projects which have the capacity to make this country more energy independent face endless bureaucratic delays that sometimes put the entire project into peril.

Second, this bill provides Federal officials with the necessary authority to alleviate temporary shortages. And finally, it gives the necessary incentives to produce synthetic fuels—the products which will ultimately reduce our need for imported oil.

I am pleased to have authored several provisions in the Energy Supply Act. One provision sets a national goal of producing 20 quads of energy through solar technology by the year 2000. Twenty quads is equal to 10 million barrels of oil per day, which is more than we import from the OPEC countries each day. In other words, if the goal of 20 quads is met, we could be virtually free from the OPEC stranglehold.

This bill also provides long-term, low-interest loans for persons wishing to install solar energy systems. For too long there has not been sufficient incentive for homeowners to make this transition to solar energy. Because of the large initial investment required for installation of this equipment, consumers may well find the finance costs exceed the savings made from using less fuel. We have a responsibility to reverse this situation and give people a reason for making this change.

Another provision establishes an expanded wind demonstration program. This authorizes the Federal Government to purchase wind-generating equipment at an accelerated rate and use it at Federal installations where it is economically feasible.

Another title makes such alternative forms of energy like wood and small-scale hydro higher priorities for assistance from the Department of Energy. These technologies thus become eligible for priority treatment under the Jackson-Durkin bill.

While energy has occupied a great deal of the Congress time in recent years, we have made little progress in solving this overwhelming problem. When we should have been reducing our use of imported oil and moving toward energy independence, we have actually been increasing our use. The recent shortfall of oil supplies that we have been experiencing has affected all of us in uncounted ways.

In my home State of New Hampshire, short supplies of gasoline are having an extremely serious impact on the tourist industry this summer, a major source of revenue for the State. Even more important, however, is the real likelihood that New Hampshire and New England will be without sufficient stocks of home heating oil to get through next winter. With all of this, it is not surprising that the American people are on the verge of outright revolt.

Mr. President, we face a tremendous challenge in finding workable solutions to the energy crisis. This great Nation of ours has dealt with adversity many times and can do it again. Working together, I am convinced that we can mount a program which will insure a safe, secure and adequate energy supply, a healthy economy and a sound environment.●

EVALUATION OF GASOHOL AT PURDUE UNIVERSITY

Mr. BAYH. Mr. President, I would like to share with my colleagues results of a laboratory study on gasohol recently conducted by students and faculty in the Department of Mechanical Engineering Technology at Purdue University in Indiana. These tests indicate that the 90 percent gasoline-10 percent alcohol fuel blend outperforms leaded regular and unleaded premium gasoline, while at the same time, burns cleaner than these more conventional fuels.

Mr. President, I commend Prof. D. N. McNally of Purdue University for his ingenuity and resourcefulness in conducting these tests. By training young engineers how to evaluate alternative fuels, Dr. McNally is serving our Nation by sensitizing young Americans to our need to reduce dependence on OPEC oil supplies and rely more heavily on domestic sources of energy.

I ask that the Purdue report be printed in the Record.

The report follows:

The Purdue Report

West Lafayette, Ind.—Gasohol outperforms leaded regular and unleaded premium gasolines and is cleaner, laboratory tests at Purdue University have revealed.

"The tests are the first objective performance tests on gasohol that we know of. Gasohol clearly comes out the winner," Prof. Daniel N. McNally in the School of Technology reported Thursday (5/31).

"If you can buy gasohol for no more than 10 cents a gallon more than the cheapest gas your car will take, gasohol will save you money and your car will run better," he said.

"If your car uses super-premium, and if you can get gasohol for five cents a gallon more, it would pay you to try it. You still might save in the long run."

McNally, who teaches a course in internal-combustion engines in the Department of Mechanical Engineering Technology, used three different engines similar to those found in standard lawn and garden tractors. His students conducted more than 20 fully instrumented bench tests on engine performance from mid-March to mid-May.

They compared gasohol available from the Indiana Farm Bureau Co-op with commonly available unleaded premium and leaded regular gasolines.

Each student wrote his own report, plotted data and reached conclusions. McNally gathered the reports together, applied statistical analysis on about 700 data points, discarded the data which fell way off the performance curves and statistically averaged the remaining data.

"In terms of performance (called specific torque), all engines indicated gasohol was 8 percent better than leaded regular. In two engines, gasohol developed 5 percent more power than unleaded premium, which itself was 3 percent more powerful than leaded regular," he said. "The third engine showed unleaded premium to be just as good as gasohol."

In terms of fuel economy, or pounds of fuel consumed per hour for each horsepower produced by the engine, two engines showed gasohol to be 13 percent better than leaded regular and 7 percent better than unleaded premium which, in turn, was 6 percent better than leaded regular.

The average for all three engines tested indicated gasohol to be 14 percent more efficient than leaded regular and 4 percent more efficient than the unleaded premium.

McNally's students also were interested in how the fuels compared in exhaust emissions.

Parts-per-million of unburned hydrocarbons using unleaded premium were reduced 55 percent from those emitted when burning leaded regular, the data showed. The parts-per-million emissions from gasohol were 60 percent less, "showing that gasohol burned 5 percent cleaner than unleaded premium," McNally said.

The reduction in percent of carbon monoxide given off was the same for both gasohol and unleaded premium, he found. Both fuels reduced the percentage of carbon monoxide emissions by more than 71 percent.

McNally said there were two problems associated with gasohol which users should keep in mind.

"In summer and in warm climates, gasohol should not be stored in tanks above ground," he said. "Alcohol will evaporate, leaving the unleaded regular gasoline. That is all right to use, but you will have lost the premium price you paid for gasohol."

He said that for the same reason one should not keep a lot of it in a vehicle's fuel tank unless it is an automobile produced after 1973 when the no-vent fuel systems were adopted.

Gasohol works better than gasoline in the winter, he added, since "the engine will start quicker."

The second problem, he said, is the natural affinity alcohol has for water. Alcohol prefer water to gasoline, so if there is water in the storage tank or in the car's gas tank, it will "grab" the water and pull it to the bottom.

"Those who are blending gasohol must use alcohol which is at least 98 percent pure," McNally declared. "It should have as little water in it as possible and be stored in a dry tank with minimum condensation."

Students conducting the tests were uniformly positive about gasohol, ranging from "slight advantage" in power to "greatly improved" in emissions. One report noted that "for approximately the same performance, if gasohol is used, 10 percent less of a scarce resource is consumed."

That figures to about 240 million barrels of gasoline per year if all gasoline-engine operators were to use the mixture, McNally observed.

PURDUE TECHNOLOGY STUDENTS EVALUATE GASOHOL

The first known objective performance test on gasohol was completed at Purdue University just five weeks ago. Some twenty students in Purdue's School of Technology made twenty different runs on three different engines similar to those used in lawn and garden tractors. Each engine was mounted on its own calibrated test stand, and a total of over 700 data points were determined.

Professor D. N. McNally, who teaches the course in Internal Combustion Engines for the Department of Mechanical Engineering Technology, says he decided that since he was teaching the students engine performance testing, they might as well explore some new areas while doing it. Professor McNally chose to have the students compare gasohol which is available now from the Indiana Farm Bureau Co-op with the new no-lead super-premium distributed by Standard Oil of Indiana and available from the "gold pump" at the local Amoco stations. The reference fuel these were evaluated against was Standard Oil's leaded regular as available from the "red pump" at their service stations.

Each student wrote his own report, plotted his own data which was corrected to standard atmospheric conditions, and reached his own conclusions. In a teaching laboratory, there is bound to be some experimental error in the data, and the students did not all agree as to their results. Generally their conclusions did agree, however.

During the past few weeks, Professor McNally has been applying statistical analysis to the students' data to arrive at an overall conclusion. Those data points which fell way off the performance curves were cast aside, and the remaining majority of data were statistically averaged. The results should be of interest to many citizens.

In terms of performance or "specific torque" (BMEP to the engineer), all engines indicated gasohol was 8 percent better than leaded regular. In two engines, gasohol developed 5 percent more power than the no-lead premium which was 3 percent better than leaded regular. The third engine showed no-lead premium to be just as good as gasohol.

In terms of fuel economy or pounds of fuel consumed per hour for each horsepower produced by the engine (BSFC to the engineer), the two engines noted above showed gasohol to be 13 percent better than leaded regular and 7 percent better than no-lead premium which in turn was 6 percent better than leaded regular. The average for all the engines tested indicated gasohol to be 14 percent more efficient than leaded regular and 4 percent more efficient than the no-lead super premium.

From these results, we can conclude that if you can buy gasohol for no more than 10 cents a gallon more than what you have to pay for the cheapest gas your car will take, gasohol will save you money and your car will run better. Even if you are running your car on super premium, if you can get gasohol for 5 cents a gallon more, it would pay you to try it. You might still save in the long run.

Professor McNally's students also were interested in how the fuels compared in the area of exhaust pollution. When this data for all engines was averaged, all the engines were in agreement. The parts per million of unburned hydrocarbons (PPMHC) from burning the super premium no-lead were reduced 55 percent for those emitted when burning leaded regular. The PPM of HC emissions from gasohol were 60 percent less, so that gasohol burned 5 percent cleaner than the super premium.

The reduction in percent CO (carbon monoxide) given off was the same for both gasohol and the no-lead super premium. Both fuels reduced the percent CO emission by over 71 percent.

The following are some of the students' conclusions regarding gasohol: "Although gasohol showed a slight advantage over the other two fuels the emissions of the engine improved greatly."

"Although gasohol improves the performance of an engine less than 10 percent, its clean burning qualities make it a good candidate for a fuel of the future. Since this fuel appears to burn so clean, some of the emission controls on car engines, which reduce fuel mileage, could possibly be eliminated. Research should continue to find quicker and more efficient ways to produce this fuel."

"Gasohol showed a small increase in HP and torque in all ranges of use. Gasohol also showed better fuel economy over the other fuels. The most important graphs are the emissions. The gasohol and no-lead fuels show a marked decrease in exhaust emissions."

"The really significant differences appear in the area of emissions. Gasohol and the unleaded premium had emissions that were significantly less than those of regular gasoline. The gasohol held a slight performance edge over the unleaded premium."

"The most striking results of this lab are the low (exhaust) emissions using the gasohol fuel. The (unburned) hydrocarbons emitted with gasohol were less than half of those emitted by the leaded regular at any given speed. The percent CO emitted using the gasohol was so low at times that the meter hardly registered any at all! Gasohol was by far the cleanest burning feul."

"The gasohol used in run No. 3 produced both a higher horsepower and torque. The peak BMEP was also highest with the gasohol. Overall, the regular gasoline produced the largest amount of emissions and the gasohol produced the least amount of (unburned) hydrocarbons, but (gasohol) shared the stage with (the unleaded) premium for the lower amount of carbon monoxide."

"Gasohol appears to give the best performance of the three types (of fuel) while rivaling unleaded premium in emissions. In spite of the fact that sweeping generalizations are dangerous at this point, one fact is clear. Gasohol does provide a very acceptable alternative in terms of performance and emissions."

"It appears that gasohol outperforms both the leaded regular and (the) unleaded premium in almost every category. It burns cleaner than the other two. Gasohol has fewer (unburned) hydrocarbons and (gives off) far less carbon monoxide than the other fuels. The gasohol's fuel consumption is less than either of the other fuels. It takes less gasohol to produce the same brake horsepower while producing less emissions."

"Gasohol is a fuel of the future. Not only does it decrease demand for regular fuels, but it also has some very favorable higher quality characteristics. Gasohol gives identical or better mileage than gasolines without necessary engine adjustments. Our experiments showed that gasohol yields higher horsepower, torque and BMEP at all speeds. It has a low BSFC and gives off less emissions than regular gasolines. I believe that gasohol is useful as a replacement fuel, even though it will only reduce the U.S.'s gasoline consumption by 9–10 percent or 240 million barrels per year."

"For approximately the same performance, if gasohol is used, 10 percent less of a scarce resource is consumed."

Professor McNally hastened to add that there are two problems associated with gasohol which everyone connected with it should keep in mind. In the summertime and in warm climates gasohol should not be stored in above ground tanks. If it is, the alcohol will evaporate off, and eventually you will be left with simply a no-lead regular fuel. It is all right to use this "residue," but you will have lost the premium you paid for gasohol. For the same reason, you should not keep a lot of it in the fuel tank of your vehicle unless it is an automobile produced after 1973 when the no-vent fuel systems were adopted.

The same property that works against gasohol in the summer makes it better than any gasoline in the winter. Due to the volatility of alcohol, gasohol will start your engine quicker than any gasoline will. It is like adding a can of "dry gas" to every gallon of gasoline in your fuel tank.

The second problem results from the natural affinity alcohol has for water. Alcohol will mix with gasoline, but it still prefers water, and water will not mix with gasoline. If more than a few per-cent of water gets into gasohol, it grabs the alcohol and drags it to the bottom. If all the alcohol is dragged to the bottom, again, what you have left is simply a no-lead regular fuel.

Professor McNally attempted to show this characteristic of gasohol to his students. The first sample of gasohol he obtained was supposedly a week or so old, but he was able to add about 2% water to it before the alcohol started to separate. However, the supply of gasohol he obtained for the students to evaluate did not work so well. When the students added 0.2% water to a sample, it mixed with the alcohol and then settled on the bottom. The students' sample already had all the water it would hold.

Professor McNally says that those who are blending gasohol must use alcohol which is at least 98% pure. It should have as little water in it as possible. And it must be kept in dry tanks with minimum condensation.●

UNDERGROUND NURSERY GROWS SEEDLINGS

○ Mr. CHURCH. Mr. President, in northern Idaho abandoned mines belonging to the Bunker Hill Co. are being used as greenhouses to reforest much of the above-ground landscape. In an article printed in this month's issue of American Forests magazine, Karen Caddis describes how 84,000 trees a year are being started in the Bunker Hill underground nursery. Because of this unique advancement in two industries important to my State, and the promise it offers to the Nation's forests. I ask that the article "Subterranean Seedlings: New Forests From Old Mines" be printed in the RECORD.

The article follows:

SUBTERRANEAN SEEDLINGS: NEW FORESTS FROM OLD MINES

(By Karen Caddis)

When fires swept through northern Idaho's Silver Valley in 1910 and again in the 1930s, destroying the stands of Douglas-fir and ponderosa pine that covered the hillsides, no one envisioned that in half a century, trees grown beneath these burned hillsides would be used to reforest them.

The area is one of the richest mining belts in the country. After the fires, natural regeneration was prevented by high concentrations of sulfur dioxide gas discharged by the lead smelter and electrolytic zinc plant of Idaho's Bunker Hill mine, one of the world's largest producers of lead, zinc, and silver. The sulfur dioxide gas was trapped in the narrow valley containing the mine and the adjoining town of Kellogg. Over the years the gas precipitated into the topsoil of the hillsides, making the soil too acidic for most plant growth.

The Silver Valley's hillsides remained brown and bare until the 1970s, when Bunker Hill Company began a 10-year revegetation program aimed at greening 18,000 acres of the valley.

The planting of bare-root Douglas-fir and ponderosa pine seedlings was begun. Pollution-control facilities, installed several years earlier, had been anticipated to reduce sulfur dioxide to levels that plant growth would tolerate. In spite of these efforts, the seedlings planted nearest the smelter had a zero survival rate; the numbers of deaths decreased the farther the trees were planted from the smelter.

Soil studies showed that the sulfur dioxide had affected the pH balance of the soil to a much greater extent than anyone had ever suspected. Over the years, the first 14 inches of topsoil had acquired a pH of 3.7— far too acid to support the growth of tree seedlings. Below this level, soil pH returned to a normal 6.0 to 6.5 balance.

To overcome the problem, consideration was given to the use of containerized seedlings. When removed from the reusable plastic containers, the seedlings had a root system protected by the attached soil. This gave the tree a chance to survive until primary roots could reach below the acidic level.

Preliminary studies showed that container-grown seedlings had an 80-to-100-percent survival rate the first year, compared to zero percent for bare-root trees on harsh sites and 60 percent on good sites.

The problem was, however, that few nurseries could provide the number of container-grown seedlings that Bunker Hill needed annually for its reforestation program. Production of containerized seedlings involves high operating and capital costs, making them expensive and hard to obtain. Priority for container-grown seedlings raised in local federal nurseries was given to federal and state programs, which usually exhausted the supply. The high cost made shipping from nurseries in other areas uneconomical.

The idea of constructing a large surface greenhouse was considered, but was discarded as being next to impossible. A greenhouse would have required a large, level area on which to build—a limited commodity in this region, with its narrow valleys and steep hillsides.

Surface greenhouses were made unfeasible also by the high cost of heating and air-conditioning to ease the severe winters and hot summers, lights to compensate for the short days in the narrow valleys, plus generators to produce carbon dioxide needed by plants for growth.

In the end, it was the hobbies of a few Bunker Hill miners that provided the solution to the problem that had stumped the experts. For over 40 years, miners had been growing tomatoes, peppers, house plants, even orange trees in abandoned tunnels of the mine. With bare, 100-watt growlite fluorescent bulbs and an appreciation for the greenhouselike conditions that exist in the tunnels, the miners had built themselves small gardening areas underground. Some grew house plants; others had fresh vegetables growing all year.

Stories about the underground gardens of the miners circulated, eventually reaching Edward Pommerening, reforestation engineer for Bunker Hill Company. Pommerening, a University of Idaho graduate, had done soil studies for the company, using growth chambers with artificial light and heat. Recognizing the potential of the mine tunnels as a large-growth chamber and greenhouse, Pommerening formulated a containerized-seedling growth program for the underground.

An abandoned tunnel, to be used as the greenhouse area, was found in the mine's main ventilation area. The tunnel, which extends 700 horizontal feet into the mountain and is covered by 3,000 ft. of hillside, has conditions that are ideal for growing seedlings.

In the eight-by-eight-foot tunnel, temperatures never vary more than a few degrees from 75°F. Humidity remains at a constant 50 percent, and the carbon-dioxide level is steady at 0.3 percent, a concentration considered perfect for seedling growth.

The only problem that remained was the question of light. This was solved by installing eight high-intensity mercury-vapor and sodium lamps along the 210 feet of tunnel now in use. The 1,000-watt bulbs give out 80,000 to 132,000 lumens in the wavelengths needed by plants for good production. Each light is capable of lighting 200 plants. Cost of the lights ran $260 apiece, plus $70 for new bulbs every three years. This is a large savings when compared with the $500 per month alone that would have been spent to heat a surface greenhouse.

A plastic roof, held up by wooden beams, was constructed to support the large dome-shaped lights and to protect seedlings from the acidic water that drips constantly from the tunnel roof and walls. Wooden benches and walkways were built along the tunnel; three feet of space between the container benches serves as an aisle.

A first experimental planting of 4,000 ponderosa-pine seeds was taken underground in September 1975. Crown vetch, an herb, was planted with the pine to test for the presence of sulfuric-acid mist from the mine water. The vetch would develop spots on its leaves or die if acid was present. After four months the vetch gave no such signs.

The pine seeds germinated in 10 days; elongation of the stems began within the next seven days. By the end of 18 weeks the seedlings stood seven inches tall and had filled the 30-cubic-inch plastic cylinder container with an excellent root system. Within six months the seedlings were ready for surface planting. This compares favorably to the two to three years needed to raise surface-grown seedlings to the comparable strength and size needed to survive planting in the local area.

In the time just before planting, the seedlings are watered less, fertilizing ceases, and a day-and-night pattern is established with the lights, in order to prepare the seedlings for the harsher conditions found on the surface. The containers are then carried out of the mine on carts along a half-mile-long horizontal passage to the surface. Once on top, the seedlings are bedded for three to six weeks in sawdust piles to adjust them to surface temperatures and the ultraviolet rays of the sun.

The first batch of seedlings was field-planted in the spring of 1976 and to date has shown an excellent rate of survival, comparable to surface-grown containerized seedlings. Subsequent plantings also showed a favorable survival rate of about 80 to 90 for every 100 planted.

After this first successful planting, the greenhouse was expanded to accommodate its current output of 42,000 Douglas-fir, ponderosa, red cedar, and native-shrub seedlings every six months. The company is still using some surface-grown container trees from local nurseries, but it hopes to expand the underground greenhouse to 450 feet and 320,000 seedlings per year, thus eventually making Bunker Hill's reforestation operation completely self-sufficient.

Because the mine had few precedents to go on, many factors of underground seedling growth were pleasant surprises. One major discovery was the low rate of loss of seedlings. Normally fungus, rodents, and insects create appreciable mortality in a surface nursery. The mine tunnel was found to have no insects, rodents, or diseases. Before entering the greenhouse tunnel, air that circulates throughout the mine has traveled to the mine's hottest levels, killing any organisms that the air might have carried in. As a precautionary measure, seeds are still dusted with a fungicide to prevent such seed-borne diseases as damping-off. Also, the container soil—60 percent peat moss and 40 percent vermiculite—is sterilized.

The pH balance in this container soil posed a problem initially. Container soil needs a pH of about 5.5 to maintain nutrient uptake and good seedling growth. Surface greenhouses usually are required to acidify their irrigation water in order to maintain this pH balance. Pommerening, recalling that mine water contains acid naturally, tested various springs throughout the mine until he found one that registered a pH of 5.5. Water from this spring is now pumped directly to the underground growing area. This mine water, a constant 60 to 65°F, maintains the pH balance of the container soil.

The underground nursery was found to have many other advantages over surface greenhouses. The high-intensity lights can be left on 24 hours a day, stimulating faster growth. Little manual labor is required. One girl plus Pommerening are all the labor force currently being used to thin, water, and maintain the seedlings.

The proximity of the underground nursery to the planting areas—between one and 10 miles—allows a minimum of handling. Seedlings can also be planted at the best time rather than only when surface nurseries are able to make seedlings available.

Costs are relatively small. There is no heating or air-conditioning expense since the air remains at a constant temperature—this saves an enormous amount of energy. Upkeep of the greenhouse area is already part of routine mine-tunnel maintenance. The only expenses after the capital investment of approximately $15 per foot are container soil, containers, labor, and light bulbs. Because of the low operating expense, the cost of raising the seedlings is about $75 per 1,000, compared with $130 to $250 per 1,000 for comparable two-year-old surface-grown transplants. Cost also tends to be reduced because of the seedlings' higher survival rate.

Basically the only problem involved in the growing of seedlings underground is the question of access to and from Bunker Hill's tunnel greenhouse, limited to a small open-car mine train that runs only on set schedules. Foot traffic is restricted to a half-mile long horizontal tunnel, the opening of which can be closed by snow during the winter. Once the problem of access is solved, the potential for underground greenhouses will be virtually unlimited.

Local studies estimate that out of the hundreds of miles of tunnels in the north Idaho Panhandle, at least 10 miles have conditions favorable for growing seedlings. At 100 seedlings per square foot, including working areas, 42 million containerized seedlings a year could be grown in the area. This is equivalent to 200 surface greenhouses, or slightly less than half of all the containerized seedlings now being grown in the Pacific Northwest.

This high output of seedlings could foreseeably provide another major industry to the area and could revolutionize regional reforestation programs. Significant savings could be made in energy, construction, and maintenance. and surface land would be released to other uses. Tunnels could also be developed to produce vegetables and fruit, and provide scientific study areas and storage facilities.

Other mining firms, such as Anaconda Mine near Butte, Montana, are already beginning underground seedling nurseries. Benefits to the mining companies could be three-fold: restored scenic value, income from seedling sales, and, in later years, timber sales.

If these potentials of mine tunnels are utilized, mines, long considered destroyers of the environment, will soon be helping to create a better one. And seedlings grown underground may one day become the future's harvest of "green gold." ●

PROPOSALS TO CORRECT INEQUITIES SUFFERED BY RETIREES

● Mr. DURKIN. Mr. President, American public employees—Federal, State county, and municipal government workers, policemen, firemen, teachers, and postal workers—represent one of the most important and, yet, underappreciated groups in our Nation. While many of them labor faithfully and honorably for wages not commensurate with salaries they might be able to obtain in the private sector, security in old age is of as much concern to the dedicated public servant as it is to any working American man or woman.

I have introduced and am cosponsoring legislation which is aimed at providing greater financial assistance to elderly Americans who are retired public employees and who are not eligible for social security or who have only partial coverage. These measures include needed tax reform to protect public servants' retirement savings, and the repeal of certain social security offsets that cause this same group unjust annuity reduction.

Even though the Tax Reform Act of 1976 improved the retirement income credit, I believe current inflationary conditions of our economy make it too low. Moreover, it does nothing to bridge the gap between those who receive social security benefits, that are tax-free, and those who do not.

Legislation I am cosponsoring would raise the maximum base figures in computing the credit and substantially increase the current phaseout provision. I believe equity argues for such action to be taken. Both the National Association of Retired Federal Employees (NARFE) and the National Association of Retired Persons share my feeling as they give this measure their strong support.

In addition, I have introduced the Savings Incentive Act of 1979. Because older Americans are usually the most dependent upon savings, and because they are the most exposed to inflation, my bill allows them a significantly higher exclusion on their interest earnings when paying their Federal taxes. Under this measure, taxpayers who are over the age of 60 will be able to exclude $2,500 in interest. If they file a joint return, the limit will be $5,000.

Mr. President, during the last Congress I worked hard to insure pension improvement as a member of the Senate Committee on Veterans' Affairs. Not once, but twice the Senate overwhelmingly agreed to allow a social security pass-through for Veterans Administration pensioners. In addition to assuring our veterans who receive a VA pension that they would no longer suffer reductions in benefits attributable to social security cost-of-living increases, Congress finally guaranteed their aggregate incomes—pension plus social security—would rise in accordance with the Consumer Price Index.

I am proud to have been an active proponent of this long overdue change. However, experience tells me we have far more to do. I am determined to lift the burden of unjust annuity reductions, especially those which affect our loyal American public service employees.

At the start of this Congress, Senator THURMOND introduced two legislative measures that have my strong support—to end an inequity that discriminates against Federal employees who have served in the uniformed services since 1956, and to remove remaining unfair provisions of the military survivor benefit plan (SBP).

Under present law, SBP payments are reduced at age 62 by an amount equal to 100 percent of the social security entitlement due to the deceased's social security covered military service. The Thurmond-Durkin bill, S. 91, would reduce this social security offset from 100 to 560 percent. Other significant provisions of this measure include:

First. Elimination of the social security offset entirely when there is a dependent child and when social security benefits are based on the widow's or widower's own earnings;

Second. Cost-of-living adjustments to be applied in the same manner for both military and civil service retirees, so both pay the same amount for the same SBP coverage;

Third. Elimination of the social security offset for reservists in cases where social security payments were refunded;

Fourth. Authorize an open enrollment period of 270 days for retirees who declined to participate in the plan because of existing inequities; and

Fifth. Authorize SBP benefits for pre-1972 "forgotten widows" whose husbands had no opportunity to participate in the SBP before their death.

As a member of the Senate Committee on Veterans' Affairs, I strongly urge favorable action also be taken on S. 92. This second Thurmond-Durkin bill provides credit for all military service when a civil service retiree's annuity is recalculated at age 62. The measure is simple, but it promises far-reaching justice to current military retirees and Vietnam-era veterans who pursue a career of public service.

For 22 years, civil service employees who are veterans have been forced to accept a recomputation of their annuities, omitting all military service after 1956. Congress intended when writing this legislation to provide veterans with a portable social security benefit increase to their retirement income.

However, those who went into Government service have not experienced the reward of this effort. Rather, some veterans retiring in 1979 will be subject to a 54 pecent loss of annuity. It is safe to say that annuity reduction increases approximately 3 percent for each year of military service after 1956. This "Catch 62" is totally unfair. It has to be changed, and it should be done now.

Another pension improvement I believe this Congress must accomplish is recognized by Senator MATHIAS, in his bill, S. 294, which I am cosponsoring. It guarantees full entitlement to social security survivors' benefits.

Under present law, persons who retire on a civil service pension are not able to collect any social security dependent of survivor benefits which they have earned, unless the social security benefit is larger than the civil service pension. In that case, the dependent or survivor may only be able to collect from social security the difference in amount between the social security benefit and civil service pension.

In my view, this practice is wrong. Participation in our social security system is supposed to help American workers plan for the future. The fact is, social security is failing Federal, State, and local government workers by denying their dependents cash benefit payments which have been earned, and are designed to reflect contribution amounts.

No wonder there is such a roar of opposition to the idea of enacting a universal social security coverage mandate. I want to say right here and now that I am prepared to fight any legislative move to eliminate the public service pension upon which retired workers and current employees depend.

Mr. President, my efforts in the Senate are devoted to bringing Government spending under control. However, I do not believe this can or should be accomplished at the expense of those who can least afford it. While no American household has escaped the wrath of inflation, the fight to make ends meet is taking its greatest toll in our senior citizens. Today I urge favorable Senate floor action on legislation which is designed to help a very special group, our dedicated public service employees. These measures promise needed fiscal relief. Collectively, their enactment will insure change that is long overdue, needed and deserved.●

EUROPEAN PARLIAMENT CONVENES

● Mr. KENNEDY. Mr. President, this week the European Parliament convenes in Strasbourg, France. It is an historic occasion since this is the first international political body to ever be democratically elected. The vision of Jean Monnet and other European statesmen of a united Europe is now being taken a step further. A democratically elected European Parliament as first provided for in the 1958 Treaty of Rome has at last become a reality.

The convening of the first directly elected Parliament is a welcome example of the increasing role the European Community (EC) is playing in the affairs of our greatest allies. Since the Community's first endeavor with the Common Market, its sphere of activity has expanded to include the new European monetary system (EMS) and a progressive policy on the developing world as expressed through the Lome I and II conventions.

The European Parliament, then, is a continuation of the noble effort to create a community not only of states but of peoples. A recent editorial in the Christian Science Monitor noted:

> The important thing is that a people's Parliament can look beyond merely economic issues and begin to deal more thoughtfully with the evolution of a European political structure.

The Parliament is the only forum in the EC where debate occurs among representatives directly elected by the 180 million people of Europe. I am heartened by the 65 percent turnout of European voters, selecting 410 Euro-MP's from a slate of 3,000 candidates. By way of comparison, the United States has not experienced such a turnout since the 1960 Presidential election.

Moreover, the Europeans elected to serve as Euro-MP's represent a wide variety of political perspectives. Over a third have served previously in their national governments while nearly a sixth are women. Some of the brightest names in European politics now sit in Strasbourg, including former West German Chancellor Willi Brandt, Italian Communist leader Enrico Berlinguer, former Belgian Premier Leo Tindemans and French Socialist leader Francois Mitterand. The Christian Science Monitor has said:

> These are the men and women who can give wing to the idea of political as well as economic cooperation among Europe's maturing nations.

Complementing the election of such a promising group of leaders was Tuesday's election of France's former Minister of Health, Simone Veil, to serve as President of the European Parliament. During her campaign, Mme. Veil said, "Europe really won't progress if it tries to impose supranational rules outside of the national contexts." The countries of the EC, she continued, will "have to move closer before they can think together."

Mme. Veil is an astute leader and a woman of strong character having survived the terror of Auschwitz and the deaths of her parents and brother during World War II. A recent article in the Boston Globe noted that Madame Veil's election as President is "a measure of how far Europe has evolved democratically from the Hitler years. Never was Veil's sex, religion, or tragic past a factor in her election."

The convening of the first democratically elected European Parliament is an important step in the development of a politically dynamic and interdependent European Community. Our European friends deserve praise and support for their latest efforts to that end.

Mr. President, I ask that the recent Christian Science Monitor editorial on the European Parliament be printed in the RECORD. I also request that the article on the election of Simone Veil in the Boston Globe be printed in the RECORD.

The articles follow:

[From the Christian Science Monitor, June 13, 1979]

CITIZENS OF EUROPE

We have heard and read all the pessimistic putdowns of the first popularly elected European Parliament. It will not have any legislative power. It will be only a dull debating club. Europeans yawned over the lackluster election campaigns. The assembly will have more symbolism than substance.

True, perhaps.

But.

Let the world, so in need today of moral and spiritual vision, not shortchange what could prove to be one of the most visionary developments of the 20th century. Someday we may all look back on these direct elections as the first momentous step on the long, difficult road toward a politically united Europe. The vision of a United States of Europe may seem dim when the European states become embroiled in nationalistic and often petty squabbles. But, from the first moment 28 years ago when the idea of European unity was born, that vision has never died. It now has new and, in our view, exciting impetus.

To be sure, only 53 percent of Europe's eligible voters turned out to vote, and many of these were required to vote by their domestic laws. But 53 percent is in many respects an astonishing beginning. Consider that something like 40 percent of eligible American voters voted in the last national election (for a legislative body that does have power). Consider that people of Northern Ireland voted in spite of threats and a bombed polling station. Consider that the Dutch voted despite phony letters stating the election had been postponed. Consider that Britons, not exactly a continentally oriented people, posted a 30 percent participation even after an exhausting national election of their own. No, the voting results were respectable.

Nor should the possible impact of the new European Parliament be underestimated. It will be largely a political forum that can only recommend, but, elected for the first time by universal suffrage instead of named by national legislatures, it is likely to speak out more forcefully than in the past. The Parliament does, moreover, have some powers in drafting the European Community's budget, and by two-thirds vote it can oust the EC Commission. The representatives therefore will probably watch the Common Market bureaucracy in Brussels with a keener eye.

The important thing, however, is that a people's Parliament can look beyond merely economic issues and begin to deal more thoughtfully with the evolution of a European political structure. As French Foreign Minister Jean Francois-Poncet comments, "This is a step toward the peoples' Europe that should satisfy all those who up until now have criticized Europe for being the concern of businessmen, industrialists, or technocrats." It will take vision of the highest order, of course, to transcend the nationalisms of the nine states. Nor does anyone suggest that national prerogatives must not be maintained. But with such thoughtful, able leaders as Willy Brandt, Simone Veil, Leo Tindemans, Gaston Thorn and others serving in the assembly, the scope and opportunity for creative approaches are vast. These are the men and women who can help give wing to the idea of political as well as economic cooperation among Europe's maturing nations.

One other point might be made. The results of the elections showed a general move away from the left toward the center right. Socialists will have the largest single bloc of seats but the center-right parties are the largest combined group. This swing toward conservatism appears to reflect less a political resurgence of the right than what one commentator calls "an intellectual and philosophical reaction against the old left, centering particularly in France, brought on by the discovery, partly from the revelations of Solzhenitsyn, that there is no true romance and certainly no liberté in communism." Many intellectuals, especially in France, today warn of Europe's tendencies toward statist systems and flirtations with idealistic brands of Marxism.

The challenge for the Parliament deputies, then—as for such conservative leaders as Margaret Thatcher of Great Britain—will be to strengthen the European Community's strong foundations and to begin to build on them a politically federated Europe based on strong individual freedom combined with a deep concern for social and economic justice. Such a Europe will stand as a bulwark of peace in the world, as a model of democracy, and as an example of harmonious coexistence of nations and peoples.

A utopian dream? What great idea did not start out as such?

[From the Boston Globe, July 13, 1979]

WOMAN WILL LEAD EUROPE CONGRESS

STRASBOURG, France.—The European Parliament, history's first directly elected multinational assembly, opened its inaugural session yesterday and elected as its first president Simone Veil, a Jewish Frenchwoman who survived the Auschwitz death camp.

Veil, a 52-year-old grandmother, narrowly missed election on the first ballot by the deputies, but emerged victorious in the second round, receiving 192 votes, three more than the required majority of 189.

Veteran Italian Socialist Mario Zagari, 65, received 138 votes, and Giorgio Amendola, an Italian Communist, received 47.

All but six of the 410 deputies attended the session, 400 voted, and 23 ballots were invalid or blank.

After 45 seconds of applause from the conservative and liberal bloc, Veil took the chair and thanked the house "for the great display of trust you have shown in me."

She quickly attended to housekeeping chores and adjourned the session until today, when a vice president will be elected.

Her election provided a poignant moment in Europe's 34-year-old quest to bury the Hitler horror and become united.

She was supported by the dominant center-right bloc in the parliament, but had a strong rival in Zagari, 65, a former anti-Nazi resistance fighter from Italy, backed by the 112-strong Socialist bloc.

It was a measure of how far Europe has evolved democratically from the Hitler years. Never was Veils sex, religion or tragic past a factor in her election.

Veil, a mother of three, served as health minister in France until being elected to the parliament of the nine Common Market nations June 10.

She is a soft-spoken woman and a champion of liberal abortion laws and rights for Frenchwomen. She was deported to Auschwitz in 1944, saw her mother die there and lost her father and brother in the Holocaust.

The delegates, plus a large audience of dignitaries, packed the assembly's horse-shoe shaped chamber to hear a speech by Louise Weiss, 86, dean of the outgoing nonelected parliament.

In her hour-long discourse on Europe, Weiss evoked Charlemagne and Charles de Gaulle in appealing to the delegates to fight for pan-Europeanism.

She denounced the United Nations—to applause from much of the chamber but silence from the Communists—for failing to help Vietnam's boat people.

Before the vote, Veil, dressed as usual in a long-sleeved dress that covers the number 78651 tatooed on her arm by the Nazis, sat almost unnoticed in a back row.

The parliament's first major quarrel broke out over a proposal by the Christian Democrat group for a 2½-year presidency instead of a one-year term.

After heated debate with the leftists opposing the idea, the issue was shelved for later discussion.

Outside the parliament, a modernistic building that from the front looks like an ocean liner, several hundred demonstrators, mostly Italian, protested Veil's record on abortion. Other groups urged federalism, pan-European currency and the admission of tiny minority groups to the parliament.●

TRIBUTE TO JOSEPH CALIFANO

● Mr. MOYNIHAN. Mr. President, Joe Califano and I have been friends and colleagues for many years and in many circumstances. We were together at the White House the night of President Johnson's dramatic announcement of the Kerner Commission, and went out to dinner together following the President's address. We worked together then and we have worked together since, most recently during the 32 months that I have served in the Senate and he has held the most difficult position in the Cabinet.

His stewardship of HEW commands our admiration. No one in public life today is more vigorous, more adept at the management of complex issues, more able to absorb the punishing pace and endless demands of executive responsibility in the National Government, or more insistent on high standards and hard work. We have not always agreed on policy, but that is hardly surprising in view of our different responsibilities. He is a distinguished public servant and has my lasting affection and regard.●

HYDROELECTRIC POWER

● Mr. DURKIN. Mr. President, one of the greatest unused sources of energy in this Nation today is hydroelectric power.

In New Hampshire, New England, and throughout the United States, there are literally thousands of dams which could be producing electric power and reducing our crippling addiction to OPEC oil.

In past years these facilities were the cornerstone of power production in this country. After World War II, however, many of the small dams were abandoned in favor of much larger, more centralized powerplants as America's energy needs grew dramatically. Now, with the price of oil at an all-time high, these small-scale hydroelectric dams have become attractive sources of clean and efficient energy. Hydroelectric stations can be returned to service at a tiny fraction of the cost of constructing a nuclear or conventional powerplant and start moving us toward energy independence.

Because of my interest in developing small-scale hydroelectric projects, I was delighted to see a paper that outlines the methods of financing such projects. The paper, written by Hugh W. McLeod of the New England Merchants National Bank, gives an excellent overview of the various ways to raise the necessary funds for such a project.

I ask that excerpts from Mr. McLeod's speech be printed in the RECORD.

The excerpts follow:

FINANCING LOW-HEAD HYDROELECTRIC PROJECTS

I. 2 BASIC TYPES OF PROJECTS THAT ARE FINANCED

A. Small ones that can be financed based on net worth of developer and his track record. An example of this might be a small project or a larger project developed by a utility or a municipality. This is the easier typo of project to finance.

B. Larger ones where the size of the project is large enough so it cannot be financed on the net worth of the developer, i.e. credit decision must be made based primarily on the cash flow of the project (usually called project financing).

C. Talk will concentrate on financing the second—or project financing.

II. WHAT ARE THE KEY COMPONENTS OF A SUCCESSFUL LHH PROJECT FINANCING?

A. A good purchase contract that will provide sufficient revenue to service the principal and interest with an adequate safety margin and provide the developer with an adequate return.

B. The necessary license and permits.

C. A good construction contract (preferably turnkey) that will insure that the project will be completed on time and within budget.

D. A qualified management—development team (probably most important).

E. Financing.

F. If any one of these key components is not available or sufficiently strong, the project's chance for success is lessened.

III. PROJECT FINANCING OF L.H.H.—HOW DOES IT DIFFER FROM REGULAR LOANS?

A. $ needed for project are usually large in relation to the developer's assets—means you cannot rely on developer's net worth—said another way, there is little fall back position outside of the project. The emphasis is on the project's cash flow.

B. Deals are much more leveraged than a normal utility—so much less room for error.

C. Unlike a real estate deal, the major dollars spent do not generate much loan collateral value as in the case of an apartment house.

D. Under a project financing each financing party must commit before all of the documents are finalized so each party must do some adjusting as details become known.

IV. WHAT TYPES OF FINANCING ARE REQUIRED?

A. Front End Money.

(1) Acquire site.

(2) Feasibility studies, environmental impact studies.

(3) F.E.R.C. licenses.

(4) Legal & Accounting fees.

B. Construction loan—while building.

C. Long-term debt—after construction is done.

D. Junior money or equity to complete long-term financing.

E. All are interrelated.

V. SOURCES

A. Government Grant—front end dollars, feasibility studies.

B. Commercial banks—front end, construction, 5–10 year junior money loans.

C. Leasing companies—medium-term financing.

D. Financial subsidiary of turbine manufacturer—medium-term financing.

E. Insurance company—long-term debt financing.

F. Savings Banks—long-term debt financing.

VI. PROJECT FINANCING—CAN IT BE DONE? YES! IS IT EASY? NO!

A. Requires a lot of work by all concerned.

B. Lenders must have experience and expertise in the utility industry, the hydroelectric industry, and in project financing because there is little outside collateral and because they must mesh with the other parties. If any one fails the project, a lot of time and money may be lost.

C. However, it can be done! LHA project shows it!

VII. NEW ENGLAND MERCHANTS AND LAWRENCE HYDROELECTRIC ASSOCIATES—A CASE STUDY

A. Front Money loan—New England Merchants.

B. Construction Loan—a New York bank.

C. Long-term debt—an insurance company.

D. Junior money loan—New England Merchants.

E. Equity investment—Essex Company and a limited partner.

VIII. SHOULD BANKERS GET INTO LOW HEAD HYDRO DEALS AND HOW?

A. You cannot do project financing on a part-time basis because of the need for experienced lenders since all forms of financing must mesh and if a bank caused the project to fail because it did not understand the nature of the risk, it would get a lot of bad publicity and possibly law suits.

B. Three basic ways to go into project financing:

(1) Develop your own in-house expertise by spending the time and money to build up expertise in project financing and low head hydro. Reason—meshing of gears problem—if a deal fails after parties work six months—ill will.

(2) Form a loaning group or consortium of banks—savings and commercial—that will work together to hire in "experts" or "experienced people" to assist the group in evaluating and making low head hydro loans. This group could consist of commercial banks to do the front money loan, construction loans, and equity loans and savings banks and/or insurance companies for the long-term financing.

(3) Bring a deal to a bank that is experienced in project financing of low head hydro projects and have them do a participation with you until you have enough expertise to do it yourself.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER THAT NO ROLLCALL VOTES BEGIN BEFORE THE HOUR OF 2:30 P.M. ON MONDAY, JULY 23, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are ordered on Monday, except for any rollcall votes that may be procedurally necessary in getting a quorum, or some such, that such rollcall votes not begin before the hour of 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL MONDAY, JULY 23, 1979

Mr. CRANSTON. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in recess until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1309, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment.

ORDER FOR THE RECOGNITION OF MR. EXON ON MONDAY

Mr. CRANSTON. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order and have used their time on Monday morning, Senator EXON be recognized for not more than 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 1309 ON MONDAY

Mr. CRANSTON. Mr. President, I ask unanimous consent that upon completion of the standing order and the order for the recognition of Mr. EXON that the Senate resume consideration of Calendar Order 247, S. 1309.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JULY 23, 1979

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 12 noon, Monday.

The motion was agreed to; and at 5:48 p.m., the Senate recessed until Monday, July 23, 1979, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate on July 21, 1979:

DEPARTMENT OF ENERGY

Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

DEPARTMENT OF DEFENSE

W. Graham Claytor, of the District of Columbia, to be Deputy Secretary of Defense, vice Charles William Duncan, Jr.

THE JUDICIARY

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin, vice a new position created by Public Law 95-486, approved October 20, 1978.

Terence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin, vice a new position created by Public Law 95-486, approved October 20, 1978.

Eugene P. Spellman, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 95-486, approved October 20, 1978.

EXTENSIONS OF REMARKS

EXECUTIVE COMMUNICATION NO. 1627

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MURPHY of New York. Mr. Speaker, following is a copy of Executive Communication No. 1627 from the Department of the Interior in explanation of a draft bill which was introduced in the form of H.R. 4887, to authorize appropriations for the San Francisco Bay National Wildlife Refuge:

U.S. DEPARTMENT
OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 14, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith is proposed legislation to increase and extend the authorization of appropriations for the San Francisco Bay National Wildlife Refuge. We recommend that this legislation be referred to the appropriate Committee and that it be enacted.

The Secretary of the Interior was directed to establish and administer the San Francisco Bay National Wildlife Refuge by Public Law 92-330, June 30, 1972 (86 Stat. 399; 16 U.S.C. 668dd). The purpose of this 23,000 acre refuge is to protect the wildlife resources of the South San Francisco Bay area, provide wildlife-oriented recreation and preserve a natural area in close proximity to a large urban center.

The marshes, mudflats, open water and saltponds of the refuge form an ecosystem that supports a rich diversity of fish and wildlife. It is a major nesting and feeding area for the waterfowl and shorebirds of the Pacific flyway. The refuge also preserves a hauling ground for the wary harbor seal and habitat for several endangered and threatened species, including the California least tern, the California clapper rail and the salt marsh harvest mouse.

In addition to preserving important wildlife habitat, the refuge establishes a sorely needed wildlife-oriented public use area for the burgeoning San Francisco Bay region. Once acquisition and development is complete we expect that more than one million visitors a year will take advantage of the opportunities for fishing, animal and bird observation, and research and environmental education which will be provided by the refuge.

Public Law 92-330 contained an authorization of appropriations of $9 million for land acquisition and $11.3 million for development. These authorizations expired at the end of fiscal year 1977 and were extended through fiscal year 1980 by Public Law 95-299 (92 Stat. 3411).

Our proposal would increase the authorization for land acquisition at San Francisco Bay National Wildlife Refuge to $13.2 million, to be available until September 30, 1983. Land acquisition has been restricted pending settlement with a major property owner and the conclusion of litigation between the State of California and other landowners. The $4.2 million increase, available through fiscal year 1983, will allow us to complete acquisition.

Development of the refuge is proceeding but cannot be concluded until acquisition problems are resolved. We therefore also recommend that funds authorized for this purpose remain available until expended.

The Office of Management and Budget has advised that there is no objection to presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Secretary.●

ASSASSINATIONS CONSPIRACY THEORIES

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1979

Mr. BEDELL. Mr. Speaker, in recent days we have seen numerous press accounts of the newly released findings of the House Assassinations Committee that raise the possibility of an organized conspiracy being responsible for the murders of President Kennedy and Martin Luther King, Jr. It is a subject which stirs deep emotions in all of us and which, for that reason, demands that we avail ourselves of all of the best information so that hasty conclusions are not drawn.

The New York Times Sunday Magazine of July 15 carried a thought-provoking article on this question with respect to the Kennedy assassination that I believe deserves the attention of everyone. It was written by David W. Belin, a lawyer who served as counsel to the Warren Commission in 1964 in its investigation of the Kennedy assassination and who later served as executive director of the Commission CIA Activities Within the United States in 1975.

I recommend this extremely well-done article to my colleagues by having it printed in full in the RECORD following these remarks:

(By David W. Belin)

In early December 1978, the members of the House Select Committee on Assassinations were reviewing copies of a preliminary draft final report. After nearly two years of work and the expenditures of $5.8 million, they had concluded that Lee Harvey Oswald was the lone gunman who had killed President Kennedy, wounded Texas Governor John Connally and killed Dallas Police Office J. D. Tippit. There was no conspiracy.

It was a report based on an investigation conducted in almost total secrecy, except for a few weeks of public hearings carefully orchestrated by G. Robert Blakey, chief counsel of the committee staff.

Less than three weeks later, one the biggest flip-flops in recent Congressional history occurred. The 600-plus-page report was rejected and on Friday, December 29, 1978, the committee approved a nine-page Summary of Findings and Recommendations, which concluded that although Oswald was the assassin, there was a conspiracy involving an unseen second gunman. This invisible person supposedly fire a single shot from an elevated portion of land known as the grassy knoll, located to the right front of the Presidential limousine. According to the committee summary, this shot missed President Kennedy.

Although the location of the claimed second gunman was barely 100 feet from the Presidential limousine, the invisible shot also missed Governor Connally and everyone else in the Presidential limousine; it even missed the limousine.

Who was this second gunman? Why would he fire only once? Why were no cartridge cases found? The committee reverted to its cloak of secrecy, merely promising a final report around the first of April. That deadline was not met because Blakey and the remaining members of the staff were having trouble with their second-gunman theory.

Three members of the committee did not agree with the second-gunman theory, which was predicated almost solely on the testimony of acoustical experts. Earlier an expert had asserted a 50 percent degree of certainty in his conclusions. In the middle of December, two new experts came forward and declared, along with the original expert, that they were 95 percent certain. Despite the continuing doubts of three members of the committee, the change in the experts' opinion from 50 percent certainly to 95 percent was the cause of the flip-flop. Having served as counsel to the Warren Commission, I know that regardless of whether the accoustical experts say they were 50 percent certain or 95 percent certain, they are nevertheless wrong: There was no second gunman.

In the first place, all of the physical evidence points to a single gunman. Only one gunman was seen at the time of the assassination, and witnesses saw him fire from the sixth-floor window of the Texas School Book Depository. Three cartridge cases were found by that window; a nearly whole bullet was found at Parkland Memorial Hospital on Governor Connally's stretcher; and two ballistically identifiable portions of the bullet that struck President Kennedy's head were found inside the Presidential limousine. Ballistic evidence proved those cartridge cases, the bullet and the bullet fragments all came from Oswald's rifle, which was found by the back stairway of the sixth floor of the Book Depository. His palmprint was on the rifle, his fingerprints were on the paper bag used to carry the rifle into the building, and he matched the physical description given by a witness who had seen the gunman take aim and fire the last shot.

Oswald had ordered the rifle through the mail and had had it shipped to his post-office box in Dallas—the same place his pistol had been shipped to. He was apprehended with the pistol in his possession. This was the weapon he used to kill Dallas Police Officer J. D. Tippit on November 22, 1963, approximately 45 minutes after the assassination of President Kennedy. Six eye witnesses conclusively identified Oswald as the gunman at the Tippit murder scene, or the man running away from the Tippit murder scene with gun in hand.

In contrast, the acoustical evidence rests on a number of implausible assumptions. For instance, if the Dallas police tape is a genuine tape of the assassination, why did it not pick up the sound of motorcycle engines revving up as the motorcade sped toward Parkland Hospital? Why are police sirens not immediately heard? Why does one hear the faint sound of chimes, although no chimes were found to be in use at or near the scene of the assassination?

But even assuming the tape is genuine, the theory of the acoustical experts rests upon false assumptions made when the initial acoustical data were taken, including the location of the motorcycle at the time the first shot was fired.

However, I believe there is an issue of far greater importance than the technicalities of the acoustical evidence. That issue concerns the ramifications of a secret Congressional investigation coupled with excessive delegation of powers to the committee staff. The House Select Committee on Assassinations is a microcosm of this compound problem. The committee's erroneous conclusion concerning Jack Ruby is the most vivid example of the pitfalls of this process.

In The New York Times of Sunday, June 3, Wendell Rawls Jr. reported that, according to a "committee source," the final report "will contend" that Jack Ruby "stalked Lee Harvey Oswald from the hours immediately after the assassination until he killed Oswald on the Sunday morning following the assassination, and that both Ruby and Oswald had contacts among organized crime figures. According to the source, "There is a substantial body of evidence, a web of circumstantial evidence, to connect the death of the President to elements of organized crime and the efforts of organized crime to retaliate against President Kennedy and his brother Robert Kennedy who was Attorney General and who was undertaking substantial law-enforcement efforts against organized crime.

Rawls also reported that "the committee discounts Ruby's statement before his own death that he had killed Oswald so that the President's widow would be spared a return to Dallas, where she might be forced to relive the shattering moments of the assassination as a witness at Oswald's trial." The committee asserts that the story was "concocted by his lawyer."

It seemed the perfect end for the investigation. Who would defend organized crime? And, more particularly, who would defend Jack Ruby, now that he is dead?

If there had been a full series of public hearings, the allegations of Ruby's involvement in a conspiracy could never have been seriously sustained because of the testimony of one person—a rabbi who was living in Dallas at the time of the assassination and who is the most important living witness on the issue of possible involvement of Jack Ruby in a conspiracy.

His name is Rabbi Hillel Silverman. Rabbi Silverman did not know Jack Ruby very well before the assassination, but after Ruby shot Oswald he visited Ruby in the Dallas County Jail on an average of once or twice a week and became extremely close to him.

During the investigation of the Warren Commission, while Ruby was alive, Rabbi Silverman could not be called upon to testify because the intimate conversations between a minister, priest or rabbi and his congregant are privileged. However, that prohibition did not necessarily bind the House Select Committee on Assassinations, now that Ruby is dead. Yet—and this is hard to believe, but it is nevertheless true—the committee staff, during the entire multimillion-dollar, two-year investigation, did not even try to take Rabbi Silverman's testimony. He would have testified had he been called.

Let us go back to Monday, Nov. 25, 1963, after a weekend of national bereavement following the assassination of President Kennedy. The place was the Dallas County Jail, a relatively unfamiliar location for Rabbi Hillel Silverman to be calling upon a member of his Conservative congregation. The bronzed, handsome rabbi of Congregation Shearith Israel in Dallas did not relish the task. Nevertheless, he felt an obligation to call upon Jack Ruby, who, the day before, had committed a murder witnessed by millions of Americans on their television screens.

The name of Jack Ruby's victim, of course, was Lee Harvey Oswald, who on the previous Friday, Nov. 22, had murdered both President John F. Kennedy and Dallas Police Officer J. D. Tippit.

Police had started to grill Ruby before he was able to reach a lawyer. Ruby told Rabbi Silverman that he remembered telling one of the policemen on Sunday, "I was afraid that Mrs. Kennedy would be asked to return to Dallas for the trial." That single statement contradicts the claim of the House committee staff that Ruby's story was "concocted" by his lawyer.

There are many other facts which also contradict the conclusions of the House committee. For instance, late on Friday night after the assassination, Ruby went to the Dallas police station and walked into a press conference where Oswald was being interviewed. "Had I intended to kill him," Ruby said, "I could have pulled my trigger on the spot, because the gun was in my pocket."

The next day, Ruby viewed a telecast from New York City on which a Rabbi Seligson was preaching on Kennedy and the assassination. Ruby found this very moving—so much so that he dressed, went to his car, and drove to the site of the assassination, where he walked by the wreaths that had already been placed there.

Ruby told Rabbi Silverman about reading in the Sunday newspaper that Jacqueline Kennedy might have to come back for the trial of Lee Harvey Oswald.

Shortly before 11 A.M. on that Sunday morning, Jack Ruby left his apartment building to go to the downtown Western Union office to wire some money to one of his employees, "Little Lynn," who lived in Fort Worth. According to Rabbi Silverman, Ruby was under the impression that Oswald had already been transferred from the city jail to the county jail, but when he saw people and policemen standing around the police station he decided to return after he wired the money at Western Union.

The time stamp at the Western Union office was 11:17 A.M. The ramp from the street leading down to the basement where Oswald was to get into a vehicle for transfer was barely a half block away.

Ruby left the Western Union office, was able to gain access to the ramp when a policeman's back was turned, and walked down the ramp into the basement area where members of the press were congregated waiting to see Oswald appear. Within a minute or two—at 11:21 A.M.—Oswald, flanked by police officers, stepped out of the basement elevator and walked through the dark corridor toward the area where Ruby and members of the press were standing.

It all happened very quickly. Flash bulbs and strobe lights temporarily blinded the police escort. Ruby generally carried a gun, and when he saw Oswald, he took out his gun and pulled the trigger. The police wrestled Ruby to the floor and he cried out, "I am Jack Ruby."

From that first visit on Nov. 25, Rabbi Silverman tried to see Ruby once or twice a week, until Silverman left Dallas to accept a pulpit in Los Angeles in July 1964. Whenever Rabbi Silverman discussed with Jack Ruby why he had shot Oswald, the answer in essence was the same: in order to save Mrs. Kennedy from having to come back for the trial of Lee Harvey Oswald.

There were many in Dallas—undoubtedly a majority—who believed that the murder of Oswald was part of an overall conspiracy to assassinate President Kennedy. Frankly, when I first came to Washington in early January 1964 to serve as assistant counsel to the Warren Commission, I was anxious to investigate such a possibility. It was not very farfetched to assume that Ruby had killed Oswald in order to silence him, particularly since Ruby was a person who had contacts with organized crime. The possibility was enhanced because Robert Kennedy as Attorney General had declared war on the underworld.

Therefore, on one of my first trips to Dallas, I visited Rabbi Silverman on an informal basis. We had become friends the previous summer on a study mission to Israel. As one friend to another, I told Rabbi Silverman that I recognized that what was said in the intimacy of his conversations with his congregant was privileged, but I wondered whether or not he had any question about the existence of a possible conspiracy. Silverman was unequivocal in his response: "Jack Ruby is absolutely innocent of any conspiracy."

I asked Rabbi Silverman if he was certain of this. "Without a doubt," he replied. Although the tone of his voice was most convincing, and although I realized that Rabbi Silverman had probably become closer to Jack Ruby than any other person in the world, I nevertheless wanted some additional corroboration beyond the investigation by the Warren Commission. The most obvious possibility was a polygraph, or lie-detector, examination.

Inside the Warren Commission, we had already had a major debate about the use of a polygraph. I had expressed to my colleagues my own suspicions that there might have been a conspiracy. For instance, the "single-bullet theory"—which has been corroborated by the House Assassination Committee—grew out of an attempt on my part to prove that there was more than one gunman. Eventually, after analyzing all of the evidence, I determined that indeed there was only one gunman and that that gunman was Lee Harvey Oswald. The medical experts of the House Assassination Committee, as well as an independent panel of medical experts selected by Attorney General Ramsey Clark in 1968 and an independent panel selected by the Rockefeller Commission in 1975, corroborated the fact that all of the shots that struck President Kennedy and Governor Connally came from behind. The House committee corroborated the conclusion of the Warren Commission that the bullet that struck Governor Connally first passed through President Kennedy's neck.

Another area I was concerned about was possible knowledge of conspiracy or involvement in a conspiracy of Marina Oswald, the assassin's widow, and Jack Ruby. I wanted both to undergo polygraph tests, and I started with Marina.

In a written memorandum, I pointed out some inconsistencies in interviews of Marina with the F.B.I. and I also stated that a substantial portion of her testimony was not subject to ordinary tests of credibility because it concerned their life together in Russia. I also said that if under a polygraph examination it was to be shown that "Marina had not been truthful in her testimony, it could throw an entirely new light on aspects of the investigation."

A majority of the staff lined up against me. One member undertook research to prove the limitations of the test and to prove that one could not blindly rely upon test results. In rebuttal, I admitted that the polygraph test had limitations, but I argued that in large part those depended upon the qualifications and competency of the polygraph examiner. Although a lie-detector test may not be admissible in a court of law, we were not in a legal proceeding but rather we were undertaking an investigation, and I urged that we use the polygraph as an investigative aid. Chief Justice Warren sided with the majority of the staff, and my request was denied.

Once the commission had decided against using a polygraph for Marina Oswald, I knew there was no possibility that the commission would consider asking that Jack Ruby undergo a lie-detector test. Therefore, I decided to take matters into my own hands.

Without the knowledge of Chief Justice Warren or anyone else connected with the Warren Commission, I approached Rabbi Silverman directly. I told him that even though he was convinced that Ruby was not involved in a conspiracy in the assassination, the world would never be convinced unless Ruby took a polygraph examination. I also told him that the Warren Commission would never ask Ruby to submit to one and that the only way this could be accomplished would be to have Ruby himself make that request to the Warren Commission.

Rabbi Silverman, of course, had a major dilemma. On the one hand, Ruby was represented by legal counsel and it was up to the lawyers to decide whether or not Jack Ruby would submit to the test. The test could undermine the legal defense of temporary insanity. On the other hand, Rabbi Silverman was absolutely convinced that Ruby was innocent of any conspiracy, and he recognized that a polygraph examination would be a major step in convincing the people of Dallas.

In April 1964, Rabbi Silverman discussed his dilemma with me. My position was very simple: Ruby had already been convicted of murder. The situation could not be much worse. Surely, if he was innocent of any conspiracy, he should come forward and volunteer to take the test.

Finally, Rabbi Silverman agreed to try to persuade Jack Ruby to ask for the test to coincide with his testimony before the Warren Commission.

On June 7, 1964, Earl Warren and Gerald Ford went to the Dallas County Jail to interrogate Jack Ruby. At the beginning of Ruby's testimony, he said, "Without a lie-detector test on my testimony, my verbal statements to you, how do you know if I am telling the truth?"

His attorney interrupted him and said, "Don't worry about that, Jack." But Ruby was not to be denied, and he continued, "I would like to be able to get a lie-detector test or truth serum of what motivated me to do what I did at that particular time. . . . Now, Mr. Warren, I don't know if you got any confidence in the lie-detector test and the truth serum and so on."

Chief Justice Warren replied, "I can't tell you just how much confidence I have in it, because it depends so much on who is taking it, and so forth. But I will say this to you, that if you and your counsel want any kind of test, I will arrange it for you, I would be glad to do that, if you want it. I wouldn't suggest a lie-detector test to testify the truth. We will treat you just the same as we do any other witness, but if you want such a test, I will arrange for it."

And Ruby replied, "I do want it."

Ruby then described to Chief Justice Warren his actions during the weekend of the assassination, which culminated in his killing Lee Harvey Oswald. Just as he had told Rabbi Hillel Silverman about watching the eulogy by a rabbi on television on Saturday morning, Nov. 23, Ruby told Chief Justice Warren:

"He went ahead and eulogized that here is a man that fought in every battle, went to every country, and had to come back to his own country to be shot in the back," and Ruby started crying. After regaining his composure, he continued and told about reading a letter to Caroline on Sunday morning in the newspaper: "And along side that letter on the same sheet of paper was a small comment in the newspaper that, I don't know how it was stated, that Mrs. Kennedy may have to come back for the trial of Lee Harvey Oswald. That caused me to go like I did. I don't know, Chief Justice, but I got so carried away. And I remember prior to that thought that there has never been another thought in my mind; I was never malicious toward this person. No one else requested me to do anything. I never spoke to anyone about attempting to do anything. No subversive organization gave me any idea. No underworld person made any effort to contact me. It all happened that Sunday morning.

"The last thing I read was that Mrs. Kennedy may have to come back to Dallas for trial for Lee Harvey Oswald, and I don't know what bug got ahold of me. I don't know what it is. but I'm going to tell the truth word for word."

Ruby then went into some detail about how he happened to be at the scene. After telling about how he had gone down the ramp into the police-station basement, Ruby said, "You wouldn't have enough time to have any conspiracy. . . . I realize it is a terrible thing I have done, and it was a stupid thing, but I just was carried away emotionally, do you follow that?"

Chief Justice Warren replied, "Yes; I do indeed, every word."

Ruby then continued. "I had the gun in my right hip pocket, and impulsively, if that is a correct word here, I saw him, and that is all I can say. I didn't care what happened to me. I think I used the words 'You killed my President, you rat.' The next thing, I was down on the floor".

In the words of Ruby, "I wanted to show my love for our faith, being of the Jewish faith, and I never used the term, and I don't want to go into that—suddenly the feeling, the emotional feeling came within me that someone owed this debt to our beloved President to save her the ordeal of coming back. I don't know why that came through my mind."

As a matter of fact, although Ruby told Chief Justice Warren that he didn't "want to go into that," and although Ruby was not particularly religious. Rabbi Silverman in a conversation with me recently said that when he first asked Ruby to tell him what happened, Ruby replied, "I did it for the Jews of America."

In his testimony before Chief Justice Warren and Gerald Ford, Ruby added one more facet to his story: "A fellow whom I sort of idolized is of the Catholic faith and a gambler. Naturally, in my business you meet people of various backgrounds.

"And the thought came, we were very close, and I always thought a lot of him, and I knew that Kennedy, being Catholic, I knew how heartbroken he was, and even his picture—of this Mr. McWillie—flashed across me, because I have a great fondness for him.

"All that blended into the thing that, like a screwball, the way it turned out, that I thought I would sacrifice myself for the few moments of saving Mrs. Kennedy the discomfiture of coming back to trial."

Warren asked Ruby whether or not he knew Oswald. Ruby replied, "No."

Ruby was asked whether or not he knew Dallas Police Officer J. D. Tippit, who was murdered 45 minutes after the assassination by Oswald. Ruby said there were three Tippits on the force, but the one he knew was not the one who was murdered on Nov. 22. Ruby maintained, "I am as innocent regarding any conspiracy as any of you gentlemen in the room, and I don't want anything to be run over lightly."

Six weeks later, on July 18, 1964, the Warren Commission made arrangements to have Ruby's testimony taken before a court reporter while Ruby was undergoing a lie-detector test. The man administering the test was one of the ablest in the field, F.B.I. polygraph operator Bell P. Herndon.

At the very last minute, Ruby's chief counsel, Clayton Fowler, tried to stop the test. He told Arlen Specter, the representative from the Warren Commission, that Ruby had changed his mind. But Specter was not to be denied and had the court reporter start transcribing what was taking place. Reluctantly, Fowler admitted, "He says he's going to take this test regardless of his lawyers, and he says, 'By God, I'm going to take the test.' "

What did the test show? According to the test results, Ruby's testimony before the Warren Commission was the truth. Also, according to the test results, Ruby answered the following questions truthfully:

Q. Did you know Oswald before Nov. 22, 1963?

A. No.

Q. Did you assist Oswald in the assassination?

A. No.

Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?

A. No.

Q. Did you shoot Oswald in order to silence him?

A. No.

Q. Is everything you told the Warren Comcission the entire truth?

A. Yes.

Q. Did any foreign influence cause you to shoot Oswald?

A. No.

Q. Did you shoot Oswald because of any influence of the underworld?

A. No.

Q. Did you shoot Oswald in order to save Mrs. Kennedy the ordeal of a trial?

A. Yes.

Q. Did you know the Tippit that was killed?

A. No.

In 1975 there was a rebirth of interest in the whole question of President Kennedy's assassination. A majority of the American people, it appeared, did not believe in the conclusions of the Warren Commission, and in November of that year I called for Congress to reopen the investigation of the assassination. I said that any thorough, objective investigation would reach the same conclusion as the Warren Commission, that Lee Harvey Oswald was the lone gunman who killed President Kennedy and Officer Tippit. I believed that a confirmation of this finding would contribute to renewed confidence and trust in government, and I also believed that it would illustrate the processes by which the American public at times can be misled by sensationalism, demagogy and deliberate misrepresentation of the overall record. Virtually all of the Warren Commission critics have used such techniques, and I thought exposing them to the public could be one of the most important results of the Congressional reopening of the Warren Commission investigation.

At that time, I also said that an objective, thorough investigation would disclose that Jack Ruby was innocent of any conspiracy. I believed that because of my discussions with Rabbi Silverman, coupled with Ruby's testimony, the absence of any direct evidence linking Ruby with a conspiracy, the results of the polygraph examination, and because of one other factor, a happenstance, that changed the course of history.

Oswald was scheduled to be transferred from the city jail at the police station to the county jail several blocks down the street at approximately 10 A.M. on Sunday, Nov. 24. Before the scheduled transfer, he was to undergo the third of a series of interrogations by Capt. Will Fritz, the head of the homicide section of the Dallas Police Department, and representatives of the Secret Service and the F.B.I.

If no one else had joined the group, Oswald would have been transferred on schedule, long before Jack Ruby ever got downtown. However, another person entered the interrogation room Sunday morning. He was Postal Inspector Harry D. Holmes, and he had helped the F.B.I. trace the money order that Oswald used to purchase the rifle with which he killed President Kennedy. Holmes had also helped the F.B.I. trace the ownership of the post-office box that the rifle (and the pistol that Oswald used to kill Officer Tippit) was shipped to.

When I took Inspector Holmes's testimony, I asked him: "Just what was the occasion of your joining this interrogation? How did you happen to be there?"

Holmes replied: "I had been in and out of Captain Fritz's office on numerous occasions during this two-and-a-half-day period.

"On this morning I had no appointment. I actually started to church with my wife. I got to church and I said, 'You get out. I am going down and see if I can do something for Captain Fritz. I imagine he is as sleepy as I am.'

"So I drove directly on down to the police station and walked in, and as I did, Captain Fritz motioned to me and said, "We are getting ready to have a last interrogation with Oswald before we transfer him to the county jail. Would you like to join us?"

"I said, 'I would.' "

After Captain Fritz, the representative of the Secret Service, and also an F.B.I. agent who was present, finished their interrogation of Oswald, Captain Fritz turned to his friend, Postal Inspector Holmes, and asked whether or not Holmes wanted to interrogate Oswald. While the invitation from Captain Fritz was highly unusual, Holmes jumped at the opportunity, and the interrogation continued for another half hour or more.

Ruby shot Oswald approximately five minutes after he, Ruby, left the Western Union office. Had Inspector Holmes continued on to church with his wife that morning and not at the last minute joined the interrogation session with Oswald, the length of interrogation would have been shortened by more than half an hour. Jack Ruby would never have had the opportunity to kill Oswald.

In early June 1979, when I read for the first time that the House Committee staff was asserting that Ruby may have been involved in a conspiracy and that Ruby's lawyers "concocted" his claim that he shot Oswald in order to save Mrs. Kennedy the ordeal of coming back to Dallas, I immediately wrote Chairman Louis Stokes of the House Select Committee on Assassinations. As I had done on previous occasions going back to March 9, 1977, I asked for an opportunity to appear before the House Select Committee in a public session. Chairman Stokes never replied to my initial letter. I wrote him and the other members of the committee on Nov. 22, 1977, and I received a reply from Representative Richardson Preyer, chairman of the subcommittee dealing with the assassination of President Kennedy. Congressman Preyer wrote: "Bob Blakey and I have discussed your appearance before the committee and he assures me that he plans to invite you."

Finally, in July 1978, a committee staff member requested that I come to Washington to appear, not before the committee but before members of the staff in a closed hearing. I have had long experience with closed hearings, going back to my service as counsel to the Warren Commission in 1964 and in 1975 as executive director of the Rockefeller Commission investigating the C.I.A. I felt it was a mistake for the Warren Commission to hold all of its hearings in secret, and I specifically requested that the Rockefeller Commission hold open meetings when classified matters were not under discussion. Unfortunately, my request was turned down by a majority of the members of that commission. Like the members of the Warren Commission, they wanted everything to be contained in one final report rather than released piecemeal.

I reviewed this by telephone with the staff of the House committee and then wrote a letter, with copies to each member of the committee, in which I declined to appear in a secret session. In that letter, I concluded: "I happen to have a deep philosophical conviction of the need for more openness in government and particularly the opportunity for a free press to report on the activities of government wherever possible.

"I do not necessarily believe that every single one of your hearings should have been open to the public, but I believe there is much over the past year and a half that could have been. For me now to appear in a secret hearing would be to give support to a course of action that I believe to be unsound and against the best interests of the people in a free society.

"Therefore, I must respectfully decline your request to appear at a secret meeting where neither the press nor members of the committee are present. However, I would be very happy to come to Washington to appear in an open public hearing before your entire committee. I believe that there is a major contribution that I can make because of my background and experience (although I am naturally disappointed that I was not called earlier when I believe I could have made an even greater impact before your investigation was substantially completed)."

The committee staff was adamant in its position. They said there was not enough time for me to appear before the committee, and they also refused to have any public hearings other than those that were personally orchestrated by the staff. Finally, in an effort to break the logjam, I agreed to appear before the staff, rather than the committee itself, as long as it was an open hearing. However, from firsthand experience with the Warren Commission and Rockefeller Commission, I know (and advised the members of the committee) that the depositions or testimony of witnesses where committee members are not present does not have nearly the impact that testimony before the committee itself does. Blakey refused to allow members of the press to be present at a staff meeting; therefore, I did not appear.

Assassination sensationalists were permitted to testify before the committee and were included in the limited public hearings, where they made their many false claims. But the committee never gave me a corresponding opportunity, although in recent years I have been called the leading defender of the Warren Commission Report. I know that there were many areas where I could have made a major contribution to the committee, if I had had the opportunity to appear, particularly because of my unique position as the only person in the world who served with the Warren Commission who also served with the Rockefeller Commission and saw everything in the files of the C.I.A. concerning the assassination of President Kennedy.

Based upon my experience in two of the most widely publicized commissions of this century, it is my firm conviction that one of the greatest dangers to our freedom is excessive secrecy and the harm it does to the vital check-and-balance system of a democratic society. The way Congressional staffs work today compounds the problem. These staffs, in the words of James Reston, have become like "hidden legislatures," operating beneath the surface, conducting investigations in the name of, and on behalf of, elected representatives who themselves do not have enough time to perform the work. The staff members feed questions to the representatives, write reports in the name of the representatives, and lead the elected representatives of the people down a primrose path until it is too late for the representatives to do anything.

The House Select Committee on Assassinations is a microcosm of Capitol Hill. I know that the report of the House Select Committee on Assassinations will not stand the test of history. When people examine such failures as the absence of any testimony from Rabbi Silverman, the failure to consider the happenstance of Postal Inspector Holmes's missing church that fateful Sunday morning, and all of the other inadequacies that will come to light, the folly of the multimillion-dollar supersecret investigation will become clear to all.

This report should stand as a perpetual monument to the tinderbox combination of excessive powers of Congressional staffs, combined with the excesive dangers of ultrasecret investigations.

Only through a vibrant free press can these dangers be overcome. And they must be overcome if this country is to be able to deal effectively with the national problems facing our society over the next 20 years and beyond.●

FEDERAL AID WILDLIFE RESTORATION ACT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MURPHY of New York. Mr. Speaker, following is a copy of the executive communication No. 1660 from the Department of Interior in explanation of a draft bill which was introduced in the form of H.R. 4888, to amend the Federal Aid Wildlife Restoration Act.

The communication follows:

UNITED STATES DEPARTMENT
OF THE INTERIOR,
Washington, D.C., May 21, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith is proposed legislation to amend the Federal Aid in Wildlife Restoration Act of September 2, 1937 (50 Stat. 917) as amended (16 U.S.C. 669–6691) to require the use of the most current and complete population data. We urge that this proposal be referred to the appropriate committee and that it be enacted.

The Federal Aid in Wildlife Restoration Act (16 U.S.C. 669–6691; 50 Stat. 917), as amended several times provides funds to States for wildlife restoration and hunter safety programs. Under the Act, commonly referred to as the "Pittman-Robertson Act", funds from an 11 percent excise tax on sporting arms and ammunition (Internal Revenue Code of 1954, section 4161(b) and 4181) are appropriated to the Secretary of the Interior annually and apportioned to States on a formula basis for paying up to 75 percent of the cost of approved land acquisition, research, development and management projects.

Public Law 91–503, approved October 23, 1970 (84 Stat. 1097), added a 10 percent tax on pistols and revolvers to the Pittman-Robertson Fund one-half of which may be used by the States for hunter safety programs. This amendment also provided for development of comprehensive fish and wildlife management plans as an optional means for participating in the program. On October 25, 1972, the Act was further amended by Public Law 92–558 (86 Stat. 1172) to add an 11 percent excise tax on bows, arrows, parts and accessories for use in wildlife projects and hunter safety programs and amended June 8, 1974, by Public Law 93–313 (88 Stat. 238) to provide for a six month delay, until January 1, 1975, in the initiation of the collection of the excise tax on bows, arrows, parts and accessories. As of 1977, the fortieth year of the program, $800 million had been apportioned to the States for wildlife restoration and hunter safety projects.

Under the provisions of section 4(b) of the Act (16 U.S.C. 669c(b)), one-half of the revenue from the excise tax on pistols, revolvers, bows, and arrows is apportioned to the States based on population of each State. The States may use the funds apportioned under this section for hunter safety programs. Apportionments are adjusted so that no State receives more than three percent or less than one percent of the total apportioned. Population is determined by the latest decennial census. Since the apportionments are based on decennial census figures, population changes occurring during the interval between each census are not reflected in the amount each State receives. The proposed legislation would remove this requirement, and in lieu thereof, and in accord with the Office of Management and Budget Circular A–46, "Standard Data of Total Population Used in Distributing Federal Benefits" required use of the most current and complete national series of population data published by the Buearu of the Census.

Under this approach, approximately $48,000 or less than one percent of total program appropriations would have been reallocated among 19 States in fiscal year 1978. A summary of these adjustments is enclosed.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Assistant Secretary.

State	1970 population	1976 population[1]	Actual 1978 apportionment	Rev. 1978 apportionment	Amount of change
Alabama	3, 444, 165	3, 665, 000	915, 397	213, 862	−1, 535
Alaska	302, 173	382, 000	88, 000	88, 000	0
Arizona	1, 772, 482	2, 270, 000	110, 851	132, 460	+21, 609
Arkansas	1, 923, 295	2, 109, 000	120, 282	123, 065	+2, 783
California	19, 953, 134	21, 520, 000	264, 000	264, 000	0
Colorado	2, 207, 259	2, 583, 000	138, 041	150, 724	+12, 683
Connecticut	3, 032, 217	3, 117, 000	189, 634	181, 884	−7, 750
Delaware	548, 104	582, 000	88, 000	88, 000	0
Florida	6, 789, 443	8, 421, 000	264, 000	264, 000	0
Georgia	4, 589, 575	4, 970, 000	264, 000	264, 000	0
Hawaii	769, 913	887, 000	88, 000	88, 000	0
Idaho	713, 068	831, 000	88, 000	88, 000	0
Illinois	11, 113, 976	11, 229, 000	264, 000	264, 000	0
Indiana	5, 193, 669	5, 302, 000	264, 000	264, 000	0
Iowa	2, 825, 041	2, 870, 000	176, 677	167, 472	−9, 205
Kansas	2, 249, 071	2, 310, 000	140, 656	134, 794	−5, 862
Kentucky	3, 219, 311	3, 428, 000	201, 335	200, 032	−1, 303
Louisiana	3, 643, 180	3, 841, 000	227, 843	224, 132	−3, 711
Maine	993, 663	1, 070, 000	88, 000	88, 000	0
Maryland	3, 922, 399	4, 144, 000	245, 306	241, 812	−3, 494
Massachusetts	5, 689, 170	5, 809, 000	264, 000	264, 000	0
Michigan	8, 875, 083	9, 104, 000	264, 000	264, 000	0
Minnesota	3, 805, 069	3, 965, 000	237, 968	231, 366	−6, 602
Mississippi	2, 216, 912	2, 354, 000	138, 645	137, 362	−1, 283
Missouri	4, 677, 399	4, 777, 000	264, 000	264, 000	0
Montana	694, 409	753, 000	88, 000	88, 000	0
Nebraska	1, 483, 791	1, 553, 000	72, 736	70, 631	2, 175
Nevada	488, 738	610, 000	88, 000	88, 000	0
New Hampshire	737, 681	822, 000	88, 000	88, 000	0
New Jersey	7, 168, 164	7, 336, 000	264, 000	264, 000	0
New Mexico	1, 016, 000	1, 168, 000	88, 000	88, 000	0
New York	18, 190, 740	18, 084, 000	264, 000	264, 000	0
North Carolina	5, 082, 059	5, 469, 000	264, 000	264, 000	0
North Dakota	617, 761	643, 000	88, 000	88, 000	0
Ohio	10, 652, 017	10, 690, 000	264, 000	264, 000	9
Oklahoma	2, 559, 253	2, 766, 000	160, 055	161, 402	+1, 347
Oregon	2, 091, 385	2, 329, 000	130, 795	135, 902	+5, 107
Pennsylvania	11, 793, 909	11, 862, 000	264, 000	264, 000	0
Rhode Island	949, 723	927, 000	88, 000	88, 000	0
South Carolina	2, 590, 516	2, 838, 000	162, 010	166, 187	+4, 177
South Dakota	666, 257	686, 000	88, 000	88, 000	0
Tennessee	3, 924, 164	4, 214, 000	245, 416	245, 896	+408
Texas	11, 196, 730	12, 487, 000	264, 000	264, 000	0
Utah	1, 059, 273	1, 228, 000	88, 000	88, 000	0
Vermont	444, 732	476, 000	88, 000	88, 000	0
Virginia	4, 648, 494	5, 032, 000	264, 000	264, 000	0
Washington	3, 409, 169	3, 612, 000	213, 209	210, 768	−2, 441
West Virginia	1, 744, 237	1, 821, 000	109, 084	106, 259	−2, 825
Wisconsin	4, 417, 933	4, 609, 000	264, 000	264, 000	0
Wyoming	332, 416	390, 000	88, 000	88, 000	0

DYING MAN AWAITS JOY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. VENTO. Mr. Speaker, there are times in the course of human events when crushing despair is lifted as if by Divine Will, when the hope of one's hopes is realized.

One such experience was realized days ago in St. Paul when, Jan Puszkarz, a Polish immigrant who is dying of cancer, was given the word that members of his family were granted exit visas by the Warsaw government after a protracted delay.

The "miracle" for Jan Puszkarz happened because of the most effective intervention of our colleague, Chairman Clement J. Zablocki, and able staff members of the House Committee on Foreign Affairs.

Their intercession at the highest levels with His Excellency Romuald Spasowski, the Ambassador of Poland, and Foreign Minister Wojtaszek quickly produced the visas needed by Jan Puszkarz's family and relatives. Their gratitude, and mine, for this wonderful deed are offered to Clem and the Polish officials who were so warmly responsive to a dying man's request.

Thanks are also due to the St. Paul Dispatch writer Don Del Fiacco who first alerted my administrative assistant, Bob Hess, to the plight of Mr. Puszkarz and continued to cover his story.

I insert Mr. Del Fiacco's very touching account of the happy ending to this saga:

Dying Man Awaits Joy

(By Don Del Fiacco)

The good news arrived here spectacularly on Friday the 13th, that dreaded day of misfortune and evil.

Dispatched joyously from the District of Columbia, it hummed under ladders, stilled the whine of blackcats and soared the steps of St. Casimir Catholic Church, where bells sing of Polish pride and contempt of the devil.

At a small, modest East Side home, men and women spoke reverently of a "miracle" awarded a 66-year-old retired janitor who is suffering from terminal bone cancer.

Jan Puszkarz, they rejoiced, perhaps soon will receive his daughter and son-in-law and their two children from Poland. He will be allowed to embrace grandchildren he has never seen.

"Thanks to God!" sobbed a Puszkarz daughter, Mrs. Anna Naplorkowski, of 1076 E. Rose Ave. "I feel like a miracle is happening."

But Puszkarz, who returned home July 6 after a long stay at St. Joseph's Hospital, remains unconvinced that his desperate loneliness will end. "Don't dance until you see them," he told his family.

Puszkarz' doubt is understandable. The report that the Polish government finally has agreed to release his family was unexpected. He has viewed bureaucrats with cynicism and fear. He has been unaware that 4th District Congressman Bruce Vento and Robert Hess, Vento's administrative assistant in St. Paul, have been working vigorously in his behalf.

The ordeal actually began five years ago when Mrs. Naplorkowski initiated proceedings to bring Wiktor Dasczyszak family to Minnesota. The attempts were frustrated, but her sister, Janina, was permitted to visit her ailing father for a month last fall.

As her father's condition worsened, Mrs. Naplorkowski, who is married and the mother cf two, heightened her efforts to bring over the family, which includes Katyrzyna, a 5-year-old girl, and Krzyazlof, a 20-month-old boy.

She contacted Vento and Hess and corresponded with the office of Vice President Walter Mondale. The congressman and his aide then lobbied the U.S. State Department, the Polish Embassy in Washington and the American Embassy in Warsaw.

Nevertheless, the Polish government on April 9 denied the Daszczyszaks an exit visa on the grounds that Wiktor, a former bus driver who now operates a truck, was considered a "necessary worker" in the communist nation.

Vento and Hess declined to accept the rejection and instead made the case a top priority.

I wrote a column on the issue which was published in the June 12 Dispatch. The next day, Vento read the column into the Congressional Record, pointing out the "cruel vindictiveness of totalitarian regimes toward vulnerable, little people."

"This has been one of the most frustrating matters, my staff has been involved with in a long time," Vento continued in the chambers of the House of Representatives. "The complete absence of compassion is without parallel in our experience."

On the recommendation of Donald Wozniak, a St. Paul attorney, copies of the Congressional Record message and the Puszkarz case file were sent to Rep. Clement Zablocki of Milwaukee, who is of Polish ancestry. Vento then visited Zablocki, who moved the Puszkarz material to Polish Ambassador Romalda Spasowski. Last week Zablocki, who is chairman of the House Foreign Affairs Committee, lunched with Emil Wojtaszek, Polish foreign minister in Washington.

The Polish diplomat assured Zablocki that the Daszczyazaks would be granted permanent visas allowing them to live permanently in the United States. Vento and Hess are providing relentless follow-up and have urged speedy processing of the case by the State Department.

"The response from the department has been very positive," Vento said.

Puszkarz, of 991 E. Rose Ave., speaks little English and communicates well only with his wife, Eugenia, Mrs. Naplorkowski and a third daughter here, Julia Rahn. He farmed in Poland until coming here about seven years ago.

Crippled by cancer, Puszkarz has pledged to repulse death until after the arrival of the Daszczyazaks. "I cannot die. I have to see them," he often tells his wife and children.

"I just hope they make it on time," said Mrs. Naplorkowski.●

WARNING ABOUT ADVERSE IMPACT OF ENERGY CRISIS ON ELDERLY, DISABLED SOUNDED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. BIAGGI. Mr. Speaker, as Congress prepares to deliberate on important energy legislation prompted by President Carter's new energy proposals. I wanted to bring to the attention of my colleagues two very important statements detailing the impact of the energy crisis in this Nation's 45 million elderly and disabled citizens.

The statements were delivered this morning at a press conference called by the American Coalition of Citizens With Disabilities and the National Council of Senior Citizens. A somber message was conveyed in the first line of the statement of Dr. Frank Bowe, Director of ACCD:

> The nation's energy crisis is now beginning to institutionalize disabled and elderly people.

The NCSC statement delivered by their Executive Director William Hutton made one dramatic point:

> We will not sit by and allow our 5.5 million members to be left out in the cold.

The President is to be commended for the initiatives he has already announced. However the ultimate success of the plan will be measured to some extent on the input and support he receives from the elderly and disabled community.

I have several particular concerns which must be addressed as we proceed in the development of new energy legislation.

With respect to gasoline rationing—I consider it imperative that exemptions from rationing be provided to those vehicles which deliver public or private meals to the homebound elderly and disabled.

With respect to the President's call for a new commitment of billions of dollars into mass transportation. I applaud this initiative but feel that the dual issues of accessibility and availability must be addressed as they pertain to the elderly and disabled community.

Finally, the prospect of a long cold winter looms over millions of Americans most especially low-income elderly and disabled. Whether the issue be the supply of energy or the prohibitive costs—we must prepare some legislation soon to avert a tragedy.

I serve as chairman of the Subcommittee on Human Services of the House Select Committee on Aging. It is my intention to conduct a series of field hearings during August to assess the impact of the President's energy on the elderly. I hope to share my findings with my colleagues.

At this point in the Record I wish to insert these two important statements:

Remarks by William R. Hutton, Executive Director, National Council of Senior Citizens

As the prices of the home heating oil and gasoline continue to rise, as supplies—both domestic and international—steadily decline, Americans are rapidly becoming aware of the serious, potentially devastating effects of the "energy crisis." We as a nation are turning to our leaders for a solution to this intractable problem.

The National Council of Senior Citizens and the other groups represented at this press conference are helping in this search for solution, but we know that there are no easy answers and that none will come quickly. The costs of energy will continue to rise over the next several years, of this we are sure, and we are fearful that many Americans—the poor, the disabled, and the aged—will suffer undue hardships as a result.

We have called this press conference today to announce that our organizations will not sit by and allow over 5.5 million members to be left out in the cold. We are here to announce that we will undertake a major program of sensitizing the American people to the serious problems facing elderly and handicapped Americans in coming to grips with the energy problem.

The other night President Carter went on TV to make a major address on the subject of energy. Contained in that speech was the statement that he intends to support a $10 billion program to fund mass transportation over the next ten years.

We applaud this action and we agree that mass transit offers a cost and energy efficient alternative for meeting America's transportation needs. Unfortunately, there are some who think of mass transit as something only able-bodied people should use. There are some who say let the elderly and the handicapped stay home or ride on separate buses. There are some who say the President's transportation policy is fine as long as we don't have to change our ways!

I am talking specifically about the American Public Transit Association, the people who have the responsibility of moving Americans around our cities and towns. APTA doesn't like being told that they have a responsibility to the elderly and the handicapped, so they are suing DOT and HEW for telling them that they do.

NCSC believes that APTA is wrong in instituting this lawsuit, and further we believe that if they devoted half as much attention to implementing the accessibility regulations as they have to trying to stop them, our nation as a whole would be better off.

NCSC, along with the other groups represented here today, will intervene in this lawsuit on behalf of HEW and DOT and we will fight APTA right down the line.

We believe that a comprehensive mass transit program available to all Americans is the best possible energy conservation program we could enact. Cities that continue to pour millions of dollars into separate transportation for the elderly and handicapped are wasting money and energy.

Of course, the type of mass transit program we envision will not come to pass in the very near future and we must adopt short-term measures to deal with the energy crisis. In doing so, let us not forget that the most vulnerable members of society, the poor, have been conserving energy simply because they cannot afford not to.

Whether America adopts a system of gas rationing or not, valuable energy supplies are being rationed right now. The rich continue to buy their cadillacs and their central air-conditioners, and the poor ride on buses and save pennies to pay for home heating oil. This must not be allowed to continue. A gas rationing plan based on the principle of need is far better and far more equitable than one based on the ability to pay.

Clearly, the aged poor and the disabled must be assured sufficient supplies of gasoline and home heating oil in order for them to survive and we will do what we can to see that these people are protected.

To that end, the National Council of Senior Citizens and the American Coalition of Citizens with Disabilities are going to work together to develop a joint energy program to accomplish three overall purposes:

(1) to insure that mass transit becomes a focal point in the government energy policy;

(2) to work with the Congress and the Administration in developing an equitable system of distributing scarce energy resources; and

(3) to make the energy needs of the poor, the elderly and the disabled a major issue to be addressed by candidates for national office in 1980.

We feel that this coalition will be extremely effective and that our success in the past will continue in the future. In fact, the alliance of elderly and disabled groups has worked together on many issues of mutual concern. One, the Disability Insurance Amendments, will come up for a vote tomorrow in the House of Representatives. Our organizations have worked tirelessly over the past months to kill this bill because it would force great hardships upon an already overburdened group of Americans.

STATEMENT OF ACCD DIRECTOR BOWE, DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES INC.

The nation's energy crisis is now beginning to institutionalize disabled and elderly people. With prices rising, supplies falling, and alternatives available to other Americans inaccessible to millions of disabled and elderly citizens, we now expect that as many as two million of these people will be forced into institutions in the next few years unless firm steps are taken now.

These tragedies are avoidable. Today, we want to outline what we expect our government to do and what we, the American Coalition of Citizens with Disabilities (ACCD), the National Council of Senior Citizens (NCSC), and other organizations, including Paralyzed Veterans of America (PVA) and the Grey Panthers are doing in response to the energy crisis.

First, however, let me explain why the concerns of disabled and elderly people are deeper and more desperate than those of most other Americans. For years, ACCD and NCSC have been seeking accessible mass transportation as a civil right and as a prudent economic and political policy. Opposition from public transit authorities and bus manufacturers has been strident, heated, and sustained. As a result, little progress has been made. Today, public transportation is accessible only in a few rare instances. Thus, while most Americans are turning to public transit in an effort to conserve energy, as many as 13 million disabled and elderly individuals are denied access to this tax-supported system. These people cannot follow President Carter's request to "park your car one extra day per week." The automobile, often specially adapted for access, is the only choice these people have.

Disabled and elderly people are among America's poorest citizens. Almost half of all disabled adults in this country are at or near the poverty level; among senior citizens, more than half are. These people seldom can obtain higher-paying positions, second jobs, and other sources of extra income. As it is, they are just barely able to meet the most minimal standards of living. The soaring fuel prices have made even these levels unreachable for many.

For many disabled and elderly people, especially those with heart, lung, and related conditions, the long waits at odd hours of the day, together with the attendant anxiety, are actually health- and even life-threatening.

ACCD's nationwide survey of disabled and elderly Americans has revealed that many are despairing of being able to leave their homes to work and live independently in the community. Looking to the coming winter, with home heating oil prices expected to be upwards of $1 a gallon, they tell us they will not be able to continue to live in apartments and private homes. Hundreds have already told us they are resigned to having to enter institutions, nursing homes, and hostels.

These problems are urgent national issues. The population alone—45 million people—is sufficient reason for the nation to be concerned about these problems. The economic costs of institutionalization, which averages in excess of $10,000 per person per year in many areas of the country, are huge.

Disabled and elderly people we have surveyed are almost unanimously in support of the President's energy program—if some critical modifications are made. This should not be surprising. Disabled and elderly people have been conserving fuel for years, for the simple reason that they could not afford not to. They have always been willing to use public transportation, but public transportation has never been willing to have them. Disabled and elderly people, living as they do on low and fixed incomes, hurt more from inflation, rising fuel costs, and related problems than do most Americans, and so have the most to lose if the program is not successful. Yes, disabled and elderly people are ready to follow the President's lead. Cooperation is not the problem. Rather, the problem is that the President, the Department of Energy, and the Federal Government as a whole have failed to understand the problems disabled and elderly people face and to find ways these people can cooperate with and participate in the program. And the problem is that city and county transit authorities and private bus manufacturers persist in fighting access in a continuing effort to keep us out of their subways and off their buses.

ACCD, NCSC, and other cooperating groups believe that the top priority of this nation must be to make public transportation available to all Americans at a price they can afford. Public transit systems use less energy per passenger, and entry of disabled and elderly passengers once the system is made more accessible will not raise these costs. By contrast, forcing these people to use private autos, expensive "special services," and taxis will require hundreds of thousands of barrels of oil daily.

Making public bus and subway systems accessible, as the Department of Transportation has proposed in its regulations which became effective this month, will cost less over the coming decade than "special services" would cost each and every year. Clearly, it is in the nation's best interest, as well as that of disabled and elderly people, to make buses and subways accessible.

We also believe that fair energy regulations, including gasoline rationing systems, must allow for exemptions for severely disabled persons unable to use other modes of transportation and for needed services such as Meals-on-Wheels. We propose that persons with "handicapped" parking plates, stickers indicating disability, or appropriate medical certificates be allowed to purchase gasoline without restrictions and with price subsidies, until mass transportation becomes accessible. If the DOT regulations are implemented fully, this would be prior to 1990. Similarly, subsidies for home heating oil, such as those proposed by Senators Javits and Jackson, are essential if disabled and elderly people are to be able to afford to live independently.

Finally, and most important, the special needs of disabled and elderly people require recognition and attention from elected officials. We have inaugurated a program of educating candidates for the Presidency, especially prior to the New Hampshire and Florida primaries, about these needs and extracting from them formal pledges to respect these needs and concerns. Concurrently, we will be attempting to heighten the awareness of these issues among the general public through various media, in yet another effort to sensitize elected officials in federal, state, and local government.

ACCD, NCSC, PVA, the Grey Panthers, and other organizations are committed to advising their members about measures to conserve energy. We will help them comply with the President's program.

Disabled and elderly people do not consider themselves "special" and deserving of "special" treatment. Rather, they see themselves as full citizens, equally important with others in this country. These people seek, not a way out of the President's program, but a way in. They want to be able to benefit only as much as others do—to obtain equally effective services. Because of their special needs, of course, provisions are required for this equal effectiveness to become reality. Because alternative transportation is not now available, they ask to be able to use what is available. And, because they know that public transportation is energy-efficient, they ask the opportunity of using it as soon as possible. As national organizations, we will help them obtain these objectives.

The President has made a good beginning by proposing a program to provide loans for conservation improvements in private homes, by offering assistance in converting home heating equipment, by earmarking $10 billion over the next ten years for mass transit, and by proposing an increase in his program of assistance for poor individuals. He has not, however, satisfied our desire to ensure that these measures will be equally available to disabled and elderly people. We will be working with the President and the Congress to see that the final program contains these provisions.

And we will continue to resist the regressive lobbying of public transit authorities and bus manufacturers. The transit officials are even now trying to declare our hard-won transportation access rights null and void. They are even now lobbying in the Congress to stop mandated accessibility measures. The bus companies—there are only two in this country—are continuing to frustrate the will of the Congress, the desire of the Administration, the needs of disabled and elderly Americans, and the public need for affordable transportation by refusing to build even one Transbus, the only standard-size bus everybody can use safely, comfortably, and reliably.

Next Wednesday, we will file a motion in the U.S. District Court for the District of Columbia against the petition for an injunction halting implementation of section 504 in transportation. The petition, filed by the American Public Transit Association (APTA), would cost this country untold millions of dollars in wasted energy and would deny millions of disabled and elderly people an opportunity to join in the President's energy program. We will be joined in filing by organizations of disabled and elderly people in the same twelve cities that joined APTA in its petition; these people are outraged by the insensitivity of their own transit authorities.

We will follow this action with vigorous and sustained efforts to mobilize this country's 45 million disabled and elderly citizens for a major united impact in the 1980 elections. While ACCD will not endorse a candidate, we will publicize statements of all candidates concerning the issues we believe important. And we will follow up to ensure that never again will disabled and elderly people be brought to the brink of institutionalization by insensitive public and private officials.

One year ago, I wrote a book called "Handicapping America." In this book, I said that America was handicapping disabled people, erecting unnecessary barriers in their paths by continuing overt discrimination, designing inaccessible buildings and programs, denying these people an appropriate education and excluding them from employment commensurate with their abilities and talents. Because we were doing these things, I said, we were handicapping America itself—we were turning tax-payers into tax-users, independent citizens into dependent people, integrated members of our community into segregated outsiders.

Today, millions of Americans have begun to experience, in an intensely personal way, what it means not to be able to move about freely, not to be able to control their environment, not to be able to live independently. The energy crisis is handicapping America. The frustration, the anger, the pain, the feeling of hopelessness and despair—what the President has called a "malaise"—are intimately familiar to disabled and elderly people. We know how you feel—and we care.

Let us work together, not to further handicap America, but to rehabilitate America.

Backgrounder: About The ACCD Survey on Energy

ACCD's national convention, meeting in Houston, Texas, 17-20 May 1979, passed as its first resolution the following:

"Now therefore, be it resolved that the American Coalition of Citizens with Disabilities actively encourage legislative and regulatory changes to offset the disproportionate effect that inflation, gasoline shortages and current governmental policies concerning transportation needs has on mobility impaired individuals, and that efforts should include, but not be limited to, ensuring that mobility impaired individuals are exempted from gas rationing and that tax credits are enacted to ameliorate the disproportionate economic effect on the disabled."

Our first step in implementing this resolution was to design and conduct a nationwide survey of organizations and individuals in an effort to ascertain the extent of this "disproportionate effect" and to obtain guidance on what "efforts" were needed.

We contacted 200 organizations and more than 100 individuals in the Northeast, South, Midwest, and West. An additional 110 disabled and elderly persons called us independently, fully 58% of whom sought economic relief from high gas and oil prices. We found that gasoline-related problems were especially intense in the South and the Midwest, and worries about oil particularly acute in the Northeast.

Almost half of our respondents were black or Spanish-background individuals. While high, this is not unexpected insofar as disability is markedly more prevalent among racial minorities in this country than among the white majority. About 75% of those who called us were elderly as well as disabled; they knew about our alliance with elderly Americans and looked to us for assistance.

Almost all of the people we contacted, both in the survey and in the unsolicited calls, had experienced intense problems with energy. We were told about health conditions being exacerbated by long waits and anxiety on the gas lines, with several reporting that they had to visit doctors as a result.

But the most poignant comment was also the most frequent: they could not see how they could continue to live independently in the coming months and years. The prices were too high; the lines were too long; the hours were too taxing; the prospects this winter were frightening.

Following our survey, we re-examined publicly available statistics about income, employment status, residence, age, and disability among the disabled and elderly populations. We reluctantly reached the conclusion that as many as two million disabled and elderly persons were potentially susceptible to institutionalization in some form or another, including nursing homes, hostels, and other facilities because of very low income, severe mobility impairments, poor or nonexistent job prospects, and low likelihood of sufficient public assistance needed for independent living.

Announcing: National Disabled and Elderly Coalitions Holding Emergency Energy Press Conference

Washington, D.C.—The nation's energy crisis will literally institutionalize several million disabled and elderly Americans unless specific steps are taken now, spokesmen for disabled people and senior citizens will warn tomorrow.

Dr. Frank Bowe, director of the American Coalition of Citizens with Disabilities (ACCD), Inc. and William Hutton, executive director of the National Council of Senior Citizens (NCSC) will make this statement at a press conference on Thursday, July 19, 11:30 a.m. in the Senate Room of the Capitol Hilton Hotel on 16th and K Streets, N.W., Washington, D.C.

Dr. Bowe and Mr. Hutton will emphasize 5 areas of major concern between America's disabled and elderly:

(1) The devastating effects the energy crisis has had and will have on America's elderly and disabled citizens.

(2) The urgent need for accessible mass transit. ACCD and NCSC will announce legal action and other steps to secure this vital objective, which is a central energy concern of the nation.

(3) Fair energy rules. Support of President Carter's energy program will be expressed, provided specifications on how the program will be implemented are offered.

(4) Attention to needs. A political union between the disabled and elderly coalitions is being strengthened as the two populations seek national recognition of their urgent problems in an "era of limits."

A news release, economic fact sheets, and opening remarks will be distributed at the press conference.

Fact Sheet: Why Disabled and Elderly People Are Uniting

Common Concerns: Both disabled and elderly people need:

Accessibility in buildings, vehicles, facilities.

Nondiscrimination in employment and service delivery.

Reform of social security regulations and legislation to permit those who can work to attempt employment.

Greater public recognition of abilities and talents as independent, self-sufficient, citizens.

Enhanced vocational training or retraining programs, including continuing and adult education, vocational rehabilitation, and technical education.

New technology, including space-age spinoffs.

Overlap in Populations: Elderly people tend to become disabled, while disabled people eventually become old.

Thirty percent of all disabled people are over 65 years of age.

Twenty-five percent of all persons aged 65 or older have one or more disabilities.

Successful Cooperation: Recent joint efforts by disabled and elderly people have produced marked improvements in transportation regulations for accessibility, enhanced enforcement of age- and disability-related nondiscrimination laws, and better social security programming. This evidence of progress on the national level is now spurring state and local cooperation.

Likelihood of Impact: With both populations having a history of voting more frequently than the national average (elderly people vote at a 65% rate v. 45% overall; statistics on disability voting are sketchy because of definition problems, but available evidence is that it is strong). Working together on shared goals, the 45 million elderly and/or disabled population is certain to have a major impact on public policy in the years to come. This is especially true when cutbacks in federal funding for vital programs politicizes the population, as is now happening in New Hampshire, Massachusetts, Florida, and other early-primary states.

FACT SHEET: ENERGY AND DISABLED AND ELDERLY PEOPLE

Size of the Populations: 36 million disabled; 23 million aged 65 or over; 20 million aged 55–65; and 45 million disabled and/or aged 65 or over (eliminating overlaps in population).

Geographical Location: 70% of both populations (disabled, over 65) are urban residents; 25% of both populations are rural residents; about 5% are suburban; and both populations tend to live in the South or the Northeast.

Transportation Modes: Private automobiles (many specially adapted) are overwhelmingly used. About 13 million cannot now use public transportation because buses and subways are not accessible. Some use special van or taxi services, which average in cost about $7/one-way trip/person.

Housing: Most disabled persons rent in older buildings with comparatively inefficient heating equipment; most elderly persons own or rent in such buildings. Replacement of equipment with more energy-saving devices is often financially out of reach because tax rebates are delayed and partial. Moving to newer quarters is very difficult because few buildings are accessible and affordable.

Income: Both populations tend to be poor. Among disabled people, almost half are at or near the poverty level; among elderly persons, more than half are. And these are usually fixed incomes: better-paying jobs, second jobs, and other avenues to higher income are often closed.●

H.R. 4889—DISMAL SWAMP

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MURPHY of New York. Mr. Speaker, following is a copy of Executive Communication No. 1626 from the Department of the Interior in explanation of a draft bill which was introduced in the form of H.R. 4889, to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge:

U.S. DEPARTMENT OF
THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 16, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft bill which would extend the authorization for the Great Dismal Swamp National Wildlife Refuge for an additional three years. We recommend that this proposed legislation be forwarded to the appropriate Committee and that it be enacted.

The Great Dismal Swamp National Wildlife Refuge, located in North Carolina and Virginia, was established in 1974 by Public Law 93–403. The Refuge was to consist of approximately 50,000 acres donated to the Service by the Union Camp Corporation through the offices of The Nature Conservancy plus any additional lands the Service would acquire after completing a study of the Swamp. As a result of the study, the Service now plans that the Refuge will consist of approximately 114,000 acres in total, of which more than 85,000 acres already have been acquired by purchase and donation. An additional 14,000 acres of adjacent land is administered in conjunction with the Refuge by the State of North Carolina.

Land acquisition has been slow due to the fact that most of the land yet to be acquired is divided among 80 owners. Thus, we are requesting an extension of the authorization period in order to complete the purchase of the lands for the Refuge.

Great Dismal Swamp has a remarkable diverse collection of fish and wildlife. It supports the only breeding population of black bears in eastern Virginia, in addition to a sizable deer population, bobcat and numerous smaller mammals. A large number of migratory songbirds use the swamp as well as some waterfowl and a variety of resident species. The red-cockaded woodpecker, an endangered species, nests in the mature pines within the area. The area also includes some unique floral association, among them are some of the largest stands of the relatively scarce Atlantic white cedar.

The area is also rich in historical significance. In 1763 George Washington visited the area and later surveyed much of it. He was impressed by both the beauty of the swamp and the commercial possibilities of its timber resources. He formed a company in 1764, called the "Adventurers for Draining the Great Dismal Swamp," which dug many ditches and drainage canals in the area to facilitate the timber harvest. The first such ditch, probably dug in the late 1760's now called the Washington Ditch, was five miles long and twelve feet wide. It was one of the first canals dug in the colonies and may well be the oldest canal still in useable condition in the country.

The value of the area, from both a natural and historical viewpoint, is enhanced by its relative proximity to a number of urban areas, thus providing the public with a rare opportunity for public environmental education and recreation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Assistant Secretary.●

ROUSSELOT COMMENTS ON FREE PRESS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. ROUSSELOT. Mr. Speaker, much has been said in the last decade about the power of the press in our country. A lot of criticism, if I might be candid, has come from my own party. Some of the criticism has perhaps been too harsh.

We must not forget a central truth: A free press is one of the great strengths of a free society. It keeps our Government and other major institutions honest. If there is occasional excess, it must be tolerated as a "necessary evil" accompanying the great benefits which flow from a society which is free to express itself.

Recently an essay appeared in Time magazine which examined "the press, the courts and the country" in a particularly thoughtful and evenhanded manner. The essay addresses the strengths and weaknesses of the press, and provides some valuable comments which should be kept in mind as courts and Congress wrestle with the scope of limits on the fourth estate.

Mr. Speaker, I would like to share this article with my colleagues.

[From Time Magazine, July 16, 1979]

THE PRESS, THE COURTS AND THE COUNTRY

(By Henry Grunwald)

(NOTE.—This essay is based on an address delivered recently to the annual conference of the Second Judicial Circuit in Buck Hill Falls, Pa.)

Are courts going too far in what is beginning to look like a campaign to curb the press?

Most journalists would not yet agree with Allen Neuharth, head of the Gannett newspaper chain, that in this respect, the Supreme Court has moved "above the law." But the trend is clear and alarming, from the denial of confidentiality of sources to surprise newsroom searches (see LAW). Not only the press is affected. The search decision can send the cops into psychiatrists' or lawyers' offices as well. The latest court ruling that pretrial hearings and possibly trials themselves may be closed to press and public is reprehensible, among other reasons because it could lead to collusion—behind closed courtroom doors—between judges, prosecutors and defendants. This ruling more than any other shows that the conflict is not just between the courts and the press but the courts and society.

Tension between power centers is useful in America. But the judiciary ought to reflect about what it is doing. In important respects, judges really are in the same boat as journalists, and ultimately in the service of the same ideals. People who cheer the courts' moves against the press are quite ready to condemn the courts in other areas. If the press is seen as having too much power, so are the courts, and then some.

The monstrous regiment of lawyers has rarely been more resented. In a recent Harris poll about public confidence in various institutions, law firms ranked eleventh on a list of 13. Even when lawyers are miraculously transformed into judges, they do not regain total trust. In the same poll, the Supreme Court came in sixth, while TV news (somewhat surprisingly) ranked first and the press in general ranked fifth, thus nosing ahead of the august court.

Distrust of the judiciary is nothing new in American history. Thomas Jefferson in 1820 thought that the notion of judges as "the ultimate arbiters of all constitutional questions" was "very dangerous" and threatened the "despotism of an oligarchy." At times, the press helped fan suspicion of judges; more recently it has functioned as an ally of the bench, as when the courts virtually administered school desegregation, and during Watergate.

Some historical perspective is necessary. The proud judiciary traces its origins back far beyond the beginning of the printed word to times when the judge was king, and vice versa. Journalists, on the other had, are relative newcomers, the spiritual descendants of itinerant printers, scribblers and (let's face it) rebels. Indeed, one of the reasons that journalists are so worried, even perhaps slighly paranoid, about the loss of their freedoms is that these rights have never been very secure, here or abroad.

In 16th century England, editors and "newswriters" were constantly in danger of imprisonment or torture, even of beheading, hanging and burning at the stake, sometimes for refusal to reveal the source of confidential information. Until nearly the end of the 18th century, libel in Britain was readily used to jail journalists and others. John Walter, publisher of the young London *Times*, was confined for nearly a year and a half to Newgate Prison, from which he managed to run his newspaper.

Journalists fared somewhat better in America. Here, the press played an essential part in bringing off the American Revolution. But that did not assure popularity. George

Washington came to believe that the press should be firmly "managed" and kept in its place. Jefferson, kinder to the press than to the courts, disagreed and declared grandiosely that "nature has given to man no other means [than the press] of sifting out the truth either in religion, law, or politics." (In fairness, it should be noted that later he declared himself "infinitely happier" once he had stopped all his newspaper subscriptions.)

Still, journalism in America was a high-risk trade. Editors were always in danger of being challenged to duels or horsewhipped or beaten up by gangs. During the War of 1812, one antiwar newspaper was actually blasted by a mob with a cannon. On the frontier, tarring and feathering editors was a popular pastime. Symbolically, of course, it still is. The press, its reach almost infinitely expanded by electronics, has come a long way since those days. Yet, the public, despite its daily if not hourly intimacy with the press, does not really understand it very well. That lack of understanding is reflected in the courts, although it goes far beyond matters of the law. In part, this is inevitable because the press is indeed a peculiar institution, full of paradoxes. To understand and judge—even to criticize it for the right reasons—a few broad points might be kept in mind.

The American press is better than ever. Yellow journalism persists, but largely on the fringes of the press and is pale compared with what it was in the heyday of William Randolph Hearst. One episode: Drumming the U.S. to war against Spain, Hearst sent Artist Frederic Remington to Cuba. When Remington cabled that all was quiet, with no war in sight, Hearst fired back: "You supply the pictures, I'll supply the war." Arrogance of such magnitude is unheard of today. The sensationalist Joseph Pulitzer declared that accuracy is to a newspaper what virtue is to a lady, but the fact is that journalism today takes that maxim far more seriously than did the paper of Pultizer's time.

True, the press still features triviality, gossip, scandal. It always will. Charles Anderson Dana of the New York *Sun*—like Hearst and Pulitzer quite a phrasemaker and an example of the era—declared that the *Sun* could not be blamed for reporting what God had permitted to happen. That was only partly a copout. While the press should not pander to base or grisly appetities, or merely "give the people what they want," neither should it be expected to change human nature (if that concept is still admissible). America's mainstream publications today, for all their faults, are far more broad-gauged, responsible, accurate and self-critical—than ever before, or than any other in the world.

The press should not be expected to be what it is not. Literary critics chide journalism for not being literary enough, historians for lacking historical accuracy, lawyers for not marshaling facts by the rules of evidence. But journalism is not literature, not history, not law. Most of the time it cannot possibly offer anything but a fleeting record of events compiled in great haste. Many news stories are, at bottom, hypotheses about what happened. Science, of course, works by hypotheses, discarding them when errors are discovered, and it does so, on the whole, without blame, even when a mistake costs lives. The press, which lays no claim to scientific accuracy, is not easily forgiven its errors. Admittedly, the press often rushes into print with insufficient information, responding to (and perhaps creating) an occassionally mindless hunger for news. A utopian society might demand that the press print nothing until it had reached absolute certainty. But such a society, while waiting for some ultimate version of events, would be so rife with rumor, alarm and lies that the errors of our journalism would by comparison seem models of truth.

The press was not invented by and for journalists. It is a result of mass literacy and the instrument of a political system in which, for better or worse, all literate people—indeed even the illiterate—are considered qualified voters. So the hunger for news is a hunger for power—not power by journalists, as is often suggested, but by the public. The press is a child of the Enlightenment and those who inveigh against it also attack, sometimes unconsciously, the values of the Enlightenment. It is no accident that the press grew as the concept of revealed truth declined. The press as we know it could not (does not) exist in societies that in all things accept the voice of authority.

Profits should not make the press suspect. Many people (including journalists and judges) are troubled by the fact that the press performs a public service and yet makes profits. But this is nothing the press should apologize for; on the contrary. The press as a business is the only alternative to a subsidized press, which by every conceivable measurement would be worse. True, there are serious risks in the commercial aspects of the press, but these are relatively minor compared with the situation a few generations ago, when weak and insecure newspapers all too easily succumbed to the checkbooks of political or business pressure groups. Henry Luce argued that the press was not really taken seriously and, in a sense, did not really become free until it became a big business. Enterprising journalism is expensive. (It costs more than $100,000 to keep a correspondent in Washington, D.C., for one year. Paper, printing and distribution cost TIME magazine $120 million. The newspaper industry spends $3 billion each year on newsprint alone.)

Questions about profits lead to questions about size. The spread of newspaper chains and one-newspaper cities is, to be sure, a cause for concern. Yet smallness as such is not necessarily good: it guarantees neither quality nor independence. Bigness as such is not necessarily bad: in most cases, large resources improve a publication. Nor does the size of some enterprises keep new publications out. The number of small publications is growing and their diversity is dazzling. The really remarkable phenonmenon of recent years is not so much the growth of communications companies, but the spread of highly organized special interest groups that have had considerable success in making themselves heard and seen.

The press is not too powerful; if anything, it is not powerful enough. Those who want to curb the press point out that it is no longer the "fragile" thing it was when the First Amendment was written. But neither is the Government. When Franklin Roosevelt took office, the federal budget, in 1979 dollars, amounted to about $38 billion. In fiscal 1980, it will be around $530 billion. When Roosevelt took office, the federal bureaucracy consisted of 600,000 people. Today it adds up to 2,858,344. Such figures can only suggest that the growth of Government has been far more dramatic than the growth of the press that attempts to cover and monitor it. With innumerable Xerox machines and printing presses, through tons of publications, reports, tapes and films, countless Government flacks churn out enough information, and disinformation, to overwhelm an army of reporters. To a lesser extent this is true of other large institutions: corporations, unions, foundations, all of which try to manage the news and use the press for their ends.

The fact that the press is not accountable to any other power except the marketplace clearly agitates a lot of people. This often takes the form of the hostile question to editors: Who elected you anyway? But some institutions in our society simply should not be subject to the usual political processes. As for the courts, whatever their intentions may be, they are not the place to cure the undeniable failings of the press.

Do recent court actions really make much of a difference to journalists in practice? Many judges doubt it, but let them try an experiment and take on a tough reporting assignment. Let them try to get complicated and controversial information from resisting sources and amid conflicting claims—without the judicial power to subpoena documents or witnesses—and have to testify under the disciplines of contempt or perjury. Let these judges then see how far they will get with their assignment if they are unable to promise an informant, who may be risking his job, assured confidentiality, or if they are hit by subpoenas, now said to be running at the rate of 100-plus a year, many of these mere "fishing expeditions."

To say this is not to claim an absolute privilege for journalists. Newsmen should not ask the same standing that a lawyer or doctor has in dealing with clients or patients; lawyers and doctors after all are licensed, which is precisely what journalists will not and must not be. Obviously the American journalist enjoys unusual latitude and he must, therefore, bear unusual responsibility. He must expect a certain rough-and-tumble in his trade, and not wrap himself in the Constitution at every setback. By no means were all recent court rulings unmitigated disasters. The court in effect allows the press to print anything it can get its hands on. When the Supreme Court held that a newsman's state of mind and his preparations for a story were legitimate subjects of inquiry, this evoked visions of thought police; and yet it was only a consequence of an earlier pro-press ruling that a public figure, in order to be able to sue for libel, must prove "actual" malice and gross neglect on the part of the journalist. Most newsmen do not demand confidentiality of sources automatically, but only when naming sources or delivering notes is not strictly necessary to meet the specific needs of a defendant. (Many judges in fact agree with this view.)

No serious journalist questions the need to balance the rights of a free press against other rights in society, including the rights of defendants. But the degree of balance is what counts, and the balance is tilting against the press. As a result, a backlash against the courts has begun in Congress, with the introduction of many bills designed to shore up the rights of journalists. That is a mixed blessing.

Spelling out rights that were assumed to exist under the general protection of the First Amendment may very well result in limiting those rights. Most of the press would much rather not run to Congress for protection against the courts. Yet if the courts continue on their present course, journalists will have little alternative.

Perhaps it is not too late for judges to restore some balance and to discover that they do share with the press certain common interests, if not a common fate. As New York's Irving R. Kaufman, Chief Judge of the Second Judicial Circuit, has written: "Different as the press and the federal judiciary are, they share one distinctive characteristic: both sustain democracy, not because they are responsible to any branch of Government, but precisely because, except in the most extreme cases, they are not accountable at all. Thus they are able to check the irresponsibility of those in power . . ."

Ultimately the question of freedom of the press comes down to the question of freedom, period. Freedom exists both for good and bad, for the responsible and the irresponsible. Freedom only for the good, only for the right, would not be freedom for all. Freedom that hurts no one is impossible and a free press will sometimes hurt. The fact must be balanced against the larger fact that this freedom does not exist for the benefit of the press but for the benefit of all. In the majority of countries, judges are in effect only executioners and journalists are only Government press agents. This reality should be kept in mind as the courts deal with the American press and its rare and fragile rights.

DON'T TIE DOT'S HANDS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. RICHMOND. Mr. Speaker, during debate on H.R. 4440, the Transportation appropriations for fiscal year 1980, we can anticipate an amendment to limit the ability of DOT to implement or enforce the automatic restraint standard. I urge my colleagues to oppose any such amendment, so we can assure the continuation of DOT activities which will result in prompt and effective implementation of automatic auto crash protection for the American people.

On May 25, the Nation witnessed a major catastrophe with the crash of American Airlines Flight 191. Within hours after the crash, a small army of investigators were on their way to Chicago to begin the investigation of this tragedy which claimed 273 lives. Countless hours were expended by both the private and governmental sectors to determine the cause of this tragedy. Drastic action was called for and, in fact, drastic action took place. Hearings were held, testimony received, and DC-10's were grounded, causing a major disruption in our Nation's travel system—all to determine why 273 people were killed.

Mr. Speaker, every 2 days on the highways of America the equivalent of that DC-10 tragedy reenacts itself. Yet, no armies of investigators are sent out to determine why this situation occurs. There is little testimony offered why every 2 days 280 people are killed on our highways. This constant national health problem does not result in massive disruption to our transportation system. From time to time public outrage surfaces and then disperses, yet the slaughter continues.

For the first time we have the capacity to take a decisive step toward reducing these consequences. The proposed amendment asks us not to take that step. We are being asked to ignore what has already proven to be a lifesaving device. Why is it the crash of an airplane and its attendant tragedy can rivet attention, compel a massive Government investigation and the promises that it cannot happen again? What can we say to the families of those who have lost loved ones on our highways? We now have the capacity to say, in some instances, "It can't happen again"—if we defeat the amendment that would tie DOT's hands.

Mr. Speaker, I wonder what would happen if we voted not to appropriate the funds to investigate airplane crashes; if we crippled the capacity of the Federal Government to be able to say "It can't happen again"? The public outcry would be thunderous. The proposed amendment would cripple the National Highway Transportation Safety Administration's ability to monitor and investigate airbag usage in highway accidents. It is the equivalent of paralyzing the FAA's ability to determine the efficiency of their attempts to save lives. Without the knowledge to be gained from monitoring and investigation of highway crashes involving airbags, NHTSA will be unable to say "It can't happen again."

The proposed amendment must be defeated so we can demonstrate our concern about those who have, in the past, been killed or seriously injured in automobile accidents. We must take that one step which will save lives, prevent serious injury and reduce the pain and suffering of future accident victims. They, their relatives and friends have every right to expect us to take that step on their behalf. I therefore urge my colleagues to resist any effort to limit or undercut DOT's ability to protect our fellow Americans on the highways.●

TRIBUTE TO JACKIE BEARD

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special tribute to the accomplishments of a young man in my district, Jackie Beard, who has won for the United States a gold medal in boxing in the recently completed Pan-American Games.

Jackie is 17 years old and recently graduated from Jackson-Central Merry High School in Jackson, Tenn. He has performed admirably in boxing competition for the last several years. In 1978, he was a national Golden Gloves champion and followed that in 1979 as runner-up to the national champion in the annual Golden Gloves competition.

Since he won his first national championship, he has represented the United States in various international matches. His training and experience in those matches aided him greatly in winning the gold medal in the Pan-Am Games. He is continuing to train, I understand, and compete in boxing matches throughout our country in preparation for next year's Golden Gloves, Amateur Athletic Union Competition, and Olympic trials. His ultimate goal is to win a gold medal for the United States in next year's Olympics.

Jackie's accomplishments in amateur boxing attest to his athletic abilities, but development of his skills has resulted from long years of total dedication to excellence. His achievements of the past are a genuine credit to himself, his family, and his community. I am confident that Members of this House will become familiar with the name of Jackie Beard in the next 12 months as he progresses along the difficult road to an Olympic Gold Medal. Regardless of the outcome of that journey, we, as Americans, will have great reason to be proud of this fine, young man whose boxing skills have given the Jackson Boxing Club the title of the "Biggest Little Boxing Club in America."●

DELETE SECTION 4 FROM H.R. 3920

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. THOMPSON. Mr. Speaker, consideration of H.R. 3920 is currently scheduled for next week. Because I will probably not be present during the consideration of the bill, I wish to make the following statement about an amendment that will be offered to delete section 4 of the bill. I strongly support the amendment.

Section 4 of H.R. 3920 allows for the continued exemption of agricultural employers from paying unemployment insurance taxes on wages paid to alien workers who are imported into this country under a temporary alien worker program—known as the H-2 progam. Unfortunately, financial savings created by this exemption serve to motivate employers to hire alien rather than U.S. workers.

The ultimate result of employers' preferences for foreign laborers is the increasing unemployment of workers in this country. Already, the unemployment rate of U.S. farmworkers ranges from a low of 9 percent in summer months to more than 18 percent in winter. The average annual income for migrant workers, including income from both farm and nonfarm work, is only $3,761 according to USDA data.

Maintaining the jobs and wages of U.S. workers without the depressant effect created by an influx of large numbers of temporary aliens is vital to the health and survival of farmworker families existing on these marginal incomes.

However, unfortunately employers prefer to hire temporary alien workers because it provides them with a guaranteed, cheap, intimidated labor force. If a foreign worker complains, he may be sent back home and black-listed, never to return to the United States again. If a U.S. worker asks for one penny more than the "prevailing wage," he will not be considered available for work, and a foreign worker may be hired in his place. In addition to the financial savings created by depressed wages, employers need not pay into the social security or unemployment insurance funds on the wages paid to temporary foreign workers. Thus, the agricultural employer who hires temporary alien workers is insulated from many of the natural demands of the free marketplace and the employment-related responsibilities incurred by all other employers.

Just yesterday, we heard testimony before the Subcommittee on Management Relations on a matter related to this issue. In this case, aliens had been imported temporarily under the H-2 program by the North American Soccer League to play soccer for the league.

In 1977 the players in the league, both United States and alien players, had formed a legitimate union recognized by the NLRB. Because the soccer league refused to recognize the union, the union went out on strike. However, we heard testimony yesterday from the soccer players that the management told some of the alien H-2 players that they would be deported if they went out on strike and would not be brought back to play in the league next year. Furthermore, the players went on to say that the management offered to guarantee the contracts of H-2 aliens who would break the strike.

Thus, we can see that the importation of temporary nonimmigrant alien workers into this country affords employers an enormous amount of power over these workers, which makes them more desirable as employees than U.S. workers.

Furthermore, the soccer players testified that by importing large numbers of alien players, the league is able to keep down the wages for all players. However, few American players can afford to live on the low seasonal wages which players from Africa, Portugal, Yugoslavia, the Caribbean, and so forth find attractive.

I mentioned the case of the soccer players because it highlights the powerlessness of individuals brought into this country as temporary workers, and it also highlights the depressant effect which is created for U.S. workers in the same industry.

These conditions hold especially true in agriculture, according to Secretary of Labor, Ray Marshall:

> For many foreign workers U.S. minimum wages would be considered high wages in their native countries. A Jamaican worker, for example, can earn more in 6 weeks picking apples in the U.S. than can be earned during the rest of the year in Jamaica. While not conceding the claimed greater productivity, foreign workers do provide the employer with a worker who is more compliant. The worker may only remain in this country so long as he is employed by the employer who sponsored his admission. A worker who is fired for any reason is subject to deportation and not likely to be invited back. Further, once certified by the Department, a grower may recruit a foreign work force that is all male and or prime working age. Such criteria may not, of course, be legally applied with respect to domestic workers.

And thus, we can see why some employers might prefer to hire temporary alien workers rather than U.S. workers. By allowing for an exemption from unemployment insurance taxes, section 4 of H.R. 3920 creates an additional incentive for employers to hire alien workers, an incentive which we can easily eliminate.

While the Immigration and Nationality Act allows for the importation of temporary alien workers only if U.S. workers are unavailable for work, employers motivated to hire aliens may easily circumvent the law by failing to make good faith efforts to recruit U.S. workers. That is why the Department of Labor opposes section 4. According to Secretary Marshall:

> The Department is concerned over the growing interest of agricultural employers in the importation of foreign workers. In the past 2 years, in addition to requests for foreign workers from the relatively few growers who have used them before, we have received first-time requests from growers in 9 states for a variety of crop activities and serious inquiries from many more.
>
> The Department believes it is important that employers not be given any further incentives to hire foreign workers. When employers try to avoid hiring American workers, unemployment is perpetuated. The cost of unemployment in this country bears heavily not only on the unemployed, but on taxpayers who support the welfare system and on employers who support the unemployment compensation program.
>
> The unemployment tax exemption tends to make foreign labor more attractive and reduces the incentive of employers to recruit and hire domestic labor. The Department is therefore opposed to its continuation.

Under section 4 of H.R. 3920, an increasing number of U.S. workers will be displaced from jobs by temporary alien workers, placing an increasing burden on the unemployment insurance fund. Yet the same employers responsible for this job displacement will not even be paying into the U.I. fund.

While the exemption of employers of alien workers from the unemployment insurance tax is not the only factor motivating employers to increasingly request temporary alien workers, it cannot be denied that it is a significant financial inducement.

I urge, therefore, to support this amendment to delete section 4 of H.R. 3920.●

ON OPPOSITION TO ANTI-BUSING AMENDMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. STOKES. Mr. Speaker, I rise today to share with my colleagues a letter concerning Representative MOTTL's amendment from a resident in the Cleveland area. It has been said in the course of argument over that measure, that the majority of Americans are against busing. It has been said by proponents of the amendment that this opposition to busing is not based on race but on educational quality, local choice, financial strain, and even the energy situation. It has been said that, in signing the discharge petition, Members are responding to overwhelming constituent pressure.

Mr. Speaker, this letter from a resident of Representative MOTTL's district is one of the finest which I have received on the subject. In just a few, short, paragraphs, it manages to demonstrate the fallacy of some of those justifications and, more importantly, portrays the essence of what is behind this constitutional effort:

JULY 15, 1979.

DEAR REPRESENTATIVE STOKES: I am a voter from Ron Mottl's district and I thought it would cheer you to know that not everyone here agrees with him about his anti-busing amendment.

I agree that the Constitution should not contain such specific language based on emotional and prejudiced thinking.

Good luck to you in dissuading other representatives from voting for the amendment!

Very truly yours,

RUTH A. STADLER.●

FEDERAL HABEAS CORPUS REVIEW

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. GONZALEZ. Mr. Speaker, I am reintroducing a measure which to me is one of the most important rights guaranteed under our Constitution, article I, section 9, which states that the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it. And to quote Dr. Samuel Johnson in his conversations with Boswell,

> The Habeas Corpus is the single advantage our government has over that of other countries.

The citizens of our Nation have always taken this right for granted and throughout our brief 200-year history it has not been abused, but I am very disturbed with a Supreme Court decision in 1976, Stone against Powell which has resulted in restricting the availability of Federal habeas corpus review and I am proposing legislation today that will reverse the effect of this decision.

In Stone against Powell, Powell was convicted of murder in a California court on evidence obtained when he was picked up on a local vagrancy ordinance. At both his trial and on direct appeal the State courts rejected Powell's arguments that the vagrancy order was unconstitutional. Powell applied for a writ of Federal habeas corpus review on the grounds that he was being held in violation of the Constitution. The district court denied his plea, but the U.S. Court of Appeals reversed that decision holding the vagrancy ordinance was unconstitutionally vague, the arrest and search were unlawful and thus the evidence gathered should be excluded at trial based on the fourth amendment which guarantees against unlawful search and seizure and is applicable to the State courts through due process granted by the 14th amendment.

But the Supreme Court reversed the appeals court decision holding that "a Federal court need not apply the exclusionary rule on habeas review of a 4th amendment claim absent a showing that the State prisoner was denied an opportunity for full and fair litigation of that claim at trial or on direct review." It appears that the Court is more concerned with limiting the avenues of relief than insuring that Powell, or anyone else in similar circumstances be guaranteed their rights under the Constitution.

The Court did not say that it lacked jurisdiction, nor that a violation of the fourth amendment did not occur nor did it rest its decision on construction of the Federal habeas statute. Instead, the

Court rested its decision in this case on its own balancing of the relative State and Federal interest involved. The Court states that the State courts protect fourth amendment rights as competently as the Federal district courts, but it appears that in Stone against Powell the Court has redrawn, based on its own policy judgments, the limits of Federal jurisdiction more narrowly than the statutory limits prescribed by Congress. And to quote Justice Brennan who dissented in Stone:

> The interest balancing approach used to justify the majority decision is nothing less than an obvious usurpation of Congress' Article III power to deliniate the jurisdiction of federal courts.

Mr. Speaker, the bill I am reintroducing today will insure that a request for habeas corpus review by a Federal court may not be denied on the ground that such State or Federal Government provided an opportunity for a full and fair litigation of constitutional claim, and for other purposes. I believe my bill will reassert the power of Congress it is granted under the Constitution by guaranteeing that Federal courts are open to claims which I feel have been closed by the Supreme Court decision in Stone against Powell.

The Court issued a number of policies which led to its decision in this case to limit the eligibility of Federal habeas corpus relief and one calls for the most effective utilization of limited judicial resources. It appears that the Court is obviously asserting that by restricting the right of habeas corpus review the Federal courts will not be inundated with frivolous petitions. But can justice truly be served if the Court is more concerned with expediting court proceedings and administrative convenience rather than insuring that each party be guaranteed their constitutional rights.

And furthermore, based on the information I have obtained, habeas corpus petitions are only a small fraction of total civil filings and consume on the average less than 1 percent of the Federal judges time. It should also be noted that Congress has responded to any overloading causes by habeas corpus petitions by enacting the Federal Magistrates Act which provides for the preliminary screening by Federal magistrates of applications for post-trial relief and the submission of a report and recommendation to the district judge to facilitate decisionmaking.

Mr. Speaker, Congress has the power and the authority to define the jurisdiction of the Federal courts and I hope that my colleagues agree that we must do just that in order to preserve the personal liberty by making clear that State or Federal prisoners who are otherwise eligible for Federal habeas corpus relief may not be denied such relief on the ground that such State or Federal Government provided an opportunity previously. To quote Zechariah Chafee, Jr. from Documents on Fundamental Human Rights,

> Such great liberties as worship and speech will go somehow despite laws, but not liberty or person. Censorship can be evaded; prosecutions against ideas may break down; a prison wall is there. Only habeas corpus can penetrate it. When imprisonment is possible without explanation or redress, every form of liberty is impaired. A man in jail cannot go to church or discuss or publish or assemble or enjoy property or go to the polls.

Mr. Speaker, the Court's decision in Stone against Powell is just one of a number of decisions made by the Burger Court that reduces access to the Federal courts and I hope that the Judiciary Committee will consider my bill as well as look into other areas where the Court has used comity and federalism to essentially close the Federal courts to all cases where the State courts can hear the Federal claims. The legislative branch must exercise its power to define the jurisdiction of Federal courts and I believe the time to start is now.●

EXECUTIVE COMMUNICATION NO. 1109

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MURPHY of New York. Mr. Speaker, following is a copy of Executive Communication No. 1109 from the Department of Commerce in explanation of a draft bill which was introduced in the form of H.R. 4890, to extend the appropriation authorization for the Commercial Fisheries Research and Development Act of 1964, as amended:

SECRETARY OF COMMERCE,
Washington, D.C., March 26, 1979.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Enclosed are six copies of a bill.

"To extend the appropriation authorization for the Commercial Fisheries Research and Development Act of 1964, as amended." together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress and further that its enactment would be in accord with the program of the President.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

The Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309) contains three separate authorizations for appropriations to carry out the purposes of the Act. These authorizations, contained in section 4(a), 4(b), and 4(c) of the Act (16 U.S.C. 779b(a), (b), and (c)), all expire on September 30, 1980. Public Law 95-53 extended all three authorizations through fiscal year 1980 at the following levels—$10,000,000 annually for section 4(a) for apportionment to the states to carry out the purposes of the Act; $3,000,000 annually for section 4(b) to be made available to the states for the purposes of restoring fisheries affected by failures due to disasters from natural or undetermined causes; and $500,000 annually for section 4(c) to be made available to the states for developing new commercial fisheries. The proposed amendment to the Act would extend all three authorizations for three years through fiscal year 1983 for such sums as may be necessary.

The Act has proven to be useful in encouraging the development of the commercial fisheries resources of the nation. The states, through the matching fund program of the Act conduct programs for the conservation of fish and wildlife resources.●

THE MOON, ENERGY, AND BEYOND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. GILMAN. Mr. Speaker, I would like to take the opportunity to note this 10th anniversary of the first landing on the Moon by Man, by our American astronauts on July 20, 1969.

Mr. Speaker, this anniversary comes at an appropriate time. When we put our minds to the apparently physical impossibility of landing a man on the Moon, the American people took on a common goal to "reach for the stars" and with great ambition, dedication, and optimism, it was achieved. Today, as then, we are not in short supply of those noble aspirations. However, something has gone astray. We could launch a man and vehicle on a round trip to the Moon 10 years ago. Today, we find it difficult to move gasoline from one part of a State to the other.

The Appollo program is a striking example of our Nation's capability for achieving worthwhile goals by working together. In doing so, we broadened and expanded our technology to cope with the problems of today. This milestone in the history of mankind was an event in a sequence of events which brought together the good will, genius, and sacrifices of our people in an indomitable spirit. Our will and capability to succeed were tested daily. Yet, on this day in July, 1969, Neil Armstrong was able to take a small step for himself, and "a giant step for mankind."

In the decade following Neil Armstrong's moonwalk, we have seemed to have lost that same sense of hope, dedication, cooperation, confidence and social obligation. The desire to advance in the fields of science and technology, with the objective of affording a more relative insight into human condition, has been severely stalled by multidimensional economic problems and shortages of natural resources. We have wasted many opportunities to explore new avenues of energy by relying on "safe bets," and "quick-fix" policies. A good example of this is, of course, our inability to increase our refining capacity since the 1973 Arab oil embargo.

We have consistently avoided becoming the master of our destiny. Nowhere is this clearer than in the spheres of decisions for national energy policy. Decisions are being made by the administration and the Department of Energy without having the full investigation of alternative sources of energy, and with out a complete understanding of their implications. As a result of this lack of dedication, leadership and positive action, we have become woefully dependent upon a cluster of politically unreliable oil exporting countries. To date, we readily note that our standard of living, indeed, our national security, pivots upon the whims and fancies of a mere handful of men, who have no vested interest whatsoever in either our political, cultural, or socioeconomic existence. The world stood in awe and admiration of not only our technological prowess 10 years ago; but also our commitment and obligation to help the rest of mankind to enjoy the fruits of our labor, be it in the form of economic assistance or vocational opportunities. Today, we must sadly note that our servicemen have become the beneficiaries of either friendly voluntary foreign "subsistence funds" or the targets of cowardly assassinations.

It is time we recaptured that pioneering spirit of the Moon project and put it to work once again; however, this time in the field of developing and implementing alternative sources of energy. I am convinced that this can be done only with renewed vigor and hope on the part of the American public, and policy cohesiveness between the Government and the entire industry. No scientific breakthroughs are needed to embark on an ambitious national program to examine the environmental and technological feasibility of both landbased and space-based solar power units. We have the knowledge in hand to fully exploit the energy sources available in synthetic fuels, and the chemical processing of coal. The opportunities to harness biomass, the sun, and matchless list of sources not yet developed are a new challenge to the American will and creativeness.

To neglect to acknowledge this challenge implies a lost spirit, and ultimately, a Nation that has willfully given up its place and responsibility as a source of progress and vanguard of freedom. Let us remember the difficult times of those pioneers who initially stood alone in their belief that what was impossible is now possible and practical.

Accordingly, I urge my colleagues to join in an endeavor to step beyond the cynicism of mankind's present state of inaction, which has us entrapped in the mud of sluggish thinking and mounting problems. Let us enter a new era of exploration of the energy possibilities just as we reached out from the confines of this planet to touch the Moon and beyond.●

CARTER'S REPORT CARD—WHAT'S GOOD FOR THE GOOSE . . .

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. ROTH. Mr. Speaker, President Carter's new chief of staff has ordered the senior White House staff and the members of the Cabinet—at least those who are still around after the purge—to fill out "report cards" on their staff people.

While I do not pretend to know how those grades will be determined, I think the idea has some merit, and I propose to go the President one better. I think we should ask everyone in America to fill out a report card on the President. I believe such an action is only fair.

If the President can require report cards on his employees, I believe the American people should require report cards on their employees, and after all, the President does work for all of us.

Furthermore, Mr. Speaker, if the report cards indicate failing grades, we might consider asking the President to take remedial courses to correct his deficiencies.

We might, for instance, enroll Mr. Carter in such classes as "Remedial Leadership 101," "Elementary Principles of Congressional Relations 12–B" or even "Fundamentals of Cabinet Selection 210."

Mr. Speaker, I am joking, of course. But there is something to consider. We require no test of competence for the Presidency—we demand no formal training. But we do demand the highest performance from those who seek the office.

And while we may not fill out report cards now, the President should bear in mind that he will be graded by the American people nonetheless.●

WILLIAM JENNINGS BRYAN DORN VETERANS' HOSPITAL

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. MONTGOMERY. Mr. Speaker, on June 14, 1979, a new veterans' hospital was dedicated in Columbia, S.C. The dedication ceremony was attended by several thousand people who came not only to express their appreciation for a splendid new medical facility to serve veterans throughout the State of South Carolina, but to honor one of the best friends our Nation's veterans have ever had, our former colleague and the former chairman of our Committee on Veterans' Affairs, the Honorable William Jennings Bryan Dorn of Greenwood, S.C.

The new VA hospital in Columbia will forever bear the name of Bryan Dorn. This great tribute to Bryan resulted from the enactment of Public Law 95–353. Mr. Speaker, few people have worked harder for veterans than our friend Bryan Dorn. The dedication of this facility honoring his name is a most deserving tribute to a great American. I join his many friends who wish for him and his dear wife, Millie, the very best always.

There follows remarks by Mr. Frank T. Galardi of Aiken, S.C., one of Bryan's closest friends, concerning the dedication ceremony:

DEDICATION CEREMONY JUNE 14, 1979—WILLIAM JENNINGS BRYAN DORN VETERANS' ADMINISTRATION MEDICAL CENTER, COLUMBIA, S.C.

(By Frank T. Galardi)

Dedication ceremonies normally are fashioned in a stereotyped and mundane category, usually attended by a few interested spectators or curiosity seekers. Not so Flag Day June 14, 1979, in Columbia, the Capital City of South Carolina, where hundreds upon hundreds of people gathered to pay tribute to a former United States Congressman, the beloved William Jennings Bryan Dorn of South Carolina.

The dais, which adorned the main entrance to the newly constructed addition to the Columbia Veterans Administration Medical Center, was vibrant with teeming activity as final plans were put into action for the program commemorating the official renaming of this great healing institution—the William Jennings Bryan Dorn Veterans Hospital—as decreed by Public law 95–353 signed by President Jimmy Carter.

It seemed most appropriate that Flag Day was selected as the day for this unusual dedication. Unusual because Americans from every walk of life and station flocked in by the hundreds to share in paying tribute to Mr. William Jennings Bryan Dorn: Governors, Congressmen, Generals, Local, State and Federal officials, State and National Commanders of Veterans Organizations, and political figures came from many states. As the crowd increased, it was apparent this special day took on new meaning for these times of unrest and uncertainty. People were excited to a high patriotic pitch as the program commenced and, as the Master of Ceremonies called for the presentation of Colors, one could sense Flag Day, June 14th, was going to become alive with a reality that America was blessed and the Stars and Stripes were most alive.

The weather for the day was hot and sultry, almost uncomfortable. However, when the National colors were presented and the state flags were advanced, it seemed that God added His touch to send a balmy breeze and an overcast sky to comfort the thousands who came to honor Mr. Dorn and the Veterans of our great country. A steady breeze persisted, to the delight of all, as each of the fifty state flags flew at full mast. Stirring indeed was the dramatic narrative by a U.S. Army Sergeant who described each of the Stars and Stripes, from the first created in 1777; while the U.S. Army Band of Fort Jackson provided thrilling, patriotic and stirring music of the eras covering the birth of each of the stars and stripes, until Old Glory with its fifty stars climaxed the flag presentation.

The Honorable Governor of South Carolina, Richard Riley, led the parade of dignitaries to echo the many Dorn admirers present. He was followed by General Westmoreland, the Honorable Max Cleland, U.S. Congressman Butler Derrick and a host of other officials.

The Honorable Mr. Dorn, in his remarks as Special Guest, lived up to his generous reputation as he heaped words of gratitude upon the Veterans for whom the hospital was erected and he brought special depth and excitement as he quoted the late President Eisenhower who once said: "he would rather have been a congressional Medal of Honor recipient than be President because of the great honor attached to this very coveted award." Mr. Dorn further informed the great gathering that this day took on a very special meaning for him, as seated before him were five Congressional Medal of Honor friends—a most unusual happening! Mr. Dorn concluded by saying that the dedication of the Veterans Hospital is a tribute not only to him but to all Veterans who have served and fought to protect and preserve our freedom.

The wonderful dedication program was a tribute to a great American who served unselfishly and with honor for over a quarter of a century in the U.S. Congress. Mr. Dorn has left an indelible mark in history as his deeds in caring for the Veterans of this wonderful country is unsurpassed. He has been a model Congressman for all members of Congress to emulate. He is a great politician, statesman and American whose distinction in history will record him as the champion for the common man whose life reads, "I care." South Carolina and the Nation can well be proud of his service to our state and country.

As the last strain of our National Anthem sounded and Old Glory reached the final height of the tall flag pole, with all standing at respectful attention, one could say that this dedication was hardly a stereotype event but rather God in His special way was with us this day to honor our friend William Jennings Bryan Dorn, a true American; and a Disciple; humble, as he sees his name adorn the healing center which will care for those he loves so much, the United States Veteran.

Ending this eventual Dedication and Flag Day, one could hear the elderly gray-haired ladies and men of the American Legion and other Veteran Organizations saying, "God Bless America."●

STORMING THE CENTENNIAL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mrs. SCHROEDER. Mr. Speaker, the 1876 Centennial was a grand celebration of America and democracy. Women contributed greatly to the success of that celebration. The Women's Executive Committee had been assigned the tasks of raising subscriptions to finance the fair's activities, as well as installing a women's exhibit. Despite their work, however, the women had no say in the decisionmaking which went into the Centennial extravaganza.

Susan B. Anthony and other women's rights leaders protested that women's role in the celebration was merely auxilliary. The Women's Executive Committee were not even invited to participate on the platform in the official ceremonies. Rather than grouse, the women took action.

At the Fourth of July celebration in Independence Hall, marking the official opening of the Centennial, in the presence of national and foreign dignitaries, Susan B. Anthony and her colleagues, made a surprise guest appearance. Without official sanction, the women mounted the speakers platform, interrupted the Emperor of Brazil, and read the "Declaration of the Rights of Women."

Having made their point quite clearly, the women then turned and marched off the platform to peacefully conduct their meeting outside the pavilion, scattering copies of the declaration to those around them.●

THE PENSKE RACING TEAM

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. YATRON. Mr. Speaker, on July 26, the city of Reading, Pa., is honoring the Reading-based Roger Penske Racing Team.

Roger S. Penske is the founder and chief executive officer of the Penske Corp. This corporation includes three types of business groups: energy and engines, transportation, and automotive performance.

The Penske Racing Team includes: Roger Penske, president of Penske Corp.; Mario Andretti, World Driving Champion in 1978; Bobby Unser, a two-time national champion and twice winner of the Indianapolis 500; Rick Mears, winner of this year's Indianapolis 500; Jim McGee, crew chief of the Penske Racing Team, and a resident of Reading, and Darrell Soppe, assistant crew chief.

The Penske Racing Team has done much to promote the city of Reading, Berks County, the Commonwealth of Pennsylvania and the United States of America. They have given us many exciting moments of watching them on the racetrack as well as making outstanding contributions to this country's automobile industry.

I know my colleagues will join me in paying tribute to these great Americans—The Penske Racing Team.●

RACING ACHIEVEMENT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. YATRON. Mr. Speaker, Rick Mears is truly a great driving champion. In 1978, behind the wheel of the "Gould Charge," he made an impressive debut with three championship victories, three seconds, and a startling front-row qualification at the Indianapolis 500.

This year, Mr. Mears began the 1979 season with a second place finish in the Phoenix 150 CART race. He also had a third place finish in the 24 hours of Daytona and a fourth in the 12 hours of Sebring.

At the 63d running of the Indianapolis 500 this year, Mr. Mears not only won the pole position, but he was victorious in the race. He was only the 10th driver in history to win both.

On July 26, the city of Reading, Pa., is honoring Rick Mears for his outstanding contributions to the city as a member of the Reading-based Roger Penske racing team.

I join with the citizens of my community and my colleagues in the House in commending Rick Mears for his meritorious achievement in the field of racing.●

HOUSE OF REPRESENTATIVES—*Monday, July 23, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, who has created all peoples to dwell on the face of the Earth, we pray that You will lead our hearts in the spirit of conciliation and respect for one another.

We recognize, O Lord, the customs and traditions that testify to our cultures, the fashions and practices that make us unique. Even as we praise You for our uncommon selves, we pray that we may better learn from each other and exult in our common creation and responsibility. Remind us, O God, that You have freely given talent and ability and awareness to all peoples and nations, and so help us to rejoice in those gifts that are our universal heritages.

In the Lord's name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BAUMAN. Mr. Speaker, under clause 1, rule I, I ask that the question on the approval of the Journal be put.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, would the Chair at some point entertain a call of the House today before the consideration of business?

The SPEAKER. The Chair will state that we can arrange that without any problem.

Mr. BAUMAN. I thank the Chair.

The SPEAKER. The Journal stands approved.

So the Journal was approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4289) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 1, 7, 9, 50, 56, 58, 94, 103, 129, 180, and 182 and that the Senate receded from its amendment numbered 82, to the foregoing bill.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3875) entitled "An act to

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Garn, and Mr. Tower to be the conferees on the part of the Senate.

A TRIBUTE TO HENRY H. WILSON

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, it was with profound sadness that I learned this morning of the death yesterday of Henry Hall Wilson, Jr., of North Carolina.

Those of us who have had the privilege of serving in the House of Representatives during the administration of Presidents Kennedy and Johnson will remember Henry Wilson well.

He came to Washington in 1961 to serve as an assistant to Larry O'Brien, who at that time was Special Assistant to President Kennedy in charge of congressional relations.

Henry Wilson was charged with the responsibility of working with Members of the House of Representatives.

In 1967, Henry Wilson was an assistant to President Johnson and left that position to become president of the Chicago Board of Trade.

Henry Wilson, Mr. Speaker, was a man of first-class judgment, a splendid sense of humor, and a deep devotion to public service.

Those of us in the House of Representatives who knew him have lost a friend.

To Henry Hall Wilson's wife and family I extend my deepest sympathy.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I want to join fully in the gentleman's remarks on the passing of Henry Hall Wilson. I know all of us who knew his service to his country and his years of public service here, especially here in Washington, join in the sentiments expressed by the gentleman from Indiana and mourn his passing.

Mr. BRADEMAS. Mr. Speaker, I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I should like to join with my colleague, the gentleman from Indiana, in mourning the passing of this fine and lilting spirit, Henry Hall Wilson. He was what some referred to as the resident southerner in what was affectionately called John F. Kennedy's Irish mafia.

He was a person of great humility, warm, tender, sincere, and of an understanding heart. Henry Wilson was a great human being, a person whom many of us will always remember vividly. I know that all would want to join with us in wishing to his wife Mary, and his children, the blessings of a benign spirit.

● Mr. FOUNTAIN. Mr. Speaker, it is with a great deal of personal sadness and regret that I join our distinguished majority whip, the Honorable John Brademas, in noting the passing yesterday of Henry Hall Wilson, Jr., of Monroe, N.C. I want to associate myself with his fine tribute. I am certain that many of the more senior Members of this House well remember Henry Hall's service in Washington during the John F. Kennedy and Lyndon B. Johnson administrations and were friends of his.

Henry Hall Wilson ably served three terms in the North Carolina House of Representatives from his home area before coming to Washington in 1961 as a congressional liaison officer and special administrative assistant of Presidents Kennedy and Johnson. His chief role was liaison for the House of Representatives and he worked particularly with the southern delegations. He did an excellent job for both Presidents.

In 1967, Henry Hall left Washington to serve as president and chief executive officer of the Chicago Board of Trade. In 1973, he returned to North Carolina where he ran unsuccessfully for the 1974 Democratic nomination for the U.S. Senate. Following the 1974 primary, he returned to his hometown of Monroe where he worked as a business consultant until his untimely death.

Mr. Speaker, Henry Hall had the many qualities of a skilled liaison man—helpful, cooperative, persuasive, understanding, and always available both voluntarily and when contacted. He was a good negotiator—he knew how to advocate, when not to advocate, and how to listen. Henry Hall was an organizer who knew the ropes in Washington and could effectively coordinate efforts between the legislative branch and executive agencies. Many essential public projects and facilities in my own district in North Carolina were greatly expedited and aided by his efforts. While he and I were not always philosophically in accord, he never used that as an excuse or reason for any position he took on matters where he could be helpful. I have missed his presence very much.

A graveside service is scheduled for today and a memorial service for tomorrow in Monroe. Henry Hall leaves his wife Mary, one son, and two daughters. As dean of the North Carolina delegation in Congress, I extend our sympathy and our prayers to the family at this difficult time.●

● Mr. O'NEILL. Mr. Speaker, it is with much regret and a deep sense of personal loss that I rise on this occasion to salute the passing of Henry Hall Wilson.

Henry's accomplishments were many and varied. Following graduation from Duke University Henry Wilson distinguished himself and his country in World War II and then returned to his alma mater to study law. Although Henry planned to practice law in his native city of Monroe, N.C., public life presented too great a challenge for him to ignore. The next 6 years were spent in the North Carolina State Legislature.

Shortly thereafter, Henry Wilson's talents and industry brought him to Washington and earned him a Presidential appointment by our esteemed late President, John F. Kennedy. He served two Presidents, John Kennedy, and Lyndon Johnson, with loyalty and dedication.

It was in this capacity as a liaison between the House of Representatives and the White House that I first had the pleasure of knowing and working with Henry.

His integrity and professional manner were much appreciated by all of us who worked closely with the Kennedy and Johnson administrations, and the passing years have not dimmed that beautiful memory of cooperation and commitment.

I extend my sincere condolences to his lovely wife, Mary, and to his children.●

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in tribute to Henry Hall Wilson.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MARY HARRIS JONES ("MOTHER JONES") 1830–1930

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Mary Harris Jones captured public attention for the plight of people who were politically powerless. Wherever workers struck for their rights "Mother" Jones was there. "I reside wherever there is a good fight against wrong," she said. She acted out of total conviction—helping copper miners in Colorado, coal miners in Pennsylvania, and once marched 145 miles with a band of factory children to confront Theodore Roosevelt with the evils of child labor.

She saw in the miners' stark forms the human cost of America's progress. "Mother" Jones believed that there was no way for the condition of working people in America to improve until they faced the difficult task of organizing. Her life was devoted to making that possible.

Clarence Darrow wrote, "Wherever the fight was the fiercest, 'Mother' Jones was present to aid and cheer. Both day and night, in poor villages and at lonely cabins on the mountain side, 'Mother' Jones always appeared in time of need."

THE FIRING OF W. MICHAEL BLUMENTHAL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, 30 months ago W. Michael Blumenthal left an extraordinarily successful business career to become Secretary of the Treasury. His good judgment and enormous abilities quickly made him a standout in President Carter's Cabinet.

First and foremost, Secretary Blumenthal was an absolutely first-class public servant. He brought tremendous knowledge, devotion and enthusiasm to one of the most thankless, toughest jobs in Government. He treated the Congress not as an obstacle but as an ally in the struggle against some of the most complex and intractable economic problems the country has faced. In his every appearance before the Budget Committee, he spoke with a combination of candor, wit, and precision. His answers were not the sugar-coated nonresponses we have come to expect of many witnesses. His insistence on giving the Congress straight answers was no doubt seen by some in the White House as a political liability, but to me listening to Secretary Blumenthal was always a refreshing and valuable experience. I particularly recall some advice he gave the Congress—and indirectly the Carter administration—when appearing before the Budget Committee he was asked about the possibility of lowering the deficit by allowing taxes to increase:

> It's the wrong way to balance the budget. We need to balance the budget by keeping spending under control and getting it down and not by effectively raising taxes on the average American.

Sadly, that message has gotten through to neither the administration nor the Congress.

While I have only the highest regard for Chairman G. William Miller, the loss of his leadership at the Federal Reserve merely shifts the gaping hole President Carter has created from the area of fiscal to monetary policy. We need to keep both of these able, distinguished men on board and attract more individuals like them.

In short, Mr. Speaker, in Michael Blumenthal we have lost unnecessarily an invaluable public servant, a man who has been a credit to the Government and the American people.

THE DOLLAR, GREATEST CASUALTY OF THE WEEK

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, all of us have been suprised and somewhat perplexed by the decision of the President to reshape his Cabinet. My personal feeling is that the best and the brightest have been given their walking papers in favor of the ultraloyal and pronouncedly political.

Unfortunately, however, it is the dollar rather than certain Cabinet heads which may have been the greatest casualty of the week. Since July 6 when President Carter went to Camp David the value of the dollar has dropped 1¼ percent in relationship to other currencies, and a full 5 percent since May.

Last week the Federal Reserve Board had to raise the discount rate to a punishing 10-percent level and intervene in international money markets to protect the image of the President and the dollar in international trade.

Clearly international confidence in American leadership has been shaken by the events of the past 2 weeks and we could be seeing the greatest short-term challenge to the stability of the dollar in our lifetime. Instead of averting a leadership crisis, the White House appears to have underscored it. Instead of avoiding a recession, administration actions have contributed to its momentum.

The ultimate report card for the Carter administration will not be based on the juvenile categorization of Hamilton Jordan, but will be defined by inflation at home and the strength of the dollar abroad.

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 368]

Abdnor
Akaka
Ambro
Annunzio
Ashley
AuCoin
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Carter
Cavanaugh
Chappell
Coelho
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Courter
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Deckard
Derwinski
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Ginn
Gore
Gradison
Gramm
Grassley
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hinson
Hollenbeck
Holt
Horton
Hubbard
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Lehman
Levitas
Livingston
Loeffler
Long, La.
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McHugh
Madigan
Maguire
Markey
Marlenee
Mathis
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
O'Neill
Oberstar
Obey
Paul
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rostenkowski
Roth
Roybal
Runnels
Sabo
Santini
Satterfield
Schroeder
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Stack
Stenholm
Stokes
Stratton
Swift
Tauke
Taylor
Thomas
Trible
Ullman
Van Deerlin
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Williams, Mont.
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Mo.
Zablocki

☐ 1230

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ROBERTS). The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, under rule XV, clause 2, would a motion be in order to compel the attendance of Members, since we have now run 10 minutes or so beyond the usual time of the quorum call?

The SPEAKER pro tempore. The Chair would advise the gentleman that he would prefer to wait a little longer until we get the members from the committee. There is a large committee meeting. They are trying to get over here. We ought to have a quorum soon.

I understand the gentleman's frustration. I share it with him.

Mr. BAUMAN. Is that the "Entertainment Committee" that is meeting.

The SPEAKER pro tempore. No.

Mr. BAUMAN. I thank the Chair.

☐ 1250

The SPEAKER pro tempore. On this rollcall 219 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call will be dispensed with.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATION BILL

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DELAYING EFFECTIVE DATE OF CERTAIN RULES OF PROCEDURE AND EVIDENCE PROPOSED BY U.S. SUPREME COURT

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 4712) to delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I would ask the gentleman from Massachusetts to explain the content of the bill, H.R. 4712.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I rise in support of H.R. 4712, a bill to delay certain of the recently promulgated amendments to Federal procedural and evidentiary rules. The purpose of the legislation is simple—to provide the Congress with adequate time to review and make any necessary changes in those amendments.

BACKGROUND

Statutes known as the Rules Enabling Acts empower the Supreme Court to promulgate amendments to various procedural and evidentiary rules. The Court is required to transmit any proposed amendments to Congress by May 1, and the proposed amendments take effect 90 days after they have been so transmitted—180 days in the case of amendments to the evidence rules. The purpose of this delay is to allow Congress the opportunity to review the amendments and enact appropriate changes in them before they take effect.

The Supreme Court, pursuant to these statutes, transmitted several proposed amendments to Congress last April 30 (H. Doc. No. 96-112). The proposed amendments make changes in the Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, habeas corpus rules, and the Federal Rules of Evidence. Unless there is legislation to the contrary, these proposed amendments will take effect August 1 (November 1 in the case of the proposed amendment to the evidence rules).

The proposed amendments, which are printed together with explanatory comments of a committee of the Judicial Conference of the United States in House Document No. 96-112, were referred to the Subcommittee on Criminal Justice, which I chair. The Criminal Justice Subcommittee is presently engaged in a major effort to draft legislation to recodify Federal criminal laws. This project has our highest priority, and we have been meeting four and five times per week in order to complete our draft in time to take a bill to the full Judiciary Committee this fall. In fact, we have to date held some 70 markup meetings, as well as four hearings, on the recodification project.

As a result, the subcommittee has been unable to study in detail the proposed amendments promulgated by the Supreme Court last April 30. Even under the best of circumstances, the time allowed for congressional review and the enactment of necessary legislation is not adequate. Given the subcommittee's schedule on the recodification legislation, the time allowed is completely unrealistic.

One possible course of action would be to postpone the effective date of all of the proposed amendments so that there would be enough time to conduct a careful review of them. That course, however, would delay the implementation of proposed amendments about which there is no disagreement or controversy. The subcommittee decided that the better course of action would be to determine which of the proposed amendments are controversial and to postpone the effective date of only those proposed amendments. Therefore, comments on the proposed amendments were solicited, and on the basis of those comments the subcommittee agreed that the effective date of several proposed amendments should be postponed. H.R. 4712 was introduced to accomplish that postponement.

Postponing the effective date is not a novel procedure. Congress has done so several times in recent years. In the 93d Congress, the effective date of the proposed Federal Rules of Evidence was postponed indefinitely (Public Law 93-12), and the effective date of some proposed amendments to the Federal Rules of Criminal Procedure was postponed for 1 year (Public Law 93-361). In the 94th Congress, the Supreme Court transmitted additional proposed amendments to the Federal Rules of Criminal Procedure and established rules of procedure for habeas corpus proceedings. The effective date of some of the proposed amendments to the Federal Rules of Criminal Procedure was postponed for 1 year, and the effective date of the habeas corpus rules was postponed until the adjournment sine die of the 94th Congress (Public Law 94-426).

In each instance where the effective date of proposed amendments was postponed, the Congress acted in a timely fashion to approve, reject or modify the proposed amendments. The Federal Rules of Evidence were enacted into law during the 93d Congress (Public Law 93-595). The proposed amendments to the Federal Rules of Criminal Procedure which were promulgated during the 93d and 94th Congresses were likewise acted upon in a timely fashion. During the additional time provided by the postponement in the effective date, Congress enacted legislation approving, rejecting, or modifying the proposed amendments (Public Law 94-64; Public Law 95-78). Finally, Congress acted upon the proposed habeas corpus rules before the sine die adjournment of the 94th Congress (Public Law 94-426).

SYNOPSIS OF H.R. 4712

H.R. 4712, as reported by the Judiciary Committee, postpones the effective date of some of the recently promulgated amendments until December 1, 1980. This delay will give us the remainder of the 96th Congress to study the proposed amendments and process any necessary legislation.

The proposed amendments to the following rules are affected:

First. Rule 11(e)(6) of the Federal Rules of Criminal Procedure and rule 410 of the Federal Rules of Evidence, identical rules dealing with the admissibility of statements made during plea negotiations. These rules were amended by Congress in 1975 after extensive discussion and consideration (Public Law 94-64).

Second. Proposed new Rule 26.2 and rule 17(h) of the Federal Rules of Criminal Procedure. The Jencks Act (18 U.S.C. § 3500) provides that statements of Government witnesses be disclosed to the defendant after the Government has completed the direct examination of those witnesses. Proposed Rule 26.2 would, in essence, amend the Jencks Act by providing that statements of defense witnesses similarly be disclosed to the Government. The proposed amendment to rule 17(h) makes a cross-reference to proposed rule 26.2.

Third. Proposed rule 32.1 and rule 32(f) of the Federal Rules of Criminal Procedure. Proposed rule 32.1 is a new rule that will deal with revocation of probation that will replace rule 32(f), which the proposed amendments would abrogate. The Subcommittee on Criminal Justice is dealing with probation revocation policy and procedure during its work on the recodification legislation. Thus, if proposed rule 32.1 takes effect next August 1, it would be superseded by a procedure that in all likelihood will be different from that in proposed rule 32.1. To avoid any confusion which that chain of events could generate, the better course of action would seem to be to postpone the effective date of proposed rule 32.1 and of the proposed amendment that abrogates rule 32(f).

Fourth. Rule 44(c) of the Federal Rules of Criminal Procedure, which deals with the assignment of counsel. The proposed amendment adds a new subdivision to the rule dealing with the situation where several defendants are represented by a single attorney.

Fifth. Rule 40 of the Federal Rules of Criminal Procedure. The proposed amendments would, inter alia, add to rule 40(d) a cross-reference to proposed rule 32.1. Rather than postpone all of the amendments to rule 40, it was determined that the best course of action would be to let the proposed amendments to rule 40 take effect on August 1 with an amendment deleting the cross-reference to proposed rule 32.1.

Because of the need to enact this legislation by August 1, 1979, Representative THOMAS N. KINDNESS, the ranking Republican on the Subcommittee on Criminal Justice, and I have been in touch with Members of the other body interested in and involved with the proposed amendments. H.R. 4712 as reported by the Committee on the Judiciary is completely acceptable to them. If passed, the bill will be taken up promptly by the other body.

Mr. Speaker, H.R. 4712 has bipartisan endorsement and has not been a controversial apiece of legislation. The bill is intended to give the Congress sufficient time in which to carry out its function with regard to proposed amendments to procedural and evidentiary rules. I urge my colleagues to support it.

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, I urge support of H.R. 4712, as amended. The Supreme Court of the United States, on April 30 of this year, promulgated several amendments to the Federal rules of criminal and appellate procedure and the rules of evidence. Under the applicable enabling acts, the amendments will become effective on August 1, 1979—in the case of the criminal and appellate rules—

and on November 1, 1979, with respect to the evidence rules unless Congress takes action in contravention.

H.R. 4712 as amended merely postpones until December 1, 1980, those proposed amendments which have generated controversy so that the Judiciary Committee can hold hearings and resolve this controversy. The bill, as amended, was approved without dissent both by the Subcommittee on Criminal Justice and the Judiciary Committee.

If Congress is to exercise a meaningful role in overseeing the development of the rules of Federal procedure, it must thoroughly scrutinize those changes generating criticism from sectors of the practicing bar. A delay of the type proposed in this bill merely provides an adequate opportunity for Congress to fulfill its duties in this regard.

By and large, the amendments proposed by the Supreme Court on April 30 are being left to take effect as provided by the respective enabling acts. This bill very carefully selects only three major amendments that merit further legislative study. The major Supreme Court amendments delayed are:

Rule 11(e)(6) (FRCrimP)—Making inadmissible in court those negotiations with "an attorney for the Government" that do not result in guilty pleas. Defense bar representatives have criticized this proposed amendment arguing that considerable plea bargaining is done with nonattorneys such as police officers and investigators, and thus any proposed amendment should take this into account. This should be considered by the Congress.

Rule 26.2 (FRCrimP)—A new rule making the requirements of the Jencks Act applicable to the defense as well as to the prosecution in a criminal trial. Although the advisory committee notes assert that this proposal merely codifies the Supreme Court's decision in *U.S.* v. *Nobles,* 422 U.S. 225 (1975), the American Bar Association and others have suggested there has been insufficient appellate explication of that decision. This should be considered by the Congress.

Rule 32.1 (FRCrimP)—A new rule setting a procedure for the modification or revocation of probation. The bill delays this rule because of work currently being conducted by the Subcommittee on Criminal Justice to recodify the entire Federal criminal code including probation revocation procedure. Thus to delay the effective date of this rule avoids the confusion that may ensue from having one procedure in force for 2 years only to have it supplanted by another procedure contained in subsequent comprehensive criminal legislation.

Rule 44(c) (FRCrimP)—Provides that judges scrutinize carefully cases in which two or more defendants are jointly represented by the same counsel. Criticism has been directed at this amendment on the grounds that it unnecessarily inhibits two or more defendants from employing the same counsel. This should be considered by the Congress.

Mr. Speaker, in conclusion, let me assert that the Supreme Court performs invaluable service in promulgating procedure changes. However, Congress ought not to abdicate its legislative responsibilities. We have, on several occasions, considered and improved amendments promulgated by the Supreme Court, most notably the Federal rules of evidence.

Therefore, Mr. Speaker, I urge adoption of H.R. 4712 as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill as follows:

H.R. 4712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary—

(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 41 (a), (b), and (c), and 44(c), and adding a new rule 26.2, the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, and the amendment so proposed and transmitted to the Federal Rules of Appellate Procedure affecting rule 34, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier;

(2) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure adding a new rule 32.1 and affecting rule 32(f) shall not take effect until and then only to the extent approved by Act of Congress; and

(3) the amendment proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, affecting rule 40 of the Federal Rules of Criminal Procedure shall take effect on August 1, 1979, with the following amendments:

(A) In the matter designated as paragraph (1) of subdivision (d), strike out "in accordance with Rule 32.1(a)".

(B) In the matter designated as paragraph (2) of subdivision (d), strike out "in accordance with Rule 32.1(a)(1)".

With the following committee amendment:

Strike out all after the enacting clause and insert:

That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary—

(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 32(f), and 44(c), and adding new rules 26.2 and 32.1, and the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier; and

(2) the amendment proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, affecting rule 40 of the Federal Rules of Criminal Procedure shall take effect on August 1, 1979, with the following amendments:

(A) In the matter designated as paragraph (1) of subdivision (d), strike out "in accordance with Rule 32.1(a)".

(B) In the matter designated as paragraph (2) of subdivision (d), strike out "in accordance with Rule 32.1(a)(1)".

Mr. DRINAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the committee amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes to be postponed will be taken Tuesday, July 24, 1979.

RELEASE OF CONTINGENT INTEREST IN LAND OWNED BY BELL COUNTY, KY.

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 41) to require the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky., as amended.

The Clerk read as follows:

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey, without consideration, to the Bell County Board of Education, Bell County, Kentucky, all right, title, and interest in and to 47.04 acres of land, more or less, a portion of the real property described as tract numbered 1101b in the quitclaim deed made by the United States, as grantor, to the Commonwealth of Kentucky, for the use and benefit of the Department of Conservation, dated April 15, 1954, recorded in Bell County, Kentucky, in deed book numbered 159, page 550, which the United States may hold as a result of covenants contained in said quitclaim deed: *Provided*, That this conveyanace in no way affects the undivided interest of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in said deed: *And provided further*, That any proceeds from the sale, lease, exchange, or other use or disposition of the lands shall be used exclusively for educational purposes by the Bell County Board of Education.

SEC. 2. The 47.04-acre tract described in section 1 lies on the east side of United States Highway 25E on Log Mountain in the Kentucky Ridge State Forest, and is more particularly described as follows: Beginning at a point in the west line of a 150-foot Kentucky Utilities Transmission Line easement and the east right-of-way line of United States 25E; thence, running with said easement south 01 degrees 46 minutes west, 2286.00 feet to a concrete monument (set); thence, leaving said easement and running south 86 degrees 34 minutes west, 1581.52 feet to a concrete monument (set) in the east right-of-way line of United States 25E; thence, with said right-of-way the following courses: north 28 degrees 36 minutes east, 500.00 feet; north 28 degrees 22 minutes east, 349.03 feet to a concrete right-of-way monument (found); north 37 degrees 36 minutes east, 456.59 feet to a concrete right-of-way monument (found); north 11 degrees 25 minutes west, 128.82 feet to a concrete right-of-way monument (found); north 38 degrees 11 minutes east, 497.55 feet to a concrete right-of-way monument (found); north 38 degrees 11 minutes east, 679.00 feet to a concrete right-of-way monument (found): north 50 degrees 02 minutes east, 343.70 feet to the point of beginning.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill (S. 41) is a companion measure to H.R. 1573, sponsored in the House by our colleague, the gentleman from Kentucky, Dr. TIM LEE CARTER. It was passed by the Senate on April 4.

Twenty-five years ago, in 1954, the Secretary of Agriculture conveyed a large parcel of land in Bell County, Ky., to the Commonwealth of Kentucky to be used for public purposes. In accordance with the Bankhead-Jones Act, which was the statutory authority for that conveyance, the Secretary included in the deed a covenant that the land would revert to the United States if it is ever used for other than public purposes.

In 1977, the Commonwealth of Kentucky transferred ownership of a 47-acre portion of this parcel to Bell County as the site for a new consolidated high school. The school is urgently needed to replace two existing school facilities which sustained $1.3 million damage in the April 1977 flood which devastated that area.

In order to get the funds to construct the new school, Bell County must sell bonds. However, the bonds cannot be sold unless the United States releases its reversionary interest in this 47 acres.

As I have said, the land is already owned by Bell County. The Congressional Budget Office and the Department of Agriculture agree that passage of the bill will result in no cost to the Government. S. 41 merely directs the Secretary of Agriculture to release the reversionary interest of the Government. In order to preserve the spirit of the original transfer, this bill requires that the proceeds be used for public purposes in the unlikely event that this 47 acres is ever sold by Bell County.

The Committee on Agriculture has made two technical amendments which: First, protect the interest of the United States in mineral rights reserved at the time of the original transfer; and second, correctly identify the deed book in which that transfer is recorded. We have been advised that these amendments are acceptable to the sponsors of this legislation both in the House and in the Senate.

Mr. Speaker, this is a small matter by comparison to the cosmic concerns to which we in Washington have become accustomed. But in rural Bell County it is a matter of vital concern. This is a good bill and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. WAMPLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 41.

This is a simple bill. Yet it is an urgent bill. It will entail no cost to the Federal Government.

This bill directs the Secretary of Agriculture to release a reversionary interest of the United States in a 47.04-acre parcel of land owned by the Bell County, Ky., Board of Education in order to permit the Board to construct an urgently needed high school.

The land in question is part of a much larger tract which was conveyed to the Commonwealth of Kentucky in 1954 by the Secretary of Agriculture pursuant to the Bankhead-Jones Farm Tenant Act. As required by that act the conveyance subjected the entire tract to a covenant which requires that the land revert to the United States if it is ever used for other than a public purpose. The Commonwealth of Kentucky conveyed the 47.04-acre parcel to the Bell County Board of Education—subject of course to this covenant—for the purpose of constructing a consolidated high school. The two high schools which would be replaced are both located in a flood plain and both have suffered recurrent flood damage.

Because of the reversionary interest, Bell County has been unable to issue the revenue bonds needed to finance construction which has been delayed for over a year due to this obstacle. Prospective bond purchasers will not accept as security land which is subject to such a reversionary interest. S. 41 would direct the release of this reversion, and I urge its adoption so that the Bell County Board of Education may begin construction of their new high school as soon as possible.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, since the devastating flood of April 1977 in southeastern Kentucky, the Bell County Board of Education has sought wisely to construct new school facilities on land located outside of the flood plain. After much preparation and planning, they are now ready to proceed with construction, and this bill would remove the remaining obstacle to their plans.

S. 41 directs the Secretary of Agriculture to release a reversionary interest of the United States in the 47.04 acres of land owned by the Bell County Board of Education so that they may—under the laws of the Commonwealth of Kentucky—sell the necessary school construction bonds.

This land was deeded to the Commonwealth of Kentucky in 1954, and the Commonwealth conveyed it to Bell County to enable them to have a flood-free site on which to construct their new school.

Neither the Department of Agriculture nor the Commonwealth objects to the legislation. In fact, they support it fully and would like for Bell County to be able to go ahead with construction before the winter and before renewed flooding again threatens the existing educational facilities.

There is no cost involved in this release, and, actuallv, favorable action on this bill will save the United States from the likelihood of having to provide flood disaster assistance to the school system as has been the case within the past few years.

It is essential that the Bell County Board of Education be permitted to move ahead on this important project as soon as possible, and I urge that this measure be approved.

Mr. WAMPLER. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the Senate bill, S. 41, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title was amended so as to read: "An Act to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky.".

A motion to reconsider was laid on the table.

□ 1300

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COAST GUARD DRUG LAW ENFORCEMENT

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2538) to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States on the high seas, to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(b) It is unlawful for a citizen of the United States on board any vessel to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(c) It is unlawful for any person on board any vessel within the customs waters of the United States to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(d) It is unlawful for any person to possess, manufacture, or distribute a controlled substance—

(1) intending that it be unlawfully imported into the United States; or

(2) knowing that it will be unlawfully imported into the United States.

(e) Subsections (a), (b), and (c) do not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court for the District of Columbia.

(g) Any person who violates subsection (a), (b), (c), or (d) of this section shall be punished in accordance with section 1010 of the Comprehensive Act, or, for a second or subsequent offense, in accordance with section 1012 of that Act, in the same manner as a person who manufactures or distributes a controlled substance contrary to section 1009 of that Act would be punished.

SEC. 2. As used in this Act—

(a) "Customs waters" means those waters as defined in section 401(j) of the Tariff Act of 1930 (19 U.S.C. 1401(j)).

(b) "High seas" means all waters beyond the territorial seas of the United States and beyond the territorial seas of any foreign nation.

(c) "Vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States or a citizen of the United States, or a corporation created under the laws of the United States. or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accordance with article 5 of the Convention on the High Seas, 1958.

(d) "Vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the Convention on the High Seas, 1958.

(e) "Comprehensive Act" means the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 801-966). All terms used in this Act that are defined in the Comprehensive Act have the meanings assigned to them by that Act.

SEC. 3. Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

SEC. 4. (a) The following shall be subject to forfeiture, and no property right shall exist in them:

(1) Any vessel or other conveyance used or intended for use in any manner to facilitate the commission of an offense under this Act, except that no vessel or other conveyance shall be forfeited under this section:

(A) if it is used by any person as a common carrier in the transaction of business as a common carrier, unless it shall appear that the owner or master or other person in charge of such vessel or other conveyance was at the time of the alleged unlawful act a consenting party or privy thereto; or

(B) if the owner thereof establishes that the alleged unlawful act was committed by a person other than the owner while such vessel or other conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of a State.

(2) Any controlled substance manufactured, distributed, or possessed in violation of this Act.

(3) Any other property used or intended for use in any manner to facilitate the commission of an offense under this Act.

(b) Property described in subsection (a) shall be subject to seizure without a warrant whenever there is probable cause to believe that it has been used or is intended to be used in any manner to commit, or to facilitate the commission of, an offense under this Act.

(c) Property seized or forfeited under this section shall be processed in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Act.

(d) Once the United States has shown probable cause for the seizure of property under this section, the burden of going forward with the evidence to establish that such property is not subject to forfeiture under this Act is upon the party opposing the forfeiture.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself as much time as I may consume.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. BIAGGI. Mr. Speaker, I thank my friend and colleague from New York, Chairman MURPHY, for his support and efforts in bringing H.R. 2538, Coast Guard high seas drug enforcement legislation, to the floor for consideration.

It has been 4 years since I chaired subcommittee hearings in Puerto Rico, which revealed what has emerged as a glaring loophole in our domestic drug law that severely hampers Coast Guard drug interdiction efforts to this day. In response, I introduced legislation to close that loophole. The bill before us today has the support of the administration and law enforcement agencies across the country.

I have just returned from chairing field hearings on Coast Guard drug enforcement efforts in the Caribbean and Gulf of Mexico. During that time, I was present when the 95-foot Coast Guard patrol boat *Cape Current*—commanded by Lt. (j.g.) Susan Moritz—escorted the pleasure vessel *David* to the Coast Guard base at Miami Beach. The *David* had been seized on the high seas when it was found to contain over 2,500 pounds of marihuana. Six crewmen were on board.

In a case like this, the marihuana is burned or shredded and the vessel is impounded. The fate of the crew is more speculative. In the absence of evidence to prove conspiracy to import—which is the usual case—they will go free. If they are of foreign nationality, they are sent home at the expense of the U.S. Government. In either case, they will be able to return to the drug trade within a short time. The present law is thus no deterrent to repeat offenders.

The fact that the six young men I saw marched ashore under guard that night in Miami will probably soon be free to do the same thing again—none the worse for wear—made me realize again the importance of this legislation.

The legislation we take up today—in which I am joined by over 60 of my colleagues—will cure this serious defect in present law. This bill will make it unlawful:

For U.S. citizens to manufacture, distribute, or possess with intent to distribute, any controlled substance on any vessel;

For any person on board a U.S. vessel anywhere or on board a stateless vessel on the high seas—or

For any person—on any vessel within our customs waters—to commit the same offenses; and

For any person to possess, manufacture, or distribute a controlled substance—knowing or intending that it be unlawfully imported into the United States.

Intent can be inferred from possession of a large quantity of a drug.

This latter provision is targeted directly at the foreign drug smugglers now operating with virtual impunity on the high seas, beyond the reach of present law.

I am a realist. We will not rid the high seas of drug smugglers with legislation alone. However, we will remove the high seas as a safe haven for their smuggling operations. My experience in law enforcement is that you confront an outbreak in street crime with additional "presence." You put your patrol cars and uniformed policemen on the street—and give them the authority they need to arrest and successfully prosecute criminal offenders—putting them in jail and off the streets.

In similar fashion, the Coast Guard is now doing a good job of maritime drug patrol. All told, its 6-year drug campaign has resulted in the seizure of over 300 vessels—1,600 arrests—and the confiscation of over 5.5 million pounds of contraband, with a street value of over $2.4 billion—almost twice the service's annual budget.

My investigations have convinced me, however, that the largest single contribution we can make in irrevocably shifting the balance of power in this modern-day drug war is through the passage of the legislation before us. And it would not cost the taxpayer 1 penny. It will, though, help to stop the economic hemorrhaging caused by the annual outpouring of over $45 billion from the U.S. economy into the hands of international drug financiers and traffickers—money spent to support our imported drug habit.

Therefore, I urge my colleagues, by their vote on this bill, to send a signal to the smugglers that the "free ride" is over—many of them will now go to jail—if not here, then abroad—and to the other body, a mandate that we need this vital legislation now to put real teeth in our domestic drug enforcement effort.

Mr. Speaker, there is a minor technical matter I would like to mention. On page 10 of the report on this bill, it is stated that the offense of unlawful importation encompasses all narcotics and dangerous drugs included in schedules I through IV of the Comprehensive Drug Abuse and Control Act. The report is in error. The offense, as defined in H.R. 2538, includes schedules I through V of the act.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill. I join with the unanimous support of my committee colleagues in urging passage of H.R. 2538, the principal thrust of which is to prohibit illicit trafficking in controlled substances on the high seas to and from the coasts of the United States.

The Federal authorities charged with control of illegal drug traffic allege frustration due in large part to an inadvertent omission from the Comprehensive Drug Abuse Control and Prevention Act of 1970 that limited possession of controlled substances as a punishable crime to only U.S. territorial or customs waters and then only when able to establish an intent to import or export such substances as an element of the offense.

Though authorities do exercise jurisdiction over U.S. citizens and U.S. vessels on the high seas, where controlled substances have been concerned it has been necessary to show a conspiracy to import such material into the United States for successful prosecution. This has proven difficult. Nevertheless, the Coast Guard has continued to put pressure on traffickers in drugs by setting up interdiction patrols concentrating on the so-called choke points or constricted passages that vessels generally have. The Coast Guard has acted under its broad authority to enforce all applicable Federal laws on or under the high seas an waters subject to the jurisdiction of the United States.

In the Southern District of Florida, jurisdiction was hesitantly exercised over hovering non-U.S. vessels with limited success, but then only where the officers felt clearly able to establish an intent or conspiracy to import. In most cases, involving many repeat traffickers, the persons involved were repatriated at U.S. taxpayer expense.

Traffickers or smugglers were said to be well aware of these impediments to prosecution—and their assault on our shores has increased accordingly and dramatically. For example, the assistant U.S. attorney in Miami dealt with pound quantities of marihuana in 1971—which he would now ignore—whereas he was faced with multiton quantities in 1979.

With these difficulties and the gradual spread of smuggling along the east coast, and after several years of congressional inquiry by Chairman Biaggi and others, his subcommittee with the assistance of an interagency working group has developed H.R. 2538, a bill that no one will claim is a panacea for all the evils that drug smuggling poses for our country but which will provide law enforcement teams with an essential tool in their efforts to thwart illicit trafficking in drugs.

Essentially H.R. 2538 provides a sound basis for the prosecution of every person and vessel that the Coast Guard or other authorized law enforcement officer finds engaged in international traffic in drugs and to the broadest extent possible under international law—something that was heretofore impossible. Where current law requires an intent to import a controlled substance into the United States as a necessary element of the crime this bill essentially requires only knowledge or intent to distribute with no need to establish a U.S. destination. Such intent may be inferred from the presence of controlled substances that exceed normal consumption—and that are not entered as cargo on a vessel's manifest.

More specifically with respect to the high seas the area of greatest difficulty for enforcement authorities this bill would exert jurisdiction over—

Any person, foreign or U.S. citizen, on board a U.S. vessel or one subject to U.S. jurisdiction such as a stateless vessel; and

A citizen of the United States on any vessel—

Who has possession of a controlled substance with intent to distribute same, other than for lawful medicinal uses or is legitimate trade.

Jurisdiction can also be exerted over any person who possesses or distributes a proscribed substance with the intention or knowledge of importation.

In the customs zone or waters of the United States, possession with intent to distribute, rather than the previous element of importation, will now be sufficient to justify prosecution.

For foreign citizens on foreign flag vessels, not specifically addressed in this bill, jurisdiction will exist only where an intent to import a proscribed substance can be shown as in cases of conspiracy. It should be noted that with respect to foreign flag vessels in the high seas, although the United States may have jurisdiction over a person on board, it generally may not exercise jurisdiction over the vessel without flag state concurrence.

This bill also makes it criminal to attempt or conspire to commit the defined offenses, provides for seizure and forfeitures of property involved in facilitating the commission of an offense, makes exceptions for vessels used as common carriers or without an owner's knowledge of its use in committing a proscribed act, and provides for recidivist or repeat offenders.

I commend the subcommittee chairman for pursuing this matter so diligently and urge support for the passage of this bill.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. de la Garza).

Mr. de la GARZA. I thank the gentleman for yielding.

Mr. Speaker, I join the gentleman from New York (Mr. Biaggi) in this excellent piece of legislation. As a member of the Coast Guard Subcommittee I have had the privilege of serving with the gentleman from New York, and I want to commend him for his insight and perception as to the needs of the Coast Guard in this very important matter of drug trafficking on the high seas. The gentleman was able to see that there was a lack of another tool needed for the Coast Guard, and certainly this legislation will enhance the capability to deal with this very serious matter. I want to emphasize to my colleagues that this is worthwhile legislation that we should support. Again, I commend the gentleman from New York for the leadership which he has taken in this endeavor.

● Mr. EVANS of the Virgin Islands. Mr. Speaker, I rise in support of passage of H.R. 2538, a bill which will close existing loopholes in the drug enforcement law as it relates to the importation of narcotics into the United States of America.

By participating in a recently concluded Coast Guard interdiction mission, headed by Chairman MARIO BIAGGI, I have garnered valuable firsthand knowledge into the deplorable drug enforcement situation faced by our U.S. Coastal Guard. Through numerous discussions held with Coast Guard personnel and through hearings involving the U.S. Customs Service, the Drug Enforcement Agency, and other Federal and State agencies in both Florida and the Virgin Islands, I have come to the inescapable conclusion that present Federal drug laws do not represent a serious deterrent to drug smugglers seeking to enter U.S. waters.

I feel strongly that this bill will eliminate the revolving door treatment given drug smugglers by enlarging the scope of what constitutes prosecutable drug activity and by enabling drug prosecutors to obtain more narcotics convictions.●

● Mr. MURPHY of New York. Mr. Speaker, H.R. 2538 is a bill to facilitate enforcement by the Coast Guard of laws relating to the smuggling of illegal drugs into the United States. The bill reinstates criminal penalties for maritime drug smuggling on the high seas involving persons and vessels subject to the jurisdiction of the United States. It thus closes a loophole in the law that was inadvertently created in 1970.

For the past several years, the Coast Guard, along with several other Government agencies, has been fighting a drug war at sea, attempting to stem the massive flow of illegal drugs into our country. An indication of the size of this flow is that, in 1978, the Coast Guard participated in the seizure of 167 vessels, made 867 arrests, and confiscated 3.5 million pounds of contraband, worth $1.3 billion. But these figures, large as they are, apparently represent only the tip of the iceberg, since the Coast Guard estimates that it is interdicting only about 10 percent of the drugs being transported by vessel.

Intelligence estimates anticipate no projected decline in maritime smuggling activity in the foreseeable future. In fact, recent data suggests that an expansion of maritime smuggling to the west coast is presently occurring, which indicates growth in smuggling operations.

In order to mount an effective domestic drug enforcement campaign, adequate material support and sufficient criminal sanctions are necessary to neutralize smugglers and provide a credible deterrent to smuggling through uniformly high conviction rates in the criminal justice system. There is presently no potent legal weapon in our antismuggling arsenal with which to combat drug offenses committed on the high seas.

This is because, under present law, the only prosecutable offense in many cases of arrest of U.S. vessels on the high seas for possession of narcotics is the offense of conspiracy to import. This is a difficult crime to prove, especially since the smugglers are adept at destroying any evidence that would show the intended destination of their vessel or the drugs aboard it.

As a result of this state of the law, over 80 percent of U.S. citizens arrested by the Coast Guard for drug smuggling on the high seas are not being successfully prosecuted, and virtually all foreign smugglers arrested in this manner are sent back to their home country at U.S. taxpayer expense since they cannot be prosecuted under the present law.

Maritime drug smuggling today is a massive, highly sophisticated operation using the latest electronic equipment to outwit law enforcement efforts. Such an operation can only be successfully countered from an effective statutory base. This bill will provide that base by remedying the deficiencies in existing law. Under it, seaborne drug traffickers will no longer be able to escape prosecution.

Mr. Speaker, H.R. 2538 is the result of careful development by the Committee on Merchant Marine and Fisheries in cooperation with the Select Committee on Narcotics Abuse and Control. Extensive input was also received from the various law enforcement agencies—Federal, State, and local.

H.R. 2538, as amended, was unanimously reported by the Committee on Merchant Marine and Fisheries, and it has the support of the administration. It involves no additional cost to the Government. I urge its adoption.●

● Mr. CORRADA. Mr. Speaker, the magnitude of maritime drug smuggling is staggering and we should do our utmost to stop it. This bill is one of the many measures needed to close existing loopholes in the law which are being used by the traffickers to continue with their deleterious business. I rise in support of this bill and urge you to vote for it.

I have a particular interest and concern in this legislation. Puerto Rico, being an island in the Caribbean and a natural path for the traffickers, is more vulnerable to maritime drug smuggling than other States. In Puerto Rico we have been fighting drug smuggling for years, but have to depend and sometimes rely completely on the patrol assistance provided by the Coast Guard if we want to continue counteracting and neutralizing this kind of criminal activity. H.R. 2538 is a much needed piece of legislation which would serve as an additional tool to stop this grave problem.

The efforts placed so far by the government of Puerto Rico in fighting the drug smuggling can be classified as outstanding. To understand the problem, all you have to do is take a look at a world map and you will see the location of Puerto Rico and our proximity to the main sources of illegal drugs in the Caribbean. We want to avoid any involvement of Puerto Rico in the web of illegal trafficking of narcotics whether it be for sale and use in our island or whether it be to utilize our island as a station for transferring narcotics to any other areas.

I welcome this bill. Without any doubt, H.R. 2538 will facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances. We are closing a loophole in the law and at the same time erecting another barrier to stop this malaise.

I commend Chairman BIAGGI as well as the members of the committee for the initiative taken in bringing this bill to the consideration of the House at an earlier date.

I welcome the members of the Subcommittee on Coast Guard, House Committee on Merchant Marine and Fisheries, or any other Member of Congress interested in visiting Puerto Rico within a reasonable period of time after the enactment of this bill to see for themselves the difference that this legislation will make in our fight against drug smuggling. However, I have to point out that this bill will mean nothing if the Coast Guard do not come forward with their resources to implement it.●

● Mr. LAFALCE. Mr. Speaker, drug trafficking in the United States is a multibillion-dollar industry. One of the ways this industry is fed is through smuggling on the high seas; one of the ways this industry is perpetuated is through a loophole in the criminal law whereby possession of narcotics and dangerous drugs on U.S. territory and within the territorial sea is a Federal crime, while the same conduct on the high seas is not prohibited.

It takes little imagination to see ships loaded to the gills with thousands of pounds of marihuana or other narcotics, making their way from the Guajira Peninsula in Colombia, and unloading their cargo, outside territorial limits, onto lighter vessels which can then seek the security of a secluded cove along our shoreline.

While the Coast Guard has an impressive record of arrests and confiscations, the number of vessels which successfully avoid Coast Guard detection by taking advantage of this loophole is staggering.

We are actively working with the Turbay government in Colombia, and their drug interdiction efforts have been made in earnest. Now it is time to clean up our shop on the homefront, and enable the Coast Guard—our primary maritime law enforcement agency—to do all in its power to mount an even more effective domestic drug enforcement campaign. As I mentioned before, through an anomaly in the law, we do not have a potent weapon to combat drug offenses committed on the high seas. To consolidate our efforts on the international as well as the national fronts, we have to rectify this mistake now.

More potent Coast Guard drug law enforcement on the high seas is one of the foremost ways in which we can begin to limit the incidence of drug abuse, particularly among our youth. The traumatic and deleterious effects of drug abuse on our youth are staggering. But, we can insure right now that the statistics concerning drug use, and the ruinous effects of drug abuse, are not indiscriminately and criminally perpetuated by the gleam of the dollar sign in a smuggler's eye.

While I am vitally interested in all drug interdiction efforts, I am also personally involved in taking action to quell the growing pattern of drug use in this country. I have introduced three bills which would impose stricter curbs on the movement of drug-related currency into and out of this country, and thus make it more difficult for drug dealers to ship drugs into this country. I feel that the coordinated attack against drug trafficking posed by H.R. 2538 and my bills are essential efforts in pulling the bottom out of the drug market.

I urge my colleagues to vote in favor of H.R. 2538 when we act on this bill today.●

Mr. BIAGGI. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Biaggi) that the House suspend the rules and pass the bill, H.R. 2538, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS RELATED TO THE EDUCATION AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4591) to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, as amended.

The Clerk read as follows:

H.R. 4591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "subsection (o)" in section 116(b)(2) and inserting in lieu thereof "subsection (c)";

(2) by striking out "but did not meet" in section 123(b) and inserting in lieu thereof "but did meet";

(3) by striking out "section 183(g)" in section 124(g)(1) and inserting in lieu thereof "section 183(b)";

(4) by striking out subparagraphs (A), (B), and (C) of section 125(a)(1) and inserting in lieu thereof the following:

"(A) has a majority of members who are parents of children to be served by projects assisted under this title, who shall either be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

"(B) includes such additional members as may be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

"(C) includes representatives of children and schools eligible to be served by, but not currently participating in, programs assisted with funds provided under this title, who shall be elected by the parents in such areas; and

"(D) is established in accordance with regulations to be issued by the Commissioner which provide alternative models to carry out subparagraphs (A) through (C) of this paragraph.";

(5) by amending the matter preceeding clause (A) of section 125(c)(1) to read as follows:

"(c) Access to Information.—(1) Each local educational agency shall provide without charge to each advisory council established by such an agency under subsection (a) of this section, and, upon request, to each member of such advisory council—";

(6) by striking out "and (l)" in section 130(a) and inserting in lieu thereof "and (m)";

(7) by striking out "126(d), and 130" in section 142(a)(3) and by inserting in lieu thereof "and 126 (d)";

(8) by striking out "subsection" in section 142(b) and inserting in lieu thereof "section";

(9) by amending section 143(b) to read as follows:

"(b) Availability of Funds.—The Commissioner shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount which shall not be less than $6,000,000 nor more than 5 per centum of the amount so appropriated.";

(10) by striking out "126(e), and 130" in section 147 and inserting in lieu thereof "and 126(e)";

(11) by striking out "126(e), and 130" in section 152(a) and inserting in lieu thereof "and 126(e)";

(12) by striking out "130(a)(1)" in section 222(c) and inserting in lieu thereof "130(a)";

(13) by striking "part B" in section 404 (a)(7) and by inserting in lieu thereof "part B, section 521,";

(14) by striking out "section 431(a)" in section 404(a)(8) and inserting in lieu thereof "section 521";

(15) by striking out "421" in section 404 (a)(9) and inserting in lieu thereof "521";

(16)(A) by striking out "(A)" and "(B)" in section 523(b) and inserting in lieu thereof "(1)" and "(2)", respectively;

(B) by inserting "(A)" in section 523(b) (1) (as redesignated) before "15 percent"; and

(C) by inserting before the comma in section 523(b)(1) (as designated) the following: "or (B) the amount made available to all States for fiscal year 1973 for title V as in effect in such year, whichever is greater";

(17) by inserting after section 523 the following new section:

"ALLOTMENTS TO STATES

"Sec. 524. (a) From the amount appropriated under this part to meet the requirement of section 523(b)(1) for any fiscal year, the Commissioner shall allot to each State an amount equal to the allotment of the State for strengthening activities in the fiscal year 1973 pursuant to title V as in effect in such year to be available to carry out this part.

"(b) From the amounts appropriated in excess of the amount appropriated to meet the requirement of subsection (a), the Commissioner shall award grants to States on a discretionary basis to be available to carry out this part.";

(18) by inserting "(1)" in section 610(f) after the subsection designation and by adding at the end of such subsection the following new paragraph:

"(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a State or local educational agency without first notifying the agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.";

(19) by inserting "(1)" in section 809(b) after the subsection designation and by adding at the end of such subsection the following new paragraph:

"(2) No grant may be made to a local education agency to plan, direct, or operate any program or activity that is being conducted by another public agency unless the Commissioner determines that there is collaboration between the local education agency and the public agency conducting such program or activity.";

(20) by striking out the section designation "Sec. 1004." (as amended by section 901 (b) of the Education Amendments of 1978), and inserting in lieu thereof "Sec. 1003."; and

(21) by adding at the end of section 1005 (e) the following new paragraph:

"(3) From the funds appropriated pursuant to subsection (g)(1) of this section, the Commissioner is also authorized to make grants to and contracts with Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

"(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

"(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.".

Sec. 2. (a) The Education Amendments of 1978 are amended—

(1) by striking out "IX" in section 801(1) and inserting in lieu thereof "X";

(2) by striking out "XIII" in section 802 and inserting in lieu thereof "VIII";

(3) by striking out "1004" in section 901(b) and inserting in lieu thereof "1003";

(4) by striking out "December 31, 1979, and December 31, 1980, and shall make a final report thereto no later than December 31, 1981" in section 1203(f) and by inserting in lieu thereof "December 31, 1980, and December 31, 1981, and shall make a final report thereto no later than December 31, 1982";

(5) by striking out "1979" in section 1015 (d) and inserting in lieu thereof "1980";

(6)(A) by striking out "314" in section 1311(a)(1) and inserting in lieu thereof "316";

(B) by striking out "314" in section 1311 (a)(2) and inserting in lieu thereof "316";

(C) by striking out in section 1311(b) "redesignating subsections (b), (c), and (d) as subsections" and inserting in lieu thereof "striking out 'July 1, 1978' and inserting in lieu thereof";

(7) by striking out "section 201(a)(3)" in section 1331(b) and inserting in lieu thereof "section 201(b)(3)";

(8) by striking out "one year" in section 1412(a)(2) and inserting in lieu thereof "two years";

(9) by striking out "one year" in section 1526 and by inserting in lieu thereof "eighteen months";

(10) by inserting "(a)" before "Except" in section 1530 and by adding at the end thereof the following new subsection:

"(b) The provisions of section 412(b)(2) of the General Education Provisions Act, as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 until October 1, 1980, except at the option of local educational agencies."; and

(11)(A) by inserting at the end of title I the following new section:

"EXPERIMENTAL PROJECT WAIVER AUTHORITY CONTINUED

"Sec. 103. Notwithstanding any other provision of title I of the Elementary and Secondary Education Act of 1965, the Commissioner shall approve for fiscal year 1979 the use of funds provided under that title under the same terms and conditions as such uses were permitted during the preceding fiscal year in local educational agencies which participated in the study conducted under section 821(a)(5) of the Education Amendments of 1974 when such agency requests such approval."; and

(B) by adding in the table of contents after item "SEC. 102." the following new item:

"Sec. 103. Experimental project waiver authority continued.".

(b) Title XI of the Education Amendments of 1978 is amended—

(1) by striking out "the Secretary of the Interior shall" and everything that follows through the end of the first sentence of section 1103(a)(1) and inserting in lieu thereof the following: "the Secretary of the Interior shall make payments of all funds appropriated under the authority of the Act of November 2, 1921, for fiscal year 1978 (including any fiscal year 1978 funds subsequently obligated in fiscal year 1979 from such appropriation) for basic support contracts or grants to any school that had a deficit in its operating budget for fiscal year 1978 as a consequence of the lack of complete payment from the Department of the Interior for such contract or grant.";

(2) by striking out "fifteen months" in the first sentence of section 1121(b)(1) and inserting in lieu thereof "eighteen months";

(3) by striking out "eighteen months" in the second sentence of section 1121(b)(1) and inserting in lieu thereof "twenty-one months";

(4) by striking out "Within one year of such date," in section 1121(f) and inserting in lieu thereof "No later than January 1, 1981,";

(5) by striking out "Within one year of such date," in section 1122(c) and inserting in lieu thereof "No later than January 1, 1981,";

(6) by inserting immediately before the period at the end of the first sentence of section 1126(b) a comma and the following: "including (but not limited to) school or institution custodial or maintenance personnel";

(7) by striking out paragraph (4) of section 1128(a), by redesignating paragraph (5) of such section as paragraph (4), and by adding at the end of such section the following new sentence:

"Upon the establishment of the standards required by sections 1121 and 1122 of this Act, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established.";

(8) by redesignating subsection (c) of section 1128 as subsection (d) and by inserting immediately after subsection (b) of such section the following new subsection:

"(c) The formula established under subsection (a) of this section shall be implemented for fiscal year 1980 and each succeeding fiscal year, except that—

"(1) for fiscal year 1980, no school shall as a consequence of such formula receive less than 90 per centum, nor more than 120 per centum, of the funds it received from Bureau education funds for fiscal year 1979;

"(2) for fiscal year 1981, no school shall as a consequence of such formula receive less than 70 per centum, nor more than 170 per centum of the funds it received from Bureau education funds for fiscal year 1979; and

"(3) for fiscal year 1982 and any succeeding fiscal year the formula shall be fully implemented."; and

(9) by striking out "and" at the end of paragraph (5) of section 1132, by striking out the period at the end of paragraph (6) of such section and inserting in lieu thereof "; and", and by adding after such paragraph the following new paragraph:

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.".

SEC. 3. (a) Section 7(a)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "October 1, 1978" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "October 1, 1983".

(b)(1) Section 5(b)(3)(C)(i) of such Act is amended by striking out "may file" and inserting in lieu thereof "may, in its discretion and without regard to the requirements of any other provision of law, file".

(2) Section 5(b)(3) of such Act is further amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) If the local educational agency rejects the determination of the Commissioner and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with that Agency, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action (under such subsection (d)) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 3(d)(2)(D) of this Act. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).".

(3) Section 5(c)(2)(A)(v) of such Act is amended by striking out "clause (A)(ii) of this paragraph" and inserting in lieu thereof "clause (i)(II) of this subparagraph".

SEC. 4. (a) Section 400A of the General Education Provisions Act is amended—

(1) by striking out the subsection designation "(f)" the first time it appears in such section and inserting in lieu thereof "(3)"; and

(2) by striking out "paragraph (6)" in subsection (g)(2) and inserting in lieu thereof "subsection (f) (1) and (2)".

(b) Section 417(a) of the General Education Provisions Act is amended by striking out the paragraph designation "(1)" and by repealing paragraph (2).

(c) Section 438(b) of the General Education Provisions Act is amended by adding at the end thereof the following new paragraph:

"(5) Nothing in this section shall be construed to prohibit State and local education officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).".

SEC. 5. (a) Section 108(b)(2)(B) of the Vocational Education Act of 1963 is amended by inserting before the semicolon a comma and the following: "except that the Commissioner may modify this requirement pursuant to regulations in order to avoid any duplication of data-collection occurring under section 161 or under section 437 of the General Education Provisions Act".

(b) Section 110 of the Vocational Education Act of 1963 is amended by adding at the end thereof the following new subsection:

"(e) Pursuant to regulations established by the Commissioner, a State may exceed the 50 per centum Federal share specified in subsections (a) and (b) of the percentages set aside in subsections (a) and (b) by making larger payments with such funds to local educational agencies and other eligible recipients which are otherwise financially unable to provide such programs.".

SEC. 6. Section 4 of the Career Education Incentive Act is amended—

(1) by striking out "(a) Subject to the provisions of subsections (b) and (c), there" and inserting in lieu thereof "There", and

(2) by repealing subsections (b) and (c).

SEC. 7. Section 453(c) of the Indian Education Act is amended—

(1) by striking out "In establishing" and inserting in lieu thereof "On the form establishing"; and

(2) by adding at the end thereof the following new sentence:

"Nothing in the requirements of paragraphs (1) through (5) of this subsection shall be construed as changing or restricting the applicable eligibility definition set forth in subsection (a) of this section.".

SEC. 8. The amendments made by this Act shall take effect October 1, 1978.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. ERDAHL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, the bill before the House today would make technical corrections and miscellaneous amendments to the Education Amendments of 1978 and other education laws.

Most of the amendments in H.R. 4591 correct printing, clerical, and drafting errors. Some amendments change the dates for submitting reports mandated by Congress.

The remaining miscellaneous amendments address minor problems which have arisen since the passage of the 1978 Education Amendments and other laws. As my colleagues may recall, the Education Amendments of 1978, Public Law 95–561, is a very massive and important piece of legislation. It extends and amends all the major programs of Federal aid to elementary and secondary schools. Therefore, it is crucial that we deal with any problems that we can foresee right now, before implementation of this law is too far along.

For the information of the Members, I would like to go over some of these minor substantive amendments included in the bill.

H.R. 4591 contains two amendments to the parental advisory council requirements under title I of the Elementary and Secondary Education Act. One such amendment would clarify the means for determining representatives to the districtwide advisory councils. There has been some confusion in the field about how to implement these new provisions, and this amendment would make clear that a districtwide election of all parents is not mandatory.

Another amendment would reduce the amount of materials that must be distributed to title I parental advisory councils and council members.

H.R. 4591 also amends the Vocational

Education Act to give States more flexibility in meeting matching requirements for special vocational programs for disadvantaged and handicapped students. This amendment would allow States to exceed the Federal share for these programs and to make larger payments to school districts which are otherwise financially unable to mount these programs.

Another amendment in the bill would guarantee each State a certain minimum amount for the program for strengthening State educational agencies in title V of the Elementary and Secondary Education Act.

The bill also includes an amendment permitting school districts to use carryover funds under title IV–B of the Elementary and Secondary Education Act for guidance and counseling for 1 year only.

Finally, I would like to mention an amendment which rectifies an oversight in the Family Educational Rights and Privacy Act. The Department of HEW is presently interpreting that statute as precluding State auditors from requesting records on students to conduct State audits of local and State-supported programs. H.R. 4591 contains an amendment to correct this anomaly, as recommended by HEW.

Mr. Speaker, I hope my colleagues will agree with me that our education laws should be as clear and understandable as possible to those who must administer and operate these programs. Toward this end, I urge passage of H.R. 4592 under suspension of the rules.

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Mr. ERDAHL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 4591, which corrects certain technical errors inadvertantly overlooked in the passage of the Education Amendments of 1978 (Public Law 95–561). I believe it is appropriate that the chairman of the committee (Mr. PERKINS) requested suspension of the rules for consideration of this noncontroversial and bipartisan bill. The amendments are technical and clarifying in nature, and have the unanimous consent of members of the Education and Labor Committee.

Important to note, the bill makes clarifying changes in regard to the method by which Members are elected to serve on the parent advisory councils under title I of the Elementary and Secondary Education Act, and reduces under the same title, the volume of materials distributed to these councils and their members by requiring that the members first request the materials.

The bill also clarifies the intent of the Congress under title XI of the Education Amendments of 1978, by requiring that the Secretary of the Interior make payments under the Johnson-O'Malley basic support program to any school which had a deficit in their operating budget for fiscal year 1978. It is also the intent of the Congress that the Secretary make payments to any tribal contractor which loaned funds to the school in the absence of adequate Johnson-O'Malley basic support moneys, to avoid a cut-off of educational services to Indian children. The amount of the payment to any school or tribe in this case should be equal to the amount of the deficit or the loan.

I urge support for the passage of H.R. 4591.

Mr. Speaker, I now yield 3 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding, and I rise in support of H.R. 4591.

Mr. Speaker, the gentleman from Minnesota and the gentleman from Kentucky have adequately described this legislation. I particularly ask for this time because my colleague the gentleman from Pennsylvania (Mr. GOODLING), a member of the committee, who is unable to be here today, had remarks that he wanted read in the RECORD, and on behalf of the gentleman from Pennsylvania (Mr. GOODLING), Mr. Speaker, I read these remarks, as follows:

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 4591. This legislation makes technical corrections and miscellaneous amendments in certain education laws. Our committee has found it necessary to take this action to accomplish the smooth administration of the various Federal education programs.

In particular, I have been personally concerned with one unintended consequence of the Education Amendments of 1978. During a late evening session of the House-Senate Conference Meeting on this legislation last year, an unintentionally harmful provision was overlooked. In an attempt to ensure meaningful parental involvement in the Compensatory Education program (ESEA Title I), the conferees agreed to a provision which requires that every Parent Advisory Council (PAC) member must be supplied" . . . a copy of the text of this title; a copy of any Federal regulations and guidelines issued under this title; and a copy of appropriate State regulations and guidelines issued under such title . . ."

In Pennsylvania, we have 504 advisory councils and there are approximately 5,000 council members, total. The Pennsylvania Department of Education has indicated that this provision will mean that $87,000 of their Title I funds must be used to satisfy this part of the law.

If this is true for Pennsylvania, the cost in New York, for example, where, I am told, there are 4,500 advisory councils and approximately 14,000 PAC members, could easily total in excess of $225,000. Senator Sasser has indicated that his state of Tennessee will be forced to spend approximately $75,000 in Title I funds to comply.

It was not the intention of Congress to take such sums from each state's entitlement in order to provide these copies. I have noted that Senator Sasser has recently called attention to the need to eliminate the requirement that school districts supply all members of Title I PACs with copies of the Title I law and federal and state regulations. Earlier this year I introduced a bill, H.R. 4206, which would require that copies of the law and regulations be made available to PAC members on request. Clearly our intent is that this information be provided to each Advisory Council without cost. In addition, any member of a PAC who requests such information shall be provided this information without cost. Also, the bill would require that each PAC have one copy of the law and regulations on file. This surely would fulfill the intent of Congress (access to information by PAC members) without wasting Title I funds. I had introduced my legislation to remedy this particular situation prior to the drafting of these technical amendments we are considering here today, and I am pleased that my legislation is incorporated in H.R. 4591. For this reason, and for the reasons outlined for you by our distinguished Chairman, I urge the Members to pass H.R. 4591.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. CONABLE. How is this particular error corrected? Was it by saying it should be supplied on request or something of that sort?

Mr. ERLENBORN. That is correct. The information must be available and must be given to these various members on their request rather than spending excessive amounts of money sending individual copies to every member of every advisory council whether they want them or not.

Mr. CONABLE. I take it while there are some subsequent changes made in the law in this technical corrections act, whatever it is called, they are not controversial and that the members of the committee are in full support of the changes that have been made.

Mr. ERLENBORN. They are technical corrections. The gentleman is correct. They are not controversial. None are more meaningful than this change that I have described.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. ERLENBORN. Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 4591, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes.".

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3807) to amend subtitle IV of title 49, United States Code, to codify recent law and improve the code without substantive change.

The Clerk read as follows:

H.R. 3807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO SUBTITLE IV OF TITLE 49

SECTION 1. Title 49, United States Code, is amended as follows:

(1) Section 10324(c) is amended to read as follows:

"(c)(1) An action of the Commission is enforceable unless the Commission stays or postpones the action.

"(2) The Commission shall stay or postpone an initial decision made by a division, an individual Commissioner, a board, or an employee if an application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the initial decision becomes an action of the Commission. The stay or postponement is effective until the Commission or appellate division disposes of the matter.".

(2) Section 10327(k)(1) is amended by striking out "at least 7" and substituting "a majority of the".

(3) Section 10382(a) is amended—

(A) by redesignating clauses (5) and (6) as (6) and (7), respectively;

(B) by inserting the following new clause immediately below clause (4):

"(5) shall present the views of users, the general public, affected communities, and, when appropriate, providers of rail transportation in proceedings of departments, agencies, and instrumentalities of the United States Government related to—

"(A) the impact of energy proposals and actions on rail transportation; and

"(B) whether transportation policy is consistent with the energy policies of the United States Government;"; and

(C) by striking out "clauses (1)-(4)" in clause (6), as redesignated, and substituting "clauses (1)-(5)".

(4) The first sentence of section 10525(d) is amended by striking out "is, or is likely" and substituting "affects or impairs, or is likely".

(5) Section 10526(a) is amended—

(A) by striking out "is" in clause (2);

(B) by striking out "or" in clause (8);

(C) by striking out the period in clause (9) and substituting a semicolon and "or"; and

(D) by inserting the following new clause immediately below clause (9):

"(10) a motor vehicle carrying not more than 15 individuals in a single, daily round-trip to commute to and from work.".

(6) Section 10544(d)(1) is amended by inserting "or the District of Columbia," immediately after "States".

(7) Section 10706(c)(2) is amended by striking out the period after "section" and substituting a dash.

(8) Section 10784(a) is amended—

(A) by striking out "thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping" and substituting "keep"; and

(B) by adding at the end thereof the following new sentence: "When necessary, the Commission may correct, revise, and supplement an inventory or valuation of property it has made.".

(9) Section 10923(b)(2) is amended—

(A) by striking out "and" in clause (C);

(B) by striking out ", and the changing character of the requirements of those shippers." in clause (D) and substituting a semicolon and "and"; and

(C) by inserting the following new clause immediately below clause (D):

"(E) the changing character of the requirements of those shippers.".

(10) Section 11101(c) is amended—

(A) in clause (1)(A) by inserting "(i)" before "a farmer", and by striking out "or a motor private carrier," and substituting a comma and "or (ii)";

(B) in clause (1)(B) by striking out "(B)" and substituting "a motor private carrier and it" as a flush phrase after "or (ii)" in clause (1)(A), and by striking out "(i)" and "(ii)";

(C) in clause (1)(C) by striking out "(C)" and substituting "(B)"; and

(D) in clause (2) by striking out "(1)(C)" and substituting "(1)(B)".

(11) Section 11121(a) is amended to read as follows:

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Commission decides that the rail carrier has materially failed to furnish that service. The Commission may begin a proceeding under this paragraph when an interested person files an application with it. The Commission may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

"(A) providing the facilities or equipment will not materially and adversely affect the ability of the carrier to provide safe and adequate transportation;

"(B) the amount spent for the facilities or equipment, including a return equal to the carrier's current cost of capital, will be recovered; and

"(C) providing the facilities or equipment will not impair the ability of the carrier to attract adequate capital.

"(2) The Commission may require a rail carrier to—

"(A) file its car service rules with the Commission; and

"(B) incorporate those rules in its tariffs."

(12) Section 11304(a)(2) is amended—

(A) by striking out "bankruptcy from" and substituting "a case under title 11 from"; and

(B) by striking out "bankruptcy," and substituting that case," (13)(A) Subchapter III of chapter 113 is amended by adding at the end thereof the following new section:

"§ 11351. Supplemental orders

"When cause exists, the Interstate Commerce Commission may make appropriate orders supplemental to an order made in a proceeding under sections 11342-11345 and 11347 of this title.".

(B) The analysis of chapter 113 is amended by inserting immediately below item 11350 the following new item:

"11351. Supplemental orders.".

(C) Section 11912 is amended by striking out "or 11347" and substituting "11347, or 11351".

(14) Section 11707(e) is amended by striking out "that person receives written notice from the carrier that it" and substituting "the carrier gives a person written notice that the carrier".

(15) Section 11909(a) is amended by striking out "multilates" and substituting "mutilates".

(16) The last sentence of section 11914(c) is amended by striking out "Venue" and "was" and substituting "Trial" and "is", respectively.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 2 (a) Section 1 of this Act restates, without substantive change, laws enacted before April 24, 1979, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 23, 1979, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

(b) A reference to a law replaced by section 1 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by section 1 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by section 1 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reasons of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 3. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

STATUTES AT LARGE

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1887				
Feb. 4	104	1(14)(b), 15(8)(c), (d), 20c, 27(4)(f), 203(b)(7b).	24	------
1976				
Feb. 5	94-210	202(e)(2) "Sec. 15(8)(c), (d)".	90	37
1978				
Nov. 6	95-598	337	92	2680
	95-599	126(c)	92	2706
8	95-607	401-402	92	3067
	95-611	5	92	3090
9	95-620	804	92	3348

(c) The repeals, by subsection (b) of this section, of section 15(8) (c) and (d) of the Act of February 4, 1887 (ch. 104, 24 Stat. 379), and section 401 of the Act of November 8, 1978 (Public Law 95-607, 92 Stat. 3067), are effective July 1, 1980.

(d) The amendments made by section 1 (4), (5)(A), (6), (7), (8), (9), (10), (13), (14), (15), and (16) of this Act are effective October 17, 1978.

(e) The amendment made by section 1(12) of this Act and the repeal, by subsection (b) of this section, of section 337 of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2680), are effective on the date of enactment of this Act or on October 1, 1979, whichever is later.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3807 incorporates in title 49 of the United States Code laws that became effective after May 15, 1978. That date was the cut-off for inclusion of a law in the original codification bill that enacted subtitle IV of title 49 into positive law. Because subtitle IV of title 49 is now law—rather than merely prima facie evidence of the law—it can be changed only by direct amendment.

The bill was drafted by the staff of the Office of the Law Revision Counsel. The bill does not make any substantive change in the law.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 3807, a bill to amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.

This bill was prepared by the Office of the Law Revision Counsel of the House of Representatives. The Law Revision Counsel is satisfied the bill is an accurate restatement of existing law without substantive change. There are no objections to any part of this bill from sources public or private.

I urge my colleagues to support H.R. 3807.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

☐ 1320

SACCHARIN EXTENSION

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4453) to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

The Clerk read as follows:

H.R. 4453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 note) is amended by striking out "During the 18-month period beginning on the date of the enactment of this Act" and inserting in lieu thereof "During the period beginning on the date of the enactment of this Act and ending June 30, 1981".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 4453, a 2-year extension to June 30, 1981, of the Saccharin Study and Labeling Act which expired as of May 23, 1979.

The committee has recommended a 2-year extension of the moratorium on agency actions with respect to saccharin not because we are unconcerned about the dangers from saccharin. The National Academy of Sciences review of saccharin indicates that, at the least, saccharin is a low-level carcinogen. And, we know that exposure to a number of carcinogens may have a combined impact much greater than that for any individual substance.

However, we are also not unaware of the concerns of diabetics and others on a sugar-restricted diet who feel that without this substitute they will face a known health hazard from sugar. In proposing this 2-year extension, the committee recognizes that many Americans want and other Americans believe they must have a non-caloric or low-caloric substitute for sugar.

I hope that during the moratorium period, the industry will be working diligently to develop a substitute for saccharin which will be both safe and low-caloric. I think it is important that the industry intensify its efforts in this regard with the understanding that we expect their full cooperation.

By June 30, 1981, the proposed end of the moratorium, I also expect that the Health and Environment Subcommittee which I chair, followed by the full Interstate and Commerce Committee and the House, will have had a chance to review the food safety laws. As part of this review, we will want to consider the recommendation of the National Academy of Science which would change the present law under which saccharin would be banned.

With the thought in mind that H.R. 4453 is not the final solution, but rather an interim step, I urge that you support the 2-year extension of the saccharin moratorium under suspension of the rules.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation, H.R. 4453, that would extend the moratorium on the proposed saccharin ban from May 23, 1979, until June 30, 1981.

This measure has strong support from Members on both sides of the aisle—from the Subcommittee on Health and Environment—and from the full Commerce Committee.

I believe this measure offers a reasonable approach to address the continuing controversy over the proposed saccharin ban.

In my view the primary purpose of extending the moratorium is to allow Congress time to conduct a comprehensive review—and necessary revision of our food safety laws. Then we can consider the issue of saccharin within that new regulatory framework.

This position was supported by many witnesses who testified before our subcommittee.

We also heard from members of the National Academy of Sciences' Committee—who had undertaken a major study on saccharin and current food policies—in response to the congressional mandate in Public Law 95–203.

Stressing the need for a comprehensive regulatory system—the National Academy of Sciences' panel recommended revision of our food safety laws to create a more rational framework for food safety regulation. For example, it was suggested that food laws be revised to allow food substances to be assigned to three categories of risk and to allow consideration of benefits and risks in the regulatory decisionmaking process.

And although there was a broad spectrum of views—among the Academy's panel regarding the proper action to take on saccharin—most members of the N-A-S panel did not believe a total ban on saccharin would be a sound regulatory step at this time. Nor did they favor the unrestricted use of saccharin—particularly in view of the fact that the Academy's study did conclude that saccharin should be viewed as a weak—but potential—carcinogen for humans.

However, as the Members of this Congress who were here last year know, part of the dilemma regarding action on saccharin arises from the fact that it is the sole nonnutritive sweetener available to diabetics and others in this country who use it to control their consumption of sugar.

And although other nonnutritive sweeteners are being researched, testimony before our subcommittee indicated that a complete substitute for saccharin is not likely to be available in the near future.

Therefore, in my view, extending the moratorium on the saccharin ban until June 30, 1981, is a reasonable position to take. Within the additional time period I believe we should give priority to a major review of our food safety laws. I believe we can complete the necessary legislative action in this period and I am committed to doing all I can to meet that deadline.

Mr. Speaker, I urge favorable consideration of this legislation. Thank you.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I rise in support of the Saccharin Study and Labeling Act extension.

When the original law passed this House during the 95th Congress, it appeared that a deadline of May 23, 1979, would provide ample time for the completion of additional studies to ascertain the dangers if any, from the continued use of saccharin and for industry to develop some other alternate sugar substitute should the studies establish saccharin as a carcinogenic agent.

There still appears to be a great deal of doubt as to whether saccharin actually does cause cancer in humans, and I cannot agree to allowing the Food and Drug Administration to restrict the use of this substance on the basis of such sketchy evidence—thereby depriving many diabetics who must rely so heavily on the use of saccharin in their diets.

We must also consider the impact on industry itself should this ban be invoked. I happen to represent the district which includes Abbott Laboratories, the principal manufacturer of cyclamate. As we know, several years ago the FDA applied the Delaney amendment to cyclamate and banned the substance from the market. Yet, subsequent tests and clinical evaluations have demonstrated that the results of earlier clinical studies using rats were wrong and that over a period of some years now it has been demonstrated that there is no danger of cancer even to animals from these tremendous overdoses of cyclamate. Both Abbott Laboratories and the American public have suffered a great loss through the cyclamate ban and I would not like to see this situation repeated.

Before banning saccharin from human use, we must provide adquate time for tests to be conducted to determine whether saccharin's benefits are far outweighed by the danger of cancer.

I concur with the view of several of my colleagues who serve on the Interstate and Foreign Commerce Committee regarding the Delaney amendment. Although Congress was well-intentioned when it passed the original Delaney amendment, I feel that frequent use of this device by the FDA in banning more and more food additives which are vital to the safety and availability of the food supply, points to a need to reevaluate and possibly alter or give better definition as to the use of this law.

Both the American public and industry stand to lose should we not allow additional time for a study to determine the safety risks involved in the consumption of saccharin. An extension of time would allow for that study and also permit Congress to address the problems involved in the application of the Delaney amendment in the past few years.

At the same time, I urge industry to take immediate action and increase their efforts to find an acceptable substitute for saccharin should additional tests indicate that it poses any danger to human health.

Mr. Speaker, I urge the Members of this House to vote to extend the Saccharin Study and Labeling Act to June 30, 1981. We have too much at stake not to.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Illinois, and I will say, the Food and Drug Administration is now reconsidering the use of cyclamates and may within the year, and I trust if they find it worthy, reexamine cyclamates and put them again on the "G.R.A.S." list, which stands for "generally recognized as safe" additives.

Mr. Speaker, I strongly support this legislation. I urge its passage.

Mr. Speaker, I reserve the balance of my time.

● Mr. FOLEY. Mr. Speaker, I rise in support of H.R. 4453, the bill to extend the moratorium on the proposed ban on saccharin until June 30, 1981. The overwhelming support that H.R. 4453 received in the Health and Environment Subcommittee and the full Interstate and Foreign Commerce Committee reflects, I believe, the strong support this measure has throughout this body.

On October 17, 1977, the House passed, by an overwhelming majority of 375 to 23, the orginal Saccharin Study and Labeling Act of 1977 calling for a moratorium on the proposed FDA ban; and the conference report on that measure was approved by both Houses by voice vote in November of that same year. As the enactment of Public Law 95–203 attests, the Congress clearly perceived the need for a moratorium so that in-depth research into the problem could be undertaken and the need for its presence has not diminished.

In conjunction with the 1977 moratorium, Congress directed the National Academy of Sciences to conduct studies on a number of subjects, including the state of Federal food regulatory policy and the existing technical capability to determine the carcinogenicity of food additives. In the National Academy of Sciences report released in March of this year, most of the NAS Committee rejected the notion and advisability of a total, immediate ban on saccharin. Moreover, even the minority report of the committee called for a 3-year phaseout of saccharin, not an immediate ban.

The opposition of the NAS Committee to an immediate ban stems from, among other factors, the need for Congress to overhaul current food safety regulatory policy and the need for more extensive research on saccharin.

The committee recommended the creation of a new food safety regulatory system that discerns the various risk levels of food substances and allows a wide variety of regulatory aproaches rather than requiring a complete and absolute ban on a product. They strongly endorse the institution of this new system instead of trying to deal with each food additive, like saccharin, on a case-by-case basis.

In my view, the Congress should carefully explore the NAS Committee's recommendations on changes in food safety policy before acting definitely on saccharin. H.R. 4453 would provide the time necessary to conduct such a full-scale review and to determine saccharin's place in any new system.

Additionally, the Congress needs to consider carefully the committee's recommendations for further research on saccharin itself. The NAS report indicated that more research assessing the benefits of saccharin was needed while recognizing that such studies would require an extended period of time to complete. They also encouraged greater research on saccharin consumption patterns, more prospective epidemiological studies, and expanded research into the development of alternatives to saccharin.

The time provided by the moratorium in H.R. 4453 would also allow the industry more time to develop alternative nonnutritive sweeteners that can conclusively be proven safe. An extension of the current moratorium would provide badly needed breathing space for the development of an alternative while at the same time providing industry with the incentive to develop these alternatives.

Finally, and no less importantly, the extension of the moratorium would offer protection to the millions of Americans whose health, in the absence of saccharin or an alternative product, might be seriously affected. Overweight and diabetic Americans would be especially endangered by an immediate ban. As we are all too well aware, being overweight can bring on or aggravate hypertension, premature heart attacks, gall bladder and liver disease, osteoarthritis, and latent diabetes.

The figures themselves speak compellingly in this regard. The staggering number of deaths related to cardiovascular disease (988,073 in 1975 alone) and diabetes (37,000 deaths in 1976 out of an estimated 10 million Americans afflicted by the disease) are, indeed, serious consequences to be considered. To abandon these millions to the far more certain health risks inherent in these diseases in the name of protecting them from a product whose possible hazards have yet to be substantiated or until a safe alternative has been found, to me, is unconscionable.

The previous chairman of the health and Environment Subcommittee, Paul Rogers, stated when the original moratorium was approved in 1977, that it was a "balanced compromise" that "insures that each individual will have an opportunity to evaluate pertinent information and make an informed decision."

To allow people that choice, to allow for congressional study of food regulatory policy, to all for further scientific research, and to protect the health of many vulnerable Americans, I urge your support of H.R. 4453.●

● Mr. BIAGGI. Mr. Speaker, I rise today in support of H.R. 4453, legislation to extend the moratorium on a proposed ban on saccharin from May 23, 1979, to June 30, 1981.

Certainly, effective measures to safeguard Americans from exposure to possible cancer-causing agents are vital to the welfare of our country. The high incidence of cancer is a horrifying reality for all.

However, I must seriously question a ban on saccharin at this particular time. For over 80 years, saccharin has been very helpful, and in some cases essential, to a large segment of our population without any harmful effects.

Saccharin has proven to be a crucial sugar substitute for many persons, including diabetics, and the obese. Also, as New York's ranking member on the House Select Committee on Aging, I am especially concerned about the serious and adverse effects such a ban would have on our Nation's elderly, many of whom cannot use sugar as a result of the medication they must take, or who have long-term, low-calorie requirements.

Currently, saccharin is the only noncaloric substance available for use. I strongly believe that it would be a serious and unfortunate mistake to ban saccharin from the marketplace until an effective substitute can be found.

I was strongly opposed to the ban on saccharin when it was first proposed in 1977 because I did not believe evidence supported such a drastic step.

In November 1978, the National Academy of Sciences (NAS) stated in a report to Congress that saccharin must be viewed as a potential carcinogen in humans, but one of low potency compared to other carcinogens. The report cautioned that even carcinogens of low risk, when applied to a large number of exposed persons, might lead to public health concerns.

While I am still not convinced of the need for an immediate ban on saccharin, I do feel that sufficient questions have been raised to warrant a deliberate and determined effort to develop a safe noncaloric or low-caloric substitute for saccharin. Such an effort is called for in the Commerce Committee's report, and I believe that the 2-year moratorium extension provided for in this bill will enable our Nation to come up with a suitable alternative to saccharin.

Mr. Chairman, I believe that it is in the best interest of our Nation to extend the moratorium on the saccharin ban for an additional 2 years. In this regard, I urge my colleagues to join me in supporting the passage of this responsible and necessary legislation.●

● Mr. STAGGERS. Mr. Speaker, I rise in support of this legislation. I want to commend the subcommittee chairman, Mr. WAXMAN, its ranking minority member, Dr. CARTER, and all the members of the Health and Environment Subcommittee for their diligent work on this difficult and controversial issue.

H.R. 4453 is a reasonable way of dealing with the saccharin issue on an interim basis. I do not believe we should deal with subjects such as this in a piecemeal fashion; rather, they should be seen as part of the large picture of the Nation's policy on food safety.

I know that there have been other proposals as to how to deal with the issue of saccharin. Some would lengthen the moratorium; some would shorten it. Some would allow FDA to ban saccharin for all purposes other than as a tabletop sweetener.

The subcommittee chairman has committed the Health and Environment Subcommittee to a thorough examination of the laws which determine our food policy. I believe our most responsible course is to let the very able members of that subcommittee undertake that task before we make sweeping changes in the Food, Drug, and Cosmetic Act. Therefore, I urge my colleagues to support the 2-year extension of the Saccharin Study and Labeling Act, H.R. 4453, as reported by the Committee on Interstate and Foreign Commerce.●

● Mr. LEE. Mr. Speaker, I rise in support of H.R. 4453, legislation which would extend for 25 months the prohibition on actions by the Secretary of Health, Education, and Welfare with respect to saccharin.

The paramount reason for legislation to extend the moratorium on a ban of saccharin is the lack of conclusive evidence that the threat of saccharin as a carcinogen outweighs the benefit of saccharin as an effective substitute for sugar.

A secondary reason the legislation should be passed is that we have yet to find a viable substitute sweetener product to replace saccharin.

Hopefully the 36-month moratorium on a ban of saccharin will give the Federal Government an adequate period of time to investigate in greater depth the trade-off between saccharin's contribution to physical malady in the form of a carcinogen and the contribution a ban on the use of saccharin would make to death and disease. It should be recognized that both diabetics and diatetics depend on a sugar substitute to regulate their diets. In the case of a diabetic, excess sugar can lead to exacerbation of the disease causing blindness, kidney failure, coma, and in the extreme, death.

It is well known that obesity is a leading contributor to heart disease. Surely, the removal of an acceptable substitute sweetener will make it more difficult for those on a weight reduction diet mandated by a physician to follow their diet plan.

I submit, Mr. Speaker, that until we have irrefutable proof that cancer caused by saccharin will exact a greater toll on human life, both by death and impairment, than will its continued use—or until a substitute for saccharin is found—that substitute shall, incidentally, have undergone extensive testing to certify that the substitute has no carcinogenic potential—we in the Congress have an obligation to prevent any arbitrary action by the Secretary of Health, Education, and Welfare to prohibit the use of saccharin as an artificial sweetener.

I would respectfully urge my colleagues to join me in support of the bill now before us.●

● Mr. GOLDWATER. Mr. Speaker, I rise in support of H.R. 4453, the bill which would impose a moritorium on the banning of saccharin by the Secretary of Health, Education, and Welfare.

In May I testified before Mr. WAXMAN's Health Subcommittee expressing my view that an administrative action removing saccharin from the marketplace would pose serious problems for the millions of consumers who necessarily depend on this product.

While I believe we must acknowledge the possibility of a carcinogenic risk associated with the consumption of saccharin, I am also aware that there is a lack of scientific unanimity on the conclusions reached from studies conducted on the subject. Then, too, there is the issue of medical freedom of choice—what right does the Government have to tell people what they can and cannot purchase at the supermarket? Is it the role of the Federal regulatory process to tell a diabetic that he or she must forsake saccharin, because of its possible cancer risk, when the certainty exists that blindness will occur, that the prospect of kidney disease or heart disease will be enhanced? The risk a diabetic must incur of having to undergo an amputation is increased unless this sugar substitute is available. There are also the concerns of millions of people with a weight control problem who rely on saccharin to deter the danger of coronary disease and stroke.

As I pointed out in my testimony before the Commerce Subcommittee, I am bewildered by the lack of consistent public policy in the area of denying to the public certain products which clearly pose a health hazard, and allowing others to remain on the grocer's or pharmacist's shelf. How is it that we allow alcoholic beverages to be purchased, with all the dangers associated with them, yet place a mere warning label on cigarettes, a known killer in many instances? How are we, as Members of this body, supposed to justify these differing standards? I do not think it speaks well of our Food and Drug Administration.

In concluding I think it is important to consider that while there may definitely be health risks in the use of saccharin, there are significant benefits to a large segment of the population in its use. Instead of an outright ban, why not a warning label? Why not let the individual consumer decide for himself or herself whether or not they think it wise to use saccharin? Until we do settle on a firm public policy, passage of this legislation is a must.●

● Mr. OTTINGER. Mr. Speaker, I rise in strong opposition to H.R. 4453 to extend the moratorium on FDA action relating to saccharin for 2 more years without permitting the FDA to require a safe substitute at the end of this period.

Two years ago Congress enacted the Saccharin Study and Labeling Act (Public Law 95-203) to prohibit the Food and Drug Administration from restricting the use of saccharin and to direct the National Academy of Sciences (NAS) to review all available information and report back to Congress regarding the carcinogenicity of saccharin.

At that time, I felt that with proper safeguards this 18-month moratorium made sense. In view of the lack of political and scientific concensus, the moratorium allowed continued marketing for the millions of Americans who felt the need for saccharin, while it gave industry time to develop a safe substitute for saccharin and the NAS time to evaluate the validity of the tests which had indicated saccharin was a carcinogen.

Unfortunately, 2 years have passed and we are no closer to these objectives than we were when we enacted the moratorium in 1977. In spite of this, the Congress now is considering extending the moratorium for 2 more years. I do not think this makes sense. It is time to take some positive steps to encourage the development of alternative sweeteners and to prevent the continuation of a known cancer-causing substance in our food.

Furthermore, I object to the consideration of this bill under suspension of the rules which prohibits amendments. I had hoped to offer an amendment to the bill which would end the moratorium if a substitute for saccharin were certified as safe and satisfactory in any product. There would be no reason to require FDA to allow continued use of saccharin, which unquestionably presents some health risk to the public, if a satisfactory substitute were available. Unfortunately, consideration of this bill under suspension precludes consideration of this amendment.

H.R. 4453 as reported by the committee not only leaves the final disposition of saccharin up in the air, it delays the day when industry will introduce a safe substitute. In addition, it does nothing to protect millions of Americans from the continued consumption of a substance which the National Academy of Sciences confirmed is a carcinogen. For these reasons, I strongly oppose this bill.●

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 4453.

The question was taken.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 4453.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRANSPORTATION APPROPRIATIONS, 1980

Mr. DUNCAN of Oregon. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. COUGHLIN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. DUNCAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 214, nays 4, not voting 216, as follows:

[Roll No. 369]

YEAS—214

Abdnor
Alexander
Ambro
Andrews, N.C.
Annunzio
AuCoin
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Carter
Chappell
Coelho
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Coughlin
Courter
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Deckard
Dixon
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Gibbons

Ginn
Gonzalez
Gore
Gradison
Gramm
Grassley
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Hawkins
Heckler
Hightower
Holt
Hopkins
Hubbard
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Lehman
Leland
Lewis
Livingston
Loeffler
Long, La.
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
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☐ 1350

Mr. CARNEY changed his vote from "present" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4440, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. By unanimous consent, the first reading of the bill was dispensed with.

Under the unanimous-consent agreement, the gentleman from Oregon (Mr. DUNCAN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we submit for your consideration today the bill, H.R. 4440, making appropriations for the Department of Transportation and related agencies for fiscal year 1980.

Before discussing the specifics of the bill, I should say that after 9 years in the Congress, I am today managing my first bill and that, although I have served 4 years on this subcommittee, I could always and did rely on our former colleague John McFall, with his skill and knowledge and experience, to take the major responsibility—permitting me to spend the lion's share of my time on Interior, helping—or as he thought sometimes hindering—Chairman Yates.

So, in the fashion of the day, may I too confess my inadequacies and ask for your indulgence, if not your help.

If those inadequacies are at any point obscured, it is because of the contributions made by the three other subcommittee chairmen who also serve on Transportation—Mr. Steed who yielded this chairmanship to me; Mr. Boland who was its first chairman; and Mr. Benjamin who chairs the legislative subcommittee;

By the experience and patience of Syl Conte, for whose help and counsel I will always be grateful;

By the fresh approach of Mr. Lehman—always the voice of Miami; Mr. Sabo who remembers the problems of States and rural areas; and Mr. Stewart whose study and interrogation kept witnesses alert;

By the quiet judgment of Mr. Edwards; the often expressed taxpayers view of Mr. Miller; and the advocacy of transit of Mr. Coughlin;

And, finally, by the knowledge, background, long hours, patience, and loyalty of Tom Kingfield, Larry Johnson, and Jeni Leasor of the committee staff, and Terry Scannell of my own staff.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

As I take it, this is the gentleman's maiden voyage. After all, I served with him for many years. I want to congratulate him and wish him well. I want to say I think he is an extremely capable gentleman and I happen to have known him, lo these many years, and know that he usually wears a tartan, but I do not see that—I am not sure of that today—and also has other habits that are helpful to the State of Kentucky, for which I am thankful.

Mr. DUNCAN of Oregon. We have the Navy wings of gold. I will be glad to yield to the gentleman further for a continuation of his encomiums, if the gentleman wishes.

Mr. CARTER. I thank the gentleman.

Mr. DUNCAN of Oregon. Mr. Chairman, the committee developed a hearing record contained in 7 volumes containing nearly 7,000 pages. Testimony was received from 19 Members of Congress, more than 140 officials from the executive branch, and about 85 other interested parties. We also requested and considered a number of special studies from the General Accounting Office, Congressional Budget Office, Office of Technology Assessment, and our own committee's investigative staff.

SUMMARY OF THE BILL

The committee, I believe, worked very hard to bring out a bill which was both under the budget and responsive to our Nation's transportation needs. However, we are faced with a somewhat different environment today than we were 5 months ago when we began our hearings or 2 months ago when the subcommittee marked up this bill. The need to hold down Federal spending still exists, but this problem has been overshadowed to some degree by the present energy situation, particularly as this energy problem relates to transportation. Special regulations regarding the purchase of gasoline have been implemented in a number of States and it appears as if other States will follow. Recent figures indicate that on some trains Amtrak ridership has increased significantly as has the ridership on many of our Nation's urban mass transportation systems. The President has announced a plan to substantially increase mass transit funding.

I still believe, as mentioned on pages 7 and 8 of our committee report, that the single most effective measure to reduce gasoline demand is the development of a more energy efficient automobile. Approximately 88 percent of the passenger miles traveled in this country are in the automobile. Given the dominance of the automobile in American travel, it is self-evident that the largest payoff in energy conservation can be gained by making that travel mode more efficient.

It is also apparent, however, that this objective, as essential as it is, will not be accomplished this year or, perhaps, in the next few years. To cope with our immediate fuel problems, other actions are necessary. In recognition of this fact, I intend to offer a number of amendments to this bill to increase the funding for programs such as mass transit, Amtrak, 55-mile-per-hour enforcement, carpools, and vanpools. These amendments will add $282.5 million to the bill. This will result in a bill which is slightly over the President's budget, but only because it includes 6 months financing for the Panama Canal under the terms of the Murphy bill which this House passed and which the Office of Management and Budget has assured me they will request if and when H.R. 111 becomes law. It is still well within the new budget authority targets established by the first concurrent budget resolution and slightly within the outlay target.

The bill provides funds for approximately 126,000 positions, including over 39,000 military personnel for the Coast Guard. The total number of positions recommended is 5,000 below the current level.

SELECTED MAJOR RECOMMENDATIONS

I would call the attention of the Members of the Committee to the summary on pages 4 and 5 of the report.

The major recommendations are as follows:

First, the appropriation of $2,090,520,000 for the operations activities of the Federal Aviation Administration, $6,596,000 less than the budget request;

Second, an increase of $35,000,000 over the budget for the safer off-system roads program; if the amendment which I will offer is accepted this will be $75 million over the budget.

Third, the appropriations of $772,300,000 for Federal grants to Amtrak; under the amendment this will be $812,300,000.

Fourth, approval of the full fiscal year 1980 budget request of $550,000,000 for the purchase of securities of the Consolidated Rail Corporation;

Fifth, an increase of $50,000,000 over the budget for "second tier" operating assistance for urban mass transportation, under the amendment this will be $65 million plus $15 million for tier 3.

Sixth, a general provision providing for obligations of not to exceed $8,500,000,000 for Federal-aid highways;

Seventh, an increase of $5,410,000 and 429 positions over the budget for operating expenses of the Coast Guard;

Eighth, approval of the budget request of $481,000,000 for the Northeast corridor improvement project;

Ninth, the appropriation of $1,280,000,000 for the urban discretionary grant program of the Urban Mass Transportation Administration; under the amendment we will go to $1.410 billion, the full authorization;

Tenth, a general provision limiting aircraft loan guarantees during fiscal year 1980 to $500,000,000;

Eleventh, net reductions in the Department of Transportation's research and development programs amounting to $10,570,000; and

Twelfth, a general provision providing for obligations of not to exceed $620,000,000 for airport development grants.

OFFICE OF THE SECRETARY OF TRANSPORTATION

Mr. Chairman, the bill provides appropriations of $43.8 million for the Office of the Secretary of Transportation. This is approximately $3.2 million less than the budget request and is also slightly below the 1979 appropriations. We are hopeful that the efforts of this office will result in a safer, more efficient and more economical national transportation system.

Clearly, we were headed in this direction under the leadership of the recently departed Secretary of Transportation, Brock Adams. Secretary Adams was a leader in the field of transportation both in the Congress and as Secretary. While in the Congress, he served on the Committee on Interstate and Foreign Commerce. In this capacity he was deeply involved in a number of existing aviation and railroad statutes. The establishment of the airport and airway trust fund and the Regional Rail Reorganization Act are only two of these bills. During his term as Secretary he continued his efforts to develop legislation to improve our Nation's transportation system. Mr. Chairman, I believe Brock Adams was a dedicated public servant and a fine Secretary of Transportation and I, for one, regret his departure from the Department.

COAST GUARD

The Coast Guard is one of the oldest and finest organizations in our Government. It has a reputation for operating a trim ship and for being cost conscious. This year we felt that the personnel levels requested under the budget would not have permitted the Coast Guard to properly execute its missions. This was particularly true in the areas of search and rescue, engineering maintenance, Outer Continental Shelf inspections, training, and merchant marine technical plan reviews.

Under our recommendations operating expenses for the Coast Guard would be increased by $5.4 million. This would provide for an increase of 429 positions over the budget.

For acquisition, construction, and improvements we recommend $286 million. Most of this amount is for the purchase of medium endurance cutters, MRS aircraft and short-range recovery helicopters. In addition, funds are included for search and rescue boats, 12 shore stations, aids to navigation and other essential procurements and improvements.

For the Federal Government's share for bridge alterations, we are recommending $6.9 million to continue three projects. We have listed these on page 14 of the report.

We have approved the full budget requests for retired pay, reserve training, and the offshore oil pollution fund, and have added $175,000 over the budget for the Coast Guard's research program.

FEDERAL AVIATION ADMINISTRATION

Mr. Chairman, we recommend the sum of $2,090,520,000 for operations of the Federal Aviation Administration. This provides for the personnel engaged in the operation and maintenance of the air traffic control systems, as well as all supporting services and administrative costs and most of the regulatory personnel in FAA.

Our recommendation is $109 million over the amount appropriated for similar activities in fiscal year 1979. We have approved 132 new air traffic controller positions, but have made personnel reductions in other areas, such as administrative support, so that there is a net reduction of 189 positions below fiscal year 1979.

As a result of a study conducted by our investigative staff, FAA has adopted new staffing standards for its centers and towers. While we are in general agreement with these standards, we also believe that some adjustments are necessary as they are being phased in. Our recommendation would provide for 426 positions over the level proposed by FAA in its new standards.

The bill includes a total of $290.8 million for facilities and equipment for the Federal airway system. The major programs funded under this heading include VORTAC replacement, additional computer storage capacity for the enroute traffic control system, relocation of control towers and the installation of new instrument landing systems.

For R. & D. to improve the air traffic control system and increase the system's capacity to meet the projected demands of the future we have recommended $75 million. The bill also includes $20.5 million for the facilities, engineering and development needed to establish or modify Federal air regulations.

We have approved obligation levels of $620 million for airport development grants and $10 million for airport planning grants. This is an increase of $70 million over the budget request.

With respect to the Metropolitan Washington airports, the committee recommends $25,465,000 for operation and maintenance and $6,785,000 for major capital improvements. It is estimated that the combined net profit for these two airports will be nearly $4.5 million in fiscal year 1980.

The bill includes language limiting Government guarantees of private aircraft loans to $500 million. We believe that some limitation needs to be placed on the Government's virtually unrestrained involvement in the financial credit market—$150 million of this we believe should be for the commuter airlines.

FEDERAL HIGHWAY ADMINISTRATION

Mr. Chairman, highways provide by far the largest portion of transportation services used in this country. About 86 percent of all intercity travel and 98 percent of all urban passenger trips are by the highway mode. This mode of transportation provides our citizens with a mobility which is unequalled anywhere else and which, perhaps more than any other single factor, is characteristic of the American way of life.

For the Federal-aid highways program, we are recommending a program level of $8.5 billion. This is the same as the budget request and the fiscal year 1979 level and in excess of any amount obligated in any one year to date. To liquidate the obligations incurred under contract authority for Federal-aid highways, the bill includes a cash appropriation of $6.8 billion. The bill also includes liquidating cash appropriations of $91,751,000 for five other highway programs financed with contract authority.

For those highway programs financed with direct appropriations, we are recommending a total of $106.8 million. This is an increase of approximately $63 million over the budget. Under the amendments which I will offer, this amount will be increased by an additional $72.5 million for a total of $179.3. Most of this increase is for the safer off-system roads program. We believe that a $75 million increase over the budget should enable the States to proceed with the most urgently needed safety improvements on these off-system roads.

For administrative expenses of the Federal Highway Administration, the bill includes a limitation of $188.2 million. This is a reduction of about $4.8 million below the budget.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

In the field of highway safety, we recommend $80,286,000 for operations and research activities. This is slightly below the current year's level. The recommended includes the full budget request for the national accident sampling system. We are hopeful that with the additional accident data this system will produce, NHTSA will be better able to concentrate its efforts on those programs which have the greatest potential for saving lives.

The other activity under this administration is a grant-in-aid program for State and community highway safety. For this program we have approved the full budget request.

FEDERAL RAILROAD ADMINISTRATION

For DOT's rail programs, we are recommending more than $1.5 billion. The largest rail appropriation involves $772.3 million in Federal grants to Amtrak. If the Florio authorization bill passes tomorrow with the Duncan amendment, Mr. CONTE will offer an amendment to increase this amount by $40 million. I believe this will provide for a balanced national railroad passenger system and one which can operate more efficiently with the available equipment than at present.

We have approved the full budget request for the Northeast Corridor improvement program and have provided increases over the budget of $2 million and $8 million for grants to the States for railroad safety and local rail service. We received considerable testimony on the State railroad safety program and believe that with proper administration by the Federal Railroad Administration the effectiveness of this program can be substantially increased.

We did not approve the $250 million request for a new railroad restructuring assistance program, since there is little likelihood that this new program will be authorized this year. We did, however, add $100 million to the budget to enable the Department to continue the existing railroad rehabilitation program. We expect these funds to be used to stimulate higher density operations and to reduce or eliminate excess capacity.

URBAN MASS TRANSPORTATION ADMINISTRATION

Mr. Chairman, the bill, as reported, recommended a total funding level of $3,572,760,000 for the Urban Mass Transportation Administration. This included nearly $2.8 billion in direct appropriations and $775 million in contract authority. Under my amendment this funding level will be increased by $170 million.

For capital and operating assistance for urban areas, the bill, as reported, included a total of $2.705 billion. This includes $1.28 billion for urban discretionary, section 3 grants and $1.425 billion for urban formula, section 5 grants. My amendment would add $130 million for section 3 and $30 million for section 5 grants.

With respect to urban discretionary grants, we have reallocated $120 million of so-called urban initiatives funds to the basic section 3 rail and bus capital programs. We believe that these programs which involve moving people should be given a higher priority than joint development projects.

In addition, we are recommending $700 million for 1980 and $425 million for 1981 for transit or highway projects which are substituted for interstate system segments. We have not included any fiscal year 1981 funding for the Washington, D.C., Metro system, pending the demonstration by the local jurisdictions that they have in place a dedicated source of revenue to operate the system.

For capital and operating assistance to rural and small urban areas, we are proposing a $10 million increase to a level of $85 million. With a $65 million carryover this makes available $150 million. We have also funded UMTA's administrative expenses and research activities at or very close to the current levels.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

As a result of the Department's reorganization, a new administration was established during the past year. This component includes the Materials Transportation Bureau, Transportation Systems Center, and Transportation Programs Bureau. The bill includes an appropriation of about $24.4 million for this administration, including $12 million for operations, $9.6 million for research and $2.82 million for grants-in-aid for natural gas pipeline safety.

RELATED AGENCIES

Title II of the bill provides slightly over $1.1 billion for six transportation related agencies. This includes the full budget requests for the National Transportation Safety Board and CAB payments to air carriers. We have made a slight reduction in CAB's administrative costs.

For the Interstate Commerce Commission, we are recommending $76.1 million. We have included funds for 30 additional railroad service agents in an attempt to improve the level of service ConRail provides for small shippers.

As we indicate on pages 55 through 57 of the report, we are recommending funds to continue the operation of the Panama Canal after September 30, 1979. Our bill would provide appropriations out of tolls for the Panama Canal Commission for the first 6 months of fiscal year 1980. We think it vital to this Nation's interest that the canal not shut down even briefly for want of financing.

The bill includes the full budget requests for the U.S. Railway Association for administrative expenses and the purchase of ConRail securities. The Association is responsible for representing the Government's position in a multibillion-dollar lawsuit arising from the reorganization of the Penn Central and certain other bankrupt railroads. The $550 million for purchase of ConRail securities is essential for the continued operation and necessary capital improvements of this railroad which serves a large part of the Northeast and Midwest sections of the country.

Finally, we have approved a total of $65,774,000 for Federal assistance for interest payments on the bonded indebtedness of the Washington Metropolitan Area Transit Authority.

Mr. Chairman, I believe we are bringing a balanced and carefully considered bill to the committee and I urge its adoption.

□ 1410

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the subcommittee, the gentleman from Oregon (Mr. DUNCAN) has summarized the bill very well. I want to compliment him as he brings this bill to the floor for the first time. He has done an outstanding job. He is the most hardworking chairman that I have seen. He is knowledgable, he is fair, and he has done an outstanding job with this legislation. Let me also compliment the members of the subcommittee, who have been diligent and thorough in their approach to a very difficult question, because determining priorities in transportation is indeed a difficult proposition.

My compliments also go to the staff on the minority side, Martina Pearson, Kenny Kraft, Kathy Lyon; and on the majority side, Tom Kingfield, Larry Johnson, and Jeni Leasor. They have been cooperative, diligent, hardworking, and we appreciate what they did to help bring this bill to the floor.

An old quotation on the subject of transportation has it that, "The true history of the United States is the history of transportation * * *." I think I can safely say the reverse is true. The future of transportation is the future of the United States. We are here today to determine the future of our transportation system and our country.

In this light, one of the most significant portions of this bill is the Urban Mass Transportation Administration funding. We have all been reading and hearing lately of the dramatic increases in ridership of our mass transit systems. Latest figures seem to indicate that many of those "gasoline crunch" riders are going back to their automobiles now that they are more easily able to get the gas they need. However, the Washington Metro system has demonstrated that these mass transit systems keep many of the new riders they acquire during situations such as we have had recently.

Of the ridership statistics we have seen—many systems claiming upward of 10 and 20 percent increased ridership—I doubt that there will be a significant change down again. True, many individuals return to driving as soon as they are conveniently able, without the disadvantages of long gas lines and early morning hours. However, many will not be able to afford to drive as they have in the past. Gas prices will continue to increase even as gas lines decrease. And many have discovered the convenience of mass transit, probably for the first time, and will stay with it.

I know the system that serves my constituents, the Southeastern Pennsylvania Transit Authority, was largely unprepared to cope with the increase in passengers in recent weeks. We saw reports of the Los Angeles system's inability to adjust to the increase—commuters left standing while buses and trains pass them by—and I am sure that this was the case with most systems throughout the country. SEPTA had to handle the increase with antiquated equipment, often inadequately maintained, which officials would preferred to have retired, but rather had to depend upon to transport many new commuters.

The President has stated that he feels mass transit should be an important part of our total energy picture. He feels, and I agree, that it is essential to energy conservation. It is also essential to environmental conservation. We have made a commitment to improved systems and conservation in this bill.

I hope the President's commitment in fact and in time is equal to the strength of his country, because we have seen on many occasions where that has not been the case. I hope the President's is equal to that of the former Secretary of Transportation, our former colleague, Brock Adams. I join the distinguished chairman of the subcommittee in regretting that the Nation has lost the services of one of its most distinguished experts in the field of transportation.

The committee has recommended an appropriation of $1 billion, $280 million for the discretionary part of UMTA's capital grant and technical planning assistance activities. This includes $225 million for grants for bus procurements, $630 million for existing fixed guideways modernization and extensions, $330 million for new systems construction, $10 million for downtown people movers and $55 million for planning and technical studies.

The committee has recommended a direct appropriation of $650 million for urban formula grants. We have included in the report, language covering fixed guideways, the third tier of section 5. The committee feels that for the purposes of allocating commuter rail/fixed guideway funds, the term "fixed guideway" was meant to include trolley cars, which operate on city streets as well as those operating on separate rights-of-way. We have included an increase of $10 million over the budget for a waterborne demonstration project authorized by section 320 of the Surface Transportation Assistance Act and for interstate transfer grants program, the committee approved the entire $700 million to be provided in direct appropriation.

For the Office of the Secretary, the committee recommendation included a reduction of $350,000 from the contractual services request for a total of $43,843,000.

The Coast Guard appropriation of $1,037,157,000 reflects an increase of $5,410,000 over the administration request, to account for the Coast Guard's new responsibilities under the Outer Continental Shelf Land Act amendments.

The sum of $2,090,520,000 is recommended for the Federal Aviation Administration, a reduction of $6,596,000 from the budget request. The committee has approved the full request of $610,000,000 in liquidating cash for airport development grants—this is $60,000,000 more than appropriated in fiscal year 1979.

For the Federal Highway Administration, the committee recommended $168,000,000, an increase of $62,962,000 over the budget request. This increase is reflected in a $35 million recommendation for reconstruction, construction, and improvement of public highways not on the Federal aid system, for which the Administration made no request. The bill also includes an increase of $4 million over the budget for the bicycle program authorized in the Surface Transportation Assistance Act.

For the National Highway Traffic Safety Administration, the committee has included a total of $80,286,000 for the operations and research account. This is a reduction of $4,883,000 to the budget request.

The committee recommended $1,537,771,000 for the Federal Railroad Administration. This includes an increase of $2,060,000 over the Administration budget for the railroad safety program. The total for FRA also includes $73,000,000 for the local rail service assistance program.

The committee recommended $24,396,000 and 251 positions for the Research and Special Programs Administration.

TITLE II—RELATED AGENCIES

The National Transportation Safety Board funding level is the budget request of $16,730,000.

The Civil Aeronautics Board recommendation was $104,387,000—$28,287,100 of which is for salaries and expenses, and $76,100,000 of which is for payments to air carriers.

The committee recommended $76,099,000 for the Interstate Commerce Commission, in which no funding or positions were provided for the Office of Rail Public Counsel.

The committee recommended $297,588,000 for the Panama Canal Commission for a 6-month period; this includes $254,529,000 for operating expenses and $25,059,000 for capital outlay. Although there was no budget request, the committee makes this appropriations recommendation.

The committee recommends approval of the budget request of $23,900,000 for administrative expenses of the U.S. Railway Association, and $500,000,000 for the purchase of Conrail securities.

For the Washington Metropolitan Area Transit Authority, the committee recommends an appropriation of $65,774,000, including $14,187,000 to be derived by transfer, to provide for Federal support of the interest payments on the bonded indebtedness of WMATA. The amount requested is an increase of $14,187,000 over the budget request.

Mr. Speaker, I am satisfied with what we have accomplished with this bill. Chairman Duncan and the subcommittee members had a difficult task in trying to work within an austere budget, demanded by a very aware taxpaying public, and still meet the many diverse transportation needs of the country. The bill is well considered and fair. I think it will be improved by the addition of an amendment to be offered by the chairman—which has the support of the subcommittee membership—which will add $40 million for Amtrak and $242.5 million for mass transit and highways. I hope the amendment and the bill will have the support of all my colleagues. It is a good measure and I urge its adoption.

□ 1420

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. Lehman).

Mr. LEHMAN. Mr. Chairman, I rise in strong support of H.R. 4440, the Department of Transportation and Related Agencies Appropriation Act, 1980.

As a member of the Transportation Subcommittee, I have been pleased to work with our chairman, Bob Duncan, who has done a superior job in bringing this bill to the floor. He has worked long hours on the bill; he has been thorough in studying all the programs and modes of transportation which compete for Federal funds; and he has been very fair in working with the members of the subcommittee. I would also like to mention and commend, for their diligent efforts, our ranking minority member, Silvio Conte, the other members of our subcommittee, and our very competent staff.

Mr. Chairman, this is a reasonable bill, which provides for the pressing needs of our country's transportation systems but shows restraint appropriate to a tight budget year. Committee amendments will be offered to respond to the changes in our energy situation which have occurred since the bill was reported—specifically, to reflect both an increased commitment to mass transit and House action on Amtrak's route system.

Although the chairman has already explained the bill, I would like to talk briefly about the urban mass transit program, which is and will continue to be such a vital part of our efforts to achieve energy independence. While mass transit must and should compete with other transportation programs in the budget, I can think of few transportation investments as important for us to make. I was pleased, then, with the committee's decision to set a level of funding for mass transit programs above the level requested by the administration, and, most recently, to provide still more funding through the committee amendment our chairman will offer in response to the current gasoline shortage. Very simply, it is in the cities that the people are and the gas lines have been most visible and most harmful; it is in the cities that mass transit can provide an alternative to automobile use, gasoline consumption, and gas lines.

Mr. Chairman, this is a good bill, and one our country needs. I would urge all my colleagues to support the committee amendments and vote for the bill.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, I wish to commend the chairman of the subcommittee, the gentleman from Oregon (Mr. Duncan) for his very excellent work on this bill, and also the ranking member, the gentleman from Pennsylvania (Mr. Coughlin) in particular for their work and willingness to work in depth on the Amtrak situation. I also will speak in favor of the Conte amendment when it comes up.

Mr. Chairman, I wish to commend the chairman of the Transportation Subcommittee of Appropriations, Mr. Duncan of Oregon, for his very able work in arriving at a spending program that will maximize the effectiveness of intercity passenger rail travel.

Mr. Duncan of Oregon, the new chairman of the subcommittee, has taken a personal interest in dealing with the very controversial and intricate issues involved in trying to rebuild a more rational Amtrak system. Our staffs have worked closely on some of these issues. His efforts in behalf of the Commerce Committee's Amtrak Reorganization Act of 1979, as well as his amendment to that bill, serve the entire Nation well.

I also appreciate very much the active roles played by Mr. Coughlin in the subcommittee deliberations on transportation issues and by Mr. Conte. Mr. Conte took aim almost from the start at the illogical and unfair treatment that the Department of Transportation gave to our constituents in northern New England when it tried to eliminate the Montrealer Amtrak train route between Washington and Montreal. He challenged DOT officials to make sense of the final report on Amtrak. He insisted from the beginning that the Department was acting in a shortsighted manner in seeking to abandon the stronger Amtrak routes, such as the Montrealer, at a time when the energy picture facing our Nation required leadership in the exact opposite direction.

It is fitting that Mr. Conte should make the amendment to this appropriations bill for transportation agencies that saves the well utilized, relatively cost-effective long distance trains from the chopping block. His amendment will assure that funding is provided for all short and long distance trains that, by objective and identifiable standard, attract large numbers of paying riders and produce minimal losses.

The criteria that are included in the commerce committee bill are reasonable, for they serve to maintain long distance trains, such as the Montrealer, that are strong and consistent performers, that are well used by an increasing number of people. The Amtrak system that is working efficiently should be expanded and the service provided to its users improved. Under this bill available resources will be applied to those trains that are well used. The bill requires that Amtrak use fiscal 1980 projections of both ridership and losses in determining which routes are well utilized and cost effective and therefore should be retained as part of the nationwide Amtrak system.

The bill makes important contributions to Amtrak's prospects for greater cost efficiency in its train operations. First, by specifying that the short term avoidable loss projected for fiscal 1980 on additional qualifying routes must be no more than 7 cents per passenger-mile, the bill assures survival of trains that attract riders and revenues in substantial quantities.

The Montrealer's avoidable loss has been between 5 and 6 cents in recent years and Amtrak has projected it will be about 6 cents in fiscal 1980.

Even the DOT admits that specifying additional qualifying long distance trains must also attain a ridership of at least 150 passenger miles per train mile, the committee is building in an average energy efficiency that well surpasses use of a hypothetical passenger car that gets 22.5 miles to the gallon, with more than two people, along its intercity trip.

The most recent figures show the Montrealer's ridership is running at about 166 passenger miles per train mile, during the first 7 months of the current fiscal year. Amtrak projects this will increase to an average of 170 for the next fiscal year.

Significantly section 117 also requires that "(w)here reductions in operating expenses can be obtained" Amtrak shall, by applying the performance criteria, maintain long distance routes. This language I strongly endorse because it demands that passenger rail productivity be increased where possible. We can and will substantially reduce costs of operating the Montrealer.

Already the Canadian National Railroad has agreed to lower payments by

Amtrak for use of CN track and terminal facilities in Canada.

In addition, the labor unions and railroads serving Amtrak between Springfield, Mass., and St. Albans, Vt., have agreed tentatively to make even more substantial cost reductions by modernizing some work rules so they are more logical, and by eliminating one of the three crews that work on this train north of Springfield, Mass.

I, and other Members of Congress, believe a good example can and should be set on the Montrealer. I hope that Conrail, whose three crews operate the train between Washington and Springfield, Mass., can work out a more efficient contractual arrangement with Amtrak. This bill certainly provides the incentive for Amtrak to closely examine these costs as well as improve train performance.

The Conte amendment will fund a bill that fairly settles the claims and counter claims concerning ridership on various routes. It will fund those routes that are, based on the most recent ridership data Amtrak has developed, most likely to be fuel and cost effective during the next few years. The money so spent makes a realistic commitment to intercity passenger rail services, given the present mood to reduce Government spending, the current difficulities caused by petroleum shortages, and the size of the job that Amtrak can not only bite off but chew.

Mr. CONTE's amendment will also fund the Duncan amendment to the Commerce Commitee bill, an amendment that has the support of Mr. FLORIO, the chairman of the Transportation and Commerce Subcommittee. The Duncan amendment will assure that the strong short distance trains recommended for elimination by the Department of Transportation will continue in operation, serving ever larger numbers of riders who are discovering there are feasible options to car and airplane transportation. In so doing, the Congress preserves an option that is more fuel efficient than the single motorist driving on often congested highways, and much more energy efficient than air travel. In addition the Duncan amendment will assure that Western and Southwest areas of the Nation will be served by long distance train service that is viable and growing, according to the measures of passenger-miles per train-mile and avoidable loss per passenger-mile. And if these long distance trains that are saved cannot develop markets sufficient to maintain them using the Commerce Committee criteria, they will be phased out after October 1, 1981.

The combined effects of Mr. CONTE's amendment and the Duncan amendment to the Commerce Committee bill does something very important: it removes from the political arena decisions on Amtrak routes, as much as possible. The objective criteria of 150 PM/TM and 7 cents losses per passenger-mile, in the case of long distance trains, and 80 PM/TM and 9 cents loss per passenger-mile, for short distance trains, sets a manageable standard for future development and growth of the American passenger rail network.

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, throughout my years of service in the Congress I have found that a big city urban bias permeates Federal policies. When setting priorities most Federal agencies, including the Department of Transportation, have consistently disregarded the needs of the people in the countryside unless they deal with farm programs.

While some progress has been made recently toward correcting this misunderstanding, many policymakers continue to classify the 88 million people living outside high density urbanized areas as interested only in agriculture, despite the fact that there are only about 3 million farmers in the Nation.

This general debate today on the fiscal year 1980 appropriations bill for the U.S. Department of Transportation presents a compelling opportunity to discuss some of the issues in Federal policy responses to transportation problems of midsized cities, small towns and rural communities in the countryside.

It is argued by many persons who work on transportation issues that the major transportation problems are urban. They are found in the big cities. This is the crux of the problem.

It is true that the 59 percent of our people living in the highest density areas have transportation needs. And, I have consistently supported programs to aid them. But, transportation problems of the 88 million people living outside those areas, in midsized cities, small towns and rural communities of the countryside, cannot be solved by ignoring them. That is why I have campaigned with the Congress, with the executive branch and with the public to bring fairness and equity into the Federal responses to transportation needs wherever they exist.

It is becoming less and less popular to urge solutions to highway problems. I find that particularly ironic in this time of rising prices, decreasing energy supplies, and searches for ways to end both.

We talk of urging, even of forcing, greater use of carpools, vanpools or bus systems. All of these have the potential of helping relieve our energy problems. All are more energy efficient than single occupancy autos. And, all of them must have good, safe roadways to use if they are to achieve their potential economies in energy use.

It is because of this need that I have worked for increased funding for the safer off-system roads program to improve local roads systems that carpools, vanpools, and bus systems must use. The SOS program can help improve the 65,500 unsafe bridges that help cause rises in food prices because the trucks carrying the food must find detours or cross bridges with less than legal loads because the bridges are inadequate.

In other aspects of public transit issues we also find the bias favoring helping the big cities with little awareness or concern for the problems of midsized cities, small towns and rural communities in countryside areas.

Since the middle 1960's the Federal Government has been willing to spend tax revenues on mass transportation programs. This has generally meant local bus or rail service. It has also meant hundreds of millions of Federal taxpayer dollars subsidizing private airlines and Amtrak passenger rail service.

Concern with public transit has basically been concentrated on mass transit needs of our biggest cities. This has been true even in times like these when energy shortages create problems even in the least densely populated areas.

For instance, in the years 1974 through 1977 the Urban Mass Transportation Administration spent $7.5 billion for capital investments to improve public transit. Of this amount only $35.3 million went to places with populations of less than 50,000, despite the fact that Congress had authorized spending $500 million in such areas. There are 18,635 midsized cities, small towns and rural communities in the Nation with populations of less than 50,000. Only 69 of them got any of the $7.5 billion.

There are 14,000 midsized cities, small towns and rural communities throughout the Nation which have no public transit other than that provided by the intercity bus industry. Because of economic problems, including those generated by competition from the heavily federally subsidized Amtrak rail passenger system, the intercity bus industry had to abandon service to 1,765 places between 1968 and 1977. They had to reduce service to many others. We are now in danger of having this abandonment history spread to at least 1,000 other places in the short-term future unless action is taken to aid the intercity bus industry.

I share the concern of many of my colleagues about providing operating subsidies for public transportation modes. But, we are doing that, and have been doing it for our most densely populated areas for years. The bill we are debating today has $1.4 billion in it for public transit operating subsidies for the Nation's biggest cities. It has $574.3 million in it for "operating grants" for Amtrak. It has $76.1 million in it for subsidizing private airline routes operating at a deficit.

Amtrak only serves 500 stops in the Nation. Airlines serve only 700 points.

If taxpayers from all across the Nation are going to be expected to underwrite that cost then the millions living in midsized cities, small towns and rural communities in countryside areas certainly ought to be getting a fair share of the benefits and assistance.

That simply has not been happening.

Even in this time when we art talking about spending some of the income from the "windfall profits tax" on transportation problems the term used in "mass transportation." And, in virtually everyone's mind that translates to big city transit. It translates to the billions of dollars that have been spent, are being spent or are being committed to bus and rail systems in places like New York, Chicago, Los Angeles, Miami, Atlanta, and Washington.

Little thought appears to be given to the public transit needs of the 88 million persons living in midsized cities, small towns and rural communities. But, when we start talking about energy conservation and reducing use of private autos we do not exempt these areas that for the most part do not have public transportation in any form other than intercity bus systems.

The $75 million this bill carries for the section 18 program for public transit in midsized cities, small towns and rural communities is not adequate. It must be used for both capital investment and operating assistance. There is nothing in the bill for the section 21 and section 22 terminal development and intercity bus service programs that could help strengthen the service midsized cities, small towns and rural communities get from the intercity bus system.

It is time to make the 88 million people of the midsized cities, small towns, and rural communities full benefiting partners in Federal public transit policies, not just full paying partners.

Mr. Chairman, I wish to express my appreciation to the chairman and the ranking member of this committee for considering the two amendments which I have offered to this bill and on which we have reached a compromise, which I consider to be another giant step forward in providing equity to the transportation needs of the people living in the midsized cities, small towns, and rural communities.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time, and I reserve the remainder of my time.

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, Congressman JIM BROYHILL and I, along with several of our colleagues, will offer an amendment to the Department of Transportation fiscal year 1980 appropriations bill, H.R. 4440, in which we ask our colleagues to support the elimination of funding for the implementation and enforcement of the National Highway Traffic Safety Administration's mandate for airbags to be installed in any motor vehicle. This will stop DOT and the National Highway Traffic Safety Administration from implementation and enforcement of the standard for airbags for 1 fiscal year—1980.

A major point of the amendment and the key, consumer-oriented reason the House should adopt this amendment—again this year—is as follows: More research, testing, and development is needed, especially on the airbag before it is mandated for installation on millions of model year 1982 passenger automobiles.

I insert the amendment at this point:

Page 33, after line 21, insert the following new section:

SEC. 317. (a) None of the funds provided in this Act may be used to implement or enforce any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system (other than a belt system).

(b) Nothing in this section shall be construed to prohibit the use of funds provided in this Act for any research and development activity relating to occupant restraint systems.

LIST OF COSPONSORS

James T. Broyhill, Thomas L. Ashley, William M. Brodhead, Carl D. Pursell, John B. Anderson, James J. Blanchard, Clarence J. Brown, John D. Dingell, Lucien N. Nedzi, Bob Traxler, Bob Carr, Phil Gramm, Carlos J. Moorhead, Tim Lee Carter, William D. Ford, James M. Collins, David E. Satterfield, Dave Stockman, Samuel L. Devine, Matthew J. Rinaldo.

We have a high regard for the need to continue to improve motorist and automobile safety in the United States. The Government safety standard, however, that continues to be of great concern to us regards the question of the efficacy of airbags, or occupant restraint cushions, to be installed in motor vehicles beginning in model year 1982.

This will be the same amendment the House, June 12, 1978, and later the House-Senate conference, adopted on the fiscal year 1979 DOT appropriations bill. Our colleagues will recall that House vote, 237 to 143, which removed NHTSA's authority at DOT on the airbag standard regarding implementation and enforcement of Motor Vehicle Safety Standard 208. A subsequent action on that same amendment last year involved our support with the majority of the House Members for permitting the use of funds for research and development.

And, importantly, our amendment does not eliminate the appropriation for continued research and development on what has become known as the controversial occupant restraint system, the airbag. We support more research and that is a major conclusion drawn from the General Accounting Office's draft report, "Passive Restraints for Automobile Occupants—A Closer Look," dated May 1979. This document, to be released by GAO, the congressional investigative arm for the House and Senate, has been completed. It is final and the National Highway Traffic Safety Administration, the Environmental Protection Agency, and the Department of Labor Occupational Safety and Health Administration have commented on the GAO report. The GAO, in a July 17, 1979, special report to me states that the GAO report and its "findings, conclusions and recommendations will not be materially altered in our final report." That means the GAO audit of passive restraints, full of its several criticisms and even warnings of more airbag research and testing, will stand.

I insert at this point the July 17 special report which releases the details of the GAO audit on passive restraints from the GAO's Comptroller General, the Honorable Elmer Staats, as sent to me.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., July 17, 1979.

Hon. JOHN D. DINGELL,
House of Representatives

DEAR MR. DINGELL: Pursuant to your letter of July 16, 1979, we are providing the following information concerning our review of the Department of Transportation's passive restraints standard.

As of this date, we have not completed our evaluation of the agencies' views and comments on our draft report; consequently, we are unable to provide you a final report on our audit. Therefore, as you requested, we are providing a summary of our findings and recommendations and our preliminary assessment of the agencies' comments.

Passive restraints for front-seat occupants will be required in all cars after September 1, 1983. Either an air bag or an automatic seat belt, the two prominent systems being considered, will serve this function. A solid chemical, sodium azide, will be used to generate the gas to inflate the air bag.

The basic findings and recommendations contained in our draft report are:

1. Passive restraint systems offer life-saving and injury-prevention potential; however, the Department of Transportation's specific quantification of the benefits lends a degree of certainty not fully supported by the test data. Thus, the extent of the systems' effectiveness needs to be evaluated in real world situations.

2. Industry's testing indicates a potential danger from a deploying air bag for out-of-position occupants. We believe the Department of Transportation needs to perform additional testing to see if modifications are required in the Federal performance requirements to address this specific problem.

3. We believe the Environmental Protection Agency and the Department of Labor need to assign high priority to sodium azide research to assure that additional work is performed to measure the health and safety risks associated with the production and disposal of this chemical.

We also found that the Department was optimistic in estimating air bag cost at $112. The estimate was based on full production and excluded certain industry design and manufacturing costs. The manufacturers' current estimate for air bag systems are substantially higher ($581 for General Motors and $825 for Ford) based on lower volume projections for the number of cars to be equipped with air bags. The Department is currently evaluating industries' estimates.

Our preliminary assessment of the agencies' comments indicates that these findings, conclusions and recommendations will not be materially altered in our final report.

In its comments, the Department of Transportation indicates it has serious concerns with the manner in which we presented the issues in the report and believes our discussion of the issues was not done within the context of the larger issue of motor vehicle safety.

We believe we have presented the issues objectively considering the unresolved concerns and unanswered questions surrounding the passive restraint mandate. We are still of the opinion that the Department needs to fully address and act upon these concerns and questions.

The Department agrees with us on the need for a program to evaluate passive restraint performance in the real world and, in fact, has already taken some initial steps to implement such a program. The Department states it presently is developing a plan for the evaluation of the effectiveness of automatic crash protection systems which it intends to publish this fall. In addition, the Department intends to use its Advisory Committee for the National Accident Sampling System to assess its evaluation plan.

The Department disagrees, however, with us on the need for the National Highway Traffic Safety Administration to perform additional testing on the out-of-position occupant problem. It believes the appropriate way to handle this problem is to monitor the industry's development and testing programs and to test the production systems when they become available.

In establishing performance requirements for Federal standards, the Department points out that it has the responsibility to develop accurate, reproducible and relevant test methods. It is within the context of this responsibility that we believe the Department should perform additional testing specifically on the out-of-position occupant problem which has surfaced since the passive restraint standard was promulgated. The Department has established performance criteria for the driver and front seat occupant seated in normal positions. Recent industry tests indicate the substantial problem for the out-of-position occupant may warrant a modification to the existing performance criteria.

In its comments, the Environmental Protection Agency did not address the need for high priority on sodium azide research but indicated it will follow all developments concerning the use of sodium azide in air bags. The Agency stated that industry has the responsibility for developing safe disposal methods and believed that adequate time exists for them to do so. The Department of Labor stated it does not have its own research capabilities but would convey our recommendations to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

We believe these agencies need to assign high priority to research on this chemical and maintain close surveillance over the various research activities to assure that the appropriate research is done in a timely manner to prevent undue risks in the production and disposal of sodium azide.

The full text of the agencies' responses along with our comments will be included as appendices in our final report.

You also requested that we provide you with information concerning our request for and receipt of comments from the cognizant agencies. On May 7, 1979, we sent our draft report to the three cognizant agencies for their review and comment and requested their response within 30 days. On June 4, 1979, the Department of Transportation formally told us they were unable to meet the 30-day deadline but would furnish their comments by June 22, 1979. We received these comments on June 25, 1979. Likewise, the other two agencies orally told us they were also unable to meet the 30-day deadline. We received comments from the Environmental Protection Agency on June 29, 1979, and from the Department of Labor on June 13, 1979.

We are available to meet with you or your staff to discuss any questions regarding these matters.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

It points out that the DOT/NHTSA test data does not support DOT's claimed benefits of airbags and that more research and testing of bags and other passive restraint devices is necessary along with a high priority study and report by the Environmental Protection Agency and the Occupational Safety and Health Administration as to the potential hazards of sodium azide, a possible cancer-causing agent. Sodium azide is the chemical used to detonate and deploy the airbag when it explodes from the steering wheel and dashboard of the car into the head and upper torsos of front seat occupants in frontal car collisions.

It is this same special report that points out the GAO concern and call for more testing of bags as they may seriously affect the out-of-position, front seat occupant, especially children who could suffer harm.

One airbag-equipped car crash on record resulted in the death of a less-than-1-year-old child for whom the airbag offered no protection.

GAO also says "testing indicates a potential danger from a deploying airbag for out-of-position occupants." GAO's recommendation to Congress for more testing is to see if "modifications" to the airbag—passive restraint standard, Motor Vehicle Safety Standard 208—"are required" to correct the performance standard "to address this specific problem" of out-of-position occupants, especially children.

The GAO states in its July 17 report that DOT only plans at this point to "monitor the industry's development and testing programs—on airbags—and to test the production systems when they become available."

DOT says the out-of-position occupant problem has been solved by General Motors. That is not true. General Motors informed me that it is still trying to solve this problem and that the company has months of research and testing to do.

This same special report by GAO also sets the record straight on another consumer concern. The airbag, which is truly the controversial and troublesome part of MVSS 208, will cost the consumer at least $400. But GAO's report of July 17 states other high retail costs reported by General Motors of $500 the first year in 1982—up to $581 the third year when the standard is applied to small compact and subcompact cars.

Now, the GAO, July 17, says that the new estimate by Ford Motor Co. is $825 for airbags beginning in model year 1982.

NHTSA's estimates of $112 to $200 are "unrealistic" according to GAO.

And, the cost of replacing airbags has to be considered, too. The GAO estimates that the cost to replace bags will be 2½ times the original equipment manufacturer's cost. Thus, it is estimated, and GAO confirms this, that if the airbag cost to consumers is a retail price of $500 to the high estimate by Ford of $825, then replacing the bag systems will be at least $1,000 to $1,650 per automobile, and with inflation raging, that replacement cost could go as high as $2,000 to consumers.

Not many consumers will ever replace their airbags and if they do not, the protection will only be an active lap belt as NHTSA has said that airbags in cars would only need the additional lap belt for protection to prevent "submarining," which is when the occupant's body could slide under the airbag, suffering serious injury or death.

I repeat, not many consumers are going to pay to have airbags reinstalled in their cars at those costs. And, only a little over half of the States have a State law mandating safety inspections of automobiles (27). It would only be through a mandatory safety inspection program that consumers would have to replace the airbags and we are informed that NHTSA has not planned a strong program to encourage States to require replacement of airbags as a point on safety check lists. If NHTSA has such plans, they have not been related to Congress recently and must be a part of what GAO and the National Transportation Safety Board terms as NHTSA's evaluation program being "in disarray" and "unorganized."

It should likewise be pointed out that the cost of the new passive restraint known as the automatic shoulder and lap belt would have a retail cost to consumers of under $100 and as low as $65 to $85 per car.

NHTSA has previously stated that it is expected that the passive or automatic shoulder belt will protect occupants as well as airbags. I have previously noted in this Chamber on previous such debates that the CALSPAN tests of 1977 comparing the effectiveness of airbag-equipped cars to lap and shoulder belt cars, showed that the safety belt systems protected as well as and even better than the airbag.

I insert the analysis of those tests which was prepared by my staff investigators on this issue in 1977. There is no evidence of any subsequent such comparative tests of airbag cars with safety belt-equipped cars that shows any advantage the airbag has over the less expensive safety belts.

COMMENTS ON CALSPAN TESTS

The most recent tests were run to compare the effectiveness of airbags compared to seatbelts for both drivers and right front seat passengers. Dummies and cadavers were used. These offset front end collisions are more like the real world auto crash accidents that occur than the DOT, NHTSA required tests that auto manufacturers must pass before their occupant restraint systems can be marketed. The CALSPAN tests were offset, essentially right front to right front and left front to left front. The DOT tests that auto manufacturers must pass have the vehicle crashing head on into an immovable wall. The DOT test therefore, does not seem to be as representative of the real world crashes as does the type of crashes conducted by CALSPAN for DOT.

This is some of the newest data that I understand has been developed on tests of occupant restraint devices.

In all of the tests, with both dummies and cadavers seated as drivers and passengers, the seatbelt restraint systems did a better job in protecting the test subjects than did the airbag.

Out of the five offset crash tests, two of the cadavers and one of the dummies, all in airbag-equipped cars, exceeded the injury criteria of Motor Vehicle Safety Standard 208, the final rule for airbags.

In one test, No. 344, on July 1, 1977, a cadaver seated in the driver position of an airbag-equipped vehicle experienced a "g" force chest load of 74 g's, which is above the limit of 60 g's deemed as permissible by NHTSA in its injury criteria. The cadaver experienced an abbreviated injury scale (AIS) rating of 3 with an X-ray finding three broken ribs following the test. The AIS used by NHTSA is an injury range of from 1 to 6 with 6 termed fatal. The cadaver in this test, assigned an injury rating of 3, was termed as experiencing severe, but not life threatening, injuries.

The belted driver, a dummy, of the opposing test car experienced roughly half of the accelerated "g" force as did the airbag-protected driver in the other car.

In another test, No. 346, on July 13,

1977, utilizing an airbag-protected cadaver in the right front passenger seat. the cadaver experienced "g" forces on the chest in excess of the motor vehicle standard. This test subject experienced 70 g's, 10 higher than the permissible standard. The cadaver received a broken rib, three severe leg fractures and an AIS rating of 3.

As a comparison of right front seat passengers, in another test, No. 347, a belted cadaver experienced only a "g" force rating of 39, almost half the "g" force experienced by the airbag-protected cadaver. In comparing these two tests of cadavers in right front passenger seat positions, the belted cadaver experienced less impact. The belted cadaver experienced an AIS of only 1, or minor injury with a bruise on the knee and collarbone—no break or fracture.

Because of the severe injuries to the lower extremities of the cadaver in test No. 346, an airbag-equipped vehicle, CALSPAN was directed by DOT to repeat the test. On August 11, 1977, test No. 353 was conducted using a cadaver and an airbag system in the right front passenger seat. Again, the cadaver received a broken leg and an AIS (injury) rating of 2.

Based on these tests it is clear that both airbags and seatbelts can save lives and reduce injuries but the degree of potential safety on the test subjects in seatbelts in these CALSPAN tests seem to lean in favor of seatbelts.

DOT states that this is raw data in the CALSPAN tests and that the five tests have not been thoroughly analyzed. Inasmuch as I am not aware of the CALSPAN tests having been scrutinized in any testimony before this subcommittee during its hearings, it would seem that a full explanation by NHTSA is necessary.

We must have solid proof of improved and safer airbags before the mandate for these passive restraints goes into effect with such high consumer costs. There must be more development to determine more accurately the benefits of airbags.

Mr. Speaker, let me stress some points on the GAO listed potential dangers to occupants with airbags. There are few issues that come before the Congress that are as emotionally charged as this one on airbags. There is little doubt that airbags are effective in saving lives in frontal crashes—when the occupant is in the correct position. Frontal crashes, however, comprise less than 50 percent of fatal crashes—but the key is that the occupant has to be in the correct position for the airbag to be fully effective.

I want to remind my colleagues that the airbag affords no protection to front seat occupants when the crash involves a side collision, sideswipe, rear-end collision, or the rollover crash. Safety belts, I point out, protect occupants in all crash modes and offer continued security in second or third impacts after the airbag has deflated.

Crash test experts have raised serious questions about the effectiveness of airbags if the occupant is out of position and particularly children who, from my experience, are never in the correct position unless they are in the back seat and buckled in with the belts. Few children are in the safe position and belted in. Not only do airbags not protect out-of-position occupants and children, but the GAO investigation found that they could actually be life threatening, especially to children.

The GAO draft report contains some very disturbing results of tests run by General Motors using young pigs as surrogates for children in airbag tests. The pigs were strapped in various positions that children are likely to be in. Apparently, a significant number (about 30 percent) of these pigs were killed due to internal injuries caused by the airbags hitting the abdomen of these animals—causing severe liver damage.

Again, according to the GAO report, "Volvo had experienced similar adverse results in testing for out-of-position children." I believe that the most telling phrase in the GAO report is that despite the life-threatening aspects of the airbag on children, the GAO found that, "However, as of February 1979, they (NHTSA) are not planning to perform any out-of-position occupant testing in any attempt to define the magnitude of the problem."

Not only should the House pass the Dingell-Broyhill amendment, but, there should be a full-scale investigation of what is going down on down there at NHTSA.

Meanwhile, I have asked NHTSA to provide all documents on these out-of-position occupant tests and the company and NHTSA's analysis of these tests. General Motors has provided me with a report on their tests involving pigs as surrogates.

I insert it at this point:

GENERAL MOTORS CORP.,
Washington, D.C., July 20, 1979.

Hon. JOHN DINGELL,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. DINGELL: In response to your request of July 19, I am attaching a statement which describes the status of General Motors inflatable restraint tests using pig surrogates to simulate conditions that can occur with unrestrained children in the front seat.

I trust that this response will be satisfactory.

Sincerely,

WILLIAM C. CHAPMAN,
Manager-Technical Liaison Group.

G.M. STATEMENT ON INFLATION FORCE INJURIES TO PIGS—USED TO REPRESENT OUT-OF-POSITION CHILDREN

A number of questions have been raised regarding General Motors inflatable restraint tests using pig surrogates to simulate small children. The surrogates were placed near to the inflatable restraint module to simulate conditions that can occur with unrestrained children in the front seat. This statement provides for a common understanding of the test results.

An inflatable restraint must be designed to inflate fast enough to provide good restraint for adults but not so fast as to produce an inflation force risk to out-of-position children. It is necessary to employ anesthesized live animals in assessing the inflation force risk to small children because child dummies have not been sufficiently developed to measure the injury potentials to children. The fatal injuries occurred during an initial series of exploratory tests. This series was designed to provide design guidance and to obtain needed biomechanics data regarding potential injury mechanisms. The fatal injuries included liver, neck and brain stem trauma.

These exploratory tests did indicate the need for significant system modifications. Subsequent tests with systems designed to comprehend the initial findings have not produced fatal injuries, but they have induced significant injuries to the liver and neck.

We are continuing the normal process of modifying the design, then testing it. The number of significant injuries is declining.

We are continuing our development efforts.

What the GM statement is clear on is that DOT and NHTSA have not developed a test dummy resembling a child and there is no truly complete testing mechanism to ascertain the potential danger or benefits of airbags to protect our children.

Second, contrary to what NHTSA has advised me, these GM and even the Volvo tests, we are informed, resulted in "fatal injuries" which involved injuries to the "liver, neck and brain stem trauma."

Further GM tests, as their statement to me points out, have resulted in continued "significant injuries to the liver and neck."

GM is committed to further testing and has announced that it will not install these airbags in automobiles in model year 1981 as previously planned and that there will be a delay in that model year of installation of airbags in any vehicle.

GM, and other companies, had planned to install air bags in some cars in the model year 1981, preceding the effective date of the MVSS 208, but due to the out-of-position occupant problems, a delay will occur pending further tests of such problems.

The GAO also criticizes DOT and NHTSA that most of the government testing to date has been in the laboratory and there is not enough real world test data from the field. GAO confirms this.

GAO recommends that DOT establish a passive restraint evaluation plan and that more information be collected by NHTSA to facilitate such planning. GAO urges formation of an evaluation task force of objective participants to study and analyze all data, new and old, and to confer on possible modifications that the DOT could implement in connection with the standard, MVSS 208.

I also point out that the National Transportation Safety Board just recently commented that the evaluation program at DOT and NHTSA regarding passive occupant restraint systems is "unorganized." It is recommended that DOT take action promptly due to the effective date of the standard in model year 1982.

GAO calls for EPA and the Occupational Safety and Health Administration to conduct further study into the possible health effects of sodium azide, the chemical used to detonate and deploy the airbag into the torsos of front seat occupants in the event of a frontal collision. The concerns have been that the chemical may cause carcinogenic and mutagenic health problems. This would concern auto workers at assembly plants and supplier plants. It would also concern the service repair industry and the auto salvage industry.

GAO's audit points out in several instances the nagging question regarding reliability of data on airbags as to their effectiveness in reducing injuries and fatalities.

Most testing by DOT has been on the airbags, which are the most expensive in consumer costs, while little testing was done on the passive safety belts, which are least expensive.

GAO also notices the claim by NHTSA that there would be insurance savings on automobile premiums, but what the figures in savings would be, remains unknown.

I am not only concerned about the questions that have been raised about the effectiveness of airbags and especially the hazards that are present for out-of-position children, but, I would like to address for a moment claims by the insurance lobby concerning the alleged significant savings that will be realized on auto insurance premiums by those with airbag-equipped cars. Although the airbag lobby claims that the auto insurance industry is solidly in favor of airbags and will offer substantially lower premiums, the GAO found that these savings were illusory.

The GAO found that many of the major companies that they queried during their investigation have not committed themselves to offering premium discounts. The Wall Street Journal also raised serious questions about the "self-righteous" claims of the auto insurers. Although Allstate claims they offer a 30-percent discount on medical and personal injury premiums, according to Road & Track magazine (May 1979), when Allstate agents were contacted for a quote on an airbag-equipped car, the discount turned out to be a whopping $3.44 on a $281.00 policy—not 30 percent, but closer to 2 percent.

They found a similar experience with Geico and Nationwide, the other major proponents of airbags. Some argue that the insurance lobby is far from self-righteous on this issue. They see in an airbag mandate a more expensive automobile and a more costly automobile to repair and as a result, larger insurance premiums, more interest earned and higher profits for the companies. The House should be aware that the claims of the insurance savings by the insurance lobby are as effervescent as the clouds over San Clemente.

Many emotional statements have been made that the Dingell-Broyhill amendment will eliminate a freedom of choice for the consumer if the amendment is passed. This is nonsense.

Let me point out that the 208 standard does not give manufacturers and consumers a freedom of choice in over 50 percent of the cars produced in this country. The majority of mid-sized and large cars produced have bench seats in the front. The only way to meet the 208 standard with bench seats is with airbags.

It has been pointed out in this debate many times in both the GAO and National Transportation Safety Board which found serious problems with the effectiveness of airbags and in fact have found the airbags could be a hazard to children.

In the face of these serious uncertainties, it seems irresponsible that airbags should be forced on at least 50 percent of auto purchasers. This is not to say that more research and testing cannot be done first to overcome these problems. But, adequate testing has not been done today. It appears that NHTSA has steadfastly refused to do this testing—we should find out why.

The question of product liability must be mentioned but there is little information on this subject as it relates to passive restraints. Product liability is expensive for firms to purchase. The small, independent garage service centers probably cannot afford it and so would not accept work to be done on airbag-equipped cars and even larger service repair centers such as authorized automobile dealerships are greatly concerned on the liability question if an automobile that the agency has worked on should be involved in a subsequent crash and the airbag not deploy in a frontal collision.

This matter of product liability needs research and analysis as well as the passive device, the bag, itself.

□ 1430

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, as a member of the subcommittee I would like to express my appreciation to the gentleman from Oregon (Mr. DUNCAN) who has worked very hard to put together a bill that will be acceptable to most of the Members. It is not easy with his subcommittee because he has people from many parts of the Nation pulling in opposite directions, and with different interests, such as trucking, waterways, airlines, and railroads. Mass transit people attempt to have mass transit within the cities, while the rural people hope perhaps those same dollars will be used in the rural areas for highways and improvements of the roadways there.

The gentleman seems to have everybody pulling at him in opposite directions.

By the same token, Mr. Chairman, the gentleman from Oregon (Mr. DUNCAN) has been able to bring forth a bill to the House, where it has often been said that if you satisfy everyone perhaps you are not doing your job. The gentleman has done as good a job as he possible could. He has presented us with a good bill which should help our transportation problems for the near future.

● Mr. CORRADA. Mr. Chairman, I rise in support of the amendments offered to H.R. 4440 by the gentleman from Arkansas, to wit:

First, an increase to the intercity bus subsidy from the zero the committee recommends to $15 million;

Second, an increase to the bus terminal development program from the zero the committee recommends to $20 million;

Third, to increase the funding for the safer off-system road program—better known as SOS—from the $35 million the committee recommends to $120 million.

These amendments, as our colleague states, undoubtedly attempt at least a redress of injustices proposed for those living in midsized cities, small towns, and rural communities in countryside areas. These amendments, if adopted, would maintain the bill still below the President's budget request and the first concurrent resolution level for transportation.

In particular, I have a great concern and interest in the SOS program, which was designed to make existing mileage safer, not to expand the road system.

This program should be preserved and properly funded. Austerity, which is the prevailing mood in Congress and one of the concerns of the administration, has led us to believe that a reduction of expenditures and the elimination of some Federal programs is the best approach to solve the economic problems faced by this Nation. I do not have any objection to reductions or elimination of Federal programs where it becomes necessary.

However, during the hearings held by the committee, considerable testimony was received on the importance of this particular program. There is a clear indication that the need for Federal assistance is present and necessary and that the SOS program should be preserved. When the committee says that $35 million will enable the States to proceed with the most urgently needed high priority safety improvements of system roads in our Nation, it is saying that a drop in the bucket will fill it to the rim. We are talking of a program that provides assistance to three-quarters of our Nation's highway network at a time when many safety improvements are urgently needed.

The amendments offered by Mr. ALEXANDER are realistic and meaningful. Local road safety is essentially a local responsibility. I am not quarreling with the fact nor saying that the Federal Government should assume the total responsibility for the safety of those roads. What I am saying is that we have a responsibility in giving meaningful assistance to the States in order to supplement their efforts in keeping their local roads safe which in last resort are the backbone of our main road system.

I urge you to support and vote for these amendments.

Mr. Chairman, I rise in support of the amendments offered by my colleague JAMES J. HOWARD, chairman of the House Subcommittee on Surface Transportation, House Committee on Public Works and Transportation, to H.R. 4440.

I want to commend the Committee on Appropriations for the efforts placed in appropriating adequate sums to finance the most urgently needed, highest priority requirements of the Department of Transportation and related agencies during fiscal year 1980. In fact the committee has responded in a responsible manner to our transportation needs in a period of inflation. However, there are still some programs that are considered important and that need adequate appropriations of funds. Among them is the one known as the carpool/vanpool program. The modest amount of $4 million proposed by the gentleman from New Jersey for this program is necessary to save energy by reducing excess capacity in normal automobile travel. I support it.

Another important program is the 55-mile per hour enforcement effort. The amendment proposed by the gentleman is also intended to address both energy conservation and safety. The amount of $20 million may sound high but in fact it is not. The impact that this program intends to have is not measurable immediately but with proper enforcement this is a simple and effective energy conservation tool and we will be able to realize that this amount was worth its investment. The enforcement of the 55 miles-per-hour limit so far has proved to be a necessary and important program and I support it.

In relation to the amendments proposed by my colleague for the safer off system roads, I am inclined to support it but I will prefer that the amount of money appropriated for it be at the level recommended by our colleague BILL ALEXANDER. That is, instead of appropriating $40 million, we should appropriate $120 million. This is a more realistic figure having in mind the importance of this program. I also believe that the intercity bus subsidy as well as the bus terminal programs should be funded at the levels that Mr. ALEXANDER has in mind. That is, $15 and $20 million accordingly, not the $10 and $15 million that Mr. HOWARD believes should be appropriated.

I also support and endorse the amendments of Mr. HOWARD regarding the highway beautification program, the safety and information program, the innovative safety grants program and the transportation research centers. These are all important programs and I do not believe that by appropriating the modest amounts recommended by Mr. HOWARD we will be helping to increase the rate inflation.

To conclude, I also support and endorse the mass transit capital and the mass transit operating assistance programs. The funding of these programs will be helpful in supplying the capital necessary for increased mass transit ridership and to offset the new demand for public transit ridership, respectively.

All of the programs intended to be benefited by Mr. HOWARD's amendments could be classified by some as desirable rather than essential. I am of the opinion that they are essential since they are all an integral part of our national effort to improve our transportation system.

I urge you to vote for it.

Mr. Chairman, the arguments propounded by the gentleman from California (Mr. PANETTA) are well taken and I rise in support of his amendment.

Once more we have to deal with the divisive and to some extent emotional issue of the draft. Naturally, we are not talking here of the draft per se, but of the registration of males turning 18 in 1981. We have to deal with this issue and the latent possibilities of a draft by reason of the questions that have been raised about the All Volunteer Force. We are faced with the need of providing for the shortcomings of the required manpower of the services. Let me point out that we are here not to complain or to pass judgment on the failure of the system. We are here to find a solution to a problem. The security of America and our ability to protect the Nation must not be dealt on an emotional level. Let reason prevail.

Some voices have expressed their fears that compulsory registration may turn out to be the first step to resume a mandatory draft in time of peace.

I share some of these fears and concerns. We do not want our youngsters to give up their freedom of action and movement which in fact contradicts the basic values of our democratic society for light reasons or unnecessarily. However, we have to address this problem. The best approach at this time is the amendment of my colleague Mr. PANETTA to strike section 812 of H.R. 4040. This amendment does not preclude the House from eventually deciding during 1980 that some form of registration in 1981 is in the national interest. The gentleman is proposing in his amendment to add this registration plan to a list of committee recommended options in H.R. 4040, which the President is to study and then report to the Congress by January 15, 1980. With all the facts before us we will then be in a much better position to decide on the question of registration and on the issue of the draft.

I urge the House to adopt this amendment which in no way affects the original intention of the House Armed Services Committee to put into effect a plan within the next 2 years. This is a practical approach to the problem and a wise alternative.

I urge you to vote for it.

Mr. Chairman, time has come to give our civil defense program proper direction, clearly defined goals and multiyear authorizations to allow for long-range planning. Our civil defense program is inadequate and will remain far behind in serving its true purposes if we do not take the positive and corrective measures proposed by the gentleman from Missouri.

I rise in support of this amendment. I am convinced that this is the right approach. Not too long ago, we faced the Three Mile Island disaster; thanks to God nothing serious happened to the surrounding population. It was with great dismay that I watched how erratic the Federal Government acted and how the various Federal agencies fumbled and improvised all along the crisis. This should never happen again. One way of preventing chaos is precisely by having an effective civil defense program like the one described in this amendment.

I urge you to support and vote for it.●

Mr. ANDERSON of Illinois. Mr. Chairman, I must speak out in favor of the amendment to prevent the premature implementation of airbags in our Nation's cars. This amendment, introduced by Mr. DINGELL and Mr. BROYHILL, is critical to highway safety.

I stand in favor of highway safety and of improved safety for consumers. But, this question of airbags raises many questions of safety, and whether airbags really are an improvement, especially when bags cost at least $500 to $581 and as high as $825 according to Ford Motor Co.

The amendment calls for additional testing of airbags and other systems because they simply have not been proven in the laboratory.

Some people claim airbags are better than safety belts. Both systems meet, by the way, the safety standard No. 208. But the fact is that there has been little testing of crash situations except head-on. And even in these head-on tests both safety belts and airbags met the standards.

I would like to know how airbags perform in a full range of crash situations before I put my life on the line. I think we need to see the results of tests to compare airbags and safety belts before we can endorse any passive restraint system for our constituents.

The National Highway Traffic Safety Administration of the Department of Transportation is responsible for supervising such tests. But just recently, the General Accounting Office (GAO) severly criticized that agency for not adequately testing restraint systems.

The GAO reported potential dangers to children and people in "out-of-position" postures when airbags go off. GAO raised serious questions about the safety of sodium azide in airbag systems. This chemical may have cancer-causing agents. GAO reported it to have been shown to be a mutagen in animals.

GAO recommended additional testing and research because decisions affecting the real world have been made based on conflicting laboratory test data and engineering judgments. GAO reported that much uncertainty has been introduced because of limited testing.

There is no question that improved highway safety is a good thing. But we must be sure of what we are doing.

The test data has shown that safety belts are proven in a full range of crashes. The airbags have only been tested in frontal crashes. What about testing side crashes, rollover crashes, and collisions with poles, trees, and other objects besides a laboratory wall.

The objectives of the new safety standard are to provide safety systems requiring no action by the occupants of the car. Safety belts do in fact provide this level of safety, but require buckling up, an active process. I see no danger to the American public by passing this amendment.

The safety of America's travelers is still maintained if they only buckle up while the Government tests the passive systems a little longer. I think more damage could be done by requiring airbags that do not afford any protection in rear-end crashes, or rollovers, or side crashes, than by delaying implementation of this standard until the test results clearly support the best system.

After sufficient testing we would hope to then know which is the better way to go and we can follow that path. I urge my fellow colleagues to support this amendment which calls for additional testing of passive restraints and puts a halt on the mandatory requirements for such devices.

Too many questions remain unanswered and the cost and risk is simply too great. This amendment should be passed.

● Mr. WALGREN. Mr. Chairman, I want to voice my support for the amendment offered by the gentleman from Oregon. Congressman DUNCAN, to increase the apropriations for public transportation programs by $160 million.

With severe gasoline dislocations and shortages coupled with unnerving and never-ending gas lines, the importance of this amendment is clear. Public transportation is a vital component of a mobile society, a necessity to many Americans, yet is being treated as the stepchild of our national transportation system.

Earlier this year I wrote to Secretary Brock Adams expressing my concern over the unconscionable shortchanging of our public transportation system by the administration. Despite the clear congressional intent for an increased commitment to public transportation through last year's passage of the Surface Transportation Assistance Act, the administration's 1980 budget request for public transit assistance was at the same level as the 1979 request, an incredible $672 million shortfall from amounts authorized by the Congress for section 3 and section 5 public transit assistance.

Last Sunday's energy speech by President Carter gave us the first sign that this administration now intends to make an important commitment to public transportation as a battle to win in the energy war. But the $1 billion per year that the President wants to add to our public transportation budget over the next 10 years awaits final approval of the windfall profits tax. But we simply cannot wait the months necessary for those dollars to help our public transportation system.

The Duncan amendment provides a very modest $76 million in additional funding for public transportation, less than one-tenth of what the President hopes to eventually add each year to this effort. But the Duncan amendment commits the money now.

And now is when we need it. In my district in Pittsburgh, bus and streetcar ridership has shown the dramatic increases evident throughout the major metropolitan centers of America. June 1979 ridership in our countywide area was up over 15 percent over ridership 1 year ago. Specific bus and streetcar routes in my district have risen phenomenally to the point where our system is under severe strain. The Greentree-Carnegie bus is up 18 percent; the McKnight Road bus is up 20 percent; the Perry Highway bus is up 28 percent; and the Mount Lebanon-Oakland bus is up 31 percent.

Mr. Chairman, no public transportation system can be expected to absorb such massive increases in ridership without help. If we care about saving energy by encouraging our citizens to shift from one-passenger cars to buses, streetcars, and subways, we must help our public transit system to meet the demands of this higher ridership.

This Monday, the House of Representatives approved a $1.7 billion appropriations bill to complete construction of the Metro system in the Greater Washington, D.C., area. The funds provided by the Duncan amendment pale in comparison. But until the President's commitment of $10.5 billion for public transportation can be implemented through final approval of the windfall profits tax, the $160 million which this amendment provides is desperately needed.

Mr. Chairman, I respectfully urge my colleagues to join with me in this positive step toward meeting our energy goals.●

● Mr. GONZALEZ. Mr. Chairman, the Committee on Appropriations has a difficult and significant task in addressing the question of transportation appropriations.

In a very large sense, the committee has had to contend with an energy policy—for transportation consumes no less than a third of all the energy this country uses. I know that the committee realizes this, and has endeavored to bring forward recommendations that will improve and enhance our transportation systems and at the same time address the need for greater fuel efficiency.

With that in mind, I note that the committee reduced the appropriation for paratransit programs administered by the Urban Mass Transit Administration—I refer to page 45 of the report. This is for research. This would be a $2 million cut from current research levels. I know that the committee—and I suppose everyone else—is unhappy with the so-called transbus project. But at the same time I am interested in research efforts that will make urban transit more flexible and more efficient. Not long ago I suggested, for instance, that the San Antonio Metropolitan Transit Authority provide vans to lease to employers who wish to set up van pool programs. It seemed to me that the transit agency could thereby enable even small employers to get into van pool operations. At the same time, this kind of approach would show that transit can be innovative and flexible.

I also think that there ought to be a fair amount of research into the design and construction of smaller transit vehicles. There are many places even within large cities that cannot be well or efficiently served by heavy duty buses. Yet there is hardly any type of light bus available that is comfortable or durable enough to provide neighborhood bus service. I would hope that the committee does not intend by its reduction to reduce the type of research that is needed to make our urban transit systems as flexible and effective as they need to be.

I have a specific question with respect to Amtrak.

My understanding is that a general agreement has been reached between the Department of Transportation, the authorizing committee, and the Appropriations Committee, to increase the number of trains that would be left on the Amtrak system for 1980. The authorizing committee has provided a bill with a formula to be used for determining which trains would be added to the system and which would not.

Is it correct that the committee will support an amendment that would add funds to this bill for the purpose of saving certain Amtrak routes that are now set for abandonment? Would the committee accept an amendment to keep a modest number of long distance trains in service—particularly, those trains that serve the Midwest and Southwest? It would be unacceptable, to me at least, to accept the plan put forward earlier this year, which would have had no regional balance whatever.

Second, and also with respect to Amtrak, the committee report refers to a Congressional Budget Office study that says Amtrak is not likely to be a good bet for energy savings, either now or in the future. But my understanding is that this study was based on 1977 ridership figures, whereas today Amtrak is in a different situation entirely. Fuel costs more today, we are all being asked to conserve, and Amtrak has customers literally breaking the doors down. Would it not be possible, even likely, that all the basic assumptions of that report are now open to question, if they are not already completely discredited? ●

● Mr. STEWART. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

I rise in support of H.R. 4440, a bill making appropriations for the Department of Transportation and related agencies for fiscal year 1980.

Mr. Chairman, I commend the distinguished chairman of the subcommittee, the gentleman from Oregon. He has conducted the hearings in a very thorough and fair manner. The taxpayer can be assured that the gentleman from Oregon is going to make certain that every dollar appropriated will be used in the manner that the Congress intended that it be used.

Mr. Chairman, I think that the bill before us meets the transportation needs of rural and urban America.

I am most concerned that the Urban Mass Transportation Administration respond to the transportation needs of our large urban areas. The subcommittee has been most responsive to the needs of large urban areas by increasing the tier II appropriations by $50 million over the President's fiscal year 1980 budget request. The subcommittee appropriated $200 million for tier II funding.

The committee has appropriated $630,000,000 for the modernization and extension of existing fixed guideway systems. The report to accompany the bill gives some very positive directions to Urban Mass Transportation Administration. To quote from the report:

> As stated last year, the committee believes that Urban Mass Transportation Administration should direct increased attention to the maintenance, rehabilitation and modernization of these existing rail transit systems.

And the committee report specifically enumerates the rail transit systems to which it refers. I can assure the Urban Mass Transportation Administration that I am looking forward to discussing with officials from this agency during the hearings next year, their responsiveness to this directive of the committee.

Another cause of concern to me is the compliance of the Federal Railroad Administration with section 905 of Public Law 94–210, the Railroad Revitalization and Regulatory Reform Act. Section 905 states:

> No person in the United States shall on on the ground of race, color, national origin, or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any project, program, or activity funded in whole or in part through financial assistance under this Act.

And under section 905(f) financial assistance is defined so as to include "obligation guaranties."

I raised this issue with the Federal Railroad Administration representatives when they testified before the subcommittee. I am not convinced the Administration is complying with this section and I am not satisfied with their answers. This is a matter which I intend to pursue further.

In another section, the committee report directs that the Federal Aviation Administration, "In administering the newly reenacted program, the committee expects FAA to follow past practices in promulgating regulations to carry out the program and directs FAA not to use regulations or administrative procedures to exclude any class of eligible carrier from the program or to reduce the program level contained in the accompanying bill." It is my understanding that this language may obviate some of the difficulties to the further revitalization of Midway Airport on the south side of Chicago.

Further, I strongly support the amendment which the chairman will offer in the Committee of the Whole to H.R. 4440 which will increase the appropriation level for urban and rural transportation systems. I think this amendment, the committee amendment, is balanced and responsible. I urge its adoption.

Mr. Chairman, this is a good bill. The committee amendment will make it a better bill. Both respond to the transportation needs of our country. I urge adoption of the bill with the committee amendment.●

○ Mr. BROYHILL. Mr. Chairman, later this week Congressman JOHN DINGELL will be offering an amendment to H.R. 4440 which will prohibit the use of funds for the implementation or enforcement of the airbag portion of the National Highway Traffic Safety Administration's motor vehicle safety standard 208. The amendment will also clearly exempt the use of funds for any research and development activity relating to the airbag and other occupant restraint systems—for example, passive belts. I support this amendment because I strongly believe that we need more research on the airbag. Many of the questions which were part of the public debate which surrounded the passive restraint standard at the time of its promulgation remain unanswered. Since that time new questions have arisen as well. Briefly, these questions include the following:

Are the National Highway Traffic Safety Administration's estimates of the airbag's life-saving potential well founded?

The NHTSA has estimated that passive restraints, when installed in all cars, will prevent about 9,000 traffic fatalities and 65,000 serious injuries each year. These figures are uncertain according to the GAO in their draft report on passive restraints. They are uncertain because they are based primarily on laboratory test date—for example, crash tests and sled simulations performed in various crash modes—and NHTSA engineering judgment.

Laboratory crash conditions are, at best, a limited and simplified simulation of real world crash conditions. While these tests do confirm that passive restraints offer some potential for benefits in frontal collisions, they cannot confirm the NHTSA estimates with the degree of certainty which the agency attributes to them. Furthermore, the greatest concentration of laboratory testing was conducted in the 90-degree full frontal crash mode. Frontal oblique or off-set crash modes, as well as side, rollover, and rear crash modes were not conducted as extensively, thus failing to make the testing representative of the full spectrum of real world crashes. These factors, along with the extensive reliance on engineering judgment in the absence of real-world data, seriously concerned the GAO and formed the basis in part of their recommendation calling for more real world experience with passive restraints.

Are out-of-position occupants, particularly small children, safe when the airbag deploys?

If an auto occupant is sitting in such a position that he or she does not strike the center of the airbag, some test results indicate not only reduced performance of the airbag but also some dangers to such occupants. NHTSA asserts that newer airbag technology has eliminated these dangers. No tests have been run to confirm this. In January of this year, GM reported to the NHTSA that their tests on out-of-position occupants indicated a potential danger to out-of-position children from its passenger-side airbag system. Because of these test results, GM may not be able to continue to plan production of the present passenger-side systems; GM had planned to introduce airbags into its 1981 model year production, 1 year before the mandate becomes effective. Volvo has had similar adverse results on their tests for out-of-position children. There does not appear to be any agency plans to conduct out-of-position occupant testing at this time. Such testing is obviously needed and should be undertaken as soon as possible to define this problem and amend the standard if necessary.

Do we have enough field experience to prove the airbag's effectiveness and reliability?

Actual field experience with airbags is limited to a little over 12,000 cars, more than 200 of which have actually been involved in deployment crashes. It is the GAO's position that the "field data is still too limited to either support or refute the Safety Administration's estimates." Everyone, including the NHTSA, has agreed that the injury data from these crashes, particularly the number of fatalities, has been too limited to provide statistically significant results with respect to the airbag's effectiveness and reliability. Field experience with passive belts is far more extensive; over 75,000 Volkswagen Rabbits equipped with passive belts have been sold. The GAO recommends that more field experience is necessary to measure the effectiveness of airbags in the real world; and that it must be done in cooperation with all affected parties.

The National Transportation Safety Board has made similar recommendations in its safety effectiveness evaluation on the National Highway Traffic Safety Administration's passive restraint evaluation program dated March 16, 1979. The Board found that, while the agency is committed to evaluating the real-world effectiveness of the passive restraint standard, their "current evaluation program is unorganized." The Board found that—

> [C]onflicting information was provided by different elements within the NHTSA.

With respect to its evaluation planning efforts, and that—

> [T]here is no apparent sense of urgency within the NHTSA to develop more detailed plans.

While the NHTSA has indicated that they place a high priority on this activity and that their plan should meet the criteria spelled out by the NTSB's report, time moves on and critical questions remain unanswered, all of which should be addressed before millions of airbags appear on our Nation's highways.

Is sodium azide safe for: First, auto occupants; second, airbag-production workers; third, auto-scrap industry workers; and fourth, the environment?

Numerous questions remain as to whether or not the use of sodium azide as a solid propellant in millions of airbag systems poses health and safety risks. Sodium azide is highly toxic. Sodium azide is a known mutagen in plantlife and some animal cells. It may also be a carcinogen since most mutagens are also carcinogens. There has not as yet been sufficient testing to determine whether or not it is a mutagen and/or a carcinogen in humans. While admittedly the use of sodium azide is the choice made by the auto manufactuers and their suppliers—a design choice—it seems risky to proceed with a standard that calls for the use of 2 to 3 million pounds of sodium azide each year by the agency's calculation and not know the answers to these questions. With respect to auto occupants and their exposure to sodium azide, the NHTSA argues that the amounts are so minute that there is no risk to auto occupants. I do not believe this is a satisfactory answer because we do not even know if sodium azide is a mutagen and/or a carcinogen to humans. If it is, should humans be exposed to any amount as the airbag deploys?

With respect to airbag-production workers, the one company with extensive sodium azide production experience has reported about 50 cases of acute intoxication of production workers from sodium azide. No study on the long-term effects of sodium azide on production workers has ever been done, although one such study is underway now but will not be completed for some time. With respect to auto-scrap industry workers and the environment, the whole question of the disposal of cars with unfired airbags arises. While the agency indicates that they are "looking in great depth with the industry at the best means of insuring the safe disposal of cars equipped with airbags," they do not believe immediate action is necessary because the number of cars with unfired airbags would not become significant until mid to late 1990's. It would seem prudent, in light of the extensive use of sodium azide which the standard will necessitate and the various hazards related to its use, that the agencies; that is NHTSA, OSHA, and EPA who have a statutory responsibility to protect us against these hazards, should conduct additional research and develop a coordinated and responsible Federal policy on the use of sodium azide in airbags before it becomes a serious problem to the motoring public and the environment.●

● Mr. CONTE. Mr. Chairman, we submit for your consideration today the bill, H.R. 4440, making appropriations for the Department of Transportation and related agencies.

As ranking minority member of the Subcommittee on Transportation Appropriations, I want to express my appreciation to the members of committee for their cooperation during the hearings on this bill. I especially want to thank the distinguished chairman from Oregon, Mr. DUNCAN, for his active leadership in developing this legislation. We have worked as a team on this bill rather than on a partisan basis.

The committee, I believe, has carefully reviewed the programs of the Department of Transportation and related agencies, and is recommending what we consider to be sufficient funds to enable these agencies to adequately meet the requirements of our Nation's transportation system. The committee in its deliberation has achieved the above stated goal in a fiscally responsive manner.

SUMMARY OF THE BILL

The bill includes a total of $18,685,491,000, of which $9,522,515,782 is new budget authority and $9,172,751,000 is liquidating cash. The total amount of new budget authority is $152,453,000 below the administration's budget request of $9,674,968,782. It is also well within the target established by the first concurrent budget resolution.

The total amount of appropriations to liquidate contract authorizations is $115,000,000 less than the $9,287,751,000 requested and $452,749,000 less than the $9,625,500,000 appropriated for fiscal year 1979.

The recommended amount is $710,599,686 more than the $8,801,916,096 appropriated to date for the current fiscal year. Of the $9.512,515,782 recommended, $9,087,515,782 is for fiscal year 1980 and $425,000,000 is an advance appropriation for fiscal year 1981. The committee has deferred consideration of two fiscal year 1981 requests amounting to $1,535,000,000.

In analyzing the committee's reductions it is important to keep in mind that fiscal year 1980 reduction involves two major technical changes from the budget which have virtually no impact on fiscal year 1980 Federal spending. The committee recommends rescission of certain contract authority for interstate transfer grants. However, sufficient direct appropriations have been recommended to maintain the $700,000,000 program level requested in the budget for fiscal year 1980.

The second change involves the new Panama Canal Commission. Since no budget request has been submitted to operate the Commission as an appropriated fund agency, the $279,588,000 included in the bill for the first 6 months of operation is shown as an increase over the President's budget. The committee still expects to receive a budget request for the balance of the fiscal year.

If these two appropriations were excluded from the computations, the new budget authority in the bill for fiscal year 1980 would be $58,941,500 less than the comparable budget figures.

SELECTED MAJOR RECOMMENDATIONS

I call the attention of the members of of the committee to the summary on page 4 of the report. The major recommendations are as follows:

First, the appropriation of $2,090,520,000 for the operations and activities of the Federal Aviation Administration, $6,596,000 less than the budget request;

Second, an increase of $35,000,000 over the budget for the safer off-system roads program;

Third, the appropriation of $772,300,000 for Federal grants to Amtrak;

Fourth, approval of the full fiscal year 1980 request of $550,000,000 for the purchase of securities of the Consolidated Rail Corporation (ConRail);

Fifth, an increase of $50,000,000 over the budget for "second tier" operating assistance for urban mass transportation;

Sixth, a general provision providing for obligations of not to exceed $8,500,000,000 for Federal-aid highways;

Seventh, an increase of $5,410,000 and 429 positions over the budget for operating expenses of the Coast Guard;

Eighth, approval of the budget request of $481,000,000 for the Northeast corridor improvement project;

Ninth, the appropriation of $1,280,000,000 for the urban discretionary grant program of the Urban Mass Transportation Administration;

Tenth, a general provision limiting aircraft loan guarantees during fiscal year 1980 to $500,000,000;

Eleventh, net reductions in the Department of Transportation's research and development programs amounting to $10,570,000; and

Twelfth, a general provision providing for obligations of not to exceed $620,000,000 for airport development grants.

The chairman has already mentioned many of the major items in this bill. I will discuss a few areas that I believe are of major interest and concern.

OFFICE OF THE SECRETARY

For the Office of the Secretary we have provided $43.8 million for fiscal year 1980. This is $3.2 million under the budget estimate and $657,000 under last year's budget figure. The committee's recommendation includes a reduction of $350,000 from the amount requested for contractual services in connection with the Department's responsibility in the litigation arising from the creation of ConRail. The committee feels that the principal responsibility for litigating this case rests with the U.S. Railway Association (USRA).

Secretary Adams, in his appearance before the committee, discussed his challenge to the automobile industry to "reinvent" the automobile. In doing so he advocated the development of a car which is extraordinarily energy efficient, safe and acceptable to the consumer. The committee agrees with the Secretary that it is wise to encourage the rapid generation of new ideas and the stimulation of innovative thinking with respect to technological breakthroughs in the automobile industry.

COAST GUARD

We have included $1.6 billion for the Coast Guard, of which $765,000 is under the administration's budget, and $110 million is over last year's. The appropriation will enable the Coast Guard to be adequately supplied in both personnel and equipment.

This is my 21st year of serving in an oversight capacity in regards to the Coast Guard by virtue of my appropriations assignment. The Coast Guard has always presented us with a tight budget and this year is no exception. I think it is one of the finest military outfits we have in this country.

For fiscal year 1980 the subcommittee made increases in several accounts including operating expenses, and acquisition, construction, and improvements. These increases are offset by a reduction of $8 million in the alteration of bridges account, which nonetheless allows for the continuation of three projects. Other reductions include the safe boating assistance program and the elimination of shipping commissioners, whose primary duty is to represent the Coast Guard at the time of hiring and discharge of crews on U.S. merchant ships.

The $110 million increase over last year's budget is to a large part attributable to the fact that the Coast Guard has new responsibilities under the Outer Continental Shelf Land Act Amendments of 1978 which were signed into law on September 18, 1978.

Titles II and III of this legislation authorized significant increases in the Coast Guard's regulatory and response missions to protect life and property at sea, and to protect the marine environment.

Until recent years almost all of Outer Continental Shelf petroleum as gas development was concentrated in the Gulf of Mexico; but oil lease sales have now also taken place in Alaskan winters, as well as along the California and Atlantic coasts.

Pursuant to title II, the Coast Guard must conduct annual, as well as periodic, unannounced inspections of all Outer Continental Shelf facilities. Current estimates are that it will be about 2 years before all of these facilities have been inspected for the first time. Although no budget request has been submitted to implement this title, the committee believes that funding should be provided in this bill, and has recommended $2.3 million to permit the Coast Guard to respond to these increased responsibilities in a timely manner.

The addition of this fund and the probable passage of the more comprehensive super fund clearly project the Coast Guard into a new arena of responsibility.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration we have included over $2.5 billion which is nearly $17 million below the budget request, but $58.7 million more than last year's budget. We have also placed limits of $500 million on Federal Government guarantees of private aircraft loans. This is an increase of $400 million over the level proposed in the budget. In recommending the $500 million level the committee believes that $150 million should be earmarked for commuter carriers serving local communities. This should insure the continued or improved air service to these localities that were contemplated by the Airline Deregulation Act. The bill also includes a limitation of $620 million for development grants financed under contract authority. This is an increase of $70 million over the budget request.

The major increase over fiscal year 1979 is contained in the airport development grants account. The committee has approved the full request of $610 million in liquidating cash which is $60 million more than the amount appropriated for fiscal year 1979.

One of the major budget reductions was achieved in the air traffic control staffing account. Total program reductions amount to $6.6 million. In response to an investigative staff review of the program, on March 15, 1979, FAA provided the committee with a progress report on the actions taken on the recommendations contained in the investigative report. This progress report is contained on pages 428 through 431 of part 6 of the hearings. FAA in its response indicated that these new standards, which will generate a lower staffing requirement, namely 23,714 positions, than the old standard, will be applied to the fiscal year 1981 budget, and to adjusting fiscal year 1980 budget needs. Nevertheless, the committee, impressed with the testimony of the professional air traffic controllers increase by 218, the position level which would be required under FAA's new staffing standards.

And finally, the same as last year, the committee recommends language limiting funds for the second career training program to the personnel who were in the program prior to October 1, 1978.

FEDERAL HIGHWAY ADMINISTRATION

For the general budget of the Federal Highway Administration we have provided nearly $107 million. Despite the fact that this is approximately $6.3 million over the budget, it represents a decrease of $144 million below the fiscal year 1979 level.

The increase over the budget is largely due to the committee's recommendation of an appropriation of $35 million for the construction, reconstruction and improvement of public highways, not on the Federal aid system. The Administration recommended zero funding for this program. The committee received considerable testimony on the importance of this program to local communities. Other programs in this account include motor carrier safety, $13.7 million; highway safety, research, and development, $9.5 million; railroad highway crossing demonstration projects, $20 million; and territorial highways, $6.6 million. In addition to these programs, the bill includes an increase of $4 million over the budget for the bicycle program which was authorized by section 141 of the newly enacted Surface Transportation Assistance Act.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

We have provided $82.6 million for the National Highway Traffic Safety Administration, which is $4.9 million below the administration's request and $752,000 below the fiscal year 1979. In recommending a reduction of $4.9 million, the committee expressed its belief that sufficient resources will be available for the significant automobile saftey and fuel economy programs proposed by the National Highway Traffic Safety Administration. The reductions are comprised as follows:

Rulemaking programs, $900,000;

Enforcement, $250,000;

Highway safety, $1.6 million;

Research and analysis, $1.8 million; and

General administration, $294,000.

The committee's recommendation includes neither the program to develop crashworthiness ratings for automobiles, nor funds for the public participation program.

The committee directs the National Highway Traffic Safety Administration to determine to what extent duplication or potential for duplication exists among its many data collection systems. As part of this exercise, the National Highway Traffic Administration is to implement a plan to eliminate duplication of effort and unnecessary costs, and to report to the committee before January 1, 1980, the results and justifications for each data system retained.

FEDERAL RAILROAD ADMINISTRATION

For the Federal Railroad Administration, we have provided nearly $1.538 billion which is nearly $133 million less than the administration's request, but $65 million above the fiscal year 1979 budget. The amount includes $25.9 million for railroad safety. Nearly $54.7 million for railroad research and development, and $92.2 million for rail service assistance. This amount includes $75 million for local rail assistance, which is an increase of $8 million over the budget request. This is a good program which I believe deserves this additional funding. The budget request included $250 million for a new railroad restructuring assistance program to replace the existing title V preference share program. Such restructuring assistance legislation has not been considered by the Congress during this session, therefore, the committee has not approved any of the funds requested for this program.

The committee recommends the full budget request for $481 million for the reconstruction and improvement of the railroad plant and right-of-way between Boston, Massachusetts, and Washington, D.C. As the report language indicates we were concerned about serious slippage in meeting the project's construction goals. As a result of the goals established in the redirection study, the committee believes that the steps that have been taken are in the right direction. Testimony indicates that the performance during the 1978 construction season was substantially better than during the previous season.

URBAN MASS TRANSPORTATION ADMINISTRATION

The recommended funding for UMTA for 1980 amounts to $3.5 billion, including $2.78 in direct appropriations, and $775 million in contract authority. With respect to the administrative expenses the bill includes an appropriation of $19.3 million. This amount, plus the use of $1.6 million of unrestricted authorities, should provide sufficient funds for UMTA's personnel and support requirements. This is $56.4 million more than the budget request and $62.2 million more than the fiscal year 1979 level.

A summary of the committee's recommendations by account are as follows:

Administration and research, $82.8 million;

Urban discretionary grants, $1.28 billion;

Rural and small urban grants, $75 million;

Urban formula grants, $1.425 million;

Waterborne demonstration, $10 million; and

Interstate transfer grants, $700 million.

With respect to the urban initiatives program, the committee is recommending a level of $80 million, of which $17 million is to be provided for the continued development of South Station in Boston, Mass. It is important to note that the funding level for urban initiatives has been reduced by $120 million because we do not believe that more than $80 million should be diverted from the basic section 3 programs which are essential if public transportation is going to survive in our Nation's cities.

With respect to implementation of the regulations issued pursuant to section 504 of the Rehabilitation Act of 1973, the committee is concerned that it might require the expenditure of vast sums with only minimal benefits to handicapped persons. Transit people estimate a cost of $8 million to implement the section 504 regulations. One study the committee read indicates that 90 percent of the cost of implementation, section 504, would benefit as few as 4,000 people. If these statistics are right, that means a cost of $1.8 million per person.

Section 321 of the Surface Transportation Assistance Act requires a study of this issue. Pending the completion of that study, the committee is recommending language which would prohibit the use of funds to retrofit any existing rail transit system to comply with the section 504 regulations.

NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board has received $16.7 million, its full budget request. This is $1.13 million more than the amount appropriated for fiscal year 1979. This increase is primarily to cover pay costs, inflation, and additional accident investigations. NTSB serves a vital function to the public by investigating the causes and developing recommendations to prevent accidents, such as the recent airplane crashes at San Diego and Chicago. This expertise is a vital component of securing public confidence in our national transportation system.

CIVIL AERONAUTICS BOARD

We provided the CAB with $28.3 million, a reduction of $24 million below the administration's request for salaries and expenses. The committee also recommends the full budget request of $76.1 million for payments to air carriers. This includes $69.1 million for existing 406 subsidy program, and $7 million for a new section 419 program that requires the Board to guarantee with a subsidy if necessary, a minimum level of air transportation to eligible communities.

The committee is pleased to report that the Deregulation Act has increased competition, as well as reduced the price of airfare to the public.

ICC

For the ICC, we included an appropriation of $76.1 million, a reduction of approximately $5 million from the administration's request. Part of this reduction is attributable to the elimination of the rail public counsel. It is the view of our committee that the Commission has the capability of insisting that the public interest be represented within the Commission's existing resources.

Last year, Congress mandated that the Commission hire 30 additional qualified rail service agents. At the time of our hearings, The ICC had not completed that mandate and many rail service agents which were hired were not qualified. It is our recommendation that the ICC finish the hiring of 30 rail service agents, and that they all be qualified to assist the railroads in improving their freight service.

PANAMA CANAL

The funding recommendation for the Panama Canal is $255 million for operating expenses and $25.1 million for capital outlay. This appropriation is for the 6-month period from October 1, 1979, through March 31, 1980. It is essential that this appropriation be made, notwithstanding the fact that the Panama Canal implementing legislation has not been signed into law. This will provide for the continual operation of the canal while the final financial arrangements are being resolved.

UNITED STATES RAILWAY ASSOCIATION

The bill allocates $23.9 million for the administrative expenses of USRA and $550 million for the purchase of ConRail securities. The committee is conscious of the need to hold down litigation costs and feels that the recommended amount is sufficient to effectively litigate the issue of valuation of the assets transferred from the bankrupt railroads to ConRail.

The committee is concerned about the windfall which has inured to many ConRail employees as a result of title V employee protection payments. Consequently, we have placed a limitation in the bill which prevents payments from passing under title V after December 31, 1979, unless an employee has been actually deprived of employment, or if one's employment has been materially diminished.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Finally, our bill provides for an increase of $14,187,000 over the budget estimate for fiscal year 1980 for WMATA. Prior to the distribution of these funds, the Secretary is permitted to establish terms and conditions that the local government must meet in order to obtain these funds. This is consistent with the need to exercise close control over the financing of the necessary capital and operating costs of the system.

THE SAINT LAWRENCE SEAWAY

The Saint Lawrence is recommended to receive the full Presidential budget request of $1,372,000 to pay for the operation and maintenance of the Saint Lawrence Seaway between Montreal and Lake Erie.

CONCLUSION

Due to the recent upsurge in mass transit ridership, and the ever constricting energy supply and hints of a future recession, the subcommittee has felt it necessary to alter its original recommendation and urge the increased funding of this labor intensive enterprise; therefore, the subcommittee is requesting an additional funding of $242.5 million. Likewise, Amtrak has also felt these same pressures, and the subcommittee is urging additional funding of $40 million. The cumulative impact of these major amendments is an increase of $282.5 million over the committee's original request.

I say to my colleagues this represents, in my judgment, a well balanced budget for fiscal year 1980 for the Department of Transportation and related agencies.

Before yielding the floor, let me express my gratitude for the manner in which the distinguished chairman of the Appropriations Committee (Mr. WHITTEN) has carried out his responsibilities this year. He has done a remarkable job in seeing that the hearings, markups and so-forth of appropriations bills are conducted in a manner that enables the appropriations process to meet the many deadlines and schedules that are set for us.●

● Mr. OBERSTAR. Mr. Chairman, during the markup of the Coast Guard fiscal year 1980 authorization, I offered an amendment in the Merchant Marine and Fisheries Committee to authorize $500,000 for a fixed aid-to-navigation in the St. Mary's River in Michigan.

The Subcommittee on Transportation Appropriations met to consider the fiscal year 1980 appropriations bill prior to enactment of this authorization. The legislation before the House today does not appropriate any funds specifically for the fixed aid-to-navigation.

The committee report does, however, note the authorization and state that sufficient unobligated funds exist in the Coast Guard appropriation to install the fixed aid-to-navigation. I will be working in the new fiscal year to encourage the Coast Guard to act to install the fixed aid. The Coast Guard itself has identified the need for 10 fixed aids in conjunction with the extended shipping season program on the Great Lakes.

In authorizing one fixed aid, the Merchant Marine and Fisheries Committee recognized the critical importance of the Pt. aux Frenes site. In recent years, two ore boats have grounded in late season with estimated damages in excess of $3 million. The weather conditions of late fall and winter require the fixed aid at Pt. aux Frenes.

The Coast Guard has a suitable design for the fixed aid.

While the initial cost of the aid is, of course, higher than the buoys, the maintenance costs are far less. The fixed aids are not removed in late fall and returned in the spring as the buoys are. The buoys also suffer considerable damage from ice at the end of the navigation season.

The fixed aid would be a wise use of unobligated funds.●

Mr. DUNCAN of Oregon. Mr. Chairman, I have no further requests for time.

Mr. COUGHLIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN of Oregon. I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 4440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, namely:

Mr. DUNCAN of Oregon. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 4440.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 217, nays 5, not voting 212, as follows:

[Roll No. 370]

YEAS—217

Abdnor
Akaka
Ambro
Anderson, Ill.
Annunzio
Atkinson
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Carter
Cavanaugh
Chappell
Coelho
Collins, Tex.
Conable
Corcoran
Corman
Coughlin
Courter
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Deckard
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ind.
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Ginn
Gonzalez
Gore
Gradison
Gramm
Grassley
Guarini
Guyer
Hall, Ohio
Hamilton
Hance
Hansen
Harkin
Harris
Hawkins
Hightower
Hinson
Hopkins
Horton
Hubbard
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marlenee
Mathis
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Oakar
Oberstar
Obey
Paul
Pease
Perkins
Peyser
Pickle
Price
Pritchard
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Robinson
Roth
Roybal
Runnels
Sabo
Santini
Satterfield
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Trible
Van Deerlin
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
White
Whitehurst
Williams, Mont.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Mo.
Zablocki

NAYS—5

Carney
Derwinski
Holt
McDonald
Mitchell, Md.

NOT VOTING—212

Addabbo
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Baldus
Beard, Tenn.
Beilenson
Boland
Bolling
Boner
Breaux
Brinkley
Broomfield
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Danielson
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dodd
Dornan
Dougherty
Downey
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
Erlenborn
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fish
Flood
Ford, Mich.
Ford, Tenn.
Forsythe
Frost
Garcia
Giaimo
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gray
Green
Grisham
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Harsha
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Howard
Huckaby
Hughes
Hutto
Jenkins
Johnson, Colo.
Kindness
LaFalce
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lloyd
Long, Md.
Lott
Luken
Lundine
McDade
McEwen
McKay
Madigan
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Michel
Mikva
Minish
Moakley
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nelson
Nolan
Nowak
O'Brien
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Petri
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Richmond
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Royer
Rudd
Russo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Shannon
Shuster
Snowe
Snyder
Solomon
Stangeland
Stanton
Stark
Stokes
Stump
Symms
Thompson
Traxler
Treen
Udall
Ullman
Vander Jagt
Vanik
Walker
Waxman
Weiss
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Zeferetti

□ 1450

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4034, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. BINGHAM) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, H.R. 4034 is the product of a great deal of consultation and mutual accommodation with the executive branch and among various individuals and groups within the Congress.

I want to express my appreciation for the support of the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), and the other members of the committee, particularly the members of the subcommittee who worked very hard on this legislation. I would particularly like to express my appreciation to the ranking minority member, my friend and colleague, the gentleman from California (Mr. LAGOMARSINO), who offered many constructive amendments to this legislation and who devoted a great deal of time and attention to it. We have a better bill before the House today because of his efforts and willingness to resolve problems constructively.

The subcommittee received suggestions and useful comments from many public groups, and the subcommittee appreciates the work of each of those organizations. In particular, however, I would like to mention the helpful suggestions and support we received from the National Governors Association, which took a very active interest in this legislation. The association, I am happy to say, strongly supports this legislation, as do other groups which I will mention later.

Mr. Chairman, this bill would accomplish the first major reform of the export control system in 10 years—a reform more of procedures than of policies. It would extend the export control authority, which would otherwise expire September 30 of this year, to September 30, 1983. The bill extends, without any change whatsoever, the legislation approved by the Congress in 1977 restricting American participation in foreign boycotts against countries friendly to the United States. It also retains congressional veto over any action by the executive branch to restrict the export of agricultural commodities. It contains an even tighter restriction than existing law upon any export of Alaskan oil. Finally, in title II, it authorizes funds for the collection of foreign investment data under the Foreign Investment Survey Act.

Perhaps the most important reform in this bill is that for the first time a clear distinction or separation is made between controls on U.S. exports for national security reasons and controls for foreign policy reasons. The current statute, which evolved over the past 30 years, tended to confuse those two very different kinds of controls. This has resulted in frustrations and misunderstandings in the American business community and has tended to discredit and weaken the extire export control process.

Under this legislation, exporters will know when they are dealing with foreign policy controls and when they are facing possible controls for national security reasons. With the exception of export of nuclear items, procedures for which are contained in the Nuclear Non-Proliferation Act, controls exercised under this act will be clearly for foreign policy or for national security purposes, with greater constraints on the executive branch in restricting exports for foreign policy than for national security reasons.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, has been studying export administration since 1976. The first result of that study was the Export Administration Amendments of 1977, passed overwhelmingly by the House. H.R. 4034 seeks to carry forward the reforms begun with the 1977 amendments. The bill is the product of 15 days of hearings, at which witnesses of all persuasions and opinions were heard, and 8 days of markup in both the subcommittee and the full Committee on Foreign Affairs. It now carries the sponsorship, I am proud to say, of 15 of the committee's 22 Democrats and 6 of the committee's 12 Republicans.

Section 104 of the bill, which runs from page 6 to page 40, is the heart of it. While appearing complex, its two purposes are simple. The first is to increase the effectiveness of exports controls by: clarifying the statutory authority of the Defense Department; requiring the development of a list of "military critical technologies" for export control purposes; strengthening the 15-nation export control coordinating system known as COCOM; improving the monitoring of technology transfers through technology cooperation agreements; and requiring accountability in the exercise of foreign policy controls.

The second is to remove obsolete controls and to increase the efficiency of the licensing procedures by: establishing procedures for multiple exports of routinely approved items with just one application; requiring greater attention to foreign availability; encouraging periodic removal of controls as goods and technology become obsolete from a national security point of view; requiring more frequent and more open list reviews; and imposing procedural requirements and time limits for processing export license applications in order to reduce the long delays which frequently occur under current practice.

□ 1500

In the world in which we live, we cannot afford to relax our controls on technology exports which our adversaries could use to reduce the military technology gap which is the key to the superior performance of U.S. weapons systems. At the same time, considering the unprecedented trade deficit which is sapping our economic strength and vitality, we cannot afford to continue controling products which are being exported by other advanced free-world countries. Nor can we afford inefficiencies and delays in the licensing system which act as needless barriers to exports. I believe H.R. 4034 makes the necessary trade-offs between these considerations. I believe it is a balanced bill.

Mr. Chairman, I will include a summary of the bill at the end of my remarks, and will not go into further detail at this time. In conclusion, let me touch on an important point at issue in this bill. Recently there have been charges that U.S. technology is flowing freely to the Soviet Union and being diverted to the Soviet military. If you listen carefully, you will not hear much evidence to back up these charges, because they are wrong. The well-known fact is that the United States has the most restrictive East-West technology transfer policies of any Western nation, with the result that the Soviets get most of their imported technology from our allies. But as the debate proceeds, I would ask you to keep the following points in mind:

First, the law is very clear: exports "which would make a significant contribution to the miiltary potiential of any other nation or nations which would prove detrimental to the national security of the United States" are not permitted. All agencies involved seek faithfully to implement that provision. It happens to be a fact that no technology export to a Communist country has taken or can take place without the concurrence of DOD.

Second, technology—the knowledge of how to produce things—exists in people's minds. There is no way you can stop its transfer forever. Other countries have it, too. The Soviets can develop their own, or get it from other sources. Just because the Soviets possess a capability does not mean we gave it to them. Beware of allegations on this floor that because the Soviets know how to do something, they must have learned it from us.

Third, we will be talking here about export controls on so-called dual-use items—that is, items which are civilian in character but, by their nature, can be used to support military activities. Beware of the proposition that because an item could conceivably be used for military purposes, it should be banned from export. Everything exported under this act probably could be put to military use for example—common tools, boots, and so forth. The whole reason we have a licensing system is to distinguish between those that can be safely exported and those that cannot.

The licensing process is run by human beings. They are required by the law to make excruciatingly difficult judgments. I am not going to stand before you and say they have never made a mistake in the 30 years that the licensing system has been in operation. But what I want to impress upon you is that the only way to avoid mistakes is to remove discretion by banning all exports. Since no other country is prepared to do this, it would solve nothing. There is no way to get around the necessity for judgment. In this situation, we have a licensing system that errs on the side of caution, as it should. But those who will suggest to you that with organizational tinkering they can remove all risk are claiming the impossible.

Mr. Chairman, the United States exports only 8 percent of its gross national product—compared with 27 percent for Germany and 14 percent for Japan. We have only 13 percent of the West's technology exports to the Soviets; last year, we had only 1 percent of the machine tool exports. We are not exporting our technology to the East; we are exporting our jobs to our competitors. We bring before you a bill which responds responsibility to this problem, fully protecting the national security while increasing U.S. competitiveness in the international marketplace.

I am proud that the bill is endorsed by the National Governors Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Emergency Committee for American Trade, the American League for Exports and Security Assistance—chaired by our former colleague, Joe Karth—and by six major advanced technology industry associations. I am honored that the bill is supported in a recent "Dear Colleague" by the ranking member of the Appropriations Committee (Mr. CONTE), the minority whip (Mr. MICHEL), the chairman of the Congressional Campaign Committee (Mr. VANDER JAGT), the chief deputy majority whip (Mr. ROSTENKOWSKI), and the chairman of the Export Task Force (Mr. ALEXANDER), and in another "Dear Colleague" by Northeast-Midwest Coalition chaired by the gentleman from Pennsylvania (Mr. EDGAR). The bill is also consistent with the recommendations of two major GAO reports. I believe it is a good bill, and worthy of your support. I urge you to vote for the bill and against any restrictive amendments.

In closing, let me address some particular issues that have arisen. Much has been made recently of the fact that some end products of the Kama River truck factory in the Soviet Union, which includes some of our technology, are being used by the Soviet military. Those end products are common diesel engines and general purpose trucks.

What Kama River illustrates is that U.S. export control policy tolerates some military use of commonly available end products produced from U.S.-origin technology. That was our policy in 1971 when the Kama River decisions were made. It has been our policy since President Nixon implemented détente and the Congress accordingly amended the Export Administration Act in 1969. It is our policy today. This legislation (H.R. 4034) does not change that policy.

Now the Members who are making an issue of Kama River disagree with that policy. That is certainly their right and privilege. But it is unfair, however, to portray Kama River as evidence that the export licensing system does not work. The system worked perfectly well.

We knew precisely what we were doing—we took into account all the risks and factors. In short, Kama River is a policy disagreement, not an indictment of the export licensing mechanism.

While it is our policy to tolerate some military use of easily available end products—such as general purpose trucks, which the Soviet Union has long produced itself or could get from any COCOM country—we, of course, do not tolerate direct military use of advanced technology. We weigh the risk of such direct military use for every export of advanced technology, and deny many where the risk is simly too great, regardless of any end-use or safeguard agreements we might be able to get from the Soviets. We do not ship anything under safeguard agreements where the consequences would be great if the safeguards were violated and diversion occurred.

About the only alternative to this kind of policy, Mr. Chairman is to go back to the total embargo we had during the cold war and up until 1969. If we did not tolerate some military use of common end products we would not sell wheat, or shoes, or even buttons to the Soviets—some of which can be, and probably are, used directly or indirectly by the Soviet military. That, in essence, is what the critics of our decision of Kama River, would like to do—go back to the total embargo of the cold war. The Congress and a Republican President abandoned that approach in 1969. I urge my colleagues not to revert to the cold war now—to reject amendments based upon allegations that our export control mechanism does not work and purporting to fix up the system by putting it in DOD or increasing the scope of the controls.

Another issue which has been the subject of much discussion lately is the so-called critical technology issue. Technology is defined as the know-how used to design and manufacture products. Since 1976, DOD has been engaged in an effort to develop a list of military critical technologies which we want to take special care to control because they are the keys to the technological superiority of U S. weapons systems. If these critical technologies can be identified, it should be possible to decontrol a significant number of end products whose export—in the absence of the knowledge of how to make them—would not pose a national security threat. This would permit our export control personnel to focus their attention better on the more significant items, and would facilitate exports on noncritical items. H.R. 4034 encourages this outcome.

The critical technology exercise is frequently misinterpreted in popular discussion as indicating that critical technologies are not now controlled—that they are flowing freely to the Soviets until the exercise is completed and they are brought under control. This is not the case. Critical technology is controlled and always has been. But it has been controlled on a case-by-case basis, along with non-critical technology and end products. Judgments are made on each individual application, without reference to a list of what is most critical. It is desirable for this situation to change, and H.R. 4034 encourages a change. But we should not proceed in a panic, on the assumption that critical technology will be exported until controlled.

This panic is the basis for proposals that we require in the law that the critical technologies list be published immediately and that items on the list be absolutely banned for export to communist countries. Such action would be grossly premature. We do not yet know whether it will prove possible to elaborate a list of technologies we never want to export to the Soviets, let alone what such a list would look like. The current case-by-case method must continue in operation until our knowledge advances far enough to adopt a better system. Meanwhile, we can rest assured that critical technologies are being controlled.

A final issue that has arisen concerns the role of the Department of Defense in determining what is to be controlled on national security grounds and in reaching licensing determinations on those items. Some would have us believe that an export-oriented Commerce Department is shipping our technology to the communists by the boatload over the objections of the Department of Defense. These people want to put DOD in charge of export controls, on the assumption that DOD would be more conservative than Commerce and many exports would be halted.

That assumption would be correct except for one minor detail: DOD already exercises primary influence over the national security control list, and already has a veto over exports to Communist countries. In 1974 the so-called Jackson amendment was inserted into the Export Administration Act, enabling DOD to review any license application and to recommend denial directly to the President. Since that time, DOD has never been overruled.

It is true, as a general rule, DOD takes a more conservative view of exports to the East than does the Commerce Department. Export licensing is deliberately an interagency process, so a variety of viewpoints will be brought to bear on the applications. But DOD's role—both by statute and because of the natural deference accorded it by the other agencies in national security matters—is such that whenever DOD voices a national security objection to a proposed export, that export is halted unless and until DOD is satisfied.

Mr. Chairman, DOD has testified on numerous occasions that it is fully satisfied with its current role in the export control process. I append to my statement letters from Secretary of Commerce Kreps and Under Secretary of Defense Duncan stating that they favor the current division of responsibilities between the two agencies and do not seek any changes.

Mr. Chairman, I am proud that the bill is endorsed by the National Governors' Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Emergency Committee for American Trade, the American League for Exports and Security Assistance, chaired by our former colleague, Joe Karth, and by six major advanced technology industry associations. I am honored that the bill is supported in a recent "Dear Colleague" letter by: the ranking minority member of the Appropriations Committee, the gentleman from Massachusetts (Mr. CONTE); the minority whip, the gentleman from Illinois (Mr. MICHEL); the chairman of the Congressional Campaign Committee, the gentleman from Michigan (Mr. VANDER JAGT); the chief deputy majority whip, the gentleman from Illinois (Mr. ROSTENKOWSKI); and the chairman of the Export Task Force, the gentleman from Arkansas (Mr. ALEXANDER); and in another "Dear Colleague" letter by Northeast-Midwest Coalition, chaired by the gentleman from Pennsylvania (Mr. EDGAR). The bill is also consistent with the recommendation of two major GAO reports. I believe it is a good bill and worthy of your support. I urge you to vote for the bill against any restrictive amendments.

SUMMARY OF MAJOR PROVISIONS OF THE EXPORT ADMINISTRATION AMENDMENTS OF 1979

Section 102 revises the findings of the Export Administration Act to emphasize the importance of exports for the U.S. economy and the effect on the U.S. trading position of the availability of competing goods and technology from foreign sources, while maintaining the finding in the Act of the continuing need to restrict exports for national security and other purposes.

Section 103 restates the three basic purposes of the Act in order of their importance, and adds two new policy statements to section 3 of the Act: that it is U.S. policy to apply export controls in cooperation with U.S. allies; and that exports are a high priority and should not be controlled except when the controls are essential, will clearly achieve their objectives, are administered according to basic standards of due process, and are justified annually to Congress and the public.

Section 104 adds four new sections to the Act, numbered 4, 5, 6, and 10.

New section 4 establishes validated and general export licenses, currently in use, in the law, and establishes a new kind of export license, a "qualified general license," which would authorize multiple exports of certain goods and technology, subject to appropriate end-use controls and other conditions, without individual application for each transaction. The purpose of this provision is to provide administratively simpler licensing procedures for routinely approved exports, thereby reducing the paperwork and delays associated with validated license applications.

New section 5 consolidates the existing national security control authorities of the Act into a single section and makes several reforms in the exercise of those controls, among them the following. The Secretary of Defense is specifically authorized to identify goods and technology to be controlled for national security purposes. There is to be continuous review of the list of items controlled for national security purposes, prompt issuance of revisions to the list, and opportunity for interested parties to submit their views. The Secretary of Defense is required to develop a list of military critical technologies for use for export control purposes. The Secretary of Commerce is to limit validated license controls insofar as practicable to certain stated situations, and to employ qualified general license procedures to the maximum extent practicable. The Secretary of Commerce is required to establish a capability within the Commerce Department for the continuous review of foreign availability.

and to remove validated license controls on, and approve applications for the export of, goods and technology with respect to which foreign availability has been established, unless the President determines that such action would be detrimental to the national security, in which case the Secretary must publish that determination along with a statement of its basic and estimated economic impact. The Secretary is encouraged to establish an "indexing" system providing for periodic removal of controls as goods and technology become obsolete from a national security point of view. The Secretary of Commerce is required to investigate certifications of foreign availability made by the industry-government Technical Advisory Committees established under the Act, and to remove controls where such availability is determined to exist. The President is required to enter into negotiations with a view toward improving the effectiveness of the 15-nation export control Coordinating Committee (COCOM). U.S. organizations (except educational institutions) entering into certain technical cooperation agreements with government agencies in controlled countries are required to report those agreements to the Secretary of Commerce, in order to facilitate monitoring of technology transfers which might take place under such agreements.

New section 6 consolidates the existing foreign policy control authorities of the Act into a single section and makes several reforms in the exercise of those controls, among them the following. Before imposing such controls, the President is required to consider their likely effectiveness, their compatability with U.S. foreign policy objectives and with overall U.S. policy toward the country which is the target of the controls, their likely effects on U.S. export performance and international competitiveness and on U.S. companies and their employees and communities, and the government's ability to enforce the controls effectively. Before imposing such controls, the Secretary of Commerce is required to consult with affected U.S. industries, and the President is required to determine that reasonable efforts have been made to achieve the purpose of the controls through negotiation or other means. The President is required to consult with Congress before imposing foreign policy controls and to report the imposition of any new control to Congress, and Congress can disapprove the control by Concurrent Resolution. Controls imposed pursuant to treaties or other international obligations are exempted from several of the requirements of this section.

New section 10 provides procedural requirements for processing export license applications, in order to reduce the long delays which frequently occur under current practice. Although the intent of Congress is stated that licensing determinations should be made to the maximum extent possible by the Secretary of Commerce without interagency review, it is provided that any agency may review any license application if it so requests.

An overall maximum of 180 days is provided for U.S. government review of applications, as follows. Within 30 days, the Commerce Department is to either approve or deny an application, or refer it to other agencies for review. The other agencies are to submit their recommendations to the Commerce Department within 30 days or be deemed to have no objection to approval, unless the head of any such agency requests more time, in which case a further 30 days is provided. The Commerce Department then has 30 days to consider the agency recommendations, reach a decision, and issue or deny the license. Any agency which submitted recommendations to the Commerce Department may appeal the Department's decision to the Secretary of Commerce, in which case the Secretary has 30 days to consider the appeal, reach a decision, and issue or deny the license. Any agency which appealed to the Secretary may appeal the Secretary's decision to the President, in which case the President has 30 days to consider the appeal and reach a decision, or else the decision of the Secretary is final.

Apart from these procedures, special national security procedures, currently provided in the Act and retained in the bill, provide that the Secretary of Defense may, within 30 days, recommend denial of any application directly to the President, in which case the President has 30 days to sustain or overrule the recommendation.

After U.S. government review is completed, 60 days are provided for COCOM review if necessary; in the absence of COCOM action within the 60-day limit, the license is required to be issued. A comparable 60-day period is provided for U.S. review of export requests by other COCOM members.

With notification to Congress and the applicant, any time period prescribed by this section may be extended in order to permit negotiations on possible modification of an application to meet national security objections.

An applicant may appeal any license denial to the Secretary of Commerce. In any case where any time limit is violated, the applicant may petition the Secretary of Commerce to correct the situation and, if the processing of the application has not been brought into conformity with the requirements of this section within 30 days, may bring an action in United States district court to require compliance with such requirements. At all stages of the process, the applicant is to be kept fully informed to the status of his application. The applicant is to be accorded an opportunity to respond to objections to his application, and is to be informed of the reasons for any denial.

Section 105 provides that one of the factors on the basis of which export licenses are to be allocated in the case of export controls for short supply purposes is the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

Section 106 strengthens the short supply monitoring provisions of the Act.

Section 107 strengthens the prohibitions of the Act on the export of Alaskan oil, and provides an exemption from these prohibitions in order to fulfill a bilateral international oil supply agreement entered into by the U.S. prior to May 1, 1979. The only such agreement in effect on that date was between the U.S. and Israel.

Section 108 repeals the prohibition in the Act on exports to Uganda.

Section 109 facilitates barter arrangements whereby goods in excess supply in the domestic economy are exchanged for goods in short supply.

Section 110 phases out exports of unprocessed western red cedar logs, a vanishing species, over a four-year period.

Section 111 provides that any product which is standard FAA-certified equipment in civil aircraft and is an integral part of such aircraft, and which is to be exported to a noncommunist country, shall be subject to controls under the Export Administration Act rather than the Arms Export Control Act.

Section 112 exempts certain export controls for nuclear nonproliferation purposes from certain of the requirements of the bill. In essence, controls and procedures currently in effect are "grandfathered" in order to avoid any possible disruption of the controls.

Section 113 increases the penalties for violations of the Act.

Section 114 amends the confidentiality provisions in section 7(c) of the Act to require the Secretary, with certain exceptions, to maintain the confidentiality of information which would reveal the parties to a transaction, the type of good or technology being exported, or the destination, end use, quantity, value, or price of the good or technology.

Section 119 authorizes the appropriation of $7,070,000 for fiscal year 1980 and $7,777,000 for fiscal year 1981 to the Department of Commerce to carry out the Act.

Section 120 extends the authority granted by the Act to September 30, 1983.

Section 201 authorizes $4,400,000 for fiscal year 1980, and $4,500,000 for fiscal year 1981, to carry out the International Survey Act.

Other sections are more or less technical in nature.

THE SECRETARY OF COMMERCE,
Washington, D.C., July 23, 1979.

Hon. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: When H.R. 4034 is considered on the House floor, it is anticipated that a number of amendments may be offered. I am authorized to say that the Administration is opposed to any amendment which would alter the existing array of responsibilities within the Executive Branch with respect to the administration of export controls, and we prefer that there be no additional restrictions on export controls.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Sen. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your letter of July 19, 1979, the Department of Defense supports the administration's position on the amendments which are expected to be offered to S. 737, the Export Administration Act of 1979.

Most of these proposals do not impact directly on the Department of Defense. Two, however, do and we are opposed to both of them. One would tend to reverse the relative roles of the Secretary of Defense and Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. While the intent appears to be to insure that the Department of Defense has an adequate role in the export control system, it is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

The other amendment would authorize inclusion in the Defense budget of funds especially appropriated for export control functions. Our opposition to this proposal is that such an authorization is not currently needed

By means of a separate letter, I plan to answer the other questions you raised about the adequacy of U.S. export controls maintained for national security purposes. In the meantime, I thought it might be helpful to let you know at once where we stand on the amendments issue.

Sincerely,

C. W. DUNCAN, Jr.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: We have reviewed your 19 July 1979 letter in which you requested Department of Defense views on several amendments which are expected to be offered to S. 37. Our views on the questions raised in your numbered paragraphs are as follows:

1. The Kama River Truck Plant licenses for the foundry and production machinery were issued during the Nixon Administration and contained no restrictions so far as we know limiting the use of the trucks and engines produced in the factory. Accordingly, use by the Soviet military of the trucks produced at Kama or inclusion of the engines in military vehicles would not constitute a violation of U.S. export control restrictions. Whether and if so to what extent Kama River engines are being used in Soviet military vehicles has not been verified. Accordingly, there is no basis on which a judgment can be made about the contribution such use might make to the Soviet military potential.

2. A number of technologies employed in the Cruise Missile System can be exported to most non-Communist countries without a validated export license. None of them, however, are either sensitive or "critical" because they are not unique to cruise missile design, development or production and are readily available in a number of countries in the West. Those few technologies which are both unique to cruise missiles and available only in the U.S. require validated licenses from either the Departments of State or Commerce. An example is the technology associated with the small jet engine which is currently under development for the cruise missile. This technology can only be exported under a Munitions license.

3. The existing allocation of responsibility under the Export Administration Act for export controls does not hinder the Department of Defense's efforts to formulate a list of critical military technologies or otherwise interfere with the implementation of an effective and fully adequate system of export controls for national security purposes. In particular, the Department of Defense would oppose any amendment which tend to reverse the relative roles of the Secretary of Defense and the Secretary of Commerce in reviewing and revising export controls maintained for national security purposes. It is our judgment that the Secretary of Defense already has and exercises adequate authority in this area.

4. Statutory authority is already available to embargo exports of "critical" goods and technologies to all controlled country destinations. We would oppose any amendment which would make this a mandatory requirement because, on the one hand, the items to be covered are not presently fully determined, and, on the other hand, there may be occasions, even though rare, on which such action would be ill-advised.

With regard to end use statements and safeguard provisions, we do not regard them as applicable to transactions in which technology, either in the form of technical data or equipment from which technology may be extracted, is involved. It is our judgment that technology once transferred can be neither controlled or recalled. We consider the usefulness of safeguards as limited to hardware items whose diversion to other than their stated purpose we wish to deter. We do not count end use statements as a safeguard.

As for computers, there are some applications for which we have been unable to devise technically and economically feasible safeguards. These are automatically recommended for denial. For others, experienced USG technical and intelligence experts have determined that safeguard provisions, judiciously applied, provide a reasonable assurance of detecting and thus deterring significant diversion of the system from its stated end use.

5. The Department of Defense has no evidence that Moscow has used American seismic equipment to enhance its anti-submarine warfare potential or that American machine tools for producing precision ball-bearings have probably helped Soviet engineers to develop multiple warheads for new intercontinental missiles.

I trust this is the information you desire.

Sincerely,

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THE SECRETARY OF COMMERCE,
Washington, D.C., June 18, 1979.

Hon. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of testimony before the Subcommittee on Research and Development of the House Committee on Armed Services, the Deputy Director of the Office of Export Administration, Lawrence J. Brady, testified that trucks produced at the Kama River truck factory in the Soviet Union were being "diverted" to military use in violation of U.S. export control restrictions.

That testimony has led to newspaper stories implying that Soviet military capability has been helped as a result of an apparent lack of vigilance by this Department. This is in error.

As you know, our nation no longer enjoys a favorable balance of trade, and thus the promotion of exports is more important than ever before. Even so, the national security is paramount, and we must be careful that we do not export materials and technology that would advance at our own expense the military capabilities of other nations. To walk this line is a difficult and delicate job. That is why it is essential that issues which may arise be discussed on the basis of accurate information.

First, there was no "diversion" in connection with the Kama River truck factory and, therefore, no violation of U.S. export controls.

A diversion occurs only when end-use restrictions pertaining to a license are violated. The Kama River truck plant licenses were issued during the Nixon Administration and contained no restrictions which we can identify limiting the use of the trucks and engines produced at the factory. Accordingly, military use of the trucks or engines produced at Kama River would not constitute a diversion or violation of the law because the licenses contained no restrictions pertaining to the use of those trucks or engines. Nor would any military use of Kama River trucks or engines entail diversion of the foundry's computer, because limitations on the use of the computer pertained to use of its computing capacity, not to use of products manufactured at the foundry. Several of the licenses contain technical conditions which have nothing to do with limitations on the use of the factory output.

This view is confirmed by the attached memorandum from Mr. Brady which concludes that a thorough review, which was requested by Senior Deputy Assistant Secretary Stanley J. Marcuss, has failed to disclose the existence of any document which could be construed as a limitation on the use of the factory output for civilian as contrasted with military purposes. Two exceptions mentioned in the memorandum are not relevant to the Kama River plant.

Second, at the time the licenses were issued, the Nixon Administration knew of the possibility that Kama trucks or engines could be used by the Soviet military. This factor apparently was fully considered before the decision was made. Thus it cannot be said that this matter was overlooked or that the export control system failed to ensure that all relevant factors were considered.

Finally, contrary to some press reports, Mr. Brady has not been "demoted" nor has any action been taken against him. He retains his position as Deputy Director of the Office of Export Administration, a position he has held for the last five years. Because of his position as Deputy Director, Mr. Brady served as Acting Director of the Office of Export Administration in the period between the retirement of the previous director and the appointment of the new one.

I hope this will lay to rest the misinformation which has recently surrounded this subject.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., June 22, 1979.

Memorandum for Robin B. Schwartzman, Deputy Director, Bureau of Trade Regulation.

From: Lawrence J. Brady, Deputy Director, Office of Export Administration.

Subject: Kama River Case File.

On June 22, 1979, pursuant to your request, I thoroughly reviewed the relevant export license applications and supporting documents submitted by various U.S. firms seeking Department of Commerce authorization to export commodities to the USSR's Kama River Project". The results of this examination, with *two exceptions*, failed to disclose the existence of any document which could be construed to represent an agreement between parties or assurances as to the specific application of products, i.e., military vs. civilian, in the truck manufacturing process.

The exceptions are found in license applications case numbers 813124 and 849801. Case number 849801 contains a "letter of protocol" between Mack Trucks, Inc., and a Soviet trade delegation indicating that the trucks assembled at Kama River would be used for agricultural and industrial purposes.

A copy of the protocol is attached.

With regard to the protocol, I am concerned that because Mack Truck pulled out of the deal after signing the protocol, which you will note also included other parties, including SATRA, it may not be considered relevant to subsequent licensing actions. I intend to go through all of the license applications to see whether or not we referenced the protocol in subsequent license actions. I think we did. I am also sending you separately a copy of the entire "front office" file on KAMA.

Also attached is a June 14 memorandum Dick Isadore prepared on the basis of a quick review of all license applications for the KAMA River plant.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., June 14, 1979.

Memorandum for Lawrence Brady.

Subject: Kama River Truck Plant Licenses.

At your request all case files which could be identified as part of the Kama River Truck complex have been retrieved from Archives.

Staff members reviewed each case file, examining all documents including actual applications, supporting documents, Single Transaction Statements, internal memoranda and chron sheets for any indication which would show:

1. Limitation on the truck usage for civilian versus military applications.
2. Conditions attached to individual licenses.
3. Letters of conditions attached to licenses.

Over 175 case files were reviewed and there was no indication of limitation of use for the trucks to be produced at Kama River. The computer equipment licenses issued to IBM have the visitation conditions which are a part of all major computer sales to Bloc countries.

At the time these licenses were issued, they were microfilmed and sent to Archives. The procedure did not include microfilming letters or supporting documents accompanying licenses as is done now in our microfiching process. We are retrieving these microfilm files and will review the face of all licenses issued to insure that conditions were not typed on the license itself.

All cases and the Capital Goods & Production Materials Kama River file have been given to Paige Bryan.

RICHARD ISADORE.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from New York (Mr. BINGHAM) and also the ranking minority member, the gentleman from California (Mr. LAGOMARSINO). I think there is no question that this subcommittee has, since it has had jurisdiction of this particular subject matter, been very diligent and worked very hard on this subject matter.

I happen to have been one of those who helped to reorganize the rules of the House so that the gentleman's subcommittee would get it rather than the subcommittee that used to have it.

I happen to have very strong opinions, mostly against export controls; but I recognize that in certain circumstances there must be some kind of limitations, especially as to certain strategic materials. But I especially want to thank the gentleman and the ranking minority member for looking favorably at a provision in here with regard to bartering.

Under existing law, it is not possible to enter into a long-term barter agreement with another country because it would be subject to an export control mechanism, and under this provision it is permitted if it can be done to barter. I think we have to recognize that we have to do some of the things that Japan, West Germany, and some of the other countries do with regard to bartering.

I appreciate the gentleman putting this into the bill.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman from Iowa (Mr. SMITH) for his comments and for his role in giving our committee jurisdiction of this subject matter. I also want to thank him for his suggestion of this amendment, which I think was a constructive addition to the bill.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4034, I also wish to call attention to several minor concerns I have with the bill which I hope can be worked out during floor consideration of this measure.

First I want to commend Congressman BINGHAM, Chairman of the Subcommittee on International Economic Policy and Trade, and his staff and the other members of the committee for holding long, extensive, and very comprehensive hearings, and also for being very patient throughout the markup process in subcommittee, when I offered some 25 amendments. Some of the amendments were accepted then and others were accepted later in full committee. We may even see again here in the House a few of those not accepted earlier. I want to also commend the minority staff, Jake Dunman for his outstanding work on this measure.

I share the chairman's concern about trying to enact legislation that will provide a proper balance between the interests of business and the interests of national security. The business sector needs to know what it must deal with in getting an export license and in having some way of knowing when a license will be acted upon. On the other hand, we have to balance that against the proper role of national security and the need to prevent technological information from falling into the hands of our adversaries that could be harmful to our national interest.

These days in the Foreign Affairs Committee we hear a lot about signals. Somebody talks about sending a signal to someone. I have been concerned that if we are not very careful about how we finally draft this bill, we might send a signal, to whomever, is receiving it, that would indicate that perhaps we are not as interested in preventing substantial and important technological information from falling into the hands of our adversaries as we should be. This could not only help those adversaries by the resulting situation here but also by giving to our allies the impression that we are not as concerned about what they permit to be exported.

There was an article recently in the Washington Post by George Will—I would like to read a little to you. I do not subscribe to everything he says, but I think some of the points he makes are worth considering.

He says:

> Trade, especially the transfer of U.S. technology, is vital to the Soviet economy, which must support a ravenous military machine. The Soviet workforce is larger than that of the United States, but produces about half the GNP. It would be even less productive without technology supplied by capitalist countries.
>
> As Carl Gershman writes in commentary, it is hard to find any important Soviet industrial process that has not benefited significantly from western technology. Soviet gains from such transfers are immediate and economic—which, in a garrison state, means military, too. U.S. gains are hypothetical.
>
> A U.S. computer firm admits that the Soviets gained 15 years in research by spending just $3 million. The Soviets bought for just $150,000 space suits that American taxpayers spend $20 million apiece to develop.
>
> After a Soviet "trade" delegation, ostensibly considering purchases, toured Boeing, Lockheed and McDonnell Douglas plants, a member of the delegation admitted privately that no purchase had ever been contemplated. The aim was industrial espionage. Some members' shoes had heels and soles made of a substance that picked up metal filings which could be returned to Moscow for metallurgical analysis to reveal the alloys used in U.S. aircraft.

I think that just having the hearings we did—especially the way the hearings were held over a substantial period of time—allowed everyone plenty of time to know what other witnesses were saying and to respond. That has been helpful in and of itself.

I think all of the executive agencies that were involved with this process—Departments of Commerce and Defense particularly—are much more aware now of the interests of members of our committee and of Congress as a whole and are going to be more responsive. I think our interest is shown by those hearings and it will be shown by the work that we finally produce here on the floor.

Of the changes I would like to see in H.R. 4034, there are three of primary concern to me: First, the provision eliminating U.S. re-export licensing requirements; second, mandatory suspense dates for export license applications within the administration review; and third, mandatory dates for Cocom review.

I would like to say that with regard to the foreign policy provisions in the bill, I find very little to criticize. I think the bill makes a substantial improvement in the existing law in that area and will really get rid of some of the uncertainty in the business community. Specifically, the provision for congressional review of Presidential decisions will provide a role for Congress in this important subject.

In the area of national security controls, I would like to summarize the emphasis we have given to this issue in H.R. 4034.

The "findings" and "policy" sections clarify the necessity of export controls for national security purposes.

Included in the section on national security controls is the provision for the Secretary of Defense and other appropriate agencies to identify goods and technology to be included on the commodity control list. The Secretaries of Commerce and Defense must concur on items to be included on the list, and in case of a dispute between the two, the matter shall be referred to the President for resolution.

This section of the bill also provides for the Secretary of Defense to develop a list of military critical technologies and finds that the national interest requires that export controls for national security purposes be focused primarily on military critical technologies. In developing such a list, the Secretary of Defense is to give primary attention to the elements DOD cites as essential to preserving the U.S. technological lead. The technologies are to be controlled when they are not possessed by countries to which exports are controlled and which, if exported, would permit a major advance in a weapons system of any such country. The list of military critical technologies developed by the Secretary of Defense is to become part of the commodity control list according to the procedures set forth in the bill. This is an essential provision.

The provisions of the bill for a validated license and a new category—the qualfied general license—were revised to make more explicit that national security concerns must be considered in requiring such licenses.

As a result of my amendment in subcommittee, the bill now provides for the President to require a validated license, even in the case of foreign availability, if he determines that the absence of such controls would be detrimental to the national security of the United States. Another provision was added in full committee requiring the President to publish the reason and the estimated economic impact of such a decision.

The role of technical advisory committees is made more explicit with respect to their functions in assisting the Secretary of Defense in decisions related to national security controls.

The section on national security controls also provides for the Secretary of State, in consultation with the Secretaries of Defense and Commerce, to be responsible for conducting negotiations with other countries to seek their cooperation in restricting the export of goods and technology for national security purposes.

Another amendment, which I sponsored in subcommittee, was accepted in the bill providing for special procedures for the Secretary of Defense. By this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes. Whenever he determines that the export of such goods or technology will make a significant contribution to the military potential of any such country, which would prove detrimental to the national security of the United States, the Secretary of Defense is authorized to recommend to the President that such export be disapproved. If the President confirms that recommendation, no license may be issued for the export of such goods or technology.

The bill also meets a major concern of industry through an amendment I offered by providing for confidentiality of information required to be furnished under this act. It also provides for access by Congress to any information required at any time under this or any previous act pertaining to export controls. Thus our right to know and ability to perform the required oversight is preserved while essential confidentiality is retained.

I would also like to call to the attention of my colleagues the pressing need for increased gasoline supplies for California and the west coast. I raised the issue of the shortage in domestic refinery capacity on the west coast in the Foreign Affairs Committee. My concern was noted in the committee report, which indicates consideration should be given to exports of petrochemical feedstocks, including naphtha, if such export would facilitate the construction of new refineries designed to produce unleaded gasoline or other light fuels. Such a policy would promote increased domestic production and supply at a time when we are facing a critical shortage. Such consideration could help to provide for the construction of a new refinery in Alaska.

While there is still room for improvement on some of the issues in H.R. 4034, as I mentioned earlier, I believe the national security principles of export controls have been essentially preserved. I also believe the proposed legislation meets the concerns of business in clarifying licensing procedures and providing better access to the decisionmaking process.

I want to state for the record that, for many reasons, I support the provisions in the bill concerning export of Alaskan oil—the McKinney and Wolpe amendments.

With those changes I have suggested, I urge my colleagues to support H.R. 4034.

□ 1510

Mr. BINGHAM. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Chairman, over 2 years ago, under the leadership of my distinguished colleague from Connecticut, Mr. McKINNEY, the Congress adopted an amendment to the Export Administration Act to significantly strengthen the broad, easily circumvented, oil export limitation in the TAPS Act. When the amendment was adopted, Congress thought a 2-year restriction on exports would be sufficient time to encourage the investments necessary to insure that Alaskan oil would be marketed exclusively within the United States. Unfortunately, none of the anticipated investments, such as the Sohio pipeline, have been made, and the export of Alaskan oil overseas continues to be contemplated by the oil companies and the administration.

The bill before us today provides for the necessary extension and strengthening of the current restrictions on the export of Alaskan oil. It extends the restrictions through 1983, at which time, the Export Administration Act expires. The limitations placed on the export of Alaskan oil, as adopted by an overwhelming majority of the members of the House Foreign Affairs Committee, will guarantee that no Alaskan oil leaves this country unless it can be demonstrated, beyond a doubt, to both Houses of Congress, that such exports will directly benefit the American consumer and that such action is clearly in the national interest. I would like to note that nothing within the language of this provision flatly prohibits the export of Alaskan North Slope crude oil. The bill simply states that the only acceptable criteria for Alaskan oil exports are a showing of direct consumer benefit and a showing that such exports would not adversely affect America's oil supply.

The provision before us requires the President to make certain findings before any exports may occur. It must be determined that—

Exports will not diminish the quality and quantity of oil in the United States;

That exports will result in lower acquisition costs to refiners;

That these lower costs will be passed on to the consumer; and

That contracts for exports can be terminated by the United States if our oil supplies are terminated.

The bill permits, as a single exception, the use of Alaskan oil to meet bilateral oil supply agreements entered into by the United States prior to May 1, 1979. The only such agreement in effect on that date was the agreement between the United States and Israel originally secured on September 1, 1975 and extended on March 26, 1979. This bill does nothing to restrict other domestic sources of oil from being used to fulfill our oil supply commitment to Israel.

Finally, this bill requires that any Presidential proposal to export Alaskan oil be approved by both Houses of Congress, a reasonable review process given the importance of this question.

The key issue we are presented with today is whether or not we are serious about reducing American dependence on foreign oil and fulfilling the original intent of the Trans-Alaskan Pipeline Authorization Act to deliver Alaskan oil to domestic markets. If we are serious about this, I would argue that we should be doing everything in our power to realize within the United States the full potential of domestic oil production. This means developing a new pipeline and increasing our refining capacity to handle the North Slope oil. But to permit the export of Alaskan oil to proceed without restriction would only reduce the incentive to get the essential pipeline and refining capacity in place and would extend our dependence on insecure foreign oil supplies.

When Alaska North Slope oil was discovered 10 years ago, it was correctly viewed as a major step toward American energy independence. In the wage of the Arab oil embargo of 1973, Congress enacted legislation authorizing the construction of the $10 billion trans-Alaskan pipeline so that Alaskan oil could be transported to domestic markets. Financed by American tax dollars, it was the American people who were promised exclusive use of Alaskan oil. And it was the American oil companies that provided clear assurances that Alaskan North Slope oil would be marketed in the United States, and that denied any intention of exporting Alaskan oil. Now, the administration requests the authority to approve the exports of Alaskan oil as it sees fit, possibly as a part of a three way swap or exchange involving Mexico and Japan. I maintain, that if Alaska North Slope oil is exported, it will be the oil companies that stand to gain and the American people, our economy, and our national security that stand to suffer. We must ask ourselves today to decide whether the energy policy of this country is going to be based on what is in the national interest or whether it will be based on what is most profitable for a powerful vested interest.

It should be said that there is no question but that the oil companies would realize substantial savings and increased profits if Alaskan oil were sent to Japan—approximately $2 per barrel would be saved in transportation costs. But the American consumer would not receive 1 penny of the reduction in oil company costs. This is because the price of Alaskan oil is already decontrolled; Alaskan oil sells for whatever price the market will bear, regardless of how much—or little—it costs to get that oil to its destination.

Indeed, the proponents of Alaskan oil exports have readily acknowledged that it will be the oil companies, and not the consumers, who will be the beneficiaries of reduced transportation costs. Their argument—echoed—by the administration—has been that the oil producers require higher profit margins as an incentive to realize the full production potential in the Alaskan North Slope.

So, let us look for a moment, at the question of profits and incentives. Comparing the first quarter of 1979 with the first quarter of 1978, SOHIO, the North Slope's largest producer, enjoyed an incredible 302 percent profit increase. Profits for the second quarter will be at least 70 percent above first quarter profits. According to a recent article which appeared in Petroleum Intelligence Weekly, every barrel of Alaska crude sold on the west coast brings the oil company producers $4.11 profit after taxes. That is 85 percent more than the oil companies were making on Alaskan oil last December. At some point, I submit, we must begin to ask ourselves, "When is enough, enough?"

Contrary to claims made by the administration, the current restrictions on Alaska oil exports have not held down production. Directly contradicting these claims is the recent announcement made by the Alaska North Slope oil producers of their plans to increase production by 25 percent, to 1.5 million barrels a day by the end of next year. It does not seem, therefore, that the existing limitations on the export of Alaskan oil have been much of a disincentive to increased production. The plain fact is that we can expect increased production in Alaska because Alaskan North Slope oil is enormously profitable, and has been made all the more so by the recent OPEC increases.

Much of the debate, in recent months, has been focused on the notion of a "glut" of crude oil on the west coast. Despite all the publicity about a "glut" of oil on the west coast due to Alaskan oil, all Alaskan North Slope production is currently being utilized by U.S. refineries. Even SOHIO has recently conceded this point, making statements to the effect that the need for their proposed pipeline extending from California to Texas has diminished because the west coast surplus is proving less than expected. (New York Times, May 23, 1979). In fact, every one of the 1.2 million barrels of Alaska crude sent through the Trans-Alaska pipeline each day is handled by U.S. refineries without delay. West coast refineries take 850,000 to 900,000 barrels of that total; 75,000 is shipped by foreign-flag tanker to the Hess refinery in the U.S. Virgin Islands; and about 225,000 barrels a day is sent by U.S.-flag tankers to ports on the gulf and east coasts, as well as Puerto Rico and the U.S. Virgin Islands. Moreover, over the last few months, west coast refineries have increased their "take" of Alaska oil from 600,000 barrels a day to almost 900,000 barrels a day. Without adding new refinery capacity or retrofitting existing refineries in any way, west coast refineries can handle from 1 to 1.3 million barrels of Alaska crude per day.

Mr. Chairman, I am convinced that exporting Alaskan oil is the worst possible step we could take right now if we are serious about achieving the goal of energy self-sufficiency. As long as the major oil producers are able to extract much higher profits by the sale of Alaskan oil to Japan, they simply will not have the incentive to develop the refining and pipeline capacity that this Nation so desperately needs and that was the initial promise held out at the time of the approval of the Trans-Alaskan Pipeline Act. Attempts to establish a national energy transportation system will suffer a serious setback if Alaska oil is exported exchanged.

Permitting Alaskan oil exports is precisely the wrong signal to be sending the American people. At a time when we are asking our people to recognize our serious energy problems, at a time when we are asking the American people to dig deeper into their pockets and pay more for energy, and at a time that we are faced with short gas supplies and the prospect of shortages in home heating oil this winter, the spectre of ships transporting American oil to any foreign nation is unthinkable—especially when the only real beneficiaries of such oil exports will be the oil companies themselves. The bill before us today gives us the opportunity to cast a vote which will move us closer to our Nation's stated goal of energy independence. I urge your support of this legislation designed to insure that American oil be reserved for American use.

Mr. Chairman, the provisions in this legislation extending and strengthening the restrictions on the export of Alaskan oil are strongly supported by a broad range of organizations that represent a cross section of America. These include consumer, environmental, labor and industry groups. At this time, Mr. Chairman, I would like to insert in the RECORD various statements of support for the language contained in the committee bill from some of these organizations.

The statements follow:

CONSUMER FEDERATION OF AMERICA—POLICY STATEMENT ON ENERGY AND NATURAL RESOURCES

Foreign dependence

"The United States' gross dependence on OPEC oil forces consumers to pay artificially high prices for energy, fuels inflation and the decline of the dollar by contributing to a massive, persistent trade deficit, and leaves the nation vulnerable to supply disruptions instigated by the OPEC nations for political or economic purposes. Yet national energy policy has neither been as forceful nor as expeditious as possible in reducing this dependence; indeed many policies reinforce our dependence. United States policy should be directed toward increasing domestic supplies of energy for domestic use. The national energy transportation system should be improved to make possible a more efficient and equitable distribution of domestic fuel supplies. The Consumer Federation of America opposes the export or swap of Alaskan oil unless it can be shown that such an export or swap would be in the consumers' interest and would not jeopardize national security. In addition to the creation and development of national alternatives to foreign oil, the following immediate initiatives should be taken:

A. Creation of a Federal oil importing agency which would purchase the nation's import needs by securing sealed bids from all oil producing nations . . .

C. Encouragement of greater productions of oil from non-OPEC oil producing nations . . .

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON ALASKAN OIL EXPORTS

BAL HARBOR, FLA.,
February 22, 1979.

Administrative consideration of the possible export of Alaskan oil raises the gravest dangers for the nation's economic and defense security. The export of this oil would be a consumer rip-off engineered by the nation's oil companies to obtain greater profits. The American consumer would gain nothing and would suffer the loss of some of America's secure oil supply.

At a time when the nation faces oil cutbacks at U.S. refineries, declining imports from Iran, and the prospect of gasoline rationing, exports of U.S. oil supplies would be a national energy policy disaster.

The Administration is considering sending Alaskan oil to Japan in exchange for oil from foreign countries, including Mexico. The nation's oil companies, viewing the world from the selfish position of multinational corporations, want such nation-to-nation swaps. Such swaps would obtain no additional oil supplies for the U.S.

Swapping U.S. oil for foreign oil makes no sense—in terms of economics or national security. It is nothing more than a gimmick devised by the oil companies to circumvent U.S. law and boost their profits.

In 1973 and again in 1977 the Congress placed explicit limits on Alaskan oil exports as a result of national concern over energy shortages. The McKinney Amendment to the Export Administration Act provides for a congressional veto of any Alaskan oil export plans.

Oil exports from Alaska or other U.S. sources would leave the U.S. more dependent on the OPEC cartel or on unstable developing countries.

Oil exports do not aid the nation's trade balance, as exports would be nullified by equivalent oil imports.

The consumer would gain no benefit, being forced to pay the international price for oil wherever it may come from. The U.S. economy would suffer the loss of tanker employment, shoreside and shipyard jobs, and the tax and wage benefits they produce.

The AFL-CIO has consistently opposed Alaskan oil exports. We now believe the existing legislation restricting Alaskan oil exports should be extended and strengthened to prevent yet another oil company rip-off of the American people.

It is perfectly feasible to transport this oil directly from Alaska to the East and Gulf Coast ports by tanker or rail. Furthermore, the construction of a Northern Tier pipeline would serve the national interest. Using the U.S. transportation system would protect this vital oil supply from cartels and unstable foreign markets.

CONSUMER ENERGY COUNCIL OF AMERICA,
Washington, D.C.

Re: H.R. 3301, Amendment to the Export Administration Act to restrict exports of Alaskan oil.

DEAR REPRESENTATIVE: The Consumer Energy Council of America, a broad-based coalition of consumer, labor, farm, public power, rural electric cooperative, urban, and senior citizen organizations, urges you to support H.R. 3301, the bill to extend and strengthen the McKinney amendment to the Export Administration Act, which restricts exports of Alaskan North Slope oil.

The Consumer Energy Council supports H.R. 3301 because of the detrimental consequences—to consumers and the nation—of exporting Alaskan oil. Among these are the following:

Exporting or swapping Alaskan oil would increase our dependence on foreign oil by removing incentives to do the work needed to enable us to use all of potential Alaskan production within the U.S.: retrofitting existing refineries to accommodate Alaskan crude, building new refineries, and adding to our internal oil transportation network. If we allow Alaskan oil to be exported and our foreign supplies of oil are later cut off, we would not be in a position to divert Alaskan oil to our own use because the infrastructure necessary to using that oil would not be in place.

Exports of Alaskan oil will hurt our balance of payments, because the U.S. will receive less from sales of Alaskan oil to foreign customers than will be needed to import a comparable amount of oil into the lower 48 states.

Exporting Alaskan oil will reduce plentiful supplies that last year resulted in discounts of up to 75¢ per barrel on Alaskan crude, a clear benefit to American consumers.

Exporting Alaskan oil will be a powerful negative symbol in the eyes of the public, making the government appear disingenuous when it calls for conservation so that imports of oil can be reduced, while simultaneously exporting oil from Alaska. Support for voluntary conservation efforts will diminish and—since exports benefit only the companies producing the oil—the popular suspicions that U.S. energy policy consistently favors the oil companies will increase.

If exporting Alaskan oil is clearly in the national interest or if it would demonstrably reduce petroleum product prices for consumers, H.R. 3301 would allow such exports. At present, however, such exports are in the interests of neither the nation or consumers. We therefore ask your support of H.R. 3301 which will prevent these exports unless appropriate findings of its benefits can be made.

Sincerely,

ELLEN BERMAN,
Executive Director.

ENVIRONMENTAL POLICY CENTER,
Washington, D.C.

To: Members of Congress.
From: Hope Robertson, Environmental Policy Center; Brock Evans, Sierra Club; Rafe Pomerance, Friends of the Earth.
Re: Export Administration Act—Exporting Alaskan Crude Oil.

The Export Administration Act will be coming before Congress for reauthorization in the near future. One of the most important provisions of this act deals with exports of Alaskan oil, a provision we strongly urge you to support. This provision requires the President to demonstrate to Congress that exporting Alaskan oil will not have a detrimental effect on important factors such as the cost of oil to the consumer, or the availability and quality of petroleum for domestic refineries. It is not a prohibition on Alaskan oil exports. This amendment will insure that the Congress, as well as the Administration, plays a major role in deciding whether or not Alaskan oil should be exported. Unless Congress renews the language, Congressional involvement in the development of an export policy for Alaskan oil, will end when the provision expires in June of this year.

Background

When the Trans-Alaskan Pipeline System (TAPS) was approved by Congress in late 1973, the environmental community and others accurately predicted that the west coast would not be able to handle all of the Alaskan production without major changes in the refineries. We advocated the construction of a Trans-Canadian route which would have delivered the oil to the Northern Tier states and mid-west, sections of the country now in need of petroleum. However, the oil companies assured Congress and the nation that the TAPS route was the best one and that handling Alaskan production on the west coast would be no problem.

Fortunately, some members of Congress were farsighted enough to suspect that a major motive behind the oil companies' preference for the "All-American" TAPS route was not to get better access to American markets but rather better access to Japanese markets. To insure that the oil industry kept their promise about producing Alaskan crude for the benefit of domestic markets, an amendment was added to the Export Administration Act more than two years ago, which allowed exports of Alaskan oil if such a policy would not have a detrimental impact on other facets of our domestic petroleum picture. When the amendment was adopted in 1977, Congress thought a two year restriction on exports would be sufficient time to encourage the investments needed to handle Alaskan oil on the west coast. Once these investments were made, it was felt that there would be major financial incentives to market Alaskan crude domestically.

Unfortunately, none of the necessary investments, such as retrofitting refineries, have been made. The combination of relatively low production levels during the first two years of the pipeline's operation and the knowledge that the language in the Export Administration Act would expire in June 1979, raises some doubt as to whether the North Slope producers had any intention of making the large capital commitments in domestic refineries or pipelines during this two year period. The interest of the oil industry in making investments domestically is particularly suspicious considering that the prospects of exporting Alaskan oil promised to be far more lucrative with relatively little additional investments required.

Current status of Alaskan production and use

Despite all of the publicity about a so-called "glut" of oil on the west coast, all Alaskan production (1.2 million barrels/day) is currently being utilized in west coast and Gulf refineries. There is speculation that this surplus publicity was intended to put pressure on the Administration and Congress to approve exports of Alaskan oil. But the industry's complaints about the west coast oil surplus seem to have backfired on them recently. When Sohio announced they were thinking of cancelling their pipeline project from California to Texas, there was an uproar in the Administration and Congress to save the project. Reducing the west coast surplus was viewed as a major reason to construct the Sohio pipeline by the Administration and Congress to the point where they have taken steps to insure that Sohio can build the pipeline.

This unexpected reaction to Sohio's announcement to cancel the project seems to have placed Sohio in an awkward position. They are no longer saying that the west coast is swimming in oil and instead, are making statements that the need for the pipeline was diminishing because the west coast surplus was proving less than expected. (N.Y. Times 5/23) This places the North Slope producers in delicate position as it is hard to lobby for approval of Alaskan oil exports in order to alleviate the west coast surplus when simultaneously the companies are saying the surplus is not bad enough to justify construction of a pipeline to transport the oil off the west coast. Obviously, the real status of a "glut" of oil on the west coast needs to be determined before we approve exports of Alaskan oil to alleviate a potentially non-existent problem.

Language is still needed to control Alaskan oil exports

The language in the Export Administration Act will insure that any decision made by the Administration to export Alaskan oil must be reviewed and accepted by Congress. In light of the enormous implications exporting Alaskan oil will have on many facets of our petroleum supply picture, Congressional involvement is vital.

For example, Congress must advocate policies which will encourage retrofitting of refineries on the west coast and elsewhere in the nation, so that they can handle heavier crudes, such as Alaskan. The availability of large quantities of Alaskan oil, coupled with changes in U.S. refinery policies cannot help but be an incentive to retrofit these refineries. Any exports of Alaskan oil must not discourage these important changes in our domestic refining capabilities.

Another area affected by Alaskan oil exports, is pipeline construction. The cost and environmental risks of tankers make the use of some pipeline network from the west coast inland, important to consider. If it turns out that construction of pipelines is economically efficient and environmentally preferable, exporting Alaskan oil may undermine the viability of the projects unless the exports are carefully controlled.

These issues and many others need careful analysis before a decision regarding exports of Alaskan oil is made. To insure that the Administration develops a policy which will maximize the benefits to the public and our long term petroleum supply picture, we urge you to vote for the renewal of language controlling Alaskan exports.

☐ 1520

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, my understanding is that the administration, despite its public statements in support of authority to barter or sell Alaskan oil to Japan, does not intend to fight on the issue.

Therefore, I wish to reemphasize my views for the record. The McKinney-Wolpe amendment absolutely prohibits the sale or barter of Alaskan oil to Japan. I believe that the executive branch should have flexibility to be able to swap that Alaskan oil, which we are unable to refine on our west coast, for oil from other areas to be delivered to our east coast refineries. If such a swap should become advantageous because it is cheaper, the executive branch should have the authority to carry out the swap—in our national interests. I believe that our real security interests should include that option.

We have a $12 billion annual trade deficit with Japan. With this option to swap Alaskan oil, we could reduce our trade imbalance, increase our economic leverage with Japan, maximize production of Alaskan oil, and by the offsetting agreements, help meet the energy needs of American consumers.

Also, I am looking forward to the amendments to this bill suggested by my colleagues, Mr. ICHORD and Mr. DICKINSON. There may well be some sections of this bill regarding the protection of U.S. security interests which can be improved by amendment. I naturally support increased trade, but we must carefully weigh our national security needs.

I would like to make two very brief points. One is that I voted against going into the Committee on this measure since I felt that it was far too important a subject to be debated on an afternoon when there was barely minimum attendance. I regret the fact that a bill of this magnitude has been scheduled when most of our Members are not in town.

The other point is I for one am a

champion of the right of the administration to swap Alaskan oil. I realize that because of the palace coup that took place last week the administration seems to be in total disarray. It is my understanding they are not going to try to knock out the McKinney-Wolpe amendment, so I am not going to be doing their work for them. But let me point out it would be good administrative policy to have the option to swap. It would reduce our balance-of-payments deficit with Japan. The real beneficiaries would be the consumers on the east coast, and that is ironic because the environmentalists on the east coast have done more to mess up our energy situation than any segment of society. Yet now they do not have enough commonsense to appreciate the fact that a swap of Alaskan oil would be to their benefit.

With those words of wisdom, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of the provisions to maintain the prohibition on exporting Alaskan crude oil as contained in the Export Administration Act of 1979, H.R. 4034.

This Nation must vigorously pursue the goal, of increased domestic production of oil and the maximum utilization of our own reserves. The recent problems, so clearly illustrated by the shutdown of Iranian oil production, from where we received only 10 percent of our oil imports, have all too sadly pointed out just how little we learned about the consequences of increased dependence on foreign nations for our crude oil supplies. This dependence has now reached a point where approximately 48 percent of our oil needs come from foreign nations.

This level of dependence is dangerous, and indeed could bring this Nation to a standstill should the unstable picture in the Middle-East worsen. Furthermore, this dependence is absolutely unnecessary. Our country has a wealth of oil in Alaska that can decrease our energy dependence and at the same time do much to increase our level of energy independence.

The United States must utilize its Alaskan reserves to the fullest extent possible here in this country and not in Japan or any other nation. These reserves are, however, being underutilized because of the failure to construct a pipeline to transport this crude oil from Alaska to the lower 48 States. This failure is, to a large degree, due to massive Federal regulations. These requirements have been partly to blame for the withdrawal of the Sohio Company's proposed pipeline from California to Texas.

Nonetheless, we do have another chance to bring this crude oil to the lower 48. This chance is the Northern Tier pipeline. If we put our energies into the construction of the pipeline rather than into the obstruction of the pipeline, we will take a major step toward maximizing the use of our Alaskan reserves. This pipeline, as many of you know, will be capable of bringing Alaskan oil to all of the Northern Tier States and refineries from Washington to Minnesota. It also has the potential of supplying Alaskan oil to secondary markets as far south as Kansas City. These benefits do not even include the obvious ones of savings to our balance-of-payments problem and increased jobs that will result.

Construction of the pipeline can only be accomplished, however, by maintaining the prohibition against exporting Alaskan oil. To allow the export of Alaskan oil, will leave this Nation without a pipeline for efficiently transporting the oil to the lower 48 States. The Nation is facing a termination, by 1982, of all Canadian crude oil imports not on an exchange basis. The refineries in the Northern Tier have been heavily dependent on these Canadian supplies and to allow this to happen would subject these States to the same oil shortage problems now plaguing the Northeastern section of this Nation.

Because of this situation Montana is now in danger of not having sufficient diesel fuel to harvest the crops now standing. The crops will not wait, hungry, cold people will not wait and we should not wait on using our own oil in our own pipeline.

One other point needs to be made about the need to keep our Alaskan oil reserves in this Nation. The President, in his recent energy speech, emphatically stated his intentions to import not one more drop of oil into the United States than what was imported in 1977. If he intends to hold to this goal then there is no question but that Alaskan oil must not be exported.

I urge my colleagues to vote in favor of H.R. 4034 and in favor of increased energy independence.

Mr. BINGHAM. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I want first of all to congratulate the gentleman from New York (Mr. BINGHAM), the ranking minority member and the members of the committee for their work in bringing this legislation to the floor. The amendment to the Export Administration Act, which we have under consideration today, I think will go far to bring rationality to the export licensing, which at times seems to defy explanation.

The fact of the matter is I think the review of various products and commodities leaving this country is, of course, an extremely important task in a time when we are concerned about our national security, when we are concerned about the balance-of-trade problem that this country faces. I believe that the balance-of-trade problem probably eclipses any other economic problems that our country has to deal with and, indeed, the resources and the amendments to Export Administration are modest considering the magnitude of the balance-of-trade problem. When we look at the authorization in the bill for $7 million and $8 million for fiscal years 1980 and 1981, respectively, the authorization level, indeed, is a modest effort to try and facilitate what should really be a centerpiece, a keystone of our trade program.

The other resources and tools available through the Export-Import Bank are again modest, when compared to the magnitude of the need. This country in the past fiscal year exported in excess of $175 billion worth of goods and commodities.

On the opposite side of that we imported something in the neighborhood of $200 billion-plus which, of course, results in our balance-of-trade deficit, largely from the importation of foreign oil that has so plagued our economy and will continue to do so until we diminish the use of it, and until we can increase the commodities that we trade abroad.

This bill, I think, provides for some major initiatives to accomplish that increase in trade. I think these are modest provisions, and I think the provisions for bartering are good. As an example I think that it provides the opportunity to reduce costly overregulation that has been superimposed on our businesses, multinational corporations in this country which really, in essence, has resulted in the loss of the business, the loss of the jobs, the loss of some markets to the American products and to this country in general, only to have those other countries in which the multinational companies are located pick up those same business contracts.

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So, I hope that this sets a demarcation no matter what the structure of our Government trade administration, and I know that there have been major reforms suggested for structuring or restructuring our administration, the amendments to the Export Administration Act will help facilitate trade. Unless we put into the administrations' hands a clear policy, which the gentleman and the subcommittee have attempted to do in this case, we will not fare well in terms of our trade initiatives. I think this is a commendable effort along those lines. We have a long way to go before the realization of our improved trade goals and curbing the limits we have self-imposed, trade restrictions which operate to an American disadvantage, in the world marketplace and beyond the actual needs of national security and our responsibilities to set a policy for the free world.

Let me point out an example of the problems we hopefully will avert in our future trade activities.

I recall specifically a recent instance when Univac, a major employer in my district, lost a $6.8 million computer contract because of misguided foreign policy consideration and prolonged delays. Tass, the Soviet news service, in an effort to upgrade its news handling facilities in preparation for the Moscow Olympic games contracted for a down-rated computer similar to one previously licensed for export to Aeroflot, the Russian airline.

The computer was ready to be shipped in July 1978 but the stalling game by our Government continued until early April 1979 when finally the license was cleared. By that time, Tass decided to terminate its agreement with Univac and place an order with a French computer consortium for a more sophisticated and expensive system—$17.5 million—and one presumably usable in defense applications.

As a consequence of the Government's maladroit handling of this export license application, the country lost a sizable contract, many man-years of work, and, of course, profits, and opened the opportunity for the Soviets to purchase a computer system with possible defense-related capabilities.

A further result of forcing the Soviets into the arms of the French computer consortium is a new and more ominous development for the U.S. national security. A few days ago it was announced that as the fruit of the Tass computer sale the Soviet Union and France have reached a basic understanding to develop jointly a generation of computers and related equipment for the use in the decade after 1985. What the Soviets could not get if they were to rely on U.S. computer suppliers they will now quickly receive through their acquiescent French connection, CII-Honeywell-Bull.

I believe it is essential if we are serious about international trade, about reducing the adverse balance of trade and about coping with domestic inflation that we do a better job of organizing our export licensing process.

The bill H.R. 4034 should be passed.

Mr. LAGOMARSINO. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, since I first became involved in the effort to restrict the export of Alaskan oil, I have witnessed a number of attempts to justify the export of one-half million barrels of that oil each day. One of the most enduring of these arguments has been the need for Presidential "flexibility" in utilizing the 2 million barrels of oil from Alaska's North Slope. Armed with the "flexibility" argument, this administration and other proponents of Alaskan oil exports have unabashedly pursued the simultaneous and contradictory goals of decreasing our reliance on imports and exporting Alaskan crude. I think it is high time that the Presidential "flexibility" argument be put to rest—for good. Such flexibility may be needed in managing the Department of Energy but it has no place in efforts to free ourselves from the stronghold of the OPEC nations. There is only one clear path to achieve that goal—the use of every available source of domestically produced energy in domestic markets.

This Congress has taken a great deal of criticism from the American people, the American business community and the administration for its failure to pass necessary energy initiatives. Some of that criticism is justified. But the record should be set straight. It was this body passed the first synthetic fuels bill 1 month ago. It was in this body that the first solar energy development bank was proposed. Two years ago this body enacted an amendment to commit the nation's offshore oil to domestic use. And, it was in this body that the only legislation committing Alaskan oil for domestic use was passed, 240-to-166. I know this, Mr. Chairman, because I have been directly involved in each of these efforts.

Today, the House of Representatives again has the opportunity to demonstrate its commitment to a future of energy independence by extending the restriction on the export of Alaskan oil. Justification for the extension of the export ban goes far beyond the most obvious arguments for committing domestically produced oil to domestic use. The justifications are more substantial than the need to hold the North Slope producers accountable to their promises, made in 1973 when the Trans-Alaska Pipeline Authorization Act was passed, of foregoing the financial attraction of exports and reserving Alaskan crude for use in domestic markets. The arguments for extending the export restriction on Alaskan oil—which expired on June 22—go beyond even the debilitating effect which an export or exchange would have on the already crippled U.S. maritime industry. There are sound economic reasons which dictate the need to insure that Alaskan oil is delivered, refined and consumed in U.S. markets. These reasons, Mr. Chairman, cannot be overcome by some inappropriate fixation upon Presidential "flexibility" in decisionmaking.

Reduced transportation costs, which work to increase producer profits, is another durable argument of questionable reasoning that proponents have used to justify the export of Alaskan crude. It is true that the Alaskan North Slope producers stand to gain an additional $2 per barrel—averaging delivery costs to both the west and the gulf coasts—by exporting that oil rather than delivering it to domestic markets. However, in making the transportation savings, that $2 per barrel would not be realized by the consumer. The total savings would instead be added to a steadily increasing profit margin resulting from the production of North Slope crude.

Proponents of an export or exchange claim that the transportation savings are necessary in order to insure profitability in producing Alaskan oil. The facts show otherwise. Consider that in the first quarter of this year, Standard Oil of Ohio, the North Slope's largest producer with 52 percent of the oil, increased its profits over the first quarter of the previous year by 302 percent. That increase was attributed by the chairman of Sohio to production on Alaska's North Slope. Profits for the second quarter of this year, due to be reported this week, should show an additional 70-percent increase above the first quarter. And, after tax profits for Alaskan oil delivered on the west coast are an incredible $4 per barrel. That figure represents an 85-percent increase in after-tax profits reported in December.

In light of this very lucrative venture, arguments for increasing producer profits by saving in transportation costs cannot compare with the need to commit that oil to our domestic markets. Not only do the figures indicate that the Alaskan oil producers are presently enjoying a tremendous return on investment; they further refute the arguments posed that increased profits are necessary for meeting additional production. Without an export option, and therefore without the additional transportation savings of an export, the North Slope producers have already scheduled a 25-percent increase in production by the end of this year. Furthermore, Atlantic Richfield Co., another North Slope producer, has announced plans to begin commercial development of Alaska's Kuparuk field at 60,000 barrels per day by 1982. Clearly, these production plans argue persuasively against the need to open Alaskan oil production to the world markets.

Proponents of an export or exchange of Alaskan oil have made further arguments that insufficient markets for Alaskan oil in the United States necessitate an exchange. If there was any validity to these arguments in 1975, there is certainly none today. Unlike a few years ago when I first became involved in this issue, there are more than adequate markets, in fact, growing demands, for Alaskan crude. Its heavier gravity makes it most suitable for distillation into home heating oil and when compared to $30 to $35 a barrel spot market crude, it is no wonder that U.S. refiners in the Caribbean are eager to receive $18 Alaskan crude.

On the west coast, where the infamous Alaskan oil "glut" became the rallying cry for export proponents, refiners have increased their take of Alaskan crude from 600,000 barrels per day to almost 900,000 barrels per day in the last few months. This new-found refining capacity and the elimination of the "glut" are most likely attributable to both the increasing profitability of producing Alaskan oil and the sharp rise in the price of imported crudes.

Officially, however, west coast refiners claim the 300,000 barrel per day increase in ANS crude refining is a result of: First, experience with handling the oil, second, the ripple effect of the shutdown of Iranian production, and third, the failure to bring San Joaquin Valley production on line as expected. Interestingly enough, the increased refining of Alaskan crude on the west coast has occurred without the expensive refinery retrofits that were earlier alleged to have been ncessary in order to profitably market Alaskan oil in the lower 48.

This increasing demand for Alaskan crude in the domestic markets is all very good and understandable but can be no substitute for the continuing need to develop an effective transportation system to distribute the oil eastward. Producers of Alaskan oil, most notably Sohio, assured this House on several occasions that any export or exchange of Alaskan oil would be a temporary one because their plans for the construction of a pipeline to deliver that oil would be fulfilled in a few years.

Short of saying "I told you so," I have long contended that Sohio's Pactex Pipeline Project, which was to deliver Alaskan crude from Long Beach, Calif., to Midland, Tex., was a convenient argument to delay the enactment of an Alaskan oil export restriction. Despite the success of legislation in the House Interior Committee, which would have effectively eliminated any further environmental obstruction to the Pactex project, and despite the administration's commitment to the same, the board of Sohio chose to scrap the project. I would suggest that the increasing marketability of Alaskan crude on the gulf and west coast played a role in that decision.

The need to develop a transportation infrastructure to deliver Alaskan crude east still remains. Despite Sohio's decision, the Government has a responsibility to revitalize that project and to grant all the regulatory and financial assistance necessary to complete the Northern Tier Pipeline project. Without a clear mandate from this Congress, committing all of the North Slope's production to U.S. markets, the incentive to proceed with these projects will quickly fade away.

Questions have been raised, Mr. Chairman, about the effects on the U.S. balance of trade in the event of an export or exchange. Let me make this clear. Alaskan oil is now and, unless regulatory action is taken, will in the near future be priced lower than either Mexican or OPEC crude Therefore, in the event of an exchange of Alaskan oil for foreign crude, this country would incur a balance-of-trade loss. In a study by Robert R. Nathan Associates the question of an Alaskan oil exchange was analysed. That study found that even reducing annual costs to this country by 0.37, which represents the net amount of total outlays to foreign sources returning to the United States in the form of demand for domestically produced goods and services, under a best-case scenerio—wherein half of the Alaskan oil is transported on American bottom tankers and exchanged with Japan for Mexican crude—the United States would incur a $182 million deficit annually.

Finally, Mr. Chairman, let me emphasize that the legislation which I introduced and which was subsequently included in this bill, H.R. 4034, is intended to apply solely to oil that is transported pursuant to rights of way granted under the Trans-Alaska Pipeline Authorization Act of 1973. Nor does this legislation in any way attempt to preclude the fulfillment of our treaty obligations with Israel either pursuant to the 1975 Sinai Treaty nor the most recent agreement resulting from the Egyptian-Israeli peace agreement.

Mr. Chairman, we need to commit every available domestic energy resource to our battle for political and economic independence. Alaskan oil is among the most readily available of those resources. I was heartened by the action of the recent Senate in passing an export restriction that is simiar to one before us today. It was pleasing to learn that so many Members of that body, who just 2 years ago had voted against an export ban, have realized the importance of insuring the domestic distribution of that oil. I commend the Senate for its action and I urge all of my colleagues in the House to support this legislation.

Mr. BINGHAM. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. Ichord).

Mr. ICHORD. Mr. Chairman and members of the committee, I thank the distinguished gentleman from New York for yielding me this time. But, I must agree. Mr. Chairman, with the gentleman from Illinois (Mr. Derwinski). I think it is unfortunate that a bill of this magnitude is being debated today when so many Members are not here to hear this very important matter being debated.

I also agree with the gentleman from California (Mr. Lagomarsino), that the provisions regarding reexport conditions must be deleted from this bill. H.R. 4034 has been reported out of the Committee on Foreign Affairs as a result of considering eight bills. One of those bills H.R. 3216 was referred to the House Armed Services Committee. In fact, this bill covers one subject which is also under the jurisdiction of the House Armed Services Committee, and that is the transfer of military technology.

The House Armed Services Committee has held long and extensive hearings on this particular aspect, and in fact the hearings are still being conducted on H.R. 3216, one of the bills that was considered in making up H.R. 4034. I have hearings scheduled for tomorrow morning, and the House Armed Services Research and Development Subcommittee has voted to offer several amendments to this bill which I think must be adopted in the interest of national security.

Mr. Chairman, the reason why I say this—and I think perhaps the gentleman from New York will agree, although he may disagree as to the effects of the particular provisions of this bill—is that on May 24 Mr. Larry Brady, the Acting Director of the Office of Export Administration, testified before the Subcommittee on Research and Development that, and I quote: "The export control system as it is today is a total shambles."

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After extensive review, I would say with respect to the transfer of military technology, that any inaccuracies in that evaluation by Mr. Brady as far as national security is concerned lie only in its understatement of the current situation. For example, last Wednesday I received a letter from Secretary Kreps advising me that contrary to testimony received and to news accounts, there was in fact no diversion in connection with the Kama River truck factory. I would advise the members of the committee that we have not only transferred according to some sources about $1.5 billion worth of machinery but also sophisticated computers that make up the Kama River truck factory, the largest truck factory in the world. This statement by Mrs. Kreps, made in the face of credible and verified reports that hundreds of trucks from Kama River have been seen in military units in eastern Europe, caused me to schedule this hearing tomorrow morning to get to the truth in this matter. If in fact there is no violation of U.S. export controls as alleged by Secretary Kreps, then I would question the wisdom of our entire export policy.

In any event, Mr. Chairman, on behalf of the Research and Development Subcommittee, I will offer one amendment affecting the transfer of critical military technology. The amendment which will be offered to the House will bring about a clarification of the Secretary of Defense's responsibility for identifying critical technology, and the amendment will also mandate that a list of critical technology be established by October 1, 1980. I believe the critical technology approach is ready to fly and is the only safe and sane way of protecting our perishable technological lead over our potential adversaries.

The second amendment which I will offer seeks to delete the authority for the establishment of a procedure to identify technology thresholds below which goods and technologies would be exempted from special licensing requirements. This procedure titled "indexing" defies effective administration and would be an exercise in dangerous speculation from a national security perspective.

My final amendment deletes the aforementioned provision eliminating requirements for reexport permits. This provision should be of great concern to the proponents of trade for in the absence of re-export controls a substantial number of license applications are likely to be denied. Likewise this provision would significantly effect controls for national security purposes.

Mr. Chairman, there are three considerations which must be made in administering export controls: Protection of our domestic economy; regulation of trade for consistency of foreign policy, and restriction of export of goods and technologies to protect our national security.

It is this last consideration, national security which is our concern.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. Roberts).

Mr. ROBERTS. Mr. Chairman, I appreciate the gentleman from New York's yielding me time. I was just checking the monitor when the gentleman from Michigan was talking about prohibition of any shipment of Alaskan oil to other countries. That obviously is based on the assumption that a barrel of oil is a barrel of oil, and that simply is not so.

My district has in it the largest producing oil field in the world. East Texas oil field has been producing now for 50 years. It had 26,000 producing wells at one time. They produce a high-gravity oil. The oil from Alaska is not only low-gravity, it is high-sulfur, which means in the refining process it makes a lot of sulfuric acid, and for that reason only three or four of the California refineries can handle it and it has to be shipped to Texas where all the coast oil is high sulfur.

So let me put it this way. With Alaska oil, a barrel, of course, is 42 gallons. You get maybe 14 to 18 gallons of gasoline or distillate. With Indonesian crude you get about 24 to 26 gallons of middle distillate or gasoline. The value of the Alaskan crude is primarily in the feedstocks because you can make four or five times as many plastics and other products out of Alaskan crude as you can out of Texas crude, or 10 times as much maybe as Indonesian crude.

I hope the committee will look into it thoroughly and not put a prohibition on it, because if we can trade one barrel of Alaskan crude for one barrel of Indonesian crude, we are going to get a lot more gasoline and distillate than we would otherwise. It is true we would lose the feedstocks, but we have all the feedstocks we can possibly use. I am sure if the committee will check into it, they will find that a prohibition will not be to our best interest. If we can trade for Mexican crude, we would average 50 percent more gasoline or distillate from Mexican crude, if we could trade on a barrel-for-barrel basis. I hope we would not prohibit the transfer before we get Mexican crude or Indonesian crude in return.

I thank the gentleman very much.

Mr. LAGOMARSINO. Mr. Chairman, I have no further requests for time at this time, and I will reserve the remainder of my time.

Mr. BINGHAM. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, I would like to comment very briefly on two of the points raised by the gentleman from Missouri (Mr. ICHORD), who has been conducting extensive hearings on this problem. First of all, with respect to the comment made in testimony by Mr. Brady that the administration of the export control system is a total shambles, I have talked to Mr. Brady. I know that he was very dissatisfied with the way the system was being operated, but that is not to say that he is critical from the point of view that items of critical technology have been exported to the Communist countries. His criticism had much more to do with the way in which the program was being administered, and I think many of his criticisms would be shared by industry.

The witnesses who came before us from industry complained that they were being subjected to inordinate delays in the processing of their applications, frequently being held up for a year or 18 months, long enough to lose their business to a competitor in Western Europe, and then finally having their licenses granted. This was enough to drive many of these exporters right up the wall. They would agree that the administration of the program was in a total shambles.

The effort of this bill is to tighten up on that administration, to improve it without in any way endangering the national security.

Now as to the Kama River plant, I have inserted in my remarks the letter from the Secretary of Commerce with respect to that plant. The fact of the matter is, and I think it is of interest to the Members because there has been a great deal of discussion on this, this is a huge truck plant that makes trucks and motors, but they are standard trucks, and the only confirmed information that we have about the use of the products of that plant for military purposes is that some of these standard trucks have been seen in military motor pools. When these export licenses were granted, and they were granted in the administration of President Nixon with the explicit approval of Secretary Kissinger, there were no restrictions put on the use of the trucks being produced at the plant. That was a deliberate decision because these were of a general nature. When you sell anything, when you sell common tools, a hammer or screwdriver, to the Soviet Union, it can find its way to the military. It can be put to military use. But it is not correct to say that there has been diversion or violation of an agreement, because there was no condition put on the export licenses of that machinery.

Mr. ICHORD. Mr. Chairman, will the gentleman yield for a question on that point?

Mr. BINGHAM. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding. Is the distinguished gentleman from New York telling this House that the Kama River truck plant is not being used to produce military trucks for the Soviet Armed Forces?

Mr. BINGHAM. The information that we have is that they are producing standard trucks, which are the same for military as for civilian use, and that some of those trucks have been seen in military motor pools. I am also saying that there was no diversion because there was no restraint in the licenses that were granted. There was no restraint on the end use of the products. The only item that was sold to the Kama River plant that was subject to the restraint was the computer that the gentleman referred to, and there is no evidence that that computer has been used contrary to the agreements that were connected with it, which had to do with the quantity of work to be produced by the computer, not with the end use of the products of the plant.

The CHAIRMAN. The time of the gentleman has expired.

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Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding, Mr. Chairman.

If I could have the attention of the chairman of the subcommittee, I do not know whether the gentleman answered the question or not. I respectfully submit that the gentleman did not answer the question asked.

Is the gentleman telling this House that the Kama River truck plant is not manufacturing Soviet military trucks? Yes or no.

Mr. BINGHAM. I cannot answer the question as put. They are standard trucks which have been used for military purposes. We knew that all along. There was no surprise here. We knew all along these trucks could be so used.

Mr. ICHORD. If I could reclaim my time, I might say to the Members of the House there is some question as to whether they are strictly military trucks. I do have intelligence information, and will probably pursue this in hearings with the Commerce Department tomorrow morning.

The gentleman uses the term "standard trucks." Those standard trucks are being supplied to the Soviet and Warsaw Pact military forces.

With all due respect to the gentleman from New York, I think you are dealing simply in rhetoric when you say there was no diversion. It may well have been that the Department of Commerce did not put the proper end-use restrictions on the computers and all of the machinery in the Kama River truck factory, but the absence of adequate safeguards is the reason why the acting director, Mr. Brady, stated that the export program is in a total shambles. I would say to the gentleman from New York that Mr. Brady testified specifically on the control of military technology and the ineffectiveness of end-use statements.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I yield 1 additional minute to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I would yield to the gentleman from New York for a comment on the remarks I made.

Mr. BINGHAM. One comment I would make is that the licenses in question were issued in the early 1970's. I do not know whether Mr. Brady was even there at that time but he certainly did not make his comments about the inadequacy of the present administration in terms of something that happened back in 1970 under the Nixon administration.

Mr. ICHORD. Let me say to the gentleman from New York, Mr. Brady was not confining his assessment to this administration. His remarks were made with regard to this administration, the preceding administration and the administration before that. He was not singling out the Carter administration. I think the administration of export controls has been in a shambles for a long period of time and I agree with the gentleman from New York we have to reach a proper balance.

I do not think you can stop the export of all technology to the Soviet Union but I think you can delay, Mr. Chairman, the export of technology. That is the only lead we have, technology. We certainly have no lead in conventional military capability.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond briefly to some of the comments that were made by the gentleman from Illinois (Mr. DERWINSKI) and the gentleman from Texas (Mr. ROBERTS) about the McKinney-Wolpe amendments regarding the export of Alaskan oil.

Although the McKinney-Wolpe amendments in the bill make it very, very difficult, there is no doubt about that, to export Alaskan oil, they do not make it impossible. They set up a standard and a test that must be followed to do that. One of the things the gentleman from Illinois said was that consumers would suffer if the amendments prevailed. If it can be proven that consumers will come out ahead then the provisions of the bill, and of the amendments, would allow the swap to be made providing, of course, Congress can be persuaded to go along with that idea.

This is a hard test to follow, I will grant you that, but it is not impossible.

Also, Mr. Chairman, the gentleman from Illinois (Mr. DERWINSKI) said if we make a swap with Mexico, between Mexico and Japan, that it would help our balance of trade with Mexico. It certainly would. We would show a plus on the oil export sales to them, we would show a corresponding decrease, though, in the oil we bought from somebody else, whether it is Mexico, Indonesia or whoever. I must also say I believe it would set back our efforts to reach real trade adjustments with Japan by quite a bit because the pressure would be taken off of them to buy others of our imports, such things as agricultural products and other things that we have been trying to get them to buy more of.

I am sure there will be a debate about this particular matter when we get into the 5-minute rule but I did want to make plain what were my thoughts about this comment.

Mr. Chairman, I yield back the balance of my time.

● Mr. HEFTEL. Mr. Chairman, at a time when we are encouraging use of domestic oil—to reduce our dependence on foreign imports, ease our shortages, and to assist in restoring our outrageous balance-of-payments problem, a refining company in Hawaii is unable to efficiently utilize domestic crude oil since a byproduct of the refining process results in high sulphur residual fuel oil, a product for which no readily available market exists.

The refining company, which has historically processed 100 percent imported crude oil, has been seeking Alaskan crude oil to use in a projected expansion of its refinery capacity. The use of Alaskan crude oil in the expanded portion of this refinery would stimulate the use of domestic oil in Hawaii, which has been almost 90 percent dependent upon foreign sources for its crude oil.

Hawaii has a heavy demand for transportation fuels (jet fuel, gasoline, and diesel fuel) for its tourist-oriented economy and has minimal needs for residual fuel oil. The fuel balance situation in Hawaii is further compounded by the military needs for the same light-end transportation fuels. The refineries in Hawaii are unable to make a sufficient quantity of required transportation fuels without producing an excess of other products—especially residual oil.

Due to the composition of available Alaskan North Slope crude oil, its use in Hawaii's refineries would result in the production of high sulphur residual fuel oil as a by-product of the refining process. U.S. environmental restrictions preclude the marketing of high sulphur residual oil on the west coast, therefore, the only market available for residual fuel oil of such a sulphur content (1.74 percent sulphur by weight) would be in the export market.

It is important that we successfully stimulate production of domestic crude oils, provide products which meet stringent environmental regulations to U.S. firms and provide additional fuels of the types required to meet both civilian and U.S. military defense needs in Hawaii. This can be accomplished by utilizing Alaskan crude oil in incrementally increased refinery capacity.

In view of this, I strongly urge that the Department of Commerce include the addition of "refinery by-products including high sulphur residual fuel oil," to the provision instructing the Department in carrying out its responsibilities.

This would allow my State to utilize ANS crude oil, to manufacture more of the fuels needed in Hawaii and to dispose of, through export, the high sulphur residual fuel which would be a byproduct of the refining process.●

● Mr. FOLEY. Mr. Chairman, I want to commend the distinguished chairman of the Committee on Foreign Affairs and the other members of his committee for their work in bringing this legislation to the floor.

I am concerned, however, over the implications of section 110 of the bill as reported. The language of that section provides that the Secretary shall require a valid license under redesignated section 7 of the act for the export of unprocessed western red cedar logs harvested from public lands and requires phaseout of export of such logs over a 3-year period.

I want to assure the House that I share the concern of my colleague from Washington (Mr. Bonker), the author of the amendment, over the plight of the small timber mill operator in our State. Section 110 is, however, only one approach to the extraordinarily complex and highly controversial problems associated with maintaining an adequate timber supply to support the mill operations that are the backbone of the economy in many of the small communities in the State of Washington and the Pacific Northwest.

I am concerned that the approach suggested in section 110 may have certain consequences that could prove to be damaging to the Nation as a whole. I am particularly disturbed over the possibility that this language will be used as a precedent to place absolute prohibitions in statutory language on other commodities. This seems to run contrary to this administration's overall efforts to develop foreign markets for our agricultural and forestry resources. History indicates that once a foreign market is lost it is extremely difficult to regain.

I want to indicate to the House that I am perfectly willing to go along with the committee on this section of the bill as reported. I do not feel, however, that this approach should be extended beyond the narrow scope of section 110.

It is important, as I see it, that Congress proceed very cautiously in this area so that the markets for our agricultural and forest products can be maintained and enhanced as a means of addressing the serious trade deficit resulting from the importation of foreign oil.●

The CHAIRMAN. All time has expired.

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Seiberling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just considered, H.R. 4034.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NURSE TRAINING AMENDMENTS OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3633) to amend title VIII of the Public Health Service Act to extend for 1 fiscal year the program of assistance for nurse training, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3633, with Mr. Seiberling in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. Waxman) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Waxman).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation before us today, H.R. 3633, the Nurse Training Amendments of 1979, as reported by the Committee on Interstate and Foreign Commerce, would amend: First, title VIII of the Public Health Service Act to extend for 1 fiscal year the programs of assistance for nurse training; second, title VII of the Public Health Service Act relating to program requirements for the training of other health professions; and third, title II of the Public Health Service Act to provide for more efficient administration of the Commissioned Corps of the Public Health Service.

The Nurse Training Amendments of 1979 is an important measure with bipartisan support indicated by the fact that the bill is cosponsored by 12 members of the Subcommittee on Health and the Environment and has the overwhelming support of both the Subcommittee and the Committee on Interstate and Foreign Commerce.

The President vetoed the Nurse Training Amendments of 1978, which passed the House by a vote of 393 to 12. The President, in his memorandum of disapproval, cited budget restraints as a major reason for vetoing the bill. In response to the current economic situation, the Subcommittee on Health and the Environment reported a bill which authorizes less than 50 percent of the amount authorized in last year's bill for fiscal year 1980. This sharp reduction in authority accommodates budgetary constraints, without jeopardizing the nursing profession.

In general, the bill is a 1-year extension of the Nurse Training Act authorizing appropriations at levels similar to the current fiscal year's appropriations, finalized by adoption of the Budget Authority Rescission Act of 1979.

Among its other provisions, the bill establishes new authority for the training of nurse anesthetists, as did the Nurse Training Amendments of 1978; authorizes the Secretary to increase the loan insurance limit for students in schools of medicine, dentistry, and osteopathy; authorizes the Secretary to permit a National Health Service Corps scholarship funds recipient to defer obligated service for more than 3 years, if necessary to complete advanced clinical training; deletes the requirement that 90 percent of the National Health Service Corps scholarship funds go to students of medicine, osteopathy, or dentistry; provides that area health education centers funded prior to October 12, 1976, would continue to be eligible for Federal support through fiscal year 1981 without meeting certain requirements for new centers; provides that if one medical or osteopathic school participating in an area health education center conducts a program for training nurse practitioners or physician assistants, other participating schools would not be required to do so; increases the limit on appropriated funds which may be obligated or expended for financial distress assistance to the health professions schools and repeals the 75-percent limitation on second and subsequent financial distress grants to such schools; includes maternal and child health among those programs in schools of public health eligible to receive traineeship and special project grant support; establishes a chief nurse officer, a chief pharmacy officer, and authorizes the appointment of warrant officers to the Commissioned Corps of the Public Health Service; and requires that a study be conducted to determine if there is need for continued Federal financial support for nursing education, and, if such need is established, in what form that support should be provided.

Enactment of H.R. 3633 will continue the program of Federal support for nursing education through fiscal year 1980, at which time the authority for Federal support for other health manpower training programs also expires. This will allow Congress to examine in detail the continued necessity for and form in which Federal support for health professions education activities should be provided, and to develop a consistent Federal policy in this regard.

I commend this legislation to my colleagues and urge its adoption.

□ 1600

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support H.R. 3633, the Nurse Training Amendments of 1979.

This legislation extends programs of assistance for nurse training for 1 year, through fiscal 1980, and makes other minor and noncontroversial changes in the public health service act.

The bill authorizes a total of $103 million for fiscal year 1980 for various nurse training programs.

And I would like to emphasize the reasonableness of the $103 million authorization. This amount is one-half the comparable authorization approved by the House last year—but later pocket-vetoed by the President.

Mr. Chairman, as you know the nursing profession has made and continues to make, an invaluable contribution to the health and well-being of the people of this country. The skills and expertise of our Nation's nurses depend on the quality of their training programs, and over the years nurse training legislation has been responsible for improving both the quality and availability of nurses in this country.

Included in the legislation we are considering today are authorizations for the following categories of nurse training: Nurse practitioner programs; advanced nurse training; special projects; loans; scholarships; capitation; and construction.

In addition the bill provides authorization for traineeships to cover the costs of training nurse anesthetists—who provide about 50 percent of the anesthesia services in this country, particularly in underserved areas and in small hospitals.

Mr. Chairman, as you know, there has been a great deal of debate about whether we have enough nurses to meet our Nation's needs and what the role of the Federal Government should be in supporting nursing education.

The subcommittee examined these issues and others very carefully during hearings on this legislation. And we found there is still a significant range of opinion on these issues.

Therefore, to provide a definitive study of these questions we included a provision in the bill requiring a major study of our Nation's nursing needs to help guide our decisionmaking in the future.

Based on my own experience—I would submit that we have yet to find a surplus of nurses in this country. Particularly in rural and inner-city areas, the demand for nurses far exceeds the supply. We must do all we can to insure that people who live in medically underserved areas have access to the health services they need at reasonable costs.

Mr. Chairman, I would like to point out that the authorization level of $103 million for nurse training is the same total figure adopted by the Senate in their nurse-training bill, and this figure closely parallels 1979 appropriations.

We have deliberately limited these authorizations to 1 year so that the nurse-training programs will expire at the same time as all other health professions programs.

In this way the subcommittee and the Congress should be able to develop a comprehensive policy for health professions' training by considering all categories of health personnel at the same time.

Mr. Chairman, this is a modest and reasonable proposal and I urge that it be favorably considered.

● Mr. STAGGERS. Mr. Chairman, I rise in support of this important piece of health legislation.

As you will recall, the Nurse Training Amendments of 1978 were vetoed by the President following the adjournment of the 95th Congress. Early in this Congress, I was joined by many of you in introducing H.R. 1143, the predecessor bill to H.R. 3633, legislation designed to address the continuing needs of nurse training.

Few, if any, of the health care resources available to the citizens of our great Nation command the importance and respect of the nursing profession. It is incumbent upon the Congress of the United States to assure that well-trained, qualified members of this critical health care profession continue to be available to us all. I believe the bill before us today will assure just that. At the same time, it will also meet the budgetary concerns expressed by the President in his veto message.

I am proud to be the sponsor of this bill and commend the members of both the subcommittee and the full committee for their diligent work on this important legislation.

I urge my colleagues to join me in voting for passage of this measure.●

● Mr. LEE. Mr. Chairman, I rise in support of H.R. 3633 which extends the authorization for the Nurse Training Act 1 additional year at a cost of $103 million, one-fourth the cost of the Nurse Training Act of 1978 vetoed by the President. The President's stated basis for the disapproval of the legislation was that "the outlook is good for adequate, sustained growth in the supply of nurses," so "there is no reason for the Government to provide special support to increase the total supply of professional nurses."

A study commissioned by the Department of Health, Education, and Welfare under the mandate of the 1975 Nurse Training Act projects an increased need for nurses for 1982 ranging from a low of 40 percent to a high of 92 percent. The Bureau of Labor Statistics, though setting forth a more modest prediction, nevertheless foresees a 28-percent increase in the number of nursing jobs available in 1985. Those who remain unconvinced need only glance at the classified section of any Sunday edition of the Washington Post where the number of advertisements for nursing positions is outstripped only by those for engineers.

Though a high percentage of registered nurses are employed in the nursing field, only 1.9 percent of new graduates in 1978 reported they were seeking employment—this in contrast to a national unemployment rate during that same period of time of 6 percent. Data collected by the American Hospital Association shows that during the 5-year period 1972–77, R.N. employment by hospitals increased 33.9 percent. The recent emphasis by health care institutions on substantially reducing the average length of stay means that patient care will be concentrated over a shorter period of time and, thus, be more intense. Registered nurses must possess a high degree of skill, and this increase in employment among their number is viewed as reflecting the intensity and sophistication of nursing care required. Additionally, home health agencies are experiencing increased demands for nursing staff. As patients go home sooner, they require more extensive care and more frequent visits.

Apart from the question of total nurse supply is the need to recognize the expanding scope and variety of nursing functions. For instance, one objective of the Nurse Training Act has been to help increase the number of nurses prepared at the graduate level to fill positions in nursing service administrative and supervision, research and education and gerentological and other clinical specialties.

Yet another goal of the act is to improve distribution of registered nurses in underserved areas. For instance, schools of nursing can meet the capitation requirement by providing for their students a significant amount of their clinical training in community health centers, long-term care facilities and ambulatory care centers geographically remote from the school. Many schools have developed training programs for nurse practitioners who can work in underserved areas.

There has been ample evidence supplied to us by schools of nursing and by nurses that serious hardships will result should funds available under the Nurse Training Act be cut off. Tuition costs are escalating and even middle-class parents are having trouble financing their children's education. Nursing loans and scholarships really are an essential part to this legislation in order for us to get not only the number of nurses we need, but the kind of nurses we need.

As health care becomes increasingly complex, so does the knowledge required by nurse professionals. In addition to increased complexity, Government-mandated health coverage for more and more individuals necessarily signals an increased need for nursing personnel.

In the light of these trends, any move to immediately cut off Federal support of nursing education would be a grave mistake. H.R. 3633 mandates further study of the nursing supply with respect to future need and continues Federal support during the time the study is to be conducted. I think we in the Congress can also well use this year to carefully evaluate the question of future need for Federal support of nursing education.

I urge my colleagues to join me in support of this bill.●

Mr. WAXMAN. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3633) to amend title VIII of the Public Health Service Act to extend for one fiscal year the program of assistance for nurse training, and for other purposes, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT PAST 10 A.M. ON TOMORROW

Mr. BLANCHARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs may be permitted to sit past 10 a.m. tomorrow, July 24, 1979, in order to complete markup on H.R. 4100, the Domestic Economic Development Amendments of 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

U.N. CONFERENCE ON REFUGEES RAISES HOPES FOR SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MCCLORY) is recognized for 10 minutes.

● Mr. McCLORY. Mr. Speaker, I have just returned from the United Nations Conference on Refugees held July 20 and 21 in Geneva, Switzerland.

Our delegation, made up of nine Members of Congress, State Department officials, and civic leaders, was led by Vice President WALTER F. MONDALE. The Vice President in his statement to the Conference, eloquently set forth the gravity of the Indochinese refugee problem, and stated the U.S. intention of resettling 14,000 refugees per month during the next year, representing a doubling of our current rate of resettlement.

I applaud the Vice President's statement, particularly his comparison of the present situation with that faced by the conferees at Evian 41 years ago. That conference failed to provide for the resettlement of Jews, then threatened by Hitler, and this failure was followed by the holocaust.

I am most pleased to report that the United Nations Conference did not end in failure, but rather had the positive result of accumulating new pledges—made since June 1—of resettlement for 135,000 refugees and $190 million more for the United Nations High Commission on Refugees.

This Conference was attended by representatives of 65 nations—as contrasted with 34 nations which were represented at an earlier similar conference in December. From my talks with representatives of several nations, I am encouraged that the world community is becoming aware that the current refugee problem is one which must be dealt with by many nations, and not only by the United States, France, Canada, and Australia—the countries which have accepted over 90 percent of refugees resettled to date.

I also spoke with the delegate from Vietnam, Phan Hein, and emphasized the need for normalizing the flow of people out of Vietnam, and the immediate critical need for food deliveries to refugees in Cambodia.

The Vice President, in his statement and later at his press conference, rejected the notion that the present refugees are the direct result of the war in Vietnam. He accurately pointed out that the refugees now leaving are doing so to escape from severe racial and religious discrimination, and not as a result of U.S. actions which ended over 4 years ago. He repeated the thought, heard here on the floor only last week, that the root cause of the present refugee problem is the direct result of action by the Government of Vietnam against some of its citizens. Many other speakers noted this fact as well, and called on the Vietnamese to impose a moratorium on this forced expulsion of people from that country.

The Secretary General, Kurt Waldheim, in his closing statement, announced that the Vietnam Government would make efforts to stop "illegal departures." We must wait to see what effect this action has on the arrival rate of new refugees in first asylum countries.

Mr. Speaker, we did not solve the refugee problem in Geneva. However, I believe that we are in the midst of a process whereby the world community, acting through the United Nations, will join together to provide resettlement for these brave people.●

JACK BRICKHOUSE TO BROADCAST HIS 5,000TH BASEBALL GAME FOR CHICAGO'S WGN RADIO AND TV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues that John B. (Jack) Brickhouse, Chicago's popular sportscaster for almost 40 years, will broadcast his 5,000th major league baseball game on August 5 for WGN Continental Broadcasting Co., which is located in the 11th District I am honored to represent.

Jack Brickhouse began baseball broadcasting with WGN radio in 1940, and in 1948, he did his first televised broadcasts for the station. He started his career at the age of 18 when he became the youngest sports announcer in the country for radio station WMBD in Peoria, Ill. Also serving as vice president and manager of sports for WGN, Jack's trademark is an enthusiastic "hey-hey" whenever the home team hits a home run out of the ball park.

Of his broadcasting style he has said:

> I've always tried to keep in mind that I'm in grass roots country and I'm grass roots born and reared. I don't use the so-

called "sophisticated" approach to broadcasting that is used in other parts of the country. I regard sports first and foremost as entertainment, so the dry documentary narration is not for me. I like the "Let's forget our troubles and have some excitement" approach. I'm convinced you can combine this with reporting integrity and accuracy.

No other baseball broadcaster has televised the number of games achieved by Jack Brickhouse, but his record of accomplishment does not stop there. He has also covered many network assignments of national sports events, reported several national political conventions, covered the Roosevelt inauguration in 1945, and also broadcast a papal audience with Pope Paul VI. He has also received awards for outstanding accomplishments and meritorious service in his profession throughout his career, which are too numerous to mention here, and has served twice as the president of the Chicago chapter of the National Academy of Television Arts and Sciences.

Jack has long been a civic leader in our city of Chicago, and serves as a member of the board of directors of the Northwestern Memorial Hospital and a trustee of Bradley University, a member of the board of directors of the Chicago Boys' Clubs, and was named "Man of the Year" by the city of Hope in 1966.

Mr. Speaker, I extend my warmest congratulations to Jack Brickhouse on his splendid record of achievement, and for the strong and constructive impact he has made on our community. I send him my best wishes for many more years of success.

ROAD TO DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. DE LA GARZA) is recognized for 10 minutes.

● Mr. DE LA GARZA. Mr. Speaker, his Excellency, the Honorable Jaime Roldos, President-elect of our sister Republic of Ecuador visited Washington for several days last week.

This is a historic moment for the people of Ecuador, and certainly for us as their friends as they continue on their road to democracy.

I would share with my colleagues the following, which is a brief biography of President-elect Jaime Roldos.

He was born November 5, 1940, in the city of Guayaquil, Ecuador's major port and industrial center. Throughout his high school and university days Mr. Roldos was known for a combination of academic excellence and political leadership. For 7 years of undergraduate studies and law school at the University of Guayaquil, Mr. Roldos was ranked first in his class. At the same time he served as president of the Federation of Ecuadorean University Students. Previously, he had been elected president of the Secondary Students' Federation.

Mr. Roldos began a legal practice in 1966. He was elected both vice president and president of Guayaquil's Bar Association, and served as executive secretary of the Andean Pact Lawyer's Association.

Mr. Roldos entered electoral politics in 1968 as a Congressman for the province of Guayas and was reelected in 1970. In Congress he served on two important committees. The Committee on Constitutional Reform and the Permanent Legislative Committee, which enacted legislation year-round when the full Congress is not in session.

Mr. Roldos is a member of "Concentración de Fuerzas Populares" (CFP), the largest political party in Ecuador, which nominated him as their candidate for the Presidency. He has served for many years as CFP's director of political action.

Also active in academia, Mr. Roldos has been a professor at the Catholic University of Guayaquil and the lay university "Vicente Rocafuerte." He has been deputy dean of the Catholic University's Law School.

In 1962 Mr. Roldos married Martha Bucaram Ortiz, a law school classmate. Mrs. Roldos continues to practice law. They have three children: Martha, 15; Diana, 14; and Santiago, 8 years old.

This is not the time nor the place to delve into the reasons why our friends in Ecuador have reached this moment in the history of their Nation. Suffice it to say that the road has not been easy, but to the credit of the Armed Forces, the various responsible political parties and the people of this great country, it has been achieved. We wish them well. I think it might be of interest to list some of the events along the way so that we might more appreciate the significance of the moment:

January 1976: The Supreme Council of Government announced the decision to return to the Constitutional form of Government, in accordance with the wishes of the people.

June 1976: A basic plan for the return to Constitutional Government was announced.

October 1976: Political parties, non-governmental organizations and associations were invited by the Government for a dialogue to find ways to implement the democratic process.

November 1976: New voter identification cards were issued to all Ecuadoreans old enough to vote, and new computerized electoral registers were made.

January 1977: Three Legislative Commissions were organized by the Supreme Council of Government to draw up:

(a) A draft project for a new Constitution

(b) Reforms to the 1945 Constitution; and

(c) New legislation on the election process and on political parties' structure

March 1977: The Electoral Tribunal was appointed.

June 1977: The text for the proposed new Constitution and the reforms to the 1945 Constitution were approved by the Legislative Commission and given national coverage for public debate.

January 1978: On January 15, a national Constitutional referendum took place. The new Constitution was selected by a large majority of the popular vote. Over 90% of the registered voters went to the polls.

June 1978: 2,086,701 citizens were registered to vote for the six candidates for President and Vice president.

July 1978: In the first round of Presidential elections the results were as follows:

Mr. Jaime Roldos (C.F. Party-Popular Democracy), 452,600 votes.

Mr. Sixto Duran (Social-Christian-Conservative), 340,477 votes.

Mr. Raul C. Huerta (Liberal Party), 321,327 votes.

Mr. Rodrigo Borja (Democratic Left), 162,342 votes.

Mr. Abdon Calderon (Radical Front), 130,725 votes.

Mr. Rene Mauge (Popular Democratic Union), 75,277 votes.

April 1979: Mr. Jaime Roldos and Mr. Oswaldo Hurtado were elected by 1,025,148 votes—68.49 percent of the voters. A new Congress of 69 Members was also elected.

Mr. Speaker, we welcome President-elect Roldos to Washington and to our country. We wish him well, not only in his personal life in company with his distinguished family, but in his so important role in public life, as President of this great country.

I would like to share with my colleagues a quote from a public statement made by President-elect Roldos as it appeared in a local newspaper:

> The government to be inaugurated on Aug. 10 will be a truly democratic one. I will not disappoint what the Ecuadorian people have seen in me and in the alliance that I represent. I have maintained that I wish to establish a government of change and economic development, a government of balance between economic growth and social justice. This we shall do.
>
> I praise the attitude of the armed forces. They have defended their word of honor. They have not given in to the pressures of certain sectors which hoped for a coup in order to frustrate the judgment of the people.
>
> Respect for human dignity has asserted itself anew in Ecuador, and my government will not be one of retaliation or hate. It is not in the name of hate or social revenge that we will govern. We are extending our hand to all Ecuadorians. My government will respect ideological pluralism. . . .
>
> I want to prove that such values as order and security can exist under democracy. But besides security and order, democracy also grants freedom with social justice. I have fought and will continue to fight so that in Ecuador men feel themselves to be brothers of their fellow men.
>
> I promise a more human, cohesive and just society, and I will not stop until I succeed in achieving this change. I promise the Ecuadorian people that I will not stop until I obtain the changes that I have proposed within a context of democracy and freedom—a change authentically Ecuadorian. . . .

Mr. Speaker, there is very little I can add, except to ask my colleagues to join with me in extending our sincere congratulations to President-elect Jaime Roldos. That our desire and fervent wish is that his term of office be a most productive one for his country and its people. Further, that the friendship which exists between our two countries and our two peoples, prosper and grow.

And finally Mr. Speaker, to respectfully request President-elect Roldos to carry our best wishes to the people of Ecuador and to our colleagues, the members of the new Parliament.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a commitment at the White House in the afternoon of Friday, July 20, I was unavoidably absent from the House of Representatives during consideration of House Resolution 359—a resolution providing for the more flexible use of clerk-hire allowances for part-time, shared, and temporary employees.

Had I been present for rollcall No. 376, a vote on approval of the resolution, I would have voted "aye." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was absent due to official business during rollcall No. 365. Had I been present, I would have voted for the House Resolution 305, the rule providing for the consideration of H.R. 4040, the Department of Defense Authorization Act for the fiscal year 1980.●

SUPPORTING EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, I rise today in support of H.R. 4034, the Export Administration Act Amendments of 1979, because I believe this legislation is vital to establishing an aggressive, forward-looking U.S. export policy.

I want to compliment my colleague from New York (Mr. Bingham) for his constructive approach to removing or lessening burden some and unnecessary restrictions that impede U.S. exports. With our trade deficit at a staggering $30 billion last year, we must move forward on ways to streamline U.S. trade policy.

In particular, I want to commend provisions in H.R. 4034 that—

Establish firm deadlines for processing export license applications;

Provide separate control criteria for national security foreign policy and short supply concerns, recognizing that each set of controls has different purposes;

Require national security controls be removed and licenses granted when foreign availability of comparable items is established; and

Establish criteria which the President must consider before imposing foreign policy controls, the criteria including such things as effectiveness of the controls, compatability with U.S. foreign policy and impact on U.S. exports.

Steps like these are imperative if we are to regain competitiveness in fastly evolving world markets, markets which if tapped will generate important economic expansion and job creation here in the United States.

Our major trading partners are cashing in on markets now virtually closed to American businesses and their workers. In 1977, West Germany exported more than $2.5 billion worth of manufactured products to the Soviet Union—more than four times what the United States exported to the U.S.S.R. Japan exported $2 billion worth of manufactured goods the same year. France and Italy exported $1 billion and $1.5 billion worth of goods, respectively.

Even though the American trade position worldwide is slipping, 1 out of every 8 jobs in U.S. industry derives from international trade, while 1 out of every 3 acres, under cultivation produces commodities for export.

In my home State of Oregon, there has been a sharp rise in trade-related economic activity. In 1972, 5,600 jobs were directly attributable to trade. Just 4 years later, that figure had climbed to 13,000 jobs—or an increase from 3.1 percent of Oregon's work force to 6.9 percent. Today, 1 of every 9 manufacturing jobs in Oregon depends on trade. That means 20,800 Oregonians owe their livelihoods to flourishing imports and exports. Trade has a ripple effect. The port of Portland, Oreg.'s major ocean cargo shipping center, estimates its operations alone sustains 40,000 jobs and a payroll of $250 million.

The stakes are clear, and so are the problems.

Congress has sought previously to streamline export controls. Facts show our efforts have been unsuccessful. Export license applications have been rising 20 percent a year, from 54,000 in 1977 to a projected 77,000 this year. Logjams are forming, resulting in costly delays, delays that can last as long as 18 months. These delays, now all too routine, cost American businesses sales, especially when timely delivery is a selling point, which it surely is in a competitive marketplace.

The irony of all this paper shuffling is that less than one-half of 1 percent of all applications in 1978 were rejected.

H.R. 4034 seeks to deal constructively with problems such as these, problems that serve only to rob Americans of business and jobs.

There are points of controversy in this legislation, and I am certain they will be debated. But I hope we do not lose sight of the primary purpose of this legislation—to promote U.S. exports, as a means of bolstering our economy and strengthening the U.S. dollar.

It is coincidental that today in the House Banking Subcommittee on Trade, I am chairing hearings on H.R. 1908, a bill I introduced to modify other aspects of U.S. trade policy to clear away unnecessary impediments to an aggressive export policy.

In testimony today on H.R. 1908, Richard Cooper, Under Secretary of State for Economic Affairs, said:

> The U.S. economy must now export if we are to maintain employment, strengthen the dollar and retain our technological leadership. Whether we like it or not, the United States must meet the competition. . . .

Under Secretary Cooper also said:

> The United States can draw important economic benefits from our relations with communist countries. We seek valuable markets for our exports, sources of raw materials and other products, and an increasingly efficient international trading system.

Clearly, then, there is global strategic value in what we do today on H.R. 4034, as there will be tomorrow when we deal with H.R. 1908.

By trading with Communist countries, we do not confer agreement or approval of their governments or their policies. By trading with Communist countries, we bestow no generosity, for trade is the exchange of goods between equal partners—a willing seller and a willing buyer. By trading with Communist countries, we compete in an arena that pits our economic system against theirs—and if we would just let ourselves go, we may surprise ourselves how successful we can be.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows:)

To Mr. Young of Alaska (at the request of Mr. Rhodes), for today, on account of official business.

To Mr. Boland (at the request of Mr. Wright), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at request of Mr. Deckard) to revise and extend their remarks and include extraneous material:)

Mr. Collins of Texas, for 15 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. McClory, for 10 minutes, today.

Mr. McKinney, for 5 minutes, today.

(The following Members (at the request of Mr. Blanchard) to revise and extend their remarks and include extraneous matter:)

Mr. Weaver, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. de la Garza, for 10 minutes, today.

Mr. LaFalce, for 10 minutes, today.

Mr. Drinan, for 5 minutes, today.

Mr. Nelson, for 5 minutes, today.

Mr. Wolff, for 15 minutes, today.

Mr. AuCoin, for 5 minutes, today.

Mr. Rodino, for 60 minutes, on July 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Seiberling, to revise and extend his remarks in general debate on H.R. 4040 and to include extraneous material.

(The following Members (at the request of Mr. Deckard) and to include extraneous matter:)

Mr. Lewis.

Mr. Collins of Texas in two instances.

Mr. Abdnor.

Mr. Kemp in three instances.

Mr. Whitehurst.

Mr. McKinney.

Mr. Lagomarsino.

Mr. McCloskey.

Mr. Derwinski.

Mr. Evans of the Virgin Islands.

(The following Members (at the request of Mr. Blanchard) and to include extraneous matter:)

Mr. Matsui.

Mr. Dodd in two instances.

Mr. Howard.

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Gephardt.

Mrs. Boggs.

Mr. Ratchford.

Mr. Nelson.

Mr. Waxman.

Mr. Shannon.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 221. An act to establish a congressional award program for the purpose of recognizing excellence and leadership among young people; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2729. An act to authorize appropriations for activities of the National Science Foundation for fiscal year 1980, and for other purposes, and

H.R. 4289. An act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. BLANCHARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 24, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2076. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1979 and amendments to the requests for appropriations for fiscal year 1980 (H. Doc. No. 96–164); to the Committee on Appropriations and ordered to be printed.

2077. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment, covering the quarter ended June 30, 1979, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2078. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to various requests by the Government of the Republic of Korea for permission to transfer certain U.S.-origin military equipment to certain other governments, pursuant to section 3 of the Arms Export Control Act; to the Committee on Foreign Affairs.

2079. A letter from the Assistant Secretary of Health, Education, and Welfare for Management and Budget, transmitting notice of a proposed change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2080. A letter from the Acting Administrator of General Services, transmitting a followup report on the recommendations contained in the December 1977 report of the Board of Visitors to the U.S. Air Force Academy, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2081. A letter from the Assistant Secretary of Energy for Resource Applications, transmitting the annual report of the Alaska Power Administration for fiscal years 1977 and 1978; to the Committee on Interior and Insular Affairs.

2082. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37093, Joint Rates Via the Ann Arbor Railroad System, December 1978, within the initially specified 7-month period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

2083. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37105, Increased Rates on Coal, Colstrip and Kuehn, Montana to Minnesota, within the initially specified 7-month period, pursuant to 49 U.S.C. 10707(d); to the Committee on Interstate and Foreign Commerce.

2084. A letter from the executive director, Reserve Officers Association of the United States, transmitting the audit report of the organization for the year ended March 31, 1979, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

2085. A letter from the Comptroller General of the United States, transmitting notice of the beginning to his Office's study of congressional financial disclosure systems, required by section 109 of Public Law 95–521; to the Committee on Rules.

2086. A letter from the Administrator of Veterans' Affairs, transmitting his annual report for fiscal year 1978, pursuant to 38 U.S.C. 214; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 1030. An act to authorize the President to create an emergency program to conserve energy, and for other purposes; with amendment (Rept. No. 96–373). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 4930. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–374). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 4901. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $1,000 of interest received by an individual during any taxable year; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 4902. A bill to amend the Internal Revenue Code of 1954 to make permanent the provisions relating to the funding of employee stock ownership plans through the investment tax credit, to provide a credit against tax for contributions to an employee stock ownership plan based upon wages rather than investment in equipment, and for other purposes; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 4903. A bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Rangel, Mr. Stark, Mr. Brodhead, Mr. Downey, and Mr. Fowler):

H.R. 4904. A bill to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes; to the Committee on Ways and Means.

By Mr. GEPHARDT:

H.R. 4905. A bill to establish a program of assistance to State governments in reforming real property tax laws, to provide education grants to States which adopt certain reforms with respect to real property taxation and the distribution of education funds derived from such taxation, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. MILLER of California (for himself, Mr. Rosenthal, Mr. Beilenson, Mr. Bonior of Michigan, Mr. John L. Burton, Mr. Clay, Mr. Conyers, Mr. Dellums, Mr. Edwards of California, Mr. Fazio, Mr. McCloskey, Mr. Ottinger, Mr. Scheuer, Mr. Seiberling, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Weiss, and Mr. Won Pat):

H.R. 4906. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 4907. A bill to amend title 38, United States Code, to eliminate the time period in which a veteran has to use his educational benefits; to the Committee on Veterans' Affairs.

H.R. 4908. A bill to amend section 612(e) of title 38, United States Code, so as to provide that any disability of a veteran of World War I shall be, for the purposes of medical treatment, considered a service-connected disability; to the Committee on Veterans' Affairs.

H.R. 4909. A bill to amend title 38 of the United States Code in order to authorize the Administrator of Veterans' Affairs to make scholarship grants to individuals attending medical schools on the condition that such individuals will serve in Veterans Administration facilities for a certain period of time upon completion of professional training, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4910. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

H.R. 4911. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

H.R. 4912. A bill to amend title 38, United States Code, to increase the specially adapted housing assistance grant for certain disabled veterans from $30,000 to $35,000; to the Committee on Veterans' Affairs.

H.R. 4913. A bill to amend title 38, United States Code, to provide that monthly annuity payments under the Railroad Retirement Act of 1974 shall not be included as income for the purpose of determining eligibility for or the amount of certain veterans' pension and dependency and indemnity compensation benefits; to the Committee on Veterans' Affairs.

H.R. 4914. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 4915. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

H.R. 4916. A bill to amend title 38, United States Code, to provide expanded readjustment benefits for Vietnam-era veterans by promoting employment of such veterans through job vouchers, by providing increased funding and improved programs for health and psychological care for such veterans, by improving education assistance under the GI bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4917. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for the purposes of offsetting the differences in State educational costs, and to extend the delimiting period for veterans enrolled in educational programs; to the Committee on Veterans' Affairs.

H.R. 4918. A bill to amend section 618 of title 38, United States Code, in order to authorize the Administrator to expand the current program providing therapeutic and rehabilitation activities for certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4919. A bill to amend title 38, United States Code, to provide dental services in Veterans' Administration facilities to any veteran who was a prisoner of war for more than 180 days; to the Committee on Veterans' Affairs.

H.R. 4920. A bill to amend title 38, United States Code, to provide that agricultural employment required for eligibility for educational assistance under the GI bill for a person enrolled in a farm cooperative program need not be full-time employment or the principal expected source of income of such person and may include employment in establishments engaged in the processing, distribution, or sale of agricultural products; to the Committee on Veterans' Affairs.

H.R. 4921. A bill to amend title 38, United States Code, to extend eligibility for medical care benefits under the Veterans' Administration CHAMPVA program to dependents and survivors of any veteran having a permanent service-connected disability rated at 80 percent or 90 percent; to the Committee on Veterans' Affairs.

H.R. 4922. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 4923. A bill to amend section 312(c) of title 38, United States Code, so as to provide for additional presumptions relating to certain diseases and disabilities of prisoners of war; to the Committee on Veterans' Affairs.

H.R. 4924. A bill to amend title 38 of the United States Code relating to the recognition of representatives of the Polish Legion of American Veterans as claims agents for claims arising under laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 4925. A bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment because of membership in such Reserve component; to the Committee on Veterans' Affairs.

By Mrs. SCHROEDER (for herself, Mr. Nedzi, Mr. Mitchell of Maryland, Mr. Corrada, Mr. Montgomery, Mr. Hawkins, Mr. Edwards of California, Mr. Clay, Mr. Forsythe, Mr. Corcoran, Mr. Markey, Mr. Mikva, Mr. Gibbons, Mr. Bonior of Michigan, Mr. Lehman, Mr. Diggs, Mr. Downey, Mrs. Chisholm, Mr. Pepper, Mr. Yates, Mr. Guarini, Mr. Stack, Mr. Bingham, Mr. Maguire, Mr. Evans of the Virgin Islands, Mr. Dornan, Mr. Rangel, Mr. Glickman, Mr. Burgener, Mr. Weiss, Mr. Scheuer, Mr. Matsui, Mr. Cavanaugh, Mr. Simon, Mr. Seiberling, Mr. Duncan of Oregon, Mr. Lott, and Mr. Gingrich):

H.R. 4926. A bill to amend the Federal Aviation Act of 1958 to provide a criminal penalty for placing, attempting to place, or attempting to have placed a loaded firearm aboard an aircraft; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 4927. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

By Mr. THOMPSON (for himself and Mr. Murphy of Pennsylvania):

H.R. 4928. A bill to amend the National Labor Relations Act, as amended, to include supervisors; to the Committee on Education and Labor.

By Mr. WON PAT:

H.R. 4929. A bill to authorize Federal agricultural assistance for the territories and possessions of the United States and the Trust Territory of the Pacific Islands and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. YATES:

H.R. 4930. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

By Mrs. COLLINS of Illinois:

H.J. Res. 379. Joint resolution to provide for the designation of August 31, 1980, as "Working Mothers' Day"; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H. Con. Res. 164. Concurrent resolution directing interment of an Unknown Soldier from the Vietnam war in Arlington Cemetery; to the Committee on Veterans' Affairs.

By Mr. ABDNOR:

H. Res. 383. Resolution expressing the sense of the House of Representatives that the United States should take certain actions to persuade or compel the European Economic Community to cease reimbursing exporters for subsidizing the production of wheat for export from the countries which are members of the European Economic Community; jointly, to the Committees on Ways and Means, and Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2977: Mr. Fazio, Mr. Guarini, Mr. Harris, Mr. Lowry, Mr. Patterson, Mr. Rahall, Mr. Stack, Mr. Stewart, Mr. Stokes, and Mr. Swift.

H.R. 3245: Mr. Addabbo, Mr. Akaka, Mr. Anthony, Mr. Ashbrook, Mr. Baldus, Mr. Bauman, Mr. Beilenson, Mr. Brinkley, Mr. Buchanan, Mr. Campbell, Mr. Carter, Mr. Cheney, Mr. Cleveland, Mr. Conte, Mr. Philip M. Crane, Mr. D'Amours, Mr. Daschle, Mr. de la Garza, Mr. Derrick, Mr. Derwinski, Mr. Dickinson, Mr. Donnelly, Mr. Evans of Indiana, Mr. Fazio, Mr. Fish, Mr. Ford of Tennessee, Mr. Gudger, Mr. Guyer, Mrs. Heckler, Mr. Hopkins, Mr. Hyde, Mr. Jeffries, Mr. Kogovsek, Mr. Kramer, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lloyd, Mr. Loeffler, Mr. Lujan, Mr. Luken, Mr. Lungren, Mr. Martin, Mr. Marriott, Mr. Mavroules, Mr. Nichols, Mr. Ottinger, Mr. Paul, Mr. Petri, Mr. Pursell, Mr. Royer, Mr. Runnels, Mr. Santini, Mr. Sawyer, Mr. Schulze, Mr. Sebelius, Mr. Sensenbrenner, Mr. Shumway, Mr. Skelton, Mr. Spence, Mr. Vander Jagt, Mr. Volkmer, Mr. Whittaker, Mr. Charles H. Wilson of California, Mr. Charles Wilson of Texas, Mr. Wirth, Mr. Wyatt, and Mr. Young of Alaska.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

177. By the SPEAKER: Petition of Kathleen Dodd, Roslindale, Mass., relative to the Navy's proposed Extremely Low Frequency communications system; to the Committee on Armed Services.

178. Also, Petition of the Board of Education, Youngstown, Ohio, relative to voluntary prayer in the public schools; to the Committee on Education and Labor.

179. Also, petition of the National Governor's Association, Louisville, Ky., relative to Indochinese refugees; jointly, to the Committees on Foreign Affairs, and the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2462

By Mr. McCLOSKEY:

—On page 2, line 13, strike $101,000,000" and insert in lieu thereof "$32,000,000".

—On page 2, line 23, after "series" insert ": *Provided further*, That no funds authorized by this paragraph may be used to construct any vessel which will have a subsidized manning level 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessel.".

—On page 3, line 4, after "Defense" insert ": *Provided further,* That no funds authorized by this paragraph may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, the American Maritime Officers Service, or to any other organization which engages in lobbying activities.".

—On page 4, after line 5, add:

"SEC. 5. Notwithstanding any other provision of law, the Secretary of Commerce may, under the same terms and conditions applying to vessels built in the United States, make the operating-differential subsidy provided for in section 601 of the Merchant Marine Act, 1936 (46 U.S.C. 1171), and government-impelled cargoes provided for in section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241), available to any vessels that is contracted for or purchased by a United States citizen in fiscal year 1980 and subsequently documented under the laws of the United States.".

H.R. 3000

By Mr. GOLDWATER:

—Page 10, after line 10, insert the following:

(4) Intermediate Scale Technology Demonstration Project (site unspecified)—

(a) The Secretary shall promptly initiate and carry out a project, as provided in this section 107(B)(4), to construct a technology demonstration repository capable of receiving up to one thousand (1000) tons of solidified nuclear wastes. The Secretary shall take the steps necessary to insure that such repository shall be capable of operating by September 30, 1985.

(b)(1) As soon as practicable, but no later than six months after the date of enactment of this Act, the Secretary shall make a preliminary determination on (A) the location of one or more sites suitable to serve as a technology demonstration repository, and (B) suitable techniques and methods for the design, construction, and operation of a technology demonstration repository. In making such determination, the Secretary shall specifically consider candidate sites located on Federal Government lands in basalt media at Hanford, Washington, and in tuff or granite media within or immediately contiguous to the Nevada Test Site.

(2) The Secretary shall report his preliminary determination to both Houses of Congress by written communication within fifteen days after the date such determination is made.

(c)(1) Within six months after the preliminary determination required under subsection (b), the Secretary shall select a specific site for a Federal technology demonstration repository and suitable techniques and methods for the design, construction, and operation of such repository. Upon selecting such site, techniques, and methods, the Secretary shall (A) submit a report to both Houses of Congress specifying the reasons for making such selection and an estimate of the total cost of such repository, and (B) authorize the initiation of detailed design activity and completion of site—specific geology directed toward the ultimate construction and operation of such repository.

(2) Any actions taken under this subsection shall take into account, as fully as possible, the preliminary determination made by the Secretary under subsection (b).

(d) The Secretary shall authorize construction of the technology demonstration repository if he finds that there is reasonable assurance that the detailed design for the construction of the repository, including necessary structures related thereto, can be implemented in a manner compatible with the use of such site for such repository.

(e) The Secretary shall submit to both Houses of Congress a report, by no later than September 30, 1980, specifying the construction schedule for the technology demonstration repository; Provided, That such schedule shall insure that the repository is in operation by September 30, 1985. Such schedule shall, to the maximum extent possible, include specific dates for the commencement and completion of construction on such repository.

(f) As soon as he deems necessary, the Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, operate, and maintain such facilities, major items of equipment, and real property (including, where appropriate, any interest therein) as may be necessary to meet the objectives of this section. Free title to all such facilities, items of equipment, and real property shall be vested in the United States.

(g)(1) The Secretary shall provide funds, by contract (to the extent provided in appropriation Acts), to initiate, continue, supplement, and maintain research, development, and demonstration activities which are necessary to carry out his duties under this section. The Secretary may enter into such contracts with any person.

(2) Each contract under this section shall be entered into in accordance with such rules as the Secretary may prescribe under the provisions of this section. The Secretary may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(h) In carrying out the project, the Secretary shall consult with the heads of appropriate Federal agencies and other persons as he deems fit.

(i) For the purposes of this section 107(B)(4)—

(1) the term "nuclear wastes" means the high-level radioactive wastes, and transuranium contaminated wastes, resulting from civilian nuclear fuel reprocessing operations;

(2) the term "technology demonstration repository" means a federally owned and operated test facility in the form of a physical structure or earthwork capable of permamently disposing of nuclear wastes, and shall include underground and supporting facilities necessary to receive, prepare, conduct tests with, and permanently store such materials; and

(3) the term "operation" means testing carried out in the technology demonstration facility to insure that nuclear waste management technology is demonstrated in an integrated fashion.

(j) There is hereby authorized to be appropriated to the Secretary not to exceed $5,000,000 for the fiscal year ending September 30, 1980 to carry out the project. Any amount appropriated pursuant to this paragraph shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

By Mr. MINETA:

—At Section 104, line 25, (D) Ocean systems, strike the authorization "$23,600,000" and substitute in lieu the amount of "$28,600,000".

H.R. 4040

By Mr. HARRIS:

—Page 33, after line 8, add the following new section:

EXTENSION OF PERIOD FOR CERTAIN RESERVISTS TO ELECT COVERAGE UNDER SURVIVOR BENEFIT PLAN

SEC. 818. Section 208 of the Uniformed Services Survivors' Benefits Amendments of 1978 (Public Law 95–397; 10 U.S.C. 1447 note) is amended—

(1) by striking out "the end of the nine-month period beginning on the effective date of this title" and inserting in lieu thereof "January 1, 1980"; and

(2) by striking out "at the end of the one-year period beginning on the effective date of this title" and inserting in lieu thereof "on March 31, 1980".

By Mr. KOSTMAYER:

—Page 24, line 8, strike "1981" and insert in lieu thereof "1982".

—page 24, line 3, strike "1981" and insert in lieu thereof "1983".

—Page 24, line 11, strike"(A) war reserve stocks;" and redesignate the following subsections accordingly.

—Page 24, beginning on line 12, strike "(B) command, control, and communications systems (including the susceptibility of such systems to degradation by potential overt activities of the Warsaw Pact);" and redesignate the following subsections accordingly.

—Page 24, line 16, strike "(C) electronic warfare capabilities;" and redesignate the following subsections accordingly.

—Page 24, beginning on line 17, strike "(D) offensive and defensive chemical warfare capabilities;)" and redesignate the following subsections accordingly.

—Page 24, beginning on line 19, strike "(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);" and redesignate the following subsections accordingly.

—Page 24, line 22, strike "(F) armor and antiarmor capabilities;" and redesignate the following subsections accordingly.

—Page 24, line 23, strike "(G) firepower capabilities;" and redesignate the following subsections accordingly.

—Page 25, beginning on line 1, strike "(H) forward deployed units and the proximity of such units to assigned general defensive positions;" and redesignate the following subsections accordingly.

—Page 25, line 4, strike "(I) the availability of ammunition;" and redesignate the following subsections accordingly.

—Page 25, beginning on line 5, strike "(J) the availability, responsiveness, and overall effectiveness of reserve forces;" and redesignate the following subsections accordingly.

—Page 25, beginning on line 7, strike "(K) airlift capabilities to meet reinforcement and resupply requirements;" and redesignate the following subsections accordingly.

—Page 25, beginning on line 9, strike "(L) the ability to protect, cross-service, and stage air assets from allied air fields;" and redesignate the following subsections accordingly.

—Page 26, line 17, strike "1979" and insert in lieu thereof "1981".

—Page 26, line 17 strike "1979" and insert in lieu thereof "1980".

—Page 26, line 21, strike "$75,000,000" and insert in lieu thereof "$100,000,000".

—Page 26, line 22, strike "$300,000,000" and insert in lieu thereof "$500,000,000".

—Page 26, line 22, strike "$300,000,000" and insert in lieu thereof "$400,000,000".

—Page 26, line 24, strike "20 days" and insert in lieu thereof "60 days".

—Page 26, line 24, strike "20 days" and insert in lieu thereof "40 days".

—Page 27, line 1, strike "30 days" and insert in lieu thereof "60 days".

—Page 27, line 1, strike "30 days" and insert in lieu thereof "40 days".

H.R. 4839

By Mr. KRAMER:

—Page 40, after line 23, insert the following new section:

PROMULGATION OF REGULATIONS

SEC. 202. (a)(1) No regulation promulgated by the Secretary of Energy on or after the date of the enactment of this Act shall be effective after the expiration of the two-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation. In the case of any regulation promulgated by the Secretary of Energy before the date of the enactment of this Act, such regulation shall not be effective after the expiration of the two-year period beginning on the date of the enactment of this Act unless the Congress expressly provides for the continuance of such regulation.

(2) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under paragraph (1), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of paragraph (1).

—Page 40, after line 23, insert the following new section:

PROMULGATION OF REGULATIONS

SEC. 202. (a) (1) No regulation promulgated under the funding authority of this bill by the Secretary of Energy on or after the date of the enactment of this Act shall be effective after the expiration of the two-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation.

(2) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under paragraph (1), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of paragraph (1).

H.J. RES. 74

By Mrs. HOLT:

—Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

Article —

SECTION 1. No student shall be compelled, on account of race, color or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

SENATE—*Monday, July 23, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. DAVID H. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the face of life's mysteries give us faith to believe that all things work together for good to them that love Thee. May we love Thee with our whole heart and mind and soul and strength that through us Thy purpose for the world may go forward. May this be a good day and the beginning of a good week, bright with the promise of constructive achievement and bright with some fulfillment of national purpose. When we cannot see the distant scene, help us to take one step at a time and trust Thee for the rest.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID H. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE PRODUCES

Mr. ROBERT C. BYRD. Mr. President, last week was a very productive week for the Senate, and I want to thank my colleagues for their cooperation and hard work in completing some very important measures which came up for consideration.

The Senate passed and sent to conference three appropriations bills: Agriculture, energy and water development, and Labor-HEW. I commend the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, and its ranking minority member, Mr. YOUNG, as well as the members of the committee and the chairmen and ranking Republican members of the subcommittees of the Appropriations Committee for the attention they have given to completing action on these bills in a timely manner.

The Senate also agreed to the conference report to H.R. 4289, supplemental appropriations for fiscal year 1979. That conference report will provide new budget authority for important Federal programs, including the food stamp program, child nutrition programs, the black lung disability trust fund, the Railroad Retirement Board, and others.

In addition to these appropriations bills, the Senate also passed S. 562, authorizing funds for fiscal year 1980 for the Nuclear Regulatory Commission. The funds authorized in this measure will assist the NRC in fulfilling its responsibilities in the important areas of nuclear energy safety, inspection of reactors, enforcement of its regulations, and action on State emergency plans. The distinguished Senator from Colorado (Mr. HART), chairman of the Nuclear Regulation Subcommittee of the Environment and Public Works Committee, and the distinguished Senator from Wyoming (Mr. SIMPSON), the ranking minority member of the subcommittee, did an excellent job of managing the bill, and their expertise in the field of nuclear energy policy was clearly demonstrated.

My distinguished senior colleague from West Virginia, JENNINGS RANDOLPH, chairman of the Committee on Environment and Public Works, played an integral part in reporting a measure which reflects our commitment to nuclear energy safety.

The Senate last week also disposed of H.R. 3661, Navajo-Hopi Relocation Commission; House Concurrent Resolution 10, Americans Missing in Southeast Asia; S. 221, Congressional Award program; Senate Resolution 196, National Jogging Day; Senate Resolution 188, Tax Exempt Mortgage Bonds; and S. 390, Antitrust Procedural Improvements, and other measures. I want to extend my sincere appreciation to every Senator for the work and cooperation each Senator has given to the expeditious consideration and disposal of these measures.

The Senate conducted its first Saturday session of this Congress last week, during which time the Senate completed action on S. 737, the Export Control Act. I know it is hard for Senators to come in on Saturday to conduct the Senate's floor business. After a long, arduous week, Senators would like to have time to spend with their families. Saturday workdays do not leave us very much time for that. But cognizant of our responsibility and the numerous measures on the Calendar, the Senate came in on Saturday to pick up where the Senate left off Friday evening at 8:48 p.m.

So, Mr. President, let me again thank my colleagues on both sides of the aisle for their cooperation and hard work. Especially I want to express my gratitude to the minority leader and the acting minority leader (Mr. STEVENS), and also to the majority whip and the Secretary of the Democratic conference, the committee chairmen, and the ranking minority members of the committees, all of whom had a major part in the accomplishments of this past week. It is my hope that we will continue to proceed in this manner so that we may dispose of measures on the Calendar in a timely fashion.

I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, I thank the distinguished majority leader for his remarks recounting the progress of the Senate to date, and especially his laudatory remarks about the participation of the minority.

I think it has been a high point of this session that the majority leader has agreed to meet periodically with me and others to try to arrange the schedule of the Senate. We have had good success at those meetings so far, and I think it has been mutually beneficial. I know it has been helpful on this side of the aisle, in that it gives our Members a chance to gain some insight into the progress of the work, and give some suggestions and hopefully insight, as it were, into the matters to come before the Senate.

Since that is the special province of the majority and the majority leader handles it with such cooperation and grace, I want to take this opportunity to thank him for that cooperation, and say that I look forward to our continuing that practice for the remainder of the time before our August recess, and then even the balance of this legislative year.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished minority leader yield?

Mr. BAKER. I will be happy to yield, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, this has been my practice from the beginning. I think it is a matter that requires cooperation between the leaders on both sides of the aisle. I have found it productive, and intend to continue the practice.

Mr. BAKER. I thank the majority leader. We intend to try to continue to cooperate. I hope that soon we may have another meeting, so that we may explore further areas of cooperation.

Mr. ROBERT C. BYRD. As the distinguished minority leader knows, we discussed that this morning, and we agreed to meet today.

Mr. BAKER. I know. I wanted to let our friends know we were doing that.

Mr. ROBERT C. BYRD. I am not sure our friends care too much. They probably have their hands full.

Mr. BAKER. Perhaps they will care more after the time is over.

Mr. ROBERT C. BYRD. Perhaps.

Mr. BAKER. I thank the Senator.

Mr. President, I have no further need for my time, and no requests for time.

VITIATION OF ORDER FOR THE RECOGNITION OF SENATOR EXON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. Exon be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is morning business ordered?

The ACTING PRESIDENT pro tempore. Morning business has not been provided for.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period of up to 15 minutes for the transaction of routine morning business, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HENRY HALL WILSON

Mr. HELMS. Mr. President, both Senator Morgan and I lost a dear friend over the weekend—Henry Hall Wilson of Monroe, N.C., who died in a Charlotte hospital yesterday.

I grew up with Henry in Monroe. Indeed, he was one of my closest boyhood friends. My earliest recollection of him is that, even as a child, he possessed remarkable characteristics of intelligence, integrity, and honesty. He was a fine musician in high school and college. If memory serves me correctly, I believe he won the national championship as an oboe player. He led our church choir.

Then he went off to Duke University, where he was a top-flight student. After graduation, he began his career as an attorney, and became active in politics.

I shall not attempt to review his career in politics and government, Mr. President, but suffice it to say that he later served as administrative assistant to President Kennedy and President Lyndon B. Johnson. From Washington, he went to Chicago as president of the Chicago Board of Trade.

He was a fine American, Mr. President. He was a fine citizen. And he was a treasured friend. Mrs. Helms and I extend our deepest sympathy to his dear family.

I ask unanimous consent that an article from today's Greensboro, N.C., Daily News be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Former Aide to Kennedy, Johnson Dies

Henry Hall Wilson, Jr., former state legislator, U.S. Senate candidate and administrative assistant to President Kennedy and Johnson, died Sunday in Charlotte. He was 57.

Wilson had been in declining health for nearly a year, according to his family. He died in Charlotte's Presbyterian Hospital, where he had been a patient since July 3.

A native of Monroe, Wilson left North Carolina in 1960 to work as an administrative assistant for President John F. Kennedy, serving as a liaison between the executive branch and the House of Representatives. Wilson continued in the same position for President Lyndon B. Johnson, eventually becoming the senior White House staff member.

In 1967, Wilson left Washington to become president and chief executive officer for the Chicago Board of Trade, one of the country's major stock and commodity exchanges. In 1968, Johnson appointed him head of a commission to travel to Eastern Europe to promote international trade.

Wilson announced his candidacy in 1973 for the U.S. Senate seat now held by Robert Morgan but his 13-year absence from the state and his association with the Chicago Board of Trade plagued his campaign with charges of involvement with out-of-state interests. He placed third behind Morgan and Nick Galifianakis.

After the Senate campaign, Wilson served as a business consultant and was working on a book about relationships between presidents and congresses when he died.

U.S. Senator Jesse Helms, D-N.C., who was Wilson's high school classmate in Monroe, described him as one of his closest boyhood friends. "He had a great mind and had to be one of the most intelligent fellows I knew when we were growing up," Helms said. "It wasn't surprising that he went on to have a brilliant career."

Wilson was also a high school classmate to James Wilson "Bud" Nance, who went on to become rear admiral in the Navy and skipper of the aircraft carrier USS Forrestal. Retired from the Navy, Nance is a member of the staff of the Senate Foreign Relations Committee.

Other classmates included Bruce Snider Jr., a saxophonist in Tommy Dorsey's band. Former gubernatorial candidate Skipper Bowles graduated in Monroe one year ahead of Wilson.

"All of us were very close back in those days," Helms said.

Wilson is survived by his wife, Mary; daughters, Jean Wilson Mulvihill of Durham and Nancy Wilson of Cambridge, Mass.; a son, Henry Hall Wilson III of Charlotte; a brother and a sister.

Graveside services will be held at 11:30 a.m. in Monroe with memorial services following at 4 p.m. in Monroe's First Baptist Church.

Mr. MORGAN. Mr. President, I learned today of the death of a very distinguished citizen of my State, Henry Hall Wilson. He served ably and well in the administrations of John F. Kennedy and Lyndon Johnson.

During the last several days, Mr. President, the matter of leadership has been paramount in the minds of most of us. We have watched a President search his soul and make bold moves in order to seize the reins of leadership and provide new direction for our country. We have seen the Congress concerned about its relationship with the President and heard Members of the Senate and House call for a closer partnership between the legislative and executive branches.

In short, it has been an exciting time in Washington and I am sure that no one would have followed the events of the last couple of weeks with greater interest and could have analyzed them with greater insight than my fellow North Carolinian Henry Hall Wilson, Jr., of Monroe, who served with great distinction and effectiveness as Director of Liaison with the House of Representatives for President John F. Kennedy. Unfortunately, Henry Hall has been extremely ill in past weeks and just this morning, I received word that he died last night in a Charlotte hospital.

There are many here in the Senate

who remember the kind of leadership Henry Hall Wilson helped provide here in Washington and have long considered him their friend and adviser. He knew Washington, he knew the Congress, he knew the White House. And he knew how to bring people together to accomplish things here in the Nation's Capital. During the Kennedy years, he was a mainstay of the White House staff and a familiar and welcome figure in the Halls of the Congress. Doors were open to him and he opened doors for the President. He took the dreams of Camelot and, working with the Congress, helped make them reality.

Henry Hall stayed on with President Lyndon Johnson and served as an administrative assistant to him until 1967 when he left to head the Chicago Board of Trade. For 8 years he resided in Chicago, as deeply involved in the commercial life of our Nation as he had been its political life previously. But he wanted to come home to North Carolina, and in 1974, he returned to Monroe and, not surprisingly, politics.

He chose to run for the Democratic nomination for the U.S. Senate and he made that race at great personal and financial sacrifice. He and I, along with a number of other persons, competed for the seat I now hold and Henry Hall and I campaigned on the same platforms across North Carolina. He was a learned man, a student of government, and ever a gentleman. His campaign was conducted on the highest level and I enjoyed my close association with him. His campaign received invaluable aid from his wife Mary, and my wife and daughters, who traveled and campaigned with me, came to love Mary Wilson as well as Henry Hall.

North Carolinians have always been proud of Henry Hall Wilson. And they should have been. He served them in the State legislature for some 6 years and was a progressive and forceful legislator. Former Gov. Terry Sanford was a close political associate of his and relied heavily on his advice and assistance. Henry Hall Wilson carried the banner for Terry Sanford and helped elect him Governor of my State. And he carried the banner for John F. Kennedy in my State and helped elect him President of the United States. Neither forgot what Henry Hall had done for them and, as I mentioned, John Kennedy brought him to Washington as a member of the White House staff to head relations with the House of Representatives.

I am saddened today by the death of Henry Hall Wilson, Jr., my friend, and I thank the Chair for allowing me these few moments to reflect upon his distinguished career and his service to the U.S. Congress and to two Presidents, John F. Kennedy and Lyndon Baines Johnson. I extend my deepest sympathy to his wife, Mary, his daughters Jean and Nancy, his son Henry Hall Wilson, III, and the other members of the family. I hope they will be comforted by the fact that there are many persons throughout the State and Nation who share their loss and are thinking of them at this time.

I ask unanimous consent that an obituary from today's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HENRY H. WILSON, EX-LEGISLATIVE AIDE WITH KENNEDY AND JOHNSON

Henry Hall Wilson Jr., 57, a former legislative aide to presidents John F. Kennedy and Lyndon B. Johnson, died of a gastrointestinal ailment Sunday in a Charlotte, N.C., hospital.

He came to Washington in 1961 to serve under Lawrence F. O'Brien, who then was special assistant to the president for congressional relations. Mr. Wilson's responsibility was liaison work with the House of Representatives, especially the Southern delegations.

Mr. Wilson was an administrative assistant to President Johnson in 1967 when he left the government service to become president of the Chicago Board of Trade. He left the Board of Trade eight years later to run unsuccessfully for the Senate from North Carolina.

He was a native of Monroe, N.C., and a graduate of Duke University and its law school. He served in the North Carolina state legislature for six years before coming to Washington.

Survivors include his wife, Mary, of the home in Monroe; two daughters, Jean Mulvihill, of Durham, N.C., and Nancy E. Wilson, of Cambridge, Mass., a son, Henry Hall Wilson III, of Charlotte; a brother, John, of Toledo and a sister, Anne Yard, of Upper Montclair, N.J.

Mr. KENNEDY. Mr. President, I want to say this comes as sad and tragic news. I had the personal good fortune of knowing Henry Wilson. It is ironic that we would be considering trade legislation today, since he was one of the real leaders in the early day of trying to work out trade negotiations and a variety of other issues.

Henry H. Wilson Jr. served on the White House congressional relations staff during the administration of President Kennedy.

A native of Monroe, N.C., Henry Wilson was a graduate of Duke University and its law school. He had served in the North Carolina legislature for 6 years before coming to Washington in 1961 to work with Lawrence F. O'Brien, who was then special assistant to President Kennedy for congressional relations. Mr. Wilson's primary responsibilities included liaison work with the House of Representatives, but he was also well known to Members of the Senate.

I recall the high regard in which President Kennedy held Henry Wilson, and the extraordinarily valuable service he ably provided.

I would also like to take this opportunity to extend my sincere condolences to his wife and children. Henry Wilson was an outstanding public servant who made many worthwhile contributions to the Nation, and all of us who knew him mourn his passing.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired. Morning business is closed.

INCREASED AUTHORIZATION FOR 1979 FOOD STAMP PROGRAM

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1309, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1309) to consider the fiscal year 1979 authorizations for appropriations for the food stamp program.

The Senate resumed consideration of the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert the following:

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATIONS; REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,158,900,000" in the first sentence of subsection (a) and inserting in lieu thereof "$6,778,900,000";

(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: "The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

(3) striking out "If" in the second sentence of subsection (b) and inserting in lieu thereof "Notwithstanding any other provision of this Act, if"; and

(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.".

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

Sec. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) inserting in the fourth sentence after "Households" the following: ", other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act,"; and

(2) adding at the end thereof a new sentence as follows: "Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act shall also be entitled to—

"(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or older or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deduction have been allowed.".

DEFINITION OF ALLOWABLE MEDICAL EXPENSES

Sec. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"(q) 'Allowable medical expenses' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.".

EFFECTIVE DATE

Sec. 4. The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the amendment of the Committee on Agriculture, Nutrition, and Forestry to S. 1309 be agreed to and the bill, as amended be considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of and votes on S. 1309; Henry Casso, Carl Rose, Marshall Matz, Bill Lesher Steve Storch, George Dunlop, and John Bode.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Nancy Foster of Senator Stone's staff, Joe Richardson of the Congressional Research Service and John Siegel of Senator Ribicoff's staff, be granted the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, S. 1309, the legislation that is now pending before the Senate, makes a number of urgently needed changes in the Food Stamp Act of 1977.

The Food Stamp Act of 1977 was a bipartisan piece of legislation that substantially restructured the food stamp program.

It attempted to restrict eligibility to only those who were in need of assistance, and, at the same time, make the program more accessible to those Congress wanted the program to serve.

I think it is fair to say that all members of the Committee on Agriculture, Nutrition, and Forestry, as well as other Senators, have been concerned about any indication that the food stamp program contained abuses or was being exploited unfairly by people who were not entitled to participate in the program. However small a percentage of the program those cases represented, any percentage is too large. For that reason, the 1977 act was passed, after many months of deliberation and care on the part of the committee, to correct what we perceived as either actual abuses or possible abuses in the program.

To this end, we eliminated the purchase requirement that had been the subject of a great deal of abuse and some fraud, as well as a provision that had excluded some of the poorest people from the program.

Second, we established a gross income ceiling for the first time, so that once a family got up to a certain level of income, no matter how many other considerations might exist, they were ineligible for participation in the program.

We adopted a strong work registration provision to get at the charge that was made that some people who were eligible to work were using food stamps rather than working. I believe we wrote a very stiff program in the law aimed at that problem.

We put limits on the assets that any food stamp participant could have and still qualify for the program, and we restricted student participation in the program, which was one area of abuse that disturbed a number of members of the committee.

By and large, I think we succeeded in correcting most of the abuses in the program; and I have no hesitancy in saying to my fellow Senators and my fellow Americans that the food stamp program works and it works very well.

It provides minimal benefits that come to about 33 cents per meal for each participant, on the average; 50 percent of all food stamp households have incomes under $3,600 a year, and some 75 percent of all the people receiving food stamps are in families with incomes of under $4,800 a year; 85 percent have incomes under $6,000.

So the notion that, somehow, the food stamp program is being given to people with comfortable incomes simply does not withstand the facts. Most of the people—nearly all the people—in the food stamp program can truthfully be classified as poor people.

When a team of medical experts sponsored by the Field Foundation went out into the country as a 10-year followup to President Nixon's 1969 Declaration of War on Hunger in America, they found:

> Our first and overwhelming impression is that there are far fewer grossly malnourished people in this country today than there were 10 years ago . . . the facts of life for Americans living in poverty remain as dark or darker than they were 10 years ago. But in the area of food there is a difference. The food stamp program, the nutritional component of Head Start, school lunch and breakfast programs, and to a lesser extent the women-infant-children (WIC) feeding programs have made the difference.

Mr. President, this foundation, the Field Foundation, is the same one that 10 years earlier had found widespread and obvious and painful malnutrition among millions of Americans. Now they are reporting a dramatic improvement in the nutritional health of the American people.

TWO EMERGENCIES

Notwithstanding this general overview, the food stamp program is now faced with two emergency situations that require congressional action:

Extraordinary food-price inflation and the entrance of new recipients earlier than had been expected due to elimination of the food stamp purchase requirement, have forced program funding needs above the 1979 appropriations ceiling set in 1977. This has created the prospect of drastic emergency reductions in food stamp benefits this summer and fall, unless Congress acts to increase the 1979 appropriations ceiling.

Changes in the food stamp eligibility and benefit rules legislated in 1977 are causing severe hardships among elderly and disabled recipients with high medical and shelter expenses. Their benefits will continue to be insufficient to insure an adequate diet, unless Congress acts to allow their extraordinary medical and shelter expenses to be taken into account.

S. 1309 addresses both of these situations. It would raise the 1979 appropriations ceiling on the food stamp program to a point where current food stamp benefits may continue through this fiscal year. Further, it includes provisions that should help deal with this type of situation in the future. Under the committee bill, monthly reports on food stamp funding and any need for benefit reductions will forewarn Congress of any future funding shortfalls, as well as allow the Secretary to reduce benefits, if necessary, on other than a pro rata basis.

The emergency situation now being faced by elderly and disabled recipients with high medical and shelter costs—forcing them to choose between food and absolutely necessary medical or shelter expenses—is ameliorated by providing that these expenses can be deducted when they consume excessive amounts of recipients' income.

INCREASE IN THE 1979 APPROPRIATIONS CEILING

Food prices are one of the primary determinants of the cost of the food stamp program. The 1979 appropriations ceiling was formulated in 1977, based on the best available estimates. Those estimates have simply proven to be wrong. Using fiscal year 1976 as a base period, 1977 projections of food price rises indicated a 16.9-percent increase by 1980 and a 21.8-percent increase by 1981. However, using the same base period, food price rises are now expected to average more than double those rates, a 38.2-percent increase by 1980 and a 48.1-percent increase by fiscal 1981. The effect of these changes is enormous. A single percentage point change in food price inflation has the potential of adding $60 million in benefit costs.

There has been a great deal of discussion about the causes of the need for increased 1979 appropriations. The fact of the matter is that the primary cause is food price inflation. It seems ironic to penalize food stamp recipients by reducing their allotments at precisely the time that inflation is undercutting the value of their existing allotments. That is precisely what would happen if S. 1309 is not approved. Section 18(b) of the Food Stamp Act of 1977 would mandate that pro rata cuts in allotments be accomplished if the Secretary finds that insufficient program funding is available. Without increased funding there will be insufficient funding for a portion of this fiscal year and reductions will have to be made.

The Food Stamp Act of 1977 contained two major modifications in program operations, first, the purchase requirement was eliminated and second, the allowable deductions under the program were restructured to insure that program benefits went to the lowest-income households.

The absolute number of new program participants was reasonably, although not exactly, forecast in 1977. However, what was not anticipated was the speed with which these new participants have entered the program. Rather than a phased-in, even growth in participation, there has been an extremely rapid front-end load. This is evidence of the fact that there were many people who were eligible for program participation who were unable to participate because of the purchase requirement. The 1977 act reduced program eligibility, but increased participation among those eligible.

The five distinguished members of the committee who filed minority views think that the Food and Nutrition Service has "blackmail(ed) Congress" through "deliberately defective administrative judgments."

This is a serious charge. However; I have found nothing that would lead me to believe that there was intentional mismanagement.

Not every decision made by the Food and Nutrition Service may have been mine if I operated the program, but the same could be said for any program. However, I have the benefit of hindsight. That is a luxury that administrators who have to make a decision do not have.

In any event, forcing reductions in benefits to 19 million food stamp recipients hardly seems to be the right avenue for attacking perceived fiscal irresponsibility by Federal administrators.

Both of the Oklahoma and Louisiana officials referred to in the minority views supported increasing the authorization ceiling.

Time is of the essence. The need for the increase in the 1979 appropriations ceiling is real and pressing, the supplemental appropriation for the program contained in H.R. 4289 is contingent upon the enactment of the authorizing legislation before the Senate.

REPEAL OF CARRYOVER AUTHORITY

Chairman Talmadge, the author of S. 1309, introduced an amendment in committee that was adopted that would repeal the carryover authority for the food stamp program, I share the concerns of my colleagues that the presence of carryover authority distorts true program costs. It is my hope that the removal of this authority will facilitate more accurate determinations of actual program costs.

REPORTING REQUIREMENTS AND THE METHOD FOR REDUCING ALLOTMENTS IF INSUFFICIENT FUNDING IS AVAILABLE

S. 1309 also contains an amendment offered by Senator LUGAR that would require the Secretary to file monthly reports, by the 15th day of each month, on food stamp program costs for the second preceding month. In each report, the Secretary is to state whether there is reason to believe that reductions in food stamp benefits will be necessary due to any insufficiency of appropriated funds. This new reporting requirement will keep Congress abreast of the status of the program to a for greater extent than is currently the case. A greater dialog between the Department and Congress will hopefully be initiated so that reasoned evaluations of program performance will be possible and that speculation over the reasons for programmatic decisions can be allayed.

The Lugar amendment would also permit the Secretary to make reductions in the value of food stamp allotments on other than a pro rata basis (by weighing reductions toward higher-income recipients) if such action becomes necessary due to any insufficiency of appropriated funds. The Secretary would also be authorized to prescribe first, special provisions applicable to the elderly and disabled and second, minimum allotments, if reductions in the value of allotments become necessary. These provisions will provide the Secretary with flexibility in the manner in which reductions are accomplished, if such reductions become necessary. As stated in the committee's report on S. 1309, the Lugar amendment does not change the standard in existing law to be followed by the Secretary in making a finding that the requirements of participating States will exceed available appropriations.

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE REDUCTIONS FOR ELDERLY AND DISABLED FOOD STAMP RECIPIENTS

Prior to the implementation of the eligibility and benefit provisions of the Food Stamp Act of 1977, all households participating in the food stamp program could deduct the amount of their actual shelter costs that exceeded 30 percent of their program income (after other deductions), without limit, and the amount of their actual medical expenses when they exceeded $10 per month. In effect, this allowed varying, sometimes substantial, portions of income to be disregarded in eligibility and benefit determinations.

Under the 1977 act, participating households can now deduct the amount of their actual shelter costs in excess of 50 percent of their program income (after other deductions), up to $90 per month if no dependent-care deduction is claimed. The new law incorporates the preexisting medical expense deduction into a $65 per month standard deduction ($70 per month effective July 1, 1979).

The increase from 30 to 50 percent in the trigger point for the excess shelter expense deduction coupled with the imposition of a ceiling on the amount allowable for that deduction and the elimination of a separate medical expense deduction have resulted in severe hardship for many participating households that contain an elderly or disabled person.

This situation has been further aggravated for these households by the establishment in the 1977 act of a uniform 30 percent benefit reduction rate. Under the 1964 act, the benefit reduction rates ("purchase requirements") were established so that they increased as household income and size increased. No participating household had a benefit reduction rate of 30 percent and the average was less than 25 percent. Due to the small size of elderly and disabled households, they had benefit reduction rates that were substantially below the 30 percent maximum, and even below the average.

During the consideration of the 1977 act, Congress recognized that some households would be rendered ineligible for program participation and that some households would lose benefits under the new provisions. However, the extreme severity of the benefit reductions now being experienced among the elderly and disabled was not foreseen.

In order to remedy this situation, S. 1309 reinstates an excess medical expense deduction for the actual medical expenses of food stamp recipients who are 60 years of age or older; or who receive SSI benefits, that exceed $35 per month. The ceiling on the excess shelter deduction for households containing these recipients would be removed. Senator STONE, a vocal proponent for the rights of the elderly and disabled, is largely responsible for the inclusion of this provision in the bill. He is to be commended for his fine efforts.

Mr. President, I yield the floor now to my colleague and friend, Senator HELMS.

Mr. HELMS. I thank the Senator from South Dakota.

Mr. President, S. 1309, as amended, was reported by the Senate Committee on Agriculture, Nutrition, and Forestry with the minority views of the Senator from North Carolina plus Senators HAYAKAWA, LUGAR, BOSCHWITZ, and JEPSEN.

While only Senator HAYAKAWA and I voted not to report the bill, we were joined by the others in the presentation of the minority views because of their realization of the need for stronger congressional control over the food stamp program in the face of mismanagement by the Federal food stamp officials.

The food stamp program is out of control. The very fact that we are considering this bill today is all the evidence we need to prove that assertion. This bill permits an increase in authorization for fiscal year 1979 by $999 million over the amount originally appropriated for this year. Mr. President, $1 billion is a big change of plans, and one that is immensely costly to the American taxpayers.

FUNDING OVERREACTION

Of course, this vast increase is an overreaction to the funding crisis experienced because of a combination of mismangement and inflation. The Congressional Budget Office has reported to me that the Food and Nutrition Service simply does not need that much money. In fact, CBO has reported that FNS would need only $666 million more to run the program.

I must say $666 million, Mr. President, is a lot of money down where I come from.

I am afraid Congress has become so accustomed to mismanagement of the food stamp program that Congress finds it necessary to add an extra $330 million for just a couple of months remaining in this fiscal year. The arithmetic of that speaks for itself. That is why this Senator feels obligated to continue to do what he can to cut back on the abuse of this program and the concurrent abuse of the American taxpayer.

Senators may recall the efforts Senator HAYAKAWA and I made to reduce the supplemental appropriations bill on June 25 and 26. We were not successful in those efforts.

The Senate voted, and I am convinced unwisely voted, to provide hundreds of millions of dollars more than the Congressional Budget Office said was necessary.

I note that events have proven the Senator from California (Mr. HAYAKAWA) and me correct because, after adopting its new economic assumptions, which were well publicized because of the increase that had been forecast in unemployment with continued high inflation, the Congressional Budget Office has made only a very moderate adjustment in its projection of program costs for the fiscal year 1979. In addition, CBO now refuses to provide range estimates of program costs because it is pointless to continue a program of cost estimates based upon economic assumptions that we clearly will not experience.

It is also of interest that the Conference Committee on the 1979 Supplemental Appropriations bill voted to reduce the level of funding for the food stamp program by some $88 million even before this latest CBO information was available. I am confident that the economy of the Congressional Budget Office estimates which the Senator from California and I have endorsed will be further supported by the light of experience.

MISMANAGEMENT

In any case, Mr. President, the minority views expressed in the report on this bill detail, specifically, the reasons the Food and Nutrition Service got itself into the situation of requiring any additional funds.

I believe we have effectively documented the mismanagement and blunders that caused the massive cost overruns. The upshot of our report is that Food and Nutrition Service officials have not given the slightest attention to the need for thrifty management of their budget, and have made decisions that anyone with common sense could have determined would have had adverse budgetary impact. And I call attention to the minority views to which I alluded earlier because these views outline that information in detail and Senators, or their aides, who may be listening to this debate by loudspeaker in their offices might well at this point obtain a copy of the minority views and look at them.

This Senator from North Carolina believes it is time for Congress to stop bailing out every Federal agency which acts in wanton disregard of the budgetary process and of sound fiscal management. The food stamp program, in particular, is crying out for a reassertion of congressional control.

FRAUD

The food stamp program is surely one of the most problem ridden of all Federal efforts of its kind. I can think of no other program in which there is so much potential for fraud and abuse.

There is not a Senator in this Chamber who does not hear constantly from his or her constituents regarding the food stamp program. Certainly this Senator does.

What distresses me most is the realization that future generations will have to pay for the funds now being borrowed to provide food stamps for people who cheat. Those are blunt words, Mr. President, but they fit the situation.

And as my colleagues probably realize, the public is thoroughly disenchanted with this program. My distinguished colleague from North Carolina, Mr. MORGAN, conducted a survey not long ago in which he found a majority of our constituents—Mr. MORGAN's and mine in North Carolina—feel that the food stamp program should be eliminated entirely. Those are the findings of Mr. MORGAN's constituent survey. Personally, I believe the reason this hostility is based on the fact that fraud in the food stamp program is so highly visible.

While the management of the program at the Federal level does little to inspire public confidence and the esteem of their associates in the State food stamp agencies, part of the blame for the extensive abuse in the program lies in the deficiencies in the Food Stamp Act itself. This act certainly needs tightening if the program is to be managed with any degree of fiscal responsibility.

ADMINISTRATIVE CHANGES

To help address some of the deficiencies in the act, I have worked closely with a bipartisan coalition of the members of the Agriculture Committee to develop four amendments to S. 1309. All of these amendments are very reasonable administrative changes directed toward the prevention of fraud in the program. I believe that any Senator who has concern for sound management and fiscal responsibility will support the amendments.

These amendments are an effort to strike at the problem of fraud and abuse in the program. They are designed to insure that ineligibles do not draw benefits and thereby sap the resources of the program. Simply put, these amendments strike at the greedy, but not the needy.

Now, let me make it clear that these amendments will not entirely solve the many problems that plague the program. Frankly, they will only scratch the surface in terms of saving the hundreds of millions of dollars that are wasted each year in this program. However, they are a step in the right direction.

They establish the basic principle that the regulations under which the program is managed ought to be drawn with an eye toward a frugal and fiscally responsible administration of the program. They reassert congressional control, and implement needed reforms intended to be effective at the earliest date possible.

The amendments that I alluded to earlier are simple administrative changes which will cause clear results. They are not complicated amendments requiring extensive study or sophisticated knowledge of the program. To be honest about it, Mr. President, I have withheld complicated amendments for the time being because this bill is not the proper vehicle for such changes. There will be ample opportunities for more thorough legislative initiatives later, and I will guarantee the Chair that this Senator is prepared to propose them at the proper time.

But there is no reason for delaying the implementation of simple program changes that can have immediate and effective results.

Mr. President, I ask unanimous consent that copies of correspondence that I have had with the Congressional Budget Office be printed in the RECORD.

There being no objection, the letters

were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 11, 1979.

Dr. Alice M. Rivlin,
Director, Congressional Budget Office,
Washington, D.C.

Dear Dr. Rivlin: In the past months you have been good enough to provide my colleagues and me continued updates of estimated food stamp program costs for fiscal year 1979, assuming the amendment of the program's authorization limit. I appreciate the efforts of you and your staff.

Would you please assist us further by providing me any available revised estimate of fiscal year 1979 food stamp program costs based upon your latest economic assumptions and more current program data? Also, since my colleagues have in the past obtained from you range estimates, please provide me the range in which you now estimate total program costs for fiscal 1979 will fall.

I would be most appreciative of a response to my request this week.

With kindest regards.

Sincerely,

Jesse Helms.●

Congressional Budget Office,
Washington, D.C., July 13, 1979.

Hon. Jesse Helms,
U.S. Senate, Washington, D.C.

Dear Senator Helms: This letter responds to your request of July 11, for the most current fiscal year 1979 food stamp program estimates given our latest economic assumptions.

The Congressional Budget Office recently released an update to its economic projections for 1979 and 1980. This report is enclosed. Inflation, especially in the fuel and food sectors, has been worse than projected earlier this year. CBO concludes that the most likely outcome for the remainder of 1979 is a mild recession with rising unemployment and high, but moderate rates of inflation.

The new economic assumptions coupled with preliminary food stamp program data through the month of April, results in a small upward adjustment to our estimate prepared in May. The latest April participation figures of 18.9 million persons show practically no increase over the previous months. This stabilization in program growth had previously been projected by the CBO.

Total food stamp obligations for fiscal year 1979 are now projected to be $6,817 million. This represents an upward adjustment of approximately $40 million from our previous estimate. Accounting for unobligated fiscal year 1978 appropriations, the revised estimate suggests a needed new appropriation of $6,478 million. This would be $320 million over the current law's authorization ceiling of $6,159 million.

My staff has already discussed with your staff the issue of providing range estimates for fiscal year 1979. While some variability in the estimate is to be expected, no further range estimates will be provided for fiscal year 1979.

I hope this information will be of assistance to you. If you have any further questions, please let us know.

With best wishes,

Sincerely,

Alice M. Rivlin,
Director.

Mr. HELMS. Mr. President, I ask unanimous consent that Senator Boschwitz be added as a cosponsor of printed amendments 317, 318, 319, and 320.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, Senator McGovern intends to offer substitute language for this bill as reported out of the committee. Since that substitute language includes the four amendments to which I alluded earlier, I think it would conserve the Senate's time for the distinguished Senator to move his substitute language now rather than for me to offer the amendments that I had planned to move at this time.

So if he is ready I will yield.

Mr. TALMADGE. Mr. President, will the Senator withhold that until I make a few brief remarks?

Mr. McGOVERN. Yes.

Mr. HELMS. I am delighted to do so and yield to my friend from Georgia.

Mr. TALMADGE. I appreciate that.

Mr. President, first, I desire to compliment the distinguished chairman of the subcommittee, the Senator from South Dakota, and the distinguished ranking minority member of our full committee, the distinguished senior Senator from North Carolina, for the outstanding work that they have done in this regard.

I was one of the original authors of the food stamp program. I share the view of the distinguished Senator from North Carolina that this program has gotten out of hand in many instances, and I have voted for amendments from time to time to try to correct some of the loopholes and reduce the number of people of substantial incomes who participated in the food stamp program.

I know of nothing that makes the average American madder than to see families whose incomes are greater than his own on food stamps and on welfare when they themselves are hard working and drawing no benefits whatever from the Government.

However, this particular bill is necessary legislation because the act is now on the statute books, and if that is to be funded, it is necessary that this bill pass today.

Some of the amendments that have been suggested by the distinguished Senator from North Carolina have been incorporated in a substitute amendment that will be offered by the distinguished chairman of the subcommittee, and I support those amendments.

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATIONS

S. 1309 would increase the fiscal year 1979 authorization for appropriations for the food stamp program by $620 million, from $6,158,900,000 to $6,778,900,000. The supplemental appropriation for the program contained in H.R. 4289 is contingent upon the enactment of the authorizing legislation.

The increase in the 1979 authorization ceiling is an emergency measure. If the current authorization ceiling for fiscal year 1979 remains in effect, adequate funds will not be available and allotments will have to be reduced under section 18(b) of the Food Stamp Act of 1977. This would be totally contrary to the purpose of the food stamp program. Poor people who are participating in the program because of insufficient purchasing power will have their food stamp benefits reduced because of higher food prices, thereby further reducing their food purchasing power. A period of sharply escalating food prices is precisely when recipients need adequate food stamp benefits the most. These are people who are powerless to alter the course of food price inflation and who, without this bill, will be heavily penalized for this same inflation.

The increase in the 1979 authorization ceiling is simply a recognition of the fact that food stamp program costs for fiscal year 1979 have increased significantly above those estimated in 1977 when the existing ceiling was set.

The Committee on Agriculture, Nutrition, and Forestry will continue to strive to make improvements in the food stamp program to insure that program benefits are channeled to the truly needy.

REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS

S. 1309, while increasing the 1979 authorization ceiling, also tightens the funding of the food stamp program by deleting the provision in the 1977 act that provides that "sums appropriated under the provisions of this act shall, notwithstanding the provisions of any other law, continue to remain available until expended." The removal of this carryover requirement will allow Congress to get a better handle on yearly program costs. If the full amount of appropriated funds in any fiscal year is in excess of program demands for that year, the unused funds would be returned to the Treasury rather than being carried over to the next fiscal year and used as a "cushion." Although the Appropriations Committees could reinstate carryover authority in the yearly appropriation bills, it is my hope that they will not choose to follow that course.

METHOD FOR REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

The committee adopted an amendment offered by Senator Lugar that would, among other things, allow the Secretary of Agriculture to reduce the value of allotments to households certified as eligible to participate in the food stamp program on other than a pro rata basis when such action is necessary because of any insufficiency of appropriated funds.

The Lugar amendment also requires the Secretary to file monthly reports with the congressional agriculture committees and to take requisite action to reduce benefits within 60 days of the issuance of a monthly report in which the Secretary expresses the belief that benefit reductions will be necessary.

This amendment will provide Congress with the facts and figures upon which to evaluate program performance in a timely manner. It should provide a greater interchange of information between the Department and Congress and give Congress sufficient time to avoid legislating in the shadow of an impending emergency.

It is expected that the rapid increase in program participation since January 1979, due to implementation of the 1977 Act, will abate and that long-range projections of anticipated program costs will be easier to make. When these factors are coupled with the new monthly reporting requirement, the likelihood of the need for emergency legislation should be substantially reduced.

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SSI BENEFITS

The implementation of the 1977 Act has resulted in extreme hardship for some elderly and SSI recipient food stamp participants. These hardships are largely attributable to changes in the computation of the excess shelter expense deduction coupled with the imposition of a ceiling on the maximum allowable amount for that deduction and the elimination of a separate medical expense deduction. The committee adopted an amendment offered by Senator STONE that will ameliorate the unintended hardships caused by the 1977 act to the extent they are due to extraordinary shelter or medical expenses.

CONCLUSION

I would like to take a moment to express my appreciation to Senators LUGAR and STONE for their amendments. They have improved S. 1309. Senator McGOVERN is to be commended for his thorough and expeditious handling of this bill in subcommittee. Senator HELMS, the ranking minority member of the committee, displayed his usual cooperative and courteous manner during consideration of S. 1309.

I recognize and share the concerns of many of my colleagues about the administration of the food stamp program, the implementation schedule of the 1977 Act, and the gross income ceilings for participants. I hear, with the same frequency as my colleagues, about the fraud, abuse, and mismanagement in the program. It seems at times as if each and every one of my constituents has a definite opinion on food stamps.

It is the national policy that no one in the United States go hungry or have an inadequate diet. The food stamp program helps carry out that national policy. But it is imperative that the program be properly managed and fraud and abuse be eliminated.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Georgia who, of course, is the chairman of the Agriculture Committee, and I want him to know it is a pleasure and a privilege to work with him on this committee.

Mr. TALMADGE. I thank my distinguished friend from North Carolina, and I can say that it is mutual.

Mr. McGOVERN. Mr. President, let me also say to our chairman that I thank him for the kind words he had to say about Senator HELMS and me. I, too, have thoroughly enjoyed and profited from working with Senator TALMADGE over the years as a member of the Committee on Agriculture.

Mr. METZENBAUM. Mr. President, I want to express my strong support for the changes that the committee has made in the food stamp program.

In particular, I am pleased that the committee has seen fit to provide increased benefits to the elderly through the mechanism of broader deductions. Under the present medicare system, the elderly, who live on fixed incomes, continue to be burdened with heavy deductibles, coinsurance, and fees for physicians who refuse to accept assignment. This bill would reduce this burden by allowing the elderly to deduct these expenses, thereby making some needy individuals eligible for new or increased benefits.

Because medicare coverage still entails deductibles, coinsurance, and lifetime limits on benefits, some elderly have chosen to purchase special insurance policies, sometimes called medigap insurance, to cover the extra costs of becoming ill. Invariably, purchase of these policies is cost effective for both the aged person and the Government. Costs of the premiums are not likely to exceed potential out of pocket expenses for the elderly while at the same time, these policies obviate the need for the elderly to have medicaid cover their costs.

Payments for health insurance policies, however, are not always allowable for medical expense deductions. Therefore, I would like to ask the Senator from South Dakota if it is the intent of this legislation to include medigap insurance policy payments in the allowable medical deductions in the determination of eligibility for food stamps.

Mr. McGOVERN. I am glad that the Senator from Ohio has raised this issue. Yes, it is the intent of this law to include medigap insurance policy premiums in the definition of medical expenses. I agree with Senator METZENBAUM that the elderly do experience an exceptional burden with the costs of health care. One purpose of this bill is to try and alleviate this burden by not making the elderly choose between food and medical care.

Mr. METZENBAUM. I thank the Senator.

AMENDMENT NO. 362

Mr. McGOVERN. Mr. President, I call up amendment No. 362 which, as has already been said, is an amendment in the nature of a substitute, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself, Mr. DOLE, Mr. MAGNUSON, and Mr. EAGLETON, proposes an amendment numbered 362.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATION; REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

"SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

"(1) striking out '$6,158,900,000' in the first sentence of subsection (a) and inserting in lieu thereof '$6,778,900,000';

"(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: 'The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

"(3) striking out 'if' in the second sentence of subsection (b) and inserting in lieu thereof 'Notwithstanding any other provision of this Act, if'; and

"(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5 (d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"'(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.'.

"EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

"(1) inserting in the fourth sentence after 'Households' the following: ', other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act,'; and

"(2) adding at the end thereof a new sentence as follows: 'Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act shall also be entitled to—

"'(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"'(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"'(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.'.

"DEFINITION OF ALLOWABLE MEDICAL EXPENSES

"Sec. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"'(q) "Allowable medical expenses" means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the cost of securing and maintaining a seeing eye dog), (1) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.'.

"PROVISION OF INFORMATION

"Sec. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

"'(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.'.

"REPAYMENT FOR FRAUDULENT CONDUCT

"Sec. 5. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the househood of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayment in cash under the provision of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.'.

"STATE SHARE OF RECOVERIES

"Sec. 6. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: 'as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulantly obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection'.

"ELIGIBILITY VERIFICATION

"Sec. 7. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act.'.

"REMOVAL OF AUTHORIZATION FOR APPROPRIATIONS CEILING FOR 1980 AND 1981

"Sec. 8. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out all after '1979' and inserting in lieu thereof the following: '; and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981.'.

"GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

"Sec. 9. Section 3 of the Food Stamp Act of 1977 is amended by—

"(1) striking out in subsection (g) 'and (5)' and inserting in lieu thereof '(5) and (7)';

"(2) striking out in subsection (g) 'and (6)' and inserting in lieu thereof '(6)';

"(3) inserting immediately before the period at the end of subsection (g) the following: ', and (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency, or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents, meals prepared and served under such arrangement';

"(4) inserting in subsection (i) after 'elderly' the following: ', disablied or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangements that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents,';

"(5) inserting immediately before the period at the end of subsection (i) the following: 'and shall be considered individual households'; and

"(6) amending clause (2) of subsection (k) to read as follows: '(2) an establishment, organization, program, or group living arrangement referred to in subsections (g)(3), (4), (5), and (7) of this section,'.

"Sec. 10. Section 10 of the Food Stamp Act is amended by inserting after 'programs' the following: 'and public or private nonprofit group living arrangements that serve meals to disabled or blind residents'.

"EFFECTIVE DATE

"Sec. 11. (a) The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

"(b) The provisions of sections 9 and 10 of this Act shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.".

Amend the title so as to read: "A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.".

Mr. McGOVERN. Mr. President, the substitute amendment we just had reported contains 10 sections. It includes the four sections of S. 1309 as reported from the Committee on Agriculture, Nutrition, and Forestry. It includes the four amendments that Senator Helms has already referred to here on the floor and which, I think, will strengthen the food stamp program.

It includes an amendment by Senator Stafford and Senator Dole to allow handicapped persons living in community centers to participate; and it includes a section that would remove the specific dollar ceilings on the authorization for appropriations for the food stamp program for fiscal years 1980 and 1981.

As Senators know, at that time the present food stamp program expires, unless it is extended by Congress.

The food stamp program is a matter of great interest and, as we have already seen, the very mention of the program evokes strong emotions. These emotions sometimes result in misstatements or inaccuracies or exaggerations.

I would say without hesitation, Mr. President, that I do not believe this program is out of control. I would quickly add that it is not beyond improvement. But I think it goes too far to say it is out of control.

The program is growing primarily because of changes in the economy, and the fact that people who have always been eligible to participate have only recently been able to participate due to the elimination of the purchase requirement.

The food stamp program has been subjected to more rigorous oversight than, perhaps, any other program. It is true there has been a great deal of public criticism of the program, and criticism here in Congress, but that has not gone unobserved, and there have been actions by Congress steadily to strengthen the program, and these that are before us today, I think, will further tighten up and strengthen the program.

Congress has been very sensitive to needed modifications in the food stamp program. The Senate has labored long and hard on this program, and in recent months we approved the first concurrent budget resolution for fiscal year 1980 that provides program expenditures that are substantially in excess of the statutory ceiling.

When we considered the supplemental appropriations bill for fiscal year 1979, we voted to appropriate sums substantially in excess of the cap for this fiscal year after defeating soundly two amendments that would have reduced the amount recommended by the Committee on Appropriations.

We have included in the substitute amendment the amendments that were submitted by Senator Helms because we believe they are acceptable. We feel it is important, however, to remember that three of these four provisions are contained in S. 1310, the administration's bill that was introduced by Chairman TALMADGE by request. Senator HELMS has properly chosen the provisions of title I of S. 1310 that are most attractive. But if we are going to accept those provisions we should also adopt the funding provision that is contained in title II of S. 1310, because this bill is a part of a package.

There are several misconceptions about what the effect of removing the specific dollar ceiling for authorizations for appropriations will be. It will not return the program to the entitlement status it enjoyed prior to enactment of the Food Stamp Act of 1977. The language of sections 4(a) and 18(b) of the 1977 act, which conditions the amount of benefits to be received by food stamp households on the availability of appropriated funds, is untouched. Congress, through the appropriations process, will still determine what the level of program spending should be.

Adopting the substitute will not terminate consideration of cost-saving provisions or modifications in the food stamp program. Indeed adoption of the substitute can result in a more thorough investigation of all suggested proposals without the pressure of the need to attach these proposals to a bill dealing with the authorization ceilings. The subcommittee on nutrition is committed to holding hearings on these issues and bringing responsible legislation to the Senate floor.

Removal of the ceiling on the authorization for appropriations will not open "the floodgates" of the program. The existing income eligibility, assets requirements, and work registration provisions are left intact. These are the provisions, along with the cost of food, and the rate of unemployment, that determine the program's cost.

Questions may be raised as to why the substitute does not contain a sum certain for 1980 and 1981. The simple reason is that the food stamp program is deliberately designed to react quickly to changing economic conditions. We were not able to estimate a "right" number for this year until it was three-quarters over. In all likelihood that "right" number will not be known in the future until we are well into the respective fiscal year. The Senate has continuously shown its intent for full funding for the food stamp program. It should be remembered that the Food Stamp Act of 1977, as passed by the Senate, did not contain the "cap" or other provisions accepted in conference that altered the entitlement nature of the program.

The appropriations and budget processes are more than capable of determining what the level of funding should be.

This procedure works for other nonentitlement programs, and I think it will work for food stamps.

I urge my colleagues to join me in supporting this substitute.

I ask unanimous consent at this point in the RECORD to have printed a section-by-section analysis of the substitute.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF AMENDMENT No. 362

Section 1(1).—Increase in the fiscal year 1979 authorization for appropriations for the food stamp program.

Section 1(1) amends the first sentence of section 18(a) of the Food Stamp Act of 1977 to increase the fiscal year 1979 authorization for appropriations by $620 million. The new appropriations ceiling for the 1977 program would be $6,778,900,000.

Section 1(2).—Removal of carryover authority; Secretary's reporting responsibilities.

Section 1(2) strikes the third sentence of section 18(a) of the Food Stamp Act of 1977 to remove the specific language, beginning with fiscal year 1980, providing for the carryover of unexpended appropriated funds from one fiscal year to the next, and inserts two new sentences. The Secretary of Agriculture would be required to file monthly reports, by the 15th day of each month, setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the current fiscal year. In each monthly report, the Secretary would also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the program will be necessary due to any insufficiency of appropriated funds. (It is anticipated by the committee that each monthly report will include the number of individuals participating in the program and the cost of administering the program at the State level and at the national level.)

Sections 1(3) and 1(4).—Manner in which allotments may be reduced when appropriated program funds are insufficient.

Section 1(3) amends the second sentence of section 18(b) of the Food Stamp Act of 1977 to remove the requirement that the only available method for reducing program benefits when insufficient funds are available is on a pro rata basis.

Section 1(4) would add new subsections (c), and (d) to section 18 of the Food Stamp Act of 1977. New subsection (c) would require the Secretary to ensure that reductions in the value of allotments, when required under section 18(b), will reflect, "to the maximum extent practicable," the ratio of household program income to the income standards of eligibility for households of the same size with higher-income households bearing more of the reductions. The Secretary may establish (1) special provisions for the elderly, handicapped, and disabled and (2) minimum allotments after any reductions are otherwise determined.

New subsection (d) requires the Secretary to take the requisite action to reduce the value of allotments issued to households certified to participate in the food stamp program within 60 days after the issuance of a report, under section 18(a) as amended by the bill, in which the Secretary expresses his belief that such reductions will be necessary.

New subsection (d) also requires the Secretary, within 7 days of any action to reduce the value of allotments issued to households certified to participate in the program, to furnish the congressional agriculture committees with a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the value of the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

Section 2. Deductions for households containing an elderly person or a person receiving Supplemental Security Income Benefits.

Section 2 amends section 5(e) of the Food Stamp Act of 1977 to provide households that contain an elderly person (60 years of age or older) or a person receiving Supplemental Security Income benefits, including those who receive only State supplementary payments, under title XVI of the Social Security Act with an excess medical expense deduction and to remove the ceiling on the excess shelter expense deduction for these households.

In addition to the standard deduction and the dependent care deductions, these households would be entitled to (1) an excess medical expense deduction for the actual cost of allowable medical expenses incurred by the elderly or SSI recipient household member that exceed $35 per month and (2) an excess shelter expense deduction to the extent that the monthly amount expended by the household for shelter exceeds 50 percent of monthly household income after all other applicable deductions have been allowable. Currently, there is a ceiling of $80 per month on the amount of the excess shelter expenses deduction that may be claimed.

Section 2 further provides that the $35 threshold for the excess medical expense deduction will be adjusted each July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index for the items other than food for the 6 months ending the preceding March 31 and September 30, respectively. (The committee expects that the Secretary, in administering the excess medical expense deduction, would provide that deductions be allowed for medical expenses incurred or billed as soon as possible, so long as third-party reimbursements or insurance payments, whether to the recipient or care provider, are verified. In some cases, this could result in deductions not being granted until a bill had actually been paid, in order to ascertain the extent of a reimbursement or insurance payment. However, it would keep the treatment of excess medical expense deductions as consistent as possible with the prospective accounting system used throughout the food stamp program, while protecting against deductions for expenses not actually paid by the recipient.)

Section 3. Definition of "allowable medical expenses."

Section 3 adds a new subsection (q) to section 3 of the Food Stamp Act of 1977 to define "allowable medical expenses" as used to determine the excess medical expense deduction.

New subsection (q) defines "allowable medical expenses" as expenditures for (1) medical and dental care (this would include other remedial care recognized by State law), (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding costs of health and accident or income maintenance policies), (5) medicare coverage, (6) dentures, hearing aids, and prosthetics (including securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aid, housekeeper, or child care services due to age, infirmity, or illness.

Section 4. Provision of information.

Section 4 adds a new subsection (f) to section 16 of the Food Stamp Act of 1977.

New section 16(f) would authorize the Secretary and State agencies to require the submission of social security numbers as a condition of eligibility.

Section 4 would permit an individual to be barred from receiving food stamps if that individual has been assigned a social security number but refuses to provide it to the

State agency. Individuals not previously assigned a social security number could also be prevented from participating in the program unless the individuals apply for and subsequently furnish social security numbers. They would be eligible to participate while waiting for the numbers to be assigned.

The income and resources of the individual disqualified for failure to provide a social security number would be counted in the same way an individual's income and resources are counted when a person is disqualified for fraud or for failure to meet the student work registration requirement during the school year. New section 16(f) will facilitate the use of computer matching techniques that compare the earnings reported by food stamp households against available wage records and thus allow States to identify more readily those households that have unreported earnings or have reported their earnings incorrectly.

In addition, States will be able to match social security numbers to prevent duplicate participation. An individual entitled to emergency service under section 11(e)(9) of the Act would be permitted to furnish a social security number after receiving his first allotment. In this way, an individual who cannot furnish his social security number, or the numbers of all members of his household, before the timeliness standard elapses for providing expedited service will not have benefits delayed simply because a social security number cannot be immediately furnished.

Section 5. Repayment for fraudulent conduct.

Section 5 amends section 6(b) of the Food Stamp Act of 1977 to allow States to collect fraud claims through a reduction of the food stamp allotment. Allotment reductions would be imposed when a recipient who had been disqualified for fraud and had not paid a fraud claim re-entered the program after the disqualification period. If the individual who committed fraud does not agree to a reduction in the household's allotment or does not agree to pay the fraud claim in cash, this amendment would allow the State agency to disqualify the individual until the person agrees to repay in cash or agrees to the allotment reduction. The income and resources of the individual disqualified for failure to repay the fraud claim would be counted in the same way an individual's income and resources are currently counted when that person is disqualified for fraud or for failure to meet the student work registration requirement during the school year.

In order to collect fraud claims, States must currently rely on voluntary repayment by the household or incur the expense of inititating a civil court action to obtain repayment. Section 6 provides a simple and efficient mechanism for collecting fraud claims and provides a penalty if repayment is not made. As a result, it is anticipated that the percentage of fraud claims collected will substantially increase without increasing the administrative costs of collecting these claims. These collection procedures should also discourage persons from committing fraud.

Section 6. State share of recoveries.

States are currently required to return to the Federal Government all funds collected from households that have repaid the value of any food stamps overissued to them. Section 6 would amend section 16(a) of the Act to allow each State to retain 50 percent of the funds it recovers or collects from persons that have committed fraud as determined in accordance with the Act. This provision will provide an incentive for States to pursue collection of fraud claims, particularly in those cases where recoupment or disqualification is ineffective because the household is ineligible.

The amendment provides that persons involved in making fraud determinations are not to benefit from the amount of such recoupments or collections. This prohibition on the use of revenues collected in this manner will assure the impartiality of officials making fraud adjudications.

Section 7. Eligibility verification.

Section 7 adds a new sentence at the end of section 4(c) of the Food Stamp Act of 1977. The new sentence would prohibit the Secretary from precluding the State agencies from implementing verification procedures in addition to those issued by the Secretary under the Act.

Section 8. Removal of authorization for appropriations ceiling for 1980 and 1981.

Section 8 removes the specific dollar appropriations ceiling for the fiscal year 1980 and 1981 food stamp program contained in section 18(a) of the Act. The language of sections 4(a) and 18(b) of the Act that conditions the level of benefits received by participating households on the availability of appropriated funds are not affected by section 9. Therefore, Congress, through the appropriations process, will continue to decide what the funding level for the program will be.

Sections 9 and 10. Group living arrangements for the disabled or blind.

Sections 9(1), (2), and (3) amend section 3(g) of the Food Stamp Act of 1977 to include within the definition of "food" meals prepared and served to blind or disabled persons in public or private nonprofit group living arrangements that are certified under regulations issued under section 1616(e) of the Social Security Act.

Section 9(4) amends section 3(i) of the Food Stamp Act of 1977 to include, and thereby make eligible for food stamp program participation, within the definition of "household" disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement (which serves no more than sixteen residents) that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act.

Section 9(5) further amends section 3(i) to provide that residents of federally subsidized housing for the elderly, disabled or blind residents in public or private nonprofit groups living arrangements that are certified under regulations issued under section 1616(e) of the Social Security Act, and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program, will be considered individual households. This amendment is in accord with current program practices for the elderly and narcotics addicts and alcoholics in treatment programs.

Section 9(6) amends section 3(k) of the Food Stamp Act of 1977 to include public or private nonprofit group living arrangements that serve meals to disabled or blind residents within the definition of "retail food store".

Section 10 amends section 10 of the Food Stamp Act of 1977 to provide that public or private nonprofit group living arrangements that serve meals to disabled or blind residents may not redeem those residents' food stamps through banks. This is the same prohibition that is currently applicable to drug addiction or alcoholic treatment and rehabilitation programs.

Section 11. Effective date.

Section 11(a) provides that the provisions of the bill will take effect on the date of enactment, except that sections 2 and 3 of the bill, dealing with excess medical and shelter expense deductions for the elderly and disabled, will take effect on the first day of the first month that begins after the date of enactment.

Section 11(b) provides that sections 9 and 10, dealing with group living arrangements for the disabled and blind, will be implemented by July 1, 1980 and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

Mr. McGOVERN. Mr. President, I would like to add a few words about the supplemental verification provision that is incorporated in the substitute bill. It is a provision that is designed to assist States in establishing procedures that enhance USDA's nationwide verification requirements. I believe that this provision can serve as a useful tool in minimizing abuses in States that wish to improve program performance.

I commend Senator HELMS for addressing this issue.

As I envision it, States would submit its proposal for additional verification as part of the State plan of operation. The Secretary would review the procedures along with the rest of the plan for its consistency with the Food Stamp Act and the regulations.

Standards of reasonableness should apply to all proposed procedures. If a State wishes, for example, to make home visits it should be during normal working hours. They should not force applicants and recipients to make repeated trips to the food stamp office, since this would be relatively expensive for recipients and would interfere with their work or home obligations. Nor should such additional verification procedures delay the receipt of food stamps beyond the time periods specified in the statute and regulations.

I have included this amendment in the substitute because I do not believe that there is necessarily any particular magic in Washington prescriptions. The States are being held increasingly accountable for their error rates and that accountability will continue. They should therefore have some latitude and discretion in the operation of the program.

As we all know, in years gone by, there have been unfortunate occasions where verification procedures were used as a form of harassment, and as a barrier to participation. It is my sincere hope that those days are now behind us.

The Secretary is encouraged to actively monitor the implementation of this provision as part of his general oversight responsibilities. If this is done, I look forward to overall improvement in the program's operation and greater public support.

Mr. HELMS. Mr. President, I ask unanimous consent that Eddie Twilley and John Stier of Senator THURMOND's staff be accorded the privilege of the floor during the deliberations related to S. 1309, including any rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the statements which follow are in connection with the four amendments as to which Senator McGOVERN and I are in agreement.

STATE SHARE OF RECOVERIES

Mr. President, the amendment is to permit States to retain 50 percent of the value of all funds or food stamp allotments the States recover from those who have fraudulently obtained food stamps.

As a cosponsor of the Food Stamp Reform Act of 1975, the Buckley-Michel bill, I supported monetary incentives for agencies aggressive in the prosecution and investigation of food stamp fraud. I am very glad the administration shares my views in this matter. With minor technical changes, the amendment is identical to section 104 of S. 1310, a bill Senator TALMADGE introduced at the request of the administration.

Testimony before the Agriculture Committee indicates that, at present, there is not sufficient incentive for States to pursue cases of food stamp fraud. Simply put, it is not worth the time of local and State officials to follow through on food stamp fraud cases. This amendment will ease the burden that is now borne by the States.

The amendment will improve the situation of both the Federal and State Governments. States will be rewarded for successfully closing food stamp fraud cases and the great expense of food stamps for undeserving recipients will be reduced.

There is no reason to delay the implementation of this incentive for good management. It could easily save the U.S. Treasury millions of dollars before any other food stamp bill can be enacted. I hope my colleagues will see the merits of this proposal that the administration recognizes.

REPAYMENT FOR FRAUDULENT CONDUCT

Mr. President, the amendment to provide for the repayment for food stamps obtained through fraudulent conduct is identical to section 104 of S. 1310, a bill Senator TALMADGE introduced at the request of the administration. I have long supported this concept and am glad the administration has proposed such a responsible program change.

The amendment is very simple. It provide a meaningful vehicle for the alternatives for repayment of the value of his wrongfully acquired food stamps. The first of these alternatives would be a moderate reduction in the food stamp allotment to the household of which the defrauding person is a member. The second alternative would be cash repayment of the value of the fraudulently obtained food stamps over a reasonable period of time. The manner in which the Food and Nutrition Service has administered this program in the past clearly indicates that there would be no hardship as a result of this amendment.

The purpose of this amendment is to provide a meaningful vehicle for the recovery of the value of food stamp allotments issued as a result of recipient fraud. Its effect will be to dampen the atmosphere that is now so conducive to fraud on the part of food stamp applicants. We must stop encouraging fraud.

As my colleagues well know, the food stamp program is infamous for its fraud. The General Accounting Office has reported that 12 percent of all food stamps delivered are overissuances. Though program regulations have changed since that study, it is doubtful there has been any significant improvement. One of the pricipal reasons for this problem is the program's lack of meaningful deterrents to fraud for program applicants. This amendment strikes at this problem with compassion toward the family of the defrauding person. Bearing in mind that the discretion of the Food and Nutrition Service has always taken great care to avoid hardships among recipients, the amendment specifically requires that the schedule for repayment be reasonable. I am confident the Food and Nutrition Service will not allow hardship to result from this provision.

Mr. President, the adoption of this amendment is the very minimum of what must be done to help rid this program of its problem with fraud. The administration has submitted this program change to us and I see no reason to delay its implementation.

PROVISION OF INFORMATION STATEMENT

Mr. President, as a cosponsor of both the Food Stamp Reform Act of 1975 (the Buckley-Michel bill) and the National Food Stamp Act (the Tower-Michel bill), my record of supporting the requirement of social security numbers of food stamp applicants is well documented. This year, the administration endorsed this concept and requested that Senator TALMADGE introduce a bill which included a provision authorizing USDA and State agencies to require this identification.

With only minor technical changes, this amendment is identical to part of section 103 of the administration's bill, S. 1309. Clearly, the merits of this proposal cause its support to transcend party lines.

Specifically, the amendment authorizes USDA and State agencies that administer the food stamp program to require social security numbers of program applicants in the same manner as is now employed by HEW in administering the aid for families with dependent children (AFDC) program. In addition, these administrators are granted access to data pertaining to supplemental security income (SSI) recipients, under the same terms and conditions as the Secretary of HEW.

To prevent any misunderstanding, I would like to further explain the intent of this amendment, particularly the terms and conditions under which the Secretary and State agencies are bound. The Social Security Act states that these numbers may be used only in determining or verifying the eligibility or benefit level of an applicant or participant. Also, rights of privacy, both constitutional and statutory, stand as unencumbered limitations upon the Secretary and State agencies.

However, it is not the intent of this amendment to force the Secretary of Agriculture to blanketly adopt existing regulations of the Department of Health, Education, and Welfare in regard to the provision of social security numbers as a precondition to program eligibility. While those regulations may be useful as a guide, the Secretary of Agriculture will be free to issue regulations that take the unique aspects of the food stamp program into account or otherwise better serve to meet food stamp program objectives.

Probably the most important benefit to be gained from this amendment is that it will enable State agencies to perform verification procedures they already have the authority to do. In some States, records in programs such as AFDC and State unemployment compensation are not checked against food stamp records even though these records are available for that purpose. This amendment will simply make feasible, in some States, the sort of eligibility verification State agencies already have the authority to perform.

State administrators have reported such important verification is not done because food stamp files do not list participant's social security numbers. When this amendment is enacted, and social security numbers become available, computerized food stamp programs may check information food stamp applicants provide against information in other program files.

In so doing, agencies may determine if the applicant is indeed eligible for the program. In other words, if the applicant says he is receiving x dollars income per month, but is actually receiving more than that, this cross checking will point out the inaccurate statement of income so the level of benefits may be adjusted to the proper level. This amendment simply makes it feasible for some State agencies to check to be sure program participants are not receiving more food stamps than they are entitled to by inaccurately reporting their income.

Mr. President, a vote against this amendment is a vote to deny Government officials administering the food stamp program the ability to verify the amount of income a food stamp household receives from the Federal Government. As the program now works, the left hand does not know what the right hand is doing. If a food stamp applicant does not tell his caseworker that his household receives income from another Federal program, it will probably not be accurately revealed.

It is no secret among food stamp recipients that verification of eligibility for the program is wholly inadequate. I believe the mere ability of administrators to perform the sort of verification that is proposed herein will reduce the amount of program fraud. This amendment is as basic to verification of eligibility for food stamps as auditing is to the collection of taxes. Utilizing this authority, as administrators are certainly intended to do, will vastly increase the antifraud activities of program administrators and surely save millions of tax dollars.

Mr. President, there is no reason why we should not implement this amendment. It will enable program administrators to prevent fraud by simply employing a technique similar or identical to that used in HEW programs.

The administration has proposed this simple but effective program change. It would be senseless for us to delay its implementation.

ELIGIBILITY VERIFICATION STATEMENT

Mr. President, this one sentence amendment will permit States to issue and implement verification procedures supplemental to those required by the Secretary. The amendments will allow

State administrators to develop and use methods of verifying household eligibility for food stamps that are consistent with local needs, customs, and practices.

In hearings on the food stamp program, the Agriculture Committee has heard repeatedly from State administrators that their hands are tied in operating this program. State and local administrators realize the food stamp program is experiencing serious problems with fraud, but they can do very little about the situation in which they are now immersed. The amendment now on the floor will simply free State administrators to do what they will, consistent with constitutional and statutory rights of privacy, to check whether or not a food stamp applicant is telling the truth. This amendment will not in any way infringe upon the rights of privacy enjoyed by those who apply for food stamps. Those rights are rooted deep in our Constitution and augmented by statute.

Permit me to share two examples of how this amendment may serve to prevent fraud in the food stamp program. Congress specifically set limits on the value of assets a food stamp participant may hold in the form of vehicles not used to earn wages, such as recreational boats, mobile homes used primarily for vacation purposes, and extra cars. This amendment will enable those States that so wish to check their vehicle registration files to verify food stamp recipients do not hold such assets.

Another, and probably more useful, verification technique is home visits. Those States that so wish may direct their caseworkers to visit the homes of food stamp participants in order to verify, consistent with rights of privacy, the residency and household composition of the participating family. Such home visits are also useful in determining if the household has any undeclared assets, such as an expensive automobile or recreational boat. Furthermore, home visits may reveal that a member of the household is self-employed and receiving income he may not be reporting. I should also note that these home visits have proven to be a great assistance to the truly needy, who are sometimes homebound.

Mr. President, another point my colleagues should bear in mind while considering this amendment is that the administration has proposed administrative changes in the program that put the liability for food stamp overissuances on the States. That proposal has wide support and will probably become part of the program within a year. It is only appropriate that in anticipation of this change we permit the States that so wish to undertake efforts to better verify the eligibility of program applicants and recipients.

Under the Food Stamp Act of 1977, the States are responsible for administering this program. Adopting this amendment will simply allow them tools to do a better job of preventing fraud wherever they can.

• Mr. TALMADGE. Mr. President, I support the amendment offered by Senators McGOVERN, DOLE, MAGNUSON, and EAGLETON.

This amendment contains the provisions of S. 1309, as reported by the Committee on Agriculture, Nutrition, and Forestry, the four amendments submitted by Senator HELMS, provisions suggested by Senators STAFFORD and DOLE that would allow blind and disabled residents of State-approved group living arrangements to participate in the food stamp program, and a provision that would remove the authorization for appropriations ceilings for the program for fiscal years 1980 and 1981.

The amendments suggested by Senator HELMS will reduce the fraud and abuse in the program. They will provide the financial incentive for the States to pursue and prosecute program fraud zealously, and help improve the integrity of the program by showing the public that the Government is serious about attacking fraud and abuse.

Three of these four amendments are contained in S. 1310, the administration's request bill. While the Committee on Agriculture, Nutrition, and Forestry has not held hearings on S. 1310, I believe that the merit of the amendments is evident and that they should become a part of the Food Stamp Act as soon as possible. I see no valid purpose in delaying the adoption of these provisions.

The provisions making blind and disabled residents of State-approved group living arrangements eligible for program participation are also desirable and will not open the program to any potential abuse. These provisions will provide needed assistance to our blind and disabled citizens who are striving to become productive members of society and help bridge the gap between institutional care and self-sufficiency.

I have been an active participant in the food stamp debates in the Senate over the years and I have listened with interest to the debates of this session on the funding level for the program. We are now in July, three-quarters of the way through the fiscal year, and only recently have we been provided with a sound estimate of this fiscal year's program costs.

It is impossible to state what the right number should be for ceilings on the 1980 and 1981 programs. We simply do not know what the right economic assumptions are to build into our computations. We probably will not know that right number until we are well into the particular fiscal year.

The more significant question is: What purpose is served by establishing a ceiling on an authorization for appropriations? Such a provision can only be meaningful if it authorizes appropriations below a full funding level.

An authorization ceiling does not bind Congress unless Congress is predisposed to be bound by it. Congress has not shown a desire to reduce the cost of the food stamp program through the imposition of a ceiling that would force benefit reductions. Our recent experience with the 1979 supplemental appropriation bill attests to the Senate's commitment to full funding for the food stamp program.

The appropriations and budget processes are more than capable of determining what the level of funding should be. Under the Food Stamp Act of 1977, the program is no longer an entitlement for purposes of the Budget Act and it should be treated as any other nonentitlement program. No useful purpose is served by annually subjecting the determination of the level of funding for the food stamp program to the consideration of the Budget and Appropriations Committees and the Committee on Agriculture, Nutrition, and Forestry. We wind up voting on the same issue two, three, and conceivably four times a year. This is not the most productive use of our time and efforts.

Adoption of this amendment will promote the more thoughtful consideration of other cost-saving provisions that are currently before the committee. I commit myself and the committee to pursue vigorously these alternatives. My interest and commitment to sound program administration and insuring that only the truly needy receive food stamps have not diminished. Let us get on with consideration of substantive program changes that will serve these goals and not simply speculate on what the right number for a future year authorization ceiling should be.

The food stamp program should, of course, be subject to vigorous oversight by Congress. Under the 1977 act, the program must be reauthorized in 1981. The substitute would not change this requirement.

Moreover, the Subcommittee on Nutrition plans to continue its review of the food stamp program. The Committee on Agriculture, Nutrition, and Forestry will report to the Senate any additional needed changes in the program.•

• Mr. DOLE. Mr. President, I am pleased to join the Senator from Vermont (Mr. STAFFORD) in supporting an amendment to extend food stamp benefits to handicapped individuals living in small, public, nonprofit community living centers. Currently, these community centers fall under the definition of institutions, and because persons living in institutions are ineligible for food stamps, handicapped persons have been unable to apply for benefits, even when their income makes them eligible recipients.

Under the Stafford/Dole amendment, a disabled individual must receive either supplemental security income or social security disability income, live in a community home of 16 or fewer persons, and meet the food stamp eligibility requirements. Presently, drug addicts and alcoholics living in treatment centers are allowed to receive food stamps, even though handicapped persons in comparable living situations may not receive stamps. To my way of thinking, this inconsistency cannot be justified and should be corrected.

The major premise behind the law remains valid—I agree that residents of institutions should not be accorded food stamp benefits. However, I think some consideration needs to be given to those situations which could not be defined as institutional living. Recently, the trend in caring for the handicapped has been to emphasize the benefits of small community living centers. These centers offer an alternative to institutionalization, and attempt to create to the fullest extent possible a normal home environment.

In these community homes, residents are expected to help with the housekeeping, gardening, shopping, and preparing of food. During the day, residents leave home for school or work, since many may hold jobs in sheltered workshops. These persons are not severely handicapped in that in many ways they can function independently or with minimal supervision and instruction, and do not require constant medical care or therapy. Handicapped persons in community homes seek medical, dental, and other health care outside of the home, and in no means do these centers resemble nursing homes or institutions. I am familiar with some community living centers in Kansas which if you did not know differently you would assume were being rented by several college students.

In every way possible, the houseparents or live-in staff try to create an average homelife, where members are given as much individual freedom and responsibility as one can manage. Before residents in a center could receive the benefits, it must be certified by the appropriate State agency or agencies under the SSI regulations. This provision will insure that a person living in a center which does not meet Federal standards will not be able to receive food stamps. In instances where the houseparent is the certified food stamp representative, that person—not the handicapped person—will be held responsible for seeing that the stamps are not misused.

Mr. President, this amendment has the support of various groups representing the disabled, and I hope it will receive the approval of the Senate. Although the Social Security Administration has no figures on how many persons live in small community centers, the National Association for Retarded Citizens and the National Association of State Mental Retardation program directors estimate that about 55,000 persons live in these types of homes. Given the information available, the congressional research services estimates that this amendment would cost in the neighborhood of $15 million. I think the cost is justified in that it will let handicapped persons receive food stamps to which they are entitled under the law, but for the definition of institution.

I hope that my colleagues will approve this measure, and extend more equitable food stamp benefits to the handicapped.●

UP AMENDMENT NO. 441

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 441.

Mr. HELMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, beginning with line 4, strike out all down through line 10.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the pending amendment to strike that provision of the McGovern substitute which eliminates the food stamp program cap for fiscal years 1980 and 1981 will prevent the delay of this emergency bill and simultaneously preserve a modicum of congressional control over the program.

The distinguished Senator from South Dakota proposes to eliminate the authorization ceiling on the food stamp program, and this Senator feels that is an unnecessary proposal that would surely diminish if not sacrifice congressional budgetary controls; and it may even delay this bill in conference with the House of Representatives.

Before discussing the merits of retaining an authorization limit on the food stamp program, I should like to point out some practical considerations that Senators ought to bear in mind in consideration of the pending amendment.

Unlike other provisions of this legislation, the elimination of the cap is not by any stretch of the imagination an emergency measure. There is no advantage to enacting this proposal as a part of S. 1309; that will give rise to no savings and it will not affect in any way the program's operation this year. I hope Senators will bear that in mind. Other provisions of this bill do have an immediate and practical effect. Of particular urgency is the amendment of the 1979 so-called cap. If the authorization for the 1979 supplemental appropriation is not soon adopted, benefit reductions may be initiated for all participants in the food stamp program, as Senator TALMADGE suggested in his remarks a little while ago.

Until now, S. 1309 has rightfully been referred to as "emergency legislation." I agree with that. However, the elimination of the so-called cap—which is the spending ceiling, in words all of us can understand—for 1980 and 1981, certainly changes the nature of this bill. That is something we ought to look at, and that is the purpose of my amendment. The "cap" is one of the basic elements of the Food Stamp Act of 1977; its elimination is a matter so weighty that the urgency of all other provisions is subordinated by its inclusion. I cannot overemphasize this point.

My friend from South Dakota (Mr. McGOVERN) is a member of the Agriculture Committee. In fact, he is chairman of the Nutrition Subcommittee. He had every opportunity to raise this issue during committee considerations of the bill. There was a clear understanding in the committee as to how the 1979 supplemental authorization would be handled. The Senator did not raise the issue then for the same reason that I have not raised any substantive or controversial program changes now—this, I repeat, is emergency legislation that must be expeditiously considered.

I think my friend from South Dakota will acknowledge how uncontroversial the administrative program changes I have submitted really are. In fact, he included them as part of his substitute language for S. 1309. The amendments I had intended to offer are cosponsored by a majority of the committee. They are simple administrative changes that virtually everyone agrees are salutory and desirable improvements. There is no rationale for delaying the enactment of these consensus amendments; they are program changes which will allow State food stamp agencies to operate this program with less fraud and abuse. However, and I must emphasize this, the pending legislation is not the proper vehicle for any program change of the drastic nature Senator McGOVERN has proposed. Certainly this is the wrong time to first raise such an important and controversial issue as elimination of the spending ceiling for the food stamp program.

I think the record will show that at every point along the way I have done the best I can to work toward expeditious consideration of this bill. Senator McGOVERN and his staff are well aware of the full cooperative relationship between my staff and his staff, and the staffs of other members of the committee in preparing this legislation for consideration, and I believe he will attest to that fact. I have stated in the past, and will reiterate now, my commitment to work for constructive program changes. I will fully cooperate so that the Agriculture Committee will be able to report a bill in September amending the 1980 "cap," either as Senator McGOVERN proposes here or by revising the authorization limit, if that is what the Senate chooses to do.

Frankly, however, this 11th hour effort to eliminate the cap, to eliminate the spending ceiling for the food stamp program, seems to me to be something that I had not expected in terms of the cooperative atmosphere that has prevailed.

Adding to S. 1309, the elimination of the cap for 1980 and 1981 is a move that I think most assuredly will delay this bill. The conferees who consider this matter will have to recognize that members of the House subcommittee which reported this bill considered but they rejected the proposal to eliminate the "cap," and it has not been raised again until now. Also, a proposal by the distinguished Senator from South Dakota would eliminate one of the program's basic management guidelines. Because of these two points, I anticipate that House conferees would be hard pressed to adopt Senator McGOVERN's proposal. The resulting considerable delay in conference which will surely result from the adoption of the McGovern proposal and any benefit reductions which might result, is a matter for which I cannot accept any responsibility.

A spending ceiling, a "cap," in the judgment of the Senator from North Carolina, is absolutely essential to prudent program management.

Mr. President, the "cap" is a key provision of the 1977 Food Stamp Act. I have said that before in these remarks and I repeat it now for the purpose of emphasis. Its presence demonstrates that the Agriculture Committee has the very clear intention of closely monitoring this program's cost. The "cap," the spending ceiling, is a reasonable sort of alarm system that would bring to our attention program costs that become inordinately high, whether it may be due to food inflation or program maladministration.

In addition, the cap stands as a clear statement of congressional intent as to what shall be the maximum spending for this program for a given fiscal year. This statement serves notice, in unmistakable terms, to Federal administrators of this program and tells them how much they can spend, in operating this program. Good administrators, faithful to the application and execution of the law, will take care to make decisions to avoid cost overruns. But what if we do not have administrators of that type? Then the responsibility rests with the Congress and specifically today with the Senate of the United States to oversee, to exercise the oversight which we are obliged to exercise, in making certain that the taxpayers' money is not spent unwisely.

Hundreds of cost affecting decisions are made in this program every year. For example, in a recent Agriculture Committee hearing, Senators learned for the first time that frequently local case workers are prohibited from accepting stamps which recipients attempt to return when they become ineligible for the program. In other words, a food stamp recipient who had been unemployed or underemployed in terms of income finally gets a job and finally achieves an income which no longer permits him to be eligible for food stamps.

So he goes down and tries to turn in the stamps. Under the existing statute, local food stamp agency cannot accept those stamps. That is an absurdity, Mr. President. Think of it: case workers cannot accept the stamps that ineligible recipients try to return.

The leverage of the cap helps compel the Food and Nutrition Service officials to close such loopholes in program regulations, thereby strengthening the Agricultural Committee's capability to conduct the oversight functions which it is obliged to do as responsible Members of the Senate and of that particular committee.

Maintaining a cap leaves as part of the 1977 Food Stamp Act and as part of the Agricultural Committee's jurisdiction a statement of how much the program shall cost in a fiscal year. It is a ceiling. I feel it is one of the best practices we have to leave in the jurisdiction of the committee the responsibility for determining maximum program costs. Do not leave it to a bunch of bureaucrats downtown. Dealing in the committee with this simple budgetary question squarely confronts all Senators with the ultimate issue: Is a certain program change worth the additional sum it would cost? That is our duty, Mr. President, to oversee this program, and to remove this "cap," to remove this spending ceiling, waves on the bureaucrats downtown and says to them, "Proceed as you wish."

The cap is an important tool in congressional control of the program. Voting it away would be a clear act of fiscal irresponsibility, in the judgment of this Senator, and would make the Senate budget process a hollow shell. Senators on the Budget Committee from Maine to Oklahoma have worked long and hard to minimize the number of so-called uncontrollable items in the Federal budget. Eliminating the food stamp cap—eliminating the spending ceiling—would be an act, it seems to me, to undermine the efforts of the Budget Committee, and it would move the Federal budget just that much farther away from the grasp of fiscal control, let alone the widespread hope of a balanced Federal budget.

As a practical matter, the so-called controls which remain after eliminating the cap would not prove meaningful at all. The supplemental appropriations for this program are all too often an after the fact sort of action. For example, this very year, through the delay of the Food and Nutrition Service, we are faced with the dubious choice of providing additional funds or closing the program in its final month of this fiscal year because the Food and Nutrition Service will have already spent all the money. The Lugar amendment, which was adopted in committee, addresses this problem but it does not solve it altogether. The cap, the spending ceiling, would reinforce the Lugar amendment in this regard and, therefore, the cap should not be abandoned.

Mr. President, I have outlined the control we would lose by eliminating the spending ceiling and the harms which would result. The "Dear Colleague" letter circulated by the distinguished Senator from South Dakota discusses at length what the elimination of the spending ceiling will not do, but I say in all respect to him that he does not hold out any advantages that would result by casting aside this bit of budgetary control.

I submit that there are none, unless one feels the funding level of this $7 billion program—and, in fact, it is more than $7 billion in cost—is not worth the attention of the Senate.

The elimination of the spending ceiling on the food stamp program is probably the clearest question of fiscal responsibility the Senate will face this year.

Certainly, it is one that the taxpayers back home will understand. There are no gray areas through which a negative vote—a vote against the pending amendment—may be excused. This amendment is to block a proposal to throw away a congressional budgetary control and essential program management tool—without even the benefit of a single hearing or a single mention of the matter in committee. The Helms amendment now pending, the amendment to the McGovern substitute, would stop this ill-conceived proposal from being attached to what is purely emergency legislation. I am told by the distinguished Senator from South Dakota that this legislation must be passed before the August recess.

I say again that unless this proposal to eliminate the cap is removed, the enactment of this legislation before the August recess is placed in jeopardy.

In short—and I say again that these remarks are made with all due respect for my friend from South Dakota—this is the wrong vehicle for the wrong proposal. The pending amendment to strike the elimination of the cap for 1980 and 1981 from the McGovern substitute should be adopted.

We cannot afford to push aside our responsibility for congressional budgetary control.

Mr. HAYAKAWA. Mr. President, my distinguished colleague from North Carolina has offered an amendment to preserve an instrument of congressional budgetary control. I endorse his amendment to strike from the McGovern substitute the language which would eliminate food stamp authorization limits for fiscal years 1980 and 1981.

When this body approved a cap on food stamp programs 2 years ago, we did so without malice for the recipients of the program. We adopted this integral part of the 1977 Food Stamp Act in the interest of efficiency and sound management and not as an instrument directed against the nutrition or the well-being of the recipients of the program. If there were a need for fiscal responsibility then, when the program cost much less than $6 billion annually, we certainly have an even greater need now as we face an annual cost of more than $8 billion next year.

The Senator from North Carolina has already detailed reasons for retaining a cap on this program. I can only implore the Senate not to disarm those of us charged with oversight of this program. There is no Federal program in greater need of congressional scrutiny and budgetary restraint.

I am compelled to ask: Why should we eliminate the cap—why should we cast aside this important congressional control? The only response I have been given is that it prevents Congress from being troubled with the funding level of this program. I hope my colleagues agree that the funding level of an $8 billion program is worthy of our attention.

It is really a depreciation of our functions to say that we should not be troubled with the funding level of this program. That is what we are here for, to be troubled with the funding levels of this and every program. When we are talking about an $8 billion program, it is certainly worthy of our attention.

I offer my complete support to this amendment being offered by the Senator from North Carolina. The funding level of this program is over one-third of the entire budget of the U.S. Department of Agriculture. To oppose this amendment is like saying that we consider this to be an issue too insignificant for us to trouble with.

In addition, Mr. President, the elimination of this integral part of the program is a hastily drawn proposal that has not even been considered in committee and has been flatly rejected in the House. It is not appropriate for the chair of the subcommittee of jurisdiction to raise this proposal now for the first time. There is no advantage in adopting this proposal now, particularly since all of the Agriculture Committee seems to be pledged to the expeditious consideration of the amendment of the 1980 "cap." The practical result of attaching to this bill language to eliminate the "cap" means delay of this emergency legislation in conference.

I ask that my colleagues join me in the fiscally responsible act of voting for this amendment.

The difficulty, Mr. President, is that the food stamp program is one of the hardest programs we have to cut back or to vote against and even to supervise. Free spending for food stamps can be worth many votes nowadays, especially for those of us facing an election. It takes courage to draw the line, to say, "No more money for this program." But I call attention to the fact that it does not take as much courage as it used to, because we in California have passed proposition 13, which is a very clear indication to all of us from all States that there is a limit to the endurance of the taxpayers. There is a limit to their patience, there is a limit to their pocketbooks. In the light of this proposition 13 and this slight sense of fiscal responsibility that has permeated this body since passage of that measure, I believe we have established as a fact that much of the public does demand some kind of fiscal responsibility now to a degree that they were not demanding it a couple of years ago.

We have established a very liberal budget, with billions of dollars for this program. I am asking, as the taxpayers are going to be asking, is this not enough? When are my colleagues going to begin to support the voters of this country, who are sick and tired of unlimited spending for welfare programs?

My distinguished colleague from South Dakota comes from an agrarian State, where, perhaps, he does not have the problems with food stamps that we have in California. I must recall to the Senators' minds that California is, in fact, the home of the flower children, the hippie counterculture, and the entire development of new kinds of lifestyles which are opposed to the work ethic, which are opposed to work itself, which is hedonistic in the extreme, which is financially irresponsible. In that counterculture situation, tens of thousands of young men and women, perhaps hundreds of thousands, from well-to-do families are dropping out. They have no career ambitions. They get allowances for families and they stretch out their allowances by getting food stamps. This is true of college students and also true of college dropouts.

Up in northern California, Mr. President, in Sonoma County, the Russian River area—these are areas that I am very, very well familiar with—the woods are thick with hippie communes, which exist on food stamps. These are young people from families of considerable affluence. If they had not had affluent families, they would not be in revolt against affluence itself. They are also in revolt against work. They drop out of the work market, they drop out of school, deliberately, because they have this whole food stamp program to subsist on. Why work, then, when food stamps are so easy to get and, therefore, it becomes so much easier to tune in, turn on, and drop out?

I say that it is a very difficult program to administer because, for example, aliens are not entitled to food stamps. But bureaucratic regulations hinder officials from ever making a serious inquiry into the citizenship status of applicants.

In our State, we have an extraordinary number of illegal aliens. How many of them are getting food stamps? We do not know. But we cannot even find out, or turn them down, because our officials are prevented from asking the kind of questions that will reveal whether or not they are truly entitled to them. We cannot even find out whether they are citizens. We are just sort of automatically issuing them.

Mr. President, this is a program so tremendously subject to abuse, so tremendously subject to supporting the voluntary indigent, and supporting even the well-to-do, so that I am told, for example, in Sebastopol, Calif., there is an enormous traffic in Perrier water paid for by food stamps.

Now, Perrier water may be classified as food in the categorization of a grocery store, and also in that of the food stamp programs, but it is not a life necessity, as bread, cheese, milk, and margarine. But here they are selling cases and cases of Perrier water for food stamps.

This is the sort of thing that happens constantly, and there is no check on it.

To put a cap on this program is to tell the administrators, "For goodness sake, be careful of whom you issue these to," to make some rules to inquire into the financial status, the family status, the connections, the work training, et cetera, and the background of these people who ask for them, instead of handing them out right and left with the greatest generosity.

We are confronted, Mr. President, with the fact that for many administrators of the food stamp program, they like to have more and more clients because that increases the importance of their jobs.

Is it certainly desirable for a food stamp office to say, "We have 10,000 clients," instead of only 5,000. It looks as if, given no cap, they will expand this program indefinitely in order that their office will have not 10,000, but 20,000 clients, so they can enlarge their office, ask for big quarters, high salaries, and go farther up in the Government service and increase their own sense of importance.

To put a cap then is an elementary step in the establishing of some kind of fiscal responsibility.

I deeply respect the humanitarianism and the concern for his fellow human beings of the distinguished Senator from South Dakota in asking the cap be removed. I must take issue with him, perhaps because we come from different States, different backgrounds, and different perceptions on this.

But I do say that we have in common a voting public, a taxpaying public, that has become increasingly impatient with our constantly expanding budget, and here is a place where we can at least draw a line.

I thank the Chair.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have listened very carefully to my distinguished colleagues and, certainly, I think there is merit on each side of the argument.

But I am supporting the amendment in the nature of a substitute, which the Senator from South Dakota has proposed to S. 1309.

The substitute not only incorporates the provisions which the Senate Agriculture Committee agreed to, but it also includes four very important amendments offered by the Senator from North Carolina (Mr. HELMS) as well as an amendment which the Senator from Vermont (Mr. STAFFORD), and myself have worked on. And, not least of all, the substitute would repeal the food stamp cap beginning in fiscal year 1980.

I realize that taken altogether these are far reaching changes, and in my opinion would make for an improved food stamp program. Before joining as a cosponsor to the substitute. I gave the matter considerable attention, and decided that this approach would be the most sensible one to take at this time.

To be honest, I first said I would not join in this substitute which includes repeal of the food stamp cap beginning in fiscal year 1980. Following that decision, I reconsidered after focusing on what type of program this is, what kind of changes have been made, and what will be happening if we have field hearings across the country in the food stamp program. I decided finally that we should remove the cap.

THE CAP

I am not pleased nor proud of the fact that the food stamp program has grown so considerably in the last several years. It is not a comforting fact to realize that millions and millions of a nation's citizens are in need of food. Of all the basic necessities a person faces, the need for food is perhaps the most fundamental. However, after recognizing that America did have a considerable problem with malnutrition and hunger among its citizens, I am pleased that the Congress has acted to solve the problem. Having created the food stamp program in an attempt to solve or reduce the problem of hunger in America, I think we should take pride that it has worked as effectively as it has. A recent study by the Field Foundation shows that over the last 10 years the incidence of hunger has been greatly reduced, and in some pockets of poverty, even eliminated. We still have poor citizens and we still have many problems related to poverty to face, but we are seeing the results of the huge sums of money we have spent on the war against hunger. I offer these remarks to assure my colleagues that our past efforts in the Congress have not been in vain.

I repeat, as I do quite frequently, that prior to the food stamp program we had what we called a commodity program in this country where commodities such as flour, peanut butter, and other commodities went directly to the poor.

It is my recollection that at one time commodities served about 9 million Americans. I say that so the record will reflect we did not start off with a vast new food program, that in many cases food stamps replaced the commodities—in fact, in all cases now food stamps have replaced commodities.

I think some Americans who look at the food stamp program and look at its cost have justifiable concern over what happened. There is a program and it has grown rapidly.

Reforms have been made by the Senator from South Dakota, by the Senator from California, the Senator from North Carolina, the Senator from Kansas, and others. But it is still a large program. It is a costly program. It addresses an important problem in this country, and that is a right to eat and a right to have food.

There are always going to be some exceptions to the rules some abuses and some horror stories. In any program that has a million participants, or 15 million, or 19 million, we will be able to find some people who have abused the program. We will find some cases where they should not have been participating at all in the program.

We have attempted to address those abuses and I believe in most cases we have done so.

But with the field hearings that will be conducted by the chairman and others on the Agriculture Committee, it is my hope that we can tighten up the program more. We should—it is costing the taxpayers of America billions of dollars.

So no one suggests that we should throw open the doors, take off the cap, and let the sky be the limit on the food stamp program. That is not what we want or what would happen.

Mr. President, at the time the spending cap was imposed on the authorization level, there was a realization that it did not allow much flexibility; that if inflation and unemployment were held down, the cap would be fine. But I believe everyone understands that has not been the case. Inflation has soared; it is now doubledigit. It affects the poor as well as the rich. The unemployment rate has not dropped, and there is some indication that it may start to increase.

So what we have here are victims of inflation and victims of a sagging economy—millions of people on food stamps who suddenly were faced with a reduction in benefits.

Through the proper process—the authorization process and the appropriations process—we are about to add $620 million in authority. But this, in essence, like an entitlement program in that Congress has determined what the benefits should be and how they should be distributed. We should make certain that the American people receive those benefits if they are qualified and eligible.

There is some criticism—I suppose a great deal of criticism—of the fact that we eliminated the purchase requirement, which, in my estimation, should have been done long, long ago. We are bringing into the program people who could not put up the front end money to buy stamps, people who have been eligible for stamps right down the line, but who did not have that money.

When we eliminated the purchase requirement, people were added to the food stamp rolls. A great portion of those who were added come from rural areas in this country, where they do not have the urban distribution centers or the outreach programs. Now we are finding that many rural poor, for the first time, are able to take advantage of the food stamp program.

I think it is well to put to rest another myth about the food stamp program, which is that rich people and middle-income Americans benefit from the food stamp program. I cannot vouch for all the figures coming from the U.S. Department of Agriculture, but according to their figures, 52 percent of the food stamp households have monthly incomes of less than $300. Eighty-five percent of the households have incomes less than $500 a month. Of the remainder, less than 4 percent of the households have monthly incomes above $750 a month. In those families, none contains fewer than four persons. At the top end of the scale, one-half of 1 percent have incomes above $1,000 a month, and these households consist of at least seven or more persons.

If anyone in this Chamber or anyone else who may be listening believes that he can live on that income—a family of four, a family of seven or more—I think he should tell us how to do it.

More than one-fifth of the food stamp households are headed by an elderly person. The largest group of participants is white, and 64 percent of the households have no liquid assets.

Furthermore, the majority of adult food stamp recipients are employed full time or unable to work because of disability or the responsibility to care for children or invalid family members.

To reiterate, three-fourths of the food stamp families have gross incomes below $4,800 a year.

The Bureau of Labor Statistics reported that in 1978, four-person urban families needed a yearly income of $11,546 to live on a low budget.

So the Senator from Kansas just wants to reinforce what has been said on this floor by many others, many times. We are talking about poor Americans—white, black, Hispanic, across-the-board—in my State of Kansas, in the State of New York, in the State of California.

It is not a perfect program. There always will be someone taking advantage of any program in the public sector or the private sector.

In the view of this Senator, there has been some lack of urgency on the part of the Food and Nutrition Service to implement some of the reforms. That has added to cost, as well as to the dissatisfaction of those who supported the program, such as the distinguished Senator from California (Mr. HAYAKAWA). It has added to the frustration of others who do not want to see waste in the program, such as the distinguished ranking minority member of the Committee on Agriculture, the Senator from North Carolina (Mr. HELMS).

It does not seem to this Senator that, on balance, the spending restraint will be removed. It does not mean Congress is going to abdicate responsibility. The Senator from South Dakota pointed that out very clearly in his statement about an hour ago. We still have the authorization process. We still have the budget process. We still have the appropriations process. We still have Congress. Now and then, Congress has some influence on what happens so far as policy is concerned.

The conference report of the Budget Committee stated the following, in the RECORD of May 23, 1979, on page 12404:

> The conference agreement would allow the current law spending ceiling on the food stamps program to be raised or eliminated to avoid a reduction in the level of benefits provided under current program guidelines.

So there is no conflict with the budget.

Mr. McGOVERN. Mr. President, will the Senator yield on that point?

Mr. DOLE. I yield.

Mr. McGOVERN. The Senator is absolutely right in the point he makes, that lifting the cap in no way violates the budget process at all. As the Senator knows, there is no such authorization cap on most Federal programs. The cap becomes the appropriations figure, which gives Congress ample authority to control the size of this program.

Beyond that is the budget process, as the Senator has said, that we have established here in the Senate and in Congress.

There came to my attention a memorandum from the Senate Budget Committee staff that Senator MUSKIE had written just a few days ago on July 19. Quoting from that, I read:

> Removal of the cap for fiscal year 1980 and fiscal year 1981 is consistent with the First Budget Resolution assumptions.

Then the Budget Committee staff memorandum goes on to say:

> Lifting the cap for fiscal year 1980 and fiscal year 1981 would not change the food stamp program into an entitlement program. The program would still be subject to the appropriations process and benefit amounts would still be subject to the level of appropriations.

So we really have a double check on the program in that we have the budget resolution process plus appropriations.

I think it is very important for Senators to understand that we are not, in a sense, removing any spending limits from this program that are not duly protected both by the budget process and by the Appropriations Committee process.

In a sense, we are simply proposing

that the food stamp program be treated the same as other Federal programs.

The Senator knows that the program expires in fiscal year 1981, so this action today would put this program on the same footing as other Federal programs.

Mr. DOLE. Mr. President, I appreciate the emphasis added by the distinguished Senator from South Dakota who unquestionably has done more in this area than all of us combined, and the results of which, I might indicate, were well illustrated in the Field Foundation report I referred to earlier.

We are not abdicating any responsibility.

I remember, I think 4 years ago, in this Chamber the distinguished Senator from Maine, the chairman of the Budget Committee, brought about for the first time, in my memory, a reduction in the school lunch program because it exceeded the budget.

So I just suggest there are plenty of checks and balances. This is not an effort to let a program get out of hand. In fact, all the efforts are in the other direction.

The amendments offered by the distinguished Senator from North Carolina are all sound. They should be enacted and probably should have been enacted years ago. They will be enacted today.

The amendment of the distinguished Senator from Vermont is an amendment that should be adopted and will be today.

I think there is enough pressure about the operation of the program coming from those who support it consistently, those who oppose it consistently, and from some who have mixed views about the program—all concerned about the administration. We want people who should be served to be served. We want those who should not be served to be eliminated.

And I think that is the thrust of the substitute. It does more than just eliminate the cap. It takes another step forward. In fact, it is another step forward by Congress.

Finally, I suggest that I have been asked, as maybe others have been asked, by the distinguished colleague in the other body, Congressman KELLY, to allow elderly recipients to claim as a food stamp deduction all medical expenses exceeding $10 monthly.

Prior to the 1977 amendments, all recipients could claim medical expenses as a deduction when figuring income. By allowing this deduction, some families with high incomes were able to receive food stamps.

But, of course, we changed all that. That was another reform. We brought about a standard deduction to avoid some of this.

The cost of the so-called Kelly amendment will add some $36 million in cost above the Stone amendment, which was adopted by the committee. The Stone amendment lets the elderly and disabled claim medical expenses above $35 monthly. The Kelly amendment by itself would cost in the neighborhood of $63 million.

The Budget Committee has not approved the additional money. But, the Kelly amendment will be in the conference. It seems to me that it is better to work it out in conference than to offer that amendment here knowing full well that it will probably be opposed by the Budget Committee.

So I appreciate the efforts of the distinguished Congressman calling this to our attention, and I hope he will have support in the conference committee.

I maintain that food stamp recipients are poor, hard working, and hit exceptionally hard by our faltering economy. For these reasons I feel that we should approve increasing the authorization level for the remainder of fiscal year 1979 by $620 million and remove the cap entirely for the following years.

We have seen the difficulty in accurately projecting the unemployment rate and cost of food, both of which have a direct impact on the cost of the food stamp program. By supporting the lifting of the cap, I still believe that the Congress should maintain close supervision over the program. I believe that this will be provided through our authorization, budget, and appropriation processes and think that this will give us adequate control over the cost, just as it does for other Government spending programs.

OTHER PROVISIONS

Also included in this substitute are four amendments proposed by Senators HELMS, COCHRAN, JEPSEN, HAYAKAWA, and myself. These amendments are designed to provide better administration of the program, and to give States more incentives for correcting fraud. Food stamp recipients who have fraudulently received food stamps will have to repay the Government for benefits wrongly received. All of the amendments proposed by the Senator from North Carolina are sound, and probably should have been enacted years ago.

Also included in the substitute is a Stafford/Dole amendment which is designed to allow more handicapped persons to participate in the program. Our amendment would expend food stamp benefits to handicapped persons who live in small, public, nonprofit community centers, and who receive either supplemental security income or social security disability insurance. In addition, these persons must meet all of the other income eligibility requirements. Under present food stamp law, drug addicts and alcoholics are allowed to receive benefits if they live in treatment centers. However, the disabled have no such provisions.

Our amendment would correct this inconsistency by recognizing that small community living centers of 16 persons or less should be defined as a home rather than an institution, and that residents should be allowed to apply for food stamps. I think that this is a reasonable amendment, and am glad that it is included in the substitute.

CONCLUSION

I realize that the issue under consideration today is a controversial one and one that has been discussed many times before. Depending on one's position, food stamp recipients are either decent, hard-working poor persons struggling to get ahead, but to no fault of theirs never made it, or recipients are lazy free-loaders milking the Government for all they can get. I am sure that in any State and in any county you can find both types of persons on the rolls, which I suppose would show that there is some truth in what we each say. However, I would say that the role of Congress would be to devise a fair, equitable program by which to distribute food benefits to those qualified to receive them. I feel that this substitute makes defensible changes in the program and is the best approach to take at this time. It will allow for food benefits to be continued to those who qualify for them; it will improve the administration of the program; and it will take action against those misusing the program. I hope this substitute will be agreed to.

Mr. STAFFORD. Mr. President, included in the McGovern/Dole substitute amendment to S. 1309 is section 9 entitled "Group Living Arrangements for the Disabled or Blind." I am grateful to my distinguished colleagues, Senators MCGOVERN, DOLE, MAGNUSON, and EAGLETON for including this section within their substitute.

This section of the amendment provides that recipients of SSI or SSDI, residing in group living arrangements, of 16 persons or less be eligible to receive food stamps.

Under existing food stamp rules, persons living in institutions are barred from participation, with the exception of the elderly in Federal housing projects and drug addicts and alcoholics in State-approved private nonprofit treatment programs. Community residences or group homes are classified as institutions for food stamp purposes because services other than room and board are provided and because residents often are not entirely responsible for purchasing and preparing their own food.

However, disabled persons living independently or as boarders or roomers are eligible for food stamps. In addition, drug addicts and alcoholics in treatment programs are eligible under special provisions of the Food Stamp Act.

For disabled recipients of SSI or SSDI, this section of the substitute amendment removes the words "group living arrangements" from the classification as institutions as long as they are small (16 persons or less) nonmedicaid institutions, and certified by States under standards required by sections 1616(e) of the Social Security Act. This means that a disabled person as defined by the Social Security Act who meets other food stamp eligibility tests such as income, assets and work registration would not be barred from the program simply because his or her disability had forced them into a State-approved, nonmedical living arrangement as part of the deinstitutionalization process. These are persons who have their own income sources and living independently would be eligible for food stamps except for their disability.

In addition, the Department of Agriculture and State agency(s) would be allowed to deal with these living arrangements in the same way they deal with treatment programs for drug addicts and alcoholics if the group residence actually operated as the meal provider rather than residents purchasing food and helping to prepare their own meals.

In group living arrangements, as with treatment programs, they would be prohibited from depositing food stamps in a bank and would have to use them in grocery stores for food to prevent possible misuse of food stamp aid.

Mr. President, I ask that my colleagues join with us in this effort to remove this discriminatory provision from the Food Stamp Act. I ask my fellow Senators to join with Senator Dole and I to provide that qualified recipients of SSI and SSDI residing in group living arrangements be granted the same privileges of receiving food stamps as accorded drug addicts and alcoholics under the Food Stamp Act.

Mr. McGOVERN. Mr. President, I commend the Senator from Vermont (Mr. Stafford) and Senator Dole, who have offered this amendment to help the elderly deal with one of the most important nutritional problems in the country.

I believe it is a wise and constructive amendment, and I commend the Senator from Vermont for bringing it to the attention of the committee so that it could be included in the measure now pending before the Senate.

The PRESIDING OFFICER (Mr. Bentsen). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I rise today in support of the substitute amendment to S. 1309. The substitute contains all of the provisions of the bill reported by the Agriculture Committee; the four amendments offered by Senators Helms, Dole, Cochran, Hayakawa and Jepsen; a Stafford-Dole amendment to extend benefits to handicapped persons living in community living centers and an amendment repealing the food stamp authorization ceiling for fiscal years 1980 and 1981. Mr. President, it is my understanding that the substitute amendment has the support of Chairman Talmadge.

I would ask my colleagues to consider the importance and merits of the particular provisions in the bill sponsored by Senator Stone, which I was pleased to cosponsor. These provisions allow for greater medical and shelter deductions to the elderly and disabled in determining eligibility for and levels of food stamp benefits, and they are crucial in insuring adequate food stamp benefits to thousands of people who need them.

Mr. President, as you may recall, the 1977 Food Stamp Act which went into effect 4 months ago drastically reduced allowable deductions for housing and medical care costs. I believe the congressional intent in 1977 was that such changes would help direct benefits to the people who need them most. I do not believe that it was congressional intent to reduce benefits for the elderly and disabled to the extent we now find occurring. Many of our most needy citizens have reported that their food stamp benefits have been cut by 50 percent or more, and the hearings of the Senate Special Committee on Aging bear that out. At a time when medical care and shelter costs are enormous yet continue to skyrocket, the current limits on deductions for these expenses are clearly too low. Indeed, at a time when food prices are increasing at up to 20 percent annually, we should certainly not allow actual cuts in food stamp benefits for the elderly and disabled. The need for the Stone amendment is obvious and other provisions of the substitute amendment are clear and I urge my colleagues to join me in supporting it.

Mr. President, it has been brought to my attention that some retail bakeries are being denied authorization to accept food stamps under the authority of the 50-percent staple-food-sales rule enacted in the Food Stamp Act of 1977—despite the intent of the law that bakeries selling bread not be excluded.

Retail bakeries selling bread, but also offering other bakery products—are, in some cases, being denied authorization to accept food stamps or having their authorization withdrawn because over 50 percent of their sales are not bread alone.

After investigation, I have found that these denials appear to have been erroneous and contrary to the Department of Agriculture's rules for authorizing retail outlets for food stamp participation.

The Department's policy is, in fact, fair and evenhanded and carries out the intent of the law. The problem is that Food and Nutrition Service field officers are, in some cases, not carrying out the Department's policy correctly.

In order to illustrate the matter, I shall have printed in the Record a letter from the Retail Bakers of America and excerpts from the Department of Agriculture's regulations and instructions governing the authorization of retail outlets for food stamp participation.

As a result, I had intended to introduce an amendment that would have specified, in the act, that bakeries selling bread along with other bakery products should be authorized for food stamp participation. This amendment would not have changed current Department policies. Rather, it would have put them directly into the act in order to encourage the Department to insure that existing policies on authorizing retail bakeries are carried out.

The intent of the 50-percent staple-food-sales rule added in the 1977 act was not to exclude bakeries selling bread along with other bakery goods and my amendment would merely have made that intent clear. Donut and pastry shops that specialize in sweet baked goods and which do not do a substantial business in staple foods such as bread are excluded.

However, since this is a case of simply carrying out the clear intent of the existing law, I ask my friend, the distinguished Senator from South Dakota, if he concurs in my understanding of the intent of the law in this regard and the need to fully and consistently carry out the Department's rules.

Mr. President, I ask unanimous consent that there be printed in the Record a letter from the Retail Bakers of America and excerpts from the Department of Agriculture regulation and instructions governing the authorization of retail outlets for food stamp participation.

There being no objection, the material was ordered to be printed in the Record, as follows:

Retail Bakers of America,
Hyattsville, Md., June 27, 1979.

Hon. Carl Levin,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Levin: One of the questions you asked was whether our members were having any particular problems with one or other of the federal agencies. We indicated that as a matter of fact a number of retail bakeries from different states were having trouble with the Food and Nutrition Service over food stamps. These bakeries had recently been denied authorization to participate in the Food Stamp Program on the ground that they did not sell enough bread, although the regulations had been amended to include bread and breadstuffs (i.e. any grain, flour or other cereal product) so as to make it clear that bakeries were not to be excluded from the program merely on the basis of how much bread alone they sold.

You asked me to send you details and supporting documentation of these denials, which I promised to do as soon as I could. This letter is in response to your request.

In brief, the enclosed material shows the following. Although the Food Stamp Act itself mentions only bread specifically as an example of staple food, the House Report mentions bread and breadstuffs and explicitly states that retail bakeries are a type of retail food store which will normally be considered eligible to participate in the program. Nevertheless, field officers of the Food and Nutrition Service routinely denied retail bakeries' request for authorization to accept food stamps or withdrew previously granted authorization, as the copies of letters to several bakers show. As a result, at the urging of our association, the definition of staple food contained in the FNS regulations governing the program was modified to include bread and breadstuffs and the accompanying explanatory material made it clear that bakeries which sold bread were to be authorized to participate in the program.

Again, despite these clear, explicit, final regulations that bakeries which sold bread are to be authorized, field officials of FNS continue to ignore them and to deny or withdraw authorization to accept food stamps from bakeries on the ground that at least half their annual volume of sales is not of bread and bread alone The copies of the letters from Daniel's Bakery and Dainty Bakery bear this out. In addition, I was informed by telephone that Diener's Bakery in North Carolina had again been denied authorization after the amended regulations had become final (although he later was granted authorization) by a Ms. Paula Kernin of the Greenville, North Carolina FNS office; and that Harvey's Bakery in Valdosta, Georgia had also had its application for continued authorization turned down. As a result, we have written to Representative Frederick Richmond asking him to sponsor an amendment to the Food Stamp Act (copy enclosed).

I emphasize that our people have had problems only with FNS officers in the field; the Washington office has been very cooperative. In fact, Mr. Dan Woodhead with the Retail Food Store Branch of FNS here in Washington, had gone out of his way to be helpful.

Senator Levin, we very much appreciate your interest in our problem and are grateful for any help you give us.

If there is any other information you need from us, please call me. Again, thank you for your help.

Respectfully,

GERARD P. PANARO,
Associate General Counsel.

TITLE 7—AGRICULTURE: CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

FOOD STAMP PROGRAM

Agency: Food and Nutrition Service, USDA.

Action: Final rule.

Summary: This rule tightens the criteria for authorizing retailers and wholesalers to accept and redeem food stamps, sets forth criteria for determining periods of disqualification for retailers and wholesalers who have been found to have violated food stamp program regulations, allows the Food and Nutrition Service (FNS) to substitute a civil criteria for determining periods of disqualition for a retailer or wholesaler if a disqualification would cause hardship to participating households, details the method for assessing a civil money penalty and requires retailers to provide cash change in amounts less than $1 in food stamp transactions. These regulations implement the Food Stamp Act of 1977.

Effective date: The amendments to parts 270 and 271, and the new parts 278 and 279 take effect on January 1, 1979.

For further information contact: Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202–447–8982.

Supplementary information: On May 2, 1978, the Department published a proposed rule (43 FR 18874–18958) to amend parts 271, 272, 273, and 274 of the food stamp program regulations and to add new parts 278, 279, and 282. As noted in the preamble to those proposed regulations the ". . . existing provisions (current regulations) regarding retailer/wholesaler activities have generally been considered successful (and therefore) major portions of this (proposed) section are a restatement of existing regulations, instructions of procedures." (43 FR at 18903.) Almost no comments were received on those existing regulations and provisions as republished in the proposal. Moreover, as compared to the other parts, relatively few comments were received regarding the retailer and wholesaler proposals. These comments led to few changes in the proposed retailer-wholesaler rules.

Rather than delay these final rules to combine them in a single massive publication likely to be issued later this month, and to allow firms sufficient time to plan for implementation of these regulations, the Department has decided to publish parts 278, 279, and those portions of part 271 related to parts 278 and 279, before publishing the remaining rules. A number of wording changes have been made to improve clarity. No specific mention of these changes will be made in this summary. The significant changes are discussed as follows:

Staple Foods. Three commenters were concerned that the list of staple foods found in section 3(k) of the Food Stamp Act of 1977 (Act) mentions no bakery product but bread and that few bakeries have more than 50 percent bread sales.[1] As pointed out in those comments,[2] the proposed regulations might be interpreted to exclude many bakeries despite the clear expression found in the House Report[3] that bakeries were to be authorized if they sold bread and breadstuffs which met the 50 percent staple foods test found in section 3(k) of the Act. The House Report stated that:

"To satisfy the 50 percent test, the store * * * should offer a variety of such staples, meaning a spectrum of * * * breadstuffs * * *, since the Committee has no reason to foreclose * * * bakeries * * * from being able to accept food stamps in trade."

Thus, to insure uniform administration of this requirement, in accord with the clear intent of the House Report, the Department has modified the list of staple foods to include "bread and breadstuffs." However, this change is not intended to permit the participation of pastry and donut shops that do not sell bread. The House Report noted that " * * * the intent of the Committee is * * * to eliminate without question certain stores, such as * * * specialty donut stores not selling other bakery or bread products * * * . This intent would be effectuated by authorizing pastry, donut or bakery shops only if a line of basic bread products (breads and rolls) is customarily sold in addition to the sales of other staple foods. This same rationale extends to, for example, shops which only sell ice cream. These shops would not be authorized unless they customarily sold other dairy products in addition to ice cream.[4]

Delegation of authority. Approval or denial of authorization of retail or wholesale stores to accept food stamps is currently delegated to the officers in charge—OIC's of FNS field offices. Although no comments were received on this point, the Department has decided, for the sake of clarity, to specify when this authority lies with the OIC. The final rule is not intended to represent a change in current policy.

Approval of retailers and wholesalers. A number of commenters expressed fear that the 50 percent staple foods requirement would exclude many small grocery stores, especially rural grocery stores and convenience stores, from participation in the program.[5] The Department believes that these fears arise largely from misunderstanding of that statutory requirement. According to sections 3 (g) and (k) of the Act, staple food sales must be more than 50 percent of the store's eligible food sales only—not of the store's gross sales (their total sales of food and nonfood items). Sales of nonfood items, alcoholic beverages, hot food prepared for immediate consumption, newspapers, sundries, and general merchandise are not to be counted in determining the total food sales volume which is to be compared to the amount of staple food sales. The Department intends to implement this statutory requirement by asking retailers to estimate what percentage of their total food sales are comprised of staple food items on a simple self-declaration form. As noted in the preamble to the proposal, "[t]he House Report explains that retailers should not be required to set up any elaborate system of recordkeeping to prove to FNS that sales of staple foods, warranted authorization." (43 FR at 18903). As provided in the Act, any retailer which has food sales that are 50 percent or less staple foods will not be eligible for participation in the program. The final regulatory language regarding this point is merely designed to clarify what was intended in the proposed language.

The section on authorization of wholesalers has been changed to allow income (SSI) recipients, and their spouses. It also includes senior citizens' centers, apartment buildings occupied primarily by elderly persons or SSI recipients, and their spouses, public or private nonprofit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.

"Coupon" means any coupon, stamp, or type of certificate provided pursuant to the provisions of this subchapter for the purchase of eligible food.

"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Pub. L. 91–616, "Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970" and Pub. L. 92–255, "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

"Elderly person" means a person 60 years of age or older.

"Eligible food" means: (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; (2) seeds and plants to grow foods for the personal consumption of eligible households; (3) meals prepared and delivered by an authorized meal delivery service, or served by a communal dining facility for the elderly or S91 households, to households eligible to use coupons for delivered meals or communal dining; (4) meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons for those meals; and (5) in the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing, or shelter nor firearms, ammunition, or other explosives.

"Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which a State or local agency has contracted for the preparation and delivery of meals at concessional prices to elderly persons, and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

"Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

"Retail foodstore" means: (1) An establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) public or private communal dining facilities and meal delivery services and drug addict or alcoholic treatment and rehabilitation programs; (3) any store selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible food; (4) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and (5) a farmers' market.

"Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread and breadstuffs, cereals, vegetables, fruits,

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Footnotes at end of article.

fruit and vegetable juices, and dairy products. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices are not staple foods for the purpose of qualifying a firm to participate in the program as a retail foodstore.

"Wholesale food concern" means an establishment which sells eligible food to retail food stores or to meal services for resale to households.

FOOTNOTES

[1] Sec. 3(k) of the Act defines a retail food store, in part, as "* * * an establishment or recognized department thereof or house-to-house trade route, over 50 percentum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments and spices * * *"

[2] The Associated Retail Bakers of America, letter of June 3, 1978, provided a detailed and useful analysis of the bakery product issue. All retailer/wholesaler comments are available for public inspection and copying at FNS Offices, Room 640, 500 12th Street SW., Washington, D.C. 20250.

[3] House Committee on Agriculture (H. Rept. 95-464; June 24, 1977).

[4] As noted in the preamble to the proposal, the statutory intention was "* * * to eliminate certain stores such as candy and ice cream stores, spice stores (and) donut shops which do not also sell bread products * * *" (43 FR at 18903.)

[5] The letter of June 14, 1978, from NARGUS (the National Association of Retail Grocers of the United States), is representative of the comments concerning the feared loss of authorization for convenience stores and small rural groceries.

PART 272—[REDESIGNATED]

Part 272 is redesignated as part 278 as set forth below.

Part 272 is redesignated as part 278 and is revised to read as follows:

PART 278—PARTICIPATION OR RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Sec.
278.1. Approval of retail foodstores and wholesale food concerns.
278.2. Participation of retail food stores.
278.3. Participation of wholesale food concerns.
278.4. Procedures for redeeming coupons.
278.5. Participation of banks.
278.6. Disqualification of retail foodstores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.
278.7. Determination and disposition of claims—retail foodstores and wholesale food concerns.
278.8. Administrative reviews—Retail foodstores and wholesale food concerns.

Authority: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate in the program shall file an application as prescribed by FNS. The FNS officer in charge shall deny or approve authorization, or request more information, within 30 days of receipt of the application.

(b) *Determination of authorization.* An applicant shall provide sufficient data on the nature and scope of the firm's business for the FNS officer in charge to determine whether the applicant's participation will further the purposes of the program. In making this determination the FNS officer in charge shall consider all of the following:

(1) *The nature and extent of the food business conducted by the applicant.* (i) Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of eligible food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the program. These stores shall include: Full-line grocery stores; convenience stores; stores which sell meat, poultry, or, fish; stands which sell agricultural commodities; farmers markets; milk routes; bread routes; day-old bread stores; bakeries which sell bread; and nonprofit cooperative food-purchasing ventures which are properly licensed to sell food in the state and locality in which they are operating.

(ii) Firms whose primary business is not the sale of food for home preparation and consumption, but who have recognized grocery departments in which stable foods make up more than 50 percent of eligible food sales, shall normally be considered to have food business of a nature and extent which will qualify the store for participation in the program. In determining whether a store's staple food business is sufficient for the store to qualify for participation in the program, the FNS officer in charge shall also consider:

(A) The volume of staple food business the store does;

FNS(FS) INSTRUCTION 741-2

12. Bakeries. For the purposes of this Instruction, bakeries are stores which carry a wide variety of baked foods including bread. They may stock milk and other dairy products. Such stores can reasonably be expected to do a substantial business in these staple foods and, therefore, may be authorized.

13. Donut and Pastry Shops. These shops, for the purposes of this Instruction, are firms which specialize in donuts and sweet baked goods either for carryout or to be eaten on the premises. Many such shops feature coffee bars. If firms of this type do not do a substantial business in the sale of staple foods such as bread, they do not effectuate the purpose of the program and, therefore, should not be authorized.

Mr. McGOVERN. Mr. President, if the Senator from Michigan will yield, I concur absolutely with his understanding of the law, and I urge the Department of Agriculture to take steps to see that the policies on authorizing retail bakeries selling bread along with other bakery products are carried out by the field offices and other officials in charge of making the necessary determinations.

I am convinced, I will say to the Senator, that the Department will do this.

I have a rather lengthy letter from them, under date of July 23, in which they outlined their policies on authorizing retail bakeries. They give the rationale behind them and the steps that they are taking to effectuate these policies.

But the Senator's concern is well taken.

It is simply a misunderstanding of the law at the local level that has resulted in the problem that he raises, but I think it is important that this legislative history be made.

I commend the Senator from Michigan for being alert to a problem that we want to correct.

Mr. LEVIN. I thank my friend from South Dakota.

Mr. President, I ask unanimous consent that the letter from the Department of Agriculture to which the Senator referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., July 23, 1979.

Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: This is to advise you of the Department of Agriculture's policy on authorizing bakeries to accept food stamps.

The 1977 Food Stamp Act requires firms to do more than 50 percent of their eligible food sales in staple foods before they can be authorized to accept food stamps. The only bakery product listed in the Act as a staple food is bread. In reviewing the legislative history on this issue, it was clear to us that Congress intended the Department to eliminate pastry and donut stores that do not sell bread from participation in the program while continuing the participation of bakeries that sold a variety of breadstuffs. Therefore, our regulations include "bread and breadstuffs" in the list of staple foods.

Unfortunately, it would appear that this policy of retaining bakeries that offer a spectrum of breadstuffs while eliminating those that sell only donuts or other sweets, has been misunderstood by some of our Field Offices. We have recently discovered that some authorizations have been withdrawn for bakeries whose food sales do not consist of more than 50 percent bread. These authorizations were withdrawn in error.

Enclosed are two pieces of correspondence that we have sent to our field staff through our regional offices in an effort to clarify the policy with the field staff. Also enclosed is a copy of the Food Stamp Program Regulations with the portion marked in the preamble that was intended to clarify the policy on this issue and the regulation dealing specifically with bakeries marked.

We will make a further effort to clarify the policy with the field staff, and will reevaluate the authorization of any bakeries that have been withdrawn from the program on the basis that they do not have an adequate portion of their food sales in staple foods.

ALBERTA C. FROST,
Acting Deputy Administrator
for Family Nutrition Programs.

Enclosures.

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., June 7, 1979.

Subject FNP—Reevaluation of Retail Bakeries.

To All regional directors for family nutrition programs.

This is in reference to D. W. Moritz's memo dated May 15, 1979, to R. E. Mellinger concerning some questions that had been raised in that region on the authorization of bakiers. Copies of Mr. Mortiz's memo were sent to all regions.

From the reaction in several regions to Mr. Moritz's memo, it appears that there is still some misunderstanding of the policy for authorization of bakeries. The confusion of this issue seems to be caused by the term "breadstuffs" which is used in the regulations and which was also used in the discussion of bakeries by the House Agriculture Committee in its report on the Food Stamp Act of 1977. Several regions had asked for a more specific definition of the term.

"Breadstuff" is defined in "Webster's Seventh New Collegiate Dictionary" as "1: grain, flour 2: bread." If we used the above definition for the purpose of determining whether a firm sells 50 percent or more staple food, virtually all bakeries would be eliminated because very few have over 50 percent of their food sales in bread. However, as indicated in the House Agriculture Committee Report, Congress did not plan to exclude bakeries, but they did intend to exclude the so-called pastry and donut shops.

The meaning of the last paragraph of Mr. Moritz's memo and the policy of this agency concerning the authorization of bakeries is as follows:

Bakeries which sell a variety of baked goods including bread may be authorized regardless of whether the bakery bakes the bread or buys it for resale. The field staff is not required to evaluate the volume of bread sales to determine whether it is sufficient to warrant authorization. If the bakery sells bread it may be authorized. A bakery that does not sell bread shall not be authorized.

It might be advisable to review Mr. Moritz's memo to have an understanding of how the policy as stated above evolved.

A. P. HORNSBY, Jr.,
Director, Federal Operations Division.

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Washington, D.C., May 15, 1979.

Subject FNP—Reevaluation of Retail Bakeries.

To Richard E. Mellinger, Regional Director for Family Nutrition Programs, Western Region, FNS, San Francisco, California.

Thomas C. Ahern, Chief of your Compliance Management Section, wrote to me on April 19, 1979. With his letter, he sent a request from Sacramento Officer In Charge Robert Delany for a clarification of FNS policy on staple foods in bakeries. Mr. Delany particularly asked for a more specific definition of breadstuffs. He also asked how the 50 percent staple foods criterion is to be applied.

The term "breadstuffs" was included in the list of staple foods in the regulations, and therefore has become significant in formulating policy on the authorization of bakeries, because the term was used in the House Agriculture Committee report in describing what a bakery must sell to be authorized to participate in the program.

The report states on page 336:

"To satisfy the 50 percent test the store . . . should offer a variety of staples, meaning a spectrum of . . . breadstuffs . . . since the Committee has no reason to foreclose . . . bakeries . . . from being able to accept food stamps in trade."

"The intent of the Committee is to eliminate without question certain stores, such as . . . donut shops not selling other bakery or bread products. . . ."

In order for the 50 percent staple foods provision in the Act to be implemented in conformance with the intent of the Committee, the term "breadstuffs" has be broad enough to include a wide variety of bakery products. However, because the Committee intended to exclude donut shops from participation, the policy on authorization of bakeries has to go beyond the simple 50 percent staple foods test. A bakery should sell a variety or a spectrum of baked staple foods which must include bread to qualify for authorization. Bakeries that do not sell bread in addition to other baked goods (breadstuffs) cannot be authorized. Consequently, donut shops that do not sell bread cannot be authorized even though more than 50 percent of their business is derived from the sale of breadstuffs.

D. W. MORITZ,
Acting Director,
Federal Operations Division.

Mr. McGOVERN. Mr. President, I thank the Senator.

Mr. LEVIN. I thank the Senator.

ORDER FOR VOTE TO OCCUR AT 2:30 P.M TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur on the amendment by Mr. HELMS at 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, it is my understanding that sometime fairly soon this afternoon, the majority leader will suggest that we temporarily lay aside the food stamp bill and that we proceed to the consideration of the trade bill.

I ask unanimous consent, therefore, that the following persons have the privilege of the floor:

Michael Stern, Bob Cassidy, and Dave Foster of the Finance Committee; Carl Bates of the Joint Committee on Taxation; Brian Walsh of the Governmental Affairs Committee; and Eric Lee of the Commerce Committee.

Mr. DOLE. Mr. President, I make the same request for Rick Johnson and Chip Roe of the Finance Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the food stamp bill be temporarily laid aside, that a call for the regular order not bring it back, and that the Senate proceed to the trade bill, which is a privileged matter.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank Mr. McGOVERN, Mr. HELMS, and all other Senators involved.

TRADE AGREEMENTS ACT OF 1979

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

The Senate proceeded to consider the bill.

ORDER FOR YEAS AND NAYS ON PASSAGE OF TRADE AGREEMENTS ACT OF 1979, H.R. 4537

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage of MTN, H.R. 4537.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, it is usually customary in legislation of this type to pay tribute to the staff at the end of the debate. However, I would like to exercise my privilege today as floor manager of this bill to pay a special tribute to Mr. Bob Cassidy, the head of the professional staff of the International Trade Subcommittee, and a member of the staff of the Committee on Finance, for his outstanding work.

I do not believe that in my experience in this body I have seen a member of the staff give to a piece of legislation such leadership, understanding, intelligence, drive, and coordination. This has been a very, very difficult negotiation, unusual in the way this measure is presented. I am filled with admiration for Mr. Cassidy for the excellence of his performance. It is an example that will be followed for many years when members of the staff seek to explain and to understand the role of a staff member in the legislative process.

Assisting him from the Committee on Finance were Dave Foster, Bill Finan, and from the minority staff Charles Roh and Rick Johnston, all of whom gave greatly of their energies, their intelligence, and their constructive ideas.

Further, they were assisted by Mr. Carl Bates of the Joint Committee on Taxation; Mr. Eli Nobleman and Brian Walsh of the Governmental Affairs Committee; Mr. Eric Lee of the Commerce Committee; and Lloyd Ator of the Senate Legislative Council.

Mr. President, the Trade Agreement Act of 1979 marks the end of the most significant international trade negotiation in history. It may mark the beginning of a new era for U.S. international trade policy. Let me explain why.

As chairman of the Subcommittee on International Trade of the Committee on Finance, I have followed the Tokyo round of multilateral trade negotiations closely from beginning to end. The MTN has produced tangible results. It did not end in a whimper. This alone is a remarkable achievement.

The negotiations began in 1973 during a worldwide economic boom. Since then we have had the OPEC price increases, a global recession combined with inflation, and changes in the government administration of every major trading country.

The productive conclusion of the MTN is due largely to the leadership of the United States. Several Presidents and many Government officials have contributed to this effort. However, there is no doubt that the successful conclusion of the negotiations is due principally to the efforts of one man, Ambassador Robert S. Strauss.

Although the negotiations are over, the decision whether the United States will agree to the results has not been made. That decision is the constitutional responsibility of Congress. It is the decision which we will have to make.

The Committee on Finance recommends that the Senate agree to implement the results of the Tokyo round of multilateral trade negotiations for the United States. We believe that the new MTN agreements on subsidies, Government procurement, product standards, antidumping, customs valuation, and import licensing should result in more American exports and in more discipline on unfair practices in international trade.

The Trade Agreements Act establishes the legal basis for the United States to enforce these agreements. Among other things, it will provide domestic parties an opportunity to get relief when foreign governments violate the agreements. It will also completely revise the countervailing duty and antidumping laws to provide quick and certain relief for domestic industries which are injured by dumped or subsidized imports.

With this bill as their legal foundation in the United States, the MTN agreements should promote increased trade and higher standards of living throughout the world. I say "should" because the MTN agreements and this bill merely establish rules. Rules mean nothing unless thev are enforced.

If history is any indication, international enforcement of the new trade rules will depend on the United States. Our ability to enforce the MTN agreements and to promote the short- and long-term economic interests of the United States require that we make some fundamental changes. Furthermore, changes are necessary if we, the Congress, are to be certain that this bill is to be administered as we intend.

The first thing we must do is to continue the close cooperation between the President and Congress that resulted in this bill. The era of the trade agreements program, as it existed between 1934 and 1975, is over. U.S. negotiators should never again enter into trade agreements without close congressional review. The Trade Agreements Act is the product of a unique and successful constitutional experiment in coordination between the executive and legislative branches before, during, and after an international negotiation. We must apply the lessons we have learned from this experiment to future negotiations.

Second, the executive branch trade policy agencies must be recognized. We can no longer afford the luxury of dispersing political responsibility for international economic policymaking among many agencies. We can no longer afford limp enforcement of our unfair trade laws and uncoordinated attempts at export promotion. We must establish a strong trade policy agency.

The Committee on Governmental Affairs, intends to act very quickly on this matter. I hope the Congress will complete work on the trade policy reorganization within the next 2 or 3 months. If we do not, the benefits of the MTN for the United States will be minimal.

Finally, we must all realize that the world is a tough marketplace. The United States is now, and has been for many years, the greatest trading nation on Earth. But we must fight to keep the markets we have. And we must fight to gain new markets.

It is essential that the United States win this battle. Our economic welfare absolutely depends on international trade, both exports and imports. Furthermore, our national security depends on trade. Economics, not "geopolitics," determine foreign relations today. If anyone doubts this, they must not have noted the effect of OPEC price increases on this country.

In conclusion, Mr. President, if we agree to the Trade Agreements Act and make the changes I have mentioned, then our vote will mark the beginning of a new era for the U.S. international trade policy. If we do not approve this bill and do not make other fundamental changes then the world and this country will spend a generation trying to recover. I strongly recommend that the Senate approve H.R. 4537.

Mr. President, in this endeavor the entire Committee on Finance, not just the subcommittee, under the leadership of Chairman Long and Senator Dole of Kansas, the ranking minority member, have played a strong coordinating role.

It was not just the International Trade Subcommittee, but every member of the Finance Committee who took a special and deep interest in this bill, and who made his contribution to this measure. However, I do want to pay a special tribute to the ranking minority member of our subcommittee, the distinguished Senator from Delaware (Mr. Roth). I do not know how any Member of this body could work more closely or with greater cooperation and greater empathy with any other Member than has been true of my work on this measure with the distinguished Senator from Delaware. He has been thoughtful, considerate, intelligent, and constructive throughout, which made the work on this complicated measure really a sheer joy.

Furthermore, we have been working very closely together to implement this legislation. We realize that no matter what the policy in this legislation is, in order for it to work we must reorganize the trade policy agencies of our Government.

We believe that the benefits of the MTN for the United States will not be realized unless we have a meaningful reorganization. We started hearings in the Governmental Affairs Committee today on reorganization proposals. The administration has sent up their proposal, and the distinguished Senator from Delaware and I believe them to be inadequate. It is our feeling that, during the next month, we can work out a much better proposal. It is our hope that we will supplement MTN with a reorganization proposal that will really implement this bill and the MTN. Finally, it is our hope that this body will adopt the proposal we will report out of the Governmental Affairs Committee.

My thanks to the distinguished Senator from Delaware for his many acts of kindness and cooperation. It has really been, as I say, a sheer joy and pleasure to work with him.

Mr. ROTH. Mr. President, it is difficult to follow the distinguished chairman of the Subcommittee on International Trade. I would like to echo what he has said so eloquently, that the entire Finance Committee—both Democratic and Republican members—has played a crucial role in these trade deliberations. There are many people we could mention by name for their outstanding contributions to this legislation. As I said in a hearing this morning, Mr. President, this country owes a great debt to the distinguished Ambassador, Mr. Strauss, who did an outstanding job in negotiating these trade agreements on behalf of the United States. In a large share, the success of those negotiations must go to him.

However, there is one other individual who, I think, equally deserves credit for the outstanding job that has been performed, and that is, of course, my distinguished chairman (Mr. Ribicoff).

I know it is traditional on major legislation to discuss and applaud the work of other individuals, but this is a little something special. I have learned to know and admire Senator Ribicoff in the many years I have served with him, both on the Finance Committee and the Committee on Governmental Affairs. I think he is one of the most creative, hard-working, and able men I have ever come in contact with, and it has indeed been a great pleasure to serve with him on trade matters. Together we have tried to reconcile the differing points of view that have been expressed throughout these negotiations.

I think the success has been due to the fact that Senator Ribicoff has been willing to sit down and listen to all viewpoints, and then try to work out an approach that would accommodate diverse interests.

I would like to mention one further fact. That is that Senator Ribicoff and I are working as one in the trade reorganization proposal. As he said a few minutes ago, neither of us is satisfied with the proposal of the administration, but both of us are eager to work with the administration in developing a stronger approach.

I would say to those who think that they might be able to divide Senator Ribicoff and me to promote a weak bill that they might as well forget it, because we are going to continue to work together, and I think the whole committee will work together in insuring that we have a trade apparatus that will help make the United States the No. 1 trading nation of the world again.

Mr. President, as the ranking Republican on the International Trade Subcommittee, I support the passage of H.R. 4537, the Trade Agreements Act of 1979.

This bill implements the results of the Tokyo round of multilateral trade negotiations (MTN). In urging my colleagues to support the legislation, I want them to have a full understanding of the opportunities and the responsibilities presented by the MTN package.

The true test of this package lies in its implementation—domestically and internationally. Once this bill is approved, we cannot allow international trade issues to be placed once again on the back burner. To the contrary, approval of the package commits us to following through on enforcing our new rights and to fulfilling our obligations under the agreements. Approval signifies a greater commitment to multilateral and bilateral trade negotiations and international dispute settlement procedures. Approval requires us to be even more attentive to domestic programs, laws, and policies relating to international trade.

This is why it is essential to have in place the most effective possible Government trade apparatus to develop and coordinate our international trade policy and vigorously implement the international codes negotiated in the MTN.

Potentially, the MTN codes can be of great importance to American industries and workers. Each code establishes guidelines which, if followed, will restrict the use of unfair or trade-disrupting practices in the area it addresses. The agreements also begin to exert discipline on the use of nontariff barriers to trade—which, as tariffs have been reduced in the past decade, have become the major obstacles to free trade. For example, under the subsidies code, we will have rights to protect and to require elimination of unfair subsidy practices of foreign governments, which adversely effect our export trade. The Government procurement code will work to open up foreign government purchasing markets which are now effectively closed to American exporters. The code requires our trading partners to move toward adopting our system of openness in drafting procedures to set standards. Through its dispute settlement procedures, the Standards code can help to reduce the use of standards as a means of blocking U.S. exports.

But these rights are only paper rights unless they are effectively and aggressively pursued. To make the most of our new opportunities, we must monitor closely foreign government practices. We must pursue, through the international dispute settlement procedures and available domestic remedies, any violations of code obligations by foreign governments.

The MTN package, of course, is a negotated agreement which involves concessions as well as gains. For the first time, the United States is adopting a material injury test for our countervailing duty law. This same test will be applied to the antidumping law. We have liberalized and restricted some Buy American preferences, and we are replacing the American selling price system of valuing certain imports.

In our drafting session with the executive branch, my colleagues on the various committees involved and I sought to insure that the changes in U.S. law embodied in this bill regard only fair and mutually beneficial trade.

In most cases, only those countries which sign the codes will benefit from their provisions embodied in U.S. law.

In reviewing antidumping and countervailing duty legislation, we made significant improvements to better protect American producers against unfair foreign competition. The time periods for Treasury and ITC determinations have been reduced. The use of discretionary "offsets" has been severely restricted. The verification of information submitted by foreign governments is required, and other important protections have been built in.

We argued long and hard over the exact phraseology of the material injury test. While I believe different language would have been more clear, there was no doubt about the congressional intent. The material injury criterion should be consistent with the criterion used by the ITC under existing law for antidumping cases in the period between January 3, 1975, and July 2, 1979. The Congress does not intend a tougher injury test.

Another area where we had a significant debate was the subject of future tariff negotiations. At the request of the administration, the interested committees of jurisdiction agreed to extend the tariff negotiating authority, subject to strict restrictions. I was opposed to such an extension, it being my belief that such authority must be closely reviewed and discussed with the administration before it is granted.

Tariff reductions can have far-reaching effects on industries in this country—and the authority to use it must be closely circumscribed with appropriate conditions applied. In the last hour, the administration saw fit to withdraw the tariff negotiating authority from the bill. I applaud this action, noting that tariff negotiations must be withheld until further authority is granted by Congress. I urge the Executive to come forward with a proposal for such authority when they have ascertained the need for such authority under projected world economic conditions and the ability of this country's economy to undergo further tariff reductions.

Most importantly, the codes have force and effect only as embodied in U.S. law. We can make any subsequent changes in domestic law by the legislative process, the codes notwithstanding. I would not hesitate to initiate and fight for appropriate future legislative changes if this act is not being interpreted properly by U.S. agencies or if foreign governments are not living up to their promises.

Summarily judging the package on its own merits, it is my feeling that it is marginally beneficial for our country. It may help to slow a dangerous trend toward mercantilism and government involvement in commercial transactions. But we must not delude ourselves by thinking that the MTN agreements, once given force and effect internationally, will erase our $30 billion trade deficit or help our trade sensitive industries survive the onslaught of import competition.

We must recognize that this package serves merely as an invitation to the United States to enter into a new era of trade policy, economic interdependence, and negotiation. If we accept the invitation, we must be willing to change old attitudes, old mechanisms, and outdated policies. We must begin to reassert our role as a major trading nation; supplanting our Marshal plan mentality with the approach of a Yankee trader. We must accept and accommodate the growing importance of international trade in our economy.

To press my point—consider that the value of our imports and exports in 1960 represented about 7 percent of our GNP in that year. Twelve years later, that figure had only grown by 2 percent. But in the span of the last 6 years, the value of imports and exports of this Nation have skyrocketed to over 14 percent of our GNP. It will continue to climb. We have not even come close to the positions which the other developed economies have reached. Compared to our 14 percent, Japan registers about 23 percent of its GNP in international trade. West Germany is around 43 percent. We must recognize these horizons and prepare now for the economic consequences they hold.

The MTN agreements provide us with the opportunity to divert an impending crisis for our economy. The new recession in which we are finding ourselves, on top of the trade deficits we are suffering, poses an economic crisis for this country, which portends higher unemployment and failing productive capacities which will be very difficult to reverse. Let us learn a lesson from our fumbling in the energy field. There we saw the growing problems but only took belated action—too little too late. Trade problems are now looming on the horizon. We can avoid much of their adverse impact if we begin to take aggressive action now to use the mechanisms and rules established in the MTN and continue to give our closest attention to trade issues.

If 1979 is the year of trade, let us resolve now to make the 1980's the decade of trade in which the United States begins to take a mature approach to international trade—for the betterment of this Nation's economy as well as the world trading system. A program of action and objectives with which to enter the decade of trade should consist of two levels. On the international level, the program must—

First. Pursue aggressive enforcement of the MTN codes of conduct and improvements in their substantive rules and format;

Second. Seek greater coordination between such international institutions as the IMF, World Bank, and the GATT when addressing trade and development issues;

Third. Actively seek to constrain and reduce the burgeoning use of trade preferences among groups of countries, or implement a policy which will effectively counteract their effect;

Fourth. Reevaluate the general most-favored-nation trade principle to see whether, in light of growing nontariff barriers, that principle should not be subject to certain exceptions;

Fifth. Negotiate and conclude meaningful agreements on the use of Government financed export credits, safeguard actions which restrict imports, and border tax adjustments which create unfair trade advantages; and

Sixth. Emphasize in all aspects of trade negotiations that services are to enjoy the same guarantees of free and fair trade as that provided to the transfer of goods.

The domestic aspect of our program for the decade of trade in many ways has already been launched. It is simply a matter of finishing the task.

A major decision with which we will soon be confronted is whether Government financing and MFN status shall be afforded China and perhaps the Soviet Union. In fact, the whole question of linking trade with other foreign policy considerations will be addressed.

In order to cope with the increasing imports which our free trade policy encourages, the trade adjustment assistance programs must be renovated to provide increased eligibility and more effective benefits. Revisions to the program have already been approved by the House and will soon be presented to this body for its consideration.

On the export side of the ledger, a number of proposals have been laid on the table. Just a few days ago, we approved the Export Administration Act of 1979 which will help facilitate the exporting process. There are many other proposals yet to be voted on which provide tax incentives or antitrust exemptions which will help American business effectively compete for export markets. In recognition of the numerous proposals and the need to coordinate our activities to arrive at an effective legislative program for the stimulation of exports, Senator Stevenson and I are establishing a Senate Export Caucus. I welcome my colleagues' participation in this effort.

I would recommend one other subject for us to include in our domestic international trade program. We must begin to pay closer attention to the special needs of small business as it is impacted by international trade. Too often we lose sight of this major segment of our economy in drafting trade legislation or implementing trade policy. Beginning now, we must recognize and promote the interests of small business in international trade.

Mr. President, I want to reiterate a most important point. All the programs, all the laws, all the MTN packages which we may put together will be futile unless we accomplish an effective reorganization of the trade functions in the executive branch. We have seen the White House proposal to create a new Department of Trade and Commerce. It is a classic example of bureaucratic box shuffling for cosmetic purposes. Few of the objectives we are seeking would be met.

In the weeks to come, we need to impress upon the administration that the reorganization must establish a lead trade agency with the primary responsibility of implementing the MTN codes and enforcing our unfair trade practices laws. It is of paramount importance that the consolidation of trade functions raise trade issues to a level of top priority in the executive branch. People's jobs, as well as the economic structure of this country, can no longer suffer the inadequacies of our international trade policies.

Mr. President, I would like to close by stating my great appreciation to my colleagues on the Finance Committee for the effective role they have played in monitoring and drafting the MTN package. The exercise has been a truly bipartisan effort exemplified by the work accomplished by Senators Heinz, Moynihan, Danforth, and Bentsen. Of course, the effective leadership of Chairman Long and Senator Dole, our ranking Republican member, contributed to that success. The bipartisan spirit also pervaded our work with the administration. Bob Strauss and his staff can be proud of their accomplishments. Finally, Mr. President, I would like to pay tribute to my good friend and colleague, Senator Ribicoff. We have spent many hours and days together working on these trade issues. I have a deep respect for his substantive abilities and a great appreciation for the cooperative and professional manner in which he conducts business. Because of this guidance and leadership, the MTN package contains many features which will benefit this country; it is for that reason that I support the bill.

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM

The Senate continued with the consideration of S. 1309.

The PRESIDING OFFICER. The hour of 2:30 p.m. having arrived, under the previous order, we will now return to the consideration of S. 1309 for a vote on the Helms amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), and the Senator from Ohio (Mr. Metzenbaum) are necessarily absent.

I further announce that the Senator from Montana (Mr. Baucus) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. Laxalt) and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—37

Armstrong
Baker
Bellmon
Bentsen
Boschwitz
Byrd, Harry F., Jr.
DeConcini
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Kassebaum
Long
Lugar
McClure
Morgan
Nunn
Proxmire
Roth
Schmitt
Simpson
Stennis
Stevens
Stewart
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—57

Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Durenberger
Durkin
Eagleton
Glenn
Hart
Hatfield
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—6

Baucus
Gravel
Inouye
Laxalt
Metzenbaum
Pressler

So Mr. Helms' amendment (UP No. 441) was rejected.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE AGREEMENTS ACT OF 1979

The Senate continued with the consideration of H.R. 4537.

The PRESIDING OFFICER. The Senate will now return to the consideration of H.R. 4537.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana seeks recognition. The Senator from Connecticut is in charge as manager of the bill. Does the Senator yield to the Senator from Louisiana?

Mr. RIBICOFF. Yes.

Mr. LONG. Mr. President, the Trade Agreements Act of 1979 will implement the results of the Tokyo round of multilateral trade negotiations for the United States. The Committee on Finance and other Senate committees have worked on H.R. 4537 for many months.

The bill is a product of a unique experiment in cooperation between the Congress and the executive branch. For the first time, Congress was consulted before, during, and after a long and complex international negotiation. Although the committee is not 100 percent satisfied with the results of that negotiation, we do believe that the experiment in cooperation between the two branches of our Government worked.

Coordination between the Congress and the President during international trade negotiations is possible. Cooperation among numerous Senate and House committees is also possible. The Trade Agreements Act is the proof. The Finance Committee believes this cooperation must continue and that it must be the basis for U.S. trade policy in the future.

Mr. President, the Trade Agreements Act of 1979 is not a perfect bill. No bill that reflects the compromises reached in negotiations between the United States and 80 foreign countries and between numerous congressional committees and the President could be perfect. However, on balance, the Trade Agreements Act is in the best interests of the United States. It will permit the United States to attack foreign barriers to our exports and it will provide more efficient defenses to unfairly traded imports. The Committee on Finance recommends that the Senate approve the bill.

Mr. President, let me summarize the provisions of the bill for the Senate.

SECTION 2. APPROVAL OF TRADE AGREEMENTS

Section 2 of the bill would approve the trade agreements submitted to the Congress on June 19, 1979, and the statement of proposed administrative action to implement such agreements. The texts of the agreements approved would be the texts submitted. However, changes in those texts of a technical or clerical nature and changes to the annexes to the agreements which maintain the balance of U.S. rights and obligations under the agreements would not be permitted. The President would be permitted to accept each approved agreement for the United States unless, with certain exceptions, he determines that a major industrial country is not accepting the agreement. An agreement would apply between the United States and another country only when that country has accepted the agreement and the President determines it should not be denied the benefits of the agreement with respect to the United

States because it has not accorded the United States adequate benefits.

SECTION 3. RELATIONSHIP OF TRADE AGREEMENTS TO THE UNITED STATES LAW

Section 3 would provide that no provision of any trade agreement approved by the bill which is in conflict with any statute of the United States will be given effect under the laws of the United States. Any changes required in U.S. law in the future because of a requirement of, amendment to, or recommendation under such an agreement would have to be made by legislation considered under the provisions of the Trade Act of 1974 providing for rapid consideration of certain trade legislation.

TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

COUNTERVAILING DUTIES

General rule.—Subtitle A of title VII of the Tariff Act of 1930, as added by section 101 of the bill, would apply a new countervailing duty law to imports from countries which have assumed the obligations (or substantially equivalent obligations) of the MTN agreement relating to subsidies and countervailing measures. Imports from seven developing countries could come under the new law under agreements in force on the day of the bill was submitted to Congress, June 19, 1979. The existing countervailing duty law would apply to all other imports.

Under the law, countervailing duties would we imposed when the administering authority (now the Secretary of the Treasury) determines that a country or person is providing a subsidy with respect to a class or kind of merchandise imported into the United States, and the U.S. International Trade Commission (ITC) determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise. Material injury in the countervailing duty and antidumpting statutes would be defined to be harm which is not inconsequential, immaterial, or unimportant.

Procedures.—Countervailing duty investigations could be self-initiated by the administering authority or initiated by petition. Within 20 days after a petition is filed, the administering authority would determine whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of subsidized imports) and includes information reasonably available to the petitioner supporting the allegations. If the determination is affirmative, an investigation to determine whether subsidization exists would begin. If the determination is negative, the proceedings would end.

Within 45 days after a petition is filed or an investigation is self-initiated, the ITC would determine whether there is reasonable indication that injury to a domestic industry by reason of subsidized imports exists. If the determination is negative, the proceedings would end.

Within 85 days after a petition is filed or an investigation is self-initiated, the authority would make a preliminary determination, based on the best information available at the time, whether there is a reasonable basis to believe or suspect that a subsidy exists. In extraordinarily complicated cases, this determination would be made within 150 days.

If the preliminary determination is positive, the administering authority would require bonds or cash deposits to be imposed on allegedly subsidized imports in an amount equal to the estimated net subsidy, and continue its investigation. ITC would initiate an investigation to determine whether injury exists. If the authority's preliminary determination is negative, the administering authority would continue its investigation.

Within 75 days after its preliminary determination, the administering authority would make a final determination whether a subsidy exists. If the determination is negative, the proceedings would end.

Within 120 days after the administering authority makes an affirmative preliminary determination, the ITC would make a final determination whether a domestic industry is being materially injured by reason of subsidized imports. In a case where the administering agency makes a preliminary determination that a subsidy does not exist, the ITC final determination on material injury would be made within 75 days after the administering authority's affirmative final determination on subsidy.

If the final determination of the ITC is affirmative, a countervailing duty order requiring imposition of countervailing duties would be issued within 7 days of the ITC determination.

Suspension of investigation.—An investigation could be suspended, prior to a final determination by the administering authority on the issue of subsidization, if (1) the government of the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to offset completely the net subsidy, or to cease exports of the merchandise to the United States, within 6 months after suspension of the investigation; or (2) extraordinary circumstances are present and the government or exporters described in (1) agree to take action which will completely eliminate the injurious effect of the imports of the merchandise under investigation.

The ITC, upon petition, may review an agreement to completely eliminate the injurious effect to determine if that result is accomplished. If the ITC determines that the injurious effect is not eliminated, then the investigation must be completed.

If the administering authority determines an agreement which resulted in suspension of an investigation is being violated, then the investigation would be resumed. Unliquidated imports of the merchandise covered by the agreement would be liable for countervailing duties retroactively if entered on or before the later of (1) 90 days before the date of the affirmative preliminary determination which is issued on the day the investigation is suspended, or (2) the date of the violation.

Miscellaneous.—Deposit of estimated countervailing duties on imports entered on or after the date a countervailing duty order is published would be required at the same time deposit of estimated normal duties is required, that is, within 30 days after release of the goods from customs custody. Final settlement of accounts with customs on imports subject to countervailing duties would be required within 12 months after the end of an exporter's or manufacturer's fiscal year within which the imports are entered, or withdrawn from warehouse, for consumption.

Countervailing duties would be imposed retroactively from the date of a final finding of—(1) injury, or (2) threat of injury which, but for suspension of liquidation, would have been injury, to the date on which liquidation of entries of imports subject to investigation was suspended, usually the date of the preliminary determination. In "critical circumstances," countervailing duties would be imposed retroactively from the date of a final finding of inquiry to the date 90 days before the date on which liquidation was suspended. Critical circumstances would exist when the ITC determines there is injury which would be difficult to repair, caused by what the administering authority has determined to be massive imports over a relatively short period benefiting from export subsidies.

ANTIDUMPING DUTIES

General rule.—Subtitle B of title VII of the Tariff Act of 1930, as added by the bill, would repeal the Antidumping Act, 1921, and replace it with a comprehensive statute built upon the 1921 Act and consistent with the MTN antidumping code. Under the new law, antidumping duties would be imposed when the administering authority (now the Secretary of the Treasury) determines that a class or kind of merchandise is being or is likely to be sold in the United States at less than fair value and the U.S. International Trade Commission (ITC) determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports of that merchandise.

Procedures.—Antidumping investigations could be self-initiated by the administering authority or initiated by petition. Within 20 days after a petition is filed, the adminstering authority would determine whether the petition alleges the elements necessary for relief (material injury to a domestic industry by reason of dumped imports) and includes information reasonably available to the petitioner supporting the allegation. If the determination is affirmative, the authority would initiate an investigation to determine whether dumping exists. If the determination is negative, the proceedings would end.

Within 45 days after a petition is filed or an investigation is self-initiated, the ITC would determine whether there is a reasonable indication that injury to a domestic industry by reason of dumped imports exists. If the determination is negative, the proceedings would end.

Within 160 days after a petition is filed or an investigation is self-initiated, the authority would make a preliminary determination, based on the best information available at the time, whether there is a reasonable basis to believe or suspect that dumping exists. In extraordinarily complicated cases, this determination would be made within 210 days.

If the preliminary determination is positive, the administering authority would require bonds or cash deposits to be posted on allegedly dumped imports in an amount equal to the estimated margin of dumping, and continue its investigation. The ITC would initiate an investigation to determine whether injury exists. If the authority's preliminary determination is negative, the administering authority would continue its investigation.

Within 75 days (or 135 days upon request of exporters or petitioners) after its preliminary determination, the administering authority would make a final determination whether dumping exists. If the determination is negative, the proceedings would end.

Within 120 days after the administering authority makes an affirmative preliminary determination, the ITC would make a final determination whether a domestic industry is being materially injured by reason of dumped imports. In a case where the administering authority makes a preliminary determination that dumping does not exist, the ITC final determination on material injury would be made within 75 days after the administering authority's final affirmative determination on dumping. If the final determination of the ITC is affirmative, an antidumping duty order requiring imposition of antidumping duties would be issued within 7 days of the ITC determination.

Suspension of investigations.—An investigation could be suspended prior to a final determination by the administering authority on the issue of dumping if No. 1 exporters accounting for substantially all of the imports of the merchandise under investigation agree to eliminate the dumping, or to cease exports of the merchandise to the United States within 6 months after suspension of the investigation; or No. 2 extraordinary circumstances are present and the exporters described in No. 1 agree to revise prices so as to completely eliminate the injurious effect of the imports of the merchandise under investigation.

The ITC, upon petition, may review an agreement to completely eliminate the injurious effect to determine if that result is accomplished. If the ITC determines that the injurious effect is not eliminated, then the investigation must be completed.

If the administering authority determines an agreement which resulted in a suspension of an investigation is being violated, then the investigation would be resumed and unliquidated imports of the merchandise covered by the agreement would be liable for antidumping duties retroactively if entered on or after the later of 90 days before the date of the affirmative preliminary determination, or the date of the violation.

Miscellaneous.—Deposit of estimated antidumping duties on imports entered on or after the date of an antidumping duty order would be require at the same time deposit of estimated normal duties is required, that is, within 30 days after release of the goods from Customs custody. Final settlement of accounts with Customs on imports subject to antidumping duties would be required for most entries within 12 months after the end of an exporter's or manufacturer's fiscal year within which the imports are entered, or withdrawn from warehouse, for consumption.

Antidumping duties could be imposed retroactively from the date of a final finding of injury, or threat of injury which, but for suspension of liquidation, would have been injury, to the date on which liquidation of entries of imports subject to investigation was suspended, usually the date of the preliminary determination. In "critical circumstances," antidumping duties would be imposed retroactively from the date of a final finding of injury to the date 90 days before the date on which liquidation was suspended. Critical circumstances would exist when the authority determines that (1)(A) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise under investigation, or (B) the importer of the merchandise knew or should have known that dumping was occurring, and (2) that there have been massive imports of the merchandise in a relatively short period, and the ITC determines that the material injury is by reason of the massive imports to an extent that, in order to prevent such material injury from recurring it is necessary to retroactively impose an antidumping duty.

REVIEW OF DETERMINATIONS

At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty or antidumping duty order, or a notice of the suspension of an investigation, the administering authority would review and determine the amount of any net subsidy, review and determine the account of any antidumping duty, an review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.

Whenever, in both antidumping and countervailing duty cases, the administering authority or the ITC receives information concerning, or a request for the review of, an agreement which has resulted in suspension of an investigation or a final determination, which shows changed circumstances sufficient to warrant a review of the suspension or determination, it would conduct such a review. Absent good cause shown, such reviews will not be made before 24 months has elapsed since the notice of the determination or suspension was made.

All reviews, whether by petition, or self-initiated, must include a hearing. Following review, the administering authority could revoke, in whole or in part, a countervailing or antidumping duty order or terminate the suspension of an investigation.

DEFINITIONS; SPECIAL RULES

The following are some key definitions applicable to antidumping or countervailing cases, or both:

Injury.—The injury criteria in the countervailing duty and antidumping statutes would be material injury to, threat of material injury to, or material-retardation of the establishment of, a domestic injury. "Material injury" would be defined as harm which is not inconsequential, immaterial, or unimportant.

In determining whether injury exists, the ITC would consider the volume of, and relative or absolute increases in the volume of, subsidized or dumped imports and their effect in the undercutting, suppressing, or depressing of prices; and the consequent impact of dumped or subsidized imports on domestic producers.

With respect to impact, the ITC would evaluate all relevant factors, including: Actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; and actual and potential negative effects on cash flow, inventories, employment, wages, growth, and ability to raise capital or investment.

With regard to the volume, effect on prices, and impact of dumped imports, no one or several of the factors listed would necessarily give decisive guidance.

Industry.—For purposes of determining material injury in antidumping and countervailing duty cases, the term "industry" would include domestic producers as a whole of a product like the imported articles under investigation, or those domestic producers whose collective output constitutes a major proportion of total domestic production. Producers related to exporters or importers of the dumped product, or which import it, could be excluded. An injury finding could be based on effects in a geographical market if first, producers in a market sell all or almost all their production there, second, demand in the market is not to any substantial degree supplied by producers located elsewhere, third, imports are concentrated in the market, and fourth, producers of all, or almost all, of the product in the market are injured.

Like product.—"Like product" would be defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the imported article.

Subsidy.—For purposes of the new countervailing duty law, the term "subsidy" would mean the same as "bounty or grant" under existing law, and would include, but not be limited to:

The export subsidies listed in annex A to the agreement relating to subsidies and countervailing measures; and

The domestic subsidies set forth below when provided or mandated by governmental action to a specific enterprise or industry or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

The provision of capital, loans or loan guarantees on terms inconsistent with commercial considerations;

The provision of goods or services at preferential rates;

The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and

The assumption of any costs or expenses of manufacture, production, or distribution.

Net subsidy.—The amount of a countervailing duty would be equal to the net subsidy received by the producer, manufacturer, or exporter of the merchandise. The "net subsidy" received would be computed by subtracting from the gross subsidy the following:

Application fees, deposits, and similar payments paid in order to qualify for, or receive, the benefit of the subsidy;

The loss in the value of a subsidy resulting from its deferred receipt, if such deferral is mandated by Government order; or

Export taxes, duties, or other charges levied on the export of the merchandise to the United States specifically intended to offset the subsidy received.

MISCELLANEOUS

Hearings.—The administering authority and the ITC would be required to hold hearings during a countervailing duty or antidumping duty investigation. The hearings would not be subject to the administrative Procedures Act (5 U.S.C. 554, 555, 556, 557, and 702); however, a hearing record would be required.

Verification of information.—Verification of all information relied on by the administering authority in connection with a final determination in a countervailing or antidumping duty investigation would be required. If information submitted could not be verified, then decisions would be made on the basis of the best information available, which may include the information in the petition.

Access to information.—The administering authority and the ITC would keep parties to antidumping and countervailing duty investigations informed of the progress of the investigation. A record would be maintained by the agencies of exparte meetings held during the course of an investigation between interested parties or other persons providing factual information and the person in the respective agency charged with making the determination in the investigation or any person charged with making a final recommendation to that person in the investigation.

Information properly designated as confidential would be maintained in confidence during an investigation, except that the administering authority and the ITC could disclose confidential information received in a proceeding if it is disclosed in a form so that the information cannot be associated with, or otherwise be used to identify, the operation of a particular person. Certain confidential information submitted to the administering authority or the ITC could also be disclosed under an administrative protective order or pursuant to a court order.

Transitional rules for countervailing duty orders.—With respect to countervailing duty orders, in effect on the effective date of the new law, involving countries signing the subsidies agreement, and under which countervailing duties have been waived under section 303(d) of the Tariff Act of 1930, the ITC would determine whether material injury exists' within 180 days after being notified by the administering authority of such a case. The waiver in that case would continue until the determination by the ITC. If that determination is negative, the proceeding would terminate. If it is affirmative, countervailing duties would be imposed.

TITLE II—CUSTOMS VALUATION

METHODS OF VALUATION

The bill would revise section 402 of the Tariff Act of 1930, which specifies the methods for determining the value of an import for purposes of applying ad valorem duties, to make it consistent with the customs valuation agreement negotiated in the MTN. It would also repeal the final list and American selling price methods of customs valuation.

The amended version of section 402 would contain five methods—one primary method and four secondary methods—for determining customs value. The five methods would be arranged in a hierarchical fashion, with an order of priority governing the application of each method. The first, or primary, method, that is, the transaction value of the merchandise, is to be used whenever possible. In cases where it may not be used, the second method is to be used. If customs value cannot be found using the second method, the third method is to be used, and so on. The second, third, fourth, and fifth methods of valuation are, respectively: The transaction value of identical merchandise; the transaction value of similar merchandise; the deductive value; and the computed value. If a value can still not be determined, a residual method of valuation would provide for the value to be determined on a basis derived from one of the first five methods, with reasonable adjustments.

Transaction value.—The primary method of valuation under new section 402 would be the transaction value of the imported merchandise; that is, the price actually paid or payable for the merchandise when sold for exportation to the United States with specified adjustments. The price actually paid would be increased by the amounts attributable to various factors, including "assists", royalties and license fees the buyer is required to pay as a condition of the sale of the merchandise to him, and the proceeds of a subsequent resale, disposal, or use of the imported merchandise accruing to the seller, if those amounts are not otherwise included in the price actually paid or payable. Assists would be defined as items or services supplied directly or indirectly by the buyer of the imported merchandise free of charge or at reduced cost for use in connection with the production or the sale for export to the United States of the imported merchandise.

Transaction value could be used in related-party transactions in appropriate cases. Two alternative tests would be provided for determining whether the transaction value could be used in a related-party transaction. If an examination of the circumstances of sale of the merchandise indicates that the relationship did not influence the price, then the transaction value could be accepted. The second test would compare the transaction value with a set of "test values" to see if the transaction value closely approximates one of the test values.

Transaction value of identical merchandise and similar merchandise.—If the primary valuation method; i.e., the transaction value of the merchandise being appraised, could not be accepted by the Customs Service, then customs value would be determined by sequentially applying alternative methods. The first alternative would be the previously accepted and adjusted transaction value of identical merchandise sold for export to the United States and exported at or about the same time as the goods being valued. The second alternative would be the previously accepted and adjusted transaction value of similar merchandise sold for export to the United States and exported at or about the same time as the goods being valued.

Deductive value.—If the three previously mentioned value standards could not be accepted, the customs value would be determined on the basis of deductive value or computed value, in that order, unless the importer chooses to reverse the order of application of the two standards. The deductive value of imported goods would be determined by subtracting from their resale price in the United States specific elements of value that have been added to the goods; that is, customs duties, selling expenses, etc., to arrive at a value comparable to the transaction value.

Computed value.—The computed value of imported merchandise would be the sum of—

(1) The cost or value of the materials and the fabrication and other processing employed in the production of the imported merchandise;

(2) An amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States;

(3) Any assist, if not included in (1) or (2) above; and

(4) The packing costs.

Value if other values cannot be determined or used.—The final method of appraisement, to be used only when a value cannot be accepted under any of the previous valuation methods, would be based on a value that is derived from one of the previous methods, with reasonable adjustments to the extent necessary to arrive at a value.

PRESIDENTIAL REPORT

Section 203 of the bill would direct the President to submit a report to Congress as soon as practicable after the close of the 2-year period beginning on the date on which the amendments made by title II of the bill take effect, containing an evaluation of the operation of the customs valuation agreement, both domestically and internationally.

FINAL LIST AND AMERICAN SELLING PRICE RATE CONVERSIONS

The current U.S. valuation system is

composed of two separate cutoms valuation laws, sections 402 and 402a of the Tariff Act of 1930. The standards in section 402a are the valuation standards established in the original Tariff Act of 1930. The Customs Simplification Act of 1956 added a new section 402 to the Tariff Act of 1930 containing additional standards. The original standards are used to appraise only those articles for which dutiable value during fiscal year 1954 would have been 5 percent less under the section 402 standards added in 1956 as compared to under section 402a standards. These articles were determined by the Secretary of the Treasury and are listed in regulations. They are known as the "final list" articles.

The American selling price (ASP) method of customs valuation exists under both sections 402a and 402, and is virtually identical under both sections. The value of the import is based on the selling price of a U.S. manufactured article which is like or similar to the imported article. ASP is used only if required specifically by law. It must be used to value benzenoid chemicals, certain plastic- or rubber-soled footwear, canned clams, and certain gloves.

Sections 222 and 223 of the bill would convert the rate of duty applicable to each article in the tariff schedules of the United States which is on the final list of valued on an ASP basis to a rate providing duty receipts equal to those received under the final list or ASP. ASP and final list would be required.

TITLE III—GOVERNMENT PROCUREMENT

Title III would implement the agreement on Government procurement. The President would be permitted to waive certain "Buy American" restrictions in U.S. law or practice which discriminate against particular products of designated countries. Designated countries would be countries which are parties to the agreement or which provide reciprocal procurement benefits to the United States. This President would be permitted to prohibit Federal Government procurement of products from nondesignated countries. Furthermore, the President would be permitted to withdraw or to limit waivers granted, and, after consultation with the Congress and private sector, to grant new waivers.

The waiver authority would enable the President to waive those portions of U.S. law, most notably the Buy American Act (41 U.S.C. 10a et seq.), which discriminate against purchases of foreign goods by Federal Government agencies. A waiver could only apply to goods which are the products of designated countries. Least developed (poorest) countries could be designated without condition. All other countries would be required to provide reciprocal benefits for the United States in their Government procurement, and major industrial countries would be required to become parties to the agreement in order to be designated.

The annex to the agreement, while not yet finally concluded, indicates those U.S. agencies whose procurement could be subject to waiver of discrimination against foreign goods. Procurement by those agencies accounts for about 15 percent of Federal Government procurement. Contracts of under $190,000 are excepted from the agreement and from the President's waiver authority.

The President would be required to bar Federal procurement of products subject to a waiver from any country which is not "designated." However, he could delay this bar with respect to countries (other than major industrial countries) for up to 2 years; agency heads could waive the bar on a case-by-case basis; and procurement could continue with a country which is a party to a reciprocal procurement agreement with the Department of Defense.

The President would be permitted to reduce or expand the coverage of waivers. However, an expansion of the coverage of a waiver to additional Government procurement by an agency not listed in annex I of the agreement on the date of enactment of the bill would require prior consultations with the Congress and the private sector.

Title III would impose substantial monitoring and reporting requirements with respect to both United States and foreign government procurement practices, and encourage negotiations to expand the agreement to cover more foreign government procurement.

TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

Title IV of the bill would provide the statutory framework for United States' implementation of its obligations under the agreement on technical barriers to trade. Many of the practices covered by the agreement, such as notification of proposed standards-related activities and the provision of an opportunity for public comment, are already widely followed in the United States. However, certain of the agreement's provisions, while they are not a departure from current U.S. practice, require implementation through legislation.

Obligations of the United States.—The legislation would not prohibit standards-related activities which do not create unnecessary obstacles to the international trade of the United States. No standards-related activity would be deemed to constitute an unnecessary obstacle to the international trade of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective, including, but not limited to, the protection of health or safety, essential security, environmental, or consumer interests, and if such activity does not operate to exclude imported products which fully meet the objectives of such activity. United States' implementation of the agreement would not weaken the right of Federal agencies, State agencies, or private persons to engage in standards-related activities which are deemed appropriate and necessary for reasons which are deemed appropriate and necessary for reasons which are established in U.S. law.

Functions of Federal agencies.—The legislation would attempt to avoid the establishment of new Government offices by specifying, wherever possible, the use of existing offices and procedures. Current operations of the Departments of Commerce and Agriculture would be used to implement aspects of the agreement within their expertise. The Office of the Special Representative for Trade Negotiations (STR) would be given increased responsibilities on coordinating the standards-related activities of Federal agencies which affect international trade. STR, U.S. embassies, and, where appropriate, the Departments of Commerce and Agriculture would also monitor foreign implementation of the agreement. Finally, STR and the Departments of Commerce and Agriculture would be responsible for coordinating Federal Government encouragement of State agencies and private persons to observe practices consistent with the obligations in the agreement.

Federal agencies would be permitted to provide technical standards assistance to interested parties. It would also require those agencies to solicit technical and policy advice from the private sector advisory committees established under section 135 of the Trade Act of 1974.

Administrative and judicial proceedings regarding standards-related activities.—Section 421 of the bill would provide that, except as otherwise provided in title IV of the bill, the provisions of the subtitle would not create any right of action under the laws of the United States with respect to allegations that any standards-related activity engaged in within the United States violates the obligations of this country under the agreement. The STR would process representations alleging U.S. violations of the agreement and participate, as necessary, in the settlement of disputes between the United States and other parties to the agreement (parties).

Only parties or countries providing similar rights and privileges to U.S. interests could make representations to the STR alleging violations of U.S. obligations under the agreement. Federal agency proceedings on allegations against standards-related activities covered by the agreement would be permitted only if the STR makes a finding of reciprocity or finds that the agreement dispute-settlement procedures are inadequate.

Definitions and miscellaneous provisions.—Definitions of such key terms as "international standards organizations" and "standards" would be contained in title IV. Miscellaneous provisions would specify persons or intra-agency activities not subject to the subtitle; a provisional effective date for title IV of January 1, 1980; and the required future evaluation of the operation of the agreement by the STR.

TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

Title V of the bill would provide for the implementation of certain tariff concessions negotiated in the MTN. Many of the tariff changes implemented under this title would involve reductions or increases in rates of duty which exceed the limitations on the President's authority to proclaim a reduction or increase in a rate of duty under sections 101 and 109 or the Trade Act of 1974. In other cases, changes in non-MFN duties or in headnotes, nomenclature, and classification affecting non-MFN duties would be made. Non-MFN duties can only be changed by statute.

TITLE VI—CIVIL AIRCRAFT AGREEMENT

Title VI of the bill would implement tariff changes required under the agreement on trade in civil aircraft. The President would be permitted to eliminate duties on articles covered by the agreement, for example, airplanes and parts certified for use in civil aircraft. The 50-percent duty on repairs on U.S. civil aircraft performed in foreign countries would also be eliminated.

TITLE VII—CERTAIN AGRICULTURAL MEASURES

Title VII would implement concessions to foreign countries under bilateral agreements relating to cheese, chocolate crumb (a mixture of chocolate and milk solids), and meat. The title would: first, increase the amount of cheese imports permitted under U.S. quotas; second, establish procedures, in lieu of the countervailing duty law, to prevent subsidized cheese imports under quota from undercutting domestic cheese prices; third, increase the existing U.S. quotas on chocolate crumb; and fourth, establish a 1.2 billion pound floor on meat import quotas under the meat import law.

Cheese.—Section 701 of the bill would permit the President to proclaim import quotas, at an annual level up to 111,000 metric tons, on certain cheeses under the authority of section 22 of the Agricultural Adjustment Act, without following the procedures of section 22. The cheese import quotas could be increased above 111,000 metric tons only in accordance with the provisions and procedures of section 22, except that the President could not take emergency action under section 22, that is, without a prior investigation and report by the ITC, unless the Secretary of Agriculture finds that "extraordinary circumstances" exist.

About 85 percent of cheeses now imported would be subject to quotas. Certain specialty cheeses and soft-ripened cheeses (Brie, Camembert, and so on) would not be under quota, but imports of other cheeses would be limited, regardless of their price. Current quotas do not limit imports of several types of cheese, if they are priced above $1.23 per pound. The new quota of 111,000 tons would permit importation of about 15,000 more tons of cheese than was imported in 1978.

Section 702 would provide for imposition of additional import fees or quotas on cheese subject to quotas to the extent necessary to prevent imports from undercutting, through use of subsidies, the wholesale price of comparable domestic cheeses. Action against price undercutting would be required within a maximum of 68 days after a complaint.

Chocolate crumb.—Section 703 of the bill would provide for an increase of about 4,400,000 pounds over the current 21,680,000 pound quota on chocolate crumb. This would accommodate quota allotments to Australia (2,000 metric tons) and New Zealand (2 kilograms) negotiated in the MTN. The nominal allocation to New Zealand would permit that country to export to the United States the amount of quota unused by other countries having significant quota allocations.

Meat.—Section 704 of the bill would amend the meat import law to provide that no quota may be imposed under that law at a level less than 1.2 billion pounds. This would implement MTN commitments to Australia and New Zealand. Under current law, which sets import quotas at a level in direct proportion to domestic production, domestic production would need to decline below 1978 levels before a quota below 1.2 billion pounds could be established.

As a result of an agreement with Canada, the meat import law would also be amended to make certain high quality portion-controlled cuts of beef subject to the restrictions under that law. The total amount of meat imports permitted under the meat import law would not be increased thereby.

TITLE VIII—TREATMENT OF DISTILLED SPIRITS

Title VIII would implement an important concession to major trading partners by eliminating the current "wine-gallon" method of taxing and levying duties on foreign distilled spirits. The tax and duties would be assessed in proportion to alcoholic content (for example, a lower tax on 86 proof than on 100 proof). This title would also increase the duty on distilled spirits of countries not providing adequate reciprocal concessions to the United States and would permit reductions in import duties on distilled spirits from countries providing reciprocal concessions. In the latter case, duties could subsequently be increased to the level of protection prevailing under the tax and duty system in effect on January 1, 1979, if the President finds that trading partners are not implementing their concessions. Finally, title VIII would establish an "all-in-bond" administrative system for collecting excise taxes on domestic distilled spirits and would defer for an additional 15 days, phased in over 3 years, the period for collection of the excise taxes from domestic producers.

Tax treatment.—Title VIII would repeal the wine-gallon method for determining the $10.50 per gallon tax on distilled spirits. As a result, both domestic and imported distilled spirits will be taxed uniformly under the proof-gallon method, which is based upon alcohol content. Title VIII would also provide a one-half month extension in the time period for payment of excise taxes on domestically bottled distilled spirits, to be phased in over a 3-year period.

Other amendments would establish the "all-in-bond" system for controlling the production of distilled spirits and collecting the excise taxes. This would simplify the tax collection process and reduce the number of government employees currently required to collect liquor excise taxes, as well as reduce ancillary capital investment by domestic producers necessary to comply with the current administrative system.

Tariff treatment.—Title VIII would repeal the wine-gallon method of duty assessment and make imported distilled spirits dutiable on the basis of proof gallon, that is atual alcoholic content. Tariff rates on distilled spirits would be converted to rates which would yield the same revenues as are now provided by the wine-gallon method of duty assessment and taxation. For example, the rate of duty on bottled whiskey is currently 51 cents per wine-gallon. This rate would rise to $2.30 per proof-gallon. Of the increase, about $1.70 would reflect conversion to the proof-gallon method of taxation and about 8 cents would reflect the conversion to the proof-gallon of duty assessment.

The new tariff rates would apply to products of countries which fail to provide to United States reciprocal benefits for the wine-gallon repeal. For those countries affording reciprocal MTN benefits, the President would be permitted to reduce the new duty on a proof-gallon basis to the rate now prevailing on a wine-gallon basis, that is, the rate on bottled whiskey could drop from $2.30 to 51 cents per proof-gallon. Until January 3, 1980, the President would also be permitted to reduce the wine-gallon rate by up to an additional 60 percent, that is, from 51 cents to 20.2 cents per proof-gallon, under section 101 of the Trade Act of 1974.

The President would be permitted to raise the duty back to the full measure of protection, that is, $2.30 per proof-gallon on bottled whiskey, if a beneficiary country does not implement concessions granted to the United States. Furthermore, the President would be required to withdraw, suspend, or modify equivalent concessions (but not necessarily the wine-gallon concession) if a foreign country fails to implement concessions benefitting U.S. export interests in distilled spirits.

TITLE IX—ENFORCEMENT OF U.S. RIGHTS

Title IX of the bill would revise section 301 of the Trade Act of 1974 to permit enforcement of U.S. rights under the MTN agreements and to provide a procedure for private parties to request government action to remedy foreign violations of the agreements.

Section 301 of the Trade Act of 1974 permits private parties to complain of foreign violations of international trade rules. It permits the President to impose import restrictions as retaliatory action, if necessary, to enforce U.S. rights against "unjustifiable" or "unreasonable" foreign trade practices which burden, restrict, or discriminate against U.S. commerce.

Title IX would impose time limits on investigations and recommendations by the Special Representative for Trade Negotiations and on Presidential action under section 301. The revision of section 301 would continue the ability of the United States to take "all appropriate and feasible action" within the President's power to obtain the elimination of any acts, policies, or practices which are unjustifiable, unreasonable, or discriminatory and which burden or restrict U.S. commerce. This mandate would cover those actions which may not be specifically covered by international trade agreements or the GATT but which, in fact, burden or restrict U.S. commerce.

TITLE X—JUDICIAL REVIEW

Title X of the bill would revise current law to provide increased opportunities for appeal of certain interlocutory and all final rulings by the administering authority or the U.S. International Trade Commission in antidumping and in countervailing duty cases. Title X would also expand opportunities for judicial review of determinations by the Customs Service of the appraised value, classification, or rate of duty of imported goods. Furthermore, title X would provide for judicial review of Customs Service decisions regarding the certification of the "country of orgin" of products covered by the Government Procurement Code.

Title X would amend the Tariff Act of 1930 by adding a new section 516A, which would provide the specific judicial review procedures for countervailing duty and antidumping proceedings. Existing section 516 would be amended to delete those provisions dealing with antidumping and countervailing duty determinations, and would solely include procedures for a domestic interested party's contest of appraised value, classification, or the rate of duty of imported merchandise.

Section 516A would establish the standards of review for those countervailing duty and antidumping duty determinations which are appealable. In general, the standard for interlocutory determinations would be whether they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The standard for other determinations would be whether they are supported by substantial evidence on the record or are otherwise not in accordance with law. The bill would permit the Customs Court to enjoin, during the period of judicial review, liquidation of some or all entries of merchandise covered by a determination of the administering authority or the ITC during a countervailing or antidumping investigation.

The record before the court, unless otherwise stipulated by all interested parties participating, would consist of all information presented to, or obtained by, the administering authority or the ITC during the course of a countervailing or antidumping proceeding and all Government memorandums pertaining to the case on which the authority relied in making determinations. The record would also include a copy of the determinations sought to be reviewed, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

TITLE XI—MISCELLANEOUS PROVISIONS

Extension of nontariff barrier negotiating authority, (section 1101)—The President's authority under section 102 of the Trade Act of 1974 to enter into trade agreements to eliminate nontariff barriers and other distortions to trade adversely affecting U.S. commerce would be extended until January 3, 1988. Any agreement would be effective only after congressional consultation and enactment of an implementing bill under the legislative procedures in the Trade Act of 1974.

Auctioning of import licenses (section 1102).—The President would be permitted to auction licenses used to administer quantitative restrictions under the following laws:

Section 125, 203, 301, and 406 of the Trade Act of 1974;

Trading With the Enemy Act;

Section 204 of the Agricultural Act of 1956 (except relating to meat or meat products);

The International Emergency Economic Powers Act;

Authority under the headnotes of the U.S. tariff schedules (except for restrictions imposed under section 22 of the Agricultural Adjustment Act of 1933); and

Any legislation implementing an international agreement, including commodity agreements (except agreements relating to cheese or dairy products).

The auction authority would apply only to quantitative restrictions imposed or modified after the date of enactment.

Private advisory committees (section 1103).—Private advisory committees established under section 135 of the Trade Act of 1974 would be continued for the purposes of first, advising on trade negotiations and insuring effective implementation of the MTN codes; second, evaluating and refining those codes; third, managing problems in key trading sectors; and fourth, advising on overall trade policy objectives and priorities. The mandate of advisory committees would be broadened to include support of implementation of trade agreements and other trade policy activities. The President would be given discretion to establish advisory committees on an appropriate basis when trade policy activities of the U.S. Government warrant them, including committees on services.

The bill would repeal the requirement that existing advisory committees write summary reports of trade agreements entered into under the Trade Act of 1974 after January 3, 1980. The bill would continue exemptions of the advisory committees from provisions of the Federal Advisory Committee Act and would, in addition, exempt agriculture committees from the requirements of title XVIII of the Food and Agriculture Act of 1977.

Study of possible agreements with North American countries (section 1104).—A study by the executive branch of the desirability of entering into trade agreements to promote the mutual economic growth of the United States, Canada, Mexico, and other appropriate countries in the northern portion of the Western Hemisphere would be required. The study would examine the agricultural, energy, and other sectors, and would be submitted to the Committee on Ways and Means of the House and the Committee on Finance of the Senate within 2 years after enactment of the bill.

Section 337 of the Tariff Act of 1930 (section 1105).—A civil penalty would be provided for a violation of a cease and desist order issued by the U.S. International Trade Commission under section 337 of the Tariff Act of 1930. Section 337 permits the ITC to issue a cease and desist order with respect to unfair trade practices in the importation of a product. The penalty would be a maximum of the higher of either $10,000 or the market value of the goods in question for each day in which an importation or sale of goods occurs in violation of the order. The penalty would be recovered in a civil action brought by the ITC.

Section 337 would be further amended to make clear that the statute does not cover actions within the purview of the countervailing duty law or the antidumping law. The ITC could suspend that part of an investigation under section 337 which related to such actions.

Reporting statistics on a cost-insurance-freight (CIF) basis (section 1108).—Import and balance-of-trade statistics. Also, there would be required publication of all tariff rates showing the rates which would be in effect if customs valuation were on a CIF rather than the current basis.

Reorganizing and restructuring of international trade functions of the U.S. Government (section 1109).—The President would be required to submit proposed legislation restructuring the foreign trade policymaking and regulatory functions of the Federal Government by July 10, 1979. In order to insure that the 96th Congress takes final action on a comprehensive reorganization of trade functions as soon as possible, the appropriate committee of each House of Congress would give the legislation proposed by the President immediate consideration and would make its best efforts to take final action on a bill to reorganize and restructure the international trade functions of the Government by November 10, 1979.

Study of export trade policy (section 1110).—On or before July 15, 1980, the President would submit to the Congress a study of the factors bearing on the competitive posture of U.S. producers in world markets and the policies and programs required to strengthen the relative competitive position of the United States in world markets. This study would also include recommendations on the promotion of U.S. exports generally, and exports by small business particularly, and on the disincentives to exports created by the programs and activities of regulatory agencies.

Generalized system of preferences (section 1111).—The generalized system of preferences (GSP) under title V of the Trade Act of 1974 would be modified as follows:

The President would be permitted to continue GSP treatment for eligible articles, and to designate new eligible articles, from beneficiary developing countries which exceed the competitive need limitation; that is, no more than 50 percent of total annual U.S. imports of an article eligible for GSP may come from one country, if total imports of the article are less than $1 million (adjusted annually to reflect changes in the GNP).

The customs union rule which permits such entities to be considered a single country, for GSP, would be changed:

To permit associations of countries contributing to comprehensive regional economic integration among their members to be designated as a single beneficiary developing country;

To permit application of the competitive need ceilings on GSP treatment (total annual imports of an eligible article from any one country may not exceed about $37 million, or 50 percent of total U.S. imports of the article) for a specific article from an association of countries described above to the individual member countries of such an association rather than to the association as a whole; and

To reduce the minimum value-added requirement for GSP articles from such an association from 50 percent to 35 percent, the requirement applicable to individual countries.

The exclusion of OPEC member countries from GSP would be modified to allow extension of GSP treatment to eligible articles from OPEC countries otherwise qualifying as beneficiary developing countries if they:

Conclude bilateral product-specific trade agreements with the United States in the MTN, and

Continue to supply petroleum to the United States.

Concession-related revenue losses to U.S. possessions (section 1112).—If a concession is granted in the MTN with respect to a product upon which excise taxes are levied which produced in 1978 a major share (10 percent or greater) of the revenues for the government of a U.S. possession, then the Secretary of Commerce, with respect to fiscal year 1980 and the next 4 fiscal years, would determine within 3 months after the close of the fiscal year whether the concession contributed importantly to a loss of such revenues to the possession in the fiscal year concerned as a result of displaced sales of the product. In making this determination, the Secretary would examine the extent to which any other factors are contributing to a loss of such revenues.

If the Secretary determines a reduction in revenue exists, then the President could add to the budget amounts to be appropriated to the possessions concerned to offset in whole or in part the excise tax losses.

Mr. President, I urge the Senate to approve H.R. 4537.

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to urge that, if at all possible, we act on both trade bills today and complete the food stamp bill.

I have said early on that we would not be later than 6 or 6:30 on Mondays, but I think we also have to keep in mind that a holiday is coming up. We spent last Saturday in session because of the exigencies of the situation.

So it may be necessary to go later into the evening, even though it is Monday.

I would rather not carry the food stamp bill over. The bill we are on now, the trade bill, is not amendable. It cannot be recommitted. There is a 20-hour statutory time limit on it, but there is also built into the statute a nondebatable motion to reduce that time.

So a motion can be made to reduce the time, and it will be made, if necessary, to reduce the time; and it can be reduced to any point—1 hour, 2 hours, or whatever. I do not want to make that motion, because I want to cooperate as much as possible.

I thought I should take the floor at this time to state that my comment early on to get out at 6 or 6:30 on Mondays might have to be broken in this instance.

I hope we can vote on this trade bill no later than 4:30 p.m. today, if at all possible. Then we could finish the food stamp bill.

Mr. BAKER. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. BAKER. I thank the Senator from Connecticut.

Mr. President, I, too, hope we can dispose of this matter promptly. However, I point out that there are colloquies to be undertaken and statements yet to be made. We are not now in a position to offer, by unanimous consent, a shortened time on this measure.

Obviously the majority leader can make his motion, if he wishes, but I hope we will proceed for a while and see how the situation develops further. If we have to stay beyond 6:30, I suppose we will.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. HEINZ. Mr. President, I think the majority leader knows that there are at least two colloquies. One is mine, and the other is Senator Danforth's. He and I will try to keep them as brief as possible.

In fairness to Senator Danforth, I ask that the Senator from West Virginia not make such a unanimous-consent request at this time.

Mr. ROBERT C. BYRD. I will not make such a request.

Mr. RIBICOFF. I say to the majority leader that we have worked on these colloquies, and I think they are in good order. Once the distinguished Senator from Pennsylvania and the distinguished Senator from Missouri start with their colloquies, my feeling is that we can dispose of these matters in short order.

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

Mr. RIBICOFF. Mr. President, I want to pay special tribute and give thanks to Arthur House and Harold Luks of my personal staff. From the beginning and throughout this entire bill, they have been deeply involved with me and the committee staff in working on all trade policy matters. Their research and input have been helpful and constructive not only to me but also to the entire Finance Committee and the subcommittee.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 45 minutes to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, at the outset, I commend the managers of the bill, Senator Ribicoff and Senator Roth, for their very creative and outstanding leadership in bringing this measure over an innumerable number of legislative hurdles to what I believe is a very successful conclusion.

It has been a long and occasionally difficult experience reaching the point where we are today; but the process has produced, in my judgment, an honorable compromise between those of us concerned about free and fair trade and those concerned only with free trade. Let me make it clear that I am in the former group. I support free trade principles and favor expansion of trade to the maximum extent possible. We have an international economy and cannot wall ourselves off from it. Nor should we want to—for trade inevitably means jobs and profits for Americans.

At the same time, however, in our pursuit of trade expansion, we should not abandon our free market principles and our reliance on competition and the law of comparative advantage as arbiters of the marketplace. Our allies and trading partners, some of them with a completely different economic heritage, are increasingly sacrificing those principles, to the extent they have ever honored them, to domestic social or political exigencies. The result is more subsidized and dumped goods coming into this country as our trading partners seek to maintain their own employment levels and take advantage of the relative openness of our economy.

It is precisely these unfair and, from the standpoint of classic economic theory, trade restricting practices I seek to control. That these practices exist is unquestioned. That they go on unhindered is easily demonstrated. Rather than go into this in detail now, as I have done on previous occasions, Mr. President, I ask unanimous consent that material prepared at my request by the Ad Hoc Subsidies Coalition be placed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

ADMINISTRATION OF THE COUNTERVAILING DUTY STATUTE BY THE TREASURY DEPARTMENT

In response to the request of Senator Heinz at the International Trade Subcommittee's hearings on February 22, 1979, the Ad Hoc Subsidies Coalition of 33 organizations herewith submits the details of our charges regarding the Treasury Department's administration of the countervailing duty statute.

We find that the Treasury Department has been guilty of the following practices:

1. Treasury has missed statutory deadlines.
2. Treasury has reduced the calculated amount of a subsidy, and hence the countervailing duty, in questionable ways.
3. Treasury has accepted unverified information from foreign representatives as a basis for its determinations.
4. Treasury has changed rulings without adequate opportunity for interested parties to comment.
5. Treasury has stretched the authority of

the Trade Act of 1974 with regard to the granting of waivers. These charges are detailed in the following sections.

1. Treasury Has Missed Statutory Deadlines.

One of the important changes intended to strengthen the countervailing duty statute as incorporated in the Trade Act of 1974 was the 12 month time limit established for the Treasury Department's consideration of countervailing duty petitions.

This time limit was established as part of the legislative "deal" which gave the Secretary of the Treasury authority to waive countervailing duties under certain circumstances. Under the amendment, the Treasury Department has six months from the time of receipt of a valid petition to make a preliminary determination with respect to the existence of foreign countervailable practices and then it has an additional six months in which to make a final determination. Notwithstanding the statutory time limits, Treasury has missed deadlines, particularly for preliminary determinations which deadlines are consistently missed as in the case of Swedish rayon staple where the preliminary determination came three months after the six-month deadline.

Two cases in particular come to mind, one involving Argentine leather apparel where the statutory deadline for a final determination was January 21, 1978 and the other involving Argentine footwear, where the deadline was February 11, 1978. The decisions on both products were finally issued on January 17, 1979; that for leather apparel was negative and the decision on Argentine footwear was affirmative. Thus, Treasury took twelve months and eleven months longer, respectively, than mandated in the statute to make its determinations in these two cases.

The effect of failing to make determinations within the statutory deadline is to deny petitioners due process, particularly where considerable time has elapsed since the deadline. Thus, when an affirmative decision is finally made, petitioners have suffered from Treasury's failure to institute countervailing duties earlier. When a negative determination is finally made, a petitioner has been denied the opportunity to challenge such determinations at an earlier date, in accordance with Section 516 of the Tariff Act of 1930, as amended.

Even a simple publication in the Federal Register of a notice of appeal of Treasury's countervailing duty determinations encounters unnecessary delay despite the provision in Section 516(d) of the Tariff Act of 1930 that such publication be made upon receipt. On December 15, 1978 the Amalgamated Clothing & Textile Workers Union filed with Treasury notice of its intent to appeal six such determinations. Treasury did not publish notice to this effect in the Federal Register until February 27, 1979. The appeal process cannot move forward without such notice. Once again due process has been delayed by Treasury.

2. Treasury Has Reduced the Calculated Amount of a Subsidy, and Hence the Countervailing Duty, in Questionable Ways.

Treasury has pursued a policy which they justify as provided for in the countervailing duty statute of reducing the gross amount of subsidy by various offsets. Although in most cases the reductions are in the form of indirect taxes related to the product which receives the subsidy, Treasury has found some rather exotic items with which to reduce the subsidy. These include, in the case of the waiver on handbags from Colombia, the effects of the devaluation of the foreign currency on the grounds that the Colombian Government allows as much as nine months to elapse before subsidies are paid.

In this case Treasury even reduced the subsidy by the cost of the interest on the money not received by Colombian handbag producers and exporters during this nine-month period. Treasury describes this offset in the Federal Register of May 2, 1978 as "the present value effect of the (exporter's tax certificates) resulting from the inflationary impact on . . . delayed payment." Furthermore, since these exporter's tax certificates are sold in the Bogota Stock Exchange, Treasury also allowed a "discount paid by holders of (exporter's tax certificates) in the stock exchange, thus effectively not providing full value of the (exporter's tax certificates) once sold." It is interesting to note that several of these offsets were disallowed in a more recent case involving Colombian textiles and apparel, but Treasury has not bothered to go back to its earlier decision to recompute the countervailing duties on Colombian handbags. The Colombian handbag case is not untypical.

It is so important to recognize that the reductions which Treasury makes in the subsidy through subtracting the indirect taxes related to the products ignore completely the fact that in virtually all of the foreign countries concerned these indirect taxes would have been borne by the manufacturer even in the absence of the subsidy program, and that the subsidy program clearly is intended to give the foreign manufacturers an edge in selling to the U.S. This is exactly what the countervailing duty statute is aimed at offsetting, but Treasury nevertheless goes on deducting these indirect taxes to the point where many negative or de minimis determinations result or the countervailing duty is significantly smaller than it should be.

3. Treasury Has Accepted Unverified Information From Foreign Representatives as a Basis For Its Determinations.

Treasury makes most of its determinations with regard to the size of a countervailing duty or a waiver of a countervailing duty on the basis of data submitted by foreign governments and by foreign firms or associations of firms. In neither case are the data verified by Treasury. Admittedly, it is difficult for Treasury to verify data submitted by foreign interests, but at least an effort should be made to assure the American petitioner that, indeed, the data on which a determination is made by Treasury are reliable. Treasury says that it must take the word of a foreign government. Yet in a case involving Argentine footwear, the word of a foreign government was not good enough. It reneged on a commitment which had been made to Treasury. In that particular case, Treasury said "but they had a change of governments in Argentina." Unfortunately the new government in power did not bother to advise Treasury that it had reversed the commitment made by its predecessors, and Treasury did not reopen this case for a considerable period of time after the subsidies were reinstated. When Treasury finally acted five and a half years after the initial petition was filed, it imposed a countervailing duty of less than 1 percent.

As the result of a request through the Freedom of Information Act, it has been learned that although Treasury waived countervailing duties on Uruguayan handbags and footwear at the end of January 1978 based on certain assurances from the Uruguayan Government, the factual information on which to base the waiver was not available to Treasury at the time of the waiver action. On May 15, 1978 the Minister of the Uruguayan Embassy in Washington was told by Treasury that in October 1977 Treasury had requested of the Uruguayan Government "a detailed description . . . of the laws providing for the various offsets accepted by Treasury . . . as well as a detailed itemization of how the offsets were calculated for each of the product sectors." That had not yet been furnished by the Uruguayan Government as of mid-May 1978.

Treasury pointed out that the Uruguayan Government had promised in December 1977 to furnish by the following month "a detailed enumeration of the program to eliminate the entire 'reintegro' system by 1983. . . ." That, too, had not been furnished by the Uruguayan Government by mid-May 1978.

Apparently a copy of the December 28, 1977 decree of the Uruguayan Government reducing the "reintegro" was also not submitted in January 1978 before Treasury waived the countervailing duties. At least Treasury was still inquiring about it from the Uruguayan Government in mid-May 1978.

4. Treasury Has Changed Rulings Without Adequate Opportunity For Interested Parties to Comment.

Even when Treasury once announces a net subsidy, taking into account the reduction for indirect taxes, it continues to amend those calculations mostly on the downside based upon new information which it receives from the foreign government. For instance, in the case of Spain, Treasury announced a 4 percent countervailing duty on unwrought zinc in April 1977. In June 1978, Treasury reduced the existing countervailing duty on zinc and on several other Spanish products subject to U.S. countervailing duties by revising its method for calculating indirect tax subsidy offsets. This action was taken after consultation with Spanish authorities but without consultation with U.S. industries involved. Despite the controversy Treasury aroused over the basis for this reduction, Treasury reduced the countervailing duty but without suspending the liquidation of entries until all views could be heard.

Treasury later realized the views of the U.S. industries had merit and that it had made a mistake on its revised method for calculating the countervailing duties. Six months later Treasury reverted to the basis of calculations it used prior to June 1978 with the effect that the countervailing duty was now raised again, although not quite to the original levels.

In the interim, between June 15, 1978 and January 17, 1979, because Treasury had not suspended the liquidation of entries on Spanish zinc, nonrubber footwear, and bottled olives, importers benefitted from a lower rate of countervailing duty which gave them a windfall they certainly did not merit.

It is of interest to note that the American Footwear Industries Association had requested Treasury to reconsider and revise upward the 3 percent countervailing duty on Spanish footwear some four years ago. It has never received a reply to its request.

While Treasury acted speedily, without consultation with domestic industry, to reduce duties in the Spanish cases, and without suspension of liquidation, it took Treasury almost five months to revote a waiver and institute a countervailing duty in a case involving Uruguayan leather apparel and almost eleven months to revote waivers on Uruguayan footwear and handbags. (The waiver action on leather apparel is discussed more fully below.) But in these cases where Treasury was acting to impose duties, it suspended liquidation of entries to give the Uruguayan Government more time to protest Treasury's action.

Thus, on the downside, Treasury appears to act with haste, but on the upside, Treasury clearly takes its time.

5. Treasury Has Stretched the Authority of the Trade Act of 1974 With Regard to the Granting of Waivers.

The Trade Act and the temporary four-year waiver authority which expired January 3, 1979, provided the Secretary of the Treasury with authority to waive the imposition of countervailing duties when he determines that:

1. adequate steps have been taken to reduce substantially or eliminate the adverse

effect of the bounty or grant on domestic producers;

2. that there is a reasonable prospect that trade agreements to reduce or eliminate nontariff barriers will be entered into; and

3. the imposition of countervailing duties would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Treasury Department officials have consistently interpreted these three criteria—all of which must exist before a waiver can be issued—so loosely as to permit them to justify any action administratively decided upon.

In one case, involving the imposition on January 12, 1976 of a 14 percent countervailing duty on Brazilian handbags, the Secretary of the Treasury undertook subsequently to waive this duty as part of a "package agreement" on trade issues which he personally negotiated during a visit to Brazil in May 1976. That waiver on Brazilian handbags was made effective July 1, 1976. Can it be said that at that time there was a "reasonable prospect" that successful trade agreements were to be entered into? Could it have been said in May 1976 that the imposition of the additional duty was "likely to seriously jeopardize the satisfactory completion of such negotiations? Hardly, on both counts.

A recent glaring example of a new horror story is that related to Treasury's finding that Uruguayan subsidies on leather wearing apparel were equivalent to 12 percent of the f.o.b. price for export to the United States.

In its final determination issued January 30, 1978, Treasury noted an intent to waive the imposition of countervailing duties on the basis that it had received assurances from Uruguay of a phase-down of only one subsidy—the "reintegro" program of cash rebates which alone amounted to 20 percent or more of the value of the goods exported. However, because leather wearing apparel from Uruguay entered the United States free of duty under the Generalized System of Preferences, the International Trade Commission was called upon (as required by Section 303(b) of the Trade Act) to determine whether Uruguayan subsidies on leather wearing apparel injured the United States industry. Following a comprehensive investigation, the ITC in April 1978, announced a unanimous injury finding. Nonetheless, even in the face of such a unanimous decision by the Commission with respect to the subsidized Uruguayan leather apparel, the Treasury Department carried out its planned waiver, which was duly announced in the Federal Register of June 30, 1978.

Treasury justified its waiver on the basis of Uruguayan assurances that it would phase out its major "reintegro" subsidy program by January 1, 1979. In agreeing to waive the countervailing duty on this basis, Treasury did not require the Government of Uruguay to reduce or eliminate other countervailable trade practices which the Treasury had determined to exist in Uruguay. Treasury's justification for permitting a waiver while the Uruguayans would leave these subsidies intact, was that they were very small, perhaps in the order of 2 percent, whereas the major subsidy program, which provided a subsidy of at least 20 percent, was netted down to around 12 percent.

The domestic industry argued with Treasury officials that they were ignoring an additional subsidy benefitting Uruguayan tanners equal to 8 percent of the value of the leather content in various products exported. Treasury decided differently. However, more recently, Treasury discovered that, indeed, it had made a mistake and that the 8 percent subsidy on the leather content of products exported to the United States was a countervailable duty. Thus, instead of a residual of 2 percent after the scaling down of the major subsidy, Treasury found that the remaining subsidy on Uruguayan leather apparel added up to a total of 13.3 percent. It decided to impose this subsidy effective November 13, 1978 and revoked its former waiver.

Even after Congress failed to extend the countervailing duty waiver authority last October, Treasury went ahead and waived the countervailing duty of almost 38 percent on Brazilian textiles and apparel on assurances that subsidies would be reduced by half by January 1, 1979 and by the remaining half by January 1, 1980. In the interim of one year, Brazil is being allowed to continue subsidies of a substantial amount without having countervailing duties applied, to the detriment of American firms and workers.

CONCLUSION

The foregoing documents what our group considers to have been a mismanagement of the countervailing duty program by the Treasury Department. This record does not support the assertion of the Secretary of the Treasury to the Joint Economic Committee on January 31, 1979 that Treasury does its "best to administer the statute fairly and efficiently." It is for these reasons that our group of 33 organizations believes that the administration of the countervailing duty statute should be removed from the Treasury Department.

THE RECORD OF ENFORCEMENT OF THE U.S. COUNTERVAILING DUTY LAW

The following examples of Treasury Department's inaction in the face of clear cut evidence of foreign export subsidy practices show that Treasury has failed to discharge its obligation under the countervailing duty law to protect the domestic economy and domestic industry from this form of unfair trade practice.

1. In the mid-1960's Treasury received detailed information on Japanese export subsidies from the American Embassy in Tokyo. In part, that information was contained in a lengthy airgram in 1966 entitled "Japanese Export Promotion Techniques" which were summarized as follows:

"The Japanese Government promotes exports by offering a comprehensive system of inducements entering on (1) favorable tax treatment, (2) special financial treatment, (3) a complete export insurance system, and (4) the supporting services of the Japan External Trade Organization (JETRO)."

The Table of Contents of that airgram is attached.

Although this document was unclassified Treasury and States sought to suppress it. Treasury failed to initiate countervailing duty action, yet it saw no obstacle to self-initiating countervailing duty action in 1968 against a wide variety of products, from France. The adverse consequences of Treasury's failure on the U.S. economy and on U.S. industries has been enormous, including the loss of large segments of the American consumer electronics industry and the industrial fastener industry.

Both Zenith and Magnavox brought countervailing duty actions against Japan's export aids in the early 1970's, but Treasury in effect said the complainants were "too late", inasmuch as the benefits had already been received and countervailing duties could not be retroactively assessed.

2. In 1969 Treasury Department countervailed a variety of steel products (including nuts and bolts) from Italy pursuant to a complaint filed by U.S. Steel. T.D. 69–113. In the course of its investigation, Treasury received documentation of the fact that Italian government was subsidizing the export of steel screws to the United States. Again, Treasury turned a blind eye, because U.S. Steel did not include that item in its complaint. The U.S. fastener industry learned about the Italian subsidy in 1975 and responded with a countervailing duty complaint, but most of the damage had already been done.

3. In February, 1978 Japan adopted the High Yen Measures Law designed to compensate exporters for any losses resulting from the appreciation of the yen. Medium-sized and smaller businesses are eligible within 150 designated industries. About 40 percent of Japan's exports come from medium-sized or smaller businesses. Treasury has known about this for some time but has taken no action even though the United States has a $12 billion trade deficit with Japan. A Citizen's Complaint was filed in February, 1979, with respect to ten product groupings. Treasury has refused to initiate an investigation even though it concedes that the complaint meets all of the requirements in the countervailing duty regulations.

AIRGRAM

To Department of State.
Info AmEmbassy Tokyo (4 copies); AmConGen KOBE/OSAKA/YOKOHAMA; AmConsul FUKUOKO/SAPPORO.
Pass From Department of Commerce (6 copies); AmConsul NAGOYA.
Date March 4, 1966.
Subject Japan's Export Promotion Techniques.
Ref Nagoya's A-2 of July 19, 1965.

SUMMARY

1. Favorable tax treatment.
A. Reserve for Foreign Market Development.
B. Small and Medium Enterprise Reserves for Foreign Market Development.
C. Special Depreciation Allowances.
D. Reserve for Overseas Investment Losses.
E. Special Exemption for Technical Exports.
F. Entertainment Expenses for Buyers.
G. Tariff Refund for Exporters.
2. Special financial treatment.
A. Export Financing System for Cooperatives.
B. Export Bill Trade System.
C. Foreign Exchange Fund Loan System.
D. Japan Export-Import Bank.
E. Overseas Economic Cooperation Fund.
F. Japan Development Bank.
G. Export Promotion Loan System for Designated Smaller Enterprises.
3. Export insurance systems.
A. Ordinary Export Insurance.
i. Individual Insurance:
a. For the Exporter;
b. For the Manufacturer; and
c. Against Increased Costs.
ii. Group Floater Insurance.
B. Export Price Insurance.
C. Export Bill Insurance.
D. Export Loan Insurance.
E. Consignment Sale Export Insurance.
F. Overseas Advertisement Insurance.
G. Insurance on Principal of Overseas Investments.
H. Insurance on Interest from Overseas Investments.
I. Distribution Pattern of Export Insurance.
4. Japan External Trade Organization (JETRO).
A. Market Research.
B. Advertising of Japanese Export Products.
C. Design Improvement.
D. Credit Investigation Services.
E. Domestic Services.
F. Budget.
Annex: Japanese Laws Relating to Trade Promotion Activities.

Mr. HEINZ. It is clearly the intent of the MTN agreements, the subsidies and antidumping codes in particular, to discourage these practices and to restore free market principles to international commerce. To the extent the codes work, our Nation will be the major beneficiary, as other nations will have to conform their uncompetitive practices more closely with our present practices.

It is imperative, however, that we help the codes along through a careful drafting of our own implementing legislation that will insure our unfair trade laws are fully and fairly enforced. To that end, Senators MOYNIHAN, DANFORTH, BENTSEN, and myself have sought to build into S. 1376, which is identical to H.R. 4537, a number of fundamental principles:

First, a broad definition of subsidy, including both export and domestic subsidies, so that unfair practices will have to be investigated rather than defined out of existence;

Second, a clear and rigorous method of calculating a subsidy to insure the amount determined accurately reflects the full benefit to the producer;

Third, a standard of injury no more difficult to meet than the present one;

Fourth, strict limits on discontinuing or suspending investigations pursuant to deals with foreign governments or producers;

Fifth, significantly shorter investigatory timeframes to prevent delays and insure relief is timely;

Sixth, fair and transparent procedures so that the rights of all parties are clearly identified and fully protected;

Seventh, reorganization of the Government's trade functions to better consolidate authority and coordinate policy, including removal of enforcement authority for countervailing duty and antidumping cases from the Treasury Department.

Though we did not fully achieve our goals, as manifested in S. 538 and S. 223, introduced by Senator MOYNIHAN and myself, and Senators DANFORTH and BENTSEN, respectively, we achieved a significant part of what we sought, and as a result are in a position to support the bill.

I would, however, like to make some specific comments on a number of the key points of controversy in this bill, points which have occupied large portions of my time and the committee's time.

Although I support the bill and feel that Senator MOYNIHAN and I succeeded in putting into it language to adequately codify the principles I have mentioned, there are some aspects of the revised countervailing duty and antidumping laws, particularly the definitions, which would benefit from clarification and reinforcement.

INJURY

The injury test engendered as much controversy as any single issue in this bill. The U.S. agreement to accept an injury test for countervailing duty cases is the most significant concession we made in the MTN. It is a concession I disapprove of in principle, because a subsidy is inherently an unfair practice and should be treated as such, regardless of the injury issue. To countervail only in those cases of injury to the domestic industry is to permit subsidies and other unfair practices to exist untouched to the ultimate detriment of free market principles in general and our economy in particular.

Nonetheless, the concession was made, and the committee's task became that of constructing an appropriate and fair definition of injury, one which could be easily met by domestic industry but which truly reflected injury. This task was made more complicated by the fact that the relevant existing standard used in the Antidumping Act of 1921 is defined not in statutory language but through an extended legislative history and series of case decisions going back more than 50 years. To detail that history somewhat, Mr. President, I ask unanimous consent that excerpts of a memorandum prepared by Frederick L. Ikenson be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

It is clear from the relevant statutory language, legislative history, case law, and administrative precedents that the "injury" test in the Antidumping Act was not intended by Congress to be a rigorous one.

Prior to the enactment of the Trade Act of 1974, § 201(a) of the Antidumping Act, as codified in 19 U.S.C. § 160(a) (1970), provided:

"(a) Whenever the Secretary of the Treasury (hereinafter called the 'Secretary') determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in sections 160–173 of this title called a 'finding') of his determination and the determination of the said Commission. For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative. . . ."

The clear purpose of this legislation was "to protect the producers of the United States against actual or threatened demoralization of American markets . . ." *Ellis K. Orlowitz Co.* v. *United States*, 47 Cust. Ct. 583, 587, A.R.D. 136 (1961), *aff'd*, 50 C.C.P.A. 36, C.A.D. 816 (1963). *Accord, Timken Co.* v. *Simon*, 539 F.2d 221 (D.C. Cir. 1976); *J. C. Penney Co.* v. *United States Department of the Treasury*, 319 F. Supp. 1023, 1024 (S.D. N.Y. 1970), *aff'd*, 439 F.2d 63 (2d Cir.), *cert. denied*, 404 U.S. 869 (1971); *SCM Corporation* v. *United States (Brother International Corporation, Party-in-Interest)*. 80 Cust. Ct. 226, C.R.D. 78–02 (1978); *City Lumber Co.* v. *United States*, 64 Cust. Ct. 826. A.R.D. 269, 311 F. Supp. 340 (1970), *aff'd*, 59 C.C.P.A. 89, C.A.D. 1045, 457 F.2d 991 (1972).

That Congress did not intend the "injury" test in the statute to be a rigorous one is readily demonstrated by an examination of the statutory language itself. The Act has never contained a "substantial injury" standard. There is not even a requirement of actual injury, as the statute specifies that the mere likelihood of injury or prevention of establishment of an industry is sufficient. The causative factor need not be imported merchandise *sold* at less than fair value but could be imported merchandise *likely to be sold* at less than fair value. Further, in the event of a tie vote by the voting Commissioners, an affirmative determination will be deemed to have been made.

The legislative history is no less clear in revealing the Congressional intention that the threshold of injury required to trigger the Act is that quantum of injury (actual or threatened) which is merely more than *de minimis*. When the antidumping bill, H.R. 2435, 67th Cong., 1st Sess. (1921), first passed in the House of Representatives, there was no injury requirement. *To be susceptible to dumping duties, it was sufficient for imported dumped goods merely to be in competition with goods made or produced wholly or in part in the United States.*

At the Senate Finance Committee Hearings on H.R. 2435, the first witness, John E. Walker, Chief, Legislative Drafting Service, U.S. Senate, was critical of the House bill. He stated (*Hearings on H.R. 2435 Before the Senate Comm. on Finance*, 67th Cong., 1st Sess. 12 (1921)):

"The first question that arises is a question of policy as to whether or not the antidumping title should be applied to all merchandise. As the bill is drafted now it is the duty of the appraisers to look for dumping in the case of every importation of merchandise, whether there is dumping or not.

"In the case of all consignment sales—that is, sales in which the selling price is not agreed upon until after the article is entered in the United States—the importer must give bonds that in case an antidumping duty is imposed that he will later pay the additional duty. The question immediately arises whether or not some administrative officer like the Secretary of the Treasury should have authority to direct the appraising officer to apply the antidumping title when the Secretary finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of foreign merchandise, and that such merchandise is being sold or is likely to be sold in the United States at less than its fair value.

"To require the appraisers to look for dumping in the case of every importation is going to put a very heavy administrative burden upon the force of the customs service." [Emphasis added.]

Mr. Walker proposed a change in language and in concept which was ultimately accepted by the Committee and reflected in the Senate version of the bill. The investigatory responsibility was shifted from the local appraising officials to the Secretary of the Treasury.

In the report of the Committee on Finance, S. Rept. No. 16, 67th Cong., 1st Sess. 10 (1921), the following informative comment was made:

"The amendment proposed in Title II relating to antidumping is a substitute for Title II of the House bill with the exception of section 214.

"The House bill made it necessary for the appraising officers to look for dumping in the case of each importation of merchandise and in the case of merchandise procurred otherwise than by purchase required a bond of the importer that would obligate him to furnish the collector upon the sale of the merchandise the selling price of the merchandise and to pay any additional dumping duties that might be found due. It is the opinion of your committee that the House provision is too drastic and places too great a burden upon the administrative officers of the customs service and upon the importer. It is also the opinion of your committee that it is unnecessary to make each appraising officer look for dumping in the case of every importation and that it is unreasonable to require the various appraising officers to determine the comparability of each class of merchandise together with the foreign market value and the purchase price in each case, regardless of whether or not an industry is being injured or is likely to be injured by such importation. It is believed that the dumping of merchandise into the United States can be prevented by imposing the dumping duties upon merchandise in cases in which the Secretary, after due investigation, has instructed the appraising officers to apply the antidumping provision.

"The antidumping title of the proposed amendment is so drafted that it will apply only in cases in which the Secretary of the Treasury, through such agency or agencies as he may designate, determines that the importation of dutiable or free foreign merchandise is injuring or is likely to injure an industry in the United States and that such foreign merchandise is being sold or is likely to be sold in the United States or elsewhere at less than its fair value. It is manifest that the determination of whether or not an industry is being injured or is likely to be injured should not be placed in the hands of the individual appraising officers at the various ports of entry. See section 201 of the proposed amendment."

This legislative history was cited and discussed by this Court in *Orlowitz, supra,* wherein the Court approved a very liberal construction of the term "industry" as it appears in the Antidumipng Act. The Court there stated (47 Cust. Ct. at 590):

"* * * After prolonged consideration of a bill that would have authorized each appraiser to find, as to each importation before him for appraisement in his own district, whether the merchandise was being 'dumped,' in the statutory sense, and passage of that bill by the House, there came out of the Senate a bill designed to relieve the individual appraising officers of this administrative burden and vest authority to find the fact of 'dumping' and of resultant injury in the Secretary of the Treasury (now the Tariff Commission). *There was no suggestion, as we read the Senate proposal and proceedings, of intention either to limit or enlarge the concept of 'injury' intended in the House bill, where the mandate was to each individual appraising officer in his own district. Mere intention to improve administration is not persuasive of an intention to change the scope of the law. The clearly expressed intention was to facilitate administration, and no intention was expressed other than to do that. This is persuasive of a legislative intention that the basic objectives were not to be changed.*" [Emphasis added.] Subsequently, the Court observed that the intent in the House bill, "was for each appraiser to determine the fact of injury as to each separate importation." 47 Cust. Ct. at 590. Thus, it is significant to note that the Court viewed the proposed function of the appraisers to determine whether imported dumped goods were in competition with goods made or produced wholly or in part in the United States to be an injury-determining function, and that the criteria for determining injury were not changed by the Senate amendments.

In affirming, the Court of Customs and Patent Appeals found itself in substantial agreement with the lower court's analysis. *Ellis K. Orlowitz Co.* v. *United States,* 50 C.C.P.A. 36, 40, C.A.D. 816 (1963).

Similarly, in *City Lumber, supra,* this Court acknowledged that Congress intended a broad construction of the term "injury." Prior to quoting the passage from *Orlowitz,* quoted at length above, the Court proceeded to say (64 Cust. Ct. at 835-836):

"In determining the statutory authority of the Antidumping Act, the court's primary consideration must be the effectuation of the declared policy and purpose of the act. After such consideration the court cannot agree with appellants' limited or restrictive interpretation of the Antidumping Act. The act was drawn in broad terms and its purpose was clearly to protect a domestic industry from 'dumping'. Dumping, in a foreign-trade sense, implies that there are, or are likely to be, 'sales at less than fair value', of foreign merchandise in the United States, that cause, or are likely to cause, injury to a domestic industry. The broad sweep of the statute may also be noted from the fact that it embraces not only an 'injury' to a domestic industry, but also the *likelihood* of injury. See Ellis K. Orlowitz Co. v. United States, 50 C.C.P.A. at 41.

* * * * *

* * * To hold that the Antidumping Act of 1921 provided a limited and restrictive remedy would be violative of the language of the act itself and its legislative history. Since the crux of the matter revolves around the determination of injury it is well to remember that the 1921 Antidumping Act, as passed by the House of Representatives, would have assessed special dumping duties against any kind of dumping in competition with a domestic industry without requiring a determination of injury. *The injury requirement was incorporated into the bill by the Senate Finance Committee, but, as pointed out in that Committee's report, the purpose was to facilitate administration of the law, and not to restrict its operation.* See Senate Report 16, 67th Cong., 1st Sess. p. 10. The House conferees agreed to the amendment, and the act was thus passed with the injury determination requirement. Act of May 27. 1921, 42 Stat. 11, as amended, 19 U.S.C. §§ 160–173 (1964). [Emphasis added.]

The Treasury Department itself has reported that, when it had the responsibility for making the "injury" determination under the Act (1921-1954) it viewed the injury requirement as being satisfied by evidence of anything more than *de minimis* injury. This was and is certainly consistent with the legislative intention.

With the enactment of the Customs Simplification Act of 1954, 68 Stat. 1138, the responsibility for the injury determination shifted to the Commission. A subsequent amendment, 72 Stat. 583 (1958), provided that a tie vote among the voting Commissioners would result in an affirmative determination, thus presenting a further indication that Congress intended a broad application of the Act. In 1967, the Commission also expressed the proper view that the injury requirement of the Antidumping Act is satisfied by a showing of any injury which is more than *de minimis, Cast Iron Soil Pipe From Poland,* T. C. Public. 214, 32 Fed. Reg. 12925 (1967).[4] and on numerous subsequent occasions has made manifest its adoption of this more than *de minimis* rule. *See, e.g., Pig Iron From East Germany, Czechoslovakia, Romania, and the U.S.S.R.,* T. C. Public. 265, 33 Fed. Reg. 14664 (1968); *Plastic Mattress Handles From Canada,* T. C. Public. 296, 34 Fed. Reg. 17130 (1969); *Whole Dried Eggs From Holland,* T. C. Public. 332, 35 Fed. Reg. 12500 (1970); *Pig Iron From Canada, Finland, and West Germany,* T. C. Public. 398, 36 Fed. Reg. 11835 (1971); *Asbestos Cement Pipe From Japan,* T. C. Public. 483, 37 Fed. Reg. 9267 (1972).

Perhaps the most vigorous Congressional assertion of its intent to adhere to the more than *de minimis* standard came during the furor which followed the 1967 signing of the International Anti-dumping Code, 19 U.S.T.I.A. 4348, T.I.A.S. 6431 (1967). Article 3 of the Code sets forth the following criteria for a determination of injury:

"A determination of injury shall be made only when the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry. In reaching their decision the authorities shall weigh, on the one hand, the effect of dumping and, on the other hand, all other factors taken together which may be adversely affecting the industry."

This provision was clearly more restrictive than the corresponding concept in United States law, and indeed, when the U.S. representative signed the Code on June 30, 1967, without having been delegated the authority to do so, the Senate was nothing less than irate with the Executive Branch's overreaching. A proposed resolution was introduced which would have provided that the sense of Congress was: (1) that the provisions of the Code conflict with the Act; (2) that the Code should be submitted to the Senate for approval as provided by Article II, section 2, clause 2, of the Constitution; and, (3) that the Code should come into effect in the United States only upon passage of implementing legislation by Congress. *S. Con. Res. 38,* 90th Cong., 1st Sess. (1967). When the resolution was referred to the Tariff Commission for comment, that agency replied that the Code and Act conflicted. *See Report of the U.S. Tariff Commission on S. Con. Res. 38, Regarding the International Antidumping Code Signed at Geneva on June 30, 1967* (1968) (Committee Reprint of Sen. Comm. on Finance, 90th Cong., 2d Sess. (1968)).

Although the resolution was never acted upon, a rider to a Renegotiation Amendments House bill, H.R. 17324, 90th Cong., 2d Sess. (1968), was added in the Senate which would have had the effect of totally nullifying the Code. Finally, a compromise was reached, in conference, which allowed the Administration to save face, and Public Law 90–634 (1968) was enacted and provided, in section 201, that nothing contained in the Code should be construed to restrict the discretion of the Commission in performing its duties and functions under the Act, and further, in performing their duties and functions under the Act, the Secretary and the Commission should resolve any conflict between the Code and the Act in favor of the Act as applied by the agency administering the Act, and take into account the provisions of the Code only insofar as they are consistent with the Act, as applied by the agency administering the Act.[5] In short, any effort to modify the Act was rejected. *See* Pintos and Murphy, *Congress Dumps the International Antidumping Code,* 18 Cath. L. Rev. (1968); *see also* Long, *United States Law and the International Anti-Dumping Code,* 3 Int'l Law. 464 (1969), cited with approval by this Court in *City Lumber, supra.*

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[4] In *Cast Iron Soil Pipe From Poland,* Commissioner Clubb, after reviewing the legislative history and the *Orlowitz* decision, made the following apt observation of the legislative intent (32 Fed. Reg. at 12928):

"* * * In order to relieve the Customs Bureau of the necessity of examining every importation for possible violation, the injury test was included. Congress thus made clear that it did not intend that *every* import sold at less than fair value should be subjected to dumping duties. If a competitive article is not produced in the United States, or if the imported article competes only peripherally in the same geographic or product market, Congress has provided for the consumer to benefit from the lower prices, rather than the domestic producer from peripheral protection. *But where the competition is direct, and the price is unfair, Congress has insisted that the dumping duties be imposed.*" [Italics added.]

The Congressional reaction to the Code is pertinent in the present context because one of the key criticisms voiced in the Senate related directly to the Code's treatment of the injury question (*S. Rep. No. 1385, Part 2,* 90th Con., 2d Sess. 11 (1968) *reprinted in* (1968) U.S. Code Cong. & Ad. News, 4548–49):

"[U]nder the statute, the question to be explored is whether the dumped imports cause (or threaten) injury, not the extent to which other factors unrelated to the dumped imports may discount the effects of dumping. *An industry which is prospering can be injured by dumped imports just as surely as one which is foundering although the same degree of dumping would have relatively different impacts depending upon the economic health of the industry.*

"*Applying the literal language of article 3 could lead to the absurd result that an industry which is suffering reverses for reasons unrelated to dumping could get no relief from dumping because other factors were causing its troubles; and that an industry which is prospering despite dumping could get no relief because it is not suffering.* Thus, under the code it would appear that relief from dumping would be available only in the rare instance where an industry is found to be in excellent economic health immediately before the dumping begins and to be suffering losses soon after the dumping begins, and no other reason can be found to account for the reversal. *Such a sharp change from the concept in present law of finding injury when it is more than de minimis cannot be effected without a change in the law.* [Emphasis added.]

Further evidence of the Congressional understanding that a low threshold of injury was contemplated by the Antidumping Act may be found in the Senate Finance Committee's Report on what was to become the Trade Act of 1974, *S. Rep. No. 93–1298,* 93d Cong., 2d Sess., 180 (1974). There, it was stated:

"* * * Under the Antidumping Act, the Commission determines whether a domestic industry 'is being or is likely to be injured, or is prevented from being established, by reason of the importation of' the less-than-fair-value imports. The term 'injury,' which is unqualified by adjectives such as 'material' or 'serious,' has been consistently interpreted by the Commission as being that degree of injury which the law will recognize and take into account. Obviously, the law will not recognize trifling, immaterial, insignificant or inconsequential injury. Immaterial injury connotes spiritual injury, which may exist inside of persons not industries. Injury must be a harm which is more than frivolous, inconsequential, insignificant, or immaterial.

"Moreover, the law does not contemplate that injury from less-than-fair value imports be weighed against other factors which may be contributing to injury to an industry. The words 'by reason of' express a causation link but do not mean that dumped imports must be a (or the) principal cause, a (or the) major cause, or a (or the) substantial cause of injury caused by all factors contributing to overall injury to an industry.

"In short, the Commission does not view injury caused by unfair competition, such as dumping, to require as strong a causation link to imports as would be required for determining the existence of injury under fair trade conditions."

In sum, it is clear from a review of the statutory language, judicial and administrative precedents, and relevant legislative comments that the "more than *de minimis*" injury standard was that which the Congress contemplated and that which the administrative bodies have repeatedly employed.

Mr. HEINZ. Mr. President, the committee and the administration quickly came to agreement that we wanted to continue the same test as presently applied by the International Trade Commission in antidumping cases. The controversy arose over our efforts to reduce that standard to writing.

The result is long and detailed, including an extensive definition of "industry," essential to determining injury, and a list of factors to be taken into account in determining injury, which I understand as follows:

In making a determination of injury, the Commission shall take into account all economic factors which it considers relevant and significant under the circumstances, including without limitation the following: The volume of subsidized imports, either in absolute terms or relative to production or consumption in the United States; the effect of subsidized imports on prices in the domestic market for like products; the impact of subsidized imports on the domestic industry in respect of actual or potential decline in output, sales, market share, profit, return on investment, and utilization of capacity; actual and potential negative effect on each flow, inventories, employment, wages, growth, ability to raise capital or investment; any past, present, or potential loss of business to subsidized imports, potential increase in the level of inventories of such products in the United States. No one or more factors shall be essential to a finding of injury.

In determining injury caused by subsidized imports, the Commission shall not weigh against the effects of the subsidized imports other factors which may, at the same time, also be injuring the domestic industry.

Subsidized imports need not be a principal cause, a major cause or a substantial cause of injury to an industry when other factors may also be contributing to injury to an industry.

At this point, Mr. President, I ask the distinguished chairman of the subcommittee, Senator Ribicoff, whether his understanding of the injury test is the same as mine as I have outlined it here.

Mr. RIBICOFF. My response to the distinguished Senator from Pennsylvania is that I have not seen the Senator's insert so I cannot comment on it. However, I have followed the Senator's statement as to injury very carefully and will state that his statement as to injury is correct.

Mr. HEINZ. I thank the Senator from Connecticut.

Mr. President, the critical question of the threshold of material injury was resolved with the statement that injury is "a harm which is not inconsequential, immaterial, or unimportant."

It is my view, and the committee report confirms it, that this language is intended to create a test identical to and no more difficult to meet than the present standard of the Antidumping Act.

Further, it is important to note that the terms "inconsequential," "immaterial," or "unimportant" are disjunctive; that is, connected by the word "or." It was the committee's intention in drafting the phrase this way to make clear that a quantum of injury need meet only one of these tests to qualify as material injury. That is, injury which is not unimportant is material injury; as is injury which is not inconsequential or not immaterial.

Further, much of the committee's debate concerned whether injury was a harm which is more than inconsequential, immaterial, or unimportant, or a harm which is not inconsequential, immaterial, or unimportant. It was the conclusion of both the Finance and Ways and Means Committees, concurred in by Ambassador Strauss when he spoke to the committee on their final day of consultations, that there is no substantive difference between these terms and that both reflect the existing standard.

The Senator from Connecticut was deeply and constructively involved as was the Senator from Louisiana, the chairman of the committee, in the resolution of this particular matter. I ask him at this point whether my understanding of the intent of the committee and the administration on this threshold issue is correct.

Mr. RIBICOFF. I respond to the Senator that the Senator's understanding is correct. The committee intends that the decisions of the ITC, between 1975 and this year under the Anti-Dumping Act on the whole, represent the standard of injury to be applied under the new countervailing and antidumping laws.

Mr. HEINZ. I thank the Senator from Connecticut.

I would further mention, Mr. President, the language of the injury definition regarding volume of imports. This section is also carefully drafted to make clear that it is not just an increase in the volume of imports that can cause injury, but the absolute level of such imports as well. As a result, domestic industries do not need to show an increase in imports, though that itself is a relevant cause of injury, but instead can show that the level of imports at the time of the investigation or the filing of the petition by itself causes injury. In both cases, of course, the ITC will consider the other factors included in the statute.

Another factor relevant to the determination of injury is causation. Both the codes and the bill make clear that injury must be by reason of subsidized imports. At the same time, however, the committee has made clear that different causes or factors of injury are not to be weighed against each other in an attempt to determine the major or substantial cause of injury; and that a petitioner shall not be required to prove the negative; that is, that he is not being injured by other factors.

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[5] Clearly, the compromise reached by the Senate-House conferees was understood to carry out substantially the Senate amendment. *See* 114 Cong. Rec. 29888 (1968) (remarks of Sen. Long).

One paragraph of the committee report in the section on injury needs some further clarification. That paragraph is as follows:

> In making a determination with respect to threat of material injury in countervailing duty investigations, the ITC may consider the nature of a subsidy practice and whether an adverse impact on a domestic industry is more likely to be associated with such a subsidy practice as opposed to what would be the case with another type of subsidy. This is particularly relevant with respect to export subsidies inconsistent with the Agreement on Subsidies and Countervailing Measures, which are inherently more likely to threaten injury than are other subsidies.

I certainly agree that export subsidies are more likely to cause injury than other subsidies and that they must be monitored with particular vigilance. I am concerned, however, that by doing so, we may necessarily be paying less attention to domestic subsidies or in some way taking them less seriously. This worries me, in part because if the codes work the way they are supposed to, we will see fewer export subsidies. I think it is a good idea to dispel any implication in the report that the latter are in any way less important than the former, namely, domestic subsidies, or that the injury test is in any way more difficult to meet in the latter cases. Can the managers reassure me on that point?

Mr. RIBICOFF. I can reassure the distinguished Senator from Pennsylvania that his interpretation and suppositions are correct.

Mr. HEINZ. I thank the Senator from Connecticut.

I am also concerned, Mr. President, over part of the paragraph immediately above the one I have just referred to. The sentence in question reads:

> The ITC will continue to focus on the conditions of trade and competition and the nature of the particular industry in each case.

I am concerned that this statement implies the ITC can consider the state of competition within our industry in making its judgment about injury or the threat thereof; that is, the ITC might conclude that an industry is not sufficiently competitive, and that conclusion could then be applied to its injury finding. In my view judgments such as this are entirely within the purview of the Federal Trade Commission, and this bill does not include any such authority for the ITC. Is that correct?

Mr. RIBICOFF. Let me assure the Senator from Pennsylvania that if the ITC finds injury or threat of injury then the bill would in no way permit the Commission to disregard that finding because of any information relating to competition within the domestic industry.

Mr. HEINZ. I thank the Senator from Connecticut.

Another major area of controversy in our negotiations with the administration was the concept of subsidy, both its definition and method of calculation. The existing countervailing duty law does not contain a detailed definition of a subsidy or bounty or grant. Similarly, the concept of net subsidy is undefined, which has led to some serious abuses by the Treasury Department in its attempt to reduce the amount of subsidy to levels sufficiently low to mollify our trading partners.

In order to eliminate this unfortunate practice, the committee has sought to more clearly define the concept. First, we have provided a specific, though not inclusive, list of subsidies including all those listed in annex A of the Subsidies Code, which I ask unanimous consent be included in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

(a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.

(b) Currency retention schemes or any similar practices which involve a bonus on exports.

(c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.

(d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for delivery of like or directly competitive products or services for use on the production of goods for domestic consumption, if (in the case of products) such terms of conditions are more favourable than those commercially available on world markets to its exporters.

(e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes[1] or social welfare charges pair or payable by industrial or commercial enterprises.[2]

(f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.

(g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes[1] in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.

(h) The exemption, remission or deferral of prior stage cumulative indirect taxes[1] on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on goods that are physically incorporated (making normal allowance for waste) in the exported product.[3]

(i) The remission or drawback of import charges[1] in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported product; provided, however, that in particular cases a firm may use a quantity of home market goods equal to, and having the same quality and characteristics as, the imported goods as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, normally not to exceed two years.

(j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance of guarantee programmes against increases in the costs of exported products[4] or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.[5]

(k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of exports credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories[6] to this Agreement are parties as of January 1, 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

(l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the General Agreement.

FOOTNOTES

[1] For the purpose of this Agreement:

The term "direct taxes" shall mean taxes on wages, profits, interest, rents, royalties, and all other forms of income, and taxes on the ownership of real property.

The term "import charges" shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports.

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges.

"Prior stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product.

"Cumulative" indirect taxes are multistaged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production.

"Remission" of taxes includes the refund or rebate of taxes.

[2] The signatories recognize that deferral need not amount to an export subsidy where, for example, appropriate interest charges are collected. The signatories further recognize that nothing in this text prejudges the disposition by the Contracting Parties of the specific issues raised in GATT document L/4422.

The signatories reaffirm the principle that prices for goods in transactions between exporting enterprises and foreign buyers under their or under the same control should for tax purposes be the prices which would be charged between independent enterprises acting at arm's length. Any signatory may draw the attention of another signatory to administrative or other practices which may contravene this principle and which result in a significant saving of direct taxes in export transactions. In such circumstances the signatories shall normally attempt to resolve their differences using the facilities of existing bilateral tax treaties or other specific international mechanisms, without prejudice to the rights and obligations of signatories under the General Agreement, including the right of consultation created in the preceding sentence.

Paragraph (e) is not intended to limit a signatory from taking measures to avoid the double taxation of foreign source income earned by its enterprises or the enterprises of another signatory.

Where measures incompatible with the provisions of paragraph (e) exist, and where major practical difficulties stand in the way of the signatory concerned bringing such measures promptly into conformity with the Agreement, the signatory concerned shall, without prejudice to the rights of other signatories under the General Agreement or this Agreement, examine methods of bringing these measures into conformity within a reasonable period of time.

In this connection the European Economic Community has declared that Ireland intends to withdraw by 1 January 1981 its system of preferential tax measures related to exports, provided for under the Corporation Tax Act of 1976, whilst continuing nevertheless to honour legally binding commitments entered into during the lifetime of this system.

[3] Paragraph (h) does not apply to value-added tax systems, and border-tax adjustment in lieu thereof and the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).

[4] The signatories agree that nothing in this paragraph shall prejudge or influence the deliberation of the panel established by the GATT Council on 6 June 1978 (C/M/126).

[5] In evaluating the long-term adequacy of premium rates, costs and losses of insurance programmes, in principle only such contracts shall be taken into account that were concluded after the date of entry into force of this Agreement.

[6] An original signatory to this Agreement shall mean any signatory which adheres ad referendum to the Agreement on or before 30 June 1979.

Mr. HEINZ. In addition, however, the committee included in its subsidy definition four types of domestic subsidies:

If provided or required by government action to a specific enterprise or industry, or a group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

(i) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

(ii) The provision of goods or services at preferential rates.

(iii) The grant of funds of forgiveness of debt to cover operating losses sustained by a specific industry.

(iv) The assumption of any costs or expenses of manufacture, production or, distribution.

This list is intended to define as subsidies some of the more egregious practices of our trading partners and to include, among others, the practices and objectives listed in article 11 of the Subsidies Code.

The point of this language and these examples, Mr. President, is to define subsidy broadly so as to catch within the scope of our law as many unfair trading practices as we can. That, of course, does not mean we countervail, because injury must also be found. It was the committee's intent, however, that the Treasury Department, or whatever administering authority ends up with this new law, not resolve petitions by arbitrarily concluding that various practices are not subsidies. Better to define the term broadly, as it ought to be defined, and then use the injury test as it is intended to be used.

Can the managers of the bill confirm for me these comments on the definition of subsidy?

Mr. RIBICOFF. May I respond that I can confirm the Senator's comments, and the Senator is correct.

Mr. HEINZ. I thank the Senator from Connecticut.

While rebates of value added taxes are excluded from the list of subsidies in the code—an unfortunate decision in my view—a difficult issue arises in the case of certain kinds of VAT-like cascade taxes such as the Spanish system, rebates of which are not strictly like rebates of a VAT, because they are not calculated on the exact basis of value added but rather are determined on the basis of an aggregate calculation which is not necessarily an accurate reflection of the real value added of a particular product. When this kind of cascade tax is rebated, individual exporters may receive a bounty in excess of the exact amount of tax paid earlier at various stages of production.

The language of the Senate Finance Committee report on page 85 appears to open the door very slightly to treating this kind of rebated tax as a VAT rather than as a counteravailable subsidy. The language, however, is narrowly drawn by making clear that any payment excluded from the definition of subsidy must be reasonably calculated, specifically provided as on nonexcessive rebate of an indirect tax permissible under annex A of the code, and it must be directly related to the merchandise exported, as opposed to a more general rebate.

As in all cases in this statute, these terms are intended to be adhered to strictly, and the burden is on the recipient of the benefit or his government to show that the payment meets each of the above tests. I can assure the administering authority that many people in this country, including this Senator, will be closely watching any case that might fall in this category and will expect evidence to be thoroughly developed so that it is conclusively established that payment meet these tests. Personally, I am doubtful that the Spanish tax or any similar tax can meet these standards. As the Senator who offered the offset and subsidy definition language incorporated into the bill, I can say it was certainly not my intent that rebates of cascade taxes and the like be treated in this way. If they are, the administering authority had better have an airtight case.

SUBSIDY CALCULATION

Perhaps the issue which has vexed me the most throughout the Finance Committee's consideration of the MTN bill is the question of how a subsidy is calculated. By not clarifying the meaning of net subsidy, present law permits the Treasury Department to abuse the intent of the law by going out of its way to find ways to reduce the subsidy amount.

The new bill takes significant steps toward controlling this problem by clearly defining and limiting permissible deductions from a gross subsidy. The allowable deductions, called offsets, are strictly limited to:

First, any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy;

Second, any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by government order; and,

Third, export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.

The basic concept of an offset is valid. The benefit to a foreign producer attributable to a subsidy ought to be the actual benefit received. For example, if a producer can receive a subsidy only after payment of an application fee, then the actual benefit received should be the gross amount of the subsidy minus the application fee.

Similarly, in the case of the second offset, a subsidy granted in the form of a certificate redeemable only at a future time by government order, the net subsidy would be the gross subsidy minus any loss in its value, for example due to inflation, before it can be redeemed.

To illustrate the limits of this concept, however, if such a certificate were sold before it could be redeemed, the amount of the net subsidy would be the face value of the certificate, not its sale or market value, since the sale was not mandated by the government.

I would ask the distinguished managers of the bill if that is also their understanding.

Mr. RIBICOFF. May I respond to the Senator from Pennsylvania that I have followed his explanation and analysis very carefully, and the Senator is correct.

Mr. HEINZ. I thank the Senator from Connecticut, the manager of the bill.

The third offset established another important principle by allowing offsets for taxes paid related directly to the subsidy in question.

Thus an across-the-board export tax not rebated, for example, could not be offset since the tax was not intended specifically to offset the subsidy. An across-the-board tax would have to be paid whether or not the subsidy existed, and thus is not directly related.

The offset language in the statute is also limited by what is omitted. In its deliberations on this issue the committee explicitly voted to reject two other offsets, and in doing so made clear its intent that these were not to be deducted from a gross subsidy.

First, the committee voted to exclude regional aids. Clearly, a payment for locating a plant in a particular region of a country is a subsidy. However, it has been Treasury's practice to offset such a subsidy with its estimate of any additional costs of locating in that region, inevitably a calculation of great inaccuracy.

The theory is that if the company has a choice of locating in either region A or B of a country and would normally choose A because the cost to locate in B is greater, a subsidy to offset the cost of locating in B has no effect on exports from the territory of the subsidy-granting country. That is, the price of the product produced in B will be the cost less the subsidy that is equal to the additional location cost plus profit which is the same as the price (cost plus profit) of a product produced in A.

The difficulty with this theory is that this type of subsidy is functionally no different than any subsidy that has the purpose of eliminating a comparative disadvantage. It is also impossible to calculate with any precision the additional location costs with the result that the true effect of the subsidy can be masked. Finally, an offset of this nature would not take into account savings achieved by location decisions, such as labor rate differentials, raw material availability, and so forth.

The other explicit omission is that of indirect taxes not rebated. First, as I have indicated it has been traditional Treasury practice—upheld by the Supreme Court—and GATT procedure that the rebate or remission of indirect taxes (that is, a sales tax or a value added tax—on the export of a product is not a bounty or grant for purposes of the Countervailing Duty Law or article VI of GATT. Typically, a value added tax is a cascade tax: That is, if A produces an automobile axle and sells it to B, A collects a tax on the invoice price which is paid to the government. B further processes the axle and sells it to C collecting a tax again on the invoice price. B deducts from the tax collected from C the amount paid to A and remits the remainder to the government. C then exports the product to the United States. Because of the exportation, C does not collect a value added tax and is entitled to a rebate from the government of the tax paid at the time of the purchase from B. Ordinarily, of course, the tax obligations and remissions are calculated on a monthly gross basis rather than on individual items but the principle remains the same. In the example given, the remission to C of the excise or value added tax paid by C to B upon the export of the product by C would not be considered a countervailable duty or grant. This type of tax is called an indirect tax.

The bounty in lieu of unremitted indirect taxes issue arises under those tax systems where B would not receive credit for the tax paid to A upon the sale to C. Such indirect taxes cannot be rebated on export because they were not "cascaded" through the system. In some countries, which do not have the cascade system, an export rebate is granted equivalent to what is thought to be the indirect taxes that could have been rebated but are not because of the tax system. Treasury has asked for an offset for these types of taxes, but the committee rejected this proposal for a number of reasons. First and foremost, is the fact that the offset ordinarily is no more than a guess as to the amount of the taxes that could have been rebated but were not. Second, because of the lack of cascade effect, the exporter gets an undue amount of benefit from the rebate. Thus his price is likely to be even more affected than it would have been had there been a cascade system. Finally, Treasury should not base U.S. countervailing duty policy on the tax methodologies selected by varying countries.

Do the managers of the bill agree with this analysis as well?

Mr. RIBICOFF. The Senator is correct that the Finance Committee specifically rejected offsets for regional aids and offsets for indirect taxes which are not rebated. The bill reflects this decision of the Finance Committee.

(Mr. HUDDLESTON assumed the chair.)

Mr. HEINZ. I thank the distinguished Senator.

Another problem in the calculation of a net subsidy is the treatment of a nonrecurring subsidy, such as a capital grant for the construction of a plant. The problem is to find a fair method of allocating the subsidy over the products being exported. In the past Treasury has from time to time used unrealistically long-time periods, such as the useful life of the facility, for such allocation, leading to excessively low subsidy amounts. As the report makes clear, greater attention must be paid to the immediate competitive benefit the subsidy provides, and the calculation of the amount of subsidy should reflect that immediate benefit in the initial years of the facility's life.

Finally, with respect to the use of offsets, I want to emphasize the committee's determination that their use be narrowly circumscribed to the three listed in the statute. No others are permitted, and all which do not meet the letter of the statutory language are similarly excluded.

SUSPENSION OF INVESTIGATIONS

Another section of this bill that causes me great concern is the concept of suspension or discontinuance of a countervailing duty or antidumping investigation pursuant to an agreement, with a foreign government in the case of a subsidy investigation or foreign manufacturers in the case of an antidumping investigation.

When the committee discussed this concept there was some suggestion that it was analogous to settling a case out of court, a time-honored practice essential to the smooth and efficient running of the judicial process. In fact there is a major difference. In a suit any settlement is between plaintiff and defendant. In this bill any settlement is effectively between defendant and judge, a very different relationship, especially when the judge is not always neutral.

The original Heinz-Moynihan bill did not allow for any assurances or suspensions. Ultimately we agreed to permit them under certain narrowly constrained circumstances, which I would like the managers of the bill to confirm for me.

First, in almost all cases any assurance must involve the complete elimination or offset of the unfair practice. That is, in a countervailing duty case, the subsidy must be fully removed or offset or the imports stopped. In an antidumping case, the dumping margin must be eliminated or the imports stopped. Note that in a countervailing case, I said the subsidy must be fully eliminated or offset. If a subsidy, for example, were a capital grant to build a factory, a simple promise by the government providing the subsidy to eliminate the program in the future would hardly undo the damage done. In those cases the subsidy must be fully offset. In all such circumstances, any increase in imports during the 6-month period of phase-out of the subsidy or less than fair value sales would be prohibited.

Beyond this basic standard, the statute will permit some cases of a less than full assurance. It is the intent of the committee that such cases be rare and exceptional, and that each of the qualifying tests be demonstrably met. Those tests are that suspension of the investigation would benefit the domestic industry more than its continuation and that the case is complex, meaning that there are a large number of complicated subsidy practices or a large number of transactions of adjustments in dumping cases, a large number of exporters or novel issues presented. Needless to say, the domestic industry would be expected to have some input into the question of whether it would benefit by an assurance, and I would find it very difficult to believe a judgment that the domestic industry would benefit more from a suspension than a completed investigation if that industry had expressed its opposition to such an action.

If the administering authority can demonstrate extraordinary circumstances exist, then the standard for an assurance would be complete removal of the injurious effect of the subsidy or less than fair value sales. Additionally, an assurance would specifically have to offset at least 85 percent of the subsidy amount or be no greater than 15 percent of the weighted average amount by which the estimated foreign market value exceeded the U.S. price in antidumping cases, and could not suppress or undercut domestic price levels.

Further, any agreement, involving either complete elimination of the subsidy or dumping margin or something less than that, would have to be on behalf of foreign exporters of at least 85 percent of the volume of exports of the product in question.

There are also appropriate procedures and protections for the domestic petitioner which are described in the statute and the report. I also want to emphasize, however, that all these tests are not simply threshold issues which once met can be forgotten. They must continue to be met throughout the life of the agreement for it to remain operative. Thus, for example, if exporters not covered by such an agreement were to increase their exports to the point where the agreement no longer represented 85 percent of the volume of exports subject to the investigation, the investigation would be resumed and, upon appropriate findings, countervailing or antidumping duties, as the case may be, imposed. Similarly, if the domestic petitioner at some later point were able to establish the agreement no longer completely removed the injurious effect of the subsidy or dumping, then the agreement would be ended and duties imposed. It should also be pointed out in this regard that the standard required, complete removal of the injurious effect, is an explicitly lower standard than the material injury standard elsewhere in the bill.

Mr. President, I remain opposed in principle to the practice of suspensions and assurances, largely because it permits a continuation of practices which have, at least preliminarily, been found to be unfair and in violation of the MTN agreements and our law. Nonetheless, with the kind of safeguards and restraints built into this section and with the clear understanding that extraordinary circumstances are to be the rare exception rather than the rule, the provision is tolerable. I would ask the managers of the bill, however, if my understanding of the suspension procedure is accurate.

Mr. RIBICOFF. The Senator has correctly outlined the provisions of the bill dealing with suspensions of investigations. The provisions of the bill are intended to result in suspensions of investigations only when agreements are made with foreign governments or exporters. These agreements must effectively control the subsidized or dumped imports so that they no longer injure domestic industries.

May I comment that I have watched with great interest the dedication of the Senator from Pennsylvania to these very complex problems that impact on his constituency and the country as a whole. He has been most zealous in protecting labor and industry in his State and in the Nation. I compliment the distinguished Senator for his contribution to the overall MTN legislation.

Mr. HEINZ. I thank the Senator from Connecticut, who has chaired the committee for days, weeks, and months of hearings and markups. I do not know how we would have gotten through this bill in such a relatively rapid time without the persistence and patience of the manager of this bill. I thank Senator Ribicoff particularly for his kind remarks. It has been a learning experience for me, and I appreciate his very kind and generous characterizations of the learning process.

Mr. ROTH. Mr. President, as the Republican manager of this bill, I concur in Senator Ribicoff's response to each of the inquiries posed by Senator Heinz. I would also like to acknowledge Senator Heinz' invaluable contribution to the legislative endeavor. His energy and insight on a number of key issues, I believe, has resulted in many positive improvements in this legislation.

Mr. HEINZ. Mr. President, I would simply like to thank Senator Roth for his fine and generous comments. This bill, of course, is the result of many, many very patient and painstaking hours of work by a number of members of the committee. I do not know of a single member of the committee, in fact, who did not put in more than his fair share of time. The Senator from Delaware and the Senator from Connecticut are certainly the most preeminent in that regard. I want to say, Mr. President, that without the work of all the members of the committee, I doubt that we would be in the position we are in today, which is having a piece of legislation which deserves the support of every Member of this body.

Thank you, Mr. President.

Mr. BENTSEN. Will the manager of the bill yield me 3 minutes?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, many words have been said by the people who have participated in this debate, and I am certainly in accord with them. I hear of all this unanimity which is taking place on the floor now, of the wonderful work of Abe Ribicoff and of Bill Roth, from Delaware. I am delighted with the support which is being shown for this bill.

My gregarious and very able friend Bob Strauss, the very fine ambassador from Texas, has done an excellent job as the President's Special Trade Representative. His tireless efforts have resulted in the successful conclusion of these landmark trade negotiations. We are all appreciative of that. But there is another man who has been in the day-to-day trade negotiations, slugging it out, a very intelligent and able man, Ambassador Alonzo McDonald, who gave up a highly compensated position to serve his country, and the country is certainly the beneficiary of his outstanding contribution.

Mr. President, I would like to ask the distinguished Senator from Connecticut a question.

As I understand it, under this bill, countervailing duties could be imposed when it is determined that a country is providing a subsidy for products imported into the United States which cause material injury or threat of material injury to a U.S. industry. Further, section 771(12) of the Tariff Act of 1930, as would be added by the bill, would provide that for the purposes of the countervailing duty law, merchandise is to be treated as the product of the country in which it is manufactured or produced without regard to whether it is imported into the United States in the same condition as when exported from that country, or in a changed condition by reason of remanufacture or otherwise.

Also under the bill, antidumping duties could be imposed whenever it is determined that foreign products are being sold in the United States at less than their fair value and such merchandise is causing material injury or threat of material injury to a U.S. industry. Under section 773(d) of the Tariff Act of 1930, as would be added by the bill, a provision in the present antidumping duty law would be continued. Under this provision, if a firm sells products produced in one country at a higher price in the markets of that country compared to the price of sales of the same product to the United States produced by a subsidiary located in a second country, the United States could in appropriate circumstances apply antidumping duties calculated by referring to the higher priced sales even though products from that firm in that country are not actually imported into the U.S. market.

With this background, I am concerned about the following situations. It is my understanding that many foreign companies or enterprises organized and based in one foreign country and receiving direct or indirect subsidies on a product produced in this home country have adopted the practice of manufacturing merchandise which uses the subsidized product in another foreign country and then exporting that subsidized merchandise to the United States. Further, some foreign multinational corporations use higher priced sales and profits in a protected home market to offset lower priced sales to the United States from a subsidiary located in another country so that they can increase their sales in the U.S. market. I do not believe that a foreign enterprise which receives the benefits of a subsidy from its home government, or high prices in its protected home market which permit it to dump from a subsidiary in another country, should escape the application of the U.S. unfair trade laws merely because the subsidized merchandise or the dumped merchandise is exported to the United States from another foreign country.

Is my understanding correct, that it is the legislative intention that the ITC or other administering authority will take account of these factors in administering the trade laws?

Mr. RIBICOFF. The Senator is correct. In the situations described, the merchandise coming to the U.S. market will be subject in appropriate cases to countervailing duties or antidumping duties.

Mr. BENTSEN. I thank the distinguished manager of the bill. I am told that the manager for the minority is in accord with that statement.

Mr. ROTH. Yes, I am happy to say that I am in accord with that statement.

Mr. BENTSEN. I thank the distinguished Senator from Delaware.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I rise today to join colleagues on both sides of the aisle in urging approval of H.R. 4537, the Trade Agreements of 1979 I was honored to be the designee of the minority leader in introducing this bill on June 19 with Senator Long and many cosponsors from both sides of the aisle. Since then, the House has approved the bill by the overwhelming margin of 395 to 7. I believe we in the Senate should also act expeditiously and affirmatively.

Mr. President, H.R. 4537 embodies the results of more than 5 years of international trade negotiations by three administrations, and several months of detailed review of virtually every trade law of the United States. The trade negotiations involved more than countries, and produced the first significant revisions of international rules concerning nontariff barriers to trade since the adoption in 1947 of the General Agreement on Tariffs and Trade. This bill will approve the new rules and implement their requirements in U.S. law.

But this bill, Mr. President, goes beyond mere implementation of new obligations of the United States. As a result of intensive, bipartisan consultations between the Finance Committee, other committees, and the administration, the bill contains several revisions in our law which, though not required by our international obligations, are consistent with the new agreements and achieve important benefits for our domestic interests.

It is appropriate at this point to reiterate the praise which many colleagues and I have voiced for the many people in both the executive and legislative branches who have worked so hard to produce this imposing trade package. Everybody's honor roll, of course, must begin with Bob Strauss, who showed great skill, imagination, and political acumen in bringing deadlocked international negotiations to a successful conclusion. At least as important, Bob Strauss showed great receptivity and accommodation to ideas from the private sector and Congress, including Republicans and Democrats. I would also extend my thanks to Ambassador Strauss' staff and the many, many support personnel in the executive branch.

There are many individuals in this body also who merit special thanks. Senators HEINZ and MOYNIHAN and Senators DANFORTH and BENTSEN introduced trade bills earlier this year which inspired many of the provisions of this bill relating to countervailing and antidumping duties. Chairman LONG, as well as Senators RIBICOFF and ROTH of the trade subcommittee, were invaluable. Many other Senators made major contributions on various points.

Mr. President, I think the results of all this effort merit our approval. I will not pretend that this trade package is a panacea for our trade deficit or basic economic problems, but I believe it is, on balance, a positive step forward. As a result of this package, our Government should move faster and more effectively against imports which harm our domestic industries through unfair foreign trade practices such as dumping and subsidization. Foreign countries should exert greater descipline on export subsidies which limit our export opportunities, and our Government should be more responsive to complaints of U.S. exporters. Our highly competitive aircraft industry will benefit from trade liberalization. Customs procedures should be fairer here and abroad. Codes on standards and import licensing should reduce trade barriers of those types. We have a foot in the door to some formerly closed export markets, such as foreign government purchases. And consumers should benefit generally from trade liberalization.

Mr. President, we must also acknowledge that there will be some costs to this trade package. Increased cheese imports create problems for our dairy industry, and I hope this body will be specially attentive to assure the continuing viability of this group.

Domestic producers of distilled imports will face greater competition from bottled imports. Other industries will also face increased competition as a result of the reduction of tariffs and other trade barriers.

We must remain vigilant to the needs of both those facing increased imports and those who stand to benefit from increased exports. I was careful to note that our export industries should benefit from the new trade rules. The United States will need to press vigorously for international and domestic enforcement of the new rules. Many potentially beneficial new rules contain qualifications or uncertainties. If the executive branch does not press our case, these rules could result in little benefit to our interests.

I urge, therefore, that we pass this bill, but that we not delude ourselves that trade issues can slip into the background after enactment of this bill and the Export Administration Act. The Congress must assure that the executive branch enforces the new domestic laws and international agreements. We must be prepared to take further action to help the private sector to take advantage of new export opportunities, we must be prepared to take decisive action if foreign competitors take unfair advantage of our more open markets or fail to deliver on their obligations to us. Our businesspeople, workers, and farmers are our biggest asset in rectifying our trade imbalance. We must build on the new opportunities in this trade package and the abilities of our private sector. That must be our continuing effort.

I thank the distinguished Senator from Delaware for yielding.

Mr. RIBICOFF. Mr. President, the Senator from Hawaii (Mr. INOUYE) has asked the following question:

> I notice in the enforcement section of the bill, Title IX, that Section 301 of the Trade Act of 1974 is amended and enlarged. I notice that it states that if the President determines that action by the United States is appropriate to enforce the rights of the United States under any trade agreement or to respond to any act, policy, or practice of a foreign country or instrumentality that is, among other things, and I quote, "unjustifiable, unreasonable or discriminatory or burdens or restricts United States commerce;" he may act under Section 301. Later in the same amendment I notice under the section dealing with special provisions that it is determined that an act or policy or practice by any country or instrumentality that burdens or restricts United States commerce may include the payment by a foreign country or instrumentality, directly or indirectly, of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States. Because the language I have just quoted adds a new dimension to Section 301 of the Trade Act, it can in effect give a complaining party, indeed the President if he takes such action, the ability to impose the burden *"expost facto."* There are vessels now both under foreign-flag and indeed under U.S.-flag that were built in foreign countries and built with subsidies. Indeed, there have been contracts let long before this bill became a reality for the construction of vessels in foreign countries both for American-flag and foreign-flag with subsidies. I would assume the Senator from Connecticut would agree that the imposition of this new expansion of Section 301 was not intended to place the potential of a retroactive penalty or duty on vessels that were already built or under contract at the date of enactment of this legislation. In other words, if there are vessels already in existence or contracts to build vessels already signed and effective, these existing vessels and the vessels to be built under the contracts were not intended to be covered by this language but that it would only apply to vessels and contracts involving vessels constructed subsequent to the date of enactment of this legislation.

The Senator from Hawaii is correct. This language is added to give a potential right to an aggrieved American shipyard if he can show that the foreign subsidies on shipping constitute a burden and restrict U.S. commerce. It is clearly not intended that this expansion of section 301 would affect existing vessels, or, as a matter of policy, to vessels that are already contracted for prior to the date of introduction of this legislation. Clearly, this could have a serious impact on our relations with certain countries. But, while as a matter of policy these vessels may be excluded, the existence of the language for its application in the future should constitute a warning to those countries that, while they may grant subsidies for construction of vessels, they cannot do so if the form of that grant constitutes a burden or restriction on U.S. commerce.

I am glad the Senator from Hawaii raised the point.

Mr. DANFORTH. Mr. President, will the Senator from Delaware yield me as much time as necessary to make some remarks and then to engage in a colloquy with the distinguished managers of the bill?

Mr. ROTH. Yes, Mr. President, I so yield.

Mr. DANFORTH. Mr. President, over the last few decades an increasing number of U.S. industries from every section of the country have faced growing and aggressive foreign competition. Much of this competition has been fair. It is welcomed. Some of the competition has been unfair, taking the form of subsidized or dumped imports. The latter is not welcomed and must be stopped.

Coping with unfair trade practices was a major focus of the recently concluded Tokyo round of the multilateral trade negotiations in Geneva. The reforms agreed to in Geneva are one step in the process of securing fairer trade practices. Another important step is embodied in H.R. 4537, the "Trade Agreements Act of 1979."

I am a cosponsor of H.R. 4537. The legislation contains many improved procedures for enforcing the laws now on our books—specifically, the 1921 Antidumping Act and the Tariff Act of 1930, the countervailing duty law. Many of the provisions against unfair foreign competition embodied in H.R. 4537 are similar to provisions and concepts embodied in S. 223, a bill which I introduced earlier this year along with 20 of my Senate colleagues.

That bill, and S. 3127, introduced in the 95th Congress, were based on the belief that such unfair trade practices as dumping and sales of subsidized goods, although clearly proscribed under long existing law, were, until the passage of H.R. 4537, without timely and effective remedy because the enforcement procedures under existing law were inadequate. The concepts embodied in S. 223 and now found in H.R. 4537 would continue the process, begun in the Trade Act of 1974, of assuring a swift and certain response to illegal dumping and sales of subsidized goods by tightening enforcement procedures.

In the past, four principal problems stood in the way of fair, swift, and effective enforcement of our laws against unfair trade practices:

First. The Treasury Department's failure to initiate its own antidumping and countervailing duty investigations and, in fact, a general movement toward hindering the ability of domestic firms to instigate investigations by filing petitions;

Second. Periods for investigations and delays in obtaining relief that were unnecessarily lengthy;

Third. Lax enforcement after the investigation was completed, permitting lengthy postponement of antidumping duties, or an outright waiver of the duty in some countervailing duty cases;

Fourth. Judicial review provisions which were not sufficiently broad in their scope to check abuses of the wide discretion possessed by the Treasury and the International Trade Commission.

S. 223 addressed these and other problems. H.R. 4537, by embodying many of the provisions and concepts of S. 223, remedies these shortcomings in the enforcement of our country's unfair trade competition laws.

I would like to discuss with the floor manager and my other colleagues on the floor a number of the provisions of H.R. 4537, dealing with the procedural mechanisms and the enforcement responsibilities under our now amended international trade laws. Before I do, though, I would like to make a number of general observations:

First. H.R. 4537 rejects a protectionist approach. It embraces, rather than abandons, the goal of free trade. It will help foster free and fair competition by offering effective procedures for dealing with such marketplace distortions as discriminatory pricing and unfair subsidization by foreign governments.

Second. Any trade legislation should be dedicated to the principle that free trade must mean fair trade—that free competition must also mean fair competition. It is not free trade and it is not fair trade if Americans play by the rules and our competitors do not. It is not free and it is not fair if foreign manufacturers have ready access to our markets and we in turn are shut out from their home markets.

In the midst of growing cries for "protectionist" measures, we should not abandon our commitment to free competition until we first do a much better job of assuring that trade competition is fair. That was the simple and straightforward purpose of the legislation I introduced—and I believe it is the purpose of H.R. 4537.

Third. Some doctrinaire free trade advocates adopt the view that any restrictions on the market are inconsistent with free trade, and brand as "protectionist" those of us who advocate vigorous enforcement of existing antidumping and countervailing duty laws. I reject such arguments. As the Finance Committee report on the Trade Act of 1974 clearly states, the Antidumping Act "is not a 'protectionist' statute designed to bar or restrict U.S. imports, rather, it is a statute designed to free U.S. imports from unfair price discrimination practices."

The danger that Government subsidies and dumping will result in adverse distortions of free trade has been recognized for decades in our own law and in the laws of all our major trading partners. Our countervailing duty statute was originally enacted in 1897, and our antidumping statutes were enacted in 1916 and 1921. It has been recognized by the General Agreement on Tariffs and Trade since 1947, and by international conventions considerably before that date, that member nations have a right to take action against certain unfair trade practices such as dumping or export subsidization without fear of reprisal from the offending nation.

Fourth. Finally, the cornerstone of free trade theory is that consumers should be free to seek the cheapest and best products available anywhere in the world. Whereas some "free traders" argue that dumped products or subsidized imports should be permitted as a benefit to consumers, it is possible to demonstrate that the U.S. consumer's interests are not served by such practices. Whereas there may be lower prices in the short run, the long run impact is likely to be higher prices and greater profits for the foreign producers once the domestic competition has been crippled.

The provisions of H.R. 4537 which I would like to discuss are those dealing with:

First. Self-initiation of investigations by the administering authority in both antidumping and countervailing duty cases;

Second. Initiation of an investigation by petition and the test to be employed by the administering authority to determine the petition's sufficiency in both antidumping and countervailing duty cases;

Third. The process by which a preliminary determination is reached and the test to be used by the administering authority in rendering an affirmative preliminary determination in both antidumping and countervailing duty cases;

Fourth. The requirement that information relied upon by the administering authority in reaching its determinations be verified in both antidumping and countervailing duty cases;

Fifth. The establishment of fixed time periods for the assessment and collection of duties emphasizing that the process of assessment and collection by the Customs Service is ministerial in nature, without discretion, thereby subjecting the Customs Service to a Writ of Mandamus for failure to perform in both antidumping and countervailing duty cases;

Sixth. The requirement of hearings, upon request, before a final determination is issued by both the administering authority and the ITC in antidumping and countervailing duty cases; and

Seventh. The provision within the judicial review title of the bill providing for expedited interlocutory appeals from a negative preliminary determination or a request to extend the time for the preliminary determination in both antidumping and countervailing duty cases.

Mr. President, at this point, I want to make some further remarks and engage in a colloquy with the distinguished chairman of the Subcommittee on International Trade.

First. With respect to self-initiation of the countervailing duty or antidumping investigation by the administration authority, in the last decade, the Treasury Department has not conducted a single investigation on its own initiative under the countervailing duty or antidumping statutes. It is my understanding that Congress intends by this bill that the administering authority aggressively pursue investigations on its own initiative.

With respect to sections 702 and 732 of the bill, I ask the distinguished floor manager, is it not true that under section 702(a) and 732(a), a countervailing duty or antidumping investigation is to be commenced when the administering authority determines from any information before it that a formal investigation is warranted into the question of whether dumping or the importation of subsidized goods is occurring or threatens to occur?

Mr. RIBICOFF. The answer is, "yes."

Mr. DANFORTH. Would it not be fair to say that the legislation contemplates that if the information is present establishing the likelihood of the existence of the elements of a dumping or countervailing duty allegation then there is no discretion, but the administering authority must initiate a formal investigation?

Mr. RIBICOFF. Yes.

Mr. DANFORTH. Is it not the intent of Congress that the administering authority impose upon itself the same test to determine whether to self-initiate an investigation under sections 702(a) or 732(a) as it employs in determining the sufficiency of a petition under sections 702(b) or 732(b).

Mr. RIBICOFF. The Senator is correct.

Mr. DANFORTH. Now, with respect to initiation of countervailing duty or antidumping investigation by petition, in countervailing duty cases under present law, Treasury has almost total discretion in deciding whether to accept a petition for investigation. There is no time limit on the period during which Treasury reviews a petition before accepting it for filing and subsequent investigation. In antidumping cases, under present law Treasury has 30 days upon receipt of information to decide whether to initiate an investigation. There is no standard set in law. By regulation a petition is to be accepted if it contains information "sufficient to form the basis for an initiation of an investigation." Under such a test, Treasury by regulation has total discretion.

Treasury, by regulation, has imposed burdensome informational requirements on petitioners. This has had a chilling effect on the filing of petitions, especially by small- to medium-size firms or industries.

Under section 702 (b) and (c)(1) (countervailing duty) and section 732 (b) and (c)(1) (antidumping), the administering authority must commence an investigation if it determines, from the face of the petition, that the petitioner has pleaded the elements necessary for the imposition of the applicable duty and the petition is accompanied by information reasonably available to the petitioner supporting those allegations. This determination must be made within 20 days.

My questions in this regard are as follows:

Is it not the intent of Congress that the administering authority use the same test in determining the sufficiency of a petition as our Federal courts, today, employ in determining whether a complaint states a claim upon which relief can be granted?

Mr. RIBICOFF. The answer is "yes."

Mr. DANFORTH. Should not the administering authority, like the courts, look only to the four corners of the petition—the pleading—and the information filed supporting the allegations and not elsewhere?

Mr. RIBICOFF. Definitely yes.

Mr. DANFORTH. Since, at this stage, it is not the intent of Congress to have ongoing an advocacy proceeding, petitions or information seeking to rebut the allegations should not be considered by the administering authority, is this not correct?

Mr. RIBICOFF. That is correct. This is not to say, however, that the administering authority, like a court, may not take "judicial notice" of facts within the public domain.

Mr. DANFORTH. How much supporting information should be required of the petition?

Mr. RIBICOFF. It is the intent of this legislation that the determination as to the information reasonably available to any petitioner be made in light of the circumstances of each petitioner.

Mr. DANFORTH. Should the "reasonably available" information requirement be the basis for the administering authority refusing to proceed with an investigation?

Mr. RIBICOFF. No.

Mr. DANFORTH. Mr. President, with respect to preliminary determinations under the countervailing duty and antidumping statutes, the preliminary determination is a crucial point in both an antidumping and countervailing duty investigation. That is because it is then that suspension of liquidation occurs—contingent liability attaches. It is like a yellow stoplight which signals that a red light is coming shortly.

Under this bill, with respect to countervailing duties, section 703 of the bill provides that within 85 days after a petition is filed or an investigation is self-initiated, the administering authority shall make a preliminary determination. The preliminary determination may be extended up to 150 days after the date on which a petition is filed. Under the antidumping provisions of the bill, section 733 provides that within 160 days after a petition is filed, the administering authority should make a preliminary determination. Expedited preliminary determinations may be made within 90 days after the commencement of the investigation.

The preliminary determination may be extended up to the 210th day after the date on which a petition is filed.

(Mr. HEFLIN assumed the chair.)

Mr. DANFORTH. My questions in this regard are as follows:

Under the legislation, when the shorter time periods for the preliminary determinations are not enough, more time is provided. However, in light of the importance of expeditious investigations, the statute narrowly circumscribes the administration's authority to extend the time period. Is it not the intent of Congress that extensions should be the rarest of exceptions?

Mr. RIBICOFF. The answer to the distinguished Senator from Missouri is, definitely, yes.

Mr. DANFORTH. Is it not the intent of Congress that the test the administering authority must use in reaching its preliminary determination is a low threshold test—a test based on the best information available at that time as to "whether there is a reasonable basis to believe or suspect"—statute. And, that this test envisions that, based upon this best available information, if on the face of the information sales at less than fair value exist or are likely to exist or a subsidy is being provided an affirmative preliminary determination must be issued.

Mr. RIBICOFF. The answer is, "Yes."

Mr. DANFORTH. When we talk about accepting a pleading or fact on its own face, it is not true, then, that the fact pleaded is presumed to be true unless disproved by information to the contrary?

Mr. RIBICOFF. The answer is, "Yes."

Mr. DANFORTH. Is not the language within both sections 703 and 733—"whether there is a reasonable basis to believe or suspect" the same as under current antidumping law?

Mr. RIBICOFF. Again, the response is, yes.

Mr. DANFORTH. But it is not the intent of Congress, by incorporating such language into H.R. 4537, to be an endorsement of past and current practices of Treasury in the making of preliminary determinations, is it?

Mr. RIBICOFF. The answer to the question is, "The Senator is correct."

Mr. DANFORTH. Under current practice, as was made clear by Treasury officials during the consultative meetings with the Finance Committee on this bill, for all practical purposes the preliminary determination was the final determination. It is the intent of Congress that such practice is no longer to be continued by the administering authority, is that not correct?

Mr. RIBICOFF. Yes, it is.

Mr. DANFORTH. Is it not true that the phrase "whether there is a reasonable basis to believe or suspect" envisions a low threshold test for the preliminary determination—a test that defines "reasonable" to mean within the bounds of commonsense and to "believe or suspect" to mean to surmise to be true or be probable?

Mr. RIBICOFF. Again, the response is, "Yes."

Mr. DANFORTH. Mr. President, with respect to the assessment and collection of duties, under current law, especially as it is applicable to antidumping cases, there are no time limits on the assessment and collection of duties.

According to a September 1978 GAO report of the administration of the Antidumping Act, the average delay in the collection of duties is 3 to 3½ years.

Sections 706 and 736 of this bill address these questions. It is to those sections that the following colloquy is addressed.

Is it not the intent of Congress to place an affirmative duty on the Customs Service to assess and collect special antidumping and countervailing duties?

Mr. RIBICOFF. Yes; and it is a duty in the nature of a ministerial task, a duty without discretion.

Mr. DANFORTH. By that the Senator means that any failure to perform would subject the Customs Service to the issuance of a writ of mandamus.

Mr. RIBICOFF. The Senator from Missouri is correct.

Mr. DANFORTH. With the exception of the provision for the 90-day period under the antidumping law, is it not true that during the interim between the publication of either an antidumping or countervailing duty order and the collection of the special duty, estimated duties are to be paid?

Mr. RIBICOFF. Yes; again, the collection of estimated duties is mandatory, subjecting any failure to collect to a writ of mandamus.

Mr. DANFORTH. While estimated duties are to be paid during the interim, the payment of estimated duties should not be reason for anything but an expeditious assessment of the final special duty, is this not correct?

Mr. RIBICOFF. The answer is "Yes."

Mr. DANFORTH. Now, with respect to verification of information.

There is no provision in current law requiring Treasury to verify information it relies upon in making decisions under either the antidumping or countervailing duty laws. Numerous complaints have been voiced concerning Treasury's practice on verification of information submitted to Treasury in countervailing and antidumping investigations, particularly information submitted by foreign governments.

For example, on January 1, 1977, a petition was filed with Treasury alleging that a number of programs instituted by the Government of Uruguay to its domestic leather wearing apparel manufacturers constituted the offering of a bounty or grant—subsidy. One of the offending practices was the use of export rebate certificates—known as a reintegro tax—alleged to be at a rate of about 26 percent. An internal investigation by Treasury established that the use of reintegro tax may constitute an illegal subsidy practice. Throughout the spring, summer, and fall of 1977. Treasury investigated the allegations corresponding on numerous occasions with the Minister of the Uruguay Embassy in Washington to obtain information on the programs, specifically the reintegro tax.

In October 1977, Treasury and Uruguay officials met for 3 days. The result of those meetings was that Uruguay convinced Treasury as to the legality and fact of numerous offsets to the reintegro thereby reducing its rate from 26 to 11 percent. Uruguay further agreed to a plan whereby it would, over a period of time, eliminate its subsidy programs on leather products.

Once Treasury agreed to a significant reduction in the effective rate of the reintegro tax, then it could accept a gradual phase-out of the tax over a period of years, assuming that U.S. industry was not being significantly injured because of the reintegro program on Uruguayan leather exports.

At the culmination of the October 1977 meetings, Uruguay agreed to supply Treasury with the backup information justifying the rate reduction in the reintegro program.

In November 1977 Treasury met with representatives of the U.S. leather industry. The latter opposed the Treasury agreement with Uruguay on the ground that the reintegro was at a rate of 26 percent and offered facts and figures to disprove any reduction to 11 percent. Treasury refused to listen.

An internal Treasury memorandum of January 13, 1978 explains why Treasury refused to listen to U.S. industry arguments that the information given to Treasury by Uruguay was incorrect. This memorandum was written to Mr. Mundheim from a Mr. Self and was approved by Mr. Mundheim. To quote from page 5:

> Finally as to the allegation relating to Treasury's failure to verify the information it has received it is customary for the Department not to go through the standard verification process performed in antidumping investigations if the information is supplied by the government itself. So long as the government is willing to assure the accuracy of the data they present, it is not necessary that a verification be performed.

The memorandum went on to recommend that a final determination that bounties are being paid be issued for leather apparel but that a notice waving countervailing duties on certain products likewise be issued.

In early 1978, one of the petitioners in the Uruguay leather apparel investigation filed a Freedom of Information Act request seeking the supporting information as to the figures given Treasury by Uruguay at the October 1977 meetings justifying the reduction in the reintegro from 26 to 11 percent. A letter to that petitioner from Treasury dated May 10, 1978, said that such information was never received by Treasury.

In the new law, under section 776 of the bill, procedures for verification of information are provided, and it is to these provisions that my questions are now addressed.

Is it not true that under section 776 all information relied on by the administering authority in making a final determination in an investigation regarding either subsidized or less-then-fair-value imports must be verified unless in an antidumping investigation verification is waived under the procedure for a rapid preliminary determination?

Mr. RIBICOFF. The response to the Senator is "Yes."

Mr. DANFORTH. What if the administering authority is unable to verify the information submitted, say by a foreign government? Is it not true that the administering authority then must rely on the best information available, which may include the information submitted in the petition?

Mr. RIBICOFF. Yes. The bill also provides that whenever a party or any other person refuses or is unable to produce information in a timely manner and in the form required, or otherwise significantly impedes an investigation, both the administering authority and the ITC must use the best information otherwise available.

Mr. DANFORTH. With respect to hearings, under section 774 of the bill, hearings must be held by the administering authority before a final determination in either an antidumping or a countervailing duty case and by the ITC before its final injury determination under the same laws. There must be notice of the hearings published and a transcript prepared.

Are these hearings subject to the provisions of the Administrative Procedure Act?

Mr. RIBICOFF. No.

Mr. DANFORTH. However, in light of the changes embodied in the judicial review provisions of this bill (title X), specifically as relates to review under a substantial evidence test, is it not the intent of Congress that parties be afforded every reasonable opportunity to respond to information submitted by other parties?

Mr. RIBICOFF. Yes.

Mr. DANFORTH. With respect to judicial review and expedited appeals of interlocutory orders, my reference here is to section 1001 of the bill, which amends section 516 of the Tariff Act of 1930 by adding a new section 516A.

Is it not true that Congress decision in providing for appeals from either a negative preliminary determination or a decision to extend the time for such a determination—decisions which are interlocutory in nature—is because the preliminary determination is the crucial stage in either an antidumping or countervailing duty investigation? Further, it is crucial because an affirmative preliminary determination results in suspension of liquidation of the merchandise covered by the determination.

Mr. RIBICOFF. Yes.

Mr. DANFORTH. Would it be correct to say that Congress decided on an expedited appeal of these interlocutory orders so as to provide a check on any abuse by the administering authority in using the extended time for a preliminary determination, except in only the rarest of cases, or issuing negative preliminary determinations so as to get more time or employing something more than a low threshold test for its preliminary determination?

Mr. RIBICOFF. Yes.

Mr. President, before we complete this colloquy, I wish to state to the Members of this body that the Senator from Missouri, a member of the Finance Committee and its Subcommittee on International Trade, by his questions and his sharp intellect, has made a great contribution to all our work. I do not believe any other Member of this body has a broader grasp of this whole subject than does the Senator from Missouri. I compliment him and again state what a privilege it has been to work with Senator DANFORTH during this entire MTN.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROTH. Mr. President, as the Republican manager of the bill, I concur in each of Senator RIBICOFF's responses to the questions propounded by Senator DANFORTH.

I also think it is appropriate to recognize Senator DANFORTH's great contribution to the answer before us. Through his leadership, together with that of Senator BENTSEN, we now have effective and timely provisions by which the antidumping and countervailing duty laws shall be administered. This contribution, among the others he has made to our effort, is one of the telling reasons why the bill has such broad support. I appreciate his intelligence and contribution.

Mr. DANFORTH. Mr. President, I appreciate very much the forbearance of both managers of the bill in engaging in this colloquy, and I particularly appreciate the efforts of Senator RIBICOFF and Senator ROTH in connection with this bill.

Today, as a matter of fact, is the culmination of a very long, often somewhat tedious and dry effort, going back a couple of years, when, from my standpoint, I became interested in the question of trade procedures and the fact that the trade procedures we have had on the books have been basically unenforceable. It does not do very much good to have laws on the books if they are not enforceable.

So we undertook to get into the whole question of the procedural aspects of trade enforcement. In my office, we had the intrepid efforts of Kermit Almstedt, one of my legislative assistants, and other people, including Frank Melton, who is no longer in my office but who spent countless hours, days, and weeks going over the procedures involved. Throughout, we had great cooperation from Bob Cassidy of the Finance Committee staff and from the distinguished chairman and ranking minority member of the International Trade Subcommittee of the Finance Committee.

Also, the provisions which became S.

223 and then were incorporated largely into this bill, relating to procedures, were joined in by a number of cosponsors on both sides of the aisle, particularly and most actively by Senator Bentsen, who, together with his staff, really proved to be invaluable in moving this effort forward.

The people with STR—the staff of the Special Trade Representative—and Ambassador Strauss, himself, were most cooperative in working out these exceptionally detailed, somewhat dry procedural aspects. I am convinced, as a result, that we have in this bill something which is going to be of real benefit to our economy in the United States and which will put international trade on a much more fair basis than it has been in the past.

Finally, it is almost unbelievable to me that here we are, about to vote on this implementing legislation of the MTN. It is a bill which is very, lengthy, very, complicated. It affects the economy of our country, and takes into account numbers of often competing and conflicting economic interests within the United States, while at the same time involving our relations with 80 or 90 countries around the world. This bill is going to have tremendous impact worldwide. And now we are about to vote on it with, as far as I know, no strong opposition whatever.

I think that this is a tremendous tribute to the great effort that was put in over a period of years by our Special Trade Representative and his staff. If anyone can work out a lasting peace in the Middle East, I am absolutely convinced it is Ambassador Bob Strauss. What a tremendous individual he is and what a remarkable team he was able to put together: Ambassador McDonald, Ambassador Wolff, Dick Rivers, and all the others who joined in this effort.

When it came to the Finance Committee, there were lengthy consultative hearings that were held and great involvement of members of the Finance Committee and members of the staff both within our committee and in the conference that was held with the members of the Ways and Means Committee. I think we have really done something which is a major step forward for the economy of our country and which will put us on a much better basis in competing in international markets than we have been to date.

We have a big step to take, as has been pointed out earlier by Senators Ribicoff and Roth, and we have to go forward with a new Cabinet-level Department of Trade. It is not enough to just have rules on the books and effective procedures on the books. We have to have an aggressive department which is able to implement and enforce the laws which we have.

I am most hopeful that the initiatives that have been taken by the distinguished managers of this bill will come to fruition when and if we have a Depart of International Trade.

I thank the floor managers for their effort.

Mr. BENTSEN. Mr. President, I was pleased to have joined with Senator Danforth earlier this year in sponsoring S. 223, the International Trade Laws Reform Act, which would provide timely and effective relief to American industries injured by unfair trade practices. Many of our original proposals are included in the MTN legislation now before the Senate. I know of his diligence and contribution to this piece of legislation and I enjoyed very much working with Senator Danforth. I believe we must now proceed with our other efforts such as the Export Trade Association Act which would encourage American firms, including smaller and medium-sized businesses, to participate in export activities on a joint basis enabling them to benefit from economies of scale and sharing of market information.

Mr. RIBICOFF. Mr. President, I am pleased to yield to the distinguished Senator from New York (Mr. Moynihan).

Mr. MOYNIHAN. Mr. President, I thank our beloved colleague, if I can use that term.

Mr. President, I wish to follow from the remarks of my friend and colleague from Missouri in stressing the national debt to Ambassadors Strauss, Wolf, and McDonald, Mr. Rivers, Mr. Greenwald, and their colleagues.

I think the Senator from Missouri will agree that they were joined in this enterprise by two exceptionally dedicated, capable persons, the chairman of the Subcommittee of International Trade, the Senator from Connecticut, and his colleague Mr. Roth, the Senator from Delaware.

That we are about to accept this momentous measure is a mark of the Senate's trust in these two men.

And if the Senator from Delaware will not mind my singling out our senior colleague I will do so. He will not again put a trade bill through the Senate, but there has never been one more noble in its purpose than the one we consider today. It is the singular fact of this bill that it does not repeat the patterns of the GATT negotiations of the last generation. It begins a new era, and it is a new era that has one specific purpose above all: To see that nontariff barriers to trade come down. It is an effort as momentous as that begun by Cordell Hull about a half century ago when he began the reciprocal trade agreements program of the U.S. Government. And when he did, it was clear in his mind, as in his pronouncements and those of President Roosevelt, that to speak about freedom of trade was also to speak about freedom in its larger sense. The relation between these two ideas—free trade, and broader principles of liberal democracy—persists.

What we have found is that the expansion of trade has been enormously successful. And this has been largely in response to American initiatives. But, the steady rise of state socialism and state capitalism has meant that more and more barriers are erected against American exports, and where subsidies result in more and more exports here. More than any other industrial nation in the world the United States has lost jobs through trade. And the region of the country I represent has suffered most. The purpose of this agreement is to stop that hemorrhage of American jobs and industries profits. I have worked to make that possible.

We have seen in the provisions for steel, textiles, leather, chemicals, and wearing apparel that the treaty is designed to meet those problems which are specifically before us. But it is also designed to deal with a new regime of dispute settlement in trade matters. We have never had that, partly because reduction of tariffs—the principal objective of previous trade negotiating rounds under the GATT left a kind of passive system. Tariffs enforce themselves. Now we have negotiated codes of behavior. For example the standard codes on American industry standards designed to protect such things as OSHA and the EPA regulations. We are not going to let other nations define what we believe and have written into law are sufficient health and safety standards for our society, just as we are not going to let them override and ruin one by one our industries through unfair competition.

But as to section 301 of the Trade Act, the international dispute settlement mechanism will only work if the executive branch makes it work, and there has been no one message more emphatic from first to last, from Senators Ribicoff and Roth and from their colleagues, than that we have not been satisfied with the performance of the executive branch in the past.

I recall the occasion of one of the hearings when I asked a Deputy Assistant Secretary of the Treasury responsible for the administration and enforcement of the antidumping and countervailing duty laws how much revenue had been collected in countervailing tariffs the previous year. Neither he nor anyone else in the room had the faintest idea. Such was their enthusiasm of application of existing law.

What we will have to have, if we are going to make a success of this dispute settlement mechanism, is a cadre of young men and women with fire in their belly brought to Government for the purpose of seeing that this works. They will have to know the high purpose of their responsibilities, knowing it to involve not only the question of freedom of trade but also questions of freedom of the world itself.

It is not going to be enough for people who are embarrassed to protect America and American jobs to have these responsibilities. It would have to be people who will know that this is a test of whether or not the world with real trade will deal fairly with us. If not, something of great value will be lost.

We are making the bet today that that will happen. We will have something to say about it as we deal with the President's proposed reorganization of trade policy. I know the Senators from Connecticut and Delaware have specific thoughts on that.

But I am here to say that I altogether support the bill before us, but I support it on the condition that the pledges made by the administration that American workers' jobs will be protected from unfair and often dishonest dealings will be kept. They can be. But remember that the trust imposed upon us in recommending this bill to the Senate is a trust that extends past its passage this afternoon. It extends into a generation of trade practices ahead when Americans will train themselves and equip themselves to defend the rights which we obtain under this new treaty.

I ask unanimous consent that a statement by John Lyons, general president of the International Association of Bridge, Structural and Ornamental Ironworkers be printed in the Record. It is a statement which points to the kind of problems we must address in the implementation and enforcement of this bill.

I have received information about a small but vital industry, fabricated steel. Both union and management reflect concerns on the impact of MTN on these small businesses and workers, and I wish to present their concerns for the Record.

When the American Institute of Steel Construction in New York City traced imports of fabricated structural steel for a 6-month period in 1976, they found that the State of New York led all other States with 39,089 tons out of a total of about 99,000 tons imported to the United States.

For one State to absorb more than one-third of all imports of fabricated steel during the period studied means that New York bridges and buildings went up without American steel and without American fabrications, representing a loss of U.S. jobs as well as material.

We are all familiar with steel problems in Lackawanna, N.Y., and Youngstown, Ohio.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY JOHN H. LYONS

Attached is a brief outline of problems involving one group of American workers in one not untypical industry affected by the MTN negotiations.

For a number of years we have been deeply concerned by the increasing levels of imports of fabricated structural steel, observing that current federal law and trade policy are insufficient to stop this massive loss of jobs, industry and technology.

Unfortunately, the recently-negotiated MTN trade package does little to address recent problems in this area, and it is feared that the proposed international trade codes will have even more adverse effects.

In terms of this specialized group of workers, and perhaps countless other American workers in many small businesses, the MTN agreements should be studied and debated further, before any vote on implementing legislation takes place.

At this point in time, matters covered by this proposed legislation which affect the livelihood of our citizens as well as principles of fairness in International Trade are still being negotiated in Geneva. Accordingly, it is just not good logic to rush into the most extensive changes in trade law and policy ever proposed without knowing fully how American workers will be affected by these changes.

Thank you for your close attention to this matter at a time when the United States suffers the largest trade imbalance in history. No other nation has yet taken legislative action on the MTN agreements, and yet the U.S. Congress is somehow expected to endorse a trade agreement which is still in the negotiating stage. We do not know, for example, exactly what tariffs are being cut and whether these cuts are unilateral or reciprocal. Restraint, study and perhaps re-negotiation are in order instead of hasty legislative action.

MULTILATERAL TRADE NEGOTIATIONS AND FABRICATED STRUCTURAL STEEL

On April 12, the U.S. and 23 other nations initialed agreements on sweeping changes in international trade. While across-the-board tariff cuts averaging more than 30 percent, with few exceptions, do not require Congressional approval, agreements on seven non-tariff international codes do require implementing legislation.

Such legislation is expected to be taken up by both houses of Congress this summer with unusual swiftness. No amendments or change are permitted in this up-or-down vote. Few Members of Congress will have the time to study and absorb the full ramifications of the codes which will alter virtually every aspect of commerce in the next eight years, as tariff reductions are phased in and codes are implemented. No previous trade negotiations have ever involved so many issues and changes in existing law. Implementing legislation involves nearly 400 pages.

The United States is the first of the 24 nations to implement these changes, and no one is certain of when or how closely other nations will conform to the April 12 agreements. Nevertheless, imports of fabricated structural steel should give pause to any rush for full Congressional approval of the MTN implementing legislation. Serious problems remain unresolved, and there is considerable concern that these problems may only be aggravated and intensified by the Administration's trade concessions.

BACKGROUND

For the first time in this International Association's 75 years of history, imports of fabricated structural steel became a grave concern reflected in the General President's Report to the 1972 convention. While such imports were previously localized on the West Coast market, fabricated bridge steel penetrated into the heart of America, in Dallas, Little Rock and Omaha. Efforts to pass strong legislation, the Burke-Hartke bill, to eliminate unfair trading practices and predatory pricing failed in Congress.

Devaluation of the dollar during the next three years contributed to decreased imports of fabricated steel, but by 1975 such imports, mainly from Japan, surged once again, creating renewed concern, reflected again in the General President's Report to the 1976 convention.

A year later, the Carter Administration dealt a severe blow to an ailing U.S. fabricated steel industry when the Treasury Department developed the so-called "trigger-price mechanism" for basic steel mill products. After numerous representations from this International Association, the Treasury Steel Task Force did agree to "monitor" closely imports of steel fabrications and "top-of-the-line steel items" to prevent diversion of imports from basic steel to fabricated steel.

However, the pledge to monitor proved to be a "paper tiger" promise. Underfunding and undermanning of the Steel Task Force meant a TPM without any monitoring of fabricated steel for more than a year. An "early-warning" monitoring system is still on the drawing boards. Meanwhile, imports of fabricated structural steel rose from 22,161 tons in 1976 to 42,796 in 1978.

The 1974 Trade Act proved worthless to stop "dumping" of fabricated steel. In early 1978, the Customs Agency rejected outright an Anti-Dumping Petition filed by the International Association after the Japanese bid 50 percent lower than American fabricators for a massive cable-stayed bridge in Luling, Louisiana. The Trade Act does not cover custom-made imports such as bridges.

With general recognition that 30 percent of all U.S. bridges being fabricated overseas, mainly in Japan, the battle for fair trade was then carried on at the state level. The Cedar Avenue Bridge in St. Paul became a symbol of obviously unfair trade when the Japanese bid low, despite enormous transport costs. Ironworkers in Minnesota, Iowa, Illinois, New Jersey and Rhode Island pushed energetically for domestic preference or "Buy American" legislation. On the federal level, a number of newly-enacted laws include domestic preference to discourage unfair trade practices that threatened to cripple or kill the vital but fragile steel fabricating industry.

Bridges are not the only import-sensitive items. Buildings, structures and even 16,000-ton offshore drilling rigs are affected. In 1979, for example, a runaway U.S. firm, Brown & Root, Inc. of Houston, stands to gain duty-free treatment for offshore oil drilling platforms under inadequate U.S. trade law, simply because they own a fabrication yard in Malaysia, a developing nation.

ANALYSIS

The 1979 MTN implementing legislation does virtually nothing to prevent continued abuses such as those outlined above. Instead, the U.S. stands to face a new set of problems with imports of fabricated steel sold below cost and continued export of U.S. jobs, engineering and technology.

Tariff Cuts. Upon invitation from the Labor Sector Advisory Committee in 1978, this International Association submitted a properly-developed "Exceptions Nomination" to exempt fabricated structural steel from across-the-board tariff cuts, reasoning that unfair trade practices resulted in at least 139 fabricating shop closedowns and severe job losses for Shopmen Ironworkers in one calendar year, 1976. The Exceptions Nomination was rejected without explanation in closed deliberations.

The TPM, coupled with unfair trade practices that remain unmonitored and without anti-dumping recourse, have caused severe problems for the U.S. fabricating industry since 1976:

IMPORTS OF FABRICATED STEEL INTO THE UNITED STATES

	1976	1977	1978
Value (in thousands of dollars):			
Fabricated structural steel	16,698	23,970	28,435
Fabricated columns, pillars, posts, beams, girders	31,723	46,601	41,947
Structures (hangers, buildings, bridges, and towers)	41,070	31,393	39,642
Fabricated steel platework	3,166	8,020	7,468
Floating structures	580	19,504	12,026
Selected metal containers	43,279	58,350	101,616
Boilers	19,961	22,111	26,023
Quantity (in tons):			
Fabricated structural steel	26,161	30,208	42,796
Fabricated columns, pillars, posts, beams, girders	61,766	98,224	83,720
Structures (hangers, buildings, bridges, and towers)	26,622	26,322	38,230
Fabricated steel platework	7,025	18,949	10,025

That tariffs should be raised instead of lowered is clearly illustrated in the above figures compiled by the U.S. Department of Commerce. Besides hefty increases in the imports of fabricated structural steel, in the first columns, "dumping" is apparent over the two-year period, with tonnage about 12 percent higher than dollar value increases. In light of such data, a tariff cut for fabricated structural steel is unwise and unwarranted.

For the U.S. to reduce tariffs by one-third after five successive years of record-breaking trade deficits does not make good economic sense, particularly when Japan is expected to lower their tariff rates by only one-fourth and the EEC by one-fifth. When U.S. exports cost more and imports cost less, we can expect increased export of U.S. jobs. Most so-called "developing countries," such as Malaysia, for example, were among the 75 countries which did not initial the April agreement and stand to gain most from jobs lost in the U.S. and Canada. Following are steel fabricating workers' wage/fringe comparisons compiled by the U.S. Bureau of Labor Statistics for 1977, the most recent figures available:

	U.S. dollars	Index	Fringes
United States	7.80	100	32.2
Canada	7.66	98	21.7
Brazil	1.49	19	25.0
Japan	3.87	50	13.8
Korea	.62	8	15.2
Taiwan	.69	9	15.2
Denmark	6.83	88	17.4
France	5.29	68	70.5
Germany	7.32	94	54.2
Greece	1.92	25	30.0
Italy	5.09	65	94.4
Netherlands	8.04	103	71.4
Norway	8.77	112	40.1
United Kingdom	3.31	62	24.7

It will be noted that workers fabricating steel in Japan earn half the rate of U.S. and Canadian workers doing the same work. We can expect a lowering of wages or conditions in advanced countries if U.S. tariffs are cut for fabricated structural steel, especially when the U.S. intends to help developing countries to expand their trade through the same Generalized System of Prefrences which enables a U.S. company to send two offshore platforms to California from Malaysia this year, duty-free, constituting a loss of more than a million manhours of work for U.S. workers, plus unemployment and lost tax revenues.

CODES

The seven non-tariff codes, designed to reduce trade barriers and increase international trade, are a boon to many multinational corporations. But few if any U.S. fabricating shops have foreign subsidiaries, most are small businesses and most bid on jobs within a 200-mile radius. Some have little or no bearing on fabricated structural steel, while others pose serious questions. Among the most directly related are the following:

Subsidies and Countervailing Duties. Under the code, the U.S. anti-dumping statutes are revised but still do not allow for custom-made products, such as bridges or buildings of fabricated structural steel. Another avenue of unfair trade relief, the U.S. Countervailing Duty Statute, is also revised, now requiring test of injury due to foreign subsidies. So-called "upstream and downstream" components are not protected, and a rebate of any dumping penalty will be available if the dumped steel is then exported. It is difficult for U.S. private firms to compete as it is with fabricated structural steel coming from government subsidized, owned or insured firms overseas.

Standards. The United States and Canada presently have the world's highest standards for safety and health. Yet, under this new code, almost all state, local and federal building codes could come under international scrutiny. If welding certifications, for example, were found to be a "barrier to trade," an international tribunal could attack them or allow foreign trade retaliation. In turn, the President could exert "reasonable" pressure on state or local agencies to rescind those building, plumbing or electrical codes. As we see with the Clean Air Act, a federal cut-off of public works money for bridges or sewage plants could be termed "reasonable." Thus, "double jeopardy" for local building tradesmen, and a "lowest common denominator" theory of health and safety.

Government Procurement. For a number of years the trade union movement has felt that tax dollars should be spent on domestic workers, products and services. To spend tax dollars on imports is self-defeating. Nevertheless, under this code, federal "Buy American" provisions could be waived. It is not clear that "Buy Japan" policies would be changed, and it is very unlikely that U.S. shops would ever fabricate bridges for Japan. State "Buy American" laws, we are told, would not be affected, but when trade officials urge the Governor of New York to veto that state's mild "Buy American" bill a few days ago, we get a pretty clear picture of what to expect from federal trade officials if such a code is passed.

SUMMARY

The White House Office of Special Trade Representative predicts a swift passage of the Multilateral Trade Negotiations' implementing legislation in Congress. In the coming days and weeks we can expect a strong push from the White House to pass the MTN legislation, to bolster the President's image as a world leader if for no other more compelling reason. We can expect a strong push from multinational corporations which stand to benefit most from increased world trade that is freer but not necessarily fair. And we can expect to hear one-sided rhetoric, such as: one out of seven U.S. jobs are related to exports, without hearing how many U.S. jobs are lost to imports.

The strong reservations, doubts, and potential problems of imports of fabricated structural steel should give pause for closer inspection of the MTN codes and their impact upon all American workers. A staggering trade deficit, the largest in history during the past year, should cause the United States to reconsider a cut in tariffs.

We have plenty of time. The MTN bill does not have to be stampeded through Congress this month; previous legislation calls for a decision in 90 legislative working days. In fact, the bill gives the President authority to continue negotiating well into the 1980's, and it is a well-known fact in collective bargaining that from time-to-time we are compelled to go back to negotiations for a better deal.

Mr. MOYNIHAN. Finally, Mr. President, I would like to express once again my awe of the performance of the chairman who, in a career of public life, one thinks of the thousands of small acts from which he has built up the trust of his colleagues and the Nation. That trust has never been more in evidence, than on the floor this afternoon. It has never been more deserved.

I thank the Chair.

Mr. RIBICOFF. Mr. President, I want to thank the Senator for his generous and kind comments. We on the Committee on Finance are indeed fortunate that the distinguished Senator from New York chose the Committee on Finance.

Coming to the Senate with his vast experience in so many fields, he could have been designated to membership on any of the great committees in this body. He chose, and I believe he chose wisely, the Committee on Finance because he realized the multitude of basic issues within that committee's jurisdiction that affect the interests of our country, both domestically and internationally.

He has been a remarkable addition to the committee. His mind, intellect, his experience, and his sense of humor have all stood us in good stead. I am pleased that he asked to be placed on the International Trade Subcommittee because not only did we need his advice and counsel but we needed his hard work and his positive contribution.

Again my thanks to the distinguished Senator for his many contributions to this bill.

Before closing, we have all remarked upon the contributions of Ambassador Strauss. But equally important was the ability of Ambassador Strauss to meld together a great team. Helping him ably were Ambassador McDonald, who held down the important post in Geneva day in and day out through these negotiations. He served with great and outstanding ability the best interests of our Nation in undertaking the various negotiations in Geneva.

Ambassador Wolff also, from his experience in this entire field, made great contributions, handling some of the most difficult issues in the negotiations with great skill to the benefit of our country.

General Counsel Dick Rivers, who was chief of staff of the International Trade Subcommittee of the Committee on Finance before becoming general counsel of the STR, used his ability, his judgment, his common sense, and his cooperation with the staff of the Committee on Finance to help Ambassador Strauss and our committee come finally to the conclusion of the successful MTN negotiation and to the legislation before us today.

My thanks to you, Senator MOYNIHAN, for your gracious comments.

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from California.

Mr. HAYAKAWA. Mr. President, I am happy to have the opportunity to make a few very brief remarks about the trade bill, the result of the Tokyo round of the multilateral trade negotiations.

I intend to vote in support of this trade bill, and I thank Ambassador Robert Strauss and all those involved in these delicate and lengthy negotiations for their hard work and dedication. I want to explain my vote as one in support of the overall package, even though I do have some reservations about some particular portions of this package. We only have one opportunity to vote on this trade bill—there is no opportunity for any amendments to specific portions of this bill. I do maintain some reservations, but overall I believe the trade package to be a good thing.

The trade package is not perfect. The United States did not get absolutely everything we wanted out of these negotiations. However, I believe the total package represents steps in the right direction for our agricultural community.

I represent an agricultural State. The greatest agriculture producing State in our entire country. The MTN's are extremely important to our producers in California.

Most of our California producers are reasonably satisfied with the final result of this package—our cling peach producers are especially satisfied with these results. However, certain reservations have been expressed by our producers of distilled spirits and especially by our wine producers. The California wine industry feels strongly that the package will bring them unfair competition from Italy. This trade agreement is not open for amendment, but I do want to be on record as expressing certain reservations as to how the package will affect some of our producers.

The success of the Trade Agreements Act of 1979 will largely depend on the effectiveness of procedures for the settlement of disputes concerning unfair practices.

I would hope that the Congress will insure, through implementing legislation, a fair application of the Trade Agreements Act of 1979. The United States must be supported and protected so that our producers of all products, including our agricultural producers, will be afforded a fair opportunity for domestic sales and production with relation to imports and for a fair market situation in terms of exports.

I thank the Chair.

Mr. PROXMIRE. Mr. President, I ask the distinguished Senator from Delaware if he would yield me 2 minutes.

Mr. ROTH. I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am going to vote against H.R. 4537, the Trade Agreements Act of 1979.

Before explaining why I will cast my vote against this measure, let me point out that there are many positive features of this legislation.

This bill will lower trade barriers. It will make our Nation more competitive in bidding for foreign goods and services.

And a number of Wisconsin firms have indicated to me that this bill will produce results that have a favorable impact on their businesses.

But, Mr. President, the dairy industry and the dairy farmers of Wisconsin and the Nation are the big losers in this legislation. For that reason, I must oppose and vote against H.R. 4537.

The increase in cheese quotas to 276 million pounds under the trade agreement is 34 million pounds over last year's imports of 242 million pounds.

But this increase amounts to a 14 percent increase in milk equivalent or 350 million pounds, according to Truman Graf of the University of Wisconsin, who has studied this issue in great detail.

Graf points out that every 500 million pounds of milk equivalent imports results in a 9-cent-per-hundredweight loss for each dairy producer, according to USDA calculations.

So the increase will cost each producer 6¼ cents per hundredweight, or about $402 annually.

Under last year's import quota, 111 million pounds of cheese were imported. Most of the 242 million pounds of cheese coming in last year was, therefore, price break cheese, which, if priced at least 7 cents per pound higher than the U.S. support price, was not subject to import quotas.

But under the new agreement, cheese import quotas are raised to 276 million pounds, which is 165 million more pounds than came in under quotas last year.

The administration claims the agreement puts a cap on the price break because price break imports will no longer be allowed.

But, Professor Graf calculates that the result will really be that quota imports of 1.67 billion more pounds of milk equivalent will be permitted, an increase of 127 percent.

In addition, cheese import quotas are raised 149 percent. To each farmer, that represents an import quota protection loss of 30 cents per hundredweight, or $1,816 annually.

Moreover, each dairy farmer lost 35 cents per hundredweight, or $2,111, because last year's imports exceeded exports by 1.94 billion pounds.

This means a total cost for each dairyman of $3,927 annually.

Finally, administration advocates of the agreement say that only about 3 perment of the permitted additional cheese imports will be cheddar so competition resulting from increased import quotas to our major cheese industry will be minimal.

But the problem with this argument is, as Professor Graf has emphasized in his analyses, that displacement of dairy product caused by imports means that surplus milk will largely go into cheddar cheese and will therefore adversely affect the entire U.S. cheese and dairy industry anyway.

Mr. President, I recognize the hard work and excellent job the Senator from Connecticut, the Senator from Delaware, and others have done on this bill, and it does have very strong support. But I must oppose it for the reasons I have given. I thank my good friend from Delaware.

Mr. ROTH. I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would just like to go back in history a little bit for the benefit of my distinguished colleagues, Senator RIBICOFF and Senator ROTH. I have had such absolute confidence in the way they have handled this matter that I have not interjected myself into it.

It is with tremendous nostalgia that I speak now on this bill because in the early years of the Eisenhower administration, when it looked as though protectionist trends might begin to develop in our country, President Eisenhower, recognized, as a man who perceived the world in a very global sense and who perceived our role in that world in a global sense, that political friendships tended to follow the course of international trade. He saw the need to encourage trade, not to discourage trade through protectionist measures.

He, therefore, asked me as a businessman to help create a committee for a National Trade Policy, a private organization, because he felt it was best to have the initiative of the private sector in this area. I well recall this event. I was on the board of Burroughs Corp. and I became the legislative chairman, and, therefore, the lobbyist in Washington for a freer trade policy.

It was rather unique, because if any industry was a protected industry, it was ours. We had very high tariffs, tariffs running 40 or 45 percent on some of the major products that we manufactured, but I felt that this was a subsidy which we did not deserve.

I testified continuously against our industry for freer trade on a balanced basis. If someone was injured and hurt, he ought to be provided assistance and help, but astronomically high tariffs are hidden subsidies that lead to inefficiency in the protected industry and do not benefit the Nation as a whole.

I felt that we must gradually work toward marketing our products on an economic basis, free from hidden protection. I always judged products by how they sold in Hong Kong, a free market, to see whether they could stand on their own feet.

So it is with a tremendous sense of satisfaction I see now, on the floor of the Senate, general agreement when ordinarily there is heated and impassioned debate when measures for freer trade are discussed. When I testified for freer trade before the Committee on Finance, the committee rooms were jammed and packed, and every time we would bring up these issues on the floor it was an intense matter.

Thank heavens we have matured to the point where we realize the necessity for having freer trade. We realize that the worst thing we can do to our own economy is to protect and shelter certain segments of it and not expose it to the free world and free competition.

In the late forties and early fifties, we helped create the Common Market and strengthen Europe by encouraging larger markets and bringing down the barriers of tariffs and parochialism rampant on that continent. It certainly is befitting that we now take that traditional stand, as we consider the Trade Agreements Act of 1979, that goes back 30 years to when we suddenly became a great economic power and had the strength, the purpose, and perspicacity to know we should lead the world into freer trade.

The purpose of the Trade Agreements Act of 1979 is to implement the trade agreements negotiated by the United States in the Tokyo Round of the Multilateral Trade Negotiations by amending American law to: First, include a material injury test in countervailing and antidumping duty law; second, establish a new import valuation system for duty purposes; third, eliminate the American Selling Price (ASP) standard, converting items to a tariff schedule; fourth, permit the President to waive certain "Buy American" restrictions; fifth, eliminate tariffs on civil aircraft and parts; sixth, make concessions to foreign countries relating to cheese, chocolate crumb and meat; seventh, eliminate the current wine-gallon method of levying duty, thereby setting the duty in proportion to the actual alcoholic content; and, eighth, increase opportunities for judicial review in countervailing and antidumping duty cases.

The Tokyo round is potentially the most significant development in world trade since the founding of the GATT over 30 years ago. It consists of four mutually supportive elements. The first element, representing the keystone of the Tokyo round, is a series of codes of conduct governing government intervention in nontariff areas which will set the basic guidelines for international trade relations.

A subsidies code will limit the ability of foreign governments to subsidize their industries and their exports. American competitors have been increasingly affected by such practices in recent years.

A code on product standards will make it more difficult for governments to set and operate product standards and certification systems in ways that will keep products out of their markets.

A code on government purchases will open up new markets abroad. Governments are the world's largest purchasers of nonstrategic goods—everything from paper clips to computers, and their markets have been virtually closed to American producers in the past. This agreement will open some $20 million in new foreign markets to our exports.

Other codes cover areas such as import licensing, customs valuation, and civil aircraft.

The second element of the Tokyo round is a major agricultural package which will provide substantial new market opportunities for American agricultural producers and, for the first time, an effective international mechanism for consultations on problem areas to avoid and settle serious disputes. As the world's largest agricultural exporters, we have the most to gain from a more cooperative system.

The third elements of the Tokyo round is a series of substantial industrial tariff reductions providing many new export opportunities for American firms. Tariffs were a smaller part of the Tokyo round than in six previous negotiating rounds, but they are significant in many specific product categories.

The fourth element is a long overdue updating of the trading system itself to take into account fundamental economic changes since the GATT was first established. For example, many new developing countries have entered the trading system. As a result of the Tokyo round they will be able to assume more responsible roles in world trade than they have in the past.

Mr. President, international trade in the post-war period has been a powerful stimulus to jobs, profits, and consumer choice. Trade has served as an engine of economic growth. The Tokyo round continues the trend toward trade expansion. It is the most ambitious and comprehensive of all seven post-war rounds, and provides many direct benefits to American producers, consumers, and workers, including:

Greater cooperation and better rules for the conduct of trade and management of related disputes in an age of increasing trade conflict;

Greater access abroad for U. S. industrial and agricultural exports; and

Lower prices for consumers and new job opportunities for workers in higher paying industries.

Congressional approval is critically important. As real as the benefits are, the downside risks, should Congress fail to approve the package, are even starker. Pressures for a return to protectionism throughout the world would be severe.

Our chief trade negotiator, Ambassador Strauss, took great pains to take the special needs of import sensitive industries into account by making less than called for tariff reduction offers to other countries. U.S. tariff offers were made selectively and will be phased in gradually over 8 years.

Industrial productivity has been lagging in the United States. We now rank among the lowest of OECD countries. The Tokyo round result will give business leaders the certainty they need to make long-range capital investment decisions required to increase productivity.

Mr. President, we must reject negative, self-defeating protectionism as a way of correcting our trade deficit. Instead, we must continue our efforts to remove tariff and nontariff barriers that impair the ability of U.S. firms to export. I believe the Tokyo Round is a major step in the right direction, and I urge my colleagues to support it.

In closing I wish to pay tremendous tribute to Senator RIBICOFF and Senator ROTH for the leadership they have provided in the Senate of the United States, and to express great admiration for the work that Bob Strauss has done. Ambassador Strauss is a genius in this area. I hope he can now take that genius into the Middle East. He really has done an absolutely remarkable job for our country; and as a member of the minority party, I say without hesitation, "Stay out of politics, Bob Strauss. Stay on these substantive issues, and give our Nation a chance, by working on these mighty issues such as peace in the Middle East."

Mr. RIBICOFF. Mr. President, I think the Senator from Illinois should have a major impact in the trade area, where he could use his knowledge and ability in fashioning real trade reorganization.

I yield to the Senator from North Carolina.

Mr. HELMS. I join in cosponsoring H.R. 4537, the Trade Agreements Act of 1979.

This bill is designed to implement the multilateral trade agreements that have been reached after 5½ years of very complex and tedious negotiations with our trading partners. The trade agreements are comprised of: First, tariff reductions, second, commodity arrangements of a consultative nature, and third, a series of codes governing the use of nontariff barriers in international trade.

As ranking minority member of the Senate Committee on Agriculture, Nutrition, and Forestry, I am particularly interested in the effects of the trade package on the U.S. agricultural community.

The future of no other sector of our economy is more intimately tied to international trade than that of American agriculture. The production of one out of every three acres farmed today is shipped to foreign markets. Last fiscal year American farmers exported 56 percent of the soybeans, 61 percent of the wheat, 68 percent of the rice, 35 percent of the tobacco, and 30 percent of the corn produced in this country.

The estimated earnings from total agricultural exports during the current marketing year will be $32 billion. That $32 billion is expected to yield a net positive trade balance of $16 billion. Were it not for our efficient and productive agricultural sector, the United States would be faced with an international trade deficit almost 50 percent larger than the wrenching deficit we experienced last year. Clearly the well being of farmers and of the Nation as a whole is dependent upon our efforts to expand agricultural trade abroad.

As a result of trade concessions received by the United States, the American farmer should experience by 1987 an annual increase in agriculture exports of $500 million. At the same time, due in large part to increased quotas for imported cheese, the United States will realize an annual increase in agricultural imports of $175 million. The bottom line, thus, shows a net annual increase of $325 million in the value of U.S. agricultural trade.

While the net agricultural benefits received by the United States during the trade talks are rather modest given the time and effort spent on the negotiations, there is a general belief that the trade package will generate additional gains for agriculture in the future by helping to disarm protectionist sentiment.

The benefits of the agricultural components of the various codes, particularly the subsidies and countervailing duties code, are not easily measured. And yet if U.S. officials actively enforce U.S. rights under these codes the American farmer could be relieved of part of the burden imposed by the unfair trading practices of other countries.

I am also pleased to note that many of the trade concessions received by the United States will accrue to the direct benefit of North Carolina. Some of the more important benefits to my constituents are as follows:

TEXTILE AND APPAREL

After finally being forced to recognize the vital nature of the textile and apparel industry to the United States and North Carolina in particular, the administration has established a comprehensive program to help restore order to the industry.

Under this program, the future growth of imports should be more in line with domestic market growth. This program includes global import evaluation on a continuing basis, control of import surges through bilateral agreements, efforts to negotiate tighter import restraint levels, and improvement of Customs monitoring and enforcement.

The United States has taken numerous steps to implement this program including tightening the import restraints with Hong Kong, Korea, and Taiwan; developing a new export program; and restricting imports from China in sensitive product categories. Imports of textiles and apparel decreased 20 percent in quantity in the first quarter of 1979 over the same period of 1978. By comparison, textile exports increased 52 percent in value in the first 3 months of 1979 over the first 3 months of 1978.

U.S. textile tariff reductions, where made were carefully chosen so as not to have an undue adverse impact on the industry. As a result of these negotiations, the average U.S. textile tariff will be reduced approximately one-third of the duty reduction called for in the agreed tariff formula. The United States paid greatest attention to products particularly sensitive to imports, fully exempting a number of products from duty reductions. Overall, the average textile and apparel duty will be reduced approximately 21 percent.

In addition, U.S. textile and apparel duty reductions will not begin until 1982 and then phased in over a number of years. The average textile apparel duty will be reduced only approximately one-half of 1 percentage point per year.

A "snapback" clause will restore U.S. tariffs to their pre-MTN levels if the international multifiber agreement does not continue in effect or a suitable substitute arrangement is not put into place. At the same time, important tariff reductions will be made by our trading partners in mill products, in which the United States enjoys a traditional surplus trade balance. The European Economic Community reduced tariff rates 28 percent on U.S. weaving mill products of manmade fiber. Canada reduced tariffs an average of 20 percent; Japan reduced tariffs 17 percent on yarn and thread mill products. The textile and apparel sector should benefit from the subsidies code's new disciplines on foreign subsidies as well as the improved domestic antidumping and countervailing duty procedures.

North Carolina is the leading textile and apparel State in the country. One out of every six textile and apparel jobs in the United States is held by a North Carolinian. These jobs are dispersed throughout North Carolina in 89 of the State's 100 counties.

FURNITURE AND FIXTURES

This industry, one of the major employers in North Carolina, should benefit from the reductions in Canadian tariffs and the deeper-than-average cuts in developing-country tariffs. Canada, the largest export market for this industry, reduced tariffs 27 percent. The developing countries reduced tariffs 47 percent on the average. North Carolina furniture and fixture manufacturers should also benefit from the licensing code and the subsidies codes. Caldwell, Catawba, and Davidson Counties are important furniture and fixture manufacturing centers.

LUMBER AND WOOD PRODUCTS

This industry should benefit from the standards code and the subsidies code which are priority interests of the lumber and wood products industry. In addition, the MTN results in several specific benefits to this industry, including an expanded quota from the European Community (EC), revisions of the Japanese lumber standards a change in the EC definition of plywood thickness and a committment by the Japanese to harmonize plywood standards by 1982 on the basis of performance.

Lumber and wood products also will benefit from the tariff cuts negotiated in the MTN—Canada reduced tariffs 54 percent.

TOBACCO

The EC has agreed to an effective reduction of tariffs by combining tariff lines and applying a lower rate to the more expensive unmanufactured tobacco. The impact of this change will be to increase the competitive position of U.S. tobacco in the EC in the future. Other countries offering reductions on tobacco include Canada, Finland, Australia, and New Zealand. Tobacco concessions by other countries are expected to increase U.S. tobacco exports by $80 million. The leading county for tobacco manufacturers is Forsyth, employing the bulk of North Carolina's employment in this industry.

SOYBEANS

A major agricultural benefit for North Carolina is the binding of soybeans at zero by Japan and Mexico. Zero bindings require a country to pay substantial penalties in trade concessions if they ever choose to charge any tariff on the item. The European Community, for example, agreed to zero bindings on soybeans in the 1960's, requiring them to give up trade concessions valued at $2.5 billion in the event that they decide to increase their soybean duty.

Thus, bindings provide a form of insurance which allows private business to develop markets on the basis of competitive advantage without fear of sudden tariff increases. Additional concessions include a tentative Mexican offer to allow unlimited imports of soybean meal and tariff concessions by Canada on soybeans and soybean oil.

FEED GRAINS

Concessions on feed grains in developing countries will increase U.S. sales abroad by an estimated $26 million.

Peru and Ecuador have agreed to liberalize procedures for the licensing of imports of grain for feed. The values of these concessions is estimated to be $3.1 million in trade to Peru and $7.5 million in trade to Ecuador.

Taiwan will emphasize the sorghum and corn tariffs, increasing sorghum grain exports by $6 million.

DAIRY PRODUCTS

In the MTN the strong interests of dairy producers and consumers were balanced.

The United States will increase its overall quota levels for imports by about 15 percent, while at the same time putting a greater proportion of imports under quantitative limitations. In 1978, about half of all cheese imports were under quota. Once the newly negotiated agreement goes into effect, approximately 85 percent of total cheese imports will be under quota, assuming that the quotas are completely filled.

Cheese remaining outside quota will be limited to such specialty items as Stilton from England, Roqueford from France, sheep and goat's milk cheeses, and soft-cured cheese in retail packaging such as Brie and Camembert. The new import system will incorporate under quota the current price-break system which permitted unlimited imports of certain high-price cheeses. The new import system will also prevent subsidized cheese imports from undercutting the domestic wholesale price.

Cheese imports in 1977 totaled 95,015 metric tons (MT), in 1978, 109,878 MT, and are expected to continue to rise throughout 1979 because of strong demand and rising meat prices. Under the new quota system, imports in 1980 and beyond are estimated at about 111,000 MT quota cheese and about 14,000 MT of nonquota cheese. For the next few years, cheese imports as a percentage of total U.S. consumption will therefore remain close to their average of the last several years. (6.2 to 6.3 percent).

PEANUTS

The United States gained important concessions on peanuts and peanut products. The European Community agreed to bind its duty on peanuts at zero. Canada agreed to reduce its duties on both crude and refined peanut oil, and Korea agreed to both reduce its duty on peanut oil and grant automatic licensing for imports of that product.

POULTRY

The Japanese have reduced their duty on chicken legs from 20 percent to 10 percent. The European Community has offered to reduce the duty on drumsticks, thighs, and breasts of turkeys by using new coefficients in calculating gate prices and levies on turkey. Further, the European Community has agreed to continue to classify uncooked season turkey in a fixed tariff category, avoiding the variable levies of the common agricultural policy.

Unquestionably, this trade package offers great promise for the people of North Carolina and the rest of the United States. But that great promise could turn to bitter frustration if our leaders fail to actively assert our rights as a party to the trade agreements and are hesitant to take appropriate actions against those nations that violate the provisions of the trade codes.

I intend to keep a watchful eye on those charged with enforcing this trade legislation and I will press for countermeasures, where necessary, against those who seek to take advantage of us through the means of unsavory trading practices. Some of the tools needed to make significant progress toward eliminating our international trade deficit are in S. 1376. What we need now are the leaders to wield them.

Mr. ROTH. Mr. President, if I may make a brief statement, I would like to point out to my distinguished chairman that the Trade Agreements Act of 1979 is the result of a unique procedure of consultation between the executive and legislative branches.

One consequence of this procedure has been to place an unusually heavy burden on our committee staff. Over the past weeks, months, and several years, the staff has closely monitored the MTN negotiations and spent long hours on drafting this legislation and the committee report.

I wish at this time to recognize and thank the trade staff of the Senate Finance Committee—Robert Cassidy, Bill Finan, David Foster, Rick Johnston, and Chip Roh, as well as Charles Morrison of my personal staff. These gentlemen have done an outstanding job in making this legislation possible. I congratulate and thank each of them.

● Mr. STEVENSON. Mr. President, I support the Trade Agreements Act of 1979. Expansion of international trade is one of the most important challenges this country faces. In particular we must increase out exports. Reduction of nontariff barriers is vital to this goal.

I commend Ambassador Strauss and those who worked with him for achieving notable reductions on nontariff barriers. Long and tedious negotiations were required to induce national governments to change important domestic policies affecting trade.

Approval of the trade agreements will mean reduced tariffs and nontariff barriers—and increased competition to promote exports.

Nations will remain heavily dependent on imports including increasingly expensive imports of fuel and will continue to have every incentive to fight for the world's markets with everything that they have available to them. More and more countries are coming onstream, including LDC's, combining high technology, low resource and labor costs, and aggressive marketing.

Taiwan is now exporting television sets and steel to Japan.

The agreements create a significant opportunity for American industry and agriculture. It is primarily up to the farmers, the businessmen, all the commercial enterprises of the country to take advantage of that opportunity.

The Government can help, and one of the most helpful steps is to reduce the barriers and disincentives this Government throws up against our own exporters. We took action in the Senate last Saturday on a measure, S. 737, the Export Administration Act of 1979, which will reduce export controls and increase the efficiency of export licensing. The International Finance Subcommittee has begun hearings on a bill, S. 339, sponsored by Senator HATFIELD and myself, which would put us on a more competitive footing in trade with Communist countries.

The Government's efforts to assist U.S. exporters are in serious disarray. Trade reorganization is needed to focus our efforts on strengthening U.S. trade competitiveness, especially in agriculture and high technology products. I have introduced a bill, S. 1493, to establish a Department of Commerce, Trade and Technology. Several other bills on trade reorganization have been introduced or are in the offing, and I trust the Senate will attach high priority to this matter.

American firms have relied too long on the large domestic market to provide sales and protection from foreign competition. Small and medium-sized companies are beginning to learn that a product which cannot compete abroad will soon face foreign competition at home. Exports offer both expanded sales opportunities and the lessons of international competition.

We must do more to encourage U.S. companies to compete abroad. U.S. trading companies could help smaller U.S. manufacturers establish overseas markets for their products. I will shortly introduce legislation to facilitate the formation of such trading companies. Two bills, S. 864 and S. 1499, with similar objectives have been introduced by my colleagues Senators DANFORTH and ROTH. The International Finance Subcommittee will hold hearings on all three bills in September.

Government-supported export credits are not covered by the trade agreements. Efforts to negotiate tighter restraints on export credits have broken down. The United States faces tougher foreign competition supported by subsidized credits in the next year, yet the limit placed on Eximbank credits to meet foreign competition are arbitrarily low. A new round of talks to halt subsidized export credit competition should be held at the first opportunity, but it is clear that other countries will not negotiate in good faith until we put some teeth in our export policy.

Nonetheless. the Trade Agreements Act is a notable achievement and I am pleased to give it my strong support.●

● Mr. KENNEDY. Mr. President, I want to express my support for these trade agreements which will have a major impact on world trading patterns for years to come.

For the first time, we have made significant progress toward the reduction of nontariff barriers to trade. These barriers—including foreign government subsidies, Government procurement codes and licensing and standards codes—have often prevented free and fair competition in the world marketplace. Following up on the progress made during the Kennedy round of negotiations, the latest Tokyo round of trade talks resulted in a major step forward toward reducing these barriers to trade. The result will be higher levels of U.S. exports and more jobs for all Americans.

The President's special trade representative, Robert Strauss, was handed a tough job when he took over as chief negotiator at the Tokyo round of the MTN. The task required that he be particularly sensitive to the needs of domestic industries which have been hurt most by rising imports. And nowhere are we more sensitive to this problem than in New England.

My region of the country has been plagued by high levels of imports and resulting massive job losses. Imports of products such as textiles and shoes have wiped out entire industries in New England. I have seen the empty textile mills in Lowell and Fall River, the empty footwear factories in Lawrence. These industries deserved special attention during the Tokyo round. I was pleased to have had the opportunity to discuss these issues with our negotiators in Geneva last year, and have subsequently had numerous talks with Ambassador Strauss in order to assure that the agreements represented a fair and balanced package.

I believe that the administration was responsive to our special concerns in New England and other regions of the country. A few years ago, we worked out bilateral agreements with Taiwan and South Korea calling for rollbacks of footwear imports. Working with the industry, a program was developed aimed at revitalizing American footwear manufacturing. Recently, we have been concerned that our bilateral agreements have not been properly enforced. We now must make a renewed effort to make them work.

After long negotiations, an import relief package was agreed upon by the administration which is aimed at strengthening bilateral agreements and designed to prevent "surges" of textile and apparel imports. Tariff concessions on textiles and apparel were minimized, and new negotiations began with the People's Republic of China in order to limit imports. These are all positive steps. The 73,000 textile and apparel workers in Massachusetts now expect the administration to follow through and assure that the promises are kept.

I believe that the MTN package represents a realistic trade policy, a policy which is both sensitive to the needs of our more vulnerable industries, yet designed to promote growth by permitting American industry to better compete in foreign and domestic markets. Our trade policy must reflect the twin goals of increased exports and more jobs for all Americans.

In the last few years, we have seen skyrocketing oil prices, worldwide recession, serious and prolonged inflation. international monetary instability, and the emergence of a number of developing countries as major exporters of manufactured products. All of these events have led to fundamental shifts in the patterns of trade between nations, and to major trade imbalances.

The lessons of history teach us that our trade policy mirrors the aims and aspirations of this Nation.

In protest against a tariff in the year 1773, the people of Massachusetts threw shipments of tea into the Boston Harbor, and took a major step toward the American Revolution. During the Great Depression, our Nation moved into isolation. We retreated into a virulent form of protectionism that reached its peak with the passage of the Smoot-Hawley tariff, a law which only served to prolong and deepen the depression.

Fortunately, in the post-war era, we succeeded in reversing this trend toward isolation and protectionism. We opened the doors of trade, and entered a period of unparalleled economic growth and prosperity. The early 1960's saw continued growth, and the Kennedy round of trade negotiations resulted in further reductions of trade barriers.

To retreat now would be disastrous. We know the importance of exports to the economy of my State of Massachusetts. Exports of manufactured goods produced in the Commonwealth now total over $2.5 billion a year, and are rising four times as fast as overall production. Over 72,000 jobs are dependent on exports—about one out of every eight manufacturing jobs in the State.

While it is clear that we did not get everything we wanted in the Tokyo round, important progress was made in opening up new markets. While previous rounds of the multilateral trade negotiations centered on reductions in tariff barriers, the Tokyo round concentrated on the difficult job of reducing more insidious nontariff barriers, and developing international codes of fair conduct in trade between nations. New rules have been negotiated to reduce Government subsidies, to open up Government procurement, to rationalize product standards and custom valuation, and to crack down on commercial counterfeiting. These rules will help key industries in New England—machinery, electronic and medical equipment, instruments and others—compete in foreign markets. They will serve to expand exports and create more jobs for the American worker.

But the results of the Tokyo round alone will not be enough to promote exports and turn around our unfavorable balance of trade. A sound energy policy can begin to reduce our excessive reliance on imported oil. And much more needs to be done to increase U.S. exports of manufactured products. Inadequate financing mechanisms, lack of capital, lags in research and development, and poorly coordinated Government assistance programs all serve to thwart our efforts to boost exports.

In this regard, two recent developments will serve to help. Just last Saturday, the Senate passed the Export Administration Act in order to streamline export licensing procedures. Also last week, the administration proposed a reorganization of the Federal Government's international trade functions. I am hopeful that this proposal will encourage early congressional action on legislation designed to better coordinate Government trade policy and programs.

I look forward to a new era of international trade. I look forward to new partnerships forged by business, labor and Government to promote exports. This vital package of international trade agreements brings us closer to these goals. It is a fair and balanced package designed to spur growth and create jobs.

With its passage, we can seize new opportunities for orderly and fair trade, and bring further prosperity to all Americans.●

● Mr. MUSKIE. Mr. President, I would like to briefly outline the revenue impact of the Trade Agreements Act and its consistency with the first concurrent resolution on the budget for fiscal year 1980.

The Trade Agreements Act would reduce revenues by $83 million in fiscal year 1980 and $108 million in fiscal year 1984. This revenue loss is due primarily to the shift to the proof-gallon basis for assessing taxes and import duties on distilled spirits.

Additional tariff reductions totaling $247 million in fiscal year 1980 and $1,597 million in fiscal year 1984 were also negotiated during the multilateral trade negotiations. These tariff reductions can be made by the President under existing authority, and they are therefore not included in the bill now before us.

The Trade Agreements Act is consistent with the first budget resolution for fiscal year 1980. The first budget resolution revenue floor assumes that any legislation reducing receipts in fiscal year 1980 will be offset by other legislation raising revenues by an equivalent amount. The revenue loss associated with this bill now appears certain to be more than offset by revenue gains from a windfall profit tax or other revenue raising legislation.●

● Mr. TALMADGE. Mr. President, I support the Trade Agreements Act of 1979, H.R. 4537. This legislation implements the Tokyo round of the multilateral trade negotiations, which have been going on since the fall of 1973.

While the concessions were not all that I would have liked, the trade package should be helpful in increasing U.S. exports—particularly in agriculture.

I need hardly point out the rapid increase that has taken place in our agricultural exports in recent years. From $6.7 billion in 1970, our agricultural exports have expanded to over $32 billion this year.

This legislation—while expected to yield a further increase of only about $500 million in new agricultural exports—should be helpful in dealing with nontariff barriers and continuing the spectacular growth of the past decade.

The greatest agricultural concessions were received in the area of livestock and animal products, with an anticipated trade gain of about $250 million. Beef is the major beneficiary, but pork, poultry, and animal byproducts sales would also increase.

Our livestock groups felt that the trade barriers should be reduced even further, but our negotiators feel that they obtained the maximum benefits obtainable at this time. It is to be hoped that the livestock concessions gained, particularly in the case of Japan, will be the beginning of more open and freer trade with that country.

I would also like to point out that important concessions were received under the MTN in tobacco trade, which is anticipated to yield an additional $85 million. The bulk of this concession is accounted for by a concession from the European Economic Community, which is likely to result in about $75 million in increased tobacco exports. A significant concession by Australia is expected to yield further tobacco exports of nearly $8 million.

Important concessions were also received in fruits and vegetables, which are expected to yield additional exports of about $63 billion. The bulk of these concessions were made by Japan, and it is to be hoped that these modest gains will be but a start in obtaining improved access to the tightly controlled Japanese market.

I would also like to point out that important concessions were received with regard to our soybean exports. Japan agreed to fix or bind its present duty at zero, and this should be helpful in meeting future competition. Other soybean concessions were received that are anticipated to yield about $83 million in additional exports.

Mr. President, I should point out that our dairy producers are concerned over the revised cheese quotas, which will at least initially allow further cheese imports. The Department of Agriculture argues that the revision of quotas will bring increased protection by limiting the growth of cheese imports in future years.

Our Committee on Agriculture, Nutrition, and Forestry will follow this area carefully to assure that the needs of our dairy producers are not overlooked.

In conclusion, I should point out that we will need to use the MTN as the beginning of a national effort to expand our trade and strengthen the dollar. We must monitor the trade agreement carefully, and I know that the Congress will give careful attention to the administration's proposal to reorganize the Government's trade role.

Our Agricultural Trade Advisory Committee played an important role in providing the necessary expertise to carry out these negotiations. We should make every effort to continue to use this capability in implementing the MTN package.

I would like to congratulate Ambassador Strauss and his staff on their success in completing these negotiations. Also, I commend the Senators and staff for their diligent efforts on behalf of this legislation.●

● Mr. NELSON. Mr. President, H.R. 4537, the Trade Agreements Act of 1979, is the culmination of 5 years of negotiations among the United States and 98 other countries. This herculean effort has resulted in major revisions of international trading rules affecting tens of thousands of commodities.

Taken as a whole, the package of trade agreements reached at Geneva is an impressive monument to the skill and perserverence of our trade negotiators. Similarly, H.R. 4537, the implementing legislation hammered out over months of negotiations between the Congress and the administration, represents an exemplary piece of executive-legislative cooperation.

In large part, the trade pact has met the goal, established by Congress in the 1974 Trade Reform Act, of reducing and, where possible, eliminating tariff and nontariff barriers to international trade.

At the same time, H.R. 4537's promise of increased export opportunities for United States concerns, coupled with expedited administrative procedures to combat unfair foreign trade practices, has won its broad support from U.S. industry and agriculture alike.

As in any negotiation, in order to win concessions, one must make concessions. In terms of those the United States made, unfortunately, the burden fell much more heavily on some economic sectors than on others. The dairy industry is among those most distressed over our negotiators' work in Geneva. It is for this reason that I regret I must vote against H.R. 4537.

A healthy, thriving dairy industry is extremely important to the Nation and to Wisconsin. Wisconsin produces far more cheese—almost 40 percent—and milk—17 percent—than any other State in the country. There are nearly 2 million dairy cows in farms across the State, producing more than $2.1 billion worth of milk.

In addition, Wisconsin ranks second in the production of butter in the United States, and is among the leaders in producing buttermilk, whey, lactose and nonfat and skim milk.

DAIRY-RELATED PROVISION IN THE MULTILATERAL TRADE AGREEMENTS

The following table, showing the dollar value of U.S. agricultural concessions made and received at the multilateral trade negotiations, demonstrates that dairy sacrificed the most for U.S. concessions won in other areas. The figures speak for themselves: Our negotiators gave concessions on a whopping $328 million worth of dairy-related trade in return for winning concessions on only $12 million worth.

Balance of MTN concessions granted and received by commodity group, all countries (based on 1976 trade)

[In millions of dollars]

	Concessions granted	Concessions received
Grains	$126	$592
Oilseeds	397	1,033
Livestock	1,297	916
Dairy	328	12
Poultry	39	52
Fruit and vegetables	272	398
Cotton	23	138
Tobacco	35	459
Other	583	109

Total concessions granted: $2.8 billion.
Total concessions received: $3.7 billion.

Specifically, the dairy industry objects to three changes in current law agreed to by U.S. negotiators:

First. The addition of an injury test to the U.S. countervailing duty statute.

The current countervailing duty statute, part of U.S. law since the 1880's, directs the Secretary of the Treasury to levy an extra duty on foreign exports to our market which are assisted by a subsidy. Under this law, use of the subsidy alone makes out a violation.

The statute was enacted to prevent foreign subsidized goods from competing unfairly with goods produced and sold in the United States. Many of our trading partners use export subsidies in order to protect domestic industries and employment, by enabling their less efficient producers to compete in the U.S. market on equal terms with their American counterparts.

In effect, then, subsidization enables countries to export their unemployment along with their goods. When subsidies accompany imports to the United States, private concerns here are forced into a competition heavily weighted against them, because they must compete not only with their foreign counterpart, but with its government's treasury as well. Imposition of a countervailing duty, then, is important to neutralize the unfair advantage the subsidy confers on the export.

In practice, however, U.S. authorities failed to enforce the law effectively. In 1973 alone, for instance, the Common Market paid more than $26 million in subsidies on dry milk, cheese, butter, and butter oil shipped into the United States. And yet, we did not countervail against this practice. In 1974, 100 million pounds of cheese and 150 million pounds of dry milk, much of it heavily subsidized by foreign countries, were imported into the United States, causing vast disruption in American dairy markets. And still we did not countervail.

The statute had atrophied from so little use. In an effort to insure its enforcement, I proposed several amendments to the 1974 Trade Reform Act, which Congress approved. These measures for the first time imposed specific time limits within which the Treasury Secretary must act on a charge of foreign export subsidization.

However, the 1974 Trade Act also contained authority for the President to waive the imposition of countervailing duties through January of 1979, if he could make specific showings that a given waiver would assist our efforts to reach a new subsidy/countervailing duty code with our trading parties at the trade negotiations. The President has liberally exercised this authority, especially with respect to dairy products.

Since passage of the 1974 Trade Act, the President has waived the imposition of countervailing duties 19 times. The amount of trade affected under these waivers has been about $600 million, translating into about $40 million worth of uncollected countervailing duties. The six waivers covering dairy products resulted in no countervailing duties being collected on $160 million worth of dairy trade, about one-fourth of the total.

Our negotiators in Geneva, however, have succeeded in making this bad situation even worse. They gave in to European demands that the United States make it even more difficult for domestic concerns to win relief under the countervailing duty law. Thus, once H.R. 4537 has passed, an American farmer or businessman will have to prove not only that a foreign government employs a subsidy, but also that he has been injured by it, before our Government will take steps to countervail the practice. Such proof of injury is a time-consuming, expensive, and extremely difficult task.

Second. The expansion of cheese import quotas.

The new agreement will (a) place all price-break cheese—foreign cheese which enters the U.S. market at a price 7 or more cents higher than the Government's buying price for American cheddar cheese—under quota, and (b) expand the newly-constituted quota by an additional 30,000 metric tons over the total volume of cheese imported into the United States in 1977.

Placing price-break cheeses under quota is a helpful and responsible step. These imports, many of which are subsidized, are currently restrained only by market forces. This action will increase the percentage of imported cheese under quota from 50 percent to 85 percent.

As the table below shows, imports of price-break cheese into the United States have sharply increased over the last dozen years. Putting such cheese under quota will help bring some much-needed stability and predictability into the marketplace.

UNITED STATES: IMPORTS OF CHEESE BY QUOTA STATUS 1966–77 AND UNOFFICIAL FORECASTS[1] FOR 1978–84

[1,000 Mt]

Year	Under Quota[2]	Above "Price-break"	Miscellaneous nonquota	Total
1966	45.4	7.4	8.6	61.4
1967	53.2	7.4	8.2	68.8
1968	58.4	9.8	9.1	77.3
1969	38.0	17.4	9.9	65.3
1970	36.5	25.5	11.0	73.0
1971	29.9	22.5	9.2	61.6
1972	36.4	32.7	12.3	81.4
1973	71.4	23.4	9.4	104.2
1974	90.5	43.6	9.0	143.1
1975	41.6	30.7	9.1	81.3
1976	44.1	40.7	9.2	94.0
1977	48.2	37.8	8.9	94.9
Unofficial forecasts:				
1978	50.0	42.8	9.2	[3] 102.0
1979	46.0	46.8	9.2	102.0
1980	50.0	49.8	9.2	109.0
1981	46.0	53.8	9.2	109.0
1982	50.0	56.8	9.2	116.0
1983	46.0	60.8	9.2	116.0
1984	50.0	62.8	9.2	122.0

[1] Assuming current quota system is maintained as is.

[2] Some quotas currently in force were established during the period covered. Figures show what would have been subject to quota if all current quotas had been in place.

[3] Actual 106.

Dairy farmers worry that, as in the past, this new quota will serve only as a springboard for additional increases a few years hence. The administration will make no commitment to the dairy industry not to raise the new quotas, even though the special trade representative has touted the new quota arrangement principally on the basis that it will put a "cap" on foreign cheese imports, implying some degree of permanence with respect to quota levels.

Moreover, even if quota levels remain constant, dairy farmers are concerned over the possible effects of the expansion of cheese quotas by 30,000 metric tons over total 1977 imports. While the administration projects that cheese imports as a percentage of domestic production will remain stable, at or about the 6.2 percent level for the next several years, this assumes that cheese quotas will not be increased and that the domestic cheese market will maintain its current strength. Independent dairy economists are not at all sure that those assumptions are realistic.

Third. Explicit U.S. permission to foreign governments to subsidize their cheese exports to the U.S. market.

Perhaps the most worrisome of the cheese deals struck at Geneva is the following: In return for agreeing to a U.S. quota on nearly all types of cheese, the foreign cheese-exporting nations will be allowed to subsidize their exports, as long as they do not undercut the U.S.

domestic wholesale market price of similar cheese produced here.

This provision on subsidies must be placed in its broader context, to show how disfavored cheese is in the MTN schema. The new trade agreements impose a flat ban on the use of export subsidies for industrial products. In addition, the signatories agreed to more restrictive rules governing the use of export subsidies on agricultural products generally. But, when it comes to cheese, the United States has literally blessed the practice.

THE IMPLEMENTING LEGISLATION

As a member of the Finance Committee, which has jurisdiction over international trade legislation, I worked very closely with other Senators and with the administration to make the trade agreement's dairy provisions as equitable as possible to the dairy farmer. Under the 1974 Trade Reform Act, the Congress was foreclosed from making any changes in the trade agreements themselves; only the implementing legislation was subject to revisions. H.R. 4537 reflects, in sections 701 and 702, the substantial improvements we were able to make in the administration's original legislative proposal.

In the main, these address two concerns: First, that the United States establish an effective mechanism to enforce the commitment by foreign cheese exporters not to undercut U.S. market prices for similar domestic cheese; and second, that the Government guarantee dairy farmers the opportunity to testify at full public hearings before any proposed increases in section 22 cheese quotes take effect.

With respect to the price-undercutting commitment, the administration's original implementing legislation contained no credible mechanism for enforcement.

Because of this, I pushed in committee for an effective price-monitoring and enforcing procedure totally under the control of the Secretary of Agriculture.

Under this plan, which has been accepted by the administration (sec. 701(a)-(d)), the Secretary will continuously monitor foreign subsidy practices and prices of imported cheese. Whenever any person affected charges a violation of the price-undercutting commitment, the Secretary will be required to conduct a "fast-track" investigation.

The plan requires the Secretary to complete his investigation in 30 days. If a violation is found, the exporting country would be required to end its illegal pricing practices within 15 days. If it refused, the United States would slap on countervailing duties or even ban the exporters' cheeses from entry into the U.S. market. The entire procedure may by law take on longer than 65 days. This is almost 5 months faster than the quickest relief possible under the countervailing duty law, by which subsidized dairy imports have been regulated in the past, and by which other commodities will continue to be regulated in the future.

This simple and readily-provable injury standard, together with the overall price-undercutting enforcement mechanism, of which it is a part, represent important protections for the dairy farmer which were not contained in the administration's original legislative proposal.

In addition, the administration agreed to include language in the implementing legislation which guarantees that, for the next 3 years, the Government may not expand cheese import quotas without prior public hearings, except in "extraordinary" circumstances. This provision (section 701(b)) insures that dairy farmers and their industry representatives will have a full opportunity to present their case before the administration makes any changes in cheese quotas.

Even given these substantial improvements in the implementing legislation, I am simply not confident enough that the changes made in the countervailing duty law, the sanctioning of foreign subsidies on their cheese exports, and the expansion of cheese import quotas will not have damaging effects on U.S. dairy farmers.

The findings of agricultural economists and other experts who have conducted extensive studies on the projected effects of the trade agreement on returns to U.S. dairymen are in serious disagreement. A study commissioned by the Senate Finance Committee, for example, predicts rather little impact on milk prices as a result of the trade agreement, about a 6.4-cent per hundredweight reduction in price in 1980, declining to no difference in 1986.

Another study, however, conducted by a well-respected agricultural economist at the University of Wisconsin, foresees a much more damaging impact on dairy farmers as a result of the trade agreements. Based on a recent Department of Agriculture report, this study predicts that the trade pact could mean a drop in milk prices of 13-cents per hundredweight or more.

The fact is, there is no reliable way to gage the future impact of the trade agreement on U.S. dairy farmers.

Our Nation's dairy farmers have been in a boom and bust cycle, a roller coaster economy, for the past few decades. The result has been chaos, with thousands of dairy farmers being forced out of business. The most recent statistics show that the Nation lost over 8,000 dairy farms from 1969 to 1974. Many of the remainder have only survived because they have been willing to forego an income equal even to the minimum wage, not to mention a fair return for their investment. We cannot continue to ask dairy farmers to make that sacrifice in order to provide the rest of us with a cheap and adequate supply of one of our most basic foods.

In order to offer some insurance to the dairy farmer that the chaos of recent years will not occur again, I introduced legislation in January which would maintain the minimum floor for dairy price supports at 80 percent of parity, with mandated semiannual adjustment by the Secretary of Agriculture, through September 30, 1981.

An extension of the 80 percent of parity price support level is absolutely essential to protect the dairy farmer against the potential harm caused by the trade pact.

Everyone recognizes that the sacrifice by the dairy industry was a vital part of the trade agreement in general and the commodities agreement in particular. Comparatively, every other agricultural commodity did very well indeed. Therefore, there is a compelling obligation on the part of the Congress and the country to assure that the dairy industry is not seriously damaged by the importation of dairy products subsidized by the general treasury of foreign governments. Our dairy farmers can beat the competition of European dairy farmers, but they cannot beat both the farmer and his government combined.

Both Trade Ambassador Strauss and Agriculture Secretary Bergland have endorsed an extension of 80 percent of parity but Congress has not yet acted. Therefore, I withhold my endorsement of this agreement until Congress extends the 80-percent support level.●

● Mr. GLENN. Mr. President, I rise in support of H.R. 4537, the Trade Agreements Act of 1979. I think it is especially appropriate on this occasion to review the historical significance of America's role in international trade and to survey the range of foreign trade challenges that demand our immediate attention.

Since World War II the United States has led the world in the expansion of international trade. By way of the Truman doctrine and the Marshall plan we aided the development and redevelopment of industiral economies throughout the free world. Through these polices we built a system of global economic cooperation that provides nations with fuel for their factories and markets for their goods.

The success of these economic missionary efforts is inspiring. For the last three decades the international economy has enjoyed unprecedented growth and prosperity. With our assistance the economies of Germany and Japan have risen from the ashes of war to positions of leadership in industrial production. South Korea, Taiwan, Mexico, and Brazil continue to make impressive strides on the road to economic development. The United States led the development of the free world market and is today the free world's best customer. We find proof of this in world trade figures compiled since the OPEC oil embargo and price escalation.

Since 1974, U.S. imports have grown 13½ percent per year.

Our trade with West Germany went from a virtual balance in 1976 to a $1.4 billion deficit in 1977 and $3 billion in 1978.

Our deficit with Canada grew from $2.7 billion in 1976 to $4 billion in 1977, and $5.2 billion in 1978.

Our deficit with Japan grew from $2.8 billion in 1976, to $8.4 billion in 1977, and $11.6 billion in 1978.—Figures from the Department of Commerce, Office of International Economic Research.

In short, America's strength as a customer of foreign industries has provided energy-hungry nations with the foreign exchange they need to purchase their fuel supplies and finance their industrial modernization programs. Our trading partners' confidence in the U.S. economy is underscored by the fact that in the last 3 years foreign investment in the United States has increased 66 percent.

Unfortunately, the economies of Canada, Japan, Brazil, Mexico, and India have all grown slowly since the OPEC oil crisis. These are all important traditional markets for U.S. goods. The slow growth of these markets has slowed growth of U.S. exports. Since 1974, U.S. exports have grown only 7 percent per year.

However, the slow growth of traditional markets for U.S. goods explains only part of our poor export performance in recent years. Since 1974, the United States has failed to expand its exports in faster growing markets at the same pace its competitors have. This fact highlights the historical irony of the foreign trade challenge confronting us today.

We changed the world with our response to the post-World War II economic challenge. The very success of that response, the development of competitive industrial economies throughout the world, has fostered a new challenge for us—the challenge of economic competition from abroad. The resources of this challenge are the very same as those described by J. J. Servan Schrieber, 10 years ago, in his book "the American Challenge." The foreign trade challenge confronting us today is based on careful planning and financing of commercial activities and the mobilization of research and development in industries with strong export potential.

In Asia and Europe, governments have targeted specific industries to receive the benefits of favorable investment climates and financial assistance.

In Japan, the steel, shipbuilding and computer industries have benefited from carefully planned investment and export promotion strategies. Taiwan, Hong Kong and Korea have followed this pattern in the development of their textile footwear industries. Similarly, research and development in Europe and Japan has been directly toward products with export possibilities. European governments have worked cooperatively to increase their share of the international commercial aircraft market. Similarly, the Japanese Government has coordinated research in semiconductor technology to gain access to that export market.

Most other countries also provide some form of official financing, through both tax and nontax incentives, for export activities. Whereas the United States spends only 1-100th of 1 percent of the Federal budget on export promotion, other countries average about six times that amount. Where stringent U.S. antitrust laws hamper cooperation among American firms, Japanese and European trading companies combine their resources for comparative advantages in project bids and freight rates.

The scope and nature of this global foreign trade challenge call for immediate response. The interdependence and competitiveness of the world market make it impossible for the United States to sustain its economic growth with policies based on out-dated notions of resource self-sufficiency and directed toward limited domestic markets. We can no longer afford to sit idly by while our trade deficits mount. We must direct our attention to the foreign trade challenge that confronts us.

This challenge calls for a substantive reorganization of trade responsibilities in the U.S. Government. The United States alone among the major trading countries has no single Government agency with authority and responsibility to advance its trading interests. Our current trade apparatus needlessly duplicates some trade functions, inadequately serves others and is in conflict with itself about whether or not to perform still others. We have too many people in our Government trade agencies running in too many different directions. We must streamline and strengthen our trade programs. U.S. business cannot remain competitive unless we increase U.S. Government effectiveness in dealing with trade matters.

Just as we must restructure our Government trade apparatus so must we expand U.S. export financing. In world markets for capital goods—and as recent trade agreements between China and other foreign countries demonstrate—contracts most often go to the exporter who is able to arrange the most attractive financing. Intense international competition and increasing similarity in the price, quality and availability of goods make financing arrangements a critical factor in foreign trade. We must expand the scope and freedom of export financing and we must provide more attractive terms and programs.

The expansion of these programs—Export-Import Bank and the Commodity Credit Corporation—is important to our domestic economy as well as to world commerce. With every additional 1 billion dollars in exports financed by such programs, 40,000 domestic jobs are created, $2 billion is added to our GNP and $400 million in additional Federal tax revenue is collected—Senate Banking Committee Export Policy Report.

We must free the adventurous spirit of private enterprise from the yoke of tax laws and Federal regulations that currently hamper our international competitiveness. We all realize that we need to monitor the foreign-source income of American firms, preserve our environment, and protect the health and safety of our workers. Our growing trade deficit dictates that we accomplish these objectives at the lowest possible cost to our economy.

This requires a thorough-going review of current regulatory standards and procedures:

A Washington—St. Louis, Mo.—University study of Federal regulatory activity concluded that the cost of Federal regulations to our economy is in excess of $100 billion a year.

It costs the Federal Government nearly $5 billion per year to carry out its regulatory activities.

In addition to unleashing the forces of productivity, we must nourish their growth. We must expand opportunities for capital formation and enhance incentives for industrial research and development so that our industries can invest in the modernization of their facilities.

Such investments in industrial productivity are lagging.

The proportion of gross national product invested in R. & D. has declined steadily in the United States for the past 10 years. During that period, Germany has increased its R. & D. expenditures 40 percent, and Japan has increased its R. & D. expenditures 74 percent.

U.S. investment in R. & D. as a percent of GNP has fallen from 3.0 percent in 1964 to 2.3 percent in 1978.

During the same time period investment in R. & D. in Japan increased from 1.5 percent to 2.0 percent; in Germany it increased from 1.5 percent to 2.3 percent—NSF.

These trends are important for several reasons. Whereas 51 percent of U.S. R. & D. investment is defense related, only 2 percent of Japan's R. & D. investment and 12 percent of West Germany's R. & D. investment are defense related. The United States spends a smaller share of its R. & D. investment on commercially oriented R. & D. than Japan and Germany do. This is significant because these and other countries have emerged as major alternative sources of industrial innovation in recent years. Increasing competition from developing nations in the areas of consumer goods and moderate technology products will push these nations into greater concentration on higher technology products—directly challenging the mainstay of U.S. exports.

Moreover, R. & D. investment has a special impact on U.S. productivity and competitiveness in the world market. During the time that U.S. investment in R. & D. has declined, U.S. productivity growth has fallen behind that of other nations, our market share has declined and the U.S. dollar has depreciated. Increased investment in R. & D. is a must if we are to reestablish our competitive position in foreign trade.

Just as we must nourish the forces of productivity so must we promote export activities across a broader range of U.S. firms. At present exports account for only 6½ of U.S. GNP. Approximately one-half of U.S. exports of manufactured goods are made by only 100 companies; 80 percent are made by only 250 companies; small and medium sized firms account for only 15 percent of our exports.

We cannot become competitive in foreign trade when thousands of our medium-sized and smaller firms are prevented from exporting by high start-up costs—foreign market surveys, changes in product design and packaging, provision of after sales servicing, travel expenses—and ignorance regarding the requirements and rewards of foreign markets. The Commerce Department estimates an additional 20,000 to 30,000 small companies could export successfully.

We must redirect our export promotion programs to these potential exporters in greatest need of assistance. At my suggestion, businessmen in my home State of Ohio are currently exploring the trading company concept as a means of increasing export sales. Although the concept of an Ohio Trade Co. is far from realization, its potential is considerable. It would allow medium-sized and small firms to pool products, management expertise, and economic strengths. The benefits of such an arrangement include: Increasing opportunities for finding markets, reducing the costs of sales, increasing access to credit, and spreading the risks of exporting over the member companies. The trading company concept is an example of an area where business and Government must cooperate if we are to respond successfully to the challenge of foreign trade.

We know the nature and source of this challenge. And we know that just as challenges are occasions for critical self-evaluation, so are they opportunities for creative action. We have faced challenges before and we have reshaped the world by our responses to them.

We cannot predict what future challenges will arise in international trade. Nor can we develop an international trade system that is free of potential conflicts and crises. The world is too complex and the interrelations of its economic and political sectors are too subtle. Yet, by launching the kind of mission I have outlined we can stimulate productivity at home and commerce abroad. To turn away from this challenge is to accept the finite limitations of our own natural resources and to silence the expression of our infinite American resourcefulness.●

● **Mr. BIDEN.** Mr. President, over the last 5 years, particularly these last few months, we have all heard and read a great deal about the multilateral trade negotiations which were conceived at the ministerial conference in Tokyo in 1973. In the aftermath of the OPEC quadrupling of oil prices, the world economies faced many of the same problems that we continue to face today—energy shortages, sluggish and erratic growth, inflation, and unemployment.

These recently concluded negotiations among 99 countries will not solve these problems overnight. However, they do represent a noteworthy attempt to deal with the very root of these economic problems—protectionism. To counter tariffs, the traditional method for providing protection to an economy, negotiations have been completed which would result in average global tariff reductions of 33 percent, with only 30 percent for the United States. To counter alternative methods of protection, such as product standards, licensing, and customs valuation, the Tokyo round has successfully negotiated five "Codes of Conduct" which provide for the first time, a discipline on the use of nontariff barriers. These nontariff barriers code can be seen as the greatest achievement of this round of negotiations. By providing "rules of the road" for the barriers which have been used increasingly by governments either to compensate for the loss of protection from foreign competition, these codes attempt to control some of the most detrimental barriers to trade—and thus barriers to economic growth.

Protectionism hinders the efficient allocation of often scarce global resources. Our experience from the "beggar thy neighbor" protectionist trade policies in the 1930's, and the oil shortages in the 1970's, has taught us that protectionism is in none of our interests. By raising the prices of available goods it hardly serves the needs of the consumer, and while beefing up a specific industry, it does not serve the American economy as a whole.

Most economists inform us that if Congress passes the implementing legislation, the results will be beneficial to the United States and the world economy in the long run. By shifting available resources into areas where a country enjoys a "comparative advantage"—in the case of the United States, high technology products—our economies will realize greater efficiency and productivity. The resulting increase in income and employment will act as an "engine of growth" in an expanding world economy.

When we consider the effects of the multilateral trade negotiations (MTN) in the short run, the benefits will most immediately effect the consumer. Reduced barriers to trade, both tariff and non-tariff, should increase the availability of goods and enhance price stability. Unfortunately, many sectors of the American economy have been conditioned into thinking that more foreign goods means higher prices. This, however, is simply not the case. The freer flow of goods and services as a result of these reduced barriers will tend to lower the price of imported goods and in turn encourage domestic and foreign producers to control their prices in order to be competitive. The consumer could expect to have a greater selection of goods such as watches, cheese and electronic products at reasonable prices.

Statistics show that the American consumer will, in fact, save as a result of the MTN. A report from the Office of the Special Trade Representative, found that estimated consumer benefits from the fully implemented tariff reductions alone would reach $10 billion annually. In simpler terms, Ambassador Robert Strauss estimated that savings to the average consumer, in both taxes and lower prices for goods purchased, will be $695 per year as a result of the Tokyo round negotiations.

Other short-term effects include export expansion. Estimates of the additional American exports as a result of tariff reductions alone, might be as little as $2.7 billion but could be as high as $4.5 billion. Of these exports a sizable percentage (41 percent) would go to Europe, Canada (26 percent), and Japan (14 percent). The American economy would significantly increase their exports in aircraft, automobile parts, computers and chemicals—to name a few.

With regard to the nontariff barrier Codes of Conduct, the Government Procurement Code would open up an estimated $25 billion in annual sales of goods and services to foreign governments, which previously had been closed to the United States. Other codes to counter such nontariff barriers as product standards, complicated requirements for licensing, and varying criteria for assessing the value of imported goods—would promote the free flow and fair trade of American goods.

At a first glance, the effect of the MTN on industry in the short run may not appear as beneficial. It is often said that with the lifting of protective trade barriers, it is the producer who pays and the consumer who gains. By changing the structure of the economy, the United States and other countries face the prospect of job displacement and in some industries increased unemployment. However, this is only at a quick glance. What we really need to do is to take a closer look to see if the jobs were lost as a result of Government trade concessions or whether the loss is, in fact, due to the inefficiency of an industry whose collapse has simply been delayed by the protective barriers we have previously erected. It is only in this way that we can single out and judge the effects of the MTN on the structure of the industrial sector of our economy.

It is unfortunate that any part of our society must bear the burden of the negative, short-term effects of the MTN. To this end, the Trade Adjustment Assistance Act, of which I am a cosponsor, would provide compensation to individuals who are displaced or dismissed due to the impact of imported goods.

It is important to note that the actual job loss will be minimal. In addition, the structural change brought about by the MTN, would result in the creation of new jobs in the areas of high technology—where we maintain a comparative advantage. I expect, therefore, the overall result will be less a case of "genuine unemployment" than a temporary job displacement: Fewer jobs in industries propped up by trade barriers but ultimately the creation of more jobs in more efficient areas.

The aggregate effects of the Tokyo round of the MTN on our economy will be beneficial. Although there were will be a short period of adjustment, current studies strongly suggest that in the long run, the MTN will have a salutatory effect on the United States and world economy. I think it is important for us to remember that we are not a country neatly divided into two groups—with the consumer on one side and industry on the other. Consumers are also involved in production, as is industry involved in consumption of goods and services. As a result, in the short term, the benefits to the consumer are not necessarily distinct from those realized by industry. In the long term, that which benefits the consumer should ultimately benefit the producer.

Mr. President, it is true that we did not get everything we wanted in Geneva. This, however, is the nature of negotiations—"You have to give in order to take"—I do feel that in the overall, there was a net gain to all the 99 participating countries.

I believe that the United States will benefit in both a domestic and in an international context. Domestically, the benefits would include lower prices, a greater availability of certain goods, and a stable and more efficient economy. Internationally, in a broader sense, these negotiations represent a global awareness of the importance of cooperation in the context of common trade problems and mutual interests.

In addition, certain trading issues, including the use of import quotas and voluntary export restraints, remain outstanding. These issues must be dealt with in the future by the international trading community.

Mr. President, countering the growing trend toward protectionism, the Toyko round of the multilateral trade negotiations represents an investment in the future of all Americans. Voting favorably for this trade package will assure the improved economic welfare of both the American people and others in the international community.●

THE MULTILATERAL TRADE AGREEMENTS: AN ACT OF POLITICAL WILL

Mr. BRADLEY. Mr. President, today, the Senate will vote on a package of trade legislation which is the product of more than 4 long years of concerted efforts by the United States and nearly 100 of its trading partners to resist powerful pressures toward economic isolationism. The agreements are imperfect, they bear the imprint of compromise among nations, and among diverse interests within nations; they reflect economic bargains that are not in all respects completely balanced; nor do they, in all cases, adhere to the strictest standards of free trade. Accordingly, critics who wish to find fault with the trade package for doing too much, too little, or too careless a job, in preserving an open system of international trade, can find justification in one or another of the details of the agreements.

While their specific criticisms may be well found, they are wrong if their conclusion is that this massive effort to bring trade under stricter international discipline is a failure. For in every respect, the struggle was uphill, and in every respect, the trade agreements, and the accompanying implementing legislation, represent a hard-earned victory of political will over expedient economic choice and nationalist instinct. The package reflects votes deliberately cast by national leaders in favor of the future, and against capitulation to the political tides of the moment; it reflects votes for international cohesion, and against destabilizing fragmentation. Renewed affirmation of the postwar trend toward economic expansion through increasing interdependence clearly is the larger accomplishment of the Tokyo round.

That interdependence is not per se an antidote to friction among nations is amply illustrated by our postwar experiences with capital controls, import surcharges, export embargoes, currency destabilization, oil price spirals, contagious inflation and recession, and the disintegration of the fixed exchange rate system. But even a cursory examination of economic history drives home the lesson that there is a surplus of benefits to be derived from open borders and the integration of the world economy. We only have to remember the economic collapse and personal misery which the false remedies of protectionism wrought on the world during the years of the Great Depression.

Seeking to spare themselves the devastating effects of economic shock and to shift the pain of recession and unemployment abroad, nations erected higher and higher rounds of tariff walls and succumbed to competitive devaluations whose cumulative effect was not to afford isolated relief but, rather, to exacerbate the economic crisis, and ultimately, to destabilize political institutions. In contrast, postwar progress toward a multilateral system of open borders, despite periodic traumas, spurred the world economy first, toward massive recovery, and then toward higher and higher levels of growth, welfare, and political stability. The lessons of the past are clear and compelling: Open borders and interdependence cannot guarantee peace and prosperity, but they offer the best opportunity for modernization and progress that we have found.

Still, despite the dramatic lessons of history, as well as the lessons of economic theory, internal disorders every day tempt governments to provide quick palliatives at the expense of long-term welfare. Persistent problems of unemployment, slow growth, failing trade balances, and industrial dissipation tempt governments to offer preferences to products made at home, limit the access of foreign goods to domestic markets, and provide uncommercial incentives for national products to penetrate foreign markets. Protectionism is an easy answer, an answer within close reach. It requires an act of will by collective leadership to resist the strong and immediate pressures for a simple solution.

And it was by an act of political will that signatories to the trade treaties agreed to deny themselves full access to their national instruments of economic policy. A toolshed of tariff and nontariff barriers to trade have been laid aside in the effort to establish fair rules of international commerce.

The decision to accept international discipline in the realm of trade is significant beyond its economic effect. It offers evidence that modern leaders can rise above parochial perspectives and join to build institutions for the good of world society. The expression of will in the economic realm bodes well for future achievements in the political and the military realms. It fosters faith in the quality and depth of international commitments to cooperation.

Although the importance of preserving a liberal world trade structure is reason enough to be well disposed toward the agreements, fortunately, it is not the only reason. The specific accomplishments are far reaching. They promise to overcome stubborn obstacles to trade and increase world welfare. Tariffs will fall by an average of 33 percent and this should facilitate the flow of goods and services. But what truly distinguishes this seventh trade round since World War II is the success of the negotiators in eliciting commitments by governments to restrain their use of nontariff mechanisms to influence the course of trade. As tariff-cutting agreements eroded the utility of tariff instruments, nations accelerated their use of nontariff restrictions. Bouts with recession and unemployment in this decade increased incentives to resort to these nontariff measures.

As a result of the recent trade negotiations, codes will govern a broad range of government policies and practices that currently are employed to shift trade balances in the user's favor, policies and practices such as subsidizing exports, giving undue procurement preference to national products, imposing product performance standards that cannot be justified by legitimate domestic objectives, implementing licensing procedures that discourage imports, and employing unfair methods of customs valuation. One code will govern the practice by private and public enterprises of dumping abroad surplus product at less than its fair value. The codes provide for recourse to an international dispute settlement mechanism, and U.S. implementing legislation, if approved, will assure our own remedy under domestic initiative, should international efforts fail.

Thus the agreements and the accompanying U.S. legislation are designed to make international trade both more free and more fair. They go to great lengths to create a bias in favor of open borders, while retaining for each nation the right to modify its own compliance in response to violations by others. The structure established is a good one; the actual benefits to be derived depend on our own resolve and restraint.

Past experience instructs us in the possible benefits to be had. For example, today Americans receive direct savings of an estimated $2 billion yearly resulting from the availability of consumer imports, excluding automobiles and foods. Trade fights inflation, currently a chronic national problem, by increasing supply and encouraging domestic producers to keep their prices competitive. Though actual savings brought about by the MTN agreements will depend on market behavior, there are projections that by the time the new tariff cuts have been fully phased in, Americans will have saved $4 to $6 billion yearly because of imports. Alone this could produce a drop in inflation of 0.2 to 0.3 percentage points. Indirect effects, such as reducing pressure for wage increases, when added to the impact of nontariff barrier reductions, could make the drop much steeper.

Over the years, the United States has become more dependent on international trade. Today we export over 16 percent of our gross national product, compared to less than 5 percent when the GATT was founded in 1947. Approximately 4.3 million American jobs rely on exports, and in 10 years American exports have more than quadrupled, reaching $143 billion in 1978. The fact that even this rate of expansion leaves us with trade deficits on the order of $30 billion a year is just proof of the need to provide greater stimulus to exports. For too long, our Government has neglected market opportunities abroad and permitted foreign competitors in Europe and Japan to enjoy special advantages in capturing these opportunities.

On July 21, 1979, the Senate approved a new Export Administration Act, the provisions of which create an assumption in favor of American exports and go some way toward relieving American industry of the export-chilling delays and paperwork burdens that are not truly necessary to protect our national security or uphold our foreign policy interests. In another excellent effort to improve our trade standing the Senators from Connecticut and from Delaware, as well as the distinguished majority leader, the Senator from West Virginia, have introduced proposals for the comprehensive reorganization of our trade functions, proposals aimed at improving our export performance and rationalizing our trade policies. Several other distinguished colleagues have offered their own designs for trade reorganization, and the administration has submitted its plan for an enhanced STR office.

All of these deserve our thoughtful and careful attention in the coming months, for while there must be lively debate about the best reorganization formulas, there should be no doubt that some realinement is needed. Our ability to take full advantage of the trade understandings recently reached will be impaired unless we take this opportunity to cohere trade programs in a strong, central trade institution, one prepared to advance U.S. interests abroad and to provide for the fair administration of our trade laws at home.

As a Senator from New Jersey, I note with satisfaction that early warnings that trade liberalization would have an adverse impact on the Northeast region were exaggerated. These predictions did not take into account the careful treatment that our trade negotiators gave to import sensitive sectors, sectors which are heavily concentrated in the region. As it turns out, at the same time that injury to industries such as textiles, steel, and shoes will be mitigated by the small size of tariff reductions and by special agreements, high technology industries, such as the computer, electrical equipment and instruments, industries, which are also heavily concentrated in the Northeast region and enjoy a strong advantage in the world markets, will be given an additional boost by trade liberalization. Last year, these last three industries alone yielded $9 billion in exports from the region.

Exporting continues to be important to the region's growth. Currently over 7 percent of the Northeast's manufactured products are exported. One in fifteen Northeast workers produce manufactured items for export. Further, including indirect exports and "invisible" exports, such as finance, insurance, shipping, and other services in the calculation would significantly raise the dollar volume of exports and the number of workers employed as a result. While exports from the Northeast have lagged behind the United States as a whole, the region continues to be an important export source. Also, six of these States enjoyed a growth in manufactured exports higher than the national average.

The area is fortunate enough to include many fine ports, including the great Port of New York—New Jersey in my own State. The value of this port's total foreign trade reached record levels in 1978, rising by 25 percent from 1977 to a high of $58.6. billion. Liberalized trade should spur further growth and inject new vitality to the port area. State, local, and Federal Government will all need to join forces to fully explore and exploit new opportunities.

I would like to take this opportunity to congratulate, and convey my special thanks to Special Trade Representative Robert Strauss and his superb staff for their tireless work in ushering a very complex and controversial set of agreements through international negotiations, and for consulting with the Senate Finance Committee in a frank open manner in the course of formulating sound legislation to implement these agreements.

I also would like to say that it has been a privilege to work with my distinguished colleagues on the Trade Subcommittee. Under the wise leadership of the Senator from Connecticut and the Senator from Delaware, the members sought to assure that the legislation we helped to develop will implement the agreement in a way that best serves American interests in free trade and in the fair treatment of its domestic producers. Subcommittee members, particularly the chairman and the senior minority members, have given unselfishly of their time, energies, and patience, and the unanimity with which the bill has been reported reflects their zeal and commitment to the welfare of the American people. Bearing in mind all the risks associated with, as well as the inevitable imperfections in, the agreement, I know my colleagues will join to receive these agreements with the resounding welcome they well deserve.

Mr. HOLLINGS. Mr. President, while I intend to vote in favor of the implementing legislation for the Multilateral Trade Negotiation Treaty, I want to take a few moments to explain my conviction that the larger dimensions of our trade problems are not going to be solved—indeed have not even been addressed—in this agreement. The treaty we are voting on can, vigorously implemented and enforced, improve the climate of trade. But it would be dangerous folly to assume that it will correct our more fundamental trade problems. It does not. What we will need just as sorely after this treaty is approved is what we need right now—a realistic trade policy for the United States of America.

Since the Second World War, we have been through half a dozen of these international trade conclaves. Each time we have liberalized the terms of trade, each time we have convinced ourselves that a better trade world has been achieved. Yet hard as I search, I cannot find any evidence that our American trade picture today is better than it was 35 years ago; and I can find a lot of evidence showing it to be many times worse than it was. All the red ink in our balances of trade and payments proves that.

I vote in favor of this legislation in hopes that it will accomplish the limited goal of reducing some of the irritants which poison the trade atmosphere. I do so under no illusion that the treaty or the implementing legislation will accomplish anything fundamental to rectify the serious trade problems which so endanger the national economy. The various technical codes covering subsidies, standards, customs valuation, licensing, commercial counterfeiting, and so on can make a difference, but certainly they portend no bright new trade picture for the United States.

I emphasize also that even these more modest goals will not be achieved without vigorous and determined followthrough. Our trading partners are nothing if not innovative, and as we move to close one loophole, they are fully capable of divising others not covered in the agreements.

When we stop to look at the implementing machinery set up to enforce the MTN Treaty, we see a lot of new committees and panels, as if adding bureaucracy on top of bureaucracy was going to solve our problems. Who composes these panels, what procedures they will use—many of the most vital questions are left to the future for answers. I would also note that even if these committees are fortunate enough to get so far as to recommend action against an offending country, they are not likely to get to the point of effective retaliation. Only once in the history of the GATT has the membership sanctioned retaliation. The feeling more usually is that going that far is a little bit nasty, somehow ungentlemanly, and potentially injurious to the independence of the countries involved, so the upshot is that effective retaliation is very, very rare. With action so infrequent, the old system of dispute settlement seems open to question. Now to pile new committee on top of old committee seems hardly the most effective way to proceed.

I could go into other ambiguities and uncertainties in the language of the codes, but I will refrain from that for now. Suffice it to say that there are too many instances where the language used is open to varying interpretations, and if those interpretations are not done any more effectively than they have been done in the past, then I would not look for any substantial diminution of trade discrimination practices against the trade of the United States.

The fact of the matter is that today,

in the summer of 1979, there are many more types of discriminatory trade practices and subsidies, and loopholes than there were when GATT was first adopted. Enforcement, as pointed out, remains a question mark, at best. And our trade imbalances and prospects get bleaker with almost each passing day. So in light of the safe conclusion that not all old problems have been solved and the equally safe prediction that new loopholes and problems will soon be devised, let us not congratulate ourselves excessively on what we are about to approve. We are in reality doing little more than tinkering, and in so saying I am not denigrating the hard work that went into the negotiating and writing of this treaty. The fact that it has been so difficult to achieve even this modest an agreement is less a measure of the substance of what we are accomplishing than it is evidence of the tenacity of other trading nations when their economic interests are in any way threatened.

So I hope that neither the administration nor the Congress will judge this exercise to represent an adequate discharging of their responsibilities to alter the American trade picture. I am afraid that too many people in Government take the attitude that the MTN represents the present effort on trade, and that once we have acted on the treaty we have done our duty. So we do a little grandstanding, indulge in some rhetoric, take a vote, and put out a release on what we have done for trade, when in fact we are not doing nearly enough. If we do not follow up to address the larger trade concerns facing us, we will have done a grave disservice to the people of this country. And we will have further indicted Government as the chief perpetrator of America's economic decline.

In point of fact, it is not so much what we do by way of international agreements with other countries that is going to set the course of our economic future—it is what we resolve to do on our own. And it is when we get to this point that I just do not see, in the administration or in the Congress as a body, the realization that something is fundamentally amiss—that we have not developed a policy based on our national self-interest.

All too rarely do I see the understanding that the erosion of U.S. power in the world is a product of our failure to appreciate the close tie-in between political, military, economic, and trade factors. What we do, or fail to do in any of these areas, inevitably affects our standing in the others. We lack a coherent approach for dealing with our problems. In the real world, things are related. In the Washington world, too often, we think we can have policies in one area that are in no way integrated with policies in another. The results have been devastating.

This is the time to tackle the tough questions. This is the time to grasp that our balance-of-payments deficit is not a cyclical, but a structural, problem. Certainly we are no more dependent, in fact not nearly as dependent, as Germany and Japan on imports of petroleum products, yet the mark and the yen continue to appreciate, while the dollar sinks daily lower. Our problems far transcend energy. We have given rise to an economic climate more and more stultified by inflation, stifled by regulatory overkill, crippled by inadequate research and development, hampered by poor productivity increases, and operated in an adversary environment between business and Government.

Look at the history since 1930's on international trade. Back in the early days of Franklin D. Roosevelt's Presidency, Secretary of State Cordell Hull launched his historic trade policy—the Reciprocal Trade Act of 1934. Over the years, this came to be known as Hull's free-trade policy, because it freed up the restrictions and barriers between trading nations. But the concept—and this is the central point—was reciprocity: give and take rather than all give or all take. But after World War II, the policy was given a new twist. With other economies distraught and destroyed, little injury could come from giving a trade advantage to counties trying to rebuild. This was well and fitting at the time, but the approach was abused. And now, long after the need is passed, the State Department continues trying to win friends by encouraging the export of America's technology and productive capacity, with an inevitably adverse effect upon American jobs. Giving a trade advantage became a part of foreign aid. We have been very generous with foreign aid, rebuilding the free world with the Marshall plan and contributing billions around the world. But trade was never intended as foreign aid, despite the efforts of the Federal bureaucracy plus the international banks and multinational giants to push for international welfare under the umbrella of free trade.

It has been said that the State Department has an Asian desk, a European desk, an African desk, a Latin-American desk—but there is no American desk to represent strongly the interests of the United States. When the Europeans and Japanese and others sit down to negotiate on trade, their governments back them to the hilt. More often than not, American business generally finds itself in an adversary relationship with the State Department. This has caused tremendous damage to many of our most basic industries. Here is the basic reason why Congress created the Office of the Special Trade Representative, and let me say that Ambassador Strauss has done yeoman work in trying to improve the relationship between Government and industry. And his achievement has been considerable. But the problem is basically structural and institutional; it goes beyond the ability of one man to change forever; and as Ambassador Strauss moves from the STR to the Middle East, it is an open question how long the new environment can last even in the STR's office.

One thing is certain—when we continue year in, year out on the binge of exporting our jobs and dollars and technology, the national interest is not being served. That is not free trade. It is not even trade. It is a giveaway. It has nothing to do with the theory of competitive advantage. You will recall the old free trade theory that our unskilled and semiskilled industries could be sacrificed, and instead we could focus here at home on what we do best—which was characterized as capital-intensive production. Meanwhile, the less-developed world would concentrate on what it does best—labor-intensive work. The way it turned out was that we exported it all, including our capital-intensive knowledge and skills as well as the jobs, putting ourselves ever farther behind other, more aggressive trading countries.

It has always been my conviction that no one else in the world is going to look after America's well-being. It is our job to do. And late in the day though it is, we still have the chance. Others are surely doing it. Europe and Japan are spurring exports and motivating exporters in every conceivable way. They have legislation on the books to encourage trade and to build business, while our stress continues to be on building domestic consumption, with little more than rhetorical attention given to building foreign markets.

To compete, our trading industries must have the same kind of encouragement that their counterparts in other countries enjoy. Exporters elsewhere are given just enormous motivation to export rather than simply sell to the domestic market. They enjoy remission of value-added taxes; special reserves for any losses incurred; a choice of whether to be taxed on a worldwide or consolidated basis; joint export programs; and more liberal write-offs for research, development, and depreciation. I am surely not saying that we need to approve each and every one of these things, but certainly if we do not do something along these lines to encourage our foreign trade, then we are going to be left with a permanent balance-of-payments, and balance-of-trade deficit—energy crisis or no energy crisis. That translates, as I tried to point out earlier, into not only economic decline, but also into political, diplomatic, and military decline.

We must also begin insisting upon fair trade. I know it is fashionable in some so-called sophisticated circles to equate the call for fair trade with the plea for protectionism. But fair is fair. We must demand, and expect, no less. We must be willing to retaliate where there is no fairness. We must not shrink from demanding from others the same kind of opportunities our negotiators are so quick to grant in your name and mine.

Trade policy must never be divorced from considerations of the national interest. A trade policy predicated on enhancing the well-being of the United States in no way portends a return to the shortsighted protectionism of Hawley-Smoot in 1930. But it does mean reciprocity; it does mean playing for keeps just like everyone else does; and it does involve reversing the disastrous policies of the last 35 years. In an equitable trade environment, we can reduce barriers, and trade can flow. American companies and the American people have a fundamental stake in international trade, and in the creation and enforcement of a fair trade environment.

I see in trade just what I see in arms limitation. Our trade policy has been as blind as our national security policy. In both we see lack of realism. In both we see an American view of the world couched in the most idealistic of terms, whereas those with whom we negotiate see more clearly the facts of international life. In both we see the same failure to address the fundamentals, the same timid negotiating posture. In both we are told the process itself is of such value that we must keep it going, no matter if the terms are not really what we need and want. In both we see the shrinking back from using the leverage we have to extract the kind of concessions we need. I believe that the rest of the world would look far more kindly, and certainly more respectfully, on the United States if they thought that our American policies were somehow geared to an enlightened conception of national self-interest. After all, everybody else works from that starting point. Why should not we?

Mr. President, I did not intend to go on at quite such length, but this is a matter about which I feel very deeply. I cannot just stand by and watch this treaty and this debate billed as the trade highlight of our time, while in fact the basic questions go ignored. Unless we reverse these trends, unless we begin acting so as to benefit this country of ours, our status is going to rapidly slip from great power to permanent debtor. And that would be a sad ending for a country whose enterprise and innovation and productivity once eclipsed all that had gone before. It does not have to end that way. But if it is going to be otherwise, we need some policy, some realism, some leadership to rebuild and to get moving again.

Mr. COHEN. Mr. President, I support the legislation which will implement the agreements reached in Geneva as a result of the multilateral trade negotiations.

I recognize the potential benefits to this country from these agreements. The tariff reductions and, more importantly, the nontariff barrier improvements are a significant step forward in our Nation's trade policy. Many of the industries in my State are encouraged that these agreements represent a tremendous advance in procedures for countervailiing duty and antidumping cases. The new procedures should provide a more satisfactory resolution to the trade problems facing Maine's shoe and fishing industries. These industries are hopeful that these agreements, together with some reorganization of trade functions within the executive branch, will enable them to compete more fairly with our trading partners, such as the European Economic Community.

I do, however, have some reservations on how the agreements may affect certain industries in my State that are vulnerable to imports. I appreciate the efforts of Ambassador Strauss in trying to protect sensitive industries such as textiles and footwear from severe damage from imports, such as those from countries with low labor costs. Nevertheless, over the 8 to 10 years during which the agreements will be passed into effect, some jobs in New England may be placed in jeopardy. The number of lost jobs is very few; however, this estimate only takes account of the tariff reductions. The employment and other benefits from nontariff barriers are not quantifiable and are expected to be significant.

I am also aware of the Maine industries which may have new opportunities for increased exports. These include paper, agriculture, industrial, and metalworking machinery, fabricated steel, lumber, and plywood.

I intend to carefully monitor how these agreements are implemented. I want to assure the administration that I will certainly pay close attention to any action taken during the implementation process that could be detrimental to my State, and I expect that the administration will make every effort to insure that the effects on Maine's sensitive industries will be minimized. I am confident, however, that the benefits to the country as a whole will demonstrate the importance of these trade agreements and that they will open up new markets for many Maine industries.

Mr. JAVITS. Mr. President, I had not been on the floor when H.R. 4537 was debated. I want to state to my colleagues that I wish I had been able to be here. I think this was one of the most admirable undertakings and one of the most admirable consumptions in all of our trade history by Bob Strauss, the President's negotiator, and a magnificent job by the leaders in the House who dealt with this matter and by Senator RIBICOFF and Senator ROTH.

Mr. THURMOND. Mr. President, I rise in support of H.R. 4537, The Trade Agreements Act of 1979. This legislation will implement the product of 5½ years of multilateral trade negotiations (MTN) initiated in 1973 among the world's major non-Communist economic powers. The agreement was approved by 99 nations in Geneva last April 12.

The Tokyo round of the MTN, the seventh since World War II, has produced the most comprehensive agreement since establishment of the International General Agreement on Tariffs and Trade in 1947. For the first time agreements have been concluded which deal with a broad range of so-called nontariff obstacles to trade. These nontariff agreements address trade problems inherent in government procurement, the use of subsidies and countervailing duties, "dumping" of goods in foreign markets, customs valuation, the setting of standards for imports, and the issuance of import licenses.

Mr. President, this legislation will have a favorable effect on our balance-of-trade deficit, our inflation rate, and the strength of our dollar. I believe that this legislation implementing these agreements is within the best interest of the Nation, and I urge my colleagues to join me in supporting it.

THE TRADE AGREEMENTS ACT: PASSAGE OF MTN LEGISLATION

• Mr. CHURCH. The President, today, the Senate considers perhaps the most significant piece of legislation in the area of U.S. international economic policy to come before it during this decade. The Trade Agreements Act of 1979 is the culmination of 6 years of protracted negotiations under the auspices of the General Agreement on Tariffs and Trade, GATT. In the so-called Kennedy round, which preceded the recently concluded multilateral trade negotiations, major gains were achieved in reducing the level of tariffs which had been, until then, impediments to the free flow of trade. But, as is often the case, the absence of prohibitive tariffs to shield domestic concerns from foreign competition did not lead to the totally free flow of trade one might have expected, because, in its place, a whole series of subtle, highly complex, nontariff barriers emerged. It was these barriers which were the focus of the MTN. These were the barriers to be eliminated in order to allow for the fullest expansion of world trade.

It is ironic that perhaps the most difficult trade negotiations in which a nation's domestic policies were so closely interwoven with its foreign trade practices took place at a time when the forces for protectionism were at levels reminiscent of those which existed during the decade of the Great Depression. Then, the Hawley-Smoot Tariff Act of 1930, which erected the highest tariff barriers in U.S. history, was the American response to those forces. The tariff war that ensued between nations resulted in a drastic contraction in world commerce. By 1932, world trade was reduced to one-third of its 1929 level. It is refreshing to note that the 1979 response to protectionist pressures has been more productive and enlightened.

In judging the success or failure of the negotiations which have led to the 1979 Trade Agreements Act, I have based my decision on two criteria: The first, will economic gains result from these negotiations, and second, had these negotiations not taken place would additional barriers to trade exist today? In my judgment, the 1979 Trade Agreements Act scores favorably in both these areas. The specific economic gains we can expect from these agreements have been outlined by the administration. As to what might have occurred had the MTN process not been underway, one can only speculate. I would say, however, that the signs were not promising. For the last 2½ years, the United States was in major disagreement with several of its traditional western industrial allies over their international trade practices. The MTN did provide a forum for discussion of these disagreements and for their mutually satisfactory resolution. Not only were the interests of American exporters served by this, but also American foreign policy interests, for I can think of nothing more detrimental to American interests than a major confrontation between the United States and its industrial allies.

The major achievements of the negotiations to my mind, are that tariff reductions have taken place which will result in significant progress in reducing tariff preference, disparities, and high industrial tariffs between the United States and its major trading partners. In the case of Japan, for example, the tariff cuts which it has agreed to make will actually result in lower average duties being charged on industrial imports there than is the case in the United States. In the case of nontariff barriers, I will not go into detail as to the importance of each one of the six codes which have been negotiated, but I will say that one of the major cornerstones to the success or failure of the entire MTN process will be whether or not the established procedures for the review of grievances is successful in enforcing fair and open trade practices.

The one area of the negotiations which was not as successful from the American point of view was in agriculture. The barriers to trade here are excessively high, and, therefore, any gains made toward liberalization are miniscule in comparison to other sectors. In addition, no where more so than in agriculture are domestic and international policies so intertwined. The European community and Japan will probably continue to subsidize their agricultural sectors. We should not depend solely on the subsidies countervailing duty code to eliminate this practice. While this code does prohibit export subsidies in agriculture, it does so only under the stipulation that such subsidies can be shown to result in the displacement of the exports of other nations which are signatories of the code or will result in prices materially below those of nonsubsidizing suppliers. The one bright spot in the subsidies code is that it provides a specific mechanism for the handling of dispute settlements and a timetable for the resolution of these disputes. It perhaps can be a steppingstone to further gains in this area.

When the Trade Agreements Act is assessed in total, it is, in my opinion, legislation deserving of favorable consideration by the Senate. Ambassador Robert Strauss, the President's Special Trade Representative, deserves special recognition for his crucial role in negotiating trade agreements which I can support and urge my colleagues to support.

Mr. BAYH. Mr. President, today the Senate is considering a very complex and unique piece of legislation that will touch the lives and economic well-being of every American. The bill before us will approve the trade agreements reached in the Tokyo round of the General Agreements on Trade and Tariffs and, at the same time, provide for changes in U.S. law to implement those agreements. The House has already approved this legislation. It now remains for the Senate to act and approve a bill which will reduce some tariffs on goods coming into this country over the next several years with the hope that more American goods will be sold overseas as the result of concessions which Ambassador Robert Strauss and his trade negotiators have achieved. On balance, I believe the agreements reached represent progress in opening trade doors in other countries wider than before and so enhancing the prospects for U.S. exports of agricultural and nonagricultural goods and commodities. In some areas, however, we do not have as much protection against unfair and predatory imports as I would have liked nor is there as great an opening of markets abroad for farm products. Therefore, it is imperative that subsequent to the Senate's approval of H.R. 4537 we make certain that the necessary export promotion efforts are mounted and the requisite vigilence by the Department of the Treasury maintained to make sure that "freer trade" is also "fairer trade." Based on this expectation, I will vote "yea" when the rollcall is taken.

Before I vote, I would like to outline some of my concerns about our past shortcomings on trade policy and indicate how I think the bill before us puts us in a better position to deal with imports sold in this country at less than fair market value. During the last Congress and again in this Congress, I cosponsored legislation to provide for a shortening of timeframes in the investigation of antidumping cases and for a more effective form of deterrence to provide as well for maximum disincentive against predatory pricing by foreign governments. I am also concerned about the matter of illegal rebates being provided to exporters by foreign governments with the express purpose of disrupting a domestic industry in this country. This concern also extends to situations where agreements are made between countries in order to divert exports in such a way to deprive our own businessmen of third country markets. Another issue which has disturbed me are "restraint" of trade situations. I believe that the incorporation of many provisions of the Trade Procedures Reform Act makes the implementing legislation we are considering here today a better bill. These provisions are a major reason why I will support H.R. 4537. I will attempt to summarize them briefly:

Section 101 of the legislation adds a new countervailing and antidumping duties title to the Tariff Act of 1930. Under the new law, countervailing duties would be imposed when the Secretary of the Treasury determines that a country or person is providing a subsidy with respect to a class of kind of merchandise and the United States International Trade Commission (USITC) then determines that an industry in the United States is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of such imports. It is important to note as the Finance Committee's report points out that "material injury" would be defined as "harm which is not inconsequential, immaterial or unimportant." In so doing, we have improved the injury test and forced the USITC Commissioners to demonstrate why a negative finding in the event that the petition would not meet these criteria. In the past it has been a matter of wide and varying interpretation as to exactly what injury is and each Secretary of the Treasury or Trade Commissioner has had his or her own interpretation in casting a vote on whether injury or threat of injury could occur. We have now narrowed the focus somewhat and bounded the basis of this finding which I hope will result in greater protection of our home industries against that practice.

The important procedural change of this section is found in the fact that countervailing duty investigation could be self-initiated and, as such, put the Government squarely behind our workers and firms when an unfair trade practice threatens. This has been the rare exception rather than the rule in the past and I do hope the Department of the Treasury will recognize the aggressive role which it should play in the future. The time frames stipulated for the investigations themselves are a marked improvement over the present process. To remove uncertainty for both the importer and the group alleging injury, a 20-day time limit is provided for the administering agency to decide whether evidence is sufficient to warrant an additional investigation. An important added deterrent would be the possibility of countervailing duties being imposed retroactively thus increasing the stakes if a country or person provides rebates in support of imports which result in injury to an American industry.

Section 101 also repeals the existing Antidumping Act of 1921 and replaces it with a new statute similar in terms of the material injury determinations associated with the countervailing duty revision with emphasis on the shortening of timeframes. Perhaps the most important change made in this regard, and one I have been seeking for a long time, would put real bite into this law intended to deter dumping. I refer here to the process whereby if a preliminary determination is made that dumping is occurring, the Treasury Department would at that point require bonds or cash deposits to be posted on allegedly dumped imports in an amount equal to the estimated margin of dumping. Doing this "up front" seems inestimatably more effective than waiting for a final determination which could drag on for months. Deterrence in this case would take place within 7 months rather than 13 under the old statute. This is a significant improvement and one important reason why I am supporting the bill. I also fully expect the Treasury Department to utilize this new authority to self-initiate investigations. All too often, it is the small and medium size businessman who must retain expensive assistance to begin the antidumping petition process. Again, it is time for the Federal Government to get involved and enforce the law vigorously and aggressively to prevent the dumping of color television sets, basic and specialty steel and other products in our country. We must no longer be afraid to enforce our fair trade laws.

Mr. President, other important aspects of this legislation implementing such agreements as the customs valuation and international government procurement code should help us gain access to markets heretofore closed to U.S. firms. On the matter of the procurement code, which has been a particular interest of mine, we are clear that only those signatories to the code will enjoy reciprocal access to our public procurement markets. Some major entities which seem ripe for foreign exploitation of our open Government procurement market—such as the transportation sector—can be protected. I hope that it will be, because I am tired of seeing the United States become dependent, with the help of Federal dollars, on items such as rail cars, which we hopefully will be building more of in the future.

Mr. President, the trade turnover of the United States is roughly one-quarter of a trillion dollars. That figure exceeds the gross national products of most nations in the world and indicates the paramount role of trade in our own economic well-being. That we should promote the free flow of fair trade in order to derive the benefits of variety and quality goods for our consumers from diverse sources is something I think we can all agree upon. However, as I indicated at the beginning of my discussion, our economic well-being also depends upon effectively deterring unfair trade practices, which in the end will only relinquish the power of pricing to a foreign source. I am accordingly encouraged that the bill before us will deal with this issue as well as many others which have been hammered out. I would be remiss if I did not add a word of appreciation for the extraordinarily able job performed by Ambassador Robert Strauss and his skilled staff in providing us with a trade agreement and legislation which has won such widespread support. If this is a measure of the future success of these agreements then the economy of the Nation and world has been well served.

Mr. LEVIN. Mr. President, trade has become an increasingly important element in our domestic economy and our international relations. The Tokyo round of the multilateral trade negotiations brought a substantially higher degree of fairness and discipline into the international trading system. The agreements support principles promoting the development of an open, nondiscriminatory and fair world economic system. In pursuit of these principles, the agreements sought to remove tariff and nontariff barriers. Significantly, the Tokyo round recognized that trade barriers are generally inefficient means of dealing with balance-of-payment problems and that trade-distorting subsidies are inappropriate trade tools.

The work of Special Representative Robert Strauss should be highly commended. The cooperation between the executive branch, Congress, and the private sector point to the importance of trade to our livelihood and our future. Indeed, the work has only begun.

The new framework implemented by the legislation before us should not be expected to take care of itself. We will need the authority and the means to implement effectively and swiftly protective antidumping measures and material injury tests. The trade agreements will encourage imports to the advantage of consumers and will spur competition. However, we need to continue and improve the trade adjustment assistance for workers and firms experiencing a decrease in sales or production due to increased imports. Adjustment assistance for American workers and firms suffering losses as a result of greater imports is critical. For instance, in the period from April 1975 through February 1979, over $200 million in these payments were made to steelworkers displaced by the increase in steel imports.

While protecting our workers and firms, we need to coordinate our trade efforts to insure an efficient system of overview and enforcement. The principles and agreements reached will be sustained not only with good faith but with the ability to enforce them. In order to enforce obligations with regard to the use of subsidies, the negotiations provide a framework for improved notifications, consultation, and dispute settlement, and where breach of obligation concerning the use of subsidies is found to exist, countermeasures are contemplated. In this connection, the dispute settlement process has been designed to produce results within 150 days. In addition to the availability of such countermeasures countries may take traditional countervailing duty action to offset subsidies upon showing of injury to a domestic industry. The code sets out fair and reasonable criteria for injury determination. In each instance, existing structures should be evaluated to determine the most effective means whereby to enforce the numerous requirements and safeguards of the multilateral trade negotiations.

The MTN negotiations and the implementing legislation might well mark a watershed in the construction of a viable international trade community. Our concern and efforts should not wane at this point, however. For the most part, these agreements are goals and statements of principles which require enforcement and a continued effort on our part to see them sustained and improved.

Mr. LEAHY. Mr. President, I wish to speak in support of S. 1376, the Trade Agreements Act of 1979.

The act, which implements into domestic law the results of the recently concluded multilateral trade negotiations, will be of tremendous benefit to the U.S. economy and to our world trading position.

The trade negotiation process is a very difficult one, and one based on reciprocity. In some areas we were forced to make concessions which were greater than I would have wished. But on balance, I feel our U.S. negotiators are to be commended for the fine job they did negotiating this complex, extremely sensitive package of trade agreements.

Mr. President, today we have the opportunity to approve a package of trade agreements that can help reverse our Nation's faltering trade performance. Last year's trade deficit of some $30 billion put into stark relief a fact which until recently had been ignored and overlooked by national policymakers—namely, the fact that the United States is in the midst of a dire, and seemingly worsening trade crisis.

In plain and simple terms, we are no longer exporting enough to pay for what we import.

Unfortunately, this situation will not be reversed easily, and it will not be reversed in the near future. While our imports continue to expand at a dizzying pace, exports in recent years have grown at a snail's pace if they have grown at all.

Our huge energy import bills can and must be reduced through conservation, and through domestic energy production. But aside from this one, admittedly large area, it will not be possible, nor would it be wise, to substantially reduce our import bills.

The benefits of free and liberal world trade—to Americans, and to people around the globe—cannot be disputed. With the successful conclusion of the Tokyo round of the multilateral trade negotiations, the world appears perched at the brink of a new explosion in world trade opportunities. The benefits will be immeasurable.

As a nation, we cannot afford to squander this great moment by turning inward in an attempt to fight the current tide of trade liberalization.

We face trade problems which are frightening in their magnitude. But we must not seek to restrict imports. We must reach out boldly to the markets of the world. American products have always been and always will be competitive in world markets, given a fighting chance.

We must act now to encourage free and liberal trade, and to aggressively pursue and promote the expansion of American exports.

Mr. President, our precarious trade position in recent years has shaken world and domestic confidence in the U.S. economy. It has fostered the continued decline of the dollar. It has fueled domestic inflation. And it has precipitated the loss of countless U.S. jobs and production opportunities. Today, by approving the trade agreements now before us for consideration, we can take a giant step toward reversing this faltering trade performance.

Mr. President, before I outline what I feel are the most significant positive results of the Geneva negotiations, I must express my serious concerns with the dairy agreements that were reached in Geneva.

Under those agreements, the United States will increase its overall quota levels for imported cheese by about 14 percent. This is no small concession.

In return, we did bring a significantly greater amount of imported cheese under quota. Assuming all quotas are filled, approximately 85 percent of imported cheeses will now be under quota—this compared to the 1978 level of about 50 percent.

I welcome this change, but I must admit to some reservations about our abilities to effectively enforce these quotas. Only the test of time will tell here.

Having expressed my concerns with the potential for increased levels of cheese imports, and for the resulting displacement of domestic milk production, I do wish to point out that those concerns were lessened to a degree by some changes Senator NELSON was able to make in this implementing legislation.

Senator Nelson, through his persistent efforts, was able to win approval for a simple and readily provable injury standard for the dairy industry, and for an expedited price-undercutting enforcement mechanism. I am confident that these changes will enable dairy farmers who are injured by subsidized foreign imports to receive the relief they deserve under the countervailing duty statute.

Mr. President, I must conclude that on balance I am not pleased with the dairy agreements negotiated in Geneva. But I recognize that the dairy industry cannot stand alone in a national community of agricultural commodities. I would hope that, in light of the somewhat less than favorable effect of these agreements on the dairy industry, the rest of the agricultural community will demonstrate a concern and a willingness to help out in other dairy industry related problems.

Mr. President, as I stated earlier, with the exception of the dairy agreements, I am extremely pleased with the results of the Geneva negotiations.

I am particularly pleased by a number of the changes which will be of benefit to the data processing industry. Specifically, I refer to the reductions in the Japanese and European Economic Community tariffs on computer processors, terminals, and components, and to the increased opportunities for U.S. computer firms to bid for foreign government procurement contracts.

The reductions in Japanese and EEC tariff schedules for computer processors, terminals, and components are long overdue. They will bring those tariffs into harmony with the already low U.S. rates on those items.

The favorable changes in the Government procurement code for computers are equally important to the data processing industry.

Presently, U.S. firms are entirely locked out of some 25 to 30 percent of government computer business in the EEC countries, and 15 percent of all Japanese business. A full 98.6 percent of computers used by the Japanese Government are Japanese-made.

This business will now be open to competitive bidding for U.S. firms. Since, in Vermont, it is estimated that 1 job in 7 in the data processing industry is related to international operations, this expanded opportunity will have a dramatic, positive impact on levels of income and employment in my State.

Mr. President, in closing I would like to speak briefly about the substantial opportunities these trade agreements will open up for small businesses.

Through improvements in methods of customs valuations, general tariff reductions, and changes in the Government procurement code, small businesses will be afforded unprecedented opportunities to engage in exporting.

In the past, the bulk of U.S. exports have been generated by the largest and most sophisticated U.S. and foreign based American firms. Export sales have been surrounded by an air of complexity and mystery. They have been obscured by an incomprehensible language of international financial and marketing terms. And they have been burdened by a litany of unnecessarily confusing forms, documents, and licensing requirements.

Exporting need not be this complex. As a nation, we can no longer afford to discourage and neglect the export capacity of the small business sector.

Mr. President, there is a vast and strong demand for the products of U.S. small businesses around the world. Experience has proven this time and time again. Every effort must be made to break down the technical and financial barriers which in the past have prevented small businesses from exploring these world markets. The recently concluded trade negotiations in Geneva have made tremendous progress on both of these fronts.

Mr. President, for all of these reasons I urge my colleagues to demonstrate their commitment to a strong and prosperous America, and to free and expanded world trade by approving the implementing legislation now before the Senate.

Mr. HATCH. Mr. President, I felt it an honor to be with my distinguished colleagues as we consider the monumental agreements arising out of the multilateral trade negotiations. These agreements are of unprecedented, historical significance. That nearly 100 countries of the modern world have bound together after weeks, months, and years of intense negotiation, and have agreed upon a basic document, which satisfies all, is an occurrence unknown previously in the history of mankind. Protectionism has been the guiding philosophy of the modern trading state, and the United States has not been exempt from protectionism. The Tokyo round of the MTN's differs from the preceding five rounds of negotiations in that an attempt has been made to curb the proliferation of nontariff barriers, which have multiplied in recent years. These NTB's have been aggressively scrutinized and, where possible, have been eliminated so that fair trade and free trade can supplant otherwise protection-oriented principles.

Mr. President, Ambassador Strauss has negotiated long and hard and is to be commended for the final product which he has produced. When he first eliminated the small business preference in Government procurement, I expressed grave concern for my Utah manufacturers and subcontractors who would lose future contracts in dealing with the Government. In response to this act, I cosponsored with Senator Heinz of Pennsylvania, a bill which would restore that preference for our small businessmen. Nearly 1 million small businessmen were behind us. Ambassador Strauss got the message loud and clear. Within 4 days that small business preference was restored. The multilateral agreement was modified as the small business community again showed its collective clout.

I likewise had grave concerns over the current dumping practices of many of the steel-producing nations. Over recent years, as a result of our not enforcing our fair trade laws, we have lost a potential of 5,000 jobs in the Utah steel industry alone. Again, President Carter and Ambassador Strauss got the message. When, along with Senator Danforth I cosponsored legislation designed to mandate enforcement of dumping and countervailing duty laws, the administration's response was swift to insure that these measures were embodied in the multilateral trade agreement.

On the positive side, these agreements will be of great benefit to our Nation and my home State. We, in Utah, are proud of our growing export community. Nearly 1 out of 10 manufacturing jobs in Utah are dependent on the export of manufactured goods.

Mr. President, we must take full advantage of the potential benefits of this agreement. We must formulate and implement policies which will encourage our private sector to find profit in exportation. There is no other way we can eliminate our trade deficits. There is no other way we can strengthen our dollar.

I ask unanimous consent to have printed in the Record a report prepared by the Office of the Special Representative of Trade Negotiations about the benefits of the trade benefits to my great State of Utah.

There being no objection, the report was ordered to be printed in the Record, as follows:

Utah—Benefits of the MTN

Utah's economic base is primarily industrially oriented. In 1976 approximately 67,000 persons were employed in manufacturing industries in Utah, about one-fifth of total employment in the state. Shipments from these industries in 1976 were over $4.5 billion. Steel and aerospace products were by far the largest.

Agricultural sales in 1976 were approximately $3.6 billion. The principal products were cattle and dairy products.

UTAH'S EXPORT INDUSTRIES

Utah's exports of manufactured goods totaled $224 million in 1976, 77 percent above the 1972 level. An estimated 3,700 jobs in Utah were directly related to producing manufactured exports. About 3,200 additional jobs were required to produce materials and parts for incorporation in products exported from other states. Thus about 1 out of every 10 manufacturing jobs in Utah were dependent on exports of manufactured goods.

Utah's share of U.S. agricultural exports totaled $55 million in FY 1977, almost three times the FY 1972 value. In Utah's farm sales, $1 out of every $6 came from exports.

SPECIFIC INDUSTRY RESULTS

The results of the MTN with respect to specific industries of Utah are summarized below.

ELECTRONICS AND COMMUNICATIONS EQUIPMENT

The U.S. obtained important tariff concessions from Japan, our principal competitor in electronics, which in key areas will provide roughly equivalent tariffs in the U.S. and Japan (including equal tariffs on highly competitive semiconductors). In the important communications equipment field the U.S. achieved a balanced outcome by withholding any significant concessions on tariffs or government procurement until other governments are willing to do likewise. The standards code will be a big plus for the electronics sector. In fact, work on this code was begun as a result of problems encountered by U.S. electronic firms exporting to Europe. The subsidies code is also of great potential interest to this industry because of foreign government efforts to develop high technology industries.

AIRCRAFT AND PARTS

Utah will be a beneficiary of the Aircraft Agreement, which will totally eliminate tariffs on aircraft in major foreign markets and will subject foreign government purchasing and subsidy practices in this sector to new disciplines. The world aircraft market should experience rapid growth in the coming years and the Aircraft Agreement, along with the subsidies code, should ensure the U.S. producers will have a fair chance to compete.

FABRICATED STRUCTURAL METAL PRODUCTS

Structural metal producers should benefit from the subsidies code and improved domestic procedures to deal with foreign unfair trade practices. Significant tariff cuts by the EC, Canada, and Japan should help exporters. Exclusion of key U.S. construction agencies from the government procurement code should minimize any loss of U.S. Government business.

CONSTRUCTION AND RELATED MACHINERY

This large export industry stands to gain substantially from improved access to both developed country and developing country markets. Significant tariff reductions by the EC and Japan and liberalization of Canada's machinery program and "made in Canada" provisions are of considerable value. Canada reduced tariffs on nearly $800 million of U.S. exports of construction machinery. The EC cut tariffs 35 percent on nearly $500 million of imports from the U.S. Japan made a similar tariff reduction on nearly $100 million of imports from the U.S. Improved access to major developing country markets as a result of tariff reductions also is important. The valuation, standards, procurement, and licensing codes will all benefit U.S. exporters of this type of equipment.

MOTOR VEHICLES AND EQUIPMENT

The tariff negotiations will provide benefits with very little cost to the motor vehicles and body industry in Utah. Japan and some other developed countries, like Switzerland and Norway, have made significant cuts in their tariffs on trucks, buses, and cars. Japan reduced auto tariffs 61 percent to an average rate of less than three percent. On the other hand, U.S. tariff cuts on trucks and autos were minimal—less than 20 percent on the average so that U.S. and Japan average tariff rates will be nearly equal. In the area of non-tariff measures, benefits will be more substantial. The standards code provides an especially important mechanism for dealing with standards that have been a significant and growing barrier to international trade in motor vehicles, while the code's prohibition of discrimination against imported products in certification and testing should prove particularly helpful to vehicle exporters. The customs valuation and government procurement codes should help reduce the valuation problems in exporting and improve opportunities for producers to bid on government procurement contracts overseas.

STEEL

To deal with recurring cyclical problems in the steel industry, the U.S. and its major trading partners established an international steel committee as part of the Organization for Economic Cooperation and Development. The Committee will create an improved environment for the U.S. to act when conditions warrant and to influence other governments to act constructively. Steel producers should be primary beneficiaries from improved international disciplines under the subsidy code and more effective domestic procedures to deal with harmful unfair foreign trade practices that the industry has been concerned with for years. U.S. steel tariffs were cut less than average (26 percent overall) because of the import sensitivities in this area and cuts were deferred until 1982 in light of the current world overcapacity problem. Most steel tariffs were also converted to percentage terms to stop erosion of tariff protection due to inflation.

AGRICULTURE

The MTN will result in new export opportunities for American agriculture through the reduction of foreign barriers to trade and improvement in the rules governing trade in agricultural products. The benefits of this agreement go beyond the farm sector alone. Agriculture and its related enterprises—transportation, processing, distribution, retailing, and exporting—generate one-fifth of all of the jobs in the nation. Agriculture is the nation's biggest industry, and its growth over the last ten years has been based largely on exports.

As a result of these negotiations foreign countries will reduce barriers which affected almost $4 billion in 1976 trade, representing almost one-fourth of U.S. farm exports subject to foreign barriers. These concessions which cover some 450 different products are expected to increase U.S. agricultural exports by at least $500 million annually. Potentially even more important for the long term is negotiation of international codes of conduct in trade. These codes will establish clear guidelines and new disciplines on the use of practices such as product standards, import licensing, export subsidies, and other practices that lead to unfair competition in world markets. This should help create a positive climate for further growth in U.S. farm exports, which topped $30 billion in 1979.

Concessions gained in agricultural commodity sectors of particular importance to the State of Utah are listed below.

LIVESTOCK AND MEATS

The United States considered liberalization of world markets for high-quality beef one of its highest priorities in the Tokyo Round of Multilateral Trade Negotiations. As a result, significant trade liberalization was achieved in this sector. Japan agreed to increase its annual import quota for U.S. high-quality beef from 6,800 MT in 1977 to 30,800 MT by 1983. The European Community granted the United States an annual quota for high-quality beef of 10,000 MT. In the past the United States has been denied access for its high-quality beef into the EC. Austria agreed to grant the United States a quota of 300 MT for high-quality beef with the annual quota to increase to 600 MT in eight years. Switzerland granted the United States a 1,000 MT quota for high-quality beef with an additional international quota for high-quality beef of 1,000 MT which the United States will have an opportunity to supply. Concessions on beef were also received from Taiwan, Canada and the Philippines. Collectively, these concessions will likely result in U.S. beef export increasing by over $200 million annually by 1983.

Significant tariff reductions on variety meats were obtained from the EC and Japan. Japanese reductions include duty cuts for seven categories; the EC reduced duties on 12 variety meat categories; the value of these reductions is estimated at $9.8 million.

Japan agreed to reduce their duty on pork imports to 5 percent during periods in which there is no variable levy imposed on pork imports.

FEED GRAINS

Concessions on feed grains in developing countries will increase U.S. sales abroad by an estimated $26 million.

Peru and Ecuador have agreed to liberalize procedures for the licensing of imports of grain for feed. The value of these concessions is estimated to be $3.1 million trade in Peru and $7.5 million in trade to Ecuador.

Taiwan will equalize the sorghum and corn tariffs, increasing sorghum grain exports to $6 million.

DAIRY PRODUCTS

In the MTN the strong interest of dairy producers and consumers were balanced.

The United States will increase its overall quota levels for imported cheese by about 14 percent, while at the same time putting a greater proportion of imports under quantitative limitation. In 1978, about half of all cheese imports were under quota. Once the newly negotiated agreement goes into effect, approximately 85 percent of total cheese imports will be under quota, assuming that the quotas are completely filled. Cheese remaining outside quota will be limited to such specialty items as Stilton from England, Roquefort from France, sheep and goat's milk cheeses, and soft-cured cheese in retail packaging such as Brie and Camembert. The new import system will incorporate under quota the current price-break system, which permitted unlimited imports of certain high-priced cheeses.

Cheese imports in 1977 totalled 95,015 metric tons (MT), in 1978 109,878 MT, and are expected to continue to rise throughout 1979 because of strong demand and rising meat prices. Under the new quota system, imports in 1980 and beyond are estimated at about 111,000 MT quota cheese and about 14,000 MT of nonquota cheese. For the next few years, cheese imports as a percentage of total U.S. consumption will therefore remain close to their average of the last several years (6.2 to 6.3 percent).

Mr. MATSUNAGA. Mr. President, the multilateral trade negotiations mark a milestone in the history of international trade. The United States will greatly benefit from the provisions of the codes resulting from the negotiations. As a member of the Finance Committee and cosponsor of the bill, I wholeheartedly support the codes and encourage my colleagues to join me in guiding the United States into a new era of international trade relations.

Ambassador Robert Strauss and his deputies, Ambasssadors Alan Wolff and Alonzo McDonald deserve highest commendation for the superb manner in which they represented the United States, and the invaluable contributions they made to our country in negotiating these codes. Their deft handling of sensitive import and export problems has resulted in a package which commands near-universal support in this country—a rare accomplishment, indeed.

This achievement marks the first time that agreements have been concluded which deal with a broad range of nontariff obstacles to trade, such as export subsidies, Government purchasing requirements, import quotas, licensing procedures, product standard setting, and customs valuation methods. A mechanism is also established which will enable U.S. firms to contest unfair trade practices of our trading partners. Coupled with the significant tariff reductions agreed to by the United States and several other countries, most notably Japan, the multilateral trade negotiations will result in a great expansion of U.S. trade and an unprecedented freedom of international trade.

The agreements are not perfect, but overall they accomplish far more than anyone expected a few years ago. They receive the almost unanimous support of all sectors of the American economy. While individual codes may not go as far as some might wish they form a solid base to facilitate world trade. The agreements give us the tools to build a fair and open international trading system, to remove obstacles which prevent American products from penetrating foreign markets, and to improve our international trading position. With these important implements, we shall be able to increase the U.S. world market and to modernize the international trading system for the benefit of all.

The benefits of these agreements to the United States are many. American firms will have the opportunity to compete on a nondiscriminatory basis for lucrative foreign government procurements contracts, opening a $30 billion market. They will enjoy a stronger competitive position through international rules limiting Government export subsidies. New procedures will minimize the effect of discriminatory health, safety, and technical standards. Foreign industrial tariffs will be reduced an average of 30 percent. And businesses will achieve greater access to foreign markets for farm products from reduced agricultural tariffs and increased quotas. In fact, if the provisions of the subsidy and other trading codes are aggressively and effectively implemented, the net annual gains for U.S. agriculture are estimated at $356 million.

The codes will also set up important administrative and judicial procedures by which the United States can take quick, meaningful action against the effect of foreign discriminatory practices on our domestic and export markets. Overall, U.S. rights will be better protected by the codes.

The most important of the codes is the custom valuation agreement, which, unlike most of the provisions which deal with specific industry segments, will apply to the vast majority of all transactions in dutiable goods. The establishment of uniform and less arbitrary customs valuation systems will result in greater certainty in exporting by prohibiting customs practices which prevent our products from entering foreign markets at fair prices. Day-to-day trade will be greatly facilitated by this code.

A particularly pleasing facet of the implementing legislation to me is that it does not stop with the passage of this bill. The prospective provisions of the legislation and of the agreements grant the President the authority to continue the system of private sector committee to advise the Government on trade policy, and instruct the administration to submit promptly a separate proposal to centralize the Government's trade functions. Through this aspect of the legislation, trade policy and relations will continue to progress as we enjoy the benefits of ever-improving trade conditions and international relations.

In conclusion, Mr. President, this legislation is as important to our national well-being as any we will consider in this session. Our Nation's economy will be significantly boosted by this unprecedented reform of the international trading system, which provides a single language and a single set of rules to govern world trade.

Our country needs the benefits which will flow from the multilateral trade negotiations, Mr. President. Failure to pass this implementing legislation would surely result in a far more serious disruption of world trade than that which we are witnessing today. I call on all of my colleagues to join me in putting the United States on a new road to increased trade and international understanding.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. ROTH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER (Mr. DECONCINI). Have all Senators voted?

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—90

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—4

Hatch
Melcher
Nelson
Proxmire

NOT VOTING—6

Baucus
Gravel
Inouye
Laxalt
Pressler
Stennis

So the bill (H.R. 4537) was passed.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the trade agreements which have been reached under the Tokyo round of the multilateral trade negotiations represent one of the most important economic matters—if not the most important economic matter—which will come before the 96th Congress. They will set the course for international economic relations for years to come, and I believe that the bill implementing them is deserving of our support.

The agreements reached in Geneva have as their aim the establishment of new international rules to insure that trade between nations proceeds fairly and equitably. They seek to reduce some of the many barriers that governments have erected against trade.

Tariff reductions agreed to are to be phased in over a period of 8 to 10 years. The agreements specifically reduce U.S. tariff rates an average of one-third. The tariff cuts average about one-quarter for the Common Market countries, and about one-half for Japan, which started with much higher tariffs than the others.

Most importantly, the agreements reduce the NTB's, or nontariff barriers, that governments have erected against trade. Codes on nontariff barriers which were agreed to seek, among other things, to:

Reform arbitrary practices in customs valuation, which have been used to keep out foreign products;

Open to competitive international bidding more of the market for supplying goods to governments; and

Eliminate the use of Government subsidies to encourage exports of manufactured goods.

The implementing bill for the agreement will shorten the time in which the executive branch must act to protect domestic industries from foreign dumping of products in U.S. markets. The often lengthy proceedings have understandably been a bone of contention with business and labor groups, and the new procedures devised should go a long way to resolving this difficult problem.

In addition, the implementing bill requires the President to report to Congress within 2 years after implementation on the effectiveness of the MTN in opening up foreign markets to U.S. products.

All of these provisions should be of distinct help to American exporters and, thereby, American workers and business.

Many American jobs and much of our production depend on exports. Indeed, it is estimated that one out of every nine American workers employed in manufacturing industries produces goods for export, and $1 out of every $4 of farms sales represents exports.

The State of West Virginia illustrates well these points. Some 3.8 percent of the State's manufacturing jobs depend directly on exports, and some 6.5 percent of the State's manufacturing jobs indirectly depend on exports. In other words, about 1 out of every 10 manufacturing jobs in the State of West Virginia is tied to export markets.

The agreements should also aid our Nation in its No. 1 economic objective—stemming inflation. Through the direct effect of lower tariffs on prices and through numerous indirect effects, including smaller price increases for domestic products competing with imports, inflation should be reduced over the long term.

The broad-based support for the agreements which is in evidence derives in large part from earlier labors by the Congress. First, the 1974 Trade Act passed by Congress established the mandate for U.S. participation in the MTN. Second, it provided for congressional oversight of the negotiations themselves.

Specifically, the Trade Act authorized the President to:

Negotiate reductions of duties above 5 percent by a maximum of 60 percent and complete elimination of existing duties of 5 percent or less;

Enter agreements for the reduction, elimination, or harmonization of nontariff barriers, provided that implementing legislation is approved by both Houses of Congress;

Seek agreements to insure fair and equitable access, at reasonable prices, to supplies important to the U.S. economy;

Negotiate improvements in certain areas, including the development of a code of conduct on export subsidies; and

Implement a generalized system of tariff preferences for the benefit of developing countries.

Accomplishing these objectives set out in the Trade Act has been the responsibility of our distinguished Special Representative for Trade Negotiations, Ambassador Robert Strauss. He has labored long and hard to achieve them. His efforts will help to insure that we are able in future years to expand U.S. industrial and agricultural exports.

Mr. President, the MTN agreements negotiated under the Tokyo round are the antithesis of the "beggar-thy-neighbor" or protectionist policy of high tariffs that was followed in the 1930's and that helped propel the entire world economic system into an economic tailspin.

The MTN agreements should serve well our domestic economy—especially if we work to insure that other countries are following the new rules of international trade established under them. And the MTN agreements should serve well the world economy by reinforcing the economic basis for stable political relations among industrial countries, and by contributing to improved relations between industrial and developing countries.

On trade matters the stakes are high for the United States and other countries, and the implementing legislation is deserving of our support. The chairman of the International Trade Subcommittee of the Finance Committee, Mr. Ribicoff, the ranking minority member (Mr. Roth) many other Senators who have devoted long years of work to this important area of our economic life are to be commended for their contributions.

Mr. President, I yield to the Senator from Vermont.

NOTICE OF MEETING OF U.S. GROUP,
INTERPARLIAMENTARY UNION

Mr. STAFFORD. Mr. President, this will serve to advise Members of the Senate of a meeting of the U.S. group, Interparliamentary Union, on Wednesday, July 25, at 3 p.m., in the Capitol, room H-236. I make this announcement for Senator Williams and myself.

One of the purposes of this meeting is to discuss arrangements for the fall conference to be held in Caracas September 13–21.

Would Senators please advise Mrs. Mary McLaughlin, on extension 4-7953 or 4-4615, whether or not they plan to attend?

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I merely take the floor to remind Senators that the Senate will now resume consideration of the food stamp bill. There will be other rollcall votes today and the Senate hopes and expects to complete action on that bill today, even if it goes beyond 6:30 p.m.

INCREASED AUTHORIZATION FOR 1979 FOOD STAMP PROGRAM

The PRESIDING OFFICER. The Senate will now proceed with the pending business, S. 1309, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I rise in support of the Magnuson-McGovern substitute to S. 1309 as reported by the Senate Committee on Agriculture, Nutrition, and Forestry to amend the Food Stamp Act.

This legislation comes before the Senate today to meet two emergency conditions: First, food price inflation and a large number of new program participants have brought funding needs above the 1979 spending ceiling set in 1977; and, second, prior changes in eligibility and benefit provisions relating to excess shelter expense and medical expense deductions have brought substantial hardship to elderly and handicapped recipients.

The Food Stamp Act of 1977, which imposed spending ceilings on the food stamp program through fiscal 1981 and brought about these changes in eligibility requirements, did not anticipate the adverse economic conditions affecting both the price of food and fuel. At the time that law was enacted, the Congressional Budget Office projected a rise in food prices at between 3 and 4 percent per year. The reality is, however, that those prices may rise at least 22 percent in the 2 years since passage of the bill.

That law also did not foresee the substantial increases in the price of oil that have been imposed during the course of this year by the Organization of Petroleum Exporting Countries. Prices for home heating oil rose 25 percent in 1978 compared to the year before, and price estimates for this winter range upward from 80 cents per gallon.

In my State, this will mean substantial hardship, particularly for those most in need who are already having a difficult time making ends meet.

The increase in the trigger point for the excess shelter expense deduction, combined with the elimination of the separate medical expense deduction, enacted in the 1977 food stamp law, have been especially burdensome for those households participating in the food stamp program that contain an elderly or disabled person. Their shelter and medical expenses often consume the greater part of their small, fixed incomes. Reducing the level of food stamp benefits will force them to make an untenable choice between food and shelter and medical care.

Mr. President, as provisions of the Food Stamp Act of 1977 have been implemented during the course of this year, I have received a steady flow of complaints from the citizens in my State. In fact, my office has received literally hundreds of calls and letters from needy individuals and families in Maine who found this year's benefit reductions exasperating at a time when food and fuel costs are spiraling steadily upward.

If we do not pass this legislation today to increase the spending ceiling for the program, these people will be doubly hurt. The Department of Agriculture testified to the effect that lack of additional program funds will mean either a reduction in benefits by one-half in August and September, or a total shutdown of the program in September.

The amendment in the nature of a substitute which Senators Magnuson, McGovern, and Dole are sponsoring incorporates the provisions of the committee bill, S. 1309, lifting the fiscal 1979 spending cap and liberalizing the shelter and medical deductions for the aged and disabled; it includes four Helms amendments, three of which are similar to proposals made by the President, aimed at improving program administration and rooting out fraud and abuse; it extends benefits to handicapped persons living in community living centers; and finally, it would remove the spending ceiling for fiscal years 1980 and 1981.

I support this amendment. I believe it contains responsible provisions to enable the program to respond quickly to changing economic conditions while at the same time maintaining existing eligibility requirements and encouraging sound program management.

Passage of this amendment, Mr. President, is vital to alleviate hardship among the participants in the food stamp program, and I urge my colleagues in the Senate to support it.

I thank the Chair for recognizing me.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to make a few comments and engage the distinguished floor manager in a short colloquy regarding an amendment. Could I inquire as to whether or not the floor manager will return to the floor shortly?

The PRESIDING OFFICER. The Chair observes the floor manager is not on the floor at this moment.

Mr. BUMPERS. Mr. President, I will go ahead and express my concern.

I had originally intended to offer an amendment to this bill, but in deference to the floor managers, who wanted to keep the bill as clean as possible in an effort to get it out and passed by August 1, I am not going to offer the amendment.

Not long ago, the Senate passed a resolution, Senate Resolution 90, which called on the Department of Agriculture to do a study of the National School Lunch Act and the child nutrition program of 1966 and report back to the Congress by the end of January 1980, about how well these programs were working.

There are 11 items specifically mentioned that the Department of Agriculture has been asked to report to the Senate on.

I hope that this report will take care of my concern. Let me preface my specific concern, by saying that, No. 1, the school breakfast program in my State, so far as I know, is working relatively well. We have 416 breakfast programs in 181 school districts; 48 percent of our school districts participate. The average daily number of participants is 41,736 children.

In each school breakfast, the Department of Agriculture mandates that there be three items given to the child. There must be a half pint of fluid milk as a beverage or over cereal. No. 2, there must be a half cup of fruit, or vegetable, or full strength juice. No. 3, a bread, or bread equivalent, rolls, cereals, biscuits, et cetera.

The problem I have did not come to me from my State. It came from a lunchroom manager in another State. She pointed out that approximately 50 percent of the food being given to the children in the breakfast program was winding up in the garbage cans after breakfast. The reason for this waste is that USDA requires that each child who goes through that breakfast line take all three items, in order for the school district to participate in the program.

They cannot just take the juice, or juice and bread, or the cereal and something else. They must take all three items; otherwise USDA will not reimburse that school district for the cost of that breakfast.

I understand, Mr. President, that it would be much more nutritious for those children if they took and consumed all three items. But the truth of the matter is that the whim or caprice of the child will dictate what he or she drinks or eats, not USDA. They will not be able to force it down them and make them consume it.

It occurs to me that there is considerable room for waste in this program. Simply because we have USDA trying to force the child to do something they may not want to do; and there is no way to force them to do it.

Senate Resolution 90, which was passed here a few months ago, instructed the Department of Agriculture, among other things, item 4, "Determine the effect of program participation by income category on the participant's nutrient intake and health."

That is just peripherally what I am talking about.

I would like to inquire of the floor manager as to whether or not he envisions the Department of Agriculture also analyzing in this study how much waste there is in the breakfast program as a result of the mandate by the Department of Agriculture that children take everything that is offered to them.

Mr. McGOVERN. Let me say to the Senator from Arkansas that I think his concerns are well placed as to the breakfast program.

I want to give him all the assurance I can that the Department will follow up on the kind of study he would like to see made.

We have checked with the Department since the Senator discussed this matter with me. Senate Resolution 90, which was agreed to approximately 30 days ago, does provide the kind of request to the Department that will accomplish what the Senator is interested in.

I think it is especially pertinent to point out that the legislative history we are making here today reinforces that Senate resolution.

I think it is wise the Senator brought this up and made it part of the RECORD here this afternoon. I will give the Senator my personal assurance as the subcommittee chairman with oversight on this program, that we will make certain that the Department includes in the study that they now have underway those concerns about the program the Senator mentioned here this afternoon.

Mr. BUMPERS. I thank the Senator very much.

I feel sure that after this colloquy between us here on the floor, that the USDA, will, indeed, respond.

I do not know what the total cost of the program is, but if we translate the 50-percent waste in the program approved today across the Nation, that translates into a tremendous saving we might effect.

As I say, it would be highly desirable to know that all of those children are, indeed, going to get and consume all three food components. It is designed to be a well-balanced breakfast, and I am sure it is. But in the real world they will not always consume those items.

It occurs to me that they can make some determination, with a great deal of precision, as to how much of the breakfast is going into the garbage can. I hope they will also tell us which of those items are most likely to be consumed.

I appreciate the Senator's cooperation on this matter.

As always, he is very magnanimous and generous in things like this.

I hope the report can come back with something we can look at seriously.

Mr. McGOVERN. I thank the Senator. I think this has been a helpful effort.

UP AMENDMENT NO. 442

(Purpose: To deny food stamps to households where head of such household is engaged in a labor strike)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Messrs. HELMS, McCLURE, HOLLINGS, HAYAKAWA, DOLE, TOWER, HUMPHREY, and WALLOP, propose an unprinted amendment numbered 442:

Following section 10 of the McGOVERN-DOLE substitute amendment No. 362, insert the following new section:

DENIAL OF FOOD STAMPS TO HOUSEHOLDS ENGAGED IN LABOR STRIKES

SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection as follows:

"(i) Notwithstanding any other provision of this Act, no household shall be eligible to participate in the food stamp program if the head of the household is on strike against his employer as the result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer. The provisions of this subsection shall not apply in any case in which the head of a household is not working because of an employer lockout. As used in this subsection the term 'head of the household' means the member of any household who provides over one-half of the support for the household.".

Renumber "SEC. 11" as "SEC. 12".

Mr. THURMOND. Mr. President, the amendment I am now offering would deny food stamps to households whose head voluntarily engages in a labor strike.

Earlier this year, I introduced legislation, S. 84, which would amend the Food Stamp Act of 1977 to prohibit striking workers from receiving food stamps. This bill was referred to the Senate Committee on Agriculture, Nutrition, and Forestry, but unfortunately has not been reported to the full Senate.

Mr. President, I do not believe that a majority of our people are aware that striking workers can receive food stamps. When our taxpayers realize that fact, they are outraged because their tax dollars are being used to intervene in a labor dispute.

A strike is a tactic used by one side in a labor dispute. Those going on strike do so in the belief that it will strengthen their position at the negotiating table. By going on strike, they take the risk of loss of salary and other benefits which they receive while they are working. If the Federal Government provides food stamps to these people who voluntarily walk off their jobs, it injects itself into the dispute on the side of the union bosses. This is not fair. It is not fair to the other side of the bargaining table, and, most of all, it is not fair to the American taxpayer who must bear the cost of the food stamp program.

A Wharton School of Finance study has documented the massive use of food stamps by strikers in major steel, electrical, automotive, and other strikes in 1969–71 at a cost to the public at that time of $240 million. A General Motors strike in 1970 resulted in about half of the 170,000 strikers receiving food stamps, with the cost to the Federal Government and the State of Michigan between $10.7 million and $14.3 million.

The coal strike of the winter of 1977–78 is one of the most recent evidences that this amendment is needed. Nationwide, $39 million worth of food stamps went to striking coal miners over the 3-month duration of the strike. Finally, the situation became so serious that the President invoked the Taft-Hartley Act. Yet, food stamps still went to the strikers.

Mr. President, there has been much discussion in recent years of the need for "welfare reform." When this subject is debated, the findings and recommendations of Dr. Martin Anderson, in his book entitled, "Welfare, The Political Economy of Welfare Reform in the United States," are often cited. I would like to quote a paragraph from page 163 of Dr. Anderson's treatise. He says:

> Point Four: Remove inappropriate beneficiaries from the welfare rolls. There are certain categories of welfare recipients whose eligibility, while legal, is questionable. With the needy-only principle as a guideline the welfare rolls should be examined carefully and the regulations changed to exclude any groups who fail to qualify. Two prime candidates for disqualification would be workers who strike and then apply for welfare benefits claiming loss of income, and college students who queue up for food stamps.

While Dr. Anderson has reference to welfare, the same principle is surely applicable to food stamps. Strikers should not be entitled to any form of taxpayer subsidy that aids their side in a collective bargaining situation.

Mr. President, I think it is most interesting to point out that when President Carter first sent to Congress his recommendations for welfare reform, he included a proposal to substitute cash assistance in lieu of food stamps. Labor leaders objected, however, to "cashing out" food stamps for all present food stamp recipients. They were obviously concerned that the taxpayers would never stand for giving cash to strikers. To accommodate their concerns, the President redrafted his proposals. Well, Mr. President, what is the difference? Whether the public assistance comes in the form of food stamps or cash, the same principle is violated. Either is simply bad public policy.

The time has come to reevaluate our priorities in regard to the food stamp program. Food stamps to strikers only result in more and longer strikes with consequently greater damage to the economy. The Federal Government should not feed those who voluntarily refuse to work. That is the responsibility of the striking union.

Mr. President, the USDA has stated that in the fourth quarter of fiscal year 1978, the average monthly food stamp participation rate decreased in the State of West Virginia by 21.3 percent, while the participation rate for the mid-Atlantic region decreased 2.8 percent. The USDA lists settlement of the coal strike as the reason for the 44,500 participant decrease.

A similar decrease occurred in Kentucky. The participation rate decreased 7.7 percent while the participation rate for the Southeast decreased 3.1 percent—a decrease of 27,082. USDA lists settlement of the coal strike as the reason for the large decrease.

Finally, Mr. President, I reiterate that strikers are different from other food stamp recipients and should be treated accordingly because:

First, ample notice is usually given when negotiations are impending which might lead to a strike, and a person of even ordinary prudence should be able to anticipate that income stops during a strike;

Second, the need of strikers is only temporary, lasting only as long as the strike itself; and

Third, this is most important, the striker creates his own need for food stamps by electing to go on strike.

I urge my colleagues to support this amendment.

Mr. President, I ask for the yeas and nays on this amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **HELMS**. Mr. President, will the Senator yield?

Mr. **THURMOND**. I am pleased to yield to the distinguished Senator from North Carolina.

Mr. **HELMS**. I thank the distinguished Senator from South Carolina.

Mr. President, I commend the Senator for this version of the amendment to prohibit food stamps to strikers. As the Senator knows, he and I have worked together closely for the past 6 years in this connection to eliminate what seems to me and other people in this country to be a perfect outrage.

I do not know how it is in the States of other Senators, but in North Carolina there is near unanimity on the question now before the Senate. The people of my State simply do not understand why workers who deliberately walk off their jobs should be entitled to food stamps and other welfare benefits. The citizens of my State would not avail themselves of that kind of opportunity.

The point the Senator from South Carolina has made is exactly right. By providing food stamps for strikers, it automatically involves the Federal Government in one side of a labor dispute. If there is anything the Federal Government should stay out of it is a labor dispute; and it should let the dispute be settled on the issues and not be subsidized by the taxpayers' money.

Mr. President, by prohibiting the distribution of food stamps to individuals eligible for food stamps only because the head of the household is on strike, this amendment will serve to correct a basic inequity in the laws: Unnecessary Federal intervention in labor disputes.

The food stamp program was established in 1964 to help provide an adequate diet for those Americans whose incomes are below the poverty level due to their inability to work. It has done a great deal for needy Americans, and I support its operation on behalf of the truly needy of our society—but only the truly needy who are unable to support themselves.

Congress included a work requirement in the Food Stamp Act which makes it plain that the congressional intent in designing the food stamp program was that it should not benefit those who refuse to work.

Congress has failed, however, specifically to prohibit employed workers, who qualify for the program only because of their participation in a strike, from receiving benefits under the program. The interests of the American consumer and taxpayer, and the maintenance of our system of free collective bargaining demand that such a prohibition be established.

Free collective bargaining has been chosen by Congress as the system of labor-management negotiation best able to promote economic stability and avoid industrial strife. This system protects the rights and interests of workers, companies, and consumers. The imperative fundamental premise of free collective bargaining is absolute Government neutrality in the labor-management contest. While the Government acts to oversee and referee the process, the results of the contest are determined by the independent bargaining strengths of the parties.

Public assistance to either side in a labor dispute violates the concept of free collective bargaining and violates the rights of the opposing party. Public assistance in the form of the distribution of food stamps to strikers' households has the undeniable effect of giving a distinct economic advantage to the union in the collective bargaining contest.

The duration of strikes has increased significantly since the advent of welfare payments to strikers. To continue to make these payments will only fuel this trend, thus bringing more pressures on our already troubled economy and further undermining the principles of free collective bargaining which is so vital to the American free enterprise system.

In this era of perilous inflation, constantly rising taxes, and public discontent with the state of the economy, we should be particularly sensitive to the needs of the working American, who is both taxpayer and consumer. I believe we should respond to any opportunity to lighten the burdens of inflation and taxes and especially when this can be done without hardship to any legitimate recipient of government services. Due to the average annual income of most union members and the strike benefits available from union funds, few strikers can plead that they are subjected to hardship through no fault of their own simply because they are denied food stamps to which they are not entitled.

The granting of welfare benefits to strikers deals a double blow to the taxpayer-consumer. Food stamp benefits allow workers to prolong strikes and drive up the costs of production, which are ultimately passed on to the consumer. Our current inflation has been made worse by subsidized, lengthy strikes, and the abnormally high settlements and decreased production of goods and services. By using tax dollars to subsidize strikers, the Government is increasing the consumer's tax burden while using his money to drive up the cost of the very goods and services he must buy.

Now is the time to break the vicious circle which penalizes every American taxpayer and consumer. By prohibiting the distribution of food stamps to strikers, Congress can reduce the cost of the program to the taxpayer and reduce the rate of inflation.

Mr. THURMOND. I thank the Senator.

Mr. President, I believe the amendment shows the cosponsors, but for the record I state that this amendment is cosponsored by the following distinguished Senators: The Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. McCLURE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. TOWER), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Wyoming (Mr. WALLOP).

Mr. DOLE. Mr. President, will the Senator yield?

Mr. THURMOND. I yield to the able Senator from Kansas.

Mr. DOLE. Mr. President, the amendment offered by the Senator from South Carolina (Mr. THURMOND) to the pending food stamp legislation would make strikers ineligible to receive food stamp benefits. This is a matter which has been debated by the Congress in previous years, and is one which I think still merits our attention.

Mr. President, it goes without saying that I am a strong supporter of the food stamp program—in fact, too strong, in the eyes of some of my colleagues.

One of my concerns is that we should help those people who cannot work. The strikers' situation referred to here is contradictory to reasons why I support the food stamp program.

We introduce welfare programs, and we talk about workfare provisions. In fact, most people are not eligible unless they are willing to work. If you should strike, however, you are still eligible for food stamps.

As the Senator from North Carolina pointed out, this interferes with the collective-bargaining process, and may subsidize one side in a labor dispute. I am for collective bargaining and think it should be allowed to work. But I worry that this provision may give one side some advantage.

I understand that we are not talking about a great deal of money—less than 1 percent of the caseload. But, it still adds up to $30 to $40 million, which is a lot of money.

It seems to me that our effort today is more than symbolic. This is an important amendment, and I commend the distinguished Senator from South Carolina for offering it. I am pleased to join him as a cosponsor.

One of the reasons I have been such a strong supporter of the food stamp program is that Congress has earnestly tried to target benefits just to those persons who legitimately deserve some assistance. There are provisions in the act which prohibit persons from giving up jobs in order to qualify for food stamps. There are provisions which mandate that unemployed recipients must search for work. There are provisions which call for pilot projects to explore the feasibility of a workfare requirement, where all persons receiving benefits must accept employment to earn their benefits. It is obvious to me that the Congress is serious in its efforts to encourage recipients to work.

Given this fact, it seems inconsistent that we allow strikers to receive benefits. Strikers have a choice of working or not working, and they choose not to work. Most other recipients of food stamps do not have the luxury of deciding whether or not they should work. If they did, they would be declared ineligible recipients since they would not meet the work requirements.

It is hard for me to justify a policy which allows strikers to receive food stamps. I realize that less than 1 percent of the food stamp caseload is comprised of strikers, but this still means that several thousand strikers are receiving benefits, for when there are 18 million persons on food stamps, 1 percent of the caseload represents 180,000 individuals. The Department of Agriculture estimates that three-tenths of one percent of all households contain a striker. If strikers were deemed ineligible, the Department estimates a savings of $30 to $40 million in fiscal year 1980. It also reports that because the striker has no income, his household allotment is higher than the average household benefit.

In addition to the basic inequity that occurs when strikers are allowed benefits, I think we should also remind ourselves that we are here today because of problems stemming from insufficient funding for the program. Money is tight, and because of the cap there has simply not been enough money to give benefits to persons covered under the program.

I have continuously supported efforts to raise or lift the cap because I believe that we have an obligation to deliver the benefits we have promised the public. At the same time, I have argued that if we want to cut down the costs of the program, we should make programmatic changes which would target benefits directly to the most needy. I do not feel that strikers constitute the most needy recipients, and in an effort to hold down costs, I support this amendment eliminating benefits to this group of persons.

If the past record is any indication, there will be opposition to the amendment. But I think that we should all be looking for ways in which to reduce the spending in this area. My view is that it makes the most sense to cut benefits to those who have an opportunity to work, rather than to cut benefits to the elderly, the disabled, or other persons in dire need of assistance.

I urge my colleagues to give favorable consideration to this amendment.

Mr. McGOVERN. Mr. President, first of all, while the Senator from Kansas is in the Chamber, I agree with him that he has been a very strong supporter of the food stamp program, and I know sometimes it has been at some political cost to himself.

So I take advantage of this opportunity to commend him for standing up for the program and recognizing the merits that this program has. Over the years, it has been a privilege to work with him in trying to strengthen the program.

But I have to say, in all due respect about the present amendment offered by the Senator from South Carolina, that I do not think it strengthens the program. Quite the contrary, it deprives a certain category of Americans of rights that are available to all other citizens.

Let me make clear that going on strike does not qualify anyone for food stamps. They have to meet the same requirements that everyone else does, whether they are on strike or whether they are not.

There is nothing about being on strike that is going to qualify a single person for any benefit that he does not have when he is not on strike.

I make another point that strikers are being treated as though they are not taxpayers. We have had several phrases, several repetitions here this afternoon about the taxpayers being tired of paying for things for strikers. Well, strikers just happen to be taxpayers just the same as the rest of us and over the years their taxes have made possible the food stamp program and all these other social programs.

Most of these people, if they do go on strike, have long periods of time when they are working and having taxes withheld from their weekly or monthly checks that go to pay the cost of these social programs.

So we do not talk about strikers against taxpayers. They are one and the same.

If one wanted to achieve some purpose here today of punishing only those who are on strike, even this is not achieved by this amendment. You are not only eliminating the striker by this amendment, but you are eliminating all the children in that family. The amendment eliminates the household that includes a striker. That is the way the food stamp program works. It deals with the households so that even those Senators who wanted to manifest some kind of anti-strike bias here would be unfairly discriminating against the children in that family who have had nothing to do with the decision whether there is a strike or whether——

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. THURMOND. The amendment does not pertain to those households who are on food stamps prior to engaging in a strike. In other words, if they were on food stamps already, this amendment will not take them off.

Mr. McGOVERN. That is correct.

Mr. THURMOND. So I think the point the Senator made would be in error.

Mr. McGOVERN. But it does take the household off. According to the way this amendment reads, if there is a striker in that household the whole family goes off.

Now, beyond this the amendment applies, and here again I am taking——

Mr. THURMOND. Mr. President, not if the household was eligible for stamps.

Mr. McGOVERN. That is correct.

Mr. THURMOND [reading]:

> Notwithstanding any other provision of this act, no household shall be eligible to participate in the food stamp program if the head of the household is on strike against his employer as a result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer.

Mr. McGOVERN. I understand the point the Senator is making.

But let me stress to the Senator that the crucial point to keep in mind is that the striker and his household or her household has to meet the same specifications with or without this amendment that other citizens have to meet to qualify for food stamps.

Those Senators who may be hostile to the whole concept of strikes need to keep in mind that under the terms of this amendment even a striker who voted against the strike once that strike is on and the plant is closed is covered by this amendment.

This amendment, if it were to pass, would single out one group of Americans who would become ineligible for the food stamp program. At the present time, no group is either automatically eligible or automatically ineligible. You have to meet very tough criteria that are laid down in the food stamp law.

Those criteria include income. If the income of that striking household is above a certain level, they are automatically excluded. If they have assets with or without income that are in excess of $1,750, they are excluded. If they refuse to register for work, they are excluded.

All of those criteria have to be met by a striker the same as other Americans.

Mr. President, almost every time we have food stamp legislation before the Senate an amendment like this is offered. I think it is important for us to lay this issue to rest, if that is possible, by making it clear to our colleagues in the Senate and to the country as a whole that striking families—the striker and any member of that family—are not given any benefits under the food stamp program that are not available to other citizens. They have no particular rights or privileges that are not available to other Americans, and that there is nothing about a strike that automatically entitles anyone to food stamp programs.

I am going to offer a substitute amendment which has the effect of making that clear.

UP AMENDMENT NO. 443

(Purpose: Substitute for Senator Thurmond's amendment to amendment No. 362)

Mr. McGOVERN. Mr. President, I send the amendment to the desk, and it is very short, so I ask the clerk to read it.

The PRESIDING OFFICER (Mr. BOREN). The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 443 as a substitute to the Thurmond unprinted amendment numbered 442.
>
> In lieu of the language proposed to be inserted by Mr. Thurmond, insert on page 10 between lines 22 and 23 a new section as follows:
>
> "DENIAL OF BENEFITS TO CERTAIN HOUSEHOLDS
>
> "SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (i) as follows:
>
> " '(i) No household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of this Act.' ".
>
> On page 10, line 24, strike out "Sec. 11" and insert "Sec. 12" in lieu thereof.

Mr. McGOVERN. Mr. President, I think it is clear from the reading.

Mr. THURMOND. Mr. President, let me ask the Parliamentarian if this amendment will be in order.

The PRESIDING OFFICER. Does the Senator from South Dakota yield for that purpose?

Mr. McGOVERN. I yield to the Senator for a parliamentary inquiry.

The PRESIDING OFFICER. The amendment is in order as a second degree amendment.

Mr. THURMOND. Mr. President, I understand that the amendment that I am amending is offered as a substitute.

The PRESIDING OFFICER. The Chair understands that the substitute does not count. The first substitute for a bill does not count in terms of degree, that the Senator's amendment is an amendment in the first degree, and this one is an amendment in the second degree.

Mr. HELMS. Because it was treated as original text; is that correct?

The PRESIDING OFFICER. The first substitute for a bill from the floor does not kill a degree unless there is a committee substitute for the bill which it seeks to replace. The committee substitute was agreed to as original text. So, therefore, the first substitute for the bill from the floor does not kill a degree. So, therefore, the McGovern amendment to the Thurmond amendment to the McGovern substitute for the bill would be an amendment in the second degree.

Mr. McGOVERN. Mr. President, I think it is clear from the reading of the amendment what it attempts to do and perhaps this accomplishes much of what the Senator from South Carolina had in mind.

It does make very clear that the person on strike has to qualify the same as any other citizen for the benefits of this program. They have got to qualify on grounds of income, they have got to qualify on grounds of assets, they have got to qualify on the grounds of work registration.

I do not see any point in belaboring the argument any further. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, during the quorum call, the Senator from South Carolina (Mr. THURMOND), and the Senator from North Carolina (Mr. HELMS), and I have been talking about the anxiety that has developed over the question of food stamps for strikers and for households where there is a striker involved.

One of the concerns expressed by the Senators who offered the original amendment, the one for which I have offered a substitute, is that we get some better accounting procedure on the part of the Department of Agriculture as to how many persons participating in the food stamp program are involved in strikes, and not only the numbers of persons involved but the costs of that program to the Treasury.

As far as I am concerned, as one who is vitally interested in the success of this program and also in doing what I can to strengthen public confidence in the program, I would think that those suggestions should be carried out by the Department of Agriculture, and I will do everything I can as the floor manager of this bill and the chairman of the subcommittee that has jurisdiction over the program to see that that is done.

We can make it clear, I think, in the legislative history today, that this is the concern of the Senate. We will follow up in correspondence with the Department of Agriculture to see that the concern which has developed here is expressed by the procedures developed by the Department.

Mr. HELMS. Mr. President, I am greatly encouraged by the attitude of the distinguished Senator from South Dakota, and I commend him for it. Both he and I and the Senator from South Carolina, and other cosponsors of the Thurmond amendment, so-called, agree that there ought to be equity of treatment under all laws.

The concern that the Senator from North Carolina has about the food stamps for strikers issue is that heretofore the Agriculture Department has been totally unwilling to keep any statistics or do any investigative work on this matter. If the Senator from South Dakota is willing to work to press the Agriculture Department to make sure that proper monitoring of this sort of thing is conducted and full statistical information is made available to Congress, so that all will know precisely what is going on, then I am inclined to support the amendment wholeheartedly. All I want, as one Senator, is to stop the practice of hanky-panky in terms of some local administrator, in a labor union-management dispute situation, issuing food stamps to strikers on a helter-skelter basis without adequate verification of eligibility.

If the Agriculture Department can be persuaded to button down this situation and put an end to it, and to make strikers qualify on the basis of asset requirements, work registration requirements, and so forth, that is fine. But we have had, in my office alone, countless reports of strikers who have not made any effort whatsoever, I will say to my friend from South Carolina, to register for other employment during a strike. We have had countless reports of strikers with assets in the tens of thousands of dollars who were drawing food stamps simply because, as the Senator from South Carolina has put it, they are on strike.

If we can put an end to that sort of thing, fine. I will ask my friend from South Dakota if he will join the Senator from North Carolina and others in signing a letter to that effect to the Secretary of Agriculture.

Mr. McGOVERN. I have no problem with that at all. I will be glad to join in it.

Mr. HELMS. Mr. President, I think we are making great headway here. I will ask the Senator from South Carolina if he will join in that. Of course, it is his privilege to decide whether or not to do so, but I think we have made some headway.

Mr. THURMOND. Mr. President, the food stamps for strikers have been abused, there is no question about it. This is a very serious matter.

However, in view of the amendment offered by the distinguished Senator from South Dakota, and the colloquy that followed between him and the able Senator from North Carolina, I think the matter has been clarified to a great extent.

As I understand, both are going to sign a letter to the Secretary of Agriculture setting out this situation. Following that, the Secretary of Agriculture will be urged to keep the necessary records so we can tell exactly how many striking workers are receiving food stamps.

Then, at a later date, we will be able to take steps to correct the matter.

Mr. McGOVERN. I think we can give the Senator our full assurance on that matter.

Mr. HELMS. If the Senator will yield, with the further understanding that the acceptance of this amendment is an indication that this Senate means business about the recordkeeping and the supplying of information to the Government on this question.

Mr. McGOVERN. The Senator's point is well taken.

Mr. DOLE. Will the Senator yield for one moment?

Mr. THURMOND. I yield.

Mr. DOLE. Mr. President, I join with my colleagues, the Senator from North Carolina, the Senator from South Carolina, and the Senator from South Dakota. It does seem to me that with this emphasis that we are providing, and I hope the Department of Agriculture officials will note that we are making legislative history, that the substitute means what it says so far as assets are concerned and so far as the other provisions are concerned.

I believe that, in addition to the letter which will be sent by the distinguished Senator from North Carolina and the distinguished Senator from South Dakota, will give us a clear picture on what may really be happening.

I go back to the same argument made at the outset. It is not that we want to deprive those in need of food stamps. It contradicts the present law which says you have to at least be working or applying for work. That is the present law and it is in the substitute offered by the distinguished Senator from South Dakota.

I believe that if we can have some focus on the comments made on the floor, the present law, as restated in the substitute, would be a step in the right direction.

I commend the distinguished Senators for working out the compromise.

Mr. THURMOND. Mr. President, in view of the colloquy which has taken place and the assurances which have been given, I am willing to accept the amendment of the Senator from South Dakota.

Mr. HELMS. Perhaps the Senator wants to vitiate the request for the yeas and nays.

Mr. McGOVERN. Mr. President, in view of what I determine to be the unanimity on this, I ask unanimous consent that the order for the yeas and nays be vitiated on the substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I believe we are nearing the end of the consideration of this bill.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Carolina, as amended by the Senator from South Dakota.

Mr. HELMS. Mr. President, I believe the Senator from South Carolina wants to vitiate the yeas and nays on his amendment.

Mr. THURMOND. Mr. President, I ask unanimous consent to vitiate the order for the yeas and nays on my amendment, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina, as amended.

The amendment, as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VERIFICATION STANDARDS

Mr. HELMS. Mr. President, regarding the amendment that permits States to adopt additional verification standards and precludes the Secretary from prohibiting the States from doing so, I am very pleased that Senator McGovern has articulated a point that should not be misunderstood—home visits should be made during reasonable hours. Reasonableness is certainly the standard by which hours of home visits or anything else should be judged. Senator McGovern suggested that office hours would be a good rule to use as a guide in determining what times are reasonable. That standard is indeed a good guide, so long as it is not adhered to strictly.

I concur in using office hours as a guide, but feel obligated to elaborate upon this standard so that it may not be misunderstood. The context of the debate when Senator McGovern spoke was that of administrative procedures within the food stamp program. We all realize that office hours include that period of time during which food stamp offices sometimes are open. Most notably this would include the evening hours during which local custom and practice dictate that social visits are reasonable. Surely no one could better judge local custom and practice than State administrators, which is precisely why discretion is given to the States in this matter.

UP AMENDMENT NO. 444

(Purpose: To require implementing regulations to be issued within 150 days after enactment of the bill)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 444.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 11, after line 7, insert a new subsection (c) as follows:

(c) Notwithstanding any other provision of law, the Secertary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 8 of this Act within one hundred and fifty days after the date of enactment of this Act.

Mr. HELMS. Mr. President, inasmuch as any delay in the implementation of the provisions of this bill which address the administrative changes is not desirable, I offer an amendment to require that the Food and Nutrition Service issue final regulations within 150 days of the enactment of this legislation.

Senators may well recall that it took the Food and Nutrition Service almost 2 years to begin implementation of the features of the 1977 Food Stamp Act—a process which is not yet complete.

So that the Food and Nutrition Service may receive some indication of the Senate's intention that the Helms amendments be implemented in a timely fashion, my amendment requires just that.

It is my understanding that Mr. Robert Greenstein, the Administrator of the Food and Nutrition Service, has no objections to this amendment, and believes the time is sufficient to allow his agency to issue regulations for comment, allow 60 days for such comment, and almost 3 months for final drafting and implementation. This amendment is not intended to waive the right of any person to offer additional comment after the 60-day period under the rules and procedures established for such actions.

And, it should be noted that the other provisions of the legislation now under consideration have a time certain for implementation.

Mr. McGOVERN. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER (Mr. LEAHY). The question is on agreeing to the amendment of the Senator from North Carolina.

Without objection, the amendment is agreed to.

UP AMENDMENT NO. 445

(Purpose: To assure that any supplemental verification proposed by a State agency shall be reasonable and constitutional)

Mr. JAVITS. Mr. President, I send an amendment to the desk for myself, Senator KENNEDY, and Senator BAYH, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself, Senator KENNEDY, and Senator BAYH, proposes an unprinted amendment numbered 445.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 25, strike out "a new sentence" and insert, in lieu thereof, "three new sentences".

On page 9, line 3, insert after the first period two new sentences as follows:

"Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraphs (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices."

Mr. JAVITS. Mr. President, this amendment deals with section 7 of the substitute bill which appears at page 8, line 24, and deals with the authority which is given to the States to adopt verification standards which supplement the verification standards issued by the Secretary under the act.

The thing that concerns me and my cosponsors is whether or not, in promulgating regulations themselves for verification, there would be imposition upon those who are being verified. We have had experience with such matters before and it became literally a case of horror stories where families were subjected to midnight raids and other abuses when their assistance applications were verified, when this thing was done on a State level.

I was confident that Senator HELMS no more than I wanted any such thing to occur. So we have agreed upon certain limitation in respect of such standards as the States set.

I think if I just read this to the Senate it will be adequate to show what we are doing:

> Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation, and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraph (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices.

Mr. President, this amendment is satisfactory to myself and my cosponsors, and I hope it may prove acceptable to the managers.

Mr. President, as I said, the amendment that I am offering to the substitute bill is intended to safeguard the basic rights of applicants to the food stamp program. It seeks to balance our important interest in preventing program abuse with the need to protect poor people's basic rights when they apply for food stamp aid.

Under the substitute bill, we authorize the States—for the first time since the revamping of the food stamp program in 1971—to undertake verification that supplements the verification requirements established by the Secretary of Agriculture. The clear purpose behind this provision is to reduce program errors and to minimize potential program abuse.

As important as it is for us to give such additional verification tools to the States, it is also important that we insure that those tools do not become a blanket license to deprive needy people of their basic rights. Nobody in this Chamber should want us to go back to the unfortunate times when public assistance recipients, in some localities, were subjected to midnight raids and other abuses when their assistance applications were being verified.

My amendment seeks to guarantee poor people's basic rights when States undertake supplemental verification procedures. In essence, these protections are intended to guard against overlyzealous bureaucrats who might unjustifiably seek to run roughshod over the rights of the poor. Neither the sponsors of the substitute nor the sponsors of the supplemental verification amendment should be willing to tolerate such bureaucratic abuse. To make sure that such abuse does not occur, however, it is prudent for us to set forth in the bill the fundamental rights that States should not abridge.

My amendment requires States to do two things in connection with their own verification procedures that are supplemental to the Secretary's. First, such supplemental verification standards must be specifically set forth in the State's plan of operation. Moreover, as the Secretary does with all facets of State plans of operations, he would review this portion of the plan to insure that it is approvable and does not violate the statute or the supporting regulations.

Second, the State must make sure that its supplemental verification standards are reasonably related to the Secretary's verification standards. In effect, this provision is intended to prevent States from establishing unreasonable verification requirements that violate any portion of the Food Stamp Act and regulations or that contradict—rather than supplement—USDA's verification procedures.

Finally, my amendment specifically prohibits several agency abuses that would nullify fundamental rights of indigent food stamp applicants. The amendment guarantees that the timeliness standards, for the provision of benefits to applicants, shall not be abridged as a result of the States' supplemental verification procedures. Hence, neither emergency nor regular applicants will receive assistance later than the times specified by the USDA regulations as a result of a State's supplemental verification requirements.

Additionally, no State will be allowed to make home searches in an unreasonable manner or during unreasonable hours—thereby avoiding the infamous midnight raids that I mentioned earlier.

Similarly, the supplemental verification requirements shall not harass households by forcing them to take additional—and frequently expensive and time-consuming—trips to the food stamp office if this is avoidable. Except under extraordinary circumstances, supplemental verification efforts should not require applicants to make additional trips to the food stamp office if this is avoidable.

To prevent repetitious governmental

intrusions into people's lives as well as unnecessary redtape, the supplemental verification standards shall not be applicable to any household whose eligibility for Federal or State public assistance has been, or is being, verified. Since these people are already obligated to fulfill certain verification requirements when they apply for AFDC, SSI, and general relief, there is no reason to subject them to duplicative and unnecessary supplemental verification requirements in the food stamp program.

Finally, my amendment prohibits States from disqualifying applicants for failing to verify matters that are outside of their control to verify. If, for example, an uncooperative employer failed to provide supplemental verification about an employee's income—either out of disdain for the food stamp program or laziness or recalcitrance—the employee-applicant should not be penalized. As long as the applicant cooperates with local administrators and appears to be eligible for assistance, no State agency should withhold food stamp aid.

I believe that this amendment achieves a delicate balance between the desire for additional verification and the need to safeguard fundamental rights. I, therefore, urge my colleagues to adopt it and to pass the substitute bill as modified.

• Mr. KENNEDY. Mr. President, I am pleased to cosponsor with Senator Javits, this amendment that seeks to protect the rights of needy people in the food stamp program. The provision authorizing States to establish supplemental verification procedures beyond USDA's verification requirements may be very helpful to insure the integrity of the program. This amendment, in turn, is designed to guarantee that this State authority is not implemented to curtail poor people's basic rights.

Our amendment prohibits States from harassing people to discourage them from applying for health-vital food stamp aid. For example, it prohibits States from undertaking home verification checks during unreasonable hours or in an unreasonable manner. It prohibits States from instituting additional verification procedures that require applicants or recipients to make repeated trips to the food stamp office. Under our amendment, a household could not be required to make additional trips to the food stamp office—which are frequently expensive, particularly in rural areas, and very time consuming—beyond the times necessary to achieve verification under USDA's regulations.

The supplemental verification authority, according to our amendment, could not be used to delay the provision of food stamp relief beyond the time periods specified in the Food Stamp Act and USDA's regulations. Those time periods were designed to insure that people would not go hungry for an undue period of time. No State would be allowed to implement its new verification authority in a manner that could violate those timeliness requirements.

To make sure that the State's supplemental verification procedures do not subject people to unnecessarily repetitive governmental intrusion, our amendment prohibits States from implementing this supplemental verification authority for applicants and recipients of other public assistance programs. Such persons are already required to satisfy various verification requirements whenever they apply for AFDC, SSI, or home relief. Consequently, it would not be useful, and would be unproductive harassing, to subject such individuals to supplemental verification procedures.

The amendment also prohibits States from denying food stamp aid as a result of a failure to verify something that is outside of the control of an applicant to verify. As an illustration of the operation of this provision, we frequently hear allegations that employers of migrant laborers refuse to provide check stubs or other evidence of an employee's wage status. Certainly it would be a gross injustice to deny aid to a migrant laborer and his family in such circumstances. We, therefore, prohibit States from denying food stamp relief when this occurs. Poor people should not be denied aid solely as a result of their inability to produce verification that is outside of their control.

To insure that the supplemental verification procedures are implemented properly, our amendment requires States to take certain steps before such supplemental verification procedures may be implemented. First, the supplemental verification procedures must be set forth in writing and submitted to USDA as part of the plan of operation. As such, USDA will have oversight approval of the procedures to guarantee that they are in conformity with the Food Stamp Act and regulations. This part of the annual plan of operation, like others, shall be subject to the oversight approval of USDA.

Second, the supplemental verification requirements must be of statewide applicability. This will insure statewide uniformity and will prevent State or local officials from implementing selective verification procedures out of an anti-urban or anti-minority bias. It means that State officials will have the responsibility for determining which, if any, supplemental verification standards are to be proposed.

Third, the supplemental verification requirements must be reasonably related to the Agriculture Secretary's nationwide verification procedures. As a result, these supplemental verification and other programmatic requirements established by legislation or regulations. This condition seeks to guarantee that the new authority granted to the States is not used to make a nullity of any portion of the Food Stamp Act or regulations.

Fourth, and finally, each State that wishes to implement supplemental verification requirements must first inform all program applicants, in writing, about those verification procedures. This will give people information that they otherwise would not have access to in the normal course of events. It will inform applicants and recipients of their supplemental rights and responsibilities—rights and responsibilities that they would not find in USDA's nationwide regulations.

As a result of this amendment, States will be enabled to undertake helpful supplemental verification procedures but will do so in a manner that comports with poor people's basic rights. I believe that this amendment should have the support of all of my colleagues, and I urge its adoption.•

Mr. McGOVERN. Mr. President, the Senator from New York did speak to me about this amendment earlier today, and I have looked it over very carefully. Also, I discussed it with Senator Helms and others, and I think the language the Senator from New York is offering is perfectly acceptable and does address some of the concerns that he is worried about. I have no objection to accepting the language of the Senator's amendment.

Mr. HELMS. Mr. President, I find the amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Melissa Bristow of Senator Zorinsky's office may have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 446

Mr. McGOVERN. Mr. President, on behalf of Senator Stone, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. McGovern) for the Senator from Florida (Mr. Stone) proposes an unprinted amendment numbered 446.

Mr. McGOVERN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 19, insert after "Act" the following: "or disability payments under title II of the Social Security Act".

On page 4, line 24, insert after "Act" the following: "or disability payments under title II of the Social Security Act".

On page 4, line 15, strike out "forth" and insert "fourth" in lieu thereof.

On page 7, line 4, strike out "6" and insert "16" in lieu thereof.

On page 10, line 17, strike out "arrangements" and insert "arrangement" in lieu thereof.

Mr. McGOVERN. Mr. President, this amendment would make a technical change in the provisions allowing the elderly and disabled to claim excess medical expense deductions and uncapped shelter expense deductions. It would allow recipients of Social Security Act disability payments, under title II of the act, to claim excess medical expense deductions and uncapped shelter expense deductions. My amendment is consistent with the spirit of the committee's provisions. Disabled people who receive title II disability payments must pass the same disability test that supplemental security income recipients pass and it is only fair that they, like SSI recipients, be allowed to claim these deductions. They have the same high medical expenses and should not be discriminated against simply because they receive their disability benefits under a different title of the Social Security Act.

Mr. President, it is my understanding that Senator Stone has cleared this amendment with the other side of the aisle, but I yield to Senator Helms.

Mr. HELMS. That is correct, Mr. President.

Mr. McGOVERN. Mr. President, under those circumstances, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. STONE. Mr. President, I would like to add my comments on S. 1309, a bill which includes amendments to help the elderly and disabled food stamp recipients.

Earlier this summer I chaired a field hearing of the Senate Agriculture Subcommittee on Nutrition in Miami Beach, Fla. As a result of that field hearing, I returned to Washington and introduced S. 1346, which the Agriculture Committee added as an amendment to S. 1309 on June 20. It became abundantly clear to me at the field hearing that elderly and disabled food stamp recipients in all parts of the country are suffering under the newly implemented food stamp program. The provisions of S. 1309 that are directed to relieve the elderly and disabled will insure a measure of relief for those most in need.

Elderly and disabled food stamp recipients in the United States today are facing a crisis situation. It is disastrous when the elderly and disabled recipients must make a daily decision between medicine or food. When elderly people have to survive on a few slices of bread, when these same people run out of food stamps by the third week of the month, and when elderly people are arrested for stealing needed food, it is a sad state of affairs in our Nation. These are not hypothetical examples that I mention, these are the situations that real people are currently confronted with. These intolerable situations must be remedied and they must be remedied now.

I am well aware of the need of fiscal responsibility that is sweeping the country. As my colleagues know, I am a charter member of the SOB's (Save Our Bucks). However, fiscal responsibility should not be equated with insensitivity to human suffering or need. The portion of the bill that deals directly with the elderly and disabled food stamps recipients is a modest proposal, and its cost is less than 1 percent of the cost of the entire food stamp program. This small expenditure will reap relief for those people who are least able to cope with the increasing demands on their ever-shrinking dollars.

I am hopeful that all of my distinguished colleagues will support quick passage of S. 1309, and its much needed amendments.

Thank you, Mr. President.●

Mr. THURMOND. Mr. President, I rise in opposition to S. 1309, legislation to increase the fiscal year 1979 authorization for appropriations for the food stamp program. This measure, if approved by the Senate today, would provide a $620 million increase in the ceiling for the food stamp program, which would bring the fiscal year 1979 cost level up to $6.8 billion.

This is a perfect example of a Federal program which has grown far beyond the original intention of Congress. In 1965, only 1 person in 440 received food stamps. Today 1 in 12 receive them. That is an astronomical growth rate when one considers our initial outlay for the program 14 years ago was a mere $60 million.

I fully recognize the importance of food stamps to the many economically disadvantaged, but Mr. President, things have gone too far. There are too many undeserving recipients, too many cases of fraud and abuse, and too many instances of mismanagement in the program. I think it is time for Congress to stop bailing out Federal agencies which act in wanton disregard of the bugetary process and sound fiscal management.

Mr. President, much reform is needed in the food stamp program to tighten eligibility requirements and eliminate fraud and abuse. Until such reforms are put into place, I cannot support an increase in the program. Therefore, I urge my colleagues to join me in opposition to S. 1309.

Mr. HELMS. Mr. President, this bill includes some very worthwhile program improvements that were adopted in committee. Senator Lugar's amendment to the bill protects the truly needy in the event of benefit reductions. Also, it makes clear Congress intention of tolerating no more contortions on the part of the Food and Nutrition Service in order to delay benefit reductions until the point of crisis is reached, as Assistant Secretary Foreman and FNS officials did this year. Senator Talmadge's amendment changed the program so that unused budget authority would revert at the end of each fiscal year.

Though I have some reservations because the food stamp program is probably not the proper vehicle for such a provision, I am pleased to note that relief for the high medical costs of our Nation's elderly is provided in this bill in the form of the Stone amendment. Of course, I am pleased that the four antifraud amendments that I had intended to move were adopted. So, it is clear that the Senate has produced a bill that has some provisions which should rightfully cause us pride. I certainly understand why many of my colleagues will vote for this bill.

However, I cannot vote for S. 1309. It authorizes the expenditure of funds that would not have been needed had it not been for the inept administration of the program. Secretary Foreman and food and nutrition officials have consistently disregarded fiscal responsibility in administering this program. Their decision to ignore congressional intent by eliminating the purchase requirement months before implementing participation-restricting provisions of the 1977 act—that is, not implementing those features simultaneously—cost in excess of $275 million, according to the Congressional Budget Office.

Then, there is the vast array of Federal regulations that State food stamp administrators have testified make it impossible for them to manage their programs well in a fiscally responsible fashion. Though the Senate addressed this problem today, we cannot realistically claim to have solved all the problems that exist throughout the program's regulations.

Finally, this bill takes away an important congressional budgetary control, the cap. That issue was thoroughly debated today and the Senate's decision to remove that control has been made. For that reason, more than any other, I cannot vote for this bill. In my view, a vote in favor of S. 1309 with the McGovern/Dole amendment eliminating the cap for 1980 and 1981 is not consistent with fiscal responsibility.

RESTORING FOOD STAMP BENEFITS FOR MANY SENIOR CITIZENS

● Mr. CULVER. Mr. President, I wish to voice my support for this legislation to increase the fiscal year 1979 authorization for the food stamp program, without which millions of poor and elderly people would suffer significantly reduced food stamp benefits. But I would like to express particular support for those provisions in this bill which will restore food stamp benefits to many senior citizens whose food stamps were either eliminated or reduced earlier this year.

When Congress enacted the Food Stamp Act of 1977, it changed the income eligibility requirements, including a major curtailment in the income deduction for shelter expenses and the elimination of the separate medical expense deduction. Unfortunately, the severe impact these revised income guidelines would have on senior citizens was not foreseen.

Prior to the 1977 food stamp revisions, shelter expenses which exceeded 30 percent of a participating household's income could be fully deducted from that income. And the amount of actual medical costs beyond $10 a month could be directly deducted. These deductions enabled people with high shelter or medical costs to participate in the food stamp program.

However, the 1977 Food Stamp Act, with provisions that became effective March 1, 1979, eliminated the separate medical deduction by incorporating it into a standard deduction. It also significantly reduced the shelter expenses deduction by allowing deductions only for those costs exceeding 50 percent—rather than 30 percent—but only up to a ceiling of $90 per month—rather than no ceiling whatsoever. These curtailments have had the effect of reducing or terminating the food stamp allotments for many senior citizens who have borne heavy medical or shelter costs.

The provisions in this legislation would remedy most of these hardship situations by implementing two revisions in shelter and medical deductions for households containing an elderly person or SSI recipient. While the shelter deduction will continue to apply only to expenses over 50 percent of income, for the qualifying households there will be no ceiling imposed on the amount of the deduction. And, in addition to the standard deduction, these households could deduct the senior citizen's medical expenses in excess of $35 a month.

The elimination of a separate medical expense deduction has worked particular hardship on older Americans. Senior citizens' direct medical costs are actually some three times greater than those of younger people, despite medicare coverage. In 1977, according to figures compiled by the Social Security Administration, the average person aged 65 or older paid $463 directly out of their pocket, while the average person under age 65 paid $164 out of pocket. In 1977, medicare actually covered only 41 percent of the total health care expenditures of the elderly, often leaving them saddled with prohibitive medical bills.

The introduction of a ceiling on the amount of excess shelter costs which may be deducted from income has also hurt many low-income elderly, particularly given the spiraling utility costs we have been experiencing. Utility bills alone commonly amount to 20 or 30 percent of senior citizens' income, and that does not even consider the cost of rent or mortgage payments and property taxes. In the wintertime, the elderly's heating bills often consume over half their monthly social security check or other benefits.

Mr. President, I have received several dozen letters from elderly Iowans whose food stamps were cut or eliminated this past March, and who despaired about continuing to make financial ends meet. Many of these people are having to make the tragic choice between food and medical care, or food and heat. It is clear that the curtailment of the shelter deduction and the elimination of the medical deduction has had an unfair and disproportionate effect on our senior citizens. The much-needed changes in the legislation we are considering today will restore the lost or reduced food stamps to most of these deserving people, and I hope they can be properly enacted into law.●

Mr. LEAHY. Mr. President, I would like to voice my support for the bill, S. 1309, to raise the authorization level for fiscal year 1979. Without the infusion of the $620 million, the food stamp program will face drastic cutbacks and its participants will suffer severe reductions in their already reduced monthly benefits.

The distinguished chairman of the Senate Agriculture, Nutrition, and Forestry Committee, Mr. TALMADGE, described this bill as emergency legislation when he introduced it. I could not agree with him more. Since we eliminated the purchase requirement for food stamps in the 1977 Food Stamp Act, the program has swelled with participants. Program participation has increased from 16.1 million people in 1978 to over 19 million people by March of this year. More than 1 million people joined the program in February alone. The people participating in the food stamp program, primarily as a result of the purchase requirement elimination, are some of the poorest and the neediest in the Nation.

The dramatic increase in participation has put a strain on the administrative budget. Adding to these costs are the spiraling costs of food and the rising rate of inflation. Food costs were projected to rise 3 to 4 percent per year. The ceiling for annual authorizations was based upon those projections. However, food prices are now projected to increase an astronomical 22 percent over this year alone, with the prospect of a 30 to 40 percent increase by 1982. The food stamp allotments have had to be indexed to these higher than normal costs, but the program and its participants are faced with serious problems if we do not act now.

The emergency is even more imminent for our senior citizens and the handicapped. In an effort to streamline and simplify the food stamp program, the Food Stamp Act of 1977 eliminated the personal, itemized deductions for medical and shelter expenses in favor of a national, standard deduction. Unfortunately, the effect of the reforms enacted in the 1977 act has been to severely reduce the monthly benefits of the elderly and the supplemental security recipients. The reforms have failed to cover the excessive heatings costs Vermonters and others from severe climates must pay and also ignored the substantial medical expenses of many elderly participants.

My office in Vermont has been deluged with phone calls and letters from elderly and disabled Vermonters. Some of these people have had their monthly benefits cut to $10 a month. They must now decide to spend what little money they do have on either food or heating fuel, a choice I find unconscionable.

The bill before us will partially rectify this situation. It will provide for itemized deductions for the elderly and handicapped for their out of pocket medical expenses that exceed $35 a month and for their shelter costs that consume more than one-half their monthly income. The additional benefits that the elderly participants will receive will act as a buffer against the harsh effects of inflation.

Mr. President, when the Senate Agriculture Committee held hearings on S. 1309 last month, several of my colleagues on the committee expressed concerns about alleged fraud and abuse of the food stamp program. Their concerns may be very real. Certainly this program has had its abusers, the people who take advantage of the aid and do not really deserve it, but they are relatively few. The administration has proposed legislation to correct some administrative difficulties and to provide for tighter program oversight. Several of these proposals are contained in amendments to S. 1309 which Senator HELMS has offered. They are also incorporated within the substitute offered by Senator McGOVERN with Senators DOLE, MAGNUSON, and EAGLETON. The substitute bill, which I support and which I urge my colleagues to support, will permit the States to require more information of program participants to insure that the applicants are actually eligible for the aid. It will also require that participants who obtain benefits fraudulently must repay the State and the State will be permitted to retain half of the value of the benefits recovered.

The McGovern substitute also contains two other important provisions. The bill will extend to handicapped residents of group homes the same consideration that residents of drug and alcoholic rehabilitation centers now enjoy. This addition, proposed by my distinguished colleague, the senior Senator from Vermont, Mr. STAFFORD, is an excellent one. It will provide that disabled and blind group home residents are treated as individuals for the purpose of receiving food stamp benefits.

The other provision repeals the authorization ceilings for fiscal years 1980 and 1981. This question, already the subject of a record vote, is essential if we are to avoid the funding problems encountered this year. I want to reiterate what Senator McGOVERN has already stated. This provision will not remove the food stamp program beyond the control and oversight of Congress. It will not mean unlimited funding for the program. Congress will still determine the level of program spending. By repealing the ceilings, however, the program will be able to adjust to the rapidly fluctuating costs of food, changes in participation rates, and administrative costs.

Mr. President, I would like to add these thoughts in closing. The food stamp program has proven its ability to bolster the meager food buying power of our Nation's needy, particularly when so many Federal efforts to help the low income, the elderly and the disabled have failed. The food stamp program has been especially helpful in supplementing the incomes of Vermont's senior citizens who, with their limited incomes, must also cope with our harsh winters and expensive housing. By approving the substitute bill we in the Congress will insure that the program has sufficient funds to continue functioning and that the needy, our senior citizens and handicapped, will receive their needed monthly food benefits.

Finally, Mr. President, I noted that we are dealing with an emergency situation. It will be an emergency this September if we do not pass a bill lifting the authorization ceiling. It will be an emergency this winter if we do not pass a bill providing shelter cost deductions for the elderly. The House overwhelmingly approved a bill similar to S. 1309 and Senate action is imminent. Mr. President, the emergency nature of the elderly provisions will be lost if the Administration fails to act with utmost haste. Our calling these provisions an emergency will be a sham if, as directed by the House, the Department of Agriculture waits until next January to implement the elderly deductions. The effective date of the Senate bill is the first day of the first month after the date of enactment. We must adhere to this provision if this bill is to be, in reality, emergency legislation.

The PRESIDING OFFICER. Are there further amendments?

Mr. McGOVERN. Mr. President, I am not aware of any further amendments on the legislation. I ask for the yeas and nays on the substitute amendment, as amended.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute as amended. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber still wishing to vote?

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—75

Baker
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Tsongas
Wallop
Weicker
Williams

NAYS—20

Armstrong
Bellmon
Byrd,
  Harry F., Jr.
Domenici
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
McClure
Proxmire
Roth
Schweiker
Simpson
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—5

Baucus
Inouye
Laxalt
Pressler
Stennis

So the amendment in the nature of a substitute (362), as amended, was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. My brief remarks today concern three amendments to S. 1309, as introduced, which I strongly support and with which I wish to associate myself.

The first of these amendments was offered in committee by Senator STONE. My colleague from Florida has shown remarkable sensitivity to the elderly in this country who were severely impacted by the enactment of the Food Stamp Act of 1977. The 1977 amendments made changes in the excess shelter expense deduction and medical expense deduction available to all households participating in the food stamp program. These changes in the law resulted in substantial benefit reductions to the elderly and disabled, many of whom are faced with disproportionately high medical and shelter costs.

The dire predicament of the elderly resulting from the 1977 amendments, especially those who are ill, was vividly brought to my attention by a number of concerned citizens in my State. The administrator of the Division of Public Assistance and Social Services in Wyoming has expressed the need for legislative relief for senior citizens with catastrophic medical or pharmaceutical bills trying to live on fixed incomes. My State staff forwarded a tape of a social service hearing on the food stamp program. The transcript paints a bleak picture of elderly food stamp recipients who, as a result of the 1977 amendments, have found themselves in the position of having to choose between buying medicine, shelter, and food.

Mr. President, this is an unacceptable choice for our elderly population to have to make. The amendment offered by Senator STONE offers a way out of this situation. It will bring much needed and warranted relief to the elderly. I commend him for bringing before the Agriculture Committee an amendment to S. 1309 which will go a long way toward mitigating the very real hardship the 1977 amendments have worked upon the aged.

The second amendment with which I wish to be associated is one offered by Senators STAFFORD and DOLE and incorporated into the Magnuson-McGovern-Dole substitute to S. 1309 as section 9. The provision they have fashioned will bring welcome relief to developmentally disabled persons who live in group homes. Under current law, such people are ineligible for food stamps even if they would otherwise be eligible if living in private residences; they are disqualified solely because they reside in group living facilities. This provision of law has caused problems for many disabled people who receive public assistance—Federal, State, or local—and who have very little money left for food after paying for their care and treatment.

This particular problem was brought to my attention by a caseworker with RENEW, the Rehabilitation Enterprises of Northern Wyoming. I have since learned that residents of group homes for the developmentally disabled in Wyoming and throughout the Nation would welcome the relief that this provision will bring. I commend my colleagues from Vermont and Kansas for their commitment to improving the plight of some of our less fortunate citizens and support their efforts toward enactment of this change in the law.

Finally, Mr. President, I am a cosponsor of the amendment offered by my colleague from South Carolina, Mr. THURMOND, which would prohibit the distribution of food stamps to households where the head of the household is involved in a labor strike. An exception would, however, be made where the household was eligible for food stamps prior to the strike. This will reserve food stamps for those households which are truly needy and will insure that the Federal Government is not subsidizing strikes through the food stamp program. While I prefer the language in the amendment offered by Senator THURMOND to the substitute presented by Senator McGOVERN, I believe that the McGovern substitute will make some inroads into the intolerable situation of striking employees receiving food stamp benefits without seeking other employment.

Mr. McGOVERN. Mr. President, in view of the overwhelming vote for the substitute amendment which has just been adopted, I do not think it will be necessary to have a rollcall vote on final passage, so I move the adoption of S. 1309, as amended.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina is correct in asking for order.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1309) was passed, as follows:

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATION; REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,158,900,000" in the first sentence of subsection (a) and inserting in lieu thereof "$6,778,900,000";

(2) striking out the third sentence of subsection (a) and inserting in lieu thereof two new sentences as follows: "The Secretary shall, on the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture,

Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

(3) striking out "If" in the second sentence of subsection (b) and inserting in lieu thereof "Notwithstanding any other provision of this Act, if"; and

(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.".

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) inserting in the fourth sentence after "Households" the following: ", other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act,"; and

(2) adding at the end thereof a new sentence as follows: "Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability under title II of the Social Security Act shall also be entitled to—

"(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act, exclusive of special diets, that exceed $35 a month, which shall, starting July 1, 1979, be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for items other than food for the six months ending the preceding March 31 and September 30, respectively;

"(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.".

DEFINITION OF ALLOWABLE MEDICAL EXPENSES

SEC. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"(q) 'Allowable medical expenses' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.".

PROVISION OF INFORMATION

SEC. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

"(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.".

REPAYMENT FOR FRAUDULENT CONDUCT

SEC. 5. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayments in cash under the provisions of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.".

STATE SHARE OF RECOVERIES

SEC. 6. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: "as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection".

ELIGIBILITY VERIFICATION

SEC. 7. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof three new sentences as follows: "The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act. Supplemental verification standards proposed by any State agency shall be set forth in the State's plan of operation, and be reasonably related to the Secretary's national verification standards. In addition, supplemental verification standards proposed by any State agency shall not: result in a violation of the standards for the timely provision of benefits established by the Secretary under paragraphs (2) through (4) and (9) of section 11(e) of this Act; subject households to home visits by State agency personnel in an unreasonable manner or during unreasonable hours; be implemented for persons whose eligibility for Federal or State public assistance benefits have already been, or will concurrently be, verified; result in a denial or reduction of benefits if a household cannot verify matters that are outside of its control to verify; or require applicant households to make unreasonable additional trips to the State agency's offices.".

REMOVAL OF AUTHORIZATION FOR APPROPRIATIONS CEILING FOR 1980 AND 1981

SEC. 8. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out all after "1979" and inserting in lieu thereof the following: "; and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981.".

GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

SEC. 9. Section 3 of the Food Stamp Act of 1977 is amended by—

(1) striking out in subsection (g) "and (5)" and inserting in lieu thereof "(5), and (7)";

(2) striking out in subsection (g) "and (6)" and inserting in lieu thereof "(6)";

(3) inserting immediately before the period at the end of subsection (g) the following: ", and (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents, meals prepared and served under such arrangement";

(4) inserting in subsection (i) after "elderly" the following: ", disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that is certified by the appropriate State agency or agencies

under regulations issued under section 1616(e) of the Social Security Act, which serves no more than sixteen residents,";

(5) inserting immediately before the period at the end of subsection (i) the following: "and shall be considered individual households"; and

(6) amending clause (2) of subsection (k) to read as follows: "(2) an establishment, organization, program, or group living arrangement referred to in subsections (g) (3), (4), (5), and (7) of this section,".

SEC. 10. Section 10 of the Food Stamp Act is amended by inserting after "programs" the following: "and public or private nonprofit group living arrangements that serve meals to disabled or blind residents".

DENIAL OF BENEFITS TO CERTAIN HOUSEHOLDS

SEC. 11. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (i) as follows:

"(i) No household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of this Act.".

EFFECTIVE DATE

SEC. 12. (a) The provisions of this Act shall take effect on the date of enactment, except that the provisions of sections 2 and 3 shall take effect on the first day of the first month that begins after the date of enactment.

(b) The provisions of sections 9 and 10 of this Act shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

(c) Notwithstanding any other provision of law, the Secretary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 8 of this Act within one hundred and fifty days after the date of enactment of this Act.

Amend the title so as to read: "An Act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.".

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, the managers of the food stamp reauthorization bill have done a very commendable job on this difficult piece of legislation.

The distinguished Senator from South Dakota, Mr. MCGOVERN, has brought to bear on this problem his years of experience as chairman of the Select Committee on Nutrition, and more recently, the Nutrition Subcommittee of the Agriculture, Nutrition, and Forestry Committee. His expertise in the field of food policy is well known.

An equally fine job has been done by the ranking minority member on the Nutrition Subcommittee, Senator DOLE, and by the distinguished Republican floor manager, Senator HELMS.

A program as far reaching as this food stamp measure needs to be constantly monitored, and careful adjustments made to it as they become necessary. That is what the Senate has been doing today, as we pursue the goal of providing for our poorest citizens with a well-managed and efficient program. This bill will help us accomplish those ends in two ways.

First, the bill will give Congress the flexibility it needs to respond to unforeseen food price inflation. Without any ability to counteract rapid inflationary increases in the cost of food, the Department of Agriculture would have been forced to cut benefits far below minimum human needs.

Second, tough antifraud and abuse provisions in the bill will further strengthen the integrity of the food stamp program. While it has not always operated perfectly in the past, the program deserves our best efforts to improve it.

Once again, I commend the chairman and ranking member of the Nutrition Subcommittee for their efforts. I would also like to extend my appreciation to the distinguished chairman of the full Agriculture Committee, Senator TALMADGE, and the ranking member of the full committee, Senator HELMS, for their active participation in the matter.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4057, Calendar No. 257.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McGOVERN. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of S. 1309, as amended, be inserted in lieu thereof, and that the House bill be considered as having been read a third time and passed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the title of H.R. 4057 be appropriately amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. TALMADGE, Mr. MCGOVERN, Mr. STONE, Mr. LEAHY, Mr. MELCHER, Mr. HELMS, Mr. HAYAKAWA, and Mr. LUGAR conferees on the part of the Senate.

Mr. McGOVERN. Mr. President, I will take just a minute to express the pleasure and the satisfaction I have experienced today in working with the distinguished minority comanager of the bill, the Senator from North Carolina (Mr. HELMS), the ranking minority member of the Committee on Agriculture, Nutrition and Forestry.

We sometimes have differing viewpoints and perspectives on the issues that was before us today, the question of the food stamp program, but I must say that he has been most cooperative at every stage of the consideration today in moving this measure ahead.

I think we can be very pleased and proud of the fact that the Senate has acted as expeditiously as it has on a very far-reaching and comprehensive program.

So I thank the Senator from North Carolina as well as the distinguished chairman of our committee, Senator TALMADGE, and Senator DOLE and others, who have played a key role in this legislation.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank my friend from South Dakota for his generous remarks. I assure him that it has been a great pleasure to work and cooperate with him, even if we differed on some aspects of this legislation. I thank him for his cooperation.

Mr. McGOVERN. I thank the Senator.

Mr. President, I also thank the members of the staff who have been very helpful in putting together this legislative package which passed the Senate by an overwhelming vote today.

Any time a multibillion dollar program clears the Senate with the overwhelming margin that this bill did today, it indicates very solid, careful, and imaginative staff work.

I pay special tribute to Marshall Matz, Carl Rose, Steve Storch, and Bill Lesher of the committee staff, and also Joe Richardson, of the Library of Congress, all of whom have been most helpful in the work on this legislation.

Mr. HELMS. Mr. President, I want to add two names, at least, to the list of staff members who have worked diligently on this matter: Mr. George Dunlop, who is the chief of staff of the minority, and Mr. John Bode. They have done an excellent job on this, and I am personally grateful to them.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to routine morning business for not to exceed 30 minutes and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARALYSIS IN A RISK-FREE SOCIETY

Mr. STEVENS. Mr. President, in yesterday's Washington Post, an excellent article by Henry Fairlie appeared. Mr. Fairlie is a regular contributor to the Post's Sunday Outlook section and has an interesting viewpoint on American society. He is an Englishman who has spent a number of years in the United States. He is able to view our society from a more detached and objective standpoint than most of us are. I commend this article to the Senate and hope it will be read closely.

In the article, Mr. Fairlie points out that the driving goal of American society is to produce a "risk-free society." It is not enough that our technology be the most advanced in the world but it must be without error. Such a drive interferes daily with our lives and has tremendous implications when such a goal threatens to terminate vital functions in our society.

As an example, Mr. Fairlie points that the current "faddishness of environmentalism" has become rampant in America in a way unmatched by any other country. In his words:

> If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the last century, none of the brilliant inventiveness of its technology in the past generation—

Which has made America the great nation that it is today.

Mr. Fairlie goes on to say that with such an attitude—

> Millions of Americans would still be living the confined lives of the past and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within the narrowest possible compass.

What Mr. Fairlie has stated is right on point. The current malaise facing this country is one of self-realization. We must realize that all our endeavors involve risks. The mere exercise of life is one of taking risks. These risks are part of the joy and celebration of life. It is high time that the country thinks about how best to overcome their risks instead of dwelling on the fear of the risk as if they are unconquerable.

Mr. President, I ask unanimous consent that the article, "Paralysis in a Risk-Free Society," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PARALYSIS IN A RISK-FREE SOCIETY

(By Henry Fairlie)

When the President spoke of the decline in America's confidence in its future—which all of its anxious but hoping allies regard as a real and ominous phenomenon—my mind fixed immediately on one of its most obvious but almost unmentionable causes. The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society.

No other great industrialized society has reacted with what can only be described as such palsy to the accident on Three Mile Island. It is simply beyond the bounds of credulity that the French would halt or reduce their huge nuclear power program—would forego their own chance to be "energy-secure"—in response to the kind of misadventure that is naturally to be expected in any humanly inspired endeavor.

Yet in his television address, the president of the United States did not dare to mention nuclear power, and on the following day he corrected the omission only in a muted and almost strangled voice.

No other country took it into its head to ground the DC–10s for as long as did the United States, and I hope that Sir Freddie Laker and the operators of other airlines will succeed in their suits for damages. After the remarkable record for efficiency and safety that has been set by the American aircraft industry in its fleets of planes which today carry the traffic of the world, one engine falls off one aircraft in circumstances that are unlikely ever to be repeated and the American authorities seem almost to set out to destroy the reputation of as trustworthy a commercial aircraft as is now flying.

But these are only the two most recent and glaring examples. The desire to build a risk-free society runs through the whole of American life today. It is draining the spirit from America's inventiveness and from its hope for the future.

If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there and in fact nothing that their children may safely do except sit like Narcissus by a river bank and gaze at their wan and delicate forms as they throw the last speck of granola to the fish.

The desire to build a risk-free society has always been a sign of decadence. It has meant that the nation has given up, that it no longer believes in its destiny, that it has ceased to aspire to greatness, and has retired from history to pet itself.

If many more safety regulations are introduced in the United States, it might as well have men with red flags walking in front of the automobiles. Ralph Nader seems sometimes to be interested in designing not motor cars but baby carriages, and even then the baby probably would be suffocated by air bags. He appears not to be aware that one of the main uses to which cars are put is necking, and that this is very difficult if the yearning couple are held back by a harness of seat belts that would hold down even a unbroken stallion.

In no other country is the faddishness of environmentalism so rampant as in America today. If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the end of the last century, none of the brilliant inventiveness of its technology in the past generation, and, as a result, millions of Americans would still be living the confined lives of the past, and many more millions in Europe would be enduring existences of mere serfdom, their lives bound within (as Marx put it) the narrowest possible compass.

There is a way in which much of my writing about America as an outsider has turned on these questions. For although I am often cheerfully bemused by the more fanciful and extravagant displays of American technology and gadgetry, and although I think that they are sometimes carried too far, so that people may soon use a Cusinart to scramble an egg before they cook it, I have no doubt that in important ways it is here that lies the genius of the country; for what it all says is that things "ain't necessarily so." Do not Americans now distrust their future because they are being told that the things (including nature) are necessarily so?

Zero population growth is the purest expression of the risk-free society. Preciously and exquisitely "I" am here; there are enough wild berries for "me" at least to live on; let no one else come and spoil it.

Back to Eden: For what was Eden but a garden of zero population growth; and indeed what was it but a risk-free society of two? But whenever I try to imagine the life of Adam and Eve, before their fall, it seems to me that it must have been one of infinite boredom.

But the more one thinks seriously of their boredom, the more one realizes why mankind had to escape into risk. Part of the malaise of the American spirit at the moment seems to me simply an expression of boredom. It hangs like a pall, worse than any pollution, over the lives of the people. There is no ship to board; it has been laid up as unseaworthy. There is no carriage to the stars; it might fall like Skylab. It is dangerous to dream; one might feed in one's sleep on a carcinogen. Feverishly and fretfully, the unused energy is spilled out, into the frenzy of white water and the disco.

I turn from the notion of a risk-free society to the epic of Homer, to the magnificent testimony to a people's will in the Old Testament, to the sagas of the Vikings and the daring of the Elizabethans, and there is not a hint of a safety regulation in one of them. But turn nearer to hand. It was not just the wretched and oppressed who came to America, but the wretched and the oppressed who would risk. It was the strong, and not the weak, who came, and then still came. They did not ask if the Mayflower was seaworthy—it was a miserable hulk even for its times—and into our own century they still got into tubs that might break apart to cross an ocean. What I feel most in America now is the ever more constricted sinews of a country that was made by such people.

Soft and swaddling are the constraints—do not do this because it might hurt you; even worse, it might make you feel "uncomfortable"—but they are binding the spirit of a great people like a fetter.

This draining pusillanimity runs into personal as well as into social relationships. The American people are being cajoled into talking to each other as I used to think that only a few people talked to their indoor plants. To ask a president to reach so deep into a malaise is to ask too much. What is "wrong" with America can be put quite simply. With a Ralph Nader at the head of a wagon train, no one would have made it across the plains, none would have crossed the Rockies and no immigrant would have pushed noisomely out of the gutter.

Risk-free? Living is sweat, danger and death. From those come the laughter. And curiously, from those comes also the ease of heart.

STATEMENT OF SENATOR TOWER ON SALT II BEFORE COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, the Senate Foreign Relations Committee has already conducted extensive hearings on the SALT II treaty, and today the Senate Armed Services Committee began its own deliberations on this most critical issue. It is essential that the consideration of the many facets of the entire matter of present and future U.S. security be pursed in the context of certain specific criteria. One of the most precise elaborations on those criteria was contained in opening remarks before the Armed Services Committee by my colleague, Senator **John Tower**.

I, ask unanimous consent that the text of my colleague's remarks be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Opening Statement of Senator John Tower

Mr. Chairman, today, we begin consideration of the most important matter to come before the Senate during my tenure. The significance of these deliberations cannot be overstated for the outcome will determine the prospects for peace and the avoidance of nuclear war. The action taken by the Senate will have a determining influence on the course of U.S.-Soviet relations and will either enhance or inhibit the ability of the United States to exercise a position of leadership in world affairs for years to come.

No responsible human being can question the value—indeed, the imperative—of serious, balanced, equitable negotiations aimed at reducing the levels of nuclear armament. Still, it must be recorded that the history of arms control agreements reflects that too often the perceived gains have been ephemeral and have served to mask the determined pursuit of military advantage by our enemies. The risk inherent in any arms control negotiation is that agreement becomes a self-fulfilling objective. In recent years, the preoccupation with getting an arms control agreement as an end unto itself has undermined the vigorous pursuit of essential programs. Over the course of the past two years, we have witnessed the cancellation of the B-1 bomber, the closedown of the Minuteman production line, ambivalence on deployment of enhanced radiation warheads, delays in the Trident submarine program and the cruise missile program, and most importantly, the M-X missile program. This, in fact, is arms control—unilateral arms control—which has gained us no reciprocal reduction in Soviet arms and which has seriously eroded the foundation of our national defense. If there is no other lesson learned from this experience, let it be that unilateral restraint does not work.

The SALT II Treaty comes to us accompanied by conspicuous damage to our security—damage which I deeply believe derives from our zeal to get this agreement. The implications of this history are profoundly disturbing as a background to any future negotiations.

In the course of the next three months, the Senate must undertake a comprehensive analysis of this treaty. At the outset, I submit certain criteria which many thoughtful critics have established as a basis for evaluating the treaty and shaping decision on the proper course of action for its disposition.

EFFECT ON NATIONAL SECURITY

The first measure to be applied to the treaty must be:

Does it enhance or weaken our national security?

Does it enable us to implement a viable strategy designed to deter attack, and assure the flexibility essential to controlling crises and avoiding coercion?

Does it assure that the balance of forces that we have enjoyed over the past few years can be maintained during the life of the treaty and beyond?

Does it allow the unimpeded development of essential U.S. strategic systems?

These issues must and will be thoroughly explored during our hearings. However, I must say that on the basis of careful analysis of the treaty text, the unilateral entitlement to heavy missiles provided the Soviet Union, the acknowledged vulnerability of our own ICBM force commencing in 1982, the three-to-one imbalance it confirms in ICBM warheads (and greater imbalances in every other standard of measure), the exclusion of Soviet systems it allows and the unilateral restraint it imposes on the introduction of new cruise missile technology, the treaty appears to be grossly unequal and it may presage the emergence of Soviet nuclear superiority in the early 1980s.

SIGNIFICANCE AS A POLITICAL ACT WITHIN THE OVERALL CONTEXT OF U.S.-SOVIET RELATIONS

The next criterion to be applied deals with the significance of the treaty as a political act within the overall context of U.S.-Soviet relations. For the past ten years, arms control negotiations have been cast as the central element of the very broad-ranging efforts to achieve a relaxation of tensions between the United States and the Soviet Union. The fundamental premise which was to guide all of these efforts whether in trade, joint technical projects, or political dealings with third countries, was reciprocity. It was mutually agreed that efforts to gain unilateral advantage were inappropriate and would undermine any ultimate possibility of trust and lessened tension. While modest progress was made in the early years, as expressed for example in the conclusion of the Quadripartite Agreement on Berlin, Soviet activities in recent years represent a serious departure from the principle of reciprocity.

Since 1976, we have witnessed an accelerating pace of Soviet efforts to achieve unilateral benefit, notably in such areas as Southern Africa, Ethiopia, Yemen, and Southeast Asia. Further, their efforts to undermine the recent Camp David accords leading to Middle East settlement expressed anything but sincerity in trying to reduce tensions.

Concurrently, the Soviets have carried out a furious pace of military modernization and improvement—an effort which in no way reciprocated the U.S. expressions of restraint already cited. In sum, the principle of reciprocity has been cast aside. And so, against this history of unrelieved Soviet efforts to gain unilateral advantage, I believe we must seriously consider the significance of SALT II as a political act. Is the treaty equal and does it provide balanced reciprocal benefits to both sides?

In the end, the Senate will be sending a signal to the Soviet Union regarding the direction we wish our relations to follow. By our action, we will either ratify the trends so evident in recent years or signal a vigorous intention to return to strict reciprocity. Simple ratification of a treaty which confirms Soviet nuclear superiority would provide an expression of encouragement and approval of Soviet behavior and destroy any prospect of restoring the original basis of detente.

SALT AS ARMS CONTROL

The next measure to be applied to the treaty concerns its effectiveness as an arms control measure.

Does the treaty provide meaningful limits to the growth of nuclear arms?

Does it limit the right things?

Does it assure adequate verification as a basis for confidence on both sides?

Finally, does it establish an acceptable basis for the negotiation of SALT III?

Again, these issues will be explored, but based upon the enormous growth of warheads and destructive potential allowed by the treaty, its failure to limit missiles and throwweight, its failure to meet a reasonable standard of verification, and the precedential impact of a Protocol as it relates to SALT III render hardly credible any assertion that this is meaningful arms control.

IMPACT ON ALLIES

The next criterion to be applied concerns its impact on our relations with close allies in NATO and elsewhere. The treaty should meet the following tests.

Does it enhance or inhibit the establishment of a stable nuclear balance in Europe?

I have read with astonishment the assertion that the exclusion of European-based systems was a hard-won concession benefiting us. In view of the fact that the nuclear balance between theater delivery systems in Europe is almost three to one in favor of the Warsaw Pact, I find this statement grossly deceptive. But there are more fundamental issues to be addressed.

Does the treaty allow the United States sufficient latitude to make timely transfer of cruise missile technology to our NATO allies? Does it prevent them from developing and deploying a conventional variant immediately? In a broader sense, does it provide such a balance between the U.S. and the Soviet Union as to strengthen allied confidence in the linkage of U.S. strategic forces to their defense? Assurances provided thus far on these issues afford little basis for confidence.

CONSEQUENCES OF AMENDMENT

The fifth criterion to be applied in our deliberations concerns the consequences of amendment. As an a priori assumption, it must be accepted that where imbalances are allowed which impose unacceptable risks to United States security, they must be corrected. Within that context, the acknowledged vulnerability of the U.S. ICBM force which occurs in 1982 and the lack of crisis stability which derives from it are particularly worrisome.

There have been numerous assertions that amendments will destroy the treaty, shatter detente and lead to a dangerous period of increased Soviet adventurism. I find just the opposite to be true.

Surely, the approval of a treaty providing numerous major advantages to the Soviet Union could only provide encouragement for the continuation and even acceleration of recent trends. History reflects that the Soviet Union seeks to expand its influence by probing for weakness, advancing where it finds it, and stopping when opposed.

In my judgment, the best deterrent to continued Soviet efforts to gain influence in areas ever closer to vital U.S. interests—including petroleum resources—is a firm demonstration of U.S. will and determination to restore its strength and reassert its role as the leader of the free world.

In a related vein, we are told that without SALT II, Soviet strategic offensive forces will grow uncontrollably and we will face far greater risks. I have studied this question carefully. For the Soviets, such a course is both illogical and unnecessary. In view of the enormous measure of offensive superiority they already possess, it would seem far more likely to me that they will now concentrate on the enhancement of their defensive capabilities in such areas as anti-submarine warfare and air defense.

Regardless of the course they might choose, our first responsibility is to assure our own defense. Irresponsible forecasts of doom cannot escape this fundamental point.

There is a separate but related point which concerns what actions the U.S. might take if the Soviets refused to renegotiate SALT. The history since SALT I provides a useful precedent in this regard. The Senate, with the endorsement of the Joint Chiefs of Staff, approved SALT I after receiving assurances that vigorous programs would be pursued to assure the maintenance of the strategic balance. In point of fact, vigorous programs were pursued. Today, however—largely as a result of the SALT II syndrome—those programs either do not exist or have been seriously delayed. This shoddy history provides anything but reason to repeat our mistakes by simple approval of SALT II. Nor do the limitations of future programs contained in the Protocol provide any basis for encouragement that our technological advantage—our last advantage—will not be bartered away.

CONCLUSION

These are the considerations which must be addressed in the coming weeks. I look forward to probing deeply into each area. Balanced arms control is the most vital policy issue of our generation—indeed, it is a moral imperative. But we must not permit our commitment to the objective to obscure honest recognition of facts. We are presented with an opportunity to either enhance the security of all mankind or to mortgage it for an illusory promise of peace.

SALT II—STATEMENTS OF WITNESSES IN SECOND WEEK OF HEARINGS BEFORE THE COMMITTEE ON FOREIGN RELATIONS

Mr. CHURCH. Mr. President, I ask that the statements of the witnesses appearing before the Committee on Foreign Relations during its second week on the SALT II Treaty be printed in the RECORD.

The second week of witnesses included: Monday, July 16, the Honorable Gerard C. Smith, Ambassador at Large and Special Representative of the President for Nonproliferation Matters; the Honorable U. Alexis Johnson, former Ambassador at Large, Chief, U.S. delegation, SALT Talks, 1973–77; the Honorable Paul C. Warnke, former Director, U.S. Arms Control and Disarmament Agency and former Chief, SALT Negotiations; Richard Barnett, Institute for Policy Studies; Jeremy Stone, director, Federation of American Scientists.

Tuesday, July 17, Adm. Elmo R. Zumwalt, retired, former Chief of Naval Operations; Adm. Thomas H. Moorer retired, former Chairman, Joint Chiefs of Staff; Gen. Russell Dougherty, retired, former Commander in Chief, Strategic Air Command; Adm. Isaac Kidd, retired, former Commander in Chief, U.S. Atlantic Fleet; Adm. Noel Gayler, retired, former Commander in Chief, U.S. Forces Pacific and former Director, National Security Agency.

Wednesday, July 18, the Honorable Harold Brown, Secretary of Defense; the Honorable George M. Seignious II, Director, U.S. Arms Control and Disarmament Agency.

Thursday, July 19, the Honorable W. Averell Harriman, former U.S. Ambassador to the Soviet Union; the Honorable Ralph Earle II, Chairman, U.S. delegation to the Strategic Arms Limitation Talks; the Honorable David McGiffert, Assistant Secretary for International Security Affairs, Department of Defense; the Honorable William J. Perry, Under Secretary for Research and Engineering, Department of Defense; the Honorable George Vest, Assistant Secretary, Bureau of European Affairs, Department of State; the Honorable George Ball, former Under Secretary of State; the Honorable Eugene Rostow, former Under Secretary of State. Some of the above listed witnesses did not have prepared statements.

The first 2 weeks of the Committee on Foreign Relations' hearings were devoted to an overview of the military, diplomatic, and political background to the SALT II Treaty. The next 2 weeks of the committee's hearings will be devoted to specific issues. Between July 23 and August 2, the committee will focus on the questions of verification, Backfire bomber, the ICBM question, United States-Soviet relations, and hear from former Secretary of State Kissinger, and Gen. Alexander Haig.

Mr. President, I ask unanimous consent that the witness statements be printed at this point in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SALT II—AMBASSADOR GERARD SMITH

I

Mr. Chairman, Members of the Committee: May I express the hope that in deliberations on this treaty some of the mood of earlier years of the nuclear era may be recaptured. What has happened to the awe and horror we felt in watching nuclear explosions from an atoll in the Pacific. Where is the horror we felt on looking at photos of Nagasaki and Hiroshima? All of us, I think, have become callous to the threat of nuclear war and the effects of nuclear weapons—of which Three Mile Island has given us a tiny taste. More and more we seem to adopt the numerical mental attitudes of systems analysts. Software and computer output replace personal appreciations of what nuclear war would really be. Remember when our youngsters told of civil defense drills at school involving their sheltering under desks. And newspapers often showed what 1 megaton would do to Washington and other cities. Most of that is gone—sublimated. If we are to get through this nuclear valley of death, I think it will take more than a cold balancing of kilopopunds of throw-weight or megatons of yield and the rest.

It would stress that with or without SALT we are in for a continuation of a fateful competition with the Soviet Union in the field of strategic weapons. Since the time before SALT—almost a decade ago when the Soviets were catching up—they have been mounting large, broadly based missile programs. We have also been modernizing our forces but in the case of our land-based Intercontinental Missiles (ICBMs) with less dynamism. Despite this we are not in an inferior position. We have doubled the number of our strategic warheads since SALT I started. We have installed over 500 modern MIRV'd ICBMs, almost 500 modern MIRV'd SLBMs, and over 1,000 short range nuclear armed attack missiles on our heavy bombers. A new fleet of missile submarines, the Tridents, will soon be joining the strategic forces. Strategic cruise missiles will also soon be deployed. We lead the Soviets in a number of important areas. Our forces are more survivable and diverse. But even if the treaty is ratified, we will go in for extensive improvement measures to avoid in the future a perceived imbalance between the Soviet and American forces. The basic question is—can we improve our strategic position with less risk and cost with SALT II controls than in their absence.

II

Let us first look briefly at the experience under the SALT I agreements of 1972.

The main product there was the Anti-Ballistic Missile Treaty limiting ABM sites to two for each nation. Many of us think that that treaty avoided a risky, costly and perhaps absurd competition to try to build defensive ballistic missile systems. In the late 1960's there were outspoken proponents for deploying defensive missiles to reduce damage which attacking Soviet missiles could do to population centers and to our Intercontinental Ballistic Missiles. (Even in those days we worried about the ICBM vulnerability problem.) Then it was realized that any such defensive system could probably be neutralized by the other side's simply deploying more offensive missiles—and to the extent that an ABM system did promise to be effective, it could be destabilizing if it led a nation to believe it could attack while expecting the ABMs to deflect the brunt of the retaliation. The ABM Treaty enabled us to avoid a very expensive and futile arms race in defensive strategic systems.

I think it is generally recognized that this Treaty has worked. Secretary of Defense Brown recently said it had contributed greatly to stability. The ABM limit was later reduced from two to one site for each side and we later decommissioned the one site which we had built. The Soviets have not completed their one existing system around Moscow. The ABM Treaty was reviewed by the parties in 1977 and found to be effective. It is to be reviewed again in 1982.

The other SALT I agreement was called an "interim freeze". Its purpose, as we saw it, was to hold down the number of Soviet missile launchers while negotiations for treaty limitations continued. The aggregate number of land and sea based ballistic missile launchers was limited to approximately the number which were then deployed or under construction. Heavy bombers in which we had superiority were not affected. We also had significant leads in warheads and technology, but the Soviets had substantially more ICBM launchers and were permitted to keep most of them. In this respect the freeze had an appearance of inequality although such was not the case when our other strategic forces were taken into consideration. Psychologically, the freeze got off to a poor start. And for some reason there was an expectation in some quarters that the Soviets would not substantially modernize and improve their ICBMs as permitted under the freeze, an expectation which was disappointed. I think that is a major factor in the negative attitude which some people now have towards SALT II.

Also agreed upon during SALT I were two arrangements of special significance for the problems of accidents involving nuclear weapons—certain measures to reduce the risk of outbreak of nuclear war and for modernization of the Washington-Moscow hot line. They are largely forgotten, but the hot line has more than once proved its use in emergencies and the war risk reduction agreement could be of importance in the future.

As part of SALT I, it was agreed that fulfillment of the commitments could be verified by what were called "National Technical Means of Verification", a smooth term for some of the intelligence systems of the two sides, including satellite photography. This proviso, in effect, legitimized the use of intelligence systems for arms control, a development which seemed to me an extraordinary thing for the Soviets to agree to.

The two sides also took commitments not to interfere with the operation of these intelligence systems and not to conceal from them the weapons systems limited by the agreements. These constraints on counterintelligence measures have been an important plus for U.S. intelligence systems. With or without SALT we need to keep track of Soviet strategic force development and deployments. But without SALT, the Soviets could take any concealment measures available, thus making our monitoring task far harder.

There was also established by SALT I a Standing Consultative Commission whose function is to consider ambiguities which might arise and clarify doubts as to possible violations. This group has met frequently and has operated successfully. A number of ambiguities have been clarified. On some occasions practices by both sides which were considered inconsistent with the agreements have ceased. Presidents Ford and Carter have certified that there have been no violations of the SALT I agreements. Although by its terms the "freeze" expired in 1977, the Soviets even now are decommissioning some ballistic missile submarines in order to stay under a ceiling called for by this freeze. This, I think, is good evidence that the Soviets take SALT seriously.

I would say that (largely because no added ABM systems have been deployed by the USSR) American security is better now, after almost 7 years of operating under SALT I, than if the ABM Treaty and the missile freeze had not been approved by the Congress in 1972 and an unlimited competition had continued. We have gained confidence that certain commitments taken by the Soviet Union in strategic arms limitation can be verified. We are approaching SALT II, not as something new and untried, but as a continuation of a process that we have learned to live under and to count on.

III

The SALT II negotiation has been going on since November of 1972. It is some measure of the difficulty of this work that it has taken almost 7 years to reach an agreement which will expire in some 7 years.

IV

What is the case against SALT II? It is said that SALT I didn't stop the Soviets' strategic programs which may become superior to our forces, so why agree to SALT II? And SALT I did not lead to the expected relaxation of Soviet-American tensions. During the past six years the Soviets have engaged in an adventurist foreign policy which has been destructive of a number of U.S. aims.

Here I would point out that useful arms control arrangements should not be limited to times of superpower good behavior. The treaty prohibiting nuclear tests in the atmosphere followed shortly after the Cuban missile crisis. SALT I was concluded only a few weeks after the U.S. started bombing Haiphong in Vietnam, a Communist ally of the USSR. In fact, if the USSR is to continue an adventurist foreign policy, it might be better if its strategic arms were under some agreed controls. Competition is inevitable between two societies having such fundamentally different goals and policies. But I would rather see that this competition take place, if it must take place, in an arena where the most dangerous aspect is subject to some regulation and control.

I think that underlying most of the opposition's arguments is a belief that in an open competition not limited by arms control, United States superior technology would give us some advantage. Claims are made that the existence of the arms control relationship tends to moderate our reaction to Soviet bad behavior abroad and that SALT II would be a psychological constraint on modernization of U.S. forces.

It is said that the SALT process has lulled us into inertia and has had no such effect on the Soviets and in the absence of agreed arms limitations we would be more keenly aware that we had to make a greater effort. To some critics rejection of the treaty by the Senate would mean reinvigoration of American programs. As for rejection's effect on Soviet programs, critics are either silent or apparently inclined to trust that the Soviets would not expand their strategic programs.

Critics of SALT are especially concerned about the predicted vulnerability of our land-based ballistic missiles, the ICBM vulnerability problem. It is now believed that the Soviets will have the capability to destroy almost all of our ICBM's using but a fraction of theirs, a threat which critics think will tend to make the United States reluctant to stand up to the Soviets in a crisis. I would inject here this thought—if ever the Soviets were tempted to such a desperate act as attacking our ICBMs, they would have to make the risky calculation that the Americans would never fire their missiles before Soviet missiles hit American targets, I wonder. I am not urging that the U.S. adopt a procedure of "launch on warning". But the possibility that we would is a not unreasonable contribution to Soviet uncertainties. The Soviets would also know that if they struck our ICBMs, the U.S. would still have thousands of warheads in the alert bomber force and on its missile submarines at sea. Nevertheless, this ICBM vulnerability question needs more attention. SALT would impose no constraints on our efforts to solve or mitigate this problem.

Critics also emphasize that the Soviets could keep some 300 fixed launchers for very large ballistic missiles now in their force while the United States could not deploy any. U.S. force planners have consistently chosen not to match the Soviets in heavy missiles and to emphasize more important characteristics. The main consideration has been "What are our requirements?", not "Let's copy the Soviet forces."

Admittedly, it would look better if the United States had the right to build the same number of such fixed launchers as the Soviets now have whether or not we ever wanted to exercise it. But this would have no practical effect on U.S. forces during the life of SALT II. The U.S. has no use for and does not plan to deploy this kind of missile. Why would we want to deploy a fixed missile system of any kind when such systems are becoming vulnerable?

The situation will be exactly the same or worse if the treaty is not ratified. On the Soviet side there will be some 300 such launchers, (if not more), while we would not deploy any. Nothing in the treaty would prevent the testing or deployment of the new missile, the M/X. It is important to know that the heavy Soviet ICBMs are not the proximate cause of our prospective ICBM vulnerability. That situation would exist even if the Soviets had no heavy ICBMs. Accurate and MIRV'd light ICBMs would offer a similar threat. I understand that the U.S. traded its right to fixed heavy ICBMs and permitted the Soviets to keep their heavy ICBMs while the Soviets abandoned their long-held position that American nuclear systems based in Western Europe and the Far East and the fact that U.S. allies deploy substantial strategic missile forces must be taken into consideration in setting SALT ceilings. That seems to me like good use of a right we had no intention of exercising—it was an arrangement that fully commended itself to our allies.

Critics also don't like the fact that effective limitations would not be placed on the Soviet bomber "Backfire" which, though not truly intercontinental, does have some capability to strike targets in the United States. But here the U.S. does have the right to build unlimited numbers of aircraft of this type. More numerous than Backfires are the nuclear capable NATO fighter bombers which can strike targets in the USSR and which also would not be SALT limited. Neither would the strategic missile forces of our allies, the UK and France, be limited. (I understand that the Soviets have agreed not to increase the present production rate of Backfires—some 30 a year.)

Certainly there are weaknesses in our strategic forces that need correction and certainly SALT does not solve all of our strategic problems. But I believe the treaty would make these problems more manageable. Secretary of Defense Brown recently said that SALT II would make the strategic balance more predictable and would place important limits on the threat we will face. I have been advised that the SALT constraints would not prohibit any U.S. programs designed to reduce or eliminate present weaknesses. What modernization measures are necessary involves important issues needing enlightened debate. But a judgment about SALT should not depend on whether one favors these improvements or not. SALT does not require or prevent any of them.

Critics believe that the Soviets do not hold to our doctrine that the main function of strategic arms is to deter the other side from using or threatening to use its strategic forces. They say that the Soviets are planning not only to deter but, if necessary, to fight a nuclear war to a successful conclusion with damage limited by their weapons systems and by a large scale civil defense program to protect their people. These critics feel that strategic arms control will not work to our interest in the absence of acceptance by the USSR and the US of a common strategic doctrine. But it is not apparent that SALT will have an effect one way or the other on Soviet decisions about doctrine, nor will it prevent our adopting a doctrine more like that imputed to the Soviets and forces appropriate to it. We can make decisions about whether we want a greater "war fighting" capability, including a civil defense program of the kind and scale of that of the Soviet Union, independently of SALT.

Looming behind much of the criticism of the SALT package is doubt on the part of critics as to verifiability of commitments to be taken. They fear that the Soviets will violate the agreements and steal a march on the United States. By the same token, in SALT I an anxiety of some Americans was that the Soviets would violate the ABM limits by using anti-aircraft systems for anti-ballistic missile purposes—the so-called Sam upgrade problem. They didn't.

In addition to SALT I—our intelligence has confirmed that the Soviets are living up to other arms control agreements, the Limited Test Ban Treaty which curbed the pollution of the atmosphere, the Antarctica Treaty, the Seabeds Treaty and the Outer Space Treaty. And now they know that their performance will be under closer scrutiny than ever.

In considering verification, keep in mind that it does not involve trusting the Soviets. It does involve confidence that our intelligence systems have already proved capable of monitoring performance of SALT I obligations and can check on Soviet performance under SALT II. In addition, SALT II (by a provision which is unique in modern arms control arrangements) the sides have disclosed the exact composition of their present strategic forces and have agreed to update this data base" to reflect future changes. Secretary of Defense Brown recently said, "We are confident that no significant violation of the treaty could take place without the U.S. detecting it." We would be able to respond with appropriate actions before any seriously adverse impact on the strategic balance could take place. The relatively short life of the treaty, which would end in 1985 and in addition could be terminated on 6 months' notice, is good insurance that the Soviets cannot gain any advantage from not living up to its provisions. Even such a tough SALT scrutinizer as my friend, Paul Nitze, takes a somewhat relaxed view of the matter. In an article in Foreign Affairs in 1976 he wrote, "I personally take the verification issue less seriously than most because the limits are so high that what could be gained by cheating against them would not appear to be strategically significant."

V

Intelligence about Soviet strategic arms is a combination of knowledge about present capabilities and estimates about future developments. SALT helps in both respects. Present deployments can be more precisely determined since the Soviets are not permitted under the agreements to conceal weapons systems which are limited and they have agreed not to interfere with our National Technical Means of Verification (intelligence systems). As for estimating future deployments, the agreement spells out the maximum permitted levels of the limited systems, thus simplifying somewhat the problem of prediction of future force levels. The absence of this "predictability", which would result from a SALT rejection, would make the future strategic balance more uncertain and would thus be destabilizing.

VI

In the Soviet Union are there also critics of SALT? While we don't hear their voices, I suspect that there are. Here are a few points they may be making:

1. The USSR would have to reduce its forces while the Americans could increase theirs.
2. The Americans will have many highly accurate air-launched cruise missiles during the life of the treaty and the Soviets will have few or none at all.
3. Soviet submarines are noisier and Soviet access to the high seas is much more constrained than America's. And the Americans have a forward base for their missile submarines in Europe and the Soviets have none in this hemisphere.
4. The Soviets have four nuclear adversaries with strategic forces—the U.S., the UK, France and China—and the Americans have but one.
5. The Soviets have an inferior heavy bomber force. The United States has over 300 truly intercontinental bombers.
6. The Soviets have nearly three-quarters of its warheads in less vulnerable systems—the United States has nearly three-quarters of its warheads in less vulnerable systems—bombers and submarines.
7. The United States can count on many hundreds of nuclear capable fighter bombers deployed close to the Soviet Union which could destroy hundreds of targets in Russia. These systems are not limited by the agreement.

VII

There are several other important considerations—

My responsibilities are now in the field of non-proliferation—to try to control the spread of nuclear weapons around the world. This is called horizontal proliferation, as opposed to vertical, which refers to the build-up by the 2 superpowers of their nuclear forces.

To my mind the threat to American security from horizontal proliferation is substantially greater than that presented by the continuing improvement in Soviet forces. Imagine the instabilities that would be created if and when more nations have nuclear weapons or even a weapons potential. This is no empty anxiety. Pakistan is now headed in that direction. A key country for our non-proliferation efforts is India which exploded a nuclear device 5 years ago. One can hardly expect India formally to give up a weapons option until at least some further progress on SALT is registered and there is further prospect that the superpowers are putting their strategic weapons under constraints.

One of the main instruments to contain the spread of nuclear weapons is the Non-Proliferation Treaty which has been in force for almost ten years. Over 100 countries have taken commitments not to go for nuclear weapons. But there is a *basic bargain* embedded in this treaty. Those non-weapons countries' commitments are contingent on Soviet and American progress in controlling their nuclear arms. If efforts to this end of the last 7 years don't produce results, the integrity of this essential Non-Proliferation Treaty will be cast into doubt and our task of trying to control proliferation will be substantially increased. That, to my mind, is a very important reason for getting on with SALT II.

VIII

Without SALT II the continuance of the ABM Treaty could be in doubt and we could once again face a competition to deploy defensive missile systems. When, in 1972, the first SALT agreements were presented to the Congress, they included a statement which I had made to the Soviets at the direction of President Nixon that if a SALT II treaty limiting offensive forces to match the ABM Treaty was not reached, that could constitute a justifiable cause for abrogation of the ABM Treaty. Critics of SALT II already are calling for terminating the ABM Treaty. And the USSR could take the same position that we had reserved for ourselves in 1972. Then, whether the ABM Treaty survived or not would be entirely up to the Soviets—who face nuclear threats from three smaller nuclear powers for which ABMs might be effective.

If the ABM Treaty is lost, we would again be in an unlimited strategic competition in which the Soviets would no longer be committed not to interfere with our technical means of verification and not to conceal their launchers. Gone also would be the S.C.C. consulting mechanism which has worked well to clear up ambiguities. I think these would be substantial losses for our intelligence capabilities.

The Soviets have a large advantage—in their superior command of information. They have the ability to predict the size and quality of American strategic forces of the future merely by studying our defense budgets and other documents in the open literature. Before SALT I we had to depend solely on hard won intelligence. In SALT I we obtained a degree of predictability about what Soviet force levels would be during the ABM Treaty and at the end of the 5-year freeze. We also gained an advantage from the Soviet commitment not to interfere with our means of verification or to conceal limited arms from them. Without SALT ceilings for the future, our uncertainties would increase. This would hardly make for stability.

IX

It has been said that SALT will prejudice the interests of our allies, but the leaders of France, England and Germany have expressly, forcefully, and publicly endorsed the SALT package as has the Secretary General of NATO and the NATO defense ministers. Last month Chancellor Schmidt said that rejection of SALT would be a "catastrophe".

I couldn't put the case for SALT better than Schmidt did recently in the Bundestag. "SALT II can be concluded only in the form of a compromise . . . if everyone involved will accept something that is not fully in line with their own interests—it is necessary to differentiate between critical remarks involving individual aspects of this package . . . and the great world political significance of the whole treaty—otherwise the whole world will suffer a most serious confidence crisis." Later he said,"No people in Europe would be more seriously affected by the consequences of the failure of SALT II than the German people. For in our geopolitical situation we need to be able to trust in two things more than anybody else: Trust in the ability of the West to achieve and preserve a stable equilibrium, and trust in the continuation of the policy of detente on this sound foundation. The successful conclusion of SALT II will reinforce this trust. The success of SALT II will encourage the West and the East to find solutions—including arms control measures—for other potentials threatening the military balance of power."

X

At stake here is whether or not the U.S. Government is capable of conducting a coherent foreign policy.

In the current, uneasy state of relations with our allies, rejection would prejudice economic and political cooperation as well as defense policy coordination. U.S. prestige, influence and leadership around the world would suffer badly.

XI

What about possible Senate approval but with proposed amendments or reservations? If they were substantive and required that the negotiation be reopened and the bargaining resumed, it seems likely to me that the renegotiation would not succeed. Agreed Soviet-American arms limitations are reached only as a result of concessions and counter-concessions which in turn are the result of internal bargaining in Washington and I believe also in Moscow, Nothing is agreed until everything is agreed. To start afresh would mean to reopen the whole bargain—not just to negotiate for one or more additional provisions. I would urge that close attention be given to whether one judges any proposed amendment to be negotiable or not, and before any renegotiation was launched we cannot avoid the question, "What further concessions are we prepared to make?"

XII

Our choice, it seems to me, is to continue to modernize our forces for some 6 years under agreed SALT II ceilings with certain limitations on Soviet and American weapons systems or to go back to an unlimited contest. Is it in our interest to continue the deadly competition but with some ground rules to make it somewhat less costly, somewhat safer? On balance, I believe the United States will be in a relatively better position if we pursue force modernization programs under the SALT II package than if we go ahead in unlimited competition. But I think we should recognize that SALT II is no panacea, that it does not warrant the great expectations generated at the time of SALT I, and that it is a step, a necessary move toward more significant reductions and constraints which we should press for in the years ahead. The negotiations for major force reductions should start promptly.

Statement of Ambassador U. Alexis Johnson Before the Committee on Foreign Relations, U.S. Senate, July 16, 1979

Mr. Chairman and Members of the Committee: I am pleased to appear before this Committee to be of whatever assistance I can in your important deliberations on the Strategic Arms Limitation Treaty signed at Vienna, Austria, on June 18, 1979, by President Carter and General Secretary Brezhnev. At the outset I want to make it clear that I retired from the Foreign Service and resigned as Chief of the United States SALT Delegation on February 28, 1977. Thus, I can in no way speak for or on behalf of the present Administration. However, I thought it might be helpful if I would summarize some of the highlights of the negotiations during the four-year period I was Chief of our Delegation, from February 1973 until February 1977.

During this period I had literally hundreds of meetings over thousands of hours with my Soviet counterpart, Vladimir Semenov, then Soviet Deputy Foreign Minister. Those negotiations were divided into two quite distinct periods. The first period was from March 1973, which followed closely upon the conclusion of SALT I, until November 1974. As you well know, in November 1974

President Ford met with General Secretary Brezhnev at Vladivostok and reached an understanding on SALT. The translation of that Vladivostok Accord into detailed treaty form was the subject of the second period of our negotiations until my last meeting with the Soviet representative in November 1976.

The enormous complexities of the many proposals and counterproposals that were made over those years can, I feel, best be dealt with in a generally chronological fashion. Therefore, I will first deal with the period prior to the November 1974 Vladivostok meeting.

In late 1972 and early 1973, the Administration of President Nixon had formulated some basic concepts to be proposed to the Soviets for the SALT II agreement. These concepts included:

Equal aggregate ceilings on the central systems of the two sides, that is, on the aggregate number of ICBM launchers, SLBM launchers, and heavy bombers.

Eventual reductions in the number of such central systems.

No provisions to be included concerning or taking into account the so-called "forward-based systems" of the U.S. or the nuclear systems of our Allies, as insisted on by the Soviets.

The inclusion of qualitative limitations, including limitations on ICBMs, which were recognized as the most destabilizing of strategic offensive arms.

My initial negotiations with the Soviets were based on these concepts.

The Administration at that time was strongly committed to the policy that the strategic nuclear forces of the United States should be no less than equivalent in the overall sense to those of the Soviet Union. This was expressed by the concept which we called essential equivalence in central systems. In this the Administration was also taking account of the Jackson amendment associated with the ratification of the SALT I agreements in 1972, which called for the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

It was on these bases that the U.S. SALT Delegation was instructed in the spring of 1973 to make a proposal for an equal aggregate ceiling of ICBM launchers, SLBM launchers, and heavy bombers for the two sides. The number that we proposed at that time was 2350 for each side. We also pushed the concept of reductions from that number, without, however, making specific numerical proposals. Our proposals contained no explicit provision to cover U.S. forward-based systems (FBS), nor did our proposals take into account directly or indirectly U.S. FBS or the nuclear forces of our Allies.

An important aspect of the proposals made by the U.S. Delegation in 1973 and 1974 were those aimed at qualitative limitations on strategic offensive arms. These included limitations on ICBM throw-weight and on MIRVs.

For their part, the Soviet Delegation pressed hard all through the period leading up to Vladivostok simply to extend to the new Treaty the asymmetric limits on ICBM and SLBM launchers which had been agreed in the Interim Agreement. They also made vague proposals to limit the number of heavy bombers, but we never could determine precisely what they had in mind. The Soviets tried to justify these asymmetric limitations on central systems as an offset for U.S. FBS and third country nuclear forces, namely, those of the United Kingdom, France, and even China!

At the same time the Soviets pressed for strict and detailed limitations on all U.S. FBS. The Soviets proposed that a strategic offensive arm be defined to be any nuclear system whose characteristics, including its geographic deployment, enabled it to strike the territory of the other side. This proposed definition included attack aircraft carriers with nuclear delivery aircraft, as well as U.S. nuclear delivery aircraft deployed on the territories of our Allies. Their detailed proposals concerning these systems included withdrawal of all ballistic missile submarines and aircraft carriers with nuclear delivery aircraft beyond some limits (which they did not specify), as well as a phased withdrawal of what in effect amounted to all U.S. FBS and U.S. bases for FBS from third countries. In addition, they proposed strict prohibitions on transfers to third states of strategic offensive arms and the technology related to such arms. The net effect of these one-sided proposals would have been essentially to ban all U.S. long-range theater nuclear forces and to disrupt military cooperation with our Allies.

The strategy of the U.S. SALT Delegation in this 1973–1974 period was to push hard for Soviet acceptance of the basic concepts we were proposing: equal aggregates, reductions, and qualitative limitations. At the same time, we vigorously rejected the Soviet proposals regarding FBS and non-transfer, as well as the concepts underlying them. However, the two Delegations were not able to come to agreement on these issues as of November 1974.

This is the background from the Delegation viewpoint of the period that led up to the summit conference between President Ford and General Secretary Brezhnev at Vladivostok in November 1974, at which they agreed upon on a set of principles for a SALT II Treaty. Some of the most important results of the Vladivostok Accord were:

A Treaty to cover the period up to the end of 1985.

An equal aggregate ceiling of 2400 systems.

An equal subceiling of 1320 MIRVed systems.

No limitations on, or account taken of, U.S. FBS or Allied nuclear forces.

Carry over to the new Treaty the Interim Agreement limitations freezing the maximum numbers of ICBM launchers and of modern heavy ICBM launchers.

Given the very strong emphasis that the Soviets had continued to place on asymmetric central system limitations to offset U.S. FBS and third country nuclear forces, I was frankly surprised and pleased at President Ford's success at Vladivostok in getting the Soviets to agree to equal aggregates with no limits on U.S. FBS.

When the two Delegations resumed in Geneva in late January 1975, we had the task of drafting precise Treaty language based on the general principles which had been agreed at Vladivostok. Within about a month, each of the two Delegations had tabled a draft text for the Treaty, and we began work which soon led to a Joint Draft Text.

The U.S. had some specific aims in drafting the Treaty. One aim was to draft precise and unambiguous definitions of the strategic offensive arms to be limited in the Treaty. This was vitally important in order to make clear the obligations of the two sides and to ensure that the two sides would have the same understanding of the limitations in the Treaty. Such agreed definitions would thus help to avoid misunderstandings during the life of the Treaty. At first the Soviets rejected the concept of putting definitions in the Joint Draft Text. For example, they professed to believe that the language in the Interim Agreement concerning "light" and "heavy" ICBMs would suffice as a "definition" of the term "heavy" ICBM for the new agreement. Of course, one of the problems that had emerged in the Interim Agreement was the lack of an adequate definition of this term. Similarly, they opposed definitions of MIRVs and of throw-weight and a specific limitation on heavy ICBMs. In the next stage, they agreed to the concept of putting definitions in the Joint Draft Text, but opposed the detailed and precise definitions which we were proposing. Finally, and all of this took the better part of a year, the U.S. Delegation got the Soviets to agree to the approach to Treaty definitions that we had been proposing all along.

When the two Delegations got down to the business of working out these detailed definitions, it turned out, as we had expected, that significant substantive questions arose which required many months or even several years to resolve. One of our major achievements was to get the Soviets to agree to a detailed definition of "heavy" ICBMs and to agree to put a cap on the capabilities of "heavy" ICBMs. Specifically, by November 1976 we had obtained Soviet agreement on language which in effect defines a "heavy" ICBM as any ICBM with a launch-weight or throw-weight greater than that of the Soviet SS–19 ICBM. This means that no "light" ICBM can have a launch-weight or throw-weight greater than that of the SS–19. The Soviets also agreed on language which in effect bans any ICBM with a launch-weight or throw-weight greater than that of the Soviet SS–18 ICBM. In connection with these provisions, we also had agreement on technical language defining the launch-weight and the throw-weight of an ICBM.

By November 1976 some of the definitions in the Joint Draft Text, such as the above definitions and also the definition of MIRVed missiles, were fully agreed. The remaining definitions were in an advanced stage of negotiation.

Another aim of the U.S. was to get Soviet agreement on type rules and counting rules which would make feasible verification of certain provisions which otherwise would be extremely difficult to verify. For example, the Soviet SS–17, SS–18, and SS–19 ICBM systems had all been flight-tested with both MIRVs and single RVs. It would be extremely difficult to tell whether a given missile contained MIRVs or a single RV. To solve this problem, the U.S. proposed early in 1975 a MIRVed missile type rule in which in effect any missile of a type which has been flight-tested with MIRVs would be considered to be a MIRVed missile. Thus, for example, all SS–17, SS–18, and SS–19 ICBMs would be considered to be MIRVed ICBMs, regardless of their actual payload. At first the Soviets rejected the concept of type rules and counting rules, saying that they would lead to overcounting, for example, by counting as MIRVed some systems which were in fact not MIRVed. However, the U.S. Delegation pressed the argument that the Treaty simply would not be verifiable without these rules, but would be verifiable with them. The Soviets eventually agreed to our approach. During the 1975–1976 period, the U.S. proposed type rules for ICBM launchers, heavy bombers, ASBMs, MIRVed ICBM and MIRVed SLBM missiles, and launchers of MIRVed ICBMs and MIRVed SLBMs. We made significant progress in this area during that period.

As you may know, the Soviets had not agreed at that time to the U.S. interpretation of the Vladivostok Accord with respect to the limitations on air-to-surface missiles. The U.S. held that these limitations would apply only to air-to-surface ballistic missiles, while the Soviets proposed that these limitations also apply to air-launched cruise missiles. This issue was at the time also under discussion at higher levels, but was not resolved by November 1976.

One of the important steps that the U.S. Delegation made in 1975 was to propose that the two sides establish a data base consisting of agreed numbers by category of the strategic offensive arms of each side limited by the Treaty. This was to be done at the beginning of the Treaty and twice annually in the Standing Consultative Commission. The rationale for such a data base was to ensure that the sides had the same understanding of the limitations in the Treaty and to help manage the aggregate limitations during the life of the Treaty. You will recall that the Soviets had never before given out such information on their own military systems, so that the negotiability of this proposal was not assured. Indeed, we made only a little progress toward gaining their acceptance of the concept of data base by November 1976, although we had pressed them vigorously on all aspects of this issue. I was pleased to see that subsequently the U.S. Delegation was successful in obtaining Soviet agreement to the data base, and that it has become an important component of the SALT II agreement.

I now want to summarize where the Joint Draft Text stood when the two Delegations recessed in November 1976. The principles agreed at Vladivostok had been incorporated into the Joint Draft Text, including those basic concepts which the U.S. had been pushing since the beginning of SALT II. However, the air-to-surface missile issue discussed above had not been resolved at that time. The Backfire issue had also not been resolved. The Soviets had accepted the U.S. approach with regard to detailed definitions and type rules and counting rules, although differences remained. The sides had agreed to extend to the SALT II Treaty the mandate of the bilateral U.S.-Soviet Standing Consultative Commission, which had been set up under the SALT I agreements to develop procedures to implement those agreements and also to consider possible compliance issues and ambiguous situations related to those agreements. In short I would estimate that at least eighty percent of the substance and language of the final text had been agreed by November 1976. The U.S. Delegation had conducted vigorous negotiations on the remaining issues which were still outstanding as of that date. Having been deeply involved in so much of the negotiation and drafting, I cannot refrain from noting how interrelated and intertwined each part of the text is with other parts, so that the whole is a single web.

Criticisms can readily be made of what has or has not been accomplished by three administrations in this very complicated field. The ideal would be an agreement so comprehensive, so perfectly balanced, and so well anticipating the future that we would never again have to concern ourselves with the omnious shadows that these beasts of nuclear weapons cast over our lives. However, we must deal with the world as it is, not as we would wish it to be.

In my own view SALT has nothing to do with what one's view may be with respect to detente, co-existence, or any other such terms. It has nothing to do with whether one likes the Soviets or does not like the Soviets, or whether one trusts the Soviets or does not trust them. I accept the statements of the Soviet leaders that they intend to remain our implacable foes, if not physically, then, as they say, ideologically. However, this should not prevent us from recognizing what is an obvious common interest in doing what can be done by agreement to reduce the danger of mutual suicide by the limitation of the strategic forces of the two sides in a way that will contribute to stability rather than to instability in time of crisis.

I feel that the SALT dialogue at all levels, Chiefs of State, Foreign Ministers, and Delegations, as well as Congressional and private debate, has been useful, even though it has not by any means led to a full meeting of minds, even among ourselves. This is understandable, as apart from differing ideologies between ourselves and the Soviet Union, and differing philosophies among ourselves, we are dealing with a fast moving and evolving technology which no agreement is going to freeze. However, as specific points of common interest emerge during the dialogue, we should seek to negotiate agreements on those points without judging the outcome against the impossible standard of such a comprehensive and definitive agreement that all of the problems for all time to come would be resolved. Rather each agreement should be judged as to whether it is a constructive and useful step forward.

In my view the SALT II agreement meets that test. Thus, I favor its ratification.

Statement of Paul C. Warnke Before the Senate Foreign Relations Committee, July 16, 1979

Mr. Chairman and Members of the Committee: During the past week, the Committee has received a full briefing on the details of the SALT II treaty and, in the testimony of Secretary of State Vance, Secretary of Defense Brown, Arms Control and Disarmament Agency Director Seignious and Ambassador Ralph Earle, a detailed analysis of the reasons why it contributes to the security of the United States. It is, therefore, difficult for me to see that I would add anything by a largely repetitive statement. I will, of course, be happy to reply to any questions that the members of the Committee might raise.

In the way of prefatory comments, however, I would like to comment briefly on the SALT process itself, as I saw it during my months as Director of the Arms Control and Disarmament Agency and Chief SALT Negotiator. I would like also to address myself to a few lines of argument that have questioned the value of this treaty. With regard to the process, the Committee, of course, is familiar with the way in which the American negotiating position has been developed and implemented. From my observation, the decision-making process in SALT has been a careful, thorough one that takes into account the views of all of the agencies of government primarily concerned in arms control and other national security matters. The SALT working group and the Special Coordinating Committee that have functioned under the National Security Council are multi-agency in composition. In the development of our proposals, every effort has been made to try and accommodate varying views and reconcile them when there have been differences.

Quite naturally, such differences have arisen. It cannot be expected that in every instance the starting points of State, the Office of the Secretary of Defense, the Joint Chiefs, the National Security Council staff and the Arms Control and Disarmament Agency will be identical. Inevitably, and I think helpfully, there is a bargaining process that goes on within the United States Government itself proceeding in parallel with the bargaining between the United States and the Soviet Union. No agency can or should expect that its initial decision will automatically prevail. No one of us who has been involved with the process has won every battle. Compromise is inevitable if consensus is to be reached.

In evaluating the product, therefore, the test must be whether the treaty does in fact serve the interests of the United States. It is not, as I see it, constructive or even feasible for anyone to pose the test whether the treaty is in all respects what any individual or any agency of the United States Government would most like to have seen.

Speaking personally, I am frank to admit that there are provisions in the treaty that I would have preferred to see written differently and other provisions that I would have liked to have seen added. In several of these cases, I have some confidence that these changes and additions would have been negotiable with the Soviet Union. But these considerations are not, as I see it, relevant to the issue now before us. That issue is whether the entry into force of this treaty is in the national interest. If not, it should be rejected. If so, it should be approved promptly and any unsatisfied further aspirations be addressed in the continuing SALT negotiations.

Some critics of the SALT process have charged that those involved in developing our negotiating positions have become preoccupied with the need to secure an agreement rather than with the substance of that agreement. My experience shows that this charge and this apprehension are completely without foundation. There are, obviously, some ancillary advantages that can be anticipated from the successful completion of the treaty—making possible other useful arrangements with the Soviet Union, fostering allied confidence in American leadership and holding the way open for more substantial reduction in and controls over nuclear weapons. But, as I see it, these supplemental benefits can be anticipated if and only if this treaty itself is a sound and effective step forward in nuclear arms control. On that question, I am confident that an affirmative answer can be given.

With respect to some of the principal lines of argument presented in questioning the value of the treaty, I would like to address first the major criticisms that it does not do enough to restrict Soviet nuclear weapons systems. Principal among these is the argument that the SALT II treaty is unequal to the disadvantage of the United States, because it does not require the Soviets to get rid of their over 300 launchers of the so-called heavy intercontinental ballistic missiles.

Some of the more vigorous opponents point out that, for the term of the treaty, only the Soviet Union will have this largest type of intercontinental ballistic missile. This is true. But the reason is that the United States, several years ago, elected for military reasons to stop building the large liquid fueled ICBMs and to build instead the smaller solid fueled, more readily maintained, more reliable Minuteman missiles. We today have none of these heaviest-type missiles because our military planners see no military need for them. During the SALT I negotiations, the United States proposed that there be a freeze on launchers of these heavy missiles. Although the freeze affected only the Soviet Union because the United States had no heavy missile program, the Soviets agreed to limit such launchers to the number then existing.

In SALT II negotiations, the question of heavy ICBM launchers was again addressed. As part of the agreement reached at Vladivostok when President Ford met with Mr. Brezhnev in late 1974, the Soviets accepted our insistence that the SALT II limits apply only to intercontinental range nuclear delivery vehicles, and not to our forward based systems that could strike Soviet targets from European bases. The United States in turn accepted the fact that SALT II would not require reductions in Soviet heavy ICBM launchers.

Despite the Vladivostok understanding, the proposals we presented in Moscow in March of 1977 included a reduction of about one-half in the Soviet heavy missile launchers. This bargaining position was, not unexpectedly, unacceptable. The Soviets pointed out that this would require them to cut out about 150 of their newest missile launchers, while the United States would eliminate no launchers and was proposing to go ahead with its own new programs including new and larger submarine launched ballistic missiles and long-range cruise missiles on strategic bombers.

The Soviets did, however, agree to continue the SALT I ban on any increase in the number of heavy missile launchers. In addition, the Soviets accepted an amended American proposal putting a subceiling of 820 on all types of MIRVed ICBMs. From the standpoint of the strategic balance, this is a more effective limit than if the SALT II agreement required a cut just in the Soviet SS–18s, but permitted them a total of 900 or 1,000 MIRVed ICBM launchers of all types.

In short, therefore, the SALT I freeze on heavy missile launchers—carried over into SALT II—represents a constraint on Soviet programs and none on our own. We have no heavy missiles because our military planners continue to see no U.S. military need for them. But the Soviets have to limit their program substantially below what it would be in the absence of SALT.

Those who argue that the SALT II treaty should be rejected because the Soviets wouldn't agree to give up all or most of their heavy missiles thus turn logic on its ear. Under the SALT limitations, the Soviets will have far fewer launchers of SS–18s and of all MIRVed ICBMs—18s, 19s and 17s—than if SALT were to be rejected. A vote against SALT therefore is a vote for more of these biggest Soviet nuclear weapons.

The fact that SALT limits Soviet heavy missiles and in no way interferes with planned American programs is dramatically shown by the SALT II negotiations about ICBMs on mobile launchers. The SALT I limits on size applied to the fixed launchers, not the missiles themselves. The Soviets were limited in SS–18 deployment because of the ban on building new ICBM silos or substantially enlarging existing silos. Accordingly, inasmuch as our MX would be deployed on mobile launchers, not in fixed silos, continuation of SALT I restraints would not limit its launch weight or throw-weight. The MX could have been designed to be as large as the heaviest Soviet missile.

Of course, the absence of size restrictions on ICBMs on mobile launchers would permit an increase in Soviet deployment of more SS–18 size ICBMs. After extensive study on the question, the Secretary of Defense and the Joint Chiefs concluded that the optimum size for the MX would be no greater than the Soviet SS–19, the heaviest light missile as defined in the SALT II treaty. In accordance with the decision of our military planners, therefore, the negotiators in Geneva proposed Article IX, subparagraph 1(d), which bars "mobile launchers of heavy ICBMs." The Soviet negotiators stoutly resisted this limitation, recognizing it as in effect a restraint only on a Soviet program. Eventually, however, they agreed to accept it.

The importance of the SALT II restrictions on the Soviet land-based ICBM force can best be seen by considering what the Soviets could do if the SALT II restrictions did not go into effect. Without SALT the Soviets would be free to build as many new ICBM launchers as they saw fit. Their ongoing programs include not just one, but a whole fifth generation of the new Soviet intercontinental ballistic missiles. There would be no limit on the size of such missiles and, most important, no limit on the number of MIRVs or separate nuclear bombs with which each missile could be equipped. The SS–18 in the absence of SALT could have as many as 30 or even 40 separate warheads.

The restrictions negotiated in SALT, therefore, improve the survivability of our own strategic force, and indeed the survivability of the United States, by preventing Soviet deployment of many thousand additional strategic nuclear warheads. We can, accordingly, have confidence that our retaliatory capability is not in jeopardy and that a nuclear attack is fully deterred.

Critics of the agreement, however, recently have argued that a collapse of SALT would not mean any appreciable increase in Soviet strategic nuclear forces. They maintain that the Soviet Union is already doing as much as it can afford to do. Their remarkable contention is that the Soviets have been pushed to the limits of their resources and, presumably, that without SALT they could do no more while we would have a free hand to increase our spending and actually could achieve some sort of strategic advantage.

This argument, in my opinion, sadly misconceives the real world. The facts are that the Soviets by merely continuing their existing programs unconstrained by SALT would have over 3000 strategic nuclear delivery vehicles by the end of the SALT II period and could have as many as 18,000 strategic nuclear warheads in their inventory. This would require no big increase in annual spending, but merely a continuation of their production lines. Production of the SS–16, with its potential for deployment on existing Soviet mobile ballistic missile launchers, also could easily be resumed.

Moreover, there is no basis for the suggestion that the Soviets are at the end of their tether and that they could not make substantial increases in expenditures on strategic nuclear weapons. Were this to be the case, the much-vaunted Soviet threat would loom less large.

As for myself, I am unable thus to discount the Soviet military potential. Admittedly, they spend a very large proportion of their resources on defense. Without this heavy drain, the average Soviet citizen's standard of living unquestionably would be higher. But the hard-come-by gains in that standard of living could readily be diverted by government that need not face an aggrieved electorate and further sacrifices could be demanded in the name of Soviet national security. Moreover, we could anticipate that a Soviet leadership would have considerable success in marshalling popular opinion to believe that American rejection of SALT portended a change away from any effort at detente, a decision for all-out confrontation and hence a grave risk to Soviet security.

For our own security, the risks of a substantial additional buildup in numbers of Soviet missiles and numbers of Soviet warheads, with a consequent decrease in the survivability of our own forces and the stability of the deterrent, cannot blithely be disregarded by predictions that economic constraints and domestic priorities can substitute for SALT limits on Soviet strategic forces.

Another major criticism, and indeed the focus of the most insistent complaints about SALT II, is the alleged impact on U.S. ability to improve its strategic forces. The fact is that, as explained by the President after SALT was signed: "The agreement constrains none of the reasonable programs we have planned to improve our defenses." Throughout the negotiations, care was taken to preserve the options that those responsible for our military force planning have defined as necessary to our security.

I have referred to our deterrent triad of intercontaintal ballistic missiles, submarine-launched ballistic missiles and strategic bombers. Each of these components can be modernized during the SALT II treaty period.

Our heavy bombers can be equipped with cruise missiles of unlimited range, assuring that this part of our nuclear deterrent could penetrate any conceivable Soviet air defense through 1985 and well into the future. Existing bombers can be equipped with as many as 20 such missiles, and when new bombers are produced, each one can carry an even greater number.

Our ballistic missile submarine force will remain invulnerable to any antisubmarine warfare developments because of new longer-range Trident missiles. As these come into the force, our submarines can operate in coastal waters of the United States for greater survivability and easier command and control.

The exception permitted each side for a new ICBM will permit us to develop the MX missile and deploy it after the period of the Protocol on whatever type of mobile launcher system is decided upon as best to improve the survivability of this part of our force.

As the Joint Chiefs of Staff informed the Committee last Wednesday, there are "a number of important restrictions in SALT II which operate primarily to our advantage." The Chiefs pointed out further: "On the other hand, the specific limits on U.S. are quite nominal." In short, SALT measurably adds to the security of the United States by improving the survivability of the U.S. strategic deterrent. It does so by limiting Soviet developments that would add many thousands of additional warheads to the Soviet threat and by leaving us free to make those changes that protect our retaliatory forces.

Ironically, it is the fact that some new nuclear weapons programs can continue under SALT II that create another type of concern with regard to the effects of arms control efforts. Sincere supporters of arms control decry the fact that SALT does not go further and even impose a moratorium on any and all new nuclear weapons programs.

I can sympathize with their view. I personally would have preferred to see an agreement with more drastic cuts and more inhibitions on nuclear weapons. I also feel that the dissatisfaction expressed by supporters of arms control can be constructive to the extent that it leads to prompt efforts to achieve more drastic cuts in and controls over nuclear arms. But I would ask them, as I would ask critics on the other end of the spectrum, to recognize that any negotiated agreement must be a compromise—both with the other side and within our own government.

We have had to recognize that the Soviets won't accept provisions that would trim the respective force structures to the taste and to the unilateral advantage of the United States. They won't scrap their big ICBMs while we insist on unlimited range cruise missiles on heavy bombers and on no controls on our nuclear forces in Europe that can destroy Soviet targets. Nor, given their heavy responsibility for our military strength, can the Secretary of Defense and the Joint Chiefs be expected to rely solely on arms control to preserve our deterrent forces.

In addition, the kinds of limits that can be written into a SALT agreement are only those that can be verified. As a matter of law, and as a matter of logic, controls can't be adopted, no matter how desirable they might be in theory, unless you can be sure you will know they are being met.

Any arms control treaty must recognize conflicting views and conflicting interests. The result cannot be expected to fit anyone's ideal. But I am convinced from hard experience that no more far-reaching treaty could, at this time, have been negotiated and that if this treaty is rejected or drastically altered, there is no realistic chance that a better treaty will be negotiated in the foreseeable future.

Through the Protocol and the Joint Statement of Principles, the road is cleared to greater progress in future SALT negotiations. The Protocol buys us time to decide whether our security would be increased or diminished by deployment of mobile launchers of ICBMs and long-range cruise missiles on ground or ship launchers. The Joint Statement sets the terms of reference for SALT III. SALT II is thus the indispensable foundation for further measures of strategic arms control.

As I mentioned earlier in my statement, the SALT II treaty must initially be examined in terms of the effect of its detailed provisions on our national security. Its foreign policy implications, however, are also relevant to this Committee's deliberations.

Previously, witnesses critical of the treaty have suggested that the uniform support for its approval strongly voiced by the heads of government of our Western European allies does not reflect support of the specific terms but rather stems from their concern about the political repercussions of the treaty's rejection. Because of the continuing consultations with the North Atlantic Council during the course of the SALT II negotiations, I know personally that our allies are fully aware of and in favor of the treaty's detailed provisions. There is no basis for the contrary assertion made in a paper presented a few months ago by the group known as the Coalition for Peace Through Strength. The prediction in that paper that, because of SALT II, the countries of Western Europe may choose the option of "an accommodation with the Communist bloc" is both absurd and irresponsible. Other suggestions that NATO governments support the SALT treaty publicly but oppose it privately demean, I believe, both the independence and the integrity of alliance leadership.

The other countries of the world also have a stake in the control of military competition between the two nuclear superpowers. The spectre of nuclear war threatens their own existence. And they recognize the grave risk that nuclear weapons will proliferate if the arms race rages unabated. The countries of Eastern Europe would see any intensification of the U.S./Soviet confrontation as a cause for despair because of the certainty that the Soviet net would tighten.

The current Soviet leadership sees SALT and the SALT process as the cornerstone of the U.S./Soviet relationship. Success in SALT won't guarantee detente. Its collapse, however, would make detente impossible. If, after amost seven years of negotiations, the Soviet leadership should now see the U.S. turn away from an agreement that would limit nuclear weapons to the mutual security of both sides, they could be expected to see little chance for any improvement in relations or any future other than constant confrontation. Their stake in SALT, their interest in its continuation, today must be considered by them in decisions on Soviet international conduct.

The SALT II treaty won't solve all our foreign policy problems and meet all our security needs. It is, however, an indispensable component in a realistic foreign policy and a sound step toward greater national security.

RICHARD J. BARNET

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Mr. Barnet is a graduate of Harvard College and Harvard Law School. He served in the Army as a specialist in international law and has been a Fellow of the Harvard Russian Research Center and the Princeton Center for International Studies, and a visiting professor at Yale and the University of Mexico.

Mr. Barnet's articles have appeared in *Harper's, The New York Times Magazine, The New Yorker, Science, Foreign Policy, The New Republic*, and *The New York Review of Books*, and in numerous scholarly publications. He is the author of several books, including *Intervention and Revolution* (New American Library, 1968), *The Economy of Death* (Atheneum, 1969), *Roots of War* (Atheneum, 1972), and co-author (with Ronald Müller) of *Global Reach: The Power of the Multinational Corporations* (Simon & Schuster, 1974); and *The Giants: Russia and America* (Simon & Schuster, 1977).

TESTIMONY OF RICHARD J. BARNET, SENIOR FELLOW, INSTITUTE FOR POLICY STUDIES, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE JULY 16, 1979

I am honored to be asked to present my views to the Committee at this critical point in your deliberations. The SALT II treaty is before you at an historic moment. The United States and the Soviet Union are about to take some major forward steps in the arms race—with or without SALT. The Congressional Research Service of the Library of Congress recently compiled an imposing list of strategic weapons that can be built lawfully under the SALT II agreement and which, in the present climate, no doubt will be built. The Trident, the M-X, and the other technological "improvements," as they are mistakenly called, are creating a much more dangerous military environment.

Not only is the military environment becoming much less stable but the political environment as well. The world is no longer held in check by the projection of American power in the way it was during the first post-war generation. American power has declined from that extraordinary moment when we were the only undamaged economy emerging from the Second World War, the only possessor of atomic weapons, and our dollars were better than gold. That decline was inevitable. No other power can now play that role, and there is no evidence that any other power believes that it can play that role or seeks it. But the consequence of the enormous shift of power in the world is instability and violence and increased dangers of confrontation between the United States and the Soviet Union. The war no one wants will come, in my view, only if two pre-conditions are met.

One is the development of hair-trigger counterforce technology that puts pressure on military planners on both sides to insure that their weapons are not caught on the ground. That means a world of more weapons rather than less and one in which weapons are fired sooner rather than later. It is a world in which the time for decisions about war and peace becomes dangerously compressed and the chances of fatal human error multiply. That world is now being created—with or without SALT II.

The other pre-condition for a nuclear war is a political confrontation in which nuclear weapons might credibly be involved. Such life and death struggles over which the shadow of nuclear weapons hangs face us across the world—the Middle East, despite great efforts still a danger point; southern Africa, Iran, and the Sino-Soviet dispute. The risk that the U.S. and the Soviet Union will be sucked into a fateful confrontation around one of these struggles is increasing. If neither the arms race nor U.S.-Soviet competitive interventions can be controlled, the outbreak of a nuclear war involving both is inevitable.

Judged by the magnitude of the crisis of national security we face the SALT II agreement is totally inadequate. It will not stop the arms race. It does not stop the dangerous development of "first-strike" counterforce technology; indeed the most destabilizing developments occurred during the long years in which the "SALT process" was unfolding. The SALT agreement does not call for the destruction of missile stockpiles, except for 250 obsolete Soviet missiles. There is evidence that the "SALT process" accelerates weapons stockpiling on both sides in anticipation of an agreement. To secure the acquiescence of the military in both countries and to secure ratification in the United States, weapons developments have been approved which increase the dangers of the arms race more than the minimal agreements reduce it. It is extraordinary that almost ten years of negotiation have produced so little.

The SALT agreement, in my view, raises two overriding questions. But the one that is now most often asked, "Will the treaty leave the U.S. number one?" is meaningless. Stockpiles are so high, destructive power so enormous, that the notion of "superiority" which had a real meaning in the days of U.S. nuclear monopoly and near-monopoly is an empty word today. There is no way a Soviet leader could confidently calculate victory in today's world with or without SALT II.

We need first to understand what the agreement is and what it isn't. It is not disarmament, certainly. It is not even arms control for it does not touch the most dangerous aspects of the arms race. It is an effort at joint arms planning by the U.S. and the Soviet Union. A highly complex document has been painstakingly negotiated over a very long time which represents a consensus on the new direction the arms race should take. It is, arguably, a better direction than that which would result from market forces and domestic politics.

The second question is the crucial question of conscience which on the day of the ratification vote every senator must answer for himself—and for his constituents and his children. Will the coming into effect of SALT II make war more likely or less likely? That is the fundamental issue. In my view the provisions of the SALT treaty themselves because they permit so much of the arms race to continue, would not substantially reduce the dangers of war. The managed arms race under SALT is a more dangerous race than the unmanaged arms race of the last ten years, although the chances are that without SALT the new arms race would proceed even faster.

Claims for what is called the "SALT process" have been much exaggerated. Indeed, a strong case can be made that in the last few years the SALT negotiations have exacerbated tensions the two superpowers. The unfavorable political climate for the development of better U.S.-Soviet relations that has developed in the United States is a predictable, perhaps inevitable, consequence of the process of negotiation. One reason why the opposition to SALT is more enthusiastic than the support is that the goals of SALT are not clear. The opponents can rightly note that any agreement, however minimal, raises the emotion-laden issue of whether we can trust the Russians. But the supporters cannot maintain that the arms race will be stopped or "capped," since the technological competition is intensifying. The military buildup of each adversary can be interpreted by the other in different ways—either as an effort to amass "bargaining chips" for future negotiations, or as an indication of lack of faith in the possibilities of negotiation, or as a strategy of increased reliance on military power to achieve political goals. The most important function of arms agreements is to reduce the element of ambiguity in U.S.-Soviet relations and to clarify intentions in such a way as to build confidence and political support in both societies. This the "SALT process" does not do.

Whether any agreement on arms is feasible depends upon the intentions of the two powers. Most Americans assume that U.S. intentions are clear, and they focus on Soviet intentions. Indeed, the debate over SALT really comes down to a disagreement about Soviet goals, a fact that tends to be masked by discussions of numbers, throw-weights, and other technical details. American opponents of an agreement believe that this country should not accept limitations on the right to acquire, test, deploy, and use weapons (unless the agreements are clearly one-sided) because Soviet leaders are bent on expanding their military power one way or another. Creating uncertainty, to their mind, is the best guarantee of security. They would argue that stabilization of the nuclear arms race decreases uncertainty, creates illusions for Soviet leaders that they might bring off a successful surprise attack and thus increases the risk that they may resort to war or the threat of war.

The other view, which I share, is that Soviet leaders have no such fixed intentions. There are already enough nuclear weapons in the world to make any rational leader sufficiently uncertain about the consequences to his own society of starting a nuclear war that he would never launch one as an instrument of national policy. But increasing the level of uncertainty increases the risk of preemptive war, because it creates a tense military environment in which Russian fears about what the United States is about to do may cause them to strike first. In the nuclear age no one chooses war over peace, but there are circumstances in which one might well choose war now over war later if those were believed to be the only choices.

The opponents of arms reduction believe that military power is assuming an ever greater importance in Soviet policy because the Soviet system has lost some of its attraction for other countries and military power is the best, perhaps the only, vehicle available for them for projecting their influence. This leads to a belief that the Soviets are uninterested in any significant arms reduction except under clearly one-sided agreements and that, accordingly, it would be unsafe for us to commit ourselves to that effort. But a surer guide for a national U.S. policy than such speculation are these considerations: the historic concern of the Russians with territorial security, their growing apprehension about the de facto NATO-Chinese alliance, and the fact that their weapons programs, military doctrines, and political uses of military power have been imitative of and responsive to U.S. programs, doctrines and operations. The role of military power in Soviet foreign policy will be determined, to a very great extent, by what other powers, principally the United States and China, do.

There is a third view of Soviet intentions, which says that since those intentions are unknowable they should be ignored. The classic military approach is to prepare against capabilities and assume the worst intentions. But that is a prescription for an unending race, and almost certainly for a war, since in that situation each side will consider itself secure only if it makes pessimistic assumptions and ensures that its capabilities exceed those of its adversary. What one side regards as a responsible "defensive" response to a threatening military posture looks to the other side like a preparation for aggressive war or political blackmail.

There is no way, then, of avoiding a serious assessment of Soviet intentions in developing a sensible arms policy. Such assessments are in fact always made, either explicitly or implicitly. To adopt either the view of the pessimists—that the U.S.S.R. will relentlessly project its power by military means until opposed by equal or greater power—or the view of the optimists—that it is a status quo power beset with internal problems—is unwise and unnecessary. A serious view of Soviet intentions must be dynamic, that is, it must try to understand the relationship between Soviet decisions and external pressures, particularly the impact of U.S. policies. Arms reduction agreements should be designed to create controlled situations for testing intentions. In order to do so, they must be sufficiently broad and unambiguous to provide a framework for a significant demilitarization of the relationship between the United States and the Soviet Union that is quite different from the regulated arms race provided by SALT II.

To create situations for testing intentions requires a hypothesis about Soviet behavior from which to start. What do the Soviets want? Their 62-year history suggests that, like the leaders of most nations, the managers of the Soviet state have a hierarchy of foreign policy objectives. The most basic is to safeguard the physical security of the czarist empire they inherited. The next is to maintain control over the ancient kingdoms of Eastern Europe and the half of Germany they occupied during the Second World War. The third is to project their political influence in the world on a scale equal to the United States, and some day to become the number one power. There is no clash between the first objective and American security. It is a long time since this country defined its security as requiring the return of capitalism to Russia. As for the second objective, the situation in Eastern Europe is not ideal from a human rights standpoint, to say the least, but it does not threaten the United States, nor is there any way that the intrusion of U.S. military power could change the status quo. That was shown long ago in the streets of Budapest, when it proved impossible to turn Captive Nations Day rhetoric into an effective American foreign policy. The real clash between Soviet and American objectives concerns the role the Soviet Union aspires to play on the world stage.

Ever since the end of World War II the Soviet Union has tried to establish its legitimacy as a world power. In the beginning the strategy was merely to assert the claim. "The Soviet Union should take the place that is due it and therefore should have bases in the Mediterranean for its merchant fleet," said Foreign Minister Vyaceslav Molotov at the London Foreign Ministers Conference in 1945. In the same period they also asked for a share in the occupation of Japan. When the claims were summarily rejected by the West, noting more was said about them. The early crises of the cold war—the Czechoslovak coup, the tightening of control over Eastern Europe, the Berlin Blockade—were attempts to consolidate power over the World War II conquests.

As the Soviet Union recovered from the war it became more active abroad. In the Khrushchev years (1957–63), a time Zbigniew Brzezinski has called the era of premature Soviet globalism," the Soviet Union gave aid to such farflung regimes as Sukarno's in Indonesia and Castro's in Cuba. At the same time, a general support for "wars of national liberation" was proclaimed, although actual support was selective and, except for Vietnam and Cuba, largely ineffective. The culmination of the era of "premature globalism" was the Cuban missile crisis, which had two objectives: first, to defend the communist regime 90 miles from Florida with the same sort of bold stroke the United States had used many times to protect Turkey, Iran, and Lebanon, its clients close to the Soviet Union; second, to proclaim that the era of U.S. nuclear superiority had come to an end. The Soviets could now directly threaten U.S. territory and bring their missiles to bear on political crises as the United States has done so many times. The move succeeded in its first purpose and failed in its second. Indeed, the confrontation dramatized the reality that the United States had a huge military superiority which, American officials immediately made clear, they intend to keep. Secretary of Defense Robert McNamara told a Senate Committee in 1964 that "any disarmament treaty or agreement . . . that we participate in must be one in which we maintain what I call our favorable differential balance of power." The theory remained that U.S. strategic power to threaten the Soviet homeland and the capacity to project conventional forces to every corner of the globe were necessary to contain Soviet expansion.

The Soviets immediately launched a military buildup that was designed to erase the American political advantage, and to make sure, as their diplomats kept saying, that future confrontations would never be resolved in the same humiliating way. In the intervening years the military buildup has continued at a steady pace; Soviet rhetoric is much more moderate than in Khrushchev's time, with the former chairman openly condemned as an adventurer; and as the Soviets have built up their missiles they have stopped rattling them. But they are exhibiting a greater willingness to project power at a distance where the opportunity presents itself, notably in Africa.

Just as in military hardware, the Soviet Union has been three to five years behind the United States in developing major new weapons systems, so in acquiring the political accoutrements of superpower status—"show the flag" naval power, proxy armies, military aid—the Soviets have been imitators. Compared with the far-flung network of bases, alliances, aid programs and covert operations maintained over the years by the United States, the Soviet effort is modest; but we should assume that in the present environment it will increase. Like their now impressive military forces, the increased propensity to take political risks in, say, Africa, are designed to make a statement: anything the United States can do, we can do—perhaps not on the same scale, but for the first time we are now in the same league.

As Soviet military power has increased, their political problems have multiplied. The Chinese enmity is an obsession and the U.S.-China rapprochement poses the nightmare of a two-front war. The splintering of the international communist movement has made it clear, if illusions ever existed, that the triumph of political movements in other countries calling themselves Marxist does not necessarily add to the power of the Soviet state. The record of Soviet expulsions from the Middle East and Africa—Egypt, Sudan, Somalia—suggest that even in areas of great political vulnerability for the United States, the Soviet Union finds it hard to triumph.

There is nothing to suggest from the history of the arms race so far that either a weapons buildup by the United States or the achievement of marginal arms control arrangements will cause the Soviet Union to downgrade the importance of military power in its foreign policy. Indeed, the contrary is true. It is vital to U.S. security and to its economic health to induce the Soviet Union to accept a significant demilitarization of super-power relationships, because such a step is crucial for reducing the growing risks of nuclear war. It is also a precondition for limiting the worldwide arms traffic and the proliferation of nuclear weapons.

A negotiating framework for demilitarizing the U.S.-Soviet relationship and for reversing the arms race would need to have clear goals and make explicit recognition of the interrelatedness of such crucial matters as strategic weapons, conventional forces in Europe and overseas bases. Such a framework would really represent a return to the approach embodied in the McCloy-Zorin Agreement of Principles of 1961 for staged comprehensive disarmament agreements leading to "general and complete disarmament." That approach was abandoned in the mid-1960s in favor of piecemeal negotiations on strategic weapons systems and later on conventional force reductions in Europe, because broad agreements were considered visionary or worse—cynical propaganda. Step-by-step negotiations were considered the "serious" way to confront the arms race. When the Soviets stopped talking about "general and complete disarmament" and entered negotiations for the control of ICBMs, they demonstrated, as Henry Kissinger and others used to say, that they were "serious." But for many reasons—the relentless pace of technological development, the volatility of political moods in the United States, the cumbersome Soviet bureaucracy—small agreements may turn out to be more visionary than substantial agreements, that is, agreements with benefits for both sides that clearly outweigh the risks, and with the ability to communicate unambiguous intentions.

Nevertheless, for all its inadequacies, I believe that rejection of SALT II by the Senate will increase the risk of war for reasons having nothing to do with the text of the treaty, and for that reason I recommend ratification. My reason is a simple one. In the present state of relations between the United States and the Soviet Union there is no way to arrive at a meaningful measure of arms control, let alone substantial arms reduction, which is now our only road to national security, without ratifying SALT. If it were politically possible to draft a new and better treaty in the Senate which the Soviets would sign, I would favor it. But it is not possible.

I am not reassured by the sudden conversion of long-time advocates of ever greater military spending into apostles of disarmament. Many of these national leaders who now oppose SALT because it does not go far enough had the opportunity for a generation to press for disarmament and genuine arms control and instead they pressed the futile policy of seeking security through terror and opposed every constructive step towards reversing the arms race. The sense of the Senate could be expressed in the strongest terms that the SALT II treaty should not be allowed to stand for more than a few months, that it should be immediately superceded by a negotiated moratorium on new weapons and a program of substantial reductions. But the tactic of defeating an inadequate treaty by writing a better one at this late date, knowing that the Russians will not sign it under these conditions, should not be permitted. The result will be a negotiating atmosphere in which the Soviet Union for reasons of pride and reasons of suspicion, will hesitate about all negotiation. When we meet again at the negotiating table, if we ever do, the problems will be far worse because of the new weapons and the political environment in which to negotiate will be worse.

Those of us who believe that the treaty does not go far enough have to judge what will take its place if it is rejected. The answer over the next two years at least is not a better agreement but no agreement. Major weapons programs will go forward in both countries. The Soviet Union will proceed to MIRV its remaining un-MIRV'd missiles. The U.S. will develop the dangerously destabilizing technologies, including the M–X missile which greatly complicates the problem of verification. Most important, leaders in both countries will lose hope in the possibility of controlling the arms race through agreements.

The only road to national security is to stop and to reverse the arms race. We have the technological capability to match any conceivable Soviet buildup. But we cannot continue to spend hundreds of billions on the military without risking mortal danger to our economy which is the foundation of our national strength. In a time of austerity, increasing the military budget while the domestic programs are being slashed raises the issue, not of guns versus butter, but of missiles versus the local police and firefighters. The distortion of priorities has become so acute that as the Administration counsels a three percent "real" increase in military spending each year, essential services in every major American city are being cut. To suggest that the threat of "Finlandization" in Europe is a greater threat to the people of Chicago, Cleveland, Los Angeles or Detroit than the loss of social services, the breakdown of the education system, the rise in crime, the alarming increase in infant mortality, the impending municipal bankruptcies, or the failure to invest in an alternative energy system is to distort national security strategy, and to misconstrue the meaning of "strength."

The same is also true of the Soviet Union. For both of us the return on investment in the military is declining. The heavy burden of the military preempts not just scarce capital, but political energy and managerial skill needed to address the real threats facing Soviet society. Because of the military burden, the Soviet Union is unable to develop its productive capacity. Instead of developing a domestic capacity to satisfy the sharply increased expectations of Soviet citizens for a better diet and a better standard of living, Soviet leaders find themselves importing grain to support the new meat-eating habits of the population and deferring critical investments in the engines of the economy.

We can spend almost two trillion dollars in the next ten years in pursuit of a "defense" that no longer exists and they can spend an equivalent sum, and in the end both will be poorer and more vulnerable because the level of destructive power in the world will have gone up. Neither will have a secure defense because there is no defense in the nuclear age.

The Soviet leaders, I believe, understand this fact of life. For the Soviet Union SALT is a political symbol. If this treaty cannot be ratified, as miminal and as hedged as it is, then no agreement with the U.S. on arms is possible. The whole history of U.S.-Soviet negotiations since 1974 has given the Soviets little reason for confidence. On crucial issues the Administration has changed positions, as in the March 1977 proposals, and the Senate has refused to approve credits and most-favored-nation status which the Soviets had been led to expect. These developments, it will be said, are inherent in our system of separation of powers and quadrennial elections. They were risks the Soviets took in negotiating with us. That is true, but whatever the merits of the new negotiating positions and Senate reservations, they make up a picture from the Soviet perspective of an unreliable negotiating partner. It is not in the American interest to have the Soviet leadership conclude that negotiations with the U.S. are hopeless. Were that to happen, we would face, in my opinion, an accelerated military buildup and the possibility of a more activist foreign policy designed to break out of the increasingly isolated position in which the Soviet Union finds itself. In a world without arms control the U.S.-West German-Japanese-Chinese relationship becomes more threatening in Soviet eyes. Every missile not in the Soviet Union is now assumed to be aimed at the Soviet Union. It is not in the interests of the U.S. that Soviet leaders feel isolated or cornered.

It is not hard to imagine a better agreement than SALT II. A simple agreement that would force the two sides to choose between continuing the arms race or stopping it would be far preferable. Both the U.S. and the Soviet Union can and should establish a realistic set of common goals for substantial disarmament and demilitarization that could significantly improve the political climate, reduce the risks of confrontation, and improve the security of both the American and Soviet peoples. To create a positive political climate in which it becomes possible to reverse the arms race, arms agreements should meet three criteria. First, the agreements should demonstrably increase perceptions of security on both sides. Second, a stable new arms relationship should have clear economic payoffs for both sides. Third, the primary purpose of the agreement should be to remove ambiguities about intentions. The greatest perceived threats are not the weapons already built, although they are more than adequate to destroy both societies, but the weapons about to be built. New weapons systems convey threatening intentions and raise unanswerable questions: Are the Soviets seeking "superiority"? If so, is it to neutralize the effects of 30 years of U.S. "superiority," or do they really expect to play a similar role themselves in the next 30 years? No one can provide definitive answers about these matters. To have the questions occupy center stage is already disturbing the political atmosphere, and introducing a note of hysteria into a set of issues on which the soberest judgements must be made.

The question of ultimate intentions cannot be answered, but it can be rendered irrelevant by an agreement which is sufficiently clear and comprehensive. Within a controlled but continuing nuclear arms race there is always room for arguing that the agreement favors one side or the other. However, a freeze on all new nuclear weapons systems would make it clear that both sides indeed intend to stop the arms race.

It is in the interest of the United States to press for a halt of nuclear weapons and missile production this year. A rough balance of nuclear forces now exists—a balance which, in the view of the Administration, still favors the United States. The next round of the arms race can only work to the economic and strategic disadvantage of this country and create new perils for the entire world.

A more comprehensive agreement would have fewer exceptions and fewer technicalities. The simpler and more comprehensive the fairer it is likely to appear to both sides. It would be simpler to understand and verify. It would fulfill the primary purpose of arms agreements by removing ambiguities about intentions. I believe that a mutually agreed upon moratorium on the procurement, testing, and deployment of all bombers, missiles, and warheads for three years is in the interests of both the United States and the Soviet Union. During such a period the two sides could, I would hope, negotiate deep cuts in strategic nuclear weapons and delivery systems. Such agreements would require significant internal changes in the national security establishments of both societies, including a serious program for conversion of military industry. Such changes represent the most reliable form of verification for they require leaders in both countries to reverse major policies and to confront powerful domestic interests in order to commit the society to arms reduction. Real internal changes in the direction of peace are far more reassuring than professions of peace or agreements like SALT II that are compatible with either an intention to move to arms limitation or to a new stage in the arms race.

For those who believe that SALT II is inadequate because it does not go far enough the proper strategy seem clear. The goal should be to supercede SALT II as quickly as possible with a treaty that moves the world to real arms reduction. But the treaty for all its inadequacies and all the exaggerated claims that have been made for it, cannot be avoided. We are limited by the history we have made. The road to arms reduction and increased security cannot bypass SALT II.

Testimony of Jeremy J. Stone, Director, Federation of American Scientists on the SALT II Treaty, July 12, 1979, Before the Senate Committee on Foreign Relations

Mr. Chairman and Members of the Committee. It is a great privilege, indeed, to appear before this most distinguished Committee of Congress, on this historic occasion, to discuss this important matter. I propose to treat the Committee invitation to appear, as I believe it was meant, as a request for my personal views.[1]

In my opinion, the American people are tired of hearing that disarmament is either at hand or around the corner but that, just now, ceilings are being put on the arms race, after which the real progress will follow. Americans are becoming cynical about the failure of the superpowers to reverse the arms race. And they understand quite well that this treaty is not really providing disarmament.

In these circumstances, the Congress's job, in dealing with this treaty—and the treaty-making process—is to shape the future rather than to massage a fait accompli. And, in this testimony, I suggest one man's analysis of how a Senate (and wider) consensus might be achieved to prevent future treaties from suffering the weaknesses of this one.

The thesis of this testimony is that there are two roads which our Government might pursue to secure, and maintain, a national consensus for arms control treaties on offensive strategic weapons. One road leads to largely cosmetic treaties which, like this one, as President Carter told Congress, "constrains none of the reasonable programs we have planned." Here pro-ratification doves support the treaty because it is a treaty, and pro-ratification hawks do so because it constrains nothing we were planning.

This is the easy path politically and bureaucratically. But it treats disarmament as a means mainly to détente, and secures few, if any, of the real potential security and economic advantages to disarmament. As progress in disarmament falls behind expectations and desires, public cynicism sets in, and the SALT process itself loses support.

There is another road upon which the Carter Administration sought to embark in March, 1977, and upon which it could, with Senate support, make a new effort with renewed determination and stiffened backbone. This is the road of major reductions in strategic weapons—reductions that would, as a by-product of lowering weapons levels, redress the asymmetries and imbalances seen by the hawks even as it made unnecessary new weapons systems opposed by the doves.

It is the thesis of this testimony that the Senate should make its mark upon this treaty, not by amending its substantive proposals, or by adopting declarations of minor significance, but by attempting to forge a new consensus about what should be done in SALT III—and then instructing the Administration and the Soviet Union, by Senate resolution, of the terms without which a subsequent treaty would not be acceptable.

TREATY IS "SOMETHING FOR NOTHING"

Let me say at the outset that this treaty is far, far more vulnerable to criticism from doves than from hawks. The strong Soviet interest in securing an agreement with the United States, for various political reasons, has led that country to agree to:

(a) greater U.S. ability to inspect and verify than would be the case in the absence of the treaty;

(b) limits on numbers of Soviet warheads per missile lower than might otherwise be maintained;

(c) lower limits on numbers of missiles than might otherwise be maintained and, indeed, reductions of 250 Soviet strategic delivery vehicles.

And this agreement has been reached without the U.S. giving up, to my knowledge, any programs which we might otherwise have desired. Thus the treaty is, from the U.S. point of view, something for nothing. The Russians have agreed to such a treaty, in my opinion, because they consider SALT to be the "spearpoint" of a detente policy. Further, they see detente as an imperative created by fear of China, and their desire to trade with the West. Moreover, the Soviets recognize that the basic momentum of their strategic program can be continued and maintained under the strictures of SALT II, notwithstanding the above limits, so their concessions are marginal in strategic terms.

I do not believe the treaty has any significant military flaw, as witness the support of the agreement by the Joint Chiefs of Staff before the Committee earlier this week.

True, the Soviet Union has permission to have 308 heavy missiles and we none—but we did not, and do not, want any;

True, the Backfire bomber is only included by letter rather than treaty, but this is a reasonable solution to a grey area of negotiation.

In these and other ways, the hawk dissenters have very little to complain about in the treaty; in my opinion, they are really concerned about the Soviet buildup of strategic weapons—not the treaty itself—and this is quite a different matter.

DOVES ARE THE ONES WITH THE RIGHT TO COMPLAIN

By contrast, the doves—though gagged by their fear of treaty rejection[2] have a great deal to complain about, in reflecting how the SALT process on offensive weapons is working out.

The SALT I (1972) and Vladivostok Agreement (1974) focused on numbers of bombers and missiles when, it was already clear, these numbers had saturated in favor of exploitation of the newest breakthrough: multiple warheads on each missile (MIRV). Now the SALT II Agreement puts an upper limit on numbers of warheads but, too late again, at a level that is basically one of saturation of the interests of either side.[3]

Meanwhile, the new breakthrough of cruise missiles has, at U.S. insistence, been embedded in the treaty rather than precluded. Just as failing to stop MIRV in earlier agreements represented a time bomb for SALT II and III, so also will the modern cruise missiles, with their verification problems, afflict future negotiations for decades hence.

There can be no doubt that both sides will be further from disarmament in 1985 when the treaty expires than they are today, just as we are worse off today than we were when negotiations for SALT II began in 1972.

The treaty permits each side to build an entirely new type of missile with up to ten warheads; this will take the United States more time than the six-year term of the treaty. Because the two sides could not agree on missile flight test bans, the treaty right to modernize existing missiles permits improvements in accuracy, and confidence in that accuracy, which are the critical strategic element of this time period. The Treaty Protocol limiting certain U.S. programs for a few years are negotiable because none of the programs in question were ready to be deployed during that period. And the Treaty Statement of Principles shows only too clearly, as does talk around Washington, that no concrete plans exist for what to do next in SALT II.

Arms control and disarmament is supposed to *do* something! It should help provide a solution to such problems as land-based-missile vulnerability. It should make weapons systems unnecessary and save money. Above all, it should reduce the risks of war and reduce the destruction if war occurs. This treaty is doing these things, at best, by saying that matters would otherwise be worse.

Arms control is not, as one Administration official suggested in a recent article, at bottom "an exercise in confidence building." High Administration officials are reduced to talking of the treaty providing "predictability"—which simply means that we have some idea of what, for the next six years, at least, the other side might do—as if this were an important arms control goal. And to saying, again, that things would otherwise be still worse. Meanwhile, other such officials talk of the permitted MX missile as providing stability—when by every ordinary meaning of the term in arms control, it provides just the opposite; what they have in mind is that it will, they think, "match the Russians." Thus even arms control language is being destroyed in the effort to paint this treaty as doing things which it patently does not.

Thus far, the SALT Agreements on offensive weapons have had little more provable effect on the course of the strategic arms race than scaffolding has on the shape of a building.[4]

In effect, thus far, the treaties on offensive weapons suggest a negotiation between two alcoholics. The addicts readily agree that they will not engage in binges which neither really had in mind—the better to persuade onlookers that they are indeed going on the wagon. But when the issue arises of putting significant restraints on their real drinking plans, they find it easy to define alcoholic content in such ways as to permit each to continue.

Thus the treaty permits the entire eight-point program of the Committee on the Present Danger, as witness Jan Lodal's article in the Winter, 1978–79 Foreign Affairs.

Still worse, as will be documented below, the effort to secure a two-thirds vote in the Senate in favor of the treaties has had, and is having, a tangible escalatory effect on our arms program. As Admiral Thomas Moorer has written about the period he was Chairman of the Joint Chiefs of Staff, the Joint Chiefs agreed to support SALT I only if:

Such things were undertaken as: "vigorous research and development programs designed to maintain technological superiority of our weapons systems; . . . [and] aggressive improvement and modernization of strategic forces . . . These improvement and modernization programs were to include acceleration of Trident construction; maintenance of the B–1 bomber program on schedule so as to provide an option to deploy the first aircraft in the late 1970's; a national command authority defense as permitted by the ABM treaty; a satellite basing program for strategic bombers; deployment of the submarine-launched cruise missile; and, finally, an improved re-entry vehicle for ballistic missiles." (National Review, June 22, 1979, p. 787)

And recently, with regard to SALT II, the Administration has been forced to commit itself to development of the MX missile without even knowing how it planned to base the missile—so strong are the pressures to reassure reluctant treaty supporters. Also, a new U.S. bomber is being encouraged by the flap over Backfire as a price for overlooking the way it enters into the agreement.

THE HAWK-DOVE CONTROVERSY

Now in order to avoid duplicating recent history, we must learn from it. What exactly do the contending "hawks" and "doves" want? Ironically, today, they are, at least on

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Footnotes at end of article.

paper, in surprising agreement: Both want "real" arms control!

In fact, the SALT II debate is not so much about the SALT II Agreement itself as it is, instead, a now pointless echo of a generation-old struggle between two schools of American strategic thought. Following the invention of the atomic and hydrogen bombs, one school of thought, often characterized as "hawkish," took the traditional military view that the danger, as before, lay primarily in the adversary which, if he could not be defeated, would, at least, have to be deterred. Adversary attack was the dominant problem in surprise nuclear attacks, nuclear first strikes, nuclear shows of force, and/or nuclear aggression against allies.

A second school of thought, often characterized as "dovish," saw the major source of nuclear danger in the arms race itself. Considering that any sane person, or plausible Government, would be well deterred by the fear of nuclear response, it saw residual dangers of "wars nobody wanted" arising from uncontrolled escalation.

Thus, while the first school was predisposed just to buy more weapons so as to stay ahead of the Russians, the second school was disposed to "stop the arms race" itself. Naturally, the two schools apply quite different yardsticks to proposed treaties, and their dialogues are therefore often dialogues of the deaf—the hawks focusing first on the relative military balance implied by the treaty, while the doves focus on its effect in restraining the competition.

In past years, U.S. superiority in the arms competition led hawks to reject treaties as unnecessary mechanisms that might just constrain us in some kind of "unilateral disarmament," without constraining the Russians. Doves, for their part, saw treaties as useful vehicles for securing at least a modicum of detente, and were prepared to take pretty much any treaty that both sides could negotiate.

POTENTIAL NEW CONSENSUS EMERGING

In recent years, Soviet progress in matching U.S. weapons levels has provided hawks with a potential regard for treaties. Treaties could in principle at least, redress the very imbalances of concern to the hawks. It was with this in mind that Senator Jackson made a number of disarmament proposals.[5] Ironically, much recent complaint from Senate hawks about this treaty, such as that of Senator Jake Garn, is based upon the view that arms control has not done enough, and should do more.

At the same time, traditionally pro-arms control Senators, such as Senators McGovern, Hatfield, and Proxmire, have recognized that—especially in an age in which detente has gone about as far as it is going—treaties must be held to a higher standard than that of basically cosmetic agreement only. And they feel that this is especially so if hawkish support for treaties is purchased with commitments to weapons systems they consider wasteful. So they are also complaining that arms control is not doing enough to carry its freight.[6]

For all these reasons, our Nation ought to be ready, in logic and in politics, for an aggressive policy of hard-nosed bargaining for real disarmament subsequent to the ratification of the treaty. And this is what I propose

In 1977, to its credit, and to the credit of the United States, the Carter Administration proposed sharp cuts. It sought to forge precisely the kind of coalition here advocated—disarmament for the doves but disarmament of specific kinds desired by the hawks. The Russians objected violently, but there was one reason at least that does not now apply. The Russians rightly considered themselves near the end of negotiations on SALT II and were unwilling to start on new proposals in the midst of that negotiation.[7]

The Administration should try again with new far-reaching proposals and the Senate should pass resolutions of instruction that will give these proposals momentum and bargaining leverage.

Would it work, and could the Senate really help? Nothing is certain. But considering the current alternatives before the Senate reinforces the idea that this is the best course.

SENATE OPTIONS FAVOR A RESOLUTION OF INSTRUCTION

The Senate has before it three approaches. It can:

(a) Adopt amendments, reservations, interpretations, and resolutions concerning the treaty itself but which are of such a nature that they do not require Soviet concurrence or do so on noncontroversial issues;

(b) Adopt amendments to the treaty that would require renegotiations;

(c) Pass resolutions, in conjunction with ratification of the SALT II Agreement, that will attempt to shape the future course of negotiations in SALT III.

Option (a), restricting the Senate's action to noncontroversial issues, simply guarantees that nothing substantial will be secured.

Option (b), amending the treaty in such a way as to require renegotiation, is more likely to undermine our bargaining position than to enhance it, since it virtually requires the Soviet Union to complain bitterly for months before reentering negotiations. And there is no reason to believe that there is bargaining leverage left in this treaty yet to be exploited.

But, option (c) a resolution of instruction for the future, that captured the support of a majority of the Senate, including both hawks and doves, would provide a vehicle upon which the Administration might rely in hanging tough on far-reaching reductions that would, at the same time, redress instabilities.

A similar resolution of instruction was passed by the Senate on September 13, 1972 in conjunction with SALT I. The Jackson resolution (S.J. RES. 241, 92nd Cong., 2nd sess.) passed by 56–35. The resolution requested the President to seek a future treaty that, inter alia, would not limit the United States to "levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union."

What effect this resolution had on the subsequent negotiations is a subject of debate. Perhaps it only led the superpowers to seize upon the cosmetic fact that if numbers of bombers were added to the earlier limits on missiles in the 1972 Interim Agreement, the two sides would be close enough in overall numbers of missiles and bombers to reach agreement on a common bound of 2,400 strategic delivery vehicles.

But even if that resolution had, in retrospect, only limited significance, it does not mean that the Senate could not now have still more influence with some other, perhaps more precisely formulated, resolution. And it is obvious, anyway, to the Executive Branches of both superpowers that the U.S. Senate is becoming impatient with the present course of things. They know that something new must be added to get subsequent approval of a future treaty. Should not the Senate announce what this new element might be?

THE COMMON GROUND: SUSTAINED AND SHARP REDUCTIONS, IN PARTICULAR, OF MIRVED LAND-BASED MISSILES

But is there scope for agreement between hawks and doves upon what they would like next to do? I think there is.

MIRV (Multiple Independently Retargetable Reentry Vehicles) is a root cause of the concern of both hawks and doves. Introduced by the United States in 1970, and by the Soviet Union in 1975, MIRV makes it possible for a single missile to destroy several missiles on the other side. Soviet exploitation of this new technology puts it within reach, on paper at least, of the ability to destroy U.S. land-based missiles with only a fraction of its land-based force. That such an attack might be threatened, implicitly or explicitly, or even occur as a show of force, is a major current preoccupation of the hawks.

While denying the reality and political relevance of these attack scenarios, doves have their own reasons for concern about the same development. The current Administration planning is to replace the fixed Minuteman missiles with the MX missile in one deployment or another, probably a shell-game or trench deployment. Doves believe:

(a) That the missile will be too expensive, as well as unnecessary—a $35 billion down-payment on a new round of land-based missile arms race;

(b) That with increasing numbers the Soviet warheads MX will be, conceptually, no less vulnerable to Soviet attack than the existing land-based missile force, and will, therefore, tranquilize none of the fears thus far raised;

(c) That MX will be an offensive, as well as defensive, missile, thereby encouraging the Soviet Union to set its missiles on a lighter, rather than a heavier, "trigger," and/or to redeploy its land-based missile force, precluding for many future years, some agreed halt in the constant redeployment of land-based missiles;

(d) That, overall, two opposing missile forces, each capable of destroying the other's entire land-based force with a fraction of its own, will increase the chances of a war nobody wants.

In short, both hawks and doves would, today, prefer a return to the pre-MIRV period, at least insofar as land-based missiles are concerned. In such a pre-MIRV period, no one missile could destroy several and, hence, there would be no particular advantage in missiles firing first because, for each missile wasted in firing, at most one opposing missile would be destroyed.

Now a complete return to the pre-MIRV era is obviously going to be difficult. But sharp reductions in MIRVed land-based missiles are by no means impossible. The SALT II Agreement provides for each side to have 820 fixed land-based missiles with MIRV, and, in so doing, it confirms that we have the means by which we can verify which Soviet missiles are counted against that 820 total, and which need not. Thus SALT II provides, in particular, a method for verifying reductions of that number.

SALT III would go a long way toward satisfying the interests of hawks and doves if it would provide for sharp reductions in that 820 limit, with a view to the ultimate elimination of MIRVed land based missiles. Such a program would not give up the triad concept—since several hundred unMIRVed land-based missiles would remain on both sides. But it would moot the issue of having an entire land-based missile force vulnerable to a fraction of the other's land-based force. And it would thus make any concerns about reciprocal fear of attacks by land-based missiles upon each other transitional.

The reduction in land-based missiles, coming over about a decade, would be in the narrow military interests of both sides, as well since land-based missile forces are becoming increasingly unreliable as second-strike (survivable) weapons in any case. Each side should want to diminish its present degree of emphasis on such land-based weapons, while decreasing the other's ability to attack them.

Unfortunately, the Administration position, at present, is to try to use SALT to move in the opposite direction. In what is surely one of the poorest arguments ever made in the strategic arena by an Administration, the President told Congress:

Footnotes at end of article.

"Without the SALT II limits, the Soviet Union could build so many warheads that any land-based system, fixed or mobile could be jeopardized."

But, obviously, no multi-billion dollar strategic weapon system should be based on a piece of paper, certainly not a piece of paper that could be abrogated by the Russians. Most bizarre of all, this particular piece of paper expires in 1986, before the MX will be even initially deployed. No good can come of purchasing systems that will require our negotiators to seek unilateral Soviet concessions in subsequent negotiations, so as to keep our weapons system viable.

Thus, instead of rushing to deploy the MX missile, and then begging the Russians to keep it viable, we should make a major effort in SALT III to make MX deployment unnecesary. We would do this by negotiating a sustained and continuous process of reductions, in particular of land-based MIRVed missiles.

Whatever the concerns of hawks and doves, they can, in principle at least, be resolved by suitable disarmament agreements. Every wobbly table can be made stable by a round of cutting off of legs; we need not always buildup to seek stability.

If the SALT II Agreement has any advantage, it is precisely to provide a context of agreed definitions and background in which such subsequent negotiations take place. But unless a consensus of hawks and doves in the Senate pushes a major effort to secure such reductions, history suggests they will not take place.

Let me emphasize that, while we need a consensus of hawks and doves to get the SALT process moving, the road of progress in SALT reductions is not that difficult. We ought not despair at the present inability to make progress.

For example, using the SALT II treaty to provide agreed definitions and qualitative limitations, one could embark on SALT III by negotiating a single number. Each side would agree to reduce its agreed number of strategic delivery vehicles (2,250), and its MIRV limits also, by an agreed percentage each year, e.g., 10%, for a number of years until, for whatever reason, the agreement had to be modified. This method, called Percentage Annual Reduction (PAR) would, I believe, have various specific advantages besides simplicity commending it to: hawks, doves, strategists, Presidents, the Defense Department, the Senate, the Armed Services Committee, the Russians, and others. I attach a relevant article from the Washington Post Outlook section for those who want to pursue it. But perhaps Senators might want to look at the attached PAR chart for a second to see also why doves have a right to complain about the SALT II Agreement.

The post-World War II buildup in strategic delivery vehicles is compared with what would happen if a 5% reduction each year went on for a generation or more. What has happened in the last thirty years may take many more decades to reverse, even if we start now.

AND IF WE FAIL?

It is only to clear that reductions in strategic weapons cannot be secured by doves alone. Therefore, if it is impossible for hawks and doves to agree on a program of subsequent real reductions—as here proposed—these reductions, patently, will simply not occur.

In the wake of such a failure, I predict that SALT on offensive weapons will self-destruct by 1985. Doves would return to urging a unilateral policy of "buy only what you need." And since the U.S. already has so much nuclear fire power, squirreled away in so many ways, public support for constant additions to our stockpiles would wane. In this case, the hawkish concern for keeping up with those nuclear Joneses on the other side of the world would not be assuaged. Instead, the domestic debate would be increasingly polarized. A consensus would disappear, not only for SALT negotiations, but also for major additions to our strategic posture.

Worst of all, our Nation would then face the prospect of continued reliance on deterrence for its safety for generations hence. Hanging over us, for decades and decades, would be the possibility that—notwithstanding the highest quality deterrence achievable—a nuclear war that nobody wanted would nevertheless occur, through miscalculation and escalation. Our entire Republic could then disappear in 30 minutes. As I advised the Committee in hearings on March 16, 1977, this probability may be on the order of .5% to 1% a year.

We—and the Russians—are uniquely vulnerable to destruction. Unlike the Latin Americans, the Africans, and many Asians, we and the Russians (and the Europeans) are living dangerously on the edge of a nuclear abyss. While strategists argue the finer points of "who is ahead," the truth is that both sides are falling behind.

The Founding Fathers must be rotating in their graves at the diminution in our security that has occurred in the last thirty years. To maximize the likelihood that our Nation will reach its 300th and 400th birthdays, the disarmament process has got to be started. I would therefore hope that the Senate could rise to the occasion and formally announce in a suitable resolution the already existing latent consensus on pointing the negotiations in the direction of a disarmament that is both real and strategically meaningful. [Illustrations mentioned, not printed in the Record.]

FOOTNOTES

[1] This course is also indicated by time constraints precluding the circulation of the written document inside our group, but even more so by the fact that our Federation of American Scientists members—while largely agreed on the underlying strategic facts—are understandably divided on some tactical issues in the shifting political context in which the ratification debate is taking place. However, the major policy conclusion of what follows was, in fact, approved without dissent by our policy-formulating body, the elected National Council, in an editorial of our Public Interest Report of March, 1979, which I have appended to these remarks.

For the record also, these personal views are based on observing and studying the arms race since 1962, for one or two year stints at such institutions as the Hudson Institute, the Harvard Center for International Affairs and the Council on Foreign Relations, and, subsequently, for the last nine years, as Director of the Federation of American Scientists, a public interest civic organization of 5,000 scientists, founded in 1946 by atomic scientists in their efforts to control the bomb they had created. During this period, I have authored two books, various articles, and have functioned as the editorial writer of the FAS Public Interest Report in drafting and catalyzing what consensus exists among us on science and society issues such as this one. My Ph.D. is in mathematics.

[2] An example of this fear was a letter to the New York Times of April 3, 1979, in which eleven arms control specialists condemned "poormouthing" the SALT II Agreement and listed its advantages without significant qualification. (The signers were members of FAS, including seven Sponsors; ten other FAS officials, including eight elected Council Members, responded in a letter printed in the New York Times on April 29, 1979.)

[3] Against a Soviet Union with only about 100 significant cities, we have 10,000 warheads at the ready—or one hundred to one—and this number will rise to more than 12,000 during the period of the treaty. This simple "overkill" calculation may seem oversimplified, but a factor of one hundred provides a lot of room for error! Meanwhile, the Soviet Union has 5,000 warheads which could rise, under the treaty, to 10,000.

Under these circumstances, a kind of "saturation parity" exists in which warheads are ample for city attack and deterrence. (As soon as their accuracies improve, which is simply a question of time, the numbers of warheads already existing on each side will be ample also for attacks on the fixed land-based missile forces as they presently exist.)

[4] This situation is in marked contrast to the success of the Atmospheric Test Ban in preventing radioactive pollution of the atmosphere, and the success in the ABM treaty in cutting off a new (defensive) dimension in the arms race. But it resembles the Nixon Administration Threshold Test Ban Treaty which set the level of underground tests at 150 kilotons—a level high enough to prevent any significant complaints from either side's defense ministry—simply and solely to get agreement, and without any justification from verification considerations.

[5] For example, March 29, 1971 (S4035), a proposal that would have stopped MIRV deployments; April 23, 1974, a proposal that would have limited ICBMs to 800, submarine-launched missiles to 560, bombers to 400 and provided for equalization of throw-weight.

[6] Hawks who, heretofore, often assumed that defeat of the treaty would rouse the Nation to procure felt-to-be necessary weapons systems may be having second thoughts as to whether such a defeat would lead Americans to get mad at the Russians and buy more weapons, or just to get mad at each other. Meanwhile, those doves who assumed that MX would be easier to defeat in the context of the treaty, rather than in its absence, may also be uneasy following the President's speech tying MX to SALT. Thus a shared perception that ratification could lead to more weapons than defeat is providing a slight backlash in position for both hawks and doves.

[7] One example of this was Brezhnev's responding speech in Tula when he said the U.S.S.R. "is prepared to go further in limiting strategic armaments, but first one should consolidate the gains already made, all the more so since the Interim Agreement expires in October this year. Then one could go directly into negotiations on more far-reaching measures."

[From the Washington Post. Dec. 31, 1978]

AN ARMS RACE IN REVERSE

(By Jeremy J. Stone)

The United States and the Soviet Union are now in the final throes of negotiating a second strategic arms limitation (SALT II) agreement. Soon the Senate will debate its ratification.

But SALT will not end with SALT II. And if it did, SALT II would not, by itself, be worth very much. Senators will be forced to ask—and all observers will want to know—to what kind of far-reaching agreement might SALT II lead.

As the SALT negotiations have amply proven thus far, it is no easy task to satisfy all the participants and institutions here and abroad. Ironically, the simplest conceivable treaty may satisfy all the actors best. Still more ironically, the approach underlying this simplest treaty might be described as running the arms race in reverse.

SALT is already structured around the fortuitous fact that—measured in a certain easily verifiable way—both sides have about the same number of weapons. Thus, if one adds the number of long-range bombers, the number of land-based intercontinental missiles and the number of submarine-based strategic missiles, one gets a roughly similar number of so-called "strategic delivery vehicles" on each side. (Indeed, SALT II will bring the two sides into approximate equality by this measure with an overall limit of 2,250.)

Under these circumstances, one could set in motion a far-reaching disarmament program simply by bringing these overall limits steadily down. One would negotiate with the Russians nothing more than a single number reflecting the rate of reduction. The proposals, in short is this:

The superpowers would agree to dismantle a small percentage (somewhere between 5 and 15 percent) of their strategic delivery vehicles each year, with each side retaining the "freedom to choose" those weapons that it would dismantle in any given year. Retained weapons could be modernized or replaced (within the agreed restraints, perhaps, of SALT II). The duration of the agreement would be indefinite, with conferences each five years to review its progress and the possibility of its prolongation.

Let us call this simple underlying proposal PAR for "Percentage Annual Reduction." How would it suit the different participants?

The Senate would be faced with a simple, understandable, easily verifiable concept rather than a complicated agreement, and Senate ratification would be once and for all.

The Defense Department would confront something akin to a simple budget cut which it gets to implement. It would get a maximum of freedom, and a year-by-year opportunity to decide what to dismantle after it has seen the whites of the eyes of the then current technology and the exact form of the previous year's Soviet cutback.

For President Carter, PAR would provide the possibility of an announcement of eventual major disarmament without the otherwise insurmountable necessity for any major action in the short run. Even U.S.-Soviet agreement in principle to PAR, without agreement to a specific percentage, would be electrifying. In particular, PAR would fulfill Carter's desire to set in motion a sustainable trend toward zero nuclear weapons without requiring him to gain an administration consensus on precisely which weapons would be dismantled in any given year. Considering the uncertainties that perpetually cloud the future of weapons technology, there may well be no other responsible way to undertake to reduce weapons levels beyond the next several years.

For the hawks, who have lost confidence in the U.S. negotiating machinery, PAR would replace an untrustworthy network of doves and bureaucrats with the Joint Chiefs of Staff and the secretary of defense.

For the doves, PAR would give hope that SALT II will really lead to something by building, as a starting point, on the one equality thus far in sight—numbers of delivery vehicles.

For the strategists, PAR would offer strategic advantages because the U.S. force is, at its core, considerably more invulnerable, and less exposed, than that of the Soviet Union and can thus make more effective use of the freedom to choose what will be dismantled.

For the Russians, PAR would provide a continuing disarmament process assuring a modicum of detente—their major goal.

For Sen. Henry Jackson and his supporters, PAR would leave the supervision of U.S. SALT reductions primarily in the hands of the two congressional Armed Services committees, one of which he will soon chair. Furthermore, Sen. Jackson in 1975 proposed something quite similar to PAR: the dismantlement by each side of 700 of the most obsolescent nuclear delivery vehicles (the quota of a 5 percent PAR agreement for almost 10 years.)

One important advantage of PAR's simplicity is that Carter and Secretary General Brezhnev could discuss it together and agree on it in principle. Both leaders are undoubtedly searching for some such announcement of future progress so as to enhance the attractiveness of SALT II. And both may be looking for a simple way of inducing their bureaucracies to take the possibility of true disarmament seriously.

What problems might this agreement have? In the first place, what about the fact that it does not control the number of bombs and of missile warheads—which are, after all, the implements that actually kill people? Indeed, if the PAR percentage negotiated were low—say, 2 percent—and if both sides were permitted to do so, each could for a time at least, actually increase its total number of bombs and warheads by loading up each retained plane and missile with still more weapons, or by buying new and bigger planes and missiles.

But if the percentage reduction negotiated were significant—say, 10 percent—both powers would have to increase the size or loadings of these planes and missiles dramatically every several years just to keep up. And this they would find difficult to do because of payload limitations, the cost of new systems, and the military ineffectiveness of overloading any one missile or bomber with extra warheads.

SALT II already has restraints on just such subdivision of missile payloads and on the numbers of cruise missiles permitted per bomber; these restraints would, if carried over to SALT III, go far to limit such offsetting increases, and to induce an eventual decline.

Precisely because PAR is so simple, it could be built upon with such side conditions. For example, those who are concerned with throw-weight imbalances, or gross missile size, of the two sides, could ask that larger missiles be eliminated as quickly as smaller ones. Similarly, it would be natural to require that multiple warhead (MIRVed) missiles be dismantled at least as rapidly as non-MIRVed missiles. Such conditions can, like the basic PAR percentage, be negotiated clearly once and for all.

Would PAR take one to zero nuclear weapons in an unrealistically short span of years? Not at all. Because the percentage applied is applied always to a smaller total, one does not ever reach nuclear abolition—for instance, at a 5 percent PAR one does not get to zero in 20 years. Instead, it would take 30 years to get even to one-quarter of the number of strategic deliver vehicles which we have today, ie., to about 400.

Obviously, at some point, a superpower PAR agreement would require the inclusion and cooperation of such evolving strategic forces as those of China. But one might be able to secure very large reductions before that time. And one might be able to get Chinese cooperation at, or before, that time to reduce its forces as well. The goal, of course, would be to move toward a world in which, if nuclear war somehow occurred, we would not lose our entire nation and most of our population. Meanwhile, these cooperative efforts would reduce the chance of the war itself.

What of the much-discussed problem of land-based missile vulnerability? There seems little, if anything, that the United States would want to do about this problem that we could not do under PAR. After all, PAR would permit each side to replace and modernize the missiles retained. And by setting in motion a process of reductions, the United States would gain the option of paring down the number of exposed land-based missiles, thereby reducing the percentage of the overall force that is vulnerable.

There are, of course, undiscussed complexities, for example, "gray area" systems based in Europe that are partly strategic weapons and partly tactical. These will surely be problems in SALT III. But there is nothing about PAR that would make these problems—which we already have—more difficult.

In his farewell press conference as U.S. SALT negotiator, Paul C. Warnke said one of his main problems was that arms control was, for humanity, "an unnatural act." No doubt it is. But PAR seems to come as close as one can to turning arms control into the more familiar and little feared "budget reduction." Melvin Laird and Charles E. Wilson may have shared nothing else, but each knew the wisdom of letting the Defense Department implement the financial cuts each was obliged to impose. Might we not have to do the same with weapons cuts?

In effect, PAR would be a way of running the arms race in reverse. In an arms race, each side builds weapons as it prefers. But the two sides are linked implicitly by a rate of growth of weaponry, because neither wants the other to get too far ahead. Under PAR, the rate would, of course, be negotiated and it would be a rate of reducing armament. But, as in the arms race, each side would maintain stability independently, as each did before. If the two sides are not willing to accept PAR as their underlying approach, one wonders if anything will ever work to achieve the disarmament that all participants declare is their goal.

[From the F.A.S. Public Interest Report, March 1979]

Both Hawks and Doves Should Insist on Reductions of MIRVed ICBMs

The burning strategic issue of the day is the issue of land-based (Minuteman) missile vulnerability. Will the Soviet Union have—in fact or appearance—the ability to destroy the land-based ICBM component of the U.S. triad by the mid-1980s? If so, should America buy a new land-based missile with new basing? And should it equip its MX land-based missiles with the accuracy necessary to do the same to the Soviet force?

The first alternative is expensive (tens of billions of dollars). Nevertheless, last month, the Administration decided to move into full scale development of the MX missile without even knowing how it would be based. Why is it violating, at such potential expense, the most elemental "fly before you buy" rule—and doing so despite the discouraging recent experience of finding that 30 different basing methods have already been found wanting? The answer, of course, is the pressure to placate the hawkish-leaning undecided Senate votes on SALT.

PRECIPITOUS MX DECISIONS: A PRICE OF SALT

Individuals will have to decide for themselves how far this major price of SALT goes to negate its overall advantages. But the technological future impending is absolutely clear. Unless something intervenes, the period of the SALT II agreement, running to 1985, will see the vulnerability of U.S. land-based missiles to Soviet land-based missiles. And with the 1985 deployment of MX, undoubtedly armed with the requisite warheads and accuracy to do the same to the Soviets, the Soviet land-based force will be forced to redeployment. Thus the period of SALT III, as well as of SALT II, will be bedeviled by events set in motion right now.

Still worse, the alternative of counterforce is likely, should nuclear escalation begin, to encourage each side to fire first—in a reciprocating cycle of fear of otherwise firing last.

The one obvious solution to this new round of arms race that has, predictably, not reached public consciousness is: disarmament. The two sides could agree to phase out the MIRVed component of their land-based missile force. With only single-headed missiles left, the party firing first would succeed in destroying, at most, only one missile with each single-warheaded attacking missile. He would therefore lack positive incentive to strike first. And he would have no negative incentive to do so (no fear of waiting) because there would be no danger that the other side might have incentive to strike him first. The agreement would be verified by prohibiting all flight tests of MIRVed land-based missiles.

It is true that such disarmament would not return the superpowers to the pre-MIRV era because submarines would still have MIRVed missiles. But the size, accuracy and numbers of the sub-launched missiles are not such, in this era, as would threaten the land-based missile forces.

WHY NOT PHASE OUT THE MIRVED ICBMS

The two sides have agreed in SALT II to have at most 820 land-based MIRVed missiles. In fact, the United States now has 550 and the USSR about 570, but theirs are growing. If each side were to dismantle a sizable fraction each year, the mid-1980s would see the absence of land-based MIRVed missiles, rather than a dramatic threat to Minuteman.

But would the Russians agree? These MIRVed missiles are their newest ones and expensive. Nor are our own Minuteman III missiles obsolete. Would the two sides agree to dismantle usable equipment? This is, of course, like asking: Could disarmament be "for real"?

There is a live opportunity to make it so during the ratification of the SALT II treaty. Doves who want disarmament could, if they had the wit to do so, join with hawks concerned over the vulnerability of Minuteman, to instruct negotiators to resolve promptly the forthcoming concerns of Minuteman vulnerability through reductions of strategic weapons, in the subsequent negotiations.

This would be in analogy to the resolution passed after SALT I in which negotiators in SALT II were instructed to assure "equal aggregates" in any subsequent agreement. It would not amend the SALT II agreement, but simply give the sense of the Senate as to its desires for the future—a sense strengthened by being attached to the treaty document and subsequently signed by the President.

The Administration would, at the moment, surely oppose such an effort because it would fear an inability to strike the requisite bargain with the Russians. It really wants disarmament agreements to maintain detente even as do the Russians. Neither superpower administration now expects disarmament to matter except in a largely cosmetic fashion, if ever they did.

Thus, while agreements once touted as "better than nothing" are sold now as "maintaining the process," few believe the process is going anywhere on comprehensive offensive weapon agreements. Those who will still urge that it be taken seriously are normally called by the press "ardent" disarmers. On the contrary, smart money in the Administration, shaken by the prospect of a close SALT II vote, is already scaling down its ambitions for SALT III to a series of bite-size agreements or, alternatively, a grand (show up the Russians) proposal. The latter is unlikely to be agreed if only because it will be proposed in 1980 after the SALT II agreement has set back any Soviet incentive to agree to 1985 (when the SALT II agreement runs out and it needs a new SALT agreement to achieve its motivating political goals of maintaining a modicum of detente).

DETENTE OR DISARMAMENT?

The unity of the disarmament community is itself hampered by a feeling that detente rather than disarmament is the only achievable goal. But recognition is growing that the institutionalized misuse of disarmament to achieve only political goals will eventually wear thin and backfire.

There is, thus far, little second-guessing of the ABM treaty on defensive weapons. But the results of the effort, in SALT I, and SALT II, to limit offensive weapons have persuaded a segment of the defense community that the Russians have exploited the previous treaties to improve their defense situation vis a vis our own. Obviously a certain amount of jockeying is inevitable under treaties. If the treaties themselves give a good downward impulse to the arms situation, each side will still be advantaged, notwithstanding minor shifts in relative position. Unfortunately, if the treaties in question are not sufficiently substantive, the jockeying, or even the appearance of it, can dominate the terms of the agreements.

In any case, in this instance, the costs of not agreeing to rid oneself of the MIRVed missiles is going to be: tens of billions of dollars on our side in MX missile and new basing; tens of billions on the Soviet side in new basing—since our MX will threaten their existing land-based force; and a conceptually dangerous situation in which each side can, if it strikes first, rid the other of its land-based force with only a fraction of its own. All this plus a prolongation of arms race redeployment over a decade or two.

Here surely is a situation in which disarmament can represent a clear and immediate solution to a pressing strategic problem; can save tens of billions of dollars; and can avoid the arms control problem of temptations to fire first.

If such an effort is not made, the problem will not be traceable to the flaws in the plan but to flaws in the thinking of the superpower administrations. As Secretary of Defense Brown said in his recent posture statement, SALT agreements "can make the achievement of destabilizing future advantage even more difficult than is already the case, while allowing current vulnerabilities to be removed." This is such a case. This is a job for negotiated reductions. Can't one side or the other rise to the occasion and make a suitable proposal?

Supplemental Testimony of Jeremy J. Stone for July 16 Appearance Before the Senate Foreign Relations Committee on the SALT II Treaty Ratification

On listening to the first week of testimony, these five observations came to mind that might usefully supplement my earlier prepared remarks:

(1) In assessing General Edward Rowney's relative enthusiasm for the March, 1977 proposal over the existing treaty, the Committee should ask the Defense Department to confirm that DOD studies show that even the entire March, 1977 proposal would not have changed the prospect of impending Minuteman vulnerability. In short, even the better proposal which General Rowney thinks we might have reached would not have been that different in its strategic implications.

(2) In assessing Paul Nitze's concern to protect the possibility of a multiple Protective Shelter System (MPS) in which the MX missile would be moved between vertical shelters, the Committee should investigate these allegations, which I would make:

(a) The U.S. would not find it desirable to run a race in which it built holes to match the Soviet capability to destroy holes (with additional warheads) unless it abrogated the ABM treaty and used ABM systems to selectively defend the holes in which the MX missiles would be hidden; the risks here of losing the best arms control treaty the United States has would be prohibitive.

(b) Were the Soviet Union to construct the same kind of MPS shelter system, the risks of rapid Soviet expansion of its missile force into those empty shelters (the problem of "break-out") would become a dominant concern of American strategists, as would be related problems of verification as to whether the holes had or had not already been filled with real missiles.

(3) In assessing Secretary of Defense Brown's support for the MX missile, the Committee should note that he defended it on the basis of the possible future need for a survivable land-based system in the light of the possibility that, in the nineties, our submarine based force might become vulnerable. The Committee should ask itself whether it seems plausible that a land-based MX system whose invulnerability, on paper, is already a subject of massive controversy (after 30 possible basing schemes have been examined) is likely to be a useful backup to the submarine-based force should the submarine ever appear to have become vulnerable. Further, the Committee should note Secretary Brown's remark that it was the President who assumed that some suitable basing scheme would be found and, therefore, announced the decision for MX in June. There is a real likelihood of enormous error in strategic planning in the rush to deploy MX. What will the U.S. do for an encore if this multibillion dollar scheme fails?

(4) In assessing the judgement of both General Rowney and Mr. Nitze that the strategic situation is becoming unbalanced against us, the Committee should observe that both witnesses denied the likelihood of Soviet attack based upon this imbalance because of the strength of our retaliatory forces; instead, both analyzed the problem as one of perceptions of superpower leaders or third parties. Thus the Committee is being provided with a political, not a military judgment; the Committee should therefore ask itself, as a body wholly qualified to make such political judgments, whether it believes, in this case, that military imbalances that are devoid of military significance would, or would not, have political significance.

(5) In determining whether the treaty is "equitable", the Committee should recognize that, by the nature of the U.S. political process, there is no advocate here for the Soviet view of what is equitable. These points might be made, however, were such advocate here.

(a) The U.S. Got Belated Permission for the Air-Launched Cruise Missile Which the Soviets Do Not Have and Got It At Unlimited Range:

The U.S. succeeded in winning post-Vladivostok permission to deploy the cruise missile on bombers, a weapon which the Soviet Union does not have and which adds thousands of warheads to our arsenal, a number comparable to those associated with the SS-18 heavy missile—which we do not have but did not and do not want.

Moreover, although the U.S. gets to trade bombers with cruise missiles off against missiles with MIRV under a 1320 total, the Soviet Union must stay below 1200 in MIRVed missiles and cannot fill the 120 additional slots with MIRV or cruise missiles on bombers (since it does not have them). In effect, we are permitted 10% higher MIRV limits!

(b) The U.S. Got Belated Limits on Backfire for Questionable Reasons:

The Soviets have every reason to believe that the Backfire concern was a "makeweight" argument to give the U.S. the bargaining leverage to get the cruise missile permitted (since by oversight, neither of these weapons systems were raised at Vladivostok) and to limit a Soviet weapon that is effective against our naval forces.

(c) The Soviet Force Continues to Be More Vulnerable than the U.S. Force:

Because a larger percentage of Soviet retaliatory power is in its land-based force (perhaps 70–80%) the U.S. ability to destroy 50% of that force, which we shall have in the 80's, is more significant than the Soviet ability to destroy our entire land-based missile force representing, after all, only about 25% of our entire force. In short, the Soviet Union must have concern, even in the 80's, about its landbased force as do we, and it has our greater anti-submarine warfare capability to be concerned about as well.

(d) Above All, For the U.S., the Treaty Is Something for Nothing:

As the Joint Chiefs of Staff admitted, the Treaty has a "quite nominal" effect on our program, but it does restrain the Soviet program, as Secretary Brown testifies, in numbers of missiles and warheads per missiles in ways which the Soviets might otherwise have pursued.

Prepared Statement of Admiral Elmo R. Zumwalt, Jr., for Presentation Before the Committee on Foreign Relations of the U.S. Senate on July 17, 1979

Mr. Chairman and members of the Committee, it is an honor to testify before you again.

Today I want to try to remind you where we have come from in arms control and to measure promise against performance.

As Director of Arms Control in the office of the Secretary of Defense in 1962–63, I participated in the formulation of strategic policy and programs. In the aftermath of the Cuban Missile Crisis, President Kennedy and Secretary McNamara made the bold and idealistic decision to begin a dialogue with the Soviet Union designed to achieve a fair and balanced strategic nuclear relationship. Their speeches, their policy statements to Congress, and their discussions with Soviet officials sought to put a new theory across. The essence of the message was as follows:

The U.S. recognizes that its strategic nuclear superiority is unacceptable to the Soviet Union. We understand that your attempt to install the missiles in Cuba was an effort to redress that imbalance. We propose now to let you catch up to us. We shall then have a situation of mutual assured destruction or mutual deterrence. We propose to stop at the 1,054 ICBMs and 656 SLBMs we are now building. You should do the same. We propose to keep our missiles with a combination of size and accuracy that you will know from your own calculations that we cannot destroy yours in a first strike so that you could always retaliate if we struck first. You should do the same with regard to size and accuracy. Both sides should reduce the continuing radiation produced by their warheads to minimize the will of innocents if military targets should be struck. Each side should forego civil defense so that cities of each would be hostage against their own government's first strike.

To show good faith, the U.S. gradually reduced its expenditures for strategic nuclear arms to one-third of the constant dollar budgets of the period 1956–62 over a decade and a half.

In retrospect it is clear that the Soviet Union and the U.S. reacted exactly oppositely in their policies and programs after the Cuban Missile Crisis. In essence, our proposed dialogue remained a monolog. The Soviets accelerated their strategic nuclear weapons expenditures, outspending us for many years, today by threefold. They proceeded to build asymmetrical advantages in each of the areas of suggested constraint.

In order to get them to sign the SALT I Interim Offensive Agreement a decade later, we had to grant them nearly a 55% advantage in ICBMs—1,618 to our earlier proposed 1,054. They had the option to reduce to a 35% advantage in ICBMs in order to exercise their option to build up a 35% advantage in SLBMs, which they have been doing. At the signing of SALT I, because they had disregarded the suggested constraint on size, they had about a 300% advantage in megatonnage and throw weight. While we have greatly reduced the fallout produced by our warheads, they have maintained full fallout lethality so that their weapons will kill innocents for hundreds of square miles around the targets they hit.

And while we halt truly foregone civil defense, the Soviets have made major expenditures to develop underground shelter, population evacuation and industrial survival procedures.

It was with this background of knowledge that I had to make my decision as a member of the Joint Chiefs of Staff as to whether or not to support SALT I. It was clear at that time that the U.S. would retain significant advantages during the five year period of the SALT I offensive agreement. Our advantages in MIRVs and in strategic bombers would offset during most of the five year period the huge Soviet advantages in numbers, megatonnage, throw weight, radioactivity, civil defense and terminal bomber defense. The thrust of my testimony in SALT I was to make it clear that the Soviets would have all the advantages in the post-SALT I era unless SALT II were to provide balance, and that such balance could only be negotiated if the U.S. maintained the recommended strategic programs, the necessary intelligence programs and vigorous research and development programs.

In other words, I considered SALT I to be the last best hope for achieving the mutual assured destruction or mutual deterrence that President Kennedy had sought and that during the period of SALT I, as the Soviets began to overtake our qualitative advantages, they would have to be required in negotiating SALT II to surrender their quantitative advantages. None of the assurances required by the Joint Chiefs of Staff in supporting SALT I were adequately carried out. Further, the present Administration, instead of maintaining strategic forces for negotiation leverage, unilaterally gave the leverage away. I have heard much talk about SALT II being the result of the negotiating effort of three presidents. I consider that to be a misleading claim. The cancellations and delays of strategic forces and the concessions of this Administration go beyond what those previous presidents were prepared to agree to.

With SALT II the whole theory of the strategic relationship which Presidents Kennedy, Johnson, Nixon and Ford visualized between the U.S. and U.S.S.R. has been revised. The Soviets have achieved a treaty structure which conforms to their strategic concept of attaining a war winning capability and denying equality to us. We have deluded ourselves that we have achieved a useful arms control outcome. Our Secretary of Defense and our Joint Chiefs of Staff have confirmed recently that during SALT II the U.S. will fall into strategic nuclear inferiority. My own work as a member of the Committee on the Present Danger confirms this grim forecast.[1] SALT II, rather than being a part of the continuum that would have led to mutual assured destruction or deterrence, has instead served as a device for juridical formalization of Soviet strategic nuclear superiority.

The result is a SALT II which:

1. On the legal side, grants juridical strategic nuclear superiority to the Soviet Union. It permits the Soviets 308 modern heavy ballistic missile launchers while we are denied any. The missiles in those silos have greater destructiveness than the entire strategic ICBM and SLBM force of the U.S. The Soviets are granted ten re-entry vehicles on their largest missiles, four or six on their other MIRVed ICBMs, and we are permitted no more than three.

2. In practical terms, permits continuing large increases in Soviet capability during the period of the treaty. By the time SALT II expires the Soviet Union will have about the same number of launchers and warheads as we will, but the greater size of their missiles and warheads and their rapidly improving accuracy will give them superiority in every other strategic nuclear measure. They will have five times our ICBM/SLBM hard target kill capability, two times our area destructive capability, three times our megatonnage, and two times our throw weight. If our aging B–52s and their cruise missiles can get airborne and survive massive Soviet air defenses, we will have a growing superiority in delayed counter military potential. However, if one credits, as one should, the contribution of Soviet Backfiire bombers, this will not be an advantage. In any case, the delayed counter military potential does not offset the other factors.

3. Has designed limits so high that they put no effective limit on Soviet offensive strategic nuclear capability.

4. Does not permit adequate verification.

5. Nevertheless so favors the Soviet Union that the Soviets ought not to cheat.

6. So improves Soviet leverage and so reduces U.S. leverage that SALT III will be more favorable to the U.S.S.R. than is SALT II—just as, for the same reasons, SALT II is much more favorable to the Soviet Union than was SALT I.

7. Encourages the Soviet Union to accelerate its foreign policy adventurism around the globe in the face of our strategic inferiority and of the weakness of an Administration which has permitted itself to be driven to such terms.

In my judgment this dangerous treaty and this inadequate leadership have made it essential for the Senate to broaden its examination to include the entire strategic relationship with the U.S.S.R. Such a review would, I believe, lead to the conclusion that it is essential for the Senate:

1. To fulfill its constitutional advisory role by amending or rejecting SALT II in its present form;

2. To take action now to adjust the strategic context within which SALT II will be operative.

Rather than ratifying a Strategic Arms Limitation Treaty which permits the Soviet Union to achieve strategic nuclear superiority, the Senate ought to require from the President:

1. That he renegotiate the terms, providing the right to equality on both sides and at reduced levels so that strategic nuclear parity becomes feasible during the tenure of the treaty.

2. At the same time that he submits the revised treaty, he send forward to the Congress a program to acquire and maintain the specific strategic forces that would restore the balance under the renegotiated terms.

Statement by Admiral Thomas H. Moorer, U.S. Navy (Ret.), Former Chairman, Joint Chiefs of Staff, Before the Senate Foreign Relations Committee on July 17, 1979

Mr. Chairman and Members of the Committee: I am honored and grateful for this opportunity to appear before your Committee to give my views on the vital subject now under consideration by you—SALT II.

My great interest in this matter is heavily influenced by my experience in the SALT I process. In my capacity as Chairman of the Joint Chiefs of Staff (1970–74), I participated in practically all of the National

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[1] I have studied the analytical work submitted by Paul Nitze in his statement of July 12, 1979, before this Committee. It is the most professional and definitive work on the SALT II issues that has been done, inside or outside the government.

Security Council meetings and attended other meetings held by the Joints Chiefs of Staff with the Secretary of Defense, as well as Dr. Kissinger in his role as Advisor to the President on National Security Affairs. Subsequently, I have followed the SALT II negotiations as closely as possible without ready access to all details.

I unequivocally oppose SALT II as now presented to this Committee on two counts: firstly in substance, on which I will briefly comment, and secondly on the impact it is bound to have on the world political and military environment.

With respect to substance, let me say at the outset that since we have never had a nuclear exchange between two powerful nations, all conclusions as to the outcome can be nothing more than speculative estimates. I doubt that there are as many as a hundred people in the United States who understand the interplay of warning time, decision-making, command and control, response, yield, accuracy, damage effects, fallout, etc., which are so closely associated with the possible use of nuclear weapons. Consequently, I do not propose to deal in detail as to the specific numbers or characteristics and effects of various weapons systems which must be considered. No matter what one may say on any subject, there will always be someone else who holds a different opinion, whether based on fact or not. I would like, however, to highlight several concerns I have in regard to the proposed treaty.

First, the Backfire bomber. I fail to see why the United States can afford to exclude this weapon system from the SALT II treaty while at the same time count all of the strategic bombers of the United States, including those in storage. The Backfire bomber has a full capability of reaching the United States without refueling. It is inconceivable that in any major nuclear exchange with the United States the Soviets would be overly concerned with the capability of these aircraft to return to Russia after an attack on the United States. The facts are that they can reach the United States, deliver their weapons, and then recover as best they can by landing in Cuba, Mexico, or perhaps even at sea. Furthermore, the effectiveness of this aircraft is already in the process of being enhanced by tests with the cruise missile. I consider it most ill-advised for the Administration and other supporters of the treaty to simply pass over the Backfire bomber issue by informing us that they are in possession of a statement by Mr. Brezhnev which has assured the United States that the Soviet Union will not use the Backfire bomber as a strategic bomber, and that it intends to limit the production of this aircraft. Clearly Mr. Brezhnev will not be in power forever and the question then arises as to what action his successors might take on this matter. In fact, I think no chief of state should pay any serious attention to such assurances and anyone who really believes to the contrary, particularly in regard to the Soviet Union, is naive indeed. To add to this problem, I think that the American people should be aware that the United States has no air defense worthy of the name. While the Soviet Union has thousands of surface-to-air missiles and interceptors designed to defend against bomber attack, the United States in recent years has all but eliminated such capabilities. At best our air defense can be described as a peripheral warning system. For all practical purposes, once an enemy penetrates this system, it can cruise over the interior of the United States essentially unopposed. Hence, why ignore the threat of the Backfire bomber and thus give the Soviets a free ride in this area of strategic offensive capabilities?

Second, I have always been concerned about the SS–18 missile which the Soviets are allowed to have while the United States is denied such a weapons system. The argument that we have no program to build such a missile is a specious one. What possible basis can there be for permitting the Soviets to demand that the United States be denied a capability which they possess?

Third, I would refer to the SS–20 missile which, as you know, can be quickly modified by the addition of a third stage and thus be converted to an SS–16 missile, a missile easily capable of reaching the United States. Why should this missile not be counted in the aggregate inventory of weapons?

Finally, we come to verification. There is no question about the fact that the loss of Iran has very significantly degraded our verification capabilities. There is also little doubt that our political difficulties with our old ally, Turkey, due largely to what I would term ethnic politics, has made it double difficult to compensate for the loss of the facilities in Iran through operations from the bases in Turkey. In addition, one must never lose sight of the asymmetry existing between the closed society of the Communist world and the open society we enjoy here in the United States. I hope it is clear to the American people that when the Soviets are assessing U.S. defense policy, they can obtain through purchase of the *Congressional Record* and publications such as *Aviation Week* all the information they need for less than five dollars. The United States, on the other hand, must invest hundreds of millions of dollars to acquire the same kind of information insofar as the Soviet weapons procurement is concerned. Also, the Soviets have never been willing to discuss on-site inspection, and I for one am not willing in any sense to base the security of the United States on a matter of simple trust.

I now come to my second concern, Mr. Chairman, which has to do with the worldwide perception of the United States and its will, determination, and capability to protect its own interests and those of our allies. We already have portrayed an image which suggests full retrenchment functionally as well as strategically. One only has to talk to many of our allies to understand this point. The Vietnam war, the suggested withdrawal of troops from Korea, the failure to take action in Angola or Ethiopia, the loss of Iran, the proposal to demilitarize the Indian Ocean—all of these things have made the nations of the world ponder where we are headed. The timing of this treaty when considered against the non-military commitment and perceived retrenchment policies of the United States is very bad indeed.

I fear that the SALT II treaty as now proposed will freeze the United States into a position of inferiority and simply serve to augment and reinforce this growing perception which other countries—friend and foe alike—have of us. Once this happens, Mr. Chairman, one can be confident that we will feel far-reaching impact, not just in the military arena but in the international political and economic arenas as well. Most of the countries of the world do not enjoy the geographical and economic security with which the United States is blessed. Many of them are in a permanent state of insecurity, always looking for what appears to be the wave of the future and making their accommodation with it. It is for this reason—more than any other—that I am concerned about the substance of SALT II.

I also have another concern I would like to mention. There are, of course, those who say that all of the European leaders fully support SALT II and hence conclude that, this being the case, SALT II must be good. The facts are, Mr. Chairman, that the European nations are frightened. They are no longer certain that they can count on the United States to play the role it has played in the past and, as a consequence, they do not want to see any action taken which would encourage the Soviets to be even more aggressive in the pursuit of world paramountcy—the goal they have sought since World War II.

Also, I would like to comment in passing that it has been my observation that here in the United States we produce what I consider to be the world's worst negotiators. After having given much thought to this matter, I believe I can understand the basis for U.S. negotiatory behavior. The reason, I believe, is that Americans are goal oriented and if given a job to do such as negotiating a treaty, they will do just that and often are prone to reveal their fall-back position almost before they have heard the full opening position of the other side. In any event, I think history supports the point that generally speaking our negotiators feel that a bad treaty is always better than no treaty.

I would also like to mention at this time SALT III. There are those who justify SALT II on the grounds that "we must keep the process alive." If SALT II is an example of our negotiating effectiveness, I predict that SALT III will result in the dismemberment of NATO for all practical purposes. In the first place, we have already run out of concessions in the field of weaponry. The first action of the Soviets in SALT III will be to complain bitterly about our forward based systems in Western Europe as well as the location of the Sixth Fleet. We will hear proposals that the Sixth Fleet withdraw from the Mediterranean; that any nuclear delivery capable aircraft be withdrawn from Europe; that submarines remain beyond certain lines (ignoring, of course, the fact that the Soviet submarine missiles can reach the United States from areas off Murmansk). If the United States, in the interest of "continuing the process" ever accedes to all the parts of the Soviet proposals, that will be the end of NATO and the isolationists in this country will have achieved their objective—that is, all U.S. forces and influence overseas to withdraw behind a Fortress America. In sum, in the SALT II process we will have seriously bargained away our negotiating position for SALT III in 1985. Thus it is the future negotiating position itself which will have been seriously compromised if SALT II is ratified in its present form.

For those who would ridicule this idea and suggest that we will never let it happen, I can only say we should look at the record so far.

Finally, Mr. Chairman, you had inquired as to what actions I would recommend to correct any deficiencies in SALT II I have cited. As to tactics and procedures, I would certainly leave that up to the judgment of this prestigious Committee. However, I strongly recommend that we correct the deficiencies I have outlined with respect to the Backfire bomber, the SS–20 missile, the verification capabilities, encoding of telemetering, etc., but more importantly, I recommend that the United States conduct its foreign affairs in such a way that we convince the world that, henceforth, we intend to protect our interests worldwide and no longer intend, through action or inaction, to convey the message that we are engaged in an inexporable program of large scale retrenchment.

Thank you, Mr. Chairman.

Statement of Gen. Russell E. Dougherty, USAF (Retired), Before the Senate Foreign Relations Committee on SALT II Agreements; July 17, 1979

Mr. Chairman and Members of the Committee: By your letter of 5 July 1979 you have invited me to testify before your committee on 17 July 1979, and have solicited my views on (a) "the military significance of the SALT II agreements" and (b) my "assessment of whether the SALT II agreements enhance or diminish our national security." Additionally, you have indicated that you would welcome my thoughts on

(c) "specific strengths and deficiencies of the SALT II agreements" and (d) "what actions I would recommend to address any of the deficiencies" that I identify in the agreements. I, of course, am honored by your invitation and pleased to respond to your questions. My comments will be in the limited context of a retired officer and from the perspective of a former strategic force commander, military planner and international staff officer in Allied Command Europe.

There is great military significance—for us and our Allies—in the overall strategic arms limitation process and in our hopes and expectations for the results of that process. For, in the final analysis, the success that can be achieved in mutual, balanced reductions and limitations in strategic weaponry (or, for that matter, any other type of military strength) offers the only reasonable way in which we can reduce the burden of maintaining: (a) as a minimum, an aggregate relative balance with the conventional and strategic military strengths of the Soviet Union (and, with three tours in Europe, I find both strengths absolutely related), or (b) as an optimum US and Allied posture, an actual balance in every aspect of Soviet military strength. And, of even more significance, success in this process offers humanity the only reasonable way in which the horrors of full scale nuclear conflict can be ameliorated.

I know of no senior military colleague—active or retired—who does not support our nation's efforts to achieve mutual, balanced reductions and limitations in both strategic and general purpose forces and weaponry, if such can be achieved without increasing the risk to our security and that of our Allies.

As I understand the basic objectives of our nation, they are not premised on any requirement to maintain military forces for conquest or aggression.

The required peacetime forces and posture flowing from our own national objectives is minimal—only that required to maintain internal order and to preclude any external interference with our Nation's peaceful pursuit of its legitimate national objectives—thus, our Nation has no inherent national requirement for standing military forces to deter or counter consequential external military threats to our security and our national objectives in the absence of such threats.

The post-World War II emergence of a requirement for consequential US standing forces, nuclear and conventional, did not result from any aggressive intent of our Nation, but from a recognition that such a threat existed:

The inimical political creed of the Soviet Union and its aggressive spread, coupled with the maintenance of a gross excess of Soviet military strengths—initially conventional, but now both conventional and nuclear—well in excess of any reasonable requirement for their own defense, and fully integrated into their overall objectives.

Given this basic rationale for the increasingly serious situation in which we and our Allies find ourselves, I am unable to accept or understand the use of misleading phrases, such as "arms race" to describe the dilemma we face in maintaining relevant strengths to deter or counter these Soviet forces. In the face of our inability to achieve a more equitable agreement that will suit everyone and make our job less complex and demanding, I think we should set aside such simplistic phrases as "arms race" and "over-kill" and see if the SALT II agreements enhance our security and make our job a bit easier—or diminishes our security and increases the burden on our Nation. I have tried my best to do just this—without the pressures of any external influences other than those inherent in my military experiences over the past forty years.

In my opinion the SALT II agreements, as they have been negotiated and signed by the President are, on balance, more in our security interests and those of our Allies than no agreements. They establish the principle of equal limits—this is basic to me, and I well remember the years of earlier work with the Joint Chiefs of Staff (in the 1960s and early 70s) when all were agreed that "equal aggregates of strategic forces with freedom to mix" was fundamental to an equal starting point in the arms limitation process. From such a starting point, it would be possible to proceed to "balanced" reductions; assuming, of course that we maintained such strength that we had a meaningful negotiating stance.

Obviously, the SALT II agreements have not really achieved the general objectives we all have for the overall process; these agreements are not (in the short term, at least) going to reduce the requirement for the essential modernization of our strategic forces, nor for building in diversity and flexibility (a tired, overused, but very important word to describe what is so very important to a military planner) in the capability of our strategic forces and in our theater nuclear forces. I do not like the exclusion of the Soviet's Backfire bombers; I do not like to see them permitted to continue the deployment of modern, large ballistic missiles; I cannot even disagree with my respected colleagues who are confident that we could (or might) have negotiated a better agreement—they may be right, but we didn't negotiate a better one, we negotiated this one. I hope it is not the last one we negotiate, and I hope and urge the Senate to help us be in a better, stronger position for the next negotiating round—certainly in our strategic nuclear forces; but, importantly, also stronger, more modern and relevant in our theater nuclear forces and our interrelated general purpose forces.

It has been of great significance in my review of this SALT II agreement to learn through two press reports that the Commander-in-Chief, The President, has said that he would do all he could to comply with the basic agreements he has signed, even if the Senate fails to ratify these agreements as a treaty. If these reports are accurate, this is an important point, for those of us in the military planning and programming process know that the actions of the Commander-in-Chief are critical to the military development and deployment process. I cannot imagine a meaningful military program proceeding through development, procurement and deployment in today's environment without the support and approval of the Commander-in-Chief. This was brought home to me very forcefully by the Senate's amendment and the President's action on the B-1 procurement legislation while I was serving at CINCSAC. Thus, the treaty status accorded or withheld on these SALT II agreements may be less of a consideration than an assessment of what we can do under the terms of the agreements, as signed. I have made such a personal assessment of the SALT II agreements and conclude that we have the options, if we elect to use them, to have a series of modernization programs that will reverse the downward trends of our relative force balance with the Soviets—and greatly improve the position of the United States in subsequent negotiations.

I am well aware of the problems of verification of the provisions of the SALT II agreements; these problems for our intelligence community and our sensor systems are certainly made no more difficult by the agreements. Fortunately, I do not think anyone approaches this as a matter of "trusting the Russians"—I find that irrelevant. Insofar as the issue of "cheating" is concerned, I suppose they could if they chose to do so. But, if we adhere to a continuing, aggressive modernization program for our intelligence community and take all reasonably available opportunities inherent in our various intelligence capabilities, we should be able to detect meaningful "cheating" by the Soviets. The test will come in deciding what to do about it once it is discovered. In my view we must not let any variation in practice go unchallenged. At best, adequate intelligence on Soviet activities is a very difficult, demanding and fragile thing. I think we will do ourselves a great disservice if we discuss the issue of verification too much, too publicly. In my judgment, we have already done too much of this.

In my analysis of the Agreements I find considerable military significance in the utility they will have in helping us "size the threat" posed by the Soviet's intercontinental nuclear forces in some important measures—agreed warhead limits is an illustration; numbers, of course, is another. Also, it could operate to buy us some critically needed time to get our own programs up on schedule. In the mid-1960s it was difficult (or impossible) for many of our key decision makers to accept the early indications of a major Soviet thrust to equal or surpass us in many measures of strategic weapons capability. It is still difficult for some to accept and assimilate the significance of the momentum and consequences of the Soviet military programs and deployments. Accurate, unobscured highlighting of the facts of this buildup throughout the Senate's hearings will be a belated but useful revelation for our nation; and, at last, we are dealing with their numbers now—not just our assigned numbers. It should be easier for all of us to understand and size the task that is before us.

I mentioned the element of time—time to understand to decide, to build a consensus for action, to develop, to produce, to deploy, to train . . . all the things that are so important to the operational commanders. On 1 July, writing in the Washington Star, Arthur T. Hadley explained why he was visiting one of our operational commands and, as he wrote, "I am in this car, heading for this (4:30AM) B-52 flight because I am always suspicious of Washington debates. They are so often about things that do not exist 'out there'." How true! We who have followed this hearing have been exposed to figures such as 3,000 Air Launched Cruise Missiles (ALCMs), ALCM carriers, M-X missiles, etc. . . . none of which exist today—some of which will not exist in operational units when the SALT II agreements are scheduled to expire. It is useful to remind ourselves that it takes years and years for these developments to become actual operational weapons in the hands of trained operational units "out there". It is only then that they figure realistically in the deterrent equation; and, unfortunately, most of the weapons figures we are discussing for the Soviets are years ahead of ours in becoming operational weapons systems.

I appreciate fully the national pride, the accuracy, the optimism of the repeated references I hear to the effect that military strength is the only area in which the Soviet Union seriously challenges us—that we have a far stronger economy, a more advanced technology, a more wholesome and democratic political system; that we far excel them in all the other trappings of an advanced society. All of this misses a very fundamental point: we must make timely use of these strengths if we expect them to protect us under immediate military threat, coercion or attack. We have these societal advantages, true; but if we fail to use them wisely and in good time, the potential advantages could be made meaningless by a very real, very operational, and very massive arsenal in being and in the hands of the Soviets.

One specific concern should be highlighted—and that refers to the Protocol to the SALT II Agreements and its present termination date of 31 December 1981. I think that termination date is critical for I am of the opinion that we must have uninhibited freedom to test and deploy the M–X—it is vital to our deterrent strength and to the future of the SALT progress. Also, we need to have the flexibility in deployment of sea and land-based cruise missiles, with ranges in excess of 600 kilometers, as soon as they are ready to deploy. We have some very important but antiquated theater nuclear forces that must be modernized; we have a capability in cruise missiles that, while still potential, is so important that we should not inhibit and hazard our flexibility in deployment and range beyond the date we expect to be ready to deploy it in multiple modes. In any event, the potential precedent that could result from any extension or drift in the positive termination of this Protocol would be seriously damaging. It's a danger point.

I would urge this Committee to again read the statement of the JCS on 11 July when they appeared before you; observing their careful analysis and rereading the reservations and concerns they expressed. This so-called SALT II "debate" (and I wish we could rid this town and this nation of that designation!) is having a divisive, corrosive effect on many of us in the senior officer ranks, active and retired. The JCS are not above this vicious schism among us with military backgrounds; nor, I suppose are Senators of the United States. If I am correct, this schism is the result of varied degrees of frustrating experiences in attempting to reconcile prudent military concerns for the security needs of our nation with the understandable yearning of our people and our political leaders to be free of the fear of nuclear war and of the consequential burdens of armament and readiness.

I think the statement of the JCS, through General Jones, the Chairman, is a brave statement, an accurate statement, a forthright statement and I associate myself with it, without reservation. I agree with their summary evaluation of the SALT II agreements as a "modest but useful step . . ." I would hope that more and more of my military colleagues who have now had time to reflect on the SALT II issues, options and alternative—and who will and can break out of the "type boxes" into which they are placed by circumstance, association, or pressures will be persuaded of the correctness of the position taken by the Joint Chiefs of Staff.

Independently, I have arrived at a "bottom line" not unlike that taken by the JCS when they advised you that:

". . . the danger to the United States does not arise from any specific limitations to the Agreement, but from potential consequences of unilateral actions or inactions in the past—and, if we are not careful—in the future . . . our ability to take the necessary programmatic actions to ensure essential equivalence is the ultimate test for SALT II . . . our options and flexibility are adequate, so long as we choose to exercise them." (undermining mine)

From my analysis, the SALT II agreements we have made with the Soviets are the focal point for the discussion, but the agreements we make with each other to rebuild our sagging strategic and theater nuclear forces are the real test for our future. These internal agreements are at the core of the controversy and will determine the danger and increased risks we will face throughout the life of SALT II. Our deterrence must not fail—the uncertainties of failure are too great to chance it. I would urge the Senate—the Congress, and the Administration—not to attempt to be too precise in their calculations, too clever in their proceedings, too dependent on critical assumptions. We must rapidly reverse the downward trend of our force capabilities vis-a-vis the Soviet Union—in our Strategic intercontinental forces and in our theater nuclear forces. Things may not happen in the way we assume they will and our military must have more flexibility than that precisely calculated in some sterile, remote analysis. If we err, it must be on the high side—on the side of strength, not imbalance and weakness; the stages are too great, the possibility of error too high.

Some say we need only a single mode strategic deterrent force, and that this force and our related theater nuclear forces do not require a war-fighting capability; they assert that a war-fighting capability is passe, irrelevant, outdated. They may be right—but they may be wrong! If they are, we will be left in an inflexible, inadquate, intolerable position from which we cannot hope to assure our allies, control escalation, defend our nation, or deny an enemy the fruits of his aggression.

Respectfully, I urge you and the Administration to take advantage of the time we have—while we have it.

Thank you—and I will do my best to answer your questions.

STATEMENT OF ADMIRAL ISAAC C. KIDD, JR., U.S. NAVY, RETIRED, BEFORE THE SENATE FOREIGN RELATIONS; JULY 17, 1979

Mr. Chairman, gentlemen. I am both flattered and humbled to have been invited before your Committee today on the subject of our Strategic Arms Limitation Treaty now under consideration. I am an authority on neither Strategic Arms Limitations nor on treaties. For the last eight years, however, I was responsible to our Commander in Chief and to you gentlemen for the development, design and production of Navy strategic weapons; the last four years being in command of three quarters of our Navy strategic Forces—the submarines and the weapons in them.

With this modest background, I support this Treaty for the following reasons:

We are a strong nation which has allowed itself to get behind—behind in both strategic and conventional forces. The Treaty offers a "Time-out" as it were, for us to catch up. I trust we will not blow this opportunity to catch up as it could well be our last chance.

It is so unusual for such "Times out" to occur in the conduct of international affairs that this is an opportunity I am almost ashamed to say we cannot afford to lose.

We as Americans have done this deed to ourselves. We have no one but ourselves to thank for it—the "deed" being the frittering away of our bargaining edge of military strength. I have confidence we have the wisdom in our government and in our people, the strength to acknowledge our mistakes and the determination to get on with correcting the deficiency.

The Treaty is a compromise. It is far from ideal. We would have preferred it different in many many ways. We were not able to bring it off. A compromise being the least unattractive of two poor alternatives, of course many are unenthused with the results—I among them. The alternative of having no ceiling at all, considering our position at this point in the so called race, I find totally unacceptable because I know how difficult it is to design and build such systems and how very long it takes to bring them into service.

From a technical point of view, I find the details on "Verification" acceptable—granted, marginally acceptable, but considering the state of the art, acceptable under the circumstances. The potential for cheating is present everywhere. It is certainly not unique to this Treaty. If one is determined to cheat, it must be expected. We too must be prepared for it to happen. Considering Ambassador Luce's assertion that the Soviet record is virtually unblemished when it comes to abrogations at times convenient to them, our preparations and sensors, in my view, will provide such evidence in time. The better question seems to me to be, are we quite ready to blow the whistle on them when the evidence comes to hand? To make this action effective, we must be strong enough to oblige compliance.

The Treaty was under negotiation for so long and under so many negotiators of varying persuasion, party, background and like differences, I find it quite remarkable we did as we did—recognizing that each one in the turbulence of personnel turnover felt undoubtedly compelled to leave his or her bit of body-english in the language of some particular part.

Considering the allegation, ". . . we were not tough enough, and could have gotten more, had we been," I regrettably find it necessary to reject this argument as an absolute value, because I fear the real reason was that we were not strong enough. There is indeed a vast difference. It is pointless to sit down at a high stakes poker table when everyone at the table knows you don't have any money. The Soviets have been busy building rapidly for many years. We have not. They had more that they could negotiate with than we did. Over the many years of negotiation, I've watched negotiators take pride in winning a point—but it cost something every time. We seemed simply to run out of things to give up to get what we wanted; so we ended up being dictated to, rather than being strong enough to dictate the terms as we would have preferred—a new and somewhat mortifying position for us. We must, therefore, get down to business and reverse this unsatisfactory trend.

Considering the option of rejecting the Treaty, it has been asserted this would confound the Soviets and draw greater respect, followed by their asking to reopen negotiations because they have more need for the Treaty than we. This may be so; but this entire philosophy is based upon the evaluation of Soviet intentions that, and I quote ". . . . I think the probability is that the Soviet Defense Program—and particularly that portion of it dealing with strategic nuclear weapons—will be about the same whether SALT II is ratified or not." This from one of the principal objectors to the Treaty in its present form. Now, gentlemen, I've been educated and trained for over forty years to deal with capabilities and limitations vice intentions, because intentions could change minute by minute—and probably will.

For myself, I do not find the Soviet track record of consistency in following stated intentions, implied intentions, or assumed intentions (as in this case) to be reassuring to the degree needed on which to base a national decision of this magnitude. We must keep reminding ourselves they are ahead. We allowed them to get there as we blissfully slid down the bannister of strength from "superiority" to "equivalence" to "rough equivalence." We have a Treaty offering a ceiling at the so-called "equivalence" level. If we reject it, so be it. But heaven forbid we be so naive as to assume, when we start building up to redress the imbalance, that they will be accommodating good chaps and allow this to occur with an ". . . about the same" building rate as today—no way, gentlemen, to borrow from the vernacular of the young.

The cost with the Treaty is viewed by some as staggering. The term "arms race" is often heard—referring, for example, to the numbers of new war heads needed to reach our limit. A race, to me, carries a traditional connotation of somewhere near an even start. This then is a new use of the term "race" when we use it to describe the effort needed to catch up. We seem to lose sight of the fact that with the Treaty, there is an end in sight. Without it, there is none clearly evident. Gentlemen, the cost to reacquire this so called level of "rough equivalence" will be the bargain of the history of the world if that is what is needed to deter nuclear war—nay any war for that matter. There was a time when it took roughly two generations to pay for a war. Now, with our more sophisticated methods for destruction, historians of economic matters report we have yet to pay one thin dime on the principal of the costs of WW II and onward to the present—a tidy bill of some $1,076.6 billions of dollars owed. The bill for the next one, if nuclear fought, promises to be quite a number indeed. It is thus rather clear those responsible for paying the premiums of prevention on our national insurance policies of the day did not do well. I have hopes our record will be more realistic, persuasive and underwritten by unmistakable tangible evidence of national resolve.

Finally, gentlemen, a plea to you to better help the American people understand what this subject of SALT is all about. My six children, their husbands and wives living from one end of the country to the other have called and told me they are quite confused. To listen to learned men of substance pillory each other, call each other liars, in a nice way of course, has created an atmosphere of wonderment as to whom to believe. This is not good. Public confidence must be restored in those of us who are and have been public servants. The nation needs and has every right to expect this confidence. Your efforts here are therefore terribly important and appreciated. As a retired public servant with no party, with three sons who have served in uniform, and a father killed in WW II who never voted—it was considered improper in those times—I am uneasy over the undercurrents of partisanship surging and rolling on the beaches. From my vantage point over the last many years, there is an abundance of blame to be spread about on just how we managed to slide this far. No one man, no one party, no one administration could possibly have done it alone. In retrospect, it was indeed an all-hands effort. It is too late for acrimony. It is too late for recriminations. I most respectfully urge we take Mr. Vinson's advice, acknowledge the ox is in the ditch, and muster all-hands to get it out. Thank you Mr. Chairman.

STATEMENT OF THE HONORABLE HAROLD BROWN, SECRETARY OF DEFENSE, ON THE VERIFICATION OF SALT II, BEFORE THE COMMITTEE ON FOREIGN RELATIONS OF THE U.S. SENATE; JULY 18, 1979

Mr. Chairman and members of the Committee,

I am here today to discuss one of the most important issues concerning the new SALT II agreement, the question of verification. I believe that verifiability is a necessary condition of any good arms control agreement. Without it, even the most attractive and advantageous agreement should be rejected. We are dealing in SALT with our principal military competitor, our chief political—and potential military—adversary. We expect compliance with the accord, but we cannot rely on trust or optimistic assumptions about Soviet behavior. The treaty must be adequately verifiable from the day it enters into force.

Let me begin my presentation by stating my conclusion: we can adequately verify Soviet compliance with the provisions of SALT II. We will be able, by our own intelligence efforts, to detect a Soviet violation in time to react so as to block or offset any substantive military advantage that could result from the violation. Put another way, any Soviet cheating which would pose a significant military risk or affect the strategic balance would be detected by our intelligence in time for the United States to respond effectively.

MONITORING AND VERIFICATION

To monitor Soviet compliance with the provisions of SALT II, we employ a set of intelligence capabilities known as "national technical means." This general terms covers a variety of methods for monitoring Soviet military activities, including photographic satellites and other technical collection means. These systems enable us to monitor, for example, Soviet telemetry—technical data transmitted by radio signals from the Soviet missiles during tests—from outside Soviet territory. Other examples of national technical means include the ships, aircraft, and land-based radars used to monitor Soviet missile testing.

This is not a complete list of the technical devices that constitute our national technical means. Still less is it a complete list of all US intelligence resources. Many of our intelligence resources are very sensitive, and public acknowledgement of their capabilities would make it far easier for the Soviets to negate them. For that reason, public information about the details of our intelligence facilities and capabilities is quite limited. Although there have been a number of discussions in the media about our intelligence sources, it would not be in the nation's best interest to comment publicly on the accuracy of reported capabilities. The details of our intelligence collection capabilities will be covered in considerable detail during closed testimony. All Senators will have access to this information before voting on the Treaty through procedures worked out with the leadership, and will be able to make their own judgments about the adequacy of our capability.

It is important to distinguish the nature of monitoring from the process of verification. Monitoring, in the SALT context, is the task of collecting and analyzing information about Soviet systems subject to SALT limits. Verification refers to the continuing process of assessing compliance with the provisions of arms control agreements. It is the process of judging whether a state is living up to its international obligations. It uses the results of monitoring as one key input, but relies on other assessments and judgments as well.

It is also important to remember that monitoring is simply a name for one type of strategic intelligence. Our need for such information did not begin with SALT. The United States spends billions of dollars every year to maintain the most sophisticated and capable intelligence-gathering system the world has ever seen. With or without SALT we have a vital interest in keeping track of Soviet strategic forces. Doing so is our highest intelligence priority.

The attached chart reflects the range of our monitoring and detection confidence. "High confidence" in detecting a prohibited activity means that we have a probability of detection greater than 90%. With respect to counting and measuring requirements, high confidence means that we have an uncertainty of less than 10%. "High moderate" confidence is a probability of detecting a prohibited activity of between 75 and 90%, or an uncertainty in counting and measurement of between 10 and 25%. Ranges for moderate, low, and very low confidence are shown on the chart.

The United States by necessity takes a conservative approach to monitoring an arms agreement. We cannot afford to do otherwise in a matter so fundamental to our national security. Anything less than a 50 percent chance of detection, for example, we consider as providing "low confidence" in our monitoring capability. At the same time, however, what we take to be "low confidence" may appear to the Soviets as a high risk. A somewhat less than even chance of US detection would probably appear as a prohibitively high risk to a Soviet planner contemplating cheating, particularly when he considered the likely US reaction to such a discovery. [Illustrations mentioned, not printed in the RECORD.]

THE ADEQUACY OF VERIFICATION

Our impressive monitoring capability does not mean that we can be certain of detecting every conceivable treaty violation—or every conceivable change in Soviet strategic forces—as soon at it occurs. That is an impossible and unnecessary standard to meet, either for verification or for intelligence generally. No arms limitation agreement can ever be absolutely verifiable. The relevant test is not an abstract ideal, but the practical standard of whether we can determine compliance adequately to safeguard our security—that is, whether we can identify attempted evasion if it occurs on a large enough scale to pose a significant risk, and whether we can do so in time to mount a sufficient response. Meeting this test is what I mean by the term "adequate verification."

I should note that "adequate verification" has been our objective throughout the entire ten years of SALT negotiations. As a member of the US Delegation to SALT I, I recall President Nixon's instruction in 1969 that "any agreed measures must be subject to adequate verification." That has been the consistent policy of our government ever since. It is also the standard embodied in the Arms Control and Disarmament Act.

Adequate verification depends on a number of factors. Among the most important are our capability to monitor Soviet activities related to compliance; our assessment of the risks to the United States (and benefits to the Soviet Union) of potential violations in light of the probability of detection; and our ability to carry out appropriate and timely responses if violations are discovered.

U.S. INTELLIGENCE RESOURCES

Any judgment about the adequacy of verification must begin with an examination of our own intelligence collection systems and techniques for analysis. Our national technical means enable us to monitor various key aspects of Soviet strategic programs, including the development, testing, production, deployment, training, and operation of Soviet strategic capabilities. We can perform these tasks despite the closed nature of Soviet society.

Our national technical means enable us to assemble a detailed picture of Soviet forces, including the characteristics of individual systems, by using information from a variety of sources. For example, our intelligence system has enabled us to build a comprehensive understanding of the Soviet ICBM system from design through deployment. We know that the Soviets have four design bureaus for the development of their ICBMs. We monitor the nature of the projects and the technologies pursued at these bureaus. We know which bureau is working on each of the new or significantly modified ICBMs known to be under development. We have a reasonably good idea of when they will begin flight-testing of these missiles.

Missile production takes place at several main assembly plants and at hundreds of subassembly plants, employing hundreds of thousands of workers. We monitor the Soviet ICBM deployment areas on a regular basis, observing construction activity, movement of people and materials, and training exercises. We have a good understanding of the organizational and support structure for deployed ICBM units.

We regularly monitor key areas at the Soviet ICBM test ranges. We monitor missile test firings with a wide variety of sensors: cameras taking pictures of launch and impact areas; infrared detectors measuring heat from the engine; radars tracking ICBMs in flight; and radios receiving Soviet telemetry signals (the Soviets use telemetry signals to measure the performance of their test missiles in flight, and we use them to deduce technical characteristics of their missiles). The use of multiple sources complicates any effort to disguise or conceal a violation. In the course of 20 to 30 tests of a new ICBM, we collect thousands of reels of magnetic tape and spend tens of thousands of hours processing, analyzing and correlating this vast array of data to determine the characteristics of the new missile.

It is inconceivable to me that the Soviets could develop, produce, test, and deploy a new ICBM in a way that would evade this monitoring network. We have missed some data on some firings—and will in the future. But we have not erred significantly in our assessment of any Soviet ICBM.

The Soviets know that we have a large and sophisticated intelligence operation, and they know a certain amount about how it works. However, they do not know the full capabilities of our collection systems and analytical techniques, and this uncertainty would greatly complicate any Soviet attempt to conceal evasion of the SALT II limits. (It is also a reason for strictly limiting what we say in public about our systems.)

No one can pretend that our intelligence collection capability is perfect, or that there is no room for improvement. No sensor can be expected to catch every Soviet event of interest—but it is just as unlikely that a Soviet cheating program on a significant scale will evade every sensor. I expect the Soviets have a healthy respect for our intelligence capabilities, and that respect will influence their calculations about the costs and possible benefits of cheating.

It is possible for our intelligence system to suffer some gaps in its coverage from time to time. This occurred most recently with the loss of our collection sites in Iran. But these gaps can be filled, and the system's capability restored sufficiently to ensure that its job is done adequately. In recent months a great deal of attention has been given to the impact on verification of the loss of the Iranian sites, and it is useful to place that loss in perspective before turning to the details of specific provisions.

THE IRANIAN SITES AND THEIR REPLACEMENT

It has been suggested that our intelligence system has been fatally crippled by the loss of our stations in Iran. That view represents a misunderstanding of the full extent and capability of our system for assessing the Soviet missile program. In the past two decades, the United States has spent billions of dollars for sophisticated monitoring systems specifically targeted against the Soviet missile program. As a consequence, we have developed an extensive and effective collection network. In fact, all of the data used in the SALT debate—by supporters and opponents—are a product of this capable network.

The Iranian sites provided important information on some Soviet ICBM tests. Their loss reduced, but did not eliminate, our ability to make certain judgments about the tests. Reestablishing all of their capability, which we would want to do with or without a SALT II agreement, may take until 1983 or 1984. Regaining a substantial portion of the capability—the part most needed for SALT verification—is likely to be feasible within a year. During that time, we have a large number of other technical intelligence collection sources which will collect intelligence on Soviet strategic systems.

One interim measure we are considering is the use of U–2 reconnaissance aircraft to monitor Soviet missile tests. However, it is important to keep in mind that U–2 overflights are by no means the only way to replace the Iranian sites' contribution to SALT monitoring.

It is also important to keep in mind that a new strategic weapon takes several years to develop. A new missile, bomber, or submarine represents a major investment in time and money. It is not a simple process. We know from our own experience, and from observing the development of Soviet forces, that building a new strategic weapon system is an expensive and time-consuming enterprise. The weapon system first must be designed, developed, and tested; this phase alone generally takes several years. Eventually the system enters the operational force, and full operational capability may not occur until 10 or more years after development was begun. Throughout the system's operational life it is periodically tested and evaluated.

Each of these stages in the life cycle of a strategic weapon system is susceptible to a different mix of monitoring methods, and each presents a different opportunity for monitoring. Each stage poses a new problem for the side attempting to conceal such a program. A Soviet program to develop a new ICBM would require between 20 and 30 flight tests over a period of years. With existing (let alone with planned) additional collection systems, we would be able to monitor testing and detect violations well before the testing program could be completed.

In sum, I believe the SALT II agreement would be adquately verifiable if it came into effect today, even taking into account the loss of the Iran sites.

INCENTIVES FOR AND AGAINST CHEATING

As I mentioned earlier, in assessing the adequacy of verification we must also consider the likelihood that the Soviets would be tempted to run the gauntlet and cheat on the limits of SALT II. Theoretically, the incentive to cheat is a function of the value of the strategic gains which a side would expect to achieve from such a program, and the risks and consequences of being caught cheating.

In most areas, the chances of detection are so high that the issue of the utility of cheating would never arise. My own view is that the Soviets would find little advantage in exploiting those areas where our verification uncertainty is greater. This judgment is based on three factors: first, that the US-Soviet strategic balance will remain reasonably stable and durable, so that the Soviet Union will be unable to derive a significant strategic advantage by quantitative or qualitative improvements that might conceivably go undetected. Nothing which the Soviets are capable of doing secretly with their strategic forces would deny us the capability of responding with a retaliatory attack of devastating proportions. The United States has a credible nuclear deterrent today and we will have one in the future, even under the most pessimistic scenarios of Soviet cheating.

Second, SALT II does not halt Soviet strategic force modernization dead in its tracks. There will exist under the terms of the agreement a number of permitted opportunities for the Soviets to improve their strategic forces.

Third. The Soviets have their own—rather than our—uncertainties about our collection capabilities. They cannot be sure of our overall intelligence capability to monitor a SALT II agreement. For that reason, Soviet planners would be likely to make careful and conservative assumptions regarding US verification capabilities.

The Soviets would also have to face the possibility that a clandestine effort could be compromised by a defector, an intelligence source, or an accident which revealed the nature of the activity. The larger the scale of the effort and the longer it went on, the more people would be involved and the greater the possibility of compromise would become. This serves as a further disincentive to cheat.

U.S. "HEDGES"

We have a number of "hedges" available as responses to possible Soviet violation of the agreement. These are actions which we could take to increase the deterrent capability of our strategic forces and to offset any gain the Soviets might seek to achieve. Some would be permitted under SALT II. Others would require a US decision that the Soviets had violated and thereby voided the treaty.

But hedges, when they are real and credible options, not only give us the capability to react to Soviet cheating; they also serve to deter such activity by negating the benefit of any contemplated non-compliance. One quick reaction response would be to raise the alert level of our B–52s and ballistic-missile-carrying submarines. This, though expensive, would provide an immediate and significant increase in the number of weapons which would survive an attack.

There are a number of longer term responses available to us. The development and deployment of strategic offensive systems like the ALCM or the MX could be accelerated to provide their contributions to our force posture at an earlier date than is now programmed. We could adjust our planned MX deployment and basing (particularly by adding hard shelters) to offset increases in the RV force available to attack it. We could also expand the deployment of the MK–12A warhead on the Minuteman III force, or replace some of our Minuteman II missiles with Minuteman III's. Other actions could include steps which would extend the lifetime of the Polaris submarine, and an acceleration of the development of a cruise missile carrier aircraft.

These actions are illustrative examples of US strategic hedges. Some of them we may want to pursue in any event, even in the absence of Soviet violations. Our actual response to a Soviet violation would take into account the nature of the violation, the time available to respond, and the status of our various force improvement programs at the time.

OTHER CONSIDERATIONS

The process of determining the adequacy of verification must also weigh the benefits of a particular provision against the monitoring problem involved. The gains to the United States in some cases—either in permitting flexibility to pursue certain programs of our own or in imposing limitations on Soviet actions—are worth accepting some additional uncertainty in verification.

In several instances we had to consider a trade-off between verification considerations and the impact of the provision on US program flexibility. In some cases we negotiated a provision which allowed us to pursue strategic force options, even though doing so may have marginally increased our monitoring uncertainties. The provisions affecting cruise missiles and mobile ICBMs are the two most important examples of such a trade-off, and I will discuss them in detail later.

In determining how much monitoring uncertainty was acceptable, we also had to consider the importance—to the United States—of securing certain restrictions on Soviet forces. We felt it was desirable, for example, to restrict modifications to existing Soviet ICBMs as much as possible so that the limitation on "new types" of ICBMs would have maximum effect. Without a precise and narrow limitation on permitted modifications, the Soviets could claim that any new ICBM was simply a modification of an existing one. We determined that it was clearly in the US interest to accept some greater uncertainty in monitoring in order to secure a far more meaningful limitation on "new" Soviet ICBMs.

TREATY PROVISIONS WHICH FACILITATE VERIFICATION

The SALT II agreement is designed to be adequately verifiable by national technical means. It is considerably more complex than the Interim Agreement it replaces. In addition to counting the number of launchers deployed, we must monitor the deployment of launchers for MIRVed systems. We must also monitor such characteristics as the launch-weight, throw-weight, and number of warheads for ballistic missiles, and the range and launch platforms for cruise missiles.

These are not new intelligence responsibilities; they are new only to arms control. We have monitored Soviet missile characteristics since the early days of missile flight history. What is new is the increased importance of such monitoring in light of the provisions of the SALT II agreement. For this reason, the United States successfully pressed for a number of provisions in the SALT II agreement designed to assist verification.

One provision, carried over from SALT I, bans interference with the national technical means used to verify compliance with the agreement. Another prohibits deliberate concealment measures which impede verification. Because many of the provisions of the agreement are verified by monitoring Soviet testing, the ban on deliberate concealment applies explicitly to testing practices as well as to construction and deployment activities. In particular, deliberate denial of telemetric information during testing is prohibited whenever such denial impedes verification. Neither party can unilaterally determine whether denial impedes verification. If questions arise on this issue they will be resolved in the Standing Consultative Commission.

A number of counting rules are included in the agreement to facilitate verification. For example, one rule resolves the difficulty of trying to distinguish launchers containing MIRVed missiles from launchers carrying non-MIRVed versions of the same missile. Another rule counts as a MIRVed launcher any launcher of a type which has ever contained or launched a MIRVed missile. Other counting rules have been worked out for bombers. These rules simplify verification tasks that would otherwise have been much more difficult.

Finally, the two sides have developed a common data base in which each party states the numbers of systems deployed in each of the principal categories limited by the agreement. While the US does not depend upon these numbers for verification, the data will provide an agreed baseline from which to measure compliance with the aggregate limits. The data base will be updated at each semiannual meeting of the Standing Consultative Commission.

AGGREGATE LIMIT

Let me now address our ability to verify compliance with the major provisions of the SALT II agreement. The first issue is our ability to verify compliance with the aggregate limit of strategic nuclear delivery vehicles. Here we have high confidence in our ability to monitor the numbers of fixed ICBM launchers, SLBM launchers, and heavy bombers. I want to stress that this simple sentence covers many of the most significant provisions of the treaty.

ICBM silos are readily identifiable during construction, and take a year or more to build. The missiles themselves require extensive support facilities, including missile handling equipment, checkout and maintenance facilities, survivable communications, and nuclear warhead handling, storage, and security facilities. Our intelligence collectors regularly examine the existing ICBM fields, but in addition they also conduct extensive surveys of the Soviet Union at periodic intervals for evidence of additional ICBM activity. The intelligence community judgment is that we would detect a Soviet effort to deploy a significant number of excess fixed ICBM launchers even if they departed substantially from their current deployment practices.

Facilities for the rapid reload of ICBM launchers are prohibited by the treaty, as are excess missiles at the launch site. A realistic capability to reload a silo launcher rapidly during nuclear conflict would require hardened facilities for missile storage, handling equipment, and crews. Construction of such facilities would be observable.

Turning to SLBMs, ballistic missile submarines are large and complex systems. They are currently constructed in only one shipyard in the Soviet Union. After launch they are fitted out in the open for a period of months before they begin sea trials. We monitor the launch, fitting out, and sea trials of each submarine. We also monitor Soviet ballistic missile submarines at operational bases, at sea, and at overhaul facilities. In addition, we search for evidence of SSBN-related activity at other facilities, and we monitor naval activities generally with a wide range of intelligence collection systems. We are confident we can monitor closely the number of Soviet SLBM launchers.

Heavy bombers are large in size, built at a small number of plants, and deployed at a limited number of operational bases which are closely monitored. The total inventory of heavy bomber type aircraft can be monitored with confidence.

A potential problem that is dealt with in the agreement concerns variants of heavy bomber type aircraft that are used for other purposes. Any future variants are required to have functionally related observable differences which indicate that they are not capable of performing a heavy bomber mission. Existing bomber variants are handled on a case-by-case basis—some will be modified within six months of entry into force; some which we have no problem distinguishing from bombers are exempted from this requirement.

MOBILE ICBMS

We would face somewhat greater uncertainty in our count of mobile ICBMs. The amount of uncertainly depends on the deployment pattern of the system.

The limitation on mobile ICBMs is one of the cases I mentioned earlier in which we faced a trade-off during the negotiations between monitorability and retaining force flexibility. We decided that it was very much in our interest to permit the deployment of a mobile ICBM as a way of dealing with the increasing vulnerability of the fixed-silo Minuteman force. As you know, we have decided to proceed with the MX missile, and to deploy it in a basing mode which will ensure that the number of deployed missile launchers can be monitored.

Taking into account the advantage to the United States of retaining a mobile ICBM option and the details of the monitoring problem, I believe that the verification of mobile ICBMs will be fully adequate. Determining the number of mobile ICBM launchers is more difficult than counting silos, but it is a manageable task. The uncertainty in monitoring the number of deployed mobile ICBMs depends on the deployment mode chosen. For example, the Soviets are now deploying the mobile SS–20 IRBM, and we can estimate the number of launchers deployed with reasonable confidence. If the Soviets made special efforts to conceal mobile ICBM launchers, of if they deployed a system without central support facilities, the uncertainties could be larger. But covert deployment of a force on a scale large enough to be militarily significant would be a formidable task, requiring successful concealment of a large number of deployed launchers, and of their production, support, and training exercises as well, and deployment without central support facilities would entail significant operational disadvantages. Also, concealment measures would themselves be violations if they impeded our ability to count launchers deployed. And we would detect the fact of such attempts at concealment even more easily than we could count the precise number of launchers.

The degree of uncertainty in verifying the number of mobile ICBMs deployed can be sharply reduced if a system is designed with verification in mind. In planning our own land-mobile ICBM, we have devoted considerable effort to devising deployment schemes which permit the other side to monitor the number of launchers deployed, even though not knowing exactly where they are at any one time. This same situation already exists for SLBM launchers and heavy bombers. We would insist that any Soviet mobile ICBM system permit adequate verification of the number of launchers deployed.

One specific concern about the clandestine deployment of mobile ICBMs is the possibility that the Soviet SS–16 ICBM could be deployed on SS–20 mobile IRBM launchers. To resolve this problem, the Soviets have agreed not to test, produce, or deploy the SS–16. We believe that we could detect over time any significant violation. Given their relatively small size and poor accuracy, deployment of SS–16s would not add significantly to the Soviet strategic forces in any case. Moreover, the diversion of SS–20 launchers to SS–16s would substantially reduce the capabilities of the Soviet theater nuclear forces.

In light of all these considerations, we believe that the advantages of keeping the mobile ICBM option open far outweigh the increased complexity of monitoring. The potential monitoring uncertainty is a small percentage of the total force capability on either side, and is acceptable.

MIRV LIMITATIONS

We have confidence that we can monitor the number of launchers of ICBMs and SLBMs equipped with MIRVs. Again I stress that this judgment covers several of the most significant provisions of the treaty.

The Soviets have always tested their missiles (both in R&D and training phases) from launchers that are identical to the operational launchers for that type. Any change from this practice would reduce both missile reliability and raise questions about concealing the association of missile and launcher a practice prohibited by the Treaty.

I have already mentioned the MIRV counting rules which substantially ease the task of monitoring such systems. One such rule requires counting as MIRVed missiles all those missiles of a type which has been tested with MIRVs. This is required even if that missile type has also been tested with a non-MIRV payload.

These rules also count as MIRV launchers all launchers of a given type once any one has contained or launched a MIRVed missile. The launchers associated with each of the Soviet MIRVed missiles are distinctive, and the MIRV launcher types can be readily distinguished from non-MIRV types. The agreement stipulates that future launchers not equipped for MIRVed missiles must be distinguishable from MIRVed missile launchers, and vice versa. If they are not, such launchers would count as MIRV launchers.

LAUNCH-WEIGHT, THROW-WEIGHT, AND NUMBER OF RE-ENTRY VEHICLES

At the present time, we can continue to monitor the launch-weight and throw-weight of ICBMs tested in the Soviet Union.

While the uncertainties are somewhat larger than they were when the Iranian sites were functioning, we are still able to detect significant changes in launch-weight and throw-weight over the course of a flight-test program. The uncertainties would be smaller for monitoring changes to existing ICBMs on which we have built up a considerable base of information than for the one new type ICBM permitted by the agreement.

The deployment of additional collection systems in the near term could enhance our ability to monitor launch-weight and throw-weight. A new or significantly modified missile requires a number of flight tests over a period of years before it is deployed. Significant evasion of the launch-weight and throw-weight limits would likely be detected during this test program. The Soviets would gain little militarily by exceeding the launch-weight and throw-weight limits by amounts that we may not be able to detect, and would risk challenge in the Standing Consultative Commission.

As for the number of reentry vehicles, we can determine accurately the number of RVs released from a missile during flight-testing. However, the Soviets might deploy ICBMs with a greater number of RVs than had ever been actually flight-tested on that missile. The SALT II agreement deals with this problem by limiting certain test practices which could be used to demonstrate procedures to release more RVs than were actually tested. We currently can monitor the maximum number of RVs tested on existing missiles, and planned future collection systems will allow us to continue to monitor the maximum number of RVs on future Soviet missiles. Furthermore, potential increases in the number of RVs on existing types of ICBMs are also restricted by a provision banning the flight-testing or deployment of an ICBM with an RV lighter than the highest RV which has been flight-tested on an ICBM of that type.

NEW TYPES OF ICBMS

The agreement limits each side to one new type of ICBM. New types of ICBMs are distinguished from existing types on the basis of launchweight, throw-weight, number of stages, propellant type (liquid or solid), length, and maximum diameter. Launch-weight and throw-weight are characteristics which I have already discussed. We have good monitoring capability for the remaining features: number of stages, propellant type, and dimensions.

In order to distinguish between new types and modfications to existing types, a line must be drawn between the two. The agreement does this by specifying the amount by which certain features of an existing missile may be changed before it becomes a new type. Any change in the number of stages or propellant type, or any difference of more than 5 percent in launch-weight, throw-weight, overall length or largest diameter qualifies an ICBM as a new type. Over the period of a test program for a new or modified ICBM we could detect significant deviations from these limits. Here again some small transgressions of the limits on missile modification fall within the area of our monitoring uncertainty. Such violations would not, however, affect missile capability in any significantly threatening way, particularly since increasing the maximum number of RVs is subject to a separate limitation, and is verifiable. In the absence of a SALT II agreement, the Soviets could modify existing missiles, develop new ones, and deploy both, all without limits.

The "new types" provision allows the US to test and deploy the MX, and, if we desired to do so, to make some modifications to the Minuteman III. This provision will, however, probably have a more significant impact on the Soviets. The rule will force them to choose between replacing the SS-11 with a new, larger (possibly solid-fueled) non-MIRVed missile, or replacing the SS–17 and SS–19 with a 10–RV MIRVed missile. They cannot do both. We will be able to determine with confidence that the Soviets are complying with this limitation.

CRUISE MISSILES

This is another area in which there are some monitoring uncertainties. It is also very definitely an area in which the US negotiating position emphasized preserving future force options.

We have a good understanding of the numbers, characteristics, and capabilities of current Soviet cruise missiles, even though cruise missile range is difficult to define and estimate precisely. If the Soviets continue their present practices for the development and deployment of cruise missiles, we expect to maintain our present level of understanding. If the Soviets altered this current practice, our estimates of cruise missile range capability could be subject to considerable uncertainty.

This uncertainty is acceptable because we believe the Soviets have little incentive for cheating on cruise missile range limits. The agreement provides both sides with enough flexibility to pursue long-range cruise missile programs without cheating.

Since all limits on SLCMs and GLCMs expire with the Protocol, and the range of cruise missles deployed on heavy bombers is unconstrained for the entire treaty period, the most important monitoring task for cruise missile ranges after the Protocol is to determine that ranges of cruise missiles deployed on aircraft not counted in the 1,320 limit have a range capability of less than 600 km.

Our confidence in verifying the limits on ALCM numbers is considerably higher than for cruise missile range limits. Bombers equipped for long-range cruise missiles are counted in the 1,320 limit. As the MIRVs, there are counting rules to distinguish aircraft equipped for ALCMs from those which are not. The association of an ALCM with its carrier aircraft is made as early as the flight-test phase.

BACKFIRE

We can estimate the number of Backfire aircraft produced with confidence in the same way we estimate the number of heavy bombers.

We could detect a significant upgrade in Backfire's capability either by a physical modification of the aircraft, or a reorientation of the Backfire force toward intercontinental missions. Careful observation of the testing of Backfire, its deployment patterns, and training and exercises with this aircraft indicate that Backfire is assigned a theater and anti-ship role. However, the aircraft does have an inherent capability to perform some intercontinental missions. Improving its capability for such a mission would probably require changes in the aircraft's deployment pattern or training activity which could be monitored. Moreover, the additional strategic capabiilty which the Backfire could provide would be at the expense of a substantial loss of theater and anti-ship capability from such a change in the role of this aircraft.

I would also note that we were able to extract some important limitations on the Backfire from the Soviets. They have agreed to freeze its production rate at 30 per year; they have agreed to improve its intercontinental capability. Any more direct and restrictive limitation on Backfire would inevitably have brought into the negotiations on SALT II our forward-based systems which are marginally capable of reaching the Soviet Union. We have insisted throughout SALT that these systems are not for negotiation between the United States and Soviet Union alone. The acceptability of the verification uncertainties have to be considered in the light of these factors.

Given this negotiating history, and the factors that reduce the incentives tempting the Soviets to cheat on the Backfire assurances, I find our uncertainties in this area acceptable.

COVERT DEPLOYMENT IN PERSPECTIVE

Some observers have disputed the judgment that the provisions of SALT II can generally be monitored with high confidence. They suggest that it would be a fairly simple exercise for the Soviets clandestinely to deploy significant numbers of strategic forces. They imply that the U.S. intelligence community has developed a false confidence in its monitoring capabilities because "we have never found anything that the Soviets have successfully hidden."

This tautology, like all such statements is true on its face. But it is gravely undermined as a practical argument by our experience in the real world. The fact is that we have never found a strategic weapon system that the Soviets had successfully hidden for a period of time. If the Soviets had embarked on a significant clandestine deployment of strategic forces, we would expect to have discovered—at some point since the beginning of the missile age—a strategic weapon program which had been operational for some time, or an occasional example of attempted concealment which was not entirely successful. That has not been the case, and that fact does give us confidence in our collection capabilities and analytical techniques. We have had—and will continue to have—disputes over the meaning of the data we collect, but we have had remarkable success in monitoring Soviet strategic forces over the last 25 years. We have detected every ballistic missile and heavy bomber as soon as it entered the flight-test phase. Most of these systems were detected even earlier.

In short, throughout our years of monitoring Soviet forces we have observed no grain elevators being loaded with ICBMs, no SLBM launchers being installed on fishing trawlers. One theoretical explanation is that the Soviets are doing an extraordinary job of concealment—with absolutely no breaches of security or inadvertent disclosure of what would be a substantial effort. The other far more plausible interpretation is that Soviet clandestine deployment of strategic forces, if it exists at all, is at such a low level as to be strategically insignificant.

COMPLIANCE AND REACTION TO VIOLATION

In considering Soviet compliance with the provisions of SALT II, it is important to keep in mind that there is a difference between detection of a violation and enforcement, bringing a detected violation to an end. The SALT II Treaty will not be enforced in the courts; the mere existence of a provable violation does not bring it to an end. Conversely, the issue is not whether we could prove a case to a jury. We do not need proof beyond a reasonable doubt, nor even evidence we can discuss in detail, to challenge Soviet action.

Our initial course, if we were concerned about a possible violation, would be to discuss any ambiguous situation with the Soviets in the Standing Consultative Commission (SCC). In appropriate cases we could also raise the issue in higher level diplomatic channels. We come to SALT II with more than six years of experience with the SCC. Over the years both sides have raised questions concerning activities of the other side. On several occasions we observed activity which raised questions with respect to Soviet compliance with the agreements. We raised these issues promptly with the Soviets, and in every case the activity ceased, or subsequent information clarified the situation and allayed our concern. As a result of our record of raising questions in the SCC, the Soviets are well aware that we will call them to account in SALT II for any questionable activities related to their strategic programs.

My own belief is that the Soviets are more likely to attempt to exploit the ambiguity of various provisions and understandings (and there has been a very considerable effort to make these substantially less in SALT II than in SALT I) than they are to try to find ways to test our verification capabilities by cheating. This was certainly our experience in SALT I. The ambiguities were greater in SALT I, and the limitations less detailed—but our monitoring capabilities are even better now than they were at the time.

We will expect satisfactory resolution of any problems encountered under SALT II. If we do encounter problems and present them to the Soviets, they may be able to explain satisfactorily the ambiguous activity. Or they may stop the activity in question.

It must be acknowledged, however, that in international agreements the only ultimate enforcement mechanism is our own actions, either to produce agreement by the other side to cease and correct the problem, or to offset the consequences by our own unilateral steps. If a problem is not resolved to our satisfaction, a number of courses are open to us. We could take actions permitted under SALT which would have the effect of offsetting the Soviet action. We could insist on taking certain actions ourselves outside the Treaty to compensate militarily and politically for the violation.

Our ultimate remedy would be termination of SALT II agreement. That is a step we would not take lightly. However, if a problem were not resolved or if we detected a violation which threatened our security, I would not hesitate to recommend to the President that we take whatever steps necessary to meet the threat—including, if need be, the ultimate step of Treaty abrogation.

OVERALL ASSESSMENT

In assessing the significance of our monitoring uncertainties, I have assumed (and believe) that we will recover from Soviet missile testing the telemetry that is relevant to SALT limitations. Given this assumption, I believe that all of the uncertainties we face are acceptable risks. The United States will maintain forces and programs capable of being accelerated so as to offset any potential Soviet violation. These US hedges mean that the Soviets must count on a low payoff—very likely a negative payoff—for any contemplated cheating. Finally, all of the uncertainties we face in SALT II would be far worse without an agreement because Soviet concealment practices would then be unconstrained. SALT actually serves to reduce our uncertainties about Soviet strategic forces.

In my judgment, we can adequately verify compliance with every provision of SALT II. In assessing the adequacy of verification, it is important to consider the total agreement rather than is particular provisions taken separately. To determine whether the agreement as a whole is adequately verifiable, we should also ask ourselves whether the Soviets could exploit the monitoring uncertainties of several individual provisions, even if each is judged as adequately verifiable, in a way that would affect our national security interests. This perspective asks, in effect, what would the Soviets have to do not just to cheat and (perhaps) to get away with it, but what they would have to do in order to gain an advantage in the strategic balance by cheating. In such a context, the probability of detecting the fact of cheating increases markedly as the number of provisions being violated increases. The high likelihood of detecting significant cheating on individual limitations and our ability to detect the fact of even small cheating of it is attempted over a period of time on a number of provisions enhances our monitoring confidence.

The Soviets would also have to take into account the possibility that any clandestine effort to violate the terms of SALT II could be comprised by a defector, an intelligence source, or accidents which reveal the nature of the activity. The larger the scale of the effort and the longer it went on, the more activity would be involved and the greater the possibility of compromise would become.

In short, there is a double bind which serves to deter Soviet cheating. To go undetected, any Soviet cheating would have to be on so small a scale that it would not be militarily significant. Cheating on such a level would hardly be worth the political risks involved. On the other hand, any cheating serious enough to affect the military balance would be detectable in sufficient time to take whatever action the situation required.

This testimony lays emphasis on the issue of verification; correspondingly I have emphasized my conviction that the Treaty now before the Senate meets the tests of adequate verifiability. But SALT II does more than this. It actually enhances our ability to gather intelligence on Soviet strategic forces. The treaty forbids interference with our SALT-related intelligence systems and prohibits deliberate concealment which would impede verification. Without SALT II, we could be faced with concealment, countermeasures, plus all the actions that would be considered "cheating" under the agreement. Without SALT all of these actions would be permitted; with SALT they are all prohibited. The SALT II agreement does not present a verification problem. On the contrary, it improves our ability to gather strategic intelligence and enhances our national security.

I believe that cheating on a scale large enough to affect the strategic balance would be discovered in time to make an appropriate response. For these reasons, and others noted in this testimony, I am confident that the SALT II agreement, taken as a whole, is adequately verifiable.

Statement of the Honorable George M. Seignious II, Director, United States Arms Control and Disarmament Agency, Before the Committee on Foreign Relations, United States Senate, July 18, 1979

Mr. Chairman, I am honored to testify today before this Committee regarding the verifiability of the SALT II agreement. I fully recognize the gravity and seriousness of this subject.

I want to begin today by making five key points.

Point One: After careful study, I have concluded that SALT II as a whole, and in its parts, is adequately verifiable. As required by Section 37 of the Arms Control and Disarmament Act, I now formally certify this conclusion, and I have provided for you today a classified report that discusses the verifiability of SALT II. Furthermore, I believe that SALT II will be adequately verifiable from the day the agreement enters into force.

Point Two: SALT II does not depend on trust. No nation bases its national survival on trust, and I would not be here today before you if I thought that trust was an element of SALT II.

Point Three: Our national verification capabilities are impressive and mutually supportive today. We must have, and we do have, specific programs to enhance them even further.

Point Four: SALT II, and indeed the entire process of strategic arms negotiations, actually enhances the knowledge we have about Soviet strategic nuclear forces and other forces not constrained by SALT. It makes our intelligence task easier than would be the case without SALT.

Point Five: The record of SALT I shows that we have been vigilant in pursuing questions of Soviet compliance. This will continue to be the case under SALT II. Abrogation of the Treaty is, of course, the ultimate recourse, and we must have the national will to follow that path if we believe that Soviet actions grieviously threaten our security.

Verification is the process by which we determine whether the Soviet Union is living up to its obligations under SALT. SALT limitations, however, are not absolutely "verifiable" or "unverifiable." The relevant question is whether the SALT II Treaty is adequately verifiable: that is, are we confident that our verification capability is sufficient to ensure that any Soviet non-compliance will be detected before it can pose a significant military risk or adversely affect the strategic balance.

The criterion of "adequate verification" has been national policy since SALT I began:

In 1969, President Nixon approved instructions that said: "Any agreed measure must be subject to adequate verification;"

In 1973, in Washington, President Nixon and Soviet leader Brezhnev signed a document called "Basic Principles of Negotiations" for SALT that again required "adequate verification;"

In 1974, "adequate verification" remained the standard under President Ford when our SALT delegation received its instructions; and

In 1977, Congress established the standard of "adequate verification" in Section 37 of the Arms Control and Disarmament Act. This section states: "It is the sense of the Congress that adequate verification of compliance should be an indispensable part of any international arms control agreement."

SALT II has been designed and negotiated to be adequately verifiable. We never put a SALT proposal on the negotiating table without first considering our ability to verify that proposal. And we never accepted a Soviet proposal without giving it the same consideration. One of my strongest impressions as Director of the Joint Staff of the Joint Chiefs of Staff, as a member-at-large of the SALT Delegation, and in my present position has been the unanimity of the U.S. Government in eschewing any reliance on trust or faith in the Soviet Union as a substitute for verification.

No matter how excellent our intelligence capabilities, there will always be some uncertainties. In judging verification risks, we have taken many factors into account: (1) the capabilities of our existing and projected intelligence-collection systems and analytical techniques; (2) the measures the Soviets could take to evade detection; (3) the costs and risks to the Soviets of any attempt to evade the limits; (4) the military significance of potential violations; and (5) the capability of the United States to take appropriate and timely counter-measures to offset the effects of potential Soviet non-compliance.

With these factors in mind, I have reached the conclusion that SALT II is adequately verifiable. This is based on the judgment that we have high confidence in our ability to detect significant Soviet violations. In my opinion, any cheating which could affect the strategic balance would be discovered in time for the United States to make an appropriate response. In view of U.S. programs and our resolve to challenge any questionable Soviet activities, the areas of uncertainty are not such as to permit the Soviets to produce a threat to United States national security.

I said at the beginning that in SALT we do not rely on trust. The myth that SALT and trust go together is a myth and only a myth. We do not rely on faith, or hope, or the Soviets' signature. To put it bluntly, we are dealing with our principal adversary.

We rely on our own independent, national intelligence capabilities. We survey the Soviet Union regularly, thoroughly and accurately with a vast array of sophisticated and powerful intelligence-gathering systems, such as photo-reconnaissance satellites, radars, and other monitoring devices in space, on land, on sea, and in the air. The result is a network of collection systems, which provide us with redundancy and which complement each other in their coverage of the Soviet Union.

We have spent billions of dollars on these systems, and it has been money well spent. I find our intelligence capabilities truly astonishing in their technological capacity—especially to a soldier who began his career in World War II, when we seldom knew what was happening six hundred yards behind enemy lines, let alone six thousand miles away.

Although the exact nature and capabilities of these intelligence systems are highly classified, I can illustrate their effectiveness by outlining the kinds of information we receive from them.

For example, we know where the Soviets build their submarines. It takes several years to construct a ballistic missile submarine. We carefully observe it during this period. We count its missile tubes as they are being built, and we determine which types of missiles will be installed in those launchers. When the Soviets launched their latest Delta class strategic missile submarine, it was no surprise. We had been aware of its construction for years.

Similarly, we know where Soviet ICBM launchers are deployed and what types they are. We observe new missiles as they are flight-tested, and they are tested extensively. We know whether a missile is tested with one warhead or more than one. We can count the number of Soviet reentry vehicles as they reenter the atmosphere.

We monitor the conversion of older Soviet ICBM launchers so they can handle their new MIRVed missiles. Well before the conversion is finished and the launcher is again operational, we know not only whether it is a launcher for a MIRVed missile—but also the type of MIRVed missile it is designed to contain.

In the case of Soviet heavy bombers, we have an adequate count of how many bombers there are, where they are produced, and where they are based. We can observe important modifications that are made to these bombers.

A good measure of the overall capabilities of our intelligence collection system is the detailed information published each year in the Secretary of Defense's report to the Congress. Indeed, the numbers used by opponents and proponents of SALT alike are based on information acquired by our national intelligence collection systems. Not one bit of this information has been volunteered by the Soviet Union. It has been gathered entirely by ourselves.

Several factors help us in verifying the provisions of SALT II:

One factor is time. Many of the systems limited in SALT are very large and complex and cannot quickly be constructed. For example, it takes many months to construct an ICBM silo launcher and years to develop and deploy a new missile. This gives us time to monitor activities.

Another is reliability. New strategic systems have to be tested to have operational reliability. We can observe these Soviet tests.

And a third factor is support requirements. Strategic systems need personnel to run them and extensive logistic and security support. These requirements compound the task of keeping deployments hidden, and they increase the chance that we will detect them, especially if such activities were to take place in significant numbers. Some charge that the Soviets could stockpile extra missiles and then one night change the strategic balance. Let me say that it is one thing to produce a missile in a factory; it is quite another to have the trained personnel, the logistics, the large amounts of heavy equipment to handle the missiles and the launchers themselves—without our being able to spot them.

I might add that the Soviets, if they wanted to violate the provisions of SALT II, would face another difficulty—uncertainty. Our use of multiple intelligence sources complicates any Soviet effort to disguise or conceal important activities. The Soviets know that we have a large, sophisticated intelligence operation, and they know a certain amount about how it works. They do not, however, know the full capabilities of our collection systems and analysis techniques. This uncertainty will further complicate any Soviet attempt to conceal an evasion of the SALT II limits.

In assessing the capabilities of our network of collection systems, it is important to recognize that intelligence is a dynamic process in which our effort will need continual improvement. We must be prepared to take the necessary actions to exploit the new opportunities that advancing technology offers us, and to offset the loss of sources, as happens from time to time. The recent loss of important intelligence stations in Iran is a clear example. Because of our extensive capabilities, we continue to be able to monitor adequately the testing of Soviet ICBMs, although some uncertainties are temporarily larger than we would like.

As you know, we are aggressively pursuing a number of alternatives and specific programs to collect the information formerly gathered in Iran in order to reduce these uncertainties to their former level. We expect to do this before a test program for any new or modified Soviet strategic missile could be completed.

As intelligence is a dynamic process, so must be verification. As weapons systems become more and more sophisticated, we must negotiate verification provisions to keep pace with them. Good examples of how this has taken place in SALT II are the various counting rules, such as those for MIRVs, bombers, and cruise missiles.

Verification is, and must be, an evolving process. As we pursue arms control measures more difficult to verify by national technical means, our ability to reach agreement may well depend upon our ability to negotiate procedures which allow access to information unobtainable unilaterally, but which is essential to verification. I signal this today not as a requirement for the present but as a possible harbinger for the future.

The limits of SALT II, however, are adequately verifiable with our own national technical means. By restricting launchers and not missiles, by ingenious counting rules, we have no imperative need for more intrusive measures in SALT II. On-site inspection is not required for adequate verification of SALT II. The proponents of on-site inspection oversell the alleged advantages of such inspection. For example, the SALT II MIRV counting rules, which I will discuss in detail later, are a better device than on-site inspection for counting MIRVs. We are able to use these rules to count Soviet MIRVs on a total, national basis. We will not have to rely on inspectors who can be deceived and who cannot watch all of the launchers all of the time.

We would monitor the Soviets even if there were no SALT agreement. It is essential for us to have good, solid intelligence on Soviet strategic forces, totally apart from any arms control agreement. In fact, only a portion of the total intelligence we collect on Soviet strategic forces is related to SALT limits.

There are specific provisions in SALT II, proposed by us and accepted by the Soviets, that make the job of monitoring the Soviets easier than it would be without SALT.

Under SALT II, the Soviets will not be allowed to interfere with the intelligence systems we use to verify SALT.

Under SALT II, deliberate concealment, including encryption of telemetry, which impedes verification of compliance is banned This ban applies not only to concealment of construction and deployment of systems limited by SALT but also to concealment of testing of those systems, because some provisions are verified by observing testing. Without this ban, the Soviets could use any and all means of concealment.

Under SALT II, the production, testing, and deployment of the Soviet SS–16 ICBM, and its unique components, are banned for the Treaty period. This ban precludes difficulties that would have arisen in distinguishing it from a Soviet shorter-range missile that is not limited by the Treaty. The SS–16, I want to stress, is the only ICBM that has been assessed to have been tested from a mobile launcher.

Under SALT II, neither side is allowed to conceal the association of a missile with its launcher. Without this provision, it would be much more difficult for us to assess which missile goes with each type of launcher.

These are just some of the SALT II verification provisions. Without them, it could be much more difficult to collect needed intelligence on Soviet strategic programs. Without the bans on concealment and interference, we could find it much harder to determine how many strategic missiles and bombers they are deploying, and what their military capabilities and characteristics are. The Soviets would be free to take steps to complicate our ability to predict accurately the size and capability of Soviet strategic forces.

No leader, military or civilian, wants to plan with less rather than more information about an adversary. I believe that in SALT we have used verification to good advantage—for our own security, for strategic stability, and to help turn uncertainty into confidence.

That is a clear, specific example of the contribution arms control can make to our national security.

We have over six years experience verifying Soviet compliance with SALT. The Soviet record during SALT I has been carefully reviewed and analyzed. In every case of questionable activity that we raised with the Soviets, the activity ceased or additional information has allayed our concern.

As an example of the seriousness with which the Soviets have taken ther responsibilities under SALT, they have dismantled ballistic missile submarines in order to place newer class submarines at sea and still stay within the limits set by SALT I in 1972. Peferectly good submarines, newer than some of our own ballistic missile submarines now in service, have been withdrawn from the Soviet strategic inventory to comply with SALT.

The question has been asked: "What do we do if we discover a Soviet violation or if we even suspect one?" As a result of the SALT I agreements in 1972, we established at Geneva a U.S./Soviet Standing Consultative Commission (SCC) where any compliance questions, any suspected activities, can be challenged at once. We thus have an established forum where even the slightest suspicion of a violation can be raised with the Soviets. This forum has worked well under SALT I.

Some also question whether we actually would challenge the Soviets if they appeared to be in violation of SALT II. I believe our record under SALT I is solid proof that we would. We have not been hesitant to challenge the Soviets about questions of concern to us—eight times. The fact is, however, that there is not one outstanding challenge that we have made against the Soviet Union that has not been resolved to our satisfaction. If a violation persisted without correction or if a violation threatened our security, then we could abrogate the agreement and build the forces necessary to meet the threat. This would be a very serious development, and the Soviets know it.

Within the U.S. Government, procedures have been established for monitoring Soviet performance and for dealing with matters related to compliance. All intelligence information is carefully analyzed in the context to the provisions of SALT, and recommendations on questions which arise are developed by interagency intelligence and advisory groups within the National Security Council system. Currently, these are an intelligence community steering group on monitoring strategic arms limitations and the Standing Consultative Commission working group of the Special Coordination Committee of the National Security Council.

Should analysis of intelligence information indicate that there could be a question concerning compliance, this latter group reviews and analyzes the available information and provides recommendations. The President decides whether a particular question or issue is to be raised with the U.S.S.R. based on the study and recommendations of the department and agency principals who comprise the Special Coordination Committee or the National Security Council itself. After the discussion of any question is opened with the U.S.S.R. in the Standing Consultative Commission, the positions and actions taken by the U.S. representatives are also guided in the same manner.

SALT II was constructed with verification in mind. Indeed, during more than six years of negotiations, verification issues have probably received more attention and more effort than any other single aspect of SALT policy. Every new idea was scrutinized in terms of our present and projected monitoring capabilities.

The SALT II agreement is adequately verifiable because we insisted that it be so. In several instances, provisions enhancing verification took months or years of hard bargaining before the Soviets agreed to them. I would like now to give several examples.

In SALT II, there will be rigorous counting rules to solve such problems as determining which missile launchers have missiles that carry multiple independently targetable warheads—or MIRVs—and which do not. While it is difficult to determine whether a particular Soviet missile is MIRVed, we can monitor the unique types of Soviet missile launchers with high confidence. In essence, the MIRV launcher counting rule states that if a launcher has ever contained or launched a MIRVed missile, all launchers of that type must be counted as MIRVed. This is coupled with a rule that any missile of a type that has ever been tested with MIRVs counts as a MIRVed missile. The practical result of these rules is that all potentially MIRVed Soviet missile launchers must be considered as MIRVed under SALT, even though these launchers may actually contain only missiles with one warhead. These counting rules exemplify how this Treaty has been constructed to allow us to utilize our monitoring capabilities most effectively.

We arrived at this solution to MIRV verification only after many years effort. When the United States entered into negotiations with the Soviets on this issue, we proposed limits on MIRV launchers as well as verification rules to enable an accurate and unambiguous count of these launchers. We insisted that such rules for MIRVed missiles and their launchers were essential. Although the Soviets resisted for several years, they eventually agreed to these rules. And they also agreed that the rules would cover missiles and launchers at two missile bases called Derazhnya and Pervomaysk, where some unMIRVed missiles were deployed in launchers which we could not distinguish from MIRV-type launchers. This was a significant Soviet concession which assured our ability to verify adequately the MIRV launcher limits. It meant for the Soviets that about 100 Soviet launchers at Derazhnya and Pervomaysk with unMIRVed missiles had to be counted as launchers of MIRVed missiles.

Another example of the important role played by verification considerations in the SALT II negotiations is the limitation on telemetry encryption. We sought Soviet agreement that encryption of telemetry which impedes verification would not be permitted under the prohibition on deliberate concealment measures. For a long time, the Soviets resisted. However, the United States insisted that the Treaty contain specific language making clear that deliberate telemetry denial, such as by encryption, would be prohibited whenever it impedes verification of compliance with the provisions of the agreement.

At the Geneva meeting between Secretary Vance and Soviet Foreign Minister Gromyko in December 1978, the Soviets finally agreed to a provision that deliberate denial of telemetric information is prohibited whenever such denial impedes verification of compliance. At the Summit in Vienna, we again received explicit confirmation, this time from President Brezhnev, who agreed that there must be no encryption of information involving parameters covered by the Treaty.

This most certainly does not mean that the Soviets are free to decide whether or not telemetry encryption impedes verification. We have established a clear basis for raising with the Soviets any instance of encryption which impedes our verification, while protecting sensitive U.S. intelligence sources and methods.

The agreement on this issue does not ban all telemetry encryption. We have monitored telemetry from Soviet missile tests for many years, and we have developed complex analytical tools for evaluating that telemetry. Accordingly, we know what types of data are important for verification, and if those data are denied, we can make that determination. We had a sound basis to demand that the Soviets agree not to conceal data related to the provisions of the agreement. We were successful. We have no basis in the Treaty for demanding data not related to the provisions of the agreement.

A third example concerns the limits on what we call missile "fractionation," or the number of warheads on ICBMs, SLBMs, and air-to-surface ballistic missiles. Fractionation limits promote a major U.S. SALT objective, which is to keep the Soviets from fully exploiting the potential of their land-based ICBMs. The Soviets could realize substantial benefits from their recent improvements in accuracy if they could add more warheads to their current and projected ICBMs.

The Treaty, however, will:

Freeze the number of warheads on existing types of ICBMs;

Establish limits on the number of warheads on the one permitted new type of ICBM and on SLBMs and air-to-surface ballistic missiles;

Ban testing and deployment of lighter warheads, which could be used to circumvent the fractionation limit; and

Require that future warhead release simulations must count toward the permitted number of warheads for each type.

The United States can adequately verify these provisions. The Soviets long resisted them and agreed only in the final period of negotiations. On some of the key verification provisions, we negotiated right down to the final days of the talks and got the Soviets to agree to our position. We didn't blink.

During the SALT II negotiations, we have also had to consider the tradeoff between verification considerations and the need to ensure that we would be able to take the necessary steps under SALT II to maintain strategic equality. For example, it would be easier to verify a total ban on all cruise missiles than it will be to verify some of the cruise missile provisions in the agreement, such as those which temporarily limit the range of deployed ground- and sea-launched cruise missiles to less than 600 kilometers. However, the United States decided that, on balance, it was in the interest of our national security to be allowed to pursue these programs, even though allowing the Soviets the same options may complicate verification in the future. Mobile ICBMs are an area where we made a similar choice, deliberately preferring to keep important military options open to us, at the price of a potentially more difficult verification job.

In my testimony today, I have touched on only a few examples of our ability to verify Soviet compliance with SALT II.

In the course of these hearings, additional information is being made available to the Committee in testimony by Secretary of Defense Brown and Director of Central Intelligence Turner and in other testimony and written reports. In making my certification of adequate verifiability, I have leaned heavily on the assessments of the Secretary of Defense, the Director of Central Intelligence, and the General Advisory Committee on Arms Control and Disarmament. Additionally, and importantly, I have taken into account the conclusion of the Joint Chiefs of Staff that SALT II is adequately verifiable.

As I look back over the course of SALT I and SALT II, I am impressed by how far we've come, as well as how far we still must go.

I am impressed by the degree to which the Soviet Union has conceptually and practically moved in our direction on verification.

I am impressed that, for the first time in the history of strategic arms negotiations, the Soviets will provide figures on their own offensive forces as part of an agreed data base, figures which we will be able to verify independently and figures which the Soviets must update on a regular basis. Acceptance of this data base overturns a tradition of centuries of Russian secrecy. It provides a clear, agreed baseline on which to judge treaty compliance and from which future negotiated reductions can be made. It will serve to assure that both Parties interpret the provisions of SALT II in the same way.

I am impressed that under SALT II the Soviet's SS–16 ICBM will be banned.

I am impressed that under SALT II the Soviets will not be able to interfere with our monitoring of their strategic forces.

I am impressed that under SALT II the Soviets will not be able to conceal their strategic forces—an action that, without SALT, would be in their favor considering their closed society and enormous land mass.

I am impressed that without SALT II, every one of these and many other advantages would be lost.

Thank you, Mr. Chairman.

Statement of W. Averell Harriman on the SALT II Treaty, Before the Senate Foreign Relations Committee, July 19, 1979

Mr. Chairman and members of the Committee, I appreciate greatly the opportunity to testify before this Committee on a subject in which I have been involved for many years—the control of nuclear weapons.

In fact, I accompanied Prime Minister Churchill on his visit to Washington to see President Roosevelt shortly after Pearl Harbor in December 1941. Among the members of his staff, he brought with him his scientific advisor, Frederick Lindemann (later Lord Cherwell). Churchill proposed to Roosevelt the urgent need to develop an atomic bomb before Hitler. Churchill offered to pool the British scientific knowledge with ours. Following these discussions, the Manhattan Project was launched. Fortunately, Germany was overrun before Hitler's scientists achieved a breakthrough on an atomic bomb.

I was with President Truman at Potsdam when he first learned of the success of the Los Alamos test in July 1945. Later I was involved in his efforts to control the atomic bomb in the United Nations through the Baruch Plan.

In July 1963 under President Kennedy, I headed the American team that negotiated the Limited Test Ban in Moscow with Premier Khrushchev.

I visited Moscow in 1965 for President Johnson, and Premier Kosygin raised the subject with me of the need for an agreement between the United States and the Soviet Union for the control of nuclear weapons. I recall Kosygin stating that we both had the capacity to kill each other many times over, and he remarked, "What difference does it make if one can do it 21 times and the other only 19 times?" President Johnson later discussed the need for an agreement with Premier Kosygin when the latter visited him at Glassboro in 1967.

I was in Paris in August 1968 when President Johnson had agreed to meet Kosygin at Leningrad to start nuclear negotiations. Our ambassadors to the NATO countries had received instructions to notify their host governments of the planned meeting. These instructions had to be cancelled that very morning because of the Soviet entry into Czechoslovakia. It is a tragedy that these talks did not begin in 1968, as it was before we had developed the MIRVs and our mutual capabilities were very much less than they later became.

You are, of course, fully familiar with the successful meetings which President Nixon had with General Secretary Brezhnev in 1972, leading to the important agreements on ABMs and on SALT I.

I want to emphasize that the delays in discussions have led to greater difficulties in subsequent talks because of the rapidity with which scientific development produced more deadly weapons.

I think it is significant to point out that Khrushchev was prepared in 1963 to agree to a complete Comprehensive Test Ban. Verification was the principal obstacle from our standpoint. With the state of our technology at that time, we could not determine for sure the difference between an underground nuclear explosion and an earthquake. We therefore asked for on-site inspection and the establishment of the so-called "black boxes" which would be strategically placed and available to us. We demanded seven on-site inspections and Khrushchev offered three. Jerome Weisner, now President of M.I.T., was at that time President Kennedy's scientific advisor. Weisner urged taking the risk of not being sure of verification, as he thought any cheating would be of relatively little value and that our technology could be developed rapidly in order to distinguish between the two types of explosions. Other scientists held the same view, but verification won the day; we had to be satisfied with a Limited Test Ban. If only we had followed the wisdom of Dr. Wiesner and the other scientists, think how greatly the whole development of nuclear weapons would have been restrained by the prohibition of testing. Our own lead in weapons technology would in all probability have held.

I have been convinced by the judgment of Secretary of Defense Harold Brown, as well as from information I have received from scientists at Harvard and M.I.T., that SALT II is adequately verifiable and there is no strategic danger from possible violations.

I have studied the testimony of Secretary of State Vance and Secretary of Defense Brown. They have given this Committee complete details of the restraints in quantity and quality of permitted Soviet buildup. They have also explained our modernization program, fully permitted under the Treaty, which is required to maintain our position of equivalence and the protection against the threat to our ICBMs. There is no need for me to repeat these points. I wish, however, to strongly endorse their statements and judgments.

I would like to comment that the Soviet government has undertaken during the last fifteen years to catch up with the United States in nuclear capability and is succeeding. We can no longer expect to stay way ahead of them. There is, however, a stability that comes from neither side feeling inferior. It gives greater opportunity for reaching agreements in other fields. There is in the Soviet Union a spectrum of opinion in the ruling group, from hardliners who are pressing for military strength to support their ideological objectives, to those who have a more reasonable attitude and who are concerned with the development of the Soviet Union for the benefit of the Soviet people. Our acceptance of equivalence as conceived by the SALT II Treaty will, I believe, tend to strengthen the more reasonable group, and it may well affect the succession to Brezhnev when he steps down. A rejection of the Treaty, I fear, might lead to a hardline succession. This could have a far-reaching effect on our relations for many years. It could mean a difference between greater progress both in the control of nuclear and conventional arms, as well as in political matters, as against a return to more of the cold war attitudes. It could affect the balance in the areas in which we find it possible to cooperate, or where we are faced with competition, if not confrontation.

I was in Moscow in May 1975, heading an American delegation appointed by President Ford, to participate in the Soviet celebration of the 30th Anniversary of VE Day. The emphasis of the celebration was not on the victory in war but on the maintenance of thirty years of peace. President Brezhnev emphasized this in his hour-long speech. He called for the same cooperation for peace as we had during the war. Yet when he came to the role of the Communist Party, he made the following statement: ". . . our high-principled support . . . of liberation movements throughout the world . . . adds to our influence and prestige." He has been quite open in statements of this kind, and we should recognize that the Soviet government will help communist subversion—called "liberation movements"—wherever the opportunity arises. Our nuclear weapons will not stop communism. The strength of our ideals and the way we adhere to them, as well as our assistance to others who are trying to protect their freedom, will, I believe, prevail over communism. We should also strengthen our conventional forces where needed.

The decision on SALT II can have such far-reaching effects on our security that I earnestly hope it can have bipartisan cooperation such as existed in the immediate post-WWII period, when Republican Senator Vandenberg of Michigan, Chairman of the Foreign Relations Committee, worked so closely with President Truman in the historic achievements of that time. I like to recall Senator Vandenberg saying that it was not "bipartisanship" but he called it "nonpartisanship." The avoidance of nuclear holocaust is so serious that it requires acceptance of Senator Vandenberg's wise precepts. After all, this Treaty has been negotiated under both Republican and Democratic administrations.

In 1948 there was a strong difference of opinion, both from the left and the right in this country, about whether we should join in a military alliance with Western Europe. Such a prominent Republican leader as Robert Taft opposed this alliance. Senator Vandenberg's nonpartisan leadership made possible agreement on the founding of NATO.

Today the governments of our European allies are strongly supporting this SALT II Treaty because they know it will add to their security. They also hope it will lead to agreement on European nuclear balance and the reduction of conventional forces under MBFR (Mutual and Balanced Force Reductions). There are many other fields in which we have a vital interest that would be favorably affected by the ratification of SALT II. In the nonproliferation treaty, the United States and the Soviet Union are committed to reduce nuclear weapons. SALT II would contribute to our working together to reduce and prevent nuclear proliferation. Without the Treaty, it will be far more difficult to prevent an increasing number of countries attaining nuclear capability, with all its attendant dangers.

Ratification of the SALT II Treaty would give promise to the success in other important areas, such as the anti-satellite negotiations, chemical weapons, the Law of the Sea, and the development of fusion power.

The attainment of our objectives of controlling nuclear weapons is a long process, as I pointed out, beginning under President Truman in 1945. Real progress is now being made, but it can only be achieved on a step-by-step basis—some modest and some more extensive.

I am sure this Committee is aware of the extent to which the views of the Senate have been sought and the attempt of the negotiators to attain as many of their suggestions as possible. Recent negotiations have, however, had to consider commitments taken in compromises which, though favorable to us, are not now renegotiable. I believe a balance has been finally agreed to that represents as close to a consensus as is achievable today.

Based on my years of negotiations with the Soviets, and my long talks with President Brezhnev, I am convinced that it would be unproductive to seek to reopen this Treaty following these lengthy negotiations by three Presidents.

In closing, I would like to state to those who feel that SALT II does not go far enough, that the way to make progress is to approve SALT II and move to achieve their objectives in SALT III. The Treaty, under Section XIV, commits us to prompt negotiations for further limitations and reductions in strategic arms. On the other hand, there are some who have been persuaded to oppose the Treaty because they believe the Soviet Union gains superiority under this Treaty. Nothing could be farther from the truth. As has been testified, the Treaty places important restrictions on Soviet developments in the numbers of warheads and in the numbers of MIRVs to be allowed, not to mention the ten percent reduction in total permitted launchers. There is no doubt that without the Treaty the Soviets would have a substantially greater nuclear capability in the coming years. It would be far more costly, as Secretary Brown has testified, to keep up with the Soviets. He has also explained how our modernization program maintains essential equivalence in addition to countering the growing vulnerability of our ICBMs.

I have explained that over the years we have always lost by delays. Agreements have become more difficult as both sides have attained a higher level of technological development.

All in all, I see much to gain and nothing to lose in ratifying this Treaty in the interest of our national security and in our awesome objectives of controlling nuclear weapons. I have closely watched developments since Truman's days. We have always lost in failure to take advantage of offered opportunities and found a more difficult situation later. Therefore I unhesitatingly strongly recommend approval by this Committee of the SALT II Treaty.

TESTIMONY BY AMBASSADOR RALPH EARLE II BEFORE THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, JULY 19, 1979

Mr. Chairman, members of the Committee, it is an honor to appear before you again today—this time to address Allied attitudes toward SALT.

With me are Mr. George Vest, Assistant Secretary of State for European Affairs, and Mr. David McGiffert, Assistant Secretary of Defense for International Security Affairs.

Throughout the SALT TWO negotiations, which have spanned three Administrations and almost seven years, we have consulted closely, fully and directy with our Allies on the entire spectrum of SALT issues. In addressing the realities of Soviet military capabilities, the United States and its Allies share vital security interests. We understand this, our Allies understand this, and as we continue to pursue our common security interests, we make this clear to the Soviets. Thus, it was only to be expected that our mutual Allied interests would be reflected in close consultations throughout the SALT negotiations.

I have been privileged to have been intimately involved in this process. In December 1972 I attended the first SALT TWO consultations with our NATO Allies at the North Atlantic Council in Brussels. I was then serving as the Representative to NATO of the Office of the Secretary of Defense. Last month—in July 1979—as Chairman of the United States SALT Delegation, I participated in the last consultation on SALT TWO within NATO, when our NATO Allies formally endorsed the SALT Treaty.

Our discussions on SALT TWO have included some forty meetings in the North Atlantic Council, of which half occurred within the past two and one-half years. We have made the North Atlantic Council the focal point for these consultations because it provides a cohesive, high-level forum in which all of our NATO Allies participate.

For most of our consultations, the Chairman of the U.S. SALT Delegation, accompanied by some Delegation members and staff, visited the Council once every several weeks—or more frequently, if circumstances warranted—in order to discuss SALT developments and issues. Following the opening statement by the Chairman. Council members discussed current SALT questions in detail, including their relation to overall Alliance interests and objectives. Often these sessions were followed by "experts" meetings at which specialists from NATO capitals participated in even more detailed discussions of intricate SALT issues with United States representatives.

These meetings with the North Atlantic Council were only part of our extensive consultations with NATO. There were also:

Meetings with the Alliance at higher levels throughout the SALT II process. For example, our Secretaries of State and Defense discussed SALT with their counterparts at regularly scheduled ministerial meetings.

Specially scheduled sessions of the North Atlantic Council to discuss, for example, SALT meetings held with the Soviet Foreign Minister or at the Summit level;

Interim reports to the Council, between formal consultations, by our Ambassador to NATO;

Visits by experts from Washington to the Council to discuss SALT-related matters of particular Allied interest; and

Supplementary contacts through normal diplomatic channels, both with NATO countries and other Allies.

Throughout SALT TWO we have taken Allied interests fully into account. Let me cite a few examples.

At the beginning of SALT TWO, the Soviets sought extreme limitations on U.S. systems forward deployed in support of Alliance commitments, including at one point their complete withdrawal. The Soviets did not propose corresponding limits on Soviet systems which could strike Western Europe. We rejected these demands, with the strong support of our Allies. There are no limitations on United States systems which are forward deployed in SALT TWO.

Similarly, the Soviets sought limitations on the nuclear systems of our Allies. We rejected these demands as well, again with strong Allied support. There are no constraints on Allied systems in SALT TWO.

In addition, the Soviets proposed a strict non-transfer provision early in SALT TWO. The United States rejected this and subsequent Soviet proposals, with strong Allied support. There is no non-transfer provision in SALT TWO.

From the beginning of SALT TWO, the United States sought Soviet agreement to equal aggregate limits on central systems—ICBM launchers, SLBM launchers and heavy bombers—without limits on U.S. theater forces or Allied nuclear systems. Our Allies strongly supported this objective, and welcomed the agreement at Vladivostok to equal aggregate limits.

More recently, we have consulted closely on certain aspects of SALT of particular interest to our European partners.

Prior to negotiating the final formulation on the SALT non-circumvention provision, we discussed possible implications fully and at length with the Allies. We also consulted closely with them prior to making to the Council the formal statement Secretary Vance submitted to this committee on July 10 which makes clear our interpretation of the provision.

Following Allied consultations, we proposed and secured Soviet agreement to a Protocol expiration date of December 31, 1981, which is well before the anticipated date when deployment of ground- and sea-launched cruise missiles would begin. We also made clear to the Soviets that the Protocol limits do not establish a precedent for future negotiation.

The SALT TWO Treaty addresses intercontinental strategic systems. However, we and our Allies are also consulting closely about the expansion and modernization of Soviet theater nuclear forces facing Western Europe. Alliance consultations on this issue have addressed the impact of this trend upon NATO's deterrence strategy. In particular, the High Level Group (HLG) of NATO's Nuclear Planning Group (NPG) has been created in order to develop recommendations as the basis of future Alliance decisions. The High Level Group will prepare recommendations on NATO TNF modernization for consideration by the Alliance defense and foreign ministers.

In addition, we are consulting within NATO on the positive role which arms control efforts might play in contributing to a more stable military relationship between East and West. Alliance efforts in the field of arms control complement our collective endeavors on defense policy. In recent months the Alliance has carefully considered the implications of seeking constraints on theater nuclear systems through arms control negotiations. In April 1979, a Special Group (SG) was formed under the aegis of the North Atlantic Council to develop an arms control approach to theater nuclear forces in parallel with the work being done by the High Level Group.

In order to maintain all U.S. and Allied options with respect to possible future limits on TNF, the United States consulted closely with its Allies on a formal statement which we made to the North Atlantic Council on June 29.

As Secretary Vance indicated last week, we stated that "any future limitations on U.S. systems principally designed for theater missions should be accompanied by appropriate limits on Soviet theater systems." This statement preserves flexibility to pursue future limitations on theater systems or not, depending on what we and our Allies determine to be in NATO's best security interests. This approach will give the Alliance time to consider in depth its theater nuclear force requirements and to weigh the advantages and disadvantages of involving theater systems in arms control before any discussion takes place with the Soviets.

Mr. Chairman, throughout SALT TWO our interests have been served through consultations—not just briefings, but thorough discussions on all sides—with our Allies. I have been struck by the depth of detail with which our Allies have pursued these issues with us, and with the expertise which has so clearly emerged from our consultations. Our discussions have ranged from the broadest issues of defense policy to the most detailed consideration of such issues as MIRV launcher types rules. Our discussions have been thorough, candid, and mutually beneficial.

All of our NATO Allies, without exception, support SALT TWO. The same is true of the NATO Defense Ministers, the Secretary General of NATO, and the North Atlantic Council. All have publicly endorsed SALT TWO.

I believe, however, that no one can speak to the views of our Allies better than they themselves. For this reason, I am submitting with my statement a representative sample of Allied statements in support of SALT TWO, and I ask that they be included in the record. I would like to read one of them for you now. It is by Chancellor Helmut Schmidt:

"SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative arms limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow."

Mr. Chairman, I believe that this Allied support reflects, to some degree, the continuing and close consultation that the United States has had with its Allies throughout the period of the SALT TWO negotiations. More importantly, however, I believe it reflects their own assessment of the contribution the Treaty makes to their individual and collective defense, and their judgment that it safeguards U.S. and Allied strategic and security interests.

Attachments: Allied Statements.

STATEMENT BY SECRETARY-GENERAL LUNS ON BEHALF OF THE NORTH ATLANTIC COUNCIL, JUNE 29, 1979

After detailed review, against the background of regular exchanges of views which had taken place within the Alliance throughout the negotiations, the Allies have concluded that the new agreement is in harmony with the determination of the Alliance to pursue meaningful arms control measures in the search for a more stable relationship between the East and West. The Allies therefore hope that the agreement will soon enter into force.

"This treaty responds to the hope of the Allies for a reduction in nuclear arsenals and thus offers a broader prospect for détente. The Allies note that the Treaty fully maintains the U.S. strategic deterrent, an essential element for the security of Europe and North America. They have been given explicit assurances by the United States, which they welcome, that nuclear and conventional cooperation among the Allies can and will continue."

United Kingdom Statement on SALT II Issued by the Foreign Office on June 27, 1979

"The British Government welcomes the strategic arms limitation agreement between the U.S. and the Soviet Union which was signed in Vienna on 18 June. Successive British Governments have strongly supported the efforts of the U.S. Administration to negotiate balanced and verifiable agreements limiting strategic arms. Throughout the negotiations leading to the new agreement the U.S. has kept its allies informed of progress and has consulted them, particularly on aspects of special concern to them. The Governments are satisfied that the agreement will not interfere with continued nuclear and conventional cooperation between the U.S. and its allies and that the essential security interests of the alliance are safeguarded. They hope that the treaty will be ratified."

The Foreign Office spokesman also said that day:

"SALT II must be seen as a carefully balanced compromise between the different interests and attitudes of the two sides. It breaks new ground in placing equal ceilings on the strategic arms of both sides which will involve the dismantling of some Soviet delivery systems and in applying qualitative limits. It is thus an important step in the continuing process of arms control which the Government sees as complimentary to the alliance's defence capability."

Chancellor Helmut Schmidt Commencement Address, Harvard University June 7, 1979

SALT II is, of course, not only a domestic matter for the Americans. For that reason the United States Government informed its allies on the progress of the talks and also consulted with them. This treaty is a piece of world history. It is also a piece of world security and a piece of my own country's security. For the present it is a climax of co-operative arms limitation. The Federal Republic of Germany supports the SALT II Treaty and hopes that it will soon be ratified by Washington and Moscow.

NATO DEFENSE PLANNING COMMITTEE COMMUNIQUE, MAY 16

Following the conclusion of the DPC meeting with Defense Secretary Harold Brown, May 16, the committee issued a communique which contained the following section devoted to the SALT II agreement:

"Ministers welcomed the Agreement in Principle reached between the United States and the Soviet Union in the Strategic Arms Limitation Talks. They agreed that equitable limitation of the nuclear weapons capabilities of the Soviet Union and the United States will improve the security of NATO. Ministers expressed their satisfaction with the past record of close and full consultations within the Alliance of issues arising from these talks, confirmed the importance of continuing close consultation, and looked forward to the opportunity to study in depth the official SALT II text once the Treaty is signed."

THATCHER-SCHMIDT PRESS CONFERENCE, LONDON, MAY 11

Schmidt (FRG): "We are in favor of a quick, swift ratification process, both in Moscow and in Washington, DC. We imagine that the world might change, might undergo a change not for the better, if new difficulties for the coming into force of SALT II would arise. The process has already lasted long—a little bit too long to my feeling—and so it is about time that this agreement should have been concluded and it is about time that it is getting into force. Otherwise, I would feel that there are many great disadvantages for the West and the East that would arise. . . . We would try to be helpful as regards President Carter's efforts to get ratification in the American Senate for SALT II. If we felt to have been hurt in our defense posture by that agreement, we would certainly not do so. As regards SALT III, it is a little bit premature to speculate about it, but certainly, the United States Administration will consult her Allies, whether it is United Kingdom, or Germany, or France or others, so we will have to wait for that consultation first before we speculate about it."

Thatcher (UK): "I thought Chancellor Schmidt's view was very much the view that we have taken, that the Treaty has taken a long time to come to a conclusion and we trust it will be ratified. . . . I think SALT III will be one which concerns Europe even more and perhaps we can concentrate rather more on that."

Official French Government Statement on SALT II Issued June 26 by the Council of Ministers After a Meeting Chaired by President Giscard

"Based on a presentation given by the Defense Minister (in the absence of the Foreign Minister), the government proceeded with a thorough examination of the text of the US-Soviet agreement on the limitation of strategic arms (SALT II).

"The government concluded after that examination that the agreement signed in Vienna constitutes, in its principal aspects, an event to be saluted for its range and positive character.

"From the political point of view, the agreement represents the conclusion of several years of difficult negotiations and marks an important step on the road to international detente.

"From the point of view of disarmament, the agreement signals only relative progress in that it barely provides for significant reductions in the size of the Soviet and American arsenals. On the other hand, the genuine limitations that the agreement imposes on quantitative and qualitative growth act to brake the accumulation of nuclear arms by the world's two principal military powers.

"From the point of view of security, the agreement can be considered balanced overall, taking into account the difference structures of the military apparatus to which it applies.

"The government notes in conclusion that the Soviet-American agreement does not jeopardize the vital security interests of third party states. In particular, the independence of the French nuclear deterrent force is not affected in any way.

"Consequently, the government considers that the Vienna agreement meets conditions which permit the government to express its approval.

"The government hopes that the agreement will come into effect soon, and thus open the way to a new series of negotiations which will not only prevent increases in the American and Soviet nuclear arsenals, but also reduce their size and power in a balanced and duly verifiable fashion."

The Norwegian Foreign Ministry Issued the Following Statement on June 18, 1979

"The government wishes to express its great satisfaction with the signing of SALT II by the United States and the Soviet Union. The treaty is a milestone in the complicated efforts toward achieving control of the strategic arms race through limitations on long range means of delivery of nuclear weapons. The SALT negotiations are a basic element in the process of detente between the super powers and between East and West in general. It is our hope that the SALT treaty is ratified and that it will have positive effects on the efforts to promote Arms Control also in other forums, and that the SALT process can be continued with a view toward achieving, in the next round, real reductions in the strategic armaments."

British Government Statement of SALT II, May 10

"The Government is glad that progress on SALT II has gone far enough to permit the long-awaited summit meeting to take place and we welcome the settlement of major outstanding issues. The Government will study the final text of the Agreement when it is available and its implications. There will of course be an opportunity to discuss all aspects of the new Agreement with the Americans especially during the forthcoming visit of Secretary Vance to London."

British Foreign Secretary Lord Carrington's Press Conference May 14

". . . We are glad that the negotiations have progressed this far, and I think that has undoubtedly been the message which the US Government has got from Britain, and we welcome the settlement of outstanding issues. We very much hope that this Treaty will be ratified before long. We have all supported efforts to limit strategic arms . . . Of course I shall have an opportunity to speak to Mr. Vance about SALT and there are I think specific British interests in SALT, which I will seek to ask him about and be satisfied that they are, in our judgment, fully safeguarded. Of course, SALT III is of even more importance to Europe and it's early days about SALT III (sic) but we shall have to look very carefully at the terms of reference, which we don't know at the moment, and we shall have to consider very carefully the way in which we can and should participate."

Foreign Minister Christopherson's May 9 Press Statement (Denmark)

"It must be greeted with the greatest satisfaction that the Foreign Ministers of the US and the USSR after so many years of negotiations have succeeded in reaching agreement on the so-called SALT II Agreement on a limitation of the strategic arms race. The Agreement not only opens up new perspectives for the disarmament talks in general, but is also an expression that the two superpowers recognize their common interests in vital areas and their responsibility for world peace. The Agreement is thus also an important contribution to further general relaxation between the East and the West. The Government hopes, therefore, that the Agreement will soon be followed up by the necessary approval by the two countries, and that it will be followed by new talks—the so-called SALT III—the aim of which is additional and considerable reductions of the nuclear arms."

Prime Minister Ullsten's May 10 Statement (Sweden)

"That the negotiations between the United States and the Soviet Union on a SALT II Agreement now, on all essential parts, have been concluded must be greeted with satisfaction . . . The negotiations on strategic mass destruction weapons play a central role in disarmament efforts. The Agreement will not result in major limitations of the nuclear arms arsenals in the US and the Soviet Union. However, it is an important step towards more far-reaching disarmament measures in the nuclear arms field. It is my hope that the process, which is required for the Agreement to take force, soon will be concluded. Therewith a good foundation would be created for the next round of negotiations, which we hope will lead to substantial reductions of both strategic arms and the so-called tactical nuclear arms."

Secretary General Joseph Luns' May 11 Statement (NATO)

"I welcome the announcement recently made by the government of the US and the USSR that they have reached agreement in principle on the terms of a second treaty to limit strategic armaments. This Agreement is obviously an important development in the process of achieving such a treaty and, as such, may constitute a significant milestone in the evolution of the East-West relations since World War II."

Foreign Minister Genscher's May 10 Statement (FRG)

"The Federal Government welcomes the fact that it was possible to bring the SALT II negotiations to an essentially positive conclusion. The Federal Government is of the opinion that SALT II constitutes a very important contribution toward the stabilization of world peace.

During the negotiations, the Government of the United States of America regularly informed the Federal Government and the governments of the other Allies about the status of the talks and gave regard in the negotiations to the proposals and ideas that were voiced in the course of these consultations by the Allies, including the Federal Republic of Germany.

The Federal Government has always considered the American-Soviet negotiations on a limitations of strategic armaments to be a central factor of stabilization in the field of security policy. The Federal Government has repeatedly expressed the hope that these negotiations be concluded at an early date.

The Federal Government welcomes the fact that the successful conclusion of the negotiations will make possible a signing of the Agreement in the foreseeable future."

Foreign Minister Forlani's May 10 Statement (Italy)

"The new pact . . . presents a unique occasion for the international community to bring about a decisive turning point that will break the spiral of rearmament and establish peace and security in the world for everyone on the basis of balanced military force and armaments at gradually decreasing levels."

Chancellor Helmut Schmidt, Dinner for the Delegates of the 10th German-American Conference, Hamburg, Germany, March 17, 1979

"SALT II, as a whole, to my view, to the view of my government, or any other Western European government, is of enoromous importance for the continuity of West-East relations and for peace . . . just think of a situation where this agreement collapses. Think of the consequences not only in Europe but also in other theaters in order to understand the global importance of that undertaking, whatever you may think about this or that or the third detail of it."

Klaas de Vries, Member of Netherlands Parliament, North Atlantic Assembly Plenary Debate on SALT and Arms Control, November 30, 1978

Rejection of such a treaty would entail the consequences of a most serious nature and would raise the spectre of a totally unrestrained and destabilizing arms race.

Prime Minister Callaghan After Guadeloupe Summit, January 6, 1979

I would like to urge—speaking as someone who is on the other side of the Atlantic—I would like to urge the speedy ratification, the conclusion of the agreement and speedy ratification on both sides, that is, on the United States side and on the Soviet Union.

I think it would be a very sad day if this agreement were not ratified, and the administration will have our support in their efforts when they place it before the American people. And we look forward to the development of a SALT III negotiation, which we believe will be of benefit to us.

[U.S. Senate, 96th Congress, 1st session, Committee on Foreign Relations]

Statement of Eugene V. Rostow, Chairman of the Executive Committee, Committee on the Present Danger

(Prepared for delivery, afternoon session, July 19, 1979)

I appreciate your invitation to appear here today. I am testifying as Chairman of the Executive Committee of the Committee on the Present Danger. The Committee began to function on November 11, 1976, on the basis of two statements which I have submitted for the record, "Common Sense and the Common Danger" and "How the Committee on the Present Danger Will Operate—What It Will Do and What It Will Not Do." Since then, the Executive Committee has issued nine statements, including a position paper, "Where We Stand on SALT II," published on July 6, 1977, and approved by the Board of Directors at its 1977 Annual Meeting. The analysis of that paper was brought up to date in a series of nine follow-up statements prepared by Paul H. Nitze, our Chairman of Policy Studies, and released by the Executive Committee. The last of the series, Mr. Nitze's examination of the Treaty itself, is before you, along with our 1977 Statement, the Executive Committee's monograph, "Is America Becoming Number 2? Current Trends in the Military Balance," issued in 1978, and later approved by the Board of Directors, and a number of speeches, articles, and statements on the subject by the Executive Committee and some of its members.

The Committee on the Present Danger has been most reluctant to differ with the President on his SALT II Treaty. We strongly favor equitable and verifiable arms limitation agreements, and true arms reductions on both sides to the lowest possible level. And many of our members have had governmental experience. We have been in that famous kitchen, and our natural sympathies are with the cook. We much prefer to support than to oppose the foreign policy of the government of the United States. Since early in 1977 and, after August 1977, at the President's request, we have canvassed a wide range of foreign policy and defense questions with responsible officials of the Administration. While we failed to persuade them, and they have not persuaded us, the climate of opinion in the country on foreign policy problems has changed since 1976, and is changing rapidly. Many of the trends to which we called attention during this period are now accepted as facts, and the need for us to rebuild our defenses and our alliances is now generally conceded, in principle at least.

In view of the gravity of the issues raised by the Treaty now before you, and all that has happened since the SALT I package was approved in 1972, we recommend (1) that the Senate advise the President and the nation of the need to seek a more positive, forward looking and effective foreign and defense policy, and state the goals and principles on which that policy should be based; and (2) that the Senate withhold its consent to the ratification of the Treaty the President has submitted unless and until it is modified to meet its demonstrated deficiencies, and the President and the Congress are firmly committed to a specific program that will achieve and maintain essential equivalence and adequate deterrence.

The Committee on the Present Danger is the first to recognize that withholding the Senate's consent for the SALT II Treaty now before you is not in itself a foreign and defense policy. We have concluded, however, that the action I have just outlined is a necessary condition for developing a sound and prudent policy. And it is the only available way to convince the President that the SALT II Treaty he signed in Vienna fails both as a means for protecting our national security, and as an arms limitation measure.

It is our conviction that what the country needs above all else is to turn a sharp corner in our foreign and defense policy. To recall the language of President Carter's speech of July 15th, we believe the nation should start on a new course, based on a clear recognition of the truth. Such a course, in our view, should include these elements: (1) to shake off our post-Vietnam depression about foreign affairs and the yearning for isolation which is implicit in it; (2) to reach a bipartisan consensus on what our national interests in this turbulent world really are; (3) to rebuild conventional and nuclear force deterrence so that we can protect those interests by political means or by the use of conventional forces if we have to; (4) to cooperate closely and continuously with our allies and other nations whose interests in a peaceful and stable world political order and economic system are parallel to our own; and (5) on that basis to continue negotiating with the Soviet Union about the limitation of nuclear arms, including both intercontinental and intermediate range nuclear weapons like those threatening Europe and other areas of great importance to us.

There is still time for that great task to be accomplished in peace. As a group, the NATO allies, Japan, China and other like-minded nations have more than enough power and potential power to contain the Soviet drive for domination. But that power is dispersed and inchoate. It is not being mobilized into forms which can become political power—naval squadrons and armored divisions; planes, reserves and research formations. The potential power of the nations which favor a peaceful world order cannot be brought to bear on world politics unless the energy, optimism and intelligence of the American people are liberated and harnessed once again in considered programs designed to restore the peace and prosperity of the nation. In the bipolar world of nuclear weapons and nuclear blackmail, no coalition to guard the peace can act without the protection of the American nuclear umbrella and confidence that our nation is willing and able to meet its commitments.

In the early thirties, as Germany and Japan built up their armed forces, the British government clung to its faith in arms limitation agreements and disarmament conferences as an alternative to the politics of power. Our own government was even more foolish; we passed a Neutrality Act, and adopted the posture of the ostrich. At that time, prompt British and French rearmament, Anglo-French political unity and Anglo-French action if necessary to stop the German occupation of the Rhineland and of Czechoslovakia could have prevented World War II. But it did not happen that way.

The American people have learned a great deal from that terrible experience. We have learned that nineteenth century policies of isolation and neutrality can no longer protect our security. But some of us are hypnotized by SALT II and the SALT negotiating process as MacDonald, Baldwin, and Chamberlain were hypnotized by the myth of disarmament forty-five years ago. They view SALT II and what they call the SALT process as a kind of magic, a substitute for having a foreign policy, and a justification for not decisively restoring our deterrent military strength and the solidarity of our alliances. Only such action on our part, coordinated with like action by our allies and other nations whose interests parallel our own could reverse what could well become a slide toward war. We are not now following that clear and simple course. Instead, we debate the intricacies of the nuclear weapons problem, and wonder.

The Russians believe that what they call the "correlation of forces" determines world politics. SALT II is a case in point. It would reflect and ratify the changing balance of world power and the trends which lie behind it. That is exactly what one would expect. The Soviets bargain hard. They give nothing for nothing. If America wants to accept a permanent position of military and political inferiority to the Soviet Union, we should ratify SALT II. This is not, of course, what our people want. But we have allowed ourselves to fall behind, and we are becoming Number Two. We have been marking time to put it politely—for seven years now, while the Soviet Union has been forging methodically ahead. Unless we move quickly and decisively, we should be even worse off in 1985 than we are today.

I

President Kennedy once perfectly defined the problem we face in deciding whether to ratify SALT II. "If you are cheated once," President Kennedy said, "it is their fault. But if you are cheated a second time, it is your own." President Carter urges us to approve SALT II on the same grounds that were advanced in defense of the SALT I package in 1972: the Treaty will limit the Soviet arms buildup and even reduce the Soviet arsenal or at least keep it smaller than it would have been without the agreement; establish a stable military parity between the Soviet Union and the United States; preserve "detente" and prevent a return to "the cold war"; save us money; and, above all, further the process of negotiation with the Soviet Union, which, we are told, is the only alternative to open hostility, and perhaps war.

It was not unreasonable to accept these arguments in 1972, at least if one kept his fingers crossed. But it is unreasonable to accept them now. They have become the litany of an empty ritual. Both the political and the military expectations which determined our decision in 1972 have turned out to be false. And there is every reason to suppose that those expectations would be even more completely at variance with experience if we believed them now.

We should examine the arguments for SALT II with the skepticism of the small boy in the fairy story—the boy who noticed that the Emperor was naked, and then said so. There has been no "detente," save as an exercise in deception and in self-deception. The "cold war" has not been ended, or even suspended. Indeed, it has been more acute, and on a larger and more menacing scale since 1972 than ever before.

No American has to be reminded that the Soviet Union betrayed the agreements of January and March 1973, which promised peace for South Vietnam and all of Indo-China. At the time SALT I was ratified, it was legitimate to hope that those agreements would be made and carried out.

Equally, it was legitimate then to hope that we and the Soviet Union would agree on a reasonable peace for the Middle East. In May 1972, the Soviet Union had assured President Nixon that it would cooperate in bringing peace to the Middle East. That promise was betrayed in the War of October 1973, and many less dramatic episodes before that war, and since.

Far from cooperating with us in reducing the tensions of world politics, in accordance with their 1972 commitments to President Nixon, the Soviet leaders have been generating tensions throughout the world and exploiting them to expand their empire in a drive for power which, despite occasional setbacks, has been steadily gaining momentum.

The Soviet rush for hegemony is fueled by an extraordinary arms buildup in both conventional and nuclear forces. That buildup was not slowed or stabilized by the 1972 agreements. On the contrary, it has accelerated since 1972, especially in the sphere of nuclear arms. The greatest Soviet military gains in relation to the United States and the greatest increase in the Soviet threat to American security have occurred since we have been engaged in the SALT negotiations. The Soviet nuclear weapons program includes at least thirteen new major strategic weapons systems introduced since 1972, a period in which we have deployed none. While the generally accepted figure for the Soviet arms buildup as a whole is 4% to 5% a year in real terms, our official national estimate is that Soviet nuclear arms have been increasing at a rate of 8% a year in real terms. In view of the fact that our intelligence estimates have for many years consistently underestimated Soviet military activities and capabilities, we can take these figures as conservative. For years now, the Soviet military budget has been far greater than ours. The Soviet Union is now ahead of us by almost every index of military power and is manufacturing and modernizing arms at a pace far greater than that of the United States and its allies. I have brought along for you copies of our 1978 study of the Soviet-American Military Balance, called, "Is America Becoming Number 2?" to which I referred earlier. While it is now being updated in a 1979 version which should be available this fall, the basic picture it presents is sound and would, I believe, be generally accepted. Every other serious analysis of the subject reaches approximately the same conclusion—that we were ahead but have been resting on our oars and now face the necessity of moving quickly to restore our deterrent strength before we fall dangerously behind. The agreed response of the NATO allies to the Soviet threat—an increase of at least 3% a year in real terms—would be totally inadequate to redress the balance, even if it were being met. The 3% target is not now being met by the United States. And we are continuing to fall behind.

We are often told that SALT II would save money, although even Paul Warnke has said that the savings could not be quantified. We shall have to spend more money in order to make up for the neglect of the recent past. General Jones, Chairman of the Joint Chiefs of Staff, has said that the amount we have to spend to safeguard our security would be the same, whether SALT II is ratified or not. Actually, General Jones' conclusion is inadequate. Some of the military programs being considered are more expensive than they would other wise have been because of the provisions of SALT II. For example, the basing model for MX which seems to be favored by the Administration at the moment would cost half again as much as its most practicable alternative, the so-called "shell-game," and be only half as good a system.

The fact is that we are not taking the Soviet Union and its military buildup seriously. This is a fundamental mistake. The Soviet Union is governed by serious people who believe in what they are doing and pursue their goals with determination and conviction. We know the facts by now at the intellectual level. But we do not believe them. Emotionally, therefore, we are paralyzed—unable to act. We read the statistics about Soviet and American stocks and production of tanks, planes and missiles, and then hear President Carter claim proudly that we are superior to the Soviet Union in overall military strength. In effect, we procrastinate and hope that something will turn up, just as we have procrastinated for more than six years in facing up to the energy crisis. If we insist on deceiving ourselves about our own strength and that of the Soviet Union, we could easily stumble into a war we could not win.

I cannot explain or understand our prolonged resistance to reality, which parallels the Western failure to react to the rise of Hitler some forty years ago. I leave the explanation of the phenomenon to the psychologists. All I can say here is that we must somehow bring ourselves to act on the basis of what we know while there is still time to protect our national interests in peace.

George Kennan once said that it is an insult to the dedicated men who direct the Communist movements of the world to suppose that they can be diverted from their course by cajolery, flattery and the other devices through which our government is trying to propitiate the Soviet Union, above all through SALT II. For the ultimate argument of the Administration for ratifying the SALT Treaty is unworthy of our people and their history: It is an argument of fear. If we don't ratify the Treaty, we are told, the Soviet Union will be very angry. It will make even more military hardware than it is manufacturing now and behave even worse on every continent and on the seven seas. Secretary of State Vance told this Committee on July 9 that if SALT is not ratified "the entire fabric of East-West relations would be strained, and . . . the world could easily become a more hazardous place for us all." What could the Secretary have meant by this Delphic sentence? The world is already as hazardous to our interests as the Soviet Union dares to make it. As the Secretary knows from his daily confrontations with trouble, the Soviet Union is proceeding on its imperial course as rapidly and as vigorously as it thinks it can without stirring us to react. Does our Secretary of State believe that Soviet behavior since 1972 toward American interests in Asia, the Middle East, Africa, Southern Europe and the Caribbean have not been "hazardous to us all?"

Soviet spokesmen have openly threatened us with regard to the ratification of SALT II. The Soviet Union will go on "a war footing" if the Treaty is not ratified, they have said. It will never negotiate on nuclear arms again if the Senate changes a comma of the Treaty signed in Vienna. And President Brezhnev himself has commented that a failure to ratify the Treaty would have "grave consequences." In the language of diplomacy, that phrase used to be considered an ultimatum.

There is no objective reason for us to be afraid. In the future as in the past, the Soviet Union will negotiate with us when it is in its interest to do so. Displays of public anger by Soviet leaders are calculated episodes of political theater, and should always be understood as such. And it is most unlikely that the Soviet Union can significantly increase its defense effort above its extraordinarily high present level short of a general mobilization. Soviet programs of military procurement are laid down in their Five-Year Plans, and under their system are extremely difficult to change.

But even if the Soviet Union could increase its military procurement programs, the NATO allies, Japan, China and like-minded countries around the world have the economic capability, as I remarked earlier, to contain the Soviet drive for dominance. The Soviet imperial drive was not limited by the SALT I agreements, and would not be limited by the proposed SALT II Treaty if we did ratify it. Since World War II, the Soviet Union has been held back not by arms limitation agreements or by the Charter of the United Nations, but only by the confrontation of unacceptable risks. There will be no stability in the Soviet-American relation, no diminution of stress, and no restraint in the Soviet push for power, unless the United States and its allies and their associates, backed by adequate deterrent forces, insist on respect for their rights and interests.

II

The focus of the Hearings planned for today is most important, Mr. Chairman. Administration spokesmen speak and write of SALT as if the only function of our nuclear arms were to deter a nuclear attack on the United States itself. This is most emphatically not the case. The United States cannot be defended as an island fortress. The risks we face go far beyond the possibility of a nuclear attack against the United States itself. The heart of the matter before you in SALT II is not Dr. Strangelove's war, important as it is, but whether Soviet nuclear superiority, which will surely be achieved in the early 1980s unless we act decisively now, will prevent us from using conventional and theatre nuclear forces to protect our interests in Europe, Japan and many other parts of the world. The state of the nuclear balance between the Soviet Union and the United States is the center of a network of relations between the military and the political components of influence. Without a clear and credible second strike nuclear capability, we should be unable to use political influence or conventional force to defend our stake in world politics.

The question haunting every statesman in the world is what the United States will do in the event of a Soviet or a Soviet proxy attack or attempt at takeover in Libya or the Persian Gulf, in Greece or Norway, in Germany, or Malta, or a dozen other neuralgic places. Could we in fact use conventional forces if we had to assure our oil supplies from Libya or the Persian Gulf? President Ford and Secretary of Defense Brown indicated that we might well do so if sufficiently provoked. But a recent study by Colonel Collins of the Library of Congress Research Service is dubious about the possibilties of military action in the Persian Gulf under present circumstances, because of uncertainty about what the Soviet Union might do.

How can we define our vital national interests in the turbulent realms of world politics? The starting point for such a definition, the Committee on the Present Danger has said, is the concept of the balance of power.

The balance of power is the oldest and most durable idea in political theory. It was as familiar to Thucydides as it was to Montesquieu and James Madison. The American Constitution, with its equipoise among the three branches of the government, and between the nation and the states, is a classic example of the balance of power at work. So was the European diplomatic system, the Concert of Europe, which kept the peace pretty well between 1815 and 1914. The hopes men invested in the Covenant of the League of Nations and in the Charter of the United Nations rest in the end on the same idea—that the peaceloving states would defend the general peace by maintaining a balance of power and insisting on the enforcement of agreed rules of public order. That is what the principle of collective security is all about.

Every responsible American understands that preventing Soviet control of the people, area, resources and skills of Western Europe, Japan and a few other critical areas of the world is a vital security interest of the United States. Soviet control of those areas would fatally alter the balance of power and expose us to intolerable pressures backed by overwhelming military force. In such an event, as the Committee on the Present Danger said in 1976, "we could find ourselves isolated in a hostile world. . . . Our national survival would be in peril, and we should face, one after another, bitter choices between war and acquiescence under pressure."

But our interests cannot be confined to the major centers of power. South Korea is vital to the defense of Japan, as the Middle East is to Europe. Other places may become important in the context of Soviet programs for expansion. For example, the United States moved recently to prevent the Soviet takeover of North Yemen as a step toward conquering Saudi Arabia. It is hard to imagine a more peripheral place in a static catalogue of our interests. Yet it has become important, and it is important. And our signal of intention seems to have been effective, for the moment at least. The moral of the episode is that no area of the world can be excluded a priori from the zone of our concern, if we view the world dynamically and as it is.

As the Committee on the Present Danger said in its basic declaration of principles on 11 November 1976:

"Soviet expansionism threatens to destroy the world balance of forces on which the survival of freedom depends. . . . Without a stable balance of forces in the world and policies of collective defense upon it, no other objective of our foreign policy is attainable. For the United States to be free, secure and influential, higher levels of spending are now required for our ready land, sea and air forces, our strategic deterrent and, above all, the continuing modernization of those forces through research and development. . . . From a strong foundation, we can pursue a positive and confident diplomacy, addressed to the full array of our economic, political and social interests in world politics. It is only on this basis that we can expect successfully to negotiate hardheaded and verifiable agreements to control and reduce armaments."

The relationship between the strategic nuclear balance and the capacity of the United States to protect its interests throughout the world by political means or by the use of conventional forces if necessary is the essential problem before you, we believe. This is the inescapable "linkage" between the nuclear weapons question and the rest of foreign policy. An editorial in the Economist of London for June 9, 1979 comments on linkage in these terms:

"It is the old puzzle of linkage, or how to discourage Russia from doing A or B by threatening to do Y or Z yourself. The lesson of experience seems to be that linkage works only when some specific thing you want the Russians to do, or not to do, is made dependent on some specific, usable, western carrot or stick. The Jackson-Vanik carrot is at least getting more Jews out of Russia. The fear of a senate rejection of Salt-2 may have deterred Soviet foreign policy from doing some things hurtful to western interests this year (in Iran? among Arabs angry about Camp David?). It is being suggested in Washington that the prophylactic value (Rhodesia?) of Salt-2 could be prolonged if the senate's ratification of it (assuming it does get ratified) had to be reconfirmed by an annual vote. It is an ingenious idea, perhaps over-ingenious: it would probably not have much real deterrent effect after the first couple of years of Salt-2's likely six-year span.

"But linkage in general—meaning the hope of discouraging some general Soviet course of action in the political or military field by some general threat of western displeasure in other matters—does not seem to work. The oblique approach to great-power politics rarely does. The problem is the will to power of a Soviet Union in the first youth of its imperial enthusiasm, and now equipped with an armory of global weapons. In the end, that has to be contained, so that matters do not slide to major crisis and war, by an equal and matching western will to resist and an equal and matching western armory. Accommodation, compromise and a shrewd avoidance of hopeless causes are in essential part of the process; but they must start from the premise of equal strength.

"Since 1961, the year of Vienna-1, the west has lost its old lead in intercontinental nuclear weapons; the Russians have taken the lead in the shorter-range Europe-based nuclear weapons; and they have have increased their lead in non-nuclear forces in Europe, and come up fast from behind outside Europe. The west has slowly begun to react. The Nato countries' attempt to increase their defence budgets by 3% a year starts this year. The Salt ratification debate in the American senate is almost certain to lead to more American spending on nuclear weapons. As Mr. Carter takes Mr. Brezhnev's measure in Vienna-2, he is unlikely to conclude that the need for counter-armament will diminish in the 1980s."

The record of our experience since 1945 demonstrates that we must have an unambiguously effective second-strike nuclear capability as well as adequate theatre forces in order to be able to back up our diplomacy with the possibility of using conventional force. During the years of our nuclear monopoly, and then of our great nuclear superiority, we could not prevent Soviet attempts at expansion in areas they thought we regarded as secondary or peripheral:—in Iran, Turkey and Greece, for example, and in Yugoslavia, Berlin, Korea and Cuba. But in the end, the shadow of our nuclear power helped to persuade the Soviet Union to back away from efforts of that kind when we had convincingly demonstrated that we were determined to insist on our interests and to use conventional force in their defense if necessary.

During the last decade, this pattern has changed as the Soviet nuclear programs, like the Soviet buildup in conventional arms, have moved forward with astonishing momentum while our own forces have been sharply reduced. The effect of the shift has been dramatic, both for conflicts in peripheral areas and for the security of Europe, Japan, China, South Korea, Israel, Egypt and other places in which we have important interests. We have hesitated to intervene in the long cycle of Soviet adventures in the Middle East, the Far East and Africa. Just a few months ago the Soviet Union publicly warned us not to help Iran in its agony; President Carter ordered our naval forces, which were then headed for Iran, to turn back. It was an ominous episode. The affair in Lebanon has been, and is, no less tragic. In 1958 the United States and Great Britain put forces into Lebanon and Jordan. Their presence ended a powerful threat to both nations. During the recent appalling struggle in Lebanon, we did not seriously consider following the same course. Obviously, if we had, the risks would have been much greater than they were in 1958.

These sad and disturbing trends are symptoms of a much deeper disease. As our nuclear position fades, and our Navy and other conventional forces decline in absolute and relative strength, we can see all too clearly the spector of political impotence not very far down the road. Because of the radical recent shift in the intercontinental strategic balance, we find it increasingly difficult to contemplate using either conventional or nuclear weapons in defense of our interests. And we discover, as so many nations have discovered before us, that diplomacy without power behind it is a weak reed.

III

There can be no question about the fact that unless we act very promptly indeed, the strategic nuclear balance will tip heavily against us. The experts identify the early eighties as the years of greatest danger—the danger, that is, that we shall be exposed to Soviet political demands backed by superior nuclear forces we dare not challenge. Under such circumstances, we shall be forced to back down, as the Soviet Union did in the Cuban Missile Crisis of 1962, and for the same reasons. If that should ever be allowed to happen, the Soviets would exact a heavy, bitter price.

As Paul H. Nitze has written in one of our Committee's Occasional Papers:

"It is a copybook principle in strategy that, in actual war, advantage tends to go to the side in a better position to raise the stakes by expanding the scope, duration or destructive intensity of the conflict. By the same token, at junctures of high contention short of war, the side better able to cope with the potential consequences of raising the stakes has the advantage. The other side is the one under greater pressure to scramble for a peaceful way out. To have the advantage at the utmost level of violence helps at every lesser level. In the Korean war, the Berlin blockades and the Cuban Missile Crisis, the United States had the ultimate edge because of our superiority at the strategic nuclear level. That edge has slipped away.

"These circumstances form a background for understanding the stakes in SALT II. In broad terms the U.S. aim has been to arrange a standoff so as to neutralize the strategic nuclear threat overhanging superpower rivalry. The Soviet Union's contrasting aim has been and is to take over and nail down the advantage which the U.S. has appeared willing to relinquish."

The SALT II Treaty signed at Vienna does not provide for either equality or stability in the strategic nuclear balance. It cannot be verified by national means. It would prevent us from promptly undertaking programs to restore our second-strike capability in time to prevent the looming dangers of the early 1980s. And it would lock us into a position of strategic inferiority which would be fatal in all aspects of our foreign policy, and particularly in future arms negotiations.

The Treaty provides of course for cosmetic equality in the number of certain strategic launchers on both sides and of MIRVed vehicles. It says nothing about the number of missiles or the number of warheads that can be produced and stored. But people are killed by warheads, not by launchers. Under the Treaty, and during the period before 1985 covered by the Treaty, the Soviet Union will improve its present striking advantage in intercontinental ballistic missiles, which in itself will go far towards neutralizing our submarine force whose weapons are notably less accurate than Soviet and American ICBMs. The Soviet ICBMs carry 4, 6 and 10 warheads on the SS–17, SS–19 and SS–18 missiles. Our Minuteman IIIs carry three much smaller warheads each. And MX, if it is actually built, would not be available in significant numbers until 1989 on the present schedule.

It is often said that the SALT II Treaty leaves both sides "free to improve their strategic forces. The Soviet Union is surely pursuing such a course; but the corresponding American programs remain delayed, insufficiently funded or shrouded in uncertainty.

Both in numbers and in destructive power, the Soviet ICBM arsenal and current ICBM development program constitute a threat which will soon be formidable: a threat of destroying our ICBMs, and much of the rest of our strategic force, with only one-third or one-fifth of the Soviet force, leaving a superior Soviet force to inhibit any American reprisal. Under such circumstances the threat of retaliatory attack on Soviet cities from our submarines, on which we have relied in the past, would lose its credibility and deterrent effect. We could hardly expect the Soviets to believe that we would destroy their cities if the Soviet Union had enough strategic forces in reserve to destroy our cities in turn. That is, the Soviet Union is within striking distance of achieving a credible first-strike capability. The third leg of our strategic force triad, bombers,—and sometime during the 1980s, cruise missiles—also faces a doubtful future, both because of the cancellation of the B–1 program and because of the scale and scope of the Soviet programs of active and passive defenses. The Defense Department has recently conceded the vulnerability of cruise missiles to defensive weapons. Moreover, there are limitations on cruise missiles in SALT II.

It cannot be said too often that both SALT I and SALT II are based on a false premise which permeates the entire subject—the premise that both the United States and the Soviet Union have accepted the McNamara Doctrine. The McNamara Doctrine contends that nuclear war can be prevented if each side leaves its homeland exposed and unprotected, hostage to the nuclear forces of the other, and if neither side threatens the nuclear forces of the other. However plausible that view of the matter was in 1972, it cannot be advanced today. We still live by the McNamara Doctrine. But the Soviet Union does not. We have no air defenses; the Soviet Union bristles with fighter squadrons and antiaircraft batteries. It is generally believed that within a few years the Soviet Union will be able to "break out" of the ABM Treaty quickly and effectively. And the Soviet Union has invested heavily in civil defense, which would in turn further reduce the deterrent effect of our entire strategic force. As the Secretary of Defense has noted in the current Department of Defense Report (p. 80), the Soviet Union has put a massive effort into developing its capacity to destroy our retaliatory forces before they could be launched. Even more troublesome, the Secretary comments, "is the degree of emphasis in Soviet military doctrine on a war-wininng nuclear capability, and the extent to which current Soviet programs are related to the doctrine."

These are some of the fundamental flaws of SALT II—that it does not provide for equality and stability in the nuclear balance, and it would allow the continued development of a Soviet first-strike capability, while it would prevent us from restoring our second-strike capability by the only practicable means available between now and 1985—the deployment of Minuteman III missiles in multiple vertical protected shelters: the so-called "shell game." Such shelters would be considered additional "fixed launchers" under Article IV of the Treaty and are prohibited.

As for stability, how can a situation be described as stable if it can be altered in minutes or hours by the movement of missiles from warehouses to launchers; by the firing of missiles from warehouses or factories; or by the transformation of a mobile intermediate range missile into an intercontinental missile by adding another stage, by reducing its payload, or by moving it to the north?

SALT II is quite as unsatisfactory from the point of view of verification.

Verification is a most peculiar subject. Outside the circle of experts, few people realize the extraordinary fact that both the SALT I and the SALT II negotiations have been conducted until now on the basis of figures supplied by ourselves. The Soviet Union has not in the past put its own production figures on the table. We have provided our intelligence estimates for Soviet activities and our production figures for our own. That is, we have been negotiating with ourselves—a process which informs the Soviet Union fully about the accuracy of our intelligence. Since we have ourselves concluded, as I remarked earlier, that our intelligence estimates of Soviet capabilities have been consistently in error, this bizarre feature of the SALT negotiating process makes the stability of the nuclear relationship the Treaty is supposed to regulate altogether dubious.

But even if our national means of verification were fully reliable, they could not accurately monitor the most important indices of nuclear power—the number of warheads on a missile; the number of missiles and warheads in storage; the throw weight of missiles. The controversy over Soviet encoding of telemetry deals with a highly important aspect of modernization—the testing of new missiles. But even without taking advantage of the modernization provisions of the Treaty, the Soviet Union could transform the balance of power for years to come simply by making more and more old models.

IV

In making the case for SALT II, President Carter has put great emphasis on the public support of the Treaty announced during recent months by some of our European allies at the President's urgent request. What I get from European writings on the subject, and from conversations and correspondence with European friends and colleagues, is that we should take these statements with more than a grain of salt. I fully agree with that judgment. My European interlocutors are not suggesting that those responsible for governmental policy in Europe are hypocrites or cynics; nor do I. I know many of these men and women to be honorable, high-minded and responsible people. But they are realists.

The first reality with which they must live, twenty-four hours a day, is that they are totally dependent upon the United States, and especially on the nearly instinctive reactions of the President of the United States, for their security against the Soviet forces arrayed around Europe in growing strength from the East, the North and the South, and in the oceans. Because of the Soviet lead in nuclear weapons, that dependence is far greater today than it was thirty years ago, despite the prosperity of Europe, the formation of the European Community, and the success of Europe's political and social institutions.

The second reality with which these men and women must live is that they face complex political situations in their own countries and must move cautiously in relation to their public opinion. There are strong Communist parties in France and Italy. In all the Allied countries, including our own, there are pacifists, defeatists, neutralists, illusionists and people who invariably find excuses for anything the Soviet Union does or wants. For years now European leaders have had to hold to a steady course despite the fluctuations and occasional explosions of American politics and avoid the development in their own countries of a state of opinion which would conclude that it was hopeless to oppose the pressures of Soviet policy, and that it would be better to accept the status of Finland—or even of Poland—than the chance of war on unequal terms.

These two themes—Europe's dependence on the United States and the risks of despair and defeatism in European opinion—are interrelated. They both derive from the development of the Soviet Union's nuclear forces following the Soviet rejection of the Marshall Plan and the Baruch Plan in President Truman's time.

When President Truman made his proposals for Soviet-American postwar cooperation, and helped to found NATO when the Soviet Union turned him down, it was generally believed both in the United States and in Europe that we should stand guard for a few years while Europe recovered and became a united or federated political entity. Then, we thought, Europe—stronger, richer and more numerous than the Soviet Union—would be able to protect itself against any possible Soviet threat. And we could bring our troops home and return to normalcy. It would have seemed lunatic in 1949 to suggest that we should have garrisons of 300,000 troops in Europe in 1979. But we do and we should. On this point all non-Communist Europeans are unanimous. They know that our military presence in Europe, backed by our nuclear second-strike capability, is the only counterweight that could contain the growing Soviet superiority in conventional forces and the extraordinary buildup of Soviet nuclear forces aimed at Europe and the United States.

Exactly the same constellation of events lies behind the risk of defeatism and neutralism in Europe. Soviet conventional forces facing Europe have always been stronger than those of the Allies. Until now they have been clearly balanced by our nuclear forces. Now that balance is challenged not only by strong modern Soviet conventional forces, but by formidable Soviet theater and intercontinental nuclear forces. The mobile MIRVed SS–20 missiles, various intermediate range Soviet nuclear weapons and the Backfire bomber have touched the European mind and generated a wave of fear which is causing great concern in Europe. This fear could easily become hopelessness and passivity, especially if we should allow the Soviets to develop a first-strike nuclear capability which could neutralize our intercontinental nuclear arsenal and create doubt about our capacity and willingness to provide conventional force support and a nuclear umbrella for Europe and our other allies.

The SS–20 is deployed in a mobile mode. One way it can be converted into an intercontinental missile is by adding a booster, which concerns us in the SALT context. What concerns Europe in the first instance is the threat these weapons imply for Europe itself, without the third stage booster. Similarly, the Backfire bomber can reach targets throughout the United States as well as in Europe, China, the Middle East and Japan. You will hear a good deal about Backfire in relation to SALT II during the next few months. But the Europeans are concerned first with the fact that Backfire could destroy European targets with nuclear weapons.

Many call these problems the "grey area"—the grey area between theater forces and strategic forces. This development brings out one of the most fundamental weaknesses of the SALT II Treaty, the fact that it purports to deal only with intercontinental weapons. Dean Rusk once commented that the SALT approach was like building a dam across half a river. It serves no purpose to regulate the intercontinental nuclear balance if Europe, Japan and our other allies and interests are exposed to more and more ominous threats, both conventional and nuclear. The danger to our vital national security interests is the same. In fact, of course, the Treaty is not confined to intercontinental weapons in any meaningful sense. For example, United States ground and sea-launched cruise missiles having ranges beyond 600 km. are counted as "strategic" weapons and limited in SALT, while Soviet SS–20s and Backfires having ranges in the thousands of kilometers are not considered "strategic" and are not covered by SALT. This feature of the agreement has grave implications. Our acceptance of the cruise missile limitations was a retreat from a position of principle on which we had held firm for a long time, namely, that limitations affecting systems for allied and theater use are inappropriate in a bilateral agreement, and particularly that asymmetrical limitations concerning Western alliance defenses are unacceptable.

In 1972, when the SALT I Interim Agreement came up for ratification, the grey area issue didn't make much difference. It was said then that our superiority in MIRVing and in accuracy compensated for the numerical imbalance in its terms.

But the military circumstances of 1972 have gone glimmering, as I remarked before. So far as Europe is concerned, Soviet nuclear development, and SALT II itself, have driven a gap between us and our allies, a gap we must not allow to become an abyss. That gap concerns Alliance defenses against the SS–20 and the Backfire and the across-the-board modernization of Soviet nuclear and conventional weapons. The adequacy of our defenses in these two areas, coupled with the maintenance of our second-strike strategic capability, determine the credibility of our commitment to the defense of Europe and therefore its deterrent influence. Anxiety in this area has, of course, been heightened by our decision on the neutron warhead which could significantly improve our capacity to defend Europe against a Soviet invasion. This is the subject the Allies, led in this regard by the German Chancellor, Helmut Schmidt, have been pressing on President Carter in the context of their discussions about SALT II. It is the necessary condition implied in European public support for SALT II. The urgency of this problem is one of the important factors which led our Committee to recommend that the present text of the SALT II Treaty should not be ratified, and that we should proceed forthwith to rebuild our alliances and our defenses and resume arms control negotiations with the Soviet Union on the basis of an agenda which includes "the grey area".

The European leaders still tend to speak in terms of a vocabulary which was more popular here seven years ago than it is today. The rejection of SALT II by the Senate, many of them have said, would "end détente, and revive the cold war." President Carter sometimes uses the same phrases.

The European leaders know as well as we do that this way of talking about our relations with the Soviet Union is meretricious. But what it means to European mass opinion is brutally simple—that Soviet wars of expansion are going on somewhere else. Responsible Europeans know that the control of Western Europe is the first and primary objective of Soviet strategic thought and of Soviet expansionist policy. And they know too that Soviet programs of expansion in Africa and the Middle East, and Soviet force deployments both in Europe and on the seas, are undertaken in order to outflank Europe and to reduce it without war. Such a step, the Soviet strategic planners believe, would have a profound impact in Japan and China and lead inevitably to the complete isolation of the United States.

We can all understand the response of the European leaders to the President's request for their support of SALT II; we can sympathize with their efforts to press the "Eurostrategic" issues to the forefront at this time and to take advantage of our SALT II ratification controversy as a lever in that effort; and we know that there are lots of people in our country who still talk about "the end of détente" and "reviving the Cold War."

Our reaction to this phenomenon is simple and clear-cut. We do not believe that democracy can survive unless its leaders trust the people and are willing, in public, to discuss the real problems they deal with in the exercise of their offices. That is the purpose of the entire effort we have undertaken through the Committee on the Present Danger—to encourage courteous, disciplined, factual discussion among us about the basic issues of national safety in a turbulent and changing world. The rule we propose applies first and primarily to the political leadership of the United States. Compared to our Allies, we are strong, and we have the inescapable responsibilities of leadership. Obviously, it is attractive for a politician to soothe his public with bland words about improving our relations with the Soviet Union. Every politician like to portray himself as a peacemaker. Few indeed would choose to offer their constituents nothing but "blood, sweat and tears."

This posture, as I remarked, is politically attractive. But, especially for American politicians, it is wrong.

Our thesis applies with particular force, I submit, to the issues raised by SALT II, which touch the raw nerves of our primitive safety. There is simply no place in our consideration of these problems for non-issues like "ending détente" and "reviving the Cold War." There has been no relaxation or improvement in our relations with the Soviet Union save in the travels of ballet companies and the sale of Pepsi-cola.

The President has suggested that a failure to ratify SALT II would have a bad effect on the solidarity of NATO and our other alliances. I disagree. It is my belief that if the Senate follows the course we have recommended in this statement—that is, if it advises a positive, active foreign policy, and withholds its consent to the ratification of the Treaty until its text is modified, and we are committed to a new course in our foreign and defense policy, the effect on our Alliances would be electric and most constructive.

Such action on our part would answer the question which has been put to me with increasing insistence and anxiety by friends all around the world since 1973, the key question on which the answer to every other question depends—where does the United States stand? Raymond Aron states it very well in the Preface to his new book, *In Defense of Decadent Europe:*

"Time and time again, European journalists, politicians, and intellectuals have asked themselves and their colleagues the question 'Is the United States also plagued with the "British disease"? Have the causes that have brought about the decline of the United Kingdom not become visible in America, as well? Faced with an increasingly powerful and militant Soviet Union, do the Americans still have the same resolution they did thirty years ago?' "

If the Senate pursues the course we recommended here, NATO and our other alliances will be strengthened, not weakened, and many forms of allied cooperation which are now nearly impossible should become possible again—monetary cooperation, for example; the implementation of the Harmel Resolution recommending concerted action by interested NATO allies outside the Treaty area; and many other forms of useful cooperation. Our European, American, Middle Eastern and Asian allies would conclude that the United States—their difficult, unpredictable, but indispensable partner since 1917—had entered into another of its periods of creative energy, and they would rejoice. For our allies, nothing has been better than the good periods of American foreign policy—that of the Marshall Plan, the Baruch Plan, the Point IV Program and NATO, for example; and nothing worse than the disastrous periods—Versailles and the isolation of the '20s and '30s; the Suez Affair of 1956; and others too sad, too recent and too numerous to mention.

In view of the position taken by President Carter, a special responsibility falls upon the Senate of the United States as it considers SALT II. In the aftermath of Vietnam, we have been sleepwalking now for several years, unable to believe the facts about Soviet policy and the Soviet military buildup although we know them to be true. We must wake up and act while there is still time to act in peace through diplomacy and deterrence, and not through war. We have faith that the Senate will act wisely, prudently and firmly, in the best interests of the nation. And we are sure that the nation will respond greatly to leadership in the grand manner.

MESSAGES FROM THE HOUSE

At 12:06 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 4388, an act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Bevill, Mr. Boland, Mr. Slack, Mrs. Boggs, Mr. Chappell, Mr. Jenrette, Mr. Dixon, Mr. Whitten, Mr. Myers of Indiana, Mr. Burgener, Mrs. Smith of Nebraska, and Mr. Conte were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2729. An act to authorize appropriations for activities of the National Science Foundation for fiscal year 1980, and for other purposes; and

H.R. 4289. An act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Magnuson).

At 3:13 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 19. A joint resolution to provide for the designation of a week as "National Lupus Week".

At 4:13 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7. An act to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were read twice by their titles and referred as indicated:

H.R. 7. An act to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 19. A joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. Kennedy, from the Committee on the Judiciary, with amendments:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes (Rept. No. 96-256).

GENEVA CONFERENCE ON REFUGEES

● Mr. KENNEDY. Mr. President, this past weekend the United Nations concluded an extraordinarily important international conference in Geneva called by Secretary General Kurt Waldheim—to focus international attention on the escalating refugee crisis in Southeast Asia.

After 2 days of intensive diplomatic activity, and after a great deal of preparatory work by the U.N. High Commissioner for Refugees, the meeting concluded on Saturday and, by all accounts, has been judged a major success. For the first time, all aspects of the Indochinese refugee problem have been considered, and important new steps have been taken to deal with it. In fact, the meeting served as the catalyst for redoubling the world's efforts to meet the urgent humanitarian needs of refugees throughout Southeast Asia.

Because the Judiciary Committee has favorably acted upon legislation relating to our country's ability to respond to such refugee crises—and because the bill (S. 643) will soon be before the Senate—the committee dispatched to Geneva staff members of both the majority and minority staff to observe the work of this important conference.

From the preliminary report I have received, it is clear that the Geneva meeting has gone a long way toward meeting the immediate relief and resettlement needs of Indochinese refugees, as well as setting the stage for new diplomatic efforts to provide alternatives to forcing tens of thousands of refugees to flee by leaky boats, with great loss of human life.

It appears that many of the 60 nations represented at the Geneva conference have responded to the call of the U.N. High Commissioner for Refugees (UNHCR) for countries to double the number of refugee resettlement opportunities over the coming year. In some cases, such as Canada, they more than doubled their resettlement offers, and countries that had never responded before came forward. Clearly, America's leadership in redoubling our efforts—as announced by President Carter at Tokyo—has had a significant impact upon other countries.

Also, financial contributions in support of the work of the UNHCR in Southeast Asia have also been doubled. Japan alone announced that it would increase its contribution from 25 percent of the UNHCR budget to 50 percent in the coming year.

Action was taken to support the establishment of island reception and processing centers in Southeast Asia, to help relieve the refugee burdens on the nations of first asylum. The Government of the Philippines, in particular, took the lead in offering an island in its territory to build a center for up to 50,000 refugees.

In addition, the countries of first asylum indicated that they would abide by internationally accepted principles granting temporary asylum to refugees, and to refrain from forcing refugee boats back out to sea.

Finally, in a major development, the Government of Vietnam—acting along the lines of proposals made by France and by the United States—announced a moratorium on the massive outflow of boat people to allow time for the international community to implement the orderly departure agreement negotiated in May by the UNHCR. If this agreement is energetically implemented—by our country and other receiving countries—there may yet be a humane alternative of allowing refugees to leave in an orderly manner, rather than fleeing by boat.

Mr. President, I believe there are all important and positive developments in the ongoing international effort to respond to the refugee crisis in Southeast Asia—and for meeting the urgent humanitarian needs of some 400,000 Indochinese refugees. Although much remains to be done, at least the stage is now set for renewed international action, sanctioned by the Nations participating in the conference in Geneva.

To review the results of the Geneva meeting, and to assess what actions our Government plans in support of the Geneva meeting, I have scheduled a Judiciary Committee hearing on Thursday, July 26, in the Judiciary Committee room, 2228 Dirksen Senate Office Building, at 11 a.m.

Mr. President, there are few greater tests of the democratic and humanitarian ideals for which we stand than how we respond to the need of refugees. And there is no more basic human rights issue than the protection of refugees. The meeting in Geneva was an important step in responding to both these questions.

Mr. President, I would like to share with my colleagues the text of the closing statement of the U.N. High Commissioner for Refugees, Mr. Poul Hartling, and the summation offered by Secretary General Kurt Waldheim. I ask unanimous consent that they be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

High Commissioner's Closing Statement

Mr. Secretary-General, distinguished delegates: It is now apparent that, with this Meeting, the international community has moved into a new phase in its efforts to resolve the problem of the Indochinese refugees. It is a phase in which new hope is provided to all who have grappled with this problem. Above all, it is a phase in which the refugees themselves will know that the international community has not abandoned them.

We have heard a series of most remarkable statements that have emphatically reaffirmed the humanitarian commitment of the international community. This is of great consequence—to the Indochinese refugees, and to the millions of other refugees throughout the world. As the High Commissioner for Refugees, may I express my gratitude. May I also say how deeply thankful I am for the many kind words addressed to my staff and to me personally. You can count on our every effort.

Of course, the greater the commitment, the greater the responsibility to honour it.

In the weeks immediately prior to this Meeting, and in the course of it, we have been informed of a truly dramatic increase in the number of resettlement places available for the refugees. These have risen from 125,000 at the end of May, to 260,000 today. Many Governments have indicated their intention to act with the greatest possible speed to move the refugees to their new homes. This is exactly what we wished. We were moving over 10,000 persons a month from the area. As soon as possible, we shall now try to move 20–30,000 each month. That is some 1,000 persons a day should move to new lives. Such an action will give the reassurance that all concerned need.

I am particularly grateful to those Governments that have announced on-going commitments. Such indispensable commitments enable planning over the longer-term. I shall monitor resettlement needs for as long as the problem lasts. Governments will be kept informed, on a regular basis, of the requirements.

To make sure that we act with the utmost urgency, UNHCR is already preparing a technical plan to ensure co-ordination on all practical aspects relating to the onward movement. The purpose is to generate a rapid and systematic rate of departure and to utilize the new commitments to the maximum effect. To this end, I am calling an immediate working meeting at the technical level, of countries that have made resettlement offers. The opportunities must be used in a way that makes a clear impact on each of the areas where the refugees are presently located.

A major offer has been made in this Meeting for a Holding Centre that will accommodate a minimum of 50,000 persons. This is in addition to two earlier offers. A senior UNHCR team has been designated to follow-up on all aspects of such proposals. They are ready to work, with the Governments concerned, without delay.

A most significant proposal has been made in regard to a major Fund for achieving permanent solutions. This is a need that we had increasingly felt. It could be of great help to our efforts on behalf of refugees in all developing countries throughout the world. We have started examining the technical aspects relating to such a Fund and I shall present proposals to my Executive Committee early in October. I am grateful that, already, some US $25 million have been announced, in principle, for this purpose.

In regard to our financial needs for the Indochinese refugees, I am most heartened by the new announcements of pledges totaling some US $160 million in cash and kind. It should be clearly understood that this amount includes pledges, some of which are subject to parliamentary approval. It also includes certain funds earmarked for 1980. These announcements will considerably ease the financial situation and enable my Office not only to continue the basic programme, but also start meeting costs relating to Processing and Holding Centres. As soon as the precise costing elements are identified, I shall be further touch with Governments for any additional funds that are required.

There have been many interesting comments on the programme of orderly departures from Viet Nam. Such movements should in no way detract from the priority to those in the camps of South East Asia. However, this programme has the possibility of contributing significantly to an easing of the humanitarian problems in the region and must therefore, develop. Much will depend on the care and understanding with which this effort is conducted. We are ready to do our share.

On the grave problem of rescue at sea, many critically important commitments have been made, for which I am indeed grateful. I am in touch with the Secretary-General of the International Maritime Consultative Organization with whom in the past I have issued joint appeals concerning this matter. I propose to arrange a meeting of experts very shortly in order to concert certain practical steps that could be considered by Governments and interested organizations in a position to help.

Distinguished delegates,

In these brief comments I have summarized the status of commitments as these now stand. I have also indicated certain of the practical measures that we shall take in urgent followup of this meeting.

This vast effort will draw on the energies and ideals of thousands of persons—in Governments, within the U.N. system, and in the non-governmental sector. In this connection, I am deeply appreciative of the Governmental offers to place staff at our dipsosal to help in this immense task. I have already spoken of the technical meetings we propose to convene in relation to specific aspects of the problem. Further, a standing co-ordinating mechanism will group together our colleagues in the U.N. system, ICEM, the ICRC and League of Red Cross Societies and others in the non-governmental sector.

Distinguished delegates, our follow-up will be equal to the challenge. Within ten weeks, the thirtieth session of my Executive Committee will be held in Geneva. It will give us an opportunity to review thoroughly the progress made, and to pin-point what further needs to be done. Thereafter I report to the General Assembly in November. Within these four months, much must be achieved.

With these remarks, may I reiterate my gratitude to the Secretary-General, who will now sum-up our proceedings. May I, finally, convey to you and to all others engaged in this great humanitarian endeavor, the thanks of the refugees.

Closing Remarks by Secretary-General Kurt Waldheim at the Meeting on Refugees and Displaced Persons in South-East Asia

Distinguished Delegates, Ladies and Gentlemen,

As we conclude our discussion, I wish to sum up and evaluate the results of our proceedings.

This meeting has been an occasion without precedent in the history of the United Nations. Sixty-five countries concerned with the grave crisis existing in South-East Asia have participated with a view to relieving the plight of hundreds of thousands of refugees and displaced persons.

When the idea of a conference was first launched, there were considerable doubts about its chances of achieving its purpose. There was even the fear that this gathering could stray into a sterile and acrimonious debate which would aggravate even further the political atmosphere surrounding the refugee crisis. I think we can say with gratification that this has not been the case. On the contrary, the very fact that the international community was about to focus its attention on the humaniarian issues in South-East Asia has created a momentum of its own. Before the Conference started, several countries increased substantially the number of resettlement places for refugees and their financial commitments. In addition, intensive contacts took place on a bilateral and multilateral basis to find ways and means of alleviating the suffering of the refugees in the area.

The response during our meeting has been significant. A remarkable spirit of co-operation has marked our deliberations. Many countries have put forward concrete and imaginative proposals. Generous offers of contribution in places of resettlement, in funds, and availabilities for holding centers have been made.

In my judgment, these developments have brought major strides in our efforts to cope with the problem. Indeed, such progress has been required because of the magnitude of suffering in Indo-China and because of the traumatic conditions in which the exodus is taking place. The consequences of this massive movement populations involve not only Indo-China alone, but much of Asia and indeed many countries around the world.

Our purpose at this meeting has been to try to reverse the course of this tragedy, and I believe we are now well on our way to doing so. The most tangible and immediate result of this meeting has been the commitments in regard to resettlement places and financial contributions, which the High Commissioner has just summarized. This will mean, in practical terms, that within the next months tens of thousands of refugees will move away from the present camps to begin new lives. But the scope of the problem is much larger. To resolve it will require humane policies by all concerned, respect for certain fundamental principles, and the carrying out of a plan of action which would be based on the various proposals advanced through our deliberations.

The principles to which I refer involve an inter-relationship of obligations and responsibilities on the part of the countries of origin, those of final resettlement, and those of first asylum. The countries of origin must respect the right of emigration and family reunification, while avoiding any action leading to their people departing the country under conditions which would put their lives in jeopardy. This obligation stems from the basic right of individuals to stay in their country or to leave as a matter of free will. The countries from which refugees come, have the responsibility to co-operate fully with the UNHCR and the other countries concerned to ensure an orderly outflow. What we mean by this is orderly arrangements for departure, the prospect of a safe journey and a destination which is assured.

Taking into account the fact that the countries of first asylum are developing countries confronted with economic and social constraints it is clear that others outside the area must assume the principle responsibility for resettling.

However, pending arrangements for resettling, it is essential that the countries of initial arrival should fully respect the principle of first asylum, both for land and sea refugees. There should be no refoulement.

Of course, each Government, depending on whether it is a country of origin, of first asylum, or final resettlement, puts the emphasis on different principles. Whereas, the countries of first asylum require a definite pledge that they should not be burdened with residual problems and the assurance that no refugees will stay in their country for more than a specific period, the resettlement countries have referred to the need for a degree of local settlements within the region and have offered significant financial contributions to facilitate this process.

I consider this meeting has served a very useful purpose in clarifying and underlining the interdependence between those elements and am confident that they can and will be reconciled within the framework of a comprehensive plan of action.

Certain important aspects of the plan as they have emerged may be highlighted.

First, we must work with the utmost speed to reduce the backlog. This can only be done by resettlement on a far greater scale and much faster than hitherto. It is clearly understood that this movement should cover land cases as well as boat cases. I feel greatly encouraged by the increase in commitments made during this meeting and feel confident that our objective will be substantially achieved.

Second, another element closely related is the understanding reached between the Government of Viet Nam and the UNHCR for the orderly departure from Viet Nam of family reunions and other humanitarian cases. This should be expanded and I have noted that many governments wish this to be done. This expansion should not be at the expense of those in the camps of South-East Asia.

Third, a major breakthrough has been achieved in this meeting on the establishment of holding centers. The measure is one of the pillars of the action plan and as the High Commissioner for Refugees has said, we will follow through immediately. The availability of these facilities can make a direct and important contribution to reducing the dangers now surrounding the exodus of refugees. They will provide a greatly needed transit area pending resettlement. Coupled with assurances that residual cases would not be abandoned in these centers, they should offer a major reassurance to the countries of first asylum. Work will start shortly on the Galang Island offered by Indonesia. The Philippine Government, in a move which has won the appreciation and gratitude of all of us, has offered a new site for 50,000 refugees, to be funded by UNHCR.

Fourth, rescue at sea deserves special attention. I note with appreciation the noble and humane action undertaken by several countries which are sending ships to the area to rescue refugees in distress. As you have been informed by the High Commissioner, the United Nations is taking the leadership in organizing an international co-operative effort in this area.

In conjunction with the plan of action I have just outlined, there are certain situations which deserve special attention. I think, for example, of those suffering people along the border of Kampuchea and Thailand, exposed to the threat of famine, and to the ebb and flow of conflict. I have no doubt that the world community will wish the United Nations family to do whatever it can to alleviate the suffering which afflicts these people.

These, then, are the major elements of the plan of action.

During our deliberations, several additional or supporting proposals were put forward. All these proposals have been noted. Together with the High Commissioner for Refugees, I will study those proposals with utmost care and consult with the Governments concerned on their feasibility. I wish to thank all the Governments for their willingness to come forward with concrete ideas.

We need no reminder of the fact that, however substantial the resettlement programme we shall endeavour to implement, it cannot be successful over the long run without major reduction in the disorderly exodus of thousands of people from their homelands. This is the root cause which has been emphasized so much in the last two days. I am glad that, with infrequent exceptions, this analysis has been generally objective and non-polemical.

Distinguished delegates, as a result of my consultations the Government of the Socialist Republic of Viet Nam have authorized me to inform you that for a reasonable period of time it will make every effort to stop illegal departures. In the meantime the Government of Viet Nam will co-operate with the UNHCR in expanding the present seven-point programme designed to bring departures into orderly and safe channels.

I may also recall that a proposal was made here, supported by a number of countries, for a moratorium on unorganized departures from Viet Nam.

Distinguished delegates, ladies and gentlemen, I have noted with appreciation the many expressions of support for the UNHCR. I am sure that Mr. Hartling and his dedicated staff will draw from these words new encouragement in their untiring efforts to bring relief to the refugees.

I shall personally and through my Special Representative in the area, watch closely the developments following on this meeting. The role of the Special Representative will be, in particular, to maintain close and continuous contact with the Governments concerned and to liaise between them and me.

This meeting has greatly served to strengthen the efforts of UNHCR and I know other agencies of the United Nations system are also ready to intensify their activities as required by the plan of action. I can assure you that I shall do all I can to bring the best possible response from the entire United Nations system. The continued and devoted co-operation of many others, particularly the voluntary agencies, will be indispensable, and I should like to thank them most sincerely for all their efforts.

Distinguished delegates, evidently, the conclusions we have reached at this meeting cannot be the end of our efforts. We will now have to see to it that these conclusions are fully implemented through the United Nations machinery. And it is my intention to present to the next General Assembly a comprehensive report on the situation and the implementation of the action plan. May I again express my gratitude to you for your spirit of co-operation which enabled us to achieve this result. I am confident that we have laid the foundation for the solution of one of the most tragic experiences which the world has faced.

The meeting is hereby closed.●

Mr. THURMOND. Mr. President, I rise today to express my favorable reaction to the action taken by the United Nations Conference on World Refugees in Geneva, Switzerland, on July 20 and 21. This is the second Conference in regard to the World Refugee Problem which has arisen in Southeast Asia, an earlier one being held in Geneva, Switzerland in December, 1978. The Nations of the World have responded well to the plight of the "boat people" of Vietnam and the "land people" from Laos and Cambodia. Sadly, it appears that the problem will be an ongoing one which we must meet in the months and years ahead.

The United States of American and its people are no strangers to the problems of the refugees and their dependents. We are a Nation made up of refugees and their ancestors. The tired and homeless, and poor of the world have given to the greatness of our land and its people. But we and the other nations of the world cannot rest on our laurels. The nations of the world must continue to make even greater efforts in rising to the challenge which confronts them.

I was pleased to note that the Peoples Republic of Vietnam was present for this significant and moving meeting. The United States was well represented by the Vice President of the United States and Members of the U.S. House of Representatives, personnel of the Department of State, including the Honorable Dick Clark, Ambassador for Refugee Affairs, and various staff members of both Houses of the U.S. Congress. I am informed by the media and those who were present, that progress was made in all phases which will contribute to an ending of an exodus which has taken so many human lives. History will note that the nations of the world have risen to meet the challenge which faces each of us individually and as a people. I trust the verdict of history will not be adverse.

Further, I am happy to note that no disinterested nation contends that the exodus of the boat and land people in Southeast Asia is a result of the war in Vietnam which ended in 1975 in Vietnam. This contention was made only by the Peoples Republic of Vietnam in Asia. I concur in the verdict of world opinion that the said war is not the culprit which gives rise to the fateful exodus of the ethnic Chinese from Vietnam and other peoples from their homeland. The verdict is just and proper against Vietnam and its sponsor, the Soviet Union. It is my hope that these nations will cease to do those things which cause these people to make the fateful decision to risk their lives and the lives of their dependents as a refugee on the sea and the lands of their neighbors.

The nations of first asylum of these refugees are to be commended. The nations which extend resettlement in their homelands are to be commended in a like manner. Also, the voluntary private organizations, secular and otherwise, are to be commended for their untiring efforts in behalf of the refugees of Southeast Asia.

Mr. President, I would like to state at this time for the record that when the refugee bill, S. 643, came on for consideration on Tuesday last, before the Senate Judiciary, the bill, by agreement between the majority and the minority, was ordered favorably reported unanimously by the committee. Further, it was agreed that the refugee bill would not be considered by the Senate until after the United Nations Conference was concluded.

I am pleased that our Vice President reiterated that our armed forces were expanding their services to the helpless and drowning refugees at sea. The law of the sea is impartial and just; the only element required to set the law of the sea in motion is need. This standard has served us well. We will continue in the same manner our people have required in the past. This is rightfully so.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John Mark Deutch, of Massachusetts, to be Under Secretary of Energy.

(The above nomination from the Committee on Energy and Natural Resources, was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly authorized committee of the Senate.)

Mr. JACKSON. Mr. President, on Saturday, July 21, 1979, the Committee on Energy and Natural Resources ordered reported favorably the nomination of John Mark Deutch, of Massachusetts, to be Under Secretary of Energy.

I ask unanimous consent that his biography be printed in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

JOHN M. DEUTCH

Dr. John M. Deutch, was named Acting Under Secretary of Energy effective, June 1, 1979.

Dr. Deutch, who was nominated to the position May 25, 1979, by President Carter and is awaiting Senate confirmation, had been serving as Director of Energy Research and Acting Assistant Secretary for Energy Technology.

As Acting Assistant Secretary for Energy Technology since January 1979 he directed activities aimed primarily at developing new energy technologies to the point of commercial applications. This included research, development and demonstration program involving all emerging energy sources.

As Director of the Office of Energy Research, Dr. Deutch oversaw the basic research programs of the department. He held that position since the creation of DOE in October 1977.

Dr. Deutch became an assistant professor of chemistry at Princeton University in 1966, and remained at that institution until 1969. He joined the faculty at MIT in 1970 as associate professor and became chairman of the chemistry department in 1976.

From 1961 to 1965 Dr. Deutch worked on systems analysis in the Office of the Secretary of Defense. In 1965 and 1966 he was a consultant for program analysis in the Bureau of the Budget.

Dr. Deutch was born July 27, 1938, in Brussels, Belgium, and became an American citizen in 1946. He received a B.A. in history and economics from Amherst College and a B.S. in chemical engineering from MIT in 1961, and earned a Ph.D. in physical chemistry from MIT in 1965. He was a postdoctoral fellow at the National Bureau of Standards.

Dr. Deutch serves on the Defense Science Board and the Army Science Advisory Panel. He has also been an editorial board member of the "Annual Review of Physical Chemistry" and "Chemical Physics." He is the author of numerous publications.

EXTENSION FOR COMMITTEE ON GOVERNMENTAL AFFAIRS TO CONSIDER A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs have an extension of time until July 26, 1979, to consider the nomination of Eldon D. Taylor to be inspector general of the National Aeronautics and Space Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JACKSON (by request):

S. 1560. A bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debits related to the Helium Fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the Helium Fund; to the Committee on Energy and Natural Resources.

By Mr. TOWER:

S. 1561. A bill for the relief of Doctor Ricardo Mateo Rodriguez; to the Committee on the Judiciary.

By Mr. COHEN:

S. 1562. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

By Mr. DURKIN (for himself, Mr. Stafford, Mr. Leahy, and Mr. Laxalt):

S. 1533. A bill to terminate the Department of Energy; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (by request):

S. 1560. A bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debts related to the helium fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the helium fund; to the Committee on Energy and Natural Resources.

HELIUM ACT AMENDMENTS OF 1979

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Helium Act (50 U.S.C. 167 et seq.) to delete requirements to repay notes, equity, debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debits related to the helium fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and, to eliminate the helium fund.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Helium Act Amendments of 1979."

Sec. 2. (a) Section 6 of the Helium Act (50 U.S.C. 167(d)) is amended:

(1) by striking subsection (c) and inserting in lieu thereof the following:

"(c) Sales of helium by the Secretary shall be at prices consistent with the purposes of this Act but not below current market value.

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(3) by striking subsection (f); and

(4) by adding the following new subsections at the end thereof:

"(e) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Interior pursuant to section 12 of the Helium Act (50 U.S.C. 167(j)), together with interest accrued and unpaid on such notes, and to cancel the outstanding balance on the net capital and retained earnings debt of the helium production fund established pursuant to section 6 of the Helium Act (50 U.S.C. 167(d)) together with interest accrued and unpaid thereon. Any unobligated cash balances remaining on the effective date of this Act and any monies received thereafter on transactions heretofore or hereafter entered into under the Act shall be covered into the Treasury as miscellaneous receipts."

(f) Any borrowing authority previously authorized by section 12 of the Helium Act (50 U.S.C. 167(j)) is hereby cancelled.

(b) Section 12 of the Helium Act (50 U.S.C. 167(j)) is amended to read as follows:

"There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act."

Sec. 3. Section 3 of the Helium Act (50 U.S.C. 167(a)(2)) is amended by deleting the words "except that the Secretary shall not make . . . in an appropriation Act, or . . ." and by inserting in lieu thereof "and".

Sec. 4. Public Law 87–122 (75 Stat. 246) is amended by deleting the section entitled "Development and Operation of Helium Properties".

Sec. 5. The amendments made by this title shall take effect on the date of enactment of the appropriation act associated with this Act, or October 1, 1980, whichever comes later.

U.S. Department of the Interior,
Washington, D.C., July 17, 1979.
Hon. Walter F. Mondale,
President of the U.S. Senate,
Washington, D.C.

Dear Mr. President: We are enclosing herewith a proposal "to amend the Helium Act (50 U.S.C. 165 et seq.) to delete requirements to repay notes, equity debt, and interest accrued and unpaid thereon; to authorize and direct the Secretary of the Treasury to cancel all notes and debts related to the Helium Fund together with interest accrued and unpaid thereon; to eliminate the Secretary's borrowing authority; and to repeal the authorization of the Helium Fund."

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

The financing of the Federal Helium Program is regulated by sections 6(c), (d), (f), and 12 of the Helium Act of 1960. The Helium Act established a "helium production fund," without fiscal year limitation, to receive proceeds from the Bureau of Mines' sales of helium and from borrowing from the Treasury, and from which to disperse these funds for program operations, including purchases of crude helium and repayment of borrowings.

A statement of the financial condition of the Federal Helium Program as of October 1, 1978, is shown in Attachment 1. The principal asset of the program is helium purchased from 1962 to 1973 and currently valued at $620 million. Approximately $250 million was originally borrowed from the Treasury of these purchases. The Helium Act of 1960 requires the Secretary of the Interior to repay this principal plus compound interest by 1985, although the Secretary may obtain a ten-year extension of this requirement if necessary. Repayment of these borrowings plus the compound interest constitute the major financial liability of the program. Recently repayments of $1 million per year have been made from operating income in 1976–1978. Compound interest is currently accruing at a rate of about $30 million per year. As of October 1, 1980, the total Helium debt is estimated to be $557 million.

With the growth of private helium production during the 1960's and the sharp reduction in demand for Federal uses, actual sales of the helium by the Bureau of Mines have differed significantly from the expectations on which the debt repayment schedule was based. Current demand projections indicate that it is unlikely that the helium debt can ever be paid off and the interest owed to the Treasury will simply continue to accumulate, as shown in Attachment 2. The continuing accounting burden it creates is expensive and wasteful. We believe, therefore, that the fund debt should be eliminated.

A precedent for this approach is contained in the Defense Production Act Amendments of 1974 (P.L. 93-426, dated September 30, 1974). The original borrowing authority for the Defense Production Act of 1950 was used to expand production capacity by various means, including purchases of materials for stockpiles. Anticipated future sales of stockpiled materials were to sustain the liquidity of the fund and repay the debt. For reasons beyond the control of the parties involved, these future sales did not materialize, and the debts continued to grow due to interest obligations. The 1974 Amendments, extending the Defense Production Act of 1950, cancelled the outstanding liability to the Treasury accumulated under this borrowing authority, and substituted conventional appropriations methods for supporting future programs. In the absence of this legislation, the Defense Production Act fund could have gone bankrupt.

This legislation also proposes to repeal authorization of the Helium Fund and to authorize direct appropriations for program operations. The recommendation to eliminate the fund debt recognizes the fact that the program cannot achieve self-financing status. Under these circumstances it is inappropriate to continue to fund the program through the mechanism of a public enterprize revolving fund.

The Department of the Interior and Related Agencies Appropriations Act of 1962 P.L. 87-122) authorized the Secretary to borrow $10 million from the Treasury to finance helium operations and it provided a permanent annual appropriation of $47.5 million in contract authority for the purchase of helium. The attached draft legislation cancels both the borrowing authority and the annual appropriation of contract authority. There has been no borrowing from the Treasury since the early 1970's and the $47 million appropriation of contract authority has either lapsed or been rescinded every year since that time. Any future program expansion should be financed by direct appropriations. Upon enactment of these provisions, revenues from the sale of helium will thereafter be deposited directly into miscellaneous receipts of the Treasury.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill and that its enactment would be consistent with the Administration's objective.

Sincerely,

JOAN M. DAVENPORT,
Assistant Secretary.

Enclosures.

BUREAU OF MINES—HELIUM FUND, STATEMENT OF FINANCIAL CONDITION

[In thousands of dollars]

	Financial condition			
	1977 actual	1978 actual	1979 estimate	1980 estimate
Assets:				
Fund balance with Treasury	7,709	7,282	4,870	3,547
Accounts receivable, net	2,936	1,115	1,000	1,000
Advances made	8	8	5	5
Inventories	590,816	619,822	651,661	686,413
Real property and equipment, net	21,586	21,691	23,851	26,838
Other assets, net	3,004	4,249	5,204	3,219
Total assets	626,059	654,167	686,591	721,022
Liabilities:				
Accounts payable and funded accrued liabilities	30,038	30,001	30,600	30,500
Advances received	599	606	800	900
Debt issued under borrowing authority:				
Borrowing from Treasury	251,650	251,650	251,650	251,650
Net worth	31,645	30,645	30,645	30,645
Interest due on net worth and borrowing	183,157	211,190	241,946	275,099
Total liabilities	497,089	524,092	555,641	588,794
Government equity:				
Unexpended budget authority:				
Authority to borrow	3,127	3,127	3,127	3,127
Fund balance	8,746	6,197	2,878	1,555
Undelivered orders	673	1,004	1,000	1,000
Unfinanced budget authority:				
Borrowing authority	−3,127	−3,127	−3,127	−3,127
Contract authority	−29,403	−29,403	−29,403	−29,403
Invested capital	148,954	152,277	156,475	159,076
Total Government equity	128,970	130,075	130,950	132,228

●

By Mr. COHEN:

S. 1562. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

SMALL SAVERS INCENTIVE ACT OF 1979

Mr. COHEN. Mr. President, I am today introducing legislation to exclude from taxation the first $150 of interest earned on a savings account at a bank, savings and loan association, or credit union.

This legislation would accomplish two goals: First, it would provide modest tax relief for the small saver; and second, it would encourage a greater level of savings.

During his recent speech to the Nation, President Carter mentioned that Americans save a smaller percentage of their incomes than any other Western, industrialized nation. This is true. According to the Commerce Department figures based on a 5-year average between 1973 and 1977, consumers in the United States saved only 6.7 percent of their disposable incomes, compared to 14 percent for the citizens of Great Britain, 15.2 percent for the West Germans, and 25 percent for the Japanese. The President attributed this low level of savings to a lack of confidence in the future.

I believe, however, that Americans are simply reacting logically to the present very real disincentives to savings. Unrelenting inflation, low interest rates on passbook savings accounts, and the taxation of interest income have combined to discourage many individuals from trying to save.

The real rate of return on most savings, due to taxes and inflation, has actually been negative for several years. Former Secretary of the Treasury Blumenthal recently estimated that a person in the 30-percent Federal income tax bracket had the value of his savings in a passbook account decline by more than 5 percent last year after taxes and inflation. Many families rightfully believe that they are better off spending now than saving for the future as long as inflation continues unabated and their interest income is taxed.

A tax break for savers would also help our older citizens, many of whom are retired and living on their accumulated savings—savings that have been severely eroded by rampaging inflation.

Providing a tax incentive for savers would also generate greater levels of savings. Personal savings represent a principal source of investment capital in this country, and our low level of savings is one reason why capital formation in this country has lagged behind other industrialized nations. Without adequate savings, funds for construction of new homes and plants and for purchasing equipment are insufficient. As a consequence, productivity declines, inflation soars, and few new jobs are created. An increased level of savings would help cool the inflation rate, not only by providing more funds for investment, but also by reducing consumption levels.

In addition to my own, several other bills have been introduced in both the House and the Senate which would provide increased incentives to those individuals who have managed to save a portion of their incomes. All of these proposals, however, entail a significantly greater revenue loss than would my legislation. By establishing a $150 interest exemption ceiling for the individual taxpayer, the cost of my proposal would be held to approximately $1.4 billion in the first year. At a time when we are moving toward a balanced budget. I think that it is important that the cost of new tax incentives—no matter how worthy—be restrained. When economic conditions improve, the interest exemption could be expanded to provide even greater tax relief and to encourage more investment. In this regard, this incentive would be a useful tool in fiscal policy.

Mr. President, the time has come for Congress to correct the bias in our tax laws which favors consumption over savings. I hope that Congress will act quickly to approve this legislation.

By Mr. DURKIN (for himself, Mr. STAFFORD, Mr. LEAHY, and Mr. LAXALT):

S. 1563. A bill to terminate the Department of Energy; to the Committee on Governmental Affairs.

DEPARTMENT OF ENERGY SUNSET ACT

● Mr. DURKIN. Mr. President, I am today introducing a bill which will sunset, put an expiration date on, the Department of Energy as of June 1, 1981. The Department of Energy is a disaster, and unless it can improve dramatically between now and the time specified in my amendment, it should be abolished with only the very useful programs within the Department saved and dispersed to more competent departments.

Since its creation in 1977, the Department of Energy has calmly presided over massive confusion and chaos, creating more energy problems for America than it solves.

Its incompetence and inaction has led to gasoline lines and home heating oil shortages for consumers, at the same time it has contributed to obscene profits for the major multinational oil companies.

DOE's bungled efforts to manage our energy supplies have disrupted the lives of nearly every American, and threaten to destroy major sectors of our economy. In New Hampshire, the gasoline shortages have virtually decimated the tourist, recreation, and sport industries which are dependent on heavy summer trade. Our hard pressed small independent gasoline stations owners have been forced against the wall by the misguided policies of DOE. Hard-working New Hampshire families have had to curtail their vacation plans, and in fact are even having difficulty getting to and from work because there are virtually no mass transit systems in my State.

The energy outlook for New Hampshire and New England is even grimmer this winter. Although we represent only 6 percent of the population, we use 25 percent of the home heating oil consumed in this Nation. The home heating oil stocks needed for a normally cold winter are not being built up fast enough. The most recent figures available show the primary stocks of home heating oil are 20 million barrels below the stockpile level at this same time last year and a careful study of secondary stocks in New Hampshire, those held by local distributors, shows a 50-percent drop in supplies from last summer. Instead of ordering the major oil companies to increase production of gasoline and home heating oil and their set-asides to meet the Nation's heating oil needs, the Department of Energy persists in sitting passively by, as New Hampshire's working families, small businesses, and senior citizens face the growing prospect of severe home heating oil shortages this winter.

The Department of Energy has further aggravated the energy plight of New Hampshire's consumers by obstructing efforts that would reduce our dependence on costly, foreign oil. Time and time again, it has blocked my efforts to promote the rapid development of alternative energy—solar, hydroelectric power, wind, wood—through either direct opposition during the appropriations process or through cumbersome, unnecessary redtape and Federal regulation.

I voted against the creation of the Department of Energy because I did not think that adequate consideration and preparation had been given to it. Unfortunately for the American people, events have proved my concerns to be all too valid. What we have now is a massive white elephant which, with a few notable exceptions, is doing more to worsen the energy problems our country faces than to solve them.

The Department of Energy was created in order to combat the energy problem, now and in the future. DOE was to accomplish this task by bringing together the varied and dispersed elements of Federal energy regulation and research into a comprehensive and centralized cabinet-level organization from which coherent energy decisions would emanate. But instead, since its inception the country's crisis in energy has deepened, and the DOE has failed to prove sufficient ability to deal effectively with the problem.

Because of this lack of a clearly demonstrated capacity to handle America's energy needs, this sunset amendment is necessary in order to determine whether or not the DOE, as presently constituted, is the most effective and efficient Federal governmental vehicle to face America's energy problems.

One of my major concerns is the very philosophy underlying the DOE. For instance, one of its official functions is the conducting and/or oversight of research into new energy technologies and the sponsoring of their subsequent commercialization. However, one must wonder if the DOE will ever be the proper medium for this commercialization of new energy technologies, since, conceivably, if these lead to a solution, partial or complete, of the energy problem, the DOE would put itself out of business. And, as we all know, one of the primary objectives of Federal bureaucracies is survival and constant expansion at the expense of the taxpayers.

I am also skeptical that the Department of Energy, a big, sprawling Federal bureaucracy, can handle problems as well as local or regional levels of Government. Indeed, many energy needs are of a distinctly State or local character, and it would be more effective to have these handled by a Government apparatus at the same level. Also, in many energy areas the tax code has shown itself to be a more efficient and popular means of empowering people to solve their own problems.

In addition to these concerns about the basic approach of our energy policy, there are important problems with the execution and operation of the Department's present programs. For example, a recent "management audit" by an independent consulting firm revealed DOE's management to be poorly organized, policy-planning to be haphazard at best, and the field units not to be integrated into the Washington office. Even Deputy Secretary John O'Leary has admitted that it will be 2 years before the Department achieves organizational coherence. An eye-opening article in the Washington Post recently pointed out, "it is impossible not to conclude that, far from hastening a national attack on the energy problem, the creation of the Department of Energy has postponed it by 3 to 5 years." Without prospects such as these, it is perhaps fortunate that the DOE was not in existence during the time of Thomas Edison, as he might not have bothered to invent the light bulb if he had to deal with the administrative hassles of the DOE.

By proposing the sunset of the DOE, I am aware of the many problems and inherent inadequacies of the DOE and its handling of America's energy needs. A thorough examination is needed to determine the correct path and method for effectively eliminating our energy problem. I believe the DOE is not the best way, and if it is not, we urgently need to find it, as this sunset proposal will help determine.

It is vital that the next Congress not take the existence of the Department of Energy as immutable. Perhaps the next Congress will decide to reauthorize the Department. But given the great inertia that bureaucracies of this size build up, the presumption of continued existence should not be granted. Public agencies such as DOE must be forced to perform better than they are today. I believe in periodic sunset reviews which place the burden of justification on the Department, rather than on the hard-pressed taxpayer.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Sunset Act".

SEC. 2. Title X of the Department of Energy Organization Act is amended to read as follows:

"TITLE X—SUNSET PROVISIONS

"EXPIRATION

"SEC. 1001. The provisions of this Act shall expire on June 1, 1981.".●

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. MCCLURE, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 18, a bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings.

S. 25

At the request of Mr. BAYH, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 25, a bill to designate the birthdate of Dr. Martin Luther King, Jr., as a national holiday.

S. 30

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 30, a bill to repeal the standby power of the President to seize gold.

S. 35

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 35, a bill to repeal the Credit Control Act of 1969.

S. 115

At the request of Mr. MATHIAS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 115, the Third Party Privacy Act.

S. 873

At the request of Mr. RIBICOFF, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 873, a bill to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad.

S. 955

At the request of Mr. HELMS, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 955, the Taxpayers' Bill of Rights Act.

S. 1055

At the request of Mr. HELMS, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1055, the Gold Coinage Act of 1979.

S. 1203

At the request of Mr. BAYH, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1203, a bill to amend title II of the Social Security Act to provide that the waiting period for disability benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness.

S. 1430

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1430, a bill to extend and improve title V of the Social Security Act.

S. 1435

At the request of Mr. PACKWOOD, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1435, a bill to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1530

At the request of Mr. RIBICOFF, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1530, a bill to change the method of medicare reimbursement for health maintenance organizations.

SENATE RESOLUTION 184

At the request of Mr. HELMS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Senate Resolution 184, a sense of the Senate resolution regarding the matter of Josef Mengele.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Florida (Mr. STONE) were added as cosponsors of Senate Concurrent Resolution 27, calling for the establishment of a common economic bond between the United States, Canada, and Mexico.

AMENDMENT NO. 210

At the request of Mr. SASSER, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of amendment No. 210 intended to be proposed to S. 712, the rail passenger service authorization bill.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Thursday, July 26, 1979 at 10 a.m. in room 4232 Dirksen Senate Office Building, on the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Health, Education, and Welfare.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public a hearing scheduled by the Senate Committee on Energy and Natural Resources on the nomination of Mr. Charles W. Duncan, Jr. of Texas to be the Secretary of Energy.

The hearing will begin at 8 a.m. on Monday, July 30, 1979 in room 3110, Dirksen Office Building, with the full committee business meeting to resume at the conclusion of the hearing.

Questions concerning the nomination hearing should be directed to Daniel A. Dreyfus, Staff Director, Senate Committee on Energy and Natural Resources, Washington, D.C., 20510, telephone 202/224-4971.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. SASSER. Mr. President, I wish to announce that the Governmental Affairs Committee will hold a hearing at 9:30 a.m. on Wednesday, July 25, on the appointment of John W. Macy, Jr. of Virginia, to be Director of the Federal Emergency Management Agency. The hearing will be held in room 3302 of the Dirksen Building.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a markup which my Subcommittee on Energy, Nuclear Proliferation, and Federal Services will be holding on Wednesday, July 25, 1979. The subcommittee will mark up two bills, S. 1096 and S. 1110—bills which relate to postage rates. The markup will begin at 1:15 in room S-206 in the Capitol.●

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration I announce that on Thursday, July 26, at 2:15 p.m. (instead of Tuesday, July 24, as previously announced), the committee will meet in room S-126 of the Capitol Building to consider and mark up proposed amendments to the Federal Election Campaign Act, along with other legislative and administrative business.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the hearings scheduled before the Subcommittee on the Constitution, Committee on the Judiciary for July 25, 1979 at 1 p.m. in room 6226 Dirksen Senate Office Building on legislation proposing a constitutional amendment for a balanced Federal budget, have been rescheduled for 2 p.m. on that same date and in that same hearing room.

Anyone wishing to submit testimony for the hearing record should send their statement to, or contact Kevin Faley or Linda Rogers-Kingsbury, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 24, 1979 to hold an executive session on the SALT II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the European Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 25, 1979 beginning at 2:00 p.m. to hold a hearing on the Salt II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate on today, July 23; Tuesday, July 24; Wednesday, July 25; Thursday, July 26; and Friday, July 27, 1979 to hold hearings on the military implications of the Salt II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 27, 1979 beginning at 2:30 p.m. to hold a hearing on certain Executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE HANDICAPPED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Handicapped Subcommittee of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 26, 1979, beginning at 1:00 p.m. to hold an oversight hearing on Public Law 94–142, Education for the Handicapped Children Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE COURSE OF ENERGY

● Mr. TOWER. Mr. President, as the Senate begins to tackle President Carter's more recent package of energy policy proposals, it is imperative that every effort be made to keep in perspective the past, present, and future course of energy policy in this country. The Wall Street Journal often provides that kind of needed perspective, and that newspaper's analysis of the President's July 15 address is no exception. The Wall Street Journal of July 17, 1979, correctly concludes:

> Out of all the sermonic and confusing rhetoric President Carter has showered on the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

Because I believe this series of articles in the July 17 issue of the Wall Street Journal so clearly exposes the bankruptcy of Carter energy policy, I ask that the text of these commentaries be printed in the Record.

This material follows:

The Real Jimmy Carter

Out of all the sermonic and confusing rhetoric President Carter has showered on the American public these last two days, at least one thing is clear. The President has weighed the merits of either getting the government out of the energy business or getting it more deeply in. He has chosen to get it further in, on a massive, almost unbelievable scale. The real Jimmy Carter has finally stood up, on the far left of the Democratic Party.

There'll be a new government "Energy Security Corp." to siphon $140 billion in "windfall profits" from the oil companies over the next 10 years. That would pretty much eliminate oil profits of any kind. While the oil companies quietly pass out of business, the ESC would squander this money on expensive and technologically risky forms of energy.

There'll be an Energy Mobilization Board to ride roughshod over normal legal processes, except maybe those that are mainly responsible for retarding energy development the environmental laws, for example.

There'll be a new army of government inspectors souring the country, levying $10,000 fines on any hapless building operator whose thermostats are showing something less than 78 degrees. Electric utilities will be "made" to switch out of oil—as if they themselves, and not the government, are to blame for their not doing that.

There'll be a federal "Solar Bank" finally to capture the elusive riches of solar power. The President will set conservation goals for states, import quotas for the nation, etc.

In short, Mr. Carter has reacted to the public's low opinion of his administration by "getting tough" and proposing a further suspension of private freedoms. He justifies this on grounds that it is the American people, not his administration and the Congress, who deserve the blame for our economic problems. He summons up the memory of Franklin Roosevelt as he casts himself in the role of a President leading the country out of awful crisis; except where FDR confronted Depression and poverty, Mr. Carter seems to find his crisis in excessive affluence:

"Too many of us now tend to worship self-indulgence and consumption . . . we have learned that piling up material goods cannot fill the emptiness of lives which have no confidence or purpose . . . the symptoms of this crisis of the American spirit are all around us: two-thirds of our people do not even vote, the productivity of American workers is actually dropping and the willingness of Americans to save for the future has fallen below that of all other people in the Western world . . . there is a growing disrespect for government and for churches and for schools, the news media and other institutions. . . ."

Quite an indictment. It is the kind of indictment clergymen use to lash their congregations with on Sunday mornings and it is appropriate in that setting of spiritual redemption. But it is highly inappropriate coming from the man who is supposed to be managing the affairs of the United States government. The two key problems that provoked this rhetorical outburst—inflation and gasoline lines—are clearly and directly attributable to the policies of the Carter administration.

The gasoline lines are caused by the government's refusal to remove price controls, and hence supply allocations. Given the enormous economic inefficiencies that have resulted from this refusal, it now seems clear that prices of gasoline would fall, not rise further, after decontrol. Other forms of government intervention—energy use regulation and draconian environmental rules, in particular—have added to the dislocations and inefficiencies. It doesn't take a $140 billion government program to solve the energy problem; the problem would evaporate if the government would simply get out of energy.

As to those other problems of the American "spirit," low savings and productivity and low confidence in institutions—the main cause is inflation. Why should anyone have confidence in a government that can't balance its budget or run a stable monetary policy? Or why should they save the money it prints?

Now, it seems, it will be necessary to print still more money, and generate still more inflation, to finance the latest grandiose schemes dreamed up by the statists who hold the President in their grip. They are in the saddle and they are exultant about the President's vigorous showmanship Sunday night and Monday. The only trouble is that the policies he has proposed will only get the country into a deeper tangle. And next year, the voters will have a chance to decide which side they're on—or at least so we hope.

From Homily to Demagogy

For about five minutes Sunday night, President Carter's rhetorical offensive struck the right note. The appeal to American confidence and the attack on the isolation of the federal government recalled the best of the grass-roots campaign that brought this political unknown to the White House. But just 12 hours later, in his Kansas City speech to the National Association of Counties, the President reverted to the dark side of grass-roots rhetoric. Instead of providing "honest answers" and "clear leadership," he sought to obscure the true causes of the current energy debacle with some old-fashioned populist scape-goating.

This tactic was signaled Sunday in the untrue statement that our excessive dependence on OPEC "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline." OPEC can be attacked for high prices, but the one thing this cartel has not been able to enforce are production cutbacks by its members. The current shortfall in world oil production comes directly from a revolution in Iran, in which U.S. foreign policy played a considerably larger role than OPEC decisions. But even this shortfall wouldn't have caused the gas lines, as it didn't in most of Europe, were it not for the massive market distortions of the federal price control and allocation systems. But it's far easier to attack dark-skinned foreigners, along the lines of the famous Eizenstat memo, than to admit the one's own policies and administrators have failed.

The Kansas City speech broadened the rhetorical offensive. "The oil companies must cooperate!" Mr. Carter declared. "We will bring the full force of the law to bear on those who profiteer . . . or who try to cheat the American public." Six hundred auditors will be deployed to keep refiners and oil dealers in line. Energy statistics will be checked and rechecked.

The President must know that auditors don't drill oil wells and that collecting figures on energy reserves doesn't create energy reserves. But government policies can depress production and keep drilling rigs idle. When these policies go wrong, as they have to an awesome extent, it's easy and popular to shift the blame to the refiner unwilling to produce unleaded gasoline at a loss or the wildcatter so confused by new natural gas legislation that he suspends drilling.

But even these scapegoats may not be enough. Say President Carter raises $140 billion to develop uneconomic fuels through a "strong permanent windfall profits tax" on the supposed bonanza from a price decontrol which now seems indefinitely postponed. And suppose that through his "shuffling allocations," the gas lines and disruptions broaden. Then who will he blame for the grumbling and dissatisfaction?

Since Americans are not at all demoralized and corrupt, they will respond to President Carter's challenge with more enthusiasm than his policies deserve. Throughout history, the call to war has been the easy way to gain public support. But the public has the right to demand that the war strategy be sound, that the generals know their business, and that they are fighting the right enemies. When the first flush of support dies down, it will become clear that President Carter's strategy for energy war will produce disasters that no amount of demagogy can conceal.

The Carter Speech: Nothing New . . .

(By Lindley H. Clark, Jr.)

Jimmy Carter was clear and forceful. There were none of those odd pauses in the middle of sentences, none of the hesitancy that has marred other presentations. It was, without doubt, his best television performance.

It's too bad he found nothing worthwhile to say.

On Sunday night he told the nation that its economic and energy problems were the fault of the Organization of Petroleum Exporting Countries. "This," he said, with a perfectly straight face, "is the direct cause of the long lines that have made millions of you spend aggravating hours waiting for gasoline. It's a cause of the increased inflation and unemployment that we now face."

He didn't explain how OPEC could so neatly have arranged for gasoline lines in New York and Washington and none in the Midwest. There was no hint that a congressionally mandated allocations system could have played a part in the mess. Nor did

Mr. Carter suggest that big budget deficits and expansive monetary policy could have had something to do with the inflation.

Instead he urged more government to attack the problems fundamentally caused by too much government. It was ever thus.

Last week I talked with William E. Simon, who served as Treasury Secretary from 1974 to 1977 and before that spent several uneasy months in the midst of Energy Crisis I.

Mr. Simon set down his thoughts on energy in his best-selling book "A Time for Truth" (Reader's Digest Press). He feels that matters were badly mishandled under a Republican administration and that things haven't gotten any better under Mr. Carter.

LOSS OF CONFIDENCE

"This fellow in the White House is a bigger disaster than even his worst detractors said," Mr. Simon commented. "He has lost confidence in himself. Travelling around the world, talking with former colleagues, government officials and businessmen, it's embarrassing. This man is held in contempt."

Mr. Simon's energy plan is simple enough: "The U.S. is blessed with a superabundance of natural resources and technology. We should use that technology to achieve energy self-sufficiency. We should exercise the leadership that would persuade OPEC to moderate its prices. All the pieces are there; the only reason the right things aren't done is politics."

The former Treasury Secretary would like to see the Energy Department abolished, but he isn't optimistic. In his book he recalls the time when the Federal Energy Administration, the ancestor of the Energy Department, was scheduled to go out of existence. A newspaper reporter called him at the Treasury and asked what he thought of extending the life of the FEA:

"I exclaimed, 'Extend its life! That place is a menace. It's strangling the energy industry at the very time when we need production. It should be wiped out of existence.' . . . But that day I learned that President Ford had already decided to extend the life of this bureaucratic abortion."

Republicans tend to oppose regulation firmly—unless they're doing the regulating. What they forget, Mr. Simon warns, is that Republicans go out of office and their sins sometimes linger on behind them.

One Republican sin that didn't get anywhere, fortunately, was Nelson Rockefeller's $100 billion energy corporation that would have lent money to private industry to develop new fuel technologies. Mr. Carter's energy subsidy scheme differs from the Rockefeller-Ford boondoggle in detail but not in substance, so Mr. Simon's comments on the earlier incarnation are appropriate:

"Even with taxation and inflation set aside," he wrote, "there is no conceivable justification for the government to subsidize a massive construction program for an industry that the same government has actively prevented from functioning. If the energy industries are simply freed from their regulatory bondage and are allowed to function sanely, they will pay for their own expansion out of their own profits.

"That is free enterprise, and in the entire history of mankind nothing has ever served better as a 'catalyst and stimulant' to invention and innovation than the profit system. That system will quickly bring about the increased production necessary for self-sufficiency. There is time, using fossil fuels alone, the resources yet to be discovered . . . and nuclear energy for the energy industries to devise synthetic fuels and new technologies like solar, geothermal and tidal energy."

Ralph Nader, the self-appointed consumer spokesman, found only one flaw in Mr. Carter's speech; no specific attack on nuclear energy. Nuclear power does entail risks, as the accident at Pennsylvania's Three Mile Island plant has emphasized.

"Three Mile Island hasn't changed the need for nuclear energy," Mr. Simon says. "Some people talk as though we should have a government that removes all risks. Nothing is risk-free, but we should minimize the risk." He calls for frequent inspections and safety checks.

ENERGY MOBILIZATION BOARD

One of the more touching aspects of Mr. Carter's speech was the proposal to create an energy mobilization board which "like the War Production Board in World War II," would have the responsibility and authority to "cut through red tape, the delay and the endless roadblocks to completing key energy projects."

The first question that sparks is whether Mr. Carter (or his writers) bothered to read the history of World War II and WPB. War production got rolling in spite of the WPB and its competing agencies, not because of them.

Donald Nelson, the Sears executive who headed WPB, tried hard to gear the nation for war. But for some time he was still surrounded by conflicting agencies. He found it impossible to strictly control priorities or to prevent expansion of production in unneeded directions.

The second question is whether Mr. Carter or anyone else considered the fact that the best way to deal with the red tape and delays would be to eliminate or drastically cut the governmental regulations that are the root of the problem. That would free a few regulators (and an entire energy mobilization board) for more productive tasks.

In Washington, of course, things don't work that way. As Mr. Simon says, "People spend hours down there figuring out the best way for the government to do things that it shouldn't be doing in the first place. The regulator system has gotten completely out of control. No matter how well-intentioned the administration may be, it won't be able to persuade the regulators to behave any differently."

All in all, it seems that 10 days on the mountain at Camp David did not produce much. The New York Times noted that one of the television programs canceled for the Sunday night speech was an episode of "Moses the Lawgiver" in which Moses comes down from the mountain with the Ten Commandments.

Mr. Carter is out of his league.

. . . AND A MISLEADING OF THE NATION'S 'SOUL'

(By Roger Ricklefs)

Dear President Carter:

That was a remarkable speech Sunday night, but I wonder if you're missing the point, Mr. President, we're not out of confidence, we're out of gas.

You have taken a hard and long look at a national problem and found exactly what one might expect of a man who doesn't actually sit in gas lines himself—a spiritual crisis. But it that what is really happening?

You say that the gap beween the citizens and Washington has never been so wide, and perhaps you are right. But now you have taken this a step further and defined the country's energy problem not merely in Washington's terms, but in your own.

You roam America in your Boeing 707 and helicopter seeking insight into the nation's soul. But all the while, the voter wanders America in his Chevrolet Impala seeking only a green flag and a little unleaded.

You asked in your speech, "Why have we not been able to get together as a nation to resolve our serious energy problem?" Perhaps the reason is that almost nobody sees this as quite the religious crusade that it seems to you. You may tie it all in with the decline of the family and self-indulgence, but to many of us, it has more to do with prosaic old supply and demand. Obviously, the energy crisis is a critical problem, but it's a problem to be solved, the stuff of normal life rather than a symptom of spiritual crisis. Perhaps we can say it is the moral equivalent of some wars, but it somehow doesn't measure up to Iwo Jima and Guadalcanal.

A Southern governor you quote told you, "Mr. President, you're not leading this nation, you're managing the government." The fact is, though, that an awfully big crowd of non-governors would happily settle for a little more effective managing of the government.

This isn't because people like to think small, but because they suspect your broader leadership might address problems that are a bit overblown in your mind and not quite central to their lives.

For instance, you worry that we are losing our confidence as a nation, and undoubtedly there is a fair bit of truth here. But perhaps what we've mainly lost is our *overconfidence*. The "confidence" of the 1960s that we have lost is what made smart people pay 40 times earnings for "concept" stocks and delude themselves that we could never lose a war.

Perhaps people today feel that the unusual combination of happy circumstances in the year after World War II, including ludicrously cheap energy, is ending. Today, people see that there are limits. They've learned that you never really solve your problems; at best, you only trade them in for problems you like better. Some goals you achieve, while others you don't quite meet. But is this a spiritual crisis or simply a rational adjustment to reality?

What is happening is that we increasingly realize we are in the same boat as other countries. For instance, much is made of our growing dependence on foreign oil as some sort of sign of national collapse. Certainly, most of us are willing to sacrifice to reduce this dependence, as well we should.

But let us keep this in perspective. These days, ironically, a degree of dependence goes hand in hand with a high standard of living. Before two car families came into vogue, this country exported oil. But everybody else is in the same situation. If Russians are willing to eat potatos and cabbage, they don't need us for grain. But if the Soviet leaders want to put meat on the dinner tables of Leningrad and Minsk, they will have to get the grain to feed the cattle from us, their most powerful adversary.

While we depend on Saudi Arabia for oil, that underpopulated vast nation, surrounded by hostile states, depends on us for military security. We must import some of our oil, but Japan must import it all. Without trade, Britain goes hungry. Yet people adjust. Britain may strive to improve its agriculture, but it doesn't feel a spiritual collapse just because oranges don't grow there.

But what seemed the most far-fetched was your effort to link the energy crisis to the decline of the "strong families, close-knit communities and faith in God" of yesteryear. Mr. President, in the real world, the main connection between declining gasoline supplies and rising divorce rates is that a divorced couple is more likely to own two cars. One person may spend the weekend in church while another spends it in a disco. It's hard to tell which contributes more to the energy crisis.

If millions of people aren't living the way you would like, perhaps it is because they don't want to. Grandma hasn't moved out of the family homestead because she is suffering from a spiritual collapse. She's done it because nowadays she can afford her own pad.

Mr. President, a great many of us respect your religious and social views even if we don't subscribe to them ourselves. Some people may look to you for spiritual awakening. But more people look to you for heating oil.

One of the great joys of living in countries like ours is that people can live their lives as they see fit without taking their cues from the leader's social and religious views. Some people like to party, and some people like to teach Sunday school. What nobody likes is setting the thermostat at 78 degrees.●

THE DEVELOPMENT OF THE PORT OF PORTLAND

● Mr. HATFIELD. Mr. President I would like to call the attention of the Senate to the further development of the Port of Portland through the locally funded $84 million Swan Island Ship Repair Yard expansion program. This project is an excellent example of what can be accomplished when private and public enterprise, with support from public citizens, work together.

On May 19, 1979, 20,000 Portland area citizens helped the Port of Portland dedicate its $84 million ship repair yard expansion program. The event was billed as "People's Day" because the program was made possible by tri-county citizens without Federal assistance. The dedication was the featured attraction of Oregon's celebration of National Transportation Week.

In his dedicatory remarks, Mr. Ken Lewis, president of the Port Commission, said:

> And we have the future with us today in all the boys and girls and young men and women who have joined us for the celebration. We're especially pleased you're here because we want you, your youth, to share our plans until the day when you can help this community shape them. You are the future of Oregon, and we want you to know what we're doing here.

Lewis announced that the $84 million bond issue which the greater Portland area citizens had approved in 1976 to fund the expansion would be off the tax rolls next November, 3 years ahead of schedule:

> And let me tell you, that's a real cause for celebration. At a time when our people are skeptical of cost overruns—we are proud of our cost underrun.

Under the expansion project, the port's 982-foot floating dry dock 4 was constructed. Dry dock 4 is the largest floating dry dock on the west coast. This project also provides the port with six huge whirley cranes, a 3,000-foot finger pier and outfitting berths to serve the new dry dock. A $4.6 million ballast water treatment plant, capable of pumping 1,000 barrels an hour and storing 156,000 barrels, was constructed under the project. The treatment plant turns ships' oily waste into purified water, that is returned to the river, and reclaims oil which is sold.

These public facilities are rented by three ship repair companies:

Northwest Marine Iron Works; Dillingham Ship Repair; and Willamette Iron & Steel Co. The companies are aided by the Port of Portland with advertising and targeted direct mail marketing programs to ship owners and others in the trade. But the private companies must bid the ship repair jobs. It is anticipated that the new facilities will increase Portland's share of the west coast ship repair market from about 30 to 50 percent.

The public facilities were completed at a cost of $64 million, approximately $20 million under the proposed budget. The reasons attributed to the savings are threefold: low bids; bond monies had been wisely invested and had earned additional money; and ship repair business was following the port feasibility study. The $20 million dollars are placed in a debt service reserve fund composed of 30 year bonds which will be used to cover the facilities upkeep.●

PRESIDENTIAL STUDY OF THE MANPOWER NEEDS OF THE ARMED FORCES

● Mr. DOLE. Mr. President, on June 18 I introduced a bill, S. 1354, calling for a presidential study of the military manpower needs of the Armed Forces. This bill directs the President to report to the Congress within 120 days of its enactment the following:

First. The current ability of the Selective Service to provide the personnel needed by the Armed Forces in the event of a national emergency.

Second. The capability of the Armed Forces to provide the training, housing, equipment, and so forth, required in a national emergency.

Third. Recommendations on legislation deemed necessary to provide the United States with an adequate and effective mobilization capability.

Last Thursday the Washington Post contained an excellent piece by Martin Binkin, senior fellow in the foreign policy studies program at the Brookings Institution, advising that the Congress proceed with caution on the issue of draft registration.

Mr. President, I request that Mr. Binkin's remarks be printed in the Record following my own.

The remarks follow:

Peacetime Registration: Proceed With Caution

(By Martin Binkin)

The military registration debate is reaching the floors of Congress. On the House side, a proposal tacked onto the defense authorization bill would require the president to begin registration of 18-year-old males in January 1981. In the Senate, the Armed Services Committee proposes the registration of males 18 through 26 to begin no later than January 1980.

Thus far, the issue has been inappropriately linked to the question of whether or not the volunteer army is working. This has happened largely because the strongest advocates for peacetime registration and the sharpest critics of volunteer forces are one and the same. As a result, many oppose registration for fear that it is but a first step in a conspiracy to return to the draft. It is important the Congress move out of the line of this emotional cross fire and consider the issue on its merits.

Registration was terminated by President Ford in 1975, a decision taken largely in the interest of economy but no doubt influenced by the view that a conventional war would not last long enough for mobilization to matter and, even if it did, reservists could fill the breach until the Selective Service System could be reconstituted and begin to deliver fresh recruits.

But a recent reassessment of the demands of an intense conventional conflict coupled with problems in manning the reserve forces have raised fears that the U.S. Army would run short of combat troops should the forces of NATO and the Warsaw Pack square off in a replay of World War II. As matters stand, the nation's Selective Service machinery, which is now "deep standby," could not deliver the first inductees to Army boot camps until some 110 days after a decision to mobilize. Allowing for training and travel, this would mean that the first replacements would not reach the battlefield until at least 200 days after mobilization, which many now consider to be too late to make a difference.

The Carter administration wants to speed up the process; as a first step, it has proposed increased funding for fiscal year 1979 and 1980 to improve the computer capabilities of Selective Service and to increase the size of its full-time staff from about 100 to 150. The administration contends that its modernized system would ultimately be able to deliver the first recruits within 30 days, in which case combat replacements would be available as early as 115 days after mobilization—considered by the Pentagon to be soon enough to fill out new units and replace combat casualties. Moreover—and this is important—the administration claims that this schedule would be met *without* preregistration.

But not everyone agrees. Critics question the feasibility of meeting such a tight schedule, even by a streamlined system. They discount the prospects for registering up to 6 million youths, storing the data on computers at regional sites, notifying inductees to report, giving physical examinations and beginning actual inductions—all within 30 days. Instead, they argue, peacetime registration would give Selective Service a leg up, virtually ensuring that the 30-day timetable could be met, with some proponents claiming that inductions could start within 12 days.

To resolve the issue, Congress should address two questions: To what extent is an enhanced mobilization capability necessary to the nation's security? Is peacetime registration necessary to achieve it?

To answer the first, Congress will have to sort out conflicting testimony of expert witnesses who have expressed widely divergent views of the number of troops that would have to be mustered in an emergency, how soon they would be needed and how best to raise them. Much depends on the validity of assumptions regarding the amount of warning time before hostilities commence, the duration and intensity of conflict, casualty rates and other factors over which there is wide disagreement. Whether the military could train, equip and deploy large numbers of recruits even if they were available is also open to question.

Should analysis lead to the conclusion that an accelerated induction schedule is a good idea, it is still far from clear that peacetime registration is necessary to accomplish it. Claims that the administration's proposed improvements will be enough to revise the Selective Service System should invite a healthy measure of skepticism, but so too should the claims that a failure to endorse peace time registration would pose an undue risk to U.S. national security.

This is all to say that too many questions are unanswered and, until they are fully revolved, reinstituting peacetime registration—an act that would be sure to reopen old wounds—would be premature. Indeed, the debate should not proceed to a legislative conclusion on the basis of the incomplete, conflicting and often emotional arguments presented so far.

Rather, it would seem prudent for Congress to go along with proposals to beef up Selective Service, which needs to be done in any event, and give the administration some time to iron out the technical problems that are bothering the skeptics. In the meantime, Congress should press the White House for a comprehensive, coordinated and coherent standby draft policy and legislative proposals to underpin it. This will also give all parties time to do their home work on other critical questions that have been left hanging: Should women register? What form should registration take? Face-to-face at draft boards? By postcard mail-in? Or passively, by tapping existing government files? How is compliance to be enforced and what penalties will be imposed for failure to comply?

Once answers are in hand, Congress will be in a better position to make the rational and careful analysis that an issue with such important social and national-security implications deserves.●

MUSKIE-BAKER AMENDMENT TO THE EXPORT ADMINISTRATION ACT

● Mr. COHEN. Mr. President, on Saturday, the Senate considered the Muskie-Baker amendment to the Export Administration Act of 1979. I want to express my regret that, as a cosponsor of the amendment, I was unable to be here to take part in the debate on this measure.

As it happened, I had an engagement of long-standing in my home State, a commitment I felt bound to honor. I had discussed this situation with my colleagues in the hope that the measure could be carried over until Monday. Indeed, when I left for Maine, I did so fully expecting that the Muskie-Baker amendment would be delayed until today. Apparently, however, the distinguished managers of the amendment felt that conditions warranted going forward with consideration of the amendment on Saturday. I certainly respect this judgment; my only regret is that I was unable to be here to vote in favor of this important measure.

This amendment was a reasonable solution to an otherwise intractable problem which threatens the entire American leather industry. The circumstances which prompted the amendment are familiar to us all. For more than a year, hide prices have been spiralling beyond reason. The dramatic rise in prices has been caused by many factors, but two are salient. The first is the unprecedented increase in world demands for hides. Foreign purchasers are buying hides in great numbers and consequently reducing the number of hides available for domestic consumption. So great has been the demand that it is estimated our native leather industry will be left with only half the hides it normally requires to operate.

Second, all other major hide producers, such as Brazil and Argentina, severely restrict the export of their hides. Those countries prefer to keep their hides at home and protect those industries which are dependent on them. These restrictions have resulted in the anomolous situation of the United States, which produces about 15 percent of the world's hides, accounting for more than 75 percent of the world's market. In March, April, and May of this year, an astonishing 83 percent of our domestic hides were sent abroad, leaving the American leather industry to make do with the meager remains.

Caught between rocketing hides prices and dwindling availability of hides, the American leather industry has been forced to cut back its operations drastically. In Maine alone hundreds of workers have been laid off, many more are working shortened hours, and all fear for their jobs.

The amendment which the Senate considered on Saturday was not, as was asserted, against free trade. It was, rather, a move to restore fair trade to the international hide market. It was not the blanket prohibition against hide exports that other hide-producing countries have enacted. It merely set a limit—a temporary limit on the number of hides which may be exported to insure that sufficient supplies are available to our domestic leather industry. The question which the amendment posed, then, was quite simple. It was whether we were willing to risk the permanent loss of an industry which provides over 400,000 jobs nationwide to preserve a passing condition of the international marketplace.

I intend to continue to work closely with the distinguished Senator from Maine and the distinguished Senator from Tennessee in the effort to secure passage of legislation to control the export of American hides to protect the industry and American jobs.●

THE 50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER TO BE THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, Herbert Hoover remained a controversial figure long after his Presidency ended in March 1933. He was active in party politics for several years and, in fact, sought the Republican Presidential nomination in 1936. His ambition to regain the Presidency and his harsh and outspoken criticism of President Roosevelt's domestic and foreign policies, made him an unpopular man in many circles. It was not until the United States entered World War II that he began to come within the public's good graces again, and his role began to be viewed as a constructive one.

Donald R. McCoy, distinguished professor of history at the University of Kansas, has written an essay entitled "Herbert Hoover and Foreign Policy, 1939–1945," which discusses Hoover's foreign policy views, recommendations, and influence in that period when he turned the corner to acceptability again. I submit the essay, Mr. President, as part of a series of essays I received, to commemorate the fiftieth anniversary of the inauguration of Hoover in 1929 as our 31st President.

In the 3 years preceding the attack on Pearl Harbor, Hoover assaulted the foreign policies of President Roosevelt, which in his view were leading the United States into the war, step by step. In 1939, he labeled that conflict in Europe a "senseless war," and argued that this country should stay out of it. He saw the United States, undamaged by war, as the only force which could "from our strength heal many wounds of war. We can aid the starving, succor the distressed and care for the innocent."

He continued his opposition to the U.S. involvement in the war through the June 1941 Nazi attack on Russia. He argued that if the United States entered the war "and we win, then we have won for Stalin the grip of communism on Russia and more opportunity for it to extend in the world." He also antagonized the British Government by pressing a plan to aid the 30,000,000 people in the conquered European nations who were threatened with famine. Churchill feared the Axis powers would only use the aid to their own advantage.

All of this changed with the entry of the United States into the war after the attack on Pearl Harbor. For the sake of national unity, Hoover adopted the high road in setting forth his proposals, and the resulting perception of him as an elder statesman was to remain with him throughout the rest of his lifetime. Nearing 70, Hoover continued to actively comment and propose, concentrating on the problems of a postwar world, and ideas which he felt could lead to a lasting peace. Professor McCoy details these ideas in his fine essay.

Mr. President, I request that Professor McCoy's essay, and a brief biographical sketch of the author, be printed in the Record at the conclusion of my remarks.

The material follows:

Biographic Sketch of Donald R. McCoy

EDUCATION

BA, University of Denver, 1949, MA, University of Chicago Ph. D. (Hist.), American University, 1954.

PROFESSIONAL EXPERIENCE

Archivist, National Archives, 1951–52; Instructor to Associate Professor of History, State University of New York College, 1952–57; Assistant Professor to Professor, 1957–75, University Distinguished Professor of History, University of Kansas, 1974–.

PUBLICATIONS

Angry Voices: Left-of-Center Movements in the New Deal Era, University of Kansas, 1958; Co-author, Readings in 20th Century American History, Macmillan, 1963; Landon of Kansas, University of Nebraska, 1966; Calvin Coolidge: The Quiet President, Macmillan, 1967; Coming of Age: America During the 1920s and 1930s, Penguin, 1973; Co-author, Quest and Response: Minority Rights and the Truman Administration, University of Kansas, 1973.

Herbert Hoover and Foreign Policy, 1939–1945

(By Donald R. McCoy)

When Herbert Hoover left the White House in March 1933, he left as American's scapegoat for the coming of the greatest economic crisis in its history. Not only did Democrats and other opposition groups condemn him politically, but he was discredited even among large numbers of his fellow Republicans. Not until World War II would his name generally stand for anything except economic depression and political reaction. This situation stemmed only in part from his inability as President to turn the tide of depression and to provide adequate relief to needy Americans. It was aggravated by the eagerness of many Democrats to wage oratorical battle against him and by the struggle by many Republicans to keep him from power in their party. Moreover, Hoover himself refused to let memories fade, as his outspokenness, often bitter, invited continued severe criticism. Repeatedly, the former President lashed out at the Franklin D. Roosevelt Administration. Constantly, he defended the record and ideas of his own administration. Hoover's manipulatory efforts to gain renomination for President in 1936 was taken as a proclamation that he alone was fully qualified to determine the Republican party's and the nation's policies. Then too, his extremist contributions to the Republican election campaign that year and his struggle during the next several years against the 1936 presidential nominee, Alfred M. Landon, for leadership of the party created new controversies among Republicans.

By 1939 Hoover seemed to have confirmed the worst that his vast range of adversaries said of him. There were few who called him "Chief," and many of them were hailing him as much out of fear of his tongue as from respect for his qualities. Yet, he would live to see himself often honored as an outstanding American by Democrats as well as Republicans. The beginning of this change was to come during World War II, and the bases for it then were his activities and developing thought in the area of foreign policy and the fact that, as a former President, Hoover could not be ignored.

His reaction to the start of the war in Europe was founded upon ideas he had long held. On September 1, 1939, Hoover told a national radio audience that this was a "senseless war" which would lead to the slaughter and starvation of millions of people. Because he thought that England and France could defend themselves and that the United States was unable to solve the problems of Europe, he declared that "America must keep out of this war." Thereby the nation could preserve its "vitality and strength" for the encouragement of democracy and freedom abroad after the war. In the weeks to come, the former President supplemented this basic message. He extended his heartfelt sympathy to Poland after its partition by German and Russian aggressors, saying "Poland will not die." On October 16, he told the press that the United States should permit the sale abroad of defensive weapons, such as anti-aircraft guns and pursuit planes.

Also by October Hoover had formulated a five-point program for the United States that could ensure it would not be dragged into the war and would be in a position to help mankind in the future. As he wrote in the Saturday Evening Post:

"First. We can strengthen our Army and Navy to a point where no soldier dare land on the Western Hemisphere. . . .

"Second. We can put our own house in order. We can demonstrate that self-governing, free people can solve the problems imposed by the industrial revolution. . . .

"Third. We can thus make a demonstration on this continent that true liberalism is not dead. . . . We can prove that the hope of humanity lies not in killing or regimenting men but in preserving them and in enlarging their lives.

"Fourth. We can from our strength again heal many wounds of war. We can aid the starving, succor the distressed, and care for the innocent.

"Fifth. We can aid those who sit at the peace table, not by entanglement but by counsel to mitigate malignance. We can, as President Wilson did in 1919, secure some justice, some freedom, some hope to the world."

The implications of this program for an understanding of Hoover are tremendous. Although Woodrow Wilson had obivously influenced him, it was also plain that Hoover had developed reservations that Americans had to learn to live with "obnoxious" ideologies elsewhere, even in Germany and Russia, and that the United States, for all its resources, could contribute only a "small portion to the salvation of mankind." Yet, if that was a reflection of what he considered realism, his idealism was unfettered that Americans could, within their own land, solve the problems brought by the industrial revolution. There was also the clear suggestion of what would a decade later be called "Fortress America" as a way to keep the nation from becoming an aggressor and from being invaded. Moreover, there was the reemergence of Hoover as a humanitarian. Altogether these ideas commanded a sympathetic audience in 1939 and 1940, for few Americans then wanted to go to war, while almost all of them wanted to be of some assistance to agonized Europe.

These themes dominated Hoover's thinking and action on foreign policy until the Japanese attack on Pearl Harbor. Yet, his rise to political respectability was limited. This was partly because he once more sought the Republican nomination for President. Again his ways were shadowy, and the very fact that he considered himself a candidate in 1940 was enough to raise old issues and fears against himself. Through Herbert W. Clark he worked to control the California delegation; he also hired Ross Lee Laird to campaign elsewhere in the West of uninstructed delegates. Hoover was not openly proclaimed as a candidate for the Republican nomination. The fact, however, that his aides mentioned all other contenders slightingly and that they often wrote of who favored Hoover, leaves the unescapable conclusion that he thirsted for the nomination and for reoccupancy of the White House. Of course, he was denied. If Hoover and his small band of loyalists could not understand that he was still anathema to the majority of Americans, the delegates to the 1940 Republican National Convention did.

Hoover's participation in the 1940 election campaign was not as jarring as it had been four years earlier. If he offended few Republicans, however, many independents and most Democrats saw him as being the same old Hoover. This was largely because of his harsh criticism of the New Deal. Among other things, he excoriated it for "stabilizing depression," "stirring class hate," "a sinister build-up of personal power in this Republic," and "a pronounced odor of totalitarian government." He had the right to say it, but for his own sake he was the wrong man to do so. His comments on foreign policy during most of the campaign were, however, another matter. Condemnation of the Soviet Union, especially for its invasions of Poland and Finland, and the calls to keep out of war and to intensify defense preparations were in fashion among Americans in 1940. Hoover's criticism of the Roosevelt Administration regarding foreign affairs did little to tarnish whatever respectability he had gained. Yet, he would soon again became a national ogre par excellence, even in his area of discussion.

Perhaps Hoover's recasting as one of America's prime political scapegoats was connected with the tactics he used in his fight to provide relief to war-stricken peoples. He had been, of course, the outstanding figure in war relief work during and immediately after World War I. Therefore, it is understandable that ravaged countries looked to him to perform similar services during the Second World War. The appeals arrived quickly, first from Poland, then from Finland, the Low Countries, and Norway. Hoover's first action was to ask the American Red Cross to assume the task of war relief, so that there would be a single coordinated management of it by an established organization. The Red Cross, however, decided to restrict itself to rendering medical aid, so Hoover and his comrades in the old American Relief Administration took up the burden of general assistance through a series of interrelated organizations. Using funds raised in the United States and those provided by governments in exile, they did a substantial job at first in providing food and clothing to those in need.

The tide turned, however, a few months after Winston Churchill was elevated to the prime ministership in Great Britain. Churchill announced on August 20, 1940, that his government could not risk the possibility the Axis powers would use relief materials to their own advantage in the war. Therefore, the British tightened their blockade of Europe, which brought war relief efforts almost to a standstill. This led to a series of negotiations between Hoover's relief forces and the British government and its supporters in the United States. Initially, Hoover and his associates refrained from answering Churchill's August 20 statement, for fear that their response would be taken as a part of American election campaign politics. The attacks on the war relief group, however, became so heavy that the former President decided he had to say something. On October 6 he stated that no one among the war relief advocates wanted to hurt the British cause or to deplete American resources. Their goal was to find a way acceptable to all concerned, including the British government, that would permit the provision of relief to the 30,000,000 people in conquered nations who were threatened with famine. This reasonable statement only led to increased vituperation against Hoover and his associates, who themselves occasionally became immoderate in return. This struggle continued until the Japanese attack on Pearl Harbor, when the war relief forces concluded that they stood no chance of success in changing the minds of officials who wanted a complete blockade of enemy and enemy-occupied lands.

If Herbert Hoover's comments on domestic matters in 1940 and possibly his work on behalf of war relief kept him from returning completely from the gray areas of American politics, his strident remarks between October 1940 and December 1941 on general foreign policy thrust him completely from the realm of respectability as far as many Americans were concerned. It was because of this that he would get the reputation of being a so-called isolationist. The kick-off for this was his speech in Lincoln, Nebraska, October 31, 1940. In his foreign policy statements over the years, he had rarely criticized Franklin D. Roosevelt publicly. Now that changed as Hoover assailed the President for inadequate national defense preparations, for engaging in power politics, and for "creating war psychosis and hysteria." He summarized Roosevelt's record as containing "hardly one act which has substantially contributed to our peace with the world. There are hundreds of acts which tend to drag us toward this war." He declared that the engagement of the United States in the war would not only impair the nation's ability later on to bind up wounds and to promote democracy abroad, but would result in creating a "dictatorship at home."

President Roosevelt's request to Congress in January for unlimited authority to lend or to lease materials to peoples resisting Nazi aggression triggered the intense foreign policy debate of 1941 in the United States. Hoover joined with men and women from a variety of political groups to oppose this proposition. He saw no reason for Congress to abdicate its powers to the President; this had not been done in 1917–1918, nor had anything like it happened in besieged Britain in either of the two world wars. Although he favored extending substantial aid to the British, he urged the lawmakers to respond to Roosevelt's plan by drafting "in to the bill positive definitions of what [lend-lease] powers are and [to] specifically exclude what they are not." Such restrictions would permit effective assistance to Great Britain without risking the possibility that the President would undercut America's defense preparations, invite "much controversy and bitterness" at home, and even plunge the nation into war.

Congress did not heed Hoover and the other opponents of lend-lease, for in March 1941 it enacted legislation which included unprecedented powers for the chief executive. As the former President had predicted, one of the results was extreme controversy. The attacks of government officials on anti-interventionists as well as the refusal of authorities in some cities to permit critics of President Roosevelt to speak at public meetings were viewed by many as an attempt to gag freedom of speech. Republicans scored Roosevelt's foxiness in discussing foreign policy issues and his reluctance to act through Congress. They also charged that the administration was failing to develop adequate defenses for the country and was mismanaging whatever preparations were being made. Most important, however, was their belief that the administration was edging the nation into a position where it would have to fight.

Hoover was deeply involved in these bitter controversies, and while his activities raised the darkest suspicions of the President's supporters towards him, they did allow him to make or renew friendships with many who had drifted away from Roosevelt. Although Hoover usually acted by himself in opposing the administration, he spoke, quite vigorously, what the sizable number of Roosevelt's critics thought. In addition, the former President encouraged the America First Committee, one of the most extreme of Roosevelt's opponents. Although Hoover repeatedly endorsed giving aid to Britain, he condemned the folly of hysterically urging the need to go to war against ideological enemies. Wisdom indicated instead that every effort should be made to keep America out of war, for the nation was "the only remaining sanctuary of freedom, the last oasis of civilization and the last reserve of moral and economic strength."

Hoover, however, had no "expectation," as he told one associate, "of stopping the American people from going to war or to stop them from making a mess out of peace. . . . I am, however, going to die with my conscience alive." Indeed, as he wrote former Agriculture Secretary Arthur M. Hyde, he anticipated that America would be "into the shooting stage" by July. He added, "we are backing into this war through a series of intellectual dishonesties. But so long as the people like to be fooled . . . I do not see what an isolated voice in the wilderness can do."

His voice, however, was not stilled. After Russia came into the war in June 1941, he argued in an address that if America joined the Allies "and we win, then we have won for Stalin the grip of Communism on Russia and more opportunity for it to extend in the world. We should at least cease to tell our sons that they would be giving their lives to restore democracy and freedom to the world." Hoover soon went one step further, joining with his erstwhile intraparty foe, Alfred M. Landon, and educators Robert M. Hutchins and Felix Morley in drafting an anti-war statement to be issued by worthies from various walks of life. The statement, which was released August 5, called upon Congress to "put a stop to step-by-step projection of the United States into undeclared war." It was asserted that the administration of the Lend-Lease Act had exceeded legislative intent, having been "followed by naval action, by military occupation of bases outside the Western Hemisphere, by promise of unauthorized aid to Russia and by other belligerent moves." The statement added, "The hope of civilization now rests primarily upon the preservation of freedom and democracy in the United States. That will be lost for a generation if we join in this war." Hoover and Landon and their associates hoped that some prominent Democrats, specifically Raymond Moley, Joseph P. Kennedy, and Harry Woodring, would sign the document, but, although they were interested, they finally decided against it. Thus, while the end product was signed by politicians, educators, writers, a businessman, an opera singer, and labor leader John L. Lewis, they were all Republicans. It indicated to Hoover, however, that he was now persona grata among an increasingly wide circle of Republicans.

By late July Hoover's spirits were rising, perhaps partly because of his participation in the arrangements for the joint statement. Certainly, as he wrote former Undersecretary of State William R. Castle, he was "amazed at the way American public opinion stands steadfast at 80% to 90% against our going into war." He felt buoyed to continue with his work, believing that "if we can keep from the actual shooting stage until the end of the year . . . we may keep safely out of this mess." And on he went, emphasizing, for example in one address, that the only genuinely American policy was to stop "calling names," to develop the defenses of the Western Hemisphere, to furnish military materials to embattled democracies and to "reserve our strength that unexhausted we may give real aid to reconstruction and stabilizing of peace when Hitler collapses of his own overreaching." This was the former President's most fervent hope, but it was not to be achieved.

When war came for the United States on December 7, Hoover was not surprised that it originated in the Pacific. He had at least since October 1940 been worried about inviting attack from that quarter. In September 1941, he commented to William R. Castle that administration leaders "are doing everything they can to get us into war through the Japanese back door." Of course, the day following the attack on Pearl Harbor the former President joined other prominent Americans in calling for national unity in fighting the war. He was certain, however, that his foreign policy position had been correct. As he wrote Castle, "this continuous putting pins in rattlesnakes finally got this country bitten . . . if Japan had been allowed to go on without these trade restrictions and provocations, she would have collapsed from internal economic reasons alone within a couple of years." He added darkly, "We also know the processes by which this debacle has been brought about." There was little that could be done about it now, but he proposed that there should be a documentary account of this in the future, so that all would know how the United States was taken to war.

Nevertheless, Hoover quickly concluded that the coming of war changed the rules of domestic political discussion. He could no longer act as a sovereign entity in seeking his goals, nor could he afford to accentuate controversiality in his public statements. For the sake of effectiveness, his emphasis had to be on positive thinking and conciliatory expression. As he wrote to a friend on December 21, America would have to establish "a Fascist government with a few trimmings of lip service to liberty, if we are going to win the war. The real problem is how to organize it so that after the war we can have a chance to come back." Overstatement that this was, he recognized that victory was essential to salvaging the libertarian principles and peaceful humanitarianism that he identified with his country and its people. These were high stakes, and the former President was determined to act in a way that would allow him some influence in shaping the peace.

Other Republicans would fight on many political fronts during the war in order to secure the continuation of two-party elections, to wrest information from the administration, and to combat charges that they were "isolationists" and "reactionaries" and therefore responsible for everything that had gone wrong with America and the world. Hoover chose, for the most part, to stick to the high ground and let his fellow partisans handle the day-to-day politicking. It was this assumption of the role of elder statesman that was the big change in his life and ultimately in the country's perception of him. His initial venture in this direction, the book "America's First Crusade," had been launched before Pearl Harbor, but it was published in January 1942. This brief account of the nation's experience with peacemaking after World War I was a realistic and sympathetic appraisal of what Woodrow Wilson and American idealism had encountered. It was not overtly critical of either Roosevelt or Churchill or their stated war aims. Hoover's message was simply that the United States would have to act more wisely the next time it sought to transform its ideals "into concrete action at a peace table." Now was the time, he urged, to prepare for that and to draw on the "valuable experience" of President Wilson.

During the six months after Pearl Harbor, Hoover occasionally busied himself with delivering statements on national-unity and win-the-war themes. His chief endeavor, however, was to set forth his ideas about a foreign policy that could achieve an enduring, realistic peace. His collaborator in this as in so many other things was Hugh Gibson, the veteran diplomatist, The landmark result of their work was a volume running some 300 pages and entitled "The Problems of Lasting Peace." Working constantly through the winter and spring of 1942, Hoover and Gibson sent the last of the final draft to the publisher on May 1. The publication of the book received priority attention and the first printing was dated May 25.

"The Problems of Lasting Peace" set fifty policy goals for the United States, including international organization for peace, world economic freedom and cooperation, self-determination of nations, and minimization of reparations and intergovernmental debts. The book had considerable impact. It went through ten printings in eight months, and offprints from and condensations of it were widely distributed. The Hoover-Gibson volume must be given considerable credit for setting the Republican party on the road to devising a timely foreign policy. Their work particularly influenced the development of Republican agreement upon supporting some form of postwar world organization and widespread recognition in the party that each of the world's powers would have peace goals different from the others, which would have to be dealt with patiently and realistically. Clearly, another message of the book was that not only would Americans have to thrash out differences with other peoples but among themselves as well. This contributed to the increasing give-and-take among Republicans and Democrats during the war on questions of foreign policy.

One of the most ingenious ideas in The Problems of Lasting Peace was what Hoover and Gibson proposed to substitute for an armistice and a general peace conference. They asserted that the Allies should immediately agree upon machinery for peacemaking that would facilitate the resumption of normal political and economic life at the end of the war as well as encourage deliberate action and popular participation in solving the problems of peace. What they had in mind was, first, a "conditional" peace which would quickly orient the world toward reconstruction and, second, a "cooling off" period which would allow the nations to work out their problems on realistic bases. In view of later developments, it is worth while listing what Hoover and Gibson thought should be the minimal goals of "conditional" peace. They were:

1. The instant surrender of arms and demobilization of all enemy military forces.

2. Repatriation of military prisoners and civil populations. . . .

3. The removal of all blockade measures against neutrals and liberated nations—and the removal of blockade against enemy areas the instant they have surrendered their arms and demobilized their forces.

4. Temporary restoration of pre-war commercial treaties pending general economic solution.

5. The designation of provisional boundaries of all states, liberated and enemy.

6. The immediate call of freely chosen elective constitutional assemblies or parliamentary bodies.

7. Immediate reduction of the armaments of the United Nations themselves to the minimum forces needed to maintain international order and to enforce ultimate peace provisions.

8. Acceptance by all liberated and enemy states of such future determinations as may affect these conditional arrangements.

9. Agreements by the liberated and enemy states to accept the machinery for the preservation of peace when it is settled.

In effect, a tenth point, one later formally added by Hoover, was to "Instantly provide credits for food and its transportation in order to stay famine and pestilence."

Although designed to be realistic, Hoover and Gibson's idea of an immediate "conditional" peace was not only idealistic in many particulars but was slanted toward settlements that many of the world's powers were wary of. Ironically, however, their path was trod in theory and often in practice of all points; time was also taken, despite the eventual happiness or bitterness with the consequences, to thrash out lasting settlements after the war. This is not to credit Hoover and Gibson with being the source of wisdom that led to that. Indeed, it came about largely because the Allies could not agree upon any other course and partly because American policy-makers were developing something akin to the Hoover-Gibson theory and were able to persuade their comrades-in-arms to accept some of it. Hoover did, of course, make a contribution to the public's thinking, but it must be emphasized that he drew on a common source—the Wilsonian ideals and experience—with President Roosevelt. Hoover especially sought to inject a measure of realism into Woodrow Wilson's idealism. The United States would learn, however, that its words would still be interpreted differently by other peoples, and thus Hoover's concept of finding "lasting peace" and freedom through multifarious and lengthy negotiations would prove far more difficult than he anticipated.

Of course, the former President had not abandoned his concern for feeding the peoples of war-stricken countries. In an article in Collier's magazine in late 1942 he declared: "A starving world must be fed after this war ends." The United States had to assume much of this burden, not only for humanitarian and religious reasons, but also because "Unless these masses of people in scores of nations can have food and be protected from pestilence there can be no social or political stability upon which peace can be built." He emphasized that the job, however immense, could not be confined to just allied and liberated nations in Europe, but would also have to include Russia and China and enemy countries as well. He urged that America give thought to organizing this now so that immediate action could be taken at the war's end.

By February 1943, Hoover and Hugh Gibson were arguing that since some food was being sent through the blockade to Nazi-occupied Greece, through a special Allied-German-Turkish arrangement, the time had to come to start relief activities elsewhere. They initially interpreted the appointment of former New York Governor Herbert Lehman, in November 1942, to organize American efforts for overseas reconstruction as a sign that this might be done. Yet, the Greek relief experience—for which Hoover and his associates could take some credit—was not to be repeated in any other occupied country even though the evidence indicated that it could succeed without jeopardizing anyone's war effort. The only positive result of the mounting pressure by Hoover and other advocates of large-scale war relief work was the provision of a small amount of assistance to the stricken in liberated Allied lands by the United Nations Relief and Rehabilitation Administration, which Lehman came to head.

The question of postwar international organization was meanwhile developing rapidly. In March 1943 the most internationalist Democrats and Republicans stepped up their campaign in that direction, aiming it at both their more conservative fellow partisans and the Roosevelt Administration. Harold Stassen of Minnesota led off with a renewal of his call for a world peace organization and an international army. That was soon followed, on March 16, by the introduction of a resolution by Senators Joseph Ball, Harold Burton, Carl Hatch, and Lister Hill asking for something similar and seeking the Senate's participation in peacemaking. This proposal by two Democratic and two Republican lawmakers disturbed equally the administration and the congressional leadership of both parties which did not want the issue forced so bluntly lest it lead to a struggle as bitter as that over the ratification of the Treaty of Versailles. To avoid this Representative J. William Fulbright, in June, offered a milder resolution, favoring international machinery to maintain a just peace. Out of this situation came the first serious form of consultation between Congress and the administration during the war. The result was that legislative leaders, Republicans included, now had access to previously restricted information and opportunities to make their views known to the administration. The impact was not monumental, but it did lead to Congress and Republicans having influence on America's postwar foreign policy.

Herbert Hoover played a key supporting role in all this, which was his intent, for he believed that "the problems of peace would be greater than [those of] war." To promote the formulation of "a real peace" he seldom publicly criticized the Roosevelt administration, the British, or even the Russians. Indeed, in March 1943, with Hugh Gibson, he went so far to praise Prime Minister Churchill's suggestion that there should be regional councils of nations to preserve the peace. The next month Hoover and Gibson incorporated the British leader's idea into their own proposed structure for enduring peace. The former President was also in touch with Senator Burton about planning for peace. Burton acknowledged Hoover's influence on him and asked for his reaction to the Ball-Burton-Hatch-Hill resolution. Hoover replied that the resolution's purpose was fine since the "Administration wishes to evade its responsibilities to the Congress and the Senate in making agreements with foreign nations." He then urged the Senator to strike a blow in the resolution for encouraging the formation of representative governments in other countries, the idea of a "conditional" peace, the restoration of sovereign rights to those lands that "have been forcibly deprived of them," and limiting membership in a peacekeeping organization to nations without territorial ambitions elsewhere. It was clear from this letter that although Hoover was an apostle of realism in foreign affairs, he also believed that the United States could not afford to be mute on its ideals. As he told Burton: "The purpose of these suggestions is to protect the Senate; to provide against such a debacle as we saw 24 years ago; and to make sure that these Resolutions are sufficiently explicit on certain American fundamentals."

However encouraging the former President was of Senator Burton's approach, he was worried as to what would happen as the United States became more interested in planning for peace. He wrote former Vice President Charles G. Dawes in April that "this country is about to go crazy on both the peace settlements and the post-war planning questions." Therefore, Hoover was declining most invitations to speak so he could devote himself almost wholly to promoting in other ways a sane approach to these issues. If some failed to hear him, it was not because he did not express himself. Indeed, he was highly active during 1943 in circulating his views through publications, radio talks, press statements, and widespread correspondence with prominent Republicans, some Democrats, and even Socialist leader Norman Thomas.

Hoover's stated ideas were generally reiterations and elaborations of what Hugh Gibson and he had written in "The Problems of Lasting Peace". The most important of these were that winning the peace would be more difficult than winning the war; that the prime goal should be lasting peace, not the wholesale transfer of the American way of life to other nations; that there should be no prior pledges on what the postwar settlements would be; that the United States must formulate specific goals for the postwar world; that, however, it must recognize that other nations would have aims different from America's; that therefore the postwar settlements would have to be thrashed out on a compromise basis, which would take time, knowledge, fortitude, and patience; and that the United States would have to assume great and long-range obligations to maintain the peace and foster reconstruction. Obviously, Hoover took a long view. He did not expect the lion to pull its teeth or the bear to pluck out its claws any more than he anticipated that the eagle would lose its beak. What he was trying to promote was a level of statesmanship and of public opinion that would permit the major powers quickly to recognize and implement the goals they had in common and then to sit down, for however long it took, to arrive at mutually acceptable compromises on other issues. He hoped this process would be conducted in such a way that none involved would believe its territorial, political, and economic security was threatened or that the advantages of war outweighed the rewards of peace. In all this he was willing to make conciliatory gestures, to Churchill regarding the regional councils, to Roosevelt regarding international conferences on food and monetary questions, and to even the Russians regarding postwar economic assistance. This attitude underscored his conviction that peacemaking and peacekeeping had to be cooperative, in the United States with all parties participating and without shortcutting the Constitution, in the world through the leadership of the three or four leading Allied nations and the participation of all nations in regional councils and ultimately in a world peace organization.

Again it should be stressed that Herbert Hoover was not America's guiding angel in the development of postwar foreign policy. His was, however, one of many influences that shaped that policy. As we have seen, by spring and summer of 1943, Congress and the administration began giving serious consideration to the development of a postwar foreign policy. Congressional adoption of the Fulbright Resolution in September was accomplished in part because of the outspoken stands of Hoover, Landon, and the 1940 Republican presidential nominee, Wendell Willkie, in favor of postwar international organization. Indeed, their efforts helped smooth the way for support of a world peace organization by the Republican policy conference at Mackinac Island earlier in September, which in turn contributed to the adoption of the Fulbright Resolution by an overwhelming majority of representatives and senators. Although neither the conference nor the resolution was exactly what the former President wanted, he could take some pride that the United States was on record for postwar world organization with American participation charted to be according to "constitutional processes."

Hoover was aware, however, that the Fulbright Resolution was just the first step in the direction which he wanted the United States to travel. As he told his political associates, he felt more worried than triumphant. He saw the wartime difficulties among the major Allied powers as constituting "more of an international crisis than is generally known." He was bothered by what he considered the weaknesses of Franklin D. Roosevelt, writing that "If we do not watch out we will have some kind of white rabbit pulled out upon us that will jeopardize American life for at least half a century." And the former President was infuriated by the "great infleunce for evil" of Walter Lippman's recently published "United States Foreign Policy: Shield of the Republic." He viewed the book as supporting some form of political union with Great Britain, based as it was upon Lippman's "total distortion of American history," especially the idea that the British had been America's "friends and guardians over 120 years." Hoover also remained suspicious of the Soviet Union. He took some comfort, however, from the fact, as he saw it, that Joseph Stalin had speeded up the eventual return of Russia to nationalism and stability because the Soviet dictator had "telescoped the French Directory Period with Napoleon and is both of them."

Hoover's concern for converting nationalism into a positive force for world peace underlaid his public statements during the fall of 1943. Instead of a conditional peace, he now emphasized a "Transition Period" in which the major Allied powers would work out the bases for lasting peace and international organization. He thought that nationalism could be the guiding spirit in this, because enhancement of the possibility "that nations will maintain their full independence and their full sovereignty" should appeal as much to the Russians, for example, as to smaller nations. The Transition Period also had to be based upon an acceptance of "the fact that a period of disturbing years must inevitably elapse after * * * victory." In other words, he counseled, forget about an armistice, a quick general peace conference, military alliances, and the "premature formation" of a world peace organization. Instead, let America, Britain, Russia, and China issue a joint declaration of their peaceful purposes and continued cooperation during the initial postwar years—through negotiation and the recognition of legitimate national aims—for the purposes of organizing the world's peace. He considered this advice realistic in view of the dominating role of the major Allied powers toward the end of 1943.

During 1944 the former President's voice was not often heard. This was largely because of the death of his beloved wife, Lou Henry Hoover, early in January. When he did speak out, he continued travelling in the direction of being increasingly conciliatory. He viewed the U.S.S.R. as being more nationalistic than Communistic in the formulation of its foreign policy; he was not a candidate for nomination for President, nor did he try to influence the choice of the Republican nominee; and he took little participation in campaign politics. The result of this was that Hoover became a more creditable figure within the nation and especially his party. Therefore, while saying less, he was exercising more influence than he had since his years in the White House. None of this made him the "Grand Old Man" of American politics or even yet of the Republican party, but it was a step in that direction.

For Herbert Hoover, 1944 was a time of reflection for the further development of his ideas. When the fires stoked by the election campaigns had died down, he was ready for the last peace offensive. His public statements were aimed at avoiding partisan antagonism. For example, while other Republicans were beginning to criticize the Yalta agreement of 1945, Hoover told the press that "it comprises a strong foundation on which to rebuild the world." William R. Castle complained bitterly about this, but the former President wrote him that it was essential America's peace forces held together until after the war.

He used the winter to develop his final proposals for postwar foreign policy. They appeared in March and April 1945 in the form of newspaper articles, a very small volume, written with Hugh Gibson, and a speech in Philadelphia. They constituted Hoover's advice to the American government and people as to how the proposals that issued from the meeting of Allied representatives at Dumbarton Oaks could be turned into a genuine peace charter at the world organization conference at San Francisco that summer. His suggestions came to nine:

First: There are certain fundamental political rights of men and of nations that should be specified in the Charter. There are certain moral and spiritual standards of conduct among nations that should be proclaimed. . . . we should make them effective by the establishment of a World Committee to promote these political rights. . . .

Second: We should provide for peaceful revision of onerous treaties between nations, in order that political progress in the world should not be frozen.

Third: We should create regional subdivision of the organization for preservation of peace into three areas, Asia, Europe and the Western Hemisphere; the regional organizations must of course be in harmony with the Security Council.

Fourth: We should insist upon total disarmament of the enemy powers.

Fifth: We should provide prompt proportional postwar reduction in the armies of the United Nations and the establishment of a maximum limit of armies, navies and air power among them.

Sixth: Although it is not a part of the charter itself, I [suggest] a method by which the war powers of the Congress could be preserved without delay to action in a crisis.

Seventh: Take enough time in formulating the Charter of Peace to do it right. . . .

Eighth and Ninth: There should be a control of military alliances. There should be a definition of aggression. And Senator [Arthur] Vandenberg's proposal that the Assembly be given freedom of initiative should be adopted.

As a gesture of unity, made in his Philadelphia address after Franklin D. Roosevelt's death, Hoover also asked that the new President, Harry S. Truman, be given "every support . . . in his gigantic task."

In all this, Hoover had shown his intellectual resiliency. He quickly adapted his ideas to new situations, as indicated by his response to the Dumbarton Oaks proposals. Indeed, the points he (along with others) raised became key issues in public discussion and at the San Francisco conference, and many of these suggestions were adopted by either the major Allied powers, or the conference, or the United Nations Organization which grew out of it. Yet, Hoover's proposals of spring 1945 were not far different from what he and Hugh Gibson had discussed three years earlier in "The Problems of Lasting peace." The goals remained the same: to avoid the failures of the Treaty of Versailles and the League of Nations, and to establish a workable permanent peace. Certainly, Hoover did his bit to lay the groundwork for a world charter of political rights, disarmament of the enemy, recognition of national interests, a definition of aggression, and freedom of initiative for the UN Assembly. This was also true in the development of regional councils, of treaty revisions, and of arms reductions. He failed to see control of military alliances in his lifetime, and he must have been irritated by the rush to decision in establishing an international peace organization, particularly since it was clear that no world power was willing to surrender part of its sovereignty to a world organization. By any standard, however, his batting average on the postwar peace issues was high. The world would discover the hard way that there were, as he repeatedly declared, no short cuts to peace. The world would also learn that nationalism and ideology were even bigger forces than Hoover had said.

Three weeks after the United Nations Charter had been formulated in San Francisco in June, the former President took to the radio, over a nation-wide network, to urge the Senate to ratify the charter. The document, he said, "is better than the Dumbarton Oaks version and is probably as good as could be obtained under the existing emotions, the present governments, the conflicting ideals and ambitions in the world." He asserted that world adoption of the charter could not assure permanent peace; that would depend upon the nature of postwar economic and political settlements and the success of efforts to strengthen the UN. In the days immediately ahead, therefore, it was essentital that the American, British, and Russian governments, as the "trustees" of the peace, continue their wartime cooperation. He wagged his Wilsonianism at the world by warning that all nations should adhere to the principles of "No annexations of territory; No territorial changes without the free consent of the people therein; Full sovereignty of people without domination; The right of all peoples to choose freely their own form of government and their own officials; Equality of trade and freedom of the seas; The right of minorities to protection; The right of fair trial before conviction; The prohibition of deportations, of slavery or compulsory labor . . . And finally the greatest rights of all, that is, free press and free worship." Hoover recognized that these were idealistic, but he pointed out that since people would always strive to attain these rights, there could be no enduring peace without their guarantee.

Between his output of early spring and his July 1945 statement on the San Francisco conference, Hoover had again become greatly involved in the war relief question, which was inseparable from foreign policy. With the impending collapse of the Nazi empire in Europe and the obviously inadequate efforts of the Allies in providing relief, he decided that it was time to mount a major campaign to take care of the needs of the war-stricken peoples. He and his associates held a war relief meeting on May 8 in New York's Carnegie Hall to mobilize public sentiment. In his talk there, he outlined the desperate plight of the hungry, especially the children, in Europe. He took care to note Harry S. Truman's sympathy toward relief efforts when he was a Senator. Hoover said that only the War Department had the organization and resources to get surplus foodstuffs quickly to the starving people of the formerly occupied countries of Europe; he also recommended that an American agency be formed and join with other groups, including UNRRA, to establish a longer-term relief program of food, clothing, and medical supplies.

Eight days later, in a nationally broadcast talk, Hoover again called for the United States Army to "take over the whole job of food relief to the liberated countries of Western Europe." He called this "a problem of the next ninety days." The next day, May 17, Secretary of War Henry L. Stimson, asked the former President to discuss the matter with a group of War Department officials. Therefore, an eight-man delegation, headed by Assistant Secretary John J. McCloy, went to see him in New York City. Hoover believed that the "whole conference was staged to convince me that the Army would not take over the relief of the liberated countries during the next 90 day emergency." Nevertheless, he took the statements of McCloy and his colleagues as confirmation that there would be a food crisis of the highest order in Europe during the coming three months and that, if it really wanted to, the Army could resolve the crisis. Therefore, Hoover refused to back down. He urged upon McCloy the appointment of "an Eisenhower of economic life" in Western Europe to get the job done and of a deputy in Washington who could secure the necessary funds, transportation, and supplies from this side of the Atlantic. He warned the War Department delegation that "unless this is done, the liberated countries are likely to go Communist." He was understandably pessimistic about the results of this meeting, however, concluding: "a. The good idea of mine had been destroyed by the assaults of combined bureaucracy. b. That we can expect the worst."

The meeting with McCloy was not to end the matter, however, nor was it Hoover's only conference with high federal officials in the spring of 1945. Beginning April 21, Stimson tried to get in touch with the man under whom he had served as secretary of state. His first attempt was unsuccessful and in a second telephone call Stimson tried to arrange a meeting, but since the secretary gave no reason for it, Hoover said he had other plans. In a later telephone conversation, Stimson came to the point, asking his old chief to visit Washington to discuss the postwar situation with him. He reported, obviously as encouragement, that Harry Truman believed this would be valuable. Hoover replied that if the President thought that, the two of them could talk directly. Although the war secretary asked Hoover not to be stubborn, he stood his ground and ultimately arrangements were made for him to see first Stimson and then Truman.

The former President met with Stimson during the first part of May and later sent him a position paper on the world situation. He viewed Russia's wartime annexations and establishment of satellite states in Eastern Europe as being permanent; he predicted that other Stalinist satellites might be set up in Greece, Italy, part of Germany, Korea, Manchuria, and North China. The minimal result of this for America and Britain would be the exclusion of private enterprise in these areas and competition with gigantic Communist monopolies for the world market. That led Hoover to conclude that the two Western powers and China should try to negotiate peace with Japan not only to conserve their human and material resources but also to keep the Soviet Union from having a free hand in the Far East.

Hoover's audience with Truman occurred in the White House the morning of May 28. Their conversation encompassed three topics: war relief, domestic food administration, and the overall foreign situation. On relief, they agreed that Russia would assume responsibility for looking after Eastern Europe. Hoover told the President that action was urgently needed for the rest of Europe. He outlined his case for the Army to take over the immediate administration of war relief efforts in Western Europe in cooperation with national authorities there. Truman indicated that although Stimson had opposed this, he agreed with Hoover. He asked Hoover to take the issue up again with the secretary of war.

The pertinent remarks of the President and the former President on domestic food problems concerned methods of insuring that there would be sufficient supplies for needs both at home and abroad. As for the foreign situation, Hoover contended that because of the Asian characteristics of the Russians, they could not be expected to see or do things the Western way. He asserted that "we could not go to war with them and we should never bluff. Our position should be to persuade, hold up our banner of what we thought was right and let it go at that. A war with Russia meant the extinction of Western civilization or what there was left of it." Regarding Japan, he believed that America, Britain, and China should inform Japan they were willing to end the war—without Russian intervention—if Manchuria was returned to China, if the Japanese military forces surrendered unconditionally, if Japan was disarmed completely for thirty or forty years, and if certain Japanese were handed over for trial for war crimes. Thus could Japan escape military occupation, destruction of its form of government, and possible extermination; it might even retain Korea and Formosa. Hoover thought that the dividends of Japanese acceptance of such terms could be great: the avoidance of an awesome loss of life and resources, the strengthening of China, the exclusion of Russia from new areas for expansion in the Far East, and a sounder basis for world peace. Truman asked Hoover if he was optimistic that Japan would accept. He said no, but that since the installation of the relatively moderate Kantaro Suzuki ministry in Japan "there was a bare chance," and one worth taking. At the end of the conversation, the President returned to the Russian situation, and Hoover repeated what he had earlier said, emphasizing that "we were not going to war with them." Truman then asked him to submit memoranda covering his suggestions.

Hoover left the White House thinking that the President "was simply endeavoring to establish a feeling of good will in the country, that nothing more would come of it so far as I or my views were concerned." Nevertheless, he dutifully sent on his memoranda, which repeated and slightly elaborated upon the points he had made in his conference with Truman (for example, he suggested that Suzuki, with whom his government had dealt during the Manchurian crisis of 1931–1932, should remain as prime minister). The administration, obviously, did not take Hoover's advice about making a declaration that would offer Japan liberal terms for ending the war immediately. Although Under Secretary Joseph C. Grew and other experts on Japan in the State Department were arguing much along the lines of Hoover's thought throughout May, General Douglas MacArthur and the Joint Chiefs of Staff had recommended Russia's entry into the war against the island empire in order to reduce America's battle losses. Stimson went along with the men in uniform, and that was enough for President Truman, especially since there was doubt then whether the atomic bomb would work. Indeed, the same day that Truman was talking with Hoover, Harry Hopkins was conferring, as the President's representative, with Josef Stalin in Moscow.

At that May 28 meeting, Stalin assured him that Russia would fully respect Chinese sovereignty in Manchuria. Hopkins therefore recommended to Truman implementing the secret accord of Yalta that provided for Soviet entry in the war against Japan during the summer. Although the Russian dictator promised to respect the rights of China's Chiang Kai-shek government, he also indicated that the expected unconditional surrender would be the basis for an end to the war in the Pacific and that Russia would play a part in the peace settlement with and the occupation of Japan.

Plainly, Hoover's ideas regarding Japan had little chance of acceptance by May 28 in view of the secret Yalta accord and the eagerness of President Truman and the military chiefs to avoid further great American battle losses. Yet, even had the American government followed the path suggested by Hoover, there is no guarantee that the Russians would not have invaded Manchuria and Korea, a possibility that could not have escaped Truman and his advisers. The consequences of that, of course, could have been as bad or even worse than what actually happened. Using hindsight, however, one finds it irresistible to conclude that the odds are Hoover's proposed policy would have been superior to the one that was implemented. This is because logistical limitations might have kept the Soviet Union from forcing its way into the war with Japan. Even if Russia had entered the war unasked, it would probably have ended up with no more influence in the Far East than it had acquired by 1950, with the net gain that the atomic bomb would not have been used. Of course, this is only a historian's parlor game, for one can construct a plausible scenario of international events that could have been more dreadful for American interests than what occurred, for example, the emergence of Japan as a Communist state or even the outbreak of full-scale war between the United States and the Soviet Union.

If Herbert Hoover had no influence upon Truman on Russian and Japanese affairs during spring 1945, he did in the other areas they discussed. As the President had suggested, he met with Secretary of Agriculture Clinton Anderson and Secretary of War Stimson. The collaboration with Anderson on domestic food matters was highly rewarding, especially as it related to postwar reconstruction overseas. In Hoover's meeting with Stimson and Assistant Secretary McCloy, he repeated what he had told Truman. It was, of course, not news to them. The difference was that Hoover now had the President's endorsement.

That, along with continuing pressure from relief advocates within the War Department, was all that was needed for Secretary Stimson to do an about face on the Army taking over war relief for Western Europe during the critical months ahead. Thus, in the area dearest to Hoover, he scored a major victory. The results were not entirely adequate, but they allowed the United States and Western Europe to turn the tide against famine and pestilence and to combat the perceived threat of Communist expansion. Moreover, the emergency war relief program was one of the foundations for continued foreign aid developments, which were so massive and had such consequences for good and evil that even as sensitive a man as Hoover could not foresee them.

After Hoover helped to initiate an expanded American program of overseas relief, the war soon came to an end. Before then he made clearer his fear of what his country's foreign policy might lead to. On July 20 he joined several dozen other prominent Americans in urging President Truman to understand that the chances for peace and cooperation with Russia could not be enhanced by ignoring what appeared to be the enslavement of Poland. Hoover wrote a memorandum on August 8 indicating that the Potsdam Big Three conference confirmed Russian domination of Eastern Europe and the administration of Germany in such a way that would prevent it from becoming the needed balance wheel for Europe's economy. He also took this opportunity to express his disgust with the atomic bomb, the use of which, "with its indiscriminate killing of women and children, revolts my soul." Three days later the former President publicly pointed with alarm to the gains being made by "Communism and Creeping Socialism" in Asia and Europe. The philosophical answer to this development was, he stated, to "proclaim again and again that the road to free men and to progress and prosperity is not to be found in the spread of governmental powers and bureaucracy, but in striving to set bounds to it." At the end of the war, Hoover was able to summon up brighter thoughts. He gave thanks to God, and rejoiced in the close of "a hideous era." The future could be glorious, he added, "if we have high statesmanship in the world and are willing to sweat for a few years during the transition period from war to peace. . . . In the long-view of the new era, the bright hope is enduring peace. With peace, we can have recovery; with peace, we can hope for a regeneration of civilization. With peace, the everlasting stir in the hearts of men and nations to be free will return to the world." This was his hope, even if he was pessimistic that it could be achieved.

Herbert Hoover's thoughts and activities regarding foreign policy during World War II are richly significant. They document a fact that too many scholars ignore, which is that former holders of high political position constitute an aristocracy, a kind of American House of Lords, if you will, that has considerable impact on society. That impact, as Hoover's post-presidential life shows, includes influencing the course of national and international policies and events as well as expressing and shaping public opinion. Despite various twists and turns, Hoover was able by December 1941 to become more creditable among his fellow Republicans and therefore more of a force, at least an intellectual force, to be reckoned with. He became more mellow and flexible after Pearl Harbor, with the result that his influence upon public opinion and Republican and even some Democratic leaders increased. Indeed, after the death of Franklin D. Roosevelt, his ideas and presence became welcome again in many high official circles, including the White House.

This did not mean that the results of his activities were always satisfactory, either to the nation or to Hoover himself. His imperfect grasp of rhetoric often left him misunderstood, and those whom he influenced usually reshaped his ideas to suit themselves, with consequences that Hoover had not wanted. Nevertheless, the former President courageously, if not always wisely, entered into the give-and-take of American politics, and on balance the country was the better for it. His espousal of peace and humanitarianism was a partial counterweight to the talk of those who believed that every incident was the occasion for war. His conception of the roles of realism and idealism in international relations helped to keep the truculent dialogs between the United States and its adversaries from getting completely out of perspective. Yet, it must also be recognized that his intense nationalism added support to high-paced American rearmament and programs of intrigue in the postwar era, which sometimes jeopardized world peace and the restraints on government for which he longed. In part, because of such overreaction, the world has had a more troubled and prolonged "transition period from war to peace" than Hoover had originally thought necessary. It is not going too far to say, however, that the United States followed to a considerable extent his and similar prescriptions of voicing its beliefs, of negotiating toughly for them, but of avoiding war with major adversary states. Even if the deviations from this program, for example, the Vietnam war and the excessive operations of the Central Intelligence Agency, jeopardized the maintenance of peace and threatened at times to scrap some of the most hallowed of traditional American ideals, it is significant that by the 1970's there was renewed interest in the foreign policy goals that Herbert Hoover and others pressed during World War II. His foreign policy activities, among other of Hoover's workers, make his career after 1939 a prime example of the importance of America's elder statesmen.●

NEWSPAPER TAX ACT

● Mr. MORGAN. Mr. President, not long ago I introduced S. 555, which would help the decreasing number of independent newspapers to remain locally controlled. I have since been joined in this effort by Senators BAKER, SASSER, PERCY, INOUYE, SCHMITT, MATHIAS, RIEGLE, MCGOVERN, FORD, COHEN, PELL, HELMS, PRESSLER, DURKIN, COCHRAN, LEVIN, STEWART, MAGNUSON, DECONCINI, BOREN, LEAHY, HATFIELD, CHURCH, STEVENS, BENTSEN, BOSCHWITZ, and GRAVEL. There has been a great deal of support for this bill from publishers and editors of independent newspapers from across the Nation, but I think this letter, which was printed in the Editor and Publisher of July 7, 1979, most accurately expresses their views regarding this problem. I request that it be printed in the RECORD.

The letter follows:

MERGER CONCERN

I'm getting more than just a little weary of reading news articles and slick magazine ads telling us what a great thing it is now that the Gannett conglomerate has gobbled up 80 daily newspapers, 7 television and 12 radio stations.

And that doesn't include outdoor advertising interests, weekly newspapers, Canadian newsprint interests, marketing, research and news service subsidiaries stretching from the U.S. Virgin Islands in the Atlantic to the U.S. Territory of Guam in the Pacific and including 33 states in between.

The merger of the Gannett Co. and Combined Communications Corporation was one of the worst things that has happened in America in recent years. The danger of Three Mile Island was mild by comparison. The merger should not have been allowed and the government antitrust division should break it up.

I am completely unimpressed by the high-sounding boast that Gannett is a "world of different voices" and how much better group ownership is for local communities. Hogwash.

Everybody knows who signs the checks, who gives the orders and who has the final authority. Make no mistake about that.

How stupid does Allen Neuharth think the people are?

If conglomerate ownership is such a great thing, why does Gannett feel it necessary to spend $1.5 million to polish and improve its image? Why does Allen Neuharth think it necessary for him to spend so much of his company's money flying around the country making speeches trying to allay the fears?

Let's face it. Gannett is a huge conglomerate interested primarily in the bottom profit line. Let anybody—be it the President of the United States or the lowliest citizen, threaten Gannett's bottom line and you'll quickly see how much authority its local editors have!

I understand Mr. Neuharth is a very fine, capable, personable gentleman and I have no quarrel with him personally. His company, Gannett, also has a fine reputation up to this point.

But what happens when Mobil Oil or the Arabs buy out Gannett? Who gets control then? What will the man be like who succeeds Mr. Neuharth on his retirement?

His successor could be money-hungry and power-mad. Why give him or anybody else possession of such power?

I understand American Financial owns seven per cent of Gannett already, which is a pretty sizeable hunk of a big corporation. What if American Financial keeps on until it gains control? (It reportedly is trying to do this.) American Financial has no interest in any of Gannett's newspapers, tv, radio or other operations except financial.

Out tax structure is partly to blame, if not almost wholly, for enabling Gannett to attain control of such a vast segment of our communications media.

Because of depreciation, deductions for interest payments and other loopholes, the big chains can grab off these newspapers at almost no cost. And if they're unprofitable, they can write it off their taxes.

U.S. Senator Robert Morgan, a resident of my own county and a neighbor of mine, and Congressman Morris Udall have introduced legislation to ease the estate tax burden on heirs when the owner of an independent family newspaper dies. The whole nation owes Sen. Morgan a debt of gratitude.

This legislation of Senator Morgan would prevent the growth of these conglomerates and keep them from continuing to buy up public opinion and from creating monopolistic financial empires at the expense of the public.

Mr. Neuharth should read the testimony given by James Hurley III of the *Salisbury Post*, reprinted in the May 24 issue of the *Congressional Record*. Jim Hurley tells what happens to local newspapers when the chain moves in.

In a speech in New York June 12 Mr. Neuharth said nobody is looking over the shoulders of his local editors and publishers—he should have said: No one looks until they violate corporate policy. Chain newspapers are like the government—they simply don't hand out checks without controls.

Just for example, what if a member of Mr. Neuharth's family should run for public office. How long would the local editor keep his job after opposing him?

We must accept the fact that Gannett now controls an empire. But we don't need Mr. Neuharth or its advertising agency, Young & Rubicam, to rub salt in the wound it has inflicted on the First Amendment and press freedom in America. Please, Gannett, don't talk to us about Freedom! ●

PATRICIA ROBERTS HARRIS

● Mr. RIEGLE. Mr. President, it was recently my privilege to participate in the NAACP 24th annual Fight for Freedom Dinner in Detroit. That evening, U.S. Circuit Court of Appeals Judge Damon Keith had the honor of introducing the keynote speaker, the Secretary of Housing and Urban Development, Patricia Roberts Harris. As is his custom, Judge Keith gave a forceful, entertaining, and illuminating presentation that accurately reflected the superb work that Secretary Harris has done since taking on the challenge of managing HUD. For those who are curious about the newly designated Secretary of Health, Education, and Welfare, I encourage you to read Judge Keith's revealing remarks which follow:

Introduction of Patricia Roberts Harris, Secretary, the Department of Housing and Urban Development, at the NAACP 24th Annual Fight for Freedom Dinner

Ladies and gentlemen, friends and supporters of the Detroit NAACP Freedom Fund Dinner, and freedom lovers all, I hold in my hand a series of unique and serious charges made against our guest speaker. As one who tries to be fair-minded, I think these charges should be shared with you today.

Our speaker has been accused of being one of the toughest, most fearless and most forceful advocates of the needs of our cities, minorities and the poor to be found today.

Rep. Henry S. Reuss, the highly influential chairman of the House Banking, Finance and Urban Affairs Committee, has accused our speaker, in his words, of being the "best HUD secretary ever."

Columnist Chuck Stone, of the Philadelphia Daily News, accuses our speaker of being a woman wedded to equality, a black obsessed with excellence and a lawyer driven by justice. He further charges that she is motivated by a fiercely proud legacy handed down from Harriet Tubman, Sojourner Truth and Mary McLeod Bethune.

The conservative U.S. News & World Report, in ascertaining the 100 most influential people in government, accuses our speaker of being one of the President's most able cabinet officers.

Yes, my friends, the indictment returned against our speaker has been supported by accusations spread throughout the pages of various other national publications.

In count I, our speaker stands accused of having the highest number of housing starts since 1973.

In count II, our speaker stands accused of appointing more blacks and women to top positions at HUD than any other agency in Government.

In count III, our speaker stands accused of instituting the so-called "Harris Manifesto"—a doctrine reflecting her strong and unwavering commitment to move black people into areas that have been closed to them and to provide remedies for all people who are subjected to unfair discrimination.

Top officials from the real estate industry, who opposed the appointment of our speaker to her present position, now accuse her of bringing new management efficiency, badly needed new commitment to the cities, and a new, positive image to HUD.

Top aides at the White House, some of whom have delighted in leaking to the press that our speaker is in trouble with the Administration, now accuse her of being the chief architect of the President's urban policy, of being a combative but loyal team player.

Another Washington correspondent accuses our speaker of becoming a Joan of Arc for blacks, hispanics and the poor in her courageous fight against budget cutbacks of social programs. And our own beloved mayor, Coleman A. Young, who we all know does not hesitate to call them as he sees them, has made one of the most telling accusations of all, calling our speaker the blank blankest and best friend the cities of this country have ever had.

Lastly, our speaker has been accused of being disrespectful of male chauvinism and unintimidated by powerful members of the U.S. Congress. On this charge, ladies and gentlemen, I fear that our speaker's guilt is established beyond doubt by words uttered from her own lips. For instance, in responding to Senator William Proxmire's question concerning whether she was "sufficiently by, of, and for the people" to be attuned to the needs of the poor, our speaker's public and recorded response was, and I quote:

"Senator, I am one of them. You do not seem to understand who I am. I'm a black woman, the daughter of a dining car waiter. I'm a black woman who even eight years ago could not buy a house in some parts of the District of Columbia. Senator to say I'm not by and of and for the people is to show a lack of understanding of who I am and where I came from.

"I started, Senator, not as a lawyer in a prestigious law firm but as a woman who needed a scholarship to go to college. If you think I have forgotten that you're wrong.

"I started as an advocate for a civil rights agency, the American Council on Human Rights, that had to come before this body to ask for access to housing by members of minority groups. If you think I have forgotten that, Senator, you're wrong.

"I have been a defender of women and minorities, of those who are the outcasts of this society, throughout my life, and if my life has any meaning at all, it is that those who start as outcasts may end up being part of the system. And I hope it will mean one other thing, Senator, that being part of the system, one does not forget what it meant to be outside it, because I assure you that there may be others who forget what it meant to be excluded from the dining rooms of this very building, I shall never forget it."

Ladies and gentlemen, it is with great pleasure that I join the poor, the oppressed, the neglected, the down trodden and the handicapped in finding the accused guilty on all counts of being an outstanding American—of fighting the good fight—of giving hope to the hopeless—and of keeping the faith.

The record speaks for itself. Of being a remarkable leader, the accused is guilty beyond a reasonable doubt. Of being a tough and sensitive black woman, guilty beyond a reasonable doubt. And of being a highly capable and effective Secretary of the Department of Housing and Urban Development, the accused is guilty beyond a reasonable doubt.

Ladies and gentlemen, the culprit, and our speaker for today, the Honorable Patricia Roberts Harris.●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 260 and 269.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, those items are cleared on our calendar. We have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT FEASIBILITY STUDY

The legislative clerk read as follows:

A bill (S. 585) to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin Water Enhancement Project,

The Senate proceeded to consider the bill.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of the Interior is authorized and directed to conduct a feasibility study of the Yakima River Basin Water Enhancement Project. The Secretary is authorized to accept moneys from the State of Washington or other persons or entities, public or private, to assist in the financing of the feasibility study. If moneys are so provided by the State of Washington, and Congress thereafter authorizes and appropriates funds for the construction of the Yakima River Basin Water Enhancement Project, the moneys so provided by the State shall be credited to the total amount of any costs required to be borne by the State as contributions toward or repayment for costs of the project.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNIVERSARIES OF THE WARSAW UPRISING AND THE POLISH RESISTANCE

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 373) recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

The Senate proceeded to consider the joint resolution.

● Mr. MUSKIE. Mr. President, I rise to speak on behalf of House Joint Resolution 373 commemorating the Warsaw uprising of 1944 and the Polish resistance to the German invasion of 1939.

It is valuable to remind ouselves from time to time just how precious a commodity freedom is. It is useful to remember the tremendous sacrifices the human spirit is willing to make to gain or preserve that freedom.

The Warsaw uprising and the Polish resistance during World War II are two such reminders.

On August 1, 1944, the Polish Home Army rose up against the Nazis in Warsaw. Led by Gen. Tedeusz "Bor" Komorowski, the Poles were able to seize control of two-thirds of their city of Warsaw. They battled against the formidable forces of the Nazi army for 63 days before surrendering the city. Some 250,000 Polish people lost their lives in this fighting. In retaliation, the Nazi army completely destroyed the city.

August 1 of this year will mark the 35th anniversary of the Warsaw uprising.

On September 1, 1939, the army of Hitler's Third Reich invaded Poland. With only a force of 800,000 to defend their country, the Poles met the massive Nazi onslaught of over a million troops and 3,000 tanks. Poland fell in 18 days. Two days before the Polish defeat, Stalin's army descended upon Poland from the east and occupied nearly one-half of the country. The occupation by these two powers encouraged an active and effective underground movement and a Polish government-in-exile. This historical invasion marked the beginning of World War II.

Today in the beautiful city of Warsaw, which I visited earlier this year, the numerous plaques and monuments commemorating Polish resistance are constant reminders of a people who have consistently resisted oppression against incredible odds.

These two events in Polish history are a lesson not only for the Poles and the 10 million Americans of Polish descent, but to all peoples of the world, for they represent the powerful spirit and passion of a people determined to gain their freedom. The fight for freedom has taken place in many parts of the world, and continues to take place as I stand here today.

Mr. President, I think the passage of this resolution will be a source of inspiration to those who value freedom and a warning for those who do not understand the true meaning of freedom.●

● Mr. DOLE. Mr. President, I rise in support of H.J. Res. 373. This resolution recognizes the great courage exhibited by the Polish people in their opposition to Nazi tyranny, which peaked with the Warsaw uprising of August 1, 1944.

Mr. President, the Polish people have continually fought bravely against the tyranny of Nazi Germany from the very beginning of the German invasion of Poland on September 1, 1939. Despite this fierce resistance, the force of the Nazi war machine, aided by the Soviet Union, was unstoppable. At month's end, Poland had been carved up by the twin powers of Germany and the U.S.S.R. The Polish nation was held together only by the faith and perseverance of its people.

During the ensuing years the Polish people were subjected to unconscionable horrors perpetrated by the Nazi. By the end of the war 6 million Poles had died, many of them in the infamous Auschwitz concentration camp. Facing adversity, in the midst of these horrors, the Polish people stood tall in their continued resistance to Nazi oppression. It is to the Pole's credit that no significant Polish leader aided the Nazi during their reign of terror. The determined Polish underground had its finest hour when, on August 1, 1949, the Polish Home Army rose up against the Nazi, and held major portions of Warsaw for over 2 months.

Mr. President, I call on the Congress to recognize the anniversaries of the Nazi invasion and the Warsaw uprising. There is much inspiration we can draw from the Pole's persistent quest for freedom. May we pursue freedom and justice with the same vigor exhibited by these brave people.●

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NASA AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator Stevenson, I submit a report of the committee of conference on H.R. 1786 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1786) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of July 20, 1979.)

● Mr. STEVENSON. Mr. President, the conference agreement authorizes $4,961,000,000 for the National Aeronautics and Space Administration for fiscal year 1980. This amount is identical with the Senate bill, $199 million above the House bill, and $16 million above the budget request as amended by the President on May 14, 1979. The budget amendment recommending an additional $220 million for the space shuttle development program was submitted subsequent to House passage of H.R. 1786 which accounted, in large measure, for the differences in authorization levels between the House and the Senate.

The increase of $16 million above the request provides funding for systems definition, more intensive technology advancement, and/or preparatory work on new initiatives in space applications, aeronautics and energy technology. These are relatively modest additions yet they represent those tasks that must be undertaken to support productive applications of advanced technologies.

Mr. President, I believe the conference agreement is one that contributes to a sound program in space and aeronautics. I know of no objection to this conference report.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor for the moment.

Mr. PROXMIRE. Mr. President, are we in morning business?

Mr. BAKER. Yes.

The PRESIDING OFFICER. The Senator from Wisconsin.

THE THREAT OF FOREIGN BANKING

Mr. PROXMIRE. Mr. President, the distinguished junior Senator from Pennsylvania, Senator Heinz, has written an excellent article for the New York Times which appeared yesterday in the Sunday Times called "The Threat of Foreign Banking." He calls the attention of the country to a situation that might become rather embarrassing for us.

We take pride in the fact that our banks are independent and strong. The fact is that 22 of the 25 biggest banks in the world are not American banks. Other countries, of course, have only few banks but they are very large, well capable of moving in and taking over our banks, and they have begun to do it in some areas.

The Commissioner of Banking in New York is particularly concerned and raised her voice against this.

Senator Heinz and I both have introduced proposals for a moratorium on foreign bank takeovers until we can get a study made by the President and by the Treasury Department.

The explanation of this proposal is very well expressed by Senator Heinz in his fine article in the New York Times.

Mr. President, I ask unanimous consent that it be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE THREAT OF FOREIGN BANKING

(By H. John Heinz 3d)

Banks wield enormous economic influence in our country. Their leveraging position and their allocation of credit play a pivotal role in our economic system. Yet the fact that foreign-owned banks have become a major new force in the New York banking system, indeed in all the major money centers of our nation, have elicited little attention or concern from Federal bank regulatory agencies.

The president of the Federal Reserve Bank of New York, Paul Volcker, said recently that the question about limits to the degree or manner of penetration of domestic markets by foreign banks "is nowhere addressed specifically in the International Banking Act or other Federal legislation." This serious omission should be of concern. I fear that the recent wave of foreign acquisitions of American banks may have profound implications for the American banking system. In fact, if present trends continue or accelerate we will lose a significant amount of control of our entire economic system.

Since 1972, when the Federal Reserve first started keeping track of the figures on foreign ownership, foreign bank assets in the United States have more than quadrupled, going from $18 billion to more than $100 billion, and if all of the currently proposed acquisitions are approved by the Fed, foreign-owned bank assets will increase by an additional 20 percent. This represents approximately 9 to 10 percent of the total bank assets in the United States. The problem is even more pointed because we are not really sure of the statistics. Even the Federal Reserve concedes that their figures are preliminary and possibly incomplete.

Foreign banks now make more than 15 percent of all big United States business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent.

Foreign involvement in the United States banking market has been increasing steadily and substantially over the last six years. The number of foreign banks operating in the United States in 1972 was 66. By the end of 1978 this number had grown to 189, a nearly threefold growth in six years.

Until quite recently, the foreign banking presence in the United States came mainly as a result of the establishment of new offices of affiliates. Within the last two years, however, it has become clear that the pattern of foreign penetration of the American banking market has changed dramatically. Foreign interests have suddenly begun to achieve substantital positions in the market by means of acquisitions of large United States banks. It should be noted that laws governing United States banks abroad are stringent and would prevent what is happening in this country. For example, it would be impossible for a major United States bank to acquire a comparable "clearing house" size bank abroad.

Takeovers and attempted takeovers by foreign banks have been numerous in the last year—the Hongkong and Shanghai's bid for Marine Midland with $14 billion in assets, Standard Charter's acquisition of Union Bank of California's $4.7 billion in assets, National Westminister's purchase of the National Bank of North America with assets of $3.8 billion, Algemene Bank Nederland's purchase of the 1 billion La Salle National Bank of Chicago, which was approved by the Fed on July 13, and Midland Bank Ltd.'s offer for Walter E. Heller International, which owns the $2 billion National Bank and Trust in Chicago. In addition, it has been widely reported that there are a number of other foreign interests exploring, either directly or through investment bankers, possible acquisitions of large United States banks. Virtually every leading American investment banking firm has compiled an analysis of major American banks that might be acquisition targets for their foreign clients.

Foreign control of a substantial proportion of the domestic banking system would inevitably raise questions concerning the degree that such banks would carry out monetary or investment policies supportive of United States interests, especially when those interests happen to conflict with those of the owners' home country. Foreign-exchange operations and willingness to make loans to other large domestic banks are two areas where conflict of interests might arise. Willingness to make loans to large United States companies in competition with the home countries' state-owned business enterprises is another potential problem.

I am concerned that we have not fully considered the implications of a substantial proportion of our banking system falling under foreign control. I am concerned that our bank regulatory agencies have not fully worked out the criteria to judge what are acceptable foreign buyers. And with petrodollars piling up, foreign individual buyers may become a major new force. These buyers are essentially beyond our jurisdiction and beyond our control. It is likely that the prospect of both direct and indirect financial and political influence will convince wealthy Arab businessmen that United States banks are indeed a good investment.

Acquisitions by foreign banking institutions present problems no less serious. At hearings on foreign takeovers on July 16, I asked Henry C. Wallich of the Federal Reserve whether our bank regulators had the authority to examine the books of a foreign bank. He replied that they did not. All they could ask for would be specific information as proof of the affiliates' financial soundness. He went on to say that, theoretically at least, Federal regulators could demand an examination as the condition of approval. But when questioned further, he could not cite even one instance when this, in fact, had been demanded. Muriel Siebert, New York State's banking superintendent, has complained that her evaluatory task was made much more difficult by the fact that the Hongkong and Shanghai Bank could not even produce balance sheets based on the same accounting principles used in the United States.

I am concerned that foreign takeovers of United States banks may have a perverse "snowball" effect. With each additional acquisition by a foreign bank, other foreign banks may come to believe that they too must make a comparable acquisition in the United States in order to keep pace with their competitors. Similarly, United States banks may become irresistibly attracted to the advantages of foreign bank holding companies, which, unlike our domestic ones, are able to establish and retain affiliations with a broad variety of nonbanking businesses.

Finally, I am concerned that the current wave of foreign takeovers of American banks may place United States banks—and in the long run perhaps even American business—at a significant disadvantage. United States banks already have fallen behind the growth rates of the largest foreign banks. If foreign banks alone can acquire leading positions in both their home markets and in the United States, they will have significant advantages in many areas of international finance.

JANET L. NORWOOD, DIRECTOR OF THE BUREAU OF LABOR STATISTICS

Mr. PROXMIRE. Mr. President, we have a relatively new Director of the Bureau of Labor Statistics, a woman named Janet L. Norwood, who has done a marvelous job.

There is a fine article in yesterday's New York Times about Janet Norwood, about her hard work, her intelligence, her administrative ability. We have every reason to be proud of the fine job she has done.

She has appeared before the Joint Economic Committee many times over the years. She succeeded Julius Shiskin who died, as we all know, about 3 or 4 months ago.

She has done an outstandingly fine job. The New York Times indicates some of her strengths and her accomplishments.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHE TAKES HER COMPUTERS HOME

(By Philip Shabecoff)

WASHINGTON.—"The honest working woman is entitled to the respect of all honest-minded people," said the first Commissioner of Labor Statistics, Carrol Davidson Wright, back in the days of President Chester A. Arthur. "She should be welcomed into the churches of the cities and drawn into the best associations."

Mr. Wright would undoubtedly be delighted to know that the Bureau of Labor Statistics is now headed by the kind of working woman he championed. Janet L. Norwood is not only the first woman to head the 95-year-old bureau, she is the first employee to move up through the ranks to its top slot, succeeding Julius Shiskin, who died last October.

At the very least, Dr. Norwood is a person who is entirely comfortable probing the statistical black forest that harbors many of the secrets of an often troubled economy. Occasionally, she even lugs one of the bureau's computer consoles home with her and sits around, she says, "finding out what they can do."

Dr. Norwood, who was sworn in May 18, is beginning to make a noticeable mark as well in the running of the bureau. Among other things, she has taken pains to make its work more responsive to policy needs. Each month, for example, she issues special analyses on such issues as teen-age unemployment, which has been a political land mine of contradictory data. She has taken steps to improve the quality of such statistical series as state and local unemployment data, and she is seeking better communications with Congress.

Having come up through the ranks, the 55-year-old Dr. Norwood does not have any particular academic reputation beyond that of a competent economic statistician. But she is extremely respected within the Labor Department and was pushed strongly for the job by Secretary of Labor Ray Marshall. Members of her own staff speak highly of her, even when talking anonymously. "She is a brilliant person, very quick on her feet and a very effective speaker," said an aide. "She's a people person as well as a numbers person. She has a lot of empathy for people."

Dr. Norwood has taken over an agency that has been a center of controversy in the past even though its mission is to produce straightforward statistical reports on such things as employment and unemployment, consumer prices, wages, trade and a wide variety of other subjects.

Although the bureau and its leaders have managed to maintain a reputation for objectivity, it has been asserted by critics that past administrations, particularly the Nixon Administration, sought to use the agency for political purposes.

In his book, "An American Life," a former Nixon aide, Jeb Stuart Magruder, recalled how the White House had persuaded the bureau to stress good news about employment rather than bad news about unemployment. Mr. Magruder commented that the bureau had resisted the White House request for a time and that "it seemed outrageous that a bureau of the Labor Department should defy a reasonable request by the President."

Dr. Norwood expects no such problems from the Carter White House and has a very clear idea of how the bureau should operate in Washington's highly charged partisan climate.

"The best way to build good statistics," she hold an interviewer, "is to be completely open, be completely objective and stay out of politics."

But Dr. Norwood does not believe this means that the statistics agency should be uncommitted. "First and foremost," she said, "I believe that an agency like ours needs to be responsive to the country's social and economic needs."

To this end, she wants to review the concepts under which the agency operates to find what social and economic changes need to be reflected in the data accumulated and presented by the bureau. For example, data on income and earnings and prices need to reflect the changing status of the family, she said.

"The so-called typical family of four with a male head of the household as the sole income earner" hardly exists any more, she noted. So changes were required in the way family data were collected and reported, she said.

Dr. Norwood does not consider the statistics that are the daily product of her agency to be abstractions. "We find ourselves in the middle of many of the crucial issues facing the country today because most of our indicators have an impact on the real world," she said.

For example, the Consumer Price Index is watched carefully not only by government policy planners but by workers who may have a cost-of-living adjustment linked to the index, she said.

She is not unaware that her new job carries pressures with it. One of the pressures comes from members of Congress and from the Administration for data the bureau does not have and does not have the money or the personnel to collect.

There is also pressure to get reports out fast, she noted, and gave as an example a report on the impact of the recent strike of independent truckers that the bureau brought out in three days. "Sometimes we have to work night and day to get our work out on time," she said. "But it's important. If we are late in getting the Consumer Price Index out, people may lose a pay raise for a whole month."

Working night and day does not seem to faze Dr. Norwood. In fact, some civil servants who work for her have complained that she pushes them too hard, in contrast to her predecessor, who was more interested in doing his own analytical work. According to one economist outside government, Dr. Norwood is bringing a strong administrative sense to the bureau, which it has not always had in the past. She seems eager, as well, to encourage new ways of collecting and analyzing data.

Born Dec. 11, 1923, in Newark, she went through the New Jersey public school system, graduated from Douglass College and received her M.A. and Ph.D. from the Fletcher School of Tufts University.

She taught economics at Tufts and Wellesley and then "I was, shall I say, out of the labor market having two children." She lived abroad with her husband who was a Foreign Service officer, before returning to the United States and joining the statistics bureau 16 years ago as a specialist in international labor law. She later was put in charge of the bureau's Consumer Price Index division and presided over a major revamping of that index. Before succeeding Mr. Shiskin as head of the agency she was his chief deputy.

Dr. Norwood thinks that being a woman may make life on the job a bit harder. "It's always harder being a woman," she said. "A woman always has to work hard and be better." But she also thinks she has been fortunate in her career in the Labor Department. "This department has a social mission," she said, "and I think the men in it have been a lot more open in the way they treat women."

GENOCIDE CONVENTION HEADS LIST OF TREATIES NOT RATIFIED BY THE UNITED STATES

Mr. PROXMIRE. Mr. President, in 1974 the House Subcommittee on International Organizations and Movements issued a report entitled "Human Rights in the World Community: A Call for U.S. Leadership." The committee included in this report a listing of the 29 human rights conventions which the United States has yet to ratify.

Since the committee issued its report in 1974, the Senate has begun to make progress toward including the United States in international human rights treaties. In 1976, the United States joined the nations adhering to the Convention on Political Rights of Women. In the same year, we gave our support to the Inter-American Convention on the Granting of Political Rights to Women.

Mr. President, the Senate certainly acted properly on these two treaties and deserves praise for recognizing the need for protecting the rights of women throughout the world.

However, Mr. President, what about the other 27 treaties? Why is it that we have failed to act on many treaties dealing with simple human rights?

Heading this list of treaties is one which concerns the most basic of all human rights—the Genocide Convention.

To quote Congressman Donald Fraser's 1974 subcommittee report:

> The Senate's failure to ratify the Genocide Convention means that we have yet to accept international legal responsibility for the most heinous of human rights violations. It jeopardizes U.S. leadership and influence in the field of international human rights.

I ask my colleagues to begin anew our commitment to human rights by ratifying the Genocide Convention, and I ask unanimous consent that the list of human rights treaties that have not been ratified by the United States be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

HUMAN RIGHTS CONVENTIONS

The human rights conventions which the United States has not ratified are listed below:

UNITED NATIONS CONVENTIONS

International Covenant on Economic, Social, and Cultural Rights.

International Covenant on Civil and Political Rights.

Optional Protocol to the International Covenant on Civil and Political Rights.

Convention on the Prevention and Punishment of the Crime of Genocide.

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

International Convention on the Elimination of All Forms of Racial Discrimination.

Convention Relating to the Status of Stateless Persons.

Convention Relating to the Status of Refugees.

Convention on the Reduction of Statelessness.

Convention on the Nationality of Married Women.

Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage.

Convention on the International Right of Correction.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

INTERNATIONAL LABOR ORGANIZATION CONVENTION

Freedom of Association and Protection of the Right to Organize Convention.

Abolition of Forced Labor Convention.

Employment Policy Convention.

Right to Organize and Collective Bargaining Convention.

Equal Remuneration Convention.

Discrimination (Employment and Occupation) Convention.

UNESCO CONVENTION

Convention against Discrimination in Education and Its Protocol.

CONVENTIONS OF THE ORGANIZATION OF AMERICAN STATES

Convention on Asylum.

Convention Relatives to the Rights of Aliens.

Convention on Nationality.

Convention on Political Asylum.

Inter-American Convention on the Granting of Civil Rights to Women.

Convention on Diplomatic Asylum.

Convention on Territorial Asylum.

American Convention on Human Rights.

Mr. PROXMIRE. I yield the floor.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean, Mr. President, that the Senate will proceed to the consideration of the State-Justice appropriation bill at around 10:30.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider the nominations on the calendar beginning with Calendar Order No. 253 and extending through Calendar Order No. 268.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished acting Republican leader, I ask unanimous consent that the nominations be considered and confirmed en bloc.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

(The nominations confirmed en bloc are as follows:)

THE JUDICIARY

Marvin E. Aspin, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan H. Black, of Florida, to be U.S. district judge for the middle district of Florida.

James B. Moran, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard P. Conaboy, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Sylvia H. Rambo, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Lawrence K. Karlton, of California, to be U.S. district judge for the eastern district of California.

Warren W. Eginton, of Connecticut, to be U.S. district judge for the district of Connecticut.

William J. Castagna, of Florida, to be U.S. district judge for the middle district of Florida.

Orinda D. Evans, of Georgia, to be U.S. district judge for the northern district of Georgia.

Marvin H. Shoob, of Georgia, to be U.S. district judge for the northern district of Georgia.

G. Ernest Tidwell, of Georgia, to be U.S. district judge for the northern district of Georgia.

Robert L. Vining, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia.

DEPARTMENT OF DEFENSE

John Howard Moxley III, of California, to be an Assistant Secretary of Defense.

Hans Michael Mark of Virginia, to be Secretary of the Air Force.

Antonia Handler Chayes, of Massachussetts, to be Under Secretary of the Air Force.

Robert Jay Hermann, of Maryland, to be an assistant Secretary of the Air Force.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair advises the Senator there are none.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR CONSIDERATION OF STATE-JUSTICE APPROPRIATIONS BILL (H.R. 4392) TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order on tomorrow, the Senate proceed to the consideration of Calendar Order No. 265, H.R. 4392, the State-Justice appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 4392

Mr. ROBERT C. BYRD. Mr. President, on H.R. 4392 I ask unanimous consent that there be a time agreement as follows:

Two hours on the bill to be equally divided between Mr. HOLLINGS and Mr. WEICKER; 30 minutes on any amendment; 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate; and that the agreement be in the usual form as to the division and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of HR. 4392 (Order No. 265), an act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending Sept. 30, 1980, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of the Final Passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Connecticut (Mr. WEICKER): *Provided,* That the said Senators or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Vermont is recognized.

RECESS UNTIL 10 A.M. TOMORROW

Mr. LEAHY. Mr. President, I move that the Senate stand in recess under the previous order until 10 o'clock a.m. tomorrow.

The motion was agreed to; and at 7:01 p.m. the Senate recessed until tomorrow, Tuesday, July 24, 1979, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 23, 1979:

DEPARTMENT OF DEFENSE

John Howard Moxley III, of California, to be an Assistant Secretary of Defense.

Hans Michael Mark, of Virginia, to be Secretary of the Air Force.

Antonia Handler Chayes, of Massachusetts, to be Under Secretary of the Air Force.

Robert Jay Hermann, of Maryland, to be an Assistant Secretary of the Air Force.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Marvin E. Aspen, of Illinois, to be U.S. district judge for the northern district of Illinois.

Susan H. Black, of Florida, to be U.S. district judge for the middle district of Florida.

James B. Moran, of Illinois, to be U.S. district judge for the northern district of Illinois.

Richard P. Conaboy, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Sylvia H. Rambo, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Lawrence K. Karlton, of California, to be U.S. district judge for the eastern district of California.

Warren W. Eginton, of Connecticut, to be U.S. district judge for the district of Connecticut.

William J. Castagna, of Florida, to be U.S. district judge for the middle district of Florida.

Orinda D. Evans, of Georgia, to be U.S. district judge for the northern district of Georgia.

Marvin H. Shoob, of Georgia, to be U.S. district judge for the northern district of Georgia.

G. Ernest Tidwell, of Georgia, to be U.S. district judge for the northern district of Georgia.

Robert L. Vining, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia.

EXTENSIONS OF REMARKS

PROTECT WHEAT EXPORTS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. ABDNOR. Mr. Speaker, wheat exports are vitally important to American wheat producers in order to receive a reasonable price for their product. For American agriculture to prosper, foreign wheat exports must be expanded even more than the near record 30.6 million metric tons that were shipped in the 1979 marketing year.

Today I want to address a matter that has not only not increased U.S. wheat exports, but has actually acted to decrease them.

The European Economic Community used export subsidies in the 1979 market, which increased their exports by approximately 4.4 million metric tons, of which 75 percent or 3.3 million metric tons would have been supplied by the United States.

Because of this unfair trade practice, Great Plains Wheat—which is a wheat market development and promotion organization supported by wheat producers through their State wheat commissions in South Dakota, Kansas, Colorado, Minnesota, Nebraska, North Dakota, Oklahoma, Texas, and Wyoming—filed a complaint under section 301(a)(3) of the Trade Act of 1974.

The following is an excerpt from a letter I received from Secretary Bergland about this matter:

In response to the formal complaint filed by Great Plains Wheat under section 301 of the 1974 Trade Act, an Interagency Committee was established to look at the facts per-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

taining to the complaint and determine if Great Plains Wheat had a legitimate case. This Committee was chaired by the Office of the Special Trade Representative and included representatives of the Departments of Treasury, Labor, Commerce, Agriculture, State, and Justice along with the Council of Economic Advisers.

In recognition of the problem, the Office of the Special Trade Representative has accepted the Committee's recommendation that discussions be undertaken with the European Community: (1) to express our concern about the impact of European Community export subsidies on wheat during the 1978/79 marketing season, and (2) to ensure the Community clearly understands that in the event subsidized European Community sales of wheat to third country markets create instability and loss of United States wheat sales in the coming market season, we will undertake all appropriate efforts to protect our trade interests.

The intention is to schedule these discussions as soon as possible but, in any event, prior to the beginning of the European Community's 1979/80 marketing season.

As you see the administration is planning to take steps to deal with this problem. It is unfortunate, though, that action could not have been taken sooner to prevent the loss of $885 million in wheat export earnings.

Mr. Speaker, I feel that this is a matter worthy of the attention of the House of Representatives. By passing this resolution we will be giving the U.S. negotiators an additional tool to use in their dealings with the European Economic Community. The intent is not to promote trade warfare, but to insist on fair international trade.

Now is the time for us to let our competitors in the international marketplace know we are serious and no longer will accept anything less than that which we deserve and have every right to expect; that is, basic fairness.

I urge my colleagues to support the rapid enactment of the following resolutions:

H. Res. 383

Resolution expressing the sense of the House of Representatives that the United States should take certain actions to persuade or compel the European Economic Community to cease reimbursing exporters for subsidizing the production of wheat for export from the countries which are members of the European Economic Community

Whereas 30,600,000 metric tons of wheat, comprising 60 percent of the wheat harvested in 1978 in the United States, was sold in the marketing year ending in May 1979 for export from the United States;

Whereas the European Economic Community reimburses exporters for paying subsidies to producers of wheat in the countries which are members of the European Economic Community, for the purpose of increasing the amount of wheat exported from such countries;

Whereas the reimbursement by the European Economic Community of exporters who pay such subsidies prevented the United States from selling for export an estimated 3,300,000 metric tons of wheat in 1979 marketing year;

Whereas this loss of sales of wheat for export from the United States reduced the export earnings of the United States by approximately $885,000,000 in the 1979 market year;

Whereas increasing the production of wheat in the United States depends on expanding markets for wheat exports;

Whereas the Ministers of Agriculture of the European Economic Community met on June 2, 1979, and took no action to eliminate or limit the reimbursement of exporters for subsidies to be paid to producers of wheat for export from the countries which are members of the European Economic Community;

Whereas the General Agreement on Tariffs and Trade Subsidies Code establishes procedures to resolve disputes regarding the fairness and justification of the reimbursement of exporters for such subsidies; and

Whereas the Secretary of Agriculture has the authority to provide subsidies for the production of wheat for export from the United States: Now, therefore, be it

Resolved, That it is sense of the House of Representatives that—

(1) the Special Representative for Trade Negotiations should consult with the Ministers of Agriculture of the European Economic Community to persuade them and, through them, the European Economic Community to cease reimbursing exporters for subsidizing the production of wheat for export from the countries which are members of the European Economic Community, and

(2) if the European Economic Community refuses to cease reimbursing exporters for subsidizing such production of wheat, then—

(A) the United States should take action in accordance with the General Agreement on Tariffs and Trade Subsidies Code to compel the European Economic Community to cease paying such reimbursements, and

(B) the Secretary of Agriculture should implement a program to pay any subsidies necessary to make the price of wheat for export from the United States competitive with the price of wheat for export from the countries which are members of the European Economic Community.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President and to the Special Representative for Trade Negotiations.●

OBSERVANCE OF RIVERVIEW HOSPITAL'S 50TH ANNIVERSARY

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. HOWARD. Mr. Speaker, August 4, 1979, marks the 50th anniversary of Riverview Hospital, Red Bank, N.J.

Founded in 1929 as a voluntary, nonprofit organization, Riverview Hospital has grown both in size and in the scope of its services to become one of New Jersey's leading health care facilities, and the focal point of health care for over a quarter of a million residents.

Riverview Hospital has always been in the forefront of progressive medical science and programs, and was the first hospital in New Jersey to establish a specialized surgical-respiratory intensive care unit and to pioneer the use of cobalt therapy for the treatment of cancer.

Riverview Hospital is one of the few hospitals in New Jersey that has a program of hospice care to meet the special needs of the terminally ill. It has been my privilege to work with Riverview in attempting to secure Federal funding for its hospice program, as I believe that it represents a progressive effort to control the high cost of hospital care.

Fully accredited, Riverview Hospital offers a comprehensive array of advanced health services in its 500-bed facility. Among these are stroke rehabilitation, a full-service alcoholic recovery program with a residential treatment facility, a speech and hearing nursery school, critical care units for surgical, respiratory, coronary and medical patients, mental health programs, cancer information center, nuclear medicine center for the diagnosis and treatment of cancer, consumer health education programs, Tel-Med, plus numerous outpatient services.

I know that my colleagues will join with me in recognizing the positive and progressive steps Riverview Hospital has implemented in improving the service it provides to all the residents of the area it serves.●

CAPTIVE NATIONS WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1979

● Mr. CONTE. Mr. Speaker, as you know, this week has been proclaimed by Congress as Captive Nations Week. It was 20 years ago, in July of 1959, when the first Captive Nations Week was proclaimed and this is now the 21st time it has been observed.

Mr. Speaker, I think it important for us to realize, and many often forget, that we are not worried about the captive nations themselves, but rather about the people in these nations. These are the people who do not have the basic freedoms and rights which we, as Americans, enjoy; the freedom of religion, the freedom of speech, the right of self determination. These are the values which we hold dear, and yet we forget that not all the people of the world enjoy them.

The United States is still a beacon of light and freedom to all the world. But we are at a disadvantage because of our belief in freedom. We are at a disadvantage because we will not impose our values on another nation. We will lend support, we will try to persuade and convince, we will attempt to educate, but, unlike governments which impose their will by force, we impose our will strictly by example. We will not force an unwilling people to accept our form of government. So we must show that our Nation progresses faster, produces better, and remains stronger, because of our governing system.

This year we have taken a big step in this direction. We now have normalized relations with mainland China. We have before us a golden opportunity to show a billion people, one-quarter of the worlds population, just what our country is like.

Certainly, the present Government in China may still oppose our concept of government. They may still check the freedoms of their people. But now, these 1 billion people can at least catch a small glimpse of what our country is like. It is said that great changes start with small ideas. Now, perhaps, the small idea can at last be planted in China. It may take a long time for that idea to grow, longer than you or I will be around, Mr. Speaker. But that is the disadvantage of imposing by example. Patience is a virtue, and we must be virtuous.

In the meantime, we should do all that we can to help people in those nations where they already yearn for freedom, but are held in check by a stronger force.

The influence of the Soviet Union continues to spread, as more and more countries are forced under their rule. We should put a spotlight on what they are doing. We should show the world that the Soviets still reject the rights of all men to certain freedoms.

We must work, through peaceful means, to free captive nations that wish for freedom, and we must help to support those countries whose freedoms are in danger. We must let the world know that we will work tirelessly on behalf of human rights until all people enjoy the freedoms which are, by right, theirs.

Mr. Speaker, let us remember during this observance of Captive Nations Week, that freedom is not something which can be given, freedom is something which can only be taken away.●

REAL PROPERTY TAX REFORM BILL INTRODUCED

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. GEPHARDT. Mr. Speaker, proposition 13 may be history in California, but real property taxes will remain an important source of revenue to State and local governments and a constant source of complaints from taxpayers. Whether or not property taxes should be reduced, everyone agrees that property taxes are poorly administered and that there is a great need for reform—the biggest obstacle being how do we pay for it.

The two problems common to most jurisdictions remain the need for reassessments to meet current fair market value standards in each taxing district and the need to equalize the amount and rate of taxation on all real property in the State, without regard to the use or value of such property. Unfortunately, most jurisdictions cannot afford to reassess their property on a fairly current basis and there is little incentive to equalize.

Accordingly I am introducing today a bill to establish a program of assistance to State governments in reforming real property tax laws. Briefly, the Real Property Tax Reform Act of 1979 * * *

First, states as its purpose to strengthen the ability of State and local governments to administer real property tax laws, to encourage reform of the administration of such laws, to promote sound land-use policies and coherent urban growth, to provide information to taxpayers, and to provide funds for education to States which adopt certain reforms;

Second, establishes, within the Department of the Treasury, the Office of Real Property Tax Reform to be headed by a Director and a Deputy Director, who will monitor the Federal role;

Third, provides a grant and loan program for States that publish the assessment-sales ratio and implement an effective appeals process, beginning with $15 million in fiscal year 1981 and increasing to $25 million in fiscal year 1983;

Fourth, provides interest free loans to States for the testing and certifying of assessors along with the compilation of maps and other improvement activities; and

Fifth, arranges for the training of assessors under the Intergovernmental Personnel Act of 1970 and assists States in securing Federal information; the bill would also provide $5 million for special experimental programs and other administrative reforms.

Because our public education systems depend so much on this revenue source, my bill will also provide education grants to States which adopt certain reforms with respect to real property taxation and the distribution of education funds derived from such taxation. Given the Serrano against Priest decision of the California Supreme Court in 1971, it is incumbent that the revenues derived from property taxes be spent in equal amounts for the public education of each student in each State. This bill would encourage such action by providing education grants to those States that assess real property not less than once every 5 years, that base the real property tax on the same percentage of fair market value, and that equalize current funding disparities among school districts. Hopefully, future votes on local school tax levies would be received more favorably by the voters for the benefit of our school age children attending public schools. The Congress is working its will for private education in the form of tuition tax credits the same can be true for public education with this bill.

For the taxpayer, the Real Property Tax Reform Act of 1979 will not limit the amount of tax that could be levied on their property or the size of reassessments that periodically will be made, that is, this is not a Federal proposition 13. Real property taxes under our Federal system of government must and shall remain in the hands of State and local public officials, subject to the will of the people of course. What the bill will encourage, however, is property tax reform that would insure that your next door neighbor or the business down the street will be reassessed on the same basis as you are and that like property throughout the State is bearing its fair share of the local tax burden as well.

In short, I propose a means to make real property taxes as fair and equitable as possible.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Ms. HOLTZMAN. Mr. Speaker. I was unable to be present for the following votes on June 26, 1979. If I had been present, I would have voted the following:

Rollcall No. 280—yes; rollcall No. 282—yes; rollcall No. 283—yes.●

SOVIET ULTIMATUM ON SALT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following William Randolph Hearst editorial, which appeared in the July 1, 1979, issue of the Hearst Newspapers, comments on recent Soviet threats to break off future strategic arms talks if the Senate decides to add conditions to the SALT II Treaty.

I think the editorial raises a number of considerations that my colleagues in the Senate should keep in mind as they debate the Treaty. Certainly the most important of these points is that the Senate should not allow the Soviets to intimidate them in their deliberations.

The editorial follows:

SOVIET ULTIMATUM CASTS SHADOW ON 4TH

NEW YORK.—Today marks the beginning of the week in which we celebrate Independence Day, the 203rd anniversary of the day the United States of America declared its independence from the British Empire.

We call this Wednesday the "Glorious Fourth" and for good reason. We glory not only in our nation's successful fight for freedom, but in its emergence during these 203 years into the world's greatest showcase of vigorous and truly representative government. We have preserved the checks and balances written into our Constittuion by the Founding Fathers, preserved them because they are the essential framework of our individual liberties and human and political rights. The Fourth of July is indeed one of freedom's most glorious days.

This year a shadow hangs over this great holiday. It is cast by the Soviet Union's ugly ultimatum to the U.S. Senate to ratify the SALT II treaty—or else end negotiations for all time.

It is an insult that almost defies belief. It is asking the Senate to reverse history, a history that has seen that body particularly with the president honorably and effectively in guiding the destiny of our nation. It is not a pleasant spectacle to see a totalitarian nation trying to tell a free nation that its duly elected representatives should have nothing to say in the formation of national policy.

That, however, is what the Soviet Union's foreign secretary, Andrei A. Gromyko, told the world, in plain English, at a press conference last week. He warned the U.S. Senate that if it even revised the SALT II agreement, Russia would talk peace no more.

A week before in Vienna, President Leonid Brezhnev threatened that the treaty would "collapse" if the Senate did any tinkering. Gromyko was equally blunt in badgering the Senate to sign, or else: "I tell you frankly, it is impossible to resume negotiations. It would be the end of negotiations, the end, no matter what amendments would be made." The ultimate insult was his asking the Senate to ratify a document it hadn't even read.

I am not greatly surprised at this ultimatum. Recent impasses in Soviet-American relations have been a forewarning. What does surprise me is that it should happen in my lifetime. I had a feeling that perhaps my two sons some day would hear a Russian leader tell the United States to do its bidding or else, but I didn't expect to hear it myself.

What is so disheartening about all this is the Soviet Union's total lack of understanding of the part people play in governing a country like the United States. Doubly disheartening is the fact that President Carter aided and abetted the Soviets' attitude by his own form of arrogance in cracking the whip over senatorial backs.

Carter let the Senate know it would look like a bunch of "warmongers" if it did not go along with the treaty. By implication he said they would be unpatriotic. With disdain for the system of checks and balances, written carefully into the Constitution by the Founding Fathers in order to ensure the equality of the three branches of government, he announced that if the Senate failed to ratify, he would conduct foreign policy just as if the treaty existed anyway.

All of which played right into the hands of Brezhnev and Gromyko. It opened the door for them, indeed encouraged them, to get into the needling act and tell our senators how to vote if they were to remain in good favor with Moscow.

Sen. Robert Byrd, the Democratic majority leader from West Virginia, flew to Moscow last week, hoping to explain to the Russians that Senate ratification of SALT II, or any treaty, is not an automatic gesture. It may be difficult for him to penetrate their washed brains, but it is a worthy mission. He can at least tell them that U.S. senators won't sit still for the kind of abuse they are getting from the Kremlin and the ultimatums hurled by its spokesmen.

It is hard to believe that Gromyko could issue such an ugly ultimatum. It is even harder to believe that the attitude of a U.S. president should have encouraged him toward such an end.

On a cheerier note, I might add that the Kremlin's attempt at an end run around the Senate won't work. The Senate isn't that stupid. Its members are too intelligent and too dedicated to our form of government to become psalm-singers at their own funeral. Nevertheless, it is disturbing to see them looked upon as rubber stamps by their own executive branch.

Our president is not an absolute ruler. Our president is simply an equal partner in a triumvirate that also includes Congress and the Supreme Court. This is the American system of checks and balances. Let us bear this in mind as we celebrate Independence Day and rejoice in the right of free people everywhere to live without threats, coercion—or ultimatums.

It is a good time for all of us to reread the preamble to the Constitution and the Bill of Rights to reinforce ourselves against those who would ignore these finely tuned documents of the true meaning of freedom.●

REGARDING DISCOUNTED AMTRAK FARES FOR THE ELDERLY AND HANDICAPPED

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. RATCHFORD. Mr. Speaker, I urge my colleagues to support an amendment offered by the distinguished chairman of the Select Committee on Aging, Mr. PEPPER. This measure would amend the Amtrak authorization bill under consideration this week to require Amtrak to institute a program of 50 percent discounted fares for the elderly and handicapped.

I laud Amtrak for their diligent efforts to date to promote use of its services by the elderly and the handicapped, but I submit to you Mr. Chairman, that more must be done in this area if we are to achieve greater socialization of this vital sector of our population. It has been Amtrak policy since 1972 to "make the right of travel a reality for all people." This amendment is an effort to state the sense of the Congress that Amtrak, which receives millions of taxpayer dollars each year, cooperate with our nationally stated goal of bringing more elderly and handicapped back into the mainstream of society. Recognizing that all Americans have the right to unimpeded access to transportation, the Congress has passed legislation intended to remove all social and physical barriers such as the Rehabilitation Act of 1973 and the Older Americans Act.

Understanding concerns by Amtrak that the displacement of the present ridership with discount fare passengers could mean a substantial loss in revenues, this amendment is designed to apply only to those seats available on any route. Reports indicate that in fiscal year 1978 Amtrak carried over 5,100,000 passengers on its long-distance trains. Persons over the age of 55 comprised from 23 to 27 percent of all passengers, with half of those aged 65 or over. In the Northeast Corridor Amtrak carried over 10,400,000 passengers, with only 18 to 22 percent over the age of 55, and only 10 percent over the age of 65. Even a modest promotional effort by Amtrak in recent years has resulted in a healthy threefold increase in ridership by the handicapped. Clearly, Mr. Chairman, the full potential for greatly increased use of rail transit by the elderly and the handicapped has yet to be realized. Our amendment would go a long way toward the achievement of these important goals we have continually set forth.

My experience as a former Commissioner on Aging for the State of Connecticut would clearly indicate that many older persons are no longer able to drive automobiles, and lack adequate financial resources to fly or take the train at regular fare schedules. We all know that the vexing problem of gasoline supplies and the high cost of fuel prohibits many who are able to drive from doing so. The financial constraints are all the worse for our elderly and handicapped population. Since we know that Amtrak operates each day with many empty seats, it indeed makes imminent sense for us to fill these seats with those who would occupy them if discount fares were available on a space-available basis. The deregulation of the airline industry provides us with an excellent example of the benefits which can result from the use of reduced fares.

Mr. Speaker, I implore my colleagues to adopt this important measure which will reaffirm our commitment to offering greater access to transportation to those that need it most, at no cost to the taxpayer. Thank you.●

THE BRONX—LOOKING GOOD FROM A BUSINESS POINT OF VIEW

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. BIAGGI. Mr. Speaker, recently a speech was delivered in my home borough of the Bronx which was most unusual by today's standards. It touched on the positive aspects of urban life—more specifically about life in the Bronx, one of the five great boroughs of the city of New York. In a time when cities continue to be unfairly maligned the speech was a welcome respite from the norm.

The speech was delivered by Robin L. Farkas of the Alexander's department stores whose first store was opened more than 50 years ago in the South Bronx. George Farkas, Robin's father founded the first store and the Alexander's chain has grown to become one of the largest in the New York City area. Alexander's remains a vital part of the South Bronx and in fact the operation has expanded in the ensuing 50 years. This comes in direct contrast to many businesses which have shut down.

Robin Farkas makes a number of salient observations about what has caused the decline of New York. Included are some Federal policies, especially welfare policies, which seemed to inflict much more of a burden on New York without providing an opportunity to offer relief.

However, unlike many assessments of New York City—this one has an upbeat main point—notwithstanding the decline—Alexander's has remained in New York and in fact has expanded its base because it believes in the Bronx and believes it performs an important service to the community. Put into Farkas' words:

> And why didn't Alexander's move away? Because there are still people here and they still need clothing and household goods they can afford.

The message is clear. New York can and should be revitalized through incentives provided by the city, State, and Federal Government as well as private industry. New York must be viewed as a five-borough entity. The South Bronx must be moved away from the rhetoric into the reality. Recently the Department of Housing and Urban Development awarded more than $4 million in grants to two projcets in the South Bronx. This is what is needed—funds that will generate new jobs—new jobs generate new confidence—new confidence generates new citizens and businesses. This is what is needed and should be started.

I am happy to place into the RECORD the speech of Robin L. Farkas delivered before the Bronx County Democratic Committee annual dinner:

> Thank you, Stanley Friedman:
>
> I understand from The Post that I am a stand in for Gerry Brown. I don't mind

that—but when do I get time with Linda Ronstadt? I would be glad to take her on a photographic tour of the Bronx!

I accept your gracious presentation on behalf of the 13,000 hard working and dedicated people who comprise the Alexander's team and who make it what it is today. I also accept your presentation on behalf of my father, George Farkas, who founded Alexander's over 50 years ago and opened the first store on 3rd Avenue, in what is now referred to as the South Bronx. That's a place that presidents like to visit but they wouldn't want to live there. It was much smaller than the store that is there today. In the intervening years, as the Bronx developed, it was expanded many times. The second Alexander's on Fordham Road, which was opened in 1933, also started much smaller and there are probably not too many people here this evening who remember it in its original form. How many people remember Rosenhain's Restaurant on the corner of Fordham Road and the Concourse? Now, it and a number of former apartment houses on Creston Avenue and the Concourse are incorporated into the store. How many here remember Rogers Department Store at Webster Avenue and Fordham Road? For those whose recollection does not go back that far, Rogers was the original occupant of the present Sears store—and that won't be there too much longer.

The Bronx was a different Bronx in those days but Alexander's is the same Alexander's. Why, then, did one prosper and grow—while the other did not? Believe it or not, the basic cause of the decline of the Bronx was federal policy and our own good intentions. The City was prosperous and growing in those days of the 1940s and early 1950s—as was the rest of the industrial Northeast. The South was depressed and lagging sadly. Federal policy was aimed at righting the inequities between North and South, so the revenues from the wealthy North were diverted into building highways stretching from the cities of the North to the South and the West. Port facilities and government installations were built to develop jobs for the disenfranchised South. Southern and Western states were encouraged to float tax free industrial development bonds to lure industry to the cheap labor markets still available there, At the same time, cities, like New York, with the expanded new welfare system, were encouraged to provide a better quality of life for the urban poor and, our enlightened sense of justice and liberalism made us want to do it better than anywhere else. As a matter of fact, federal monies, when we got them, were in the form of soft dollars for welfare programs. So, we built a better City University system, and a better public hospital system, and a more generous welfare system with more facilities for the disabled and disenfranchised than anywhere else. And the federal government encouraged that too.

They established programs for which they would pay 80 percent if the locality would pay 20 percent. If we didn't adopt the programs, the 80 percent went somewhere else and a lot of that was our tax money, so, we adopted the programs. Then later, the government changed its mind and dropped the 80 percent. There we were—stuck with the facilities and the programs and, now—100 percent of the bills!

It was a great tradeoff we were experiencing. Our benevolence sucked up the Southern poor and the poor Southern states sucked out our industry and with it our jobs. We were being penalized because we wanted to share our prosperity and make a better life for the disadvantaged. That was our tradition. This City was built by the waves of poor and oppressed from the East. Now, we got the poor from the South and Puerto Rico.

Not all of the damage was done to us, however. We did some of it to ourselves. We were one of the only places in the country to maintain rent control after World War II. With operating and maintenance costs, and taxes going up, rents could not rise proportionately. Maybe some form of rent control, if properly modified, could have protected the disadvantaged, but, the way it was implemented here when combined with some of the provisions of household aid within the welfare system, current rent control was counterproductive. Loss of housing stock in the South Bronx, Brownsville, Bedford Stuyvesant, and Jamaica bear witness to that. Perhaps it is poetic justice that the same city government that maintained the unrealistic rent levels became the largest slumlord of all.

The more affluent who could afford to move away from the problems did so. The new suburbs connected to the City by new federally supported highways made it easy. So the jobs went first, and the middle class went second, and, with it all went the tax base to support all the services. Thus, deficit municipal financing was born. Borrow long term to cover current expenses—only, hide it in the so-called capital budget. After all, the debt service consumed but a small part of the total tax dollar. Or does it? Does it really, when the total debt reaches 13 billion dollars? Once again, too much of a good thing!

Well, the Bronx had a big problem. It was a part of all this but it couldn't move away. Its industry could, its middle class could, but, it couldn't. Alexander's moved too but, it didn't move away. It stayed right here in the Bronx. As a matter of fact, it expanded in the Bronx and opened a 395,000 foot distribution center here, moving from a smaller facility in upper Manhattan. It was fortunate, however, because it could open stores in other places and it did. White Plains, New Jersey, Long Island, Connecticut, Manhattan, Queens, Brooklyn—to a total of 15 stores. And all of this meant more Bronx jobs as our distribution center got busier and busier.

And why didn't Alexander's move away? Because there are still people here and they still need clothing and household goods that they can afford. And they recognize value and that's what we give them and that's what we will continue to give them.

Not only that, but, we believe in the future of the Bronx and the future of New York. We are presently working on three more New York City stores because, everything runs in cycles and the pendulum is swinging back our way. The federal government has finally recognized that they were killing the geese that laid the golden eggs. For too long the prosperity of the cities was taken for granted. They recognized that the South won the economic Civil War of the 1960's, and, now it is time for a Northern urban reconstruction. And our own state and municipal governments realize what they had participated in and they have all adopted programs to restimulate the businesses they had been milking. So, there are now tax incentives, training grants, CETA grants, UDAG grants, community development grants, all aimed at stimulating the growth of business and jobs. Jobs mean dignity, jobs mean prosperity, and jobs mean the renaissance of the Bronx and the rest of New York. However, let's not mistake the image for the reality. The new programs have been stimulative and the stimulation has worked. Now there is talk in some inner circles of removing the stimulus. It's too early! The basic problems are not over. Mid Manhattan seems to be doing fine but the rest of the boroughs are not. Not yet! It is in some ways sad that government so affects our lives today but let's not change the system. It's too big. Let's turn it to our advantage. Let's make sure that everyone we send to city, state, and federal government remembers that they are from New York City and the Bronx, that the Bronx and New York need help. Let's drop our little regional and minor ideological differences and work together. We have paid our price for developing the rest of the country. Now it is our turn and we want our share.●

RON MIX, YALE LARY, DICK BUTKUS, AND JOHNNY UNITAS ARE ENSHRINED IN PRO FOOTBALL'S HALL OF FAME

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. KEMP. Mr. Speaker, I am very honored to commend to this Congress, along with my friend, Ralph Regula of Canton, Ohio, the four outstanding pro football stars and friends of mine who will be inducted into the Pro Football Hall of Fame on July 28, 1979, in Canton, Ohio. I would like to bring to the attention of my distinguished colleagues some of the highlights of their career, the sacrifice and dedication these football greats have manifest in their lives.

Mr. Speaker, I am proud that the second AFL "product" to be elected to the Pro Football Hall of Fame after Lance Alworth, is Ron Mix of the San Diego Chargers. Ron, by unanimous vote, was an offensive tackle selection. Both Ron and Lance were teammates of mine at San Diego and are close friends besides being two of the greatest football players of all time. I am very pleased that Ron Mix has made the hall of fame, particularly because of his tremendous dedication and personal example of integrity.

Yale Lary, a versatile do-everything style of player, began his 11-year career in 1952 with the Detroit Lions. Whether it was a key tackle, an interception or a long run, making the big play in a close game became a Yale Larry trademark. Yale is an old friend from my brief days with Detroit in 1957, my rookie year.

Who is the best player at any position is always debatable. But there is never an argument when the position of middle linebacker is mentioned. From 1965 through 1973 Dick Butkus of the Chicago Bears, wreaked unprecedented havoc on the offensive units of all other National Football League teams. Dick is a legend in the NFL and is most deserving of hall of fame recognition.

Joining Ron Mix, Yale Lary, and Dick Butkus is a man who could be called the greatest quarterback in history, Johnny Unitas. Known as "Mr. Clutch," Unitas is one of the most fabled and followed grid stars in history. Not only respected by his teammates, John Unitas is probably the single most respected quarterback in all of pro football by his opponents as well.

Ron, Yale, Dick, and Johnny are truly reflective of all football greats presently enshrined and indeed of the highest qualities of pro football as played in the National Football League.

I think it would be a mistake, however, to focus attention only on this award without recognizing the qualities developed in their lives which helped them to overcome obstacles on the way to the hall of fame. For to focus attention solely on the award, and their success, is to lose sight of the many hardships and challenges that each has overcome and which seem to me the real reason the hall of fame exists for all America.

As I said in my speech in Canton, Ohio, honoring the 1973 enshrinees, the meaning of the hall of fame is to serve as an example and a beacon, by which young men and women around this country can gain inspiration and motivation to press on, despite temporary setbacks to their goals in life. Whether or not they reach the hall of fame—it is in the competition and in the striving that qualities are forged that make for better people and better citizens of this great Republic.

What these great athletes really honor in Canton, Ohio, is the transcendent quality of the human spirit that united us all, black and white, young and old, men and women, the spirit that derives strength from challenge. The spirit that never gives up. The spirit upon which this country was founded, upon which we must build even further if we are to have a better tomorrow. It has been said that if you lose your money you have lost nothing. If you lose your spirit, you've lost everything. We must never lose our spirit, either as individuals, or as a nation, and these four athletes are typical of that spirit that never, never, never quits.

These men are friends of mine and inspirations to all who know of their personal and professional lives.

Ron Mix was an all-NFL selection in his first 9 years. Eight times he was the AFL's all-league tackle. He played in seven AFL All-Star games and in five of the first six AFL Championship games. When the Hall of Fame Board of Selectors picked an all-time AFL team in 1969, Mix stuck to a fairly basic formula of utilizing his speed and strength to become the AFL's best offensive tackle. On passing plays, he would simply pop out at his opponent, usually the defensive end, at the moment of the center snap, hit him hard, drive him back and continue the attack until the pass was in the air.

Ron is one who believes that if you work hard enough at anything you will make it, and he is one gentleman who did make it, on and off the gridiron. I know this firsthand, having been a part of Ron's early career, and he and his wife Pat, are dear friends of my family.

Yale Lary's primary task was to play right safety for Detroit's talented defensive corps. He also was a super punter who consistently kept opponents in poor field position with his booming long-distance kicks. In 1960 Detroit opponents averaged less than a yard return on Larry's punts.

He punted 503 times for an average of 44.3 yards and in 1963 his 48.9-yard record was the second highest seasonal average ever.

Lary's defensive skills elected him to all-NFL teams four times and he played in nine Pro Bowl games. Fifty interceptions is his career record and is only surpassed by four others since Yale's retirement in 1965.

The strength of the Lions famed defensive unit of the 1950's was Chris' Crew, a backfield foursome molded around Christiansen with Lary playing right safety. Yale held his position longer than any other member of the original Chris' Crew.

Yale Lary was also the Lions busiest punt returner. Three times he scored on long-distance punt returns, the longest a 74-yard return. One of his favorite ploys was a run from punt formation. Lary carried the ball only 10 times during his career for a sparkling 15.3-yard average but the mere threat of a Lary run from the punt formation kept opponents constantly on edge.

Dick Butkus was named on the all-NFL team seven of his nine seasons and he played in the Pro Bowl after his first eight campaigns. The 6-foot-3-inch, 245-pound middle linebacker held the NFL record for recovering 25 opponents' fumbles and took the ball away from the opposition 47 times to set a Bears team record. The "Monster of the Midway" was also responsible for intercepting 22 passes.

On the gridiron Butkus was a player fantastically devoted to playing every game as though it were the most important. This attitude gained him the respect of not only his teammates but his opponents as well.

In 1969 the Board of Selectors of the Pro Football Hall of Fame, when asked to name an all-star team from the first 50 years of the NFL, picked Johnny Unitas as quarterback. He aced me out by just a few points, but I am overlooking that for the greater good. Seriously, Mr. Speaker, Johnny had all the attributes of the perfect quarterback: confidence, courage, coolness under fire, leadership, play calling genius and passing skill beyond belief.

Unitas' career statistics are awesome: 8,186 pass attempts; 2,830 completions; 40,239 yards gained, and 290-touchdown passes. A classic pocket passer who ran only in emergencies, Johnny still gained 1,777 yards and 13 touchdowns rushing.

He was an all-NFL selection 5 times and in 1959, 1964, and 1967 was named the NFL player of the year. Unitas played in 10 Pro Bowl games and won MVP honors a record trying 3 times. He guided the Colts to a second straight NFL title in 1959, and altogether played in three NFL championship games, two AFL title contests and Super Bowls III and V during his Baltimore tenure. He missed the 1968 NFL Championship contest because of injuries.

The record book is clogged with Johnny Unitas notations, but there is one mark—throwing at least one touchdown pass in an incredible 47 straight games (49 if you count the 1958 and 1959 NFL Championship games) that has to rank as one of the most unbeatable records in all of sports. He is a tremendous leader, the greatest quarterback and a great American.

I am proud to say all of these men are friends of mine and richly deserve the tribute of being "Hall of Famers." Congratulations to each one and congratulations to the sport of pro football for having helped develop such men as these.●

FAILURE OF CURRENT SHIP SUBSIDY PROGRAM

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. McCLOSKEY. Mr. Speaker, during last week's general debate on the Maritime Authorization, the issue of the failure of the current ship construction subsidy program was raised. To illustrate the burdens of having to have a vessel constructed in a U.S. shipyard and the failure of the subsidy program to eliminate the advantages of having a vessel built overseas, I would like to place in the CONGRESSIONAL RECORD a letter from a U.S. steamship company explaining why they decided to have their new vessels built overseas without subsidy rather than in the United States with subsidy.

The letter follows:

SEA-LAND SERVICE, INC.,
Edison, N.J., March 29, 1979.

Hon. PAUL N. McCLOSKEY, Jr.,
205 Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN McCLOSKEY: This is in response to your letter of March 19 requesting that I advise you the reasons why Sea-Land decided to construct new vessels in foreign shipyards "in spite of the Construction of Differential Subsidy Program designed to equalize costs between foreign built and subsidized U.S. built vessels."

The principal reasons for Sea-Land's decision to award contracts to Japanese and Korean shipyards for our twelve new vessels were delivery schedule, sequence of delivery, technology, and price.

The three foreign yards selected for our building program provided as a delivery schedule of fifteen months construction time for each vessel and a sequence of delivery of one vessel every thirty days commencing January 1, 1980. Aside from price, which I will answer specifically, one of our principal objectives was to place these new vessels in productive service as soon as practical.

Our planning analysis projected the increasing importance of vessel fuel efficiency. We concluded that this generation of new vessels would have to be powered by large, high quality, slow speed diesel engines capable of burning all grades of fuel.

The inability of American shipyards to meet the power plant and delivery schedule requirements could not have been corrected by CDS.

The D-9 class vessels were contracted for $30 million each (fixed dollar contract). Our Ship Construction Department estimates U.S. construction costs of about $80 million per vessel. The differential is $50 million but Section 502 of the 1936 Act permits a maximum subsidy of 50 percent of the U.S. cost, or $40 million. Therefore, even with a 50 percent CDS, our Company would have paid a penalty of about $120 million to get later delivery of twelve ships from yards with little or no experience in building the required machinery plants. In addition, there would have been a further penalty of the delay of about twelve months in starting the service. Added to that, the sequence of delivery from American yards would have been at least every ninety days versus every thirty days.

MHI, the lead Japanese yard, also provided engineering design for these vessels and diesel engine training facilities for shipyard and shore staff engineers.

In summary, the combination of these economic elements represent a substantial benefit to Sea-Land that, unfortunately, could not be matched by American shipyards.

Sea-Land is a subsidiary of a publicly-held company and is obligated to provide its parent and the shareholders a financial return which justifies and encourages the investment required for growth, profitability, and continuing strength of its American flag operations.

I trust this information will satisfy your inquiry.

Respectfully,

C. I. HILTZHEIMER,
Sea-Land Service, Inc.●

ROMANIAN MFN

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. DODD. Mr. Speaker, when the House of Representatives meets to consider House Resolution 317, disapproving extension of most-favored-nation status for Romania, I will vote in favor of the resolution of disapproval.

For the past 3 years, Mr. Speaker, I have always voted against such resolutions of disapproval. However, this year, I will vote "aye" on House Resolution 317. I will vote "aye" because I have simply lost my patience with the Romanian Government.

Since the United States granted most-favored-nation status to Romania in 1975, the human rights situation in that nation and the level of Jewish emigration to Israel have declined dramatically. New barriers to free emigration have been created by the Romanian Government. Romanians wishing to emigrate must now get on a waiting list for a preapplication form, then fill out the form itself and finally, if his preapplication form is approved, he may then receive and complete the actual application form.

It should therefore come as no surprise to us that Romanian emigration to Israel continues to decline. Prior to most favored nation, 4,000 Romanian Jews left for Israel. In 1978, the number had fallen to 1,200, and so far this year only 251 Romanians have been allowed to leave for Israel. Granting most-favored-nation status to Romania has obviously not had any positive effect on Romania's emigration policies.

Romania's treatment of the 2.5 million member Hungarian minority has also failed to improve over the past 4 years. In fact, ample evidence has been received by the subcommittee on trade that Romania is pursuing a systematic effort to destroy the very fabric of Hungarian cultural life in Romania by eliminating Hungarian schools, classes, and other institutions.

We have been told that only by continuing to grant MFN treatment to Romania can we exercise the necessary leverage over the Romanian Government to improve its emigration policies and its treatment of the Hungarian minority. Mr. Speaker, I have come to realize that this is a bankrupt policy. We have not been able to influence the Romanians. In fact, their policies have grown increasingly repressive.

It is time that Congress took a stand and said to the Romanian Government, "either you fulfill your international obligations under the Helsinki Final Act, the International Pact for Civil and Political Rights and Jackson-Vanik, or we will temporarily suspend MFN treatment for 1 year." Instead of continually extending MFN, we should put the Romanian Government to the acid test to see whether they will live up to their professed commitments on freer emigration and human rights.

Personally, I would like to see the Romanian Government take positive action in the case of one particular family. Since 1973, Ecaterina Rauta and her 6-year-old son Mihai, have been refused permission to emigrate to this country to join Mrs. Rauta's husband, Constanin Rauta. Mr. Speaker, this woman and her young son are being denied permission to come to the United States as a means of punishing Mr. Rauta, who sought political asylum here. Mr. Rauta was granted asylum, but because of his political beliefs, the Romanian Government is vindictively harassing his family in Romania and refusing them permission to join Mr. Rauta here. I hope that if nothing else is accomplished during our consideration of House Resolution 317, that the Romanian Government will see fit to allow the reunification of this family.

Voting in favor of the resolution of disapproval is something I have never done before, but in good conscience I can do no less.●

THE METHANOL AGE IS DAWNING

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. WHITEHURST. Mr. Speaker, I would like to take this opportunity to call to the attention of the Members of Congress an article by James Flanigan, which appears in the August 6 edition of Forbes magazine.

The article is entitled "The Methanol Age Is Dawning," and states many of the things I have been saying about the potential of methanol as an alternate fuel in this country. As you know, I introduced H.R. 811 in January, which calls for the increased production of methanol, commonly known as wood alcohol.

In the light of President Carter's decision to spend a large share of the $140 billion collected through a windfall profits tax on the oil companies for development of synthetics fuels, I think it is becoming increasingly practical to produce greater quantities of this alcohol fuel.

In my State of Virginia, one of the top seven coal-producing States, Gov. John N. Dalton has stated that southwestern Virginia would be an ideal location for a synthetic fuel plant.

Therefore, I commend the following article to your attention:

THE METHANOL AGE IS DAWNING

(By James Flanigan)

The most specific demand in President Carter's July 15 address to the nation was that electric utilities cut their use of fuel oil by 50% in the next decade and switch to coal. That would mean a significant reduction in imports—850,000 barrels a day, 10% of total U.S. imports.

But immediately after the speech, questioners appeared on television screens asking how the utilities could burn coal. A whole army of professional environmentalists and their groupies would take to the courts to block it. And they would have the law on their side.

But the utilities could burn methanol, an alcohol made from gasifying coal. Methanol, more commonly called wood alcohol, has the advantage of providing a relatively quick fix to at least one part of the energy problem. "Technically, we could turn dirt this afternoon," says Jimmie R. Bowden, president of Conoco Coal Development Co., speaking of his company's ability to produce methanol. "It's ready to go," adds John J. Wise, vice president of research and engineering at Mobil Corp.

In its Report of the Alcohol Fuels Policy Review, the Department of Energy conceded that gasohol, not methanol, would be the quickest available synthetic, a solution of 90% gasoline and 10% ethanol made from grain.

But gasohol has its sharp limits. It is very popular in the grain belt states but it could, said DOE, displace only 40,000 barrels a day—0.4%—of oil imports by 1985. Before it reached 3.5% it would conflict with U.S. food needs.

Which brings us back to methanol as a fuel for electricity generation, replacing imported crude oil. Methanol can be produced in significant quantities as early as the mid-1980's. "We see methanol from coal as one of the dominant fuels that would be made in a synthetic fuels program," says Edward H. Blum, director of policy in DOE's office of technical programs. Conoco's Bowden says he could commit Conoco to a $1 billion methanol plant right now if he could get government help with the capital costs through a special investment tax credit and accelerated depreciation. Given such help, the company can produce methanol competitively with number-2 fuel oil to power utility turbines, and will soon be competitive with low-sulfur residual oil.

Electricity generation consumes 1.7 million barrels a day of oil at present—fully 20% of the nation's imports. If methanol can substitute for a substantial part of this, the U.S. could stay within President Carter's strict import limits and still have plenty of oil available for home heating and for transportation.

Nobody wants to go back to the bad old days of smog and smoke-filled skies around the coal-burning power plants. Stack scrubbers to remove the sulfur from coal is one way out. Converting the coal to a cleaner-burning substance—methanol—is a possibly better solution.

There are no technological mysteries in producing methanol, only stiff capital needs. For instance: To produce sufficient methanol to replace half the fuel oil used by utilities would demand just over $50 billion for some 17 plants. The capital costs of coal gasification comprise three-quarters of that amount. But savings in oil imports would run over $6 billion a year at current OPEC prices.

One reason there is no mystery in methanol is that the U.S. used it as a chemical feedstock years ago when coal was our basic fuel. But coal research stopped when natural gas and oil replaced coal. Now, in our new efforts to gasify coal, we depend on the 43-year-old German Lurgi process, and a lot of research being done by U.S. companies.

The Lurgi process can work only on western coal or lignite, has poor energy efficiency and difficult operating characteristics—it requires a lot of expensive maintenance. As new coal gasification processes (notably a Texaco method that is far along) complete their development, these operating costs, although probably not the capital costs, should diminish.

Otherwise, methanol presents itself as a practical alternative fuel. The stuff can be burned even in the Los Angeles Basin. Methanol's familiarity promises no unforeseen problems in handling or use. Is is, for example, used as a motor fuel every Memorial Day at Indianapolis Speedway to power the sleek racing cars.

Today's automobile engines would need modifications to run on pure methanol, says General Motors. Rubber and plastic materials subject to corrosion would have to be changed; carburetors, distributors, spark plugs and fuel systems modified. The fuel tank would have to be twice as large or trips to the "gas" station twice as frequent.

But the U.S. may never have to go to the extreme of alcoholic auto engines. Mobil has developed a way to turn methanol into high octane gasoline at $1.20 a gallon, or roughly double today's wholesale price for the conventional product. The company is proceeding with a $28 million pilot project in West Germany, funded by DOE, the West German government and Mobil.

As the world's oil-importing nations search for substitutes, each uses what it has in abundance. Brazil is developing alcohol fuels from sugar cane, Germany has always used its low-grade coals, New Zealand wants to convert its natural gas to a liquid—methanol. The U.S. abundant resource is coal.●

FIRE CHIEF WILLIS R. PINKERTON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. LEWIS. Mr. Speaker, it is far too seldom that we take the time to recognize those in our communities who have the thankless job of fighting and preventing fires. On July 28, Barstow's fire chief, Willis R. Pinkerton will retire after 36 years of service to this community. I would like to take this opportunity to commend him for his dedicated and hard work.

Willis R. Pinkerton was born on January 26, 1927 in Dalhart, Tex. and has lived in Barstow since the age of 11. Chief Pinkerton began his fire service at the young age of 16 as a wartime auxiliary fireman. After he graduated from Barstow High School where he had been student body president, he entered the U.S. Army in 1945 and returned to Barstow as a volunteer fireman at the end of 1946.

He began his full-time service career in 1951 as a driver-engineer for the Marine Corps Supply Center in Barstow and continued as a volunteer for the Barstow Fire Department. He was promoted to crew captain in 1955 at the supply center and became assistant chief of the Barstow Volunteer Fire Department. In July 1957 Willis Pinkerton was appointed the first full-time chief of the Barstow Fire District.

During Chief Pinkerton's tenure, the Barstow Fire Department has grown from two stations, three pumpers and 30 volunteer firemen protecting an estimated 13,000 people, to three stations, four pumpers, one 65-foot snorkel, one paramedic rescue, one light rescue, 19 full-time and 52 volunteer personnel protecting an estimated 27,000 people.

Through cooperative efforts extended by Chief Pinkerton and his alliance with the statewide disaster program, he was able to augment the fire district's pumpers and equipment with a State owned fire pumper and 8,400 feet of emergency water pipe located in Barstow.

Through personal interest and concern Chief Pinkerton initiated the paramedic program by locating a nongovernmental grant that provided $15,000 for training and equipment. The paramedics have proved their worth in saving lives and relieving suffering and pain of more than 1,000 people a year since its inception in 1975.

It has been Chief Pinkerton's belief that there has been a need for a new fire headquarters with modern facilities. In January this year, a new 15,408-square-foot building was occupied. Also, this year two new pumpers were placed in service and a 1952 pumper was placed in reserve status.

One of the most important functions of a fire department is that of fire prevention. Since he became chief, and initiating such a program, there has been a significant decrease in fires among inspected buildings than in the past.

Chief Pinkerton's contribution to the community does not end with firefighting and prevention. As a member of many community social and civic service organizations, Chief Pinkerton is a past president of the Barstow Kiwanis Club, and past chairman of the Mojave District Boy Scouts of America. He has been president of the San Bernardino County and the Citrus Belt Fire Chiefs Associations, has served on the board of directors of the California Fire Chiefs Association and was vice president of the Western Fire Chiefs Association. He is a member of the State Energy Service Board.

Chief Pinkerton's contributions have been outstanding as well as far reaching and Barstow is a better and safer place because of the service of Willis Pinkerton. Therefore, on behalf of the entire 37th District, I would like to offer my heartfelt best wishes and thanks to Willis R. Pinkerton.●

LEATHER SHORTAGE

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. SHANNON. Mr. Speaker, the leather industry in the United States is now in critical condition. Thousands of shoe, garment, handbag, and other manufacturers are finding it increasingly difficult to continue in business because of the shrinking domestic leather supply. This leather scarcity will also have a significant domestic inflationary effect. I wish to insert the following article from Forbes magazine into the RECORD in order that the leather industry's crisis can be more fully understood.

THE LAST ROUNDUP FOR LEATHER?

(By Richard Greene)

The signs are there, like vultures flying over a diseased, but still breathing man. It's been years since you could easily find a leather baseball glove made in the U.S. The pair of leather shoes that cost $20 two years ago goes for over $30 today, and it's difficult to find them at that price. All-leather attaché cases are out of sight, many selling in the hundreds of dollars.

At the same time, the fashionable gent in Tokyo is wearing all-leather shoes, carrying a leather attaché case, and probably playing baseball with a Japanese-made leather glove. Which wouldn't be so ironic if it weren't for the fact that the Japanese raise virtually no cattle—the raw material for leather. No, it's the U.S. that raises all those cattle.

Says Lawrence McGourty, president of Melville's Thom McAn Shoe division, "The Japanese wear leather because they know Americans wear leather and they want to be like Americans. But if they keep it up, they'll be the only ones wearing leather."

So, naturally, with skyrocketing prices and high international demand, the tanners are cleaning up, right? Wrong. Dead wrong. The tanning industry, which has been dismal for years, may be on its last legs. Take Newark, for example. Pre-World War II, there were some 60 tanneries in that New Jersey city. Now there are three. Just ten years ago some 30 million hides were processed domestically for leather; now it's half that.

The problem, basically, is that there is a leather shortage. Last year 40 million head of cattle were slaughtered in the U.S. and this year it will probably be down to 34 million. So, the supply of hides is down. Meanwhile, the demand remains high. It is hardly surprising, then, that prices in December 1978 were 52 percent higher than a year earlier, and by last April they had risen 147 percent since December 1977, to 94.2 cents a pound.

The pressure driving these prices up is not only the decreasing number of hides—a phenomenon of the cattle cycle—but also the huge demand overseas, particularly in Japan and Korea, for those hides. Since 1976 the U.S. has been exporting a larger and larger percentage of its hides; 71 percent of U.S. output is now being exported, to supply about 75 percent of the hides traded on world markets.

According to Eugene Kilik, president of the Tanners' Council of America, domestic tanners just don't have much of a chance at getting to the hides. There are arrangements, he claims, in which the Japanese offer to pay 10 cents a pound more than the best bid made by American firms. That's the kind of offer you just can't beat. Especially as the Japanese restrict U.S. incursions into their profitable market.

To add to the problem, the U.S. is virtually the only nation supplying Japan's lust for hides. The other major cattle-producing countries, like Brazil, Argentina and Uruguay, ban export of hides, preferring to compete with finished leather goods. That's a good idea for developing nations because it means jobs; shoes, handbags and the like are labor intensive. Unfortunately, this leaves the U.S. as virtually the only free-market nation in an unfree market.

Since there is little that can be done to persuade the Brazilians and others to sell their raw hides, the U.S. leather industry is in a quandary. The shortage doesn't hurt only the tanners, it hurts manufacturers of shoes, handbags, and garments as well as retailers who find it difficult to sell a pair of $25 shoes for toddlers.

Says McGourty, "This is the first time I can remember in the shoe business that everybody—the tanners, the high price shce retailers, the popular price shoe retailers and the manufacturers—is working together to persuade the government to do something."

Last year they had some success. The government negotiated some concessions from the Japanese. Said the leather industry: Too little, too late.

Essentially, the leather industry wants a limited embargo on the hides being exported. This will ease the market here and provide blessed price relief. And Congress listens—at least a little—to an industry that employs about 300,000.

There is even precedent for this kind of limited embargo in the 1969 Export Administration Act, which President Nixon tried to use in July 1972 to put some restrictions on hide exports. By August the cattle lobby had pushed in an amendment and the restriction disappeared.

The fact is, not everybody thinks the leather industry needs—or deserves—help from the government. The producers of hides—cattlemen and meat packers—would be hurt in the pocketbook by any form of restriction on their exporting hides. They argue that they should be able to get the highest price possible for their goods. Listen to Bill Delph, vice president of Iowa Beef Processors, one of the largest U.S. hide producers: "The tanners are not being shut out. They can buy hides. They can get all the hides they want. But they're going to have to pay for them." The cattlemen mirror that sentiment—perhaps even more strongly.

Funny, isn't it? These are the same people who scream bloody murder if the U.S. lets in foreign meat to hold prices down: They are about as protectionist as they can be then. But when it comes to their precious hides—why, there's nobody here but us free-traders.●

THE DECLINE-AND-FALL MOOD

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. DODD. Mr. Speaker, I would like to introduce into the Congressional Record Arthur Schlesinger, Jr.'s article from the Wall Street Journal, "The Decline-and-Fall Mood." The article was brought to my attention, and I think all of my colleagues will be interested in reading it.

Though our country may be facing a "crisis of confidence," Mr. Schlesinger contends that a lack of vitality by the leaders in our Government is at the base of our national disillusionment. I hope that we will take Mr. Schlesinger's advice and try "some good experiments" rather than avoiding the critical problems of our day.

The article follows:

[From the Wall Street Journal, June 5, 1979]

The Decline-and-Fall Mood

(By Arthur Schlesinger, Jr.)

Spring finds the American periodical press in one of its decline-and-fall moods. "Americans have drifted into a condition of spoiled purposelessness," Lance Morrow, the house philosopher, tells us in Time. ". . . A damaging slackness, a wide-spread fecklessness have grown evident not only in American leadership and corporations but in U.S. society at large." The American people, according to Margaret Chase Smith in U.S. News & World Report, "have lost their will." "Innovation," Newsweek asks on its cover: "Has America Lost Its Edge?" Inside Meg Greenfield solemnly concludes a column on the Carter presidency: "Last week in Washington, the whole thing seemed about to go under." The President himself talks gloomily about "a failure of will and the political process."

Now things are bad, but honestly they are not that bad. Adam Smith used to say, "There is a lot of ruin in a country." We have been through much rougher times than this over the last half century and have emerged safely on the other side. The onset of the age of high-cost energy, the persistence of inflation, the decline in productivity—these are tough problems. But, for all their long-range implications, they are not really as urgently tough as the Great Depression or Pearl Harbor or even the Vietnam war. So let us not get unduly rattled at a moment when we need a certain coolness and detachment to prepare ourselves for the long haul.

Our basic trouble is plain enough: we have the problems, but we don't have the solutions. Or rather the solutions at hand don't work. In his new book "The Nature of Mass Poverty," John Kenneth Galbraith propounds a very important law of social policy a—law that may be summarized as: remedy prescribes diagnosis. Faced with a difficult questions and a need for action, we tend, Professor Galbraith persuasively suggests, to shape our diagnosis according to the weapons that are easiest to use. "Diagnosis proceeds from the available remedy."

HOOVER'S REMEDY

This was our approach in the early years of the Great Depression. No one knew what caused the economic collapse or what would cure it. But Herbert Hoover, constrained to apply the most convenient remedy, persuaded himself that, if he could only reduce government spending and protect the private market against mandatory government intervention, he could solve the depression. His intellectual heirs today suppose for the same reasons of convenience that cutting government spending and protecting the private market against mandatory government controls will now solve inflation.

Allowing the availability of remedy to dictate diagnosis results in the gross oversimplification of deeply-rooted problems. Does any one really believe that federal deficits are the single cause of inflation? As Herbert Stein has reminded us in this space, "Deficits don't cause inflation all the time. We have had deficits almost all the time since 1929, and haven't had inflation all that time." Or that decontrol of oil is not going to make inflation worse? Or that decontrol will relieve the oil shortage? Robert Baldwin of Gulf said the other day that "there's no way, for any amount of money, that you can reverse the decline curves on crude oil production in the United States." Or that cutting the capital gains tax will end the decline in productivity? Thoughtful students of the problem, like Professor F. M. Scherer, wonder whether the postwar technological boom is not coming to its natural end and speculate that we may be entering a Schumpeterian phase of technological maturity, from which we can be rescued only by a new cluster of technological innovations.

No doubt we will continue for a time, given the devotion of both the administration and the opposition to hallowed dogma, to act as if the private market can solve our perplexities. We will continue to try and fight inflation by inducing an economic slowdown and throwing millions of people out of work—a policy that places the burden of the war against inflation on those least equipped to bear it. We will continue to try and fight the gasoline shortage by discouraging consumption through decontrol and price increases—a policy that places the burden of the energy war on those least equipped to beat it. If supply falls so far short of demand that rationing becomes inevitable, then rationing by price is surely the most unfair form a ration system can possibly take. These every-man-for himself, devil-take-the-hindmost solutions exact a fearful social and political price and won't work in the end.

The current gloom may well be due to the gradual, perhaps still unconscious, realization that the problems we face are not amenable to the remedies conveniently at hand. Our political and our business leaders are really quite devoid of ideas but cannot afford to admit it; so when the private market fails to solve their problems for them, they blame the failure, not on the intellectual inadequacy of their remedies, but on the moral delinquency of their fellow citizens. In fact, the crisis is considerably more intellectual and analytical than it is moral and spiritual. The people are looking for a lead. Their so-called leaders have nothing convincing to say to them.

When existing theory fails, the older American way was experimentation. The Republic began as an experiment. It has grown and prospered through its capacity for invention and innovation. "No facts are to me sacred," said Emerson; "none are profane; I simply experiment, an endless seeker, with no Past at my back." Franklin Roosevelt's great contribution lay not in theory but in audacity. "The country needs," he said in 1932, ". . . bold persistent experimentation. It is common sense to take a method and try it: If it fails, admit it frankly and try another. But, above all, try something."

Except for the part about admitting failure frankly, this is pretty much what the New Deal was all about. Eventually experiment led to new theory; but that is after all not a bad way to arrive at theory.

PERSISTENT EXPERIMENTATION NEEDED

Our country is once again confronted by problems that baffle the conventional wisdom, and bold, persistent experimentation is what we need today. Now I know that the appeal for experiment may seem hollow at a time when, we are authoritatively assured, the national mood is one of conservatism. Yet, as I have noted in this space before, history records an inherent cyclical rhythm in our public affairs. In the periodic swing between activism and exhaustion, we are for the moment in the quiescent phase of the cycle. We will not be in that phase forever.

The issue is evidently not so much conservatism vs. liberalism as it is fatigue vs. vitality. When the dam breaks again in the 1980s, as it has broken every thirty years or so during this century, we will stop proclaiming our inability to do anything about our problems and stop luxuriating in our conviction of public impotence. Our current idea that the private market can take care of problems like spiralling prices and dwindling energy sources is escapism into fantasy—a fantasy that serves to rationalize a condition of intellectual bankruptcy. What we need today is not sanctimonious exhortation but detailed investigation and hard thought. For, when the new age of experimentation comes, it would be useful if we had some good experiments to try.●

DAVID BRAGER, K.S.G.

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. GONZALEZ. Mr. Speaker, this past Sunday in San Antonio I had the greatest honor and personal pleasure of sharing a few minutes at an exemplification luncheon honoring a very wonderful friend, schoolmate of mine from elementary schools day: David Brager. David and I went to elementary school at Stephen F. Austin Elementary—the old No. 2 Public School—then to Mark Twain Junior High and then on to high school.

David has been not only an inspiration to me but to countless other San Antonians.

The occasion was to honor David on being enrolled by Pope Paul VI as a member of His Pontifical Order of Knights of St. Gregory the Great.

I include the following:

SIR KNIGHT BRAGER

Sir Knight Brager was born at Blanchardville, Wisconsin, July 29, 1916. He came to Texas with his family in 1918, and has resided in San Antonio since 1922 where he attended local schools and was in business for many years.

He served in the U.S. Army Air Corps during World War II.

He was baptized April 16, 1949 at St. Peter Prince of the Apostles Church and there on May 7, 1949 he and Frances Buck were married.

He served St. Peter Prince of the Apostles Parish as usher, lector, president of the Holy Name Society, president of the St. Vincent de Paul Society and CCD teacher. He served on the San Antonio Degree Corp. for ten years.

He is now a member of St. Anthony de Padua Parish where he has served as usher, lector, member of the parish council, president of the Holy Name Society, president of the St. Vincent de Paul Society, CCD teacher and special minister of the Eucharist.

He was commissioned special Eucharistic minister six years ago, and during those six years he has helped serve the spiritual needs of residents of two nursing homes in the parish. He provides them each week with spiritual readings, homily and Holy Communion. He is assisted in this work by ladies who are members of the St. Jude Guild of St. Piux X Church. SK Brager became a Knight of Columbus in 1958 as a member of Co. 4298. He served the council on many committees and projects, and is a past Grand Knight of the council and past District Deputy of Dist. 40.

He became a Fourth Degree Knight of Columbus, February 2, 1959 and served Assembly 1102 as Comptroller and Faithful Navigator.

He was appointed Master of Dist. II Guadalupe Province, September 1, 1968 and served in that capacity for six years.

SK Brager has served mass daily at the mother house chapel of the Sisters of Chairty of the Incarnate Word for over twenty years.

On June 6, 1977, His Holiness Pope Paul VI approved SK Brager to be enrolled in His papal family and made him a member of His Pontifical Order of Knights of St. Gregory the Great. He was officially knighted during the Holy Sacrifice of the mass on November 12, 1977 in St. Gregory the Great Church, San Antonio, Texas.

HIS EXCELLENCY ARCHBISHOP FRANCIS J. FUREY.●

LEGAL POSTURE OF THE SHCHARANSKY CASE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. WAXMAN. Mr. Speaker, last May, Prof. George P. Fletcher of UCLA, an expert in Soviet criminal law, visited the Soviet Union to conduct an independent review of the trial and conviction of Anatoly Shcharansky. Not only has Prof. Fletcher documented the most serious procedural violations of Soviet law—affecting Shcharansky's ability to obtain counsel for his defense—but he also reports about official state harassment of Shcharansky's mother, Ida Milgrom.

It is abundantly clear from Professor Fletcher's account that Anatoly Shcharansky has not received even a modicum of justice under Soviet law. I commend this memorandum to my colleagues:

NATIONAL LAWYERS COMMITTEE
FOR SOVIET JEWRY,
New York, N.Y.

THE CURRENT LEGAL POSTURE OF THE SHCHARANSKY CASE

(By George P. Fletcher)

[The following memorandum summarizes the author's views after a ten day study of the Shcharansky case in Moscow, May 4 to 14, 1979. During this period, the author interview the Shcharansky family and their legal advisor in depth; he presented arguments on the case to high legal officials and he discussed theoretical points related to the case with several academicians in the Institute of State and Law. George P. Fletcher, an expert on Soviet criminal law, is Professor of Law at the University of California, Los Angeles.]

This memorandum analyzes the current legal posture of the case. There is no attempt to discuss the ultimate question of Shcharansky's guilt or innocence, for the legal issue—properly stated—is not whether he is guilty under the vague Soviet definition of treason, but whether the Soviet authorities proved him guilty and whether they followed their own laws in doing so.

The position of the Shcharansky family is that protests of innocence merely invite the Soviet reply that Anatoly is guilty and therefore the procedural abuses are irrelevant. The author shares the view of the Shcharansky family that Anatoly is innocent, but his innocence, it is worth stressing, is not the focus either of this memorandum or of the current legal maneuvers in Moscow.

1. Background Information.—After denouncing Anatoly Shcharansky in television film and in the press, the Soviet authorities arrested him on March 15, 1977. They held him in solitary confinement for sixteen months. During this period Shcharansky had no contact with his family, either by mail or in person. Nor did he have the assistance of counsel. In the period from January to early July 1978. Shcharansky spent his time studying the fifty-one volumes in the dossier prepared in support of the expected charge of treason. In December 1977, he directed the procuracy to communicate his authorization to his mother, Ida Milgrom, and his wife Avital, then living in Israel, to find a lawyer to defend him at the impending trial. The procuracy failed to communicate this authorization until March 1978.

The trial began on July 10, 1978. The charges were disseminating anti-Soviet opinions (Article 70 of the RSFSR Criminal Code) and treason (Article 64 of the RSFSR Criminal Code). The latter charge, carrying a possible death penalty, was the obvious focus of the trial and of the international concern about Shcharansky's fate.

The charge of treason under Article 64 requires proof of two elements: (1) a specific form of legislatively prohibited "treasonous" activity and (2) an intent to damage the external security of the USSR. The two specific counts of "treasonous" activity charged were first, espionage, and secondly, rendering aid to a foreign government in carrying out activity harmful to the USSR. Espionage is defined in Article 65 as transmitting, or preparing to transmit, state secrets to a foreign power.

On July 14, 1978, the court declared Shcharansky guilty on all counts and sentenced him to thirteen years deprivation of liberty, three years in prison and ten years in a corrective labor colony. The court read its judgment in open court.

The only independent record we have of what occurred at the trial is Leonid Shcharansky's informal transcript of the open sessions. The putatively critical sessions on the charge of treason were held behind closed doors. The official report issued by Tass is too scanty to permit any inferences about whether the prosecution produced any plausible evidence on its behalf.

The reading of the judgment lasted about four or five hours. The Tass reports contain no information at all about the judgment. Although Leonid Shcharansky was present at the reading, he was not permitted to take notes. Therefore we have no basis for formulating any judgment about the evidence the court relied upon in reaching its conclusion of guilt. As explained below, the acquisition of a copy of the written judgment has emerged as the central issue in the current phase of the case.

2. The Possibility of an Appeal.—One of the basic rights of every convicted Soviet defendant is to appeal within seven days for a full review of the legality of his conviction. This is known as the "cassational appeal". In the first Leningrad trial, for example, the cassational appeal was the occasion for the court's reducing the sentence imposed against Dymshitz and Kuznetsov from death to fifteen years imprisonment.

In Shcharansky's case, however, the government invoked a special procedure that precluded a cassational appeal. Article 40 of the RSFSR Code of Criminal Procedure permits any higher court to preempt the jurisdiction of a lower court. In Scharansky's case, the RSFSR Supreme Court took jurisdiction over the case and assigned one of its judges, P. P. Lukanov, to sit as the trial judge along with two lay assessors. Article 325 of the Code explicitly provides that there is no cassational appeal from decisions by the RSFSR Supreme Court. It seems odd to treat the decision of a trial court, two members of which were lay assessors and thus not judges of the Supreme Court, as the decision of the Supreme Court itself. But this procedural oddity does appear to be consistent with the formal rules of Soviet criminal procedure.

The implication of this procedure is that Shcharansky's conviction has not passed the test of any appellate review or supervision. This is highly unusual even under Soviet practice, for the review and supervision of trial court decisions is regarded as the cornerstone of socialist legality.

The only mode of review now available is a "protest" proceeding initiated by one of the several high officials listed in Article 371 of the Code. These officials include the Procurator General of the USSR Roman Rudenko, the Chief Justice of the USSR Supreme Court L. N. Smirnov and the Chief Justice of the RSFSR Supreme Court A. K. Orlov. Anyone can petition or request that one of these high officials bring a "protest" proceeding. Shcharansky's mother Ida Milgrom and his brother Leonid Shcharansky are now taking preliminary steps to petition for a protest proceeding.

3. The Problem of the Judgment.—In order to convince one of the few designated high legal officials to bring a "protest" proceeding, the Shcharansky family would have to establish either (1) a procedural violation of such magnitude that it would warrant reversal, or (2) a defect in the written judgment. There are in fact several procedural violations, to which we shall turn below. An equally strong case for review, however, lies in a critique of the judgment. To explain why this is so, we need to consider the nature and central position of the judgment in Soviet criminal procedure.

The Soviet judgment (*prigovor*) combines in one document a verdict of guilt or innocence, a written analysis of the evidence and a determination of the sentence to be served. The function of the judgment is to explain the court's reasoning and its assessment of the evidence. The essential attributes of a valid judgment are (1) that it be founded exclusively on evidence heard and reviewed at the trial, (2) that it be well-reasoned and (3) that the evidence cited be sufficient to support the legal conclusions.

Without a copy of the judgment, it is virtually impossible for a lawyer or a relative to petition for a "protest" proceeding. The petition must be based on inadequacies of the judgment. These inadequacies might take the form of evidentiary insufficiencies, defects in reasoning, or misinterpretations of the law. In some cases, a comparison of the judgment with the protocol of testimony heard at the trial might reveal that the judgment turned, illegally, on evidence from the dossier not heard at trial.

The centrality of the judgment in Soviet criminal procedure generates the basic statutory right of the convicted defendant to receive a copy of the judgment within three days of the court's decision. The purpose of the defendant's receiving the judgment is to enable him to prepare the cassational appeal within the first seven days after the decision.

This brings us to the central issue today in the Shcharansky case. Anatoly Shcharansky himself received a copy of the judgment within a few days of his conviction. It was then taken away from him and then apparently returned a month later. Ida Milgrom has made repeated efforts to obtain a copy of the judgment from legal officials in Moscow. The latest effort was a petition dated April 9, 1979, submitted to Chief Justice Smirnov of the USSR Supreme Court. On April 13, 1979, Ida Milgrom and Leonid Shcharansky had an audience with Justice Kaznin of the USSR Supreme Court. Justice Kaznin treated the two petitioners politely and promised a reply within two weeks. As of May 14, 1979, there was no reply.

In the author's extended audience on May 7, 1979, with Chief Justice A. K. Orlov of the RSFSR Supreme Court, the issue of the family's receiving a copy of the judgment was fully aired. Although Justice Orlov was cordial, he took a firm stand against the family's or anyone else's receiving a copy of the judgment. Even if the family should now obtain the services of a Moscow lawyer, the lawyer could at most read the judgment. He said openly that Soviet officials did not want "the judgment to fall into Western hands." His view was that Anatoly Shcharansky himself could prepare any petitions that might be appropriate in the case. In the same interview, however, Chief Justice Orlov said plainly that the Court would not reconsider or review its decision. The Supreme Court was satisfied that the conviction was legally sound. In view of this prejudgment of the issues, the Chief Justice was obviously not interested in any pleas from Anatoly Shcharansky himself.

In another extended audience, May 14, 1979, with Tsibulnik, a high ranking deputy to Roman Rudenko, Procurator-General USSR, the author reiterated the importance of releasing the judgment either to the family or even openly to Western journalists. The approach in this discussion was not the importance of preparing a petition for a protest hearing (for that question was pending in the USSR Supreme Court) but demonstrating to Western critics that the judgment was legally sound and properly supported by the evidence. The response was equally adamant: the judgment would not be made available to anyone who might be able to release it to the West. Procurator Tsibulnik attempted to justify this position by invoking national security and the sensitive nature of the information in the judgment. Even apart from its legal significance, this reliance on national security was hardly plausible. Sensitive information—if there be any in the judgment—could be censored. And if indeed there was concern about disclosing state secrets in the judgment, the court should not have read the full judgment with Leonid Shcharansky in the courtroom.

The general practice in the Soviet system is to make a copy of the judgment available to the convicted defendant's family. After Vladimir Slepak was convicted of malicious hooliganism in June 1978, his wife Maria readily obtained a copy of judgment. This practice is not codified, but the official 1976 Commentary to the Code of Criminal Procedure contains the following comment (page 447):

"The Judge may give a copy of the judgment to all persons who have the right to bring a cassational appeal, either on the judge's own initiative or after petition by the interested party. In any event, the judge is obligated to provide these persons with the opportunity to familiarize themselves with the contents of the judgment."

The critical concept in this passage is "persons who have the right to bring a cassational appeal." This list of persons is specified in Article 325 of the Code; it includes the "legal representative" of the convicted defendant. Article 34, point 8, defines "legal representative" to include the defendant's parents. It follows, therefore, that Shcharansky's mother, Ida Milgrom, has at least the right to familiarize herself with the contents of the judgment against her son. This point is well settled.

The editor responsible for the 1976 Commentary, containing the comment quoted above, was A. K. Orlov, Chief Justice of the RSFSR Supreme Court, the same man who said on May 7 that Ida Milgrom would not receive access to the judgment.

It is difficult to know why in this case Soviet authorities are not willing to honor either their own laws, as interpreted in the commentaries, or their own general practice. It is possible that the judgment is embarrassingly deficient in its reasoning. It might be the case that the Soviet authorities do not wish to disclose the extent to which the conviction rests on the impeachable testimony of their own agent—Sonya Lipovsky. The most charitable interpretation from the Soviet point of view is that they wish to terminate discussion of the case and they believe that by keeping the judgment secret, they can deprive their critics of a basis for attacking the conviction.

4. The Ongoing Issue of Right to Counsel.—The procedural issue that haunts the Shcharansky case is the violation of the defendant's statutory right to the assistance of counsel. Why did Shcharansky end up defending himself? Did the court properly consider petitions to appoint defense counsel? Should the court have permitted the defendant in a capital case to stand alone, without legal assistance? Each of these questions raises complex legal points.

After the investigator indicated in December 1977 that he was prepared to close the preliminary investigation, Shcharansky was entitled to choose a defense counsel. The Code liberally permits lawyers, institutional representatives and even close relatives to function as "defense counsel". Soviet law acknowledges no restrictions on the range of advocates and institutional representatives who can serve as defense counsel. The appointment of close relatives is discretionary.

Despite these liberal statutory provisions, the Shcharansky family faced innumerable obstacles in finding a lawyer who could defend Anatoly. First, they were not informed until March 1978 that Anatoly has authorized Ida Milgrom to find a defense counsel. Then, according to the report of Leonid Shcharansky, he and his mother Ida Milgrom consulted with 20 or 30 Moscow lawyers, none of who was willing to take the case if Anatoly maintained his innocence. In the spring of 1978, Dina Kaminskaja, widely known as an independent and vigorous advocate, agreed to defend Shcharansky. But the head of the Moscow collegium of advocates rules that she could not appear in the case; the ground was that she did not have the necessary security clearance (*dopusk*).

This system of security clearances in politically sensitive cases is entirely extra-legal. And virtually all Soviet legal officials systematically deny that it exists. There is no doubt, however, that it does function, and this is why the 20 or 30 lawyers consulted by the Shcharansky family would take the case only if Anatoly pleaded guilty. A lawyer without a *dopusk* could not appear. A lawyer with a *dopusk* would lose it if he or she entered a vigorous defense.

Finally, on May 25, 1978, Ida Milgrom sent a letter to the USSR Supreme Court petitioning that she and Roland Rappoport, a French lawyer and member of the French Communist Party, be appointed to defend Shcharansky. In a telegram dated June 28, 1978, Chief Justice Smirnov informed her that the request was received and that the court would act on the petition. Soviet law requires that all petitions be decided at the preliminary judicial hearing prior to the beginning of the trial. There is no evidence, however, that the Soviet court ever even considered Ida Milgrom's petition. At the beginning of the trial, Judge Lukanov said that Ida Milgrom had not been able to find a lawyer to defend Shcharansky; therefore the court had appointed its own lawyer, Silvia Dubrovskaja, to defend Shcharansky. The court did not refer to Ida Milgrom's petition. Whether the petition was accepted or rejected, the court was required to consider it and to make it part of the dossier in the case.

On the first day of the trial, Shcharansky requested that the court dismiss its appointed counsel and permit him to defend himself. After consultation with the prosecution, the court granted the request. It may have been proper under Soviet law to permit Shcharansky to dismiss his appointed counsel, but it is highly doubtful that the court should have permitted Shcharansky to defend himself in a capital case. That the court erred in this ruling emerges from a careful analysis of the current provisions of the RSFSR Code of Criminal Procedure.

Article 49 states explicitly that counsel is obligatory in a capital case. This article is offset, however, by Article 50, which permits the defendant to refuse the assistance of defense counsel. In certain cases, however, the court is not required to accept the defendant's desire to reject the assistance of counsel and proceed by himself. Prior to 1971, there were only two categories of case in which the court had the discretion to require that a particular defense counsel remain in the case: these were the cases of minors and persons with physical or psychological disabilities. The commentaries indicate that judges at the time were permitted to accept the rejection of counsel only if either the defendant or the court found an acceptable replacement. Thus in these two categories, Article 50 was interpreted to mean that the defendant could reject his particular counsel, but he could not reject the assistance of counsel altogether.

In the early 1970's, Article 50, part II, was amended to include cases of persons relying on a translator in the proceedings and—this is the critical point—cases in which the death penalty might be imposed. The latter category encompasses all prosecutions for treason, including the Shcharansky case. Therefore if the earlier principle requiring the appointment of an acceptable substitute applies, Shcharansky could dismiss

Dubrovskaja, but only if the court found another lawyer acceptable both to the court and to the defendant. It was unlawful under the amended Article 50, part II, to permit Shcharansky to proceed without counsel whatsoever.

If this interpretation of Article 50 is correct, the court committed a most serious violation of Soviet law in permitting Shcharansky to stand alone at the trial. According to Article 345 of the Code, Shcharanksy's conviction would be subject to reversal if—

"The case was heard without the participation of defense counsel in a case in which such participation is statutorily obligatory."

According to Article 49, the participation of counsel is explicitly "obligatory" in all capital cases. It is hard to know what "obligatory" means if the defendant in a capital case can dismiss his lawyer at will. Some academicians in Moscow took the position that Article 49 requires merely that counsel be present at the beginning of the case. This formalistic view would hardly explain why in cases of minors and psychologically impaired defendants, the defendant must be represented by counsel. It is not enough for counsel to be present merely at the beginning of the trial.

It is true that in Shcharansky's case, the defendant did not need the assistance of counsel in the same sense that a minor or a mental incompetent would need legal representation. Therefore, arguably there is a distinction between the provision requiring counsel in the case of persons less than fully competent and cases posing a threat of capital punishment. In Shcharansky's specific case, however, the defendant labored under such impediments that he could not carry on an effective defense on his own behalf. The striking fact of Shcharansky's situation on July 10, 1978 is that he did not know of the world-wide protest mounted on his behalf. Shcharansky began his own defense without even knowing that President Carter had publicly exonerated him of collaboration with the CIA. There was no way of Anatoly's knowing anything that happened in the outside world between March 15, 1977 and July 10, 1978. During this entire period he was kept in solitary confinement. This is the situation in which the Soviet authorities expected Shcharansky to carry on his own defense.

It is understandable that Shcharansky preferred to stand alone rather than suffer the interference of a lawyer who would insist that he plead guilty. But if the court was to permit Shcharansky to proceed alone, it should at least have taken measures to permit Shcharansky to develop his defense. The right to a defense is a constitutional right in the Soviet Union. The court is obligated to facilitate the right to a defense. The least the court should have done under Article 58 of the Code of Criminal Procedure was to permit Shcharansky to confer with his brother, who was then in the courtroom. Anatoly might then have learned of significant events bearing on his defense. But the court prohibited Leonid from talking to Anatoly. When Leonid whispered that their mother was outside the courtroom, he was directed to sit in the back of the courtroom.

In sum, there were four violations of Soviet law bearing on Shcharansky's constitutional right to a defense. First, the family was not permitted to have Dina Kaminskaja, a Moscow lawyer, represent Anatoly. Second, the court ignored Ida Milgrom's petition to appoint herself and Roland Rappoport as co-counsel. Third, the trial court erred in permitting Shcharansky to dismiss his appointed counsel without finding a substitute acceptable both to the court and to the defendant. And fourth, after the court decided that Shcharansky could proceed without counsel, the court violated Article 58 by failing to assist Shcharansky in overcoming the disabilities connected with 16 months of solitary confinement.

5. The Restrictions on Shcharansky's defense. The most blatant restriction on Shcharansky's carrying on his own defense was that he not be permitted to rebut the apparently incriminating testimony voiced against him in the court's closed session. In his closing argument, Shcharansky sought to impeach Lipovsky's testimony, but the court forbade him from referring to any evidence introduced at the closed session.

This violation of Shcharansky's right of defense carries particular irony, for a month before the beginning of the trial, on July 16, 1978, the Supreme Court of the USSR issued a decree instructing all courts to implement and protect the constitutional right to a defense. Point 17 of this decree says explicity that "the court may not restrict the exposition of arguments bearing on the substance of the case." If the court does so restrict the closing argument of the defense, the decree continues, the violation constitutes a per se ground for reversal. There is no doubt that the court violated this provision in Shcharansky's case by not permitting him to refer to Lipovsky's testimony in his closing argument. If the matter was politically sensitive, the court could readily have solved that problem by calling another session for final argument. There was no excuse for denying Shcharansky's right to make a closing argument encompassing all the issues in the case.●

MARIHUANA CONTROL ACT OF 1979

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. MILLER of California. Mr. Speaker, today I am introducing with 18 of my colleagues the Marihuana Control Act of 1979, which is a companion bill to S. 696, introduced by six Senators. This bill amends the Controlled Substances Act to remove criminal penalties for the personal possession of marihuana, and instead impose up to a $100 civil fine for the possession and not-for-profit transfer of up to 1 ounce of marihuana. Any sale of marihuana for profit would remain a criminal act, subject to current penalties.

We in the Nation's Capital are often told that the Congress must take the lead on various issues, and that the States and communities will follow our actions. In the case of the Marihuana Control Act, it is clearly the Congress which is following the lead from the 11 States who have already reduced penalties for the personal possession of marihuana. These States—Alaska, California, Colorado, Ohio, Oregon, Maine, Minnesota, Mississippi, Nebraska, New York, North Carclina—have discovered that this action does not lead to increased use of the drug, but recognizes the simple fact that Government resources are wasted in attempting to regulate what is essentially a private activity. It happened before, during Prohibition, and it was a failure. No one can deny that the Government's attempt to prohibit marihuana use has failed.

There are a number of reasons for reducing penalties, and among them is the fact that a national opinion poll shows that 59 percent of the American public support this action. In fact, in those States which have already reduced penalties for marihuana use, the percentage is even higher. This type of legislation has the support of such prestigious organizations as the Amercain Medical Association, the American Bar Association, and the American Public Health Association. President Carter has also gone on record as favoring reduced penalties.

A reduction in penalties has not increased use in those States who have passed the new law. A study in Maine showed that 48 percent of adult users had actually decreased their use of the drug since penalties were reduced. The supporters of this bill do not endorse the use of marihuana, but recognize the right of its private use by responsible citizens.

Passage of this bill would not promote the use of marihuana, but would prevent its use from causing more harm than the drug. A felony arrest record can ruin a young person's educational and career opportunities, and leave him or her scarred for life. There has to be a better way of spending the taxpayer's money than this.

This legislation will serve as a model for those States who have not yet passed reduced penalty laws, and will put the Federal law in line with those States who have passed this legislation. In a time of concern over regulation and Government interference in people's lives, this bill will be a step in the right direction.●

STANDBY REGISTRATION SHOULD NOT BE CONSIDERED IN AUTHORIZATION BILL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. OBERSTAR. Mr. Speaker, the people of my congressional district have expressed surprise and deep concern that the House is so close to a vote on standby selective service registration. They are surprised that so important an issue is shrouded in a much larger defense authorization bill, rather than handled as separate legislation.

What I am hearing from people is concern that Congress is "short-circuiting" the legislative process by not giving standby registration the careful, searching scrutiny it deserves under the vigilant and critical eye of an informed public, fully aware of the immediacy of the issue and of its far-reaching consequences.

Frankly, this is one of those rare occasions on which I feel the Rules Committee should have exercised its authority to send a bill back to committee, with instructions to report the $42.1 billion Defense authorization and the standby registration as two separate bills. That would have been in the public interest.

Indeed, the vote in the Rules Committee was close. After the motion to send H.R. 4040 back to committee failed, I felt it was in the public interest to vote against the rule, House Resolution 368, which I did. Regrettably the effort to defeat the rule failed.

In view of the historic significance of this upcoming vote on standby registration, I took the opportunity of my regular radio report to the people of the Eighth District to review the history of the draft and to present my views on the basic public policy question raised by the standby registration provision, which I oppose.

I would like to share with my colleagues a transcript of that report:

Q. What are the issues dealing with the military draft facing you and your colleagues in the Congress?

A. The House Armed Services Committee has approved legislation which would require all young men reaching the age of 18 to register for military service effective January 1, 1981. The Committee included the registration requirement as an amendment to the 1980 Department of Defense Authorization bill.

Q. What about the draft?

A. The legislation would not reinstitute the draft—only stand-by registration.

Q. As a provision of the Department of Defense Authorization, registration will not be considered as separate legislation.

A. That's right—and that troubles me a great deal. The resumption of Selective Service registration is a major policy question. I believe it ought to be considered as a separate bill. The Committee ought to hold extensive hearings and debate it thoroughly before the full House votes on it. Yet, the stand-by registration plan hasn't gotten that kind of consideration. I think it's a terrible mistake.

Q. How does stand-by registration relate to the resumption of the draft?

A. The bill I've been talking about does not authorize a military draft. But the two issues are closely related. The connection is obvious—registration would be required for possible future use of the draft.

The advocates of stand-by registration authority argue that it's absolutely necessary to speed up mobilization efforts in the event of a national emergency. That argument doesn't hold up on closer scrutiny.

Few people are aware that the Selective Service now has an annual budget of $7 million. The system could deliver the first draftees within 65 days of mobilization. The Carter Administration feels that's not soon enough and has proposed spending $9 million in FY 1980 to accelerate the Selective Service delivery system. This will cut 10 days off the mobilization time, reducing it to 25 days. Adding registration would cut mobilization time by only 13 days more; and it would cost another $2 million, under the most conservative estimates. What really troubles me is that peacetime registration would mean a massive bureaucracy keeping records on every young man in this country.

Q. Until recently, hadn't the draft always met our military manpower needs?

A. No, indeed. Until after World War II we never had a peacetime draft.

Historically, the draft has been the exception in the United States, not the rule. Congress approved the first conscription legislation only during the Civil War. If you recall your history, the rich were allowed to hire substitutes to serve in their place. The burden of conscription obviously fell on the poor. Even so, only two percent of the Union Army was ever conscripted.

After the Civil War, the draft lapsed until we got into World War I in 1917. Ironically, the draft was used at that time not to raise an army, but to keep the massive enlistment of eager volunteers from ruining the economy.

We went back to the draft with the outbreak of World War II. After the war, the draft continued more by inertia than by conscious decision; even so, the number of draftees was greatly reduced, by comparison with wartime levels.

The last American was drafted in 1972 and we returned to our historical tradition of an all-volunteer armed force in peacetime.

Q. Has the All-Volunteer Force worked?

A. Proponents of the draft claim the All-Volunteer Force has failed. The facts don't support the charge, and I wouldn't want people to be misled by those claims.

Charges that AVF is a failure have given the current debate a false sense of urgency.

The fact is that the AVF is not a failure.

The Department of Defense (the folks who should know and care), in a study released only seven months ago, stated:

"The AVF has provided the military services with a full-strength, active force equal to, or superior to, that projected by the Gates Commission."

The percentage of high school graduates among recruits has risen since the end of the draft from 68% to 77%. Scores on intelligence tests have increased significantly. The percentage of recruits in the lowest mental category eligible for military services has dropped from 17% to 4%. Desertion rates and court martial rates are down from their peaks at the height of U.S. involvement in Vietnam.

I know some people will say "reinstitute the draft, it's easier that way," maybe—but I ask them to consider the rights of the millions of young men and the impact the draft would have on their lives and liberty.

The very nature of compulsory service in peacetime raises profoundly disturbing questions in a democratic society.

The draft means far-reaching intervention in and control over the lives and freedom of individual Americans. I can imagine no other government action which involves greater coercion or deprivation of liberty. This concern is no idle philosophical point; it goes to the heart of what it means to live in a democracy.

Compulsory service, in the absence of a clear and present national emergency, goes directly counter to the fundamental principles upon which this country was founded.

Q. What's the feeling in the House?

A. My colleagues are concerned because this issue has not been properly considered. At a time when we are legitimately questioning the role of government in the individual's life, many Members of the House have seriously questioned the need and wisdom of registering millions of young men.

I feel proponents of registration and the draft have failed to make the case for the legislative proposal facing Congress in the coming days.

As a Congressman, a father, a believer in the fundamental rights of the individual, I see the responsibility of Congress as clear: we have the duty to reject the ill-considered proposal at this time, subject it to the sanitizing scrutiny of public debate, and resume consideration only when the American people have come to an informed opinion on this major policy issue.●

MIGUEL "MIKE" ATILLE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. GONZALEZ. Mr. Speaker, a great San Antonian, Texan, and American patriot—and a great friend of mine passed on last week.

He was Miguel Atille, affectionately known as Mike. Mr. Atille was born in Lebanon, that great Holy Land area, so historical and rich in lore, culture and civilization. Mr. Atille possessed all the indomitable attributes of this great race.

He was brought to Mexico at an early age and lived there for years and learned to speak Spanish fluently. He worked at a variety of endeavors and then came to the United States.

He enlisted and served with the 16th Cavalry at old Fort Ringgold during turbulent periods and convulsive episodes on the border. Eventually, he arrived in San Antonio, where he was active in business and civic affairs.

He became an enduring and active member of the San Antonio Alzafar Shriners.

Mr. Atille's loss is sorely felt. He was 86 years at the time of his demise, but most active and aware of civic matters to the very end. His lovely wife, an inseparable companion, Sophie formed the perfect family and gave San Antonio some great citizens and community leaders. Their daughter and son-in-law, Mr. and Mrs. Vincent J. Rizzo are good examples of this.

Mr. Speaker, America will continue to be great as long as we have the Mike Atille's.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 24, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 25

9:00 a.m.

Judiciary

To hold hearings on the nomination of Benjamin R. Civiletti, of Maryland, to be Attorney General.

2228 Dirksen Building

Special on Aging

Business meeting on pending committee business.

S-126, Capitol

9:30 a.m.
Foreign Relations
To resume hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

9:50 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to hold hearings on the risk and benefit aspects in matters relating to science and technology decisions.
2318 Rayburn Building

10:00 a.m.
*Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the effect of Federal agricultural research and extension policy on the structure of farming with participation by the Select Committee on Small Business.
322 Russell Building

Armed Services
To receive testimony on background information relating to the provisions and negotiations on the SALT II Treaty.
1202 Dirksen Building

*Banking, Housing, and Urban Affairs
To hold hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Finance
To hold hearings on the nomination of Patricia R. Harris, to be Secretary, Department of Health, Education, and Welfare.
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 377, 891, 937, and 1471, bills to provide for the reorganization of international trade and industry development programs.
3302 Dirksen Building

Joint Economic
To hold hearings on trends in Federal spending and the gross national product.
S-207, Capitol

Select on Small Business
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on the effect of Federal agricultural research and extension policy on the structure of farming.
322 Russell Building

11:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 262, 755, and 1291, bills to coordinate and oversee Federal regulatory policy, to promote competition in the regulated industries, and to increase public participation in rulemaking procedures.
424 Russell Building

Labor and Human Resources
To hold hearings on the nomination of William P. Hobgood, of Virginia, to be an Assistant Secretary of Labor.
4232 Dirksen Building

1:30 p.m.
Governmental Affairs
To continue hearings on S. 377, 891, 937, and 1471, bills to provide for the reorganization of international trade and industry development programs.
3302 Dirksen Building

2:00 p.m.
Armed Services
Manpower and Personnel Subcommittee
To resume closed consideration of S. 1186, to provide for the appointee, promotion, separation, and retirement procedures affecting members of the armed forces.
212 Russell Building

Foreign Relations
European Affairs Subcommittee
To hold hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
To hold hearings on the nominations of Alan K. Campbell, of Texas, to be Director of the Office of Personnel Management for a term of four years; and H. Stephan Gordon, of Maryland, to be General Counsel of the Federal Labor Relations Authority.
1114 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
6226 Dirksen Building

2:30 p.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.
5302 Dirksen Building

JULY 26

8:00 a.m.
Budget
To resume hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.
6202 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the effect of Federal agricultural research and extension policy on the structure of farming with participation by the Select Committee on Small Business.
322 Russell Building

Commerce, Science, and Transportation
Business meeting, on pending calendar business.
235 Russell Building

Foreign Relations
To continue closed hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S-116, Capitol

Select on Small Business
To continue joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on the effect of Federal agricultural research and extension policy on the structure of farming.
322 Russell Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on S. 262, 755, and 1291, bills to coordinate and oversee Federal regulatory policy, to promote competition in the regulated industries, and to increase public participation in rulemaking procedures.
424 Russell Building

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 34, proposing a constitutional amendment to extend the term of office of Members of the U.S. House of Representatives to four years.
5110 Dirksen Building

10:00 a.m.
Armed Services
To resume hearings on the military implications of the SALT II Treaty.
318 Russell Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
To resume markup of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Labor and Human Resources
To hold hearings on the nomination of Patricia R. Harris to be Secretary, Department of Health, Education, and Welfare.
4232 Dirksen Building

Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.
345 Cannon Building

Select on Intelligence
To resume closed hearings on issues relative to the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S-407, Capitol

Joint Economic
To resume hearings on the Consumer Price Index figures, and on inflationary trends.
6226 Dirksen Building

10:30 a.m.
Foreign Relations
To continue hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

11:00 a.m.
Judiciary
To receive testimony on the report from the Department of State on the Southeast Asian refugee situation.
2228 Dirksen Building

1:00 p.m.
Governmental Affairs
To continue hearings on S. 377, 891, 937, and 1471, bills to provide for the reorganization of international trade and industry development programs.
3302 Dirksen Building

*Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).
4232 Dirksen Building

2:00 p.m.
Conferees
On H.R. 3173, authorizing funds for fiscal years 1980 and 1981 for international security assistance programs.
S-116, Capitol

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

2:15 p.m.

Rules and Administration

Business meeting, to consider proposed legislation to amend the Federal Election Campaign Act of 1971, and other legislative and administrative business.

S-126, Capitol

2:30 p.m.

Armed Services

To continue hearings on the military implications of the SALT II Treaty.

318 Russell Building

Banking, Housing, and Urban Affairs

To continue hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.

5302 Dirksen Building

3:00 p.m.

Finance

Health Subcommittee

To receive testimony from officials of the General Accounting Office concerning the implementation of section 19 of P.L. 95-142, which requires the Secretary of H.E.W. to establish a uniform system of reporting cost information for hospitals.

324 Russell Building

JULY 27

8:30 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on S. 1280, to provide financial and technical assistance to States and local governments in developing and expanding energy-related activities.

3110 Dirksen Building

9:00 a.m.

Foreign Relations

To continue closed hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-116 Capitol

Judiciary

To hold hearings on S. 680, to provide for the rights of citizens to sue in Federal courts for unlawful governmental action.

2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of government-sponsored inventions in order to encourage private industry participation in Federal research and development programs.

235 Russell Building

Labor and Human Resources

Business meeting, to mark up S. 1075, to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and doctors, and to provide more education to doctors and health professionals regarding the use of approved drugs; and S. 446, to provide legal protection to the employment rights of handicapped citizens.

4232 Dirksen Building

*Veterans' Affairs

To resume hearings on S. 870, to amend and extend education programs administered by the Veterans' Administration for veterans and dependents, and S. 881, to provide for the protection of certain officers and employees of the Veterans' Administration assigned to perform investigative or law enforcement functions.

412 Russell Building

9:45 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.

5302 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To receive testimony from officials of the Harvard University, School of Business on a 6-year review of energy resources.

3110 Dirksen Building

Finance

To hold hearings on the nomination of William G. Miller, to be Secretary, Department of the Treasury.

2221 Dirksen Building

Foreign Relations

To hold hearings on S. 1450, to promote the foreign policy of the United States.

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs relating to State and local governments.

457 Russell Building

Select on Intelligence

To continue closed hearings on issues relative to the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

224 Russell Building

Joint Economic

To hold hearings on the impact of inflation on the Federal tax system.

S-207, Capitol

2:00 p.m.

Appropriations

Transportation Subcommittee

To mark up the substance of H.R. 4440, making appropriations for fiscal year 1980 for the Department of Transportation.

1224 Dirksen Building

2:30 p.m.

Foreign Relations

To hold hearings on pending nominations.

4221 Dirksen Building

3:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

JULY 28

9:30 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

JULY 30

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To hold oversight hearings to examine the scope of current agricultural transportation problems.

322 Russell Building

9:15 a.m.

Governmental Affairs

To hold hearings on S. 930, to restrict free Federal employee parking.

3302 Dirksen Building

9:30 a.m.

Environment and Public Works

Business meeting, to consider pending committee business.

4200 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Select on Indian Affairs

To hold hearings to discuss alternative solutions to litigation to resolve water rights disputes between Indians and non-Indians.

5110 Dirksen Building

JULY 31

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To continue oversight hearings to examine the scope of agricultural transportation problems.

322 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 663 and 875, bills to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.

6226 Dirksen Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on proposed legislation to establish a home energy efficiency program.

3110 Dirksen Building

Judiciary

Business meeting, on pending calendar business.

2228 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

3:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

AUGUST 1

9:30 a.m.

Environment and Public Works

Business meeting, to consider pending committee business.

4200 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

AUGUST 2

9:30 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the activities of the Indian Health Service, Department of Health, Education, and Welfare.
5110 Dirksen Building

SEPTEMBER 10

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed authorizations through fiscal year 1990 for airport development aide programs under the Airport Airway Act, 1970.
235 Russell Building

SEPTEMBER 11

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed authorizations through fiscal year 1990 for airport development aide programs under the Airport Airway Act, 1970.
235 Russell Building

SEPTEMBER 12

9:00 a.m.

Veterans' Affairs
To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.
457 Russell Building

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed authorizations through fiscal year 1990 for airport development aide programs under the Airport Airway Act, 1970.
235 Russell Building

SEPTEMBER 13

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed authorizations through fiscal year 1990 for airport development aide programs under the Airport Airway Act, 1970.
235 Russell Building

SEPTEMBER 18

9:30 a.m.

Labor and Human Resources
To hold hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.
4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
235 Russell Building

SEPTEMBER 19

9:30 a.m.

Labor and Human Resources
To continue hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.
4232 Dirksen Building

Veterans' Affairs
To hold hearings on H.R. 4015, to provide the capability of maintaining health care and medical services for the elderly.
5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
235 Russell Building

SEPTEMBER 20

10:00 a.m.

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
235 Russell Building

SEPTEMBER 25

11:00 a.m.

Veterans' Affairs
To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.
5110 Dirksen Building

CANCELLATIONS

JULY 25

10:00 a.m.

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.
4200 Dirksen Building

Governmental Affairs
To continue oversight hearings on the activities of the Department of Energy.
3302 Dirksen Building

Judiciary
To hold hearings to examine the policy and intent of a statutory charter which defines the investigative authority and responsibilities in matters under the jurisdiction of the F.B.I.
2228 Dirksen Building

11:00 a.m.

*Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 739 and 1472, bills to allow local Federal courts the opportunity to review issues relating to environmental matters affecting its own district.
1224 Dirksen Building

JULY 26

10:00 a.m.

Judiciary
To continue hearings to examine the policy and intent of a statutory charter which defines the investigative authority and responsibilities in matters under the jurisdiction of the F.B.I.
2228 Dirksen Building

JULY 30

10:00 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

AUGUST 1

10:00 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

AUGUST 2

10:00 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

SENATE—*Tuesday, July 24, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL T. HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of all life and God of our salvation, confer on each of us the mind that was in Christ Jesus the Lord. May we be wise as He was wise, strong as He was strong, brave as he was brave. Encompass in Thy love and fill with Thy grace all who serve this Government, that beyond the duties of today we may envision the coming of that kingdom, the law of which is love.

Help us to act in accord with Thy will as Thou givest us to understand Thy will. Reward our faithfulness by souls at peace with Thee. We pray in the name of Him who is the way, the truth, and the life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 24, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

appoint the Honorable Howell T. Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNITED NATIONS PRESENCE IN THE SINAI

Mr. ROBERT C. BYRD. Mr. President, I am hopeful that some agreement can be reached on the continuation of United Nations presence in the Sinai, as Israel withdraws her troops in accordance with the Egyptian-Israeli Treaty.

I have a particularly strong interest in this matter because during my recent trip to the Soviet Union I discussed this question with President Brezhnev and Foreign Minister Gromyko.

I told the Soviet leaders that if they would avoid opposing a continued U.N. presence in the Sinai, I believed that this would be very favorably perceived in this country.

Foreign Minister Gromyko told me that his government would object to an extension of the United Nations Emergency Force in the Sinai (UNEF). The U.N. Security Council Mandate for that force is scheduled to expire today, although it would take several months for the troops to actually be withdrawn.

Mr. Gromyko told me, that other options might exist, however, if they were properly raised. He mentioned the possibility of U.N. observers. Upon my return to the United States, I informed President Carter and the State Department about my discussion with Mr. Gromyko relating to alternative ways of maintaining a U.N. presence relating to alternative ways of maintaining a U.N. presence in the Sinai, specifically mentioning the possibility of U.N. observers inasmuch as that had been specifically mentioned to me in my conversation with Mr. Gromyko.

Subsequently, of course, the Soviets indicated that they would agree to allowing a number of observers from the United Nations Truce Supervisory Organization to oversee the Sinai withdrawal. In the view of the State Department, the UNTSO observer force would be fully in accord with the peace treaty and the Camp David framework which preceded it.

Egypt has indicated its agreement to acceptance of the UNTSO observers. Thus far, Israel has not agreed to this alternative. Although I understand the Israeli position that continuation of the UNEF would have been desirable, I believe the United States and the Soviet Union have worked out a suitable alternative. I hope, therefore, that all parties concerned will come to agreement on this important issue.

ENERGY PRIORITIES

Mr. ROBERT C. BYRD. Mr. President, for the second time in 5 years, this country is going through the disturbing cycle of oil shortages, leading to shocking increases in foreign oil prices, which may culminate in a recession. We are deeply concerned with the national security implications of our overdependence on foreign oil, as well as with the dangers posed for the stability of our domestic economy by the yearly payment of more than $60 billion to the OPEC countries. The American public is finally coming to believe, I believe, that the energy crisis is real and that gas lines and spot shortages are but the precursor of things to come.

In the next few weeks, there will be new leadership at the helm of the Department of Energy. This comes at a time when both the administration and Congress are developing critical programs for the production of synthetic fuels, as well as comprehensive measures to encourage conservation, to mandate increased coal usage, and to put in place a standby gasoline rationing plan. In the midst of the reorganization which will accompany such an administrative change, it is imperative that we keep these legislative goals in sight.

The Congress is acting rapidly and responsibly with respect to critical energy bills. Action had been initiated on both the creation of a synthetic fuels industry and the establishment of an Energy Mobilization Board prior to the President's July 14 speech. The distinguished Senator from Washington (Mr. Jackson) had already introduced his omnibus Energy Supply Act by that time and hearings on that bill have been continuing over the past several days. This bill provides for extensive research and commercial development of synthetic fuels technology, the creation of an Energy Mobilization Board to expedite the mandatory conversion of oil-fired powerplants and other energy projects deemed to be in the national interest.

In addition, other Senators have offered legislation which has contributed significantly to the discussion on the best means of achieving energy independence. A bill authored by Representative Moorhead of Pennsylvania, provides for the development of a domestic synthetic fuels industry capable of meeting at least our own defense needs. This legislation, which has already passed the House, may provide the basic legislative framework for Senate consideration of these important programs.

A tentative schedule has been worked out as to the legislative timing of these bills. The Senate Energy and Banking Committees will endeavor to report legislation dealing with the Energy Security Corporation and the Energy Mobilization Board prior to the August recess. Those measures will then be referred to the Senate Budget Committee, which will take the month of August to carefully study them. This legislation will be among the first items of business when the Senate returns from the recess on September 5.

It is important that we keep our priorities in order. Passage of these and other important energy measures is one of the primary tasks of this Congress.

Mr. President, if I have any time remaining, I reserve it.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I have no need for my time this morning, and I will be glad to yield it to the majority leader, if he wishes.

THE SENATE AGENDA

ENERGY LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader is very gracious in offering his time. Let me just take a few minutes, if I may, to state for the record that I think all of us want to see the energy legislation passed as soon as possible. I have had discussions with the Democratic Policy Committee and with the Committee of Chairmen twice within the past 2 days, and I have kept the distinguished minority leader amply informed. The purpose of these meetings was to determine whether or not the energy legislation would be expedited by canceling 1 week of the August recess, by canceling 2 weeks of the August recess, or by canceling all of the August recess.

I found members of the Policy Committee, the Committee of Chairmen, and the members of the Energy Committee quite willing to cancel a week, or even 2 weeks, if necessary, in order to get the energy legislation passed.

But in those discussions Mr. Muskie, the chairman of the Budget Committee, stated that he and Mr. Bellmon, the ranking minority member of the Budget Committee, felt that a task force should be appointed to study the budgetary implications of the energy bill. Senators Muskie and Bellmon felt that their study would require more than just a few days; in fact they believed it would require a few weeks. I felt that their position was justifiable, and that the Budget Committee did have the responsibility to make a careful study of the budgetary implications of the energy bill. Senator Jackson agreed.

As a result of that discussion, it was determined that the Budget Committee would be able to complete its work and the bill could be ready by early September.

Senator Jackson was prepared to work hard to get the bill out of committee and to get it passed by the time the August recess begins. But when it became obvious of the necessity for the Budget Committee to take a close look, and not just a cursory look, at the legislation in conformance with its obligations and responsibilities, it became clear that, to stay in, during the August recess, would be futile.

As a matter of fact, as Mr. MUSKIE pointed out, it would probably expedite action on the bill if we did not bring it out before the August recess and try to hurry it through Senate floor debate without adequate studies having been given by the Budget committee.

On the windfall profits tax, the House has sent the first part of it over already, but there are at least two packages to come. I have had several discussions with Senator LONG, and he and his committee have been considering what might be done to expedite action on that measure. He can speak for himself about that.

However, it has become clear in my discussions with Senator LONG, and with the ranking member (Mr. DOLE), and with other Senators, that action on the windfall profits tax program cannot be completed before the August recess, and, in fact, cannot be completed even if we took a week off the recess, or 2 weeks. It is, I believe, the feeling that, rather than come to the floor with three bills, all of which might be filibustered, it would be better to consider one bill, after trying to work the matter out in the committee in a manner which would make it generally acceptable to members of the committee on both sides, and, hopefully, in the final analysis, meet with a consensus in the Senate.

The leadership, having carefully considered the windfall profits tax and energy measures and having carefully discussed these matters, not with just one Senator or two Senators, but also with Senators on the Policy Committee has concluded that the measures cannot be resolved within the next several weeks.

I reported the situation to the President this morning at a breakfast meeting. The President realizes our situation. He never, at any time, expected the Senate to do other than what it could. He never asked that the Senate be in during August. We in the Senate have discussed the situation among ourselves, because it is my judgment that if the Senate is going to make a decision to be in session in August, the Senate and the Senate alone should make that decision. As I explained our case and laid it out, I think it met with a favorable reception, because we cannot do what we cannot do.

Having said that, may I say that we are working together—the minority leader, the assistant minority leader, the majority whip, the Policy Committee, the Democratic Policy Committee, and the Committee of Chairmen—to clear the decks as much as possible before the recess. Hopefully, when we come back in September, we can dispose of the second concurrent budget resolution, we can complete the energy legislation, we can act on the tax legislation, and we can consider the water resources bill, which cannot come up until that time.

We will then finish any leftover appropriations or authorization bills and clear the decks for the SALT Treaty debate.

SCHEDULE FOR NEXT 2 WEEKS

If I may take just another minute or two, looking at the next 2 weeks—the Senate will complete action on at least four additional appropriations bills this week and next. If the House sends over any other appropriations bills in the meantime, the Senate will be geared to act as quickly as possible on them.

I know that the distinguished minority leader will give all the cooperation that he can, and I am confident that the Members on his side of the aisle will do the same, in the desire to complete action on as many of these bills as possible and to clear the decks for a very busy September and October and possibly November. It may require some waivers of the 3-day rule on appropriations bills. The minority has been most cooperative in helping to expedite these appropriations bills during this session.

In addition, we have the military construction authorization bill, we have the Panama Canal implementing legislation, and we will have several nominations. I hope that the Senate can confirm as many of those nominations as possible before it goes out for the August recess so that the nominees can be in their positions and doing their jobs. I think that the public will be well served if the Senate acts on these nominations before it goes out.

I sum up by saying that we have 2 busy weeks ahead. I hope we can clear the decks in those 2 weeks so that we are ready to take on the big matters when we get back in September, October, and November.

I thank the distinguished minority leader. If he has any time or has any comments, I am prepared to yield to him.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for that great amount of information. I may say that I think the distinguished majority leader and his colleagues on the majority side have reached the right conclusion. I do not think—and I passed this on to the majority leader yesterday—that there is any likelihood that we could proceed in a deliberate way and carefully to consideration of these items and do it before we recess in August. I simply do not think that is possible. I am delighted that we are going to make an examination of these proposals—the energy legislation, including the tax legislation—in a methodical and careful but a prompt and responsible way. Certainly, there will be no delay on this side of the aisle. We are as anxious as the majority to address this problem.

I agree with the conclusions stated by the majority leader: No good purpose would be served by abbreviating the statutory recess time in August. On the contrary, I think it might be even more productive to proceed as he has outlined, for it would give the committees time to act that they might otherwise not have if the Senate were competing for that time.

NOMINATIONS

On the question of nominations, Mr. President, I shall today meet with a committee of ranking members and with our Policy Committee to canvass the nominations and to determine what opposition or what difficulty or what inquiry there may be or what may be needed. I shall advise the majority leader a little later in that respect.

I have met with some of the new Cabinet members-designate and I have indicated to them that, as of this time, I know of no serious opposition. I shall confer with the majority leader on that later.

I might say, however, that it would be a very fast track, indeed, if we could receive those nominations, have the hearings, and have the confirmation votes in the Senate before August 3. I am not sure we can do that, but I am not prepared to say at the moment that we cannot. I shall confer on that a little later.

On the general business of trying to accomplish as much as we can, I also entirely agree. I have said many times here that July is our month for appropriations bills. I think we have made good progress on that, or we will have made good progress by the time we go out.

I think the pace of the Senate has been good this year and I indicate to the majority leader that we shall continue to try, as we have done in the past, to arrange for a schedule of activities for not only the time before August 3 but the remainder of this year, to work as efficiently as possible.

In concluding, Mr. President, I thank the majority leader for sharing this information. I intend to tell Members on this side that they should go ahead and plan on a break for the Senate, beginning at the close of business on August 3, as has been previously planned.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. President, if I may just make a few comments with regard to the distinguished Senator's statement.

One, with respect to the nominations, I realize that it will be a fast track. But, on the other hand, the Senate has previously confirmed Patricia Harris as Secretary of HUD and, it has previously confirmed Mr. Miller as Chairman of the Federal Reserve. So, in connection with those two nominations, and some of the others, we have looked at these people before. They have gone through our confirmation proceedings.

In light of that fact, I would hope that we will be able to move more expeditiously than might otherwise be expected. I am not saying that the Senate should rush to put its rubber stamp on nominations. I do not contend that at all. I think it should do what it feels it has to do.

THE AUGUST RECESS

On the matter of August 3, I would like to, if I could, just keep an option open.

I want us to go out at the close of business on August 3, but it might be necessary to remain a day or two longer, notwithstanding what I said about energy. It is conceivable that the Senate might need another day or so in order to complete its work on some of the other items that I have outlined. I hope it will not be necessary to stay. But I am not going to say to my colleagues, and I am not going to say to the Senate, that we definitely will go out at the close of business on August 3. But under current conditions the way it looks, it is not going to be much beyond August 3, if any.

Mr. BAKER. Mr. President, if the majority leader will permit me, I know he will understand what I am about to say is said in good spirit and good humor.

I have learned over the last years, standing across this aisle, at this desk, from the majority leader, never, ever to say "never" or to say that we are going to adjourn or recess on a particular day.

I think I will persist, however, in the statement I made. I am going to advise Republicans that it is my expectation that we will go out on August 3.

I recognize that the majority leader may like to have a little flexibility and leeway for himself. But I am a born and eternal optimist and I intend to tell my men and women that I fully expect that with good effort, good cooperation, and the good will of the majority leader, that we will be out, not only on the 3d, but early on the 3d.

Mr. ROBERT C. BYRD. Mr. President, I hope he will not say, "early on the 3d."

Mr. BAKER. Well, we see we are down to quibbling about hours now.

Mr. ROBERT C. BYRD. But I was glad to hear the distinguished minority leader mention the words "good cooperation."

Now, if we have good cooperation on both sides—not just on the minority side, but good cooperation on all sides—I think I can join him in "expecting" to go out, not necessarily early, but by the close of business on August 3.

But this will require the cooperation and understanding of all 100 Senators. We will face some long days.

With understanding and cooperation, I am sure will be forthcoming I will join the distinguished minority leader in expecting to go out at the close of business on August 3. But it will require cooperation all around, and I shall keep the option—and the door—slightly open.

Mr. BAKER. Mr. President, I feel reassured.

Mr. President, if I have any remaining time, I yield it back.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4392, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from South Carolina and the Senator from Connecticut, with 30 minutes on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. HOLLINGS. Mr. President, this bill has been brought to the Senate under very accelerated procedures. The House passed the bill on July 12, the subcommittee marked it up on July 13, and it was ordered reported by the full committee on July 17. In our haste, a number of minor errors unfortunately appear in the report. I have had placed on each Member's desk an errata sheet that details the necessary corrections.

As the errata sheet indicates, the total amount recommended is $8,252,044,000, which is $274,824,000 less than the budget estimates, or a reduction of 3.2 percent. We are $557,037,000 over the amount allowed by the House, due primarily to items not considered by them, such as the $486,463,000 recommended for the new Office of Justice Assistance, Research, and Statistics that replaces the present LEAA. The committee has deferred action on requests totaling $1,601,955,000 for the Economic Development Administration, the Regional Commissions, and the Federal Trade Commission, as appropriations for these items are not yet authorized.

Mr. President, we have a fine and well-balanced bill that reflects the priorities established by the fundamental committees in developing the authorizing legislation. This bill represents the product of 22 days of hearings and fully attended subcommittee and the final committee mark-up sessions. The highlights of the bill are outlined on pages 4 and 5 of the report and I will not detain the Senate by detailing all of them, but just mention the major changes.

First. In the State Department we have established a new appropriation for the payment to the American Institute in Taiwan and have thereby consolidated the funding of the remaining U.S. interests on Taiwan as anticipated in the Taiwan Relations Act. The bill also includes full funding of the requests for contributions to international organizations, as well as the Bureau of Oceans and International Environmental and Scientific Affairs that was originally reduced by the House committee but restored on the House floor.

Second. In the Department of Justice we have sought to cover all of the high-priority items identified by the Committee on the Judiciary in developing the Department of Justice Authorization Act, including funds for the State and local drug task forces; additional positions for the criminal (81) and civil rights (35) divisions; 75 of the 131 additional positions authorized for the land and natural resources division; continuation of the State antitrust enforcement grants; the full $584,408,000 authorized for the FBI; and a major expansion of the Border Patrol to deal with the illegal alien situation on the southwestern border.

Incidentally, we have included the increase we were able to add on the floor in debate on the FBI authorization bill.

Crime is on the increase and, rather than the original administration request to cut some 287 agents again this year, the Congress, in turn, now is adding and maintaining the agent force to take care of the increase in crime.

We are also recommending a total of $486,463,000 for the new Office of Justice Assistance, Research and Statistics. This amount is consistent with the first concurrent budget resolution in that we decreased the LEAA-type functions by the $100,000,000 called for by the resolution, but have restored the juvenile justice program to the current $100,000,000 level. The committee's investigative staff found that the proposed $50,000,000 reduction proposed by the administration would drastically affect this program.

Third. Our major change in the Department of Commerce is to restore a net of $30,500,000 for the 1980 decennial census to overcome the undercounting of persons documented after the 1970 census.

Mr. President, there was a point made by the big city mayors—the mayor of Detroit, Coleman Young, and Maynard Jackson, the mayor of Atlanta, and others who came to us—outlining the fact that a 1975 study and congressional find that the 1970 census was undercounted by some 7 percent. That condition broadly limits, seriously, limits their amounts under such programs as Federal revenue sharing. They already have the added burden, and we want to make absolutely certain there is not any undercounting as much as we possibly can.

So we included that net amount of $30,500,000 for the 1980 decennial census.

Our recommendation would also continue the U.S. Travel Service at a reduced level; includes various additions to the National Oceanic and Atmospheric Administration requested by various members; increase the Patent and Trademark Office budget by $4,400,000 to maintain the current pendency of 22½ months between the time applications are filed and approved. The budget of the National Telecommunications and Information Administration has been restored to the amount appealed including all of the $23,705,000 requested for the grants to the educational TV stations for facilities; and we have also restored the three dry bulk carriers requested by the Maritime Administration but not allowed by the House.

To make sure that these funds are spent correctly, we have added 50 additional audit and investigations positions to the Commerce Department's new Inspector General's Office, amounting to $2,500,000. We have anticipated a budget estimate in this amount pending at the Office of Management and Budget.

The bill includes $689,000 over the budget request to keep open 22 part-time weather stations. This amount was added in full committee by a vote of 15 to 11 against the subcommittee's recommendation.

There have been some around who have been headlining how they are really for cutting budgets. I might add that the distinguished ranking minority member was the only one on his side to stick with us on eliminating the weather stations. We fought hard.

Yesterday's Washington Post had a story about how the minority leader of the House (Mr. RHODES) is going to unite his party behind an "alternative budget" which is going to curb inflation and straighten out all the ills of the majority's "budget of despair." After this vote in the full committee, I think Mr. RHODES may have an uphill battle selling his alternative budget to his party over here in the Senate. All of the minority members of the committee, with the exception of the good ranking minority member of the subcommittee, the Senator from Connecticut, voted in favor of spending this money to keep these marginal low-priority weather stations open. It is interesting that we have the administration trying to be responsible and cut back on Government spending, and members of the so-called "alternative budget" party resisting it.

Incidentally, this study was begun under President Ford, and we feel that part-time weather stations can now be eliminated. We gave it careful study. But each year after careful study, like almost detective work, they come in and find some fault in the study and move the amounts, over our objection.

Fourth. Our recommendations for the judiciary reflect the funds required for the 152 judgeships authorized in the last Congress and their necessary staff support. Our recommendations follow the House except for an additional $3 million for the new bankruptcy courts, the one item appealed by the Judiciary.

Fifth. We have a net decrease of $180,850,000 to the House allowance for the related agencies because we are following the lead of the Small Business Committee in directing the Small Business Administration out of the direct lending business and into a more developmental role for small business. It is absolutely essential that the program reforms contained in the SBA authorizing legislation (S. 918), as passed the Senate, be enacted. Otherwise, additional later requirements for the Disaster Loan Fund could possibly swell by at least $500 and possibly $600 million more than the assumptions in the first budget resolution. The appropriations and the Budget Committees will require the full support of the Senate in achieving these reforms.

Our recommendations restore the budgets for the Arms Control and Disarmament Agency; the Commission on Civil Rights; the Equal Employment Opportunity Commission; the Federal Maritime Commission; and the U.S. Metric Board. The budget of the International Communication Agency has been reduced by $5,650,000 and this again is in accord with the authorization previously approved by the Senate. We have made minor changes to some of the other commissions and offices and have held the Legal Services Corporation to the same $291,800,000 allocated for their 1980 operations in the President's budget. This is an increase of some $30 million over last year.

The committee also recommends the deletion of two provisions inserted by the House that restricts the State Department's expenditures to 95 percent of the amounts appropriated, and the Justice Department in school busing cases.

Mr. President, our ranking minority member, the distinguished junior Senator from Connecticut has been of immeasurable assistance in developing this bill. Each year I find a greater mutuality of interest as we share a strong concern for the oceans and for the economic development of our Nation, to just mention two of the areas. Senator WEICKER was of tremendous help in our hearings and there are many of our witnesses before us which can state firsthand how he can get to the nub of the matter. I now yield to our ranking minority member for any opening comments he might have, but before he takes the floor, I want to make the usual motion regarding the committee amendments.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, providing that no point of order shall be raised by reason of agreement to this request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 20, strike "$712,700,000" and insert $712,322,000";

On page 2, line 24, strike "$3,100,000" and insert "$3,090,000";

On page 3, beginning with line 22, insert the following:

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14) for fiscal year 1980, $5,954,000.

On page 4, line 10, strike "$411,500,000" and insert "$411,552,000";

On page 8, beginning with line 13, strike through and including line 14;

On page 8, line 21, strike "$25,550,000" and insert "$33,000,000";

On page 9, line 15, strike "$100,000,000" and insert "$107,800,000";

On page 9, line 15, strike "of which not to exceed $1,500,000 shall be available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals";

On page 10, line 3, after "laws," insert "including $5,000,000 for antitrust enforcement grants to the States authorized by section 309 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended,";

On page 10, line 6, strike "$43,544,000" and insert "$48,544,000";

On page 10, line 13, strike "$231,275,000" and insert "$233,700,000";

On page 10, line 25, strike "$4,925,000" and insert "$4,473,000";

On page 11, line 11, strike "$577,408,000" and insert "$584,408,000";

On page 11, line 24, strike "$299,326,000" and insert "$318,854,000";

On page 12, line 2, beginning with the comma, strike through and including the words "United States" in line 7;

On page 12, line 23, strike "(INCLUDING TRANSFER OF FUNDS)";

On page 13, line 3, strike "$311,600,000" and insert "$321,500,000";

On page 13, line 4, beginning with "and," strike through and including the word "Facilities" in line 6;

On page 13, beginning with line 18, strike through and including line 23, and insert in lieu thereof the following:

For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $5,960,000, to remain available until expended.

On page 15, beginning with line 1, insert the following:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979 and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and other expenses in connection therewith, $442,695,000, to remain available until expended.

RESEARCH AND STATISTICS

For grants, cooperative agreements, contracts, and other assistance authorized by the Law Enforcement Assistance Reform Act of 1979, including salaries and other expenses in connection therewith, $43,768,000, to remain available until expended.

On page 16, line 22, strike "$25,715,000" and insert "$28,625,000";

On page 17, beginning with line 1, insert the following:

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for designing, constructing, and operating a Federal Pavilion in the Knoxville International Energy Exposition, $20,800,000, including not to exceed $12,000 for entertainment of officials of other countries when specifically authorized by the Commissioner General during the period ending November 15, 1982, to remain available until September 30, 1984: *Provided*, That these funds shall be made available only upon enactment into law of authorizing legislation: *Provided further*, That no additional Federal funds shall be made available for this purpose.

On page 17, line 20, strike "$582,900,000" and insert "$613,400,000";

On page 18, line 4, strike "$17,725,000" and insert "$17,875,000";

On page 18, line 23, strike "$77,394,000" and insert "$78,837,000";

On page 19, beginning with line 14, insert the following:

UNITED STATES TRAVEL SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Travel Service as provided for by law; including employment of aliens by contract for service abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $5,000 for representation expenses abroad; $8,000,000.

On page 20, line 10, strike "$688,656,000" and insert "$711,939,000";

On page 20, line 20, strike "$63,575,000" and insert "$65,925,000";

On page 21, line 18, strike "$97,562,000" and insert "$102,000,000";

On page 21, line 25, strike "$96,344,000" and insert "$97,825,000";

On page 22, line 12, strike "$15,315,000" and insert "$18,410,000";

On page 22, line 17, strike "$12,000,000" and insert "$23,705,000";

On page 23, line 1, strike "$32,000,000" and insert "$101,000,000";

On page 27, line 14, strike "$5,290,000" and insert "$5,230,000";

On page 30, line 8, strike "$57,000,000" and insert "$60,000,000";

On page 31, line 24, strike "$17,670,000" and insert "$18,870,000";

On page 32, line 4, strike "$82,990,000" and insert "$84,700,000";

On page 32, line 5, strike "$2,000,000" and insert "$3,250,000";

On page 32, line 16, strike "$11,230,000" and insert "$11,370,000";

On page 33, line 7, strike "$15,000,000" and insert "$18,500,000";

On page 33, line 10, strike "$119,000,000" and insert "$125,000,000";

On page 33, line 20, after the semicolon, insert "the rental of space in the District of Columbia and elsewhere;";

On page 33, line 23, strike "$71,816,000" and insert "$72,815,000 and, in addition, an amount equivalent to funds deposited into the General Fund of the Treasury by the State of Florida as a result of the expense of construction and relocation of the Fort Lauderdale Monitoring Station";

On page 34, line 11, strike "$11,175,000" and insert "$11,217,000";

On page 35, line 7, strike "$1,000,000" and insert "$1,030,000";

On page 36, line 1, strike "$399,200,000" and insert "$395,445,000";

On page 36, line 21, strike "$14,500,000" and insert "$14,835,000";

On page 37, line 13, strike "$14,106,000" and insert "$16,200,000";

On page 38, line 7, strike "$305,000,000" and insert "$291,800,000";

On page 38, line 10, after the colon, strike through and including the colon in line 17;

On page 39, line 5, strike "$640,000" and insert "$940,000";

On page 39, line 12, strike "$3,900,000" and insert "$4,273,000";

On page 40, line 2, strike "$68,946,000" and insert "$68,986,000";

On page 40, line 13, insert "(INCLUDING TRANSFER OF FUNDS)";

On page 40, line 18, strike "$192,300,000" and insert "$182,300,000, and in addition $11,650,000 for disaster loanmaking shall be transferred to this appropriation from the "Disaster Loan Fund" ";

On page 41, line 13, strike "$580,000,000" and insert $411,000,000";

On page 42, line 5, strike "$1,613,000" and insert "$3,335,000";

On page 43, beginning with line 1, strike through and including line 7.

Mr. WEICKER. Mr. President, I ask unanimous consent that Tim Keeney, Peter Goldfarb, Bob Wicklund, and Geoffrey Baker, of my staff, and Bob Santi and Allan Chvotkin of the staff of the Small Business Committee, have the privilege of the floor during the consideration of and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from South Carolina. I first would like to pay my very sincere compliments to the distinguished Senator from South Carolina, Senator HOLLINGS, for his leadership to this committee. His ardent efforts and precise attention that he has delivered to the bill over the past 6 months really warrant praise, and I am delighted to give it.

Mr. President, as ranking minority member of the subcommittee which considered H.R. 4392, the appropriations bill for the Departments of State, Justice, Commerce, the Judiciary, and related agencies, I want to heartily endorse the remarks of the chairman of the subcommittee, the distinguished Senator from South Carolina, ERNEST F. HOLLINGS. Furthermore, I want to express my admiration of the chairman's leadership in developing this very complex and important legislation. The chairman has been most patient and gracious with every member of our subcommittee.

The subcommittee held extensive and protracted hearings with the proper officials and officers of the executive branch and independent agencies to assist in our review of the administration's budget. In my opinion, the committee's recommendation of $8,252,044,000 in new budget authority for fiscal year 1980 will provide adequate but not lavish resources for the agencies under the subcommittee's jurisdiction.

The chairman has adequately covered the areas of major change in the bill with the exception of the Small Business Administration. This bill provides $657,300,000 in budget authority for the Small Business Administration, including $411,000,000 for the agency's various lending programs and $182,300,000 for salaries and expenses of the agency.

As ranking minority member of the Small Business Committee, I have been intimately involved with redirecting the programs of the SBA. The provisions of this bill are consistent with the efforts of the Small Business Committee and the Senate to provide this guidance.

Two basic premises summarize the provisions of this bill concerning the SBA.

First, this bill significantly reduces the budget authority for the 7(a) direct loan program of the SBA. This action reinforces the past Senate position that SBA should reduce its involvement in direct lending. It is clear that the capitalization of small businesses is best handled by private sector banks and other financial institutions. The resources which the agency attributes to its lending programs are conservatively estimated at 45 percent of the total personnel of the agency. By reducing its direct loan activities, the committee expects SBA to be able to reallocate its resources to certain nonlending activities.

Second, this bill places a greater emphasis on SBA's advocacy, economic research and business development programs. Accordingly, the committee increased appropriations in these important areas.

By taking these two steps, SBA will be a more responsive agency to the needs of the small business community.

In closing, Mr. President, I once again want to extend my sincere thanks and appreciation to the chairman of our committee, the Honorable ERNEST HOLLINGS. I believe that he and our committee have handled the development of this legislation in a most firm, fair, and equitable manner.

UP AMENDMENT NO. 447

(Purpose: To increase FCC appropriation by $440,000)

Mr. HOLLINGS. Mr. President, before we move on to the substantive amendments, there is a technical-type amendment that should be first taken care of for the Federal Communications Commission. Several new projects were approved by the subcommittee, and at last week's full committee session we should have conformed the financing to cover all of them. In order to correct this oversight, I send an amendment to the desk that increases the FCC's appropriation by $440,000.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 447:

On page 33, line 23, strike "$72,815,000" and insert "$73,255,000".

Mr. HOLLINGS. Mr. President, this includes the money for the economic study of reducing the spacing on the AM radio band that is fully outlined in the report.

We are trying to reduce the AM band in radio from 10 kilohertz to 9 and thereby open up the band for additional radio stations.

I believe the minority is in favor of the amendment.

Mr. WEICKER. I concur with the distinguished Senator.

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. WEICKER. I yield back my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I call up amendment No. 364.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an amendment numbered 364.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 7, insert the following:

TITLE VII—SUPPLEMENTAL APPROPRIATIONS, 1979

For additional amounts for the fiscal year 1979 to be immediately available, as follows:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

(TRANSFERS OF FUNDS)

For an additional amount for "Salaries and expenses, United States attorneys and marshals", $2,835,000, of which $2,000,000 shall be derived by transfer from "Support of United States prisoners" and $835,000 shall be derived by transfer from "Fees and expenses of witnesses".

AMENDMENT NO. 364

(Purpose: Provides 1979 supplemental appropriation to United States Marshals Service)

Mr. HOLLINGS. Mr. President, amendment 364 provides an urgent fiscal year 1979 supplemental appropriation for the U.S. attorneys and marshals. The amount of the request is $2,335,000, and it is urgently required by the Marshals Service to meet the costs of unpredictable, unbudgeted emergencies which have arisen involving the safety of human life and protection of property.

During fiscal year 1979, the Marshals Service has been required to establish protection for members of the judiciary and U.S. attorneys' staffs in four districts. The protective details are required by actual and threatened violence against judges, U.S. attorney personnel, and their families, for example, the recent assassination of Judge Wood in Texas and the attempted murder of an assistant U.S. attorney in the District of Columbia. The Service has also set protection for three witnesses before congressional proceedings, at the request of Congress. These special security details are not in the normal mission of the Service, and had not been budgeted. The third class of special protective detail involves four Government criminal prosecution witnesses who have to be protected outside the normal witness protection program, or whose protection has been required longer than anticipated. These details are necessary for protection of human life, as well as the furtherance of Government prosecutions, and their costs could not have been anticipated.

These additional requirements of $2,835,000 are to be funded by transferring $2,000,000 from the appropriation "support of U.S. prisoners" and $835,000 from "fees and expenses of witnesses."

Mr. WEICKER. Mr. President, I concur in the passage of the amendment.

I yield back the remainder of my time.

Mr. HOLLINGS. I yield back the remainder of our time, Mr. President, and ask for the adoption of the amendment.

The ACTING PRESIDENT pro tempore. All time being yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, let me yield to the distinguished Senator from Oklahoma.

UP AMENDMENT NO. 448

Mr. BELLMON. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 448.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 19, strike "." and insert ": *Provided*, That"

(a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after "under subsection (b)" the following, "except as provided in subsection (c),";

(b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:

"(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

"(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 per cent on the first $55,000 of such loan;

"(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 per cent per annum; and

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one eighth of 1 percent, and an additional amount as determined by the Administration but not to exceed 1 percent: Provided, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration: Provided further, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation."

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) striking the comma after the phrase "agricultural related industries" and inserting the following: "*Provided*, That, prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for emergency loan assistance from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(3) inserting a new subsection as follows:

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(d) the amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

(e) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(f) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be at a rate prescribed by the Secretary not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum: *Provided*, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans as determined by the Secretary."; and

(2) inserting in the second sentence after "*Provided*, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the terms of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms of loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That"

Mr. BELLMON. Mr. President, there is a problem in that the provisions covering loans made by the Farmers Home Administration and the Small Business Administration are not identical.

At the present time farmers are finding loans made by the Small Business Administration to be more attractive both because they do not require the same credit test and also because the interest rates are somewhat lower. Therefore, farmers who would normally and should normally use the Farmers Home Administration loans are going to the Small Business Administration for their credit needs. This is placing great pressure on the Small Business Administration and making it in some cases impossible for that agency to make the loans they should be making to the business community.

The purpose of the amendment which I have introduced would be to make terms of the Small Business Administration and the Farmers Home Administration almost identical and in this way we feel it would have the result of causing farmers to use the Farmers Home Administration rather than the Small Business Administration.

The amendment has been discussed with both the floor manager of the bill and the ranking minority member of the committee, and I am hopeful that they will see merit in the amendment and perhaps accept it.

Mr. President, the fiscal year 1980 appropriation bill for the Departments of

State, Justice, Commerce, the Judiciary, and related agencies is now before us. The bill, as reported, provides $8.3 billion in budget authority with associated outlays of $10.1 billion, including $3.9 billion from prior years' budget authority. These amounts are generally consistent with the first budget resolution and I will support the bill. I would like to raise some concerns about future spending requirements, however.

The Appropriations Committee has allocated $9.8 billion in budget authority and $10.5 billion in outlays to its subcommittee on State, Justice, Commerce, and the Judiciary under the first budget resolution.

As reported, the Senate bill is $1.5 billion in budget authority and $300 million in outlays below that allocation. Due to the lack of an authorization, the subcommittee deferred action on appropriations for the Economic Development Administration, Regional Action Planning Commissions, and Federal Trade Commission. These and other possible later requirements, including Small Business Administration business and disaster loans and the October pay raises, could put the subcommittee over its allocation by $100 million in budget authority and $200 million in outlays.

These possible future claims against the subcommittee's allocation under the budget resolution were discussed during full Appropriations Committee consideration of this bill, Senator HOLLINGS stated, at that time, his intent to reduce appropriations for controllable items yet to be funded—ongoing programs now lacking an authorization, for example—if necessary to prevent the subcommittee from exceeding its allocation. I commend the Senator for this show of support for the budget process.

Obviously, however, the Appropriations Committee cannot act alone. For a number of programs, authorizing committee action must be taken in order to restrain spending. The SBA disaster loan program is a prime example here.

We are estimating additional fiscal year 1980 spending requirements for this program to be those which would result if the Senate-passed version of S. 918, the Small Business Act Amendments of 1979, is enacted. As you recall, that bill was approved by this body as a "reasonable compromise" in response to the longstanding and costly problems which have plagued our Federal disaster lending activities, namely, duplicative SBA and Farmers' Home disaster lending programs.

The Senate-passed version of S. 918, while not the ideal solution in my view, is what it was represented to the Senate to be—a reasonable "compromise." It would make the Farmers' Home and SBA programs so substantially similar as to allow a requirement that agricultural enterprises first seek Farmers' Home assistance before being eligible for disaster loan assistance from the Small Business Administration.

The conferees on S. 918 have been unable to reach agreement however. As a result, lower interest rates on SBA disaster loans were authorized as part of the fiscal year 1979 supplemental appropriations bill, without the accompanying program reforms. Thus, failure now to enact the program reforms incorporated in the Senate-passed version of S. 918 would force the Appropriations Committee to provide any sums needed through future supplementals so to speak. This is because the SBA disaster loan program technically operates as an entitlement. When a disaster strikes and the bank is broke, we do not cut off assistance to victims of that disaster. We appropriate additional funds. With the reduced SBA disaster loan interest rates enacted as part of the fiscal year 1979 supplemental appropriations bill, fiscal year 1980 SBA disaster loan requirements could climb another $500 million. This would put the subcommittee roughly $600 million above its budget authority allocation. The subcommittee would be forced to make severe reductions in future supplementals to fund ongoing Federal programs or force the Appropriations Committee to live within its total first budget resolution allocation by holding other subcommittee's below their allocations.

I support this bill as reported, but I think the Senate should be aware of the real spending pressures which may materialize in the coming months—spending pressures which may jeopardize our first budget resolution targets and a balanced budget in fiscal year 1981.

Mr. HOLLINGS. Mr. President, let my distinguished colleague make one thing clear to me.

As I remember, when we started this procedure of disaster loans for farmers going before the SBA on two scores.

One was disaster money was going to the Small Business Administration immediately set up for that particular disaster. And the other point was that if you continued the procedures before the Farmers Home Administration then you had to have a credit elsewhere checkoff; in other words, you had to make an application to banks to prove that those banks would not finance your particular loan and then you could apply to Farmers Home before we changed it and put them all before the SBA.

The idea of putting them before the Small Business Administration was to put them, as we say in the law, in pari delicto, on an equal footing. We did not want a disaster that occurred like the Johnstown flood where the individual had a home that was washed away. He would come without any credit elsewhere with the burden required to get a certain percentage. If he had a business he could do the same thing before the SBA. But if it washed away his farm, then he would have to go to the Farmers Home Administration.

And that is why we changed the law.

Then, as I remember it, the experience of the Small Business Administration is very much lacking in farmer loans, whereas expertise is already established within the Farmers Home.

As a result we watched the operation of the Small Business Administration under this subcommittee's aegis. We had hearings where Mr. Weaver and the others operating SBA appeared. The added personnel that they would have to put on for each disaster and everything else was as disruptive as anything else to SBA's operation, and they were totally at ease with Farmers Home.

So Senator TALMADGE and Senator BELLMON asked that it be returned to Farmers Home, and I appeared before the Agriculture Committee and I asked that it be returned so long as, and that is the one thing I wanted to make clear, the farmer is on an equal footing with the homeowner and the business owner; in other words, he can get the loan without any additional burdens or credit ahead of time having to be proved that he is denied or gets the same interest loan.

I want to look out for my farmer, and I am sure he does, also, to put him on the same footing as that business owner and that homeowner.

Is that correct?

Mr. BELLMON. Mr. President, that is precisely the purpose of this amendment. That is the intent of the amendment. And I could not agree more with the distinguished Senator from South Carolina.

We do not want a dual policy here with people on one side of the city limits having a more favorable loan program than the people living outside the city limits in the rural areas.

The purpose of this amendment is to treat both the people who live in the towns and cities and people who live in the country exactly the same.

Mr. HOLLINGS. Mr. President, this is the language agreed to under the Huddleston amendment in the supplemental bill, and we were not able to hold it in conference.

Mr. BELLMON. That is right.

Mr. HOLLINGS. But I am glad under that circumstance to go along with the amendment and do our best in conference one more time.

Mr. BELLMON. I hope that the Senate conferees will be very insistent on this language. Until we get such provision in the law, it is going to be very difficult for us to operate an effective farmers home loan program because the farmers know that the SBA provisions are more generous and are, therefore, going to continue to go to the SBA.

I hope, if the amendment is accepted, the conferees will be insistent.

Mr. WEICKER. Mr. President, I concur with the remarks of the distinguished Senator from Oklahoma and compliment him for bringing this amendment to the legislation. I concur in its adoption.

Mr. BELLMON. Mr. President, I am willing to yield back my time.

Mr. HOLLINGS. I yield back our time, Mr. President, and ask for adoption of the amendment.

The ACTING PRESIDENT pro tempore. All time being yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. I thank the floor manager and the ranking minority member.

● Mr. KENNEDY. Mr. President, on June 4, 1979, the Senate passed the fiscal year 1980 Department of Justice Authorization Act. That act represented the product of a bipartisan effort on the part of the Committee on the Judiciary to assess the policies, programs, and performance of the Department of Justice. The appropriations bill, which we are considering today, adhered to the priorities of the Authorization Act. The bill well reflects the cooperation in effort of the two committees, and I am pleased to rise in support of it.

H.R. 4392 meets the most pressing needs of the Department of Justice and the Federal justice system. It contains sufficient funds for both the investigation and prosecution of organized crime, white-collar crime, Government program fraud, and public integrity, the Department's highest priority programs. It includes the necessary resources to provide the new judges established under the Omnibus Judgeship Act with U.S. marshal protection, and it insures the staffing of U.S. attorneys required to handle the anticipated increased workload. Moreover, additional resources are allotted to the Civil Division, the Land and Natural Resources Division, and the Civil Rights Division to permit them to pursue violations of the law far more aggressively than they have in the past.

Overall H.R. 4392 is $551,094,000 lower than the two authorization acts which have preceded it. However, there are three accounts with levels somewhat higher than authorized: General administration, $2 million; U.S. attorneys and marshals, $1 million; and Immigration and Naturalization Service, $5 million.

This latter discrepancy is due to a series of 11th hour administration budget amendments. We should be able to work with the House in clearing the way for these changes this time around; I expect the administration to develop procedures with us to insure that such timing problems do not occur in the future.

Mr. President, I believe the Appropriations Committee has done a commendable job in fashioning responsible resource levels for the Department of Justice. I urge my colleagues to vote in support of this bill.●

Mr. HOLLINGS. Mr. President, we have an amendment by the distinguished Senator from Ohio, Senator GLENN, on the Census Bureau. He will momentarily be in the Chamber.

While we are awaiting his arrival, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 449

Mr. HOLLINGS. Mr. President, preliminary to moving this particular amendment, let me explain that the distinguished Senator from Arizona (Mr. DECONCINI) has conferred with the Attorney General. There is recommended $5,000,000 in the Attorney General's budget to take care of the State and local drug strike forces.

The Attorney General has asked for some flexibility on this authority, because in his particular office there is some question as to whether or not it can be effectively and efficiently administered, in that it could have to be administered through the DEA, and he wants that authority.

The authority would read to provide the language:

> The Attorney General has the authority to make such provisions as are necessary and appropriate for the efficient and effective administration of these funds included herein for State and local drug strike forces.

I am going to make a verbal amendment, if the rules will allow it.

On page 8, at the end of line 23, this additional proviso, and I will read it once again, and then I can send it to the desk; but I do make this motion: That the bill, on page 8, line 23, be amended to include, after that particular line, the following proviso:

> That the Attorney General has the authority to make such provisions as are necessary and appropriate for the efficient and effective administration of these funds included herein for State and local drug strike forces.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. HOLLINGS), for the Senator from Arizona (Mr. DECONCINI), proposes an unprinted amendment numbered 449.

The amendment is as follows:

> On page 8, under line 23 after the period, insert the following:
>
> *Provided*, That the Attorney General has the authority to make such provisions as are necessary and appropriate for the efficient and effective administration of these funds included herein for State and local drug strike forces.

Mr. HOLLINGS. I think the minority side will agree to this language. Does the Senator from Connecticut agree to the provision of that extra language?

Mr. WEICKER. Yes, I agree.

The ACTING PRESIDENT pro tempore. Is time yielded back?

Mr. HOLLINGS. Yes, I yield back the remainder of my time.

Mr. WEICKER. I yield back my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. UP-449) was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

UP AMENDMENT NO. 448, AS MODIFIED

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. While we are waiting for the distinguished Senator from Ohio, I have a unanimous-consent request. Before propounding the request, Mr. President, it refers to the amendment of the distinguished Senator from Oklahoma (Mr. BELLMON). At page 2 under that section 2, "striking the comma after the phrase 'agricultural related industries' and inserting the following:" and then in the quote mark, without the colon, it is the intent of the Senator from Oklahoma that the quote mark be deleted and just the colon remain there. And then further down, under section (b)(2), the reading is " 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable terms." The distinguished Senator would have included between the word "reasonable" and the word "terms" the additional two words "rates and", so that it would read " 'Credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration the prevailing private rates and terms in the community."

Mr. President, I ask unanimous consent that on page 2 of the Bellmon amendment, the quote marks before the word "Provided" on line 15 be deleted, and later on line 20 under section (b) (2), prior to the word "reasonable" the words "rates and" be included so as to read "at reasonable rates and terms."

The ACTING PRESIDENT pro tempore. Will the Senator send the modification to the desk? Without objection, the amendment will be so modified.

The amendment, as modified, is as follows:

> On page 41, line 19, strike "." and insert ": *Provided*, That
>
> (a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after "under subsection (b)" the following ", except as provided in subsection (c),";
>
> (b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:
>
> "(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—
>
> "(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 per cent on the first $55,000 of such loan;
>
> "(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 per cent per annum; and
>
> "(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per cent, and an additional amount as determined by the Administration but not to exceed 1 per cent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such

loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That, prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for emergency loan assistance from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(3) inserting a new subsection as follows:

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(d) the amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

(e) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(f) Section 324(a) of the consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of one per centum: Provided, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans as determined by the Secretary."; and

(2) inserting in the second sentence after "Provided, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the terms of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That".".

Mr. HOLLINGS. I thank the Chair.

Mr. President, I ask unanimous consent that the privileges of the floor be granted to Ava Abramowitz and Jerry Bonham.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following members of Senator HATCH's staff: Renn Patch and Steve Markham.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time to the Senator?

Mr. HOLLINGS. I yield time, Mr. President.

Mr. President, if the distinguished Senator from Ohio will yield, I ask for the yeas and nays on final passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 450

Mr. GLENN. Mr. President, I send an amendment to the desk and ask that it be considered.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 450.

On page 17, line 20, strike out "613,400,000" and insert "$616,400,000, of which up to $4,800,000 shall be available only for the Census Promotion Plan".

Mr. GLENN. No, that is not correct. May I have that back, please?

The ACTING PRESIDENT pro tempore. I do not think the Senator is supposed to mark on that one. If the Senator will, he may mark another copy.

Why not withdraw it and offer it again?

Mr. GLENN. Mr. President, I ask unanimous consent that I be permitted to withdraw the amendment and resubmit it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment was withdrawn.

UP AMENDMENT NO. 450, AS MODIFIED

Mr. GLENN. Mr. President, H.R. 4392 amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 450, as modified:

On page 17, line 20, strike out "$613,400,000" and insert '$614,400,000, of which up to $2,800,000 shall be available only for the Census Promotion Plan".

Mr. GLENN. Mr. President, I send an as presently designed would do significant damage to the 1980 census. It would accomplish this feat by gutting the public information program, the program that is meant to get the census message to the people about being counted. Withcount worse than the one we had in out it, we virtually guarantee an under-1970.

In 1970, 7.7 percent of the Black population of the United States was not counted in the Decennial Census. Estimates are that like numbers of other minority groups were missed. Yet more than 98 percent of the white population was located.

What all this meant was that the very people who most needed the Government funds distributed on the basis of the once every decade head count were the ones least likely to receive it. The same, of course, went for the over-burdened locales were they lived.

In response, over the last decade the Census Bureau has worked with other Government agencies, with Congress, with social scientists, with demographers, with statisticians, and most especially with minority group leaders to devise ways to find and to count all of the members of minority groups in 1980.

They came up with a number of programs. Key to the success of all of them is the public information program because it is the means to get the message out.

Among the reasons why people are not counted is a lack of appreciation of the importance of the census. Also, some people do not want to be counted. Housing code violators, illegal aliens, welfare code violators, for example, feel that they will be reported to other Government agencies if they allow themselves to be known to the Census Bureau. This concern is a myth because there has never been a case reported of a Bureau violation of its confidentiality code.

But to make sure the myth is dispelled, plans for the 1980 census have been predicated on reassuring the American public of confidentiality and on educating the American public to the importance of being counted.

Essential to this carefully structured plan, a public information program was devised, focusing particularly on minority groups. It is via this plan that the message will be actually transmitted to the public. Because the advertising council provides public service advertising, the Bureau of the Census was able to keep its own costs for this pivotal program down to a minimum.

I want to reemphasize that virtually the entire minority-targeted program rests on getting information about the census to the public. Yet if the Appropriations Committee cut is sustained, this program will be totally inadequate in realizing its aims.

The impact which the committee action will have upon the 1980 census is described in the accompanying letter by the Acting Director of the Census Bureau.

Mr. President, I believe that if we restore $1 million of the cut proposed by the Appropriations Committee, the Census Bureau will be able to address the undercount problem through an improved public information program. My amendment would restore this amount of money, and I respectfully urge its adoption by the floor managers.

Mr. President, I ask unanimous consent to have printed in the Record a letter just received from the Census Bureau detailing the losses which would occur if this program were obliterated.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Commerce,
Washington, D.C., July 24, 1979.

Hon. John Glenn,
Chairman, Subcommittee on Energy, Nuclear Proliferation and Federal Services, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I write out of a deep sense of concern about the $3 million reduction made by the Senate Appropriations Committee in H.R. 4392. After restoring $33.5 million of the $48 million disallowed by the House of Representatives, the Senate committee struck $3 million for promotional and public relations activities.

While the committee indicated that they placed "the highest priority on minority-oriented media concerns to alleviate the undercount problem of the past" their action in specifically directing a $3 million cut in the promotion and public relations area would strike directly at Bureau programs which address the undercount problem head-on.

The immediate result of the cut, if it is sustained, would include:

a. The elimination of 40 public information specialists in the field whose assignments include direct contact with local minority media.

b. The elimination of all material to be produced and supplied to the 200 community services representatives for use in the minority communities. This program has been a major effort to build support within these communities and the need for material is imperative.

c. This will eliminate our ability to coordinate and fully utilize the estimated $40 million pro-bono communication program being developed through the Advertising Council.

d. The elimination of all funds necessary for the reproduction and distribution of

1. All audio-visual materials for use with organizations
2. the school curriculum package
3. the motion picture
4. the newspaper, radio, and television information kits, including those specifically designed for minority media.

Although we are deeply appreciative of the restoration made in the Senate Appropriations Committee, we believe the specified $3 million cut for promotional and public relations activities would have severe consequences for our efforts to reach into those areas of the country that have traditionally accounted for a significant portion of the undercount. We have, through our community services program, through testimony before Senate and the House committees, and through countless public announcements, raised expectations in these communities. The impact that would result from the $3 million cut is, indeed, difficult to imagine.

I hope that it will be possible to restore this sum on the floor of the Senate and deeply appreciate your efforts on our behalf and on behalf of a successful 1980 census.

Sincerely,

Daniel B. Levine,
Acting Director,
Bureau of the Census.

Mr. GLENN. Mr. President, the amendment I have submitted would increase by $1 million the amount to be provided in the bill as submitted from the committee.

I believe this has received favorable consideration from the floor managers of the bill.

Mr. President, I yield such time as the Senator from New York might wish to speak on this subject.

Mr. JAVITS. Mr. President, at the very 11th hour and 59th minute of this bill, we are faced with a sharp controversy between the Census Bureau and the managers of the bill—and I have great confidence in the managers—in which the managers feel that the allocation of funds for public information and activities in that connection, referred to at page 35 of the committee report, is $3 million too much, and, therefore, should be cut by $3 million, while the committee emphasizes, as it has right along "the highest priority on minority-oriented media campaigns to alleviate the undercount problems of the past," and the Bureau complains that, if this $3 million is taken away from it, it simply cannot do the very thing the committee says it wants it to do.

Mr. President, under these circumstances, with, as I say, an expression of great confidence in our colleagues, and faced with the seemingly irreconcilable difference with the Bureau, the fact that the matter will be in conference between the House and the Senate, with the Senate having added at Senator Hollings' urging some $30-odd million in funds for the Census Bureau to follow the dictates and desires of the committee, Senator Glenn and I discussed the matter with Senator Weicker and Senator Hollings and decided that we would simply take an arbitrary added amount—we agreed upon $1 million—and add it at this stage of the bill so that the whole matter could be properly fought out in conference with an allowable margin on the part of the Senate recognizing this problem.

Mr. President, I consider the suggestion which has now been accepted by Senator Glenn and myself and the managers of the bill to be in character for both our colleagues. Senator Weicker feels very deeply about it, as, in his opinion, and I respect it enormously, great proof that the amount he feels is not needed.

Senator Hollings has pointed to the large addition of $30 million, to the figure which came over from the House.

I cannot tell the managers how much I appreciate their cooperation and their willingness to yield the point in order to protect what may prove to be inequity as the matter develops in the conference. I thank them both very much.

Mr. President, the amendment we are introducing would restore $1 million to the fiscal year 1980 budget of the Census Bureau for its promotional and public relations activities.

As the ranking member of the Senate Subcommittee on Energy, Nuclear Proliferation, and Federal Services, which has jurisdiction over the Census Bureau, I have been looking into the Bureau's plans for carrying out the 1980 census.

The subcommittee held 2 days of oversight hearings on February 27 and March 1. The thrust of the hearings focused on the undercount, 2.5 percent, in the 1970 census, and the plans of the Bureau to obtain a more accurate count in 1980. In addition, the subcommittee staff met with then Acting Director, Bob Hegan and Promotional Director, Hal Weber to further explore the Bureau's promotional plans.

Mr. President, the allocation of over $50 billion in Federal grant-in-aid funds will be determined by the 1980 census. In many instances eligibility depends upon a city exceeding a given number of residents so that a minor undercount could affect substantially the amount of funding received.

The U.S. Conference of Mayors estimates that the 1970 undercount resulted in the loss of more than $10.7 million in general revenue sharing funds in fiscal year 1978 for New York City; $2.0 million for Detroit; $1.9 million for Washington, D.C.; $1.3 million for Baltimore; $750,000 for Cleveland; and $420,000 for Atlanta.

In order to address the undercount problem the Census Bureau has developed a comprehensive, aggressive publicity program structured to reach the total population through mass media as well as targeted groups—the traditionally hard to enumerate areas—through a community services/grassroots approach.

The Public Information Office is a vital component of the entire publicity effort. This office is responsible for producing and disseminating information brochures and kits to the media, schools and local business communities. Without adequate funding these essential liaisons with the communities will not be able to perform their respective roles.

I would like to explain briefly what the Public Information Office will do. First, it is producing 100,000 census information kits to be used as background material by the mass media, including 9,400 daily, weekly, and minority newspapers, 1,000 television stations, 10,000 radio stations and 20,000 consumer and business magazines. Second, the Office will print and distribute 600,000 posters to be used in post offices, store windows and community and factory bulletin boards. Third, the Public Information Office has developed a school curriculum consisting of teaching assignments and sample forms to take home and complete.

Also, a public information specialist will be hired and placed in each of the 12 regional offices in July. By October 28 additional specialists will be located in selected district offices. Their function is to execute on the local level all aspects of the communication plan.

Mr. President, the cut in funding for the Public Information Office proposed by the Appropriations Committee will hamper the efforts of the Census Bureau to inform the public and, moreover, will impact directly upon the programs designed to reach the minority and foreign speaking populations—the very groups which stand to benefit the most from an accurate count. I urge my colleagues to restore the funding for the activities of the Public Information Office.

Mr. GLENN. Mr. President, I thank the distinguished Senator from New York for his support on this amendment.

Mr. President, if the floor managers of the bill are prepared to yield back their time, I am prepared to yield back my time.

Mr. WEICKER. Mr. President, in reregard to the amendment, the distinguished Senator from South Carolina and myself are prepared to accept it.

The best I can say on it is that a good compromise is one that leaves everybody feeling a little unhappy, which I think probably is the feeling shared on the floor at the present time.

Mr. President, I yield back the remainder of my time.

Mr. GLENN. Mr. President, I yield back all my time and ask for passage of the amendment.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP 450, as modified) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 451

(Purpose: To prohibit the use of funds by the Department of Justice to bring legal action to require the forced busing of students)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Talmadge). The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 451.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 43, line 1, insert the following:
>
> "Sec. 605. No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

Mr. HELMS. Mr. President, this amendment to H.R. 4392, the State, Justice and Commerce Appropriations Act, is very simple. It happens to be identical to language adopted by the House of Representatives and deleted by the Senate committee.

It would restrict the use of taxpayers' dollars by the Department of Justice in promoting court-ordered busing.

As a result of the Senate's action of last week to reaffirm the Senate's commitment to restrain forced busing, the Justice Department has assumed a new role in promoting busing in the Nation's schools. The Justice Department is now directly intervening to bring busing cases before the Federal courts, rather than through administrative procedures originally handled by the Department of Health, Education, and Welfare.

The point is this, Mr. President. Since 1977, Congress has prevented HEW from taking administrative action against schools which rejected HEW's demands to implement forced busing plans.

Now, the Biden-Eagleton amendment has been included in the Labor-HEW appropriation bill every year since that time and, in fact, was passed again by the Senate just last week.

So the Senator from North Carolina suggests the Senate's position on this matter is clear, and my amendment would make the Senate consistent.

I have been pleased to support the Biden-Eagleton amendment, to cosponsor it, in the past, and I will continue to do so. However, although HEW has been relieved of its assumed responsibility for bringing busing suits to court, what has HEW done?

HEW has, in fact, transferred that activity to the Department of Justice, in what obviously is an end run around Congress. Congress ought to perceive it as such and the House of Representatives has done precisely that. Now, the Senate should act to affirm this policy.

In short, HEW is making an end run around the limitations of the Biden-Eagleton amendment by transferring cases it normally would act upon to the Department of Justice for action.

Let me give an example.

In Marion County, Fla., HEW attempted to impose a school busing plan. When the school district refused and negotiations between HEW and the school district reached an impasse, HEW simply referred the matter to the Justice Department.

The Justice Department then filed suit against the school district in Federal district court asking that a busing plan be imposed. While the Federal judge turned the case out of court on the basis that the Justice Department does not have authority under title VI of the Civil Rights Act to bring such an action, the case is now on appeal before the Fifth Circuit Court of Appeals.

But regardless of the outcome of that case, it is appropriate for Congress to act in implementing the Civil Rights Act of 1964 to determine what procedures are appropriate for the Federal Government to take in carrying out its civil rights legislation.

The purpose of the amendment submitted by Mr. Collins in the House and now by me in the Senate is to clearly state that it is not consistent with the language or intent of the Civil Rights Act for Federal agencies to promote or demand busing.

Mr. President, I want to be very clear as to the effect of the Collins-Helms amendment.

It will prevent the Department of Justice from going into court and asking for involuntary busing plans.

It will not prevent the Justice Department from going into court and asking for other remedies. It will not prevent magnet schools. In this regard, the effect of the Collins-Helms amendment is no greater than that of the Biden-Eagleton amendment.

So this amendment is merely a reaffirmation of the Senate vote last week to approve the Biden-Eagleton amendment, which the Senator from North Carolina cosponsored.

It will not affect court-ordered busing plans already in effect. Its application is only prospective.

It will not affect voluntary busing plans already in effect or which may go into effect in the future.

It will not affect the power of Federal courts to order busing. The amendment only affects the power of the Justice Department to seek such orders and to promote forced busing.

It will not affect the handicapped or disabled student's right to obtain transportation to special educational facilities.

Mr. President, so that we are clear as to the effect of the Collins-Helms amendment, I would like to read the language of the amendment. It states:

> No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. President, I believe the language and effect of my amendment is clear. Certainly, it is clear to the House of Representatives. It is consistent with the policy established by the Senate when it has repeatedly passed the Biden-Eagleton amendment. Indeed, it carries out that policy to restrain the Federal Government from seeking to impose forced busing on the schools of this Nation. It would bring to an end the promotion of forced busing by Federal bureaucrats whether they are employed by the Department of Health, Education, and Welfare or the Department of Justice acting as a surrogate for HEW.

Mr. President, I suspect there will be some persons who will defend busing as a last resort or a necessary evil in some situations. I disagree. You can achieve artificial quotas and ratios of students by forced busing, but those quotas and ratios which are established by compulsion will never result in the understanding and cooperation which the proponents of busing promise. Even such advocates of busing as Prof. James S. Coleman, whose work is substantially responsible for many of the busing programs throughout the country, has now rethought this issue and determined that busing does not work, has not worked, and will not work.

But whether or not we can agree that there is no place for forced busing in American life—even as a matter of last resort—my amendment does not go that far. It does not affect the power of Federal courts to mandate busing where they determine such a program is necessary. It simply prohibits the U.S. Government, through the Department of Justice, from going into court and seeking a busing order. The amendment does not prohibit private citizens or organizations from exercising their constitutonal right to go into court and seek what they believe to be an appropriate constitutional remedy.

Mr. President, the Collins-Helms amendment which has passed the House is good law, and it is within the power of Congress to act to determine what actions of the Federal Government are appropriate in carrying out the provisions of the Civil Rights Act and the Constitution.

The Collins-Helms amendment is consistent with the established policy of the Senate in restricting the action of the Federal Government in promoting forced busing. It is necessary to close a loophole in that policy. It is entirely consistent with the Biden-Eagleton amendment which passed the Senate again last week, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield myself such time as I may need in order to oppose the amendment.

Mr. President, I begin by reiterating what is obvious to most, and that is that I have supported the distinguished Senator from North Carolina on many occasions with respect to busing and busing amendments.

The truth of the matter is that our former distinguished colleague, Senator Sam Ervin and I were amicus curiae on the brief in the Swann case in Mecklenburg County, relative to busing some 6 years ago. So we have been working to try to oppose busing in order that children could attend the school nearest their choice.

However, the fundamental involved here is whether or not the Department of Justice can do justice. The Department of Justice does not promote busing. It only can take the facts of a particular case, under congressional mandates relating to discrimination in the public school systems, and say, "Judge, we present these facts as being discriminatory." Thereby, they try to promote the ends of justice in accordance with the findings of a national Congress.

The language used by the Senator from North Carolina is too light and too loose. The fundamental here is whether or not the Department of Justice can enforce various enactments of the national Congress relating to discrimination.

HEW withholding funds and the Biden amendments present another issue; but this proposed language says when you get down to your own Department of Justice presenting cases before the Federal courts, you cannot present those cases.

In many cases in which plans have been submitted by the school boards and other entities involved, which could involve busing of some kind, directly or indirectly, by way of transportation—whether that involves discrimination cannot be determined, under the amendment of the Senator from North Carolina, because if it relates in any fashion, directly or indirectly, then there is a bar to the Department of Justice even picking up those facts and presenting the matter to a court of law.

There is a fundamenal involved here that cannot be countenanced on an appropriations bill parliamentarily, and I am sure my distinguished colleague will raise the point of legislation on an appropriations bill.

However, knowing the sense of justice of the Senator from North Carolina, let us not put an amendment on this bill that says the Department of Justice cannot do justice. That is exactly what the amendment says. The Department of Justice does not promote anything. They can only take the civil rights statutes. If the Senator wants to repeal the civil rights statutes, that is his prerogative, and he should submit categorically that kind of repeal amendment in a bill in this National Congress.

But having made these particular legislative findings, signed by the President and on the statute lawbooks of the United States of America, to come and say the Department of Justice cannot do its job, then that is another thing, and I am sure he does not want to do that.

I know he wants to show his constancy, perseverance, and dedication to the cause. I feel the same way—do not misunderstand me—about busing, because we worked in the Swan case, and you can look at my other votes. But when we saw this in the Justice Department about bringing cases on discrimination that may involve a factual situation even approved by both sides, that amounts to discrimination of an individual citizen, only the Justice Department can bring that case and make the charge. It has to prove the case.

What the Senator from North Carolina says in the first instance in this language is that you cannot even bring the case. I think that would be outrageous.

I hope we can either knock out the language or defeat the amendment.

The PRESIDING OFFICER. Who yields time?

The distinguished Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I rise to oppose the amendment of the distinguished Senator from North Carolina. I think the argument itself——

The PRESIDING OFFICER. If the Senator will suspend, will the Senator from South Carolina yield time to the Senator from Connecticut?

Mr. HOLLINGS. I yield time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from South Carolina yields time to the Senator from Connecticut.

Mr. WEICKER. Mr. President, first I concur with all the remarks made by the distinguished Senator from South Carolina, and to emphasize the point that if there is something to be done then it is not in the form of this amendment. Rather let the Senate repeal all civil rights statutes. We, try to strip the power of remedy away from the courts, we try to strip the powers of judgment and action from the Justice Department all because we are unable by legislative action to institute such an inane policy in this Chamber.

These end runs have to stop somewhere, and I hope they stop right here.

The commitment of this Government and all of its branches to equality, to equality of opportunity, to equality of education, is both demeaned and diminished by such end runs.

Important to all of us is the principle that when any appear before a court of law in this country we want to be able to obtain justice. We want independence for the judiciary, and whatever remedy is appropriate to our ill we want it applied.

And for the legislative branch of Government to come in after the fact and strip that type of independence, strip that power from the court, strip such judgment from the Department of Justice does not just demean situations as they exist today in this country relative to civil rights and equality of opportunity but guarantees that in the future the same could happen to the rights of any citizen of this Nation. That is the danger of what we are tampering with.

I will, after all time is yielded back, raise the parliamentary point as to this being legislation on appropriations bill and possibly the argument of germaneness will be raised. But that really is not the issue here today. If it were not for the fact that the committee itself is dedicated to preserving this principle of no legislation on appropriations bills, I would be entirely satisfied to have this voted on up or down on its merits, and it has none. It has none.

I think the time has come for all of us to understand that sooner or later each one of us is going to have our ox gored. And it does not mean we throw the whole system overboard because we lose one. More important than anything else in the Nation today is acceptance every now and then under our constitutional system of everyone losing one. If indeed the system is independent that is the way it should be.

So I hope that parliamentarily substantively and conceptually, this amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, I find myself a bit astonished at the tone of the opposition to this amendment.

I wish either of my two friends would specify the statute which provides for forced busing. They cannot, because there is no statute authorizing forced busing. What we have here are zealots in the second and third echelons of the Department of HEW and the Department of Justice collaborating with each other to attain an end run around Congress.

Congress has said to HEW you cannot impose forced busing plans on schools. So the second- and third-level bureaucrats in HEW trot over to the second- and third-level bureaucrats in Justice and say, "OK, you stick it to the school district in Florida or South Carolina or North Carolina." That is what is going on.

Mr. WEICKER. Connecticut.

Mr. HELMS. And I will add Connecticut at the request of my friend from Connecticut.

The Senator from Connecticut asked whose ox is being gored? I will tell you whose ox is being gored. It is the schoolchildren of this country. It is the school administrators who do not have enough time to concentrate on quality education because they have to spend their time dealing with Federal bureaucrats and going to court on forced busing cases promoted by HEW in concert with the Justice Department.

This amendment is just simple justice for the schoolchildren of this country and it is simple equity for the school administrators who are being harassed and intimidated constantly by Federal bureaucrats.

If allowing the Justice Department to promote forced busing is any Senator's idea of justice, count this Senator out. The schools of this country are deteriorating and the quality of education is diminishing, while this Senate sits around and talks about the justice of forced busing. This is not justice, Mr. President. It is demonstrably the rankest sort of injustice.

It is time for justice for the parents of the schoolchildren of this country. It is time for justice for the schoolchildren themselves and for school administrators.

I say, Mr. President, this amendment does nothing except say to the Justice Department: You cannot use tax funds to promote forced busing.

I think those who oppose this amendment, as Shakespeare said, doth protest too much.

I reserve the remainder of my time.

(Mr. STEWART assumed the chair.)

Mr. WEICKER. Mr. President, will the Senator yield to me?

Mr. HOLLINGS. I yield.

Mr. WEICKER. Mr. President, I only respond on this issue by setting forth a hypothetical for my colleagues. If indeed you can restrict the options of remedy to justice, whether it be a court or whether it be the Justice Department and in this particular instance it takes the form of busing, why not any other recommendations? Any other remedy, any other judgment—why not restrict them? There is no end to it.

As imperfect as some of the judgments might have been, or some of the remedies might have been, the fact is that the policy and the law of this land giving full meaning to the Constitution and the concept of equality has been an unqualified success, and this is not a time to back off in the name of disagreement with a particular judgment or a particular remedy.

There are no apologies to be made. The condition of education for all of our children 40 years ago was much different than it is today. I do not yearn for the good old separate and unequal days.

Anything that is dared greatly will involve great mistakes. But never would I want to see remedies restricted insofar as the courts are concerned, judgments restricted insofar as the Justice Department is concerned or, the legislative initiatives restricted on this floor. This is what is at issue, not this particular complaint.

Mr. HELMS. Mr. President, if the Senator does not want to restrict the legislative process, then he will allow an up or down vote on my amendment. That is all I ask.

Mr. WEICKER. In response to the Senator from North Carolina, we had a long discussion, the Senator from South Carolina and myself, and both of us wanted you to have an up or down vote.

Mr. HELMS. Good. I appreciate it.

Mr. WEICKER. Our problem is one that is well-established, and the Senator knows it is not directed against him. The Appropriations Committee has to preserve the principle of no legislation on an appropriation bill.

Mr. HELMS. If the Senator is going to do that, then he should move to strike title VI, because section 601 or title VI says:

> No part of any appropriation contained in this act shall be used for publicity or propaganda purposes not authorized by the Congress.

Section 602 says:

> No part of any appropriation contained in this act shall be used to administer.

And section 603 says:

> No part of any appropriation contained in this act shall remain available for obligation, and so on and so on.

So you already have a whole hat full of legislation in an appropriation bill throughout this measure.

The American people can interpret the Senate's action on this in a proper light. If the Senators will allow an up or down vote on this, and let Senators take their position yea or nay, that suits me just fine. Then the American people can know how the Senators voted. Otherwise there will be an opportunity to obscure the vote and say, "Oh, well, that was just a procedural vote, and we were voting to preserve the rule concerning no legislation on an appropriation bill." That is an old political shell game, Mr. President.

Let us have a vote on the merits of this issue. The issue is not procedural—it is the duty of Senators to vote for or against the Justice Department's use of tax money to promote forced busing.

I hope, Mr. President, that the managers of the bill will let the Senate have an up or down vote on my amendment. I will yield back the remainder of my time. All I want is for the Senators to take a stand on the merits of my amendment.

Mr. WEICKER. In response to the distinguished Senator from North Carolina, I believe the language he has referred to is House language, and no point of order will lie against that. Otherwise, you would have a perfect right—I would not go ahead and espouse a principle that I would not apply to yours, but the language the Senator refers to is House language, not Senate language.

Mr. HELMS. But my amendment was House language and the Senate committee struck it. Why did you not leave it in? Let us have an up or down vote on this provision. Let Senators take a stand on this proposition one way or the other. The Senator from North Carolina does not mind taking a stand. The Senate should not hide behind a parliamentary maneuver. I am confident that most, if not all Senators have voted to legislate on an appropriation bill of some sort at one time or another.

Mr. WEICKER. Well, Senator, you will have to go to the record on that because I know of no such record. I am being aboveboard on this. I want an up or down vote. I have no qualms. I am on the public record and say expressly "down, down, down" to the proposal of the Senator from North Carolina.

Mr. HELMS. Have a mint. [Laughter.]

Mr. HOLLINGS. Mr. President, I yield myself a few minutes.

Now, Mr. President, let us see exactly who is going to take a stand or not take a stand, because the Senator from North Carolina, talking about a stand and hiding behind parliamentary maneuvers, is hiding behind the greatest parliamentary maneuver, and that is trying to amend the constitutional rights of individual citizens.

When the Senator says, "Name the statute," I would say title VII of the Civil Rights Act of 1964:

> Thou shalt not discriminate because of race in the public schools of America.

That is the authority that the Justice Department has and that is in the oath when we stand up here and raise our hands and swear to support the Constitution.

Now, what the Senator from North Carolina is saying in talking about taking a stand, is:

> I am not going to amend that Civil Rights Act of 1964. I am coming in under a parliamentary maneuver and putting language on an appropriation bill that says, "If it pertains to any kind of factual situation."

It does not spell out the word "discrimination"—you look at his amendment, and you cannot find the Civil Rights Act, and you cannot find the word "discrimination" because of his parliamentary maneuver; he just uses factual language dealing with school busing.

It could be that school busing could amount to a discriminatory practice, on the one hand, and, on the other hand, it may not. But what he is doing under a parliamentary maneuver with this amendment is saying, "I am not going to really tell how I am trying to amend the Constitution concerning the rights of the individual in the United States and that equal justice under law," which he says he believes in. But under a parliamentary maneuver, "I am just going to put in an amendment saying that in any case brought by the Justice Department that has to do with transportation of any student to a school," on down through his factual language, "then there is not any money for that particular Justice Department official to bring that case."

What does he want, taking a stand for them to voluntarily go out and start bringing cases? Resign momentarily and not get any funds, I will say, as a Justice Department employee or a U.S. attorney? "Since there is no money for that temporarily I will not take any money for my pay when I go down to achieve equal justice under law and prevent discrimination against little children."

What he is talking about, I have taken stands on before he got here. I said we were amicus curiae on Swann against Mecklenburg County to keep them from switching them all over the city of Charlotte in his own State. Do not tell me about taking a stand. I have taken a consistent stand.

But when it comes down to the fundamentals, you had better understand the oath taken at the end of that rostrum, Senator, when you hold that hand up to defend the Constitution. It says to defend that Constitution, and you have got the Congress, you have got the executive branch, a lot of people, along with the malaise, and the tommyrot going on around this town, and they are supposed to do nothing but bring cases.

Now, we do not guarantee that they win all their cases. We do not say that the cases are discriminatory or not. But to say categorically if they ever allude in any way to school transportation that in and of itself is nondiscriminatory, they cannot even bring the case and the Department of Justice cannot do justice, who is hiding where? Who is hiding where? That is what I want to ask. You understand the Constitution and the law. Do you think the Justice Department should not bring cases under the Civil Rights Act? Who should bring those cases under the Civil Rights Act? That is the statute.

You ask what the statute is. Who is going to bring them? I ask you, Senator, who is going to bring them? Some volunteer from HEW or wherever else? Do you want this or the Congress? Is the Senator going to bring them? Absolutely not. He knows differently.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 38 seconds.

Mr. HELMS. The Senator from South Carolina did not answer my question. He has not said at any time where the Justice Department is specifically granted statutory authority to promote forced busing.

I take no offense at the comments of my friend from South Carolina because we all become excited at times.

I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, may I say to the Senator from North Carolina that I intend to speak against the amendment of the Senator from North Carolina. I would like to have unanimous consent to have 3 minutes to speak on the amendment.

Mr. HOLLINGS. I will yield the Senator time on the bill, do not worry.

Mr. HELMS. Mr. President, in that case I reclaim and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I yield so much time as necessary on the bill to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank the Senator from South Carolina. I just learned that this debate was going forward and that some reference had been made in the debate to the so-called Eagleton-Biden amendment which is attached to this year's HEW appropriation bill, as it has been attached in the 2 preceding years to the HEW appropriation bills.

As stated in the debate on that amendment, the source of Eagleton-Biden is a very specific and targeted thrust. It is specifically applicable to the Department of Health, Education, and Welfare. It prohibits the Department of Health, Education, and Welfare from administratively, without the benefit of a judicial hearing, ordering busing based purely on HEW's concept of what would be a good racial balance in all of the schools in a given school district. It does not, cannot, and should not apply to court ordered busing plans seeking to remedy constitutional violations of the equal protection clause.

I stated on the first occasion, 2 years ago, when this matter came up for debate that as I saw it there was a vast difference between administratively ordered busing, on the one hand, which HEW was seeking to do, and a judicial decree entered in a court of law, in which the judge finds there has been a violation of the equal protection clause of the Constitution and then fashions a remedy so as to give redress for the violation of the equal protection clause.

Eagleton-Biden never, in its terms nor in its intent was designed to restrict a Federal district court from entering an order to give redress, in its wisdom, for a violation of the equal protection clause.

Mr. HELMS. If the Senator will yield, neither does this amendment.

Mr. EAGLETON. I understand the remark of the Senator from North Carolina, but I disagree. What I perceive to be the thrust of the Helms amendment is that it would put a restriction upon the Justice Department from going into court where it believes there has been a constitutional violation and pursuing a suit to give expression to its judgment that there had been a constitutional violation.

I think this goes far beyond what was contemplated in Eagleton-Biden.

Eagleton-Biden, let me repeat again, was targeted specifically and narrowly to administratively ordered busing; it was targeted to that and that alone. Thus the appropriate place for Eagleton-Biden, quite obviously, was on the HEW appropriation bill, because that was the Department, through its Office of Civil Rights (OCR), that was attempting to administratively order busing in several of the large inner city school districts around the country. We tailored that remedy to that particular situation.

The instant Helms amendment goes far, far beyond what was contemplated in Eagleton-Biden. I think it is perhaps unconstitutional on its face to attempt to deny to the Department of Justice the inherent right they have under common law, as I would view it, and the statutory rights that they have under various civil rights acts, to seek redress for a constitutional violation by means of a suit filed in Federal district court.

Therefore, although quite obviously I am a supporter of Eagleton-Biden as it applies with regard to the Department of Health, Education, and Welfare, I cannot support the attempt to broaden that concept and to sweep under its umbrella, as it were, judicial actions taken by the Department of Justice.

I thank my colleague from South Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute and 22 seconds.

Mr. HELMS. I assume that if I exceed that time period, I can be yielded a little bit of time on the bill, as was Senator EAGLETON.

The PRESIDING OFFICER. The Senator is recognized first for the time remaining on the amendment.

Mr. HELMS. Mr. President, Senator EAGLETON, whom I respect and who is my friend, apparently has not had time to study the pending amendment. He is mistaken. Let me make two or three points again.

All this amendment does, and all it intends to do is to say to the Justice Department, "Stop taking a hand-off from the Department of Health, Education, and Welfare. Stop doing the meddling that Congress has precluded HEW from doing."

That is the first point. My amendment does prevent the Justice Department from unilaterally going into court and asking for forced busing plans to be imposed upon school districts. Yes, sir, it does that, and I intend that it have precisely that effect.

But it does not prevent the Department of Justice from asking for other remedies such as magnet schools. It does not and will not affect court-ordered busing plans already in effect. It will not affect voluntary plans already in effect. It will not affect the power of the Federal courts to order busing. This amendment only restricts the power of the Justice Department to go into court and unilaterally promote forced busing.

If that is a violation of constitutional rights, it has not been proved to me. I am not a lawyer, but I have had a number of pretty good constitutional lawyers tell me that a great many of the actions of the Federal Government in this regard, by any far measurement of constitutional standards, is unconstitutional or outside the scope of Federal civil rights legislation.

But we get back to the bottom line, Mr. President. We can argue semantics, we can argue our interpretation of the Constitution, we can debate this and debate that, but the ultimate question is, when are we going to put an end to the insanity of forced busing in a free society?

The PRESIDING OFFICER. All of the time on the amendment has expired.

Mr. HOLLINGS. I yield the Senator,

from the time on the bill, so much additional time as he may require.

Mr. HELMS. I will take but 2 or 3 minutes.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for not to exceed 2 minutes.

Mr. HELMS. When are we going to put an end to this insanity that is deteriorating the quality of education all across this country?

The Justice Department has not asked the people of this country whether they, the American people, want the Justice Department to trot in and promote forced busing schemes. The people would give a resounding "No." Every poll that I have seen, Mr. President, shows the vast majority of American citizens, including black citizens, pleading to stop this business of forced busing. They see the violence in the schools, they see the hostility, they see the decline in the quality of education.

We talk about justice. Let us do justice in regard to the schoolchildren of this country. At the same time we will save the money now being spent to operate the worst guzzlers of all—schoolbuses which are used to haul innocent little children, against their will, across cities and counties, just to satisfy the whim and caprice of bureaucrats at HEW and in the Justice Department.

That is all this amendment addresses. The House of Representatives has already approved this very amendment. It was in the bill when it came over from the House. The Senate committee struck it. I plead with Senators, in the name of justice to the schoolchildren, to restore this amendment so there will not be any conflict in conference about it.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Will the Senator yield to me?

Mr. HOLLINGS. How much time does the Senator want?

Mr. JAVITS. Three minutes.

Mr. HOLLINGS. I yield 3 minutes.

Mr. JAVITS. Mr. President, I will say the Senator from North Carolina certainly has persistence. It goes on and on and on and it is never settled. I do not know whether he hopes one day we will all be asleep and this will go through by a voice vote. That is the way it seems to be going.

Now, Mr. President, the Senator says it is high time to end this mischief.

Mr. President, it is high time to end lots of mischiefs, including the effort to prevent the most elementary rights from being realized in this country, which is a right to the enforcement of the equal protection clause of the Constitution. The proponents of this proposition have never faced that issue. There have been lots of unpopular things in this country, including freedom of the press, when Peter Zenger won his case decades ago, with the whole community against it. That is what courts are for.

That is why we have Federal courts and that is why we give these judges life tenure, because that is their sworn duty, to protect the rights of the individual.

Is there any right dearer than the fact that the individual should be able to attend a public school—I emphasize that, a public school—which does not bar him or gerrymander him around because he is black? We all hear these stories about the vexation, but how many stories have I heard about black children being bused past the white schools for 20 and 30 miles, riding an hour, if they were lucky enough to have a bus?

Now, Mr. President, this individual right is the right asserted by the Department of Justice. It is a strange anomaly. If we pass this amendment, that would end busing, so-called forced busing, as my friend says. He might argue, "Well, this is the end of it." But that is not true. It is not true at all, for this reason: Any individual affected could still sue. The courts would still order busing, except that it would be taxed to the local school district. That would be the one that would pay the bill. That is the only difference. It is not going to end.

Second, I have heard until my cup runneth over this business of how expensive it is in gasoline. It costs, by the finding of the Congressional Research Service, three one-hundredths of 1 percent of the gasoline used in school busing which is attributable to court order—three one-hundredths of 1 percent.

The facts simply destroy, it is it seems to me, any effectiveness of that argument.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Will the Senator yield one-half minute?

Mr. HOLLINGS. I yield.

Mr. JAVITS. We have attained a sense of stability in this country, Mr. President, on this particular issue. We have whittled it down and whittled it down and whittled it down, and we are now dealing only with court-ordered busing to enforce the mandate of the Constitution. It seems to me that when you attain some degree of social balance you ought to leave it where it is. That is why I used the term "persistent." That is what this situation cries out for. We have achieved some kind of rational consensus, Mr. President, so let us leave it where it is. For that reason I hope the amendment is defeated.

Mr. HELMS. Will the distinguished manager of the bill yield me 2 minutes for a concluding comment?

Mr. HOLLINGS. I yield.

Mr. HELMS. Let me say that the statistics quoted by the Senator from New York were from a study by the Library of Congress, which was prefaced by the Congressional Research Service with an acknowledgment that those statistics were unreliable. There has not been a nationwide field study taken on this problem. If the Senator from New York wants me to do so, I can put the precise gallon and dollar figures into the RECORD as relates to the State of North Carolina regarding the cost of busing.

Mr. President, some of my colleagues may recall the famous "Coleman report" which was issued in 1966 and became the basis for many of the mandatory busing plans subsequently imposed on the Nation's schools. Well, Professor Coleman, who is now a professor of sociology at the University of Chicago, has restudied this issue. He has studied how mandatory busing has worked since 1966 and he concludes—and now I quote him:

> School desegregation in the form of mandatory busing for racial balance has been destructive to its own goals. It has led to losses of whites from central cities and thus increased segregation between city and suburbs. . . . There appears to be a belief among some that to state, out in the open, negative consequences of school desegregation is harmful to school and social integration in America. Nothing could be further from the truth. Responsibility lies in pushing hard for beneficial forms of school desegregation, but pushing just as hard against destructive forms.

In his second report, completed last year, Professor Coleman outlined practical, thoughtful alternatives to mandatory busing.

We may not agree with each and every one of them, but they are all worth considering. Late last year, when the report was released, I recommended it to the Members of this body and I had it printed in the RECORD.

I recommend that study again today. The incentives suggested by Professor Coleman are incentives which maximize individual choice in this matter. These alternatives and similar ones could be made to work if the Federal Government would end its infatuation with forced busing.

Mr. President, I repeat: It is the responsibility of the Congress under the terms of the Constitution to implement the mandates of the 14th amendment. It is also the responsibility of the Congress to implement the mandates of the Civil Rights Act of 1964. In so doing, it is entirely proper for the Congress to say that forced busing has no role to play in the implementation of these laws.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Massachusetts (Mr. KENNEDY) in connection with this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. KENNEDY

I oppose the Helms amendment to H.R. 4392, the Department of Justice Appropriations bill. The amendment raises the most serious question about our continued commitment to fulfill the Constitution's promise of equal rights for all Americans.

This amendment prohibits the Justice Department from expending funds for any legal action which would "require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home."

The implications of adopting such an amendment are far reaching and enormously disturbing. At the least, it would prevent the Justice Department from seeking relief which will provide an effective remedy for violations of the fourteenth amendment. That is clearly grounds enough to oppose this amendment.

Even worse, however, it might bar the Attorney General from bringing any suit to challenge school desegregation, whether or not he seeks a particular remedy. The language of the amendment prohibits the Department of Justice from suits "to require directly or indirectly the transportation of any student beyond his neighborhood school." But it is the courts, not the Justice Department, which fashions the remedies in their final orders, including student busing when necessary. Thus, almost any school desegregation suit brought by the Attorney General might indirectly result in an order which requires transportation of students beyond their neighborhood school.

There is a third serious issue which this amendment raises. Last week, unfortunately, the Senate retained the so-called Eagleton-Biden provision in this year's HEW appropriations bill from enforcing compliance with the constitutional mandates to achieve desegregation. During the course of that debate, the Senator from Missouri (Mr. EAGLETON) claimed that although the provision restricts the administrative powers of HEW to enforce desegregation, it is neither unconstitutional nor unfair because it would not shut off the other avenue to remedy such violations, namely actions by the Justice Department. He said then:

"It does not, it cannot, and it should not apply, in my opinion, to court-ordered busing plans seeking to remedy constitutional violations of the equal protection clause."

Although the constitutionality of the Eagleton-Biden amendment is not yet settled, a recent decision in the District Court here in Washington recently upheld the provision in *Brown* v. *Califano*, No. 75–1068, July 17, 1978. Judge Sirica stressed that the Justice Department litigation remained available to seek effective remedies, even if that meant student transportation in some cases. He concluded that was the underlying safety valve which saved the constitutionality of the Eagleton-Biden amendment:

"But the fact remains that the Esch and Eagleton-Biden amendments leave untouched the litigation enforcement option that permits the Civil Rights Division of the Department of Justice, upon referral of a case from HEW, to pursue legal action and obtain the full measure of appropriate relief, including student transportation if warranted, against the offending recipients. In short, contrary to the situation presented in Swann, the statutes involved in the case at bar, do not qualify as "flat" or "absolute prohibitions" against the use of needed transportation remedies."

Mr. President, this amendment would close that last option for executive enforcement of the fourteenth amendment rights. Thus, it raises very serious questions about the constitutionality of the Eagleton-Biden provision which the Senate voted last Friday to reenact.

We must reject any effort to forceclose completely the ability of the Federal Government to seek effective elimination of unconstitutional segregation. The Department of Justice has a duty to every citizen in this Nation to uphold and enforce the law. That duty devolves from the authority vested in the Executive under article II, section 3 of the Constitution to "take care that the laws be faithfully executed."

Under the 14th amendment the law is clear: segregated educational facilities are illegal and must be eliminated with all deliberate speed. We must not attempt to handcuff the executive's power to enforce these mandates. In short, this amendment is an unacceptable encroachment upon the Executive's ability to secure compliance with the law.

Mr. President, it is ironic that 1979 not only marks the 25th anniversary of the Brown v. Board of Education but it has also been designated the international year of the child. We must not lose sight of national principles or break faith with children who have suffered violation of their constitutional rights.

I ask that the letter opposing this amendment from the Department of Justice to the Chairman of the Senate Appropriations Committee be printed in the Record.

The letters follow:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., July 17, 1979.
Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Appropriations, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As you are probably aware, on Thursday, July 12, during its consideration of H.R. 4392, making appropriations for the Department of Justice and other agencies, the House of Representatives adopted the following provision offered by Rep. Collins of Texas:

"No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

In light of the Senate Appropriations Committee's scheduled considertaion on July 17 of the bill appropriating funds for these Departments, I want to share with you the Justice Department's views on the Collins amendment.

The amendment is identical in substance to a provision offered by Rep. Collins during the 95th Congress to H.R. 12005, the Justice Department authorization bill for fiscal year 1979. It was adopted by the House and deleted in Conference Committee. Attached is a letter sent in 1978 to Rep. Rodino, Chairman of the House Judiciary Committee, stating this Department's reasons for opposing the Collins amendment on both constitutional and policy grounds.

Sincerely,

ALAN A. PARKER,
Acting Assistant Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 12, 1978.
Hon. PETER RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that Representative Collins of Texas has proposed an amendment to H.R. 12005, the Department of Justice Appropriation Authorization for Fiscal Year 1979. The proposed amendment provides, "No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped." This would prohibit the Department of Justice from seeking certain appropriate remedial plans in federal court suits for relief from allegedly unconstitutional school segregation. The Department of Justice opposes this proposal on both constitutional and policy grounds.

As you know, the Department of Justice has been and is the only portion of the Executive Branch which can go to federal court and, after having secured a judicial determination that a school district and its officials discriminate against black or other minority students, seek to require implementation of a plan which will practically and effectively remedy the proven constitutional violation. In this manner, the Department seeks to insure the protection of important federal rights, an authority explicitly granted us by Congress, most notably in Title IV of the 1964 Civil Rights Act of 1964, 42 U.S.C. 2000c, and in the Equal Educational Opportunities Act, 20 U.S.C. 1706. The proposed amendment would interfere with our exercise of these responsibilities specifically conferred upon us by the Congress.

First, it is important to correct an error in Representative Collins' "Dear Colleague" letter of July 27, 1978. That letter states: "Although HEW has been relieved of its responsibilities for bringing busing suits to court, the power to enforce busing has now been transferred to the Department of Justice." However, HEW has never had the responsibility for school desegregation litigation in federal court. Moreover, the Department of Justice's sole enforcement authority with respect to school desegregation is to sue in federal court under one of the several congressional enactments forbidding unlawful racial discrimination in the schools. Thus, we have no authority to require busing or any other means of correcting unconstitutional segregation; rather, our responsibility has been and is to present the relevant facts and, on occasion, to suggest remedies to the appropriate federal court and to leave to the judiciary the determination as to whether the facts show a constitutional violation and, if so, what remedy is appropriate.

Second, the congressional determination in the FY 1978 HEW appropriation to forbid HEW from administratively requiring the kind of transportation here at issue (the Eagleton-Biden Amendment) was recently challenged as unconstitutional on the ground that its effect was to require HEW to give federal funds to entities which were discriminating against blacks or others in contravention of the Equal Protection Clause of the Fourteenth Amendment. In response to that challenge, we successfully argued that the Justice Department's ability to seek judicial resolution of the difficult problems raised by intentional unconstitutional racial segregation of students save the constitutionality of the Eagleton-Biden Amendment to the FY 1978 HEW appropriation. However, the United States District Court Judge, in initially accepting our argument, stated:

"Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, or will not, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis."

Brown v. *Califano*, D.C. D.C., C.A. No. 75–1068, July 17, 1978, pp. 12–13. A copy of Judge Sirica's opinion is attached for your information.

Even without this explicit expression of concern, it seems clear that some mechanism must exist by which the federal government can ensure that federal funds not flow to *de jure* segregated schools, *i.e.*, schools being operated unconstitutionally. Congress earlier made a judgment in enacting the Eagleton-Biden Amendment that it wanted these matters resolved by federal judges rather than by executive branch officials. The Collins Amendment, by precluding judicial relief as well, would raise extremely serious constitutional problems.

Third, fourteen years after passage of the Civil Rights Act of 1964 and twenty-four years after the decision in *Brown* v. *Board of Education*, there are still unlawfully segregated schools in this country. Even now, some school systems persist in using busing to promote racial segregation. An example of such practices is *United States* v. *De Soto Parish School Board*, No. 76–3471, June 2, 1978, in which the United States Court of Appeals for the Fifth Circuit found that the pre-*Brown* dual system in a Louisiana parish had never been brought into compliance with the Constitution. The court remanded the case to the district court for development of a remedy. The adoption of the Collins Amendment would—assuming its constitutionality were to be upheld—seriously interfere with our ability to seek appropriate remedies in worthy cases such as these.

The Department of Justice solicits your support in defeating the amendment to the Authorization bill.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

Mr. HELMS. I thank the managers of the bill for their courtesy; even though they disagree with me, I know they are sincere.

Mr. President, I am ready to vote.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—37

Armstrong
Baker
Biden
Boren
Byrd,
  Harry F., Jr.
Cannon
Cochran
Dole
Domenici
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Nunn
Proxmire
Randolph
Roth
Schmitt
Schweiker
Simpson
Stennis
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—60

Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Packwood
Pell
Percy
Pressler
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevens
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Young

NOT VOTING—3

Inouye
Kennedy
Nelson

So Mr. HELMS' amendment (UP No. 451) was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, third reading.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments——

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the agreement, the Senator must have time to suggest the absence of a quorum.

Mr. HOLLINGS. Mr. President, I will yield. I certainly yield myself so much time on the bill.

What we are trying to do is facilitate the request on the minority side. They have a policy lunch. We did not think there were any other amendments and we could go ahead to third reading and have final passage.

The distinguished Senator from Montana does have another amendment. So we can assure them there will not be any votes until 2 o'clock so they can have their lunch.

We will get a request to that effect.

I yield now to the Senator from Montana.

UP AMENDMENT NO. 452

(Purpose: To prohibit use of funds for certain Agriculture Census forms)

Mr. MELCHER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Messrs. ZORINSKY, PRESSLER, DOMENICI, BOSCHWITZ, COCHRAN, and JEPSEN, proposes an unprinted amendment numbered 452:

On page 17, after line 23, insert the following:

"None of the funds made available to the Bureau of the Census under this Act may be expended for further dissemination of 1978 Agricultural Census forms 78–A40A or 78–A40B, or 78–A40C or 78–A40D or for the prosecution of any person for the failure to return such forms, or for the preparation of similar forms for any future agricultural census."

Mr. MELCHER. Mr. President, this is a limitation amendment. Its effect is that the Census Bureau could not proceed with these types of questionnaires for small businesses to fill out. It involves four different groups.

For example, any small business involved in soil preparation, landscaping, horticulture, gardening, trees, or shrubbery.

Our constituents nationwide are crying out for relief from Government redtape and information-gathering forms. Our amendment offers a chance for us to provide a measure of relief in one particularly bothersome area.

The census of agriculture gathers information about small businesses engaged in a number of agricultural services. We can cut out some duplication and unnecessary paperwork by refusing to fund data gathering on the following census forms:

Form 78–A40A: Sent to 25,724 people.

"1978 Census of Soil Preparation Services, Crop Services, and Cotton Ginning."

Typical recipients: Aerial applicators, custom farmers, cotton gins, vegetable and fruit packers, custom harvesters.

Form 78–A40B: Sent to 119,306 people.

"1978 Census of Veterinary and Animal Services."

Typical recipients: Veterinarians, dog and cat boarding and grooming businesses, artificial insemination services, pedigree record keepers.

Form 78–A40C: Sent to 131,473 people.

"1978 Census of Landscape and Horticultural Services."

Typical recipients: Lawn and garden care companies, nurseries/planters, tree trimmers for power lines, cemetery maintenance, highriay median mowers, landscape architects and planners.

Form 78–A40D: Sent to 76,438 people.

"1978 Census of Soil Preparation and Crop Services, Veterinary and Animal Services, Farm Labor and Management Services, Landscape and Horticultural Services."

Typical recipients: Labor contractors and suppliers, farm management firms.

(This form is used for any person deemed likely to require inclusion in the agriculture services census, but for whom more specific identification as to their exact category is not known.)

The total number of recipients of these forms is 352,941 persons. Many of them may receive more than one, and may also receive the more general census of agricultural production form. I simply believe we can act now to reduce the paperwork required of our citizens in these small businesses.

Then there are veterinarians. They would not be involved, either.

I have this delightful pink form for veterinarians. The one for veterinarians is pink, and people who are in landscaping primarily or have something to do with soil conditioning have the blue form.

Then there is a sort of orange form, which is a different group, and finally there is a purple form. These forms are all colorful but also all detailed and long.

This one was addressed to me at 1224 Longworth Building. I have not had an address in the Longworth Building for a little more than 2 years, but I did serve in the House of Representatives. After receiving it, I wrote the Secretary of Commerce and said there must be some error.

Even someone who feeds this stuff into the computer should realize that if you are a veterinarian and you are serving in the House of Representatives, you would be prevented from practicing and particularly out of your office. I thought the Secretary should be aware of that. So I wrote to her on February 19, and I received a response dated March 16.

She explained to me how important all this information is and how people need it, how people want this information collected so that they can use it.

However, I had pointed out in my letter that it was a waste of money to be sending it to a Member of Congress, to fill out a small business form, when it is obvious that you could not be in the practice of veterinary medicine or any other small business and run it out of your House office, and that I was now in the Senate. But nothing has happened to take my name out of the computer.

I have had three notices since then: March 6; March 27, which is before and after the letter from the Secretary of Commerce; and then one dated May 8, which has printing on the back of it. The earlier two notices do not have the law cited on the back of it, and it conveniently lists section 224, which says that if you do not fill out the form, you will be fined $500, and that if you have knowingly supplied any false information, you could be fined up to $10,000.

What is the purpose of the information they seek? Let me tell Senators some of the things they seek.

They want to know the dollar volume of the business. They want to know the payroll. They want to know the supplemental labor not included in payroll during that year. They want to know the veterinary services for cattle, hogs, sheep, goats, poultry.

Veterinary services for dogs, cats, horses, bees, fish, rabbits, other fur-bearing animals, birds (except poultry) and other pets. All of this broken down in sections.

Then there is another section relating to animal services, except veterinary, for cattle, hogs, sheep, goats, and poultry.

Then they want the location of services performed.

Then they go into expenditures for fuels: gasoline, diesel fuel, LP gas, butane, propane, motor oil, grease, piped gas, kerosene, and fuel oil.

Then they want changes in gross value of depreciable assets.

They want to know the supplemental labor costs not included in payroll during 1978. They want to know how you derive the various type of your dollar volume of business for the various types of veterinary practices.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. HOLLINGS. Are these forms required by law?

Mr. MELCHER. Yes, they are required by law.

Mr. HOLLINGS. In other words, we have passed the policy.

Mr. MELCHER. I have looked at this and related it to how much time it would take me to fill out the form conscientiously because the information they are asking for is not necessarily carried in anybody's set of books in such categories that relate to supplying the answer to the questions.

Perhaps there is some overriding public interest that will be served by pestering small business with these forms. I think we should find out who really needs this information. Why should a business, a small business, have to be pestered by its Government to fill out a very long, detailed form that is going to take them hours to do, and be threatened that if they do not do it, they will be fined $500 and if they knowingly or willfully make any mistakes, they will be fined up to $10,000?

Can we ascertain why business does not develop its own similar information? After all, if somebody interested in soil services wants to know this type of information, why does not that business generate its own form of gathering that information? Or, if somebody is interested in crop dusting, crop spraying, why do they not generate their own form of collecting that information, without pestering everybody in the business?

I think it would be delightful to have a moratorium on the collection of this information, a moratorium in which small business people will not be pestered to fill out these forms, and to find out really how necessary it is. If it is necessary, why could it not be gathered by the businesses themselves, the business organization groups themselves, and disseminated to those who want it, at their own expense? Why should Government be pestering the small business people, at great expenditures to the Government and a much larger expense to the small businesses involved?

The purpose of the amendment is to eliminate that procedure. I think it would be a very helpful and encouraging sign if these four information-gathering forms were not required.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, I am trying to work out an agreement. If we can devote our time before 2 o'clock, perhaps we can ask unanimous consent. Are there further amendments?

Mr. WEICKER. I believe the Senator from Kansas has an amendment.

Mr. HOLLINGS. Then, I will withhold that.

I say to the Senator from Montana that I am neutral on his amendment. I have the same misgivings he has about all these forms.

At times when I go back to my office, on the desk is a pile of these cosponsorship requests. Every Senator is trying to streamline Government and do away with regulation. Yet, on top of my desk is every kind of cosponsorship request in the world: file this form, give his report, ask this question, appoint this commission. There are all kinds of new regulations from everybody who says they do not believe in regulations.

My basic feeling is to join the Senator from Montana in this amendment. However, the reason I ask the question is that this is an appropriations bill; and if it is required by law, then we in the Appropriations Committee have performed our functions specifically by financing what is required by Congress.

The distinguished Senator from Montana is on that Agriculture Committee. I am suggesting perhaps he knows the way to change this, if it is a bad form or a bad requirement. I have a fundamental feeling, a visceral feeling to go along with him. Is it not a case that what we should do is do away with that law requiring it? I will be glad to join with him on that and go through the Agriculture Committee.

The farmers all come and they do a ring-around and have a sit-in. They come in your office with goats—they did in mine—saying, "You don't understand the farmer, Senator."

So the Senator and the Congressman run around and get all this information up so they can understand him.

Perhaps that is the reason for the requirement.

I would rather do away with the form myself, but I do not want to do away with it in the appropriations process. I would rather join the Senator in his own Agriculture Committee, saying this is a burden on the farmer, it really does not give any needed or valuable information, and it should not be in the census. I would cosponsor that with him. But right now we have to oppose the amendment. I am glad to learn.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MELCHER. The basic law, of course, is not in the Agriculture Committee. It is in other committees that deal with the census report.

But the forms really get way beyond what anybody ever thought was in the law regardless of what committee it comes out of. And as to these small businesses, I can guarantee the Senator, I do not know of any farmer or rancher who would ever be benefited by the form they send out to veterinarians. I do not know whether any farmer or rancher would ever think he is benefited by getting detailed reports from someone who is in cottonseed delinting, or bean or grain cleaning, as pertains to that particular business requirement to fill out this form in the detail that is asked for here.

I think it is a graphic and dramatic example of what happens after we pass a bill that says it will be advantageous to have some information collected and then we find out that the forms are very long-winded, very detailed, and small businesses get on a computer list and then are required to fill them out. I think it is simply out of hand.

I thank the Senator for yielding.

Mr. HOLLINGS. I thank the distinguished Senator from Montana.

Then we will be perfectly willing to have an up and down vote on it and let our colleagues make the decision if agricultural requirements are to be taken by the census. If I introduce a bill, it would go to the Senator's Agricutlure Committee. We on the census part of it really study with interest how the cost of the census has soared. In fact the Bureau of Census officials have tried to minimize the costs of the decennial census of 1980, which is going to cost $1 billion. One should see the congressional add-ons in the last 10 years.

All the other substantive committees of Congress come forward with all of these measures. We want to learn this and we want to learn that. This would definitely be under Agriculture, but I am not arguing against it. It does sound burdensome from the way the Senator describes it.

Can we withhold and agree to vote at 2 o'clock on the Senator's amendment?

Mr. MELCHER. That would be fine.

But I think I have a little bit of time remaining. Some of the cosponsors have asked to be able to say a word on it.

Mr. HOLLINGS. Sure. Go right ahead.

Who yields time?

I am ready to yield back.

Mr. MELCHER. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER (Mr. BRADLEY). The Senator has 5½ minutes remaining.

Mr. MELCHER. Would it be objectionable for me to hold 5 minutes, what time I have remaining, and then take it immediately prior to the vote?

Mr. HOLLINGS. I shall make a unanimous-consent request that the vote on the amendment of the Senator from Montana occur at 2 o'clock with the provision that the Senator from Montana with his 5 minutes remaining be recognized at 5 minutes to 2. I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I think under that we can set it aside. Could we begin on the amendment of the Senator from Kansas? Does he wish to start with his amendment?

Mr. DOLE. Yes; I am going to offer it.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there any time agreement, are we under a time agreement on this bill?

The PRESIDING OFFICER. Yes, there is a time agreement.

Mr. DOLE. Mr. President, will the distinguished Senator from South Carolina yield me 5 minutes to discuss a proposal? I will not offer an amendment, but just to discuss a matter.

Mr. HOLLINGS. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas has been trying to figure out how to draft an appropriate amendment which would, in effect, change the definition of "legally qualified candidates" as is now determined by the Federal Communications Commission.

It appears, at least as far as this legislation is concerned, that that is not possible, so the Senator from Kansas will not offer the amendment. However, I would like to discuss very briefly what I consider to be discrimination. Some may consider this to be a selfish amendment, and I must confess that it is selfish in the sense that it would affect me as a Presidential candidate. But, more important, it would also affect every voter and citizen in this Nation. This is an area of the current election law that needs to be clarified.

Under the FCC regulations pertaining to equal time provisions, we have one definition. Under section 9032 of chapter 96 of the Internal Revenue Code you have another definition. But I believe the average American thinks that if you file a committee and if you raise money, and if you say at every stop you are running for office, you are a candidate. However, according to the FCC rulings you are not a candidate until you make an official public announcement. Well, I assume every time you speak it is fairly public, at least you hope it is if you are a candidate. You hope there is a crowd there.

It seems to me that the legal definition of who is a candidate ought to be fair and nondiscriminatory across the board. Present FCC definitions are not. Now, if you are approached by television or radio they say, "If you have made a public announcement, we cannot have you on the program. But if you have not announced, even though you raise twice the money and have done every other thing that indicates the intention to run, you are not a candidate and you can be on the program."

That does not make a great deal of sense. Maybe, as I said before, it is because it may have some impact personally on what some of us seek to do. But I, at least, want to call to the attention of the Senate what I consider to be an inequity in the present law.

Perhaps there will be an appropriate vehicle later where this matter can be clarified. It is my understanding that the Commerce, Science, and Technology Committee is currently considering legislation that would amend the Communications Act of 1934. It is my hope that the committee would see fit to address this question of defining the term "candidate" while marking up that bill.

Under the Communications Act of 1934, as amended, a legally qualified candidate was defined by statute. However, the Federal Election Campaign Act Amendments of 1974 deleted that definition, leaving the FCC with the responsibility for defining who is a candidate for its purposes. The FCC has used that authority to define a legally qualified candidate for the purposes of equal time provisions as one who has—

> Publically announced that he is a candidate and who meets qualifications prescribed by the applicable laws to hold the office for which he is a candidate and who (1) has qualified for a place on the ballot, or (2), has publically committed himself to seeking election by the write-in-method and is eligible under applicable law.

The key to this definition is whether the candidate has publically announced his candidacy. This has proven to be an inequitable definition.

The language that I had hoped to propose today would have changed this to incorporate the definition used by the Internal Revenue Service in section 9032(2) of chapter 96 of the Internal Revenue Code. Under this provision a candidate would be defined as—

> An individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he: (A) takes the action necessary under the law of a State to qualify himself for nomination for election; (B) receives contributions or incurs qualified campaign expenses; or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf.

THIS DEFINITION IS FAIR AND WORKABLE

Mr. President, I am convinced that this change would provide a fair, equitable, and workable definition for the Federal Communications Commission to follow as it attempts to resolve any cases which may be brought before it for judgment. It would do nothing more than provide a framework in which the FCC can work.

There now exists no statutory definition of a "legally qualified candidate" for the FCC to follow. This change would serve to prevent any possible misinterpretation of the original legislative intent of the Federal election law with respect to the equal time regulation under FCC jurisdiction.

Mr. President, my proposal embodies a reasonable and responsible approach to this regulatory problem. It is consistent with earlier legislation, and I believe it responds to the current ambiguities in the law.

Mr. President, this is not directed at any one candidate or any one party. It just seeks to apply the same rules across the board. There ought to be the same rules across the board in order to eliminate the current discrimination. There are seven, eight, or nine candidates for President who have announced. They are treated in one fashion, while those publicly "announced," candidates are treated in another manner. I do not believe the law was ever intended to be interpreted that way.

I hope the FCC, and others who deal with this matter, might take a look at the statement the Senator from Kansas has made and at least focus on the question. The charge that I have proposed is not only desirable, but necessary. It would serve to standardize the rulings of the FCC on equal time matters, and ultimately would serve to benefit the total American electorate.

I thank my distinguished colleague from South Carolina for yielding me time.

Mr. HOLLINGS. I thank the distinguished Senator.

Now, Mr. President, in deference to our colleagues at the policy meeting, I would propound a unanimous-consent request, unless there are additional amendments, that immediately after the rollcall vote at 2 o'clock on the Senator from Montana's amendment, that we go to third reading.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

What is the will of the Senate?

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the precedents the Senator does not have enough time to suggest the absence of a quorum.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 1:55 p.m. today, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

KOREAN TROOP WITHDRAWALS

Mr. STEWART. Mr. President, I lend my wholehearted support to President Carter's recent decision to stop troop withdrawals from South Korea. It was not that long ago when President Carter and I differed on this issue. I have been a long time advocate of a strong military commitment to our South Korean friends, and he had advocated a withdrawal of our troops. But I am pleased that the President has reevaluated his position and will block further withdrawals immediately.

In light of the recent intelligence reports which indicate that the size of North Korea's ground forces and fire power are larger than previously estimated, this deployment of U.S. ground combat forces is clearly in the long range security interests, not just of our country but the region as well.

Our allies in Asia, particularly Japan, have been concerned about what might be perceived as a declining U.S. interest in the area. The decision by this country to maintain a strong American combat troop presence will underscore our concern about the peace and stability of Korea as well as East Asia.

Equally important to me is the effort to be made by the United States to reduce tensions on the Korean peninsula. The President has announced that he and President Park of the Republic of Korea will explore these possibilities with representatives of the North Korean Government. Our goal is peace, but we clearly should not make further troop reductions until we see an unmistakable sign from the North Koreans that they desire a military balance and a lessening of tensions.

Mr. President, I also commend the work done by Senator GLENN on this issue. I read with keen interest his report for the Committee on Foreign Relations "U.S. Troop Withdrawal From the Republic of Korea: an Update, 1979." I found his analysis of the situation to be most perceptive and indeed, it has been reflected in President Carter's decision to hold in abeyance further troop withdrawals.

Mr. President, I support the President's position and I am confident that it will result in an effective deterrent to instability on the Korean peninsula.

PIONEER DAY: THE SPIRIT OF THE MORMON PIONEERS CONTINUES TODAY

Mr. CHURCH. Mr. President, today I join with the people of my State of Idaho and with our neighbors in Utah in honoring the Mormon pioneers, a people who traversed a continent in search of religious freedom. Their story is one of heroism and sacrifice which has been deeply etched in our frontier history.

On July 24, 1847, the first Mormon pioneers arrived in the Great Salt Lake Valley in Utah. Having journeyed 1,400 miles across the vast plains, deserts, and mountains, the Mormon pioneer leader, Brigham Young, declared: "This is the right place."

Over the following 22 years some 85,000 made the trek to the Salt Lake Valley. Many walked the entire distance; some pushed handcarts. Entire families began their journey with little more than their faith to sustain them. The way westward proved to be perilous—parents, spouses, and children were left in shallow graves along the trail. Like other American pioneers, the Mormons paid a high price for the freedoms we value today.

To commemorate this historic journey, I sponsored legislation adopted last year which designates the "Mormon Trail" from Nauvoo, Ill., to Salt Lake City as one of the first four national historic trails. Significant points of interest are currently being marked along this route which will remind us of the courage of the early pioneers.

In addition to their courage, the settlers who reached the Salt Lake Valley demonstrated industry and ingenuity by taming the desert and making it bloom. When the ground became too parched to sustain crops, they dammed a mountain stream and thus began modern irrigation in North America.

Nor did the Mormon settlers confine themselves to the Salt Lake Valley. Within 4 years, settlements were established in what is now California, Wyoming, Arizona, New Mexico, and Idaho. By 1887 Mormon colonies stretched from Canada to Mexico encompassing an area of approximately 1,000,000 square miles and more than 600 communities. Next year the church will hold its sesquicentennial celebration, in commemoration of the 150th anniversary of the founding of the church in 1830.

The Mormon Church is still building on this early foundation under the able leadership of its president, Spencer W. Kimball. Before becoming president of the Mormon Church, Mr. Kimball suffered a series of heart attacks and battled cancer, a fight that I, too, was fortunate enough to win. In 1957 1½ of his vocal chords were removed because of this cancer. He had to learn to talk all over again, yet today millions listen to his words. Last December Bethine and I had the privilege of meeting with President Kimball whose vitality belies his 84 years and exemplifies the pioneering spirit still evident among the members of the LDS Church.

An important tenet in the Mormon belief concerns genealogical research, and the church maintains the largest genealogical library in the world. During my visit with President Kimball, he presented we with a two volume genealogy of my family. I treasure these volumes and value their inscription which reads:

> May the appreciation of your heritage help you meet the demands of today and realize the promise of tomorrow.

Reading through this record has been a valuable investment of my time for it has given me a greater appreciation for my heritage.

It is this promise of the future on which President Kimball has particularly focused. Under his leadership, the Mormon people have responded to the challenge: "Lengthen your stride." Each year thousands of young Mormon men and women accept the call to become missionaries. They serve for 2 years at their own expense or with the assistance of family and friends. More than 167,000 converts joined the church in 1978. Membership is now over 4 million throughout 93 countries.

As part of the missionary effort, the church calls craftsmen and artisans, construction workers and supervisors to help with church building programs. Doctors, nurses, and medical technicians are called to assist in health services programs sponsored by the church in developing countries. As chairman of the Foreign Relations Committee, I have firsthand knowledge of the efforts and the progress that has been achieved by these "new pioneers."

Education continues to be a high priority among members of the church. The LDS educational system operates throughout the United States and in more than 50 foreign countries. It includes hundreds of thousands of students at all levels, and its literacy program abroad represents another modern pioneering effort. The church also excels in higher education. Brigham Young University in Provo, Utah is the world's largest church-related university. And in my State, Ricks College is the largest privately owned junior college in the Nation.

These are but a few examples of the spirit which the LDS church continues to forge. Today, Idahoans pay tribute to the Mormon pioneers and their descendants. We admire their valor and courage and the example which modern day pioneers such as Spencer W. Kimball have give us.

SENATE CONCURRENT RESOLUTION 33—CORRECTIONS IN ENROLLMENT OF H.R. 4537

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Dave Foster Bob Cassidy, Charles Johnson, and Charles Rob of the Finance Committee staff be granted privilege of the floor for the pending discussion of a concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I send to the desk a concurrent resolution to direct the enrolling clerk of the House to make technical and clerical corrections in the text of H.R. 4537; the Trade Agreement Act of 1979, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

The clerk will state the concurrent resolution.

The legislative clerk read as follows:

> Mr. RIBICOFF submits a resolution (S. Con. Res. 33) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4537.

Mr. RIBICOFF. Mr. President, this resolution, which I understand has been cleared on both side of the aisle, would correct printing errors in the bill which the Senate passed yesterday by a vote of

90 to 4, and which the House passed last week by a vote of 395 to 7. I urge the Senate to pass this measure immediately so that the enrolled bill may be corrected and sent to the President for his signature.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

S. CON. RES. 33

Resolved by the Senate (the House of Representatives concurring), That, the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes, is authorized and directed to make the following corrections:

Page 7, lines 24 and 25, strike out "section 2(c)" and insert in lieu thereof "subsection (c)".

Page 77, line 24, strike out "or" and insert "on".

Page 124, line 8, between the quotation mark and "an" insert "is".

Page 124, line 9, between the quotation mark and "affirmative" insert "are".

Page 125, line 7, strike out "after September 29, 1979," and insert "on or after the date of the enactment of this Act,".

Page 126, line 19, insert "duty" immediately after "countervailing".

Page 131, line 4, after "1979," insert "or on the day before the date of the enactment of the Trade Agreements Act of 1979 (whichever of such dates first occurs),".

Page 132, strike out lines 5 through 9, inclusive.

Page 132, lines 10 and 15, redesignate paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

Page 132, line 17, strike out "337," and insert "337".

Page 132, line 18, insert a quotation mark immediately before "subtitles".

Page 132, line 19, insert a quotation mark immediately after "337".

Page 155, between lines 4 and 5, insert the following:

(B) by striking out "and in basis of value" in subsection (c);

Page 155, lines 5 and 7, redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively.

Page 155, line 6, strike out "(c),".

Page 155, line 8, strike out "351(a)" and insert "350(a)".

Page 155, line 9, strike out "402(a)" and insert "402a".

Page 211, line 17, strike out "and".

Page 236, line 22, strike out "between" and insert "after".

Page 236, line 23, before "January" insert "before".

Page 240, line 17, strike out "teacups" and insert "tea cups".

Page 246, in the matter appearing before line 1, strike out "Parts of articles provided for in item 666.00," and insert "Parts to be used in articles provided for in item 666.00, whether or not such parts are chiefly used as parts of such articles and".

Page 243, line 14, strike out "716.30" and insert "716.31".

Page 260, line 4, strike out "(d)" and insert "(f)".

Page 328, line 3, strike out "the agreement" and insert "trade agreements".

Page 342, immediately before line 7 insert the following:

(c) TRADE EXPANSION ACT OF 1962.—Section 242 of the Trade expansion Act of 1962 (19 U.S.C. 1872) is amended by striking out "subsections (c) and (d)" each place it appears and inserting in lieu thereof "section 302(b)(2)".

Page 356, line 7, between "(D)" and the quotation mark insert a period.

Page 360, line 1, strike out "901(b)(2)" and insert "1001(b)(2)".

Page 360, line 21, strike out the quotation mark.

Page 363, strike out lines 23 and 24.

Page 364, line 1, through page 368, line 21, redesignate paragraphs (3) through (22) of section 1103 of the bill as paragraphs (2) through (21), respectively.

Page 366, line 10, strike out the comma after "sector".

Page 371, line 7, after "with respect to" insert "the matter within such section 303, 701, or 731 of".

Page 376, strike out lines 16 through 21, inclusive, and insert the following:

(3) Section 602(f) is amended by striking out the last comma.

Page 377, line 7, strike out "3(a)(1)" and insert "3(a)(1)".

Page 384, line 25, strike out "round" and insert "Round".

ORDER FOR THE RECOGNITION OF SENATOR TOWER ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order, Mr. TOWER be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

The Senate continued with the consideration of H.R. 4392.

Mr. MELCHER. Mr. President, the forms that are involved in the amendment are sent out to some 350,000 to 360,000 small businesses connected with agriculture throughout the country. They are forms that are long and detailed and have to be filled out by those small businesses in their own time and, naturally, at their own expense.

I think it is a heavy burden to place upon them. It is part of the overwhelming amount of paperwork that is required of businesses.

I suggest that elimination of these particular forms would be a blessing for the small businesses that are involved and would be an encouraging sign to all small businesses throughout the country that there may be some relief in the way of eliminating some of the data that is now being collected by Federal agencies.

Mr. President, this is one small step affecting not all small businesses, but only a total of about 350,000 that will be relieved of further processing of this particularly onerous form sent out by the census of agriculture.

I hope the Senate can accept the amendment because I think, more than anything else we can do this afternoon, this would be an encouraging sign to small business throughout the United States that perhaps we, indeed, are serious in our attempts to eliminate some of the strangling amount of information gathered by Federal agencies.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute and 20 seconds.

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator wish to yield time?

Mr. MELCHER. Mr. President, there was a request for time that was allotted to me, but I do not see the Senator in the Chamber at this moment, and I think my time has about expired. I yield back whatever time remains.

The PRESIDING OFFICER. Under the previous order, 2 o'clock having arrived, the question now recurs on the amendment offered by the Senator from Montana.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators who wish to vote on this issue?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—93

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser

Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—4

Chafee
Glenn
Hollings
Percy

NOT VOTING—3

Hatfield
Kennedy
Nelson

So Mr. Melcher's amendment (UP No. 452) was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator Heflin may be added as a cosponsor of the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr DeCONCINI. Mr. President, I wish to be added also.

Mr. MELCHER. Mr. President, I make the same request that Senator DeConcini be added as a cosponsor to my amendment also.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. MUSKIE. Mr. President, the Senate has before it H.R. 4392, which provides fiscal year 1980 appropriations for the Departments of State, Justice, Commerce, the judiciary and related agencies. I want to take a few minutes to comment on the relationship of this bill to the first budget resolution. Before I do, however, let me say that I support the bill. I congratulate Subcommittee Chairman Hollings and the full Appropriations Committee for reporting this fiscally responsible legislation.

Mr. President, the bill as reported provides $8.3 billion in new budget authority. Outlays associated with the bill total $6.2 billion.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among it subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated $9.8 billion in budget authority and $10.5 billion outlays to the Senate/Justice Subcommittee.

The funds provided by H.R. 4392 as reported, plus other action already completed, put the subcommittee $1.5 billion under its 302(b) budget authority allocation and $0.4 billion under its outlay allocation. But I would call your attention to the fact that possible later requirements known at this time could boost the subcommittee above its allocation by $0.1 billion in budget authority and $0.2 billion in outlays.

Mr. President, I shall submit a table showing the relationship of this bill and possible later requirements to the subcommittee allocation at the conclusion of my remarks.

Although the subcommittee is likely to be close to its allocation, I think it is important to remind the Senate of the point I made when the three previous fiscal 1980 appropriation bills were before us. Then I pointed out that it appeared that the full Apppropriations Committee could exceed the amount allocated to it under the first budget resolution by over $5 billion in budget authority and $4 billion in outlays when all the regular appropriation bills and expected supplemental requirements are taken into account. Unfortunately, I now find it necessary to revise that statement. It now appears that the overage may be more than $6 billion in budget authority and $5 billion in outlays. This increase in the expected appropriations overage is attributable to Appropriation Subcommittee action on H.R. 4394, the HUD-independent agencies bill.

I do not want to belabor the point, but I feel I should explain again that these additional appropriations could increase the fiscal 1980 deficit by as much as $5 to $6 billion. In fact, the combination of these additional appropriations and the apparent economic slowdown threaten to drive the fiscal 1980 deficit higher than fiscal 1979.

Mr. President, as I have said before, I recognize that the failure of other committees to achieve savings in appropriated programs, uncontrollable increases in some programs, and new Presidential energy initiatives, are beyond the control of the Appropriations Committee. But I again urge the Senate to make appropriate reductions in future bills to avoid a significant increase over the first budget resolution targets.

In conclusion, Mr. President, I repeat that I intend to vote in favor of H.R. 4392 as reported. I urge my colleagues to do likewise.

The table follows:

ATTACHMENT A

H.R. 4392—STATE, JUSTICE, COMMERCE, AND JUDICIARY APPROPRIATION BILL, 1980—RELATIONSHIP TO SUBCOMMITTEES SEC. 302(b) ALLOCATION

	Budget authority	Outlays
Subcommittees sec. 302(b) allocation	9.8	10.5
Action completed		3.9
H.R. 4392, as reported	8.3	6.2
Amount over (+) or under (−) subcommittee allocation	−1.5	−.4
Possible later requirements:		
FTC	.1	.1
SBA business loans	.1	.1
SBA disaster loans	.3	.2
EDA	1.0	.1
Regional action planning commissions	.1	(1)
October 1979 pay raises	.1	.1
Possible amount over (+) or under (−) subcommittee allocation	+.1	+.2

[1] Less than $50,000,000.

Note: Details may not add to totals due to rounding. ●

Mr. HELMS. Mr. President, I must vote against this appropriations bill. I could offer a long list of reasons for my decision, but let me state just three of them as examples:

First, this bill provides for spending more than a half-billion dollars in excess of what the House version provides—$556,900,000 more, to be precise.

Second, this bill will send $779 million of the American taxpayers' money to the United Nations. Part of this money will be used indirectly to support terrorist activities in various parts of the world.

And, third, the Senate version deleted an amendment approved by the House of Representatives that would forbid the Justice Department from using the taxpayers' money to promote forced busing of school children.

For these reasons, and others, Mr. President, I shall vote against this appropriations bill. The distinguished senior Senator from South Carolina (Mr. Thurmond) asked that he be associated with these remarks. Senator Thurmond also will vote against this bill.

Mr. CRANSTON. Mr. President, I rise to highlight a portion of the committee report filed by Senator Hollings from the Committee on Appropriations relating to that committee's recommendations with respect to the Equal Employment Opportunity Commission's staffing of implementation under section 501 of the rehabilitation Act of 1973, the Federal Government's main program for employment of handicapped individuals in the Federal Government.

Mr. President, approximately 1 year ago—on August 25, 1978—I wrote to Eleanor Holmes Norton, head of the Equal Employment Opportunity Commission—EEOC—with respect to the transfer to EEOC of responsibility for the administration and enforcement of section 501.

Under reorganization plan No. 1, that responsibility was transferred from the Civil Service Commission to EEOC on January 1 of this year.

My August 25 letter requested specific information relating to the EEOC's efforts with respect to that transfer in order to assure that the administration and enforcement of section 501 be done as vigorously as possible. Unfortunately, prior to that time, EEOC's record with respect to its obligations under section 501 had not been good. In addition, EEOC's headquarters building was, for all practical purposes, inaccessible for mobility-impaired individuals.

On January 25, following Ms. Norton's response of early December to my letter, joined by Senator Williams, the chairman of the Labor and Human Resources Committee—the committee having authorizing jurisdiction over the Commission—then ranking minority member of that committee, Senator Javits and the chairman and ranking minority member of the subcommittee, Senators Randolph and Stafford, I wrote to Ms. Norton to emphasize our belief that the active implementation of section 501 was extremely important if the Federal Government was to meet its obligations and responsibilities to be an equal opportunity employer. Further, we agreed with Ms. Norton's assessment in her December response that the staff allocated by EEOC, approximately 5 individuals, a number of which had additional responsibilities, was "too small to amount an effective national program" and, further, expressed our strong belief that a reprogramming of a small number of positions—25 to 30—for section 501 enforcement and administration would be of enormous benefit to the program. We never received a response to that letter.

Mr. President, against this background, I am very grateful that the Appropriations Committee has recommended at page 63 of their report that "the Commission Assign 25 to 30 full-time positions to work exclusively on the administration and enforcement of EEOC's new section 501 responsibilities." This assignment should assure the availability of at least one individual exclusively devoted to section 501 responsibilities in each of the EEOC's new regional offices, as well as providing staff in the national office.

Mr. President, I want to extend my sincere appreciation to Senator HOLLINGS, chairman of the subcommittee with jurisdiction over EEOC, and Senator MAGNUSON, chairman of the Appropriations Committee for their keen interest and hard work in matters affecting handicapped individuals. I also want to extend my appreciation to Senators EAGLETON and SCHWEIKER, members of the Committee on Appropriations, as well as the Committee on Labor and Human Resources, for their concerns about this provision.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD various letters on this matter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., August 25, 1978.

Hon. ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission, Washington, D.C.

DEAR ELEANOR: I am writing with respect to the prospective transfer to the Equal Employment Opportunity Commission (EEOC) of responsibility for the enforcement of section 501 of the Rehabilitation Act of 1973 (P.L. 93-516)—Employment of Handicapped Individuals. As you are aware, currently, such enforcement responsibility is being exercised by the Civil Service Commission (CSC). Under Reorganization Plan No. 1, effective sometime on or after January 1, 1979, responsibility will be transferred to the EEOC.

Section 501 of the Rehabilitation Act of 1973 was intended to provide a focal point for the hiring, placement, and advancement of handicapped individuals in the Federal Government. As noted in the Committee Report (S. Rept. No. 95-890), to accompany S. 2600, the proposed "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978," hearings in the 92nd Congress on vocational rehabilitation had pointed out:

"That despite the Civil Service Commission's experience and actions in this area, Federal employment policies with regard to handicapped individuals continue to be found wanting. The Committee emphasizes that the Federal Government must be an equal opportunity employer, and that this equal opportunity must apply fully to handicapped individuals. The Committee, therefore, expects the CSC to ensure that there is no discrimination in employment for handicapped individuals within the Federal Government, and to take all necessary steps to ensure that special needs of handicapped individuals are met."

Testimony in this Congress before the Subcommittee on the Handicapped of the Senate Committee on Human Resources indicated that the record of the Federal Government with respect to implementation of section 501 has not been encouraging. As a result, the Committee bill, S. 2600, includes a provision I proposed to make available the remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of section 706 (f) through (k) (42 U.S.C. 2000e-5 (f) through (k)), to any employee or applicant for employment aggrieved by the final disposition of such complaint or by the failure to take such final action on such complaint under section 501. A copy of the relevant provisions of the bill and report are enclosed for your reference.

EEOC's record with respect to implementation of section 501 has not been good. For example, in a recent report prepared by the Comptroller General entitled "Federal Employment of Handicapped People" (FECD-78-40, July 6, 1978) it was revealed that the Equal Employment Opportunity Commission was one of thirteen Federal agencies which, for 1978, had not submitted to the CSC satisfactory section 501 plans. The Co-Chair of the Interagency Committee on Handicapped Employees subsequently wrote to each of those thirteen agencies. GAO reported "only EEOC has not responded to the Co-Chair's letter".

In testimony before the Subcommittee on Select Education in April 1978, it was revealed by the Center for Disability Rights that "in 1975 and 1976, the CSC rated EEOC's report of achievements in affirmative action as unsatisfactory. In 1977, the EEOC had an overall increase in staff of 323 persons, yet their total number of handicapped employees remained at 15, contrasted to an overall population of 2,513. The total number of handicapped employees has, since 1974, never risen above .65 [percent] of the entire agency staff."

Further, an inspection conducted on September 28, 1977, by the Disability Rights Center on the implementation of section 501 revealed, among other things, the following about EEOC's headquarters building:

1. No parking spaces are reserved for handicapped persons;
2. Outside the building there are very high curbs;
3. The main entrance is inaccessible;
4. The pay phones were too high for use by a wheelchair rider and none were amplified;
5. Water fountains were too high to reach from a wheelchair;
6. The buttons on the elevators were too high for use from a wheelchair, including the emergency buttons;
7. The elevator door closes quickly and forcefully and could easily knock over ambulatory disabled people; and
8. None of the bathrooms have accessible stalls and there are no grab bars.

In addition to EEOC's own inadequate employment record in this area, the lack of agency expertise in the enforcement of discrimination on the basis of handicap and the inaccessibility of EEOC's headquarters building cause me to be very concerned about EEOC's ability to enforce section 501 with the vigor necessary to assure successful implementation.

In this regard, I would appreciate your response to the following questions:

1. How many EEOC staff positions have been specifically set aside to take on section 501 responsibilities?
2. Of the 800 new positions requested in the FY 1979 budget and of the 400 requested in the FY 1978 supplemental request, how many are to be set aside specifically for section 501 responsibilities?
3. What meetings or discussions concerning the prospective transfer and EEOC's new section 501 responsibilities have you had with the other departments and agencies in the Federal Government with expertise in matters affecting handicapped individuals—for example, the Department of Labor (section 503), the Department of Health, Education, and Welfare (section 504), the Architectural Barriers Board (section 502), and the Veterans' Administration (the leading Federal employer of handicapped individuals)?
4. What meetings have you had with representatives from handicapped and disabled advocacy and service groups concerning the prospective transfer?
5. What efforts have you undertaken or do you plan to undertake (and on what timetable) to make your headquarters building accessible in terms of the above eight points?
6. What efforts have you undertaken to assure EEOC's compliance with section 501, specifically including your goals for the employment of handicapped persons at headquarters and at each of your regional offices, both on the whole and in terms of the 1200 new positions, and what is the current status of EEOC's 1978 section 501 plan?
7. What plans do you have to assure the vigorous enforcement of section 501 across the Federal Government?

I appreciate your attention to these matters.

With best wishes,
Cordially,
ALAN CRANSTON.

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., November 15, 1978.

Hon. ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission, Washington, D.C.

DEAR ELEANOR: On August 25, 1978, I sent you a letter concerning the prospective transfer to the Commission (EEOC) of responsibility for the enforcement of section 501 of the Rehabilitation Act of 1973— Employment of Handicapped Individuals.

Despite numerous promises that a response would be forthcoming shortly, and the passage of several dates on which delivery was specifically promised by your legislative staff, no answer to my letter has been received—almost three months after the date it was sent.

My August 25th letter, copies of which were sent to Senators Williams, Javits, Randolph, and Stafford, the Chairman and ranking minority member of the Human Resources Committee and the Chairman and ranking minority member of the Handicapped Subcommittee, respectively, expressed serious concern about EEOC's own inadequate section 501 employment record, the lack of agency expertise in the enforcement of discrimination on the basis of handicap, and the inaccessibility of EEOC's headquarters building. These concerns lead to serious questions about EEOC's ability and commitment to enforce section 501 with the vigor necessary to assure successful implementation. Certainly, the long delay on your part in responding to my letter can do nothing to allay these concerns or resolve those questions.

I would appreciate your prompt attention to this matter.

Cordially,
ALAN CRANSTON.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Washington, D.C., November 21, 1978.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR ALAN CRANSTON: I received your letter of November 15 on Friday, and wanted to assure you that we are very much aware of your interest in this matter.

Your earlier correspondence raised a number of questions which were brought to my attention, and which resulted in the formation of a taskforce to look into the agency's internal 501 program, and to report on our planning for the assumption on January 1, 1979 of federal enforcement responsibilities under that section. The taskforce consists of the Commission's Director of Administration, the Director of EEO, the Director of Congressional Affairs, and my Special Assistant. It has been meeting with me regularly, as well as with offices in the Commission which have responsibilities that relate to the concerns raised in your letter. This has involved a good deal of coordination, making sure that, for example, instructions concerning the 501 program were built into the training of staff who will conduct field interviews, that a data collection format for determining applicant flow is established, etc.

The taskforce had been instructed to deliver a report to me no later than the week of November 20th. I am advised that the final draft of the report is being prepared.

With respect to the timing of our response, your letter arrived during consideration of legislation, including the Civil Service reform package, which as you know raised a number of technical issues which had to be monitored by EEOC. Since a good part of your letter concerned planning for the assumption of responsibilities in January, 1979, our staff obtained from the Subcommittee on Child and Human Development permission to defer our response until one week after the adjournment of the Congress. Since then, I am advised that staff had been in fairly constant touch with the staff and counsel of the Subcommittee who has been most helpful, but who is currently on vacation, and had reported that the taskforce had made considerable progress. I am also advised that messages had been left over the past several weeks that a taskforce report was forthcoming.

I believe that our record of consistent contact with your office on this matter will assure you that we do not take this new responsibility lightly. In fact, growing out of my experience as New York City Commissioner of Human Rights, where I had jurisdiction over handicapped people, I have developed a strong interest and commitment in this area. My own personal involvement in the work of this taskforce is one indication of this.

I do appreciate your concern, and we are grateful to you for bringing the matter to our attention.

With best regards,

ELEANOR HOLMES NORTON,
Chair.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Washington, D.C., December 4, 1978.

Hon. ALAN D. CRANSTON,
U.S. Senator,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I apologize for the delay in responding to your inquiry concerning our preparations for receiving enforcement responsibilities under Section 501 of the Rehabilitation Act of 1973, and our internal program for handicapped employees. I assure you that both are well in hand and have received priority attention from the Commission.

EEOC submitted an affirmative action plan for the handicapped, which was approved by the Civil Service Commission on September 1, 1978. In developing the plan our Division of Personnel completed a survey to identify the Commission's handicapped employees. Commission employees were asked to complete CSC Form No. 256, Self-Identification of Medical Disability, and 1,013 employees returned the form, 107 reporting medical impairments of various types. In addition, 40 indicated they did not wish to have their disabilities, if any, recorded outside of their medical records. This of course is contrary to the figure cited in your letter. As you know, because voluntary self-identification is the only way prescribed under present CSC regulations, we have no way of knowing how reliable this method is and this is one of the questions we shall be looking at when we obtain the jurisdiction.

Of course, when we begin recruitment for the Sec. 501 enforcement positions, we shall make a special effort to locate individuals with experience in and special sensitivity to these areas. I would hope that a number of these could be individuals who were themselves handicapped.

With respect to new positions currently under recruitment, for which we received some 20,000 applications, we are carrying out the following procedures:

1. We made special outreach to groups representing handicapped people during the period of recruitment several months ago.

2. Although CSC Form 171 does not make reference to handicap, we have devised our own procedures for ascertaining applicants with handicaps. Interviewers, who are receiving centralized training before being sent out to conduct field interviews, have been instructed to identify those individuals with visually apparent handicaps. This identification will be retained at headquarters. If, after the selection process is completed, but before job offers are made, there do not appear to be among the designees a sufficient number of handicapped individuals to ensure adequate representation of handicapped individuals in our workforce, I will at that time be prepared to set aside certain positions from competitive selection to be filled through the FPM 213 (Schedule A), FPM 316 (Disabled Veterans) and the 700-hour appointment authorities.

In addition, with respect to our internal program and the condition of our headquarters building, a special taskforce has produced a number of actions. We have shifted line responsibility for the affirmative action program from the Office of Administration, Division of Personnel to the Office of EEO. Placement in the Personnel Office was in keeping with FPM Chapter 306, Selective Placement Programs, which focuses on the removal of architectural barriers and on basic recruitment. But other affirmative action and special emphasis programs in the federal service are regulated by FPM Chapter 713, which has its origins in the Civil Rights Act of 1964, as amended. We have taken the position that our affirmative action program for handicapped persons should receive the same attention and "special emphasis" as is given to affirmative action for other groups.

FPM Chapter 306 recommends that each department or agency with at least 3,000 employees establish a full time coordinator, similar to the Federal Women's Program and Hispanic Employment Program positions maintained by all federal agencies. Although we do not now have 3,000 employees, we shall have something over that number when we have taken on all the new FY '78 and FY '79 Title VII positions and the positions associated with the functions to be transferred. We will then try to assign a full-time coordinator for this function. Meanwhile we have identified a staff person in our EEO office, with considerable experience with the California State Department of Rehabilitation, and are arranging for her to assume the coordinator responsibilities that were formerly assigned to a personnel specialist.

We are taking other steps to communicate to our field managers and to staff the importance of our new affirmative action and enforcement responsibilities. The programs have also been built into our training seminars, and are being built into the management plans and performance indicators of our office directors.

With respect to building modifications, we had made this request several times in the past and were told funds would not be available until FY '79. We have again requested that GSA begin modification of the headquarters building on an expedited basis. In the meantime, a temporary ramp has been installed at a ground level entrance, and another ramp connects one of the building's parking areas. We have requested the installation of additional ramps, the designation of special parking places and the establishment of short-term visitor parking spaces in the no-parking zone in front of the building near an exit which has a temporary ramp. In addition, the building guards will direct and make every reasonable effort to aid those requiring assistance.

The only pay phones in the building are located in our lobby area, next to a guard station and information desk containing house phones. Persons unable to use the pay phone are permitted to use the house phone to make outside calls. We have asked that the pay phone be lowered to be accessible from a wheel chair and in addition that an amplifier be installed.

Some bathrooms have been converted and are appropriately designated. Elevators, doors and other structural modifications are, again, not within our primary control, but these deficiencies have been reported to GSA.

Space for new field offices is being obtained through GSA, which is, as you know, bound by a number of regulations and directives governing the location of additional govenment office facilities. We have been reviewing proposed space for accessibility, with instructions, where possible, to see that alternate space is found and, should this prove impossible, to expedite the removal of architectural barriers.

I shall make every effort to keep you informed of our progress. We appreciate your interest and continued support for our work.

Best regards.

Sincerely,

ELEANOR HOLMES NORTON,
Chair.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
Washington, D.C., December 5, 1978.

Hon. ALAN D. CRANSTON,
Chairman, Subcommittee on Child and Human Development, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN CRANSTON: This is with further reference to your inquiry concerning our planning for the assumption in January of responsibilities under Section 501 of the Rehabilitation Act of 1973.

I have been advised that, with respect to the number of staff lines allocated to enforcement of Section 501, there may be a misconception on the part of the Subcommittee Staff. The President recommended and Congress approved position increases in our FY '78 supplemental and FY '79 appropriation for Title VII functions only.

While final approval of the FY '78 supplementals came after Reorganization Plan No. 1 had been approved, the budget request was initiated and had been acted on prior to approval of the Reorganization Plan, which was intended to bring with its transfers only those staff which had been dedicated to the function in each transferring agency. Thus, the Section 501 program is limited, for the time being, to the 4 or 5 lines (of which 3 or 4 will come encumbered) being transferred from CSC. The precise number for both position and staff transfers is still being determined by CSC.

We believe that these are too few positions to mount an effective national program. We hoped to obtain additional staff for this function through a FY '79 supplemental, allowing us to place staff for this function in each of our twenty-two district offices and to add additional staffing to the headquarters unit, which will be located in our Office of Government Employment.

Again, I look forward to keeping in touch and appreciate your concern for and support of our efforts on behalf of the handicapped.

With best regards,

ELEANOR HOLMES NORTON.

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., January 26, 1979.

Hon. ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission, Washington, D.C.

DEAR ELEANOR: We are writing with respect to the transfer to the Equal Employment Opportunity Commission (EEOC) of responsibility for the enforcement of section 501 of the Rehabilitation Act of 1973 (P.L. 93-112)—Employment of Handicapped Individuals.

We strongly believe that active implementation of section 501 is extremely important if we are to assure that the Federal Government meets its obligations and responsibilities to be an equal opportunity employer. Section 501 was intended to provide a focal point for the hiring, placement, and advancement of handicapped individuals within the Federal Government. The effective administration and enforcement of the provision is vital and, as pointed out in the July 6, 1978, report of the General Accounting Office, entitled "Federal Employment of Handicapped People", "the Federal Government's program to increase employment opportunities for handicapped persons is a long way from being truly effective". Thus, we are extremely interested in EEOC's activities with respect to the administration and enforcement responsibility. A review of Senator Cranston's August 25 letter and your December 4 and 5 responses raises a number of areas of concern that we would like to address.

The August 25 letter sought information with respect to your efforts to prepare for the prospective transfer. Specifically, in addition to other inquiries, information was sought as to meetings and discussions that the Commission had had with other departments, agencies, and instrumentalities within the Federal Government with expertise in matters affecting handicapped individuals. In addition, the letter sought specific information on meetings held by the EEOC with representatives from handicapped and disabled advocacy and service groups concerning the transfer. We wish to emphasize the importance of EEOC, in undertaking administrative and enforcement responsibility for this program, establishing ongoing, communication and understanding with other involved Federal departments, agencies, and instrumentalities and with interested groups. We would appreciate specific information as to the steps taken by EEOC and their results to establish such communication.

Your reply of December 5th indicates that the staff allocated to EEOC's 501 enforcement responsibilities would be only the "four or five lines (of which three or four will come encumbered) being transferred from CSC". We agree with you that "these are too few positions to mount an effective national program". In this regard, in order to assure that sufficient staff is allocated by EEOC to mount an effective national campaign, we strongly believe that reprograming of a small number of positions (25 to 30) for section 501 administration and enforcement responsibility of the approximately 800 new positions provided by Congress in your FY 1978 supplemental and the FY 1979 appropriations would be of an enormous benefit to the 501 program, while, at the same time, causing little, if any, detrimental effect to title VII enforcement responsibilities. In this regard, we are enclosing a copy of a letter we have sent to Senator Ernest Hollings, Chairman of the State, Justice, Commerce, the Judiciary Subcommittee of the Committee on Appropriations requesting his attention to such a reprograming.

The reprograming of such a small number of positions would appear to be the most realistic approach to assuring that an effective national 501 program is initiated and the EEOC's obligations with respect to the administration and enforcement of that program as well as its other responsibilities would be met in an expeditious and equitable fashion.

We would appreciate your prompt attention to these matters.

Sincerely,

Harrison A. Williams, Jr.,
Chairman.
Alan Cranston,
Jacob K. Javits,
Jennings Randolph,
Robert T. Stafford.

U.S. Senate,
Committee on Human Resources,
Washington, D.C., January 26, 1979.
Hon. Ernest F. Hollings,
Chairman, Subcommittee on State, Justice, Commerce, the Judiciary, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: We are writing in order to bring to your attention the transfer, pursuant to Reorganization Plan No. 1, on January 1, 1979, of enforcement and administrative responsibility for section 501 of the Rehabilitation Act of 1973 (Public Law 93–112) from the Civil Service Commission (CSC) to the Equal Employment Opportunity Commission (EEOC) and seek your assistance in assuring that that section is administered and enforced effectively. Enclosed, for your information, are copies of an August 25, 1978, letter from Senator Cranston to Eleanor Holmes Norton, her December 4 and 5 responses, and a letter we are sending to her as a result of that exchange of letters.

We believe that the active implementation of section 501 is of extreme importance if we are to assure that the Federal Government meets its obligations and responsibilities to be an equal opportunity employer. As pointed out by the General Accounting Office, in its July 6, 1978, report entitled "Federal Employment of Handicapped People" (FPCD 78–40), "the Federal Government's program to increase employment opportunities for handicapped persons is a long way from being truly effective."

To be effective, it is vital that the section 501 program be vigorously administered and enforced. The EEOC's December 5 response, however, reveals that enforcement and administration of the section 501 program is limited, for the time being, to the "four or five lines (of which three or four will come encumbered) being transferred from CSC." We agree with Mrs. Norton's assessment in that December 5 letter that "these are too few positions to mount an effective national program".

Thus, we recommend your consideration of the reprogramming of a small number of EEOC's new positions (25 to 30) for the administration and enforcement of the EEOC's new section 501 responsibilities. As you are aware, approximately 800 new positions were provided by Congress to EEOC in order to meet its responsibilities under title VII of the Civil Rights Act as part of the EEOC's FY 78 supplemental and FY 79 appropriations. We believe that reprogramming these 25 to 30 positions would be of enormous benefit to the 501 program, while, at the same time, causing little, if any, detrimental effect to EEOC's title VII enforcement responsibilities.

We appreciate your attention to this matter.

Sincerely,

Alan Cranston,
Harrison A. Williams, Jr.,
Chairman.
Jacob K. Javits,
Jennings Randolph,
Robert T. Stafford.

The PRESIDING OFFICER. Do the managers of the bill yield back their time?

Mr. HOLLINGS. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, pursuant to the previous order we will now have third reading of the bill. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy) and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Are there any Senators who have not voted who wish to do so?

The result was announced—yeas 86, nays 10, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—86

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—10

Armstrong
Garn
Hatch
Helms
Humphrey
Laxalt
Proxmire
Roth
Thurmond
Zorinsky

NOT VOTING—4

Goldwater
Hatfield
Kennedy
Nelson

So the bill (H.R. 4392) was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Hollings, Mr. Magnuson, Mr. Eagleton, Mr. Inouye, Mr. Burdick, Mr. DeConcini, Mr. Bumpers, Mr. Sasser, Mr. Weicker, Mr. Hatfield, Mr. Stevens, Mr. Laxalt, Mr. Garn, and Mr. Young conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, H.R. 4392, which makes appropriations for the Departments of State, Justice, Commerce and the Judiciary, contains items which are important both for our domestic well being and for our relations abroad. Before commenting briefly on the contents of the bill, I want to congratulate the distinguished Senator from South Carolina (Mr. HOLLINGS), chairman of the Appropriations Subcommittee with jurisdiction over these areas, and the ranking Republican member (Mr. WEICKER), for the careful attention given to those budget areas by the members of the subcommittee.

As the report accompanying the bill clearly indicates, Senator HOLLINGS and the members of his subcommittee have reviewed many budget items with meticulous care. Attention has been given to budget requests and program needs. Cuts and increases in various programs have been selective and judicious.

With respect to the Department of State, the committee recommendation provides $1.3 billion for the general administration of U.S. foreign policy. This includes the conduct of diplomatic and consular relations with foreign countries, diplomatic relations with international organizations, and related activities. While the committee's recommendation contains certain increases above the 1979 appropriations to date, this is primarily because of nondiscretionary increases, some reflecting increased wages and salaries, and higher prices.

The amount recommended by the committee also includes funds to cover the cost of the Middle East peace negotiations. The Middle East Peace Treaty was a momentous achievement, and it is important that funding for the negotiations be provided in order to encourage a comprehensive settlement.

Within the Department of Commerce, there are numerous offices and programs which are vital to the economic health of the Nation. The committee's recommendations reflect its commitment to moving ahead with sound economic policies and programs here and abroad.

Programs which come under the jurisdiction of the Commerce Department are diverse, and the committee's recommendations reflect a clear understanding of the activities particular to each program. For example, funding is budgeted for the programs of business assistance and trade development under the Industry and Trade Administration. The operations and facilities of the National Oceanic and Atmospheric Administration also come under the Commerce Department's jurisdiction, and the committee's recommendations will insure the continued effective operation of NOAA's activities.

The bill contains funding for the Department of Justice, the FBI, and the law enforcement activities of the Department. Increases are provided for a major expansion of the border patrol to deal with illegal aliens, and for needed personnel in certain departmental divisions where the need has been demonstrated.

Funding recommended for the Judiciary reflects the amounts required for the 152 judgeships authorized in the last Congress and the staff and associated expenses to support them. The efficient management of our judicial system is fundamental to insuring that every American receives fair treatment under the law. I am pleased that the committee's recommendation emphasizes our commitment to maintaining a healthy court system.

In addition to reviewing the budget requests and activities of the Departments of State, Justice, Commerce and the Judiciary, the subcommittee chaired by Senator HOLLINGS has the important responsibility of overseeing numerous independent agencies. These include the Arms Control and Disarmament Agency, the Board of International Broadcasting, the International Communication Agency, and the Office of the Special Representative for Trade Negotiations. U.S. participation in international organizations and commissions is also within the purview of the subcommittee.

As a member of the Appropriations Committee, I have been well aware of the contribution made to its deliberations by the Senator from South Carolina (Mr. HOLLINGS), by the subcommittee's ranking minority member (Mr. WEICKER), and by the members of the subcommittee. Each has demonstrated a budget-minded and balanced approach, which I believe is reflected in the committee's recommendations.

I yield to the Senator from Tennessee.

Mr. BAKER. I thank the majority leader.

Mr. President, I will not detain the Senate long. I simply wanted to join with the majority leader in extending my congratulations to the distinguished Senator from Connecticut (Mr. WEICKER) and the distinguished Senator from South Carolina (Mr. HOLLINGS) for their handling of this measure. Not only did they do it with characteristic skill, but they also handled a very controversial measure in a fairly short span of time. I wish to express my appreciation to both of them for a job well done.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Patricia M. Wald to be U.S. circuit judge for the District of Columbia circuit.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered. The nomination will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Patricia M. Wald, of Maryland, to be U.S. circuit judge for the District of Columbia circuit.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that the following staff members of the Committee on the Judiciary, on the majority side, be granted the privilege of the floor during consideration of this matter:

Thomas Susman, Elaine Shocus, Mike Klipper, Liz McNicols, and Mary Jolly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, my statement on this matter will be very brief. During the past few months, the Judiciary Committee has examined the qualifications and acted on nearly 50 Federal judgeship nominations. The great majority have been well-qualified and although perhaps of the wrong political affiliation, thus far, few have given me sufficient reason to object to their confirmation.

Today, however, I feel compelled to indicate my opposition to the confirmation of Mrs. Wald to be a judge on the Circuit Court for the District of Columbia. I do not do so lightly. The advise and consent power of the Senate is a serious responsibility that must be exercised carefully by each Senator and the Senate as a whole.

Mr. President, Mrs. Wald's record and background as a lawyer are excellent. She has served as Assistant Attorney General for Legislation at the Justice Department. I do not dispute her legal credentials to sit as a Federal judge. But there is another requirement, in my opinion, that a Federal judge must have in order to be a member of one of the highest courts in our Nation.

A judge must not let personal feelings or bias enter into any decision made while on the bench. One must be able to keep an open mind at all times. Frankly, I am not convinced that Mrs. Wald can maintain that objectivity. Her record indicates that she may become a judicial activist. Her views on family and children's rights are not, in my opinion, in the mainstream of American morals and traditional family values. Mrs. Wald's writings and the responses she gave about them during her nomination hearing continue to disturb me. For example, Mrs. Wald has been quoted as saying the following:

> It is highly debatable that continued prosecution and imprisonment of addicts have contributed to the waning addiction rate to any degree comparable to the provision of treatment. Prosecution and imprisonment have merely served to penalize those unfortunate enough to be caught. (Georgetown Law Journal. 1974).
>
> In such cases (parental conflict) the child himself ought to be able to use the juvenile courts facilities for resolution or enforcement of his rights. (Human Rights. Vol. 4. 1974. The Rights of Youth. p. 21.)
>
> Most liberation groups have concentrated on the franchise as their top priority. In the case of youths the 26th Amendment setting 18 as a voting age is not or should not be the conclusion of their effort. The amendment permits a State to establish a lower voting age, and I believe there are reasonable

> arguments advanced for doing so, even to the radical extent of allowing youths 12 or 13 and above, to vote. (Human Rights, Vol. 4, 1974. The Rights of Youth, p. 22).
>
> As long as the child lives with his parents or someone else he must be expected to obey reasonable rules of the house. If after a minimal age, he finds such rules hopelessly arbitrary or violative of his civial rights, he can seek mediation through some outside agency. If the situation is intolerable he can seek official aid in shifting his custody. Parents faced with an impossible recalcitrant child, should be able to seek the same kind of relief. To make such a system viable, communities will, of course, have to establish networks of noncoercive substitute homes and arrangements temporary and permanent. (Human Rights, Vol. 4, 1974. The Rights of Youth, p. 29).

Mr. President, I believe these statements speak for themselves. I do not agree with these views and I am not convinced that they can be defended as the kind of thinking this country needs in its Federal judiciary.

For this reason, I intend to vote against this nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from New Hampshire seek recognition?

Mr. HUMPHREY. Yes, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUMPHREY. Mr. President, I begin by making it clear to my colleagues that though I am opposed to the confirmation of this nominee, I do not and have not in any way impugned the nominee's character or honesty or good intentions. In no way have I done that.

At the same time, Washington, D.C., and the entire Federal bureaucracy, whether it be the executive, the legislative or the judicial branch, is full of persons with good intentions. Yet, despite these good intentions, our country is in serious trouble, as our President has pointed out to us. It is not good enough simply to have good intentions.

I am told by some Senators that it is customary to examine only the professional qualifications of a nominee; that a nominee's views are not generally considered.

I am not a legal scholar; I am not an attorney. Yet, as one American citizen who is very deeply concerned about his country, I think it is time that the Senate, in considering the confirmation of various nominations, does consider the views of nominees, whether it bases its decision on those views or not.

It is for that reason that I speak today in opposition to the confirmation of this nomination. The office is high to which this person has been nominated. It is said that no court is more important, save for the Supreme Court, than the Circuit Court of the District of Columbia.

Furthermore, it is said that this person may well be in line for future nomination to the Supreme Court.

Mr. President, I should like to read into the Record an editorial published on June 17 of this year in the Washington Star. It is entitled "Judgment on a Judgeship," and it reads as follows:

> Anybody who rejoices to see women's demonstrated abilities move them toward greater prestige and power in American society is sure to welcome the idea of having Patricia Wald on the U.S. Court of Appeals for the District of Columbia, at least at first glance. The 50-year-old assistant attorney general for the Office of Legislative Affairs has all kinds of credentials, from a Yale law degree to service on the Mental Health Law project to work with President Johnson's Commission on Crime in the District of Columbia to scholarly writings on bail, poverty law and drug abuse.
>
> There's even an intact family in the picture, including a husband and five children, to suggest that the woman who has piled up these accomplishments is a well-rounded human being. What's more, career drives did not keep Mrs. Wald from staying home for a decade to supervise her children's early development at first hand.

Mr. President, those are a great many points in her favor.

I return to the text of the editorial:

> Thus the Senate hearings scheduled for this week to precede a confirmation vote on this Carter nominee are likely to be perfunctory and amiable. An agreeable prospect, but one that should not be rushed.
>
> If Mrs. Wald is appointed to the appeals court, she will be the third woman in American history to reach so high a position in the federal judiciary system. At present, there is only one woman, Judge Shirley M. Hufstedler of the 9th Circuit, at this rank.
>
> The implication is obvious—here may be a strong future candidate for the Supreme Court. It is appropriate to take a particularly searching look at the views that would be in the background of Mrs. Wald's decisions.

Mr. President, if it is appropriate that a public institution such as a newspaper takes a look at the views that would be in the background of Mrs. Wald's decision, then why should that not be done on the floor of the Senate?

I read further from the editorial:

> To those who believe in the importance of the family to individual development and social continuity, and also to those who think civilization requires the ascendancy of values associated with the mature personality, some are surprising.
>
> In her writings on the legal and moral rights of children in the last five years, some bearing dates as recent as 1977, Mrs. Wald sounds the juvenocratic themes of the sixties. Besides believing that, in fact, today's children from puberty on, and sometimes before, deal with the adult world on almost an equal basis, she thinks they should, and that law should be revamped to help them.
>
> She thinks that the children of today mature faster than their predecessors—intellectually and socially as well as physically. She is impressed with the "remarkable and sometimes awesome" political sophistication she has seen in certain adolescents and feels there is a case for channeling it into civic processes.
>
> Her answer to the chaos of collapsed authority in today's schools is ombudsmen to protect students rights. Her remedy for unsatisfactory education is more grievance mechanisms through which pupils can vindicate what they consider their wrongs at the hands of teachers and school administrators. Her solution for family failures is income redistribution.
>
> One does not have to be a moonstruck youthworshiper to appreciate the horrors of childhood or to admit that adult tyranny, real or fancied, looms large among them. Furthermore, it is perfectly true that there is at best an uneasy twilight zone where community judgments about children's welfare can collide with parents' authority. It is also true that the present assortment of prisons, reformatories, foster homes and psychiatric facilities dealing with problem children is nothing to congratulate ourselves on.
>
> Still, greater autonomy for children at ever earlier ages may pose more difficulties than it obviates. Besides, it always turns out that it isn't really autonomy—it's being handed over to another set of keepers.

Mr. President, when we begin to hand over our children to that other set of keepers—namely, the State—we are in real trouble.

I continue reading:

> Consider the children's advocates who will conduct their ever more numerous lawsuits. Consider the social workers who will run the non-coercive halfway houses where they will go with their family complaints, their VD, their pregnancies and their drug problems. Nor should we overlook the dangerous alternative keepers who await children in the dominant members of their peer groups, or cult groups.
>
> Mrs. Wald calls herself a supporter of the family, but does she consistently recognize the degree to which the family's beneficial potentialities depend on its exercise of control? She talks about bringing law into line with changing mores, but the legal changes she urges are the kind that can accelerate change in dubious directions.
>
> Her choice for a judicial role that would give her greater power in remaking the fundamental rules of our society deserves more than a casual look.

Mr. President, several days ago, an article appeared in the Washington Star, and I should like to read one sentence. It states;

> Wald would probably strengthen the liberal block on a court that has pioneered in many areas of the law.

Do we want pioneers in our judicial system—more pioneers, more exploration, more probing? Is that what we want? Is that likely to help cure the illness that is abroad in our land? I think not. I think we need just the opposite: Judicial nominees who will analyze the law in the strictest sense.

Let me read from an article published in the U.S. News & World Report of June 18, 1979, entitled "Judges Carter Picks—Activist and Liberal." I will read it in part:

> With little fanfare, one of the nation's most powerful institutions, the federal court system, is being given an infusion of liberal members.
>
> * * * * *
>
> The newcomers are apt to give the federal courts a markedly more activist approach to the law. The shift comes at a time when some scholars and other critics are warning that the judiciary already has gone too far in assuming executive and legislative power over a wide array of public-policy matters.

The U.S. News & World Report article discusses a study by the American Judicature Society which shows that of 63 persons nominated for appeals courts positions by President Carter's commission, 42 percent described themselves as liberal or very liberal, 55 percent claimed to be moderate, and only 3 percent called themselves conservative.

I quote part of the last sentence in this article:

> American Federal courts seem likely to be more liberal and activist for years to come.

That certainly is true if the American Judicature Society survey is accurate.

The country is changing, Mr. President. Congress is finally beginning to catch up with the new mood of the country. What a great pity it will be if we are saddled for decades by a liberal judiciary, appointed in the final days of America's liberal agonies. These appointees will continue to dominate the judiciary for decades, because, as we all know, they are appointed for life.

Mr. President, I believe that two concerns of the American people bear upon the Wald nomination: The concern over the usurpation by an activist judiciary of legislative and executive powers; and the concern over government actions which tend to dilute parental authority over children and to weaken the traditional family structure.

In this regard, it seems necessary in this city and these times to define the term "family." Mr. Jim Guy Tucker, President Carter's appointee to the chairmanship of the White House Conference on Families, defines the family as "one or more adults living together with or without children." Notice, the concepts of heterosexual relationships and formalized marriage do not even merit a mention by the chairman of the White House Conference on Families.

When I say that Americans are worried about the weakening of the traditional family structure, I mean by "traditional family" parents formally joined in marriage, with a child or children.

In considering the Wald nomination, the Senate will be well advised to read an article by Mrs. Wald, "Making Sense Out of the Rights of Youth," published in the fall 1974 issue of Human Rights, a very respected journal published by the American Bar Association.

Mr. President, I ask unanimous consent that the article be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, in this article Mrs. Wald espouses ideas which would leave most Americans agape. To emphasize that these are her thoughts alone a footnote at the beginning of the article states: "The views expressed herein are entirely her own."

Here are some of those ideas and views.

Mrs. Wald states that "the institution of childhood has been seriously compared to the institution of slavery." Thus, Mrs. Wald delivers a stinging rebuke to parents across the Nation, implying, in their exercise of parental authority, that parents are callous, unconcerned slavemasters. No doubt Mrs. Wald believes, as do most government functionaries, that if only society would embrace her ideas, we would enter a new period of enlightenment. If Mrs. Wald believes children are treated like slaves in this country, it is only reasonable to suppose she would, as a judge, work to emancipate children from their parents by diminishing parental authority and increasing State authority. Indeed, Mrs. Wald laments the failure of government to secure the natural rights of children, saying, "Yet, so far, neither our legislatures nor our courts have seen fit to guarantee those rights, insofar as they have the power to do so."

Mrs. Wald thinks children are treated like slaves in this country and wants the courts to do something about it. Americans concerned about usurpation of legislative and executive authority by the courts would have plenty to worry about with Mrs. Wald on the bench. As these remarks show, Mrs. Wald, who belongs to the activists band known as "child advocates" and who terms herself a "fierce civil libertarian," wants to fundamentally change the American family.

What are some of those changes Mrs. Wald wants the courts and other institutions tó make with respect to children and parental authority? Lest any Senator be concerned that I quote Mrs. Wald out of context, the article I quote from is printed in full at the conclusion of my remarks.

First. Age should no longer be a bar to retaining and using ones own money, making valid purchases and contracts.

Does that mean that if a child wants to spend his money on something foolish that the State may intervene and allow the child, over the parents' objection, to spend his money as he chooses? At what age shall we start that, 6, 7?

Second. A youth should be able to exercise increasing control over his choice of school and work or, at the very least, participate fully in the decisions affecting school and work.

I think any parent knows that children often do not agree with their parents about which school they will attend and which courses they will take. Should the State intervene on behalf of the child? I think not.

Third. An adolescent youth ought also to be able to seek medical or psychiatric care on his own. Mrs. Wald cites instances where disclosure to parents of treatment would have unpleasant consequences for a child, in such areas as seeking contraceptive assistance, abortion, treatment for VD or use of drugs. She suggests that the child, with the aid of the State, should be able to keep his parents in the dark.

While Mrs. Wald states that doctors ought to be encouraged to bring parents into the situation, she nevertheless believes that doctors, where they choose to do so, may, with the State's assistance, leave the parents of the child in the dark.

American parents would like to know that a nominee to a high court advocates allowing their children to have an abortion without the parents' knowledge and consent, and allowing them to be treated for VD without their parents knowing about it. I do not think that the parents we represent would appreciate this philosophy.

Fourth. A youth ought to be able to seek legal advice or help to redress his grievances against his family, schools, or others who adversely affect him. Mrs. Wald, it seems to me, would have the State provide a lawyer to advise a child who is having a disagreement with his parents. Mrs. Wald apparently doubts the wisdom and fairness of parents and wants a Government lawyer examining disagreements between a child and his parents.

Fifth. There is a whole range of civil rights that youths at least from the age of 12 up ought presumably to enjoy. These include free speech, and more troublesomely, freedom of association. According to Mrs. Wald, children should be able to say whatever they wish, wherever they wish, without any interference by parents. By the same token, Mrs. Wald would proscribe parental authority regarding the company children keep. Parents would have no right to forbid a child to associate with a known juvenile delinquent or an adult criminal, for that matter.

Sixth. With regard to the 26th amendment, setting 18 as the voting age, Mrs. Wald has this to say:

> The amendment permits a State to establish a lower voting age, and I believe there are reasonable arguments advanced for doing so, even to the radical extent of allowing youths 12 or 13 and above to vote.

Now, it is true, as some have said in Mrs. Wald's defense, that she does not come right out and advocate lowering the voting age. But she does first point out that the 26th amendment permits a State to establish a lower voting age if it wishes, and then she goes on to say, "I believe there are reasonable arguments" in support of this radical proposition. I must strongly disagree with Mrs. Wald's beliefs. She is entitled to believe whatever she wishes. But I do not believe that children 12 or 13 or even 14, 15, or 16 possess sufficient life experience, sufficient wisdom, sufficient judgment to exercise that most cherished of all our rights, the right to vote.

Mrs. Wald aptly describes this proposal as radical. Few Americans would agree with her premise that 12- or 13-year-old children possess sufficient maturity or judgment to cast votes. Mrs. Wald's proposal is nothing less than preposterous.

Mrs. Wald, by virtue of the bizarre changes she urges in the family structure and the preposterous proposals she has advocated regarding the rights of children is, in my opinion, a poor choice for the bench. Indeed, her judgment is questionable.

Mr. President, after all of the trauma of the last decade it is difficult to be surprised, much less outraged, at some of the goings-on in this Government. But the Wald nomination is a case which is outrageous. Here is a nominee who would radically alter the traditional family structure by virtually abolishing parental authority and who would empower a child to formally challenge his parents whenever in that child's opinion the parents were violating his civil rights.

Here is a nominee who believes that good arguments exist for allowing young children to exercise the right to vote.

Mr. President, Mrs. Wald's views, in my opinion, are radical and they are on record. She laid them out for all to see in clear, careful language. The article I alluded to and from which I quoted is not science fiction. It was not comedy written for the National Lampoon. Rather, this is a serious article written for a respected journal published by the American Bar Association.

Mr. President, I am convinced that the American people do not support these proposals of Mrs. Wald. The American people would be angry that she be nominated for a Federal judgeship, especially one of this importance.

Mr. President, the Judiciary Committee performed well. It examined Mrs. Wald's views and the views I have mentioned in considerable detail.

I must admit Mrs. Wald handled herself well. She covered herself well. There is no doubt Mrs. Wald is a clever lawyer. She knows how to deflect a question, she knows how to confuse the issue.

Mr. President, I would like to quote some material from the transcript of the confirmation hearing of the Committee on the Judiciary. Mrs. Wald was asked a question by Senator Baucus:

> Senator Baucus. Mrs. Wald, I have one basic question.
>
> If you are confirmed and appointed to the U.S. Court of Appeals, will you continue to advocate or advance your views regarding children's rights?
>
> Mrs. Wald. No. I do not intend to advocate or advance any views on any subject once—if I am confirmed on the bench, I do not think that is the role of a judge at all. I think otherwise the situation is impossible, Senator, because whether you are for children's rights or against them, if you saw the court as a forum with which to advance it, the American people would be cheated.

I could not agree more with those words, Mr. President.

I quote her further:

> I think you leave your advocate's role behind you. I do not see the court as the next step in advancing any kind of philosophy. I see it as a completely different kind of role whereby you are presented with grievances. You are presented with evidence, and it is your job to decide on the record which of the two sides has made the best case, or whether it is legal or constitutional right and the remedy. And I consider my advocacy days to be over.

Well, I imagine the odds are on the side of Mrs. Wald. She will be confirmed. But she felt motivated for some reason to state very clearly, "I consider my advocacy days to be over." She certainly did not deny that she has been a vociferous advocate in the past. So the question is, will Mrs. Wald be able to keep that promise to us?

I doubt, Mr. President, that we could find one Federal judge in the entire country who would come before us and say otherwise. What Federal judge would come before the Judiciary Committee and say, "I have been using my seat on the bench to advocate certain social policies." Or what nominee would come before the Judiciary Committee and say, "The Senate had better not confirm me because when I get onto the bench I am going to continue that kind of advocacy and activism in which I have been participating all my life"?

You will not find one judge or one nominee to come forward and say that. So, while I do not question the good intentions of this nominee, I think it is obvious that the Senate must decide, in examining the background of nominees, whether the nominee will be able to resist the temptation to use the power of the bench to change society. It is for us to decide. We cannot make up our minds simply on the basis of a statement of good intentions by the nominee because every nominee would make that same statement.

Every member of the bench and every public servant has the best of intentions, but that is not good enough.

I would like to examine further some of Mrs. Wald's statements in this article to which I have earlier alluded, "Making Sense Out of the Rights of Youth." On page 17 of the article:

> The most commonly cited argument for treating children differently from adults is that they are not sufficiently mature in intellect, emotion or experience to make rational judgments about what is in their best interests. Certainly this is true in the earliest years. But even there, it is now argued, the right of a very young child to be consulted and informed about critical decisions in his life, and his right to be represented in those decisions, can no longer be summarily dismissed. Thus, in situations where the interests of the child (no matter his age) and the parents are apt to conflict or a serious adverse impact on the child is likely to be the consequence of unilateral parental actions, it is now argued that the child's interests deserve representation by an independent advocate before a neutral decision-maker.

Now, Mrs. Wald does not, strictly speaking, advocate that herself, but she says, "Such proposals are reasonable." She does not reject them. She says they are reasonable.

On page 24, quoting Mrs. Wald:

> But for the present I do not think we have any evidence that the viability of the family will be jeopardized by more freedom for the children or, indeed, that the continuation of its present rigid power structure is essential to preservation at all.

Let me emphasize her reference to the "rigid power structure," the authority of parents over their children. "Rigid power structure."

On page 25:

> In sum, contemporary concepts of fairness strongly support adoption of a general presumption that children should be allowed the same rights and freedoms as adults unless there is a significant risk of irreversible damage to them—physical, psychological, emotional—from exercising such rights or a general consensus backed by empirical data that at particular ages children do not have sufficiently developed skills to exercise those rights.

And in a footnote Mrs. Wald proposes the following:

> Communities should have runaway shelters, staffed with counselors and medical and legal help for children under 16, to which they can come voluntarily or be brought by the police, if they do not want to go back home. Parents would have no right to forcibly take their children away from such homes.

Mr. President, I think there is hardly a grown-up who at some time in his childhood did not run away, or at least seriously contemplate doing that. Mrs. Wald would have every community operate a shelter to which children could run from their parents. She is so worried about the authoritarianism of parents that she said parents should have no right to forcibly take their children away from such a home.

Mr. President, children belong to their parents, not to the State. It is because many of our public servants are losing sight of this basic concept that the family as an institution is being undermined and parental authority is being undermined.

I alluded earlier, Mr. President, to what seems to me a lament on the part of the nominee that legislatures and courts have not seen fit to guarantee what she calls the natural rights of children. I read the paragraph in which that lament occurs, on page 26:

> Perhaps this discussion seems over-concentrated on legal rights and legal mechanisms for enforcing the rights of children. It is not because I am unaware of such fundamentals as natural rights and moral rights; the right of the child to basic needs and human gratifications: love, security, guidance, adequate nutrition, shelter, recreation, education, medical care. We know all too well that thwarting those needs in childhood produces distorted, unhappy and often dangerous adults.[42] Yet, so far, neither our legislatures nor our courts have seen fit to guarantee *those* rights—insofar as they have power to do so.

It is not reasonable to anyone that if this nominee is confirmed and takes her place on the bench, she will seek to rectify that situation which she lamented? Was she not advocating that all judges work to guarantee what she called the natural rights of children? I think it is quite reasonable to suppose that.

I would now like to quote from another article authored by the nominee, called "All Our Children." On page 184:

> Whatever the cause, in recent years the legal trend has been decidedly in the direction of granting children greater legal rights and responsibilities both by statute and by court decisions.

She says.

> It seems likely that the balance of legal power among parents, the State and children will continue to shift.

Well, it will if we confirm this kind of nominee.

Page 196, same publication:

> And at some age short of legal majority when he or she is capable of living independently or with limited supervision in a hostel-like setting, a child may well be entitled to a ruling of incompatibility or emancipation from his or her parents.

On page 200:

> Without attempting to design a legal health-care code for minors, we believe that revision of existing laws of access are necessary.

Here are Mrs. Wald's suggestions:

> The age at which minors can seek medical treatment on their own, without subsequent notification of their parents, should be lowered from eighteen or twenty-one. The exact age will have to be debated, but children of any age caught in desperate situations because of drugs or pregnancy should be able to consult a doctor without fear of exposure.

Fear of exposure to whom? To their own parents.

In parentheses, she adds:

(Obviously, a good doctor would try to persuade children to involve their families.)

Well, I should hope so.

But she continues:

In general, the doctor's presumption should be in favor of confidentiality.

To heck with parents: What do they know? Or what do they care?

On page 202:

While we are not in a position here to make specific recommendations on the liberalization of such laws, we do suggest that our laws must catch up with our sociology about what kind of institution the American family has become.

For my own part, Mr. President, I would say that I think most Americans feel that the family is the institution it always had been, and that the laws need not catch up to any change, because no basic change has taken place. And let us hope it does not.

On page 211:

In a simpler world, parents were the only advocates children needed. This is no longer true. In a complex society where invisible decision makers affect children's lives profoundly, both children and parents need canny advocates. What if all parents made relatively small financial contributions to such a cause? It would provide a politically insulated fund for lawyers, ombudsmen, agency monitors, and even attempts at legislative reform. Alternatively, parental pressure for public funds must be exerted to provide these legal services for children, who cannot pay for it themselves.

Well, that is the old liberal litany, Mr. President, that Americans are all children and need someone to look out for them. That is why we are in trouble today, because big brother is looking out for us.

Mr. President, I ask unanimous consent that the article "All Our Children" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

(See exhibit 2.)

Mr. HUMPHREY. Mrs. Wald has some interesting views on drugs and children's involvement with drugs, and I will now refer to an article entitled "Dealing with Drug Abuse," a report to the Ford Foundation. This report is a report of a drug abuse survey project, cochaired by Patricia M. Wald.

Speaking of drug treatment programs in schools, Mrs. Wald has this to say:

Few schools have close working alliance with treatment resources to which they can refer students. Parental permission for such treatment poses another legal obstacle to such desirable arrangements.

There it is again, another lament that parental permission gets in the way:

At least in the immediate future most schools would probably be unable to alter their basic authoritarian structure to the kind of openminded approach to drug education that will help early experimenters or drug-prone students.

What kind of openminded approach is Mrs. Wald referring to? Is she referring to something espoused by the National Coordinating Council on Drug Abuse, Education and Information? Their approach is that drug information should teach children to make rational decisions based on reliable information about which drugs they will use and how much they will use them.

In other words, Mr. President, it seems to me, if I am reading this correctly, the nominee is advocating an approach that would not aim at suppression. It would not aim at advising children to stay away from drugs, to stay within the law and good sense. It would not take that approach at all, but would take the approach of teaching children to make rational decisions based on reliable information about which drugs they will use and how much they will use them.

The whole point of giving parents authority over children is that they do not have enough experience in life to make rational choices.

On page 36, Mrs. Wald makes the statement speaking as chairman:

We believe that the individual and social harm caused by imposing criminal sanctions on drug users far outstrips the benefits of this approach.

On page 37:

We feel that, as a first step in bringing the problem back into perspective, criminal penalties for possession of illegal drugs for personal use only should be abandoned in many jurisdictions.

On page 55:

Finally, many improvements in the present law enforcement approach toward drug abuse may have to come from the courts. There will be increasing attacks upon the irrationality of present drug laws, centering upon the right to privacy involved in the personal use of drugs, and in the extension of the ruling in Robinson against California that a person may not be criminally punished for addiction to include possession, use, and presence in illegal establishments or association with other addicts. The question of the right to treatment for an addict may be expected to be raised not only in civil commitment programs, where treatment is minimal, but also in communities without methadone programs, or where methadone dispensation is severely restricted by law, or even ultimately where doctors are not allowed to prescribe for addict patients.

On page 56:

In the juvenile field, a long standing and perhaps legally vulnerable impediment to treatment is the legal requirement for parental permission.

I hope that parental permission always remains an impediment.

At page 130:

Underpinnings for a rational drug education approach do not exist at this time Given this situation, the two major priorities in this field are: (1) well designed and tested evaluation techniques to measure the attainment of specific goals in any school education program; (2) a formal compilation of what evaluation data exists, which programs have been evaluated, what criteria have been used, and what results have been obtained. In the absence of this kind of information we can only turn to the opinions of recognized "experts"——

And she places the word "experts" in quotes.

without any real assurance, however, that they are right. Yet, there appears to be a consensus (at least for the present) on the following points.

There must be open and free dialog between students and teacher or discussion leader in an atmosphere of tolerance for all points of view, free of moralizing and shock reactions.

In other words, we ought not to have in our public schools moralizing on the use of drugs. That should be outlawed.

Use should be made of the comments and experiences of youngsters who have actually used drugs, with confidentiality assured.

Can you see the classroom, Mr. President, under this proposal?

Suzie, will you tell us about your drug experiences? Don't worry, it is going to be confidential. We think this will be beneficial to your fellow students if you tell us about your drug experiences.

I am almost finished, Mr. President.

Mr. President, in another subject area on which Mrs. Wald has spoken out, a great many Americans, including myself, are concerned about what we see as attacks on our second amendment rights to keep and bear arms. I am concerned about it because to my way of thinking the last barrier between a free people and a tyrant is the ability to make revolution. When you take away guns as they have in Eastern Europe, you take away the ability to make revolution and people become enslaved.

Mrs. Wald's views on this subject, I suppose it is fair to say, can be determined by her writings in a chapter entitled "The Community's Role in Law Enforcement," which is part of the Task Force Report on the Police, the President's Commission on Law and the Administration of Justice, published in 1967. Mrs. Wald said:

Finally, prevention of crime and apprehension of criminals would be enlarged if each firearm were registered with a governmental jurisdiction. A record of ownership would aid the police in tracing and locating those who have committed or threatened to commit violent crime. Law enforcement officers should know where each gun is and who owns it.

Would that not make it easier for them?

Mr. President, some may criticize me for examining the written views of the nominee. Some may say it is enough for a nominee to be well-qualified from a professional point of view, and apparently she is. But I think it is important for the American people to know what is going on in their Government and to see how their institutions and their values are being subverted. Only with such knowledge can Americans do something about this trend.

Mr. President, I have said that the entire Federal bureaucracy is chock full of well-meaning people. I have not met one bureaucrat yet, I have not met one Senator, one Congressman, one member of the executive department, one judge, who does not have the very best intentions. And yet if things continue the way they are, we are going to lose our country as we know it today. It has happened in the past to other republics. There is no guarantee that we have any special place in the sun. There are plenty of historical precedents to suggest and confirm otherwise.

So it is not good enough simply to be well-intentioned. The road to hell is paved with good intentions. So is the road to socialism, to national decline, to disaster. I think it is because the hour is so late for our country, because we have come to such dire consequences through the kind of government we have had for the last four decades, that I think it is important to carefully consider the kind of nominees we confirm.

I believe sincerely that most Americans would object, not just to this nominee, but to this type of nominee; most Americans would object to the concentrated, ongoing attempt of this administration to pack the courts with liberal judicial activists. This nominee no doubt has good intentions, but she has been a liberal advocate all her life. She knows it; she felt constrained to say so in the Judiciary Committee. She felt constrained to say that her advocacy days are over.

I am afraid, Mr. President, I cannot accept that. I cannot believe that a person who has been, all her adult life, in the thick of various programs of liberal activism and advocacy can now change her stripes overnight simply by donning the black robe of the judiciary.

I thank the Chair.

(Mr. PRYOR assumed the chair.)

Exhibit 1

Making Sense Out of the Rights of Youth*

(By Patricia M. Wald†)

Of late, we hear more and more about children's rights and child advocacy. Much of the dialogue appears, at first glance, far-fetched, wildly impractical, or simply woolyheaded. Yet none of us who have lived through the past decade dares to dismiss out of hand the righteous demands of any group—black, white, Indian, Mexican-American, Italian, Polish, homosexual, mentally or physically handicapped, prisoner or patient, woman—or child—that perceives itself the victim of systematic, historic discrimination in our democracy. Our job—as thinkers and policymakers in many disciplines—is to try honestly and realistically to assess the status of children (and youth) in our society today; how they arrived there, whether and how much that status needs revision, and why; and finally, how to accomplish critical change.

Views vary enormously as to whether America is too much child-oriented, or too little; whether we are child lovers or child haters. Uniform, consistent, intelligible national policies towards children do not exist. Food programs, welfare benefits, children's allowances, day care, maternal and child medical care, school financing fluctuate wildly from jurisdiction to jurisdiction. The world's leader in material affluence, we lag scandalously behind far less privileged nations in enlightened programs for our young.[1] We spend, for example, much more of our tax dollars on the aged, despite the fact that more than 40 percent of Americans living at the poverty level are children; only 15 percent are over 65.[2] At the same time, our culture is preoccupied (voyeur-like) with the glamour of youth.

The status of children in our present-day society is undergoing forced change in many specific areas; but it still owes its lineage to our Anglo-Saxon and colonial ancestors. Children have always been subject to the absolute control of their parents, except in those areas where the state superimposes its rule on the parents, e.g., compulsory schooling, vaccination, child labor laws. The state also stands in readiness to remove the child from the home and become its "surrogate parent" if the real parents abuse, neglect or cannot control the child, or to decide between them when they clash over the child's custody.[3] Historically, there has been an unrelenting legal tug of war between parents and the state, often with the Supreme Court as final arbiter. That Court, for instance, has had to decide that:

The State cannot prevent a parent from sending his child to an accredited private school;[4]

The State cannot make a child salute the flag if it violates the family's religious convictions or prevent him from wearing a black armband to protest the war in accord with his parents' beliefs;[5]

The State can prevent a parent from allowing his child to sell religious tracts on a street corner;[6]

The State cannot insist an Amish parent keep a child in secondary school if the parent perceives this as an affront to his religion.[7]

In this continuing struggle, the child has always been the pawn. Neither philosophically nor legally has he been recognized as having a right to do anything about the vicissitudes of his life, but only to await the action of others on his behalf or in his best interests. He is in a state of powerlessness, and, for that reason, the institution of childhood has been seriously compared to the institution of slavery. It has been called the "last legal relic of feudalism."[8] In colonial Massachusetts, a 1654 law provided the death penalty for stubborn children and rebellious servants.[9]

The child's subjugated status was rooted in the same benevolent depotism that kings, husbands, and slave masters claimed as their moral right. According to Blackstone, the architect of English law, parents had a legal duty to provide maintenance, protection and education for their children in return for obedience.[10] The social philosophers of the 19th century—Hobbes, Locke, Mills—never considered children parties to the social contract; they owed absolute obedience to their sovereign parents whose duty was to educate them to the degree of competence necessary to participate as adults in the social contract or the utilitarian society. For the child, said Hobbes, "[l]ike the imbecile, the crazed and the beasts . . . there is no law."[11] Even the ultimate libertarian, John Mills, complacently announced that "[t]he existing generation is master of . . . [the] entire circumstances of the generation to come."[12] To economic determinists, on the other hand, the inferior status of children was an essential counterpoint to parental control if parents were to support and protect children—as society wished them to do—and to the value of the child's labor as a contribution to the family's economic survival.[13]

Even with the advent of the "child savers,"[14] and compulsory education, child labor laws, child welfare programs, and juvenile courts in the post-Industrial Revolution's revulsion to child exploitation, there was no real challenge to the underlying premise that children had no rights to choose or do for themselves. The teacher, the doctor, the reformatory superintendent, the juvenile judge become a new kind of master, acting *in loco parentis.*[15] The courts and legislators recognized only one exception—the "emancipated" (note the term) minor; a youth who, usually with the consent of his family, has taken up an independent life, by marriage, military service, or economic survival outside the family. And generally, emancipation has not been recognized at law until the latter stages of adolescence.[16] Practically, what does this dependent status mean in a child's life? Where does the churning about children's rights start?[17] A child, of course, has no say about when or where or to whom he will be born, indeed, if he will be born at all.[18] He cannot control whether he will be a "wanted" child.[19] At birth, his parents can place him for adoption; if he is handicapped, they can institutionalize him; in severe cases, they (and the doctors) can covertly agree to let him die. If his family neglects or abuses him, he may be able to complain to another adult, but he cannot take legal action by himself or even leave home legitimately. He goes to the school his parents (or the State) pick—even if he must leave home and neighborhood. Sick or troubled, he still cannot seek medical or psychiatric treatment without parental consent. If he works, he must hand over his wages.

There are severe limits on what he can buy or invest without permission; he has no credit rating. His parents can select his religion, his friends, his clothing. They can regulate when he stays in and when he goes out. If his parents abandon, abuse or neglect him, he will be delivered to foster parents or to an institutional supervisor with quasi-parental authority. In school, the teacher and principal become the parent figures. In the hospital or doctor's office, no one asks his consent to serious surgery, mind-altering drugs, painful medical procedures, even to becoming a subject in outright medical experimentation with long-term risks to health. He cannot control access to his room, his school locker, his school or medical records; despite their potential for foreclosing options in his later life;[20] often he has no access to those records himself. John Kennedy, in 1963, asked whether any white would truly want to be imprisoned in a black skin. We might ask whether any of us would want to be consigned to the trap of childhood.

Can we cite any legitime justification for continuing the non-person status of children? While there are skirmishes around the borders of minority—18-year-olds can now vote; college students can sometimes contract for educational loans, auto repairs, and insurance; adolescents in some places can seek VD and drug treatment on their own; children over 12 are sometimes consulted in custody fights;[21] youths accused of delinquency get appointed-counsel to defend them, and some (but not all) of the Constitution's criminal due process rights[22]—is it not time for a frontal assault on the subordinate status of childhood itself?

The most commonly cited argument for treating children differently from adults is that they are not sufficiently mature in intellect, emotion or experience to make rational judgments about what is in their best interests. Certainly this is true in the earliest years. But even there, it is now argued, the right of a very young child to be consulted and informed about critical decisions in his life, and his right to be represented in those decisions, can no longer be summarily dismissed. Thus, in situations where the interests of the child (no matter his age) and the parents are apt to conflict or a serious adverse impact on the child is likely to be the consequence of unilateral parental actions, it is now argued that the child's interests deserve representation by an independent advocate before a neutral decision-maker. This could mean, for example, that before a child can be institutionalized as mentally ill, retarded or physically handicapped, a court must approve the commitment after having appointed someone to speak for the child.[23] Courts have already intervened in the medical area where parents, for religious reasons, have refused to consent to life-saving blood transfusions for their children.[24]

Such intervention has generally depended upon the seriousness of the threat to the child if the parents' decision turned out wrong, that is, if it might result in, for example, institutionalization, serious health impairment, or even death. But with respect to an older child, there is a growing body of human development data which disputes the idea that rationality and judgment vest only in the late teens or early twenties. Without attempting to synthesize or refine that material, there appears solid evidence that children attain stabilized IQs, their sense of morality is well-developed, their capacity to resist peer pressure and think for themselves is realized at a much younger age.[25]

Footnotes at end of article.

There is also evidence that today's children mature physically, and become better informed earlier, than older generations.[26] It is obvious that these talents develop at different rates for different children in different settings, but insofar as our social or legal policies must generalize, presumptions of decision-making capacity ought to conform to present knowledge, not to the ignorance or prejudices of past centuries.

Let me suggest several areas where current law and practice deserve revision:

1. Age should no longer be a bar to retaining and using one's own money, making valid purchases and contracts. This, incidentally, does not and should not mean that children are presumed to be no less vulnerable or gullible than adults, and that adults therefore have no greater obligation to them. To the contrary, those who deal with children—manufacturers, merchants, advertisers, etc.—ought to be held to a higher standard of care to prevent fraud, duress, or exploitation based on the age of their clients.

2. A youth should be able to exercise increasing control over his choice of school and work or, at the very least, participate fully in decisions affecting school and work (assuming no additional financial burdens are imposed on his parents). Dropping out of school altogether should, however, probably be subject to a requirement that parents or other authority ratify the decision on the rationale that a democratic society has a proper stake in insuring its citizens are educated enough to function economically and politically.

3. An adolescent youth ought also to be able to seek medical or psychiatric care on his own; again, professionals who deal with him should be held to a higher standard of care.[27] This option, of course, will become economically feasible only when national health insurance or alternative health insurance programs make provision for vesting rights to engage such services in youth rather than in their parents. Equally, a youth ought to be able to refuse or resist medical or psychiatric care: no more "voluntary" commitments by parents of their children to mental hospitals; no more "voluntary" sterilizations, abortions, psychosurgery or other risky surgical or experimental procedures; even tranquilizing drug regimens should be subject to review if the youth objects.[28]

There plainly can be situations where the youth's needs for medical care are so great as to cast doubts on the rationality of his refusal or simply to justify overriding his refusal; there, a court may have to intervene, just as in the instance where parents for their own reasons have intentionally denied medical care to their children. The problem of parent notification when a child seeks such treatment is troublesome, not susceptible to any neat or facile solution. There are some instances—contraception, abortion, drugs, VD, psychiatric help—when disclosure may spell disastrous consequences for the child within his family and thus deter him from ever seeking help. Incest, a psychotic parent, or even a fanatically moralistic one, are cases in point. Yet, a parent's inherent right to know when something is seriously wrong with his child is also compelling, and acts as a safety valve on quackery or medical incompetence. A reasonable procedure would be to seek the child's consent to advise the parent; if it is not forthcoming, the doctor may have to seek review by a panel of his peers to validate nondisclosure if treatment continues beyond a finite time. That review should give preeminent weight to the predicted consequences to the child of disclosure. There should not be, however, disclosure over the child's objections except in the same emergency circumstances that would ethically justify violating an adult's confidence.

4. Similarly, a youth ought to be able to seek legal advice or help to redress his grievances against family, school or others who adversely affect him.[29] This, to me, is what child advocacy ought to be about, rather than merely to interpose another layer of adult supervision, bureaucratically deciding where the child's best interests lie. A child or youth should have access to free or paid legal services on a confidential basis to discuss his personal grievances: Is he being abused at home or in an institution? Cheated out of his due by an employer? Illegally suspended from school or discriminated against in some fashion? Experience with juvenile counsel in delinquency and PINS cases shows children and youth usually do act as responsible clients and that parents often cannot be counted on to protect their legal rights in tri-partite conflict situations with schools and other child service agencies.

5. Finally, there is a whole range of civil rights that youths—at least from 12 up—ought presumably to enjoy. These include, obviously, free speech, and more troublesomely, freedom of association. There is no question, however, that some of these basic civil rights may have to be redefined, in some instances even curtailed, as applied to youths. The Supreme Court—rightly or wrongly— has already said that the rules against selling allegedly-obscene materials to the under-17 market can be broader and more inclusive than the standard for adults.[30] Those of us fierce civil libertarians with children under 17 find this a troubling dilemma.

Does freedom of association include keeping company which parents forbid? Going places they outlaw? Does freedom to travel mean taking unauthorized trips, playing hooky, hitting the road, or staying out after hours? Does freedom of religion allow rejection of the parents' faith?

No one envisions allowing children to run to court for an injunction whenever their parents lay down unacceptable rules of conduct. On the other hand, a parallel argument can be made that society should not, through its juvenile courts, lend its authority to enforcing arbitrary parental commands in areas normally falling within these civil rights domains. No court should randomly threaten a teenager with incarceration if he doesn't obey his parents, stay away from bad companions, go to church, or get home by 10:00. The law should, as a norm, keep hands-off the give and take of rules and rights in the home. Our PINS, incorrigibility, runaway laws attest to the failure of state intervention in the exercise by parents of their so-called natural authority over rebellious children.[31]

There may, of course, come a time when the conflict is so irreconcilable that someone has to intervene; if the parents on a self-help theory use force against the child, bar him from the house, attempt to frustrate his efforts to live independently. In such cases, the child himself ought to be able to use the juvenile courts' facilities for resolution or enforcement of his rights. The forthcoming draft of one model juvenile court act may contain a jurisdictional provision to allow children to go to court to enforce their rights.[32] More basically, we may need more flexible emancipation proclamation procedures for teenage children to establish their lawful right to move elsewhere—temporarily or permanently—without becoming wards of the court or being labelled PINS. A child could then turn to the courts as a counterweight against arbitrary parental authority.

A final word on civil rights. Most liberation groups have concentrated on the franchise as their top priority. In the case of youth, the 26th Amendment setting 18 as the voting age is not—or should not be—the conclusion of their effort. The Amendment permits a State to establish a lower voting age,[33] and I believe there are reasonable arguments advanced for doing so—even to the radical extent of allowing youths 12 or 13 and above to vote. Watching their remarkable, sometimes awesome, political sophistication (sometimes equal cynicism), this may not be so far-out a suggestion as it seems. Many adolescents are astonishingly well-versed in politics, with a clear political identity or ideology—often at odds with their parents. Many, of course, are not, and some would delay the franchise at least until high school history and civics courses have been completed or apply substantive knowledge tests at an earlier age.[34] Still, we have little, if any, evidence to show that the political preferences of teenagers are any more irrational than those of adults. If the debates in your home track with ours, you may have quite the opposite feeling. The stake of young people in their local and national leaders and leadership is enormous; and the automatic disenfranchisement of young citizens, without empirical justificaton, is a blatant anomaly in our democracy.

We have been talking up to now about denial of rights to children based on the old nostrum that they are incapable of exercising them rationally or with maturity; a test, incidentally, we wouldn't dare apply to adults. There may, however, be other valid considerations that would deter us from extending certain rights to youth. The one that comes most quickly to mind is the fear that pushing children's autonomy will so undermine parents' authority and erode family cohesiveness that in the end the child who still needs the intimacy, emotional warmth, physical protection and nurturing of the family unit will lose far more than he will gain.[35] Few people would challenge, in the abstract, the child's "right to parental love and a healthy home environment," a right which unfortunately no court or legislature can deliver, but which, in its finest expression, is irreplaceable. Will a policy of bolstering equality of all family members rather than reaffirming the autocratic authority of parents strengthen or weaken the family fabric? What effect has the onrushing tide of women's rights had on marriage and the family? Obviously, we don't know; we can cite evidence to support almost any viewpoint. Militant minorities are inured to warnings that if they push too hard, they will suffer a backlash of hostility from the rest of society, even their putative, radically chic supporters. In the case of children, they would certainly be especially vulnerable to any such backlash.

Yet, a fundamental reason why children's rights has emerged as a serious topic at all is the erosion in confidence in the family reliability to meet all the needs of the child. Our technological society has isolated the nuclear family and subordinated its welfare to the demands of great economic entities for mobile labor; others point to the escalation of child abuse and to the incidence of mental illness, alcoholism, and suicide among both parents and children. Intact families whose members love and respect each other would not be likely to disintegrate if there were to be a different allocation of rights and privileges within the family. I would wager that most strong family units already allow their children the freedom we are talking about. It is the borderline, shaky or unstable family structures that might split open when the lines of authority become more blurred. These are also the high risk families in which abuse and exploitation of children are most likely to occur, and where children most need an affirmation of their basic rights.[36] Subconsciously, we may worry that parents will say "why should I feed, house and educate you if you won't do what I say; if, in short, I can't control you?" Indeed, potential parents who feel like that may

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Footnotes at end of article.

simply avoid the confrontation by not having children. But for the present I do not think we have any evidence that the viability of the family will be jeopardized by more freedom for the children or, indeed, that the continuation of its present rigid power structure is essential to preservation at all.

One of the challenging tasks for family counselors, social workers and other professionals who work with families would be to develop new and more equal relationships inside the family without resort to outside agencies, like the police or courts, to enforce parental authority. The rights and responsibilities of men and women in marriage are being rethought and redefined, sometimes painfully, but often constructively, outside courts right now. Why not families as well?

A third justification traditionally advanced for keeping parental and surrogate parental authority over children intact is to protect the child from his own excesses and exploitation by unconscionable adults. At first glance this may seem merely a variation on doubts about the child's rational capability, but actually there is something more involved. A positive goal of any children's rights movement should be to contribute to the development of healthy, independent, responsible adults. Increased opportunities to learn from experience, to experiment, to succeed and fail should enhance the development of a young person's judgment-making ability.[37] Yet, even rational, enlightened adults sometimes make tragic errors of judgment whose effects they must suffer the rest of their lives. Should we not want to spare young people from making mistakes with irreversible or profoundly scarring consequences? On such grounds, society can and probably should set minimum ages for exercise of a youth's right to make certain kinds of decisions for themselves, i.e., to marry, to use drugs with proven adverse effects upon health, to be sterilized, to wander the streets or highways alone at night, to run away and live without adult supervision of any kind.

There are—I should note—apostles of the absolute freedom for children of all ages to make such decisions for themselves. John Holt appears to be one. He has apparently made a basic decision that the damage to a child of being tyrannized by "professional helpers" and treated as a "mixture of expensive nuisance, slave and super-pet"[38] outweighs the conjured horrors we can so easily cite: homosexual assaults on the runaway boys in Texas, rapes and murders of hitchhiking teenagers, sexual exploitation of girls seeking shelter—or their own identity—in strange cities.

Many of us would, however, retain some of society's power to protect children from such disasters even though we recognize its limited coercive nature. But we do need a general review of our wide-ranging so-called protective laws and customs to insure that the dangers of freedom are real and not a phantom device for imposing our own will on younger people. Often children's welfare can be protected not by forbidding them certain choices but rather by insisting that those who present them the choice observe a special level of consideration and care for their youth. Thus allowing children to work before 16 should not free employers to use them in jobs that overtax their strength or expose them to undue hazards for their age. Allowing them to enter into enforceable contracts should not preclude the application of more stringent standards of disclosure and truthfulness for children's contracts than for adults.' Protecting them from the terrors of the night and city streets does not mean shutting them up like prisoners in detention homes where they face equal dangers of corruption.[39] And so on.

In sum, contemporary concepts of fairness strongly support adoption of a general presumption that children should be allowed the same rights and freedoms as adults unless there is a significant risk of irreversible damage to them—physical, psychological, emotional—from exercising such rights or a general consensus backed by empirical data that at particular ages children do not have sufficiently developed skills to exercise those rights.

This stance seems consistent with the views of the major social philosopher, John Rawls, who posits in his A Theory of Justice a social contract in which everyone decides on the allocation of rights and duties under a "veil of ignorance," not knowing what societal role he will occupy in the new society—man, woman or child. I believe that if anyone were in danger of being assigned to childhood, he would demand most of the rights we have been talking about.[40]

I know the job of tailoring rights to developmental stages sounds difficult and complex, and experts do not always agree on norms. Legislators will in the final analysis be left with the task of redefining ages of legal competency for many rights; they will need the experience of those who work with children, and the views of children themselves ought to be engaged in the redefinition process. The effort, however, is long overdue. Where financial or service benefits mandated by law are directed toward children, serious consideration ought to be given to having the rights of those benefits or services vest directly in the child, so that he has the economic flexibility to make his other choices real.

Perhaps this discussion seems over-concentrated on legal rights and legal mechanisms for enforcing the rights of children. It is not because I am unaware of such fundamentals as natural rights and moral rights; the right of the child to basic needs and human gratifications: love, security, guidance, adequate nutrition, shelter, recreation, education, medical care.[41] We know all too well that thwarting these needs in childhood produces distorted, unhappy and often dangerous adults.[42] Yet, so far, neither our legislatures nor our courts have seen fit to guarantee those rights—insofar as they have power to do so.

Just recently, the Supreme Court declared that there is no constitutional right to an education.[43] Hence, if these rights are ever to gain real substance, especially where poverty is the cause of their denial, they will have to be transplanted from the moral to the legal sphere by legislators. Where parental ignorance, apathy, or purposeful withholding of such rights is the root cause of their denial, the most effective solutions are extra-legal, in the realm of psychology, religion and social work, with legal removal of the child from the home only a last resort. Yet demonstration of the moral and empirical bases of these basic rights of children can be a useful device in efforts to persuade parents and surrogate parents to honor them as well as in the political efforts to codify some of them into legal obligations.

There is, however, one basic right children should have in their relationship with all adults—parents, teachers, counsellors, social workers, doctors, institutional personnel. That is the right to know, to comprehend, to challenge, and to participate meaningfully in all the decisions that vitally affect his life.[44] The implications of this right to participate can pervade a child's entire existence. It would apply from the age at which a child first talks, listens and begins to understand. A child should be consulted and participate in any custody decision—formal or informal, temporary or permanent—between his parents; between his parents and an institution, hospital or residential school; between a court or a social work agency and a foster home, group home, or institution. He should be consulted and participate, too, in family decisions about what school or summer camp to go to, decisions on medical treatment or psychiatric help, decisions to place him in any kind of special education situation; decisions to fail him in any subject; or to suspend or expel him from school; decisions to require him to go to church. This is a kind of moral due process that parallels what the law now requires of any state action significantly affecting a citizen's life, from cutting off welfare to sending him to prison or expelling him from public school.[45] It encompasses the right to be heard, to confront one's opposition, and ultimately to secure an impartial decision.

It is, of course, much more difficult to enforce such a right where the government is not involved and the relations are between private parties. We must do a great deal of thinking about the nature and operation of forums in which children can protest and challenge when they think they are treated arbitrarily by those to whose care they are committed. Why shouldn't schools have legitimate mechanisms for children to air grievances against teachers and administrators; some courts have already insisted that children's delinquency institutions have the grievance machinery for juveniles.[46] Shouldn't hospitals have similar procedures?

No doubt the complexities of applying these principles to a child's life would be enormous. There are bound to be objections that from the child's point of view it would merely confuse him, fragment his loyalties, exacerbate family tensions, provide him a tool his is incapable of handling. All of these arguments are familiar and have been used before in disputes over whether children should have juvenile court hearings before being sent to reform schools or adjudicated delinquents. Admittedly, the consequences of those decisions are more critical than what school or church a child attend, but if there is a lesson to learn from all rights-oriented operations, it is that real participation and power-sharing are fundamental and indispensable.

Let me conclude with a few specific suggestions for exploration by non-lawyers in the children's rights area. How can we make specialized information available to minors so they are able to exercise informed choices and to know and understand their rights? What must we do to erect conflict-resolution mechanisms for children in institutions such as schools, hospitals and recreation programs?[47] How can we preserve a joyous sense of participation and still enable the ability to protest fundamental deviations from fairness? Child professionals ought also to direct their attention to setting standards for dealing with young clients seeking medical, psychiatric, or legal services. When should parents be brought into the process and when not? Indeed, we must motivate the professional's willingness to listen to children at all. Finally, there ought to be more emphasis in our secondary schools on preparation for parenthood. The rights of children may find its most sympathetic audience among young adults or soon-to-be adults—not yet parents, but still young enough to remember and know what it is like to be a child.

I am sure I cannot escape without saying something about the duties of children and youth, as well as their rights. What legal and moral responsibilities can they be held to? We have mentioned some already. I think they can quite legitimately be compelled to attend school up to a point where they can pass a reasonable literacy and substantive knowledge test, regardless of age; after that, they would have the option of working or continuing their education. Society and parents can demand they be equipped with minimal skills to compete in the job market. They can be obliged to obey the same laws in the community as do adults or suffer restrictions and deprivations if

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Footnotes at end of article.

they refuse, although these may rightly deviate from adult sanctions—ranging from fines they pay themselves to reasonable limits on their freedom—but notably not including punishments that degrade or corrupt. They should be held responsible for contracts into which they enter, financial or employment, assuming that they are not exploitive or entered into out of irremediable ignorance. As long as the child lives with his parents or someone else he must be expected to obey reasonable rules of the house; if, after a minimal age, he finds such rules hopelessly arbitrary or violative of his civil rights, he can seek mediation through some outside agency; if the situation is intolerable, he can seek official aid in shifting his custody. Parents faced with an impossibly recalcitrant child should be able to seek the same kind of relief. To make such a system viable, communities will, of course, have to establish networks of non-coercive substitute homes and arrangements, temporary and permanent.[48]

I end on the realistic if somewhat depressing note that even the most radical version of children's rights on paper probably isn't going to make major changes in most children's lives. It may provide a way out for some children living in intolerable family situations without substituting a worse form of state tyranny over their lives. It should make professionals who deal with children more conscious of their responsibilities and their duties to treat children as they would adults. It can deflate some tension between the generations as power over children's lives is dispersed and more widely shared with the children. Its most convincing justification is simply that it is right.

FOOTNOTES

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[1] *See Do Americans Really Like Children*, Address by Kenneth Keniston, Connecticut Council of Child Psychiatrists, June 6, 1974. In 1970, the United States ranked 15th among 42 nations in infant mortality rates; among industrial nations, we are among a very few that do not guarantee prenatal and postnatal care to mothers and children.

[2] *See* Porter, *Who Are the Poor Today?* Washington Star News, September 22, 1974, at E–13; Keniston, *supra* note 1 (16% of all children, and 40% of all black children, under 6 live below the poverty level compared with less than 12% of the total population).

[3] *See* Berger, *The Child, The Law and The State* in Children's Rights, ch. 5 (P. Adams et al., eds. 1971); Rodham, *supra* note at 489; Holt 39; for a fascinating account of the common law origins of the state's *parens patriae* doctrine toward children *see* Cogan, *Juvenile Law, Before and After the Entrance of "Parens Patriae,"* 22 So. Car. L. Rev. 147 (1970).

[4] Pierce v. Society of Sisters, 268 U.S. 510 (1925); *cf*. Meyers v. Nebraska, 262 U.S. 390 (1925).

[5] *Compare* Bd. of Education v. Barnette, 319 U.S. 624 (1943); *with* Tinker v. Des Moines School District, 393 U.S. 503 (1969).

[6] Prince v. Massachusetts, 321 U.S. 158 (1944).

[7] Wisconsin v. Yoder, 406 U.S. 205 (1972).

[8] Foster and Freed, *supra* note † at 343.

[9] *See* Katz, Schroeder, & Silman 212.

[10] 1 W. Blackstone, Commentaries on the Laws of England 446–455 (T. Cooley ed. 1899).

[11] T. Hobbes, Leviathan 257 (Malesworth ed., vol. 3, 1839–45); Worsfold 143–146.

[12] J. S. Mill, On Liberty 48 (Peoples ed. 1903).

[13] *See Childhood and Capitalism in America*, Address by Kenneth Keniston, Instituto Mexicano Norte Americano de Relaciones Culturales, Mexico City, March 15, 1974. ("the position, the definition, and the value of children in America has largely been defined by their expected role in the productive system").

[14] *See* Platt, *supra* note †.

[15] *See* Berger, *supra* note 3 at 159.

[16] *See* Katz, Schroeder & Sidman 218, 228–29, 233.

[17] *See e.g.*, Nassivera, *Get Ready for Kids' Lib*, National Observer, September 14, 1974, at 1, 17.

[18] *See* Roe v. Wade, 410 U.S. 113 (1973) (putative mother has right to abortion in first trimester).

[19] *See* Goldstein, Freud, & Solnit, *supra* note † at 20–21 (the psychological importance of being a "wanted" child).

[20] *See, e.g.*, Shields and Churchill, *Kids in the Computer*, The Progressive, October 1974, at 37.

[21] *See* Katz, Schroeder, & Sidman 238–41.

[22] *See* In re Gault, 387 U.S. 1 (1967) (right to counsel, confrontation, due process hearing in adjudication of delinquency proceeding); In re Winship, 397 U.S. 358 (1970) (reasonable doubt standard for adjudication of delinquency); McKeiver v. Pennsylvania, 403 U.S. 528 (1971) (no right to jury trial in adjudication of delinquency proceedings).

[23] *See* Ellis, *Volunteering Children: Parental Commitment of Minors to Mental Institutions*, 62 Cal. L. Rev. 841 (1974) [hereinafter Ellis]; Bartley v. Haverford State Hospital, Civ. No. 72–2272 (E.D. Pa. filed Nov. 16, 1972); Saville v. Treadway, Civ. No. 6969 (M.D. Tenn. March 9, 1974) (hearing needed to institutionalize retarded child).

[24] *Cf*. Application of President & Directors of Georgetown Hospital, 331 I 2d 1000 (D.C. Cir.), *cert. denied*, 337 U.S. 978 (1964).

[25] *See* Kleinfeld, *supra* note †, 5 Family L.Q. at 69 n. 29 (citing Piaget and others to the effect that adult level of performance on intelligence tests is reached by age 13, resistance to group pressure by age 16; moral responsibility by age 12); Wisconsin v. Yoder, 406 U.S. 205, 243–246 and 245 n. 3 (Douglas, J. dissenting) (" . . . there is substantial agreement among child psychologists and sociologists that the moral and intellectual maturity of the 14-year-old approaches that of the adult," citing, *inter alia*, Piaget, Kohlberg, Gesell & Ilg).

[26] *See* Tanner, *Physical Growth*, in 1 P.H. Mussen, Carmichael's Manual of Child Psychology 144–147 (1970).

[27] *See, e.g.*, District of Columbia regulation, passed August 20, 1974, permitting minors of any age to consent to treatment for substance abuse, to prenatal care or abortion, and to treatment for psychological disturbance in Foster & Freed *supra* note † at 358–364; *see also* Matter of P. J., No. 72–7150 (D.C. Super. Ct., Fam. Div., February 6, 1973) (minor may obtain abortion without parental consent).

[28] *See* Ellis 855; In re Smith, 16 Md. App. 209, 295 A.2d 238 (1972) (parent can't force child to abort); Grenspan & Singer, *Hyperkinetic Children*, 43 Harv. Ed. Rev. 515, 543 (1973).

[29] Ellis 881–90 (minors generally hire their own counsel); *see also* Legal Services Corporation Act, Pub. L. 93–355 § 1007(b)(4) (July 25, 1974) (poverty lawyers can represent juveniles only with written consent of parents except in specified situations).

[30] Ginsberg v. New York, 390 U.S. 629 (1968).

[31] *See generally* President's Commission on Law Enforcement and the Administration of Justice, Task Force Report on Juvenile Delinquency and Youth Crime 25–27 (1967).

[32] The draft of the revised Standard Juvenile Court Act currently under consideration by the National Council on Crime and Delinquency contains such a provision.

[33] U.S. Const. amnd. XXVI.

[34] *See* Holt 18, 155; Kleinfeld, *supra note* †, 5 Family L.Q. at 71–81; F. Greenstein, Children and Politics 55–72 (1965).

[35] *See, e.g.* Pound, *Industrial Interests in the Domestic Relations*, 14 Mich. L. Rev. 177, 186–187 (1916).

[36] *See, e.g.*, McGrath, *Early Sorrow: Some Children of Our Time*, 8 Family L. Q. 91 (1974) (700 American children killed, 10,000 battered annually by parents); Escalana, *Intervention Programs for Children at Psychiatric Risk*, in 3 The Child in His Family: Children at Psychiatric Risk 33, 35–43 (E. Anthony & C. Koupernik eds. 1974); Holt 45–53 ("there is much evidence that the modern nuclear family is . . . the source of many people's most severe problems").

[37] *See* Konopka, *Formation of Values in the Developing Person*, 43 Am. J. Orthopsychiatry 86–96 (1973).

[38] *See* Holt 18.

[39] Communities should have runaway shelters staffed with counsellors and medical and legal help for children under 16, to which they can come voluntarily or be brought by the police, if they do not want to go back home. Parents would have no right to forcibly take their children away from such homes. At the end of a designated length of time spent in the home, the child would have to return to his parent's home or go to court for a declaration that he could live alone or for the provision of a substitute home.

[40] J. Rawls, A Theory of Justice (1972); *see* discussion of Rawls' theory as it relates to children in Worsfold 151–157.

[41] *See, e.g.*, Declaration of the Rights of the Child, G. A. Res. 1386, 14 U.N. GAOR, Annexes, Agenda Item No. 25, at 16, 17, U.N. Doc. A/4185 (1959) ("the child shall have the right to adequate nutrition, housing, recreation, and medical services").

[42] *See, e.g.*, Robins, *Antisocial Behavior Disturbances of Childhood: Prevalence, Progress and Prospects*, in 3 The Child in His Family; Children at Psychiatric Risk 447, 451 (E. Anthony & C. Koupernik eds. 1974).

[43] San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

[44] *See* Worsfold 155–157.

[45] Goldberg v. Kelly, 397 U.S. 254 (1970); Mills v. Board of Education, 348 F. Supp. 866 (D.D.C. 1972).

[46] *See, e.g.*, Morales v. Turman, 364 F. Supp. 166 (E.D. Tex. 1973).

[47] *Cf*. Statsky, *Community Courts: Decentralizing Juvenile Jurisprudence*, 3 Capital U. L. Rev. 1 (1974).

[48] For a critical discussion of our present home substitute policies and procedures, *see*

Mnookin, *Foster Care—In Whose Best Interest?*, 43 HARV. ED. REV. 599 (1973).

EXHIBIT 2

ALL OUR CHILDREN: THE AMERICAN FAMILY UNDER PRESSURE

9. PROTECTION OF CHILDREN UNDER THE LAW

It seems likely that the balance of legal power among parents, the state, and children will continue shifting, which is healthy; but we are concerned that too much if not most of the law affecting children has been hammered out on a case-by-case basis. Few if any jurisdictions have tried to take a comprehensive look at all the legal principles affecting children to see if they make sense in terms of our current knowledge, experience, and norms for families and children, and to enact an integrated, comprehensive children's code. This should be high-priority work for legislators, lawyers, parents, child advocates, people who work with children, and other interested groups in every one of our states. Some groups—notably the American Bar Association/Institute of Juvenile Justice Standards Project, on which we draw for many of the recomendations here—have made a commendable start. The start must be carried through—expanded, evaluated, refined, and adapted throughout the country.

While we hope that laws and legal rights will always have a limited role in children's lives, they are necessary for the extreme cases where family life breaks down, where schools, parents, and children are in conflict, and where the state imposes controls on or denies needed services to a child.

And at some age short of legal majority when he or she is capable of living independently or with limited supervision in a hostel-like setting, a child may well be entitled to a ruling of incompatibility or emancipation from his or her parents.

Rights of children without families

Children at highest risk are those who spend substantial parts of their childhood in institutions, without family life of any sort. In 1970, there were 255,000 children in welfare institutions, group homes, detention homes, shelters, training schools, mental hospitals, and schools for the handicapped; many of them remained permanent residents until they reached age eighteen or even longer. Unfortunately, most such institutions are as far from homelike as imaginable.

While judicial supervision is notoriously better at preventing harm than at advocating compassionate homelike environments for children without families, legal precedent nontheless is a needed weapon for assuring a minimum threshold of decent care for institutionalized children, and we support it.

Hence we recommend that a state be held as accountable for neglect and abuse of the children in its care as parents are. Indeed, the state should be held to a higher standard, for it cannot plead ignorance and lack of resources.

(1) State laws should explicitly recognize the rights of institutionalized children to the level of care and specialized services they need for healthy growth and development.

(2) These laws should also include the right of institutionalized children to be housed and cared for in small, homelike settings in a community except when they require intensive and specialized services available only in a high-quality institution, or their behavior makes them too dangerous for community living. They should never be permitted to be placed in jails or adult prisons.

(3) The civil rights of institutionalized children deserve express recognition. Although inside their homes all children are controlled to some degree as regards freedom of speech, movement, and association, state guardians must be held to a standard of reasonableness in imposing curbs on these rights.

Although these minimal legal rights can in no way compensate children raised without families, we believe that society owes them some guarantee of protection from the further deprivations they now suffer at the hands of callous state guardians.

Children's rights to make decisions about health care, school, and jobs

Courts have traditionally shied away from becoming involved in conflicts over such family decisions as the proper school, the choice of medical care, or the rules of the home. A doctrine of parental autonomy has ruled, allowing parents authority to dictate for their children matters of education, work (within statutory limits), use of money, religion, recreation, standard of living, clothing, diet, housing arrangements, and discipline.

As the child matures, however, he or she and the parents may clash on critical matters such as whether the child should stay in school or go to work. Sometimes a child wants medical or psychiatric care and the family refuses to provide it, or the family wants the child to undergo surgery or psychiatric care and the child rebels.

Formerly, only a child whom the courts declared to be "emancipated" (usually sixteen or above) could legally withstand the parents' decision. The formula for emancipation is elusive: a child can be declared wholly or partially emancipated for a specific purpose. If a girl, for instance, is declared wholly emancipated, she gains the right to live where she pleases, earn and keep her own money, and take care of her own body and soul. Since total emancipation implies a severance of parental rights and responsibilities, courts have been reluctant to find it except in cases of marriage or enlistment in the armed forces, and they usually require parental consent to the act of emancipation itself. Partial emancipation means the child has the right to make decisions of his or her own in a particular area or areas only, such as keeping or spending wages.

Judicial emanicpation, however, has proven too clumsy and inflexible a tool for introducing into certain areas of family decision making some rights of personal autonomy for the child. In the past few decades, the pace of adolescent economic and social independence has quickened, and it has become necessary for society to make some piecemeal accommodations in order to prevent parents from denying children certain privileges that society wants them to have. For instance, as a result of the escalation during the 1960's of youthful experimentation with alcohol, drugs, and sex, the vast majority of states have passed laws permitting minors (sometimes over twelve, sometimes of any age) to seek treatment on their own for venereal disease; a smaller number permit minors to seek help for alcohol or drug dependence, and to obtain birth control information or devices. In 1976, the Supreme Court ruled that a state could not make parents' approval a precondition for abortion in the first trimester, no matter what the age of the pregnant girl. A half dozen or so states now permit children above a certain age (fourteen to sixteen) to obtain other kinds of medical or psychiatric treatment of their own. Even these advances, however, leave a majority of states operating on the traditional premises that except in emergencies or for legally emancipated minors, whether and how a child receives medical care is at the parents' option.

While we are fully aware that access to good medical care is something most parents fervently want for their children and that it is most often denied children not by their parents but by society's unwillingness to provide it, there is nonetheless a need to formulate policies and sort out the conditions under which children should be able to obtain medical care themselves. The current statistics on unmarried teen-age mothers and fathers, teen-age suicides, alcoholism, and drug use leave little doubt that some families are so out of touch with their children's problems and needs that their younger members must be given access to medical care for survival. For example, teenage mothers give birth each year to more than 600,000 children who have a higher than average risk of birth defects; one in twenty teen-agers has a "drinking problem"; suicide is the second leading cause of death of youngsters fifteen to twenty-four. The issue of independent access to medical services is less critical for children up to the age of nine, but it is certainly one which lawmakers must deal with in any comprehensive code for children of all ages. And indeed there are equally compelling legal issues affecting younger children that involve parental decisions to volunteer their children for "research" or to allow them to be used in radical, experimental, or surgical procedures.

Health care is only one example of an area in which children who continue to live—and who we wish to see living—in their own families may nonetheless need recognition of rights to make critical choices for themselves. There are many more, and almost all are controversial. In general, we believe it is the job of the legislature (and sometimes the courts) to decide in which areas and at what ages the risk of parental denial of necessary services or options carries with it so severe a lasting detriment to the child's health or future that he or she must have independent access to those services or options. The areas in which such independent power of decision is legitimized by the law should be reserved to those with important consequences for the child and quantitatively for society as a whole. We believe, however, that recognition of some such preserve of children's rights can aid rather than detract from family integrity. What it does is provide an alternative to formal severence proceedings such as "emancipation" or PINS proceedings at the same time that it empowers the child, who must increasingly deal with institutions outside the family, to legally demand services and have service-provider institutions respond to his or her needs.

We do not intend here to lay down all the areas or indicate the precise ages for such decisional power. We will, however, signify a few of our tentative predilections. Without attempting to design a legal health care code for minors, we believe that revision of existing laws of access are necessary.

(1) The age at which minors can seek medical treatment on their own, without subsequent notification of their parents, should be lowered from eighteen or twenty-one. The exact age will have to be debated, but children of any age caught in desperate situations because of drugs or pregnancy should be able to consult a doctor without fear of exposure. (Obviously, a good doctor would try to persuade children to involve their families. The doctor's dilemma of when, if ever, a parent should be notified because of genuine fears for the child's health or safety is not easily soluble by any pat formula.

(2) The question of a minor's legal right to medical care has usually been academic: even if he or she had a legal right to such care, who would pay for it? A common-sense approach sugggested in the Juvenile Justice Standards Project Report on the Legal Rights of Minors is that parents should pay for those services they endorse or those administered in emergencies; minors are responsible for those they are legally authorized to obtain on their own. However, if a minor is insured under a family's public or private health insurance policy, that policy should be legally required to allow a minor who by law is authorized to consent to medical services or treatments to file claims and receive benefits,

regardless of whether the parent has consented to the treatment. And the public or private health insurer should not be allowed to inform a parent or policy holder that a minor has filed such a claim or received a benefit unless the physician or the child has done so already.

(3) Finally, a code should deal with the thorny question of when a child may refuse the medical or psychiatric treatment his parents want him to receive. What is the age at which children give truly "informed" consent? At one extreme are frightening examples of parents unilaterally "volunteering" their children for psychosurgery, behavior-modification programs with aversive stimuli, electroshock, nontherapeutic medical experimentation, sterilization, and abortion. At the other extreme we readily acknowledge the absurdity of letting a needle-shy seven year old decide he does not want a measles shot, or a debilitated but frightened youngster refuse surgery to repair a heart defect.

Nothing is more basic to a child than his bodily integrity. "Research" or "donation" surgery or experiments not for his own benefit should be barred until the child can give informed consent for himself. Extreme therapies utilizing psychosurgery, electroshock, and aversive stimuli for behavior-modification should be subject to review and approval by a professional peer review group or interdisciplinary human rights committee that is independent of the parents. And, as courts have increasingly ruled, the competent adolescent child* should be able to say no to any unusual procedures, medical or psychological.

Drawing lines is difficult in this area. An avalanche of sophisticated medical techniques, chemotherapies, and psychological behavior-modifying procedures in recent years has been followed by a disturbing number of studies raising doubts about the procedures' long-range effects on children's bodies and minds. Parents are in an uneven bargaining position with the proponents of such procedures. For this reason alone, we find merit in surrounding many severe therapies—physical and psychological—with precautions such as the necessity for independent consultations and an adolescent's right to refuse, for it is the child who will suffer if the gamble is lost.

Children and families may also come into conflict over the child's entry into the world of work or his or her departure from the world of education. Under the child labor laws, going to work generally requires parental consent for a child under age, and permission to leave school at age sixteen is similarly conditioned. In reality, most parents cannot force their wishes on a recalcitrant child.

While we are not in a position here to make specific recommendations on the liberalization of such laws, we do suggest that our laws must catch up with our sociology about what kind of institution the American family has become. Most functioning families do not need laws to govern their internal dynamics; malfunctioning families need some outer limits to protect vulnerable children from parental exploitation which falls short of abuse or neglect but which severely threatens their future functioning educationally or in the work place. A set of legal principles must begin to be fashioned around the awareness that in today's families, from puberty on, children are dealing almost as equals with adults in the outside world of health care, school, and work. At the same time, as long as the family unit can remain viable—with outside support if necessary—it must be protected from premature invasion and dissolution by state apparatus. We believe that both goals can be accommodated by selective legislative choices about adolescents', and in some few cases even younger children's, rights to challenge parental decisions.

Children's rights in school

During the past decades, the struggles of students, with and without their parents' backing, against what they deemed the outrageous restrictions or actions of insensitive school authorities has created a new era of "school law," usually referred to as students' rights. Their confrontations with school authorities, often conceived in hostility and resolved in mutual suspicion, have produced a set of precedents as yet uncertain and unstable. Yet we find some of the directions taken deserving of support. We will set out here some of the directions which school law has taken of which we approve and some of the directions in which we think it must go forward.

We believe in compulsory education, but its timing and the sanctions for failure to go to school need radical reassessment. Society should continue to be responsible for offering education up to the high school level (or for twelve years) to any child who wants it.

These are incubator ideas at best. The critical point is to elevate and expand our national concept of children's protective services. Child protection should go far beyond the traditional model of social workers looking out for neglected or poorly fed children to embrace a federal children's consumer and environmental watchdog agency that screens the practices of private industry and government alike for their effects on children and communicates an early warning to parents and others who care for children about issues they should focus on. This is a difficult task to ask of any governmental agency, and there is no doubt that such an agency could be kept honest and safe from cooption only by private child advocates on the outside. Much thought would have to be given to how the agency could stay free of conflicting loyalties to other regulatory agencies and political offices and still have access to their secrets; to what its enforcement and investigatory powers should be; and to what its responsibilities should be for communicating information to the public. We make the suggestion humbly, aware of the poor track record of most bureaucracies in protecting the consumer. But no one inside the government now seems to be doing this job even nominally or acknowledging that it is worth doing. In the long run, nuclear power, disruption of the ozone layer, chemical additives, prescription and over-the-counter drugs, and industrial pollution may well present more pressing legal problems for whole generations of children than do a relatively small number of neglectful or abusive parents.

Who will fight for children's rights?

Laws and legal rights do not enforce themselves. The history of the juvenile court, designed as a benign nonadversary forum to determine the "best interests of the child," teaches the lesson that children need their own independent and skilled advocates to state their cases if they are not to be exploited. Until the Supreme Court's 1967 Gault decision and the appearance of Legal Services offices under the Office of Economic Opportunity (supplemented in some cities by Public Defender or Legal Aid offices), the notion of children's lawyers was virtually unheard of. Nearly all of the progress made so far in establishing children's legal rights has come in the past decade, largely as a result of these storefront lawyers and a few civil rights organizations who counsel children, inform of their rights, defend them individually in court, and initiate class actions to protect them from social or institutionalized neglect or abuse.

Children's lawyers have always been scarce, and their lack of a financial base makes them an endangered species. The problem remains acute as to where enough adequately trained and decently paid lawyers will come from to operate a rational legal system that supports children's rights. Legal service lawyers are chronically overworked and underpaid. Other public-interest organizations are restricted in the amount of legislative advocacy they can do and still remain tax exempt. Few if any prepaid legal insurance plans provide for child advocates. And aside from the need for lawyers to represent children directly, there are glaring needs for truly independent ombudsmen not just in schools but in juvenile institutions and agencies of all kinds to call attention to outrages.

In a simpler world, parents were the only advocates children needed. This is no longer true. In a complex society where invisible decision makers affected children's lives profoundly, both children and parents need canny advocates. What if all parents made relatively small financial contributions to such a cause? It would provide a politically insulated fund for lawyers, ombudsmen, agency monitors, and even attempts at legislative reform. Alternatively, parental pressure for public funds must be exerted to provide these legal services for children, who cannot pay for it themselves.

Federal standards for quality and fairness should be enacted for all services, public or private. To see that they are meeting these standards, services should be subject to "quality audits" commissioned by local consumers' councils. The councils would also survey needs and coverage in their areas. Both at this local level and above, data on service needs and coverage must be radically improved, as must state plans for services.

Government does not need to provide all services directly to all families. But it does need to pay for surveys of needs, coverage, and impact, for start-up costs in many cases, for test programs, for the consumers' councils to monitor local services, and for establishing services in areas that cannot afford to set them up.

Public advocates should support proper health care for children.

We need to recognize that children's health depends as much on income, environment, and diet as it does on hospitals, nurses, and pediatricians.

We need national health insurance to guarantee that all children get health care, and we need to reorganize the system to emphasize prevention and primary care—the simplest kind of checkups and treatment.

Federal and state legislation should create a network of community health agencies (CHAs), built on existing public health departments or the recently created state Health Service Agencies, and dominated by laymen. CHAs should be given the authority to coordinate both private and public health services, preventing overlaps, controlling costs, maintaining consistent records, and holding service providers to account for what they do.

We need better public data on health-care providers, so parents can select care more thoughtfully and so that monitoring groups can keep services up to the mark. Education for parents and children should be increased so they can interpret their own medical records and learn to perform minor health procedures such as taking throat cultures and doing ear exams. Communities should have twenty-four-hour telephone services to answer medical questions, and health professionals should be trained to increase their collaboration with parents.

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*A child incompetent for reasons other than his or her age should have a special nonfamily guardian for this purpose only, appointed by a court to give or withhold consent.

Public advocates should support improved legal protection for children outside and inside their families.

The law should make every effort to keep families together. No child should be removed from home at either the court's request or a parent's without a clear showing that the child will be better off elsewhere and that less drastic solutions, such as therapy or special education, would not relieve the problem. Courts and social agencies must make every effort to return a child who is removed; or, when this is still impossible after over a year, speed adoption procedures in a new family.

Placement of any child in any institution should be reviewed regularly, with the burden of proof always on those who argue for maintaining the child at the institution. All institutions should ensure children reasonable civil rights as well as rights to treatment, rehabilitation, protection, and a minimum standard of care.

Children's rights to make their own decisions about health care and whether to leave school to work should be expanded.

Students' rights in relation to schools need protection. Schools should seek the return of truants instead of accepting their absence, and truants should not be referred to juvenile court. Restless older adolescents should be allowed to drop out of school for a year and come back without penalty, at least up to the age of twenty-one. School suspensions should be severely limited and permanent expulsion eliminated altogether. Students' privacy should be protected and their records should be open only to them and their families. Schools' ability to assign students to special classes or require that hyperactive children be given drugs should be restricted.

We need to develop various ways to protect children from the assaults of the technological environment, including children's compensation laws and child-impact statements.

Finally, we need to give all the support we can to lawyers, ombudsmen, agency monitors, and children's advocates, who are often pursuing at a broader level the goals we commend to all individual adults, parents or not, who care about children.

A vision of the possible

We have tried, in defining our policy objectives, to think in terms of what could actually be achieved within a decade. But we cannot and do not wish to conceal the vision of a better society that has animated our entire work.

Mr. LAXALT. Mr. President, I think, first that I woud be remiss in not commending my colleague from New Hampshire for pursuing this matter, as he has for the last several months. I think it is indicative of his strong feeling and conviction in the matter that he has done so despite the fact, as he has conceded here, on the floor, that he is not an attorney, not a member of the Committee on the Judiciary, and he is relatively new to this body.

I might say to him that the position he has taken on the floor is shared by many. Lack of attendance on the floor I do not think indicates at all a lack of support for his position. It seems that since we have gone to having Senate floor proceedings electronically transmitted to offices, it has had a dramatic effect on the attendance on the floor. I say to Senator Humphrey, "Thank you for a job well done."

Mr. HUMPHREY. I thank the Senator.

Mr. LAXALT. Mr. President, I associate myself with the remarks the Senator has made, and should like to add a few of any own.

After careful consideration and much thought, I feel unable to vote to confirm the appointment of Patricia Wald as Federal judge to the Circuit Court for the District of Columbia.

U.S. Senators are called upon to vote on many matters of great importance. Among the foremost of these actions is to confirm Presidential nominations for the Federal court.

I have appointed many during the course of my own law practice. While Governor of Nevada, I was called upon to tender numerous judicial nominations to the State legislature. As a Senator and member of the Judiciary Committee, I have voted on judicial nominations in the past. These experiences have impressed upon me their critical importance to the Federal courts.

We hear a lot of discussion on the floor—and I have heard it since I came to this body—that if an appointment comes down from the Executive, it should be almost automatic, that we in the Senate should not impose our separate judgment upon the judgment of the Executive authority.

That may be true in a majority of cases. It is true that the political process dictates that when the Democrats are in, we should have Democratic appointees, with their particular philosophy. When Republicans are in, we have Republican appointees with their particular philosophy. But I rather think that the argument falls when we talk about judiciary appointments. As the Senator indicated, we are not talking about an in-and-out situation, because history has taught us in this town that the normal appointments, even on a Cabinet level, are only of a month's duration; when we talk about the Federal bench, and an appointment of this significance, it is a lifetime situation. They are locked in here for life. When we make a mistake in these areas, I think we make a tragic mistake that is really not remediable in the ordinary sense of the ordinary appointment nominee that is brought to this body.

I do not have to point out to my colleagues on this floor, lawyers and nonlawyers alike, that the American judicial system is the lodestone of our society. We think we are terribly important on this side of the Government and I am sure the executive branch people think they are equally important. But it has been my opinion for a long time, particularly as evidenced by what happened in Watergate, that the judicial system is vital to the efficacy of the system we have in this country. Why? Because it acts as arbiter between citizens when disputes arise. It protects citizens from trespass whether from other individuals, from corporations or from the Government itself. It serves as final protector of individual liberty.

There are many instances here. Whatever we want to do on a legislative level, we cannot get the job done. And certainly, the executive cannot get the job done. So ordinary individuals in this country, when they finally get down to the gut question of whether or not there has been a deprivation of individual liberty, must necessarily look to the courts.

The courts are instructed to enforce the laws made by Congress. They act as ultimate arbiter of the law between the separate and independent branches of government.

It seems to me that the first criterion any member of the judicial system must satisfy is personal integrity.

Obviously, if that vital element is lacking, there is a problem. We could come down on this one point alone and I think almost any nomination submitted to us would fall.

The second standard is legislative competence. Mrs. Wald has an excellent reputation for integrity. She has a marvelous record of legal skill and achievement. I do not think any of us disputes that. Certainly the Senator from New Hampshire does not dispute that. That is not our problem.

Even though she has satisfied both of the two criteria I have mentioned, a third standard needs to be satisfied.

I rather imagine that third standard may be more important than the other two. That is this: Will some person's previous, as in this case, commitment impair a future qualification; that is, to exercise sound, impartial judicial responsibilities. It is due to my serious legislative responsibilities on these points that I feel compelled to vote against the confirmation of Patricia Wald for the Federal bench.

In this conclusion and in this analysis, I share the concerns of Prof. Raoul Berger who, in his excellent book "Government by Judiciary" (1977), outlines the history of how judicial review has become a power through which the court too often participates actively in policymaking.

That is no business of the courts, on any level, including the Supreme Court across the street. They have absolutely no business in policy.

Why? Because policymakers should be responsible to the people. The people in the judicial system are not directly responsible through the elective process, nor should they be, ordinarily.

Too often, judicial decisions reflect individual beliefs of the Federal judges dressed up in lawyer's language. Too often, the question posed by the courts is neither whether a lower court correctly applied the laws as passed by Congress or whether a particular policy is constitutionally permissible, but whether such policy corresponds to judicial notions of societal "oughts." Such review influences the democratic prerogatives of this Nation. I believe that liberty and the common good can be enjoyed only through a Constitution which places specific limitations on judicial interpretation. I believe in a return to judicial restraint. We have entirely too much lawmaking by the judges in this country on every level, particularly the Supreme Court.

As James Madison warned, right here in this Capitol:

> If the sense in which the Constitution was approved and ratified by the nation . . . but the nation does not expound it, there can be no security for a constant and stable government, more than for an execution of its powers. (9 James Madison, "The Writings of James Madison," 191, G. Hunt ed. 1900–1910).

It is through the political process that the American people can exercise the power of the ballot box and thereby realize themselves through legislation. I do not believe the judiciary, to correct a self-imposed ideal may assume a power not granted in order to realize a policy that the people have been and remain, unready to cure through the political process. That, to me, is fundamental. Alexander Hamilton called such encroachment on the legislative function judicial usurpation. John Stuart Mill cautioned against man's disposition "to impose (his) own opinions * * * as a rule or condition on others." Mill, "On Liberty," 28 (1885).

According to Caleb P. Patterson in "The Constitutional Beliefs of Thomas Jefferson," 70 (1953), Thomas Jefferson "foresaw that if the Constitution were ever destroyed, it would be destroyed by interpretation, in the final analysis, by the Federal judges." I think he was absolutely right.

An individual who has devoted the most recent years and a considerable part of his career to political activities rather than the practice of law has made certain Federal decisions on how he or she wishes to realize his or her view of a Federal world. Whether people are Republican or Democrat, conservative or liberal, are vitally important and necessary to determine the welfare of political progress in America. However, I believe, that such individuals, having made such a personal and career commitment, better serve the Nation by continuing to seek to realize their goals in the political process through legislation. However well intended, I do not believe such men or women can have the objectivity to exercise the crucial important responsibility of choosing a Federal Judge. As Berger has written:

> Noble enthusiasm is no less prone to distort the vision than vulgar prejudice. (10).

The following exchange took place in March 1977, in Clinton, Mass., between President Carter and a citizen of Clinton, at his first town meeting after he was elected President:

> Question: During the last several Administrations, many of the major domestic questions have been decided by the Federal Judiciary and not by the consent of those people that are governed. Many decisions seem to be made in Judicial Chambers and not in the halls of Congress and not in the White House.
>
> I know, Mr. President, that there are many well-meaning federal judges and that they must interpret the Constitution. But it seems to me that sometimes, in the guise of Constitutional interpretation, some federal judges impose their biases and their ideologies on the average American citizen. . . . The question was, is this situation going to continue during your administration?

The President. First of all, I agree with you, and second, I hope to cut it down as much as I can.

> I believe that Chief Justice Burger, who is now head of the Supreme Court, feels the same way that you just expressed. I think that we can make a lot of progress on this.
>
> I would like to get the courts out of our business, and I would like to let the American people stay out of court as much as possible, too.

It seems to me that the Wald nomination does not adhere to what the President said he planned to do in Clinton. Rather, the past experience of Patricia Wald indicates that her legal and political career has been so issue oriented—and I am not critical of that, we need more activists in this country, and she has been a very effective and capable one—and that the remedies she has sought in court have been the sort of remedies which the President said that he hoped to cut down as much as he could, that is seems to me her philosophy while on the bench, despite what she says now to the contrary, would directly fly in the face of what the President said he hoped to cut down.

Federal judges are, of course, appointed for life, and they are beyond the control or influence of the voters. As has so often been repeated, not having to answer to the voters gives them a freedom to decide cases according to the law, without fear of retribution or of losing their jobs. That is fine. It is an essential part of the process. However, when judges make social policy, when they, in effect, legislate, when their decisions have as much impact as, or even more than, the Members of Congress, they have remained beyond the reach of voters, our constitutional system is perverted.

I am thus concerned, as the President said he was, that judicial appointees not expand the role of the Federal courts, but that they act within traditional, constitutional bounds. For that reason, I believe that I am obligated, as a Senator, to oppose nominees who, by their past activities, indicate a willingness to be activist, expansionist judges.

Thurman Arnold was appointed to the U.S. Circuit Court for the District of Columbia in 1942. He later stepped down from the bench, because he felt that his past partisanship and role as an advocate was incompatible with that of being a judge. After doing so, he said:

> I think it was my preference for partisan argument, rather than for impartial decision, that made me dissatisfied with the career on the Appellant Court. Furthermore, I was beginning to doubt whether a person of my temperament could ever be an ornament to the bench. I was impatient with legal precedence that seemed to me to reach an unjust result. I felt restricted by the fact that a judge has no business waiting or speaking on controversial subjects. A judge can talk about human liberties, the rule of law above men, and similar abstractions. All of them seem to me dull subjects. To sum it up, a person who is temperamentally an advocate, as I am, is not apt to make a good judge.

Patricia Wald is also an advocate. She has worked, incessantly, to make her ideology the law, to win cases which furthered her ideology, and to make her ideology the social policy of the land. Will she not, too—as was the case with Mr. Arnold—become impatient with legal precedence that seems to reach an unjust result? Will she not also feel restricted by the fact that a judge has no business writing or speaking on controversial subjects? Will she be able, in short, to cast aside years and years of past advocacy, and suddenly to become an impartial arbiter of cases, many of which involve the very same issues which she worked for so long as an advocate to further? I do not see how she can do so.

The U.S. Circuit Court for the District of Columbia is the most important circuit court in the country, and is thus, after the Supreme Court, the most important court in the country. Its decisions are national in scope, and, as a whole, it probably has more impact in the State of Nevada than does the ninth circuit, more impact on the State of Illinois than has the seventh circuit, and more impact on the State of New York than has the second circuit.

Alexander Bickel, the late legal historian, commented "all too many Federal judges have been induced to view themselves as holding roving commissions as problem solvers, and as charged with the duty to act when majoritarian institutions do not." I think Patricia Wald herself attempted to be a problem solver, and that is fine, and her legal and political career to an amazing degree of consistency, reflects her ideology and her desire to further that ideology. Her career in the bar reflects a desire to have her cause imposted as law. Such ingrained ideology does not lightly go away, and like it or not, I cannot help but believe that she, too, will view herself as holding a roving commission as a problem solver, and will attempt to solve these problems which Congress has failed to address.

Erwin Griswold, former dean of the Harvard Law School and former Solicitor General of the United States, in addressing the judicial activism problem commented that many judges employ the ruse of saying, "what we are doing is interpreting the Constitution," when what they are actually doing is deciding what is good for the country. He went on to say that—

> What is good for the country is a question for the representatives of the people to decide, not for an un-elected, politically selected group of lawyers.

Griswold concluded that—

> The judiciary may be doing some good things in the name of activism today, but by setting the precedent now, activism could easily be used to order bad things once the principle of intervention is accepted.

In conclusion, Patricia Wald will be an activist judge and will do her best to expand the role of the Federal courts, and will seek to create the remedies she asked for in her career in politics and in law. The U.S. Circuit Court for the District of Columbia does not need judges of that type, just as the Federal judiciary generally does not need judges who will impose their own will in place of the law.

In a 1972 treatise on drug abuse, published by the Ford Foundation, Mrs. Wald said:

> Many improvements in the present law-enforcement approach toward drug abuse may have to come from the courts . . . The adjustment of our now-primitive body of drug abuse laws to new medical developments in research and treatment *may well have to come about through a series of court cases as well as, and even in the absence of, legislative changes.*" (emphasis added) *Dealing with Drug Abuse*, A Report to the Ford Foundation, 1972, pp. 55–56.

It is for this reason that I reviewed with particular care Mrs. Wald's career as political activist. I respect her belief, though different than my own. I feel it best that she continue as a political activist and that her nomination not be confirmed for the Federal bench.

Mr. LEAHY. Mr. President, there has been a great deal of testimony and debate here today regarding Mrs. Wald and the question of judicial activism. I wonder whether we are reaching a point where we feel that no one should serve on the bench unless they have led a life of intellectual monasticism; that, somehow, they have been in a cloister intellectually all their life; that they have never expressed any attitudes on current matters; that they never have shown individuality; never have shown an ability to think outside of the exact parameters required for whatever their legal practice might be. In other words, if they are a bond lawyer, they should talk only about bonds; if a criminal defense lawyer, they should talk only about criminal defense matters; if a prosecutor, they should talk only about prosecution; if a real estate lawyer, they should talk only about real estate law, and so forth.

If we have this, I think we will end up with a bench of the most colorless judges, and we will have a judiciary which is so carefully isolated from reality that one would wonder what we do in providing that branch of Government, especially in lifetime positions.

That does not mean that a judge is a legislator, by any chance. It does not mean that a judge makes new law at all. But in confirming the nomination of a judge, it does not mean that that judge could not have had any independent thoughts in the past or cannot have them in the future.

The question of advocacy was answered very well by Mrs. Wald in answer to a question by Senator BAUCUS. Senator BAUCUS asked her this when she appeared before the Senate Judiciary Committee:

> Senator BAUCUS. Mrs. Wald, I have one basic question. If you are confirmed and appointed to the U.S. Court of Appeals, will you continue to advocate or advance your views . . .?
>
> Mrs. WALD. No. I do not intend to advocate or advance any views on any subject once—if I am confirmed on the bench, I do not think that is the role of a judge at all. I think otherwise the situation is impossible, Senator, because whether you are for children's rights or against them, if you saw the court as a forum with which to advance it, the American people would be cheated.
>
> I think you leave your advocate's role behind you. I do not see the court as the next step in advancing any kind of philosophy. I see it as a completely different kind of role whereby you are presented with grievances. You are presented with evidence, and it is your job to decide on the record which of the two sides has made the best case, or whether it is a legal or constitutional right and the remedy. And I consider my advocacy days to be over.

Mr. President, I would find an answer of that nature satisfactory to me, as a member of the Judiciary Committee and as a Member of this body, coming from anybody, whether I had agreed with their advocacy position or disagreed with it, especially when it comes from somebody of the tremendous qualifications of Mrs. Wald.

I think we should take a look at some of the statements of members of the bar, ranging in a spectrum from the most conservative to the most liberal, in what they have said about her, people who have worked with her.

They refer to her as a brilliant lawyer. They say that she is fair, is openminded, is not at all doctrinaire; that she is moderate and thoughtful. Even when their views differed, she always listened to opposing views before making up her mind. They said over and over that she has that rare quality, a judicial temperament. They concluded that she would make an outstanding jurist.

Let me read an extraordinary letter sent to Senator KENNEDY in his capacity as chairman of the Senate Judiciary Committee. This letter is dated June 13. It reads:

> JUNE 13, 1979.
>
> Hon. EDWARD M. KENNEDY,
> *Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.*
>
> DEAR MR. CHAIRMAN: The undersigned, the President, the President-Elect and all of the past Presidents of the District of Columbia Bar in the active practice of the law,[1] write in support of the nomination of the Honorable Patricia M. Wald to the United States Court of Appeals for the District of Columbia Circuit.
>
> All of us know Mrs. Wald well and have worked with her on numerous occasions over the years. This letter is unsolicited; we write because we believe strongly that Mrs. Wald would be a truly outstanding jurist.
>
> Mrs. Wald is widely known and respected as a brilliant lawyer. She has handled complex and important cases, both in trial and appellate courts. The list of these cases is too long to recount here, but suffice it to say that Mrs. Wald knows what goes on in a courtroom. Of course, she has an outstanding academic record.
>
> Mrs. Wald has an excellent temperament. A number of us served with Mrs. Wald on the Bar's Board of Governors where discussions were often intense. In those moments, she was always an insightful, calming influence. She is always openminded. She entertains thoughtfully and carefully the views of others. She is not dictrinarie or ideological in her approach to any problem.
>
> Mrs. Wald has faithfully served our nation, our community, our courts and our Bar in many ways. We recommend her in the strongest possible terms to the United States Senate and urge her speedy confirmation.
>
> Robert L. Weinberg, President, John H. Pickering, President-Elect; E. Barrett Prettyman; John W. Douglas; Charles T. Duncan; Daniel A. Rezneck; and Charles R. Work.

It is signed by Robert L. Weinberg, president; John H. Pickering, president-elect; E. Barrett Prettyman, John W. Douglas, Charles T. Duncan, Daniel A. Rezneck, and Charles R. Work.

It is noted that one of the former presidents is the Honorable Lewis F. Oberdorfer, who is now a member of the U.S. District Court for the District of Columbia.

Mr. President, I have practiced law before State courts and before Federal courts in the State of Vermont. I have argued cases at the trial level in all our trial courts in Vermont.

In fact, during one 8½-year period, I probably tried more cases than any other lawyer in the State. I argued more cases before the Vermont Supreme Court than any law firm in the State during that period of time. I argued cases before the Federal District Court and before the Second Circuit Court of Appeals.

I do not say that because I want to get some advertising for a future law practice, by any means.

Just to recount, over that time I had the occasion to argue either as plaintiff, as defendant, or as prosecutor or defense attorney, in whatever fashion, before the widest possible range of judges. I argued before some very good judges and quite frankly, Mr. President, I argued before some pretty bad judges.

Throughout all that time, I had to look at the way the various judges are appointed and what their tenures are. In our State, the only ones with lifetime tenures are those on the Federal bench. This is a matter that always concerned me because it is a grave matter, not just what judges we appoint within our own States, of course, but any Federal judge because the law they lay down is to a greater or lesser degree going to affect our own State.

The State of Vermont in its supreme court has often cited the Court of Appeals for the District of Columbia, as most other States do. This is a prestigious court, an extraordinary prestigious court. It has been likened to be next only to the U.S. Supreme Court. In many ways it has more effect than the U.S. Supreme Court because it has to accept on appeal a broader range of cases. It does not have the ability to reject a lot of the cases that the U.S. Supreme Court does. So it is cited in governmental matters. It is cited by courts all over the country.

So, not only as a Senator from Vermont but as a Member of this body, as a lawyer, as an individual, I take very seriously my responsibility that I have. I shall vote to confirm.

No matter who the President is, whether Republican or Democratic, this President or any other President, I would not hesitate to vote against confirmation of any judge that I felt was not qualified, and I definitely would not hesitate to vote against the confirmation of a judge for this court especially.

I think that the only other Federal courts that I can think of that would focus my attention this much would be the U.S. Supreme Court, the Second Circuit Court of Appeals, which has jurisdiction over my State, or the positions in the Federal courts in the State of Vermont. Those I would pay particular attention to, along with this court.

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[1] The Honorable Louis F. Oberdorfer is now a member of the United States District Court for the District of Columbia.

I have no hesitation voting for Mrs. Wald, none whatsoever. I have read the reports on her confirmation hearing. I have read the statements of support that she has received again from conservatives to liberals. It is not that question.

I have read her own statement and am well aware of the difference between an advocate and a judge. I do not hold against her any advocate position in the past. In fact, I think that that encourages me to know that this is an active person, not someone who has lived insulated in academia or within the narrow confines of a specialized form of law practice.

I am also concerned that as to some of the positions that she has taken in the past, certainly in letters that I have received from around the country, the people opposed to her have been taking so carefully out of context, and maybe I do not know. The quote has been attributed to many people that tell me who your enemies are, et cetera. I wonder when the people who oppose this nominee have to go and take quotes drastically out of context in order to build their case. You wonder how good a case they could have had in the first place.

I would like to think that if someone truly opposes a person then they can stand strictly on the record as it is.

I think that history has refuted the notion that the advocate or policymaking advocate activist cannot shed the role of the impartial jurist.

Justices Brandeis and Frankfurter and one of my real heroes on the Supreme Court, Justice Hugo Black, were all attacked at confirmation having been too activist or political or radical. Yet they proved equal the duties of fair-minded jurists.

Hughes and Stone were attacked as too committed to the corporate ideology and Wall Street.

Feliv Frankfurter in several lectures cites example after example of why history has not borne out the thesis that conscientious activists in private life do not make good judges. In fact, our finest judges have regularly made this transition.

Quite frankly, my own experience has been those are the judges who best understand the people who come before them and realize that a case before them is not a case of dry printed pages of transcript but every single case that comes before any court anywhere involves real men and women, involves real human beings and involves the law, the one thread that holds society and our whole Government together.

It is not something that is determined totally in the abstract. It is something that can be determined only by people who know that we are dealing with a society made up of men and women, guided by legal principles, carefully set down over 200 years' history of this country and the history of our parent country and must be able to accept those laws and be able to use those laws as written in the facts of the cases of the people before them.

I take at full faith and full value Mrs. Wald's statement that the advocacy role stands behind her now.

Certainly we have advantage as legislators to take an advocacy role. That is what we are expected to do and that is what we all do. This is the forum in which to do it.

Is this to say that if a Member of this body were to be nominated for a judgship that he would automatically be precluded from being a judge because he had been an advocate?

Is this to say that the distinguished holder of the chair who has had one of the finest careers from his State both as a legislator and as a Governor, having to advocate positions in both capacities, would be automatically disqualified to be a judge because he has been an advocate both as a Governor and as a legislator?

No, I certainly could not accept that. I could not accept that logic for a moment.

But yet if we accept this test what we are saying is that no Member of Congress could ever be a judge unless he had been the most ineffective, retiring Member of Congress you had ever seen, one who invariably would vote present except possibly on a motion to adjourn. Are we saying that no Governor could ever be a judge?

Not unless that Governor, upon inauguration, locked himself or herself up in that monastery I referred to earlier, and did not come out. But even then somebody probably would complain that they might not fully be able to understand the first amendment restrictions, the first amendment requirement of separation of church and state.

Yet that is not what we are saying. Of course, what we are saying is that when people serve their country, when they take on the awesome duties that we are talking about, we should assume people are able to take on the particular responsibilities as they are.

If a judge leaves a judgeship to become a legislator, then we expect that person to be an advocate, and is not disqualified from being a legislator because he has not been an advocate on the bench, and then he will take the role of legislator and be an advocate.

Conversely, a legislator or a private person who has been an advocate in that capacity, if we feel that person is honest in saying he cannot or will not be an advocate on the bench, then there is precedent, hundreds and hundreds and hundreds of times throughout our history when such a person has gone on the bench and has fulfilled those duties properly.

I happen to believe Mrs. Wald. I happen to believe what she says about knowing the nonadvocate nature of a judge. But more than that I am thoroughly impressed with her background, and I think the President has done a great service in nominating a person of this qualification.

Mr. President, I am happy to yield to my good friend, the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the nomination of Mrs. Pat Wald at 5:45 p.m. today.

Mr. STEVENS. I assume that is agreeable with the Senator from Maryland. We have not had a chance to discuss it with him, but he does have some comments here.

Mr. MATHIAS. I do not know how many others are seeking recognition.

Mr. BAYH. Mr. President, the Senator from Indiana has some comments he would like to make.

Mr. MATHIAS. The time of 5:45 would give us an hour, that would be adequate time for me. I do not want to trespass on the time of the Senator from Indiana.

Mr. STEVENS. I know of no other people on this side except for the Senator from Maryland. If you want to split the time half of it with the Senator from Maryland and half of it over here, it would be fine with me.

Mr. BAYH. I would just suggest that I could think of a number of things to say about the nominee which would take beyond 5:45 in expressing my deep affection and appreciation for her service and her qualifications for this job.

But I learned in my freshman year in law school that the attorney ought to quit when he has won the case. I do not know how many of our colleagues who are present here on the floor we are going to persuade to do what they are otherwise planning to do by continuing on at great length, so my remarks will be brief.

Mr. STEVENS. Five forty-five is agreeable, I want you to know. We have no objection to the 5:45 time agreement.

The PRESIDING OFFICER. Is there further objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank Senator BAYH and Senator MATHIAS, Senator STEVENS, and other Senators.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to rise in support of the nomination of Patricia M. Wald to the position of U.S. circuit judge for the U.S. Court of Appeals for the District of Columbia.

I think the record has already adequately pointed out that on June 18 of this year the Committee on the Judiciary held extensive hearings. Subsequently the committee reported favorably Mrs. Wald's nomination to the Senate.

Both Senators MATHIAS and SARBANES lent their support to this distinguished nominee from Maryland, and I would like to compliment the President and the Department of Justice for recommending a candidate of this quality for further service to our country and to the Nation's judiciary.

The record of public service of this nominee has already been expressed and included in the record, so I will not repeat it verbatim. But I would like to point out that this nominee brings a wealth of experience not only in academic background, in her personal experience as a citizen, as an active concerned citizen, but also more recently she brings an experience of great familiarity with the working of justice, having served with distinction as an Assistant Attorney General in the Department of Justice.

If I have a reservation about recommending Mrs. Wald for this post, it is based on the law of self-preservation so far as one Member of the Senate is concerned who happens to be privileged to serve on the Senate Judiciary Committee. In that capacity, it has been my good fortune to benefit from the wise counsel and the self-sacrificing service of Mrs. Wald while serving in the capacity of Assistant Attorney General. That service and advice has helped ease the burden of this one Senator and I think the entire Judiciary Committee, and we will miss her. We will miss her deeply, and it will not be easy to find someone to fulfill her duties—perhaps impossible to find anyone to fulfill her duties with the depth and the sensitivity which she possessed in full measure.

However, the President has recommended her, and I think it is to his credit; and I am glad to join with my other colleagues on the Judiciary Committee in wholeheartedly endorsing this nomination.

The American Bar Association's Standing Committee on the Federal Judiciary has found the nominee well qualified.

The Federation of Women Lawyers' Judicial Screening Panel has evaluated the nominee as having demonstrated an exceptional commitment to equal justice. I would point out that this is the highest rating which can be awarded to a judicial nominee.

The Committee on the Judiciary had extensive hearings. We heard both from proponents and opponents of Mrs. Wald. She was closely scrutinized on all of her past speeches, articles, and personal views with regard to the family, juvenile justice, mental health practices, the equal rights amendment, abortion, drug and alcohol abuse, the Year of the Child, voting rights, and bail. Some say Mrs. Wald has been in the forefront of what some call the liberal and progressive view of the majority of views of the citizens of this Nation. Some have applauded Mrs. Wald as a champion of human rights while others have decried Mrs. Wald for intruding into Federal, State, local, and private affairs.

In my judgment, Mr. President, this nominee has extraordinarily widespread support in legal and governmental communities. We heard support from people who are very familiar with her, personally and professionally. This consistent theme runs through comments of persons who know Mrs. Wald and have worked with her: Brilliant lawyer, fair, openminded, not doctrinaire, moderate, thoughtful. Even where her own views differ, she always listens to opposing views before making up her mind, has judicial temperament, and will make an outstanding jurist.

The distinguished Senator from Vermont, in his very eloquent statement in support of Mrs. Wald, read from the letter of the past presidents of the D.C. bar who endorsed Mrs. Wald. The letter, as I recall, was written to Senator KENNEDY, the chairman of the Judiciary Committee.

These past presidents of the D.C. bar stated their belief that she "would be a truly outstanding jurist." Mrs. Wald is widely known and respected as a brilliant lawyer. She has an excellent temperament. She was on the D.C. Board of Governors, she was always an insightful, calming influence.

I should hope that the world "insightful" would be properly interpreted as being one filled with insight, not as one being prone to inciting others to do things that perhaps they should not do.

She is always openminded. She entertains thoughtfully and carefully the views of others. She is not doctrinaire or ideological in her approach to any problem.

Mrs. Wald was selected by the D.C. Judicial Nominating Committee after exhaustive screening of over 200 applicants nationwide. She was one of only two on the final panel of nine candidates voted out unanimously by the commission (chaired by former Senator Joseph Tydings, and including Erwin Griswold, former dean of Harvard Law School and U.S. Solicitor General).

Mr. President, Mrs. Wald has a remarkable career. She has been diverse in her interests accomplished much and has many distinctions. Witnesses and members of the Judiciary Committee repeatedly lauded Mrs. Wald for her ability to combine a legal career with responsibility for raising a family of five children.

Mrs. Wald has outstanding academic credentials: High school valedictorian, Connecticut College (No. 1 in class) Yale Law School (Yale Law Journal, Order of Coif), Post Law School, Mrs. Wald clerked in the second circuit court of appeals, she was in the private practice of law with Arnold, Fortas & Porter. After retirement to raise her family for 10 years, she was a member of the D.C. Crime Commission, Office of Criminal Justice, Department of Justice; Neighborhood legal services; Center for law and social policy; mental health law project to her present position as Assistant Attorney General, legislative affairs. She was a consultant to many commissions: E.G. National Crime Commission, National Commission on Civil Disorders, National Commission on Violence, National Conference on Law and Poverty, National Conference on Bail and Criminal Justice. Furthermore, she has extensive civil, criminal litigation and appellate experience.

Mr. President, before concluding I would like to point out that, at least in the judgment of this one Member of the Senate, the opposition to Mrs. Wald included no witness who knew her personally. None of them personally knew her work. All based their opposition on limited samples of her writing, particularly her 1974 speech on the rights of youth. Their comments, it seemed to us, all were distorted, out of context, inaccurate, and basically unfair. And I must say that that description of the testimony in opposition of one particular witness would be very kind indeed. Seldom has the Senator from Indiana seen a more crass, irresponsible effort to demagogue in a detrimental fashion directed against a witness than was evidenced by one or two of the witnesses who purported to serve a higher calling.

Mr. President, it is my judgment that if Mrs. Wald is confirmed by the Senate today, she will have her abilities tested and put to good use, and will serve as an extremely, exceptionally able jurist. I am hopeful that the Senate will concur and will advise and consent to the confirmation of this nomination. Certainly I intend to lend it my support. And as one who has had more than a passing interest in the qualities of judicial nominees who have come before our Judiciary Committee in the Senate, it seems to me that some questions raised by those few witnesses who chose to oppose Mrs. Wald were rather basic questions that we in the Senate should ask ourselves because they go beyond the rather exceptional qualifications of the nominee before us. They go to the question of whether we in the Senate really believe it is important for citizens of the United States to be interested in public affairs.

Is one to be rewarded if he or she imposes an additional burden upon their professional and family lives, family responsibilities, and are willing to take an active part in trying to resolve some of the problems that confront their community and their country.

It seems to me if we are to reward participation in public life as part of a citizen's responsibility, then by the very nature of that participation we are urging people to take a position on issues. There are very few easy issues today. People who seek easy solutions are not doing much in the service of the public.

So I commend the nominee for taking an active role as a citizen and not just sitting on the sidelines taking a more comfortable role in life.

Second, I think we have to ask ourselves what kind of mental fiber do we want our judges to possess? Do we want them to be marshmallows with no thoughts of their own, complying with every whim, every will, of a vocal minority or a temporarily aroused populace? Or do we want them to have the substance or tough fiber of a beefsteak, mentally tough and capable of coming to a conclusion based upon fact and not temporary expediency?

I certainly feel that the answer is obvious. We want someone who has tough mental fiber, who can make tough decisions and stick by their guns. If there is anything apparent about Patricia Wald, it is that she has that mental fiber, that mental toughness, and is willing to study the tough questions, arrive at a judgment, and then stick by her guns, stick by what she determines to be right.

Lastly, Mr. President, I would just like to point out that I have noticed in some of the opposition not only to Mrs. Wald but to other nominees that have been and are presently before the Judiciary a great difficulty on the part of some of the opposition witnesses to distinguish between the role of advocacy and an advocate and the role of a judge.

No citizen worth his or her salt, if he or she is to really look at the kind of world we are living in, can ignore the need to be for something, to be for solving problems, to advocate certain solutions.

Mr. President, I would like to summarize by pointing out the real distinction concerning an advocate. A citizen who is concerned has to be an advocate for resolution of certain problems. Certainly, a lawyer's very reason for being is to be an advocate in pursuit of his or her client's case. An active lawyer mostly associated with public affairs must, by necessity, be an advocate for the resolution of problems in a public forum.

The judicial role is an entirely different one, and in discussing this matter in the hearings, and in knowing Patricia Wald personally, I am convinced that she is very aware of the distinction between the previous advocacy roles she has performed with distinction and the judicial role which she will soon undertake in the second circuit.

I am happy to lend my support for Mrs. Wald, someone who I feel shows a deep measure of concern for human beings, who has a rare dedication to the principles of our Constitution, who combines those ingredients with the judicial temperament which can put aside her own personal preferences and weigh each case on its merits.

What more can we ask? We are fortunate, indeed, to have someone like Mrs. Wald, who is willing to undertake this new responsibility.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Maryland.

Mr. MATHIAS. Mr. President, apparently it falls to me to wind up this debate. I feel privileged to do so. It is perhaps appropriate that I should do so since Mrs. Wald has been nominated to be a candidate for the bench from the State of Maryland. She is a citizen of Maryland and one of whom we are very proud.

Our neighbors south of the Potomac are proud to claim that Virginia is the cradle of Presidents, and they take justifiable pride in that. We in Maryland cannot claim to be the cradle of Presidents, but we are, in fact, a State which has given many great judges to this Nation, and judges at critical times in our history are as vital as Presidents.

The first Supreme Court included Thomas Johnson, a distinguished Marylander, Roger Brooke Taney, the great Chief Justice of the Supreme Court was from Maryland.

On other Federal benches, Maryland has been represented in an extremely distinguished way. I think, although the list is a long one, at this moment, of judges such as the late Simon Sobeloff, one of the truly great judges in this century, who served on both the State bench and the Federal bench with enormous distinction. I mention Judge Sobeloff simply because he is the kind of great judge that Maryland has given to the Nation.

I recite this little bit of history, Mr. President, because it is a kind of benchmark against which we in Maryland can measure the qualifications of candidates for judicial office. We have very high standards, and I hope that we never lower those standards or that we never deviate from them. I cite this history and I point to these standards because I want the Senate to know that I am measuring this candidate against those high, historic standards by which judges should be measured.

Mrs. Wald has been prepared for her duties on the bench by an active professional life as a lawyer. I say here and now that I think that it is wrong to nominate people for the bench at any level who have not had an active professional life as a lawyer. No matter how bright someone is or how honest someone is or how intellectual someone is, if they have not had experience as a lawyer, I think it is very difficult for them to assume the duties of presiding in a courtroom, either a trial court or an appeal court. But that objection cannot be advanced in Mrs. Wald's case.

As has been fully set forth in the Senate today, her experience is broad, it is varied, it is positive, and I think that she will bring that experience to the bench in a way which will make a great contribution to the administration of justice in this country.

Her service in the Department of Justice, I think, is an important ingredient in her professional experience. It is an ingredient which not every candidate for the bench has—necessarily has not. But it will give her a broader view of the potential for improvement in the administration of justice by the courts and, I think, will also give her a broader view of some of the short-comings which, unhappily, exist in the way of our courts operate today.

It will give her an incentive to conduct her own judicial business in a manner which will represent an improvement over the general norm. This overview that she has had at the Department of Justice, I think, is an added bonus in her professional experience.

But, after all, lawyers and judges are people, although there may be some doubt about that in the minds of some citizens. They are people and their quality as lawyers and as judges will be determined to a certain extent by the kind of person that the individual candidate may be. In Mrs. Wald's case, I think we can be reassured by the kind of life that she had led.

She is a wife and a mother. We can tell a lot about a person from the kind of family to which she belongs and that belongs to her. Her children are talented and have achieved a tremendous success on their own. I do not want to take away from Mrs. Wald's children 1 ounce of the success which they have earned for themselves, which they could not have achieved without their own skill and talent and application; but the fact that her children have been so successful, I think, indicates that she has an understanding of the needs of young people and how to encourage young people to realize their potential.

This is a valuable kind of experience to bring to the bench. It is an experience not in law, but in life. Her eldest daughter has graduated from Yale Law School; her next eldest has graduated from Harvard Law School. She has another daughter in Wellesley, another who is a junior there, and a son who has just graduated from high school and will enter Tulane. It is a very impressive record and a record which, I think, redounds to Mrs. Wald's credit as well as to Mr. Wald's credit and to the credit of the children themselves. But the importance of this is really not in the academic achievements of the children, but in what it has taught Mrs. Wald about the aspirations and the hopes and the needs and the problems of children.

I find no fault with a judicial nominee who has this particular kind of knowledge. In fact, I think it is an extremely useful attribute to bring to the bench.

One of the objections, and I think we have to face the fact that there have been objections expressed here on the floor today. One of the objections expressed to Mrs. Wald is that she may not be impartial; she may not be impartial as a judge. I think we ought to look at the record on that particular charge, because she has, herself, been confronted with that charge and she has answered it. During the hearings on her nomination, she was asked a question as to the guidelines that a Federal judge should follow determining the propriety of a Federal judge intervening in State, local, and private affairs. This was her answer, and I think it is worth quoting:

> Well, I start off, Senator, by saying that if I am fortunate enough to be confirmed and to ascend the bench, I plan to leave my personal ideology, all of the views, all of the controversial areas in which as an advocate and as a lawyer I have participated in over the last 20 years behind me.
>
> I have a very deep feeling that the future and the confidence of the American people in the judiciary depends upon their having an absolute feeling that those who serve on it are impartial, are fair and are open-minded.

Then, Mr. President, Mrs. Wald went on to say this:

> And whatever views one may have espoused in the past, I think I would leave behind me and I would, in the words I believe of Hamilton, who wrote one of the Federalist papers that the commitment of a Federal judge should be to the Constitution and to the laws of the United States and not to anything else beyond that.

That, Mr. President, is Mrs. Wald's philosophy stated as concisely and as directly as I think it can be stated, that the commitment of a Federal judge should be to the Constitution and to the laws of the United States and not to anything else beyond that.

Now, what Member of the Senate can object to that statement of policy, to that philosophical conviction? I think it is what the Constitution demands of Federal judges. It is what the oath requires of Federal judges. It is what the laws require of Federal judges. She says that will be the policy that she will follow if confirmed as a Federal judge. I think that is eminently sound. I think it is an assurance from Mrs. Wald which should reassure anyone who may have a conscientious and a genuine doubt about her qualifications, and it should reassure the Senate and justify her confirmation.

As to the depth of this kind of assurance, the genuineness of it, the sincerity of it, I think we can only make a judgment from the kind of support she has, from the support she has, for example, from the Presidents of the District of Columbia Bar Association, whose statements appear in the report on pages 23 and 24.

I think any Member of the Senate who has any question about her standing with her peers at the bar ought to read those statements on pages 23 and 24 because I think that gives validity to everything else she said on her own behalf in the hearing, and it is an extremely important element in the Senate's consideration of her confirmation.

So, Mr. President, I think we have here a judicial nominee whose qualifications are such that she merits confirmation by the Senate, a judicial nominee who measures up to the very high standards of judges that have been set by many distinguished Marylanders who in the past have been elevated to the bench and have rendered extraordinary public service.

I think the President has chosen wisely in nominating Mrs. Wald. I am sure he did so on the advice of the Attorney General who has worked in close association with Mrs. Wald in the Justice Department and who is intimately familiar with the standards of her professional attainments and achievements.

So I hope that this afternoon in just a few minutes the Senate will conclude this debate and will by an overwhelming majority confirm the nomination of Patricia Wald of Maryland to be a Federal judge.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong support of the nomination of Patricia McGowan Wald to serve on the U.S. Court of Appeals for the District of Columbia.

Mrs. Wald was nominated by President Carter following a very careful and extensive selection process undertaken by a Presidentially appointed panel.

She brings to this judicial position an outstanding record of public and private legal experience and an established reputation for approaching the work with keen intelligence, with commonsense, and with fairness.

She is an excellent choice for this important judicial position. I join my colleague, the distinguished senior Senator from Maryland, in expressing the hope that very shortly the Senate will confirm her nomination by an overwhelming majority.

It is important to summarize just a few of the highlights of Pat Wald's extraordinary career, simply because it encompasses such a broad range of experience and because it is marked throughout by quality.

Her career has always reflected quality beginning back in her high school in Connecticut where she was the leading student in her class. She won a scholarship to Connecticut College, where, upon her graduation in 1948, she was named the Winthrop Scholar for Learning the highest 4-year academic average in her class. She went on to Yale Law School, also on a scholarship, and was the case editor of the Yale Law Journal and selected for the Order of the Coif.

Mrs. Wald then clerked in the second circuit for Judge Jerome Frank followed by private practice with the law firm of Arnold and Porter, here in the District of Columbia.

She served as a member of the National Conference on Bail and Criminal Justice, and later as a member of the President's Commission on Crime in the District of Columbia.

Her continuing special interest in the administration of justice and the judicial process has been reflected in numerous writing—law review articles, legal and professional journals.

While some of her articles have been criticized I find that many of the positions she discusses are not ones that she subscribes to, but positions which she believes thoughtful people ought to examine.

In other words, one's thinking ought not to be limited simply to the old and the past, but ought to be considering new ideas in an inquiring and critical manner.

She has been willing to do that thereby raising important questions. I think much of what she has been criticized for represents that kind of inquiry and not a subscription by her to the substantive position she examines for discussion purposes.

In 1967, Mrs. Wald joined the Office of Criminal Justice of the Department of Justice where she worked on implementing the D.C. Crime Commission's recommendations. She served as an attorney with the neighborhood legal services program, and later with the center for law and social policy.

From 1972 to 1977, she was a staff attorney at the mental health law project. Throughout this period of 10 years she had extensive courtroom work, both at the trial and appellate levels.

Since early 1977, she has been the Assistant Attorney General, Office of Legislative Affairs in the Department of Justice. It is generally agreed by those on the Hill and elsewhere who have come in contact with her in this position that she has done an outstanding job.

She has been involved in numerous professional activities: Membership on the board of governors and the executive committee of the District of Columbia Bar Association, active work with a number of committees of the American Bar Association, including service on the board of editors of the American Bar Association journal.

She has always participated in community and educational activities, having served as vice-president of the D.C. Chapter of the Yale Law School Association and a member of the board of trustees of her alma mater, Connecticut College, and Philips Exeter Academy.

She has raised a large family—five children, two of them in law school, three in undergraduate college. In fact the break in her career after being a law clerk and practicing for a short time in Washington, until she resumed legal work in 1967 with the career activities enumerated above, was in order to raise her family.

I know the Wald family well. They have been residents of Maryland for more than two decades. I know the Wald children and can attest personally to the superb job she has done in meeting her responsibilities as a mother.

Pat Wald has spent most of her life concentrating on improving the way our system of justice operates. At the Department of Justice, she played a key role in the formulation of important legislation dealing with antitrust, civil rights, law enforcement, and the operations of our courts.

She brings with her a special but practical knowledge and perception of all facets of the American judicial system. She is a person of absolute integrity, of great intellectual depth, a questioning mind, and a person with a fair and open attitude.

Underlying all that is her deep commitment to the Constitution of the United States and to the rule of law, and a profound understanding of the importance of an independent and fair judiciary to the workings of a democratic society.

In my judgment, she will bring great strength and quality to the Federal bench. I commend her nomination to my colleagues, and join in the expressions of support which others have stated previously here today of her nomination to become a member of the United States Court of Appeals for the District of Columbia.

Mr. DOLE. Mr. President, I would like to offer my support to the nomination of Mrs. Patricia Wald to the United States Court of Appeals for the District of Columbia.

Throughout her career Mrs. Wald has demonstrated the excellence of her legal skills. After graduation from Yale Law School, where she was articles editor of the Law Journal, she clerked for Judge Jerome N. Frank on the Second Circuit Court of Appeals. Later she came to Washington, to the firm then known as Arnold, Fortas & Porter. Further high points of her illustrious career include her service as an Assistant Attorney General for the Office of Legislative Affairs work on two Presidential commissions including the Johnson Commission on Crime in the District of Columbia, director of the mental health law project, and codirector of the Ford Foundation drug abuse project. Additionally, she has authored scholarly writings on bail, poverty law, and drug abuse.

In the midst of this formidable career, Mrs. Wald has managed to raise five remarkable children.

Mrs. Wald's confirmation to the bench will make her the third woman in American history to reach this high position in the Federal Judiciary. The Senator from Kansas believes that Mrs. Wald possesses the necessary skills, insight, and wisdom for this post. More importantly, Mrs. Wald exhibits clear evidence of those qualities that are necessary for a judge: Fairness, intelligence, open-mindedness, morality, humanity, and judgment.

As a member of the Judiciary Committee, I was privileged to be in attendance throughout the hearings, and I can understand, to some extent, the concerns that some have expressed on the Senate floor today.

As the distinguished Senator from Maryland has just pointed out, Mrs. Wald is an outstanding woman, mother, and lawyer.

We can all find differences, and I am aware that some concerns have been expressed. However, upon close examination I find the opposition to the nomination not persuasive.

Mr. President, Mrs. Wald will offer a significant contribution to the U.S. Court of Appeals for the District of Columbia.

Mr. GOLDWATER. Mr. President, as a conservative, I get a little tired of being accused of being against everyone or everything.

I have had a lot of letters opposing this nomination. I did not attend the hearings, but I have great faith in the Judiciary Committee and in their decisions.

I recall when Justice Rehnquist, a very close personal friend of mine, was being discussed on the floor of the Senate. We did not discuss whether he was too conservative or middle-of-the-road or a Republican or what. He was the man the President wanted for that particular post, and the Senate supported him.

So I intend to vote for this lady, although I have had a lot of mail opposed to her. I have not had any letters that really outline anything that I can find objectionable. I have always said that I think the President is entitled to people he wants to serve him, whether it be a judgeship or on a commission or in a bureau or whatever.

So I will vote for her because of the confidence expressed in her by people whose legal knowledge I respect.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. DOLE. Mr. President, I appreciate that statement, because no one is more highly respected than the distinguished Senator from Arizona when it comes to conservative politics.

I recall arguing on the Senate floor, day after day, with the Senator from Arizona, to persuade the Senate to confirm the nomination of Clement Haynsworth. There was opposition to him. Some of the criticism, not all—was because of his conservative philosophy, which I thought was a mistake, and I said so on the floor.

I think it would be just as much of a mistake to argue against this nomination because of "liberalism" or however Mrs. Wald's philosophy might be designated.

I hope we can put to rest the myth that conservatives only support conservatives and liberals only support liberals when it comes to the judiciary. We missed an outstanding opportunity with Clement Haynsworth, and we do not want to miss another one with Pat Wald. Once again, Mr. President, I urge my colleagues to join with me and support this nomination.

Mr. MATHIAS. Mr. President, if the Senator will yield, I think his statement is a very valuable addition to this debate. It is one which will be reassuring to other Members of the Senate.

Something further should be said. The Senator said he is tired of having the reputation of being against everything and everybody. I do not think the Senator should feel that he has that reputation, because I can testify that he takes very positive views on a wide variety of subjects and makes a very positive contribution in favor of doing many good things. His statement here today is simply one more example of that.

Mr. GOLDWATER. I thank my good friend from Maryland. I will say nice things about him on the Eastern Shore. [Laughter.]

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for the yeas and the nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, too often the Senate's review of judicial nominations has been a thankless chore. But it is an important chore, for the quality of these new judges will be the most critical test of our commitment to justice, and to the perception of justice, on which our society depends. And every so often a nomination strikes so true, fits so well with the temper of the times and the size of the job to be done, that all the drudgery, the doubts and qualifications and investigations and quarrels over some other nominees, fade away. In those cases our task is as much to bear witness as it is to advise and consent.

For these reasons I am pleased—and proud—to record my personal, strong support for the nomination of Pat Wald to the Court of Appeals for the District of Columbia Circuit. That court is often considered the most important Federal appeals bench: And Mrs. Wald fully matches its stature. From her 1951 graduation as case editor of the Yale Law Journal to her recent, impressive rejuvenation of the Justice Department's congressional liaison functions, her record presents an unparalleled course of excellence, integrity, scholarship, and high achievement.

I wish to mention what a real personal pleasure it was for me to work closely with Mrs. Wald on a number of the the pieces of legislation that were being considered by the Department and by Congress. Really, it offered me the personal opportunity to be enormously impressed by her intellect and her ability to deal with tough legislative issues and questions, her judgment, her humaneness, and her strong personal qualities.

I think there will probably be few people who are nominees who will come before our committee that I personally will have had the opportunity to work as closely as I have with her. So from a personal point of view it has been a matter of great personal pleasure to be able to be urging the Senate to give final and overwhelming approval for her nomination.

From 1951–52 she clerked for Judge Jerome Frank of the Second Circuit—an assignment as prized as clerkships on the Supreme Court. In 1952–53 she came to Washington as an associate in what was then Arnold, Fortas & Porter. She then "retired"—and I put the word in quotes—to have five children, two of whom have recently graduated from Harvard and Yale law schools themselves. In the sixties she began to reenter practice on important projects relating to Robinson-Patman price discrimination, the Federal Rules of Criminal Procedure, and Bail Reform. In 1965 she was a member of President Johnson's Commission on Crime in the District of Columbia. During the next 10 years she was staff attorney in the Justice Department's Office of Criminal Justice, neighborhood legal services attorney, co-director of the Ford Foundation drug abuse research project, attorney for the center for law and social policy, litigation director of the mental health law project, and member of the national advisory committee to evaluate legal services.

The PRESIDING OFFICER. The hour of 5:45 p.m. having arrived, under the previous order——

Mr. KENNEDY. Mr. President, I ask unanimous consent that I be yielded 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, through all of this she found time to author or coauthor three books—"Bail in the United States", "Law & Poverty", and "Dealing With Drug Abuse"—as well as 8 law review articles and 10 chapters in other volumes. Through all of this she served—and continues to serve—the public on numerous boards and committees, including the Institute of Judicial Administration, the Ford Foundation board of trustees, the Sloan Commission on Cable TV, and the board of governors of the District of Columbia Bar. Through all of this her reputation for fair professionalism and commitment to equal justice for all has remained constant.

Mrs. Wald has been rated "well-qualified" by the ABA and "exceptionally well-qualified" by the Federation of Women Lawyers' judicial screening panel. The chairman of the ABA's judicial screening panel made an unprecedented offer to fly here from California to testify personally on her behalf. Six past presidents of the District of Columbia Bar—all those still in active practice here—endorsed her nomination based on long personal experience, noting her "excellent temperament," her "calming, moderating influence," and her lack of doctrinaire or ideological approach to any problem." Few nominees have exhibited such academic excellence, such practicality and administrative competence, such thorough grounding in so many relevant areas of the law. She has extensive trial and appellate experience in both civil and criminal arenas. And she has integrated that experience with a strong, healthy family life. President Carter and the District of Columbia Nomination Commission are to be congratulated on the high quality of this nomination. The Judiciary Committee approved Mrs. Wald's nomination overwhelmingly—with only two dissenting votes. The Senate should follow suit and confirm her today.

Mr. President, I yield back the remainder of the time.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Patricia M. Wald, of Maryland, to be a U.S. circuit judge for the District of Columbia Circuit? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Wisconsin (Mr. Nelson), is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), is necessarily absent.

The PRESIDING OFFICER (Mr. Nunn). Have all Senators voted?

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 217 Ex.]

YEAS—77

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin

Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher

Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—21

Armstrong
Church
Garn
Hatch
Hayakawa
Helms
Humphrey

Jepsen
Laxalt
Lugar
McClure
Roth
Schmitt
Schweiker

Stevens
Stone
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—2

Baker
Nelson

So the nomination was confirmed.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I move to reconsider the vote by which the nomination was confirmed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to proceed for 1 minute in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE CONVENTION: A SYMBOL OF U.S. COMMITMENT TO HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, for many years I have spoken before this distinguished body on ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. The history of Senate consideration of this treaty is even longer. For 30 years now, the Senate has debated the merits of the treaty. Each point within the document itself has been carefully scrutinized and measured. Each specific argument against ratification has been countered with ample evidence of the treaty's merit.

Yet, even with this evidence, there remain those skeptical of the need for U.S. ratification.

These critics complain that the Genocide Convention will not accomplish much. They point to all the nations which have ratified the treaty—83 so far, including all other major world powers except the United States—and say that their support has changed nothing. They say that the sanctions offered in the treaty are too weak to make much difference: That passage of the treaty can, in reality, do little to prevent the occurrence of genocide.

Yet, even if it were true that the convention by itself can do little to stop genocide—and I do not believe that is true—there is still an important aspect of ratification which these critics have failed to consider.

The Genocide Convention is more than just a document outlying the ways to prosecute those who would commit mass murder of a national, ethnical, racial, or religious group. The treaty is a symbol of commitment to the protection of human rights; a commitment to the principles of human dignity which lies at the very foundation of our Constitution and Bill of Rights.

The value of such a symbol should not be underestimated. People of this Nation and others throughout the world look to the actions of the United States as a symbol of American commitment. How can we maintain that we are in support of basic human rights when we refuse to ratify a treaty so symbolic of that commitment?

The answer, Mr. President, is that we cannot.

We cannot continue to claim support of human rights without following through in support of a treaty which deals with the most fundamental of all human rights—the right to live.

I therefore urge my colleagues to support ratification of the Genocide Convention. Let us confirm our long commitment to human rights through passage of this important treaty.

FEDERAL ELECTION COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with the understanding that there will be no action taken thereon tonight, that the Senate now go into executive session to proceed to the consideration of the nomination of Mr. Frank P. Reiche to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The Senate is in executive session.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that the Senate proceed to the consideration of the nomination.

Mr. President, there will be no further rollcall votes today.

The PRESIDING OFFICER. The clerk will report the nomination.

The second assistant legislative clerk read as follows:

Frank P. Reiche, of New Jersey, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the nomination.

The Senator from Rhode Island.

Mr. PELL. Mr. President, on June 14, 1979, the Committee on Rules and Administration voted 9 to 0 to report favorably to the Senate the nominations of Thomas Everett Harris and Frank P. Reiche for terms on the Federal Election Commission expiring April 30, 1985. Both Commissioner Harris and Mr. Reiche had been nominated by President Carter on May 1, 1979, and the nomination of Commissioner Harris was confirmed by the Senate on June 19, 1979.

On May 9, 1979, the committee held hearings on the nominations. The hearings were part of a thorough examination of the backgrounds and qualifications of the two nominees. Mr. Reiche responded to the committee's detailed questionnaire, answered questions at the May 9 hearing, and responded to the supplementary questions submitted by committee members. Mr. Reiche also responded to two sets of questions submitted by a Senator who does not sit on the committee. All questions were answered thoroughly and thoughtfully, and the nominee should be commended for his candor and cooperation during this process.

As chairman of the committee, Mr. President, I would like to state my strong support for Mr. Reiche. It was a pleasure to review the qualifications of such a distinguished nominee, and I would like to discuss briefly his background and the committee's consideration of his nomination.

Frank P. Reiche, a practicing attorney in the State of New Jersey, has become one of the Nation's foremost State officials in the field of election law. For the past 6 years, he has served as the chairman of the New Jersey Election Law Enforcement Commission, and has earned the praise and confidence of Republicans and Democrats alike for his fair and impartial administration of the New Jersey election laws.

Mr. Reiche's professional life has been one of accomplishment and distinction. After receiving his B.A. from Williams College in 1951, he worked as a case officer for the CIA, and then served in the Navy for 2 years. In 1956, he earned his M.A. in Foreign Affairs from George Washington University and then returned to the CIA for several months before entering law school. Mr. Reiche received his LL. B. from Columbia University Law School in 1959 and an LL. M. in taxation from the New York University Law School in 1966. For the past 20 years he has practiced law in New Jersey, the last 17 as a partner in the Princeton, New Jersey, firm of Smith, Stratton, Wise & Heher.

Mr. President, I ask unanimous consent that the biographical information submitted by Mr. Reiche in response to the committee's questionnaire be inserted in the Record at this point.

There being no objection, the biographical outline was ordered to be printed in the Record, as follows:

Committee on Rules and Administration: Outline of Information Requested of Nominee

A. Biographical.

Q1. Name: (Include any former names used).

A1. Frank P. Reiche ("Butch" through college).

Q2. Address: (Include current residence address and mailing address).

A2. 55 Philip Drive, Princeton, New Jersey 08540.

Q3. Date and place of birth.

A3. May 8, 1929: Hartford, Connecticut.

Q4. Marital status: (Include maiden name of wife or husband's name).

A4. Janet Dalzell Taylor.

Q5. Names and ages of children.

A5. Cynthia D. Reiche, 23; Dean S. Reiche, 20.

Q6. Education: List institution(s), dates attended, degree received and date degree granted.

A6. Bristol High School, Bristol, Conn., 1943–1947, high school diploma; Williams College, Williamstown, Mass., 1947–1951, A.B.; George Washington University, Washington, D.C. 1955–1956, M.A. (Foreign Affairs), Degree awarded in 1959;

Columbia Law School, New York, New York, 1956–1959, LL.B.;

New York University Law School, New York, New York, 1961–1966, LL.M. (Taxation).

Q7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

A7. Order clerk, Associated Springs, Inc., Bristol, Conn., June 1948 to August, 1948;

Camp Counselor, Quinnipiac Council, B.S.A., Winsted, Conn.. June 1949 to August 1949;

Camp Counselor, Charter Oak Council, B.S.A., Winsted, Conn., June 1950 to August 1950;

Case Officer, Central Intelligence Agency, June 1951 to October 1952;

Case Officer, Central Intelligence Agency, March 1956 to September 1956;

Law Clerk, Archer, Greiner, Hunter & Read, 519 Market Street, Camden, N.J., June 1957 to August 1957;

Law associate, Stryker, Tams & Dill, 744 Broad Street, Newark, N.J., June 1959 to December 1961;

Law partner, Smith, Stratton, Wise & Heher, 1 Palmer Square, Princeton, N.J., January 1962 to present.

Q8. Government experience: List any experience in, or association with, federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

A8. Federal Government, Central Intelligence Agency, June 1951 to October 1952, March 1956 to September 1956;

State Government, New Jersey State Tax Policy Committee, 1970 to 1972; Chairman, New Jersey Election Law Enforcement Commission, 1973 to present.

Q9. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

A9. ABA, N.J. BA, Mercer County BA, Princton BA, American College of Probate Counsel, Princeton Rotary Club and Nassau Club. Also, currently serving as a member of the Advisory Board of Stuart Country Day School, a Trustee of Westminster Choir College and President of the Central New Jersey Williams College Alumni Association, as well as a member of the Williams Deferred Gifts Executive Committee.

Q10. Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

A10. While serving as a member and Chairman of the New Jersey Election Law Enforcement Commission during the past six years, I have not participated in partisan politics in any way. Prior to that time I served as Committeeman and Municipal Chairman of the Princeton Township Republican County Committee and as a member of the Mercer County Republican Executive Committee. During such period, I contributed regularly to the Republican Club of Princeton and to the campaign of U.S. Senator Clifford P. Case.

Q11. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

A11. Became a member of the American College of Probate Counsel in 1978.

Q12. Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

A12. Deferred Giving Brochure for Nassau Presbyterian Church, Princeton, N.J.

Q13. Speeches: Identify each speech which you have given during the past 3 years, the organizations to which the speech was given, and supply two copies of each speech.

A13. Informal appearances on behalf of the New Jersey Election Law Enforcement Commission.

Q14. Qualifications: State what, in your opinion, qualifies you to serve in the particular position to which you have been nominated.

A14. My experience as Chairman of the New Jersey Election Law Enforcement Commission and my contact with various campaign finance disclosure agencies throughout the country.

B. Future Employment Relationships

Q1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

A1. I will resign as a partner and will transfer client responsibility to others in the firm, but would like to be able to advise on past matters.

Q2. Do you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

A2. Only a verbal understanding to discuss the matter at that time.

Q3. Has anybody made a commitment to employ your services in any capacity after you leave government service?

A3. No.

Q4. If confirmed, will you serve your full term of office?

A4. Yes.

Q5. If confirmed, will you be engaged in any business, vocation, employment or outside activities other than related to your duties as a Commissioner?

A5. Only as a fiduciary, 80–90 percent of such work already being undertaken by me at night and on weekends. Compensation, if any, would be limited to that permitted by Federal Government rules.

C. Potential Conflicts of Interest

Q1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

A1. See above, Also, I anticipate concluding a financial arrangement with my firm for work in progress and past services.

Q2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

A2. None.

The following is a summary of the nominee's interests in securities and employment-related benefits. The value of these interests is not included; however, such information is a matter of public record and may be obtained from the Committee on Rules and Administration.

Employment-related benefits:

Smith, Stratton, Wise and Heher Capital Account; Keogh Plan Account at New Jersey National Bank; and IRA Account at Princeton Savings and Loan Association.

Securities:

AT & T; Baltimore Gas and Electric; Harris Corp; Massachusetts Mutual Mortgage & Realty Investors; J. P. Morgan; Northeast Utilities; Smith Kline; and Union Carbide.

Q3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

A3. None.

Q4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

A4. On behalf of New Jersey Election Law Enforcement Commission, I have occasionally urged the N.J. Legislature to adopt measures designed to assist the Commission in fulfilling its statutory duties.

Q5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

A5. If any conflicts of interest arise, I would either terminate the relationship giving rise to such conflict, or else, if appropriate, disqualify myself from participating in any decision on the matter.

D. Testimony Before Congress

Q1. Are you willing to appear and testify before any duly constituted committee of the

Congress on such occasions as you may be reasonably requested to do so?

A1. Yes.

Q2. Are you willing to provide such information as is requested by such committees?

A2. Yes.

Mr. PELL. With respect to the Reiche nomination, two matters were of particular interest to the committee: Mr. Reiche's service as chairman of the New Jersey Election Law Enforcement Commission and the arrangements Mr. Reiche has made with his law firm and former clients once he begins to serve on the Commission.

Since 1973, Mr. Reiche has served with distinction as chairman of the New Jersey Election Law Enforcement Commission and has been that commission's only chairman. He has enjoyed the confidence of Republican and Democratic administrations alike and has achieved the reputation as a fairminded and able leader of an organization with responsibilities similar to those of the Federal Election Commission. Mr. Reiche's stewardship of the New Jersey commission's administration of a public financing system for the 1977 gubernatorial election in that State is an example of his value to the FEC as it prepares for the 1980 Presidential election campaigns.

Mr. Reiche's income for the past 3 years has been derived principally from his practice of law and from fiduciary commissions. If confirmed, he will resign as a partner in his Princeton, N.J., law firm and will transfer client responsibility to others in the firm. Negotiations have taken place with members of his firm for payment in recognition of work in progress and past services rendered. Payments to the nominee for such services will be made within 24 months of his commencing Government employment and his employment relationship with the firm will be severed within 1 year.

Mr. Reiche stated to the committee that he planned to retain his position as executor of certain estates and trustee to certain trusts because of longstanding personal commitments to do so. The nominee was questioned about such continuing arrangements, particularly since they might interfere with his work on the Commission.

The Federal Election Campaign Act of 1971, as amended, states with respect to the outside business activity of Commissioners:

> Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member. (2 U.S.C. § 437c(a)(3))

The conference report to the 1976 FECA amendments, while noting that Commissioners are expected to serve the Commission "on a full-time basis," suggests that the requirement for terminating outside activity applies only to those who devote "a substantial portion of their time" to such outside business or employment activity. Thus, the prohibition would not apply to business activities to which a Commissioner devotes only an "insubstantial" portion of his or her time. Mr. Reiche has stated to the committee that his total outside business activity would consume no more than 16 hours per month, and that such activity would not conflict with Commission duties.

The committee also was concerned about what compensation arrangements the nominee had made with respect to this outside activity. The Ethics in Government Act of 1978, as applied to FEC Commissioners, limits outside earned income to no more than 15 percent of Federal salary. Mr. Reiche assured the committee that he would comply with the limitations on outside earned income, even though he might not be compensated for his fiduciary services.

While insisting that Commissioners should have minimal distractions from their FEC duties, the committee notes the increasing difficulty that active citizens face in leaving the private sector for Federal Government service. The committee appreciates the nominee's longstanding personal commitment to certain clients now deceased that he would continue in his fiduciary capacity with respect to their trusts and estates, and notes approvingly his willingness to do so without compensation if necessary. Nevertheless, the committee believes that his involvement is at the farthest reaches of "insubstantial" business activity. It must be emphasized that Commission business and obligations to the taxpayers of the United States will always be a Commissioner's first and foremost responsibility.

The committee has no doubt about Mr. Reiche's commitment to the Commission's work. Indeed, the nominee's considerable energy, experience, and understanding of the electoral process are most impressive. Mr. Reiche's service on the Federal Election Commission should go a long way toward reviving the Commission's spirit and helping solve a number of the difficult problems it now faces.

Mr. President, it is a great pleasure to present such a highly qualified nominee to the Senate. I urge his approval by my colleagues.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO DELAY CONDITIONALLY THE EFFECTIVE DATE OF CERTAIN RULES OF PROCEDURE AND EVIDENCE

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 4712.

There being no objection, the Presiding Officer (Mr. NUNN) laid before the Senate an act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court, and for other purposes, which was read twice by title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

● Mr. KENNEDY. Mr. President, on May 1, 1979, pursuant to statutes known as the rules enabling acts which empower the Supreme Court to promulgate amendments to various Federal rules of procedure and evidence, the Supreme Court transmitted several amendments to Congress (H. Doc. No. 96–112). The amendments to the procedure rules automatically take effect 90 days after they have been transmitted by the court and the amendments to the evidence rules take effect 180 days after transmittal, unless the Congress determines that further delay is necessary. The purpose of the delayed effective date is to allow Congress the opportunity to review the amendments and make appropriate modifications before they go into effect.

The Committees on the Judiciary of both the Senate and House of Representatives solicited comments on the proposed amendments. The committees reviewed those comments and decided that the following amendments required additional study and, consequently, should be delayed beyond the August 1 effective date:

First. Rule 11 (e)(6) of the Federal rules of criminal procedure and rule 410 of the Federal rules of evidence which deal with the admissibility of statements made during plea negotiations.

Second. Rules 26.2 and 17(h) of the Federal rules of criminal procedure which would, in essence, amend the Jencks Act (18 U.S.C. 3500) by providing that statements of defense witnesses be disclosed to the Government prior to cross-examination.

Third. Rules 32.1, 32(f), and 40(d) of the Federal rules of criminal procedure which deal with probation revocation procedures, which are currently being studied as part of the criminal code recodification legislation.

Fourth. Rule 44(c) of the Federal rules of criminal procedure which deals with multiple-defendant representation by a single attorney and the potential conflict of defendants' interests which may arise.

H.R. 4712 will delay the effective date of the amendments until December 1, 1980, in order to give the committees further opportunity to analyze their impact. This delay will give Congress the remainder of the 96th Congress to study the proposed amendments and process any necessary legislation. It will also provide additional time for public comment and debate of the important issues raised by these amendments.

Mr. President, the decision of the Congress to delay implementation of these amendments to the rules of criminal procedure demonstrates the need for the Congress to reexamine the whole issue of Federal judicial rulemaking. Since 1972 the Congress has been called upon on four separate occasions to delay the effective date of various evidentiary and procedural rules proposed by the Supreme Court of the United States. In recent years legal commentators—judges, practitioners, and members of the academic community—have urged Congress to reconsider existing statutory procedures for the promulgation of such rules. This latest decision to postpone the effective date of these amendments until December 1, 1980, points out the need for the Congress to give careful attention to the issue of rulemaking.●

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amended bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS TO EDUCATION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Chair lay before the Senate a message from the House, H.R. 4591.

There being no objection, the Presiding Officer (Mr. Nunn) laid before the Senate H.R. 4591, a bill making technical corrections in the Education Act Amendments of 1978.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

● Mr. PELL. Mr. President, the bill before the Senate contains technical corrections and miscellaneous amendments to Public Law 95–561, the Education Amendments of 1978. Most of these correct typographical errors in the public law and other technical problems.

As my colleagues will recall, the Education Amendments of 1978 were a massive and highly important piece of legislation, affecting all areas of Federal assistance to elementary and secondary education programs. The Office of Education is currently in the process of promulgating regulations and implementing the new law for the upcoming school year. Passage of these technical corrections will clear up any ambiguities in the law which might delay speedy and efficient implementation of its new provisions.

A few of the sections of the bill, H.R. 4591, make changes which should be of interest to my colleagues. One, authored by the Senator from Tennessee (Mr. Sasser), makes it clear that local educational agencies are required to furnish information to members of parental advisory councils free of charge, only upon request of individual parents. The law as originally passed would have required free distribution of materials to all members, a tremendous paperwork burden on local school officials. The change will assure that parental advisory councils receive adequate information to perform their very important duties under title I of the Elementary and Secondary Education Act, relating to the education of disadvantaged children, as a matter of right under the law. In addition, if individual parental members of the council want that information, they, too, will be entitled to receive it. I congratulate my colleague for proposing this important amendment, as I believe that it will significantly reduce the paperwork burden which accompanies title I, without threatening the integrity of the parental advisory councils.

Another provision of H.R. 4591 would clarify the situation which has arisen since the passage of Public Law 95–561 concerning the funding of State departments of education. The amendment would guarantee each State a certain minimum amount for the program of strengthening State educational agencies in title V of the Elementary and Secondary Education Act. This would conform the provision to that of former legislation and would make it clear that each State would continue to receive much-needed funds for strengthening its own activities. If additional moneys were made available under title V, the Commissioner of Education could exercise his discretion in their distribution; however, the basic amount would be assured to the States.

The bill before the Senate would extend the reporting dates for certain study commissions created by Public Law 95–561. In some cases, although the law has been on the books for approximately 9 months, the administration has not yet seen fit to make the appointments required by the law. Extension of deadlines for final reports will assure that the commissions, when appointed, have an adequate period in which to make their study, so that their results will be of use to the Congress during the reauthorization of elementary and secondary education programs when the law expires in 1982.

Finally, the law corrects an anomaly in the Department of Health, Education, and Welfare's interpretation of the Family Educational Rights and Privacy Act, commonly referred to as the Buckley amendment. The Department is currently interpreting the statute as precluding State auditors from requesting records on students to conduct State audits of local and State-supported educational programs. Surely it was never the Congress intent to interfere in valid State auditing practices. H.R. 4591 corrects this problem, as recommended by HEW.

As I noted at the outset of my remarks, the bill is highly technical in nature. I urge its speedy passage, so that its corrections can be woven into the basic statute, which is currently being implemented by the Office of Education, so that all of its provisions can be clear to those who are charged with administration of the law.●

● Mr. SASSER. Mr. President, I am pleased to speak out today in support of H.R. 4591, a bill making technical corrections and amendments to the Education Act of 1978. Earlier this year, I introduced a bill, S. 1106, to correct an unnecessary and burdensome paperwork requirement in the 1978 act, and the measure we have before us today contains the language of S. 1106 exactly as I introduced it.

This legislation corrects a requirement in the 1978 act that forced each local education agency participating in title I programs for the disadvantaged to provide a copy of the title I statute to every single member of every single parental advisory committee—whether or not the parent wanted the information.

My amendment guarantees that any member of a parental advisory committee may receive a copy of the statute and related State and Federal regulations without charge upon request—but not automatically. My amendment will protect the local education agencies from complying with an unreasonable paperwork mandate from the Federal Government.

In my State of Tennessee alone, the legislation before us today will relieve local education agencies from the forced requirement of automatically providing an estimated 15,000 copies of a bulky statute to parents who may or may not want them.

Mr. President, shortly after I introduced S. 1106, I received a letter of support from a member of the National Title I Coordinators Association, Richard B. Hodges, Jr., and I ask unanimous consent to insert that letter in the Record at this point.

ESEA, Title I,
Concord, N.H., May 17, 1979.

Senator James R. Sasser,
Dirksen Office Building,
Washington, D.C.

Dear Senator Sasser: I read with interest your introduction of Senate Bill 1106. As a member of the National Title I Coordinators Association I have been particularly interested in the provisions of Section 125c of Title I and would like to provide you with some further information which you might find helpful as your bill makes its way through Committee and hopefully to the floor and passage. Before providing you with some specific data I would like to take an opportunity to support most strongly the intent of Congress to make sure that Title I parents and particularly Title I Parent Council members are provided with sufficient information to make reasonable and legal decisions.

In an attempt to prevent an excess drain on local Title I funds to print copies of the required laws, regulations and guidelines, I did a study to determine if it was possible to have these printed on a large scale basis. This study led to the following information:

According to the National Institute of Education there are about 14,000 LEAs in the United States.

Many of the largest districts have many PACs but for planning purposes, let us assume five per LEA. This estimate leads to a figure of 70,000 PACs across the country.

They will, of course, be of varying sizes but if we use the eight figure provided in the legislation we can project 560,000 members of PACs. These members will obviously not all require copies of the law every year. So that on a three year basis 1,000,000,000 copies of the law should be sufficient to meet the current requirements of Section 12, Title I of the law is 50 pages long. Printed in 8¼" by 10⅞" format, this will weigh about 4 ozs. per copy. 4 ozs. X 1,000,000,000 copies indicates a need for 125 tons of paper.

I checked with the Brown Company, who are major paper producers in northern New Hampshire, their usual planning figure is 2.6 cords of wood for a ton of paper. So we can project this need to 325 cords of pulp wood. This will require clear cutting of 20 to 25 acres of good woodland just to provide sufficient paper.

I do not have the exact figures here, my guess is that this is sufficient trees to cover a good portion of mall between the U.S. Capital and the Washington Monument.

The fuel value of this same 325 cords of wood is equivalent to 890 barrels of oil. This in no way allows for fuel consumption for production costs and transportation.

The above estimates are based solely upon the requirement to provide copies of Title I of the law. The regulations, if they follow the usual pattern will be longer than the law itself. And I understand that the new Federal Title I guidelines are likely to run another 150 pages.

The impact ecologically and on national resources, not including the financial costs which you have already cited, is staggering. If I can be of any further assistance, please let me know.

Sincerely,

Richard B. Hodges, Jr.,
Coordinator.

I find it very interesting to note the connection between the paperwork requirements of the Federal Government and the impact of these requirements on the economy of our country. It is ridiculous, as Mr. Hodges points out, that one unnecessary requirement set out by Congress could cost as much as 20 to 25 acres of woodland to our country.

My bill, which has been incorporated into H.R. 4591, maintains the original intent of Congress in encouraging parental involvement in title I programs. At the same time, my legislation will take unreasonable financial burdens off the back of the local agencies.

I wish to praise the House of Representatives and especially Representative Goodling of Pennsylvania for moving this legislation through that body. I also urge the Senate to offer its support to this important legislation.

Mr. President, I ask that I may have printed in the Record a number of letters I have received on this subject from Tennesseans and a letter from a Colorado educator.

The letters follow:

Greeneville City Schools,
Greeneville, Tenn., May 30, 1979.

Hon. Jim Sasser,
U.S. Senator,
Dirksen Building, Washington. D.C.

Dear Senator Sasser: This is written in regard to Section 125(c) of Public Law 95-561, which deals with the provision of certain materials to members of parent advisory councils within a school system.

I am certain that you will receive other requests similar to this, and I know you are well aware of the complications that this portion of the law dealing with the ESEA, Title I program will pose for all of us. Nevertheless, I am requesting forty (40) copies each of the following documents for distribution to Parent Advisory Council parents:

(1) The text of Public Law 95-561, amendment to Title I of the ESEA of 1965, November 1, 1978; and

(2) Federal regulations published September 28, 1976 as a part of the Federal Register.

As a parent and a taxpayer, in addition to being a school administrator, I would further ask your earnest consideration of possible revision of this section of the law. I have no actual financial data available to me, but I would assume that the cost of providing the aforementioned materials to all school systems in the state of Tennessee could approximate $100,000.00. Multiply this amount by every state and the amount expended for duplication of materials alone will be staggering. Since the purpose of Section 125(c) is to provide certain individuals with access to information, it would seem feasible to simply insure that a copy of each of these documents is located at each school where the program is in effect. Parental familiarity with the contents of the documents could then be done on an individual or group training basis.

I am most appreciative of your help and consideration of my requests. I look forward to hearing from you in regard to this matter, and I wish for you a very pleasant summer.

Sincerely yours,

Jerry F. Ward,
Assistant Superintendent.

Department of Education,
Jackson, Tenn., May 8, 1979.

Hon. James R. Sasser,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Sasser: Section 125 of Title I (Parent Involvement—Access to Information) as amended by PL 95-561 is cause for some concern. If the law, as now written, is carried out it would be most costly and time consuming. Furnishing each member of the Title I Parent Advisory Council a copy of the documents named in 125A would be prohibitive. The funds to be received for FY 80-01 will just support the personnel and materials as planned in the project.

We feel that a more reasonable mandate would be to make copies of the said documents accessible to PAC members.

We, in the Jackson City Schools, appreciate your support of Title I of the ESEA. We are pleased with the progress made by the disadvantaged children receiving compensatory education with Title Funds.

Sincerely yours,

Cathrine Petty,
Title I Supervisor.

Rutherford County Board
of Education,
Murfreesboro, Tenn., June 1, 1979.

U.S. Senator Jim Sasser,
Nashville, Tenn.

Dear Senator Sasser: As Director of E.S.E.A. Title I in Rutherford County, I support your bill to eliminate requiring all members of the P.A.C. councils to be supplied a copy of the Title I Law and Federal and State Regulations.

The concept of the program is excellent. It provides many children with the opportunity to build skills and develop a better self image to meet the world of work. There are no instruments available to measure all the good aspects of the program, but you can be assured it upgrades the potential of the identified children.

My main concern for the program, as you indicated in your bill, is that there are so many requirements in the law that impose so much paperwork for teachers and staff, that it takes much needed time from the students.

We appreciate your concern, and support your bill.

Sincerely,

Margaret Gordon,
Director, Title I.

Poudre School District,
Fort Collins, Colo., May 14, 1979.

Senator James Sasser
Senate Office Building,
Washington, D.C.

Dear Senator Sasser: I am advised through Education Daily, a publication I receive as the person responsible for all Federal programs in this district, that you have introduced a bill to eliminate the provision that Title I requires school districts to supply copies of the Title I Law and Federal and State regulations to each Parent Council Member. I wanted you to know that I whole heartedly agree with this bill. It is creation of lots of paperwork and waste of paper that is unnecessary. I, for one, testified to this effect when hearings were made in this state to renew the Title I ESEA Public Law 95-561.

Certainly parents ought to have the right to have a copy if they want it and unless requested though, the district should not have the responsibility of reproducing them. Again, this is a waste of paper.

Thanks for your support in this endeavor.

Sincerely,

Buford Plemmons,
Director of Federal Programs,
and Special Projects.●

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 544.

There being no objection, the Presiding Officer (Mr. Nunn) laid before the Senate the amendment of the House of Representatives to the bill (S. 544) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development.

(The amendment of the House is printed in the Record of July 19, 1979. beginning at page H6248.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree with the amendments of the House, request a conference with the House on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Cranston, Mr. Pell, Mr. Schweiker, Mr. Javits, and Mr. Hatch conferees on the part of the Senate.

AUTHORIZATION FOR REPRINTING OF "ENACTMENT OF A LAW" AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I send a resolution to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 203) authorizing the reprinting of the Senate document entitled "Enactment of a Law" (S. Doc. 95-15).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to as follows:

Resolved, That there be reprinted for the use of the Senate Committee on Rules and Administration 7,000 copies of Senate Document 96-15, entitled "Enactment of a Law", relative to the procedural steps in the legislative process.

ANNOUNCEMENT OF OVERSIGHT HEARING BY THE RURAL DEVELOPMENT SUBCOMMITTEE ON THE RURAL HEALTH CLINICS SERVICES ACT

Mr. LEAHY. Mr. President, in December 1977, President Carter signed into law Public Law 95-210, the Rural Health Clinics Services Act. Known as the Clark-Leahy bill, this legislation basically provides medicaid and medicare reimbursements for services supplied by nurse practitioners and physician assistants in health clinics located in rural medically underserved areas.

After numerous hearings before the Rural Development Subcommittee and others, the 95th Congress was convinced that Public Law 95–210 was uniquely suited to rapidly improving health care in rural areas. The legislation was and is a timely, viable solution to the persistent problem of bringing adequate health care to rural elderly and poor. The act holds great promise for extending health services to the rural people who need them most. However, it now appears that at least a part of this promise has soured.

Mr. President, I am very disturbed by the findings of a recent HEW report that the solutions promised by Public Law 95–210 are not being fully realized. The Secretary's report will be released to the public in a few days and its findings and conclusions should be troubling to all Senators with a rural constituency. In other words, Mr. President, every Senator should take a long hard look at what this report has to say and consider its implications with regard to giving HEW necessary tools to improve the health of rural America.

The report does not make explicitly clear where the problems with Public Law 95–210 lie. The preponderance of the difficulties seem to be with implementation, that is, HEW seems to have dropped the rural health ball. However, some obstructions to implementation have also been identified in the act itself. And too, the acceptance and necessary cooperation from the States and the medical profession has been less than overwhelming.

Mr. President, in order to sort out and resolve the obstructions that are stifling the intent of the Rural Health Clinics Services Act, I am today announcing oversight hearings by the Rural Development Subcommittee which I chair.

Through oversight and review, I plan to pinpoint exactly why and where the program has fallen down. I am not looking to point any fingers of blame. Such self-serving demogoguery helps no one, least of all the people of rural America whom the act was intended to benefit.

Rather, I want to find out what is wrong and how the Congress, the administration and the bureaucracy can work as a team to resolve these problems in the most expeditious manner. These solutions may mean new regulations or new legislation. Or, they may simply require a better understanding by HEW of the serious interest of Congress in how they are handling the law's implementation. The oversight hearing will sort out these problems and bring forth answers.

Mr. President, because of the critical importance of Public Law 95–210 and its inability to live up to congressional expectations, I believe it imperative that these hearings be scheduled at the earliest possible date. With this in mind, I am scheduling the hearing for the morning of September 12 in room 324 of the Russell Senate Office Building.

As of yet, no firm witness list has been developed for the hearing. However, written testimony is solicited from the public and all interested parties. I would be most appreciative if persons wishing to testify or submitting written testimony would contact the Agriculture Committee at the earliest possible date.

ADDRESS BY SENATOR HEINZ BEFORE WORLD AFFAIRS COUNCIL

Mr. BAKER. Mr. President, the able Senator from Pennsylvania (Mr. HEINZ) spoke several weeks ago before the World Affairs Council in Philadelphia. The topic of his address was SALT, specifically the SALT II Treaty now under consideration in the Senate.

This address, one of the best, objective appraisals of SALT II that I have seen, expresses a number of well articulated concerns, all of which I share. I ask therefore that the Senator's remarks be printed at this point in the RECORD and I invite the careful attention of my colleagues to them.

The remarks follow:

REMARKS OF SENATOR JOHN HEINZ

It's a special privilege to be here with you this evening in marking the world affairs council's 30th year of providing the kind of leadership and understanding of international affairs that is so vital for our citizens in today's world.

One recent example of your leadership is the creation of the global interdependence center with the University of Pennsylvania. This is a landmark in promoting international study and understanding. I want to add my personal congratulations on this pace-setting initiative.

The word "interdependence" is being heard with increasing frequency around the world, and with good reason. A two-month oil shutoff from only one oil supplier—Iran—has proved enough to send major economic shock waves throughout the world. A minor border clash in the Middle East could quickly escalate into world wide confrontation.

Now more than ever before, the United States is at the center of these global webs of interdependence, and the decisions we make in the 1980's will in large part help determine the future of the four billion people with whom we share this planet.

Tonight I would like to discuss our role in that world and some significant aspects of American foreign policy as we move into the 1980s.

Let me emphasize I am not a political scientist or an historian. I claim no technical expertise in these fields. But I am a politician, and it is my highest responsibility to identify the telling issues of our day, to bring them to public light and to influence the right choice of public policy by articulation and effective advocacy.

As one politician looking at all the other politicians guiding the fate of the world's nations, I believe there is no more important question than the credibility of our foreign policy.

And to take the most important example, our credibility is nowhere more put to the test than as we confront the expansionist plans of the Soviet Union—a Soviet Union that is actively engaged in causing turmoil in the developing world.

The largest single determinant shaping out relationship with the Soviets in the 1980s is now before the Senate—the SALT II treaty. Just as the League of Nations was conceived out of the ashes of World War I to put an end to world destruction, so both SALT I and II are the consequences of inevitable world wide technological progress.

You and I both realize there is no turning back the clock of technology. Instead, what we have done is to launch a series of efforts, beginning with the test ban treaty, to control arms development, to slow down the pace of technological change. In addition to test bans, we have pursued nuclear nonproliferation, bans on satellite weapons, prohibitions on anti-ballistic missile defenses, and mutual balanced force reductions in Europe. We have initiated efforts to declare nuclear free zones. And finally we have SALT.

There is no doubt that the Senate debate on SALT will be the most complex and exhausting debate in this century. The questions that will be raised will be almost too numerous to count. So let me begin the discussion of SALT by telling you what I will not address in these remarks. I will not touch on the treaty in the context of our overall defense policy, or in the context of Soviet geopolitical behavior. Soviet adventurism in Africa or the Middle East, linkage with human rights or SALT without détente will remain topics for discussion afterwards or on another occasion.

In examining the SALT Treaty itself, let me start by mentioning three things that it is not. It is not limiting; it is not equal; and it is not verifiable.

First, limits. The treaty is not limiting because it does not effectively prevent the construction of vast numbers of additional deliverable warheads. And it permits both sides to develop a new type of missile. In our case this will be the MX. There are also no constraints on new types of SLBMs. A major leg of our Triad.

It is partial arms control, and the result is like squeezing a balloon in the middle only to have it pop out somewhere else. The treaty may limit new launcher construction, but that only means more spending and building in all the other unrestrained areas.

Second, equality. The SALT Treaty does not create or ensure equality. Despite the equal overall ceilings on strategic nuclear launch systems. It permits the Soviets an advantage in throw weight, heavy missiles, and MIRVed ICBMs. This inequality is not caused by the treaty. But neither is it solved by the treaty.

Third, the treaty is not fully verifiable. Major parts of it can be adequately verified, but you will find most parties conceding deficiencies in verification: cruise missile range limits, monitoring of the southern Soviet test range, telemetry encryption, the range of the Backfire, to name a few. You will find treaty proponents talking about adequate verification not complete verification.

Having outlined these shortcomings, and said what SALT is not, let me also suggest several things that it is.

First, although the treaty does not effectively limit strategic weapons, it is clearly directive. By that I mean it puts caps on some weapons and thereby encourages others, such, in our case, as cruise missiles. This means that SALT II is a long way from achieving significant arms control. It also means there is unfinished work, work that might be achieved in SALT III. Since the first test ban treaty 16 years ago, we have learned that the process of establishing mutual trust and confidence is a slow and frustrating one. George McGovern is understandably unhappy that SALT II does not go very far. The question is whether in the real world we can expect it to go any farther.

Second, although it clearly perpetuates inequalities between us and the USSR in indices such as throwweight and equivalent megatonnage, SALT is not without advantages for the United States. Forward based systems in Europe are not counted. There are no range limits on ALCMs. Further development of the trident missile is permitted. And we appear not to be restricted from developing and ultimately deploying a mobile missile in the post-protocol period as long as it is verifiable.

It is too early now to weigh these various advantages against the disadvantages. It is not too early, however, to note that inequality can work for us as well as against us.

Third, because the treaty is not fully verifiable, it may set the stage for better means of vertification. Clearly the most effective and cheapest means of vertification is simply to count and observe the missiles when and where they are built, and then let them be deployed any way a nation chooses.

The Soviets have continually rejected any form of verification other than satellite surveillance, and we have a long way to go before they will change. But the vertification problems of this treaty will help to make a convincing case for the development of a more effective system such as on-site inspection.

Now, the issues of limitations, equality and verifiability are important. But they are, in my judgment, only reflections of the real issue in this debate over SALT. And if they take up most of the debate, we may end up missing the point.

The point is not whether we come out ahead or behind the Soviets on a long list of quantitative indices of strength. And the point isn't whether the lines on those "net advantage" graphs you've all seen dip into the Soviet side.

Nor is the point only whether SALT II will lead to SALT III, or whether any arms control is good for its own sake, no matter how small a step.

The real question is very simply whether SALT II will achieve our fundamental objective, which is a more credible deterrent to nuclear war. Such a deterrent must persuade the Soviets both that they cannot win a nuclear war and that they will suffer unacceptable damage if they start one.

For the past twenty years our approach to deterrence has been based on the concept of mutual assured destruction, M.A.D.

This concept was developed in a politically and technologically simpler era, and today's greater sophistication and diversity of weapons demand a more complex deterrent because improved missile accuracies on both sides now permit us to effectively target each other's missile launchers for a so-called counterforce strike. A counterforce capability doesn't assure mutual destruction. In fact, it lowers the level of potential initial destruction and may therefore make nuclear war seem more tolerable, thus increasing the risk of a preemptive first strike. It also focuses more attention not on the first exchange of missiles, but on the second exchange, which would be directed at population, or so-called countervalue targets.

So while the horror of mass destruction is still the true deterrent, in the 1980's, the concept of mutual assured destruction must apply to both people and launchers.

Suppose the Soviets have sufficient force to destroy our ICBMs, absorb a strike against their cities, and still have enough left over to destroy our cities. In that hypothesis the credibility of our deterrent clearly wouldn't rest on the certainty of mass destruction. It would rest on the calculation that the Soviet leaders would not risk the destruction of a substantial part of their population in order to win the war.

Reliance on this calculation worries me for three reasons:

One, we don't really know as much as we should about how the Soviet leadership thinks.

Two, the Soviets continue to pursue a large civil defense effort.

Three, one can argue with equal credibility that no U.S. President could ever launch a second strike against the Soviet Union knowing that its only effect would be to unleash an equally devastating Soviet second-strike on our population. To do so would be irrational, and I cringe at the thought that effective deterrence might come to rest on our having to convince the Soviets that no American president can be counted to act rationally.

Effective deterrence in the 1980s means convincing the Soviets they cannot win such a war: That their first strike on us would either exhaust their supply of missiles or leave us with sufficient force to destroy their remaining ICBMs.

The massive Soviet arsenal permitted under SALT II in large MIRVed, accurate SS-18 missiles capable of knocking out our own land-based accurate missiles suggests that in the future our traditional countervalue deterrent won't be reliable. And we might also ask whether a policy that has as its central premise the destruction of over 100 million men, women, and children, is morally defensible.

In either case, we have posed the serious and central questions for our defense strategy in the next decade.

The critics of the SALT treaty argue that we don't have sufficient missile survivability to deter such a Soviet attack. They say that under the treaty's terms our minuteman missiles would be vulnerable to destruction, and this issue of minuteman vulnerability is, in my judgment, the most pressing strategic problem we face.

SALT did not cause this problem, and SALT cannot solve it. But neither should SALT prevent our being able to use the best solution to solve the problem.

This, of course, raises the question of amendments, because the treaty may need amendments in order to allow us to adopt the best solutions: The MX missile in a maps deployment, on-site inspection, an announced launch on warning strategy (and I recognize its grave risks); or an expanded ABM systems are all alternative solutions to the problem.

We already know that there will be many amendments proposed to this treaty. They will raise complicated issues like permitting equal numbers of heavy ICBMs; like insisting on the expiration of the protocol at the end of 1981; and like insuring the right to deploy Minutemen or MX missiles in a multiple aim point basing mode.

However long it may take, and however technical the discussion may become, I think that each amendment must be considered on its own merits. I can assure you the United States Senate in general, and this United States Senator in particular, will not be intimidated by Mr. Brezhnev's bullying remarks warning against any amendments, because we see them for what they are: part of a propaganda campaign aimed at influencing the action on the Senate floor. My attitude is that if we are going to start our debate by caving in to that kind of pressure, the treaty isn't worth having.

The Senate has a responsibility both to advise on and to consent to treaties, and it will adopt amendments if they are necessary. We will not acquiesce to the Kremlin and abandon our responsibility to amend the treaty, or even send it back for renegotiation, if that is what we feel is necessary to protect and preserve the best interests of the United States of America.

In the end, after all the debate is finished, my vote is going to depend on my judgment whether the treaty will prevent us from building or deploying a necessary defense system. It will depend on whether I judge our nation to have at least equality with the Soviets today, and whether the treaty will in any way diminish our position relative to the Soviet Union for the next decade.

It is too early to give you my assessment, but it is not too early to make a prediction.

In the final analysis, the SALT debate is going to be about credibility: the credibility of our deterrent; the credibility of any commitments the Administration makes on defense policy; and the credibility of American foreign policy.

I might note that there is a widespread feeling in Washington that the administration's commitment to build the MX is just part of ratification gamesmanship and won't be honored after the treaty debate. That's a sorry commentary on this administration and its credibility in the Congress, but I'm afraid it's an accurate one, and the President is going to have to make more than promises to get this treaty approved.

Many analysts have suggested that the greatest threat we face is not an actual nuclear attack, but the more likely possibility that if the Soviets believe they're ahead of us, they will seek to exploit that superiority—real or imagined—in specific areas of the world, and we will face, not diminished, but expanded Soviet meddling in Africa and the Middle East; greater pressures on unstable regimes in developing countries; and more agitation in Latin America.

Our response to this challenge must be more than an acceptable SALT treaty. It requires a credible foreign policy across the board. And that simply means that the world must have confidence in the integrity, strength and consistency of our commitments if we are to deter the Soviets from taking risks that might end in nuclear confrontation. For, if the Soviets perceive any vulnerability, if they conclude that we can no longer cope with our problems, they will inevitably be encouraged to take further advantage of us.

In the months ahead, while so much attention will be focused on the details of the SALT treaty, I think it is important to remember that the issues in the SALT debate—as important as they are in and of themselves—also therefore involve a larger crisis of spirit and confidence that affects America, and exists within America.

It is my solemn conviction that our foreign policy credibility ultimately rests on our effective action on two absolutely central domestic questions: energy policy and our national policy on real economic growth and productivity. We should ask ourselves some hard questions. What do other countries think of a Nation that, having experienced a foreign-imposed oil embargo against it five years previously, has nearly doubled the volume of its oil imports in that time?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT OF DEFERRAL OF BUDGET AUTHORITY FOR THE BUREAU OF PRISONS—MESSAGE FROM THE PRESIDENT—PM 88

The **PRESIDING OFFICER** laid befor the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975.

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6.2 million in budget authority for the Bureau of Prisons in the Department of Justice.

The details of this deferral are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *July 24, 1979.*

MESSAGES FROM THE HOUSE

At 1:40 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 209. A joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week."

At 2:42 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 41. An act to require the Secretary of Agriculture to convey any interests held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes;

H.R. 3807. An act to amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change;

H.R. 4591. An act to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other puposes;

H.R. 4712. An act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 3:13 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 373. A joint resolution recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 4:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 544. An act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were read twice by their titles and referred as indicated:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3807. An act to amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change; to the Committee on the Judiciary.

H.J. Res. 209. Joint resolution designating the week of October 8 through October 14, 1979, as "National Diabetes Week"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **LEAHY**, from the Committee on Appropriations, with amendments:

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–257).

By Mr. **PROXMIRE**, from the Committee on Appropriations, with amendments:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–258).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. **WILLIAMS**, from the Committee on Labor and Human Resources:

Frankie Muse Freeman, of Missouri, to be Inspector General, Community Services Administration. Referred to the Committee on Governmental Affairs for not to exceed 20 days, pursuant to order of March 1, 1979.

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

Daniel Edward Leach, of Virginia, to be a member of the Equal Employment Opportunity Commission.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **CANNON**, from the Committee on Commerce, Science, and Transportation:

Stuart M. Statler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission.

(The above nomination from the Committee on Commerce, Science and Transportation was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. **RANDOLPH**, from the Committee on Environment and Public Works:

Robert N. Clement, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority.

(The above nomination from the Committee on Environment and Public Works was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. RANDOLPH. Mr. President, today I file the report of the Committee on Environment and Public Works on the nomination of Robert N. Clement to be a member of the Board of Directors of the Tennessee Valley Authority. This nomination was ordered favorably reported on July 19 by a vote of 12 to 1 with one member present and not voting.

Consistent with the committee's normal practice, no written comments by the committee accompany the report of this nomination. The hearing and complete proceedings of the committee, together with other relevant materials, will be published.

Mr. President, one member of the committee, Senator GRAVEL, asked for the opportunity to make known his individual views on the nomination. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

Views of Senator Gravel on the Nomination of Robert Clement to the Board of Directors of the Tennessee Valley Authority

On July 19, the Environment and Public Works Committee favorably reported the nomination of Robert Clement to serve on the Board of Directors of the Tennessee Valley Authority by a vote 12 to 1. As the only member of the committee to cast a negative vote on the nomination, I am taking this opportunity to inform the Senate of the reasons for my vote.

On June 5, Mr. Celement visited my office on a courtesy call prior to committee consideration of his nomination. Because he impressed me as a personable and intelligent individual, I indicated my intention to support his nomination. At that time, I was unaware of any contention or controversy over the appointment.

Several weeks later, but prior to committee action on the appointment, I was visited by a colleague with a vital interest in the nomination. At that time, I became aware of two contentious issues surrounding Mr. Clement. The first relates to his views on the matter of location of the headquarters of the Tennessee Valley Authority. It is contended by the State of Alabama that the TVA headquarters should be in Muscle Shoals, Alabama rather than Knoxville, Tennessee. Because of a previous interest in holding political office in the State of Tennessee, I was informed that Mr. Clement would be biased against moving the TVA headquarters to Alabama. This matter is currently being litigated and, in my opinion, does not represent a compelling issue related to the nomination.

The second issue pertains to a political fundraiser held on September 17, 1978 to retire debts from the campaign of Robert Clement for Governor of Tennessee. Prior to, during, and following his campaign for Governor, Mr. Clement served as President of the Tennessee Public Service Commission, which is the State agency charged with regulation on public utilities. He was defeated in a primary election held on August 3, 1978. At the fundraiser, Mr. Clement raised approximately $136,000 to be used to pay off his campaign debts. In a hearing on the nomination before the Environment and Public Works Committee on June 26, Mr. Clement was asked about the nature of the contributions at the event. Specifically, he was asked "you would say that there were many of those contributors who gave you more than $100, would you not, sir?". He responded "Some gave us more than $100. Some gave us less than $100". On July 3, 1979, Mr. Clement filed a sworn affidavit with the Director of Library and Archives of the State of Tennessee indicating that tickets to the event were sold for $100 per person and "no one person contributed more than $100.00". A corollary matter was the failure of the Clement campaign to comply with Tennessee election laws related to post-election disclosure of campaign contributions. Three issues became clear in my mind: How was it possible to raise $136,000 in contributions of less than $100? Why was the Clement campaign unable to comply with the requirements of the Tennessee election law? Was there some connection between the size of the contributions and Mr. Clement's service on the Tennessee Public Service Commission?

Like every other member of the Senate, I have a fair amount of experience at political fundraising. I come from a very small State, with respect to population. It seems impossible to raise $136,000 at one sitting in $100 contributions. If I can raise $30,000 at a sitting, that is a major accomplishment. I know that Tennessee is not a large state. It struck me as unusual that there would be 1,360 individuals willing to contribute $100 apiece. It is possible. However, judging from the way in which the discolsure statements were filed, it appeared to me that a legitimate issue had been raised with regard to the source of these contributions.

Mr. Clement has indicated that he lacked the resources following the election to comply with the letter of the Tennessee election law. Reports were due to be filed on October 5, December 5, February 5, April 5, and June 5 following the event. These reports were either filed late or not filed at all. It is my understanding that the resources were available following the primary election to provide all contributors with a thank you note following the fundraising event. So people were hired to make the necessary acknowledgements to contributors, but nobody was hired to do the necessary reporting.

All politicians must comply with reporting requirements and we have all hired people to assist us in that task. It is a very onerous and detailed task, and it is possible that something could be found in one of my reports—something I have not done personally—which might be embarrassing. I think all politicians live under that threat.

But I do know that if someone charges me with a violation of the law, I would be strongly inclined to make every disclosure that would be necessary to dismiss the charge. In particular, it is my impression that the entire political structure of the State of Alabama will subject Mr. Clement to a close and harsh scrutiny during his tenure at TVA.

In my opinion it would be best for Mr. Clement to come forward, make the necessary disclosures, and clear up the matter once and for all. While it may appear that the infractions in this instance are minor in nature, it could easily be a major issue if perchance there were knowledge of actions that were not clearly evidenced by the affidavits or sworn statements. If the specter that is going to hang over Mr. Clement is such that at any point in the future, any one of 1,360 individuals could come forward and indicate that a contribution of greater than $100 was made and intimate that there was a tie to the position held by the recipient, that is a specter and threat that no public person should be subjected to.

Should such a disclosure occur, I think that it would not reflect properly on the Committee which approved the nomination, nor on the Senate as a whole.

At this point in time, I am not satisfied on the questions raised. I have what is called in legal terms a reasonable doubt. It is most unfortunate because the person before us appears to be a very fine person who will probably do a very excellent job. But it is my feeling that he will have his career blemished as a result of these unfortunate allegations which go unproven one way or the other.

For these reasons, I voted against favorable reporting of the nomination.

ORDER FOR STAR PRINT OF EXECUTIVE AMENDMENT NO. 1

Mr. STEVENS. Mr. President, I make the following statement on behalf of the Senator from Arizona (Mr. GOLDWATER):

On June 5, shortly before the SALT II Treaty was formally signed at Vienna, Senator GOLDWATER submitted as Executive Amendment No. 1, a proposal to count the Soviet Backfire bomber for purposes of the limitations on the total number of strategic offensive arms provided for in the treaty.

Now that the official text of the treaty is available, Senator GOLDWATER has made the necessary conforming changes to his amendment and I ask unanimous consent that a star print of the amendment be made including these modifications.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHILES:

S. 1564. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BELLMON:

S. 1565. A bill to amend the Internal Revenue Code of 1954 to provide for the withholding of tax on dividends and interest; to the Committee on Finance.

By Mr. MATHIAS:

S. 1566. A bill to amend the Immigration and Nationality Act to provide special immigrant status for certain retired officers and employees, and certain children and surviving spouses of officers and employees, of international organizations; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 1567. A bill to establish the Yaquina Head Outstanding Natural Area in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 1568. A bill to amend the Bankruptcy Act; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. CHILES:

S. 1564. A bill to require public disclosure of certain lobbying activities to influence issues before the Congress, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1979

Mr. CHILES. Mr. President, one of my most deeply held beliefs is that democratic self-government and an informed citizenry go hand-in-hand, making it essential that the public's business be conducted in the open. Only with such openness can the public judge and express, through voice and vote, whether the Government's decisions are just and fair.

When I first came to the Senate in 1971, I was disturbed by the amount of public business I found being conducted behind closed doors, and by the attitude of secrecy I found permeating the Federal Government. In recent years, however, new laws have been enacted which give the public a clearer view of how the Government works. Campaign financing laws and disclosure laws tell the public about the men and women elected to Congress and how they were elected. The Freedom of Information Act and the Privacy Act help to strike an improved balance between the public's right to know about what the Government is doing and to be protected from unwarranted intrusions by the Government into personal matters.

I supported those reform efforts because I believe that opening up governmental processes to the people will lead to better lawmaking and greater public confidence in our governmental system. I sponsored and worked for the passage of the Government in the Sunshine Act which opened up the Federal agency meetings to the public.

The Sunshine Act embodies the fundamental principle that the public is entitled to the fullest practicable information regarding the decisionmaking process of the Federal Government. Its basic premise is that the public has a right to know what Government is doing and how it is handling the public's business.

Both Houses of Congress have adopted rules opening up the deliberations of committees. Open committee meetings enable the public to get a clearer understanding of how legislation is shaped. This provides the public with an opportunity to observe the give and take which is so essential to the legislative process.

To effectively evaluate governmental policies and to be able to participate in our representative Government intelligently, our citizens must be able to understand the entire legislative process. The goals and needs for legislation cannot be accurately assessed without knowledge of the information and influences which form the foundation for legislative decisions. Lobbying is a significant source of such information.

Lobbying groups provide Congress with valuable information about the substance of legislation and the way in which proposed legislation would affect different segments of the public. Yet, the traditional view of the lobbyists is a negative one. Rightfully or not, the public comes to believe that the activities which it does not see are somehow shady, perhaps even corrupt. This suspicion creates a distrust of lobbying groups and of the integrity of the legislative process itself.

The public has no clear picture of the magnitude of lobbying. To provide a comprehensive view, the lobbying law needs to be reformed.

The bill I am introducing today, the Lobbying Disclosure Act of 1979, seeks to do that. It would strike a balance between the public interests in disclosing systematic, organized lobbying operations and in protecting the constitutional right of the people to petition the Congress for redress of grievances. This bill recognizes that the American public has a right to know the sources and intensity of significant organizational pressures upon the legislative process.

The 1946 Lobbying Act applies only to contacts with Members of Congress. It does not cover contacts with congressional staff members or with top-level officials in the executive branch. Enforcement and administration of the current law is largely ineffective, since the Secretary of the Senate and the Clerk of the House have no authority to audit records. Finally, because the 1946 act provides only for criminal sanctions against violations of the statute, minor or inadvertent violations create a dilemma for the enforcing agency. The Justice Department must either seek to impose criminal sanctions or let violations pass unpenalized. This situation has effectively rendered the current law unenforceable.

The problems with the present law were exemplified last summer when a national news magazine estimated that of 15,000 lobbyists now in Washington, only 2,000 were actually registered. Estimates of the amount of money spent by lobbyists in Washington run as high as $2 billion annually. Yet little of this is ever reported.

Mr. President, the bill I am introducing today would help to solve these problems. It would do so in a way which minimizes the reporting burdens on lobbying groups, yet provides meaningful information about the size and nature of lobbying activities.

Any lobbying law must strike a balance between protecting the first amendment rights to petition the Government and the public interest in knowing how legislation is shaped. In a practical sense the question of who should and who should not be covered by the disclosure provisions indicates where this balance is struck.

To me, lobbying means organized, systematic activity by an organization spending money to make direct contacts to influence legislation. Those are the two elements used to determine whether the disclosure provisions of the bill will apply to a group. Therefore, the bill does not cover individuals who express their personal views to Congress. It does not cover volunteers; nor would it cover ad hoc groups who come to Washington to lobby the Congress on a short-term, one-shot basis. It does not cover organizations which contact the Senators or any of the Congressmen from the State where the organization's principal place of business is located.

This bill would require organized, well-financed lobbying groups to register and file disclosure reports. The reports would identify the name of group, the issues sought to be influenced, and the money spent on lobbying activities. Lobbying groups would disclose the amounts spent for gifts, for receptions and dinners, for the salaries of lobbyists, and for retaining outside lobbyists. Efforts by lobbying groups to orchestrate public opinion would be disclosed, as would organizations which make large contributions to lobbying groups. Enforcement would be effective, with every effort taken to insure that no group's rights are violated.

All of the disclosure provisions are designed with an eye toward making the reporting as simple and as easy as possible. Once it meets the threshold for applicability of this bill, a lobbying group would be required to register annually and to file quarterly reports for each quarter in which it crosses the triggering threshold. What is asked for is the identity of the organization, a listing of the individuals it hires or retains to lobby on its behalf, the most important issues on which the group lobbied, and levels of money spent.

Mr. President, there is a consensus that the current lobbying laws are outmoded and ineffective and that change is needed. This popular demand is underscored by the fact that since 1972, 41 States have passed new lobby disclosure laws. There has been, and continues to be, lively debate over the precise nature any reform should finally take, and I hope that this bill will help to continue that dialog. A new law which infringes on constitutional rights would be unacceptable to me. At the same time, a new law which does no more than the current law does to inform the public about lobbying activities would not be a meaningful lobbying reform effort.

Mr. President, I have prepared a fact sheet which contains questions and answers about this bill and sample registration and reporting forms. They show the types of information which a lobbying organization would disclose under this bill. I ask unanimous consent that these items, along with the text of the bill, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lobbying Disclosure Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that the enhancement of responsible representative government requires that the fullest opportunity be afforded to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government; and

(2) that the identify and extent of the activities of organizations which pay others, or engage on their own behalf in certain efforts, to influence an issue before Congress should be publicly and timely disclosed in order to provide the Congress and all members of the public with a fuller understanding of the nature and source of such activities.

(b) It is the purpose of this Act to provide for the disclosure to all members of the public of such efforts without violating the right to petition the Government for a redress of grievances or other constitutional rights.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "affiliate" means—

(A) an organization which is associated with another organization through a formal relationship based upon ownership or an agreement (including a charter, franchise agreement, or bylaws) under which one of the organizations maintains actual control or has the right of potential control of all or a part of the activities of the other organization;

(B) a national membership organization and any of its State or local membership organizations or units, a unit of a particular denomination of a church or of a convention or association of churches, a national trade association and any of its State or local trade associations, a national business league and any of its State or local business leagues, a national federation of labor organizations and any of its State or local federations, and a national labor organization and any of its State or local labor organizations;

(2) the term "Comptroller General": means

the Comptroller General of the United States;

(3) the term "direct business relationship" means the relationship between an organization and any Federal officer or employee in which—

(A) such Federal officer or employee is a partner in such organization;

(B) such Federal officer or employee is a member of the board of directors or similar governing body of such organization, or is an officer or employee of such organization; or

(C) such organization and such Federal officer or employee each hold a legal or beneficial interest (excluding stock holdings in publicly traded corporations, policies of insurance, and commercially reasonable leases made in the ordinary course of business) in the same business or joint venture, and the value of each such interest exceeds $1,000;

(4) the term "employ" means the utilization of the services of an individual or organization in consideration of the payment of money or other thing of value, but does not include the utilization of the services of a volunteer;

(5) the term "expenditure" means a payment, distribution (other than normal dividends and interest), salary, loan (if made on terms or conditions that are more favorable than those available to the general public), advance, deposit, or gift of money or other thing of value. The term "expenditure" also means a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in the preceding sentence. The term "expenditure" shall not apply to any gift or loan to any individual who is an immediate member of the family of the donor or lender.

(6) the term "Federal officer or employee" means—

(A) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee, or officer of the Congress;

(C) any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code; and

(D) the Comptroller General, Deputy Comptroller General, General Counsel of the United States General Accounting Office, and any officer or employee of the United States General Accounting Office whose compensation is fixed by the Comptroller General in accordance with section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(7) "Identification" means—

(A) in the case of an individual, the name and personal or business address of the individual, and any position held in the organization identifying the individual pursuant to the registration and reporting requirements of this Act; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the chief executive officer and the directors of the organization, regardless of whether such officers or directors are paid.

(8) the term "lobbying communication" means, with respect to a Federal officer or employee described in section 3(6) (A) or (B), an oral or written communication directed to such Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, or investigation, and, with respect to a Federal officer or employee described in section 3(6) (C) or (D), an oral or written communication directed to such Federal officer or employee to influence the content or disposition of any bill, resolution, or treaty which has been transmitted to or introduced in either House of Congress, any nomination to be submitted to the Senate, or any hearing or investigation being conducted by the Congress or any committee or subcommittee thereof, but does not include—

(A) a communication (i) made by any employee of the Federal Government or (ii) made in the form of public testimony given before a committee or office of the Congress or submitted for inclusion in the public record; or

(B) a communication made through a speech or address, through a newspaper, book, periodical, or magazine published for distribution to the general public, or through a radio or television transmission, or through a regular publication of an organization published in substantial part for purposes unrelated to engaging in activities described in section 4(a): except that this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public, or of a paid radio or television advertisement; or

(C) a communication by an individual solely for a redress of personal grievances, or solely to express his personal opinion; or

(D) a communication on any subject directly affecting an organization to (i) a Senator, or to an individual on his personal staff, if such organization's principal place of business is located in the State represented by such Senator, or (ii) a Member of the House of Representatives, or to an individual on his personal staff, if such organization's principal place of business is located in the state in which such Member's congressional district is located; or

(E) a communication which concerns solely the existence or status of any bill, resolution, treaty, nomination, hearing, report or investigation.

(9) the term "organization" means—

(A) any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, organization of State or local elected or appointed officials (excluding any Federal, State, or local unit of government other than than a State college or university as described in section 511(a)(22)(B) of the Internal Revenue Code of 1954, and excluding any Indian tribe, any national or State political party and any organizational unit thereof, and any Federal, State, or local unit of government of another country), group of organizations, or group of individuals; and

(B) any agent of a foreign principal as defined in section 1 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611);

(10) the term "quarterly filing period" means any calendar quarter beginning on January 1, April 1, July 1, or October 1; and

(11) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

APPLICABILITY OF ACT

SEC. 4. (a) The provsions of this Act shall apply to—

(1) any organization which makes expenditures in excess of $500 in any quarterly filing period for:

(A) the retention of one or more individuals or organizations to make lobbying communications, or for the express purpose of drafting any such lobbying communication; or

(b) the benefit of any Federal officer or employee if the expenditure is one described in paragraphs (2) and (3) of Section 6(b) of this act; or

(C) both (A) and (B); or

(2) any organization which (A) employs at least one individual who, on all or any part of each of thirteen days or more in any quarterly filing period, or two or more individuals, each of whom, on all or any part of each of seven days or more in any quarterly filing period, makes lobbying communications on behalf of that organization, and (B) makes expenditures in excess of $500 in such quarterly filing perior for:

(i) the employment of one or more individuals to make lobbying communications to the extent described in paragraph (2) (A); or

(ii) for the benefit of any Federal officer or employee in the expenditure is one described in paragraphs (2) and (3) of Section 6(b) of this Act; or

(iii) both (i) and (ii).

(3) The provisions of sections 5 and 6 of this Act shall not apply to an affiliate of a registered organization if such affiliate engages in activities to the extent described in paragraphs (1) and (2) of this subsection and such activities are reported by the registered organization. Any registered organization which reports on behalf of any affiliate under this paragraph shall include in its registration and reports an identification of such affiliate.

(b) For the purposes of this section, an expenditure for the retention of any individual making lobbying communications shall be computed at the daily rate of any expenditure for retention or employment for each day such activity occurs.

(c) This Act shall not apply to practices or activities regulated by the Federal Election Campaign Act of 1971.

REGISTRATION OF LOBBYISTS

SEC. 5(a) Each organization shall register with the Comptroller General not later than thirty days after engaging in activities to the extent described in section 4

(b) The registration shall contain the following, which shall be regarded as material for the purposes of this Act:

(1) an identification of the organization, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the individuals who are members of an organization; and

(2) an identification of any retained individual or organization described in Section 4(a)(1) (hereinafter in this Act referred to as "retainee") and of any employee who engages in activities to the extent described in section 4(a)(2); and

(3)(A) a separate schedule listing the name and address of each organization from which the registered organization received directly or indirectly $3,000 or more in dues or contributions during the year preceding the year in which the registration is filed, including any contribution or dues given by an individual acting on behalf of an organization or reimbursed by an organization, where (i) the dues or contributions were expended in whole or in part by the registered organization for activities described in section 4, and (ii) the total expenditures reported by the organization under section 6(b) during that calendar year exceeded 1 per centum of the total annual income of the registered organization from all sources during that calendar year.

(B) The organization shall indicate the amount of the dues or contributions provided by such organization: Provided, that the organization may, in its own discretion solely, state such amount in the following categories: Category A- amounts equal to or greater than $3,000, but less than $10,000; Category B- amounts equal to or greater than $10,000, but less than $25,000; Category C- amounts equal to or greater than $25,000, but less than $50,000; Category D- amounts equal to or greater than $50,000, but less than $100,000; Category E- amounts equal to or greater than $100,000, but less than $250,000; Category F- amounts equal to or greater than $250,000.

(C) This subsection shall not apply to a religious organization as described in § 501(c) (3) of the Internal Revenue Code of 1954 and which is excepted from filing an informational return under § 6033(a) (2) (A) of the Internal Revenue Code of 1954.

(c) A registration filed under subsection (a) in any calendar year shall be effective until January 15 of the succeeding calendar year. Each organization required to register under subsection (a) shall file a new registration under such subsection within thirty days after the expiration of the previous registration, unless such organization notifies the Comptroller General, under subsection (d), with respect to terminating the registration of the organization.

(d) Any registered organization which determines that it will no longer engage in activities to the extent described in section 4(a) shall so notify the Comptroller General. Such organization shall submit with such notification either (1) a final report, containing the information specified in section 6(b), concerning any activities to the extent described in section 4(a) which the organization has not previously reported, or (2) a statement, pursuant to section 6(a) (2) as the case may be. When the Comptroller General receives such notification and report or statement, the registration of such organization shall cease to be effective.

REPORTS

SEC. 6. (a) (1) Each organization which engages in the activities to the extent described in section 4(a) during a quarterly filing period shall, not later than thirty days after the last day of such period, file a report concerning such activities with the Comptroller General.

(2) Each registered organization which does not engage in the activities to the extent described in section 4(a) during a quarterly filing period shall file a statement to that effect with the Comptroller General.

(b) Each report required under subsection (a) shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) An identification of the organization filing such report;

(2) An itemized listing of each expenditure in excess of $35 made during the quarterly period, on behalf of, or for the benefit of any Federal officer or employee, and an identification of such officer or employee where the expenditure is (i) by the organization or by the person employed or retained by the organization who is reimbursed for the expenditure, or (ii) by an officer, director, or employee of the organization if such individual has taken, or will take, such gift, in whole or in part, as a deduction under section 162 or 212 of the Internal Revenue Code;

(3) A disclosure of those expenditures for any reception, dinner, or other similar event which is paid for, in whole or in part, by the reporting organization and which is held specifically for the benefit of any Federal officer or employee, regardless of the number of persons invited or in attendance, where the total cost of the event to the organization exceeds $500;

(4) An identification of those individuals or organizations retained by the organization filing the report to make lobbying communications, or for the express purpose of drafting any such communications, and of the expenditures made pursuant to such retention;

(5) An identification of any employee of the organization filing the report who makes lobbying communications on all or part of each of seven days or more, and the expenditures made pursuant to such employment.

For the purposes of this paragraph, expenditures are to be reported disclosing:

(A) the actual amount which is paid to the individual employed by the reporting organization which is attributable to the actual time spent making or drafting any lobbying communication; or

(B) the daily rate of any expenditure for employment for each day spent making or drafting any lobbying communication, regardless of the actual time spent on such activity; or

(C) the total quarterly expenditures paid to the individual employed by the organization filing the report;

(6) A description of the twenty or fewer issues concerning which the organization filing such report engaged in lobbying communications and upon which the organization spent the most significant amount of its efforts.

If the organization engaged in lobbying communications on fewer than twenty issues, these issues shall be reported;

(7) Disclosure of each known direct business relationship between the reporting organization and a Federal officer or employee whom such organization has sought to influence during the quarterly filing period involved;

(8) (A) In the case of solicitations, including those made through paid advertisements, where the expenditures for all such solicitations made by the reporting organization (or made by any individual affiliate of the reporting organization acting at the direction of the reporting organization) exceeds $2,500 during the calendar quarter—

(i) A description of each issue as to which a solicitation costing more than $500 was made;

(ii) An identification of any person or organization retained to make a solicitation costing more than $500, and the expenditures made pursuant to such retention;

(iii) The total expenditures made on all solicitations, including a separate subtotal indicating the total cost for all solicitations made through paid advertisements during that period.

(B) The reporting organization may, in its own discretion solely, instead of listing the amounts to be reported under paragraphs 8(A) (ii) and 8(A) (iii) of this section, state such amounts in the following categories: Category A—amounts less than $500; Category B—amounts equal to or greater than $500, but less than $1,000; Category C—amounts equal to or greater than $1,000, but less than $2,500; Category D—amounts equal to or greater than $2,500, but less than $5,000; Category E—amounts equal to or greater than $5,000; but less than $10,000, Category F—amounts equal to or greater than $10,000, but less than $25,000; Category G—amounts equal to or greater than $25,000, but less than $50,000; Category H—amounts equal to or greater than $50,000, but less than $100,000; Category I—amounts equal to or greater than $100,000, but less than $250,000; Category J—amounts equal to or greater than $250,000, but less than $500,000; Category K—amounts equal to or greater than $500,000, but less than $1,000,000; Category L—amounts equal to or greater than $1,000,000.

(C) For the purposes of this paragraph, the term "solicitation" means any communication directly urging, requesting, or requiring another person or an affiliate of the reporting organization to advocate a specific position on a particular issue and to seek to influence a Member of Congress with respect to such issue (but does not mean such communication by one organization registered under this Act to another organization registered under this Act) and the term "expenditure" means payments made for retainees, postage, telegraph, telephones, advertising, printing, and distribution which are directly attributable to activities described in this paragraph, and for such payments attributable partly to activities in this paragraph where such payments, with reasonable precision and ease, may be directly allocated to those activities.

(c) An organization described in section 501(c) (3) of the Internal Revenue Code of 1954 that has made the election provided for in section 501(h) (3) of such Code (or the corresponding provision of any future United States Internal Revenue law) may, in satisfaction of it duty to submit the information called for by subsection (b), submit a statement of its expenditures during the quarter for the purpose of influencing legislation, as defined in section 4911(d) of such Code, computed in the same manner as the organization computes such expenditures for the purpose of reporting pursuant to section 6033(b) (8) of such Code. The Comptroller General may require any such organization to disclose to the Comptroller General the methods used from time to time by such organization in computing its expenditures for the purpose of influencing legislation, as defined in section 4911(d) of the Internal Revenue Code.

RECORDS

SEC. 7. (a) Each organization required to be registered and each retainee of such organization shall maintain for each quarterly filing period such records as may be necessary to enable such organization to file the registrations and reports required to be filed under this Act, except that, in those situations where a registered organization elects to report as to the lobbying activities of its affiliates pursuant to section 4(a), such affiliates shall be responsible for maintaining such records as are necessary to enable the registered organization to fully discharge its reporting obligations as they pertain to such affiliates. The Comptroller General may not by rule or regulation require an organization to maintain or establish records (other than those records normally maintained by the organization) for the purpose of enabling him to determine whether such organization is required to register.

(b) Any officer, director, employee, or retainee of any organization shall provide to such organization such information as may be necessary to enable such organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retainee shall be deemed to have complied with subsection (a) with respect to that information.

(c) The records required by subsection (a) shall be preserved for a period of not less than five years after the close of the quarterly filing period to which such records relate.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 8. (a) It shall be the duty of the Comptroller General:

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including but not limited to (A) a cross-indexing system which, for any retainee identified in Section 5(b) (2) or 6 (b) (4) of this Act, discloses each organization identifying such retainee in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such retainee or organization registered under this Act each identification of such retainee or such organization in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), including the amounts and recipients of any campaign contributions made by such person;

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved

is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy;

(3) to preserve the originals or accurate reproduction of such registrations and reports for a period of not less than five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such periods in a manner which clearly presents the extent and nature of the activities described in section 4(a) which are engaged in during such period;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each quarterly filing period, and to permit copying of such information by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of such information upon payment of the cost of making and furnishing such copy;

(6) to prescribe, following consultation with the Attorney General, such rules and regulations and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner;

(7) to refer to the Attorney General all apparent violations of any provisions of this Act or of any rule of regulation promulgated in accordance therewith;

(8) to provide, upon request and to the extent practicable, and under such published procedures and circumstances as are mutually agreed upon by the Comptroller General and the Attorney General, guidance and assistance on the recordkeeping, registration, and reporting requirements of this Act;

(9) to review and to make such supplemental verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of filed registration statements and filed quarterly reports.

(b) The duties of the Comptroller General described in subsection (a)(6) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code, and any records maintained by the Comptroller General under this Act shall be subject to the provisions of sections 552 and 552a of such chapter.

(c) When the Comptroller General has reason to believe that an organization has failed to register or report as required by this Act, he shall notify the Attorney General. If the Attorney General does not request an alternative disposition of the matter within ninety days after such notification, the Comptroller General may then contact the organization involved, review the matter with the organization, and endeavor to correct it.

ENFORCEMENT

SEC. 9. (a) Any individual or organization knowingly violating section 5, 6, or 7 of this Act, or any rule or regulation promulgated in accordance therewith, shall be subject to a civil penalty for each such violation. The total penalty that may be imposed for all violations, whether one or more, in any single case, shall not exceed $100,000. It shall be a defense to an action under this subsection that the defendant had a good faith and reasonable belief in the legality of the conduct constituting the violation. In determining the amount of civil penalty, the court shall consider:

(1) the nature and circumstances of the violation;

(2) any previous violations; and

(3) the impact of the penalty on the defendant's ability to engage in lobbying communications.

(b) If the Attorney General determines that there is reason to believe that any individual or organization has engaged in any act or practice which constitutes a civil violation of this Act, he shall, at least thirty days prior to bringing an action under subsection (a) or (c), report to the individual or organization in writing, specifying in what respects compliance with the Act is deficient, and endeavor to correct such violation by informal methods of conference, or conciliation, unless the Attorney General determines that such report, conference or conciliation would interfere with the effective enforcement of this Act.

(c) If the informal methods described in subsection (b) fail, or if the Attorney General determines that such methods would interfere with effective enforcement of this Act, the Attorney General may institute a civil action, including an action for a permanent or temporary injunction, restraining order, or any other appropriate relief, to compel such individual or organization to comply with the provisions of sections 5, 6 or 7 of this Act.

(d) The United States district courts shall have jurisdiction of actions brought under this Act.

(e)(1) For the purposes of this subsection only, "person" shall mean any organization which is the subject of an investigation under this Act, and any officer, director, employee, or retainee thereof.

(2) Whenever the Attorney General has facts or circumstances which reasonably indicate that a person may be violating or may have violated this Act, he may, prior to the institution of a proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction. No such civil investigative demand shall be issued without the specific written approval of the Attorney General, the Deputy Attorney General, the Associate Attorney General or an Assistant Attorney General.

(3) Each such demand shall—

(A) state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto;

(B) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; and

(C) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction.

(4) No such demand shall require the production of any documentary material, if such material would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this subsection.

(5) Any such demand may be served by any United States Attorney, or by a United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(6)(A) Service of any such demand or of any petition filed under paragraph (14) of this section may be made upon a partnership, corporation, association, or other legal entity by—

(i) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity; or

(ii) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

(iii) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(B) Service of any such demand or of any petition filed under paragraph (14) of this section may be made upon any individual by—

(i) delivering a duly executed copy thereof to the person to be served; or

(ii) depositing such copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

(7) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(8) The production of documentary material in response to a demand served pursuant to this section shall be made to the custodian designated in the demand under a sworn certificate, in such form as the demand designates, by the person, if an individual, to whom the demand is directed or, if not an individual, by an individual having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the individual to whom the demand is directed has been produced and made available.

(9)(A) The Attorney General shall designate an officer or employee of the Department of Justice to serve as a document custodian, and such additional officers or employees of the Department of Justice as he shall determine from time to time to be necessary to serve as deputies to such officer.

(B) The custodian to whom any documentary material is delivered shall take physical possession thereof, and shall be responsible for the use made thereof, and for the return thereof pursuant to this section. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than an officer or employee of the Department of Justice. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

(10) Whenever any attorney has been designated to appear on behalf of the United States before any court in any case or proceeding involving any alleged violation of this Act, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court through the introduction thereof into the record of such case or proceeding.

(11) Upon the completion of any investigation for which any documentary material was produced under this section, and any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court through the introduction thereof into the record of such case or proceeding.

(12) When any documentary material has been produced by any person under this section for use in any investigation under this Act, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this subsection so produced by such person.

(13) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly—

(A) designate another officer or employee of the Department of Justice to serve as custodian thereof, and

(B) transmit notice in writing to the person who produced such material as to the identity and address of the custodian designated pursuant to subparagraph (A). Any custodian designated pursuant to subparagraph (A) shall have with regard to such materials all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

(14) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refused to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, if found, or transacts business, and serve upon such person a petition, for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(15) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

(16) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

(17) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

(18) Any documentary material, provided pursuant to any demand issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

(f) In any proceeding conducted pursuant to this section, the court may, in its discretion, examine *in camera* the documentary material which is the subject of the civil investigative demand or any discovery proceeding to determine whether the demand should be enforced, modified, or set aside, or whether the material should be otherwise discoverable. In its discretion, the court may also consider *in camera* any determination made by the Attorney General under subsection (e) (2) of this section.

(g) In any case in which the Comptroller General refers a matter to the Attorney General, the Attorney General shall notify the Comptroller General with respect to the action taken regarding the matter.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 10. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT

SEC. 11. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

SEPARABILITY

SEC. 12. If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATES

SEC. 14. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on October 1, 1980.

(b) Sections 5, 6, 7, 9, and 11 shall take effect on the first day of the first calendar quarter beginning after the date on which the first rules and regulations promulgated to carry out the provisions of sections 5, 6, and 7 take effect.

LOBBYING DISCLOSURE ACT OF 1979: QUESTIONS AND ANSWERS

Why do we need a lobbying disclosure law?

Citizens have a right to know how their government works. This includes the right to know how government decisions are made and particularly how these decisions are influenced. Recent legislative efforts have opened up key aspects of the governmental decision-making process to public scrutiny. Congress conducts open hearings and open committee meetings and mark-ups of legislation. Moreover, transcripts are maintained of committee and floor actions and are made available to the public. Members of Congress publicly disclose their campaign finances and personal finances. The fundamental purpose of these efforts is to enable the public to better understand how the legislative decisions are made.

But, there is still one critical gap in the information flow to the public: the influence of lobbying groups. The purpose of a lobbying disclosure law is to bridge this gap by making available to the public information concerning which organizations are spending money to influence government decision-making. A lobbying disclosure law statutorily protects the public's right to know the sources and intensity of significant organizational pressures upon the legislative process.

Why isn't the present lobbying disclosure law adequate?

The current lobbying disclosure law, in effect since 1946, contains many loopholes. It only applies to contacts with the members of Congress themselves. It does not cover contacts with Congressional staff members.

Only organizations whose principal purpose is to influence legislation are covered. The majority of influential organizations can legitimately claim that lobbying is not their principal purpose, despite the fact that they spend a substantial amount of money and time on lobbying.

Moreover, enforcement and administration of the current law are largely ineffective. The Secretary of the Senate and the Clerk of the House have no authority to audit records. The 1946 Act provides only criminal sanctions for violations of the statute. Minor or inadvertent violations are never corrected. The Justice Department must either seek to impose criminal penalties or else let violations go unpenalized. This situation has effectively rendered the current law unenforceable.

To illustrate the inadequacy of the current law, Time magazine last summer estimated that of the 15,000 lobbyists in Washington, only 2,000 are actually registered. Estimates of the amount of money spent by lobbyists in Washington run as high as $2 billion annually. Yet, little of this is ever reported.

Thus, it is evident that the current law fails to give an accurate picture of who is spending money and exerting pressure to influence Congressional decision-making.

Who will be covered by the Lobbying Disclosure Act of 1979?

Organizations which engage in a substantial amount of lobbying as determined by easily calculable measures.

To be covered by this bill, the lobbying organization must employ at least one person who makes direct lobbying contacts on 13 separate days during a calendar quarter, or at least two persons who make direct lobbying contacts on 7 separate days during a quarter. In addition, the annual salaries for the lobbying employees of the organization must total approximately $14,000 or more.

An organization hiring an outsider to lobby for it and spending at least $500 per calendar quarter is covered by the Act.

This threshold measures time and money spent on lobbying in ways that are easily calculated. It is very simple for an organization to keep track of the days spent lobbying, the salaries paid to employees of the lobbying organization, and the amount of money paid to retained lobbyists.

Will the Lobbying Disclosure Act of 1979 require individuals to register and file reports?

No. The bill introduced by Senator Lawton Chiles will require only organizations and foreign agents to register and file reports if they come within the threshold for coverage.

Does the Act cover volunteers?

No. To come within the applicability provisions of the Act, lobbyists must be paid for their services.

Will this bill require John Q. Citizen to register or to report his contacts with Congress solely to express his personal views or opinions?

No. It expressly exempts communications by an individual solely for a redress of personal grievances or expression of personal opinion.

Is a communication between an organization and a Senator or Congressman from the oragnization's home state considered a lobbying communication under the new bill?

No. Communications to a Senator or Congressman or his personal staff are exempt if the organization's principal place of business is located in the home state of the Senator or Congressman.

Would this bill affect a group that travels to Washington to lobby Congress on a one-shot basis? For example, if the Garden Club from Gainesville, Florida, comes to Washington to lobby the Congress on environmental issues for five straight days, will it have to register and report its activities?

No.

Will this bill affect private interest organizations differently than public interest organizations?

No. This threshold approach to coverage replaces the vague, unenforceable "principal purpose test" of the 1946 Act with an easily measurable, objective standard which even-handedly covers all organizations that engage in significant lobbying of Congress.

What does registration entail?

Each organization covered by the Act will register once a year with the Comptroller General.

In the registration, the covered organizations will disclose:

Identification of the organization, but not the identity of individual members;

Identification of retained persons hired by the organization to lobby if the retained person is paid at least $500 in a quarter;

Identification of any employee who makes direct contacts falling within the day and dollar threshold;

A listing of organizations which contribute $3,000 or more to the registered organization if the dues or contributions are used in part for lobbying and the total annual lobbying expenditures of the registered organization are more than 1 percent of the registered organizations' total annual income.

Will the reporting requirements be unduly burdensome?

No. The reporting requirements in this bill are simple to comply with. They are designed to make public only that basic information which is essential to getting a picture of the activities of a lobbying group.

Each covered organization will file a quarterly report with the Comptroller General disclosing:

The name of the organization;

The issues sought to be influenced;

Amounts in excess of $35 spent for gifts for Federal employees;

Expenditures for any reception, dinner or similar event specifically held for the benefit of any Federal officer or employee where the costs to the organization exceeds $500;

Identification of retained lobbyists and expenditures made pursuant thereto;

Identification of employees of the organization who lobby and expenditures made pursuant to such employment;

Any direct business relationship between the reporting organization and a Federal officer or employee whom the organization sought to influence; and

Indirect lobbying where the reporting organization has spent more than $2.500:

A listing of the issues, and identification of retained lobbyist where the indirect lobbying cost more than $500; and

The expenses made for indirect lobbying.

This bill minimizes recordkeeping and reporting requirements. In fact, it simplifies the recordkeeping and reporting requirements as compared with the current lobbying law. For example, the 1946 law requires all lobbying organizations and all lobbyists to file separate registrations. Under this Act only lobbying organizations will be required to file, eliminating duplication.

What is indirect lobbying?

Sometimes, a lobbying group will supplement its direct contacts with Congress with well-orchestrated campaigns to influence public opinion on a specific issue. Newspaper or television ads and mass mailings urging people to contact Congress are examples of methods used to influence opinion. Such methods constitute indirect lobbying, a practice which is expanding rapidly.

What penalties are provided for violation of the law?

This bill provides for civil penalties. Since some violations of the law are likely to be technical violations growing out of inadvertance or misunderstanding, the bill includes provisions for informal methods of conference and conciliation and other similar protections against abusive enforcement.

Does this bill prohibit or restrict lobbying?

No. The law in no way will prohibit or restrict lobbying activities. This bill merely requires that the basic information about significant organizational influence upon the legislative process be open to the public.

SAMPLE REPORTING FORM

For Calendar Quarter Ending: ———.

(To be filed only if a group has had sufficient direct lobbying contacts.)

1. Identification of Group.

2. List each expenditure greater than $35 made for the benefit of Federal employees.

3. List each reception held for federal employees which cost the group more than $500.

4. Identify any person or organization retained to lobby and any paid employee who lobbied for 7 days or more: (R-retainee; E-employee) Name ——— amount paid ——.

5. List the most significant issues on which group lobbied.

6. List any Federal official who has a direct business relationship with the group and whom the group lobbied:

7. Indirect lobbying efforts (Applicable only to groups filing this report who spent more than $2,500.)

A. List each issue on which the group spent more than $500.

B. Identify any retainee paid more than $500 to make an indirect solicitation: Name ——— amount paid ———.

C. Total expenses incurred in indirect lobbying activities; list advertising expenses separately.

1. Advertising ——— 2. Other expenses ———.

EXPENSE RANGE CATEGORIES FOR USE IN ITEM 7

A. Less than $500;
B. $500 to $1,000;
C. $1.000 to $2,500;
D. $2,500 to $5,000;
E. $5,000 to $10,000;
F. $10,000 to $25.000;
G. $25,000 to $50.000;
H. $50,000 to $100,000;
I. $100,000 to $250.000;
J. $250.000 to $50.000;
K. $500,000 to $1,000,000; and
L. More than $1,000,000

SAMPLE REGISTRATION FORM

For Calendar Year: ———

1. Identification of Organization (Name, address, nature of business, names of directors and chief executive officers).

If electing to file for affiliates, identify:

2. Name and address of organization's paid lobbyist: (R-retained lobbyists; E-employees who lobby).

3. List organizations which gave $3,000 or more to your group if donation was used for lobbying (Church groups not required to list)

Name and Address of Contributor Group: ———

Amount: (List contributors by categories).

A. $3,000 to $10,000;
B. $10,000 to $25,000;
C. $25,000 to $50,000;
D. $50,000 to $100,000;
E. $100,000 to $250,000; and
F. $250,000 and above.

By Mr. BELLMON:

S. 1565. A bill to amend the Internal Revenue Code of 1954 to provide for the withholding of tax on dividends and interest; to the Committee on Finance.

● Mr. BELLMON. Mr. President, today I am introducing a bill to withhold tax on dividend and interest income and, thereby provide an exclusion for the first $100 of interest income and an increase in the present exclusion for dividend income to $200. This bill is conceived in an effort to reduce the substantial amount of interest and dividend income that is not reported for tax purposes to the Treasury each year. The nonreporting of taxable income places the increasing burden of Federal taxation squarely on the honest taxpayer who reports all of his income and on the wage earners of America who are already subject to withholding. I think it is time that the Congress take action to redress this inequity.

Congressional concern over the incidence of unreported interest and dividend income is not new. In 1962, President Kennedy proposed, and the Ways and means Committee adopted, a withholding proposal in the Revenue Act of 1962 as a way of eliminating what was then thought to be $3.7 billion in unreported dividend and interest income. The provision was later deleted.

In testimony before the Senate Finance Committee in 1976, the Deputy Assistant Secretary for Tax Policy indicated that the amount of unreported interest and dividend income had risen to $8 billion. I understand that the Treasury is about to publish a study on the "subterranean economy" which estimates that the present level of underreporting may be as much as $14 billion, or 15 percent of the total $93 billion in interest and dividend income that was reported in 1978. This is a significant amount.

The bill I am introducing today attempts to eliminate a major portion of this underreporting by withholding tax at a 15-percent rate at the time the interest and dividend income is paid. This would provide the Treasury with a more extensive accounting of the income received by taxpayers. This would also provide taxpayers with an incentive to report interest and dividend income in order to claim the credit against their total tax liability.

This bill provides further that the withholding agent transfer the withheld tax to the Treasury at the end of each calendar quarter. This provision allows for some financial offset for the administrative costs of the bill.

I point out that the Treasury presently is developing an elaborate reporting system to deal with the underreporting problem. Undoubtedly, a system that was broad and detailed enough to deal with the problem effectively would also represent a substantial cost to the financial community. A system of withholding is a less costly alternative to such an approach.

In setting a withholding rate, it is important that it be high enough to provide an incentive to taxpayers to declare in ome that might otherwise go unreported but not so high as to overwithhold. Overwithholding is a particular problem among those with less than $100 in interest and dividend income and among the elderly who may have substantial amounts of investment income but are taxed at relatively low rates.

To minimize the possibility of overwithholding, exemption certificates are provided for:

First, those who have had no tax liability in the prior year and who expect to have no tax liability in the current year;

Second, who expect the tax liability associated with interest income to be less than $15; and

Third, who are over the age of 65 and expect that the tax liability associated with interest and dividend income will not exceed $100.

The revenue gain associated with the withholding proposal is $2.5 to $3.5 billion a year. I would like to emphasize that only in the first year do the accelerated payments implied by withholding contribute significantly to the revenue gain to the Treasury. In each successive year, the Treasury will receive $2.5 to $3.5 billion in receipts from taxable income that was previously not reported. This is an important step forward in improving the equity of our tax system.

This bill further proposes to use the revenues resulting from improved reporting to provide an exclusion for the first $100 of interest income and increase in the present dividend exclusion from $100 to $200. These tax benefits to the small saver and investor are a necessary offset to the increased risk and lower real return that results from the present inflationary environment. Because of the substantial revenue gain from adopting withholding on interest and dividends; the increases in the exclusions for interest and dividend income can be provided with a small net revenue gain to the Treasury.

I ask unanimous consent that a table showing the revenue impact of the bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE IMPACT OF THE BILL[1]

	Fiscal year—				
	1980	1981	1982	1983	1984
Revenue loss due to:					
$100 interest exclusion	−0.5	−1.7	−1.9	−2.0	−2.2
$100 increase in dividend exclusion	−.1	−.4	−.5	−.5	−.6
Total revenue loss	−.6	−2.1	−2.4	−2.5	−2.8
Revenue gain due to:					
Withholding on previously unreported income	1.1	2.3	2.6	2.9	3.2
Accelerated payments	1.9	.2	.2	.3	.3
Total revenue gain	3.0	2.5	2.8	3.2	3.5
Net revenue impact of the bill	2.3	.4	.4	.7	.8

[1] All numbers may not add due to rounding.

Source: Joint Tax Committee and Congressional Budget Office.

Mr. BELLMON. Mr. President, the United States is the only major industrialized country that does not have some form of withholding on either dividends or interest. Other countries which generally have higher savings rates than the United States, have not found withholding a deterrent to capital formation. In providing for more preferential tax treatment for dividend and interest income, especially among small savers, the legislation I am introducing today will enhance capital formation—and at no loss of revenue to the Federal Government.●

By Mr. HATFIELD:

S. 1567. A bill to establish the Yaquina Head Outstanding Natural Area in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. HATFIELD. Mr. President, today I am introducing a bill to protect and restore certain coastal lands on Yaquina Head in the State of Oregon.

Yaquina Head is situated on the Oregon coast at Agate Beach, about 3 miles north of Newport. This headland is a basalt promontory extending seaward for about a half mile from the shoreline. Its rugged beauty has been described as one of the outstanding features of the Oregon coast. The headland with its historic lighthouse combine to make the tip of the area one of the most popular places on the Oregon coast.

The tip of Yaquina Head, about 23 acres, is presently in public ownership and set aside by the Coast Guard for lighthouse purposes. The islands off the tip of the headland are managed by the U.S. Fish and Wildlife Service as a bird and mammal refuge and sanctuary. Part of the land which is now under the jurisdiction of the Coast Guard, some 18.1 acres, is being transferred to BLM and is proposed to be classified as an outstanding natural area. This proposed BLM natural area is adjacent to a tract of private lands where quarry operations are threatening the entire headland.

The eastern portion of Yaquina Head, which is under private ownership, has been severely impacted by rock quarry activity. BLM advises that the rock removal has lowered the surface of the headland by over 100 feet, and the area is laced with dirt haul roads.

If quarrying continues as announced, the excavation and removal or rock will totally destroy, and in effect, eliminate the existence of the headland.

Mr. President, we must put an end to this destructive activity. The legislation I am proposing will authorize and direct the Secretary of Interior to manage the Yaquina Head area in conformance with its unique characteristics. There are two major elements of the bill. First, this proposal expedites and finalizes the transfer from the Coast Guard to the BLM of the approximately 18.1 acres of land withdrawn for lighthouse purposes in 1866. This transfer would not affect the lighthouse and surrounding acreage which is still being operated for navigational purposes. Second, the bill provide for the Secretary to acquire by purchase, exchange, or condemnation all nonfederally owned lands within the picturesque headland area.

Management of the area would be outlined in a plan developed by the Secretary of Interior. This management plan would provide for maintenance and enhancement of the area's scenic, natural, and historic values; continue the educational and scientific use of the area in cooperation with other agencies and educational institutions; protect significant wildlife habitat; provide for low intensity recreational use; authorize a program for reclamation of quarry lands in the area; and allow for the possible use of the quarry lands for wind energy research activities.

In regard to the reclamation program, the Oregon Department of Geology and Mineral Industries prepared an estimate for reclaiming the quarry land on Yaquina Head. I am advised that a considerable amount of additional quarrying would be necessary, but the value of the mined material would approximately equal the costs of reclamation. In view of this assessment, this bill establishes a special revolving fund which would earmark the money from further quarrying to be used in meeting the expense of reclamation. Any unexpended funds will be returned to the U.S. Treasury.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to protect the unique scenic, scientific, educational, and recreational value of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "Area"). The boundaries of the Area are those shown on the map entitled "Yaquina Head Area", dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon.

Sec. 2. (a) The Secretary of the Interior shall administer the Yaquina Head outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702), in such a manner as will best provide for—

(1) the conservation and development of the scenic, natural, and historic values of the Area;

(2) the continued use of the Area for purposes of education, scientific study and public recreation which do not substantially impair the purposes for which the Area is established; and

(3) protection of the wildlife habitat of the Area.

(b) The Secretary of the Interior shall develop a management plan for the Area which accomplishes the purposes and provisions of this Act. This plan shall be developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

(c) Notwithstanding any other provision of this Act, the Secretary of the Interior is authorized to issue permits or to contract for the quarrying of materials from the Area in accordance with the management plan for the Area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary of the Interior determines necessary to protect the values of such quarry lands for purposes of this Act.

Sec. 3. The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totalling approximately 18.1 acres, as depicted on the map referred to in section 1 of this Act, is hereby revoked. The lands referred to in section 1 are hereby restored to the status of public lands as defined in section 103 (e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702), and shall be administered in accordance with the management plan for the Area developed pursuant to section 2 of this Act, except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., Ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

Sec. 4. The Secretary of the Interior shall, as soon as possible but in no event later than twenty-four months following the date of the enactment of this Act, acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the Area referred to in section 1 of this Act which are not in Federal ownership. Any lands or interests acquired by the Secretary pursuant to this Act shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of section 3 of this Act. Any lands acquired pursuant to this section shall be administered in accordance with the management plan for the Area developed pursuant to section 2 of this Act.

Sec. 5. The Secretary of the Interior is authorized to conduct a study relating to the use of quarry lands in the Area for purposes of wind energy research. If the Secretary of the Interior determines after such study that the conduct of wind enegy research activity will not substantially impair the values of the quarry lands in the Area for purposes of this Act, the Secretary is further authorized to issue permits for the use of such quarry lands as a site for installation and field testing of an experimental wind turbine generating system. Any permit issued pursuant to this section shall contain such terms and conditions as the Secretary of the Interior determines necessary to protect the values of such quarry lands for purposes of this Act.

Sec. 6. The Secretary of the Interior shall develop and administer, in addition to any requirements imposed pursuant to section 2 (c) of this Act, a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to section 4 of this Act. All revenues received by the United States in connection with quarrying operations authorized by section 2 (c) of this Act shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary of the Interior for use by the Secretary as needed for reclamation and restoration of any lands acquired pursuant to section 4 of this Act. After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

Sec. 7. There are hereby authorized to be appropriated, in addition to that authorized by section 6, such sums as may be necessary to carry out the provisions of this Act.●

By Mr. BAUCUS:

S. 1568. A bill to amend the Bankruptcy Act; to the Committee on the Judiciary.

● Mr. BAUCUS. Mr. President, I am introducing today legislation that would amend the Bankruptcy Act.

This legislation has far-reaching impact. I am introducing the bill to insure that such legislation is not enacted without thorough consideration by the Judiciary Committee of the issues involved.

I ask unanimous consent the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 77(o) of the Bankruptcy Act (11 U.S.C. 205(o)) is amended by striking out "or as it may be hereafter amended" and inserting in lieu thereof "unless a petition had been filed between December 18, 1977, and November 6, 1978,".●

ADDITIONAL COSPONSORS

S. 753

At the request of Mr. Inouye, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 753, a bill to amend the Internal Revenue Code of 1954 to increase the amount of credits for the elderly and to adjust the adjusted gross income limitation.

S. 1425

At the request of Mr. Randolph, the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Stevens), and the Senator from Oregon (Mr. Packwood) were added as cosponsors of S. 1425, a bill to amend title 39 of the United States Code to reduce postal rates for small newspapers and magazines.

S. 1439

At the request of Mr. Culver, the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 1439, a bill to establish uniform truck weights and lengths on the interstate highway system.

SENATE JOINT RESOLUTION 4

At the request of Mr. Lugar, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of Senate Joint Resolution 4, a joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues.

AMENDMENTS SUBMITTED FOR PRINTING

TRADE ADJUSTMENT ASSISTANCE ACT OF 1979—S. 227

Amendments Nos. 365 through 367

(Ordered to be printed and referred to the Committee on Finance.)

Mr. JAVITS submitted three amendments intended to be proposed by him to S. 227, a bill to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

● Mr. JAVITS. Mr. President, today I am submitting a series of amendments to S. 227, the Trade Adjustment Assistance Act of 1979. This legislation, of which I am cosponsor, makes important and urgently needed changes in the trade adjustment assistance program in the areas of worker eligibility, worker compensation, and delivery of benefits. From the point of view of enhanced program participation and more effective assistance benefits, this bill is essential. For too long, the trade adjustment assistance program has provided neither appropriate adjustment incentives nor adequate assistance. Benefits have been neither timely nor sufficient to attract workers and firms to the program. Too often we have found workers in new jobs and firms out of business by the time the administering authorities have processed the firms' or workers' application and delivered benefits.

S. 277 will go far toward enhancing these program deficiencies and I will support its passage.

This legislation is also timely from the point of view of the multilateral trade negotiations which the Senate will soon consider. These negotiations have produced one of the most significant steps in expanding our open trading system that we are likely to see for some time. The benefits that these negotiations will provide to our economy—added employment, lower inflation and a stronger balance of payments—are well documented. However, trade liberalization also brings with it certain dislocations to more traditional and labor intensive industries. These firms and their workers often require assistance to adjust to the new competitive climate in which they find themselves. Such will be the case for many firms and their workers following the implementation of this trade agreement. It is thus imperative for us expeditiously to consider this legislation so that its provisions will be in place by the time the effects of this trade agreement begin to be felt.

Despite the provisions of this bill that warrant its speedy adoption, it is clear that another major deficiency in trade adjustment assistance has gone unnoticed seemingly by those who have sought to strengthen and improve these programs. Those who have studied the TAA program have concluded that the program has been deficient notably from the standpoint of promoting new investment and new technology. This deficiency is central to the purpose of the TAA program and pertains to the assistance for firms program—chapter 3.

We are all very much aware of the evolution that the TAA program has experienced since its inception in the Trade Expansion Act of 1962. At that time the program was intended to cushion firms and workers from certain deleterious effects arising from trade liberalization efforts advanced by the Federal Government. In the intervening years, the program has assumed a different mandate—one that has dictated a responsibility to the Government to provide shelter to import-impacted industries whether or not that competition could be traced to Government promoted trade liberalization.

Unfortunately, in the process of this evolution the concept of "adjustment" has been reduced to a level of insignificance. Indeed, what we see today in the TAA program for firms is a protective program for selected firms that are permitted to "buy time" in their fight to maintain their market share. While time is essential to any adjustment program, in this case it is the sole and central attraction of the program. Firms participating in this program are encouraged by the absence of any directive to the contrary, to use TAA funds and guarantees to maintain operations and otherwise use these resources as working capital.

I suggest that the intent of those who originally envisioned "adjustment" was something else than the provision of subsistance loans to firms suffering from antiquated technology and outmoded means of production. Rather, I believe that "adjustment" was intended to provide time and resources to allow the firm in question to undertake certain alterations in its production and management to enhance its efficiency, productivity and profitability before going one-on-one with import competition.

It has been the conclusion of many, including the General Accounting Office, that such payments to firms under this program have been reduced to income maintenance payments whose purpose is to serve as a lifeline until trade barriers can be erected to resolve the import problem outside the free market mechanism.

Under my proposal all firms certified by the Secretary of Commerce under the TAA program will be assessed by the Department in terms of long-term competitiveness. Accordingly, there will be two programs established to accommodate various adjustment capabilities. For those firms judged able, TAA funds and guarantees will be directed to new investment, new plant and equipment, marketing research and/or modernization of equipment. Such firms will be prohibited from using this capital to eliminate debt positions or otherwise using these funds as working capital. All other certified firms would be entitled to utilize funds in accordance with the requirements as outlined in their adjustment proposal.

Specifically, these amendments provide for the following:

First. No. 365. This amendment would require the Secretary of Commerce to determine the financial and competitive condition of firms applying for program loans and loan guarantees in order to direct appropriately these funds to either investment or working capital purposes. Firms judged able will be required to devote these funds to new investment and technology. Other firms will be permitted to direct funds to working capital purposes as their financial condition may require. Working capital loans shall be limited to 10-year maturities.

After expiration of the 10-year maturity the Secretary of Commerce would have the option of extending the maturity 3 years on a one-time basis if he determines the financial condition of the firm warrants.

The Secretary would also be authorized to provide loans or loan guarantees for investment purposes after expiration of the 10-year working capital loan should he determine it would further the long-term competitiveness of the firm.

Second. No. 366. This amendment would require that no loan or loan guarantee be made for the purpose of working capital unless the receiving firm takes all reasonable and appropriate measures to encourage its workers to participate in vocational retraining programs approved by the Secretary under this act.

Third. No. 367. This amendment would permit workers of firms participating in the working capital loan or loan guarantees program to be eligible for public service employment under the auspices of CETA. This eligibility would commence during the 3-year loan or guarantee extension period referred to above.

These amendments will address a major deficiency in the trade adjustment assistance program by requiring the administering authorities to assess the long-term competitiveness of certified firms and allocating the program's resources accordingly. We should not pretend that all firms certified as import-impacted are equally able to adjust to import competition. Yet certainly firms can be identified which are better able to utilize TAA resources to invest in new plant and equipment or make other adjustments that will make them competitive. Those able should be thus encouraged to direct these funds to new capital investment.

I fully recognize that these amendments will place upon the shoulders of the Secretary of Commerce some very difficult decisions regarding the classification of firms and the distribution of benefits. Yet I believe that we have a right to expect the Department of Commerce to face up to these decisions in the interest of achieving the objectives of this program.

This country deserves no less than to have its tax dollars devoted to new capital investments when possible. Such possibilities exist within the trade adjustment assistance program that should be recognized. I believe that this bill, S. 227, complemented by the amendments I am introducing, will both enhance the effectiveness of the trade adjustment assistance program and rationalize these expenditures to direct funds, where possible, to firms able to devote resources to new investment.●

INDIANA DUNES NATIONAL LAKESHORE—S. 599

AMENDMENT NO. 368

Ordered to be printed and referred to the Committee on Energy and Natural Resources.

Mr. BAYH submitted an amendment intended to be proposed by him to S. 599, a bill relating to the Indiana Dunes National Lakeshore, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROBERT C. BYRD. Mr. President, these requests have been cleared on the other side of the aisle.

COMMITTEE ON THE JUDICIARY

Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 25, 1979, to hold a hearing on the nomination of Benjamin Civiletti for the position of U.S. Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 26, 1979, to hold a hearing on the Southeast Asian refugee situation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 26, 1979, beginning at 2 p.m., to hold a hearing on certain judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 25, 1979, beginning at 2 p.m., to hold a hearing on balanced budget audits.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Administrative Practice and Procedure Subcommittee of the Committee on the Judiciary be authorized to meet during the sessions of the Senate on Wednesday, July 25, 1979, and Thursday, July 26, 1979, to hold hearings on regulation reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CERTAIN COMMITTEES ON WEDNESDAY, THURSDAY, FRIDAY, AND MONDAY

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Energy and Natural Resources, the Committee on Finance, and the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the sessions of the Senate tomorrow, Thursday, Friday, and Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VALEDICTORY ADDRESS OF CYNTHIA CANTRELL

● Mr. HEFLIN. Mr. President, I recently received the valedictory address of Cynthia Cantrell, the valedictorian at Westminster Christian School in Gadsden, Ala. I was so impressed with what she had to say that I would like for others to have the benefit of her remarks.

I ask that it be printed in the Record.

The valedictory address follows:

Address

I consider it an honor to have been chosen to give the Valedictory Address for my class. It is difficult to say farewell to those who have meant so much to me during the past several years, but the time is here, and we must face our future.

I would like to thank the Trustees and generous benefactors who have provided this school for us, our parents who have allowed us to attend, and friends who have made our days at Westminster enjoyable. I would also like to express my gratitude to Dr. Parker, Mr. Fuhrman and the faculty for the friendly concern they have had for us while delivering instruction with professional excellence. Most important, I appreciate having been taught in a Christian school where I have been able to learn more about my God.

I would like to do more in the few minutes allotted to me than bid you all a fond farewell, however. I have strong convictions about many things, and I would like to challenge my class and my generation to face our future bearing several things in mind. Make every effort to search for the truth, jealously guard your personal integrity, serve your country, do not be afraid of hardships, and put your trust in God.

Most of my classmates and I have been taught principles at home, at Church, and at Westminster. Constantly we are being directed in the way that we should go. We so often are satisfied to take what parents, teachers and speakers say at face value, without searching for the truth ourselves. We live in an increasingly sophisticated and educated world. It is no longer enough to know what we believe. It is essential to know why we believe it.

As we face our future we should not be content with any level of academic achievement. Our search for knowledge should continue throughout our lives. I believe what my brother once quoted, "It is not enough to be right, you must know that you are right."

We cannot afford to be so desirous of success, honor, comfort, or pleasure that we surrender any of our self-respect. There is no loyalty in the proper sense, superior to loyalty to one's self. Shapeskeare's Polonius said it well when he gave advice to his son Laortes. "This above all: To thine own self be true. And it must follow, as the night the day, Thou canst not be false to any man."

I believe that our nation, though imperfect as a government, gives to mankind more freedom than any other. The problems facing our nation and our world will require us to make judgments if not as leaders, at least as voters. My advice is to take the time to research the issues and obtain what facts are available. Today we hear much more emphasis given to the rights of citizens to the full enjoyment of themselves, but very slight emphasis upon the responsibilities, self-restraint and sacrifices which alone make a working democracy possible. To the extent that we do not assume our responsibilities, practice self restraint, and be willing to make sacrifices, we will leave for tomorrow more restrictions and less freedoms for those who follow us.

This changing world that we face not only presents us with a challenge but with an opportunity. Yes, I do believe "hardships build character" as my grandfather said so often. The history of civilization shows us that men's and nations' most glorious moments have come when things looked bleakest. Our experiences at Westminster have shown us that our teams looked the best in the tough, close games, and our self esteem was at its highest when we made it through our toughest courses. I do not think my classmates nor I are afraid of tomorrow. I believe the instruction and discipline we have received here at Westminster have prepared us as well as is possible for us to face our future. I believe I have classmates who may help solve the energy problems, and others who can be important leaders. I believe there are still others who have the wit and humor to keep up smiling through it all. We are educated enough to know that we know little, mature enough to know that our future will not be easy, and dedicated enough to give it all our best effort. Most of all, as Christians we are confident to put our future in the hands of God. I will forever cherish the friendships we have made at Westminster.

As we go separate ways and face the future, I would like to leave this passage of scripture as my sincere prayer for you. "May the Lord bless you, and keep you: May the Lord make His face to shine upon you, and be gracious unto you: May the Lord lift up His countenance upon you and give you peace." ●

UNIFORM REFUGEE POLICY—S. 643

● Mr. DOLE. Mr. President, concerned by the urgency of the problem of Indochinese refugees, on June 25 I introduced a concurrent resolution along with my colleague from New York, Mr. Solarz. That same day. I incorporated the language of the resolution to an amendment to the appropriations bill introduced by my colleague, Senator Boschwitz. That legislation called for increasing our assistance and resettlement of refugees and was passed by the Senate. Heeding to congressional initiative, the President came out in total support of our action by announcing at the Tokyo summit meetings that the number of refugees the United States would accept would be doubled, thus setting an example for other nations. The Geneva Conference on July 20 and 21 resulted in a positive response to U.S. action by the international community, and new pledges were made. At the latest count, 260,000 refugees have been promised asylum. I am gratified by the reaction of participating nations.

However, by raising the point that pledges be made automatically renewable, the participants of the Geneva Conference clearly indicated their acknowledgment of the fact that the refugee problem is by no means temporary. While the Vietnamese received praise for their "cooperation" in promising to restrain the flow of refugees, the fact is that they generated the problem and that no guarantees exist as to future developments in Vietnamese policies toward ethnic minorities.

The conference at Geneva highlighted the fact that the expected permanence of the problem calls for long-term solutions. Although refugees are not a phenomenon of modern times exclusively, the turbulence of recent decades has created a greater awareness of their existence, as well as an increased recognition that all nations share responsibility on an issue that transcends borders and should raise universal concern on a humanitarian basis.

Now that the Geneva Conference has concluded on an affirmative note of support of American efforts, the United States must step forward and provide once more the leadership in providing legislation to deal with the issue of refugees on the long-term basis that is called for. On July 17, the Judiciary Committee reported out favorably S. 643, the Refugee Act of 1979. This bill had been held from consideration by the Senate to allow the asylum nations of the world to deliberate at the U.N. Conference and chart the course of further international humanitarian efforts. Indeed, the feeling was, and justly so, that the United States cannot and should not be expected to support all of the refugees without assistance from other countries.

The Senator from Kansas urges his colleagues to vote favorably on S. 643. This bill establishes a uniform and comprehensive policy toward refugees that would correct the injustices and simplify the complexity of the present maze of procedures. I believe that it could cut significantly the amount of bureaucracy now involved as well, while dealing with the various groups of refugees on a more humanitarian basis.

In anticipating the potential sources of opposition to the increase in the number of refugees that this country will thus accept, an opposition many of us are not unaware exists, I should like to state once more the feelings that I have expressed on this floor previously—that by allowing waves of immigrants and refugees to swell the population of the United States, we have time and again invested in the future of our country. That investment in human resources, born of the ethical principles of freedom and justice established by our Founding Fathers has paid off. By passing legislation today, we will acknowledge that the spirit of compassion that has permeated our history continues to burn. By meeting our moral obligation to provide humanitarian assistance, we will be following the example of our forebearers who found a heaven of liberty and hope on these shores and were willing to share it with all those in need. I suggest to you that we neither forget our roots, nor that we betray our past.●

NATIONAL ALCOHOL FUELS COMMISSION

● Mr. BAYH. Mr. President, ever since October of 1977 when a caravan of public-minded citizens traveled across the country to bring attention to the potential of alcohol fuels, more and more people have come to call themselves "gasoholics." The gasohol movement has been nothing short of remarkable and is a good demonstration of the power and influence grassroots organizations can have in our Nation.

Service stations and farm organizations in my home State of Indiana as well as elsewhere in the country are selling gasohol at the retail pump with rapidly increasing sales. We are also beginning to develop other forms of renewable energy in efforts to greatly reduce our dependence on foreign oil supplies and rely instead on domestic sources of energy. In Indiana, the Marion County Sheriff is embarking on a 4-month test of gasohol in approximately 40 percent of the sheriff department's new car fleet.

Last month, Mr. President, the National Alcohol Fuels Commission, which I chair, began its study of the alcohol fuels issue—to get the Government moving in a cohesive and logical manner toward encouraging private industry to jump on the alcohol fuel bandwagon.

The Commission is comprised of 12 congressional members including my colleague Representative Roe, who is the Vice Chairman, Senators Bellmon, McGovern, Dole, Church, Hatfield and Representatives Alexander, Blanchard, Michel, Glickman, and Sebelius as well as 7 public Commissioners representing various agriculture, consumer, labor and industry-related groups. The public members include Mr. Phil French of the Indiana Farm Bureau Cooperative Association, Representative Fred Jones of Auburndale, Fla., Mr. James Creal of the Automobile Association of America, Ted Schwartz, Esq., of Livingston, N.J., Dr. Serge Gratch of Ford Motor Co., Ms. Sharon Peterson of Winifred, Mont., one of the original organizers of the gasohol movement, and Ms. Charlene Block of the United Auto Workers.

Mr. President, it is my intention for the Commission to propose concrete and workable recommendations on how to best harness our abundant and renewable domestic resources in the near term. The Commission has just held its second working meeting, during which we adopted a work plan to bring about an increased reliance on alcohol fuels and reduce our dependence on the OPEC nations.

I ask that our mandated scope of work and the Commission's work plan be printed in the Record for the information of my colleagues.

The material follows:

National Alcohol Fuels Commission

COMMISSION MANDATE

(From enabling legislation Public Law 95-599 section 170:)

Study

(2) The Commission shall make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including, but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs. It shall take into consideration the technical, economic, legal, environmental, and social factors associated with the production, manufacture, distribution, and use of such fuels. It will evaluate the costs and benefits of alternative feedstocks, and their possible end uses, and analyze the feasibility and desirability of converting these resources to alcohol fuels. Based on such study it shall recommend those policies, and their attendant costs and benefits, most likely to minimize our dependence on petroleum, insure adequate energy supplies, and contribute to the economic health of the Nation.

Report

(c) Such report shall include the Commission's findings and recommendations with respect to—

(1) the long- and short-term potential of alcohol fuels contributing to domestic energy supply;

(2) the relative costs and benefits of developing alcohol fuels from alternative feedstocks, taking into account technical economic, legal, competitive, environmental, and social factors associated with their production, distribution, and use; their most appropriate end uses; and a recommended time frame for their introduction into the Nation's energy mix;

(3) the existing policies and programs of the Federal Government which affect the development of such alternative fuels; and

(4) new policies and programs required to develop alcohol fuels from coal and alcohol and other fuels from the biomass to meet the Nation's projected short-term and long-term energy needs.

PART III—PRODUCT WORK DESCRIPTION

Reports will be generated for more than the staff research. An integral part of the work plan, will be hearings, workshops, and on-site visits to alcohol fuel related facilities. These cannot take the place of important supply and fuel related studies necessitated by the legislation, but can provide important insights and first hand information for NAFC action.

Some of the key regional on-site visits, domestic and foreign could include pilot, demonstration size, commercial scale size activities associated with:

Distillate plants for ethtanol production (from crops)

Solid/waste plants for methanol production

Coal plants for methanol production

Oceanic plants for methanol production

(*i*) *Immediate action products*

(i) Suggested priority projects/products for immediate NAFC action.—

Purpose: To clarify technical, economic, and institutional inaccuracies in current media literature; to provide immediate assistance to policy makers in the generation, assessment, and implementation of current/proposed policy options; and to foster public awareness of existence/use of the NAFC.

Projects description: Determination and clarification of net energy balance for the production of alcohol fuels.—

Considerable discussion has arisen in the media about the potential negative energy balance in the production of alcohol fuels—particularly ethanol. Much of this information is based on absolute technical/economic information as well as inaccurate interpretations of actual data. A simple short-term project describing and accessing the net energy balance associated with the production and usage of alcohol fuels (i.e. over the fuel cycle) as compared to competing fuels and alternate options would greatly facilitate public understanding and clear-up misconceptions.

Determination and clarification of the relationship between ethanol and production and food production.—

Considerable discussion has arisen in the media about the potential impacts of ethanol (from crops) production on food production. Much of the discussion has centered on inaccurately targeting high yield crop lands for ethanol production, and not recognizing the enormous potential of the use of marginal lands, set-aside lands (all currently underutilized) as well as the utilization of "throw-away" underutilized by-products for ethanol production. These areas will directly benefit consumers and farmers alike. A simple investigation and assessment of these potential—and immediate—benefits, as well as a clarification of current misrepresentatives and inaccuracies would similarly clear up misconceptions in the public media.

Alcohol fuel distribution requirements.—

Consideration and assessment of the compatability of current fuel distribution network with that required by alcohol fuels. Although detailed alcohol fuel distribution requirements will be dependent on longer-term forecast needs, immediate attention can be focused on material compatability, economy of scale concerns, and institutional road blocks associated with current system usage.

Estimation of underutilized ethanol distillery capacity.—

A review and assessment of the potential capacity to produce ethanol fuels from existing underutilized distillery capacity including fiscal as well as physical constraints.

NATIONAL ALCOHOL FUELS COMMISSION PRODUCT PLAN

(*ii*) *Listing of suggested intermediate products*

Purpose: To provide concrete bedrock for policy recommendations in the short- and long-term; to add further clarity to public understanding of issues; and to provide key building blocks needed for mandated final report.

Listing of projects/products—

(A) Demand/utilization investigations for alcohol fuels-market feasibility of ethanol, methanol, and higher alcohols in:

Transportation sector (gasoline blends, diesel applications, aviation uses); petrochemical industry (as feedstocks); refining industry (as additives); utility sector—electricity production (as a peak shaving fuel to displace imported oil); on-farm uses; and other.

(B) Resource/supply investigations—

Market forecasts of production of ethanol: (from crops, cellulosic material, oceanic material); methanol: (from solid waste—municipal, industrial; cellulosic material—wood-coal); and higher alcohols.

(C) Investigations directed toward overcoming institution barriers in commercialization.—

Identifying Barriers-Uncertainties in the Fuel Cycle in: extraction, processing, collection, transportation, distribution, and end-usage such as financing and start-up difficulties, product distribution, regulatory processes, and future Federal energy policy.

Assessing impacts associated with the uncertainties: Ecological, environmental, health, occupational, and socio-economic.

Assessing the incidence of the above impacts: by economic sector, by region, by income group, by generation.

Assessment of the use of public "tools" in remedying situation:

Regulatory.

Promotional/subsidy; especially financing.

Taxation.

Research, development, and demonstration.

Foreign policy.

(iii) Mockup outline for mandated final report

(Relation to Legislative Mandate (Public Law 95-599, Section 170)).

(b) Summary and final recommendations: Part I—Basis for Study and Immediate Action.—

Chapter (1): Introduction—Public Mandate.

(c.3), (d.2) Chapter (2) Current and emerging issues, policies, and impacts: Clarification of current and emerging issues and basis for immediate policy action.

(c.1) Part II—Short- Intermediate, and Long-Term Prognosis for Alcohol Fuels.—

Chapter (3): Short- Intermediate and Long-Term Forecast of U.S. Energy Needs.

Chapter 4: Short- Intermediate and Long-Term Assessment of the Roles of Alcohol Fuels to Meet Those Needs (such as the relationship of alcohol fuels to other synthetic fuels and other conventional fuels).

Chapter (5): Investigation of Key End-use Markets, and Supply Resource Areas Needed to Meet Today's and Tomorrow's Needs (BIOMASS: including but not limited to animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic terrestrial crops and COAL).

(c.1) Part III—Technological targets of opportunity of today and tomorrow.—

Chapter (6): Investigation and Assessment of Utilization of Current Technologies For Alcohol Fuels—Cost/Benefits and Alternatives: Supply Technologies, Conversion Technologies, Transportation (and distribution) Technologies, and End-Use Technologies.

Chapter (7): Investigation and Assessment of Emerging Technologies for Alcohol Fuels—Cost Benefits and Alternatives: Supply Technologies, Conversion Technologies, Transportation (and Distribution) Technologies, and End-Use Technologies.

(c.2) Part IV—Overcoming Obstacles, Uncertainties, and Impacts.—

Chapter (8): Identification and Assessment of Key Legal, Institutional and Economic Obstacles, and Uncertainties in the Utilization and Commercial Development of Current, and Emerging Technologies to Produce and Use Alcohol Fuels.

Chapter (9): Identification and Assessment of Key Impacts resulting from the Utilization and Commercial Development of Current, and Emerging Technologies to Produce and Use Alcohol Fuels.

Chapter (10): Land, Labor, and Capital Requirements Needed for the Commercialization of Current and Emerging Technologies.

Chapter (11): Investigation and Development of Tradeoffs Associated with Potential Development (Interregional, Intersectoral, Intergenerational, and Interincome).

(c.4) Part V—Policy Generation and Implementation.—

Chapter (12): Identification and Description of Key Policies Designed to Meet the Nation's Needs for Alcohol Fuels: Public and Private Role.

Chapter (13): Identification and Assessment of Key Impacts Associated with these Candidate Policies.

Chapter (14): Staging Key Policy Implementation Over Time.

Chapter (15): Action Program for Today and Tomorrow.●

EQUITABLE POLICY FOR ENERGY CONSUMPTION URGED

● **Mr. COHEN.** Mr. President, as we continue to debate ways to alleviate our energy problems, including the grant of standby gasoline rationing authority to the President, I want to reiterate my strong belief that an equitable policy for energy consumption be adopted.

I am particularly concerned that the recreational opportunities in rural areas not be overlooked as we contemplate Federal policies on energy and public land use. Since virtually every recreational activity depends to some degree upon the use of energy, either in the activity or in transportation to and from the activity site, our actions should be designed to assure an equitable supply of fuel for recreational use.

My own State of Maine has a special interest in this are because of its attractiveness for boaters and campers in the summer and snowmobilers and skiers in the winter.

In Maine, over 67,000 snowmobiles were registered last year. Nearly 445,000 snowmobilers enjoy their sport in Maine annually. And last year's direct State tax and registration fee receipts were nearly $3.7 million.

There is another important aspect to snowmobile operation as well. In Maine as in many other New England States, use of the snowmobile goes well beyond recreation. Snowmobiling is an essential mode of transportation for some. It is the link that many of my constituents have with the outside world, sometimes for lengthy periods. And in times of emergency, in many instances, snowmobiles have been the only device that is able to bring desperately needed supplies of food, medicine, and fuel to stranded families.

We have established through several previous actions of the Congress that in the event of energy shortages, all industries, regions, and sectors should be asked to make an equitable contribution to overcoming these shortages. That means if we have a 10 percent shortfall in gasoline, we should all be expected to reduce our consumption by one-tenth.

I hope we will continue to follow such an equitable policy with regard to recreational vehicles. In my view, it would be a mistake to unfairly burden the 14.2 million snowmobilers in this country.●

TRIBUTE TO EMPLOYEES OF THE VETERANS' ADMINISTRATION

● **Mr. HEFLIN.** Mr. President, I rise at this time to recognize and pay tribute to the men and women who make up the Veterans' Administration. These citizens are dedicated to the goal of improving, protecting, and providing for America's veterans.

On July 21, 1979, the Veterans' Administration began the last year of its first one-half century as an independent Federal agency established for the sole purpose of helping America's veterans, their dependents, and survivors of deceased veterans.

During this 50 years of service, the Veterans' Administration has grown and changed. It had to in order to:

Serve the veteran population that has increased seven-fold since 1930;

Administer an expanding array of veterans benefits;

And keep pace with advances in computer-oriented management techniques.

However, the VA's founding mission has not changed. In Abraham Lincoln's second inaugural address he called for our Nation "to care for him who shall have borne the battle and for his widow, and his orphan."

Through the Veterans' Administration we still carry out this worthwhile mission.

President Herbert Hoover signed the Executive order on July 21, 1930, which consolidated the activities of the Veterans Bureau, the Bureau of Pensions, and the National Home for Disabled Volunteer Soldiers, thereby creating the Veterans' Administration.

The Veterans' Administration curreently operates the Nation's largest hospital and medical care system. It is one of the country's leading educators. It is a major force in housing and insurance. It helps nearly 5 million disabled veterans and survivors through compensation and pension benefits. And it provides a final resting place befitting the veterans who served our Nation. There are more than 30 million living veterans. This is two-thirds of all Americans who served in uniform during our 203-year history. About 40 of every 100 adult American males are veterans. Approximately 43 percent of the total population of the United States are potentially eligible for VA benefits and services.

Currently there are more than 3,255,000 veterans receiving disability compensation or pension payments from the VA. And survivors of 1,593,000 veterans are receiving compensation or pension benefits.

To put the size of the Veterans' Administration constituency in perspective, the total of 93.3 million present or potential VA beneficiaries is greater than the combined population of California, New York, Pennsylvania, Texas, Illinois, and Ohio. This example, I feel, clearly illustrates the magnitude of the job to be done by our Veterans' Administration.

The heart of the VA operation is, of course, the people who serve so faithfully and diligently. The approximately 10,000 physicians, 28,000 nurses, 900 dentists, and 152,000 other specialists and medical service personnel.

Indispensable to providing America's veterans with the quality medical care they deserve are the more than 100,000 members of the Veterans' Administration volunteer service, who donate more than 10 million hours of their valuable time each year to the care of our hospitalized veterans.

This care for veterans and dependents literally spans centuries. The last dependent of a Revolutionary War participant died in 1911. The last dependent of the War of 1812 died in 1946. The last Mexican War dependent died while we had troops in Vietnam, in 1962. Civil War widows and children still draw VA benefits.

Based on the past, it seems reasonable to assume that our Nation will be caring for Vietnam era veterans until early in the 22d century, at least.

Therefore, Mr. President, I am honored today to have this opportunity to publicly commend all the employees of the Veterans' Administration and to take this time to pay special tribute to the men and women who have worked for the past 50 years for the benefit of our veterans.●

IN DEFENSE OF LOWER SPENDING AND A BALANCED BUDGET

● Mr. JEPSEN. Mr. President, for the past 7 months I have been studying the balanced-budget question most carefully. Although I have long been a supporter of a constitutional amendment to balance the Federal budget. I wanted to study all the many different proposals for requiring a balanced budget before supporting any particular approach. I have come to the conclusion that Senator RICHARD LUGAR's plan, Senate Joint Resolution 4, is the best. It simply requires that the Congress must vote by a two-thirds majority in order to adopt a budget resolution in which projected outlays exceed projected revenues. I think that this approach will not only achieve a balanced Federal budget but will put a brake on Federal spending as well.

After all, the fundamental matter involved here is not merely to balance the budget at all cost. This could be done by raising taxes, increasing off-budget outlays, and other undesirable means. The question really is how do we reduce the growth of government spending before it devours the entire economy.

In 1928, the year I was born, the Federal Government had receipts of $3.9 billion and expenditures of $3 billion. The gross Federal debt stood at $17.6 billion, which was a significant reduction from where it was at the end of World War I. By contrast, the budget President Carter sent to Congress earlier this year would set spending at $532 billion, receipts at $503 billion, and the Federal debt at $899 billion.

Thus there has been a 5,000 percent increase in the Federal debt over the 50 years I have been on earth, a 12,790 percent increase in Federal revenues, and a whopping 17,620 percent increase in Federal spending.

A few years ago the Congress attempted to deal with the spending problem by instituting a new budget process. The first fiscal year in which the budget process was in effect the Federal Government ran the largest deficit in its history, $66.4 billion in fiscal 1976. Since then we have had deficits of $45 billion in fiscal 1977, $48.8 billion in fiscal 1978, and $33.2 billion in fiscal 1979. In a few weeks the Congress will approve a budget resolution containing at least another $28.4 billion deficit. Thus the conclusion is inescapable that the budget process is a dismal failure.

In fact, it has been argued that the budget process actually encourages budget deficits. This is because deficits are no longer produced haphazardly but are scientifically derived. The Congressional Budget Office decides what level of economic stimulus the economy needs and this becomes the accepted deficit level.

Personally, I feel that anytime there is a budget deficit it is harmful, not helpful, to the economy. First, deficits put pressure on money markets, crowd out private investors and raise interest rates. Second, budget deficits indirectly cause inflation when the Federal Reserve monetizes the debt in an attempt to reduce high interest rates. And thirdly, deficit spending has led to an unwarranted increase in the size of Government, because it allows the Government to irresponsibly command more and more real resources from the private sector.

Of course, the great virtue of deficit spending to politicians is that it allows them to appear to offer the people something for nothing. The people are offered programs and benefits they want but are led to believe that there is no cost, because taxes are not raised to pay for them. Unfortunately, there is a cost, a heavy cost, because the money that Government spends does not come from the toothfairy, as Milton Friedman likes to say. It must either be borrowed, leaving less for productive investment in the private sector, or it is created by the Federal Reserve, thereby reducing the value of money and causing inflation.

I believe that we may have finally reached the point where people recognize the heavy price paid for past deficits, in terms of rising prices, slower economic growth, declining productivity, higher taxes, and even unemployment.

Although the Vietnam war was certainly a contributing factor to the deficits that the Federal Government ran between 1965 and 1975, it cannot be used to explain the growth in Government spending since 1975. Yet the period since 1975 has shown the highest rate of growth in Government spending since the Korean war. In 1975 Federal Government outlays increased 21 percent, in 1976 they increased 12.3 percent, in 1977 9.9 percent, and in 1978 increased 11.9 percent. This is a cumulative increase of 38 percent in 4 years. Over the same period, inflation rose 21.2 percent. This means that if Federal spending had only grown at the rate of inflation since 1975—that is to say, 21.2 percent—we would not only have a balanced budget, but a $7 billion surplus.

In other words, it would not have been necessary for any cuts to have been made in any existing programs since 1974, in either real or nominal terms, for us to have achieved a balanced budget by fiscal 1978.

The reason why this is possible is that inflation causes tax revenues to increase at a faster rate, approximately 1.6 percent for every 1 percent inflation. Thus the Congressional Budget Office estimates that inflation and real income growth will increase income taxes on the American people by $8 billion in 1980, $18 billion in 1981, $34 billion in 1982, $51 billion in 1983 and $71 billion in 1984.

This inflation-tax increase lies at the heart of President Carter's budget strategy for the next 2 years. The figures in his fiscal 1980 budget prove that his promise to balance the budget in 1981 will be accomplished on the backs of the taxpayers. They show that in 1980 personal income tax revenues are expected to rise 1.9 percent faster than personal income, in 1981 they will increase 8.3 faster, and in 1982 taxes will increase 6.2 percent faster than personal income.

Therefore, I believe that we must do several things in order to balance the budget in a responsible manner. First, we must slow the growth of Government spending, preferably to less than the rate of inflation. Since this will mean a real reduction in Government spending across the board we must also begin to cut away at programs which no longer serve a useful purpose and eliminate fraud and waste in all other programs. This will insure that adequate funds are available for critical needs. We might begin, for example, by adopting some of the recommendations made by the General Accounting Office, which would save $8.2 billion per year, according to the Comptroller General.

At the same time we must adopt policies which encourage real economic growth in this country. We must insure that the private sector, which is the ultimate source of our Nation's wealth, is healthy and is growing faster than Government. This means across-the-board tax cuts are needed, regulations must be eliminated or reformed, and that inflation be controlled by reducing Government spending and monetary growth.

I request to have printed in the RECORD a table showing comparisons of spending outlays and the CPI.

The table follows:

Year	Spending outlays (billions)	(CPI) Consumer Price Index	Percent increase in outlays	Percent increase in C.P.I.
1960	$92.2	88.7		
1961	97.8	89.6	6.1	1.0
1962	106.8	90.6	9.2	1.1
1963	111.3	91.7	4.2	1.2
1964	118.6	92.9	6.5	1.3
1965	118.4	94.5	0	1.7
1966	134.6	97.2	13.7	2.9
1967	158.2	100.0	17.5	2.9
1968	178.8	104.2	13.0	4.2
1969	184.5	109.8	3.2	5.4
1970	196.6	116.3	6.5	5.9
1971	211.4	121.3	7.5	4.3
1972	232.0	125.3	9.7	3.3
1973	247.1	133.1	6.5	6.2
1974	269.6	147.7	9.1	11.0
1975	326.2	161.2	21.0	9.1
1976	366.4	170.5	12.3	5.8
1977	402.7	181.5	9.9	6.5
1978	450.8	195.4	11.9	7.6

●

PEACETIME REGISTRATION: PROCEED WITH CAUTION

● Mr. COHEN. Mr. President, both the Senate and House will soon be called on to vote on the question of a return to peacetime selective service registration. Since peacetime draft registration was suspended by President Ford in 1975, the Selective Service System has been in a position of deep standby.

There is growing concern that the agency is not presently able to meet the Nation's mobilization need in time of emergency. In 1977, the Defense Department established new, accelerated requirements for manpower in a mobilization period. Selective service cannot now meet those requirements, and the question we face is how we can best enable it to accomplish that goal.

As a member of the Military Manpower Subcommittee, I have spent a large amount of my time looking at this issue and seeking the best possible means of meeting our Nation's defense needs.

I have yet to conclude that a return to peacetime face-to-face registration, as embodied in both the Senate and House bills, is the most effective means of insuring a strong defense capability. With the improved technology and communications available in America today, there is no need to return to an obsolete method of manual registration and thousands of local draft boards. Just because a method was the best available in 1940 or 1948 does not mean that there is not a better, more effective approach available today.

Far too little time has been spent in looking for new, improved means of delivering recruits for military training at mobilization. And far too many questions remain unanswered.

That is why a coalition of Republicans and Democrats in the Senate have joined in introducing legislation calling for a full-scale study of our mobilization capability and needs. Our legislation would direct the President to report to Congress on the following:

An assessment of the ability of the Selective Service System to meet the military manpower requirements of the United States in the event of national emergency.

An evaluation of the current capability of the Armed Forces of the United States to meet the equipment, clothing, living quarters, and training personnel needs that would be required in the event of a total or partial mobilization of the Armed Forces.

Such recommendations for legislation as the President considers necessary to provide an effective and equitable military manpower mobilization capability.

In the July 19 Washington Post, both an editorial, "The Draft Issue," and an op-ed piece, "Peacetime Registration: Proceed With Caution," by Brookings Institution senior fellow Martin Binkin, supported our view that insufficient attention has been given to the issue to expect Members of the Senate and House to make a reasoned, informed decision at this point.

Binkin, one of the Nation's leading authorities on military manpower issues, concluded:

> That too many questions are unanswered and, until they are fully resolved, reinstituting peacetime registration—an act that would be sure to reopen old wounds—would be premature.

He said:

> Indeed, the debate should not proceed to a legislative conclusion on the basis of the incomplete, conflicting and often emotional arguments presented so far.

Two issues need to be addressed, Binkin said. To what extent is an enhanced mobilization capability necessary to the Nation's security? Is peacetime registration necessary to achieve it?

He suggested that Congress support the proposals to beef up selective service funding so that it can enhance its computer capability. At the same time, he said, Congress should press the White House for a comprehensive, coordinated, and coherent standby draft policy and legislative proposals to underpin it.

Binkin concluded:

> Once answers are in hand, Congress will be in a better position to make the rational and careful analysis that an issue with such important social and national security implications deserves.

The Post editorial supported this view. Neither the country nor the Congress has yet been attentive enough to the momentous and complex issues involved to ensure that a good overall decision will be made, the Post said. It concluded that the House and Senate measures are good as "educational vehicles," but said "it would be unfortunate to make a national commitment strictly on the basis of these debates."

As the Post said, peacetime registration is a step back toward a draft. There is no convincing evidence that such a step is needed.

So that my colleagues can have the benefit of the thoughtful analyses provided in the Binkin article and Post editorial, I submit them for the record. The articles follow:

The Draft Issue

The House is about to vote on a measure requiring 18-year old men to start registering, after the 1980 elections, for the draft. The vote is being taken under conditions that make success unlikely, and that is just as well. For the issues involved are momentous and complex, and neither the country nor the Congress has yet been attentive enough to them to ensure that a good overall decision will be made. As educational vehicles, the House measure and a similar Senate bill, due to be debated later, are useful. But it would be unfortunate to make a national commitment strictly on the basis of these debates.

Peacetime registration, after all, is a step back toward a draft, and a draft is a good deal more than a procedure for furnishing military manpower. It involves technical judgments on what sorts of forces the nation requires, and this in turn requires political judgments on the sorts of defense and foreign policies those forces are meant to serve. Moreover, the draft—involuntary military service—involves social judgments on the kind of society Americans wish to build. No bill on registering 18-year-olds can avoid reaching these larger questions, and the current House and Senate measures have served to raise them. But they have not yet been adequately weighed.

This is not to say that the all-volunteer force instituted after draft calls were suspended in 1973 (the registration requirement was suspended in 1975) is the signal success its more ardent defenders claim. Nor is it to ignore the substantial problems of the active reserve and, especially, the individual ready reserve, which provides replacements for casualties in a European war—the contingency most on the minds of manpower planners. Ending the draft unquestionably contributed to reserve problems by removing the draft's spur to reserve service. Responsible discussion has been obstructed, moreover, by the Pentagon's refusal to declassify the results of its mobilization exercises, which apparently revealed certain reserve deficiencies. The numbers cannot be unfamiliar to the Russians. They should be made available for American public examination.

The Carter administration came to office politically disposed to associate the draft with the unpopularity of Vietnam, and therefore little inclined to think about reinstituting it. Its officials now argue that, notwithstanding the travails of the all-volunteer force and the diminishing pool of 18-year-olds, manpower needs can be met into the 1980s by means other than the draft: better recruitment, incentives for retention of experienced servicemen, etc. Many citizens opposed to registration, however, prefer to pick up on themes popularized during the Vietnam war. They see registration as the camel's nose under the tent of (beyond the draft) an adventurist foreign policy and a militarization of American society. Still others feel the draft should be treated as a social project and linked to some concept of universal national service for youth. The administration, striving to make the all-volunteer force work better, has hoped to preempt the wider, hotter debate.

If the all-volunteer force were problem-free, however, the draft issue would not have been revived in the first place. Fortunately, the problems are of a scale that permit, indeed demand, orderly scrutiny. That scrutiny should not be crowded by a hasty proregistration decision in the House.

Peacetime Registration: Proceed With Caution

(By Martin Binkin)

The military registration debate is reaching the floors of Congress. On the House side, a proposal tacked onto the defense authorization bill would require the president to begin registration of 18-year-old males in January 1981. In the Senate, the Armed Services Committee proposes the registration of males 18 through 26 to begin no later than January 1980.

Thus far, the issue has been inappropriately linked to the question of whether or not the volunteer army is working. This has happened largely because the strongest advocates for peacetime registration and the sharpest critics of volunteer forces are one and the same. As a result, many oppose registration for fear that it is but a first step in a conspiracy to return to the draft. It is important that Congress move out of the line of this emotional cross fire and consider the issue on its merits.

Registration was terminated by President Ford in 1975, a decision taken largely in the interest of economy but no doubt influenced by the view that a conventional war would not last long enough for mobilization to matter and, even if it did, reservists could fill the breach until the Selective Service System could be reconstituted and begin to deliver fresh recruits.

But a recent reassessment of the demands of an intense conventional conflict coupled with problems in manning the reserve forces have raised fears that the U.S. Army would run short of combat troops should the forces of NATO and the Warsaw Pact square off in a replay of World War II. As matters stand, the nation's Selective Service machinery, which is now "deep standby," could not deliver the first inductees to Army boot camps until some 110 days after a decision to mobilize. Allowing for training and travel this would mean that the first replacements would not reach the battlefield until at least 200 days after mobilization, which many now consider to be too late to make a difference.

The Carter administration wants to speed up this process; as a first step, it has proposed increased funding for fiscal year 1979 and 1980 to improve the computer capabilities of Selective Service and to increase the size of its full-time staff from about 100 to 150. The administration contends that its modernized system would utlimately be able to deliver the first recruits within 30 days, in which case combat replacements would be available as early as 115 days after mobilization—consdered by the Pentagon to be soon enough to fill out new units and replace combat casualties. Moreover—and this is important—the administration claims that this schedule would be met without preregistration.

But not everyone agrees. Critics question the feasibility of meeting such a tight schedule, even by a streamlined system. They discount the prospects for registering up to 6 million youths, storing the data on computers at regional sites, notifying inductees to report, giving physical examinations and beginning actual inductions—all within 30 days. Instead, they argue, peacetime registration would give Selective Service a leg up, virtually ensuring that the 30-day timetable could be met, with some proponents claiming that inductions could start within 12 days.

To resolve the issue, Congress should address two questions. To what extent is an enhanced mobilization capability necessary to the nation's security? Is peacetime registration necessary to achieve it?

To answer the first, Congress will have to sort out conflicting testimony of expert witnesses who have expressed widely divergent views of the number of troops that would have to be mustered in an emergency, how soon they would be needed and how best to raise them. Much depends on the validity of assumptions regarding the amount of warning time before hostilities commence, the duration and intensity of conflict, casualty rates and other factors over which there is wide disagreement. Whether the military could train, equip and deploy large numbers of recruits even if they were available is also open to question.

Should analysis lead to the conclusion that an accelerated induction schedule is a good idea, it is still far from clear that peacetime registration is necessary to accomplish it. Claims that the administration's proposed improvements will be enough to revive the Selective Service System should invite a healthy measure of skepticism, but so too should the claims that a failure to endorse peacetime registration would pose an undue risk to U.S. national security.

This is all to say that too many questions are unanswered and, until they are fully resolved, reinstituting peacetime registration—an act that would be sure to reopen old wounds—would be premature. Indeed, the debate should not proceed to a legislative conclusion on the basis of the incomplete, conflicting and often emotional arguments presented so far.

Rather, it would seem prudent for Congress to go along with proposals to beef up Selective Service, which needs to be done in any event, and give the administration some time to iron out the technical problems that are bothering the skeptics. In the meantime, Congress should press the White House for a comprehensive, coordinated and coherent standby draft policy and legislative proposals to underpin it. This will also give all parties time to do their homework on other critical questions that have been left hanging: Should women register? What form should registration take? Face-to-face at draft boards? By postcard mail-in? Or passively, by tapping existing government files? How is compliance to be enforced and what penalties will be imposed for failure to comply?

Once answers are in hand, Congress will be in a better position to make the rational and careful analysis that an issue with such important social and national-security implications deserves.●

PROGRESS REPORT ON THE MILWAUKEE ROAD

● Mr. BAUCUS. Mr. President, I would like to report to the Senate on progress being made to insure continued service on the Western Lines of the Milwaukee Railroad.

EMPLOYEE OWNERSHIP HEARINGS

The Subcommittee on Oversight of the Internal Revenue Service, of which I am chairman, has held two hearings to examine employee stock ownership plans and their applicability to the Milwaukee Road.

Witnesses at the first hearing, on June 21, included technical experts, representatives of Milwaukee shippers and the regional commissions, and representatives from Federal agencies which may be in a position to assist in the employee and shipper ownership effort.

At that hearing, Montana's Governor, Thomas Judge, reported that the Old West Regional Commission and the Pacific Northwest Regional Commissions have tentatively pledged to provide $200,000 each to an organization that would develop an employee ownership plan for the Milwaukee.

Mr. Paul Schmechel, president of the Montana Power Company, testified that shippers along the Milwaukee Road are attempting to raise $300,000 for this effort.

At the second subcommittee meeting, on July 20, Mr. Jim Snyder, legislative director of the Rail Labor Executive Organization, testified that the National Rail Labor Organizations will provide at least $175,000 to help develop an employee stock ownership plan.

NEW MILWAUKEE ORGANIZATION

A new organization, Milwaukee Lines West, has been formed to coordinate efforts to develop an employee ownership plan for the Milwaukee. According to Mr. Michael Fitzgerald, who testified on behalf of Milwaukee Lines West on July 20, the organization was formed to undertake and coordinate Federal, State, local and private efforts to provide for continued competitive railroad service in regions currently serviced by the Milwaukee Road. The organization intends to develop an organizational, financial, managment, and marketing plan for a shipper- and employee-owned railroad. In addition, the organization will participate in court and Interstate Commerce Commission proceedings that may affect the Milwaukee Road.

The employees who work on the Milwaukee Railroad, the shippers who use it, and the States through which the railroad passes are betting almost a million dollars that the railroad can survive and be reorganized as an employee-owned operation.

I can personally vouch for the strong commitment of rail labor and shippers throughout the West to the success of this program. Milwaukee service is essential, and these people fully intend to rebuild the Milwaukee as a model of innovation and good service.

DOT STUDIES

Very soon, the Department of Transportation will release several studies of the Milwaukee Road and particularly of the Western Lines. The general tone of these studies will be negative. However, the witnesses who testified before my subcommittee on July 20 stated in no uncertain terms that their decisions will not be affected by the DOT studies.

These studies do not consider the potential benefits of employee and shipper ownership. In addition, many supporters of the Milwaukee's western extension feel that the DOT is underestimating the probable growth in traffic that will occur as coal reserves are developed and more and more grain is sold to Asian countries.

LEGISLATIVE EFFORTS

Mr. President, on May 29, the Senate passed legislation, Senate Joint Resolution 81, I introduced to provide a moratorium on abandonments by the Milwaukee Road. Similar legislation, House Joint Resolution 341, has been approved by the House Committee on Foreign and Interstate Commerce. I am urging our colleagues in the House to act on this legislation quickly.

On August 6, Milwaukee officials intend to submit a reorganization plan to the bankruptcy judge. This plan undoubtedly will call for the abandonment of all Milwaukee trackage west of Miles City, Mont. The Interstate Commerce Commission will hold hearings on the abandonment requests this fall, and the abandonments could be approved by the Commission in early January.

The Milwaukee's cash position continues to be poor. The railroad is currently drawing down a $20 million loan provided under the Emergency Rail Services Act. Indications are that current cash reserves will last at least through August and possibly into October. In the case that the railroad completely runs out of cash, the bankruptcy judge has authority to approve a complete shut-down of service.

In view of this situation, time is clearly of the essence. Milwaukee employees and shippers and the States have made a strong commitment to employee ownership.

The Congress must provide enough time for development and implementation of an employee ownership program. The affected parties recognize the urgency of the situation and are moving forward at maximum speed.

WESTERN LINES CAN SUCCEED

None of us should take the shortsighted view that the only solution for the Milwaukee's problems is abandonment of the western lines.

I am continually struck by the metaphors used by Milwaukee management and the Department of Transportation. When referring to the railroad, their descriptions frequently include that of a "sick patient," or an "invalid." I recently heard the railroad referred to as a "patient with an iron lung, waiting to have the plug pulled."

I agree that the Milwaukee is sick. However, I do not think that the iron lung analogy is quite accurate.

I do not view the Milwaukee as a patient in an iron lung—with scrap dealers calculating the value of selling the lung.

Rather, the Milwaukee Railroad is more like an alcoholic suffering from a 20-year binge. All of us know that an alcoholic on a bender refuses all sustenance, except what comes from a bottle.

According to the witnesses who have testified before me, the management of the Milwaukee Road has refused to provide the nutrition needed to keep the railroad fit. The railroad has declined both physically and financially.

But all of us have known alcoholics who have finally seen the light and changed their lives.

I look forward to a Milwaukee Road that swears off the booze and moves aggressively to restore the vitality needed to continue essential services.●

MRS. EDITH HUBBARD

● Mr. SASSER. Mr. President, I would like to take this opportunity to call the attention of my colleagues to a recent article in the Memphis Press-Scimitar on one of our Nation's outstanding citizens.

Mrs. Edith Hubbard truly knows the importance of a good education in today's world. And her lesson has been passed along to her 9 children, 31 grandchildren, and 4 great-grandchildren. She has set a fine example for others to follow.

I ask that the following article from the Press-Scimitar be printed in the RECORD, so that others may learn from Mrs. Hubbard.

The article follows:

PRIDE IN EDUCATION FOCUSES NEXT ON GRANDCHILDREN

(By Clark Porteous)

It was a struggle for Edith Hubbard, putting nine children through college.

Now, at 74, she can take it easy and watch with pride the educational progress of 31 grandchildren.

Her children are doing what she and her husband, the late Walter L. Hubbard did: give their children a good education.

Asked if she babysits for any of her 31 grandchildren or four great-grandchildren, Mrs. Hubbard, who lives at 1842 Edmondson, laughed and said "No, I can't be bothered with children." But then she tells, with typical grandmotherly enthusiasm of the progress the grandchildren are making, and says she used to babysit, but the Memphis ones are now past that age.

She tells of a grandchild, Pete Strong, who is the only black student at Memphis University School, and of grandchildren at Presbyterian Day School and St. Agnes Academy. She has grandchildren at Notre Dame, Fisk and Meharry Medical School in Nashville. A grandson is a graduate of Antioch College. A granddaughter has a master's degree from Syracuse University and for a time was press secretary for U.S. Rep. Harold Ford. That particular granddaughter is getting married Sunday.

Mrs. Hubbard went to old LeMoyne College when it was only a two-year school. Her husband did not attend college. She convinced him that it was necessary for all of their children to get good educations. Hubbard, who had started out driving a truck for the Post Office, became supervisor of the Motor Vehicle Service and the first black to attain that high a position at the Memphis Post Office. At the age of 87, he died while vacationing with Mrs. Hubbard in California, on Aug. 17, 1977. But he lived to see all nine of his children with college educations, some with advanced degrees, and the start of the education of his grandchildren.

Does Mrs. Hubbard sit in a rocker and take things easy? No sir. "I keep busy. I travel a lot, went to California (where three of her children live) three times last year, went to Chicago and New York (to visit children) and plan to make trips this year. I also write to all of them, and I read a lot and clip things out of the paper I think they are interested in, and send them."

It's different with her husband and the nine children all gone, but she keeps busy.

Mrs. Hubbard said some of her children won scholarships, but they were small like $100, and she and her husband scrimped and saved to educate the children. She said they all worked to help get their educations. She listed her children and their education as follows, from the oldest, who is 50, to the youngest, who is 38:

Mrs. Mary McWilliams, past president of the Memphis Education Association, who teaches at Tech High, has a master's degree from University of Illinois, and a bachelor's degree from LeMoyne-Owen. She is past president of the Black Caucus of the United Church of Christ and is a member of the church national board and travels about the nation, making speeches for the church.

Dr. Walter Hubbard Jr., a physician who practices in Santa Monica, Calif., and lives in Malibu. He is a graduate of LeMoyne-Owen and Meharry Medical College.

Mrs. Ella Long, a graduate of LeMoyne-Owen, who teaches in Chicago.

Mrs. Edith Powers, a graduate of LeMoyne-Owen, who retired from the Postal Service as the result of an injury suffered in a fall. She has been the only black member of the Tennessee Art Commission for five years.

Mrs. Emma Jean Stotts, whose husband, Carl, is a Fire Department captain, a teacher at Carnes, and a graduate of LeMoyne-Owen.

Dr. Elma Mardis, who has the most education of the nine Hubbards, an assistant professor of education and coordinator of the West Tennessee Center, University of Tennessee, Memphis. She has a bachelor's degree from LeMoyne, a master's degree from University of Illinois, and her Ph.D. from University of Tennessee at Knoxville.

Edward Hubbard, graduate of the University of Illinois, an insurance executive in Los Angeles, member of the Million Dollar Roundtable. He was named Man of the Year in the insurance field last year.

Mrs. Margaret Strong, wife of Dr. Odis Strong, and a graduate of Fisk University.

Lonnie Hubbard, who teaches in Chicago, a graduate of Illinois State.●

NATIONAL SECURITY AND THE LAW OF THE SEA

● Mr. COHEN. Mr. President, Americans have always had a special affinity for the sea. The oceans that flank our western and eastern shores have been a source of economic strength and national security for the United States.

Our naval forces and merchant fleets have moved freely through international waters and provided our Nation with security and prosperity. Lately, however, the political and economic tranquility of the seas has been threatened by the burgeoning claims of third world nations to greater sovereignty over larger areas of the world's oceans.

Our Nation and more than 150 other countries are now engaged in drafting a Law of the Sea Treaty that may alter the freedom of movement we have enjoyed through worldwide sea lanes.

The importance of the treaty and its potential political costs, economic risks and threats to military and commercial mobility were recently outlined in an excellent speech by Ambassador at Large Elliot L. Richardson.

Mr. Richardson, who is the President's special representative at the Law of the Sea Conference, used the occasion of the launching of the U.S.S. *Samuel E. Morison*, at Bath, Maine, to make his remarks.

I commend the speech to my colleagues and ask that a copy of his remarks, entitled "National Security and the Law of the Sea," be printed in the RECORD.

The speech follows:

REMARKS BY AMBASSADOR AT LARGE ELLIOT L. RICHARDSON

NATIONAL SECURITY AND THE LAW OF THE SEA

In the waning days of his exciting, productive life, Samuel Eliot Morison urged us to face the future resolutely and to adapt boldly to a world in which unsettling change was an ever-present reality. "Have faith", he exhorted. "Hang on! In human affairs there is no harbor, no rest short of the grave. We are forever sailing forth afresh across new and stormy seas, or into outer space."

Unsettling change, triggered mainly by the burgeoning claims and aspirations of Third World countries, has overtaken the seas Admiral Morison loved so passionately. Next week in New York representatives of more than 150 countries will resume their striving to channel these forces of change in directions which promote world order. They hope to accomplish this high purpose through a treaty negotiated at the Third United Nations Conference on the Law of the Sea.

Morison the historian—his ravenous curiosity aroused—would have been drawn inexorably to this Conference for it represents a landmark effort by the world community to establish the rule of law over every conceivable use of salt water. Morison the sailor would have examined with flaming interest its implications for American naval operations. And Morison the humanist would have applauded its goal of reducing tension and conflict around the globe.

As we launch this warship, the namesake of a giant naval officer and an indomitable scholar, it seems entirely fitting to speak of national security and the law of the sea.

Beneath the surface noise of contemporary debate on foreign policy rests a broad base of consensus on our most fundamental goals. We seek a world in which we are at peace with other societies, in which we and they are free to pursue our own interests and destinies, and in which the inevitable conflicts are firmly controlled and fairly resolved.

The primary goals of American national security policy are the subject of equally broad agreement. They are to encourage the evolution of the world we seek by building and maintaining a stable military balance among potential adversaries and by discouraging breaches of the peace that could lead to superpower confrontation or prejudice our basic interests. The missions, levels, weapons systems, and deployments of our land, air, and naval forces, both nuclear and conventional, must be so designed as to proclaim to friend and foe alike their evident capacity to play their necessary parts.

Within this framework, the Navy bears a special responsibility for the prevention—the deterrence—of armed conflict. As Admiral S. G. Gorshkov, the chief architect of the formidable expansion of the Soviet Navy, has written:

"Owing to the high mobility and endurance of its combatants, the Navy possesses the capability to vividly demonstrate the economic and military might of a country beyond its borders during peacetime. This quality is normally used by the political leadership of the imperialist states to show their readiness for decisive actions, to deter or suppress the intentions of potential enemies, as well as to support 'friendly states.'

* * * Consequently, the role of a navy is not limited to the execution of important missions in armed combat. While representing a formidable force in war, it has always been an instrument of policy of the imperialist states and an important support for diplomacy in peacetime owing to its inherent qualities which permit it to a greater degree than other branches of the armed forces to exert pressure on potential enemies without the direct employment of weaponry."

Admiral Gorshkov's slap at our "imperialism" is, of course, standard Soviet rhetoric. The significant point is strong, if "backhanded," acknowledgment of the peacekeeping contribution of our and our allies' navies.

Nor has the importance of the Navy been affected by the reduction in the number of U.S. overseas bases and military personnel stationed abroad. That is the result of cost constraints, the strong self-reliance of our friends, and the practical lessons of the Viet Nam war, not, as some would have us believe, a contraction in the scope of our vital overseas interests. Indeed, it is hard to imagine where any such contraction is supposed to have occurred. Certainly not in the Middle East, the Persian Gulf, the Indian Ocean, or the Mediterranean. And if our overseas interests in distant parts of the globe have not diminished, the reduction in direct deployment of ground forces does not reduce but adds to the necessity for alternate means of protecting those interests. Our economic well-being, meanwhile, is continually more dependent on overseas trade and vulnerable to distant political developments. The combined result is to compel increased reliance on the strength, mobility, and versatility of the U.S. Navy.

To fulfill its deterrent and protective missions our Navy must have the manifest capacity either to maintain a presence in far-flung areas of the globe or to assemble such a presence rapidly. This capacity must embrace two essential components, one operational and the other political. The first is true global mobility—mobility that is totally credible and impossible to contain. The second is the right to sail and take up station without subjecting the United States to involvement with any other state.

This kind of flexibility makes possible the calibration of our responses precisely to the situation at hand. It draws on the Navy's unique ability to position itself at sea near foreign countries without entering the territory of friend or foe. It permits the movement of forces and supplies past the coasts of other countries irrespective of their view of the mission.

In conjunction with the political as well as logistical capacity of our air forces to deliver material rapidly to our friends, we thus preserve the opportunity to persuade them to refrain from steps that would otherwise accelerate localized arms races.

Two accelerating developments in the law of the sea challenge these operational and political premises. First, great seaward expansion in coastal state claims of sovereignty reduces the area in which deployment can remain outside the claimed territory of actual or potential combatants. Second, these claims vastly increase the number of legal chokepoints around the world—mainly straits and archipelagoes—where naval and air transit is essential to the deployment.

These developments, which have not yet run their course, add greatly to the risk and cost of deploying global naval forces. True, once a catastrophic crisis is upon us, the question of risk and cost may be cast aside. It is in our preventive missions and our capacity to deter such a crisis that restraints are most acutely felt.

If deployments to far-flung regions of the world require that we defy the claims of third states along the way, they entail a high risk of political, economic, or even military conflict. What is then left of the credibility of our readiness to move forces into an area if and when necessary? What is left of routine deployments past such states? What political, economic, or military concessions will be demanded of us if we are forced to negotiate bilateral agreements to preserve a right to send warships and military aircraft through other states' claimed waters? Most states, be it noted, have no interest in exercising the same rights off our coasts. What new forms of rivarly will face the major maritime powers if they can preserve military and commercial mobility at sea only by gaining influence over strategically located coastal states?

The net effect is to reduce intermediate options, forcing choices more and more in the direction of either inaction or serious conflict. The only way to bring this deteriorating situation under control is by shaping the assumptions of foreign coastal states about their rights and our rights in the oceans. This is not a matter of who has the superior legal argument. Foreign perceptions will continue to dictate the scope of operational risks and costs.

Thus, the ability of the United States to execute its preventive mission depends upon the existence of a consensus—a consensus of geographically significant coastal states—on rules compatible with the routine gobal deployment of our forces.

Analysis of the law of the sea, particularly by lawyers, tends to focus on legal substance while ignoring the importance of international consensus in maintaining the international environment needed to support optimum flexibility in global deployments. It is not enough merely to insist that freedom of navigation and overflight beyond a narrow territorial sea and unimpeded transit through, under, and over straits are essential. Nor is it enough to be prepared to assert our rights in the face of challenge. Our strategic objectives cannot be achieved unless the legitimacy of these principles is sufficiently accepted by the world at large that their observance can be carried out on a routine operational basis.

A new element of uncertainty has been added by the recognition that coastal states are entitled to exercise some forms of control far out at sea. Indeed, the United States, with passage of the Fisheries Conservation and Management Act of 1976, established a 200-mile zone in which all fishing activity would come under American jurisdiction. We are thus no longer in a position to base our global mobility on narrow limits of coastal state control for all purposes. Our mobility must be based on accepted distinctions between types of control.

The ocean environment I have described is neither stable nor predictable. The complicating factors stand out starkly:

First, 12-mile territorial seas would affect more than 100 straits around the world narrower than 24 miles. Among these are the Strait of Gibraltar, the Strait of Malacca, connecting the Pacific and Indian Oceans, and the Strait of Hormuz at the entrance to the Persian Gulf. There must be free transit of such straits.

Second, 200-mile fisheries or economic zones cover roughly 40 percent of total ocean area. If these ever come to be regarded by coastal states as their territory, most of our Navy's operational waters will be removed from the exercise of freedom of navigation and overflight. Checking the expansion of coastal state powers in waters that for some purposes are concededly under their jurisdiction becomes more difficult every day. It matters little that it was Soviet overfishing that originally caused a foreign state to declare 200-mile territorial sea if that claim subsequently leads to restraints on navigation either directly, or by encouraging similar claims.

Third, scores of developing states, with their newly asserted nationalism rampant, are in control of the coastlines along which our ships and aircraft must pass. Many of these Third World states have acquired patrol fleets and other craft capable of interdicting naval, commercial, and research ships steaming off their shores. Taken together, this increases the possibility of prejudicial claims, the risk of ignoring them, and the number of situations in which the overt exercise of high-seas rights would be needed to alter perceptions.

Clearly, then, the United States has a major interest in promoting the development of a widely accepted body of international law for the oceans. We must have a legal environment in which our own perception of our rights is unchallenged. This means the right of navigation and overflight free of foreign control, free of substantial military risk, and free of economic or political cost. We know that the old rules are no longer adequate to sustain such a legal environment. We have no choice but to adapt and supplement them. And in the circumstances it is apparent that a universal treaty—if the rules it contains are adequate—would be the most effective basis for maintaining the necessary global legal environment over time.

The negotiating text now before the Third United Nations Conference on the Law of the Sea, if incorporated in a widely ratified Law of the Sea Treaty, would meet this need.

First, by establishing a 12-mile maximum limit for the territorial sea, the text would prohibit further assertions of sovereignty by coastal states beyond 12 miles, and roll back some existing claims.

Second, under the text we would enjoy free and unimpeded passage through, under, and over straits and archipelagic waters. The provisions on these subjects emphasize the obligations of transiting states rather than the right of coastal States to control transit. This approach is designed to protect legitimate coastal state interests without permitting coastal State inerference with transit. As you might expect, the only significant exceptions pertain to enforcement of internationally approved maritime safety and pollution measures.

Third, the text provides for an economic zone extending up to 200 miles from the coast. The most important aspect of the economic-zone text is that coastal state rights in the 200-mile zone are not open-ended. They are carefully circumscribed, and relate primarily to control of living and non-living resources. We would continue to enjoy full high seas freedoms in the economic zone for the purposes of navigation, overflight, and related operations.

Fourth, under the text we would be able to bring suit against a state that interferes with navigation or overflight. Compulsory third-party settlement of disputes would give us an important new option in our efforts to control and discourage claims that erode high-seas freedoms. This option would help relieve us of the agonizing choice between acquiescence and costly defiance each time a claim is made. In addition, the possibility of suit would strengthen the advocates of reason and restraint within foreign governments.

Significant though these benefits would be, we will not sacrifice any basic American interests to gain them. A Law of the Sea Treaty would deal with far more than navigation and overflight. Serious deficiencies exist in the current negotiating texts on deep seabed mining and the conduct of marine scientific research. We will insist on what we believe to be the improvements necessary to protect our interests in these matters. We will not accept a treaty unless they are forthcoming. In Samuel Eliot Morison's words, we will "have faith!" we will "hang on!" and do our utmost to bring negotiations to a successful conclusion.

Still, any treaty that has any prospect of widespread acceptance will have costs as well as benefits. Its measure is not whether it is better than the law as we would write it if we could. The measure is whether it is better than the situations most likely to evolve without it. All American interests must be weighed in making this decision. We can expect serious national debate if and when a Law of the Sea treaty comes before the Senate. It is imperative that those concerned with national security ready themselves to take part in the debate, not just on the adequacy of the navigation articles, but on the overall effect of acceptance or rejection of a treaty on our national security posture well into the next century. Silence and indifference on this basic issue could lead potential adversaries to dangerous—and I trust erroneous—conclusions about the Navy's—and America's—perception of our future role in the maintenance of peace and security.●

MULTILATERAL TRADE NEGOTIATIONS

● Mr. BAUCUS. Mr. President, as we are all well aware, trade is a vital concern to every nation of the world, and our Nation is no exception. The American people are well aware that many problems and tensions exist in this important area. Every day we read in our newspapers about trade deficits, imbalances, protective tariffs, or floods of foreign imports. And the list goes on. For this reason I applaud the recently negotiated Tokyo round of the multinational trade negotiations. While it is true that the agreement could lean more toward the U.S. interests, I firmly believe that a reasonably equitable compromise has been struck. The MTN represents a substantive step in the direction of more competitive and equitable trade relations.

MTN holds benefits for the United States as a whole, as well as my own State of Montana. Montana's economy is primarily service-oriented, and includes some manufacturing sectors. In 1976 alone, manufactured exports totaled $44 million. This is a small figure in world terms, but important to Montana since 1 out of every 14 manufacturing jobs in Montana is linked to exports.

A number of Montana's major industries will be affected by the multilateral trade negotiations. Montana is, of course, a State of forests and thus the lumber and plywood industries are of significant importance in the State. These industries will benefit with better access to Japanese and EC markets. The paper industry will also enjoy reductions in tariffs that have long been erected in key foreign markets.

The Nation's biggest industry, agriculture, will not be left out of this important picture either. Here it is important to note that growth in the agriculture industry has been largely due to an expanding export sector. Montana is home to a very large agricultural sector which will enjoy greater access to foreign markets due to the lowering of trade barriers.

Still, I must add that I am disappointed that the multilateral trade package does not include significant concessions that are needed by U.S. agriculture. For example, the restrictive countervailing duties Common Market countries use to keep out our wheat and feed grains will stay in effect. Nevertheless, the trade agreement will provide additional markets for certain cuts of U.S. beef and some specialty crops. By 1987, these concessions will add roughly $400 million annually to our agricultural exports.

More importantly, the MTN will establish new codes which serve the function of clarifying and tightening up the complex rules and regulations which govern foreign trade. Implementation of these codes will be a very valuable addition to our trade relations with other countries. These new codes will, for example, prevent foreign countries from using export subsidies in a manner that displaces U.S. exports; particularly important will be limitations on wheat export subsidies to Third World countries where we may already have a substantial market. They will also prevent foreign countries from using domestic subsidies that may materially affect international trade, authorize the United States to use countervailing duties if foreign subsidies damage our domestic industries, establish international standards to facilitate trade, and prevent health and safety standards that may restrict trade beyond the requirement to achieve health and welfare goals. I also want to mention my satisfaction with the administration's acceptance of my proposal that North American trade receive the special attention it deserves. We have a great promise—despite many problems—right here on our own continent. We must explore that promise responsibly and fully.

To summarize, I would like to thank my colleagues for giving MTN their support. Lower foreign trade barriers and clearer, more equitable rules benefit every State in this country. We all recognize the need for more streamlined trade relations with our trading partners. And as Senators, we have an obligation to support agreements which enhance our own country's trading position. Nearly 100 nations participated in nearly 6 years of careful and cautious negotiation and I believe that this comprehensive trade package is an achievement of international cooperation, despite its shortcomings. The MTN is worthy of the overwhelming support it received in the Senate yesterday.●

THE KNIGHTS OF COLUMBUS ESSAY CONTEST

● Mr. THURMOND. Mr. President, during these often tempestuous days of the 1970's, we are apt to lose sight of our Nation's purpose. The spiritual and moral integrity that is necessary for our country to remain strong is often overlooked.

Recently a 14-year-old girl from Beaufort, S.C., Sheri Lynn Gray, wrote an essay entitled "What the Pledge of Allegiance Means to Me," which won a Knights of Columbus essay contest. This fine essay from an eighth-grade student reaffirms the old-fashioned patriotism that has made our country the most powerful nation in history.

Mr. President, in order to share this article with my colleagues, I ask that it be printed in the RECORD.

The article follows:

MY PLEDGE TO MY COUNTRY

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

The Pledge of Allegiance may be, to many people, just something they must learn as a child and then recite every morning at school. To some new American citizens, it may be just one long sentence they had to memorize in order to pass their citizenship exam. To the writer of the pledge, Mr. Frances Bellamy, the pledge was probably his way of honoring the country he loved.

To me, the Pledge of Allegiance is more than just a sentence that must be said every morning at school. The pledge is a statement that should be said from the heart and said with respect.

The pledge reminds me of all the men and women who died to make and keep this a free country. There were the men who fought in World War I and World War II, and there were the men who fought in smaller wars such as the Spanish-American war. These men and women are the ones who made this country "one Nation under God, indivisible."

The pledge also reminds me of peace and of the people who kept it. It reminds me of good times and of happiness, of bad times and of sadness, but most of all it reminds me of America, the country I love.

When I pledge loyalty to my country and I think of what others gave to make this the great country it is, I think "What can I give it?" I have given it my loyality, my respect, and my love, but I can and will give it more in the future. I can dedicate my life to make it a better country, and when I have given it everything else, I can die for it.

When I say the Pledge of Allegiance, I pledge my loyalty and life to America, the land with "liberty and justice for all." ●

NEED FOR FLEXIBLE REGULATIONS

● Mr. CULVER. Mr. President, the Subcommittee on Administrative Practice and Procedure, which I chair, recently held a public hearing on S. 299, the Regulatory Flexibility Act of 1979. During the course of that hearing, we were fortunate to receive some compelling testimony from mayors of small towns, small hospital administrators, and representatives of small businesses.

Among the witnesses invited to present testimony were Kenneth Robinson, mayor of Bayard, Iowa; Connie Wimer, chairperson of the Small Business Committee for the Greater Des Moines, Iowa, chamber of commerce; Robert Hatala, mayor of Fort Madison, Iowa; Willis Fry, administrator of St. Francis Hospital in Waterloo, Iowa; and Charles Linden, administrator of Boone County Hospital in Boone, Iowa. These Iowa officials candidly described to us their first-hand experiences in dealing with Federal regulations. In case after case, their testimony illustrates that "uniform" Federal regulations fall unfairly upon those least able to comply with redtape—the small organizations.

The topic of regulatory reform is very much in the news today. The Subcommittee on Administrative Practice has before it a number of bills designed to accomplish various changes in the way Government issues its rules. But it is important to realize that regulatory reform is not merely a matter of legal technicality and mundane procedure. Federal regulation affects the daily life of people—all kinds of people—from the neighborhood grocer to those who run our hospitals.

I would like to bring to the attention of my colleagues the frustration felt by these individuals by printing in the RECORD the testimony of these witnesses.

Their testimony follows:

PREPARED STATEMENT OF KENNETH ROBINSON

I am honored to be asked by Senator Culver to make a statement in behalf of S. 299. If my help is beneficial, so much the better.

I have been dealing with bureaucrats for many years and as the rules and regulations become tougher, so do I. Not being very ambitious, I have devised one plan that works. As Mayor and Editor, I receive volumes of governmental and other requests. Some are questionnaires and others just seek information. Long ago I initiated a policy that saves me time. If the request says "under penalty of law," I fill it out. Otherwise, it goes into the waste basket.

During the past several years I have had many personal experiences with Federal Bureaucrats and I have heard many complaints from friends and neighbors. However, since I am sure of the facts concerning my own experiences and since I have had so many of them, I will confine most of my remarks to my own experiences.

About eight years ago our city was told that we would have to install a new sewer system. The agency making that edict was the Guthrie County Board of Health. At the same time, they gave the word to four other towns in the county. Namely, Bagley, Jamaica, Yale and Menlo.

Our city officials asked for time and the board said that so long as we were making an effort to install a sewer we could go along as we had been, using septic tanks and dumping the effluent into the streams. The same order was given the other four towns. Bayard made the effort and we now have a fine new sewer system operating every day. The other four towns have done nothing and are still polluting the streams.

Bayard hired one of the finest engineering firms in the state of Iowa, Veenstra and Kimm of West Des Moines. They immediately went to work on our project and the Federal government said we could get grants from the Farmers Home Administration, the EPA and that FmHA would loan us the rest. We followed this advice except we issued General Obligation bonds to pay for part of the cost.

Red tape delayed the start of the project for more than four years and paper work piled up. In the meantime, costs spiraled and it is estimated that by the time we were able to call for bids the cost of the plant had more than doubled.

Farmers Home has been very cooperative and has done everything promised.

On the contrary, everything concerning EPA has been a fiasco. Unnecessary road blocks have been thrown in the way of progress causing slowdowns and work stoppages. All causing more expense.

Finally, the plant went into operation and we were charging rates established through cooperation with the Farmers Home Administration. Since this was the only agency we owe money we thought their figures would be acceptable. They were to us and to them. However, EPA tried to get into the act and change the rates.

A call from Senator Culver's office seemed to change their mind. Anyway, about two weeks after his call we were told that after reviewing our rates, they seemed to be all right. Another instance of harassment.

EPA has paid money as the project progressed but it was like pulling teeth to get the checks. Invariably the request was lost in Kansas City or they didn't like the way we crossed a "t" or an "i" was dotted.

We should have had our final payment no later than July of 1978.

The EPA is still holding up that payment of slightly more than $42,000.

First they lost a copy of our ordinance and later other forms we had submitted came up missing. In desperation, I started sending reports and forms first class certified mail with return receipt requested. Even so, the EPA still lost two forms. One of them was the request for final payment.

I have a letter from Thomas M. Carter, grants officer, dated February 15, 1979, in which he stated that within three weeks from the time they received the request, our final check would be mailed. Even though the forms were sent the next day certified mail, the request was lost. (See letter attached.)

In the meantime, on March 19 a 2½ inch rain fell here on top of some very deep snow. The resulting flood caused some surface water to get into the sewer lines and one basement had a backup from the sewer.

Now the ivory tower experts in Kansas City are saying that something is wrong and they are not going to pay us the final $42,000. I really know this is true because a fellow by the name of Zimmerman called me from Kansas City and spent one and one-half hours on the phone telling me that he was going to write me a letter. When the letter came it bore the tidings that we would not get our grant money. They even have made veiled threats that we may have to pay back the grant money we have already received.

In the meantime, our engineers went to work and devised a plan to insure that such a backup would not occur again even though no one in town can remember of such a flooding situation ever happening before.

During the years of planning and construction, the city of Bayard has paid many bills from its general fund expecting to be reimbursed when the plant is finally accepted. Thus, the treasury is strapped and there are no funds available to pay the remaining bills. The engineering firm is holding the sack for close to $25,000 and our city attorney has about $2,000 coming. There are many smaller debts we cannot pay.

When the plant was being planned the EPA told us we had to include an expensive chlorinating system. After we spent $7,000 to install the system the EPA now says they have changed the rules and we are NOT to chlorinate.

Even though they say our system is faulty, they offer no plan to correct what they seem to think is wrong. Even if we had the money to make some adjustments we have no assurance that the grant money would be released and we would be further in debt.

Any suggestions on what we should do?

In 1965 my very dear friend Arden Newell, state director of the Farmers Home Administration, came to me and said, "Ken we have a fine new program to provide low-cost housing for the elderly. However, we haven't been able to get it off the ground. Will you help?"

At that time I was president of the local Lions Club and I took up the proposition with fellow club members. I had a plan and the Lions accepted it. Since then Bayard Senior Citizens Housing, Inc., sponsored by the Lions Club, has built four federally financed units with five apartments in each. Right now we are housing 23 elderly citizens in these apartments and they are all happy. The homes they left when they entered the apartments now house 33 younger persons.

Neighboring towns followed our lead and probably more than 25 Lions Clubs have sponsored senior housing. In Guthrie County, seven other Lions Clubs built homes and now every one of the nine towns in this county has at least one senior citizens home.

We are about to open an eight-plex to be occupied by low income subsidized families. This is owned by the senior citizens corporation.

As you may have guessed, there were no problems involved in building the first home which was occupied December 1, 1966. It was a little more difficult to build the second one and by the time the bureaucrats had become entrenched in the elderly housing program the building of the fourth unit was a nightmare. No way would I get involved now in building another even though there is a need.

After we had built our second home, Mr. Newell brought all the county supervisors in Iowa to Bayard and had me explain how we had done it. They went out and under his direction Iowa became the leading state in the building of rural senior citizens housing.

The biggest tragedy for senior citizens in this country was when Mr. Newell died of cancer.

Now the attitude toward rural rental housing in Iowa is mean and vindictive. There is no more of the compassion of Mr. Newell.

As time has gone by, new rules have been promulgated and now it is almost impossible for volunteers to administer the program locally. To my knowledge, none of the housing projects has defaulted and on the whole all are relatively successful with no touch of scandal.

When asked why volunteers should have to do all the unnecessary paper work the answer was, "they don't have to, you can pay someone to do the work." The obvious question then was how do you pay this unneded help? "Why, you raise the rent." I ask you, does this show compassion?

Some of the paper work they are demanding is not only useless and superfluous but it's downright intrusion of privacy.

Naturally, there are some restrictions on the people who live in the homes and as anyone would expect there are eligibility rules. Now the FmHA is asking that incomes be verified.

We know that our people are honest and here in rural Iowa you are not faced with those who cheat as you might find in other areas. We know our people personally and they have all filed income certifications. The FmHA is asking us to verify these figures.

I have been advised by three lawyers not to do it. If a mistake should be uncovered I would be the one jailed.

The rural housing part of the Iowa FmHA is constantly harrassing the Baynard Senior Citizens Housing group and has threatened to liquidate our loans and have the United

States Government repossess them. Every month the payments on the loans are paid in full along with the interest and we owe no one a penny. When they come they come to set our residents out in the street, there very well could be a riot.

I hope you can see the change in attitude that has taken place in this agency. First you are a great guy, "please help", now when you object to their silly paper work you are a bad guy. Be assured very few if any housing corporations are knuckling under.

The bureaucrats don't know it but senior citizens thrive best when left alone. And, when they are harrassed they begin worrying and become ill.

We have a saying around here that bureaucrats operate under Murphy's law—if there is a way to foul it up they'll find it.

Last year the Comprehensive Education and Training Act (CETA) was well and healthy and almost every city in this area was employing one or more persons under CETA.

Early in 1978, I talked to a friend at the Iowa Job Service and he told me to write a letter if we wanted some help under this program. He told me to write to the Office for Planning and Programming (OPP). I wrote one letter asking for a grant of $27,000 to finance the employment of five persons to do work on streets and sidewalks following the installation of the new sewer system.

About three weeks later, I received notification that my request had been granted.

The Job Service sent us some men and we provided employment for them throughout the summer. The program didn't work out perfectly but it was better than one could expect. We were able to extend the employment of two of them for a year. At the end of the CETA period the town hired one of the men and he is working full time.

Now, there are several girls in the office at Carroll trying to handle the duties one man did on a parttime basis last year. We thought we might be able to employ one person this year to do work in the parks and on the streets. One of the girls came to my office and we filled out a 13 page application. Naturally, it wasn't right the first time and she came back twice before it was accepted. We did not get one applicant and to the best of my knowledge none of the neighboring towns has been able to hire any CETA help this year. But, there are plenty of workers in the office.

One thing, last year we were able to pay the workmen from $4.25 to $4.75 an hour. This year the pay is $3.19—someone's new interpretation of inflation.

One of the most interesting encounters we have had involved the census bureau (they seem to be one of the worst). Several years ago we started getting huge questionnaires concerning flooding in our town. They had prepared an elaborate map showing an area where they thought we might have a flood plain. We were supposed to do something or we couldn't buy federal flood insurance.

Since there was no flood area and since we weren't interested in federal flood insurance we did nothing about it. Finally, they admitted that we did not have a problem and forgot about it. When I asked why we were harassed by all this junk I was told that there are something like 15,000 municipalities in America but only about 3,000 have flood problems.

By sending the questionnaires to every city and town in the nation they found out the 3,000 by a series of elimination.

During a period of three years, the city of Bayard had four clerks. The Federal and State requirements were so stringent that the average parttime clerk just got confused and lost trying to fill out the required forms. Several of them became alarmed and felt it would be easier to quit than to run the risk of getting themselves and/or the town in trouble.

At the time we hired the fourth clerk we also employed a certified public accountant to check her records and to fill out the myriad of State and Federal forms. He also helps me develop a budget for the approval of the Council.

Since then we have had no problem but this added help is costing the city an extra $3,000 a year that it can ill afford.

An experiment has been tried in some areas whereby a "circuit riding" city manager has been hired to help clerks in several towns handle the barrage of extra paper work. It seems to work pretty well but again it is an added expense.

The mayor of a neighboring town told me recently that his municipality bought a new civil defense siren. The government has a setup whereby the town would pay half the cost and the government would pay the other half. This town bought and paid for a comparable siren and the total cost was less than the one-half they would have paid by going with the government.

This is reminiscent of the post office department. Here is a governmental agency which promotes the sale of stamped return envelopes. They do this printing below cost which adds to the postal deficit.

And, as a printer, I wonder where all the forms and other printing spewed out by the government comes from. With the usual government efficiency it is difficult to believe that much of this printing couldn't be furnished by private industry at a savings to taxpayers.

Most American citizens like to get involved but when the bureaucratic web keeps expanding and eventually strangles those well-intentioned people the result can be only one thing—fewer and fewer people willing to help and more and more bureaucrats harassing the populace.

One of the biggest problems facing citizens who try to deal with governmental agencies is interpretation of rules. One bureaucrat reads and interprets a rule one way while another puts an entirely different meaning on the same wordage. This has been one of our major difficulties in dealing with EPA. You seldom talk to the same person twice so you are constantly confused, just as they are.

If S. 299 holds the key to slowing the spread of this horrible disease called bureaucracy, and I think it does, then let's get this law passed and into operation without delay.

U.S. Environmental Protection Agency,
Kansas City, Mo., February 5, 1979.

Bayard, Iowa, Project No. C190675 01.
Hon. Kenneth Robinson,
Mayor of Bayard,
Bayard, Iowa.

Dear Mayor Robinson: Enclosed is the revised Outlay Report and Request for Reimbursement for Construction Programs form which reflects the total costs determined eligible for grant participation. Also enclosed are copies of the revised Grant Amendment. Please sign all forms, retaining one copy of each for your files. Return the originals and all other copies and Assignment and Release form previously mailed to you to this office by certified mail within three weeks. Upon receipt, payment of remaining funds will be made.

A fiscal audit of your project records will be made after final payment. I am also enclosing a checklist of items which should be readily available for the auditor's review if an on-site audit is conducted. Total eligible cost is subject to adjustment based on final audit.

Sincerely yours,
Thomas M. Carter,
Grants Administration Officer, Grants Administration Branch, Water Division.

Bureaucracy Alive, Well In Bayard

(By Chuck Offenburger)

Bayard, Ia.—Pass the aspirin, please.

What we're going to do here is play a little game called "how you say where you live." It's sort of an unannounced spot check on the bureaucracy to make certain it's still numbering, dividing and multiplying itself into absolute silliness.

For example, folks here can say they live in Bayard, Highland Township, Guthrie County, Ia.

Or they can say they live at the junction of Highways 141 and 25, though they'd have to designate the west junction because there are two of them.

Or they can say they live in Merged area 11 of Federal Region 7—more precisely Division of Criminal Investigation Zone 2, Iowa Health Systems Agency SubArea 3, Department of Environmental Quality District 4.

Get the drift?

You can play the game—make the spot check—in any town, really.

So why Bayard?

Because this is the home of Kenny Robinson, 64, who is editor and publisher of the Bayard News and is also the town's mayor.

By virtue of his two positions, he must maintain a nodding familiarity with all the governmental tentacles that grasp at the 652 people living here—right here at zip code 50029 on the east edge of telephone area 712.

Say "bureaucracy" to Robinson and smoke starts drifting from his ears.

He's partial to a theory that if you took a blank map of Iowa and started drawing black lines on it to represent bureaucratic jurisdictional boundaries, you'd end up with a black Iowa.

"It's just awful," he said. "It makes you wonder where it's all going to end up. Dealing with most of these agencies is so frustrating, maddening and time-counsuming, it's hardly worth it. Besides, when you're done, you're never sure if you've done it right."

Oh, now maybe Robinson was especially agitated on the day of the conversation because he had to chair a meeting that night of something called the A-95 Review Committee, which operates under the aegis of the Region 12 Council of Governments.

"No," he said, "it's bad all the time."

"Not long ago, some guy called me from Kansas City about our sewer system. He talked to me an hour and a half to tell me he was going to be writing me a letter. No kidding. My arm hurt so bad from holding the phone I had to take aspirin for the pain."

What Robinson needs to do, obviously, is get out to a ball game and forget it all.

At the game, he could watch the Bayard Reds, who play in Class A competition except when they're playing in Class C. They represent the Bayard Community School District—which, by the way, has been designated school district number 522 by the Iowa Department of Revenue.

Thus, going to a game could build frustration rather than reduce it. So how about calling a politician and venting the anger?

But whom is he to call—the supervisor from District 1, the representative from District 56, the senator from District 28 or the congressman from the 5th District?

The numbers could drive him crazy, in which case he'd be counseled by personnel from Social Services District 12 or committed by a judge from Judicial District 5A.

It just seems there's no escape from all the numbers and agencies here in this spot of Region 7 of the Iowa Library Commission—which is also District 6 of the Agricultural Stabilization and Conservation Service and Area 4 of the U.S. Soil Conservation Service.

"The duplication and overlapping keep getting worse all the time," Robinson said, "and, frankly, things have really gotten bad under Jimmy Carter, who you'll remember is the man who said he was going to end all this crap.

"The civil servants and bureaucrats have a stranglehold on this country. And the best thing I can say about most of them is that they are simple idiots. No matter how you tell them, you can't get it through their heads it's taxpayers' money they're frittering away."

OK now, back to work, Mayor Robinson. There's that new machine to master.

"We just got it," he said of the device. "We'll use it to keep better track of sewer and water bills.

"Of course, first, we've had to give everybody in town a number . . ."

STATEMENT OF ROBERT S. HATALA

S. 299, THE REGULATORY FLEXIBILITY ACT OF 1979

Senator Culver and Members of the Committee, the following testimony is in support of the "Regulatory Flexibility Act."

Although federal regulations affect all cities, uniform regulations have a disproportionate impact on small cities because they lack the financial resources and capacity to comply with those regulations. The relative impact of any one regulations is directly related to the size of the city.

Because of this disproportionate impact, small cities must hire costly consultants where large cities can rely on their own staff, limit the size and scope of projects, or, if they can, choose not to take part in a particular program.

Examples

Federal Aid to Urban Systems

Fort Madison is currently involved in a Federal Aid to Urban Systems Project. Because of the planning and reporting requirements for FAUS projects, the City is less well equipped to efficiently and effectively handle the location and design reports and the required inspections. Therefore, in order to complete the project, the City has had to hire an engineering consultant to perform these functions entirely at City expense.

The inspection requirements are of particular interest. Fort Madison is nearing completion on a relatively large paving project which will eventually connect to the City's FAUS project. This paving project was designed using the same criteria as far as load bearing capacity as that for the FAUS project. The inspections for the locally-financed projects are being done totally by City staff. Although the types of inspections required for both projects are essentially identical, the number of inspections required and the tremendous documentation required for those inspections make it impossible for our staff to inspect the project. As I have previously indicated, these inspections will be done by an engineering consultant, the cost of which is borne by the City.

Community Development

When planning and reporting for Community Development Block Grant funds, small cities face essentially the same informational requirements as large cities, even though the same census data is not available to both large and small cities. This is evident when a small city attempts to report on income data. The census data for large cities is more complete and detailed and, therefore, easier for them to determine. In small cities, this same type of income data is required, but the same information is not available. It would seem that the requirements here could be flexible in order to reflect the available census information. Small cities are much less able to acquire this information using their own staffs.

Community Development Fund Drawdowns

The Department of Housing and Urban Development very recently reduced the minimum fund drawdown from $10,000 to $5,000. This will be of benefit to small communities, but even greater flexibility could be provided for. Very small cities, such as Montrose, Iowa, with a population of less than 1,000, have an acute problem with the higher minimum limits. Because any funds received from HUD must be disbursed within three days, a city the size of Montrose must wait until they have expended the minimum drawdown amount before making a drawdown request. Between the time they have made these first expenditures and the time that enough expenditures have been accumulated to reach the minimum drawdown limit, a city such as Montrose must either require that those to whom they owe money wait until expenditures have accumulated to the minimum, which has obvious drawbacks, or the city must use its own cash flow to cover these expenses. Although $10,000 or $5,000 may not sound like much to some cities, it is a very substantial amount to others.

Flexibility could be provided to small cities by further reducing or eliminating minimum drawdowns or the three-day disbursement requirement could be changed so that small cities could drawdown funds before they have been expended and then use those funds as their program progresses rather than their own limited cash flow.

Community Development Program Administration

When making application for a Community Development Discretionary Grant, cities must show how their particular program will benefit low and moderate income people. Many of those programs which have the greatest impact on those people with low and moderate incomes, such as housing rehabilitation, have greater administrative requirements than the eligible public works type projects.

Small cities many times lack the necessary resources to comply with the administrative requirements. Therefore, I am sure that many cities choose to avoid those types of projects in favor of those with less administrative requirements, even though those programs may not be as beneficial to those with low and moderate incomes.

Although Fort Madison succeeded in receiving funding for two years, we were not successful with program implementation, primarily because the City just did not have the capacity for the program. If we had a chance to repeat the process, I am sure that we would choose to apply for a more moderate grant which would probably mean leaving out the real people projects with the most direct benefit.

WASTEWATER TREATMENT

Changes in regulatory requirements by the EPA have had a tremendous negative impact on several small cities in Iowa. West Point and Jefferson, two cities in Iowa, have been attempting to upgrade their treatment facilities. However, it seems that once they progress to the point where they have actually completed planning the process with the aid of consultants, the standards change and the progress made becomes obsolete. These constant changes in regulation adversely affect all cities, but again there is a disproportionate effect on the small cities.

Geographic flexibility should also be a concern where effluent standards are made because of the varying problems faced by different regions of the country.

CONCLUSION

Administrative rules and regulations are in order to maintain and improve the quality of life. However, many times these same rules and regulations have a disproportionate impact on small cities primarily because they do not have the necessary resources and capacity to comply.

Although the federal government should not quit making and changing regulations, it would be very desirable for it to look at the relative impact of a particular rule and, if it can be administered in such a way as to still provide the results of the intent of the legislation but still reduce the impact on small cities, then it should be done.

I believe that Fort Madison and all small cities would support the "Regulatory Flexibility Act".

STATEMENT OF MR. WILLIS FRY AND MR. CHARLES LINDEN

Mr. Chairman, I am Willis Fry, Administrator of St. Francis Hospital in Waterloo, Iowa. With me is Mr. Charles Linden, Administrator of Boone County Hospital, Boone, Iowa. We are pleased to submit for the record the following testimony prepared with assistance from the Iowa Hospital Association. We appreciate this opportunity to participate in these hearings on Regulatory Reform, and we commend the Committee for its study and efforts in this area of governmental regulations and their ever increasing effect on hospitals in Iowa and those across the nation.

We support the spirit of S. 299 and are confident that it will elicit a more concerted effort to reduce the impact of federal regulations on small organizations, including hospitals. We strongly endorse the provisions of S 299. While this legislation does not attempt to stop the issuance of rules and regulations, it could reduce the flow significantly and simplify rules for many individuals, businesses, organizations, and units of government with limited resources who have been increasingly overburdened by regulatory requirements.

We applaud the two main objectives of S. 299; namely, that the bill will increase the sensitivity of those agencies writing regulations to the needs and capabilities of those who will have to comply with them, and that it will establish the premise that regulatory requirements should fit the scale and abilities of those being regulated.

Of particular importance is the authority that S. 299 gives to Federal agencies to issue specific regulations and reporting and recordkeeping requirements for different-sized businesses, organizations and government units. All too often small businesses, towns, and organizations are saddled with regulations and reporting requirements designed to address the problems of big business and large cities and organizations. The result is that these smaller units are forced to expend enormous amounts of time, money, and energy on superfluous paperwork and requirements that simply increase costs and do absolutely nothing to advance the general health, safety or welfare of the population.

To accomplish these objectives, this bill will require agencies to invite public comment on ways to reduce the burden on individual, small businesses, organizations and government units. Agencies will also have to justify the final form of new regulations in light of the comments and alternative proposals submitted by the public. Finally, they must periodically review the appropriateness and effectiveness of all existing rules and regulations with a particular eye toward eliminating unnecessary burdens they may be creating for individuals and small entities.

In light of the proposed review of all future regulations, we would urge that S. 299 not only require agencies to invite public comment when *new* rules and regulations are introduced, but also to allow concerned parties to retrospectively examine rules and regulations that currently affect their operation, requesting that the same review be applied.

The purpose of our testimony today is to give illustration to the fact that hospitals are among the most regulated industries in America. We would hope that S. 299 would alleviate some of the problems of government regulation in hospital operation.

Virtually every aspect of hosptial operation is now subject to some form of regulation: federal, state, local, or voluntary. Professional performance is regulated through such legally mandated mechanisms as utilization review, medical audits, claims review, and PSRO. Capital expenditures are regulated by Certificate of Need and Health System Agency organizations. Reimbursement is regulated by Medicare, Medicaid, Blue Cross, and others. Wage and hour laws dictate the minimum wage hospital employees are to be paid. Occupational Health and Safety Act (OSHA) states what must be done to be safe environmentally. The Equal Employment Opportunity Act affects the types of individuals that are to be employed. Hospitals are also controlled, in part, by the Internal Revenue Service laws, the Controlled Substances Act, the Bureau of Narcotics and Dangerous Drugs, the Atomic Energy Commission, the Environmental Protection Agency, the Federal Communication Commission, and other legally mandated and voluntary agencies.

Department of Health, Education and Welfare (DHEW) is the source of most of the federal regulations relating to hospitals. It has recently been reported by the General Accounting Office that HEW publishes between 750–800 proposed or final regulations each year; and that almost 600, or about 75 percent, of these are related to its health programs.

Early hospital regulatory programs were direct exercises of federal and state power intended to protect the public. They included, among many others, minimum requirements for care and treatment and services that could and could not be provided. After World War II, the federal government's regulations became directly involved in increasing the availability of health facilities, personnel, and resources, and in disseminating information regarding technological advances. By the mid-1960's the relative abundance of health care resources gave rise to another shift in the nature of health care and hospital regulations. The regulations stimulating rapid growth in health care resources were replaced by regulations to prevent duplication of services, to distribute services appropriately, and to enhance efficiency through planning. By the early 1970's the rapidly increasing proportion of the federal budget devoted to the purchase of health care services, under such programs as Medicare and Medicaid, resulted in additional controls in the form of utilization and payment regulations.

The hospital industry's experience with regulation illustrates many of the frustrations that have been expressed by those who must comply with regulations; and demonstrates why hospitals are urging the development of a more rational and less burdensome regulatory approach.

We are encouraged by some recent efforts to relieve the regulative burden on hospitals. Perhaps the most recent example is the proposed rulemaking to expand and clarify the regulatory provisions concerning the role of the Joint Commission on Accreditation of Hospitals (JCAH) and American Osteopathic Association (AOA) reviews in meeting the Medicare program's conditions of participation for hospitals. The acceptance of JCAH and AOA accreditation by the Secretary of DHEW would reduce the need for annual State agency surveys of the hospital.

However, there are fears that we are taking one step forward and two steps back because of more recent rulemaking. One case in point is the regulations published May 18 concerning the Uncompensated Services standards of compliance for health care facilities assisted by the Department of Health, Education, and Welfare under Titles VI and XVI of the Public Health Service Act (Hill-Burton).

The May 18 publication states that the regulation will ". . . promote better delivery of services under the assurances and more effective monitoring of compliance with the assurances." In the case of Iowa hospitals which have always granted such care under the "open door policy," there was no need for the mandated minimum levels of uncompensated services to be rendered. The new rules will now eliminate a choice of compliance and impose a dollar volume of services that must be rendered and documented. In the State of Iowa, there is little demand or need for the uncompensated services under qualifying conditions.

According to the new rules, healht facilities are required to publish plans for allocating the uncompensated services to be granted, are to describe the types of and time such services will be available and whether reduced cost care is also available. The availability of uncompensated services must be published in a local newspaper, posted in the hospital, and individual notice given to each patient. A determination must be made by the hospital as to the patient's ability to qualify for the uncompensated care by using national income-based criteria. Incidently, the income criteria is developed and published by a different agency.

We believe that compliance with this regulation will be burdensome for hospitals in the State of Iowa because of the patient screening, record-keeping requirements, and low demand. Perhaps the most troublesome issue is that this regulation eliminates the compliance option that reflected traditional and appropriate hospital practice in the provision of charity care.

This regulation and others ,such as the June 1, 1979, malpractice cost reimbursement regulation, have been mandated over the protests of those concerned, and in disregard of President Carter's own Executive Order 12044

In March, 1978, Executive Order 12044—Improving Regulatory Management—was signed by the President. The Order:

Makes agency heads accountable for the regulations their offices issue;

Required regulatory analyses of all major new regulations;

Requires semiannual agendas of new and upcoming regulations;

Expands public participation; and

Requires that agency heads select the "least burdensome acceptable alternative" when issuing new rules.

While each executive agency was directed to adopt procedures to incorporate these reforms into its operations, our assessment is that actual compliance with the Executive Order has been unsatisfactory.

Even with these directives, DHEW, without a regulatory analysis, adopted the Uncompensated Care Regulations which will have an estimated cost of $97 million in the first year alone.

A current example of proposed rulemaking is the DHEW System for Hospital Uniform Reporting (SHUR) appearing in the Federal Register of January 23, 1979. This system will be very costly to implement; much more than the $65.6 million that DHEW recently estimated. In this instance again, there have been no cost benefit studies performed to justify its implementation. We are very concerned with this particular DHEW proposal because it could disrupt presently efficient, responsible accounting systems and reduce the effectiveness of hospital managers in all hospitals regardless of their size.. In fact it will be overly burdensome in the small hospital because they do not have the personnel and resources available to study and meet the requirements of the proposed new accounting system. While DHEW, in proposing the new regulation gave token recognition to the problem of compliance in a small hospital, the small hospital requirements are, for all practical purposes, identical to the very large hospital. DHEW is reviewing hospital comments on the proposed regulation at this time; but, based on past performance, we are pessimistic about that Department's future actions.

We believe our pessimism is well-founded, as can be illustrated by DHEW's most recent example of rulemaking; one which will have severe ramifications on our small hospitals. On June 1, 1979, DHEW published changes in the reimbursement methodology of hospital costs related to malpractice insurance coverage. The Department did this within 75 days of the proposed rulemaking, and in spite of many objections of those concerned.

The effect of the rulemaking will be to reduce Medicare reimbursement for malpractice costs in many of our small hospitals to as little as 5.1 percent of the total hospital's cost of malpractice insurance coverage. The 5.1 percent is a national average of both large and small hospitals and is not related to the number of Medicare days of inpatient care the hospital has actually rendered to its patients. Therefore, based on a national average of all hospitals, our small hospitals may only receive a tenth of the amount of reimbursement they previously received.

DHEW again failed to perform a regulatory analysis on the malpractice premium cost regulation despite the Department's own estimate that this regulatory change would cost hospitals and private insurers $310 million in FY 1980 alone.

Furthermore, Section (3)(a) of the Executive Order states that "agency heads shall establish criteria for determining which regulations require regulatory analyses. The criteria established shall (1) ensure that regulatory analyses are performed for all regulations, which will result in (a) an annual effect in the economy of $100 million or more; or (b) a major increase in costs or prices for individual industries, levels of government or geographic region. . . ." To date, we know of no procedure instituted by DHEW HEW for making any such determinations in the development of program regulations. Because of DHEW's failure to comply with the intent of EO 12044 and its regulation reform efforts, we believe that legislative reform is the only appropriate response to the regulation problem.

We urge legislative reform of the regulatory process such as S. 299 proposes, and we also would support legislative action to require preliminary and final analysis of regulations to estimate their costs and projected benefits; to consider the need for and the objectives of proposed regulations; and to consider any alternatives before final regulations are promulgated. Because of the increasing attention placed upon rising health care costs, we believe that analysis of regulations is crucial in light of the fact that regulatory actions are major contributors to rising costs.

It is not the intent of this testimony to minimize the effectiveness of laws and practices designed to insure patient safety and quality of care. The agencies promoting regulations must be required to recognize the wide diversity in our economic and governmental system, and the broad range of needs and abilities that exist within this diversity. If we can accomplish this, the regulatory process can be made more meaningful and more effective, focusing on real and productive improvements on our quality of life.

TESTIMONY OF MRS. CONNIE WIMER

Due to the time constraints of owning a small business and of complying with the very regulations we are here today to discuss, I do not have a formal prepared text. If you would like anything submitted in more detail, I would be happy to provide whatever additional information you might need.

I am here not only as a small business owner, but as Chairperson of the Small Business Committee for the Greater Des Moines

Chamber of Commerce. Additionally, I am a delegate to the White House Conference on Small Business to be held in 1980.

When I was asked to chair the Small Business Committee, I did a little research, and some of the figures were very surprising to me. Perhaps you are familiar with them. There are a couple of outstanding ones I would like to mention this morning.

Small business represents 96 percent of American business in the United States, and it provides 55 percent of the jobs in the private workforce. Thirty percent of these businesses that are new fail within the first year and fifty percent of them within two years.

The burden of paperwork and regulations contributed greatly to this tremendous failure percentage. The Commission on Federal Paperwork estimates that $120 billion in paperwork cost will be imposed by the government in 1979, and that small business will bear 60 percent of those costs.

It is also estimated that regulations will average $12,000 in costs to each small business owner. And a lot of them cannot afford that.

Legislation such as you are proposing to establish the principle that requirements must be related to the size and capability of those being regulated is long overdue. Until quite recently, I was unaware that you had introduced this legislation, but I hope that in some way I can be helpful.

As Chairperson of the Small Business Committee, I see the great concern that the paperwork problems of the regulations have generated. In setting out our goals for the year, this anxiety was expressed by the members of our committee time and time again.

A number of programs need attention. I am not going to read them to you; there are thirteen of them and I will be happy to send them to you.

It seems so ironic to me that I have seen the positive side of the government trying to help small business—the SBA in Des Moines does a marvelous job with seminars and education and support for small business—but, on the other hand, I have also seen government imposing these burdens that, in some cases, ensure the failure of a business. It is as though the right hand does not know what the left one is doing.

For example, a requirement that might constitute maybe one or two percent of the total cost for a large business could very well be 20, 30 or 40 percent of the total cost of a small business. And those percentages paint a vivid picture of the impact these regulations produce.

In addition, the sophistication, the expertise, and the time necessary to comply are simply not available to a lot of small businesses. A member of the Subcommittee staff had suggested that I come up with a few concrete examples of problems. Remembering some of the testimony from last year and the year before, I am sure you have heard more horror stories than I have. So, I decided that rather than document some of those outstanding ones, I would tell you a little bit about something I know best—my own company and the frustration that I have had in a very brief period of time.

I asked my bookkeeper yesterday for any suggestions she might have. She gathered together the papers that she had to work with just to do a payroll, and I could not believe my eyes. I did not realize how bad it was.

You might be interested, Senator. She came up with some suggestions and one of them was exactly what you were talking about with the first witness—that many of these papers she has to file to do a payroll, monthly or quarterly, should be cut back and be filed annually or at least less than they are now.

So you certainly have her support of that suggestion.

My second example regards a profit-sharing pension plan that I wanted to set up for my employees. After looking into the idea, I discussed it with my accountant. And she said, "Well, it is a great business for you, but I cannot advise you to do it because of the administrative costs—for the amount of money you are talking about annually would eat up at least 50 percent and would simply not be enough benefit for the employees."

I was fortunate to be able to find an approved plan through an insurance company that did fit our business. Even though our contributions are relatively small, or have been so far, the projection for some of our employees is a retirement of some $1,500 a month. Now, those employees almost missed that opportunity for that kind of a retirement plan because of the costs imposed by ERISA requirements.

My third frustrating problem with regulations involved the Wage and Hour Department. We were audited several months ago and a young woman came into our office, unannounced as usual, and said she would like to look at our records. After the third day of the audit, I began to get nervous and wondered what in the world we had been doing wrong. Accordingly, I spoke with her about a pamphlet that would give us a list of all of our obligations. The next day she came back and brought a stack of pamphlets that was unbelievable—dozens of them and all fine print. And she said, "Some might apply and some might not, and it is your responsibility to figure it out."

After the audit's fifth day, done with my bookkeeper in almost full attendance, my bookkeeper took all the pamphlets home and spent the whole weekend reading them to determine if we were in compliance.

It turns out that we had allowed seven employees to compensate for lost hours. They had a legitimate reason for being out of the office and, needing a full salary, asked to make up time. It was not the usual 40-hour work week.

My penalty was to pay time and a half to the seven people, amounting to $241. However, the true cost, notwithstanding the pain, the agony, and my bookkeeper's time—let alone the taxes paid for the salary of that government employee—was very frustrating.

We are a perfect example. We are in a very competitive business, having three competitors in Des Moines alone. As a title company with no formal schools for this type of work, we must do on-the-job training which proves to be extremely costly.

So, when you get employees, you work hard to keep them. We have tremendous benefits for the size of our company and it just is one of those ridiculous wastes that they are coming in trying to protect the employees and the end result, as I indicated to this young woman, is that what she had done was eliminate the flexibility that I had given my employees to make up time. I cannot do that anymore because I cannot afford to pay time and a half for it. Her response was that she realized that that is the result, "but we have to go by the books, and the books say it must be done this way."

Those are my three most recent frustrations. However, I do have three suggestions. I do not want to be presumptuous—perhaps they are not applicable to this particular bill—but I would like to run them by you quickly.

The first one was something I heard about at our open forum. Are you familiar with the Canadian Bin System numbers? Forms that companies are required to fill out are given what they call a bin number. If a form that does not have a bin number is sent to a company, that company is not required to fill it out. Apparently, this eliminates a lot of forms.

I would like somehow, in some legislation, to have the federal agencies encourage their employees to be allowed to use common sense as a rule of thumb. I do not know exactly how this could be done, but I think it would be most beneficial if it could somehow be worked out.

The third, and the last, suggestion is a suggestion for some sort of tax relief for any large one-time expenditure for making costly changes that are necessary to comply with some new regulation.

Senator Culver, I would be happy to respond to any questions you might have.●

ORDER FOR THE CONSIDERATION OF H.R. 111 ON THURSDAY, JULY 26, 1979; AND TIME-LIMITATION AGREEMENT THEREON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday at 9:30 a.m. the Senate proceed to the consideration of H.R. 111, Calendar Order No. 270, the Panama Canal implementing legislation, and that a vote occur not later than 6:30 p.m. on that date, with paragraph 3 of rule XII waived; and that the time on the legislation be equally divided for debate between Mr. LEVIN and Mr. TOWER; that there be 4 hours of debate; that there be a time limit on any amendment of 1 hour; a time limit on any amendment in the second degree of 30 minutes, and that there be a time limit on any debatable motion, appeal or point of order of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object—and I will not object—there are several amendments, and as to the 4 hours on the bill, I do not have any objection, and I am sure no one on the minority side would have objection to the time on the bill, but I hope it will be understood that the time on the bill could, as usual, be yielded for time on amendments should that become necessary.

Mr. ROBERT C. BYRD. Yes, that would be understood. That is part of the agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader (Mr. STEVENS) and all Senators for their agreement on the Panama Canal legislation. I will not make any further request at this time. I yield the floor.

The text of the agreement follows:

Ordered, That at 9:30 a.m. on Thursday, July 26, 1979, if the Senate is still considering the Reiche nomination, the Senate shall go into legislative session and proceed to the consideration of H.R. 111 (Order No. 270), an act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, with debate on any amendment in the first degree to be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; with debate on any amendment in the second degree to be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and with debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate to be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Michigan (Mr. Levin) and the Senator from Texas (Mr. TOWER): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That the vote on final passage of the bill occur no later than 6:30 p.m. on Thursday, July 26, 1979.

Ordered further, That if action on the Reiche nomination has not been completed, the Senate return to executive session and resume consideration of the nomination.

ORDER OF PROCEDURE ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I further ask unanimous consent that if action on the Reiche nomination has not been completed by 9 a.m. on Thursday morning, that the Senate go out of executive session at that time, if it is in executive session, and proceed to the Panama Canal legislation, and that it stay on that legislation until it is finished, until it completes that legislation except by unanimous consent it may go to something else that is cleared in the meantime; and that upon the disposition of that legislation, if the Reiche nomination has not been disposed of, that the Senate then resume executive session and resume the consideration of the Reiche nomination.

Mr. STEVENS. Mr. President, that is our understanding, and I have no objection. It is my understanding that if we are on the Reiche nomination it will be put aside on Thursday morning for the Panama Canal implementation legislation, and once we finish that no later than 6:30 p.m. we will resume the Reiche nomination, if that has been the pending business.

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE MAJORITY LEADER TO PLACE BEFORE THE SENATE H.R. 4394, HUD APPROPRIATIONS, 1980; H.R. 4580, DISTRICT OF COLUMBIA APPROPIATIONS, 1980; AND H.R. 4393, TREASURY, POSTAL SERVICE APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the two items, the Panama Canal implementing legislation and the Reiche nomination, that the majority leader be authorized, after consultation with the minority leader, to call up at any time the HUD appropriation bill, the District of Columbia appropriations bill, and the Treasury, Post Office appropriations bill, but not necessarily in that order.

Mr. STEVENS. Mr. President, there is no objection. I understand that two of those bills have been reported and the third is on its way downstairs now, so they should qualify.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONVENE AT 9 A.M., WEDNESDAY, THURSDAY, FRIDAY, AND 10 A.M. MONDAY, JULY 30, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow; that when the Senate completes its business tomorrow, it stand in recess until the hour of 9 a.m. on Thursday; that when the Senate completes its business on Thursday, it stand in recess until the hour of 9 a.m. on Friday, and that when the Senate convenes on Monday next it convene following a recess at the hour of 10 a.m.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection to those convening times.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS TALMADGE AND HATFIELD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, as in legislation session, I ask unanimous consent that when the Senate comes in tomorrow, after the two leaders or their designees have been recognized under the standing order—I believe Mr. TALMADGE already has an order.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that Mr. HATFIELD be recognized for not to exceed 15 minutes and that both Mr. TALMADGE and Mr. HATFIELD may be recognized as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on the disposition of the two orders for the recognition of Senators tomorrow, as in legislative session, the Senate would resume its consideration of the nomination of Mr. Reiche, would it not?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 8:45 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, Messrs. TALMADGE and HATFIELD will be recognized, each for not to exceed 15 minutes, as in legislative session.

Upon the conclusion of those orders, the Senate will resume consideration of the nomination of Frank P. Reiche, to be a member of the Federal Election Commission, and I understand that there will be a good deal of debate on that matter on tomorrow.

RECESS TO 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in executive session, in accordance with the previous order, that the Senate stand in recess until the hour of 8:45 a.m. tomorrow.

The motion was agreed to; and at 6:33 p.m., the Senate recessed until tomorrow, Wednesday, July 25, 1979, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 1979:

DEPARTMENT OF STATE

James W. Spain, of California, a Foreign Service officer of class 1, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

Harold Alonza Black, of North Carolina, to be a Member of the National Credit Union Administration Board for the term of 2 years (new position).

NATIONAL MEDIATION BOARD

Robert Joseph Brown, of Maryland, to be a Member of the National Mediation Board for the term expiring July 1, 1982, vice David H. Stowe, term expired.

CONFIRMATION—JULY 24, 1979

Executive nomination confirmed by the Senate July 24, 1979:

THE JUDICIARY

Patricia M. Wald, of Maryland, to be U.S. circuit judge for the District of Columbia Circuit.

WITHDRAWAL

Executive nomination withdrawn from the Senate July 24, 1979.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Susanna B. McBee, of California, to be an Assistant Secretary of Health, Education, and Welfare, vice Eileen Shanahan, resigned, which was sent to the Senate on June 25, 1979.

HOUSE OF REPRESENTATIVES—*Tuesday, July 24, 1979*

The House met at 10 a.m.

Rev. E. Bruce Wills, senior minister, Trinity United Methodist Church, Hackettstown, N.J., offered the following prayer:

Almighty God, Creater and Sustainer of the universe and of nations, we praise Your holy name that in your wisdom a nation has been raised up to proclaim freedom, justice, and peace for the whole human family.

We invoke Your presence among this body today recognizing our humanness, but trusting that, as You dwell here Your power will give direction to our thoughts, the ability to judge rightly the needs of our people, the Nation and the human family that is our global community, and the understanding necessary to serve the present age.

These things we ask in the name of the God who loves and cares for us all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 6, answered "present" 1, not voting 58, as follows:

[Roll No. 371]

YEAS—369

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Calif.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marlenee
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Goodling
Lloyd
Mattox
Mitchell, Md.
Quayle
Schroeder

ANSWERED "PRESENT"—1

Marks

NOT VOTING—58

Applegate
Baldus
Beilenson
Bolling
Brown, Calif.
Burton, John
Butler
Campbell
Chappell
Chisholm
Coleman
Conyers
Coughlin
Davis, Mich.
Dellums
Diggs
Dodd
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
Evans, Ga.
Fary
Fish
Flood
Ford, Mich.
Forsythe
Garcia
Gaydos
Giaimo
Ginn
Gray
Guarini
Hanley
Heftel
Holland
Hollenbeck
Holtzman
Johnson, Colo.
Kindness
Kramer
Leach, La.
Lee
Lent
Long, Md.
McDade
Madigan
Marriott
Nolan
Ritter
Rose
Snowe
Spellman
Thompson
Treen
Weiss
Wilson, Bob
Young, Alaska

□ 1020

Mr. PHILIP M. CRANE changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 4537. An act to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes; and

H.J. Res. 373. Joint resolution recognizing the anniversaries of the Warsaw uprising and Polish resistance to the invasion of Poland during World War II.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1786) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4389. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4389) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Robert C. Byrd, Mr. Proxmire, Mr. Hollings, Mr. Eagleton, Mr. Bayh, Mr. Chiles, Mr. Burdick, Mr. Inouye, Mr. Schweiker, Mr. Mathias, Mr. Hatfield, Mr. Weicker, Mr. Schmitt, and Mr. Young to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 390. An act to expedite and reduce the cost of antitrust litigation, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement:

The Chair will recognize the gentleman from New Jersey (Mr. Courter) for a 1-minute speech. All other 1 minutes will be taken after the constitutional amendment has been disposed of.

REV. E. BRUCE WILLS

(Mr. COURTER asked and was given permission to address the House for 1 minute.)

Mr. COURTER. Mr. Speaker, thank you.

It gives me great pleasure to welcome to the floor of the House of Representatives a personal friend of mine. Those Members who were not here but listened to the morning prayer on their closed-circuit television saw Rev. Bruce Wills from Hackettstown.

Reverend Wills was graduated in 1967 from the Drew Theological School of New Jersey, and is the local pastor in my hometown of Hackettstown, United Methodist Church.

I think it is a real honor for him to be here today, particularly as we commence debate on one of the big issues that we will be facing in the 96th Congress.

Mr. Speaker, I would like to thank you for having here this morning giving the great prayer that we just heard, Reverend Wills. Thank you, Mr. Speaker.

CONSTITUTIONAL AMENDMENT TO PROHIBIT SCHOOL BUSING

Mr. MOTTL. Mr. Speaker, pursuant to clause 4, rule 27, and the order of the House of June 28, 1979, I call up motion No. 1, to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 74, proposing an amendment to the Constitution of the United States to prohibit compelling the attendance of a student in a public school other than the public school nearest the residence of such student.

The SPEAKER. Did the gentleman from Ohio (Mr. Mottl) sign the petition?

Mr. MOTTL. Yes, Mr. Speaker.

The SPEAKER. The Clerk will report the title of the joint resolution.

The Clerk read the title of the joint resolution.

The SPEAKER. Under the rule, the gentleman from Ohio (Mr. Mottl) will be recognized for 10 minutes, and the gentleman from New Jersey (Mr. Rodino) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Mottl).

Mr. MOTTL. Mr. Speaker, I yield myself 5½ minutes, and I will reserve my remaining time to close debate prior to the vote on this motion.

Mr. Speaker, the formal question before the House is this: Should we discharge the Judiciary Committee from consideration of our constitutional amendment to give children the right to attend their neighborhood schools if they so desire?

But the real question is this: Will the people finally be heard?

The sentiment of the Nation is to bring court-ordered busing for racial balance in schools to an immediate halt.

For good.

Court-ordered busing is an obstacle, not an aid, to the universal goal of a quality education for all without regard to race.

Will the majority be heard on court-ordered busing, in this House of the people?

So far the answer to that question has been "No."

The majority will has been frustrated despite overwhelming evidence that the public is fed up with social engineering by an imperial judiciary, while Congress stands idly by.

Court-ordered busing is correctly seen as the creature of a judiciary which has run amok, and which is literally tearing apart many of our largest public school systems.

According to a Harris poll, 81 percent of the American public opposes court-ordered busing. More than half of blacks polled oppose court-ordered busing.

And yet, what does the Supreme Court prescribe but more of the same medicine—even though this remedy is more like a dose of hemlock for public education.

In each Congress since my arrival, I as well as others have sought hearings on our amendment, but to no avail.

In January I wrote to Chairman Rodino and Subcommittee Chairman Edwards requesting hearings on our amendment. Not a day of hearings has been held.

What are we so afraid of, that we in the House must avert our eyes to the systematic destruction of our public schools?

Are we not neglecting our duty, as a legislative body in a democratic society, when we so willingly accept wrong judicial answers to the tough questions of our day?

Last month pollsters from the Gallup organization asked this question: Do you approve or disapprove of the way Congress is handling its job? I regret that only 19 percent expressed approval of our work.

Why are we held in such low esteem? Because with good reason we are seen as refusing to come to grips with wrenching national problems, inflation, energy, and, yes, the suicidal judicial policy of court-ordered busing.

The Supreme Court on July 2, in the Columbus and Dayton cases, gave a new and vigorous boost to court-ordered busing. The ills our Federal judges hope to cure, however, clearly reach far beyond any illegal segregation remaining in our school classrooms.

In the Columbus ruling, Chief Justice Burger made this remarkable statement:

> It is become increasingly doubtful that massive public transportation really accomplishes the desirable objectives sought.

I disagree with the Court's sweeping order for more busing, and yet * * * the Court at least took a stand.

It is now our opportunity to take a stand against court-ordered busing, and in support of the neighborhood school.

This judicial terrorism must end, and the only tool for the job is a constitutional amendment.

You have no doubt been told that a constitutional amendment is too weighty a matter to be considered for the first time on the House floor.

To that, I have three responses.

First, the Judiciary Committee will not act on this issue, if our amendment is not brought to the floor by discharge motion, it will never reach the floor. This is our only opportunity to give the public, through its representatives, a vote on this issue.

Second, a discharge motion on a constitutional amendment is a responsible procedure with ample precedent. It was used on a school prayer amendment, and the House initially approved the equal rights amendment in a vote forced by discharge. On ERA, both Chairman Rodino and Subcommittee Chairman Edwards voted to discharge the Judiciary Committee, and for the amendment itself.

Third, more than 20 years of public debate on court-ordered busing has left the lines clearly drawn and the factual record fully developed.

We are acting today not in ignorance, but in grim awareness of the great economic and social costs of court-ordered busing.

Since June 27, when a vote on this discharge motion became assured, I have heard constructive suggestions for minor clarifying changes in the language of the amendment.

I believe that two minor changes answer the major concerns about the amendment as drafted. At the appropriate time during debate if this discharge motion passes, the gentlelady from Maryland (Mrs. Holt) will offer these changes in an amendment in the nature of a substitute.

The first change will make it explicit in section 1 that only student assignment decisions based on race, color, or national origin would be prohibited. As intended all along, school authorities will retain full powers for managing their systems. But race or national origin cannot be a factor in classroom assignment.

The second change drops section two language giving Congress power to insure equal educational opportunities for all students. There is concern over the scope of this legislative power, and I think it adequate to simply give Congress authority to enforce article one as needed.

Again, the question is, Will the people finally be heard in this House on court-ordered busing?

I urge you to vote for the motion to discharge the Judiciary Committee from the consideration of House Joint Resolution 74.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, in 15 minutes we will vote on whether or not to discharge the Judiciary Committee from consideration of this legislation. I suggest the Members vote "no" and leave the legislation where it belongs.

Mr. Mottl now admits that his original proposition in the discharge petition was defective. Now he wants the Members to vote for a complete substitute that will be offered by Mrs. Holt. I ask: Is this any way to write a constitutional amendment?

In the debate today we are going to hear, we have heard that the subcommittee I chair bottled up this legislation. This is nonsense and let me explain.

First, Mr. Speaker, for more than 4 years the subcommittee has been holding hearings and writing legislation on fair housing, a key element in the housing segregation that results in segregated schools in our country. This legislation will be on the floor soon, and those of my colleagues who want to get rid of busing, I urge them to vote for this good civil rights bill.

Second, I ask my colleagues what they want the House Judiciary Committee to do? Do they want us to bring to the floor all of these constitutional amendments, supported passionately by particular groups, constitutional amendments for direct Presidential elections, a single 6-year term, prayer in the public schools, right to life, mandatory retirement after three terms for Members of Congress? None of these, like Mr. Mottl's and Mrs. Holt's, have the votes, not in the House and not in the other body. To bring them to the floor could only further divide a troubled country.

Finally, Mr. Speaker, is there a national consensus for Mr. Mottl's or Mrs. Holt's proposition, or whatever? Does the Democratic platform include this? Does the Republican platform include this? Does any announced Presidential candidate approve this? Does any church? Does any responsible constitutional authority? Does the U.S. Chamber of Commerce? No. The answers are all no, Mr. Speaker.

I urge my colleagues to vote no on this discharge of the Judiciary Committee.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I do not want to argue that hearings should not be held by the Judiciary Committee. Indeed, it is only through hearings and careful markup that such a constitutional issue as this should come to the floor of the House.

A discharge petition with 20 minutes of debate to be followed by no more than an hour's debate, if the motion is carried, is certainly not the way.

As has been stated, the discharge petition procedure is the only procedure available to our colleague from Ohio, because the majority of the subcommittee members do not favor such an amendment to our Constitution and would not send it to the full committee or to the floor no matter how many hearings were held. Perhaps the hearings would give our colleague from Ohio and others an opportunity to express themselves on the subject of school busing. If that is their purpose, then by circulating the discharge petition or signing the discharge petition they have indicated their views and fulfilled that purpose.

All who have signed the discharge petition have gone on record as being against court-ordered school busing to effect racial balance, even though the proposal does not mention courts, does not mention busing, and does not mention race. But signing a discharge petition as a kind of protest is quite different from voting to discharge a committee and bring a matter to the floor of the House.

Some have sought to remove their name from the discharge petition, but without success in recent days. But even those who signed the discharge petition, I ask them to vote no on this motion.

My Republican colleagues, I address this question to you: Are we really trying to welcome into the Republican Party blacks and other minorities? Many Republican leaders, including the Chairman of the Republican National Committee, are doing everything possible to increase our Republican strength among black voters. How do my colleagues think a vote in favor of this discharge petition is going to be perceived by black voters and other minorities? If this discharge petition is to succeed, do not have it succeed with Republican votes. It is a bad symbol for our party. It is a bad principle for our Constitution. I urge my colleagues to vote no on the discharge petition.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky, the distinguished chairman of the House Education and Labor Committee.

Mr. PERKINS. Mr. Speaker, I have been asked whether hearings would be held in connection with the Preyer busing bill pending before the House Committee on Education and Labor. I do want to state to the Chamber that I have never, since I became chairman, denied any Member of the House the opportunity for a hearing. Hearings will be conducted on the Preyer bill. I think the Preyer bill has much merit and I hope the committee will vote the Preyer bill out and let it come before the House.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Kelly).

Mr. KELLY. Mr. Speaker, I rise in support of the discharge motion.

Mr. Speaker, I rise in strong support of this effort to amend the constitution to prohibit the forced busing of America's schoolchildren.

The history of forced busing is a story of neighborhood disruption, of racial violence, of angry, frustrated parents and confused children, and of lowered educational standards.

It is a story of bureaucrats and judges, unelected and not accountable to the people, imposing grand strategies on our lives for the purpose of making the planners feel useful, at a cost of denying basic freedoms to the American people.

I take issue again with the gentleman worked hard to buy a home in a certain neighborhood specifically because their home would be close to a school, only to be told that their children will not be allowed to attend that school but must be hauled to some distant neighborhood and some other school.

The measure before us today is crude and unrefined. But when you are faced with the tyranny of court-ordered busing, and a majority in control of the Congress that is insensitive to the wishes of the American people, you use whatever means are at your disposal to end that tyranny.

Mr. Speaker, 10 years of busing have given us clear proof of the futility and destructiveness of that policy. It can never be a solution to any problem to secure the rights of one group of citizens by denying the rights of another. I urge all my colleagues to join me in voting for this amendment to end forced busing and bring quality education and stability to our neighborhood schools.

It is time the American people had a victory in Congress. Just one time, let us do what the American people have clearly indicated they want done and that is put an end to forced busing.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. Buchanan).

Mr. BUCHANAN. Mr. Speaker, the people of Birmingham, Ala., like the majority of the people of the United States, both black and white, strongly oppose the forced busing of children. White citizens are outraged at the excesses of many court decisions. Black citizens are angered that first black children were bused to maintain segregation and now are bused to achieve racial balance. For this reason I signed the discharge petition.

Why then do I rise to urge the House not to discharge the Judiciary Committee and to vote against making the proposed amendment part of the basic law of our land?

While I, too, support and prefer the concept of the neighborhood school, and have worked to solve problems of segregation in the Birmingham area with means other than the massive busing of schoolchildren, I am convinced that approval of the pending motion to discharge and approval of this amendment would be a grave error and would establish a dangerous precedent.

The Constitution should never be amended in such a light and cavalier fashion. Would we rewrite the Bill of Rights on the floor of the House on the basis of 1 or 2 hours of debate? Heaven forbid. Amending the Constitution should always be a deliberate, reflective act, and only after complete and full consideration has been given to all of the issues involved. Amending our Constitution by the mechanism of the discharge procedure would be a dangerous detour around the careful and historical process designed to protect the Constitution from the particular ills of a passing era.

But the Judiciary Committee has refused to act on this amendment. Why then should they not be discharged? Mr. Speaker, a committee can serve the Congress and the country by reporting out legislation of excellence, which the Judiciary Committee has sometimes done. However, a committee can also serve by refusing to act on a flawed amendment, such as this one, that has no place in the Constitution of the United States. Upon sober reflection I am convinced that it is those of us who signed the discharge petition who have erred, and we should not discharge the Committee on the Judiciary for doing what is right instead of wrong.

Moreover, adding this amendment to the Constitution would do grave harm by writing in a specific provision addressing an immediate issue, rather than a lasting principle. The Constitution has endured over the centuries because it embodies only our most fundamental concepts regarding human rights and structures of government. House Joint Resolution 74 would incorporate a narrow, social policy preference in this document which has long served as a source of national unity. An unwise precedent would be set—a precedent which would undoubtedly be cited to push other detailed social and economic policies as amendments.

Even more important, this proposal, however well intended, would give the Federal Government vast new powers over education and undermine the authority of local school boards throughout the land. At best, it would guarantee cessation of all enforcement in the area of civil rights, and would hence create a double standard of Federal law. At worst, it would create chaos in school systems throughout the Nation, since virtually every existing situation could be challenged under the new law. The very debate in the legislatures of the 50 States would rekindle old flames of prejudices and racial discord. It would lock in, in too many places, systems of separation and discrimination and lock out, in too many cases disadvantaged children from a hope for quality education.

This is the wrong remedy to bring about an end to the forced busing to which so many Americans so vigorously object. The Congress can, if it will, by legislation, provide other means than busing to insure equal opportunity and quality education to all American children. It is this positive means we must take.

Mr. Speaker, I propose the Congress commit itself to join hands with State and local governments toward the building of alabaster cities undimmed by human tears; toward the making of every neighborhood a place of hope and opportunity; toward the making of every school a place of quality education; and toward the fulfillment in every child of the gifts which God has placed within that person. However well intended, I am convinced this amendment would work against these purposes. Mr. Speaker, I urge the Committee on the Judiciary not be discharged and that this flawed amendment not be made a part of the basic law of the land.

☐ 1040

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BAFALIS).

Mr. BAFALIS. Mr. Speaker, constitutional amendments to prohibit forced busing have resided in the House Judiciary Committee since the 90th Congress. There are now some 13 in that committee. This Congress and the American people have not had the opportunity to be heard.

Whether one is for or against the constitutional amendment, at least give the people of this country 1 hour of debate. We have heard a great deal of discussion that this is not the way to bring a constitutional amendment to this floor. Let me remind the Members that back in 1970, when the proponents of the equal rights amendment could not get a hearing before the committee, our present chairman of the Judiciary Committee—and the chairman of the subcommittee and the ranking minority member of the committee, the gentleman from Illinois, all voted to discharge the committee.

At that time they believed that it was proper to do so on that constitutional amendment.

I urge the Members to give the American people the opportunity to be heard today, at least for 1 hour.

Mr. RODINO. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I think it is incredible that we are discussing in segments of time amounting to 2½ minutes whether or not we should further advance to passage a resolution that would amend the Constitution of the United States.

> No State shall deny to any person within its jurisdiction the equal protection of the laws.

That is the issue confronting this body today, and there are those who, by the adoption of this amendment, would seek to elevate above that sacred constitutional principle the neighborhood school.

I think that we would torture the construction of our most basic document if we were to yield to popular passion and prejudice, and succumb to the passing fancy that this is any way to deal with the problem before us. I listened with care to the author of this amendment a few minutes ago when he referred to those decisions of the U.S. Supreme Court that he does not approve of as "judicial terrorism." That, I submit, is just a very mild example of what we are going to be hearing as the debate rages throughout this country if we submit this proposition to 38 State legislatures for approval. We are going to divide this country at a very time when the President is appealing for national unity, and when we desperately need it.

I take issue again with the gentleman from Ohio when he suggests that we consider this along with inflation and energy as the critical, crucial issues that have got to be solved in this session of Congress. I can agree with him on the first two, but certainly I think this is the wrong time; this is the wrong place; this is the wrong way in which to tamper with the Constitution of the United States.

I urge the defeat of the motion.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I rise in support of the motion to discharge and in support of a constitutional amendment to prohibit school busing for racial integration, because I believe it is time that we recognize that busing has failed to achieve its intended goals. If there were court-ordered busing in each of the 50 States there is no doubt that the opponents of busing and the supporters of this amendment would have the necessary two-thirds vote today in the House of Representatives.

It is interesting to observe that there is a lack of interest in this amendment from several Members of Congress who come from States where there is no court-ordered busing. On the contrary, I urge my colleagues to take note of the fact that the most vocal and enthusiastic supporters of this amendment just happen to come from States where there is court-ordered busing.

To those who moan and groan about the fact that 218 House Members have signed the discharge petition to enable this debate and vote today, keep in mind that this unusual approach would have been unnecessary if hearings had been allowed and opponents and proponents of court-ordered busing could have expressed themselves in the normal channels. But this particular resolution, House Joint Resolution 74, has not only been bottled up in this Congress, but indeed, similar legislative attempts have been completely scuttled in years past. I urge my colleagues to size this opportunity to call for an end to court-ordered busing.

Mr. MOTTL. Mr. Speaker, I reserve the balance of my time for closing.

Mr. RODINO. Mr. Speaker, my conscience as an American and as a Member of Congress compels me to oppose the motion to discharge the Committee on the Judiciary from consideration of House Joint Resolution 74.

We are confronted by a grave issue, of awesome potential consequences to the Nation.

Three threats lurk within this motion and resolution.

The first is a threat to a basic American right, the right of every child to equal educational opportunity.

The second is a threat to the integrity of the Constitution as a source of unifying strength and clarity for the Nation.

The third is a threat to the House of Representatives as an orderly legislative body.

The constitutional amendment proposed by House Joint Resolution 74 would turn back the clock on our national commitment to human rights.

It would obliterate all the progress made toward fully equal educational opportunity in the quarter of a century since the Supreme Court's Brown against Board of Education decision.

It would shatter the precedents which have been carefully established by the courts in the area of school desegregation over the past 25 years.

And it would cripple the ability of the courts—and the country—to protect and implement the basic right of equal educational opportunity.

This proposed amendment is not merely, as it has been labeled, "antibusing." It is antiprogress, seeking to deny even the local, voluntary efforts to correct racial injustice in the schools.

Such a proposal is unworthy of consideration to become part of the Constitution of the United States.

It is also part of a new and unfortunate political pattern in America, which represents the threat to the Constitution I mentioned earlier.

Seldom in our history has there been more of a clamor than now for amending the Constitution, on a variety of social and economic issues.

And seldom if ever in our history has the Constitution and its guiding principles been more important than today, a time of growing national political confusion.

The integrity of the Constitution must be sustained, not because of any assumption that the passage of almost 2 centuries has made the document somehow sacred, but rather because the Nation simply and practically needs it to survive.

Few of our political or legal statesmen—and certainly not the Founding Fathers—ever suggested that the Constitution is perfect, but the wisest of them have always urged that extreme caution precede any attempt to change it.

Mr. Justice Oliver Wendell Holmes wrote in 1903 of his concern that—

> The Constitution, instead of embodying only relatively fundamental rules of right . . . would become the partisan of a particular set of ethical or economical opinions. . .

And Abraham Lincoln said of the Constitution in 1848:

> As a general rule, I think we would much better let it alone. No slight occasion should tempt us to touch it. . . . It can scarcely be made better than it is.

My opposition to any tampering with the Constitution is even stronger now than it was several years ago when I said in the House that we must leave the Constitution as unimpaired for our children as it was left to us.

If the Constitution must—rarely—be amended, let it be done carefully and deliberately.

That is not possible with the discharge procedure. To approve the pending motion to discharge the Committee on the Judiciary from consideration of a constitutional amendment would be a careless shortcut, a dangerous detour away from the responsibility of the House of Representatives to reflect and to deliberate.

The Constitution has never been amended through use of the discharge procedure. Of the total of 860 discharge petitions introduced since the procedure was established in 1910, only 2 laws, in fact, have resulted.

Approval of this motion on the issue of a constitutional amendment would be a dangerous precedent.

It could invite the same tactic for every emotion-charged issue before the Congress.

It could destroy the ability of House committees to function.

It could transform the House of Representatives into a nondeliberative body, responding too quickly to political whims.

Approval of this motion would mean that the House of Representatives could be limited to a single hour of debate on an amendment to the Constitution of the United States. Such a spectacle, I must suggest, would demean our democratic system, this legislative body, and each of us.

Mr. MOTTL. Mr. Speaker, I yield the balance of the time for closing debate to the distinguished and learned gentleman from Illinois (Mr. HYDE).

Mr. VANDER JAGT. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, I thank the gentleman for yielding. I think that many Members, perhaps even a majority of us, wish that we did not have to vote on this issue and that this cup might pass from us. That is not the case. We have reached the point of no return, and in 4 more minutes we are going to go on record one way or the other.

That is probably as it should be, because this is the only solution that offers any hope to the vast majority of Americans, white and black, who abhor the cost of busing in terms of money, and in terms of educational opportunity for all. We have tried the legislative route. In 1970, 1972, 1974, 1976, and 1978 we tried, and it did not work.

During that time many who believed in busing and then experienced it have sadly concluded that we should not make our children pawns because of the problems we have failed to solve, especially when the result is often the opposite of our beliefs and most lofty intentions.

So, I would urge even those who oppose the amendment to vote yes, so that the American people have at least 1 hour's consideration of this important issue.

To do otherwise is to be totally unresponsive to millions of American people who have nowhere else to turn but to us. If not us, whom? And if not the Congress, where? And if not now, when? I suggest to the Members that this is not only the right time and the right place, it is the only time and the only place the people will have this opportunity to have their sincere concerns adressed and their pleas to an all to often totally unresponsive Government heard.

Mr. HYDE. Mr. Speaker, in voting for this discharge motion we are not demeaning the committee system—we are recognizing that it is only a process designed to provide order in the flow of legislation.

But when that process is used to obstruct the substance of legislation of major national concern, then it is time to use another process—the discharge motion—so that the substance of this legislation may be considered.

It is the antithesis of democracy to adhere to the notion that committee chairmen should have life or death powers over major legislation. This country was founded on the consent of the governed, not the ideology of the leadership of the majority party.

In discharging this committee we are simply asserting a right we, the rank and file members of both parties, have to set the agenda for discussion.

We are simply emancipating and liberating a major national issue.

Those of us who view coercive busing as a kind of conscription—a significant impairment of freedom—only want a chance to vote on this issue.

The courts have usurped the legislative function time and time again. The place and time to say "enough" is here and now.

To those of us who feel an elected legislature, and not the unelected courts ought to legislate concerning the Nation's school policies, this discharge motion presents an all too rare opportunity to do just that.

In 1954 Brown against Board of Education seemed to mean that no child would be barred from school because of race. Today, court orders exclude many white children from their neighborhood schools solely because they are white.

The court has come to believe that the only antidote to compulsory segregation is coerced integration.

To be for the neighborhoods of America—to support and enhance the neighborhood school system—

To resist the use of force against our parents and schoolchildren by a court that seeks to coercively blend and homogenize society to its own peculiar notions of sociological balance, is not an unworthy stand to take—not in a society that still claims to be free.

Vote "yes" on the motion to discharge.

The SPEAKER. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. MOTTL) to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 74.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 183, not voting 24, as follows:

[Roll No. 372]

YEAS—227

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boner
Bouquard
Bowen
Breaux
Broomfield
Broyhill
Burgener
Burlison
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Fithian
Flippo
Ford, Mich.
Fountain
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leath, Tex.
Lederer
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Madigan
Marlenee
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
O'Brien
Oakar
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Quillen
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Treen
Trible
Vander Jagt
Vanik
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—183

Addabbo
Akaka
Alexander
Anderson, Ill.
Ashley
AuCoin
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bingham
Boggs
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Ertel
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Florio
Foley
Ford, Tenn.
Fowler
Frenzel
Frost
Garcia
Giaimo
Gilman
Glickman
Gonzalez
Gore
Green
Guarini
Harkin
Harris
Hawkins
Hefner
Heftel
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nelson
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wright
Yates

NOT VOTING—24

Baldus
Bolling
Butler
Conyers
Dodd
Edwards, Ala.
Emery
Fary
Flood
Forsythe
Gray
Hanley
Holland
Hollenbeck
Leach, La.
Lee
Lent
Marriott
Nolan
Ritter
Snowe
Thompson
Wilson, Bob
Young, Alaska

□ 1100

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mrs. Snowe against.

Mr. Butler for, with Mr. Thompson against.

Mr. Emery for, with Mr. Gray against.

Mr. Marriott for, with Mr. Flood against.

Mr. Ritter for, with Mr. Dodd against.

Mr. Hanley for, with Mr. Conyers against.

Until further notice:

Mr. Lent with Mr. Holland.

Mr. Young of Alaska with Mr. Leach of Louisiana.

Mr. Bob Wilson with Mr. Baldus.

Mr. Hollenbeck with Mr. Nolan.

Mr. APPLEGATE changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Mr. MOTTL. Mr. Speaker, pursuant to the provisions of clause 4, rule 2, and the order of the House of June 28, 1979, I move that the House proceed to the immediate consideration of House Joint Resolution 74.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. MOTTL).

The motion was agreed to.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution as follows:

H.J. RES. 74

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. No student shall be compelled to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

"SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation and to insure equal educational opportunities for all students.".

□ 1110

The SPEAKER. The gentleman from Ohio (Mr. MOTTL) is recognized for 1 hour.

Mr. MOTTL. Mr. Speaker, I yield myself 11 minutes.

Mr. Speaker, at the conclusion of my remarks, the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), will be yielded 30 minutes for purposes of debate only.

I ask to be notified when I have 5 minutes remaining on the time I control and for the privilege of closing the hour of debate.

Mr. Speaker, let us strip away the emotion and myth surrounding court-ordered busing and lay out in naked terms what it is.

It is the use of Government power against children solely on the basis of their race. It is no more and no less.

Under the principles of the Constitution and of fundamental fairness, a compelling and even overwhelming case must be made to support racial classifications by Government officials.

If children are to be classified by race, and then excluded from their neighborhood schools because of skin color and forced to travel elsewhere, the evidence must be clear and convincing that this racially based penalty is justified.

I know, and certainly the great majority of Americans know, that the case for court-ordered busing has never been proven—indeed, it is becoming clearer every year that the case for busing cannot be made.

Court-ordered busing has not worked.

It is not working now.

It never will work.

It is a social policy imposed by an activist judiciary, and it is a mistaken social policy that is leading to the virtual destruction of public education at neighborhood schools in cities where it is used.

Here are a few facts.

Fact No. 1: Recent polls show with dramatic clarity that both blacks and whites are against court-ordered busing.

A Lou Harris poll found 81 percent of the public nationwide opposed to court-ordered busing. Blacks opposed busing by 51 percent, with only 38 percent of blacks supporting it.

The national opinion research center, polling for the U.S. Office of Education, found 81.1 percent nationwide against court-ordered busing. Among blacks, 50.3 percent were opposed.

Tony Brown, the well-known black journalist, reported nationally last year, and I quote:

> Public opinion shows more and more Americans, so to speak, getting off the bus.

Polling 100 black leaders, Brown asked this question:

> Should children be bused outside their neighborhoods to achieve desegregation?

A resounding 60 percent responded, "No."

In the face of this overwhelming antibusing sentiment, judges in the name of desegregation are discriminating in city after city—playing a chess game where little white and black pawns are shuttled to and fro and ultimately sacrificed to judicial experimentation.

Fact No. 2: White flight—A few examples show how the courts are actually resegregating major school systems, rather than fostering an educational climate where blacks and whites freely mix.

Boston 5 years ago had 90,000 students, of whom some 57 percent were white and 43 percent black or other minorities. After busing since 1974, the picture had been reversed at the close of the past school year. The system was 39 percent white, and 61 percent black and other minorities. Enrollment dropped by about 25,000 students, most of whom are middle-class whites with other educational options.

In Detroit, Dr. Stuart Rankin, head of research for the city system stated that the 1971 Federal busing plan transporting 200,000 students now "consists mostly of blacks being bused to other black schools." The Detroit system in 1970 was 60 percent black, and today it is 82 percent black.

Fact No. 3: The many and varied costs of court-ordered busing are astronomical to school systems, while simultaneously turning voters off to new tax levies and rendering cities unattractive as business locations. Last year court-ordered busing cost Detroit $19.3 million. Los Angeles had a $24.4 million busing bill.

Here is a truly frightening figure from Washington Monthly, reporting that per pupil costs of Boston public education are $3,898, while private school costs in the area are $2,785 per student. At those rates, can Boston afford public education with busing?

Simply to keep the lid on the explosive social situation busing creates, Boston reportedly has spent sums averaging $25 million per year for extra police security.

And here's the most ironic cost of all. While the Nation faces a chronic shortage of gasoline at higher and higher prices, there go those buses criss-crossing our cities, burning up on the average school day 155,000 gallons of gasoline.

Those figures speak for themselves.

Fact No. 4: Most importantly of all, there is no conclusive proof that court-ordered busing is anything other than a noble experiment that has dismally failed.

Dr. James Coleman, the noted sociology professor from the University of Chicago, was the intellectual architect of busing in the 1960's. Recently he reviewed 100 studies of educational gains for minorities in systems from Berkeley to Boston which are under busing decrees, describing the results as "showing no overall gains . . . thus, what once appeared to be fact is now known to be fiction."

Even Chief Justice Warren E. Burger conceded this about court-ordered busing in the Columbus decision this month:

> It is becoming increasingly doubtful that massive public transportation really accomplishes the desirable objectives sought.

Now, let us take a closer look at how the Supreme Court got us into this mess, and how our amendment would get us out.

In the landmark 1954 Brown case, the Supreme Court threw out the disgraceful "separate but equal" doctrine and ruled that school authorities could not assign students to schools on the basis of race. The effect of this decision was to outlaw official school segregation.

Our present problems began with the 1968 Green case. In that case and its successors, the court developed the requirement that school systems must somehow determine what the racial mix in schools would have been had there been no intentional segregation. That fictional mix must then be achieved, and busing is the tool the courts have used.

In the 1977 Dayton case, the Supreme Court emphasized that busing should be ordered only to erase the effects of illegal segregation. However, the new Columbus and Dayton rulings, issued this month, make even that restraint on busing an illusory one. These new rulings are a disaster for neighborhood public schools in our cities, and let us not kid ourselves on that point.

For while paying lip service to restricting the remedy to the violations found, the court endorses the use of legal inferences which have the effect of making school boards guilty of systemwide segregation that must be answered with systemwide busing unless the school boards prove themselves innocent.

This burden of proving that something did not happen years ago is like trying to prove that God did not make the little green apples.

So what does our amendment do?

It simply gives children the right to attend their neighborhood school if they so desire, free from racial discrimination as practiced now by the Federal judiciary. It does not bar voluntary busing programs, nor does it affect use of magnet schools or other voluntary devices to achieve a racial mix.

Congress would have narrow authority to protect that right through legislation, if necessary.

As the minor modifications to this amendment to be offered later will make perfectly clear, the purpose we have is to stop court ordered busing.

By no interpretation does this amendment put Congress in charge of local public education. The effect of the amendment is precisely opposite. It gets the Federal Government—specifically the judiciary—out of the role of school superintendent by prohibiting court-ordered busing.

Opponents of this amendment argue that court-ordered busing is really a temporary social irritation, unworthy of a constitutional response.

The answer to this is simply to look again at what court-ordered busing is—the infliction of a penalty, a coercive government force, on persons guilty of no wrongdoing solely because of their race. Because a child is white, he must be bused here. Because a child is black, he must be bused there.

Remember, prior to 1954 the Supreme Court relied on the Constitution to uphold separation of races by law.

Then in Brown, the Court turned to the same Constitution to outlaw racial classifications in schools.

And yet, here we go again—the Supreme Court, in the name of the Constitution, is sanctioning racial classifications bv the judiciary for ends it deems desirable.

All we seek, and all this amendment provides, is a return to the Brown principle that the Government—whatever branch—shall be colorblind.

Only a constitutional amendment can set this sorry record straight.

We all share the goal of offering a quality public education to all, of every race.

Destruction of neighborhood schools hurts that goal, starving schools for dollars and denying children the enrichment of varied school activities near their homes.

The only way citizens and school officials can reassert control over their own schools is through this amendment. The only way Congress can reassert its policymaking function and curb abuse of judicial power is through this amendment.

Freedom from racial discrimination by an arm of government is a fundamental human concern. And yet the Federal judiciary, under color of the Constitution, is routinely ordering discrimination on a massive scale.

It has become clear, then, that the right not to be penalized for the color of one's skin will not exist for millions of children of all races without enactment of our neighborhood schools constitutional amendment.

Mr. Speaker, at this point I yield 30 minutes for purpose of debate only to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino), and I reserve the balance of my time.

☐ 1120

The SPEAKER pro tempore (Mr. Wright). The gentleman from Ohio (Mr. Mottl) has consumed 11 minutes.

The gentleman from New Jersey (Mr. Rodino) is recognized for 30 minutes.

Mr. RODINO. Mr. Speaker, I yield 4 minutes to the gentlewoman from Illinois (Mrs. Collins).

Mrs. COLLINS of Illinois. Mr. Speaker, this House is today being asked to take a momentous step under the most unfavorable conditions possible. We are being asked to amend our Constitution, which has served this Nation well for two centuries, after a mere 80 minutes of debate and in a last-minute flurry of alternative proposals.

Our country and our Constitution deserve better.

I am not proud that this House is meeting on an attempt to turn back the clock on desegregation of the schools. I am not proud that some of my colleagues have forgotten the legacy of enforced segregation and slavery which still tells too many black children that they must have the worst school buildings, the worst textbooks, the worst school personnel, and the worst learning opportunities.

But, most of all, I am not proud and my colleagues in the Congressional Black Caucus are not proud that Members of this body would even consider using the U.S. Constitution—our most precious document, which is as sacrosanct to most of us as is the Bible—to set back human and civil rights for America's black children.

As Prof. Robert Borak of the Yale University Law School has said, the Constitution "would become not our basic document but a catalogue of political victories by particular interest groups" if amendments such as the one we are discussing today were to be adopted.

You have seen the arguments against the Mottl amendment. It is narrow, undercuts the equal protection clause embodied in the 14th amendment, and restricts local control. These are telling arguments. They have forced proponents of this proposal to make hasty changes in a constitutional amendment which has been before us for several years.

Those changes, however, make even more blatant their desire to undercut desegregation—to undercut efforts to provide equal educational opportunity for all of America's schoolchildren.

As chairwoman of the Congressional Black Caucus, I want to say to you that the resentment that this proposed constitutional amendment has stirred in the black community is absolutely unbelievable. Black Americans, and other minority persons across the country, see this amendment as confirming Rev. Jesse Jackson's statement that "it's not the bus, it's us."

Yet I am comforted by the wide range of organizations and individuals that have joined with us in vigorous opposition to this outrageous proposal. They recognize that this is not an issue confined to a single group; they recognize that it is their country and their Constitution that is under attack.

If as much energy as has been used to limit equal opportunity to schoolchildren had been used to improve the educational system as a whole and resolve the problems of inequality and discrimination that have divided us as a nation, we would not be at this point today.

It is difficult to take a broad historical perspective at a time of social change. No one ever said that it is easy to right centuries-old wrongs. But when we remember that barred schoolroom doors and massive resistance were changed only because of firmness and a commitment to constitutional principles, we can understand that a hasty constitutional amendment can never be the way to address today's wrenching issues.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, as the House of Representatives begins today the very serious and potentially dangerous proposal to amend the Constitution of the United States under the unprecedented procedure of considering a constitutional amendment which has not been subjected to a normal committee process the House should consider the thoughts contained in an editorial published in Monday's Pittsburgh Post Gazette entitled "No Busing Amendment" which among other things quotes our distinguished colleague the gentleman from North Carolina (Mr. Preyer) as saying "because busing is wrong doesn't mean a constitutional amendment to correct it is right."

I include the complete editorial at this point in the Record.

No Busing Amendment

The Constitution of the United States has endured in large part because its provisions are general and capable of adaptation to changing situations. Recklessly disregarding that fact, opponents of busing for school integration have forced a vote for this week in the House of Representatives on a constitutional amendment to ban busing.

The proposed amendment might satisfy public opposition to busing, but at great cost not only to the cause of racial integration but also to the independence of the judiciary and, ironically, the tradition of local control of education. Most important, it could set a precedent for the continuous rewriting of the Constitution in the name of one policy or another.

Rep. Richardson Preyer of North Carolina has argued that "because busing is wrong doesn't mean a Constitution amendment to correct it is right." Regardless of their individual preferences about the use of busing, Members of Congress this week should resist the temptation to write them into the nation's permanent and guiding charter.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

☐ 1130

Mr. McCLORY. Mr. Speaker, House Joint Resolution 74 does not rise to the substance that constitutional amendments are made of. The problem, as I understand it, is not one of principle. For it appears that every one of us supports the principle of the Brown decision. We all believe that the Government should not intentionally discriminate on the basis of race, color, or national origin. And at least in principle we all believe that when that kind of discrimination occurs, it should be rectified. What the controversy is about, then, is how the principles are applied to the facts.

That kind of problem cannot be addressed by writing another principle, a different principle, into the Constitution—certainly not one that partially negates the principles which I think we all accept. Under presently established principles, judicial remedies may be imposed only upon proof of intentional violations of the Constitution and only to the minimum extent necessary to correct such intentional wrongs—*Keyes* v. *School District No. 1*, 413 U.S. 189 (1973). And in choosing a remedy, busing may be employed only where no other remedy is available—Equal Educational Opportunities Act of 1974, section 256. Even then, it is not to be mandated where "the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process—*Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, 30–31 (1971).

Now that is the law, and it makes good senses to me. The complaints we hear are complaints that these principles have been incorrectly applied to the facts of particular cases. As we know, lawsuits generally produce two sides both of which swear they are right but only one of which prevails. And, of course, it happens at times that the wrong side prevails; the courts do make mistakes. Courts are not infallible—in this area of the law or in any other area of the law. But that is no justification for changing the law, particularly fundamental constitutional law.

The burden the proponents carry today is far greater than demonstrating disagreement with particular court decisions. The burden is to show that busing is never necessary to correct a violation of the equal protection clause—never. For that is what House Joint Resolution 74 says. No matter what the facts, no matter how heinous and bold the deprivation of constitutional rights, no matter how long the suffering, busing—the remedy of last resort—would not be available, no matter how necessary the remedy, no matter how agreeable the local officials, no matter how negligible the inconvenience.

That burden has not been met today. While I understand the frustrations of some proponents with some cases, I also understand the enduring value of the promise of the 14th amendment.

Mr. Speaker, I urge my colleagues to vote against the amendment.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Mottl) has 19 minutes remaining, and the gentleman from New Jersey (Mr. Rodino) has 24½ minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. Volkmer).

Mr. VOLKMER. Mr. Speaker, I, too, rise in strong opposition to this resolution, for more than one reason. And the practical effect that I would like to place before each of the Members is that, at the time that the discharge petition was approved with the required number of signatures, I immediately, for the first time, read it. After reading it, I decided that it was not any good, there are many defects in it. And not only that, I questioned what it would do to my local school districts. So I sent a copy, along with the article from Professor Tribe of Harvard, to my school superintendents, and every one of my school districts which have responded are vehemently opposed to it.

In my local school district of 22,000, it will cost in excess of $1 million if this constitutional amendment becomes a part of the Constitution, because it will require buildings to be built and prevent local control of schools. It prevents busing because of overcrowding.

The other thing that bothers me is the fact I do not know how many of the Members have read the case of Brown against Board of Education—in 1954, when that decision was made, that court, too, had an opportunity not to progress and advance this country.

The Supreme Court in 1954, in Brown against Board of Education, could have looked backward, and could have followed the 1896 decision of Plessy against Ferguson, under which developed the so-called separate but equal system of education in the country. Instead, and correctly so, for the future of this Nation, the Court looked to the future and said:

> Such an opportunity (education) where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

That decision opened up educational opportunities for millions of children of this country.

The Supreme Court held that segregated schools were unconstitutional under the 14th amendment. A divided nation was no longer divided.

We must not now go backward and once again divide this Nation. We must not now return to segregated schools. We must not now return to de facto "separated but equal" schools. We must look to the future for education of our successors to a nation, indivisible, with equal opportunity for all.

Mr. Speaker, we need to defeat this amendment.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Speaker, even though I am no great advocate of busing, even to achieve racial segregation, in my opinion it would be a terrible mistake to write into the Constitution a poorly worded amendment that would outlaw busing even in the most blatant case of de jure segregation.

For example, even where a school board gerrymanders school district lines to build schools in all white or all black neighborhoods for the express purpose of promoting racial segregation, this amendment would prohibit busing as a remedy even if the board publicly admitted to its purposes and busing would provide the best and, perhaps, only available relief.

Some of my colleagues may not have had the opportunity to read the most recent busing decision, Columbus Board of Education against Penick. But let there be no doubt that seven of the nine Justices who participated in that decision, including some who are regarded as conservative and traditional, or strict constructionists, or whatever you want to call them, including Chief Justice Burger, Blackmum, Stevens, and White, found specific and intentional constitutional violations in that school system.

For instance, in the majority opinion written by Justice Byron White, he stated that there had been a series of board actions and practices that intentionally aggravated racial segregation in the schools that included "the general practice of assigning black teachers only to those schools with substantial black student populations * * * the intentionally segregative use of optional attendance zones, discontiguous attendance areas, and boundary changes; and the selection of sites for new school construction that had the foreseeable and anticipated effect of maintaining the racial separation of the schools."

I believe there are many Republicans who agree that to support a constitutional amendment of this kind would be contrary to efforts of our party leadership to broaden the base of our party with more blacks, women, and ethnics.

It would be a terrible mistake indeed to take away a remedy which may be used as a last resort to assure equal protection under the law for all Americans.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Mottl) has 19 minutes remaining, and the gentleman from New Jersey (Mr. Rodino) has 21 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Stokes).

Mr. STOKES. Mr. Speaker, during World War II when I was 18 years old, I was drafted into the U.S. Army and put into the uniform of my country. I served honorably for 3 years in a segregated army while this Nation was at war. I was housed, fed, clothed, and educated in that Army segregated from white soldiers because of the color of my skin. I was 18 years old—from Cleveland, Ohio, and until I went south as a U.S. soldier had never known segregation by race. The scars on my mind from the discrimination, the indignities, and the segregation which I was forced to accept while wearing the uniform of my country will never be erased. Today you talk of buses. I know something about buses in America. On the post at Camp Shelby, Miss., while in the uniform of my country, I had to ride on the back of the bus, behind a sign that said "colored only," segregated from white soldiers in the same uniform. Yes, and at Camp Stewart, Ga., I was bused to the post compound where I was jailed because I refused a command to clean the grounds around the barracks of white soldiers. A jail incidently that had one toilet for white soldiers and another toilet for "colored soldiers." I could go on and on reciting one indignity after another. But Mr. Speaker, when I came out of the service I promised myself and God that never again would I let any man, or government, or army segregate me because of the color of my skin.

It is unbelievable that 36 years after I served in the segregated Army of this Nation in a war to free the world that I stand in the U.S. Congress debating an amendment that would keep black children segregated in American schools. Last night I pulled out the Congressional Record of a debate which occurred in the House in 1951. The bill was the Universal Military Training and Service Act. The House was debating an amendment which would reinstate the policy of segregation in the Armed Forces. During the debate Mr. Dawson, a black Congressman from Illinois rose and said:

> How long, how long, my conferees and gentlemen from the South will you divide us Americans on account of color. Give me the test that you would apply to make anyone a full fledged American, and by the living God if it means death itself, I will pay it. But give it to me.

Mr. Speaker, I think most black Americans feel as Bill Dawson felt. In spite of suffering every indignity and human rights violation known to mankind including the invidiousness of slavery we have been loyal to this Nation.

And above all we have believed in the sanctity of the constitution in our pursuance of equality under law. Later in his same speech that day, old Bill Dawson said it better than I can when he said:

> Deny to me today if you will, all that American citizenship stands for. I will still fight to preserve our Nation knowing that someday under the Constitution of the United States all of these obstructions will be removed, and that we will move forward before the world as one people, joined in a democracy which shall set the pattern for all the world.

Mr. Speaker, in the name of all of America's children, I urge the defeat of the Mottl amendment.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GRISHAM).

Mr. GRISHAM. Mr. Speaker, I rise to ask my distinguished colleagues to accept their responsibility to the people of this country and vote "yes" on the resolution calling for a constitutional amendment permitting students to attend their neighborhood schools. I am rather disturbed that many Members of the House have misconceptions about those of us supporting the amendment.

Let me set the record straight. We are not opposed to the best educational opportunities for every child. We are not opposed to seeking a remedy for the past abuses of our society.

But we are opposed to the Federal Government dictating where our children should and should not go to school. We are opposed to a court that continues to ignore the practical reality of busing and what it sadly fails to accomplish. We are opposed to a Congress that ignores the overwhelming mandate of the American people and forces a remedy—that pleases absolutely no one—down their throats. Changing the Constitution is a matter of grave consideration, and there is not a single person in this room who takes that responsibility lightly. But, I ask you, what are the options left open to us?

The American people are not the kind of people who will tolerate a government that fails to heed their warnings.

They are not the kind of people who will let us sit in Washington and deny them the opportunity to decide for themselves whether or not busing their children is the answer.

They are not the kind of people to sit in silence while miles away a handful of "experts" move their children around as if they were merely pawns in a master chess game—where no one ever wins.

But they are the kind of people who will refuse to elect representatives who continue to misrepresent them.

They are the kind of people who will refuse to watch quietly while their 10-year-old is yanked from the school down the street and shipped off in a bus to a strange neighborhood 1 hour away from home.

And they are the kind of people who will refuse to relinquish that for which they have fought the hardest—to decide what is best for their children.

They are that kind of people for one reason, Mr. Speaker. It is because all their lives they have been promised that all they need do is raise up their voices so that we can hear them. They are raising their voices today, and it is time that we listened. I ask my colleagues to hear those voices and vote "yes" on the resolution.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, I rise in support of the amendment.

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, 9 days ago, the President of the United States took to the airwaves and made what is considered by many to be the best speech of his career. You all saw it—you all heard it. But there is a good chance you did not hear it and see it from the same perspective I did—unless you happen to have court-ordered busing in your home district.

Back in the Fourth District of Kentucky, we have court-ordered busing in Jefferson County—we have had it for 4 years now. And when the President talked about "crisis of confidence," I did not automatically think of energy—I thought "forced busing."

And when the President talked about the scars that have not healed—I thought of forced busing.

And when the President said the gap between our citizens and our Government has never be so wide—I was sure he was talking about forced busing.

There is a crisis of confidence but when the Government ignores the opinion of over 80 percent of the American people who opposed forced busing—what can you expect?

Watergate and Vietnam, and inflation are scars that have not healed—but nobody has even made a serious effort to heal the scar of busing—it is still an open, festering wound.

Although I did not have the opportunity to spend 10 days with the President on the mountain, I certainly do agree with him on one point—it is definitely time to "reach out and listen to the voices of America."

And those voices are saying "stop letting the courts play God with our schools and our children."

Over 80 percent of the American people oppose court-ordered busing, but the buses still roll. Over half of the Nation's blacks oppose court-ordered busing, but the buses still roll. Nobody likes it—nobody wants it except the social schemers and the sociological dreamers and our judges.

But Congress has not done anything about it. In 8 years, Congress has not done anything about it.

Oh, we occasionally pass bills restricting the role HEW or the Justice Department can play in busing. But when it comes to busing, we know that the courts are the leaders of the pack—and that if we are going to do anything about busing, we have to put the courts back on the right path. This amendment will do it.

A majority of Members of both Houses have consistently voted in such a way that there is little doubt that they oppose forced busing or wish to give that appearance. Yet the courts keep right on pushing more children through the open bus door, keep right on tearing down the neighborhood school concept—and keep right on pandering to the professional civil rights activists who do not care one bit about the quality of education for black or white children—they want compulsion. They want court orders. They want another notch in the gun that is helping to kill our public schools.

And Congress has let them get away with it. Do you wonder why there is a gap between Washington and the people of this country? Do you wonder why there is a crisis of confidence? Eight years of inaction on busing is a big part of it.

For 8 years, this body has ignored the voice of America. For 8 years, this body has opted for the "ostrich approach" to busing—"stick your head in the sand and maybe it will get better—or maybe it will go away by itself."

But it has not gotten better—and it has not gone away by itself.

The achievements in education which the people who wanted busing in the first place claimed it would bring—have not materialized. Even they admit it. All we have is the violence, the disruption, the wasted gasoline, the wasted money and the displaced children riding buses 45 minutes, two times every day.

The benefits of busing never materialized—but the bad side effects are still with us.

No—busing has not gotten better—and the recent court decisions should be proof enough that busing will not go away by itself. If anything, there will be more of it.

It has been 8 years since Swann started it all—and the "ostrich approach" has not worked.

To be fair, I will admit that during these past 8 years, Congress has listened occasionally to many of the so-called experts and gotten many conflicting reports on the effects of busing. It seems that every sociological test or study that comes along refutes the one before it.

And I can see where it could lead to confusion for those of you who have never been touched by a court order in your district. And I would like to share with you some words from the real experts—which will not leave you confused—

They are not sociologists or social planners, but the people of Jefferson County, Ky., who know busing firsthand—not from choice—but because they have been forced to live with it for 4 years.

Reach out for a minute and listen to the voices of these people. This comes from a teacher—

> I have taught nine years. In the last four years, since forced busing has been in effect here in Louisville, school enthusiasm, spirit and a sense of school pride has declined drastically. I believe it is due to forced busing.

This is from a mother—

> My son is 6 and will be bused this year. It frightens me.

Another mother says—

> My son has been beaten up on the bus. Lockers are broken into and money and books are stolen. The schools are deplorable. Busing stinks.

Another letter says—

> Freedom isn't being told your child has to go clear across town to an unfamiliar school.
>
> We have watched discipline, respect and order in the schools steadily decline through the years of busing. Drugs are an everyday fact of life in the schools.

A librarian—

> Last year a black fourth grader came to me with tears in his eyes because he had failed and he asked me, how many more years he would have to be bused now. As I hugged the child and felt his tears run down my back, I wanted to strangle someone who was responsible.

And a letter that sums up many others I have received. "We are bewildered as to why they are forcing this on us."

Those are the real experts talking. Those are the people talking. And they are bewildered. They are frightened. And most of all, they are angry at seeing the deterioration in their schools caused by busing.

They are not making any of it up. That is exactly what is happening in Jefferson County, Ky. The local school officials are doing their best to overcome it, but busing is a burden they cannot beat.

Yes, busing does lead to turmoil in the schools and discipline problems—they are not making it up. Even the confused experts agree that busing orders do accelerate discipline problems. However, according to the experts—the problems are supposed to go away after a while. But in Jefferson County—after 4 years—it shows no sign of improving.

Suspensions jumped up dramatically in the 1975-76 school year that busing was implemented as predicted. But in the high schools, they went even higher the next year, and the next.

Finally last year, the number of suspensions fell off—but we cannot take much consolation in the fact because the schools were under a lot of pressure to reduce suspensions—so they did—even though the number of disciplinary problems seemed about the same as the year before.

Last year—after 4 years of busing—burglaries and thefts were up. Destruction of property was up. Disruption and disobedience at extracurricular activities was up. Possession and sale of drugs went up 36 percent. Possession of alcoholic beverages was up 86 percent and arson was up 116 percent.

Yes, I think busing is disruptive.

And the people of Jefferson County are not making it up when they say busing wastes fuel and wastes money that could be better spent on educational programs and educational problems.

It cost Jefferson County $4 million to implement busing 4 years ago. It costs between $2 and $3 million a year to maintain it—and that is just the transportation costs.

That is 3 or 3 percent as much money as the District spent on instruction last year.

And it does waste gasoline. Every day court-ordered buses burn up about 5,700 gallons of gasoline. With a 175-day school year, that comes to a million gallons a year down the drain—court decreed gasoline.

OPEC must love busing. It guarantees them a million gallon market in Jefferson County. How many school districts are under court-ordered busing plans—100?—200?? And how much do they waste each year? Millions of barrels.

In Mr. Carter's speech, he said that saving a gallon of gas was patriotic. We have got a million gallons worth of patriotism ready and waiting in Jefferson County.

The so-called experts cannot agree whether there is such a thing as "white flight." But in Jefferson County, there is no doubt on the issue.

Today, we have 33,549 fewer students in our public schools than we did 5 years ago when it became evident we would have busing. That is a 30-percent reduction. That is not white flight—it is a stampede.

That friends, is busing. That is what it does to schools and communities and to children.

And that is why we need to start this constitutional amendment rolling.

Mr. Speaker, in closing, I would like to offer two thoughts for my colleagues to consider.

The first is that I realize many of my colleagues come from areas that do not have court-ordered busing in their districts. And I am sure it is difficult for them to understand what all the screaming is about.

And I know most of those who find themselves in such a fortunate position find it hard to concern themselves with it because they do not expect to ever fall under the court-ordered gun themselves.

And this thought is directed particularly at them.

The Commission on Civil Rights status report on desegregation this year said that as of 1976—65 percent of all minority pupils in the Northeast and 68 percent of all minority pupils in the North Central regions of this country attend at least "moderately" segregated school districts.

If this amendment is defeated—all I can say is look out. They will be coming for you with the buses and the court orders before long and you will discover what all the screaming is about—firsthand.

After the recent Supreme Court decisions—the civil rights social engineers are looking to the North and licking their chops. They do not care about quality education. They do not care about the inconveniences of busing. They do not care about your children. They want another scalp to hang on their belts—another scalp of compulsion and another hundred buses rolling.

Your constituents might not worry about busing right now. But they will when they taste it themselves. And if this amendment fails today—there is a mighty good chance they will.

My final thought, Mr. Speaker, is that up until now, the full blame for court-ordered busing fell fully on the courts of our country. But after today we would not be able to blame the courts for it. If this amendment is defeated, it will make the U.S. House of Representatives a party to every single court order. It will make the U.S. House of Representatives party to the judicial tyranny that breaks up neighborhoods and uses our children as pawns on the playing table of the social planners.

It will make us a party to every gallon of gasoline wasted, every outbreak of disciplinary problems, every dollar diverted from a useful purpose to pay for counterproductive busing.

I personally do not want to be a party to it—I have seen court-ordered busing and its effects in Jefferson County, Ky.

When a DC-10 crashes on take-off—we do not sit around and say, "let's see if the next one makes it." We ground them all.

Right now, busing is going down in flames in Jefferson County, Ky.—and it is dragging our school system and our children down with it.

We grounded the DC-10—can we do any less for our children? If we do not ground busing and our high flying courts, we—the Members of the U.S. House of Representatives will be as guilty as they are.

Busing has had its chance and it has proven to be a failure—a disastrous failure. We cannot allow it to continue.

□ 1140

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, it has been argued that we have tried everything else, and nothing worked, that a constitutional amendment is all that remains. This is simply not so.

We have not tried the one key thing. All we have really tried are amendments, usually attached to appropriations bills, which attempt to effect the remedies applied by the courts. We have never come to grips with an education bill out of the Education Committee, not out of the Judiciary Committee, which addresses the question, "What is the best way to achieve equal educational opportunity? What can we do to reach the goal of a desegregated school system with a minimum of disruptive busing?"

Such a national policy based on local autonomy is a realistic option. It is not just a theory or a pipedream.

The gentleman from Arizona (Mr. UDALL), the gentleman from Indiana (Mr. HAMILTON) and I, with a number of cosponsors, including the gentleman from Illinois (Mr. ANDERSON), have introduced such a bill, drafted by constitutional experts, discussed with and approved by leading educational experts in this country.

The gentleman from Kentucky (Mr. PERKINS) has scheduled hearings on that bill for September 11 and 12, scheduled before the discharge petition incidentally.

If my colleagues want to do something about busing that requires only a majority in Congress and not lengthy action by State legislators that zeroes in on the problem of busing, without compromising the goal of a desegregated society and school system, that is not the loose canon that a constitutional amendment is, then support something like this bill, a legislative solution to the problem.

Our system of democracy has always lacked a reverse gear, especially in those movements that represent great ethical or social advances.

Brown represented such an advance. The idea that no student could be compelled to go to a segregated school. A constitutional amendment gravely risks retreating from this goal through inadvertence.

We should keep the goal and deal with the failure of busing as a policy through legislation.

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri (Mr. BURLISON), for purposes of debate only.

Mr. BURLISON. Mr. Speaker, I have always favored the neighborhood school concept and opposed the busing of schoolchildren to achieve racial balance. Most of the American people feel this way. This view has been significantly buttressed since my coming to Congress. When I first came here I noticed that most all of the Representatives of the Detroit, Mich., area who were of my party were considered philosophically liberal and certainly they had an unequivocal probusing commitment. Shortly thereafter came the Federal court action in Detroit requiring forced busing. It was quite an experience to see Members of Congress from that area make 360 degree turns on this volatile and emotional issue. There are now similar examples that can be cited for virtually all areas of the country.

It is important to note that the Department of Justice, and those organizations and individuals which initiate court ordered busing, proceed at such a deliberate pace and with such selective targets that just a small percentage of the Nation is confronted with the busing issue at any one time. This is grossly discriminatory in itself. It has been this strategy perhaps that has been responsible for preventing an overwhelming public demand for a constitutional amendment.

These observations lead me to two conclusions: The first is that whenever court ordered busing is invoked, the overwhelming majority of those involved become adamantly opposed to it. In many, if not most instances, this has proved to include black and other minority citizens as well as whites. Second, the technique or strategy above alluded to with respect to slow and cool deliberation in applying the Brown against Board of Education decision reeks with intellectual dishonesty at best and bureaucratic cowardice at the worst. For these reasons I support the constitutional amendment.

The issue of busing to achieve racial balance is of important national significance. That such an issue would be denied the attention of congressional hearings is intolerable and clearly an affront to democracy. This explains why I signed the discharge petition of Mr. MOTTL. I also support his amendment.

The SPEAKER. The gentleman from Ohio (Mr. MOTTL) has 17 minutes remaining. The gentleman from New Jersey (Mr. RODINO) has 17 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I believe I can understand the frustrations which prompt many of my colleagues to fight for this measure. However, I cannot in good conscience support a response designed to include in our constitution a contemporary social policy preference. To consider so important a matter solely on the floor of the House, without lengthy deliberation and selfexamination, is wrong.

This is no simple, private bill. It proposes an amendment to the Constitution of the United States; a new, 29th amendment, if ratified by the States. It partially repeals the 14th amendment's guarantee of equal educational opportunity with language which is even now being amended and reconsidered.

First, look at what the language of the amendment says:

> No student shall be compelled to attend a public school other than the public school nearest to the residence of such student. . . .

The problem with that language is that local school boards will be stripped of their power to authorize busing required for other purposes. I doubt if many of us want to so undermine local authority. I understand that there will be an amendment to insert the words "on account of race, color, or national origin" as an effort to moot the opposition. However, what those words do is demonstrate clearly what the result of this amendment would be—segregated schools. I cannot believe two-thirds of this body wants to go on record in support of such a proposition.

Second, take a look at section 2 of the proposed amendment:

> The Congress shall have the power to enforce this article by appropriate legislation and to insure equal educational opportunities for all students.

Does that mean that the Congress can rely on section 2 as a basis on which to grant massive authority to the Department of Education to control State educational systems and "insure equal educational opportunities . . ."? Does it mean that law suits claiming that Congress has neglected its mandated responsibility will proliferate throughout our court system? In sum, I do not think we know what the amendment really means. No constitutional amendment should ever be recommended to the States with so little understanding of its consequences.

Third, and perhaps most important, this amendment strips from the courts a remedy with which to guarantee protection of 14th amendment rights to the citizens of this country—without regard to their race, color, or national origin. The amendment forbids pupil assignments beyond nearby schools even when it is demonstrable that no alternative exists to remedy de jure segregation.

Mr. Speaker, even those who strongly oppose court-ordered busing would be ill-advised to support this proposed amendment. This amendment is not the answer. I urge a no vote.

Mr. MOTTL. Mr. Speaker, at this time I yield 1 minute to the distinguished gentleman from Ohio (Mr. WYLIE) for purposes of debate only.

Mr. WYLIE. Mr. Speaker, I strongly urge support of the Mottl amendment. I favor the amendment because of the recent Supreme Court decision in the Columbus case. The recent Supreme Court decision held the Columbus plan unconstitutional. Now, that decision was distressing to me, because I thought the Supreme Court would permit some degree of voluntarism.

In 1967, the Columbus Board of Education in Columbus took affirmative steps to comply with the Brown decision, to integrate on a voluntary basis. In 1973, that plan was massively implemented so any student could be bused anywhere, any place, any time to any school in the Columbus public school system. All 160 schools were involved at no cost to the parent upon the parent's request. Over 5,000 students were being bused. This busing plan was held unconstitutional so no degree of voluntarism is apparently permitted under the Supreme Court decision. The most sophisticated volunteer plan is not good enough.

This left us no alternative to those opposed to busing but to come here today through us and debate the issue.

I urge adoption of the Mottl amendment.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS of South Carolina. Mr. Speaker, I rise in opposition to the proposed amendment. I come here today from an area of the country that has had forced busing. I think it is indeed time that this body dispose of the matter once and for all.

I propose that we do it by soundly defeating this amendment and demonstrating to the world that the United

States is not going to turn the clock back in the case of human rights.

I recognize that this is an issue of great emotional contest. But I ask my colleagues today to remember that our responsibility here on this floor should be more concerned with the welfare of the children and the educational opportunity of the children rather than the emotions of the parent.

□ 1150

I do not believe that busing has been wrongly applied in the vast majority of the cases. I do believe that it has been a positive good for the goal of quality and equality of educational opportunity. To abandon this valuable tool at this time would be a slap in the face to all who have worked and sacrificed for the cause of racial justice.

Finally, I ask that we not do violence to the organic instrument of our Government. The lessons of the past are clear enough: The amending process should be reserved for lasting principles, not for current and emotional issues.

Mr. Speaker, I am casting my vote against this amendment and I urge my colleagues to examine their consciences and do likewise and help the children.

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. MOAKLEY) for the purpose of debate only.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman for yielding and rise in support of the constitutional amendment.

I have been elected to represent a district which includes virtually all the Boston communities affected by court ordered busing. It is perhaps the most diverse district in the country and includes both the most disadvantaged and the most affluent communities in and around the city. It includes most of the city's black community and also the neighborhoods in which opposition to forced busing is most firmly rooted.

Busing is an issue that has divided this district as today it divides this House. The busing program was instituted at the opening of the 1974 school year but the debate had been joined many years before and continues today.

Mr. Speaker, the results of this judicial experiment are in.

In the last year before busing was instituted, there were 53,593 white students, 31,963 black students and 8,091 other minority students in the Boston public schools.

Last year there were 30,073 black students, 25,956 white students and 10,528 other minorities.

During the court's effort to achieve racial balance, therefore, the white population of Boston schools has declined from 57 percent to 40 percent. And with the exodus of tens of thousands of white students and thousands of black students, has gone the last hope for meaningful integration in Boston schools. Indeed, after 6 years of juggling students' lives like chess pawns, only 25 out of 151 schools meet all the racial quotas established by the court order.

Estimates of the cost of implementing the busing plan in the city of Boston range from a low of $80 million to well over $200 million. Most of this enormous cost has been borne by a property tax system already straining under heavy demands.

Perhaps this expenditure could still be justified if it had led to effective, harmonious integration. But the figures I have cited prove that resegregation, and not integration, has been the result.

To no purpose we have squandered a fortune. This money could have built new and better schools, funded adequate programs to prepare disadvantaged students for college, or established improved vocational programs. Indeed, even the lowest cost estimate would have provided enough money to offer a summer job each year to every high school student in the city.

Instead, this money has been poured into an experiment that has failed to achieve its goals. Indeed, by driving white and black middle-class students out of the schools, it has made its own goals unobtainable by any other means.

So who has benefited?

Certainly not the poor and the disadvantaged students, both black and white, who would have reaped far more benefit had the money been invested in programs such as I have mentioned.

Certainly not their parents, both black and white, who have seen the quality of education deteriorate and feel they have lost the anchor of their own lives—Boston's strong and historic sense of neighborhood.

And certainly not our courts, or government in general. For we have lost the trust and confidence of Boston citizens who have twice voted, by margins of 2 and 3 to 1, to stop busing only to see their mandate ignored by a government which they had been told as children represented them.

And this, of course, is the central matter before us today. Are we to respond to the clearly expressed will of a majority of those who elected us, or will we ignore their right to representation? There are those who have urged me to vote against the will of the people of Boston. But the idea that the views of a small group of judges and politicians should be substituted for those of the majority of the American people is an idea I find very alien to the principles on which this Nation was founded.

Does anyone doubt what would happen if this constitutional amendment were submitted to a national referendum? Then by what right can the judgment of this Chamber be substituted for the judgment of those whose just consent is the basis of all laws? Ultimately those who oppose this constitutional amendment must face the hard question, "If our laws are not to be written by a majority, by whom shall they be written?"

In five campaigns, I have stated firmly, and without equivocation, how I would vote when this resolution reached the floor of the House and I have pledged to do everything an individual Congressman can to bring the matter up for that vote.

Although I am not insensitive to the concerns of those who cannot agree with me, I believe I am acting in the best interests of those who elected me by casting, on their behalf, the vote they would cast if they could participate directly in today's proceedings.

Mr. Speaker, I urge the adoption of the resolution.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, to me it is quite ironic to see that in the 25th year of the celebration of the famous Brown decision that we are gathered here in this body this afternoon in order to prevent the courts from enforcing those measures which are necessary for the continual encouragement and promotion of the equitability of educational opportunities in this Nation. The 1954 decision was one of the decisions in which we said we had to use certain instruments in this Nation to move in the direction of equality and integrated education and the reason we had to take this position is because we could not depend on the morality nor the conscience of those individuals who had the power to move into the direction of bringing about equitability of educational opportunity.

I heard one of my colleagues a short while ago say he was interested in continuing the promotion of neighborhood schools. Where were all of our voices years gone by in terms of the promotion of the neighborhood school when black children had to rise at 5 a.m. and take buses way past the neighborhood schools in the southern part of this Nation? Where were our voices at that particular hour in America?

We recognize and realize that we want to be able to have the opportunities for black and other parents in this Nation to move in the direction of using alternative measures in order to get the kind of educational opportunities so that their children can compete and function in a highly automated and technological society. Ladies and gentleman, we cannot change the Constitution on the basis of the political winds of change or the political expediencies of the moment. We are here to give a kind of courageous leadership, we are here to be profiles in courage. We are here to be able to go back to our constituents and explain that somehow, somewhere at this hour in America we are still moving in the direction of trying to bring about the equitability of opportunities on every level in this great country.

So, my colleagues, I am going to ask you not to undo what has been done. Be a profile in courage today. Thank you.

Mr. MOTTL. Mr. Speaker, I yield 1 minute for purposes of debate only to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman.

● Mr. CAMPBELL. Mr. Speaker, the issue before us today is a sensitive one. It is one to which different people ascribe different motives. It is one which some view as representative of the very basic question of equal individual rights. All of those characteristics are present today in this debate, but also present are considerations of the day-to-day lives of our children and the rightness or wrongness of becoming slaves to quotas—quotas dictating how many blacks or how many whites shall participate in our societal organizations, how many women or men, how many Puerto Ricans or Mexicans, how many Protestants or Catholics. I submit, Mr. Speaker, that this issue before us today is much more complex than those strongly on either side of the issue have suggested.

As a signer of the discharge petition which brought the issue of school busing before us, I firmly believe that it is the right of this House to debate this resolution. I therefore, voted for the motion to discharge.

The House Judiciary Committee has for years known of the deep concern about busing on the part of many Members of this House. Yet the committee has not held in-depth hearings. It has not given the full membership of the House an opportunity to hear on the floor the merits or lack thereof of proposed remedies. I commend the gentleman from New Jersey, the chairman of the Judiciary Committee, for his promise now to look into court cases on busing. But, Mr. Speaker, I do not believe that is enough. We have heard promises too on the issue of a constitutional amendment to balance the budget, but we have not seen legislation reach this stage. Thus, in the absence of a firm commitment and timetable for hearings and markup, I voted for the motion to discharge.

If we are then called upon to vote on the Mottl amendment as introduced, I will vote against it. While my opposition to quotas and to unnecessary busing is well known, even among those of my friends who disagree with me, I cannot in good conscience vote for a potential amendment to the final law of our land, the Constitution, which I believe is badly drafted and holds out the possibility of the most serious and detrimental ramifications for our country. Not only does section 1, by its ambiguity, close the doors to much local flexibility in trying to avoid busing, but section 2, by giving Congress statutory power "to insure equal educational opportunity for all students," virtually vests control of education, including curriculum, in the U.S. Congress. I could not support such language.

Should an amendment be offered on the floor limiting the busing prohibition and eliminating the objectionable language in section 2 which paves the way for a federalized school system, I will support it.

But I will support this language with reservations and with full knowledge that this is an unusual circumstance where the committee of jurisdiction has not seen fit to deal with the issue and where the courts are consistently expanding their powers beyond their mandate of interpreting the laws made by Congress. Only in this kind of situation do I believe the extraordinary legislative procedure of discharging a committee was warranted.

Mr. Speaker, far better that this legislation had gone through the normal legislative process. Far better that we not be called upon to vote on a matter of this weight with 1 or 2 hours of debate. Yet, in the final analysis, this Nation is demanding a vote, and we must each vote our conscience. I believe it is a dangerous path we are walking when we start requiring quotas of this kind or that kind. I support equal education. I support integration. But to my mind, an acceptance of national quota systems, even with the purest motives, will bring our Nation its people more divisiveness and animosity than a reasonable version of this resolution ever could.●

Mr. BAUMAN. Mr. Speaker, I rise in support of an amendment to the Constitution which will preserve the right of each child to attend the public school nearest his or her home.

It goes without saying that all of us in this House oppose racial segregation in the schools and I personally support the decision of the U.S. Supreme Court in Brown against Board of Education. The era of racial segregation is past in our history, as it should be.

But the issue here today is whether or not court ordered busing for the purposes of achieving racial balance in schools has succeeded or failed. I believe busing has not only failed to achieve the goals its original supporters sought, but has caused far more problems than it has solved.

One of the goals was to bring together the children of all races in the public school system so that none would be denied equal educational opportunity. Another objective was to bring an end to the divisions based on race which plagued our society.

Abraham Lincoln in one of his most eloquent public addresses told the Nation that "a house divided against itself cannot stand." I think most people will admit that busing has, instead of bringing all Americans together, caused deep divisions in communities all over our land. This misguided policy has set blacks and whites against each other, including parents and children, and caused endless bad feelings which could have been avoided.

Certainly every public school should offer the best quality education consistent with the financial means of each community to provide such education. No artificial distinctions based on race should be allowed. But when you force a black or white child to travel long hours and many miles each day, away from their family and homes, you have in fact imposed a policy which inherently is based in racial discrimination and therefore violates the Constitution.

Mr. Speaker, it is time this Congress put race aside in education and in all things in this Nation. It is time that we made plain to the judicial activists on our courts that they must uphold the Constitution and stop engaging in social engineering and disruption of our homes and neighborhoods and families.

We can do that by adopting the amendment which will be offered by my distinguished colleague from Maryland (Mrs. HOLT).

The SPEAKER pro tempore. The Chair will observe for the benefit of those who are guests of the House in the gallery that the rules of the House prohibit any demonstration of approval or disapproval on the part of those who are our guests, realizing that it is done innocently of that knowledge. But the Chair would ask for the cooperation of our guests.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. McKINNEY).

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

● Mr. TREEN. Mr. Speaker, we are debating here today the question of whether or not we shall propose to the States a constitutional amendment the text of which (with the Holt amendment) is as follows:

SECTION 1. No student shall be compelled, on account of race, color or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation.

There are several points I wish to make.

First. The issue presented is not desegregation of our schools. The amendment in no way stands in the way of school desegregation. It is painful to me to hear some Members say that those who support this amendment are motivated by racial considerations. That argument is totally insupportable.

Second. The landmark Supreme Court decision of Brown against Board of Education held that pupils cannot be assigned to schools on the basis of race; that the color of one's skin was not a permissible factor in assigning students.

Third. Despite the clear meaning of the Brown decision, pupils are today being assigned to schools on the basis of their race. Judges are directing that specific numbers of whites and blacks be sent to specific schools. Chaos has resulted in school district after school district as children are put on buses for long rides across cities and/or counties. The rights of students to go to schools in their neighborhoods, or even within a reasonable distance of their homes, have been destroyed in hundreds of communities all across the land. One unfortunate result has been the deterioration of public support for public education. Revenue measures and bond issues which are desperately needed to finance improved education are being defeated in hundreds of communities. Quality education—for blacks and whites alike—is being denied millions of schoolchildren. Black children are suffering more than white children because many of the latter have "escaped" to private schools.

Fourth. The Federal courts, in an attempt to accomplish desegregation, have been assigning students to specific schools in order to achieve "racial balance." Congress in 1964, 10 years after the Brown decision, made it clear that desegregation was to be carried out without assigning students on the basis of race. Section 401 of the Civil Rights Act of 1964 makes that distinction in the following language:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, sex, or national origin, but *"desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.* (Emphasis supplied.)

Obviously the Federal courts have distorted the intent of Congress, and the meaning of the 14th amendment as laid down in the Brown decision.

Fifth. The overwhelming majority of Americans, as demonstrated by numerous public opinion polls, has opposed busing of students as a means to bring about desegregation. Within this number, a majority of blacks also oppose busing as a means to achieve desegregation. In a poll released July 8, 1976, by Louis Harris, it was found that by a ratio of 81 to 14 the American people opposed busing to schools outside the students' neighborhoods to achieve desegregation. In this same public opinion poll, 51 percent of blacks opposed busing, 38 percent favored it, and 11 percent were not sure.

Sixth. Despite the opinion of a majority of Americans, both black and white, and despite the position taken by the Congress itself in the 1964 Civil Rights Act, and despite the great interest in this subject, on both sides of the issue, the House Judiciary Committee has steadfastly refused to even hold hearings on any of the numerous bills that have been introduced proposing to amend the Constitution. To me, this is the most dismaying aspect of the whole controversy: The adamant refusal of a majority of the House Judiciary Committee to allow the American public to bring this matter to the Congress in the usual legislative method. What we need are careful and deliberate hearings during which the issue can be carefully evaluated and language drawn to protect the rights of both black and white children to equality of education, without destroying the quality of education. I signed the discharge petition for this resolution because I felt that it would bring pressure on the House Judiciary Committee to hold hearings. I felt confident that as we approached 218 Members, the Judiciary Committee would respond and say that that was a sufficient showing of interest by the elected representatives of the people of the United States to warrant having hearings. I am dumbfounded that the Judiciary Committee has not gotten the message.

Seventh. The House Judiciary Committee has left this body with no recourse but to consider a constitutional amendment on the floor of the House, with limited debate, and without the benefit of the testimony of educators, sociologists, constitutional experts, and others whose judgments we ought to have before we make a decision. I am amazed that several Members are resisting this action today by saying that we should not "tamper with the Constitution" by writing a constitutional amendment on the floor of the House. Indeed, we ought not to be proceeding that way, and we would not have to if the Judiciary Committee would consider this matter.

I might also add that, should this proposal be approved by the necessary number of Members, it would then have to go to the Senate and undoubtedly a conference between the House and the Senate would be required before final language were adopted. This would give the opportunity for more careful deliberation with respect to the impact of the language and would permit the opportunity for drafting the final form of the amendment precisely as we would want it. It might also give the conference committee the opportunity to consider the views of black sociologist James Coleman, whose 1966 landmark study, "Equality of Education Opportunity," greatly influenced the course taken by the courts in recent years. Coleman has now reversed himself and concluded that mandatory busing has had a negative impact on black student achievement.

Eighth. The proposed constitutional amendment does not, repeat, does not, prevent or any way inhibit desegregation of the schools. It would simply prevent the compelling—on account of race, color, or national origin—attendance at a public school other than the school nearest to the residence of the student. The freedom-of-choice method, which was employed by the Federal courts for many years following the Brown decision, would still be available. That method could be ordered by the Federal courts without violating the proposed amendment. Under the freedom-of-choice system, a parent could choose any school within the district that he wished his child to attend and the school board would have to furnish transportation for that purpose. If this meant virtually no attendance at poor quality schools, then so be it. The school board would simply have to close down such schools. Other methods to achieve desegregation would not be inhibited by this amendment.

Ninth. I believe, with every fiber of my body, that children black and white should have the right to go to a school which offers quality education. I believe in that even if the school district has to bus a student 50 miles to go to that quality school. But neither I, nor the American public, want a child bused to a school not of his choice just to achieve some racial percentage.

Tenth. Finally, let it be clear what is proposed here today. It is proposed that a constitutional amendment be sent to the States for their consideration. We do not amend the Constitution by our action in the Congress; that power belongs to the people, to be exercised through their elected representatives in the legislatures of the 50 States. I have confidence that the American people would treat this issue with the serious deliberation which it deserves. And I have confidence that the American people would ultimately make the right judgment.

For these reasons, Mr. Speaker, I signed the discharge petition—although I would have preferred hearings before the Judiciary Committee—and I will vote for the proposal to amend the Constitution, as that proposal is amended by the amendment to be offered by the gentlewoman from Maryland (Mrs. HOLT).

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

● Mr. LIVINGSTON. Mr. Speaker, I am in support of this proposition.

However well intentioned, busing of children in this country has served to undermine our public school system to the very real detriment of both black and white children. It has caused a decline in the overall level of excellence in neighborhood schools and has undermined the voluntary participation of students and parents that made the American public school system great.

Forced busing of schoolchildren does not work—even the experts agree on that. Sociologist James Coleman, whose 1966 study was a powerful influence in developing Federal busing programs, has now concluded that he was wrong. Coleman reports that mandatory busing has led to violence and turmoil, that it has brought lower educational standards that work against improved achievement by black students.

The most recent Harris poll shows that a majority of both blacks and whites still oppose busing—8 years after the Supreme Court first approved forced busing. This poll, like others, shows that neither race believes that busing will solve problems of equal education.

I believe that we can achieve the aims of the civil rights movement by providing good education to all of our children. That was its original goal and that goal should be reached by means other than busing. It is our solemn duty to make sure that it is reached.

We must seek to reestablish the close ties between family, community and school that will provide better education for all, regardless of ethnic or racial background.

Mr. McKINNEY. Mr. Speaker, I oppose House Joint Resolution 74. The oath I swore as a Member of this House binds me to protect and defend our Constitution and I cannot, in good conscience, permit our most fundamental law to be the scapegoat for our 25-year failure to realize equal educational opportunity for all.

This was not an easy decision. But in the final analysis, I had to conclude that an amendment to specifically prohibit busing as a desegregation tool is at best unnecessary and at worst degrading to a document I respect. The Constitution has endured these 203 years as the basic law of a great Nation because it speaks of timeless principles and the mechanics of a unique democratic process. I submit that adoption of this amendment would reduce the stature of the Constitution and thereby diminish respect for all laws.

In considering this amendment, I am reminded of our Bicentennial celebration when we paid tribute to the constitutional tenets of freedom of speech, justice, and due process of law. What place has busing among these? Two hundred years from now will our descendants share our pride in a document containing a negative reference to an obsolete motor vehicle which happened to be used to bring black children closer to white children? Why not trains, cars, and vans?

Mr. Speaker, there is little argument that busing is not a clumsy, costly, intrusive, and only partially successful desegregation technique. However, by what right do we enshrine our failures in the Constitution? Our responsibility as free men and women is to live up to the lofty constitutional principles of human freedom, equality, and dignity—not childishly seek to except ourselves when we find freedom's demands inconvenient or controversial.

Only recently, I had the opportunity to spend a great deal of time contemplating the brevity of life and the elusiveness of its meaning. Artificial barriers such as race, sex, religion, and the like simply cannot be tolerated. They serve only as distractions from our real purpose, just as this amendment is distracting this House from the important business of energy and inflation.

Finally, I want to stress to each Member in the Chamber that this vote tests our concept of representation. Do we follow those who would amend the Constitution to conform with the latest Harriss or Gallop polls or do we stand firm and truly reflect the hopes, rather than the fears, of our constituents? In my view, this is a fundamental matter of right or wrong. To use every tool at our disposal in the fight against separate but equal educational opportunity is right. I would cast this vote even if $99\frac{44}{100}$ percent of my constituents had responded to those polls expressing opposition to court ordered busing. To do otherwise would be wrong, for I seek to represent the best, not just the most recent, thoughts and desires of the people of Connecticut. It was not that long ago that I couldn't leave a Texas airbase to socialize with a fellow Air Force sergeant because he was black. I am proud of the progress we have made since then and any attempt to reverse that progress now would be unthinkable. I urge you to defeat House Joint Resolution 74.

Mr. MOTTL. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. DONNELLY) such time as he may consume.

Mr. DONNELLY. Mr. Speaker, I thank the gentlemen for yielding and I rise in support of the constitutional amendment.

Mr. Speaker, court-ordered busing was instituted in Boston in 1974. The promise of busing—to assure quality education for all schoolchildren has—for the people of Boston, been an empty one. I know this, not only as a Representative from parts of the city of Boston, but directly and intimately, as a former teacher in the Boston public school system.

What busing has done, is force those able to afford it, to move out of the city, to send their children to private schools, in order to protect and safeguard the most sacred of our institutions, the family, from Government intervention. Mr. Speaker, since the adoption of the busing program in Boston, decline in enrollment in the public school system has been unprecedented, from 90,000 to 65,000 students in 5 years. The white population of Boston schools has declined from 59 to 40 percent. What the people of Boston have witnessed is the increased segregation of schools, and decline in school facilities as the tax base supporting them erodes.

Mr. Speaker, it goes without saying that the billions of dollars spent nationwide, and the $12 million spent in Boston alone on this program could have been put to far better use and been of much greater advantage, to the people of this Nation, if directed toward building new schools and facilities, providing better teachers, and directed training, and vocational, programs. The American people recognize this fact, now let us recognize their voice and mandate.

I urge my colleagues to adopt this resolution.

Mr. MOTTL. Mr. Speaker, I yield 1 minute for the purposes of debate only to the distinguished gentleman from Texas (Mr. WHITE).

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Mr. WHITE. Mr. Speaker, the overwhelming number of people in my district oppose segregation. In the State legislature I had a solid vote against segregation. But, the people in my district of all races also oppose forced busing. So, their opposition is not on the basis of race at all, but they realize that forced busing does not work. They accept volunteer busing. Forced busing from the viewpoint of the minority actually hurts the minority child the most.

For example, it deprives the minority child of the chance to express his leadership abilities in a school in which he is far outnumbered. It deprives the minority child of after school extracurricular activities. It deprives the minority child of a chance to make many lasting friendships in the neighborhood in which he will live.

Parents are very concerned about their children riding these buses. The children are exposed to greater hazards on the highway. The Civil Rights Act did not provide for busing, but the courts have ordered it. Thus the courts have legislated. Our response to the people of the country, is to legislate to eliminate this infraction and unpopular mechanism.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I rise in opposition to the amendment.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I rise in opposition to the Mottl amendment.

Mr. Speaker, in recent years few issues of public importance have generated as much passion and intensity of feeling as the question of busing to achieve equality of educational opportunity. I would have thought that, while Members of this House might have differing views on the subject, it was not a matter appropriate for extended debate in the Halls of Congress. I would have thought that the question of the enforcement of the equal protection clause of the 14th amendment is one which we have committed largely to the judicial branch for resolution. Indeed, since the ratification of that amendment in 1868 we have left to the courts the task of defining the scope of the rights and remedies which the equal protection clause provides. Of course, under section 5 of the 14th amendment, Congress has the power to enforce, by appropriate legislation, the great guarantees in it. And we have, from time to time, exercised our authority under the 14th amendment to advance the cause of racial equality through the enactment of legislation designed to enhance individual freedom and dignity unrestrained by notions of racial superiority.

On this day in July 1979 we find ourselves debating the question of whether we should approve, as an amendment to the Constitution, a proposal which will forbid busing to overcome intentional racial discrimination and which would give Congress the power to enforce racial segregation in the public schools.

That is an extraordinary turn of events. Only last week the President of the United States called on us, as a legislative body and as Americans, to put personal self interests aside and face our Nation's difficulties with courage and a renewed sense of moral dedication to their resolution. I see a touch of irony in today's proceedings as we passionately debate, not a solution to the energy crisis, nor the unemployment problem, not the inadequacies of health care but the question of whether black and white children should attend the same school. I would have thought we put that question behind us as a Nation in 1954, never to reopen it again. But this amendment has been called up, within the rules of the House, for consideration, and I join with my colleagues in earnest debate over its merits.

I would like to begin with some facts about school segregation and busing which hopefully will not get lost in the thousands of words already said and to be said on this joint resolution. First, it must be firmly kept in mind that busing, as a remedy to school segregation, arises only because, in the past, public officials intentionally and deliberately segregated schoolchildren on the basis of race, color, or national origin. In some instances the bus ride has been longer than some of us might have wanted because public officials and private individuals have engaged in housing discrimination which has created racially segregated residential patterns in many parts of our Nation, especially in metropolitan areas.

Let me emphasize this point. Racially segregated schools do not happen by chance. Elected officials, north and south, east and west, deliberately engaged in conduct with the purpose of segregating public schoolchildren by race. If you examine the trial transcripts of the school desegregation cases in Atlanta, Boston, Columbus, Houston, Los Angeles, San Francisco, and any number of other cities across the Nation, you will find shocking and startling evidence of the various ways, some simple minded, some ingenious, which public officials used to keep white and minority children from attending schools together.

In Atlanta and Boston, officials intentionally segregated black and white students; in Houston and Los Angeles they segregated black, white, and brown children. And in San Francisco they included Chinese children as well as black and brown students to be kept apart from whites. That is the sordid and undeniable history of school segregation in this country: A series of intentional practices undertaken by public officials with the express purpose of creating and maintaining racial segregation in the schools.

In 1954 the Supreme Court held that "separate but equal" schools based on race are inherently unequal in violation of the equal protection clause of the 14th amendment. Recognizing that it was announcing new constitutional doctrine and that school systems might need some time to make the necessary adjustments, the Court in 1955 did not require officials to ask immediately but permitted them to do so "with all deliberate speed." Justice Black later remarked that most officials had acted with too much deliberation and not enough speed.

In any event, in 1958 and in 1962 President Eisenhower and President Kennedy, in response to open defiance of Federal court school desegregation orders, sent Federal troops to enforce the constitutional right announced in the Brown decision. And in 1964 the Congress added its stamp of approval to the actions of the other two branches in recognizing the right to a desegregated education. In that year, we passed title IV of the Civil Rights Act of 1964 which authorized the Attorney General to bring suits in the name of the United States to integrate racially segregated schools.

Thereafter the Congress approved other bills which further advanced the rights of children to attend schools without regard to their race. In various education bills we provided Federal financial assistance to those districts seeking to integrate their schools. To date millions of dollars of Federal money have been spent to assist the process of providing equal educational opportunity. Even in school districts which do not have a history of intentional racial discrimination, we have provided, for example, funds for bilingual programs so that language minority children may have a decent chance to obtain a quality education.

It is also true, of course, that as school desegregation came to large northern cities, the Congress became more concerned about the scope of busing orders. As a consequence we have directed the Department of Health, Education, and Welfare, from time to time, to be cautious in requiring school districts receiving Federal funds to engage in excessive busing. On a number of occasions, we told HEW that busing should be the remedy of last resort.

Busing as a last resort is not a novel doctrine. The Federal courts have for years required busing only when no other method existed to remedy the intentional and deliberate segregation of the schools by public officials.

For this reason, I firmly believe that the proponents of this amendment have overstated dramatically the nature of what they perceive to be the problem. Court-ordered busing has been limited in scope. The Supreme Court, in an opinion by Chief Justice Burger in the Swann case, held that the scope of the remedy cannot be broader than the nature of the violation. The Federal courts have followed that direction. They have used busing only as a last resort when other desegregation tools were inadequate to eliminate intentional racial discrimination. And indeed the available data supports that observation.

Of all busing done in this country to transport children to schools, only 5 percent of it, let me underscore that, only 5 percent of it, may be attributed to court ordered busing. That is, 95 percent of the busing of schoolchildren in this country is undertaken for purposes wholely unrelated to desegregation.

The reason for that is simple. In the early part of this century, educators recognized that one room school houses were inefficient and could not provide quality education for their students. As a consequence, boards of education across the country, except in those areas where racially segregated schools were maintained, began consolidating schools. In order to have a school with enough students to achieve the benefit of consolidation, the pupils had to be bused to the school. Indeed the bus was viewed as beneficial because it carried students safely to a distant school. The school bus served admirably the goal of quality education.

That is the reason why approximately 60 percent of all children in this country go to school on a bus, and why 95 percent of busing is totally unrelated to school desegregation. When seen in this perspective, busing becomes not the dragon of quality education, but rather its Saint George. This amendment would effectively deny the opportunity for minority students to receive that chance for quality education which white children have. This amendment does not condemn busing per se; it only condemns busing undertaken to provide minority school children with equal educational opportunity. And that is its real evil.

I should note too that the courts, in addition to viewing busing as a remedy of last resort, have also considered it a temporary measure. In some school districts busing has been reduced through creative educational programs designed by local school boards to deal with racial integration. The artful location of newly constructed schools, for example, frequently accomplishes integration so that busing may be reduced or eliminated.

Busing is also temporary in the sense that other remedies are being pursued, sometimes not as vigorously as they should, to achieve racial integration. The distinguished chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights and I have introduced a bill which would improve enforcement of the Federal Fair Housing Act. I hope that all Members of this House who so ardently support this amendment will favor that bill as a viable long-range alternative to busing.

I also hope that this House will approve programs to provide employment opportunities for inner-city minorities so that they may acquire the financial means to choose, if they wish, to move to white areas of the metropolitan areas, a process that surely would produce more integration in the schools than we presently have. One of the goals of busing is to provide minorities with better educational opportunities which will lead directly to better jobs. Equality in this Nation is dependent upon equal educational opportunity.

That is the meaning of the Brown decision and the long struggle in the Federal courts over the last 25 years to implement that decision. Too many blacks and other minorities remain separated from the mainstream of the social and economic life of this Nation. Too many have unequal educational and employment opportunities.

Forty-five percent of black teenagers are out of work because they have neither the educational background nor job skills to qualify for meaningful positions. Better jobs will inevitably mean a wider range of housing choices which will result in more school integration.

With the indulgence of the House, I would like to make one last point regarding the scope of this amendment. It would, as we all know, forbid the courts from ordering busing of schoolchildren on account of race, color, or national origin beyond the school "nearest to the residence" of such student. But that broad prohibition would also apply to desegregation plans developed and implemented voluntarily by school boards around the country. There are districts where local school officials, recognizing the inequities of the past, have undertaken voluntarily to integrate their schools.

Many years ago, the school board in Princeton, N.J., voluntarily developed the so-called Princeton plan to integrate public schools by pairing one white school and one black school. Even that famous, but modest voluntary desegregation plan would be outlawed by this sweeping amendment.

Much of the discussion of this amendment has focused on concerns over excessive busing. But this so-called "antibusing" amendment reaches far beyond forbidding the busing of students pursuant to a desegregation plan. The amendment says nothing about busing. The critical language is that no student "shall be compelled on account of race, color, or national origin to attend a public school other than the public school nearest to the residence of such student." Those words would forbid any desegregation plan, even where students could walk to the next closest school, for example.

In many school districts students live within easy walking distance of more than one school serving their grade level. Under this amendment, the school board or the court, under a plan to integrate the schools, could only send that child to the school closest to his or her home even though the next closest school might be equally convenient. In fact, it should be noted, in some district "feeder" patterns for junior or senior high schools coupled with residential patterns sometimes make it physically impossible for every student in the district to attend the school nearest his or her home.

We do not have the data, and the proponents of this amendment have given us none, which would in detail tell us to what extent this amendment would upset assignment patterns which must be made in part because of physical capacity of the schools and in part "on account of race, color or national origin." The proposed amendment indiscriminately sweeps aside any such distinction and refinements and broadly prohibits assigning any student beyond the nearest school.

Furthermore, many districts have been implementing desegregation plans for many years and students both white and minority have developed expectations of where they will be going to school. Friends have been made and school affiliations have arisen. Upon ratification, this amendment would upset countless attendance patterns and numerous expectations of individual students and parents. The proponents of this amendment have not told us how extensive these dislocations will be. If they criticize existing desegregation policy as unduly disruptive, which they have, they bear the heavy burden of assuring this House that their amendment would have a significantly lesser impact on existing school attendance patterns. This, the proponents have not done; they have not yet met their burden.

It is true that busing does cause some dislocation of white and minority students who might otherwise walk to the school nearest their homes, although that model of education is not really as prevalent today, as I noted earlier, as some would have us believe. But that is the price all of us must pay to eliminate the intentionally and deliberately racial practices of the past.

To be sure, neither the white child nor the minority child and perhaps not even their parents are to blame for school desegregation. But if we are to provide quality education for all schoolchildren, I do not know how else we can do it. If each of us does not share at least some part of the burden of desegregating schools, then the deleterious effects of school segregation will continue to be borne alone by minority children. It is wholly inconsistent with any sense of moral right that the full weight of racial injustice should be placed solely on them.

And what if we were to pass this resolution? It would be submitted to the States for ratification, and, if approved, would become a part of the fundamental law of the United States. A vote today for this resolution is a vote to include this amendment in our Constitution. That is a very grave step. For if it becomes a part of our constitutional fabric, it will, of course, take its place next to the other amendments. It will stand on equal ground with the first amendment, which guarantees freedom of religion, and of speech and of the press. It will stand with the fourth amendment, which protects all persons from unreasonable searches and seizures. And it will stand with the 13th amendment which forbids slavery and other forms of involuntary servitude.

Do we really believe that this amendment deserves to be enshrined in the Constitution along with those magnificent expressions of individual liberty and dignity? And when the school children of this Nation ask us whether this proposal is cast in the same mold, what do we tell them? When they ask whether this amendment will advance liberty and equality as the other amendments do, what shall be our response? Perhaps we can say "Yes, it is true the first amendment states that Congress shall make no law establishing religion or forbidding its free exercise, and that Congress shall make no law abridging the freedom of speech and of the press. But this amendment would give Congress the power to make any laws it wishes to maintain the segregation of schools on the basis of race." Is that what we want to tell these schoolchildren?

And what if they should ask us how this proposal relates to the fourth amendment? What shall we say? "Yes, the fourth amendment gives you the rights to be secure in your home free from governmental intrusions without probable cause. And this amendment will now give white students the right to be secure in their schools, free from intrusion by minority children."

And what will we say when these pupils ask us about the relationship of this amendment to the 13th amendment? Perhaps we can respond by pointing out that the 13th amendment freed black people from the bonds of slavery so that this amendment could chain their great-grandchildren to a schoolhouse door. That in my judgment, is what is before us today. The message this amendment sends out across the land to every minority child is simple: we do not want you to go to school with white children. That is it, short and to the point.

In the whole history of this country, we have never used the amendment process to retreat from a prior commitment to liberty and equality and freedom. It is unthinkable, in my mind, that we should begin now to use the amendment process to restrict rather than expand individual liberties, to enforce racial segregation rather than eliminate it. I cannot say in words strong enough how tragic that would be for our Nation.

It should be remembered that this amendment would undo much of the progress that has been made since the Brown decision in 1954, in bringing black, white and brown schoolchildren together. The words of Justice Warren in the Brown decision, bear repeating today:

> We came then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors may be equal, deprive the children of the minority group of equal education opportunities. We believe it does. To separate them from others of similar age and qualifications because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.

At least since 1954 persons of all races have worked hard to achieve racial equality not only in public schools, but in a wide variety of places and activities. Complete equality of opportunity, in housing, in education, and in employment, has by no means been fully accomplished. But we have taken the first important step by ridding our laws of officially sanctioned racial segregation. Passage of this amendment would be a giant, irreversible step backwards. This Nation cannot afford that; it cannot afford continued racial division.

When the dust settles over this or any other measure which would reverse progress toward a more just society, we must always remember that we must still live and work with each other, black and white together. We must still try to do the best we can to make equality a reality, and not merely an ideal. In a multiracial society such as ours, I do not see how we can have it any other way. A Nation cannot long survive racial hostility, antagonism and separation. That is the lesson I thought we had learned from our own history and a lesson South Africa is yet to understand. This amendment not only ignores that lesson of history, but defiantly would reopen the wounds and scars of racial strife. That is why I will vote against it today, tomorrow, and forever.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I must oppose both the motion to discharge the Judiciary Committee and House Joint Resolutions 74.

Let me state at the onset that I do not support forced busing as a means of achieving racial balance in our Nation's public schools. During my tenure in Congress, I have supported amendments to restrict the authority of the Department of Health, Education, and Welfare to order and fund busing plans. I have spoken out against our reliance on busing to achieve equal educational opportunity. I have argued that busing alternatives, such as an expanded network of magnet schools, promise better results and certainly less divisiveness than forced busing.

Supporters of the discharge motion and the constitutional amendment argue that the American people are "fed up" with forced busing. They also point out that mounting evidence indicates that student achievement has not risen after mandatory busing's implementation in many cities and counties. I agree with both of these points.

Opponents state that the vague wording and retroactive implications of this amendment would throw the Nation's public school system and the Federal courts into a chaos of conflicting policy mandates. I again agree and believe that the attempt to clarify the amendment on the floor of the House under the severe time limitations of the discharge procedure will be woefully deficient. It is clear that important and nonbusing related student assignment prerogatives of local school officials will be affected by the amendments' broad charge that "No student shall be compelled to attend a public school other than the public school nearest to the residence of such student * * *."

It is evident that the lack of a comprehensive legislative record will severely hinder interpretation by the courts, especially in light of recent judicial history.

These pros and cons represent major and complex questions. However, in my view, they are overshadowed by the implications of the proposed amendment to the Constitution as a whole.

I do not believe that the Constitution should be amended to resolve busing and other questions of social policy preference. In the last few weeks, it has been pointed out that slavery was the only social institution specifically endorsed in the Constitution and the sale (that is use) of alcohol the only social activity banned by it. There are few sadder chapters in our constitutional history than these two.

In the words of the Prof. Lawrence H. Tribe of Harvard Law School:

> . . . our Constitution has endured as a source of unity rather than division largely because it has enacted no particular social or economic dogma and has gone no further than to define the structure by which we govern ourselves and to proclaim the most fundamental rights that government must respect.

Busing is an important issue of our day but to raise it to constitutional amendment status is folly. The ratification of this antibusing amendment could affect our future in ways we cannot now even imagine.

To protect the Constitution from social policy preference questions is also to protect it from the passions of an era. What if these constitutional amendments, which found their way into the hopper, had been passed and ratified.

To require a national referendum before Congress can declare war. This amendment was introduced in the year preceding our entry into World War I and was resurrected during the isolationist fervor of the 1930's. Could it have affected our mobilization for the major conflicts of the 20th century? Would it affect our defense planning in the nuclear age?

To prevent the annexation of noncontiguous territory to the United States. Several versions of this amendment were offered in the years preceding the Spanish-American War, obviously to prevent the annexation of Cuba. What affect would this have had on our subsequent involvement in international affairs and World Wars I and II? Would it also have made statehood for Alaska and Hawaii more difficult?

To define treason against the United States to include any incitement, word or deed for the establishment of a new form of government. Introduced in 1922, this product of the Palmer raids and the post-World War I red scare would have made this McCarthy era, among others, a bit more exciting.

To prohibit lotteries. Perhaps the State financing of public schools was much easier when this amendment was introduced in 1892.

To deny the Supreme Court the right to declare unconstitutional any act of Congress. Introduced in 1917, the author of this amendment was willing to alter a fundamental "check" in our Federal system because of temporal legislation frustration.

To apportion Representatives in Congress by vocation. Lawyers must have been particularly unpopular in 1921.

Numerous amendments to prohibit polygamy were introduced in the 19th century. In 1911, it was thought that a constitutional amendment was the only way to empower Congress to protect migratory birds, and in 1923 someone thought that the way to regulate the flow of immigrants to this country was to do away with naturalized citizenships.

While the busing issue can not and should not be taken lightly neither can the purpose and meaning of the Constitution. The late Yale Law School Professor Alexander Bickel put it this way in 1972:

> A constitutional amendment dealing with busing would be preposterously out of place in comparison with the momentous structural and substantive provisions with which the rest of our constitution, after a fashion proper to a constitution, was written to deal . . . We must not set foot on the road to converting our constitution into a code of detailed regulation, dealing with myriad passing grievances, after the fashion of so many state constitutions, which are then every so often scrapped whenever it seems advisable to make a fresh start.

We would be ill-advised to vent our frustrations about busing on the Constitution. Like many of the proposed amendments I mentioned, the urgency of the day may not stand the test of time and can be resolved in alternative ways.

I voted against the discharge motion and will vote against the amendment itself because of this basic reason.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. Mr. Speaker, I rise in opposition to House Joint Resolution 74, the proposed constitutional amendment to prohibit school busing.

It is impossible to craft a constitutional amendment in the 1 hour and 20 minutes permitted under the discharge petition process.

The sponsor of House Joint Resolution 74, tacitly at least, has acknowledged this in recognizing—belatedly—that the original wording of the resolution did not accomplish his stated goal. So, later in today's proceedings, he will accept a substitute for the original language of House Joint Resolution 74.

May I say again, this is simply not the way to write a constitutional amendment. It does not reflect the care, thought, and deliberation which should characterize the process which seeks to amend the basic charter of our land.

I oppose forced school busing. It can have—and has had—a disruptive effect on communities across our Nation. Sometimes it does not enhance the learning process of the children. And, I believe it should only be a last resort of the courts to desegregate a school system.

Yet, there are situations where this "last resort" remedy must be used to desegregate an illegally segregated school system. The proposed constitutional amendment, as I read it, will prohibit even this use of busing.

The amendment, in my judgment, if adopted, would also prohibit the use of voluntary alternatives to school busing. Such programs are outlined in H.R. 3227, the National Educational Opportunities Act, which I have cosponsored along with Congressmen Richardson Preyer, Morris Udall, and Lee Hamilton.

H.R. 3227 would allow local school districts to carry out new and innovative approaches to achieve quality education in a desegregated setting.

Among these approaches are magnet schools—where students would be drawn from all over a school district to participate in special education and vocational programs—and paired or clustered schools—where certain schools would teach only specific grade levels, and all children in the school district would attend the school reserved for their age groups.

I was particularly pleased to hear my distinguished colleague, Chairman Carl Perkins, dean of the Kentucky delegation, a few moments ago announce that hearings would be held by his Education and Labor Committee on the Educational Opportunities Act.

The bottom line here, Mr. Speaker, is desegregation. The best approach to desegregation is through voluntary action of the local school district. And, as I have stated already, voluntary programs—as provided for in H.R. 3227—would also fall victim to the proposed constitutional amendment.

In the final analysis, Mr. Speaker, until the day arrives when all of our children have an equal opportunity for a quality education, I cannot, in good conscience, vote to prohibit the use of one means—a last resort means—to achieve this salutary goal.

I hope the House does not support House Joint Resolution 74.

Mr. RODINO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. Spellman).

Mrs. SPELLMAN. Mr. Speaker, I oppose busing, but I rise in opposition to this amendment.

Mr. Speaker, thank you for this opportunity to address the House on an issue of intense interest and vital concern in virtually every corner of our Nation today. The issue, of course, is busing and I stand before you as a former teacher who knows all too well the effect of any kind of schoolbusing—racial or otherwise—on a community, on a school, and on an individual student. I stand before you as one who early learned that busing children out of their communities, for any purpose, is simply not conducive to good education.

As an educator, when I had a youngster with a problem in my class, I worked not just with the child but with his parents and family as well. That was the only way to really help. And when the parents lived in a faraway community—far from me and the school—working with them became infinitely more difficult. A disservice was inflicted upon the student.

It was this understanding of the disruptive, counterproductive effect of schoolbusing that caused me, when black children in my community were being bused across the county to black schools in the early 1960's, to speak out and, successfully, to garner the support which brought it to an end. And it was this same personal knowledge, when white and black children began to be bused in the same community in the early 1970's to achieve racial balance, that caused me to oppose busing again.

So you see, I have always opposed busing, not based on any racial prejudice but based on educational needs. At the same time, since court-ordered busing has come to my home area, I have seen that busing not only is counterproductive from the point of view of good education but from every point of view.

Before forced busing came to my county in 1973, we had six schools which were predominantly black. Today, 6 years and hundreds of thousands of bus miles later, that county, Prince George's County, Md., has 8 virtually black and 20 more which are predominantly black schools. Overall enrollment has plummeted and the percentage of segregated schools has risen steadily as both white and middle-class black families have fled to areas that were not suffering court-ordered busing. Make no mistake, black parents also want their children to attend schools in their own neighborhoods.

Today we have children of both races being bused out of integrated communities to schools that may not be as racially balanced as the students' own neighborhoods. I defy anyone to show me the logic in that. They cannot attend schools with their neighborhood friends although the schools would automatically be integrated by the neighborhood composition. Instead they are bused to far away schools. Sheer idiocy.

So while my opposition predated court-ordered busing in Prince Georges County, it has been reinforced by the utter failure of the busing program there and elsewhere around the country.

What makes this situation all the more disheartening is the realization that busing is not needed to provide the very best in education. There are alternatives to busing that long ago should have been debated and discussed. They have not been and we in this House are very much to blame. There are many here who have preferred not to notice, who have wanted not to get involved, not to speak out on an issue as troublesome as this one. As a result, the busing problem has been smoldering under the surface, while Congress as a group virtually ignored it. This "hands-off" policy has kept other approaches, that long since might have replaced forced busing as a means to achieve quality education, from being proposed and debated. In essence, our inaction has served to perpetuate the problem.

Mr. Speaker, for all these reasons—my personal opposition to busing as a hindrance to quality education, my personal observation of the utter failure of the busing program in my own community, and my discouragement over the lack of attention this issue has received from Congress—I have repeatedly signed the discharge petitions in opposition to busing.

In hindsight, I am extremely pleased that I have helped bring this amendment to the floor for discussion. For regardless of the outcome of today's vote, the Mottl amendment has gone a long way toward eliminating at least one of my three major concerns on the busing issue.

Since the necessary 218 signatures were obtained, the Mottl amendment has stirred some intensive debate over busing, the very kind of thought-provoking debate that I referred to earlier when I said full discussion of this issue has been sorely lacking for many years.

And this debate has already prompted two very encouraging developments for those of us concerned about the school busing problem. First, the House Committee on Education and Labor has announced it will hold hearings on the National Educational Opportunities Act, which would provide funds to State and local agencies for planning how to reduce racial isolation in schools. Sponsored by the gentleman from Indiana, Representative LEE HAMILTON, the gentleman from North Carolina, Representative RICHARDSON PREYER, and the gentleman from Arizona, Representative MORRIS UDALL, this bill is the first of the kind of legislation which will set the stage for investigating alternatives to forced busing. The announcement that the Education and Labor Committee will hold hearings on this bill is a major step forward for those who have been seeking imaginative routes to provide the best in education for all children. I cannot tell you how pleased I am that this measure will now be getting a hearing.

The second encouraging development is the decision of the distinguished chairman of the Judiciary Committee, the gentleman from New Jersey (Mr. RODINO), to undertake a major study of all the school districts which have busing programs, to analyze the successes and the failures. That such a study is being undertaken is extremely heartening. I strongly suspect that the overwhelming majority of communities which have been subjected to forced busing have reached the same conclusion as so many of the residents of my own community. That is, that far from decreasing racial isolation, forced busing heightens it.

The debate on the Mottl amendment has also brought other important facts to light and, in good conscience, I cannot ignore these developments any more than I can ignore the ones mentioned above. I am specifically referring to the opinion of many lawyers and constitutional scholars that the language of the amendment is unfortunate in many respects. Even an expert brought in to defend the amendment has conceded it needs a considerable amount of overhauling. Virtually everyone agrees the amendment, as originally written, simply does not do what the drafters intended it to do. It would prevent school boards from adjusting the pupil population in the event of overcrowding; it would make it impossible to deal with special education for handicapped students. And it would even require that children be carried across a river to reach the nearest school rather than ride to one a half block further away.

New language is offered here today to take care of some of these shortcomings. And if this were a bill before us, I would gladly accept the substitute language and vote for the bill. But this is not a simple item of legislation which we can reconsider promptly if it turns out to be defective. This is the language which will become an amendment to our Constitution.

It should be drafted with the greatest of care; it should be considered with the utmost caution. Every word, every comma should be agonized over. This is one of the most serious undertakings facing this body.

Unfortunately, scrutiny of the substitute language must be limited to a heartbreaking few minutes. How can any responsible legislative body make so important a decision in so short a time?

Just recently, in my country, in the courts, a man's life hung in the balance over the absence of a comma in a statute. The conscientious judge pored over many, many grammar books to determine the effect of the missing comma before passing sentence. The life of that man was spared by a missing comma.

When we are dealing with something as vital as a change in our 190-year-old Constitution, I think we must err on the side of caution if we are to err at all. Quite simply, it would be wrong to go forward with a poorly written amendment today, only to see it come back to haunt us later on.

It is primarily for this reason that, despite my opposition to busing and the many positive things I see in the Mottl amendment, I myself will be voting against it today.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise in opposition to the resolution.

Although this is one of the most emotionally charged issues that this Nation will face, this resolution has been rushed directly to the floor. By the use of a discharge procedure, a full and open debate at the committee level has been avoided. It is a serious error and dangerous precedent to allow an issue of such importance and controversy to reach the floor without adequate time for debate and reflection. In fact, the language of the amendment has been revised only in the last 3 or 4 days. Action by the full House on this resolution may undermine and radically change the very fabric of the rules and proceedings of the House. If this motion is approved, we only serve to encourage these kinds of motions on other controversial issues in the future.

And by use of this procedure, debate on this most heated issue is limited to 1 hour, and controlled by the Member who moved its consideration. We are discussing today an amendment to the Constitution. It has never been amended by this procedure. Again, we are in danger of establishing another unsound precedent. Regardless of the substance or morality of the amendment, the Constitution has not historically, and should not, be used as a vehicle for legislative change. The Constitution establishes the basic principles of Government, and should not be amended periodically to reflect current or transitory social concepts.

Adequate time has not been given for complete consideration and deliberation by constitutional experts on the final effect of this amendment. This is certainly sufficient reason in itself to at the very least delay consideration. However it is obvious that by adoption of this amendment the equal protection clause of the 14th amendment would be jeopardized, and the very principle of equality eroded. Action on this resolution is particularly inappropriate in light of recent decisions by the Supreme Court. Last week's ruling in the Dayton and Columbus cases reaffirm the efficacy of broad busing plans for school desegregation. It is unsound to attempt to foreclose this option.

Busing may not be the ideal or in most circumstances even a desirable tool to achieve racial integration, but adoption of this amendment would deny its availability, even if there was broad agreement in a specific instance that it was the only method available to further the concept and ideal of equal access to equal education.

I strongly urge my colleagues to oppose the amendment.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Speaker, I rise in opposition to the amendment.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I am totally opposed to busing, but I rise in opposition to this amendment.

Mr. Speaker, I urge my colleagues today to vote to preserve the sanctity and the integrity of the U.S. Constitution, which has provided the political underpinnings and cohesiveness that has shored up our democracy and protected our freedom for over 200 years. It may be that, as Bismarck said, God protects babies, drunks, and the United States of America. But surely our Constitution has joined with Divine Providence to protect the liberties and freedoms which we cherish.

We must not tamper with the Constitution, we must not trivialize the Constitution. This noble document must not be demeaned simply because transitory events—no matter how emotionally charged—makes us unhappy with a particular line of Supreme Court decisions.

This amendment would make the grave error of writing into the Constitution a detailed enunciation of a particular social policy. As Justice Holmes stressed three quarters of a century ago, our Constitution has endured as a source of unity rather than a division largely because it enacted no particular social or economic doctrines, and satisfied itself simply with defining the political structures by which we govern ourselves and to protecting the most fundamental of human rights the Government must respond.

Prof. Laurence H. Tribe of Harvard Law School in abjuring us from departing from this wise precedent recalled that slavery is the only specific social arrangement that our Constitution has ever specifically endorsed and prohibition the only public policy which it has ever expressly sought to implement. So an antibusing amendment would be disastrous not only in view of the Constitution's mission but also in light of its history, by injecting into its structure specific public policy preferences on policy problems of the day.

Mr. Speaker, we should use this useful discussion of schoolbusing—an admittedly poor means of overcoming neighborhood segregation and achieving an education excellence—by reaching into the depths of our creative thinking to find ways to meet the challenge of unsatisfactory and unacceptable judicial adventures into compulsory schoolbusing. I am pleased that three of our most thoughtful colleagues, Congressmen HAMILTON, PREYER, and UDALL have offered us a bill to help find constructive ways in which the Congress can help local communities reduce racial isolation and increase education excellence and education achievement for all of our citizens. I look forward to the fruits of the Education and Labor Committees deliberations on that bill and fully expect to join a majority of my colleagues in helping make it law.

Mr. Speaker, for many Members this will be a tough vote—a true profile in courage—but a vote to support the Constitution in its current hour of travail—will be a vote which will do us proud as an institution—and a vote of which many of us will be proud for the rest of our lives. We must accept the challenge to find better ways to do what the Constitution says must be done: To make equality of opportunity a reality for all Americans. We must plumb the depths of our minds and spirits for the ingenuity and resourcefulness to accomplish this in ways that do not produce rancor and hostility, or pervert the Constitution. We must, all of us together, search for better means of promoting the social good than forced busing, but we must disdain tampering with the Constitution as we engage in that search.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I oppose the amendment.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I rise in opposition to the amendment.

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I am totally opposed to busing. I think it is counterproductive, but I am opposed to this amendment.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, I oppose the amendment to prohibit the busing of students beyond their neighborhood schools.

The proponent argues that the Constitution should be amended because it is needed to preserve neighborhood schools; that court ordered busing is divisive; that most Americans oppose court-ordered busing; that mandatory busing programs have caused "white flight" from the central city resulting in resegregation of the school systems; that mandatory busing causes a financial drain of local school systems; and that the procedure compounds the national energy crisis. In my view, these are all legislative issues.

First, I object to House Joint Resolution 74 because the Constitution by its very nature is not intended to ebb and flow with the tide of public opinion. It is not an instrument of legislative policy. The Constitution is a statement of principles by which the Nation shall be governed, the fundamental law of the land.

If this proposed amendment should be included in the Constitution it would declare that the right of the child to attend a neighborhood school is superior to the principle that all Americans are entitled to the equal protection of the laws. Thereafter, the congressional process would be swamped with highly controversial, divisive issues cloaked in the frock of constitutional amendments. Adopting this amendment would establish a new precedent in American history—that of trying to solve difficult, painful social problems by amending the one document that has kept the Nation unified for over 200 years.

Earlier, during debate I was struck by the remarks of the gentleman from Michigan who suggests that Members of this body would rather pass this cup than to drink from it. He suggests that the busing question has left a bitter taste in the mouths of Americans.

I say that the question of busing has been resolved. In fact, my home State of Arkansas is a model for the rest of the Nation to follow. I can see no value in resurrecting this issue. To continue this debate would cause more division than to pursue the present course of action.

As a footnote, there is the specious argument that the Constitution should be amended to prohibit busing because it would save energy. I, too, am an ardent proponent of energy conservation. However, the Constitution is hardly the proper forum to institute mandatory conservation measures.

Mr. MOTTL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. Philip M. Crane) for the purpose of debate only.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield to my distinguished minority leader.

Mr. RHODES. I thank the gentleman.

Mr. Speaker, I rise in support of the amendment.

Mr. PHILIP M. CRANE. Mr. Speaker, I would like to correct one misimpression that may have been left with this body; that is, that there is no Presidential candidate in this Nation who is opposed to forced busing to achieve racial balance. I am, along with the majority of the Members of this body, along with the majority of the American people.

Further, I would like to correct a misimpression that desegregation and integration are synonymous terms. I understand the experience that our distinguished colleague from Ohio (Mr. Stokes) referred to. When I was in basic training and endeavored on a 3-day pass to persuade a black friend to come to the city of St. Louis and spend the weekend, he demurred. I could not understand that, as a Chicagoan, because we had broken down arbitrary segregation and discrimination in public facilities against blacks. But at that time that was not the case, apparently, in the city of St. Louis. He knew that and I did not. I could not understand why he would not avail himself of that opportunity to spend a weekend together, but I learned the reason when I got back to base.

That is wrong. That is the issue my distinguished colleague from Connecticut is addressing when he distinguishes between right and wrong. That is the injustice, and it was solved by desegregation. That is the injustice addressed in the Brown case. But, Mr. Speaker, to argue that the question of forced busing to achieve racial balance is an issue to be decided in the same moral light is incorrect. I submit further that we cannot say that in the Constitution there is language that prescribes forced busing to achieve racial balance as a means of eliminating discrimination that blacks have suffered through the years, so that is not the issue we are deciding here; nor is the issue we are deciding the question of ratifying an amendment to the Constitution.

We are in the process of potentially reporting out a constitutional amendment. The various State legislatures of this Nation will in turn debate and be forced to ratify it. It requires a three-fourths majority of those States to ratify such an amendment. That is designed to guarantee the protection of the rights of the minority.

I think that when one talks about our system of government and suggests that we can ignore, as I have heard in the course of this debate, the will of the majority in the country—he challenges the premises underlying republican government. And keep in mind that we are talking about the will of the majority of blacks as well as whites. A Harris poll in 1976, our Bicentennial year, posed two questions to Americans: First, they were asked whether they were committed to the ideal of racial integration. Seventy-seven percent answered in the affirmative. But, when asked whether they favored forced busing to achieve that end, the majority of blacks, 51 percent to 38 percent, were opposed, and 85 percent of the whites were opposed while only 9 percent favored forced busing.

Mr. Speaker, I urge the support of this amendment.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Rangel).

Mr. RANGEL. Mr. Speaker, I rise today in opposition to House Joint Resolution 74, a resolution which proposes an amendment to the constitution to prohibit school busing. This resolution, authored by my colleague, Representative Ronald Mottl of Ohio, threatens to destroy the progress that all minorities have made in education since the Brown against Board of Education decision. The resolution if passed, will lead to a nationally divisive ratification struggle which this Nation can ill afford. I believe that this amendment should be soundly defeated.

Civil rights leaders have worked long and hard to bring about equality in the field of education. When the Supreme Court of this land struck down the doctrine of "separate but equal," that decision was the result of the concerted actions of many individuals concerned about the quality of education offered to all children. That decision was proclaimed as the catalyst that would help insure this basic concept. If this resolution passes, a significant step backward would have been taken.

Our Nation is in the midst of a severe economic crisis. A large portion of those individuals who are feeling the crunch brought about by this crisis are the poor and the minorities. A quality education offers this segment of the population the potential of escaping from the vicious cycle of poverty. If this resolution were to be passed, poor children would be denied the opportunity to receive quality, integrated education.

Aside from the public policy argument advanced against this resolution, another cause for concern relates to the wisdom of dealing with this issue as part of the Constitution. Our Constitution deals with fundamental principles and provides protection against abuses of fundamental rights. Relatively, ours is still a "young" nation, yet our Constitution is the oldest of its kind among the world's democracies. Amendments to it should be adopted only if they meet the high standards of the original documents and the Bill of Rights. Most amendments heretofore have met the test, one did not, and it was repealed a short time thereafter. I believe that the proposal by the gentleman from Ohio does not meet these standards.

I urge my colleagues before voting on this amendment to look very carefully at this resolution because of the sensitive nature of this amendment. Rewriting the Constitution is a task that should be undertaken with the greatest degree of caution. It is my opinion that this resolution fails to meet the guidelines established by our Founding Fathers for amending the Constitution and therefore should be defeated.

Mr. MOTTL. Mr. Speaker, I yield 1 minute for the purpose of debate only to the distinguished gentleman from Indiana (Mr. Evans).

Mr. EVANS of Indiana. Mr. Speaker, I rise in support of the resolution offered by the gentleman from Ohio. The majority of the American people are opposed to their children and their tax dollars being used for an ill-conceived, ineffective social experiment that simply does not work.

The American people have the hope today of having their views voiced through us, their elected Representatives, on this issue. The only reason busing is occurring is because the judicial branch of Government has forced these Americans to be participants in a venture they do not understand, they do not choose to participate in, and which they do not feel is successful in achieving the goals set forth by the courts. The American people have a right to be heard. That is the purpose we are here today. Congress must face this issue once and for all. We owe that to our constituents who sent us here.

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Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Speaker, very few of us have talked about the implications of this amendment. One would be catastrophic upheaval to those districts that have complied with school desegregation. Another would be the cost of emotional upheaval would be gigantic if the amendment is adopted. If the amendment is adopted, one of the ways school districts could be ordered to comply with the Brown decision would be to close neighborhood schools and open large centrally located ones, which would be catastrophic in the end to neighborhood schools in this country.

The third is it would completely deny schools the opportunity to bus children for educational purposes. I don't care for busing but this amendment's long range implications could destroy local school districts' ability to control local schools. That is unacceptable—much more unacceptable than the current situation. Because of the practical aspects, I urge Members to vote down this amendment.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from the Virgin Islands (Mr. Evans).

Mr. EVANS of the Virgin Islands. Mr. Speaker, I rise in opposition to the Mottl amendment. The issues involved here are complicated and include social, educational, as well as constitutional, issues. I shall leave the constitutional issues, with their ramifications and implications, to the constitutional scholars. I shall devote my remarks to the gut issues involved here.

The issue is not busing. Ever since the State of Massachusetts in 1869 passed the first enabling legislation to provide transportation for public schoolchildren, some form of transportation has been provided, and in recent decades, of course, it has been busing. Today, over 20 million schoolchildren are bused every day, and more than three-fourths of children in the junior high and senior high schools. More than 95 percent of the busing that occurs is done for reasons other than creating racial balance.

It is of interest at this point to note that most of the impetus given busing in the past has been that of maintaining racial segregation in the school system, and the actions of Congress were conspicuous by their absence in that regard. Less than 5 percent of the busing is to create racial balance. Thus, the arguments about cost of busing, loss of time, and the inconveniences thus resulting are meaningless since even if this amendment were to pass, 95 percent of the busing which is now done would continue, and only 1 of every 20 school buses would be retired.

The issue is much more serious. When people protest how strongly they favor civil rights and how vehemently they oppose segregation and then seek to remove one of the only, if not the only, remedies, however imperfect, without offering viable alternative, it causes serious concern. The argument that a majority of people are opposed to busing is also meaningless. The segregated school system is a cancer in America and must be treated by what medicine or remedies we have at hand. People usually do not like medicines in the first place. They usually do not taste good. Second, they cost money. Third, they frequently have side effects, and fourth, they often fail to produce dramatic results. All this can be said of busing. But, just as we continue to treat cancer by surgery and radiation and whatever means we have at hand, however imperfect, so must we continue to treat this cancer of segregated schools by using busing until something better comes along.

Whatever the motives of proponents of this amendment, and I question them not, it is quite clear that the failure to offer a workable alternative would mean that the effect of successful passage of this amendment would be to reimpose the segregated school system. Given the segregated housing patterns which now exist and the compulsory attendance at neighborhood schools which this amendment would insure, the previous State de jure segregated school system would then be replaced by a national school segregation system imbedded in concrete in our Constitution.

I urge my colleagues to defeat this amendment.

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. Collins) for purposes of debate only.

Mr. COLLINS of Texas. Mr. Speaker, this constitutional amendment is essential because it will mean quality education for America. From the time that forced schoolbusing came into the national picture, the student achievement tests have gone down every year. The SAT's for high school seniors reflect the total learning level and these SAT grades have dropped from a total of 973 to 879. Busing tensions have lowered the quality of education.

A mother was crying in telling me about what busing meant to her youngster. He was 2 minutes late for his school bus. It had left him, so he spent the entire day on the streets. She asked me why he could not walk to school in his own neighborhood. That is what busing is about. Why can not the youngsters of America walk to school in their own neighborhood?

Mr. Speaker, education for the youth of America can make its most progressive step forward. Congress has before us the opportunity to improve and strengthen quality education for all America's students. We will let all America vote on whether they want to continue court ordered forced school busing. In approving this constitutional amendment, we will give the American people an opportunity to speak for themselves.

There are three basic issues before the House. The most important is quality education. From the day the courts mandated forced school busing in order to achieve racial balance, the student achievement tests have gone downhill. Tense and tired students learn less.

When the educational reports for Americans across the land were totaled up, the SAT grades continued to slide downhill. Busing hurts both black and white students. SAT grades have gone down every year from 1964 to 1978 from a total of 973 to 879. Reading and verbal have declined 46 points while math is down 30 points on student achievement tests for high school seniors.

Forced school busing is in direct violation of the Civil Rights Act of 1964. That act prohibits, and I quote:

> The assignment of students to public schools in order to overcome racial balance.

The act forbids, and I quote:

> An official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another in order to achieve racial balance.

So those of us who firmly believe in the civil rights law will be able to provide clarity for the courts through this constitutional amendment.

And the third issue is the need for sacrifice from all Americans to conserve energy. I surveyed nine metropolitan markets to determine the busing impact on transportation. This survey of these metropolitan areas showed busing for racial balance has increased 96.9 percent since 1970. Take Boston where no students were bused in 1970, but now 54.2 percent of the Boston students are bused. It is interesting to note that the liberal State of Massachusetts approved by a vote of 3 to 1 margin an antibusing referendum. In Massachusetts, they cannot understand the Court's ruling requiring unnecessary diesel and gasoline for buses, and this crosstown busing results in lower academic standards for students.

School busing has so many limitations. Parents report how difficult it is to reach a child across town if they become sick and need to go home. If a child is 2 minutes late and misses his school bus, he will be out of school and wander on the streets all day. Parents realize that parents' interest is the most important element in a child's education, and yet they miss PTA and school activities that are across town. Children want to play with their school friends when they come home, as this gives life continuity. And children do better with the exercise of a walk to a neighborhood school, instead of an hour's tiring crowded bus ride to school.

This amendment will give America in all its 50 States the right to speak on this essential quality education issue. How can any of my colleagues believe that we should deny the citizens the right to vote on this most important constitutional amendment?

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. Wolff).

Mr. WOLFF. Mr. Speaker, I was No. 8 on the Mottl discharge petition. I also signed the discharge petition introduced in the last Congress.

Mr. Speaker, for the 15 years that I have served in this House, I have consistently voted against Federal funding of forced, interdistrict busing. That concept has not and will not achieve integration in a harmonious manner nor will it achieve our goals of quality education for the disadvantaged or educationally deprived.

I signed the discharge petition to bring the Mottl amendment to the floor of the House so as to focus attention on the busing problem, the failure of the Congress to examine this question in depth, and to take steps to remedy the inequities we all know exist.

I submit to this body that there are legislative procedures not fully explored; there are legislative remedies that have not been implemented; there are concepts that remain untried; and that our true goal must not be lost sight of. What we seek to attain is quality education for every child in this great Nation of ours without undue hardship or dislocation of the lives of our young people in achieving this. I do believe in the neighborhood school—I moved to my present home because of the quality of the schools in my district and their accessibility to my children.

However, I cannot, in good conscience, proceed to initiate an amendment of the Constitution of the United States, a document I deem sacred, upon 1 hour of debate.

Even more disturbing to me, as a legislator, is the fact that this amendment is, by its own author, admittedly defective.

This is no way to redress the grievances existent. Affording at this time, individual Members of the House of Representatives, 1 minute or 30 seconds to debate their views on this effort to amend the Constitution of the United States must clearly indicate to all concerned that this cavalier approach is precipitous, ill-conceived and was never in their wildest dreams, envisaged by our Founding Fathers as an acceptable manner by which we deal with changes to our cherished Constitution.

An accelerated procedure of this type is unworthy of our Constitution. What sort of similar frivolous efforts could we foresee in the future, if this procedural "short cut" is deemed acceptable by this body?

Will the orderly legislative process, so successful for over 200 years, now be bypassed?

Will we be called upon to implement the amendment of our Constitution so as to accommodate narrow interests and political expediency? What will be the next attempt to fragment the basic principles on which this Nation was founded after but 1 hour of debate?

Will we be called upon, by constitutional amendment, to implement such far fetched ideas as alternate side of the street parking or to prohibit Sunday baseball or even require the wearing of blue jeans on Saturdays. Ludicrous? True, but that's the ultimate of possibility if we pursue this recommended course.

This proposed amendment would inject the further presence of the Federal "big brother" in every school district of this Nation.

But, today, we have made progress in attainment of our true goals.

Chairman Rodino has assured this body that his committee will deal with this issue with the care and deliberation it requires. In addition, we have been assured that the Education and Labor Committee will now hold hearings in depth on this important question. This is really what is required. This is what we have sought. And our constitutional process will remain intact.

It is for these reasons that I oppose this amending procedure and why I will continue to oppose forced interdistrict busing and why I believe we have undertaken a major step toward quality education for all.

Mr. MOTTL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky (Mr. Hubbard) for purposes of debate only.

Mr. HUBBARD. Mr. Speaker, as a supporter of equality of education for all children, and one who attended integrated public schools in Kentucky, I rise in support of a constitutional amendment to prohibit court-ordered busing of children attending schools. I believe it is time that we recognize that fuel-consuming busing has failed to achieve its intended goals. If there were court-ordered busing in each of the 50 States, there is no doubt that the opponents of busing and the supporters of this amendment would have the necessary two-thirds vote today in the House of Representatives. Yes, I urge my colleagues to take note of the fact that the most vocal and enthusiastic supporters of this amendment just happen to come from States where there is court-ordered busing.

To those who were shocked about the fact that 218 House Members have signed the discharge petition to enable this debate and vote today, keep in mind that this unusual approach would have been unnecessary if hearings had been allowed in this Congress of the people, by the people, and for the people, and opponents and proponents of court-ordered busing could have expressed themselves in the normal channels. But this particular resolution, House Joint Resolution 74, has not only been bottled up in this Congress, but, indeed, similar legislative attempts have been completely scuttled in years past. I urge my colleagues to seize this opportunity to call for an end to court-ordered busing.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN. Mr. Speaker, I thank my friend for yielding. Having been chairman of the Mechlenburg Board of County Commissioners during the first busing case of the Charlotte-Mecklenburg School System—Swann against Board of Education—I have opposed busing as long as any Member of this House.

After 11 years—not just 1 hour and 20 minutes—but 11 years of national debate on this issue, I remain convinced that no one has or should have a civil right or any other right to insist upon and compel someone else's child to be assigned and bused away from a nearby school to a distant school far across the county.

Judicial tyranny to the contrary notwithstanding, it is not a right, it is a wrong.

Now, I recognize imperfections in the language offered by my friend, the gentleman from Ohio (Mr. Mottl), and have discussed this with him. Who is to say there are no imperfections in other ratified amendments which have been interpreted so freely and differently over the years as the Supreme Court changes its opinion from time to time? Yet I commend my friend for his diligence in overcoming the refusal of the Judiciary Committee to bring before the House any better language or any language at all on this issue.

The overwhelming majority of the people I represent, who have endured the arrogance of court-ordered busing the longest, and who have done the best they could with it, remain opposed to it. This amendment or preferably with the Holt substitute should be adopted.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. Marks).

Mr. MARKS. Mr. Speaker, let it be known that there are some few Republicans in this Chamber who do appreciate that equal education opportunities for our black children is vital to our Nation's well-being, and who also believe that black children should not suffer the indignities suffered by their parents.

Mr. BAUMAN. Mr. Speaker, I demand the gentleman's word be taken down.

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The SPEAKER. The Clerk will prepare the remarks of the gentleman from Pennsylvania (Mr. Marks) and the House will hear them.

The Clerk will report the words.

The Clerk read as follows:

> Mr. Speaker, may I add that to use, as one of my colleagues used, Lincoln's name to promote the amendment seems to me to be the height of hyprocrisy.

The SPEAKER. In the opinion of the Chair, the gentleman from Pennsylvania made specific remarks concerning a specific Member of the House and his quote.

The Chair would refer to the use of the word "hyprocrisy" as decided by previous rulings in this House, and the Chair refers to the ruling of Speaker Rayburn, October 25, 1945. The reference in debate was by Representative Cox of Georgia to another Member:

> I was reminded that pretexts are never wanting when hypocrisy wishes to add malice to falsehood or cowardice to stab a foe who cannot defend himself.

Those words were ruled unparliamentary when specifically applied to another Member.

In the opinion of the Chair, the remarks of the gentleman from Pennsylvania are unparliamentary and not in order.

Without objection, the gentleman's remarks will be stricken from the record and the gentleman may proceed in order.

There was no objection.

Mr. MARKS. I do not care to do that. Thank you. I want the remarks to be on the record. Thank you.

The SPEAKER. The House has stricken the remarks from the record. Without objection.

Mr. MOTTL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. Ashbrook) for purposes of debate only.

Mr. ASHBROOK. Mr. Speaker, we have had an ongoing debate for more than a decade on the busing issue. I have been a part of that debate. What has happened over the time of the debate is a very interesting example of the ground rules we have had over this decade. The proponents of forced busing have virtually taken George Orwell's 1984 position. You know, George told us that war is peace, slavery is freedom, ignorance is strength. The ground rules inspired by the liberals and the media have been such that anything in the name of rectifying discrimination or segregation promotes freedom; anything that opposes their ideas promotes slavery; anyone who is favorable to their concepts, that is Americanism. If you are opposed to it that is racism. Somehow the pro-busing forces believe that by making things worse they are going to make them better. Above all, the busing forces tell us that their solutions are proper, constitutional, and final. Do not tamper with them. If they do not like the Constitution or court decisions, however, work to change it. In other words, by the ground rules they promote, they cannot lose.

You know, they have applied that standard across the board in and out of the Congress. We see it here today. We have seen it for years.

The Constitution is all right when it serves the purposes of the people who are promoting forced busing. But for the American people who do not agree with forced busing, if you turn to the Constitution, to change this disastrous social experiment, you are guilty of racism, according to this double standard.

Nonsense. The American people know better. They are not racists. This idea of telling the American people they do not know what is best for them, they are stupid, they cannot act in their own interests only divides and causes more problems. We know the ground rules. George Orwell gave them to and the proponents are following them. To paraphrase Orwell, racism in the pursuit of equality is proper. The American people know better and they will watch this vote very clearly.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, our debate today is rare in the House of Representatives.

For, following adoption of the Bill of Rights—which occurred when our Republic was established—we have amended the Constitution only 16 times; 16 times in 190 years.

That the Constitution has been amended so infrequently is testimony to the value, and, indeed, reverence, we accord it as our basic charter of government.

Mr. Speaker, as Members of the House, acting under the authority that article V of the Constitution gives us to propose amendments to its text, we sit today as trustees of the Nation's charter. We sit as guardians of all that has been accomplished by all those who have gone before us.

And how should we exercise that trust?

Listen to what another trustee of the Constitution said—what Abraham Lincoln said in 1848 while a Member of this House:

> As a general rule, I think we would much better let it alone. No slight occasion should tempt us to touch it. Better not take the first step, which may lead to a habit of altering it.

Mr. Speaker, it is ironic that the death of Lincoln himself gave impetus to the three amendments to the Constitution which have been our most direct and lasting attempts to modify through law the social fabric of our Nation.

But let us not forget that the 13th, 14th, and 15th amendments came in the aftermath of a great Civil War, a national upheaval not previously or subsequently experienced in our national life.

And let us not forget that our only other social experiment in constitutional change—the shortlived prohibition amendment—proved a failure.

Mr. Speaker, the amendment proposed by this resolution does not meet the test of having been carefully and deliberately considered, for no hearings have been held on it.

Nor, Mr. Speaker, does it even meet the test of technical viability, for on its face it would have the most bizarre and unintended results—its brush is so broad that it would even prohibit the transportation of handicapped children to schools equipped to meet their special needs.

Moreover, Mr. Speaker, the amendment to the resolution which has been proposed by the gentlewoman from Maryland, and which is intended to cure the apparent defects of the original language, has not only been the subject of no hearings but has actually been available to us for a mere 4 days.

Is this how we should amend the basic charter of our Government?

Is this how we should exercise our trust?

Is this what Lincoln would have done?

Mr. Speaker, I know that there are frustration and unhappiness among many of our citizens arising from problems associated with school desegregation.

But I know, too, that when we amend the Constitution we take in our hands the greatest of our national treasures, and that we had better handle it gently.

Mr. Speaker, adoption of this resolution is not the way responsibly to exercise our trust, however politically uncomfortable a "no" vote may be for some of us.

Democracy is not necessarily a comfortable arrangement, nor is service in this House.

Let us follow the advice of Lincoln on the Constitution: Let's "let it alone."

The SPEAKER. The time of the gentleman has expired.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, while the Members of this body are clearly divided in opinion concerning this controversial issue, I believe we will find ourselves in unanimous accord regarding one key fact: Seldom has such a hotly contested and emotional topic confronted the Congress, or the people.

This simple fact constitutes the primary reason for my vehement opposition to enforced busing: At a time when we should be striving in every way possible to promote, encourage, and implement cohesiveness and cooperation, mandatory busing of public school students is resulting in division and anger. The President has called for an orchestrated national effort, yet enforced busing is tearing neighborhoods apart and feeding fires of discontent. Traditional values, most notably the treasured concept of the neighborhood school, are being trampled underfoot as we pursue the foolhardy course of shipping youngsters miles away to attend schools which are strange and alien to them.

In studying the many "Dear Colleague" letters which have been circulated by proponents and opponents of today's constitutional amendment, I find that even the strongest advocates of continued busing admit one thing: Busing is unpopular; it has always been unpopular, and that lack of favor seems to be evenly distributed among our citizens. I would be extremely surprised to find one single Member of this House who was able to state sincerely that busing has not caused problems, that it has not kindled the dissension which is the last thing this Nation needs.

There are those who insist that a vote against enforced busing is a vote against desegregation. I submit that this is simply untrue, or at least it is untrue in my case. I shall cast my vote not against desegregation, but in favor of terminating a program which simply has not worked. Indeed, this practice has produced dispute, estrangement, and segregation on an even more fundamental plane. Prior to joining this Congress, I worked for many years in a concentrated attempt to develop alternative methods of achieving racial balance—magnet schools, voluntary busing, and open enrollment are examples of programs which may well provide the needed solution, a solution which court-ordered busing has failed to achieve.

Among those letters from colleagues I have just mentioned was one which I felt compelled to rebut. This particular correspondence stated that forced busing is not a primary cause of so-called white flight, and that the exodus from urban to suburban areas has occurred solely in pursuit of more luxurious housing. Having participated actively in that white flight, I am qualified to state that this statement is patently untrue.

Until 1975, my family and I resided contentedly in an urban home which we loved. Among the many benefits to be derived from living in that particular location was the education available to my six children. The neighborhood school just around the corner from our house, played a major role in my children's lives. It contribtued enormously to their character development; it was attended by their friends; it was secure, and it was greeted with enthusiasm. It afforded opportunity for parent involvement. Suddenly we were faced with the advent of forced busing, with the prospect of our children being transported to schools in neighborhoods where we did not wish to reside. The familiar, comfortable neighborhood school was to be taken away from them. In a family conference, we determined that only one course of action was available to us. If we wished to retain our freedom to choose the neighborhood in which we lived and in which our children received their education, if we sought to preserve that traditional freedom of choice, then we would have to sell our home, and move. To remain where we were would mean losing that freedom which we treasured highly.

And so we moved. That is what was done by the vast majority of those we knew who shared our concerns. That is what is still being done today, 5 years later, by younger residents whose children are only now achieving school age. Very few of these families abandoned the city in favor of improved housing—the great majority did so as members of "white flight," reacting with determination to preserve the values which they held dear through the somewhat drastic measure of relocating.

Enforced busing has been tried, and it has been found wanting. It is my understanding that a recent poll resulted in some 81 percent of both black and white individuals indicating their opposition to mandatory busing. While I would not presume to suggest that constitutional amendment be undertaken lightly, I firmly believe that, in this case, it is the only viable means of terminating an unwanted practice.

Again, let me stress that above and beyond all else it is the divisiveness which I find repelling. We cannot achieve cooperation and cohesiveness in a climate of altercation and resentment. We cannot expect a unified national effort if our citizens must uproot themselves to achieve freedom of choice. Certainly, we cannot restore healthy neighborhoods and the concept of the neighborhood school in the face of forced busing.

I urge my colleagues to support this constitutional amendment. You will not be voting against desegregation—you will be voting in favor of national harmony.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I certainly cannot speak from the deep reservoir of emotion as the gentleman from Ohio in the remarks he made a few minutes earlier. I refer to the gentleman from Ohio (Mr. STOKES). This is because I have never worn a badge of inferiority because of the color of my skin. Yet I think I can speak with the same conviction this afternoon on the amendment before us; the resolution before us that would submit to the several States an amendment of this kind is not the instrumentality that we should use.

I think that perhaps these words were quoted earlier, and yet they are so important that they bear repeating in these closing minutes of this debate. I refer to the quotation from Mr. Tribe of the Harvard Law School when he says that—

> It is one thing to specify, by legislation, that busing must be truly a last resort; it is quite another to mandate, by constitutional amendment, that even when needed to eliminate deliberate segregation, busing is ruled out.

That is what troubles me about the inflexibility of the proposition that is now before us. Even where it was clearly demonstrated by an overwhelming weight of the evidence that deliberate segregative actions have been taken by a local educational agency, you could do nothing about it under the terms of this amendment. If busing were the only remedy, as, indeed, could sometimes be the case, you could do nothing at all to validate the equal protection clause of the U.S. Constitution.

I cannot find it in my heart to believe that anyone in this Chamber really wants to do that.

It is one thing to talk about accepting equality of rights. It is one thing to talk about accepting the ruling of the courts in Brown versus Board of Education. But if you take away the remedy, if there is no remedy to enforce that right, what a hollow, meaningless thing it becomes.

□ 1230

We shrivel respect for the Constitution itself. I urge the defeat of the resolution.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, I rise in complete support of House Joint Resolution 74, a constitutional amendment to prohibit the ill-conceived, fuel-wasting, and coercive court-ordered busing of schoolchildren which has been forced on America under the guise of workable integration and educational growth.

It should be clear to us all that forced busing is neither a workable nor desirable solution to problems of unequal educational opportunity. Forced busing has become one of the most divisive issues facing our country. There is a growing consensus among the American people that forced busing does not work. Even the architect of court-ordered busing, Prof. James Coleman of the University of Chicago, has reversed himself after reviewing some hundred desegregation studies from across this land.

The argument here is not racism, it is the simple fact that busing has failed, it has divided the communities in which it has been ordered, and it has done nothing to promote increased educational opportunities for whites, blacks, or any other schoolchildren. The language of the amendment speaks for itself—"no student shall be compelled." It is the coercion, the inflexible nature of busing, the confrontation with the traditional concept of neighborhood schools that causes the overwhelming opposition to busing among whites and blacks. Forced busing has not reduced racial tension but aggravated it. This categorization of people by racial quotas, by ethnic origin, all due to judicial activism, has become irrelevant to the issue of education which we would all like to see improved.

Busing cannot continue if the true goals are to promote harmonious integration and improved education of our schoolchildren. Social engineering in the schools is not the answer to those goals. Forced busing has promoted so-called white flight, reduced opportunity for parental involvement, and problems for the schoolchildren in adjusting to the hostilities and tensions of the oft times destructive settings.

Busing has been an expensive failure which we must correct. The courts have left the people of the country no choice but to cure compulsory busing by prohibiting it. If the Congress had acted before, the Nation might have saved itself much tension, and have improved its racial relations in a substantial and cooperative fashion.

I urge my colleagues to support this resolution.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of House Joint Resolution 74 and of the Holt substitute. We are debating House Joint Resolution 74 today because a lengthy and costly national experiment on busing school children to achieve racial integration has failed. Results of many studies in the past few years have confirmed what a growing number of parents and local school officials have been saying since forced busing was started. It is clear that the premises of the arguments used to establish this system of forced busing were not valid. The recent reversal in the opinion of sociologist James S. Coleman, whose study in the 1960's was a major factor in court-ordered busing, is an important example. Earlier this year, Mr. Coleman stated that a review of over 100 desegregation studies in cities from Boston to Berkeley shows "no overall gains" in the quality of educational achievement of black students who have been bused. "Some of the most carefully studied cases such as in Pasadena and Riverside, Calif., shows either no achievement effects or else losses of achievement."

Considerable evidence of the effects of court-ordered busing that has been instituted in the past decade requires that we reexamine this entire situation.

One of the major objections to the forced busing is that the courts are replacing the parent in determining what school his child shall attend. Removing the control of the parent over what kind of education his child shall receive has caused considerable resentment from parents of both races.

Destruction of the neighborhood school system. This traditional educational system has been sacrificed for the questionable effectiveness of transporting huge numbers of students into alien environments where they have nothing in common with the community or its inhabitants. This has caused:

Loss of parental contact with and influence over schools attended by their children;

Loss of children's security and identity, provided in part by attending school with friends;

Loss of student participation in extracurricular activities, particularly athletics;

Loss of physical safety of the student; and

Loss of effectiveness in the learning ability of children. Long periods of bus travel demanded of young children impair their ability to concentrate and learn once they arrive at school.

Public opinion polls have revealed overwhelming opposition to busing. One recent Harris poll revealed that 85 percent of whites and 51 percent of blacks opposed busing.

The coercion implicit in court ordered busing is repugnant to our American way of life. While many people could support voluntary methods of integration, the coercion of the court orders has done much to destroy the busing concept.

During this time of crisis with our energy supplies, forced busing is causing the unnecessary use of thousands of gallons of fuel. A study by the Federal Highway Administration estimated that schoolbuses in 1977 consumed about 401 million gallons of gasoline, averaging about 26,200 barrels of oil daily. Using a conservative estimate that court ordered busing is less than 7 percent of busing, this would mean that at least 2,000 barrels of oil per day or about 36,000 gallons of gasoline are being used for this purpose. Mr. Speaker, I ask for the adoption of the Holt substitute of House Joint Resolution 74.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my opposition to this resolution is based on my profound concern about two inevitable consequences, if it were approved.

First, we would reveal that we are willing to turn back the clock by a quarter of a century in our progress toward the fulfillment of human rights in America.

Second, we would demonstrate to the people—already skeptical of their national Government—that we are willing to amend the Constitution of the United States without careful reflection and with only a single hour of deliberation.

The human rights issue is clear.

May 17 of this year marked the 25th anniversary of the Supreme Court's Brown against Board of Education decision.

In that decision, the Court said:

> Education is perhaps the most important function of state and local governments. . . . It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. . . . In these days, it is doubtful that any child may reasonably expect to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

And the Court concluded in that 1954 decision:

> In the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

The Court followed that landmark decision with others related to school desegregation, in 1955, in 1958, in 1963, in 1965, in 1968, in 1969, in 1971, in 1973, and in 1979.

The constitutional amendment proposed by the resolution before us would erase all the progress of those decisions.

It would reverse the commitment America made to the right of every child to equal educational opportunity.

It would cripple the ability of the courts to implement that right.

It would reopen the wounds which have healed in many communities which have moved ahead with a spirit of cooperation in school desegregation.

It would create the confusing conflict within the Constitution, between the language of this amendment and the equal protection clause of the 14th amendment.

The great and enduring strength of our American Constitution stems from its unifying principles. This proposed amendment does not contain a fundamental principle, but rather a specific social policy preference. And it is a policy which is divisive, not unifying.

The Constitution is not a document to be used or changed to reflect changing social policy and attitude.

Our one previous experience in amending a social policy into the Constitution was prohibition. We should not forget the costly failure of that experiment.

I would like to mention briefly what I regard to be some of the prevalent misunderstandings about busing school children in the United States.

A majority of school children in this country do not walk to a "neighborhood school." In the 1973–74 school year, 52 percent of the Nation's public school students used schoolbuses. Another 15 percent moved to and from school in private automobiles or via public transportation.

Less than 5 percent of all students who are bused to public schools, according to the U.S. Civil Rights Commission, are bused for purposes of school desegregation. The obvious point is that there is nothing intrinsically wrong or dangerous about busing children to and from their schools. In fact, the National Safety Council reports that children who walk to school are in far greater danger of accidents than those who ride buses.

The word busing has simply become a label for one method of ending racial segregation in public schools. A local public school district would be prohibited from using this method by the Federal Constitution if this amendment were approved. That, to me, is an intolerable prospect.

There has been extensive discussion about the fact that the Committee on the Judiciary has not held hearings on this resolution or others like it. The basic reason is that the committee judged an antibusing policy to be inappropriate for inclusion in the Constitution of the United States. As chairman of the Committee on the Judiciary, it is my firm belief that the integrity of the Constitution must be preserved. That cannot be done if we open the possibility of amending the Constitution every time there is a wave of sentiment on a particular issue or every time there is widespread disagreement with Court decisions.

Although the committee has not planned any hearings on a constitutional amendment to ban busing, the committee staff is continuing a study of the impact of court desegregation decisions on education in America. That study and careful evaluation includes a detailed examination of the effects of busing for desegregation of the schools in particular communities.

As I said earlier, the Constitution is not eternally perfect. There have been and will be times when amendments are necessary. This is most certainly not one of those times. And I cannot believe that the House of Representatives would abandon its tradition of deliberation to approve a constitutional amendment in the hasty and careless procedure involved here.

I urge each Member of the House to pause at this crucial moment to reflect on our responsibility to preserve the Constitution. The unity, the strength, and the future of our system of Government depend on it.

And, in conclusion, Mr. Speaker, I wish to read into the RECORD a letter from the President of the United States addressed to me.

THE WHITE HOUSE,
July 24, 1979.

Hon. PETER RODINO,
U.S. House of Representatives,
Washington, D.C.

TO CHAIRMAN PETER RODINO: I urge you to join me in opposing H.J. Res. 74, which would seek, for the first time in our history, to reduce the protections of the 14th Amendment to the Constitution of the United States.

H.J. Res. 74 would unacceptably and arbitrarily interfere for all time with the roles and judgments of State and local government, the Federal legislative process and our Federal court system.

The national effort to secure equal educational opportunities for all our children has been among the most important, complex and difficult tasks facing our society over the past 25 years. The process has not been easy. It has not been perfect. But we have achieved historic progress. The 25th anniversary of the Supreme Court's decision in *Brown* vs. *Board of Education* is a time to renew our commitment to this fundamental goal—not a time to retreat.

Sincerely,

JIMMY CARTER.

COMMENTS FOR CHAIRMAN RODINO ON THE STAFF STUDY ON BUSING

As I indicated in my letter to my good friend Mr. MURTHA, I have instructed the professional staff of the Committee on the Judiciary to undertake a comprehensive study of all the Federal court decisions involving school busing since the Supreme Court decision in Brown against Board of Education. This study will include an in-depth evaluation of the legislative justifications for busing. The study will also include a detailed analysis of what factors were taken into account when busing was ordered by the courts. The study will also present its findings on the actual effects of school busing from academic, social, and other perspectives.

This study, when completed, will be made available to every Member of the House to enable them to carefully evaluate the legislative proposals on busing now pending.

I am certain that the study will reveal many cases where there has been success in court-ordered busing as one of the tools to be employed for securing equal opportunity in education for all of our children.

Mr. MOTTL. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. BONER).

Mr. BONER of Tennessee. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, after much research, consultation with many constituents, and a conscientious review of the effects of court-ordered busing in Davidson County, Tenn., over the past 7 years, I will vote to send to the States this constitutional amendment to end mandatory busing.

Court-ordered busing in Davidson County has resulted in an erosion of support for public education, the loss of community cohesion and spirit, and the placing of the greatest burden on black pupils at their tenderest ages, in grades 1 through 4.

High school students have been forced to ride the bus at 6 o'clock in the morning and elementary school students, during the winter months, have had to walk several blocks from their bus stops to their homes.

I would like to address the matter of the right of the American people to have a voice in this critical issue. I believe our citizens should have that voice. Passage of this amendment by the House and Senate will give the people a voice, through the participation of their State legislatures in the ratification process. The crisis of confidence in Government can be combated by involving citizens more directly in the democratic and governmental processes.

Mr. Speaker, underlying the busing question is a far more vital issue we must all address and that is insuring that all students in the Fifth District of Tennessee and across the Nation are able to receive the highest quality of education available to them within their communities.

I believe the highest quality of education must be provided to every student wherever he or she lives and wherever he or she attends school. Moreover, this education must be provided in an environment that accurately reflects the community in which our students live. As adults, we must meet a most critical need of our children by helping them to adjust to the society they live in. We must do this by assuring that they attend school with other children of all economic and ethnic backgrounds.

Mr. Speaker, I support an integrated school system in Davidson County. I believe such a system can best be achieved through the strategic placement of new schools and the proper and careful clustering of schools within the community. In voting for this amendment, I feel the need for a greater exercise of commitment and leadership throughout the entire community to finding new ways to insure the best possible education for every student.

In conclusion, Mr. Speaker, I would like to underscore the underlying issue of providing our children with the highest quality of education, wherever they may live or go to school. We must seek policies that will contribute to the achievement of this high standard. I think we have found that busing has not made a positive contribution and that new alternatives must be developed.

Mr. MOTTL. Mr. Speaker, I yield 1 minute for purposes of debate to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, the question has been raised as to reverence for the Constitution. The question has been posed as to how often the Constitution has been amended and it has been suggested that the few times it has been amended, especially in this fashion, is an argument for not amending it.

I suggest to this House that the Constitution has been amended many times by the Supreme Court every time it reverses itself on a basic question, just as the Supreme Court has amended the Constitution and reversed itself from 1896 through 1954, from Plessy versus Ferguson to the Brown versus Board of Education case. I think all of us in this room adopt the principles of the Brown versus Board of Education, and we believe that it should be enforced. We are dealing here, Mr. Speaker, with a question of busing being the first and last resort and an excess in the enforcement by the courts, of Brown versus Board of Education. I think we should reject it. We cannot duck the issue here any longer.

Mr. MOTTL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT) for purposes of debate only.

Mr. ROUSSELOT. Mr. Speaker, I rise in support of House Joint Resolution 74, the proposed constitutional amendment to prohibit compelling a student, on account of race, color, or national origin, to attend a public school other than the one nearest his home, on the basis that it reaffirms the civil liberties guaranteed to all Americans by the 14th amendment as interpreted by the Supreme Court in its 1954 landmark desegregation decision, Brown against the Board of Education.

The arguments of the lawyers and justices associated with the Brown decision were based upon the proposition that the Constitution forbade any use of racial classification for governmental action. The NAACP legal defense fund, in its briefs, in testimony introduced in the trial court in Topeka, Kans., and in the oral arguments before the U.S. Supreme Court, maintained unwaveringly that it was wrong to classify people on the basis of color and ancestry. Lawyers for the black plaintiffs urged the court again and again to remove from the States the power to use race in distinguishing among its citizenry. Robert Carter, chief counsel for Topeka's black plaintiffs, rested his case against school segregation on two grounds: First, that "the State has no authority and no power to make any distinction or any classification among its citizenry based upon race and color alone"; and second, that "the rights under the 14th amendment are individual rights" and not group rights—that each person should be treated as an individual, without regard for race, creed, or ancestry.

In building the case against segregation, the Kansas NAACP lawyers stressed the individual rights of blacks to send their children to the nearest school. Segregation imposed on black children the handicap of spending extra time traveling to and from school, which, they argued, was detrimental to their development. One social scientist testified for the plaintiffs, "When you take an hour a day from a child, you are taking away something very precious to his total education".

Oliver Brown, the lead plaintiff in the case, was spurred to action by what he considered to be an abridgement of the individual rights of his family. By no means an activist in the civil rights movement or a particular enthusiast of the NAACP, he was concerned primarily with the right of his daughter, Linda, to attend the neighborhood school. His action was motivated by his understandable parental concern over the inconvenience and lack of safety which resulted from busing Linda to the "colored school" many miles away, instead of to the neighborhood school, only seven blocks from his home. It is this same "parental concern", not prejudice, that motivates the overwhelming public abhorrence of the forced busing programs mandated by the Federal courts. This amendment would preclude such programs.

The Brown decision was intended to remove from the States the power to use racial classification to restrict the opportunities of its citizens. That the Congress shared this understanding of the meaning of the Brown decision is reflected in the passage of the Civil Rights Act of 1964. In the 1963 hearings on the act, then Attorney General Robert Kennedy, in a heated sparring match with Senator Sam Ervin, forced the Senator to agree with him that the Brown decision established the right of the individual to attend his neighborhood school. The Civil Rights Act ultimately included an unequivocal definition of desegregation:

> Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but desegregation shall not mean the assignment to public schools in order to overcome racial imbalance.

The act further goes on to specifically disallow forced busing—

> Nothing herein shall empower any official or court of the U.S. to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another, or one school district to another, in order to achieve such racial balance . . .

The 1954 Brown decision supposedly removed from the States the power to assign children to school on the basis of race. The Federal court system has reversed that decision, using it, instead as the authority for assigning children to school solely on the basis of race. Busing, for the purpose of achieving racial balance, puts the Government permanently into the racial assignment business. Today, 25 years after the Brown against the Board of Education decision, Linda Brown could still not attend the school nearest her home—she would have to be bused for racial balance. The individual rights her father had fought for and supposedly won in 1954 would still be denied to her.

Mr. MOTTL. Mr. Speaker, I yield to the gentlewoman from Maryland (Mrs. HOLT) for the purpose of offering an amendment at this time.

MOTION OFFERED BY MR. STOKES

Mr. STOKES. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STOKES moves the previous question on House Joint Resolution 74 to final passage.

PARLIAMENTARY INQUIRY

Mrs. HOLT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentlewoman will state the parliamentary inquiry.

Mrs. HOLT. Mr. Speaker, the gentleman from Ohio has just moved the previous question on the joint resolution proposed by the gentleman from Ohio (Mr. MOTTL).

If the House by a majority vote orders this previous question, would this have the effect of denying me the opportunity to offer my amendment and the additional hour of debate which I would have been allowed under the rules, and then in turn force the House to dispose of the language of the Mottl resolution directly?

The SPEAKER. The gentlewoman has answered her own question.

Mrs. HOLT. I thank the Speaker.

Then I am correct in stating that if the House wishes to consider my amendment with the additional debate time, Members should vote no on ordering the previous question?

The SPEAKER. That might be one reason.

The Chair will state that the question before the House is the preferential motion offered by the gentleman from Ohio (Mr. STOKES). The gentleman from Ohio (Mr. STOKES) moves the previous question on House Joint Resolution 74 to final passage.

The question is on the preferential motion offered by the gentleman from Ohio (Mr. STOKES).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. STOKES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 172, nays 251, not voting 11, as follows:

[Roll No. 373]

YEAS—172

Addabbo
Akaka
Alexander
Anderson, Ill.
Ashley
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Biaggi
Bingham
Boggs
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gilman
Gonzalez
Gore
Gray
Green
Guarini
Hanley
Harris
Hawkins
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Jenrette
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kildee
Kostmayer
Leach, Iowa
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Nolan
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Price
Ranall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Snowe
Solarz
St Germain
Stack
Stark
Stewart
Stokes
Stratton
Studds
Swift
Udall
Ullman
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates

NAYS—251

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boner
Bouquard
Bowen
Breaux
Broomfield
Broyhill
Burgener
Burlison
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fithian
Flippo
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Madigan
Marlenee
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Pashayan
Paul
Petri
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Treen
Trible
Van Deerlin
Vander Jagt
Vanik
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—11

Bolling
Butler
Edwards, Ala.
Emery
Flood
Forsythe
Leach, La.
Marriott
Spellman
Thompson
Wilson, Bob

☐ 1250

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mrs. Spellman against.

Mr. Flood for, with Mr. Butler against.

Mr. TAUKE changed his vote from "yea" to "nay."

Mr. AUCOIN changed his vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. SPELLMAN. Mr. Speaker, on rollcall 373, calling for the previous question, I did put my card into the slot and voted "no." Unfortunately, the computer did not indicate my vote.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MRS. HOLT

Mrs. HOLT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. HOLT: Strike all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

ARTICLE —

SECTION 1. No student shall be compelled, on account of race, color or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The SPEAKER. The gentlewoman from Maryland (Mrs. HOLT) is recognized for 1 hour.

Mrs. HOLT. Mr. Speaker, I yield myself such time as I may consume. At the close of my statement, Mr. Speaker, I will yield 30 minutes to the gentleman from New Jersey (Mr. Rodino), the chairman of the Committee on the Judiciary, for the purpose of debate only, and I reserve my right to close the debate.

Mrs. HOLT. Mr. Speaker, as the sponsor of the resolution, the gentleman from Ohio (Mr. Mottl), has said, my substitute is designed to correct two problems.

First, my amendment recognizes the authority of local school districts to make pupil assignments for every reason except race or national origin.

Second, I have deleted language which implied a preemptive Federal responsibility for education. The sponsor certainly did not intend that result in the original resolution.

Mr. Speaker, what we are saying in this constitutional amendment is that race must not be a consideration in the assignment of students to public schools.

The Mottl constitutional amendment, as amended by the Holt substitute, would be entirely consistent with the Civil Rights Act of 1964, which has this to say:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

It is very clear, from a reading of the Civil Rights Act of 1964, that Congress did not intend to authorize racial assignments to schools.

☐ 1300

In the definition we find this language:

> Desegregation means the assignment of students to public schools, and within such schools, without regard to their race, color, religion, sex or national origin. But desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

What the courts have been doing is ignoring the clear intent of the Congress by arguing that the Constitution gives them the authority to order racial assignments of pupils to public schools.

Now the purpose of our amendment today is to affirm the principle that the Constitution should be color blind, that the law governing a free people cannot make racial distinctions.

These racial assignments of students to schools were wrong when they were used to maintain segregation. I fought them as vigorously then as I am fighting them now.

My heart breaks when I hear my colleagues here on the floor recall those dark days. I opposed segregation. I speak for civil rights, for individual liberty.

A child is not a racial digit to be used to satisfy some court's judgment of the appropriate racial makeup of the school. The Congress has repeatedly enacted statutory language to prohibit Federal agencies from imposing racial assignments of pupils to public schools.

However, the courts have continued to impose racial quota plans requiring mass transportation of students to schools distant from their homes and neighborhoods.

Education has been disrupted, the lives of countless families have been disturbed. Students have wasted hours riding buses. Local school districts have been forced to spend millions for transportation costs when we need that money for education.

I believe that this turmoil has been bad for education. I know of no competent authority, not one, that claims that it has been good for education.

Well, then, let us take a look at desegregation. The results even here are questionable, because many of the school districts hit with the mass busing orders have resegregated. The experiment is futile. I have some personal knowledge of this.

In 1973 a Federal district court ordered the transfers of 33,000 students among the schools of Prince Georges County, Md., to achieve a racial balance. The plan briefly eliminated black majorities in a number of schools.

But here is what happened since then. The enrollment in Prince Georges County public schools was 25 percent black in 1973. Today it is 44 percent black.

There were 39 schools with black majorities before the mass busing plan was imposed. Today there are 88 schools with black majorities and many more are tipping. Because the original assignment plan ordered by the court has been steadfastly maintained, we are today watching the ludicrous exercise of busing black children many miles beyond their neighborhood schools to attend predominantly black schools.

All of my constituents, black and white, are deeply concerned about this.

Now I ask my colleagues what has been accomplished by the 6 years of the court experiments except cost and confusion?

In our amendment today, the key words of this constitutional amendment are: "No person shall be compelled." The language of this amendment prohibits racial assignments that would impose segregation.

There is absolutely no prospect that this amendment could restore segregation. What we are saying is that race shall not be a factor in compulsory assignment of students to schools. There is nothing here to prevent local school boards from creating voluntary desegregation plans with the assent of students and parents affected by such plans.

Even more importantly, there is nothing here to prevent local education agencies from establishing schools with specialized curricula that would attract students of all races.

I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, I rise in opposition to the constitutional amendment offered by the gentleman from Ohio, as well as to the substitute offered by my friend, the gentlewoman from Maryland (Mrs. Holt).

I hope my colleagues listened carefully when our colleague from the Virgin Islands spoke just a few minutes ago. In my view, he put his finger on the root issue that is now before us.

Neither formulation is an antibusing amendment. Both are antidesegregation amendments.

Only about 3 percent of the students who are now bused would be affected by either amendment, which means that 97 percent of the students now being bused would be untouched by either formulation.

Therefore, clearly, the issue is antischool desegregation, plain and simple.

The fundamental question is whether we will have a segregated society or not.

The vote on discharging the Judiciary Committee showed only 23 members of the party of Abraham Lincoln voting against discharging the committee.

I hope that number, that percentage, which is about 16 percent of the total Republican membership of this body, will be expanded enormously when the question comes on approval of these amendments.

I hope my colleagues on this side of the aisle will join me in helping to reject them both.

Abraham Lincoln was our first Republican President. He became President as the inspired leader of civil rights action, and through his initiative our party became the majority party in the Congress and the White House. It won the control of most of the State legislatures, and during most of the next 70 years—70 years—the Republican Party was the preeminent political power in this country.

During that time, it maintained itself in the vanguard of civil rights and human rights efforts.

I ask my colleagues of the party of Lincoln, with whom I have served for many years now, in the minority, to ponder the relationship between our minority position today and the position the party once occupied before.

During these 70 years, every black in the United States proudly called the Republican Party home. I would like to see that day restored again, and it can come again under inspired leadership like that exemplified when John B. Anderson of Illinois spoke earlier today.

Mr. Speaker, when I first learned that this constitutional amendment would be voted upon by the House, I asked the superintendents of schools in Springfield and Alton, Ill., what their experience has been with court ordered busing for desegregation. These two school systems cover half the population in my district. Each has been busing to achieve integration for the past 2 to 3 years. In neither community has this busing been any more popular than elsewhere in the country. I felt that these two superintendents could give me an unvarnished opinion of the problems busing creates for children and parents alike.

What I learned surprised me. I had read the academic treatises and the news accounts on busing which conclude that it is often disruptive, sometimes traumatic, and on rare occasion violent. I expected to be told that the children—black and white—did not benefit, for that is Professor Coleman's latest conclusion.

Instead, despite all the problems, Alton's Assistant Superintendent F. W. Pivoda told me:

> The school district has now concluded its third year under the desegregation plan. It appears that parents are beginning to accept the plan. All administrative evaluations conclude that racial strife has significantly declined and that the students are getting a superior education. This is further evidenced in that standardized test scores have continued to improve in each successive year that the plan has been in operation.

Springfield's experience has been similar. Despite a shortage of money, School Superintendent Donald Miedema told me "the plan has successfully brought about desegregation and is leading to successful integration."

While the increases in academic achievement concurrent with busing were impressive, one other section of Mr. Pivoda's letter dealt with a matter that does not show up on achievement tests but which may be far more important for the future of our society. He wrote:

> Prior to desegregation, a number of our schools were predominantly white and located in areas where there was little or no opportunity to associate with minority students. When these students became of high school age they were suddenly exposed to a multi-ethnic culture because we have only one high school for the District. Racial conflict was a common everyday occurrence.
>
> Each year since desegregation the situation has improved. During the past school year I can recall no major incident related to race. Discipline related suspensions have also decreased.

In Alton, busing for integation has improved the ability of people to get along and work constructively together for a better society, just as it appears to have improved educational achievement.

Indeed, the experiences in Alton and Springfield mirror the peaceful and positive transition of the overwhelming preponderance of our Nation's cities that have undergone busing for desegregation purposes. Cities with wise, progressive political leadership dedicated to adherence to law and equality of opportunity for everyone have by and large successfully implemented busing plans without extraordinary problems.

Where that has not occurred, often political and community leadership has challenged rather than upheld the law, exposing fear instead of fact, and making their children the victims of their own bigotry.

Since more than 50 percent of the children in this country ride the bus to school each day, and only 3 percent are bused for the purpose of desegregation, it is evident that the constitutional amendment we will vote on today is not an antibusing amendment. Rather, it is painfully clear that it is an antidesegregation amendment. The issue is simply whether you believe we should have a desegregated society or not.

All of the arguments that have been raised against transportation for desegregation were also raised against the original Brown against Board of Education decision in 1954.

Then, too, white parents worried about the quality of the education their children would receive. Soon they discovered that the presence of blacks in their schools does not lower educational standards. Today the preponderance of studies still show that busing does not lessen the achievement of white children who are sent to other schools for desegregation.

Nor is busing a primary cause of "white flight" to the suburbs and therefore self-defeating. For decades, long before desegregation of schools became necessary, both whites and blacks have been moving to the suburbs as soon as they could afford it. All studies show that the loss of white students attributable to busing is only a tiny percentage and that is not repeated after the first year.

Busing for integration is not a significant drain on scarce energy supplies, either. The Library of Congress estimates that less than three-hundredths of 1 percent of the gas used for schoolbuses is consumed because of court-ordered busing—a minuscule amount.

Finally, the expense of busing has been greatly exaggerated. A Rand Corp. study shows that the cost of student transportation before desegregation was 1 percent of school district budgets and rose to a maximum of only 3 percent after busing began.

If you believe segregated schools are wrong, you are faced with the uncomfortable realization that busing is the only effective way to end it. It may not be popular. Nor was President Eisenhower's decision to use troops to integrate the schools of Little Rock. But it was right.

To be sure, busing for desegregation has in isolated instances caused unnecessary problems and expenses. But that is not justification to carve into the Constitution an absolute prohibition against all transportation beyond the closest school—whether for desegregation purposes or any other.

Equal opportunity has been the hallmark of our society for 200 years. One hundred years ago we fought the bloodiest war in our history—on our own soil—over the very issue that we now battle over on the floor of the House. The issue then was the same as today. And Abraham Lincoln's admonition is still just as timely:

> When . . . you have succeeded in dehumanizing the Negro; when you have put him down and made it impossible for him to be but the beasts of the field; when you have extinguished his soul in this world and placed him where the ray of hope is blown out as in the darkness of the damned, are you quite sure that the demon you have roused will not turn and rend you? Accustomed to trample on the rights of others, you have lost the genius of your own independence. . . .

For your own sake, for the sake of your humanity, for every noble ideal that has ever inspired you to serve your fellow man, I urge you to vote against this resolution, which in all candor, raises the demonic specter against which Lincoln warned.

My correspondence with school officials in Alton and Springfield follows:

> BOARD OF EDUCATION,
> *Alton, Ill., June 29, 1979.*
>
> Hon. PAUL FINDLEY,
> *Rayburn Building, Washington, D.C.*
>
> DEAR REPRESENTATIVE FINDLEY: The following is in response to an inquiry from your secretary in reference to the impact of busing for racial integration as experienced by this school district.
>
> Alton School District No. 11 serves more than ten thousand students in a seventy-eight square mile area which includes the City of Alton and the surrounding area. The majority of the minority (20%+) live in Alton. Although the school district abolished all-black schools in 1950, some schools continued to have a majority black population while others had few, if any, blacks.
>
> In December 1971 the school district filed a required report with the Illinois Office of Education entitled "Rules Establishing Requirements and Procedures for the Elimination and Prevention of Racial Segregation." After filing the report, the school district was directed to revise existing attendance patterns so that no school had a minority population greater or less than fifteen percent of the district as a whole.
>
> For the next four years the district attempted a variety of compliance measures including the closing of outdated schools, pairing schools and reassigning students of overcrowded white schools to other schools. None of these measures were totally successful. In March 1976, the district was directed to take measures to come into compliance or be subiected to the loss of approximately $7,000,000 in state aid.
>
> The Board of Education established an Ad Hoc Citizens Committee to investigate other alternatives. After much study and many meetings, the committee concluded that cross-busing was the only method by which the district could meet the state guidelines.
>
> Accordingly, the Board of Education adopted a Corridor Plan in which the district was divided into five corridors in such a manner so as to insure guideline percentages in each attendance center. This plan ignored the neighborhood school concept and caused many students to be bused to schools in other parts of the district. Needless to say there was considerable criticism from parents and many political threats.
>
> The school district has now concluded its third year under the desegregation plan. It appears that parents are beginning to accept the plan. All administrative evaluations conclude the racial strife has significantly declined and that the students are getting a superior education. This is further evidenced in that standardized test scores have continued to improve in each successive year that the plan has been in operation.
>
> Busing is still a problem. While our enrollments have declined, the number of students riding buses has increased. Parents are more and more demanding that bus pickup points be closer to their residence. We are also at the mercy of the bus contractor who annually increases prices to meet the cost of inflation while the district has no financial escalating provision to meet these costs.
>
> A statistical table of transportation for the past four years follows:

	1975-76	1976-77	1977-78	1978-79
School enrollment	11,211	10,908	10,535	10,029
Percent minority	21.23	22.3	23.35	24.26
Students transported	5,761	6,166	6,455	6,522
Transportation cost	$472,333	$536,243	$619,698	$632,024

> If you have further questions, please feel free to write me or call (618) 463-2103.
>
> Sincerely,
>
> F. W. PIVODA,
> *Assistant Superintendent.*

JULY 11, 1979.

Mr. F. W. PIVODA,
Assistant Superintendent, Alton Community Unit School, District No. 11, P.O. Box B, Alton, Ill.

DEAR MR. PIVODA: I cannot thank you enough for your excellent and very informative letter about the impact of bussing for racial integration in the Alton school district. I hope you don't mind if I pose just a few additional questions.

First, it appears that the Illinois Office of Education has established the requirement that no school have a minority population greater or less than 15 percent of the district as a whole. Can you tell me why that figure was chosen?

I am particularly encouraged by your statement that, "It appears that parents are beginning to accept the plan . . . and that the students are getting a superior education." Is there any statistical or other data available which you can cite supporting that statement? If the school district has attempted to measure achievement levels over a period of years, including the period of time prior to the commencement of bussing, that would be extremely valuable.

I note your statement that "Bussing is still a problem" followed by your comment that enrollments have declined. Is it your feeling that bussing is the primary cause of declining enrollment?

The transportation costs listed in your table are, I assume, total costs for all bussing including that which would have been necessary even in the absence of bussing for desegregation. Is there any way to approximate the amount of money that you would have been required to spend for bussing for other than racial balance purposes?

Finally, I would like to know whether you are willing to permit me to quote from your letter and to use it in the debate on the floor of the House of Representatives. I will, of course, respect your wishes in this matter.

The House of Representatives is scheduled to take up the enclosed Constitutional amendment on July 24, and I am anxious to have whatever response you can provide as soon as possible.

Again, I very much appreciate your willingness to help.

Sincerely,

PAUL FINDLEY,
Representative in Congress.

BOARD OF EDUCATION,
Alton, Ill., July 19, 1979.

Hon. PAUL FINDLEY,
Rayburn Building,
Washington, D.C.

DEAR REPRESENTATIVE FINDLEY: The following is in response to your letter dated July 11 in reference to compelling the attendance of a student in a public school to other than the school nearest his residence.

First let me paraphrase my remarks by expressing my opposition to H. J. Res. 74. This resolution appears to have been designed solely to impede busing for desegration purposes. It also takes away control from local school boards to design alternate methods of classroom organization. For example, in Alton we have developed a corridor system with multiple attendance centers in each corridor. However, each attendance center is restricted to specific grade levels. A student residing anywhere in a corridor would attend the school where his grade level was established regardless of the school nearest his residence because "the course of study pursued by such student" might not be available at the nearest school. I am enclosing a map of our Corridor Plan so that you can more easily visualize the organizational scope.

In addition, in the past, this school district has had to bus students to other schools because of overcrowding—race being no issue. I am sure numerous school districts have had to do this. It would appear that the proposed resolution would prohibit such transfers.

More specifically, in answer to your questions:

1. The Illinois Office of Education requirement that no school have a minority population greater or less than 15 percent of the district as a whole was established at the direction of former state superintendent Michael Bakalis. It is reported that the percentage figure was patterned after certain California schools which had this requirement. The percentage limits are discriminatory in themselves in that schools, such as adjoining Wood River with no minority population and East St. Louis with 85+ percent minority do not have to comply. This school district has expended well over $700,000 in meeting racial guidelines. This money was used for such things as inservice training for teachers, adoption of multi-ethnic textbooks, construction and remodeling and expanded transportation.

2. The only statistical data we have to support our contention that students are getting a superior education is test results. All students in the third grade annually take the California Achievement Test. The following test scores refer to grade placement, i.e. 3.7 equals third grade, seventh month. The year before desegregation and two years after desegregation are compared.

1975–76: Norm 3.7; reading 4.1; math 3.9.
1977–78: Norm 3.7; reading 4.5; math 4.0.

I do not mean to imply that improvement in test scores came automatically with desegregation. Under the very able leadership of our superintendent, Dr. Robert J. Lynn, the whole teacher-student learning process was reviewed and revised. All teachers were subjected to intensive inservice training, new textbooks were adopted, basic skills teachers were assigned to help slower students and elementary learning resource centers (libraries) were developed in all schools.

3. I do not feel that bussing has been a primary cause of declining enrollments. This seems to be a trend in the state and throughout the nation.

The birth rate in the Alton School District in 1970 was 2310. In 1978 the birth rate was 1490 or a 35% decrease. During the three year period we have been integrated, the ratio of births entering kindergarten has decreased only 3.3 percent.

It is true that a small percentage of our students have been lost to newly created non-Catholic religious schools.

Students in the Alton District have been bused for many years. The 78 square mile area includes not only Alton but all of Godfrey and Foster Townships. Prior to desegregation approximately 5500 students were bused—after, approximately 6500. Therefore, about 1/5 of the transportation costs can be attributed to integration.

4. Prior to desegregation, a number of our schools were predominantly white and located in areas where there was little or no opportunity to associate with minority students. When these students became of high school age they were suddenly exposed to a multi-ethnic culture because we have only one high school for the District. Racial conflict was a common everyday occurrence.

Each year since desegregation the situation has improved. During the past school year I can recall no major incident related to race. Discipline related suspensions have also decreased.

Total Discipline Suspension Days for All Schools.

1977–78: Black 2993; Hispanic 52½; white 2755½.
1978–79: Black 2610½; Hispanic 7; white 2485½.

I want to apologize for the length of this reply but I wanted to give you as much information as possible. Please feel free to quote and/or use this information in the debate on the floor of the House of Representatives.

Sincerely,

F. W. PIVODA,
Assistant Superintendent.

SPRINGFIELD PUBLIC SCHOOLS,
Springfield, Ill., July 6, 1979.

Hon. PAUL FINDLEY,
Congressman, Illinois Twentieth District,
Rayburn Building, Washington, D.C.

DEAR SIR: The Board of Education and administration of the Springfield Public Schools wish to thank you for this opportunity of providing you information concerning our desegregation-integration program. Although the plan has successfully brought about desegregation and is leading to successful integration, I am sure you realize the financial impact a program of this nature has had and will continue to have on the taxpayers of this District and the State of Illinois.

In the late 1960's the community and District personnel began an exhaustive study of methods for desegregating the Springfield Public Schools. Several citizens' committee and administrative plans were devised, none of which seemed to accomplish the task to the satisfaction of all concerned. In April, 1974, a group of citizens filed a suit in Federal District Court which finally culminated in the plan now in effect. Judge Ackerman issued his order concerning the middle and high schools in August, 1976, effective with the 1976–77 school year. In December, 1976, he issued the order concerning the elementary schools, effective with the 1977–78 school year.

The court agreed to the continuation of the three high school areas as they were constituted at that time. The order did indicate, however, that the high school enrollments would continue to be monitored and if necessary boundary adjustments made to assure the proper balance. Throughout the court proceedings the goal was to have no school's minority percentage at more than ten percent variance from the District average. We are in the process of making minor boundary changes at the high school level which will bring about improvements in the racial balance in the three buildings. The high schools were housing grades ten through twelve at the time of the order and have continued to do so through the 1978–79 school year. Due to enrollment changes and reorganization it is now possible to have grades nine through twelve in the high schools. This change will be made in the fall of 1979.

At the time of the court order the middle school students, grades seven, eight and nine, were housed in five buildings. One of these buildings had a very high minority percentage, requiring some modifications. It was decided to develop two seventh grade centers for students at that level and house the eighth and ninth grade students in four of the five existing buildings. A sixth building was available due to the completion of the Area Vocational Center. The boundaries were adjusted in order to bring about the necessary racial balance. With the movement of the ninth grade out of the middle schools into the high schools this fall, it will be possible to house the seventh and eighth grade students in the four buildings which have been housing the eighth and ninth grade students and continue the racial balance. This will also allow us to phase out one older building and allow another building which is attached to one of the high schools to be used to house the ninth grade students.

The elementary school plan required a great deal of change from the neighborhood kindergarten through sixth grade attendance center with a minority percentage range of from .6 to 90.5 to a completely integrated system with a monority percentage range of from 12.1 to 29.0. The table shows how the minority percentages have changed, as well as the grades housed in the buildings. The plan for the most part called for the pairing of schools which brought about various grade configurations. These are shown in the information pamphlet enclosed. It was ordered that the kindergarten students should be housed in their neighborhood school; therefore, the minority percentage figures in the table do not reflect the kindergarten attendance.

The large majority of the minority students reside in the east central portion of the District; therefore, considerable transportation is required both into and out of that area. In 1975-76 we were transporting approximately 3,100 students with transportation budgeted expenditures of $815,614.00. In 1978-79 we transported approximately 6,600 students with transportation budgeted expenditures of $1,166,632.00. The transportation budgeted expenditures for 1979-80 will be $1,497,270.00. One of our major concerns at this time is whether or not we are going to be able to get fuel for the buses and if we can, what the price will be later in the school year.

True integration is not brought about by merely moving students in order that the proper balance is housed in each building; therefore, there are other major components of the educational system affected. As a part of the court order the District is required to carry on a vigorous Affirmative Action Program. We are experiencing a great deal of difficulty in this area for the following reasons:

1. We are in the capital city where we are competing with State Government offices as well as private industry for minority personnel.

2. Declining enrollment has brought about a reduction of the needed staff. We are required to reduce on a seniority basis; therefore, many of the minority personnel who were employed in the last few years must be released first. Since the employment of new personnel is almost non-existent there is little possibility of recruiting minority personnel.

3. The finances available for the operation of the school district are so limited that it makes it difficult to provide salaries which will attract well-trained minority personnel when the competition is so keen.

In-service training of all personnel has been and continues to be a very important part of the integration process. Teachers who have been working primarily with students of low socio-economic backgrounds suddenly find themselves confronted with a large majority of their class from very high socio-economic background and vice versa. This wide range requires a great deal of adjustment on their part to provide the needed curricular changes. In many cases it is necessary to carry on a considerable amount of individual instruction even though the teacher is responsible for a class of twenty-eight or more students.

The rapidly declining enrollment has brought about a new dimension in this area of desegregation which school districts throughout the nation are experiencing. We find it necessary to close buildings and at the same time meet the needs of educating the students as well as maintaining the racial balance in each building. We have a committee of citizens along with representation from our administration and Board of Education currently studying this problem. The recommendations of this committee which no doubt will need to be carried out will require extra funds especially in the area of student transportation.

I apologize for the length of this letter; however, I feel it is necessary to give you some of the background of what we consider to be a successful Desegregation-Integration Program. The information points out why programs of this magnitude put a financial drain on school districts at a time when resources are declining due to declining enrollments and efforts to reduce taxes. Anything you may be able to do to help us in this area will certainly be appreciated.

Sincerely,

DONALD MIEDEMA,
Superintendent of Schools.

SPRINGFIELD PUBLIC SCHOOLS, SPRINGFIELD, ILL.

Schools	Before desegregation		After desegregation	
	Grades in building	Percent minority	Grades in building	Percent minority
ELEMENTARY				
Addams	K-6	1.8	K, 2-6	14.0
Black Hawk	K-6	3.7	K-6	21.0
Butler	K-5	5.3	K-4	16.2
Dubois	K-6	15.8	K, 2-5	18.9
Enos	K-5	17.2	K, 2-6	21.4
Fairview	K-5	2.1	K, 3-6	20.8
Harvard Park	K-6	15.4	K-6	21.3
Hay-Edwards	K-6	22.2	K-6	12.1
Hazel Dell	K-5	17.8	K-5	28.6
Iles	K-6	59.4	K, 5-6	20.4
Laketown	K-6	5.2	K-5	14.8
Lincoln	K-6	90.5	K-1	28.5
Lindsay	K-6	7.7	K-4	29.0
Marsh	K-5	5.9	K-4	22.9
Matheny	K-5	55.9	K-2	27.7
McClernand	K-5	7.0	K-6	28.5
Plesant Hill	K-5	4.1	K-3	17.8
Ridgely	K-6	3.5	K-6	27.5
Sandburg	K-6	4.3	K-4	16.2
Sand Hill	K-6	1.3	Closed	
Southern View	K-6	17.8	K-5	21.9
Staley	K-5	.6	K-5	17.3
Wanless	K-6	3.4	K-6	28.9
Webster	K-6	52.8	K, 6	23.0
West Grand	K-6	7.1	K-4	15.9
Wilcox	K-5	3.0	K, 3-6	26.3
Withrow	K-5	67.3	K, 4-6	25.5
MIDDLE SCHOOLS				
Feitshans			7	19.5
Washington	7-9	56.2	7	18.8
Edison	7-9	7.5	See Lamphier HS	
Franklin	7-9	3.4	8-9	21.6
Grant	7-9	7.5	8-9	19.7
Jefferson	7-9	19.1	8-9	21.8
HIGH SCHOOLS				
Lanphier	10-12	8.4	LHS/Ed. 8-12	11.6
Springfield	10-12	8.9	10-12	11.7
Springfield Southeast	10-12	25.7	10-12	28.8
Douglas (special ed.)	K-12	21.8	K-12	23.3
Total district	K-12	17.2	K-12	19.8

Mrs. HOLT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. MOTTL) for the purposes of debate only.

Mr. MOTTL. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I enthusiastically endorse the amendment in the nature of a substitute, and hopefully it will be adopted by the House and the constitutional amendment will be adopted.

There is an old adage of many lawyers that when you do not have the facts, you argue the law; and when you do not have the law, you argue the facts.

I think the opposition to the amendment has nitpicked the language long enough. Hopefully, they will start addressing themselves in this hour of debate to the merits of court-ordered busing versus the neighborhood school.

I think if they addressed themselves to that issue in this hour of debate, there would be no pluses and all minuses. After extensive new studies, Dr. James Coleman, the noted sociology professor at the University of Chicago, who was commissioned after the 1964 Civil Rights Act to examine school desegregation alternatives, has reversed himself and now opposes court-ordered busing. Let us put an end to white flight, put an end to the unreasonable expense involved and also put an end to the waste of gasoline, by adopting the amendment.

Thank you.

□ 1310

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I wonder if election is so sweet or our job so dear as to be purchased at the price of basic human rights. I do not happen to believe that Members of Congress will act that way.

There are times, Mr. Speaker, when Members of the House are called upon to act as patriots. I mean patriots in the sense that their actions may cost them their career in the Congress. I think this is one of the times when we need to preserve unity in our country, where this kind of risk must be taken.

Mr. Speaker, I cannot imagine anything more divisive in this country today than to see this debate launched throughout the country at the price of forgetting the problems that we are facing today. We are facing problems that are critical to our future in energy; we are facing problems of inflation and jobs. For the Congress of the United States to throw this issue on the country and to say forget those other things, instead we are going to take up the issue of busing, I can tell my colleagues, Mr. Speaker, our enemies around the world would love to see this. The OPEC countries, whose bonds we are trying to break that are around us today, would think this was a wonderful move to have the United States focus on busing instead of energy.

Let us get rid of this issue today, Mr. Speaker, let us defeat both of these amendments and let us get back on the track of what we have to do to put this country ahead, in its position that it rightfully should have in the world. Let us get to work on what the people want us to do.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, we have before us today an issue of great emotional and social importance. Court-ordered busing has frustrated both parents and educators for over a decade and even now threatens to deal a final death blow to public education in urban areas.

In the past, our local schools have been the major stabilizing factor in our communities. Generations of Americans grew up in communities where the local public school was the center of neighborhood activity. The local school educated our children, nurtured them in traditional values, and developed their sense of belonging and security.

Busing has become a destructive, divisive issue among Americans of all races who are working for and desire quality education. While busing is destroying our local schools, its effects are clearly destroying our communities and neighborhoods as well. It has destroyed the incentive to maintain communities and has hastened their decline. Affluence and jobs have fled to the suburbs. Rather than improve the lot of the poor and underprivileged, busing has served to isolate them further.

Rooted in the civil rights movement of the 1960's, busing was originally proposed as but one possible means of advancing integration. Busing was never intended to bear the full burden of responsibility in this area. Through the dictates of the Federal courts and a massive Federal bureaucracy, busing—not quality public education—has become the focal point of Federal educational policy.

This has been an unfair and intolerable burden on our Nation's public school system. Our public school system is but one opportunity for society to correct dsicrimination and injustice. The courts, however, have seemingly made this the sole objective of our public schools. Our schools can no longer bear this responsibility alone.

It should be noted in this debate that busing was not the result of a mandate from the people, but rather the response to one Government sponsored sociological study. As the experience with busing illustrates, social science has yet to achieve a sufficient level of sophistication to enable it to be a sound basis for constitutionally-mandated equitable relief.

Dr. James S. Coleman, a Chicago sociologist, whose works provided much of the theoretical justification for forced busing, shocked the world in 1975 by admitting he might have been wrong. In doing so, he has provided yet another example of the fragility of the basic principles of social science. Dr. Coleman now admits, that in such areas of school desegregation "* * * the courts are probably the worst instrument of social policy."

Dr. Coleman's new thesis rests on the historical experience that forced busing will simply not eliminate racial segregation. Noting that the courts have failed to recognize the harmful, broader impact of their rulings on our schools and the communities that support them, he observed that "in the long run, the policies that have been pursued will defeat the purpose of increasing overall contact among races in schools."

This then is the reason we are here today. We must admit, as the originator of this idea has, that busing has been a terrible and costly failure. Other mechanisms for fostering racial equality are already in existence, ones which have the support of both blacks and whites. But busing is not only overwhelmingly rejected by whites, but also by a majority of blacks. Certainly this fact alone should cause thoughtful individuals to reconsider the merit of this practice.

Our purpose then is to remedy this problem, to acknowledge its failure, and then to move onward. This amendment by no means represents an abandonment of equality in education, it merely signifies what is today common knowledge—that busing to achieve this objective is a failure.

Why is a constitutional amendment necessary to remedy this problem? If the vast majority of Americans are opposed to busing, as every opinion poll reveals, its elimination should be simple. Unfortunately, this is the very core of our present problem. The will of the American people is clearly manifest, yet it is being ignored.

It is difficult to overestimate the sense of frustration and outrage created by the continual interference of the Federal Government in our local schools. Parents have the right to feel that they have some control over where their children will go to school. They are alienated by a Federal Government that is increasingly taking that right from them. Busing has lengthened tremendously the arm of the Federal Government as it interferes in traditionally local and family matters. Busing has not increased the freedom of some; it has diminished it for all.

It is my privilege to represent part of Kansas City, Mo., which, for years, had a public school system noted for its innovation and excellence. But in recent years, the Kansas City school district has been in turmoil because of court rulings and Federal Government dictates. At this very moment, parents in the Kansas City area are awaiting the beginning of the new school year not knowing what the latest Supreme Court ruling will mean to their children's education. Each ruling seems to require one more: Must children be bussed from one school district to another? Must children be bussed across county lines? Must children be bussed across State lines? These questions are not hypothetical but are contained in litigation now pending in the federal courts in Missouri. Indeed, judicial decision building on past precedent may soon require taxpayers of one State to support school systems of another—or to pay for schools in their own States which they will be prohibited to use. If nothing else this should illustrate what court ordered busing is doing—that is taking away from parents and local taxpayers the decisions of public education.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, for the past week or so many of my constituents have called me and asked: "How will you vote on the busing amendment?" This past weekend I received numerous phone calls from the media asking "How will you vote on the busing amendment?"

I have listened to the arguments on the floor today and I have heard so many individuals say we must take a stand against court-ordered busing to achieve racial balance.

However, Mr. Speaker, today we will not be voting on court-ordered busing to achieve racial balance, we will not be voting on an antibusing amendment. Read the words of the proposed amendment. The words "court ordered" are not in the proposed amendment. The word "busing" is not in the proposed amendment.

We are not voting on some abstract concept, we are not voting on liberal ideology or conservative ideology. We are voting on specific words—words which will become part of our Constitution. We are, to paraphrase Chief Justice John Marshall, expounding a Constitution. We are rewriting a Constitution, and we are not doing this with abstract concepts. We are doing it with specific words.

These words are an embarrassment. These words would create a monster. These words would betray us.

Mr. Speaker, every now and then we perform an act of moral courage. Edmund Burke in 1773 spoke of the duty a Representative owes his constituents. He said, and I hope we heed his lesson, a Representative betrays the confidence that his people have placed in him when he sacrifices his judgment of their best interests to their opinions.

I ask my colleagues not to betray the confidence that our people have placed in us. I ask my colleagues to act with moral courage today. I ask my colleagues to reject House Joint Resolution 74.

I oppose House Joint Resolution 74 for many reasons.

I think that the legislative process should be used to foster and enhance the spirit of unity within this country. We all pay lipservice to this goal; however, I feel that a majority of my colleagues shrank from this purpose by signing the discharge petition on this resolution.

Unfortunately, time constrictions normally reduce a legislator's ability to study bills in depth. Often, representatives lend their support to a bill without giving it the full and undivided attention which they would like to give it. In fact, that must have happened with many with respect to House Joint Resolution 74, for I am confident that had they read it, most would not have signed it.

The amendment does not even mention busing. Instead, it says, in relevant part:

> No student shall be compelled to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

Regardless of whether you are in favor of or opposed to the concept of busing to achieve school desegregation, you must recognize that we are dealing with a constitutional amendment here—not merely a piece of legislation which is subject to amendment from time to time; a constitutional amendment whose ramifications will literally send shock waves from this legislative body, and allow the Constitution to be subject to equally emotionally charged amendments, and will effectively tie the hands of school administrators in administering their districts regardless of whether they are affected by desegregation programs.

DISCHARGE PROCEDURE

Probably the most important phase of the constitutional process is the action given proposed measures by committees. It is here that the most intensive consideration is given to proposals, and it is here that the opportunity to be heard is had. A discharge petition is a three-step process which circumvents this time-honored procedure, preventing the committee from giving the measure the fullest possible inquiry and analysis, and depriving Congress from the benefit of the committee's efforts. We would be trading the diligent efforts of a committee, which go into its decision on whether to favorably report a bill, for a scant 20 minutes of debate on whether to bring it to the House floor immediately. If immediate consideration of the resolution is agreed to, the resolution—which is not subject to amendment unless the floor manager yields for that purpose or unless the previous question on the resolution is voted down—comes up for a vote after a mere 1 hour of debate.

A discharge petition is a fairly recent procedure which was established in 1910. Since that time, it has been used to bring 25 measures to the House floor. Only two of these ever become law: the Fair Labor Standards Act of 1938, and the Federal pay raise bill in 1960. The discharge petition has never been used to amend the U.S. Constitution. We should not use it now.

IMMEDIATE PUBLIC INTEREST

One of the primary objections I have to the proposed amendment is the danger inherent in adopting a constitutional amendment directed to a specific question of immediate public and political interest. One of the essential values of our Constitution is that it speaks in terms of fundamental principles which have an enduring quality. This characteristic, coupled with Supreme Court's power to protect these principles, gives our political system and our political ideals a permanence which avoids alteration by temporary surges of public feeling or the desire of office holders to gain political advantage. House Joint Resolution 74 is anomolous to this tradition. It deals with an immediate problem upon which public opinion is given to differing opinions from day-to-day. To establish this precedent is to invite similar attempts concerning issues which have no place among such concepts as freedom, due process and equal protection of the law.

The amending process is one which should only be invoked to remedy basic defects in our constitutional structure or doctrine. Almost all the amendments since the Civil War have been directed to structural or procedural defects in our governmental system. Only one—prohibition—implemented a specific policy by means of a constitutional amendment. That amendment was soon repealed.

DIVERSE JUDICIAL INTERPRETATION

In 1972, hearings were held in the Judiciary Committee on House Joint Resolution 620 which proposed a constitutional amendment providing that no public school student could be assigned to or required to attend a particular school because of his race. Comments from a number of nationally recognized constitutional scholars uniformly expressed grave reservations about the proposed amendment. They stressed that the simple language of the amendment was, in fact, susceptible to at least four distinct and contradictory interpretations. They urged that while the proposed amendment could be interpreted as going beyond the present state of Supreme Court decisional law to outlaw de facto school segregation, it could also be interpreted as a partial repeal of the equal protection clause of the 14th amendment insofar as racial discrimination in public education was concerned.

Under the latter view, the apparent attempt was to constitutionalize the so-called neighborhood school. But, they countered, the assignment of students on the basis of geographic convenience might constitute assignments on the basis of race in many communities, and the amendment would then be self-defeating. As some commentators suggested, the formulation of the proposed amendment would be the least likely technique for insulating the neighborhood school assignment from judicial revision or review.

House Joint Resolution 74 does not speak directly to race, but the correlation between House Joint Resolution 620 is readily apparent, and the diverse interpretations of it are no less contradictory.

Furthermore, the similarity in language between House Joint Resolution 74 and the Byrd amendment to the fiscal 1977 Labor-HEW appropriations bill—directing that HEW could not require the transportation of students beyond the school nearest the home which offered the courses of study pursued by the student—suggests that the proposed amendment could be interpreted in a manner completely contrary to the apparent intent of the gentleman from Ohio.

Relying in part on the "courses of study" qualification in the Byrd amendment, the Department of Justice issued an analysis that the prohibitory language did not prohibit HEW from requiring busing associated with school "pairing" and "clustering"; that is, student attendance based upon grade level reorganization rather than geographical proximity. In short, a student could be required to attend a school beyond the prescribed limits if, as a consequence of pairing and clustering, the school nearest the home did not provide "the course of study pursued by the student."

Hence, the proposed amendment is the victim of its own disingenuousness. The innocence and simplicity of its language attempts to so thoroughly disguise its ulterior objective, that the purpose is fatally compromised. The capacity for radically different and contrary kinds of judicial interpretation is so great, as to leave the practical consequences entirely uncertain.

LIMITING AMENDMENT

Representative MOTTL, responding to concerns that the original wording of the proposed amendment did not clearly spell out what it sought to do, has agreed to accept an amendment from Representative HOLT during the floor consideration of House Joint Resolution 74. The amendment would add "on account of race, color, or national origin" to the original prohibition against compelling students to attend a public school other than the one nearest to the student's home. The amendment would also delete the phrase "and to insure equal educational opportunities for all students" from section 2 of the original amendment, conferring on Congress the power to enforce the proposed amendment by appropriate legislation. No matter how many times the original resolution is amended, it still remains fundamentally unworkable. Again, the simple language of the amendment, even though more direct, could be subject to various interpretations, some of which are even contrary to the amendment's purpose.

While the racial intent of the proposed amendment to House Joint Resolution 74 is quite apparent, there is a substantial question as to whether the language would be adequate to achieve the amendment's purpose. If a court were remedying a system of deliberately imposed segregation by considering a student assignment program, it would be accomplishing desegregation in accordance with the dictates of the 14th amendment and the Supreme Court's decision in *Swan* v. *Board of Education*, 402 U.S. 1 (1971), and its progeny. It would not be deeming the assignment of students to schools other than those nearest their homes to be action taken "on account of race, color or national origin."

Mr. Justice Powell, in *Drummond* v. *Acree*, 409 U.S. 1229 (1972), enunciated this interpretative application to section

803 of the education amendments of 1972 which provided for stays pending exhaustion of all appeals of any court order requiring transportation of students "for the purpose of achieving a racial balance among students with respect to race." Justice Powell, in denying the stay, determined that the order he had been asked to stay was entered "to accomplish desegregation of a school district in accordance with Swann and not for the purpose of a racial balance." While the proposed amendment to House Joint Resolution 74 is not identical to section 803, its thrust is similar, and the Supreme Court would be apt to follow Justice Powell's reasoning in reconciling the 29th amendment with the 14th.

STATE AND LOCAL AUTONOMY

A school board's attendance plan reflects the board's best determination of cost, convenience, efficiency, and safety in assigning students to various schools. Rather than letting school boards take these and many other factors into consideration, only one factor—geographic proximity of a school to a student's residence—could be taken into account. Do we want chaos in the Nation's nearly 16,000 school districts? I do not think so.

A constitutional scholar, and Harvard law professor, Laurence H. Tribe, emphasized that the amendment would undermine the "norms of State and local autonomy fundamental to our governmental structure." It would prevent a school district from using busing only as a temporary remedy to overcrowding or for dealing with other problems such as teacher strikes.

Mr. Tribe also emphasized that the result of the amendment would be a dramatic increase in the Federal Government's role in public education. Section 2 of the amendment—giving Congress the power to insure equal educational opportunities under the amendment by appropriate legislation—would restructure the ways in which cities and towns raise and expend revenues for public education.

SUMMARY

At a time when the public's confidence in the Government to provide the solutions to the problems we face today is running at an all-time low, the effect of such an amendment would exacerbate the public's cynicism about governmental prerogatives.

During the last two decades, we have witnessed the most dramatic upheavals this country has ever experienced. Civil strife over the Vietnam war shook our foundations; the near impeachment of a President made us question the very validity and integrity of our Government; inflationary pressures and energy shortages have given us serious doubt as to whether this country is the land of promise and power with which we have traditionally viewed it. In short, this country has been rocked by conflict and torn apart by divisiveness. We must turn away from confrontation and repledge our commitment to the basic values and fundamental tenets which underscore our Nation. An amendment to the Constitution of this sort is antithetical to this purpose.

Now is the time to lead and not to follow. In our haste to respond to our constitutents' fears about busing, we are not providing the leadership which we were elected to provide and which is our duty to provide. We are not acting, we are reacting. If this amendment, in any form, passes, we shall make a mockery of this legislative body, and we shall demolish a document which the free world views as the hallmark for human rights and governmental limitation.

As John Marshall once said, it is a constitution we are expounding, and whenever it considers proposing amendments, Congress should never forget that it is a constitution it is rewriting, not a code of common law subject to change from time to time.

I trust that my colleagues who have studied the amendment will agree with me that this is a misguided approach to how the Nation's social goals should be pursued, and how the Nation's fundamental law should be amended.

Again, I urge you to oppose this amendment.

Mr. Speaker, at this time I would also like to include in the Record a statement made by a most distinguished constitutional law scholar, Prof. William Van Alstyne of Duke University.

Additionally, I would like to insert a letter from Professor Van Alstyne to me, dated July 20, 1979, explaining in further detail the reasons one should oppose House Joint Resolution 74, even as amended.

Statement of Prof. William Van Alstyne

The proposed amendment ought not be approved for three reasons:

1. It is trivial;
2. It encourages unconstitutional racial segregation in public education; and
3. It is futile.

1. It is trivial. Constitutions are charters of the most fundamental law. This proposition, far from being a proposition of "fundamental" law, is approximately of the level one ordinarily finds in a mere administrative regulation or, at best, a state statute. In nearly two centuries of the Constitution, it has had but 26 amendments and 10 of these were virtually part of the original document. This amendment states no "self-evident truth," it has all the feel of mere special legislation, and its chances of being a significant part of a Constitution worth expounding, intended to endure "for ages to come" (as Chief Justice Marshall spoke of our Constitution) are absurdly poor. It is as embarrassing in its way as was the 18th amendment (the liquor prohibition amendment)—which the 21st amendment repealed.

2. It encourages unconstitutional racial segregation in public education. The proposed amendment does not purport to repeal the fourteenth amendment. That amendment has been understood for twenty-five years flatly to forbid the deliberate racial segregation of school-age children. While not purporting to repeal that amendment or to override every Supreme Court decision affecting this subject (although it clearly is intended to override some decisions), it is nearly bound to encourage such attempts—and may succeed at least to the extent of generating needless and heavy litigation.

The amendment, once adopted, implies that school boards and communities of an inclination to do so may racially segregate children among schools. The invitation is explicit by guaranteeing that insofar as segregated patterns of school attendance can be achieved by placing each school in a manner maximizing one-race attendance based on geographic proximity to the residences of children of one race, the resulting and willful racial segregation cannot be overturned—because the amendment itself provides that no student shall be compelled (presumably by a court, as well as by any other authority) to attend any other school than the one closest to his home. The devices for maximizing race segregation consistent with this standard are many. Site selection for a "new" school may deliberately be made to place the school most nearly in the middle of a one-race neighborhood, rather than near the edge of that neighborhood (where it would be the "closest" school also for children of different races in the adjoining neighborhood). Schools currently serving mixed neighborhoods may be closed, to force reassignment to other schools, each known to be "closest" to the residences of students more predominantly of one race.

Public Housing authorities inclined to do so may cement racial segregation by willfully locating the proposed housing near an already predominantly black school, to insure that that school becomes the one "nearest" the additional residence (i.e., the public housing) of anticipated, predominantly black families. Incentives to redraw, and to leave as-is, school district lines are supplied by this amendment for racist reasons as well.

In brief, insofar as the amendment implies that where a state or school district is able to match-up race with (a) residence, (b) school district line, and (c) school site, the amendment itself will provide a constitutional "safe harbor" for the racial segregation thus achieved. I do not suppose this is the ambition of the amendment. I do suggest that the amendment will encourage such attempts, wherever the dominant political impulse is the one of racial apartheid.

3. It is futile. The proposed amendment is, unquestionably, an attempt to respond to what its sponsors believe to be excessive and unwarranted busing decrees in the dismantling of racially dual school systems. The amendment does not, however, purport to repeal any portion of the fourteenth amendment nor overrule any of the basic desegregation cases such as *Brown* v. *Board of Education*. It does not purport to withdraw from a federal court, having found that a school district or some part thereof has willfully operated racially segregated schools, from providing any kind of remedy including busing. In respect to busing, such busing is not forbidden as a means of facilitating attendance of students at distant schools. All that is forbidden is that students may not be compelled to attend more distant schools if two conditions are met:

(a) a closer school "provides the course of study pursued by such student," and

(b) that school is "located within the school district" in which the student's residence is also located.

Both of these conditions are reasonable for the amendment to take into account, especially (as I understand) the sponsors do not mean, by this amendment, to oust each local community and each school board and each state from their own prerogatives of educational planning. For instance, the amendment plainly does not forbid a school board from shutting down a school which it considers too old, to expensive, or otherwise undesirable to continue operating, even supposing that residents nearby that school may thereafter be obliged (i.e., compelled by law) to attend what becomes the nearest school, though it is in fact some distance away. I understand as well that a school board is not precluded from providing for only some grades in one school and other grades in more distant schools, though, again, quite plainly more transportation may be involved under this arrangement than if all grades were offered in every "neighborhood" school. Nor, of course, does the amendment preclude the state from alterating school district lines, whenever it deems that change appropriate.

These things being true, then it is also clear to me that a federal district judge, once finding that there is a continuing fourteenth amendment, racial-segregation violation in the current operation of a given school system, may proceed to grant effective relief inclusive of busing and such other incidences of relief as are currently provided. The judge may (and, presumably, must) do so with no genuine embarrassment or prohibition framed by this proposed amendment, assuming only that his orders will also take care to make certain that each school attended by students is closest to their residence insofar as the assigned school "provides the course of study pursued by such student" and is also in the same school district as their residence.

What, then, does this mean? A judge may readily satisfy these standards while yet obeying Brown et al. (as he is obliged to do by the fourteenth amendment) by:

(a) ordering the predominantly-one-race school currently closest to the residences of some student closed, and directing their assignment to "next-closest" schools (with busing) to provide desegregation:

(b) direct the "pairing" of schools, i.e., that no school be closed, but that attendance at school X be restricted to grades one through four, attendance at school Y to grades five through nine, attendance at school Z to grades 10 through 12; schools now "closest" to particular residences which schools provide a course of study to be pursued by those students have been identified, attendance may accordingly be compelled, and an order directing the school board to furnish appropriate transportation (in both directions) supplied.

In brief, insofar as local communities are at liberty to provide schools quite far distant from a given resident, yet closest to that resident as the "nearest" school offering a course of student to be pursued by that resident (and to so provide for local reasons of policy), quite clearly a federal court may do the same thing insofar as it is both appropriate and necessary as a means of remedying de jure racial discrimination under Brown et al. Indeed, I should think that the federal judge might well be able to modify school district lines in addition, so to rearrange attendance patterns for more complete integration, by moving the school district line in such fashion that the school now "nearest" certain residences, yet within the same school district, assure greater racial desegregation.

It is quite plain to me that the amendment is an exercise in futility. Members of Congress voting for it will but embarrass themselves while raising wholly false expectations in a good number of their constituents, and bitterness in others.

Duke University,
Durham, N.C., July 20, 1979.

Congressman John J. LaFalce,
Cannon House Office Building,
Washington, D.C.

Dear Congressman LaFalce: At the conclusion of yesterday's session in the Speaker's Dining Room, you asked more concretely for examples of difficulty were H.J. Res. 74 to be adopted. Aside from enclosing a copy of my brief statement on H.J. Res. 74 in its original form, I am happy to try to be of further help.

As tentatively revised, the proposed constitutional amendment would provide:

"Section 1. No student shall be compelled, on account of race, color or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student.

"Section 2. The Congress shall have the power to enforce this article by appropriate legislation."

There are essentially two difficulties with the proposed amendment even in this revised form (aside from the criticisms I have offered to the original version). The first is, that by inadvertence, this amendment would create a constitutional authorization for certain pupil assignments strictly according to race, a consequence I am confident is not intended but nonetheless is there. Section one uses a "negative pregnant." That is, it provides that a school board, state legislature, or even Congress (under section two of the proposed amendment) could require one particular kind of student attendance plan solely on account of race, color or national origin, namely, one compelling attendance at such school as is closest to each student's residence and which provides a course of study pursued by such student. The language is quite clear about the matter. It provides that no student shall be compelled on grounds of race alone to attend any school other than the nearest school: plainly, then, it does authorize compelling a student on grounds of race to attend the nearest school. So long as compulsion on account of one's race to attend a school does not involve a school other than the nearest school, such compulsion is said, by this amendment, to be constitutional.

The potential consequences are quite devastating. States and communities with the disposition to do so are hereby to be encouraged to reinstitute racial apartheid deliberately and systematically. They may do so by the simple expedient of arranging school sites in such a fashion that, by then assigning all students to the "nearest" school, they can secure racially segregated schools. Examples are obvious and easy. First, secure a racial census map of a given community. Second, locate the geographic center of each neighborhood already predominantly of one race. Third, place a school at that center. Fourth, compel each student to attend that school. Q.E.D.! As we are mutually aware, currently when it can be shown that a school was built and maintained in a particular location precisely because, when combined with a neighborhood attendance plan, it would produce a one-race student body, it is uniformly regarded as a violation of the equal protection clause—deliberate governmental action on account of race. This amendment, if adopted, would undo that settled constitutional law and precipitate renewed efforts (of the kind I have illustrated) to return to the "Old South."

The amendment is also mistaken, and will have little or no effect were it adopted, with regard to its actual objective. That objective, as we both recall, is principally to forbid federal courts (or any other authority) from ordering pupil assignments, with busing, to distant schools. It is thought that this amendment will enact that prohibition and put an end to such orders. The sponsors are quite mistaken.

They are mistaken because they are proceeding on an assumption which, in respect to nearly all such orders, does not in fact apply. The assumption is that the federal courts are assigning students to schools other than "the public school nearest" their residence on account of each student's race. As a strictly legal and factual matter, however, that is not typically true at all, despite appearances to the contrary and despite very widespread misunderstanding.

The typical "school desegregation" case is not a case in which the constitutional violation by a school district is one in which the school district has been busing black children from various locations to compel their attendance at an all-black school. This was, indeed, one kind of "arrangement" used in the South (before Brown), but it no longer is the typical case in the South or anywhere else. Rather, the typical case is one in which the fourteenth amendment violation occurs (i.e., the purposive use of race by state or local government to produce predominantly black or predominantly white schools) involve one or more of the following kinds of deliberate uses of race to achieve segregated schools:

1. school construction, e.g., placing a school in such a fashion that, by assigning all children to attend the "nearest" school, racial apartheid can be assured;

2. school closings, e.g., eliminating a school which has gradually become the "nearest" school for more blacks integrated with more whites because of changing residential patterns, with the result that the "nearest" school after a particular school is closed is, again, certain to be predominantly black or predominantly white;

3. school renovation, expansion, etc., which are variations on the schemes noted above. For example, adding onto a school if, by doing so, it will be able to absorb additional students and maintain its predominantly white or predominating black student body, even under circumstances where, were it not important to the school board to maintain this segregation, the addition would not have been made but instead a new school would have been constructed elsewhere;

4. racial manipulations of school district lines, e.g., originally drawing "racially gerrymandered" lines so that the "nearest" school within the district will produce a predominantly black or predominantly white student body. There are multiple variations of this racist strategy, including merely leaving a district line unchanged when, though changing patterns of living, industrialization, commuting, etc. would clearly dictate a change on fiscal and education grounds, but where any change would tend to integrate the schools more than under the preexisting situation;

5. racial manipulations of housing, zoning, and other government powers, e.g., the deliberate location of a "public," "low income," or other form of assisted housing development in such a place where the local authority can be confident that (a) those who apply for housing will be predominantly of one race, and therefore (b) will find their children assigned to a "one race" school, namely, the one "nearest" that housing.

I could add to these examples, but they should be sufficient. They are examples drawn from actual federal cases, not from my imagination. In each instance, whenever it has been shown that one or more of these deliberate manipulations by government itself was the cause for the "nearest" school being essentially a one-race school, every court has held that the fourteenth amendment has been violated by that government. The courts could reach no other possible decision. The fourteenth amendment, the Supreme Court has rightly observed, nullifies sophisticated, as well as simple-minded, attempts to deny equal protection. If it does deny equal protection for government deliberately to create and perpetuate racially segregated schools (and unless Congress wishes to propose an amendment saying otherwise, overruling *Brown* v. *Board of Education* itself), then in each of the above situations that violation of a constitutional right has been shown.

The plaintiffs in such a case, having proved that in fact they are currently compelled to attend a particular school solely because of their race (i.e., that the local government arranged things to make sure that, solely because of the plaintiff's race, assignment to a neighborhood school would guarantee racially segregated schools), what is the federal court supposed to do? One answer, which no court has accepted, is "nothing," i.e., that plaintiffs have a "right" which has been violated, but they are to have no remedy. If H.J. Res. 74 were adopted, under one interpretation that is precisely what would become the "law" of this country. For under one eminently reasonable interpretation of H.J. Res. 74, local government may assign students to the closest school, i.e., it may compel them to attend that "closest" school, and a federal court would not be at liberty to do anything about it. If this is the interpretation intended by the sponsors, and "accepted" by the Supreme Court, then the result is, effectively, the constitutionalization of nearly all racially segregated schools established and maintained as such by deliberate action of state and local government. But I do not think this is what the federal courts will do.

Rather, in the several cases I have provided as examples, what the federal court now do is simply the following:

(a) Hold first that the plaintiffs have proved their claim, i.e., that they have succeeded in proving that the schools are racially segregated not by chance, but as a consequence of deliberate racial decisions by the school board and/or other agencies of state and local government;

(b) Hold, second, that is light of that proven violation, the state and local government must come up with a plan which will undo or overcome the consequence of its own wrongdoing;

(c) review such plans as the local government submits for approval and approve that plan which will overcome the violation already established; if the school board is utterly recalcitrant, i.e., submits no plan or submits only bogus ones, then the court must retain a special master to prepare some plan of its own.

The kind of "plan" appropriate to the particular case typically does not, however, involve the court in assigning school attendance of particular students by race. Rather, if we have understood the various kinds of violations involved in many of these cases, we can also understand the basis of particular remedies such as these:

1. Order that a school (or all such schools, assuming there may be several of them) that are currently old, in poor repair, located in a predominately black neighborhood, and which was originally put there (or has been maintained there) in order to produce an all black student body, to be shut down. The school being shut down, the school board will make arrangements, under court order, to assign students formerly attending that school to others; insofar as these may be some greater distance away, the school board must also furnish transportation;

2. Assuming that every school is currently in good repair and that it makes no sense either educationally, integratively, or fiscally to force its abandonment, retain that school and every other school but overcome the constitutional violation already committed by the school board by directing that schools be "paired." What does this mean? It means, most simply, that the school in neighborhood "B" (for black) which formerly operated grades one through twelve shall now be operated only in grades one through six. The school in neighborhood "W" (for white) which formerly also operated grades one through twelve shall now be operated only in grades seven through twelve. Under this plan, the sole school providing grades one through six "nearest" all of the residences is school B. Accordingly all students will be assigned to that school and, as many as live inconveniently far from it, shall be provided transportation, i.e., buses. Likewise with school W.

Virtually all court orders are variations on these simple models. And note this: in neither case I have provided you did the court direct the assignment of any student to any school by race. Rather, the court modified the school situation (e.g., closing a school in one case, "pairing" it in the other) such that the resulting pupil assignments, including busing, are not made on a racial basis at all. The consequence, to be sure, is greater racial integration (or, rather, elimination of racial, government created, segregation). But no student is assigned on account of race.

I have been at pains to work this through step by step, to make quite clear why H.J. Res. 75, even as now further modified, is merely confusing and useless. It will not affect what the courts are currently doing in anything like the fashion its sponsors suppose, i.e., to foreclose busing and to entrench "neighborhood" schools predominantly of one race. It will simply be a useless artifact on the face of the Constitution, an embarrassing and permanent reminder of political impetuosity and insensitivity.

Sincerely,

WILLIAM VAN ALSTYNE,
Perkins Professor of Law.

Mrs. HOLT. Mr. Speaker, as I yield today I will be yielding for purposes of debate only in each instance.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I rise in favor of the Holt amendment to the Mottl discharge petition, the constitutional amendment. I am opposed to forced busing. I favor the neighborhood school concept.

I am struck by the inconsistencies that have appeared in the debate here today. Just a few minutes ago those very persons that were deploring the fact that we only had a short length of time to debate this matter, voted for the previous question to cut off debate. Now, is that a consistent position?

Another thing that strikes me, those very persons that beat on their chests and trumpet the sanctity of the Constitution of the United States are the same people that have deprived this House of the right to follow the normal legislative processes to bring forced busing legislation for a vote. Those same doctrinaire liberals that insist on the right of the House to express its will, the people's will, they deprived us of the right to debate this issue in 1970, 1972, 1974, 1976; and now today, we are forced with our only alternative to bring this matter up by a discharge petition.

The issue today is quality education—quality education. We should provide quality education where the kids are rather than hauling them all over creation seeking quality education. That is why we are here today.

The American people have expressed themselves time and time again. What they want is to have their Representative either vote up or down on this issue so they know how he stands, and that is why we are here today. I urge my colleagues to vote in favor of the amendment of the gentlewoman from Maryland, and for the constitutional amendment.

Finally, what is going to happen to the athletic programs and the cheerleaders? These kids that must be bused to school and have to catch a bus to go home cannot practice or play football, or basketball, they cannot participate in the school orchestra or other extra curricular activities because the bus is gone before they finish.

On top of this, with the Presidential concern about the energy crisis, how can we compound the problem by ordering millions of gallons of gasoline for forced busing? Should we use badly needed school money for transportation rather than education? Just watch the school levies fail.

This is your only chance to stand up and be counted.

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Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, as someone who has enforced the law as Director of the Office of Civil Rights, I rise in opposition to this amendment and to its proposed revision; not just because it is wrong constitutionally, morally, or educationally, but because these kinds of amendments try to fool the American people into believing that by adopting these kinds of amendments they will stop enforcement of the 14th amendment. That simply is not going to happen.

Since 1964, the year of the Civil Rights Act, there have consistently been similar amendments that have been passed by the House and by the Congress relating to racial balance and neighborhood schools and transfer of students; and time and time again, the courts have rejected these ambiguous amendments for 15 years as in no way limiting their right to deal with violations of the 14th amendment. The court would do the same with this amendment because it is equally ambiguous.

If the House is going to deal with this directly in terms of stopping court-ordered busing, then the way to do it is simply to say, "The Federal courts shall not be permitted to remedy violations under the 14th amendment," period.

But, that will never happen because Members of the House and Congress, and indeed the people of this country, are not about to tie the hands of the courts in dealing with enforcement of the 14th amendment. So, we play games with these code words such as, "racial balance," "neighborhood schools."

The fact is that there are legitimate concerns over busing with regard to distance, community preparation, the impact on the health and education of the child; legitimate problems that ought to be resolved by the Congress. Indeed, even the Supreme Court has recognized the limitations of busing. If we are to deal with these legitimate concerns, they cannot be dealt with in the context of a constitutional revision, but through legislation that seeks to help school districts truly solve these difficult problems and truly achieve equal education for all. I urge a "no" vote on the amendments.

Mr. RODINO. Mr. Speaker, I yield 2

minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I rise today in strong opposition to the amendment offered by the gentlewoman from Maryland, and to the original resolution before us today.

It is profoundly disturbing to me that many of my colleagues seem prepared to alter our Constitution, without the benefit of careful forethought and debate. The language of the amendment now before us, has been presented to Members only within the past few days.

Yet, in this contex, we are urged to amend a Constitution which has guided us through over 200 years.

In our own lifetimes, the Constitution has chartered our course through world wars, the Great Depression, and the internal crisis of Watergate. The Constitution has worked so well, and survived so long, because it is framed in general concepts, and cannot be changed quickly, or easily, at the whim of a majority on any volatile issue of the moment.

I deeply hope my colleagues will heed the lessons of the past, and respond to the dangers of the future. The prohibition experience has already demonstrated the folly of attempting to resolve social conflict through amendments to the Constitution. The amendment before us will set a dangerous precedent of social policy of the moment through constitutional change.

The issue before us today is not the pros or cons of court-ordered busing as social policy. The issue is whether or not we are going to subject our Constitution, with its basic principles of government, to each and every issue of the moment.

In his 1966 State of the Union message, Lyndon Johnson said:

> It is the genius of our Constitution that under its shelter of enduring institutions, and rooted principles, there is ample room for the rich fertility of American political invention.

Now, as then, we have the potential to solve the difficult social questions of our day, without constitutional change.

I deeply hope my colleagues will share my immense respect for the resilience and integrity of the Constitution, and will vote to reject this amendment.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, nobody likes court ordered busing—not even those who oppose school segregation, as I do. But just because you do not like this particular device does not mean that anything offered in the name of ending busing is necessarily good, any more than every remedy offered as a cure for some disease is necessarily either effective or safe.

Far from getting the Federal courts out of the business of running local schools, the Mottl amendment would open the door to a complete takeover of local schools by the Federal courts. It would also open the door to legislation by Congress authorizing Federal control of education.

The Mottl amendment would not only give the courts and the Congress a blank check to reorganize education, it would also cripple the ability of local school districts to manage their schools and to meet changing needs and conditions. For example, under this amendment, school districts could be prevented from assigning grade school pupils beyond the nearest school for any purpose—whether to relieve overcrowding, or to save expense, or for any other purpose. It would make impossible the present Akron Plan, under which the city of Akron, Ohio, is attempting voluntarily to lessen de facto segregation in the Akron Public Schools. Under the Mottl amendment, local school systems would be under increasing pressure to make radical changes in school courses, to build unnecessary schools, or to abolish neighborhood schools in favor of huge consolidated schools.

These are some of the more obvious dangers and defects of the amendment. Because there have been no hearings on it, and only a severely limited debate on the floor of the House, we can only speculate what other dangers and problems this ill-considered and poorly drafted amendment harbors. Truly the Mottl amendment would be a "loose cannon" that could do unpredictable damage and destruction to the education of the children of today and their descendants for generations to come.

One thing is certain. If this amendment is adopted, it will be taken by our own people, whatever their race, and by the rest of the world as marking a retreat from the commitment to make real the ideals of equality that our Nation has pursued since it first proclaimed its independence.

Busing and other problems associated with our efforts toward the goal of equal rights are temporary and passing ones. These problems do not and should not panic us into an ill-advised amendment of the Constitution of the United States. They can be met, indeed they are being met, by a variety of legislative means and voluntary programs. One example is the magnet school approach that Senator JOHN GLENN and I, with the able and indispensable help of the distinguished chairman of the Health, Education, and Labor Committee, the Honorable CARL PERKINS, have successfully promoted in Congress. Central-Hower High School in Akron, Ohio, is an excellent example of this kind of approach. This and other successful alternatives to court-ordered busing can be implemented on a wide scale if we will simply see that there is adequate funding.

The same is true of other remedies, such as smaller classes and better trained teachers. Such alternatives have, as their primary goal, top quality education in every school, wherever it may be located. Once this is achieved, problems like busing will cease to be of much concern. Until it is achieved, that is, until we can assure that no child is short-changed in educational opportunities, we will have failed the children of this Nation, regardless of the fate of busing.

Finally, Mr. Speaker, let me say that to amend the Constitution in this manner, with no hearings and only limited debate, would be playing "Russian roulette" with our Nation's charter and our cherished institutions. That being the case with the Mottl amendment, how much more it is the case with the amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

Most of us never saw the Holt amendment until today. We have had virtually no opportunity to study its implications, much less the benefit of hearings and the considered response of the public and of experts in constitutional law. We are allowed a total of 1 hour to examine its implications before we vote. That is why I voted against even taking it up. It makes a travesty of the serious process of amending the Constitution.

However, on its face, the Holt amendment makes some things abundantly clear: It would remove any pretext of commitment to the goal of equal educational opportunity, it would remove whatever pressure exists on school districts to avoid deliberate segregation and, indeed, it would give the cloak of constitutional protection to racially segregated schools even where the segregation has been by design and not by chance. In doing so, it would proclaim to all the world a clear and intentional retreat from two centuries of national effort to make the goal proclaimed, in the Declaration of Independence and in the Constitution, a reality.

Both the Holt amendment and the Mottl amendment should be defeated so that we can get on with the job of assuring quality education for every child in America.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, segregation, racial prejudice, unequal opportunity, are notions which I reject along, I think, with most Americans, but I would also suggest to my colleagues that the ends do not justify the means.

If I have been asked this question once, I have been asked it a thousand times and it always goes something like this: "I thought this was a free country. I thought this was a democracy. Nobody wants busing, and yet we have it. Why?"

I have tried to patiently explain the intricate legal points in the Swann, the Green, the Denver, Detroit, and Los Angeles decisions. I have tried to explain the philosophy behind busing, and invariably the response is, "But, Mr. Goldwater, that does not make sense."

Now, what do I tell my constituents, the ones who are suffering under the delusion that this is still a representative democracy; who simply do not understand why up to 80 percent of the American people are opposed to busing, but yet they still have it, and nothing they do or say and no matter who they elect, they cannot get rid of it?

They are understandably angry and

frustrated, and I would like to share with you the situation in my area to give you an idea why.

The Los Angeles Unified School District has 600,000 students. It covers 700 square miles and has a $1.5 billion budget. For 3 years, it has been launched on a grand experiment in integration, and during that time, we have lost some 87,000 students—6,000 of them minority—and they are expecting to lose another 12,000 next year; 87,000 students! That is about the same number of students in the Boston school district wiped away, scattered, dispersed, and where they went, no one really knows.

I would also suggest to my colleagues that busing is antipoor; it is antiminority. The middle and upper classes can afford to move away if they do not like it. They can afford to do those things, but the minorities and poor, the ones who are caught in this situation, have to live with it.

Again, in Los Angeles, out of 17,000 students who are forced to ride buses, only 3,000 are white.

What is that ride on the bus like? The average time—I repeat, the average time, not an extreme case—a mandatorily bused student spends commuting is 1 hour and 15 minutes each way. That is 2½ hours a day on a bus, and there are incidents where children sit on a bus for 5 hours a day.

Aside from the physical, geographical problems, there simply are not enough nonminority students in the L.A. Unified School District to accomplish the supposed goal of establishing nonracially identifiable schools. Even if there was some magical way to spread the white students out in perfect proportion to their numbers, there would not be more than 29 percent Anglo students in any school in the district. What that means in pragmatic application is that in Los Angeles, we are actually in some cases busing minority students to minority schools.

The Los Angeles Unified School District has a total budget of $1.5 billion. An unbelievable $130 million of that budget goes toward the mandatory busing program. There are more than 2,000 buses used by the school district—more than owned by the L.A. Rapid Transit District. And, while Californians stood in gas lines, 50 million gallons of gas are allocated and used for mandatory busing, which has not elimінaetd racially identifiable schools and for which there is no evidence that it ever will.

I received a call yesterday from a woman with four children. She pleaded that this amendment be passed, and not because she was in the least worried about her children attending an integrated school, because they already did. What is she concerned about? Her 12-year-old son is bused to a school 24 miles away. Her 10-year-old son is bused to a school 12 miles away in the other direction; and she had no idea where her two youngest might be when they reach the fourth grade. Her questions and concerns are legitimate. What happens in case of an emergency, such as an earthquake? How can either son continue with their after school activities? How can she continue to participate in the PTA for both children?

How can those concerns be interpreted as racially motivated? I do not believe they are. I have talked to people all over my district, and race is not the question or the concern; it is busing; it is transportation of children in the middle of rush hour to an unreasonable distance away from home.

I would like to emphasize this point because I am deeply concerned that there are those who for whatever reason want to interpret this vote as antiblack or anti-Mexican American or anti-anything else, but what it is. It is antibusing, and what is the record of busing in achieving an integrated society and improved educational opportunities and achievement for all citizens? The record is clear—busing does not work. Dr. Coleman of the famed "Coleman report," which is generally recognized as the thesis in support of busing, has done a 180-degree turnaround on the issue. Every followup study on busing confirms that busing has not worked and in fact, has aggravated the problem.

One study examined what happened in Pasadena. There has been busing in that city for 7 years, and not only did test scores not improve they became worse. Test scores are now finally starting to improve. Why? Not because of busing but because of a "back to basics" program. I would suggest that this is the answer to the educational dilemma in this country and that putting a kid on a bus has never taught him how to read or write. Education is the key to success in our society; education is the means of entering the mainstream and busing has proven itself anathema to scholastic achievement.

Finally, I would ask my colleagues to examine the recent report by the National Academy of Education. I do not think anyone would or could make a case that the panel of contributors are racist or bigoted, but that report seriously questions the efficacy of busing to attain the laudable goal of a color-blind society.

Integration through the improvement of the quality of education for every American is a goal that the vast majority of people in this country support. But by trying to achieve it through unreasonable and unworkable busing plans, we are tearing the fabric of the very goals we are trying to attain.

The frustration people feel over busing policies will not go away, and you, my colleagues, have an opportunity today to right this essential wrong. I urge support for the Holt amendment and the resolution.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Speaker, I live in a small town in Bucks County, Pa., about 35 miles from Philadelphia. If busing comes to our area, children in my particular community will probably not be bused. The busing will take place much nearer Philadelphia. Too often it is low-income and poor people, many of them white, who are the victims of busing. I think we need to consider them today, for they are surely as much the victims of busing as are black children.

But, I would like to speak to the amendment of the gentlewoman from Maryland. The amendment would prohibit race from being a factor in pupil assignment. But, we all know that race has always been a factor in the assignment of pupils in this country. Black children have gone to black schools because of the color of their skins, and that has been the way with white children, too.

Now that that principle would provide some equity in American education, some among us are suddenly against it. I would like to know where the proponents of this amendment were when millions of black children were being bused away from their own neighborhood schools to segregated schools in a distant area? Why were they not opposed to busing then, Mr. Speaker? Last week HUD issued a study entitled, "Measuring Racial Discrimination in Housing." It concluded that when a black American seeks housing, there is an 85 percent, 85 percent, chance that he will encounter discrimination.

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If black Americans are discriminated against in their effort to get housing at the rate of 85 percent they cannot then get out of segregated neighborhoods. Now, we are going to prohibit the possibility of taking them beyond their segregated neighborhoods to a school which will provide an equal chance to them. We are just compounding the problem of residential discrimination, which is still prevalent in my part of the country. This amendment will only make things much worse. This sends a message to the people of this country, as has been said so many times here today, that we are turning the clock back.

And how sad it is to see the party of Lincoln turning its back on people in this country. For that is what will happen here if we pass this constitutional amendment.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in opposition to both the Mottl amendment and the Holt amendment to the Mottl amendment. But I would hasten to add that it is terribly important oftentimes that we define the parameters of the discussion. I choose not to come here simply to oppose but to act to reaffirm on this, the 25th anniversary of the Brown against Board of Education decision, our commitment to freedom and justice and equality. So I am not here simply to oppose; I am here to reaffirm those lofty and high principles.

Many of my colleagues have argued eloquently and effectively with respect to the issue of tinkering with the delicate nature of the Constitution, and I shall not be redundant by in any way repeating those arguments. But I would simply like in the few moments I have to address a few arguments that have been raised. Some of my colleagues have said this is a vote for economy. We are saving the American taxpayers' dollars.

Mr. Speaker, I would simply ask my colleagues a rhetorical question: What price freedom? What price dignity? What price equality? Do we place a dollar figure, a thousand dollar figure, a million dollar figure, or a billion dollar figure on freedom? Is it worth 1 gallon of gasoline? Is it worth 10 gallons of gasoline, or 1,000 gallons of gasoline? If you translate the issues of freedom and justice and principle and dignity into dollar signs, then I would simply suggest how callous, how crude, how cruel, and how insensitive.

Mr. Speaker, one of my colleagues has argued that the majority of the people oppose busing. I would suggest to my colleagues that a majority is not always equated with right. At one time in the world the majority of the people thought that the earth was the center of the universe. The majority of the people at one time thought the earth was flat. At one time the majority of the people in this country thought the illegal, immoral, insane venturism in Indochina was proper. I do not suggest that at any moment in time the majority is always right. It is in those controversial moments when we must be more than mirror images of ignorance, more than mirror images of unenlightened and uninformed parochial points of view, when we must rise to our lofty responsibility to assert leadership.

Some have suggested it is cumbersome. I have sat here on the floor of this Congress for 8½ years, and I can give you valid testimony that our form of government is cumbersome. It is fraught with encumbrances and hardships. But we continue to embrace those encumbrances, we continue to embrace those hardships because we believe that the principles that our Government responds to or embraces are more important than the hardships and the encumbrances. And I would suggest that busing falls into that category.

Finally, to the issue of race, the fact of the matter is that this is a nation of black, brown, red, yellow, and white human beings. At a time when it is desperately important that we unite and display the strength of our unity by uniting around the critical issues that confront us, we find ourselves confronted with this amendment which will create bitterness and divisiveness all over the country. This is not simply a vote we will dispose of in this moment. For the next several years this battle will rage in 50 States in the United States. It will create divisiveness and bitterness that is incalculable. You cannot comprehend the incredible problems that this will cause. I would suggest that my colleagues vote down all of these amendments and strike a blow for the reaffirmation of freedom and justice and dignity and high principles.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will again observe for the benefit of those who are the guests of the House in the gallery that the Rules of the House prohibit the expression of any approval or disapproval of anything that is said on the floor. The Chair is aware that the Members' invited guests and other guests are not aware of that rule.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Dornan) for purposes of debate only.

Mr. DORNAN. Mr. Speaker, I rise in support of the amendment and the resolution. Earlier a colleague asked where some of us who are against forced busing were during the civil rights battles of the sixties. I want to state where I was 15 years ago. And so does the gentlewoman from Maryland (Mrs. Holt).

In the 1960's I had five children all under 10 years of age. Obviously, I was spending a great deal of time raising them. Nevertheless, I left my home in Los Angeles many times to register black voters in places like Philadelphia, Mississippi, and Selma, Ala. One of the greatest days of my life was August 28, 1963, in front of the Lincoln Memorial when Dr. Martin Luther King moved 250,000 Americans to tears with his incomparable "I Have a Dream" speech.

This redhead is not a redneck. I do not have to defend myself or my record on civil or human rights. I am against busing because it is simply an abject failure, something that is terribly counterproductive.

I have not heard the word "parents" once in the last 2 hours of debate on this floor. What about the parents of this country, of all colors and backgrounds, who are tired of being pushed around. They are the people I am trying to listen to and so is the gentlelady from Maryland.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding. I commend him for that statement. I, too, want to respond to the gentleman from Pennsylvania that I was fighting for civil rights in the sixties. I was serving on the Human Rights Commission of Anne Arundel County, Md., and I was fighting for individual liberty at that time in every way I could. And I continue that fight as vigorously as I can.

Mr. DORNAN. I think one of the mistakes maybe that we have made on our side of this debate is not to point out that this approach to education of quota "busing" was conceived by some of the best intentioned people in this country, men and women of good purpose trying to eradicate the curse of racism from this great country of ours. They not once in the beginning had any devious motives in the creation of these busing plans other than trying to bring us together in the name of brotherhood. Everyone in this Chamber espouses brotherhood, especially when we are on the stump campaigning. But busing has been an abysmal failure. Where the arrogance of the architects come in, is when they refuse to face the reality of the fruits of their efforts. The chief architect of busing, Dr. James Coleman, says clearly it is counterproductive to good education. It is using our young children as pawns, as bureaucratic and political prisoners of a bankrupt idea.

I concede that busing is a limited success in some less populated areas of the country, but not in major counties like Los Angeles.

I believe in one-way busing if schools are decaying and drug infested with no discipline, but how can you bus kids back into a mess you've just rescued other kids from. My brother is a high school teacher and has taught in Los Angeles County for over a decade—100 percent black classes. He loves teaching and he was raised to believe in the brotherhood of man. But he decries this failure of forced busing. I ask that we please consider the parents of America here today. The American people, as Thomas Jefferson said, "given the facts will always make the right decision." They have the facts and they do not like the results. And they are correct. We are not arguing black against white or defending bigotry here, we are arguing for commonsense, parents' rights, children's rights, quality education, and simple justice.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. Holtzman).

☐ 1340

Ms. HOLTZMAN. Mr. Speaker, I rise in opposition to the Mottl and the Holt amendments to the Constitution. These amendments come at the wrong time, they come in the wrong way, they come at the wrong place in our country's history.

Mr. Speaker, the Mottl amendment would wreak havoc with our entire educational system. It would require assigning a child to the nearest school regardless of the circumstances and regardless of whether it has anything to do with racial integration. For example, if a local school were overcrowded the local school district could not compel a child to go to a different school or an annex a few blocks further away.

Mr. Speaker, the Holt amendment also has fatal flaws. Like the Mottl amendment it is so poorly drafted as to be incomprehensible in part. In my judgment, although the amendment purports to stop busing, it will not, in fact, stop busing. I think any person who takes the time to read this amendment carefully will come to that conclusion.

All that the amendment will do is cause years and years of endless litigation after years and years of endless divisive debate on the issue of busing. What will we have accomplished? Very little except anger and bitterness.

The 14th amendment to the Constitution—which these amendments try to undo—was won at the price of the Civil War. Let us not forget that. It took us almost 80 years after the amendment was adopted for the Supreme Court of the United States to give the benefit of the freedom fought for and won to the blacks in this country by saying that segregation in schools is illegal. We are still trying now to finish the job begun 25 years ago of desegregating the schools of this country.

Although these amendments, in fact, will do nothing to eliminate busing, what they are intended to do is to undo the 14th amendment, to shrivel it up. Yet it is the 14th amendment which makes us stand tall among the nations because it guarantees the principles of liberty and human dignity for our citizens. To emasculate the 14th amendment is to undermine the human rights of all of us.

Let me make one final point. Many have contended today that the issue is the quality of education. Let us look into our hearts. If we adopt these amendments, we would just point our finger at the courts and say, "Our schools have failed because of you."

But if they have failed it is because of us and because of what Congress has not done to assure the quality of education for all American children. The Constitution should not be a repository for buckpassing.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, we have heard some very eloquent comments on both sides of this issue. But I think it should be said that none of us in support of this particular amendment and the Holt substitute, have as a purpose to undo what was done by the Brown against Board of Education decision and certainly we do not wish to undo the 14th amendment. What we are attempting to undo is some legislative actions taken by the courts which have proven to be failures and which the courts will not recognize as failures.

It has already been mentioned about what has taken place in Los Angeles. With much ballyhoo they started a busing program. After just 7 months, of the 32,000 students who were supposed to be bused, half of those students were no longer within the system.

This coming year we do not know how few will be left. It has been said there are not enough whites to integrate the system now and now we may have to go beyond the Los Angeles school district to surrounding school districts and disregard district lines and county lines.

This issue has recently been debated in the legislature in California. One of the people testifying before the legislature there was Dr. Thomas Sowell, a black and a professor of economics at UCLA.

According to a Los Angeles Times article, he said that there is no evidence to show that forced mixing of students does more than generate hostility. He said:

> It is bad enough to have to cope with existing racism without spending millions of dollars on busing to create more.

That is the essential problem. We are telling a generation of parents that somehow because they feel within their heart of hearts that they want their children to attend local schools, that they want to be able to go see their children, that in case of a problem they want to be able to reach their children easily, that they want their children to be able to fully participate in the school system, that somehow they are therefore racists.

What we have done is generate tremendous confusion among the parents of this country who are of good will. I ask you, I pray that we stop this failed policy, that we support this amendment and we get on the road to the effective ways of fully integrating this society.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Gray).

Mr. GRAY. Mr. Speaker, "busing" is the code word for our colleagues who seek to amend the Constitution today. But for those of us who will vote to defeat the proposed amendment, the real question is whether the House is prepared to turn back the clock on every civil rights gain of the past 25 years.

I hope my colleagues will recognize that by voting for the motion by the gentleman from Ohio, they would be setting a dangerous precedent in tampering with the Constitution, in using it to set policy on narrow social and political issues.

By tradition, our Constitution is not a document of narrow, social dogma.

It is not meant to ebb and flow with the tide of public or political opinion.

Rather, it has endured as a document which defines the broad structures under which we govern ourselves.

It is a statement of the human rights which government must respect.

Mr. Speaker, the proposed amendment itself contains little substance, and a great deal of contradiction.

One example: It would deny the very thing which its supporters claim to favor—local and State autonomy over their own schools.

The amendment as it was originally drafted, for instance, would deny local school districts the rights to assign students to various schools to relieve overcrowding, or to deal with such emergencies as teachers' strikes.

It would allow a tremendous amount of Federal interference in local education policy.

But more important, Mr. Speaker, to those blacks and other minorities who have yet to share in the benefits of three decades of civil rights gains, the proposed amendment would remove a key tool in the battle to correct inequalities in our schools. It is clear to me that it would severely undermine the efforts we have seen in recent years to achieve racial equality—which is so dependent on equal opportunity in education.

Equality in employment and in our society as a whole hinges on the providing of an adequate education in a nondiscriminatory fashion. This is the meaning of the Supreme Court's 1954 decision in Brown against Board of Education, and the unending efforts in the Federal courts to implement that decision.

Mr. Speaker, the amendment by the gentlelady from Maryland drives home the real issue here today.

One issue, originally, was whether this House is prepared to turn back the clock on every civil rights gain of the past 25 years.

But with the language of this amendment, we face squarely the question of setting for this Nation a policy of officially sanctioned apartheid.

In a way, I think we owe a debt to our colleague from Maryland, because with this new language, the question of race no longer lurks behind the door.

It is out front, for the whole country to see—to see that the intent of this amendment is to prevent blacks, other minorities and the poor from gaining access to equal opportunity in the classroom.

Mr. Speaker, if Congress eliminates busing as a tool to correct historical discrimination in our schools, it will say, in effect, that it disregards the concept of equality under the law. It will say to hundreds and thousands of our children, "You are not entitled to equal rights under the Constitution. Your rights are violated by inferior schools, but these violations are not worth the remedy."

At the same time, Mr. Speaker, by passing this amendment today, we would open the door to a stepped-up, wholesale attack on minorities and the poor—attacks carried out most recently through various antiaffirmative action, antiabortion, and antibusing legislative proposals.

The next step, just as easily, would be a frontal attack on the basic human survival programs which we have put in place to correct historical discrimination—programs such as CETA, subsidized housing, Head Start, and Get Set—all programs which are crucial to people struggling to secure economic equality in America.

For all of these reasons, Mr. Speaker, the leaders from both sides of the aisle have correctly warned that a vote for the proposed amendment would be interpreted as a vote against civil rights—because historically, the brunt of the "separate but equal" philosophy contained in this amendment has fallen on black people.

The language offered by the gentlelady from Maryland makes this point more clear than ever. Not one of us in this Chamber should kid ourselves about the intent of this amendment.

Those of us who seek to defeat this amendment hope that our colleagues will join us in voting against it, and in allowing the full range of equitable remedies to be applied when our children's constitutional rights are violated, and their educational opportunities are denied.

I hope, Mr. Speaker, that when we leave this House today, we will be able to say that the rights of blacks, other minorities and the poor still count for something.

Mrs. HOLT. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. Sawyer).

Mr. SAWYER. Mr. Speaker, I perhaps am more intimately connected with this issue than anyone in the House. I happened to have defended the only successfully defended integration case by the NAACP against the Grand Rapids Board of Education, basically on the grounds that we are doing a pretty good job ourselves taking care of this situation without this kind of mandatory rioting. And we are, incidentally, and we have progressed along that line.

I think if it is not unconstitutional, as it is not, to mandate the transportation of your children to school districts you do not opt to live in, or in school areas you do not opt to live in, it certainly ought to be. It started out as a tool to desegregate the de jure segregated South. It ended up to where now if you build a new school in a black district you are therefore guilty of de jure segregation by perpetuating a segregated school. If you do not build a new school in a black district you are guilty of de jure discrimination by having them have an older school than the schools provided in other areas. What has historically happened with the use of this tool, in addition to its impinging upon people's rights, is to resegregate core cities because they will not involve suburbs which do not have any significant minorities unless they, themselves, violate it, because they do not have anyone to violate against. So you get a flight to the suburbs.

I urge a vote in favor of this amendment.

☐ 1350

Mr. RODINO. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in opposition to the Holt amendment and to the Mottl amendment.

I have sat here on this front row and I have listened to all the debate. While I was sitting here I read some words. There are four words down here, and in my 2½ minutes I want to talk about those four words.

I think this country is in trouble. I think there is a malaise of spirit in this country and I think we have troubles in terms of external forces. So the word becomes "union," that word right down there, to preserve and protect the Union. We are not going to do it if we pass either of these amendments. We are going to unleash some forces in this country that God knows should never be unleashed again.

As I said in a "Dear Colleague" letter to you, the best and the worst came out in America during the civil rights struggle and the best prevailed. Do not set a climate again, for that which is worst in the country to surface.

The other word down here is "justice." Is it justice to continue to deny black children equal education by keeping them in separate segregated schools which are not equal in terms of curriculum, which are not equal in terms of teacher-pupil ratio, which are not equal in any respect, and none of the States are going to make them equal; is that justice?

The other word is "tolerance." In all this ugly mess that we have heard today, something very beautiful has happened to me. I have seen some men stand and women stand in this House, knowing they are jeopardizing their political future; I will not call their names, but I have been heartened by these people who stood up and said, "I have an understanding of what is right for this country and that understanding is based on tolerance." That is beautiful. That is an uplifting experience.

Finally, let us come to the last word, there it is, there is the word "liberty." The one thing that safeguards our liberty is the Constitution. Unravel it, trammel it, walk upon it, in any way diminish and vitiate it, and you are diminishing and vitiating the most essential and marvelous thing that we have got in this country, liberty.

I said so many times, I do not know how much longer I am going to serve in this House. In fact, I do not know how much longer I am going to live. I hope to live a long time, but I would like to serve out the balance of my time in this House and I would like to live out the balance of my life in this country with the understanding that somehow or another we would be made a whole country again. This will not help us if we pass either of these two amendments.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, this all began back in 1954 with the Brown decision and basically it said one thing. It said that every student in America was entitled to go to the neighborhood school, the school that was nearest to his home. That is what it was all about. Every child, regardless whether they were black or white, could go to the neighborhood school that was closest to their home.

Gradually we have reversed that. Now, some of us seem to misunderstand what we are voting on today. We are voting on this matter of forced school busing. The question is, Shall the American people be entitled to vote on the constitutional amendment? We must give America the right to vote on the question. Would you deny the American people an opportunity to vote; maybe there are some in Washington who believe that all of the brains in this country are in Congress. I want to remind you, the plain citizen out there, the average citizen of America, is the one that runs this country and is the one that we should be responsive to. Your vote today is this. Shall we let this amendment go to the people and let them have an opportunity to decide? Why is it, why is it that parents feel so strongly about this subject of neighborhood schools? You check it. Parents have checked it. Mothers and fathers are interested in quality education for their children.

As I stated before, and I want to repeat it, students take these comprehensive tests in their senior year. They call them SAT's and they are achievement tests, student achievement tests to show how much students know in the way of math, in the way of verbal, and in the way of reading and they add up the totals. The totals the year they started this busing program were 973. Year by year the totals have dropped until in 1978 they are 879. The mothers and fathers of this country are alarmed and they are disturbed. They feel that their children deserve a better education and they deserve quality education; but instead SAT scores have dropped from 973 to 879. Teachers make higher salaries. Schools have better buildings. Better books are available. The reason education has declined is forced busing.

It goes back to the idea of neighborhood schools. When they made the scholastic survey on what is the one ingredient that means the most to children's improvement, they found it was parents' interest. But with crosstown busing, parents cannot participate now in the PTA because it is across town. They are not able to go and watch the student activities. Parents are cut out of taking a positive and constructive support position in school activities when they live way on the other side of town from school.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I take this time in opposition to the Holt amendment to call the attention of the Members an editorial from the Birmingham News in opposition to using the Constitution to achieve an end to busing. This editorial states:

> Nobody, it seems, likes busing as a means to bring about racial balance in schools. Even those who call for busing usually couple the plea with the disclaimer, "We wish there were a better way." But the prohibition of busing by use of a Constitutional Amendment against it, like the one being offered in the U.S. House by Rep. Ronald Mottl, D-Ohio, is a prime example of using a chain saw to cut hot butter.
>
> The Constitution is the basis of all law in this country. We should think long and hard before we try to amend it. When we do amend it, we should have as our goal the alleviation of a large set of legal problems or evils that can be handled in no other way. Otherwise, we run the risk of opening the document up to the passing peeves of each generation and detracting from its most important feature—its simplicity.
>
> While busing is a controversial, unproven, inconvenient and, sometimes, even dangerous tool, there are better ways for those opposed to deal with it than through the Constitution. And it is to be hoped that members of the House will realize that fact.

The gentleman from North Carolina (Mr. PREYER) has suggested a better way than the negativism embodied in an antibusing amendment to the Constitution—a way in which we do not turn back from quality education for every child or from equality of opportunity in which we continue to strive.

that every person shall have the chance to fulfill whatever gift God has placed in that person. It is through positive means, such as this piece of legislation, of which I am a cosponsor, that we will find better ways to create equality and quality in education. The Preyer bill would expand the flexibility of States and cities in planning how to deal with racial isolation in the schools, and provide incentives to do their duty to everyone, and I intend to work, both as a member of the committee to which it has been referred and as a Member of this House, to insure its passage.

Unlike this legislation which gives the promise of a positive program for the schools, the amendment before us may not even achieve an end to busing, but it will have the ill effects mentioned by my colleague, the gentleman from Maryland and others.

I urge that this amendment be defeated and that we seek an end to forced busing and a better way to achieve quality and equality of opportunity in education.

Mrs. HOLT. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BAFALIS).

Mr. BAFALIS. Mr. Speaker, I have reviewed the Constitution over and over again. I have yet to find anything that gives the bureaucrats or the Federal courts the right to bus children in this country.

I have listened to speaker after speaker say that they are against this constitutional amendment, but they are also against busing. You know, that reminds me of somebody that says, "I am against obesity, but I am also against dieting."

There is no way in my judgment that we can stop forced busing in this Nation unless we adopt the Holt amendment and then adopt the Mottl resolution.

This Congress, to my knowledge, has never endorsed the idea of forced busing in this country. In fact, this Congress has done just the contrary.

In the 1964 Civil Rights Act, we added language that said, "Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance."

The Civil Rights Act of 1964 also said, "Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance."

Now, let me tell you what this Congress has done since that time. We have prohibited busing through amendments to the following acts.

In 1966, the Elementary and Secondary Education Act amendments.

In 1968, Labor/HEW appropriations.

Again in 1968, the District of Columbia Appropriation Act.

In 1969, the elementary, secondary and other education amendments.

In 1970, Office of Education Appropriation Act.

In 1972, Office of Education and Related Agencies Appropriations Act.

In 1972 again, Education amendments.

In 1972 again, Equal Educational Opportunities Act.

In 1974, Elementary and Secondary Education Act amendments .

In 1975, supplemental appropriations.

In 1976, Labor/HEW Appropriations Act.

In 1977, Labor/HEW Appropriations Act.

In 1978, Labor/HEW Appropriations Act.

In 1979, just this year, Justice Department authorization.

Again this year, Department of Education bill.

Again this year, 1979, Labor/HEW Appropriations Act.

This Congress over and over again said there shall be no busing in this country; but our imperial judiciary and the bureaucrats of this country have refused to listen to us. We have no alternative. We must adopt the amendment and we must adopt the resolution. I urge its adoption.

☐ 1400

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. HOLT) has 6½ minutes remaining, and the gentleman from New Jersey (Mr. RODINO) has 5 minutes remaining.

The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I rise in strong opposition to the proposed Holt constitutional amendment and the Mottl resolution prohibiting student transportation for desegregation purposes.

The struggle of black people for both freedom and equality has lasted over 300 years. Only in the last decade have we begun to begin to taste the fruits of the rights guaranteed to all Americans by the Constitution.

Nonetheless, the history of our struggle has been marked by an abiding respect and love for that document. The Constitution of the United States has provided political doctrine and political direction to our cause.

Black people have justifiably claimed that we have aided our country realize its true destiny by putting the truth of equal justice into American democracy.

For this reason, I urge my colleagues not to allow this sacred document to be amended in this manner. We have only just begun to unshackle the bonds of old ways; to create a constitutional roadblock to that march of progress would be a grave injustice to a large segment of our society. Let us not limit the tools we can use to implement these needed changes.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, I have heard the argument raised that this body is in the process of attempting to turn back the clock when in fact, as my distinguished colleague, the gentleman from Florida (Mr. BAFALIS), has already well indicated, if that is so, this body has consistently been taking that position and in the process has been reflecting the overwhelming will of the American people.

Second, I think it is important for us to realize that our Constitution, which we all revere and which we all swear to uphold, is a document designed to see that the will of the majority ultimately shall prevail under our system of government.

The Constitution is subject to interpretation, and those people who interpret it can be wrong and obviously have been wrong. Plessy against Ferguson mandated enforced busing for racial purposes—that is what it was all about—denying blacks the opportunity to go to school in their local school districts. Brown against Board of Education said there shall be no busing; blacks shall have the opportunity to go to school in their local school districts just as whites have that opportunity.

Now, of course, subsequent interpretations of the Constitution have got us back to a probusing stance.

I think it is important for us on this question of the right of the majority to prevail under our system, and with the safeguards of mandating special majorities—to protect minorities—to keep in mind that the issue is freedom, freedom of the individual. The right to be free from arbitrary, Government-mandated busing of one's children whether he is black or whether he is white.

The Great Emancipator, we must remember, expressed the dream eloquently when he talked about a rebirth of freedom in this country, freedom under God so that this "Government of the people, by the people, and for the people shall not perish from the Earth."

That is precisely what we are talking about: Fulfilling under our constitutional system, and by a constitutional process, the will of the people. Finally, as my colleague, the gentleman from Texas (Mr. COLLINS), so ably stated, it is the people who are the ones who are going to be privileged to make the determination as to whether this amendment is ratified, not us.

Mr. Speaker, I urge support for the substitute offered by the gentlewoman from Maryland (Mrs. HOLT).

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, I rise in adament opposition to House Joint Resolution 74. One of the reasons for my position is that this measure will, without a doubt, do a great deal to divide our country, when what we need so much at this time in our history is to unite. Our country is faced with a great many problems—problems which I sincerely believe we will withstand. But we cannot go running to our Constitution with each of our immediate frustrations, looking for an immediate cure. Otherwise this great document will lose the tremendous respect which it has earned over the past two centuries.

We, the lawmakers of the United States, must be very selective in choosing the sorts of goals which should be achieved through constitutional amendment. I fear that an amendment such as Mr. MOTTL's will set a precedent for a continuous introduction of amendments to our Constitution in subsequent sessions of Congress, every time the composition of this body changes, or every time some of the Members of the House are dissatisfied with the interpretation of the Constitution by the judicial branch. I do not believe that the narrow social policy which House Joint Resolution 74 addresses merits incorporation into our country's greatest document. History has taught us that inclusion of social policy preferences into this document—that is, slavery and prohibition—leads to divisiveness.

It is very unfortunate that our society has not, as a whole, moved with "all deliberate speed" to end segregation in public schools. It is an issue which we have been grappling with for more than 25 years, since the landmark decision in Brown against Board of Education. And still we need court-ordered busing because segregation has, in fact, not ended, and equality of educational opportunity does not exist for all of our children. It is ironic that if the majority of our society were not entrenched in its prejudices, as evidenced by segregation in housing and by unequal employment oportunities, our courts would probably not have to rely on busing as a measure to end segregation in our school.

I am opposed to the Catch-22 situation to which minorities and poor people are subjected. The same persons who oppose affirmative action programs which address employment discrimination practices also oppose the availability of a wide range of measures which are intended to equalize the educational opportunities of these sectors of our society. Education is of paramount importance in every area of our country, but it is even more significant in districts such as mine—where the only hope some of my constituents have for improving their plight is through the attainment of a sound education. The arguments which have been raised by the proponents of Mr. MOTTL's proposed amendment to the Constitution lack the sufficiency to make those of us who are committed to equality of educational opportunity waiver from our beliefs.

I grew up with the belief that America was the land of opportunity for all. I would like to pass on that faith in my country to generations which will come after me. Therefore I oppose House Joint Resolution 74, and urge my colleagues to do the same.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, as we come to the end of this debate, I urge as many as possible of my colleagues on this side of the aisle to vote in opposition to the Mottl resolution, whether or not amended by the Holt substitute.

I know that the House has voted many times in expressing its opposition to busing. Busing, of course, is the least desirable of the means for providing equality of education and for achieving desegregation of our school systems, but it is one of the options, and to deny that option, it seems to me, is to deny equal protection of the laws, as the Supreme Court and lower courts have said over and over again.

While the pending amendment offered by the gentlewoman from Maryland does take care of some major flaws in House Joint Resolution 74, it still suffers from the basic flaw that it eliminates what is often the only remedy for intentional violations of the 14th amendment. The effect, then, of this pending amendment is to repeal the equal protection clause for public school students. Regrettably, while the pending amendment removes the only path to equal opportunity in many school districts across the land, it offers no substitute remedy. For those deprived of their rights, it answers: "Too bad."

The issue now is no longer whether the Judiciary Committee should have reported this measure. The question now is whether in the years ahead when you open your copy of the Constitution you want to read that the 14th amendment has been repealed for public schoolchildren.

Such a repealer would be a sad mistake. We would do better to make desegregation work rather than throw up our hands in frustration and tell the blacks that we will permit equality only if it is convenient.

Mrs. HOLT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, the gentlewoman from Maryland (Mrs. HOLT) for yielding this time to me.

Mr. Speaker, I certainly support the amendment.

Here we go again with a continuation of our debate, which seems to be one-sided as far as the motives of the sponsors of the amendment and the sponsors of the discharge petition are concerned. When we put things in the context they have, they are always going to be right and we are always going to be wrong. Virtue is on the side of the forced busing advocates. Dark motives are ascribed to us.

The American people have a very good idea of what is going on. They know what this is about. Yet when we continually hear people cast us in the role of being against progress, cast us in the role of favoring racism, and cast us in the role of being in the wrong mold, this is, of course, the same thing as telling the millions of American people that they are wrong and that they are racially motivated.

I know of hundreds and hundreds of people who have circulated petitions. I have spoken at rallies where as many as 10,000 signatures on petitions have been turned in. These are just plain people out there who are not motivated by racism. They have one thing on their minds; they are thinking about their school and their child. Why we should allow ourselves in a debate like this to move away from the concern of the parent, from his concern for the child, and become all involved in nothing but procedural matters must be a wonderment to those millions of people.

□ 1410

They look at the White House, and they say, "Well, we cannot have any help there." I do not say that as a partisan Republican. I think the same attitude permeated the White House in the last four administrations. As a matter of fact, one of the criticisms I have always had of Richard Nixon was that one of the very first appointments he made, way back in 1969, was to bring in to the office U.S. Commissioner of Education a man, James Allen, from New York. He was for busing before people ever thought about busing. This is not a partisan issue. They look at the White House; they do not see action. The Congress, no action. The Judiciary, action but in the wrong way. It is time for us to act. Let us get with it. The issue will not go away and some day, if not today, the average American will win on this issue and our side will prevail.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) has 2½ minutes remaining, and the gentlewoman from Maryland (Mrs. HOLT) has 2½ minutes remaining.

Mr. RODINO. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, several years ago, in addressing this House on a matter of the highest constitutional importance, I said these words:

> Let us leave the Constitution as unimpaired to our children as our predecessors left it to us.

That matter affected and involved the very survival of our Nation as a democratic and representative institution.

I believe that the matter before us, Mr. Speaker, is of equal moment and equally important, for it would affect the very survival of the basic right of every American child to equal educational opportunities, those opportunities guaranteed under the 5th and the 14th amendments.

I believe, Mr. Speaker, that it certainly would not be proper for this House, which prides itself on being a deliberative body, within this period of time to undo the great progress that has been made over 25 years since the decision was handed down in Brown against Board of Education guaranteeing that basic and that most human right.

For those reasons, Mr. Speaker, I urge the defeat of this amendment, the Mottl amendment, and the substitute amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

The SPEAKER. The time of the gentleman from New Jersey (Mr. RODINO) has expired.

Mrs. HOLT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I think the issue is liberty, I say to my colleague, the gentleman from Maryland (Mr. MITCHELL). Our perceptions of liberty are certainly different in this measure. Mandatory busing, as forced by an outside Government entity on children who do not want to ride buses 1 to 2 hours a day each way, because that is not liberty, it is mental and physical torture. Black and white, they do not believe that kind of forced action provides liberty, it provides an abuse of Government power and lower educational standards.

Let us review the Brown decision, because there has been a lot of discussion here today about that court case. I now and in the past support the Brown decision. I think it was right. We should reaffirm our support of that court decision with this constitutional amendment, either the amendment offered in the nature of a substitute by the gentlewoman from Maryland (Mrs. HOLT) or the amendment offered by the gentleman from Ohio (Mr. MOTTL).

The Brown decision by the Court was intended to remove from the States the power to use racial classification to restrict the opportunities of its citizens, especially schoolchildren.

Oliver Brown, the lead plaintiff in the original court case, was spurred to action by what he considered to be an abridgement of the individual rights of his family. Mr. Brown was concerned primarily with the right of his daughter, Linda, to attend the neighborhood school. His action was motivated by his understandable parental concern over the inconvenience and lack of safety which resulted from busing Linda to the "colored school" some 21 blocks away, instead of to the neighborhood school, only 7 blocks from his home. It is the same "parental concern," not prejudice, that motivates the overwhelming public abhorrence of the forced busing programs mandated by the Federal courts. This amendment would preclude such programs.

The Brown decision was intended to remove from the States the power to use racial classification to restrict the opportunities of its citizens. That the Congress shared this understanding of the meaning of the Brown decision is reflected in the passage of the Civil Rights Act of 1964. In the 1963 hearings on the act, then Attorney General Robert Kennedy, in a heated sparring match with Senator Sam Ervin, forced the Senator to agree with him that the Brown decision established the right of the individual to attend his neighborhood school. The Civil Rights Act ultimately included an unequivocal definition of desegregation:

> Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but desegregation shall not mean the assignment to public schools in order to overcome racial imbalance.

The act further goes on to specifically disallow forced busing—

> Nothing herein shall empower any official or court of the U.S. to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another, or one school district to another, in order to achieve such racial balance.

The 1954 Brown decision supposedly removed from the States the power to assign children to school on the basis of race. The Federal court system has reversed that decision, using it, instead as the authority for assigning children to school solely on the basis of race. Mandatory busing, for the purpose of achieving racial balance, puts the Government permanently into the racial assignment business. Today, 25 years after the Brown against the Board of Education decision, Linda Brown could still not attend the school nearest her home—she would have to be bused for racial balance. The individual rights her father had fought for and supposedly won in 1954 would still be denied to her.

That is what we would be undoing if we do not vote for this amendment today before us. If you sincerely believe in mandatory forced busing, you should vote against either one of these amendments. If you believe that that is the way to liberty—I do not—then you should vote against these two constitutional amendments. The issue is mandatory forced busing, make no mistake about it. You cannot argue your way out of that issue. You should vote for the Holt substitute or for the Mottl amendment if you truly believe in liberty. The issue is the freedom of schoolchildren and support of the Brown decision.

The SPEAKER. The gentlewoman from Maryland (Mrs. HOLT) has 30 seconds remaining.

Mrs. HOLT. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, we all want the liberty that my respected colleague, the gentleman from Maryland, has referred to here. This noble busing experiment has not worked. For 7 years we have tried to get the committees to hear these amendments, to examine this evidence. We cannot get them to do it. They have refused.

There is nothing in this amendment that can restore segregation. We are attempting to restore education. I hope that this body will refuse to recommit this resolution to the committees which have refused to hear it. Let us give the people of this country the opportunity to vote on it.

• Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of House Joint Resolution 74 and urge its passage by the required two-thirds vote. We can no longer delay in giving schoolchildren and their parents the freedom to attend the school of their choice or their neighborhood school.

Some have argued today that we should not bring this matter to the House floor without first holding adequate committee hearings on the subject or without a longer period of debate on the House floor. My answer to them is that this proposal has been before the Committee on the Judiciary for more years than many of us care to remember. We who support this proposed constitutional amendment have given the committee more than adequate time to hold extensive hearings. However, they have chosen to ignore the large number of Members supporting this measure. The will of a majority, hopefully a two-thirds majority, can no longer be thwarted by the inaction of the Judiciary Committee. The required 218 Members have signed the discharge petition and in effect are saying they want a vote on the matter and will not abide further delays by a hostile committee.

As to the amount of time allowed for floor debate, this was dictated mainly by the fact that we were forced to use this means of bringing the measure to the House floor. However, if the Judiciary Committee had reported the measure in a timely fashion and allowed it to move through the normal process of winning a rule to set a more lengthy time of debate, none of us would have complained. Unfortunately, we were denied the normal process.

Mr. Speaker, rather than the antibusing amendment, I prefer to think of this measure as the freedom-of-choice or neighborhood school amendment. We all realize that of necessity there will always be public school busing in America. This is especially true in rural areas or sparsely populated communities where schools cannot be located within a close distance to each student's home.

But what we are attempting to correct today is the unnecessary busing of small children through court or bureaucratic decree for the sole purpose of achieving some artifical quota of ethnic mix. We are talking about busing orders which do not contribute to the educational accomplishments of the children being bused.

I would point out that this proposed amendment, in my opinion, would not deny the rights of any child in America. In fact it would strengthen the rights of our American youth. I say strengthen because this proposed constitutional amendment would reaffirm their right to attend their neighborhood school or the school of their choice.

In effect, a child or his or her parents could choose to have that child attend a school farther than the one closest to their home. But they could not be forced to attend a farther school unless it was necessary to do so because the child was handicapped or needed special education.

In other words, if a child was capable of attending a neighborhood school offering the normal course of study, they would have the right to do so. A judge or some bureaucrat in HEW could not tell that child they would have to be bused across town for the sole purpose of establishing an ethnic mix within each school of a particular school district.

Mr. Speaker, we all readily admit that the laws of this land prohibit discrimination in America. The laws will no longer abide the assignment of schoolchildren to a particular school for the purpose of separating the races. Nor can we deny the rights of anyone to full access to public facilities.

These are rights which can no longer be denied any American citizen. But by the same token, under the current practice of forced busing we are denying the rights of some Americans simply on the basis of their race. This appears to me to be in direct contradiction of civil rights laws passed by this Congress.

Mr. Speaker, I would also point out that under our constitutional processes, the American people themselves will have the last word on this proposed constitutional amendment. If the amendment is favorably approved by two-thirds of the House and Senate, and I hope it will be, it must then be ratified by the legislatures in three-fourths of the 50 States. And in my opinion, this ratification process is the ultimate public opinion poll on the matter of forced busing or as I prefer to call it, the freedom-of-choice amendment.

I do not think we should deny the American people the right to express their will on this subject. We must face up to the issue now and pass this proposed amendment and send it to the individual States for their acceptance or rejection.

Mr. Speaker, one final point I would like to make concerns forced school busing and our energy shortages. According to the Library of Congress, forced busing consumes some 28 million gallons of gasoline a year. Now some would maintain that this is not a significant amount in relation to total gasoline usage in America. However, I would point out that when we are faced with extreme shortages, every drop we can save does become important. Also, we must not overlook the financial drain on local school districts to buy this gasoline. With the cost of gasoline approaching $1 a gallon, this 28 million gallons translates into over $20 million which could be better spent on true educational pursuits.

Mr. Speaker, I hope my colleagues will listen intently to the debate today and make their final decision on the basis of what is best for the schoolchildren of America. If they do so, I am sure they will realize that forced busing serves no useful purpose and does not contribute to the educational achievement of anyone. If they reach this same conclusion as I have, then they will vote to approve this proposed amendment to our Constitution.●

● Mr. MURPHY of New York. Mr. Speaker, during my 17 years in the House of Representatives I have witnessed every social ill imaginable brought to the Congress for a solution. Possibly none of these have been as emotionally charged and as vital to our society as the subject of public school segregtaion. Today this issue has come up yet again with the House considering first, whether to discharge the Judiciary Committee from further consideration of a proposed amendment to the Constitution with respect to busing, and second, the amendment itself. I will vote against discharging the committee and against the passage of the amendment.

Every parent in this country has as a primary concern for their children that they receive a decent education which will adequately prepare them for the future. Ideally, this education should be obtained in the neighborhood school within walking distance of the home. The reality of the matter is that 50 percent of all children ride the bus to school. Of this number, less than 5 percent do so as a result of court-ordered desegregation. Busing is a remedy that is not applied without considerable proof of overt discrimination. The U.S. Supreme Court has held, and reiterated this month, that busing can only be imposed after proof of "purposely segregative practices" by a school district and only to the extent necessary to cure the particular constitutional violation established by the evidence.

Aside from the busing issue itself, the question considered by the House today is one of constitutional importance. The Mottl resolution was brought to the floor by a discharge procedure which allows only one hour of debate on a proposal to amend the Constitution of the United States, the document that has guided this country since its inception. Seeking to amend the Constitution after only 60 minutes of debate is to impugn the integrity of the document.

Further, the amendment as worded would wreak havoc over local control of schools. The passage of the amendment would eliminate local control over school assignments, denying school districts the right to direct students to schools other than those closest to their homes even for such reasons as overcrowding, teachers' strikes, et cetera. The amendment also provides Congress with the authority "to insure equal educational opportunities for all students," arming Congress with the power to dictate the ways local bodies collect and expend revenues for public education. While this is not the question before us now, we must think of the future when amending the Constitution.

A question raised by constitutional scholars is that of writing a social policy preference into the Constitution. Our Constitution has endured and served as a source of unity over the years precisely because it espouses no social or economic philosophy.

It simply defines the structure by which we will govern ourselves and proclaim fundamental rights that every individual, as well as the Government, must respect. To support this precedent, we need only to look at the two historic departures from this reasoning—the endorsements of slavery and prohibition.

I have always supported every students' right to a quality education in our Nation's public schools. The foundation of this premise, however, is that no child, through busing, would feel the impact of the degradation of such education. Busing is one means to insure a quality education when shortsighted individuals employ discriminatory practices. To outlaw busing through the passage of this amendment would allow these practices to continue, and in effect, condone them.

I look forward to the hearings promised by the chairman of the House Education and Labor Committee, the Honorable CARL PERKINS, on the legislation introduced by MORRIS UDALL and RICHARDSON PREYER, to encourage alternatives to busing by providing funds to localities to develop and choose innovative methods to alleviate racial imbalance in their schools. This in turn will allow localities the necessary flexibility to deal with desegregation in the manner most appropriate to the individual locale.●

● Mr. COTTER. Mr. Speaker, I personally oppose forced busing as a method for improving academic opportunities and increasing educational skills. The failure of forced busing is widely acknowledged. Within the last 2 years, James Coleman, the sociologist whose original study provided the theoretical justification for the Brown decision, came to the conclusion that forced busing has not improved educational achievement nor increased integration.

However, the constitutional amendment that is before the House by the discharge procedure is the wrong approach to solving this problem. A constitutional amendment which changes our fundamental law should be subject to the most searching hearings and amendment process. By using a discharge petition, this amendment, in effect, cannot be changed. The consequences of the Holt modifications are not known.

The Mottl amendment would have the effect of putting the U.S. Government in a position of being a local schoolboard. It requires students to attend the nearest school without regard to overcrowding or the availability of special programs that a student may require.

The Mottl amendment, for example, would provide students who need special education or those with specific learning disabilities from attending special courses, unless these courses are made available at the nearest school. In most school systems, such courses are offered at only one or two schools; therefore, the Mottl amendment would put the Federal Government in a position of being a local schoolboard. The consequences of the Holt substitute, while improving on the Mottl provisions, may have similar consequences that unjustifiably restricts a local schoolboard; and, therefore, greatly expands the role of the Federal Government to a greater degree than is desirable in the area of education. We need extensive hearings on any such proposal to fully comprehend the consequences of these amendments.

In addition, the amendment as drafted would undermine the voluntary programs that have proven successful like "Project Concern." Such programs would be forbidden.

I am glad to see that congressional committees are beginning to take a comprehensive view of the school issue. Both the House Education and Labor Committee and the Judiciary Committee are undertaking a thorough examination of the schoolbusing issue. We should await the results of these efforts before modifying any laws, much less the Constitution.●

● Mr. STEWART. Mr. Speaker, I rise in strong opposition to the Mottl resolution. As a Member of this great deliberative body, I would like to let you know that I spent many years of my life dealing with the degradation and humiliation of forced segregation. Growing up in Birmingham, Ala., left many irreversible scars on my heart. When I was young, I always lived for the day when all persons of this country could live as equals.

The Brown decision in 1954 was one giant step in the right direction. As the civil rights movement progressed I started thinking that one day my dream would become reality. It seemed to me that the social situation in this country was about to get on track. Apparently I was a little too optimistic to think that all men wanted to live as equals in this great country, and I point to measures such as the one before us.

Thus, it distresses me to know that this Congress in 1979 would give serious consideration to a constitutional amendment that would eliminate schoolbusing that attempts to create healthy racial balances within our public schools. In my opinion this move would create de facto systems of segregation.

This resolution also makes a direct assault on the most precious document of this country—the U.S. Constitution. However, it has been pointed out by myself as well as many others in the Congress that this measure is a narrow provision addressing an immediate issue, rather than a lasting principle worthy of being part of the Constitution.

The proposed constitutional amendment is an attempt to undermine the 14th amendment to the Constitution and is part and parcel of other attacks on civil rights for blacks and other minorities. It would prohibit localities from requiring that students attend a school beyond the nearest to their home, and this resolution would severely restrict actions that would ordinarily be implemented by State and local education agencies.

Segregation in any form, de facto or de jure, is wrong. Thus, if we eliminate busing we re-create a system of segregation in the United States. Let us not take a giant step backwards—vote against this resolution.●

● Mr. BOLAND. Mr. Speaker, I rise in opposition to House Joint Resolution 74.

One of the great strengths of our Constitution is that we have amended it with only the greatest of care. The rules and procedures pertaining to the amendatory process mitigate against haste, but I believe that an even more important reason for the relatively few instances in which the Constitution has been amended is the realization that it represents the very foundation of our Federal Government. As such, it should not address those questions of social policy which are of only a passing concern. Our experience with the 18th amendment, the only successful amendment in this century which attempted to address such a question, should be reason enough to avoid similar amendments. A prohibition against busing to achieve the desegregation of schools is a matter that simply does not merit a constitutional amendment.

Even if this issue was of a nature that justified an amendment to the Constitution, the proposed amendment we have before us today, even as amended, is so ambiguous as to make its consequences impossible to predict. Precision is highly desirable if the Constitution is to be amended and that result can not be achieved with the language of the amendment we are considering. The procedure in which we find ourselves today precludes the scrutiny and debate which the language of the proposed amendment seems to require. I believe, therefore, that we will not be acting prudently if we approve House Joint Resolution 74. I urge that the resolution be defeated.●

● Mr. STOCKMAN. Mr. Speaker, I rise in support of House Joint Resolution 74, as amended by Representative HOLT. I have supported my colleague from Ohio (Mr. MOTTL) in his effort to force this House to finally take a stand on the unresolved issue of court-ordered busing to achieve racial balance. Because the courts have far overstepped their bounds in this matter, and have ignored the values of the American people, I believe that this constitutional amendment is urgently needed.

The 1954 Supreme Court ruling in the case of Brown against Board of Education was a great leap forward for fairness and equal opportunity in our school systems. The Court declared that racially separate schools are "inherently unequal" and rejected local and State laws mandating dual school systems according to race. I fully support the principle and precedent established by this case. Since that time, however, the Federal courts have so twisted and stretched this good principle as to make it unrecognizable. They have gone over the heads of officials at every level and ordered racially-based busing schemes on a vast scale.

The landmark 1964 Civil Rights Act did not authorize any U.S. official or court to issue orders seeking to achieve racial balance in schools by transporting children from one school to another, nor did it enlarge the Courts' existing powers to insure compliance with constitutional standards. The Federal courts have nevertheless circumvented all of this. They have decided to blur the distinction between "integration" and Government-forced desegregation. Since they have interpreted the Civil Rights Act as requiring integration, the courts have found a way to move far beyond the original 1954 prohibition of legally mandated segregation. They have declared that schools must in fact actively desegregate and the result has been turmoil in the classroom and in the community.

According to the Department of Health, Education, and Welfare's Office of Civil Rights, some 1,505 school districts with an enrollment of more than 12 million students are now operating under desegregation plans imposed either by the Federal courts or by HEW. The cost of busing all these children is very high. The Dayton, Ohio busing plan has cost over $13 million between 1977 and 1979. Busing in Detroit cost $19.3 million in 1978 alone. The Los Angeles busing program costs taxpayers there approximately $24 million. It is a shame to see all of these dollars diverted from textbooks, teachers, and other basic school needs—especially with school achievement test scores falling and with a fuel shortage affecting all of us.

Experience in many parts of the country shows that court-ordered busing actually undermines its own purposes. The turmoil accompanying mandatory busing usually offsets any potential social benefits, and often results in lowered educational standards. Busing programs have not led to significantly higher educational attainment by minority youngsters.

Further, despite the courts' good intentions, mandatory busing has resulted in more, not less, racial separation in American society. Parents who can afford it have moved out of the cities so their children can be schooled in districts unaffected by court-ordered busing. Atlanta, for example, has lost over 25 percent of its white student enrollment since the imposition of court-ordered busing in 1969. Houston's white enrollment has fallen 12.6 percent since busing began there in 1970. And the phenomenon is by no means confined to the South. Since Federal courts imposed a massive busing plan on Springfield, Mass., white school enrollment there has dropped from 67.6 percent to 56.5 percent. Similar declines have been experienced in Boston, Denver, San Francisco, and Pontiac, Mich.

Most parents do not resist busing because of racial prejudice. They simply know that the financial and social strain on the schools always bring a decline in the quality of education. Parents object to having their children bused to schools far from home. They object to having their children exposed to the risks of highway travel that are often involved. Their children cannot participate in school activities because the school is too far away.

Parents also object to busing because it diminishes parental involvement in the supervision and operation of the public schools. Cross-town and cross-district busing destroy the sense of neighborhood cohesion that has long focused on the local public school. Under court-imposed busing, the local school becomes more the domain of Federal courts and regional administrators than of the local PTA.

Busing has become an extremely important grassroots issue in my southern Michigan district. U.S. District Court Judge Noel Fox recently ordered a study seeking evidence of racial discrimination in the Berrien County, Mich., public schools. This action will likely result in the imposition of a cross-district busing plan. Without the constitutional amendment before us today, however, I fear that Berrien County, and similar places all across America, will be faced with sweeping and ill-conceived busing orders from our Federal courts.

The underlying problem is that the courts have come to ask too much of our schools. In addition to performing their central task of educating young people, they are now asked to solve all of the problems resulting from racial discrimination. I do not believe that our local schools should be used by the Federal courts as tools of social engineering. With limited resources, the more they have to spend on busing, the less they have to spend on education. All students suffer as a result of this shift in priorities away from education.

The majority of people in Michigan's Berrien County, like the vast majority of Americans, realize this. Nationwide opposition to busing has in fact become so strong that no President has ever publicity supported forced busing. Numerous rollcall votes in this very Chamber concerning the use of Federal funds to assist busing plans have emphasized Congress apparent position. The most recent Harris poll revealed that 85 percent of whites and 51 percent of blacks still oppose busing.

Despite all of this, the Federal judiciary clearly has no intention of reconsidering its commitment to forced busing of schoolchildren according to their race. The Supreme Court's July 2 approval of sweeping Federal court busing orders in Dayton and Columbus, Ohio makes this very clear.

When the courts refuse to reflect the values of the American people in a matter as far-reaching as this, a constitutional amendment is the only answer. The proposal of the gentleman from Ohio (Mr. MOTTL) with the improved language offered by Mrs. HOLT, presents us with a clear opportunity to resist the disruptive rulings of our Federal courts.

This House must now take a stand on court-ordered busing in full view of the American public. We can no longer shrug our shoulders and pass our responsibility to the courts. This is our chance to show ourselves worthy of our constituents' trust. Although the constitutional amendment process is a lengthy one, it is the only way to settle the issue of court-ordered busing and to put the will of the people above the liberal interpretation of the courts.●

● Mr. CORRADA. Mr. Speaker, I rise in strong opposition to the proposal for the constitutional amendment pending before us for our consideration. Its proponents call House Joint Resolution 74 an antibusing amendment but in reality it is far broader than that—it would prohibit any kind of reallocation of students to deal with problems of overcrowding or other emergencies that may arise within the school system.

But even beyond this major problem with the drafting of the amendment, its adverse legal implications go much further—it would involve the Congress, as a result of the provision mandating congressional power "to insure equal educational opportunities," in the day-to-day activities of all school districts across the Nation. I ask the proponents of this measure: Do you think that it is the proper role for the Congress to decide how to allocate the funds for a given program within a school district? How are we to determine what the needs of that district are? How will we balance those needs against the resources of the community? These are questions that we must answer before the votes are cast on this measure. The consequences of the actions we take today will stay with us even if the amendment is subsequently not enacted by the requisite number of States.

The precedent that we set today could, and probably would, come back to haunt us. It would be the first time in our history that an amendment to the Constitution is approved by a discharge procedure and without full and complete consideration by the committee exercising jurisdiction over the area. The Constitution is too precious and vital a document to be dealt with in such a slipshod way. As the priceless document that safeguards our democracy and protects our rights, the Constitution should not be amended thoughtlessly.

I believe that we all agree that busing is not a solution that we prefer as the perfect one. However, equality of education means equality of opportunity to obtain a decent and complete education. It is needed to remove years of discrimination and secondhand education among our poor and disadvantaged citizens. The power of the courts to intervene to correct inequalities must be preserved.

There is no need for a constitutional amendment; if one is approved it will be a tremendous setback to the hard-earned progress in the civil rights area that we have achieved in the last 25 years. It is ironic that, in the year that we are commemorating the 25th anniversary of the landmark decision in Brown against Board of Education, the House of Representatives can be accused of trying to undo the progress accomplished. I urge all my colleagues to reject this measure.●

● Mr. WRIGHT. Mr. Speaker, a constitutional amendment is not like a simple statute which we can repeal or amend next year if it does not work out the way we wished. What we write into the Constitution we write forever. We must choose each word, therefore, with exceptional care.

Justice Holmes once observed that the Constitution has endured because it has not dealt with social or economic choices but merely defines the structures of Government and the most fundamental human rights which Government must respect.

Like many of you, I think judicial activism has gone too far. I would like very much to restrict the powers of personal experimentation with other people's lives which some of our courts have arrogated to themselves. On no less than 22 occasions in the past decade, I have joined with a majority in the House to vote for legal limitations upon the otherwise unrestrained powers of the courts and administrative agencies to order the busing of students.

We have before us a proposal to amend the Constitution. Scholars have seen two unintended dangers in the wording of this proposed amendment. The first is that its broad prohibitory language could reduce the power of local school boards to make local decisions. It could take from their hands the right to assign pupils.

The second danger inherent in this wording is that it could vastly expand the control which the Federal Congress might exercise over local public schools. The new power conveyed in the final clause conceivably could be used to require that local school boards change time-honored ways of raising and expending local taxes, or even to dictate curriculum and textbook selection—matters that always have been preserved inviolate from Federal intervention.

How ironic if, in our zeal to remove one threat to our neighborhood schools, we should create two others.

Neither of these effects is intended by the author of the proposed amendment. He apparently concedes that his language contains flaws, and he says he is prepared to accept changes to remedy the most apparent defects. Certainly we should try to perfect the language to the extent we are permitted.

But this should demonstrate the danger of this procedure by which we would attempt to write, in a deliberation confined to 1 hour's time, the language which must endure in our most basic document by which future generations must be governed throughout the history of the Nation.●

● Mr. CONYERS. Mr. Speaker, 25 years ago in Brown against Board of Education the U.S. Supreme Court overturned more than a century of racial segregation and discrimination in the public schools. In the clearest and strongest terms the Court declared school segregation to be in violation of the Constitution and the protections enjoyed by all citizens under the law.

Brown against Board of Education was the beginning of a new era of freedom and equality for all American citizens, black and white. It nourished a new respect for justice and the law. It challenged racism and the purveyors of racial hatred by rallying the conscience, decency, and sense of justice of the American people. It created a new spirit in the land that confronted and subdued racism and segregation wherever it reared its ugly head, in schooling, the use of public facilities, employment, and housing.

Now, 25 years later, we are being asked in a proposed constitutional amendment to prohibit schoolbusing to turn back a quarter-century of equal justice and school desegregation. All the good that has been done is now to be undone by a proposed return to separate schooling, division by race, and all of the fears and animosities that this will engender. This proposed constitutional amendment is a destructive step backward, that would permit the reinstating of blatant official segregation to a degree we have not seen since Brown against Board of Education. It would create tremendous political pressure on even the most well-intentioned schoolboards and administrators in the direction of segregation. It would reverse the progress in race relations achieved over the last 25 years by reviving the old conflicts that so devastated our society in the past.

That such an amendment is being proposed now, in the summer of 1979 at a time of acute anxieties and deep tensions arising out of our troubled economy and Government, ought to serve as a warning that now, more than ever, we should not weaken and interfere with the Constitution, the courts, and the equal protection of the laws.

Experience and history show that amendments to the Constitution that seek to change social policy, promote narrow causes, or regulate personal conduct are destructive to our system of Government and the general well-being of people. The proposed amendment on busing can only confound further the critical issues before the American people. This kind of single-issue legislation is simply inappropriate to the Constitution. It would place severe restrictions upon the authority of the courts to fashion remedies to correct violations of the law.

It would cause enormous disruption to school districts throughout the country, particularly in the urban areas.

As one who has been a Member of Congress since the 1960's and who has witnessed firsthand the great, positive changes that have taken place as a result of the civil rights movement, I am particularly saddened that such a proposed amendment is even being considered by my colleagues. We ought to be spending our time on the really serious issues of economics, energy, Government priorities that are troubling citizens. We ought to be talking about the ways to bind our people together, not to divide them further. We ought to be addressing justice, not group antagonisms and the passions of special interests. The American people are asking us for honorable direction, solid problem-solving programs, and for a sense of hope in the future. This constitutional amendment is the very antithesis of what we are being called upon to do.

I am confident, however, that when the debate is over, this body will reject the proposed amendment. I have this confidence because of what I hear and see from people across this country. Individuals and groups from all backgrounds are now registering their opposition to this proposed amendment. Having learned about it, they are rejecting it.●

● Mr. MURTHA. Mr. Speaker, I wish to enclose two items in the RECORD during this debate.

First, I am inserting a Washington Post editorial against the constitutional amendment which certainly emphasizes the need for hearings and research into the affects and impact of busing.

Second, I am inserting a letter to me from Judiciary Committee Chairman RODINO in which he indicates there will be an extensive study by his committee and also by the Education and Labor Committee into this very difficult and complex situation.

I signed the discharge petition, and I believe it has served a valuable purpose in bringing this issue squarely before Congress and the public. I think the hearings by the two committees should allow us to develop an appropriate response to the busing situation and review our progress and plans.

The aforementioned articles follow:

THE BUSING AMENDMENT

The House of Representatives is scheduled to vote Tuesday on a constitutional amendment to bar "forced" busing. The amendment, on which no hearings have been held and little debate conducted, has reached the House floor because 218 members signed a discharge petition. House leaders do not expect the amendment to win the two-thirds vote necessary for passage. Indeed, there is doubt it will get even 218 votes. There should be. This amendment is a disaster.

The language of the amendment contains two sleepers. One rests in the section barring courts or school systems from compelling students to attend any public school other than that nearest their homes. Although drafted with the goal of preventing busing for the purpose of achieving racial balance, this section would also bar busing for other purposes, such as reducing overcrowding or adjusting student populations to meet teacher shortages or strikes. By trying to avoid writing race into the Constitution, the authors have succeeded in trying to write local flexibility out.

The other sleeper lies in the part of the amendment giving Congress power not only to enforce this amendment—the traditional boiler plate—but also "to insure equal educational opportunities for all students." This would increase greatly the control Congress could exercise over all public schools. Under it, Congress could require, for example, that school boards change the ways they raise and spend money as long as the changes it dictated were an effort to equalize opportunity.

These objections to the busing amendment would not exist if it had been more thoughtfully drafted. And it is possible that amendments to cure these defects will be presented on the House floor. But rewriting the Constitution, where the meaning of each word is often critical, is hardly an exercise to be undertaken on the floor of the House.

The fundamental objection to any antibusing amendment, of course, is that it is an attempt to write a social-policy preference into the Constitution. With two exceptions, that document has never specifically endorsed any social or economic policy. The two exceptions were slavery and prohibition. In light of the way those two policies ended—with a war and a repealing amendment—putting such preferences into the basic instrument of government is clearly unwise.

Busing of school children for almost any purpose is less than ideal. But it can be useful and sometimes is the only tool available to break up historic patterns of open discrimination. By voting to bar its use in *any* situation, the House would be declaring that the constitutional rights of some students to equal treatment can *never* be enforced. The House should reject this effort to cripple the ability of courts and school boards to correct racial injustices.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 13, 1979.

Hon. JOHN P. MURTHA,
Rayburn Building,
Washington, D.C.

DEAR JOHN: Confirming our recent conversation, I am using this means to advise you that I have instructed the professional staff of the Committee on the Judiciary to undertake a comprehensive study of all the federal court decisions involving busing since the Supreme Court decision of Brown v. Board of Education in 1954. Included in this study will be an in-depth evaluation of the effect upon the equality of education by recent federal court decisions.

This study, when completed, will be made available to every Member of the House of Representatives to enable the Members to more carefully evaluate the legislative proposals on busing now pending.

I am advised that Chairman Perkins of the Committee on Education and Labor will be holding hearings on this subject shortly after the recess.

I am certain that the study will reveal many cases where there has been success in court ordered busing as one of the tools to be employed for securing equal opportunity in education for all our children.

Sincerely,

PETER W. RODINO, Jr.
Chairman.

● Mr. OTTINGER. Mr. Speaker, I rise in opposition to House Joint Resolution 74, which provides that no student shall be compelled to attend a public school other than the public school nearest to the student's residence. Although some have referred to this proposed amendment as an "antibusing" issue, this is not a vote for or against the use of busing for school desegregation purposes. It is a vote on adding a specific amendment to the Constitution.

I strongly oppose this amendment for a number of reasons. First, for almost 200 years, the Constitution has embodied the lasting fundamental principles of our Nation. An amendment dealing with specific social policy addressing an immediate issue does not belong in this Constitution. The history of the prohibition amendment illustrates the consequences of attempting to legislate social policy through the Constitution.

Second, amending the Constitution is an extraordinary action. It is inappropriate to consider a proposed amendment under the discharge procedure. This procedure bypasses deliberate committee consideration and allows only 1 hour of debate on the resolution. The Constitution has never been amended by use of this procedure and passage of this amendment would set a dangerous and undesirable precedent.

Third, the amendment as drafted has legal implications beyond those intended by its authors. The amendment would increase the Federal Government's role in education. By mandating that "Congress shall have the power to enforce this article by appropriate legislation and to insure equal educational opportunities for all students," Congress would have the power to direct a particular State or community to alter its tax rates or school policy.

Finally, the amendment would forbid pupil assignment beyond nearby schools even if it is demonstrated that no alternative exists to remedy deliberate segregation. To prohibit busing in this situation is to sanction segregation. This would erode the guarantee of the equal protection clause of the 14th amendment.

As Laurence H. Tribe, Harvard professor of law, has pointed out:

> It is one thing to specify, by legislation, that busing must truly be a last resort; it is

> quite another to mandate, by Constitutional amendment, that even when needed to eliminate deliberate segregation, busing is ruled out.

I urge my colleagues to join me in opposing this amendment.●

● Mr. BENNETT. Mr. Speaker, I rise in support of House Joint Resolution 74, legislation providing for a constitutional amendment to prohibit the forced busing of public school students beyond their neighborhood schools. I have introduced similar legislation since 1970 and, in fact, my current bill (H.J. Res. 12) is substantially the same as the legislation we are considering today.

I want to point out that the amendment we are debating would not hinder the educational opportunities of any public school student. It is certainly not a return to the old dual school system. It would not prevent a student from being assigned to a school more distant than his neighborhood school if he or his parents preferred the other school for some reason. It just prevents this being forced upon him.

Further, it attempts to insure that equal educational opportunities will be attained for all students, wherever located; and it puts the responsibility on Congress to do this. The amendment is workable because, while leaving school management in the grassroots, it empowers Congress to equalize educational opportunities throughout the United States in a way which would not stimulate individual law suits but instead provide guideline and fund-producing assistance.

Despite strong public sentiment against forced busing, children are being bused long distances across cities and rural areas, large and small, and are being deprived of time to study, time to play, time to be with their parents in character molding activities. In Jacksonville, Fla., which I represent in Congress, schoolchildren, black and white, are being bused every day across a school district that covers 800 square miles. Some are bused as many as 50 miles. Blacks and whites are furious about this and rightfully so.

The energy crisis has added a new dimension to the busing problem. Countless thousands of gallons of fuel are wasted each day in the forced busing of public school students beyond their neighborhood schools. The Duval County School Board reports that its schoolbuses travel 47,000 miles per day in Jacksonville and get about 5 miles to the gallon of gas. This averages out to about 9,500 gallons per day on schoolbusing. Duval County has 512 buses and 15 spares transporting 53,000 students each day.

The time has come to stop forced busing and allow students to attend their neighborhood schools. No other generation has had to pay the penalty of forced busing. Children go to school to learn. Busing has failed to enhance their learning and, in fact, has impeded learning in many cases. I strongly urge my colleagues to support this needed and long overdue constitutional amendment.●

● Mr. BROOMFIELD. Mr. Speaker, I rise in support of the proposed amendment to the Constitution to prohibit the use of busing as a means of racial balancing within our Nation's schools.

It is unfortunate that such extraordinary measures as a constitutional amendment must be utilized to work the will of the Congress and the people in this matter.

However, in its efforts at social manipulation, the courts have continued to impose busing upon the people and to ignore the clear position of the Congress opposing this tool, the expressed view of Americans as reflected in numerous national polls, and the fact that busing does not work to achieve the goals of desegregation.

We all want the same thing—a "color blind" society. But it does not make any sense to continue to use a tool, such as busing, that is totally counterproductive.

The once firmly held belief that busing would help raise the educational quality of minority students by placing them in integrated classrooms has proven false. Dr. James S. Coleman of the University of Chicago, one of the early and most influential advocates of the achievement benefits expected from integrated classrooms, now says:

> It has not worked out this way in many of the school desegregation cases. . . . Thus what once appears to be fact is now known to be fiction.

Instead of the elevating of educational quality from desegregation through forced busing, we have seen violence and the lowering of standards, in many cases, and the exodus of the middle class from school districts subject to court ordered busing. This "white flight" has left many of our city school systems poorer, because of the loss of a strong economic base and the loss of students for Federal funds, and with an even higher minority ratio than before the busing order.

Mr. Speaker, to assume that this great national opposition to forced busing is motivated primarily by racial considerations is too simplistic and does a great disservice to the American people.

There is the very real concern for the safety of the children who are forced to ride great distances by bus to schools away from their communities.

There is a strong dislike for the waste in time and resources that must be applied to moving children from one school to another, instead of being applied to the children's education.

There is a great desire, by the people, to maintain their neighborhood schools. These schools help provide a sense of community and stability, and facilitate parental participation in and supervision over the operation of the school and their children's education.

But, finally, I believe one of the greatest factors opposing forced busing is the desire of parents to maintain their rightful authority over the education of their children. To have the courts step in and take this responsibility from the parents strikes me as the ultimate step in Government interference.

Mr. Speaker, I am pleased that we are finally permitted to debate the question of forced busing, itself, and not have to deal with it through appropriations bills.

I am sorry that we could not have arrived at this point through the regular legislative procedures of committee hearings. However, the committee's adamant refusal to consider this proposal left us no choice but to use a discharge petition.

I now urge my colleagues to approve this proposed amendment to the Constitution. It will provide the people with the opportunity to express their will on this issue, but more importantly, it will reassert the fact that this Government continues to be one of the people, and not of the courts.●

● Mr. CARR. I rise in opposition to the proposal. The proposed constitutional amendment to prohibit busing to achieve desegregation is a hastily assembled piece of mischief whose many flaws are still being sorted out and exposed.

I want to point out only one of those flaws. By prohibiting busing to achieve desegregation, the proposed amendment would strip from a local school district its power to choose to bus students to achieve desegregation. In view of the experience of a school district in my own congressional district—in Lansing, Mich.—I am dismayed that we could even contemplate such action.

Students in the Lansing public schools have been bused for several years now, with remarkable results. Our schools are desegregated. Students are being educated in an atmosphere of harmony. We have not suffered from the much publicized "white flight." The dropout rate in our public schools has been cut from 15 percent (prebusing) in 1971 to 7 percent in 1979. The dropout rate for minority students is approximately the same as the rate for majority students. Substantive gains in student learning have taken place. The learning gap between majority and minority students has been narrowed with no decline in learning for majority youngsters. Lansing students have moved from achieving below national averages on standardized tests to scoring at or above national averages. Positive and documentable improvements have occurred in student discipline in the schools. Best of all, successful school desegration has served as a springboard for gains in other areas, such as dramatic changes in housing patterns and a growing acceptance of a variety of ethnic groups.

Much work and community cooperation has gone into these accomplishments and we in Lansing take great pride both in the work and cooperation and in the results. Without busing, however, we could not have created the kind of educational and social environment within which these gains have been made. Without busing, we may not be able to sustain our progress.

It is inconceivable to me that we would amend our Constitution to shut off this proven avenue to successful education—and to prevent local school districts from choosing to desegregate.●

● Mr. DANNEMEYER. Mr. Speaker, I wish to thank the distinguished gentleman from Ohio (Mr. MOTTL) for yielding and congratulate him for his persistence in getting a proposed constitutional amendment to stop forced busing to the floor of the House of Representatives for consideration. Given the long-term opposition to forced busing by a great majority of Americans, I only regret that the gentleman was forced to go to such extremes; rather I would have hoped that hearings would have been held, a bill reported—even if it were reported unfavorably—and a vote taken long before this. Regardless of how the committee of jurisdiction may have felt, it seems to me that, with a subject so important and the evidence so conclusive that forced busing does not promote quality education, the Members of this body deserved to have the matter brought to a vote.

Nevertheless, now that we have the opportunity to vote, it is imperative that we do not miss our chance to do away with a practice that is not only disruptive but does nothing to improve Johnny's reading, writing, or math skills. In fact, a number of studies, most notably one by Dr. James S. Coleman, whose 1966 study, "Equality of Educational Opportunity," provided the rationale for forced busing in the first place, indicate that forced busing has done more harm than good.

In addition to the disruption, educational and otherwise, brought about by forced busing, there are also the questions of excess cost and unnecessary energy consumption. Coming from Orange County, Calif., I am only too familiar with how much busing can cost for, out there, we are faced with the very real possibility of a court ordered forced busing plan that will involve all or parts of five counties and will affect some 1.6 million students. The cost of implementing such a plan, should it be thrust upon us, has been estimated at $1.1 billion—a figure the area simply cannot afford. Moreover, if areawide busing in Jefferson County, Ky.—Louisville and vicinity—wastes between 50,000 and 125,000 gallons of gasoline a month, can you imagine how much gas or diesel fuel will be wasted in the Los Angeles area if metropolitan area busing comes to pass?

What makes all this even harder to understand is the fact that, even if one were to accept the argument that busing is necessary to achieve equally of educational opportunity, the fact remains that busing still does not work. The decline in the quality of education generally, and the disruption to family routine in particular, have resulted in more and more parents putting their children in private schools or moving well out into the suburbs. An excellent example of this is the city of Los Angeles where the president of the school board, who favored busing, was recalled not too long ago by voters, a majority of whom obviously were opposed to busing.

Last year, when forced busing was begun, 40,000 white children left the Los Angeles public schools bringing the percentage of majority group students in the school system down to 30 percent; by 1981 this percentage is expected to drop to 19 percent, or close to a point where the school system has been effectively resegregated. And Los Angeles is not an isolated example.

Studies done by Dr. David Armor, senior sociologist at the Rand Corp., in 23 northern and southern cities indicate that, instead of the normal 2- to 4-percent per year reduction in the number of white students in the school system, forced busing results in close to a 15-percent drop the first year of busing followed by a 7- to 9-percent drop in succeeding years. In short, it is not too long before the only students left in the system are poor blacks and poor whites and the tax base necessary to give them the education they need has been consequently eroded.

The response of the courts to this has been to consider ever broader geographical areas as targets for forced busing, but this does not get at the fundamental problem—making Johnny read better whether he be black or white. Instead, it will simply drive more students out of the public schools, and, in the process, reduce the tax base necessary to adequately support those schools. The fact that Johnny cannot read better has already caused a serious loss of confidence in, and financial support of, public education in America. The number of school bond issues rejected recently is living testimony to that and continuation of forced busing will only make things worse. It is a vicious cycle, which can best be broken by prohibiting the very thing Brown against Board of Education sought to prohibit in the first place, the assignment of children to school on the basis of race.

Unfortunately, Congress has tried to do this any number of times in the 8 years following the Swann decision (1971) but, despite a number of efforts to cut off funding for busing, the practice continues. Such being the case, it has become apparent a constitutional amendment is the best, if not the only solution, to the busing problem. It may be a long fight to get it approved by the Congress and 38 of the 50 States but, given the alternative, there does not seem to be much choice.

The most frequent objection to this line of reasoning is that it will set back the cause of civil rights. However, the latest Harris poll, confirming earlier polls, indicates that not only do 85 percent of all whites oppose forced busing but so do 51 percent of the blacks interviewed. And they have good reason. Just like white parents, they want their kids to have the best possible education with minimum inconvenience. Just like white parents, they want their kids to be able to enjoy social activities and participate in athletics while at school. And, just like white parents, they deplore the increase in violence that all too often has accompanied forced busing. But, unbeknownst to most white parents, some of them resent the idea that their children somehow learn better when sitting in a classroom with white children. As Dr. Coleman noted in his second busing study:

> The belief that an all-black school is inherently bad . . . has a curiously racist flavor that I can't accept.

Obviously, as the Harris poll suggests, neither can a lot of other folks although they may not want to say so publicly.

I could go on but rather than repeat what should be the obvious, let me just conclude by noting with the need to cut spending, save gas, improve education, and reduce hostility, it simply makes no sense to continue permitting forced busing. With the money it costs, we could upgrade the quality of education in many classrooms, something sorely needed in this day and age. After all, what good does it do to have racially balanced classrooms, if by the time the youngsters graduate, a number of them still cannot read. We have lost sight of our educational priorities and it's high time we got back in order, before it is too late.●

● Mr. BIAGGI. Mr. Speaker, I face a paradox today as do many of my colleagues. Throughout my 10 years in Congress I have been a rigorous opponent of forced busing. I continue to strenuously oppose busing. However, I also believe in the sanctity of the Constitution. Therefore, I must rise in opposition to House Joint Resolution 74.

It is unfortunate that we even had to reach this point today. I signed the discharge petition of my colleague from Ohio. I did so out of a sense of frustration. I did it as a protest to the adament and indefensible opposition of the House Judiciary Committee to hold hearings and allow this issue to be aired. Mr. MOTTL was able to garner 218 signatures on the discharge petition. Consequently only for the 26th time in our history has legislation reached the House floor via this route. It demonstrated the intensity of opposition to busing in this Congress.

The fact is we have already achieved victories here today. The distinguished chairman of the House Education and Labor Committee, of which I am the ranking New York member, has agreed to conduct hearings on September 11 and 12 on the National Education Opportunities Act, a bill designed to promote alternatives to busing. Such hearings have been repeatedly denied us by the Judiciary Committee. Further, the chairman of the House Judiciary Committee has instructed his staff to conduct a major study on the impact of busing. This is progress. This is proper congressional activity.

However, House Joint Resolution 74 we are being asked to go much further, into a highly dangerous area—proposing a constitutional amendment. Consider that to reach this point we were forced to circumvent the normal legislative process. That is fine as a means of registering protest. But to amend the Constitution?

The Constitution has only been amended 26 times. There were five other amendment attempts but they failed. Not one of these 31 amendments were offered under the fashion proposed today. To do so would make a mockery of the process. Imagine determining the fate of a constitutional amendment on the strength of just several hours of debate?

I venture to say that a majority of my colleagues as well as a majority of the American people challenge the contention that busing works. We cannot defend busing. It is inimical to our democracy. It has not and will not work. Where is the constituency in favor of busing? Is busing ever praised for what it has accomplished or rather is it always discussed in an emotional context? Why have busing's former supporters turned their backs on it?

A case in point: Prof. James Coleman, who had the courage to recognize that what he once defended as important to education, he now criticizes as a failure. Busing has not achieved quality schools. It has polarized communities across this Nation. It has disrupted families and schools. And as the sponsor of this amendment points out—court-ordered busing wastes gasoline—not a minor consideration.

We recently observed the 25th anniversary of the landmark Brown against Board of Education, Topeka, Kans., decision by the Supreme Court. This event was observed with the sobering assessment that our progress has been slow in achieving the major goal of eliminating segregation. We should not forget that fact that busing per se was not ordered by the Supreme Court in their decision. It was the product of interpretation by later, often lower courts. We cannot overlook the fact that busing in and of itself has done very little to achieve the goal it intended.

I am joined by a large number of my colleagues who oppose busing. Keep in mind that 218 Members signed the discharge petition and earlier today voted to allow this matter to be debated here today. However, it is inconceivable to me that the forces against busing can muster the necessary two-thirds vote necessary for approval of House Joint Resolution 74. This vote does not represent any change in my position. I will continue to oppose busing and will work in my capacity as a ranking member of the House Education and Labor Committee to gain passage of legislation which offers an alternative to busing. I am infinitely more comfortable pursuing normal congressional processes to affect change.

Consider this observation of the Association of the Bar of the City of New York:

> The Constitution is our most precious document: the solemn embodiment of those principles and values which give our nation life and meaning. It follows that the House should propose an amendment to this national charter only after a most searching and deliberate consideration. Joint House Resolution 74, however, is presented through a discharge petition, rather than through the normal legislative process, with the result that the amendment will proceed to a vote without the benefit of legislative hearings or committee consideration of any kind, and subject only to very limited floor debate. This accelerated procedure is entirely unworthy of our Constitution. Its success in this instance might encourage similar ill-considered efforts in the future, whenever narrow interests and political expediency temporarily command the stage.

The oath we took for this office requires us to uphold and defend the Constitution. If we are true to this oath, we will defend the Constitution from House Joint Resolution 74.●

● Mr. DODD. Mr. Speaker, I rise today in adamant opposition to the consideration of House Joint Resolution 74, an amendment to the Constitution of the United States prohibiting busing.

As every student of history in this country is aware, the framing of our Constitution was a thoughtful and careful act demanding the foresight and wisdom necessary to create a living and lasting democracy. Thomas Jefferson said in 1823 that "A permanent Constitution must be the work of quiet leisure, much inquiry and great deliberation." If the House agrees to the use of a discharge petition for the consideration of this constitutional amendment, we will severely limit and ultimately destroy the historical intent and spirit which the great minds of the framers of our Constitution had established. History will consider our actions today as swift, lacking both sufficient deliberation and depth. I hope the Members of this great institution will not allow the very integrity and thoughtfulness of our continued deliberations on national issues to be tainted by this demeaning spectacle.

The resolution we have before us today directly dilutes the historic decision of the Supreme Court, just 25 years ago, in the Brown against Board of Education case. I believe in the Constitution of the United States and I believe in the wisdom of our own predecessors in this House. The men before us established as a basic principle of this Nation that all men are guaranteed equal protection under the laws of this land. I do not believe that the floor of the House is the proper place to draft new language that tampers with these basic principles embodied in our Constitution. I hope that my fellow colleagues will have the moral courage to stand steadfast to these basic principles, in the same manner the U.S. Supreme Court did in this historic Brown decision.

The amendment before us will eliminate one method to insure equal access to quality education that has been highly successful in many regions of this country. In case after case court-ordered busing has provided racial balance in areas where no other remedy has existed. Are we to decide today to turn back the progress we have made in the last 25 years and prohibit the use of one of the many methods that has worked to achieve a racial balance in our educational institutions. I do not believe that this body is ready to deny equal educational opportunity to the children of this Nation.

I hope my colleagues will join me in upholding the basic protections afforded by our Constitution and upholding the integrity of this great deliberative body and vote no on this proposed amendment.●

Mr. EDWARDS of California. Mr. Speaker, I am in opposition to House Joint Resolution 74. The supporters of this provision point to public opinion polls as justification for its adoption. As members of the national legislature, is it our role to enshrine into the Constitution such vacillating views? If the answer is "yes," and I do not believe it is, how do we incorporate the public's overwhelming support for school integration when this provision seeks to bar desegregation efforts?

This entire effort is sheer lunacy. Our constituents are looking for thoughtful leadership and we respond with reactionary movement. As lawmakers, it is our duty to tell them, as the Supreme Court ruled in the 1958 Little Rock case "constitutional rights of (black children) are not to be sacrificed or yielded" because of opposition to those rights.

Adoption of House Joint Resolution 74, the Holt amendment or any similar amendment is an admission by this august body that we have failed to carry out our duties and that we refuse to or are incapable of articulating to our constituents the truth about desegregation: the initial resistance to it or any social change, and the eventual acceptance of it. We should proceed to assist in easing the transition from unconstitutional segregation to equitable social change.

House Joint Resolution 74 fails to live up to its promise. It is not, first of all, an antibusing amendment. The first rule of law is to read the contract—there is no mention of busing or transportation. House Joint Resolution 74 bans student assignments to other than the nearest school. In an effort to achieve neutrality the amendment, as drafted, opens a Pandora's box to increased litigation, greater Federal intrusion into State and local decisions on educational policies and programs, by creating, for the first time, a constitutional right of a child to attend the school nearest the child's residence.

The Holt amendment is no improvement. It unmasks the veil of neutrality and makes apparent the racist motivation and intent of its sponsors. It too, interferes with local decisions regarding voluntary efforts to achieve a constitutionally mandated unitary and thus, desegregated school system.

Let me assure you that the adoption of this or any similar amendment will move this Nation back in time when we had an officially sanctioned apartheid society. For all of these reasons, House Joint Resolution 74 must be opposed.

Mr. Speaker, the amendment that has been offered by Mrs. HOLT clearly shows that the true purpose behind this effort is—not the reduction of busing—not the preservation of neighborhood schools but the return to the days of "separate but equal."

Have we now reached the point in our history where our Constitution shall be a repository for a blatant racist concept? Shall our courts from here forward be forced to ignore officially sanctioned discrimination? Shall a nation which continues to beckon and give harbor to the weary and downtrodden assign unequal status to some of its citizens?

Do we turn back history and widen the narrowing gap between members of our wonderfully diverse society?

An affirmative answer to any of these questions should cause any of us to hang our heads in shame.

A negative answer to these questions and to the amendment will reaffirm our belief in the faith of our fathers that we will never abandon even one of our citizens to the disgusting concept of indifference.

There is no choice on this vote—there is only a two-century-old mandate—a "no" vote for our future.

○ Mr. FRENZEL. Mr. Speaker, I have great sympathy for our distinguished colleague from Indiana (Mr. MOTTL). He has been trying for years to attract the attention of this House to an issue which is of importance in each of our districts. The fact that this House was unwilling to schedule hearings is a serious indictment of its management and of its representativeness. Surely Mr. MOTTL's issue, and his bill, could have occupied a little of our precious committee time.

Despite the fact that this issue deserved more attention under regular House procedures. I do not like the idea of amending the Constitution through the discharge process. Only once before in the 8½ years I have served here did the House discharge a constitutional amendment. In that case, as today, the author perceived a weakness in his amendment and endorsed an amendment to it. In the normal course of business that is not a bad idea, but to write amendments to the Constitution on the Floor of this House is a very risky exercise.

Again, Mr. Speaker, I do not fault the distinguished gentleman from Indiana (Mr. MOTTL). He had no other course. I fault the leadership of this House which denied him any other way to be heard. Only because our system would not allow him to be heard, the House has been put in this miserable situation.

I am no fan of busing, nor even a friend. Youngsters do not learn much on busses. Busing is expensive, and has been grossly overutilized as a remedy against segregation. But I shall vote against this resolution today.

Partly, I will oppose the resolution because of the process. I have already expressed my objections, and laid the blame, as I see it, for the process. Partly I will oppose it because it is a poorly drawn amendment with such obvious deficiencies that its own author wants to amend it. The amendment to the resolution is on improvement, but it suffers from the fact that it has only recently arisen, and its effects are not well known.

But mostly I will vote against the resolution because I think that busing still has value as a limited, last-ditch remedy against de jure segregation. I do not support it as a remedy against de facto segregation. But where district boundaries have been specifically drawn to discriminate, busing, or the threat of it, ought to at least exist as a potential remedy.

I regret that neither the Mottl resolution, nor the amendment thereto, makes any distinction between de facto and de jure segregation.

My own judgment is that either a law or an amendment to the Constitution could be passed which would prohibit busing as a remedy for de facto segregation.

Mr. Speaker, although I shall vote against it, I am glad that the Mottl resolution has raised this issue and, perhaps for some of us, has helped clarify our thinking on it. I hope our deliberations today will have some influence on the courts which often have been irresponsible in mandatory busing remedies, when other comparably expensive efforts would produce much greater educational benefit.

Further, I hope that this House will move forward on an antibusing law such as was considered here in the early 1970's. We have had too much forced busing, but the answer is not to ban all busing. The answer, I believe, is a carefully drawn law which narrowly defines when busing can be used, and broadly defines when it cannot be forced on any school district.●

● Mr. DERWINSKI. Mr. Speaker, this is an issue which has plagued our education administrators for too long and which has resulted in more furor, controversy, and emotion than it has advanced the quality of education for our students.

I believe that the school administrators in a given district should have the responsibility for adjusting the student allocation within their district based on the factors that include residency and specific student needs.

As a matter of principle, I do not believe in racial quotas.

Therefore, consistent with my endorsement of legislation since 1970 to preserve the right to attend neighborhood schools, I support this amendment.

While the purists may argue language and raise constitutional questions and while the Judiciary Committee may complain about infringement on their jurisdiction, by the limitations of the rules, we have an up or down vote and, therefore, I will support this constitutional amendment to prohibit schoolbusing.●

● Mr. CAVANAUGH. Mr. Speaker, I rise in opposition to the resolution offered by the gentleman from Ohio (Mr. MOTTL), which proposes to amend the Constitution of the United States. The Mottl amendment would not prohibit the transportation or busing of students as hoped for by its supporters. The gentleman from Ohio (Mr. MOTTL), the author of this amendment, has himself stated it is not his intent to either disturb the protections of the 14th amendment of the Consitution or to overturn the 1954 landmark case, Brown against Board of Education, defining equality of education and establishing the principle that separate or racially segregated educational facilities were inherently inequal.

If the Mottl amendment is to exist in harmony with the 14th amendment as interpreted in Brown against Board of Education and subsequent cases, the effect could be more not less interference in local school districts than exists today and more busing of students than exists today. If school districts are to accommodate the dual mandates of assuring integrated educational opportunities through a system which does not require students to attend any facility other than the facility nearest their residence offering the course of study pursued by the student the result seems obvious. The school districts would be required under the Mottl amendment to restructure their "course of study" in such a way as to offer educational opportunities in an integrated facility.

In practical terms this would mean mandatory centralizing of grades within school districts. A common, districtwide 5th grade at one facility, a districtwide 8th grade at another. Each of these centralized "courses of study" facilities would fulfill the requirements of both the 14th amendment and the Mottl amendment. All students would be attending the "course of study nearest their residence" in the district in facilities fully integrated. The result, however, would be the total destruction of the neighborhood school and the total usurpation of local control of the educational program of the school district and most likely much more extensive busing of students than exists today.

Numerous other potential difficulties are presented by the Mottl amendment. Many of these are recognized by the author of the amendment himself and he will seek to remedy these defects by accepting a new proposal to be offered by the gentlewoman from Maryland (Mrs. HOLT).

The Mottl amendment would clearly impair the efficient offering of special education programs. The Mottl amendment could prevent the closing of old and obsolete facilities as well as result in serious overcrowding of some facilities and a severe underuse of other facilities due to temporary shifts in student populations. In each of these cases the authority of a local school district to make the decisions which best suit the district would be usurped by the Federal mandate of the Mottl amendment. Every school district in the Nation would be affected and restricted by this amendment without regard to whether they were experiencing integration difficulties.

If the amendments were to be successful in prohibiting all transportation of students the results would also be undesirable and unacceptable. In addition to imposing many of the difficulties outlined previously, the amendment could have the effect of reversing 25 years of racial progress in our Nation and reestablish the hatred and hopefully buried principle of segregation. This is a result sought by no one. The author of the amendment himself pledges support for the mandate of Brown against Board of Education which established the principle that racially separate educational facilities offer inherently unequal educational opportunities.

This amendment does not solve the problems caused by court mandated busing in a manner that is either reasonable or practical. Busing of students as a result of Federal court orders for school districts to provide integrated educational opportunities is a source of great frustration for many Americans and imposes a heavy burden on the taxpayers of those school districts where the mandates exist. These citizens may properly look to the Congress for some relief. In my own congressional district there is no issue which generates more emotion and distress. Since 1976 the Omaha Public School System has been complying with a Federal court order to provide integrated educational opportunities. In 1978, 7,693 of a total student population of 49,753 students in the Omaha Public School System were bused. Since 1976 the people of Omaha have expended more than $9 million for the purpose of providing transportation for these students. While the people of Omaha have borne this burden with patience and unusual goodwill, they expect and deserve some relief. The responsibility for providing remedies for the longstanding segregation with which our society has been afflicted should not be borne exclusively or unfairly by the people of Omaha, black or white. Integration is a problem of our Nation and should be shared equally by all in the Nation. Time and again, however, this House has refused to acknowledge that responsibility. The Congress can and should not only fund the cost of federally court ordered integration programs but provide funding for voluntary alternatives to Federal court ordered busing which could allow school districts to develop the method of providing for the integration of the district—a method best suited to the school district.

We can answer the frustration expressed by the citizens who support this amendment. But we must answer those frustrations in a manner that is honest, honorable, and true to the fundamental principles of our Constitution.

The Mottl amendment is not an honest answer to the problem caused by court ordered busing and should be defeated.●

● Mr. PREYER. Mr. Speaker, all the opinion polls indicate that the American people overwhelmingly support the idea of desegregated schools and an integrated society.

They also indicate overwhelming opposition to busing.

This is not as contradictory as it sounds. The polls are telling us that our citizens agree on the goal of a desegregated school system, but strongly object to busing as the means of reaching it.

This body accurately reflects public opinion on this. To put it in legal terms, we approve Brown—which established the principle of desegregated schools 20 years ago; we have serious questions about Swann—implementing that decision in the Charlotte case.

I speak as a Member who has supported many of the antibusing amendments that have come before this body. Large-scale busing is a disastrously wrongheaded policy in my judgment. But becaue busing is wrong does not make a constitutional amendment to deal with it right. The various antibusing amendments we have considered in the past have largely been futile, some have been foolish. But none raised any threat to the Brown case. These amendments could be supported as a protest against busing as an unreasonable remedy. These amendments did not threaten the goal of a desegregated school system or an integrated society.

But a constitutional amendment, not some amendment tacked on to an appropriations bill, is something else. We can not think of it in terms of all these other votes. It will signal a retreat from the goal not only a symbolic retreat, though that is important, but there is a substantial risk that it will bring about an actual retreat.

I say "substantial risk" because we do not know how the Supreme Court will interpret such an amendment.

But if interpreted literally, and I think this is how it would be interpreted, a constitutional amendment of the types suggested would not just stop busing they would take us back behind the Brown case of 20 years ago. It would not undo Brown directly. Brown would still give a right to attend a desegregated school system, but the constitutional amendment would deny the means to effectuate the right. Brown would be rendered meaningless—a right without a remedy. Like the moon, it would shine on but it would be dead.

How exactly would the amendment do this? The proposed amendments fall into two classes. One would say that "no public school student shall, because of his race, creed or color be assigned or required to attend a particular school." In an ideal society of course, we would take no notice of race.

However, to correct a past denial of equal rights on the basis of race, we must use race in formulating a remedy. Moreover, such an amendment would eliminate voluntary plans to desegregate schools and such voluntary techniques as majority/minority transfers, because such plans are necessarily race conscious, and the amendment says "Don't consider race."

The second type would guarantee the right of every student to attend the school "nearest his place of residence." But granting this kind of absolute right is as much a failure to balance legitimate interests as long-range, large-scale busing is a failure. Surely we would not want to take away the local school board's authority to do some frank gerrymandering to achieve more voluntary integration, for instance. If for example a child is assigned, not to the closest school, but to the next closest, and more integration results, surely we will have balanced well two very legitimate interests. But this—whether resulting from a court order or from voluntary action—would not be allowed.

To sum up: They would virtually eliminate all voluntary means of desegregating a school system, including those means that might have nothing to do with forced busing. It would effectively block any efforts of Congress to meet our responsibility to establish a national school policy by legislation.

Our system of democracy has always lacked a reverse gear, especially in those movements that represent great ethical or social advances. Brown represented such an advance: The idea that no student could be compelled to go to a segregated school. We do not intend to retreat from this goal. A constitutional amendment gravely risks doing it through inadvertence.

Certainly Congress should exhaust all other remedies before going to such a drastic and uncertain solution as a constitutional amendment. It will be argued that "we have tried everything else and nothing works. A constitutional amendment is all that remains." This is not so. We have not tried the one key thing. We have not come to grips with a comprehensive education bill which addresses this question "What is the best way to achieve equal educational opportunities? What can we do to reach the goal of desegregated schools without busing?"

Such an approach is a realistic option; it is not just theory. A number of Congressmen and I have introduced such a bill—drafted by a constitutional expert, discussed with and approved by leading educational experts. If you want to do something about busing that requires only a majority in Congress and not lengthy action by State legislatures, that zeroes in on the problem of busing without compromising the goal of a desegregated school system, that is not the loose cannon that a constitutional amendment is, then support something like this bill—a legislative approach.

There are far more sensible ways to get us out of this wrong-headed policy of busing than a constitutional amendment. A constitutional amendment would block off the sensible way, the legislative approach.

No one who is opposed to busing should feel that the constitutional amendment is the only thing that can be done about busing. In a sense, a constitutional amendment would only be an extension of the present abdication of Congress to the courts in the area. We would be adding an amendment which could qualify the fourteenth amendment and then we would be waiting to see how the courts work out any contradiction—and we cannot say with assurance what the results would be. As a better alternative, Congress should legislate a national educational policy to attain equal educational opportunities in this country. This will not be easy. There are no quick shortcuts. We have not met the challenge in the past—and that is why we are here now. But I remain hopeful that we can bring the full legislative process to bear on this vexed question and find a solution which will help us in our attempt to achieve a more integrated society.

It is well to remember that the course we are running is a long one and the goal sought in the end—so often overlooked—is the best possible educational opportunity for all children. We can achieve the goal without lowering the quality of education generally if we plan intelligently. The stakes for all sides are high—peace in the community and a fair shot at a quality education for all.

The long effort to bring the black man into the mainstream of society through school desegregation has been both a success and a failure. It has been a success in that the principle of legal, official segregation has been denied everywhere. The legal structure of segregated schools has been destroyed and the idea repudiated. For moral as well as historical reasons all of the United States stand firmly for the principles of racial equality. This has been a triumphal success.

But it has been a failure in that dismantling the legal, official structure of segregation has not automatically integrated schools, and the court-ordered remedy of large-scale busing has not worked.

We should overcome the failure through a legislative approach; we should not risk the triumph by adopting a constitutional amendment.●

● Mr. HANLEY. Mr. Speaker, I would like to take this opportunity to comment on the actions of the House today in voting to discharge the Judiciary Committee from consideration of House Joint Resolution 74, a proposed constitutional amendment which would effectively end the practice of Court ordered busing to achieve equal educational opportunity for all children in this Nation. First, I want to explain that due to prior commitments I was unable to be present for the vote to discharge the committee from consideration. I am officially recorded as "paired" in the affirmative. There can be no doubt that regardless of our individual feelings on the prudence of attempting to alter the Constitution to deal with this issue, a majority of my colleagues signed a discharge petition to require such consideration. That being the case I felt quite strongly that this body had a responsibility to the majority of its Members as well as to the concerned citizens of this Nation to debate this highly controversial proposal.

On the question of final passage of the substitute language of the Holt amendment, however, I joined with a majority of my colleagues in voting "no." I wish to make quite clear that this negative vote is in no way meant to imply any support for the concept of Court ordered busing. I have always opposed the practice, and strongly feel that in some instances it has been either excessively or incorrectly applied. While I oppose an amendment to the Constitution as a means of correcting the problem, I continue to support efforts to enact legislation to provide assistance to the States in developing and implementing plans, on a voluntary basis, to reduce and eliminate minority group isolation in schools. Federal financial and technical assistance will be the key ingredient in such an approach. The House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education has tentatively scheduled hearings on this legislation for September, and I am hopeful that we will finally adopt this approach as a solution to the busing problem.

Finally Mr. Speaker, there were a number of other important factors which prompted my negative vote on the constitutional amendment. First, I do not believe that the Constitution is the proper vehicle for the implementation of social policy preference. The broad statement of fundamental principles contained in that great document must not become encumbered with statements of narrow social preference. Second, even the language of the compromise proposal opens some very serious questions relating to the continued control of local school boards over decisions necessary to provide quality education for our young. Finally, passage of the amendment would have destroyed the years of effort in this Nation to pass and implement the equal protection clause of the 14th amendment. We dare not hold equal educational opportunity hostage to our desire for neighborhood schools. I am confident that we can have both, and I am hopeful that the House will finally consider the appropriate legislative solution I have already mentioned during the current session.●

● Mr. LELAND. Mr. Speaker, I rise in strong opposition to this amendment as originally drafted and to its proposed revision.

As a child, I can remember standing along with my classmates in school and having to recite the Pledge of Allegiance. This was mandatory not only for the students who attended my school, but also I am sure for all of you. In reciting the Pledge of Allegiance, I took notice to one particular passage, which generally, when stated, is done very forcefully and without hesitation.

Mr. Speaker, and my distingusihed colleagues, I wish to quote that passage for you today: "* * * one Nation under God, indivisible with liberty and justice, for all." As I interpret the first clause of this passage, Mr. Speaker, let me say that the words "one Nation under God" does not imply "separate but equal" access to educational opportunities. I cannot help but feel that the Mottl amendment would divide this "one Nation under God" and deny its promise to millions of blacks, Hispanics, and other American children. Would an end to busing continue to divide us or is it that we are repeating this oath in vain?

Mr. Speaker, may I continue by examing the second statement of that passage which states "indivisible." Now, this amendment is sure to provide for divided educational access and would assist in the development of a multisystem that would not allow for our children to have to sit next to one another, play with one another, and most importantly, learn with one another.

Finally, Mr. Speaker, I wish to examine the final six words of the Pledge of Allegiance, which are probably the most important ones for the purpose of this debate; and then state, "with liberty and justice for all." How could any of my colleagues who support this amendment deny that "liberty" surely includes the freedom to have access to a quality educational system. Isn't this the liberty for which we have fought so hard? Is it not the same liberty that has taken its toll for people like Harriet Tubman, Robert Kennedy, John Kennedy, and Martin Luther King, Jr., who all laid down their lives to see that black people, Hispanic people, white people, and all people were all treated equally under the laws?

Likewise, Mr. Speaker, it tears at my heart that the words "justice for all" are not taken seriously by my colleagues today. How can they offer an amendment that unquestionably will divide our Nation again along racial lines for years and one which will perpetuate the immoral system of segregated and grossly unequal schools, and call this "justice"? The truth is, on this issue today, there is no justice in America, Just Us!

I believe that my colleagues should recall placing our hands over the heart and looking at the American flag, as they vote today. I for one could not take this somber oath knowing that I had taken part in denying a single child equal accessibility to educational institutions all across this country.

I urge that this legislation be defeated.●

Mrs. HOLT. Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and on the joint resolution.

The previous question was ordered.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Maryland (Mrs. HOLT).

The amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 209, nays 216, not voting 9, as follows:

[Roll No. 374]

YEAS—209

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Blanchard
Boner
Bouquard
Bowen
Breaux
Broomfield
Broyhill
Burgener
Burlison
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Ferraro
Fithian
Flippo
Ford, Mich.
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Marlenee
Martin
Mathis
Mica
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
O'Brien
Oakar
Pashayan
Paul
Pickle
Pursell
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Traxler
Treen
Trible
Vander Jagt
Vanik
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—216

Addabbo
Akaka
Alexander
Anderson, Ill.
Andrews, N.C.
Anthony
Ashley
Aspin
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Biaggi
Bingham
Boggs
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Courter
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Nelson
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Udall
Ullman
Van Deerlin
Vento
Volkmer
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Alaska

NOT VOTING—9

Bolling
Edwards, Ala.
Emery
Flood
Forsythe
Leach, La.
Marriott
Thompson
Wilson, Bob

□ 1430

Mr. CARTER changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the joint resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the joint resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on July 23, 1979, the President approved and signed a bill of the House of the following title:

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title in which concurrence of the House is requested.

S. Con. Res. 33. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4537.

PERMISSION TO HAVE UNTIL JULY 25, 1979, TO FILE CONFERENCE REPORT ON H.R. 4388, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, July 25, 1979, to file a conference report on the bill, H.R. 4388, making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

WHEN WILL THE ADMINISTRATION RESPOND TO CRIES OF ANGUISH FROM LEBANON AND ENFORCE THE LAW?

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.)

Mr. FINDLEY. Mr. Speaker, where are the voices of moral outrage in this House? Who will speak up in conscience and denounce the State of Israel for the terrible punishment it has delivered against Lebanon with U.S.-supplied warplanes?

In the past 18 months at least 1,200 civilians—men, women, and children—innocent people—have died from Israeli military operations. Scores of thousands of civilians have fled north as refugees. And still the pounding continues.

Last weekend Israeli warplanes struck again. Twenty civilians were killed, children among them. Over 40 people were injured.

When terrorist violence hits Israel or elsewhere and innocent lives are taken, I deplore these acts. Today I ask you to join me in calling upon the Carter administration to act against this terrible injustice. Yesterday Hodding Carter of the State Department said the bombings must stop. Words are not enough. In the past, Israel has ignored U.S. words.

The administration has leverage it can and should use against these Israeli attacks. In fact, it is bound by law to halt all military shipments when U.S.-supplied military gear is used for purposes other than self-defense. When will the administration respond to the cries of anguish from Lebanon and enforce the law?

A SHAMEFUL SETBACK FOR THE UNITED STATES

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, knowledgeable observers in Latin America on all sides of the political spectrum agree that the United States displayed a stunning lack of leadership and inability to protect our own national interests in the ouster of Nicaragua's President Somoza.

Many believe that the failure to install a moderate successor government in Nicaragua will lead to the establishment of systematic Marxist totalitarianism similar to Cuba's.

Prominent Latin American commentators also believe that the United States has helped set the stage for Communist "wars of national liberation" throughout the hemisphere. It is interesting to note that many of these gentlemen, intent on ousting the legally constituted Nicaraguan Government, now fear the Marxist-Communist takeover in that country.

This is a shameful setback for our country, the moral responsibility for which rests with the President and his foreign policy leaders.

I would like to include a summary of Latin American commentary at this point in the RECORD:

[From the Washington Post, July 23, 1979]

SOMOZA'S FALL INTRIGUES LATIN AMERICA

(By Charles A. Krause)

BUENOS AIRES, July 22.—The Sandinista victory in Nicaragua is being viewed with both joy and apprehension throughout the rest of Latin America, where the military defeat of President Anastasio Somoza is seen as a stunning setback for U.S. power and prestige in the hemisphere.

No political development since Fidel Castro's triumph in 1959 has so captured imaginations in the countries south of the United States as the guerrilla's triumphant entry into Managua.

Conviccion, a newspaper in Buenos Aires that reflects the rightiest views of the Argentine Navy, called the outcome of the civil war "Brzezinski's inglorious Vietnam."

The clandestine leftist Guerrilla Army of the Poor in Guatemala said, "The triumph of the Nicaraguan revolution has caused very important changes in the Central American situation . . . favorable for the development of our own wars of popular revolution."

The Andean pact countries of Venezuela, Colombia, Ecuador, Peru and Bolivia, which each have democratic forms of government, issued a communique reflecting traditional Latin American hopes for a liberal democratic government.

"Somcza and his regime personified the most reprehensible practices of oppression and abuse in the history of Latin America," the statement said. "His expulsion from power heralds the beginning of an altogether new stage in the political life of the region."

Few commentators, in the wake of the Sandinista victory, found any reason to praise the United States. Indeed, the right and left seem in agreement that Somoza's fall was a major defeat for U.S. power, leadership and interests in the hemisphere.

Although the Carter administration was actively involved in pressuring Somoza to leave his war-torn country, most Latin Americans view the Unitetd States as having bowed to reality only when it became apparent that Somoza would lose militarily.

Latin Americans form their judgments aware that for more than 40 years U.S. governments strongly supported the rule of the Somcza family.

They lauded the Sandinista defeat of what they see as a symbol of "Yankee imperialism" in Central America. They describe the victory as having been achieved with arms and money from Cuba, the Palestina Liberation Organization, Panama, Venezuela and possibly other countries.

It is in this context that both conservatives and radicals were assessing the U.S. failure to change the composition of the five-member provisional junta, backed by the leftish revolutionaries.

The Guatemalan Guerrilla Army of the Poor said in its statement that the Sandinista triumph represents the first victory for leftist revolutionaries in Latin America since Castro came to power 20 years ago. Guerrilla campaigns since then have been frustrated in almost every country in the hemisphere—often with direct U.S. assistance.

The possibility of the rebel movement spreading has aroused the fears of the region's authoritarian governments, such as Guatemala, Argentina, Uruguay, Chile and Paraguay. Some of that concern was expressed Saturday by La Opinion, a newspaper published in Buenos Aires by the Argentine Army. La Opinion printed a map of Central America and the Caribbean showing "the explosive zone where the Nicaraguan case could be repeated."

Guillermo Martinez Marquez, writing in El Mercurio, Chile's most influential conservative newspaper, said that after becoming involved in Africa and the Caribbean, Cuba "has returned to its interventionist policies" in Latin America.

"The United States will soon be surrounded by visible and active enemies with the exception of Canada," Martinez said. "The United States has become geographically isolated. This is where we are, and this is where we will continue, as long as Washington does not decided differently."

What especially has confused the left and frightened the right is that, by not intervening militarily in Nicaragua to install a moderate government, the United States appears to have lost its will to protect what both sides view as U.S. interests.

An Argentine diplomat said his government and others in the hemisphere are attempting to analyze what he called "this new factor," which he said could have an important impact on how anticommunist military governments—and leftists as well—interact with the United States. Latin Americans, until now, have viewed the United States as the overwhelming power in the hemisphere with the will and resources to intervene when necessary to protect its interests.

What the Andean countries, led by Venezuela, clearly are hoping is that Nicaragua, after a period of rebuilding, will become another liberal democracy like its neighbor, Costa Rica. The Andean countries believe that, because they supported the Sandinistas diplomatically, politically and materially while the United States vacillated, they can help shape events there now.

This view, however, is considered naive by many Latin observers, including the respected English-language Buenos Aires Herald.

"At present, needless to say, world and especially Latin American public opinion is wholeheartedly on the side of the Sandinistas," said an editorial in the Herald last week.

"Should they behave as Marxist-Leninists always have, however, the day may not be very distant when it will be realized that evil as Somoza's one-man dictatorship was, it was less evil than the systematic totalitarianism established in Cuba and which may soon be established in Nicaragua, with the outside world tut-tutting its disapproval but utterly helpless to do anything to influence the course of events."

☐ 1440

PERSONAL EXPLANATION

Mr. PICKLE. Mr. Speaker, on the vote on the previous matter I am shown as having voted "aye." I did not realize en route to the floor that the Holt amendment had been approved by voice vote. I had no objection to the supporters of the amendment wanting to perfect their amendment.

Had I realized it was final passage, I would have voted "no," as I did earlier on the discharge amendment.

AMELIA EARHART

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it was dawn, June 1, 1937, when Amelia Earhart handed her husband a letter to be read if she did not return from her attempt to circle the Earth. Forty-eight days later Amelia's letter was given to the world. It said:

> I want to do it because I want to do it. Women must try to do things as men have tried. When they fail, their failures must be but a challenge to others.

Today we mark the birthday of Amelia Earhart—first American woman to be issued a pilot's license, to fly solo across the Atlantic Ocean, to receive the Distinguished Flying Cross.

Amelia Earhart, a jaunty young woman who believed:

> Whether you are flying the Atlantic, or selling sausage, or building a skyscraper, or driving a truck, or painting a picture, or nursing patients in a hospital, or running a grocery store in Kansas, your greatest power comes from the fact that you want tremendously to do that very thing, and do it well.

Women working in male-dominated fields understand what Amelia Earhart was saying.

DEVALUATION OF DOLLAR NO LONGER NEWS

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, not too many years ago, when our dollar and all other hard currencies were measured in terms of gold, the devaluation of the dollar was big news. Headlines greeted the 8 percent devaluation when gold's price was changed from $35 to $38. It was the same when gold went from $38 to $42 and the dollar was devalued 10 percent.

But since the days of $42 gold, the dollar has been devalued an incredible 84 percent, and it is no longer news.

We hear about the rising price of gold, but not about the consequent lowering in the value of the dollar. The purchasing power of gold remains essentially unchanged.

The devaluation of the dollar can only continue, and probably accelerate, so long as the Federal Government pursues its profligate policy of issuing more and more unbacked paper money.

For those who still buy the cliche that gold is not money, think about the difference between $42 left in a bank at 5 percent interest, and since 1973 an ounce of gold earning no interest which has increased in value by nearly 700 percent. Or think about the Vietnamese, who are able to use only gold to purchase their freedom from the Communists. The paper currency the Vietnamese used previously quickly became unacceptable as money when the current crisis started.

Gold is money, real money, and the sooner our dollar is tied irrevocably to it, the sooner the devaluation will stop and inflation will cease.

The honest money concept is not idle theory, it is a fact we can no longer ignore.

PRAISE OF CONGRESSWOMEN CALLED FOR

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, while we are listening to speeches in praise of the distinguished American women, past and present, I think we ought to get the birthdays of the gentlewoman from Colorado (Mrs. SCHROEDER) and the other distinguished women in this House so that we can pay appropriate praise to them. If there is anybody who merits it, they do.

DISMISSAL OF SECRETARY JOSEPH CALIFANO DEPLORED

(Mr. MINISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINISH. Mr. Speaker, I am extremely disappointed by the dismissal of Joseph Califano as Secretary of the Department of Health, Education, and Welfare.

In my 17 years in Washington, I have met very few people who approach Joe Califano's ability, dedication, and integrity. Two and a half years ago, he left an extremely lucrative law practice in order to accept one of the most demanding and thankless positions in our Government. He has done his job well.

No one, least of all Joe Califano himself, denies that he has been an active and sometimes controversial Secretary of HEW; no one who does so much for so many people can avoid ruffling a few feathers. He is a man with a strong sense of fairness and justice, whose drive and intelligence have enabled him to translate his ideals into actions. In a city full of talkers, Joe Califano has been a doer. Despite criticism and pressure from various special-interest groups, he has consistently done what he thinks is best for all the citizens of the United States.

Joe Califano has contributed a great deal to our country. I am sure the President will come to realize that firing him is a serious mistake. The real loser in this unfortunate episode is not Joe Califano, but rather the 220 million Americans who will no longer enjoy the benefit of his work.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO MEET TOMORROW DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to meet tomorrow, Wednesday, July 25, 1979, even though the House may be under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF COMMITTEE ON THE JUDICIARY TO MEET WEDNESDAY, JULY 25, 1979

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary may be permitted to meet in the afternoon on Wednesday, July 25, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEFERRAL IN BUDGET AUTHORITY FOR BUREAU OF PRISONS IN DEPARTMENT OF JUSTICE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-165)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6.2 million in budget authority for the Bureau of Prisons in the Department of Justice.

The details of this deferral are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *July 24, 1979.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, the Chair will now put the question on the motion on which further proceedings were postponed.

SACCHARIN EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4453.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 4453.

The question was taken.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Mr. VENTO. Mr. Speaker, I withdraw my point of order of no quorum.

Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 22, not voting 18, as follows:

[Roll No. 375]

YEAS—394

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—22

Beilenson
Bingham
Carr
Chisholm
Dellums
Drinan
Gibbons
Hawkins
Holtzman
McHugh
Maguire
Markey
Moffett
Nolan
Obey
Ottinger
Seiberling
Stark
Stratton
Vanik
Weiss
Yates

NOT VOTING—18

Bolling
Conyers
Diggs
Edwards, Ala.
Emery
Flood
Ford, Mich.
Forsythe
Hagedorn
Leach, La.
Marriott
Rodino
Santini
Schroeder
St Germain
Thompson
Traxler
Wilson, Bob

□ 1500

The Clerk announced the following pairs:

Mr. Thompson with Mr. Forsythe.
Mr. St Germain with Mr. Hagedorn.
Mr. Rodino with Mr. Marriott.
Mr. Traxler with Mr. Bob Wilson.
Mr. Santini with Mr. Leach of Louisiana.
Mr. Ford of Michigan with Mr. Conyers.
Mr. Flood with Mr. Diggs.
Mrs. Schroeder with Mr. Emery.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMTRAK REORGANIZATION ACT OF 1979

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 350 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 350

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be read for amendment by titles instead of by sections. It shall be in order to consider an amendment to said substitute printed in the Congressional Record of July 10, 1979, by Representative Dodd of Connecticut, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 350 is the rule providing for the consideration of the bill H.R. 3996, Amtrak Reorganization Act of 1979. It is an open rule, providing for 1 hour of general debate. It makes the committee amendment in the nature of a substitute in order as an original bill for the purpose of amendment, and provides that it will be read for amendment by titles instead of by sections. In addition, there is one Budget Act, a waiver of section 402(a).

The waiver is necessary because there are provisions in the bill that might authorize new budget authority for this fiscal year, which would be a violation of section 402(a). It is a technical waiver, however, because the Interstate and Foreign Commerce Committee has agreed to offer a floor amendment to cure the Budget Act violations.

In addition, the rule makes in order one amendment that is printed in the CONGRESSIONAL RECORD of July 10. It is an amendment to the Railroad Revitalization and Regulatory Reform Act, which is amended by this bill, but the particular amendment in question is not germane simply because it amends a different section of the Railroad Revitalization Act—one that is not otherwise amended by the bill. As a result, this resolution includes a waiver of clause 7, rule XVI—the germaneness rule—simply to allow that one amendment to be considered by the full House.

Mr. Speaker, this is a very important bill. Among other things, it reauthorizes the National Railroad Passenger Corporation, Amtrak, for another 3 years. At the same time, it makes major changes in Amtrak organization to increase its management efficiency in a number of different ways.

Mr. Speaker, the importance of a strong, viable Amtrak system has recently been highlighted by our gasoline shortage. People need to have alternatives to automobiles, and the recent dramatic increases in Amtrak ridership indicate very clearly that people are willing to turn to Amtrak as one of those alternatives.

It is important, however, that it be a good alternative if we want people to continue to use it. And, it needs to be a good alternative as well from the perspective of the Federal Government which runs it and pays much of the cost for it. This bill is designed to make it that kind of good alternative.

Mr. Speaker, there could hardly be a better time for us to be considering this legislation, and to be reaffirming our commitment to our passenger rail system. I support this bill and I urge the adoption of House Resolution 350 in order that might be considered.

☐ 1510

Mr. LATTA. Mr. Speaker, I agree with the statements just made by the gentleman from Massachusetts.

I would like to point out that the Congressional Budget Office estimates this bill will authorize for fiscal year 1980 a total of $1.1 billion, of which $866.5 million is for Amtrak alone.

Then for fiscal year 1981, the bill authorizes $924 million for Amtrak.

For fiscal year 1982, the figure is $940 million.

These authorizations allow operations of a rail system smaller than the existing system, but larger than the system recommended by the Department of Transportation.

Mr. Speaker, to put these amounts in perspective, let me point out that the first budget resolution allotted $760 million for fiscal year 1980 for Amtrak. Thus, for fiscal year 1980 this bill is $106.5 million over the amount allocated under the first budget resolution.

In addition, the bill authorizes $27.2 million for the U.S. Railway Association. Since the first budget resolution allocated only $23.9 million for the same purpose, this item is also over the budget resolution by a substantial percentage.

Mr. Speaker, there are minority views in this committee report which suggest closing Amtrak down permanently. This bill authorizes nearly $3 billion to provide benefits to fewer than three-tenths of 1 percent of the intercity travelers in this country.

Mr. Speaker, in case Amtrak is continued in spite of the opposition, I have one suggestion that I made on the House floor a few days ago for increasing the number of people served by Amtrak. The trains should stop to pick up passengers, and I emphasize that once again. The trains should stop to pick up passengers. For example, an Amtrak train travels 134 miles from Toledo, Ohio, to Elkhart, Ind., without stopping once to pick up a passenger. If we want people to ride Amtrak trains, they must stop to permit passengers to board.

As I pointed out before in the Committee on Rules recently, we have some fast runners in northwest Ohio, but I believe that we do not have any fast enough to run to catch a speeding Amtrak train.

Many of my constituents would be happy to ride Amtrak trains if the trains would only stop.

I might say, after I made my earlier remarks on the floor, the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) approached me and asked me for information on this train. I was very happy to give him this information. I am pleased to report today that the chairman of this committee is investigating this matter and, hopefully, we will have some trains stopping on Amtrak lines more frequently. If we do something like this, maybe we can pick up the number of passengers needed to make Amtrak a profitable business, so that we will not have to continue to make these authorizations and later appropriations in the huge amounts that we are now.

So I would urge the committee, and not only the committee, but Amtrak itself, to consider stopping to pick up passengers.

Mr. Speaker, I have no requests for time. I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the chairman of the Budget Committee, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, would the gentleman from Ohio answer a question for me, the gentleman from Ohio (Mr. LATTA)?

Mr. LATTA. I would be happy to answer a question.

Mr. GIAIMO. Mr. Speaker, the gentleman spoke about the fact that the figures in this authorization bill were over the amount in the target resolution; is that not right?

Mr. LATTA. That is correct.

Mr. GIAIMO. I would remind the gentleman, however, that this bill, as I understand it, deals with authorization and not with obligational authority, which would be an appropriation, which is the subject of our budget resolution; so the fact that the authorizations included herein are over, are not the relevant problem. The Budget Committee and the budget resolution that we adopted addresses itself to obligational authority, spending, if you will, which is the subject of appropriations and not authorizations.

Mr. LATTA. Mr. Speaker, I would concur 100 percent with the chairman of the committee. The gentleman is absolutely right; but I would think that here on this House floor on authorizations, we do not want to just spin our wheels. We are laying the groundwork for some future action by the Appropriations Committee. If we are doing that, we do not want to fool the American people into believing that in this Amtrak authorization bill they are going to get something, which they are not going to get in fact. So we point this budget figure out on this side of the aisle as a precautionary measure to prevent false expectations. That is the reason we point out these figures.

Mr. GIAIMO. I just wanted to make it very clear that since the beginning of the Budget Committee we have addressed ourselves to the problem of obligational authority and spending and not authorization.

Mr. LATTA. The chairman is absolutely right.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

The SPEAKER pro tempore (Mr. CAVANAUGH). The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3996, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, and the gentleman from New York (Mr. LEE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, in January of this year, the Department of Transportation recommended a 43-percent cutback in the Amtrak System. The DOT proposal was in response to the requirement of the 1978 Amtrak Act which mandated a reexamination of the Amtrak route structure because Congress was dissatisfied, correctly I think, with performance of existing system.

In the course of examining the DOT proposal, the Commerce Committee under leadership of my chairman Mr. STAGGERS, reached the conclusion that the DOT plan had gone too far. DOT eliminated routes which carried significant numbers of passengers, and routes which had gained tremendously in ridership over the past year. Unfortunately, the DOT study used ridership and cost data from 1977 to determine how trains performed.

The Commerce Committee chose to use this authorization bill to redesign the Amtrak route system. The committee could have vetoed the DOT proposal, but that would have sent it back to DOT for a new plan. It is the Congress which should be charged with the responsibility of determining how to change and improve existing system, what kind of route system Amtrak should run, and this bill is the measure of what that system will be.

This bill establishes specific and objective criteria of ridership and cost to determine which trains should be part of the Amtrak System. The bill allows any train recommended for discontinuance to be continued if it meets the criteria.

It is an objective and rational method of determining which trains continue and which do not. Those that make sense in ridership and cost continue: Those that do not stop. It is the end of the political train system and the beginning of a cost-effective Amtrak system.

FUEL EFFICIENT

There will be trains, even in this time of increased ridership, that do not meet the criteria. Those trains, in fact, should be eliminated and drain resources to be used to improve service. A look at the performance characteristics of a couple of trains is dramatic proof that they should not be continued. For example, one of the trains carries an average of 20 people and burns 2 gallons of fuel per mile. Even with ridership increases at the highest level of the gas crisis, an impressive annual percent increase in ridership still does not make the train a good one.

It raises the passenger mile per train mile figure from an average of 26 to about 40 for the best week in May. There is no justification for continuing such a train. An amendment to be offered by the gentleman from Tennessee would freeze that train into the system. Though it may sound superficially attractive to says save all trains, disservice to taxpayer and balance of system.

We have a bill which creates a reasonable Amtrak system, one that can be justified on ridership grounds. One that, by virtue of using projected 1980 usage figures, takes into account the recent increased ridership figures in evaluating trains to be included in the system thereby eliminating the rationale for any proposed freeze. Incidentally, surge in ridership has peaked. We have provided sufficient operating funds to run the system properly, as it has never been run.

We have also provided substantial additional capital funding—almost $100 million above the DOT request. If we are to have a national rail passenger system in the future, we need one that has sufficient equipment to oprate modern, efficient, and reliable service. Traditionally, the Congress has not provided such funds and that is the reason the Amtrak system is so poorly equipped today. It would be a monstorous hoax upon the American people to freeze and not provide the $1.2 billion necessary to run the system correctly.

In addition, this bill includes $25 million for the 403(b) program. This program allows States to fund trains jointly with the Federal Government, and the bill changes the Federal share from 50 percent to 80 percent in the first year, 65 percent in the second, and 50 percent in the third. Great opportunity to continue trains that have State or regional significance.

The Commerce Committee has worked long and hard to provide to the House a plan for the future of Amtrak that will make sense. This bill maintains service that is energy efficient, and eliminates service that taxes the American public without measurable social benefit.

I would ask for your support for a new day, and a new approach, for rail passenger service in this country.

□ 1520

Mr. LEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last January, the now former Secretary of Transportation sent his final report to Congress on the Amtrak route system. That report which had been requested by the Congress in the Amtrak Improvement Act of 1978 created controversy involving the future of Amtrak.

The controversy created by the Secretary's January proposal has been very real and forced everyone concerned to take a hard look at where Amtrak has been and where we want it to go. The chairman of the subcommittee, Mr. FLORIO, and the ranking minority member of the subcommittee, my distinguished colleague, Mr. MADIGAN, were determined to lead a subcommittee reappraisal of both Amtrak and the Secretary's proposal. That reappraisal has been the most careful and thorough evaluation of intercity rail passenger service since before the creation of Amtrak. In my judgment, the bill reported from the Committee, H.R. 3996, the Amtrak Reorganization Act of 1979, represents the most important piece of legislation for intercity rail passenger service since the creation of Amtrak back in 1971.

Let me review some of the considerations and findings we made which led us to write a bill substantially different than the approach taken by the Secretary of Transportation.

We first focused on the proposal recommended by the Secretary. As you may recall, the Secretary's proposal would drop 43 percent of the route miles from Amtrak's operation. Long-distance trains making Amtrak a national network were the hardest hit. Twenty-four trains were either completely discontinued or radically restructured. The work of the subcommittee uncovered the fact that many of those trains should not be discontinued because they were needed in order to provide essential transportation for the people of this country. Not only that, the subcommittee found that the data used as the basis for discontinuing some of the trains was either inadequate or outdated.

The subcommittee then looked to finding some fair and equitable means for making certain that there was equity involved in any train discontinuance. All of us wanted to avoid slashing Amtrak simply for the purpose of alleging that we were saving the taxpayers' money. The taxpayers do not want us to be pennywise and pound foolish. The taxpayers expect us to reduce Government expenditures, but they expect us to do so wisely.

What resulted, then, was a careful reexamination by the subcommittee of what the Secretary had proposed. As a result of that reexamination, the subcommittee not only added operating dollars over and above the Secretary's proposal, but also designed a formula which would provide an objective standard for evaluating what trains should remain and what trains should be discontinued. That objective formula is contained in section 117 of the committee-reported bill. Simply stated, it requires that a train show that its short-term avoidable loss is not more than 7 cents per passenger-mile and that the passenger-mile per train-mile be not less than 150. Why did we select that particular formula? Mr. Chairman, that formula takes into account the point at which trains can be energy efficient if a train does not meet that criteria, the simple fact of the matter is that we as a nation are wasting our precious energy.

In the present Amtrak system, for example, there is a train operating which takes more energy than would be used if every passenger all by himself drove his automobile from point of origin to point of destination. Mr. Chairman, there is no excuse for that kind of irresponsibility. Intercity rail passenger service can and does save energy, but it does so only when the ridership on trains is sufficient to justify running the trains. No one can claim energy efficiency for trains that run nearly empty across the country. The bill reported by the committee weeds out the inefficient trains so that energy efficiency by Amtrak in the future will be even greater than it is today.

The train, its route, and the market it serves are but one consideration in evaluating Amtrak. The Secretary in his report concentrated almost exclusively on simply cutting trains. Our subcommittee investigation made it clear that far more needed to be done than simply having either Congress or the Secretary play railroad by taking off or putting on trains.

One of the greatest difficulties which has plagued Amtrak since its creation has been the uncertainty which has come from that kind of legislating. Amtrak has been given yearly authorizations which almost inevitably have required supplemental authorizations for appropriations. Amtrak has literally been leading a hand-to-mouth existence and quite frankly, it has been falling further and further behind in its goal to provide reliable intercity rail passenger service. Therefore, the bill which was reported by the committee contains a 3-year authorization, thereby providing Amtrak with a measure of certainty which heretofore it has not had.

Another shortcoming of Amtrak became equally clear. Either because of indifference of uncertainty, the Amtrak Board has not been able to pursue a clear policy of sound program guidance for Amtrak to successfully manage a national intercity rail passenger system. Mr. MADIGAN examined every aspect of Amtrak's management policies and concluded that a number of important management tools were missing in the Amtrak organization. After considering all of the evidence presented in the Amtrak authorization hearings, Mr. MADIGAN put together and introduced HR. 3768 which set forth a number of management changes for Amtrak. Most of those changes were incorporated in the bill reported by the committee.

For example, the bill directs Amtrak to establish a regular, systematic, and regional maintenance program for its equipment. You will learn here today that one of the greatest problems facing Amtrak is that it simply does not have enough equipment to operate the system imposed upon it by previous Congresses. One of the necessary things for Amtrak to do is to develop a better system of equipment maintenance.

I wish I could tell my colleagues that a better maintenance system would be sufficient to make certain that all Amtrak equipment worked. Unfortunately, much of the Amtrak equipment is ready for the junkyard and could not be made to work even with the best of maintenance programs. Nevertheless, I am convinced that in the future, Amtrak will be well served by the requirements of this bill establishing a regular maintenance program.

The subcommittee also found that Amtrak management did not have a good system for getting feedback concerning its operations. Mr. MADIGAN's bill and the bill reported by the committee contain a provision establishing within Amtrak a performance evaluation center. The purpose of the performance evaluation center is to force Amtrak to pay closer attention to how well their trains are operating. In the past, the Interstate Commerce Commission was given responsiblity for overseeing the adequacy of Amtrak service. The experience under that procedure has not been encouraging. Therefore, the Interstate Commerce Commission is relieved of that responsibility but the performance evaluation center will have authority to get adequacy of service reports directly from conductors on Amtrak trains. By making this part of the Amtrak statute, train conductors on all Amtrak trains will know that a large measure of responsibility for the future success of intercity rail passenger service in this country rests with them.

As you know, Mr. Chairman, many of the operating employees who work on Amtrak trains are actually employed by the railroads who have contracts with Amtrak. This new provision will make certain that those employees provide Amtrak with the information they need in order to continue the progress that is now underway in establishing modern, efficient, and reliable intercity rail passenger service throughout the Amtrak system.

Through H.R. 3996, there are provisions designed to make Amtrak function better. All of us on the subcommittee and the committee recognize that the employees of Amtrak have the most to give in making certain that Amtrak service is improved. We also recognize that being an Amtrak employee can be a very lonely job when newspaper headlines scream at you day in and day out that Congress may not properly fund Amtrak or one's job may be in jeopardy. This bill incorporates an incentive system designed by Mr. MADIGAN to reassure employees that we in Congress know they have a stake in Amtrak and should be rewarded for good performance.

This, Mr. Chairman, brings me to the fact that for the first time the Amtrak legislation contains specific goals which Amtrak must meet or be held accountable by some future Congress. One of the goals relates to improving the percentage of Amtrak expenses which is covered from passenger revenues. At the present time, Amtrak recovers less than 35 percent of its total costs from the revenue box. Its food services on train after train lose millions of dollars each year. This bill provides specific goals which will make certain that in the future Amtrak will recover at least half of its total expenses from the revenue box. It also requires that Amtrak move to make its food services more cost effective.

This legislation, Mr. Chairman, has not been hastily drawn. It is the result of long hours of hard work by every member of the subcommittee in an effort to literally save the rail passenger train. The issue which will come before us today should not be one of whether or not Members favor this train or that train, but rather whether or not the Members of this body recognize that in order to have any improvement in Amtrak, we must give Amtrak the tools it needs to accomplish our congressional mandate.

H.R. 3996, in my judgment, gives Amtrak all of the tools it needs in order to provide modern, reliable, and efficient intercity rail passenger service. Included among those tools is the fact that Amtrak is not forced to operate every single train which it operates today. Mr. Chairman, it became clear to us that over the years Congress has asked Amtrak to do too much without giving it enough.

Now we find ourselves in a position where Amtrak simply does not have the equipment to provide a decent job on any of its routes because it is spread so thinly around the country. If we could go out tomorrow and buy all the equipment that Amtrak needs in order to operate its trains, I would say let us do so. However, that is not reality. Railroad passenger cars and railroad passenger locomotives are not items easily acquired. They are items which have to be specially ordered from special manufacturers and it takes time to get them produced.

Today, in this country, we have only one company, the Budd of Philadelphia, Pa., which produces any intercity rail passenger cars. Mr. Madigan and others asked other companies, including the Pullman Co., if they would be willing to begin the production of intercity rail passenger cars should a demand be created. In case after case, we have been told no. Let me repeat, in this country, there is but one company that produces intercity rail passenger cars. Let me add that if we place an order with the company today for 100 cars or 200 cars or even 1,000 cars which are needed by Amtrak, that company would not be able to deliver to Amtrak its first car for a period of at least 2 years. What would happen then, during that 2-year period, if every Amtrak train were to continue in operation? Quite frankly, service would deteriorate on all the trains in the Amtrak system because Amtrak would be again trying to do a job which was impossible to be done. It would be trying to operate too many trains with too little equipment in too many places and would end up providing worse service.

Mr. Chairman, the committee agonized over how many trips could be included in the Amtrak system. I have mentioned that we developed a fair and equitable formula which measures a train's efficiency as criteria for keeping it in the system. We did not want trains to be running around the country wasting our precious fuel. We also recognize that we needed to make the Amtrak system leaner if the new management was going to have any chance of making the Amtrak service better.

The bill before us today represents hope for intercity rail passenger service in this country. During this period of an energy crisis, I think it imperative to make certain that intercity rail passenger service secure a firm footing so that it can be expanded in the future when it may be the only way that we can travel from city to city throughout this country.

Mr. Chairman, I urge support for this legislation which Mr. Florio and Mr. Madigan worked so hard over for the past 6 months. I believe they have shown courage, sound judgment, and progressive leadership in producing legislation which will finally place Amtrak on a solid basis insuring this generation and future generations of efficient, modern, and reliable intercity rail passenger service.

□ 1530

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. Chairman, I was listening to the gentleman's facts and statistics, and I would like to ask the gentleman this question: Does the gentleman know what year those facts are based on?

Mr. LEE. These facts are based on last year.

Mr. STAGGERS. I understood it was for fiscal 1977.

Mr. LEE. No, last year.

Mr. STAGGERS. The last year that they had the facts was fiscal 1977. We are in a new year, a new era, and also we are faced with a gasoline shortage. Does not the gentleman think that we ought to be looking into the future instead of looking at the past?

Mr. LEE. Mr. Chairman, later on there will be an amendment that will give us the opportunity to use the latest 3-month data base to determine which trains should be continued even though the Secretary of Transportation in his report suggested their discontinuance.

Mr. STAGGERS. Mr. Chairman, I want to congratulate the gentleman from New York, the gentleman from Illinois, and also the gentleman from New Jersey for the work they have done on getting this bill together. It is quite an improvement over what the administration sent up here and what the Amtrak people wanted. It is more equitable for the entire Nation. I think it needs some changes yet, but I do want to congratulate all of the Members on the work they have done. But I would like to remind the gentleman that these facts and figures are based on the past, and we are here to look into the future and plan for the future of America. We better be planning that way instead of looking back, I think.

Mr. LEE. I thank the distinguished chairman for his comments.

Mr. Chairman, at this time I would like to thank the distinguished ranking minority Member and the distinguished ranking majority Member for the opportunity to work on this bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Madigan).

Mr. MADIGAN. Mr. Chairman, just a little more than 1 year ago, we were considering the Amtrak Improvement Act of 1978. During the discussion of that legislation, we reiterated some of the goals that we hoped Amtrak would attain, we talked about the need for better management discipline if Amtrak was to improve, and we expressed the desire to keep political considerations out of the necessary management decisions affecting trains and their operation. During the consideration of that bill, we indicated that we thought the time had come to provide some objective standards for Amtrak.

The Congress adopted an amendment requiring Amtrak to go through the normal budgetary process, and we have seen the improvements that this simple budgetary discipline has brought about.

Our efforts to establish a standard for curtailing unjustified trains failed because people wanted more time to evaluate those trains that have been a detriment to the effectiveness of Amtrak's total operation.

Mr. Chairman, today we are again dealing with Amtrak. One of the most important features of this bill is that it provides an authorization for a 3-year period of time. The 3-year authorization will provide Amtrak management and its Board of Directors with a greater sense of certainty than did the former practice of providing single year authorizations.

In hearings conducted before our subcommittee and the numerous work sessions which followed those hearings, it became clear that we were faced with having to make decisions which could become crucial to Amtrak's future. In short, we found that the first 8 years of Amtrak's existence had been characterized by conflicting goals and a general lack of direction both in the legislation and the management of Amtrak. It also was clear that the DOT proposal was inadequate in terms of our fuel crisis.

This bill will provide Amtrak's management with the tools needed to improve the performance of rail passenger service in this country and also contains specific goals which Amtrak management must meet or be held accountable for by future sessions of Congress.

This bill will stop the practice of requiring Amtrak management to operate little used trains that are terribly inefficient in their use of scarce petroleum supplies, even with current ridership increases.

This bill mandates four specific programs for Amtrak. An operational improvement program is required to be developed by the corporation not later than January 1, 1981. This program must include a zero-based assessment of all operating practices and implementation of changes necessary to achieve the minimum use of employees consistent with safe operations and adequate service. This legislation also requires the development of a systematic program for optimizing the ratio of train size to passenger demand; a systematic program for trip time reduction on all trains in the basic system; the establishment of training programs to achieve on-time departures and priorities for passenger trains over freight trains, as well as adjustments for purchasing and pricing of food and beverages and cooperative marketing programs to increase revenues.

Amtrak is also directed to establish a performance evaluation center, which must evaluate both short- and long-term operational problems and make recommendations for the improvement of operations. This center should not only monitor and keep track of operational problems, but also be a management tool to expedite prompt solution of those problems.

The effectiveness of the performance evaluation center will only be as good as its available knowledge about specific Amtrak operations. This bill establishes a method for receiving adequacy of service reports. It gives the President of Amtrak the authority to direct the conductor of any Amtrak train to report to the center any inadequacy of train operation. Such reports could include failure to depart on time; failure to arrive on time; information on schedule delays enroute, including mechanical breakdown or interference with operations because of freight train operations or maintenance of way.

This establishment of the performance evaluation center and the adequacy of service reports provides a system for Amtrak to knowledgeably monitor all of its operations. In addition, the bill requires that the center must submit a report of its activities and recommendations to the appropriate committees of the Congress and to the Secretary every 6 months.

This legislation also requires the corporation to establish a regional maintenance plan. Equipment reliability and passenger comfort are essential for improved performance by Amtrak and only a systematic comprehensive regional maintenance plan can provide reliable equipment performance and passenger comfort.

Mr. Chairman, the Amtrak Reorganization Act of 1979 clearly demonstrates to both Amtrak employees and contract carrier employees that we are committed to intercity rail passenger service. In addition, this legislation contains two specific provisions for the purpose of improving employee commitment to Amtrak.

First, the bill institutes an employee stock ownership plan by directing the corporation to issue a new class of common stock to be distributed to both Amtrak employees and contract carrier employees who operate Amtrak trains. Secondly, this legislation also directs Amtrak to establish an incentive awards program. The performance and dedication of the people who operate Amtrak trains is an integral factor in the future success of Amtrak.

This legislation also establishes a National Carrier Coordination Committee for the purpose of helping those railroads having contracts with Amtrak to join together with the Secretary of Transportation in order to improve cooperation between Amtrak and the railroad industry. In addition, this bill requires Amtrak to enter into an industrywide contract with the railroad industry in order to obtain the ability to run charter trains on a reasonable basis. Amtrak is dependent upon the railroad industry and America's railroad industry has the expertise to provide meaningful assistance to Amtrak in its efforts to improve its service.

Mr. Chairman, this bill also authorizes Amtrak to issue nonvoting preferred stock to the Government for the purpose of satisfying its outstanding debts. This new nonvoting preferred stock assures the priority of claims by the United States against any and all assets of the corporation and will reduce the needless bureaucratic shifting of funds from one Government agency budget to another Government agency budget which results in unnecessary budget outlays and needlessly inflates Amtrak's operating expenses.

Mr. Chairman, there are two other important titles contained in this bill which do not relate to Amtrak. Title II provides an authorization for an additional year's funding for the United States Railway Association. This Title also requires an evaluation by the Department of Transportation and the USRA as to when and how USRA should be terminated. Title III of the bill provides an authorization for the Office of Rail Public Counsel so that there can be some continuation of that function for the next year.

Most of the discussion concerning this bill has centered around "which trains are in or which trains are out."

Mr. Chairman, as I have attempted to outline in these remarks, this bill is a comprehensive effort to help make Amtrak work better than it has in the past.

This bill still provides for a nationwide Amtrak system. There are trains that will be eliminated. We must accept the fact that some trains do not have sufficient justification, that even with substantial percentage increases, they still carry very few passengers.

It is the job of this Congress to provide the basis for the development of efficient and reliable intercity rail passenger service for this Nation. That is not an easy task. It is a task that requires the Congress to say "No" to the continuation of certain trains.

Mr. Chairman, we can provide through this legislation the framework for the long-term development of an efficiently run Amtrak system that will attract greater ridership through improved service, at a time when a good rail passenger system is desperately needed.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. Chairman, I just wondered if the gentleman knows whether Amtrak or the Department of Transportation follow the recommendation of the Board. Did they OK this cutback across America, the Amtrak Board?

Mr. MADIGAN. The Department of Transportation recommendations for the 43-percent cutback, it is my understanding, was not agreed to by Amtrak. It is my understanding that Amtrak is supporting the committee-passed bill, H.R. 3996, the bill sponsored by the gentleman from New Jersey (Mr. FLORIO) and myself; and I believe the gentleman from New Jersey has a letter from Mr. Boyd, president of Amtrak, to that effect.

Mr. STAGGERS. I know, but I asked the gentleman if the Board, which we set up by law to direct Amtrak, approved this cut. I am sure they did not.

I have a copy of a letter from Mr. Boyd in which he says that he cannot run it, and I would tell the President of the United States that any man who says he cannot run it should resign from office. We want a "can do" man running Amtrak, and not a man who cannot do. The Board did not OK this policy in any way.

Mr. MADIGAN. If the gentleman will allow me to reclaim my time, the gentleman from West Virginia (Mr. STAGGERS) refers to a cut. The Department of Transportation proposal is a cut, certainly. The committee bill is a restoration of many of those things that were cut in the Department of Transportation bill.

□ 1540

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would like to make reference to a letter from Mr. Boyd, President of Amtrak, dated July 16, addressed to me, in which he says:

> DEAR CONGRESSMAN: I want to extend to you my personal thanks for your efforts on behalf of Amtrak, and to extend the Corporation's total support for the Commerce Committee Bill (HR 3996) with the regional balance which would be achieved by adoption of the Duncan amnedment.
>
> Amtrak cannot handle a freeze of its current system, and I am opposed to efforts, however well-meaning, which would do this. We must have a smaller route system if we are ever to be able to offer the public the level and quality of service it expects and deserves.
>
> Your approach, accepting and enhancing the DOT recommended system, will add enough routes to give both regional balance and a proper service response to the energy crisis.

Mr. MADIGAN. I want to thank the gentleman from New Jersey for his contribution and conclude my remarks, in what I started a moment ago to say, that I believe the gentleman from New Jersey has done some of the most constructive, if not the most constructive, things for the Amtrak system in this bill that have been done since its creation.

I would like to point out that I do not think there is any political mileage at all in that for the gentleman from New Jersey, because some people are afraid they are going to lose their trains, and some people will lose their trains.

Obviously, they would harbor some hostility toward the gentleman from New Jersey because of that.

The beneficiaries of all this are going to be the people who ride the remaining trains and who in future years have good passenger service where they have not had it before. The responsibility for that largely will lie with the gentleman from New Jersey (Mr. FLORIO). Unfortunately the people who benefit from this will probably never know his name.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield briefly?

Mr. MADIGAN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I congratulate the gentleman from Illinois. He has always been a hard-working member of the committee, and has always done what he thought was best for America.

We do differ in philosophy as to whether this should be a national system or rather should be just cut down to a streamlined system that serves only part of the country.

Three years ago we passed a bill saying that every State in the Union should be served by Amtrak. There were four of them at that time that were not. Two of them since then have been implemented and they are being served now. I think it ought to be a national system, because all of America is paying for this system.

Mr. MADIGAN. If the gentleman would allow me to reclaim my time, I would like to make an analogy that may not be in good taste.

In 1960, the then Vice President of the United States, Mr. Nixon, pledged to campaign in every State in the Nation. He did that, wearing himself out, and lost the election.

The standard for Amtrak should not be whether or not it operates in every State in the Nation. The train, like Mr. Nixon's campaign, ought to go where the people are, and that is what the committee bill is all about.

I yield back the balance of my time.

Mr. LEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I am particularly delighted to rise in favor of the Interstate and Foreign Commerce Committee's bill. Seldom has a bill been reported which is so comprehensive and yet pays such careful attention to detail. The committee is to be commended for reporting such a fine bill.

Perhaps the most desirable feature of this bill is that it corrects the glaring flaw created by the Department of Transportation recommendation to cut 43 percent of Amtrak's system on the basis of 1977 and 1978 data. I personally testified before the Interstate and Foreign Commerce Committee pointing out that the ridership on many routes has substantially increased since 1977 and 1978. I have also pointed out before the Appropriations Transportation Subcommittee, prior to the current energy shortage, the impact which the 1973–74 oil embargo had on train ridership. I have not been one bit surprised by the dramatic increase in ridership. I predicted it. It is unfortunate that it takes a national calamity to refresh the memories of shortsighted decisionmakers.

The committee bill reverses the Department of Transportation's prior decision to put the caboose before the engine by restoring trains which have high ridership and low cost to revenue ratios as determined by objective criteria. This criteria is 150 passenger miles per train mile and 7 cents avoidable loss. A mark which is energy efficient as well as cost effective.

The trains which meet the criteria will be determined by Amtrak on the basis of projected 1980 data. This will allow the public the opportunity to in effect vote for those trains which should be retained at the fare box.

There are other outstanding features in this bill. It increases funding for 403 (B) trains, that is trains which are jointly subsidized by Federal and State funds. There are many States waiting in line to provide vital train service for their citizens but must wait until we pass this bill.

The bill provides for a financial penalty against those railroads which fail to achieve on time performance levels. This is a necessary incentive to require railroads which contract with Amtrak to provide train service which place passenger service as a top priority.

One of the problems which Amtrak is plagued with is running train service on a scale which exceeds their funding level. This results in the use of obsolete equipment that is likely to break down, which jeopardizes the safety of its passengers and inevitably produces inadequate service. This cutback of routes would help alleviate the equipment problem by freeing up passenger trains after October 1, 1979.

The Amtrak Reorganization Act provides a much needed balance. It cuts those trains which cannot meet the ridership criteria but provides increased funding for cost effective trains with high ridership. It also bolsters Amtrak's capital account.

The funding for these trains is provided by an additional allocation of $40 million and by altering the financial repayment of Amtrak's $900 million loan by issuing preferred stock in lieu of $62.7 million principal plus interest payment for fiscal year 1980.

This loan anomaly exists because it was presumed that Amtrak was going to be profitmaking. We have since discovered that it is necessary to issue straight capital grants rather than issue loans. By using preferred shares to extinguish the loan, the Government secures its investment by having preferential rights over holders of common stock to Amtrak's assets in case of liquidation.

Mr. Chairman, as the recent energy crunch has pointed out, we are dangerously at the mercy of foreign sources of energy. We have valuable rights of way which will never be reclaimed unless we act now. Our transportation network must provide for an effective train system. This will insure American mobility, relieve highway congestion, and preserve much needed fuel.

If we fail to pass this bill because we perceive that the OPEC nations will momentarily increase oil production, we will be like lemmings rushing to our ruin at 70 miles-per-hour in our gasoline-guzzling automobiles.

I urge the adoption of the Florio bill. Thank you Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I would be glad to yield to my good friend from West Virginia.

Mr. STAGGERS. In connection with what the gentleman has said, 2 years ago, and even last year there was a great hue and cry on this floor that to pour more money into ConRail was just pouring it down a rathole.

Recently we just had the announcement that they turned in a second-quarter $30 million profit. Now, the latest figure on Amtrak's revenues are available to us. Amtrak's revenues have risen by $14 million from last May. What is to keep it from going on up and making a profit perhaps?

I do not believe it can ever make a profit. We have never had a passenger train in America that made a profit since back in 1800's. We must do something to keep these trains running to deal with today's changed energy situation. I urge this body to give them a chance.

□ 1550

Let me say this very quickly because the committee has been generous about committee time, the beauty of this bill is it takes it out of the political realm, it sets a criteria. If you qualify under that criteria your train stays. It wipes out the political trains.

Let us not kill the goose that laid the golden egg. There are a lot of political trains and they are lemons, and they are never going to make money, and they are going to drag down the whole system. Let us get rid of those trains.

If we have a train that stands up to this criteria, great, wonderful, we are all for it. The Appropriations Committee will be back here with the appropriation bill and I will be fighting for the funds, but not for the political trains.

I yield back the balance of my time.

Mr. LEE. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, the bill has some good news and bad news in it. First of all the bad news. If one wants to go from Kansas City to St. Louis, be prepared to go through Chicago under the terms of the committee bill. To go from Kansas City to Chicago is 506 miles, and to go from Chicago to St. Louis is an additional 291 miles, for a total of 796 miles in the trip. If one were to go directly from Kansas City to St. Louis under the present passenger service, it would be 250 miles. Under the committee proposal we will be going 546 additional miles.

The good news, however, is that the committee has put in additional mechanisms under 403(b) which allows the State of Missouri, which it has done, to share in the responsibility of the $1.6 million deficit on the National Limited, which combines our two largest metropolitan areas in Missouri, St. Louis, and Kansas City.

Our State of Missouri has already appropriated the money and the Governor has signed the bill. The 80–20 mechanism which will be in place if this bill passes will at least provide the opportunity of an alternative transportation system for the people in Missouri between their two major cities.

Regrettably, information from Amtrak and from DOT is not up to date. We have ridership figures for the month of May which shows on the National Limited between Kansas City and St. Louis there has been an increase of 12 to 13 percent additional ridership. I do believe that the committee is on the right track when it is providing for this opportunity for Federal and State sharing of the responsibility.

I would like to ask the gentleman from New Jersey a couple of questions to clarify some things. The State of Missouri, if they were to be funded and presented with the opportunity to go under 403(b), I wonder what discretion the State would have in setting schedules of the National Limited between Kansas City and St. Louis, which is wholly contained within the State of Missouri?

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. Yes; I yield to the gentleman from New Jersey.

Mr. FLORIO. In the application that will be submitted to the appropriate Federal agency will be the terms and conditions that would be approved. If in fact these conditions were approved, then in fact there would be great latitude.

The whole purpose is to work out a cooperative State-Federal structure. As the gentleman is aware, we have made major modifications in the 403(b) program, making it much more liberal in terms of the 50–50 match to the 80–20 match, 65 and then to the 50-percent contribution. Over and above that we have allowed capital expenditures to be included under an 80–20 match under the 403(b) program.

Mr. COLEMAN. I appreciate the gentleman's information. I do want to point out that the State, in granting a $300,000 appropriation, would like to have a say-so in the schedule, and I am sure in the stops and the service on those trains.

I would ask the gentleman if at all possible his committee make sure that the States are going to be heard in this process, that we will continue this relationship of sharing the deficit with the States affected.

The CHAIRMAN pro tempore. The time of the gentleman from Missouri has expired.

Mr. LEE. Mr. Chairman, I would like to yield 1 minute to the gentlewoman from Maryland (Mrs. Holt).

Mrs. HOLT. I thank the gentleman for yielding.

I take this time for the purpose of asking the chairman a question. I serve on the Budget Committee and I am deeply concerned about the efforts that are being made today to get all new legislative proposals off budget. With our consciousness of trying to balance the budget, everything is going off budget. I just wondered why the committee opted for such a confusing, and I think unnecessary financing mechanism as the one used in this piece of legislation? I think it sets a very dangerous precedent. What we are doing is essentially forgiving the original Amtrak indebtedness by authorizing an exchange of one worthless asset for another, and all of this will be off budget. Can the gentleman tell me why that was done?

Mr. FLORIO. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from New Jersey.

Mr. FLORIO. The gentlewoman makes value judgments that we are not sure we agree with about exchanging one worthless asset for another.

The fact of the matter is the committee considered and thought it was not good economics for the Federal Government to be borrowing money to provide 10 percent money for Amtrak, for Amtrak to be giving back to the Federal Government for a 6-percent debt.

Mr. Chairman, I yield 4 minutes to the gentleman from Nevada (Mr. Santini).

Mr. SANTINI. Mr. Chairman, I rise in hearty and enthusiastic and familial support of H.R. 3996. As a member of the subcommittee I suppose there is a certain pride of authorship, although most of the pride of authorship can go to our subcommittee chairman who has done an extraordinary job in trying to balance the varying interests and competing entities and well-founded concerns about our Nation's rail-passenger service.

I am an enthusiastic endorser of the concept of rail-passenger service. I know that those dedicated Members who are with us in the Chamber this afternoon are similarly committed to the proposition of a national rail-passenger system.

The question is what kind and how does it operate? In order to improve service to the point at which travelers will want to use a train, it will be necessary to have a streamlined, efficient system that is manageable. I believe this bill is a major legislative step in that very constructive direction.

We have flexibility in the bill so that those trains which were slated for elimination under the original Department of Transportation proposal will be able to be retained if they meet the fundamental standards of No. 1, it must be shown that the route could meet a standard of 150-passenger miles per train; and No. 2, it will set a loss limit of 7 cents per passenger mile.

In effect, with the very able chairman of our subcommittee and with the help and reinforcement of many in this body this afternoon, we have said, "let the rail-passenger marketplace decide which trains survive and which trains go under." If it is determined that there are rail systems which because of local interest, because of local concern should be maintained, then the committee bill provides under 403(b) that the State, the local government may come forward and demonstrate its support, its enthusiasm, its backing of that rail line by providing matching moneys.

I think the chairman has done a whale of a job in trying to arrive at a rational reconstruction of the disordered and disarrayed Amtrak situation in the United States of America. I hope that the members of the committee will endorse not only the work product of the subcommittee and the full committee, but will endorse the concept of a viable rail-passenger system in the United States of America. This bill will accomplish that end.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Ms. Mikulski).

Ms. MIKULSKI. Mr. Chairman, I would like to take this opportunity to commend Chairman Florio and the other members of the subcommittee for their hard work on the Amtrak Reorganization Act. This bill positively modifies the administration's original proposal.

I would like to point out that this bill is particularly responsive to the needs of commuters. Under the original proposal commuters across the country would have been forced back into their cars to join those of us spending time in gas lines. Even worse, these policies were proposed and timetables set for implementation without previous notice to States so that alternative plans could be developed and funding provided.

□ 1600

As a member of the subcommittee, I received a substantial number of communications from people protesting the inequity of these proposals. Along with the members of the committee, we worked hard to modify this so that now the subcommittee's bill calls for an 18-month continuation of all commuter services in effect on January 1, 1979. This 18-month moratorium on the elimination of commuter services also mandates that Amtrak continue to accept commuter-based fares for any rail passenger service which it operates and for which such fares are accepted as of January 1, 1979.

As a result of positive subcommittee response, Congress will now have ample time to study the impact of these proposals on commuters in light of our ongoing energy shortage. At the very least, it gives State legislators an opportunity to work with Federal authorities to come up with alternate transportation systems, with targeted financial assistance.

If I may, to clarify the issue, I would like to ask the chairman of the subcommittee two questions.

What would happen to commuters across the country on October 1, 1979, without the subcommittee's bill as currently proposed?

Mr. FLORIO. If the gentlewoman will yield, there is not any question that as of the first of October, under the DOT proposal, the commuter subsidy would be eliminated and commuters would have to pay the difference, or States would have to come up with the money. At the urging of the gentlewoman and under her leadership, we have proposed an 18-month continuation so that the States can work out alternatives. The Federal Government through UMTA, or some other mechanism, could make arrangements for continuation.

Ms. MIKULSKI. Would the chairman describe what actions the subcommittee plans to take to address the problems of the commuters during the 18 months moratorium?

Mr. FLORIO. We will be dealing with, and I have already testified before Mr. Howard's committee, with some suggestions as to how to utilize mass transit moneys appropriately to deal with commuter problems, and we will be dealing in that area in a very direct way.

Ms. MIKULSKI. I thank the chairman for answering my questions. Quite frankly, I feel that if we do not pass the bill as proposed, we could work a devastating hardship on the people who need it the most, the commuters.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. Ratchford).

● Mr. RATCHFORD. Mr. Chairman, I rise today to urge my colleagues to support the Amtrak Reauthorization Act of 1979, which will ensure progress toward a strong and efficient passenger-rail system in America.

Energy problems dominate life in America today. In response, the President has called for a "bold conservation effort," with over $16 billion committed to transportation programs. Yet this effort cannot be effective without a healthy Amtrak System.

It is my sincere hope that all Americans will respond to the President's appeal for public cooperation in the conservation effort. Nevertheless the American people cannot join this historic fight, without a strong and efficient mass transit system. The legislation before us today is designed to ensure that the rail service will be there, as we ask Americans to leave their cars at home.

As we know too well, the Secretary of Transportation proposed a massive restructuring of the Amtrak System, which, if adopted, would reduce the size of the System by 43 percent. The proposal included sound recommendations for the elimination of some routes which clearly are unable to attract strong ridership. Unfortunately, Secretary Adams' proposal also cut some rail lines which have much greater potential in these times of increasing gas lines, shortages, and oil prices.

I strongly believe that the Amtrak Reauthorization Act reflects a strong improvement over the original Adams' proposal. H.R. 3996 adds an important degree of flexibility to the New Amtrak System, responding to improving ridership trends and changing transportation needs. Without these provisions, important rail routes—including connections between Montreal, New York, Washington, Florida, and New Orleans—would be lost, to the lasting detriment of the entire passenger rail system.

This legislation establishes an important precedent in public support for mass transportation, setting out specific criteria for Federal subsidy of Amtrak routes. Using simple thresholds—a minimum of 150 passengers and losses of 7 cents per passenger mile—the bill provides objective criteria for judging the solvency of Amtrak service. More importantly, the criteria will breathe new life into major routes which would be lost under the Adams proposal.

We need to keep some degree of flexibility in the Amtrak System, even while attempting to improve its efficiency. We face a difficult balancing act, reducing pressures on the public purse while meeting our Nation's energy and transportation needs. I believe the Amtrak bill before us achieves that careful balance.

Mr. Chairman, I know that some of my colleagues will oppose even the modest levels of Federal support for Amtrak included in this legislation. In response to these concerns, I would like to take a moment to put Federal Amtrak subsidies in perspective.

The Amtrak bill authorizes $522 million for operating expenses in fiscal year 1980. While this reflects a major Federal commitment, its size pales in comparison with the $4.5 billion in direct and indirect tax support which we offer to the airlines of this Nation. The Amtrak subsidy seems even more reasonable, when compared to the 8-percent increase in highway funds proposed by the President, raising that total to a massive $8.6 billion. Finally, consider the fact that the Amtrak subsidy for this year represents less than 2 percent of the total which this Nation spends on imported oil, and you begin to find a more balanced perspective for reviewing the proposal before us.

Mr. Chairman, the emerging outlook for Amtrak is bright. Revenues this year are up nearly 25 percent over last year. Amtrak was forced to turn away over three-quarters of a million potential riders in May of 1979 for lack of space on high-volume routes. Clearly, many parts of the Amtrak System are extremely strong, and the reauthorization bill provides the foundation for continued growth and development in these areas.

It is clear that we have reached a crossroad in the development of rail service in America, and the future of the Amtrak System hangs in the balance. A strong passenger rail system is one of the keys to our energy independence, and gives us an alternative to imported oil. Therefore, I urge my colleagues to support the reauthorization bill, and to cast their vote for a sound and efficient Amtrak System which meets our future needs.●

Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. Gore).

Mr. GORE. Mr. Chairman, a little bit later today when we get into the 5-minute rule the gentleman from Georgia (Mr. Fowler) and I intend to offer an amendment, referred to as the moratorium amendment, to put a freeze on the transit cuts proposed by the Department of Transportation and proposed by the committee's bill.

Mr. Chairman, we are at a crossroads in the development of transportation in this country. President Carter has laid the groundwork by proposing a $10 billion investment in energy-efficient transportation. All of the work that the subcommittee has done, and I wish to compliment my colleague from New Jersey (Mr. Florio) for the work he and our other colleagues on the subcommittee have done, but all of this work was done prior to the political earthquake which occurred in this country immediately following the dramatic rise in the price of oil by the OPEC cartel. We have seen since that time a dramatic increase in the ridership on Amtrak trains. We have seen hundreds of thousands of Americans turned away from Amtrak trains because the seats were full. For years, we have tried to convince Americans to use more energy-efficient forms of transportation, and now as they are heeding that advice and turning out for Amtrak trains in record numbers we are telling them that as much as 43 percent of the Amtrak lines are going to be eliminated.

The committee seeks to restore a few of those trains, and how the other body will act is unclear. Our disagreement with the committee's approach comes because of the question, are the gasoline prices and gas line problems a temporary phenomena, or are they the beginning of some fundamental changes of the way we travel in the United States of America. Is this not the time to keep the foundation of our passenger train system so that we can depend on it for the future?

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Chairman and members of the Committee, I want to endorse the kind words Mr. Madigan had for the work of the chairman of the committee, and I want to say that in my judgment everything he said about Mr. Florio is equally applicable to the efforts which he himself has made. The two leaders of the subcommittee have both done an outstanding job, in my opinion. I also want to say that I am grateful to the chairman of the full committee, the gentleman from West Virginia (Mr. Staggers) for the friendship and counsel he has given not only as we have discussed this issue, but throughout the years I served with him. He is a gentleman; he is a patriot, and he is a dogged advocate for the causes of transportation in which he believes.

I would like to say at the appropriate time, and following the introduction of the Gore-Fowler amendment, I will also have an amendment in the nature of a substitute for that amendment. I have discussed it with the leadership on both sides. I believe it will strengthen the bill and prevent it from resulting in what I think are unintended inequities at the time it was marked up. I will explain at the time I offer it the impact and the reasons for the amendment.

Suffice it to say now that it will be a compromise between the 27,500-mile system as we have it and as Mr. Gore and Mr. Fowler and Mr. Staggers would freeze it, and the 19,700-mile system which is provided for by the criteria in the committee bill. By providing for a short-haul criteria and regional balance clause, we will end up with an approximately 22,000-mile system.

At this time, I want to express my general support, however, for the approach taken in the Florio bill. I believe that the authorization amounts contained in the bill have been set at reasonable levels for the criteria used. But, my amendment will also provide appropriate changes in that authorization level to finance the trains added thereby. Amtrak's equipment problems are at a critical stage.

The CHAIRMAN pro tempore. The time of the gentleman from Oregon has expired.

Mr. FLORIO. Mr. Chairman, I yield 1 additional minute to the gentleman from Oregon.

□ 1610

Mr. DUNCAN of Oregon. The Florio bill, with its service criteria, authorizes sufficient funds to enable Amtrak to begin addressing these equipment problems in a phased and rational manner, because H.R. 3996 addresses particularly Amtrak's operating and capital needs for 1980. I intend to support funding levels in the Transportation appropriation bill fully consistent with the needs addressed in this bill. There will be problems, however, if we must continue to struggle with the capital requirement and the operating deficits of the present unmanageable system.

Finally, I want to express my thanks to the gentleman from New Jersey (Mr. Florio) and his staff for their complete cooperation in this matter, as we wrestled together with common problems.

Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. I thank the gentleman from New Jersey for yielding.

Mr. Chairman, the committee bill, H.R. 3996, is an improvement on the recommendations contained in the January report by the Department of Transportation which, if implemented, would mean drastic cutbacks in the Amtrak system. By coming up with specific criteria against which routes are to be judged, the committee recognized the fact that a rational procedure needs to be used in assessing the Amtrak system instead of the apparent haphazard approach which resulted in the DOT report.

But the committee bill is seriously flawed. It continues to rely on the wisdom of the DOT report, and ignores the fact that it is severely out of date. The statistics used in developing that report were based on ridership a year ago. All of us know that our transportation situation is much different today than a year ago, or for that matter, than 6 months ago when the DOT study was released. The reason: Energy. A year ago, we had not heard of the Ayatollah Khomeini, we were not talking of gasoline rationing, and few Americans expected to spend the summer of 1979 sitting in gasoline lines. A year ago Amtrak also would not have projected standing room only trains, people not being able to get through on Amtrak telephone lines to book reservations, and prospective passengers being told there are no seats available even when they try to book months in advance.

There are a number of amendments being offered to this bill to improve upon it; I intended to support a number of them. But I would particularly urge all of my colleagues to support the Gore-Fowler amendment of which I am a cosponsor. Some time ago, I had drafted a similar amendment. I did so because I felt and still do feel quite strongly that the administration's route cutback proposals are shortsighted and contrary to sound energy and transportation policies. Ridership is on the upswing, and the Gore-Fowler amendment will give the trains a chance to prove themselves once again. Those tracks were laid to tie this Nation of ours together; by keeping the trains moving, we will be giving the American people a transportation option that will help keep us together and pull us together in an extremely difficult time.

Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, in the 1 minute that the gentleman from New Jersey has given me—and he has been very generous with his time—let me just add to the comments of my friend, the gentleman from Tennessee, this brief word.

We have to remember that this Department of Transportation plan will go into effect on October 1 of this year, 3 months from now, unless we act, and that all of the trains recommended for termination would have to meet the bill's criteria for survival prior to that date, 3 months from now. Furthermore, a decision to discontinue any train usually has to be made at least 2 months before implementation, so in this case such a decision would probably have to be made in the next couple of weeks based on ridership data that we have through May only. At the appropriate time the gentleman from Tennessee and I will offer an amendment to correct that situation.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. FOWLER) has expired.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. I thank the gentleman from New Jersey for yielding. Again I want to compliment the gentleman's fine work. I do not think we have a finer Member in the House, one who has the welfare of the Nation at heart more than he does, or who works harder than he does to try to do what he thinks is right. I am not trying to contradict anything he has said or done because I think he and the gentleman from Illinois (Mr. MADIGAN) have done a great job on the subcommittee in bringing forth a good bill. However, I think that under the circumstances that we should look ahead and not base something on the past. I think we have done that too many times.

Our job is to have vision. The Bible says that where men lack vision, they shall perish, and that is what is going to happen to Amtrak if we do not have a little vision and look ahead.

The Secretary said that the people should vote. There were 756,000 people denied in the month of May seats on Amtrak because there was not space. Five million received busy signals on the telephone and never got through. This needs to be corrected.

I have two letters here, one an editorial from Charleston, one of the largest cities in our State, saying that the editor tried for hours and hours to get through to the station, and went down himself, and there was not anybody there. He never did get through, I do not believe. He finally went to the main office and they told him what the ticket cost was from New York to Washington.

Then I have a letter from Cumberland, Md., saying that the Allegany County Commissioners tried for several hours to get through, and they went to the Amtrak ticket office. They were told it would be open from 10 o'clock a.m. until 7 o'clock p.m. There was not anybody there. They tried to get a ticket and they could not get through. These are some things that need to be corrected.

The Department of Transportation ought to be divorced from this operation completely because Amtrak is best suited to determine how our Nation's railroad system is to be operated. I think a provision should be in the bill that allows the Amtrak Board to run it. The Congress appointed a board to run it, and currently the Amtrak Board has no more to say about the rail passenger system than the man in the Moon. I think we ought to take the Amtrak Board out of Amtrak's operations or let them run them, one way or the other.

The President in his message said he was going to put $10 billion into it for transportation. I think if he is going to do that, we should get ready, when that $10 billion comes, to expand our rail passenger system and make it a national transportation system. I think the people of this country would ride these trains if they could get through, get their tickets for the trains, and if we had somebody to man these stations so they could at least find out if there are tickets. I think these are the issues. Unless we do that, we are not going to have an adequate system.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the very fine gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. I thank the gentleman for yielding. As a matter of fact, I think I yielded to the gentleman from West Virginia on three occasions, and I think the gentleman used more of my time than I did.

Mr. STAGGERS. I apologize.

Mr. MADIGAN. Obviously, I am not going to be able to return the compliment.

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. STAGGERS) has expired.

Mr. FLORIO. Mr. Chairman, I yield myself the balance of the time.

The question that we come down to is whether we are going to finance a system that actually operates the way it is supposed to operate. The fact of the matter is there has been an awful lot of talk about this great resurgence back to trains, and there will be more talk about percentage increases in ridership. I would make reference to a particular line that probably will not be able to get back into the system, and deservedly so, because this has had a 75-percent increase in ridership in the last number of months and still is operating at only 42 percent of capacity. So what we have to do is make a distinction between lines that people will use and lines that people will not use. Keep in mind that to the degree that we include in this system lines that people do not use and divert moneys to those lines, we are reducing the moneys available to the lines that people do use and, therefore, there will not be adequate service on those lines that people are using. Therefore, the people that call to use those lines, such as my chairman, the gentleman from West Virginia (Mr. STAGGERS) has indicated, will not be able to get onto those lines.

What this commitee has done is to put together an objective system that will take into account legitimate considerations, utilization, and cost. What we have done is for the first time perhaps in the history of Amtrak to establish a system whereby there will be an objective determination as to whether the system should operate, and all extraneous considerations, all nonobjective considerations, will not be considered. If your train is used, it will go into the system.

More importantly, perhaps, we have provided for a substantial increase in capital. Mr. Boyd has said that he will do anything we want him to do. He will run any system that we give him the money to run, but he cannot run the existing system with antiquated equipment. Accordingly, we are taking him at his word. We are telling him to run a good system. We are giving him the money to run that system. But he has stated in unequivocal terms, if you give me the existing system and do not give me the money, I cannot run that system, and you will continue to have the poor service that you currently have. This, of course, will not serve the needs of rail passengers throughout this country.

I would ask that the Members support this proposal, reject any superficially attractive proposal that may want to keep all trains regardless of quality, regardless of utilization—reject that approach and adopt the approach that we have put into this bill as one that will provide for mass transportation.

☐ 1620

As we shift off of rail passenger, as we shift off of automobile traffic, the fact is we can provide an alternative, the Amtrak system has potential but it cannot have potential if we put an anchor around the neck——

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEE. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, I think the point we have to keep in mind as we move into the amendment stage on this bill is that both the outgoing Secretary of Transportation, Mr. Adams, and the interim Secretary of Transportation who has just taken over there, have both told us that unless we pass the committee bill they are going to recommend to the President of the United States that the bill be vetoed. If we try to restore the entire system, the recommendation to the President is to veto the entire system and in that event we will then get the DOT proposal which would have eliminated 43 percent of the Amtrak route mileage.

If you want to respond to the increase in ridership the way to do that is in the committee bill which intelligently responds to the increase in ridership.

The other amendment would pick up trains like this train that I believe serves the district of the gentleman from Tennessee (Mr. GORE), that in March 1979 was averaging 68 passengers and now the ridership is up to 72 passengers. From 68 up to 72. That is the kind of increase we are talking about. Taking care of in the Gore-Fowler proposals.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the reported bill as an original bill for the purpose of amendment.

● Mr. HARRIS. Mr. Chairman, I believe it is inappropriate to dramatically slash our rail passenger service at a time when gasoline supplies and prices are uncertain and Americans are using Amtrak in record numbers. The Gore-Fowler amendment, which I have cosponsored, would preserve the current level of Amtrak rail service for another year. During that time Amtrak will be able to assess the impact of recent energy developments on ridership. Only then may a reasoned decision, based on current ridership and fuel efficiency data, be made on Amtrak's proper role in America's transportation system. We should not expect Amtrak to rebuild these routes after the grass has grown over the tracks.

The administration's proposal is based upon factors which are now obsolete—ready access to cheap gasoline in 1977 and 1978, dated Amtrak ridership figures, and a belief that the American people would not patronize passenger trains in an effort to conserve fuel. As we all know, all three of these factors have changed dramatically. Long lines for expensive gas, Amtrak trains filled to capacity and widespread grassroots campaign in support of a national rail passenger system. I believe we must completely assess the long-range implications of these developments before we move to eliminate some of the very routes that have experienced the greatest increase in ridership over the past 9 months.

Five of the 14 routes that would be eliminated under the committee administrative proposal are in Virginia. One of these, the Hilltopper which runs by Kings Dominion Amusement Park near Richmond, experienced its biggest weekend in history over the Memorial Day weekend.●

● Mr. CORMAN. Mr. Chairman, I rise in support of the Amtrak Reorganization Act as reported from committee and in particular affirmation of a policy implicit within it. To speak directly, this legislation in no way restricts or diminishes a State's authority to mandate commuter service within its boundaries. This bill supports Amtrak commuter service operations and encourages continued Amtrak involvement in commuter service projects on a share-funding basis.

Nowhere is the need for this authority more apparent than in Los Angeles, Calif. There, the Southern Pacific Transportation Co. owns a railroad which runs from Oxnard south through the San Fernando Valley to downtown Los Angeles. Southern Pacific uses this line completely for freight purposes except for one long-distance Amtrak passenger train per day.

The city, county and State want to run a commuter train from Oxnard through Northridge, Van Nuys, Panorama City, and Burbank to downtown Los Angeles once a morning and then back again in the evening. But Southern Pacific denies that it should be considered a utility and it is fighting the commuter service with every device at its disposal. The consequent legal mess is frustrating the State's initiative, and Southern Pacific's misuse of Amtrak law only further delays the start of the commuter service.

The population growth and traffic congestion in Los Angeles argue forcefully for a commuter service on the Southern Pacific line. The recent gasoline shortage and rising gasoline prices dispel all doubt that a commuter service would be a rousing success from its inception. Even a historical look at use of the rail line refutes Southern Pacific's opposition: Southern Pacific itself ran more freight trains than at present plus eleven passenger trains at a time before it had computerized switching capabilities.

The irony of the situation is compounded by mass transit planning in Los Angeles. The rapid transit authority has proposed construction of an underground subway to run from downtown Los Angeles across the Wilshire Corridor up through the Santa Monica Mountains to the Hollywood-Burbank area. If approved, this subway will cost the Federal Government billions of dollars to build and years to complete. Yet the population served would be in large part the same population served by a commuter train on the existing Southern Pacific rail line. This rail line is here now. It could be put into commuter use within 30 days of approval. It would cost $2 million compared to $2 billion for a subway. But because of Southern Pacific's obstructionism and constraints on State action, we must consider the expensive and time-consuming creation of an entirely new railroad. We may decide someday to build the Wilshire rail line. But it will be a long time before it is available.

We cannot continue attempting to fix things with our left hand without knowing what our right hand is doing. We need a serious mass transit system in Los Angeles and we need to be as frugal as possible in obtaining one. By taking stock of our existing rail facilities and by encouraging Amtrak participation in local commuter rail service projects we can expand our mass transit system quickly and inexpensively. On this solid infrastructure we can then add new rail and bus lines at less expense and greater speed. This bill provides that encouragement, does not diminish State authority to mandate commuter use of existing rail lines, and deserves our support for both reasons.●

● Mr. MOAKLEY. Mr. Chairman, this country and this Congress are once again in the position of reevaluating our energy policies and during this reexamination, one area that must not be neglected is transportation.

In the face of gasoline shortages and price increases, one facet of our transportation network that has experienced a revitalization is our passenger rail service. Today, we are debating whether this service, in the form of Amtrak, will continue to receive full Government support or face a 43-percent cutback.

I support the amendment offered by Messrs. GORE and FOWLER which seeks to postpone the proposed cuts for 1 year so that we can fully consider the long-term effects of any such cutback.

I ask why passenger rail service has been singled out for cutbacks? In 1974, the Department of Transportation allotted $7.2 billion for highways, $2.9 billion for air transport, and just $1.7 billion for all rail service including Amtrak. Rather than trying to decrease this gap, present plans call for a 26-percent reduction in funding for passenger rail service, while all other forms of transport would receive increases.

I believe it is time to strengthen our commitment to rail service; not dilute it.

My experience with rail transportation in the northeast corridor shows it is a useful investment and that it serves as a vital link in the passenger needs for all New England.

Amtrak trains also save energy. Modern long-distance trains can average 100 miles per gallon—4 times more efficient than airplanes and 3 times more efficient than the automobile.

Americans are beginning to show their support for Amtrak by buying tickets. It is now time for Congress to respond to this display of good faith and work to rebuild our railways.●

● Mr. FISHER. Mr. Chairman, I would like to offer my support for the Blue Ridge train, one leg of the Amtrak system which runs from Martinsburg, W. Va. through Maryland into the District of Columbia. This train serves a dual purpose: a commuter train during the week carrying some 1,500 commuters from West Virginia, northern Virginia, and western Maryland into the District of Columbia each day, and a tourist train which serves Harpers Ferry, W. Va. during the weekend. Since 1973 when the commuter service was initiated, ridership on the Blue Ridge has grown so much that many days it is standing room only. The recent gasoline shortage experienced by this area has also contributed significantly to the Blue Ridge's increasing popularity.

Last year, DOT proposed State funding of commuter trains such as the Blue Ridge, reasoning that since primarily residents of the States through which such trains run are served by such commuter trains, the State should fund the deficit caused by these train. At present the Federal Government funds the total deficit caused by the Blue Ridge commuter train. The Blue Ridge, however, faced extinction when the States of West Virginia and Maryland—the two States the train runs through—did not approve funding during their legislative sessions earlier this year.

The Amtrak Reorganization Act of 1979, which comes before the House today, provides for a 1½ year continuance of commuter trains, like the Blue Ridge, with the understanding that the argument over who should pay for commuter trains will be solved in the interim.

It is clear that the Blue Ridge train should keep running. At a time when the Nation, and the Washington metropolitan area in particular, is experiencing a severe energy crunch, the Blue Ridge is an important contribution to gasoline savings. To discontinue a train which provides service to hundreds every day would be a severe contradiction on the part of a Congress and administration who pledge daily to help solve the national energy crisis.●

● Mr. PATTERSON. Mr. Chairman, I intended to offer an amendment to the Amtrak Reorganization Act of 1979, H.R. 3996. Because of a previous commitment in California, I will not be present at the time H.R. 3996 is to be considered. It will, however, be offered by one of my colleagues at my request; and I would like to take this opportunity to explain its provisions.

The amendment is a simple one. It states that whenever Amtrak decides to increase fares under the 403(b) program by more than 5 percent during any 6-month period, it must consult with appropriate officials of the State or States to be affected. The amendment would also require Amtrak to provide the States with a justification of the proposed fare increase.

The purpose of this amendment is to insure consultation between Amtrak and the States. Since the very nature of such a consultation is to allow Amtrak to express the rationale for a decision it feels is warranted, I believe that this amendment is a constructive one.

Under the 403(b) program where a State contributes funds for operating rail passenger services, it is only fair to require communication between Amtrak and the States. Currently, six States participate in the 403(b) program. They are: California, New York, Pennsylvania, Illinois, Michigan, and Minnesota.

These States have made an important investment in rail transportation as an alternative to other more costly forms of travel. They work vigorously to market their passenger services and, frankly, deserve to be consulted. It is simple to understand the concern of the States about the impact of rising fares. For when fares become uneconomical for consumers, ridership declines and efforts to make mass transit attractive and to conserve energy are negated.

While I understand that the stated policy of the Amtrak Board is to restrict fare increases to twice annually, so far this year Amtrak has increased short-haul fares twice in less than 6 months on profitable routes such as the one from Los Angeles to San Diego. Fares on that route increased by 132 percent since November 1972. By contrast, over the same period the CPI increased by 70 percent. At a time when the country is experiencing acute energy supply shortages, and must embark on a multifaceted energy program, it is counterproductive not to adopt policies which may enhance the advantages of rail transportation.

The Los Angeles to San Diego route produces 100-passenger miles per gallon. Auto travel and air travel both average less than 20-passenger miles per gallon. If the passengers on this route had used their cars instead, 2 million more gallons of oil would have been consumed in 1978. Passenger trains are necessary if we are to conserve petroleum and minimize costly freeway construction.

Also important, ridership in the Los Angeles-San Diego corridor has nearly doubled from 390,000 to 725,000. However, increased ridership has not been experienced solely within the State of California. Amtrak's own data prove that ridership in the Northeast corridor, on short-distance and long-distance routes has risen by more than 12 percent over the last year. Unilateral Amtrak fare increases adversely affect profitable routes such as New York-Boston and New York-Washington. In June, the New York-Boston roundtrip fare was $20.50. On July 15, that fare rose to $22.00. As the committee report notes, too, at page 19: "In recent weeks as gasoline prices have sharply increased and as gasoline shortages have become more pronounced, Amtrak ridership has risen substantially."

The 403(b) program should not be victimized by declining ridership due to unilateral fare increases. Currently, participating States are given notification after a decision to increase fares has been made. But, as you can appreciate, this does not grant the States adequate input under a program in which they are sharing a significant investment.

When ridership falls as a result of increased fares, the States must pump more money into rail service operations because of revenue losses. In the wake of proposition 13 in California and similar measures throughout the Nation, States can little afford added expenditures. If fare increases could be held within justifiable bounds, riderships would be stimulated, making mass transportation systems an attractive alternative to driving. Without question, our national energy conservation plans will suffer if the public finds it uneconomical to use rail passenger services.

Under the current rail passenger system, riders pay almost 40 percent of operating costs. On the other hand, air travelers pay only one-third of the cost of their transportation. Highway costs today exceed $23 billion annually, not including the more than $50 billion we spend to gas up with OPEC oil.

I strongly urge my colleagues to support this amendment. It is an important proconsumer amendment and encourages national efforts to promote mass transportation and energy conservation.●

The Clerk read as follows:

H.R. 3996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMTRAK REORGANIZATION

SHORT TITLE

SECTION 101. This title may be cited as the "Amtrak Reorganization Act of 1979".

PURPOSES

SEC. 102. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by inserting "(a)" immediately before "The Congress";

(2) by striking out "and" after "this purpose;";

(3) by striking out the period after "Railroad Passenger Corporation" and inserting in lieu thereof the following "; and that rail passenger service offers significant benefits in public transportation for the safe movement of passengers with minimum energy expenditure and represents a significant national transportation asset in time of national emergency or energy shortage."; and

(4) by adding at the end thereof the following new subsection:

"(b) The Congress further finds that—

"(1) during Amtrak's eight-year existence, policies and programs under this Act have failed to increase intercity rail passenger service to a level necessary for significant energy savings or public service;

"(2) inadequately defined goals for the Corporation have denied its board of directors an effective role in guiding the Corporation or in promoting and increasing the number of intercity rail passengers;

"(3) uncertain goals and financial commitment have discouraged the development of effective corporate management;

"(4) uncertainty arising from the lack of specific goals has made the achievement of high employee morale difficult;

"(5) State participation in subsidizing interstate rail passenger service has, for the most part, been unworkable;

"(6) lack of full cooperation by the railroad industry has impeded effective systemwide operation of passenger trains by the Corporation; and

"(7) a greater degree of cooperation is necessary among railroads, the Corporation, States with subsidized service, labor organizations, and suppliers of services and equipment to the Corporation in order to achieve a level of performance sufficient to justify additional expenditure of public funds.".

GOALS

Sec. 103. (a) Goals for Amtrak.—The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is amended by redesignating section 102 as section 103 and by inserting after section 101 the following new section:

"Sec. 102. Goals.

"The Congress hereby establishes the following goals for Amtrak:

"(1) Improvement of on-time performance by at least 50 percent within the three-year period beginning on the date of enactment of this section.

"(2) Implementation of schedules which provide a systemwide average speed of at least 60 miles per hour, and which can be adhered to with a degree of reliability and passenger comfort.

"(3) Coverage of at least 44 percent of operating expenses, excluding depreciation, from revenues by the end of fiscal year 1982 and 50 percent by the end of fiscal year 1985.

"(4) Improvement of the feasibility of State-subsidized service through the use of technical assistance panels to coordinate, plan, and implement such service.

"(5) Encouragement of rail carriers to assist in improving intercity rail passenger service.

"(6) General improvement of Amtrak's performance through comprehensive, systematic operational programs and employee incentives.".

(b) Technical Amendment.—The heading for title I of the Rail Passenger Service Act is amended by inserting "GOALS," after "PURPOSES,".

DEFINITIONS

Sec. 104. Section 103 of the Rail Passenger Service Act, as redesignated by this Act, is amended to read as follows:

"Sec. 103. Definitions.

"For the purposes of this Act—

"(1) 'Amtrak' means the National Railroad Passenger Corporation created under title III of this Act.

"(2) 'Auto-ferry service' means intercity rail passenger service characterized by transportation of automobiles and their occupants.

"(3) 'Avoidable loss' means the avoidable costs of providing passenger service, less revenues attributable thereto, as determined by the Interstate Commerce Commission under the provisions of section 553 of title 5, United States Code.

"(4) 'Basic system' means (A) prior to October 1, 1979, the system of intercity rail passenger service designated by the Secretary under title II and section 403(a) of this Act, and (B) on and after October 1, 1979, the system of intercity rail passenger service designated by the Secretary under section 4 of the Amtrak Improvement Act of 1978 (Public Law 95–421) and approved by the Congress, and service required to be operated under section 404(d) of this Act, including changes to such system or service made by the Corporation using the Route and Service Criteria.

"(5) 'Center' means the Performance Evaluation Center established under section 305 of this Act.

"(6) 'Commission' means the Interstate Commerce Commission.

"(7) 'Corporation' means the National Railroad Passenger Corporation created under title III of this Act.

"(8) 'Intercity rail passenger service' means all rail passenger service other than commuter and other short-haul service in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations.

"(9) 'Model Program' means a program carried out by the Corporation under section 807 or section 810 of this Act and the employee assistance program established by the Corporation.

"(10) 'On-time performance' means a train leaving its route end point of orgin within ten minutes of the scheduled time and arriving at its route end point of destination within fifteen minutes of the scheduled time, except that if the route end point of destination is more than two hundred miles from the route end point of origin, an additional five minutes for each one hundred miles in excess of that two hundred miles shall be added (up to a maximum of thirty minutes) to the permissible arrival time at the route end point of destination.

"(11) 'Panel' means a Technical Assistance Panel established under section 403(b) of this Act.

"(12) 'Rail carrier' and 'railroad' mean a person providing railroad transportation for compensation.

"(13) 'Regional transportation agency' means an authority, corporation, or other entity established for the purpose of providing passenger service within a region.

"(14) 'Route and Service Criteria' means the Criteria and Procedures for Making Route and Service Decisions established pursuant to section 404(c) of this Act.

"(15) 'Secretary' means the Secretary of Transportation or his delegate unless the context indicates otherwise.".

PREFERRED STOCK ISSUANCE

Sec. 105 (a) Issuance.—Section 304 of the Rail Passenger Service Act (45 U.S.C. 544) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Corporation shall issue preferred stock to the Federal Financing Bank to cover the purchase of capital equipment and facilities for which the Corporation is currently obligated against previously authorized guaranteed loan authority. The Federal Financing Bank shall accept such stock in full settlement of all loans which were made to the Corporation by the Federal Financing Bank and guaranteed under section 602 of this Act and which are outstanding on the date of enactment of this subsection.

"(2) The Federal Financing Bank shall transfer to the Secretary of the Treasury the preferred stock of the Corporation issued under paragraph (1) of this subsection. The Secretary of the Treasury shall accept such stock in full settlement of all obligations of the Federal Financing Bank to such Secretary in connection with the making of the loans described in such paragraph.

"(3) The Secretary of the Treasury, in exchange for additional preferred stock, shall provide additional resources to the Corporation, as required for payment to vendors to liquidate obligations of the Corporations for capital equipment and facilities. The total amount of preferred stock acquired by the Secretary of the Treasury under this subsection (exclusive of stock received as dividends pursuant to paragraph (4)) may not exceed the total of the previously authorized guaranteed loan authority.

"(4) Dividends on preferred stock issued under paragraph (1) of this subsection shall be paid by the issuance of additional shares of preferred stock, and shall be paid at a rate equal to the rate of interest in effect, at the end of the fiscal quarter preceding the quarter in which the dividend stock is issued, for loans made by commercial banks to preferred commercial borrowers.

"(5) Preferred stock issued under this subsection shall have the characteristics set forth in clause (B) of subsection (a) of this section, except that (A) dividends on such stock shall be paid in accordance with paragraph (4) of this subsection, and (B) such stock shall not carry any voting rights.".

(b) Repeal.—(1) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is repealed.

(2) The repeal of section 602 of the Rail Passenger Service Act made by paragraph (1) of this subsection shall not affect—

(A) any obligation of the Corporation to make payments of principal and interest or to fulfill any other responsibilities in connection with any securities, obligations, leases, or loans guaranteed under section 602 of such Act prior to the date of enactment of this Act; or

(B) any obligation of the United States under any guarantee made by the Secretary of Transportation to a lender or lessor under section 602 of such Act.

OPERATIONAL IMPROVEMENT PROGRAM

Sec. 106. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by redesignating subsections (f) through (j) as subsections (g) through (k), respectively, and by inserting after subsection (e) the following new subsection:

"(f) The Corporation shall, not later than January 1, 1981, develop and submit to the Congress and to the President a comprehensive plan for the improvement of all intercity rail passenger service provided in the basic system. The Corporation shall commence implementation of such plan as soon as practicable after all or any portion thereof is developed. Such plan shall include—

"(1) a zero-based assessment of all operating practices and implementation of changes to achieve the minimum use of employees consistent with safe operations and adequate service;

"(2) a systematic program for optimizing the ratio of train size to passenger demand;

"(3) a systematic program for trip time reduction on all trains in the basic system;

"(4) establishment of training programs to achieve on-time departures and priorities for passenger trains over freight trains en route;

"(5) adjustment of purchasing and pricing of food and beverages to achieve, as soon as practical after the date of enactment of this subsection, a continuing reduction in losses associated with food and beverage services with a goal of ultimate profitability;

"(6) cooperative marketing opportunities between the Corporation and governmental entities at all levels having intercity rail passenger service; and

"(7) cooperative marketing campaigns sponsored by the Corporation and the Department of Energy, the Federal Highway Administration, and the Environmental Protection Agency.".

REGIONAL MAINTENANCE PLAN

Sec. 107. Section 305(g) of the Rail Passenger Service Act, as redesignated by this Act, is amended to read as follows:

"(g) The Corporation shall, not later than January 1, 1980, establish a Regional Maintenance Plan. Such plan shall include—

"(1) a review panel at corporate headquarters consisting of such members as the President of the Corporation shall designate;

"(2) a systemwide inventory of spare equipment parts by operational regions;

"(3) establishment of the necessary number of maintenance employees per number of cars and locomotives per region;

"(4) establishment of a systematic preventive maintenance program;

"(5) a method for periodic evaluation of maintenance costs, time lags, and parts shortages with appropriate corrective actions; and

"(6) such other elements or activities as the Corporation considers appropriate.".

RAILROAD POLICE

Sec. 108. Section 305(j) of the Rail Passenger Service Act, as redesignated by this Act, is amended by striking out "security guards" each place it appears and inserting in lieu thereof "railroad police" and by striking out "Security guards" and inserting in lieu thereof "Railroad police".

PERFORMANCE EVALUATION CENTER

Sec. 109. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(l) The Corporation shall establish a Performance Evaluation Center within the Corporation which shall have the responsibility of providing an ongoing review of operations. The Center should evaluate both short-term and long-term operational problems and make recommendations for improvement of operations. Each six months, the Center shall submit a report of its activities and recommendations to the appropriate authorizing committees of both Houses of Congress and to the Secretary.".

ADEQUACY OF SERVICE REPORTS

Sec. 110. (a) Reports.—Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(m) For purposes of assessing the operational performance of trains, the President of the Corporation shall have the authority to direct the conductor on any Amtrak train to report to the Center any inadequacy of train operation. Adequacy of service reports required under this subsection shall be promptly transmitted to the Center. Each report shall be signed by the conductor and contain sufficient information to locate equipment or personnel failures.".

(b) Repeal.—Section 801 of the Rail Passenger Service Act (45 U.S.C. 641) is hereby repealed.

APPLICABILITY OF OTHER LAWS

Sec. 111. (a) Exceptions to Applicability.—Section 306(a) of the Rail Passenger Service Act (45 U.S.C. 546(a)) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(4) the issuance of securities or the assumption of any obligation or liability with respect to the securities of others.".

(b) Through Routes and Joint Fares.—Section 306(j) (2) of the Rail Passenger Service Act (45 U.S.C. 546(j) (2)) is amended by striking out "motor carrier" and inserting in lieu thereof "any domestic or international motor, air, or water carrier".

(c) Pay Periods and Qualifications.—Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is further amended by adding at the end thereof the following new subsections:

"(l) The Corporation shall not be subject to any State or local law relating to pay periods or days for payment of employees.

"(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection with the performance of such activities, the Corporation shall accept service of process addressed by certified mail to the secretary of the Corporation at its principal office and place of business in Washington, District of Columbia.".

UNIFORM CONTRACT

Sec. 112. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end thereof the following new subsection:

"(g) The Corporation shall enter into a contract with rail carriers on an industry-wide basis to establish rights for the operation of special or charter trains between specific routes and points anywhere in the Nation upon provision of reasonable notice (of not less than seven days) to the carriers involved in the operation of any special or charter trains, except that with respect to rail lines on which rail passenger service has not been operated for the preceding 180 days, reasonable notice under this sentence shall be notice of not less than 21 days. If the Corporation and the rail carriers are unable to reach agreement by January 1, 1981, the Commission shall, upon application by the Corporation, order rail services to be provided under this subsection and shall, consistent with equitable and fair compensation principles, determine within 180 days after such date the proper amount of compensation for the provision of such services and the proper method of prior notification of the schedule and routing of a special or charter train by the Corporation.".

PENALTY FOR LACK OF ON-TIME PERFORMANCE

Sec. 113. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(h) An agreement between the Corporation and a railroad under this section may include terms which provide an incentive for the achievement of a certain level of on-time performance. Such an agreement shall include terms which provide that the failure to achieve on-time performance will result in a reduction in the amount of payment to the railroad for the specific period in question, except that (1) such reduction may not exceed 50 percent of the total amount which would have been payable to such railroad under such agreement, and (2) no reduction may be imposed if the failure to achieve on-time performance is due to an action of the Corporation, an accident, or a failure or malfunction of equipment or programed maintenance of way.".

NEW SERVICE

Sec. 114. Route Additions.—Section 403 (a) of the Rail Passenger Service Act (45 U.S.C. 563(a)) is amended to read as follows:

"(a) Except as otherwise provided in this Act, after October 1, 1979, all route additions shall be in accordance with the Route and Service Criteria.".

(b) Subsidized Service.—Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563 (b)) is amended to read as follows:

"(b) (1) (A) Any State or group of States, and any regional or local agency, may submit an application to the Corporation requesting the institution of rail passenger service in addition to that service provided in the basic system.

"(B) An application for rail passenger service under this subsection shall be submitted at least 180 days prior to the beginning of the fiscal year in which such service is to be operated, except that an application for service to be operated in the fiscal year ending September 30, 1980, shall be submitted no later than the 60th day following the beginning of such fiscal year.

"(C) Each application by a State or agency for rail passenger service under this subsection shall contain—

"(i) adequate assurances by such State or agency that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

"(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service;

"(iii) a statement by such State or agency that it agrees to provide 20 percent of the solely related costs of such service in the first year of operation, 35 percent of such costs in the second year of operation, and 50 percent of such costs in each year of operation thereafter; and

"(iv) a statement by such State or agency that it agrees to provide, in each year of operation of such service, 20 percent of the associated capital costs of operating such service and 20 percent of the solely related costs of rehabilitation, maintenance, improvement, and acquisition of facilities and equipment used in connection with such service.

"(2) (A) The board of directors of the Corporation shall review each application submitted by a State or agency for the institution of service under this subsection and shall convene a Technical Assistance Panel to consider such application if the board determines that—

"(i) the application complies with requirements of paragraph (1) (C) of this subsection; and

"(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

"(B) The board of directors shall make its determinations under this paragraph, and convene a panel if appropriate, at least 150 days prior to the beginning of the fiscal year in which the service requested is to be operated, except that with respect to an application for service to be operated in the fiscal year ending September 30, 1980, the board shall make its determinations, and convene a panel if appropriate, no later than 30 days after the date such application is submitted.

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1) (C) of this subsection.

"(3) (A) Each panel convened by the board of directors to consider an application shall be composed of—

"(i) a State rail planning official from each State that is a party to the application;

"(ii) a representative of the Corporation;

"(iii) a representative from a railroad labor organization representing operating crafts of employees; and

"(iv) a representative from a railroad organization representing nonoperating crafts of employees.

"(B) The Corporation shall submit to each panel data projecting the solely related costs and associated capital costs of operating the service under consideration, and the solely related costs of rehabilitation, improvement and acquisition of facilities and equipment to be used in connection with such service. Each panel shall, no later than 90 days after the date is convened, consider and make recommendations to the board of directors with respect to—

"(i) appropriate measures for minimizing such costs, including measures such as—

"(I) the assumption by the applicant State or agency of certain responsibilities in connection with the operation of the service under consideration; and

"(II) a reduction in the labor costs of operating such service; and

"(ii) if more than one State is a party to the application, the appropriate manner for allocating such costs among the applicant States.

"(4) (A) After taking into account the recommendations of the panel with respect to rail passenger service requested by a

State or agency under this subsection, the Corporation shall enter into an agreement with such State or agency for the institution of such service, in accordance with the funding formula set forth in paragraph (1)(C) of this subsection, if the board of directors of the Corporation determines that such service can be provided with resources available to the Corporation.

"(B) If more applications are made for service under this subsection than can be provided by the Corporation with the resources available to it, the Corporation shall determine which service shall be provided on the basis of which application best serves the public interest, after consideration of the factors set forth in section 4(a) of the Amtrak Improvement Act of 1978, except that the Corporation shall not discontinue service which is provided on the date of enactment of the Amtrak Reorganization Act of 1979 unless the requirements of this subsection are not met with respect to such service.

"(C) Services under this subsection may be operated by the Corporation or by the applicant State or agency, as mutually agreed upon by the parties. If the service is to be operated by the applicant State or agency, the Corporation and such State or agency shall agree to a plan for the operation of such service, and shall coordinate the operation of such service with service provided under the basic system.

"(5)(A) Federal funds available for expenditure under this subsection shall not be in substitution for the average amount of State and local funds expended for the operation of rail services under this subsection in the State for the two fiscal years preceding the fiscal year for which the funds are made available. Nothing in this subparagraph shall be construed as preventing State or local revenues which are used for the operation of such services in the State from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

"(B) If service provided under this subsection on the date of enactment of the Amtrak Reorganization Act of 1979 is terminated by a State or agency and such State or agency subsequently decides to resume such service, the Corporation shall agree to provide funding at the level provided under the contract in effect on such date of enactment.

"(C) A State may add additional frequencies of service on an existing route. Additional frequencies shall be initiated in accordance with the funding formula described in paragraph (1)(C) of this subsection, without regard to funding ratios then in effect on other frequencies on such existing route.

"(6)(A) Any funds provided by the Corporation under an agreement with an agency pursuant to this subsection which are allocated for rehabilitation, maintenance, improvement, and acquisition of facilities and equipment and which are not expended during the fiscal year for which they are provided shall remain available until expended.

"(B) An agency entering into an agreement with the Corporation for the operation of service under this subsection shall be entitled to reimbursement for staff services in an amount equal to 1½ percent of the operating losses and associated capital costs.

"(C) The board of directors shall establish the basis for determining the solely related costs and associated capital costs of service operated under this subsection, the solely related costs of rehabilitation, maintenance, improvement, and acquisition of facilities and equipment used in connection with such service, and the total revenue from such service.".

(c) REPEAL.—Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is repealed.

(d) COMMUTER SERVICE.—Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d) is amended—

(1) by inserting "(1)" immediately before "The Corporation";

(2) by inserting immediately after the first sentence thereof the following: "An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than two years."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Any rail passenger service which is operated by the Corporation on January 1, 1979, and which constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, continue to be operated by the Corporation and funded in accordance with the method of funding in effect for that service on January 1, 1979.

"(3) The Corporation shall, until April 1, 1981, continue to accept commuter based fares for any rail passenger service which it operates and for which such fares are accepted on January 1, 1979. Nothing in this paragraph shall be construed as prohibiting the Corporation or any other railroad from increasing the amount of any fare charged for rail passenger service.".

SERVICE CHANGES

SEC. 115. (a) SERVICE CHANGES.—Section 404(b) of the Rail Passenger Service Act (45 U.S.C. 564(b)) is amended to read as follows:

"(b) After October 1, 1979, all route discontinuances by the Corporation shall be in accordance with the Route and Service Criteria.".

(b) TECHNICAL AMENDMENT.—Section 404 of the Rail Pasesnger Service Act (45 U.S.C. 564) is amended by striking out

"SEC. 404. DISCONTINUANCE OF SERVICE."

and inserting in lieu thereof

"SEC. 404. SERVICE CHANGES.".

EXCEPTIONS TO APPLICABILITY OF ROUTE AND SERVICE CRITERIA

SEC. 116. Section 404(c) of the Rail Passenger Service Act (45 U.S.C. 564(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Route and Service Criteria shall not apply to—

"(A) decisions of the Corporation to increase or, where construction schedules, other temporary disruptive factors, or seasonal fluctuations in ridership so warrant, to decrease frequency of service on existing routes or portions of existing routes; and

"(B) rerouting of service between major population centers on existing routes.".

ADDITIONAL QUALIFYING ROUTES

SEC. 117. Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsection:

"(d) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(1) the short term avoidable loss per pasenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile; and

"(2) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.

Short term avoidable loss per passenger mile calculated by the Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss and passenger mile per train mile shall be calculated in the same manner for all routes. The Corporation shall, no later than 30 days after the date of enactment of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.".

FREE OR REDUCED RATE TRANSPORTATION OF RAILROAD EMPLOYEES

SEC. 118. Section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565(f)) is amended by striking out "The Corporation shall be reimbursed" and all that follows through "in accordance with the agreements." and inserting in lieu thereof the following: "Unless the Corporation and a railroad or group of railroads agree on a different basis for compensation, the Corporation shall be reimbursed by each railroad at the rate of 50 percent of the systemwide average monthly yield per revenue passenger mile. Reimbursement at this rate is in lieu of any charges for liability incident to travel of railroad employees eligible for free or reduced rate transportation and any other costs incurred by the Corporation in connection with free or reduced-rate transportation.".

RETENTION AND MAINTENANCE OF FACILITIES

SEC. 119. Title IV of the Rail Passenger Service Act (45 U.S.C. 561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 406. RETENTION AND MAINTENANCE OF FACILITIES.

"(a) No facilities of a railroad (including a regional transportation agency) which are used in the operation of rail passenger services by the Corporation on February 1, 1979, shall be downgraded or disposed of without obtaining the prior approval of the Secretary under this section.

"(b) Whenever any railroad intends to downgrade or dispose of a facility referred to in subsection (a) of this section which is not currently being used in the operation of services by the Corporation, such railroad shall first notify the Corporation of its intention to take such action. If, within 60 days after receipt by the Corporation of such notice, the Corporation and such railroad are not able to enter into an agreement for the retention or maintenance of such facility or for the conveyance to the Corporation of such facility or an interest therein, the railroad may apply to the Secretary for approval of the downgrading or disposal of the facility.

"(c)(1) If the Corporation does not object to an application of a railroad to downgrade or dispose of a facility within 30 days after the date such application is submitted, the Secretary shall promptly approve such application.

"(2) If the Corporation makes a timely objection to such an application, the Secretary shall, within 180 days after the date of such objection, determine the costs which the railroad could avoid if it were not required to maintain or retain the facility in the condition requested by the Corporation. If the Corporation does not, within 60 days after the date of the Secretary's determination, agree to pay such avoidable costs to the railroad, the Secretary shall approve such application.

"(d)(1) In electing whether to enter into an agreement pursuant to this section to pay a railroad the avoidable costs of maintaining or retaining a facility, the Corporation shall consider—

"(A) the potential importance of restoring rail passenger service on the route on which such facility is located;

"(B) the market potential of such route;

"(C) the availability, adequacy, and energy efficiency of alternate modes or alternate rail lines for providing passenger transportation to or near the points which would be served by the route;

"(D) the extent to which major population centers would be served by such route;

"(E) the extent to which the provision of service over such route would encourage the expansion of a national intercity rail passenger system; and

"(F) the possibility of increased ridership on lines of railroad connecting with such route.

"(2) (A) In order to prepare for a valid and timely analysis of a facility, after a railroad gives notice pursuant to this section that it intends to downgrade or dispose of such facility, the Corporation shall conduct a survey of population centers with railroad passenger service facilities and shall update such survey from time to time as may be necessary or appropriate. Within 90 days after the date of enactment of this section, the Corporation shall take steps to prepare a survey plan which shall provide for—

"(i) a target completion date for the survey of population centers of not later than 360 days after the ninetieth day after such date of enactment; and

"(ii) a system of collection, compilation, and storage of information gathered pursuant to the survey according to geographic region and according to whether a facility would be part of a short- or long-haul route.

"(B) The survey should facilitate an analysis of—

"(i) ridership potential by ascertaining existing travel patterns or changing travel patterns which would maximize efficiencies of railroad passenger service;

"(ii) the quality of service of competitors or likely competitors;

"(iii) the likelihood of the Corporation offering service at a competitive fare;

"(iv) opportunities to target advertising and fares to potential classes of riders;

"(v) economic characteristics of railroad passenger service associated with a facility and the extent to which such characteristics are consistent with sound economic principles of short- or long-haul railroad operations; and

"(vi) the feasibility of applying effective internal cost controls to a facility and the route which the facility would serve in order to improve over time the ratio of transportation expenses, excluding maintenance of track, structure, and equipment and depreciation, to passenger revenue.

"(e) For purposes of this section—

"(1) the term 'facilities' means railroad tracks, rights-of-way, fixed equipment and facilities, and real property appurtenant thereto, and includes signal systems, passenger station and repair tracks, station buildings, platforms, and adjunct facilities such as water, fuel, steam, electric, and air lines;

(2) the downgrading of a facility means a reduction in track classification as specified in the Federal Railroad Administration track safety standards (46 C.F.R. 213), or any other change in such facilities which may increase the time required for a passenger train to operate over the route on which such facility is located; and

"(3) approval of downgrading or disposal under this section shall not be construed as relieving a railroad from compliance with its other common carrier or legal obligations with respect to a facility.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 120. (a) AUTHORIZATION.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended—

(1) by striking out paragraph (2) of subsection (a); and

(2) by adding at the end thereof the following new subsection:

"(b) (1) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) for the payment of operating expenses of the basic system, including the Northeast Corridor and service required to be operated under section 403(d) (2) of this Act, not to exceed $552,000,000 for the fiscal year ending September 30, 1980, not to exceed $591,000,000 for the fiscal year ending September 30, 1981, and not to exceed $598,000,000 for the fiscal year ending September 30, 1982;

"(B) for the payment of the cost of capital acquisition or improvements of the basic system, including the cost of protective arrangements for employees under section 405 of this Act, not to exceed $230,000,000 for the fiscal year ending September 30, 1980, not to exceed $253,000,000 for the fiscal year ending September 30, 1981, and not to exceed $271,000,000 for the fiscal year ending September 30, 1982;

"(C) for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, not to exceed $30,000,000 for the fiscal year ending September 30, 1981, and not to exceed $30,000,000 for the fiscal year ending September 30, 1982;

"(D) for the payment of expenses for the retention and maintenance of facilities pursuant to section 406 of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,000,000 for the fiscal year ending September 30, 1981, and not to exceed $3,000,000 for the fiscal year ending September 30, 1982;

"(E) for the payment of operating expenses of service required to be operated under section 404(d) of this Act, not to exceed $35,000,000 for the fiscal year ending September 30, 1980, $36,000,000 for the fiscal year ending September 30, 1981, and $37,000,000 for the fiscal year ending September 30, 1982;

"(F) for the payment of operating expenses of service required to be operated under section 4(g) (2) of the Amtrak Improvement Act of 1978, not to exceed $20,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981; and

"(G) for the cost of Model Programs, $1,500,000 for the fiscal year ending September 30, 1980, $1,500,000 for the fiscal year ending September 30, 1981, and $1,500,000 for the fiscal year ending September 30, 1982.

"(2) Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with (A) the Secretary's budget request as approved or modified by Congress at the time of appropriation, and (B) guidelines established by the Secretary. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

(b) TECHNICAL AMENDMENT.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by striking out "(a) (1)" and inserting in lieu thereof "(a)".

EMPLOYEE COMPENSATION AND INCENTIVE COMMISSION

SEC. 121. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 808. EMPLOYEE COMPENSATION AND INCENTIVE COMMISSION.

"(a) The Secretary shall, within 30 days after the date of enactment of this section, name a five-member Employee Compensation and Incentive Commission. The members of the Commission shall be selected on the basis of their knowledge of the railroad industry.

"(b) The Employee Compensation and Incentive Commission shall—

"(1) evaluate the salary paid officers of Amtrak in relation to Amtrak's ability to attract and maintain qualified officers; and

"(2) after consultation with railroad labor organizations, develop a program for improving Amtrak employee incentive and morale, including measures such as the institution of recognition and financial awards for outstanding employees and a plan for the payment of dividends on class B common stock.

"(c) The Employee Compensation and Incentive Commission shall, no later than March 1, 1980, submit recommendations to the board of directors of the Corporation with respect to the matters referred to in subsection (b) of this section. The board of directors shall, within 90 days after the date of submission, notify the Congress of (1) any action it plans to take to implement the Commission's recommendations, and (2) any proposals for additional legislation which the board considers necessary.".

EMPLOYEE INCENTIVE PROGRAM

SEC. 122. (a) ESTABLISHMENT OF PROGRAM.—Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 809. EMPLOYEE INCENTIVE PROGRAM.

"(a) No later than January 1, 1981, the Corporation shall, in consultation with railroad labor organizations, develop and implement an Employee Incentive Program for qualified employees. Such program shall provide recognition awards to individuals, labor organizations, or carriers in recognition of outstanding achievement in meeting the performance goals established by this Act or by the board of directors.

"(b) The Corporation shall issue, as required, a new class of common stock described in section 304(a) (C) of this Act. Such stock shall be distributed to qualified employees in accordance with the following schedule:

"(1) one share to each qualified employee as of January 1, 1980, for each full year of service as a qualified employee;

"(2) annual distribution of such stock for each additional year of service after January 1, 1980; and

"(3) beginning October 1, 1980, individual awards of such stock to qualified employees with outstanding service toward meeting the performance goals established by this Act or the board of directors.

"(c) For the purpose of this section, the term 'qualified employee' means an employee of Amtrak or an employee of a carrier whose duties are the operation of an Amtrak train.".

(b) CLASS B COMMON STOCK.—Section 304 (a) of the Rail Passenger Service Act (45 U.S.C. 544(a)) is amended by adding at the end thereof the following new paragraph:

"(C) CLASS B COMMON STOCK.—Class B common stock shall be nonvoting, shall have a par value of $10 per share, and shall be designated fully paid and nonassessable. Dividends shall be paid on common stock class B from funds appropriated for such purpose or from such other sources as may be recommended by the Employee Compensation and Incentive Commission established under section 808 of this Act.".

MODEL PROGRAMS

Sec. 123. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et se.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"Sec. 810. Model Programs.

"Not later than July 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Job Placement Program for employees who will be affected by the reduction in work force caused by the implementation of the Secretary's recommendations for the restructuring of routes. Such program shall serve as an example for industry in facilitating reemployment of employees dismissed or dislocated as a result of corporate restructuring. In carrying out its responsibilities under this section, the Corporation shall attempt to reduce labor protection costs and maximize utilization of the employment skills of affected employees. Such program may include job counseling, placement advertising, skills improvement courses, and such other activities as the Corporation considers appropriate to facilitate reemployment of affected employees within or outside the rail industry.".

NATIONAL CARRIER COORDINATION COMMITTEE

Sec. 124. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"Sec. 811. National Carrier Coordination Committee

"(a) The Secretary shall, within 60 days after the date of enactment of this section, establish a National Carrier Coordination Committee, which shall be composed of the Secretary, the President of the Corporation, and the chief executive officers (or their designees) of each carrier having a contract for regularly scheduled service with the Corporation. Such Committee shall meet not less than once every 6 months to review and evaluate ways and means for improving cooperation between the Corporation and the carriers in achieving improvement in intercity rail passenger service.

"(b) On or before January 1 of each year, the National Carrier Coordination Committee, through the Secretary, shall submit a report to Congress evaluating the level of cooperation between the Corporation and specific carriers. Such report shall include any recommendation for additional legislation or changes in policy by the Secretary or the Corporation in order to achieve a better level of on-time performance by the Corporation.".

STATE TAXATION STUDY

Sec. 125. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"Sec. 812. State Taxation Study

"The Secretary shall conduct a study of the payment of taxes by the Corporation to State and local governments, including the payment of property taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other user fees, and any other taxes paid by the Corporation to such governments, and shall make recommendations to the Congress no later than January 1, 1980, concerning the advisability of relieving the Corporation, either in whole or in part, of its obligation to make such payments. In conducting such study, the Secretary shall consider—

"(1) the requirement that the Corporation be operated and managed as a for-profit corporation;

"(2) the certainty that the Corporation will need substantial Federal subsidies for the foreseeable future;

"(3) the demand by States and localities for continued and increased federally funded rail passenger service;

"(4) the benefit to States and localities of rail passenger service directly funded by the Federal Government; and

"(5) the importance to the Nation of maintaining an efficient and reliable national rail transportation system.".

RAIL SERVICE PENDING REROUTINGS

Sec. 126. Section 4(g) of the Amtrak Improvement Act of 1978 (Public Law 95–421; 92 Stat. 923) is amended—

(1) by striking out "Subject" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection and"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Implementation of the Secretary's recommendations for the restructuring of routes which require—

"(A) the operation of service over rail lines not used in intercity rail passenger service on the date of approval of the recommendations;

"(B) the use of new facilities; or

"(C) new labor agreements;

may be deferred by the Corporation until necessary capital improvements in such rail lines or facilities are made, or new labor agreements are entered into, to permit service which is equivalent or superior to service provided on the route recommended for restructuring. Notwithstanding any other provision of law and without regard to the route and service criteria, pending the deferred implementation of such recommendations the Corporation shall provide substitute service over existing routes which are recommended for restructuring in whole or in part, and over feasible portions of routes which are recommended for restructuring and over which services are not operated on the date of approval of the recommendations.".

INTERMODAL TERMINAL PROGRAM

Sec. 127. The first sentence of section 4(i)(5) of the Department of Transportation Act (49 U.S.C. 1653(i)(5)) is amended by striking out "within two years following the approval of the application for Federal financial assistance under this subsection" and inserting in lieu thereof "within such time period as the Secretary establishes".

Mr. GORE (during the reading). Mr. Chairman, I reserve a point of order against the committee amendment in the nature of a substitute.

The CHAIRMAN. Title I has not been completed yet in terms of its reading.

The bill will have to be read until we reach title I, first of all.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with and that title I be printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. Eckhardt)?

Mr. MADIGAN. Mr. Chairman, reserving the right to object, we did not hear the unanimous-consent request.

The CHAIRMAN. The unanimous-consent request was that title I be considered as read printed in the Record, and open to amendment at any point.

Mr. MADIGAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. Eckhardt).

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: Page 48, immediately after line 19 insert the following new section:

MORATORIUM ON SERVICE DISCONTINUANCE

Sec. 102. (a) Notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not implement the final recommendations of the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978.

(b)(1) The Board of Directors of the National Railroad Passenger Corporation shall monitor the ridership on and conduct an evaluation of those routes of the Corporation which are recommended for discontinuance by the Secretary of Transportation pursuant to section 4 of the Amtrak Improvement Act of 1978. For purposes of conducting such evaluation, the Corporation shall utilize data for rail passenger service on such routes during the period beginning January 1, 1979, and ending December 31, 1980.

(2) In conducting its evaluation under this subsection, the Board of Directors of the Corporation shall consider—

(A) the impact of gasoline shortages and gasoline price increases on the short-term and long-term traveling patterns of the public, including diversion of intercity passengers from automobiles to passenger trains as a result of the continuation of such shortages and price increases;

(B) the extent to which a modern intercity rail passenger system utilizing the latest available equipment technology can contribute to reduced national dependence on petroleum and further national energy conservation efforts by providing reliable and energy-efficient rail passenger service to meet present and future transportation needs;

(C) increases in ridership and net revenues on routes recommended for discontinuance by the Secretary of Transportation (including potential increases in ridership and net revenues not realized because of capacity constraints), factors attributable to such increases, and the likelihood of future such increases;

(D) a comparison of the routes recommended for discontinuance by the Secretary of Transportation with the routes designated for continued operation, in terms of both financial performance and increased ridership;

(E) the extent to which the existing intercity rail passenger system has the capacity to provide reliable service to meet increased demand for intercity rail passenger transportation, including additional frequencies of service over existing or restructured routes, and the extent to which expansion of such capacity is necessary to meet such demand;

(F) the potential of each train or route, given a minimum reasonable quality of service, in terms of roadbed, track, equipment, on-time performance, and scheduling; and

(G) the transportation needs of areas lacking adequate alternative forms of transportation, including communities which have lost or are likely to lose airline service.

(c)(1) The Board of Directors of the Corporation shall, no later than April 1, 1981, determine what trains and routes will be operated as the basic intercity rail passenger system after October 1, 1981, and submit a report to the Congress setting forth its determinations and the reasons therefor. Such report shall contain an analysis of each of the factors set forth in subsection (b)(2) of this section and an explanation of how each of such factors was taken into account in the determinations of the Board. The determinations of the Board of Directors under this paragraph may provide for the restructuring of any existing routes or for implementing service or frequency additions on such routes.

(2) The intercity rail passenger system operated by the Corporation after October 1, 1981, under this subsection shall, at a minimum, provide service over all routes designated for continued operation pursuant to the recommendations of the Secretary of Transportation under section 4 of the Amtrak Improvement Act (including substitute service required to be operated under section 4(g)(2) of such Act).

Redesignate sections 102 through 116 as sections 103 through 117, respectively.

Page 52, line 10, strike out "1979" and insert in lieu thereof "1981".

Page 52, beginning on line 13, strike out "designated by the Secretary" and all that follows through "Act," on line 17, and insert in lieu thereof "determined by the Corporation under section 102 of the Amtrak Reorganization Act of 1979,".

Page 63, line 21, strike out "1979" and insert in lieu thereof "1981".

Page 71, line 14, strike out "1979" and insert in lieu thereof "1981".

Page 72, strike out line 16 and all that follows through line 23 on page 73.

Page 79, line 13, strike out "not to exceed" and all that follows through "1981," on line 16 and insert in lieu thereof "not to exceed $698,000,000 for the fiscal year ending September 30, 1980, not to exceed $724,000,000 for the fiscal year ending September 30, 1981,".

Page 80, line 10, strike out "not to exceed" and all that follows through "1980, and" on line 11.

Page 80, strike out lines 15 through 20.

Page 80, line 21, strike out "(F)" and insert in lieu thereof "(E)".

Page 80, line 23, strike out "not to exceed" and all that follows through "1980, and" on page 81, line 1.

Page 81, line 3, strike out "(G)" and insert in lieu thereof "(F)".

Page 88, strike out lines 15 and 16 and insert in lieu thereof the following:

"(2) Implementation by the Corporation, in accordance with its rail passenger system determined under section 102 of the Amtrak Reorganization Act of 1979, of the restructuring of any routes which were recommended for restructuring by the Secretary and which require—

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. ECKHARDT)?

Mr. GORE. I reserve a point of order, Mr. Chairman.

Mr. KAZEN. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. The gentleman from Texas reserves the right to object.

Mr. KAZEN. Does the gentleman have a copy of his amendment, and is it an amendment to a particular section of the title, or is it a substitute for the entire title?

Mr. ECKHARDT. It is to particular sections in the title, and what it does, in effect, is provide a 2-year moratorium with the present system in place.

Mr. KAZEN. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. ECKHARDT)?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes on his amendment.

Mr. ECKHARDT. Mr. Chairman, over a good part of my life I have seen the passenger system of the United States gradually dwindle away, largely because there does not seem to be a determination to operate the railway passenger system as a real service. When I look at pages 23 and 24 of the report which shows a map of the current Amtrak system and the recommended Amtrak route system, I cannot fail to conclude that to move in this direction this quickly under this crises situation is a terrible mistake. Therefore, what I have done is offered an amendment that would keep in place the present system during a moratorium period of 2 years during which time we can evaluate what the energy crisis is doing with respect to automobile traffic and the desirability of public transportation.

A test in the past of usership is not an adequate test of the present. I would urge an aye vote on the amendment and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. GORE TO THE AMENDMENT OFFERED BY MR. ECKHARDT

Mr. GORE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr GORE to the amendment offered by Mr. ECKHARDT: On the first page of the amendment, in section 102(b)(1), strike out "December 31, 1980" and insertin lieu thereof "December 31, 1979".

On page 3, in section 102(c)(1), strike out "April 1, 1981 and insert in lieu thereof "April 1, 1980".

On page 3, in section 102(c)(1), strike out "October 1, 1981" and insert in lieu thereof "October 1, 1980".

On page 4, in section 102(c)(2), strike out "October 1, 1981" and insert in lieu thereof "October 1, 1980".

On page 4, strike out "1981" in lines 11, 18, and 20, and insert in lieu thereof "1980".

Mr. GORE. Mr. Chairman, during the general debate I said that my colleague from Georgia (Mr. FOWLER) and I intended to offer this amendment.

This amendment is a 1-year moratorium on the cutbacks which have been proposed to the Amtrak system. During the general debate I referred to what I believe thas been a political earthquake in the areas of energy and transportation.

Transportation, after all, consumes 50 percent of all the oil used in the United States of America, an amount precisely equal to all of the oil that is imported from foreign countries into the United States of America.

If we believe the problems we have experienced in this Nation during the first part of this year with regard to gasoline price and gasoline availability are merely temporary phenomena never to be repeated, then you would go along with the cut proposed by the Department of Transportation. You might go along with the cut proposed by the Subcommittee on Transportation. However, if you believe that the difficulties we are experiencing with gasoline are the first signs of fundamental changes in the way Americans travel in the American style of life and forewarn us of a protracted period of rising gasoline prices, difficulty in securing the amounts of gasoline that Americans want in order to travel, then you will support the Gore-Fowler moratorium amendment.

There are many reasons why you should support our amendment. Energy is only one. The others have been talked about for years. Congestion. We now have 1 mile of highway for every square mile of land in this entire continent. Land use. Safety. We kill 50,000 people a year on our highways and rail transportation is by all odds the safest form of transportation.

National defense. Time and time again the leaders of our military have spoken of the vital role played by a rail network in national defense.

We have seen a trend since 1930 signaling the decline of railroads in this country. It is ironic that this country which was bound together by rail more than any other nation in the world has allowed its rail system to fall into such a state of decay. The most obvious reason, of course, is the internal combustion engine.

☐ 1630

We have gotten Americans used to going everywhere in cars, and we use more gasoline and diesel fuel per capita than any nation in the world; but that era, Mr. Chairman, is coming to an end. We have to go back to more energy-efficient forms of transportation, and the American people know that. Every time we have difficulties with gasoline, they go back to the trains. That trend to automobiles that has been going on since 1930 was interrupted dramatically in World War II. Why? Because we had gasoline rationing and Americans crowded to the trains in record numbers.

When was the next time we saw that happen? In 1973 and 1974 when we had the Arab oil embargo. Once again Americans turned to the trains in record numbers.

This year when OPEC reduced the supply available and increased the price of fuel, once more we saw Americans crowding into Amtrak in record numbers, turned away because seats were not available. Many of the trains which have registered the most dramatic gains are the very trains that are targeted for elimination in the bill we are considering today.

It is not an accident that every other industrialized nation in the world has achieved efficient rail passenger service, since they subsidize it. Amtrak was oversold when it was first established in 1970. Many were led to believe that it would someday be a profitmaking venture. Of course, it is not going to be a profitmaking venture.

All public transportation is subsidized. Look at the Japanese system. The Japanese are spending this year on their passenger trains system $4.1 billion. France, a nation a fraction the size of the United States, is spending almost $1 billion subsidizing its passenger train system.

Britain, a much smaller country, $728 million.

These countries have made the advancement that the United States needs to make.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. GORE) has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, when I talk about fundamental changes in the way that we travel in this country, I mean that sooner or later Americans are going to have to break the habit of carrying 4,000 pounds of metal with them everywhere they go. I am talking about the fact that people in rural areas of this country may find it impossible to get between our large cities without a passenger train system.

We have followed policies in the United States of America for 200 years of encouraging Americans to develop the vast expanses between our cities. They rely on automobiles, and automobiles have let them down. They are increasingly letting them down as a form of transportation for the future. For these Americans, it is not simply a question of energy efficiency. It is a question of being able to travel at all in the future.

The reason so many Americans have chosen on their vacations this year to go on Amtrak trains, if they could get through to the reservation centers and if when they did, they could get a ticket that was left, if it was not completely filled up, is because they were worried not only about price, but about availability.

We must respond to this call from the American people to save our passenger train system; but the gentleman from Georgia and I do not argue merely for the status quo. We need to make the commitment necessary to build our passenger train network into what it can be and should be.

Now, we do not say, let us have these trains forever regardless of what the future holds. We have what I think is a very responsible approach. We say the following, Mr. Chairman:

Since this dramatic ridership increase has occurred since the subcommittee bill was enacted, let us pause and see what the effects are. Let us take the time to monitor these ridership increases to see what the final impact is going to be and at the end of 12 months time if the ridership decreases, trails off and goes back to the way it was a year ago or 2 years ago, then our arguments will have been for naught. At the end of the 12-month period, however, if we are correct in projecting continued problems with gasoline price and availability and ridership increases continue, then we will have managed to save the skeleton of the kind of passenger train system that we need.

The decision at the end of the 12-month period will be with Amtrak; no other congressional vote is mandated or required. The decision will be up to Amtrak at the end of the 12-month period.

I ask my colleagues to vote yes on the Gore-Fowler moratorium amendment.

I hope you will see fit to do so.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would like to say first that I am worried about the skeleton of this organization, but I would like to bury it and not resurrect it. I want to tell you why I am against Amtrak.

Why am I against more tax money being spent on Amtrak? Let me remind you that the folks back home believe that 42 cents in taxes out of every dollar is too much to pay in taxes. And when you pour more money into the losing Amtrak, it means more taxes on the poor taxpayer's back.

Why am I against Amtrak? Because of deficit spending by President Carter's administration along with his Liberal-Democrat Congress, this country now has an inflation rate of 13 percent. Folks at home say inflation is their No. 1 worry, and Amtrak losses are part of the Government deficit.

Since its inception in 1971, I have opposed this financial transportation perpetual loser which is a tremendous drain of the American taxpayer's money. This bill continues to represent an unnecessary expenditure of tax dollars on a transportation system that has statistically proven to be uneconomical. From the very beginning, I have questioned Congress attempt to push onto the American taxpayers a rail passenger service which it neither needs nor wants. What we need to do is to cutback. Let us not have a moratorium. Let us take action.

Proponents of Amtrak claim that there was a 3 million increase in passengers in 1972 to 1977, but they fail to point out that the reason for this increase is because Amtrak increased its number of trains. And while additional trains were added to Amtrak, the revenue passenger per train decreased. In fiscal year 1978, revenue passenger miles per train-mile were 112. This compares with revenue passenger miles per train mile of 127 in 1975. Even with increasing the number of trains and train routes and spending almost $3 billion in American taxpayer revenues over the past 8 years, less than 2 percent of intercity passengers used railroads nationwide. In 1969 railroads lost $400 million as a result of passenger service. Amtrak was created with the hope of reducing this loss in revenue, which it failed to do. Thus, the effect of Amtrak has been to transfer this cost of $400 million to the American taxpayer.

Amtrak has been successful in substantially increasing the number of people that ride its trains: only 15.6 percent more people in 1977 rode the train than in the first year of its operation in 1972. In 1978, 19.1 million people rode Amtrak while 335 million people rode buses. Let me repeat: 19 million rode Amtrak and 335 million rode buses. Amtrak has a dismal past and a bleak future as reported by the General Accounting Office on May 11, 1978:

> Amtrak's biggest problem is that there are not enough people who want to use the train for intercity travel. While Amtrak attracted about 3 million more passengers in fiscal year 1977 than it did in 1972, it did so by substantially increasing the number of trains available. The number of revenue passengers per train mile has decreased. As we have stated in recent congressional testimony, the reasons why demand does not exist in spite of Amtrak's low fares . . . are fairly straightforward. Air travel is much quicker and much more convenient for time-sensitive travelers, smoother and more comfortable (especially considering the comparatively short time the traveler must occupy the airplane) and on longer trips almost the same price as Amtrak.
>
> (Intercity) buses go more places than Amtrak, usually at a lower cost to the travelers. Automobiles give travelers more control over where and when they go, are convenient to have at the destination, are perceived as being much cheaper than the train, particularly when more than one traveler is involved.

How can we clearly justify forcing Americans to pay for a transportation system which the majority will never use and never see? Taxpayers' hard earned money will go to finance other people's travel.

The committee's recommendation for operating expenses of Amtrak present a breakdown which only hides escalating cost of this system. The first category of this recommendation proposes restructuring of Amtrak: the first year authorization is $552 million, the second year is $591 million, and the third year is $598 million. The second category involves capital expenses. It gives authorization for $230 million the first year, $253 million the second year and $271 million the third year. The third category of funding for this exorbitant waste of taxpayer's money involves expenses for State-subsidized service. The committee has allotted $85 million for this service which is a 400-percent increase for previous State-subsidized services.

Also, the committee allocated $108 million for the purpose of adding back trains which were recommended for discontinuance by the Secretary of Transportation. And finally, another $1.5 billion will be pumped into Amtrak for model programs.

This Amtrak financial request is without merit. Amtrak has been in operation for 8 years and has yet to provide a necessary service to the American taxpayer. It involves spending $3 billion of the taxpayers' money while providing benefits under this plan goes to less than three-tenths of 1 percent of the intercity travelers in this country. Amtrak has clearly fallen short in all categories of service quality despite massive expenditures to upgrade equipment, improve road beds and instruct Amtrak personnel. Amtrak has failed, it has cost the taxpayers too much money already and it has provided no public benefit. I urge you to vote against this taxpayers' loser.

☐ 1640

Mr. FLORIO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, my difficulty in dealing with the amendment offered by the gentleman from Tennessee (Mr. GORE) is that I agree with the gentleman philosophically. There is a need to expand our passenger system and there is a need to get Americans out of their cars into the intercity rail system. Unfortunately, I just do not agree with what the gentleman is doing, because it is counterproductive in the sense that he is insuring that the system fails because he is advocating that we should perpetuate the problems which have caused Amtrak to fall into a state of disrepair.

The gentleman's amendment would lock into place those routes which simply cannot be justified.

I have provided one example already of a train that is now at the height of usage and that is operating at only 20 percent of capacity. There is another reference I could make, and that is that we could take everyone on that train and give them a first-class airplane ticket and send them off and save a few million dollars.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I will yield after I have finished.

Mr. Chairman, the fact of the matter is that many of these trains, even with increased usage, cannot be justified. The fact is also that by freezing these trains into the system we will insure that the system cannot survive. Freezing the system will pull down the existing system.

We are not adding the cash that would be needed, particularly the capital funding, under the gentleman's amendment, and accordingly we would be left with a situation that the system could not be funded and trains could not be operated in the way they should be. To freeze the current system without providing those revenues for capital would in fact insure that the system go down. It is our estimate that there would be an additional $200 million needed to provide the capital for those trains that we could put into the system under a 1-year moratorium, and those dollars are not available, as I read the mood of the Congress.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I want to respond to the gentleman's comment about buying an airplane ticket and give that as a subsidy for the passenger if the subsidy for Amtrak were eliminated.

As the gentleman well knows, the subsidies paid by the U.S. Government to other forms of transportation have been far in excess of the subsidies paid to rail transportation, and indeed if we eliminated the Federal subsidy to the airlines, we could buy every single American, man, woman, and child, a ticket from Chicago to Florida and back.

Mr. FLORIO. Mr. Chairman, I would be happy to respond to the gentleman on that point. The gentleman is making a valid point with regard to what has been the Government's policy with respect to subsidizing alternative modes of transportation over the years. The fact of the matter, though, is that we are here, we are now at this point, and we cannot correct all the inequities that have occurred over the last number of years.

Mr. GORE. Mr. Chairman, I will make a further point, if the gentleman will yield further.

In response to the gentleman's point that we could put the people on airplanes instead of trains, the fact is that the airplanes are getting much higher subsidies, even from general revenues. The total subsidy is $2.9 billion to the airlines, and of that $1.7 billion is from the general fund.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I have some figures that came out in our hearings on the Subcommittee on Transportation of the Committee on Appropriations. This is general fund moneys we are talking about, because the big subsidies that go to the airline passengers come out of the users' tax, and those airline passengers are paying that themselves.

But for fiscal year 1978, the Federal assistance for passengers per mile was 33.4 for Amtrak per passenger mile, for buses, 0.33 per passenger mile, and for air carriers, 0.09 per passenger mile. It is substantially heavier by many, many times for Amtrak.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I think the point the gentleman from Oregon (Mr. DUNCAN) is making is that this is not the operating subsidy that goes to the airlines; this is a capital subsidy in the form of money for airport construction, and things of that sort.

If we are going to compare that with anything, we would have to compare it with the investment we made in the railroads when we gave them land in the beginning and all kinds of things of that sort. Amtrak has a operating subsidy of $552 million per year. There is no subsidy like that going to the airlines.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

Mr. LEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I oppose the Gore-Fowler amendment because its adoption will make it impossible for any Amtrak service to improve during the next year. Mr. Alan Boyd, president of Amtrak, has indicated over and over again that he cannot operate the existing Amtrak system with the equipment which he has. He has further stated that there is a long time lag in purchasing new equipment. Based on that reason alone, the most ardent supporters of Amtrak should vote against the Gore-Fowler amendment. But I understand much of the confusion that has surrounded the Secretary's proposal and the action of the committee with respect to whether or not individual trains are still in the Amtrak system.

Mr. Chairman, let me emphasize that H.R. 3996 as reported from committee put back nearly every train that the Secretary suggested should go. The Secretary suggested that 24 trains should either have their routes radically modified or be discontinued. In my judgment, as a result of the committee-reported bill, only five or six long-distance trains will be discontinued on October 1. What are those trains going to be, Mr. Chairman? They are going to be the worst performing trains in the Amtrak system. They are going to be the trains that now tie up equipment which could be used on other routes in the country where passengers now have to stand. They are trains which have been under scrutiny ever since they began operating because of their heavy losses. Those five or six trains account for over one-third of Amtrak's operating losses.

Every year when we consider an Amtrak authorization bill, someone introduces a proposal to lock into place every single train in the system. Four years ago, the route and service criteria became the excuse for us not to face the reality that political trains simply cost too much money to blink at anymore. The route and service criteria in 1976 slowed down any discontinuance process so that nearly 18 months elapsed before the Amtrak Board tried to discontinue the Floridian which goes through Mr. GORE's district. The Amtrak Board made its decision based on irrefutable economic and social evidence only to find that Congress responded to that decision by the Amtrak act of 1978 which froze into place every single Amtrak train so that the Secretary of Transportation could study the entire system.

The Secretary conducted his study and confirmed that the Floridian and a lot of other trains should be discontinued from Amtrak service if we were ever to have modern, reliable and comfortable intercity rail passenger service in this country. We could not and did not accept the Secretary's decision because it went too far. His proposal cut 43 percent of the route miles out of Amtrak. The committee's proposal will cut less than 20 percent of the route miles out of Amtrak. The Secretary's proposal affected 23 or 24 trains. The committee's proposal will affect but five or six trains. If they did not cost so much money, Mr. Chairman, I would say that we should keep all of the trains. Frankly, those five or six trains do cost too much money. Those five or six trains will cost the taxpayers of this country nearly $200 million during the next year. That $200 million figure takes into account inflation and the necessary repairs and replacements which would come out of capital expenditures.

When the Amtrak Improvement Act of 1978 was on the floor under consideration last year, I offered an amendment which would have resulted in a loss of the very worst trains by using the simple approach of stating that when it cost the Government more than $105 per passenger on a train ride, that train should be discontinued. When the committee that time opposed my amendment, they did so because they said the Secretary's study would be the definitive study and we should wait for that study. That study came and it confirmed that every one of the trains which would have been affected by my amendment needed to be discontinued. Trains need to be discontinued, Mr. Chairman, because they are bleeding Amtrak dry and they are bleeding the American taxpayer dry. Those bad performing trains will eventually create such a groundswell of opposition to Amtrak that we will have a hard time keeping any of the trains. It is imperative, Mr. Chairman, that we do not go down the road of stalling in order to save political trains.

The Floridian, the train that Amtrak's Board tried to discontinue over 3 years ago, continues to be one of those trains that causes all these amendments in order to save the train. What about the Floridian? Well, in 1978, its fully allocated cost was over $25 million. Its revenue was less than $4 million leaving a loss of $20.4 million. It has 60-passenger miles per train-mile.

The trains continued under the committee bill all have in excess of 150 passenger miles per train-mile. In a nutshell, Mr. Chairman, we could have bought airplane tickets for every one of the people who rode the Floridian and we would have saved the taxpayer money. More importantly, if the Floridian were not in operation, the cars, the engines it uses could have been used on routes where people are standing on trains.

Mr. Chairman, the time has come for us to be candid and frank about the future of Amtrak. If we seriously want to develop the intercity rail passenger system so as to save energy, we have to stop wasting energy by running trains that no one rides. I intend to vote against the Gore-Fowler amendment and I urge my colleagues to do likewise.

Mr. GORE Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I wish to inform the gentleman that I learned from the White House—and I explored this issue in some detail—that the Transportation Department asked for the authority to say that the President would veto it, and they were turned down. Instead, their statement was very carefully phrased. If the amendment passed, the former Secretary of Transportation would recommend to the White House that the President veto it.

At the same time, of course, the President has asked for $10 billion in new initiatives for public transportaiton. At the same time the polls and the editorial opinions across this country have come out foursquare in favor of the Amtrak system continuation, and as a practical matter there is just no way the President would ever follow that kind of recommendation, and I think my colleagues in this body know that.

Mr. LEE. Mr. Chairman, if I may reclaim my time, there is also a letter, I would point out to my colleague, dated July 23 from the interim Secretary of Transportation, Graham Claytor, which embraces the original position of Secretary Adams.

Mr. GORE. And that just says the interim Secretary would also recommend a veto. Neither person says that a veto would be forthcoming.

Mr. LEE. That is correct, but I pointed out that if the President does in fact veto the bill with the Gore amendment attached to it, we revert back to a 43-percent cut, which, I suggest, is not acceptable to any one of us.

In summary, Mr. Chairman, I urge my colleagues to vote against the Gore amendment, to adopt the committee bill, and to get on with some first-rate criteria to put in place a first-rate passenger service for these United States.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ECKHARDT

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon as a substitute for the amendment offered by Mr. ECKHARDT: Page 72, line 19, strike out "subsection" and insert in lieu thereof "subsections".

Page 72, line 20, insert "(1)" immediately after "(d)".

Page 73, line 3, strike out "(1)" and insert in lieu thereof "(A)".

Page 73, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 73, line 23, strike out the closing quotation marks and the following period.

Page 73, after line 23, insert the following:

"(2) Where reductions in operating expenses can be obtained, the Corporation shall operate a rail passenger service over any short distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than nine cents per passenger mile; and

"(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.

"(e)(1) In order to preserve regional balance in the national intercity rail passenger system and to ensure that long distance routes recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 which provide service to regions with few population centers in a large geographic area have equal opportunity to qualify for continued operation, the Corporation shall operate a long distance route in each section of the United States (with sections being determined by dividing the United States into four quadrants) if—

"(A) service is not maintained on any long distance route in that section under the criteria set forth in subsection (d)(1) of this section; and

"(B) the Corporation determines that (i) a long distance route exists in that section which has shown and will show improvements in performance under the criteria set forth in subsection (d)(1) of this section, and (ii) such route shows potential, under such criteria, to warrant maintenance in the system.

"(2) The Corporation shall not continue to operate any route under this subsection if service is provided on a significant part of that route by any other route.".

"(3) Service operated on a route under this subsection shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in subsection (d)(1) of this section.".

Page 80, line 16, after "404(d)" insert the following: "and (e)".

Page 80, line 17, strike out "$35,000,000" and insert in lieu thereof "$50,000,000".

Page 80, line 18, strike out "$36,000,000" and insert in lieu thereof "$52,000,000".

Page 80, line 19, strike out "$37,000,000" and insert in lieu thereof "$55,000,000".

Page 89, line 9, after "tions." insert the following: "Substitute service provided over an existing route under this paragraph shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in section 404(d)(1) of the Rail Passenger Service Act.".

Mr. DUNCAN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. GORE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Tennessee (Mr. GORE) reserves a point of order on the amendment.

The gentleman from Oregon (Mr. DUNCAN) is recognized for 5 minutes in support of his amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, as I indicated during the general debate, it was apparent that we were going to have some disagreement on the floor among those who support the committee bill, those who want to freeze the present system, and those who, like my distinguished colleague, the gentleman from Texas (Mr. COLLINS), who spoke a few minutes ago, believe that Amtrak should be abolished entirely.

I offer this substitute as a middle ground toward which men of good will can repair. It is an amendment that will be accepted by the administration in spite of the questions cast by my distinguished friend, the gentleman from Tennessee (Mr. GORE) about the validity of the recommendation of the acting Secretary to veto a freeze of the present system, and the gentleman certainly should take some comfort in the fact that they do support the Florio bill with the Duncan amendment.

Mr. Chairman, I have spoken both to the gentleman from New Jersey (Mr. Forio) and the gentleman from Illinois (Mr. MADIGAN) about this. I believe they have no objection to this amendment.

Let me tell the Members what it does. It takes the Florio criteria and creates a new category with a different criteria applicable to short-haul trains.

Let me tell the Members why I believe that is important. As the gentleman from West Virginia (Mr. STAGGERS) has said, we have got to look forward and see what role we believe Amtrak will fill in the future of this country. In my own judgment, based upon thousands and thousands of pages of testimony, Amtrak has a real role to play in the short-haul areas where they are moving passengers from large concentrations of population no more than a couple of hundred miles.

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Why do I say that? Because they can compete energywise with the bus in that area, and they cannot, on the long distance haul. The bus is 3½ times as efficient as the train on the long haul. But on the short haul, they can compete energywise. They can compete dollarwise, because we come very closely to breaking even in these corridor-type operations.

Furthermore, we have the equipment, and if we can concentrate it in fewer routes, we can give better service, which everyone concedes on this floor is essential if Amtrak is to be made to work. And when I hear my colleagues say, "Well, look, they do it in Germany, in France and in Japan," let me point out to the Members they are doing in Germany, France and Japan exactly what I think Amtrak ought to do here. Their population centers are concentrated, and they can compete for those passengers on those short hauls, and they do.

Mr. Chairman, I say to the Members of this Committee that we are now trying to operate a system that these gentlemen want to preserve for another 1 year or 2 years, respectively, that encompasses 27,500 miles. We are trying to do that with an average passenger-car consist available each day of 1,200 cars.

If we look at these other countries where they have decent service, we will find that they have 12,000 or 13,000 or 18,000 cars available for a 11,000- or 12,000-mile system. Nevertheless, I recognize the problems that those in the West and in other parts of the country have when they see Amtrak concentrated largely in the East, and that is what has happened. Because 71 percent of their operating deficits are incurred in the East and only 29 percent west of the Mississippi River.

So I have inserted in this substitute a regional balance amendment, which provides that if no other trains are running in a quadrant in the country, they will be entitled to at least one train, not on a permanent basis but on a 2-year trial basis, during which period of time they must meet the same criteria, nonpolitical criteria, that are laid down in the Florio bill.

And the third thing that the amendment does is deal with substitute trains, because we have two of those to deal with, one that is dealt with in the Florio bill called the Shenandoah, another one that is dealt with in the Senate bill called the Cardinal. This amendment, if it is accepted, would put that same 2-year limitation on those substitute trains, to require them in that period of time to meet this criteria or fade out into the background, as the other trains have, as a result of the Florio bill.

This is a middle ground. It is a bill that is acceptable to the administration. It is acceptable to the leadership. I know that my dear friend, the gentleman from West Virginia, would rather have a freezing of this system, and I understand it perfectly. My grandfather died at his forge on the Chicago and Alton, at the age of 84. My father was a telegrapher on the Chicago & Alton. I have as much railroad blood running in me as anyone else.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. DUNCAN) has expired.

(By unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 3 additional minutes.)

Mr. DUNCAN of Oregon. Mr. Chairman, I want to save Amtrak, and I ask Amtrak friends to support this substitute amendment because, in my judgment, it is the only way that you are going to have an Amtrak of which you can conceive to have some value to your constituency, which has a reasonable chance of conserving energy, which we have a reasonable chance of meeting the costs, the operating deficits of, under this terribly stringent taxpayers' revolt against the ravages of inflation and Government spending that we are facing.

Mr. SHELBY. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Alabama.

Mr. SHELBY. Mr. Chairman, I wonder if the gentleman from Oregon would explain his substitute and how it would affect the Southeast where the Southern Crescent has run for years from Washington to New Orleans through Alabama. Could the gentleman explain that?

Mr. DUNCAN of Oregon. Mr. Chairman, I will yield to the gentleman from New Jersey (Mr. FLORIO), the chairman of the subcommittee, to answer that question.

Mr. FLORIO. Mr. Chairman, as has been indicated in numerous conversations with Members on the floor and over the last couple of weeks, we have not attempted to put specific trains into system by name. The criteria has been expanded, and it is my best information from Amtrak, reviewing the existing ridership, reviewing the existing cost, the Southern Crescent will probably and, most assuredly, qualify under the criteria that is existing. But it really does not depend upon the amendment that the gentleman is talking about now.

Mr. SHELBY. I thank the gentleman.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, I have looked very closely at the gentleman's amendment, and I would like to ask the gentleman to respond to my analysis of it.

The gentleman has new criteria for long distance trains and for short distance trains. The gentleman has a regional balance for the long distance trains and a new criterion for the short distance trains.

Mr. DUNCAN of Oregon. We inserted criteria for the shorthaul trains at 9 cents avoidable loss per passenger mile and 80 passenger miles per train mile. We do not disturb the long distance criteria that are in the Florio bill.

Mr. GORE. If the gentleman will yield further, my analysis leads me to this conclusion: that three trains are restored by the amendment offered by the gentleman from Oregon, all three of which serve the Pacific Northwest, two of which serve the city of Portland, the Pioneer, which is the sole long distance train restored by the amendment of the gentleman from Oregon, and the Mount Rainier, one of the two short-haul trains restored by the gentleman from Oregon, and the Pacific International, which serves Seattle.

Mr. DUNCAN of Oregon. Mr. Chairman, if I can reclaim my time, again I would reiterate what the chairman has said. There are no specific trains named. They must meet the regional balance or they must meet the short-haul criteria.

My analysis of it would be that the Rainier, from Portland to Seattle, would probably meet these qualifications. The train that runs from Seattle to Vancouver, which, I think, is the other one, may or may not.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. DUNCAN) has again expired.

(By unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. Mr. Chairman, while it is true that it runs from Seattle to Portland, it fits in perfectly with what I believe this future of Amtrak to be in short hauls between major centers of population where they can compete with the airplane.

With respect to the regional balance, I would reasonably expect that to add two trains. One is the Pioneer, from the city of Portland to the city of Ogden, and the other would be the Inter-American, which runs from the city of Chicago to Laredo, Tex.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Tennessee.

Mr. GORE. According to the statements of the chairman of the subcommittee, the latter train is supposed to be added by the subcommittee's criteria.

Mr. DUNCAN of Oregon. If I can reclaim my time, we will leave it to the gentleman who is the chairman of the subcommittee. I recall him making no such statement. He did, with respect to the Southern Crescent.

Mr. GORE. Perhaps the gentleman can clarify this situation concerning the Inter-American.

Mr. DUNCAN of Oregon. I think he should.

Mr. FLORIO. If the gentleman will yield, under the criteria, it appears that the Inter-American will go back perhaps just as far as San Antonio. There has been some suggestion that it should go from San Antonio to Laredo, and that would come under the suggestion of the gentleman's amendment so as to provide a regional balance straight to the end of the country.

Mr. GORE. If the gentleman will yield further, the net effect, as I see it, with that one possible exception, is that the gentleman's amendment would restore three trains, all in the Pacific Northwest, two of which serve Portland.

Mr. DUNCAN of Oregon. I think the last train the gentleman mentioned is questionable. I do not know whether it would qualify or whether it would not. I would expect the Rainier, from Portland to Seattle, to qualify under the short distance criteria. I would expect the Pioneer. I would expect the Inter-

American, from Chicago to Laredo, to qualify.

I would like to say, also, that the gentleman should notice that there is, with each one of those trains, not the short haul, but the long-haul trains, there is this 2-year period during which they must then meet these criteria. All we are trying to do is to retain a regional balance, to give it 2 years within which to qualify. If any train does not, I assure the gentleman I will be the first to ask that it be deleted.

The CHAIRMAN. Does the gentleman from Tennessee (Mr. GORE) retain his reservation of a point of order?

Mr. GORE. Mr. Chairman, I withdraw my reservation of a point of order.

The CHAIRMAN. The gentleman from Tennessee (Mr. GORE) withdraws his reservation of a point of order.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MADIGAN. Mr. Chairman, as I understand, what presently exists is that we have before us an amendment offered by the gentleman from Texas (Mr. ECKHARDT), an amendment offered by the gentleman from Tennessee (Mr. GORE), and I am not sure of the parliamentary status of that amendment. I assume it to be an amendment to the amendment.

The CHAIRMAN. The gentleman is correct.

Mr. MADIGAN. And the Duncan of Oregon substitute amendment, avoiding being an amendment in the third degree, is an amendment in the nature of a substitute. Is a substitute for the Eckhardt amendment?

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The CHAIRMAN. The gentleman is correct. It is a substitute for the Eckhardt amendment.

Mr. MADIGAN. Could the Chair advise the gentleman from Illinois in what order the votes then will occur on these amendments?

The CHAIRMAN. The first vote will take place on the Gore amendment to the Eckhardt amendment. Then the Committee will proceed to vote on amendments to the substitute, if offered, one at a time.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Gore amendment.

Mr. Chairman, proponents of the Gore-Fowler amendment have raised a basic question: "Is it appropriate to slash nearly half of our rail passenger system at a time when gasoline supplies and prices are uncertain and Americans are using Amtrak in record numbers?" This Amtrak authorization bill does not slash nearly half of our rail passenger system. It does not dismantle our Nation's rail service as supporters of Gore-Fowler would have you believe.

During the debate on the Amtrak Improvement Act of 1978 last year, the gentleman from Tennessee (Mr. GORE) expressed a great deal of confidence in Mr. Alan Boyd who was just taking over as the new President of Amtrak. The gentleman from Tennessee forecast renewed spirit and a sense of mission for Amtrak under the leadership of Mr. Boyd.

I believe that Mr. Boyd has provided a new sense of leadership at Amtrak and believe that the gentleman from Tennessee was correct in his expression of confidence in Mr. Boyd's abilities, and I want to provide Alan Boyd and the rest of Amtrak management with the tools necessary to enable Amtrak to provide modern, reliable, and sufficient intercity rail passenger service.

The Gore amendment simply would not do that. It simply would continue the existing system as it is, which does not have adequate equipment and would not have adequate funds under the provisions of the amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. My recollection is Mr. Boyd, when he came before our committee, said one of the problems he is having with Amtrak is the absence of leadtime in order to do appropriate planning for the system. He was an enthusiastic supporter of the 3-year authorization proposal that we have here before us. It would be my opinion, and I would ask the gentleman to comment on it, that going on a 1-year moratorium freeze system would in effect undermine that long leadtime Amtrak says is needed and will perpetuate the problems we have had in the past dealing with Amtrak on a 1-year-by-1-year basis.

Mr. MADIGAN. In fact, as the gentleman from New Jersey knows, they would not be able to order equipment. They have a 2-year delivery lag time on equipment. If their life is only going to be for 1 year, they could not possibly contract for and know for certain that they would be able to pay for and take delivery on equipment that was not going to be able to be delivered in less than 2 years.

Mr. Chairman, for that reason, let me quote from a recent letter that I received from Mr. Boyd:

> Amtrak cannot handle a freeze of its current system, and I am opposed to efforts, however well meaning, which would do this. We must have a smaller route system if we are ever to be able to offer the public the level and quality of service it expects and deserves. . . . There is no question but that the picture has changed since the original DOT proposal was sent to Congress, and I believe that both the Appropriations and Commerce Subcommittees have acted wisely and responsibly in addressing the problem. . . . To continue with the present Amtrak route system would merely exacerbate the service problem which plagues us.

I would also like to point out that the interim Secretary of Transportation is opposed to the Gore-Fowler amendment, as was his predecessor. In fact, the Secretary has indicated that he would recommend to President Carter that he veto this legislation if it would include the Gore-Fowler amendment.

Another year has passed and we simply must recognize the fact that Gore-Fowler would force the continuance of trains that in spite of the current gasoline shortage do not carry enough passengers to be either financially justifiable or energy efficient.

For example, one of the trains in the system carries an average of 20 people and burns 2 gallons of fuel per mile. Even with ridership increases at the highest level of the gas crisis, an increase in ridership of 50 percent did not make the train a good one. It only raised the passenger mile per train mile ratio from an average of 26 to about 40 for the best week in May.

I am speaking of May of this year, not 1977 and 1978 but May of 1979.

The comparisons made by the gentleman from Tennessee (Mr. GORE), between the United States and France or Great Britain or one of those other countries simply are not realistic comparisons. Those countries do not have the investment in airplanes and airports that we have in the United States.

By virtue of the courtesy of the distinguished gentleman from West Virginia, the chairman of our committee, I have been able to visit those countries and talk to the people operating the train systems in those countries to see if I could possibly bring home from those countries any ideas that would make Amtrak work in the United States.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MADIGAN) has expired.

(By unanimous consent, Mr. MADIGAN was allowed to proceed for 1 additional minute.)

Mr. MADIGAN. Mr. Chairman, what those people told me, whether it was in France or British rail or wherever it was, "Your system simply cannot work. Those long-haul trains will not work. Great Britain is not as big as some of your congressional districts. France is not as big as the State of Texas. These are not reasonable comparisons. People simply are not going to spend 30 or 34 hours on a train to go some place where they can make the same trip in an airplane in 3 hours and do it for exactly the same amount of money."

Even the gentleman who is the chairman of our subcommittee had a 12½ hour train ride in California. The same ride on an airplane would have taken 1½ hours and would have cost a dollar less.

We cannot compare this system with any other system in the world. That is not a legitimate comparison. I would urge the Gore amendment be defeated.

I heartily endorse the amendment offered by the gentleman from Oregon.

This amendment contributes some further fine tuning to the Interstate and Foreign Commerce Committee bill. As you recall, our bill provides an objective standard against which long distance trains are measured for inclusion back into Amtrak's system subsequent to their discontinuance by the DOT final report. Due to an oversight, criteria for short distance trains were not included. The Duncan amendment provides objective criteria for the inclusion of short distance trains which were scheduled for discontinuance in the final report.

Our committee has embraced objective criteria as a fair method of allocating our Nation's transportation resources. These criteria have been selected because they are representative of viable cost-effective trains. Notwithstanding the accusations of political manipulation, all trains are invited and encouraged to meet the criteria. If they do, they will be included in Amtrak's route system.

In addition to the advantages of objective criteria, this amendment encourages the development of the trend of the future—corridor service. Corridor service has the advantages of cost effectiveness, energy efficiency and relieving congestion. Short distance corridor trains are cost effective and energy efficient because they serve high density population centers without the extra expense and drag of sleeping cars, dining cars, and sometimes baggage cars.

The Congressional Budget Office noted the energy savings associated with corridor service in their recent study of Amtrak wherein they observed, "In terms of program energy, the net savings or losses taking into account the mode that would be used if there was no rail service, rail service in the Northeast corridor saves over 1,800 Btu's of petroleum per passenger-mile." Therefore the Duncan amendment is a step in the direction of energy conservation.

Our committee has received complaints that criteria tend to favor some regions of the country over others. For example, some have said that no criteria trains would be added east of the Mississippi. While the committee bill will not permit Amtrak to make its final route determinations until after the enactment of this bill, we are sympathetic to the need for regional balance.

The Duncan amendment permits a regional balanced train to be added to each region of the country if such region has not received a criteria train. This compromise provides for fairness without overburdening the bill with highly unprofitable trains.

This amendment significantly strengthens the committee bill and I urge its adoption.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Gore amendment.

Mr. Chairman, like our subcommittee chairman, it is not a pleasant chore to rise in opposition to the vigorous, dedicated advocate from Tennessee in his support of rail-transportation services, because I agree with him in terms of the fundamental principle entailed there. I just believe that in his zealous enthusiasm and dedication to his cause, he has offered a solution that is misplaced and will not assist in attaining the goal both he and I would like to attain.

He proposes a 1-year moratorium. I ask the members of the committee, does that make sense?

I believe not. We have been in a sort of a moratorium with the Amtrak rail-transportation service. Those of us who have labored on the Transportation Subcommittee for the last 4½ years trying to deal with the problems of that passenger-transportation service might believe that they have been in a 7-year moratorium on efficiency and a 7-year moratorium on service.

But does the gentleman from Tennessee's proposal rectify that problem? I would suggest to the members of the committee it does not.

I believe most of my colleagues would concur that we will be back in here at this same time next year, not with conclusive data in hand that reconciles every difference and brings us to the illuminating point of resolve. Hell no. We will be back in here 1 year from now with some inconclusive ridership facts, and my very dedicated friend and member of the Commerce Committee will be asserting, let us have another 1-year moratorium so we can get more facts in hand.

We will be right back at this same time at this same place with this same kind of consideration and evaluation.

Our goal is to rehabilitate and redeem the Amtrak passenger service. A 1-year moratorium merely contributes to further stagnation of that rail-passenger service.

I think the veto point should not be treated cavalierly or indifferently. Two Secretaries of Transportation, and I think we may presume that the third Secretary of Transportation, have concluded that they will recommend veto to the President of the United States if the Gore amendment is adopted.

□ 1710

I think the plausibility and probability suggest that is exactly what the President of the United States would do because it will put him exactly in the position he was in when he recommended a 43-percent cut in that passenger service in the past. That will automatically implement the DOT proposal, the administration will have exactly the bill it wanted any way 5 months ago.

It seems logical to project that that would be exactly the response of the administration. But discharging that veto consideration and moving to a final consideration that I would urge upon the Members, my good friend from Tennessee suggested in the period of general debate that we ought to preserve for 1 more year the foundation of the rail-passenger-general service in the United States of America. We share that desire.

Where we differ is in recognition of the fact that that foundation has several serious cracks in it, and we cannot begin to build the structure of an efficient passenger service in the United States of America until we begin to patch those cracks. One does not patch cracks with a 1-year moratorium, and one does not resolve the problem of Amtrak rail-passenger service by suggesting that the taxpayer mortician come in and infuse $47 million more of taxpayer embalming fluid in those dead lines. It will not work, it cannot work. If we are going to get on with the business of efficient rail-passenger service we cannot accept Gore as a practical alternative.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Tennessee.

Mr. GORE. I thank my good friend and colleague for yielding. I want to make two specific points.

First, after the 12-month period, as one Member of this body I will give my colleague my assurance that if the figures for the coming months demonstrate that the ridership increases that have been of such a dramatic nature in the past, in the first half of this year trail off as the gas lines have subsided, and the indication now is the ridership increases and accelerating, but if the figures indicate that this is a temporary phenomena I will help the gentleman try to eliminate these trains.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

(At the request of Mr. GORE and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, will the genteman yield further?

Mr. SANTINI. I yield to the gentleman.

Mr. GORE. The second point, is it not true that under the subcommittee bill, I understand the gentleman's enthusiastic support for this bill, I know he has labored hard on the subcommittee, and while many of us are talking about losing train service in our States and in our regions, is it not so that the one new train, completely new train is the Ogden, L.A., Las Vegas route through the State of the gentleman and the distinguished leader in the other body, Senator CANNON?

Mr. SANTINI. Magnificent rail line; excellent point. Either way, either way the gentleman from Nevada comes out a winner. If the gentleman from Tennessee prevails, the President vetos, the DOT proposal goes into effect, I have that rail line. If the gentleman from New Jersey still prevails I have that rail line. It sort of mitigates my advocacy some.

I would suggest secondarily to the gentleman that we are not going to accomplish a bloody thing by postponing decisionmaking 1 year. I will suggest urgently, fervently to the gentleman, and I hope I bring him to his knees and to a new realization that I am wrong, I am wrong and he will withdraw the amendment, I will urge the gentleman that there are some of both rail lines in this good United States of ours that unlike Lazarus can never be raised from the dead. They are dead today, they will be dead a year from now, and there is nothing we are going to accomplish by postponing the decision on giving them a decent burial.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the one point the gentleman does not make though is the fact that the study done by the Department of Transportation, upon which the gentleman relies, was done, of course, prior to the time that the shortages were here. I had the gentleman who wrote that study in my office and I asked him did he consider sustained gasoline shortages when he wrote the report, and the answer is "No." I asked him if we would have had those shortages would the study have been significantly different, and the answer is "Yes."

It just appears to me unless we adopt the Gore amendment we are basing all of these route changes on a fairytale land, an "Alice-in-Wonderland" land.

Mr. SANTINI. My good friend from Kansas makes an enthusiastic point, but it is factually unfounded.

The CHAIRMAN. The time of the gentleman from Nevada has again expired.

(By unanimous consent. Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. I believe the gentleman's point is factually unfounded. I believe with regard to those lines affected by the Gore amendment that he would not conclude that if we are paying $5 a gallon for gas a year from now that those particular lines would be justifiable by any rational measure or standard and would continue to represent a drain and an anchor on an efficient rail passenger service.

I believe the chairman of the subcommittee (Mr. FLORIO), has recognized in part the concerns that the gentleman has so well expressed about the increased fuel costs by creation of this flexible formula, this flexible formula that will allow for those rail lines that are going to absorb additional passengers and can be justified for 7 cents and 150-passenger miles, will allow for that kind of adaptation. I do not believe, my friend, I do not believe there is any conceivable way under any scenario that one can rationalize an efficient passenger service given the remaining 5,000 miles of rail service that we are talking about.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. Yes, I yield to the chairman of the subcommittee.

Mr. FLORIO. Mr. Chairman, to remake a point that I have tried to make a number of times, I know that the rationale for the Gore amendment is because of the new, increased usage of the trains. All I am suggesting is that we did take into account in this bill that fact, that the standards that we have asked all trains to qualify for in order to be included in the system will be measured not by the 1977 usage figures that DOT used, but, in fact, will be determined by the projected 1980 figures that Amtrak is now in the process of compiling on the basis of the utilization and ridership figures that are now being compiled. That is to say, if all of these trains are now being used with such a great degree of frequency, they will be moved up into the category of acceptability and the fact of the matter is they will go in. That is the key.

Mr. SANTINI. The chairman has said it well.

AMENDMENT OFFERED BY MR. KAZEN TO THE AMENDMENT OFFERED BY MR. DUNCAN OF OREGON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ECKHARDT

Mr. KAZEN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN to the amendment offered by Mr. DUNCAN of Oregon as a substitute for the amendment offered by Mr. ECKHARDT: Amend the Duncan substitute by adding at the end of paragraph (3) on page 3 the following: "*Provided*, That the corporation shall continue to operate the Inter-American train to the Mexican border if that train meets the criteria set forth above".

Mr. KAZEN. Mr. Chairman, I urge support of this one-sentence amendment to the Duncan substitute. It would declare that it is the intent of Congress, despite proposals from the Secretary of Transportation or Amtrak, to keep the Inter-American train running to Laredo at the Mexican border. If it is going to be an Inter-American train, let us leave it an Inter-American train as it is running now.

The bill proposes to knock out this segment from San Antonio to the border, 150 miles, and use a different criteria for that one segment of the Inter-American from Chicago all the way down to the border.

If we are going to have an Inter-American train, if the Inter-American qualifies under the criteria set out under the Duncan amendment or the Florio bill then I say to my colleagues that same criteria should apply to the train all the way to Laredo.

Why does Amtrak propose to knock off that particular segment? Let me give the Members a little history. Back when Amtrak was created, the Inter-American was put in there at the intent of Congress specifically to link the country of Mexico with the United States. It had been done before Amtrak came into existence. We wanted to continue that particular operation to give our friends in Mexico the opportunity to ride the rails into the United States, and give our people the facility to go into Mexico. At the same time we created two lines into Canada, one to Vancouver and one to Montreal.

☐ 1720

Now, Amtrak says, "Hey, we cannot make arrangements down at the border with the Mexican railroads to get these schedules worked out. We cannot make satisfactory arrangement with Customs or with Immigration. We just do not have that smooth operation down at the border."

Well, my friends, I have news for you and for Amtrak—they have come in and apologized. They have not within the last 7 years talked to Customs. Customs tells me that there is no problem at the bridge. They have not talked to Immigration. Immigration tells me that there is no problem there. I have just come back with several of my colleagues in this Chamber from the inter-parliamentary conference in Mexico City. I talked to our colleagues from the Mexican Congress, about this particular problem, and they say that Mexico is anxious to work out a solution.

But, instead what has happened? Amtrak and the committee have decided to cut the trains from San Antonio to Laredo. Amtrak figures make me wonder how it runs railroads. I say that not because the figures are disturbing, but it regularly has taken 3 months to count how many trains were on time in a given month.

On May 4 I received the figures on January and February service—this is in May. Amtrak reported that last January the Inter-American between Chicago and Laredo was not once—not once—on time in 25 trips. In February, it was on time only once in 24 trips. My last figures, which I received on June 18, show that the Inter-American was on time 3 trips out of 26 in March. That is 5 times out of 75 trips this train was on time.

Now, mind you, it is supposed to make connections with Mexico, but what happens at the border? They now get there in time for their passengers to lay over 19 hours on the border before they can board the Mexican train. Who the devil is going to ride that kind of train? Last summer these trains ran on that segment at about 30 miles an hour, and they could not even generate their own air conditioning system. My friends, let me tell you that in south Texas the weather is hot.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. KAZEN was allowed to proceed for 5 additional minutes.)

Mr. KAZEN. Now, the bad equipment that they had been sending down there has improved in the last few months, but instead of running daily, they are going to start running three times a week. And what about the schedules? I have the new schedule that has just been printed, and listen to this:

"Effective September 6 * * *" that is next September—"Effective September 6 train 21 departs Chicago Sunday, Wednesday, and Friday only; arrives Laredo Monday, Thursday, and Saturday.

"Effective September 8 train 22 departs Laredo Sunday, Tuesday," and so forth.

But, the important thing to notice is that this train arrives at Laredo at 6:50 p.m., while the Mexican train leaves the border into the interior of Mexico at 6:55 p.m. That is 5 minutes to get our passengers off of the Inter-American, put them in taxis going all the way into the city of Laredo, across the bridge into Nuevo Laredo over to the depot, and put them on the train in 5 minutes. Now, this is the way Amtrak is running our railroad system.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I thank the gentleman for yielding. I would say that his statement of the difficulties plaguing that train is a more eloquent reason to vote against the Gore and Eckhardt amendment than anything anyone else has said yet. Yet, most of the cars they are trying to run on the 27,000-mile system, most of them, a lot of them, are over 50 years of age. People say, "Why don't you buy some new ones?"

We cannot go down to Woodward & Lothrop and buy some new cars. We ordered 274 cars in 1974, and we have gotten delivery on 74 of them. There is one manufacturer in this country, and we have a "buy American" policy that we cannot buy in Europe.

Mr. KAZEN. I agree with all that the gentleman says. Let me make this one other point: Is this not the same equipment that leaves Chicago and gets to San Antonio? Why should not the same equipment go to the border and make it the Inter-American train that this Congress wanted to make it?

One other point in history I would like to make. It was not too long ago that this House, this Congress, you, my colleagues, voted for a $4.5 million appropriation. That appropriation was instigated by my colleague from Texas (Mr. PICKLE), who was a member of the Interstate and Foreign Commerce Committee. We put $4.5 million in the appropriation bill earmarked—earmarked, mind you—for the Inter-American. What happened? Well, $2.5 million of that money went to the Inter-American. The other $2 million—Lord only knows where it went.

However, I have talked to my colleague from New Jersey (Mr. FLORIO) and my colleague from Oregon (Mr. DUNCAN). They both feel the way I do, but what assurances can we give this House that Amtrak will follow the intent of Congress? Now, they are either going to run these railroads the way that Congress dictates, or we are going to have something to say about it. Today, right now on these amendments, is when this House can have its say.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to my colleague from Texas.

Mr. PICKLE. We do not have an international run if it stops in the middle of a State. It must be completed in San Antonio on to Laredo. I believe that is the intent of the gentleman's amendment. He has got a good amendment to the Duncan amendment, and we ought to support it and the Duncan amendment.

Mr. KAZEN. All this amendment says is that this train shall continue to operate to the Mexican border, if the train meets the criteria set out in the bill. What is wrong with that?

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. The gentleman, I think, inadvertently has used the train routing of the Lone Star instead of the Inter-American. The reason why I am interested in that is because I am interested in the Lone Star, which is a competitive train.

Mr. KAZEN. Let me make this observation: I asked staff in a hurry, just a few minutes ago, to please get me a map and draw me the route from Chicago to Texas. I am not talking about any particular place along the route. All I want to show is that the Inter-American is supposed to run from Chicago to San Antonio and on into Laredo, to the border, and connect with the Mexican railroad.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. GLICKMAN and by unanimous consent, Mr. KAZEN was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. My only question is, I am interested in actually reviving the Lone Star, which is another route. The only question I have had for the gentleman from New Jersey is, by adopting the gentleman's amendment to the Duncan amendment, would this in any way prejudice the Lone Star from being chosen? I do not think the House wants to go on record as preferring which one of these routes it wants.

Mr. KAZEN. I think I can answer the gentleman. This amendment does not touch that matter—mind you, this is an amendment to the Duncan substitute. If the Duncan substitute carries, we are going to have a regional train, and the decision is going to be made as to whether the Lone Star or the Inter-American survives. All I am saying is, if the Inter-American survives, then by gosh I want that segment to survive from San Antonio to the border.

Mr. GLICKMAN. I would ask the gentleman from Oregon, does his substitute amendment prefer one of those two routes over the other, the Lone Star or the Inter-American?

Mr. DUNCAN of Oregon. No; it simply sets up a regional railroad.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Mr. Chairman, I have an amendment to the Duncan substitute amendment. What is my position?

The CHAIRMAN. The gentleman has an amendment to the Duncan substitute?

Mr. MARLENEE. That is correct.

The CHAIRMAN. At this point the gentleman could not be recognized for that because there is already an amendment pending to the Duncan substitute.

Mr. MARLENEE. When may I offer that particuluar amendment?

The CHAIRMAN. The gentleman may offer that if the Kazen amendment to the Duncan amendment is disposed of, either adopted or not. Then, the gentleman would be free to offer his amendment.

□ 1730

Mr. MARLENEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Gore amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Tennessee an amendment that I have cosponsored to place a 1-year moratorium on the Amtrak route system through fiscal year 1980.

I was a sponsor earlier this year of a resolution disapproving the Department of Transportation plan that was issued in January and was disappointed when the resolutions to disapprove the plan died in committee because I felt the American people should have the opportunity to know how their elected representatives feel about the future of passenger rail service.

The DOT recommendation which would reduce the size of the present system by a whopping 43 percent nationwide do not adequately take into account energy considerations. The facts that were used by DOT in developing the "final report to Congress on the Amtrak route system" are no longer relevant. The price of gasoline has nearly doubled since last summer when the study was being conducted and for obvious reasons including long lines at the gas pumps the American people are turning away from private automobile and to the trains.

According to the Department of Transportation, petroleum products account for more than 95 percent of the energy consumed in transportation and transportation uses more than 50 percent of the national annual petroleum consumption. When this Nation is spending more than $40 billion per year to import oil, can we seriously consider abandoning even parts of our mass transportation system—a system that offers the greatest potential for moving our citizens in an energy efficient way?

A notable development that makes the DOT study so obsolete and unacceptable is the great upsurge in Amtrak ridership. Even DOT recognizes that. Amtrak ridership data indicates that all trains have shown a substantial growth in passenger miles and average trip length—breaking World War II records in some cases. More people are riding and riding longer distances. In 1972 Amtrak moved 16.6 million passengers and this year the figure will top 20 million.

Studies indicate that if Amtrak is cut, only 15 percent of its riders would stay home, another 18 percent would take the bus, and nearly one-half would travel by car. Such a shift would be wasteful as the car is the least energy efficient mode of transportation.

The fact of the matter is that Amtrak could work well given good reservation, ticketing, and scheduling. Right now, Amtrak reservations for the month of May increased 127 percent over May 1978. In May they had to deny space to over 756,000 passengers because of sold-out conditions—a 1,000 percent increase over the previous year.

The reservation system is totally inept and I am surprised that people ride the train at all because of the service they receive. Over 6.5 million people attempted to call the reservation office in May and of that number only 1.5 million were able to get through to a reservationist. My office in May made 14 calls to Amtrak, we received busy signals 12 times and we were put on hold twice—one time for over 20 minutes. In June my office made 20 calls—19 busy signals and only once did we receive the recording telling us to hold. In July 21 calls were placed and each time the line was busy.

It is obvious that the reservation system needs to be overhauled. We cannot blame people for not riding the train when they cannot even make a reservation.

Now is not the time to cut the national system, but a time to improve its operation. This amendment in addition to calling for a moratorium, increases the authorization for operating subsidies by $131 million and for capital funds by $51 million. These additional capital expenditures will be required to allow Amtrak to upgrade the system and allow it to work.

I urge my colleagues for the sake of energy efficiency and transportation competitiveness to support this amendment.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Wisconsin.

Mr. PETRI. I thank the gentleman for yielding.

Mr. Chairman, in considering the Amtrak reorganization bill as reported out of committee, we have here a classic case of false economic reasoning. It is common knowledge that Amtrak now runs on grossly outdated equipment and track, fundamental constraints which render any comparison to other transportation modes inappropriate at best. Beyond contention is the fact that our passenger rail system is not only old, but rapidly deteriorating.

Equally indisputable is the reality that the steel wheel on the steel rail is still the most efficient way to move. The obvious point of reference is the automobile. Even with its aged and declining equipment, Amtrak averages 70 passenger-miles-per-gallon on long-distance routes. Cars average only 33 passenger-miles-per-gallon in intercity travel.

Arguments for the Gore amendment are premised on a faith in Amtrak's potential for track and equipment improvement. While the CBO's estimated ceiling is a 20 percent improvement margin in seat-miles-per-gallon over the 1977 level, the National Association of Railroad Passengers sees a potential 119 percent improvement for long-distance trains and 244 percent for short-distance trains.

There is an additional reason to support railroads at this time. Unlike other forms of transportation, the rails can be electrified. We have been asked to vote many billions of dollars to produce synthetic liquid fuels, largely from coal. This is a costly, technologically uncertain, and resource inefficient use of energy, since the coal is in effect burned twice—once to produce the liquid fuel and then again in final use. It might be cheaper to electrify the railroads so they can use coal converted directly into electricity than to build the plants that would be necessary to run the rails in synthetic liquids.

We should use the year allowed by Gore-Fowler to re-examine the whole question of transportation energy needs and economics in light of our real long-range energy problems. Certainly this is not time to be dismantling our Nation's rail transportation system.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentlemen from Tennessee and Georgia.

The Commerce Committee has given us a good basis on which to build a viable system of rail passenger service. It is clear that the committee recognized that the Department of Transportation's restructuring plan was deficient both in terms of the factors on which it was based and in terms of its conclusions. By providing a 3-year authorization, Amtrak management will have the opportunity to make plans that it knows it will be able to carry out. The committee's bill also contains an innovative feature, which I was pleased to cosponsor, which will provide the necessary financial incentives for more of our States to sponsor Amtrak service within their borders under the 403(b) program.

It also appears that, in Alan Boyd, Amtrak's president, we have a man who has both the necessary management experience as well as dedication to providing a high standard of service on all Amtrak trains.

In other words, Mr. Chairman, I can be sympathetic to the arguments offered by Chairman FLORIO, ranking minority member MADIGAN, and Mr. Boyd against the Gore-Fowler amendment. Nevertheless, I am convinced that we should keep the current system going for 1 year not just to see whether the recent surge in ridership will continue, but rather for us in the Congress to go out and tell our constituents that:

First, you will have to use the trains if you expect to keep them running; and,

Second, we can expect that we will have repeated occurrences of gasoline shortages such as the one we are going through now, so we had better start making adjustments in our lifestyle.

Mr. Chairman, I do not deny that I have a parochial interest in this. It appears doubtful that southwestern Ohio will have any service remaining should the Commerce Committee's bill be enacted. And, the State of Ohio has a constitutional hurdle to overcome before it can participate in the 403(b) program.

But, in supporting this amendment, I feel that I have a responsibility to tell my constituents that they must recognize that: First, they will lose their service if they do not use it; and, second, they should use—not because of nostalgia and not because it is a patriotic duty—but, rather, because it is in the long-term self-interest of all of us that we maintain a balanced transportation system which will provide us with the mobility we need and desire through periods of uncertain supplies of petroleum.

I am sure that some here will argue that the airplane is the alternative. But, that is as shortsighted a response as the sigh of relief at not seeing a long line at the filling station. Have we already forgotten that the airlines had to cancel flights because of the recent petroleum shortage? Are we satisfied with the safety of both the planes themselves and our system of air traffic controls given the increasing congestion both in the air and immediately around our airports? And, finally, in the interest of speed and convenience, should we continue to subsidize and otherwise encourage one of the very least energy efficient means of transport?

I do not think it is wise to continue policies which are based on the assumption that all will be well with our energy problems in a short time. I do not see where any of the efforts announced by the President or the recent syn-fuels bill passed by the House will result in more abundant supplies of petroleum. Our efforts to increase domestic production are aimed primarily at reducing our economic and strategic dependence upon foreign sources of petroleum. Development of synthetic fuels is a long way off and, even for the long term, must be seen principally as a means of reducing our dependence upon foreign oil.

Accordingly, we are fooling ourselves if we heave a sigh of relief that we have gotten through another gas shortage. More importantly, I believe that we in the Congress have an obligation to tell our constituents just that, and provide them with long term solutions. I believe that part of that solution is to maintain the current Amtrak structure for 1 year, and, in that year, drum up ridership on it. Accordingly, I strongly support the Gore-Fowler amendment.

Mr. WHITTAKER. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Kansas.

Mr. WHITTAKER. Mr. Chairman, I am here today supporting the Gore-Fowler amendment for a 1-year moratorium on Amtrak cutbacks for a number of reasons—the surging Amtrak ridership and the real fuel efficiency that trains can and do achieve being the most important ones.

But in explaining why I believe it is important that we pass the Gore-Fowler amendment, I would like to take one train as an example and show why it is important that we finally adopt the Gore-Fowler amendment instead of the committee bill with the Duncan amendment on it.

The train I would like to look at is the Lone Star, which runs from Chicago to Houston, and which runs through my district. It is a train with which I was familiar and have personally used—and which I have grown much more familiar with during the debate over Amtrak that has taken place since the Department of Transportation's January proposal to cut Amtrak routes by 43 percent.

Under the Duncan amendment, we are told that one of the two Chicago to Texas trains, either the Lone Star or the Inter-American, would probably be saved. Indications are that, regardless of the facts, which I believe strongly support saving the Lone Star, Amtrak would keep the Inter-American and scrap the Lone Star.

Really, I think that these two trains provide an excellent example in support of the Gore-Fowler amendment. Both of them deserve to remain in the system. The Lone Star has higher ridership, more passenger miles per train mile, and lower avoidable loss at present. The Inter-American's figures still are not as good as the Lone Star, but they are improving more rapidly.

The Gore-Fowler amendment would let both trains continue until we have an opportunity to gage the full impact of the gasoline shortages, and the increasing price of gasoline. It would help us to make sure that we are not eliminating trains that are viable—and I think that these trains are good, viable trains.

Let me return for a moment to what might happen under the Duncan amendment. As I said, it is widely accepted that one of these two trains would be kept under that amendment. On Friday afternoon, Amtrak congressional liaison director Sandra Spence told my staff that Amtrak was very strongly leaning toward keeping the Inter-American. Others have told us much the same thing. But let us consider the ridership on these two trains—especially in light of the fact that the Lone Star riders must travel on 25-year-old cars, while the Inter-American's passengers travel on cars that are 3 to 4 years old or that have been totally rebuilt within the past 2 years.

In April, the last month for which we have complete figures, the Lone Star carried 26,238 passengers, compared to 14,533 for the Inter-American. So far in fiscal year 1979, the Lone Star ranks 9th out of 21 long-distance trains in the number of riders—the Inter-American ranks 17th. And the Lone Star's projected avoidable loss per passenger-mile for fiscal 1980 is 11.0 cents, while the Inter-American's is 16.7 cents.

As I have said, those are the latest full-month figures we have. Amtrak has refused to give me figures on advance bookings for these routes. The last figures I have for that—which cover the period beginning July 1—showed the Lone Star with much better advanced bookings than the Inter-American. For the 2-week period, 91 percent of the north-bound coach seats were booked on the Lone Star, compared to only 66 percent on the Inter-American.

And the Wichita Eagle has reported that there are indications that the Lone Star may have shown substantial ridership gains in the past month, and that on at least one occasion it had more riders than it could handle.

The Lone Star supplements its revenue by carrying U.S. mail, which brought in $377,000 in fiscal year 1978. The Inter-American carries no mail.

In the Inter-American's defense, its ridership has been increasing at a faster rate than that of the Lone Star. In the first 7 months of this fiscal year, Inter-American ridership was up 31 percent while Lone Star ridership was up 20 percent. But, at present, the Lone Star is the better route.

My point is this—the Duncan amendment will result in the loss of at least one of these trains; the Gore-Fowler amendment will keep them both, at least until the full effects of the gas shortage, gas prices, and the public's renewed enthusiasm for conservation efforts can be assessed.

I hope that you will support the Gore-Fowler amendment.

So far, I have only spoken of trains that affect my own district. I did this because these are the trains with which I am the most familiar, and ones for which I have the most complete figures. It is not that I believe that these are the only trains that should be kept; in fact, I am sure that similar situations exist elsewhere in the country.

The latest figures Amtrak will give out for its automatic reservations and ticketing system are for May. In that month, space was denied to 756,246 prospective ticket-buyers because trains were full, an increase of 1,011.5 percent over last May. Ridership was up 20 percent. Average trip length was up 10 percent. Passenger miles were up 28 percent.

As you know, calls to Amtrak reservations number have also increased dramatically. More than 6.8 million calls were made in May, almost 5 times as many as 1 year ago. And the reservations are booming even though Amtrak operators were only able to answer 1.5 million of those calls.

Incomplete figures for June—ones that Amtrak refuses to release but which have been leaked—show that these trends are continuing. Amtrak had to deny 1.4 million requests for space in June, up 1,422 percent over June 1 year ago. More than 7 million attempted calls to Amtrak in June resulted in a busy signal or in the caller hanging up while waiting on hold.

It should be noted that it is surprising that Amtrak is even keeping up with its past ridership figures at this time. The headlines in newspapers throughout the country have talked of "Amtrak cutbacks" for several months. In such a situation, one would not expect travelers to have the confidence to make Amtrak reservations, but would instead expect them to opt for other transportation modes with more stable routes. Yet the American people are responding to our energy shortage by trying to take the train—taking public transportation instead of the family car.

Before I finish, I would like to make a brief mention of two other routes—the Southwest Limited and the San Francisco Zephyr. The Southwest Limited passes through my district, and the Department of Transportation had originally proposed to eliminate these two routes in favor of a combined route in between.

Fortunately, in this case, the committee bill and the Gore-Fowler amendment would both result in the same end—saving both of these trains indefinitely. The report of the Committee on Interstate and Foreign Commerce states:

> It has been brought to the Committee's attention that certain restructured routes recommended by the Secretary require capital improvements and access to track and facilities not currently used by Amtrak, entailing negotiations with the railroads involved, and could require up to two years for implementation. In view of the uncertainties associated with these new routes, including questions as to whether they will offer service equivalent or superior to that available on existing routes, the reported bill requires substitute service to be provided by Amtrak until such time as the recommended routes can or should be implemented. Decisional authority with respect to the appropriateness of such implementation is vested in Amtrak.

Amtrak officials have assured me that they are convinced that it would be more costly to reroute these two routes, and that the new route would result in worse service, including the addition of 8 hours to the full Chicago to California route. I have previously entered these statements by Amtrak into the April 30, 1979, RECORD, page 9078, and trust that Amtrak will keep the Southwest Limited and San Francisco Zephyr running indefinitely.

Certainly, ridership on these trains is high and is continuing to increase. The passenger mile per train mile figure for April was 215 for the Southwest Limited and 148 for the Zephyr, up 52 percent and 57 percent over the last year respectively. In the latest advance booking figures Amtrak will release, both of these trains had 98 or 99 percent bookings on their coach seats in both directions for the coming 2 weeks. Even the 6-week bookings of coach seats were at 97 percent for the Southwest Limited and between 93 and 96 percent for the San Francisco Zephyr. At one point in June, Amtrak confirmed that these two trains were the most popular trains in the Amtrak system for which reservations could be made. These most recent figures give us no reason to doubt that this is still true.

The passenger train is an important part of our transportation system. The American people have shown that they are willing to leave their family car at home and take the train. We must encourage their movement toward conservation by saving the train today.

Mrs. BOUQUARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I enthusiastically support this amendment to provide for the 1-year moratorium on our Amtrak route cuts. My colleague on the other side of the aisle made mention a few moments ago of the fact that we are an airlines-oriented country. I think it is a very splendid consideration. I think it is true that more and more people are riding our airways. This is very obvious.

If any of you would choose to go back to Tennessee with me on a Friday afternoon, you would certainly see the impact that the airways have had on our transportation system. But I would also like to have you stand around just for a little while and see the huge mobs and crowds that are packing into our airports. I want you to see the people wait-listed for 2, 3, and 4 flights, trying to get out of the hub of Atlanta, Ga.

I do not have a train. I do not have a rail service through Chattanooga, Tenn., so I have nothing personal to gain here. But I am saying that I do think it is our responsibility, now that we do have an alternative, to provide an alternative to the American people to our airway service. I say to the Members that our airlines at the present time are service-saturated. No way can we handle further service from our major hub airports. Indeed, our service is on the verge of being catastrophic. So I think it is wise that we do support this amendment. This is merely a 1-year moratorium to see what we really can do. We are only talking about $47 million in this structure, and this will allow us to really and truly evaluate what we can do and what we must do as we do provide alternatives to our transportation system.

I think this is a commendable amendment. I support it.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentlewoman for yielding.

I heard her mention of a $47 million difference. The information which our Transportation Subcommittee on Appropriations has, which incidentally will bring to the Members a $19.3 billion bill tomorrow, is that it will cost $137 million to operate the whole system for a year, and if it is continued to freeze over the years, it would be about $1.5 billion over the next 5 years.

Mr. GORE. Mr. Chairman, will the gentlewoman yield in response to that?

Mrs. BOUQUARD. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentlewoman for yielding. It is very clear when we compare the costs of the Gore-Fowler amendment to the costs of the subcommittee bill plus the Duncan amendment, the difference is $47 million over a 1-year period. The amendment calls for a 1-year moratorium, so all we are talking about here is $47 million.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentlewoman's yielding.

Mr. Chairman, today's consideration of the Amtrak authorization will establish the role that passenger rail service will play in our Nation's transportation policy. The choices that we make on the committee proposal and the amendments that are offered will determine whether Amtrak will make a positive contribution to transportation patterns and energy conservation or whether it will slowly be dismembered and will lose the national character that it now possesses.

I do not support the concept that we must maintain all passenger routes solely because they now exist. However, in light of the current energy situation and the dramatic increase in ridership levels of Amtrak, it would not be a sound policy decision to implement the meat ax approach advocated by the Department of Transportation or even the slightly more restrained approach contained in the committee proposal.

Even though we are witnessing a diminution in the gas lines, the energy crisis still exists. The American people recognize that we are faced with a gasoline shortage and are willing to make the needed sacrifices and changes in transportation practices to meet this crisis.

With such a mood in our country, Congress should be encouraging not discouraging alternative forms of transportation such as Amtrak. It is very clear that Amtrak can make a contribution to our efforts to conserve energy. The American people are utilizing this alternative in increasing numbers, ridership levels are up on some lines by over 100 percent and, in many cases, the demands exceed seating availability.

To implement drastic cutbacks in the face of this new popularity would irreparably damage the viability of Amtrak as an alternative to the auto. Americans are leaving their cars at home in favor of modes of mass transportation. The proposed cutbacks would destroy the national character of Amtrak, would deny to many Americans the opportunity to utilize this alternative, and would force these people to use their cars.

Mr. Chairman, in light of the energy and the increased popularity of Amtrak, we must closely review any proposal which would cut back the current level of service. Congress, Amtrak, and DOT should not act hastily. Adequate time should be taken to determine if the current trend in Amtrak ridership will continue and which lines will be economically viable. We should support the Gore-Fowler amendment which would place a 1-year moratorium on any cutbacks. This would provide a sufficient time frame to give the American people the opportunity to demonstrate their commitment to Amtrak. At the end of that period, Congress and the Executive will be better able to determine the future role of Amtrak and will be able to make our policy decisions on the basis of fact. To rush ahead with these proposed cutbacks would preclude us from utilizing a potentially abundant source of energy conservation. For this reason, I urge my colleagues to support the Gore-Fowler amendment.

Mr. GINN. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, I rise in support of the Gore-Fowler amendment. I do so because the amendment provides a missing ingredient in the committee proposal which we have before us, and that ingredient is innovation.

Under this amendment, the Board of Directors of Amtrak is given the authority to propose the restructuring of the existing routes. In other words, rather than terminating a train for all time we apply a little commonsense and adjust its route in such a way that it attracts new ridership.

The classic example of a good prospect for rerouting is the Floridian passenger train, which now operates between Chicago and Miami. The Floridian is a certified, guaranteed, no-questions-asked, money loser. It costs the taxpayers about $6.3 million each year in operating deficits.

In 1978, Amtrak was ready to reroute the train to enhance ridership but its proposal was derailed by the initiation of the year-long rail passenger study conducted by the Department of Transportation. Instead of permitting the rerouting to take place and provide an opportunity to test new ridership potential, the Department forced Amtrak to maintain the same money-losing route for another year.

During that year, Amtrak conducted another round of public hearings on the Floridian—hearings which had only months before been conducted by Amtrak.

The taxpayers lost another $6.3 million, and the Department of Transportation enscribed another chapter of inept action in the growing annals of our Government's mismanagement of rail service.

Mr. Speaker, we have an opportunity today to provide the prospect that Amtrak can exercise some discretion in making route adjustments. Ridership on the Floridian is up 51.9 percent, and even the Department of Transportation agrees that rerouting of the train would further enhance ridership. I ask the House not to extinguish all hope that the Floridian or other promising trains be given a chance to prove themselves on new routes.

Let us not today render the death sentence to passenger trains that can be made effective and energy efficient. Let us instead make this the day that the Congress takes action to make rail passenger service a realistic transportation alternative for the people of this great Nation.

Mr. STAGGERS. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentlewoman for yielding.

One subject I notice that has never been brought up is the number of men who are going to be thrown out of work—thousands of men, at a time when we cannot afford it. We will have to pay $30 million or $40 million to those men to keep them from working. They are going to be out of work at a time when we cannot afford it really. I see my friend, the gentleman from Illinois, get up. Those are the figures that have been given to me, and I have just corroborated them with my staff. We would have to pay $41 million to those men with this bill, and on top of that we do not have to pay $47 million more to keep the thing running.

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Now, another thing I would like to mention is the fact that we talked about building tracks and you can put them back. Whenever you abandon a track and start to build it again it will take you 2 to 3 years to build those tracks back. There is one in my State that now they want to rerun and they say it will be 2 years before they can build that track.

The CHAIRMAN. The time of the gentlewoman from Tennessee (Mrs. BOUQUARD) has expired.

(By unanimous consent, Mrs. BOUQUARD was allowed to proceed for 2 additional minutes.)

Mr. COELHO. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Chairman, I rise in support of the Gore-Fowler amendment. While some have challenged the "energy efficiency" of Amtrak trains, few can dispute the increase in ridership, and more importantly, the unmet demand as demonstrated by the some 4.8 million callers who heard only busy signals when they attempted to call Amtrak for reservations during May of this year.

The energy efficiency of trains increases dramatically when the trains carry full or nearly full passenger complements. With the increase in riders, I think it would be pennywise and pound foolish for Congress to effectively kill a national rail system now, when demand seems to be going off the scale.

I think we should enact the Gore-Fowler amendment to give Amtrak time to evaluate the ridership increase to see whether it is a "blip" in the charts or whether it truly represents a change in Amtrak's future.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Gore amendment.

Mr. Chairman, when H.R. 3996 was considered by committee, I joined with Mr. COLLINS in writing minority views which suggested that the time had come for us to stop funding Amtrak altogether. It has been a noble experiment but clearly, when no more than 1 or 2 percent of the traveling public uses Amtrak, it is obvious that we are perpetuating a railroad which very few people use at a time when there is a far better use for the money. At one time, when the Federal Government was only funding Amtrak operations for $20 or $30 million per year, it was money well spent in order to test whether or not there was a market for intercity rail passenger service. Now, the operating subsidy for Amtrak exceeds $600 million and is growing at an alarming rate. Therefore, I wanted to point out to my colleagues that the millions of dollars we are using for Amtrak could be used for purposes which would have a greater public benefit.

I must say that I was pleased that the committee reported a bill which did avoid the temptation to keep every Amtrak train in place. Mr. FLORIO, the chairman of the Transportation and Commerce Subcommittee, and Mr. MADIGAN, the ranking minority member, did yeoman work in providing legislation which will improve Amtrak operations and establishes for the first time an objective—rather than a political—criteria for determining which Amtrak trains should run. In the committee bill, the worst Amtrak trains will be dropped from the system. It is my understanding that means six long-distance trains.

I strongly oppose the amendment suggested by Mr. GORE which would freeze the entire present system in place with all of its existing inefficiencies. It makes no sense to me to have the good trains in the Amtrak system suffer because Amtrak is attempting to run political trains which have no passengers, but cost money and tie up equipment badly needed in other parts of the Amtrak system.

I urge my colleagues to vote against the Gore amendment and reluctantly, I urge the support of the Duncan substitute to the Gore amendment as a far more modest proposal.

Mr. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Duncan amendment and in support of my amendment.

Mr. Chairman, let me try to bring us to where we are. The amendment offered by the gentleman from Tennessee (Mr. GORE) and myself will be voted on first. After that, there will be an amendment offered by the gentleman from Texas (Mr. KAZEN) to the substitute offered by the gentleman from Oregon (Mr. DUNCAN) and it gets more complicated after that. I want to try to deal in summary very swiftly because the debate has taken the turn that both the gentleman from Tennessee (Mr. GORE) and I worried about, into the nitpicking details of this and that criteria, this and that train and somehow has swerved off the track as to why we are at least trying to propose a sensible, rationale method of looking at the trains in our country.

The first one is the time criteria. What is not debated here is, first of all—what is not disputed here is, first of all, that the DOT study that cut out 43 percent, the meat-ax approach, was based on 1977 ridership criteria. What I do not believe is in dispute from the distinguished chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO) is that all the work that he did, his and the figures of the committee were based on 1978 ridership. Maybe the first 2 months of 1979, and the committee bill is asking you to project 1978 forward in just these 2 months between now and October 1 when the DOT plan goes into effect. It all is balled up in the magic word, "projections." That is why the gentleman from Tennessee (Mr. GORE) and I ask you: Look, all we are asking is for 1 year, 1979. 1979, post-Iran. 1979, post-airline deregulation, when airlines cut out service all across the land to smaller communities and left them with only their trains.

1979. After we have finally gotten the attention of the American people largely due to the OPEC price increases, that there are realistic substitutes to the passionate involvement with the automobile for every trip that can be looked at, that can be experienced and then can be judged and that is all our amendment asks. Give us 1979. By April 1 of 1980, Amtrak will provide us with figures on ridership on all these trains and we can make that judgment. Is that unreasonable?

Now, let me go back to energy for a minute and all this talk about the President of the United States. A lot of us are accused of being soft-headed and soft-hearted about the trains. The gentleman from Tennessee and I, when we began this attempt at a 1-year moratorium, we made up our minds we would never mention the trains in our district. We were not going to isolate on this train and that train, we were not going to pit one region against another. We were talking about what we had to have as a national railroad network. Now, we are talking about energy and energy potential.

I do not know what the President of the United States is going to do if this or that amendment, much less my amendment, is attached to this bill but I will tell you this and I will say it in advance, if, after calling for $140 billion in energy over the next 10 years, he would veto a bill that only provides $47 million for 1 year to look at a system——

The CHAIRMAN. The time of the gentleman from Georgia (Mr. FOWLER) has expired.

(By unanimous consent Mr. FOWLER was allowed to proceed for 5 additional minutes.)

Mr. FOWLER. Mr. Chairman, if he did that, every shred of confidence built up by calling for all of us executive, legislative, American people, would go out the window. I simply do not believe that can be reasonably argued.

I add as a footnote only that now that we do not have a Secretary of Transportation—we only have an Acting Secretary of Transportation and he said he is only going to act for 1 or 2 months—do we not need to make a new evaluation of the Department of Transportation under the new leadership that the President, himself, is obviously demanding.

Now, a couple of thoughts on the Duncan amendment. I see the distinguished chairman of my committee, the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN) is here, which brings me to this comment. Those of us on the Committee on Ways and Means just spent 6 weeks on the windfall profits tax for the oil companies. From that experience I can tell you if you like the Government's pricing system, control system, then you will love the Duncan amendment and the committee bill. If you have a hard time figuring out what is old oil and new oil and first-tier oil and second-tier oil, just wait until you get into Duncan with its short-term criteria on top of the long-term criteria on top of the combination formulas of ridership, times—it would take a computer mind to figure it out and it would still be argued about.

Gore-Fowler is simple, direct. It says, let us take a year and look at what we can do on something called the national rail network.

The gentleman from Massachusetts (Mr. CONTE) 3 hours ago talked about the political trains. We have already shown you that under the Duncan amendment, ironically, magically, the trains that all of a sudden make up what he calls a regional balance, all land in the Far West and the rest of the country is somehow a stepchild.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman from Georgia (Mr. FOWLER) yield?

Mr. FOWLER. I will be glad to yield.

Mr. DUNCAN of Oregon. Mr. Chairman, how is it possible to have a regional balance with the trains concentrated in the East unless you put some trains in the West?

Mr. FOWLER. The last thing I want to say is, let us go back to where we began and to the words of my cosponsor, the gentleman from Tennessee (Mr. GORE). Again, what we are trying to look at is not only transportation, not only trains, but something called energy. The energy potential of this country if we have a mixed system of transportation, a balanced system of transportation, when we get through with whatever changes we make in all of our transportation systems, the fiscal year 1979 appropriation for Amtrak is less than 2 percent of all the money we pay to OPEC for energy.

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Yet we are talking about eviscerating the whole national railway network if we do not support a 1-year look at where we are going.

I urge all of you to just take a look. We are adding $47 million, we admit that. We are asking you for 1 year and 1 year only.

I will make the same pledge as my cosponsor. If the trains do not cut it, if the people do not ride them, you will not see me back in this well. I make that pledge to you here today; but once the train is gone, it is gone. Once we take it off the track, all energy potential is gone. All we ask is for you to give us 1979.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. I yield to my chairman.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding. I want to make just three brief observations. One is that there is a rail-banking provision in this bill, so that once a train is gone or a track is gone, it is not gone. There is an opportunity in the funding of this bill to provide for that.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Fowler) has expired.

(At the request of Mr. Florio, and by unanimous consent, Mr. Fowler was allowed to proceed for 2 additional minutes.)

Mr. FOWLER. I yield further to the gentleman.

Mr. FLORIO. So there is a provision for the restoration of those lines if, in fact, those lines should be restored.

Second, the observation the gentleman made that we will not have sufficient information to make the projections in 1979 under this bill is just not accurate. The fact is Amtrak has already received and has in the May 1979 figures that they have computed, they will have the figures and we will be able to project into 1980 under this existing system.

The other point that I would like to make is the question about the adequacy of the funding under the Gore proposal. It is my understanding that under this latest Gore proposal, there is not one penny added for capital. The fact is that we have expanded capital from the DOT proposal from $171 million to $230 million.

What the gentleman will be doing under this amendment is to include the worst elements of the whole system, those most in need of expenditures for equipment, most in need of expenditures for improving the rails, most in need for dealing with the problems the gentleman from Texas made reference to and, in fact, there is not a penny added to this bill for capital. The fact of the matter is that what will happen then is that we will hold up to the American people the promise that we are going to preserve this entire system without the resources to do it and that is just not appropriate.

Mr. GORE. Mr. Chairman, will my colleague yield for a response to the gentleman from New Jersey?

Mr. FOWLER. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, in fact, some of the savings of the Gore-Fowler amendment come about because it will not necessitate the expenditure of $41 million in labor protection because of all the jobs that are eliminated under the subcommittee bill.

The other capital expenditures in the capital budget that have been proposed by the subcommittee are not touched by the Gore-Fowler amendment.

Now, let us compare costs, since this has been brought up. There should be no confusion whatsoever about the cost of these respective approaches. Under the bill, H.R. 3996, the Secretary's report calls for the expenditure of $552 million. The subcommittee adds an additional $35 million for criteria trains; an additional $20 million for restructured routes during the time of the transition.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Fowler) has again expired.

(At the request of Mr. Gore, and by unanimous consent, Mr. Fowler was allowed to proceed for 2 additional minutes.)

Mr. FOWLER. I yield to the gentleman from Tennessee.

Mr. GORE. Now, another $3 million, and only $3 million, is added for the rail banking provision that the distinguished chairman of the subcommittee talked in such glowing terms about before; only there are $3 million in that category and the Amtrak Board has veto power over the expenditure of that money.

Forty-one million dollars for labor protection, adding up to a total of $651 million.

Now, the total cost of the Gore-Fowler amendment is $698 million. That is a difference of $47 million.

Mr. JENKINS. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. I yield to my colleague, the gentleman from Georgia.

Mr. JENKINS. Mr. Chairman, I appreciate my colleague from Georgia yielding. I associate myself with the gentleman's remarks.

Mr. Chairman, it is ironic to me that while most of the country is experiencing the beginnings of a recession, Amtrak's business is booming. Given the current energy shortages which have resulted in an enormous increase in ridership for our national rail system, the proposal to eliminate 43 percent of the Amtrak system is clearly outdated. I am pleased to support this amendment which would allow evaluation of the long-term effect of the energy shortage and increased ridership statistics.

Let me say at the outset that I am aware of operating inefficiencies in the Amtrak system. As my colleagues know, I am not a man to support appropriations for programs which I believe are not cost efficient. But when statistics indicate that over 750,000 customers were turned away from Amtrak trains in the month of May due to lack of space, it would appear that the routes are not the economic drain previously estimated by the Department of Transportation. We are dealing with a system for which the people of the United States have demonstrated their need and support. It is pointless to dismantle Amtrak at the present time and under the present conditions, given the President's admonitions to us all to revise and alter out lifestyles to conserve energy. Amtrak provides a fuel-efficient and convenient method of travel for Americans who are responding to these circumstances. And we can expect ridership to remain up under foreseeable energy conditions.

Curiously, many of the trains which are slated for elimination are among those whose ridership has increased most dramatically. The Southern Crescent route which runs through my district is one of these trains. I am certain that my colleagues will speak to the energy efficiency of passenger trains. Let me provide you with a personal testimony as to the usefulness of the rail system to the people of my district. The Ninth District of Georgia is largely rural with a few cities of modest size. As is the case in many rural districts, public carrier transportation is practically nonexistent in my area and my people rely on the Southern Crescent. I am sure that my district is not alone in having limited public transportation service and in its dependence on rail passenger service.

Additionally, the original Department of Transportation proposals were unbalanced and retained a route structure which almost exclusively served the northeastern section of the United States. Such a plan was and is totally unacceptable to me. It does not deserve the support of any southeastern or southwestern Member of Congress who represent the fastest-growing areas of the country. I was most disappointed in the failure of the Committee on Interstate and Foreign Commerce to take action on the Department's proposals.

The people of our country are already lending their support to Amtrak through increased ridership. What remains of our Nation's rail passenger system deserves the support of the Congress.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield to me?

Mr. FOWLER. Mr. Chairman, I want to finish up. I have 1 minute remaining. Let me finish up. I overstayed my welcome and I thank my colleagues for their indulgence.

The gentleman from Tennessee adequately answered the committee chairman. We have two trains that we took off a few years ago. It took eight times the amount of money to get them back than it did to operate them before. Nobody is going to argue that. If the train goes, the train goes. We can put in all sorts of criteria and veto provisions. It is going to be gone forever. Just point to those that come back.

The issue is that we are asking for 1 year. The issue is that we are asking to look at all these trains, not based on 1978, before everything fell apart in this country and before Americans, 6, 7 million strong, called Amtrak and said, "We want to get on your train." That is all we are saying, give those Americans a chance to get on the train. If they do not, you will not see me around. If they do, we will have realistic ridership to say we take this train, we reject that, and that is what we owe the American people.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Duncan amendment.

Mr. Chairman, in supporting the Duncan amendment, I would like to respond to some of the remarks that have been made here today about labor protection costs under the committee bill, which have been represented as being $41 million.

As a matter of fact, at the time that Amtrak was organized, some rail passenger service was eliminated then. Some people appeared to have the prospect of losing their jobs at that time. As a matter of fact, the reports of Congress from that time indicated that the number might be as high as 28,000. Two years after the creation of Amtrak, this subcommittee did a study to see how many of those 28,000 had actually lost their jobs. The number was 18, not 18,000, but 18 of the 28,000 people had actually lost their jobs because the people leaving the passenger trains, the employees, went to the freight trains and the system works itself out that way.

As a matter of fact, right now the Burlington Northern has 1,300 jobs available. They are going to hire 1,300 people in the next 30 days.

The Union Pacific estimates that they are going to hire 2,800 people this year.

The Southern Railroad estimates that they are going to hire 2,100 people this year.

In all, the industry estimates that there will be 8,000 new jobs available in the railroad industry this year, more than the number of jobs in Amtrak that would be cut back as a result of the adoption of the committee amendment.

In point of fact, the labor protection cost under the committee amendment may be zero, if the experience is the same as it was at the time that Amtrak was organized.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be glad to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the Gore amendment that would establish a moratorium on the plans to drastically reduce Amtrak's rail passenger service to so many Americans.

In my own State of Nebraska, Amtrak serves five cities—Omaha, Lincoln, Hastings, Holdrege, and McCook, the last three being in my district. Sad to say, Amtrak serves them all badly.

Nevertheless, despite incredibly inconvenient schedules and persistently late service, Nebraskans are such a hardy lot that ridership on the San Francisco Zephyr through these cities is up sharply in fiscal year 1979 by 10.6 percent from October through April, over the same period a year earlier. Additionally Zephyr passenger miles for the same period are up 20.2 percent—meaning that not only are more people riding Amtrak trains in my State but they are traveling further than they did a year earlier. I suspect that if the data for the period from May through June were available, it would show even sharper increases.

Nebraska needs every public transportation facility because it is a State where the automobile still is king, where farming requires huge amounts of energy, and where, nevertheless, public transportation facilities are already inadequate. Now, my district—and my State—face extinction of railroad passenger service.

Mr. Chairman, the House has just voted to throw an additional $8 billion or so overseas in the name of helping our less-privileged brothers abroad to a fuller, happier economic furture through our bottomless largess of the foreign-aid program.

In my position as a member of the Foreign Operations Appropriations Subcommittee, I am familiar also with another aspect of our foreign aid—the money poured out just for railroad assistance overseas. And at such favorable terms. My friend and colleague, the gentleman from Florida (Mr. YOUNG) and ranking minority members of my subcommittee, suggested in a recent letter to me that perhaps my district and others faced with being stripped of rail passenger service should try to be declared a less developed country and apply to the World Bank for a 50-year "soft loan" for railway development.

These loans are scheduled for repayment over a 50-year period with nothing to be repaid during the first 10 years and during the remaining 40 years only the principal is scheduled for repayment—no interest. There is an administrative charge of less than 1 percent.

If we could do that, we would not have to bother the taxpayers any more because these international financial institutions and the United Nations always seem to be awash in spare money to spend and to loan.

And we would not have to try to justify this extra expenditure to the Congress, and wonder why we can't have a railroad system as good as the foreigners.

As an example of what we are doing for foreigners, the World Bank and the International Development Assistance fund recently approved the 14th loan to India for railway development.

With this loan, total World Bank/IDA lending to India railways amounts to nearly $1.1 billion. In fact, it is this same IDA that is currently considering a $40 million soft loan to Vietnam for the purpose of assisting in their railway development.

As you know, the United States is the largest single contributor to these international institutions. The World Bank/IDA have provided loans totaling more than $4 billion for railway projects over the years. In fiscal year 1978 alone, the World Bank/IDA approved railway loans totaling $259.2 million and are currently considering another 15 railway loans with an estimated cost of $680.7 million.

Mr. Chairman, has the President's austere budget affected our contributions to the World Bank/IDA the way it affected the funding levels of many of our domestic programs?

Last year the Congress appropriated more than $1.4 billion for the World Bank/IDA. The administration requested an additional $2.1 billion for these same institutions in fiscal year 1980.

I deem a large percent of these foreign aid dollars as wasted. Perhaps some of that money should be used to develop efficient rail passenger service in our own country.

I urge my colleagues to support the Gore amendment.

Mr. PASHAYAN. Mr. Chairman, will the gentleman from Illinois yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I commend the authors of this bill. I have one in myself.

In the San Joaquin Valley the Amtrak line comes down from the bay area of Oakland in San Francisco and dead ends at Bakersfield, Calif., which is a fine town; but most people would want to continue to go to Los Angeles. It is this kind of thing that Amtrak has put on to the people. This is why this provision is a very good one. We ought to take 1 year especially with the new department head coming up, to restudy the thing.

I commend my colleagues for this very prudent and judicious piece of legislation.

Mr. Chairman, I rise in support of the gentleman's amendment, and may I commend him and the distinguished gentleman from Georgia for the role they have played in seeking this 1 year moratorium.

Mr. Chairman, earlier this year I introduced legislation which would have placed this House on record in disapproval of the Secretary of Transportation's recommendation to terminate or restructure lines from California to Vermont. In my own area of Central California, the people from the Bay area to Bakersfield would be denied rail passenger service due to the proposed termination of the San Joaquin line.

I did not take introduction of this resolution lightly. After learning of the Secretary's recommendations, I personally met with Department of Transportation officials to discuss the matter and subsequently wrote to Mr. Adams to express my further concerns over the specific proposal to cut back the San Joaquin. At no time did I feel comfortable with the answers I received. I was seriously concerned that a meat-ax approach had been used in the name of budget austerity rather than a methodical, well-thought-out proposal.

I was concerned about clear alternate modes of transportation. I wanted to know why the current daily Amtrak schedules were so inconvenient. I had questions over why the number of passenger runs could not be reduced on the line. I could not understand why efforts to extend the San Joaquin line from Bakersfield to Los Angeles could not or had not been made. At no time were my questions fully answered. There simply were no statistics to back them up.

Up to this time a passenger leaving Bakersfield could depart for San Francisco only after 11 a.m. and would arrive in the early evening. The new schedule allows a businessman, for example, to leave Bakersfield at 6:05 a.m. and arrive in San Francisco at midday. For the first time, he can conduct business during the same day that he travels on the San Joaquin. Furthermore, I understand that efforts will be made by the California Department of Transportation to investigate the possibilities of extending the San Joaquin from Bakersfield to Los Angeles. Currently a passenger must ride the train to Bakersfield and board a bus to Los Angeles. Flying is much easier under the circumstances. These are positive steps which must not be precluded by ill-timed and ill-conceived legislation.

The only criterion that the Department accentuated was low ridership. But had the Secretary fully considered the problems facing the San Joaquin, he would have known why ridership was low. And by the way, ridership on the San Joaquin has been growing in leaps and bounds over the first half of this year, up 50 percent over last year.

Mr. Chairman, I have no illusions. A 1-year moratorium by and of itself will not cure the ills that have plagued Amtrak. What it will do is to allow for time so that proper administrative remedies by both the Department of Transportation and Amtrak can be made to draw greater ridership. During a period when our country faces an uncertain energy future, can we ask for anything less?

Mr. Chairman, I applaud the efforts of my colleagues and urge support of the Gore-Fowler amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words. I rise to speak on the Kazen amendment.

Mr. Chairman, I want to say that the gentleman from Texas (Mr. KAZEN) has offered an amendment to take care of a train that is called the InterAmerican. It would neither reach Canada nor would it reach Mexico unless the gentleman's amendment is adopted or at least the Eckhardt amendment or the Gore amendment were adopted.

Is the gentleman from Texas (Mr. KAZEN) on the floor?

Mr. Chairman, I would ask the gentleman from Texas (Mr. KAZEN), the gentleman recognizes of course, that the InterAmerican would be protected if the Eckhardt amendment is adopted or if the Gore amendment is adopted; but the gentleman has offered the amendment also on the Duncan amendment.

Mr. KAZEN. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. KAZEN. Mr. Chairman, the gentleman is correct, and if the gentleman will yield further to me, let me make this one point that apparently was lost during my debate. I described the conditions that exist and have existed as far as the InterAmerican going to the borders is concerned, the scheduling, the equipment, et cetera, et cetera, and the customs, immigration, and so on.

In spite of all that, ridership has increased.

☐ 1800

So we can imagine what would happen if Amtrak cooperated just a little bit and gave our friends in Mexico the opportunity to be the good neighbors they want to be and ride the rails and let our tourists go into Mexico riding the rails?

Mr. ECKHARDT. Mr. Chairman, I certainly agree with the gentleman from Texas (Mr. KAZEN). I assume the gentleman did not feel it necessary to amend either the Eckhardt amendment or the Gore amendment, because his train was already fully protected in those two amendments, as were other trains in similar situations.

There is one other point I would like to make. If the gentleman from Ohio is correct and if no money needs to flow to persons who lose jobs, that means that section is a fraud. And the reason it is, is because there is a growth of jobs, and if that growth of jobs is absorbing the people who lose jobs on the passenger service, what we are really saying is that fewer people will get railroad jobs, and ultimately, merely because there is an opportunity to absorb persons within increasing job opportunities, it will not cost anything.

But it means there is a net loss of persons in railroad jobs who would otherwise be employed because of normal growth.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I rise in support of the position of the gentleman from Texas (Mr. ECKHARDT), and in support of the amendment offered by the gentleman from Texas (Mr. KAZEN).

It makes no sense whatsoever to close down that very vital link of that important Amtrak route.

Let me also say that I am strongly supporting the Duncan substitute, the amendment which comes from the chairman of the Subcommittee on Transportation, who has thoroughly studied this matter. It seems to me that is one way out of a bad dilemma.

On top of that, I would also say that I am supporting the Fowler amendment, because I think that is another possible way out of a bad dilemma. But the amendment offered by the gentleman from Texas is eminently fair and reasonable, and I am supportive of it as well as of the Duncan substitute.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Duncan substitute and in opposition to the Gore amendment.

As has already been brought out, what we have seen happen in the past was that the Department of Transportation came out with a plan, and it was a meat-ax approach. No one can disagree with that. It came down hard and crushed some winners with some losers.

So what did the committee do? The committee took, I think, a very responsible position, and it said, "Let's try and separate the winners from the losers in a logical way."

The Duncan substitute also does the same with respect to short trains. It says, "Let's look at the trains and let's use some criteria to determine which trains are the ones that are going to survive and which trains are the real losers, and let's establish some arbitrary criteria"—arbitrary in the sense that we recognize that we need trains but logical in the sense that we will use a good sound basis for determining which are the winners.

As far as the long haul trains go, the committee bill says that those trains that have 150 passenger miles per train mile, if the train gets above that, it can survive, but if it does not, it does not survive.

It says, let us look at how much these trains are losing. If they are losing not more than 7 cents a passenger mile, that is an acceptable figure, and it is one we can have some hope for.

The Duncan substitute goes to the short haul trains and uses 80 passenger miles per train mile for a determination because they are less expensive trains; they do not have sleepers, and it goes to a different figure for avoidable losses.

It says, "Let's let everybody have a chance. If your train is a good one, if your people get out and ride that train, you can win."

That is the committee approach, and that is a good, sound approach.

Let us look at what will happen under the Gore-Fowler amendment. For one thing, we have found out that we have some good Amtrak trains which have not sufficient cars. We have people who are standing in the aisles, crawling in the windows, and trying to get on the platforms because they do not have enough cars to get into. So what we do with the Gore-Fowler amendment is, we say, "Let's keep those trains running even if they don't have anybody in them." And we have some with as few as 30 people riding them, and they have three cars on a train just to be able to safely brake the cars.

So then they say, "Let's keep those trains running empty," but then we have full trains that are going to be running over capacity and we cannot even get enough cars for them.

So what are we doing, or what are we saying? No businessman in the world would make this decision. We are running the losers, run them and keep running them when we have a place where we can make some money and get this system on a good sound basis. But we are not going to be able even to get the cars.

It takes 2½ years to build a railroad car, and with the Duncan substitute we have 170 cars to be moved to places where the people want the trains. That gets rid of the losers, and it gets every train into place that is a winner and gives every train a chance to survive.

The bill says,

> If your people are in support of that train, it is going to survive, but if you do not support the train, it is going to die.

It does not use, as has been pointed out, the 1978 figures; it uses 1979 figures. These are the energy crisis figures, updated and projected into fiscal 1980 figures. So we are using the very period that everybody talks about. It shows what was happening during the gas crisis. It uses those figures to make the determinations on the trains that are really valuable as reflected during that period of shortage.

Mr. Chairman, this is a logical, reasonable approach we can take with the Duncan substitute. I think the Duncan substitute ought to pass because it provides for a good, sound basis for the Amtrak system.

In addition, I would like to take this opportunity to commend the Commerce Committee and especially its Subcommittee on Transportation and Commerce for bringing to the House this very important legislation. The subcommittee labored long and hard to forge this compromise between the wholesale cutbacks in passenger rail service that were recommended by the Department of Transportation, and maintenance of the present system, which spreads available resources too thinly between strong and not-so-strong routes.

I strongly support this legislation to reauthorize a strengthened National Railroad Passenger Corporation. In his new role as subcommittee chairman, Mr. FLORIO has ably led Congress to accomplish a most controversial and important task. Mr. MADIGAN, whose efforts in the past have made Amtrak more accountable for its customer service problems and its financial losses, added a very constructive and responsible voice during subcommittee deliberations. These discussions have succeeded in beginning to make Amtrak a rational system. This the Department of Transportation failed to do in its final report to Congress on Amtrak's route structure. I want to recognize the knowledgeable and effective efforts of the subcommittee staff. In particular, Mr. Elkins, its new staff director, and Paul Malloy, minority staff member, brought to the debate a depth of experience in dealing with the passenger rail issue.

The committee bill, the Amtrak Reorganization Act of 1979, strengthens both the cause and the reality of our national passenger rail system, even though it will bring about a one-quarter reduction of the route system trackage by discontinuing service on several of the less popular long distance train routes. The bill maintains services to our people for nearly all of the short distance trains now operated by Amtrak, and will encourage the addition of new, mainly intrastate, passenger rail services with costs jointly subsidized by the Federal Government and some States. The bill strengthens the best of our long distance passenger rail routes.

Most importantly, the committee bill rejects the view of some high officials in the Department that long distance train travel in America should be reserved to the affluent, if allowed to survive at all. The bill makes a realistic commitment of Federal tax dollars in response to the well-known need of Amtrak to offer a modern system to all its customers and in response to the public's growing patronage of energy-efficient passenger rail over automotive and air travel. The bill preserves those passenger rail markets that are, or can soon be made, attractive enough to the traveling public so that the expense of modern rail operations will be paid to a larger degree by passengers and to a lesser degree by taxpayers.

There can be no doubt that we are entering a phase of our history in which energy must remain a paramount concern of our public policy. The President has recently underscored this. We must look to the future and attempt to reduce our use of scarce resources. The Department of Transportation's environmental impact statement points out that the Montrealer in Vermont uses about half of the energy which would be necessary if its passengers were obliged to travel by private automobiles. An even greater loss of energy would be caused by diversion to airplanes, Amtrak's chief competition.

But the DOT has not estimated this gap. The elimination of the Montrealer and other long and short distance trains was a poor policy choice from the standpoint of energy conservation in a time chronically plagued by high fuel prices and supply shortages. That is basically what Congress is up to today; assuring that our people can take advantage of the potentially great energy savings promised by a modern Amtrak system.

Amtrak's day has come and the people are telling us this in the strongest possible terms. It is a fact that Amtrak has been so deluged recently by requests from our people for long distance train reservations that more calls are not answered than are answered, even though the company hired an additional 200 reservations clerks to handle the sudden demand for train service of the last several months. Hiring more would be fruitless because there are no more seats to sell and no more sleepers to reserve on many of the popular routes. Even before the gas shortage that has driven many thousands to travel by train instead of by personal auto or airplane, Amtrak ridership figures prove that the public's demand for train service was growing substantially faster than the Department of Transportation or even Amtrak expected as late as last fall.

All of this comes down to one simple imperative that we face today. We must give a vote of confidence to our peoples' developing choice in favor of trains. We should maintain and even expand that part of Amtrak's nationwide train system that is being used to capacity or to near capacity. Everyone seems, at long last, to agree that the train routes that are strong, those that the public chooses to ride in large numbers, are not only worth saving but worth improving. We should outfit the Amtrak system with the proper equipment to keep these newfound customers, to improve the service to our people. We can make Amtrak trains more cost efficient, more convenient, and less susceptible to breakdowns and delays. Congress can help to restore the low morale within the ranks of Amtrak's employees, and more importantly, within the ranks of the American traveler, by passing this bill.

The Commerce Committee bill before the House today begins to accomplish these purposes. The criteria that are included in the bill are reasonable, for they serve to maintain long distance trains, such as the Montrealer, that are strong and consistent performers, that are well-used by an increasing number of people. The Amtrak system that is working efficiently should be expanded and the service provided to its users improved. Under this bill available resources will be applied to those trains that are well used. The bill requires that Amtrak use fiscal 1980 projections of both ridership and losses in determining which routes are well utilized and cost effective and therefore should be retained as part of the nationwide Amtrak system.

The bill makes important contributions to Amtrak's prospects for greater cost efficiency in its train operations. First, by specifying that the short-term avoidable loss projected for fiscal 1980 on additional qualifying routes must be no more than 7 cents per passenger mile, the bill assures survival of trains that attract riders and revenues in substantial quantities.

The Montrealer's avoidable loss has been between 5 and 6 cents in recent years and Amtrak has projected it will be about 6 cents in fiscal 1980.

Even the DOT admits that specifying additional qualifying long distance trains must also attain a ridership of at least 150 passenger miles per train mile, the committee is building in an average energy efficiency that well surpasses use of a hypothetical passenger car that gets 22.5 miles to the gallon, with more than two people, along its intercity trip.

The most recent figures show the Montrealer's ridership is running at about 166 passenger miles per train mile, during the first 7 months of the current fiscal year. Amtrak projects this will increase to an average of 170 for the next fiscal year.

Significantly section 117 also requires that "(w)here reductions in operating expenses can be obtained" Amtrak shall, by applying the performance criteria, maintain long distance routes. This language I strongly endorse because it demands that passenger rail productivity be increased where possible. We can and will substantially reduce costs of operating the Montrealer.

Already the Canadian National railroad has agreed to lower payments by Amtrak for use of CN track and terminal facilities in Canada. I would like to quote from a June 13, 1979 letter from Clark Tyler, Amtrak's vice president for government affairs, to Vermont's Governor Snelling, who has worked closely with my office to lower costs on the Montrealer:

> . . . (w)e have been informed by CN (Canadian National) that they will make a reduction of $100,000 in annual charges to Amtrak as a contribution toward maintenance of the Montrealer operation. They have also decided not to revise other charges, and to absorb certain increases themselves, with a cost avoidance to Amtrak of $88,700.

In addition, the labor unions and railroads serving Amtrak between Springfield, Mass. and St. Albans, Vt., have agreed tentatively to make even more substantial cost reductions by modernizing some work rules so they are more logical, and by eliminating one of the three crews that work on this train north of Springfield, Mass. On April 30, 1979 I met with representatives of the Central Vermont Railroad and Carlton Graves of the United Transportation Union to discuss certain tentative agreements between railroad owners and labor to reduce operating costs to Amtrak in order to save the Montrealer. The CV officials, Phil Larsen and Jim Fitzgerald, stated that about $50,000 in charges would be reduced by the railroad and that one member of the train crew could be dropped during busy runs at a further savings. They told me that CV and the Boston and Maine Railroad, which operates the Montrealer between Springfield, Mass. and White River Junction, Vt., would cooperate to eliminate one of the three crews that work the train between Montreal and Springfield, saving substantial labor costs. I understand these savings are being pursued and I will do my best to see to it that reductions in cost to take place.

I, and other Members of Congress, believe a good example can and should be set on the Montrealer. I hope that Conrail, whose three crews operate the train between Washington and Springfield, Mass., can work out a more efficient contractual arrangement with Amtrak. This bill certainly provides the incentive for Amtrak to closely examine these costs as well as improve train performance.

The bill before us today fairly settles the claims and counter claims concerning ridership on various routes. Sorting out the rationale of the DOT with respect to the Montrealer took several months because of the failure of the Department to immediately release the back-up work methods used to make very crucial ridership projections.

But one thing was clear from the start. The Department used financial data from fiscal 1977 to buttress its conclusions; it used fiscal year 1977 data as a base for crucial fiscal 1980 ridership projections. On top of these 1977 figures were added one-shot 15 to 30 percent ridership increases. These were based upon the planned upgrading or replacement of train cars with modernized or brand new cars. In addition, a 2-percent annual ridership increase was expected as late as last December by Amtrak and used for the DOT projections for the entire system between 1978 and 1980. This figure was used to project ridership on each route, ignoring Amtrak's more accurate, route-specific projections. Using general averages led to trouble; the Montrealer's ridership figures had to be increased significantly after the DOT's final report was issued because fiscal 1978 ridership had already outstripped expected ridership in 1980. I understand this was also true for other lines.

The bill requires equal treatment of all trains in the methodology used to make these determinations. This is important to the users of the Montrealer, especially. I found that when the Department of Transportation exercised its power to restructure the Amtrak route system it used a different methodology to evaluate ridership on the Montrealer than was used for any other long distance train considered for maintenance or elimination. Not surprisingly, a unique methodology led directly to the decision to place the Montrealer on the "hit list" of the DOT. Had a consistent method been used, the Montrealer clearly would have been included in the original restructured system suggested to the Congress by the DOT.

Other trains were also subjected to strained evaluations. The two New York to Florida trains marked for elimination by the DOT were and are still two of the most popular Amtrak runs in the system. Apparently, the DOT rationale was that only 1 of 3 Florida travelers should be accorded the opportunity to take the train, purely for reasons of fiscal austerity. Instead, according to this dubious reasoning, travelers on such popular routes as the Montrealer and the New York to Florida routes and those traveling between New York and Atlanta and New Orleans should be required to use more expensive, less energy-efficient means of transportation such as the car or the airplane, or not travel at all.

In the case of the Montrealer the DOT used a unique method to compute passenger miles per train mile, the most important criteria used to make the long distance train route decisions endorsed by Secretary Adams. Instead of simply projecting total passenger miles traveled on the Montrealer and dividing by total train miles traversed, which was the method used for all other lines, the Department did this: It first projected the number of passenger miles generated by the Springfield to Montreal segment of the route. It then divided this by a "constructed" train mile figure that was higher than the actual number of miles traveled, to reflect what the Department believed was the additional expense involved in operating the sleeper-equipped Montrealer north of Springfield, Mass., and on to Montreal, in comparison with coach service between Washington and Springfield.

This mixed apples and oranges in a way that reduced the Montrealer's passenger mile per train mile figure to 151 (after the DOT corrected its earlier conservative estimate of train ridership in 1980), even though Amtrak's projection for the entire route was 170 passenger miles per train mile over the entire route. And, of course, the Department explained in its final report that it was cutting off long distance trains at a passenger mile per train mile figure of 156.

Another example of the arithmetic manipulations that have taken place in DOT evaluations of the Montrealer occurred in the DOT's preliminary report on Amtrak's route system, published in May of 1978. I would like to briefly quote from a letter written by former Amtrak director Joseph V. MacDonald, shortly before his death:

> However, one thing (about the preliminary report) disturbs me about the presentation of figures relating to the Montrealer's productivity. In terms of PM/TM (passenger miles per train mile) the average shown on Table 5–2 for all Long Distance trains is 137, while the Montrealer is shown as only 99, with a footnote reading, "Excludes intra-NEC (Northeast Corridor between Washington and Springfield, Mass.) passenger miles and revenues but included NEC train miles." This is the most gerrymandered footnote I have seen since my college statistics courses. The correct figure is 215."

To make sure this type of gerrymandering does not take place in future route decisions, the committee bill wisely specifies, in section 117(d), "avoidable loss and passenger mile per train mile shall be calculated in the same manner for all routes" by Amtrak, as the basis for decisions to maintain additional qualifying long distance routes as part of Amtrak's basic system. It is my understanding that Amtrak will make its determinations of train route losses and ridership based on the entire length of each route under consideration, rather than using any of the contorted methods used by the DOT in trying to justify elimination of the Montrealer service.

I believe that the answer to Amtrak's operating problems lies not in a wholesale reduction of service but in improving and even expanding service where it has good potential and will draw and keep customers. The better the services offered, the more often the American traveller will come to view the rail system as a logical mode of intercity transportation.

In this vein perhaps the criteria specified in the bill can be loosened to permit even more of the promising routes to be continued. The Montrealer and other well used Amtrak trains must be seen for what they essentially are, public services which meet the needs of a significant section of our population. We, as a nation, do not demand that our police and fire departments, our school and water systems, turn a profit. We do demand excellence of these public services however. We should come to view our rail system as a national public service, like other forms of public transportation, and not as a simple win or lose, profit or loss operation. And we should pursue excellence in Amtrak's operations and services.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. JEFFORDS was allowed to proceed for 3 additional minutes.)

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for his comments.

We have had a long and lengthy debate, and I support the contention of the gentleman from Vermont (Mr. JEFFORDS) that we ought to support the compromise of the Duncan amendment at this point.

I would remind my colleagues that the Duncan amendment essentially gives us 94.3 percent of all the trains that are in existence now, and if we add up the other figures, 94.3 percent of all those trains stays in operation.

The amendment also gives us the opportunity to have full planning and an opportunity to look at some of the new initiatives and the new efforts that are being made since the gas crisis

Mr. Chairman, I would like to say that I commend the gentleman from Tennessee (Mr. GORE), and the gentleman from Georgia (Mr. FOWLER), for their interest in Amtrak and in rail passenger service. It has been interesting to me to watch this afternoon as pro-Amtrak and prorail transit people on both sides have talked about the need for rail passenger service.

I think the approach of the administration initiated by Brock Adams was a meat-ax approach, and I think that the committee leadership shown by our subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO), has in a sense taken the administration's position and backed it off in a reasonable and responsible way. Then, added to that will be the Duncan amendment, which again gives us a reasonable and a regional approach to transportation.

But I would hope that with all the animosity and all the anger that have been displayed on the House floor today, we could all come together in a compromise, with a pro-Amtrak, pro-rail transportation approach, and support the Duncan amendment and reject freezing Amtrak under its present circumstances at this time.

Mr. Chairman, looking at the tremendous amount of mail that has been generated by this debate on Amtrak, I find that the bill before us—H.R. 3996—is being widely misunderstood. This bill is not an affirmation of Secretary of Transportation Brock Adams' plan to slash the Amtrak system by 43 percent. In many respects, H.R. 3996 is a repudiation of that plan.

Secretary Adams' plan clearly went too far in curtailing important Amtrak services. The Florio bill, H.R. 3996, includes sufficient funds to put back much of what Secretary Adams wanted to cut. With the Duncan amendment, which Mr. FLORIO supports and which I support, even more trains will be put back into the Amtrak system.

The Florio bill, plus the Duncan amendment, will save all but six train routes on the Amtrak system.

Mr. Chairman, I have been an active proponent of public transportation ever since my arrival in the House. I have taken the well countless times to speak in behalf of a transportation policy that puts more reliance on buses, trains, and other energy-efficient conveyances. Given my record, why do I oppose attempts to freeze the current system into place?

First, we must look at the cost of these six train routes. Just in fiscal year 1980 to keep these routes in the system will cost between $67 and $114 million, probably closer to the higher figure because it factors in recent increases in the price of diesel fuel. These 6 trains represent 360 departures—or train dispatches—per month. Running some calculations, I find that we are subsidizing these trains to the tune of $26,389 each time they pull out of the station to commence their journeys.

Against this cost, we must look at the ridership of these six trains.

The National Limited, one train that is to be cut, has a "passenger mile per train mile" ratio of 81.2, which means that on the average, at any given moment, only 81.2 passengers are on this train. One individual Washington subway car at rush hour carries twice as many people as the entire National Limited carries on an average run.

What I am getting down to is this: The Florio bill, with the Duncan amendment, saves all of the short-distance trains in the entire Amtrak system. This bill will save 22 of the 28 long-distance train routes in the Amtrak system. The six trains that are to be dropped simply do not deserve to be saved. I am a booster of train travel, but we have to be reasonable.

I also want to emphasize that the Florio bill does a lot more than simply save most of Amtrak's train routes. It saves nearly all of Amtrak's trains: That is, the number of trains that will be running on the system, as opposed to the number of routes over which these trains run. Amtrak now dispatches 6,418 trains per month. Under the Florio bill with the Duncan amendment, it is estimated that Amtrak will dispatch a minimum of 6,050 trains per month, or 94.3 percent of the total. We are cutting back some track miles, but we are saving fully 94.3 percent of the service. The Florio bill also includes extra money to expand the program of State-requested Amtrak services, and if enough States go after this bait, Amtrak might actually be running fully 100 percent of the number of trains it is running now * * * only the route system will be different. Part of this will depend on the size of Amtrak's fleet of cars.

This brings me to my final point, which is that the Florio bill includes a significant increase in Amtrak's capital budget over levels proposed by the administration. By rebuilding Amtrak's plant today, we might be able to expand Amtrak services in the future, and we certainly will be improving the quality of service on the present system.

If we freeze the system into place, the required operating subsidies will almost surely eat into this limtied capital budget. We will be signing away Amtrak's future if we are not prudent today.

In summary, Mr. Chariman, H.R. 3996 with the Duncan amendment is unabashedly a pro-Amtrak bill, a bill that will speed up Amtrak's capital investment effort, a bill that relieves Amtrak from running six extremely expensive routes, a bill that will let Amtrak take its limited equipment and use it to best advantage. Because of the Duncan amendment, this bill also will give us a regionally balanced system to assure public access to the major population areas throughout the country.

I commend the gentleman from Tennessee (Mr. GORE) and the gentleman from Georgia (Mr. FOWLER) for their advocacy of public transportation, but based on my study of this issue I believe that Amtrack will be better served over the long run by the bill that is before us.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has again expired.

(On request of Mr. AUCOIN and by unanimous consent, Mr. JEFFORDS was allowed to proceed for 3 additional minutes.)

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate my friend's yielding to me.

The Chairman, I rise in support of both the Kazen amendment and the Duncan amendment.

I wish to associate myself with the remarks of the gentleman from Vermont (Mr. JEFFORDS) as well as the remarks of the gentleman from Pennsylvania (Mr. EDGAR), who just spoke. I think they both state the case extremely well.

Some Member earlier in the debate criticized the Duncan amendment because it is complex. That suggests, I suppose, that it is difficult to think through the amendment. But I suggest to my colleagues that at a time when we are dealing with a budget that is reaching record proportions, when we are trying to bring the deficit under control, and when we are trying to be sensible in the allocation of funds, we ought not do the easiest thing.

The easiest thing is to leave the rail system we have intact. That is the easiest thing. We do not have to think when we approach it from that standpoint. We can do nothing and drain the treasury.

The Duncan approach makes sense. It divides the country in quadrants. It says that in every quadrant of this country people will be able to have access to rail transportation and to have an alternative to the automobile. Beyond that, it meets the test of budget wisdom. It does not throw good money after bad, which is what a 1-year, a 2-year, a 3-year, a 4-year, or 5-year extension would do.

The amendment says that we need to redefine this system, consolidate the services within the system, and focus them so that no one region of the country is caused a major loss to the advantage of another region of the country. Regional balance is provided.

The amendment also provides some guarantee that we will not act out a fantasy here on the floor today. It provides a guarantee that we can pass a bill and get it signed.

Mr. Chairman, I suggest to my friends and colleagues that that is the best of all results. The alternative is political theater.

□ 1810

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to commend the gentleman from Vermont (Mr. JEFFORDS) for his very reasonable and logical statement, and I concur in it.

Mr. Chairman, in January, the Department of Transportation proposed a restructuring of the Amtrak route system. The proposal called for the elimination of 43 percent of Amtrak's current route system. Some of the routes recommended for elimination, including the Montrealer, did not then, and do not now, deserve to be cut. The Amtrak Reorganization Act, by establishing new criteria for judging a route's acceptance by the public, will enable those routes which are being utilized to remain in operation.

The current gasoline shortages, which have again demonstrated the perilous nature of our energy situation, have generated a significant increase in Amtrak's ridership. On the Montrealer alone, ridership in May of 1979 was 7.8 percent higher than in May of 1978. Total ridership on the Amtrak system was up by 20 percent in that same period. Whether or not those increases are sustained as gasoline supplies increase remains, of course, to be seen. It does not make any sense, however, to cut from the system those routes which have a demonstrated market impact. We need alternatives to the automobile. Amtrak, especially in the Northeast, has proven to be a viable alternative. The Amtrak authorization bill will make those adjustments to the system necessary to sustain that viability while reaffirming the commitment of Congress to rail passenger service.

Mr. Chairman, the month of May 1979 has been marked by a great upsurge in Amtrak reservations, ridership and sales, due to a number of factors, among them higher fuel prices and difficulties in obtaining gasoline.

For the month of May 1979 versus the same month in 1978, the following increases have been experienced:

a. In the Automatic Reservations and Ticketing System:

	May 1978	May 1979	Increase (percent)
Reservations	194,000	443,000	127.8
Denial space due to sold-out conditions	68,040	756,246	1011.5

b. In the Central Reservations Offices:

	May 1978	May 1979	Increase (percent)
Calls attempted	1,695,731	6,812,827	301.8
Busy signals received	92,937	4,865,588	
Calls handled	1,550,235	[1] 1,503,173	−3.0

c. This reservation and ticketing activity has generated ridership which compares as following:

	May 1978	May 1979	Increase (percent)
Ridership	1,651,000	1,975,000	19.6
Average trip length (miles)	197	216	9.6
Passenger miles (millions)	325	426	31.0
Passenger miles per train mile	121	155	28.1

d. Total sales (millions) for the month of May registered as follows:

	May 1978	May 1979	Increase (percent)
Total sales	$26.7	$36.1	27.7

[1] More calls were handled in 1978 due to 1979 callers planning more long trips and increasing length of call. Two hundred clerks have been added to keep up with workload, but thousands of lost calls have not been answered.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I find the gentleman's remarks very interesting. The gentleman and I sat at the same table arguing against the DOT cuts together at a time that the gentleman was arguing that his route had a passenger load which justified being included in the system. The gentleman got his route included in the committee bill. This gentleman did not, and his routes also have had dramatically increasing ridership figures. I have heard today the gentleman from Massachusetts (Mr. CONTE), who was also at that same table arguing that same basic point. All I am saying is that I think the gentleman unfairly states the case by saying that there are lots of routes in this country that ought to be out that have no passenger ridership. There are many routes that ought to be included that have dramatically increasing ridership figures, which are jampacked. I am sure the gentleman would feel the same way if he were in my position.

Mr. JEFFORDS. I am sure I would. All I can say to the gentleman is that I think a much more responsible approach, if one wanted to take it, would be to alter the criteria. I think that your train may come back in under the Duncan of Oregon substitute. I hope it does. But I think it is much more logical to have some good, sound, logical criteria to separate the winners from the losers, than to just put everybody back in, regardless of whether they are winners or losers.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Florida.

Mr. LEHMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise to associate myself with the remarks of the gentleman in the well, and in support of the Duncan amendment.

Clearly, the situation has changed greatly since the Department of Transportation reported its recommended Amtrak route system. I believe the committee bill, as amended by Mr. DUNCAN, is the appropriate response to these changes. If Amtrak could not run its entire system before the gasoline shortage, it will not be able to run it during the shortage, or after. Increased ridership will not increase the equipment available to Amtrak.

Thus, this bill strikes a middle ground, still reducing the system, but not as much as DOT proposed to reduce it. I also support the concepts of short haul criteria trains and regional balance as proposed by Mr. DUNCAN, and urge my colleagues' support for the Duncan amendment and the bill.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I just very quickly wanted to point out that an amendment will be offered by the gentleman from South Carolina (Mr. CAMPBELL) that would require the corporation to make its calculations on the most recent available statistics for the last 90-day period, and I think that that would be only fair. Would the gentleman not agree with that?

Mr. JEFFORDS. I have no substantial disagreement with that approach. I think the present bill adequately handles the problem. But if people would be more assured if it is written in on the most updated data, I do not really have any disagreement. I am not sure how I am going to vote on that amendment, but I certainly do not have any serious disagreement with it.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I rise in opposition to the Gore-Fowler amendment which would place a moratorium on Amtrak route cuts and in support of the committee's approach to providing a rational, efficient, manageable rail passenger system that puts trains where the people are willing and eager to ride them.

I have consistently opposed the administration's "meat-ax" proposal to cut 43 percent of Amtrak rail passenger service, especially now, with the gasoline shortage our Nation is experiencing. Various analyses have shown that a filled passenger train is approximately 50 percent more efficient than a bus; and several times more efficient than a 747 jumbo jet.

It is quite evident that as our energy supplies dwindle, we must rely upon mass transportation and, in many places, by virtue of ridership and low costs, passenger trains are our best mode of transportation.

The administration's drastic cuts fail utterly to achieve the congressional mandate to provide an optimal intercity railroad passenger system based on current and future market and population requirements. However, I am convinced that the amendment of my good friend the gentleman from Tennessee (Mr. GORE) errs in the other direction.

If this amendment is approved, we would freeze the current Amtrak system as it is, thereby rendering it virtually unmanageable—both by retaining routes that make no economic sense and by spreading the resources available for vitally needed capital improvements too thin to assure proper operation.

The committee's compromise would retain several routes which the Administration had slated for elimination, so long as they meet ridership and cost-effectiveness criteria. In addition, the committee bill authorizes operating expenses and capital improvement funds sufficient to permit Amtrak to run more efficiently, on both a short- and long-term basis.

I am convinced that the committee bill provides the means to attract riders by assuring upgraded equipment, better service and more efficient operation. If our goal with this legislation is to increase Amtrak ridership and to contribute to a reduction in our Nation's energy consumption, I urge defeat of the amendment which proposes a freeze of the current Amtrak system.

Mr. FLORIO. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) and all amendments thereto terminate in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. HARKIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FLORIO. Mr. Chairman, I move that all debate on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) and all amendments thereto terminate in 30 minutes.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for 1 minute and 10 seconds each.

The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I want to commend the gentleman from Vermont (Mr. JEFFORDS). I think he made an excellent point when he pointed out that the proposal that was put forward by the Secretary called for a reduction in the Amtrak system of about 43 percent.

The committee bill has whittled that down, and it does reduce the system by some 20 percent. Nevertheless, the committee bill does at least bite the bullet. It does establish some objective criteria. It would mean the loss of some trains but, in my judgment, it is a positive step forward. It would provide, of course, that some of the equipment that is used on these other trains would be able to be used in more prosperous routes.

Mr. Chairman, I rise in opposition to the Gore amendment which would needlessly add dollars to an already inflated Amtrak budget. Last year, in the Amtrak Improvement Act of 1978, the Congress requested the Secretary of Transportation to evaluate the Amtrak system and make recommended route changes so that Amtrak would work better. It was also the intention of the Congress last year to once and for all give up the notion that we in Congress knew how to run a railroad better than Amtrak.

Last January, the Secretary submitted his proposal to the Congress and it recommended reducing the size of the Amrak route system by 43 percent. His proposal has been whittled away by the committee so that the committee bill reduces the system by only 20 percent. Nevertheless, the committee bill does bite the bullet and establishes objective criteria which would mean the loss of five or six of the worst trains in the Amtrak system.

It is my judgment that the committee approach is a positive one in that it represents a first step of getting politics out of the running of Amtrak. Moreover, the committee bill recognizes the fact that Amtrak is spread too thin and simply does not have adequate equipment to do a good job anywhere. The elimination of those long-distance trains with the least number of passengers from the Amtrak system, will free up equipment which can be used in those areas where Amtrak does have overdemand for its capacity.

A vote for the Gore amendment will not only increase the cost of Amtrak by nearly $200 million a year, but will also mean that Amtrak will be tying up cars and locomotives on trains with very little use while needing additional equipment on more prosperous routes. As it has been pointed out already, Amtrak cannot purchase equipment and have it on line in less than 2 years. Therefore, a vote for the Gore amendment assures that Amtrak service will continue to become worse and any possibility of saving energy by having more people travel on the train will be lost.

Finally, Mr. Chairman, I think all of us need the courage to resist the temptation to have our own train simply because it goes through our district. It is in the national interest to have an intercity rail passenger service which will result in a decrease in the use of gasoline for private automobiles. It is not in the national interest to have trains which in fact waste more energy than they save. The bill as reported by committee sets up an objective criteria which can be used by Amtrak itself to make certain not only that the taxpayers get their money's worth, but that Amtrak itself will become more energy efficient.

Mr. Chairman, the substitute to the Gore amendment offered by Mr. DUNCAN preserves the important considerations contained in the committee bill and is a substitute I can vote for. The Duncan amendment retains the Pioneer which came into the Amtrak system so late that the original DOT figures were incomplete and insufficient to make an intelligent judgment about the need for the train. Under the Duncan amendment, that train, taking into account a regional balance in Amtrak trains, will continue for a period of 2 years. At the end of 2 years, that train and several other trains must meet the criteria or they will be discontinued.

In conclusion, Mr. Chairman, I oppose the Gore amendment in that it makes it impossible for Amtrak to improve service. I support the Duncan substitute which is a fair and reasonable improvement over the bill reported by committee.

(By unanimous consent, Mr. RICHMOND yielded his time to Mr. HARKIN.)

(By unanimous consent, Mr. FOWLER yielded his time to Mr. GORE).

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. Mr. Chairman, I rise in support of the Gore-Fowler amendment. It makes straight good sense to me that Amtrak and this body should pause momentarily, in the words of the gentleman from Tennessee, and monitor the ridership increases. In this time when there is a flurry and a rush to the trains in America, it makes great sense to me to pause to allow Amtrak time to answer the phone. But it makes sense to pause for another reason, too; and that is to determine what the loss in mail-handling dollars will be if we shut down these trains. Let me tell the Members what the president of Amtrak tells me. If the southern route in Montana closes down, that means all Amtrak in Montana—we have two trains—loses mail service, which we have not talked about here today. Amtrak in Montana connects with the Salt Lake City-to-Seattle run called the Pioneer, and that is scheduled for abandonment. That means that Amtrak, if the southern route in Montana closes, is going to lose $2 million a year in mail-handling dollars.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I rise in opposition to the Gore-Fowler amendment, in favor of the amendment offered by the gentleman from Oregon (Mr. DUNCAN), and in favor of the committee position.

Basically, I think that the matter has been well stated that there is indeed a need for cut back; but this is a tough time to go head with the plans that the Secretary of Transportation first put forward.

When that cut-back legislation was first introduced, I favored curtailment. And although the train which was serving my district, the Southern Crescent, was slated for extinction, I thought that the move was justified because of the high costs that were necessary to keep these trains running.

Mr. Chairman, the gas crunch has changed my mind, to a degree. It has also changed the traveling habits of Americans.

□ 1820

A full evaluation of the plans of the Secretary of Transporation was absolutely necessary. I believe that the committee has provided that evaluation, and that we now have to implement their bill. For that reason, support the committee's position.

Amtrak revenues are up $14 million over May of last year. The trains are packed, and almost 800,000 people were denied reservations on the Amtrak system in May 1979, simply because there was no room. On the Southern Crescent, ridership is up 25 percent.

Passenger trains are no longer a luxury—they are a necessity. They are keeping people out of the gas lines and are helping save precious crude oil. The time has come to reverse the trend of the last 30 years, and to recognize the vital role passenger service can play in easing the energy crisis.

Congress can exert leadership to save energy and ease the burdens imposed on our citizens by the gas shortage. The first step should be passage of this legislation in the form of the committee which I urge my colleagues to support the committee bill to save the country's most worthwhile passenger train systems. I am now convinced we are going to need it in the year ahead. I urged a vote of "no" on Gore-Fowler, but an "aye" on the Duncan amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I rise in support of the Gore-Fowler amendment. Let there be no mistakes about it, what the legislation before us seeks to do. Without this amendment, H.R. 3996 would begin to dismantle one of the country's basic and truly national systems of mass transit at a time when people are literally being squeezed out of their cars by the energy crisis, even with old equipment, and long-distance trains.

We hear a lot about the short-haul trains, but with modern equipment, or even with the old equipment, the long-distance trains are capable of producing 70 passenger miles per gallon, compared to about 33 passenger miles per gallon for automobiles and 24 for airplanes.

Modern trains can now achieve over 100 passenger miles per gallon.

I know these figures have been thrown out before, but I think it is good for those of us who have just come on the floor and those watching the television sets to hear these figures again.

During May of this year, reservations numbered 443,000, which was a 127.8 percent increase from May of a year ago.

During the month of May, 756,000 requests for space were denied because no space was available.

In June, 1,400,000 spaces were denied on Amtrak because they did not have the space. Amtrak had a rail pass that people could get and ride on the trains for up to 2 weeks at one price. They had to discontinue it. Why? Because people did not want it? No, because everybody wanted it, and they did not have the room for all of the people who wanted the 2-week rail passes.

Even with the San Francisco Zephyr that runs through my State, and which the DOT recommended to reroute out of the State, it is overflowing with passengers.

Six weeks before the Fourth of July break, I called Amtrak to try to get reservations to go home on it. I could not get them, because it was booked solid. Two of my staff people have ridden that train in from my district to Washington, and on both occasions, there was not one empty seat on that Amtrak; and this is the train that the DOT wants to take away and do away with.

In June, over 2 million calls to Amtrak got busy signals.

I ask my colleagues, if we want to get a reservation on Amtrak, I tell my colleagues to go back to the phones in the cloakroom and call this number: 484——

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

PREFERENTIAL MOTION OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. HARKIN moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. HARKIN. Mr. Chairman, if my colleagues think they can get a reservation on Amtrak, go to the phones and call 484-7500, which is reservations. I bet my colleagues before this House closes tonight they will not even get through. Call the 800 number, 800-523-5720, and they will not get through. Why? Because everybody else is calling, trying to get reservations on Amtrak.

What do they want to do? Dismantle the system and take it away at a very time when people in this country are being squeezed out of their cars.

Now we talked about the fact that the Gore-Fowler amendment is going to cost $47 million more. Big deal. That $47 million is going to go to the people of this country and not the people in the OPEC nations, because figures show that if this amendment does not pass, if we allow the DOT to go ahead with their dismantling, over 1 million people it is estimated will be forced back in their cars to take trips that they otherwise would have taken on the train, a million people.

How many gallons of gasoline is that? How many barrels of oil that we are going to have to get from OPEC nations is that? That is the reason we have got to support the Gore-Fowler amendment, because the people of this country want to get back on those trains; and they want to ride them and because they are being forced to because of the energy crisis.

The people of this country want the Congress to do something about energy. This is one thing we can do. Put the trains back on the tracks, keep them running, and pass the Gore-Fowler amendment, which puts in a 1-year moratorium.

The figures that are being used today for the committee bill and to battle or to try to defeat the Gore-Fowler amendment are figures taken from over a year ago.

What we need is a 1-year moratorium to take a look at what the ridership is going to be between now and 1 year from now.

We have talked, and I heard someone mention chasing bad money with good. If we want to chase bad money with good, we can defeat the Gore-Fowler amendment. You go ahead and put these millions of Americans back in their cars. You go ahead and send American dollars, hard-earned dollars, over to the OPEC nations. That is chasing bad money with good.

If my colleagues want to chase good money with good, they can pass the Gore-Fowler amendment, put the moratorium on for a year, and come back, and next year I guarantee one thing: It will be the same thing we are hearing right now. Everybody is calling the trains to try to get on them and ride them. They are packed to the hilt. People want to get back on them and ride them to save the money, because they do not have it any more for the high price of gasoline for their cars.

I urge the Gore-Fowler amendment be overwhelmingly accepted by the House.

We hear that the President may veto this bill if it is passed. I do not believe it for a minute. When he has gone on national television and told this country about the energy crisis, he is going to veto a bill that is going to save energy? I do not believe it for a minute.

I urge my colleagues' support for the Gore-Fowler amendment to send a clear signal to the White House and to Amtrak that we are going to make the trains run on time.

I yield back the balance of my time.

The CHAIRMAN. The gentleman from Montana (Mr. MARLENEE) is recognized for 5 minutes in opposition to the preferential motion.

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, under the provisions of the bill H.R. 3996, we have provisions for trigger trains. These are long-distance routes that would continue operating if the train carries 150 passengers or more, and Amtrak loses no more than 7 percent per passenger for every mile travled.

Now simply put, the Duncan amendment would divide the country into four quadrants and any quadrant of the country which does not get one of these so-called trigger trains would be eligible for a so-called regional balanced train. It appears that in that case then only the Northwest quadrant of the United States will be eligible for a regional train.

The question then comes, how do we choose that train within that region or quadrant? What my amendment does, and I will offer an amendment to the Duncan amendment——

Mr. ROBERTS. Mr. Chairman, I have a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. ROBERTS. Mr. Chairman, the gentleman is supposed to be recognized for 5 minutes to speak on the amendment. He is not speaking on the amendment.

The CHAIRMAN. The gentleman is speaking on the preferential motion.

Mr. ROBERTS. He is not speaking on the preferential motion.

Mr. MARLENEE. I am against the preferential motion.

Mr. ROBERTS. He has not mentioned it.

The CHAIRMAN. The gentleman is free to speak on any part of the bill in the course of the preferential motion.

The gentleman from Montana may proceed.

Mr. MARLENEE. Mr. Chairman, I am against the preferential motion.

The question then comes, how do we choose that train within that region or quadrant, and what my amendment does would be to clarify and to direct Amtrak to rank and qualify the trains so that the taxpayers are assured of the best service for ridership as determined by Amtrak.

My amendment would place all trains on equal footing by requiring Amtrak to rank the regional balance, each train in the quadrant and operate the best performer. It would allow the numbers to speak for themselves and provide for the regional balanced train to be selected on the basis of performance.

amendment which I will offer, and I am against the preferential motion.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I appreciate the gentleman's yielding just so I can say something about the preferential motion. I assume the opponent is aware of the fact that if he is successful and the bill goes back to committee, thereby we are changing implementation of the authorizing legislation; and the Senate is waiting for us to take some action that very well could be that nothing will happen before the recess and perhaps not even before the time when the new system goes into operation in accordance with DOT's proposal.

☐ 1830

So inadvertently we will be faced with a situation where the 43 percent cutback, that no one seems to be interested in, will take place and, therefore, I would reinforce the gentleman's proposal that the preferential motion not be agreed to.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. HARKIN).

The preferential motion was rejected.

PARLIAMENTARY INQUIRY

Mr. FLORIO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FLORIO. Could the chairman inform the Members as to what the situation is with regard to time?

The CHAIRMAN. Under the limitation there is no time lost under the preferential motion.

The Chair now recognizes the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the Gore-Fowler amendment.

Mass transportation has not only become important in recent months—it has become imperative. Fewer people are driving their cars because gasoline prices have skyrocketed. People are looking for more energy-efficient modes of travel. Amtrak ridership has increased dramatically nationwide as highway travel has declined. Considering our gasoline supply situation, now is hardly the time to force those cars back on the road.

The people know Amtrak is part of the answer to our energy problem; and more people are taking advantage of this energy-efficient system.

Amtrak's Lone Star line, which goes between Chicago and Houston through my home district of Oklahoma City, is one of those earmarked for elimination by the Department of Transportation. If the Lone Star line is cut, Oklahoma will be one of five States in the Union entirely without rail passenger service. This means Oklahomans will be paying for a service from which they will receive absolutely no benefit. It seems hardly sensible for a State in the fastest growing area in the country to be without passenger train service.

Oklahomans overwhelmingly want to keep Amtrak running through their State.

Oklahoma City's Amtrak reservations have increased 100 percent from a year ago.

More Oklahomans are using Amtrak and they are using it to farther destinations—24 percent farther, in fact.

Oklahoma City ridership jumped from 6,500 to 12,000 in just 2 months.

The Lone Star is running at three-quarter capacity on all trips.

And the calls for information and reservations in Oklahoma City have nearly quadrupled.

I have no reason to believe this trend will slow or reverse itself in the near future.

What are the options available when rail service is cut?

Travel by bus;

Try to fly, unless airline reservations are unavailable or unaffordable;

Or not go on a trip at all because gasoline is unobtainable.

It seems clear that Amtrak is vital to the people of this country.

The people of Oklahoma are mystified. Last Sunday they heard their President call for concerted efforts to conserve energy. At the same time, they see their Department of Transportation calling for the elimination of one of our more efficient transportation methods. Oklahomans find that ironic.

So do I.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Tennessee. It is much like one I had intended to offer myself, and I am glad to be a cosponsor of his amendment.

The Gore-Fowler amendment basically says, "Let's take some time to make sure that we are making the right decision in cutting back on Amtrak." It also says, "We realize that the situation on July 24, 1979, is much different than it was a year before when DOT was putting together the statistical basis for its route recommendations, and even then it was at the end of January when DOT sent us its report." And, finally, the Gore-Fowler moratorium amendment does what former Transportation Secretary Adams said he wanted to be done: It gives riders a chance to support the trains by buying tickets and riding them.

After a meeting last month with Amtrak and congressional officials, former Secretary Adams adopted the position that we should let people vote on which trains to keep by buying tickets. I agreed with that. Unfortunately, he followed up by saying that most of the cuts proposed in the January report would still go into effect. Commonsense tells me that it is going to be mighty difficult for people to buy tickets on trains like the Lone Star and the National Limited after they have been terminated. The Gore-Fowler amendment will implement what the Secretary said he wanted: Passengers will have a year to show—by buying tickets—which trains they want to see kept in operation.

We have all heard the astounding statistics about ridership increases on Amtrak routes across the country. I will not run those into the ground, but I do want to say that I feel sure that the American people are wise enough to recognize that this energy problem is with us to stay. There might not be gasoline lines every week, and, hopefully, international tensions will calm. But the energy problem is a basic one, and one that will continue to reappear until we make some fundamental changes. One of those which Americans have shown in the last few months they are ready to make is a shift to mass transit where it is reasonably available. Amtrak is our national rail system; it is an integral part of our mass transit infrastructure. Let us keep the option there so the American public has a chance to make that change.

I urge my colleagues to support the Gore-Fowler amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, I rise in support of the Gore-Fowler amendment because it is the right thing to do at this time. If we go back over the history of the transportation of other countries we will find that rail service is the primary mode of transportation.

I think that rail passenger service in the United States is a must and we should look ahead, not backward.

Mr. Chairman, the Gore-Fowler amendment strikes hard at the needs of this Nation. It should be adopted and I urge all my colleagues to think twice before ruling against it, because in the future rail passenger service will be necessary to continue transportation in our country.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, year after year I have voted for amendments like the Gore-Fowler amendment. Having spent some time 10 years ago on the Interstate and Foreign Commerce Committee in helping create legislation that brought about Amtrak, I have a very personal interest not only in the system but in my part of the country. But year after year the system has not improved, it has not worked, and I am afraid this is just a continuation of the same charade that we have had.

Acting Secretary Claytor writes us yesterday that the amendment offered by Mr. GORE and Mr. FOWLER would be a great disservice to rail passenger service in this country, would force Amtrak to operate on a route system with insufficient equipment, thus perpetuating the past unacceptable level of Amtrak performance.

I think the Duncan amendment is appropriate and feasible as an approach. It does give important service, and I think that is achievable. I would think that makes sense for us under the present conditions, and I hope the Members can support the Duncan amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Gore-Fowler amendment.

Mr. Chairman, on the one hand, I agree that a modern, efficient, and reliable rail passenger system is vital to this country's transportation needs, particularly during this current energy shortage. While on the other hand, I believe that freezing the current Amtrak system in place for a year would merely perpetuate those problems that have caused Amtrak's service to deteriorate in the first place.

It is a fact that the current energy crisis which has resulted in dramatic increases in ridership strengthens the case for public investment in well-patronized routes. However, I find myself forced to disagree with the Gore- Fowler approach of freezing the current system. This amendment would lock into the system those routes which simply cannot be justified based on objective criteria.

An example of a train that this amendment would preserve is the Floridian, which runs between Chicago and Miami or St. Petersburg. I realize that this sounds like a popular route but the Floridian is a very slow train. Its 1,597-mile run takes over 37 hours, including 2 nights aboard. This, according to Amtrak, partly explains why last year the Floridian ranked next to last in ridership per passenger mile of all long distance trains. According to DOT its costs in 1978 were $25.2 million. Fares covered only $4.7 million, about 19 percent. The Federal subsidy amounted to $163 per passenger, more than the cost of a first-class plane ticket from Chicago to Miami.

The point of the matter is, we simply cannot afford to continue running trains that year after year have consistently low ridership, coupled with huge subsidies.

It is this type of drain on the system which causes Amtrak to consistently come back before the Appropriations Committee with its hand out. It is this type of route which Amtrak has to devote its scarce capital resources to as opposed to focusing on its well-patronized routes.

Amtrak estimates that the Florio bill will allow them to eliminate by about 25 percent the size and scope of Amtrak's current 27,500-mile system. Under the Florio bill about six long-distance trains with equally as dismal statistics as the Floridian will be eliminated. Amtrak will determine which trains are to be eliminated based on recent increases.

We have before us today a well-reasoned bill which attempts and I might add does a very credible job of rationalizing this Nation's rail passenger service system. The bill reverses the Department of Transportation's prior decision to eliminate 43 percent of the current system based on recent increases in ridership. Those trains which have high ridership and low-cost-to-revenue ratios as determined by objective criteria must be restored. This in my estimation is a rational means of saving energy efficient as well as cost effective trains.

The additional costs associated with freezing the system are phenomenal; according to DOT estimates the additional operating costs alone would come close to $100 million, not to mention increased capital costs. According to the House Commerce Committee those figures are overly optimistic; they say that it would cost at least $1.2 billion annually to operate the frozen system.

Another problem which exacerbates the situation is the critical equipment problem which confronts Amtrak. For a railroad system that includes 27,500 miles, Amtrak operates only 1,234 cars. This point really becomes dramatic when compared to other countries' rail-to-route-mile ratios. For example, Great Britain operates 17,000 cars over 11,000 miles of track and France operates 15,000 cars over 23,000 miles of track. To be even more dramatic one need only to marvel at the fact that Amtrak's current rate of attrition as far as cars are concerned is about three cars per week based on equipment failure.

Amtrak agrees that it is absolutely essential to eliminate the worst routes in the system in order to consolidate capital resources and to concentrate on providing quality service over a reasonably manageable system. Freezing the system would severely limit Amtrak's ability to put its good equipment on its best routes and thereby improve its service to the public as well as its financial performance.

Finally, freezing the current system would be tantamount to adding the straw that broke the camel's back. Amtrak itself wants to drop these underutilized routes. Brock Adams has promised to recommend that the President veto the bill if this amendment prevails. I would presume that the current Secretary would do the same thing.

The House earlier this session defeated the Glickman amendment to the first concurrent budget resolution which would have added the additional cushion under the ceiling so as to allow for this type of amendment; and last but not least even if the system was frozen it would take at least 2 years to get the equipment to operate it, not to mention a larger appropriation.

I say to you, this country needs a rail passenger service system, but we are not prepared to accommodate the system today.

I urge you to reject the Gore-Fowler amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Coelho).

(By unanimous consent, Mr. Coelho yielded his time to Mr. Gore.)

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Rahall).

Mr. RAHALL. Mr. Chairman, I rise in support of the 1-year moratorium on Amtrak's cutback. Indeed, I would even support a 10-year moratorium. That is how confident I am that the ridership increases of recent months are not only the result of the gasoline shortages but are the result of people deciding on a new way in which they will transport themselves about this country.

Amtrak was created under hostile conditions back in 1970 with poor equipment and very few people expecting them to succeed. Indeed, Amtrak was probably created as an effort to smother rail transportation, passenger transportation service in this country. It was created to provide a needed public service for the American people, a service which they could not otherwise provide themselves.

Many factors have led to the deterioration of the Amtrak route structure, inept scheduling, pathetic market development, no advertising planning, poor on-time performance. I would agree that Amtrak is not a moneymaker, yet very few people expect public transportation systems to make money. Moneymaking should not be the prime objective. Providing a needed public service, a service which people cannot otherwise provide themselves, should be the prime objective, especially in today's time.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. AuCoin).

(By unanimous consent, Mr. AuCoin yielded his time to Mr. Duncan of Oregon.)

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. Duncan).

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. Yes; I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in strong support of the Duncan amendment.

This amendment fine tunes the criteria contained in the Interstate and Foreign Commerce Committee bill. The committee bill provides objective criteria upon which long-distance trains are measured for inclusion back into the DOT system plan despite their discontinuance by the DOT final report. This amendment would add criteria to the bill to permit the addition of short-distance trains where ridership and financial performance on such trains justifies their continued operation.

The committee has worked very diligently to determine objective criteria that would be used as a standard to restore energy efficient, cost effective trains; and I commend the members of the committee for the hard work and skill which they have displayed. However, the preservation of short-distance trains certainly makes as much sense, if not more, than long-distance trains because trains are most energy efficient and cost effective when run over short distances between major population centers. I believe this type of train service reflects the trend of the future—the shift to corridor service.

In addition to restoring short-distance trains, the amendment would prevent the existing provisions of H.R. 3996 from unintentionally creating an Amtrak system which results in the inequitable treatment of one geographical section of the country. Time and time again we have heard complaints that the criteria tend to favor some regions of the country over others. Some have even indicated that no trains will be added west of the Mississippi under H.R. 3996. The fact is until all the statistics are in, we really do not know which routes will be discontinued. But, we nevertheless have to adopt a policy which allows Amtrak to preserve and encourage regional balance.

The Duncan amendment would permit a route which has shown improvement in both ridership and financial performance to remain in the Amtrak route structure for 2 years if additional service is not to be maintained in that area of the country according to the criteria in section 117 of H.R. 3996. And at the end of that 2-year period, any regionally balanced train which can then meet the criteria would become a part of the basic system.

Mr. Chairman, this amendment significantly strengthens the committee bill and, I, too, urge its adoption.

Mr. DUNCAN of Oregon. Mr. Chairman, I thank the gentleman from Massachusetts for his support.

I know all of the Members have heard from home on the Amtrak. They want us to help Amtrak. I ask the Members to help Amtrak this afternoon with a vote for the Duncan-Florio proposal. It does not cut one-half of the Amtrak system; it keeps 22,000 out of the 27,500 we now have. It says the President cannot veto this bill because of the energy crisis.

I would ask the Members to use their heads and not their hearts on this energy issue because Amtrak long-distance trains are not energy-efficient; they do not save energy; they waste it. The bus is three times as energy-efficient. A private car, indeed, on long-distance trips is just as energy-efficient. So the President would have to veto this on the energy issue alone.

Finally, I ask the Members to listen to their constituents who want to stop wasteful spending. Tomorrow we will try to finish a $19.3 billion transportation budget. We have room for the Duncan-Florio; we do not have room for the $137 million over Duncan that the Gore bill will cost.

I am going to propose tomorrow an add-on of $242 million, most of which is for real energy savings: mass transit in our cities. That is where we can save energy with mass transportation, not on these long-distance trips.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MADIGAN).

☐ 1840

Mr. MADIGAN. Mr. Chairman, very briefly, just to respond to the gentleman from Iowa (Mr. HARKIN), in his remarks he indicated that we were still talking about the Department of Transportation proposal. We are not. That proposal would have eliminated 43 percent of the rail passenger system. The committee bill would keep over 94 percent of the rail passenger system. The Gore-Fowler proposal would keep 100 percent of the rail passenger system and would keep some of the low energy efficient and unused rail passenger trains in operation in the country.

We need that equipment on other routes where people are standing up, where there are not enough places for people to sit down, where people are turned away because there are inadequate provisions for reservations. We need to move equipment from the unused lines to the lines where people are. The way to do that is to support the Duncan of Oregon substitute amendment and oppose the Gore-Fowler amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I rise in support of the Gore-Fowler amendment. We are spending hundreds of millions of dollars for the World Bank to build railroads in other countries. I cannot understand why we cannot afford to build some in our own country.

I just say again that thousands of jobs will be lost if the other provision goes into effect that would be saved under the Gore-Fowler amendment. It will take years to reinstitute many of these railroads that are stopped. No one can tell me that we can start them tomorrow or in 6 months or in a year. That just cannot be done.

We must look forward, and not back. That is what we are doing if we go back to some of these other provisions. Let us look forward and build our system to one that will be viable, one that is right, and say that we can do it instead of saying that we cannot do it and that we want to cut back.

Mr. Chairman, I would like to say a word for our Secretary of Transportation, Brock Adams. He might have made some mistakes, but I say that he was the most brilliant, most learned of all the Cabinet members the President had in his Cabinet, or has had in the past.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. GORE).

Mr. CAVANAUGH. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. Mr. Chairman, I strongly support the amendment offered by my colleagues from Tennessee and Georgia to place a 1-year moratorium on cutbacks in Amtrak's passenger rail system.

I believe we are at a significant turning point in the way America orders its transportation priorities. That turning point has been forced upon us by OPEC and the nearly tenfold increase in oil costs over the past decade. But, ironically, we have been presented with an opportunity to use the fuel crisis to begin developing a modern and truly national passenger rail system.

We have heard defenders of DOT's massive Amtrak cutbacks refer to supporters of rail travel as romantics trying to restore a bygone age. If we but step back and look around the world we will see that what is old-fashioned and outmoded is not the concept of the passenger train, but rather America's aging, ill-equipped, ill-serviced, and underfunded passenger rail network. While Amtrak has but 1,724 passenger cars to operate on its rail network, the other major industrial nations of the West, despite much smaller distances to cover, have many times that number cars: The British have over 17,000 passenger cars, the French over 15,000, the West Germans over 17,000, the Italians over 10,000, and the Japanese over 26,000. And all these countries, of course, spend far more than the United States to keep the rail network operating efficiently.

There were, perhaps, valid reasons for our relegating rail travel to such a low priority. With cheap and abundant energy, the airplane or the automobile seemed to be the answer for almost all our travel requirements, vacations, business trips, or commuting. But we all recognize that cheap and abundant fuel is gone forever. We must make up for decades of neglect toward the rails and promptly build up a network which is fast, efficient, reliable and comfortable.

This obviously will require considerable Federal funding. Some argue that we cannot afford such outlays because of our current economic difficulties and the need for budget stringencies. I feel that, on the contrary, judicious investment in a national rail system is a necessary step toward long-term economic health in an energy-deficient world. And let us remember, before we denounce Federal subsidies to Amtrak, that since World War II we have provided some $103 billion in Federal funds to support highway construction. During this same period, less than $6 billion has gone to assist all form of rail transport. This imbalance must be corrected.

The 1-year moratorium on cutbacks will give the administration and the Congress the opportunity to factor into Amtrak's reorganization plan the revolution now occurring in America's transportation habits. It would be the height of folly prematurely to condemn to death rail lines which may be needed in the very near future. The high cost of restoring such lines later, compared to the modest investments required now to maintain and upgrade them, argues for adoption of this moratorium.

While the logic of preserving and even expanding our passenger rail system in the face of our energy crisis may escape Secretary Adams, it has not escaped the editors of the Lincoln Star. I would like to submit for the RECORD a recent editorial urging the Congress to act to upgrade, rather than degrade, Amtrak's system.

I urge my colleagues to seize the opportunity to revitalize America's rail transportation system. The Gore-Fowler amendment will insure that we have that opportunity.

UPSURGE IN RAIL RIDERS MAKES ADAMS BLUSH

> Secretary of Transportation Brock Adams reminds us of the guy Richard Nixon appointed to head a federal agency—was it the Office of Economic Opportunity?—for the expressed purpose of phasing out that agency's function.
>
> Adams is out to diminish the nation's transportation options—at President Carter's request.
>
> And even when he's proved wrong and now must propose improvements where he had once demanded severe cutbacks, Adams does so with little grace.

Yesterday Adams announced an administration plan to pump an additional $65 million into Amtrak, the nation's rail passenger service, to preserve train routes which have picked up ridership.

Last year and up until recently Adams was beating the drums for his plan to starve the Amtrak system to death by cutting its trackage by 43 percent and lowering its federal subsidy.

He still thinks Amtrak is a loser, despite the fact that the gas shortage has driven hundreds of thousands of new passengers to the system's aging fleet. Through lips puckered by the taste of sour grapes, Adams says saving Amtrak would be like "pumping formaldehyde into a corpse."

A lively corpse it is. Last month Amtrak turned away a quarter of a million would-be passengers because many of its trains were full. "Ridership is up not only on the trains we plan to keep but also on the trains scheduled to be terminated" under Adams' previous plan. This is what Adams and the Carter administration want to kill even while grudgingly proposing another $65 million to maintain some routes chosen by Amtrak management under the new plan.

The new plan is not sufficient and should be upgraded by Congress.

Much like some Lincoln city officials who are determined to prevent top-flight bus service from ever being realized here by cutting back on routes and demanding that a higher percentage of passenger revenues support the system, Adams is demanding that the percentage of Amtrak revenues which cover actual costs jump from the present 37 percent to 44 percent. Thus he is insisting on an increase in ticket prices.

Rather than trying to promote Amtrak by offering specials and reduced fares, Adams wants to price it out of existence.

Driven to revising his plan by the dramatic upsurge in Amtrak passenger volumes, Transportation Secretary Adams should, one would think, consider why people are again beginning to use the trains.

It has something to do with the uncertain energy situation, Mr. Secretary, and the situation is bound to remain uncertain for a long time to come.

The situation should suggest to responsible transportation officials the need to upgrade, not degrade, the passenger rail transportation network.

Mr. GORE. Mr. Chairman, there have been dramatic developments in the last 6 months. I am fully convinced that a new era is beginning, that there is nothing so energy efficient as a passenger train. The study, the figures used by our colleagues from Oregon, are based upon 1977 data, when the trains were nearly empty and we had not yet had these dramatic ridership increases; when load factors are up to where they are today, and then when new equipment to boost the energy efficiency increases even more. Do not be fooled by the responses of the subcommittee or by the response offered by the gentleman from Oregon. In recognition of the political impact that these lines have had in all the States, they have decided to add a few more trains, but there is nothing particularly scientific about the much talked about criteria. These criteria were developed in conjunction with Amtrak, when $35 million was added.

Now, this picks up some votes for the subcommittee bill. Amtrak estimated at the time the criteria were devised that it would cost $5.4 million for the Montrealer; $9.8 million for the New York-Florida train; $12 million for the Southern Crescent; $10 million for the Inter-American. That adds up to $37.2 million, not a round figure. So, $35 million was chosen for the criteria. There is no mystery about these magic criteria.

Then, the gentleman from Oregon (Mr. DUNCAN) offers a further response to the politically restless. He notices that all of the trains are in the East, and that his region of the country is slighted somewhat, and indeed we are going to have shortly another $654 million offered for the Northeast corridor. I intend to support that whether or not the Gore-Fowler amendment passes, and I urge support for that amendment. But, the gentleman from Oregon offers a substitute, which I encourage Members to oppose, which has the broad effect of putting in three trains, all of which serve the Pacific Northwest.

Now, the Gore-Fowler amendment is the simplest, cleanest way to respond to the dramatic developments that have been occurring, that the American people have recognized. News editorials are 20 to 1 in favor of the moratorium amendment, and our constituents are overwhelmingly in favor of taking the opportunity to pause and monitor the dramatic ridership increases.

Vote for the Gore-Fowler amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, a point that was just made with regard to fuel efficiency was that the rail passenger train is the most fuel efficient vehicle around. That is just not the case universally and uniformly across the board. The fact of the matter is that a passenger car that travels with 20 percent operational capacity is not fuel efficient.

I have made a specific reference to a train, and will make it even more specific. There is a particular train that would be frozen into this system under the Gore-Fowler amendment. This train operates with one-fifth of its seats presently filled. We are talking about the height of this new resurgence back to the rail system. The fact is, that train cannot be justified, and it will go into the system under the Gore-Fowler proposal.

There are a number of other trains that constitute a drag on the entire system and will tear it down.

Much has been made as to the fact that the veto may very well not be exercised. I would bring to the committee's attention that the veto recommendation letters I received from both Secretaries, new and old, were cleared at the highest levels of OMB. I do not think we should gamble with the idea that this is just a frivolous statement.

PARLIAMENTARY INQUIRY

Mr. FOWLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. Mr. Chairman, am I correct that the parliamentary situation is that the vote, now that all time has expired, is on the Gore-Fowler amendment?

The CHAIRMAN. The question is on the Gore amendment. That is correct.

Mr. FOWLER. After that matter is disposed of, is the next item on our agenda the Kazen amendment to the substitute?

The CHAIRMAN. It would revert to the Kazen amendment to the substitute offered by the gentleman from Oregon if no other amendments are offered to the Eckhardt amendment.

Mr. FOWLER. Now, after the Kazen amendment has been disposed of, is any other amendment then in order to the Duncan substitute?

The CHAIRMAN. The gentleman is correct, but not debatable at that point.

Mr. FOWLER. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORE) to the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GORE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 214, answered "present" 1, not voting 22, as follows:

[Roll No. 376]

AYES—197

Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Bailey
Baldus
Barnard
Barnes
Beilenson
Bereuter
Bethune
Bevill
Blanchard
Boner
Bonior
Bonker
Bouquard
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burton, Phillip
Byron
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Coelho
Coleman
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fish
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Grisham
Guyer
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holtzman
Hopkins
Hubbard
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Lagomarsino
Leach, Iowa
Leland
Lent
Levitas
Lewis
Long, Md.
Lowry
McClory
McCormack
McEwen
Marks
Marlenee
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murtha
Myers, Ind.
Natcher
Nolan
Oakar
Oberstar
Obey
Pashayan
Patten
Pepper
Perkins
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rose
Rosenthal
Rostenkowski
Roth
Royer
Rudd
Runnels
Sawyer
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Studds
Stump
Thomas
Traxler
Udall
Vento
Volkmer
Walgren

Walker
Watkins
Weaver
Weiss
White
Whittaker
Williams, Mont.
Wilson, Tex.
Wolff
Wolpe
Wylie
Yates

NOES—214

Abdnor
Addabbo
Ambro
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Biaggi
Bingham
Boggs
Boland
Bowen
Brademas
Breaux
Brooks
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Butler
Campbell
Carney
Carr
Chisholm
Cleveland
Clinger
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Devine
Dingell
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Fascell
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Goldwater
Gradison
Green
Guarini
Gudger
Hagedorn
Hamilton
Hance
Hanley
Hinson
Hollenbeck
Holt
Horton
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jones, Okla.
Kemp
Kostmayer
Kramer
LaFalce
Latta
Leath, Tex.
Lederer
Lee
Lehman
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McCloskey
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marriott
Martin
Mazzoli
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Moakley
Montgomery
Moore
Mottl
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Ottinger
Panetta
Patterson
Paul
Pease
Peyser
Pickle
Preyer
Pursell
Quayle
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rousselot
Roybal
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Skelton
Snowe
Solarz
Solomon
Spellman
Stenholm
Stockman
Stokes
Stratton
Swift
Symms
Synar
Tauke
Taylor
Treen
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Wampler
Waxman
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Akaka

NOT VOTING—22

Alexander
Bolling
Broomfield
Collins, Ill.
Conyers
Diggs
Emery
Flood
Forsythe
Garcia
Holland
Howard
Hughes
Leach, La.
Mathis
Mitchell, Md.
Murphy, N.Y.
Petri
Stark
Thompson
Wilson, Bob
Wright

□ 1900

The Clerk announced the following pairs:

On this vote:

Mr. Wright for, with Mr. Akaka against.

Mr. Alexander for, with Mr. Thompson against.

Mr. Mitchell of Maryland for, with Mr. Howard against.

Mr. QUAYLE changed his vote from "aye" to "no."

Messrs. SENSENBRENNER, MURPHY of Illinois, and GILMAN changed their vote from "no" to "aye."

Mr. AKAKA. Mr. Chairman, I have a live pair with the gentleman from Texas (Mr. Wright). Had he been present he would have voted "aye." I voted "no." I, therefore, withdraw my "no" vote and vote "present."

Mr. AKAKA changed his vote from "no" to "present."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Kazen) to the amendment offered by the gentleman from Oregon (Mr. Duncan) as a substitute for the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. MARLENEE TO THE AMENDMENT OFFERED BY MR. DUNCAN OF OREGON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ECKHARDT

Mr. MARLENEE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Marlenee to the amendment offered by Mr. Duncan of Oregon as a substitute for the amendment offered by Mr. Eckhardt: In subsection (e), as proposed to be added by the amendment offered by Mr. Duncan, strike out paragraph (2) and insert in lieu thereof the following:

"(2) In any case in which more than one long distance route qualifies for operation under this subsection in any section of the United States, the Corporation shall operate service over the route in that section which has the lowest short term avoidable loss per passenger mile and the highest passenger mile per train mile.

"(3) The Corporation shall, no later than 30 days after the date of enactment of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the methodology, factors used, assumptions, and results in connection with the determination of the rail passenger service to be operated under this subsection.".

Redesignate paragraph (3) of subsection (e), as proposed to be added by the amendment, as paragraph (4).

□ 1910

The CHAIRMAN. Time has expired for all debate.

The question is on the amendment offered by the gentleman from Montana (Mr. Marlenee) to the amendment offered by Mr. Duncan of Oregon as a substitute for the amendment offered by Mr. Eckhardt.

The question was taken; and on a division (demanded by Mr. Marlenee) there were—ayes 35, noes 120.

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Duncan) as a substitute for the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt), as amended.

The amendment, as amended, was agreed to.

Mr. FLORIO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Panetta, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1030, EMERGENCY PROGRAM TO CONSERVE ENERGY

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-384) on the resolution (H. Res. 384) providing for the consideration of S. 1030, to authorize the President to create an emergency program to conserve energy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4167, MILK PRICE SUPPORT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-385) on the resolution (H. Res. 385) providing for the consideration of the bill (H.R. 4167) to amend section 201 of the Agriculture Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 79, POSTAL SERVICE ACT OF 1979

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-386) on the resolution (H. Res. 386) providing for the consideration of the bill (H.R. 79) to amend title 39, United States Code, to provide that the Chairman of the Board of Governors of the U.S. Postal Service be appointed by the President, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DIRECTING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 4537

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 33), directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 4537, the Trade Agreements Act of 1979, and I ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. VANIK)?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only so that the gentleman from Ohio can explain to the House what the gentleman is requesting.

Mr. VANIK. Mr. Speaker, if the gentleman will yield.

Mr. BAUMAN. Of course.

Mr. VANIK. Mr. Speaker, Senate Concurrent Resolution 33 makes corrections of technical errors made in H.R. 4537, the Trade Agreements Act of 1979, which was passed by the House on July 11 by a vote of 395 to 7, and by the Senate yesterday by a vote of 90 to 4. The resolution directs the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4537. These are merely technical corrections: Commas, periods, grammatical corrections, citations, et cetera. There is no substantive change to H.R. 4537 made by this resolution.

Mr. BAUMAN. Well, the gentleman from Maryland can remember our famous pin cushion bill of a few Christmases past when a similar assurance was given, not by the gentleman, but by another Member of the gentleman's committee and it was not until a month later when the press discovered that it was a major windfall for certain parties. Nothing of that nature appears in this bill?

Mr. VANIK. There is nothing to indicate there is any risk of that occurring in this resolution.

Mr. BAUMAN. And on the issue of the importation of ammunition, there is a technical correction that returns the tariff levels to the same present level; is that correct?

Mr. VANIK. With respect to ammunition?

Mr. BAUMAN. The importation of ammunition.

Mr. VANIK. No, no; there is no correction with respect to ammunition in Senate Concurrent Resolution 33.

Mr. BAUMAN. I thought the gentleman had earlier told me that there was.

Mr. VANIK. That had to deal with the importation of gun parts, which is not dealt with in Senate Concurrent Resolution 33.

Mr. BAUMAN. Gun parts?

Mr. VANIK. The tariff was reduced by the President in the multilateral trade negotiations under his Trade Act of 1974 authority. I expect to introduce a bill to correct that and restore the tariff on gun parts in compliance with the intent of Congress under previous action.

Mr. BAUMAN. So this bill does not pertain to the importation of gun parts?

Mr. VANIK. No.

Mr. BAUMAN. I thank the Speaker.

I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. VANIK)?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 33

Resolved by the Senate (the House of Representatives concurring), That, the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes, is authorized and directed to make the following corrections:

Page 77, line 24, strike out "or" and insert "on".

Page 124, line 8, between the quotation mark and "an" insert "is".

Page 124, line 9, between the quotation mark and "affirmative" insert "are".

Page 125, line 7, strike out "after September 29, 1979," and insert "on or after the date of the enactment of this Act,".

Page 131, line 4, after "1979," insert "or on the day before the date of the enactment of the Trade Agreements Act of 1979 (whichever of such dates first occurs),".

Page 132, strike out lines 5 through 9, inclusive.

Page 132, lines 10 and 15, redesignate paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

Page 132, line 17, strike out "337," and insert "337".

Page 132, line 18, insert a quotation mark immediately before "subtitles".

Page 132, line 19, insert a quotation mark immediately after "337".

Page 155, between lines 4 and 5, insert the following:

"(B) by striking out "and in basis of value" in subsection (c);

Page 155, lines 5 and 7, redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively.

Page 155, line 6, strike out "(c),".

Page 155, line 8, strike out "351(a)" and insert "350(a)".

Page 155, line 9, strike out "402(a)" and insert "402a".

Page 211, line 17, strike out "and".

Page 236, line 22, strike out "between" and insert "after".

Page 236, line 23, before "January" insert "before".

Page 240, line 17, strike out "teacups" and insert "tea cups".

Page 246, in the matter appearing before line 1, strike out "Parts of articles provided for in item 666.00," and insert "Parts to be used in articles provided for in item 666.00, whether or not such parts are chiefly used as parts of such articles and".

Page 243, line 14, strike out "716.30" and insert "716.31".

Page 260, line 4, strike out "(d)" and insert "(f)".

Page 328, line 3, strike out "the agreement" and insert "trade agreements".

Page 342, immediately before line 7 insert the following:

(c) TRADE EXPANSION ACT OF 1962.—Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended by striking out "subsections (c) and (d)" each place it appears and inserting in lieu thereof "section 302(b)(2).

Page 356, line 7, between "(D)" and the quotation mark insert a period.

Page 360, line 1, strike out "901(b)(2)" and insert "1001(b)(2)".

Page 360, line 21, strike out the quotation mark.

Page 363, strike out lines 23 and 24.

Page 364, line 1, through page 368, line 21, redesignate paragraphs (3) through (22) of section 1103 of the bill as paragraphs (2) through (21), respectively.

Page 366, line 10, strike out the comma after "sector".

Page 371, line 7, after "with respect to" insert "the matter within such section 303, 701, or 731 of".

Page 376, strike out lines 16 through 21, inclusive, and insert the following:

(3) Section 602(f) is amended by striking out the last comma.

Page 377, line 7, strike out "3(a)(1)" and insert "3(a)(i)".

Page 384, line 25, strike out "round" and insert "Round".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

□ 1920

PERMISSION FOR SUBCOMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT OF COMMITTEE ON SCIENCE AND TECHNOLOGY AND FOR SUBCOMMITTEE ON CONSERVATION AND CREDIT OF COMMITTEE ON AGRICULTURE TO MEET TOMORROW FOR JOINT HEARING DURING 5-MINUTE RULE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Natural Resources and Environment of the Committee on Science and Technology and the Subcommittee on Conservation and Credit of the Committee on Agriculture, be permitted to meet tomorrow for a joint hearing while the House is debating under the 5 minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SACCHARIN AND THE DELANEY AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 10 minutes.

● Mr. McKINNEY. Mr. Speaker, it has been a very long time since I have witnessed such a tumult of outrage as has occurred with the Food and Drug Administration's proposed saccharin ban. It is all the more remarkable because this is not an organized "special interest" protest, but represents instead the spontaneous outpouring of the "common interest" of saccharin consumers, shocked by what they perceive to be flagrant Government interference in their lives.

Clearly, the extension of a moratorium on the proposed ban is needed to allow further study into the health effects of saccharin. The need for such study has been confirmed most recently by the National Academy of Sciences (NAS) in a two-part report to Congress on the risks and benefits of saccharin. NAS reported it "could not derive, with confidence, an estimate of the quantitative magnitude of the risk posed by saccharin under the circumstances of use in man." More importantly, however, the extension of the moratorium will offer protection to the millions of Americans whose health might be seriously affected by the absence of saccharin or an alternative. Overweight and diabetic persons would be especially endangered by a premature ban. Therefore, I urge my colleagues to vote in favor of H.R. 4453, legislation to extend the moratorium on the proposed saccharin ban for 2 more years, until June 30, 1981. Further, I commend the Committee on Interstate and Foreign Commerce for taking prompt action which will allow us to address the May 23 expiration of the saccharin ban by acting to keep saccharin on the market.

I must point out, however, that the larger question posed by the saccharin controversy remains to be considered by this body. Clearly, the attention of public outrage has been directed not only against FDA attempts to ban saccharin, but also against the Delaney amendment to the Food, Drug, and Cosmetic Act which requires the FDA to act against any substance shown to cause cancer in humans or animals, no matter how remote the risks may seem. Without question, such an unequivocal requirement leaves no room for evaluation of conflicting scientific evidence, nor does it give the FDA any flexibility to asses test data in terms of dosage. The law admits no qualifications, while providing no guidelines.

Many bills have been introduced to amend the Delaney clause, to make it more in touch with the realities of today's modern science. From my research, however, I gather that even if the Delaney amendment did not exist, the FDA would still have the authority, under the general food additive provisions of the Food, Drug, and Cosmetic Act, to ban saccharin as a harmful substance in the food supply. Thus, changes in the language of the Delaney clause would not necessarily insure continued availability of saccharin to consumers. Therefore, I am concerned that the public may be deluded into thinking that simple repeal of or an amendment to the Delaney clause is the complete answer.

I believe there is fairly widespread recognition that outright repeal of the Delaney amendment would be a disservice to the American people. There is no question but that the clause has served our citizens well over the years by protecting them from additives which have been proven dangerous. Indeed, many believe the Delaney language is essential to prevent scientists from having discretion to decide whether the benefits derived from a cancer-causing agent outweigh the risks. Even if all the evidence is in, defining acceptable risks to public health and weighing them is an extremely difficult job for there is no universally acceptable scientific basis for such discretion. Moreover, there is no known minimal dose below which a carcinogen can be considered safe and the effects of repeated exposure to carcinogens, even in minute quantities, may not show up for as much as 40 years. Congress then must not act precipitously on this issue and great care must be taken to insure that proposals to amend the Delaney clause are faithful to the basic concept of protecting the public interest.

Frankly, I am worried about the approaches embodied in some of the legislation which has been introduced in past years to resolve this issue. For example, to require all food additive safety tests to be based on the probable human consumption—that is, quantity—can, I believe, only invite further trouble. Such measures have been proposed, of course, because the rats in the famous Canadian tests on saccharin were fed such large amounts of the substance that a human being to ingest it in a comparable dose would have to drink 800 diet colas per day, or consume 1.5 million packages of artificial saccharin per year. These incredible amounts have met with vast ridicule. However, apparently cautious toxicologists as a matter of practice employ doses in the range of that utilized in the Canadian study before deciding whether a substance is safe. Defining and determining reasonable amounts for additives could involve us in endless controversy.

In addition, to require all food additive safety tests to be based upon the cumulative effect of the food additive in the human diet is to tread into the unknown. While saccharin has been used by Americans for approximately 80 years—and much has been made of this fact to prove its safety—until very recently this artificial sweetener was not consumed in significant amounts. It was during World War II that saccharin came into widespread use and it is expected that, should the suggested problems anticipated by use of this artificial sweetener prove true, increased bladder cancer would be occurring in the children born to mothers who consumed saccharin during World War II. It is estimated that it takes 20 to 40 years for tumors to appear. Because bladder cancers usually do not appear until about the age of 50 or after, it will be some 15 or more years before we can know the actual effect of saccharin use, since those children are now only 35 years old. Only time can provide us with the evidence we need concerning human consumption of saccharin, its interaction with body enzymes, and its carcinogenic propensities. At this time we do not have data regarding the cumulative effect of this particular food additive, much less others presently in use or which may be developed, and it would be dangerous to incorporate such a requirement into law.

Further, I cannot support measures amending the Food, Drug and Cosmetic Act to specifically bypass existing statutes and permit the sale and use of saccharin. Such a special legislative exception for saccharin would set a dangerous precedent. Should other additive controversies erupt, similar legislative exemptions would be sought for those agents as well, resulting in the hopeless undermining of the regulatory process. It is not nor can it be the role of Congress to make scientific judgments governing individual food additive decisions.

However, I do believe the saccharin controversy illustrates the need for incorporating an appeals process under the Food, Drug and Cosmetic Act—an appeals process not just for saccharin but for other additives and/or food substances which have been banned in the past or may be banned in the future. Hence I have joined my colleague, the gentleman from North Carolina, Congressman JAMES MARTIN, in cosponsoring his legislation to provide a mechanism for such an appeals process and to allow for reconsideration of an adverse determination by FDA. Under this measure, the Secretary of Health, Education, and Welfare would be granted discretion to consider the benefits as well as potential risks of an additive in determining whether to grant approval for its use. The proposed legislation would also allow regulators to discern the various risk levels of food substances and would allow a wide variety of regulatory approaches rather than requiring a complete ban on a product. This approach is in line with recommendations made by the National Academy of Sciences in part II of the NAS report to Congress.

The Martin legislation does not repeal the Delaney clause. Rather, it insures a degree of flexibility in FDA decisionmaking which is absent in the current testing procedure. And, in making the finding regarding the public risks and benefits of a food additive, the Secretary of Health, Education, and Welfare can take into account the best evidence and expert judgment possible. Hence, an opportunity would be available for evaluation of the scientific validity of tests and other pertinent animal feeding studies and human epidemiological studies. The FDA could then authorize continued use of the agent only if the Secretary found that the public benefits of such use clearly outweigh public risks. Further, the Martin proposal provides a vehicle for providing alternatives to the FDA other than banning a product when adverse test results are reported. If the test results remain inconclusive, or if the public benefits are determined to outweigh public risks, the Secretary of Health, Education, and Welfare could authorize alternatives to reduce human exposure without a total ban. This could lead to restricted use, with a low-risk designation assigned to a product. Possibly the sale of saccharin products would be permitted when accompanied by a health warning, or sale of saccharin would be restricted to special sections of retail outlets. Either of these approaches would serve to alert the public to any dangers associated with saccharin consumption.

To grant flexibility in FDA decisionmaking raises the question of Government's role in protecting the public. Surely no one objects to Government action in halting the production of Kepone or other such deadly chemicals that destroy the human nervous system. In that case the evidence was clearly before us in the bodily deterioration of many of our citizens. What, then, is the Government's role in protecting the public from an agent not considered dangerous by its users where there is conflicting test data regarding its safety? Without question, flexibility is a tremendous responsibility, a very delicate procedure with far-reaching ramifications.

However, I believe the additive section of the Food, Drug and Cosmetic Act would be strengthened by the inclusion of the Martin bill. Should the dangers of a food substance be clearly delineated and test data conclusive, the Secretary of Health, Education, and Welfare would have little difficulty in reaching his determination. In cases like saccharin, however, where test results vary and the scientific community is divided on the question of its safety and efficacy, then the ensuing public uproar can only lead to an undermining of the effectiveness of our food safety laws and the governing regulatory process. An appeals process is necessary so that the issues can be openly debated. In this way, not only will the public be educated on the possible hazards of the substance but they might also find renewed confidence in Government and regulatory agencies.

BEN WATTENBERG SAYS "IT'S TIME TO STOP AMERICA'S RETREAT"

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 20 minutes.

● Mr. KEMP. Mr. Speaker, 40 years ago, national attention was focused on this Chamber as the debate between isolationists and interventionists centered on the extent of American involvement in the hostilities then occurring in Europe and the Far East. The issue was only completely resolved after the tragic incident at Pearl Harbor, which unified our Nation into a state of emergency.

At the end of the Second World War, American military power combined with its economic and technological resources provided the centerpiece of the free world. The era was called the beginning of the American century. Our national leaders became cognizant of this new leadership role for America, and moved the Nation in the direction of internationalism, more specifically to become the cutting edge of foreign aggression.

Our military power was effectively used to check the spread of Nazi aggression while our economic and technological example was expected to assist other free nations to become self-sufficient. This was all possible because America was the No. 1 military force in the world—a situation that earned us widespread respect around the world both by our friends and our adversaries. This respect gave birth to such organizations such as NATO and SEATO, and our friends abroad knew that they could count on our support if their borders were ever threatened.

American internationalism turned parochial after Vietnam. Our friends abroad began to question the limits of our resolve to protect their interests. Our economy began to shatter, technological advancements more and more began to surface in other nations, and American productivity slackened off. Neoisolationists argued that America should stay at home to take care of its own problems. and let the world fend for itself.

Today we are experiencing the results of that neoisolationist policy. The world has recently seen revolution in Iran, the cutting loose of Taiwan by America, another war in Vietnam, assassination in Afghanistan, Cuban guerrillas stirring up trouble all over the world, and, of course, the growth of OPEC. Publications all over the world correctly labeled this "America in retreat." In a nutshell, America had given a signal that it was no longer going to use its military might to end foreign turmoil. The policy of peace through strength had finally given way to moral persuasion, and it just did not work.

In recent months it became increasingly evident that the American people have become more interested in returning to a harder line on impacting world events. The concerns over SALT II, long gas lines, Cuban intervention, and nuclear proliferation around the globe have awakened a new sense of urgency in our citizens.

The very able journalist and social commentator Ben Wattenberg has captured this concern in a recent edition of the New York Times magazine in a penetrating article that traces our foreign policy over the last few decades and provides an insight into the pitfalls our Nation will be facing as we enter the 21st century. Wattenberg concludes that—

> Our problem is not too much, but too little power. The old chestnut of "peace through strength" makes ever greater sense. The realization has dawned on us again that our culture, our values, our ideas are worth defending. And our nation seems ready to act, moderately, on this proposition.

Mr. Speaker, I believe that Ben Wattenberg is correct in his assumptions, and commend this excellent article to my colleagues' attention and ask that the complete text be placed in the RECORD.

IT'S TIME TO STOP AMERICA'S RETREAT

(By Ben J. Wattenberg)

There is a rhythm to the ideas of men. Thus, for an extended moment—call it from Tet to the Ayatollah—there seemed to be a growing sense that America's experience in Vietnam had repealed many of the old precepts of statecraft.

What were these old precepts? Well, why were we in Vietnam in the first place? To defend freedom, said L.B.J., and to honor our commitments so that other nations would not acquire an image of America as a paper tiger, and to prevent Communist forces from taking over other countries and toppling the dominoes one by one. And just how would we go about accomplishing this? We would do it with raw power—not because we wanted to do it that way but because, as events unfolded in Vietnam, there was no other way.

As Vietnam turned from an agony to a tragedy to a debacle, as it seared and shaped the minds of those who opposed the war and ultimately of many who supported it, these old precepts came under challenge. The rhythm of our era took us through a time when a new catechism emerged under the rubric of "The Lessons of Vietnam."

To the early doves and some of the latter-day doves, too, many of these lessons seemed clear. American power, they felt, was not a last resort that got you out of trouble; American power was, in fact, what got you into trouble. We suffered, they said, from an "arrogance of power." We were "overextended." That "domino theory," of course, was "discredited." What had taken the shine off America's international image was our belief that human blood should be shed in the defense of something as intangible as that image. And freedom? Well, was the "corrupt" Thieu Government an exemplar of "freedom"?

And so it seemed to many that the old rules deserved to be challenged, even junked. Just as a "New Politics" formed in reaction to Vietnam, so too did a new foreign policy. It was a policy, said its advocates, that was less muscular, more accommodating, and lower in profile. It was a policy, said its critics, that was weak and retreatist. When Jimmy Carter, a man often in tune with the rhythm of American thought, took over as President, he staffed his foreign-policy agencies with people who accepted these soft-line "lessons" derived from "the trauma of Vietnam."

And then—suddenly—chaos.

Late last year and early this one, a grim sequence of events seemed to create a sense of what newsmagazines quickly labeled "America in Retreat." Revolution in Iran, withdrawal from Taiwan, war in the Yemens, war (once again) in Vietnam, a Communist coup and then assassination in Afghanistan, near anarchy in Turkey, price buccaneering by OPEC, mercenary militarism on Cuba's part in Africa, and, perhaps most symbolic, gaucherie and rebuke in Mexico.

The world was unraveling—or so it seemed. And as this happened, the melody of an already swelling new mood in Washington gained still more volume. The metronome was swinging again to the rhythm of our time. The crux of this new mood, I would suggest, can be defined as "the dawn of old ideas in a new era." And as one listens to the talk here these days, a feeling grows that if the President's State of the Union message had been delivered today instead of in January, the contest for a snappy slogan might have properly been won not by "New Foundation" but, perhaps, by "Old Foundation."

What are these old general rules that are now enjoying a new esteem? And how do they apply to what is clearly a new era in world politics and power? Consider, to begin, four such dictums, all of which are coming out of the closet now with a vengeance.

The first rule is that image counts.

Once upon a time there was an American President named Richard Nixon who said that unless the United States flexed its muscles occasionally, the world would come to regard us as "a pitiful, helpless giant." That notion was greeted with derision.

But recent events suggest that it shouldn't have been. As it is in life, so, too, in statecraft: Image and perception may count as much as reality. In fact, they ofen become reality.

Late last year, just a moment before the world seemed to start shuddering before our very eyes, Zbigniew Brzezinski, Assistant to the President for National Security Affairs, spoke from a podium in an elegant hotel ballroom to a crowd of about 500 card-carrying members of the foreign-policy establishment. In his clipped, precise manner, he delivered a coherent and official view of the Administration's foreign policy.

When this Administration came into office, Dr. Brzezinski informed us, it identified a series of major problem areas facing America and the world: rich nations versus poor nations, East-West problems, military security, economic and trade problems, disarmament, human rights and so on. He was pleased to report that progress had been made on all these fronts. Such was the message that consumed roughly 44 of the speech's 45 minutes.

During the final minute of his address, however, Dr. Brzezinski acknowledged that, of course, the world was not a perfect place and some problems remained. He named two: The Russians were continuing a massive military buildup, and, he noted further, "an arc of crisis" now stretched "along the shores of the Indian Ocean." End of speech. Polite applause.

I left the hall and a few minutes later was at a small luncheon at the American Enterprise Institute with a man I will identify only as "Diplomat X," who happened to come from one of those nations in "the arc of crisis." His message differed considerably from Dr. Brzezinski's.

What on earth is going on? he thundered. The word is out around the world. Your great country, on which we all relied, is retreating from the world arena. We allied ourselves to you, antagonizing the Soviet superpower, and suddenly we find ourselves out at the end of the plank. And so we may have to cut a deal with the Soviets. We do not like this, because cutting deals with the Soviets is hazardous—and often the Soviets end up holding all the cards. But we now have little choice.

"Diploma X" concluded by saying that he was sure that one day America would regain its senses—sooner, he hoped, rather than later. But in truth, he did not know whether the damage done by then would be reversible.

Now, the purpose of this exercise in the "Rashomon" of foreign policy is not to determine whether Dr. Brzezinski or "Diplomat X" is right about the state of American power. We already know the answer. "Diplomat X" is right. His nation has perceived America as weak. The sources of this perception are many: our lack of effective response in Angola, the Horn of Africa and Iran, our lack of response to, or alarm over, a Russian-surrogate takeover in Afghanistan, our inability to deal with a Cuban expenditionary force in Africa, our planned withdrawal of troops from South Korea, the demoralization of our C.I.A., our decisions to shelve the B-1 bomber and the neutron bomb, the feeling that we have been siding with our adversaries instead of bolstering our friends—and so on and so forth.

Of course, "Diplomat X" may well be objectively wrong about any or each of these cases or conditions. But that is not the point. When "X" and his diplomatic colleagues talk privately over drinks late at night, they are thinking and saying that the United States is in retreat. And then they, and their governments act accordingly. Soon thereafter, one picks up the newspaper and finds a pro-American government acting neutral, or a neutral government acting pro-Soviet, or another batch of Cubans popping up in yet another African country, or another oil price hike that we didn't expect.

An example of the consequences of America's image as a helpless giant is what is happening in Saudi Arabia. The Saudis were horrified by what they perceived to be American weakness in Iran. Was it an accident that, following such horror, they made softer sounds to the Soviets, were less willing and able to put a brake on escalating OPEC prices, and didn't lift so much as a finger to help us out with the Egyptian-Israeli peace treaty?

Image counts. If other folks think you're a pitiful, helpless gians (or, in the Ayatollah Khomeini's felicitous phrase, "a defeated and wounded snake"), you're halfway there.

The second resurgent rule is that power counts.

The reassertion of this notion is similar to another great reassertion currently sweeping down the boulevards of Washington. "There's no free lunch," says Milton Friedman in the realm of economics. Everything costs something.

And so, too, in the realm of power and statecraft. Thus it is not very difficult to run a domestic three-ring circus around the Central Intelligence Agency. That's a free lunch. Senators can fondle poison-dart guns in front of television cameras. The agency can be denounced as a "rogue elephant." A battalion of legislators can be empowered to provide oversight. (Today a C.I.A. "secret" must be shared with eight Congressional committees and scores of typically tight-lipped legislators.)

All that is free and easy. What is not easy is to do this and still expect the C.I.A. to be able to do its job. The chutzpah award of the decade goes to those legislators who beat up on the C.I.A. with great glee and then demanded, "How come we didn't know what was going on in Iran?"

"No free lunch" means that a demoralized intelligence agency, oversighted to death and scared of its own political shadow, is not likely to come up with coherent and tough-minded plans to squeeze Cuba in the right places so that Castro might decide that maybe his African adventure isn't such a good idea after all. Does anyone believe that such active planning is going on? I don't believe it because if it were so, given the current state of leakage, I would already have read about it in the newspapers.

Further, "no free lunch" also applies to more conventional modes of power. Suppose that, for a period of a decade, the United States declares that it has to "reorder priorities." Suppose it decides that the way to do this is to "cut the bloated military-industrial complex." And suppose that this goes on at a time when the Soviet Union, our principal adversary, is reordering its priorities in exactly the opposite direction—beefing up and further bloating its military-industrial complex. If all this happens, the old-fashioned rules say that somebody, somewhere, will end picking up that lunch tab.

In the 1960's, the United States spent about 9 percent of its gross national product on military expenditures and about 10 percent for social welfare. Today, the military portion of our G.N.P. has fallen to 5 percent, while social-welfare spending has risen to 21 percent—a rather successful re-ordering indeed.

Moreover, during this same period, spending by the Soviets on defense has soared. (Modest estimates say 15 percent of the Soviet G.N.P. goes for defense.) The common phrase for it is that the Soviets have undertaken "the largest peacetime military build-up in history." A few years ago, such a phrase was the exclusive province of hawkish types like me, but today it is no longer seriously contested at any point on the ideological spectrum. Simply put, the Soviet Union has at least caught up with the United States in military power—and, as the current wisdom has it, unless the spending trends are reversed either by us or by them, America will in a few years be "No. 2" in military might.

We know this. They know this. And the rule of "no free lunch" holds that if they have more power and we have less, the Soviets will use what they have and be able to use it more effectively. If they want to back Cuban troops in Angola with massive economic resources, a wide array of military supplies and a resupply capability based on a newly developed blue-water navy, why, they will do it. And if, because of what we have done to our C.I.A., to our military power and to our own heads, we don't back UNITA, the still viable, still pro-Western Angolan guerrillas, it makes it just that much easier for the Soviets.

Power counts. And, in the language of the really old foundations, it abhors a vacuum.

The third rule: Dominoes live.

Exactly how the word "discredited" became attached to the phrase "domino theory," during precisely those years when events were bearing it out, will no doubt remain a linguistic mystery for some time. Yet the facts are plain: Almost immediately after the fall of South Vietnam, Communist governments or puppets did assume power in neighboring Cambodia and Laos, just as predicted. For good measure, and in an ironic twist, when Communist Vietnam didn't like the behavior of Communist Cambodia, it simply marched in, toppled the new domino and installed its own surrogate government.

So much for literal dominoes. But figurative dominoes were always more important in the diplomatic house built on the old foundations. Simply put, the domino theory was (and is) shorthand for the truism that events in one country influence events in others.

How could anything so obviously correct ever be "discredited"?

The validity of the figurative aspect of the domino theory was underscored in our newspapers during the recent days of tumult. Some months ago, doves laughed when "cold warriors" got hot and bothered about the pro-Soviet coup in Afghanistan. A backward, out-of-the-way country, they giggled. Makes no difference. But when the Shah experienced his recent unpleasantness in Iran, it wasn't so funny when reports came through that pro-Communist infiltrators were passing from that same Afghanistan into Iran in a continuing attempt to turn Khomeini's revolution into the Kremlin's.

And so it goes. Dominoes.

We will come to our fourth rule in a moment, but consider first a challenging question often raised over the past dozen years about the aforementioned three: So what?

So what is North Vietnam takes over South Vietnam? So what if the Soviets float a massive new navy and surpass us in nuclear firepower? So what if Cuba sends troops to Africa? What do any of these remote things have to do with us? Will the Soviets land in Montauk and march west?

This question is asked less frequently these days as the old foundations reappear. Partly, as I sense it, this is because some international events have had such a powerful impact on our domestic situation. "So what?" is an unrefined question at a moment when international conditions have driven the dollar down and gasoline and inflation up—phenomena felt on every street corner, in every supermarket and on every gas line. But in addition to these domestic implications, there is another old brick of an answer to "So what?"

The answer is our fourth resurgent rule; Freedom counts.

The foundation of American post-World War II foreign policy was clear: The Western notion of human freedom was threatened. Unless the United States defended these Western values, they might decline around the world, primarily under Soviet pressure. And if these values eroded around the world, sooner or later they would erode here as well.

It was, to be sure, a noble concept, but one that just as surely got us into trouble at times. Under such a policy it was easy enough to support other Western industrial democracies. But it also meant supporting other nations that were allied with us in resisting Soviet advances—even if those nations were not themselves democratic. At its most convoluted, the policy occasionally resulted in Americans' using covert, undemocratic means to support undemocratic governments threatened by internal forces that at least professed democratic beliefs.

Still, for all its complexity, there was a consistent purpose—and a moral one, at that—behind the sometimes roccoco curlicues of who was friend and who was foe. As John Kennedy said, we were the "watchmen on the walls of freedom." That old brick, of course, was kicked aside during Vietnam. J.F.K.'s idealistic language was held up to mockery. (Cold Warrior!) Our allies in Vietnam put people in tiger cages and we weren't any better, what with napalm and My Lai.

But it was Dr. Johnson who said, "Depend upon it, sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully." Something like that seems to be happening to us now. As we end up on the short side of the operative principles of power, image and dominoes, our minds, too, are concentrating, and we are being forced to look squarely at that earlier guiding principal of our foreign policy, the defense of Western values.

No one would dare use the phrase "Communist menace' these days, but there are Communists and their footprints are still menacing. Solzhenitsyn has exposed the horrors of the Soviet gulag, and the Chinese version was denounced by none other than Deng Xiaoping. One can assume that Mr. Deng has a more accurate notion of the Chinese paradise than a generation of Western liberals who saw "a human symphony" (in Shirley MacLaine's inmortal phrase).

Another bubble has burst in Indochina. The "boat people" are fleeing Communism just as the East Germans did a generation earlier—and as they did not flee the "corrupt" General Thieu. And in Cambodia, the Khmer Rouge blood bath provided, in extremis, the horror that has come to be associated, in one way or the other, with Communist takeovers around the world.

So if Western values are still under siege, if the alternatives seem dreadful, and if America's power is diminished, one is pushed to ask yet another difficult question: Can our values ever really flourish in a world where "the United States is in retreat"? And the answer one gets in Washington these days is a gloomy "maybe."

Now, in normal parlance, an answer of "maybe" carries little thought of imperative action. But consider "maybe" when it is used in this sentence: "Well, it's true we don't really understand the tides of history, but maybe the nature of Western civilization will be undermined if America doesn't turn things around. . . ." Now, that's a pretty big "maybe" to try to get to sleep with in the quiet, still hours when even harried diplomats must think about the long-range effects of what they're doing.

Let us note that 10 minutes before the Dark Ages began, people were not sitting around their parlors saying, "Tut, tut, in 10 minutes the Dark Ages will begin." But recently, as I sense it, much of official and semiofficial Washington—in the Administration and Congress, in the think tanks and the plush law offices where outsiders wait to become insiders again—has been musing in this cosmic way. So far, our Western freedoms have represented a mere blip in history. There is no guarantee they will survive in any event, but the odds go down if we predicate that our children will live in a world where the Soviet Union is the most powerful military force on earth, and if we and our Western friends are perceived internationally as either "in retreat" or impotent. Fourth rule resurgent: Freedom counts.

And so there is a clammy feeling in Washington. Accordingly, foreign policy has rather suddenly become recognized as a key Presidential issue for 1980.

As President Carter and his spokesmen watched the great unraveling earlier this year, they pursued two lines of public defense of their positions. "Restraint" was their policy, they said, and anyway, they asked, "What can we do about it?"

These arguments are less than robust on the campaign trail. Americans believe that a President is paid his salary not to ask what can we do about it, but to do something about it. Recent public-opinion polls, in fact, show the nation turning steadily to a more hawkish, prodefense posture. If President Carter hasn't sensed this, his Republican opponents certainly have. From Senator Howard H. Baker's call for an end to bipartisanship in foreign policy to John B. Connally's more vigorous call ("We have to make up our mind that the United States is the leader of the free world, and if we are not the leader, there will be no leader"), the Republican political sharks smell blood in the water. Nor are they above explaining that gas lines and high prices have some of their roots in foreign circumstances.

So politics, too, are conspiring to a move toward a reassessment and reassertion of America's international position. If Archimedes didn't say it, he ought to have: "Give me the lever of domestic political advantage and I can move the world."

What, then, can we do, besides saying, "What can we do about it?"

The first step toward an answer involves acknowledging that there is merit in the Carter Administration's oft-proclaimed view that we live in a new era. It is surely true that we do not have the same ability to control events around the world that we once had. There is a new set of "multipolar circumstances, and friends, foes and neutral are all more powerful than they used to be.

But that there is a new set of global circumstances, for one example, does not mean that America must remain denuded of an intelligence agency. That can be changed, quickly and unilaterally, while still allowing for some form of reasonable oversight.

That there is a new era does not mean that the Soviets must be allowed to become the dominant military power. It is an ugly fact but a fact nevertheless that America's defense spending must be determined by the Kremlin, not by the poor condition of our cities. The United States and its allies still make up by far the mightiest assembly of technological and economic resources known to history. The idea that we cannot afford a given amount of defense to meet Soviet activity is, simply, hokum.

Still, we can never go back to our military supremacy of the 1950's. That there is a new era in which our military power is necessarily diminished in a relative sense may well mean that we have to think once again about playing hardball with the Soviets on economic matters. The "discredited" Jackson Amendment linking American trade preferences to Soviet emigration policy is about as "discredited" as the domino theory. The Soviets have recently loosened up their emigration policy in an attempt to gain trade benefits. That is precisely what the Jackson Amendment intended, and the question now is only whether we hang tough and nail down a good bargain.

There are other economic linkages, admittedly complicated, that deserve consideration. The Soviets need Western technology, grain and so on. In the new era, they may well have to expect to pay a political price for what they need. The phrase for such a policy is "the wealth weapon," and it is an instrument that can be wielded only as a scalpel, not as a blunderbuss. If the Soviets want wheat, for example, we might be able to design a sales and licensing procedure that would key such trade, perhaps subtly, perhaps publicly, to a lessening of the rate of increase of the Soviet military buildup.

In the new era in which American raw power is diminished, there is all the more reason to look at our sources of refined power. The campaign for human rights, brilliantly begun and sadly executed by President Carter, is such a power source. Our human-rights policy, originally designed to deal with strong adversaries, has become a switch with which to whip weak allies. It is, after all, easier to berate Chile and South Korea than the U.S.S.R. This should change. Poised as it is on a potential powder keg of restless nationalities within its borders, challenged in Eastern Europe by the galvanized divisions of the Pope, scorned now even in leftist intellectual salons around the world, the Soviet Union will be a much less dangerous force in the world if we make sure that it remains on the ideological defensive by renewing our campaign for human rights.

Now, it's true, all these suggestions do not tell you what to do on the day when the gunmen take over your embassy or when the Cubans arrive in yet another African country or when another neutral state acquiesces to Soviet pressure. All that a change in American foreign policy along the lines suggested here will do is make it somewhat less likely that such events will plague us in the future, less likely that a future American administration will have to say, quite so often or quite so plaintively, "But what can we do?"

The Carter foreign-policy team, often still mired in the mentality of the late 60's, may well have been the last to know, but under the combined pressures of circumstances and politics, the Carterites, too, are beginning to understand once again the old precepts and to unlearn some of the "lessons of Vietnam." I think, for example, that a case can be made that the final and successful push for the Egyptian-Israeli peace treaty came only after the Iranian collapse, after the tumbling-house-of-cards sensation, after the newsmagazines asked if "America was in retreat." Aside from all the other valid reasons for such a treaty, suddenly America needed the treaty to send a message to the world that our writ had not run out. And we were able to make it happen by letting both Egyptians and Israelis know that, at least in this one area of the globe, America was still the world's policeman.

Our decision to send arms to Yemen was also of major symbolic significance. Just about every official I spoke to at the State Department volunteered the thought that such a situation would not have engendered such a response only a few months earlier. One assistant secretary said to me, "I was against sending the aircraft carrier to the Yemen area. What the hell can a carrier really do there anyway, besides get sunk? But once we did it—by God—it did make sense. Everyone—us and them—suddenly knew we were playing for keeps. And that becomes a big fat fact." Now, for good measure, there is talk about establishing a new U.S. fleet, the Fifth, to patrol the littoral of the Indian Ocean.

Recently, too, the President has finally approved plans to go ahead with some aspects of the MX missile system—to applause from the Pentagon—in an effort to help passage in the Senate of the SALT treaty.

Indeed, it is likely that the SALT debate, too, will deal with the dawn of old ideas. It is fair to guess that more than one senator will speculate out loud that he could find it easier to vote for SALT if the Russians sent their Cuban mercenaries back from Africa to their island cane fields. Quite properly, the SALT debate will address the big issue of whether the policy of détente, which was designed to end the cold war, has turned into a policy whereby we are losing the cold war because of our neglect of the old rules of statecraft. Simply put, it is doubtful that the President will be able to obtain solid endorsement of the SALT treaty if Americans believe that "the United States is in retreat."

And so, the pendulum is swinging—for the third time in a third of a century.

After World War II, the United States filled a massive power vacuum while the European nations and Japan, with our assistance, rebuilt themselves. Our mood was expansive and internationalist. In a brief moment, our technology and culture spread across the world; our military might was unparalleled. The American century had arrived.

But the view of American power began changing in the late 1960's and early 1970's, at least among a good portion of American elites. Our power had gotten us into trouble. We identified our adversary; a generation of activists paraphrased Pogo's words: "The enemy is us."

So the pendulum swung back. The Presidential candidate of the largest and oldest political party of the free world in 1972 was described as a "neoisolationist." George McGovern was a big loser in the election, but his plea, "Come home, America," surely represented a new view held by many influential Americans.

Now the pendulum is swinging once again. Our problem is not too much but too little power. The old chestnut of "peace through strength" makes ever greater sense. The realization has dawned on us again that our culture, our values, our ideas are worth defending. And the nation seems ready to act, moderately, on this proposition.●

AMTRAK

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 20 minutes.

Mr. COLLINS of Texas. Mr. Speaker, the floor discussion on Amtrak today overlooked the basic facts. Amtrak has few passengers per train-mile. In the report for the House on the Amtrak Reorganization Act of 1979, I joined with Mr. DEVINE, of Ohio, in the minority views.

H.R. 3663 means more spending by Congress. Amtrak cannot justify the need for this money based on their past experience or current operations.

Here are our minority views on Amtrak.

Minority Views on H.R. 3663, Amtrak Reorganization; United States Railway Association Authorizations; and Office of Rail Public Counsel Authorization

If H.R. 3996 did not represent such a burden for the American taxpayers, it could be considered a joke. Unfortunately, few taxpayers will see much humor in siphoning nearly three billion dollars of their hard earned tax money to roll along on empty Amtrak trains.

The first year cost of this bill is $916.2 million. The cost for FY 1981 is $929.5 million, and $980 million for FY 1982. The sum of those figures is a whopping $2.825 billion. All but $28 million of that total is for Amtrak.

The simple fact of the matter is that the taxpayers receive virtually no benefit from this massive drain of their tax money. We believe that the time has come for the Congress to act responsibly by eliminating Amtrak. While Amtrak has been a noble experiment—born as a desperate attempt to keep passenger service from dragging all the nation's railroads into bankruptcy—eight years of effort have failed to demonstrate a real need for the service. We cannot afford to keep Amtrak going simply because it permits Congressmen to have a toy railroad and labor unions to have institutionalized featherbedding.

During the last Congress, the General Accounting Office prepared a report for the Committee which summed up the reasons that Amtrak has not been able to create a use for its services. In testimony before the Commerce Committee on March 20, 1978, the Director of the Community and Economic Development Division of GAO testified that:

> Amtrak's biggest problem is that there are not enough people who want to use the train for intercity travel. While Amtrak attracted about three million more passengers in fiscal year 1977 than it did in 1972, it did so by substantially increasing the number of trains available. The number of revenue passengers per train has decreased. The reasons why demand does not exist in spite of Amtrak's low fares (fare revenue averaged only about 35 percent of operating costs) are fairly straightforward. Air travel is much quicker and more convenient for time-sensitive travelers, smoother and more comfortable (especially considering the comparatively short time the traveler must occupy the airplane), and on longer trips, almost the same price as Amtrak. Buses go more places than Amtrak. Usually at a lower cost to the traveler. Automobiles give travelers more control over where and when they go, are convenient to have at a destination, and, on a marginal basis most people use to make travel decisions, are perceived as being much cheaper than the train, particularly when more than one traveler is involved. (Page 55.)

Amtrak's revenue passenger miles per train mile is still considerably less than it was four years ago. In FY 1978, revenue passenger miles per train mile were 111.7. This compares with revenue passenger miles per train mile of 126.81 in 1975. The decline occurred even though Amtrak (1) increased trains; (2) increased train miles; and (3) increased routes. As a matter of fact, Amtrak had fewer revenue passenger miles (3,494,690) than there were in existence just before Amtrak was created (4.4 billion revenue passenger miles).

Less than a year ago, the Amtrak Improvement Act of 1978 (P.L. 95–421) became law. When that bill, H.R. 11493, was reported by this Committee, we filed Minority views to accompany the Committee report for the following five reasons:

(1) Amtrak had failed;

(2) Amtrak cost the taxpayers too much;

(3) Amtrak provided no public benefit;

(4) The freeze in H.R. 11493 guaranteed another 18 months of extravagant waste; and

(5) H.R. 11493, in effect, prohibited even the Secretary of Transportation from taking off a single train, then or in the future.

All of those warnings have proven to be true although the Secretary of Transportation did attempt to reduce the size of the Amtrak system when he submitted his route restructuring plan in January of this year.

The Committee twisted, turned, and all completely mangled the Secretary's efforts at rationalizing Amtark. In this bill, Section 117 attempts to undo all of the Secretary's efforts by adding "additional qualifying routes." In that section, any train which has been recommended or discontinuance by the Secretary can be added back if it meets some fuzzy criteria based on facts and figures which are not real, but rather projected for the fiscal year ending September 1980. Naturally, the projections are undertaken by Amtrak itself which was we assume still has its compelling urge to grow like Topsy at the expense of the taxpayer.

Amtrak's growth can best be measured by examining the funds authorized for Amtrak under this bill. The Committee has carefully broken down the operating subsidies for Amtrak into several categories in order to disguise the fact that Amtrak's costs continue to escalate. For example, section 120 of the reported bill contains seven different categories in order to make it appear that Amtrak is getting less rather than more money. In Category A, which is for the payment of operating expenses for the basic system, the first year authorization is $552 million, the second year authorization is $591 million, and the third year authorization is $598 million. This category was contrived in order to reflect figures suggested by Secretary of Transportation Adams as the sums that should be spent for his proposed restructuring of Amtrak. The similarity between the Secretary's recommendation and the Committee's reported bill ends at that point.

The second authorized category for Amtrak involves capital expenses. The first year authorization is $230 million, some $60 million more than suggested by the Secretary of Transportation. The second year authorization is $253 million, over $60 million more than was suggested by the Secretary of Transportation under his proposal. The third year authorization for capital expenditures is $271 million, again considerably more than was requested by the Administration. The differences in figures between the capital expense requests of the Secretary of Transportation and that provided by the Committee is even more significant when one considers that labor protection costs are included within the Secretary's recommendations for capital expenditures and the reported bill contains a separate category for such expenses. The third category of expenses authorized by the reported bill involves expenses for State subsidized service. At the present time, approximately $7 million of Amtrak's budget is used for State subsidized service. The bill reported by the Committee contains a first year authorization of $25 million; a second year authorization of $30 million and a third year authorization of an additional $30 million. Hopefully, States will continue to use better judgment than the Federal government by not adding State subsidized intercity rail passenger service for the amusement of State legislators or as an employer of last resort. Apparently, the majority of the Committee anticipates some ground swell or State subsidized service by increasing the authorization for that purpose by nearly 400 percent.

Not satisfied with using the taxpayers' money to run inefficient intercity passenger trains around the country, the Committee added an additional new category of expenditure by creating a separate account for rail banking any track which is currently, but will no longer be used by rail passenger trains. The Committee authorizes a total of $9 million to pay for keeping every tie and every piece of track in place in the United States while railroads continue to complain about their financial difficulties because of overcapacity.

The Committee-reported bill then creates two new categories which essentially are for the purpose of adding back trains recommended for discontinuance by the Secretary In paragraph (e), $35 million is added for the first year, $36 million for the second year, and $37 million for the third year. In paragraph (f), the Committee generously adds another $20 million so as to keep in existence all trains which the Secretary has suggested to be re-routed in order to save the poor taxpayer a few dollars. Finally, the Committee line items a program of model programs to the tune of $1.5 million for each of the next three fiscal years. We suppose Amtrak itself should be considered a model of how to spend taxpayer money by providing benefits to fewer than 3/10's of one percent of the intercity travelers in this country.

From the beginning, we have questioned the wisdom of the attempt by Congress to push onto the American taxpayer a rail passenger service which it neither needs nor wants. Unfortunately, political pressures on the members of the Committee by Amtrak and labor organizations representing railroad workers have caused Congress to get into the political train business. It must appear to many that log-rolling has been replaced by trail-rolling, for with the passage of each year more trains are added to Amtrak even though it cannot provide reliable, safe and comfortable service with the trains it now has.

We urge our colleagues to face the fact that H.R. 3996 represents a $3 billion waste of taxpayer money. The time has come to vote against this bill and close Amtrak down for good, thereby saving future taxpayers billions of additional dollars.

SAMUEL L. DEVINE.
JAMES M. COLLINS.

UNEF EXPIRATION; JULY 24, 1979

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

● Mr. FINDLEY. Mr. Speaker, the United States and the U.S.S.R. have struck a deal on the nature of the future United Nations peacekeeping force in the Sinai Peninsula. But this deal is not in the interests of the United States, of Israel, or of our efforts to establish peace in the Middle East. Rather, in our rush for ratification of the SALT II Treaty, we have sacrificed our principles, revealed a shallowness of commitment, and undermined our relations with Israel and the hope for progress toward peace in the Middle East. We have also, I would argue, helped the Soviets to bolster their credibility with the Arab states while we have embarrassed ourselves.

The mandate for the United Nations Emergency Force (UNEF) expires today, July 24, 1979. Since a continuation of UNEF's presence in the Sinai Peninsula was envisioned during the 3-year interim period of Iraeli withdrawal from the Sinai as prescribed by the Egyptian-Israeli peace treaty, a U.S. policy objective has been the renewal of the UNEF mandate prior to its expiration this month. However, the Soviet Union hinted, then publicly stated that it would veto the renewal of UNEF when it came before the United Nations Security Council. Anticipating such a possibility, the United States in identical side letters, both dated March 26, 1979 to Prime Minister Begin and President Sadat committed itself to take steps to insure the establishment and maintenance of an acceptable alternative multinational force should UNEF go out of existence.

At the same time, the United States also approached the other members of the United Nations Security Council seeking their support for the renewal of UNEF. It was not initially clear whether 9 of the 14 Security Council members, the necessary plurality to renew UNEF's mandate, would vote in favor. Eventually, however, the United States by means of diplomatic efforts was fairly confident that it did have the votes. Therefore, the United States in effect, "called the Soviet's bluff," and put the U.S.S.R. in a position of having to veto the extension of UNEF to fulfill their widely proclaimed commitment of blocking the continued UNEF role in the Sinai.

The Soviets realized that the United States had the upper hand. The votes existed in the Security Council to approve UNEF's renewal. And we had clearly stated our intention of organizing a multinational force in the Sinai to replace UNEF if that became necessary. The Soviets were looking at a veto and at the unpalatable prospect of an alternative force to UNEF which involved a U.S. role if not presence. The Soviets recognized that an exercise of their veto right would not set well with the Europeans and others around the globe who, whatever their opinion of the merits of the Egyptian-Israeli treaty, understood that UNEF had played an important role in the Middle East peace process and that both Egypt and Israel wanted it to remain in the Sinai. Also, a Soviet veto would be untimely in that it would probably also cost votes in the Senate ratification of SALT II.

The latter prospect was viewed with particular alarm in Washington. Rather than forcing a vote in the Security Council and then using the threat of a U.S.-sponsored force in the Sinai to pressure the Soviets to accommodation, the United States pulled back. It sought a compromise with the Soviet Union and did so in such a way as to minimize our leverage over critical decisions.

I was not privy to United States-Israeli discussions during this period and do not know their contents. Who really surprised whom on the reaction to a different U.N. arrangement in the Sinai than UNEF is unknown to me. What is apparent, however, is that the United States struck an agreement with the U.S.S.R. on a future United Nations arrangement in the Sinai without prior agreement of Israel. We did have not have an understanding with our friend before coming to terms with our adversary. Such a procedure is extremely unfortunate. Moreover, the United States acted in such a way as to present Israel with a take it or leave it proposition. Since the UNEF mandate expires today, the end to UNEF was imminent and irreversible when Israel learned that an alternative U.N. force, the United Nations Truce Supervisory Organization (UNTSO) would replace it. There was little room for discussion at this point much less negotiation. And, indeed, the United States undercut its own ability to influence the outcome of decisions on UNTSO. Since the UNEF mandate expires today, what leverage do we have left in working out with the Soviet Union any alternative arrangement in the Sinai which is acceptable to us and to Israel?

But most shocking of all, we again reduced our leverage on the Soviet Union by stating that we had no commitment to Israel to organize a multinational peacekeeping force in the Sinai to replace the defunct UNEF during the 3-year interim period before final Israeli withdrawal from the Sinai. Rather, the United States recently stated, that commitment would begin only after the 3-year interim period ended.

Now, reinterpretation of a commitment can be adept and useful diplomatic maneuver. Prime Minister Begin, for example, adroitly reinterpreted the Camp David framework to permit Israel to go on building settlements in the West Bank during the negotiations on that area's future, much to the great frustration of the United States. And I will not recount the several examples of Soviet reinterpretation of SALT I to their advantage. In each case, however, the public record and even the private record was not sufficiently precise and clear to enable us to sustain our objections to such reinterpretations. In the case of the U.S. commitment to a multinational force, however, the public record is clear and explicit.

There is no doubt in my mind and there should be no doubt in the mind of anyone who reviews the hearing record of the Committee on Foreign Affairs that the U.S. commitment to Israel and Egypt as contained in the March 26 letters on working to establish a multinational peacekeeping force should the renewal of UNEF not occur began immediately and included the interim 3-year period. Whether Congress would have to and would approve the U.S. role in funding, establishing, or maintaining such a force is a separate issue. Therefore, this abrupt reinterpretation is, indeed, a maneuver but one that is heavyhanded, clumsy, and transparently fraudulent. That the United States may be going back on a commitment in a very shabby way is obvious. At a time when Israeli acceptance of U.S. integrity, commitment, and friendship is critical to the painful choices it must continue to make and to the peace process as a whole, such U.S. action is imprudent and wrong.

A brief word on the Egyptian reaction which, in contrast to Israel's, has been positive to the proposed new UNTSO arrangement—UNEF, though important to Egypt as well as to Israel, will assume somewhat less importance for Cairo as Israel withdraws from the Sinai. Over the long term, then, the question of UNEF is more vital to Israel and to its security than it is to Egypt.

Therefore, we are at a point where the Soviet Union has, in effect, assured its credibility with the Arab States by blocking UNEF as it promised, avoided an embarrassing U.N. Security Council veto which would have ruffled global and U.S. Senate feathers, and sown division between the United States and Israel on a key security issue in a way which could well reduce American effectiveness in future Mideast peace efforts. The United States, on the other hand, has abandoned its leverage which existed prior to July 24 and in its interpretation of its written March 26 commitment on a multinational Sinai peacekeeping force, made false public statements about the nature of that commitment, and injured our relations with Israel and our peacemaking abilities.

I do not know the exact status of the U.S. agreement with the U.S.S.R. on UNTSO but I do have many questions which concern me.

UNTSO, expanded I presume, is proposed as a replacement for UNEF. Such a proposal does not take into account, however, either the nature and role of the two forces nor the history of the region.

The United Nations Truce Supervisory Organization was originally set up in 1948 to monitor the truce after the 1948 war. It numbers about 200 observers, principally officers, from many nations including the United States and the Soviet Union. It is based in Jerusalem. The basic task of UNTSO has been to monitor cease-fire lines by manning observation posts and carrying out the periodic inspections of the limited arms and missile-free zones in the Sinai and on the Golan Heights. UNTSO observers are unarmed. UNSTO is a permanent force in the Middle East, not needing periodic renewal as UNEF does. It is responsible to the Secretary General of the U.N. and is under his jurisdiction.

The United Nations Emergency Force (UNEF) on the other hand was first created in 1956 in the aftermath of the Suez Canal invasion to secure and supervise the cessation of hostilities between Egypt and Israel. The Secretary General had primary authority for the effective functioning of the force. Since UNEF was placed on Egyptian soil "with the consent of the nations concerned," U.N. Secretary General U Thant agreed to withdraw UNEF from Egypt when Egypt so requested on May 18, 1967. The Six-Day War occurred soon after.

UNEF II was created after the October 1973 war. Although UNTSO had remained in placed since 1948, there was a perceived need for a different U.N.

force in the Sinai. UNEF II was established to meet this need. There was a notable difference between UNEF II and UNEF. I, however. UNEF II was the creation of the United Nations Security Council, was responsible to it, within its jurisdiction, and could only be altered or removed by a Security Council decision. Egypt or Israel alone, therefore, could no longer unilaterally ask and obtain its withdrawal.

UNEF II does not duplicate UNTSO but has its own responsibilities. The 4,000-member force is comprised of armed troops from seven nations, not including the United States or the U.S.S.R. UNEF not only has monitored the Sinai II cease-fire agreement between Egypt and Israel, it interposed itself in the disengagement process. While the UNTSO observers carry out periodic inspections of the limited arms and missile-free zones, UNEF polices the buffer, provides a show of military presence, and runs the logistics. In the event of an outbreak of hostilities in the Middle East, UNEF, according to its own doctrine is to hold its ground, refusing to leave is asked, and resisting if necessary. UNEF sees an armed force as a critical indication that the U.N. means business and will stand its ground while UNTSO's mission is to observe and serve as a presence. Their functions are not identical, therefore, and cannot easily take the place of one another. Rather, they have complementary tasks.

And, of course, a U.N. role to be credible must be large enough to demonstrate sufficient commitment. Replacing a 4,000-man UNEF with a 200-man UNTSO will not enhance the credibility of the U.N. in the Middle East. This will be particularly true as the disengagement lines lengthen during the prescribed stages of Israeli withdrawal.

Although Egypt and Israel are now, for the first time, on their way to peace together, it is not yet time to reduce the credibility or the role of the United Nations in ensuring that peace and its terms.

Therefore, critical questions remain:

How large would such an UNTSO force in the Sinai be?

Would there be a Soviet presence in the "new UNTSO" in the Sinai?

Would the responsibility of the UNTSO force continue to be the Secretary-General's rather than the Security Council?

Does this mean that either Egypt or Israel could unilaterally ask for and obtain UNTSO's removal?

Does this mean that the U.S.S.R. could exert undue influence on Secretary General Waldheim, who prefers to work by "consnsus" on any of the above questions?

Did the United States have a firm Soviet commitment, in writing, on all of the above points and on provisions for subsequent modifications of UNTSO in the next few years or, do these remain to be negotiated now that the United States has abandoned all its leverage?

Congress needs the answers to these questions.●

TAX CREDITS FOR FUEL CONSERVATION

The SPEAKER. Under a previous order of the House, the gentleman from Nebraska (Mr. Cavanaugh) is recognized for 20 minutes.

● Mr. CAVANAUGH. Mr. Speaker, on Friday, July 13, I brought to the attention of the House that the fastest and least costly ways to reduce our dependence on foreign oil is to conserve here at home. Because energy independence must be the first priority of our Nation so that we can regain control of our economic, social, and political destiny, we must make new efforts to achieve conservation by examining all our current uses of oil and oil-based products and devise ways to make their consumption more efficient. My floor statement, which appears in the Congressional Record, July 13, 1979, p. 18650, describes in detail a newly designed device called the fuel saver alert system.

It is no secret that we waste a great deal of energy in this country and certainly the Government's fuel waste can and should be reduced. I am today introducing legislation that will require the Administrator of the General Services Administration to install in all Federal vehicles devices to identify and encourage the reduction or elimination of nonproductive energy consumption. The Federal Government has a unique opportunity to not only accomplish significant reductions in the Government fuel bill, but also to use the Federal automobile and truck fleet of 280,000 vehicles to demonstrate and pilot-model new energy saving devices. The Department of Defense, the largest single fuel user in the Government with 142,000 vehicles, can surely do likewise. The Army Corps of Engineers should be actively investigating ways to reduce nonproductive energy consumption related to idling of heavy equipment engines.

To the extent that we can reduce or eliminate the nonproductive fuel consumption in our country we will lessen our dependence on OPEC countries for oil and weaken their ability to further shock our domestic economy with inflation causing price increases.

The fuel saver alert system, which was designed by an Omahan, clearly shows that when looking for solutions to solve our energy dependence we must not overlook the tremendous potential of individual Americans to develop answers. Even with all their multimillion-dollar research efforts major corporate giants have not cornered the market on ingenuity or creativity.

I firmly believe, and have expressed to the President, that as part of our evolving national policy and commitment to solve our energy addiction, we must encourage, through the tax structure, individual citizens to participate in developing the new technologies we need.

I am today also introducing legislation, the Non-Productive Energy Consumption Conservation Act of 1979 (NECCA) which provides tax credits to individuals for development and testing expenses associated with devices that will identify and encourage the reduction of nonproductive energy consumption. In addition, my proposal calls for tax credits to encourage individuals to purchase such devices.

NECCA seeks to provide first, a 5 percent tax credit up to a maximum of $100 of research and experimentation information system expenditures; second, a 10 percent tax credit up to a maximum of $200 of the testing expenditures, and third, a 50 percent tax credit up to a maximum of $200 for the purchase and installation expenditures. Although my package is targeted toward reducing the nonproductive energy consumptions of vehicles and heavy equipment, the legislation can easily be expanded to include other types of energy conserving devices. I hope that the Ways and Means Committee in its hearings this Wednesday and Thursday on energy tax credits will consider and provide encouragement to individuals to participate in and truly make our quest for energy self-sufficiency a national goal. A copy of both bills follow:

H.R. 4932

A bill to amend the Federal Property and Administrative Services Act of 1949 to require the installation in all Federal vehicle of devices to identify and encourage the reduction or elimination of nonproductive energy consumption

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Federal Government Mandatory Fuel Conservation Act of 1979".

Sec. 2. That section 211 of the Federal Property and Administrative Services Act of 1949 is amended by inserting at the end thereof the following new subsection:

"(m) The Administrator shall provide by regulation for the installation in each motor vehicle owned or operated by the Government of a device or devices which—

"(1) identify, by warning lights and/or noises, that such vehicle is consuming energy in a nonproductive manner, such as unnecessary idling; and

"(2) thereby encourage the operator of such vehicle to reduce or eliminate such nonproductive energy consumption.".

H.R. 4933

A bill to amend the Internal Revenue Code of 1954 to provide refundable credits against income tax for development, testing, and purchase of devices designed to identify and encourage the reduction or elimination of non-productive energy consumption of motor vehicles

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Non-Productive Energy Consumption Conservation Act of 1979".

Sec. 2. Credit for Development and Testing of Motor Vehicle Nonproductive Use Information System.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

'SEC. 44D. EXPENDITURES FOR DEVELOPMENT AND TESTING OF MOTOR VEHICLE NONPRODUCTIVE ENERGY CONSERVATION INFORMATION SYSTEMS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) 5 percent of the research and experimentation information system expenditures, and

"(2) 10 percent of the testing information system expenditures,

paid or incurred by the taxpayer during the taxable year.

"(b) DOLLAR LIMITATIONS.—The maximum amount of credit allowed by subsection (a) to the taxpayer for the taxable year shall not exceed—

"(1) $100, in the case of research and experimental information system expenditures, and

"(2) $200, in the case of testing information system expenditures.

"(c) DEFINITIONS.—For purposes of this section—

"(1) RESEARCH AND EXPERIMENTAL INFORMATION SYSTEM EXPENDITURES.—The term 'research and experimental information system expenditures' means expenditures—

"(A) which are of a type which, if paid or incurred in connection with a trade or business, could be taken into account under section 174, and

"(B) which are made in connection with the development of an information system.

"(2) TESTING INFORMATION SYSTEM EXPENDITURES.—The term 'testing information system expenditures' means expenditures made for the construction, reconstruction, or erection of prototype information systems and for the testing of such prototype information systems.

"(3) INFORMATION SYSTEM.—The term 'information system' means equipment—

"(A) which, when installed on a motor vehicle, informs the operator of the vehicle that the vehicle is nonproductively consuming energy,

"(B) which can reasonably be expected to remain in operation for at least 4 years,

"(C) the original use of which begins with the taxpayer, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of such equipment.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' includes vehicles which are not manufactured primarily for use on public streets, roads, and highways."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6401 of such Code (relating to excessive credits treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to expenditures for development and testing of motor vehicle nonproductive use information systems)", and

(B) by striking out "39, and 43" and inserting in lieu thereof "39, 43, and 44D".

(2) Paragraph (2) of section 55(b) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof ", 43, and 44D".

(3) Subsection (b) of section 56 (defining regular tax deduction) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"SEC. 44D. EXPENDITURES FOR DEVELOPMENT TESTING OF MOTOR VEHICLE NONPRODUCTIVE ENERGY CONSUMPTION INFORMATION SYSTEMS."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after January 1, 1979, in taxable years ending after such date.

SEC. 3. CREDIT FOR PURCHASE OF MOTOR VEHICLE NONPRODUCTIVE ENEGRY CONSUMPTION INFORMATION SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44D the following new section:

"SEC. 44E. PURCHASE OF MOTOR VEHICLE NONPRODUCTIVE ENERGY CONSUMPTION INFORMATION SYSTEM.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the purchase and installation of any information system on any motor vehicle.

"(b) DOLLAR LIMITATION.—The credit allowed by subsection (a) for the taxable year shall not exceed $200 ($100 in the case of a married individual filing a separate return).

"(c) DEFINITIONS.—For purposes of this section, the terms used in this section shall have the meanings given such terms by section 44D."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6401 of such Code (relating to excessive credits treated as overpayments) is amended—

(A) by striking out "and 44D (relating to development and testing of motor vehicle nonproductive energy consumption information systems)" and inserting in lieu thereof "44D (relating to development and testing of motor vehicle nonproductive energy consumption information systems), and 44E (relating to purchase of motor vehicle nonproductive energy consumption information systems)", and

(B) by striking out "43, and 44D" and inserting in lieu thereof "43, 44D, and 44E".

(2) Paragraph (2) of section 55(b) of such Code (defining regular tax) is amended by striking out "and 44D" and inserting in lieu thereof "44D, and 44E".

(3) Subsection (b) of section 56 of such Code (defining regular tax deduction) is amended by striking out "and 44D" and inserting in lieu thereof "44D, and 44E".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44D the following new item:

"Sec. 44E. Purchase of motor vehicle nonproductive energy consumption information systems."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after January 1, 1979, in taxable years ending after such date.●

SHARE DRAFT LEGISLATION BACK ON TRACK

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I take this occasion to compliment the gentleman from Rhode Island (Mr. ST GERMAIN) for scheduling a markup session of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance for this Thursday morning on legislation that would effectively deal with the U.S. Appeals Court decision affecting thousands of credit unions, banks, and savings and loans across this Nation

The appeals court had ruled that the power to offer certain new services by these financial institutions was granted illegally by the various financial regulatory agencies. Thursday's session will deal with several measures designed to, in fact, overturn the appeals court decision and make these new financial services legal.

The appeals court had given Congress until January 1 to correct the problem and if action is not completed by that date then these services could no longer be offered. Because of that timetable it was important that Congress take action immediately and I was concerned that the subcommittee would not meet prior to the August recess, thus greatly reducing the amount of time available to work on the legislation.

For the past week I have corresponded with the chairman of the subcommittee urging him to schedule a markup session immediately. This morning I wrote again to the distinguished chairman of the subcommittee, Mr. ST GERMAIN, and I am delighted that within a few hours after I wrote the letter he scheduled a markup session for this Thursday. That action certainly indicates not only his willingness to follow suggestions offered by other subcommittee members, but also his dedication to a quick solution to this problem.

Mr. Speaker, I once again thank and commend the gentleman for his quick response to my suggestion for a Thursday meeting, and because of the widespread interest in this matter I am including in my remarks a copy of my letter to Mr. ST GERMAIN.

JULY 24, 1979.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation, and Insurance, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of July 23 concerning the markup session on NOW account legislation.

Needless to say, I am deeply distressed that you have not set a firm date for the markup to take place. Everyday I am contacted by credit union leaders around the country asking when the subcommittee will hold its markup session. I have had to tell them that I have no control of the situation and the scheduling of the markup is entirely in your hands.

I know, Mr. Chairman, that more than a month has gone by since the original markup session was cancelled. I realize that you cancelled that session because of the schedule on the Floor of the House that day, but you recall that it was my suggestion that we hold the markup earlier in order to avoid any conflicts with Floor action.

I note further, that since your press release of June 14 announcing the markup session, that the subcommittee has held two sessions of hearings on the Cleveland problem and will hold two sessions this week on the bank holding legislation. While I agree that these are important areas for study, I feel that the situation involving the appeals court decision is for more important than any other legislation before the subcommittee.

In your June 14 press release you stated, "we regret the need ao postpone the Cleveland hearing but the Court of Appeals has placed a firm deadline of December 31 on the Congress and what we do on the checking account legislation will have an immediate impact on millions of consumers nationwide," Mr. St Germain stated, "therefore, I feel that the markup must have priority." Later in the same press release you stated, "the legislative clock is running and we must keep this bill moving or we will see the demise of millions of consumer accounts come January 1," the subcommittee chairman stated.

Forty days have now passed since you issued that press release. The legislative clock continues to run, only now it's forty days closer to the end with millions of Americans placed in a situation of not knowing what to expect when January 1 rolls around.

Mr. Chairman, I repeat my earlier plea—do not fail to call a markup session on this important question before the August recess. There is still time this week for a markup session and, given that timetable, there is even a good possibility the Full Committee could act next week.

In closing let me speak for thousands of credit unions across the country who are asking "what day will the markup session take place".

With every best wish,

Sincerely,

FRANK ANNUNZIO,
Chairman.●

SOME INNOVATIVE WAYS OF DEALING WITH PROBLEMS OF OUR ECONOMY

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO), is recognized for 10 minutes.

● Mr. ADDABBO. Mr. Speaker, I know the Members of the House are as concerned about the economy as I am. In that regard, I ask unanimous consent to insert into the RECORD a paper which I believe takes a unique look at the problems our economy faces and offers some innovative ways of dealing with those problems.

TOWARD A SELF-SUPPORTING PRIVATE (MIXED) ECONOMY, WITH AVOIDANCE OF INFLATION

(By Frankin D. Ricardo)

I. INTRODUCTION

This paper briefly outlines a basis of economic analysis which offers indication:

1. That a recession is not necessary to curb inflation, if the inflation is being caused by money brought forward from past production-periods, rather than by money in current production-transactions.

2. That if the private (mixed) economy is made self-supporting, there should be little or no need for government deficts in reasonably "normal" periods.

(This paper is derived from a larger study based on a single-loop feedback system.)

II. SYSTEM CONCEPTS

A. The declining dollar attracted my attention to the 'sloshing dollars' that had accumulated abroad from balance of payments deficits of prior years. The 'sloshing dollar' accumulation seems to contribute as much or more to reduce the exchange-value of the dollar in relation to other currencies than do the current deficits. This seemed to indicate that there might be such a thing as a *domestic* 'sloshing dollar' accumulation that might similarly contribute to an inflationary 'sinking' domestic dollar in domestic markets.

It seemed that a substantial domestic 'sloshing dollar' accumulation from prior years might conceivably have more to do with domestic inflation than the current entrepreneurial outlays, or current government deficits. To correspond with the international 'sloshing (speculative) dollar' accumulation, there would need to be some kind of domestic imbalance giving rise to a domestic 'sloshing (speculative) dollar' hoard.

I recalled the fundamental domestic deficit involving the 'annual' failure of sales revenues received by the entrepreneur-sector to equal the outlays made by entrepreneurs during production, etc. This annual gap is generally recognized as leakage, or as additions of liquidity preference, or as savings that fail to be invested, etc. (with consequent use of annual government deficits in an effort to avoid recession or stagnation).

B. If annual domestic leakages accumulate over the years, they might well develop into a domestic 'sloshing (speculative) dollar' accumulation of substantial proportions. This could mean that the leakage problem has a stagnating influence in the short run, and an inflationary influence in the longer run. Thus at any particular time there may be stagnation caused by current leakage, and inflation caused by accumulated leakages from prior years.

C. It seems that when the economy has accumulated an excessive number of leakage-dollars (or 'store of value' dollars), that accumulation constitutes liens in various domestic markets where 'medium of exchange' function of money is directly involved. There is accordingly a limit to the amount of 'store' involved. There is accordingly a limit to the amount of 'store of value' money that an economy can comfortably accommodate. It is likely that as the domestic 'sloshing (speculative) dollars' accumulate, an aggregate is reached that is not compatible with the size of the annual GNP.

The 'sloshing (speculative) dollar' accumulation develops various forms and degrees of liquidity preference.

When outlays/incomes do not become sales revenues (for production-outputs) within a reasonable time, the resulting leakages may accumulate as 'store of value' money in conflict with 'medium of exchange' money-flow during a subsequent outlays/incomes/expenditure cycle.

D. The annual government deficits seem only to help sustain effective demand, while doing little or nothing to reduce the leakage or to stem its flow into the domestic 'sloshing (speculative) dollar' accumulation. (It should be noted however, that in the absence of a more preventative approach to the problems from uninvested or unspent savings, etc., the government deficit approach may well have saved free economies from oblivion.)

The government deficit approach is a statutory attempt to support the neoclassical system. A better statutory approach is needed.

III. IMPLEMENTING THE NEOCLASSICAL SYSTEM

The major purpose would be to assure that virtually *all* of the incomes (derived from outlays) do become expenditures (to buy output that had been produced), so that the annual aggregate sales revenues of the entrepreneur-sector would roughly equal the annual aggregate entrepreneurial outlays that had been made. (There would be little or no annual 'leakage', and presumably the economy would be self-supporting and hence require no government deficits to sustain effective demand.)

The allocation of expenditures between consumption-goods and investment-goods would still be determined by operation of free markets.

A. 'Use-money' system

1. A statute for a 'use-money' system would provide:

(a) That the outlay-dollars have a 'lapse-date' on them which would provide an ample 'use-period' for the dollars to be spent, and for their ultimate return to the entrepreneur-sector.

(b) That (to assure that they get back, and to avoid system-problems) only the entrepreneur-sector would be permitted to 'cash in' current 'use-money' issued prior to 'lapse-dates' in exchange for 'use-dollars' of a subsequent money-issue.

2. The objective is a circular flow of outlays/incomes/expenditures/sales revenues/outlays, etc., with the aggregate outlays and expenditures roughly equal to extent possible.

3. Few if any of the 'use-dollars' would actually lapse, since there would be ample (but not excessive) time for them to be spent, and back in the hands of the entrepreneur-sector in the form of sales revenues. The allocation of the sales revenues among the industries need not be proportional to their outlays.

4. Entrepreneurs would issue 'use-money' outlays by the customary checks drawn on Fed/banks.

5. Governments would be treated as part of the entrepreneur-sector, with tax revenues substituting for sales revenues.

6. Loans would not be treated as investments, so that borrowers would be expected to spend within the use-period.

7. Longer-run savings would be more in the form of real wealth rather than in the form of money. Money is not to be treated as a form of wealth. (With the purchasing power of the dollar varying widely, the dollar has in any event been a deficient store of value.)

8. Economic considerations include the following:

(a) Increasing the spending of outlays/incomes shouldn't materially affect the price level, if the government deficit is reduced at the same rate; also, the length of the "use-period" can be adjusted.

(b) By deciding the length of the "use-period" of current outlays, the Fed/bank might be provided with a practical tool to change the speed of aggregate expenditures for balancing purposes.

(c) A "use-money" system should reduce various economic problems to a size that might make them easier to deal with.

(d) Reducing economic swings might reduce the significance of rigidities.

(e) Ample "use-period" can allow for payment for imports, and repatriation for exports (but extention of time can be provided when necessary for foreign trade).

B. Rationale

It is necessary to bring into balance the equities of the entrepreneur-sector (which provides outlays during production) and the equities of the potential spenders of outlays/incomes. The legal-tender statute, that requires the entrepeneur to pay for factors of production in money and not in product, creates a functional inconsistency—the entrepeneur doesn't produce money, but rather goods, etc. Accordingly, the entrepreneurs have an equitable interest in what happens to the money they outlay. Otherwise it would be consistent to allow them to pay in kind, and not make them so dependent on the money coming back to the entrepreneur-sector as sales revenues. Apparently we can't have it both ways, because major disparities in the economy result from the failure to resolve inconsistencies in favor of the "medium of exchange" function of money. The "store of value" function of money needs to be curbed in favor of the "medium of exchange" function by instituting a "use-money" system. Such a system could be tried in any country.

C. *Existing speculative-dollar accumulations*

1. Even if the balance of payments deficits were now eliminated, the international 'sloshing (speculative) dollar' accumulation could still reduce the value of the dollar in exchange for other currencies; and similarly, even if the domestic entrepreneurial gaps were now closed, the domestic 'sloshing (speculative) dollar' accumulation could still reduce the exchange-value of the dollar in domestic markets. Both of these accumulations would still remain to be dealt with.

2. The dollar being a form of debt instrument payable on demand in goods and services, capital goods, etc. (or in foreign currencies as well), the problem seems to be that of scheduling a 'sloshing (speculative) dollar' accumulation into maturities that would allocate that debt-burden over a series of future years (so that the excess of speculative dollars acquired from the past may be redeemed without large impact on markets in any one year).

3. The government programs that deal with surplus of wheat could be a relevant model: Such programs aim at reserving surplus wheat in granaries in sufficient quantity to support the exchange value (price) of the wheat.

4. A similar dollar-granary or 'dollar-trust' approach might serve to support the exchange-value of the dollar by currently removing surplus of speculative dollars, by substituting 'dollar-trust bonds' maturing over a series of future years. As those 'dollar-trust' bonds mature they would be redeemed with dollars from the trust.

(a) The plan for a domestic 'sloshing (speculative) dollar' problem might avoid disturbing the current and future production outlays; it might be useful to subdivide the M–1, etc., into categories to separately treat accumulation from past production-cycles.

(b) Similarly, a 'dollar-trust' could be considered for the 'sloshing (speculative) dollars' abroad, with trust-bonds that would have maturities spread over a series of future years.

IV. CONCLUDING COMMENT

It seems that free economies can actually be better than they have ever been. The remarkable ruggedness of free economies invites much shifting of problems into the future; by now an almost indigestible 'lump' of economic problems has accumulated. In this paper an effort is made to see if that inherited 'lump' might be made more digestible, and to see if the free economy can be made more self-sustaining on an 'annual' basis. The neoclassical model is essentially sound; implementations might help make it almost as automatic as Say thought it was. Neoclassical system seems to require a 'use-money' system as a substitute for the 'perpetual' money system, without much change in banking and business practices being urgent.

REFERENCES

1. Sowell, Thomas, "Say's Law," Princeton: Princeton Press, 1972. (Points of reference and contrasts.)

2. Galbraith, J. K., "Economics and the Public Purpose," Boston: Houghton Mifflin Company, 1973; p. 180 Downward instability.

3. Keynes, J. M., "General Theory of Employment, Interest, and Money," New York: Harcourt, Brace and World, Inc., 1964; pp. 357–8 Gesell's "stamped" money proposal; p. 174 Hoarding.

4. Dahlberg, Arthur O., "When Capital Goes on Strike," New York: Harper and Brothers, 1938. (Some effort to answer critics of Gesell's "stamped" money proposals, could apply to other proposals.)

5. Motley, Brian, "Money, Income, and Wealth," Lexington, Mass.: D.C. Heath and Company, 1977; Chapter 9 Demand for Money, References pp. 226–7.●

OREGONIANS DEMONSTRATE AMERICANISM

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, I want to commend today a wave of human goodwill spreading in my home State of Oregon, which I am sure is spreading in other States as well. Propelling this wave of goodwill is a group called the Oregonians to Save the Boat People who are demonstrating the best qualities of America, truly the land of the free.

A tenet of human ethics is that those who show mercy shall receive it in kind. But for Americans, we have even more reason to shelter the homeless because we are a nation of immigrants, many of whom, like the boat people, have been driven from the shores of their homeland, never to return.

Our forefathers found a place of refuge here, and remembering their good fortune they made this Nation into an international refuge for others who followed that were equally unfortunate. It is our legacy to house the homeless. It is our shame when we do not.

There are outcries in our country that we cannot afford charity, that our problems are too awesome. To people at sea with no home, no future, this must seem the ultimate in either greed or self-delusion.

I submit we cannot afford such callousness. We are not paupers. We are the stewards—not perpetual squires—of great abundance, great enough to help the disadvantaged and still not suffer. Moreover, history has treated us kindly for welcoming to our shores the world's castaways—from England, France, Germany, Poland, Italy. Not to mention the Africans and Chinese we brought to our land to build our industry or harvest our crops. From this has sprouted an industrious and innovative people, and a people with a collective memory and conscience.

Americans, remembering our own "boat people" in the Mayflower and in slave ships, should emphasize with refugees from Indochina and move into actions to prevent something approaching in it grimness another human holocaust.

The Oregonians to Save the Boat People, in conjunction with the International Rescue Committee and the Portland Indochinese Center, is set upon sponsoring directly 100 Indochinese refugees a month, using the Portland Indochinese Center's welcome house programs.

The committee seeks to provide temporary housing, along with food, clothing, and basic orientation. Permanent housing then will be found for refugee families, and support services, such as financial aid, will be made available until the family can gain self-sufficiency.

The Oregonians to Save the Boat People estimate this effort will cost $500 per person, or approximately, $50,000 per month for the 100 refugees. Since the International Rescue Committee will match Oregon contributions, the total cost for Oregonians will run about $25,000 per month, or $300,000 per year.

Coming when the Western World, led by the United States, has agreed to accept double the amount of Boat People, the effort by Oregonians to Save the Boat People is very timely. The Washington Post, in a recent series of articles, estimated that 318,951 Indochinese refugees remained in camps, even though more than 300,000 refugees had already been resettled throughout the world, including more than 206,000 in the United States. Since that series, thousands more Vietnamese have set to sea and have entered a camp or remain adrift. Many reach no destination and are lost.

Cold statistics obscure the reality of this exodus. These are people who have endured more than a generation of war, corruption, and tyranny. Life may not have very much meaning for many of these refugees, but that is all the more reason for rising to this enormous challenge. Inhumanity breeds more inhumanity through its hand-maiden noninvolvement. The world, quite properly, chastised Germans for looking the other way while Jews were annihilated. Unlike the Germans, nothing stands in our way of getting involved and extending a helping hand.

Many Americans voice legitimate concerns about more competition for jobs, especially at a time when recession is setting in. I have looked into this question. The facts do not reveal that refugees, once fully trained, are stealing jobs from Americans. Quite the contrary, it would appear refugees are filling jobs no one else wants. For example, the Oregon Employment Division recently dispatched a busload of Huong tribesmen to a farm near North Plains, Oregon, where they picked strawberries on the verge of rotting because of a lack of pickers.

Among the 50 States, Oregon has one of the highest per capital concentrations of Indochinese refugees—one to a little more than 350 Oregonians, compared with a 1 to 1,150 ratio nationwide. There are 6,500 Vietnamese, Cambodian, Lao, or Chinese refugees in Oregon, 80 percent of whom live in the Portland area. Estimates place new arivals in excess of 180 per month.

Under the administration of former Gov. Bob Straub, Oregon achieved impressive success in providing basic language skills and job training, including a fundamental understanding of our working environment. Job placements increased and the number of refugees remaining off welfare declined.

This effort must be redoubled. And it can be with a new wave of good will and volunteerism. This is the spirit of America.

Nothing can be more fitting than a State such as Oregon, a symbol throughout the country for its jealously guarded quality of life, to open its doors widely to men and women in need of a haven.

Nothing can be more fitting than a State such as Oregon, which teases tourists from other States to come to visit, but not stay, to open its treasure chests and share its wealth with people who have known of little, and have even less.

Nothing can make me prouder as an Oregonian than to see opened the doors of my State, because closed doors reflect closed hearts. And if we have lost our compassion for people whose misery mirrors that of our own flesh and blood, then we have lost a very great deal.●

CRIMINAL FINES REFORM ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, today I am introducing the Criminal Fines Reform Act of 1979 to step up the fight against white collar crime by increasing criminal fines.

The proportions of the white collar crime problem are staggering. The U.S. Chamber of Commerce and the Joint Economic Committee of Congress have estimated that white collar crimes—excluding antitrust violations—cost the public about $44 billion a year. Fraud in Federal programs alone is estimated to be about $12 billion annually—money that ultimately comes from the U.S. taxpayer. In comparison, traditional property crimes, such as robbery or burglary cost about $4 billion a year.

My bill takes a number of important steps to reduce white collar crime. The first major change it makes in current law is to increase maximum fine levels substantially. For individuals, the maximums in my bill range from $2,500—for an offense punishable by a prison term up to 6 months—to $100,000—for an offense punishable by death or imprisonment for more than 10 years. For corporations the fines are up to $100,000 for an offense for which an individual could be imprisoned for up to a year, and up to $500,000 for all felonies.

This increase in fines is essential. Current fines do not stop individuals and corporations contemplating economic crimes. The minor fines authorized today are considered only a trivial cost of doing business and, when weighed against the substantial profits anticipated, are an insufficient deterrent.

The bill's second major change reinforces the higher fine levels. It provides that in cases where an individual or a corporation has profited from the crime, they may be alternatively sentenced to pay a fine of up to two times the gain derived.

This "disgorgement" provision is crucial if we are to deter white collar crime. It will mean that after conviction the Government will automatically be able to recapture a defendant's illegal gain. Currently, if an individual or corporation is convicted of a white collar crime, there is no simple procedure to recover thes ill-gotten gains of the crime, even when the Government is the victim. Instead, the Government must institute a separate civil suit—a burdensome, time-consuming, expensive and duplicative process. Not surprisingly, this is often not done and the white collar criminal is allowed to keep his illegal profits minus whatever comparatively nominal fine he has been sentenced to pay. To discourage economic crime, we must make it very clear to potential criminals that they will not be able to keep the profits of their crimes. The disgorgement provision in this bill will do just that.

There are also provisions in the bill to insure the fair and equitable imposition and remission of fines. Controlling white collar crime and curbing fraud against the Government and urgent priorities. White collar crime takes many forms—consumer fraud, tax evasion, pay offs, securities fraud, price-fixing, electoral fraud, and corporate bribery. The public pays for it in many ways. Thousands of dollars may be lost through the purchase of worthless securities; bribery of Government officials results in impure food or unsafe housing; bid-rigging or discrimination in the awarding of Government contracts results in higher prices and taxes; antitrust violations may limit consumer choice and raise prices.

Other results are less direct but no less serious. Credit and banking abuse divert funds from small businesses and other deserving borrowers. In general, widespread white collar crime leads to public cynicism and the belief that the economic and politcal system is corrupt. Public support is lost for social programs such as welfare, medicare/medicaid, low income housing and urban renewal, perceived as riddled with abuse and benefiting mainly the nondeserving.

White collar crime is clearly not a problem with a simple solution. Many different approaches must be considered and implemented. The Government must recruit and train top-notch investigators, auditors, and prosecutors. As investment and financial arrangements have grown increasingly complex, so have kinds of fraud. Investigators must be able to penetrate complex schemes and financial transactions that may span many years and take place in many locations. Prosecutors must be able to reconstruct the events plausible for a jury of laymen. Social programs must be designed to minimize the opportunities for fraud and to facilitate enforcement.

But there are steps that can be taken immediately; the bill I am introducing today is one of them. I urge its speedy consideration.●

BREEDER REACTOR SYSTEMS DOE FISCAL YEAR 1980 BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 15 minutes.

● Mr. UDALL. Mr. Speaker, I would like to submit for the record at this time, on behalf of JACK BINGHAM and myself, a detailed and comprehensive explanation of proposed changes to the United States fiscal year 1980 nuclear breeder program. We have announced our intention to offer an amendment to H.R. 3000, the Department of Energy authorization bill, when it reaches the House floor later this week. The material includes a statement of the intent of our proposed amendment, and a summary table of the recommended changes to H.R. 3000 for easy reference.

The budget explanation presented below, and the budget summary table, represent the rationale under the Udall-Bingham approach for modifying or approving funds for breeder development on a project-by-project basis. It represents an alternative to the budget presented by the Science and Technology Committee in H.R. 3000, and to the proposed administration-sponsored Fuqua/Brown amendment thereto which conditions termination of CRBR on the development of a larger, Clinch River-type breeder demonstration project and related fuels and components.

A commitment to commercialization of the LMFBR technology can be deferred until the mid-1980's. Under the Udall-Bingham amendment, the CRBR project will be terminated. The administration will report to the Congress in March 1981 on the role of nuclear energy for supplying electricity in the United States for periods of 50 and 100 years into the future, and on an advanced fission strategy for meeting future nuclear electricity needs.

In the interim, all new starts on large liquid metal fast breeder reactor (LMFBR) construction projects are deferred. Most engineering component development work is deferred. LMFBR R. & D. will focus on fuel research and development and fuel testing in the fast flux test facility which will begin operation this fall. Emphasis will be placed on developing more proliferation resistant fuels and reactor core designs. Due to the numerous outstanding safety issues surrounding the CRBR and larger designs, the safety research program will not be reduced, although some funds for fast reactor safety research can be reprogramed for light water reactor safety research.

With this shift in emphasis, the U.S. breeder program still will be funded at a level higher than any other breeder program in the world.

Breeder Reactor Systems DOE FY–1980 Budget

[In thousands of dollars]

LMFBR PROGRAM

The objectives of the LMFBR program are to:

Maintain the capability to commit to a breeder option through a strong R&D program.

Investigate alternative fuels and fuel cycles that might offer nonproliferation advantages.

Elements in the DOE FY–1980 budget include:

(A) Plant Projects.
(B) Breeder Technology.
(C) Test Facilities.
(D) Capital Equipment.
(E) Construction.

(A) Plant Projects:

The power plant developmental projects are:

Fast Flux Test Facility (FFTF).
Clinch River Breeder Reactor (CRBR).
Breeder Reactor Studies (CDS).

The FFTF is a reactor being constructed in Hanford, Washington, at the Hanford Engineering Development Laboratory as a fuels and materials test facility. The CRBR is a joint government-industry effort on a 380 gross megawatt electrical demonstration breeder reactor power plant at Oak Ridge, Tennessee. The effort under the breeder reactor studies is a Conceptual Design Study (CDS) of an improved LMFBR research and development plant.

Fast Flux Test Facility (FFTF):

FFTF will serve as an advanced fuels and materials irradiation facility for the Fast Breeder Reactor Program, and as a baseline for scaling up systems and components. It has the capability to serve as an advanced fast-flux test bed for alternative fuels and materials experiments needed to continue DOE advanced reactor development programs.

Budget

H.R. 3000	$76, 200
Proposed changes	0
Proposed budget	76, 200

Rationale: No cuts are made in the FFTF. The breeder R&D would be centered around fuel cycle R&D with experiments performed in the FFTF.

Clinch River Breeder Reactor Plant (CRBR):

The objectives of the CRBR Project, pending final resolution of the Administration's proposal for discontinuation, are to design, license, build and test a 380 MWe liquid sodium cooled breeder reactor demonstration plant and to operate the plant as part of a utility system.

*Budget**

H.R. 3000	$183, 800
Proposed change	183, 800
Proposed budget	0

*CRBR Termination Costs are presented at the end.

Rationale: The CRBRP is little more than a duplication of the FFTF and will therefore not represent any technological advance. Consequently, consistent with the Administration's request no operating funds are provided for the CRBRP. The Administration proposes that the CRBR project be terminated.

Breeder Reactor Studies (CDS):

A key element in assuring viability of the LMFBR option in the U.S. is the performance of a Conceptual Design Study (CDS). The CDS, a totally government funded and managed effort, will develop the integrated conceptual design based on evaluations and optimization of overall plant safety, environmental acceptability, proliferation resistance, economics, and reliability. This work will be accomplished in two phases over a 30-month period ending March 31, 1981, to provide an opportunity at that time for deciding whether to proceed with the detailed design and construction of such a reactor plant.

Budget

H.R. 3000	$15, 000
Proposed changes	0
Proposed budget	0

Rationale: The Administration proposed a $55 million budget for a detailed design study of a 600–900 MWe LMFBR Plant. The cut in H.R. 3000 resulted from a determination by the Science and Technology Committee that the CRBR and the detailed design of the larger plant could not proceed simultaneously. The proposed budget is based upon the appropriate change in the nature of the study to a review of alternative fission energy strategies. This recognizes that major design efforts should be deferred until commercialization is desired, i.e., at least until the 1981 decision date. This change in the study is appropriate even though the CRBRP is cancelled.

Subtotal—Plant project

H.R. 3000	$275, 000
Proposed changes	183, 800
Proposed budget	91, 200

(B) Breeder Technology:

During the 1979–1981 period, the breeder technology program is placed and scoped to permit a decision on the LMFBR in 1981, and allow flexibility in the choice of fuel and fuel cycle. Integration of the CDS and base-technology program assumes, for planning purposes, a hypothetical plant that is to come on-line in 1991, with detailed design commencing in 1981. The scope includes technology in the areas of:

(1) Safety.
(2) Components.
(3) Physics.
(4) Fuels and core design.
(5) Materials and chemistry.

(1) Safety:

To attain and demonstrate the required degree of safety for fast breeder reactors without unacceptable economic penalties, a sound frame of technical reference is being developed for assessing the risk to public health and safety from postulated accidents with the full spectrum of breeder reactor designs and fuel cycles being considered.

Budget

H.R. 3000	$36, 500
Proposed changes	2,500
Proposed budget	34,000

Rationale: Some safety research activities related to sodium component development are deferred until the 1981 decision. Safety research activities related to fuel development are continued. The Safety budget is held at the FY–1979 level.

(2) Components:

The objective of this program is to develop the steam generator, pumps and other components for the LMFBR reactor system.

Budget

H.R. 3000	$42, 000
Proposed change	21, 000
Proposed budget	21, 000

Rationale: A main focus of this program is to design, fabricate and test prototype components (e.g. steam generators and sodium pumps) for large-scale breeder reactors. Part of this work is deferred until the 1981 decision date on the timing of the need for commercialization of the breeder.

(3) Physics:

Critical experiments generic to large proliferation-resistant fast reactors are providing measurements of core integral performance and safety parameters to validate nuclear data and design methods available and being developed. Both homogeneous and heterogeneous cores are being studied using various core and blanket fuels of major interest to the Conceptual Design Studies (CDS).

Budget

H.R. 3000	$9, 000
Proposed changes	0
Proposed budget	9, 000

Rationale: This program includes critical experiments and other basic research to proceed with construction of a breeder demonstration plant. Funding is not reduced, however, to allow a shift in emphasis to critical experiments for new more proliferation resistant breeder reactor core designs.

(4) Fuel and Core Design:

This work identifies and develops breeder reactor fuel, blanket and absorber elements, and demonstrates their performance capabilities under steady-state and design-transient conditions. It includes developing fuel fabrication equipment and processes and analytical design and performance models, and verifying the results by various levels of irradiation testing.

Budget

H.R. 3000	$46, 000
Proposed change	10, 000
Proposed budget	36, 000

Rationale: This budget reduction would defer automation of fuel production, but would allow basic fuel and core design work to continue.

(5) Material and Chemistry:

Materials and chemistry technologies are being developed to support breeder reactor development. Although directed essentially at technology development outside the core, the work also provides support for the development of alternative fuel technologies.

Budget

H.R. 3000	$8, 900
Proposed change	1, 900
Proposed budget	7, 000

Rationale: This program is reduced to FY–1979 level by deferring some activities related to component development.

Subtotal—Breeder technology

H.R. 3000	$142, 400
Proposed change	35, 400
Proposed budget	107, 000

(C) Test Facilities:

Reactor test facilities provide support and are an essential part of the Fast Breeder Reactor Program. This category of activity includes the operation and maintenance of existing test facilities. It also includes certain facility management and operating activities for safeguards systems at Argonne Natonal Laboratory (ANL), Hanford Engineering Development Laboratory (HEDL), and Idaho National Engineering Laboratory (INEL), and landord support at HEDL, INEL, and the Energy Technology Engineering Center (ETEC).

The objective of this program element is to provide, operate and maintain test facilities on schedules established by breeder technology efforts.

Argonne National Laboratory (ANL):

The Argonne facilities include an operating breeder reactor (EBR–II), a unique device that provides reactor physics data on full-size liquid metal fast breeder reactor cores (ZPPR), and a large shielded facility, that is used to examine and analyze highly radioactive fuels and materials (HFEF).

Budget

H.R. 3000	$30,088
Proposed change	0
Proposed budget	30,088

Rationale: No reductions in ANL safety research facility budget.

Hanford Engineering Development Laboratory (HEDL):

Hanford Engineering Development Laboratory (HEDL) at Richland in Southeastern Washington, is operated for the DOE by Westinghouse Hanford Company, a subsidiary of Westinghouse Electric Corporation.

The laboratory is near a tri-city area (population 90,000) and is the key engineering development laboratory for the Liquid Metal Fast Breeder Reactor (LMFBR) Program.

Budget

H.H. 3000	$5,750
Proposed change	0
Proposed budget	5,750

Rationale: No reduction is indicated.

Energy Technology-Engineering Center (ETEC):

ETEC, which is the component testing center for the Breeder Program, is composed of a complex of liquid sodium facilities for testing and evaluating components and instruments such as heat exchangers, steam generators, valves, piping, pumps, and mechanical elements for breeder reactors and other energy conversion systems employing high-temperature liquid-metal systems.

Budget

H.R. 3000	$17,995
Proposed change	16,000
Proposed budget	1,995

Rationale: The ETEC center, dedicated to liquid until at least the 1981 decision date on the appropriate advanced fission strategy. The $1,995 is retained for housekeeping.

Idaho National Engineering Laboratory (INEL):

Research for the LMFBR program is conducted in test facilities at two of the eight INEL research areas, the ANL-West Area operated by ANL, and the Engineering Test Reactor (ETC), located at the Test Reactor Area and operated by EG&G.

Budget

H.R. 3000	$7,583
Proposed changes	7,000
Proposed budget	583

Rationale: The sodium loop work at the ETR should be deferred until large component development work is resumed after the 1981 decision date. $583 is retained for housekeeping.

SAFEGUARDS

Budget

H.R. 3000	$3,900
Proposed change	0
Proposed budget	3,900

Rationale: No reduction in safeguards is warranted.

GENERAL SUPPORT

Budget

H.R. 3000	$9,984
Proposed change	2,000
Proposed budget	7,984

Rationale: The general support funding is reduced to correspond to test facility cutbacks.

Subtotal—Test facilities

H.R. 3000	$75,300
Proposed changes	25,000
Proposed budget	50,300

Subtotal—LMFBR program operating expenses

H.R. 3000	$492,700
Proposed changes	251,200
Proposed budget	241,500

(D) Capital Equipment:

FFTF PROGRAM

Budget

H.R. 3000	$3,361
Proposed change	0
Proposed budget	3,361

Rationale: No cuts are recommended in the FFTF program.

BREEDER TECHNOLOGY

Budget

H.R. 3000	$6,639
Proposed change	2,600
Proposed budget	4,039

Rationale: This reduction corresponds to the reduction in the breeder technology operating expenses to defer large component development work.

TEST FACILITIES

Budget

H.R. 3000	$12,000
Proposed changes	2,000
Proposed budget	10,000

Rationale: This reduction corresponds to the reduction in test facility operating expenses to defer large component development work.

Subtotal—Capital equipment

H.R. 3000	$22,000
Proposed changes	4,600
Proposed budget	17,400

(E) Construction:

The construction authorizations are tabulated under their respective test facilities. Six construction projects listed under "Nuclear Fission" in H.R. 3000 do not relate to the breeder program.

ANL FACILITIES

Project 78-6-c:

Design and construction of SAREF—Phase I—Treat Upgrade.

Budget

H.R. 3000	$3,600
Proposed change	0
Proposed budget	3,600

Rationale: No reduction is indicated for these safety related studies.

Project 78-6-d:

EBR-II related construction.

Budget

H.R. 3000	$1,500
Proposed change	0
Proposed budget	1,500

Rationale: The $1,500 authorization results from the deauthorization of $5,000 from a previous $6,500 authorization. No change is made.

HEDL FACILITIES

Projects 80-ES-5:

Modifications to reactors at various locations.

Budget

H.R. 3000	$2,800
Proposed change	800
Proposed budget	2,000

Rationale: The $800 reduction represents that portion for the ETEC facility which is recommended for mothballing. (see Test Facilities—Category C)

Project 79-1-h:

Construction of the maintenance and storage facility (MASF).

Budget

H.R. 3000	$13,700
Proposed change	13,700
Proposed budget	0

Rationale: Existing facilities can be used for this function. The expanded program should be deferred until after the 1981 decision date.

Project 80-ES-16:

Construction of the fuel and materials examination laboratory (FEML). This project combines projects 78-6-f (FMEF) and 77-4-c (HPFL) which are deauthorized.

Budget

H.R. 3000	$53,000
Proposed change	31,500
Proposed budget	21,500

Rationale: This program should be scaled down at least until after the 1981 decision date.

ETEC FACILITIES

Project 78-6-e:

Provides for modification of the facility to permit testing of large sodium pumps.

Budget

H.R. 3000	$9,500
Proposed change	9,500
Proposed budget	0

Rationale: This is recommended for mothballing until after the 1981 decision date.

Project 80-ES-5:

This represents only part of this project. The $800 is reduced under Section E, HEDL facilities.

INEL FACILITIES

Project 80-ES-5:

This represents only part of the project. The $1,000 request is included under Section E, HEDL facilities.

SAFEGUARDS

Project 80-ES-3:

Safeguard related construction at INEL.

Budget

H.R. 3000	$1,200
Proposed change	0
Proposed budget	1,200

Rationale: No safeguard cuts are warranted.

Project 79-1-c:

Safeguard related construction at HEDL.

Budget

H.R. 3000	$7,500
Proposed change	0
Proposed budget	7,500

Rationale: No safeguard cuts are warranted.

GENERAL SUPPORT

Project 80-GPP-1:

Provides for general plant projects at all facilities.

Budget

(Breeder Program)

H.R. 3000	$12,300
Proposed change	6,300
Proposed budget	6,000

(HEDL)

H.R. 3000	$3,300
Proposed change	0
Proposed budget	3,300

(Advanced Nuclear systems)

H.R. 3000	$800
Proposed change	0
Proposed budget	800

Rationale: The $6,300 reduction corresponds to program cutbacks.

Project 80-ES-11:

Construction of multidisciplinary laboratory facility at INEL.

Budget

H.R. 3000	$22,000
Proposed change	0
Proposed budget	22,000

Rationale: No change is made.

Project 80-ES-4:

Construction of a laundry decontamination facility at INEL.

Budget

H.R. 3000	$2,000
Proposed change	0
Proposed budget	2,200

Rationale: No change is made.

Project 80-ES-6:

Replacing boilers at INEL.

Budget

H R. 3000	$1,900
Proposed change	0
Proposed budget	1,900

Rationale: No change is made.

Subtotal—Construction

H.R. 3000	$135,300
Proposed changes	61,800
Proposed budget	73,500

Subtotal—LMFBR program

H.R. 3000	$650,000
Proposed changes	317,600
Proposed budget	332,400

FUEL CYCLE R AND D

The objective of this program is the development and demonstration of reprocessing of fuels from breeder reactors.

OPERATING

Reprocessing:

Budget

H.R. 3000	$18,100
Proposed change	6,000
Proposed budget	12,000

Rationale: The conceptual design of the hot experimental facility (HEF) should be stopped and the schedule for the integrated equipment test facility (ITEF) at ORNL should be stretched-out.

Barnwell:

Budget

H.R. 3000	$10,500
Proposed change	10,500
Proposed budget	0

Rationale: Consistent with the Administration request, Barnwell is being terminated.

Capital Equipment:

Budget

H.R. 3000	$2,500
Proposed change	1,300
Proposed budget	1,200

Rationale: This is consistent with the stretch-out of the IETF timetable.

Construction:

Project 78-5-b:

Construction of the IETF.

Budget

H.R. 3000	$6,400
Proposed change	3,400
Proposed budget	3,000

Rationale: this is consistent with the stretch-out of the IETF timetable.

Subtotal—Fuel cycle R&D

Budget

H.R. 3000	$37,500
Proposed change	21,200
Proposed budget	16,300

Subtotal—LMFBR program and fuel cycle R. & D.

Budget

H.R. 3000	$687,500
Proposed change	338,800
Proposed budget	348,700

CRBR termination (assumes 10/1/79 termination):

Budget

H.R. 3000	--------
Proposed change	52,000
Proposed budget	52,000

(Total LMFBR budget)

H.R. 3000	$687,500
Proposed change	286,800
Proposed budget	400,700

Water-cooled and gas-cooled fast breeders:

Budget

H.R. 3000	$89,000
Proposed change	--------
Proposed budget	89,000

Personnel resources (all breeder reactor systems):

Budget

H.R. 3000	$11,909
Proposed change	--------
Proposed budget	11,909

Total Breeder Reactor Systems

Budget

H.R. 3000	$788,409
Proposed change	286,800
Proposed budget	501,609●

CONSTITUTION IS NOT PROPER VEHICLE FOR IMPLEMENTATION OF SOCIAL POLICY PREFERENCE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

● Mr. HANLEY. Mr. Speaker, I would like to take this opportunity to comment on the actions of the House today in voting to discharge the Judiciary Committee from consideration of House Joint Resolution 74, a proposed constitutional amendment which would effectively end the practice of Court ordered busing to achieve equal educational opportunity for all children in this Nation. First, I want to explain that due to prior commitments I was unable to be present for the vote to discharge the committee from consideration. I am officially recorded as "paired" in the affirmative. There can be no doubt that regardless of our individual feelings on the prudence of attempting to alter the Constitution to deal with this issue, a majority of my colleagues signed a discharge petition to require such consideration. That being the case I felt quite strongly that this body had a responsibility to the majority of its Members as well as to the concerned citizens of this Nation to debate this highly controversial proposal.

On the question of final passage of the substitute language of the Holt amendment, however, I joined with a majority of my colleagues in voting "no." I wish to make quite clear that this negative vote is in no way meant to imply any support for the concept of Court-ordered busing. I have always opposed the practice, and strongly feel that in some instances it has been either excessively or incorrectly applied. While I oppose an amendment to the Constitution as a means of correcting the problem, I continue to support efforts to enact legislation to provide assistance to the States in developing and implementing plans, on a voluntary basis, to reduce and eliminate minority group isolation in schools. Federal financial and technical assistance will be the key ingredient in such an approach. The House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education has tentatively scheduled hearings on this legislation for September, and I am hopeful that we will finally adopt this approach as a solution to the busing problem.

Finally, Mr. Speaker, there were a number of other important factors which prompted my negative vote on the constitutional amendment. First, I do not believe that the Constitution is the proper vehicle for the implementation of social policy preference. The broad statement of fundamental principles contained in that great document must not become encumbered with statements of narrow social preference. Second, even the language of the compromise proposal opens some very serious questions relating to the continued control of local school boards over decisions necessary to provide quality education for our young. Finally, passage of the amendment would have destroyed the years of effort in this Nation to pass and implement the equal protection clause of the 14th amendment. We dare not hold equal educational opportunity hostage to our desire for neighborhood schools. I am confident that we can have both, and I am hopeful that the House will finally consider the appropriate legislative solution I have already mentioned during the current session.●

DAVID ROCKEFELLER ON THE EUROCURRENCY MARKET

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, the Banking Subcommittees on Domestic Monetary Policy, and International Trade Investment and Monetary Policy recently held joint hearings concerning the vast Eurocurrency market. Also known as the Eurodollar market, it includes approximately $900 billion in deposits in various non-U.S. financial institutions of certain Western currencies, including the U.S. dollar, the German mark, and the Swiss franc.

This market is essentially outside the control of any one or any group of governments and is, therefore, self-regulating. Increasing concern about the operation and extent of this market has been registered in a number of countries, including the United States and the Federal Republic of Germany, due to the uncontrolled nature and fast growth rate of the market. Although no consensus emerged from the Banking Subcommittees' hearings, it became clear that the Congress should closely monitor this important international market for the continued stability of the world financial order.

On June 13, the prestigious chairman of the Chase Manhattan Bank, David Rockefeller, used the startling success of Margaret Thatcher as the vehicle for addressing the subject of the Eurocurrency market in an address before the American Chamber of Commerce in London, England. I would like to share this thought-provoking speech, which is entitled "Fresh Vision of Old Values," with all of my colleagues.

The speech follows:

Fresh Vision of Old Values

(Address by David Rockefeller)

On rare occasions in our lives, an especially propitious moment comes upon us—a moment which provides opportunities for action and achievement more readily grasped than at other times. These are moments which by their unusual character impel us to take stock of where we are, to reassess our goals, to change direction, and to renew our commitment to fundamental values which motivate us. At such times, if we seize the opportunity to act with determination, we can make progress.

These moments usually come in difficult times. They often represent turning points in a deteriorating situation, or steps taken in response to a crisis. As a result, they can acquire special historical significance.

Such a moment clearly exists here in the United Kingdom today. The decisive election of Mrs. Thatcher appears to have been more than a routine rotation of parties. It seems to carry a mandate for change.

Through their vote in a campaign where basic issues were sharply defined, the people of the United Kingdom have provided a rare opportunity for their leadership to reexamine the heart of their country's historic and fundamental values, to reassess how those values are being sustained in the world of today, and to make essential choices of what modifications may be required in the light of a changing world in order to give them a truer meaning and reality.

It would appear that the British voters have reopened fundamental issues such as the relationship between individual freedom and authority and the pervasiveness of the state. They have called into question the nation's more recent approach to the generation of wealth, prosperity, and the aggregation of savings and appear to be suggesting a return to a different philosophy. They have called for a fresh assessment of what their society should be—not simply of where current policies might take it. They have called for a vision which incorporates the encouragement of individual aspirations, expectations and standards of excellence, rather than a society which stresses security and equality at the expense of individual initiative and the creation of wealth.

Such a reassessment goes to the roots of British thought and tradition. This is the land which inspired and nutured men such as Locke, Hume, Mill, Adam Smith and Ricardo. These great men were the spokesmen for a society of individual achievers, of a society where the role of the state was not viewed as an end in itself, but rather as a means of preserving individual freedom and opportunity within the framework of law and equity.

At the same time on the continent of Europe, quite an opposite approach as being proclaimed. From the philosophies of Nietzche, Hegel and Marx stemmed ideas which gave precedence to the collective over the individual, to social welfare at the expense under this system of values was systematically subordinated to group goals, the state was viewed as the master. In societies where Marxism has been adopted as a philosophy of government, the people have suffered in body and spirit. Nevertheless the Marxian polemic of the supremacy of the masses has had enormous ideological appeal all over the world.

In the United Kingdom, an effort has been made to introduce the economics of socialism while retaining the politics of democracy. Fabian socialism, or the welfare state, had much appeal to those who were brought up in the British tradition. But unfortunately the outcome has been disappointing.

Democratic pressures for more and more welfare benefits have proven not to be consistent with the economic efficiency of the market mechanism. The result has been declining productivity, a weakening of the work ethic and a slowing down of the economy. The question arises whether, if the experiment of the welfare state were to persist, it would not result in a gradual abandonment of individual freedom in favor of something approaching more nearly a Marxist state such as we have seen in Eastern Europe.

The new Conservative government of Mrs. Thatcher is basically saying that capitalism—with all its faults and weaknesses—serves the greatest number the best. The British people seem to be saying that a leader who offers the possibility of fundamental change toward the individual and away from the collectivity is what they want. What they have had for several decades does not seem to have worked. A basic reassessment of where the country is headed has been asked by the people. The budget suggested by the chancellor suggests that this reassessment is already under way.

In my judgment this is a development of major proportions. For the first time in many years the United Kingdom is challenging a trend toward democratic socialism and is proposing a return to responsible, but nevertheless unabashed, capitalism. This is an experiment which the world will watch with intense interest.

I view this air of expectancy, which exists in my country as well as here, as a positive climate, a favorable psychological atmosphere for progress, and a benefit for Britain and her neighbors. It is, in short, an up-tick on the chart, even though the fundamental indicators have not changed substantially.

In the United States also there has also been an increasing maturity in the perception of where our country stands—and should stand—in the world, even though this perception has temporarily been clouded by the trauma of our experience with Vietnam and Watergate. Let me cite a few examples:

There is in our country a growing general awareness of global interdependence, and a particular awareness of America's dependence on economic relationships with other nations.

There is an increasing understanding of the need to cure inflation—surely our most pressing national problem—even though the medicine will be somewhat bitter.

There is more broadly-shared acceptance of responsible restraints on the consumption of finite, non-renewable resources.

And there is a most welcome trend in American thinking which sees achievement of the true American dream not from more government and more giveaway, but from the creation and development of more sustained and productive opportunities. In short there is a trend of thought in our country which parallels yours. As the new Prime Minister has put it: "There can be no liberty unless there is economic liberty." She believes, and many Americans believe, this means less government and more private initiative.

This thought and its implications for the private sector are finding support in other countries as well. Concern for market forces, free enterprise, and the advantage of open competition has become more visible and more vocal.

There are, however, countervailing pressures. One which is of particular concern to international business in general, and to international banking in particular, is the press for regulation of the Eurocurrency market, up to now one of the least regulated and most successful markets in the world.

The Eurocurrency market is an innovative evolution of international finance that provides an important focus for world investment, development and trade. It has been, and remains, a valuable mechanism for the stimulation of productivity and progress.

Experience with this market, especially since the massive oil price increase of 1973, indicates that it is useful, responsive and, above all, highly responsible. Through skillful and daring commercial bank intermediation, cash-rich nations, including the OPEC countries, made funds available to the nations that were short of cash, and thereby enabled them to weather the storm. The Eurocurrency market clearly demonstrated that market forces can work well for all.

Some critics of the Eurocurrency market have attacked it for encouraging irresponsible lending practices, particularly loans to less-developed countries. In my judgment, that criticism is not warranted. The fact is, for most banks that have participated in the Eurocurrency market, the loss experience with overseas loans has not been and is not now a problem of serious proportions. This was possible because of the high caliber of international borrowers. A very large part of loans made in Eurocurrencies are to industrialized nations. Of loans to developing nations, much the larger part is to the wealthier ones.

A very small part of Eurocurrency exposure is to nations classified by the World Bank as low-income nations, and even here the credits which have been extended have met acceptable credit standards. In speaking of the dangers to the banking system of loans to the developing nations it has become fashionable to cite Zaire. In point of fact commercial bank loans to Zaire are very small indeed in relation to overall loans to developing nations. But with improved copper prices the outlook, even for Zaire, could again become bright when coupled with a modest improvement in the political environment.

While, as I have indicated, following the 1973 oil crisis, the commercial banks were very successful in recycling funds between surplus and deficit countries, the problem may be more complicated now in the face of a new wave of price increases. In the earlier period the banks were able to intervene without assuming excessive credit risks.

Today the problem is somewhat different. Some developing nations may have already reached their borrowing capacity and some commercial banks may be confronted with limits of country exposure.

Therefore, this time around the commercial banks may not be able to assume the prime responsibility of recycling surplus OPEC funds, although they will surely continue to play an important role.

This time it seems to me imperative that the nations of the developed and developing world agree on new solutions allowing for:

(1) a greater reliance on inter-governmental cooperation; (2) an international system for providing credit such as the "Witteveen facility" in the IMF or a revised version of the "safety net" proposed by Secretary Kissinger in 1974.

In addition to expressed concern with respect to credit risk in Eurocurrency lending, other critics have suggested that the Eurocurrency market exacerbates world inflation. In my view, this argument also is clearly overstated. The inflation that you and I know and feel—and which is known and felt widely in Europe and elsewhere throughout the world—is not a consequence of transactions on the Eurocurrency market. Rather, it is primarily a product of domestic economic and political factors and decisions. If the Eurocurrency market were somehow to close down tomorrow, world inflation would not evaporate. I doubt that it would even recede noticeably. In fact, Eurocurrencies have for the most part been a force for economic expansion, rather than inflation.

Why, then, the pressures for more controls on the market? The free market system has been effective and productive. Its participants—generally the largest, soundest and most respected world banks—have been prudent and statesmanlike. It has met the needs of many borrowers and lenders. It has met severe financial challenges innovatively, responsively and responsibly. Additional controls can only hinder its flexibility and adaptability and subtract from its principal strength. Today, if there is a problem it is that the spreads are so narrow as to give cause for concern.

The other perplexing question beyond the "why" of regulation is "how"? I find it difficult to conceptualize how international regulation of Eurocurrency markets might actually be instituted. In the abstract, one could envision intelligent, capable, and well-meaning economists devising a technically workable scheme—providing it could be applied equitably to the participating banks of all nations. But as recent experience in efforts to revise domestic banking regulation is now demonstrating—it is unreasonable to expect such crucial economic changes to remain out of politics.

I cannot help but feel that regulation of the Euromarket would generate a net loss to the very institutions and nations it was intended to benefit.

In a sense, we are approaching a new phase in the life of the Eurocurrency market—and indeed in the life of world trade generally. This is a fortuitous time for shaping the future, for making possible freer and more open finance and trade, and indeed for restoring private enterprise and individual initiative.

Businessmen and women, not just government officials, have an important role in shaping this future. Passive complaining will not be productive and is not an answer. It will take clear, reasoned, and outspoken views—backed by vigorous action. This is the challenge to each of us in this room today. It is up to us to seize this rare moment. You in Britain with a new government, swept in by a strong mandate from the people are, for the first time in many years, in an especially favorable position to speak out with vigor and conviction on this vital subject. This is a time when all of us in business can help guide our governments through the difficult economic, political and social straits ahead by offering clear vision, a sense of purpose and a steady hand. But we must act swiftly, we must seize the moment before it fades.

This is not a time for isolationism or protectionism. Nor will passive measures solve our economic and social problems or overcome our basic shortcomings. Surely excessive regulation is not the answer. Negativism and passivity drive out the builders, the innovators and the entrepreneurs in our society. This loss can only stifle progress toward the achievement of a free society of free people, a society supported by a free and open market. And yet it is only in such a society that the individual can fulfill himself with dignity and economic wellbeing.

Mrs. Thatcher is right. "There can be no liberty unless there is economic liberty." For those who look for a strong and positive future, it is time to go on the offensive. It is time to voice clear support for a freer marketplace; it is time to redouble our commitment to those values which have made us strong: vibrant individualism accompanied by a strong social conscience.●

AMENDMENT TO PROHIBIT SCHOOLBUSING WOULD DISCOURAGE SCHOOL DISTRICTS FROM DEVELOPING INTEGRATION PLANS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, our Constitution has served our Nation well through times of national and international crisis, because it provided stability to unify us, rather than serving as a forum for divisive social issues.

The amendment before us today would have the effect of discouraging school districts from developing equitable and innovative integration plans, such as the establishment of magnet schools. Moreover, proximity has never been the one criteria for the assignment of students to schools. The restrictions embodied in this amendment would lead to a chaos for local school districts, and an unnecessary Federal intrusion on the education process. Special schools for gifted, disadvantaged, and other students, extracurricular activities, and future occupational goals are all necessary components of school assignments—and more important than that of mere geographical proximity.

Finally, if we adopt this amendment today, we will be in effect telling millions of our fellow Americans, that the aspirations they hold for their children are not of concern to their Government.●

BACKGROUND ON THE FUQUA-BROWN AMENDMENT ON THE CLINCH RIVER BREEDER REACTOR AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, once again the full House of Representatives will be forced to debate and vote on the Clinch River breeder reactor project, and depending on the eventual language which goes to the President, we may see the entire Department of Energy budget authorization effort vetoed. I voted against reporting this bill because I believe the Committee on Science and Technology should report realistic legislation that has some chance of becoming law. The present bill, with its uncompromising and unrealistic language and funding for the Clinch River breeder reactor project, fails that test. The committee is thus forcing the full House to make the changes which will allow the Department of Energy authorization bill, with all of its positive and responsible programs, to become law.

The background of this dispute is generally known. The Joint Committee on Atomic Energy and the Atomic Energy Commission—both since abolished—advocated the rapid commercialization of liquid metal fast breeder reactors in the early 1970's because of a rapidly growing demand for electricity, and for light water nuclear reactors specifically. The proposed breeder reactors would use plutonium as their main fuel, thus eventually relieving the demand upon our limited uranium resources. The Clinch River breeder reactor project was considered, at the time of its initiation, essential to the early commercialization of plutonium breeder reactors.

Since its initiation in 1972, the projected demand for electrical energy has fallen dramatically, and the decline in projected demand for nuclear generated electricity has fallen even more dramatically. Today it is estimated that we will reach at most only one-fourth the demand for nuclear power estimated for the year 2000 when the Clinch River project was planned.

When President Carter took office he sought the termination of the Clinch River breeder project, while at the same time expanding the Federal Government's breeder reactor program to examine other reactor designs, fuels other than plutonium, and a broader and more aggressive safety program for any future reactors and fuel cycles.

In 1977 President Carter cast his first veto on the authorization bill for the Energy Research and Development Administration—since reorganized—which contained authorization for the Clinch River breeder reactor project. No attempt was made to override the veto, but because separate legislation contained appropriations for the CRBR, the project has continued to spend some $15 million a month with very little direction or belief that the money is being spent for a well defined purpose. Efforts to negotiate a compromise during the last session of Congress failed when the Senate was unable to take up the Department of Energy authorization bill. The President's budget this year contained funding for the programs in the compromise which was negotiated, but not voted on last year.

EFFORTS TO COMPROMISE

As one of the supporters of President Carter's efforts to defer commercialization of plutonium breeder reactors, and terminate the unnecessary Clinch River breeder reactor project, I have been deeply involved in negotiations with supporters and opponents of nuclear power, and supporters and opponents of rapid commercialization of breeder reactors. During more than 2 years of negotiations I believe President Carter has come more than halfway in assuring the breeder reactor proponents that his proposed breeder program does not undermine or necessarily even delay the day when we may see breeder reactors introduced commercially. Since breeder reactors, with their accompanying reprocessing facilities, are competitors of light water reactors, and are uneconomical until uranium is genuinely scarce, it is highly improbable that any utility would operate a breeder reactor until after the year 2020.

Serious efforts to negotiate a compromise started after President Carter vetoed the ERDA authorization bill in 1977 because it continued the Clinch River breeder reactor project. During markup for the Department of Energy authorization bill during spring of 1978 then chairman of the Science and Technology Committee, "Tiger" Teague, and the nuclear Subcommittee Chairman Walter Flowers supported a well-balanced compromise which expanded the breeder research and development program and initiated a major design study for a large breeder reactor, which would be presented to the Congress in 1981, in exchange for terminating the Clinch River breeder reactor project. This compromise failed in the Science and Technology Committee by one vote, and again failed on the House floor. Meanwhile, in the Senate a similar compromise was being negotiated, with the major difference being the addition of still more money for breeder safety work. Unfortunately, this matter never came to a vote in the Senate, and remains unresolved today.

This year efforts at compromise were again attempted in committee, with the President's budget already containing the request for the program identical to that initiated in 1972 when the CRBR was started, the full Science and Technology Committee this year was confronted with a subcommittee recommendation which rejected President Carter's efforts at compromise, and essentially recommended a budget and program identical to that initiated in 1972 when the CRBR was started. The main difference from 1972 is that costs have continued to escalate, now to over $2.5 billion; the need for this demonstration and timetable has continued to decline; and the design for the CRBR has become more obsolete.

At full committee I offered an amendment to restore the President's compromise, and reprogram the money now being wasted in the CRBR project to the broader breeder research and development program. The key element of this compromise is the initiation of a major new conceptual design for a breeder reactor larger than the proposed Clinch River breeder reactor. This study is to be submitted to Congress no later than March 31, 1981 for a decision by Congress on whether to proceed with developing a larger breeder reactor. Before my amendment was voted on, Chairman Don Fuqua offered an amendment to my amendment to direct the Department of Energy to also initiate site selection and licensing activities for the new larger breeder reactor. While the amendment by Chairman Fuqua was not part of the President's compromise package, I supported it in the hopes that the Members who wanted to vote in support of breeder reactors and who genuinely wanted to end this futile struggle over the CRBR would feel more assured with this additional language. This did not happen. While some Members who were not prepared to support the President's compromise did vote for the amendment by Chairman Fuqua, other Members believed the amendment went too far, and opposed it as compromising too much. Chairman Fuqua's amendment was defeated with the help of CRBR opponents and supporters. The vote on my amendment, which contained the President's compromise, was also defeated, and although it was supported by Chairman Fuqua, not all of those who supported his amendment supported my amendment.

I announced my intention in full committee, and repeat here my intention to combine elements of the amendments by Chairman Fuqua and myself, and with the help of the Carter administration, develop a floor amendment which reassures breeder reactor and nuclear supporters even more than is done by the present Carter compromise, without risking a veto. While it is possible that such an additional compromise cannot gain administration support, I intend to continue working for any reasonable compromise which recognizes both the reality of the need—or lack of it—for early commercialization of breeder reactors and the political realities in the Congress.

CONCLUSION

At the end of these remarks can be found a detailed description of the Carter Administration's position of the Clinch River breeder reactor project and the breeder program in general. I believe any Member can see that this is a realistic and reasonable position. Given this set of facts, why is there such a struggle over the Clinch River breeder reactor project? I am convinced that it is a matter of political overkill, where the nuclear power industry and the supporters of this single public works project are using the CRBR as a symbolic test of strength and a simple effort to keep the money flowing.

The full House of Representatives must reverse the action by the Science and Technology Committee or see the Department of Energy authorization bill vetoed. Unless we do this, we will only be continuing a futile, symbolic fight, while real energy battles are waiting to be fought. In addition, we will be wasting valuable energy funds on what has become merely a pork-barrel public works project, instead of investing them in a creative energy strategy.

There is a new climate for nuclear power in this country, and it is not favorable to the rapid expansion of the industry. President Carter's breeder reactor compromise strengthens the careful breeder research and development program already underway with a special emphasis upon breeder reactor safety. Adoption of the Carter compromise will make the U.S. breeder program the best in the world. Failure to compromise will continue the doubt and uncertainty which has been plaguing the nuclear industry.

THE WHITE HOUSE,
Washington, April 24, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Since the beginning of my Administration I have opposed construction of the Clinch River Breeder Reactor. In recent days, I have again reviewed this matter and I remain convinced that completion of this project would not be in the national interest. My reasons for this belief are:

It is premature to proceed with construction of any initial breeder facility now because it will be a long time before breeders would be economical in the United States, based on conservaltve estimates of domestic uranium supply and demand.

We have had extensive experience in this field since the design of the Clinch River Breeder was frozen in the early 1970s, and it no longer represents the best design available for the first breeder reactor.

When the time comes we can design and build a reactor that is technically more advanced, more efficient, safer, and more comparable to reactors that one day might actually be used commercially. The learning and experience to be gained from completion of CRBR is, therefore, just not worth the cost.

Continuation of this project will weaken the United States' effort to persuade other countries to limit and impose strict controls on their use of plutonium and other nuclear materials from which nuclear weapons can be made. If the United States is to be a leader in the field of breeder reactor technology we must have a strongly based program that continues to advance the state of the art. This will enable us to build a more advanced reactor at an appropriate future date.

I want to emphasize that my opposition to CRBR does not imply opposition to breeder reactors in general or to nuclear power. Along with developing our renewable energy resources based on solar energy and fusion, breeder reactors hold the promise of providing essentially inexhaustible supplies of electrical energy. We need to pursue a vigorous program of breeder reactor research and development so that this option can be commercially available to us when and if we need it. I have always been committed to such a program and remain so today. My FY 1980 budget requests $504 million for liquid metal fast breeder development and $86 million for light water and gas cooled fast breeder backups. My FY 1981 budget will maintain this commitment to a large diversified technology program, the largest of any country in the world.

In addition, I am convinced that we must continue to use the once-through light water reactor system as an important source of our electricity now and in the future. We must continue to improve safety, reliability and resource utilization and we must proceed with careful, deliberate, yet expeditious waste disposal. I am strongly committed to all of these and my FY 1980 budget, if enacted by the Congress, will ensure strong programs in each area.

Internationally, we will continue our efforts to persuade others to derive the energy benefits of nuclear fission without increasing the likelihood that nuclear technology and nuclear materials will be diverted for purposes of making nuclear explosives. I believe these two objectives can be compatible and we will continue working with other countries to make them so.

Naturally, I am aware of the diverse views in the Congress on the issue of CRBR. The controversy over this important aspect of the Nation's energy research and development program has been prolonged and divisive. Attention has been diverted from the remainder of a balanced and effective energy research and development program and from other important energy issues, both nuclear and non-nuclear.

In addition, while the debate continues we are expending about $15 million per month on the Clinch River project. While some of these expenditures are for components which I would intend to complete, much is being wasted. This we can ill afford. Approximately $1.5 billion can be saved if the project finally can be terminated. In my judgment, it is time to end this impasse and get on with a vigorous and balanced research and development program to assist in solving our long-term energy needs.

I believe it is possible to resolve this matter in a manner acceptable to both the Administration and the Congress. The essential elements of such a resolution include:

A strong liquid metal fast breeder research and development program funded at $504 million for FY 1980. This will assure our ability to build a first facility when we need it and eventually to commercialize the technology if we decide to do so.

A conceptual design study of a large breeder test plant that would be what the nuclear and utility industry now believe the first breeder facility should be, incorporating currently available technology, and providing a flexible test facility. A report on this design will be made to Congress in March of 1981.

Completion of such a systems design of the Clinch River Breeder Reactor.

Procurement and testing of certain components from the Clinch River project to ensure that we can obtain maximum benefit from past investments.

Termination of the remainder of the Clinch River project.

I have directed Secretary of Energy Schlesinger to transmit to the Congress legislation to implement this resolution. The legislation assumes enactment by June 1 of this year, a date which will minimize further wasted expenditures on this project while allowing adequate time for full and careful consideration by the Congress.

I have asked that detailed briefings on all aspects of my Administration's nuclear program, and on the role of breeder reactors in our energy future, be made available to members of the Congress and their staffs in the near future. I have also instructed the Department of Energy and my own staff to spare no effort in supplying any details or information members and their staffs might request in this regard.

I look forward to working cooperatively with the Congress on resolving this important issue and I urge the Congress to enact promptly the legislative proposals to be sent to you shortly.

Sincerely,

JIMMY CARTER.

CARTER ADMINISTRATION FACT SHEET

URANIUM EFFICIENCY—THE BREEDER AND OTHER CHOICES

The breeder and improved nonbreeders

The advantage of the breeder reactor is often said to be that it produces more fuel than it consumes. This is an imprecise way of putting the matter. A breeder produces more fissionable material than it consumes, but it does gradually use up fuel—that is it uses up uranim, which it efficiently converts from nonfissionable to fissionable form. The advantage of a breeder is that it uses much less uranium than present light water reactors—at least 95 percent less uranium if the breeder works as advertised.

This advantage must be weighed against four disadvantages. The first is a higher capital cost for breeders than for light water reactors (LWRs). DOE estimates that liquid metal fast breeder reactors (LMFBRs) could cost 25 percent to 75 percent more than LWRs. This cost penalty is now under study in the government, with the likelihood that newer data will show higher breeder costs. To understand the seriousness of the breeder cost penalty we should realize that at an average price of $30 per pound, the cost of uranium is only some 5 percent of the cost of delivered electricity from LWRs. The capital cost of the light water reactor, however, is some 35 percent of the delivered cost of electricity. A 25 to 75 percent more expensive breeder reactor would consequently have the economic effects of uranium costing upwards of $100 per pound. Electric utility purchases are very sensitive to capital costs. It remains to be seen whether a machine as expensive as a breeder reactor will have a sizable market.

The second disadvantage of a breeder reactor is that its uranium savings come late in time. This is because of logistic limitations that only allow breeders to be built up slowly. A February 1978 report, "Nuclear Fuel Cycle Requirements," prepared by an expert group of the OECD Nuclear Energy Agency, compared cumulative uranium requirements through 2025 for breeders and for LWRs. The comparison of interest is for the "present trend" growth of nuclear power, a growth projection that looks generous in the light of current information, in which the best LMFBR analyzed is compared to an LWR with a 35 percent reduction in uranium requirements. We shall discuss shortly how much an improvement in uranium efficiency seems conservative for LWRs operating without recycle. Accepting these assumptions, the OECD group found that cumulative uranium consumption through 2025 would be the same for breeders as for LWRs. The improvement in uranium efficiency of breeders could only show up in cumulative uranium consumption in the second quarter of the twenty-first century.

The third disadvantage is the technical complexity of breeders. Construction standards and specifications for safety systems are inherently more stringent for LMFBRs. This is in part because liquid sodium, which must be kept away from air and water, is used extensively. This is why the estimated cost for LMFBR R&D is now greater than $20 billion, and we still do not know whether the final breeder will be as reliable as present day LWRs.

The fourth disadvantage of breeders is one that we have heard a great deal about—nuclear weapon proliferation risk. Breeders require in their fuel a high concentration of fissionable material—a 4 to 10 fold higher concentration than LWRs require in their fresh fuel and some 12–30 times the concentration of plutonium in LWR spent fuel. This means that the reprocessing of breeder core fuel—which is required to realize the uranium efficiency benefits of breeders—can yield bomb quantities of material up to 30 times as fast as can the reprocessing of LWR spent fuel—which is not required for LWRs. There is no way to avoid this high concentration of fissionable material and reprocessing operations if a breeder is to breed. CIVEX and thorium cycles may mitigate but cannot eliminate this problem.

The magnitude of the proliferation risk from a single 1000 megawatt breeder is worth some reflection. Each annual fuel load could contain enough plutonium for hundreds of nuclear weapons. The chemical separation of such plutonium could produce as arsenal quantity of nuclear material every few days.

By contrast let us examine the non-breeder reactors. The present day LWR operating on a once-through fuel cycle is among the most proliferation resistant reactor systems known. It was not designed for uranium efficiency, but high confidence uranium resources can support the lifetime fuel requirements for the projected growth in the use of LWRs beyond the year 2000.

Can the uranium efficiency of the LWR be improved? Yes, very much so. The Department of Energy is requesting research funds for FY 1980 to pursue substantial fuel efficiency improvements for once-through LWRs that could be brought into practice by the end of the century. Such improvements, including a longer-lived LWR fuel now being tested and capable of being retrofitted to other LWRs—will around the year 2000 reduce uranium requirements by more than 25 percent. Non-retrofitable improvements, applicable only to new LWRs, may be based on the design goal of a 40 percent reduction in uranium requirements. Such improvements can be combined with changes in the operation of enrichment plants to increase uranium efficiency, for example, 0.05 percent–0.1 percent tails assay achieveable with enrichment technologies of the 1980's and 1990's. The total effect, if successful, would be a reduction of about 50 percent in uranium requirements for once-through LWRs by the turn of the century.

Advantages of improved uranium efficiency in nonbreeders

Whether one believes or does not believe that the world will ultimately turn to breeder reactors, there are at least six reasons why we should all agree that the uranium efficiency of nonbreeders should be improved.

The first reason is to stretch our present low-cost uranium resources. With projected nuclear growth, our high confidence low cost resources can fuel for their lifetimes all LWRs to be installed past the year 2000. With a 50 percent reduction in uranium requirements LWRs can continue to grow on the present high confidence, low cost resource base until the 2020 period.

The second reason is to make more uranium economically accessible. By giving us more time to discover additional low cost uranium, improved efficiency LWRs raise the prospect of an approximate doubling of low cost uranium supplies—by moving from today's "reserves" and "probable" resources to tomorrow's "possible" and "speculative" resources. But a 50 percent improvement in uranium efficiency does more than give us time. It also allows once-through reactors to economically use more expensive uranium. If a present day LWR can use $100 per pound uranium and still be more economical than a breeder, then a 50 percent more efficient LWR can use approximately $200 per pound uranium. And much more uranium is available at higher costs. DOE's mineral inventory shows a one-third increase in U.S. uranium inventories as the cut off grade moves from levels that correspond to $50 per pound to levels that correspond to roughly $100 per pound. But this is only for uranium associated with present high grade uranium deposits. Should the economic incentive arise, new lower grade uranium deposits are likely to be found that were passed over under old economic conditions. We need not rely on new discoveries, however. At uranium prices in the low hundreds of dollars per pound known resources, U.S. shales for example, promise to at least double again the world uranium supplies. Even though this uranium is "low grade," the quantities mined and the gross environment effects of mining it should be less, per kilowatt hour, than for mining coal. And for 50 percent lower uranium requirements in LWRs, these environmental effects will be 50 percent lower.

Although more uranium efficient nonbreeders could make such resources economically and environmentally accessible, it is not clear that the world will need to turn to such resources. The history of the uranium industry and all other extractive industries clearly implies that more lower cost fuel is available to be discovered.

The third advantage of uranium efficient non-breeders applies to countries that are concerned about the security of their nuclear fuel supplies. Such reactors as improved once fuel supplies. Such reactors as improved once-through LWR's can reduce uranium requirements soon, not in the second quarter of the twenty-first century. And they can increase the fuel assurance provided by a given nuclear fuel stockpile—a stockpile that could either be held by an individual country or by an international fuel bank.

The fourth advantage of more uranium efficient non-breeders is that, if the world some day turns to recycle of spent fuel, such reactors permit a longer period of so-called "thermal recycle" in which the fissionable concentration of nuclear fuel is a factor of 4–10 times lower than for breeders. Perhaps some day reprocessing and fuel refabrication could be conducted only in a few secure locations; this is, of course, a great political uncertainty that is one reason for the Carter "pause" is committing to such technologies. But in the event that such political controls could be developed and accepted, the nuclear fuel shipped out of such secure areas could have a low concentration of isotopically denatured U-233—a material almost as proliferation resistant as present nuclear fuel. And the greater uranium efficiency of non-breeders would allow the world to use this technology for decades more than if no such efficiency improvements were made.

The fifth advantage of uranium efficient non-breeders is that, if breeders ever arrive, the world will need fewer of them and can confine them to fewer secure areas if they are operated in conjunction with efficient non-breeders. With more efficient non-breeders correspondingly less fissionable material would need to be bred to fuel them and to allow an increase in their numbers. The material could be bred to having one breeder for perhaps every three non-breeders, but confining these limited numbers of breeders to relatively secure areas and limiting the nuclear material exported from these areas to low concentrations of denatured fissionable material. This would not be the easiest of all worlds for which to secure the necessary political agreements, and it would not be the most proliferation resistant of all worlds. But it would be far more benign than a world with breeders, reprocessing plants, and high concentrations of fissionable material everywhere.

The sixth advantage of more uranium efficient non-breeders goes back to considerations of time. More efficient non-breeders would give us more time to develop better reactors employing breeder technology. If breeders are not needed for the next forty years, our range of choices as to what kind of reactor we want expands considerably. We can seriously investigate, for instance, a once through fast reactor, a new concept that would use low enriched uranium fuel, without reprocessing, in a fast reactor employing breeder technology. After startup, such a reactor would feature a predicted improvement in uranium efficiency by a factor of 15 over present LWR's. This could defer the justification of reprocessing fuel cycles in breeder technology by many decades or centuries.●

A RAILROADER'S THOUGHTS ON AMTRAK

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. Evans) is recognized for 5 minutes.

● Mr. EVANS of Indiana. Mr. Speaker, I recently received a letter from a constituent of mine, Victor Tryon, regarding his concern about the possible discontinuation of some of the Amtrak routes whose fate we are discussing today. Mr. Tryon has served the Amtrak system as a conductor on the National Limited. He has 38 years of experience in the railroad industry and has some insightful observations resulting from that service. I think my colleagues will benefit from Mr. Tryon's thought on just why some of the Amtrak routes are having the difficulties in getting the ridership they might under different circumstances.

June 18, 1979.

Dear Congressman: In reference to DOT restructure of Amtrak and the discontinuance of 43 percent of Amtrak routes.

I am one of the Amtrak Conductors on the Amtrak National Limited running between Indianapolis and St. Louis, with 38 years experience. I'm also a firm believer that Amtrak can be a very lucrative business, and if it is true there is an energy crisis or shortage, there is no other way to mass transit people more economically with the use of less fuel—figures prove this.

Over past years I have observed many of the reasons that could help Amtrak business, and listed below are just a few of the many complaints I consistently hear from Amtrak passengers and the general public that I am in contact with daily.

(1) Very little promotion or advertising of the National Limited Amtrak schedules, tariffs and type of equipment available. Very few know we are now running new Amfleet Equipment on the National Limited.

(2) Passengers complain it is almost impossible to call Chicago toll free number for train information and reservations, and if they can get through, they are often told no seats are available, when we find there are plenty seats available. Amtrak should return to local listings for train information and reservations.

(3) More in-city directions to Amtrak Passenger Stations is very poor. A few gallons of paint sure would clean up and improve most local stations. There are no lights or shelter for passengers at Terre Haute, IN., a scheduled stop.

(4) The Eastbound National Limited departs Kansas City on time and will lose from approximately 1 to 2 hrs. arriving at St. Louis, that much late, which is ridiculous and should be investigated at once as this is not an occasional delay—it is almost daily.

(5) The business increased to the extent that Amtrak has discontinued one of its best economy tickets which is the U.S.A. Rail passenger ticket that is purchased for periods of two weeks, three weeks and thirty days and allows the passenger to travel, stop over at any time within the 30 day period without additional expense. Instead of discontinuance of train travel, these tickets should be continued and added equipment is needed to take care of their needs. About 75,000 passes are sold a year.

(6) The National Limited, the one and only train that serves Indianapolis, IN., also serves for delivery of inbound and outbound equipment to Beech Grove, IN., one of the largest repair facilities in the nation. If the National Limited was discontinued, special trips costing Amtrak about $4,000 each would have to be made to the plant.

(7) The National Limited is short sleeping cars which causes a hardship the majority of the time and no sleeping space is available for the traveling public.

The Conductor does not have any space allocated for his use in assigning space for on-board protection or sale. On many occasions sleeping space sales are turned away by the Conductor.

Even Amtrak says its ridership began climbing last October. In May, the system turned away 756,246 would-be passengers for lack of space.

At least a two-year moratorium should be enacted on all present Amtrak trains.

Sincerely,

Victor V. Tryon,
Conductor, Amtrak National Limited.
Plainfield, Ind.●

EXPRESSING CONCERN OVER ATTACKS IN LEBANON

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute.)

Mr. KASTENMEIER. Mr. Speaker, earlier today, during the 1 minute speeches, the gentleman from Illinois (Mr. Findley) expressed his concern over Israeli bombing and other military attacks in Lebanon.

Mr. Speaker, I wish to associate myself with the gentleman's remarks, and I yield back the balance of my time.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record.)

Mr. MIKVA. Mr. Speaker, due to my appearance at confirmation hearings before the Senate Judiciary Committee on July 19, 1979, I was absent for three rollcall votes.

Had I been present, I would have voted as follows:

Rollcall No. 361, motion by Mr. Paul to recommit H.R. 3917 (health planning and resources development amendments) to examine the effects of the bill on the Hippocratic Oath—vote, "no";

Rollcall No. 362, final passage of H.R. 3917—vote, "yes"; and

Rollcall No. 363, to resolve the House into the Committee of the Whole to consider H.R. 4473 (foreign assistance appropriations for fiscal year 1980)—vote, "yes."

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows:)

To Mr. Edwards of Alabama (at the request of Mr. Rhodes), for July 23 and 24, 1979, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dougherty) to revise and extend their remarks and include extraneous material:)

Mr. McKinney, for 10 minutes, today.
Mr. Kemp, for 20 minutes, today.
Mr. Collins of Texas, for 20 minutes, today.
Mr. Findley, for 10 minutes, today.

(The following Members (at the request of Mr. Mavroules) to revise and extend their remarks and include extraneous material:)

Mr. Cavanaugh, for 20 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Addabbo, for 20 minutes, today.
Mr. Scheuer, for 5 minutes, today.
Mr. Nelson, for 5 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Ms. Holtzman, for 5 minutes, today.
Mr. Udall, for 15 minutes, today.
Mr. Hanley, for 5 minutes, today.
Mr. LaFalce, for 15 minutes, today.
Mr. Phillip Burton, for 5 minutes, today.
Mr. Brown of California, for 5 minutes, today.
Mr. Evans of Indiana, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. ERDAHL.
Mr. SYMMS.
Mr. GOLDWATER.
Mr. BROWN of Ohio.
Mr. RUDD.
Mr. ERLENBORN.
Mr. GUYER.
Mr. RAILSBACK.
Mr. DERWINSKI.
Mr. GILMAN.
Mr. CLINGER.
Mr. PAUL in three instances.
Mr. RINALDO.
Mr. DANNEMEYER.
Mr. FINDLEY.
Mr. HOPKINS.
Mr. COLLINS of Texas in three instances.
Mr. HINSON in two instances.
Mr. COLEMAN.
Mr. KEMP.

(The following Members (at the request of Mr. MAVROULES) and to include extraneous matter:)

Mr. MARKEY.
Mr. ASPIN.
Mr. SOLARZ in two instances.
Mr. OTTINGER in five instances.
Mr. WEISS.
Mr. EDGAR.
Mr. ADDABBO.
Mr. WAXMAN.
Mr. VENTO in two instances.
Mr. CONYERS in two instances.
Mr. GARCIA.
Mr. RODINO in two instances.
Mr. BARNES in two instances.
Mr. SEIBERLING in 10 instances.
Mr. JENKINS.
Mr. MOAKLEY.
Mrs. SCHROEDER in three instances.
Mr. SHANNON.
Mr. WOLFF.
Mr. PEPPER in two instances.
Mr. FISHER.
Mr. MAZZOLI.
Mr. NOLAN.
Mr. DELLUMS.
Mr. SKELTON.
Mr. MATSUI in two instances.
Mr. BEDELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 390. An act to expedite and reduce the cost of antitrust litigation, and for other purposes; to the Committee on Judiciary.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 373. Joint resolution recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

ADJOURNMENT

Mr. MAVROULES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 25, 1979, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2087. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to the Federal Republic of Germany (Transmittal No. 79-54), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2088. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment and services to Singapore (Transmittal No. 79-55), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2089. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment and services to Egypt (Transmittal No. 79-56), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2090. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment and services to Egypt (Transmittal No. 79-57), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2091. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to Israel (Transmittal No. 79-58), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2092. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to Israel (Transmittal No. 79-59), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2093. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to Israel (Transmittal No. 79-60), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2094. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of defense equipment to Saudi Arabia (Transmittal No. 79-63), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2095. A letter from the Assistant Administrator of General Services for Management, Policy, and Budget, transmitting the statistical supplement to the stockpile report for the 6 months ended March 31, 1979, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

2096. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations to govern the award to Federal assistance to school districts enrolling certrain categories of children receiving free public education in areas affected by Federal activities, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2097. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Anthony Quainton, Frank G. Wisner, Harvey J. Feldman, Jack R. Perry, J. Brian Atwood, and by members of their respective families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

2098. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Federal Republic of Germany (Transmittal No. 79-54), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2099. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Singapore (Transmittal No. 79-55), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2100. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army, Navy, and Air Force's intention to offer to sell certain defense equipment and services to Egypt (Transmittal No. 79-56), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2101. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Egypt (Transmittal No. 79-57), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2102. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 79-58), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2103. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 79-59), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2104. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (Transmittal No. 79-60), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2105. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to the Netherlands (Transmittal No. 79-61), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2106. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 79-63), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2107. A letter from the Director, Office of Personnel Management, transmitting notice of various exclusions from the Senior Executive Service made by the President, pursuant to 5 U.S.C. 3132(f); to the Committee on Post Office and Civil Service.

2108. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement and supplemental information on the mouth of the Colorado River, Tex., pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

2109. A letter from the Comptroller General of the United States, transmitting a report comparing international communication, cultural, and educational programs of the United States and six other countries (ID–79–28, July 23, 1979); jointly, to the Committees on Government Operations and Foreign Affairs.

2110. A letter from the Comptroller General of the United States, transmitting a report on needed controls over the package tour industry (CED–79–108, July 23, 1979); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 2492. A bill to correct an anomaly in the rate of duty applicable to articles of apparel in which feathers or downs are used as filling and to extend until June 30, 1984, the duty provisions applicable to crude feathers and downs; with amendment (Rept. No. 96–375). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 1319. A bill to extend the period for duty-free entry of a 3.60-meter telescope and associated articles for the use of the Canada-France-Hawaii Telescope Project at Mauna Kea, Hawaii; (Rept. No. 96–376). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2297. A bill to continue until the close of June 30, 1982, the existing suspension of duties on synthetic rutile; with amendment (Rept. No. 96–377). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 1212. A bill for the relief of the University of Florida, Gainesville, Fla.; (Rept. No. 96–378). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3122. A bill relating to the tariff treatment of certain articles; with amendment (Rept. No. 96–379). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report pursuant to section 302(b)(2) of the Congressional Budget Act of 1974; (Rept. No. 96–380). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3361. A bill to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16. (Rept. No. 96–383). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 384. Resolution providing for the consideration of S. 1030. An act to authorize the President to create an emergency program to conserve energy, and for other purposes (Rept. No. 96–384). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 385. Resolution providing for the consideration of H.R. 4167. A bill to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 percent of the parity price therefor (Rept. No. 96–385). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 386. Resolution providing for the consideration of H.R. 79. A bill to amend title 39, United States Code, to provide that the chairman of the Board of Governors of the U.S. Postal Service be appointed by the President, and for other purposes (Rept. No. 96–386). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1762. A bill to convey all interests of the United States in certain real property in Sandoval County, N. Mex., to Walter Hernandez (Rept. No. 96–381). Referred to the Committee of the Whole House.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1968. A bill to direct the Secretary of the Interior to convey certain lands in Clear Creek County, Colo., to Harold and Doris Harlan; with amendment (Rept. No. 96–382). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 4931. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $1,000 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. CAVANAUGH:

H.R. 4932. A bill to amend the Federal Property and Administrative Services Act of 1949 to require the installation in all Federal vehicles of devices to identify and encourage the reduction or elimination of nonproductive energy consumption; to the Committee on Government Operations.

H.R. 4933. A bill to amend the Internal Revenue Code of 1954 to provide refundable credits against income tax for development, testing, and purchase of devices designed to identify and encourage the reduction or elimination of nonproductive energy consumption of motor vehicles; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 4934. A bill to amend title 18, United States Code, to authorize imposition of a fine as an additional penalty for an offense, to increase the maximum fines for various offenses, to establish an alternative maximum fine based on the extent to which pecuniary gain results from committing an offense, to establish criteria applicable to the imposition and modification of fines, and for other purposes; to the Committee on the Judiciary.

By Mr. JENKINS:

H.R. 4935. A bill to amend the Tariff Schedules of the United States to provide a duty on certain items relating to certain models of household furnishing and accessories; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 4936. A bill to establish a coordinated, prompt, and simplified process for approval of significant nonnuclear energy facilities, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. MARKEY:

H.R. 4937. A bill to amend the Railroad Retirement Act of 1974 to provide that certain individuals who lost railroad related employment through no fault of their own shall be deemed to have current connections with the railroad industry for the purposes of determining eligibility for certain survivors benefits; to the Committee on Interstate and Foreign Commerce.

By Mr. PATTERSON (for himself, Mr. Anderson of California, Mr. Corman, Mr. Dixon, Mr. Goldwater, Mr. Moorhead of California, and Mr. Roybal):

H.R. 4938. A bill to repeal the act of June 23, 1936, to preserve to the city of Los Angeles all of its existing rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RITTER:

H.R. 4939. A bill to provide for a Federal mechanism within the Office of Science and Technology Policy for assessing the comparative risks involved in actions in scientific, technological, and related fields; to the Committee on Science and Technology.

By Mr. PAUL:

H.R. 4940. A bill to limit the acquisition and use of motor vehicles; to the Committee on Government Operations.

By Mr. PICKLE:

H.R. 4941. A bill to name a dam and reservoir on the San Gabriel River, Tex., as the North San Gabriel Dam and Lake Georgetown, respectively; to the Committee on Public Works and Transportation.

By Mr. RAHALL:

H.R. 4942. A bill to amend the Internal Revenue Code 1954 to provide that the payment of certain dividends by a cemetery corporation shall not deny such corporation its exemption under section 501(c)(13) of such code; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. Addabbo, Mrs. Chisholm, Mrs. Fenwick, Mr. Garcia, Mr. Guarini, Ms. Holtzman, Mr. Rangel, Mr. Richmond, Mr. Rinaldo, Mr. Fish, and Mr. Peyser):

H.R. 4943. A bill granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 4944. A bill to prohibit any person, in manufacturing cigarettes or little cigars for sale or distribution in commerce, from adding to such cigarettes or little cigars any substance which has the effect of continuing the burning of such cigarette or little cigar if left unattended; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 4945. A bill to amend sections 503, 504, 606(6), 804 and 905(a) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. MURTHA:

H.R. 4946. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer a deduction from gross income for expenses paid by him for the education of any of his dependents at an institution of higher learning; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4947. A bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline; to the Committee on Interior and Insular Affairs.

By Mr. WEISS:

H.R. 4948. A bill to reduce certain eligibility requirements for basic and supplemental educational opportunity grants; to the Committee on Education and Labor.

By Mr. WEISS (for himself, Mrs. Chisholm, and Mr. Miller of California):

H.R. 4949. A bill to require certain information be provided to individuals who take standardized educational admissions tests and for other purposes; to the Committee on Education and Labor.

By Mr. CORRADA (for himself, Mr. Wright, Mr. Rhodes, Mr. Brademas, Mr. Michel, Mr. Udall, Mr. Phillip Burton, Mr. Clausen, Mr. Rostenkowski, and Mr. Devine):

H. Con. Res. 165. Concurrent resolution relating to self-determination for the people of Puerto Rico; to the Committee on Interior and Insular Affairs.

By Mr. McDONALD:

H. Con. Res. 166. Concurrent resolution expressing the sense of the Congress that homosexual acts and the class of individuals who advocate such conduct shall never receive special consideration or a protected status under law; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H. Res. 387. Resolution to express the sense of the House of Representatives that there should be no recess for the House of Representatives during the remainder of the first session of the 96th Congress; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

269. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to assuring adequate supplies of home heating oil to Massachusetts; to the Committee on Interstate and Foreign Commerce.

270. Also, memorial of the Legislature of the State of Louisiana, relative to a tax credit for oil profits which are reinvested in exploration and development; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 4950. A bill for the relief of Maria Iannone Zannella; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 4951. A bill for the relief of Anastacio Tortona; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 996: Mr. Whitehurst, Mr. Emery, Mr. Mitchell of Maryland, Mr. Whittaker, Mr. Archer, Mr. Gingrich, Mrs. Fenwick, Mr. Livingston, Mr. Wolff, Mr. Frenzel, Mr. Tauke, and Mr. Chappell.

H.R. 1297: Mr. Flippo, and Mr. Matsui.

H.R. 1918: Mr. Miller of Ohio.

H.R. 2551: Mr. Hollenbeck, Mrs. Snowe, Mr. Tauke, Mr. Fazio, Mr. Kildee, Mr. Anderson of Illinois, Mr. Pursell, Mr. Daschle, Mr. D'Amours, Mr. Erdahl, Mr. Murtha, Mr. Railsback, Mr. Duncan of Tennessee, Mr. Edwards of California, Mr. Stokes, Mr. Bailey, Mr. Traxler, Mr. Seiberling, and Mr. Ratchford.

H.R. 3383: Mrs. Holt, Mr. Lungren, and Mr. Robinson.

H.R. 3595: Mr. Gilman.

H.R. 3677: Mr. Vento, Mr. Hughes, and Mrs. Schroeder.

H.R. 3769: Mr. Williams of Montana.

H.R. 3883: Mr. Broomfield, Mr. Roybal, Mr. Williams of Montana, Mr. Fazio, Mr. Weaver, Mr. Udall, Mr. Sabo, Mr. Downey, Mr. Roe, Mr. Addabbo, Mr. Murphy of Pennsylvania, Mr. Kogovsek, Mr. Kemp, Mr. Horton, Mr. Simon, Mr. Duncan of Oregon, Mr. Mikva, Mr. Corcoran, Mr. Kostmayer, Mr. Pepper, Mr. Dicks, Mr. LaFalce, Mr. Ottinger, Mr. Corman, Mr. Lowry, Mr. Vento, Mr. Weiss, Mr. Wolff, Mr. Buchanan, Mr. Walgren, Mr. Murphy of Illinois, Mr. Lederer, Mr. Gilman, Mr. Mollohan, Mr. Marks, and Mr. Van Deerlin.

H.R. 3912: Mr. Simon, Mr. Tauke, Mr. Wolff, Mr. Solarz, Mr. Stokes, and Mr. Richmond.

H.R. 4253: Mr. Brodhead, Mr. Corrada, Mr. Downey, Ms. Ferraro, Mr. Florio, Mr. Green, Mr. Guarini, Mr. Gudger, Mr. Harkin, Mr. Mitchell of Maryland, Ms. Mikulski, Mr. Murphy of Pennsylvania, Mr. Pepper, Mr. Richmond, Mrs. Spellman, Mr. Stack, Mr. Stokes, Mr. Weiss, Mr. Wolpe, Mr. Mineta, Mr. Pursell, Mrs. Chisholm, Mr. Skelton, Mr. Wirth, Mr. Waxman, Mr. Ottinger, and Mr. Lowry.

H.R. 4291: Mr. Whitehurst, Mr. Symms, Mr. Devine, Mr. Lagomarsino, Mr. Whitley, Mr. Roe, Mr. Nichols, Mr. Hyde, Mr. Solomon, Mr. Bevill, Mr. Whittaker, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Badham, Mr. McDonald, Mr. Barnard, Mr. Leach of Louisiana, Mr. Goodling, Mr. Campbell, Mr. Montgomery, Mr. Dannemeyer, Mr. Gudger, Mr. Chappell, Mr. Burgener, Mr. Jeffries, Mr. Sawyer, Mr. Wyatt, Mr. Ichord, Mr. Dougherty, and Mr. Robert W. Daniel, Jr.

H.J. Res. 139: Mr. Daniel B. Crane.

H.J. Res. 205: Mr. Anderson of Illinois, Mr. Ford of Michigan, and Mr. Dougherty.

H.J. Res. 322: Mr. Hopkins, Mr. Kostmayer, Mr. Addabbo, Mr. Campbell, Mr. Stark, Mr. LaFalce, Mr. Rahall, Mr. Won Pat, Mr. Scheuer, Mr. AuCoin, Mr. Price, Mr. Wolpe, Mr. Kildee, Mr. Richmond, Mr. Flood, Mr. Lagomarsino, Mr. Murphy of Pennsylvania, Mr. Bonior of Michigan, Mr. Marks, Mr. Cheney, and Mr. Simon.

PETITIONS, ETC.

Under clause 1 of rule XXII,

180. The SPEAKER presented a petition of Sonoma County Board of Supervisors, Santa Rosa, Calif., relative to rail service between Willits, Calif., and Eureka, Calif., which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. CLINGER:

—Page 41, after line 24, insert the following new section:

TAX CREDIT STUDY

Sec. 302. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study.

By Mr. COURTER:

—Page 79, add at the end the following new section:

LIMITATION ON USE OF CERTAIN FUNDS TO ADMINISTER THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Sec. 111. No funds appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to administer any mandatory allocation or price control for motor gasoline established by regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

By Mr. FITHIAN:

—Page 4, line 6, strike out "$61,500,000" and insert in lieu thereof "$84,400,000".

Page 4, line 7, strike out "$52,000,000" and insert in lieu thereof "$65,900,000".

Page 4, line 15, strike out "$54,500,000" and insert in lieu thereof "$84,900,000".

Page 58, line 16, strike out $23,000,000" and insert in lieu thereof "$35,800,000".

By Mr. KOSTMAYER:

—Insert a new Section 802 and renumber accordingly:

Section 802. It shall be the policy of the Department of Energy to maximize research and development procurement from small businesses, as defined by the Small Business Administration. (a) To implement this policy, the Department of Energy shall procure not less than 25 percent of research and development projects and services from small businesses. (b) If the Secretary determines that this degree of small business participation cannot be achieved, he shall report to the Committees on Interstate and Foreign Commerce, Small Business, and Government Operations of the House of Representatives; and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate; the Department's inability to meet the 25 percent small business requirement, the reasons therefore, and the Department's planning to meet the requirement in subsequent years.

By Mr. KRAMER:

—Page 79, after line 25, insert the following new section:

PROMULGATION OF REGULATIONS

Sec. 814. (a) No regulation promulgated by the Secretary of Energy on or after the date of the enactment of this Act for the purpose of conducting any activity for which funds are authorized to be appropriated under this Act shall be effective after the expiration of the 2-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation.

(b) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under subsection (a), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of this section.

By Mr. NEAL:

—Page 19, after line 21, insert the following new item:

(15) Project 80–FE–12, 150 MWe, Peat-fueled, Electric Generating Plant, site to be determined, $3,100,000.

By Mr. RAHALL:

—Page 2, strike out line 5 and all that follows down through line 20, and insert in lieu thereof the following:

(B) Coal preparation research and development, $15,187,500.

(C) Coal liquefaction, $120,007,500.

(D) Surface coal gasification, $110,187,500.

(E) In situ coal gasification, $12,375,000.

(F) Advanced research and technology development, $48,125,000.

(G) Advanced environmental control technology, $46,812,500.

(H) Heat engines and heat recovery, $65,-375,000.

(I) Combustion systems, $45,753,750 including $3,437,500 for alternative fuel utilization.

(J) Fuel cells, $35,625,000.

(K) Magnetohydrodynamics, $93,750,000.

(L) Personnel resources, $13,821,250.

—Page 19, strike out lines 16 through 21 and insert in lieu thereof the following:

(13) Project 78–2–d, SRC–I (Solids) Demonstration Plant, $545,000,000, for a total project authorization of $585,000,000.

(14) Project 79–1–r, SRC–II (Liquids) Demonstration Plant, $535,000,000, for a total project authorization of $585,000,000.

Page 2, line 4, strike out "$48,000,000" and insert in lieu thereof "$68,000,000".

By Mr. UDALL:

(To the amendment in the nature of a substitute)

—Page 10, lines 22 and 23, strike out "Clinch River breeder reactor, $183,800,000" and insert in lieu thereof "Activities related to the termination of the Clinch River breeder reactor project, $52,000,000".

Page 10, line 24, insert after the comma "including the study described in subsection (f) of this section,".

Page 11, line 2, strike out "$142,400,000" and insert in lieu thereof "$107,000,000".

Page 11, line 4, strike out "$75,300,000" and insert in lieu thereof "$50,300,000".

Page 11, line 15, strike out "$18,100,000" and insert in lieu thereof "$12,000,000".

Page 11, strike out lines 16 through 17.

Page 11, insert after line 20 the following new subsection:

(f) The Secretary of Energy shall conduct a comprehensive study on advanced fission energy strategies and shall submit a report of the results of the study to the Congress not later than March 31, 1981. In conducting the study, the Secretary of Energy shall review the potential role of nuclear energy for supplying electricity in the United States for periods of fifty and one hundred years into the future. The study shall include an examination of alternative advanced fission energy strategies, including strategies designed around breeder reactors, particularly the liquid metal fast breeder reactor, and those based on reliance on advanced converter reactors which provide for more efficient use of uranium (including advanced light water reactors, high temperature gas-cooled reactors, and heavy water reactors). With respect to each strategy reviewed under the study, the Secretary of Energy shall examine matters relating to research and development, budgetary considerations, safety, proliferation of nuclear materials, and licensing. The report submitted to the Congress shall contain recommendations of the Secretary of Energy regarding the possibility of reprogramming funds authorized to be appropriated under this section for the purpose of conducting studies respecting the safety of light water reactor technology. The Secretary shall consult with the heads of other appropriate Federal departments and agencies in carrying out the study.

Page 16, line 22, strike out "$22,000,000" and insert in lieu thereof "$17,400,000".

Page 17, line 4, strike out "$2,500,000" and insert in lieu thereof "$1,200,000".

Page 22, line 10, strike out "$2,800,000" and insert in lieu thereof "$2,000,000".

Page 23, line 12, strike out "$12,300,000" and insert in lieu thereof "11,000,000".

Page 23, strike out lines 17 through 21.

Page 23, line 22, strike out "(15)" and insert in lieu thereof "(14)".

Page 24, line 3, strike out "(16)" and insert in lieu thereof "(15)".

Page 24, line 8, strike out "(17)" and insert in lieu thereof "(16)".

Page 24, lines 11 and 12, strike out "$53,-000,000" each place it appears and insert in lieu thereof "$21,000,000".

Page 24, line 12, strike out "(18)" and insert in lieu thereof "(17)".

Page 24, line 16, strike out "(19)" and insert in lieu thereof "(18)".

Page 24, line 18, strike out "$6,400,000" and insert in lieu thereof "$3,000,000".

Page 24, line 19, strike out "$15,400,000" and insert in lieu thereof "$12,000,000".

Page 24, line 20, strike out "(20)" and insert in lieu thereof "(19)".

Page 25, strike out lines 1 through 3.

Page 25, line 4, strike out "(22)" and insert in lieu thereof "(20)".

Page 25, line 8, strike out "(24)" and insert in lieu thereof "(22)".

By Mr. WYDLER:

—On page 4, line 23 strike out "$63,900,000 and insert in lieu thereof "$68,900,000."

On page 5, after line 3, insert the following:

"(c) LWR Safety Development R&D, $5,-000,000."

H.R. 3180

By Mr. COURTER:

—Page 37, after line 21 insert the following new section:

LIMITATION ON USE OF CERTAIN FUNDS TO ADMINISTER THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

SEC. 111. No funds appropriated pursuant to this Act for the fiscal year ending September 30, 1979, may be used to administer any mandatory allocation or price control for motor gasoline established by regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

By Mr. KRAMER:

—Page 47, after line 24 insert the following new section (and redesignate the succeeding sections accordingly):

PROMULGATION OF REGULATIONS

SEC. 205. (a) No regulation promulgated by the Secretary of Energy on or after the date of the enactment of this Act shall be effective after the expiration of the 2-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation.

(b) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under subsection (a), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of this section.

H.R. 3996

By Mr. DODD:

—Page 98, after line 6, insert the following new section:

SUPPLEMENTAL TRANSACTIONS

SEC. 205. (a) REMOVAL OF LIMITATION.—Section 305(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(a)) is amended by striking out the second sentence thereof.

(b) PUBLIC HEARING.—The last sentence of section 305(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(a)) is amended by inserting immediately before the period at the end thereof the following: "in an agency hearing on the record held with respect to such proposal".

(c) MODIFICATIONS.—Section 305(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(b)) is amended by inserting after the third sentence thereof the following new sentence: "If on the basis of its evaluation the Association determines that such proposal can be modified to meet the criteria set forth in the preceding sentence, the Association is authorized to make such modifications.".

(d) APPLICABILITY.—The amendments made by this section shall apply to any supplemental transaction pending under section 305 of the Regional Rail Reorganization Act of 1973 on the effective date of this Act.

Redesignate the following sections in title II accordingly.

By Mr. HAGEDORN:

—Page 51, strike out lines 3 through 6 and redesignate paragraphs (4) through (6) as paragraphs (3) through (5), respectively.

Page 60, after line 17, insert the following new section:

AMTRAK FARES POLICY

SEC. 111. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(n) (1) The Secretary shall, no later than 60 days after the effective date of this Act, calculate the total expenses of the Corporation for the fiscal year ending September 30, 1979. The Secretary shall, no later than September 1 of each succeeding fiscal year, calculate the total expenses of the Corporation for that fiscal year.

"(2) The Corporation shall establish, for intercity rail passenger service that it provides, fares that will produce—

"(A) for the fiscal year ending September 30, 1980, revenues equal to not less than 40 percent of its total expenses (excluding depreciation) as calculated by the Secretary for the previous fiscal year;

"(B) for the fiscal year ending September 30, 1981, revenues equal to not less than 45 percent of its total expenses (excluding depreciation) as calculated by the Secretary for tho previous fiscal year; and

"(C) for the fiscal year ending September 30, 1982, revenues equal to not less than 50 percent of its total expenses (excluding depreciation) as calculated by the Secretary for the previous fiscal year.".

Redesignate the following sections accordingly.

By Mr. PEPPER:

—Page 56, after line 22, insert the following new section:

REDUCED FARE PROGRAM FOR ELDERLY AND HANDICAPPED INDIVIDUALS

SEC. 106. Section 305(c) of the Rail Passenger Service Act (45 U.S.C. 545(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) The Corporation may establish, on a standby, space available, or other basis, a program of reduced fares for the elderly and handicapped individuals. Reduced fares established under such a program for rail passenger service provided by the Corporation shall not be in excess of 50 percentum of the regular fare for the same service in the case of standby or space available fares and shall not be in excess of 75 percentum of the regular fare for the same service in the case of fares established on any other basis.

"(3) For purposes of this subsection—

"(A) the term 'elderly individual' means a person who has attained the age of sixty-five years; and

"(B) the term 'handicapped individual' means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such an impairment, or is regarded as having such an impairment, but such term does not include any person who is an alcoholic or drug abuser." Redesignate the following sections accordingly.

H.R. 4034

By Mr. DODD:

—Page 48, add the following section after line 22 and redesignate subsequent sections accordingly:

EXPORTS TO OPEC COUNTRIES

SEC. 113. The President shall review all United States exports to each country that is a member of the Organization of Petroleum Exporting Countries (OPEC) in order to determine whether such exports are consistent with the national security, foreign policy, and economic interests of the United States. In conducting such review the President shall take specifically into account the pricing of petroleum exports from each country to the United States and any action taken by that country either to accomplish, or to impede, a comprehensive peace in the Middle East. The President shall also determine—

(1) which OPEC member countries, if any, rely upon United States goods and technologies, the particular goods and technologies involved, and the availability, from sources outside the United States, of such goods and technologies;

(2) the economic impact on each OPEC member country of prohibiting or restricting the export of any United States goods or technology to such country; and

(3) the impact on the United States economy of prohibiting or restricting the export of any United States goods or technology to such country.

The President shall submit to the Congress, not later than six months after the date of the enactment of this Act, a report containing the determinations made, and the findings of the review conducted, pursuant to this section.

By Mr. WOLFF:

—Page 8, line 9, strike out "in consultation with the Secretary of Defense, and" and insert in lieu thereof "with the concurrence of the Secretary of Defense and in consultation with".

—Page 15, line 12, insert "of foreign availability" after "determination".

—Page 15, insert the following after line 13 and redesignate subsequent paragraphs accordingly:

"(3) If, in any case in which the President makes a determination under paragraph (1) or (2) of this subsection with respect to the national security, the good or technology concerned is critical to a United States military system and, if available to an adversary country, would permit a significant advance in a military system of that country, the President shall direct the Secretary of State to enter into negotiations with the appropriate government or governments in order to eliminate foreign availability of such good or technology.

Page 15, line 20, strike out "under" and insert in lieu thereof "of foreign availability under paragraph (1) or (2) of".

—Page 15, insert the following after line 13 and redesignate subsequent paragraphs accordingly:

"(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

—Page 16, insert the following after line 7:

"(5) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information concerning foreign availability of such goods and technologies to the Office of Export Administration, and such Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

—Page 20, strike out line 21 and all that follows through page 21, line 2.

—Page 28, insert the following after line 15:

"(1) The Secretary shall require a validated license for the export of wheat and wheat flour. In carrying out this paragraph, the Secretary shall impose such export license fees as the Secretary shall determine. Such license fees may be waived in the case of exports to developing countries. Such fees shall be imposed in the case of exports to any country which imposes restrictions on access by the United States to goods where such restrictions have or may have a serious domestic inflationary impact, have ceased or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States.

"(2) The provisions of paragraph (1) shall not apply to a country if and when the President determines that it is in the national interest to remove the requirement of a validated license set forth in such paragraph with respect to that country.".

Page 28, line 15, strike out the closed quotation marks and final period.

—Page 28, insert the following after line 15:

"(1) COUNTRIES ENGAGING IN INEQUITABLE TRADE PRACTICES.—It is the sense of the Congress that export controls should be imposed with respect to any country which engages in inequitable trade practices toward the United States concerning pricing and availability of goods vital to the United States economy, including petroleum.".

Page 28, line 15, strike out the closed quotation marks and final period.

H.R. 4040

By JOHN L. BURTON:

—Page 23, line 25: After the word "Appropriations" add the words "Foreign Relations."

Page 23, line 25: After the word "Appropriations" add the words "Government Operations".

Page 24, strike line 11.

Page 24, strike lines 12–15.

Page 24, strike line 16.

Page 24, strike lines 17–18.

Page 24, strike lines 19–21.

Page 24, strike line 22.

Page 24, strike line 23.

Page 25, strike lines 1–3.

Page 25, strike line 4.

Page 25, strike lines 5 and 6.

Page 25, strike lines 7 and 8.

Page 25, strike lines 9 and 10.

Page 25, strike lines 11–13.

Page 25, strike lines 14–16.

Page 25, strike lines 17–19.

Page 25, strike lines 20–22.

Page 25, strike lines 23–25, and lines 1–3, page 26.

Page 28, line 23: Strike the word "persons" and insert in lieu thereof "men, women, and children".

Page 28, line 23: After the word "persons" add the words "including illegal aliens".

Page 28, line 23: After the word "persons" add the words "including illegal aliens and Indochinese boat people".

Page 29, line 1: Strike the words "school records and".

Page 29, line 1: Strike the words "school records" and insert in lieu thereof "FBI files".

By Mr. CLAY:

—Page 29, line 1: Strike the words "school records" and substitute the words "medical records".

Page 29, line 1: Strike the words "school records" and insert in lieu thereof "police records".

Page 29, line 4: Strike the word "persons" and insert in lieu thereof "boat people".

Page 29, line 4: Strike the word "persons" and insert in lieu thereof "illegal aliens".

Page 29, line 4: Strike the word "persons" and insert in lieu thereof "men, women, and children".

Page 29, line 13: Strike the word "persons" and insert in lieu thereof "illegal aliens".

Page 29, line 13: Strike the word "persons" and insert in lieu thereof "boat people".

Page 29, Strike lines 3–8.

Page 29, Strike lines 9–11.

Page 29, Strike lines 12–14.

Page 29, Strike lines 15–18.

Page 29, Strike lines 19–24.

Page 28, Strike lines 22–24.

Page 30, line 24: Strike the word "once" and insert in lieu thereof "twice".

Page 30, line 24: Strike the word "once" and insert in lieu thereof "three times".

By Mr. DELLUMS:

—Page 27, line 10: delete $10,000,000 and insert in lieu thereof $5,000,000.

Page 27 line 10: delete $10,000,000 and insert in lieu thereof $1,000,000.

Page 27, line 10: delete $10,000,000 and insert in lieu thereof $20,000,000.

Page 27, line 11: delete 1980 and insert in lieu thereof 1984.

Page 27, line 11: delete 1980 and insert in lieu thereof 1988.

Page 27, line 11: delete 1980 and insert in lieu thereof 1992.

Page 27, line 11: delete 1980 and insert in lieu thereof "all future Olympic games".

Page 27, line 19: delete the word "not".

Page 27, line 14, delete the words "pay and".

Page 27, line 14, delete the words "and nontravel".

Page 28, line 1, delete the words "Republic of Korea" and insert in lieu thereof "Colorado".

Page 28, line 1, delete the words "Republic of Korea" and insert in lieu thereof "Tennessee".

Page 29, line 1, delete the words "Republic of Korea" and insert in lieu thereof "West Germany".

Page 29, line 1, after the word "Korea" add the words "and France".

Page 29, line 1, after the word "Korea" add the words "and Montana".

Page 29, line 1, after the word "Korea" add the words "and Indiana".

Page 29, line 1, after the word "Korea" add the words "and Oklahoma".

Page 29, line 1, after the word "Korea" add the words "and Texas and Oklahoma".

Page 29, line 1, after the word "Korea" add the words "and Minnesota".

By Mr. EDGAR:

—Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1969".

Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1965".

Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1970".

On page 28, omit lines 22–24, Page 29, omit lines 1 and 2.

Page 29, omit lines 3–8.

Page 29, omit lines 9–11.

Page 29, omit lines 15–18.

Page 29, omit lines 19–24.

Page 30, omit lines 1–12.

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Health, Education, and Welfare".

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Transportation".

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Commerce".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "Department of Treasury".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "NASA".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "General Services Administration".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "twelve".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "fifteen".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "two".

Page 32, line 3: Strike the word "four" and insert in lieu thereof "two".

By Mr. HARKIN:

—Page 32, line 3: Strike out the word "four" and insert in lieu thereof "seven".

Page 33, line 8: Strike the number "976" and insert in lieu thereof "970".

Page 33, line 8: Strike the number "976" and insert in lieu thereof "974".

Page 17, line 20: Strike the word "laboratories".

Page 17, line 20: Strike the word "operation", line 21 strike the words "and maintenance of test ranges".

Page 17, line 21: Strike the words "and maintenance of" line 22, strike the words "test aircraft and ships".

Page 18: Strike lines 1–5.

Page 18, line 22: Strike the number "20" and insert in lieu thereof "15".

Page 18, line 22: Strike the number "20" and insert in lieu thereof "10".

Page 22, line 1: Strike the number "30" and insert in lieu thereof "60".

Page 22, line 1: Strike the number "30" and insert in lieu thereof "20".

Page 23, line 2: Strike the number "9,000" and insert in lieu thereof "8,000".

Page 23, line 2: Strike the number "9,000" and insert in lieu thereof "10,000".

Page 23, line 12: Strike the word "Hawaii" and insert in lieu thereof "Iowa".

Page 23, line 12: Strike the word "Alaska" and insert in lieu thereof "Texas".

Page 23, line 12: Strike the words "Alaska and Hawaii".

Page 23, line 12: Strike the word "Alaska" and insert in lieu thereof "Washington".

Page 23, line 17: Strike the words "October 1, 1979" and insert in lieu thereof "January 1, 1981".

Page 23, line 17: Strike the words "October 1, 1979" and insert in lieu thereof "January 1, 1985".

Page 23, line 25: After the word "Appropriations" add the words "Foreign Relations".

Page 23, line 25: After the word "Appropriations" add the words "Government Operations".

Page 24, strike line 11.
Page 24, strike lines 12–15.
Page 24, strike line 16.
Page 24, strike lines 17–18.
Page 24, strike lines 19–21.
Page 24, strike line 22.
Page 24, strike line 23.
Page 25, strike lines 1–3.
Page 25, strike line 4.
Page 25, strike lines 5 and 6.
Page 25, strike lines 7 and 8.
Page 25, strike lines 9 and 10.
Page 25, strike lines 11–13.
Page 25, strike lines 14–16.
Page 25, strike lines 17–19.
Page 25, strike lines 20–22.

Page 25, strike lines 23–25, and lines 1–3, page 26.

Page 28, line 23: Strike the word "persons" and insert in lieu thereof "men, women, and children".

Page 28, line 23: After the word "persons" add the words "including illegal aliens".

Page 28, line 23: After the word "persons" add the words "including illegal aliens and Indochinese boat people".

Page 29, line 1: Strike the words "school records and".

Page 29, line 1: Strike the words "school records" and insert in lieu thereof "FBI files".

Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1969".

Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1965".

Page 28, line 2: delete "May 1, 1979" and insert in lieu thereof "May 1, 1970".

Page 28, omit lines 22–24, Page 29, omit lines 1 and 2.

Page 29, omit lines 3–8.
Page 29, omit lines 9–11.
Page 29, omit lines 15–18.
Page 29, omit lines 19–24.
Page 30, omit lines 1–12.

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Health, Education, and Welfare."

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Transportation".

Page 31, line 8: Omit the words "Department of Defense" and insert in lieu thereof "Department of Commerce".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "Department of Treasury".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "NASA".

Page 31, line 8: Strike the words "Department of Defense" and insert in lieu thereof "General Services Administration".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "twelve".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "fifteen".

Page 31, line 23: Strike the word "seven" and insert in lieu thereof "two".

Page 32, line 3: Strike the word "four" and insert in lieu thereof "two".

By Mr. KOSTMAYER:

—Page 28, after line 14, insert the following new subsection:

(c) Section 4(a) of such Act (50 U.S.C. App. 454) is amended by striking out "twelve weeks" both places it appears and inserting in lieu thereof "sixteen weeks".

—Page 28, after line 14, insert the following new subsection:

(c) No person registered under the Military Selective Service Act after the date of the enactment of this Act shall be classified and examined under section 4(a) of such Act until the Congress, by law enacted after such date of enactment, directs that such classification and examination be carried out.

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

MINIMUM STANDARDS FOR PHYSICAL ACCEPTABILITY FOR INDUCTION

SEC. 813. The third undesignated paragraph of section 4(a) of the Military Selective Service Act is amended by striking out "That the minimum" and all that follows through "1945: Provided further,".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

MINIMUM STANDARDS FOR MENTAL ACCEPTABILITY FOR INDUCTION

SEC. 813. The third undesignated paragraph of section 4(a) of the Military Selective Service Act is amended by striking out "That the passing" and all that follows through "points: And Provided further,".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PRESIDENT'S AUTHORITY TO WAIVE MINIMUM STANDARDS FOR PHYSICAL AND MENTAL ACCEPTABILITY FOR INDUCTION

SEC. 813. The third undesignated paragraph of section 4(a) of the Military Selective Service Act is amended by striking out ": *And Provided further,*" and all that follows in such paragraph and inserting in lieu thereof a period.

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PERIOD OF SERVICE FOR PERSONS INDUCTED INTO THE ARMED FORCES

SEC. 813. Section 4(b) of the Military Selective Service Act is amended by striking out "twenty-four" and inserting in lieu thereof "twenty".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PERIOD OF SERVICE FOR PERSONS INDUCTED INTO THE ARMED FORCES

SEC. 813. Section 4(b) of the Military Selective Service Act is amended by striking out "twenty-four" and inserting in lieu thereof "eighteen".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PERIOD OF SERVICE FOR PERSONS INDUCTED INTO THE ARMED FORCES

SEC. 813. Section 4(b) of the Military Selective Service Act is amended by striking out "twenty-four" and inserting in lieu thereof "twenty-two".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF STATE QUOTAS FOR INDUCTIONS

SEC. 813. (a) Subsection (b) of section 5 of the Military Selective Service Act is repealed.

(b) Subsection (d) of such section is amended by striking out ", notwithstanding the provisions of subsection (b) of this section".

—Page 28, after line 14, insert the following new section, and redesignate the succeeding sections accordingly):

REPEAL OF DEFERRAL OF VICE PRESIDENT OF THE UNITED STATES

SEC. 813. Section 6(f) of the Military Selective Service Act is amended by striking out "Vice President of the United States; the".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF DEFERRAL OF STATE-WIDE ELECTED OFFICIALS OF STATES AND TERRITORIES

SEC. 813. Section 6(f) of the Military Selective Service Act is amended by striking out "the governors" and all that follows through "or possession;".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF DEFERRAL OF MEMBERS OF CONGRESS

SEC. 813. Section 6(f) of the Military Selective Service Act is amended by striking out "of the United States and" after "legislative bodies".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF DEFERRAL OF STATE LEGISLATORS

SEC. 813. Section 6(f) of the Military Selective Service Act is amended by striking out "legislative bodies of the United States and of the several States, Territories, and possessions" and insert in lieu thereof "Congress".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF DEFERRAL OF FEDERAL, STATE, AND DISTRICT OF COLUMBIA JUDGES

SEC. 813. Section 6(f) of the Military Selective Service Act is amended by striking out

"; judges" and all that follows through "District of Columbia".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

REPEAL OF REQUIREMENT FOR PUBLIC POSTING OF NAMES OF CLASSIFIED REGISTRANTS

Sec. 813. Section 6(h) of the Military Selective Service Act is amended by striking out "There shall be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those persons who have been classified by such local board.".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PERIOD FOR APPEALING DENIAL OF OCCUPATIONAL DEFERMENT

Sec. 813. Section 6(n) of the Military Selective Service Act is amended by striking out "five days" and inserting in lieu thereof "thirty days".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

PERIOD FOR APPEALING DENIAL OF OCCUPATIONAL DEFERMENT

Sec. 813. Section 6(n) of the Military Selective Service Act is amended by striking out "five days" and inserting in lieu thereof "twenty days".

—Page 28, after line 14, insert the following new section (and redesignate the succeeding sections accordingly):

DEFINITION OF RELIGIOUS TRAINING AND BELIEF

Sec. 813. Section 6(j) of the Military Selective Service Act is amended by striking out the second sentence thereof.

—Page 29, after line 18, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(6) whether and to what extent procedures and standards for recognizing those individuals who, by reason of religious training and belief, are conscientiously opposed to participation in war in any form should be modified;

—Page 28, line 23, strike out "automatically".

Page 28, beginning on line 24, strike out "centralized, automated".

—Page 29, line 2, strike out "records;" and insert in lieu thereof "records, and whether such a system could be compatible with the provisions of section 438 of the General Education Provisions Act (20 U.S.C. 1232g);".

By Mr. PAUL:

—On page 26, strike section 809 and renumber the following sections accordingly.

—On page 27, strike section 810 and renumber the subsequent sections accordingly.

—On page 27, line 10, strike "$10,000,000" and insert in lieu thereof "5,000,000".

—On page 27, strike section 811 and renumber the subsequent sections accordingly.

—On page 28, line 4, strike "January 1, 1981," and insert in lieu thereof "January 1, 1984,".

—On page 28, line 7, strike "eighteen" and insert in lieu thereof "twenty-one".

—On page 28, line 7, strike "eighteen" and insert in lieu thereof "forty-five".

—On page 28, line 7, strike "1980" and insert in lieu thereof "1984."

—On page 28, strike lines 10 through 14 and insert in lieu thereof the following: "striking out 'it shall be the duty' and inserting in lieu thereof 'it shall not be the duty'".

—On page 28, strike section 813 and renumber the subsequent sections accordingly.

—On page 30, line 4, insert the following new subsection:

"(8) the impact of registration and induction on constitutional liberties guaranteed by the first, fourth, fifth, ninth, tenth, and thirteenth amendments to the United States Constitution."

—On page 30, strike subsection 813(b).

—On page 30, line 10, strike "1980," and insert in lieu thereof "1984,".

—On page 30, strike section 814 and renumber the subsequent sections accordingly.

—On page 30, strike lines 18 through 24 and insert in lieu thereof the following:

"(i) The Selective Service System, including local boards and appeals boards appointed under subsection (b)(3), shall have no authority to register by any means or induct into the armed forces of the United States any person unless that person has indicated in writing to the Selective Service System his willingness to be registered or inducted.".

—On page 31, strike section 815 and renumber the following sections accordingly.

—On page 31, strike lines 6 through 8 and insert in lieu thereof the following:

"(f) The Congress further declares that the defense of the United States has traditionally and constitutionally been achieved by the voluntary participation of our citizens in the armed forces of the United States; that conscription is an aberration from this traditional and constitutional practice that is more in keeping with the policies and practices of tyrannical and totalitarian government; and that it is the intent of Congress that nothing in this Act shall be construed to mean that any person has the power or authority to compel another to register for induction into or to be inducted into the armed forces of the United States.

By Mrs. SCHROEDER:

—Page 28, strike out line 3 and all that follows down through line 24 on page 30 and insert in lieu thereof the following:

PRESIDENTIAL RECOMMENDATIONS FOR SELECTIVE SERVICE REFORM

Sec. 812. (a) The President shall prepare and transmit to the Congress a plan for reform of the existing law providing for registration and induction of persons for training and service in the Armed Forces. Such plan shall include recommendations with respect to—

(1) the desirability and feasibility of resuming registration under the Military Selective Service Act as in existence on the date of the enactment of this Act;

(2) the desirability and feasibility of establishing a method of automatically registering persons under the Military Selective Service Act through a centralized, automated system using school records and other existing records;

(3) the desirability of the enactment of authority for the President to induct persons registered under such Act for training and service in the Armed Forces during any period with respect to which the President determines that such authority is required in the interest of the national defense;

(4) whether women should be subject to registration under such Act and to induction for training and service in the Armed Forces under such Act;

(5) the desirability and feasibility of providing authority for the President to induct persons into the Individual Ready Reserve;

(6) whether persons registered under such Act should also be immediately classified and examined or whether classification and examination of registrants should be subject to the discretion of the President;

(7) such changes in the organization and operation of the Selective Service System as the President determines are necessary to enable the Selective Service System to meet the personnel requirements of the Armed Forces during a mobilization in a more efficient and expeditious manner than is presently possible;

(8) such other changes in existing law relating to registration, classification, selection, and induction as the President considers appropriate; and

(9) other possible procedures that could be established to enable the Armed Forces to meet their personnel requirements.

(b) The President shall transmit with the plan required by subsection (a) proposals for such legislation as may be necessary to implement the plan and to revise and modernize the Military Selective Service Act.

(c) The plan required by subsection (a), together with the proposed legislation required by subsection (b), shall be transmitted to the Congress not later than January 15, 1980, or the end of the three-month period beginning on the date of the enactment of this Act, whichever is later.

Redesignate the succeeding sections accordingly.

By Mr. WEISS:

—Page 27, line 10, strike $10,000,000" and insert in lieu thereof "$12,000,000".

—Page 27 and page 28, strike the entire section 811 and renumber the subsequent sections accordingly.

—Page 28, line 4, strike "Effective January 1, 1981," and insert in lieu thereof "When Congress determines by adoption of a concurrent resolution,", and on line 7 strike "December 31, 1980." and insert in lieu thereof "60 days after the adoption of the current resolution."

—Page 28, line 6, strike "male" and insert "all."

—Page 28, strike line 7 and insert in lieu thereof "between the ages of 18 and 70 years of age after December 31, 1980."

—Page 28, after line 14, insert the following:

"Section 3 of the Military Selective Service Act (50 U.S.C. App. 453) relating to registration, is amended by striking out "every male citizen" and insert in lieu thereof "every citizen", and by striking "other male person", and insert in lieu thereof "every person".

—Page 28, after line 14, insert the following:

"(c) Within a 60 day period before the effective date the provisions contained in subsections (a) and (b) of this section can be vetoed by a majority vote of either the House or Senate."

—Page 28, after line 14, insert the following:

"(c) Nothing in this Act shall be construed to permit or to allow the induction of any person without the consent of such person for training and service in the armed forces."

—Page 29, line 2, strike "records;" and insert in lieu thereof the following: records upon the written consent of the registrant;

—Page 29, line 6, strike "the President" and all that follows on lines 7 and 8 insert in lieu thereof "The Congress shall determine by adoption of a concurrent resolution such authority is required to meet an imminent national emergency;"

—Page 29, line 13, after the word "President" insert ", upon the determination of the Congress by concurrent resolution,"

—Page 30, line 6, strike "revise and modernize", and insert in lieu thereof "terminate".

—Page 30, line 7, strike the period and add the following:

"; *Provided* that it shall include a provision for free legal counsel to all registrants."

—Page 30, line 7, strike the period and add the following:

": *Provided*, That it shall include provisions to prohibit discrimination on the basis of sexual orientation."

—Page 30, line 7, strike the period and add the following:

": *Provided*, That it shall include provisions to prohibit discrimination on the basis of sex."

—Page 30, line 7, strike the period and add the following:

": *Provided*, That it shall include provisions to prohibit discrimination on the basis of race, creed and religion."

—Page 30, lines 10 through 12, strike "January 15, 1980," and all that follows and insert in lieu thereof "March 15, 1980,".

—Page 29, line 1: Strike the words "school records" and substitute the words "medical records"

—Page 29, line 1: Strike the words "school records" and insert in lieu thereof "police records"

—Page 29, line 4: Strike the word "persons" and insert in lieu thereof "boat people"

—Page 29, line 4: Strike the word "persons" and insert in lieu thereof "illegal aliens"

—Page 29, line 4: Strike the word "persons" and insert in lieu thereof "men, women, and children"

—Page 29, line 13: Strike the word "persons" and insert in lieu thereof "boat people".

—Page 29, Strike lines 3–8.

—Page 29, Strike lines 9–11.

—Page 29, Strike lines 12–14.

—Page 29, Strike lines 15–18.

—Page 29, Strike lines 19–24.

—Page 28, Strike lines 22–24.

—Page 30, line 25: Strike the word "once" and insert in lieu thereof "twice".

—Page 30, line 24: Strike the word "once" and insert in lieu thereof "three times".

H.R. 4440

By Mr. AKAKA:

—On page 5 after line 7 insert:

FEDERAL BOAT SAFETY

For necessary expenses to carry out the provision of the Federal Boat Safety Act of 1971, $5,000,000, to remain available until expended.

H.R. 4839

By Mr. BROWN of California:

—(a) Deleting, at page 10, lines 22 through 25, inclusive; and

(b) Adding, immediately after line 15, p. 37, a new section 126, to read as follows:

"SEC. 126. (a) Notwithstanding section 106 of Public Law 91–273, as amended, or any other law, the Secretary of Energy (hereinafter referred to as "the Secretary") is authorized and directed to complete only—

(1) systems design for the Clinch River Breeder Reactor Project; and

(2) procurement and testing of such components as he determines to be useful in conducting research and development on advanced fission technology or otherwise in the public interest, including, but not limited to, the prototypic sodium pump and pump drive, the prototypic steam generator, the in-vessel transfer machine, and the prototypic secondary control rod systems.

(b) The Secretary of Energy is directed to take such action with respect to contractual instruments previously entered into in connection with the Clinch River Breeder Reactor Project pursuant to section 106 of Pub. L. 91–273, as amended, as in his judgment are necessary or appropriate to carry out this section; *Provided, however,* That nothing in this section is intended in any way to affect, modify, or prejudice any existing rights of any party, under any such contractual instrument.

(c) The Secretary shall assure that any generic environmental or technical issues related to carrying out the elements of the Clinch River Breeder Reactor Project described in subsection (a) of this section are fully documented and discussed with the staff of the Nuclear Regulatory Commission. The Secretary may initiate any necessary and appropriate modifications in any existing liquid metal fast breeder reactor facilities to test, and shall provide for the testing and evaluation of components which are completed pursuant to subsection (a)(2) of this section:

(d) The Secretary is directed to initiate a conceptual design study of a new Breeder Reactor Test Plant. The conceptual design effort will focus on a liquid metal fast breeder reactor plant. This design effort shall include the conceptual planning, conceptual studies, systems studies, and systems designs. The conceptual design effort shall also include preliminary cost analyses, engineering drawings, utility interconnect studies, and consultations with the Nuclear Regulatory Commission staff on generic environmental and safety issues. In preparing the conceptual design, the Secretary shall take into consideration criteria including, but not limited to, ability to test alternative fuels of the reactor for proliferation-resistance and other factors, economic factors, safety, and the technical viability of the technology.

(e) The Secretary shall undertake to identify and evaluate a reasonable number of alternative sites potentially appropriate for a new Breeder Reactor Test Plant and shall include his assessment in the report submitted pursuant to subsection (f).

(f) The Secretary is directed to submit to the President and to the Congress, no later than March 31, 1981, a final report containing the conceptual design, together with his recommendations and additional documentation necessary to support his recommendations. In reaching his recommendations, the Secretary shall consider other breeder and advanced reactor concepts to more efficiently utilize uranium, in addition to the liquid metal fast breeder reactor.

(g) The Secretary shall utilize existing contract design personnel to the maximum extent practicable in carrying out the provisions of subsections (a)(1), and (d) of this section.

(h) In addition to the reappropriation of unexpended funds previously appropriated for the Clinch River Breeder Reactor Project, which is hereby authorized to carry out this section, there is hereby authorized to be appropriated an additional sum of $107,000,000 to carry out this section.

(i) This section shall take effect upon the date of enactment."

S. 1030

By Mr. BAUMAN:

—On page 51, after line 12, insert the following new section:

"SEC. 7. (a) Except to the extent inconsistent with the provisions of subsection (b) the provisions of the Administrative Procedures Act (5 USC 551 et seq.) shall apply to this Act for purposes of judicial review.

(b)(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of the

(A) target for the State established by the President,

(B) determination by the President that the State emergency conservation plan is not achieving the emergency energy conservation target of such State, or

(C) determination that the State plan submitted to the President for approval as a State emergency conservation plan does not comply with the provisions of section 3 of this Act, including the section regarding the share of the burden imposed on any specific class or on any individual segment thereof.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(4) It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under this subsection.

By Mr. GILMAN:

—Page 17, strike out lines 10 and 11 and insert in lieu thereof the following:

"(i) has transmitted a copy of such contingency plan to the Congress in accordance with section 551(b) and neither House of the Congress has disapproved (or both Houses have approved) such plan in accordance with the procedure specified in section 551;";

Page 17, beginning on line 15, strike out "not earlier than 30 days after the transmittal of such plan," and insert in lieu thereof "if the plan is not disapproved during the period provided for such disapproval (or if the plan is approved) under clause (i),".

Page 19, line 14, strike out the quotation marks and the period which follows.

Page 19, after line 14, insert the following new paragraphs:

"(4) For purposes of considering the plan submitted to the Congress under paragraph (1)(A)(i), the 5 calendar days specified in section 551(f)(4)(A) shall be lengthened to 10 calendar days and the 15 calendar days shall be lengthened to 30 calendar days.

"(5) No amendment to any such plan may take effect unless that amendment is submitted and not disapproved (or is approved) as provided for under paragraph (1)(A)(i)."

By Mr. JENRETTE:

—Page 50, after line 2, insert the following new section:

OUT-OF-STATE VEHICLES TO BE EXEMPTED FROM STATE ODD-EVEN MOTOR FUEL PURCHASE RESTRICTIONS

SEC. 4. (a) Notwithstanding any provision of any Federal, State, or local law, any odd-even fuel purchase plan in effect in any State may not prohibit the sale of motor fuel to any person for use in a vehicle bearing a license plate issued by any authority other than that State (or a State contiguous to that State).

(b) For purposes of this section—

(1) the term "State odd-even fuel purchase plan" means any motor fuel sales restriction under which a person may purchase motor fuel for use in any vehicle only on days (or other periods of time) determined on the basis of a number or letter appearing on the license plate of that vehicle (or on any similar basis);

(2) the term "motor fuel" means motor gasoline or No. 1 or No. 2 diesel fuel; and

(3) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

Redesignate the following sections accordingly.

By Mr. MARKS:

—Page 18, strike out lines 6 through 13.

Page 18, line 14, strike out "(ii)" and insert "(i)".

Page 18, line 17, strike out "(iii)" and insert "(ii)".

Page 18, line 20, strike out "(iv)" and insert "(iii)".

By Mr. TAUKE:

—Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

SEC. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which

it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

—Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

SEC. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

EXTENSIONS OF REMARKS

TAX-EXEMPTION FOR CEMETERIES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. RAHALL. Mr. Speaker, today I am introducing legislation which will amend section 501(c)(13) of the Internal Revenue Code of 1954 concerning tax-exempt cemetery corporations. The change would allow a cemetery to retain its tax-exempt corporation status if it issues preferred stock as a means of raising revenues. This bill is similar to that introduced by Mr. PRESSLER on June 5, 1979, S. 2179.

Mr. Speaker, since 1918, IRS regulations have allowed tax-exempt cemetery corporations to offer preferred stock to raise money to buy property, particularly land, necessary for their continuing operation. However, new IRS regulations issued in 1978 would abrogate this principal fundraising method used by cemetery corporations.

Little real need for change in the 61-year-old regulations has been proven. Neither the IRS nor the courts have suggested that the income-tax regulations allowing the issuance of preferred stock by tax-exempt corporations were inconsistent with any part of the tax code. Moreover, no evidence of substantial abuse by the cemetery corporations has been advanced.

The need to change such a longstanding regulation should be determined only by Congress, in which public hearings can air the advantages and disadvantages of such an amendment. To allow the IRS to issue a change of this nature breaches the fine line between the jurisdictions of Congress and a Federal agency.

The severity of the impact of this change to cemetery corporations and the age of the original regulations make it crucial that the matter not be handled through a closed IRS decision, but rather by this open Congress.●

NATIONAL CENTER FOR SERVICE TO THE AGING

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. PEPPER. Mr. Speaker, I rise to bring to the attention of my colleagues the continuing need for better coordinated services for our older citizens. It may come as a surprise to my colleagues that fully 95 percent of America's elderly (those 65 and over) are not institutionalized—in nursing homes, acute care hospitals or other institutions—but rather remain in their community.

This figure, however, is not as heartening as it may seem given the paucity of coordinated programs and services on any level—national or local—that enable our senior citizens to live meaningful and productive lives as active members of their communities—free not only from age discrimination but from poverty, hunger, and the threat of crime.

Although the needs of the 5 percent that are institutionalized are, of course, critical, we must not ignore the needs of the remaining 95 percent.

The capacity of our older citizens to contribute to society is limited not by their desire but only by their ability to do so in the face of inflation, rising taxes and the disparity or absence of services, such as outreach programs which help them remain in the community and keep them healthy and vital.

I know my colleagues share my concern for the aging population and are dedicated to improving the social, environmental and medical services for the senior citizens in their own communities. With this in mind, I am heartened by developments here in Washington in the shape of the National Center for Service to the Aging, a project of the Greater Southeast Community Hospital Foundation, Inc.

While the National Center for Service to the Aging is one community's efforts to address the needs and challenges of the aging, it may also serve as a model for communities across the Nation.

When completed, its programs and services will include, for example, a 180-bed skilled and intermediate nursing facility, a day center, home care services, apartments for temporary or alternative living, as well as providing an opportunity to advance the hitherto neglected field of gerontological research. In addition, representatives are already meeting with experts in the field to assure that the Center will offer the best possible services to the aging.

This week members of the local neighborhood community, as well as the Greater Washington Metropolitan area are meeting for a preview reception to launch this new and important undertaking. I am sure my colleagues will follow with interest the progress of the National Center for Service to the Aging, which not only will serve the needs of this area but also should become a model for future efforts in their own communities.

With its goal of keeping the aging an important and valuable part of their community, I find the prospect of having this facility to look to—and learn from—an exciting prospect.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

OBSERVATIONS FROM A TRAIN WINDOW

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. MARKEY. Mr. Speaker, I would like to bring to the attention of my colleagues entries in a journal written by one of my constituents, Mrs. Eda Pessinis of Reading, Mass. Her journal raises serious issues of environmental ugliness and deterioration which she observed while traveling on the east coast by train from Boston to Florida. Her enlightening notebook describes the unfortunate state of decay into which the backyard of America has fallen. She depicts abandoned buildings and vacant lots which are a blot on our Nation's urban landscape. During her travels, she was shocked by these sights. We all recognize that in modern industrial America not every acre of land can be a garden. But let us reflect upon Mrs. Pessinis' words and think of how we could change what can be changed. At this time I would like to insert Mrs. Pessinis' short journal into the RECORD:

OBSERVATIONS FROM A TRAIN WINDOW

I am impressed America, with your disinterest! Steel graveyards, unbridled smokestacks. Your ghost buildings which are so devastated that its original use is indisguishable.

Tracks know no levels of decay, they travel through the backyards of America and there is nothing so harsh as the reality of daylight, Boston, New York, New Jersey, Philadelphia, landscapes darkened by smog, filth, and waste, strewn about, unused cars, putrid homes, tenements that rodents have deserted and humans persist in occupying.

I find the windowless facade particularly fascinating since they stand in the shadows of remarkably modern, new and shiny edifices in such close proximity.

Onward to billboards shouting their wares, what price for commercialism!

Modern highways alongside devastation reminiscent of Dachau. Is this our last will and testament to the following generation? These abandoned structures stand in silent testimonial.

At night the ugliness is somewhat softened but steadfastly visible. Ever present neon signs, the tunnel is temporary respite. Ah! Upon leaving the tunnel a chimney spewing flame and smoke into the darkness, not a torch of hope as suggested by the Statue of Liberty but a bold defiance.

Huge tanks of gas stand in attendance as we fly by.

Suddenly Washington, the dome proudly aglow, Lincoln Memorial, and one recalls his many quotes overflowing with wisdom, "A house divided against itself cannot survive", in view of such splendor one feels a rush of pride. We are diminished by the immensity of our potential.

To speak as one feels and to "feel" as you speak, to be allowed to do so "is" America.

Sunrise in Carolina, a redeeming delight, none-the-less the common denominator persists again to mar the beauty, the steel graveyards.

Further south now and tenements have given way to rusty motor homes clustered together, shacks and tires amid rows of beautifully cultivated fields.

The Medical Center in Boston, the U.N. at New York, Philadelphia (where our first laws were made), Washington, Carolina, Georgia, Florida each and every state has contributed to the greatness that is America.

We need not fear any enemy without as long as we within look onward and upward, but careful lest we stumble on the ruins at our feet.●

MASS TRANSIT: GIVE NEW YORK CITY A BIGGER SLICE OF THE PIE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. SOLARZ. Mr. Speaker, I am gratified that President Carter has reinforced the administration's commitment to public transportation by proposing an additional $10 billion over the next decade, and I urge the Congress to act swiftly on this proposal so that these funds will be available as soon as possible. But additional funding will not solve our Nation's transportation problems, or our energy problems, unless it is directed to where it is needed, when it is needed. In New York City these funds are desperately needed, and they are needed now.

New York City has one of the oldest rail mass transit systems in the country. Its first subway passengers were carried in October of 1904. And, to hear the complaints of many of my constituents, one would think that some of this equipment must still be riding around—dilapidated, dirty, uncomfortable, and unsafe.

In my district, as in many parts of the city, the subway lines are elevated, and the noise both inside and outside the trains has become unbearable as old equipment passes over aged track and worn switches. Moneys are desperately needed to rehabilitate and replace line structures, tracks, equipment, and cars. In my judgment, overcrowded trains, cattle-car conditions, breakdowns, and other major inconveniences make our subways seem more like a 16th century torture chamber than a modern, efficient, and rapid mass transit system.

Indeed, if this country is serious in its desire to cut energy usage and to reduce traffic congestion and air pollution in our cities, then it is incumbent upon the Federal Government to fund ambitious and worthwhile proposals such as those which the city of New York has placed before UMTA and before the Congress, as well as those for which funds have been authorized but not yet appropriated.

If we are to coax commuters out of their cars and onto our subways and buses, we must improve our mass transit systems so they are attractive as well as functional. We must replace worn-out and dilapidated equipment. We must upgrade and modernize our safety and communications systems. We must reconstruct track beds, improve rights-of-way, and extend existing services. Today's transit riders—many of whom are elderly and handicapped—deserve escalators, elevators, and well-lit train stations. The list is endless, but our needs are great.

Mr. Speaker, New York's transit system faces a serious challenge—a challenge brought on by our city's inability to meet its fiscal obligations. For more than 70 years, New York has carried the full burden of providing the transit systems which have made the economic social, political, and cultural life of this city possible. Now, due to changes in the economy of both New York City and the Nation, we are forced to look to the Federal Government for the assistance that will allow us to continue to provide our citizens and our many visitors with first-class mass transit—a system of which our entire Nation can be proud.

The rehabilitation and expansion of New York City's transportation system must be a critical element of our energy program. New York City is probably the most energy efficient city in this country. The average New Yorker consumes one-half the energy consumed by the average American. The primary reason for this relatively low energy consumption by New Yorkers is our transportation system. That is why when we ask for additional money for that system, we are not making a special appeal for a local interest. When we ask for more money for our subways and our buses, we are requesting adequate funding for a system that has been helping us to save energy for 75 years. ●

AIRLINE EMPLOYEE PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mrs. SCHROEDER. Mr. Speaker, today I am reintroducing my Airline Employee Protection Act, providing a criminal penalty for carrying a loaded weapon in checked airline baggage, as H.R. 4926; 4926 was the employee number of Stephen Killian, the Frontier Airlines agent killed when a loaded gun went off in baggage he was handling. This bill will be a tribute to him and a reminder of the serious need for this legislation.

I have received support for my original bill (H.R. 3412) from the airlines, the airline unions and airline trade associations. The comments from other Members have also been encouraging. Even the National Rifle Association said it strongly supports the bill as a needed safety measure. NRA has been constructive in its comments and has made minor recommendations on the bill.

Similar language dealing with a loaded weapon is included in H.R. 2441, the terrorism bill the Aviation Subcommittee recently marked up. My bill, however, should go through as a separate piece of legislation. Because of its simplicity we can slide it through before hunting season, when this protection is needed the most. The complex terrorism bill, still to be hashed out by two other committees, will not hit the floor for months, if then. Last session left it in limbo.

My bill is also better tailored to correct the problem than the provision in the terrorism bill. The Senate companion bill to H.R. 3412, introduced by Senators HART and ARMSTRONG, directs the FAA Administrator to place warning notices at ticket counters. That is a good deterrent to any gun toter.

H.R. 4926 is a good way to show that this "do nothing" Congress can do something worthwhile. It is a simple bill that will make a lot of people breathe easier.●

S. 1030, THE EMERGENCY CONSERVATION ACT OF 1979

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. BROWN of Ohio. Mr. Speaker, later on this week, the House will consider S. 1030, the Emergency Energy Conservation Act of 1979, as reported by the Committee on Interstate and Foreign Commerce. Since this bill is complex and differs significantly from the one the Senate passed on June 5, I would like to take this opportunity to explain the provisions of the Commerce Committee version before our formal debate begins.

S. 1030 originated in the Senate as an alternative to the rigid Federal energy conservation contingency plan No. 1, proposed by the President in March, to ban the sale of gasoline on the weekends. The Senate was aware that banning weekend sales would actually increase consumption by creating, or elongating, gasoline lines during the week. The Senate was also aware that the weekend sales ban was to be enforced in every State, just as the building temperature plan is now, regardless of the existence of a shortage in every State.

The Senate version of S. 1030 was to be a more flexible, less draconian conservation bill than the Federal contingency plans. As reported by the House Commerce Committee, however, the bill has been altered so significantly that it will be hardly recognizable to our colleagues in the Senate.

The Senate version called for State conservation planning, and encouraged percentage reduction plans which grant the discretion over how to conserve to each user of energy rather than to the Government. The President would be authorized to set conservation targets, as in the House bill, but those targets were to be equivalent to the shortage being experienced. The House bill contains no guidelines and no limits on where the conservation targets may be set by the President: These targets could be 2 percent or 60 percent. Moreover, since there is no provision for congressional review in the bill, this broad grant of discretion over the targets in the House bill is virtually unchecked.

What may have seemed to be a somewhat reasonable alternative to mandatory weekend gasoline station closings to our colleagues in the Senate, is, in the House a bonanza of discretionary power for the President over every energy source used in the United States. The loosely defined conservation targets apply immediately under the House version to motor fuels. To prescribe targets over other energy sources, the President would have to find those sources in short supply—but this is not a threshold finding at all, since the President has already found such a shortage existed when he ordered the building temperature restriction plan into effect on July 16, 1979.

This legislation gives the President a virtual blank check to write any rationing and conservation plan he wishes. The few guidelines provided are so general as to be meaningless, and the only congressional check provided is the one-House veto of gasoline rationing. The conservation plans could be implemented by the Governors without State legislative review, or by DOE without any congressional action. The House has no idea what plans will be devised by the idle hands of energy planners. This House very wisely rejected the poorly conceived gasoline rationing plan submitted by the administration 2 months ago. Two of the three conservation plans submitted by the administration also died in Congress. Why should Congress trust this same administration with a carte blanche to write rationing and conservation plans?

The Nation has seen that when gasoline supplies are short, Government regulations exacerbate the problem rather than solve it. The lines in Washington and other cities were an "inside job," created by cumbersome DOE allocation rules. There is no reason to believe that Government regulations in the form of rationing, or mandatory conservation will will work any better in the future.

The bill's mechanisms for initiating conservation plans represent a dangerous extension of Federal authority. If a State legislature denies its Governor authority to implement certain provisions of a State conservation plan, the Governor can merely turn to the Federal Government for such authority, thus overriding the decision of the State legislative body. If DOE does not like the State plan, a Federal plan can be imposed upon the State. The States are left with a Hobson's choice: either they conserve energy exactly the way DOE wants them to, or DOE will impose its own plan.

This bill is an ill-advised, carelessly constructed, dangerous expansive grant of power to the President. It is unlikely that the legislation will deal effectively with future fuel shortages. The committee has apparently decided that if the House would not accept the administration's rationing plan, maybe it will accept a plan with no more substance than a grant of power. The House should reject this cynical attempt to hand legislative authority to the President, and to supersede State legislative powers over State conservation.

Mr. Speaker, because so many questions have been raised about how the House version of S. 1030 will operate, I would like to insert some questions and answers on this bill as reported by the House Commerce Committee:

QUESTIONS ON S. 1030

Q. Does the Congress have the authority to review and approve the President's gasoline rationing plan prior to implementation?

A. No. Although the Congress has given the President authority to implement a standby rationing plan, no specific plan has been approved. In effect, the Congress is approving a "blind plan" in advance. The President has the authority to implement rationing if he determines that a 20 percent supply of petroleum product exists, or is likely to exist for longer than 30 days, and if the Congress does not veto such implementation within 15 days after enactment.

Q. Is the President's rationing authority limited and defined under the bill?

A. No While the bill does contain a 20 percent trigger mechanism restraining the President's authority, the details of the rationing plan are both unknown and unlimited.

Q. What review or modification authority do the Congress and the State legislation have?

A. Virtually none. Under the bill, the Congress and the State legislatures are expressly forestalled from reviewing State and Federal conservation measures. The powers of the President and the Governors could include the control of the amount and purpose of all energy consumed in the United States.

Q. What guidelines govern the President's authority to establish "conservation targets"?

A. None. The President is given the authority to set conservation targets when he determines that a "severe energy supply interruption" exists or is likely to exist. However, the bill does not stipulate what percentage reduction these targets are to be; the targets could be two percent or 10 percent or 110 percent.

Q. Does the bill provide adequate State review of these target plans?

A. No. The States must develop energy conservation plans to meet the Federal targets within 45 days. If the State Legislature refuses to give the Governor authority to develop these target plans, the DOE could step in to allow the Governor to supercede the actions of the State Legislature. The provision therefore dismisses adequate State review of these plans.

Q. What happens if a State fails to submit a plan, or submits a faulty plan to DOE?

A. All Title III Part C EPCA Conservation funds might be completely withdrawn. This provision adds a frighteningly ironic element to the bill. On the one hand the Congress is saying that the States need conservation plans, while on the other hand the Congress threatens to revoke all other conservation funds if the State plans do not meet the Secretary of Energy's approval.

If present Federal assistance to States is endangered by this sanction, where does this leave the State conservation plans? In most States, large scale conservation plans are only beginning to have an impact. The bill gives the Secretary of Energy dangerously broad discretion to deny the States these conservation funds.

Q. Why is the weekday closing of retail gasoline stations expressly included as a part of the conservation plan?

A. Who knows. Several studies, including one for the Department of Energy have concluded that mandatory closings actually create gasoline lines and thereby result in more gasoline being wasted than saved.

Q. Will the rationing plan actually save energy? What will its effects be on the national economy?

A. The rationing plan would do more to disrupt the economy than to ease the energy shortage. The General Accounting Office told the Subcommittee earlier this year at hearings that the Carter Administration's original rationing would not save gasoline, but merely redistribute it among users. The plan could take up to 14 months to establish and even then there is no guarantee that it would operate effectively. If the new rationing plan is similar to the one rejected in May, it will cost approximately $1.2 billion a year.

Q. Under the Standby Sticker Plan, could the owners of more than one vehicle stagger their "off-road days"?

A. No. The bill does not resolve this question. This could result in serious disruptions to those families who depend on more than one vehicle if all their vehicles are prohibited from use on the same day. It will clearly discriminate against one car families.

Q. Under the minimum purchase requirement, who imposes the requirement?

A. The Governor of the State (who requests a delegation of Federal authority due to lack of State powers) or the President. This allows the Executive Branch at either the Federal or State level to forego Congressional or State legislative review.

Q. Who has the authority to impose mandatory conservation measures? Are these powers checked?

A. The Governor of the State, the Department of Energy, and the President. These broad discretionary powers allow broad mandatory plans to be implemented with virtually no review whatsoever. The mandatory conservation measures could include forced closings at retail gasoline stations, limited shopping center hours, and even reduced working schedules—all of which have staggering economic impacts.

Q. Must a service station charge the full minimum requirement even if a lesser amount of gasoline is introduced into the vehicle?

A. Yes. The minimum purchase requirement at $7.00 for 8 cylinder cars and $5.00 for other cars would allow service station dealers to charge the full minimum even if a lesser amount of gasoline were entered into the tank.

Q. The bill seems to have wide ranging unchecked powers delegated to the Executive Branches of the State and Federal governments. Are their powers carefully determined?

A. No. The bill puts a blind trust in the Executive Branches to somehow deliver the country from gasoline and diesel shortages. Contrary to the intent of the bill, the broad discretionary powers with no guidance may complicate rather than reduce our energy problems.

Q. Does this bill really address the energy problem at hand?

A. Definitely not. It seems that the bill is borne from mysteries over gasoline lines rather than rational planning. The bill nowhere mentions DOE gasoline allocation regulations which exacerbated a 5 percent Iranian shortfall into massive shortages in some states, surpluses in others, and left some states untouched. Clearly, neither Iran nor OPEC can be blamed for this odd occurrence.

While it is crucial that the Congress act quickly, it is pertinent that the Congress exercise careful consideration when defining the powers of the Executive branches. Only then will the efforts towards conservation result in real savings.

Q. Under the Gramm Amendment to the bill, what is the "trigger" which allows the President to impose rationing?

A. The trigger equates to a 20 percent shortfall on petroleum product supplies. It clearly defines that all petroleum product supplies must be subjected to a 20 percent shortfall. The President may not impose rationing if there is only a 20 percent shortfall in grease, nylon shirts, fertilizer, or any other petroleum derived product. The simplest measurement of the 20 percent shortfall is therefore crude oil supplies, but product supplies, explicitly plural, was specified to avoid putting a "stratightjacket" trigger onto the President's rationing authority. The 20 percent trigger is likely sufficient to ward off premature imposition of rationing.

In addition, the Congress has reserved itself a one-House veto period of 15 days following a Presidential determination to implement rationing. While this does not allow the Congress to approve the particulars of the plan to assure effectiveness and equity, it will help safeguard against improper implementation of rationing.●

HEALTH PLANNING AND AMENDMENTS

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. SHANNON. Mr. Speaker, the two main problems in the health care industry are: First, cost and second, accessibility. Our health care costs have reached a staggering 8.8 percent of the GNP and over $165 billion a year. Yet, with over $750 a year being spent for each person in the United States, many millions of Americans have poor quality, clinic care and/or little care.

The National Health Planning and Development Act was enacted to address these problems. Health systems agencies look at the health care industry as a system of limited resources. They plan in order to find the best and most equitable way to distribute these limited resources.

In the few years since 1974, when this bill was passed, even if this program only succeeded in setting up the organization necessary to carry out the goals of the bill, it would have been an achievement. But, much more than this happened. I can assure you of this as I was once counsel to a HSA. In the 2-year period from 1976 to 1978, health systems agencies approved $8.3 billion in capital expenditures or necessary, efficient, quality investments. They denied another $2.3 billion in extravagant expenses. They negotiated away another $7.2 billion in excess expenses. When I say "negotiated away" I mean that they suggested ways to cut expenses in various areas of medical expenses during the certificate of need process. This role of identifying waste is vital if they are to help the health care system make cuts which retain the quality of medicine.

Health systems agencies have also approached the other main area of concern in health care: Access. For instance, one Southern HSA assisted in the successful recruitment of two doctors for two medically underserved counties. One Northeast HSA helped in the establishment of a county hypertension screening program. Another agency, in the Midwest, helped in establishing a geriatrics program in medical school. The list continues.

It is certainly true that this act has had some problems in its implementation. But, this social experiment has been largely a grand success.

Some of the amendments in the current bill will serve to better these agencies, such as by increasing the role of the State governments. Others, such as the one which excludes all prepaid health plans will severely weaken the agencies. But, I am in favor of the current bill, without any further weakening changes, so that we may make a swift statement of support for this program which helps medicine to serve more people in a more efficient manner with higher quality for all.●

COST-BENEFIT ANALYSIS WITHOUT THE BENEFIT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. OTTINGER. Mr. Speaker, we seem to be in the middle of a rush to achieve false economies. The unbalanced rush to balance the budget—even if budget increases will be the long-term result—careens past headlong, unmindful, and blind to pitfalls that more thoughtful people in calmer times were careful to avoid.

As part of their onslaught, the proponents of false economies assail the agencies established to protect the American people from the social costs of private gains. They rail against regulation which they allege to fuel inflation. But in crying out, as they do, for "cost-benefit" analysis, the false economists are really advocating the end to regulation which protects the whole of our society—they want us to measure the costs and ignore the benefits.

To achieve the competition and free enterprise which insure efficient production, growing profits, and augmented wealth, we must prevent the development of an economy based on public loss. No group may take our clean environment or our people's health as a free input. No group may be allowed to sully our air and water with carcinogens or endanger our lives with dangerous products or poisonous processes. It is this sort of "dirty enterprise" which regulation seeks to stop.

Regulation is intended to protect us all, industries as well as individuals. We all obtain the benefits of tragedies which do not occur. These benefits are often immeasurable while their costs, of course, are not. Even so, the public health and safety is a commodity worth purchasing.

I do not accept the validity of cost-benefit analysis when only the cost can be determined. I question the narrow, insular motives of the false economists who propound the benefits of what amounts, in fact, only to cost analysis.

The issue was recently put in excellent perspective by W. Curtiss Priest, an economist at MIT. I commend his letter, which appeared in the June 18 Wall Street Journal, to the attention of my colleagues:

THE COST-BENEFIT CHARADE

In response to your editorial "Cost-Benefit Troubles" (May 25) there are some things I would like to point out that makes an allegiance to cost-benefit analysis problematic. To illustrate these points let me draw from the recent DC–10 crash that killed over 200 people. To conduct a cost-benefit analysis I am supposed to tally costs and benefits and then compare these using some figure of "goodness" such as a ratio or net-present-value. With some considerable diligence I can roughly cost some safety compliance measures and if I am clever I might even be able to make these costs more realistic by taking into account cost reductions due to the "learning curve" and design innovation.

The benefits side, however, overwhelms me. If I take one commonly followed approach of valuing life by calculating lost earnings due to premature death I essentially conduct an economic charade. If the plane happened to be the plane that flies each year carrying mentally handicapped adults on their way to participate in the "special olympics," who basically live on public assistance, I would be forced to find that all of their deaths would be of great benefit to society since their future earnings are negative. I do not believe this for a moment and while I realize that statistically earnings streams would be positive, I must seriously question a methodology that does not fully consider the value of human life that has been more fundamentally valuated by our religious tenets and cultural heritage. I am not prepared to attempt to put a dollar value on a human life that reflects the value that a "good" culture should value life at, in order that it and its people survive, generation to generation and such that its welfare is optimized.

To further calculate the benefits I should consider external costs that are imposed on others. How am I to put a price on what these people meant to their families and their friends? But further, what of the discomfort and grief that this nation and other nations felt towards this tragic accident. It might be reasonable to believe that on the average each American would have been willing to pay $2.00 to be spared this horrible event. This would be some 200 million people and the external costs would be valued at some $400 million. Although I believe that a figure in this range may well be proper, I would not be permitted to enter this in an analysis for any government agency that I am aware of because of its "intangibility."

And what if some people survived the crash. Surely there would be many that were so permanently disabled that no amount of money could be paid them to fully compensate them for their loss—that they could not be restored to the mental health that they previously enjoyed. How are the benefits from reducing the risk of these losses to be calculated?

The Congress performed this nearly impossible evaluation task when it passed enabling legislation for OSHA, EPA and FAA that required a high level of health and safety, realizing this would occur at considerable cost for industries to comply. Though this judgment may be somewhat altered in time by the political process I can understand why people like Ralph Nader prefer to ignore cost-benefit analysis completely because of its almost total insensitivity to the real costs associated with hazards and the dangers to public policy in its being taken too seriously.

W. CURTISS PRIEST,
Economist, Center for Policy Alternatives, Massachusetts Institute of Technology.
CAMBRIDGE, MASS.●

CAPTAIN MOLLY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. ADDABBO. Mr. Speaker, joining in this month's commemoration of women's contributions to the history of the United States, I wish to bring to the attention of my colleagues the admirable example of Margaret Corbin, a soldier of the Continental Army in the American Revolution.

Margaret Corbin was born in the Pennsylvania frontier in 1751. Orphaned at the age of 5, she was raised by an uncle and married John Corbin of Virginia in 1772.

As noted in Women in the American Revolution, by Paul Engle:

> The Revolution broke out four years after they were married, and John immediately enlisted. He became a private in Captain Thomas Proctor's First Company of the Pennsylvania Artillery, and Margaret went with him.
>
> The Continental Army followed the custom of the British army in permitting a number of soldiers' wives to stay with each company. These women served the company as a whole; they did the cooking, the washing, the clothes-mending, and frequently nursed the sick and wounded. * * *
>
> * * * After the capture of New York City by General Howe, General Washington moved north of Manhattan and held off the British for a few weeks in the Battle of Harlem Heights during September 1776. On November 16, the Hessian troops then attacked Fort Washington where Margaret and her husband were stationed. * * * Margaret's husband was killed at his cannon. There was no one else to fire it, so Margaret ran to the cannon and began loading and firing it herself. She continued firing until she herself was seriously wounded. * * *

Captured by the British at the end of the battle, she later escaped and joined the Invalid Regiment in 1779, of the Continental Army. She moved to West Point in that year in order to secure the benefits afforded her by the State of Pennsylvania in recognition of her heroism and her poverty. There she was the only woman in the regiment and the first woman pensioner in the United States.

After the Invalid Regiment was disbanded at the end of the Revolution, she lived in the vicinity of West Point where she was provided by the military commissary with the necessities of life. Margaret spent the last years of her life in Highland Falls where the local townfolk referred to her as "Captain Molly"—an eccentric old woman who wore petticoats and an artilleryman's coat and was saluted when she walked by.

Margaret Corbin died in Highland Falls around 1800, and she was buried in the local cemetery. Later her remains were transferred to the cemetery at West Point, where she now lies with her comrades-in-arms of our Nation's wars.●

A TRIBUTE TO MARION S. WELLS

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. GUYER. Mr. Speaker, service is perhaps the noblest activity known to mankind. It is for that reason that I pay tribute to Marion S. Wells for her outstanding service in the field of mental health education.

Ohio Women's Hall of Fame inductee, and former director of the State Office of the Ohio Mental Health Association for over 20 years, Mrs. Wells is an inspiration to us all. As mental health association director, she devoted her efforts to the development of a greater sensitivity among the public and decisionmakers toward the importance of improved mental health services for the State of Ohio. She traveled extensively throughout Ohio and provided the impetus needed to pass legislation for the benefit of the mentally handicapped, and worked to reduce the stigma attached to mental illness. Mrs. Wells is a dynamic, articulate, and assertive woman who has earned the respect of many public officials at the executive and legislative levels of government.

Whatever new horizons Mrs. Wells now seeks, let it be known that because of her unselfish devotion to the cause of mental health education in the State of Ohio, many of her innovations for brighter hopes and dreams have become consummations in the lives of thousands of people. We salute a great lady and wish for her high adventure and rich rewards for her every tomorrow.●

SUGAR POLICY: REMARKS BY ROLAND HEBERT

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. BREAUX. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: These remarks by Roland Hebert, president of the Louisiana Division of the American Society of Sugar Cane Technologists, spell out clearly the need for an effective national sugar policy which will maintain stability in terms of supply and price. Such stability will benefit the consumer and the producer. Certainly, as the House prepares to debate sugar legislation, Mr. Hebert's remarks are worth consideration.

The remarks follow:

AMERICAN SOCIETY OF SUGAR CANE TECHNOLOGISTS

(By Roland M. Hebert)

This year, 1979, brings to an end another decade of the U.S. sugar industry. It has been a decade that has left this great industry scarred, and, perhaps, limping—but not permanently crippled. The strength, courage, vision and endurance of the industry and its producers and processors will not allow this. We look to the next decade with guarded optimism and a more vocal concern for our self-interest and preservation.

The 1970's have not been extremely kind to the Louisiana sugar industry. 1970 itself was ushered in by terrible harvest conditions accompanied by early freezes. The bonanza year, 1974, drove the price of sugar to a record high; this event placed the sugar industry in an envious profit position. The envy was short lived, however, since many industrial users of sugar took advantage of the moment by escalating the price of their products, because of the increase in the price of sugar. Needless to say, the cost of their products did not take the subsequent downward spiral which has been suffered by the sugar industry since 1974.

The expiration of the U.S. Sugar Act and the unsuccessful attempts to legislate new sugar legislation are now a part of the industry's legacy for the 1970's. In addition to the continued downward trend in the price of sugar, the energy shortage has forced the Louisiana sugar industry to spend thousands of dollars on combination fuel burners for the boilers, installation of preheaters and other energy-saving schemes devices. There is small consolation and the fact that, while the sugar industry is doing its part to consume less energy, the cost of production continues to increase, while profits decrease.

In the past decade, we witnessed a concerted effort by growers to implement recommendations to increase the raw sugar yield per acre by methods such as wide-row planting, installation of the core-sampler testing system, and the aggressive use of new cane varieties.

In the 1970's, we also saw the cost of labor and materials rise to unparalleled levels. A minor improvement in a factory has become a major financial undertaking. On an even sadder note, the Louisiana sugar industry has seen the number of raw sugar houses decrease from 43, in 1970, to 25, in 1979. Sugar production rose from 541,800 tonnes in 1970 to 601,200 tonnes in 1977, but dropped back down to 495,000 tonnes in 1978. Sugar cane acreage went from (114,400 hectares) in 1970 to 136,400 hectares in 1973, back down to 118,400 for the 1978 crop.

We cannot allow this to continue.

It is difficult to believe that the government leaders in this great nation will allow the sugar situation to deteriorate to the point a which we see the oil industry today. Have not their experiences with oil taught them a lesson on the folly and danger of becoming dependent on imports? Their short-term thinking regarding the oil industry, if extended to our sugar industry, will indeed be disasterous.

Provided with accurate information, one wonders whether consumers, in general, would be as upset about a possible rise in the price of sugar as the anti-sugar legislation advocates claim they would be. Industrial sugar users naturally have a vested interest and want cheap sugar. However, John Q. Public is well aware that, while the price of a Hershey bar went up in 1974 because of high costs of sugar, that same Hershey bar kept getting smaller and more expensive, while the price of sugar dropped drastically. In 1974, we could put US $0.10 of $0.15 in a Coca-Cola machine and receive a soft drink. Today, the same machine requires $0.30 to $0.50 for the same soft drink.

Anti-sugar advocates have done an excellent job of "selling a bill of goods" to the American public. No real unbiased effort has been made to inform the consumers that most nations of the world have long-term contracts for their sugar, and that the dumping ground for excess, uncommitted sugar is the world market, which represents approximately 10 to 15 percent of the total world sugar production. Few sincere people outside the sugar industry realize that the U.S. sugar price is tied to this low world-price sugar. Yet, the domestic sugar growers and processors are compelled to compete with the low world price of excess sugar, while simultaneously meeting the requirements for minimum wage rates, complying with OSHA standards, dealing with the inflated cost of equipment and supplies, and paying for the operation of an unsupportive government.

The consumer, likewise, is not being told of the double standards that control the price of domestic sugar. He is falsely being led to believe that cheap, imported foreign sugar is part of the answer for decreasing our weekly food bill. If, in fact, this is so, why are all farm commodities suffering the pangs of inflation? Consumers need to be levelled with. The costs of all goods and services have increased, and continue to increase daily. What is not being publicized sufficiently to those outside the sugar industry is the long-range danger of the domestic sugar market being absorbed by imported sugar and the reality of the U.S. being at the mercy of foreign producers, who do not know or care about the cost of operating the U.S. government through its tax structure, who do not employ thousands of U.S. citizens, who do not purchase millions of dollars of U.S.-manufactured equipment, supplies, goods and services, who do not grow and process their sugar under Environmental Protection Agency (EPA) requirements, and who have no loyalty, except to themselves.

Sugar policy in the U.S. has resembled an "Alice in Wonderland" fantasy since the demise of the Sugar Act. Roller-coaster prices led to the enactment of the de la Garza loan program in 1977. Properly administered, this could have been an effective interim program. Instead of using import quotas and fees effectively, as instructed by Congress, the Administration dilly-dallied and, finally, issued regulations which were often counterproductive to the intent of the legislation.

A complex payment program for the 1977 crop sugar was instituted, but the regulations were changed so often, and so many questions were raised about its legality, that final payments for the 1977 crop still have not been made, even as this message is written.

After sugar legislation was defeated in 1978, President Jimmy Carter personally assured Senator Russell B. Long and others that the market price for sugar would be supported at $0.15 per pound, pending passage of new legislation. This promise has not been kept. In fact, import fees were actually decreased on April 1, 1979 despite the fact that U.S. sugar prices were substantially below $0.15 per pound. In spite of this ridiculous result of the Administration's fee-setting mechanism, the President has refused to change either the mechanism or the fee.

President Carter has set such narrow constraints on the type of sugar bill he will sign that sugar producers have had difficulty reaching an agreement on legislation. Issues such as payments and wage provisions have led to heated debates within the brotherhood of domestic sweetener producers. It is hoped that any scars from such debates will heal quickly, and be soon forgotten. The domestic sugar industry cannot afford division within its own ranks.

We all owe a debt of gratitude to those members of our industry who have spent substantial time and effort trying to negotiate and pass sweetener legislation. We, in Louisiana, especially appreciate the dedicated efforts of American Sugar Cane League's President, P. J. deGravelles, Jr., and James Thibaut, who is Chairman of the League's National Legislation Committee.

Obviously, there is much that we must strive for in the decade which follows:

We most certainly need to continue to strive for a price for sugar which will result in a stable and viable domestic sugar industry.

We need to explore an entry into the energy arena through the production of alcohol if, and I emphasize if, the cost of disposing of the by-products is not prohibitive, and if the volume allows a reasonable return on capital investments.

We need to initiate technological improvements in wiser and more profitable use of sugar products and by-products.

We need to encourage plant scientists to develop sugar cane varieties producing 14,000 pounds of sugar per acre (15.75 tonnes per hectare) in combination with close and wide-row planting.

We need to develop an internal public relations program to accurately inform our consumers of our plight.

We need to maintain a serious dialogue with congressional, governmental, and consumer groups which are influential in areas affecting our industry and its concerns.

I doubt seriously that I would be standing here today if it were not for the continuous support and encouragement of numerous people in our sugar industry.

It has been said that there is a time to sow and a time to reap, and that one reaps what one sows. If this is in fact so, I look forward to a bountiful harvest. We have put forth our best efforts to sow. It is logical, then, that we must reap an equitable return for our product. Long live Sugar! ●

TINKERING WITH THE CONSTITUTION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. EDGAR. Mr. Speaker, today we will be called on to vote on an antibusing amendment to the U.S. Constitution. This amendment is likely to receive the support of many Members like myself who face uphill reelection campaigns. Why? Because if we vote against this amendment, we will be branded as "probusing." Even if our opposition to the amendment is based on procedural issues, as opposed to substantive issues, the vote is likely to be twisted out of context by the political opportunists that be.

I am going to take my chances and vote against this amendment because I believe it is important to stand up and object to the procedures under which this far-reaching amendment has been brought up for consideration. This amendment to our Constitution was poorly drafted from the beginning and has had to be revised since the last Congress. The new language is still unsatisfactory, so the sponsor of the amendment has agreed to make some last-minute changes on the House floor today. In essence, we are tinkering with the supreme law of the land, our Constitution, without subjecting the new and ever-changing language of an amendment to the scrutiny of constitutional authorities. We have no way of knowing the consequences of our action because we have not had the time to gather comment on the new language. This is not prudent procedure for any amendment, let alone an amendment to the Constitution, and I refuse to be a part of the procedure.

I have very serious reservations about the wisdom of districtwide school desegregation plans that entail substantial amounts of busing. This kind of massive desegregation imposes costs that are way out of line with the benefits. The neighborhood school concept is a valid one, particularly in a child's early years of schooling. It is ridiculous to take children out of a neighborhood and scatter them among different schools to meet some mathmatical racial quota. Unfortunately, such massive redistribution of schoolchildren has been required in a few cases where it has been shown that school districts have, in the past, deliberately used their powers to promote school segregation. I know of no case where massive busing plans have been required as the only remedy for de facto segregation, meaning the segregation caused simply and solely by the racial characteristics of various neighborhoods.

In any event, whether segregation is intentional or unintentional, it seems to me that some courts have been too severe in prescribing busing as a remedy. The courts are the final arbiters, subject only to the Constitution. Accordingly, we are under great pressure to change our Constitution to prevent future abuses by the courts.

The trouble comes when you attempt to put antibusing language into a form that will solve the busing problem without creating other constitutional problems. The sponsors of this amendment have run into this difficulty. As I have said, the sponsors of the amendment will be attempting to patch up its language on the House floor today.

I am not satisfied that the amendment is in an acceptable form or that it can be made acceptable given the time constraints we are working under. I am not satisfied that this new language has been reviewed by experts in constitutional law who can assist us in answering the questions, "Does this amendment address the problem effectively," and "Will this amendment cause unintended problems of interpretation?" I do not have a "try it on at home and bring it back if it doesn't fit" attitude toward the amending of our Constitution. Our Constitution, which has stood us well these many years, deserves far better.

The Philadelphia Inquirer makes a good case for opposing the Mottl amendment in a July 23 editorial. I insert this editorial for the benefit of my colleagues:

Kill Anti-Busing Amendment

Friends of a proposed anti-busing constitutional amendment may end up killing it tomorrow in the House of Representatives. If they do the country will be better off for it.

The anti-busing amendment was designed as much as a politically advantageous curtesy to the folks back home as a valid proposal to amend the Constitution. Many scholars believe busing is too narrow an issue to be addressed by Constitutional amendment anyway. On-the-Hill skepticism about the idea is evident in the fact that for four years there has been no successful move to get the amendment out of the Judiciary Committee.

But in late June busing opponents mustered the necessary 218 signatures on a petition to have the full House consider it. Some of those signatures apparently came from members who just wanted to get the amendment considered and who would actually vote against it. But their opposition may not be needed. Friends of the amendment have now decided its wording is too strict and may bring results they oppose.

Consider: "No student shall be compelled to attend a public school other than the public school nearest to the residence of such student . . ." What about transfers for overcrowding? What if a school board wants young children to attend a school on their side of a major highway even though one on the other side is closer?

Or: "The Congress shall have the power . . . to insure equal educational opportunity for all students." Could that bring about federal government interference with local control of schools? The House Republican Policy Committee must have feared so; unexpectedly, last week it declined to take a position on the amendment.

The best reason for defeating the amendment is that busing is an acceptable tool for districts to use in wiping out unlawful school segregation. The Supreme Court said that recently in cases from Dayton and Columbus, Ohio. But if the amendment's friends help kill it for their own reasons, so be it. The death of the anti-busing amendment should go unmourned.●

THE VOTE THAT CHANGED AMERICA'S FUTURE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. GOLDWATER. Mr. Speaker. I recently read a most interesting article about one of America's "forgotten patriots," which was sent to me by its author. Thelma Hall Quast. It was printed in the Ledger, of Montrose, Calif., whose editor, Don Carpenter, is an old and dear friend of mine. The article is fascinating, and offers a glimpse into a bit of American history that is appropriate in this, our Nation's birthday month. I share it now with my colleagues:

The Vote That Changed America's Future More Than 200 Years Ago

(By Thelma Hall Quast)

The day was July 4, 1776.

The place was the Pennsylvania Statehouse in Philadelphia, later renamed Independence Hall because of what happened that day.

The occasion was a meeting of the Continental Congress, called to vote on the question of whether or not to declare independence from King George III's England.

For three days, these representatives of the Thirteen Colonies had wrangled. Three votes in those three days had ended in ties.

A fourth vote was going to be taken this fourth day.

Outside, Thomas McKean, a Delaware representative, paced impatiently back and forth, his eyes focused on the road from Delaware.

He was watching for Caesar Rodney, also a Delaware representative.

For two weeks, Rodney had been riding from farm house to farm house in southern Delaware, organizing a company of militia who would fight for the Colonies should war erupt.

Although independence had been on the minds and tongues of many colonists for a long time, it had not reached a fever pitch when Rodney left on his recruiting effort. Ever since the voting opened, McKean had been trying to get the word to him and to urge him to come to Philadelphia at once.

He knew how Rodney stood on the matter of independence. The two men had discussed it innumerable times.

There was a distant clatter of hoofs, coming nearer and nearer.

The rider drew up to a hitching rack and tethered his horse.

Man and horse were spattered from head to foot with mud.

Changing animals frequently, as they became fatigued, the rider had been racing, some authorities recorded, for 80 hours through a driving thunder storm.

He was so weary he could scarcely move.

"Rodney!" exclaimed McKean, embracing him. "I though you'd never get here."

"I started as soon as I heard," explained Rodney.

Arm in arm, the two men rushed into the chamber where the fourth roll was being called.

When the newcomer's name was called, he stood and said, "Caesar Rodney, representative from Delaware, My constituents are for independence. I can vote no other way. My vote is 'Aye.' "

The tie was broken.

A moment later, the big bell atop the Pennsylvania Statehouse pealed forth the glad tidings that a Declaration of Independence had been adopted and was being signed that very minute.

Out on the streets, bonfires were lighted all over town and kept burning throughout the remainder of the day and all that night.

The ballot Caesar Rodney cast that day more than 200 years ago cleared the way for the American Colonies to assert their independence and gave them that boost which resulted in a brand new nation: The United States of America.

Caesar Rodney, whose American ancestry dated back to 1682, was an extremely wealthy man at the time of the Revolutionary War, which followed the signing of the Declaration of Independence.

By voting 'Aye' that day, he was running the risk of losing everything he possessed. His vote required courage.

If he had lost all, many others would have suffered for lack of the money he so generously contributed to the revolution. For instance, that militia he organized, was financed entirely by Caesar Rodney, who provided the men with clothing, food, shelter, arms, medicine and other needs.

He held virtually every civil office in Dover, his home town, and in the State of Delaware.

Eight years after he affixed his signature to the Declaration of Independence, Caesar Rodney died of a painful, embarrassing facial cancer.

Near Dover, the Delaware state capital, there still stands the home of this great patriot.

And his bold signature may be found third from the bottom of the fourth column of the Delaration of Independence.●

ANDERSON COMMENDS WORK OF BROCK ADAMS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. ANDERSON of California. Mr. Speaker, apparently the dust has now settled from last week's Cabinet shakeup, so perhaps the time is appropriate to reflect on one of the changes that was made.

Brock Adams was probably the finest Secretary of Transportation this Nation has had. While I fully support the President's right to have in his Cabinet those he feels can best help him in developing policy, and then in implementing policy, I must nevertheless express my feelings that Secretary Adams has been an outstanding public servant with a real vision of the future; and an inclination and will to act upon that vision.

Brock Adams has said that the United States must place a special emphasis on mass transit, and he was right. He challenged the auto manufacturers to reinvent the automobile, and the need for this is equally apparent.

Secretary Adams had the support of his fellow workers at the Department of Transportation, and supported them fully. We are told that it was this support that led to his resignation. My personal feelings are, that just as the President deserves to have in the Cabinet those he feels he can best work with, Cabinet Secretaries should have the same right in determining their top staffs.

I certainly hope that whoever ultimately replaces Brock at DOT has the same vision and integrity that Secretary Adams has displayed for the past 2½ years, and throughout his career. And I hope that Brock will return to public service. The Nation needs more people like Brock Adams.●

THE AIRBAG DEBATE CONTINUES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. MATSUI. Mr. Speaker, on July 12, I inserted into the Record a letter from former Congressman John E. Moss, in opposition to an amendment which will be offered by Mr. Dingell to the Department of Transportation appropriations bill (H.R. 4440). That amendment would have the effect of placing the Congress on record as being opposed to airbags in automobiles.

Today I received another letter from Mr. Moss. As the House nears final consideration of H.R. 4440, I hope that my colleagues will take the time to read the letter and heed his counsel.

The letter follows:

July 20, 1979.

Hon. John D. Dingell,
U.S. House of Representatives, Rayburn Building, Washington, D.C.

Dear John: I received your letter through the courtesy of a friend who sent it to me over the facsimile machine. I am glad, as always, to confirm the great pleasure derived by me from our close association during the entirety of our Congressional service. As I have said so many times, it was the high point of personal satisfaction during my thirteen terms in the House.

You know me well enough, John, to know I do not want to leave you puzzled or confused as to my position and the reasons thereof. The reading of your letter today leaves me somewhat with the sense that your extended discussion is dictated more by your need to convince yourself than your expectations that my views and, I understand, those of an increasing number of your colleagues, would be changed as a result of what you said.

You and I know fully the views we hold and you know how strongly I feel that you are in error in reaching the conclusion to oppose air cushions. I do not support or oppose one technology over the other. I simply urge that the marketplace be allowed to provide choices among available technologies which meet established performance requirements. I have great confidence in the magic of the marketplace and I am only asking that no action be taken to prejudice one technology over the other. That to me is a very reasonable position; one which can be defended by any Member, regardless of their own views.

It would be futile to dwell extensively with contentions that you and others have made repeatedly over the years. They are unpersuasive to me, and let me hasten to add, they also have not proven persuasive to other well informed experts. The weight of evidence gathered over the last 10 years justifies that Congress permit the present law and present regulations to be fully implemented.

I stated earlier that I would not dwell extensively. Being a man of my word, I will not. I want to extend my warmest good wishes to you and hope the House prevents you from leading it in committing a major error. I am so sorry, John, on this single occasion, that I can not be there to engage in the floor debate. I know we would have both thoroughly enjoyed it.

Warmest regards,

John E. Moss,
Honorary Chairman, National Committee for Automobile Crash Protection.●

THE THIRD POSITION: SALT II AND ITS LIBERAL CRITICS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. ASPIN. Mr. Speaker, traditionally, the debate over strategic arms limitation talks has involved a contest between "hawks" and "doves." A so-called third position, however, has emerged in the debate over the SALT II Treaty. Advanced most prominently by a number of liberal Democratic Senators, it holds that obtaining enough support to ratify the treaty involves so much acquiescence to Senate and Pentagon hawks that it can no longer genuinely be called "arms control." As Senator George McGovern has summed up the argument:

> I cannot support a strategy which would sacrifice our long term hopes for comprehensive arms control in order to win a few hardliners' votes for a very modest interim step. * * *[1]

Senator Mark Hatfield similarly refuses—

> To stand passively by, once again, and vote for a treaty on the ground that it is the "only game in town."[2]

And Senator William Proxmire has stated that he—

> Can only support a strategic arms limitation treaty that is a limitation treaty * * * not * * * a treaty which coincides with an explosion of arms spending.[3]

All three, in a joint press statement issued last March, warned President Carter that they—

> Reserve the right to vote against any SALT proposal that does not fundamentally curb the arms race.[4]

In some ways, these Senators and others who have argued along similar lines, have a point. SALT II will not reduce the defense budget. In fact, during the treaty's lifetime, U.S. strategic spending is projected to rise, perhaps by 25 percent.[5] And while the treaty constrains and, in some cases, reduces the number of missiles and warheads held by the United States and the U.S.S.R., it is lamentable that the constraints are not more wide ranging, the reductions not deeper. Indeed, it appears that President Carter has had to commit himself on full-scale development of the MX missile in order to make the treaty acceptable to the Joint Chiefs and several key Senators.

However, those who dwell exclusively on such points are posing the wrong questions. In considering whether to ratify SALT II, the relevant comparison is not between defense spending today and defense spending in the future under the SALT II agreement. The relevant question is: Will strategic defense spending in the future be more under SALT II or less? In order words, if the aim is to keep defense expenditures down, the only question should be: "Will they be lower with SALT II or without?"

THE COSTS OF RATIFICATION

Pentagon officials readily acknowledge that even with a SALT II agreement, the United States will have to increase spending on strategic weapons over the next decade. The new strategic programs requested by the Defense Department include, most notably, the MX missile and a new mobile basing mode, Trident I submarine-launched missiles (SLBM's) in Trident submarines, and about 3,000 air-launched cruise missiles (ALCM's) for B-52G bombers and eventually new cruise-missile-carrying aircraft (CMCA). Total cost of these programs: $78 billion over the next 10 years.[6]

Ten-year cost

	Billions
MX plus mobile basing	$30*
Trident I in Trident submarine	31
3,000 ALCM in B-52G and CMCA	17
Total	$78

* Assumes multiple protective structure basing with 4,500 shelters; if a trench basing system, with 8,800 horizontal shelters and the missile mounted on a railroad car is assumed, the cost of MX plus mobile basing would be $36 billion.[7]

The liberal SALT critics contend that this increase in strategic spending is part of a quid pro quo with the military and with hawks in the Senate to support the SALT II treaty.

Senator Proxmire claims that this quid pro quo also covers a second group of weapons systems. These systems include converting 66 FB-111A bombers and 78 F-11D jet fighters to modified FB-111B bombers; the development of totally new heavy bomber; and the deployment of an elaborate upgraded air-defense network for the continental United States.[8]

It is somewhat difficult to estimate the cost of these systems since they are not part of any current 5-year plan. The best available estimates indicate the following approximate costs:[9]

	Billions
FB-111B	$ 7
New Manned Bomber	15
U.S. air-defense network	4
Total	$26

Footnotes at end of article.

In sum, with this $26 billion added on to the $78 to $84 billion strategic program outlined by the administration, liberal SALT critics find the strategic weapons budget increasing by a total of $104 to $110 billion over the next decade, under the SALT agreement.

THE TRUE COSTS OF RATIFICATION

There is a crucial, but unstated, assumption in the above calculations: namely, that the defense programs projected with SALT II would not be developed without SALT II. But is the projected procurement of these new weapons systems merely a product of SALT II politics, or would they probably be purchased even without SALT II?

Upon examination, it appears that all of the weapons mentioned by the liberal SALT critics were conceived before, and independent of, the final phases of the SALT II negotiations.

Specifications for the MX missile were drawn by Strategic Air Command in 1974. Those who wish to see ICBM's removed from silos—and this includes nearly everyone of whatever political persuasion—base their arguments on the growing accuracy of Soviet ICBM warheads, which increasingly threatens the survivability of any fixed target. This trend in improved accuracy has been anticipated for several years now, and countermeasures have been considered quite independently of SALT II.

The Trident I missile was developed to give the U.S. SLBM force much longer range (4,000 nautical miles, as opposed to the Poseidon missile's 2,600), and the Trident submarine was proposed as a replacement to the aging submarine fleet. Both were developed in the early 1970's. Nobody claims that they are in any way related to the "selling of SALT II" (although the Trident submarine may have been somewhat related to the politics of SALT I).[10]

Cruise missiles, most observers would admit, are not a product of SALT II, either. Rather, they were selected as a more cost-effective alternative to the B-1 bomber.[11] The growing vulnerability of penetrating bombers to Soviet air-defense missiles insures that long range, stand-off cruise missiles were bound to be introduced into the U.S. strategic arsenal at some point. SALT II has nothing to do with it.

In short, the $78 billion strategic program proposed by the Defense Department has its roots in strategic trends and developments antedating the SALT II Treaty. These weapons systems would almost certainly have been proposed, and would almost certainly be accepted by Congress, with or without SALT II. The treaty cannot be blamed for propelling these weapons into existence.

One qualification could be made here. It is very likely that President Carter's decision to choose the largest MX missile design available—the 92-inch, 190,000-pound, as opposed to the 83-inch, 150,000-pound, partly common, missile—was part of a SALT-selling campaign. This decision was particularly shortsighted, since the partly common missile would have been as capable as the larger model and far more suitable for a variety of basing modes.[12] However, the difference in cost between the 92-inch missile and the partly common missile is only $350 million, hardly a visible cost saving in a $30 to $36 billion program.[13]

As for the second group of weapons systems costing $26 billion, there seems to be no good reason to include them in the cost of SALT II, either—mainly because their building plans are so tentative. The FB-111B is presently being considered for the fiscal year 1981 budget, but has not yet been approved by top officials.[14] A continental air-defense network for intercepting Soviet intercontinental bombers is simply an idea on memoranda in various "in-boxes" around Washington.[15] Finally, a new manned bomber is at such an early stage of the research and development process that nobody has any idea what it will look like, what its mission requirements will be, or whether it will or should be developed. It has not even been given a name.

It could be argued that if these systems are developed in the near future, the "Backfire complex," created largely by SALT, will have been a major factor. Were it not for SALT—not specifically SALT II, but the whole SALT process—the Soviet Backfire bomber would probably be perceived simply as a followon to their Blinder/Badger medium-range force.[16] The SALT negotiations, with their excessive emphasis on simple numerical indicators, have blown the Backfire's significance way out of proportion. If the United States does develop an FB-111B, a new manned bomber and a continental air-defense network—all in process could be held largely responsible. On this score, the SALT critics from the left would have their strongest case.

However, these items cannot really be counted as "costs of SALT II," first, because they are not line items in any proposed budget, but merely ideas on paper and, second, because even though concern over Backfire may have been prompted or reinforced by the SALT debate, this concern would not dissolve if the treaty were rejected.

In other words, the increase in strategic spending allegedly proposed to win hawkish support for the treaty—money for the MX, the Trident systems and ALCM—would almost certainly be requested, and almost certainly be approved, with or without SALT II. If the new bombers and a continental air-defense system truly do become part of the SALT II bargain, it is a good bet that these, too, would be procured if SALT II were rejected. There is only one exception: Without the political pressures of SALT II, President Carter might have chosen the "partly common" 150,000-pound MX missile, rather than the 92-inch, 190,000-pound version. The extra cost of the larger missile: $350 million.

In sum, what are the true costs of SALT II ratification? Only $350 million—the difference between the largest MX missile, which the President chose to get SALT II votes, and the partly common missile, which he probably would have chosen if there were no such thing as SALT II.

THE COSTS OF REJECTION

The question now becomes: What happens to defense spending if SALT II is rejected? In testimony before the Senate Armed Services Committee last May, Under Secretary of Defense William Perry provided a glimpse of this picture. As previously noted, the administration recommends a $78-billion strategic program over the next decade if SALT II is passed. On the other hand, if SALT II is rejected and the Soviets proceed on their present course unrestrained, the administration according to Dr. Perry's testimony, would do much more. They would recommend putting the more expensive Trident II, rather than Trident I, missiles inisde Trident submarines; placing 5,000, instead of 3,000, ALCM's on airplanes and bombers; and deploying 200 MX missiles in some multiple-shelter scheme. Total cost of this expanded program over a 10-year period: $99 billion, more than $20 billion beyond the administration's strategic weapons bill under SALT II.[17]

	10-year cost (billions)
MX plus Mobile Basing	*$30
Trident II in Trident submarine	42
5,000 ALCM in B-25G and CMCA	27
Total	99

*Assumes Multiple Protective Structure basing with 4,500 shelters if a trench basing system, with 8,800 horizontal shelters and the missile mounted on a railroad car is assumed, the cost of MX plus Mobile Basing would be $36 billion. It is assumed here that this MX Missile is the partly-common version, $350 million cheaper than the 92-inch version that was part of the "SALT Ratification" program. However, since the costs here are rounded to the nearest billion, the saving makes no visible difference.

Furthermore, if with SALT II treaty, the fear of Backfire is enough to frighten us into building new bombers and an upgraded air defense, then it can reasonably be predicted that we would be even more frightened into doing these things without the restraints on Backfire production and operational radius that the SALT II treaty provides.[18] Additionally, if the FB-111B, the new manned bomber and a continental air defense are only tentative programs with a SALT II Treaty, they will almost certainly be rapidly moved up to the front-burners of weapons-procurement planning during the period of superpower tension that will doubtlessly break out after a rejection of the treaty.

These programs add another $26 billion to the SALT-rejection package, for a total $125 to $131 billion, exceeding the Pentagon's plans for strategic programs under SALT II by $21 billion over the next decade.

COMPARING STRATEGIC SPENDING: REJECTION VERSUS RATIFICATION

A comparison between SALT II ratification and rejetcion can now be made in commensurable terms. If SALT II is approved, defense spending for new strategic programs will amount to $78 billion. However, the true cost of SALT II—the amount spent above and beyond those programs that would be purchased regardless of the treaty—is only $350 million. On the other hand, the extra cost

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Footnotes at end of article.

of a SALT II rejection would be $21 billion.

STRATEGIC WEAPONS SPENDING

	10-year costs (billions)
SALT II Ratified	
200 MX plus mobile basing	*$30
Trident I in Trident submarines	31
3,000 ALCM in B-52G and CMCA	17
Total	78
And Possibly	
FB-111B	7
New Manned Bomber	15
U.S. Air-Defense Network	4
Total	26
Possible total	104
SALT II rejected	
200 MX plus Mobile Basing	*36
Trident II in Trident subs	42
5,000 ALCM in B-52G and CMCA	27
Total	99
And Possibly	
FB-111B	7
New Manned Bomber	15
U.S. Air-Defense Network	4
Total	26
Possible total	125
Difference between ratify and reject	21

*Assumes Multiple Protective Structure basing with 4,500 shelters; if a trench basing system, with 8,800 horizontal shelters and the missile mounted on a railroad car is assumed the cost of MX plus Mobile Basing would be $36 billion.

Deducting from this sum the $350 million cost of ratifying SALT II—so negligible that its impact on the above chart cannot even be detected—one can infer that strategic spending over the next decade will be slightly more than $20 billion cheaper with ratification than with rejection of SALT II.[19]

THE DYNAMICS OF SALT II REJECTION

If a $20 billion saving may not sound like much when defense spending is going to increase by so much anyway, it should be emphasized that this estimate of the net cost of rejecting the treaty certainly understates the case. For it omits the dynamic dimension of a SALT II rejection.

What would happen if the Senate rejected SALT II after 7 years of intensive negotiations? Will the President, upon witnessing senatorial rejection of the treaty, say: "I guess SALT II failed because it did not go far enough?" Not likely. Far more Senators will vote against SALT II for hawkish than for dovish reasons. Nobody could interpret a SALT defeat as a mandate for getting more serious about arms control. Far more likely, the message will be: "Arms control has had it." The pressures for massive increases in defense spending will be enormous.

If nothing else, SALT II provides confidence about the nature and scope of the Soviet threat to the United States, and of the American threat to the U.S.S.R., throughout most of the next decade. Current worst-case intelligence projections of the Soviet strategic forces assume that SALT II is in effect through 1985. If the treaty is rejected, the outer boundaries of these projections would expand substantially—and, as a response to these more pessimistic estimates, so would the Pentagon's requests for strategic weapons. Rational or not, these are simply the political facts.

The trade off for SALT II votes may be full-scale development of an MX missile and possibly some other weapons; but the price of SALT II rejection is surely the procurement of all these weapons and more, more of them and more quickly. The Russians will do the same, which will propel us further into an arms buildup, which will spur the Russians even more, and on and on it will go.[20]

Five years ago, three astute observers of defense policymaking could write:

> The wry joke is heard that SALT may be a great boon for weapons procurement: a mechanism for generating and sustaining support for new weapons programs at a time when the domestic climate is such that they would otherwise be in jeopardy.[21]

This observation could be applied, with some validity, to the dynamics of SALT I; it is hardly at all relevant to the politics of SALT II. The times are now different. The key to the difference lies in the final clause of the above remark:

> The domestic climate no longer jeopardizes new weapons programs.

Quite the contrary. The political momentum lies more with the hawkish groups. While the U.S. deterrent is still very powerful, Soviet military strength has risen substantially over the past 5 years; as a result, congressional and public support for new weapons is fairly strong. Five years ago, popular backlash against the Vietnam war shaped the public's view of the entire military establishment; this perspective has now all but vanished from the scene. In this context, it is dangerous and delusive to suggest that a rejection of SALT II would lead to better chances for "genuine arms limitation and arms control." [22]

In criticizing the treaty, Senator PROXMIRE has said:

> What we need are real reductions in the land-based missiles on both sides.[23]

CONCLUSION

He is absolutely correct. However, this is hardly an argument for rejecting SALT II. Given the present political environment and the severely heightened political and military tensions that an outright rejection of the treaty would create, it would be virtually impossible for any serious arms-reduction effort to succeed for at least the next 5 years. By that time, both sides will have built up their arsenals to even higher levels, and mutual suspicion will be much more intense. Serious arms reductions, in such an atmosphere, will be all the more difficult to negotiate.

Let us move on to deeper arms reductions, let us agree to start phasing out land-based missiles, let us propose such things as the banning of any more nuclear-weapons production. All of these measures, even in times of minimal political tension, would be most difficult to accomplish. As Paul Warnke has noted,

> For a nation to disarm itself, even just a little bit, is almost to commit an "unnatural act."

However, if these steps are to be taken at all, SALT II is vital. SALT II is the absolute prerequisite, the necessary—though by no means sufficient—precondition.

The stark choice is between ratification and rejection. The implications of both should be clear:

Ratification means, perhaps, spending $350 million above and beyond the strategic budget proposed for the next 10 years independent of SALT considerations. Rejection means spending $21 billion more.

Ratification means restricting and reducing forces, substantially reducing uncertainty, and narrowing the scope of worst-case military planning. Rejection means unleashing an uncontrolled arms escalation, setting back the cause of future arms-control negotiations and expanding the scope of worst-case planning.

Arms controllers should have no hesitations about endorsing SALT II under these circumstances. It may not be everything one had hoped for, but it is far, far preferable to its only realistic alternative—no SALT treaty at all.

FOOTNOTES

[1] *Congressional Record*, March 5, 1979, p. 3834.

[2] *Ibid.*, p. 3835.

[3] *Ibid.*, p. 3839.

[4] Reprinted in *ibid.*, p. 3837.

[5] Secretary of Defense Harold Brown, testimony before Senate Foreign Relations Committee, July 9, 1979; reported by Robert Kaiser, "SALT Hearings Under Way," *Washington Post*, July 10, 1979.

[6] William Perry, testimony, Senate Armed Services Committee, Authorization Hearings. FY 1980, Pt. 3, p. 1411.

[7] Robert Soule and Richard Davison, Congressional Budget Office (CBO), *The MX Missile and Multiple Protective Structure Basing: Long-Term Budgetary Implications*. June 1979, pp. 7–8.

[8] Senator WILLIAM PROXMIRE, Press Release, July 5, 1979. Senator PROXMIRE does not consider the Trident systems or the ALCM to be a part of a "SALT II package," but some of his other assumptions are dubious. (See footnote 17.)

[9] Costs of FB-111B and New Manned Bomber from U.S. Air Force liaison, July 1979. Air-defense network costs assume 112 F15 fighter interceptors—the number specified by Air Force planners—at $18 million unit cost, for total $2-billion; 17 AWACS early-warning planes at $78 million unit cost, for $1.3 billion; and another $700 million for long-term operations and maintenance, support and facilities.

[10] Shortly before the SALT I signing, the Senate Armed Services R. & D. Subcommittee recommended that $400 million be spent on further R. & D. for the Trident sub, but asked the full Committee to withhold approval of DOD's $500 million request for ad-advanced procurement; the full Committee decided against approving funds even for R. & D. Nine days before SALT was signed, the Joint Chiefs recommended Trident procurement. Secretary of Defense Melvin Laird testified that the sub was necessary to provide a technical hedge and a bargaining chip for future negotiations. Enough Senators were persuaded, and approval for R. & D. and advanced procurement was granted. Trident submarine funding rose that year from $100- to $900-million. The Trident I missile, on the other hand, never faced opposition, and will be backfitted into 12 Poseidon submarines beginning next year.

[11] President Jimmy Carter, News Conference, June 30, 1977.

[12] The partly common missile could be de-

ployed onboard airplanes or submarines if all mobile land-based schemes turned out to be flawed; the 92-inch missile is too large to be based on aircraft or subs currently deployed or in design. For further detail, see my statement, "The Wrong MX Missile," CONGRESSIONAL RECORD, June 13, 1979, pp. 14758–14759.

[13] Information from Congressional Budget Office, July 1979.

[14] Gen. Richard Ellis, testimony, Senate Armed Services Committee, Authorization Hearings, fiscal year 1979, Pt. 1, p. 317.

[15] An exception is some AWACS early-warning aircraft which were allocated to North American Air Defense Command (NORAD) last year in a decision unrelated to any consideration of SALT II. Some Air Force officers would like to see 112 F–15 aircraft dedicated to NORAD as well, but this idea will probably not be formally considered for at least a few years. (Information from U.S. Air Force liaison.)

[16] The Soviets call the Backfire the Tu–22M, suggesting that it is intended as a Maritime-mission follow-on to the Tu–22 Blinder. The Backfire–B has no flight-refueling probe, and the external storage racks under the air-intake trunks surely impose speed limitations. About half the Backfires are dedicated to Soviet Naval Aviation. They do have some intercontinental capability, but if used in a strategic mission, they could drop only two bombs per plane, and the marginal reduction from the Soviet naval-air force would exceed the marginal addition to the intercontinental strategic force. It is, incidentally, ironic that hawkish SALT detractors criticize the treaty's failure to count Backfire as a strategic delivery vehicle, but dismiss as trivial SALT II's provision that the Soviets dismantle 254 far more lethal and promptly deliverable missiles that could otherwise be converted to carry multiple warheads.

[17] William Perry, testimony, Senate Armed Services Committee, Authorization Hearings, fiscal year 1980, Pt. 3, pp. 1411, 1431; Edgar Ulsamer, "In Focus . . ." *Air Force*, July 1979, p. 16.

[18] On June 16, 1979, Leonid Brezhnev handed a note to President Carter stating that the U.S.S.R. will "not increase the radius of action of (the Backfire) in such a way as to enable it to strike targets on the territory of the USA. Nor does it intend to give it such a capability in any other manner, including by in-flight refueling. . . . (nor) increase the production rate of this airplane as compared to the present rate." Brezhnev confirmed that the Backfire's production rate would not exceed 30 per year. The administration has firmly stated that it considers this letter to be as binding as the rest of the SALT treaty If SALT II is rejected, the letter of course would have no binding effect whatever.

[19] In a press release for July 5, 1979, Senator PROXMIRE (see footnote 8) announced that the cost of a SALT II treaty would probably exceed $100 billion—not including the $48 billion cost of Trident I missiles in Trident submarines and 3,000 ALCM's in B–52G bombers and a new CMCA. This estimate is based on several fallacious assumptions. It implicitly assumes that the MX and mobile-basing mode would not be deployed were it not for SALT II—almost certainly untrue. It also assumes that a new manned bomber, a continental air-defense network, and an FB–111B are definitely in the cards if SALT II is passed and definitely not if SALT II is rejected—both dubious propositions.

Senator PROXMIRE's release also overstates the costs of these items. On the MX, he claims that the $30 billion figure cited by DOD omits (a) the cost of an extra 4,000 hardened shelters on top of the first 4,000 to be deployed, necessary to meet future Soviet capabilities, (b) a full costing of the missile's ability to sprint from one shelter to another, and (c) operations and maintenance costs. He guesses that if these factors were included, total cost would exceed $70 billion.

This is an exaggeration on several counts. If the railroad-trench—or "zipper-trench"—basing mode is chosen, it will have 8,800 shelters and a sprint capability. Estimated cost: $36 billion. For both the $30- and $36-billion program cost estimates, operations and maintenance expenses *are* included. Senator PROXMIRE, in other words, has overstated the cost of the MX—extremely expensive already—by nearly 100 percent.

His assessments of the FB–111B and a new bomber—$7- and $15-billion, respectively—are probably on the mark. However, he overstates air-defense costs. He assumes that the complex will include Patriot surface-to-air missiles; in fact, not even enthusiastic Air Force officers have contemplated this ingredient. And if Senator PROXMIRE calculates that the air-defense program would cost "tens of billions" of dollars, he is drastically overestimating the number of F–15s and AWACS necessary for the task.

Senator PROXMIRE also complains that the Pentagon's cost estimates are calculated in constant 1980 dollars, ignoring future inflation. True, but this is just a fact of life in all budgeting, for defense and nondefense programs. Inflation over a decade is, after all, unpredictable; and most taxpayers' salaries also tend to grow somewhat in those years of inflation. To calculate costs in any but constant dollars would be very misleading.

(Sources: On MX costs, Soule and Davison, CBO, *op. cit.*, pp. 7–8, 79; on other weapons, see footnotes 9 and 15.)

[20] One possible outcome of a SALT II rejection could be a dedicated campaign to deploy an anti-ballistic-missile (ABM) system, something which many have yearned to do for years but for the AFM Treaty. A U.S. "unilateral statement" attached to SALT I's Interim Offensive Agreement of May 1972 noted:

> If an agreement providing for more comprehensive strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Rejection of SALT II, with little hope in sight for renewal of serious arms-limitation talks, could be presented by ABM advocates as grounds for abrogating the ABM Treaty—the most detailed arms control treaty ratified to date by the superpowers, the only product of SALT that has no expiration date. The cost of a new ABM system could easily exceed $10 billion, and would trigger an even costlier and utterly wasteful race between offensive and defensive forces. The notion of a rapidly deployable ABM system for the MX missile—in addition to some multiple-shelter system already proposed to reduce the missile's vulnerability—is heavily favored by ballistic-missile-defense (BMD) enthusiasts. (See for example, testimony of Gen. Stewart Meyer, BMD Project Mgr., in the Senate Armed Services Committee, Authorization Hearings, fiscal year 1979, pt. 2. p. 996.) The U.S. Army estimates such an ABM system to cost $6 billion. This certainly understates the costs for two reasons: first, the assumed kill-probabilities of each ABM warhead are certainly much too high, meaning that more ABM missiles will be needed to destroy the required number of incoming Soviet warheads; second, as the Soviets deploy more offensive weapons to saturate the ABM's, the United States will have to deploy more defensive missiles to counter them $10-billion for such a project is a very conservative appraisal.

[21] G. W. Rathjens, Abram Chayes & J. P. Ruina, *Nuclear Arms Control Agreements: Process and Impact* (Washington, D.C.: Carnegie Endowment for International Peace, 1974), p. 21. This monograph is one of the earliest, and still the most compelling, analysts of SALT's counterproductive tendencies.

[22] Senator McGOVERN argues that if SALT II is defeated by conservatives alone, it "would create the political climate for another splurge in arms spending," while if liberals are partly responsible, "I think we have a better option of moving . . . to confront a genuine arms limitation and arms control." (Quoted in Richard Egan, "3 Senators Hold Key to Arms Pact," *Detroit News*, July 5, 1979.) There is a non-sequitur quality to this agreement. If, say, three Senators vote against SALT for dovish reasons and at least 34 vote against it for hawkish reasons, no political impact will have been made: the treaty will have gone down to defeat, withont Senator McGOVERN and his colleagues. If these three votes make the difference between SALT rejection and SALT ratification, however, the consequences for "genuine" arms control in the future will be bleaker. If creating the base for political mobilization against the arms race is Senator McGOVERN's purpose, who could argue that the possibilities would not be greater under the controlled competition that SALT II provides than under the uncontrolled escalation that its rejection would almost certainly unleash?

[23] Quoted in Fred Barbash, "3 Liberals Assail Concessions to SALT Critics," *Washington Post*, March 5, 1979.●

TRIBUTE TO PHI THETA KAPPA

HON. JON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. HINSON. Mr. Speaker, since 1918 Phi Theta Kappa has recognized superior junior and community college students. The national honorary scholastic fraternity has grown from 8 chapters in 1 State to over 500 chapters in 48 States, the Canal Zone, and Puerto Rico in its 61-year history.

Phi Theta Kappa strives to represent the intellectual character of the present-day community/junior college systems in the United States. The programs of the fraternity can be found in small privately endowed colleges and large public colleges.

To achieve this purpose, Phi Theta Kappa provides opportunity for the development of leadership and service, for an intellectual climate for exchange of ideas and ideals, for lively fellowship for scholars, and for stimulation of interest in continuing academic excellence.

Some outstanding alumni members of Phi Theta Kappa include the following: Writer Thomas Hal Phillips, astronaut Fred Haise, actor Monte Markham, and former Treasurer of the United States Francine Neff.

Mr. Speaker, Phi Theta Kappa is a credit to the outstanding junior and community college systems in the United States. It is a personal privilege to acknowledge Phi Theta Kappa, its Executive Director Dr. Margaret Mosal, its national office staff in Canton, Miss., and its board of directors.●

SENATE—*Wednesday, July 25, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate convened at 8:45 a.m., in executive session, on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

They that wait upon the Lord shall renew their strength.—Isaiah 40: 31.

O God, our Father, Restorer of men's bodies and minds, we thank Thee for rest by night and work by day.

We thank Thee for this world which Thou hast made; for summer and winter; for light and dark; for sunset and for dawn. We thank Thee. Thou has made us as we are, for hands to work and feet to walk; for eyes to see and ears to hear; for minds to think and for hearts to love. Help us to use for Thy glory these gifts so richly bestowed.

We thank Thee for all who share with us the responsibilities of Government, for all upon whose wisdom and experience we draw, for friends and colleagues whose love gives glory to our lives.

Above all else, we thank Thee for Him who walked before us to show us that whoever is greatest shall be servant of all. In His name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 25, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EUROPEAN PARLIAMENT

Mr. ROBERT C. BYRD. Mr. President, in the press of business here in Washington, insufficient notice has been made of a historic event that has taken place recently among our allies in Europe, and that is the first election of delegates to the European Parliament.

The European Parliament is made up of representatives of the nine countries belonging to the European Common Market. Prior to June of this year, those delegates were appointed by the legislatures of the member countries.

But in June, the voters of each country directly elected their country's delegates to the Parliament. As a result, 110 million Europeans cast their ballots to choose the Parliament's 410 members.

The Parliament meets in Strasbourg, France. The role of the Parliament is largely advisory, to review and comment on Common Market decisions.

But the real significance of the Parliament is that it will provide an influential forum on major European issues, and it will more closely unite the people of Western Europe.

Consider the odds against which the Parliament has had to mount its case. Europe has twice this century been torn by world war. The peoples of the nine countries represented in the Parliament speak many different languages. And each of the countries has a very separate and distinct culture, with a history that goes back to a time far earlier than our own.

In spite of these obstacles, the Parliament has made its case, and now stands before the European public as proof that a diverse people can subordinate their differences in the name of their common good.

On July 18, the Senate joined the House in approving a concurrent resolution, congratulating the European Parliament for its achievement, and welcoming it to the community of representative bodies around the world chosen by direct universal suffrage. The resolution noted that the United States shares with the West European Community a "common respect for democracy, the promotion of human rights under the rule of law, and the observance of democratic practices."

Mr. President, at various times the countries of the Old World have looked to the United States in the New World for inspiration and innovation in developing a free society. The United States has always tried to respond, and rarely has it responded more warmly than when the Marshall plan was launched in 1948.

Now the very countries to which the Marshall plan was directed are lending inspiration to the United States. The President spoke the other evening of the need in this country to strive toward a goal of cooperation and unity.

It is fitting that the New World now may look to the Old World for a shining example of achieving that goal.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time unless the distinguished acting Republican leader wishes to have it yielded to him.

Mr. STEVENS. It may be that I will need that extra time so I thank my good friend.

Mr. President, may I state to the majority leader that although I am not certain when, I have heard that there might be a motion to recommit the Reiche nomination that will be before the Senate today, so it is possible that we may have a vote on that matter.

May I ask the Chair if the majority leader has yielded me part of his time?

Mr. ROBERT C. BYRD. Mr. President, if I have any time remaining, I yield the remainder of that time to Mr. STEVENS.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

SNAIL DARTER OF THE MONTH AWARD

Mr. STEVENS. Mr. President, for some time now I have been considering following in the tradition of the Senator from Wisconsin (Mr. PROXMIRE) by announcing a new monthly award, and this morning I will begin with the announcement of the Snail Darter of the Month Award.

This award would go to any Government organization which has done more to harm the environment through extremism in its enforcement of environmental laws and regulations than its actions have done to improve the environment in which we live.

We all know that one of the most unfortunate problems we face today is that many of the people who are enforcing environmental laws and regulations in the Federal Government are people who primarily or previously had been advocates for various environmental organizations. They do lack, in many instances, the balance that is required of an official who has the power to enforce Federal laws and create regulations.

Extremism in environmental policies has led the Government to reserve more land than is required for environmental protection. Extremism in environmental policies has led the Government to acquire more and more private land for Government ownership. Extremism in environmental policies has led the Government to stifle free enterprise and to hinder private ownership. Extremism in governmental policies has led the Government to assert Federal supremacy over State laws, such as State water rights laws, which were designed to create private rights to assure individuals that the product of their labors, particularly in placing new lands into cultivation, would be secure for themselves and their families.

The Tellico Dam really is the symbol of the snail darter award. It was a project that was funded in 1967. It has been funded every year since then. Tellico was built for the purpose of providing hydroelectric power for 20,000 homes. It is 99 percent complete, and $111 million of taxpayers' money has been spent on the construction of this hydroelectric project.

The Endangered Species Act, passed in 1973, 6 years after this dam was started, has been used to prevent the completion of Tellico Dam. At issue was a tiny species called the snail darter which inhabits the Little Tennessee River. It was not even discovered until after the dam construction had begun. Yet, as we all know, the snail darter has tied up the completion of this dam.

Since that time the snail darter has been transferred successfully to the Hiwassee River. It is thriving today.

The dam, as I said, will produce power for 20,000 homes, some 200 million kilowatts of potential electricity, and it stands as a symbol of environmental extremism.

As we approached this concept of the snail darter of the month award I thought of some of the things I have run across in the last 6 months.

We could have used the West Virginia railroad siding project as an example. The construction of the siding was necessary for coal cars to take the product of West Virginia mines to market but was delayed because of extremism in the enforcement of environmental regulations. My good friend, the majority leader, asserted himself in that instance, and I think that siding will finally be completed.

We could have used as the first award recipient those people in the Fish and Wildlife Service who denied the State of Alaska an aquaculture project in the Kenai Moose Range south of Anchorage, a project to restore the anadromous fish runs in the streams, the bed of which is owned by the State of Alaska.

They refused to allow us to use the shore of that stream for the purpose of an aqua site to restore the salmon run. After a conference with my staff that project may be reconsidered.

We could have used the example of the Terror Lake project in the Kodiak Bear Wildlife Range which has been underway now for almost 10 years. This project has been recently stopped by the Fish and Wildlife Service because they say that the hydroelectric project, which is primarily a penstock that comes down through the mountains from a lake high above Kodiak was inconsistently and incompatible with the protection of the bears on Kodiak Island. Evidence of a negative impact on the bear population has never been substantiated. That project, also, may be reconsidered.

These are examples of what I am talking about in terms of extremism in the enforcement of environmental laws.

This morning's Post gives probably the worst case of environmental extremism to date, and that is the problem of the city of Skagway's municipal sewage treatment plant. There are literally thousands of cities in the country that have not even tried to comply with the Clean Water Act. Skagway, the gateway of a national historical park, is in and of itself a monument to the freedom of our people who sought a new life and fortune. It was the entrance to the path for those people who wanted to go on to the Yukon gold mines. Now it is but a town of 870 people who have been forced to comply with the Federal Clean Water Act, although their small environmental impact does not really warrant such strict adherence to such arbitrary standards. So, the people of Skagway bonded themselves for $3.5 million and built a new treatment facility.

They have had some difficulty with that plant because of technical problems in the power package required by the treatment standards established by EPA. So they were forced to close it down.

One of the problems that Skagway and many small communites have, with agencies like EPA is in the constant haranguing, the forms and the regulations and just the stifling of the operations of a small city and the people trying to run that small city. So because of the complications, when the citizens of Skagway found out that they would have had to use 46,000 gallons of diesel fuel to keep that plant running because of this malfunction, they closed it down. EPA has now taken the city of Skagway to court and the difficulty is that EPA is drawing its battlelines against people who have tried to comply with EPA's demand. It has not taken to court those cities which have not even tried to comply with the clean air standards.

Skagway, if left alone, will find a way, I am certain, to use its sewage plant. Having built this treatment plant obviously, it is going to find a way to use it. But now the people of EPA have taken Skagway to court and are seeking a fine of $10,000 a day for noncompliance with the Federal laws, in a town where the mayor makes $80 a month. How ridiculous is that?

I just cannot understand a Government agency that refuses to try to seek balance by working with local officials to achieve national objectives.

It is a difficult thing for this Senator, as one who voted for the Clean Water Act, to see how we could possibly have contemplated such extremism in the enforcement of that law through the regulations being demonstrated by the EPA today.

I would invite the Senate as a whole to look at the Skagway problem. What can they do? How can a small town survive when a Federal agency, instead of trying to work with the local government to help achieve national standards, puts the local government and its officials on the complete defensive and forces them to hire lawyers to defend expensive lawsuits in Federal courts when they are already so severely in debt?

The Environmental Protection Agency, by its extremism in the enforcement of the Clean Water Act, has reached the absurd conclusion that Skagway, which really tried to deal with its problems, should be punished while the cities of this country that have not tried at all are given extensions, or are not even taken to court for the purpose of compelling them to at least try.

So my first announcement of the Snail Darter Award of the Month goes to the EPA for its blind extremism in the enforcement of the Clean Water Act.

Mr. President, I ask unanimous consent that an article in the Washington Post, of Wednesday, July 25, 1979, entitled "Town in Alaska Shuts Sewage Plant, Dares U.S. to Do Something About It" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Town in Alaska Shuts Sewage Plant, Dares U.S. To Do Something About It

(By Ward Sinclair)

The City Council of Skagway, Alaska, has carved another niche in history for the little Gold Rush community.

Fed up with the rules and the paperwork, the council this month shut down Skagway's spanking new sewage treatment plant and told Uncle Sam to buzz off.

What is historic about that is that Skagway apparently is the first town in the country simply to shut down its treatment plant and dare the government to do something about it.

What is timely about it is that Skagway is claiming, among other things, that the energy crisis has forced it to thumb its nose at the 1972 Clean Water Act.

Last week, Mayor Robert Messegee fired off an impassioned letter to President Carter, invoking the energy crisis and pleading with him to get the Environmental Protection Agency off Skagway's back.

"Please help me, Mr. President," he wrote. "I am not a criminal. I am an elected official, earning $80 a month. I don't want to go to jail."

EPA, which sees no humor in the Alaskan's action, filed suit in federal court in Anchorage Friday seeking an order to get the plant back into operation.

EPA's complaint also seeks a $10,000-a-day fine against five Skagway council members for each day the plant is out of operation.

And don't think that has not set off snickering in the town of 870 residents in southern Alaska. City Attorney William Ruddy said, "The federal government will end up owning Skagway."

Councilman Oscar Selmer said he would sooner go to jail for contempt. "All they have to do is come up here and get me," said Selmer. "I'll get free room and board, as long as they bring me a little shot of whiskey once in a while."

Not a chance in the world that will happen, said EPA attorney John Hohn at the agency's regional headquarters in Seattle.

"We spent a lot of time and money trying to help them," said Hohn. "The law is pretty plain—they have to have a permit to discharge waste into U.S. waters and it has to meet the EPA standards."

City Manager Gil Acker said the $3.5 million treatment plant, completed in November, has had technical problems which cause it to use more electric power than anticipated.

By Mayor Messegee's calculations, about 46,000 gallons of high-priced diesel fuel are required to generate enough electricity to keep the plant motors running.

City officials say the cost of electricity will just flat out bankrupt Skagway. The mayor told Carter he thought that was a mighty strange way to fight an energy crisis.

Skagway's basic argument, however, is that its sewage—although no more pristine than that of, say, a Washington—is not as bad as one would think.

There is no industry in Skagway and the effluent washes into the 600-foot deep Lynn Canal, a turbulent body of seawater that City Attorney Ruddy said may be enhanced by the run-off.

"We're not looking for a fight," Ruddy said. "But we don't understand why EPA is drawing the battle line in Skagway when Anchorage or Seattle don't have the treatment facilities we have here."

Mr. STEVENS. I yield the floor, Mr. President.

RECOGNITION OF SENATOR TALMADGE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia (Mr. Talmadge) is recognized as in legislative session for not to exceed 15 minutes.

S. 1569—REGULATORY ACCOUNTABILITY ACT OF 1979

Mr. TALMADGE. Mr. President, I send to the desk a bill in behalf of myself, my colleague from Georgia (Mr. Nunn), and the distinguished senior Senator from Florida (Mr. Chiles) and ask that it be appropriately referred.

Mr. President, I am today introducing the Regulatory Accountability Act of 1979. This is by no means the first such bill that has been introduced during the 96th Congress.

Numerous regulatory reform bills have been introduced in both the Senate and the House of Representatives.

I am a cosponsor of one of the first major regulatory reform bills introduced in the Senate, S. 262, introduced by the distinguished chairman of the Governmental Affairs Committee.

There is much merit, not only in S. 262, but in other bills that have been introduced to provide different approaches to regulatory reform.

I am particularly impressed by the bill introduced by Senator Bentsen, S. 51, to require that Congress establish a regulatory budget for each Federal agency.

This budget would limit the maximum cost of compliance by the private sector with all rules and regulations promulgated by each agency.

There are some who oppose this kind of legislation because they say that it is impossible to compute the cost of regulations on our economy.

I disagree. I believe that agencies responsible for regulation, working together with the economists in the regulated industries, can come up with a reasonably accurate cost of private sector compliance with Federal regulations.

Moreover, if Federal agencies cannot determine how much of an economic burden they are placing on the regulated industries with volumes of complex regulations then they should not be in the business of regulating private industry.

This is part and parcel of why the regulatory process in America has gotten completely out of control.

Neither the Congress which writes the laws nor the agencies which write and enforce the regulations give much thought to the economic burden they are placing on the regulated industries and, in turn, on the entire U.S. economy.

I submit, Mr. President, we must do something to stem the tide of geometrically increasing Federal regulations. We are in danger of killing the goose that laid the golden egg.

We are in danger of killing free enterprise and growth in this country.

I believe everyone is familiar with the eminent economist Murry Weidenbaum's study for the Joint Economic Committee, which estimated the cost of Federal regulations at $102.7 billion annually.

We all know, although we oftentimes forget, when we write new laws, that it is private business—large and small—which provides the jobs for the Nation's workingmen and workingwomen.

The taxes they pay cover not only our own salaries, but the cost of all the Federal programs that we legislate.

Moreover, we can continue to improve the quality of life for the average citizen of this country only if we promote a climate where economic growth is possible.

It is the private business sector of this Nation which is responsible for all economic growth.

We in the Congress do not create economic growth when we legislate more deficit spending, more regulation and redtape, and authorize the printing of more inflated dollars.

On the contrary, we only stifle individual initiative and create impediments to business growth when we pass unnecessary legislation.

Fortunately, I believe that Members of Congress have finally gotten the message. They have found that the American public is fed up with excessive Government regulation and costly new Federal programs.

That is why I believe that the 96th Congress has thus far been one of the best Congresses in which I have had the opportunity to serve.

It has been a good Congress because we have abstained from enacting a lot of costly new programs that the American taxpayer cannot afford, does not need, and does not want.

Congress has correctly perceived that the past practice of piling one expansive new Federal program on top of all the existing programs has led to nothing but chaos and resentment by the American voter.

I am delighted that the Senate Committee on Governmental Affairs chaired by the able senior Senator from Connecticut, Senator Ribicoff, has done a good job of evaluating the various regulatory reform proposals that have been introduced and referred to that committee, they contain much merit.

However, I do not feel that any of them go to the heart of the problem.

None of these bills attempt to deal with the root cause of excessive regulation—excessive and poorly drafted legislation.

Every Federal regulation is either specifically mandated by or broadly authorized by some Federal statute. Every Federal regulation must have a statutory base. Statutes originate in Congress.

In some cases, we have specifically legislated regulations which have proven to be unworkable.

However, in most cases we have merely given the bureaucracy a blank check to do almost anything that they wish to do in regulating a particular economic area.

One agency that has drawn a lot of press attention in recent months is the Federal Trade Commission. We have given this regulatory agency almost carte blanche authority to write rules on and meddle in practically every area of private business.

The Washington Post in the lead editorial on April 2, 1979, described the problem very well. Mr. President, I ask unanimous consent that this editorial be printed at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Regulation Regulation Regulation

A group of lawyers spent a few hours here on Friday talking about what might happen if the truth-in-lending act were rewritten in two simple sentences. One would say lenders had to disclose the true annual interest rate on their loans. The other would say what the penalty would be for not doing so. Period.

The idea has appeal. The truth-in-lending act, although itself short by modern legislative standards, has already generated over 3,000 pages of regulations and administrative interpretations, and more are on the way. Because of either the law or the huge amount of paperwork—people argue about which—consumers are presented with documents they don't read and probably wouldn't understand if they did; and businessmen are continually wondering whether every "i" needs to be dotted and every "t" crossed—how serious government is about enforcing all these intricate obligations.

The only consensus reached by this meeting of lawyers, as far as we could tell, was that it might be possible to eliminate *some*, but not *much*, of the tangle of administrative interpretations. Consumer groups evidently feel that without such detailed rules and regulations businesses will find ways to conceal useful information from customers. Business groups seem to feel that they will be left unprotected against charges of wrongdoing unless each step they must take is spelled out in advance. Government regulators think they needed to produce all 3,000 pages in the first place to help businessmen know what to do. Nobody, except possibly those who organized the meeting and a few eccentrics who admire plain-spoken English, seemed to take the idea seriously.

We do. And we dwell on this meeting precisely because it says so much about the current onslaught of overregulation that is driving a large part of the nation mad. President Carter had it just right the other day when he described the dealings many Americans have with government as consisting of a "bewildering mass of paperwork, bureaucracy and delay." Unfortunately, the president's remedy—the proposals he has sent to Congress to "reduce, to rationalize and to streamline the regulatory burden"—won't do much good.

The centerpiece of the president's program is an effort to improve the rule-making process. He wants to speed it up (something desperately needed) by setting deadlines for agency action. But he also wants to inject more public participation into the process and he wants to require each agency to publish what might be called a regulatory-impact statement. That statement would examine the costs and benefits of alternative methods of reaching the goal the agency has in mind.

Do you begin to see the built-in problem here? This new procedure could conceivably be a help in making wise choices. But any agency that has been using common sense is probably already weighing these costs and benefits. And there is at least as strong a likelihood, if the past tells us anything, that the new regulatory-impact statements would become just one more part of the bureaucratic rigmarole, one more generator of a useless paper heap.

Like the gestures of his predecessors, most of Mr. Carter's proposals deal with the symptoms of over-regulation, not its cause. Three thousand pages of regulations and interpretations concerning a single piece of legislation do not spring from some malevolent bureaucratic plot. They are a direct result of the way Congress drafted the law. Bewildered by the complexities that lawyers and others can cook up in relation to the most seemingly simple matters, Congress writes laws that reflect that complexity—carving out exemptions for one interest group after another, delegating too much authority to regulatory agencies and passing the buck to them on politically difficult questions—and expressing all this in a prose that is incomprehensible to any but other people who talk that way.

So the true solution to overregulation can only be found when Congress realizes that cat's-cradle complication is not synonymous with wisdom or fairness. Maybe some of the president's proposed administrative reforms will help. But the most he can do is smooth bureaucratic rough edges. The important part is up to Congress. That is where they write all those regulation-prone and rule-generating statutes in the first place, though you wouldn't guess it from the way they complain about them later.

Mr. TALMADGE. The Post hit the nail on the head when it said:

> So the true solution to overregulation can only be found when Congress realizes that cat's cradle complication is not synonymous with wisdom or fairness. Maybe some of the President's proposed administrative reforms will help. But the most he can do is to smooth bureaucratic rough edges. The important part is up to the Congress. That is where they write all those regulation-prone and rule-generating statutes in the first place, though you wouldn't guess it from the way they complain about them later.

That is the essence of the problem. Whenever there is some problem that Members of Congress feel requires a legislative solution, we enact broad and sweeping legislation.

We give the bureaucracy almost unlimited power to do whatever they will to regulate some sector of economic activity, or to regulate some particular group in our society.

Even worse, we may specifically mandate a regulation that later proves to be foolish, impractical and unworkable.

Then when the regulations come out, when some agency like the Occupational Safety and Health Administration (OSHA) starts writing all those ridiculous rules that no one can live up to, we throw up our hands in horror and blame those "bureaucrats downtown."

We never mention that it was the Congress who gave agencies like OSHA the authority to write ridiculous and unworkable regulations.

Mr. President, after several years in the Senate, after seeing Congress legislate the authority for excessive regulation and then blame it on the bureaucrats, I attempted to do something about it.

On February 1, 1977, I introduced and secured the enactment of rule 29.5 of the standing rules of the Senate.

The Talmadge rule requires that every committee report accompanying a bill or joint resolution of a public character contain a regulatory impact statement.

My amendment is quite specific in what the regulatory impact statement must include. It requires that the statement must include:

First, an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses;

Second, a determination of the economic impact of the regulation;

Third, a determination of the impact on the personal privacy of the individuals affected; and

Fourth, a determination of the amount of additional paperwork that will result from the legislation.

The Senate accepted my amendment by rollcall vote of 74 to 20. However, the performance of the Senate in complying with this rule has been far from satisfactory.

On March 1 of this year the senior Senator from Florida (Mr. CHILES) detailed the lack of Senate compliance with the Talmadge rule.

The Senator stated that a review by his staff and the Congressional Research Service revealed that 216 of the 688 committee reports which fell under the rule's scope simply ignored it.

Senator CHILES further stated that a third of the reports, 31.4 percent, did not even refer to the rule and made no statement whatsoever to the requirement that regulatory, economic, privacy and paperwork impacts of legislation be considered.

The Senator rightly criticized this lack of compliance and stated that he planned to bring to the Senate's attention any committee report which ignored rule 29.5.

I compliment the Senator from Florida on his interest in enforcing the Talmadge rule. However, I do not believe that there will ever be proper compliance with the regulatory impact rule unless stronger legislation is written.

The bill I introduced today would put more teeth into the Talmadge rule and apply it to both Houses of Congress.

Also, it would close a glaring loophole in the current Senate rule 29.5. It would apply to floor amendments and conference reports as well as committee reports.

Moreover, there must be some independent agency to assist Congress in complying with the requirement of a regulatory impact statement.

My bill would give the Comptroller General this responsibility. In addition, it authorizes the Comptroller General to render opinions as to whether congressional committees and proponents of amendments were properly complying with the rule.

However, I believe that the most important enforcement mechanism that could be written into the process is a proper follow-up and evaluation. My bill requires that every 2 years the Comptroller General would prepare and transmit a report to the Congress comparing the actual impact of regulations resulting from legislation containing regulatory impact statements.

Thus, if any committee of Congress or the proponent of any amendment which was adopted had written a misleading regulatory impact statement, he would know that the actual impact of the bill or the amendment would be evaluated by an independent authority after the law was implemented.

This would be the single most powerful self-enforcement mechanism in the law. If any Member of Congress wanted to write legislation that authorizes or requires a broad new regulatory program he would know that eventually he himself—not the bureaucracy, not the President—would be eventually blamed with any excessive and undue regulation that resulted from this bill or amendment.

This same GAO evaluation would apply to executive branch agencies. All agencies would be on notice that their regulatory impact statements would have to be accurate or they would eventually be held accountable.

Mr. President, the committee of which I am chairman, the Senate Committee on Agriculture, Nutrition, and Forestry, has tried diligently to comply with Senate rule 29.5.

However, I have found that the regulatory and paperwork evaluation of legislation tends to be put off until all the decisions on legislation have been made.

Therefore, in an attempt to build consideration of the regulatory and paperwork impact of legislation into the earliest consideration of that legislation, my bill would require that the executive branch include a regulatory impact statement in any legislative recommendations, testimony or comments to the Congress.

The first thing that is done when a bill is referred to a committee of the Congress is that the Congress routinely asks the executive branch for its views.

On all important legislation, executive branch testimony is solicited. Therefore, this new requirement in the law would bring the regulatory impact and paperwork impact of all legislation being considered to the attention of Congress at the earliest stages of committee action on new legislation.

Mr. President, I do not want to put the Congress in a procedural straitjacket. When I introduced rule 29.5 there were some complaints that my amendment would make it very difficult to pass legislation.

In an effort to provide flexibility, my rule provided that a committee could include in lieu of a regulatory impact statement a statement in the committee report as to why compliance with the rule was impractical.

Experience that we have had with the lack of compliance with rule 29.5 in the Senate now shows that we cannot leave this big a loophole if such a rule is to have any meaning.

To close the loophole, my bill would include a procedure whereby the Committee on Rules of the House of Representatives and the Committee on Rules and Administration of the Senate could report a waiver resolution if there was a need or desire to waive the requirement for a regulatory and paperwork impact evaluation.

The waiver procedure is patterned after the procedures used for waivers of requirements of the Budget Act in the House and the Senate.

However, there is one difference. My bill provides that if the Committee on Rules of the House of Representatives and the Committee on Rules and Administration of the Senate report a waiver resolution, a two-thirds vote of the full House or Senate would be required for approval.

In one respect my bill is similar to many other regulatory reform bills. It requires that executive branch agencies prepare regulatory impact statements on new regulations.

My bill would require that the evaluation of regulatory impact and paperwork impact required in the current rule 29.5, must be submitted to the Congress.

I think that it is important that the same regulatory impact statement that Congress is required to prepare when adopting new legislation be required also of executive branch agencies when promulgating new regulations.

A common uniform evaluation statement for both the legislative and the executive branch will make it much easier to properly evaluate the impact of regulations on a continuing basis.

One important difference between my bill and some other bills that have been introduced is in the definition of regulations on which a regulatory impact statement is required.

Other bills require a regulatory impact evaluation only in cases where an agency head determines that the regulation is apt to have an effect on the economy of $100 million or more in any 1 year.

It is possible for an agency to issue a number of different regulation, none of which might have an impact of $100 million, but which in aggregate could stifle an industry and harm the economy.

Moreover, there is the natural tendency for all bureaucrats to underestimate the private sector compliance costs for their regulations.

Therefore, my bill would require regulatory impact statements in the case of all regulations which would have an effect on the economy in any 1 year of $1 million or more or which the agency head determines is likely to have an equally significant effect on the national economy.

Also, my bill provides for a waiver of the regulatory impact requirements by the agency head upon certification that the agency's action is being taken in response to an emergency situation or is governed by short-term statutory or judicial deadlines.

I emphasize that agency heads as well as the Congress will be subject to an ongoing review by the Comptroller General to determine the accuracy of their regulatory impact evaluations. Therefore, any agency which underestimates the cost of its regulations will eventually have to account for the error of its ways.

In summary, Mr. President, I believe that I have offered a bill that goes to the root cause of the problem of excessive and stifling Federal regulations.

I have offered a bill to encourage Members of Congress to squarely face their responsibility for excessive Government interference in the lives of private individuals and in the operation of successful business enterprises.

My bill would improve the current legislative and regulatory process by:

First, building an awareness of regulatory impact into the earliest stages of congressional consideration;

Second, providing a uniform standard of regulatory and paperwork impact;

Third, providing for waiver of the requirement for a regulatory impact statement only in unusual circumstances; and

Fourth, building accountability into actions by both the legislative and executive branch by forcing those who are responsible for excessive regulations to have to live with the consequences of their actions, and to assume the responsibility for these actions.

Mr. President, I hope my bill will receive serious consideration from the appropriate committees of the Senate.

I believe that it is time we in Congress face up to our responsibilities in the regulatory process, as we have repeatedly demanded of the executive branch.

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent, as in legislative session, that a bill introduced earlier today by the Senator from Georgia (Mr. TALMADGE), for himself and others, to require that regulatory impact statements are prepared during certain stages of legislative and rulemaking processes, be jointly referred to the Committee on Governmental Affairs and the Committee on Rules and Administration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR HATFIELD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized, as in legislative session, for not to exceed 15 minutes.

Mr. HATFIELD. Mr. President, I yield to the distinguished Senator from Minnesota.

SAILOR TRIUMPHS OVER ATLANTIC

Mr. DURENBERGER. Mr. President, yesterday, a remarkable man transcended the boundaries of normal day-to-day life and accomplished an incredible feat that will be heralded around the world. It took Gerry Spiess, an engineer from White Bear Lake, Minn., a lifetime of dreams and 54 days of agony and torture to achieve his longtime personal goal of a solo crossing of the Atlantic Ocean.

Mr. Spiess' accomplishment is unique: His adventure was completed in the smallest boat to ever undertake such a journey. It is most appropriate that this 39-year-old sailor comes from Minnesota, the Land of 10,000 Lakes.

Mr. Spiess' feat will not change the course of society, nor will it alter the human condition. Nevertheless, it will stand out in the dreams of all people as a triumph of human skill, diligence, and dedication to a seemingly impossible goal. For this moment, men and women throughout the world have been reminded that human spirit committed to a goal cannot be conquered, even by the uncertainties of nature.

Mr. President, I am a sailor and a Senator, but I could not achieve the impact of a Gerry Spiess.

Mr. President, I ask unanimous consent that the story of Mr. Spiess' victory as reported by the July 24 Washington Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Sailor Triumphs Over Atlantic—10-Foot Boat Makes Crossing in 54 Days

FALMOUTH, ENGLAND.—American yachtsman Gerry Spiess today sailed his 10-foot boat into Falmouth Harbor, completing a 54-day solo crossing of the North Atlantic in the smallest boat ever to complete such a journey.

Spiess, a 39-year-old engineer from White Bear Lake, Minn., arrived at the center of a welcoming flotilla of honking, tooting pleasure boats that had sailed out to escort him the last few miles to the Cornish coast. Thousands of cheering spectators lined the shores to greet Spiess and his tiny homemade sailboat, "Yankee Girl."

Spiess, who left Virginia Beach, Va., June 1, said he survived two weeks of "sheer hell" at the start of voyage during which 20-foot waves pounded the boat. He was once swept overboard, and only his lifeline saved him.

The Yankee Girl is shaped like a wedge of pie and painted green. For company in his cramped quarters, Spiess took along the works of Mark Twain and recordings of his favorite American radio shows.

Spiess covered some 3,500 miles in his tiny boat. The previous record for a completed trans-Atlantic crossing in a small boat was set in July 1966, when boat-builder Bill Verity, of Fort Lauderdale, Fla., crossed to Fenit in southwest Ireland in the 12-foot sailing boat "Nonoalca" in 65 days.

Describing the time he was swept overboard early in the voyage, Spiess said: "I was saved by my lifeline. It held fast. I gave a tremendous pull and managed to haul myself back on board.

"It was a terrible half hour. I knew I had to make it back to the boat. I never had any worries after that. What could have been worse?"

Yankee Girl, less than 6 feet wide, has a 14-foot mast, a radio-telephone and a 4-horsepower outboard motor. Most of her 10-foot length is cabin and storage space. There is a narrow bunk, a small chart table and a tiny galley.

"I managed to sleep every night—except last night," Spiess said. "My homemade self-steering gear never let me down.

"Last night, I kept awake. I was in the busy English Channel shipping lanes. I was not going to take a chance on the last leg.

"When I go ashore, I just want a sauna bath and a long sleep. After that a slap-up meal."

His wife Sally said, "He is living on his adrenalin at present. When he comes ashore and starts to calm down, I think he will fall asleep."

Mr. HATFIELD. Mr. President, I thank the Senator from Minnesota for bringing to our attention this very outstanding feat by a man of great determination and vision. I think in the times in which we are living such a feat does lift our spirits, does give us once more the recognition that one person can make a difference in whatever he undertakes with the kind of character and qualities exemplified by this fellow Minnesotan.

SALT II

Mr. HATFIELD. Mr. President, I recently received a letter from President Carter's National Security Adviser, Mr. Brzezinski, which reinforces my fear that the SALT II Treaty is an illusion of arms control.

In the course of the last few months I have, with a number of my colleagues, expressed concern that the SALT II Treaty accomplishes virtually nothing in slowing the arms race. I have contended that each side will continue to build every major weapons systems it considers necessary. I have expressed concern over the fact that these new major weapons systems will move both the United States and the Soviet Union toward a new strategic policy which will be the most dangerous step since the nuclear arms race began.

That new policy is first-strike, counterforce capability. The Soviet Union, it has been argued, will possess the capability by the early 1980's of theoretically destroying the U.S. ICBM force in a surprise first strike. Because of this, the Carter administration has demanded that the Congress appropriate some $40 billion for a new MX mobile missile. What the Carter administration fails consistently to point out, is that the MX missile itself will cause a far greater threat to the Soviet strategic arsenal than that posed by the large Soviet rockets against our own ICBM forces.

In the letter to me, Mr. Brzezinski claimed that "the MX will not give us a first-strike capability." I challenge that statement.

The fact is that once deployed, the MX missile will be able to destroy with near-absolute accuracy every single Soviet ICBM while still allowing overwhelming U.S. strength to bear against any residual Soviet forces. As Mr. Brzezinski knows, fully 77 percent of the Soviet nuclear arsenal is on their land-based missiles. By contrast, some 35 percent of our strategic arsenal is on our land-based ICBM's.

Mr. Brzezinski's comments not only fly in the face of overwhelming technical evidence on the destructive capability of the MX against Soviet land-based forces, they directly contradict recent statements made by Secretary of Defense Brown with respect to MX counterforce capabilities.

Mr. President, I ask unanimous consent that two articles from the Washington Post dealing with the counterforce capability of the MX and other U.S. strategic systems be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 22, 1979]

U.S. Missile Accuracy Predicted High by 1990's

(By George C. Wilson)

American land-based, cruise and submarine-launched missiles all will be accurate enough by the early 1990s to destroy Soviet ICBMs buried in underground silos, Defense Secretary Harold Brown said yesterday.

In the most detailed timetable he has publicly released, Brown said cruise-launched missiles will have this capability by 1983, the MX mobile missile by 1986 and submarine-launched missiles "in 1990 or so."

At a breakfast meeting with reporters, Brown said the decision to deploy the MX mobile missile "will increase the stability" of the arms balance between the two superpowers. Opponents of the MX have argued that the Carter administration is increasing the dangers of nuclear war by going ahead with the mobile-based weapon.

Brown conceded that the Soviets may be tempted to follow the U.S. lead and "go mobile" with their land-based missiles. Under the strategic arms limitation treaty (SALT II) portocol, mobile ICBMs could be developed, but not deployed or flight tested until after 1981.

If the Soviets were to build a counterpart to the MX, it would increase the difficulties of verifying the number of land-based missiles in their arsenal, depending on the system of mobile basing they devised.

Some critics of the Pentagon's modernization system have also suggested that once the Soviets concluded their ICBMs were vulnerable they might be tempted to launch a first-strike attack on the United States.

Brown conceded that both superpowers will have to steer through "a somewhat sticky" course as they modernize their nuclear arsenals toward higher standards of accuracy.

It's the transition from fixed to mobile ICBMs "that is somewhat tricky," said Brown. "It's something we're going to have to handle carefully."

Brown covered these other topics at the breakfast organized by Godfrey Sperling Jr. of The Christian Science Monitor:

He predicted that the Joint Chiefs of Staff, the nation's highest military body, "will take a constructive attitude" on SALT II. Although the Joint Chiefs have refused to state their position on SALT II publicly until formally asked to do so by the Senate, administration officials said they have endorsed the treaty as an acceptable risk in discussing it with Carter and Brown.

He acknowledged that the U.S. desire to fly U2 reconnaissance planes from Turkey along the Soviet border to monitor Soviet compliance with SALT II had been discussed at the recent Vienna summit. "The subject came up at least indirectly. We're not prepared to announce any resolution. I'm neither encouraged or discouraged" about the prospects of the Soviets approving U2 surveillance from Turkish bases.

Discussing U.S.-Soviet military talks, he said Soviet military leaders at Vienna were more willing to talk with their American counterparts "than I had remembered" from any previous meeting. "I'm convinced further discussions of this kind would be useful" because they would "reduce the chances of conflict through miscalculation—mistaking what the other side has in mind . . ."

[From the Washington Post, June 2, 1979]

"Counterforce" Arms Attract United States, Soviets

(By George C. Wilson)

Both the United States and the Soviet Union are developing weapons specifically designed to destroy the other's land-based missiles in a surprise strike, Pentagon officials acknowledged yesterday.

Critics contend that such a "counterforce" capability, pursued by the United States in the 1950s and abandoned in the 1960s when the Soviet Union put its missiles underground, will make the balance of terror between the two superpowers more precarious.

Backers, including Defense Secretary Harold Brown, counter that it would be more dangerous for the United States to leave the field of counterforce weapons to the Soviet Union. The United States must respond in kind, Brown argues.

President Carter is expected to decide soon which of two counterforce missiles—ones with enough explosive power and accuracy to destroy Soviet land missiles despite the tons of concrete protecting them—to put into production.

A high-ranking Pentagon executive acknowledged yesterday that either of the two missile options—the Air Force's MX blockbuster, under development, or the so-called "common missile," made up of parts from the MX and the Navy Trident missile—could destroy Soviet intercontinental ballistic missiles (ICBMs) buried in underground silos.

Once either MX or the common missiles were deployed, defense officials conceded, the United States would be threatening Soviet ICBMs to a greater degree than at any time since the late 1950s and early 1960s when Soviet land missiles were above ground and thus very vulnerable to destruction.

Arms controllers warn that if the United States and the Soviet Union have lots of counterforce weapons pointed at each other, the temptation will be to launch ICBMs at the first sign of an attack rather than risk losing them. Such a launch-on-warning policy, they contend, could trigger nuclear war in response to a false alarm.

But at the same time the Pentagon is spending billions of dollars to make the U.S. nuclear arsenal accurate and powerful enough to knock out Soviet ICBMs, it is searching for ways to keep Russia from doing the same thing to the United States. If this search is successful, Pentagon leaders contend, the United States could ride out a first strike and fire back only in retaliation.

"We and the Soviet Union are reaching a period in which each can successfully target the other's hardened fixed systems more cheaply than either can further harden its systems to make them survive," Brown said in portraying the current dilemma Wednesday to the graduating class of the U.S. Naval Academy.

Rather than pour more concrete on top of the silos holding land missiles in a futile effort to protect them from new counterforce weapons, Brown explained, both the United States and the Soviet Union are being driven into making their land missiles mobile so they will be harder to hit and destroy.

But Carter, as part of his deep personal involvement in this search for a less vulnerable land missile, has been warning Pentagon leaders against schemes which could come back to haunt the United States if the Soviets were to adopt them. The president believes the Air Force proposal to hide about 200 MX missiles in a field of 4,000 identical holes falls into this category. If the Soviets dug 4,000 holes of their own and said only 200 missiles were being circulated among them, how could the United States be sure this was so? This has proved to be a sticker, Pentagon officials said yesterday.

After sifting through the various missile options in meetings with Carter and answering his long list of questions written in the margins of top-secret Pentagon reports, top defense officials believe only two schemes have passed muster.

The first one, defense officials said yesterday in giving the most detailed rundown yet, would put 200 MX missiles on railroad cars and pull them along stretches of track from 15 to 20 miles long on government land in the Southwest.

The tracks would be laid at the bottom of ditches covered with removable roofs of concrete and dirt. A locomotive would pull the MX railroad car from one concrete "station" to another. The stations would be about 3,000 feet apart.

Only the 8,000 concrete stations hiding the MX would be fenced off from campers, hunters and cattle to avoid putting an unacceptably large amount of land off-limits to the public.

The roofs on both the ditch and the stations would be removed about once a year to enable Soviet satellites to verify how many missiles were hiding along the railroad tracks.

Besides 200 MX missiles on rails, this first option calls for deploying 3,000 cruise missiles on airplanes built expressly for them. Each cruise missile would carry a warhead of 150 kilotons that would be designed to land within 200 feet of its target.

Also, under this option, 20 Trident submarines, each armed with 24 Trident I missiles, would patrol the Atlantic and the Pacific.

The second option would give up on the idea of trying to make land missiles mobile so they would be harder to hit than today's force of 1,054 ICBMs standing still in underground silos. Option two calls for putting new counterforce missiles in 400 of the existing 550 Minuteman III silos and stationing other counterforce missiles at sea in Trident submarines.

The counterforce weapon for the second option would be the smaller common missile made from the MX and Trident I missiles. Although not big enough to carry the MX load of 10 warheads of 335 kilotons each, defense officials said, this common missile would be accurate and powerful enough to destroy Soviet land missiles.

In addition to putting 400 common missiles in Minuteman III silos, 480 more would be deployed on 20 Trident submarines.

To further hedge the bet, 5,000 cruise missiles would be deployed on 175 of the special planes built to withstand the electromagnetic effects of nuclear explosions.

Defense officials said yesterday that the second option would make the air and sea legs of the nuclear triad so strong that attacking the third one, land missiles, "would be an act of insanity."

Option one and option two, they said, each would cost $70 billion to build over 10 years. It would take until 1986, they added, to build and deploy the new counterforce missiles.

Brown said the Soviets have been trying since 1962 or 1963 to develop missiles deadly enough to knock out U.S. land missiles. With their new SS18 and SS19 missiles, he said, they will soon have that capability.

In a separate development, the House yesterday rejected attempts to delete language from the Pentagon's fiscal 1979 supplemental money bill that would direct the Carter administration to proceed concurrently with the MX missile and its basing system.

Mr. HATFIELD. I am introducing today into the record a recent study commissioned by the Library of Congress. This study shows that deployment of the M–X will, at a minimum, increase U.S. ICBM destructive capability by a massive 750 percent. The study, by A. A. Tinagero, specialist in national defense, claimed that even after absorbing a Soviet first-strike that would destroy 500 warheads, the surviving M–X force would have over 96 percent of probability of destroying all of Soviet fixed-silo ICBM launchers.

I want to emphasize that the Library study does not include over 1,050 warheads which the Air Force wants to keep on 350 Minuteman III missiles in their silo in the northern United States.

A policy directive has apparently been given to officials within the Carter administration to deny that the M–X missile is a first-strike weapon. And, I am quite certain, Mr. Brzezinski will claim that indeed the M–X missile cannot destroy the entire Soviet nuclear triad.

I believe George Orwell most aptly described the kind of logic Mr. Brzezinski is following as "doublespeak." On one hand, Mr. Brzezinski and President Carter assure the American people that a $40 billion expenditure on a mobile ICBM system is necessary to protect U.S. land-based missiles from the "first-strike" Soviet attack against our land-based missiles. On quite the other hand, when it comes to analyzing the strategic capabilities of systems like the M–X, Mr. Brzezinski apparently prefers to consider "first-strike" as referring to a U.S. threat against the entire strategic force of the Soviet Union—land-based missiles, bombers, and submarine-launched missiles. The inherent bias in this logic is as overwhelming as the destructive capability of the M–X missile.

Virtually nothing is said of the fact that the M–X poses an immense danger to Soviet strategic capability. Little is said of the fact that the Soviet Union proposed in 1978 a moratorium on new land-based missiles—a proposal once offered by the United States. But the second time, the United States flatly rejected that offer.

A myth abounds in this debate that the present SALT II Treaty simply reflects the nonnegotiability of arms control solutions. It is inferred that the principal barrier is Soviet intransigence. I will not speak in praise of Soviet disarmament efforts, but I will not hesitate to publicly criticize any government, including my own, which rejects reasonable arms control proposals. Every goal postulated by this administration for our strategic program, essential equivalence, a solution to the vulnerability problem and crises stability, could have been attained with arms control solutions rather than armament solutions.

If we accomplish nothing else in broadening the debate on this treaty, the American people must know that their government is developing weapons as fully capable of launching a preemptive nuclear attack against the Soviet ICBM's as they are against us.

The problem is no longer one of containing the Soviet Union by maintaining America's strength—this has been and continues to be a legitimate foreign policy goal. Another, more elusive, enemy has emerged on the horizon—and that enemy is us. Our worship of the technological fix, and our faith in the "balance of terror" now holds us hostage. Our progress has brought us to a completion of the circle of nuclear madness—yesterday nuclear war was unthinkable, but tomorrow, whoever strikes just might emerge the "winner" we are told.

The immense destructive power posed by the M–X missile and Minuteman III missiles will force the Soviets toward a range of options which will make the arms race far more complex and dangerous. These options might include:

First. A Soviet "launch on warning" strategic doctrine. High officials have already indicated that the United States may adopt this policy in the coming years because of a perceived Soviet threat to U.S. missiles. What if the Soviets do the same?

Second. Abandonment of the ABM Treaty. This is another danger posed by the M–X first-strike capability. A move to defend such a development would force both the United States and the Soviet Union into a new phase of the arms race, in a costly and ultimately pointless effort to protect arsenals against counterforce weaponry.

Third. Soviet mobilization of their land-based missiles. Once the Soviets move to "hide" their missiles, uncertainty about true Soviet capabilities would stretch the SALT verification process to the limit, if not destroy it outright.

I am also critical of Mr. Brzezinsk's claim that increased U.S. counterforce capabilities "should increase Soviet incentives to avoid crises and thus reduce the overall probability of war."

This is a dangerous exercise in strategic self-delusion. First-strike counterforce capabilities on both sides, Mr. President, lower the threshold of a nuclear war in crisis situations, and make a nuclear exchange more likely.

The fact that a first-strike capability is, according to Mr. Brzezinski, "not our strategy" is totally irrelevant to Soviet perceptions. The Soviets will view U.S. development and deployment of the M–X missile with the same seriousness that we view Soviet expansion of their arsenal. Mr. Brzezinski's strategic assumptions insure a far more dangerous world in the decade ahead and a new $100 billion spiral in the arms race.

The most direct way to avoid this spiral was to add the amendment he has proposed to the SALT II Treaty providing a moratorium on new weapons development and any further deployment of existing weapons systems on both sides.

Opponents and supporters of the SALT II Treaty agree on one thing: Both the Soviet Union and the United States are presently at strategic parity. Neither side has a first-strike, counterforce capability at the present time.

Soviet leaders are on record as supporting a mutual arms freeze. I see nothing wrong with adopting their suggestions. Why must the American taxpayer spend $100 billion in the coming decade to make the world a far more dangerous place in which to live?

This moratorium amendment to the SALT II treaty would result in the following benefits:

It would freeze "further development, testing, and deployment" of those strategic nuclear systems which are now in place, and prohibit the introduction of any new strategic nuclear systems.

By halting further Soviet gains in accuracy and warhead size, it would insure the survivability of U.S. land-based missiles and subsequently, the integrity of the nuclear triad.

It would save the American taxpayer as much as $100 billion in the next decade.

It would provide the necessary groundwork for multilateral negotiations aimed at stopping the influx of new members to the nuclear club.

It would stop the move toward a counterforce strategy for both the United States and the U.S.S.R. which threatens to put a hair trigger on nuclear war during crisis situations.

Our ability to verify Soviet compliance would be significantly enhanced. If further production is prohibited, verification will be transformed from a process of delineation between subtle variations in types and numbers of weapons to a process of establishing whether there is any production, a far less ambiguous determination.

It will allow for the upkeep and limited modernization of existing strategic nuclear weapons. This would consist only of those steps necessary to insure the functional reliability of the present arsenals.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. Brzezinski arguing that the M–X is not a first-strike weapon and a study by the Congressional Research Service which conclusively argues that deployment of the M–X will give the United States an overwhelming first-strike capability against Soviet land-based missiles.

There being no objection, the letter and study were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 16, 1979.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: The President has asked me to respond to your letter suggesting that making Minuteman III mobile might be a better idea than proceeding with the M–X: The Air Force review of this issue showed the M–X to be more cost-effective. I have asked the Department of Defense to comment in detail on the study upon which your letter is based.

Although I understand your concerns about the effect of improved U.S. strategic capabilities on crisis stability I do not share your conclusions. The M–X will not give us a first strike capability nor is that our strategy.

The real effect of an improvement in our strategic capabilities will be to reduce Soviet incentives to initiate an attack against our forces in a crisis, by giving us the ability to respond in kind. Improved U.S. capabilities are aimed at eliminating any possible Soviet advantages in a crisis. This should increase Soviet incentives to avoid crises and thus reduce the overall probability of nuclear war.

I appreciate your writing of your concerns.

Sincerely,

ZBIGNIEW BRZEZINSKI.

A COMPARISON OF THE HARD TARGET CAPABILITIES OF THE MINUTEMAN III AND M–X ICBMs*

BACKGROUND

The U.S. currently has 550 Minuteman III ICBM's deployed. These ICBM's have undergone a series of modernization modifications starting shortly after their first deployment in 1970. The Minuteman III missile carried three MK–12 multiple independently targetable reentry vehicles (MIRVs). Each MK–12 reentry vehicle (RV) is reported to carry a warhead possessing a yield of 170 kilotons. A recent modification to the MINUTEMAN III included the installation of the INS–20 guidance system. The INS–20 system is reported to provide a circular error probability (CEP) of 0.10 nautical miles to each of the RVs carried by Minuteman III.

The Air Force plans to replace the MK–12 RVs on 300 of the 550 Minuteman IIIs with MK–12A RVs. The MK–12A reportedly has a nuclear warhead possessing a yield of about 335 kilotons. The Air Force originally planned to replace all 1,650 MK–12 RVs on the Minuteman III ICBM force with MK–12A RVs. However, because of difficulties encountered in the design of the nuclear warhead carried by the MK–12A RV, the RV is reported to be about 20 pounds heavier than specified.

Because of weight increase of the warhead in the MK–12A RVs the Air Force is unable to replace all the MK–12 RVs, because the Minuteman III when armed with MK–12A warheads would lose some range. Consequently, some of the targets in the Soviet Union would be beyond reach.

The Air Force plans to replace the MINUTEMAN III missile with the mobile M–X ICBM starting in 1986. A force of 200 M–X missiles is planed for deployment in the late 1980s.

Each M–X missile is reported to be capable of carrying up to 10 MK–12A RVs. The entire force of 200 M–X ICBMs will carry 2,000 MK–12A MIRVs.

When launched by the M–X ICBM the MK–12A RV reportedly will have twice the accuracy (half the CEP) of an RV launched by the current MINUTEMAN III missile. The increased accuracy of the M–X missile is attributed to its guidance system, which incorporates improved computers and the Advanced Inertial Reference System (AIRS).

The relative capability of the M–X to destroy hard targets is a highly debated subject among proponents and critics of the M–X ICBM. Some proponents of the M–X missile argue that the MINUTEMAN III has a hard target kill capability superior to the M–X, and consequently a superior counterforce capability. Critics of the M–X disagree, and argue that the opposite is true.

PURPOSE AND SCOPE

This paper will attempt to clarify some misconceptions related to the hard target capabilities of the MINUTEMAN III and M–X ICBMs. The probability each RV launched by the M–X and MINUTEMAN III missiles has of "killing" targets of various hardness are estimated through generally accepted mathematical methods.

HARD TARGET CAPABILITIES OF THE MINUTEMAN III AND M–X ICBMS

The probability a warhead has of "killing" a target of a given hardness (in pounds per square inch [psi]) is primarily a function of the "lethality" (K) of the warhead. Lethality is representated mathematically by the following equation:

$$K\,(\text{lethality}) = \frac{Y^{2/3}}{CEP^2}$$

where Y is the yield of the warhead in megatons and CEP is the accuracy of the RV in nautical miles.

Estimates of lethality (K) of each warhead carried by current MK–12 RV-equipped Minuteman IIIs, future MK–12A RV-equipped Minuteman IIIs, and proposed MK–12A RV-equipped M–X ICBMs are shown in Table I:

TABLE I

Designation of missile	Yield per warhead (megatons)	Warhead CEP (nautical miles)	Units of lethality (K) per warhead
Minuteman II:			
MK-12 RV	0.17	0.10	30.69
MK-12A RV	.335	.10	48.24
M-X (MK-12A RV)	.335	.05	192.94

Shown in Table II are estimated values of probability that each warhead carried by current MK–12 RV-equipped Minuteman III, future MK–12A RV-equipped Minuteman III, and proposed MK–12A RV-equipped M–X ICBMs has of "killing" targets of various hardness.

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* Prepared by A. A. Tinajero, Specialist in National Defense.

TABLE II

[Probability in percent]

Designation of missile	Lethality (K) of each warhead	Probability each warhead has of "killing" a target possessing hardness (psi) of:[1] 1,000	2,000	3,000	4,000
Minuteman III:					
MK-12 RV's	30.69	74.7	57.12	47.27	40.86
MK-12A RV's	48.24	88.46	73.58	63.43	56.21
M-X (MK-12A RV's)	192.94	99.98	99.51	98.21	96.32

[1] The percent probability of "killing" (Pk) a target of a given hardness (h), such as an ICBM silo, with a nuclear warhead of a given value of lethality (k) is computed by the following formula:

$$Pk=100\times[1-e^{(-f(h)\times K)}]$$

where

$$f(h)=\frac{Ln\,2}{[0.068h-0.23\sqrt[3]{h}+0.19]^{2/3}}$$

CONCLUSIONS

1. When delivered by the M-X, the hard target lethality of the MK-12A is 6.29 times that of the MK-12 RV delivered by current MINUTEMAN IIIs, and 4 times that of an identical RV delivered by MINUTEMAN IIIs.

2. The aggregate lethality of (a) the current MK-12 RV-equipped MINUTEMAN III force, (b) the future MINUTEMAN III force (after arming 300 MINUTEMAN III missiles with MK-12A RVs), and (c) that of the proposed force of 200 MK-12A RV-equipped M-X ICBMs is shown in Table III.

Table III

ICBM force:	*Aggregate units of lethality*
(a) 500 MINUTEMAN IIIs (3 MK-12 RVs each)	50,639
(b) 300 MINUTEMAN IIIs (3 MK-RVs each) (43,416)	
250 MINUTEMAN IIIs (3 MK-12 RVs each) (23,018)	66,434
(c) 200 M-X (MK-12A RVs each)	385,880

From the data shown in Table III it can be concluded that the aggregate units of lethality deliverable by the proposed M-X ICBM force is 7.62 times the number of units deliverable by the current MINUTEMAN III force, and 5.81 times the aggregate units of lethality deliverable by the MINUTEMAN III force after 300 MINUTEMAN III missiles are equipped with MK-12A RVs.

3. As shown in Table II, the current MK-12 RV-equipped and future MK-12A RV-equipped MINUTEMAN III ICBMs have a considerably lower probability than the M-X missile in destroying hard targets, such as modernized Soviets ICBM silos which could conceivably be hardened to 3,750 psi.[1]

Unless the accuracy of MINUTEMAN III missiles to be equipped with MK-12A RVs is made comparable to that of the M-X (an unlikely prospect), the M-X is the only ICBM which promises to provide a credible counterforce capability in the future.

A maximum of 900 warheads could be available for counterforce purposes after 300 MINUTEMAN III missiles are armed with MK-12A RVs. In contrast, 2,000 warheads of higher lethality could be available for counterforce purposes after 200 M-X missiles are deployed.

Even after assuming that none of the MINUTEMAN III missiles armed with MK-12A RVs would be destroyed by a Soviet first strike, the U.S. would be in a better position to mount a retaliatory counterforce strike against the Soviet Union if it deploys 200 M-X ICBMs. For example, if after a Soviet first strike 1,500 MK-12A RVs survive in the postulated M-X force, or 900 MK-12A plus 600 MK-12 RVs survive in the MINUTEMAN III force (assuming that none of the MINUTEMAN III missiles equipped with MK-12A RVs are destroyed), the surviving M-X force would have over 96 percent probability of destroying all of the Soviet fixed-site ICBM launchers—whereas the MINUTEMAN III force equipped with MK-12A RVs would only be able to destroy a maximum of 900 fixed-site launchers with considerable lower degree of confidence than the M-X force.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF FRANK P. REICHE OF NEW JERSEY TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the nomination of Mr. Reiche to be a member of the Federal Election Commission.

The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Mr. President, I am pleased to join with the chairman of the Rules Committee (Mr. PELL) in making a strong recommendation for the confirmation of Frank P. Reiche to be a member of the Federal Election Commission. Throughout my conservations with Mr. Reiche, I have been impressed with his candor, his experience, and his interest in public participation in elections.

When the Federal Election Commission was created several years ago, Congress established the goal of strengthening the integrity of our election process. Unfortunately for us all, the reality has been less than that. After a slow start, and a second congressional mandate to conform with the Supreme Court decision in Buckley against Valeo, the FEC has become a prime example of cumbersome and often unintelligible Government regulation. To many, the impact of the FEC has been to scare off traditional campaign volunteers to be replaced by campaign technicians, such as accountants and lawyers. Congressional displeasure has grown alongside this record.

Someone observed recently in a newspaper article that if a secret vote were taken the FEC would be abandoned. Sometimes I am not so sure the vote would have to be secret.

One need only consider the list of problems commonly attributed to the FEC: Long delays in audits; chronic morale problems within the agency; overly complex regulations; discriminatory enforcement practices.

At the heart of my views on the future of the FEC are two facts: First, Congress bears a portion of the blame for problems at the FEC. Within our directives for full and timely disclosure of campaign activities, we need also to provide for more effective and less burdensome regulations. Second, the individual members of the FEC share a role, equal to that of the Congress, in protecting the integrity of our elections. I know, from their appearances before the Rules Committee, that most—if not all of them—share this sense of responsibility. But the record so far indicates that we have a long way to go in bringing Congress' mandate to fruition.

So the key question in our discussion of Mr. Reiche's nomination, of course, is whether he can help remedy some of these criticisms of the FEC. I believe the answer clearly is "Yes." Coming directly to the FEC from his chairmanship of the New Jersey Election Law Enforcement Commission, Mr. Reiche would provide the FEC with one of its best qualified members. Since he does not have direct experience with Federal regulations, we cannot expect that he will have formulated views on all Federal election issues. Nevertheless, I feel strongly that his understanding of State law will bring an important new perspective to the Federal level. For me, his choice takes on even greater significance as the FEC begins its preparations for the 1980 election cycle.

Over the past 6 years, Mr. Reiche has served as the unpaid chairman of the New Jersey Commission. From my review of minutes of meetings he provided, I was impressed with the amount of time he devoted to this duty. As all of us know, meetings of this sort are often time consuming and tedious, but Mr. Reiche compiled an admirable record of attendance and sound judgment.

In addition, he is a practicing attorney and partner in a Princeton, N.J. law firm. Prior to service on the New Jersey Commission, Mr. Reiche was active in local Republican politics, serving as committeeman and municipal chairman of the Princeton Township Republican County Committee and as a member of the Mercer County Republican Executive Committee.

In his testimony before the Rules Committee, Mr. Reiche has expressed his strong commitment on at least three important philosophic points: Protecting the integrity of the electoral process; Improving the system of campaign finance disclosure, which lies at the heart of our election reforms; and increasing public participation on election day.

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[1] The ultimate compressive strength of concrete (the parent material of modernized MINUTEMAN III ICBM silos) is about 3,750 psi.

In reviewing Mr. Reiche's knowledge of election law, I was particularly interested in the New Jersey Commission's handling of the State's system of partial public financing of gubernatorial races—a system somewhat akin to our presidential system. The New Jersey Commission was able to verify every contribution submitted for matching taxpayer money, and complete the audits of the two candidates in the race within 4 to 5 months of the election. Certainly, the Federal Election Commission, which is just now completing its audits of President Carter's campaign, could benefit from this type of expertise.

I am well aware that several of my colleagues have doubts about Mr. Reiche's record at the New Jersey Commission, particularly his views on public financing of elections. But, as one who has spent many hours on this same floor arguing against taxpayer financing, and several more hours in Rules Committee sessions examining FEC regulatory problems, I want to assure my colleauges that I have confidence in Frank Reiche's views. If we are to use public financing as the standard by which we judge public men and women, we need to step back just a moment to review precisely what Frank Reiche has said on this topic. To be sure, he told the Rules Committee his experience with public financing in New Jersey was favorable, adding that his small staff at the commission was working with only two sophisticated campaign organizations. At the same time, however, he carefully noted the problems inherent in shifting this system to the congressional level. His conclusion, in response to Senate questions, was that we need more time before we can call public financing either a good or ill-advised experiment.

There will be those who argue that Frank Reiche, in his role as chairman of the New Jersey Commission, has a record of increasing government's role in election regulations. I feel strongly that quite the contrary is true. Mr. Reiche has conveyed to me, and my review of the New Jersey Commission's deliberations confirms, a very real effort on his part to ease the burdens of compliance for candidates. His interest is not in making election law more complex, but in making it more easily understood by those who work in campaigns. Also of significance is Frank Reiche's strong commitment to involving more citizens in all phases of political campaigns. I am sure these are goals we would all embrace.

There is another good reason for the Senate to confirm Frank Reiche, and that can be deciphered most precisely by looking at the past membership of the FEC. Over the years, the Senate has confirmed a list of nominations which ranges from former Members of Congress and congressional staffers through members of the business community to lawyers. But never have we had an opportunity to send someone to the FEC with direct experience in election law administration.

This lack of prior experience may be a large part of the problem at the FEC. To my mind, this is a further argument that Frank Reiche's background is just what the FEC needs right now.

As we review all nominations to the Federal Election Commission, the Senate must ask whether any nominee will engender new trust in that office. Running concurrent with that responsibility is our continuing duty to set major policies of the Commission. I believe Frank Reiche will be a positive force in both areas—he can help with the internal administration of the Federal Election Commission, and he will be a strong voice in carrying out congressional intent. As a consequence, I am pleased to urge that my colleagues support the nomination of Frank Reiche to the Federal Election Commission.

(Mr. HEFLIN assumed the chair.)

Mr. HUMPHREY. Mr. President, it is my unpleasant duty to oppose my friend from Oregon with respect to this nomination. It is an unpleasant duty, because I have a very high respect and regard for him. As a matter of fact, when my wife and I arrived in Washington some 7 months ago and our minds were full of questions and uncertainties, Mark Hatfield was the first Member of the Senate to befriend us. His friendship was a great comfort to us, and I have the highest regard for this man. However, at the same time, I disagree strenuously with him on the merits of this nominee.

Mr. President, I suppose that, like most Members of Congress, I have a penchant for collecting wise sayings of some of history's heroes. The one that is beyond any doubt my most favorite and the one which is perhaps more apropos to our times than any I have collected is this saying of George Washington:

> Government is not reason. It is not eloquence. It is not force. Like fire, it is a troublesome servant and a fearful master.

Mr. President, if we think about it, the only check short of revolution which citizens have over their Government is the electoral process. We are fortunate in this country to have that check.

Oddly enough, some years ago Congress saw fit to create something called the Federal Elections Commission, placing in the hands of Government the power to regulate the electoral process. Nothing could be more dangerous.

We have heard in recent years about the dangers to our freedom posed by the FBI and the CIA. But the dangers these agencies pose to our freedom are nothing compared to the dangers posed to our freedom by allowing the Government to regulate the electoral process.

Well, we have the FEC. I would not have voted for it, but we have it; and it behooves us, in selecting commissioners, to take great care to be sure that those whose nominations we confirm have a healthy skepticism of Government, that those whose nominations we confirm believe as George Washington believed, that Government is a dangerous servant and a fearful master.

Mr. President, I would like to read into the RECORD some material that has exchanged hands during these weeks before the nomination of Frank Reiche reached the floor, as it did last night. The first is a letter from me, dated June 12, to my colleagues:

U.S. SENATE,
Washington, D.C., June 12, 1979.

DEAR COLLEAGUE: Each year, the Republican National Committee, the Republican Senatorial Committee and Republican candidates for national office spend untold hours and millions of dollars complying with Federal Election Commission regulations and defending their conduct before the Commission. For the 1980 elections alone, it is estimated that at least five million dollars in campaign contributions to Republican candidates and committees will be spent just to deal with the F.E.C. and its massive bureaucracy.

Does it not make sense to exercise great care, when the time comes, to fill a Republican seat on that body? Is is not sensible to be sure we support a person who upholds the majority Republican position, that less government interference in the election process is desirable, rather than more?

This week, the Rules Committee plans to act on the nomination of Frank Reiche of New Jersey. My inquiry into Mr. Reiche's background leads me to believe Republicans would act against their best interests by supporting him. Republican National Chairman Bill Brock has informed me that he opposed the nomination. There can be no doubt Mr. Reiche is a strong advocate of greater government involvement in the election process.

I believe Mr. Reiche should be defeated and another person nominated, because he is out of step with the overwhelming Republican majority viewpoint on this and other matters regarding election law.

As you know, I have been engaged in corresponding with Mr. Reiche. Twice I have put sets of questions to him, and twice he has remitted highly unsatisfactory answers. I am now urging all Republican Senators to join me in opposing the nomination. It is clear to me, on the basis of his public record and his responses to me, that Mr. Reiche is unsuited to serve as a Republican member of the F.E.C.

I am particularly troubled by Mr. Reiche's position on public financing of political campaigns. At various times he has supported it for "administrative" reasons, declared that he was not "philosophically opposed" to it; and, changing the perspective somewhat, insisted he has never reached an opinion on it. At the same time, a key staff member working under him has urged the House of Representatives to adopt public financing of Congressional campaigns (see Lewis Thurston attachment). The case is very strong that Mr. Reiche, in an attempt to win our support, has sought to portray a position of neutrality inconsistent with reality.

His responses to me largely fell into two categories: confirmation of charges by New Jersey Republican sources that he favors "more regulations, more limits, and more penalties," or statements which were unresponsive, evasive or misleading.

I am attaching a number of documents which cover these issues in more detail. A copy of Mr. Reiche's latest set of answers is enclosed, along with a paper outlining some of the flaws in his arguments. Also included are two samples of the objections increasingly being raised by prominent Republicans. One is a telegram written by four New Jersey legislators: the other is a letter by former Secretary of the Treasury William Simon opposing the nomination.

From the time of its inception, the neutrality of the F.E.C. has been seriously questioned. Recent charges that the Commission has failed to conduct a proper investigation of the Carter campaign finances have been the most recent, but by no means the only, manifestation of this. We should not further tip a balance which is already weighted against us. The damages to our Party and to our country that a one-sided F.E.C. can do are incalculable. Those of you up for re-elections next year should be particularly concerned.

I urge you to review the attached documents and join me in refusing to consent to this appointment.

Sincerely yours,

GORDON J. HUMPHREY,
U.S. Senator.

Mr. President, I submitted two sets of questions to Mr. Reiche for which he provided replies. In summary, from the answers provided by Mr. Reiche, it seems to me that the following facts emerge:

One, Mr. Reiche sought for his New Jersey commission the power to make a final decision about whether or not to void the results of an election because of election law violations. In both sets of questions, his answer skipped around the point by saying that under his proposal, the commission would decide to void an election only after a court decided a misdemeanor had occurred. My concern, of course, is that the change he sought would confer on his agency rather than the courts the ultimate power to impose the drastic sanction of voiding an election result.

His answers describe as new flexibility what in reality amounts to an agency power grab.

Two, Mr. Reiche admits that he sought for his New Jersey commission the power to prevent a person from running for office again after a period of years after being convicted of an election law violation. Again, another power grab for his commission.

With respect to taxpayer campaign financing, he maintained at one point: "I have never advocated nor opposed public financing of elections." Yet, he admits to having urged the extension of public financing for gubernatorial general elections to gubernatorial primaries, on the bureaucrat's familiar reasoning that it would be "administratively easier" for the agency.

Convenience to the agency is a poor standard by which to measure changes in the law. Moreover, according to the testimony of the executive director of his New Jersey agency before the U.S. House Administration Committee, Reiche's agency "essentially recommended continuation of the public funding" of gubernatorial general elections. The case is very strong that Mr. Reiche, in an attempt to win our support, made an attempt to pose as uncommitted on the highly controversial issue of taxpayer campaign financing. His record indicates otherwise.

Fourth, in response to my request for access to the minutes of the executive sessions of his New Jersey Election Law Enforcement Commission, he says that his counsel advises that State law prohibits even such limited use as I propose. Then Mr. Reiche suggests the executive session minutes are irrelevant because "the vast majority of your questions relate to matters discussed by the Commission in public session and are therefore reported in the public minutes which you already have available to you." Mr. Reiche is well aware that my questions concern matters discussed in the public minutes because I have access to the public minutes. With respect to the executive session minutes, Mr. Reiche puts the Senate in a catch 22 situation: no minutes, no questions.

Fifth, a shocking example of Mr. Reiche's inability to follow a train of argument can be seen in the following: In the May 9 questions, I asked Mr. Reiche a number of questions regarding his position on taxpayer campaign financing. He described himself as undecided and went on to suggest that his opinions didn't particularly matter because, "I do not anticipate that I would, if confirmed, participate in the formulation of such policy." In my June 1 questions, I pointed out how influential an FEC commissioner could be in such policy formation. Part of Mr. Reiche's answer was that in his original answer he had said he did not anticipate he would "participate in the formulation of policy in the area of campaign finance disclosure" campaign finance disclosure was not the topic at hand; it was taxpayer campaign financing.

Sixth, time and again as you read his answers, you will see Mr. Reiche declined to answer questions on the grounds that he did not know enough about Federal elections. Why, then, should he want to serve? Ignorance of the topic and indecision on matters of major controversy should not be qualifications for service on the FEC.

Seventh, in response to my direct question as to whether or not Mr. Reiche knows of any Federal candidates who can say with certainty that they have not violated any provision of Federal election law or FEC regulations, Mr. Reiche failed to attempt any response in the first set of answers, and, in the second set of answers, declined to answer on the grounds of inexperience with Federal candidates. It was a simple question, one which could have easily been answered yes or no. But simple, clear answers, while highly desirable in an FEC commissioner, appear difficult for Mr. Reiche.

Eighth, in his June 7 answers, he admitted his commission funded Mr. Thurston's trip to give the House Administration Committee testimony in favor of H.R. 1, taxpayer campaign financing. Mr. Reiche says:

> I am aware of the fact that Mr. Thurston leans toward extended public financing to Congressional election, but question whether his support is as vigorous as it appears to you.

The attached statement and testimony presented by Mr. Thurston admit no equivocation. Mr. Reiche is either ignorant of Mr. Thurston's opinions or he is deliberately attempting to mislead us. I invite you to look over Mr. Thurston's remarks and decide whether or not Mr. Reiche's term "lean" can be correct. I believe you will agree with me that Mr. Thurston showed himself to be an all-out supporter of taxpayer campaign financing.

Mr. President, I shall read into the RECORD a letter to me from a nationally prominent New Jersey Republican, a man who has resided in that State all of his life, a man who is highly respected in the Republican councils. This letter is dated May 14 of this year:

> As I'm sure you are aware, a fellow New Jersey resident, Frank Reiche, has been nominated as a Republican member of the Federal Election Commission. I strongly question the wisdom of his appointment as I feel that Mr. Reiche does not represent traditional Republican views.
>
> The New Jersey Election Law Enforcement Commission, of which Mr. Reiche is Chairman, has a long record favoring public financing and spending limits. I find the following items particularly informative about the prospective positions of Mr. Reiche.
>
> (1) On September 22, 1978 the Commission recommended public funding of the gubernatorial primary in addition to the general election.
>
> (2) The Commission filed an amicus brief in the Buckley-Valeo decision favoring Valeo.
>
> (3) The 1974 annual report of the Commission strongly favored spending limits for campaigns.
>
> (4) The 1975 report recommended that the Commission be empowered to void election results if election violations were discovered.
>
> (5) The minutes and records of the Commission are not open to the public.
>
> (6) However, the Commission has shown a consistent pattern of more government, more regulation, more limits and more penalties. We do not need this type of mentality on the FEC.
>
> It seems clear to me that Mr. Reiche would not represent the Republican party and that there will be great risks for our party if he is nominated.
>
> With warm regards,
>
> WILLIAM SIMON.

Mr. President, I shall read into the RECORD a telegram to me from several prominent Republican public servants in New Jersey:

> We oppose Frank Reiche nomination to be F.E.C. commissioner we believe as Bill Simon believes the E.L.E.C. which he heads shows a pattern of more government more regulations more limits and more penalties.

And that is sent by New Jersey State Senator John Dorsey, New Jersey State Assemblyman Donald Albanese, New Jersey State Assemblyman Walter Kavanaugh, and New Jersey State Assemblyman Elliot Smith.

Mr. President, I shall read into the RECORD at this time two sets of questions which I posed to Mr. Reiche and for which he provided answers:

> *Question* 1. In 1976 the Supreme Court of the U.S. in *Buckley* v. *Valeo*, struck down several sections of the Federal election law as unduly restrictive of citizens rights to participate in the political process. The New Jersey Election Law Enforcement Commission (ELEC), which you head, had filed a brief *amicus curiae* in support of the law which was struck down.
>
> Do you still favor the regulations your commission defended unsuccessfully before the Supreme Court? Specifically, do you still favor imposition of candidate expenditure limits?
>
> Answer: In view of the decision in *Buckley* v. *Valeo*, candidate expenditure limits are legally permissible only in publically financed elections where the candidate receives public funds. As I stated in my appearance before the Senate Committee on Rules and Administration on May 9, 1979, as long as there are limits on contributions, loans, the amount of public funds available for such purpose, and the amount of personal funds which may be expended by a candidate on his own behalf, I favor the elimination of candidate expenditure limits in publically financed elections.

Mr. President, it seems to me that there is very little said in that answer.

Mr. Reiche is saying yes, he favors the elimination of candidate expenditure limits, provided that new limitations are imposed; namely limits on contributions on loans, on the amount of public funds available for such purpose, and the amount of personal funds which may be expended by a candidate on his own behalf.

Mr. Reiche's answer continues:

> The key factors are public disclosure and preventing any person or group from gaining undue influence over a candidate. If there is adequate provision along these lines I see no reason why candidates should be limited in the amounts which they may spend. This is particularly true with respect to challengers who frequently find that they must spend more than incumbents to gain the necessary name recognition for victory.
>
> Question 2. Your New Jersey Commission's 1975 Annual Report included a recommendation that the law be changed to permit your "Commission to void an election" where the *Commission* decides that a violation of the election law "may be deemed to have significantly affected the outcome of an election. . ."
>
> Do you support this recommendation? Do you favor the application of this idea to Federal elections?
>
> Answer: The recommendation in the 1975 Annual Report of the New Jersey Election Law Enforcement Commission that the Commission be permitted to void an election where there has been a violation of the election law which "may be deemed to have significantly affected the outcome of an election . . ." must be read in conjunction with Sub-sections 21(a), 21(b), and 21(c) of the New Jersey Act as originally adopted. Briefly stated, Sub-sections 21(a) and 21(b) require a finding that a person has willfully and knowingly violated the Act before the provisions of Sub-section 21(c) with respect to the voiding of an election may be invoked. Our Commission has been consistently advised by counsel that this finding amounts to a misdemeanor which can be determined only by a court of law, not by the Commission. In addition, this would, in effect, be a criminal finding which must be proved beyond a reasonable doubt. Thus, only if a candidate or someone with the responsibility to report under the New Jersey Statute willfully and knowingly violates the Act and is adjudged guilty of a misdemeanor would the provisions of Sub-section 21(c) apply.
>
> In making the recommendation that the Legislature delete the requirement that the election of a candidate be void if he is found guilty of a willful and knowing violation of the Act, the Commission was attempting to avoid the automatic application of this section to a situation where the violation had little or no effect on the election. By this means the Commission sought to introduce a measure of flexibility in interpreting this otherwise drastic penalty. I agreed with the recommendation when made and continue to hold this belief. I have not specifically considered the possible application of a similar provision to Federal elections, but strongly believe in effective sanctions against candidates and others involved in the election process where they willfully and knowingly violate our election laws to a point where they are adjudged guilty of misdemeanors by a criminal court.
>
> Question 3. Your New Jersey commission, in its 1974 annual report encouraged the legislature to consider enacting a provision which would prohibit candidates from running for public office for a period of time after being found guilty of a violation of the state election law act.
>
> Did you approve of this suggestion? Would you favor the extension of this idea to Federal candidates? Do you know of any Federal candidates who can say with certainty that their campaign committees have not violated any provision of the Federal election law or any of the regulations of the Federal Election Commission?
>
> Response: Here again, our recommendation (which, incidentally, was included in our 1973, and not our 1974 report) must be viewed together with other recommendations specifically related to the amendment of Section 21. Please note that this recommendation, which I supported, would apply only where a prospective candidate has been found guilty of a willful, knowing violation of the Act, i.e. a misdemeanor. We are therefore not talking of any minor or inadvertent violation, but only an obvious and egregious violation. This recommendation has never been adopted by the New Jersey Legislature.
>
> With respect to the possible extension of this idea to Federal candidates, I would want to study the matter further before ever agreeing to such a suggestion. I would not support the extension of this recommendation to a situation in which a candidate or political committee had inadvertently, and perhaps even negligently, but nevertheless unintentionally, violated the Act.

Mr. President, this gentleman who seeks a seat on the Federal Election Commission, it seems to me, states in that reply that he has not reached certain fundamental decisions regarding the regulation of the electoral process by the Federal Government. He is unable to make up his mind he says, whether the Federal Election Commission should have the power to void an election. I must say that frightens me. I hope I never see the day when the FEC has power to void an election. I think we ought to leave that with the court. Continuing:

> Question 4. Do you favor spending limitations on public questions, that is, on referenda and/or lobbying? Did the New Jersey Election Law Enforcement Commission have a position on application of spending limits to public questions?
>
> (The Appendix A of the 1974 Annual Report of the New Jersey Election Law Enforcement Commission contains the following language: "The Commission further recommends that the Legislature consider favorably the application of spending limits to public questions." The *Buckley* v. *Valeo* case threw out spending limits except where accompanied by taxpayer campaign financing for candidates. It is likely the Supreme Court would treat referenda spending limits similarly.)
>
> Response: The issue of spending limitations on public questions is moot in view of the United States Supreme Court's decision in *Buckley v. Valeo*. The New Jersey Election Law Enforcement Commission has recognized the full implications of this decision and has recommended to the New Jersey Legislature that the spending limits contained in the original Act be restricted and applied to publicly financed elections. The key to curbing undue influence in matters affecting public questions is full disclosure, not spending limits.
>
> Question 5. The 1975 Annual Report of your commission, page 14, contains a recommendation for legislation which would transfer "much of the responsibility for general administration of elections" from "those officials now charged with such responsibility to the Election Law Enforcement Commission."
>
> Were any of these unspecified officials local officials? Did you agree with proposed centralization of power over the election process? Would you favor decreasing the role of state and local governments in the federal process? What functions would you have the federal government or the Federal Election Commission assume from the state and local officials?
>
> Response: It should be remembered that the aforementioned recommendation was not made by the New Jersey Election Law Enforcement Commission, but was instead proposed by the New Jersey Election Law Revision Commission which was charged with the responsibility of recommending changes in New Jersey Election Laws generally. It is possible that the recommendation of the Election Law Revision Commission, had it been implemented, might have resulted in some transfer of authority from local officials to State officials, although it is my recollection that the principal transfer of authority would have been from county election officials to State election officials.
>
> Authority over election matters in New Jersey is widely diffused. It is possible to obtain one answer concerning election procedures from one source and an entirely different answer from other sources. To the extent that some centralization of authority would improve the consistent administration of New Jersey Election Laws and thus encourage, not discourage, participation in the electoral process, I would consider said transfer beneficial. It is nevertheless obvious that responsibility for the administration of election laws in New Jersey and throughout the United States must continue to rest largely with officials on the local scene. I do not have in mind any specific functions which the Federal Election Commission should assume from State and local officials.
>
> Question No. 6: What is the nature of your Republican credentials as a prospective Republican member of the Federal Election Commission? Mr. David Norcross, now New Jersey state Republican chairman, was the first executive director of your state election Commission.
>
> Was he consulted prior to your appointment? Did he endorse your appointment at any time? Please describe your record of Republican campaign activity.
>
> Response: I have been active in Republican politics since my high school days. I served as a member of the Princeton Township Republican County Committee for almost ten years and as its chairman for the last two years. In my capacity as Municipal Chairman, and before that time as well, I served as a member of the Mercer County Republican Executive Committee. From 1966 to 1968 I was President of the Republican Club of Princeton. In 1969 I served as Mercer County Campaign Coordinator for former Governor William T. Cahill. Naturally I have had to refrain from participation in partisan politics since my appointment to the New Jersey Election Law Enforcement Commission in 1973. I did not consult with David F. Norcross prior to my nomination, but rather informed him as a matter of courtesy of my interest in serving on the Federal Election Commission and of the fact that I had communicated my interest to Republican Leaders on Capitol Hill. I believe he has endorsed my appointment, but this is a matter which should be determined by direct contact with him.

Mr. President, I have been in direct contact with Mr. Norcross, the New Jersey State Republican Chairman, and he does not support this nomination. Continuing:

> Question No. 7: The Newark, N.J. Star Ledger, September 22, 1978 reports that your New Jersey Commission has recommended "sweeping changes" in the election law which would, among other things, extend taxpayer financing of gubernatorial elections to primary contests.

> Do you favor this? Your Commission executive director, Lewis Thurston, is quoted in the same newspaper story as saying, "We ought to attempt to find a way to publicly finance legislative elections." With respect to New Jersey state legislative elections, do you agree with the quoted statement of your executive director?
>
> Do you favor the extension of the taxpayer campaign financing idea to federal legistlative elections?
>
> Response: One of the greatest difficulties which our New Jersey Commission faced in administering the public financing provisions of the New Jersey Statute in the 1977 Gubernatorial General Election was the complex task of sorting out contributions made to the gubernatorial candidates during the primary election (no contribution limit) and during the general election (a $600.00 contribution limit). If you are going to have public financing, it is administratively easier to monitor a situation in which the same or similar financial ground rules apply to both primary and general elections. This should not be construed as any comment upon the advisability of public financing as a general concept. I have never advocated nor opposed the public financing of elections, not because I have not considered the matter, but because I have mixed feelings with respect thereto. My mind remains open with respect to the desirability of public financing.

Mr. President, if the Federal Government adopts taxpayer funding of congressional campaigns, along with that funding will come, as they always come with Federal dollars, more rules and regulations and a greater grip by the Federal Government over the electoral process, which, as I have said, is the only check citizens have over their Government.

I would hope that a nominee to the FEC would have thought through some very basic philosophical considerations respecting the advisability or inadvisability of giving the Federal Government greater control over the electoral process.

Mr. Reiche, in his reply, states:

> I have never advocated nor opposed the public financing of elections, not because I have not considered the matter, but because I have mixed feelings with respect thereto. My mind remains open with respect to the desirability of public financing.

His reply goes on:

> One should note however a sharp difference between the public financing of executive elections, e.g. the presidency or a governorship as contrasted with the public financing of legislative elections. I do not agree with anyone who suggests that we must find a way to finance legislative elections publicly. As I testified before the Senate Committee on Rules and Administration, in the case of public financing of executive elections you have rather sophisticated staffs who develop close working relationships with the enforcement agency, as was done in New Jersey. In addition, you are obviously dealing with a limited number of candidates, even where public financing applies to primary elections.

Mr. HELMS. Mr. President, will the Senator yield, on condition that he does not lose his right to the floor?

Mr. HUMPHREY. On that condition, yes.

Mr. HELMS. I wonder if the Senator would be willing to have the absence of a quorum suggested, on condition that he does not lose his right to the floor and that his resumption after the quorum call not be considered a second speech.

Mr. HUMPHREY. I am willing.

Mr. HELMS. Mr. President, I ask unanimous consent that a quorum call under those circumstances be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, to resume the nominee's reply to question 7:

> Response: This contrasts sharply with publicly financed legislative elections. The logistical problems associated with the potential public financing of Congressional elections are staggering. Again, as I testified before the Committee, while I am not philosophically opposed to public financing of Congressional elections, these logistical problems must first be solved if this is to represent a viable governmental proposal. Furthermore, it is Congress and not the Federal Election Commission which makes policy in this area; hence, I do not anticipate that I would, if confirmed, participate in the formulation of such policy.

Mr. President, again Mr. Reiche makes the point that he is not philosophically opposed to public financing of congressional elections. He is worried more about logistical problems than he is about the philosophical considerations. He states that it is Congress and not the Federal Election Commission which makes policy. True. Let us hope it always stays that way. But, at the same time, Mr. President, Congress does not make perfect laws because we are not perfect men, and our public servants at the Federal Election Commission, like our public servants in every agency of the Government, must interpret the law, must interpret ambiguities, must interpret gray areas, and in so doing I would argue they make policy in some degree.

Furthermore, they are not operating in vacuum at the FEC any more than public servants do elsewhere. They hire staff. The personal philosophies of the Commissioner more than likely are reflected in the persons he hires and in their actions. We all know, Members of this body know, painfully well that because of the staggering workload, because Government has taken upon itself so many responsibilities, the workload is such that we often have to leave much of the work to our staff and often with very little supervision. Continuing:

> Question 8: Yesterday, May 8, 1979, one Debra Kostivic, a staff member of your commission in Trenton, declined to provide Mr. Henry Luthin of Riverdale, N.J., any minutes of commission proceedings or even records of votes cast in commission decisions.
>
> Do such minutes and records of votes cast by commission members exist?
>
> Will you please provide me with copies of these minutes and records of votes cast?
>
> Response: I have conferred with officials of the New Jersey Election Law Enforcement Commission in Trenton to determine the circumstances surrounding the request by Mr. Henry Luthin for information concerning Commission proceedings. According to my information, Miss Debra Kostival, a valued member of our staff who has been with the Commission since its creation in 1973, offered to have Mr. Luthin examine the minutes of our public sessions in the office and further offered to have copies of such minutes reproduced after she had obtained the approval of the executive director of the Commission who, unfortunately, was not in the office at that time.

Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Utah without losing my right to the floor.

Mr. HATCH. I further ask unanimous consent that when the Senator resumes it not be considered a second speech under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank my distinguished friend from New Hampshire.

Mr. President, I rise in support of Senator HUMPHREY's position on this nominee. I do not know Mr. Reiche, and I have no particular fault to find with Mr. Reiche, other than some of the issues which have been brought to my attention by my friend and colleague from New Hampshire, other Members of the Senate, and other members of the Republican Party concerned with this nomination. I have no axes to grind. I have to acknowledge that for all that I know Mr. Reiche is an extremely competent and very fine man.

I have listened to my other very dear friend and colleague from Oregon, Senator HATFIELD, and he has expressly mentioned many aspects of Mr. Reiche to me which would cast him in a favorable light.

Knowing my colleague from Oregon I have to accept what he says. There are very few Members in the Senate who have the respect and who have the appreciation of fellow Senators as much as our dear friend from Oregon.

However, I am concerned, because the subject has been raised, that Mr. Reiche may or may not be in favor of taxpayer financing of congressional elections.

As I view the matter, I think that it is a cloudy situation. I believe that his interrogation by the other distinguished Senator from Oregon, Senator PACKWOOD, would indicate that he is in favor of taxpayer financing of congressional elections and imposing the cost of Federal elections upon the taxpayers of this country, which I am totally against. I think it demeans the elective process; it gives undue advantage to certain special interest groups in our society, and I think even the Harvard report that recently came out confirms that.

I also cite a resolution by the Republican National Committee which says:

> Proposed legislation calling for the Federal financing of congressional elections is not in the interest of America's free and open electoral process. Such financing contradicts the entire spirit of competitive elections in that it gives undue advantage to incumbents as opposed to challengers. In addition, the

> right of all Americans to participate freely in the electoral process by financially supporting the candidates of their choice must not be denied. The Republican National Committee opposes the Federal financing of Congressional elections and calls upon all Republican elected officials to join in opposition to this ill-advised legislation.

One of the first battles we had here in the Senate as I arrived in 1977 was really the preliminary infrastructure of taxpayer financing of Federal elections and the constant battle in the House to impose this on the American taxpaying electorate and also on the two parties of this country, I think much to the detriment of the two party system.

I cite with particularity the New York Times Sunday editorial "Man in the Middle" by Joseph F. Sullivan, dated July 8, 1979. He said:

> President Carter and conservative Republicans are locked in another battle over the appointment of a Republican to the Federal Election Commission, and for the second time the man in the middle is a New Jerseyan.
>
> Frank P. Reiche of Princeton, chairman of the state's Election Law Enforcement Commission, was nominated by Mr. Carter recently to fill the third G.O.P. slot on the six-member Federal agency. Although his appointment would give the commission a 3–3 division along party lines, the conservatives are afraid that the ideological split would be 4–2 in favor of the liberals.
>
> William E. Simon of New Vernon, the former Secretary of the Treasury, and Harlan K. Schlicher Jr. of Mountain Lakes, co-chairman of the Jeffrey Bell Finance Committee in last year's New Jersey Senate race, have been in the forefront of the conservatives' drive to block Mr. Reiche's confirmation by the Senate.
>
> Mr. Simon has written to Republican leaders across the country and to New Jersey party members, pointing to the state commission's consistent support of public financing of election campaigns and spending limits, two red flags in the conservative pasture.
>
> "The commission has shown a consistent pattern of more government, more regulation, more limits and more penalties," Mr. Simon wrote. "We do not need this type of mentality on the F.E.C."
>
> Nearly two years ago, Mr. Carter nominated Sam Zagoria, a native of Somerville and a former aide to then-Senator Clifford P. Case, to the commission. However, he withdrew the nomination after a 10-month standoff engineered by conservatives.

I think that is not quite the truth. A 10-month standoff engineered by Republicans. Frankly, I think a lot of the credit should go to the senior Senator from Oregon, my friend, Senator HATFIELD. It was not because he had any particular gripes or disagreements or lack of feeling for Mr. Zagoria; it was because of the principle involved in this matter. Continuing:

> To avoid a similar fight, the President accepted a list of potential nominees prepared by the Senate minority leader, Howard K. Baker Jr., Republican of Tennessee. An earlier list was termed "unacceptable" by Mr. Carter because it did not include any supporter of public financing of Congressional campaigns.
>
> When Mr. Baker's list containing Mr. Reiche's name reached the White House, President Carter had no trouble making up his mind. However, the fact that the list included Mr. Reiche has made the Tennessee Senator a target of criticism by G.O.P. conservatives, even though he was a leader in the fight to block Mr. Zagoria the last time out.
>
> Senator Gordon J. Humphrey of New Hampshire is one of the most-outspoken critics of the Reiche nomination, and conservatives point out that Mr. Baker may have hurt his own Presidential chances.

I add parenthetically, I do not think that is true at all. I do not think any conservative feels that way. I have to add that almost all of us on the Republican side of the U.S. Senate have inestimable esteem for our distinguished minority leader and follow him with a great deal of zeal. I, personally, have the highest esteem for my colleague from Tennessee. I want him to know personally that the fact that I am speaking for and in behalf of my friend from New Hampshire and along side of him is no reflection upon our distinguished minority leader at all. I do believe that this is a problem that he has inherited, that he now has to live with. I understand it, and I understand his decency in living with it.

I also understand the fact that he has given his word and now must live up to it. I believe that Senator BAKER is a man of impeccable integrity and honesty and, as one of our potential Presidential candidates, he certainly has everything it takes to lead this country in the future.

So I do not think that the fact that Mr. Reiche's nomination has been brought up will hurt the Presidential chances of my friend from Tennessee.

To go back to the article:

> Since World War II, no one, Democrat or Republican, has won the Presidential nomination without first winning the New Hampshire primary.

I can say this: I think that New Hampshire is a very, very important State. I add parenthetically that certainly all Presidential candidates have to be concerned about New Hampshire. Having gone there myself to speak for one of our Republican Presidential candidates on at least two occasions, I must say I am very awed and impressed by the beautiful, wonderful State of New Hampshire.

I might add that during the last election campaign, I did campaign for Senator HUMPHREY and we went all over the State, and it is a most beautiful State, with tremendous prestige and importance in Presidential elections on both the Democratic and Republican side.

But it is true that no one, Democrat or Republican, has won the Presidential nomination without first winning the New Hampshire primary. Continuing:

> Thus far, 16 Republican Senators and William Brock, the Republican national chairman, have joined the movement to block Mr. Reiche's confirmation.
>
> Last week in Minnesota, the Republican National Committee adopted a resolution opposing the appointment of any Republican to the Election Commission who was not first cleared by the national committee.
>
> The G.O.P. conservatives are convinced that they must have strong partisans on the commission to protect their interests in the post-census Congressional elections and in next year's Presidential campaign. They also contend, probably with some good reason, that they will never be able to force a hard look at President Carter's 1976 campaign financing without another conservative on the commission.
>
> This week could prove crucial to Mr. Reiche's appointment. The conservatives believe they can line up a majority of Republicans in the Senate to publicly oppose the confirmation. Even though the Democrats would still have enough votes to confirm Mr. Reiche, they have never confirmed a G.O.P. nominee who was opposed by a majority of his own party in the upper house.

That is an interesting article, and I suspect that what it says is true. What I do want to establish is that I do not believe that a majority of the Republican Senators on the floor of the Senate, if tested, would be in favor of the Reiche nomination, regardless of his merits or demerits. Since I do not know the man personally, I cannot personally judge what his merits or demerits are, other than this one issue, that of financing congressional elections, and also on some other indications which I have been given, which have indicated to me that he may not be the type of partisan Republican which is necessary in order to maintain that 3-to-3 balance.

I have to admit that the Democrats have certainly placed the most partisan people they can find on the Commission, I think to their advantage. I understand that. Personally, I would do away with the Federal Election Commission, if we could, because I think it is a very dangerous instrumentality that could cause the loss of any election in this country, at any time, to the detriment of very innocent people. I have seen some awfully odd things in my day concerning that very point.

Not speaking of the Federal Election Commission, I can remember my own election as a brand new citizen-candidate, a neophyte in political terms, somebody who did not understand all the give and take of politics, who, all of a sudden was accused of some wrongdoing by a national reporter back here, who was really, in essence, trying to help his good friend, my Democratic opponent, because they agreed ideologically. He knew what he said was wrong. Nevertheless, I had to live with that throughout my campaign because, even though it was rebutted completely and fully, not everybody read it the second time, not everybody knew it was rebutted, so I had to meet that criticism throughout my campaign.

Others know this problem. Talk to the distinguished Senator from Iowa, ROGER JEPSEN. He was mistreated as badly as any man I have seen in his campaign—not only, it seems to me, by the Federal Election Commission, but by our own Ethics Committee here in the U.S. Senate—or, should I say, members of the staff of the Ethics Committee of the U.S. Senate. I lived through that one, too. I can tell you, it was not right, it was not fair.

Yet we have a partisan Federal Election Commission that everybody understands is partisan—three totally dedicated partisan Democrats, and we now have two dedicated partisan Republicans. I think what the distinguished Senator from New Hampshire is saying is that we should have three, so we can offset, during those gut issues when lives are at stake and political futures are at stake, what may be a prejudice against Republicans.

I do not want my friends on the Democrat side to be abused, either. That is why I do not like the Federal Election Commission and the whole set of election laws to begin with. To begin with, they have not made campaigns better. They have not brought about the sanctimonious rise of ethics and prestige and glory to the election process in this country that was forecast by those who believed in the Federal Election Commission. If anything, I think they have added more to the woes of those who have to run and those who have to choose whom they support than anything in recent history.

I am concerned. I am concerned because if, in fact, Mr. Reiche, as has been proposed, is not a partisan Republican, there could be a change to a 4-to-2 ratio. This imbalanced ratio would be detrimental to the whole process, and certainly to my party.

If, in fact, it becomes a liberal-conservative conflict, which I do not think it is right now, I think it is a Republican-Democrat offset, or should I say standoff—that is a bettter word—but should it become a liberal-conservative problem, I think the country will not be served, nor will either party be served in the end, because ultimately tides change, people change, no matter who is abused. The law of averages seems to even things up.

That is why I would suggest to my friends on the other side of the aisle that if a majority of the Republicans in the U.S. Senate do not want Mr. Reiche as their nominee on the Federal Election Commission, they should honor the recommendation by a majority of the people on this side of the floor.

I would want to honor their demands if we had a Republican President trying to do the same thing for them.

Probably the thing I find the most offensive of all, I was never opposed to Mr. Zagoria personally. I did not even know the man. All I know was that as a condition precedent to his nomination, the President of the United States said that he had to believe a certain ideological way.

To me, that just is not right. It does not smack of fairness. It does not smack of honor. It does not smack of dignity. It does not smack of justice. I resented it at the time, without reflection on Mr. Zagoria; to this day without reflection on him.

It appears to me we have precisely the same thing. I think we have a problem here. That is, if Mr. Reiche is another Mr. Zagoria, who believes in taxpayer financing of Federal elections, then regardless of the fact that this time his name was one of those who was recommended, and that is the clear-cut difference, then the wishes of the Republican Party as enunciated in this Republican National Committee resolution ought to be given grave consideration and I think ought to carry the day on this matter.

I do not think the President of the United States should stipulate in advance, as a condition precedent, the ideological perspective of people he appoints to the Federal Election Commission. I deeply resent that taxpayer financing of congressional elections, which has been highly criticized and I think largely discredited. I believe this should be reason enough for disapproving anybody's nomination to the Federal Election Commission.

I am very concerned that Mr. Reiche has not come out and said as a Republican that he is against taxpayer financing of elections.

Now, there is one thing that perhaps many will argue here, that is, what difference does it make, because he will not be making that statute. We in the Senate will make the determination, and those in the House, and that it is a hotly contested and debated subject and, as I mentioned before, a largely discredited one.

I think the Harvard Review discredits the approach of the Federal Election Commission, and I think many other bipartisan commentators across the country have also stood against the Federal Election Commission and its approach, and the Federal election laws in this country, which may very well be the basis for special interest domination and control of the U.S. Congress.

There will always be special interests and I suppose it depends on whose special interests we believe in.

But if the purpose of the Federal Election Commission was to do away with special interest control of the Congress, or should I say of certain Congressmen and Senators, and there are some, I suppose, who may fit in that category, I hope not, but there are some, then I think they are going about it the wrong way through the whole Federal election system of laws that we have.

Back to Mr. Reiche, the thing that I resent personally is that since this has caused so much trouble, and since the Republican position as a national party and our position consistently as Senators on the Republican side, at least in the one great filibuster we had in 1977, has been against the taxpayer funding of congressional elections, I think Mr. Reiche should have come out directly and said, "Look, I'm a Republican and I will abide by the wishes of my friends and colleagues, Republicans, in the U.S. Congress and in the U.S. Senate."

But he has not done that, and that leads up to the severe problem which I think the distinguished Senator from New Hampshire has raised. I commend him.

It is not easy to stand up in these type matters, to stand up for principles we believe in when, basically, we know a majority in the U.S. Senate, including the Democrats, would be against us.

It is not easy to stand up and talk about a nomination like this. How well I know that.

It is not easy to have extended debate on the floor of the U.S. Senate. I suppose in my short 2½ years here I have spent as much time on the floor in extended debate as any person in the same 2½-year period.

I am not claiming any credit for that. I wish I had not had to do that.

It is not easy to stand up when fellow Members of one's own party disagree with him, for whom we have, like I say, inestimable esteem and respect.

It is not easy to stand up and talk about subjects like this.

It certainly is not easy for me to stand here and chat about Mr. Reiche because all I have is information which has come from others, but which appears to me to be true.

Frankly, again, I would recite and state that I have no personal complaints of Mr. Reiche other than his stand on taxpayer financing of congressional elections, and perhaps some other matters that will come up during this debate.

I am concerned that my colleagues on the other side understand what is going on here.

I believe that this body will not always be controlled by Members of the majority party, whether that is good or bad, and I think it would be good and healthy if this body became evened up. I think it would be healthy for the Democratic Party. It certainly would be healthy for the Republican Party.

I believe that if we, literally, do what is right in this case, we will listen to what the majority of the Republicans have to say on the floor of the Senate.

Now, if the majority are for Mr. Reiche, I suppose I will have to go along with the majority. However, I do not believe they are.

I will say this to my friends on the other side of the floor. If we have a Republican President in the future and a Republican control of the Senate, which may or may not be likely, but should that occur, I would certainly want them to be able to pick their Federal Election Commission appointees. I would encourage our President of the United States and would fight for his right to have his own people appointed, since this is clearly a political Commission, and it is clearly made up of two different, offsetting partisan groups.

Should Mr. Reiche win this battle, one way or the other—and I am not so sure that he wants to win or does not want to win—but should he be appointed, then I hope that Mr. Reiche will consider the fact that he represents the Republican side of the Federal Election Commission and will act accordingly, so that we do not lose any more from our minority side of the floor merely because of officious or offensive or downright dishonest acts of the Federal Election Commission.

Heaven knows that those of us who run for these offices have enough to contend with, without a Commission that is not balanced. Our society is made up of balances. Our Constitution has checks and balances—separation of powers, concurrent majorities. We are a Federal Republic. We have constant offsets to power because our early leaders of this country were afraid of too much power being centered in any one person or any one group or any one State or any one region.

We are afraid of centralized power, although through the intervening years, over the last 40 years, we have moved more and more to gross centralized power right here in Washington, and we all know how we have been suffering because of that. People all over this country are upset because of the centralization of power—in derogation, I think, of the Constitution of the United States.

(Mr. BAUCUS assumed the chair.)

Mr. HATCH. In the Los Angeles Times of November 3, 1977, J. F. terHorst wrote an article entitled "Bipartisan Chips Rise and Fall," in which he said:

> Maybe what the country needs is somebody to check up on the President's biorhythms. One moment finds him caving in to Congress, especially Speaker Tip O'Neill. The next finds him confronting Congress. Now he is doing both at the same time, on the same issue, and in a way that jeopardizes the very spirit of bipartisanship that he says the country needs.
>
> What's more, this scrap finds President Carter with his truth down.
>
> Involved are his nominations to a pair of seats on the six-man Federal Election Commission. In the whole gamut of government, nothing is so politically sensitive as the FEC, which serves as the watchdog over campaign spending and disclosure for all presidential and congressional races. That's why, from the start, it was set up as a bipartisan panel, with three Democrats and three Republicans. With equal membership, it was argued neither party would have an advantage over the other.
>
> Carter's long-delayed nominees are now before the Senate for confirmation. His choice for the Democratic seat is John W. McGarry, a Boston lawyer on the House Administration Committee, whose distinguishing feature is that he is O'Neill's protege.
>
> Never mind that Carter decided to placate the Speaker instead of picking a strong Carterite for the FEC. And forget that O'Neill already has another FEC protege in Robert O. Tiernan, whose travels and phone calls billed to the FEC have embarrassed it. The important thing to remember is that, in picking McGarry, Carter at least honored the established principle of naming an appointee approved by the Democratic leadership on Capitol Hill.
>
> Now we turn to the President's choice for the Republican seat—and discover that he threw the established principle out the window. He picked Sam Zagoria, a former reporter, former assistant to Sen. Clifford Case (R-N.J.), former member of the National Labor Relations Board, and currently the labor-management director for the U.S. Conference of Mayors. Zagoria may be well qualified for the FEC, but he is not the nominee of Capitol Hill's Republicans. He is Carter's Republican.
>
> In picking Zagoria, Carter seems to have gone back on the promise that he gave Senate Republican Leader Howard Baker and House Republican leader John Rhodes in February. In line with his pledge then, they sent him the names of two Republicans for the FEC vacancy—Robert P. Visser, who served as legal counsel for the President Ford Committee, and James F. Schoener, minority counsel on the Senate Rules Committee, an ex-judge from Michigan and former chairman of the bipartisan Michigan Election Commission.

That was probably one of the tough appointments of all time to the Federal Election Commission—or at least recommended appointments to the Federal Election Commission. Continuing:

> But Carter balked, delayed and finally, in May, asked for additional names. He wrote Baker and Rhodes: "I also expect all of my nominees to the FEC to be supportive of . . . financial disclosure and reporting requirements, and public financing (of congressional elections)."
>
> The Carter letter sounded as though Visser and Schoener had been rejected because they were not supportive. But the fact is that no one at the White House ever asked them where they stood on the Carter criteria. The fact is that neither has opposed financial disclosure and reporting, and that Schoener is more supportive than many Democrats of public financing for all federal elections.
>
> Indeed, Schoener had been cleared for the $50,000 FEC slot by the Democratic National Committee and by Democratic Senate leader Robert Byrd. What nixed Schoener, apparently, was his objection as minority counsel on the Rules Committee to the "instant voter registration" scheme that the White House organized labor tried to enact into law.
>
> Carter, it would seem, has engaged in a nasty little piece of political deception. His promise of consultation with Baker and Rhodes turns out to be hollow.
>
> But there is a larger issue here than just the skewing of the bipartisan tradition on the Federal Election Commission. There are more than a dozen policy-making bodies in government, and the laws specify a political balance. no matter which party is in the White House.
>
> So the question must be asked: Is it also Carter's intention to fill the GOP vacancies on these powerful agencies with persons whose views are those of a Democrat wearing a Republican label? If so, bipartisanship is as good as dead, and Carter is heading for even more trouble on Capitol Hill than he already faces.

That is what irritated all of us so much before. That is what irritated, partially, my friend from Oregon, who I think played a major role in stopping the Zagoria nomination. That is what irritated me. That is what irritated a number of people.

The fact is that we do not have exactly the same problem here, because the New Jersey delegation wanted Mr. Reiche's name put on the list, and the minority leaders in the Senate and the House did so at their request. Even though the present member of the Commission is willing to stay, Mr. Carter immediately jumped on this nomination—I think we know for reasons that I have already explained.

It really concerns me, because if that is so, if we have to have Mr. Reiche because he needs Mr. Carter's ideological stance, then I personally resent it!

However, if Mr. Reiche is a partisan Republican and will act as such, will protect our candidates from oppressive conduct and from evil, vile, and wicked conduct on the Commission—which probably has the greatest opportunity to act in an evil and vile way—then I would consider supporting Mr. Reiche's nomination.

I am concerned because the press certainly has understood this issue. They certainly have understood that this is a political issue. There is no question that Thomas Everett Harris is a very partisan Democrat, and some of my colleagues have raised the question whether Frank B. Reiche is a very partisan Republican.

As a young man who was raised in Pittsburgh, Pa., and who was raised a liberal Democrat, who came up under the regime of David Lawrence, who was one of the alltime great political bosses of this country and one of the shrewdest political geniuses this country has ever produced, I understand how power is distributed.

I might add that I doubt seriously that Pittsburgh ever will be a Republican city again because of the power distribution and the upper hand that was gained by us Democrats at that time, during those days of the David Lawrence regime, and to this day I have fond memories of that and have a great deal of respect for the now deceased David Lawrence. He was a great political leader, and he knew how to manipulate people. He knew how to build dynasties, and he knew how to make whole areas become just one-party areas.

He probably knew it as well as any political boss in America and I think what really put Mayor Daley to shame in his total knowledge of how to put the Democratic Party into total control of whole areas of Pennsylvania.

Of course, he played a role in national politics as well and deserves a great deal of consideration and a great deal of credit for many of the things that he did.

As I got older, I started to look at what was happening to our country and saw the lack of a desire of this Congress to balance the budget now 43 out of the last 47 years. I see an $830 billion national debt with interest that has to be paid every year of approximately $65 billion. I see $7 trillion unfunded debts, debts we have to pay in the future but no projected revenues to pay for them. I see from 600 million to 1 trillion of our dollars floating over the world through Eurodollars and the like, debilitating our dollar and making us the laughing stock of the world monetarily. I see the constant Keynesian policies of Lord Keynes through the Keynesians here in the U.S. Congress who believe only through deficit financing can we stimulate the economy. Almost all of these people happen to be Democrats, and they controlled this Congress actually 43 of the last 47 years, as I recall.

That is not good for Congress; that is not good for this country.

As I saw these various things, I came to the conclusion that perhaps my perspectives have changed and I perhaps had to change my party, and for many other reasons and many other specific reasons I changed and became a Republican.

Mr. President, there was an interesting editorial in the Nation, as I recall, on May 19, 1979. It was entitled "Carter's Campaign Finances" by Peter Peckarsky. It was copyrighted in 1979 and is also entitled "Special Report."

He says:

> During the past seven months scattered but increasingly linked reports have appeared in the New York Times, the Washington Post, on ABC television and most notably in the columns of William Safire, that cumulatively point to serious financial improprieties in the financing of Jimmy Carter's 1976 Presidential campaign. On the basis of two years of research, more than 1,000 interviews with more than 200 people and a review of nearly 20 linear feet of documents, it is now possible to construct a mosaic of detail that, for the first time, provides a complete and plausible theory about the

financial irregularities that may have put Jimmy Carter in the White House.

I may add, parenthetically, that I would not be quoting this if it were not an article in the prestigious magazine entitled the "Nation." It is a very well-written article, and he writes on some issues in here that I think are extremely interesting and very important issues.

Mr. Peckarsky goes on to say:

> Before going any further, let us recapitulate what facts have already been made public. First, on October 19, 1978, *ABC News* reported (from information supplied by this correspondent) that discrepancies had been found in President Carter's tax returns. Second, as highlighted by William Safire in his column of November 6, 1978, Billy Carter took the Fifth Amendment in an appearance before a Federal grand jury investigating Bert Lance's financial dealings. Third, accounts surfaced in the national press, derived from a report of January 17, 1979, by the National Bank of Georgia, of which Bert Lance was formerly president, that there had been delays in the repayment of loans made by the bank to Carter's Warehouse. Fourth, *The Washington Post* on March 11, 1979, raised charges that Billy Carter had altered records of the Carter family peanut warehouse and failed to make timely payment of $500,000 owed by Carter's Warehouse to the National Bank of Georgia. The fifth charge, a matter of public record in 1976, concerned the extension of $645,997 in credit by the Gerald Rafshoon advertising agency to the Carter campaign. And finally The Washington Post reported on April 8, 1979, that some bank loans to Carter's Warehouse, although due in the winter and spring of 1976, had not been paid back in full until July 14, 1976.
>
> Thus far these separate bits add up to a suggestive, but far from coherent picture. In the following article, bringing to bear additional information, I shall demonstrate how funds may have been improperly transferred from the Carter family business to the Jimmy Carter Presidential campaign. This information also raises new questions concerning the role played by Gerald Rafshoon, assistant to President Carter for communications, in the financial affairs of the campaign.
>
> On December 12, 1974, Jimmy Carter announced his President candidacy. Almost immediately, his campaign committee, the Committee for Jimmy Carter, faced a problem: as of January 1, 1975, it had to comply with the Federal Election Campaign Act, which limited individual contributions to a Presidential campaign to $1,000 and forbade direct corporate contributions altogether.
>
> On January 22, 1975, Bert Lance, Carter's longtime friend and commissioner of the Georgia Department of Transportation when Carter was Georgia's Governor, became president and chief operating officer of the National Bank of Georgia. Although the bank's major experience was in urban lending, Lance soon made Carter's Warehouse in rural Plains, Ga., one of the bank's biggest customers.
>
> Carter nominated Lance director of the Office of Management and Budget in early 1977. But an investigation into Lance's banking activities led to his resignation on September 20, 1977. The main Justice Department probe of Lance has resulted in one indictment, is expected to produce more, and led to the appointment of a Special Counsel to investigate loans made by the National Bank of Georgia to Carter's Warehouse, a partnership owned by Jimmy Carter (62 percent), Billy Carter (15 percent) and Lillian Carter (23 percent).
>
> The key to unraveling the intricacies of President Carter's campaign finances is understanding that $1 million in loans made in 1975 and 1976 by the National Bank of Georgia to Carter's Warehouse for purchasing a peanut sheller and for warehouse construction actually made little or no business sense. The reasons why this is so are explained on page 571, but the upshot is that the sheller purchase may have been a pretext that enabled Bert Lance's bank to loan President Carter's business an additional $5.8 million ($2.2 million in 1975 and $3.6 million in 1976)—ostensibly for buying peanuts to be processed with the new sheller. Actually, the sheer magnitude of these loans may have provided an opportunity to divert some of the money for use in the Carter campaign.
>
> In fact, three separate sources attest that about $500,000 of these National Bank of Georgia loans—and perhaps more—was not properly accounted for on three separate occasions. The first two sources consist of documents that have already come to public light. But the third source's information involves a $500,000 shortage that coincided with the 1976 campaign and thus provides a reasonable and extremely troubling explanation of how National Bank of Georgia loans actually may have found their way into the Carter Presidential campaign.
>
> The first discrepancy arose out of the Carter loan agreement which provided that the National Bank of Georgia would extend loans up to a maximum of 80 percent of the value of the peanuts in the Carter warehouse. In other words, the peanuts represented collateral on the bank loan. As the shelled peanuts were sold, i.e., as the amount of collateral on hand diminished, Carter's Warehouse was obliged under the terms of the loan to pay back the bank.
>
> At the end of 1975 Carter's Warehouse had an outstanding loan of $1,690,000 from the National Bank of Georgia. For this loan to be properly secured, the warehouse should have had $2,112,500 worth of peanuts on hand. But in fact, an unaudited, uncertified Carter's Warehouse balance sheet of December 31, 1975, listed the market value of the peanuts on hand as only $1,499,403—or some $613,097 less than the loan agreement required.
>
> The second public source to confirm another large discrepancy emerged on January 17, 1979, when the National Bank of Georgia Special Committee reported that on June 7, 1977, Robert Flynt, then the National Bank of Georgia's vice president in charge of Carter's Warehouse accounts, wrote Billy Carter to request payment of $500,000 to balance the peanut loan account. The overdue money was needed because Carter's Warehouse had withdrawn $476,000 worth of peanuts from storage without paying for them, meaning that there were no longer enough peanuts on hand to secure the bank loan.
>
> Finally, a third, independent source—a person close to the Justice Department investigation now in progress—says that in the month before the decisive April 27, 1976, Pennsylvania Democratic primary, about $500,000 was transferred from Carter's Warehouse accounts at the National Bank of Georgia to Billy Carter's personal accounts in the same bank. Shortly after this transaction, Billy Carter reportedly withdrew the $500,000 from his personal accounts.
>
> Thus, in addition to the two documents already on the public record, now a third piece of the puzzle is offered which also indicates a mysterious $500,000 discrepancy. This new source, whose previous reports on Carter's finances have proven correct, also says that "About $500,000 was redeposited into Billy Carter's National Bank of Georgia accounts in May and June 1976. Justice doesn't know where this money came from, but they were told that the money was then transferred from Billy Carter's personal accounts to the Carter warehouse accounts and then used to repay the delinquent peanut commodity loan."
>
> On March 11, 1979, the Washington Post carried a story that quoted Jimmy Hayes (a bonded warehouseman who worked with Billy Carter) as saying that in the spring of 1976 he and Billy Carter repeatedly altered warehouse records; Hayes also said that Billy Carter had failed to make payments totaling $500,000 owed to the National Bank of Georgia. Billy Carter did not sign the overdue checks until June 1976, well after the pivotal Pennsylvania primary. Hayes was subsequently interviewed by F.B.I. agents. Although Hayes later publicly denied the quote attributed to him in the Washington Post, no one has previously reported what Hayes told the F.B.I. I can now report that after Hayes talked to the F.B.I., my source told me that Hayes confirmed the Washington Post account to the F.B.I.
>
> Hayes has since refused to comment, other than to refer all questions to his first attorney, Ralph Smith of Bainbridge, Ga. Smith, nephew of President Carter's trustee and campaign organizer, Atlanta attorney Charles Kirbo, also refused to comment. Peter Geer, of Albany, Ga., whom Hayes says now represents him, will not comment. Hayes, Sue Chambliss and David Reeves—all former employees of Carter's Warehouse—testified on May 3 before an Atlanta Federal grand jury investigating the warehouse finances.
>
> In mid-January 1979, Assistant Attorney General Philip Heymann of the Criminal Division ordered a fast, thorough investigation of the Carter warehouse finances. In a series of interviews with this reporter, Heymann said that he had ordered his investigators to look into the question of whether money was diverted from President Carter's business to his campaign. When asked on April 5, 1979, whether the department had traced the money withdrawn from Billy Carter's accounts in the National Bank in the month before the Pennsylvania primary, Heymann replied that "the picture of somebody walking away with a satchel of money doesn't fit." When this reporter said that he had not meant to convey the impression that the money was moved in satchels, Heymann indicated that he wished that his earlier comment would not be reported and refused to comment further on the investigation.
>
> The Justice Department's attempt to trace the flow of funds out of and back into Billy Carter's accounts was halted by Special Counsel Paul Curran on March 20, 1979, the day he was appointed, according to my source. When asked whether the F.B.I was continuing its investigation, Curran refused to comment. When asked whether about $500,000, transferred from Carter's Warehouse accounts to Billy Carter's accounts, was withdrawn from the National Bank of Georgia in the month before the Pennsylvania primary, Curran hesitated a long time and said, "I don't know that." When asked whether the money was redeposited in Billy Carter's accounts in May or June, Curran said he would not comment on each allegation. I asked my source if there could be some explanation for Billy Carter's withdrawing the money other than a diversion of funds to the campaign. The source replied: "If you believe that there's any other explanation you'd have to believe in the tooth fairy."
>
> Jimmy and Billy Carter, Carter spokesman Jody Powell and Charles Kirbo, all of whom have previously denied that the money was illegally diverted from the warehouse to the campaign, as well as Robert Lipshutz, campaign treasurer, and Lillian Carter, were unavailable for comment. John Parks, Billy Carter's Americus, Ga., attorney, refused to comment.
>
> Both the source and a subsequent newspaper account indicated that Curran has in fact instructed the F.B.I. to resume tracing the money. Curran is believed to be focus-

ing on the activities of Carter's Warehouse and Gerald Rafshoon Advertising Inc., of Atlanta, which was the Carter campaign's advertising agency.

THE RAFSHOON CREDIT

By May 31, 1976, Rafshoon's agency had extended credit of $345,997 to the Carter campaign, according to documents on file at the Federal Election Commission. The debt had grown during the early months of the campaign; the campaign committee owed Rafshoon $207,000 at the end of February 1976, $176,000 at the end of March and $350,000 at the end of April. The campaign's peak indebtedness to Rafshoon occurred during a period that roughly corresponds to the period from March 23 to May 20, 1976, when a Supreme Court decision halted Federal Election Commission certification of matching payments to candidates and made campaign financing more difficult.

Federal election law prohibits corporations from contributing to Presidental campaigns or from extending credit to these campaigns except in the normal course of business. In an interview, John Murphy, the Federal Election Commission's general counsel in 1976, interpreted the law to mean that if a corporation extends credit far beyond its usual billing cycle, or at a time when a campaign's credit rating is so feeble that no corporation would reasonably extend credit to it, there is a legitimate question as to whether the credit is an illegal corporate campaign contribution. Rafshoon's agency's actions seem clearly to have been outside the scope of normal industry practice. When I asked Harry Paster, senior vice president of the American Association of Advertising Agencies, what standard industry practice is in billing political campaigns, he replied: "Cash in advance."

Pennsylvania was the make-or-break primary for Carter. While Arizona Representative Morris Udall spent $217,368 and Washington Senator Henry Jackson spent $167,150, Carter, even though his campaign debt was almost $1 million at that point, spent $472,117—perhaps due to the $645,997 credit from Rafshoon's agency, much of which went toward media buys. Jackson and Udall spent almost all they had and lost. It was in Pennsylvania that Carter virtually wrapped up the nomination.

Robert Lipshutz, treasurer of the Carter campaign committee, who is now Carter's White House counsel, said to me that he does not know and did not ask about the source of Rafshoon's largess. Lipshutz claims that the Federal Election Commission said that the credit extension to the Carter campaign was "permissible." But a spokeswoman at the F.E.C. told me that she could find no record of the commission having told anyone at the campaign committee this. John Murphy, formerly at the F.E.C., said that he is sure there was no formal communication about the credit, and doubted that there was any informal communication.

On December 16, 1978, when I asked about the credit from his firm to the campaign committee, Rafshoon said: "I know what you're working on and you're screwed up." When I asked him where his corporation obtained $645,997 to loan the Carter committee, Rafshoon referred all questions to his attorney, William Stack Jr. of Atlanta. But both Stack and Howard Rothchild, who was an agency vice president at the time, told me they did not know where Rafshoon had obtained the money that enabled his agency to extend credit to the campaign committee. Finally, on January 3, 1979, Rafshoon came up with an explanation to this reporter: his suppliers extended credit to his firm and the firm took little or no profits. But he refused to say which suppliers had extended credit, how much credit extended or what his agency's net profit margin was.

The explanation that the money came from profits does not hold water. The average net profit of an agency in Rafshoon's class is about 1 percent, according to figures supplied by Paster of the advertising association. If Rafshoon's profit margin was 1 percent of his firm's published 1976 total billings of $7 million, the 1976 net profits would be $70,000 and the credit to the Carter campaign committees would have represented a total of nine years' net profits. If Rafshoon's version is correct, the money for credit extended by the agency to the campaign committee would have had to come almost exclusively from suppliers. One of the agency's major suppliers, however, Williams Printing of Atlanta, which billed that agency a total of approximately $100,000 for campaign committee work, was always paid within thirty to forty-five days, according to John Pope of the firm. Don Sharp, Rafshoon's print production manager in 1976, said to me: "There were no long-term extensions of credit by suppliers." Pat Winstead, production coordinator at the Magus Corporation in Philadelphia, which produced the Carter campaign's television ads, told me that Rafshoon's corporation usually paid within thirty to sixty days.

Given that most of the ad money was spent for radio and TV time, for which stations require cash in advance, it is difficult to understand how credit from suppliers would have provided the agency with the money it needed to pay the broadcasters—unless the suppliers were supplying money (instead of materials). Rafshoon's explanation that the money for the credit came from suppliers and profits appears untenable on both counts. When asked whether the credit extended by his corporation to the Carter campaign committee was an illegal corporate campaign contribution in light of standard industry practice of demanding cash in advance from political campaigns, Rafshoon told me: "I do things differently."

Where did Rafshoon get the money? In April 1976, when the campaign committee's debt to Rafshoon's agency increased to $174,000, Bert Lance came to the rescue. On April 19, 1976, according to a National Bank of Georgia special report and a financing statement, the bank extended Rafshoon's firm a credit line of $155,000 secured by the agency's accounts receivable (including the receivables from the insolvent campaign committee). When asked where he would have obtained the money to extend credit to the Carter campaign without the loan, Rafshoon said: "I don't know."

But the Georgia bank only provided a credit line to the agency of $155,000 (and actually loaned less than that, according to Rafshoon's attorney, Stack). That leaves $490,000 or more unaccounted for (since the total credit to the Carter campaign committee was $645,997)—about the same amount of money that the Justice Department allegedly discovered was transferred from the Carter's Warehouse accounts to Billy Carter's personal accounts in the National Bank and then withdrawn in the month before the Pennsylvania primary.

If Rafshoon's agency did obtain its money from Billy Carter, the cash may have moved in this way: Bert Lance's National Bank of Georgia extended a loan to Carter's Warehouse specifically for the purchase of peanuts to be shelled. A condition of this loan was that receipts from the sale of these shelled peanuts would be used to pay back the bank's loan. However, Billy Carter failed to apply the receipts from the shelled peanuts to paying off these loans, instead transferring around $500,000 from the warehouse accounts at the National Bank to his own accounts at the bank. He then gave this money to Rafshoon, who in turn used it to pay Jimmy Carter's advertising bills. In May and June 1976, after Carter won the Pennsylvania primary and private contributions, bank loans and Federal matching funds started flowing in, the campaign committee reimbursed Rafshoon's agency. Rafshoon then returned the money to Billy Carter, who redeposited it in his own accounts, and then transferred it to Carter's Warehouse accounts. Then, when there were sufficient funds in the warehouse accounts to cover the checks, Billy Carter repaid the now delinquent National Bank of Georgia loan with warehouse checks. Thus he made up for the $500,000 in checks Jimmy Hayes had said that Billy Carter refused to sign in March and April.

If such a manipulation of funds knowingly took place, Bert Lance, as an officer of the bank, could be charged with a misapplication of the bank's funds, a felony under 18 United States Code section 6 6. Billy Carter—and perhaps Jimmy and Lillian Carter—might similarly have committed a Federal felony by making a false loan application to an F.D.I.C. bank in violation of 18 U.S.C. 1014. If Robert Lipshutz and Gerald Rafshoon were aware that the National Bank of Georgia's money was being used to pay for the Carter campaign's TV, radio and newspaper ads, then they may have violated Federal election law by participating in which would appear to be an illegal corporate campaign contribution from the bank to the campaign in violation of 2 U.S.C. 441b. Further, everyone involved in this scheme might be charged with conspiracy to violate Federal law under 18 U.S.C. 371.

On February 11, 1979, Billy Carter was scheduled to appear on the CBS news program Face the Nation. The appearance was abruptly canceled by Billy Carter's attorney the day before, after Rafshoon's secretary called CBS to say that Rafshoon was "quite upset" and "disappointed" that Billy Carter was to appear. Rafshoon refused to discuss his actions.

On February 23, Billy Carter entered an Americus, Ga., hospital for treatment of bronchitis. On March 6, Billy Carter entered a military facility in California for alcoholism treatment which lasted seven weeks. Coincidently or otherwise, this gave Billy Carter a convenient excuse for avoiding Federal investigators as the three-year statute of limitations on prosecutions of criminal violations of Federal election law during the 1976 spring primaries was about to run out. Then, on or about March 1, 1979, the President, acting through his trustee, Charles Kirbo, paid his brother about $314,000 for some land in Plains, Ga. The net profit to Billy Carter on the sale was about $190,000, according to Don Carter, the Gainesville, Ga., realtor who handled the sale.

In a previously unreported development, Billy Carter on April 25, 1979, as soon as he left the California institution, was briefed in the White House by President Carter in the presence of Presidential aide Hamilton Jordan on the Carter's Warehouse-National Bank of Georgia arrangement in case Curran subpoenaed Billy Carter. My source also said Billy Carter testified before an Atlanta Federal grand jury on May 9, 1979.

THE FRIENDLY INVESTIGATION

While the press has shown considerable interest in the questionable transactions surrounding Carter's campaign financing, they do not have the legal authority (i.e., subpoena power) to get the necessary documents. Meanwhile, the actions of the Federal agencies charged with enforcing the campaign laws have been chaarcterized by perplexing ineptitude and delay.

Federal Election Commission audits of President Ford's primary and general campaigns were released in March 1978. The Carter primary audit was not released until April 2, 1979. The delay in the release of the Carter audit apparently resulted from inadequacies in the audit and dissatisfaction by the audit staff and the F.E.C. General Counsel's Office with Carter campaign documentation. Also, the F.E.C. allowed the campaign committee months to produce requested documents. And the F.E.C. General Counsel's Office delayed the necessary legal work.

F.E.C. General Counsel William Oldaker is charged with determining whether the Carter campaign falsified and doctored campaign books or otherwise violated the campaign laws. (Incidentally, accordings to The Rocky Mountain News, Oldaker, then an Equal Employment Opportunity Commission regional attorney in Denver, was demoted on July 27, 1973, and suspended for nine weeks for falsifying records.)

The Carter campaign committee knew that the F.E.C. would begin an audit of its books on November 15, 1976. On November 10, 1976, the committee filed amended reports covering the period from January 1, 1975, to September 30, 1976. The F.E.C. audit staff had done its pre-audit preparation by reviewing the original reports for about one month on the assumption that it would be auditing the original reports. On November 10, the audit supervisors held a meeting to decide whether to reschedule the audit to permit proper pre-audit study of the amended reports or to go ahead as planned. Because staff time had already been committed, the decision was made to audit the amended reports with the full knowledge that, as a meeting minutes state, there might be an "audit of 'doctored' reports."

F.E.C. Assistant General Counsel Kenneth Gross was in charge of deciding legal questions facing the audit staff. One such legal question was whether the documentation of the Rafshoon corporation's credit extension to the campaign committee was adequate. Gross worked on the Carter campaign and was associated with campaign treasurer Robert Lipshutz's law firm upon his graduation from law school in 1975. Thus, Gross was reviewing the propriety of a campaign in which he worked and whose finances were controlled by his first employer after law school. When the Rafshoon question was presented to Gross, he instructed the audit staff to drop the matter, according to a source. F.E.C. chairman Joan Aikens said that the F.E.C. audit staff did not review the Rafshoon corporation's books because there was no reason to do so (i.e., campaign committee documentation of the campaign's dealings with the advertising agency was deemed to be adequate). Aikens also said that the F.E.C. did not review the books of Carter's Warehouse or Billy Carter. F.E.C.'s William Oldaker said that he told Gross not to work on the Carter audit. When asked whether Gross addressed the legal issue of the sufficiency of the campaign committee documentation of the Rafshoon account payable, Oldaker said he was not sure. Thus, no subpoena of the books of the major account payable of the campaign was deemed necessary. Interestingly enough, there is no mention of Gross in the voluminous audit papers released by the F.E.C. Lipshutz and Powell did not return telephone calls placed to discuss their knowledge and the President's knowledge of Gross's role in the F.E.C. audit of Carter campaign finances. F.E.C. spokesman Fred Eiland, speaking for Gross, said Gross did not address legal issues related to the Rafshoon credit.

As early as June 1977, some would argue, it was obvious from President and Mrs. Carter's Federal income tax returns why Jimmy and Billy Carter should have been called before a Federal grand jury and what they should have been asked. Yet the Justice Department waited until October 25, 1978, to call just Billy Carter before the Atlanta Federal grand jury investigating Bert Lance. When asked on November 22, 1978, about the delay, Walter Barnes, a department attorney on the Lance team, said: "No comment. There are many things I would like to say but the explanations will have to wait until after an indictment. I might not be able to speak even then."

There is an explanation, however. The effective-date section of the Special Prosecutor provisions of the Ethics in Government Act of 1978 allowed President Carter to prevent the legislation from applying to the investigation of his finances until April 24, 1979. The Special Prosecutor bill provided that the legislation did not cover information "related to a matter which has been presented to a grand jury" and which is "received by the Attorney General within 180 days of the date of enactment of this Act."

The bill passed Congress on October 12, 1978. Sometime in the week of October 16–20, 1978, Billy Carter was subpoenaed, according to a Justice Department source. Not until the day after Billy Carter claimed his Fifth Amendment right not to incriminate himself in front of the grand jury did President Carter sign the bill. Thus, he delayed the application of the Special Prosecutor legislation to the investigation of his finances for six months.

Philip Heymann told this reporter that the Carter loans first came to his attention on August 13, 1978, as a result of the Lance investigation. When asked why it took so long to inquire into the loans, Heymann said he did not know. He cited the mammoth nature of the Lance investigation as a possible cause for the delay. Heymann said he was unaware that there had been press attention to the loans as early as November 1976.

CONCLUSION

Although serious questions had been raised as early as October 19, 1978 (on the ABC News report), the Justice Department's investigation of the numerous questionable transactions surrounding President Carter's personal and campaign finances did not really move into high gear until January 1979—after William Safire's question-raising columns—when Heymann ordered the inspection of Carter's Warehouse finances.

Because of the delay in appointing Special Counsel Paul Curran, President Carter and all his men are at the point where the three-year statute of limitations on prosecutions of criminal violations of the Federal election law in the 1976 primaries is about to run out. Prosecutions for banking law felonies, however, have a five-year statute of limitations and are still possible.

The responsibility is now Curran's to conduct a thorough investigation, and find the answers to the following questions, among others:

(1) Did the Internal Revenue Service properly audit President and Mrs. Carter's 1975 and 1976 Federal income tax returns? In particular, did the I.R.S. find proof (i.e., canceled checks) that all of the $1 million investment on which the Carters claimed an investment-tax credit was in fact spent on qualified business investments?

(2) What did Billy Carter do with the money he allegedly transferred from Carter's Warehouse accounts to his own accounts in the National Bank of Georgia and then withdrew before the Pennsylvania primary?

(3) Where did the advertising agency then owned by Gerald Rafshoon obtain the money it used to extend credit of $645,997 to the Carter campaign committee, including large sums for radio and TV time and newspaper space?

(4) When campaign treasurer Robert Lipshutz authorized repayment to Rafshoon's agency for the credit it had extended, did he know that Rafshoon may have intended to use this money to repay the Carter's Warehouse loan?

(5) Did Lipshutz and/or President Carter know where Rafshoon obtained the money that made the advertising credit possible?

(6) Did Lance know that the sheller-warehouse construction loan by his bank was dubious? Did the construction loan or the peanut loan constitute a misapplication of bank funds?

(7) Did Billy Carter withdraw money from Carter's Warehouse accounts just before the Pennsylvania primary instead of repaying the bank's peanut loan, and did Lance know about it?

(8) What was Gross's role in the F.E.C. audit of the Carter campaign committee books? If the role was improper, what was Lipshutz's role in placing Gross in the key F.E.C. position to control the Carter audit?

(9) What role was played in this extraordinary sequence of events by Attorney General Griffin Bell and his former law partner, Charles Kirbo?

(10) Did the March 1, 1979, payment of about $314,000 to Billy Carter by his brother's trustee (Kirbo) constitute an attempt to buy Billy Carter's silence and thus to obstruct justice?

As the evidence presented in this article strongly suggests, these questions have reached the flash point of scandal. Even worse, perhaps, than the campaign financial irregularities themselves, is the possibility that with the complicity of close Presidential associates and complacent Federal investigatory agencies, what we have is yet another cover-up.

The evidence presented here goes deeper than what the press has vaguely and too glibly dubbed "Peanutgate." What it appears to constitute is nothing less than a prima facie case that funds from Bert Lance's bank were illegally used in the Carter campaign. If he had lost, candidate Carter could have expected that the alleged irregularities would have vanished in the post-election mists. If elected President, however, he could expect to assume control over the investigatory apparatus of the Government and control its inquiries. Can this really have happened so soon after Watergate?

Now, an independent Special Counsel has been appointed who is charged with uncovering the truth. Although hobbled by an inability to offer potential witnesses immunity from prosecution without Justice Department approval, Paul Curran has been invested with a public trust to seek the answers to the questions that the evidence insistently raises. One hopes he is able to provide them sooner rather than later.

On the night of December 12, 1974, when he announced his Presidential candidacy, Gov. Jimmy Carter said: "There are a lot of things I would not do for an office or honor in the world." Now it is vital that the people know just what he did do in pursuit of the Presidency of the United States.

THE BANK LOAN

The $1 million in loans made by the National Bank of Georgia to Carter's Warehouse made little or no business sense.

According to National Bank of Georgia executive vice president William Green, his bank "will not loan money to purchase an asset when cash flow from the asset will not amortize (repay) the loan unless there are other adequate sources of cash." When the loan was made there were no apparent adequate sources of cash available, aside from Carter's Warehouse income. If the loans were handled normally, the loan officer should have been able to demonstrate that Carter's Warehouse would repay the loan before recommending loan approval.

The Carter warehouse's two sources of profits were from shelling peanuts and nonshelling operations (e.g., rental of warehouse space and sales of farm supplies).

The annual profits earned by Carter's

Warehouse from nonshelling operations in 1970–74 were in the range of $72,000 to $81,200, according to Carter's Federal income tax returns. One main source of these profits was rental of warehouse space. However, starting in 1975 when Carter's Warehouse purchased the sheller, the warehouse needed the space for itself and could not rent it. Thus, profits from nonshelling operations could be expected to be significantly reduced in 1975 and later years. Further, the reduced profits would have to be used to support the partners and their families and would not be available to repay the loan.

The construction would have made business sense only if the expected shelling profits substantially exceeded the annual payments due on the loan. But expected shelling profits were less than the loan payments.

The annual principal due on the loan was $144,000. The initial rate on the loan was 10.85 percent, prime plus 3.6 percent. The rate was later reduced, for some publicly unknown reason, to prime plus 1.5 percent. National Bank of Georgia executive vice president Gerald Sullivan said a reasonable rate on a "speculative $1 million warehouse loan" was prime plus 4 percent.

Carter's Warehouse would thus be paying $108,000 annual interest before it began reducing the principal. The family business needed at least $250,000 per year ($144,000 for principal and, say, $106,000 for interest) just to repay the loan.

Executives at three different commercial peanut shellers in southwest Georgia independently confirmed that the expected net pre-tax shelling profit per ton is $10.

At $10 per ton, the firm had to shell 25,000 tons annually to service the loan.

But, according to Tony Leroy, who manages Carter's Warehouse for its lessee, Gold-Kist Inc., the sheller shells only 600 tons a week "with luck." Assuming a normal twenty-six-week shelling season, the sheller could shell only 15,600 tons. In the 1975 crop year, Carter's Warehouse purchased and presumably shelled 6,700 tons according to Department of Agriculture records obtained under the Freedom of Information Act. In 1976, the Carter warehouse shelled 10,000 tons. In both 1977 and 1978, Gold-Kist shelled 14,000 tons. Further, the Carters did not have the money to purchase 25,000 tons.

In 1975, when 25,000 tons cost $9.8 million, Carter's Warehouse only had a $3 million line of credit and spent around $2.8 million for peanuts. In 1976, when 25,000 tons cost $10.3 million, the business had a $9 million credit line and spent $4.4 million for peanuts.

In short, Carter's Warehouse could not repay the loan from profits.

Mr. President, just to make myself clear on this issue, I have nothing against Mr. Reiche. I hope he is a good, solid Republican who would make a good member of the Federal Elections Commission. I have no desire to cause any disdain for Mr. Reiche or to cause him any pain here on the floor of the U.S. Senate. But I am concerned about the Federal Election Commission, about keeping it with its balance of Republicans and Democrats so that neither side has an advantage over the other side so that all things for all intents and purposes can be fair; also in having intelligent people on the Commission so that when bipartisan issues do arise they will be resolved in the most intelligent of all fashions.

I am also intensely interested in making sure that our minority leader realizes that we support him as minority leader and that we have a great deal of respect, fondness and admiration for his leadership, and a willingness to follow him as a leader on the Republican side of the U.S. Senate.

He is one of my dear friends. He knows it, I know it, and nothing that happens here is going to change that friendship. Nor do I believe that anything that happens here will change his ability to run for President of the United States, to make a good run at it, and to do the best he can.

But I am concerned that when a majority of the Republican Senators in the U.S. Senate are basically against this nomination, and our colleagues on the other side understand that they should support him, understand that things change, understand that I personally would be very upset if a majority of the Republicans are overridden—I understand the position that the distinguished minority leader is in, and the distinguished minority leader of the House; the minority leaders of both the Senate and the House, for that matter, are essentially standing up for the same things.

I understand these technical and difficult political situations we occasionally find ourselves in. I think they understand why some of us feel strongly about this issue, and the way the President has approached this issue, in a most partisan and a most didactic way, and I think in a very improper way, especially in the light of the historical record surrounding President Gerald Ford.

President Ford did not bat an eye. He went right to the Democrats and said, "Look, who do you want? We will appoint them."

The thing that most offends me about this appointment—with nothing I say meant to be detrimental to these gentlemen personally—is that we have a President of the United States, with an appointment that should be clearly partisan, demanding that these persons have certain ideological beliefs and standards, on the basis of which their nomination should be carried. I just resent that, especially when our party's President of the United States showed such respect and such feeling for our colleagues in the Senate on the other side of the floor.

I think that this is a time for the President to have the same type of respect as President Ford showed for the Democrats. I think the same type of respect ought to be shown to us as Republicans. I would hope that in the future we do not get into these little battles, but can view these appointments in a manner befitting both parties, so that we do not have to get into hassles like this on the floor of the U.S. Senate. I am sorry we are here on the floor of the Senate with it. I do not like to be here. I do not like to fight this kind of battle. As a matter of fact, I do not like to see the problems arise to begin with, because there is really no reason for them to arise.

But unfortunately, because of what I guess one can call extraneous circumstances, this problem is here. We have to live with it, and I suppose wait and see what happens.

Before I finish, Mr. President, I would like to pay my respects to my friend and colleague from New Hampshire. He sits on the Committee on Labor and Human Resources with me, and takes an active role there. Since he has come to the Senate, he has not sat back and waited to mature; he has gotten in there and tried to learn as fast as he can and participate in the best manner that he can. I think he is representing his State very well, and I personally am very proud of him, and know that many in his State are very proud of him as well.

As I say, I think he stands for something. He stands for many, many good and solid principles of America which have made America great. Above all, he stands for the enhancement of the private sector over the enhancement of the public sector. He stands for reducing taxes, and of course for solving some of these problems I have heretofore mentioned in my remarks here today.

So I have not only boundless admiration and warm feelings for my colleague from New Hampshire, but a deep respect for him as well. I think he needs to know that. That is one reason why I am here today, and one reason why I am willing to back him in his very heartfelt belief that Mr. Reiche's nomination is a very improper one under the circumstances, keeping in mind that these are tough debates and tough battles, and they are not easy for anyone.

Mr. President, I ask unanimous consent that my speech not be considered a second speech under the rules, and I yield back the floor to the Senator from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I thank the Senator from Utah for his kind words about me and my State, and for his participation in this debate.

Senator HATCH, in fact about this time a year ago, was a source of great inspiration to me, because he, like me, politically speaking came from nowhere. He was unknown. No one gave him a chance of winning, and yet he did win. And his victory, which preceded mine, was, as I say, a very great inspiration to me. I am proud that I was able to emulate his stunning victory, and I am even more proud that in large measure my upset victory was made possible by his campaigning on my behalf in my State of New Hampshire. It added immeasurable credibility to my candidacy, and I am greatly indebted to Senator HATCH for that assistance in my campaign.

Mr. HATCH. I thank my good friend from New Hampshire.

Mr. HUMPHREY. Like Senator HATCH, I do not wish to cause anyone involved in this any pain, and certainly not the nominee. I have never impugned his integrity or honor, or his character. I do not question that he is a good man, and that he has good intentions. I question simply whether he is the right man for this particular, peculiar job.

It is difficult to raise this issue on the Senate floor because it is a party issue. I regret that it has come to this pass, but it has, and we must act accordingly.

Before I directly address the matter of my reservations about the nominee, Mr. President, I wish to continue reading into the Record the document the reading of which I interrupted some time ago. I will resume where I left off:

> We keep detailed minutes of both public and executive sessions of the Commission. The minutes of the public sessions are available for examination and reproduction to anyone. I have asked, in accordance with your request, that a copy of such public minutes for the last three years be provided to you. The minutes of the executive sessions, which relate largely to investigative matters, litigation and personnel, are not, for obvious reasons, made available under New Jersey law for inspection by the public.

Mr. President, it happens that the Republican Party—my party—has a very definite and clear position on the issue of public financing of congressional elections. That policy, the official policy, is enunciated as a resolution of the Republican National Committee, adopted at a meeting of the Republican National Committee, here in Washington, D.C., on January 24, 1979, which states as follows:

> Proposed legislation calling for Federal financing of congressional elections is not in the interests of America's free and open electoral process.
>
> Such financing contradicts the entire spirit of competitive elections in that it gives undue advantages to incumbents as opposed to challengers. In addition, the right of all Americans to participate freely in the electoral process by financially supporting the candidates of their choice must not be denied. The Republican National Committee opposes the Federal financing of congressional elections and calls upon all Republican-elected officials to join in opposition to this ill-advised legislation.

Mr. President, in many places in the Record, in many different ways, Mr. Reiche, the nominee, has been asked his views on this issue. At times he replies that he is not philosophically opposed to it. In other places he replies that he has not made up his mind. Frankly, it has been difficult to pin him down on this issue. But I believe that our distinguished colleague, Senator Packwood, of Oregon, did finally get a definitive reply in an interview which he conducted with the nominee some 2 weeks ago, approximately, and which, with the permission of Mr. Reiche, was taped. A transcript of that tape has been made and Senator Packwood has authorized me to use it in any way I choose.

I would like to read a very brief excerpt from it because I think this finally gives us the answer to the question of whether the nominee embraces his party's position on the one issue which is perhaps more cardinal than any other bearing on the electoral process, namely, the question of whether taxpayer funding should be extended to congressional elections.

Senator Packwood asked this question:

> Let me ask you this: If in case I have come to the conclusion that I want to make sure that I support somebody for that position who is opposed to public financing of congressional elections, should I vote for you or against you?
>
> Mr. Reiche. If you come to that conclusion, you should vote against me.

Not only have we that clear statement from the nominee with regard to the issue of taxpayer financing of elections; it happens also that the New Jersey Election Law Enforcement Commission, of which Mr. Reiche is and has been the chairman for some 6 years, authorized the executive director of that commission, Mr. Louis Thurston, to journey to Washington at the expense of the taxpayers of New Jersey, to testify before a committee of the House of Representatives in favor of legislation that would extend the taxpayer financing to congressional elections. Indeed, the very first words out of the mouth of Mr. Thurston were these:

> I am in favor of the concept of using public funds for elections and extending its application to congressional elections.

I might add that this was a prepared statement, Mr. President. It appears on the letterhead of the State of New Jersey Election Law Enforcement Commission.

I wonder how many times Mr. Thurston has testified before Congress. Surely, it is not such old hat to him that he never mentioned to his chairman that he was coming down, and never mentioned to the chairman the kind of things he would advocate. His statement is on the letterhead of the New Jersey Election Law Enforcement Commission. The chairman of the commission, Mr. Reiche, the nominee, admits that Mr. Thurston was here under the authorization of the commission, that they paid his expenses. Mr. Reiche says that they did this because they like to share their experience with others, referring, of course, to the program of taxpayer financing of gubernatorial campaigns in that State.

Mr. President, lobbying or testifying in favor of extending public financing to congressional elections is not sharing experience because they have not had that experience in New Jersey. That is called advocacy. It is called advocacy with taxpayer dollars, and it worries me that Mr. Reiche permitted that, authorized that, and knew about it beforehand. I wonder what kind of actions he will permit of his staff members if confirmed to this position on the FEC. It had to be a momentous occasion for Mr. Thurston to testify before Congress. Surely he talked about it before the commission and they knew what he was going to do. I think Mr. Reiche, as chairman, must take responsibility for the tenor of the testimony.

Mr. Reiche has been questioned by me and others regarding the very important subject of his views, vital to the subject of his views, on the expansion of powers for the Federal Election Commission. In my opinion, I think this would be borne out by any reading of the minutes of the hearing of the two sets of questions which I submitted to him and to which he responded, and by the transcript of the interview of Mr. Reiche by Senator Packwood.

I think the reading of those documents will bear out that the nominee was evasive in response to the question of to what extent he would like to expand the powers of the FEC or see them expanded. I think it is fair to say that the nominee was evasive. Frequently he pled ignorance, he pled lack of experience. I do not think that is a very good answer because to my way of thinking one should come to this post with some clearly defined ideas about the role of the FEC and about how much larger a role we want to see it play in our electoral process.

We do not want to see a Commissioner representing my party's interest who is learning the job on the job and who is formulating some deep philosophical opinions after he gets there or while he is there. I want a Commissioner to take his seat already having given very serious and deep thought about the dangers to our freedoms posed by placing into the hands of the Government control over the electoral process, which process, as I have stated, is the only check short of revolution which free citizens have over their Government.

It seems to me that giving greater powers to the FEC is like putting the fox in charge of the chickens.

As my distinguished colleague from Utah has pointed out, the party of our opposite number in this body has done very well in filling its three seats on the Commission with very shrewd, knowledgeable, and highly partisan members. At some time in the future a Republican seat will become vacant. A nominee has been put forward to fill that seat by the President, and now the question is whether or not the Senate will confirm that nominee. A substantial number of those on this side, despite whatever feelings we may have for the nominee in other respects, do not think that he is the right man for this particular job. I join with Senator Hatch in urging my colleagues on the other side of the aisle to forbear, as they have done out of fairness and decency in the past, and allow us of this side to choose which nominee will serve our party in that seat which is to be vacated.

Mr. President, there is no emergency about filling this seat for which Mr. Reiche has been nominated. There are, as the Chair knows, three Democratic and three Republican members of the Commission. There are three Democratic members sitting today; there are three Republican members sitting today. Mr. Vernon Thomson, whose seat will be vacated by virtue of the expiration of his term, is willing, even anxious, to continue serving and may do so under law. The statute states that a Commissioner may remain in his seat until his nominee is confirmed by the Senate. So we have no emergency. There is no rush. Our side is represented fully, as is the other side.

There has been some misinformation about Mr. Thomson's willingness to go on serving. Some have said that they have been told by Mr. Thomson that he is anxious to leave. The implication, of course, is that we should hurry up and confirm a successor.

That is not correct. Mr. Thomson has told me verbally and even in writing that he is willing to stay on. I want to read into the Record a letter from him to me, in response to an inquiry I made dated July 18, 1979:

> Dear Senator Humphrey: With regard to your inquiry, this will indicate my willingness and desire to continue serving on the Federal Election Commission.
>
> I own my home in Virginia. I reside in Virginia. My wife is deceased. My children live in this area. I intend to continue to reside in the Washington area.
>
> I have served on the Commission since its inception; first as the choice of the Republican Leadership of the House of Representatives, and after *Buckley* vs *Valeo* through the appointment of President Ford. During the Presidential election year of 1976 and the Commission's initial regulations I served as Chairman of the Commission.
>
> I enjoy my service on the Commission. I am available and willing to continue my service on the Commission, and will be available for such service indefinitely.
>
> Vernon W. Thomson,
> *Commissioner.*

Mr. President, the nomination we are considering today does not have the support of the chairman of the Republican National Committee. The nomination which we are considering today does not have the support of the chairman of the Republican Party in New Jersey, the nominee's State of residence. I think that is very significant.

We on this side have more than our usual responsibility in considering this nomination, more than the usual responsibility we have in considering an executive nomination, because we have an obligation, not only to the citizens of this country but also to our party as well, to see that we are represented on the FEC by someone who closely embraces the Republican point of view.

As I have stated, if there is one cardinal official policy of the Republican Party that bears on the electoral process, it is the official Republican policy which opposes extending taxpayer funding to congressional campaigns. The nominee does not embrace that cardinal Republican policy. If he does not begin from the point of view of the Republican Party as expressed by its official resolutions, then how can we be certain that in other areas not clearly enunciated, he will faithfully represent the views of the Republican Party?

That is the essential basis of my opposition to this nominee. I think we are entitled on this side, as our distinguished colleagues are on the other side, I think that my party across this Nation, as the party of the other side across this Nation, is entitled to have the kind of representation it wants on the FEC.

I must say that I regret exceedingly what appears to be the intention of the present administration, which is not, as everyone knows, in the hands of my party, to force on my party someone who does not clearly embrace the cardinal Republican position of opposing taxpayer funding of congressional campaigns.

I think there are strong parallels, as Senator Hatch pointed out, between the attempt of the present administration to force on our party Mr. Zagoria and his views, which were not closely that of the Republican party—at least, it was alleged in those days—and the attempt of the President to force this nominee on our party. The nominee admits unequivocally that he does not embrace that cardinal policy to which I have alluded several times.

Mr. President, I want to read some comments made jointly by the minority leader in the House and the minority leader in the Senate regarding the Zagoria affair, some 2 years or so ago. As is known, our party, under the skillful leadership of our minority leader, successfully avoided being forced to accept a nominee who did not enjoy sufficient support in our party.

Our leaders said at that time that the previous attempt to force on our party someone who did not clearly embrace important official Republican views, "the former attempt breaches the spirit of the law."

They pointed out that the Republican member of the Election Commission "plays a unique partisan role"—partisan role—"that should reflect the general consensus of the minority party's views."

They said:

> While certainly we, too, believe that a nominee should be sympathetic to the aims of the Commission itself, and possibly even with the nature and type of Federal disclosure and reports now contemplated by the act, the whole issue of public financing, of Congressional races in particular, is still very much a subject of National debate.

They said:

> Your implicit rejection of our initial choice for this vital post apparently reflected your decision that our candidates' views be those of a Democrat wearing a Republican label.

They said, finally:

> One may seriously ask the question whether it serves any purpose at all to have bi-partisan commissions if the membership is to be stacked to accommodate only the view of the White House and the Majority party in Congress.

Speaking of the President's attempt to force on us a candidate who did not enjoy sufficient support in our party, they said:

> Your action sadly appears to be an evasion of legislative intent and another step on the road to the imposition of one party rule.

Our distinguished minority leader waxed eloquent on the subject that was at the center of the controversy 2 years ago, as it is at the center today, when he said, during the debate on the FEC itself enacting legislation a couple of years previous. He said:

> I think there is something politically incestuous about the Government financing and, I believe, inevitably then regulating, the day to day procedures by which the Government is selected. I think it is extraordinarily important that the Government not control the machinery by which the public expresses the range of its desires, demands, and dissent.

Mr. President, there can be no question whatever where the Republican Party stands on this vital issue. Yet, the nominee we are asked to confirm does not find himself in agreement with that position.

Indeed, Mr. President, his views, unfortunately, on this particular topic, taxpayer financing of campaigns, are much closer to that of the other party.

I am sorry to have to say that, but it is true. Our party is on record by official resolution of the Republican National Committee as opposing the extension of taxpayer financing to congressional elections.

A plank in the party of the Democrat program calls for the extension of taxpayer financing to congressional elections.

It is alarming to me, to say the least, that we are being asked by a Democrat President to confirm a Republican whose duty will, in part, be to represent our party on the Federal Election Commission, a nominee who does not embrace the official Republican policy on the cardinal question that bears on the electoral process, but whose position is, instead, much closer to the official position of the other party.

Mr. President, how can we expect to be adequately represented, those of us on this side, by this man who, whatever his good intentions might be, has shown himself by his own statements to be not the man for this particular job.

This is not just another job in the bureaucracy. It is not just another commission. It is not just a routine nomination.

It is difficult to deal with this on the floor because it is a very partisan issue.

I am afraid that what makes the nominee something less than attractive to many of us on this side will make him attractive to the other side, because our parties have totally different points of view on this particular question.

It is regrettable the nomination has reached the floor, because, for the reasons the nominee is unattractive to many of us, he is attractive to those in the other party.

But I am confident I need not worry about that aspect. I am confident that the appeal of Senator Hatch, myself, and others who will follow me, to our Democrat colleagues, to their sense of fairness and equity, even to their concerns about the future status of their own party, as a majority party or a minority party, will not fall on deaf ears. I trust they will allow us, as they always have in the past, to decide this question ourselves.

Mr. President, in a conversation I had with Senator Hatfield some time ago, he expressed his wish to be heard, to rebut the remarks in opposition to Mr. Reiche, and when he returns to the floor I shall certainly give up the floor and give him the opportunity to do so.

In the meantime, I wish to read into the Record several documents which are pertinent to the consideration of this nominee.

Mr. President, as I have stated, I was graciously permitted by the Rules Committee to put two sets of questions before the nominee.

I am very grateful for that opportunity, incidentally. The chairman of the committee (Mr. Pell) and the ranking minority member (Mr. Hatfield) have been more than cooperative, more than fair, in permitting me to put questions to the nominee.

I am not a member of the Rules Committee, but they have been especially gracious to me. I want to say publicly how grateful I am to them.

The cover letter on this second set of questions is dated June 7, 1979:

> Dear Senator Humphrey: Enclosed herewith are my responses to your recent series of questions. I trust this will provide sufficient information to assist you in your deliberations.
>
> Sincerely,
>
> Frank P. Reiche.

Continuing:

> I wish to acknowledge receipt of your letter dated June 1, 1979, in which you pose additional questions related to my proposed nomination to the Federal Election Commission (FEC). Contrary to your impression that I favor "increasing bureaucratic intrusion into the election process", such is not the case. I do favor streamlining our campaign finance disclosure laws in an effort to encourage, and not discourage, the participation of as many Americans as possible in our electoral process.
>
> You have characterized my answers to your prior questions as "unresponsive" which, if true, would be a result I certainly did not intend. In preparing those answers, I consciously sought to be directly responsive to you. It should be noted, however, that many of your questions pertained to practices and policies on the Federal level, and hence represent matters of which I have limited knowledge and on which I am therefore unable to express an opinion at this time.

I will first read my question, Mr. President, and then the nominee's response.

> 1. The New Jersey Election Law Enforcement Commission (ELEC), which you head, has issued a steady stream of legislative recommendations to the New Jersey Legislature. The Federal Election Commission frequently issues advice to the Congress regarding changes in the Federal election laws. Therefore, your answer to me that "I do not anticipate that I would if confirmed, participate in the formulation" of future, major changes in the Federal election laws, appears quite wide of the mark. The Congress does make the laws, but the influence of FEC commissioners can be great, as your New Jersey commission no doubt realizes, from having urged changes so often on the state legislature. Or, is it your intention, if confirmed, never to express your opinion of proposed Federal election law changes, or to issue praise or criticism of the present law?

The response is:

> In expressing the view that I do not anticipate that I would, if confirmed, participate in the formulation of policy in the area of campaign finance disclosure, I was merely attempting to emphasize that responsibility for policy determinations rests with Congress and not with any agency associated with the Executive Branch. Obviously, the experience of the enforcement agencies involved can be helpful to the Legislative Branch in its deliberations. Accordingly, I would be happy, if serving as a member of the Federal Election Commission, to discuss with members of the Legislative Branch my experience as a member of the FEC to the extent that it may bear upon the Legislature's consideration of proposed statutory changes, recognizing that any comments or statements by me would be made for informational or advisory purposes only and that decisions affecting all policy changes are made by the appropriate legislative body (Congress in this instance).
>
> You confirmed your support of a change in the New Jersey law which would bypass the courts and grant your commission wide discretionary powers to void the results of elections if, in the opinion of the commission, an election law violation affected the results of an election. In response to my question as to whether or not you favored application of this idea to Federal elections, you responded that you "have not specifically considered the possible application of a similar provision to Federal elections . . ." I now ask you again to consider the matter and respond in a clearer manner.
>
> With respect to the possible voiding of elections by the New Jersey Election Law Enforcement Commission, apparently my response to a similar question in your prior letter was misunderstood.

Mr. HELMS. Mr. President, I wonder if the distinguished Senator would yield to me, by unanimous consent, with the understanding that he not lose his right to the floor and that when he resumes his speech, it will not be counted as a second speech.

Mr. HUMPHREY. Under those conditions, I am happy to yield.

The PRESIDING OFFICER (Mr. Riegle). Without objection, it is so ordered.

Mr. HELMS. I thank the distinguished Senator from New Hampshire.

Mr. President, first, I commend the Senator from New Hampshire for going into some detail concerning a matter of great importance that may not otherwise be understood by a great many Americans.

The Senator from New Hampshire and the Senator from North Carolina and others are in a sort of adversary position with the distinguished Senator from Oregon (Mr. Hatfield), but not in an unfriendly way, because I respect Mark Hatfield as much as any man serving in the Senate. Nor is it a personal matter directed at the nominee in question. It is a fundamental principle that must be of concern to all Members of the Senate.

The perception of the operation of the Federal Government is vastly important. It is not only a matter of what this Government does. It is a matter of the people understanding what the Government is doing and the perception of the American people.

Throughout the history of this country, the free press has served as an effective watchdog over political abuse, corruption, misfeasance, malfeasance. That is the reason why Thomas Jefferson once commented that he favored a free press above almost everything else.

Mr. President, I am not speaking of the pet crusade of one reporter or one editor or one newspaper. The working press of this country is showing strong skepticism about the ability of the Federal Election Commission to fulfill the task for which it was created.

I am hearing from people not only from my own State but from other States as well, who state the belief that the Federal Election Commission should act as a truly bipartisan election watchdog. By "truly bipartisan," they mean, obviously, that the FEC should broadly represent a cross-section of the political views of the two major political parties.

But what had we had the past couple of years? Newspaper headlines have dubbed the Federal Election Commission "a referee cheerleader," "a sleeping watchdog," "a farce."

One of the Washington newspapers has charged that "plenty is wrong with the FEC." Other headlines I have in my files state "Federal Agency Plays Shabby Game," "FEC Actions Tilted to Favor Big Labor," "Labor's Weapon," "How the FEC Helps Big Labor." And on and on and on.

The question is no more one of whether these charges are true than the fact that the perception exists. That is why it is important to have in positions of authority—not only in terms of the FEC but also in all agencies and departments of the Federal Government—people who take clear, unequivocal stands and who, when partisanship is indicated, practice partisanship.

I recall the late, great Senator Vandenberg and the accolades he properly received because he entered into a bipartisan foreign policy posture.

I have just come from the Foreign Relations Committee, of which I am a member. Witnesses are appearing daily, and have done so for a week or so, in connection with the so-called Strategic Arms Limitation Treaty—SALT II, as it is known.

I stated to the distinguished outgoing U.S. Ambassador to Russia that the American people are concerned about their perception of our Nation in terms of what obviously is a weak posture each and every time there is a confrontation with the Soviet Union.

Our Embassy in Moscow is being bombarded with microwaves by the Soviet Union. What did the U.S. Government do in response to this?

We protested, and the Soviet Union said: "Oh, we are not doing any such thing."

Our Government knew and our Government knows that the Soviets are doing this. They stopped for a week or so, but about 2 weeks ago they resumed. And the matter is just lying there.

The point is that these microwaves are harmful to the health of the U.S. citizens who are employed in our Embassy there. If we do not have the will to act to protect their health, let alone standing up to the Soviets for an obvious violation of all that is decent, then what sort of perceptions are the American people expected to have?

I am not going to offer a lecture on SALT II. That will come another day. But I am speaking of the perception of the American people with respect to their Government.

In connection with this nomination, I am concerned about the perception of the nominee. I offer no criticism of the man's character. I am sure it is good. There is nothing personal in the fact that I questioned his having been nominated.

It is a matter of perception and it is a matter of where he has stood and where he now stands. It is a question of the Federal Election Commission itself and how the FEC is perceived across this country.

I saw an editorial not long ago in the distinguished newspaper in Oklahoma, the Tulsa World. Let me read what the editor of the Tulsa World had to say. This editorial indicates the skepticism and the perception of the FEC.

To present a brief cross-section of the Nation's editorial criticism of the imbalance on the part of the Federal Election Commission, the Tulsa World wrote:

> The Federal Election Commission is supposed to be a sort of referee of Federal election campaigns, enforcing the rules with an even hand against all contestants.
>
> In fact, the F.E.C. has combined the job of referee with that of cheerleader for favored contestants.

Ponder those words, Mr. President. That is the perception of the FEC in the mind of a distinguished newspaper editor of this country.

Do we wonder why there is confusion in the minds of the American people, why there is skepticism, why there is hostility toward the Federal Government? The editor of the Tulsa World went on to say with reference to the FEC:

> For example, the National Education Association violated the law with a so-called "reverse checkoff" scheme in 1974 whereby $400,000 in political contributions was deducted from members' paychecks without advance permission. The FEC at first refused to act although FEC Commissioner Thomas Harris, a longtime labor lawyer and AFL–CIO lobbyist, later admitted he knew all along the "reverse checkoff" was at least of questionable legality.

That is the reason, Mr. President, that so many Americans are raising questions about their Government in terms of public confidence.

The editorial went on to say:

> Finally, on complaint of the National Right to Work Committee, the FEC prosecuted the NEA violation, but ordered no penalty; just a slap on the wrist and an order to refund the illegal deductions to members if they request it.

Let me go back, Mr. President.

The NEA deliberately violated the law and $400.000 in political contributions was involved, $400,000 that had been taken from members' paychecks without their permission.

So the Tulsa World obviously is concerned, and I say to you, Mr. President, that the whole Federal Government was not well served by the perception of the FEC in this one matter.

> But this gentle, boys-will-be-boys approach apparently applies only to unions and similar groups like the NEA.
>
> An outfit called Gun Owners of America believed that it had obtained FEC staff approval for some financial arrangements involving two affiliated committees. The organization was later fined $11,000. When counsel complained that his clients were only doing what they had been advised to do by FEC officials, he was told by an FEC lawyer:
>
> With so many Congressmen and Senators beholden to unions for campaign contributions, it was a simple matter to arrange that key FEC positions be filled with hand-picked union functionaries. Even the head of the FEC is a former union lawyer.
>
> This is how the union-packed commission works:
>
> The nation's largest single union, the National Education Association, automatically and illegally took $400,000 from teachers' paychecks for political contributions without obtaining the teachers' permission.
>
> The FEC refused to take action on this violation of election laws until the National Right To Work Committee obtained a court order forcing its hand.
>
> The NEA was let off with no fine and no penalty. The FEC also issued an advisory opinion (under illegal conditions) excusing candidates, including more than 200 present Congressmen and Senators who accepted illegal contributions from the NEA.
>
> By issuing this statutory advisory opinion, the FEC usurped the right of anyone else to go after those candidates who pocketed the illegal contributions.
>
> That is only one example of the FEC's determination to protect union-supported candidates from penalty of law.
>
> The AFL–CIO was convicted of illegally taking $312,000 from its general treasury and putting it into its political kitty, again after the FEC was prodded into action by the National Right To Work Committee.
>
> It received a meaningless $10.000 fine which was heralded as a $302,000 victory at union headquarters and so delighted the FEC lawyer he chortled, "I'm pleased as punch."
>
> Since the National Right To Work Committee seems the only group with enough guts to stand up to the FEC, it is being punished with multiple lawsuits, tying up committee funds and staff.
>
> The FEC is now seeking in a court order to force the Right to Work Committee to make public the names of past and present members, a clear violation of the privacy of more than two million Americans.
>
> Ironically, it's the same demand of some 12 unions in a multi-union suit against the committee now in its sixth year of litigation. The FEC does the union's work for them.
>
> But good must win this battle even if it means scuttling the FEC.

Across the Nation in Mount Vernon, Wash., the editors of the Scagit Valley Herald joined the protest against a biased Federal Election Commission when they headlined the Commission—"Labor's Weapon."

He went on to write:

> Born in the wake of the Watergate scandal to clean up federal elections, the Federal Election Commission is a rather obscure federal bureaucracy fast on the way to becoming nothing more than a tool of top union officials.
>
> Because its thumb rests on the jugular vein of representative government, the Federal Election Commission (FEC) provides an ideal instrument through which union officials can gain by government fiat that which they can never gain through the voluntary choice of the American people.
>
> With the connivance of union-controlled public officials, key FEC positions are being filled with handpicked union functionaries. Look at some of the FEC's handiwork:
>
> The nation's largest single union, the Nation Education Association (NEA), automatically and illegally takes an estimated $800,000 from teachers' paychecks for political "contributions" without asking the teachers' permission..
>
> The FEC refused to act on the gross violation of election laws until the National Right to Work Committee obtained a court order, prodding the commission to perform its duty. The FEC withheld evidence and argued the weakest possible case.
>
> The result—a federal court verdict against the union with no fine, no penalty. Just a gentle slap on the wrist and an order to set up a fund for teachers to get a refund if they request it.
>
> Another predictable example: The AFL–CIO is convicted of illegally funneling $312,000 from its general treasury into its political war chest. Their penalty: a meaningless $10,000 fine. Following the decision, an AFL–CIO spokesman chortled: "We made $302,000!" The FEC lawyer announced: "I'm pleased as punch!"
>
> Again it was a case of the FEC making a half-hearted effort to enforce the law only after the National Right to Work Committee filed complaints and obtained a court order.
>
> But when it comes to the National Right to Work Committee, a prime target on the "enemies" list of top union officials, actions of the FEC stand out in stark contrast. Consider this:
>
> The FEC has gone to court seeking to force the Right to Work Committee to pay $382,374 in fines, penalties and other charges. Why? Because the FEC claims that the Right to Work Committee does not conform to the FEC definition of the term "members." The catch-22 of this is that the FEC has no definition of "members."
>
> The resulting legal battle has tied up committee funds and staff. More importantly, since October, 1976, it has blocked committee members from participating in the election process through the Right to Work Committee's political action arm, the Employee Rights Campaign Committee.
>
> Remember now, the National Right to Work Committee is one of the organizations in the forefront recently of exposing the so-called labor law "reform" bill for the fraud it was.
>
> Now comes the FEC seeking a court order forcing the Right to Work Committee to make public the names of its past and present members—in effect, to violate the privacy of some two million American citizens and expose them to the vengeful schemes of union officials.
>
> Not surprisingly, this is the very same demand being made by the AFL–CIO and 12 other unions in the multi-union suit against the committee now entering its sixth year of litigation. Clearly, big labor has delegated to the FEC the job of harassing, ham-stringing and, they hope, destroying the National Right to Work Committee.

Now it is one thing for the union officials and Right To Work supporters to clash over each others' political principles and activities. But when the Nation's press points out that an agency with the overwhelming political power of the Federal Election Commission has joined one side of the political sphere, to do battle against another side, something has gone drastically awry.

Furthermore, Federal Election Commission harassment against a person or organization which seeks to call on the Commission to enforce the law in an even-handed manner has a chilling effect on the rights of those who legitimately seek to do so. Organizations such as the National Right To Work Committee have found how exhausting and expensive the FEC can make the exercise of their lawful rights.

What level-headed person is going to go before a biased Federal Election Commission with a complaint against the political campaign abuses of union officials when they know from the experience of others that the Commission will ignore the complaint and, instead, attack the plaintiff?

Mr. President, I understand that the distinguished Senator from Oregon (Mr. HATFIELD) is prepared to make some comments.

I thank the distinguished Senator from New Hampshire for yielding to me.

Mr. HUMPHREY. I thank the Senator from North Carolina for his assistance, and I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is on the nomination.

Mr. HUMPHREY. Mr. President, it was my understanding that the Senator from Oregon wanted to be recognized at this point.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I certainly am happy to have the Senator from North Carolina finish his remarks if he so desires. I am not in a great hurry to assume the floor. But if the Senator is finished, I will be happy to take the floor.

Mr. President, this indeed is not an assignment of my own choosing. Whenever we have had what we might call partisan issues in the Chamber, issues that tend to separate distinctly Democratic interests from Republican interests, it has been my great good fortune to lead the battle for the Republican side.

I refer back to the days when we fought out the issue with great vigor relating to the New Hampshire senatorial contest.

I recall the battle in the Chamber when we raised the question of the seating of Senator HENRY BELLMON of Oklahoma.

I recall vividly when we had the issue of public financing of congressional elections.

I think the record will show that in each and every case these issues emanated from the Rules Committee and, as the ranking member of the Rules Committee it was my responsibility to carry the Republican cause on the floor of the Senate.

I might say I did so with relish, I did so with great joy, and with a great sense of satisfaction that on those three occasions every single vote that was called on the floor, every rollcall, presented a united Republican front. There was not one Republican who veered from the party position. I think that in itself is a remarkable achievement, considering the high degree of individuality we have in both parties, particularly the Republican Party.

So I say to my friend from New Hampshire (Mr. HUMPHREY) that I, like he, as he indicated in his opening comments, do not personalize this issue.

I also thought, for the sake of the record, wanted the Senator from New Hampshire to understand clearly that I have impeccable credentials as a partisan Republican, based upon the issues and matters which have come to this floor in previous years that could be labeled as party or partisan issues.

I do not take a backseat to anyone in terms of establishing and shouting from the housetops my Republicanism, and I do not really think that should be the issue at hand.

I am also a little bit concerned when there are those who tend to lead people to believe that they represent true Republicanism whereas people with various other viewpoints may have less loyalty or less reason to be called Republican.

It seems like my party is constantly engaging in public discussions on this issue when we actually should be mobilizing our efforts to fight the Democrats.

As a consequence, I might just observe that when we engage in this kind of intraparty battle or when we begin to raise these various criteria as to what constitutes a good Republican, we usually end up losing. Massachusetts and New Jersey in the last senatorial campaigns are two examples and, therefore, I think that in order to face this great possibility of a Republican takeover in 1980 this is neither the place nor the time to begin to raise again in the public arenas what we consider to be "the true, faithful, partisan Republican," and what constitutes less than that.

Mr. President, I think it is also very important to note that there is strength in diversity. I would hate to think that everyone believed as I believe on every political issue.

Walter Lippmann once commented that when everyone is thinking alike no one is thinking very much, and I think there is strength and diversity of our party, so that I am proud to say that when I was the Governor of my State and, therefore, the titular head of my party, I had the responsibility to appoint people to vacancies, to fill vacancies of two constitutional offices, the secretary of state of Oregon and the State treasurer for the State of Oregon.

I had the responsibility of appointing a U.S. Senator; I had the responsibility to appoint a superintendent of public instruction, which is a statutory statewide elected office in my State, and in each one of these instances I appointed someone from the conservative wing of my party or from the conservative Democrat Party.

So my liberal brethren would say to me, "Well, I thought you were a good liberal. Why are you appointing all these conservatives to these high-policymaking positions?"

I would say, "I am looking for qualification rather than labels. I am looking for the eminently qualified person rather than what kind of pedigree that person might have in terms of party activity," or this or that or the other thing.

I might say that as a result I think the administration that I headed up gained the respect of Democrats, Republicans, moderates, liberals, and conservatives. In other words, it was a composite of all Oregonians rather than attempting to set up a monolithic structure of people who all believed and thought alike and marched in the same lockstep.

I only wanted to make comment on that because I would like to keep this discussion and debate on the issue, and that is the qualifications of Frank Reiche to be a member of the Federal Election Commission.

We can bring forth the basic support information, as has been indicated by Mr. HUMPHREY, that there are certain well-known Republicans who are in opposition to Mr. Reiche's nomination.

I have here before me for the RECORD today a communication from one of the rank and file vineyard workers in the party, who is the chairman of the Mercer County, N.J., Republican organization, Mr. Robert A. Gladstone. He says:

> Frank Reiche is an extremely well respected Mercer County Republican. He is a credit to our Nation, State, County and Party. Please do your best to effect his confirmation to the position of Commissioner of Federal Election Commission.

This is the home area of Frank Reiche, and I think we all recognize that while a prophet is without honor in his own country, where one's own hometown political leadership and associates are willing to stand up and give testimony to the ability and to the qualifications of a man, I think it is very significant.

I do not know how well Mr. Simon knows Mr. Reiche. I do not know if Bill Simon ever met Mr. Reiche. They may have been good friends for all I know. But I would hate to think that I had to depend upon unanimous Republican support for anything that I represent in my State. I have said frequently that I end up usually in every primary having to fight my own party and then the Democrats in the fall because I never had a free ride in my political life of 29 years of public office.

I think there is also another way in which we can judge a man and that is by our colleagues in the House of Representatives. I have just been handed by a very distinguished Congresswoman, Mrs. MILLICENT FENWICK of New Jersey, who has served the State of New Jersey in the Congress of the United States for a number of years, a document in which she indicates the following:

> DEAR SENATOR HATFIELD: We understand that the nomination of Mr. Frank Reiche to be a member of the Federal Election Commission will come before the Senate in the very near future. As Members of the Congressional Delegation from Mr. Reiche's home state, we hope you will support this well respected individual. We enclose a letter of support from his Republican County Chairman, Mr. Robert Gladstone.
>
> With all good wishes,
>
> Sincerely,

This is signed by four of the five Republican Members of the New Jersey State delegation to the U.S. House of Representatives, the fifth person, Mr. FORSYTHE, being ill and not being able to be present to sign this document, but it does carry the names of Congresswoman MILLICENT FENWICK, Congressman HOLLENBECK, Congressman RINALDO, and Congressman COURTER—four of of the five and, according to verbal information, the fifth Member, Mr. FORSYTHE, would have been happy to sign it as well. But I think this represents a testimony to the acceptance of the status and the stature of Mr. Frank Reiche within the Republican Party of this State.

Frank Reiche has political credentials of his own. He does not have to rely upon other people to give testimony because his own record speaks for itself.

Mr. Reiche was the Republican county committeeman for New Jersey for 8½ years. He was president of the Republican Club of Princeton, N.J., from 1966 to 1968. He served on the Republican Executive Committee of Mercer

County from 1968 to 1972. He was Mercer County campaign coordinator for William Cahill in 1969, who was the Republican candidate for Governor. He was chairman of the Princeton Township Republican County Committee from 1970 to 1972 and, as I have indicated, he certainly has the credentials of a man who has served well in the vineyard of the party and is identified with the Republican causes.

But as I earlier stated, it seems to me that that is not the basis nor should it be the criterion to evaluate a man's credentials. I may be speaking heresy, but I do feel that there are people of the Democratic Party persuasion who have great ability and great credentials to serve on the Federal Elections Commission, or any other commission. I do not think credentials and ability are restricted to one party.

But I would like to turn to another factor, and that is that this matter has been going on and has been under consideration by the Senate for an inordinate length of time. I think one of the problems that the Congress of the United States faces with the American electorate today is that we give the image, at least, of being unable to act on issues and questions, that we are indecisive and dilatory, that we continue to talk, talk, talk and do very little on the action front, when action is called for.

Let me recount for the record the timetable of Mr. Frank Reiche's nomination. I think my colleagues, in all fairness, regardless of their lineup for or against Mr. Reiche, will have to admit that the Senate of the United States is really at a point where we should be making a decision.

On May 1, Mr. Reiche's nomination was submitted by the White House to the Senate for confirmation.

On May 9, the Rules Committee held a hearing on the nomination, and I personally, as a member of the Rules Committee, requested informally 1 week to review the nominations and for responses to written questions. This was before any questions were raised by any other Members of the Senate. I felt that this was of such importance and significance to all the American people, not only candidates and potential candidates but to all the American people, and that this Commission was in such need for well qualified people, that I was not about to see the committee rush in to some decision. So I asked for the week's delay.

Then on May 10, Senator HUMPHREY sent a letter to me outlining some questions that he had that he wanted Mr. Reiche to respond to. Mr. HUMPHREY's letter was dated May 9.

This was a legitimate request, and I saw no problem at all in accommodating the request of Senator HUMPHREY.

Then on May 15 Mr. Reiche responded to two sets of questions, one the set I referred to previously, that had developed out of the first hearing, and the questions submitted by Senator HUMPHREY.

The week of May 21 the Rules Committee delayed action on the nomination until after the Memorial Day recess, again accommodating Mr. HUMPHREY, who asked that this delay occur because he wanted time to review the answers submitted by Mr. Reiche. That did not seem unreasonable, so the nomination was delayed again.

But interestingly, on May 22, Senator HUMPHREY sent out a "Dear Colleague" letter which expressed concern about Mr. Reiche's nomination. I would like to quote one sentence from Mr. HUMPHREY's letter to his dear colleagues:

> I believe Mr. Reiche's views are too close to those of Democrats who sit on the FEC.

He attached to his "Dear Colleague" letter the first responses from Mr. Reiche.

On June 1, Mr. HUMPHREY sent a second set of questions to Mr. Reiche, and on June 4, Senator HUMPHREY called and requested of me a further delay, and submitted a similar request to Senator BAKER, the minority leader of the Senate, who is also a member of the Rules Committee; and on June 5 Senator BAKER asked Senator PELL, who is chairman of our Committee on Rules and Administration, for an additional delay in reporting the nomination. On June 5, the Rules Committee agreed to delay the matter an additional week. I made the motion, as a member of that committee, to delay both nominations for a week in order to give Mr. Reiche time to respond to Senator HUMPHREY's second set of questions.

On June 7, Senator HUMPHREY sent a letter to me suggesting it was time for President Carter to withdraw the Reiche nomination. That was before Mr. Reiche had a chance to respond to the second set of questions, for it was on June 8 that Mr. Reiche responded to the second set of questions.

On June 14, on the Rules Committee's final consideration of the nominations of Mr. Harris and Mr. Reiche, they voted to report the nominations to the floor. That vote was 9 to 0; there was not one dissenting member of the Rules Committee on either side of the aisle who had indicated other than support for Mr. Reiche, either by voting to send his nomination out or by failing to cast a vote.

Mr. President, there have been raised today a number of issues, and I am going to take them up one at a time.

The first issue that has been raised goes back to the Zagoria nomination that was sent up here to the Hill and then withdrawn by President Carter, and Mr. Zagoria became more the victim than anything else of that particular exercise in parliamentary maneuvering. There had been an understanding between Senator BAKER and Representative RHODES with the President of the United States, Mr. Carter, that he, like President Ford before him, would respect Republican precedent and appoint members to the Federal Elections Commission based on the recommendations presented by the leadership of the minority, as Mr. Ford had made his recommendations to the Federal Elections Commission based upon the nominations of the Speaker of the House of Representatives, Mr. O'NEILL, and to my recollection the majority leader of the Senate (Mr. ROBERT C. BYRD).

Mr. Zagoria was not on the list submitted to President Carter by Representative RHODES and Senator BAKER, and the Senator communicated to me his unhappiness with the President's failure to follow through on the understanding. Representative RHODES communicated the same to me, and it seemed appropriate, therefore, to urge the President to reconsider and to submit names from such a list, based on the original agreement.

As a consequence, Mr. Zagoria's name was pulled down and Mr. McGarry's name was pulled down. I will not go into the circumstances surrounding the McGarry nomination; that was another matter entirely. In place, a new name was submitted to the Senate of the United States, that of Mr. Max Friedersdorf, who had been on a list submitted to the President by Senator BAKER and Representative RHODES.

It is interesting to note that Mr. Max Friedersdorf, who had been an employee of the Ford White House and then, after Mr. Ford's defeat, became an executive staff person of the Senate policy committee, which is the Republican policy committee of the Senate and, therefore, obviously had long and very intimate relationships with the Republican Party, and good Republican credentials, was a well-qualified and able man—but, Mr. President, we did not put the litmus paper test to Mr. Friedersdorf that we are now raising in relation to Mr. Reiche. For I have before me a document which is the statement of Mr. Max Lee Friedersdorf, the nominee for Commissioner of the Federal Elections Commission, as his testimony was given before the Rules Committee in our hearings, and I would like to quote just one or two sentences from that hearing, because we hear now, today, the objections raised to Mr. Frank Reiche, solely—I say solely not to ignore these peripheral issues, but the real guts of the issue today is whether or not he is for or against public financing of congressional elections.

All of the other issues which have been raised are, in my opinion, periphery to the real gut issue, to the stance of Mr. Reiche on public financing.

By the way, if I may just digress for a moment, I think it was very interesting that my good friend, the Senator from Utah, was bemoaning the fact the President was making a condition precedent of his nomination of Mr. Zagoria on the fact that Mr. Zagoria would be a supporter of public financing.

This was criticized by my colleague. The President was subjected to severe criticism today on the floor for making a single-issue test of a man's nomination to the Federal Election Commission. And yet we see the opponents of Mr. Reiche today taking that same single issue and reversing it 180 degrees and saying:

> This is the test of whether we will accept the Republican nominee to the Federal Elections Commission, that he is not only opposed to Federal financing but my col-

> league from Oregon, Mr. Packwood, in his interview also made it very clear that he not only expected him to be opposed but to raise a battlecry against it and to become a warrior in opposition to public financing.

Well, listen to the record. The question was put to Mr. Friedersdorf, our well-accepted Republican nominee, most recently about public financing:

> My personal opinion, I have mixed emotions. I think that if public financing enables more people to seek public office, perhaps that would be good. If it works to forever impregnate against people, defeating incumbents, maybe it is not good. But I do not have—I am still searching in my mind what would be the right thing to do on public financing.

Mr. President, there was no great marching on the floor with all kinds of arguments and documentation, that somehow this man's credentials, this man's ability, this man's loyalty, this man's partisanship is all going to hinge on that one issue of public financing.

I have always been of the view that if you are going to set criteria for the qualifications of someone to an office, to a board or to a commission, they ought to apply across the board. They ought to apply to all people who are considered. I have never been much for this idea of changing the rules of the game after the game has commenced, developing new criteria, new qualifications, which are not applied to all people who serve on that board, commission, or office.

Well, Mr. President, let us be honest with ourselves. I think we are in a little bit of game play. I am not ascribing unworthy motives. I am only observing as one who has been in political life or elective public office for 29 years, and one who has been in political activity for nigh on to 50 years—I started in the fourth grade trying to get Mr. Hoover reelected. I think I can speak with a little authority on political activity. Why are we raising the public financing issue in relation to Mr. Reiche? Why? It is a strawman. I suggest it is a strawman. Let me just recount one simple fact of political life. Mr. Reiche is not going to make the determination on public financing. He is not going to make the decision. The whole Federal Election Commission together is not going to make the decision. The decision will be made in the U.S. Congress. Why are we making a mountain out of a molehill? Why are we creating a strawman in Mr. Reiche's confirmation?

Mr. Reiche should either be a proponent or an advocate or a warrior opposed to public financing, once he is confirmed, and I want to say to my colleagues he will be confirmed. No one on that Commission should be doing the business in the political arena of advocating or trying to defeat the issue of public financing. That is the duty, the responsibility, the prerogative of the U.S. Senate acting in conjunction with the U.S. House of Representatives. I do not want the Commission involved in that kind of politicking. The Commission has enough business. If it were doing the business as it should, not only today but in the days ahead, it will not have time to be involved.

Let me put a caveat to that. I think that if the Rules Committee of the Senate should call members of the Election Commission before it and say, "What is your judgment; what are your ideas?" That is another matter. We would expect a response from any commission. In fact, I have heard many of my colleagues be highly critical toward commissions and agencies which were reluctant to give their professional judgment or viewpoints on an issue at hand.

But let us look at the record. I am not yielding 1 inch to the proposition that Mr. Reiche is an advocate of public financing: I think that record has been misrepresented. I think that record is false. I have had many conversations with Mr. Reiche, both in the Rules Committee officially and informally. I would like to say as it relates to the Packwood interview, whoever picks up that interview ought to read the entire interview and not just excerpt one or two sentences. I think if they read the full Packwood interview they would come out at most with the understanding that his position probably parallels Mr. Max Friedersdorf and at least that he has, as he has stated many times, grave reservations about public financing of campaigns in the legislative body.

First of all, Mr. President, in testimony before the Rules Committee, Mr. Reiche said that while he was not philosophically opposed to the concept of public financing under every circumstance, he felt there were many problems in trying to transfer this type of system to the congressional level, and he cautioned that the larger administrative problems of public financing at the congressional level were absent in the New Jersey gubernatorial system.

In the last response to the question submitted by Senator Humphrey, Mr. Reiche stated that it is too early to tell whether public financing is a good or ill-advised experiment.

There is a statement of a very forthright, honest, candid man. But it does not vary at all from Mr. Friedersdorf's criteria, statements, and viewpoint.

Significantly, I think we must recognize, too, that by virtue of his experience in New Jersey, Mr. Reiche was able to point out how the system worked in New Jersey and actually present a stronger argument against the measure at the congressional level. By raising the logistical problems inherent in such a system, Mr. Reiche made more negative comments than have past nominees to the Federal Election Commission.

I might say, in addition, there is no one in this Senate who feels more abhorrent towards public financing than I do. My record is clear. I have led the battles in the committee and I have led the battles on the floor opposing public financing:

I believe again that I can make some judgments on words, on nomenclature, and intent as expressed by Mr. Reiche.

There is a second issue I would like to refer to which has been raised, and I think this is again only a partial representation.

The charge has been made that Mr. Reiche did not cooperate in providing the minutes of executive sessions of the New Jersey Commission. Well, really, it is almost ludicrous to even respond to this because the facts are so clear.

Mr. President, Frank Reiche declined to provide the minutes of the executive sessions on the advice of the New Jersey Commission's counsel that, as a matter of New Jersey law, the materials should not be disseminated. It was not a discretionary matter on the part of Mr. Reiche. This decision came after taking into account the nature of the material that was suggested by Mr. Humphrey.

Mr. Reiche has advised the Rules Committee that only three topics are discussed in executive sessions: No. 1, pending litigation; No. 2, pending investigations; and No. 3, personnel matters. Moreover, two of these three items that are discussed in executive sessions become public information just as soon as the findings are complete or the pending investigations or the litigation is complete. His decision seems to comport with the dictates of open government; namely, that some information may be legitimately withheld until all the findings are in.

There is another charge that has been made. That is that Mr. Reiche's recommendations to expand public financing in New Jersey to primaries show that he is not Republican enough.

Well, a careful review of the history of the Senate votes on public financing, especially amendments to include primaries, shows that when you try to apply party labels to votes, you do so at your own risk. Let me remind the Senate that in 1977, during our debate on public financing, I realized that any system of public financing would create problems of a larger disadvantage to challengers. The problem is even more acute when primaries are excluded and, as a consequence, I offered an amendment to add the primaries to the bill.

I want to say, and I made it very clear, that even if the Democratic majority, which rode over us against this amendment of mine, had prevailed, I was still opposed to the bill, but I thought it was a major flaw in a bill. I felt that, even if I were on the losing side of a bill, I would like to make it as workable, as reasonable, as possible through amendments, even if I opposed the final passage of the bill.

Let me remind the Senate for the record that although my amendment to add primaries failed, the amendment had the support of 32 out of my 38 Republican colleagues. This is even more significant when you consider that three other Republicans were not present for the vote.

At this time, Mr. President, I ask unanimous consent to have printed in the Record, from the Congressional Record of 1977, the yeas and nays on the issue of adding primaries to the public financing bill, showing the vote of the Republicans.

There being no objection, the material was ordered to be printed in the Record, as follows:

> Mr. Cranston. I announce that the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 37, nays 56, as follows:

[Rollcall Vote No. 317 Leg.].

YEAS—37

Baker, Bellmon, Brooke, Case, Chafee, Curtis, Danforth, Dole, Domenici, Garn, Goldwater, Griffin, Hansen;

Hatch, Hatfield, Hayakawa, Heinz, Javits, Johnston, Laxalt, Leahy, Lugar, McClure, Metzenbaum, Morgan, Nelson;

Packwood, Pearson, Roth, Schmitt, Schweiker, Scott, Stafford, Stevens, Tower, Wallop, Young.

NAYS—56

Abourezk, Allen, Anderson, Bayh, Bentsen, Biden, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chiles, Church, Clark, Cranston, Culver, DeConcini, Durkin;

Eagleton, Eastland, Ford, Glenn, Gravel, Hart, Haskell, Hathaway, Helms, Hollings, Huddleston, Humphrey, Jackson, Kennedy, Long, Magnuson, Matsunaga, McIntyre, Melcher;

Metcalf, Moynihan, Nunn, Pell, Percy, Proxmire, Randolph, Ribicoff, Riegle, Sarbanes, Sasser, Sparkman, Stennis, Stevenson, Stone, Talmadge, Thurmond, Williams, Zorinsky.

NOT VOTING—7

Bartlett, Inouye, Mathias, McClellan, McGovern, Muskie, Weicker.

So Mr. HATFIELD's amendment was rejected.

(Mr. BRADLEY assumed the chair).

Mr. HATFIELD. Mr. President, I am sure many supporters of this amendment correctly believe, as I felt, that any scheme of public financing, to be more equitable to incumbents and challengers alike, must include coverage of primaries.

Let me also say that I have here, Mr. President, an interesting vote that took place in the New Jersey Legislature last week on this very issue. Mr. HUMPHREY has seen fit to raise this as one of his objections to Mr. Reiche. I think it ought to be noted that in the New Jersey Assembly last week, there was a vote taken to extend public financing of the gubernatorial elections to the primary elections. A majority of New Jersey Republican assemblymen voted in favor of the extension to the primaries. I include in this group who voted for the extension of public financing to the gubernatorial primaries in New Jersey two of the three assemblymen who wrote the letter to Senator HUMPHREY opposing Mr. Reiche's nomination, Mr. Kavanaugh and Mr. Smith. The third assemblyman voted against extension.

The fourth signer of the letter is a senator and the senate has not voted on this measure.

Out of the total Republicans of the New Jersey Assembly, 15 voted for the extension of the public financing to cover the primaries; 10 voted against the extension, and 1 abstained.

I believe this conclusively shows that Frank Reiche's views on this particular point of public financing reflects not only commonsense and his clear understanding of the impacts of such a system. Especially in the light of the senate vote last year and the assembly vote in the New Jersey Legislature last week, I suggest great caution be exercised when applying party labels to all of the nuances of public financing debates.

Mr. President, we have had another issue raised. That is the executive director of the New Jersey Election Law Enforcement Commission, Lew Thurston, gave strong testimony in favor of H.R. 1 during House hearings on the bill. This is the public financing bill over in the House. I concede that Mr. Thurston may support public financing. I am not arguing that point of fact. Also, I think it is very clear from the record that Frank Reiche has explained his commission's clear policy on such appearances before committees. Responding to a question from Senator HUMPHREY, Mr. Reiche wrote this response:

> We have always emphasized to Mr. Thurston and to anyone else associated with the Commission that they must carefully avoid giving the impression that they speak on behalf of our Commission on such occasions. It is my understanding that Mr. Thurston was careful in this regard when he appeared before the Committee on House Administration in March.

Mr. President, I cannot help but recall, again, from experience. In our State, like many small States, we have much citizen participation in our government. The Governor appoints many boards and commissions, but the commissions in turn appoint an executive full-time secretary or director, whatever his title may be. It used to be a source of great consternation and perhaps, even, at times, great frustration to me to have a commission that I appointed representing a certain political issue that I supported, then have the professional executive of that commission go before a State legislative committee and testify to the opposite. But what is the alternative?

It seems to me that if we are going to put such experts and professionals into straitjackets and say, no, they have no right to give their professional opinion and their professional judgment to a legislative committee, we are denying ourselves, at the Federal level as well as at the State level, the kind of professional expertise and input in our decisionmaking and legislative process that we should have—even at the risk of having that professional take an opposite position to that of his commission. I accepted that long years ago, and I must say it was with difficulty. That does not mean that I did not even flinch on occasion, after I had come to realize the validity of that particular political philosophy.

The charge has been raised that Frank Reiche favors a power grab—that is the term, "power grab"—by the New Jersey Election Commission in the power of authority to void elections. I need not give the detail of the response to this. The chairing of the Senate at this moment is effectively being handled by the junior Senator from the State of New Jersey. I am sure he is fully aware of the New Jersey law and the New Jersey experience.

Let me remind the Senate that we should understand that the present New Jersey statute, which was passed by the New Jersey State Legislature, calls for the automatic voiding of elections in cases where a court determines that there is a knowing and willful violation. What the New Jersey State Commission proposed and Frank Reiche enforced was a change in the statute so that the elections would not always, under all circumstances, be voided automatically. By the proposed change, Reiche hoped to add one more judgment, one more option, before election results could be voided.

Mr. President, this is a very drastic action. This strikes at the very heart of our democratic system, the voiding of an election that has been carried out by the people.

Now, on the proposal also that the law be amended, that in addition to the court decision the court would still have to have a finding, there would have to be a finding in addition, not just that a violation occurred, but the violation actually significantly affected the outcome of the election, or the dignity of the electoral process, before the balloting would be voided.

I do not know about New Jersey, but I know in many States there may be only one name on the ballot and not an opponent for every position. How could a violation of an election have proceeded under their system? It could not have affected the outcome of the election.

There are many other examples that could be used. But, to me, this was representing not a centralization for a power grab effort, but, rather, to decentralize and to more effectively try to carry out the will of the people.

This was an action of decentralizing power rather than centralizing power.

It was to provide an additional deliberative judgment before taking the drastic step of overturning an election.

Well, Mr. President, I am not anxious nor do I feel time is important from the standpoint of rebuttal. I am ready to go to a vote.

I do not know of any issue that has been more effectively canvassed. I say this as a compliment to my colleague. I know of no issue that has been more effectively canvassed, and presented, and reiterated, and underscored, and repeated in the minority community of this Senate than the Frank Reiche nomination.

I would hate to think of the number of hours that have been spent in terms of if we were getting paid by the hour, I say to my colleague, because I am sure that his hours and labors on this have been certainly effectively communicated.

I do not know what the time frame is as far as my colleague's hopes and desires are.

I do say that I think there is a point of reasonableness. We have tried to accommodate the Senator from New Hampshire in every request he has made on information, delay, time frame, time schedule. I am still of the same mind. I want to accommodate, as of this moment, any desire on the part of the Senator from New Hampshire for required time or necessary time.

But I must say that I do feel there comes a time when reasonableness must prevail. We must give the opportunity to our colleagues to express themselves by a vote up or down, or a procedural vote. Again, I am very flexible.

I do feel that these are times when we have difficulty in getting good people to enter the public arena. There are so many discouraging factors today for good people, able, qualified people, to offer themselves into public life and public service.

Here we have a man who is extraordinarily well qualified. I must observe that I have not heard one word from my good friend from New Hampshire, I have not heard him raise one word against the integrity, or question the integrity, or the qualifications, or the ability, the background, the expertise, the great knowledge, that this man, Frank Reiche, represents, possesses, or embodies.

But his objections are raised on an issue that, I would like to remind him again, Mr. Reiche will not determine, will not have a vote on, and that is the issue of public financing.

I want to reassure my colleague from New Hampshire that I shall continue with the tenacity of the past that I have already demonstrated in opposition to public financing for congressional elections, and I would vote for repeal of public financing for Presidential elections.

I think that there are far greater needs for public funds, to provide help for the poor and needy, than to be putting it into the political coffers of candidates.

But, second, I am concerned that once the Federal Government puts money into the coffers, the Federal Government has the basis for control, and the Federal Government today has reached out tentacles for bringing in power and authority in so many subtle and so many direct ways that I do not want to risk the political party becoming subjected again to that kind of Federal octupus control.

I would like to say these are not just words on my part, but I am one of the few Senators on the floor who voted against the public revenue sharing proposal because it appeared to me at that time, and still does, that when the Federal Government collects the taxes and brings them to Washington, redistributes them back into the local governments, that that is not strengthening federalism. That is weakening federalism and making local governments more dependent on the central power structure of the Federal Government than ever before.

It is a narcotic. It is an opiate. It makes the local governors, county commissioners, and mayors, bagmen to come back and get more money for local programs and problems on which they have not had the courage to stand up and ask the people for additional taxes because, no question, if we separate tax collecting from tax spending authority and responsibility, we have weakened the federal system of government.

Again, I want to say in making these comments to the Senator from New Hampshire, I will take a backseat to no one, including the Senator, or anyone else in the Senate, as far as concern for the centralization of power trend in this Government.

The only point we may develop is that I am just as concerned about economic centralization of power in the big corporations in America and the big labor unions in America as I am about centralization of political power in the hands of the Federal Government.

I think the whole move towards centralization has to be halted and reversed.

I only add that as an addenda because, obviously, I stand here as a liberal Republican and that immediately raises certain questions, perhaps of loyalty, or Republicanism, or credibility, or whatever.

But I just want to say that these labels are rather misleading because I can track my political philosophy that started at a very early age to two basic documents.

One is called "American Individualism," the second is called "A Challenge to Labor," and the author of both these books was Herbert Clark Hoover, the last truly liberal President, in my opinion, we have had.

Now, unless that shocks everyone, I shall move on to say, Mr. President, I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am not the least shocked by the political underpinnings of my good friend from Oregon, because having been treated to a visit to the personal library of Senator HATFIELD, I saw that he has probably one of the country's largest collections of literary works on Hoover.

He is perhaps the Nation's preeminent expert on Hoover. So I am not the least bit surprised by that.

I say that only to emphasize that Senator HATFIELD and I are friends.

It was interesting to listen to the recitation of the offices which Senator HATFIELD has held before coming to this body, but it is not necessary for him to do that, because I have not mentioned his Republicanism. Neither have I raised as yet—nor will I—the labels, except for this one instance, of liberal and conservative. I have not raised them and I will not.

Mr. Reiche, no doubt, is a man of high integrity and honor and good intentions, and I have not questioned these attributes in the past, nor will I.

The question is whether this nominee is the right man for this job. My party's position on the issue of extending taxpayer funding to congressional campaigns is not my utterance, though I embrace it wholeheartedly. It is the utterance of the Republican National Committee.

Yes, Mr. Reiche is well qualified. He is an attorney. He has participated in party politics for some time. He is the chairman of the New Jersey Election Law Enforcement Commission.

I have not questioned and I do not question that kind of qualification. But this is not a routine appointment. This is not an appointment to a routine Government commission. This is a unique position which requires, in addition to basic qualifications, a strong partisanship. It is that partisanship in which my concern lies with respect to this nominee.

I am sure that Senator HATFIELD and I could spend the day, if we wanted to conduct the necessary research and groundwork, trading endorsements for the nominee, especially those coming from the State of New Jersey. But my colleagues and I on this side, in pursuing the interests of our party, must consider not only the views and the wishes of our party members in New Jersey but the views and wishes of our party members in the other 49 States as well.

I dare say that in the conduct of his duties, the chairman of the Republican National Committee has the same obligation; and in the conduct of his duties, in his pursuit of protecting our party's interests, the chairman of our party, the Republican National Chairman, has opposed this nomination. This nomination does not have his support. It does not have the support of the leader of our party.

As a matter of fact, the delegates to the recent Republican National Convention in Minneapolis apparently were so upset by this particular nomination that they passed a resolution requiring that, in the future, our party's nominees to the FEC be cleared with the Republican National Committee. There is a great deal of dissent and a great deal of dissatisfaction about this nominee.

Mr. President, Max Friedersdorf is not the nominee under consideration. Rather, it is another man, and it is another man for another vacancy.

But, more important, this is not the 95th Congress; this is the 96th Congress. This is a new Congress. This is a new nomination. This is a new nominee. I believe the merits of the nomination should be considered in that context.

I point out, by way of a distinction between my party's consideration of Mr. Friedersdorf and our current consideration of Mr. Reiche, that since the date when Mr. Friedersdorf's nomination was confirmed, our party has taken an official position on the one electoral issue that bears upon this office—or certainly one of the cardinal positions—namely, that of extending taxpayer funding to congressional campaigns.

Our party now has an official position on this. As I have said, that official position, as has been enunciated this year by a resolution of the Republican National Committee, is that our party opposes extending taxpayer funding and urges all elected Republican officials, in their turn, to oppose it. That is the official position of our party. It is so, I suspect, because our party fears the further controls from the electoral process that inevitably will come with greater Federal largesse in financing these elections.

It happens that the other party, the Democratic Party, views the matter differently. The other party calls for expending taxpayer funding to congressional elections. In a manner of speaking, there is a contest being waged between the parties on that question.

I intend to read the full text of the interview between Senator PACKWOOD and the nominee, Mr. Reiche, as well as some other documents.

I am not playing a game. I must say that I was a little disappointed in my friend from Oregon raising that matter. I am not playing a game, and he is not, either. Both of us have many important things to do, just as all of us in this body have, and we have no time for games. This is not a game.

Senator HATFIELD claims that examining Mr. Reiche's views on taxpayer funding is a strawman, that Congress makes policy, not members of the FEC.

Well, yes and no. Yes and no, Mr. President, because this body, made up of human beings, does not make perfect law. It does not write perfect statutes. Much of the legislation we pass is ambiguous. It must be interpreted. Who can say that the views of our public servants do not enter into their interpretations when they must make those interpretations.

However, it goes beyond that. Our public servants—the members of the FEC included—do not operate in a vacuum. Not only must they interpret gray areas of the law, in which cases, their personal points of view come into play, but also, they select and hire staff, and frequently staff members will reflect the point of view of the person who hires them.

Because the FEC is as busy as the rest of this Government—far too busy, in my opinion—it is necessary for them to delegate reponsibilities to these staff members, staff members who often are supervised insufficiently.

If the nominee who is to represent our party on the FEC, whose duty in part is to protect our partisan interests, does not have as his point of view the Republican point of view which has been made official by resolution of the Republican National Committee on the issue of taxpayer financing of elections, if he does not have that as his point of view, then what kind of actions can we expect on his part in other matters?

Regarding the testimony by the executive director of the New Jersey Election Law Enforcement Commission, I point out that his prepared testimony was typed on the letterhead of the New Jersey Election Law Enforcement Commission. I point out again that Mr. Thurston was here under the authority of the commission, was paid to journey to Washington to testify and to advocate extension of taxpayer funding of congressional elections. He was paid to do these things with the tax funds of the State of New Jersey. Surely Mr. Reiche knew his executive director was coming to Washington. After all, the trip was authorized by the commission which Mr. Reiche chairs.

And Mr. Reiche claims he feels that all of this was right because the New Jersey Election Law Enforcement Commission believes in sharing its experiences.

I will point out again, Mr. President, that the New Jersey Law Election Law Enforcement Commission has no experience with the funding of congressional elections, no experience whatever, and Mr. Thurston's testimony, therefore, was not sharing but it was advocacy, paid for by the taxpayers of New Jersey.

Mr. President, it seems to me, it comes down to this: Is the Republican Party entitled to someone who embraces the official Republican Party point of view in the one cardinal matter that bears on the electoral process which is presently before the American people in the debate between our two parties? I believe we are. I believe, further, that Mr. Reiche in his testimony and his answers to the questions which I was allowed by the graciousness of the committee to put to him and in his interview with Senator PACKWOOD, has clearly established that he does not embrace that Republican point of view. He says he has not made up his mind. He said we have not had enough experience. He said he is not philosophically opposed.

Mr. President, my party wants someone protecting its interest on that Commission, someone who has made up his mind about some of these very fundamental things. Do we want to give greater power to the FEC? Or do we want to be sure that it does not have greater power than it has today? And I am confident that the position of the Republican Party is that the FEC shall not have greater power.

Senator HATFIELD spoke eloquently about the Federal octopus which has spread its tentacles across this land, into every State, into every city, into every town, and into every household.

That Federal octopus was created right in this Chamber and in the adjoining Chamber of the House of Representatives. This octopus did not grow on a tree. It did not come up out of the ground. It did not materialize out of thin air. It was the result of the kind of leadership, bankrupt in my opinion, which has dominated these Houses almost without interruption for 47 years.

The question before our country today in this difficult hour, is shall we continue the kinds of policies that have led to this octopus which is choking the life out of our country, shall we continue those kind of policies, or shall we, as our British cousins have done, break with the past, and admit the foolishness of the policies which have been pursued in recent decades? That is the question before this country, not the materialism, of our people. The question is are we going to continue to allow the Federal Government to grow at the expense of the sovereignty of our States and the freedom of our people? That is the question.

I want someone, Mr. President, representing my party because I believe in my heart that the Republican Party is the force that will move our country away from the disastrous course on which we have been set. I want someone representing my party on that Commission who feels strongly about the dangers of Government.

I began my speech by quoting George Washington who pointed out wisely that Government is not eloquence, it is not reason; it is force, like fire it is a dangerous servant and a fearful master. And I submit, Mr. President, that because of the legislation enacted by this body and the other over the past 40 years, we are much closer today to living under a Government which is our master instead of our servant.

The question is how much power to Government? There is no more dangerous agency in this Government today, including the FBI and the CIA, than the Federal Elections Commission.

What check do the citizens have over their Government short of revolution? Only one, the electoral process. I think it was a perfectly dangerous if not stupid idea to create the FEC in the first place. It was putting the fox in charge of the chicken coop. It was giving to Government powers to subvert the only check that citizens have over that government. Creating the FEC was surely one of the unwisest actions of the Congress in recent years.

But it is there and I cannot repeal it with this speech or with any action that I can take.

But I can insist and must insist that the nominee chosen and confirmed to represent my party on that Commission be someone who has a fear of Government, fear of becoming the servant of Government.

Mr. Reiche does not strike me as that kind of man, and I will expand upon this at a later date.

But I believe that my friend from Nevada, Senator LAXALT, wishes to speak.

Mr. President, may I have the attention of the Senator from Oregon because he has a special interest in the unanimous-consent request I am about to make? I ask unanimous consent, Mr. President, that I be allowed to yield to the Senator from Nevada without losing my right to the floor and request further that upon resumption of my remarks that they be considered a part of the same speech which I am now giving.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object, is this the first or the second speech of the Senator from New Hampshire?

Mr. HUMPHREY. It is the second.

The PRESIDING OFFICER. It is the second.

Mr. HATFIELD. The second speech. I will not object.

Mr. HUMPHREY. I thank the Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, first of all, I feel as if we are having a repeat performance of yesterday's situation. Once again I commend my colleague from New Hampshire for having been here such a short time and having the courage of his convictions not only in the sense of just indulging in rhetoric but the translating that rhetoric into effective political action because he feels keenly about a given issue.

You do not have too much around the Senate any more—and that is not meant in criticism or derogation of this body—but in the short time I have been here I see a dilution in terms of individual Senators or, for that matter, a group of Senators, willing to take the time and effort required to be on this floor to speak in a filibuster situation or otherwise—and undeniably we are distracted, all of us are heavily committed with other obligations in our offices and on committees, particularly at this time of the year—but to see someone like the junior Senator from New Hampshire perform in the manner that he has on this floor, and otherwise, I think, speaks well not only for him but for the future of this body because of this present class where we find a number who operate, reason, and function much like GORDON HUMPHREY.

It is for that reason and in support of what he is trying to do and in support also of my own convictions in relation to this particular nomination that I stand, Mr. President, in support of Mr. HUMPHREY and in opposition to this nomination.

Now, it has been said around here for the last several months that perhaps we, as Republicans, should closet the fact that we oppose this nomination on the ground that Mr. Reiche is not partisan enough, and I guess the message to be derived from that type of observation is that we, as Senators in this great and honorable body, should not indulge in the cheapness of politics; that we ought to be above the gutter.

But, as the Senator from Oregon, very capable Senator from Oregon—and I do not know anybody in this body whom I respect more than MARK HATFIELD—indicated there are times when politics have to be the order of the day and should be, and we, as Republicans, have on a rather infrequent basis, when our partisan interests have been involved, stood as Republicans in this Chamber and, I might say, refreshingly effective in those rare instances where we did stand as a party.

So I, for one, do not apologize for the fact that I object to this nomination, to this man.

I do not even know him except by reputation and the reading I have done. I gather he is a fine man in every sense of the word. He is honest, does a good job in the present situation. But in our estimation, he does not meet the criteria as Republicans that we need on that Commission because in the recent history of that Commission—and I was involved to some extent with the Commission when I was involved as the national chairman for Ronald Reagan—we found very quickly that in making vital campaign decisions that more often than we liked we had to think in terms of how a given campaign decision would affect the bureaucrats downtown and how they would react to it, which injected a wholly new element in Presidential politics.

I have had a feeling, as a result of that experience and since that the FEC, in its present composition—and probably we are to blame for that—is a hard ball political game, and anticipating that, as we all know, the composition of that body was weighted so that each party was protected, recognizing that if you come down to a hard partisan basis you had better make sure both parties were protected, and you had better make sure—even a given party out of power here and downtown in the White House—that nevertheless the minority party, whatever it might be, would have its flanks protected in the process.

So on these tough partisan issues we have had a number of issues, I guess, on a partisan basis, where there has been a split vote. That is why we are concerned really with having someone with strong partisan convictions represent our interests on the FEC. I do not consider that to be bad.

Admittedly—and I do think that we are going to have to take a careful look at how the FEC was structured in terms of the present legislation which authorizes that body in very deeply controversial matters, politically controversial matters, to investigate a given complaint, deliberate on it, try it and mete out a sentence—we have the whole structure here within one commission.

The more I observe the conduct and operation of the FEC, the more I am convinced that essentially and inherently that process is wrong. You cannot have within the same political house all these various functions where they actually do their own investigating, they do their own prosecuting and, eventually, they do their own judging.

It is for this purpose this morning during our confirmation hearings with Mr. Civiletti, who will undoubtedly be confirmed very shortly by the Senate to be the Attorney General—and he will do a competent job and I wish him well—but during the course of those hearings I questioned him on the essential policy question of whether or not these functions within the FEC should now be diverted to the Justice Department so we would have an independent look over there.

If I understand his answer correctly, he tended more or less to agree with it as a matter of political philosophy and as a matter of political science.

If we are able to move these functions over, so much the better, because then we are not going to have these problems and these vulnerabilities and these risks all within the same house. But until these functions are taken from the FEC—and I hope that is not going to be too long—and put over into Justice we, as individual Senators, or the Congressmen down the road or anybody who is subjected to the jurisdiction of the FEC, have a great political vulnerability, and in that situation we are intensely interested, as I said initially, in having our political flanks protected by someone, when a matter comes in on a partisan basis, who is going to stand up and be 100 percent partisan whether or not he comes from the Democrat side of the aisle or ours.

Now, Mr. President, to me it is a curious political circumstance that the nominee in question, the chairman of the New Jersey Law Enforcement Commission, has been proposed to the Senate by the very distinguished President of the United States in the interests of a bipartisan election commissioner.

The views of the gentleman from New Jersey on this vital matter of Federal election campaign procedure in no way reflect the position of the Republican Party or the vast majority of Republicans. I refer specifically to the nominee's stated support of U.S. taxpayer-financed Federal election campaigns. Such a position is directly repugnant to the letter and spirit of the Republican Party platform approved by the Platform Committee for presentation to the Republican National Convention August 7, 1976 in Kansas Cty, Mo.

On page 4 of the platform text it is clearly stated:

> That since power has flowed to Washington, the ability to attend to our problems has often dried up in our committees and States. This trend must be reversed. Local government is simply more accountable to the people and local people are perfectly capable of making decisions. We reaffirm the long-standing principle of the Republican Party that the best government is the one closest to the people.

Now, Mr. President, why are we, as Republicans, exercised by public financing of elections?

Well, I can remember in my younger days that I used to feel that public financing of elections was great, because you had all these nefarious special interests running around this country buying candidates and buying officeholders, and would it not be a perfect solution if, instead of all that, we had taxpayer funding, and thereby we would isolate those nefarious special interests and we would have a fair system?

Well, that position, based on my own experience, was sheer naivete. It does not work that way.

First of all, I find nothing objectionable whatsoever in having the business and other interests in this country fully involved in the election process. I find nothing objectionable about that at all. There has been some objection, here in the last couple of years, that AMPAC, the medical PAC, buys votes. We had an example of a doctor in this country with 11 boats? That did not speak very well for the doctors of this country.

I do not think there is the least bit of harm involved in having that kind of involvement. I happened to read, in the last couple of days, that 70 percent of the people of this country do not know who the parties to the SALT agreement are. I can hardly believe that. That is a survey that has come down within the last month or so. I find that terribly hard to believe.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. LAXALT. Surely.

Mr. HATFIELD. I can only add to that kind of consternation by saying a few weeks ago, a month or maybe 6 weeks, a survey showed that over 50 percent of the American people did not know we imported oil.

Mr. LAXALT. That was an amazing statistic. It was a New York Times survey. Fifty percent of the American people did not know we imported oil.

Well, aside from the correctness of these statistics, that 70 percent of the people of this country do not know that the United States and the Soviet Union are the parties to the most important matter that we who are now in this body will probably ever discuss on the floor of the Senate, and 50 percent do not know that we import oil, certainly speaks to a most essential point: we need more political awareness and political involvement in this country, because, as I found in connection with the ratification of the Panama Canal treaties, one of the most important issues we have fought in this body, and I fought it tooth and nail for months, up and down this country, the only reason that we came even as close as we did was because finally the people got involved and raised unmitigated hell about the Panama Canal Treaties.

Had we had the same climate then, to the extent of not having any real political involvement or interest on the part of the public generally, I would expect that that vote would not have been nearly so close. And I would rather imagine, on the same basis, that one of the essential difficulties we find in the discussion of SALT now is that there is very little public awareness or interest, so that in this vital area activity on the part of the public, in connection with their making their wishes known to us in the Senate and to Congress generally, may be lacking.

So the reason why many of us were concerned and are still concerned about public financing is because the thrust of it is to reduce private involvement in the electoral process, and substitute the governmental processes in Washington, D.C. in lieu of it; and to me that is as unhealthy as it can be.

In addition to that, on both sides of the aisle we oppose public financing because essentially what it does it locks incumbents into place. We have enough advantages in this place already in terms of freebies, free mailings and all else, to give us, if we do a reasonably good job, considerable advantage insofar as a challenge is concerned.

I have not been here so long that I do not remember what it is like being a challenger for the U.S. Senate. It is tough; it is uphill when you wrestle with one of these incumbents and attempt to replace them. It is a difficult thing to do, as any challenger will attest.

To strengthen that hand even more by way of public financing and limiting the challenger as to what he can spend in one of these races, Mr. President, I think puts the incumbent at an undue advantage in the situation.

But in addition to all that, and to me more important, is that we substitute the integrity of the local election process with a Washington process. And finally, in all these delicate areas, whether it is a Senate race, a House race, or whatever, we have bureaucrats in the FEC involved in making campaign decisions. Beyond that, from the standpoint of sheer practicability, we all known the FEC has not even completed its work, 3 years later, on the last Presidential election campaign. There was an extensive article in the Washington Post not too long ago demonstrating conclusively that the audits required by that Presidential campaign have not yet been completed.

Can you imagine what we would do to the process, to the FEC, and to all these various candidates if we imposed upon them performing audits on 535 additional races?

You can say, "We will staff it up and tool it up, and provide the financial resources, which in turn will provide the manpower, and we will get the job done." I do not believe it, Mr. President.

So, for all these various points, many of us in this body strongly felt that public financing was harmful to the process, and we resisted it. It is apparently clear in the estimation of some, and I know there is a conflict—Senator HATFIELD has indicated some in his discussion—as to whether Mr. Reiche is really all that positive on the issue of public financing. He has given some indication that he seems to favor public financing, but that may not be his position. He may be ambivalent.

Well, if that be the situation one of our Republicans sitting on that Commission, I as a Republican am terrified. I do not even want to take a 5 percent risk on that point. So I have to talk about this as being a partisan situation, witn a man on it who is, as a Republican member ambivalent. Feeling as strongly as we do about public financing, that we need to have a majority of the Republicans on the Commission opposed to public financing, it does not make any sense at all for us to have this nomination imposed upon us, and that is essentially where we are going.

The present Federal Election Commission is dangerously remote from the people of these United States. It is by its very nature inimical to the principle of local control of Government's most urgent process, that of electing its Representatives. It already threatens to grow beyond the power of Congress and become almost a law unto itself. It threatens any Member of Congress daring to question its perquisites with crippling harassment. In short, Mr. President, the tail is coming to wag the dog.

A timely and eloquent warning is given us by the Honorable WILLIAM L. DICKENSON, of the Second District of the great State of Alabama, in a recent book, "Can You Afford This House?" I would like to read into the record the chapter entitled, "Manipulating Federal Elections—And Calling It Reform." It states:

> The seventies will be remembered as a decade of reform. Spurred on by Watergate, various congressional scandals, and Koreagate, the majority in Congress seized the opportunity to extend Government regulation to the one area that our forefathers deemed most sacred—our election process.
>
> In 1971, the Federal Election Campaign Act was adopted, which included stringent reporting requirements of a candidate's expenditures and receipts. The act has not been a complete success—

And that is certainly an understatement. Continuing:

> As evidenced by the fact that it was amended in 1974 to establish the Federal Election Commission (FEC) and again in 1976 to correct defective provisions ruled unconstitutional by the U.S. Supreme Court. As though following a pattern, further amendments to repair a hasty and ill-drafted piece of legislation will be considered in 1978.
>
> It has become almost standard procedure to complicate federal election laws with new and even more controversial provisions. The public financing of Senate and House elections has become a favorite subject of the majority party, along with instant voter registration. It is ironic that such complicated and controversial schemes are proposed in the face of the confusion and difficulty with the present election laws. At a time when the public is demanding honest and fair elections, the first order of business should be to clarify the present law so that everyone can understand it.
>
> Public financing of congressional campaigns has been urged as the most effective way to reduce the influence of special interests, promote more political participation and competitiveness, and improve the public image of Congress. These goals are surely worthy ones; however, what the proponents of public financing say it will do, and what it actually will do, are two different things.
>
> In reality, the concept of publicly financed federal elections works as an ingenious method to keep incumbents in office.

This is a point I was trying to make a while ago. Continuing:

> The Federal election laws are supposed to ensure fair and honest elections. It can hardly be fair to challengers to limit them in what they can spend by a grant of federal money in a dollar amount equal to that which an incumbent would receive, because no consideration is given to the tremendous amount of publicity that an incumbent receives by virtue of his status as a Federal officeholder; nor is consideration given to the use of the frank (free mailing privileges), newsletters, and other devices which give the incumbent a sizeable advantage in the next election.
>
> In order for a challenger to defeat an incumbent, he must outspend the incumbent by a significant margin. In accordance with the *Buckley* v. *Valeo* decisions, which held that spending limitations cannot be imposed upon a candidate who does not accept public moneys, enactment of a public financing bill would force the challenger to refuse Federal money in order to have a shot at getting elected. At the same time, public financing would act as a gift to the incumbent of taxpayer money, to finance his campaign. Based upon the realities of the election process, the public financing concept is little more than an incumbent reelection insurance plan with the premiums being paid for by the taxpayers.
>
> Another misconception about public financing of Federal elections is that it would reduce the ability of special-interest groups to buy candidates. If this is really a problem, the solution lies in full public disclosure of each candidate's contributions and expenditures, without all the built-in exceptions. As the old saying goes, "Where There's a Will, There's a Way." There will always be attempts to influence legislation. Any attempt to limit or prohibit contributions to candidaes by special interests will be met with alternative means to accomplish the same result, perhaps to the point of actually encouraging newer, more subtle methods of influencing the candidates.
>
> The current law does not provide equal treatment for all interest groups. The most notable imbalance is the exemption granted to labor organizations for registration, get-out-the-vote drives, and "volunteer" election-day activities, which are not required to be reported to the Federal Election Commission. It is grossly unfair to grant preferential treatment to big labor and at the

same time deny business's political action committees (PACs) similar treatment. The number of stockholders in this country exceeds the number of union members by more than four million. Their interests deserve to be expressed and protected no less than those of the union members. If money from corporate PACs is an evil influence, it is no more so than that contributed by labor.

Public financing of elections has another drawback that has not been fully understood by the American taxpayer. No matter how you view it, public financing is one of the biggest ripoffs of taxpayers that have been proposed in recent years. The money that will go to finance an election has to come from tax dollars. It is not additional money contributed freely for that purpose by the American people. Only 3.4 percent of the taxpayers in Maryland were willing to add $2 to their tax payment to remove the "evils of private money in state elections." The present presidential checkoff system, which does not require the taxpayer to add an additional dollar to his tax bill, indirectly results in more taxes for the American people, or fewer services, or both. Put simply, if taxpayers pay $100 into the Treasury and the Government spends $100 for various Federal services, diverting one dollar to political campaigns would leave the Treasury with a balance of $99 to finance those same Federal services. The result is that either some of the services will have to be reduced, or additional taxes will have to be collected. Everyone ends up financing political campaigns to some extent, whether or not he utilizes the checkoff provision on his tax return.

The proponents of public financing may attempt to sell their proposal to the people by raising the national debt ceiling to avoid any direct effect upon the taxpayers. What this really amounts to is forcing the people to pay for incumbents' campaigns without realizing it. The proponents have an easy task selling their plan to the public because most people do not understand what happens when the national debt is raised. The result is higher prices and less buying power for the taxpayers.

Various voter-registration schemes have been introduced by Democratic Members of Congress allegedly to increase voter participation, but these schemes seem to me to be at the expense of honest elections. Not only do postcard and same-day registrations plans create administrative nightmares for election officials, they make it remarkably easy to cast fraudulent votes. The criminal provisions that accompany the registration plans will not prevent fraud. Even if convictions are obtained and the guilty punished, the American people's confidence in their elected representatives will be severely shaken. Enactment of a voter-registration law without sufficient safeguards to prevent fraud will only result in more confusion and a deeper belief by the public that politicians are crooked. The ultimate result will be increased voter apathy, exactly the opposite of what instant voter-registration proponents assert it will do.

If the obvious potential for fraud is not enough to spell defeat for easier voter-registration schemes, then the overwhelming objection to instant voter registration by state election officials and the U.S. Department of Justice should be. State election officials, expert in the area of voter-registration problems, agree that greater voter participation is a worthwhile objective, but that end does not justify creating a public joke by encouraging stolen elections. The prospect of longer lines at the polls and an insufficient number of volunteers to help run the elections will only encourage voters to stay away from the polls.

The Justice Department's opinion, as reflected in a memo dated April 1, 1977, stated that the relaxation of what few safeguards presently exist will deprive the states of their ability to prevent fraud and judge the qualifications of voters. The alternative safeguards presented in H.R. 5400 were viewed as inadequate by the Justice Department, which through its experience is aware that those who will commit election fraud are not going to be deterred by the enactment of still another criminal statute.

In view of all the criticisms of instant voter-registration proposals, one must ask if the proponents of such schemes have something in mind other than the best interest of the American people. Both Republicans and Democrats want more people at the polls. The question is how to achieve this worthy objective in a manner fair to all sides. The Washington Post editorialized on July 17, 1977, that "bolstering election administration seems to be a secondary interest for the Democrats. Their first hope is to get more people to the polls. They ought to try to do that in the customary ways, through good grass-roots organizations, attractive candidates and issues, and strong campaigns."

Numerous studies have been conducted in recent years in the effect of our registration laws on voter turnout. The consensus is that the registration laws are not the cause of low voter turnouts for elections. More important, most nonvoters have indicated that they are turned off by the candidates.

In fact, in response to a question in a survey compiled by the Hart Research Associates, nonvoters said that the factor which would most likely get them to vote in the future would be "having a candidate worth voting for." It is clear from most of the studies that the best way to get more people to vote is to give them attractive candidates who are willing to discuss issues of interest to the people. Candidates who straddle the fence on controversial issues do not stir the interest of the people.

The Justice Department's opinion, as reflected in a memorandum dated April, 1977, stated that the relaxation of what those few safeguards suggest will deprive the States of the ability to prevent fraud and judge the qualifications of voters.

This is the point I spoke to originally, that essentially, what you do by going the route of Federal financing of elections is to substitute the Washington process for the local process. As far as I am concerned, having been involved to a certain extent in both, I think it would be a terrible result as far as the process itself is concerned. Continuing:

The voter-registration laws have been liberalized considerably in recent years to get more people to vote: Longer registration hours, more registration places, and less discrimination against minorities. Despite all that, and more, the levels of voter registration and voter turnout have declined since 1970. In view of the findings of recent studies, and the failure of liberalized voting laws to increase voter turnout, it is doubtful that a new voter-registration law, allowing registration on election day or by mail, is the answer. Voters who are informed and who care about how their government is operated will continue to take an active part in the political process. To increase the voter turnout, we must emphasize more the attitudinal factors, which motivate people to go to the polls, than the structural factors.

The political process through which this country has achieved greatness is undergoing considerable strain. The establishment of the Federal Election Commission marked an intrusion into an area that, except for rare occurrences, had worked well for almost two hundred years. It should be remembered that political parties are nowhere mentioned in the United States Constitution. They evolved as practical mechanisms to make good government achievable. Throughout our history, the courts have declined to hear cases involving political issues. Now, through legal restrictions and bureaucratic regulations and complexities, potential candidates may be driven from the political arena, thereby depriving the public of new ideas and views which could help make our country strong.

Originally, the Federal Election Campaign Act was designed to curtail abuses in the election process, and ensure fair and honest elections. Unfortunately, it now appears that the predictions of many congressmen who were opposed to the establishment of a federal bureaucracy to oversee the federal elections are coming true.

Each year the FEC's budget increases as more people are added to its payroll. There has been an increase from 197 employees in 1977 to 240 employees for 1978, plus a budget increase from $6 million to $7 million.

As I indicated a little while ago, in a piece done in the Washington Post several weeks ago, it is suggested that even with this tremendous increase in funding and manpower, the job still is not getting done, even though their activities are confined almost entirely to the Presidential races of 1976. Continuing:

Candidates are more confused than ever in their attempts to comply with the law, because of the bureaucratic red tape now interlacing the Federal election law, and the crucial but mainly arbitrary decisions made by the FEC in interpreting the FECA.

The 1976 elections gave insight into the problems that face some candidates. A number of candidates for President who had received matching payments to finance their campaigns were told, months after the elections were over, that they had to refund part of the already spent matching payments to the U.S. Treasury because they were not eligible or were not entitled to the full amount that they received.

If senatorial and congressional elections become publicly financed, this will result in an estimated 936 candidates who will have to be audited by the FEC every two years, in addition to the audit of presidential candidates! No one has attempted accurately to estimate how many additional employees the FEC will have to hire, or to estimate how much administering a public financing law will add to the FEC's budget. The FEC, with its 200 employees and $7 million budget, had not by the end of 1977 completed its audit of the presidential candidates for 1976. It is conceivable that, unless the FEC grows into a superagency overnight, our election process will become bogged down by uncompleted audits and litigation every two years, at a cost that will outrage taxpayers—at least $100 million every two years.

The FEC's random audit practice also demonstrates the commission's insensitive approach to the political process. The practice of randomly auditing candidates and sending confirmation letters to contributors not only shows that the FEC does not understand the political process, but also reveals an impracticality in the face of the number of unfinished audits and unprocessed complaints currently before the commission. Such audits should be limited to situations based upon a reasonable cause to believe that the federal election law has been violated by the officeholder. The implication that the candidate has done something illegal might very well cost him his reelection as well as his good reputation.

It is to be hoped that members of Congress will put aside any preoccupation with

> schemes that complicate and confuse our election process and join together to draft a law that treats all candidates and interests equally. It is only with a law that requires full disclosure of contributions and expenditure attributed to a candidate, without any loopholes to organized labor or business, that we can begin to restore public confidence in our political system.
>
> It is high time that we abandon ill-conceived attempts at "reform" simply for the sake of reform—

And we do that all the time around here. Continuing:

> and settle down to the task of protecting the interests of the people in a manner worthy of the trust they have placed in us.
>
> Let us not add meaning to the definition of politics once expressed by Groucho Marx, who said politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly, and applying the wrong remedies."

The nominee now before us here in the Senate can offer us no prospect of relief from this frightening situation. Far from sharing our concerns, he would like to grant the FEC almost absolute power over Congress and remove from the people one of their most important means of controlling elections, the financing of election campaigns.

Federal financing of our elections would ultimately make each of us directly accountable to the FEC for every penny we spend in an election campaign. It would be the utmost folly to trust any agency with such vital information. How much more folly must it be to entrust it to such men as Thomas Harris? A creature of big labor—could a candidate for office who believes in the right to work, for example, expect Harris' complete confidence and impartiality? If the gentleman from New Jersey cannot forsee this eventuality from public financing, then he does not understand the character of the present FEC. And if he does not understand the situation, it is hard to see how he could ever alleviate it.

Perhaps the nominee does understand the consequences of public financing of Federal election campaigns just as we do. If so, then, he clearly looks forward to the exercise of such absolute power for himself. Any man who desires power without responsibility may be expected to exercise that power irresponsibly.

Faced with a candidate whose words decry either incompetence or ambition the Senate should be emphatic in its rejection of this nomination.

The Senate should reject, just as emphatically, the FEC itself if it continues its blatant favoritism to organized labor unions at the expense of legal justice.

Mr. President, I trust that my distinguished colleagues would find an article in Conservative Digest published in October 1978 of great relevance to this issue. The article is entitled "FEC: Big Labor's Newest Weapon":

> FEC—The Federal Election Commission. Mark that name. It's an obscure Federal bureaucracy well on its way to becoming the instrument through which top union officials will impose their will on the U.S. Government.
>
> Because its thumb rests on the jugular vein of representative government, the FEC provides an ideal body through which union officials can gain by government fiat that which they can never gain through the voluntary choice of the American people.
>
> Through the actions of union-influenced public officials, key FEC positions are being filled with hand-picked union functionaries. Most recently, FEC commissioner Thomas E. Harris—a long-time lawyer and lobbyist for the AFL–CIO—tried to recruit organized labor's Sam Zagoria, formerly president of the Newspaper Guild, acted as big labor's mouthpiece on the U.S. Conference of Mayors (8 years), the National Labor Relations Board (4 years), and, in 1977, the Maryland Task Force on Collective Bargaining for Public Employees. President Carter reluctantly withdrew his nomination of Zagoria only after intense pressure from Republicans that started last year when the National Right to Work Committee (NRTW) exposed Zagoria's past.
>
> Three cases well illustrate the FEC's loyalty to orgnaized labor chieftains.
>
> The first case involves the Nation's largest single union, the National Education Association (NEA). From 1974 through 1977, the NEA automatically and illegally deducted an estimated $400,000 annually from teachers' paychecks as political "contributions"—without asking the teachers' permission.
>
> The FEC refused to act on this gross violation of election law, although Commissioner Harris later admitted he knew all along the deductions were illegal. "No other union has conceived that it (the illegal paycheck deduction for politics) was permissible either under the 1974 Taft-Hartley Act or under the subsequent revisions," Harris testified before the House Administration Committee.
>
> Yet it was only after the National Right to Work Committee obtained a court order that the Commission finally moved against the NEA. Had the FEC refused to act, the Right to Work Committee would have been allowed to prosecute the NEA to the fullest extent of the law. So the FEC prosecuted, but withheld important evidence and argued the weakest possible case.
>
> The predictable result: Neither a fine nor a penalty, but just a gentle slap on the wrist and an order to set up a fund for teachers to get a refund if they request it.
>
> The second case is that of an AFL–CIO conviction earlier this year. Although the organization was found guilty of illegally funneling $312,000 from its general treasury into its political war chest, the penalty was a meaningless $10,000 fine. Following the decision an AFL–CIO spokesman remarked, "We made $302,000!"

And they had. I continue:

> The FEC lawyer assigned to the case remarked, "I'm pleased as punch!" Again, the FEC made its half-hearted effort to enforce the law only after the National Right to Work Committee filed complaints and obtained a court order that forced the FEC to act.
>
> The third case is that of the National Right to Work Committee itself, a prime target on the "enemies list" of top union officials. Using its already legendary powers to tie up legitimate campaign operations, the FEC has effectively blocked National Right to Work from setting up a political action committee for over two years.
>
> When in January 1976 the NRTW organized its PAC—called Employee Rights Campaign Committee—it asked the FEC for guidance on how to conform with the incredible array of vaguely worded rules governing campaign activity. The FEC, chaired by former AFL–CIO attorney Tom Harris, refused to give such guidance for month after month, despite repeated appeals and despite the fact that Federal law required such advisory opinion within "a reasonable time." Meanwhile, NRTW felt constrained in moving ahead with its PAC for fear of violating some ambiguous statute or ruling.

When, in January of 1976, the National Right to Work Committee organized its pact called Employee Rights Campaign Committee, it asked the FEC for guidance on how to conform with the incredible array of vaguely worded rules governing campaign activities.

The FEC, chaired by former AFL–CIO attorney Tom Harris, refused to give such guidance for month after month, despite repeated appeals and despite the fact that the law required such advisory opinions within a reasonable time.

Meanwhile, the National Right to Work Committee felt constrained in moving ahead with its pact, for fear of violating some ambiguous statute or ruling.

So what this points up, Mr. President, is the fact that you have a process and you have a structure that is strongly tilted so far as we Republicans are concerned on the other side. Under the terms of the law, the unions are heavily preferred. Under the procedure and the track record that we observe, since the enactment and creation of this commission, the Republicans, those who stand on the side of right to work and on a lot of these issues, are in peril.

It is for that reason that we, as Republicans, are concerned about this nomination. As obscure as it may seem in the total picture, it is key, it is critical.

When you get a vote situation such as we now have, in which every vote counts in terms of protecting our political flanks, it is no small wonder that we are exercised.

So, Mr. President, for these and other reasons, this Senator voices strong opposition to the nomination of Mr. Reiche to the position to which he aspires and joins strongly in this opposition with the junior Senator from New Hampshire.

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. HATFIELD. Will the Senator yield?

Mr. President, I ask unanimous consent, with the approval of both the Senator from New Hampshire and the Senator from Nevada, that the Senator from New Jersey (Mr. Bradley) be recognized for 2 minutes. Then the floor will be resumed by the Senator from Nevada, having been yielded the floor with unanimous consent by the Senator from New Hampshire.

The PRESIDING OFFICER (Mr. Inouye). Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I do not usually comment on matters that are really of concern to the opposite party from mine, but I feel that Mr. Reiche, as a resident of New Jersey, deserves some comment from one of the Senators from the State of New Jersey. I want to take this opportunity also to set the record straight about my own relationship or lack thereof with Mr. Reiche.

The first time that I met Mr. Reiche was last winter, after his nomination had already been suggested by the Republican Party. Since he was from New Jersey, I did make a number of inquiries after that date, and I discovered from these inquiries that he was a fine public servant—honest, capable, a man who served in the New Jersey Election Commission in an outstanding capacity, a Republican and a fine public servant.

I think it is important today that these facts be laid before the Senate for our consideration so that the Senate may know that in New Jersey, based upon an independent inquiry on my part, his qualifications are considered outstanding. I think that consideration of Mr. Reiche for this post would be a very important matter, to be resolved in a positive form.

I thank the Senator for yielding the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the remarks of the Senator from New Jersey be placed at the end of the remarks of the Senator from Nevada. I am very grateful to the Senator from Nevada and the Senator from New Hampshire for yielding for this purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

Mr. HUMPHREY. Mr. President, I thank my colleague and friend from Nevada for his part in this discussion. I think his remarks brought out once again, for us to see, the bias shown on the FEC.

Unfortunately, it is a very partisan body; and if those of us on this side want our rights to be watched carefully and protected, we must have a strongly partisan representative on that Commission.

The nominee whose confirmation is in question today, it seems to me, has not made up his mind on some very important matters central to the opposition by my party to further growth in Government power—more particularly, further growth in Government power over the electoral process. I think that is the heart of it.

Mr. Reiche, in regard to extending taxpayer funding to campaigns for congressional elections, has said at various times that he is not philosophically opposed to it. He has not made up his mind. He has not had enough experience, he says.

I think all that is superfluous, at least the latter parts. I would like him to have made up his mind on the philosophical basis itself.

The surest way to extend Government control and power over the electoral process is to put the Government in the position of doling out dollars for campaigns.

Nearly every Government program comes with a multitude of strings. It is these strings that are choking our towns and our cities and our citizens across this land.

Does the Senator from Idaho seek recognition?

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield, without losing my right to the floor.

Mr. HATFIELD. Yes.

Mr. President, I know the unanimous-consent request the Senator is about to state. I have not objected during the day to such unanimous-consent requests on the part of the Senator from New Hampshire, to yield the floor to some other speaker without losing his right to the floor, and thereby be within the limitation of two speeches in one legislative day, one calendar day.

The Senator from New Hampshire knows that I have made two speeches today. Therefore, I am precluded at this point from making a closing argument if there should be a motion or if there should be a move to make some kind of decision.

Therefore, before the Senator states his unanimous-consent request, I would like to ask unanimous consent that I be granted the right to make a closing statement prior to a vote or prior to a parliamentary action during this calendar day.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection

Mr. HUMPHREY. I raise no objection to that, Mr. President. However, I do wish it to be clear that in so refraining from objecting, I am not agreeing to a vote on the question of the nomination today.

Mr. HATFIELD. I did not designate the parliamentary action that might occur. I am merely saying that under any parliamentary procedure that might bring the Senate to a vote on an issue relating to this subject, such as a motion to recommit or a motion to lay on the table or some other motion that I understand may be made, before this calendar day is over, I would like a right to make a closing statement on this subject.

I am precluded from doing so now under the rule of the Senate that says that after a Senator has spoken twice on the same subject on the same calendar day, that Senator is finished. But I do want the right to make a closing statement prior to any motion.

The PRESIDING OFFICER. The Chair advises the Senator from Oregon that the rules provide that no more than two speeches may be made in 1 day on any one question. The pending question before the Senate, of course, is the confirmation of the nomination. Should there be a motion regarding the nomination, that would constitute a separate question, and therefore an additional two speeches would be in order.

Mr. HATFIELD. I thank the Chair.

A parliamentary inquiry. Let us assume some hypothetical circumstance, that this might reach a place in the Calendar today that would call for a vote up or down. Would the Senator from Oregon be privileged to make a closing statement under that circumstance, having already spoken twice today on that subject?

The PRESIDING OFFICER. The Senator would not be entitled to speak, if the point were raised.

Mr. HATFIELD. Therefore, I renew my unanimous-consent request that, under whatever circumstance, I not be precluded from making a closing statement on this subject concerning Mr. Reiche's nomination. I am not expecting to make a third speech unless it is needed as to some kind of conclusion or decision or some kind of parliamentary change of circumstance.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I have no objection, Mr. President.

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object, because I think the request of the Senator from Oregon is fair under the circumstances of the debate today—does it or does it not apply to the usual questions which are nondebatable? I would assume that it would not open a nondebatable question to debate.

Mr. HATFIELD. A motion to table, for example, is not debatable, and I would not expect to make a speech under those circumstances.

Mr. McCLURE. I thank the Senator.

Mr. HATFIELD. I thank the Senator from New Hampshire for yielding, and if he wishes to make his unanimous-consent request, I have no objection.

The PRESIDING OFFICER. The question is on the unanimous-consent request by the Senator from Oregon.

Mr. ROBERT C. BYRD. Mr. President, what is the request?

The PRESIDING OFFICER. The unanimous-consent request was that the Senator from Oregon be allowed to speak prior to a final vote, to make a closing statement prior to a final vote on the confirmation of the nomination, even though he may have spoken twice previously during the day on the subject.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, suppose it is a nondebatable motion, such as a motion to table?

Mr. HATFIELD. I say to the majority leader that I just responded to the Senator from Idaho on that point. No, I would not expect to have any violation of normal parliamentary procedure to give me that right to speak, but only under the general terms of parliamentary procedure where a closing statement would be in order.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the Senator from Oregon is agreed to.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Idaho without losing my right to the floor, and with the understanding that the resumption of my remarks will not be counted as a second speech.

Mr. HATFIELD. Mr. President, reserving the right to object—and I shall not object—as I understand the parliamentary situation relating to the Senator from New Hampshire, he is in the midst of his second speech on this subject in this calendar day. Therefore, he may continue the use of the floor, with the intervening speech by the Senator from Idaho, and still be able to speak to this subject.

Once he yields the floor to an intervening speaker without unanimous consent, the Senator from New Hampshire then would be precluded from speaking a third time. Is that correct?

The PRESIDING OFFICER. If this is in fact the second speech of the Senator from New Hampshire, the Senator from Oregon is correct. However, it is not self-enforcing, the Senator would have to be called to order for making a third speech.

Mr. HATFIELD. Does the Senator from New Hampshire agree to that analysis of the situation?

Mr. HUMPHREY. I do think so.

Mr. HATFIELD. I do not object, and I am happy to have the Senator to continue to use the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. McCLURE. I thank the Chair, and I thank both the Senator from New Hampshire and the Senator from Oregon for making it possible for me to speak at this time.

Mr. President, I am concerned about the nomination not so much because of Mr. Reiche but because of the Federal Election Commission and the law under which we work and which will be the subject of the actions of the Federal Election Commission of which he would become a member.

Mr. President, I think we need to take a look at what the Federal Election Commission may or may not do in light of what it has or has not done. I call to the Senate's attention a special report which appeared in "The Nation," the issue of May 19, 1979, an article by Peter Peckarsky, an attorney, who is White House correspondent for the Washington Wire, a national news service. This article was in part supported by a grant from the fund for investigative journalism in Washington. I think it is pertinent to our discussion today because it focuses on one aspect of the deliberation and one area of responsibility of the Federal Elections Commission of which Mr. Reiche would become a part.

Mr. President, I read from the article that appears to which I have made reference:

> During the past seven months scattered but increasingly linked reports have appeared in *The New York Times, The Washington Post*, on ABC television and most notably in the columns of William Safire, that cumulatively point to serious financial improperties in the financing of Jimmy Carter's 1976 Presidential campaign. On the basis of two years of research, more than 1,000 interviews with more than 200 people and a review of nearly 20 linear feet of documents, it is now possible to construct a mosaic of detail that, for the first time, provides a complete and plausible theory about the financial irregularities that may have put Jimmy Carter in the White House.
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> Before going any further, let us recapitulate what facts have already been made public. First, on October 19, 1978, *ABC News* reported (from information supplied by this correspondent) that discrepancies had been found in President Carter's tax returns. Second, as highlighted by William Safire in his column of November 6, 1978, Billy Carter took the Fifth Amendment in an appearance before a Federal grand jury investigating Bert Lance's financial dealings. Third, accounts surfaced in the national press, derived from a report of January 17, 1979, by the National Bank of Georgia, of which Bert Lance was formerly president, that there had been delays in the repayment of loans made by the bank to Carter's Warehouse. Fourth, *The Washington Post* on March 11, 1979, raised charges that Billy Carter had altered records of the Carter family peanut warehouse and failed to make timely payment of $500,000 owed by Carter's Warehouse to the National Bank of Georgia. The fifth charge, a matter of public record in 1976, concerned the extension of $645,997 in credit by the Gerald Rafshoon advertising agency to the Carter campaign. And finally, *The Washington Post* reported on April 8, 1979, that some bank loans to Carter's Warehouse, although due in the winter and spring of 1976, had not been paid back in full until July 14, 1976.
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> Thus far these separate bits add up to a suggestive, but far from coherent picture. In the following article, bringing to bear additional information, I shall demonstrate how funds may have been improperly transferred from the Carter family business to the Jimmy Carter Presidential campaign. This information also raises new questions concerning the role played by Gerald Rafshoon, assistant to Persident Carter for communications, in the financial affairs of the campaign.
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> On December 12, 1974, Jimmy Carter announced his Persidential candidacy. Almost immediately, his campaign committee, the Committee for Jimmy Carter, faced a problem: as of January 1, 1975, it had to comply with the Federal Election Campaign Act, which limited individual contributions to a Presidential campaign to $1,000 and forbade direct corporate contributions altogether.
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> On January 22, 1975, Bert Lance, Carter's longtime friend and commissioner of the Georgia Department of Transportation when Carter was Georgia's Governor, became president and chief operating officer of the National Bank of Georgia. Although the bank's major experience was in urban lending, Lance soon made Carter's Warehouse in rural Plains, Ga., one of the bank's biggest customers.
>
> Carter nominated Lance director of the Office of Management and Budget in early 1977. But an investigation into Lance's banking activities led to his resignation on September 20, 1977. The main Justice Department probe of Lance has resulted in one indictment, is expected to produce more, and led to the appointment of a Special Counsel to investigate loans made by the National Bank of Georgia to Carter's Warehouse, a partnership owned by Jimmy Carter (62 percent), Billy Carter (15 percent) and Lillian Carter (23 percent).
>
> The key to unraveling the intricacies of President Carter's campaign finances is understanding that $1 million in loans made in 1975 and 1976 by the National Bank of Georgia to Carter's Warehouse for purchasing a peanut sheller and for warehouse construction actually made little or no business sense. The reasons why this is so are explained on page 571, but the upshot is that the sheller purchase may have been a pretext that enabled Bert Lance's bank to loan President Carter's business an additional $5.8 million ($2.2 million in 1975 and $3.6 million in 1976)—ostensibly for buying peanuts to be processed with the new sheller. Actually, the sheer magnitude of these loans may have provided an opportunity to divert some of the money for use in the Carter campaign.
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> In fact, three separate sources attest that about $500,000 of these National Bank of Georgia loans—and perhaps more—was not properly accounted for on three separate occasions. The first two sources consist of documents that have already come to public light. But the third source's information involves a $500,000 shortage that coincided with the 1976 campaign and thus provides a reasonable and extremely troubling explanation of how National Bank of Georgia loans actually may have found their way into the Carter Persidential campaign.
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> The first discrepancy arose out of the Carter loan agreement which provided that the National Bank of Georgia would extend loans up to a maximum of 80 percent of the value of the peanuts in the Carter warehouse. In other words, the peanuts represented collateral on the bank loan. As the shelled peanuts were sold, i.e., as the amount of collateral on hand diminished, Carter's Warehouse was obliged under the terms of the loan to pay back the bank.
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> At the end of 1975 Carter's Warehouse had an outstanding loan of $1,690,000 from the National Bank of Georgia. For this loan to be properly secured, the warehouse should have had $2,112,500 worth of peanuts on hand. But in fact, an unaudited, uncertified Carter's Warehouse balance sheet of December 31, 1975, listed the market value of the peanuts on hand as only $1,499,403—or some $613,097 less than the loan agreement required.
>
> The second public source to confirm another large discrepancy emerged on January 17, 1979, when the National Bank of Georgia Special Committee reported that on June 7, 1977, Robert Flynt, then the National Bank of Georgia's vice president in charge of Carter's Warehouse accounts, wrote Billy Carter to request payment of $500,000 to balance the peanut loan account. The overdue money was needed because Carter's Warehouse had withdrawn $476,000 worth of peanuts from storage without paying for them, meaning that there were no longer enough peanuts on hand to secure the bank loan.
>
> Finally, a third, independent source—a person close to the Justice Department investigation now in progress—says that in the month before the decisive April 27, 1976, Pennsylvania Democratic primary, about $500,000 was transferred from Carter's Warehouse accounts at the National Bank of Georgia to Billy Carter's personal accounts in the same bank. Shortly after this transaction, Billy Carter reportedly withdrew the $500,000 from his personal accounts.
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> Thus, in addition to the two documents already on the public record, now a third piece of the puzzle is offered which also indicates a mysterious $500,000 discrepancy. This new source, whose previous reports on Carter's finances have proven correct, also says that "About $500,000 was redeposited into Billy Carter's National Bank of Georgia accounts in May and June 1976. Justice doesn't know where this money came from, but they were told that the money was then transferred from Billy Carter's personal accounts to the Carter warehouse accounts and then used to repay the delinquent peanut commodity loan."
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> On March 11, 1979, *The Washington Post* carried a story that quoted Jimmy Hayes (a bonded warehouseman who worked with Billy Carter) as saying that in the spring of 1976 he and Billy Carter repeatedly altered warehouse records; Hayes also said that Billy Carter had failed to make payments totaling $500,000 owed to the National Bank of Georgia. Billy Carter did not sign the overdue checks until June 1976, well after the pivotal Pennsylvania primary. Hayes was subsequently interviewed by F.B.I. agents. Although Hayes later publicly denied the quote attributed to him in *The Washington Post*, no one has previously reported what Hayes told the F.B.I. I can now report that after Hayes talked to the F.B.I., my source told me that Hayes confirmed *The Washington Post* account to the F.B.I.
>
> Hayes has since refused to comment, other than to refer all questions to his first attorney, Ralph Smith of Bainbridge, Ga. Smith, nephew of President Carter's trustee and campaign organizer, Atlanta attorney Charles Kirbo, also refused to comment. Pet-

er Geer, of Albany, Ga., whom Hayes says now represents him, will not comment. Hayes, Sue Chambliss and David Reeves—all former employees of Carter's Warehouse—testified on May 3 before an Atlanta Federal grand jury investigating the warehouse finances.

In mid-January 1979, Assistant Attorney General Philip Heymann of the Criminal Division ordered a fast, thorough investigation of the Carter warehouse finances. In a series of interviews with this reporter, Heymann said that he had ordered his investigators to look into the question of whether money was diverted from President Carter's business to his campaign. When asked on April 5, 1979, whether the department had traced the money withdrawn from Billy Carter's accounts in the National Bank in the month before the Pennsylvania primary, Heymann replied that "the picture of somebody walking away with a satchel of money doesn't fit." When this reporter said that he had not meant to convey the impression that the money was moved in satchels, Heymann indicated that he wished that his earlier comment would not be reported and refused to comment further on the investigation.

The Justice Department's attempt to trace the flow of funds out of and back into Billy Carter's accounts was halted by Special Counsel Paul Curran on March 20, 1979, the day he was appointed, according to my source. When asked whether the F.B.I. was continuing its investigation, Curran refused to comment. When asked whether about $500,000, transferred from Carter's Warehouse accounts to Billy Carter's accounts, was withdrawn from the National Bank of Georgia in the month before the Pennsylvania primary, Curran hesitated a long time and said, "I don't know that." When asked whether the money was redeposited in Billy Carter's accounts in May or June, Curran said he would not comment on each allegation. I asked my source if there could be some explanation for Billy Carter's withdrawing the money other than a diversion of funds to the campaign. The source repiled: "If you believe that there's any other explanation you'd have to believe in the tooth fairy."

Jimmy and Billy Carter, Carter spokesman Jody Powell and Charles Kirbo, all of whom have previously denied that the money was illegally diverted from the warehouse to the campaign, as well as Robert Lipshutz, campaign treasurer, and Lillian Carter, were unavailable for comment. John Parks, Billy Carters Americus, Ga., attorney, refused to comment.

Both the source and a subsequent newspaper account indicated that Curran has in fact instructed the F.B.I. to resume tracing the money. Curran is believed to be focusing on the activities of Carter's Warehouse and Gerald Rafshoon Advertising Inc., of Atlanta, which was the Carter campaign's advertising agency.

THE RAFSHOON CREDIT

By May 31, 1976, Rafshoon's agency had extended credit of $645,997 to the Carter campaign, according to documents on file at the Federal Election Commission. The debt had grown during the early months of the campaign; the campaign committee owed Rafshoon $207,000 at the end of February 1976, $176,000 at the end of March and $350,000 at the end of April. The campaign's peak indebtedness to Rafshoon occurred during a period that roughly corresponds to the period from March 23 to May 20, 1976, when a Supreme Court decision halted Federal Election Commission certification of matching payments to candidates and made campaign financing more difficult.

Federal election law prohibits corporations from contributing to Presidential campaigns or from extending credit to these campaigns except in the normal course of business. In an interview, John Murphy, the Federal Election Commission's general counsel in 1976, interpreted the law to mean that if a corporation extends credit far beyond its usual billing cycle, or at a time when a campaign's credit rating is so feeble that no corporation would reasonably extend credit to it, there is a legitimate question as to whether the credit is an illegal corporate campaign contribution. Rafshoon's agency's actions seem clearly to have been outside the scope of normal industry practice. When I asked Harry Paster, senior vice president of the American Association of Advertising Agencies, what standard industry practice is in billing political campaigns, he replied: "Cash in advance."

Pennsylvania was the make-or-break primary for Carter. While Arizona Representative Morris Udall spent $217,368 and Washington Senator Henry Jackson spent $167,150, Carter, even though his campaign debt was almost $1 million at that point, spent $472,117—perhaps due to the $645,997 credit from Rafshoon's agency, much of which went toward media buys. Jackson and Udall spent almost all they had and lost. It was in Pennsylvania that Carter virtually wrapped up the nomination.

Robert Lipshutz, treasurer of the Carter campaign committee, who is now Carter's White House counsel, said to me that he does not know and did not ask about the source of Rafshoon's largess. Lipshutz claims that the Federal Election Commission said that the credit extension to the Carter campaign was "permissible." But a spokeswoman at the F.E.C. told me that she could find no record of the commission having told anyone at the campaign committee this. John Murphy, formerly at the F.E.C., said that he is sure there was no formal communication about the credit, and doubted that there was any informal communication.

On December 16, 1978, when I asked about the credit from his firm to the campaign committee, Rafshoon said: "I know what you're working on and you're screwed up." When I asked him where his corporation obtained $645,997 to loan the Carter committee, Rafshoon referred all questions to his attorney, William Stack Jr. of Atlanta. But both Stack and Howard Rothchild, who was an agency vice president at the time, told me they did not know where Rafshoon had obtained the money that enabled his agency to extend credit to the campaign committee. Finally, on January 3, 1979, Rafshoon came up with an explanation to this reporter, his suppliers extended credit to his firm and the firm took little or no profits. But he refused to say which suppliers had extended credit, how much credit each extended or what his agency's net profit margin was.

The explanation that the money came from profits does not hold water. The average net profit of an agency in Rafshoon's class is about 1 percent, according to figures supplied by Paster of the advertising association. If Rafshoon's profit margin was 1 percent of his firm's published 1976 total billings of $7 million, the 1976 net profits would be $70,000 and the credit to the Carter campaign committee would have represented a total of nine years' net profits. If Rafshoon's version is correct, the money for credit extended by the agency to the campaign committee would have had to come almost exclusively from suppliers. One of the agency's major suppliers, however, Williams Printing of Atlanta, which billed that agency a total of approximately $100,000 for campaign committee work, was always paid within thirty to forty-five days, according to John Pope of the firm. Don Sharp, Rafshoon's print production manager in 1976, said to me: "There were no long-term extensions of credit by suppliers." Pat Winstead, production coordinator at the Magus Corporation in Philadelphia, which produced the Carter campaign's television ads, told me that Rafshoon's corporation usually paid within thirty to sixty days.

Given that most of the ad money was spent for radio and TV time, for which stations require cash in advance, it is difficult to understand how credit from suppliers would have provided the agency with the money it needed to pay the broadcasters—unless the suppliers were supplying money (instead of materials). Rafshoon's explanation that the money for the credit came from suppliers and profits appears untenable on both counts. When asked whether the credit extended by his corporation to the Carter campaign committee was an illegal corporate campaign contribution in light of standard industry practice of demanding cash in advance from political campaigns, Rafshoon told me: "I do things differently."

Where did Rafshoon get the money? In April 1976, when the campaign committee's debt to Rafshoon's agency increased by $174,000, Bert Lance came to the rescue. On April 19, 1976, according to a National Bank of Georgia special report and a financing statement, the bank extended Rafshoon's firm a credit line of $155,000 secured by the agency's accounts receivable (including the receivables from the insolvent campaign committee). When asked where he would have obtained the money to extend credit to the Carter campaign without the loan, Rafshoon said: "I don't know."

But the Georgia bank only provided a credit line to the agency of $155,000 (and actually loaned less than that, according to Rafshoon's attorney, Stack). That leaves $490,000 or more unaccounted for (since the total credit to the Carter campaign committee was $645,997)—about the same amount of money that the Justice Department allegedly discovered was transferred from the Carter's Warehouse accounts to Billy Carter's personal accounts in the National Bank and then withdrawn in the month before the Pennsylvania primary.

If Rafshoon's agency did obtain its money from Billy Carter, the cash may have moved in this way: Bert Lance's National Bank of Georgia extended a loan to Carter's Warehouse specifically for the purchase of peanuts to be shelled. A condition of this loan was that receipts from the sale of these shelled peanuts would be used to pay back the bank's loan. However, Billy Carter failed to apply the receipts from the shelled peanuts to paying off these loans, instead transferring around $500,000 from the warehouse accounts at the National Bank to his own accounts at the bank. He then gave this money to Rafshoon, who in turn used it to pay Jimmy Carter's advertising bills. In May and June 1976, after Carter won the Pennsylvania primary and private contributions, bank loans and Federal matching funds started flowing in, the campaign committee reimbursed Rafshoon's agency. Rafshoon then returned the money to Billy Carter who redeposited it in his own accounts, and then transferred it to Carter's Warehouse accounts. Then, when there were sufficient funds in the warehouse accounts to cover the checks, Billy Carter repaid the now delinquent National Bank of Georgia loan with warehouse checks. Thus he made up for the $500,000 in checks Jimmy Hayes has said that Billy Carter refused to sign in March and April.

If such a manipulation of funds knowingly took place, Bert Lance, as an officer of the bank, could be charged with a misapplication of the bank's funds, a felony under 18 United States Code section 656. Billy Carter—and perhaps Jimmy and Lillian Carter—might similarly have committed a Federal felony by making a false loan application to an F.D.I.C. bank in violation of 18 U.S.C.

1015. If Robert Lipshutz and Gerald Rafshoon were aware that the National Bank of Georgia's money was being used to pay for the Carter campaign's TV, radio and newspaper ads, then they may have violated Federal election law by participating in what would appear to be an illegal corporate campaign contribution violation of 2 U.S.C. 441b. Further, everyone involved in this scheme might be charged with conspiracy to violate Federal law under 18 U.S.C. 371.

On February 11, 1979, Billy Carter was scheduled to appear on the CBS news program *Face the Nation*. The appearance was abruptly canceled by Billy Carter's attorney the day before, after Rafshoon's secretary called CBS to say that Rafshoon was "quite upset" and "disappointed" that Billy Carter was to appear. Rafshoon refused to discuss his actions.

On February 23, Billy Carter entered an Americus, Ga., hospital for treatment of bronchitis. On March 6, Billy Carter entered a military facility in California for alcoholism treatment which lasted seven weeks. Coincidently or otherwise, this gave Billy Carter a convenient excuse for avoiding Federal investigators as the three-year statute of limitations on prosecutions of criminal violations of Federal election law during the 1976 spring primaries was about to run out. Then, on or about March 1, 1979, the President, acting through his trustee, Charles Kirbo, paid his brother about $314,000 for some land in Plains, Ga.

The net profit to Billy Carter on the sale was about $190,000, according to Don Carter, the Gainesville, Ga., realtor who handled the sale.

In a previously unreported development, Billy Carter on April 25, 1979, as soon as he left the California institution, was briefed in the White House by President Carter in the presence of Presidential aide Hamilton Jordan on the Carter's Warehouse-National Bank of Georgia arrangement in case Curran subpoenaed Billy Carter. My source also said Billy Carter testified before an Atlanta Federal grand jury on May 9, 1979.

THE FRIENDLY INVESTIGATION

While the press has shown considerable interest in the questionable transactions surrounding Carter's campaign financing, they do not have the legal authority (i.e., subpoena power) to get the necessary documents.

As early as June 1977, some would argue, it was obvious from President and Mrs. Carter's Federal income tax returns why Jimmy and Billy Carter should have been called before a Federal grand jury and what they should have been asked. Yet the Justice Department waited until October 25, 1978, to call just Billy Carter before the Atlanta Federal grand jury investigating Bert Lance. When asked on November 22, 1978, about the delay, Walter Barnes, a department attorney on the Lance team, said: "No comment. There are many things I would like to say but the explanations will have to wait until after an indictment. I might not be able to speak even then."

There is an explanation, however. The effective-date section of the Special Prosecutor provisions of the Ethics in Government Act of 1978 allowed President Carter to prevent the legislation from applying to the investigation of his finances until April 24, 1979.

The Special Prosecutor bill provided that the legislation did not cover information "related to a matter which has been presented to a grand jury" and which is "received by the Attorney General within 180 days of the date of enactment of this Act."

The bill passed Congress on October 12, 1978. Sometime in the week of October 16–20, 1978, Billy Carter was subpoenaed, according to a Justice Department source. Not until the day after Billy Carter claimed his Fifth Amendment right not to incriminate himself in front of the grand jury did President Carter sign the bill. Thus, he delayed the application of the Special Prosecutor legislation to the investigation of his finances for six months.

Philip Heymann told this reporter that the Carter loans first came to his attention on August 13, 1978, as a result of the Lance investigation. When asked why it took so long to inquire into the loans, Heymann said he did not know. He cited the mammoth nature of the Lance investigation as a possible cause for the delay. Heymann said he was unaware that there had been press attention to the loans as early as November 1976.

CONCLUSION

Although serious questions had been raised as early as October 19, 1978 (on the *ABC News* report), the Justice Department's investigation of the numerous questionable transactions surrounding President Carter's personal and campaign finances did not really move into high gear until January 1979—after William Safire's question-raising columns—when Heymann ordered the inspection of Carter's Warehouse finances.

Because of the delay in appointing Special Counsel Paul Curran, President Carter and all his men are at the point where the three-year statute of limitations on prosecutions of criminal violations of the Federal election law in the 1976 primaries is about to run out. Prosecutions for banking law felonies, however, have a five-year statute of limitations and are still possible.

The responsibility is now Curran's to conduct a thorough investigation, and find the answers to the following questions, among others:

(1) Did the Internal Revenue Service properly audit President and Mrs. Carter's 1975 and 1976 Federal income tax returns? In particular, did the I.R.S. find proof (i.e., canceled checks) that all of the $1 million investment on which the Carters claimed an investment-tax credit was in fact spent on qualified business investments?

(2) What did Billy Carter do with the money he allegedly transferred from Carter's Warehouse accounts to his own accounts in the National Bank of Georgia and then withdrew before the Pennsylvania primary?

(3) Where did the advertising agency then owned by Gerald Rafshoon obtain the money it used to extend credit of $645,997 to the Carter campaign committee, including large sums for radio and TV time and newspaper space?

(4) When campaign treasurer Robert Lipshutz authorized repayment to Rafshoon's agency for the credit it had extended, did he know that Rafshoon may have intended to use this money to repay the Carter's Warehouse loan?

(5) Did Lipshutz and/or President Carter know where Rafshoon obtained the money that made the advertising credit possible?

(6) Did Lance know that the sheller-warehouse construction loan by his bank was dubious? Did the construction loan or the peanut loan constitute a misapplication of bank funds?

(7) Did Billy Carter withdraw money from Carter's Warehouse accounts just before the Pennsylvania primary instead of repaying the bank's peanut loan, and did Lance know about it?

(8) What was Gross's role in the F.E.C. audit of the Carter campaign committee books? If the role was improper, what was Lipshutz's role in placing Gross in the key F.E.C. position to control the Carter audit?

(9) What role was played in this extraordinary sequence of events by Attorney General Griffin Bell and his former law partner, Charles Kirbo?

(10) Did the March 1, 1979, payment of about $314,000 to Billy Carter by his brother's trustee (Kirbo) constitute an attempt to buy Billy Carter's silence and thus to obstruct justice?

As the evidence presented in his article strongly suggests, these questions have reached the flash point of scandal. Even worse, perhaps, than the campaign financial irregularities themselves, is the possibility that with the complicity of close Presidential associates and complacent Federal investigatory agencies, what we have is yet another cover up.

The evidence presented here goes deeper than what the press has vaguely and too glibly dubbed "Peanutgate." What it appears to constitute is nothing less than a prima facie case that funds from Bert Lance's bank were illegally used in the Carter campaign. If he had lost, candidate Carter could have expected that the alleged irregularities would have vanished in the post-election mists. If elected President, however, he could expect to assume control over the investigatory apparatus of the Government and control its inquiries. Can this really have happened so soon after Watergate?

Now, an independent Special Counsel has been appointed who is charged with uncovering the truth. Although hobbled by an inability to offer potential witnesses immunity from prosecution without Justice Department approval, Paul Curran has been invested with a public trust to seek the answers to the questions that the evidence insistently raises. One hopes he is able to provide them sooner rather than later.

On the night of December 12, 1974, when he announced his Presidential candidacy, Gov. Jimmy Carter said: "There are a lot of things I would not do for an office or honor in the world." Now it is vital that the people know just what he did do in pursuit of the Presidency of the United States.

Mr. President, I have taken the time to read this article in its entirety because it relates not just to the election of President Carter, not just to the question of whether or not the FBI or the various investigatory agencies have done their job, but because it also relates to the actions of the Federal Elections Commission itself. We are debating the nomination of a man to that Commission and it is important for us, as we debate the qualifications of that man and the job which he has been nominated to undertake, to look at what the Elections Commission has or has not done in one of its most critical areas of responsibility. I think the RECORD is more than replete with suggestions that they have been less than vigorous where it comes to the question of investigating the campaign finances of the Carter Presidential campaign.

Now we are told, Mr. President, that we must get this nomination done quickly in order that they can complete their work before he gets involved in the next campaign. I am concerned not just about when they complete their work, but how they complete their work. I think it is important for us to know that when this job is done, it is done fairly, it is done efficiently, it is done objectively, it is done without any attempt to avoid the consequences of the charges that are made in Mr. Percarsky's article.

Mr. President, I think there is substantial reason to question whether the Commission as now constituted has done what should have been done. I am concerned that, whether or not there is a change in personnel on the Federal Election Commission, we know that Mr.

Reiche, or whoever else may be nominated to that Commission will delve into these questions.

Did they, as a matter of fact, help in delaying the matters that were critical in timeframe as laid out in the article?

Mr. President, these are not simple charges. They are not casually repeated by me.

I do not know the truth concerning Mr. Percarsky's allegations in this article. The American people are entitled to know the truth about these allegations. We will never know whether they are adequately investigated unless we have faith in the people who are on the Federal Election Commission. We certainly must then very carefully scrutinize the qualifications and the commitment of any person who is elected to serve in that position, particularly where he has been nominated by the very man who must be investigated.

I think we are entitled to ask some questions. I think they are very serious questions. I think they need to be answered. We do not have the answers before us today.

Mr. President, I yield the floor back to the Senator who has control of the floor and who yielded to me.

The PRESIDING OFFICER (Mr. Moynihan). The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I thank the Senator for his enlightened comments and for contributing to the debate.

I do thank the Senator from Idaho for assisting me in an endeavor which we see as one which seeks to protect the rights of our party—nothing more.

It is not to ruin anyone's reputation or cause irritation. We all have more important things to do. All of us have important things pressing on us.

I do not relish spending my time doing this. But I feel very strongly about this nomination. I feel very strongly about the importance of having, for the sake of our party and ultimately the sake of our country, a man on the Commission representing our party who has made up his mind before he takes that seat about how far we should go in empowering the Government to oversee the electoral process.

Mr. Reiche, the nominee, has been asked by various persons at various times if he favors extending taxpayer funding of campaigns to congressional elections.

He says he is not philosophically opposed. He says he has not made up his mind about it.

When asked if he favors giving the Federal Election Commission the power to prohibit a candidate from running for office again for a certain period of time if that candidate has been found guilty of a violation of the FEC rules, in response he said something like this: "Well, I don't know. We don't have experience with that. I don't have Federal experience."

It is not a question of experience, Mr. President. It is a question of philosophy, if you will.

Surely, a man who has been active in politics for a great deal of his adult life, who spent 6 years as chairman of a State Election Law Enforcement Commission, should by now have made up his mind about certain fundamental matters.

With respect to the question I just alluded to, the question of whether Mr. Reiche, when asked if he would like to see extended to the Federal Election Commission the power of prohibiting candidates from running for office for a period of time after being found guilty of a violation, the nominee replied in this vein, as it seems to me he always does in response to questions of this kind:

> With respect to the possible extension of this idea to Federal candidates, I would want to study the matter further before ever agreeing to such a suggestion.

I wish he had rejected it out of hand. I would not be here spending my time opposing his nomination. I wish he would have rejected that out of hand and rejected out of hand other proposals to give increased power to the Federal Election Commission.

It is powerful enough. It is the most dangerous agency in our Government. I do not personally want to see and will fight always against giving the Federal Election Commission further powers to regulate and control that one check which citizens have over the Government, the one check short of revolution the citizens have over their Government; namely, the electoral process.

For the benefit of my colleagues who have been busy otherwise and have been conducting business in other places, who have not been able to listen to the debate thus far on the intercom system, let me summarize it as I see the situation, Mr. President.

The statuory term of Mr. Vernon Thomson, who represents the Republican Party, occupying one of the three seats that is allocated to our party on the Commission, as there are three seats allocated to the other party, is expiring.

However, there is no crisis. There is no emergency. My party is still fully represented. We still have three Commissioners sitting. Mr. Thomson may, by statute, remain until his successor is confirmed. Mr. Thomson has indicated by letter to me that he is perfectly willing, even anxious, to stay on. In fact, in verbal conversation with him, he stated that he wished that he would be reappointed. He lives here and intends to keep on living in Washington.

There is no crisis. There is no need to rush. It is unfortunate this matter has come to the floor of the Senate because it is a party matter. I regret that it has to be discussed here, and I ask the indulgence and forbearance of our colleagues on the other side of the aisle in this delicate situation, and it is a delicate situation.

This is not a normal nomination. I am not talking about an everyday Government post.

We who sit on this side of the aisle have, in passing judgment on this nomination, more than our usual responsibility, more that is, because we have a responsibility not only to the citizens of this country, but a responsibility to our party, to make sure that we confirm a man who will adequately represent the interests of our party.

A seat on the Federal Election Commission is a peculiar Government position. It has peculiar responsibilities.

I know, for my part, I would not want to force on my colleagues on the other side of the aisle a candidate who was opposed, who was found wanting, by a substantial number on that side of the aisle.

By the same token, I am confident that they will not want to impose on those of us on this side of the aisle representation by someone who is opposed by a substantial number on this side.

It is not a question of whether the gentleman has professsional qualifications. He has. It is not a question of integrity or honor or character. I have never questioned this. It is a question of whether he is sufficiently partisan.

There happens to be a considerable difference between the approaches of the two major parties on the question of taxpayer funding of congressional campaigns. On the Democrat side, according to the party platform, they advocate extending taxpayer funding to congressional campaigns. For our part, on our side, by a resolution passed by the Republican National Committee this year, we are opposed to it, and elected Republican officials are urged to oppose it.

Unfortunately, this nominee, with respect to this question of extending taxpayer funding to congressional campaigns, says he is not philosophically opposed. Indeed, under sharp questioning by a member of our party, Senator Packwood, the distinguished junior Senator from Oregon asked, "If I want to vote for someone who opposes taxpayer funding of congressional campaigns, should I vote for you or against you?" Mr. Reiche replied, "You should vote against me."

I take that to mean that, at the very least, the nominee does not oppose taxpayer funding of elections and therefore does not embrace the cardinal Republican position that bears on the electoral process which the Federal Election Commission regulates. Because he does not embrace this important Republican position, I question whether the gentleman has sufficient partisanship to protect our interests adequately.

The point has been made that the Federal Election Commissioners do not make policy. I only wish that were true in the absolute sense. They do make policy, just as any bureaucrat makes policy when interpreting the gray areas of the law. There are a great many gray areas. We in this body are human beings and therefore we make imperfect laws which must be interpreted by our public servants. When they interpret these gray areas, these ambiguities, it is only human for their prejudices to play a part in those decisions.

Beyond that, this Commissioner will have duties involving the hiring and firing of staff; and it is only reasonable to assume that his staff, in large measure, will reflect his own positions. The FEC, like all Federal bureaucracies, is so busy that the Commissioners themselves cannot oversee every last detail, any more than we can as Senators. The staff will be making a lot of decisions and thus taking a lot of actions unsupervised.

The point is that Commissioners do not act in a vacuum, any more than any other executives or any other public servants.

So it seems to me an invalid point to raise the objection, the argument, that Commissioners do not make policy.

Judges do not make policy. However, there cannot be more than a handful of people in this country who do not know that there has been too much judicial activism, and thus judges making policy. Will a judicial nominee come before the Senate and say, "I am an activist; I use the bench to try to advance my own point of view"? You will never find anyone who will do that. They all say they do not. But we know, when we examine the entire evidence that in fact some do; that in fact the judiciary often has usurped executive and legislative powers; and I submit that some legislative powers are also usurped by some of these commissions.

If we cannot count on this nominee to use as the point of departure in making his judgments the official Republican position as enunciated by a resolution of the Republican National Committee, I do not feel confident that we can count on him to be sufficiently partisan in defending our interests before that commission. It is a partisan commission. Irrespective of what it should have been or was intended to be, it is partisan.

Members of my own party and perhaps members of the other party have suffered from that partisanship. I know of one candidate for the U.S. Senate who in the past year's election was badly harmed by the announcement of the FEC of an investigation of his campaign. After the election, the charges were brought. The candidate was cleared. But that did not erase the harmful effect on that candidate during the campaign.

As candidates, we all know that the FEC has the power, simply by announcing an investigation, to do very great damage to our campaign and even to cause our defeat. So we want to be very careful—each of us, on our own side, for our own part—that we have three very solidly partisan Commissioners representing our point of view.

There have been a great many 3-to-3 votes on the Commission, as Senators know. I and others who oppose this nomination fear that if the nomination is confirmed, we shall see 4-to-2 decisions going against our side.

So the matter is more than just philosophical. It is more than just a question of how much more power we want to give to the Government in regulating that vital process, the choosing of our leaders. It is more than that. It has practical effects as well.

Mr. President, in these influential positions, it is vital that we have people who will monitor carefully the activities of staff members who might be inclined to use their staff positions to promote personal social policies outside the mandate of statutes and official agency policy.

As an example, let me read the news release from the Federal Elections Commission on the appointment of Mr. William Oldaker as Federal Elections Commission General Counsel, effective January 1, 1977.

FEC Names William C. Oldaker General Counsel

Washington, November 24.—Vernon Thomson, Chairman of the Federal Election Commission today announced the appointment, by unanimous vote of the Commission, of William C. Oldaker as General Counsel of the FEC, effective January 1, 1977.

Mr. Oldaker presently is the Assistant General Counsel for Compliance and Litigation for the FEC. He will replace John G. Murphy, Jr., who has served as General Counsel since May 1, 1975, and who will resume his teaching post at Georgetown University Law Center on January 1, 1977.

Mr. Oldaker has been with the Federal Election Commission since 1975. In addition to his responsibilities for establishing and supervising the FEC's compliance and litigation programs, he also acted as a liason with Congress in an effort to reconstitute the Commission after the Supreme Court's decision in *Buckley v. Valeo*, January 30, 1976.

Mr. Oldaker, who is 34, received his B.A. and J.D. degrees from the University of Iowa. He also attended the Graduate School of Business at the University of Chicago.

Following his studies at the University of Chicago, Mr. Oldaker worked as an attorney advisor for the Federal Communications Commission. In 1969, he joined the Equal Employment Opportunity Commission as Special Assistant to Chairman William H. Brown, III. In this capacity, he served as a liason with Congress, and as Federal regulatory coordinator, and served on the Administrative Conference of the United States.

In 1972, he was appointed Assistant Regional Attorney for the Equal Employment Opportunity Commission in Denver, Colorado, where he directed the civil litigation efforts of the EEOC in various Southern and Southwestern states.

Mr. Oldaker is a Member of the Bars of the Supreme Court of the United States, the Court of Appeals of the District of Columbia, the District Court of the District of Columbia, the State of Colorado, and the State of Iowa.

Next let me read a news story from the Denver, Colo. Rocky Mountain News dated August 8, 1973 which indicates FEC general counsel Oldaker has in the past taken opportunities to expand Federal agency powers beyond the limits authorized by his supervisors.

This story is from the Rocky Mountain News, August 8, 1973, headline "5 EEOC lawyers suspended for falsifying records."

The regional attorney for the U.S. Equal Employment Opportunity Commission's (EEOC) Denver Litigation Center and four other lawyers assigned there have been suspended from their jobs for falsifying records submitted to Washington officials.

The Rocky Mountain News learned Tuesday that the five attorneys, aided by about 15 other employes, were involved in doctoring "reading files" that were especially prepared for a visit from William A. Carey, the EEOC's general counsel.

By altering the records, the group obliterated a three-word phrase indicating the Denver office defied orders from Washington about how cases were to be filed under the Civil Rights Act of 1964.

MAKING DECISION

Making the decision to falsify the documents were Regional Atty. William Oldaker and Associate Regional Atty. Michael L. Bender.

According to Bender, both men were demoted and received nine-week suspensions as punishment, effective July 27. The other three attorneys, whom Bender and other EEOC officials declined to name, received suspensions of up to five weeks. The other employes received lesser punishment or letters of censure.

Bender emphasized that the documents altered were not actual case files subject to court review and action. Changing case files would have made the attorneys subject to disciplinary action by the courts as well as by higher authorities in the EEOC.

NEVER IN WRITING

Bender said the directive from Washington that he and Oldaker ignored was never put in writing. It limited the filing of class action suits by the EEOC and therefore restricted the possibility of getting broadly applied court decisions.

Mr. DOLE. Mr. President, will the Senator from New Hampshire yield to the Senator from Kansas without losing his right to the floor and without considering it a second speech?

Mr. HUMPHREY. I ask unanimous consent that I may be permitted to yield to the Senator from Kansas without losing my right to the floor and without it being considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, I do not want to interrupt the Senator's speech.

But, Mr. President, I have been listening to much of the debate through the electronic device that we all have on our desks in our Senate office and like every other Republican Senator I have been following this nomination with interest. I have listened with great interest to the distinguished Senator from Oregon, the distinguished Senator from Nevada, the distinguished Senator from Idaho, and the distinguished Senator from New Hampshire. The Senator from Oregon being in support of the nomination and the other Senators being opposed to the nomination.

Mr. President, I rise in opposition to the nomination of Mr. Reiche. It is not that I have any reservations regarding his integrity or his accomplishments. There is no doubt that he has achieved a great distinction as a practicing attorney in the Princeton, N.J., law firm of Smith, Shatton Wise & Heher. He served faithfully in the public sector and as everyone knows, most recently as the chairman of the New Jersey Election Law Enforcement Commission. Mr. Reiche has also held various posts within the New Jersey Republican organization. Based on these facts I do not think we can quarrel with his party credentials nor can we quarrel with his professional credentials.

Mr. President, I do believe however there exists some serious doubts as to his commitment and dedication to those traditional Republican views on election laws and public financing in particular.

I might say that the subject of public financing of congressional campaigns is one of the few areas and one of the rare times that all the Republicans were united during the last Congress. I do not suggest we must have unanimity on every issue. But on that issue 38 Republican Senators opposed public financing.

Mr. President, in 1976 I had the great honor of being the running mate of President Ford and by virtue of that position, I was a recipient of a certain amount of public financing. I have to say that one thing I liked about it is you did not have to raise money. There is nothing more demeaning for a candidate for public office than to have to go out and solicit funds.

I found myself after a hard day's campaign across the country not having to sit down in the evening to make phone calls to someone in New Jersey, Rhode Island, Kansas, or California asking for money.

Perhaps there are some of us who have had some exposure to public financing or who now are having some exposure to public financing and it may seem to some a little contradictory to stand on the floor and say we are opposed to Mr. Reiche because he may support the concept.

But Mr. President, the point was and is whether it should be extended to senatorial and congressional races, and who knows where it might end. It is not illogical to assume its extension to State and local races.

At the very time when we are having people in California and Kansas, everywhere in this country, telling us "We have had enough, let us alone," I do not believe the American people are ready for total public financing of Federal elections. I know if a poll were taken many people might express some interest in public financing.

Mr. President, I certainly believe the public should become involved in the campaign process. Politics is not a spectator sport. We must encourage participation whether we are Democrats, Republicans, or Independents. We have an obligation to focus on what I consider to be a very important issue that being voter participation. The extension of public financing, to Congressional campaigns coupled with increased Federal dictation and Federal regulation and Federal control over the electoral process will not increase the desired participation.

So Mr. President, I guess it is fair to conclude that the opposition of the Senator from Kansas and the opposition expressed by my Republican colleagues to the nomination of Mr. Reiche is due in large part to the public financing issue.

Our opposition is philosophical. I heard the argument made on the floor that we should not have single-issue arguments, and maybe that is the case. I have tried to avoid those. In fact, just yesterday on this floor I stood in this very same place supporting the nomination of Patricia Wald to be a judge of the Court of Appeals for the District of Columbia. I asked my colleagues on both sides, to support that nomination.

Now, there were some who were concerned about her background, about her activism, and about her liberalism. I remember standing on this floor years ago arguing to my liberal friends that they should not turn down Judge Clement Haynsworth just because he had a conservative philosophy. Well, he was turned down for the most part, because he was a conservative.

So I feel that someone's philosophy insofar as a judicial nomination is concerned should not be an overriding factor. I certainly had no hesitancy in supporting the nomination of Patricia Wald.

But that was a judicial matter, and I have no doubt she will carry out her duties admirably and professionally.

We are told that nominations for judicial positions are more or less removed from the sphere of politics. Well, that is not the case in the nomination before us today. This nomination is purely political, and we all know, when it comes to politics, philosophical differences do play and should play a major role.

The Federal Election Commission was created as a bipartisan Commission. It is composed of three Democrats and three Republicans, and I guess it is fair to say that all these members play a partisan role, not in the strict partisan sense, but at least they know they are Republicans, they know they are Democrats, and they know why they are selected and so they understand that there is some partisanship involved, whether we like to think about it or not, in their selection process, and it exists while they serve as Commissioners.

I do not suggest they make decisions based on whether or not the complaint is made by a Republican or by a Democrat, but there has been an effort to balance philosophies and balance the Commission.

(Mr. PRYOR assumed the chair.)

Mr. DOLE. While it was recognized during the original debate when the FEC was created that it should be an independent agency we did recognize that it would not be nonpartisan, and I assume that is the reason it was divided down the middle.

Mr. President, the original law provided that nominations to the Commission be made by the President upon consultation with the respective party leaders in the two Houses of Congress. It was thought then and is still recognized that anything less than that arrangement will endanger the Commission's credibility. The Senator from Kansas understands that the current nomineee was one of the individuals submitted to the President, when the prior Republican vacancy on the FEC occurred, and was subsequently filled by Mr. Max Freidersdorf. However, when the current vacancy opened a subsequent list was not forwarded to the President and he merely chose a name from the prior list submitted. I ask unanimous consent that the text of a letter from Congressman Rhodes to Senator Humphrey, pertaining to the submission of FEC nominees to the President, be printed in full at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Minority Leader,
U.S. House of Representatives,
Washington, D.C., June 8, 1979.

Hon. Gordon J. Humphrey,
U.S. Senate,
Washington, D.C.

Dear Senator Humphrey: Thank you for your letters of June 5 and 7. Naturally, I will be glad to be furnished with a copy of the answers that Mr. Reiche makes to your various questions.

I am not able to agree with the premise that the President acted unfairly in naming Mr. Reiche. Senator Baker and I could have submitted a new list after the Friedersdorf appointed but we did not. If there is any fault, I suppose the blame has to be on us.

I think you should know that both Senator Baker and I interviewed Mr. Reiche very carefully before putting his name on the list. In addition, the Republican members of the New Jersey Congressional delegation gave Mr. Reiche their endorsement. Even so, I welcome your initiative in making very sure that Mr. Reiche understands his duty to the Republican Party if he becomes a member of the Federal Election Commission.

Yours sincerely,

John J. Rhodes.

Mr. DOLE. Mr. President, now is not the time to argue the pros and cons of public financing of congressional campaigns. It is, however, the time to debate whether or not this seat be filled with an individual who strongly supports the tenets of the Republican Party in terms of public financing. It seems to be the Republicans who are divided on this nomination. I do not know of any Democrats who have spoken in opposition. I guess it is fair to say, it might have been better had we been able to settle this problem out of court. Unfortunately that did not happen, so we now have it before us in the Senate, and I hope it will be resolved at an early hour.

I am not certain what the party breakdown is, and I heard the Senator from Oregon say earlier this morning—and I can vouch for his strong opposition to public financing, so I do not think that to be the issue. I think every Republican would probably be as firm against extending public financing to congressional campaigns this year as they were last year. Maybe the views of Mr. Rieche really make no difference if he is a member of the Commission.

He will not be a legislator. He might however be asked to testify on the subject of public financing. There are some in the Republican Party who strongly believe in public financing of congressional campaigns, and I guess that is the right they have, and it certainly is a right they should have. We have a right to differ in the Republican Party, and those of us who were elected, I think, should express our differences. I do not know many who are reluctant to do so. I do believe that is the minority view within the Republican Party and I think it is also a minority view among the general electorate.

I think history and the records and the debates will show that the FEC was created, as I have indicated and others have indicated, as a balanced Commission. I know many in this body, including the minority leader and others, strongly opposed another nominee from the same State for good reasons.

Mr. President, had we known Mr. Reiche's views on public financing at the time the nominee's name was on the list submitted to the President, Mr. Reiche's name quite possibly would not have been on the list. There are no time constraints on this nomination. I was present yesterday at the policy luncheon when the distinguished Senator from New Hampshire read a letter from Vernon Thompson the former Governor of Wisconsin, and now an FEC Commissioner, who indicated, that he was certainly in no hurry to leave the Commission. He served with distinction in the Congress of the United States and, has done a very creditable job serving as a Commissioner.

Mr. President, the Senate today is faced with acting on a partisan issue. There should be little, if any, Republican opposition to a Republican nominee to fill a Republican vacancy on this agency. The question I am constrained to propose to my colleagues on the other side of the aisle is this: "Would you accept or permit such misrepresentation to occur when filling a Democrat vacancy on the FEC"? I believe for many the answer would be no. I would suggest to my Democrat colleagues, that if the leadership does not withdraw the consideration of Mr. Reiche, they join with a majority of the Republican Members and vote down this nomination. I would prefer that those in charge around here let us work out our housekeeping problems amongst ourselves.

It ought to be a matter that Republicans could settle, but that is not the way it works. Perhaps another alternative could be that all the Democrats could vote "present," and permit the Republicans to make a final determination.

It has been suggested by some that maybe the Democrats, since there has been some indication that this name should be withdrawn, will see that division among the Republicans, and that that might be an opportunity for them to express their views not only on public financing, but on the balance of the Commission.

I am not certain that this matter rates in importance with all the other matters that are before Congress or the different committees. The Senator from Kansas and others were privileged to visit with President Carter yesterday, who talked to us about the energy crisis and his proposed solutions to the energy crisis. I think there has been at least an indication that he would like us to resolve some of the problems before we leave on the so-called August recess.

I am sure it does not do justice to the nominee to just set this action aside and set it aside and set it aside. I understand he has made sacrifices and made plans, and he would like to have the matter resolved one way or the other.

But aside from that, this is certainly not a matter of priority as far as the national interest is concerned, or as far as the Senate business is concerned.

I believe that the matter could be resolved without any division among Republicans. Our party is big enough and strong enough and has enough room for different opinions. It seems that the best course would have been to encourage the nominee to ask that his name be withdrawn from consideration. I have listened to the Senator from New Hampshire discuss his success in that State, and I guess in fact I would suggest that that success was because his views were firm as far as Federal intrusion, Federal controls, and Federal regulation is concerned, whether it be of the electoral process, or business, or labor, or whatever. Because of that philosophy, he won a major victory.

I would suggest that we are going to hear all the arguments over and over again. I do not know of anyone who has anything personal against Mr. Reiche. I have never met the nominee, so I have no quarrel with him personally. I think I may have voted against one or two, or maybe three other nominees in the 10½ years I have been in the Senate, so I do not do it lightly. I would just add that this is a commission and not a judicial monination. It is a commission which by law should be balanced, and therefore this nomination should not be approved.

Mr. President, the FEC must continue to function as it was originally intended. It was created with an evenhanded, concept and it must continue to administer its duties in that manner. Today, there are many who may seriously ask the question whether it serves any purpose to have a bipartisan commission if the membership is weighted to represent only one philosophical viewpoint.

I thank the distinguished Senator from New Hampshire for yielding to me without losing his right to the floor.

Mr. HUMPHREY. I thank my friend and colleague from Kansas, Mr. President. He has imparted to us some irrefutable words of wisdom, and I am proud to say that he, like Senator HATCH, campaigned for me during my campaign.

Think of it, a U.S. Senator campaigning for a candidate for the U.S. Senate who has never run for office before and is virtually unknown. That is an act not only of real friendship, but of courage as well. I am certain that, with a margin of victory of only 5,000 votes, the contribution made to my campaign and the credibility of my campaign by Senator DOLE, Senator HATCH, and others was of inestimable value.

Mr. President, I said earlier in my remarks that I would read into the RECORD the transcript of an interview between Senator PACKWOOD and the nominee. I think I shall not do that. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FRANK REICHE INTERVIEW WITH PACKWOOD

BP. Some questions I've got . . . and it revolves totally around public financing of campaigns. Congressional campaigns, specifically. Let me start out with the statement you got before the Rules Committee: "I am not philosophically opposed to public financing on the Congressional level."

FR. . . . on the Congressional level? Because . . .

BP. Take a look at the transcript.

FR. Because I didn't know—but I mean, it applies to both. I thought I said, 'I am not philosophically opposed to public financing, period. But that's all right, yeah. Sure, that's no problem. Because that's the way I feel, that I am not philosophically opposed. But neither am I in favor of it. Just as a philosophic concept, simply because we have not had sufficient experience, frankly. Funny thing about this is, I look back on the transcript of Max Friedersdorf's testimony, and I come down a lot closer to some of those who are opposing me than Max did. Now don't get me wrong. I have great respect for Max, and I also understand the why of it—they feel comfortable with Max, they knew him, they do not know me. So I appreciate that. But though that's the case, all I'm saying is I think the jury—just in the abstract, I'm only talking in the abstract—I think the jury's still out, because I just don't think there's sufficient information. It's not that I'm wishy-washy, I'm not dodging a controversial issue. I've thought about this, I've had to for the last few years, as Chairman of the New Jersey Commission. But I can see advantages, and I can see disadvantages. To me, the two most significant disadvantages are the fact that you discourage people from participating in the process. Secondly, it would require a tremendous bureaucracy. So just as a philosophic concept . . . when you get to the practical side of it, I see no way for it happening, in terms of Congressional elections. It's hard to put a time frame on it, but all of the bills, including H.R. 1, do not begin to solve the problems. It's not just the fact that you get 535 elections as opposed to one or whatever; but it's the diversity involved—someone running in South Dakota as opposed to someone running in Brooklyn. Somehow, if the people who favor public financing—and I am not one—if they intend to have such a system adopted, they've got to solve those problems. And there's nothing I've seen up to now that comes even close.

BP. Let me ask you—those are the practical objections opposed to it. What are your philosophical reasons for supporting it?

FR. I don't support it. But the advantage I can see is that if it takes the pressure off a candidate so that instead of having to go around during the campaign and spend a lot of time fundraising he can then speak more to the issues, that to me would be an advantage. A second advantage would be, if it thereby permits a person of relatively modest means to become a candidate. I think those are basically two I see. But I'm honest, Senator, when I say I haven't come to a final conclusion on the merits of it just in terms of a concept.

BP. Let me probe a bit more then. Because I have thought about it for a long period of time. I cannot find any philosophical nor practical grounds to justify public financing. A candidate of modest means, without putting himself in hock to any special interest, can raise sufficient money if that candidate is a good candidate, to run a very respectable Congressional campaign. The complaints I hear are from people who are not willing to ask 10 or 20 or 30 or 40,000 people to give them $5 or $10 to a campaign. The money's there. There are millions of people in this country who will give small amounts of money if asked.

FR. Well, you're alluding to something now about which I feel very strongly, and that is, to the extent we have public financing, Presidential and so forth, I for one strongly favor the private sector being able to contribute. I was saying to someone this morning, I don't care if a man gives a dollar. It's not the dollar—that doesn't amount to much, as we both know. But what does matter is that he then is committed to some candidate, whoever the candidate may be, and he's more interested in the election. And to me, that's extremely important.

BP. So why don't we drop public financing of the Presidential and gubernatorial and other races, and instead encourage people to give a dollar or 5 or 10 dollars to a campaign?

FR. Well, as I say, you believe that adequate monies can be raised by candidates, even though they're ones of modest means.

BF. I know they can.

FR. All right, you have practical experience, Senator, I'm not going to argue with you on that point. I would go then to the other point I made, as a possible advantage, and that is that it does occupy quite a bit of the time of certainly some candidates I have known. I don't know if it has in your case, but it has in many that I've known. I'd like to see some of that time spent on discussing the issues more. Now, I'm being the devil's advocate when I raise this argument, because I'm just saying this is . . .

BP. I understand that. But when you're asking somebody to give you 10 or 20 dollars, and they say what do you stand for, that focuses you into thinking about the issues. Or they say, I might give you $10 or $20, but I'm opposed to abortion, and you're in favor of abortion, now you tell me why I should give you money when you and I don't agree on that subject. That makes you think about it.

FR. That's true. That's why I want to be sure that private contributions are a part of the scene. I don't care what method of financing they have, but there has to be an infusion of substantial sums from the private sector. And it's funny, I was talking a while ago with Jerry Milback in New York on this, and he's the first person who ever asked me the question. I said to him that I thought this was implicit. I know in the recommendations of the New Jersey Commission, we intended to, as far as our recommendations for the legislature go, to continue private financing, as indeed they do in New Jersey right now.

BP. Now I notice before the Rules Committee, you wanted to extend public financing to the primary as far as the gubernatorial level is concerned.

FR. Only because it was already in the general election.

BP. But why not go the other way and abolish it for the general election?

FR. That's not the province of the New Jersey Election Law Enforcement Commission. We are an enforcement agency, and it is not for us to become involved in policy. What we were saying to them was, that it was virtually unenforceable where you have it for the one election and not for the other. And as I also said in one of my statements here, there's no reason under the sun why you can't reverse the trend for both of them. We were merely saying—and, in fact, it's my understanding that many Republicans around here said it in 1977 in the Congress—that where you have it for one, it does not make sense not to have it for both elections.

BP. Well, I'm curious about your philosophical bent, because you can go one way or the other. You can say extend public financing to the primary, or you can say abolish it for both. Your preference is for public financing for both.

FR. No it is not. It is not. Now this is where some of the remarks I've made before, Senator, frankly, have been taken out of context. What I have said in New Jersey is that, since we had nothing to do with this becoming the law in New Jersey—public financing—this was a statutory enactment in 1974, we have never made recommendation pro or con. Why? Because that's a policy area, and it was not within our province. What we said was, since we have it, and we had a very bad experience with this in 1977, trying to administer a system in which you let candidates build up all sorts of warchests during the primary, and then you clamp down with an entirely different set of rules in the general election.

BP. Let me ask you then on your recommendation here, I'm quoting here from Page 35 of your testimony before the Rules Committee: "Our final recommendation is in New Jersey, first, that public financing of the gubernatorial election be extended to cover the primary." Why not recommend the other—get rid of public financing?

FR. That's a policy decision. This isn't an administrative decision. This was a recommendation based on an administrative experience. We felt that, as a Commission, Senator, that we did not have the right to argue the merits or demerits of public financing as such, which you would have been doing if you had said, get rid of the whole thing.

BP. You were saying it was such an administrative nightmare to have one election covered and not the other.

FR. Well, it's not only an administrative nightmare, but it's unfair to the candidates, and it's unfair to the contributors, because the problem there is to distinguish which contributions were made during one time frame, which during another, how do you attribute them . . .

BP. I understand that. So your recommendation was, to solve that problem, cover the primary also.

FR. As long as the State—not our Commission—as long as the State has adopted a policy of having public financing for a gubernatorial election, for the general election, our recommendation, basically administrative, was that it should be extended to the primary.

BP. Then let me ask your personal opinion: would you support and vote to get rid of public financing of the Presidential campaign? And if asked when testifying before hearings or any other time, say yes, I think it's an administrative nightmare, I don't like it, we ought to get rid of it?

FR. See, my problem there is that, frankly, I haven't had a lot of experience with that. If you asked me my feeling toward the New Jersey gubernatorial, I could answer.

BP. All right, let's take it in New Jersey then.

FR. In New Jersey?

BP. Get rid of it for the gubernatorial election.

FR. I don't think I would recommend it.

BP. Why?

FR. Why? Simply because we found that it worked rather well. Again, distinguishing between the executive situation and a legislative situation. And I make a very sharp distinction between those two.

BP. What did public financing enable a gubernatorial candidate to accomplish that could not have been accomplished through private financing?

FR. The one thing that I observed was, there seemed to be a greater concentration on the issues, and that they spent far less time than I had observed gubernatorial candidates in the past spend on hustling money. Because by the end of August both camps substantially had their money in hand, or they knew where it was coming from, and then they submitted to us for match and so forth. And it left the candidates and their staffs free to devote more time to the issues.

BP. Are you seriously saying that fundraising takes so much time a candidate cannot argue the issues?

FR. No, I'm not saying he can't argue the issues, Senator, but I'm saying it does detract from the time he has. And it's not only his time, but it's the time of his staff too. If they've got to spend a lot of time raising money, the time has to come from somewhere. Now, an alternative I suppose is to augment your staff, so that people are devoted exclusively to that, don't have anything else to do. But, Senator, you know, in terms of public financing, you and I may agree, we may disagree on public financing. I repeat what I've said before, and I believe it sincerely, that as far as the philosophic part goes, I told you, I do not have my mind made up on that at the present time. As far as the legislative elections, practicality, there is no way . . . And there's another reason too why, frankly, I would oppose public financing of Congressional campaigns. This is going further than Max did, but the FEC, as we both know, is under fire at the present time. I don't think it has many friends in court, if any. If there is any priority at all—and I doubt that there is, but even if there were some priority the people were striving to—its handling public finance with Congressional elections, it is such a low priority that I for one, if I were a commissioner, I would oppose it. Because they've got to set their house in order. Their primary job today is to restore the credibility that, frankly, they've lost, with the public and Congress.

BP. I want to come back to the philosophy. The argument about administrative regulation is an argument that is used by every bureaucrat around here. If we just had more people and more time, we could administer it all. Let me come back to the philosophy of the public financing of Congressional elections. Your position is, you have no philosophic position on this issue?

FR. It's not that I don't have a philosophical position, it's that I have mixed feelings. This is the same thing that in essence . . .

BP. Assuming the administrative problems could be solved, what would be your philosophical decision?

FR. If you could handle the administrative . . . well, then you go back to a sheer philosophic concept on public financing. And I've told you, that I . . . I'll put it this way: I have many more reservations about public financing of legislative election in the philosophic sense than I do about the executive.

BP. Except all the reservations you've given me so far are practical, not philosophic.

FR. Well, all right. Obviously, I've been involved in enforcement. And of course everybody now is talking policy, which I would have very little to do with, but nevertheless that's their wish, all right, fine, we talk policy. But I'm talking basically from an enforcement viewpoint because that's the viewpoint I know, it is also the viewpoint I would have to take if I were a member of the FEC. And, sure, Congress naturally asks members of the FEC what their experience is, and what they would recommend based on that experience. So to that extent, you share your experience with Congress. But the buck stops here, it doesn't stop with the FEC.

BP. You keep coming back to practical. Let me change it again. Let me ask this question: do you think that a new candidate running against an incumbent—if a candidate is a good candidate—can raise enough money privately to run a good campaign?

FR. I think he can. I think he can, but please, no spending limits, because if you have spending limits, obviously, that favors the incumbent. And this is one—in New Jersey, for example, our Commission took the view over a period of time in favor of spending limits until we had our experience in '77, and then each and every one of the four of us reversed ourselves, simply because, with that experience, we realized that it just was not a good idea. And this is one of the faults of H.R. 1, that they have spending limits.

BP. But, one, a good candidate can raise adequate money. The candidate that's a bad candidate probably can't raise enough money, but if it's a bad candidate it's not a good candidate anyway.

FR. Yes. But there are also the candidates in the middle. And there is also the fact that, should you place—and I'm saying this only for argumentative purposes because I'm not sure that I would adopt this position—but, should you place a greater burden on the shall we say "marginal" candidate, who's somewhere in between your fine candidate and your poor candidate, should that burden be placed on them? I don't know. But I think there is a burden that is placed.

BP. Can a, as you would call it a good or fine candidate raise adequate money without being "beholden" to special interests?

FR. As long as there are contribution limits, yes.

BP. So that, with contribution limits, and we have those at the federal level now, you can raise money—sufficient money, if you were a good or a fine candidate—without being beholden to special interests?

FR. Well, and the other thing coupled with it is what we also have, namely, full disclosure.

BP. Oh, nobody's arguing about that. And nobody's arguing about the contribution limits. Do you think the contribution limits in the present federal law are adequate?

FR. I tend to think that they are, although frankly, Senator, I haven't had the practical experience with them. I'm not dodging your question, it's just that I'd like to have more experience before I say to you that, yes, I think they are, no, I think they're not. I think, for example—well, I'm not talking contribution limits, I'm talking spending limits—but I think the spending limits in the federal law, in the presidency and also in New Jersey, unduly restrict the campaigns.

BP. But here I want to stick with . . . Is $1000 too high a limit for an individual to be able to give?

FR. No.

BP. Is a $5000 limit too high for a political action committee to be able to give?

FR. I wouldn't think so, I don't think so.

BP. Okay, so the contribution limits are okay. And we agree that a good or fine candidate, given those liimts, can raise adequate money to run a good campaign.

FR. Right.

BP. Then the sole reason left for any kind of philosophical tilt at all toward public financing is the time that it takes to raise the money. Is there any other reason?

FR. No, that would be the primary one, probably for me. I've heard so many candidates—and I'm not talking from the experience of candidacy as you are—but I've heard so many candidates complain violently about the time they've spent. Maybe they were poor candidates, I don't know. But, times when they had to make an appearance at a cocktail party or this event or that event, just because they were $255/plate affairs. I am one who strongly favors the fullest possible discussion of issues. That may be idealistic on my part, but if it is, Senator, that's the way I am. That may be why it means more to me.

BP. For anybody to say that, that's almost a placebo. I've never found a campaign yet where the candidate lacked time to discuss issues because the candidate was also involved in raising money—or the candidates' staff. By the time a candidate gets to the congressional level, running for the House or the Senate, that candidate in many cases is not a babe in the woods. He's been around the track a couple of times, he's been in the legislature, been on the City Council in many cases, sometimes not, but they've thought about running. They're reasonably well-versed on the issues, and their problem is not, is there time to debate and discuss these issues—frankly, for a challenger, the time is getting the opponent to meet them in debate to talk about the issues.

FR. Well, yes, but they've got to have think-time, they've got to be able to formulate their views, and it's not really a case of having a staff do it for you. You've got to have some time to yourself. But, you know, Senator, I can't compare my experience in this area with yours, or with anybody who's here on the Hill. And this is the kind of thing which, if over a period of time by exposure to people who've been through it, if they keep telling me the same thing you're telling me, obviously this is going to have an impact on me. And on my view.

BP. I guess what bothers me is, any one of us in Congress, if we're on a Committee for two years or four years, has some very definite philosophical views. Here you've been in charge of administering a public financing law in New Jersey, and any time anybody's sufficiently immersed in something, they ought to know what's going on and have a pretty good grasp. And when he tells me they're not quite sure, I'm inclined to think they're telling me that because they're not on my side of the issue.

FR. That is not true in my case. First off, we didn't have public financing until 1977. You've got to remember too, I'm on a part-time basis, non-paid, as Chairman of the New Jersey commission, as are all the members. Now that I've left, they're now paying them, which is why . . . but I'm on that basis, with a full-time law practice, and many other activities as well, including being chairman of the Interstate Commission, which led to the formation of a grouping of state agencies on this business. Public finance has been a relatively small part, except for the '77 election.

Our problem there was practical on a day to day basis. We spent many months contriving regulations for it. But it was always geared to the practical side, and frankly, to have the time to just sit and philosophize, I haven't had that time, with everything else I've been doing. You don't have to believe me, Senator, but I'm telling you the truth. I am not fudging on anything. I'm telling you what I believe as of this point. And I am certainly willing to listen to the type of argument that you're making, because it makes an inroad with me, it makes a definite inroad. You can talk to anybody who knows me, Senator, I'm not that way. They can accuse me of many other things, maybe, but they can't accuse me of that.

BP. I guess I'm bothered when I look at a Rules Committee statement that says, quote: "I'm not philosophically opposed to public financing on the Congressional level."

FR. Okay. I stated that simply because I meant it to be broader, frankly, I am not philosophically opposed to public financing. But as I said in a subsequent answer to one of Senator Humphrey's questions, I have never publicly advocated nor opposed, in the philosophic sense, public financing. And I have not. And it's obvious, if I were down here on this scene, yes, it may well hasten my conclusion in the area of public financing, why, because it'll be part of my livelihood on a day to day basis. But we have so many other things we've been doing as a New Jersey Commission. When we have gotten into public financing, it's been largely nuts and bolts, and it has not been, "Is it a good idea?" because we have nothing to do with that. Our job was merely to develop a system which would work, and, fortunately, it appears to have worked reasonably well, the system that we contrived.

BP. That's what bothers me, when you say that.

FR. Well, Senator, I'm talking about how the candidate, I'm talking about just the administration of it. There's nothing wrong . . . I mean, we would've been derelict in our duty if we hadn't . . . given the responsibility, which we had nothing to do with then it was our job to try and do the best administrative job we could. We are merely an administrative enforcement agency, and you wouldn't have us not do a good job on that.

BP. No, but what I would like is a commissioner who's coming to the FEC who says I am unalterably opposed to public financing, it is unnecessary and unneeded, adequate money can be raised from small donors in sufficient amounts to run a good campaign, there is no point in adding to the administrative headaches of any administrative group, something that doesn't need to be publicly financed anyway. And I don't sense you're saying that.

FR. I am not unalterably opposed, Senator, and I'm not going to pretend that I am. But I have to suggest to you and I have to suggest to others that the basic criterion for doing a job on the FEC is not that. The basic criterion is, are you intelligent? Do you have integrity? Do you have experience? And do you, in this case, because there are people who are critical of me, they don't think I'm partisan enough. Well that is nonsense. I am well aware of the fact that it's a very sensitive partisan situation on the FEC. And when I talked to you before, many months ago, I didn't wait for you to bring it up, I raised that point myself, because it's not the situation we have in New Jersey where partisan considerations were minimal. I know it's a different ballgame here, and I would be very sensitive to that. I was talking to Joan Eikens (?) a while ago, and she said to me that the Democrats recently have been very partisan and she started to say something at that point, and I frankly interrupted her. I said, Joan, I know what you're about to say—namely, that that leaves you no choice. And she said yes, and I said, you're absolutely right, it leaves you no choice whatsoever. Senator, I'm not going to change what I have said before. If I did, I don't think you'd have any reason to have an ounce of respect for me. Disagree with me—that's your privilege, as I might disagree with others. But I just haven't come to a conclusion on it, and I can't put it any other way, in terms of the philosophy.

BP. Let me ask you this. If in that case I have come to the conclusion that I want to make sure that I support somebody for that position who is opposed to public financing of Congressional elections, should I vote for you or against you?

FR. If you've come to that conclusion, you should vote against me.

BP. Okay.

FR. But, if you've come to that conclusion, Senator, I'm going to be blunt: I will be very disappointed in you. I would be simply because I think under those circumstances you and others viewing it that way would have taken this issue and have tried to subject me to a litmus test to which you have not subjected other candidates—Max Friedersdorf and others included. Senator, I don't think that's fair to me. But forget that for the moment. The FEC needs one heck of a lot of work to be done. And I bring to it something that no one else has. I think I can be a credit to the Republican party there and I think I would have a fresher look than anyone's had because I would be coming from the outside, which no one has before. I think it's something that really would be an assistance to our party. It bothers me deeply that there are Republican Senators who are against me at this point. because I want their support. It is my party just as much as it is theirs, and it means a lot to me.

BP. Let me ask you this. Do you think in approaching people who were here for the nomination to the Interstate Commerce Commission, to the Federal Trade Commission, I should inquire of their philosophies before I decide whether to put them on the Commission or not?

FR. Philosophies, yes, because if you're talking about an agency where philosophy may affect their decision, I don't honestly believe that philosophy to any significant extent, on this, on the public financing, I doubt that will enter into decisions I might make as a commissioner of the FEC. I think that's true.

BP. Okay, that's all I need.

FR. If there are any other questions, Senator, please shout.

BP. Well, I may. I feel so strongly that what I want is a champion on the FEC, that says this whole process has proven unnecessary. I want somebody to come on as Alfred Kahn came on in the CAB, and said, let's abolish this. I don't sense that with you.

FR. Senator, I'm not going to pretend with you, at least at this point, that I am that. For me to do it would be trooping under false colors. But frankly Senator I think I might have to disagree on one thing, there are other things that are needed at the FEC far more than that. If in fact the FEC is to be a viable agency, and I'm not downplaying it; you have your good reasons, I appreciate that. But the FEC has problems that transcend that.

BP. All of which would be non-existent if we abolished it.

FR. Yes, but if you abolish the FEC, to me it is a hope in this field. And I think the FEC can be improved, greatly improved.

BP. A "hope" in what sense? Assuming absent public financing, what do we need the FEC for?

FR. Well, someone has to monitor and audit the campaign finance reports which, under any system, are required.

BP. But why does that have to be the FEC?

FR. If it's not the FEC then it has to be someone else.

BP. If you mean monitoring in the sense of, did somebody indeed give you $100 when they say they did, the IRS monitors that.

FR. No, I'm not talking about that. I mean audit the reports, and investigate where necessary. This is something—the fact that the FEC has not completed its Carter audit in 3 years is unbelievable to me. Now, I know that New Jersey is just a microcosm of what happens on the federal scene. But although it is, my heavens, we would not countenance that type of delay in New Jersey. For many years I have been told, by Herb Alexander and others, that there are various state commissions which are ahead of the federal people in terms of administration. Frankly, I didn't believe them for quite awhile. I do believe them now. I know of some agencies, and he included ours among them, where we just wouldn't put up with that kind of thing.

BP. Let me come back again. If you have no public financing, if the IRS is going to check and make sure if you say, I gave $100, you gave $100, they do it on a spot-check basis—what would the FEC do? What would it monitor?

FR. Well, wait. You've talked only one side of the equation. The other part are the campaign expenditures, and where the money goes. The IRS wouldn't handle that.

BP. You're realizing we have total public disclosure as to where you've spent your money, nobody's talking about getting rid of that. What is the FEC's function then?

FR. Wait, the IRS isn't equipped to handle the other, and as a tax lawyer I know that, they can't handle it. All the IRS can do, is when they audit someone's return, sure, they can verify a contribution was made. But they're not equipped to handle that kind of thing.

BP. All I'm saying is, should they have any greater monitoring on whether you gave to the Catholic Church as opposed to whether or not you gave to a senatorial campaign?

FR. No.

BP. Okay, so the IRS can as well monitor contributions to politics as they do to anything else.

FR. No, because they're not equipped to make that information available to the public in timely fashion. This is why you need some agency—do whatever you will with the FEC—but you need some agency which is geared, as ours in New Jersey, for example, is, to getting the information out to the press within 24 hours after the reports are filed with us, so that it's available to the public and the individual goes into . . .

BP. All right, now, what happens . . . we go down, we file our reports on June 10th or July 10th, or the money received through July 1st of this year, and we file it. Why do we need an FEC? There it is, we filed it, there it is on public disclosure. What do we need an FEC for?

On that score——

FR. Okay, what I'm saying to you is that the IRS is not geared to——

BP. Forget the IRS, why do we need an FEC, so long as we file that report, there it is every dollar we've received, every dollar we've spent, what's . . . and if there were no public financing, what is the FEC's function?

FR. Simply because later on you're going to be filing spending reports, expenditure reports.

BP. We file those now.

FR. OK. But my point is, unless—if an agency is supposed to verify that the reports are accurate and contain all the information you are required to submit by law, then you've got to have an agency which has some expertise in this area.

BP. And what I'm saying is, again, why an FEC? You've got a public report, there it is: you gave me $100, I spent $100 to take 20 supporters to a barbecue lunch, and I have $100 spent at Jones' restaurant, and I've got a $100 contribution from you, and it's there publicly. What is the FEC going to do beyond that public information?

FR. Simply because, if you don't have an FEC-type agency, how do I the voter know that you've included all the information you should have? How do I know the information you've included there is correct? I don't.

BP. How do you as a voter know that a church has filed all the things it's supposed to file with whatever reports it makes to keep its tax-exempt status? How do you as voter know?

FR. As a voter, presumably I know because the IRS is geared to monitor these returns.

BP. That's contributions.

FR. Well, I'm sorry then, maybe I'm missing the point of your question.

BP. How does a contributor to a church—how does a voter know—whether or not the expenditures filed by the Church of Scientology are right?

FR. Simply because most churches have to submit complete accounting to their members, usually in an annual fashion. So they have a chance to monitor them.

BP. Assuming the filing is in accordance with law, right?

FR. Yes, we have an audit committee for churches.

BP. But there's no requirement they have an audit committee.

FR. There's no requirement, but I don't really see the relevance of this.

BP. Well, what you are saying is, you are presuming we're going to violate the law.

FR. No, I'm not saying that. I'm just saying that the voter has a right to know whether or not the individual candidate, political committee, whatever, has complied with the law. The voter is not qualified . . . someone has to make that determination.

BP. Cannot we presume that when the candidate files the report required by law that the candidate has complied with the law?

FR. I don't think you necessarily can.

BP. Why?

FR. Why, because they're very complex laws.

BP. But all the reports that any group ever has to file are complex laws, there's nothing unique about that. The reports these poor devils on OSHA have to file are complex, these reports that any small businessman or businesswoman has to file are complex.

FR. Yes, but in each of those cases, Senator—take OSHA. In each of those cases, you've got an agency with expertise in the area, which receives them, and which, for want of a better word, they evaluate them.

BP. Yeah, they receive them and file them, by and large.

FR. That's not what they're supposed to do. They may do that in practice, and I can't argue with you on that. But that's what not what their mission is, their mission is to be sure that they do.

BP. But in terms of the IRS, the function of checking them—on the returns, not just the contributions—is a spotcheck, and it's assumed that the returns are filed properly. It's assumed that the voter, or the organization filing, has complied with the law. Why not that same presumption for a campaign?

FR. I don't necessarily agree with you that it is assumed that everything has been filed correctly. They have their spot audits, and heaven only knows, I've been involved in many of them. All right, you can say, there's a presumption of innocence until proven guilty. But I don't look upon this, in terms of the filing of political campaign contribution information, I don't look upon it as an effort to try and seek out that someone has done wrong. I look upon it more as an interpretive effort on the part of the administering agency, to make that information available to the public in a form that the public can use.

BP. It is available!

FR. No. No, Senator, it's not, because if you go in on the reports, some of those reports, if the layman goes in, he's not going to have the foggiest. . .

BP. And if the layman goes in on a report filed with OSHA, or a report filed with the IRS, will the layman understand that?

FR. He may not understand that, but at least there is an agency to turn to.

BP. Spotchecking, spotchecking.

FR. . . . to interpret. In this case you're talking about voting, and to me, voting is more important. I just think you've got to have an agency which makes it available in timely fashion to the voters. I mean, all the rest of them have their agencies, this is ever so more important, in my view, because the voter . . . In the first place, it's in Washington, although you might have some reports throughout the country, but the voter in the main is not going to go into the FEC himself. But when he does, he's not going to know how to interpret some of those reports.

C.W. I'm terribly sorry to interrupt you, but we're 30 minutes behind schedule this morning.

BP. Okay, let's stop there. I may call you back.

FR. Okay. Thank you.

Mr. HUMPHREY. Instead of reading it in full, I would simply like to address certain parts of it.

Senator Packwood put this question to the nominee:

Some questions I've got——

You have to remember this is dialog; it is not written and it is not perfect grammatically:

Some questions I've got . . . and it revolves totally around public financing of campaigns. Congressional campaigns, specifically, let me start out with the statement you got before the Rules Committee: "I am not philosophically opposed to public financing on the Congressional level."

Mr. Reiche, in replying to that question, gave the kind of reply that worried me very much about whether he would adequately protect our partisan interest. He said, with respect to taxpayer funding of congressional campaigns:

I think the jury's still out, because I just don't think there's sufficient information. It's not that I'm wishy-washy; I'm not dodging a controversial issue. I've thought about this; I've had to for the last few years, as

> chairman of the New Jersey Commission. But I can see advantages and I can see disadvantages.

How relieved I would have been, Mr. President, if the nominee had simply said something along these lines:

> I am concerned about extending it to congressional campaigns. I am concerned about the implied powers of the Federal Government to further regulate the electoral process.

It seems to me, Mr. President, that a man who had served as chairman of an election commission for 6 years and been involved in partisan politics for much of his adult life would have come to some basic conclusions about how much Government ought to regulate the electoral process.

But he has not. He says,

> I think the jury's still out. I don't think there is sufficient information. I've thought about this. But I can see advantages and disadvantages.

Later on, when Senator PACKWOOD pressed him to find out whether his objections or his indecision on the subject were based on philosophical concepts or practical objections, and asked him this question:

> Let me ask you—those are the practical objections opposed to it. What are your philosophical reasons for supporting it?
>
> Mr. REICHE. I don't support them. But the advantage I can see is that it takes the pressure off candidates so that instead of having to go around during the campaign and spend a lot of time fund raising he can speak more to the issue. That to me would be an advantage. The second advantage would be if it thereby permits a person of relatively modest means to become a candidate. I think those are basic, too. But I am honest, Senator, when I say I haven't come to a final conclusion on the merits of it in terms of concept.

He is open, and I do not want a candidate, frankly, representing my party who is open on a question about which our party has made up its mind and said so by resolution in the Republican National Committee. Continuing:

> Senator PACKWOOD. I wanted to come back to philosophy. The argument about administrative regulation is an argument that is used by every bureaucrat around here. "If we just had more people and more time we could administer it all. Let me come back to the philosophy of public financing of congressional elections. Your position is you have no philosophical position on this issue?
>
> Mr. REICHE. It is not that I don't have a philosophical position. It is that I have mixed feelings. This is the same thing that is in essence——

and then he was interrupted.

He has mixed feelings, I do not know; some place else he says he has mixed feelings, other places he says he has not made up his mind. It is clear that he is not clear on this, is it not? It is to me.

After 6 years on the New Jersey Election Law Enforcement Commission. Continuing:

> Senator PACKWOOD. But what I would like is a commissioner who is coming to the FEC who says, "I am unalterably opposed to public financing. It is unnecessary and unneeded. Adequate money can be raised from small donors in sufficient amounts to run a good campaign. There is no point in adding to the administrative headaches of any administrative group something that doesn't need to be publicly financed anyway." And I don't sense you are saying that.
>
> Mr. FRANK REICHE. I am not unalterably opposed, Senator, and I am not going to pretend that I am.

The Republican Party is unalterably opposed. That is our position, and this gentleman wants to represent us before the FEC.

Then the conclusive question, in my opinion:

> Senator PACKWOOD. Let me ask you this: In the case that I have come to the conclusion that I want to make sure I support somebody for that position who is opposed to public financing of congressional elections, should I vote for you or against you?
>
> Mr. REICHE. If you come to that conclusion, you should vote against me.
>
> Mr. PACKWOOD. OK.

And I say the same thing. OK.

There was an article in this morning's Post, Mr. President, which is a little bit more timely. Mr. Reiche was again being asked the question about whether he embraces the official Republican position of opposing extension of taxpayer funding of campaigns and he said:

> While I have great reservations and objections in a practical sense I have honestly not made up my mind. I have to be honest with you.

Well, he is honest. If there is one thing consistent in his testimony, it is that he has not made up his mind. He is not philosophically opposed. He has not made up his mind. Perhaps he will make up his mind someday. Privately, I do not want to put words into his mouth. He has said,

> I am not philosophically opposed. I have not made up my mind. The jury is still out.

I do not think it is out, myself, and the Republican Party does not think so. A great many of us on this side of the aisle in this body are opposed to this nomination. There is no great emergency to act on it. We are not unrepresented. We have all three of our Republican candidates on that Commission filled. There is no likelihood that we are going to find ourselves unrepresented. Mr. Thomson, whose term is expiring, has expressed his desire to remain. He would even like to be renominated. I am not here to argue for Mr. Thomson. I am simply stating what he has stated to me in writing, that he is willing to stay on as long as is necessary to find a successor to replace him. He may do so under the statute.

I would ask my Democratic colleagues to imagine themselves in our position. If they do, they will not act in such a way as to force on our party someone about whom there is considerable disagreement within our ranks.

Mr. President, before I yield to the distinguished Senator from Kansas, I wish to read some information which I believe illustrates the latitude which assistants and aides of important persons in the executive department of Government have in the conduct of their duties. They have considerable latitude. I would like to pick up where I left off.

I was reading a news story from the Rocky Mountain News of August 8, 1973. It follows:

> Bender said the directive from Washington that he and Oldaker ignored was never put in writing. It limited the filing of class action suits by the EEOC and therefore restricted the possibility of getting broadly applied court decisions.
>
> The order stipulated that all cases had to be filed under Title 7, Section 706, of the Civil Rights Act. Previously the Denver office had been filing cases under Section 707 as well, and according to Bender that section allowed the agency's attorneys to represent more effectively any groups that were discriminated against.
>
> A spokesman for Carey's office in Washington, however, disputed this view. He said groups could still be represented under 706, and cases involving large industries could be filled under 707.
>
> Bender termed the order from Washington "foolish." He and Oldaker continued to file cases under the forbidden section of the law.
>
> Before Carey came to Denver on his visit, Bender and Oldaker ordered secretaries and other attorneys to re-type the front pages on four reading files so there would be nothing to indicate they were defying the order.
>
> Bender said the document pertaining to only one Denver case was charged—that involving discrimination charges at the Ralston Purina chow plant at 9200 F. 90th Ave., Adams County.
>
> The other documents pertained to the cases of Collins Radio Corp. of Dallas, Tex., the New Orleans Times-Picayune and Thiokol Chemical Corp. in Marshall, Tex.
>
> Carey's office commented only briefly on the suspensions. The spokesman merely said there had been "violations" in the Denver Litigation Center and that action subsequently was taken against those involved.
>
> Bender said he plans to stay on with the EEOC. Falsifying the documents was "stupid," he said, but he maintained the case filings under the prohibited section were in the best interests of effective litigation.
>
> He said the other five EEOC litigation centers around the country apparently had obeyed Carey's order.
>
> "They didn't question," Bender said. "Guys like me question and get in trouble."

The point is, Mr. President, that executives do not operate in a vacuum. It is not enough to argue that a man's views are irrelevant because he only carries out orders and he does not make policy, that Congress makes policy. That is a neat argument, but unfortunately, it does not work. As I said, we make unneat laws, imperfect laws that have to be interpreted by men. It is only human that in interpreting poorly written laws, laws written without sufficient clarity, the views of these executives would be taken into account and, furthermore, that in the hiring and firing and direction of staff, the views of these executives would be extended.

Aides and assistants have a great deal of latitude and a great deal of power in this Government, too much power. It cannot be helped, because we have taken on so many responsibilities. We are trying to create Nirvana down here, trying to relieve every last person of every last burden. In doing so, we have created the biggest bureaucracy ever known to man, one that is strangling us and crushing us, economically and spiritually.

The point, again, is that these executives, this commissioner, will not operate in a vacuum. His views are important. His partisan views are important, because this is a partisan position.

Next, Mr. President, I want to share a piece by columnist Tom Wicker in the

August 28, 1977, New York Times, in which Mr. Wicker makes several strong points about the dangers of the use of powers of the Federal Election Commission:

> When public financing of elections was being discussed in the 1960's, I asked Robert Kennedy, then a Senator from New York, what he thought of the idea.
>
> "The first thing I want to know," Mr. Kennedy said, "is who's going to hand out the money."

That puts it well, because when the Government gets involved in passing out money, you can be sure there are going to be some strings attached to it. More regulation and less freedom, in plain English. Continuing:

> Cynical? Not really. If the person or the group that "hands out the money" is politically motivated or controlled, public financing could easily become a political process. That's why, when Congress authorized the first Federal financing scheme for the 1976 Presidential election, control of the system was put in the hands of a Federal Elections Commission with three Democratic and three Republican members.
>
> Even so, the danger of political manipulation of the F.E.C. is ever present. When the commission had to be reconstructed after a Supreme Court ruling in 1976, President Ford's long delay in naming the new members prevented Federal funds from being paid out; that had the effect on Ronald Reagan's campaign of starving it for money during the crucial primary season. As President, Mr. Ford had less need for the Federal payments.
>
> When Neil Staebler, a Democratic member, sided with the three Republicans in 1975 to rule that corporations, like labor unions, could organize political action groups, labor leaders and some Democrats, notably Speaker Tip O'Neill, were annoyed—with the consequence that Mr. Staebler apparently is not being considered for reappointment now that his term is expiring.
>
> Just recently, it was to the F.E.C. that the White House turned for a ruling on those rides President Carter, as a candidate last year, took on an airplane owned by Bert Lance's First National Bank of Georgia. If they were political, they would be paid for with remaining campaign funds; if not, Mr. Carter had to pay from his own pocket. Obviously a commission empowered to rule in such matters has great potential for political influence and impact.
>
> The F.E.C. functioned reasonably well in 1976, apparently without partisanship. But will that always be the case? Some of the signs are disturbing. Four members of the current commission, for example, two Democrats and two Republicans, are former members of the House, rather than independent or professional authorities in the field of campaign finance. And one of the duties of the F.E.C. is to receive and check the campaign spending records of members of Congress.
>
> Speaker O'Neill, by all reports, is about to get what could be undue influence within the commission. One Democratic member, former Rhode Island Representative Robert O. Tiernan, was appointed by President Ford at Mr. O'Neill's behest. Now President Carter is reported to have decided to replace Neil Staebler with another Democrat chosen by the Speaker, John W. McGarry of Boston, formerly the counsel to a special House committee on campaign expenditures.
>
> Two of the three Democratic members thus would be responsive to Tip O'Neill, even though one of them, Mr. Tiernan, is currently involved in controversy over the use of his government telephone credit card.
>
> Mr. McGarry's appointment apparently was decided upon at the White House after the Speaker protested against the nomination of a professional in the field, Susan King, formerly of the staff of the Center for the Public Financing of Elections, now executive assistant to the F.E.C. chairman, Thomas E. Harris. Although she is a Georgian and would have been only the second woman on the committee, Mrs. King is reported to have been opposed to Mr. O'Neill and others as a crusading reformer.
>
> Mr. Carter also is politically embroiled with Republican Congressional leaders over the replacement of former Illinois Representative William Springer, whose term on the F.E.C. is expiring, too. The names of James F. Schoener, minority counsel of the Senate Rules Committee, and Robert P. Visser, formerly counsel to President Ford's reelection committee, have been submitted by Senator Howard Baker and Representative John Rhodes, the Republican leader; but Mr. Carter balked at both, labeling them opponents of public financing of elections.

Let me digress from the text of the article, Mr. President, to state that I think there is a parallel between the Zagoria situation, and what is being discussed here: the President's appointment of a Republican who holds the Democratic point of view with respect to campaign funding.

The President is pretty well on record, I think, as always working toward getting on that commission commissioners, Republican or Democrat, who are in favor of taxpayer financing of elections and who are, therefore, in my opinion, in favor of extending government control over the electoral process. Continuing:

> Mr. Rhodes then accused the President of attaching unfair conditions to the naming of Republican appointees.
>
> Apparently, Mr. Carter wants to make both Democratic and Republican appointments to the F.E.C. at the same time, so nothing final has as yet been done about either. Mr. Baker and Mr. Rhodes have now suggested another former member of Congress, Charlotte T. Reid of Illinois. And it is reported that Mr. Carter might yet be dissuaded from giving Speaker O'Neill a second appointee to a supposedly non-political commission. Another name now being recommended to the President is that of Herbert E. Alexander of the Citizens' Research Foundation, well known as an independent authority on campaign financing, who would be nobody's "man" on the F.E.C.

For the information of my colleagues, Mr. President, I am hoping to be able to give to our colleague (Mr. JEPSEN), who has very strong feelings on the nomination, an opportunity to speak.

It is my further intention—irrespective of whether Senator JEPSEN is able to get away from his present occupation at the SALT hearings this afternoon—to make a motion to recommit this evening, to make the motion not too far distant in time to recommit this nomination to the Rules Committee, for the information of my colleagues.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. HUMPHREY. Yes, for a question.

Mr. HATFIELD. Without losing his right to floor.

Mr. HUMPHREY. Yes.

Mr. HATFIELD. If I understand the Senator correctly, he plans to make a motion to recommit the nomination to the Committee on Rules and Administration. As I understood the Senator, he said that might be in the not too distant future.

Mr. HUMPHREY. Yes.

Mr. HATFIELD. Would the Senator be willing to agree that if—if—the motion to recommit fails, that the Senator would be willing to move to a vote on the nomination, an immediate vote on the nomination?

Mr. HUMPHREY. Yes. That is my intention.

Mr. HATFIELD. If the Senator will yield further for a unanimous-consent agreement, that contingent upon the Senator's motion to recommit, I ask unanimous consent that if that motion to recommit fails—if it fails—the Senate would then move for an immediate vote on the nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from New Hampshire.

Mr. President, I would like to exercise the unanimous-consent agreement that we reached some time ago on making a few minutes of closing statement at some time appropriate, whenever the Senator feels that would be appropriate, in relation to his motion to recommit.

Mr. HATCH. Will the Senator yield for a question?

Mr. HATFIELD. Yes.

Mr. HATCH. If we could, when would the distinguished Senator from New Hampshire desire to make this motion to recommit?

Mr. HUMPHREY. Well, I suppose I could make my motion now.

I wish to give Senator JEPSEN some time. He could address the motion to recommit. He need not——

Mr. HATCH. If I might make a suggestion, why does the Senator not make the motion to recommit precisely at 5 p.m., allow time for the ranking minority member of the Rules Committee to make his comments, the minority whip, our acting floor leader, to make his comments, and, of course, reserve perhaps the last 3 minutes for the Senator's closing comments on this matter.

Of course, the motion to recommit, as I understand it, is debatable.

So, once the Senator makes his motion, he could take 2, 3, or 5 minutes, or as much time as he would like. But perhaps we could do it in that framework and make some more comments, and perhaps we would then have the vote, assuming the motion to recommit fails, immediately following thereafter.

Does that sound OK to the distinguished Senator, my friend from New Hampshire?

Mr. HUMPHREY. I am concerned about allowing, if at all possible, Senator JEPSEN to speak on this topic.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. HUMPHREY. Yes.

Mr. HATFIELD. Would the Senator be willing to agree to a one-half hour, equally divided, time agreement in which all these matters may be taken care of, which would bring a vote at approximately 5:15 on the Senator's motion to recommit?

Mr. HUMPHREY. Let me propose this, that I move now—this is not a motion, but let me propose this—I make the motion, and we will then be on new business. I will then be entitled to address the new business before the Senate, as the Senator will, even without exercising his previously granted unanimous consent.

Mr. HATCH. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. HATCH. I chatted with Senator JEPSEN. I will make a statement also that I believe he will be favorably disposed to a vote at or near 5 o'clock, if we could meet those time constraints. But I will make every effort to get him here.

Mr. HUMPHREY. I think there is little doubt we will be able to dispose of this reasonably soon. But I do want to protect Senator JEPSEN in his wishes to address this issue.

Mr. HATCH. And I will make every effort to get hold of Senator JEPSEN.

Mr. HATFIELD. Has the Senator made his motion?

Mr. HUMPHREY. No, I have not.

Mr. HATFIELD. I am sorry. I did not hear the Senator's final remark.

Did the Senator indicate that he plans to make the motion and then make comments between now and a time certain?

Mr. HUMPHREY. I am willing to agree on a fixed period of time.

Mr. HATFIELD. I understand. I thank the Senator.

Mr. STEVENS. Will the Senator yield to me, just for the purpose of a question?

Mr. HUMPHREY. Yes.

Mr. STEVENS. It is my understanding the Senator from New Hampshire will make a motion then to recommit the Reiche nomination, and that we will have a short period time of debate and comment. We do have, on both sides, to put out notices to Senators. Some of them may be out of the building.

Could we indicate a vote would take place sometime between 5 and 5:15?

Mr. HUMPHREY. Yes.

Mr. STEVENS. I thank the Senator.

Mr. HUMPHREY. Mr. President, I move that the nomination presently under consideration be recommitted to the Committee on Rules and Administration, and I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the vote on the motion take place not later than 5:15 and that the intervening time be equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. HATCH. Will the distinguished Senator yield?

Mr. HATFIELD. Mr. President, if we are under a time control system now, at approximately 12 minutes or 13 minutes per side, I would make a few remarks and yield myself 5 minutes.

Mr. HATCH. Will the distinguished Senator yield?

Mr. HATFIELD. I am happy to.

Mr. HATCH. It is my understanding there is already a unanimous-consent request that should the motion to recommit of our friend from New Hampshire fail, that immediately thereafter there would be a vote up or down on the Reiche nomination, unless somebody moves to table, but, in any event, a vote.

Mr. HATFIELD. That is correct.

Mr. President, I ask for the yeas and nays, if that motion fails, on the final confirmation of Mr. Reiche.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ROUTINE MORNING BUSINESS

The following routine morning business was transacted today, as in legislative session:

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:18 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 33. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4537.

At 5:41 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House disagrees to the amendments of the Senate to H.R. 4057, an act to increase the fiscal year 1979 authorization for appropriations for the food stamp program; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. MATHIS, Mr. RICHMOND, Mr. PANETTA, Mr. NOLAN, Mr. GLICKMAN, Mr. AKAKA, Mr. HARKIN, Mr. WAMPLER, Mr. SYMMS, Mrs. HECKLER, Mr. GRASSLEY, and Mr. KELLY were appointed managers of the conference on the part of the House.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–1848. A communication from the Director of the Defense Security Assistance Agency, Department of Defense, transmitting, pursuant to law, notice of the proposed letter of offer to Israel for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1849. A communication from the Director of the Defense Security Assistance Agency, Department of Defense, transmitting, pursuant to law, notice of the proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1850. A communication from the Director of the Council on Wage and Price Stability, Executive Office of the President, transmitting, pursuant to law, the report of the Council dealing with their findings and recommendations on the need to promote greater productivity growth; to the Committee on Banking, Housing, and Urban Affairs.

EC–1851. A communication from the Chairman of the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, the midyear monetary policy report of the Federal Reserve Board; to the Committee on Banking, Housing, and Urban Affairs.

EC–1852. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported during May 1979 to communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–1853. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Protecting Consumer Rights in the Tour Industry: Who Is Responsible?"; to the Committee on Commerce, Science, and Transportation.

EC–1854. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend sections 503, 504, 606(6), 804, and 905 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

EC–1855. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, volume 3 of the second Energy Information Administration Annual Report to Congress; to the Committee on Energy and Natural Resources.

EC–1856. A communication from the Acting Assistant Secretary of the Interior, transmitting a proposed contract with Jacuzzi Brothers, Inc., Little Rock, Arkansas, for a research project entitled "Small Diameter Corrosion Resistant Pumps for In Situ Leaching"; to the Committee on Energy and Natural Resources.

EC–1857. Report of the Comptroller General of the United States, transmitting a report entitled "The Economic and Energy Effects of Alternative Oil Import Policies," to the Committee on Energy and Natural Resources.

EC–1858. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Commercializing Solar Heating: A National Strategy Needed"; to the Committee on Energy and Natural Resources.

EC–1859. A communication from the Assistant Secretary of the Army for Civil Works, transmitting, pursuant to law, a final environmental impact statement on the mouth of the Colorado River, Texas in relation to an exemption for a navigation project; to the Committee on Environment and Public Works.

EC–1860. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement and supplemental information on West Kentucky tributaries, Obion Creek, Kentucky project; to the Committee on Environment and Public Works.

EC-1861. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report on the administration of the ocean dumping permit program; to the Committee on Environment and Public Works.

EC-1862. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Public Diplomacy of Other Countries: Implications for the United States," July 23, 1979; to the Committee on Foreign Relations.

EC-1863. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC-1864. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-1865. A communication from the Legislative Counsel, Office of the Director of Central Intelligence, transmitting, pursuant to law, revised guidelines and procedures for the issuance of compartmented clearances to the Legislative Branch; to the Select Committee on Intelligence.

EC-1866. A communication from the Certified Public Accountant, American Symphony Orchestra League, transmitting, pursuant to law, an audit report for the fiscal year ending March 31, 1979; to the Committee on the Judiciary.

EC-1867. A communication from the Counsel, Pacific Tropical Botanical Garden, transmitting, pursuant to law, a report of audit for the Garden for the period from January 1, 1978 through December 31, 1978; to the Committee on the Judiciary.

EC-1868. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulations amendments for School Construction in Areas Affected by Federal Activities, Public Law 81-815; to the Committee on Labor and Human Resources.

EC-1869. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, the annual report of the Administrator of Veterans' Administration for fiscal year 1978; to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-400. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Energy and Natural Resources:

"Resolution

"Whereas, the current shortage of gasoline has caused many hardships to the people of the United States; and

"Whereas, the economic livelihood of the United States is dependent on gasoline to function properly; and

"Whereas, the only fair and reasonable way to distribute gasoline equally to all citizens is by some form of rationing; Now therefore be it

"Resolved, that the Massachusetts Senate respectfully urges the Congress of the United States to enact legislation for the rationing of gasoline; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of the Congress, and to the members thereof from this Commonwealth."

POM-401. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"House Concurrent Resolution No. 177

"Whereas, the area in and around East Baton Rouge Parish, Louisiana is subjected to flooding with increasing regularity causing repeated disaster and devastation to the property located in that area; and

"Whereas, most tributaries in and around East Baton Rouge Parish drain into the Amite and Comite Rivers and one of the major causes of such flooding conditions is the lack of depth of the Amite and Comite Rivers sufficient to accommodate these excess waters; and

"Whereas, this lack of depth is a result of these rivers not having been dredged since 1956.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the legislature does hereby memoralize the Congress of the United States to take all action necessary and appropriate to direct the United States Army Corps of Engineers to dredge the Amite and Comite Rivers, including making necessary funds available for such purposes.

"Be it further resolved that copies of this Resolution be forwarded to all members of the Louisiana Congressional delegation and to the clerk of the House of Representatives and to the secretary of the Senate of the United States Congress."

POM-402. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"House Concurrent Resolution No. 246

"Whereas, the medical assistance program under Title XIX of the Social Security Act provides for needed medical assistance for the aged, the blind, and the handicapped; and

"Whereas, a substantial number of the aged persons receiving this assistance are recipients of retirement benefits; and

"Whereas, often times cost-of-living increases in such benefits render many persons ineligible for Medicaid assistance due to income limits; and

"Whereas, this creates a health care dilemma for many persons least able to secure needed health services for themselves.

"Therefore, be it resolved by the House of Representaives of the Legislature of Louisiana, the Senate thereof concurring, that the Congress of the United States is hereby memorialized to consider modifying the standards of eligibility for Medicaid assistance under Titles XV and XIX of the Social Security Act to provide that cost-of-living increases in income would not render a person ineligible for assistance.

"Be it further resolved that copies of this Resolution be transmitted to the clerk of the United States House of Representatives, the secretary of the United States Senate, and to each member of the Louisiana congressional delegation."

POM-403. A concurrent resolution adopted by the State of Louisiana; to the Committee on Finance:

"House Concurrent Resolution No. 247

"Whereas, the medical assistance program under Title XIX of the Social Security Act provides needed medical assistance for the aged, the blind, and the handicapped; and

"Whereas, a substantial number of such persons live with incomes that are below the recognized poverty level; and

"Whereas, under present regulations, persons otherwise qualified for this assistance but who have incomes exceeding two hundred ten dollars per month do not qualify; and

"Whereas, this limit serves to create a health care dilemma for persons least able to secure health services for themselves.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the Congress of the United States is hereby memoralized to examine the needs of the medically needy and to consider increasing the minimum income a person may receive and yet qualify for benefits under the Title XV and XIX Medicaid Program.

"Be it further resolved that copies of this Resolution be transmitted to the clerk of the United States House of Representatives, the secretary of the United States Senate, and to each member of the Louisiana congressional delegation."

POM-404. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"House Concurrent Resolution No. 138

"Whereas, the United States government, as part of the Strategic Petroleum Reserve Program, is involved in the stortage of petroleum in the salt domes near Hackberry, Louisiana; and

"Whereas, one portion of this program involves the flushing of the domes with water from the Intercoastal Waterway and the disposal of the resulting supersaturated saltwater in the Gulf of Mexico; and

"Whereas, a thirty-six inch pipeline to be built for this purpose from Hackberry to the Gulf either is under construction or is proposed for immediate construction; and

"Whereas, the disposal of substantial amounts of supersaturated saltwater off the Louisiana coast poses a serious threat to the ecology of this state and to the shrimp and menhaden fishing industries in this state; and

"Whereas, the Legislature of Louisiana recognizes the urgent necessity to protect the ecology and the economic necessity to protect these industries which are vital elements in the economy of this state.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the United States Congress, the United States Department of Energy, and Mr. James R. Schlesinger, United States Secretary of Energy, are hereby memorialized to take such steps as are necessary to prevent the construction of a pipeline from Hackberry, Louisiana to the Gulf of Mexico for the purpose of disposing of supersaturated saltwater used to flush the salt domes near Hackberry, and to prevent any disposition of such supersaturated saltwater which would adversely affect the ecology of the state of Louisiana, and the shrimping and menhaden fishing industries.

"Be it further resolved that the United States Congress, the United States Department of Energy and Mr. James R. Schlesinger, United States Secretary of Energy, are hereby memorialized to require that the United States Fish and Wildlife Service and the National Marine and Fisheries Commission have oversight over the brine discharge line area in the Gulf of Mexico near Hackberry, Louisiana and make regular observations and recommendations as to whether operations should be continued in the event that such discharge line be constructed.

"Be it further resolved that a copy of this Resolution shall be transmitted without delay to the presiding officers of both houses of the United States Congress, to United States Secretary of Energy James R. Schlesinger, and to each member of the Louisiana delegation to the United States Congress."

POM–405. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"House Concurrent Resolution No. 73

"Whereas, President Carter has announced to the nation a plan to implement the gradual decontrol of domestic crude oil prices; and

"Whereas, the removal of price controls on oil is designed to bring the price of domestic oil to the level of world prices, a decision which was made in an attempt to encourage and stimulate domestic exploration and development of vital oil supplies; and

"Whereas, it has been established that although production and reserves of oil have generally been declining, there does exist substantial recoverable reserves of oil which remain to be discovered; and

"Whereas, estimates of undiscovered recoverable oil resources indicate that many of these deposits are located in more subtle and/or deeper reservoirs which are increasingly more difficult to tap; and

"Whereas, for deposits deeper and more difficult to research it is probable that the ratio of dry exploratory wells to discovery wells will increase in the search for these deposits; and

"Whereas, increased exploratory drilling will be required to locate the remaining, more elusive, deposits and to define their productive limits; and

"Whereas, the development of deeper reserves will require the investment of millions of dollars of "risk money" which may or may not result in oil discovery; and

"Whereas, secondary recovery efforts also could be directed to stripper wells at a substantial risk and investment; and

"Whereas, that although deregulation of oil prices will provide some incentive to producers to engage in exploration and development, the correspondent excess profits tax will offset the great strides which otherwise could be made in exploration and development of deeper reserves.

"Therefore be it resolved by the House of Representatives of the Legislature of the state of Louisiana, the Senate thereof concurring, that the legislature hereby memorializes the President and the Congress of the United States and the Department of Energy to take into serious consideration the proposal to provide for a dollar for dollar exemption from the proposed excess profits tax on deregulated oil prices for those profits which can be shown to be reinvested in the exploration for and development of oil.

"Be it further resolved that a copy of this Resolution be transmitted without delay to the president of the United States, the vice president of the United States in his capacity as presiding officer of the United States Senate, to the speaker of the United States House of Representatives, to the secretary of the Department of Energy, and to each member of the Louisiana delegation in the Congress."

POM–406. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"House Concurrent Resolution No. 218

"Whereas, the federal welfare recipient employment incentive program provides tax incentives to employers to hire welfare recipients in certain categories of work; and

"Whereas, under existing provisions of the program, the employee must be employed on a "substantially full-time basis;" and

"Whereas, many persons employed to provide service in child day care centers are employed on less than a full-time basis, thus excluding them from eligibility for the program; and

"Whereas, child day care center operators should be encouraged to employ welfare recipients; and

"Whereas, this legislation provides some desirable incentive for employers to hire these individuals, which in turn will tend to reduce the unemployment and welfare rolls by expanding eligibility to include part-time child day care center employees.

"Therefore, be it resolved by the House of Representatives of the Louisiana Legislature, the Senate thereof concurring, that the Congress of the United States is hereby urged and requested to enact Senate Bill No. 257 by Senator Russell Long, relative to the eligibility of child day care center workers for the federal welfare recipient employment incentive program, and the members of the Louisiana delegation in the Congress are hereby urged to exert every influence at their command to that end.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Speaker of the House of Representatives of the Congress of the United States, the Vice-President of the United States and President of the Senate, and to each member of the Louisiana delegation in the Congress."

POM–407. A petition from a private citizen, petitioning the U.S. Senate to reject ratification of the SALT II Disarmament Treaty; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 204. An original resolution increasing the limitation on expenditures by the Committee on the Budget for the procurement of consultants and authorizing expenditure by such committee for the training of its professional staff. Referred to the Committee on Rules and Administration.

S. Res. 202. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 111.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. Proxmire, Committee on Banking, Housing, and Urban Affairs:

Brenton H. Rupple, of Wisconsin, to be a Director of the Securities Investor Protection Corporation.

By Mr. Williams, from the Committee on Labor and Human Resources:

Leroy D. Clark, of New York, to be General Counsel of the Equal Employment Opportunity Commission.

(The above nominations from the Committees on Labor and Human Resources and Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. TALMADGE (for himself, Mr. Nunn and Mr. Chiles):

S. 1569. A bill to require that regulatory impact statements are prepared during certain stages of the legislative and rulemaking processes; to the Committee on Governmental Affairs and the Committee on Rules and Administration, jointly, by unanimous consent.

By Mr. INOUYE:

S. 1570. A bill to amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor; to the Committee on Governmental Affairs.

By Mr. PACKWOOD (for himself, Mr. Ribicoff and Mr. Matsunaga):

S. 1571. A bill to amend the Internal Revenue Code of 1954 and the Energy Tax Act of 1978 to provide increased incentives for the utilization of energy sources other than oil and gas; to the Committee on Finance.

By Mr. HELMS:

S. 1572. A bill to exempt family farms from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Resources.

By Mr. RIEGLE (for himself and Mr. Levin):

S. 1573. A bill to amend title V of the Motor Vehicle Information and Cost Savings Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BELLMON:

S. 1574. A bill the Federal Food, Drug and Cosmetic Act, the Federal Alcohol Administration Act, to provide for Health Warning Labels on alcoholic beverages.

By Mr. LEVIN:

S. 1575. A bill to establish a program to stimulate production of synthetic fuels; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (for himself, Mr. Nunn, and Mr. Chiles):

S. 1569. A bill to require that regulatory impact statements are prepared during certain stages of the legislative and rulemaking processes; to the Committee on Governmental Affairs and the Committee on Rules and Administration, jointly, by unanimous consent.

(The remarks of Mr. Talmadge when he introduced the bill appear earlier in today's proceedings.)

By Mr. INOUYE:

S. 1570. A bill to amend section 203 of the Federal Property and Administrative Service Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor; to the Committee on Governmental Affairs.

● Mr. INOUYE. Mr. President, the Surplus Property Act of 1944 allows the transfer of surplus Federal real property, without monetary compensation, to local governments for the development or improvement of public airports. Current General Services Administration regulations also allow the conveyance of surplus lands for public airport use, or for wildlife conservation, or historical monuments, as long as the lands remain in that use in perpetuity.

This treatment is due to the clear national interest in public airport development, improvement, operations, and maintenance. But we should not forget that these national interests exist with respect to our public harbor facilities which are presently excluded from the kind of preferential treatment now given to public airports.

Mr. President, the legislation I am introducing today seeks nothing more than to correct this imbalance. It would amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor. Under this bill, surplus real property conveyed for purposes of a public harbor shall be conveyed in perpetuity as is the case for public airports.

The bill also provides that the surplus property so conveyed shall be without monetary consideration, at no cost, as is the case with public airports.

Mr. President, as I have stated earlier, my bill seeks for public harbors no more nor less than the same preferential treatment accorded public airports in the disposition of Federal surplus real and personal property.●

By Mr. PACKWOOD (for himself, Mr. RIBICOFF, and Mr. MATSUNAGA):

S. 1571. A bill to amend the Internal Revenue Code of 1954 and the Energy Tax Act of 1978 to provide increased incentives for the utilization of energy sources other than oil and gas; to the Committee on Finance.

ALTERNATIVE ENERGY SOURCE AND CONSERVATION TAX INCENTIVE ACT OF 1979

Mr. PACKWOOD. Mr. President, today Senators RIBICOFF, MATSUNAGA, and I are introducing a bill designed to increase the role alternative energy sources will play in America's future. Alternatives to petroleum are no longer pipedreams. In most cases, the technology is here. Our bill will encourage investors to develop, produce, and market technologies which will wean Americans away from dependence on petroleum products generally, and OPEC oil specifically.

Events of recent months have convinced Americans that dramatic action is needed now. Congress has responded by proposing an unprecedented amount of energy-related legislation. The Senate Finance Committee is now dealing with the windfall profits tax. One week ago President Carter announced his energy program. His plan calls on the Federal Government to form and manage U.S. energy policy. We believe Carter's program puts too much emphasis on Government control. Our approach places more reliance on the taxpaying private sector. In many instances, the administration plan and our proposals strengthen each other.

This bill encourages solar, wind, geothermal, hydroelectric energy, and alcohol fuels, as well as residential and industrial conservation.

The bill has three basic parts: First, the Energy Tax Act of 1978 is extended to technologies not presently covered. In addition, this tax incentive is made more attractive and usable to homeowners, businesses and utilities.

Second, residential and industrial conservation measures are encouraged by expanding available tax benefits.

Third, this bill encourages increased use of alcohol as a motor fuel.

Fourth, our bill will encourage the growth of "van pooling," the most efficient form of transportation for metropolitan areas.

IMPROVING THE ENERGY TAX ACT OF 1978

The Energy Tax Act of 1978 (Public Law 95–618) created a broad range of tax incentives designed to promote both residential and business investment in alternative energy sources. We believe the act can be improved.

ENERGY TAX CREDITS FOR INDIVIDUALS

Present law provides a maximum tax credit of $2,200 for the purchase and installation of renewable energy source property such as solar collectors. The current formula allows a credit of 30 percent of the first $2,000, and 20 percent of the next $8,000. We would simplify and increase this incentive. The tax credit would be 30 percent of cost up to $10,000. The maximum credit would be $3,000.

In addition to increasing the dollar amount of the credit, this bill would increase its effectiveness by broadening eligibility for the tax credit.

RENTAL PROPERTY

Under current law, if the taxpayer installs alternative energy equipment on his own residence, he is eligible for the tax credit. However, if he installs such equipment on rental residential property which he owns, he is not eligible. Thus, the landlord is given no incentive to reduce the fuel bills of his tenants. The bill would allow the taxpayer to take the tax credit when he improves rental residential property.

BUILDER'S CREDIT FOR INSTALLATION OF EQUIPMENT

The first purchaser of a house is now allowed to take the energy tax credit for equipment installed by the builder. Our bill would permit the builder to claim the tax credit himself. He would retain the option of passing the credit through to the first purchaser. Last year, California enacted a similar law. It has been partially responsible for the dramatic increase in sales of solar equipment in California. With this provision, we hope to extend that growth throughout the country.

CREDIT FOR LEASE PAYMENTS

While solar, wind, and geothermal equipment can dramatically reduce fuel bills, many individuals are hesitant to commit relatively large sums of money to new, and to them uncertain, technology. This bill would encourage those individuals to lease energy-saving equipment by applying the 30 percent energy tax credit to lease payments. To qualify, the lessor must certify that he has not taken the energy tax credit on the equipment.

PRORATING THE TAX CREDIT AMONG JOINT PURCHASERS

Alternative energy equipment is well suited for community use. A proposed Internal Revenue Service regulation permits owners of various residences to take the energy tax credit for a prorated share of the costs of jointly acquired equipment. Our bill would put this rule in the statute.

PROMPT TAX BENEFITS

Another provision would help low- and middle-income persons finance alternative energy equipment and improvements. Currently, the taxpayer receives this energy tax credit when he files his annual return. Thus, he may have to finance the full purchase and installation cost for as long as 16 months. We want to reduce this burden by allowing the homeowner to receive the credit as soon as possible. Our bill would make the energy credit available against taxes paid the previous year. The taxpayer would file an amended return for the prior year, with the addition of his energy-saving expenditures. A similar procedure is available for disaster victims under section 167(k) of the Internal Revenue Code. The same concept was reported favorably by the Senate Finance Committee in 1978 as a part of H.R. 3340, legislation to allow taxpayers to receive a prompt tax credit for political contributions (S. Rept. 95–342).

PHOTOVOLTAICS

Photovoltaic systems use sunlight to generate electricity. They are a product of American efforts in space which now promise tremendous benefits on Earth. The U.S. Department of Energy projects that photovoltaics could displace up to 2.5 million barrels per day by the year 2000.

The Energy Tax Act of 1978 allowed a tax credit for business investment in photovoltaics, but not for homeowners. Our bill would extend this to homeowners.

GEOTHERMAL

Geothermal energy uses the temperature of the Earth's core. In those sections of the country blessed with geothermal resources, such as the West and Hawaii, geothermal is being used to heat homes and buildings. We want to encourage more use of this clean, inexhaustible resource. The President's Interagency Geothemal Coordinating Council has projected the potential contribution of geothermal to be the equivalent of 2.5 to 4 million barrels of oil per day by the year 2000.

The existing tax credit for individuals covers costs of installation of geothermal equipment. However, it is not clear whether the credit covers the cost of drilling the well necessary to reach the geothermal resource. This bill would expressly include such costs as eligible for the energy credit. A taxpayer would not be permitted to take the intangible drilling cost deduction if he elected the tax credit for drilling costs. The bill includes a similar provision for commercial geothermal investment.

ENERGY TAX CREDITS FOR BUSINESS

While the amount of energy consumed in private residences is considerable, it pales in comparison with that consumed daily by American business and industry. The U.S. Energy Information Administration estimates about 13 percent of total U.S. energy is consumed in private residences. Commerce and industry, not including transportation, consumed about 41 percent. The Energy Tax Act of 1978 addressed this industrial energy use by supplementing the existing 10 percent investment tax credit with an additional 10 percent tax credit for energy-related investments.

As is the case with residential tax credits for individuals, we believe certain improvements must be made in the existing tax credit formula to achieve the original goal of maximizing the use of alternative energy sources.

THIRTY-PERCENT TAX CREDIT FOR ALL SOLAR, WIND AND GEOTHERMAL APPLICATIONS

A basic goal of last year's energy tax legislation was to make solar and wind equipment eligible for a 20 percent total tax credit. Some solar applications do qualify the full 20 percent tax credit. Others, however, are allowed only a 10 percent credit. This is because the basic 10 percent investment tax credit is not available for structural modifications or components, such as building-wide heating and cooling systems or generators. That is particularly unfortunate since these are the primary uses of solar energy at this time. Energy Future, the report of the energy project at the Harvard Business School, edited by Robert E. Stobaugh, estimates that commercial use of solar waste and space heating can displace about 2.5 million barrels of oil a day by the year 2000.

Our bill addresses this problem in two steps: First, all solar and wind energy property, including structural modifications and components, will be eligible for the basic 10 percent investment tax credit. Second, an additional 20 percent energy tax credit is made available for solar, wind and geothermal expenditures.

The administration has proposed a 25-percent total credit for a single use of solar power—industrial process heat. We agree that the level of incentives must be increased. However, we believe that a 30-percent credit is necessary to stimulate solar and wind investment.

WIND-POWERED MECHANICAL ENERGY

We propose that certain technologies not included in the law passed last year shall now be eligible for the 30-percent tax credit. One such technology is the use of wind power to produce mechanical energy.

Wind-powered mechanical energy can be used to pump water for irrigation. New Mexico has included this excellent wind utilization among those applications eligible for its State energy tax credit. We want to encourage farmers and others in all States to take advantage of wind-powered mechanical energy. This bill would make wind-powered mechanical energy eligible for the 30-percent credit.

HYDROELECTRIC

While most dams during the past 40 years have incorporated electrical production, this was not true for older dams built primarily for flood control or to power small mills. The Army Corps of Engineers has estimated total unused hydroelectric potential at existing dams to be up to 54.6 billion watts annually, equivalent to the electrical output of 54 modern nuclear reactors. This includes the upgrading of generating capacity at existing hydropowered dams. New England is most often mentioned as benefiting from such conversion. But examples of wasted hydropower exist throughout the country, such as in the Pacific Northwest.

Last year both the Senate and House recognized the need to promote this clean and abundant resource. Both Houses passed bills which would have made hydroelectric equipment expenses eligible for the energy tax credit. Unfortunately, this was dropped in conference.

Our bill would add hydroelectric to the list of "alternative energy properties" for the proposed 20-percent energy tax credit. Eligibility for this new credit would be based on language adopted by the Senate 2 years ago. However, we do not propose to extend the credit to the structure—the dam. Rather, the credit is to be used to encourage retrofitting of existing structures with the necessary turbines and electrical generation and transmission equipment. The credit also applies to hydroelectric equipment using the flow of water but without a structure to impound water.

SOLAR AND WIND TAX CREDIT FOR UTILITIES AND OTHERS

Windpower can play a significant role in reducing our dependence on conventional sources of energy. The President's domestic policy review of solar energy identifies potential windpower equivalent to 3 million barrels of oil a day by the year 2000.

Unlike solar, the primary use of wind is not on an individual building basis. Rather, windmills are placed in locations with strong and constant winds such as on hilltops or near the ocean. The electricity generated is then transferred to numerous consumers.

In Oregon, a firm is presently negotiating with the Bonneville Power Administration to erect a "windfarm" a large number of windmills located together in a particularly windy spot, and sell the electricity thus generated to BPA. Also in Oregon, the Eugene Water and Electric Board has ordered a 140-foot tall windmill to be installed along the Pacific Coast.

These are cautious first steps which must be encouraged. Current law does not do so. The 1978 Energy Tax Act prevents utilities and private enterprises from taking the energy tax credit if they sell wind-generated electricity subject to State regulation. This bill would allow those entities to take the proposed 20 percent energy tax credit for purchase and installation of all wind and solar equipment.

CONSERVATION

In recent years, the term "conservation" has become associated with sacrifice, or a lower standard of living. This is not always accurate. The United States wastes as much energy as it imports. Our bill provides incentives to reduce both industrial and residential energy waste, in ways that will not hurt the quality of life. Industrial waste can be reduced through cogeneration. Residential energy conservation can be encouraged through extension of existing conservation tax credits. Heating and cooling efficiency can also be increased with heat pumps.

COGENERATION

"Cogeneration" is a relatively new name for an old and proven practice. Cogeneration denotes any form of simultaneous production of electrical or mechanical energy and useful thermal energy such as heat, steam or gas. A conventional industrial system produces either electricity or thermal energy; a cogeneration system produces both. For example, at a factory cogeneration might involve running high temperature gases through an electrical turbine before they are used for process heating.

In his national energy plan of 1977, President Carter cited cogeneration as an important technique for conserving domestic energy resources. Robert Stobaugh, in his recent book, Energy Future, called cogeneration "industry's North Slope." A 1975 study, done for National Science Foundation by Dow Chemical Co., concludes that by 1985 U.S. industry could meet approximately half of its own electricity needs through cogeneration. The study says this would amount to a savings of 2 to 3 million barrels of oil per day.

Cogeneration equipment is currently available. However, it is expensive and is not being purchased and used sufficiently. Our bill would make utilities and industry eligible for a 10 percent energy tax credit for purchase and installation of cogeneration equipment. This would be in addition to the existing 10 percent investment credit.

Last year both the Senate and House passed legislation calling for cogeneration tax incentives. These were deleted in conference in an effort to reduce the overall cost of the Energy Tax Act of 1978. We believe that incentives to encourage investment in cogeneration equipment are now more necessary than ever before.

HEAT PUMPS

Heat pumps extract and pump heat from a relatively cool area to a warmer area. During cold weather, a pump absorbs heat from the air outdoors and transfers it indoors. These devices can be reversed to cool a building during the summer.

Heat pumps have proven energy savings capability. According to the Energy Research and Development Administration, they offer an average of 20 percent savings over conventional heating and cooling systems. Furthermore, in some regions of the country the installation of a heat pump can reduce electricity use by 35 to 45 percent.

Our proposal would make heat pumps eligible for the 15 percent residential conservation credit and the 10 percent energy tax credit for business.

MAXIMIZING THE EFFECTIVENESS OF TAX CREDITS

Many of the tax credits which we would simplify and liberalize, expire at the end of 1985. These include tax credits for individuals and businesses who purchase solar, wind or geothermal equipment, as well as the conservation credit. Several manufacturers have begun producing equipment which qualifies for the various tax credits. This includes solar collectors suitable for residential use, windmills and cogeneration equipment for industry and utilities, and thermal windows for conservation purposes. Many other manufacturers are studying the feasibility of entering this market. A tax credit which expires 5 years from now is not conducive to a stable and predictable market. Thus, we propose to extend the expiration date to the year 2000.

EFFECTIVE DATE OF THE CREDIT

Experience has shown that when Congress is considering alterations to existing energy tax credits, sales of energy-saving equipment drop. Businesses and homeowners are reluctant to purchase equipment now, when they anticipate a larger tax credit for purchasing the same equipment later. In anticipation of this dilemma, our bill will have an effective date of July 24, 1979. Prospective purchasers can buy and install the equipment during the summer and fall construction season with the assurance that they will qualify for any increased credit which may be enacted afterward.

GASOHOL PRODUCTION INCENTIVES

Automobiles and trucks account for 40 percent of American consumption of petroleum. For this reason, we believe that a comprehensive approach to the energy problem requires a careful look at transportation fuels.

Alcohol has proven itself to be an effective supplement and substitute for gasoline. Several Federal programs are funding alcohol-fuels production. President Carter's proposed Energy Security Corporation and Energy Mobilization Board would expedite construction and guarantee loans for alcohol production facilities. Our bill would complement this effort by making alcohol-gasoline mixtures cost-competitive, thus creating a strong market demand.

INCENTIVES TO INCREASE ALCOHOL CONTENT

Gasohol is a mixture of 10 percent alcohol and 90 percent gasoline. It is currently exempt from the 4 cent per gallon Federal gasoline tax. As a result, the retailer is encouraged to sell gasohol, but there is no incentive to increase the proportion of alcohol above 10 percent. We propose that the amount of tax incentives be matched to the amount of alcohol in the alcohol-gasoline mixture. An increased proportion of alcohol should earn increased tax benefits.

Our bill would do this by repealing the present 4 cents per gallon exemption. In its place, it provides a 40 cents exemption for each gallon of alcohol sold in the alcohol-gasoline mixture.

Under the present 4 cents/gallon formula, 10 gallons of gasohol—containing 1 gallon alcohol, 9 gallons gasoline—earn a 40 cents tax exemption. Under our proposal, the 10 gallons gasohol—containing 1 gallon alcohol—would receive a 40 cent credit. However, if the alcohol content increases to 2 gallons alcohol and 8 gallons gasoline, the present formula still allows only a 40 cent exemption, while our proposed formula would provide an 80 cent credit. In sum, this bill would create an incentive to increase the alcohol content in gasohol, while present law does not.

The 40 cents credit would apply against either the dealer's Federal gasoline or diesel tax payments, or against his income tax payments. This would guarantee that the alcohol incentive will be fully available to small, independent retailers who sell relatively little gasoline.

ASSURING A LONG-TERM MARKET

Under the 1978 Energy Tax Act, the gasoline tax exemption expires October 1, 1984. We believe that to induce this type of investment, we must assure marketing incentives throughout the useful life of the alcohol production facility. This bill would extend the termination date of the tax exemption to the year 2000.

PHASE-OUT OF THE INCENTIVE

Gasohol incentives are necessary because the price of alcohol-gasohol mixtures is higher than that of pure gasoline. However, with the increasing price of petroleum, alcohol-gasoline mixtures may eventually not need the tax exemption to be price competitive.

We propose that Treasury's annual gasohol report to Congress be expanded to include a calculation of the need for continued alcohol fuels incentives, and their appropriate level. The bill would also require that the report compare the cost of alcohols produced from corn, wheat, wood and other substances.

VAN POOLING

The Congressional Budget Office has concluded that of all types of urban transportation "van pooling can probably make the greatest contribution to energy savings on a per-passenger-mile basis." According to the Department of Transportation, each van pool saves 4,000 gallons of gasoline per year, in addition to reducing pollution and traffic congestion.

Last year, with the support of Senators RIBICOFF, BENTSEN and others, Congress adopted my proposal for a tax incentive to encourage employer-provided van pools. As a result, an employer is now allowed to take the full 10 percent investment tax credit for the purchase of a van for use by his employees, instead of only a 3⅓-percent investment tax credit under prior law. However, many van pools are not employer-provided, but are business ventures operated by third parties or owner-operators. This bill would allow them to take the same 10 percent investment tax credit available to employers.

Mr. President, I believe that through judicious use of tax incentives we can promote alternatives to continued dependence on oil imports. Enactment of the Energy Tax Act of 1978 was a positive step forward. This bill will continue and expand upon that initiative.

I am hopeful that our colleagues on the Finance Committee will give support and favorable consideration to this legislation. We welcome suggestions for strengthening this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Alternative Energy Source and Conservation Tax Incentive Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. RESIDENTIAL ENERGY CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT FOR RENEWABLE ENERGY SOURCE EXPENDITURES.—Paragraph (2) of section 44C (b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 30 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $10,000.".

(b) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C (c) (2) is amended to read as follows:

"(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term 'renewable energy source expenditure' includes—

"(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

"(ii) expenditures for the drilling of an onsite well drilled for any geothermal deposit (as defined in section 613 (e) (3)), but only if the taxpayer has not elected under section 263 (c) to deduct any portion of such expenditures.".

(c) MECHANICAL AND ELECTRICAL ENERGY.—Paragraph (A) of section 44C (c) (5) (relating to definition of renewable energy source property) is amended—

(1) by inserting "mechanical energy, or electricity (through photovoltaics or otherwise)" after "hot water" in subparagraph (i), and

(2) by inserting "including, but not limited to wind energy for the purpose of heating and cooling, providing hot water, mechanical energy or electricity" after "purposes", in subparagraph (ii).

(d) CREDIT ALLOWABLE TO LESSOR AND BUILDER AND FOR LEASED PROPERTY.—Section 44C (d) (relating to definitions and special rules) is amended by redesignating paragraph (4) as paragraph (6) and by inserting after paragraph (3) the following new paragraphs:

"(4) Renewable energy source expenditures by lessors and builders.—

"(A) LESSORS AND BUILDERS.—Notwithstanding any provision of this section requiring the taxpayer to use a dwelling unit as his principal residence or to be the original user of any item—

"(i) LESSOR.—If an individual who is the lessor of a dwelling unit which constitutes the principal residence of the lessee makes expenditures which, but for such provisions, constitute energy conservation or renewable energy source expenditures, then, for purposes of this section, the lessor shall be treated as having made energy conservation or renewable energy source expenditures in connection with such dwelling unit.

"(ii) BUILDERS.—If, in connection with the construction or reconstruction of a dwelling unit which is to be originally used as a principal residence by an individual, a person (other than such individual) makes expenditures which, but for such provisions, constitute renewable energy source expenditures, then, for purposes of this section, such person shall be treated as having made renewable energy source expenditures in connection with such dwelling unit.

"(B) WHEN EXPENDITURE MADE.—An expenditure with respect to an item shall be treated as made when the original installation of such item is completed.

"(C) ORIGINAL USER AND LESSEE.—For purposes of subsection (b) (3), the lessee or the individual with respect to whom the original use of the constructed or reconstructed dwelling unit begins shall be treated as having been allowed a credit under this section with respect to such dwelling unit for a prior taxable year in an amount equal to the amount of the credit allowed to the lessor or the person described in subparagraph (A) (ii) for any taxable year with respect to such dwelling unit.

"(D) Notice to original user.—A person allowed a credit under subparagraph (A) shall provide a written notice to the lessee or individual described in subparagraph (C) containing information with respect to—

"(i) the nature and amount of the expenditures for which a credit was allowed, and

"(ii) the amount of the credit allowed such person by reason of subparagraph (A).

"(5) Leased renewable energy source property.—

"(A) In general.—If a taxpayer leases renewable energy source property in connection with a dwelling unit which constitutes his principal residence, expenditures in connection with such leasing shall be treated as renewable energy source expenditures.

"(B) Application with energy investment credit.—Subparagraph (A) shall not apply unless the lessor certifies to the taxpayer, in such form and manner as the Secretary may prescribe, that the lessor has not applied the energy percentage to such property in determining the amount of the credit under section 46(a) (2).".

(e) Joint Use of Energy Property.—

(1) In general.—Paragraph (1) of section 44C(d) (relating to special rules) is amended by inserting ", or in the case of any energy conservation or renewable energy source property installed in connection with 2 or more dwelling units which are all occupied and used as principal residences by 2 or more individuals" after "2 or more individuals".

(2) Conforming amendments.—

(A) Paragraph (1) (A) of such section 44C (d) is amended by inserting "(or dwelling units)" after "dwelling unit".

(B) The heading for paragraph (1) of such section 44C(d) is amended by inserting "or use" after "occupancy".

(f) Immediate Credit.—

(1) In general.—Section 44C (relating to residential energy credit) is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

"(1) In general.—Notwithstanding the provisions of subsection (a), the credit allowed by subsection (a) shall, upon application by the taxpayer, be allowed against the tax imposed by this chapter for the taxable year immediately preceding the taxable year in which the qualified energy conservation or renewable energy source expenditures were made.

"(2) Amount of credit and determination of qualified expenditures.—

"(A) Amount of credit.—Except as provided in subparagraph (B), the determination of the amount of any credit allowed under paragraph (1) for the immediately preceding taxable year shall be made as if such expenditures were made in such preceding taxable year.

"(B) Determination of qualified expenditure.—Any determination as to whether any expenditure with respect to which a taxpayer is claiming the credit allowed under paragraph (1) is a qualified energy conservation or renewable energy source expenditure shall be made on the basis of the taxable year in which the expenditure was made.

"(3) Time for making application.—

"(A) Earliest date.—A taxpayer may not file an application under paragraph (1) before the day on which the taxpayer filed his return of tax for the immediately preceding taxable year.

"(B) Latest date.—A taxpayer may not file an application under paragraph (1) on or after the earlier of—

"(i) the due date for the filing of the return of tax for the taxable year in which the expenditure was made (determined without regard to any extension of time for filing the return), or

"(ii) the day on which the taxpayer filed his return of tax for such taxable year.

"(4) Inclusion in earlier return.—In lieu of making an application under paragraph (1), a taxpayer may elect to claim the credit allowed under paragraph (1) for the immediately preceding taxable year on his return of tax for that year if the expenditure for which the credit is claimed was made before the filing of that return.

"(5) In lieu of any other credit.—Except as provided in subsection (b) (6), no credit shall be allowed for any other taxable year for any expenditure for which any credit is allowed under this subsection.

"(6) Treatment as claim for refund.—For purposes of this title, any application filed under pargaraph (1) shall be treated as a claim for refund except to the extent that such treatment is inconsistent with the provisions of this subsection.".

(2) Forms.—The Secretary of the Treasury shall publish and make generally available a form specifically designed to enable a taxpayer to apply under section 44C (f) of the Internal Revenue Code of 1954 to have the credit allowed by section 44C of such Code applied to a preceding taxable year.

(3) Interest on immediate credit.—Section 6611(b) (relating to interest on overpayments) is amended by adding at the end thereof the following new paragraph:

"(3) Section 44 (c) (f) credit.—In the case of a credit allowed under section 44C (f) for which an application has been filed under section 44C (f) (1), from the 61st day after the receipt of such application by the Secretary to the date of the refund check, whether or not such refund check is accepted by the taxpayer after the tender of the check to him. The acceptance of the check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.".

(g) Heat Pumps.—

(1) In general.—Subsection (c) (4) (A) of section 44C (relating to definition of other energy conserving component) is amended—

(A) by striking out "or" at the end of clause (vii),

(B) by redesignating clause (viii) as clause (ix), and

(C) by inserting after clause (vii) the following new clause:

"(viii) a heat pump which replaces an electric resistance heating system, or".

(2) Technical amendment.—Section 44C (c) (6) (A) (i) (relating to regulations) is amended by striking out "(4) (A) (viii)" and inserting "(4) (A) (ix)".

(h) Extension of Credit.—

(1) In general.—Section 44C(g) (relating to termination), as redesignated by subsection (f), is amended by striking out "1985" and inserting "2000".

(2) Conforming amendment.—Subparagraph (B) of section 44C(b) (6) is amended by striking out "1987" in the heading and text thereof and inserting "2001".

(i) Effective Date.—The amendments made by this section shall apply to expenditures made after July 25 1979.

Sec. 3. Energy Investment Credit.

(a) Regular Investment Credit for Certain Energy Property.—Subsection (a) of section 48 (relating to definition of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) Certain energy property.—Notwithstanding the words '(other than a building and its structural components' in paragraph (1) (B), solar or wind energy property (within the meaning of subsection (1) (4)) and alternative energy property described in subsection (1) (3) (A) (viii), (ix), or (x) which constitutes a structural component of a building shall, for purposes of applying the regular percentage to the qualified investment in determining the amount of the credit under section 46(a) (2) be treated as section 38 property.".

(b) Hydroelectric and Cogeneration Energy Property.—Paragraph (3) (A) of section 48(1) (relating to definition of alternative energy property) is amended—

(1) by striking out "and" at the end of clause (vii),

(2) by striking out the period at the end of clause (viii) and inserting a comma, and

(3) by adding at the end thereof the following:

"(ix) equipment (other than the dam structure) used in the production of energy by hydroelectric power, including (I) the turbine and equipment up to (but not including) the electrical transmission stage, and (II) subject to the limitations of subclause (I) equipment which does not use a dam structure or impoundment to produce such energy.

"(x) cogeneration equipment, but only to the extent that the cogeneration energy capacity of such facility is expanded. The term 'cogeneration equipment' means equipment which—

"(I) produces steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial (including water purification or desalinization), agricultural, commercial, or space heating purposes, and

"(II) also produces electrical or mechanical energy.

(c) Refundability of Credit for Geothermal and Hydroelectric Property.—

(1) In general.—Paragraph (10) of section 46(a) (relating to special rules in the case of energy property) is amended—

(A) in subparagraphs (a) (ii) and (iii), by inserting "of alternative energy property described in section 48 (1) (3) (viii), and (ix)" after "solar or wind energy property" each place it appears, and

(B) in the headings of subparagraph (B) and (C), by striking out "solar or wind" and inserting "certain".

(2) Conforming amendment.—Subsection (d) of section 6401 (relating to amounts treated as overpayments) is amended by striking out "solar or wind" and inserting "certain".

(d) Credit to Public Utilities.—Section 48(1) (3) (B) (relating to exclusion for public utility property) is amended by striking out " 'alternative energy property', 'solar of wind energy property'," and inserting" 'alternative energy property' (other than alternative energy property described in clauses (viii) through (x))),".

(e) Industrial Heat Pumps.—Section 48 (1) (5) (relating to specially defined energy property) is amended—

(1) by striking out "or" at the and of subparagraph (k),

(2) by redesignating subparagraph (I) as (M), and

(3) by inserting after clause (k) the following:

"(L) an industrial heat pump, or".

(f) Increase in Amount and Extension of Credit.—Section 46(a) (2) (C) (relating to amount of energy percentage) is amended to read as follows;

"(C) Energy percentage.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on July 24, 1979,

"(ii) with respect to the period beginning on July 1979, and ending on December 31, 2000—

"(I) 20 percent in the case of solar or wind energy property (within the meaning of section 48(1)(4)) or alternative energy property described in clauses (viii) and (ix) of section 48(1) (3) (A), and

"(II) 10 percent in the case of any energy property not described in subclause (I), and

"(iii) zero with respect to any other period.".

(g) Effective Dates.—The amendments made by this section shall apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is begun or completed by the taxpayer after July 24, 1979, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection during such period,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after such date, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) attributable to qualified progress expenditures made after such date.

Sec. 4. Van Pooling Vehicles.

(a) Not Limited to Employers.—Section 46(c)(6)(ii) (relating to special rule for commuter highway vehicles) is amended by striking out "the taxpayer's" subclause (I).

(b) Effective Date.—The amendments made by subsection (a) shall apply to vehicles purchased after July 24, 1979.

Sec. 5. Gasohol.

(a) Credit for Alcohol Fuels.—

(1) In general.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Alcohol Used in Fuels.

"(a) General Rule.—In the case of a taxpayer with respect to whom a tax is imposed under section 4041 or 4081(a), there shall be allowed as a credit against such tax for the taxable period for which the tax is imposed an amount equal to the product of—

"(1) 40 cents, multipled by

"(2) the number of gallons of alcohol mixed with the special fuel or gasoline with respect to which the tax was imposed under such sections.

"(b) Credit for Person Mixing Alcohol Fuels.—If the taxpayer elects not to claim the credit under subsection (a) and a person other than the taxpayer has mixed the alcohol with the special fuel or gasoline, there shall be allowed as a credit against the tax imposed under section 4041 or 4081 (a), an amount equal to the product of—

"(1) 40 cents, multipled by

"(2) the number of gallons of alcohol mixed with such fuels by such person.

"(c) Limitation.—The amount of the credit under this section shall not exceed the amount of the tax imposed under section 4041 or 4081(a) for such taxable period.

"(d) Definition of Alcohol.—For purposes of this section, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal.

"(e) Cross Reference.—

"For credit income tax for alcohol fuels, see section 39.".

(2) Credit against income tax.—

(A) In General.—Section 39 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) is amended by adding at the end thereof the following new subsection:

"(c) Alcohol Fuels Credit.—For purposes of subsection (a), the amount determined under this subsection is equal to the amount of the credit allowable under section 6429 for any taxable period ending in such taxable year which is in excess of the limitation provided under section 6429 (c) for such taxable period.".

(B) Conforming amendment.—Subsection (a) of section 39 is amended by inserting "the amount determined under subsection (c) and" after "the sum of".

(3) Technical and conforming amendments.—

(A) Subsection (k) of section 4041 and subsection (c) of section 4081 are repealed.

(B) The table of sections for subchapter B of chapter 65 is amended by inserting at the end thereof the following new item:

"5429. Alcohol used in fuels.".

(4) Implementation.—Within 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate such technical and conforming amendments as may be necessary to carry out the provisions of this subsection.

(b) Reporting Requirements.—Paragraph (1) of section 221(c) of the Energy Tax Act of 1978 is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) amount of revenue loss under section 6429.",

(2) by striking out the period at the end of subparagraph (D) and inserting a comma, and

(3) by adding at the end thereof the following:

"(E) a comparison of the costs of alcohol produced from different sources and added to fuels,

"(F) an analysis of the effect on the alcohol fuels industry of a termination or reduction of such credit, and

"(G) recommendations as to the appropriate level of subsidy to the alcohol fuels industry.".

(c) Termination Date.—Sections 221 (b) (2) and (c) (1) and (2) of the Energy Tax Act of 1978 are each amended by striking out "1984" and inserting "2,000".

(d) Effective Date.—The amendments made by this section shall take effect on July 25, 1979, and shall apply to alcohol fuels sold on or after such date.

Sec. 6. No Inference As To Prior Eligibility for Credits.

Nothing in this Act shall be construed to infer that any property with respect to which sections 2 and 3 of this Act apply was not eligible for the credit allowable under section 44C or 38, respectively, before the effective date of sections 2 and 3 of this Act.

Mr. RIBICOFF. Mr. President, I am very pleased to be a cosponsor, with Senators Packwood and Matsunaga, of the Alternative Energy Act of 1979. The purpose of the bill is to give every reasonable incentive to the private sector to bring renewable energy technologies into the commercial stream as quickly as possible.

The Congress made a start in this direction by passing the Energy Tax Act of 1978. This proposal would extend the present credits to the year 2000, broaden the types of technologies eligible for the credit, and clarify a number of uncertainties in the law.

Of particular importance are the inclusion of hydroelectric property, residential and industrial heat pumps, and cogeneration, wind and photovoltaic equipment. Each of these areas has great potential.

In the case of hydroelectric potential, for instance, in my own State of Connecticut there are only 18 operating units, but as many as 659 other dams which might be able to accept generating equipment. The Energy Advisory Board to the governor recently reported that it is feasible to expand Connecticut's hydroelectric generating capacity sixfold. It is my hope that the credit we include in this measure will hurry that expansion along.

Cogeneration is also a technique that could be of substantial assistance in reducing our imports of foreign oil. Only 5 percent of all electric power in the United States is produced by this method, as compared to 27 percent in Germany and 20 percent in England. A study done at the Harvard Business School indicates we should be able to increase American electrical generation fourfold through cogeneration. Market development of heat pumps, wind and photovoltaic technologies are in various stages of feasibility. We should pass up no opportunity to promote mass production, cost reduction and acceptance of these promising alternatives.

The President has announced a policy of accelerating the development of renewable technologies so that 20 percent of our energy supply by the year 2000 is derived from them. I fully support this goal, and believe that tax incentives are an important method to help achieve it through the private sector.

There has been recent concern over the accumulation of carbon dioxide into the atmosphere resulting from combustion of fossil fuels, particularly synthetic fuels. In light of this, it is prudent for us to accelerate market promotion of renewable energy sources that do not add to this accumulation.

I hope this measure will gain wide spread support in the Senate and that it will be enacted as part of the energy initiatives of the 96th Congress.

Mr. MATSUNAGA. Mr. President, I am pleased to join the distinguished Senator from Oregon (Mr. Packwood), and the distinguished Senator from Connecticut (Mr. Ribicoff) in introducing a bill to provide tax incentives to beat the energy crisis. To win the energy war, major action must be taken to promote conservation and American energy self-sufficiency. This bill provides for a congressional commitment to achieving those goals.

Our long festering energy problem erupted to public consciousness with the political situation in Iran and the dramatic increase in OPEC oil prices in the last 8 months. But these events only underscored our serious, unhealthy dependence on foreign supplies of oil. We as a Nation cannot continue to enjoy the freedom we boast about if the health of our economy is subject to the decisions of foreign powers. We must, as President Carter has suggested, cut our imports of foreign produced oil.

The least expensive and most immediate means of cutting imports is through domestic conservation. The inadequate supply of oil is our major energy problem today, but the lack of cheap, efficient alternatives presently contributes much to the problem. Encouraging the development and use of these alternatives will without a doubt lessen our dependence on oil and reduce our need to import foreign oil. One of the most effective and proven ways to do this is to provide taxpayers with major incentives to seek out and use these alternatives.

It is a very sad fact that today, as during the Arab oil embargo of 1973, the American public does not believe that the oil shortage is real. According to opinion surveys, most Americans believe that the oil companies and the Government conspired to hold back supplies. The effective gasoline rationing systems recently instituted by a number of States have only increased public suspicion that, since gasoline prices have gone up, gasoline lines are now much shorter, and, in fact, there was no real gasoline shortage.

This public distrust makes it difficult for the Congress to convince the American people that there is a need to conserve petroleum products and to turn to alternative sources of energy. The increases in the price of gasoline did not result in any substantial decrease in demand. In the past 30 years, Americans have become happy to the point of consuming 30 percent of the world's energy supply, with never a thought that the supply would run short. But oil supplies have in fact run short, and it is the task of Congress, as much as it is that of the President, to convince the American public of this fact and to face it resolutely.

Alternative, inexhaustible sources of energy, such as solar, wind, and geothermal energy, and easily produced fuel such as ethanol and methane, are possible answers to our energy crisis. As it is inevitable, we must face the problem of changing American habits and ways of living, in order to convert to these other sources.

A sure and tested way of meeting this problem is to offer tax incentives for alternative energy use and concurrent petroleum conservation through the tax incentives Senator PACKWOOD, Senator RIBICOFF, and I propose today. Significant tax credits and deductions will effectively stimulate the development and use of solar, wind, and geothermal energy. Such tax incentives also have the added important benefit of fighting another major problem, the recession, by stimulating the economy. No other program which I can think of can as effectively address two of the major problems facing the country at this time.

President Carter on July 15, 1979 committed the United States to cutting our foreign oil dependence through conserving the oil resources we do have, and developing alternative energy sources. By acting on this legislation quickly, Congress will show that it is willing to work closely with the President to meet our Nation's gravest problem.

The passage of this bill will establish Congress' serious commitment to meeting and solving our country's energy problems.

By Mr. HELMS:

S. 1572. A bill to exempt family farms from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Reseources.

FAMILY FARM OCCUPATIONAL SAFETY AND HEALTH AMENDMENT OF 1979

Mr. HELMS. Mr. President, I am very pleased today to introduce legislation I believe will benefit small farmers throughout the United States by exempting them from Occupational Safety and Health Act requirements.

The basis for this bill, I am proud to say, came from the actions of our former colleague from Oklahoma, Senator Bartlett, during the 95th Congress. In 1978, he offered the language of my bill as part of an amendment to legislation amending the Small Business Act. His amendment would have provided a permanent exemption for small farmers and relieved them of unnecessary haggling with OSHA. The Senate adopted the amendment, but unfortunately it was not retained in conference with the House. It is my hope that the Senate will renew consideration of the matter he brought to our attention, and ultimately approve this bill.

My bill seeks to permanently exempt any person who is engaged in a farming operation and employs 10 or fewer employees from OSHA rules, regulations and never-ending requirements. Farmers who maintain temporary labor camps are not exempted under the provisions of this bill.

This small farmer exemption has been contained in appropriations bills over the past several years, including H.R. 4389 presently under consideration, but of course its applicability only extended to a particular fiscal year. I feel it is about time we added this language to occupational safety and health law on the books and made it permanent. If we do not, I fear one day this language may be removed from appropriations language, losing its cozy position, and small farmers will once again become targets of OSHA inspectors.

Farm safety is important—to everyone. If our stalwart family farming system begins to suffer manpower loss due to injury, steady supplies of fruits, vegetables and many foodstuffs will suddenly slack and become scarce and more expensive. I have every reason to believe that small farmers adhere to safe farming practices and likewise encourage their employees to do the same. They cannot afford to do otherwise. On the small farms of the type we are concerned with, the loss of one employee due to injury could spell economic disaster if the crop could not be harvested on time, or livestock not properly attended. Practically without exception, the small farmer himself plays such an integral role in the day-to-day management of his farm that his injury-producing carelessness would mean an irrevocable loss of income if he were to be severely injured and hospitalized.

This exemption makes good commonsense because it will free the bulk of our farm families from the burdens of "OSHA watching," and will let them get on with the business of food and fiber production and attention to the needs of our rural communities. It was not too long ago, Mr. President, that OSHA issued its infamous pamphlet, "Safety With Beef Cattle," which among other things, cautioned farmers against the perils of stepping in slippery cow manure. I am not a farmer, and I certainly realize the risks—but I did not need someone to give me a booklet and remind me to read up on the subject.

Generally, on-farm employment has been dropping in recent years—primarily due to increased mechanization. The U.S. Department of Agriculture estimates that at least 70 percent of total farm employment is composed of the small farm operator and his family members. Also, 95 percent of all farms hire less than 1.5 man-years of labor and can be classed as small or family-run farms. I think that my colleagues should realize that while this legislation may affect a large number of farmers, this permanent exemption will save the small farmer time and expense, enable him to be a more viable producer, and ultimately, I believe, concern himself more with farm safety.

In fact, today marks the beginning of the 35th annual observance of "National Farm Safety Week." I want my colleagues to join with me in urging farmers all across our country to be especially mindful of safety on and around the farm and to extend this care throughout the year. I think promotion of safety education is more of what OSHA should be doing instead of looking for problems. They should take some of their time and money now used for inspection and channel it toward safety education of farmers and farm families. OSHA does have a program set up to do this very thing in cooperation with USDA's Extension Service and State cooperative extension service offices nationwide, but I wonder how much emphasis they really give it.

It must be hard for them to maintain a useful program, however, because the administration recommended that all $1,020,000 of this year's appropriation for Extension Service farm safety activities be stricken from the fiscal year 1980 budget. But, we must do our part too. It was unfortunate that the Senate Appropriations Committee did not approve House-passed language restoring and funding these farm safety efforts for the next fiscal year at the current level. Hopefully, the members of the Conference Committee will seek to restore some or all of this funding so that the very important farm safety program can continue within the Extension Service.

Farmers are smart people, Mr. President—they have to be to make it today. I think with proper encouragement and a little breathing room, they can conduct safe farming enterprises and even provide less reason for OSHA to be worried about their well-being.

Mr. President, I ask unanimous consent that the text of the Family Farm Occupational Safety and Health Amendment of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Farm Occupational Safety and Health Amendment of 1979".

SEC. 2. Section 4 of the Occupational Safety and Health Act of 1970 is amended by inserting after subsection (b) the following new subsection:

"(c) This Act shall not apply to any person who is engaged in a farming operation, does not maintain a temporary labor camp, and employs 10 or fewer employees.".

By Mr. BELLMON:

S. 1574. A bill to amend the Federal Food, Drug and Cosmetic Act, the Federal Alcohol Administration Act, to provide for health warning labels on alcoholic beverages; to the Committee on Labor and Human Resources.

● Mr. BELLMON. Mr. President, I am introducing legislation which would give the Secretary of Health, Education, and Welfare the authority to require health warning labels on products containing beverage alcohol.

I believe that warning labels on products containing beverage alcohol are an appropriate and necessary part of a growing feeling among health specialists that individuals must assume greater responsibility for their own health. The only hope for containing spiraling health costs and making significant improvements in the quality of life for most Americans lies in prevention of disease and promotion of good health. Dr. Theodore Cooper, former Assistant Secretary for Health, has pointed out that the best medical care in the world would hardly add 1 year to the average life-expectancy in the U.S.[1] However, researchers at the University of California, Los Angeles, found that following seven simple rules of health could add up to 11 years to life-expectancy.[2]

In order to assume greater responsibility for their own health, individuals must have access to accurate, reliable information concerning health risks associated with their actions. Although warning labels may not inform consumers of all the risks associated with consumption of beverage alcohol, labels can sensitize individuals to the fact that specific risks do exist and encourage them to seek additional information.

I should note that the dangers associted with alcohol use are substantial, especialy for youth, pregnant women, and other high risk groups. Alcohol abuse is the third leading public health problem in the United States and adversely affects not only at least 10 million alcohol abusers, but imposes tremendous burdens on families who must try to cope with this serious illness.

Alcohol abuse has been referred to as our "$42 billion hangover," as it is estimated that this represents the economic costs of this illness. The cost in terms of human suffering and unnecessary death, disease, and disability cannot be measured. Alcohol abuse is a major contributing factor in most of the leading causes of death and disability, including cancer, cardiovascular disease, cirrhosis of the liver, diabetes, accidents, suicides, and homicides. Data from the National Center for Health Statistics show that annual alcohol-related deaths probably run as high as 205,000. Deaths which directly result from alcohol abuse, such as cirrhosis of the liver, accidents, and suicides, rank third as a cause of death in the United States.

In addition to these well-known risks associated with alcohol abuse, there is conclusive evidence that alcohol is directly involved in birth defects, and that the risk of fetal abnormality is correlated with the amount of alcohol consumed. These birth defects have been identified as the fetal alcohol syndrome and typically include developmental and performance deficiencies, craniofacial and limb abnormalities, and benign tumors. Both pre- and post-natal growth deficiencies are present and I.Q.'s of affected children average 30–40 points below normal.[3]

At the present time, there is no conclusive evidence concerning what may constitute a safe level of alcohol consumption by pregnant women. It is clear, however, that a definite risk is established by ingestion of three or more ounces of alcohol per day. There is some evidence that significant risks may occur at much lower levels of consumption and that periodic and very high blood alcohol concentrations are especially dangerous to the fetus. According to a recent study published in the Journal of Pediatrics, risks to the fetus are increased when smoking is combined with high alcohol consumption.[4]

It should also be emphasized that there is a growing awareness in the medical and scientific community that alcohol may produce serious and often fatal effects when mixed with other drugs. According to studies published by the New York Academy of Sciences, alcohol potentiates the depressive effects of tranquilizers and sedatives and this combination represents the leading cause of drug overdose and death in hospital emergency rooms.[5] Alcohol greatly affects the pharmacological actions of almost every class of therapeutic drugs including those used in the treatment of infections, blood disorders—including blood thinning agents used for cardiovascular disease—gout, pancreatitities, diabetes, gastro-intestinal disorders, and liver diseases.[6]

The purpose of warning labels is not to restrict any citizen who may choose to drink alcoholic beverages. It is designed, rather, to assist and promote individual responsibility for his or her own health. Individuals who choose to drink alcoholic beverages have the right and responsibility to make an informed decision and hopefully select options which at least minimize risks to themselves and to others, including unborn children. At a minimum, labels should alert pregnant women to the risks of birth defects and inform all citizens of the potential hazards of mixing alcohol with other psychoactive and therapeutic drugs.

There is considerable debate over whether or not warning labels actually serve a useful purpose. While the answer to this question is far from conclusive, there is little doubt that appropriate ingredient labels are useful and can alert high risk persons to potential dangers.

Preliminary studies of the impact of labeling upon cigarette smoking are encouraging as there is some evidence of behavioral changes which reduce health risks—shift to filter cigarettes, reduction in level of consumption, and reduction in number of adults who smoke. Behavioral science research, however, suggests that information such as that provided on warning labels is most effective where there is a direct and immediate relationship between individual behavior and the consequences which follow from that behavior.

This is especially true if the consequences have a significant impact upon important values and goals such as the desire of women to produce healthy babies. For example, there was a significant decrease in the use of LSD among young women when scientists reported a possible link between LSD and birth defects. On the basis of past experiences, therefore, we have every reason to believe that warning labels could be useful in reducing the risk of birth defects and related problems associated with alcohol abuse.

Mr. President, I find it difficult to understand why Congress has not adopted a consistent policy for the development of warning and informational labels for products with known potential health risks. The Secretary has delegated such authority by regulation to the Commissioner of FDA for food, drugs, and cosmetics. In the last Congress, I introduced legislation (S. 3317), which would have developed a consistent policy by expanding this labeling authority of FDA to include alcohol and cigarettes. With regard to alcohol, the need for this legislation was created by a decision of the Federal District Court for western Kentucky (Brown-Forman Distillers Corp. against Mathews, 1976) which ruled that exclusive authority for labeling alcoholic beverages resides with the Department of the Treasury. Unfortunately, no action was taken on this legislation.

Again, I emphasize that major improvements in the health of our citizens will not be achieved solely by continuing to pour billions of additional dollars into acute care and treatment of chronic diseases. While we must continue to provide for treatment and rehabilitation of the sick, we must begin to shift our emphasis to disease prevention and the responsibility of individuals for their own health. To achieve this goal, we must inform citizens of the health risks associated with their actions. Unfortunately, there is a large gap in the law which precludes appropriate labeling of health risks associated with alcohol consumption. As these risks, such as the fetal alcohol syndrome, are more clearly identified through scientific research, it becomes more and more imperative that citizens have information necessary to make responsible choices in their use of those substances with known hazards. I urge members of the Alcohol and Drug Abuse Subcommittee to join with me and others in developing legislation which will insure that alcoholic beverages receive appropriate warning labels in order that citizens can make informed and responsible choices in their use of beverage alcohol.●

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[1] U.S. Medicine, January 15, 1975.

[2] Nedra Belloc, Human Population Laboratory, California State Department of Public Health & Lester Buslow, School of Public Health, U.C.L.A.

[3] Kenneth Warren, "A Critical Review of the Fetal Alcohol Syndrome," National Institute of Alcohol Abuse and Alcoholism, June 1, 1977.

[4] James Hanson, et al., "The Effects of Moderate Alcohol Consumption During Fetal Growth and Morphogenesis," The Journal of Pediatrics, Vol. 92, 1978.

[5] Vessel and Baude, Interactions of Drugs Abuse, *Annuals of the New York Academy of Science,* Vol. 281, 1976.

[6] P. D. Hansten, *Drug Interactions,* Philadelphia; Lea and Febiger, 1973.

By Mr. LEVIN:

S. 1575. A bill to establish a program to stimulate production of synthetic fuels; to the Committee on Energy and Natural Resources.

SYNTHETIC FUEL REQUIREMENTS ACT OF 1979

● Mr. LEVIN. Mr. President, I rise to introduce a bill to establish synthetic fuel requirements and mandate their use by oil and natural gas companies. I send the bill to the desk and ask that it be appropriately referred.

The events of this summer have clearly illustrated the dangers of American dependence upon foreign sources of oil. The ongoing Iranian crisis and OPEC's recent decision to raise the price of crude oil have had and will have devastating effects upon the American economy. It is imperative that Congress take immediate action to stem American dependence upon foreign energy sources. It is in this vein that I propose the Synthetic Fuel Requirements Act of 1979.

This bill will stimulate production of synthetic fuels by requiring that a percentage of all petroleum and natural gas products that are consumed in the United States be derived from domestic nonpetroleum substitutes. The requirement would begin at a relatively low level for 1986 and 200,000 barrels equivalence per day and be phased toward a 1990 goal of 2 million barrels equivalence per day. This goal represents roughly one quarter of our anticipated foreign petroleum consumption.

The necessity for this legislation is clear. Other approaches to promote the production of synthetic fuels, while useful, are lacking in some respects. The first approach, dependence on the price mechanism has proven wholly unreliable. It has little capacity for predicting the sweep of Islamic revolutions, to provide just one example. The second approach, embodied in President Carter's plan, and Senator DOMENICI's and Representative MOORHEAD's bills, have great merit. They provide a system of Federal support and incentive. However, although we gain significant advantage through this approach, it may not prove to be enough. Witness the absence of a market for alcohol fuels. This is despite a $16.40 Federal subsidy on every barrel of alcohol. This bill, providing as it does market guarantees, will relieve the burden on the public and remove the inefficiency of Government purchase and management of the synthetic products.

Thus far, private industry has been reluctant to invest in synthetic fuels because of the uncertainty of the market. By mandating synthetic fuel usage, investors are assured of a market. If potential investors felt that they could market synfuels better than others in the synfuel industry they would have every reason to invest. The proposal also promotes maximum efficiency in that firms are free to choose the types of synthetic fuels they wish to use, and those which use more than their required share may negotiate certificates of purchase to others who find it inconvenient to use the synthetic fuels.

Administered reasonably this program may prove to be the best way to protect free enterprise and the free market. Each producer would be free to choose a preferred technology and marketing strategy: Government involvement would be minimized, both in terms of regulation and subsidization; and the pace of the phase-in could be adjusted to reflect real trends in world oil prices and domestic market conditions, up or down.

The concept of Federal mandatory requirements has been used successfully in the past in the auto industry. Original skepticism about meeting fuel economy and emission quality standards ranged high. Yet the industry, with minimal Federal aid, has successfully met the requirements, and has made great contributions to the solution of our energy problems. In fact, one of the prime initiators in making me aware of the potentials of this approach is Jacques Moroni, a policy planner at Ford Motor Co. I have equal confidence that the American oil and gas industries will meet synthetic fuel goals if they are clearly fixed, as proposed in this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Synthetic Fuel Requirements Act of 1979".

DEFINITIONS

SEC. 2. For the purposes of this Act the term—

(1) "Secretary" means the Secretary of the Department of Energy;

(2) "synthetic fuel" means fuel derived from domestic sources which may be used as substitutes for crude oil, natural gas or the products of crude oil or natural gas, such term shall not include coal directly burned as fuel;

(3) "Btu" means British Thermal Units;

(4) "United States" means each State of the several States and the District of Columbia; and

(5) "base year" means the calendar year two years prior to the year in which a requirement under section 7 is promulgated.

STATEMENT OF FINDINGS AND PURPOSE

SEC. 3. (a) The Congress finds and declares that—

(1) the lack of a constant supply of energy has the potential to cause devastating effects on the economy and general welfare of the Nation, and poses a threat to national security and world peace;

(2) a clear need exists to decrease reliance on foreign sources of energy and to promote the development and production of domestic sources of energy;

(3) there is an abundance of domestic resources from which fuels can be synthesized;

(4) many important synthetic fuel projects whose prompt initiation is clearly in the national interest have been delayed due to uncertain market conditions; and

(5) there is a lack of incentive for investment by the private sector in programs for synthetic fuel development and production.

(b) It is the purpose of this Act to establish a program of mandatory use requirements to stimulate the production of synthetic fuels from domestic resources.

COVERAGE

SEC. 4. (a) The requirements to use synthetic fuels as established by this Act shall apply to—

(1) all domestic and offshore refiners with regard to products sold in the United States;

(2) domestic petrochemical manufacturers;

(3) importers of petroleum products and first generation petrochemicals;

(4) final users of natural gas acquired through pipelines, gas gathering systems or from the user's own direct source; and

(5) operators of other energy producing facilitities which use crude oil directly.

(b)(1) The Secretary shall not grant exemptions from the requirements of this Act on the basis that synthetic fuels cannot be conveniently used.

(2) The Secretary may grant exemptions for small users and importers which import less than the equivalent of fifteen thousand barrels of crude oil per year.

REQUIREMENTS

SEC. 5. (a) The Secretary shall promulgate by regulation mandatory synthetic fuel use requirements by category and user. Such regulations shall be promulgated not later than two years prior to the first day of the calendar year in which such regulations are to become effective. Such regulations shall at a minimum require the use of the equivalent of 2 hundred thousand barrels (in the aggregate) per day of synthetic fuel during the calendar year 1986, and 2 million barrels (in the aggregate) per day during calendar year 1990.

(b) The Secretary may, by rule, amend the synthetic fuel requirement specified in subsection (a) for the year 1986 or for any subsequent year, to a level which he determines is the maximum feasible level for such year, except that any amendment which has the effect of increasing a synthetic fuel requirement to a level in excess of 2 million barrels per day, or of decreasing such requirement to a level below 2 hundred thousand barrels per day shall be submitted to Congress in accordance with section 551 of the Energy Policy and Conservation Act and shall not take effect if either House disapproves such amendment in accordance with the procedures specified in such section.

(c) Any entity described in section 4(a) which fails to meet its requirements established under subsection (a) shall be liable to the United States and assessed a civil penalty, not to exceed an amount equal to $50 per barrel for each barrel under the required amount as determined by the Secretary.

(d)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within thirty days after the date of such notice to have the procedures to paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, or order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before a hearing examiner appointed under section 3105 of such title 5. Such assessment order shall include the hearing examiner's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Director assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Director, or the court may remand the proceeding to the Director for such further actions as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts invloved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any electon to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

MEASUREMENT OF COMPLIANCE

SEC. 6. (a) The Secretary shall determine the compliance for all industry in meeting the percent requirements established under section 5(a) in accordance with the following formula where (1) "R" equals the percentage requirement for synthetic fuel use for all industry during a calendar year; (2) "T" equals the total synthetic fuel requirement for such period; (3) "C" equals the total of crude oil used during the base year; (4) "G" equals the total natural gas used during the base year; (5) "P" equals the amount of petroleum and petrochemical products imported during the base year; (6) "E" equals the amount of exempted exports; and (7) "A" equals the allowances for small users and importers:

$$R=(T\times 100)/(C+G+P)-(E+A).$$

(b) The Secretary shall determine the requirement for a particular user in accordance with the following formula where (1) "c" equals the total crude of use of the user during the base year; (2) "g" equals the total natural gas used by such entity during the base year; (3) "p" equals the petroleum and petrochemical product imports for such entity during the base year; and (4) "e" equals exempted exports imported by such entity during the base year:

$$\text{User's Requirement}=r/100\times(c+g+p-e).$$

(c) Quantities shall be measured on the basis of Btu content of crude oil or natural gas saved by the use of synthetic fuel.

(d) The Department of Energy shall publish standard estimates of the crude oil equivalence of petroleum products to facilitate the calculation of the requirements under section 5.

EXCESS USE CERTIFICATES

SEC. 7. The Department of Energy shall issue negotiable excess use certificates to users of synthetic fuels who exceed their requirement. Such certificates may be purchased and used by users of synthetic fuels who do not meet their requirements for the purpose of being deemed to have met such requirements.●

ADDITIONAL COSPONSORS

S. 105

At the request of Mr. WALLOP, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 105, the Parental Kidnaping Prevention Act of 1979.

S. 123

At the request of Mr. INOUYE, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for payment under medicare and medicaid of services by psychologists.

S. 715

At the request of Mr. BELLMON, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 715, to allow State and local governments to collect taxes on alcoholic beverages and tobacco products sold or consumed on military and other Federal reservations.

S. 949

At the request of Mr. BURDICK, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 949, a bill to amend the National Environmental Policy Act to provide a 180-day statute of limitations on the initiation of a judicial challenge to the adequacy of an environmental impact statement.

S. 1250

At the request of Mr. STEVENSON, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 1250, the National Technology Innovation Act of 1979.

S. 1411

At the request of Mr. CHILES, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

AMENDMENT NO. 329

At the request of Mr. HELMS, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Amendment No. 329 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

SENATE RESOLUTION 204—ORIGINAL RESOLUTION REPORTED INCREASING THE LIMITATION ON EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. MUSKIE, from the Committee on the Budget, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 204

Resolved, That section 2 of Senate Resolution 73, 96th Congress, agreed to March 7 (legislative day, February 22), 1979, is amended—

(1) by inserting "(1)" after "amount";

(2) by striking out "$80,500" and inserting in lieu thereof "$160,000";

(3) by inserting before the period at the end thereof the following: ", and (2) not to exceed $5,680 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act)".

SENATE CONCURRENT RESOLUTION 34—SUBMISSION OF A CONCURRENT RESOLUTION RELATIVE TO THE RIGHTS OF ROMANIAN CITIZENS

Mr. MOYNIHAN submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 34

Whereas the Socialist Republic of Romania enjoys "most favored nation" status in its trade with the United States; and

Whereas the Constitution of the Socialist Republic of Romania guarantees freedom of religion to all its citizens; and

Whereas the Romanian Government in 1948 suppressed the Byzantine Rite Catholic Church, forcibly joined it to the Romanian Orthodox Church and imprisoned its bishops and many of its priests; and

Whereas the Latin Rite Catholic Church also suffers severe restrictions in Romania, with the Government allowing no bishops to be appointed by the Holy See; and

Whereas vital archival materials have been confiscated from the Hungarian Reformed Church without granting the Church access to these important documents; and

Whereas churches are generally denied the right to select their own ecclesiastical leaders; and

Whereas the Romanian government has not allowed Catholic, Unitarian, Reformed and Presbyterian Churches to receive aid sent to repair their churches damaged in the 1977 earthquake; and

Whereas the United States of America and its Government place strong emphasis upon securing basic human rights for people all over the world; and

Whereas both the United States and Romania have pledged in the Helsinki Accords of 1975 to respect the religious freedom of their citizenries; be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States call upon the Romanian Government to (1) restore legal status and full religious freedom to the Byzantine and Latin Rite Catholic Churches, (2) permit the Holy See to appoint bishops in both the Latin Rite and Byzantine Rite Catholic Churches, (3) allow unlimited access to religious archival materials, (4) allow all congregations to choose their own religious leaders, and (5) permit all churches to receive and spend aid sent from abroad on the repair of their churches; and be it further

Resolved, That the Congress call upon the executive branch of our government to promote these goals in its negotiations with the Romanian Government.

RELIGIOUS FREEDOM IN ROMANIA

Mr. MOYNIHAN. Mr. President, lately our attention is rivited, and rightly so, on the enormous suffering of the Southeast Asian refugees, a large proportion of which are ethnic Chinese who have been systematically repressed and expelled by the Communist regime in Vietnam. Yet today I would like to make note of repression in a different part of the world, repression which, if not as brutal and destructive in terms of lives lost, is every bit as systematic and enduring. It is furthermore violence done to the mind, to the human spirit and soul, which are the content and meaning of life.

I speak of the decades-old restrictions on religious freedom in Romania, especially those aimed at the Catholic, Reformed, Unitarian, and Presbyterian churches. Like the Southeast Asian tragedy, there is a component of ethnic hatred in this attack upon Romania's "minority" churches; nearly all of those served by these churches are ethnic Hungarians who live in Transylvania. Loyal to the Stalinist model, the Romanian regime has sought cultural and national assimilation of its ethnically diverse population, and has attempted to supplant religious and spiritual values with obedience to the state.

This problem was given vivid and detailed examination in the course of the July 19 hearings before the International Trade Subcommittee, of which I am a member, on renewal of most favored nation status for Romania and Hungary. I had the distinct pleasure of receiving testimony from a number of Hungarian and Romanian Americans—people, I might add, who are well attuned to the political conditions in their native lands—and was struck in particular by the statements of Rev. Alexander Havadtoy, representing the Human Rights Commission of the United Church of Christ and the Human Rights Commission of the World Presbyterian Alliance, as well as that of Mr. Laszlo Hamos, chairman, Committee for Human Rights in Romania.

Their testimony provided not only detailed and factual information on the extent and nature of religious and ethnic restrictions in Romania, but it also managed to convey the human side of the suffering brought about by this repression. One of the most outrageous facts which emerged from these hearings was that the Catholic Church is not allowed to appoint its own bishops in both the Latin Rite and Byzantine Rite Catholic Churches. In the case of the Protestant Church, congregations are denied their ancient right to choose their own ministers and presbyters; the State retains a monopoly over the selection process.

Now, installing loyal puppets as church leaders is a practice not altogether unfamiliar to those who have studied the course of Communist development. But I can think of no surer way to insult and outrage a religious community's values and beliefs than to impose an obvious fraud as their leader. I can not protest this behavior strongly enough. The abuses are numerous and afflict all religions in Transylvania, and in general, Romania. I shall simply mention these two instances, assured that the committee record will chronicle the rest.

I am compelled to state these facts and to convey to the Romanian Government through this resolution a stern warning that the United States takes seriously the protection of human rights; we are not to be deceived and cajoled into automatic renewal of most favored nation status for Romania when these facts stare us squarely in the face. The power of the modern, pervasive totalitarian state is immense. I am convinced, however, that it will never destroy its people's religious, spiritual, and for that matter, cultural and ethnic values. Pope John Paul II's recent triumphant return to Communist Poland, reassured us all that such is manifestly the truth.

AMENDMENTS SUBMITTED FOR PRINTING

WATER RESOURCE PLANNING AUTHORIZATIONS—S. 480

AMENDMENT NO. 369

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to S. 480, a bill amending the Water Resources Planning Act to authorize appropriations for fiscal years 1980 and 1981.

RECLAMATION REFORM ACT OF 1979—S. 14

AMENDMENTS NOS. 370 AND 371

(Ordered to be printed and to lie on the table.)

Mr. EXON submitted two amendments intended to be proposed by him to S. 14, a bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes.

● Mr. EXON. Mr. President, I am today submitting two amendments to S. 14, the so-called "Reclamation Reform Act of 1979." The first amendment should reinstate the residency requirement for the receipt of Bureau of Reclamation water, but would allow a waiver where such requirement would work a hardship, particularly in cases where an owner is a nonresident but has actively farmed the land for at least 10 years but decides to move; or where the land is owned by a surviving spouse or dependent of such a farmer. The second amendment would strike the provisions of the bill which would allow for unlimited leasing.

S. 14, as reported by committee seeks to abolish the residency requirement of the current law, and permits, in effect, unlimited leasing which provides a loophole to big landowners circumventing the acreage limitations thus opening up the right to receive federally subsidized water to landholdings far beyond the inintent of the Reclamation Act. The bill states that landowners can lease land for 1-year periods, for as many consecutive 1-year periods as they like, provided that they have no written right of renewal. These critical weaknesses in the bill must be changed.

Mr. President, the Reclamation Act of 1902 was passed in response to a need for federally funded irrigation works. The policies behind the act required that benefits from the reclamation program be available to the largest possible number of people, that family size owner-operated farms be promoted, and finally the law sought to preclude speculation.

The Reclamation Act has not been significantly re-examined since 1926. Consequently, the restrictions designed to promote the objectives of the act have not been uniformly or diligently enforced by those administering the law. Reform is necessary. However any reform this Congress undertakes should reaffirm the objectives and expectations which the 1902 law attempted to fulfill. At a minimum, reform of the present law should move us closer to, not away from, the original basic reclamation principals. As a step in this direction I have submitted these amendments and I urge their adoption by the Senate.●

PANAMA CANAL ACT OF 1979—H.R. 111

AMENDMENT NO. 372

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to H.R. 111, an act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

AMENDMENTS NOS. 373 THROUGH 384

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 12 amendments intended to be proposed by him to H.R. 111, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices will hold hearings on agricultural transportation problems on July 30 and 31. Earlier this summer, Senators McGOVERN and ZORINSKY held field hearings on this subject under the auspices of my subcommittee. The upcoming Washington hearings will complete this series by soliciting the comments of representatives of Government agencies, national farm organizations, and the rail and trucking industries to questions raised in the field.

The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. The hearings will begin at 9 a.m. in room 324. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I wish to announce for the information of Senators and the public that the Committee on Veterans' Affairs will conduct a hearing on August 2, 1979, on S. 1518, administration-requested legislation to permit the Veterans' Administration to disclose to consumer reporting agencies for certain debt collection purposes an individual's name and address and certain information pertaining to a debt that the individual owes to the VA. The hearing will begin at 8:30 a.m. in room 457 of the Russell Senate Office Building.

Persons interested in testifying should contact Kerry Shortle of the Committee staff at (202) 224-9126.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee on Labor and Human Resources be authorized to meet during the session of the Senate today to hold a nomination hearing on William Hobgood to be Assistant Secretary of Labor for Labor Management Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate today to hold a hearing on EPA management of its hazardous waste program, including implementation of the Resource Conservation and Recovery Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today to hold an oversight hearing on USDA extension and research programs as they apply to family farms.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 26, 1979, to hear Patricia Harris.

The PRESIDING OFFICER. Without objection, it so so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, July 27, 1979, to consider S. 446, discrimination against the handicapped in employment, and S. 1075, the drug bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FLEXIBLE EMPLOYMENT IN THE SENATE

● Mr. CRANSTON. Mr. President, last week's Washington Star included an article by Lucille Craft entitled "Job Sharing Splits Paychecks, Workweek and Boosts Morale," which featured two Senate employees, Ann Pearce and Peggy Luzadder, who have shared a position with the Veterans' Affairs Committee, which I chair.

Mr. President, I want to bring this article to the attention of my colleagues in the hope that Ann's and Peggy's success story will encourage others in the Congress to consider the benefits of hiring individuals on a less-than-full-time basis.

Ann and Peggy have alternately traded 2- and 3-day weeks as support staff for the committee. During particularly busy times, they each have worked 3 or 4 days per week. Their enthusiasm, hard work, and dedication have been a real bonus to the committee.

Mr. President, during my tenure in the Senate I have consistently employed individuals who work less than full time—particularly mothers with preschool or school-age children. The jobs undertaken have ranged from support staff to those with legislative and casework responsibilities. In some cases, as children have grown and the family responsibilities of these employees have diminished or changed, they have moved into full-time positions on my staff. This has proven to be an excellent opportunity for these individuals to move gradually back into the work force.

Mr. President, without exception these employment arrangements have proven to be most satisfactory.

I am committed to providing part-time, shorter workweek, and flexitime opportunities on my staff. These arrangements offer important opportunities for individuals who for one reason or another cannot or do not wish to work full time to be productively involved and develop their potential in the work force. It also provides me with topnotch and dedicated employees with fresh and valuable perspectives.

Recognizing the value of nontraditional work arrangements, President Carter has called for greater part-time and flexitime opportunities in the Federal civil service, and has signed into law legislation to that effect. Mr. President, I urge my colleagues to take the time to reassess their own staffing needs with a view toward supporting and initiating similar employment opportunities.

Mr. President, I request that the complete text of the Washington Star article of July 11 be printed in the RECORD.

The article follows:

JOB SHARING SPLITS PAYCHECKS, WORKWEEK AND BOOSTS MORALE

(By Lucille Craft)

In wistful moments, Sandra Tepper and Kathy Sheehy fantasized about finding a job they could do together. Neither wanted to neglect her home life, but both needed a respite from housekeeping.

Tepper and Sheehy faced a dilemma familiar to middle-class, well-educated married women. Money wasn't a problem; but Tepper, who has a master's degree in counseling, and Sheehy, a former social worker, craved stimulating work outside the home.

Because she didn't want a full-time commitment, however, Tepper reluctantly turned down an attractive managerial position. But her friend, weary of part-time typing, contacted the company to see if there was some way the women could split the job, and the paycheck.

The tenaciousness paid off. The two interviewed together, and now manage a thriving contact lens store in Bethesda, Md.

Tepper and Sheehy are members of a small but growing legion of women across the country who "job-share," enjoying the challenge of full-time work with the flexibility of a 20-hour work week.

A Fairfax-based group, Job Sharers Inc., helps sell employers on the idea and matches aspirants with similar backgrounds and job preferences. Most jobs can be split, and the benefits to employer and employee can boost morale and production, the firm claims.

"Productivity is up, because two people put out more work," said Judy Hodges, executive director who shares her reins with co-director Carol Parker. "Because they (employees) can get away from it, they're more invigorated. And there is continuous job coverage; if you're ill, your partner will come in."

Hodges and Parker, former neighbors who shared a consulting job in Fairfax, modeled their alternative job campaign two years ago after a program called New Ways to Work in San Francisco. Nearly 350 have participated in training programs with them so far, and 200 are learning the ropes now.

They admitted that at least half the battle is convincing employers that job sharing is successful. They now are looking for funding for surveys that will pique employer interest, "for industry to say 'Look, XY company has 50 job sharing positions and they've saved money—let's do it," Hodges said.

Because the high cost of living here virtually prohibits employees from supporting themselves on half-time salaries, Hodges said, Job Sharers caters largely to middle-income females, many married and of retirement age.

"The typical client is a woman who left the job market 10 to 15 years ago," she said. "She wants to be in the working world but can't commit herself to a 40-hour job."

Hodges said Job Sharers can put the plums—accounting, legal, teaching, graphic arts and writing positions—within reach of clients who otherwise would have to settle for low level, part-time jobs.

"The only thing we've found that's impossible to job share is a high level administrative job," she said.

Peg Binney, 47, of Alexandria, recently joined the job sharing corps after seeing her child into college, and nearly 20 years after her last job. Many of her contemporaries, she says, comprise "a large employment source that's being wasted" because of the scarcity of professional part-time work. "And there are many (full-time) women now who are neglecting their homes.

"I've got other responsibilities. I want to be able to do something productive but not necessarily on a full-time basis," said the recent public administration graduate. "I don't want to play bridge and dig in my garden the rest of my life."

Job sharers generally can slice responsibilities any way they want. Peggy Luzadder and Ann Pearce alternately trade 2 and 3-day weeks to split a staff position with the Veterans Affairs Committee.

"We divide the days according to what we want to do at home," said Luzadder, 45, of McLean. "I'm a golfer, and Tuesday's the day I like to golf. Ann has a commitment to the church choir, so there's a certain day she likes to do that."

For Luzadder, who attended college for two years of college and has spent most of the time since as a housewife, the part-time Capitol Hill job has ushered her into the working world at her own speed.

"It was pretty difficult after 18 years to get myself up by my bootstrings to get a job," she said. "Money was not my primary concern. I was just kind of bored with being president of the women's golf club."

Luzadder and her partner take turns managing the committee office, screening constituents and taking notes at hearings. While they enjoy the luxuries of tailoring work to leisure time, Luzadder said the arrangement has been a boon for the committee as well. When the workload gets heavy, both work Wednesdays.

"I think they really get a lot more work out of two people," she said. "And we have time for having the car repaired or going to the dentist without having to take time off. (And) they know if they need us for double time, we can both come in."

Although she'll have to leave the job when she moves out of the area soon, Luzadder pointed out that having one job sharer remain on the job means a smoother transition.

Job sharing, its proponents say, also enables the unemployed to find work in fields that have few openings. Marilyn Tucker, 38, of Rockville, had trouble finding work that would exploit her master's degree in guidance and counseling. She and another woman now split a regular eight-hour shift as course and career advisors at Northern Virginia Community College in Alexandria.

"I'm gaining the flexibility that I need," said the mother of two. Her hours, 9 a.m. to 2 p.m., normally allow her to be with her children when they come home from school.

Tepper and Sheehy, managers of Peyton Contact Lens Associates on Montgomery Lane, Bethesda, said six months ago they knew little about contact lens and less about running a business. But job sharing helped them conquer a job interview and unravel the intricacies of business management.●

THE 27TH ANNIVERSARY OF THE COMMONWEALTH OF PUERTO RICO

● Mr. DOLE. Mr. President, today, July 25, marks a day of great importance for the U.S. citizens of Puerto Rico and Puerto Rican descent. On July 25, 1952, the people of Puerto Rico adopted a commonwealth status and established a new relationship with the U.S. Congress, an imaginative experiment in democratic self-government: An experiment which over time has proven that a people committed to preserving their own particular cultural roots can yet maintain their relationship with a political entity differing in geographic scale, history, and power. In commemorating this event we pay tribute to the contributions and important roles that citizens of Puerto Rico have played in America's progress.

A PROGRESSIVE PUERTO RICO

The fruition of what may be called modern Puerto Rico has emerged over the last 40 years, as Puerto Ricans have made energetic progress in their efforts at improving health, education, and job opportunities for all their citizens. Political ideals, as varied as they may be, have joined, through history, a rich heritage, America's contributions, and Puerto Rico's own unique characteristics to achieve a well-established and successful means for enacting change and yet maintaining continuity through democratic processes. We have a common commitment, as Americans, to individual freedom and the democratic tradition of representative government. Our common concern for economic growth and political development binds us in a unique relationship with our fellow Americans from Puerto Rico.

U.S. COMMITMENT TO THE PRINCIPLE OF SELF-DETERMINATION FOR THE PEOPLE OF PUERTO RICO

Mr. President, the nature of a commonwealth status carries with it the inherent obligation to examine, and if necessary, reinterpret the political aspects of that relationship.

Mr. President, the relationship between Puerto Rico and the United States is long overdue for a thorough evaluation and revision. The question of political status in Puerto Rico has sometimes been a source of confusion, yet we remain committed to the fundamental principle of self-determination of the people of Puerto Rico; whatever decision the people may make.●

TAX SIMPLIFICATION OF INSTALLMENT SALES

● Mr. LONG. Mr. President, in May of this year I introduced two bills for the simplification and clarification of certain provisions of the Internal Revenue Code.

On June 22 Senator HARRY BYRD, chairman of the Subcommittee on Taxation and Debt Management of the Committee on Finance held a hearing on these two bills. On the House side, a hearing on the bills is scheduled for July 27 before the Subcommittee on Select Revenue Measures of the Committee on Ways and Means.

The testimony at the hearing on June 22 included both enthusiastic support for the general program of technical tax simplification and also many valuable suggestions for improving and adding to the bills. It is my purpose today to comment on one point which was raised by several witnesses in relation to the bill on installment sales.

As introduced, one provision of the bill barred the use of the installment method for sales between related parties. This rule was originally included to deal in the simplest way with a tax planning device involving resale of the property to a third party. The witnesses pointed out, however, that the bill went too far in barring all sales between related parties. For example, it would apply to the sale of a family farm from father to son for installment payments. Accordingly, it was recommended that the provision be limited to the cases involving resales at which it was originally directed, and the Treasury agreed with this recommendation. Nevertheless many citizens have continued to be concerned on the subject, and I want to make sure that this provision of the bill is amended so as not to affect normal sales of farms or other property between related parties where resales are not involved.

Senator DOLE, the cosponsor of this bill, and Mr. ULLMAN and Mr. CONABLE, who sponsored the corresponding bill in the House, also favor this change.

In addition to the specific change involving related parties the staff is reviewing the other changes in the bill on installment sales suggested at the hearing on June 22 and they will also, of course, take into account the testimony at the hearings on July 27. We hope that at the completion of the full legislative process this bill will represent an excellent example of cooperation between Congress, the Treasury, and private tax practitioners in revising and simplifying a troublesome area of the tax law.●

● Mr. DOLE. Mr. President, I support the thrust of the statement made by the distinguished chairman of the Finance Committee.

The tax simplification project is extremely important and it has my full support. The intention of the tax simplification program is to bring certainty and fairness to our tax system. I think that S. 1062 and S. 1063 gives us a good start on the tax simplification process. After introduction of these bills, we had some very constructive hearings in which some areas of concern were identified. While the basic framework of the simplification legislation is sound, some changes seem appropriate. As the chairman points out, a particular area of concern is the "related parties" rule in S. 1063, the installment sales simplification bill. Based on the hearings, I believe legitimate transactions between related parties should be permitted. For example, we clearly should not have a policy which prohibits the continuation of the family farm or other closely held businesses. I hope that we can modify this aspect of S. 1063 to address this and other concerns.●

NON-FEDERAL INITIATIVES TO CONTROL RISING HOSPITAL COSTS

● Mr. MORGAN. Mr. President, Congressman ROSTENKOWSKI issued an important and far-reaching challenge to the hospital industry during consideration of hospital cost containment proposals in the 95th Congress. He told the industry to come up with their own program to control unnecessary cost increases, adding that if they failed to do the job on their own they were going to have to deal with Federal controls.

Mr. President, in at least one State, my home State of North Carolina, there has been a unique response to this challenge, one that I am confident will prove to be successful in controlling costs. Part of the hospital industry's nationwide "voluntary effort," this program has been undertaken jointly by the North Carolina Hospital Association, the North Carolina Medical Society and Blue Cross/Blue Shield of North Carolina in conjunction with and with the cooperation of other insurance companies and business and civic leaders. I have a description of this program here, one prepared by the NCHA, and request that it be printed in the RECORD following these remarks.

It is expected that every hospital in the State, with the notable exception of the Federal hospitals, will be taking part in this cost control plan in spite of the fact that North Carolina's hospitals already have one of the best records in terms of holding down costs in the country. Charges per inpatient day are lower than those in 43 States, about $37 per patient per day below the national average. In spite of this already excellent record, hospital cost increase in North Carolina were less than the national average last year. The hospital occupancy rate is 78.2 percent, ninth in the Nation.

Mr. President, I have been and still am uncommitted with regard to the hospital cost containment proposals before the Congress. But I do have a number of concerns with them. They tend to rely on regulatory, as opposed to market, forces and would significantly increase the bureaucracy. More than half the hospitals would be exempted, and covered hospitals would have over half their costs exempted. Possibly most important, some of the proposals before us discriminate against hospitals that have been efficient.

With all these problems, and considering the cost containment activities that are already being carried out in North Carolina, activities which I hope and assume are being duplicated elsewhere, I am skeptical about the need for legislation. My skepticism is reinforced by the fact that I do not know of a single case where stand-by controls did not in fact become a mandatory program. If I am to vote for hospital cost controls, somebody is going to have to make a good case supporting them, one devoid of inflammatory rhetoric and one which explains how the controls will actually work.

The statement follows:

DESCRIPTION

I. SYNOPSIS OF PLAN

Each year by February 15, the North Carolina Steering Committee on Health Care Cost Containment will establish a calendar year goal for limiting the rate of increase for total health care expenditures. This goal will be established annually and reviewed on a semiannual basis to reflect changes in economic activity.

A separate, independent External Review Committee will then establish a specific expenditure goal for each hospital before its fiscal year begins. Prospective budgeting data and periodic financial reports will be required of participating institutions to assist in setting numeric screens and to monitor progress toward the expenditure goals. Hospitals that meet their expenditure goals, submit voluntary effort resolutions, maintain a cost containment committee, satisfy VE reporting requirements and maintain a program to keep their medical staffs informed about hospital costs will be Fully Certified as cost containment hospitals by the Steering Committee on Health Care Cost Containment. Wide media disclosure will be given to hospitals that are certified by this process.

Technical assistance programs through a variety of sources, including the Carolinas Hospital and Health Services (CHHS), are available to help hospitals improve their management in general or to specifically assist institutions in meeting their expenditure goals.

The Steering Committee on Health Care Cost Containment will hear any appeals by individual hospitals concerning their voluntary effort goals as established by the External Review Committee. The decision of the Steering Committee is final.

The overall goal of this program is to provide health care to the people of North Carolina at the lowest cost consistent with good medical practice.

II. HISTORY AND PURPOSE

The Voluntary Effort was created as a response to Representative Rostenkowski's (D-Illinois) challenge to the health care industry to control its own costs. The voluntary program was established jointly in November, 1977 by the American Hospital Association, the American Medical Association and the Federation of American Hospitals. The concerns of the Voluntary Effort are broad based, including hospital costs, physician's fees, hospital supplier charges, as well as the roles of business, labor and the consumer in health care cost containment.

The goals of the Voluntary Effort nationwide are to reduce the rate of increase of total hospital expenditures from 15.6 percent in 1977 to 13.6 percent at the end of 1978 and to 11.6 percent at the end of 1979. Thereafter, the VE is to hold down the rate of increase in hospital expenditures to that level established by the National VE Steering Committee and consistent with increases in the gross national product.

In North Carolina, the state Steering Committee was formed in August of 1978. This Committee followed the national VE model in that it sought representation from commerical insurance companies, Blue Cross, physicians, hospitals and local government. Full time staff was assigned to the Steering Committee in December, 1978. The initial draft of the VE plan was distributed in March of 1979.

The VE plan focuses primarily on hospital costs and is an expression of concern for the rising costs of health care. When implemented, it is designed to voluntarily limit the North Carolina rate of increase in hospital expenditures at a level that is consistent with the increase of the gross national product.

III. CERTIFICATION PROGRAM

The Voluntary Effort in North Carolina grants to individual institutions certification as being Cost Containment Hospitals on two different levels of performance.

A. Provisional certification

Granted to a hospital when both the governing body and the medical staff pass resolutions in support of the Voluntary Effort (Appendix A).

This classification is also assigned to Fully Certified hospitals that subsequently fail to meet all of the requirements for Full Certification or fail to make expenditure goals for three consecutive quarters.

B. Full certification

Granted to a hospital when the following are completed:

(1) The resolution required under Provisional Certification are submitted.

(2) The required financial reports are submitted to the Voluntary Effort offices within the time frames allowed.

(3) The VE expenditure goals are matched on a semiannual basis.

(4) A copy of the bill of the first patient discharged by a physician each month is given to that physician within 30 days.[1]

5. A list of 20 common procedural charges is given to each member of the medical staff and is posted at each nursing station.[2]

(6) A multidisciplinary cost containment committee is established with representation from administration, medical staff and department heads. This committee is to meet at least quarterly. Summaries of minutes are to be submitted to the Voluntray Effort office quarterly.[3]

(7) The hospital participates on a timely basis in any administrative or management technical assistance surveys as requested by the Steering Committee.

Once fully certified, a hospital that fails to meet any of the above steps will be given a change of status from Full Certification as a Cost Containment Hospital to Provisional Certification. However, hospitals that exceed their expenditure screens without sufficient justification for two consecutive quarters will not fully lose certification unless they fail to accept a technical assistance survey for the following quarter. Technical assistance survey recommendations will be filed with the External Review Committee. Fully certified hospitals that fail to meet their expenditure screens without justification for three consecutive quarters will automatically revert to a Provisional Certification status.

Releases to the news media will be made listing hospitals that are Provisionally Certified or Fully Certified as cost containment hospitals. Listings of Provisionally Certified hospitals will indicate in what criteria they are deficient. The progress of the state's institutions in meeting statewide expenditure screens will be published quarterly by the Steering Committee on Health Care Cost Containment. All numerical hospital information will be in aggregate form only. No numerical information concerning an individual institution will be released publicly without written permission from that facility.

Hospitals will receive certificates suitable for display that indicate they are Fully Certified or Provisionally Certified as cost containment hospitals. Sample releases will be included for the local news media.

The Steering Committee always welcomes written public comment concerning any aspect of the North Carolina health care delivery system. Each year, three public VE symposia will be held in widely scattered locations across the state to give interested citizens an opportunity to hear first hand about the progress of the VE and to speak directly with the Steering Committee.

IV. EXTERNAL REVIEW COMMITTEE

Each year the chairman of the Steering Committee on Health Care Cost Containment, with the advice of that Committee, will appoint an External Review Committee composed of 12 members. Six of these members are to be hospital administrators or controllers, each of whom is from a different state Hospital Association district. The balance of the Committee is to be non-hospital members who have both an interest in and a knowledge of health care financing.

The External Review Committee at its first meeting shall elect its own chairman who shall be a voting member. The chairman shall also be an ex officio member of the Steering Committee. Terms of the External Review Committee are to be for three years each with the initial appointments serving one, two or three years to establish membership rotation. After serving two full terms of three years, a member may not serve for at least one year before being considered for reappointment.

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[1] The Steering Committee recommends that a complete itemization of charges be given as well as a copy of the claims form.

[2] An existing program to bring about physician awareness of hospital costs, as a result of their pattern of practice, may be substituted for criteria four and five, if the External Review Committee rules that such a program is comparable.

[3] The Steering Committee suggests that steps are taken as needed to insure physician participation on this Committee.

The External Review Committee is responsible for establishing individual hospital annual expenditure screens and for monitoring the success of North Carolina's hospitals in meeting their screens on a quarterly basis. (Greater detail in Section VI)

Any appeals concerning the final actions or decisions of the External Review Committee are to be made to the Steering Committee on Health Care Cost Containment. (See Section VIII—Appeals)

V. DATA COLLECTION

One month before the beginning of its fiscal year, every paritcipating hospital shall submit a budget summary projection to the Steering Committee on Health Care Cost containment on the prescribed forms (See Appendix B). This budget is to be broken down by quarters and is to include capital equipment.

Monthly reports shall also be submitted to the Voluntary Effort offices 25 days after the close of each month (Appendix C). In addition, each institution shall submit copies of its American Hospital Association Annual Survey as these are completed. Special surveys may also be required if the Steering Committee on Health Care Cost Containment feels that the results of such surveys will be in the best interest of North Carolina's hospitals.

VI. ESTABLISHMENT OF STATEWIDE AND INDIVIDUAL HOSPITAL EXPENDITURE SCREENS

The statewide goal for limiting the rate of hospital expenditure increase for the calendar year will be established annually by the Steering Committee on Health Care Cost Containment by February 15. Thereafter, on a semiannual basis, the Steering Committee will announce extensions of the expenditure goal limitation 12 months ahead and into the next calendar year. Appropriate economic indicators of the Federal government and the American Hospital Association will be utilized.

Three months before the beginning of the hospital's fiscal year, the External Review Committee will issue a preliminary numeric screen setting the rate of expenditure increase for the forthcoming year. Several factors will be considered by the External Review Committee in establishing individual numeric screens. These are:

(1) A mathematical equation that considers a hospital's three-year history of actual increases and the actual performance of other hospitals in the state over the same period (Appendix D).

(2) The American Hospital Association's "Amendment to Statement on Financial Requirements of Health Care Institutions and Services" (Appendix E).

Hospitals, upon receipt of their expenditure screen, may desire to submit additional information to the External Review Committee to better justify a change in the expenditure goal. The Committee, after reviewing the information, may request additional documentation or a meeting with representatives of the facility to negotiate an agreed upon expenditure target. After such further considerations, the External Review Committee will reaffirm or revise the hospital's expenditure goal (Appendix F).

Revision of an institution's goal may be based upon the following:

(1) Demonstrable changes in patient volume or intensity of service.

(2) Mandated expenditure increases, such as minimum wage.

(3) Other conditions beyond the hospital's control that seriously impacted its ability to manage its expenditures.

The net effect, however, of the individual hospital expenditure limitations must be such that the statewide goal for reducing the rate of hospital expenditures is met or exceeded.

VII. MONITORING THE PROGRAM

Within 50 days of the close of each calendar quarter, the Voluntary Effort staff will submit to the External Review Committee summary reports of data from hospitals that have exceeded their expenditure screens.

The External Review Committee, within 60 days of the close of the calendar quarter, shall conduct an analysis of each institution's expenditure data and any accompanying documentation and make one of the following determinations:

(1) Based on the data and supporting documentation, the External Review Committee may determine that the facility's justification for failure to meet its screen is acceptable and will require no further action; or it may decide that the facility's justification for failure to meet its goal is unacceptable and make recommendations for improving the hospital's performance.

(2) Based on the review and supporting documentation, the External Review Committee may conclude that it will require additional information from the institution and will request that the facility submit such material. The External Review Committee will then suspend further consideration pending receipt of that additional information.

(3) Based on the data and supporting documentation, the External Review Committee may request a meeting with representatives of the health care facility. The purpose of such a meeting will be to provide opportunity for the institution to further explain its submitted documentation and other points that may clarify the hospital's position.

Any facility may, at its option, request a meeting with the External Review Committee or its designated representatives to explain the circumstances contributing to its expenditure performance. Any hospital may request a meeting with the External Review Committee at any time following the submission of its quarterly data. Hospital requests may be submitted in writing to the chairman of the External Review Committee. Any External Review Committee requests for meetings will be forwarded in writing directly to the hospital.

Upon completion of the analysis process, the External Review Committee may make recommendations to the hospital under review. These recommendations are intended to provide assistance to the facility in meeting its approved budget. Institutions shall be requested to comply with the recommendations of the External Review Committee, including but not limited to, acceptance of technical assistance as described in Section IX of this plan. Failure to follow the recommendations of the External Review Committee on a timely basis will result in loss of certification as a Cost Containment Hospital. Minutes and recommendations of the External Review Committee shall be documented by the Voluntary Effort staff and forwarded to the state Steering Committee and the concerned institution. These minutes and recommendations are confidential and are not to be disclosed publicly (See Appendix G for abbreviated descriptions of this process).

VIII. THE APPEAL PROCESS

Any institution may appeal to the state Steering Committee any decision or recommendation of the External Review Committee after it has completed the review process. An appeal must be filed with the state Steering Committee within 14 days of the conclusion of discussions between the individual hospital and the External Review Committee. The state Steering Committee, or its designated representatives, then have 45 days in which to schedule a hearing with the aggrieved hospital. The location and time of such a hearing will be determined by the Steering Committee. Notice of this hearing must be delivered in writing at least ten days before the meeting is scheduled.

Should the Steering Committee fail to provide a hearing within this time frame, the hospital's appeal is upheld.

IX. TECHNICAL ASSISTANCE PROGRAM

The primary purpose of the technical assistance program is to identify and provide resources to assist hospitals in making improvements in their operations management and thus operate within their approved budgets.

Participation in a technical assistance program may be a requirement of any hospital as a result of recommendations from the External Review Committee, or an institution may at any time request technical assistance.

Principle resources for the technical assistance program will be the Carolinas Hospital and Health Services (CHHS) divisions. These divisions encompass management and industrial engineering, plant and clinical (biomedical) engineering, group purchasing, a medical claims collection bureau and support services in hospital construction and renovation projects. Technical assistance surveys from CHHS will be made available at their usual man-day fees.

Other significant resources for technical assistance are the American Hospital Association and various hospital and management consulting firms.

The External Review Committee is to receive copies of the technical assistance summaries from those hospitals that are required to have such assistance.

X. FUTURE ACTIVITIES

The Steering Committee of the Health Care Cost Containment Committee affirms that setting expenditure limitation on hospitals addresses but a small part of the total problem in reducing the cost of health care to the people of North Carolina. Other components of the entire health care field will be looked at as well.

The Steering Committee will move ahead rapidly and seek to impact the areas of consumer health awareness, health insurance, physicians' practice patterns and health supplier prices.

Only by vigorous activity across the whole field of health will long lasting effects be made without significant sacrifices in the quality of patient care.●

AMBASSADOR SMITH ON SALT II

● Mr. KENNEDY. Mr. President, the SALT II hearings currently taking place in the Senate have served to focus attention both on the specific details of the SALT II agreement and on the contribution of SALT II to our national security and foreign policy interests before the SALT II Treaty Conference in New London, Conn.

In a recent speech, former ACDA director and chief SALT I negotiator Gerard Smith makes a strong case for SALT II. After pointing to the achievements of the ABM Treaty and the SALT I interim agreement, Ambassador Smith persuasively refutes criticisms of the SALT II agreement. I share Ambassador Smith's belief that "our choice is to continue to modernize our forces for some 6 years under agreed SALT II ceilings with certain limitations on Soviet and American weapon systems or to go back to an unlimited contest."

Mr. President, I ask that Ambassador Smith's impressive and thoughtful speech be printed in the Record.

The speech follows:

SPEECH BY AMBASSADOR GERARD SMITH

I

I see I am billed as the Architect of the SALT II Treaty. I wish that were the case, but it is not so.

It is more than six years since I had responsibilities for SALT I negotiations and I will use that fact as an excuse for sparing you a lot of the detailed arithmetic of SALT II. It is expected that SALT II agreements will be signed and made public in Vienna in the coming days. There have been many reports in the press but no official texts are yet available. They will be formidable documents but their important provisions are not too hard to understand. Let me say to relieve your minds, that nothing in this treaty would require any alteration in the Trident submarine program.

Right at the start I would stress that with or without SALT we are in for a continuation of a fateful competition with the Soviet Union in the field of strategic weapons. Since the time before SALT—almost a decade ago when the Soviets were catching up—they have been mounting large, broadly based missile programs. We have also been modernizing our forces but in the case of our land-based intercontinental missiles (ICBMs) with less dynamism. Despite this we are not in an inferior position. We have doubled the number of our strategic warheads since SALT I started. That comes to a rate of increase of 3 additional warheads each day since SALT started. We have installed over 500 modern ICBMs, and almost 500 modern SLBMs. I hardly need say here that a new fleet of missile submarines, the Tridents, will soon be joining the strategic forces. Strategic cruise missiles will also soon be deployed. We lead the Soviets in a number of important areas. Our forces are more survivable and diverse. But even if SALT II comes about, we will go in for extensive improvement measures (e.g., M/X) to avoid in the future a perceived imbalance between the Soviet and American forces. The basic question is—can we improve our strategic position with less risk and cost with SALT II controls than in the absence of these controls.

II

Let us first look briefly at the experience under the SALT I agreements of 1972.

The main product there was the Anti-Ballistic Missile Treaty limiting ABM sites to two for each nation. Many of us think that that treaty avoided a risky, costly and perhaps absurd competition to try to build defensive ballistic missile systems. In the late 1960's there were outspoken proponents for deploying defensive missiles to reduce damage which attacking Soviet missiles could do to population centers and to our Intercontinental Ballistic Missiles. (Even in those days we worried about the ICBM vulnerability problem—of which more later.) Then it was realized that any such defensive system could probably be neutralized by the other side's simply deploying more offensive missiles—and to the extent that an ABM system did promise to be effective, it could be destabilizing if it lead a nation to believe it could attack while expecting the ABM's to deflect the brunt of the retaliation. Our offensive forces had been planned in the 1960's to penetrate predicted thousands of Soviet ABM's. Now these thousands of American warheads are deployed and there are only 67 Soviet ABM's for them to have to penetrate. That struck me as very much to America's security interest.

I think it is generally recognized that this Treaty has worked. Secretary of Defense Brown recently said it had contributed greatly to stability. The limit was later reduced from two to one site for each side and we later decommissioned the one site which we had built. The Soviets have not completed their one existing system around Moscow. The ABM Treaty was reviewed by the parties in 1977 and found to be effective. It is to be reviewed again in 1982.

The second SALT I agreement was called an "interim freeze". Its purpose, as we saw it, was to hold down the number of Soviet missile launchers while negotiations for treaty limitations continued. The aggregate number of land and sea based ballistic missile launchers was limited to approximately the number which were then deployed or under construction. Heavy bombers in which we had superiority were excluded. We also had significant leads in warheads and technology, but the Soviets had substantially more ICBM launchers and were permitted to keep most of them. In this respect the freeze had an appearance of inequality although such was not the case when our other strategic forces were taken into consideration. Psychologically, the freeze got off to a poor start. And for some reason there was an expectation in some quarters that the Soviets would not substantially modernize and improve their ICBMs as permitted under the freeze, an expectation which was disappointed. I think that is a major factor in the negative attitude which some people now have towards SALT II.

Also agreed upon during SALT I were two arrangements of special significance for the problems of accidents involving nuclear weapons—certain measures to reduce the risk of outbreak of nuclear war and for modernization of the Washington-Moscow Hot Line. They are largely forgotten, but the Hot Line has more than once proved its use in emergencies and the war risk reduction agreement could be of importance in the future.

As part of SALT I, it was agreed the fulfillment of the commitments could be verified by what were called "National Technical Means of Verification", a smooth term for some of the intelligence systems of the two sides, including satellite photography. This proviso, in effect, legitimized the use of intelligence systems for arms control, a development which seemed to me an extraordinary thing for the Soviets to agree to.

The two sides also took commitments not to interfere with the operation of these intelligence systems and not to conceal from them the weapons systems limited by the agreements. These "no interference and no concealment" understandings have been an important plus for U.S. intelligence systems. With or without SALT we need to keep track of Soviet strategic force development and deployments. But without SALT, the Soviets could take any concealment measures available, thus making our monitoring task harder.

There was also established by SALT I a Standing Consultative Commission whose function is to consider ambiguities which might arise and clarify doubts as to possible violations. This group has met frequently and has operated successfully. A number of ambiguities have been clarified. On some occasions practices by both sides which were considered inconsistent with the agreements have ceased. Presidents Ford and Carter have certified that there have been no violations of the SALT I agreements. Although by its terms the "freeze" expired in 1977, both countries have stated they would do nothing contrary to it while SALT II negotiations continue. In fact, the Soviets even now are decommissioning some ballistic missile submarines in order to stay under a ceiling called for by this freeze. This, I think, shows that the Soviets take SALT seriously.

I would say that (largely because no added ABM systems have been deployed by the USSR) American security is better now, after almost 7 years of operating under SALT I, than if the ABM Treaty and the missile freeze had not been approved by the Congress in 1972 and an unlimited competition had continued. We have gained confidence that certain commitments taken by the Soviet Union in strategic arms limitation can be verified. We are approaching SALT II. not as something new and untried, but as a continuation of a process that we have learned to live under and to count on.

III

The SALT II negotiation has been going on since November of 1972. It is some measure of the difficulty of this work that it has taken almost 7 years to reach an agreement which will expire in some 6 years. The American Delegation is made up of diplomats, technicians, and officers of the Army, Navy and Air Force. At times Members of Congress have participated to good effect and Congressional Committees have been kept fully and currently informed. It is our expectation that the treaty and related documents, when and if submitted by the President to the Senate for advice and consent, will have the support of the Joint Chiefs of Staff, the Secretary of Defense and the Secretary of State.

It is reported that the main effects of the treaty would be as follows:

The total number of strategic nuclear delivery vehicles (i.e., heavy bombers, and launchers for ballistic and long range cruise missiles) on each side would be subject to equal ceilings—2400 at the start and 2250 by the end of 1981.

The Soviets would have to dismantle some 270 launchers to get under this ceiling. The United States would not have to dismantle any systems that currently are operational and could, in fact, build about two hundred additional launchers before reaching the ceiling.

There would be equal sub-ceilings on various categories of launchers for missiles containing MIRV's (which are multiple warheads that can target more than one aim point).

Each side could only test and deploy one new type of ICBM which could not contain more than 10 warheads.

The number of warheads that could be placed in existing missiles would be frozen at the maximum number tested in present missiles. This limit is especially important. It restricts the Soviets' ability to capitalize on their present missile throw-weight advantage. One type of Soviet missile, for example, without this constraint could contain 30 or more warheads. It is worth recalling that in SALT I, the U.S. had proposed a treaty with no limits at all on warhead numbers! This seems much better.

Testing and deployment of mobile ICBMs (such as the M/X which President Carter recently approved) would be prohibited during the first 2 years but after that would be permitted under the treaty.

There would be a number of additional limitations on the throw-weight of missiles.

The treaty would lapse at the end of 1985 but either side could terminate it sooner on giving 6 months notice.

In sum, SALT II would—for the first time—place limits on all types of central strategic systems.

For the first time it would partially reverse the arms competition in offensive systems and require reduction from an existing force level.

For the first time it would put some constraint on the total number of warheads the sides could have. It would not solve the ICBM vulnerability problem (which I will touch on later), but it would put finite limits on the size of this threat.

For the first time it would put restraints on the competition to develop and field new and better ICBMs by limiting each side to testing and deploying only one new ICBM by 1985.

IV

Proponents point out that these are significant restraints and that if SALT is rejected, there will be a renewed open competition with large additional costs as well as increases in the risks of escalation and war.

In the absence of SALT II, the Soviets could substantially increase their forces. It is estimated that in 6 years of an open competition the Soviets could have as many as 3,000 strategic launchers as opposed to the SALT LIMIT of 2,250. They could also have two to three thousand more warheads than SALT II would allow.

V

What is the case against SALT II? It is said that SALT I didn't stop the Soviets' strategic programs which may become superior to our forces, so why agree to SALT II? And SALT I did not lead to the expected relaxation of Soviet-American tensions. During the past six years the Soviets have engaged in an adventurist foreign policy which has been destructive of a number of U.S. aims.

Here I would point out that useful arms control arrangements should not be limited to times of superpower good behavior. The treaty prohibiting nuclear tests in the atmosphere followed shortly after the Cuban missile crisis. SALT I was concluded only a few weeks after the U.S. started bombing Haiphong in Vietnam, a Communist ally of the USSR. In fact, if the USSR is to continue an adventurist foreign policy, it might be better if its strategic arms were under some agreed controls.

I think that underlying most of the opposition's arguments is a belief that in an open competition not limited by arms control, United States superior technology would give us some advantage. Claims are made that the existence of the arms control relationship tends to moderate our reaction to Soviet bad behavior abroad and that SALT II would be a psychological constraint on modernization of U.S. forces.

It is said that the SALT process has lulled us into inertia and has had no such effect on the Soviets and in the absence of agreed arms limitations we would be more keenly aware that we had to make a greater effort. To some critics rejection of the treaty by the Senate would mean reinvigoration of American programs. As for rejection's effect on Soviet programs, critics are either silent or apparently inclined to trust that the Soviets would not expand their strategic programs.

Critics of SALT are especially concerned about the predicted vulnerability of our land-based ballistic missiles, the ICBM vulnerability problem. It is now believed that the Soviets will have the capability to destroy almost all of our ICBMs using but a fraction of theirs, a threat which critics think will tend to make the United States reluctant to stand up to the Soviets in a crisis. I would inject here this thought—if ever the Soviets were tempted to such a desperate act as attacking our ICBMs, they would have to make the risky calculation that the Americans would never fire their missiles before Soviet missiles hit American targets. I wonder. I am not urging that the U.S. adopt a procedure of "launch on warning." But the possibility that we would is a not unreasonable contribution to Soviet uncertainties. The Soviets would also know that if they struck our ICBMs, the U.S. would still have 5 to 6 thousand warheads in the alert bomber force and on its missile submarines at sea. Nevertheless, this ICBM vulnerability question needs more attention. It can be remedied under SALT limits and that is what the new missile system, the M/X, will be designed to do.

Critics also emphasize that the Soviets could keep some 300 launchers for very large ballistic missiles now in their force while the United States could not deploy any. U.S. force planners have consistently chosen not to match the Soviets in heavy missiles and to emphasize more important characteristics. The main consideration has been "What are our requirements?" not "Let's copy the Soviet forces."

Admittedly, it would look better if the United States had the right to build the same number of such launchers as the Soviets now have whether or not we ever wanted to exercise it. But it seems to me that this would have no practical effect on U.S. forces during the life of SALT II. The U.S. has no use for and does not plan to deploy this kind of missile.

The situation will be exactly the same if the treaty is not ratified. On the Soviet side there will be some 300 such launchers (if not more), while we would not deploy any. Nothing in the treaty would prevent the testing or deployment of the new missiles, the M/X. It is important to know that the heavy Soviet ICBMs are not the proximate cause of our prospective ICBM vulnerability. That situation would exist even if the Soviets had no heavy ICBMs. Accurate and MIRVd light ICBMs would offer a similar threat.

Critics also don't like the fact that effective limitation would not be placed on the Soviet bomber "Backfire" which, though not truly intercontinental, does have some capability to strike targets in the United States. But here the U.S. does have the right to build unlimited numbers of an aircraft of this type. More numerous than Backfires are the nuclear capable NATO fighter bombers which can strike targets in the USSR and which also would not be SALT limited nor would the strategic missile forces of our allies, the UK and France, be limited. (I understand that the Soviets have agreed not to increase the present production rate of Backfires—some 30 a year.)

Certainly there are weaknesses in our strategic forces that need correction and certainly SALT does not solve all our strategic problems. But I believe the treaty would make these problems more manageable. I have been advised that the SALT constraints would not prohibit any U.S. programs designed to reduce or eliminate present weaknesses. What modernization measures are necessary involves important issues needing enlightened debate. But a judgment about SALT should not depend on whether one favors these improvements or not. SALT does not require or prevent any of them. Secretary of Defense Brown recently said that SALT II would make the strategic balance more predictable and would place important limits on the threat we will face.

I have a hunch that some SALT criticism reflects the frustrating knowledge that it is easier to persuade a third of the Senate to vote no to a treaty than it is to persuade a majority of both House and Senate to vote for very large increases in defense budgets for years to come. But that hardly seems to warrant a negative conclusion about SALT II.

Critics believe that the Soviets do not hold to our doctrine that the main function of strategic arms is to deter the other side from using or threatening to use its strategic forces. They say that the Soviets are planning not only to deter but, if necessary, to fight a nuclear war to a successful conclusion with damage limited by their weapon systems and by a large scale civil defense program to protect their people. These critics feel that strategic arms control will not work to our interest in the absence of acceptance by the USSR and the U.S. of a common strategic doctrine. Only a few critics stress, however, that to be credible such an alleged Soviet strategic doctrine, if imitated by the U.S., would require, among other things, a massive civil defense program in this country.

Looming behind much of the criticism of the SALT package is doubt on the part of criticis as to verifiability of commitments to be taken. They fear that the Soviet will violate the agreements and steal a march on the United States. By the same token, in SALT I an anxiety of some Americans was that the Soviets would violate the ABM limits by using anti-aircraft systems for anti-ballistic missile purposes—the so-called Sam upgrade problem. They didn't.

In addition to SALT I—our intelligence has confirmed that the Soviets are living up to other arms control agreements, the Limited Test Ban Treaty which curbed the pollution of the atmosphere, the Antarctica Treaty, the Seabeds Treaty and the Outer Space Treaty. And now they know that their performance will be under closer scrutiny than ever.

In considering verification, keep in mind that it does not involve trusting the Soviet. It does involve confidence that our intelligence systems have already proved capable of monitoring performance of SALT I obligations and can check on Soviet performance under SALT II. In addition, in SALT II (by a provision which is unique in modern arms control arrangements) the sides have disclosed the exact composition of their present strategic forces and have agreed to update this "data base" to reflect future changes. Secretary of Defense Brown recently said, "We are confident that no significant violation of the treaty could take place without the U.S. detecting it." We would be able to respond with appropriate actions before any seriously adverse impact on the strategic balance could take place. The relatively short life of the treaty, which would end in 1985 and in addition could be terminated on 6 months' notice, is good insurance that the Soviets cannot gain any advantage from not living up to its provisions. Even such a tough SALT scrutinizer as my friend, Paul Nitze, takes a somewhat relaxed view of the matter. In an article in Foreign Affairs in 1976 he wrote, "I personally take the verification issue less seriously than most because the limits are so high that what could be gained by cheating against them would not appear to be strategically significant." But the President has assured us that he will not approve any agreements that cannot be adequately verified. I think that assurance can be relied on.

VI

Intelligence about Soviet strategic arms is a combination of knowledge about present capabilities and estimates about future developments. SALT helps in both respects. Present deployments can be more precisely determined since the Soviets are not permitted under the agreements to conceal weapons systems which are limited and they have agreed not to interfere with our National Technical Means of Verification (intelligence systems). As for estimating future deployments, the agreement spells out the maximum permitted levels of the limited systems, thus simplifying somewhat the problem of prediction of future force levels. The absence of this "predictability", which would result from a SALT rejection, would make the future strategic balance more uncertain and would thus be destabilizing.

VII

You may be wondering whether in the Soviet Union there are also critics of SALT. While we don't hear their voices, I suspect that there are. Here are a few points they may be making:

1. The USSR would have to reduce its forces while the Americans could increase theirs.

2. The Americans will have many highly accurate air-launched cruise missiles during the life of the treaty and the Soviets will have few or none at all.

3. Soviet submarines are noisier and Soviet access to the high seas is much more constrained than America's. And the Americans have forward bases for their missile submarines in Europe and the Soviets have none.

4. The Soviets have four nuclear adversaries with strategic forces—the U.S., the

UK, France and China—and the Americans have but one.

5. The Soviets have an inferior heavy bomber force. The United States has over 300 truly intercontinental bombers.

6. The Soviets have nearly three-quarters of their warheads in vulnerable ICBMs while the United States has nearly three-quarters of its warheads in less vulnerable systems—bombers and submarines.

7. The United States can count on many hundreds of nuclear capable fighter bombers deployed close to the Soviet Union which could destroy hundreds of targets in Russia. These systems are not limited by the agreement.

VIII

There is another angle of criticism coming from some liberal politicians, academics and church people. Unlike our conservative and more weapon oriented critics, they find the SALT package to be too little, too loose, too permissive; some call it a sham. They want sharp reductions and tighter constraints on weapons characteristics. They seem to forget that the Soviets quickly rejected our 1977 proposal for significant reductions. But SALT II would include unprecedented and significant qualitative and quantitative constraints. Sometimes such critics remind one of Aesop's wry remark, "It is easy to propose impossible solutions."

I have not attempted a comprehensive survey of criticisms of the SALT package, but I think these will give you an idea of what is troublesome to our SALT opponents.

IX

There are several other important considerations to have in mind before drawing conclusions.

My responsibilities are now in the field of nonproliferation—to try to control the spread of nuclear weapons around the world. This is called horizontal proliferation, as opposed to vertical, which refers to the buildup by the two superpowers of their nuclear forces.

To my mind the threat to American security from horizontal proliferation is substantially greater than that presented by the continuing improvement in Soviet forces. Imagine the instabilities that would be created if and when more nations have nuclear weapons or even a weapons potential. This is no empty anxiety. Some of you may have seen this week a TV news report that Pakistan appears headed in that direction. It is not difficult to think of other areas in the world where—continuing to carry out traditional rivalries will be much more dangerous with nuclear weapons present. A key country for our nonproliferation efforts is India which exploded a nuclear device 5 years ago. One can hardly expect India formally to give up a weapons option if the SALT treaty is rejected and there is little prospect that the superpowers are going to agree to put their strategic weapons under some constraints.

One of the main instruments to contain the spread of nuclear weapons is the Non-Proliferation Treaty which has been in force for almost ten years. Over 100 countries have taken commitments not to go for nuclear weapons. But there is a basic bargain embedded in this treaty. Those non-weapons countries' commitments are contingent on Soviet and American progress in controlling their nuclear arms. If the efforts to this end of the last six years are rejected by the Senate, the integrity of this essential Non-Proliferation Treaty will be cast into doubt and our task of trying to control proliferation will be substantially increased. That, to my mind, is a very important reason for getting on with SALT II. President Carter repeatedly has stressed this important aspect of SALT.

X

If SALT II is rejected, the continuance of the ABM Treaty could be in doubt and we could once again face a competition to deploy defensive missile systems. When, in 1972, the first SALT agreements were presented to the Congress, they included a statement which I had made to the Soviets at the direction of President Nixon that if a SALT II treaty limiting offensive forces to match the ABM Treaty was not reached, that could constitute a justifiable cause for abrogation of the ABM Treaty. If SALT II is rejected, there will be calls for terminating the ABM Treaty—especially from those concerned with the defense of our vulnerable ICBMs. In fact, one group of SALT opponents has already proposed such abrogation. And the U.S.S.R. could take the same position that we had reserved for ourselves in 1972. Then, whether the ABM Treaty survived or not would be entirely up to the Soviets—who face nuclear threats from three smaller nuclear powers for which ABMs might be effective.

If the ABM Treaty is lost, we would again be in an unlimited strategic competition in which the Soviets would no longer be committed not to interfere with our technical means of verification and not to conceal their launchers. Gone also would be the S.C.C. consulting mechanism which has worked well to clear up ambiguities. I think these would be substantial losses for our intelligence capabilities.

Our turning away from SALT limitations would increase the relative Soviet advantage in an area where they already have clear superiority—in their command of information. They have the ability to predict the size and quality of American strategic forces of the future merely by studying our defense budgets and reading Congressional documents. Before SALT I we had to depend solely on hard won intelligence. In SALT I we obtained a degree of predictability about what Soviet force levels would be during the ABM Treaty and at the end of the 5-year freeze. We also gained an advantage from the Soviet commitment not to interfere with our means of verification or to conceal limited arms from them. As a result, so-called worst case planning has had less of a role in Pentagon thinking. Without SALT ceilings for the future, our uncertainties would increase. This would hardly make for stability.

XI

It has been said that SALT will prejudice the interests of our allies, but the leaders of France, England and Germany expressly and publicly endorsed the SALT package at a recent meeting in Guadalupe. Last month Chancellor Schmidt said that rejection of SALT would be a "catastrophe".

I couldn't put the case for SALT better than Schmidt did recently in the Bundestag, "SALT II can be concluded only in the form of a compromise . . . if everyone involved will accept something that is not fully in line with their own interests—it is necessary to differentiate between critical remarks involving individual aspects of this package . . . and the great world political significance of the whole treaty—otherwise the whole world will suffer a most serious confidence crisis."

XII

Perhaps the most serious loss that the SALT rejection would entail would be the conclusion by our friends and antagonists abroad that the U.S. Government was incapable of conducting a coherent foreign policy. If the product of more than six years of negotiation is brought to naught, what would be the chances for success in other negotiations like the Comprehensive Test Ban and Mutual Balanced Force Reductions?

And in the current, uneasy state of relations with our allies, rejection would prejudice economic and political cooperation as well as defense policy coordination. U.S. prestige, influence and leadership around the world would suffer badly.

XIII

What about possible Senate approval but with proposed amendments or reservations? If they were substantive and required that the negotiation be reopened and the bargaining resumed, it seems likely to me that the renegotiation would fail. Agreed Soviet-American arms limitations are reached only as a result of concessions and counter-concessions which in turn are the result of internal bargaining in Washington and I believe also in Moscow. Nothing is agreed until everything is agreed. To start afresh would mean to reopen the whole bargain—not just to negotiate for one or more additional provisions. How would we feel if, after reaching total agreement, Moscow then said that there were just a few more items on which we must reach agreement before we had a deal?

XIV

Our choice, therefore, it seems to me, is to continue to modernize our forces for some 6 years under agreed SALT II ceilings with certain limitations on Soviet and American weapons systems *or* to go back to an unlimited contest. Is it in our interest to continue the deadly competition but with some ground rules to make it somewhat less costly, somewhat safer? On balance, I believe the United States will be in a relatively better position if we pursue force modernization programs under the SALT II package than if we go ahead in unlimited competition. But I think we should recognize that SALT II is no panacea, that it does not warrant the great expectations generated at the time of SALT I, and that it is a step, a necessary move toward more significant reductions and constraints which we should press for in the years ahead. In fact, the negotiations for major force reductions should start promptly.

While the Senate alone has the constitutional mandate to give its advice and consent to treaty ratification, the collective common sense of the American people, all of whom have a very high personal stake in the outcome, will also be of crucial importance.●

THE FEDERAL ELECTION COMMISSION AND THE CITIZENS FOR REAGAN SUIT

● Mr. HUMPHREY. Mr. President, here is an example of the kind of administrative nonsense that characterizes the present Federal Election Commission.

I do not know whether they pursue a particular course of action because they have nothing else to do between elections, or because of a particular philosophical bias against a particular candidate or party. Perhaps a combination of both.

The rules of the Federal Election Commission require that contributors to political parties or individual candidates, those contributing $100 or more, indicate their occupation and principal place of business.

Well, in the course of time, the Commission decided that the citizens for Reagan campaign had a "substantial percentage of 40 percent of error in disclosing occupation and principal place of business."

That is, 35 percent of the contributors failed to indicate their occupation and principal place of business. Another 4.5 percent omitted only place of business, and a minuscule 0.48 percent omitted the address of their principal place of business.

From this they got a total of in excess of 40 percent omissions.

Now, believe it or not, but this omission was the object of a full-blown law suit filed against the Citizens for Reagan in the United States District Court for the District of Columbia.

Happily for the taxpayers of the Nation, not to mention serious political candidates, the court tossed out the case.

Earlier this month, the distinguished Senator from Nevada, Mr. LAXALT, asked the Commission to come up with a figure as to the costs to the taxpayers for this abortive, and, I might add, ridiculous cause of action.

The Commission failed to specify the exact amount of this exercise in futility.

It merely lumped a figure to include both the Reagan case and the abortive action against Eugene McCarthy, and his candidacy in 1976 respecting the reporting of honoraria from certain universities. It came to $166,541.

Now what was this heinous offense committed by the Citizens for Reagan?

Answer. The committee (not the contributors) failed to report such vital information as the occupation and principal place of business.

Now I doubt whether there is a single Member who does not understand the realities of political campaigning—even if, as it obviously is, that the Federal Election Commission does not.

I do not propose to engage in a treatise of campaign accounting, but for the edification of the FEC, let me say that most compaign organizations, particularly those of challengers, do not have staffs of accountants and lawyers to examine and comply with every minuscule detail of a complicated Federal election law; moreover, a law which had just been enacted prior to the 1976 campaign and was thus susceptible of considerable difference of opinion and interpretation.

When the contributions come in—perhaps I should have prefaced that remark with—if they come in—in most cases it is all a treasurer can do to record those contributions and get them in to the committee bank account.

Invariably the treasurer has other duties in connection with a political campaign, so that he is not wedded to the books looking for minor deficiencies as they occur. His prime concern, I dare say, is to insure that he is not receiving a corporate contribution forbidden by law. He rarely has time to scrutinize every detail of every receipt to insure 100 percent compliance with the disclosure provisions of the law.

And no committee, can afford to take the time, then and there, to try to identify and locate the contributor to secure the information on his occupation or the address of his principal place of business.

Note, Mr. President, that the laws put the burden not on the contributor, but the committee. But it surely does not require the committee, in the midst of an active campaign, to come to a halt, to contact contributors from around the Nation to supply relatively minor items of information.

Now note that in the case of the Carter campaign, 25 percent of the contributors failed to indicate either occupation or principal place of business; in the case of the Udall campaign it was 25 percent; the Governor Brown campaign 29 percent; 25 percent for the Jackson campaign.

However, the Federal Election Commission chose to bring a Federal law suit against the Reagan campaign.

Mr. President, I think it is incredible, in the wake of the revelations of the Carter campaign financing of recent weeks, that the Commission would devote expensive manpower, time, and tax funds to an assault on the Reagan campaign for the heinous crime that 35 percent of its contributors, failed to indicate their occupation or place of business.

The FEC pursued the matter relentlessly, however. In response to the Commission's request for additional information, the treasurer of the Citizens for Reagan replied:

> During the campaign, our committee attempted several times to acquire occupations and places of business from our contributors. The audit staff of your commission has been aware of this procedure. Whenever we succeed in obtaining additional information we informed the commission and will do likewise on this occasion.

The treasurer, Mr. Buchanan, obviously felt he was acting in good faith and attempted to provide the missing information—information really not essential to the proper functioning of this agency—in the best possible time available.

The campaign admitted to sending a letter to each contributor, requesting the necessary information.

In recounting the facts, the Federal Election Commission places the word "letter" in quotes, as if to cast doubt upon the truth of this statement.

It castigates the Reagan treasurer because the followup letter, requesting the additional information, happened to include another appeal for funds; in fact, the Commission memo editorializes this:

> In this case the Citizens for Reagan would receive the information required for the earlier contribution only if the contributor was motivated to give money a second time.

The Reagan treasurer thus decided on a third effort to obtain the required information, and I would like to remind this body that we are speaking of literally thousands of contributors from all parts of the Nation. Certainly, this was a formidable undertaking at considerable expense to the campaign committee.

And how did the Election Commission characterize this good faith effort to secure information, the absence of which was common to all candidates running for the respective nomination of their parties that year?

The Commission memo, from which I quote, states: "The second 'effort' " and effort is in quotes, "according to the CFC counsel was a final solicitation mailed to all contributors on the committee's microfilm list. This 'letter' "—and the word "letter" is again in quotes.

Query: Was it a letter or was it not? And if it was in fact a letter, why does the Commission's memo continue to identify it only in quotes?

"This letter," the memo continues, "was the same solicitation envelope previously mailed. Again, the information would only be obtained if another contribution was to be made." End of Commission memo.

Mr. President, is there anything in the laws of the Federal Election Commission that says that a committee seeking to identify the occupation and principal business address of previous contributors, may not, while they are at it, request another contribution?

And yet the Federal Election Commission somehow treats this as a violation of the spirit of the law if not the law itself.

And in this regard, I am constrained to ask, when the Carter, or the Jackson, or the Brown committees sought to complete their records, did they scrupulously refrain from soliciting first-time contributors in the process? The Commission memo is silent on this point.

Mr. President, the Commission's memorandum which set forth the complaint against the Citizens for Reagan is the most palpably feeble, trivial and nitpicking action that an agency is capable of filing.

Can this body conceive of an agency of the Federal Government, spending almost $175 thousand of the taxpayers' money to bring an action against an authorized Presidential campaign committee, not because of any inherent derelictions of the committee itself, but because a number of contributors failed either through inadvertence or deliberately, to identify their occupation and principal place of business.

And this despite the repeated assurances of the campaign committee that it had made mailings at considerable cost to secure the information needed.

In my opinion, Mr. President, my staff having reviewed the complaint, one can only conclude that the Federal Election Commission was motivated either by political bias, or because—as has been alleged in many quarters—it simply does not have enough work to keep itself busy.

Surely a truly independent and objective Commission would not have authorized this witchhunt.

> In the present matter it appears that citizens for Reagan made little effort to obtain occupation and principal place of business for contributors who initially failed to furnish this information. The only effort, a following solicitation letter, to such contributors, is in marked contrast to the efforts undertaken by the other presidential nominees.

Mr. President, I repeat, there is nobody in this body that can fail to appreciate the Commission's tenuous or perhaps, specious reasoning.

Consider the circumstances. It is only a month or two after the elections of 1976.

The committee has received millions of dollars from perhaps hundreds of thousands of contributors.

We all know how these contributions come in. Often there is no return address. Often the checks do not contain printed identification. The contributor often ignores the requirement that he identify his occupation and place of business. Any number of omissions, some inadvertent, some, perhaps deliberate, occur. Who can say?

And remember we are not talking about a race for a county row office. This is a Presidential campaign on behalf of an individual with thousands of supporters, contributing millions of dollars throughout the country.

And using the efforts of other Presidential candidates as a guide, the Election Commission majestically includes that the Reagan committee has violated the law by its lack of diligence.

To write "The End" to this sorry account of bureaucratic ineptitude, Mr. President, let me add, that the Reagan organization tendered a reasonable effort at compromise which the Election Commission—eager for its pound of flesh, refused.

In a letter to the Reagan committee dated May 8, 1978, the Commission said that it will not accept the statement which reads:

> The citizens for the republic will continue to make best efforts to comply with the relevant provisions in all future mailings, because it implies that best efforts have been made by the committees from the beginning.

Mr. President on March 1 of this year, the Federal District Court of the District of Columbia put a halt to this sorry exercise by granting summary judgment in favor of the citizens for the Republic—successors to the Reagan campaign committee of 1976.

Mr. President, it is my contention that unless and until we determine that the composition of the Federal Election Commission is truly independent and impartial, we can continue to expect litigation such as that which I have described. Motivated, not by a desire to right some egregious wrong, but to satisfy a purely political or philosophical predilection.

This is why I am objecting to the nominee. Unless we insist on a nominee who will truly reflect the prevailing philosophy of the party he is supposed to represent on the Commission, we will continue to wallow in prejudice toward a particular candidate or party.●

CONGRESS SHOULD BE IN SOCIAL SECURITY

● **Mr. MORGAN.** Mr. President, I recently introduced legislation which would bring Members of Congress and all legislative branch employees into the Social Security System. I have received a great deal of mail supporting this bill, which is cosponsored by Senators Nunn, Riegle, Hatfield, and Danforth, but one of the best letters came from a young man living in Shelby, N.C. I think his letter accurately reflects the views held by many of our young people, and I request that it be printed in the Record.

The letter follows:

Michael R. Price,
Shelby, N.C., June 6, 1979.

Senator Robert Morgan,
U.S. Senate,
Washington, D.C.

Dear Mr. Morgan: Please accept my sincere thanks for the work you are doing on your Social Security bill, S. 1249.

I am 25 years old, and like the students in your poll, I do not believe I will ever receive any benefit from the Social Security system. Certainly I will not receive benefits comparable to my contribution. Like most government programs, the Social Security system has been mismanaged.

With the changing nature of our national work force, the system will not survive the 1980's in its present form without absurdly high taxes to support it, impossible for the diminishing number of contributors to pay.

I consider the Social Security system a lead weight hung around the necks of working Americans. If the taxes are raised again, I will seriously look for a legal way that I can refuse to pay into the program. Of course, the refusal to pay could mean jail, and this in itself is a forced taxation of the type that inspired the American Revolution.

By bringing the legislative branch into this mess, perhaps something will be done about it.

Sincerely,

Michael R. Price.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● **Mr. CHURCH.** Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications were received on July 11 and 20, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

Defense Security Assistance Agency,
Washington, D.C., July 11, 1979.

In reply refer to: I–5055/79ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

Defense Security
Assistance Agency,
Washington, D.C., July 20, 1979.

In reply refer to: I–4662/79ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

Defense Security
Assistance Agency,
Washington, D.C., July 20, 1979.

In reply refer to: I–364/79ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

PROPOSED ARMS SALES

Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the 8 notifications I have just received.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.

In reply refer to: I–4898/79ct.

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79–54, concerning the Department of the Army's proposed Letter of Offer to the Federal Republic of Germany for defense articles and services estimated to cost $32.1 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Craves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

[Transmittal No. 79-54]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Federal Republic of Germany.

(ii) Total Estimated Value: Major Defense Equipment * other, $32.1 million; total, $32.1 million.

(iii) Description of Articles or Services Offered: Spare parts for M48-series tanks and related tracked vehicles.

(iv) Military Department: Army (BCE).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to: I-6024/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-55, concerning the Department of the Army's proposed Letter of Offer to Singapore for defense articles and services estimated to cost $75.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, U.S.A., Director,
Defense Security Assistance Agency.

[Transmittal No. 79-55]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Singapore.

(ii) Total Estimated Value: Major Defense Equipment*, $4.8 million; Other, $70.2 million; Total, $75.0 million.

(iii) Description of Articles or Services Offered: Improved Hawk air defense system consisting of three assault elements, associated radar and command and control equipment, basic load of missiles, maintenance equipment and spare parts, and training and technical assistance.

(iv) Military Department: Army (UNT).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to: I-6076/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-56, concerning Letters of Offer to Egypt for defense articles and services estimated to cost $560.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

Transmittal No. 79-56

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Egypt.

(ii) Total Estimated Value: Major Defense Equipment*, $75.2 million; Other $484.8 million; Total, $560.0 million.

(iii) Description of Articles or Services Offered: Improved Hawk air defense system configured up to 12 batteries, basic load of missiles, acquisition radars, ancillary support equipment, spare parts, training, and related services.

(iv) Military Department: Army (UAI, UAJ, OAK, OAL), Navy (LAB), and Air Force (DAA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to I-6025/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-57, concerning the Department of the Army's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $134.4 milllon. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

Transmittal No. 79-57

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Egypt.

(ii) Total Estimated Value: Major Defense Equipment*, $88.2 million; Other, $46.2 million; Total, $134.4 million.

(iii) Description of Articles or Services Offered: Five hundred fifty (550) M113A2 armored personnel carriers, fifty (50) M106 A2 107mm mortar carriers, fifty (50) M125A2 81mm mortar carriers, fifty (50) M548 cargo carriers, fifty (50) M577A2 command post carriers, basic load ammunition, spare parts.**

(iv) Military Department: Army (UAK, UAM, UAP, UAX, OAF, OAG).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security
Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to: I-6032/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-58, concerning the Department of the Army's proposed Letter of Offer to Israel for Defense articles and services estimated to cost $125.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 79-58]

Notice of Proposed Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: Major Defense Equipment*, $113.0 million; Other, $12.0 million; Total, $125.0 million.

(iii) Description of Articles or Services Offered: Six hundred forty six (646) M113A2 armored personnel carriers, ninety eight (98) M577A2 command post carriers, fifty six (56) M548 cargo carriers, supporting equipment, and spare parts.

(iv) Military Department: Army (XIQ, XIR, XIT, XIU).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security
Assistance Agency,
Washington, D.C., July 23, 1979.
U.S. Senate, Washington, D.C.
In reply refer to: I-6033/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-59, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $293.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 79-59]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: Major Defense Equipment,* $216.0 million; Other, $77.0 million; Total, $293.0 million.

(iii) Description of Articles or Services Offered: Two hundred (200) M60A3 tanks.

(iv) Military Department: Army (XIM).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to: I-6034/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Ams Export Control Act, we are forwarding herewith Transmittal No. 79-60, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $162.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

[Transmittal No. 79-60]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value: Major Defense Equipment,* $141.0 million; Other, $21.0 million; Total, $162.0 million.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

**And support equipment, and training.

(iii) Description of Articles or Services Offered: Two hundred (200) M109A1B 155mm self-propelled howitzers.

(iv) Military Department: Army (XJH).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 23, 1979.
In reply refer to: I-6100/79ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-61, concerning the Department of the Navy's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $11.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

[Transmittal No. 79-61]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value: Major Defense Equipment*, $10.3 million; Other, 1.4 million; Total, $11.7 million.

(iii) Description of Articles or Services Offered: Twenty-four hundred (2,400) MK20-6 Cluster Bomb Units.

(iv) Military Department: Navy (ADH).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 23, 1979.

PROPOSED ARMS SALES

Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of propsed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I request to have printed in the Record at this point the notification I have just received:

Defense Security Assistance Agency,
Washington, D.C., July 24, 1979.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-63, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $70.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Ernest Graves,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

[Transmittal No. 79-63]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense equipment,* $0.0 million; Other $70.6 million; Total, $70.6 million.

(iii) Description of Articles or Services Offered: Repair parts, spares and supplies for initial stock outfitting of a Naval Supply Center and Naval Supply Depot to be located at Jubail, Jidda, and Dammam, Saudi Arabia in support of ships, training and communication equipment being provided under separate**

(iv) Military Department: Navy (BAS).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be paid: None.

(vi) Date Report Delivered to Congress: July 24, 1979.●

ASSISTANCE FOR FLOOD VICTIMS

Mr. FORD. Mr. President, once again, a number of my constituents in Kentucky have suffered the anguish of unexpected flooding. On Sunday morning, July 15, a torrential downpour resulted in 5 deaths and the displacement of nearly 300 families who watched helplessly as water, mud, and debris flooded their Pike County communities.

Today, 125 of those families are still displaced from their homes. One hundred homes were totally destroyed. Another 150 homes were severely damaged. Kentucky's division of disaster and emergency services has advised me that preliminary estimates of damage already surpass $6 million and that destruction is far more extensive than what we witnessed in the 1977 flooding of that same region.

Roads are washed out. Bridges are gone. The only thing that seems to remain the same is the Federal Government's hand-wringing and mourning that "we've got to do something about these areas that keep flooding."

Mr. President, this year we have already witnessed major flooding that resulted in Federal disaster declarations in 15 States. The Federal Insurance Administration is literally buried under a mound of flood insurance claims that 2 months ago passed the entire number received in all of 1978.

Yet, the Congress has failed to take several immediate steps which are now pending that would improve Government's ability to assist these individuals in time of need and would control the threat of future floods.

We have failed to reduce SBA interest rates on disaster assistance loans that shot up in October of 1978—that we have had legislation pending to reduce since shortly after a disaster of great magnitude hit much of Kentucky in December of 1978.

And we have failed to provide adequate appropriations for flood control measures that will protect these communities which yearly face being covered by floodwaters.

I submit, Mr. President, that now is the time to give these people hope that Congress does care about them, that the Senate will take action in their behalf. We simply must act by legislation to reduce this constant threat of flooding which hangs over the heads of not only my fellow Kentuckians but people throughout the entire Nation.

Let me assure my colleagues that I will work diligently with them toward this goal. This is a battle we must win, and we must win it soon—working together—if we are to keep the confidence of the people.

Thank you, Mr. President.

ENERGY SAVING STEPS BY KENTUCKY NATIONAL GUARD

Mr. FORD. Mr. President, the Kentucky National Guard trains its forces for combat, but the battle it is most recently fighting is in response to President Carter's energy message. Year after year, long convoys have moved across neighboring States as Kentucky's National Guard moved to training facilities with terrain and equipment suited to its needs. Next summer, however, the Guard will train in Kentucky.

As a result, 147,000 gallons of fuel will be saved. In addition, Kentucky Adj. Gen. Billy G. Wellman has taken steps that will result in significant energy savings this summer. Troops now training in Texas were transported there by bus rather than by the numerous vehicles of the convoy. To provide vehicles for training, the Kentucky National Guard has borrowed equipment from the active Army and from the Texas National Guard.

Such changes have required cooperation, and it speaks well for all those units and States involved that plans have thus far run smoothly and efficiently. This is a massive shift that could have an impact upon training capabilities. However, the adjutant general's office is already working to improve the training opportunities within Kentucky.

Such an expansive attempt to contribute to energy conservation deserves high praise, and I call upon all units of the National Guard to examine their priorities and seek out changes that will result in significant energy savings. I am proud that Kentucky's National Guard is a leader in this move.

This is a timely example of what all of us can do if we will stop a minute to study our personal energy uses and where those uses can be cut back. The Kentucky National Guard will save 147,000 precious gallons of fuel. In the process, it will contribute to pollution control. This is the simple good neighbor policy, an act that carries out the golden rule. All of us will be the beneficiaries. And all of us will live with one less worry if we do the same.

I ask unanimous consent to have

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

**FMS cases.

printed in the Record a news release from the office of the adjutant general of Kentucky.

There being no objection, the press release was ordered to be printed in the Record, as follows:

News Release

Frankfort, Ky.—In response to President Carter's message on energy, Kentucky Adjutant General Billy G. Wellman announced today that virtually all Kentucky Army National Guard units will train in the state next year.

That will result in a fuel saving of about 147,000 gallons.

"We have to plan our annual training programs three years in advance," Wellman noted, "but the urgency of this fuel crisis has enabled us to very rapidly change our plans. We've received great cooperation from everyone even though it involves a massive shift in our program."

In the past, Kentucky units have trained at sites with the best available terrain and equipment, primarily in Texas and Mississippi.

"President Carter made the importance of the energy 'war' very clear and Governor Carroll has already expressed his support," the general said. "And I want the people of Kentucky to know that their National Guard intends to fight and help win this war."

General Wellman explained that some changes in plans had already been made to help units now training in Texas conserve fuel. For example, the units borrowed equipment from the active Army and from the Texas National Guard and left their own vehicles in the state. Buses were used to transport troops.

Wellman said that while this change will have some impact upon training capabilities, members of his staff are already working to improve the training opportunities within the state.

"We're going to be looking at many other ways to save energy," Wellman concluded, "because we want to make a significant contribution."

TRIBUTE TO MEMORY OF KENNETH M. BIRKHEAD

Mr. FORD. Mr. President, the Senate has lost a good and valued friend with the passing of Kenneth M. Birkhead. He has been a loyal worker in a variety of positions from the U.S. Department of Agriculture to the Democratic senatorial campaign committee.

Ken was a former staff director of the Democratic senatorial campaign committee. Not only politics, however, absorbed his interest. He dedicated most of his adult life to preserving human and civil rights for all Americans. Early in his career, Ken assisted his father, the late Rev. L. M. Birkhead, in fighting native Facism through the organization his father founded, Friends of Democracy.

In 1948, Ken worked in President Truman's campaign and was named to a position with the Democratic National Committee. He served that body in a variety of offices. The Senate will perhaps be most familiar with his work as assistant to the Senate majority whip from 1953 to 1955.

His interests extended to work as national director of Rural Americans for Johnson-Humphrey and as national executive director of Citizens for Humphrey-Muskie in 1968. He also served as national director of the American Veterans Committee.

Ken's death last week brought expressions of sympathy from many corridors. I join those who mourn his passing.

SOME GOOD THINGS ABOUT THE OIL COMPANIES

Mr. MOYNIHAN. Mr. President, on Sunday a week ago, in Washington, President Carter concluded a national address on the energy crisis by calling on each of us, "Whenever you have a chance, say something good about our country."

The next day he journeyed to the Midwest and commenced to say some, on the whole, unpleasant things about our oil companies.

All this got lost rather in the days that followed, when the White House began to say some less than pleasant things about the Cabinet as well. The week did not end as well as it had begun.

Accordingly, I would ask leave of the Senate to try to pick up where we left off that distant Sunday evening, and see if we can finish this week a bit stronger than last. Practice in these matters surely cannot hurt.

As my contribution I would like to try those Midwest speeches over again. I propose to say something good about oil companies.

Let me acknowledge that I do not know a very great deal about these companies, much less the oil industry in the large. But this, as it happens, is the principal point I would wish to make.

It is a point that occurred to me many years ago, in the mid-1950's, when as an aide to Governor Harriman in New York I came upon the fact that prices per gallon of gasoline ranged very considerably, and with no apparent pattern or logic, across the Northeast. The Ida Tarbell in me—and which of my generation was not touched by that formidable publicist—sensed the possibility of exposing a vast price conspiracy. I fell to work with some diligence. Alas, at the end, I found what I was least looking for. There was no contrived pattern to the price variations produced by the oil companies, but there was one singular fact.

This was that all the prices were astonishingly low.

Gasoline, which will do work, sold in the 1950's cheaper than bottled water.

This as it happens led me to some quite different concerns. If petroleum energy was so cheap were we not probably misallocating other resources because of this distortion, if that is the word, in the market. I became something of a critic of the Interstate and Defense Highway System, then just enacted. I thought it would thin out on cities much too rapidly, with seriously declining resources bases as a result. A paper of mine, "New Roads and Urban Chaos" appeared in the old Reporter magazine, and had some influence on President Kennedy's pronouncements on this subject during his 1960 campaign. On the strength of this I sought afterward to get myself appointed Deputy Under Secretary of Commerce for Transportation, but in the manner of reform administrations, the job went to a Los Angeles Cadillac dealer.

But I went on thinking that overabundant energy, cheap energy that is, explained a good many things in our society, most of them quite positive, but not all. Nothing is perfect.

Much later I served for a period as Ambassador to India and came upon the reality—that unmeasured, overwhelming reality—of a vast society that was energy poor. A society in which most food is cooked over fires made of dried animal feces, a society in which most energy is still generated by muscle contraction, that of humans or beasts. I was not surprised to find in this society a widespread hostility to the vast energy consumption of the United States, with the accompanying charge that our oil companies, by transferring so much wealth in the form of petroleum to the United States, were significantly responsible for the immizeration of Asia.

Still, I knew little about this subject, the point being that it was almost entirely a free-market industry with many players. Many more than I imagined, but I did grasp that there were more than seven sisters involved. I sensed that one of the reasons there was relatively little "information" about the system was that being a market system it got most of the information it needed from prices. A thousand, a hundred thousand prices, prices the world over, prices changing hourly, were the circuitry that operated the system.

Then came the 1973 war in the Middle East, the briefly successful OPEC oil embargo, and the stunningly successful quintupling of crude oil prices by the newly established cartel. It had been for some time an association: Now it was a cartel. I was still in India at the time, and was struck by two things. First—it is called clientitis in the lingo of diplomacy—was that the price increase would be devastating to the subcontinent. The green revolution rested on three elements in the production of food. First, new seeds. Second, fertilizer. Third, irrigation water. The last two were almost wholly derived from petroleum—irrigation being in the main pumped groundwater. The poor of Asia would remain poor.

Returning to the United States in 1975 I gave the commencement address at Stanford University on the theme that the OPEC price increase would now lead inexorably to the proliferation of nuclear powerplants to the Third World that could now no longer afford oil, and with that the proliferation of nuclear weapons as well.

A second thought had come to me, just touched upon in my commencement address. The OPEC cartel would lead to the largest and most persistent intervention by Government in the private sector of the economy than at any other time in our history.

The one exception, the Second World War, was temporary. It lasted 4 years. We are already in our fifth year of OPEC with no end in sight. Moreover, in contrast to all previous interventions, which were accomplished through legislation that arose from internal political process in which the entire electorate participated, this new intervention had come creeping in upon us like some silent meningitis attacking the very nervous system of the American economy.

Government responded in successively more bungled ways. We are now into our third administration in this regard. Here my earlier point about the information in the system is relevant. When a government runs something, it typically acquires information about that, whatever it is, by systems of formal inventory and strict accounting. It is a near universal characteristic of government behavior. Thus if a Secretary of Defense asks the Chief of Staff how many tanks the Army has, the Chief is expected to know and—right or wrong, the system never being perfect—thinks he does know. Similarly a Secretary of the Treasury is supposed to know how much gold there is in Fort Knox, and usually does, I trust; nothing is perfect.

Now this, of course, is very different from a market mode, in which supply information is essentially communicated by prices, in mathematical terms, a kind of algorithm mysterious to some, but sufficiently plain to those working within the system.

Those outside the system—those inside Government, for example—are often baffled by such spare notations. Moreover, as price controls began to spread throughout the energy system, ending at the gasoline pump itself, even prices became a less informative system of notation. Pretty soon nobody knew what was going on, really. The Government kept demanding inventories from an industry that did not keep inventories. The industry kept looking for signals from a price system in which the signals were being encrypted.

Not surprisingly, the industry has been asking for fewer controls, and the Government has been asking for more auditors.

I have no megathoughts on this problem. But I am convinced that we will not reach anything approaching an optimal solution unless we all come to see the central transformation that is taking place here, which is that the supply and the price of energy is becoming politicized. In the future governments will be held responsible for unfavorable movements in either price or supply, and they will be tempted in turn to hold the industry responsible, as the President was doing in Kansas City a week ago.

In that neither the Government nor the industry is responsible for the turn of events against us in the Middle East, it seems to me we are going to waste a lot of energy (sic) on mutual recrimination unless we learn to think a bit more clearly about this subject, and even to be a bit more honest.

For example, I would say it is dishonest—in the large, Orwellian sense—of the administration to describe the excise tax on oil production which is not before the Congress as a windfall profits tax. It is nothing of the sort. It is an excise tax, a severance tax if you please, Treasury officials promptly admit this: Some even volunteer it. Can anyone doubt that if we enact this tax—and I have assured the President that as a member of the Finance Committee I will support something of the kind, before the 1980's are out some independent oil producer is going to go broke because this windfall profit tax turned out to be greater than his actual profits.

I much prefer the colorful candor of Charlie Schultz, chairman of the Council of Economic Advisers when he first briefed us on the President's plan. He described the ongoing aspect of the oil tax as simply the OPEC ripoff tax. Which is to say that whenever OPEC raises its prices above the general rate of price increases, part of that windfall is collected by the Government in a special tax. The OPEC ripoff tax. Plain words. Clear meaning.

At the same time, I would hope the oil companies will try to understand the Government a bit better. This is not easy for them. But it is necessary. I also recall in the 1950's journeying out to Detroit—literally, I did just that, moved as the Soviet authorities might say, by "paranoid delusions of reform"—to try to convince automobile executives that unless they took the initiative themselves in the matter of automobile safety design they would end up with design regulated by the Federal Government. The general reaction, and this is now in the literature, was that the idea of such legislation was unthinkable. It was 6 years from the time I first published this thought, again in the Reporter, to the enactment of the Federal statute that imposed that regulation.

Here I would offer a word of encouragement to those companies which have taken to buying advertising space in newspapers and magazines to set forth their views in short essays. This is a perfectly legitimate exercise. To date, the essays give the sense, rather, of an advertising copywriter trying to write like he thinks Daniel Bell writes, or maybe the way he thinks his readers think Daniel Bell writers. In this regard I would commend the example of Albert Shanker of the American Federation of Teachers who writes a weekly column—paid for as advertising—for the Sunday papers in New York City which is a model of lucid, openly partisan, and enormously effective advocacy.

But, Mr. President, I do not rise to lecture or advise. I rise simply to say some thing good about oil companies in the thought that they might need a little encouraging this week. I make no commitments for the week to come.

SYNTHETIC FUEL, NOT RATIONING

Mr. MOYNIHAN. Mr. President, among the sectors of our economy whose efficiency and productivity are jeopardized by the current gasoline shortage is the installment industry, also known as the direct selling credit industry. The board of directors recently passed a resolution calling for the vigorous development of synthetic fuels and warning of the difficulties posed by gasoline rationing. These points, and their significance for this important industry, are further developed in a thoughtful editorial by Edward L. Sard, executive director of the National Association of Installment Companies, published in the June 1979 issue of Installment Retailing. This should provide additional impetus to our efforts to make such development a high priority in our national energy plans.

I ask unanimous consent that the text of this editorial be printed in the Record.

There being no objetcion, the editorial was ordered to be printed in the Record as follows:

Synthetic Fuel—Not Rationing—Is the Answer

It should never have happened. Never. We're talking about the current gasoline crisis. It is not as though we never received a warning. We had our warning in 1973–74 when there were long lines at the gas pumps, when New Jersey, among other states, instituted the red and green flag system at its gas stations to indicate whether or not the station had gas. (All too often the red flag indicated that there was none and the green flag produced mile-long lines.) That gas shortage, brief though the period of its duration, was a nightmare. Particularly for those industries like ours that are so dependent on cars.

And now five or six years later, it appears that we are once again facing the same kind of shortage. During that entire period of time, nothing was done to provide this country with an alternate fuel supply, with some form of synthetic gasoline.

While Brazil developed a fuel based on alcohol and South Africa did the same with coal, our political leaders fiddled. President Ford soothed and President Carter placed his emphasis on conservation. All the while, the focus should have been and should be today, the development of synthetic gasoline.

What now? We are faced at the moment with the specter of gasoline rationing. As we go to press, a plan for standby rationing proposed to the Congress by President Carter, is about to be considered by the House of Representatives after its original defeat in committee. So far as we are concerned, any form of gasoline rationing is sure to be disastrous.

One thing is absolutely certain. Much as we feel that the current gas shortage was avoidable, we cannot ignore it, cannot pretend it does not exist. It does exist and we know it every time we go to the gas station to fill up. Gas prices are going up every day and there is little doubt that the price will go well over a dollar in the not too distant future.

If that is all that happens, if it is simply a matter of increased prices—unpleasant as that prospect is——we will survive. We will have to make all manner of adjustments. (For a number of specifics suggested by NAIC members see my article on the gasoline crisis elsewhere in this issue.)

We will have to use more fuel efficient cars, change our manner of collecting, raise car allowances, even raise prices. We will have to use gas as an incentive. In other words, we will have to be as creative, as original, as inventive as we can be.

From our own past—both distant and recent—we know that we are infinitely flexible. We have proved that we know how to cope with adversity. We can and will survive an increase in the price of gasoline. We cannot survive rationing. It will drive us out of business.

As an Association, we must make our voice heard on this subject of vital concern to our industry. We must campaign, lobby, joining with others who have similar interests, against gasoline rationing. And we must also press for the development of synthetic fuel. The oil interests may not be enthusiastic, may not welcome that development but the people of this country do want and need an alternate fuel supply. And, as others have proved, it is a realistic expectation that can and should be accomplished.

Our estimable antique door-knocker, L. T. Shoemaker has, as usual, a number of astute and cogent things to say about our current crisis elsewhere in this issue. The very title of his column, "To 'Yield' Doesn't Mean 'Give Up'!" might be taken as our motto.

In the midst of this emergency, there is a note of optimism. If we suffer the expensive effects of the increase in gas prices, our customers are among the first to feel the pinch. They are more and more hesitant about driving their cars as usual. We are in a position to provide them with a service that is more valuable today than ever before. Shopping at home.

We can drive our cars to their homes carrying the kind of merchandise they want and need, saving them not only time and trouble but the price of gas, as well.

So let us go on from there. Let us prepare to absorb the rising price of gas and, at the same time, work hard to press for the development of an alternate supply of energy. Nothing short of that, nothing short of the development of synthetic gasoline, will solve the country's energy crisis.

W. MICHAEL BLUMENTHAL

Mr. MOYNIHAN. Mr. President, the departure of W. Michael Blumenthal from the Treasury saddens me. Mike Blumenthal is one of the best friends I have and one of the most loyal allies New York City will ever have. He will be sorely missed.

A refugee and immigrant, he became a fine economist, a successful businessman, and a selfless and distinguished public servant. No one has a clearer understanding of domestic and international economics, a firmer grasp on the linkages among fiscal, monetary, and tax policy, a better grounding in the subtleties and significance of trade, or a greater ability to translate his understanding of the Nation's economic needs into the practical terms of contemporary government. He has been an immense asset to the President, an ornament to the executive branch, and a powerful force for wise and effective public policy in countless domains of domestic and international activity. He deserves our lasting gratitude and deep respect.

SENATOR HATCH AND THE BUDGET PROCESS

Mr. HELMS. Mr. President, in the July 9 issue of Barron's National Business and Financial Weekly there was an outstanding article by our colleague, the junior Senator from Utah (Mr. HATCH).

Senator HATCH eloquently emphasized one of the major problems in the Senate budget process. It just is not doing the job of holding the U.S. Federal Government within a responsible budget.

It is an indictment, I believe, of the Congress that the American people's support for a constitutional amendment requiring a balanced budget has reached such high levels. I have offered such a constitutional amendment myself and I hope that we can soon amend the Constitution to require a balanced budget. Why? Because Congress obviously needs that discipline.

As Senator HATCH points out, in 1974 when the Budget Act was approved it was lauded as a means of restoring budgetary discipline. In fact, during the past 5 years we have seen deficit after deficit, higher and higher inflation rates, and more and more justifiable public resentment toward the U.S. Congress free spending habits.

Senator HATCH in his article, entitled "Congressional Irresolution," lists the ways the budget process is used to protect costly Federal programs and to thwart budget cutting.

Of particular note is the orthodox Keynesian approach of the Budget Committee economists. The reliance on the part of the Budget Committee staff upon "demand stimulus" is a reflection that the staff subscribes to a theory of economics that is behind the times and a theory of economics that serves big government.

It is not inconceivable that Congress will reform its ways. I hope it does so. Unfortunately, we see little promise that it will. Unless we heed Senator HATCH's warning the voter in 1980 may make significant changes in the makeup of Congress.

Mr. President, I ask unanimous consent that Senator HATCH's excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

CONGRESSIONAL IRRESOLUTION

(By ORRIN G. HATCH)

"Major Recession Now Forecast by Hill Budget Office," front-paged the Washington Post on Sunday, June 10. The story, by Star Writer Art Prime, revealed that the "nonpartisan Congressional Budget Office has privately warned Congress to expect a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate rising to 7.5%."

Having dispatched this missile, Prime presumably went back throwing darts at old posters of Richard Nixon, dozing at his typewriter and whatever else they do at the Washington Post during the current lull in American politics. Within the Capitol Hill beehive, furious activity broke out. The worker bees of the Congressional Budget Office and the Senate Staff swarmed around angrily, and even came to communicate their agitation to the elected queen bees of the legislative process.

This was done through memos from Staff Director John T. McEvoy and Congressional Office Director Alice M. Rivlin to those of us who sit on the House and Senate Budget committees. Reading these memos, I became uncomfortably aware that although they repeatedly referred to Pine's "inaccuracies," there were few concrete examples. Indeed, the attached statistical table seemed to support him. The CBO had not finished revising its January forecast, but it had already reduced its estimate of real GNP growth for the next two years from levels which even then had assumed two negative quarters. There will probably be double-digit inflation in the early quarters of 1980, and although average 1980 unemployment was not projected at 7.5% exactly, it seems likely to be pretty close. One might almost think senators are expected to read only the memos' stinging prose, and not their rather stickier figures.

Ms. Rivlin, according to the memos, intended "to complain to Ben Bradlee," the Post's Executive Editor. It was hard to imagine the Watergate Warrior being impressed. (After all, here was an editor who at one point publicly reaffirmed the Post's version of Hugh Sloan's grand jury testimony even after his own reporters had told him they'd got it wrong.) Nevertheless, 11 days later, the Post ran a groveling apology. It reproached itself for "significant errors" about unemployment's peak, whether the CBO had specifically forecast more than two quarters' decline, and whether Congressional leaders had seen an official forecast. Skilled students of Washington nuance will note that the Post had been persuaded to apologize for things its reporter had not originally said. As they say, it's a company town.

REMOTE TARGET

The whole episode was all the more puzzling because a rather negative view of U.S. economic prospects is not uncommon, outside Washington. But that's not what the Carter Administration, which has been consistently more optimistic, wants to hear.

It is hardly surprising that Pine caused trouble with his assertion that "the CBO's calculations were made known privately to Congressional leaders before the final passage of the initial budget resolution last month, but sources said that the two Budget committees decided to shelve them for the moment in what was described as a gamble that the economy might improve." With the budget as currently planned, such an economic performance would lead to a $4–$8 billion increase in expenditures. And that's even before the second budget resolution, due in the fall, starts knee-jerk countercyclical spending. The target of a balanced budget by fiscal 1981, confirmed in May amid much Democratic self-congratulation along with the $23 billion deficit projected out of $532 billion outlay in fiscal 1980, seems more remote than ever.

The fact is that the Congressional Budget process, which seemed like a good idea when enacted in 1974, has simply turned out to be an engine for the relentless expansion of government. The system co-opts those taking part—including some from the minority party and supposedly impartial civil servants—and provides a pseudo-scientific rationale for the continued care and feeding of the spending constituencies that elect the politicians happily presiding over the decline of our Republic. It has not brought greater discipline to Congress' spending. Many authorizing committees habitually miss their deadlines. And it has totally failed to perform what is commonly understood to be the budget process: cutting your coat to suit your cloth. Symbolically, the first thing the Senate Budget Committee did in 1979 was to defeat a motion that would have required them to look first at their cloth—anticipated government revenues—instead of (droolingly) at spending.

INFLATION PUSH

This year's Senate Budget Resolution covered the next three fiscal years, including fiscal 1980 (which begins this October). It projected a small surplus of $0.5 billion for fiscal 1981, and one of $0.7 billion for fiscal 1982. Additionally, there was provision for tax cuts of $55 billion in 1982, and somewhat larger ones thereafter, although this assumes there will also be GNP growth substantially above historic averages.

Total tax revenues, however, will rise as inflation pushes taxpayers into higher brackets. The Senate Budget Resolution was passed after three days of debate in conference committee. The compromise resolution confirmed the strategy, albeit with a smaller 1980 deficit. A surplus of $5.6 billion was predicted for 1981, $4.1 billion in 1982; a smaller tax cut was planned. Over the summer, the various appropriation committees will complete their detailed work, and there will be a final adjustment for current conditions in the second Budget Resolution this fall.

The system's failure can be measured in at least two ways. The most obvious is that in 1979, the fourth and probably final year of economic recovery, the U.S. federal budget is nowhere near coming into balance. And yet this is the time, according to Keynesian theory, when we should be in surplus, in order to balance out over the entire business cycle, so as not to blow the roof off with inflation when we stimulate the economy in the face of recession.

And nominal surpluses, the sort allegedly expected in 1981 and 1982, aren't good enough. The system has to *balance*. There has to be a surplus to match the $45 million deficit of President Carter's first year in office. Needless to say, our born-again budget balancers on the Budget Committee don't mention that.

"SPENDING SHORTFALL"

As a matter of fact, the U.S. has balanced its budget only once since 1960. But its performance over the life of the Budget Committee has been particularly disgraceful. A low point was 1977. Directly after the federal election, the Democrats discovered a "spending shortfall" and introduced an extraordinarily third budget resolution, ending all hope of a surplus in this cycle and coincidentally paying off a number of supporters. Moreover, the Budget Committee is now estimating that tax revenues in 1980 will be 20% of gross national product. The average since 1956—except for the 1968–70 Vietnam surcharge—has been 18.6%. Any budget-balancing that is going on is hurting the taxpayer, not the government employee. (The federal government's impact is, of course, also felt in the economy through the $12 billion or so of off-budget items and the $150-odd billion loans made or guaranteed each year by government agencies.)

The Senate debate on the budget resounded to talk of hacking, slashing, chopping, and cutting. At times it sounded more like a spree in a slaughterhouse. But little blood was actually shed. Federal Government spending will still grow 9.1% in 1980, and there has been no major cuts in permanent programs. This did not prevent both the Washington Post and the New York Times from congratulating us for what the Times called "self-discipline on Capitol Hill." It pointed out that our spending was "slightly smaller than the President proposed" (well, yes, by $0.3 billion) and that our final deficit figure was $6 billion less than the President's (although it was still $23 billion; the difference was mainly that we figured higher inflation would just force more people into higher tax brackets). However, it seems that no one on Wall Street had the least expectation the budget would ultimately be balanced. The Budget Committee staff's public relations apparently cut little ice there.

Fiscal conservatives thought that the budget process would compel liberals to accept responsibility for their spending programs. But it hasn't worked that way. Instead, it is the conservatives who are constantly being confronted with an unpalatable choice: between deficits and economic dislocation, unemployment and, ultimately, larger deficits. Without the stimulus of government spending, they are told, unemployment will rise. This will cause expenditures on welfare programs to rise and tax receipts to fall. Which will create a larger deficit next year, hence attempts to balance the budget in reality, as opposed to in rhetoric, are made to seem irresponsible, and an attack on the budget process itself.

This trap is set right at the beginning of the process, when the various spending committees of Congress submit their estimates. These are fairly generous. The appropriations committees always include a little amiable padding, and there are usually some symbolic new programs designed to reassure the constituents of powerful congressmen that they are still loved. The Budget Committee can claim credit for subsequent shrinkage.

Then the Congressional Budget Office's econometric models are consulted to see what level of federal spending is necessary to keep the economy at full employment. By a miracle rather similar to the annual liquefaction of St. Janarius' blood, this turns out to be pretty much what the spending committees had (actually) in mind. At various points in the business cycle, deficits can be justified to stimulate or sustain economic expansion. Or, when there is worry about overheating early in the year, as in 1979, there can be much talk of austerity in the confident expectation that some signs of downturn, perhaps triggered by tight money, will materialize in time for all. Whatever the rationale, the result remains the same: more spending, and more frustrated conservatives.

So frustrated, in fact, that they have had heretical thoughts about the impartiality of the oracles that so consistently prophesy disaster if conservative ideas are implemented: the econometric models favored by the Congressional Budget Office. At close quarters, of course, these are not quite so awe-inspiring. Essentially, they are herds of equations, chivied along by the arbitrary assumptions of the economists organizing them. In recent years, the CBO began to find itself criticized because the models it relies upon—notably those of Data Resources Inc. and Wharton—tend to neglect the dynamic supply-side effects of cuts in the tax rate.

A tax rate reduction would affect gross national product in three ways. It would stimulate production, because people would not have the fruits of their labors filched from them. It would promote investment, because investing would have become more attractive than immediate consumption, and this would create jobs. And it would increase everyone's disposable income by the amount not taxed from them, stimulating demand. This demand surge is the only result of cutting the tax rate that the models, and consequently the CBO, take seriously. They are still operating in the shadow of Keynes, or, more accurately, Keynesians. Demand still dominates debate. (Oddly enough, one major modeling service, Chase Econometrics, seems to have declined in favor with the CBO precisely when it began to discover and adjust for the supply side.)

JUGGLING MULTIPLIERS

The immediate impact of this is that, for purposes of the budget resolution, a dollar spent by the government is assumed by the CBOE to be more stimulating than a dollar of tax cut, some of the proceeds of which would be saved and not immediately boost demand. So government spending appears to be a cheaper way of keeping the economy at full employment.

When they finally realized what this was doing to them, Senate conservatives began to complain. Last year, for the purpose of the Senate Budget Committee "mark-up"—the preliminary meetings by staffers at which the resolution is roughed out—the government spending and tax cut multipliers were conceded to be equal. This year, however, it emerged in the course of debate on the Senate floor that this principle had been quietly abandoned.

Because budget-making involves so many esoteric technical questions, the Budget Committees are unusually vulnerable to the influence of their staff. But the process has other weaknesses which are endemic in the legislative branch today. The Democrats have controlled Congress for the past three decades. Complaints that they have begun to act as if they owned the joint no doubt owe something to Republican paranoia. But just because you are paranoid doesn't mean someone isn't trying to get you. Largely unnoticed in the country, there has in recent years been a steady erosion of Congressional parliamentary procedures, all designed to make life easier for the majority. Last year's extension of the deadline for states to ratify the Equal Rights Amendment, a rule-change designed solely to rescue a defeated liberal cause at the cost of general derision and possible judicial reversal, was merely one case of manipulation which caught the public eye. On the Hill, it happens all the time.

In 1978, for example, Republican Rep. Marjorie S. Holt of Maryland offered amendments to the budget that would have maintained the current deficit, but lowered spending and taxes in tandem. Speaker Tip O'Neill, forced through rules that will compel Representative Holt to specify how much less each spending program will receive if her low figures are adopted. This totally contradicts the 1974 Budget Act, which says that the Budget Resolution should set a total spending figure and leave the Appropriations Committee to divide the pie. But it throws the proposers of such amendments very much on to the defensive, and also means that any Congressman voting for one would immediately become the target of all the injured spending lobbies, a distressing prospect.

I tried to deal with another aspect of the institutionalization of majority power this year. I proposed an amendment to prevent certain types of appropriations being passed into law prior to the Second Budget Resolution, so as to preserve the Senate's maneuvering room should the desire to cut taxes suddenly become overwhelming in the fall. Appropriations would be passed, but they would be "held at the desk" and not implemented before the Budget Committee completed its work. There was provision for this in the original 1974 Budget Act. However, the amendment was defeated. It was argued that the provision was a "fail-safe" device, intended as a last resort if Congress got into the habit of irresponsibly appropriating more than the Budget Committee had provisionally agreed. And, of course, this hasn't happened. With a Budget Committee like ours, it wasn't necessary.

The Senate is a profoundly traditional institution. The precise legalities of their situation often matter less to its members than the extension of courtesies between them. The common experience of working together on something like the Budget Committee seems likely to have a chilling—or more accurately, perhaps, a mellowing—effect on the opposition's determination to oppose the Resolution when it reaches the Senate floor. This tendency is actively encouraged by the Majority. Being present at the creation of one of these customs is like watching the Rocky Mountains rising from some primeval sea in a speeded-up tempo—fascinating, but alarming once you realize that it is squarely in the road to fiscal discipline.

In the debate on the Senate floor, the custom takes the form of an attempt to persuade those of us who offered amendments, particularly on matters of detail, that they (a) concerned matters of detail, and should therefore be left to the relevant oversight committee; or else that they (b) should have been offered in the Budget Committee itself, which is somehow slighted by being ignored. If you appeal to the sovereignty of the Senate, the attempt is abandoned. But it is always later renewed.

For example, I proposed cutting federal overtime, travel allowances and film-making, partly because of evidence of waste cited in reports of the General Accounting Office. Ed Muskie, the Senate Budget Committee Chairman, objected:

Mr. Muskie: ". . . Now, you never offered this."

Mr. Hatch: "Is the Senator suggesting that I am not acting within my rights to bring this to the floor of the Senate rather than before the Budget Committee?"

Mr. Muskie: "I never suggested that. Since you played a very active role in the Budget Committee, and the Senator will agree to that, you never offered this amendment and you never offered the evidence to substantiate it. Is that not a statement of fact?"

Mr. Hatch: "That is a statement of fact on this particular amendment."

Mr. Muskie: "That is all I said. . . ."

But it wasn't. The debate became heated, as Senator Muskie made the same point again:

Mr. Hatch: "Mr. President, may I ask who has the floor?"

Mr. Muskie: "And the Senate as a whole is not in as good a position to consider the details of your case as the committee was. So why do you think you could get a better hearing here than you could in the Budget Committee?"

Mr. Hatch: "I know I will get a better hearing here."

Mr. Muskie: "All right."

Mr. Hatch: "I do not have any doubt about it."

Mr. Muskie: "That is your judgment of the Budget Committee."

This may not enlighten readers as to whether or not Budget Committee members are supposed to assume collective responsibility for the Budget Resolution. But it helps explain why Americans typically elect as senators men who are larger than average, at least in lung capacity.

There are two lessons to be drawn from a study of the budget process. The first is that the momentum of federal spending is formidable. Such spending is squarely in the interest of a powerful New Class of bureaucrats, politicians and their academic and journalistic acolytes, as well as the spending constituencies who form their electoral base. This class is tenacious in defense of the status quo. It is currently fighting on two fronts, against the supply-side fiscalists who are advocating a tax cut to stimulate production in the manner popularized by economist Art Laffer, and the more traditionalist budget-balancers, who were stealthily advancing on their goal of a constitutional amendment until loudly joined by Gov. Jerry Brown of California.

THE NEW CLASS CONSOLIDATES

Last year, with Proposition 13 gnashing its teeth, the Budget Committee cut $95 billion from its 1979 fiscal spending. But after the November elections some $7 billion snuck back in again. But there is still fear that the tax revolt has not been entirely finessed, which accounts for the talk of some tax cuts sometime, maybe the year after next. The balanced budget movement is a more familiar problem. Eventually, recession will galvanize the spending constituencies and frighten everyone else. Until that happens, the plan seems to be to move towards balance essentially by allowing taxes to rise indirectly, as inflation lifts taxpayers into higher brackets. *That* should teach them to whine about fiscal discipline! Meantime, the New Class consolidates, spending its time whittling away at the concepts like "tax expenditures"—money not extracted from the public because of various loopholes and concessions. These will ultimately be used to raise yet more revenue and further the idea that all property and income actually belongs to the government. And its servants.

The second lesson is equally simple. Financial rectitude cannot be imposed by gimmick. The Budget Committee process is not better than sunset laws or (remember?) zero-based budgeting. There is no substitute for political will. Without it, the Budget Committee can't work, and with it, we would not need a Budget Committee. In its absence, I can only endorse Sen. Edmund Muskie's proposal, although he made it rhetorically in debate while irritated at impertinent rebels:

"Why not write the budget on the floor of the Senate in total, and see how you can do it?"

CAB DECISION DISPUTED

Mr. McGOVERN. Mr. President, on last Saturday, the Civil Aeronautics Board on a 3-to-1 vote instructed the CAB staff to prepare an order disallowing the merger application of Western and Continental Airlines (Docket 33465).

The merger application was strongly supported by 10 States, 36 communities, and an equal number of chambers of commerce—along with Members of Congress from the States concerned—including the unanimous support of the South Dakota congressional delegation.

The application has been approved by an administrative law judge who held extensive and detailed hearings on the merger request.

The Airline Deregulation Act of 1978, Public Law 95–504, clearly expresses the intent of Congress in relation to these merger applications by an amendment to section 408 of the Federal Aviation Act of 1958 which directs, in part:

> The Board shall not approve such transaction (if) the effect of which in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation conveniences . . .

The intent of the Congress is quite clear in this instance, namely, that if the results of not merging would substantially deteriorate existing service—then the merger should be allowed.

A strong case can be made that the CAB has sidestepped its responsibilities here and, instead, has embarked on a course that will not only reduce service—but in South Dakota's situation—probably eliminate it entirely as far as Western Airlines is concerned.

Mr. Dominic P. Renda, president and chief executive officer of Western Airlines, has been quite specific on what would happen in the event the merger is not approved, as now appears to be the case.

In sworn testimony, before the CAB on December 13, 1978, Mr. Renda. pointed out that:

> There are a number of routes which are part and parcel of our system which are nonprofitable. In keeping with the overall responsibility of providing the public service under a regulated environment, we have provided services to many of those communities as on offset from the profit made on more profitable route segments.
>
> Once these two carriers are merged and we look at what we have presented here by way of operating plan and project earnings that whether or not you continue service on that small segment . . . which produces a minimal loss is a matter which is not that important. . . . In my best judgment, looking at the overall picture and being able to see the opportunity that flows from the merger operation and the higher level of profitability . . . we would continue serving those communities north of Denver and Salt Lake City.
>
> But if there is no merger those would be two areas we would look at first because I know right now they are not profitable.

Mr. Renda was even more precise in a letter to me under date of February 1, 1979, where he said, in part:

> The approval by the Civil Aeronautics Board of the merger would assure a continuation of service to the communities of South Dakota. However, disapproval of the merger could result in less, or even a loss of, service to those communities.

The point was made again in testimony by Western Airlines before the Senate Commerce Committee's oversight hearings on Public Law 95–504 on April 27, 1979.

Certainly the carrier is not at fault here. They have been very straightforward and up front on their plans. Neither can I fault South Dakota in this case since well over half of the 500,000 passengers we board in our State each year do so on Western Airlines. Load factors on the carrier's flights through our State are excellent.

But the hard fact of the marketplace in a deregulated airline environment is that linear route structures—of the kind presently utilized by Western—are not profitable as they tend to develop only the short-haul passenger.

The thrust of Western's merger application with Continental was to provide both carriers with the equipment and routes to convert to a hub and spoke system that encourages the short-haul passenger to remain on the same carrier for his complete trip.

No matter how many passengers we board for intrastate air travel in South Dakota on Western airlines—or for travel to our major hubs in Minneapolis/St. Paul or Denver—the airline is not making a profit because the passenger simply does not remain on Western for enough route miles.

This same situation exists today for many communities presently served by Western in their general market area north of Denver and Salt Lake City.

The Civil Aeronautics Board came to this merger application after affirmative action on other requests involving North Central/Southern and acquisition efforts involving National Airlines.

There are those who suggest that the CAB felt some pressure to deny a merger application to maintain the credibility of the Board's process and procedures on these matters. If that is true, the Western/Continental application simply came along the CAB pipeline at the wrong time.

It would be a serious breach of the authority entrusted to the CAB by the Congress if factors other than the merits of the application were determinative in their decision. Yet a case can be made that is what happened.

As a result of the CAB decision, the losers in this case are the air travelers in South Dakota's three Western served communities—Sioux Falls, Rapid City, and Pierre—and the thousands of others who journey to those airports to have access to Western service. The same will be true in other States and other cities as Western, as they are forced by the pressures of the marketplace to maximize the utilization of their equipment in the absence of the proposed merger, makes downward service adjustments.

The Airline Deregulation Act of 1978, which many of us questioned at the time, was designed to permit air carriers some flexibility in their approach to the service they provide. This standard appears to have been ignored in this case.

It is perhaps premature to determine at this point if some legislative remedy will be necessary by way of amending Public Law 95-504.

But those of us from States so adversely affected by the statute and/or its interpretation by the CAB, may well have to consider a legislative initiative if our air service continues to decline.

SEPARATING FACT FROM FICTION IN THE MILITARY BUDGET

Mr. McGOVERN. Mr. President, the current debates over SALT, the military budget and other national security issues reveal that diplomatic perceptions play an important role in policy planning. Administration officials and policy analysts appear to advocate a certain policy, such as real growth in military spending or the MX ICBM, for the purposing of creating a diplomatic perception that the United States intends to maintain an active global foreign policy.

Reasonable people can differ over whether new increments in military programs yield political or diplomatic dividends abroad. I happen to believe that we put too much emphasis on the military foundations of international influence while ignoring the political and economic roots.

However, even before reaching this issue, we need to make sure that American defense programs are being accurately portrayed. We can never evaluate the perceptions theory if we give out inaccurate or misleading information about our military budget or other programs. In fact, misleading information can undermine our diplomatic credibility by generating false impressions abroad and by creating a divisive debate at home.

The Center for Defense Information has just published an analysis of the Department of Defense's recent claims that military spending in the United States has fallen to a 30-year low. The Center's study, "Measuring the Military Burden: Fact and Fiction," concludes that the Pentagon's budgetary presentation has turned the guns versus butter argument on its head by presenting selected data that show the case for military spending in a distorted light. As the Senate debate on the military appropriations bill approaches, I hope my colleagues will consider these arguments closely.

I have always maintained that we should spend what we need to buy the forces we need for our national defense. But in this era of scarce budget resources and high taxes, we simply cannot afford to spend military funds just to create the appearance of real growth or to offset an alleged decline in the percentage of our GNP marked for defense.

Mr. President, we may have disagreements here about the diplomatic perceptions concept, but none of us can disagree that we need an accurate picture of our national security investment as a basis for whatever perceptions are created. This new study by the Center for Defense Information is an important contribution to the search for accuracy and realism in our defense debate, and for that reason I ask unanimous consent to have it printed in the RECORD for the benefit of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEASURING THE MILITARY BURDEN: FACT AND FICTION

DEFENSE MONITOR IN BRIEF

Military spending has been increasing steadily, in both current and constant dollars, for the past four years. The FY 1980 military budget will be the largest ever.

The Pentagon has mounted a powerful public relations campaign to minimize the growing military burden. Tricky statistics are being used to persuade Congress and the public that military spending has fallen to a thirty-year low.

Inflated estimates of Soviet military expenditures have been widely publicized to gain support for a bigger Pentagon budget in this year of the "austere" federal budget.

The total federal budget is presented in a form which gives a false impression of the military burden borne by the general taxpayer.

An objective analysis of the federal budget shows that high military spending is the major cause of the huge federal deficit and a significant factor in fueling inflation.

The grand illusion in Washington is that military spending has been decreasing. A carefully designed public relations effort has succeeded in persuading most Americans that the military establishment has fallen on evil times—despite these easily vertifiable facts: (1) Military spending has increased every year since 1976 in real, inflation-adjusted dollars, and (2) The new 1980 budget calls for the largest real peacetime military outlays in more than a decade.

Many citizens around the country observe at close hand the high pay and profits and general affluence surrounding most military bases and Penatgon contractors. It contrasts sharply with the abandoned factories, growing welfare rolls, curtailed public services, chronic unemployment, and subsistence pay levels in many cities, towns and small farms that depend on civilian markets. Yet we are told by the federal government that we are at the end of a long period during which expenditures on "human resources" have skyrocketed while military spending has languished.

President Carter told a press conference last November that, "Over the last number of years, including since I have been in office even, the percentage of our total budget and our gross national product that goes into defense has been decreasing. . . ." Secretary of Defense Harold Brown, defending the Pentagon's proposed budget in February, made an even more dramatic statement, "If both the FY 1979 supplemental and FY 1980 budget are passed as requested," he warned, "U.S. defense, will, by these significant measures, still receive the lowest fraction of our resources in 40 years."

When such distorted images find their way into the statements of top government officials, it becomes vitally important that accurate, objective information about the dimensions of the United States' military burden be made available to the American people.

THE PENTAGON'S FUDGE FACTORY

The way in which the federal government spends our money is a matter of great concern to all Americans. In the face of mounting tax revolts and a threatened constitutional convention to put a balanced budget requirement into the Constitution, every politician in Washington must face hard choices about where scarce tax dollars should go.

Simple, accurate statistics showing how the money is now being spent can provide a firm basis on which to make intelligent choices for the future, and most people would expect the federal government to provide them. It would also seem natural for this function to be performed by the Office of Management and Budget, the arm of the Executive Office of the President that is charged with major responsibility for resolving conflicting claims for money from all federal agencies.

But that's not how it works in Washington. The agency that provides the most information about the relative burden of each major federal program on the U.S. taxpayer is the Department of Defense. In a publication titled "National Defense Budget Estimates for FY 1980," it presents detailed statistics, from 1939 to 1980, on spending not only for the military but also for major non-defense programs. By doing this, the Pentagon is able to structure the argument about guns versus butter and to present Congress and the President with selected data that show the case for increased military spending in the best possible light.

MANUFACTURING STATISTICS

The Penatgon's techniques for building an image of poverty while consuming the lion's share of our taxes are effective in misleading laymen, but well known to clever practitioners of the statistical arts. Here are some of them:

1. Use relative rather than absolute numbers. Everyone can count, but few people realize that a number expressed as a percent or share of something else can be decreasing at the same time that the number itself is increasing. To make an increasing series seem to be decreasing, all you have to do is express it as a percentage of something that is growing even faster.

2. Use adjusted data wherever possible. "Real" spending and "constant FY 1980" dollars are numbers which never really exist except in the base year, and they keep the reader confused. Nobody ever spent 1980 dollars in 1960.

3. Pick a favorable base year, preferably in the distant past, that can give you a startling—even if irrelevant or meaningless—comparison with today.

4. Develop new concepts which obscure the facts by adding together items whose separate magnitudes are more informative than the combined total; for example, Direct Benefit Payments to Individuals, Social and Economic Programs, or even the unified federal budget itself, which mixes together programs like military spending which are supported entirely by general taxes with those like social security that are entirely self-funded through trust fund contributions.

The effect of the Pentagon's statistics is to distract attention from two items of great significance to the American people: How much money is being spent by the military and who is paying the bills?

A DECLINING PENTAGON BUDGET—RELATIVELY

In defending the proposed 1980 budget calling for military outlays of $126 Billion, Secretary Brown stressed that, "These totals will provide 3.1 percent real increase in spending over . . . FY 1979. . . . Even with this level of funding, Defense outlays will be about:

4.9 percent of the expected Gross National Product; in constant buying power the level will be 4.6 percent, the lowest since FY 1940;

23 percent of all Federal spending—with the exception of FY 1978 the lowest level since FY 1940;

Less than 15 percent of all public spending—including State and local—again, the lowest levels since FY 1940."

This is a classic example of the relative number technique. Note that neither the actual amount of the new budget nor its dollar increase over FY 1979 is mentioned. What Mr. Brown calls the "real" increase is actually the inflation-adjusted increase. The real "real" increase, in money appropriated by Congress, will be $11.3 Billion, or 9.9 percent.

The other selected facts which the Secretary chooses to highlight have nothing to do with national defense requirements. What they really tell us is that the Gross National Product, total federal outlays, and total public spending have been growing even faster than the military budget.

THE MILITARY DRAIN: MASSIVE AND UNABATING

Citizens in a democracy must decide how much of their wealth should be spent to provide them with adequate military forces. To make this decision intelligently, they must have answers to only two questions: "What forces are required?" and "How much must we pay for them?"

What does spending for social security or unemployment insurance have to do with U.S. military needs? What can the ratio of military spending to total federal outlays or to the Gross National Product tell us about defense requirements? What do increases in State and local government spending have to do with our need for military power? The answer, of course, is "Nothing." Yet these are the relationships on which Secretary Brown builds his image of a steadily shrinking military budget.

To get an accurate view of military spending trends and a true measure of the military burden on U.S. citizens, one needs only three sets of numbers: The military budget, the Consumers Price Index (CPI), and the U.S. population.

By using the CPI to adjust for inflation, we can measure the military burden in "constant" terms, constant in the sense that a billion CPI-adjusted dollars spent in any year represents the same amount of self-denial on the part of the taxpayers as in any other year. Population growth can then be used to calculate "real military spending per person."

MILITARY SPENDING SINCE WORLD WAR II

When military spending is calculated in this way and charted for the 1948 to 1980 period, several facts become clear.

Since the Korean War, military spending has remained on a very high plateau. Expressed in the FY 1980 dollars the Pentagon favors, military spending has not fallen below $113 Billion throughout this period. For every one of the past 27 years, the Pentagon has spent more than $550 for every man, woman and child in the United States.

Because the "peacetime" military establishment has been so huge, even the fighting of a hot war brings only a fractional increase in the military budget. At its peak in 1953, the Korean War required an increment of only $27 Billion over the $113 Billion "floor," while Vietnam at its height boosted the budget by only $57 billion above this post-Korean low.

In real spending, total or per capita, the military budget has not experienced any significant decline for 30 years. Total spending shows a slight upward trend, while spending per capita exhibits an equally faint downtrend. What this chart suggests to an economist is that the U.S. military establishment has become an autonomous institutional force which commands a certain large percentage of our economic resources year-in and year-out, impervious to change as a result of changing security needs. It is a politico-economic phenomenon, difficult to explain on purely military grounds.

DECODING THE FEDERAL BUDGET

Taxpayers who suspect that the Pentagon's data may be biased are in a difficult position. If they attempt to refute the claims of creeping starvation that emanate from the Department of Defense, they will find it necessary to make an independent analysis of the entire federal budget.

This is not easy. The federal budget as presented in the four books issued in January by the President's Office of Management and Budget is a masterpiece of obfuscation. One who digs into this mountain of statistics quickly learns that nothing adds up.

FANCY FEDERAL BOOKKEEPING

The public pays money to the federal government and the government spends it. That is simple enough. But it is also true that the government spends money it does not have, some agencies borrow money from other agencies, some receive interest from other agencies, a few receive direct payments from the public, some "federal funds" appropriated by Congress go directly into "trust fund" programs, a small amount moves the other way, the trust funds themselves exist more as bookkeeping entries than fund accumulations, many programs get "offsetting receipts" which make their net outlays much smaller than their gross expenditures, and some programs, called "off-budget federal entities," are not even included in the budget total because the law says they should not be! Making sense out of this accountant's nightmare is not easy, but it must be done if we are ever to regain control of military spending.

THE NEW "IMPROVED" FEDERAL BUDGET

For most of the years since the American revolution, the federal budget was a simple "administrative budget" that showed how much tax money would be collected and how it would be spent. In fiscal year 1969, however, the new "unified" federal budget came into being. It expands the concept of the federal budget to include the trust funds. These are funds that are collected directly through contributions from the same group which benefits from the particular program, whether it is social security, Medicare, unemployment insurance, or highway construction.

The only characteristic that federal and trust funds have in common is that both involve money that goes in and out of the U.S. Treasury. In the case of the trust funds, Congress may pass laws affecting future rates and rules for contributions and payouts, but it does not appropriate the funds for each year's payouts.

The trust fund programs are mostly self-supported. The only big exception is the "State and local government fiscal assistance trust fund," better known as general revenue sharing. It is a trust fund in name only; all $6.9 Billion of these outlays in 1980 will be paid for out of general taxes.

MAKING BUDGET PIE

The President's budget mixes these two funding systems together to create the widely circulated "pie charts" which conceal much more than they reveal. All of the 24 cents for the military comes out of income taxes while most of the "Direct Benefit Payments to Individuals" come from "Social Insurance Receipts." By combining two mostly separate accounts of income and expenditure, the federal government obscures the essential information about who pays for what.

The real federal budget looks much different. It shows that about one-third of the federal government's cash flow goes into and out of trust funds automatically each year, with no Congressional action required. It makes clear the fact that Congress has only about $361 Billion in federal funds to allocate, that $57 Billion of this is already obligated as interest on the federal debt, and that that real fight for funds in Congress centers on the $304 Billion that is left in the federal funds pool. And this is where the guns-versus-butter shoot-out takes place.

MILITARY SPENDING STILL NO. 1

Military spending ($126 Billion) and veterans benefits ($20 Billion) are to get nearly half of all the federal funds available in FY 1980. This is the uncomfortable truth that the Pentagon does not like to dwell upon. If federal spending is becoming an unbearable strain on the taxpayers, a major share of the blame must be placed on military spending, the largest by far of all federal fund programs.

As Edward Jayne, Associate Director of the President's Office of Management and Budget, put it, " . . . the impact of any pressure to reduce Federal outlays falls heavily upon defense. . . . Simply put, it is difficult to drive the deficit down significantly on the expenditures side without affecting defense programs. . . ."

In late May when the House of Representatives overwhelmingly rejected a compromise fiscal 1980 budget resolution because of differences with the Senate on the defense budget, the Washington Post reported:

"Yesterday's vote was a thorny one for Republicans, who were caught between a general desire to approve higher outlays for defense and a historical opposition to high budget deficits. . . ."

If the Pentagon's claim of massive growth in nondefense programs over the past three decades were true, it should be easy to cut the budget without cutting military spending. Obviously it is not.

NATIONAL PRIORITIES IN THE SEVENTIES

One of the most deceptive charts circulated by the Pentagon in the early stages of this year's guns-versus-butter debate shows two trend lines for the years 1950 to 1980. One is labeled "DOD Military" and the other "Non-Defense." The two lines move along fairly evenly until the late Sixties, when the Non-defense line begins to shoot up dramatically, passing $400 Billion by 1980 while the DOD Military only gets up to about $125 Billion.

To the untutored reader, the message is plain: The federal government has gone hog-wild on social welfare spending while our military needs have been ignored. Like other summaries prepared by the Pentagon, however, this one conceals more than it reveals.

First, it counts veterans benefits as a "non-defense" item. While these rapidly growing expenditures do not buy any current military capability, they are a direct result of past military efforts, and like the pensions of retired military personnel, which are included in the military budget, are simply deferred military costs. To include veterans benefits as social welfare expenditures not only is conceptually inaccurate but also obscures the fact that these men and women earned the right to them in the service of their country.

Second, and perhaps more important, the Pentagon's chart itself is based on the "unified budget," which adds together the social insurance programs funded through employee contributions and the programs like "national defense" which are supported entirely out of federal income and other general taxes. The "DOD Military" line represents an expenditure financed entirely by the general taxpayer and in direct "competition" only with other programs similarly funded. The "Non-defense" line includes the huge social security, unemployment insurance, medicare and highway and airport programs, each of which is funded by contributions and taxes that may not be used for any other purpose and are not subject to annual Congressional appropriations.

It is also inaccurate to include interest on the national debt, a $57 Billion item in the FY 1980 budget, as a "non-defense" expenditure. About two-thirds of this debt was incurred through military spending.

WHAT OUR INCOME TAXES BUY

If the Pentagon chart is a false picture of the trends in federal spending, how can an objective chart be constructed? First, we should eliminate all trust fund programs, since they are not in competition with the military for tax dollars. The resulting chart will show, as the President's budget does not, just where our income taxes have been going.

Military spending continued to grow in the Seventies; it still constitutes the largest single expenditure from general revenues. Also growing rapidly over the decade was interest on the federal debt, which now accounts for almost one-sixth of all federal funds expenditures, and is due primarily to the government's unwillingness to raise taxes enough to pay for a huge military establishment and expanded social programs.

ADJUSTING TO HIGH UNEMPLOYMENT

Expenditures for non-military programs grew at about the same rate as those for the military until the economic situation took a a turn for the worse in 1973. The Arab oil embargo started the chain of unhappy events which brought home to the American people the special vulnerabilities of a highly industrialized nation heavily dependent on imported petroleum and losing ground in competition for consumer goods sales in world markets.

The oil crunch also spawned the expensive but not very effective Department of Energy, whose antecedents spent only $1 Billion in 1970 as compared with $6.8 Billion budgeted for 1980.

The middle Seventies brought escalating unemployment rates, with resulting increases in government spending for public assistance and special training and employment programs. The CETA (Comprehensive Employment and Training Act) program, which did not exist before 1974, will require expenditures of $11 Billion in federal funds in FY 1980. Expenditures for public assistance shot up from $5.7 Billion to $35.3 Billion over the decade. Neither of these programs can fairly be charged to an increased government commitment to "social welfare." They are simply "disaster relief" programs triggered by the failure of national economic policy to maintain adequate employment levels.

RACING THE RUBLE

The declining-ratio method of concealing the rising cost of the U.S. military establishment is the Pentagon's major weapon in its never-ending battle to boost its budget. Second, but close behind, is the new "creative accounting" developed to measure how much the Soviet Union is lavishing on its Armed Forces. Like the husband who learns that his neighbor's purchase of a fur coat constitutes a powerful if not entirely rational argument for buying one for his wife, the American taxpayer cannot help feeling guilty if he thinks we are not keeping up with the Russians.

The Soviets, however, are not very cooperative; they do not publish comprehensive, reliable data on how much their government spends. It is strange but true that our intelligence services have much better information on the number of Soviet missiles, aircraft, tanks, ships and artillery pieces than on how much it is costing their government to buy, man, operate and maintain them.

USING RUBBER YARDSTICK

If the Soviet civilian economy is difficult to understand by Western standards, the military sector is doubly so. Methods of paying and equipping soldiers and sailors, providing them with housing and medical care, using them in non-military construction activities, purchasing weapons, and performing other financial management tasks are much different than in the United States.

Faced with these complexities, our military establishment has developed another winner in its arsenal of special-purpose concepts. This one is called the "Estimated Dollar Cost of Soviet Defense Programs." It shows how much it would cost the United States to support the armed forces of the Soviet Union, assuming that each item there costs the same amount as it does here. What makes this procedure laughable is that there are huge disparities in what each side pays for specific budget items. Soviet manpower comes much cheaper than ours while highly sophisticated aircraft, ships and missiles probably represent a larger proportional drain on Soviet resources than ours. When all these complexities are considered, it becomes obvious that no serious analyst would place much confidence in the line showing the "Estimated Dollar Costs of Soviet Defense Programs" in the Pentagon's chart. It does not represent the plotting of independently derived statistics; it is simply a hand-drawn illustration of a foregone conclusion.

All that can be said with any assurance about Soviet military spending is that it has been growing at a moderate but steady pace. To quote Defense Secretary Brown, ". . . this growth has been . . . at about the same rate as the growth in the overall Soviet economy."

THE MOST EXPENSIVE GAME IN TOWN

One fact is clear about the Soviet-U.S. military competition: It is a heavy drain on the economic resources of both nations, and both have lost considerable ground—in terms of relative economic strength—to those industrialized nations which have managed to get by with smaller military budgets.

As for the proposition that the Soviets are now spending more money than the United States for military purposes—$50 Billion more, according to the Pentagon's dubious chart—it is unsupported statistically and meaningless practically. Nations do not go to war with money but with a particular combination of trained men and weapons. The country whose armaments are best fitted to its needs will be better off. Waste, poor planning, and lack of popular support can easily make the big spender the big loser when the final test comes, as the deposed Shah of Iran well knows.

It is Secretary Brown's and President Carter's task to determine what combination of armed forces and weapons can best defend the United States against likely threats. There is nothing that fairyland statistics on Soviet military spending can tell them about that. The only possible reason for manufacturing such figures is to create public acceptance for an even larger U.S. military budget.

THE RISKS OF MILITARY OVERSPENDING

The most critical decisions the federal government must make are budgetary decisions—how much to spend on military strength, economic development, services to the public, preservation of natural resources and environmental assets, assistance to the disadvantaged. Because all the programs funded from general revenues are in direct competition with each other, the President and Congress must make trade-offs among a variety of "federal fund" programs. It is a disservice to the Congress and the public to present a federal budget which obscures the real dimensions of these choices by combining federal funds with trust funds in the major summaries of federal spending.

Spending too much on the military can be as injurious to a nation's long-term welfare as spending too little. As history shows, the conflicts ultimately forced upon a nation are rarely those for which it was best prepared. The future is always uncertain; those who believe that the uncertainty can be removed by spending to the limit for military forces delude themselves. Excessive military spending introduces only one element of certainty: It insures a future of growing regimentation, declining living standards, and accelerated depletion of nonrenewable resources. America in the Eighties deserves a better fate.

VOLUNTARY AGENCIES AGREE ON PROGRAM FOR INDOCHINA REFUGEES

Mr. McGOVERN. Mr. President, the international meeting in Geneva last weekend was a major step forward in addressing the tragedy of the boat people and other refugees in Southeast Asia. Sixty-five countries developed a consensus on both immediate humanitarian relief efforts and a longer term framework for refugees in Southeast Asia. While the meeting did not address the political and diplomatic conflicts which are the fundamental cause of the refugee problem, the humanitarian measures agreed to will help create a climate in which these basic problems can be discussed and, I hope, resolved.

An important aspect of the meeting in Geneva was the consultation arranged by the International Council of Voluntary Agencies between the most important and respected voluntary agencies in the world to discuss a program of action on the Indochina refugee problem. This consultation brought together 52 agencies, including the World Council of Churches, the International Catholic Migration Commission, Oxfam, the Union of American Hebrew Congregations, the American Friends Service Committee, and the Salvation Army.

The statement agreed to by these organizations presents a positive program for action which governments as well as private relief organizations should support. The statement included the following recommendations:

First, support for the United Nations High Commissioner for Refugees' plan of action, including the procedures for orderly departure from Vietnam agreed to by the Vietnamese Government and the UNHCR.

Second, immediate humanitarian measures to relieve the overcrowding and intolerable living conditions in the camp facilities in Southeast Asia, including increased annual acceptance quotas in resettlement countries, emergency reductions in camp populations, and the establishment of additional holding and processing centers under the inspection of the UNHCR.

Third, a rationalization of the criteria and processes of selection by the resettlement countries, especially regarding the plight of families and unwanted children.

Fourth, improved means for rescue at sea operations and greater respect for the principles of asylum and nonrefoulement under established international law.

Fifth, an appeal to governments involved to review their decisions against working closely with the countries of Indochina on matters of relief, reconstruction and development assistance.

Mr. President, the voluntary agencies which attended the consultation prior to the international meeting are to be commended for their concrete measures of assistance and for the constructive program they put forward. I am convinced that their proposal had a major influence on the unexpected success of the international meeting.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement released following the ICVA voluntary agency consultation on the Indochina refugee problem for the benefit of my colleagues who are concerned about this critical issue.

There being no objections, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT FOLLOWING ICVA VOLUNTARY AGENCY CONSULTATION ON THE INDO-CHINA REFUGEE PROBLEM

Motivated entirely by a spirit of compassion and compelled by the appalling conditions under which hundreds of thousands of our fellow human beings exist in refugee camps in Asia and deeply concerned for the needless loss of human life, over fifty international and national voluntary agencies directly involved in all phases of assistance to the Indochinese refugees met in Geneva on 18 and 19 July, 1979 under the auspices of the International Council of Voluntary Agencies.

Our millions of constituents demand that we be concerned about people not politics; about salvaging lives not placing guilt. Those we represent want an immediate humanitarian response. This is a time for greatness of the spirit, a time to extend the horizons of our abilities, and a time for governments to give assurance that the world human family will be permitted and enabled to meet its responsibilities each to the other.

The voluntary agencies' consultation place these conclusions before the governments assembled in Geneva.

1. They unanimously endorse the Plan of Action contained in the High Commissioner's note to governments for this meeting and pledge full support and cooperation in its implementation.

2. The greatest potential to reduce the present tragic exodus from Viet Nam rests with implementation of the orderly departure understanding made between UNHCR and the Socialist Republic of Viet Nam, since an assured programme of emigration would deter people from taking unnecessary risks.

3. The camp facilities in South-East Asia are far below the minimum standard of decency for any human being. These camps are grossly overcrowded with a suffering, frustrated and humiliated mass of humanity. This abominable congestion leads to the physical, social and moral decay of the refugee, a dangerous and wasteful development which destroys the very qualities which the receiving countries expect and hope for when trying to integrate these refugees into their communities.

The tedious bureaucratic procedures of interviews, questions and forms create a gauntlet of insecurity and debilitating delay that is costly to both the refugees and governments concerned.

To relieve crowding and to improve conditions we urge:

A. For the duration of the emergency, annual acceptance quotas be increased to a humanitarian standard in relation to the size of this exodus. For example, countries of resettlement should strive to find places for approximately 1,000 refugees for each million inhabitants.

B. There should be an emergency reduction of the camp populations throughout Asia by the immediate transport of at least 150,000 refugees to humane facilities in the countries of resettlement. This emergency action should not be at the expense of the present monthly flow of refugees for settlement.

C. To further relieve crowding in the camps, to improve the subhuman conditions in some, and to relieve the anxieties of those who have already been four years in others, additional holding and processing centres should be established and the facilities for inspection and control granted to UNHCR should be strengthened.

4. The criteria and processes of selection by countries of resettlement must be related to the crisis. It is imperative that all countries committed to the acceptance of refugees adopt procedures which will avoid the tragedy of large numbers of unwanted refugees debarred from any meaningful future. Acceptance criteria should incorporate a full and generous understanding of the sufferings of families and unaccompanied children and the problem of family reunification. The UNHCR and the voluntary agencies should be involved in the selection process and be allowed to fully counsel refugees.

5. There must be respect for the principles of asylum and non-refoulement and improved and coordinated means of rescue at sea and protection of refugee boats from piracy in international waters. Where governments or voluntary agencies seek to save lives from the sea by the use of rescue vessels, full recognition and support for their humanitarian efforts should be afforded. Other vessels in the area must meet their international obligations.

6. Since the consequences of conflict in Indo-China should not be followed by the ravages of hunger and to prevent the economic situation exacerbating the conditions which are forcing the refugees to leave their homeland, we appeal to our governments to review their approach towards aid for relief and rehabilitation within Indo-China and particularly within Kampuchea. The voluntary agencies reiterate their wish to work closely with the countries of Indo-China in matters of relief, reconstruction and development assistance.

The voluntary agencies call on the governments to treat these conclusions as a minimal programme. We urge the meeting to take dynamic and daring measures to deal with this catastrophe. The voluntary agencies have done, are doing and are willing to do what is necessary to assist. The world in the past has sometimes failed to meet its obligations in times of human crisis. Let us not allow further generations to say this of us.

LIST OF PARTICIPANTS

American Council of Voluntary Agencies for Foreign Service, Inc.
American Friends Service Committee.
American Joint Distribution Committee.
Australian Council for Overseas Aid.
British Council for Aid to Refugees.
Brot für die Welt.
Caritas Austria.
Caritas Hong Kong.
Catholic Relief Services.
Centre d'Information des Organisations Internationales Catholiques (Geneva).
Citizens Commission on Indochinese Refugees (USA).
Comité Européen pour le Bateau pour le Vietnam (France).
Comité National d'Entraide Franco-Vietnamien, Franco-Laotian et Franco-Cambodgien (France).
Comité pour l'Accueil Immediat de 50,000 réfugiées (France).
Comité Viet Nam pour sauver les Réfugiés de la Mer (France).
Concern (Ireland).
Conseil Européen des Services Communautaires Juifs.
Coordination Européenne des Comités pour l'Accueil des Réfugiés (France).
Danish Refugee Council.
Finnish Refugee Council.
France Terre d'Asile.
Free China Relief Association.
Help the Aged (UK).
HIAS (USA).
Hong Kong Christian Service.
International Catholic Migration Commission.
International Committee of the Red Cross (Observer).
International Council of Voluntary Agencies.
International Rescue Committee (USA).
International Social Service.
International Union for Child Welfare.
League of Red Cross Societies (Observer).
Lutheran World Federation.
Norwegian Refugee Council.
Ockenden Venture (UK).
Office Central Suisse d'Aide aux Réfugiés.
Oxfam (UK).
Quaker House (Geneva).
Rädda Barnen (Swedish Save the Children Fund).
Rädda Barnen International (Geneva).
Salvation Army.
Save the Children Fund (UK).
Secours Catholique (France).
Standing Conference on Refugees (UK).
Tolstoy Foundation Inc. (USA).
Union of American Hebrew Congregations.
Vluchteling 1976 (Netherlands).
World Alliance of Young Men's Christian Associations.
World Council of Churches.
World University Service.
World Vision International.
World Young Women's Christian Association.

THE GENOCIDE CONVENTION AND THE POWER OF EXAMPLE

Mr. PROXMIRE. Mr. President, the United States has been the leader in the field of human rights for over 200 years. Our very revolution inspired other revolutions designed to achieve equality in human relations and to protect human life. But perhaps most importantly, we have been able to lead because our Nation is a prosperous example of a community where compassionate respect for the worth of man and belief in human dignity are paramount. By serving as an example, we have promoted the rights of man all over the world. And it is the power of example that is the most potent and the most influential power we have.

Unfortunately, Mr. President, there is a spot on our human rights record. A spot that lingers. The United States has failed to accede to the Genocide Convention and, thus, has jeopardized its role as a beacon in the area of human rights. As Chief Justice Earl Warren said:

> We as a nation should have been the first to ratify the Genocide Convention.

As much as I would like to turn back the clock, America will never go down in history as the first Nation to accede to the Genocide Convention.

Nevertheless, the United States can still serve as an example of a compassionate and concerned Nation willing to keep this issue alive and willing to reverse its stance.

Certainly, we have not lost our commitment to human rights. That commitment is as firm and as vigorous as it ever was. Because of our unremitting faith in the rights of man, we must demonstrate our determination to protect man's most valuable right—the right to life—by ratifying the Genocide Convention.

THE MX AND HARD TARGET CAPABILITY

Mr. PROXMIRE. Mr. President, the hard target capability of the MX missile, documented in the Library of Congress study referred to by the Senator from Oregon (Mr. HATFIELD) is of paramount importance to the SALT II debate.

Why is hard target capability of strategic interest? Well, it is of interest because of the potential reaction it will cause within the defense hierarchy of the Soviet Union. Consider that the Soviet Union has pursued a dogmatic, almost single-minded buildup in land based ICBM's. They have pursued this goal of land based emphasis with great resolve. They have based their entire strategic retaliatory and war fighting strategy on this doctrine of the primacy of the land based forces. It is true that they have large missile forces at sea and in the air. But the primary emphasis in the past and most likely in the future has been the land based ICBM forces.

With this fact in mind, it is possible to consider what the potential effects might be of a U.S. strategy designed to place the heart of the Soviet retaliatory system in peril, in jeopardy, in danger of being destroyed in a first strike attack.

How would the Soviet military bureaucracy react to such a circumstance which would threaten the fundamental security of their strategic position? They could not accept such a state of affairs lightly. They could not accept a situation of perceived vulnerability. After all, they have the same responsibility as does our military command—protection of the capability of the strategic forces to carry out its mission. If all of a sudden the heart of your retaliatory capacity—the 75 percent of your total force that is committed to land based systems—is brought into a state of vulnerability, then drastic measures will have to be taken.

This measure might be difficult to predict. The Soviets could well view the MX hard target capability with such alarm that they would review the prospects of future arms control agreements in a negative light. They might decide to respond with huge new strategic programs in reaction to a hard target MX deployment. They might decide to deploy an unverifiable mobile ICBM system. They might decide to move more of their strategic deterrent to sea. They might decide to emphasize new mobile ABM programs or abrogate the ABM treaty. They might consider moving ahead more strongly with exotic weapon systems such as laser or space based particle beams or some other advanced development which in turn could threaten the stability of the strategic relationship between the U.S.S.R. and United States of America.

The point is, Mr. President, that most of these options would be inimical to U.S. interests. We would be forcing the Soviet Union, out of its own self interests, to take measures which would degrade our own security, which would make our retaliatory capability less secure, which would increase the chances of accidental war, which would make verification more difficult if not impossible, which could set off a new arms race.

This is the price that awaits our MX decision. The MX may commit us to a new type of arms race, a new round in the action-reaction cycle so often perceived to drive both countries further down the road to mutual vulnerability rather than mutual security.

Therefore we must view the MX program with a perspective that will concentrate not only on the present but also the future—a future which could well be less secure than what we now know.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield to me for a request? Who has the floor?

Mr. HATFIELD. I have the floor, and I yield.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, first, let me inquire of the Chair, the meeting hour has been set for 9 o'clock tomorrow morning; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. There are no orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The time to begin the debate on the Panama Canal legislation, I believe, is set for 9:30 a.m.; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ALLOTMENT OF TIME FOR THE LEADERSHIP TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the two leaders tomorrow morning be confined to 2 minutes each.

Mr. STEVENS. That might be appropriate. I might be able to keep my foot out of my mouth in that period of time. [Laughter.]

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW; ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the two leaders on tomorrow, Mr. JEPSEN be recognized for not to exceed 10 minutes, Mr. BAKER be recognized for not to exceed 10 minutes, and that the intervening time between that point and 9:30 a.m. be utilized for routine morning business, and that Senators may speak therein up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONVENING OF THE SENATE TOMORROW IN LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the nomination of Mr. Reiche, the Senate stand in recess until the agreed hour and that when the Senate convenes tomorrow, it do so in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HATFIELD. Mr. President, I ask the Chair what the parliamentary situation is.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Oregon has yielded himself 5 minutes, and he has used 2 minutes and 45 seconds.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that I use not be charged against the distinguished Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the majority leader.

NOMINATION OF FRANK P. REICHE OF NEW JERSEY TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION

The Senate continued with the consideration of the nomination of Frank P. Reiche.

Mr. HATFIELD. Mr. President, I would like to observe once again, as I did earlier, the particular circumstances in which we find ourselves on the nomination of Mr. Reiche.

I must say that in my period of time in the Senate, I have not observed a more thorough analysis of a candidate for an executive commission than we have had in the case of Mr. Reiche. This is due to the careful scrutiny and the tenacious way in which the Senator from New Hampshire has pursued this matter.

We have both indicated that this certainly is not a personal matter between us, because we both understand that there can be legitimate differences of opinion without impairing the personal working relationship.

I want to make an observation, and I suppose this is a sign of age or seniority; I do not know which. Perhaps it is a little of both, especially as one begins to observe the performance of freshman Senators on the floor. I must say that in the time I have been in the Senate, I have not observed a more tenacious manner with which an issue has been pursued than the Senator from New Hampshire has pursued this matter.

I say that, as I indicated earlier, in a favorable, complimentary way. I do not agree with his findings nor his thesis. I do not agree with some of the data he has presented. Nevertheless, that in no way diminishes my respect for the way in which he has pursued this matter.

Having said that, I know that there are more important issues confronting this country than this nomination; but I believe we cannot lose sight of the fact that there are certain basic issues that at least have to be summarized on behalf of Mr. Reiche:

First of all, I want to underscore and emphasize again that at no time have the opponents challenged the personal integrity or the professional capability of this nominee. I think that says a lot for the quality of the nomination, as well as for the quality and the character of Mr. Frank Reiche. Rather, the arguments have fallen along the lines of issues that are near and dear to the heart of each Member of the minority party.

In no way do I want it to be inferred that my support for Mr. Reiche puts me on an opposite side of the issue of public financing for congressional elections; nor do I think Mr. Reiche is on the opposite side from that of the majority of the Republican Party of the Senate.

I want to underscore one simple matter in the debate today, and that is that Mr. Reiche does not have a vote on this issue of public financing, will not have a vote on this issue, and will have no determination on this policy. This will be an issue strictly and exclusively determined by the Senate and the House of Representatives.

I also have heard this afternoon many complaints and criticisms, and I have made a few myself, in relation to the performance record of the Federal Election Commission. However, we are not determining the record of the Federal Election Commission here today, as unhappy as we may be with it. But we are going to affect the future of the Federal Election Commission by confirming the nomination of such an able and well-qualified man as Mr. Reiche.

If we are unhappy today, we can rest happier tomorrow with the knowledge that we are putting on that Commission, for the first time in the history of that Commission, a man who brings direct experience in election procedure. He is the only person to serve on that Commission so far who has brought to the FEC this kind of experience.

So, for all the unhappiness we have heard today, I say that if Senators vote for the confirmation of Mr. Reiche, they certainly will go far in diluting the possible unhappiness with the FEC of tomorrow, because he stands in a position to add great stature, great ability, and expertise and experience to the Commission.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HATFIELD. I yield myself 2 additional minutes.

Mr. President, I also regret, as I indicated earlier, that this matter has had to be primarily a debate within the minority party of the Senate. I note the Democrats have been very quiet today. They have been very considerate and very polite. They have stayed out of this argument, and for that we are grateful.

What I do not want to imply, however, is that somehow we have an irrevocable division in our party on this side of the aisle.

I feel strongly about the qualifications of Mr. Reiche and the rightness of his nomination. Mr. HUMPHREY feels the opposite. When this nomination is confirmed, I am certain we can regroup ourselves and be the responsible, accountable minority, the loyal opposition, again.

So do not take any solace, I say to my friends on the other side of the aisle, in this little exercise today, that somehow this is going to slop over into 1980. I have no expectation that it is going to last more than 24 hours, perhaps not that long.

Because of the gentlemanly way in which Mr. HUMPHREY and his colleagues have conducted this matter today, I commend him; and I commend Mr. HATCH, Mr. MCCLURE, Mr. LAXALT, Mr. HELMS, Mr. DOLE, and Mr. JEPSEN if he speaks, as well as anyone else who has spoken on the opposing side, for maintaining a high professional manner of presentation of the issue.

However, let me again emphasize the fact that this is the recommendation of the leadership of the Senate and the House. Mr. Carter did not dig up Mr. Reiche from someplace. This was a name that was sent to the White House by our Republican leadership. It carries the support of our Republican colleagues in the House of Representatives from the State of New Jersey. It carries the support of the chairman of his hometown Republican committee.

Mr. Reiche carries credentials and recommendations and testimonials from people whose loyalty, whose partisanship, and whose Republicanism, I believe, are above reproach.

So I urge the Senate to vote down the recommital motion. I hope the Senate will do that, and at that time I urge the Senate to vote for the confirmation of the nomination of Mr. Frank Reiche.

Mr. President, I yield 4 minutes to the Senator from Alaska, the assistant minority leader.

Mr. STEVENS. Mr. President, when it became apparent that this matter did involve a potential division within the minority side, I sought out the Senator from New Hampshire and suggested that we discuss the Reiche nomination.

Subsequently, the Senator from New Hampshire and I visited with the minority leadership in the House, and together we spent time discussing this matter.

The Senator from New Hampshire presented his views to Congressman JOHN RHODES, the minority leader in the House, very forcefully, as a gentleman, and discussed his point of view completely and in such a manner that there was no way to misunderstand his position regarding Mr. Reiche's nomination.

I think the Senate has learned that when the Senator from New Hampshire takes a position on an issue he takes it strongly; that he will express his views and articulate them in a way that is consistent in pursuing his goals.

The difficulty with this matter arises as a result of the history of this Commission, and the prior action of Congress, in giving the leaders of the opposition party in Congress the right to name its members. That was stricken down, as we all know, in the prior form of the law. In spite of that action, President Ford continued to turn to the leaders of the opposition at that time, the majority party in the House and the Senate, and did accord them the prerogative of naming the Democratic members of the Commission.

When the administration changed, after some problems developed over a particular nomination, President Carter then accorded the same privilege to the majority and minority leaders, and they submitted the list, and one of the names on the list was Mr. Reiche.

I think all of us who have had now a substantial number of conversations with the Senator from New Hampshire understand his deep commitment to the principle that there should not be Federal financing of congressional campaigns, and to that I think we are almost unanimously committed on this side. By virtue of the manner in which he has raised the objections to this nomination, he has reaffirmed our commitment, I think, to that point of view.

But on behalf of Senator BAKER and myself, I publicly commend the Senator from New Hampshire, as a new Member of the Senate, for his courtesy on the floor today. We all know there are things that he could have objected to here in the last 2 or 3 days. He could have ensnarled the Senate at a most critical time—just as we are trying to get to some very important things, such as the problem we deal with tomorrow in terms of the Panama Canal implementation legislation and other matters that require unanimous consent. Instead, he has been a gentleman, and his stubborn commitment to principle reflects well the traditions of the Members of this body who have faithfully served the people of New Hampshire, the Granite State.

So we do thank him for his courtesy and we thank him also for expressing so forcefully the positions that we all believe in—I think we all believe in—concerning the financing of Federal campaigns. I also do express my support for——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. In his absence I yield myself 1 additional minute.

Mr. HATFIELD. I yield 1 additional minute.

The PRESIDING OFFICER. The Senator does not have any time remaining.

Mr. STEVENS. He said 1 additional minute.

The PRESIDING OFFICER. The remaining time is controlled by the Senator from New Hampshire.

Mr. HUMPHREY. I yield whatever time the minority whip wants.

Mr. STEVENS. I am sorry. I did not know I was going that long.

But I do also commend the Senator from Oregon for his point of view. As I have explained to the Senator from New Hampshire, I feel committed to support the nomination because I participated in the decisions concerning the matters relating to leadership involvement in nominations. I did not participate in selecting Mr. Reiche but the process which was set up I was involved in, and I feel it is a good one. Under the circumstances, when we are not involved in control of the executive branch, this is the way we must go; that is, we must support our leadership when they have submitted the names to the President.

Again I do thank, however, the Senator from New Hampshire for his courtesy and graciousness in handling this matter.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. The minority welcomes that as he knows.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 10½ minutes remaining.

Mr. HUMPHREY. Mr. President, as my friend and colleague from Oregon has pointed out, the qualifications of the nominee have not been called into question nor his character, integrity or honor been called into question. But what I call into question, is the partisanship of this candidate.

A Commissioner on the Federal Election Commission does not operate in a vacuum. We do not make perfect laws here in Congress and Commissioners must, as other members of the executive branch, interpret the laws we pass. In interpreting these laws it is only human that their views will come into play and it is only human that their views will influence the hiring and direction of staff and, as we all know, staff has a great deal of latitude in this town, unfortunately so, but necessarily so.

So, Commissioners do not act in a vacuum. It is true that they do not make policy in the strictest sense but I believe that in less than a strict sense they do and very significantly.

The nominee, Mr. Reiche, as I have stated, does not embrace the cardinal Republican position dealing with the electoral process, namely opposition to taxpayer funding of campaigns. Interestingly enough his nonembrace of the Republican position puts him in a position of coming closer to the Democratic platform on this particular question. The Democratic platform calls for the extension of taxpayer funding to congressional campaigns.

I find it unfortunate in the extreme that the man who wishes to represent us on the FEC is on this cardinal issue closer to the Democratic position than the Republican position.

But what disturbs me almost as much is the fact that after 6 years serving as chairman of the New Jersey Election Commission, Mr. Reiche claims he has not reached any conclusions on what amounts to this question of whether we should give the FEC greater powers over the electoral process in this country. He has reached no conclusions. I think that is shocking. I think that it is shocking that the Senate should be asked to seriously consider such a nominee and I worry very greatly that a man who apparently intends to learn on the job is in a position of gaining that seat on the Federal Elections Commission.

Mr. Reiche evidently sees no danger in granting these greater powers to the Government. I see great dangers, Mr. President. I believe there is no more dangerous agency in this Government than the FEC.

It must be so. Any agency which has the power to control the electoral process, the very means that the citizens have to change their Government, is an agency with a great deal of power and one to be watched very carefully.

I do not want a man going down there to represent my party who has not made up his mind on this fundamental issue.

Let me say also that it is up to us Republicans here in the Senate to be the final judge of who will represent us on the FEC. Yes, the New Jersey delegation in the House of Representatives favors this nomination, but we are here not to please the New Jersey delegation. But we as Republicans acting on FEC nominations must protect the interests of all of the States, not just the State of New Jersey.

I must point out that while Mr. Reiche may have the support of his New Jersey delegation in the House of Representatives, he does not have the support of the chairman of the Republic National Committee. I submit that Mr. Brock is more representative of the Republican Party nationally than the House delegation from the State of New Jersey.

Mr. Reiche's nomination does not—think of it—this nomination for a Republican seat on the FEC does not have the support of the national Republican chairman. Neither does this nominee have the support of the chairman of the Republican Party in New Jersey in the home State of the nominee.

So I urge my colleagues to vote to recommit this nomination to committee for further consideration.

If I may have the temerity to do so, I suggest to my colleagues on the other side of the aisle that, perhaps, they might like to consider on this question voting "Present."

That is the substance of my feelings on this question, Mr. President. It is a question of how much power shall we give to the Government over the electoral process.

Mr. Reiche has not made up his mind. I hope my colleagues have.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. TSONGAS). All time having been yielded back, the question is on agreeing to the motion to recommit by the Senator from New Hampshire. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber wishing to vote?

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 218 Ex.]

YEAS—28

Armstrong
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Packwood
Roth
Schmitt
Simpson
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—70

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Young

NOT VOTING—2

Baker
Gravel

So Mr. HUMPHREY's motion to recommit was rejected.

The PRESIDING OFFICER. The question is: Will the Senate advise and consent to the nomination of Frank P. Reiche, of New Jersey, to be a member of the Federal Election Commission. The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this rollcall vote will conclude the business for today. This will be the last rollcall for the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 219 Ex.]

YEAS—73

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Young

NAYS—25

Armstrong
Boschwitz
Byrd, Harry F., Jr.
Dole
Domenici
Garn
Goldwater
Hatch
Heinz
Helms
Humphrey

Jepsen
Laxalt
Lugar
McClure
Morgan
Packwood
Roth
Schmitt
Stone
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—2

Baker
Gravel

So the nomination was confirmed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9 o'clock tomorrow morning.

Whereupon, at 5:48 p.m., the Senate, in executive session, recessed until tomorrow, July 26, 1979, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 1979:

Department of State

William D. Wolle, of Iowa, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Merit Systems Protection Board

Ronald P. Wertheim, of the District of Columbia, to be a Member of the Merit Systems Protection Board for the remainder of the term expiring March 1, 1981, vice Ruth T. Prokop.

CONFIRMATION

Executive nomination confirmed by the Senate July 25, 1979:

Federal Election Commission

Frank P. Reiche, of New Jersey, to be a Member of the Federal Election Commission for a term expiring April 30, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, July 25, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, we give You praise for all people whose lives of dedication and courage in days past continue to brighten our path and strengthen our faith. We give thanks for all heroes who have sought to walk in righteousness and speak the truth in love.

We laud those men and women of today, who, by their faithfulness to Your word and by their zeal for justice, inspire us all. O Lord, may their witness lift us from the routine of life to see Your glory, that being filled with Your spirit, we may touch those we meet with the healing power of Your presence. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4591. An act to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes; and

H.R. 4712. An act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4057) entitled "An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Talmadge, Mr. McGovern, Mr. Stone, Mr. Leahy, Mr. Melcher, Mr. Helms, Mr. Hayakawa, and Mr. Lugar to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 544) entitled "An act to amend title XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Cranston, Mr. Pell, Mr. Schweiker, Mr. Javits, and Mr. Hatch to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 585 An act to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin water enhancement project;

S. 737 An act to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce; and

S. 1309. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.

U.S.-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS V

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, a statistic often cited by those who would have us believe that the Warsaw Pact's military power is far superior to NATO's is the number of troop divisions each side claims—226 for the pact compared with 41 NATO divisions. While these figures sound threatening, a closer look shows the balance is not so one-sided.

First. The pact total includes all the divisions of all the pact members, including 61 Soviet divisions assigned to the often tense Sino-Soviet border which pose no threat to the West.

Second. The pact total includes divisions which are at as little as 25 percent of full strength. Pact divisions are divided into three categories; category I divisions are at least 75 percent of full strength, category II divisions are 50- to 75-percent combat ready, and category III divisions are at only 25 to 50 percent of full strength. Only about one-third of all pact divisions fall into category I.

Third. NATO divisions tend to be much larger than their pact counterparts and are kept at a much higher state of readiness. In addition, NATO assigns many of its troops outside of a division structure. It has been estimated, for example, that if the United States reorganized its troops along the lines of the Soviet military it could form from 80 to 90 divisions instead of its current 19.

Fourth. If the 50,000 French troops which are stationed in Germany are included, NATO could claim 1,250,000 combat and direct support troops compared to 1,240,000 pact troops. Furthermore, the Warsaw Pact countries cannot blithely ignore the 400,000 man French Army, since it is inconceivable that France would stay neutral in a European conflict.

Fifth. NATO, unlike the pact, is a true alliance whose members belong by choice and share common interests. There is no real question concerning the loyalty of our NATO allies, particularly in the event of an attack on Western Europe. The Soviet Union cannot speak with such confidence about its pact "allies."

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTOMOBILE RESEARCH AND DEVELOPMENT SHOULD BE SHIFTED TO NASA

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, it is important that the American people not be deluded into believing that there is one answer to our energy dilemma. While I voted for and support synthetic fuels development, we are kidding ourselves if we believe it is the only feasible answer to our perplexing situation. Neither are nuclear power, or exotic forms of solar energy, going to solve this problem in the short term.

It will take many, many years to fully develop these alternatives, and in the short term—the next 5–10 years—we will have to rely on conservation and production of oil and gas.

However, Mr. Speaker, one of the most significant dents we could make in reducing oil imports in the short term is to increase automobile efficiency. It is estimated that if every car in America could make 10 miles per gallon more than now, we would save over 4 million barrels per day. I repeat, over 4 million barrels per day. It is time that Detroit and this Government recognize this fact and get to work on developing more fuel-efficient cars. And it is clear to me, that to foster that development, all automobile research and development that is publicly funded, should be transferred to NASA, the only nonregulating, goal-oriented agency in Government, and an agency that is not fettered with the bureaucratic and regulatory problems that afflict the Department of Transportation and the Department of Energy.

EQUITABLE JUSTICE FOR ALL COUNTRIES

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I have been totally appalled and amazed at the lack of conscience concerning the country of Lebanon. For months it has been bombarded, most probably with American-made weapons, killing and wounding many men, women and children, many of whom are native Lebanese. It is the one country that has housed thousands of refugees, and yet with all of the talk of Southeast Asian refugees, no one appears to care about the plight of Middle Eastern refugees.

I call upon our Congress and our President to face up to this tiny country's devastation. The country of Lebanon has always been our ally. In the age of human rights, let us have equitable justice for all countries, not just some.

IDA B. WELLS BARNETT, 1862–1931

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Ida B. Wells Barnett was one of the boldest black Americans urging active resistance to discrimination. An experienced journalist and owner of a Memphis newspaper, she spoke out courageously against lynching and mob violence. In 1892 an angry mob destroyed her newspaper office. Undaunted, Ida B. Wells Barnett continued to write and lecture in her tireless attack on racism.

Returning to America following a lecture tour in England, she began to organize black women. She was certain that by banding together in clubs and associations, black women could have a stronger voice in public affairs. In Boston she organized the first civic club for black women. She organized the Negro Fellowship League for young blacks in Chicago. She made many trips to Washington on behalf of her people, appealing personally to seven different Presidents of the United States.

Ida B. Wells Barnett confronted injustice and racism in America with exceptional courage, determination, and eloquence.

CONTROLS ON PETROLEUM PRODUCTS HAVE PRODUCED OUR SHORTAGE

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, W. Michael Blumenthal, departed Secretary of Treasury and James R. Schlesinger, soon to be departed Secretary of Energy, had one important thing in common: Both believed that immediate decontrol of all oil products would best serve America's energy needs. Stuart Eizenstat and Hamilton Jordan, influenced no doubt by Democrat economist Arthur M. Okun, prevailed on the issue and Americans will continue down the road to statism and controls on petroleum products, which controls have produced our shortage. On this issue, President Carter fired the wrong people. Next year the American people will have a chance to choose the course of more regulation of their economic affairs or deregulation with the assurance of working effectively for energy independence.

SOUTHEAST ASIAN REFUGEES

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, I would like to call attention to an offer being put forth by the Minnesota Medical Association on behalf of the Southeast Asian Refugees. This association is offering free medical assistance for 1 year to refugees sponsored by Minnesotans. This is the type of American spirit that has made this Nation great. If each of us makes a commitment to help relieve the suffering of those less fortunate than ourselves we will strengthen our own spirit and our determination to keep this Nation great. I am offering a challenge to the other 40 State medical associations to follow the example being put forward in Minnesota. Other professionals such as attorneys and dentists can also serve a humanitarian role in assimilating these distressed people into our society. Instead of reaching out the hand of the American welfare state, let us reach out the hand of American friendship and show these people that each and every American stands willing to help them in their adjustment to our society. Friendship is contagious, and I think that this can be a big step in making good citizens out of our new brothers and sisters.

INTRODUCING LEGISLATION PROVIDING FOR COMMITTEE ON ENERGY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, we all want to do our part to solve the energy crisis. As Congress considers our energy alternatives, it is clear that we must consolidate and streamline our activities.

We need a committee on energy. Tomorrow I will introduce a resolution providing for the establishment of a standing Energy Committee.

Passage of this resolution would, for the first time, place in a single committee responsibilities that are now scattered among several committees of the House.

Our Nation has no higher priority than the development of an effective national energy program.

But despite its importance, jurisdiction over energy is fragmented like no other subject in the House. As long as this situation prevails, energy policies and programs in this Nation will suffer; so will prospects for a solution to our energy problems.

AMTRAK REORGANIZATION ACT OF 1979

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GLICKMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 5, answered "present" 1, not voting 41, as follows:

[Roll No. 377]

YEAS—387

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jchnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Gibbons
Lloyd
McDonald
Mitchell, Md.
Wilson, Bob

ANSWERED "PRESENT"—1

Pepper

NOT VOTING—41

Alexander
Ashbrook
Atkinson
AuCoin
Boggs
Bolling
Brooks
Burton, John
Chisholm
Conyers
Danielson
Davis, S.C.
Dickinson
Diggs
Dingell
Dixon
Eckhardt
Emery
Flood
Ford, Mich.
Forsythe
Giaimo
Goldwater
Gray
Jacobs
Leach, La.
Lundine
McCormack
Mikva
Rodino
Rose
Santini
Satterfield
Seiberling
Simon
Spellman
Staggers
Stokes
Walgren
Waxman
Wright

☐ 1020

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3996, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 24, 1979, title I had been considered as having been read and open to amendment at any point.

Are there further amendments to title I?

☐ 1030

Mr. FLORIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from New York (Mr. NOWAK) for the purpose of a brief colloquy.

Mr. NOWAK. Mr. Chairman, I would like to engage the gentleman from New Jersey, the chairman of the subcommittee, in a colloquy concerning the committee's intent in amending section 4. I am joined in this effort by my neighboring colleague in western New York, Representative JOHN LaFALCE, whose district is significantly impacted by the legislation.

Mr. LaFALCE. Mr. Chairman, this is a matter which I am deeply concerned about and appreciate the opportunity to jointly inquire with my New York colleague as to the route reexamination's effect on our region.

Mr. FLORIO. If the gentleman will yield, I will be pleased to respond to their questions.

Mr. NOWAK. Thank you very much. We would like to secure the floor manager's interpretation of specific language in the bill which allows the Corporation (Amtrak) some discretion under limited circumstances in deferring implementation of routes recommended by the Secretary for restructing. Is it not the intent of the legislation that a decision on these restructurings be made expeditiously?

Mr. FLORIO. The gentleman is correct. The legislation intends that a decision be made on the restructurings as quickly as possible. As the gentleman knows, there are four trains scheduled by the Department of Transportation's plan to be rerouted. There is some question whether or not all of the reroutings should take place. The bill specifically provides that the reroutings shall occur unless they fail to provide "equivalent or superior" service.

Mr. LaFALCE. Am I correct in saying that the legislation supposes that the reroutings will take place unless the Corporation makes a demonstration that the new routes fail to provide "equivalent or superior" service. In other words, there is a presumption that the reroutings should take place unless there is a showing made to the contrary.

Mr. FLORIO. That is correct. The legislation does not make a decision on whether or not any of the reroutings should occur. It merely says the reroutings can be deferred until specified conditions are met. The presumption is that the reroutings will occur unless they ultimately do not provide "equivalent or superior" service.

Mr. NOWAK. Thank you. As the gentleman knows, we are concerned specifically about the Lake Shore Limited. We think the new route proposed for that train offers far better service between New York and Chicago than the old route. We are anxious to see it implemented as quickly as possible.

Mr. LaFALCE. I thank the gentleman from New Jersey. I think Amtrak will find that this new route provides service which is superior to the old route and I look forward to the implementation of the new route.

● Mr. KEMP. Mr. Chairman, I would like to add my support to the remarks of my western New York colleagues and I appreciate these joint efforts to help improve the Lake Shore Amtrak service through Buffalo, something I have been supporting and working for since 1972.

In 1974, it was my pleasure to help gather colleagues throughout the Northeast and Midwest to win Department of Transportation approval of the Lake Shore route connecting New York to

Chicago through Buffalo, Syracuse, and other upstate New York cities.

From the outset of that approval, the most singular drawback has been the inconvenience of the eastbound stop at Buffalo at 3:35 a.m. and the westbound stop at 4:05 a.m.

Restructuring the Lake Shore route through Detroit would allow passengers to board at roughly 11 p.m. on the westbound train and about 6 a.m. on the eastbound train, an improvement which would not only better serve our constituents of the greater Buffalo area but would, as has been pointed out, generate more ridership and revenue and thus help decrease the operating deficit on this most important route. And, since the cancellation of the Niagara Rainbow route in 1979, the rerouting of the Lake Shore line into Canada offers the additional possibility of connecting our region with a stop in Canada in addition to the improved time schedule.

Thus, I support the restructuring of the Lake Shore route as proposed by DOT without qualification and am pleased with the remarks of my colleagues from western New York.●

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: Section 117 of H.R. 3996 is amended by:

(1) striking "subsection" on line 119 of page 72 and inserting "subsections" in lieu thereof;

(2) striking the quotation mark and second period on line 23 of page 73; and

(3) adding the following new subsection immediately after line 23 of page 73:

(e) For the purpose of this section and section 4 of the Amtrak Improvement Act of 1978, the reference to Tampa in table 4-1 at page 4-7 of the Secretary's Final Report to Congress on the Amtrak Route System, dated January 1979, shall be deemed to mean St. Petersburg.

Mr. YOUNG of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Mr. Chairman, this amendment is to make, in effect, a technical correction in the Amtrak reorganization order. As a matter of fact, Amtrak prepared the amendment and I have cleared it with the chairman and the ranking minority member.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would just reinforce the point that has been made, that this is a minor modification. It has been reviewed by the staff of the majority and, I believe, that of the minority. We accept the amendment.

Mr. YOUNG of Florida. I thank the gentleman.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. LEE. Mr. Chairman, this is indeed a technical correction, and is acceptable to the minority.

Mr. YOUNG of Florida. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 89, after line 16, insert the following new section:

SERVICE ON PORTION OR SEGMENT OF DISCONTINUED ROUTES

SEC. 128. The Corporation shall conduct an evaluation of the possibility of providing rail passenger service on a portion or segment of any route over which service is discontinued after October 1, 1979. Such evaluation shall include an examination of the potential market demand for rail passenger service over a portion or segment of any such discontinued route, and the cost of providing such service. The Corporation shall, no later than February 15, 1980, submit a report to both Houses of the Congress and to the Secretary of Transportation setting forth its findings under this section.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, my amendment is a simple but very important one. Very briefly, let me describe this amendment and what it addresses.

As many of my colleagues, I have a train passing through my district, the National Limited, which is scheduled to be discontinued. Now I will be the first to say that any train which is not demonstrating sufficient ridership should be eliminated. I was troubled, however, to receive reports that this train is running at near capacity when it passes through my district and that the Harrisburg stop is heavily used. Comparing this to the ridership figures which are available for the National Limited as a whole, I have a hard time explaining this fact. I am led to conclude that part of the National Limited is being heavily used and part of it is being terribly underused. Figures provided to me by Amtrak bear out this conclusion.

Now, there is nothing shocking about this and I would guess that many of the other trains which are scheduled for cancellation have segments where ridership is higher than the data for the whole route would suggest. I am disappointed to report to the Members of this body, however, that neither Amtrak, nor the Department of Transportation looked at the lines they want to cut to see if there are smaller routes that would justify continued service. What they did was to take the figures for the entire line, put them together, came up with an overall set of indicators for the line as a whole, and said: This line will be continued, and this line will be cut. And that was the end of it. I submit to you that there may well be sections along those lines to be cut which have the market to justify continued service—especially when we see such dramatic increases in ridership due to our energy problems.

If Amtrak or the Department of Transportation had said to the Congress: The National Limited, or any other train, needs to be cut, but the section from point A to point B does have a viable market and we are going to offer short distance service to that part, I would support that approach. The fact of the matter is that they do not really know this data before or after the large ridership increases.

It is a simple question. If I am running a railroad line that is not making it, I want to know why, and what can I do to turn it around, or alter service to improve it. I am sure not going to throw the good out with the bad without looking for a way to save the good. Unfortunately, that is the type of plan that was brought to us.

That is what my amendment does. It says to Amtrak: Before you cut a line, take a look to see if part of it is worth saving. If there is, how can we do it? To restructure the Amtrak system without this information is irresponsible.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I commend the gentleman for his amendment and say that it is fully compatible with the new, expanded section 403(b) program; that is, to reinstate some lines that have statewide import or regional import, segments that may not be of national significance. Therefore, this is something that is desirable; it is something we can support, and we commend the gentleman for his contribution.

Mr. ERTEL. I thank the gentleman from New Jersey for his support.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New York.

Mr. LEE. Mr. Chairman, the minority accepts the amendment and thinks it is laudable. We commend the gentleman for it and support it.

Mr. ERTEL. I thank the minority for their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment was agreed to.

□ 1040

AMENDMENT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL: Page 73, line 15, immediately after "routes." insert the following new sentence: "The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data is adjusted to reflect the most recent available statistics.".

Mr. CAMPBELL. Mr. Chairman, this is a very simple and noncontroversial amendment which I hope will be accepted by the gentleman from New Jersey and the gentleman from New York. I think it reflects the intent of the committee, and I have been informed that Amtrak has no objection to it. It provides no additional authorizations.

The amendment requires—requires statutorily—that Amtrak shall use the most recent available statistics for a 90-day period as a base in figuring which routes meet the economic and usage criteria set forth in the House bill. It also allows Amtrak to take into account historical ridership data, such as seasonal fluctuations in ridership, in making its projections. Since nearly all Amtrak's trains are doing better, this amendment does not serve one region over another. It would help trains equally all over the country.

Amtrak has informed me it intends to use current data in any event and members of the committee have assured me that this is their intent. Nevertheless, based on my experience with the Department of Transportation, I would be much more comfortable if this were a hard requirement in the bill. I will tell you why.

Since former Secretary Adams issued his hit list last January, I have been trying—largely in vain—to get the statistical backup for elimination of the Crescent, a train I am particularly interested in since it serves my district. The Secretary testified before the subcommittee that the cutback proposal was done "by the numbers" and "impartially and according to the rules." But according to his letter to me on the subject, loss estimates for the Crescent were "only estimates" and "full historical data are not available for this train." Significantly, in a study done by Amtrak at DOT's request, the DOT fiscal 1980 projection for the Crescent was 55 percent low—55 percent. In fact, of the 12 routes included in the special study, DOT projections were low in all but two cases.

We are all aware of the tremendous increase in ridership on our national passenger trains, partly attributable to the gasoline shortage and perhaps also attributable in many cases to renewed public interest in the trains spurred by the news they might lose them. I hope it will be the will of the House to provide a mechanism for saving the better lines, and I commend my colleagues on the committee for finding what I believe is a workable mechanism. But, Mr. Chairman, I do not believe these decisions should be based on outdated, perhaps misleading information.

I urge the adoption of my amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. First, there is one area I am concerned about with the gentleman's amendment, especially the word "may" in referring to seasonal difference. I believe he has taken care of it, but I would like some assurances on it. That is that our particular train, the Montrealer, has about 10 great months a year and it has 2 rather poor months. What I would be concerned about under the gentleman's amendment is if they pick the 2 bad months, and do as has happened to us in the past, they will come up with some figures which really do not portray the value of the line. I want to make sure we are protected on that and make sure they have to take into consideration some seasonal problems some of these lines have.

Mr. CAMPBELL. I thank the gentleman for a most relevant question. The amendment does address this. It specifically states that they shall take into consideration seasonal fluctuations and other basic historical data. It is in the amendment itself, and I would commend a copy of the amendment to the gentleman because that was specifically the reason we put it in to make sure that they could not take a low point and try to use it this way.

Mr. JEFFORDS. I thank the gentleman. I appreciate his taking that into consideration.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

As the gentleman accurately points out, this proposal is exactly what the committee had intended that the bill do, which we think the gentleman would like to see more specifically incorporated. We have no difficulty with the amendment. It is compatible with what we are trying to do.

Mr. CAMPBELL. I thank the gentleman for his support.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New York.

Mr. LEE. I thank the gentleman for yielding. I support the amendment and commend the gentleman on the subject. Amtrak, as the gentleman rightly stated, does support this. This, indeed, will move Amtrak in the direction of using the most up-to-date data base to insure the latest information to justify the continuance or discontinuance of various passenger trains.

Mr. CAMPBELL. I thank the gentleman.

The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 56, after line 22, insert the following new section:

REDUCED FARE PROGRAM FOR ELDERLY AND HANDICAPPED INDIVIDUALS

SEC. 106. Section 305(c) of the Rail Passenger Service Act (45 U.S.C. 545(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) The Corporation may establish, on a standby, space available, or other basis, a program of reduced fares for the elderly and handicapped individuals. Reduced fares established under such a program for rail passenger service provided by the Corporation shall not be in excess of 50 percentum of the regular fare for the same service in the case of standby or space available fares and shall not be in excess of 75 percentum of the regular fare for the same service in the case of fares established on any other basis.

"(3) For purposes of this subsection—

"(A) the term 'elderly individual' means a person who has attained the age of sixty-five years; and

"(B) the term 'handicapped individual' means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has record of such an impairment, or is regarded as having such an impairment, but such term does not include any person who is an alcoholic or drug abuser.". redesignate the following sections accordingly.

Mr. PEPPER. Mr. Chairman, the amendment I am offering today will give Amtrak the expressed authority to offer discount fares to the elderly and the handicapped in much the same way as such fares are now permitted by many airlines.

Specifically, my amendment would authorize Amtrak to offer reduced fares on standby, space available or other basis to the elderly and handicapped. If such fares are offered on a standby or space available basis, then the fares could be set at no more than 50 percent of the usual rates. If Amtrak established a reduced fare program that was on a reserved seat or any other basis, then the fares offered to the elderly and handicapped could be set at no more than 75 percent of the regular fares for the same service.

As chairman of the House Select Committee on Aging, I have come to learn that inadequate transportation is one of the major problems confronting older Americans. Yet it is precisely those elderly Americans—those who find it difficult to get around—who have the greatest need for transportation. It is they who must regularly shop for food, medicine, and other essentials, visit the doctor for treatment, or attend a senior center for a hot meal or companionship.

We know that senior citizens have less than half of the average income of their under-65 counterparts. One out of four seniors lives in poverty and one out of three live in substandard housing. Given their limited incomes, senior citizens are forced to make desperate choices between buying food or medicine. Travel becomes a luxury they cannot afford. The most common mode of transportation for the elderly has been the automobile, but fewer and fewer elderly own cars and can afford the escalating cost of fuel. In short, our analysis shows that senior citizens do not make greater use of the airlines and railroad because they cannot afford to do so. A reasonable reduction in fares will dramatically increase ridership. Last year the Congress acted to give the airlines authority to offer reduced fares to the elderly and handicapped and it is therefore highly appropriate that we extend this same authority to Amtrak.

My amendment, if adopted, will result in a significant reduction in fares for those elderly and handicapped who are usually least able to afford conventional fares. I should note that the language of my amendment is permissive, not mandatory. Amtrak would not be required to offer such a discount fare, although I am hopeful that they will have a strong desire to do so.

Since the discount fares would apply to standby, space available or any other basis of travel adopted by Amtrak, both the elderly and the railroads themselves will benefit. The elderly, particularly those who have retired, have more flexible schedules than many others. They can travel at nonpeak times when seats will be more plentiful at prices more of them will be able to pay on limited budgets. Railroads, on the other hand, will be receiving revenue for what could otherwise be empty seats.

Overall, Mr. Chairman, I believe that the enactment of my amendment will allow thousands of older and handicapped persons to visit distant relatives and friends and other destinations, which they are unable to do today because of the relatively high cost of travel.

I urge the adoption of this amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

As the gentleman knows, we have worked very closely with the gentleman's office. I have worked with the Amtrak officials. They have an interest in initiating projects of this sort, and based on the fact that this is a discretionary grant of authority, the committee has no difficulty in accepting the amendment.

Mr. PEPPER. This comes from the agency committee and collectively represents the sentiment of that committee. I thank the gentleman very much.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New York.

Mr. LEE. I thank the gentleman for yielding. I compliment him on this amendment. We find it most acceptable.

Mr. PEPPER. I thank the gentleman very much.

Mr. LUKEN. Mr. Chairman, I am pleased to rise in support of this amendment which will permit Amtrak to establish a program of reduced fares on a standby, reservation, or any other basis, to railroad passengers who are over 65 or handicapped. Commendation for the timely consideration of this amendment is due to my distinguished colleague from Florida (Mr. PEPPER). As chairman of the House Select Committee on Aging, of which I am a member, the gentleman has long been interested in this proposal to permit railroads to offer older Americans and handicapped persons such discount fares.

Mr. Chairman, it has been my position that Amtrak now has, and has had all along, the authority to offer discount fares to the elderly and the handicapped, in much the same way as such fares are permitted for the blind traveling with an attendant and Federal employees on business. However, Amtrak has not moved to establish a reduced fares program for the elderly and handicapped who are often the least able to pay conventional fares. The enactment of the provisions of this amendment will, I trust, begin a new period of lower railroad fares for those who would otherwise be unable to afford such travel.

I should point out that Amtrak will not be required to establish a reduced fares program if this amendment is enacted, but they will have the incentive to do so. Just as the energy crisis has increased ridership on the trains in recent months, so too will this legislation attract new customers while at the same time improving overall efficiency and economy of the railroads by filling seats which might otherwise go empty.

Reduced fares for these groups can be offered on either a standby, space available, or any other basis approved by Amtrak. It should be noted that reducing these fares would not entail any cost to the taxpayer, or place any burden on railroad patrons paying full fares.

You will recall that last year the Congress approved legislation permitting the airlines to offer reduced fares to senior citizens and the handicapped on a standby basis. Since the passage of this legislation, most airlines have established reduced fare programs for these groups increasing ridership and revenues. I believe it would be appropriate to extend this same authority to Amtrak.

The elderly would benefit from cheaper rail travel. A 1976 report issued by the House Select Committee on Aging revealed that older Americans are severely hampered in getting to and from places they need to travel. Lack of mobility is a chief concern of our elderly. As a Nation whose resources and technology can land men on the Moon then surely we can develop or promote the means to move people across town, across our country.

By approving this amendment, the Congress can help to keep our elderly and handicapped in the mainstream of American life by extending to them the convenience and comfort of travel by rail. I am convinced that many of our elderly and handicapped have both the desire and time to travel, if only they could afford it.

I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER).

The amendment was agreed to.

□ 1050

AMENDMENT OFFERED BY MR. M'KINNEY

Mr. McKINNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McKINNEY: Page 79, line 21, strike out "$230,000,000" and insert in lieu thereof "$272,000,000".

Page 79, line 23, strike out "$253,000,000" and insert in lieu thereof "$295,000,000".

Page 79, line 24, strike out "$271,000,000" and insert in lieu thereof "$313,000,000".

Mr. McKINNEY. Mr. Chairman, before I explain the nature of my amendment, I would like to commend the leadership displayed by the Commerce Committee in bringing this bill to the floor. I strongly believe that H.R. 3996 will go far toward salvaging a viable rail passenger system from the ill-founded Department of Transportation route structure proposal. I would especially single out the efforts of our colleagues, Mr. FLORIO and Mr. MADIGAN, chairman and ranking minority member of the Subcommittee on Transportation and Commerce, who were not deterred in their endeavors in the face of an initial lack of support from the administration and some in Congress.

In spite of the committee's hard work, however, this legislation does not fully meet the mandate of the Rail Passenger Service Act for the establishment of a rail passenger operation that, and I quote from the Amtrak Improvement Act passed by this body last year, will:

> . . . provide intercity passenger service . . . to fully develop the potential of modern rail service in meeting the Nation's intercity passenger transportation requirements.

In response to that directive, my amendment would supplement the capital acquisitions and improvements authorization by $42 million in each of the 3 years within the scope of the bill. My amendment only addresses the capital requirements of the committee-approved structure and in no way relates to efforts to go beyond that recommendation.

Mr. Chairman, since this legislation was reported by the Commerce Committee on May 15, events and circumstances have arisen which render it more imperative than ever to accelerate efforts to provide Amtrak with the rolling stock and other equipment needed to effectively meet the growing demand for its services. This year's OPEC price increases will bring gasoline to the $1 a gallon mark and cost this country $15 billion more for that fuel alone in the next year. Furthermore, the shortages caused by lower crude production and our inability to curb consumption have resulted in allocation cutbacks to 89 percent of last year's supplies nationally, and to only 82 percent of 1978 levels in my State of Connecticut.

Obviously, the days of cheap, plentiful energy are over. This can only mean that people will drive less and seek transportation alternatives to the automobile. We in Congress must fulfill our responsibility to the country and insure that viable intercity and commuter mass transit alternatives are available.

Already, the transition to rail travel has begun. In May, before the gasoline shortage and price increases had made their full impact, Amtrak ridership rose almost 20 percent over May of 1978. Passenger miles per train mile increased 28 percent. Revenues climbed 29 percent. Reservations soared upward 128 percent, and denials of space due to sold-out conditions were over 1,000 percent higher than during the same period last year. And in the markets it serves, Amtrak carried 145 percent of intercity travelers in 1978.

Unfortunately, the bill before us today does not contain adequate authority for the future capital requirements of the system it designates. It will not allow Amtrak to acquire new, efficient equipment quickly enough to meet its potential in our battle against profligate energy use.

When the Department of Transportation recommended a substantial reduction in the rail passenger network, Amtrak submitted a budget request of $213 million for 1980. This was trimmed by DOT to $171 million, an amount sufficient for a minimal capital program at best. The Office of Management and Budget, in a prime example of political expediency, slashed the DOT figure to $102 million. The committee has restored capital funding to $171 million, plus an additional $18 million that will be available if track connections are not required to implement the restructuring. My amendment would return the basic capital authorization to Amtrak's original request level of $213 million, with similar increments in the following 2 years. And it should be noted that Amtrak's request, from which my amendment is derived, was based on the anticipated needs of the significantly smaller DOT route structure.

An important factor to keep in mind while discussing Amtrak's capital requirements is the 2-year leadtime necessary in manufacturing rail equipment. My amendment would speed up the acquisition of a 285 low-level car order by 1 year. These are cars needed to replace the outmoded coaches now in use throughout the system—two-thirds of which average 29 years of age. The additional capital funding provided by my amendment would also ease the replacement of 175 to 200 Amfleet cars on loan from the Northeast corridor that will be subject to recall as the Northeast corridor improvement project nears completion in 1982. No substitute equipment has been contracted for or produced, and every year these procurements are deferred adds roughly 10 percent to acquisition costs.

What many consider high-operating subsidies are largely a result of utilizing the present inefficient, outdated equipment which is so uncomfortable and unreliable that patronage is discouraged. Experience has demonstrated that the introduction of modern coaches can increase ridership by as much as 25 percent. On the other hand, the continued use of outmoded, heavy coaches and locomotives raises operating costs and hence subsidies because of excessive energy consumption and frequent repairs. Maintenance on the fleet today accounts for fully 28 percent total operating budget, and at $236 million a year almost equals the $289 million direct cost of running the trains. My amendment, costing a sixth as much and holding the promise of future savings, is modest in comparison.

Mr. Chairman, we cannot afford to repeat our mistakes of the past and wait for these needs to become more critical before responding. If we do not act with foresight now, no amount of future spending will be adequate to sustain the system and meet future demands due to the leadtime necessary in contracting and producing rail equipment. Already there is insufficient equipment to continue running the current system in a reasonable manner for another year.

And while Congress has assumed the responsibility of determining the route structure, I strongly feel that Amtrak, and not politically oriented bodies such as DOT, OMB, or the Congress, is best qualified to assess the requirements for operating the system, and to plan and implement its capital program accordingly.

There is no single, simple solution to the energy crisis. In the past I have advocated a variety of measures to induce conservation, to encourage new domestic production and to promote alternative sources. In the 96th Congress, I helped develop the synthetic fuels bill recently passed by this body. I have introduced legislation to establish a solar loan bank, and a bill which has as its goal the domestic distribution of Alaskan oil. But all of those initiatives will be diminished unless people are also given a transportation alternative that is both convenient and efficient. I strongly believe that Amtrak could make a significant contribution toward reducing our unhealthy reliance on oil if only we would give it a chance.

I feel that my amendment, which works within the context of the committee bill, addresses the situation in a responsible manner. It will provide Congress with greater flexibility in the appropriations process and thereby allow us to respond suitably to future capital needs as ridership changes coming in the wake of the current energy crunch become clearer. You each have your view on the legislation before us, but I think you will all agree that we have a responsibility to insure sufficient capital funding to operate the system that emerges from it. Mr. Chairman, let us not continue to govern by reacting to crises as they arise, but for once plan ahead and make a commitment now to provide for the future. I urge you to vote in favor of the amendment.

I would ask unanimous consent that change be made.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I would be delighted to yield to the gentleman.

Mr. LEE. Because of the leadtime in which you indicate in making acquisition for the badly needed updating of the equipment——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McKINNEY was allowed to proceed for 3 additional minutes.)

Mr. LEE. Mr. Chairman, will the gentleman yield further?

Mr. McKINNEY. I yield to the gentleman from New York.

Mr. LEE. Because of the leadtime acquiring the updated equipment which is so badly needed, how does the gentleman envision that the time line, the flow of the expenditures, would occur? Again, I want to make the point, sir, that I think the gentleman is very much on point in the need to increase the capital expenditures for such acquisition.

Mr. McKINNEY. The gentleman has discussed this point with me before. I do not have the pride of authorship in this legislation that the gentleman has. I just want to get a railroad running.

I would agree. There is a 2-year leadtime. We would probably have trouble getting the contracts ready. I am concerned about the only one available assembly line that I know is still available for Amtrak and is not being consumed by intracity transportation, such as Metro, and I would be perfectly willing, if the gentleman agrees, to ask unanimous consent that my amendment be changed so that the additional funds only be authorized in the second and third year of the authorization. This would still allow Amtrak to let the contracts during the first year and would not disturb the budget process this first year.

Mr. FLORIO. Mr. Chairman, may I ask the gentleman from Connecticut (Mr. McKINNEY) about his understanding that there was $171 million in the authorization for capital. The gentleman may not be aware but we have increased that rather substantially. We now have $230 million for capital authorized in the bill. Over and above that, by virtue of the savings in labor protection for routes that will be put back in, it is the estimate of the committee that we probably have about $100 million more than the administration sought in capital. We would be concerned that we would be overly generous by adding even more capital. Certainly I am aware of the fact the gentleman has a communication from Mr. Boyd saying Mr. Boyd could always use more money. We are sure that he could.

We also have a letter from Mr. Boyd stating that the funding levels in this bill are acceptable and adequate to meet Amtrak's needs. On the basis of the concern that some have in this body that we are being overly generous with Amtrak, I would be somewhat reluctant to go beyond what Mr. Boyd feels are his capital needs at this point.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Connecticut.

Mr. McKINNEY. As I say, I have the utmost admiration for the job the gentleman has done on this and I am glad I was not required to face. It was certainly a project that rambles across the districts of everyone in the Congress.

I have great question about the labor cost savings. We discussed it with the committee, the majority staff, and with the committee's minority staff, and I have a figure of $41.5 million for the first year. But we have also had tremendously argumentative figures through the history of Amtrak on what type of funding we have actually saved in labor protection. This is one of the reasons I have agreed with the gentleman from New York, that one of the reasons Amtrak is not working is because of its equipment. We are slowly but surely losing every equipment manufacturer in the country who makes rolling stock.

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We have had one just close down. I am hoping maybe the thought that they could get a contract would convince them to open up again.

We have a "buy America" policy in this bill which I firmly believe in. This is Federal taxpayers' dollars and I think we ought to buy American products; but pretty soon we are not going to be able to even buy the equipment in this country.

I appreciate Mr. Boyd's realizing that he is dealing with Congress, realizing that he is dealing with proposition 13; but my suggestion to the chairman, in all due respect, is that buying capital equipment that works efficiently and will get people on the railroads is actually a savings over a period of time.

It is my understanding that the inflation rate within the "bus-truck-train" business in this day and age is 17 percent a year. It was my thought that if we put the extra $42 million in each year, we would certainly save money in the long run; but I am willing to say, OK, let Amtrak know that they are going to have it in the second and third year and let their contracts this year, so that they have the needed leadtime.

As the gentleman knows, I have had a great deal to do with Metro through the D.C. Committee. We found that our greatest and most tragic problem, quite frankly, is equipment order-wait; so here we sit today, for instance, and we have people falling out the windows and yet the trains are going to cost us an enormous amount more than they would have cost if we had bought the proper amount of capital equipment for the system in the first place.

I really just feel that I am not exaggerating.

Now, operating subsidies are a different thing and I would like to keep them down; but I would suggest that the operating subsidies are so high because the equipment is so terrible.

I would say to the gentleman that personally I have not gotten to Florida yet since Amtrak was founded on either the Silver Meteor or the Southern Crescent, which I board here in Washington. I have not gotten to Florida yet without a major breakdown.

Obviously, our operating subsidies are going to be enormous if we have to keep pulling engines from other places to pull a dead train and so on.

Mr. FLORIO. Mr. Chairman, indicating to the gentleman my sympathy with the gentleman's concerns, I would just say that we have put together what we think is a finely tuned 3-year authorization which, of course, should provide to Amtrak plenty of leadtime to make the determinations that they have to make.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Florio) has expired.

(By unanimous consent, Mr. Florio was allowed to proceed for 1 additional minute.)

Mr. FLORIO. In fact, Mr. Chairman, this is a finely tuned program that is in accordance with the needs of Amtrak as they have conveyed them to us. I would be somewhat remiss and somewhat reluctant to disrupt and upset what has been put together in this bill.

The CHAIRMAN. Would the gentleman state the modification to his amendment?

Mr. McKINNEY. Mr. Chairman, I ask unanimous consent to modify my amendment as follows: The amendment would be changed so that the authorization to spend would only be in the final 2 years of this 3-year bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut (Mr. McKinney)?

There was no objection.

The CHAIRMAN. The Clerk will report the modification to the amendment.

The Clerk read as follows:

Page 78, line 23, strike out "$253,000,000" and insert in lieu thereof "$295,000,000".

Page 79, line 24, strike out "$271,000,000" and insert in lieu thereof "$313,000,000".

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words.

PARLIAMENTARY INQUIRY

Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FLORIO. Mr. Chairman, it is my understanding what was just accepted by unanimous consent was the gentleman's modification to his amendment.

The CHAIRMAN. That is correct. The amendment is still pending.

Mr. FLORIO. I thank the Chairman.

Mr. MADIGAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from Connecticut. I say reluctant, because I think the gentleman's intention is the very best and I support the concept, at least, of modernizing the Amtrak equipment.

The substantial difference that exists between the gentleman's experience with Metro and our experience with Amtrak is that we are restricted on equipment purchases by a statute that requires that Amtrak equipment be bought in America. The gentleman from Connecticut has no such restriction on Metro equipment. As a matter of fact, I believe the most recent contract for Metro equipment is with an Italian firm.

There is only one supplier of rolling stock in the United States left for Amtrak, that is the Budd Corp. The money that we already have in the bill will keep the Budd Corp. as busy as they can possibly be building rail passenger equipment and there is no way in my judgment that any more could be contracted for within the next 2-year period of time.

Beyond that, as the gentleman from New Jersey has pointed out, we have substantially increased the funding already in the bill.

Beyond that, I would also like to point out that the Appropriations Committee at the subcommittee level has already acted on the bill and it is too late, unless the gentleman could successfully persuade the Appropriations Committee people to also increase their money. It is simply too late to get this kind of money appropriated for Amtrak.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be glad to yield to the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to underscore what the gentleman has said. We came out of the transportation subcommittee with a budget of about $102 million for capital. With the changes that have been made in this bill yesterday, when our bill comes back to the floor we will add $40 million. That will give us $176 million in capital which Mr. Boyd assures us is adequate to finance the system which the gentleman from New Jersey (Mr. Florio) with the Duncan substitute proposes that they operate.

Now, I agree with the gentleman from Illinois. I do not think there is anywhere we can go to buy cars today. I think this is one of the big factors that we have to take into consideration, that is our inability really to acquire the additional capital we need, largely in the form of rolling stock.

I pointed out yesterday how few cars we have. The gentleman has pointed out what little accessibility to manufacturers we have. I do not know if the gentleman pointed out the fact that there is a "buy America" clause in the bill which prohibits us from going overseas to acquire any cars.

So I think the bill is adequate. I see no reason why it ought to be amended at this time.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I do not disagree at all on the Budd Corp. Quite frankly, all of our transportation systems today in this country, the Metro system, whether it be San Francisco or what, are European trains being built under American license.

One of the things I thought my amendment might do, and I usually just do not bring corporate names onto the floor of the House of Representatives, and I certainly do not have them in my district, would be to get Pullman Standard back into the business.

Mr. MADIGAN. Mr. Chairman, if the gentleman would allow me to reclaim my time, I have met with the president and the vice president of Pullman Standard, talked with them about the problems that we have, being in the situation of having only one rail car supplier. They have told me that there is nothing that the Congress of the United States can do to encourage them to get back into the passenger car business.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be glad to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, is there any way that the "buy America" provision can be predicated upon the fact that the equipment be available in the United States, and if it is not, then that particular provision would not apply?

Mr. MADIGAN. Later in the day when we have given other members of the Committee of the Whole the opportunity to offer some of their amendments, I intend to offer an amendment on the "buy America" provision which will address the suggestion the gentleman had just made, which I hope will be successful.

I will tell the gentleman, there is opposition to my amendment.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, I am for the "buy America" provision and the idea to put Americans to work, spend American money in the United States; but where it is not available, we cannot stop the entire system simply because we have that provision that will not allow us to get our equipment somewhere else, when it is not available in the United States.

Mr. MADIGAN. Mr. Chairman, I certainly agree with the gentleman and hope that the gentleman will be here later in the day to support my amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. Yes; I would be glad to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to associate myself with the remarks of our colleague. There is a bus company in my district which simply cannot buy buses. They do not exist. They are not available for purchase, except from foreign countries. And we need mass transportation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. McKINNEY), as modified.

The amendment, as modified, was rejected.

AMENDMENT OFFERED BY PATTERSON

Mr. PATTERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATTERSON: Page 68, after line 15, insert the following new paragraph:

"(5) Prior to instituting any fare increase that applies to service provided under this subsection and that represents an increase of more than 5 percent over a 6-month period, the Corporation shall consult with and obtain the views of the appropriate officials of each State to be affected by such fare increase. The Corporation shall provide the officials of each such State with a justification of the proposed fare increase and an explanation of the circumstances warranting such increase (such as the unique costs of or demand for the services involved).

Page 68, line 16, strike out "(5)" and insert in lieu thereof "(6)".

Page 69, line 15, strike out "(6)" and insert in lieu thereof "(7)".

Mr. PATTERSON. Mr. Chairman, the amendment just read speaks for itself. It simply states that whenever Amtrak decides to increase fares under the 403(b) program by more than 5 percent during any 6-month period, it must consult with appropriate officials of the State or States to be affected. The amendment would also require Amtrak to provide the States with a justification of the proposed fare increase.

The purpose of this amendment is to insure consultation between Amtrak and the States. Since the very nature of such a consultation is to allow Amtrak to express the rationale for a decision it feels is warranted, I believe that this amendment is a constructive one.

Under the 403(b) program where a State contributes funds for operating rail passenger services, it is only fair to require communication between Amtrak and the States. Currently, six States participate in the 403(b) program. They are: California, New York, Pennsylvania, Illinois, Michigan, and Minnesota.

These States have made an important investment in rail transportation as an alternative to other more costly forms of travel. They work vigorously to market their passenger services and, frankly, deserve to be consulted. It is simple to understand the concern of the States about the impact of rising fares. For when fares become uneconomical for consumers, ridership declines and efforts to make mass transit attractive and to conserve energy are negated.

While I understand that the stated policy of the Amtrak board is to restrict fare increases to twice annually, so far this year Amtrak has increased short-haul fares twice in less than 6 months on profitable routes such as the one from Los Angeles to San Diego. Fares on that route increased by 132 percent since November 1972. By contrast, over the same period the CPI increased by 70 percent. At a time when the country is experiencing acute energy supply shortages, and must embark on a multifaceted energy program, it is counterproductive not to adopt policies which may enhance the advantages of rail transportation.

The Los Angeles to San Diego route produces 100 passenger miles per gallon. Auto travel and air travel both average less than 20 passenger miles per gallon. If the passengers on this route had used their cars instead, 2 million more gallons of oil would have been consumed in 1978. Passenger trains are necessary if we are to conserve petroleum and minimize costly freeway construction.

Also important, ridership in the Los Angeles-San Diego corridor has nearly doubled from 390,000 to 725,000. However, increased ridership has not been experienced solely within the State of California. Amtrak's own data prove that ridership in the Northeast corridor, on short-distance and long-distance routes has risen by more than 12 percent over the last year. Unilateral Amtrak fare increases adversely affect profitable routes such as New York-Boston and New York-Washington. In June, the New York-Boston roundtrip fare was $20.50. On July 15, that fare rose to $22. As the committee report notes, too, at page 19:

> . . . in recent weeks as gasoline prices have sharply increased and as gasoline shortages have become more pronounced, Amtrak ridership has risen substantially.

The 403(b) program should not be victimized by declining ridership due to unilateral fare increases. Currently, participating States are given notification after a decision to increase fares has been made. But, as you can appreciate, this does not grant the States adequate input under a program in which they are sharing a significant investment.

When ridership falls as a result of increased fares, the States must pump more money into rail service operations because of revenue losses. In the wake of proposition 13 in California and similar measures throughout the Nation, States can little afford added expenditures. If fare increases could be held within justifiable bounds, ridership would be stimulated, making mass transportation systems an attractive alternative to driving. Without question, our national energy conservation plans will suffer if the public finds it uneconomical to use rail passenger services.

Under the current rail passenger system, riders pay almost 40 percent of operating costs. On the other hand, air travelers pay only one-third of the cost of their transportation. Highway costs today exceed $23 billion annually, not including the more than $50 billion we spend to gas up with OPEC oil.

I strongly urge my colleagues to support my amendment. It is an important proconsumer amendment and encourages national efforts to promote mass transportation and energy conservation.

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Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, as the gentleman from California (Mr. PATTERSON) indicates, the fact is that the concept of 403(b) is a joint State-Federal cooperative effort. We would have hoped that Amtrak would have consulted with the States with regard to this particular problem. I have no difficulty requiring that there be consultation, and we, therefore, accept the amendment.

Mr. PATTERSON. Mr. Chairman, I thank the gentleman.

Mr. LEE. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from New York.

Mr. LEE. Mr. Chairman, we accept the amendment also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PATTERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: Page 53, strike out lines 14 through 24 and redesignate paragraphs (11) through (15) on page 54 as paragraphs (10) through (14), respectively.

Page 61, after the period on line 15, insert the following new sentence: "No employee of the Corporation shall be paid less frequently than such employee is paid as of the effective date of this subsection, other than pursuant to an applicable collective bargaining agreement.".

Page 62, strike out line 23 and all that follows through line 15 on page 63, and redesignate sections 114 and 115 as sections 113 and 114, respectively.

Page 71, after the period on line 2, insert the following new sentence: "In addition, any rail passenger service which (A) is operated by the Consolidated Rail Corporation, (B) is the subject of an application for discontinuance filed with the Commission before July 15, 1979, and (C) constitutes commuter rail passenger service as defined in paragraph (1) of this subsection shall, until April 1, 1981, be operated by the Corporation and funded by the Corporation in the same manner as service operated under the preceding sentence.".

Page 72, after line 1, insert the following new section:

APPLICATION OF ROUTE AND SERVICE CRITERIA

SEC. 115. Section 404(c) of the Rail Passenger Service Act (45 U.S.C. 564(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Corporation shall conduct an annual review of each long-distance route in the basic system to determine if such route meets the criteria set forth in paragraph (2) of subsection (d) of this section. If the Corporation determines, on the basis of such review, that a route fails to meet the criteria set forth in such paragraph, the Corporation shall evaluate such route under the Route and Service Criteria. If the Corporation determines, on the basis of such evaluation, that such route fails to meet the Route and Service Criteria, the Corporation shall discontinue the operation of rail passenger service over such route.".

Page 72, line 5, strike out "is amended" and insert in lieu thereof ", as amended by this Act, is further amended".

Page 72, line 7, strike out "(4)" and insert in lieu thereof "(5)".

Page 72, immediately before the semicolon on line 13, insert the following: "or on routes where an additional frequency of service is being tested".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, between the time the committee reported H.R. 3996 and today, the subcommittee chairman and I have carefully examined the bill so as to make any corrections which might be needed before final action on the House floor. This amendment reflects a number of minor changes in the bill as reported which have been worked out with Chairman Florio.

First, the amendment strikes the definition and section relating to on-time performance. The reason we are deleting this matter is that the on-time performance standards established by Amtrak will be more stringent.

The amendment also makes it clear that in simplifying Amtrak's pay period, by relieving it of the present requirement to adhere to 47 different State laws, the committee bill does not affect the frequency of paydays unless the labor organizations and Amtrak agree otherwise.

Additionally, the amendment places a commuter train now operated by ConRail under Amtrak management. That train goes between Valparaiso, Ind., and Chicago. That train will be operated with other Amtrak trains that are commuter types until the final determination is made on what we will do with these commuter-type trains.

The amendment also requires that all trains in the Amtrak system be treated equally when their performance is evaluated in the future. In no way would this provision require the discontinuance of a train, but it would require that the Amtrak board of directors apply the route and service criteria standards on any train which did not meet the 150 passenger miles per train.

The amendment also makes it clear that when Amtrak adds frequency on a route in order to test the market, it may take off such train if the market simply isn't there without going through the formal route and service criteria.

Mr. Chairman, these amendments are primarily technical in nature and have the concurrence of the chairman of the subcommittee, Mr. Florio. I urge their adoption.

My amendment provides that commuter rail passenger service, operated by ConRail, which is the subject of an application for discontinuance, filed prior to July 15, 1979, shall, until April 1, 1981, be operated by the National Rail Passenger Corporation.

By the terms of section 304 of the Regional Rail Reorganization Act of 1973 as amended, ConRail was required to continue operating rail passenger service which had been provided by a railroad in reorganization prior to conveyance. One such service was a commuter line between Valparaiso, Ind. and Chicago, Ill., instituted by the Indiana Public Service Commission. Under the terms of the 3R Act, ConRail was obliged to continue operating such service if a rail service continuation payment was offered and paid by the State of Indiana. The terms of the statute further provide that should such an offer and payment not be forthcoming, the service could be terminated on 60 days' notice.

This was done in recognition of the fact that a major factor in the collective bankruptcies of ConRail's predecessors was that they were required to cross-subsidize their operations; that is, use profits from freight operations to continue money-losing passenger service.

ConRail was expressly directed to avoid such cross-subsidization. I quote from the committee report on H.R. 10979 of 1975, the bill which became the Rail Revitalization and Regulatory Reform Act of 1979, at page 94:

> One of the bases of the financial projections for ConRail in the design to make it a profitable railroad is the assumption that it will be relieved of extensive losses currently being incurred by unprofitable passenger and light-density line operations. The underlying premise for the assumption is that ConRail should not cross-subsidize operations. In other words each service, whether it be freight, intercity passenger or commuter, should pay its own way. The committee believes that in many instances these services should be continued, at least temporarily, but recognizes that the continuation of these services cannot be at the expense of ConRail.

ConRail received the required offer of subsidy for the Valparaiso to Chicago service from September 28, 1976, through September 30, 1978. When no offer was received to continue the service after September 30, 1978, ConRail posted a discontinuance notice and attempted to terminate, as provided by law. This ConRail was prevented from doing by a Seventh Circuit Court of Appeals decision which required, in addition to the terms of the statute, a proceeding before the Interstate Commerce Commission.

While it is true the commuter rail passenger service in other parts of the country is operated by ConRail under contract with State, local or regional transportation authorities, this is the only situation under which ConRail is providing such service without either the rail service continuation payments or other fully compensatory contractual reimbursement.

The result, contrary to the clear intent of the Congress, has been that ConRail has been required, since October 1, 1978, to bear the loss of approximately $4,000 per day of continuing this service, cross-subsidizing the shortfall from freight revenues. That their progress and financial reports have nonetheless improved is very encouraging. My amendment will restore the original congressional intent as to the financial structure of ConRail while preserving needed commuter rail service to the people of northwest Indiana.

Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, I rise in support of the combined amendment to H.R. 3996 and thank the chairman of the subcommittee, Mr. Florio, and ranking minority member, Mr. Madigan, and the Subcommittee on Interstate and Foreign Commerce, for their diligence and excellent work in the development of H.R. 3996 as well as the combined amendment now offered.

I am particularly interested in the fourth provision of the amendment which enables Amtrak to operate the ConRail commuter service from Valparaiso to Chicago. This provision was developed in conjunction with my office and Senator Birch Bayh. Initially, we had explored the possibility of operating this ConRail service as an adjunct to Amtrak under section 403(b), a subsidized service. Discussions with the subcommittee chairman and ranking minority member have since persuaded all that the proper continuation of this important commuter service is best assured under section 403(d), a commuter service.

I am convinced that Amtrak will differ from ConRail which apparently was determined to undermine congressional intent expressed in the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) which created the Consolidated Railroad Corporation (ConRail) and directed it to operate several bankrupt rail services including the Penn Central.

Although the Chicago-Valparaiso ConRail passenger service has been fraught with numerous maintenance and operation problems, the citizens of northwestern Indiana continue to utilize the service. I have received reports from ConRail commuters of the lack of lighting, heat, functioning toilets and prompt arrival and departure times. The passenger cars are in serious disrepair. The cars leak, some doors are welded shut and others will not open without a struggle. This past winter, ConRail leased an entire train from Amtrak in order to provide some semblance of a commuter service.

Since ConRail commenced control of this service in April of 1976, the annual ridership has dropped. According to the many ConRail patrons that have contacted my office in opposition to the discontinuance, this service has deteriorated and probably intentionally so under ConRail's management. Many citizens of northwest Indiana truly believe that ConRail has done everything within its power to dissuade the number of commuters. The antagonism with which ConRail has dealt with its passengers was further demonstrated by one notice which advised riders that ConRail would immediately discontinue service and strand 500 passengers in Chicago.

Because of the unpredictability of the service displayed by this notice and others, numerous abandonment petitions, the condition of the rolling stock and lack of proper marketing techniques to encourage ridership, ConRail did everything possible to dissuade and substantially reduce ridership and public official interest in any subsidization of the deteriorating system.

Today, despite tremendous efforts put forth by Don Erker and State Representative Esther Wilson in conjunction with my friends and colleagues from Indiana, Messrs. BAYH and FITHIAN, it seems possible that this valuable commuter service may be discontinued.

Don Erker, chairman of the Chicago-Indiana Railroad Commuters Association (CIRCA) and Esther Wilson worked diligently and tirelessly for several years to guarantee the maintenance of this service on behalf of the passengers of the ConRail Line. Ms. Wilson worked with competence and devotion in the State legislature on behalf of northwestern Indiana commuters. The advice and counsel of Don Erker has been most valuable to the efforts of the public officials working to maintain the service. I am honored to be able to compliment and commend these individuals, for the record, on behalf of the citizens of northwest Indiana.

Mr. Chairman, approximately 30,000 persons commute to Chicago from northwest Indiana daily. Nearly 12 percent of these persons utilize commuter trains, either the Chicago-Valpo service or the South Shore-South Bend Railroad. The South Shore Railroad is currently running at full capacity and because of its age has been fraught with numerous operational and maintenance problems. This service will be receiving additional rolling stock in approximately 3 years and cannot be considered a viable transportation alternative until that time.

The environmental impact statement prepared by the Office of Public Rail Counsel estimated that 68 percent of ConRail's passengers would resort to the automobile as a result of abandonment. This would add about 300 vehicles to the highways during rush hours and significantly increase the present traffic flow problems in our area.

The efforts of local governments in northwest Indiana have coincided with those of the Nation in regard to reducing our dependence on the automobile and developing efficient and workable mass transportation systems. These efforts have been thwarted, however, by the poor service ConRail currently provides and is evident in the carrier's reduced ridership figures over the last 7 years. In 1972, 398,963 utilized this service compared to 230,180 who currently depend on the commuter line to get to and from work. Total yearly ridership soared to 437,435 in 1973 during the Arab oil embargo. It is my opinion that transferring the responsibility of operation for the Chicago-Valpo line to Amtrak would result in improved service and provide commuters with better operational equipment. More than that, I am convinced that ridership will increase substantially over that of 1973.

I urge the adoption of this amendment so that Amtrak can assume the responsibility for the operation of this commuter line during the next 18 months. This will include the Valpo-Chicago line in any strategy Congress develops in the future for all commuter services now operated by Amtrak. I am persuaded that the transition from ConRail to Amtrak will be effected without difficulty. I am also convinced that this will be a sound and viable Amtrak service. Finally, I have the faith that this addition to the Amtrak system will provide a model for the development of future commuter services in metropolitan corridors that will help resolve our critical transportation and energy problems.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his support and for his contribution.

● Mr. FITHIAN. Mr. Chairman, I wish to associate myself with the remarks of my colleague, ADAM BENJAMIN of Indiana's First District, and express my own thanks to the subcommittee for their understanding and their successful efforts in dealing with this particular problem. I commend the subcommittee, Congressman BENJAMIN, State Representative Esther Wilson, Mayor Elden Kuehl, and all those people in Valparaiso who have worked to get this line continued. I wish also to commend Senator BIRCH BAYH and the Interstate Commerce Commission for arranging for the hearings which were held in Valparaiso, Ind., on June 30, 1979.

I strongly endorse the work of the subcommittee on this bill, which gives evidence of their realization of the responsible problems of mass transit in our country today.

As the lines for gasoline stretch around the corner and down the block in cities and towns across this Nation, we are becoming increasingly aware of the need for intercity rail passenger service, such as the Conrail Valparaiso to Chicago service. The present gasoline crisis so reminiscent of the 1973–74 Arab boycott situation makes it unmistakably clear that we as a nation must conserve our energy resources and use the cleanest and most energy efficient means of transportation.

Mass rail passenger service is a much more effective and efficient means of transportation than the automobile, and we should take appropriate measures to encourage the continued use of trains such as the Valparaiso to Chicago commuter service. This additional year of service will allow time for the ICC to determine the cost effectiveness of the service and provide time for local and State officials to work out a potential funding arrangement for the line. It would also provide an opportunity for local residents to demonstrate, through increased ridership, that they really want the line continued and would patronize it if it were.

I do not think this is the time to reduce our commitment to mass rail passenger service but to encourage it.

Public convenience and necessity is best served by a continuation of the Valparaiso-Chicago commuter service. This line is presently carrying approximately 230,000 annual passengers, and averages about 910 passengers on a typical weekday; there is no service on holidays or weekends. During the Arab oil boycott of 1973–74, ridership climbed to almost 440,000 passengers annually, but has declined steadily over the last 4 years, especially since ConRail assumed operations on April 1, 1976. Ridership figures do not, however, adequately reflect the need for this service.

Many new riders could be attracted to the service because of the gasoline crisis and the increased impracticality of driving into Chicago. As gasoline lines get longer and prices soar, the railroad becomes a more attractive alternative of transportation. The ridership figures of 1973–74 confirm that local residents will use this service during an energy crisis, and if allowed to continue, I believe that the figures for the next 15 months would substantiate this earlier example. If the line is also "upgraded" during this 15-month period, there would be an excellent chance to convert these "temporary" riders into permanent full-time users.

The future population growth for Lake and Porter Counties indicate that the two-county area will reach almost 700,000 in 1980 and 831,000 in 2000. From 1960 to 1970, Porter County was the fastest growing county in the State of Indiana. As population densities increase, transit service will be more efficient and convenient for area residents. Recent surveys confirm that the major intensive growth corridors in northwestern Indiana for future industrial, commercial, and residential development are planned within the ConRail usershed. The demographic data, therefore, demonstrates potential expansion of the rail passenger service usage. Discontinuation of the service would be counter productive to local and regional plans to reduce reliance on the automobile and impede local efforts to revitalize the urban centers.

Changes in transit travel between

1975 and 1995 in the eight-county Chicago-northwestern Indiana area demonstrate a projected increase of 13 percent in highway transit trips, a 20-percent increase in transit trips with a substantial increase in total passenger miles, and a 55-percent increase in suburban rail transportation in the eight-county area. The ConRail line would play an important role in this future transit system.●

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I rise just to express my support for this omnibus technical amendment which is offered with just a few different portions added to it. I also wish to express publicly my appreciation for the assistance that the gentleman from Illinois (Mr. MADIGAN) has provided to the committee and to me personally in developing this entire legislation. I thank the gentleman for his contribution.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from New Jersey (Mr. FLORIO) and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. ERTEL TO THE AMENDMENT OFFERED BY MR. MADIGAN

Mr. ERTEL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL to the amendment offered by Mr. MADIGAN: On page 2, strike out "(4) The Corporation" and insert in lieu thereof "(4)(A) The Corporation".

On page 2, in paragraph (4) as proposed to be added by the amendment, strike out the closing quotation marks and following period immediately after "such route.".

On page 2, after paragraph (4), add the following new subparagraph:

"(B) The annual review conducted by the Corporation under subparagraph (A) shall include an evaluation of the potential market demand for, and the cost of providing service on, portions or segments of long distance routes, and the potential market demand for, and cost of providing service on, alternative routings. The Corporation shall transmit the results of the annual review to each House of the Congress and to the Secretary of Transportation.".

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, the type of ongoing annual review of each long-distance train envisioned in the Madigan amendment is an important one. There are a number of indicators which tend to point to the conclusion that the demand for Amtrak long-distance service will decline in the future, and that short-distance routes will be increasingly in demand. As such, it makes sense that Amtrak annually review its long-distance routes to insure that the basic criteria for continued service is being met.

The amendment that I am offering to the Madigan amendment is what I perceive as the logical extension of this approach. It provides that Amtrak's annual review of its long-distance trains must also include an evaluation of market demand for, and the cost of, providing service over segments of any long-distance route. The amendment would also allow Amtrak to examine the impact of route alterations. The concept of my amendment is really basic: It would require Amtrak to do the type of evaluation and review of its long-distance lines which would enable Amtrak to make rational decisions concerning its service.

Our end goal is to provide the best service at the best cost. The Madigan amendment, as amended by my amendment, insures that the analyses needed to meet this goal are conducted.

I would add that my amendment has the support of Amtrak and that they feel they ought to be looking at these questions. As a practical matter, however, it is unlikely that these studies will be conducted without a directive from the Congress. Therefore, I urge you to support my amendment, and the Madigan amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity on the minority side to review the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) and find it to be consistent with the goals of the bill, and I urge its adoption.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for his acceptance of my amendment. I understand the majority also accepts the amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the majority accepts the amendment to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) to the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LEHMAN

Mr. LEHMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEHMAN: Page 60, after line 17, insert the following new section:

REIMBURSEMENT OF RELOCATION EXPENSES

SEC. 111. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, the Corporation may reimburse any public, quasi-public, or private entity for the reasonable expenses incurred by such entity in the relocation of any facility which the Corporation determines should be relocated to protect the public safety due to the proximity of such facility to any tracks or facilities utilized by the Corporation in providing intercity rail passenger service. The Corporation may make reimbursement under this subsection only with respect to (1) a facility that is situated or constructed prior to the commencement of rail passenger service by the Corporation in proximity to such facility, and (2) expenses incurred after January 1, 1979, in the relocation of such facility.".

Redesignate the following sections in title I accordingly.

Mr. LEHMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LEHMAN. Mr. Chairman, my amendment simply provides Amtrak with the authority to compensate other entities, public and private, for the expenses of relocating in the interest of public safety, as Amtrak determines it. This amendment would apply only to facilities which were in place prior to the construction of an Amtrak facility which is found to be hazardous due to its proximity to the previously existing facility.

This might seem to be an unnecessary precaution, as Amtrak would be expected to make appropriate surveys of locations where building is contemplated. However, in at least one instance, such surveys failed to recognize a serious hazard to Amtrak employees and passengers. That this instance occurred in my congressional district should not lessen the importance of the principle: that fair compensation should be paid for financial damage incurred through the negligence of a public or quasi-public authority.

Specifically, Mr. Chairman, a new Amtrak passenger terminal was completed in Hialeah, Fla., last year, at a cost of over $5 million. Although other locations on the site presented no problem, the station was located within 500 feet of a liquified petroleum gas storage facility which has been there for over 20 years. Amtrak obtained all the necessary licenses and permits, but no licensing agency was required to look at location as a safety factor, and none did; nor, apparently, did Amtrak. Thus, there exists a serious danger to the traveling public and to Amtrak employees—accidents have occurred at the tank farm in the past—and no recourse but to move the tank farm. In hearings before the Transportation Appropriations Subcommittee, Amtrak President Alan Boyd said:

> I would feel more comfortable if the station were not located in the current juxtaposition to the gas tank farm. . . .

And went on to say, in response to questioning by Chairman DUNCAN, that—

The particular hazard, as far as I see it, is that we have got a station there which is manned by Amtrak employees as well as others, car rental employees and what not, who are there all the time. We have trains that are in the station. They can't just go by as they do normally. The normal exposure of a train to a tank farm is it just goes by, which is very limited exposure. Whereas, here you have got the trains standing in the station, and you have got people coming to meet people getting off trains.

But, Mr. Boyd also explained that there is nothing Amtrak can do about that situation. Mr. Chairman, this amendment is intended to give Amtrak the authority to do something about such situations, wherever they may arise.

Many of us represent districts where new Amtrak facilities may be located. This amendment would protect our constituencies from the consequences of mistakes like the one in Hialeah, and greatly reduce the likelihood of such mistakes occurring again. I urge the acceptance of the amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the amendment. We are aware of the fact that this is totally discretionary, and that it carries no authorization with it. Accordingly, we accept the amendment.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman very much.

I understand that the minority has also reviewed this and finds it to be a feasible amendment.

Mr. LEE. Mr. Chairman, if the gentleman will yield, let me state that the gentleman is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. LEHMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN: Page 51, strike out lines 3 through 6 and redesignate paragraphs (4) through (6) as paragraphs (3) through (5), respectively.

Page 60, after line 17, insert the following new section:

AMTRAK FARES POLICY

SEC. 111. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(n) (1) The Secretary shall, no later than 60 days after the effective date of this Act, calculate the total expenses of the Corporation for the fiscal year ending September 30, 1979. The Secretary shall, no later than September 1 of each succeeding fiscal year, calculate the total expenses of the Corporation for that fiscal year.

"(2) The Corporation shall establish, for intercity rail passenger service that it provides, fares that will produce—

"(A) for the fiscal year ending September 30, 1980, revenues equal to not less than 40 percent of its total expenses (excluding depreciation) as calculated by the Secretary for the previous fiscal year;

"(B) for the fiscal year ending September 30, 1981, revenues equal to not less than 45 percent of its total expenses (excluding depreciation) as calculated by the Secretary for the previous fiscal year; and

"(C) for the fiscal year ending September 30, 1982, revenues equal to not less than 50 percent of its total expenses (excluding depreciation) as calculated by the Secretary for the previous fiscal year.".

Redesignate the following sections accordingly.

Mr. HAGEDORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HAGEDORN. Mr. Chairman, I am today proposing an amendment on behalf of the Nation's beleaguered taxpayers. The purpose of this amendment is to reduce the size of Amtrak's massive subsidy, requiring that it charge more for the service it provides, rather than merely turning to the taxpayers to fund the deficit as it has done in the past. There is no reason, given the current circumstances, that Amtrak should not get more of its revenues from the farebox, rather than the taxpayer's pocket.

The authorizing bill before us establishes the pattern for the appropriations bill which will come later. Since the authorizing bill does allow more trains to continue operation than under the original DOT restructuring proposal, it establishes the rationale for more money being pumped into Amtrak. If trains are going to be put back on, I see no reason why the anticipated subsidy for those trains should not come from the system's passengers.

Amtrak has been consistently emphasizing the tremendous demand that exists for its services as a way and means of averting the DOT retructuring and getting more trains back into operation. If the demand is as represented, then it would be silly to continue the pattern whereby the American taxpayer pays two-thirds of the price of the Amtrak ticket and the passenger pays only one-third. It makes no sense whatever to merely accept the notion that there is tremendous demand and simply keep shoveling out more money to operate at a continuing loss. If the public wants train service, then it should pay for it. My amendment does not anticipate that the public would pay all costs immediately, and in that sense it is a modest proposal, but it represents a step which must be taken now.

Amtrak has been cited as a "glaring example" of waste and inefficiency in government policy by the National Taxpayer's Union. Even with the DOT restructuring, Amtrak will cost the American taxpayer over $10 billion by 1985. This for a transportation mode which accounted last year for less than 19 million passenger trips and, at best, represents a capability of carrying less than 1 percent of the total intercity travel. The American taxpayers have asked Congress to take a look at programs like these and make the hard choice of stopping such needless spending. The Congress has responded in many instances; in some cases, voting down assistance for programs to help educate, train, and feed people. Yet, at a time when the Congress is cutting back funding for other programs, we continue down the path of massive subsidies for Amtrak. In case anyone believes that the taxpayers have forgotten the Amtrak issue, I would like to read the views of the National Taxpayer's Union, which every Member received recently by letter:

> The justification for retaining already dropped routes is that new ridership levels supposedly indicate new health for some routes previously thought unworkable. But if ridership is up, then why are the taxpayers being asked to foot the bill to the same old tune of two-thirds of the costs? There is no reason why the riders of Amtrak cannot assume a greater share of the cost of operating the trains they ride. For this reason, we ask you to demand an increase in the percentage of costs Amtrak recovers from the farebox before you consent to any addition in routes.

Since its inception, Amtrak has followed a fare policy of maximizing ridership, rather than revenue. It has offered artificially low fares, in some cases virtually giving away the ride. The result of this policy is clear.

First. The taxpayer's share of the ticket price has steadily risen to two-thirds of the total price. Consequently, the Congress has doled out taxpayer dollars to the tune of $4.2 billion for capital and operating subsidy, as well as Northeast corridor improvements to this point.

Second. The artificially low fares made possible by the subsidy have diverted passengers from the intercity bus industry. We have the strange situation where the Congress is providing massive subsidies to one form of transportation, allowing it to divert passengers from another form and severely damaging it.

The claim of the intercity bus industry about diversion of revenues and passengers has been substantiated by a recent Government accounting Office report. Because of a genuine concern about the effect of the lower Amtrak subsidized fares, the Congress included a provision in the Amtrak Improvement Act of 1978 that a study would be conducted on the economic relationship of the fare structure of Amtrak to the intercity bus industry. This study included a table which showed the widening gap between operating expenses and revenues. In 1973, Amtrak revenues were 55.6 percent of expenses and in 1974, the revenues were 54.8 percent. Of course, much of this was due to the increased ridership caused by the Arab boycott. The situation we are faced with today will not disappear like the petroleum shortages did following the lifting of the boycott so Amtrak ridership can be expected to remain high.

This study indicated that diversion of passengers from the intercity bus industry by Amtrak is in the nature of 30 percent in the Northeast corridor and 9 percent in the remainder of the system. This represents a diversion of revenue of over $500 million since Amtrak was created. In addition, Congress is funding programs which will further divert passengers from the intercity bus. In the documents relating to the Northeast corridor improvement program, the Government projection is that 28.4 percent of bus passengers in the Northeast corridor will be diverted to Amtrak with the completion of the Northeast corridor project. This approach represents a fundamental flaw in transportation policy which should no longer be tolerated.

Mr. Chairman, I am not against rail service. I only believe it should pay its own way. But, as in the "Alice in Wonderland" story, things have become "curiouser and curiouser" in relation to Amtrak. I see no reason why the people of my district should have their tax dollars used to subsidize such a large percentage of the cost of the ride for rail passengers. Amtrak represents a ludicrous quirk in transportation policy. I find it astonishing that this administration has staunchly resisted the funding of specific programs which have merit, which have been authorized by the Public Works and Transportation Committee. Yet the administration supports additional funding for the Northeast corridor in order to get a businessman or vacationer from Washington, D.C., to New York 20 minutes faster. We have already poured $1.75 billion into the Northeast corridor, and now the administration is seeking $654 million more. This is ridiculous.

Mr. Chairman, if there was ever a time when rail passenger service could be established on a more firm, economical basis, it is today. If the public demand for rail service is as great as Amtrak tells us, then the passengers will support service. In the Northeast corridor, it is clear that it would take no great wrench to recover the operating costs of the service. Outside the corridor, a greater portion of the operating costs can and should be recovered through the farebox. My amendment directs that Amtrak's fares cover 40 percent of the operating costs of the systems in the first year, 45 percent in the second, and 50 percent in the third.

This amendment is consistent with the committee bill and the direction of DOT policy. However, while the authorizing bill contains in the "goals" section an indication that Amtrak should work toward raising its fares, the provision calls for coverage of at least 44 percent by fiscal year 1982 and 50 percent by fiscal year 1985. My amendment would strike these goals, insert new percentage figures and make these new figures requirements.

The Secretary of Transportation has called for 50 percent of operating costs to be covered by fiscal year 1985. My amendment merely moves the timetable forward. The conditions now warrant this step, since, as Amtrak indicates, there is great demand for the service. With these circumstances, Congress, in response to taxpayers, should address Amtrak's fare policy, not in the form of a "goal" or a gleam in the eye for the future, but a specific requirement now. The taxpayers have a right to ask us to be more sensible in our spending practices than to continue to dole out billions of dollars to subsidize two-thirds of the price of a rail passenger's ticket. The bottom line of my amendment is that it will save $132 million over the 3-year period—$40.8 million in fiscal year 1980, $45.8 million in fiscal year 1981, and $45.7 million in fiscal year 1982. These figures are based on projected revenues for the total system relative to expenses in constant 1980 terms using the 40-, 45-, and 50-percent requirements.

Mr. Chairman, in closing, I would like to remind my colleagues of the interest in saving energy that has been so evident in this Chamber in the past few months. There is also a shortage of taxpayers' dollars in this country and we need to do what we can by the passage of this amendment to help conserve some of these national resources. Like our petroleum supplies, there is an end to the amount of money that taxpayers can supply. We must do our part today to help save some of this precious resource.

□ 1120

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment will in effect dictate that, by 1982, there be a congressionally imposed 50-percent fare increase. I am opposed to the concept of a congressionally mandated managerial policy with regard to fares. That is not to say that I think it is inappropriate to be increasing the contribution by the rider. As a matter of fact, Amtrak and DOT have already agreed—and it is in the Secretary's report—that fares should cover 50 percent of operating costs by 1984. This more gradual schedple gives Amtrak a better opportunity to adjust their fare policy to the passenger marketplace. If, in fact, we are going to try to have Amtrak run like a business, we should be trying to work in accordance with the dictates of the marketplace. It is clear that a uniform application of fares across the system would be inappropriate. There are areas where the fare increase could be absorbed; there are other areas you would literally drive passengers away from the system. Certainly that is not what we want.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, my amendment does not require that all fares be uniform. It only requires that of the operating costs, 50 percent comes from the passengers who utilize that service. If there are areas that are more dense and have the ability to pay more than 50 percent, they certainly could be charged that and used to offset the more marginal areas where the trains cannot pull in the 50 percent operating fare. But I believe it is reasonable. We have telephone service, we have public utilities, and oftentimes there is cross subsidization, just as there would under this system. I think that we can save $132 million, because there is massive demand for the services, as we have heard repeatedly in the last day of debate of this piece of legislation, therefore, it surely warrants us doing more to have the people who benefit directly from the service pay their own way instead of always coming in and asking John Q. Public to "pick up my fare."

Mr. FLORIO. Mr. Chairman, one of the points made yesterday—and I am sure the gentleman recalls—is that the massive demand for the services is not uniform across the system. What we are suggesting, and the thrust of what Amtrak is inclined to do, along with DOT, is to start in a more selective way to gear fare policy to utilization. Therefore, we think it is inappropriate for the Congress to write into the law these managerial prerogatives, these managerial policies, particularly in the very sensitive area of fares.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

As a matter of fact, in the first part of the committee bill we called for Amtrak to have as a goal recovering 44 percent of its cost, which is 4 percent higher than which is being suggested by the gentleman from Minnesota. We also finally go to 50 percent, as does the gentleman from Minnesota. The substantial difference is that the gentleman would get there a little bit quicker than we would. The committee bill has the purpose of giving Amtrak a little more time to achieve these goals.

I support the goals of the gentleman from Minnesota, but I think that the committee bill has a more realistic time schedule for achieving those goals.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I very reluctantly join with the gentleman in opposing this amendment because I support the concept, too, of the gentleman from Minnesota. I support the concept probably as strongly or even more strongly than the gentleman does, for all of the reasons that the gentleman gave, plus some others which I will not detail here today. But I also agree with the chairman of the committee and the ranking minority member that it would be unwise for the House to impose in a statute, the rigidity that I think the gentleman's amendment would bring. I would give the gentleman the assurances, on behalf of the Appropriations Committee, that we will be chasing them hard to review their rates and to raise them where appropriate.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The question was taken; and on a division (demanded by Mr. HAGEDORN) there were—ayes 6, noes 15.

Mr. HAGEDORN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. HAGEDORN. Mr. Chairman, if enough Members will stand for a recorded vote, I will withdraw my point of order.

The CHAIRMAN. The Chair has announced that a quorum is not present and, the gentleman having made the point of order that a quorum is not present, announces pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1140

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 378]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1200

The CHAIRMAN. Four hundred and fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Minnesota (Mr. HAGEDORN) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise Members that 5 minutes will be allowed to record the vote.

The vote was taken by electronic device, and there were—ayes 168, noes 250, not voting 16, as follows:

[Roll No. 379]

AYES—168

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bereuter
Bethune
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carney
Carter
Cavanaugh
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Fenwick
Fish
Fountain
Frenzel
Frost
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McDonald
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nelson
Nichols
Paul
Quayle
Quillen
Railsback
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Stangeland
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NOES—250

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Chappell
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson

Daschle
Davis, S.C.
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutto
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lloyd
Long, La.
Lowry
Luken
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—16

Bolling
Conyers
Diggs
Emery
Flood
Foley
Forsythe
Leach, La.
Lundine
McCormack
Mollohan
Rangel
Runnels
Walgren
Williams, Ohio
Wright

☐ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Williams of Ohio against.

Mr. Emery for, with Mr. McCormack against.

Mr. HANCE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FITHIAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me compliment the subcommittee, their staff, the gentleman from Illinois (Mr. MADIGAN) and his staff, for their work on a very outstanding job on a very difficult bill.

AMENDMENT OFFERED BY MR. STACK

Mr. STACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STACK: Page 73, line 23, immediately after "subsection." insert the following new sentence: "If for any fiscal year the projected operating expenses of rail passenger service over all routes eligible for operation under this subsection exceed the amount appropriated for purposes of this subsection for such fiscal year, then the Corporation shall compile a ranking of the eligible routes, beginning with the route which has the lowest short term avoidable loss per passenger mile and the highest passenger mile per train mile. The amount appropriated for such fiscal year shall be allocated for eligible routes (including each train operated on the route) based solely on the order set forth in such ranking.".

Mr. LEE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think there are three major points to consider in the proposed amendment by the distinguished gentleman from Florida.

First, as the gentleman from New Jersey (Mr. FLORIO) rightly points out, the cornerstone of this legislation is, indeed, founded on the point that there should be discretionary call by management in determining what is in the best interest of operating the system. That is the first point.

Second, we do take into consideration here in the bill that management should have the discretion to decide again what should be added or subtracted based on the performance of the various trains that are operating from one point to another.

I think that the House would agree on the point that the inventory of equipment for Amtrak is so shallow currently that to try to mandate something which management does not deem appropriate and necessary would be an incorrect move by this body.

Therefore, I urge my colleagues to vote against this amendment.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my esteemed colleague, the gentleman from Florida (Mr. STACK).

As has already been pointed out, the amendment provides for a priority rating system for Amtrak trains and will permit an orderly systematic and unbiased review of the present routes to determine which are the most cost effective and the most widely used.

Surely, we must all recognize that some passenger rail routes in this country need to be abandoned and they have already abandoned some in my district, I should point out; but further, we should recognize that the proposal initiated by the Department of Transportation is very unrealistic. It is biased. It ignores significant data. We need and must have the best method to determine train ridership in conjunction with the cost.

The proposal presented by the gentleman from Florida makes eminent good sense and will give us what we need; so retention of passenger rail routes based on merit is most assuredly an idea that deserves our support.

I urge my colleagues to join with me in support of the gentleman's amendment.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in opposition to the amendment.

Mr. Chairman, I think Members ought to be aware, if it is not obvious now, what the design of this amendment is. Under the Department of Transportation Amtrak reorganization plan, the Department cut three New York to Florida runs back to one train. The rationale for that was, as I understand it from talking with the Secretary, that the train line is used primarily by people going to Florida on vacation. He did not think it was wise to subsidize too many trains for people to go to Florida on vacation.

Now, with the new performance criteria we have, the bill probably will add a second train to Florida.

What this amendment is designed to do is to hopefully give Florida a third train at the expense of regional balance. It may knock out the Southern Crescent. It may knock out the Montrealer. It may knock out some other trains in order to allow three Florida trains to travel the same route. It would knock out the flexibility that Amtrak must have to say let us put more cars on the other two trains, instead of running three trains.

It also injects a new philosophy here of really putting a straitjacket on with respect to the criteria than we have now. Under the bill we come back and say these are the trains that fit the criteria, shall we pay for them, or not. It says, let us take a look as to whether or not we ought to increase the appropriations or whether we should cut some qualifying trains off, after giving consideration to regional needs. Your amendment would arbitrarily make that decision.

☐ 1230

Mr. Chairman, I just want it clearly known that this is offered in hopes of adding another Florida train at the expense of trains to other areas of the country.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I would be happy to yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, is the gentleman saying that we should look behind a person's mind to see the motivation why he makes a trip, to determine whether our train system is cost effective or not?

Mr. JEFFORDS. Mr. Chairman, I know in our area the train is used basically by students, young people, and senior citizens. That is the kind of thing we are looking for in regional balance, providing at least one train to serve people in need where sufficient demand is there.

Your amendment could knock my

whole train out and say, "OK, that area does not need it," just because of a one-tenth of 1 percent higher avoidable loss, and we have higher costs because we have border crossing involved. You say we should knock the whole train out, the only train we have, in favor of having a third train to Florida. The same could be true for the Southern Crescent.

Mr. FUQUA. Mr. Chairman, if the gentleman will yield further, I might point out that I know for a fact that there are a lot of students and senior citizens who ride the trains to Florida.

Mr. JEFFORDS. I am sure there are.

Mr. FUQUA. And within the State.

Mr. JEFFORDS. They have two trains, and now they want three. I am sure the senior citizens, the students, and the young people can fit in the first two trains, and I know Amtrak can add more cars. But the effect of this amendment would be to knock out the Southern Crescent or the Montrealer, and leave those whole areas without a long-distance run because one-tenth of 1 cent was the difference. It would negate the purpose of the Duncan amendment to give us regional balance.

Also there is nothing in here that says what happens when we have one train with more PM per TM but a higher avoidable loss than another. We do not know how to rank those with each other. Apparently that is left up to some arbitrary discretion of Amtrak. We might have one PM/TM of difference; we might have one more person, on the average, who rides this Florida train, so the result is to knock out a train to an entire region just so they can have another, a third train, to Florida.

Mr. FUQUA. Mr. Chairman, if the gentleman will yield further, I hope we in this country do not base our public transportation system on where people are going to ride and for what purpose. Otherwise they may have to eliminate the need for a Metro station at JFK Stadium because people usually go to some football game there or some sports event. I do not think we should have a system based on the reason why people travel, but we should look at whether it is cost effective for people who are going there now.

Mr. JEFFORDS. Mr. Chairman, does the gentleman think it would be better to leave one whole area of the country without a train when it appears one less person would be riding it on an average, and give three trains in another area?

Mr. FUQUA. I am not advocating that.

Mr. JEFFORDS. I am glad the gentleman is not, because that is what could happen under this amendment.

Mr. STACK. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Florida.

Mr. STACK. Mr. Chairman, I believe the gentleman used the word "arbitrary" in describing the consequences of my amendment.

I would suggest that it would be quite the contrary, because I am arguing, as I said initially, for cost effectiveness, using the criteria which the committee has in its bill.

That certainly is not arbitrary. If we talk in terms of flexibility, then I would say subjective reasoning is going to control this, and I would suggest the proper way to run a business is by objective principles. The chief principle to which I allude, of course, is cost effectiveness. That is the essence of my amendment.

Mr. JEFFORDS. Mr. Chairman, the gentleman would agree with me that if there is a difference of one person average, we could wipe out a whole region, whether it be the region served by the Southern Crescent or my region or some other region in exchange for an additional train to Florida over and above those already running there. Is that not correct? Would that not happen under the gentleman's amendment?

Mr. STACK. Mr. Chairman, if the train did not meet the criteria suggested in the committee bill or proposed in the committee bill, the answer would be yes.

Mr. JEFFORDS. Mr. Chairman, the gentleman says, if it does not meet the criteria. But that is not the case. The amendment says if a train meets the criteria but the total cost of the system was underestimated, then a ranking system would be used that could cut a whole region out, in favor of three trains to another area, for a miniscule difference in performance. In other words if there is one less person on the average riding the Southern Crescent, for instance, than the third Florida train the result is that they have three trains and the other region would have none. That is all I am saying. That is arbitrary, not logical.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Stack).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STACK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Madigan: Page 89, after line 16, insert the following new section:

BUY AMERICA PROTECTION

Sec. 128. Section 350(j) of the Rail Passenger Service Act (45 U.S.C. 545(j)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) In addition to the exemptive authority set forth in paragraph (2), the Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of rolling stock or power train equipment if the Secretary determines that such rolling stock or power train equipment, as the case may be, cannot be purchased and delivered in the United States within a reasonable time.".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, you have heard me and a number of other Members here today lament that Amtrak does not have enough equipment to run its system; 68 percent of its rolling stock is 20 years old or older. It is in constant need of repair and provides a poor quality ride.

Within the next 2 years, Amtrak will be receiving some additional superliners for use in the Western States. Those cars, which will eventually number around 250, will free up some of the Amfleet equipment for use in other areas. However, Amtrak will still not have enough cars to provide the service that we expect it to provide.

This would be no problem if Amtrak could purchase new cars and have delivery within a short time. Unfortunately, Amtrak cannot do that. There is only one manufacturer of intercity rail passenger cars left in this country—that is the Budd Co., which by the way, is owned by West German interests. The Budd Co. has such a back order of business that if Amtrak were to place an order tomorrow, it could not receive its first car for at least 2 years.

The purpose of my amendment is to simply make it clear that the Secretary may exempt Amtrak from the buy America requirements added to the law last year if rolling stock or locomotives cannot be purchased and delivered within the United States within a reasonable time period. My amendment in no way weakens the buy America provision, but simply clarifies conditions under which the Secretary may grant Amtrak an exemption.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I wish to indicate that we think this is a tremendous improvement in terms of providing flexibility so as to meet the needs of the industry. It also protects the interests that are interested in the "buy America" provision. We think it provides some latitude, and it is appropriate.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Madigan).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEE

Mr. LEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lee: Page 56, after line 22, insert the following new section:

MAIL SERVICE

Sec. 106. Section 305(b) of the Rail Passenger Service Act (45 USC 514(b)) is amended by inserting immediately before the period at the end of the first sentence thereof the following: "including the operation of trains carrying mail only".

Redesignate the following sections accordingly.

Mr. LEE. Mr. Chairman, the current statute or current law indicates that the corporation shall take such actions as may be necessary to increase its revenues from the carriage of mail and express.

What this amendment does is to add the language after "express" that would include the operation of trains that would be carrying mail only. It would, therefore, give management discretion to Amtrak to determine if that is in their best interests and to proceed accordingly. That is the purpose of this amendment. I urge its adoption.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would just indicate my support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LEE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JENRETTE

Mr. JENRETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENRETTE: Page 89, after line 16, insert the following new section:

FIVE-YEAR PLAN TO MAXIMIZE MAIL AND EXPRESS REVENUES

SEC. 128. The Corporation shall, in conjunction with the United States Postal Service, determine those mail transportation requirements which can be met within the route system and frequency which Amtrak is authorized to operate; and shall, through detailed market analysis determine the maximum level of rail express traffic which can be expected to accrue to the Corporation, within such authorized route structure, and shall develop and furnish the Congress, not later than March 31, 1980, with a five-year capital and operating plan to achieve those levels, including modification of existing facilities to handle mail and express more efficiently, the acquisition of modern materials handling equipment and rolling stock, optimum scheduling, and staffing and/or promotional requirements designed to maximize revenues from these two sources.

At the time of presentation of the plan, the President of the Corporation, in conjunction with the chairman, Committee on Commerce, Science and Transportation, United States Senate, and the chairman, Committee on Interstate and Foreign Commerce, United States House of Representatives, will recommend and establish an advisory group of not more than seven Members of Congress, or staff alternates, who shall work with the Corporation on the preparation of enabling legislation and the establishment of appropriations levels. This enabling plan shall be completed no later than June 30, 1980.

Mr. JENRETTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. JENRETTE. Mr. Chairman, DOT in its wisdom overlooked the possibility of a revenue source of in excess $50 million. I believe this amendment would tie in with the amendment just agreed to in that this amendment would require the chairman of the House Committee on Interstate and Foreign Commerce and the chairman of the Committee on Commerce, Science and Transportation of the other body, to create an in-house study committee and report to Congress by June 30 of next year. This in-house committee, chaired by the Amtrak President with eight Members of the Congress sitting on the committee would devise a plan to maximize revenue over a 5-year period utilizing wherever possible Amtrak for the carrying of mail and parcels.

□ 1240

A recent study by Mr. Frank Shaffer of Chicago demonstrates that we could, through carrying mail, increase our revenue by over $50 million. Historically, the trains have used mail as a part of their revenue. The plan passed yesterday, the DOT proposal, allows Amtrak routes to serve cities having 16 of the bulk mail centers. Now, it takes 102 gallons of diesel fuel each day for each truck, between New York and Washington, and we have several Amtrak trains making the same run. I think that in these major corridors we should look at the fact that we are subsidizing Amtrak, we are subsidizing the Postal Service, and they have refused to work together. This would establish at no cost a committee that would look into agency coordination so that we could use these services to help one another rather than compete. Taxpayers subsidize both Amtrak and the Postal Service. To me, it is foolish that they do not work together. It is our responsibility to see that they begin now.

Mr. Chairman, I would ask that the members of the committee consider the amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. JENRETTE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I will state that the gentleman's amendment is a useful, innovative approach to this particular problem, and we would support the amendment.

Mr. JENRETTE. I thank the gentleman.

Mr. LEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the amendment that was just offered by myself previous to this establishes the objective for the Amtrak management to go out and seek the business of mails to increase its revenue, and I do not think it is necessary that we have a commission for a 5-year study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. JENRETTE).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1980, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $27,200,000. Sums appropriated under this subsection are authorized to remain available until expended.".

REPORT ON SPECIAL COURT PROCEEDINGS

SEC. 202. Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Association shall transmit to the Congress, no later than 30 days after the end of each fiscal quarter, a report with respect to the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 303 of this Act. Each such report shall include—

"(A) a detailed accounting of the Federal funds expended during such quarter in connection with such proceedings, and the purposes for which such funds were expended;

"(B) an explanation of the status of such proceedings, including the prospects for settlement or conclusion; and

"(C) an identification of which responsibilities in connection with such proceedings are being carried out directly by the Association, and which are being carried out by contract with private organizations.

"(4) The Comptroller General shall transmit to the Congress, no later than 90 days after the end of each fiscal year, a report with respect to the use of Federal funds in connection with the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 303 of this Act. Each such report shall contain the Comptroller General's evaluation with respect to each matter referred to in subparagraphs (A) through (C) of paragraph (3) of this subsection.".

TRANSFER OF FUNCTIONS; MONITORING

SEC. 203. Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712) is amended by adding at the end thereof the following new subsections:

"(h) TRANSFER OF LITIGATION.—No later than March 1, 1980, the Association and the Attorney General of the United States shall develop and submit to the Congress a plan for the transfer, to the appropriate department or agency of the Federal Government, of all responsibility for representing the United States in the proceedings before the special court to determine the valuation of rail properties conveyed to the Corporation under section 303 of this Act.

"(i) TRANSFER OF OTHER FUNCTIONS.—No later than March 1, 1980, the Association and the Secretary of Transportation shall develop and submit to the Congress a plan for the transfer of all functions of the Association, other than those referred to in subsection (h) of this section, to the appropriate department or agency of the Federal Government, including the abolition of those functions which will no longer be necessary.

"(j) MONITORING OF CONTRACTORS.—The Board of Directors of the Association shall adopt procedures to insure (1) that contractors, including law firms, provide reports containing written verification of tasks assigned, work performed, time worked, and costs incurred, including periodic status reports on work performed, (2) that such reports are audited by the Association, (3) that no funds are paid to contractors without written reports complying with the requirements of this subsection, and (4) that the Association applies such procedures uniformly to all contractors.".

INSURANCE COVERAGE

SEC. 204. (a) PAYMENT OF PREMIUMS AND BENEFITS.—Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The Corporation shall, through the purchase of insurance or otherwise, maintain in effect any medical insurance coverage or so much of any life insurance coverage that does not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower, which coverage was maintained by a railroad in reorganization in the region immediately prior to April 1, 1976, and which provides insurance benefits to employees who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such employee whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

"(i) through the purchase of insurance or otherwise, provide medical insurance benefits or life insurance benefits at the same level as were provided by the employer railroad in reorganization and in effect with respect to such employees immediately prior to April 1, 1976, except that the life insurance benefits so provided shall not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower; and

"(ii) assume and pay any claim for such employee (or his personal representative) for any such insurance benefits, if—

"(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph;

"(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period,

except that such death benefits shall not be paid for any such employee in excess of an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower.

"(C) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the cost of the insurance coverage and benefits described in subparagraph (B) of this paragraph. Any successor corporation to a railroad in reorganization (i) which was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or (ii) which had, prior to the effective date of this subparagraph, entered into an agreement with the Corporation to acknowledge, if necessary, that the obligations then described in section 211(h)(1)(A)(viii) of this Act constituted obligations of such railroad if such acknowledgment would have been necessary under this Act to have permitted the Corporation to have obtained section 211(h) loan funds with which to pay such obligations, shall be deemed to have conclusively acknowledged that the costs of such continued programs or coverage or benefits constitute valid pre-conveyance administration obligations of such railroad in reorganization. The Corporation shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization (or successor corporation) on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph which is not required to be paid by the Corporation under the provisions of such subparagraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.".

(b) AMENDMENTS TO SECTION 211(H).—(1) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended to read as follows:

"(viii) amounts required to provide adequate funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 303(b)(6)(B) through (D) of this Act.".

(2) Section 211(h)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 (h)(6)) is amended—

(A) by inserting "(A)" immediately before "Notwithstanding";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(B) The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization whose obligations were paid with the proceeds of loans forgiven under this paragraph, equal to the amount by which the loans, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counterclaim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States. The direct claim of the Association under this paragraph shall be prior to all other administrative claims of the estate of the railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.".

(c) REPEAL.—Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of enactment of Public Law 95-597.

PAYMENT OF TAXES FOR RAILROADS IN REORGANIZATION

SEC. 205. (a) Title VI of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 et seq.) is amended by adding at the end thereof the following new section:

"PAYMENT OF TAXES FOR RAILROADS IN REORGANIZATION

"SEC. 606. (a) PAYMENT OF TAXES.—(1) The Secretary may, upon the request of a State or political subdivision thereof, pay any real estate or other property taxes (including any applicable penalties and interest) which are owed to such State or political subdivision, as of the date of enactment of this section, by a railroad in reorganization on account of the ownership, lease, or operation by such railroad of rail properties in the region. In addition, the Secretary may, upon further request, continue paying taxes of the type described in the preceding sentence, as they become due after such date of enactment, until such time as such taxes are paid by or on behalf of such railroad or by any successor in interest thereto.

"(2) The payment of real estate and other property taxes to a State or political subdivision thereof by the Secretary under this section shall be—

"(A) subject to the assignment to the Secretary by such State or political subdivision of all its claims, liens, preferences, and other rights in connection with such taxes, in such form and manner as the Secretary determines necessary to protect the interests of the United States; and

"(B) subject to such other requirements as the Secretary determines to be necessary to protect such interests.

"(b) RECOVERED AMOUNTS.—Any amounts recovered by the Secretary pursuant to rights assigned to him under subsection (a)(2) of this section shall be covered into the Treasury as miscellaneous receipts.

"(c) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such amounts as are necessary to carry out the provisions of this section.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new item:

"Sec. 606. Payment of taxes for railroads in reorganization.".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to title II? If not, the Clerk will read.

The Clerk read as follows:

TITLE III—OFFICE OF RAIL PUBLIC COUNSEL

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 10388 of title 49, United States Code, is amended to read as follows:

"§ 10388. Authorization of appropriations

"There is authorized to be appropriated to the Office of Rail Public Counsel to carry out this subchapter not to exceed $1,850,000 for the fiscal year ending September 30, 1980.".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there any amendments to title III of the bill? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

REHABILITATION AND IMPROVEMENT FINANCING

Sec. 401. (a) Consideration of Applications.—Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) Definition.—Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

EXTENSION OF FINANCIAL ASSISTANCE PROGRAM

Sec. 402. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are amended by striking "September 30, 1979" each place it appears and inserting in lieu thereof "September 30, 1980".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

Mr. Chairman, the amendment that should be read is the one that was printed in the Record on July 10, which was a nongermane amendment agreed to when we adopted the rule.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Dodd: Page 102, after line 8, insert the following new section:

RAIL CROSSINGS

Sec. 403. Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) Rail Crossings.—(1) For purposes of preserving the historic environment and promoting tourism in certain areas of the Northeast Corridor, the following rail-highway crossings shall, notwithstanding any other provision of law, be exempted from the demonstration project for the elimination of rail-highway crossings conducted by the Secretary under section 322(a) of title 23, United States Code:

"(A) the School Street crossing in Groton, Connecticut;

"(B) the Broadway Extension crossing in Stonington, Connecticut.

"(2) The Department of Transportation, in conjunction with the State of Connecticut, pursuant to the provisions of section 130 of title 23, United States Code or the Highway Safety Act of 1973 as amended, shall institute such measures as are available to provide the highest level of protection at the at-grade crossings described in paragraph (1) of this subsection other than grade separation."

Mr. DODD. Mr. Chairman, since I introduced this amendment of July 10, the Department of Transportation has recommended some technical changes.

Mr. Chairman, I would ask unanimous consent that an amendment that is at the desk in the nature of a technical revision to my amendment be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut that the amendment be modified?

There was no objection.

Mr. DODD. Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The modification to the amendment is as follows:

In subsection (c)(1), as proposed to be added by the amendment offered by Mr. Dodd, insert "and from section 701(a)(5) and section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976" immediately after "United States Code."

In subsection (c)(2), as proposed to be added by the amendment offered by Mr. Dodd—

(1) strike out "or" immediately after "United States Code" and insert in lieu thereof a comma;

(2) insert ", or section 322(a) of title 23, United States Code" immediately after "as amended"; and

(3) strike out "the highest level of protection" and insert in lieu thereof "the best available protection".

Mr. DODD. Mr. Chairman, very briefly this amendment exempts two grade rail crossings in my congressional district in eastern Connecticut. These two grade crossings are located in Mystic or Stonington, Conn., one of the most historical communities in the entire State of Connecticut. The grade crossings exist in an area along the shoreline of Connecticut, where efforts to construct crossings that would be subsurface were impossible because of the high water table. As a result, grade separation would require the construction of two rather large overpasses at the cost of some $2 million apiece.

There are very strong feelings, both by business groups, environmental groups and by residents of that area that this would be a detriment to tourism and a loss to the historical nature of Stonington-Mystic, Conn., which many people, I know, in this Chamber have visited over the years. My hope would be that we would be able to exempt these two particular grade crossings that are located in this area. That is the purpose of this amendment.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman knows that the staff has reviewed the amendment, is aware of the fact that it has local application in the gentleman's area, and accordingly we support the gentleman's amendment.

Mr. DODD. I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, we have no objection to the amendment and we support the amendment.

Mr. DODD. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, are there any safety factors involved here?

Mr. DODD. Yes. In the amendment we are calling on the Department of Transportation to take every possible safety precaution, such as double rail crossings and barriers, in order to make sure that maximum efforts are made to prevent any harm from occurring to individuals in vehicles or on the trains as a result of there not being an overpass. We are instructing the Department of Transportation to make these crossings as safe as possible.

Mr. ASHBROOK. If the gentleman will yield further, what do they have there now?

Mr. DODD. There is one bar at one crossing, and the other does not really have anything at all. There has been no accidents there at all, but in order to answer the concerns of some, we have insisted that, of course, every effort be made to make these two crossings as safe as possible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Dodd), as modified.

The amendment, as modified, was agreed to.

AMENDMENTS OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer amendments and, Mr. Chairman, since one of these amendments goes to title I, I ask unanimous consent that the amendments be considered as read, printed in the Record, and that they may be considered at this time.

The Clerk read as follows:

Amendments offered by Mr. Florio: Page 56, line 17, strike out "date of enactment" and insert in lieu thereof "effective date".

Page 73, beginning on line 16, strike out "date of enactment" and insert in lieu thereof "effective date".

Page 86, beginning on line 7, strike out "date of enactment" and insert in lieu thereof "effective date".

Page 98, strike out lines 4 through 6.

Page 102, after line 8, insert the following new title:

TITLE V—EFFECTIVE DATES

EFFECTIVE DATES

Sec. 501. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on October 1, 1979.

(b) The amendments made by section 204 of this Act shall be effective as of the date of enactment of Public Law 95-597.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, these are technical amendments to conform the bill to section 402A of the Budget Act. They simply prohibit the expenditure of any funds in the bill before the fiscal year 1980.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. Florio).

The amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title IV?

Are there any other amendments to the bill?

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Madigan: Page 102, after line 8, insert the following new title:

TITLE V—TAX INCENTIVES

CERTIFICATION OF QUALIFIED TRACK

Sec. 501. (a) Application.—Any rail carrier which makes improvements in railroad track which it owns and which is used by the National Railroad Passenger Corporation pursuant to an agreement entered into under section 402 of the Rail Passenger Service Act may apply to the Secretary of Transportation for certification of such track as qualified track for purposes of section 48 of the Internal Revenue Code of 1954. Any such application shall be submitted in such form and contain such information as the Secretary may by regulation require.

(b) Certification.—The Secretary of Transportation, upon application under subsection (a) of this section, shall certify railroad track as qualified track for purposes of section 48 of the Internal Revenue Code of 1954 if the Secretary determines that such track is used by Amtrak or is under contract to be used by Amtrak on a regular schedule.

ADDITIONAL 10-PERCENT CREDIT FOR RAILROAD ENERGY PROPERTY

Sec. 502. (a) Additional 10-Percent Credit for Railroad Energy Property.—(1) Subparagraph (A) of section 46(a)(2) of the Internal Revenue Code of 1954 (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of railroad energy property, the railroad energy percentage."

(2) Paragraph (2) of section 46(a) of such Code is amended by adding at the end thereof the following new subparagraphs:

"(F) Railroad energy percentage.—For purposes of this paragraph, the railroad energy percentage is—

"(i) 10 percent with respect to the period beginning on January 1, 1980, and ending on December 31, 1984, or

"(ii) zero with respect to any other period.

"(G) Special rule for certain railroad energy property.—For purposes of this paragraph, the regular percentage shall not apply to any railroad energy property which, but for section 48(q)(1), would not be section 38 property.".

(b) Definition of railroad energy property.—Section 48 of such Code (relating to definitions and special rules) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Railroad energy property.—For purposes of this subpart—

"(1) Treatment as section 38 property.—For the period beginning on January 1, 1980, and ending on December 31, 1984, any railroad energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a).

"(2) Railroad energy property.—The term 'railroad energy property' means any property—

"(A) which is an improvement resulting from work necessary to provide, construct, reconstruct, erect, alter, protect, improve, replace, or restore qualified track or any roadbed or right-of-way for qualified track.

"(B)(i) the construction, reconstruction, or erection of which is commenced by the taxpayer after December 31, 1979, or

"(ii) which is acquired after December 31, 1979, if the original use of such property commences with the taxpayer and commences after such date, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined at the time such property is placed in service) of 3 years or more.

"(3) Qualified track.—The term 'qualified track' means any track which is certified by the Secretary of Transportation under section 501 of the Amtrak Reorganization Act of 1979.

"(4) When determination is made.—The determination of whether any property is placed in service in connection with qualified track shall be made as of the latest of—

"(A)(i) in the case of property acquired by the taxpayer, the date on which the taxpayer entered into a contract to acquire such property if such contract, on such date and at all times thereafter, is binding on the taxpayer; or

"(ii) in the case of property constructed, reconstructed, or erected by the taxpayer, the date on which the physical work on the construction, reconstruction, or erection of such property began, or

"(B) January 1, 1980.".

(c) Credits With Respect to Railroad Energy Property to Be Refundable.—(1) Subsection (a) of section 46 of such Code is amended by adding at the end thereof the following new paragraph:

"(11) Refundable credits for railroad energy property.—

"(A) In general.—Under regulations prescribed by the Secretary, in the case of so much of the credit allowed by section 38 as is described in subparagraph (B)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38.

"(B) Both regular percentage and railroad energy percentage refundable.—For purposes of subparagraph (A), the credit allowed by section 38 which is described in this subparagraph is—

"(i) so much of such credit as is attributable to the application of the regular percentage to railroad energy property, and

"(ii) so much of such credit as is attributable to the application of the railroad energy percentage.".

(2) Subsection (d) of section 6401 of such Code (relating to amounts treated as overpayments) is amended by adding at the end thereof the following:

"For rule allowing refund for excess investment credit attributable to railroad energy property, see section 48(a)(11).".

(d) Recapture of Additional Credit.—(1) Subsection (a) of section 47 of such Code (relating to certain dispositions, etc., of section 38 property) is amended by redesignated paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Property ceases to be railroad energy property.—

"(A) In general.—If during any taxable year any railroad energy property ceases to be railroad energy property but continues to be section 38 property with respect to the taxpayer, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from not treating the property, for purposes of determining qualified investment, as railroad energy property (after giving due regard to the period before such change in use). If the application of this paragraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1).

"(B) Cessation.—For purposes of subparagraph (A), any railroad energy property shall not be treated as ceasing to be railroad energy property with respect to the taxpayer by reason of the fact that the track (with respect to which such property was placed in service) ceases to be, or is not, used for intercity rail passenger service by National Railroad Passenger Corporation.".

(2)(A) Subparagraph (D) of section 47(a)(3) of such Code is amended—

(i) by striking out "paragraph (1)" in the subparagraph heading and inserting in lieu thereof "paragraphs (1) and (5)"; and

(ii) by striking out "paragraph (1), paragraph (1)" in the body and inserting in lieu thereof "paragraphs (1) or (5), as the case may be, such paragraph".

(B) Paragraph (6) of section 47(a) of such Code (as redesignated by paragraph (1)) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) of such Code (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1979.

Mr. JENKINS (during the reading). Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Georgia (Mr. Jenkins) reserves a point of order on the amendment.

Mr. MADIGAN. Mr. Chairman, I would ask that the gentleman from Georgia (Mr. Jenkins) make the point of order so that we might discuss the point of order and have a ruling on it and, perhaps, we could expedite the procedure in that manner, rather than go through the reading of the amendment and the explanation of the amendment.

The CHAIRMAN. The Chair will advise the gentleman from Illinois (Mr. MADIGAN) that the Clerk has not completed the reading of the amendment.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

POINT OF ORDER

The CHAIRMAN. The gentleman from Georgia (Mr. JENKINS) will state his point of order.

Mr. JENKINS. Mr. Chairman, I make a point of order against this amendment.

The bill that is now under consideration, H.R. 3996, is a bill which restructures the Nation's rail passenger system. The amendment which is being offered by the gentleman from Illinois (Mr. MADIGAN) very expressly amends the Internal Revenue Code. The amendment is clearly an income tax provision. It adds to the Internal Revenue Code, if I understand the amendment correctly, an additional income tax credit for investment in railway energy property.

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The amendment is clearly not germane to the subject matter of the bill before us which revises the Amtrak system. It is plainly inconsistent with the germaneness rule of the House.

I am going to also say, Mr. Chairman, that this new tax credit, which would be provided by the amendment of the gentleman from Illinois (Mr. MADIGAN), is refundable. It would be available despite the taxpayers' lack of tax liability. This is a concept which the jurisdictional committee, the Committee on Ways and Means, should consider and review very carefully before enactment.

The committee has not yet had an opportunity to do so because of the other pressing business of several phases of the President's energy program.

Mr. Chairman, the amendment of the gentleman from Illinois is manifestly not germane to this bill. I most respectfully request a rule on my point of order.

The CHAIRMAN. Does the gentleman from Illinois (Mr. MADIGAN) wish to respond to the point of order?

Mr. MADIGAN. Yes, I would like to speak on the point of order.

The CHAIRMAN. The gentleman is recognized for that purpose.

Mr. MADIGAN. Mr. Chairman, the gentleman from Georgia argues that my amendment is not consistent with the purpose of the bill and, therefore, for that reason not in order. As a matter of fact, my amendment is in order because it is consistent with the fundamental purpose of this bill. It is compatible and closely allied with the method of assisting Amtrak as provided in the bill and it does not become disqualified by the application of a committee jurisdiction test.

FUNDAMENTAL PURPOSE

A basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII 2911; Deschler's Procedure 28: 5). In determining this purpose, one must look to the text of the bill as the principal tool in determining purpose. The fundamental purpose of both the bill and the amendment is to provide Amtrak with the ability to provide safe, reliable, and comfortable intercity rail passenger service.

For example, Mr. Chairman, look at section 103 of the bill which sets forth the goals for Amtrak and the goals of this legislation. Let me read section 103 in Part:

> The Congress hereby establishes the following goals for Amtrak:
>
> (1) Improvement of on-time performance by at least 50 percent within a three-year period beginning on the date of enactment of this section.
>
> (2) Implementation of schedules which provide a systemwide average speed of at least 60 miles per hour, and which can be adhered to with a degree of reliability and passenger comfort.
>
> (3) Coverage of at least 44 percent of operating expenses, excluding depreciation from revenues by the end of fiscal year 1983 and 50 percent by the end of fiscal year 1985.
>
> (4) Improvement of the feasibility of State-subsidized service and the use of technical assistance panels to coordinate, plan and implement such service.
>
> (5) Encouragement of rail carriers to assist in improving intercity rail passenger service.
>
> (6) General improvement of Amtrak's performance through comprehensive, systematic operational programs and employee incentives.

The fundamental purpose of the bill, then, is to provide Amtrak with financial assistance and the tools necessary to achieve modern, safe, reliable, and comfortable intercity rail passenger service. The purpose of the amendment is to obtain track improvement so that Amtrak can meet the goals of this act. The amendment is consistent to the fundamental purpose of the bill.

CLOSELY ALLIED METHOD

Deschler's Procedure 28:6.1 points out that—

> In order to be germane an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter to be sought.

While the purpose to be accomplished by my amendment is through a method not specifically contemplated by the bill in its present form, the result that is desired and the method to achieve that result are compatible and closely allied. The basic method set forth in the bill to strengthen Amtrak and the method set forth in my amendment are similar. In brief, Mr. Chairman, both attempt to improve Amtrak's performance by developing a close working relationship between Amtrak and railroad carriers and by requiring the improvement of railroad track so that Amtrak can provide better service.

While it is also true that a bill containing one individual proposition may not be amended by another individual proposition even though the two belong in the same class, in this instance, we have only one basic proposition—that is a method to provide financial help to Amtrak, either through the bill or through my amendment.

Finally, it could be argued that committee jurisdiction is an obstacle to my amendment being considered. A parliamentary note in Deschler's Procedure (28:4.16) applies to this situation:

> The fact that the subject matter of an amendment lies within the jurisdiction of a committee other than that having jurisdiction over the bill does not necessarily dictate the conclusion that the amendment is not germane; for committee jurisdiction is but one of the tests of germaneness and in ruling on the question, the Chair must take into consideration other factors.

In conclusion, Mr. Chairman, I submit that my amendment is in order because it has as its fundamental purpose a purpose which is identical to that contained in the bill; the method proposed in the amendment uses a method of achieving the end result of better Amtrak performance in a way that is closely allied to the other methods used in the bill and, finally, the purpose of the amendment and the purpose of the bill are not only identical but use such closely allied methods that any objection based on committee jurisdiction is clearly outweighed when considering the germaneness of my amendment. I ask the Chair to find the amendment to be germane to H.R. 3996 and its consideration to be in order.

The CHAIRMAN. Does the gentleman from Georgia (Mr. JENKINS) wish to respond?

Mr. JENKINS. Mr. Chairman, I do insist upon my point of order at this time.

The CHAIRMAN. The gentleman insists upon his point of order.

The Chair is prepared to rule.

The Chair agrees with the gentleman from Illinois (Mr. MADIGAN) that there are several tests of germaneness. All of the tests which may be relevant to the particular amendment must be satisfied. The fact is that committee jurisdiction is one of those tests. Since the amendment deals with taxing policy and falls within the jurisdiction of the Committee on Ways and Means, that appears to be a relevant test of germaneness in this instance.

Quoting in support of that ruling is rule XVI, section 798c of the Rules of the House of Representatives, page 497, which states:

> Committee jurisdiction is not the sole test of germaneness where the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test and the amendment as offered does not demonstrably affect a law within another committee's jurisdiction, or where the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill—

But the text continues:

> But committee jurisdiction is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview.

In the opinion of the Chair, the amendment offered by the gentleman from Illinois does fall within the purview of the jurisdiction of the Committee on Ways and Means.

Therefore, the Chair sustains the point of order.

● Mr. GOLDWATER. Mr. Chairman, a lot will be said this afternoon for passenger trains, and it is undoubtedly true that energy problems strengthen the case for public investment in Amtrak. But it does not win the case, because down the road the case for Amtrak is unwinnable.

We can talk about an "optimal" route structure, or improving Federal/State cost sharing, or reducing the Government subsidy from an appalling level to one that is simply massive. But what this Congress should do is stop putting off the hard decision, and accept the fact that intercity passenger trains have no viable future. It is our responsibility now to respond to the needs of the taxpayers, and quit throwing good money after bad.

When we created Amtrak in 1970, Congress assumed that passenger rail systems had failed because of poor management and decrepit equipment. We presumed that trains would be potentially energy and cost effective. We presumed that trains would be a needed alternative to air, bus, and car transportation. None of these presumptions has proven to be true.

Remember one simple fact: Any service must ultimately succeed or fail on the basis of whether consumers are willing to pay for it.

Consumers have not been willing to pay for it. Two-thirds of the price of every Amtrak ticket is paid for by Federal tax subsidies. If Amtrak's fares were set at levels designed to recover operating costs, it is doubtful Amtrak would be able to even maintain the ridership that it has now. The result? After 8 years, the taxpayers are $45.2 billion poorer, and an effective, efficient, and beneficial passenger rail system has not emerged.

We may hear figures thrown around today about the strides Amtrak is making, particularly recently, and they are probably true. Yes, train ridership is up, increasing from 16 million in 1972 to about 20 million passengers today. But this represents less than one-half of 1 percent of all intercity travel. Of the 835 million travelers who used public transportation for intercity travel last year, only 2.2 percent chose Amtrak. Even if Amtrak riders tripled—which would tax the system to the limit—it would still serve less than one intercity traveler in a hundred.

Yes, revenues have doubled since 1972. But at the same time, operating costs have tripled and deficits have quadrupled, to $2.5 billion.

Yes, passenger trains have the potential to be fuel efficient, but they are only efficient when used—and they are not being used. As it is, trains in intercity travel do not have the fuel efficiency and pollution ratings to justify claims that they will save fuel. According to widely accepted reports from the Department of Transportation, Congressional Budget Office, and General Accounting Office, trains on the average are much less energy efficient than buses, and often as low as cars. If Amtrak disappeared tomorrow, and all its passengers switched to planes or cars, America's oil bill would not increase appreciably.

Do trains supply an alternative means of transport? Sure, but there is not a single town on any Amtrak route that is not served by another kind of transport. Amtrak presently serves 440 towns a day and 20 million passengers at a cost of about $635 million to the taxpayer this year. Buses, by contrast, serve 5,000 towns a day, carry 330 million passengers, and have gross revenues of $1.25 billion per year, with a minimum Federal subsidy.

In short, passengers have been lured away from trains by the convenience of automobiles for short distances, the speed of airlines for long distances, and the low price and flexibility of buses for moderate distances. Occasionally, for some routes and some passengers, trains are a viable option, but not often, and certainly not often enough to justify massive subsidies. Amtrak just does not have a logical corner of the market.

With all the legislative tinkering in the world, there is no prospect of Amtrak ever becoming self-sufficient. The choice we therefore face is whether to keep alive a system serving few people at a prohibitively high cost to the taxpayer, or to finally admit that this experiment cannot succeed.

I say it is time to admit it.●

● Mr. FRENZEL. Mr. Chairman, this is a good Amtrak authorization bill. It takes into account the need to strengthen the system by concentrating on routes where ridership is high and ridership potential is greatest.

The amendment to restore all the current service is a mistake. The Amtrak System has already been weakened by the requirement that it provide service, particularly long-haul service, in areas of low ridership potential.

Amtrak should concentrate its resources where the riders are, and this bill aims us in that direction.

It also should ask its passengers to pay at least one-half of the cost of their ride. This bill also aims us in that direction. Unfortunately, it does take us quickly enough to this latter goal.

The American people realize the value of a good rail transportation system in high-density population corridors or for short distances between population centers. If we cut the waste out, as this bill does, they will surely support our system.●

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committees rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HAMILTON) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, pursuant to House Resolution 350, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 397, nays 18, not voting 19, as follows:

[Roll No. 380]

YEAS—397

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini

Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire

Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer

Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—18

Collins, Tex.
Crane, Daniel
Devine
English
Goldwater
Hansen

Hopkins
Kelly
McDonald
Paul
Rousselot
Rudd

Snyder
Stockman
Symms
Williams, Mont.
Wydler
Young, Alaska

NOT VOTING—19

Anthony
Bereuter
Bolling
Conyers
Crane, Philip
Emery
Erdahl

Fish
Flood
Forsythe
Giaimo
Huckaby
Jeffries
Leach, La.

Moakley
Scheuer
Stewart
Walgren
Wright

☐ 1310

The Clerk announced the following pairs:

Mr. Moakley with Mr. Fish.
Mr. Walgren with Mr. Philip M. Crane.
Mr. Giaimo with Mr. Emery.
Mr. Flood with Mr. Jeffries.
Mr. Wright with Mr. Forsythe.
Mr. Scheuer with Mr. Bereuter.
Mr. Anthony with Mr. Conyers.
Mr. Huckaby with Mr. Leach of Louisiana.
Mr. Conyers with Mr. Erdahl.

Mr. SNYDER and Mr. HOPKINS changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill just considered, H.R. 3996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, CROSS REFERENCES AND TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 3996

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 3996, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 3996.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GERRY SPIESS SAILS ATLANTIC IN 10-FOOT BOAT, THE "YANKEE GIRL"

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, I rise today to salute the heroic voyage of my constituent from White Bear, Minn., Gerry Spiess, who just yesterday completed a 54-day solo trip in his homemade 10-foot boat, the *Yankee Girl*, from Virginia Beach to Falmouth, England.

Gerry's courageous voyage has captured the attention of the world press and deservedly so. The *Yankee Girl*, which he labored on for 2½ years in his garage in White Bear, is 2 feet shorter than any other vessel which has sailed across the Atlantic. I would also add that Gerry made this incredibly challenging trip in 12 days less than the previous record holder, Robert Manry, who sailed his boat *The Tinkerbelle* across the Atlantic in 1965.

Gerry Spiess can now lay claim to constructing and sailing the smallest craft ever to cross the North Atlantic. Like all Americans, I was fascinated to learn the details of Gerry's voyage. In his own words, he "did it for the challenge, like mountain climbing or anything else." Based on interviews yesterday, it is obvious that he got what he wanted by experiencing a series of challenges from terrible storms, periods of dense fog, a fall overboard, and piloting through a school of whales that most assuredly would be a formidable obstacle for any vessel, let alone a 10-foot long, 5-foot wide boat.

I think one of the most significant factors about this record-setting voyage is the anonymity Gerry maintained about this adventure on the high seas. He is characterized by his neighbors and friends as a "humble man" not giving way to pretenses or seeking attention. This can certainly be attested to since virtually no one was even aware of his plans until shortly before he left Minnesota with the *Yankee Girl* in tow. Not even his fellow workers or even the local press got wind of the story until after the fact.

I know that the ecstatic Minnesota reaction to Gerry Spiess' incredible feat is shared in total by Americans throughout the country. We Americans have always maintained a love affair with adventure seekers, those who set out to confront seemingly impossible tasks and superhuman challenges.

Gerry Spiess is such a man. His courageous voyage deserves the attention it has received and the accolades that most certainly will follow. Today I am introducing legislation to strike a gold medal in honor of Gerry—a man who did not set out to break any records, but simply planned and executed a trip on the North Atlantic to satisfy his own desires.

Mr. Speaker, I will be introducing legislation to provide for a gold medal for this deed. I think Gerry Speiss epitomizes the quality of adventure of this country and our people. I hope Members will join with me.

Mr. Speaker, I include, as part of my remarks, the Wednesday, July 26, Washington Post and Tuesday, July 24 Washington Star articles which so effectively tell the story of this great accomplishment:

Hero's Welcome—Skipper of 10-Foot Boat Ends Solo Ocean Crossing

(By Leonard Downie, Jr.)

London, July 24.—Weekend sailor Gerry Speiss docked today at Falmouth on the Cornish coast of Britain to a hero's welcome after 54 days of solo sailing from Virginia Beach, Va., in his homemade, 10-foot boat, Yankee Girl, the smallest craft ever to cross the North Atlantic.

The modest Minnesotan, who insisted he had not set out to become a hero, was met by his wife and parents. A small navy of reporters and thousands of vacationers rode alongside his craft in scores of boats and lined the picturesque cliffs rising above the harbor from which 18th-century packet boats sailed to the West Indies.

"I did it just for the challenge, like mountain climbing or anything else," said Speiss, a 39-year-old electronics engineer. "But this one I think is intellectual, physical and emotional—designing the boat and planning the trip. I spent two and a half years on it."

Yankee Girl is two feet shorter than the 12-foot Tinkerbelle that American journalist Robert Manry sailed alone across the Atlantic in 1965. Speiss also made his single-handed crossing in 12 days less than Manry's 66.

"I didn't set out to beat a record," Speiss insisted as reporters besieged him from motor launches before Yankee Girl could reach the dock. "I didn't try to beat anyone else's achievements. It was just something I wanted to prove to myself."

But he clearly was proud of Yankee Girl, the turquoise-and-white, egg-shaped boat he designed and built in his garage in White Bear Lake, Minn. Just under 10 feet long and five feet, six inches wide with a 14-foot mast, the 1,800-pound boat with rounded corners and edges is self-righting and self-steering. It also has seat belts, a four-horsepower engine and a tiller inside the cabin for emergencies.

"Yankee Girl is good enough to go around the world," boasted the bespectacled Spiess sporting a voyage's growth of beard he said he would shave off. "But I wouldn't want to be the one to do it. It's too dangerous."

His trip across one ocean was dangerous enough, he said, with several terrible storms, thick fog off the English coast in which he could have been hit by a larger ship, and a mid-Atlantic school of whales he successfully steered through.

Spiess said his closest call came when he fell overboard adjusting a sail after a storm 400 miles out from the Virginia coast. Attached to the boat by a safety line, he struggled in the water for what seemed to be an interminable period before he was apparently pushed back into the boat by a wave. He did not even lose his glasses.

His greatest fear was of being alone without assistance at times like that. "Even a broken rib could be disastrous," he said. "You have nobody to help you."

To cope with the loneliness, he had brought along numerous volumes of Mark Twain, James Herriott and other examples of "light reading," plus cassette tapes of his favorite Minnesota radio programs. He had more than enough water stored aboard the boat and a bomb shelter's supply of canned goods that doubled as ballast.

He said he was able to nap most days and slept well every night until last night, when he was nervous about fog in the crowded shipping lane and excited about landing. He did not know until his wife, Sally, and parents, Louis and Jeannette Spiess came into the harbor in a pilot boat to meet him that they had been waiting anxiously at Falmouth.

"It was fantastic to see him in such great shape," Sally Spiess said later. "He looked extremely fit and well considering the length of time he's been at sea. The adrenalin is pumping and he didn't even seem all that tired.

"He was delighted we had come to meet him," she said. "The waiting was the worst part. I don't think I could have stood another 24 hours of it."

She said her husband had been sailing as a hobby for the 17 years they have been married and had once sailed down the Mississippi River and along the coast of Central and South America.

Spiess's mother said she did not try to discourage him from attempting the voyage. "I knew if anyone could make it, he could," she said. "He has a lot of courage as well as a lot of brain."

Spiess seemed a bit overwhelmed by the enormity of his welcome, which included a civic celebration and press conference, where he answered reporters' questions shyly and quietly while tightly holding his wife's hand. He was now ready, he said, for a hot bath and big steak.

His arrival was front-page and national television news in this historically seafaring nation. The days of Sir Francis Drake, who sailed from nearby ports along the southwest coast of England are recalled with nostalgia and latter-day feats like solo small-craft crossings by Manry and Speiss are greatly celebrated.

London map-maker Francis Chichester was knighted after he first got Britain and the world excited about sole ocean sailing by winning the first trans-Atlantic single-handed yacht race in 1960, setting a solo Atlantic crossing record of 33 days in 1962, and then sailing alone around the world in 1966 and 1967. But his Gipsy Moths III and IV were more than 50 feet long and had been specially built for fast, long-distance ocean sailing.

By comparison, the Yankee Girl looks hardly seaworthy, a dwarf of a boat at which no yachtsmen would have looked twice before today. Tonight it is under lock and key in Falmouth because the harbor master feared it might be stolen by an admirer.

(Contributing to this story was special correspondent Michell Sammons.)

SKIPPER HARDLY MENTIONED PLANS

(By Bill Peterson)

Gerry Spiess, the American who sailed across the Atlantic in a boat not much longer than a ping pong table, is a self-styled adventurer who left home without telling most of his neighbors what he was up to.

"Gerry is a real humble type man," said a friend, Norman Schwietz. "When he left, he only told a handful of close friends. He likes to do things for his own achievement, not for a lot of attention.

Spiess, 39, built his 10-foot sailboat "Yankee Girl" in his garage in White Bear Lake, Minn., a suburb of St. Paul, and quietly launched it from Virginia Beach, Va., 54 days ago. Tacked to a galley wall was a picture of his wife, Sally, and a small prayer which read, "Oh Lord, thy sea is so big and my boat so small."

Neither his former bosses at 3M Co., where he taught service technicians how to repair business machines, nor his hometown newspaper, the White Bear Press, knew he had left.

"It was all very low key. The fellow lives about a block away from me. I knew he was building a boat, but I didn't have the slightest idea he had actually taken off until about a week ago," said White Bear Lake Mayor Brad Stanius, who was frantically trying to organize a welcome home parade and celebration yesterday.

Spiess' friends described him as a soft-spoken "gutsy guy," who looked and acted more like a school teacher than a man willing to brave the dangerous Atlantic seas for weeks at a time. "I've met him at company parties and he always seemed like a very average guy," said Yvonne Johnson, who worked with his wife.

Behind the quiet exterior, however, was an intensely driven adventurer, a man who formerly raced motorcycles and once tried to build a single-engine airplane. His wife, the assistant manager of a computer firm, shared and supported his wanderlust, both financially and emotionally.

"People ask why he does it, and the only answer I have is that it's much like climbing the mountain," she said in an interview with the White Bear Press before she left to meet him in Falmouth, England. "If you ask the question, you can't understand the answer.

"It's a challenge. It's a thrill that a lot of people don't put into their lives anymore."

Spiess has been interested in sailing for more than 20 years. Although he once sailed down the Mississippi River and across the Gulf of Mexico to South America, he was basically a weekend sailor, who didn't even belong to the local yacht club in his hometown.

The Yankee Girl is the smallest sailboat ever to complete the Atlantic crossing in modern times. The fiberglass and wood hull is 10 feet long and is shaped like a wedge of pie. It has a 14-foot mast, a radiotelephone and a 4-horsepower motor. Beneath its deck is a narrow bunk, a small chart table and a tiny galley.

For company on his voyage, Spiess took a collection of Mark Twain books and a series of recordings of old radio programs. For food, he carried canned soup and fruits, along with homemade beef jerky.

His wife's biggest concern during the trip was that he might be run over by a large cargo ship while traveling in shipping lanes.

But she was never really worried that he wouldn't complete the voyage. "I knew the man that built that boat and the years of effort and study that he put into its construction," she said in one interview. "I never considered myself a potential widow."

"The voyage," she added, "has captured the imagination of a lot of people. I think a lot of people picture it as a carefree jaunt and they don't realize how much personal effort went into both the planning and the execution. I don't think it is the feat that's important. The determination to make it happen is really what this is all about."

Spiess began building his boat more than three years ago, and first tested it in White Bear Lake, a body of water that is about two miles wide at its widest point, in the fall of 1977. Friends would come over to watch him work, but by their accounts the boat was entirely his undertaking.

"A lot of people laughed at him. They thought he was crazy," said Schwietz. "But I knew he would make it. He's the type of person who has a calm head about him."

SAILOR TRIUMPHS OVER ATLANTIC

FALMOUTH, ENGLAND.—American yachtsman Gerry Spiess today sailed his 10-foot boat into Falmouth Harbor, completing a 54-day solo crossing of the North Atlantic in the smallest boat ever to complete such a journey.

Spiess, a 39-year-old engineer from White Bear Lake, Minn., arrived at the center of a welcoming flotilla of honking, tooting pleasure boats that had sailed out to escort him the last few miles to the Cornish coast. Thousands of cheering spectators lined the shores to greet Spiess and his tiny homemade sailboat, "Yankee Girl."

Spiess, who left Virginia Beach, Va., June 1, said he survived two weeks of "sheer hell" at the start of voyage during which 20-foot waves pounded the boat. He was once swept overboard, and only his lifeline saved him.

The Yankee Girl is shaped like a wedge of pie and painted green. For company in his cramped quarters, Spiess took along the works of Mark Twain and recordings of his favorite American radio shows.

Spiess covered some 3,500 miles in his tiny boat. The previous record for a completed trans-Atlantic crossing in a small boat was set in July 1966, when boat-builder Bill Verity, of Fort Lauderdale, Fla., crossed to Fenit in southwest Ireland in the 12-foot sailing boat "Nonoalca" in 65 days.

Describing the time he was swept overboard early in the voyage, Spiess said: "I was saved by my lifeline. It held fast. I gave a tremendous pull and managed to haul myself back on board.

"It was a terrible half hour. I knew I had to make it back to the boat. I never had any worries after that. What could have been worse?"

Yankee Girl, less than 6 feet wide, has a 14-foot mast, a radio-telephone and a 4-horse power outboard motor. Most of her 10-foot length is cabin and storage space. There is a narrow bunk, a small chart table and a tiny galley.

"I managed to sleep every night—except last night," Spiess said. "My homemade self-steering gear never let me down.

"Last night, I kept awake. I was in the busy English Channel shipping lanes. I was not going to take a chance on the last leg.

"When I go ashore, I just want a sauna bath and a long sleep. After that, a slap-up meal."

His wife Sally said, "He is living on his adrenalin at present. When he comes ashore and starts to calm down, I think he will fall asleep."

PROVIDING FOR CONSIDERATION OF S. 1030, EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 384 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 384

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI and section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. It shall be in order to consider an amendment to said substitute adding a new section providing for judicial recourse by the various States, printed in the Congressional Record of July 24, 1979, by, and if offered by, Representative Bauman, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of S. 1030, it shall be in order in the House to move to take from the Speaker's table said Senate bill with the House amendments thereto, insist on the House amendments and request a conference with the Senate.

□ 1320

The SPEAKER pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 384 provides for the consideration of S. 1030, the Emergency Energy Conservation Act of 1979. It provides for an open rule with 1 hour of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. It waives clause 2(1)(6) of rule XI, the 3-day layover rule, and section 402(a) of the Budget Act, requiring new budget authority to be reported by May 15 preceding the beginning of the fiscal year against consideration of the bill. It provides for the committee amendment in the nature of a substitute to be considered as an original bill for purposes of amendment and waives clause 5 of rule XXI, appropriations in a legislative bill, against the substitute. Furthermore, the resolution provides that it shall be in order to consider an amendment to the substitute adding a new section providing for judicial recourse by the various States, printed in the Congressional Record of July 24, 1979, by and if offered by Representative Bauman, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are waived.

The resolution also provides one motion to recommit with or without instructions, and it provides that after passage of S. 1030 it shall be in order to move to take the bill to conference.

Mr. Speaker, S. 1030 grants the President broad authority to impose conservation measures on States that do not meet Federal conservation goals and to take other steps, including gas rationing, to curb energy use in the event of a severe national energy shortage. The President could impose gasoline rationing when he determines a 20 percent shortage exists. The bill eliminates the requirement in current law which requires a rationing plan to be approved by both Houses of Congress. Implementation of the plan is subject to a one-House veto and other requirements of the Energy Policy and Conservation Act. The bill directs the President to establish gasoline and diesel fuel conservation targets and permits the States to develop plans to meet such targets. A standby Federal conservation plan will be implemented if a State fails to submit a plan or submits an inadequate plan as determined by the Department of Energy. The President could also impose any portion of the standby Federal conservation plan, including gas rationing, if he determines there will be at least a 10 percent reduction in available supplies of motor fuels or other petroleum products for any 3-month period.

The President would be required to submit to Congress a progress report on development of a rationing plan within 90 days of enactment of this bill. The bill provides authority for minimum automobile fuel purchase requirements of $7 for eight-cylinder cars and $5 for all other vehicles, excluding motorcycles, S. 1030 also contains a provision which directs the Secretary of Energy to report to Congress within 180 days on the commercial and industrial storage of gasoline and middle distillates, and to report on changes in petroleum stocks since November 1, 1978. The authority under this bill expires September 30, 1982. The President is authorized to include in the Federal conservation plan an automobile sticker system which would restrict driving to 6 days per week. Each automobile would bear a sticker indicating a day of the week during which the car would not be driven. The car owners would make the selections and exemptions would be made by the Secretary of Energy. The President would not be permitted to restrict weekend sales of gasoline unless sales on other days of the week were similarly restricted.

Mr. LATTA. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I agree with the statements just made by the gentleman from Connecticut (Mr. Dodd) concerning this rule. I would like to point out that while there is some problem with the rule, there are many more problems with this bill. The first problem is whether this bill represents a worthwhile effort in the first place. In the supplemental views of the committee report, the gentleman from California (Mr. Dannemeyer) states his point of view in the following, straightforward manner, and I quote:

> Rationing, therefore, is not the answer; immediate decontrol of both the price and supply of oil and petroleum products is—and the best thing the House could do with S. 1030 would be to strike out all but the enacting clause and substitute for it the provisions of H.R. 4693. Anything less is at best a distraction and at worst a step in the wrong direction.

However, even if we overlook the first problem, that is, whether this bill is worth considering in the first place, there are other problems with the bill itself. For example, with regard to gasoline rationing, section 2 of this bill amends the National Energy Conservation Policy Act to remove congressional review and approval procedures over the substance of the rationing plan yet to be developed by the President. In effect, Mr. Speaker, this bill approves a plan sight unseen in advance. The President would have the authority to implement rationing if he determines that a 20-percent supply interruption of petroleum products exists, or is likely to exist, for longer than 30 days and if the Congress does not veto such implementation within 15 days after the President's determination.

Let me say to the Members that this 15-day implementation period of a veto does not mean too much if the committee chairman having jurisdiction of the committee does not want to report out a bill. Then we are faced with discharging the committee from further consideration of the matter. So, let us not be fooled by this provision in this bill providing for a veto within 15 days.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Kentucky.

Mr. HOPKINS. I thank the gentleman for yielding. On that point of the 15 days, what if that 15-day period occurs during a recess of Congress?

Mr. LATTA. That is a very good question. I think it ought to be asked of the committee having jurisdiction of this piece of legislation when it is being considered in the Committee of the Whole.

Mr. HOPKINS. If the gentleman would yield further, would someone of the committee care to answer that question?

Mr. DODD. If the gentleman from Ohio (Mr. LATTA) will yield, will the gentleman from Kentucky (Mr. HOPKINS) repeat his question, please?

Mr. HOPKINS. Will the gentleman from Ohio further yield?

Mr. LATTA. I yield to the gentleman from Kentucky.

Mr. HOPKINS. The gentleman was talking about a 15-day period in which a one-House veto might apply. My question is, what if that 15-day period occurred during a recess of Congress?

Mr. DODD. If the gentleman from Ohio would yield further, as I understand it, that would apply when the House was in session. That is my understanding. I would suggest that the gentleman reserve that question, however, for the manager of the legislation once we are into consideration of the bill. I am not prepared to address the specific questions that will be raised as to the substantive nature of the legislation. That is my understanding, but I would suggest that that question be raised at another time.

Mr. HOPKINS. I thank the gentleman.

I thank the gentleman from Ohio for yielding.

□ 1330

Mr. LATTA. Mr. Speaker, another major problem area in this bill is in section 3 dealing with State and Federal conservation plans. Unlike the rationing section these plans are not an immediate threat or need not be an immediate threat.

Under section 3 the amount and purpose of all energy consumed in the United States could come under Government control. The powers delegated to the President and to the Governors could hardly be broader. There are a few restraints on their authority but, more importantly, both the Congress and the State legislatures are expressly precluded, and I emphasize that word "precluded," from reviewing or modifying the Federal and State conservation measures.

Mr. Speaker, without considering the cost of developing a rationing plan—although the cost of developing a rationing plan is small, the cost of actually implementing such a plan will be great.

An accurate estimate of the cost of implementing a Federal plan is not possible until a plan is developed. However, Members should be aware that while the third budget resolution for 1979 includes small amounts necessary to develop a plan, there are no funds for the implementation of the rationing program in the third resolution of fiscal year 1979 or the first resolution of fiscal year 1980.

Mr. Speaker, there seems to be a feeling on the part of some that the House must do something, now, whether it is right or wrong. By rushing into something without fully considering the consequences we may end up with Government again making the situation worse.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Ohio for yielding. Those of us who have the honor to serve on the Committee on Rules sometimes have an advantage that other Members do not, particularly when legislation is quickly reported out of a committee and it is available to the House for only a short time before floor consideration. That is the case with this bill.

The report was filed but a day or so ago on S. 1030 and, in fact, this rule waives the 3-day rule which requires that a report and bill in its reported form be available to the House for at least 3 days so that Members may familiarize themselves with the contents.

I draw the attention of my colleagues to the contents of this legislation because for those of you who voted against the rationing plan 2 months ago on this very floor, you might want to read very closely the provisions of this legislation and the way it affects your constituents and, indeed, all of the citizens in the United States as it pertains to gasoline rationing. Equally as important, examine this bill as it pertains to the conservation limitations to be imposed on every form of energy in this country. This is the most sweeping grant of power given to any President of the United States in peacetime possibly in the history of the United States. It could, in fact, radically alter, depending upon the whims of the President in power, the lives of every one of the people that you represent.

The gentleman from Ohio referred to the unfortunate psychology that is being drummed up in the media and elsewhere to act, to do something, to pass something, to put forth some legislative effort to apparently satisfy the simple-minded goal of saving that we passed a law dealing with the energy emergency. In proposing this bill its proponents are ignoring the fact that we have a great many available energy resources in this country now restricted by the Federal Government. The basic premise of this legislation before us is that the Government that has literally screwed up our national energy situation for years will now be given a blank check to screw it up further. Mr. Speaker, I use that phrase advisedly because I think it has taken on a meaning in the popular vernacular and I think that the average American understands that.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank my good friend from Maryland.

If we want to see a good example of screwing up the energy package just read the Washington Post this morning about my small town of Skagway and the EPA office. A town of 800 people, now each council member who serves voluntarily or for $80 a month is being fined $10,000 a day and being threatened to be put in jail because of the fact that the EPA-built sewage plant they designed does not work and they are spending 46,000 gallons of fuel beyond what was expected to run a plant. I am trying to get an exemption from that. This gives an example of Federal bureaucracy and waste of fuel. The reason they cannot use coal is because we have the Clean Air Act.

I thank the gentleman for yielding. I agree with the gentleman in his interpretation of the legislation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LATTA. I yield 2 additional minutes to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I think the gentleman from Alaska is quite correct. The gentleman comes from a State already under the heel of the Federal Government in many respects but if the Alaska lands bill and other Federal legislation that applies to that State is compared to the sweeping grant of powers in this legislation even it looks rather puny by comparison.

I again urge the Members to familiarize themselves with not only the minority views but the majority report which is unabashed in its advocacy in this unlimited power for the executive branch.

I would also point out that the powers granted in the legislation, despite the fact the phrase is used quite often that the President will administer the powers, will, in fact, be administered by the Department of Energy, an enterprise created by this Congress without the vote of the gentleman from Maryland some 2 years ago which has drawn almost unanimous condemnation for its energy policies.

I am saying the implications of this bill are very dangerous for limitations on the freedoms of the United States and its citizens.

I also suggest that you read the report and the summaries available to us before voting on the amendments because many of the amendments to be offered will seek to increase the Presidential powers even beyond what this bill allows.

Last, I would call your attention to the fact that the bill when it passed the other body allowed the States who will be subjected to Federal control if they do not produce energy-saving plans to the liking of DOE under this legislation, the right to appeal to the courts. They will have to knuckle under to Federal edicts.

I will offer an amendment made in order by the Committee on Rules that will at least preserve the right of States, their attorneys general and their Governors to appeal to the courts if, indeed, they are treated unfairly by the Federal Government under these powers granted in this legislation.

It is your future; it is the future of your constituents; it is this Nation's future at stake in this legislation. Except in a declaration of war I have rarely seen this broad grant handed any President of the United States.

Mr. DODD. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. I would ask the gentleman from Maryland what would he do if right now a handful of people could tomorrow destroy the Saudi Arabi pipeline, plunging the entire Western World into depression unless we are prepared to act?

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I certainly do.

Mr. BAUMAN. Well, a handful of people at the Department of Energy have already destroyed the energy distribution system of this country and to remedy that I would immediately remove the control and allocation laws from the books and you would solve a great deal of the shortage problems.

Mr. WEAVER. Those are words, words, words.

Mr. BAUMAN. What is the gentleman seeking? The gentleman asked me a question and has received one of the best answers he will ever get.

Mr. WEAVER. We need something done. We must conserve and stop using so much energy in this Nation today.

Mr. DODD. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

I would direct a question to the gentleman from Maryland. I believe the gentleman's statement was that except for the time of war no President was granted this type of broad, sweeping authority?

Mr. BAUMAN. Very rarely in our history has any President made claim to such immense authority. I am not referring to the incumbent but whoever might be in office if this becomes law.

Mr. JOHN L. BURTON. Have we not been told this is the moral equivalent of war?

Mr. BAUMAN. The acronym of which is "MEOW," as has been frequently observed.

Mr. JOHN L. BURTON. Well, if MEOW occurs should we not at least have the moral equivalent of authority that he would have during war if, in fact, this situation were the moral equivalent of war?

Mr. BAUMAN. Well, I still understand the Constitution to require that Congress must declare war. I do not think that on the facts available we ought to allow this kind of war power without better substantiation of the need.

Mr. JOHN L. BURTON. I think the gentleman would have to agree with me there is nothing in the Constitution that says Congress has to declare the moral equivalency of war. Only war itself.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DODD. Mr. Speaker, I yield 30 additional seconds to the gentleman from California.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I think we have collectively a great deal of talent and judgment in both bodies of the Congress but I am not sure we are equipped, based on recent history, to make moral judgments on such broad matters although we quite often suggest that morality is part of our judgment.

Mr. JOHN L. BURTON. I thank the gentleman.

I thank the gentleman for yielding.

I yield back the balance of my time.

☐ 1340

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, what I say may seem in poor taste in view of what the President has asked us for in the way of authority; but in my view the Congress should not grant the President the authority to ration gasoline. In my view no grave national emergency requires the President to have that power and no emergency of that scope can be foreseen. In fact, quite recently the head of the Department of Energy pledged that there will be no more gasoline lines this year or in 1980. Gas supplies may continue to be somewhat tight. But it was only 18 months ago that the world was literally awash with gasoline, every available storage capacity was brim full.

Now, it may well be that we will fall on bad times, but this will occur, in my judgment, only if Government itself makes unwise decisions by imposing severe limits on imports.

I do not believe the American people will tolerate their President consciously lowering their standard of living. Abundant oil supplies have enabled the people of the United States to achieve the highest standard of living in all history. Take the automobile, for example. I make no apology for the fact that the American people own a lot of automobiles and use these cars. The car provides us with a degree of personal freedom and mobility never dreamed of by our ancestors and unparalleled in history. Automobiles open to everyone parks, historic sites, and recreational opportunities from coast to coast. An industry of restaurants, motels, and amusement centers provide millions of American citizens with jobs. Our lives are greatly enriched because the average American has a means of individual, personal transportation.

I submit that most citizens regard a car as an extension of personal freedom so valuable that they are willing to make almost any sacrifice to own and operate an automobile.

Now, in his address to the Nation, President Carter noted that "for the first time in the history of our country a majority of our people believe that the next 5 years will be worse than the past 5 years." He went on to cite the unwillingness of people to save for the future, their failure to vote, growing disrespect for government, churches, and schools.

Yet, at no point did our President state that he believes that the next 5 years can actually be better than the last 5 years. Instead, he told the American people that they "must face the truth" and "stop crying and start sweating."

Astonishingly, the President seems resigned to the prospect that the next 5 years, indeed, will be worse than the last 5, and since energy is so important as a determinant of our standard of living, apparently President Carter has resigned himself and the Nation to a significant reduction in the quality of the lives of the American people. That was the President's message to us, and in my view that is his true failure of leadership. No matter how you define resignation, President Carter is practicing the politics of resignation, not the politics of hope.

For my part, I reject the politics of resignation, the economics of scarcity that he seems to have embraced. I am convinced that with wise and resolute leadership, the next 5 years can, and will, be better than the last 5 years. I think we should all work toward that end.

One way to start is by rejecting this bill.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong opposition to the bill. We have heard from the President and some of the leaders in Congress that rationing is the solution to our energy problems. Anybody that thinks that rationing will solve the energy crisis of this country is very shortsighted. Any time you solve something by rationing, be it food or energy or clothing, all you are doing is delaying the inevitable.

The way to solve this problem is through production. The former gentleman speaking in the well talked about lowering our standard of living because we are going to put a limit on imports. I happen to agree that the President is right on that; but he is not right on rationing. Where he is wrong is on his program, and this Congress is wrong on this program, is on production. The producing of our oils which are in the ground today, the incentives to do so, the building of dams and of refineries that can handle the high sulfur crude from the great State of Alaska, none of these things have happened in 15 years.

So this body thinks, and the gentleman from Oregon mentioned the fact that if there was a shutdown by the OPEC nations there would be a great recession in the United States, we cannot afford to send the dollars abroad that we are sending right now. That is why we have a 14-percent inflation rate and we will go to approximately 17 percent under the President's program.

The solution, my good friends, and the President still does not see this, is production of energy, the drilling of holes in the ground and finding our oil, the opening of our mines and putting our great coal resources on line, the building of dams, the consideration and the building of nuclear power which must be considered, and we are not doing this. We will have people stand on this floor today and say we have passed a gas rationing program, do not worry about it, it is not going to cost you any more money, and there will be gas at the station, and you know that is not true.

I say vote down this turkey of a bill and let us get on with the production of energy for this great Nation.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I take this time merely to try to explain what is in this bill. I know that may seem a little radical in view of the haste with which the bill came out of the Committee on Rules; but I do it for precisely that reason. I think I might as well use the time of the Rules Committee as the time that we have to debate the principles involved in the bill.

First, I would say to my colleagues who are here on the floor that they ought to know that this bill is not S. 1030 as it passed the Senate. This bill is a complete revision of S. 1030, which by comparison was a very moderate bill that had a lot of safety factors in it that protected the Congress against the implications of this bill. This bill actually contains two separate types of authority to the President.

First, it is a rationing bill and that is what the news broadcasters today have said we will be considering. It is a bill to allow the President to establish any method he wishes to ration fuel products, that is gasoline and diesel, to the users of those products with no congressional approval or even input necessary.

Now, he may elect to use the plan that the Congress voted down 2 months ago and there will be nothing that we can do about it, because the only vote we have is a one-house veto over the time he puts this rationing plan into effect.

We cannot modify the plan or refuse the plan.

He can pick any other rationing scheme, no matter how unworkable, that he might wish, because there is no way that we get our input into that. Under this bill, we relinquish the congressional review procedures we carefully set forth when we passed EPCA in 1975.

Now, when he imposes a gasoline rationing plan that does not serve the district from which you come, you will, of course, be free to criticize the President; but if you vote for this bill, you ought to know that you will be voting to give the President carte blanche to do anything he wishes with references to gasoline rationing.

☐ 1350

The second part of the bill, section 3 of S. 1030 as reported, is even more of an open-ended authority for the President. That is the conservation part where the President sets targets for energy saving for each State and for the Nation generally. This section 3 is a more immediate threat than the rationing authority under section 2.

Now, the target does not have to have any relationship to an energy shortage. The President can set a 1-percent saving or he can set a 60-percent saving if he so wishes. So in effect the President sets the target, and then he asks the various State governments—the Governor only, not the legislature—to come up with methods by which we achieve this national savings target that he has set. In the Senate-passed version, these targets had to correspond to the level of shortage being experienced; this guideline is absent from the House version.

Now, in a State it is possible that the State legislature voted against Sunday closing laws, blue laws, but the Governor can propose a plan that has mandatory Sunday closings for everybody in the State—industries, retail establishments, entertainment facilities, anything he wishes—and the plan then comes in to DOE, where clearly not the Secretary of Energy but some GS-13 will determine whether or not that plan meets the Federal guidelines, and they approve it. The State legislature can be completely sidestepped. If they disapprove it at DOE, then the President can turn around and, for that State, order that they implement the Federal plan that he has determined as the way we ought to save the fuel.

Mr. Speaker, that Federal plan could provide, since the authority is limitless, that every business in the State close on Saturday, which would mean that newspapers would not be able to publish on Saturday, that industries would not be able to operate on Saturday, and that foodstores, drugstores, ice cream stores, and doctors' offices would not be open on Saturdays, as a means of saving fuel.

Now, if there were closings on Sunday, in my hometown that would not be a problem, but in the city of Cleveland it would be a problem because a lot of working people shop there on Sunday, as they do in other metropolitan centers like Washington.

So we have the opportunity for the President to set up any kind of a conservation plan he wishes if we vote for this bill, and we have no recourse. We have no recourse on when he puts it into effect, no recourse on what that conservation plan contains, and no recourse as to how much fuel is to be saved by the conservation plan. The State legislature would have no recourse. We are in fact imposing total confidence in the President of the United States, James Earl Carter, to make the determination for the people of our communities. I think that is entirely excessive.

Mr. Speaker, we hope that we will have the opportunity to strike at least the conservation target part, section 3, from the bill. We will give the Members a chance to decide whether we should make up our minds or whether the President should make up our minds for us. If we pass this bill unamended, we will be granting a great deal of legislative authority to the President over ourselves in the Congress, and over our colleagues in every State legislature in this country.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. Stockman).

Mr. STOCKMAN. Mr. Speaker, I just take this opportunity not to speak on the rule per se or even the rationing plan contained in this bill.

POINT OF ORDER

Mr. RUSSO. I have a point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. Hamilton). The gentleman will state his point of order.

Mr. RUSSO. Mr. Speaker, we are debating House Resolution 384, which discusses the question of whether or not we are going to grant a rule to take up the gas rationing plan. So far every speaker who has gone to the well has discussed the merits not of the resolution but of the plan we are bringing up.

As I understand it, the Committee on Rules has allowed 1 hour of general debate. It would seem to me that we are wasting a lot of energy in the House of Representatives right now by discussing matters which ought to be considered under general debate. If there is a problem with the open rule, we ought to be discussing the open rule.

I think this is a problem we have in the Congress here. We keep discussing general debate matters under the rule procedure, and I would make a point of order that the speakers who take the well address themselves strictly to the rule and not debate the merits of the legislation, since we have permitted them time under the rule and they have time also during the 5-minute rule.

I make the point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. Hamilton). The Chair will advise the gentleman from Illinois (Mr. Russo) that under the rules of the House a discussion of the merits of the bill is permitted within limits at the time Members are discussing the rule because the rule involves the question of whether or not the bill should be considered under the terms of the rule, if at all.

So the point of order of the gentleman from Illinois (Mr. Russo) is overruled.

Mr. RUSSO. I thank the Chair.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. Stockman) is recognized for 5 minutes.

Mr. STOCKMAN. Mr. Speaker, I might say that one of the reasons we are taking this opportunity to debate the merits and the substance—and if the gentleman from Illinois will listen to this, I think it would be helpful—is that we have before us a bill which grants literally unprecedented power to regulate business activity, commerce, and the individual consumers in this country with regard to any energy product, and we have just 1 hour to debate it.

I would say further that this bill was gaveled through the committee without even a superficial consideration of what was involved in the conservation parts of the bill, and it seems to me that in light of the vast powers that are being delegated, the least we can do is to take advantage of every opportunity we have here today to alert the House to what really lurks in this bill.

As I began to indicate, I do not take issue at this moment in time with the rationing part of the bill. I think rationing under any circumstances in peacetime in this country is going to be an unmitigated disaster. But I will say that at least we have put a trigger into this bill of 20 percent that would thereby guarantee that if we were to embark on this course, it would only come under the most extreme conditions of international catastrophe.

What I think the House needs to understand about this legislation is that the rationing part that has had all the attention and all the visibility is merely the tip of the iceberg. What lurks below in the deep waters of statutory language in this bill is an unprecedented grant of power to the Department of Energy to do two things which in my view are very dangerous: No. 1, it would permit a GS-15 in DOE to simply set aside or to preempt the powers of the State legislatures in each of the 50 States in this country.

If a Governor attempted to get through a State legislature various kinds of emergency conservation plans such as weekend closings, as the gentleman from Ohio (Mr. BROWN) mentioned, such as shutting down shopping centers every other day, and such as shutting down even major thoroughfares into the city in order to reduce traffic and gasoline consumption, and if all of those had been turn down under the due process of the State constitution and the State legislature, that Governor nevertheless could come to DOE with a plan to do all those things and have a GS-15 stamp his approval on it and implement those draconian powers with full force of Federal law in the State involved.

It seems to me that is a very dangerous thing to do.

Beyond that, we have created here a system of State targets for every fuel we use in our economy—gasoline and other types of motor fuels, heating oil, residual oil, electricity, and even natural gas if the Department of Energy wanted to do that. They would establish targets for all of those fuels for the 50 States that would change every month, and by the time they got this machinery in motion we would have hundreds of targets that people all around the country would be scrambling in the State offices and in DOE to try to achieve.

One of the problems with that is that we do not have any current consumption data on a month-to-month basis to tell us how much gasoline is being used in Michigan or New York or how much actual heating oil is being consumed in Pennsylvania or Ohio. As a result, we would be implementing targets and we would be threatening the States with Federal preemption on the basis of performance, although we do not even have the data to make the determination.

So what we would have would be a Rube Goldberg type of contraption that would be guaranteed not to work and that would stimulate and foster endless controversy and bureaucratic haggling between the State and Federal levels and increase litigation probably, and it certainly would not do much to conserve energy.

Mr. Speaker, I think we ought to remember that the thing that prompted this bill is the fact that for 2 months we had some gasoline lines in about 12 or 15 areas of this country, and instead of having the committee of jurisdiction, the Subcommittee on Energy and Power, sit down and examine that problem and ask what was the cause of it—because if we had, they would have discovered that this Government itself was the cause, that the allocation program is what created the lines here in Washington, D.C. and in other eastern cities—instead of doing that and taking remedial steps to change that disastrous allocation system, what we did was to pass along another whole new program, another new layer of power to try to correct a problem that was created by legislation passed 5 years ago.

Mr. Speaker, I think this legislation is typical of the mindless process of legislating for its own sake that we have done without ceasing for the last 5 years. I hope it is rejected by the House.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I wish to commend the gentleman from Michigan (Mr. STOCKMAN) for his statement and for pointing out that there is a need for the Members of the House and for this Nation to become familiar with this legislation.

It has already been pointed out that this rule we are now considering waives the 3-day rule. I was surprised that an objection would be made by a Member to even discussing the contents of this legislation while we are discussing the rule.

□ 1400

I think that this is such an important measure that the American people are entitled to know what we are doing here.

Let me say that I think one of the most disastrous plans that could come into being under this legislation is the one involving the sticker plan. For example, in my district we do not have any subsidized mass transportation. People have to drive 25, 30, 40 miles a day to work one way. Should the administration come along and say, "We are going to implement the sticker plan and that you can lay up your automobile for 1 day a week." If it happens to fall on a workday, how are these people going to get to work? I just wonder if they even considered this when they were talking about this plan. Then I have to ask: Whatever happened to the odd-even plan that they put into effect in California that seems to be working without interference from the Federal bureaucracy? It has been put in place in Maryland and in other places around the country, and it seems to be working. So if we have any kind of problem, why not implement the odd-even plan throughout the 50 States if it should be needed? Why all of this redtape? Why give all of this authority to the President of the United States and, particularly, to the Department of Energy? I ask that question, and I think the Members of this House ought to consider this before they rush into a plan delegating all of this authority to the President and, yes, to the Department of Energy.

Mr. DODD. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BADHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 326, nays 85, not voting 23, as follows:

[Roll No. 381]

YEAS—326

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
Stack
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer

Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—85

Andrews, N. Dak.
Archer
Ashbrook
Badham
Bauman
Broomfield
Brown, Ohio
Broyhill
Burgener
Campbell
Cheney
Cleveland
Clinger
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, R. W.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Edwards, Okla.
Findley
Gingrich
Goldwater
Gradison
Grassley
Green
Guyer
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hubbard
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lungren
McDonald
McEwen
Marlenee
Martin
Moore
Moorhead, Calif.
O'Brien
Paul
Quayle
Rousselot
Rudd
Sawyer
Sensenbrenner
Shuster
Snyder
Solomon
St Germain
Stangeland
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Walker
Whitehurst
Young, Alaska

NOT VOTING—23

Anthony
Bolling
Buchanan
Conyers
Dodd
Duncan, Oreg.
Duncan, Tenn.
Emery
Fish
Flood
Ford, Mich.
Forsythe
Leach, La.
McCormack
Rahall
Rose
Staggers
Treen
Vander Jagt
Walgren
Wilson, Bob
Wilson, C. H.
Wright

☐ 1410

The Clerk announced the following pairs:

Mr. McCormack with Mr. Treen.
Mr. Walgren with Mr. Fish.
Mr. Anthony with Mr. Buchanan.
Mr. Duncan of Oregon with Mr. Conyers.
Mr. Flood with Mr. Dodd.
Mr. Ford of Michigan with Mr. Duncan of Tennessee.
Mr. Rahall with Mr. Emery.
Mr. Staggers with Mr. Forsythe.
Mr. Rose with Mr. Leach of Louisiana.
Mr. Wright with Mr. Vander Jagt.
Mr. Charles H. Wilson of California with Mr. Bob Wilson.

Mr. GUARINI changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4057, FOOD STAMP ACT AMENDMENT OF 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, with Senate amendments thereto, disagree with the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the chairman of the committee tell us, are the provisions, whatever they are for the food stamps, in this conference?

Mr. FOLEY. They are in the conference amendments added by the Senate provisions for certain increases in benefit levels for the aged, blind, and disabled similar to those included in the House bill. There is a removal of the spending cap for fiscal 1981 and 1980 as well as 1979 in the Senate amendments that we are disagreeing to.

There are provisions dealing with the use of social security numbers as methods of investigation or concurrence. There is authority for States to make additional verification requirements over the Federal level. There were amendments added by the gentleman from North Carolina (Senator Helms).

☐ 1420

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is the gentleman going to try to hold to the House position regarding authorization for fiscal year 1980 and 1981, because it is our understanding no hearings have been held by the House Committee on Agriculture on authorization for food stamp appropriations for the fiscal year 1980 and 1981?

Mr. FOLEY. It would be my intention, and I believe that of the conferees, the House conferees.

Mr. ROUSSELOT. If the House conferees are not successful, will the gentleman then be opposed to the conference report?

Mr. FOLEY. I do not anticipate we will not be successful.

Mr. ROUSSELOT. Mr. Speaker, I am pleased to hear of the gentleman's resolve to uphold the House position. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there obection to the request of the gentleman from Washington? The Chair hears none and, without objection, appoints the following conferees: Messrs. Foley, de la Garza, Jones of Tennessee, Mathis, Richmond, Panetta, Nolan, Glickman, Akaka, Harkin, Wampler, Symms, Mrs. Heckler, Messrs. Grassley, and Kelly.

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may be permitted to sit tomorrow, July and 1981?

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us when we have all of this other important legislation why the committee has to sit?

Mr. ROBERTS. It is the only way that we can get out the water resources bill and bring it to the floor next week.

Mr. ROUSSELOT. That is all the gentleman will take up, water resources?

Mr. ROBERTS. That is correct, as far as I am concerned.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EMERGENCY ENERGY CONSERVATION ACT OF 1979

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. Dingell).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1030, with Mr. Fascell in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan (Mr. Dingell) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Brown) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, our Nation's recent experience with shortages of gasoline and diesel fuel show the need for establishing a standby motor fuel rationing program and, most importantly, taking more effective steps to achieve energy conservation on an emergency basis. As a result of the shortage, the public began to conserve. Speed limits have been observed. There has been greater use of public transportation and carpools. More careful attention has been paid to driving and eliminating unnecessary trips. But more needs to be done. Also, there is some evidence that we are returning to our old ways. We must avoid such a retreat in light of projections of future problems, particularly in the case of heating oil.

This bill provides a procedure for conserving, not only by individuals, but by industry and businesses and the public sector. The President would set emergency conservation targets for gasoline and diesel fuel for the States and the Nation. I want to stress the word "emergency." This is an emergency bill. The targets are good for 1 year only. After that the President must make new findings that the emergency continues.

The President can also set such targets for other energy sources. Once targets are established, the States would develop conservation plans to meet the targets. I stress that the bill places the duty on the States to insure conservation, as recently urged by the National Governors' Association.

The State plan must provide for an emergency reduction in the public and private use of motor fuel or other energy sources to meet the targets. The plan can achieve these targets through voluntary programs or through mandatory measures authorized by State law. The committee report stresses that the plan be compatible with other State plans.

As the Senate has observed, and the National Governors' Association testified some 19 States lack emergency powers to implement such measures. Thus, a Governor may seek a delegation from the Federal Government of measures to implement and enforce the State plan, but only if the State's chief legal officer finds that—

Absent such a delegation of authority under Federal law, the Governor lacks authority under State law to invoke such measures; and

State law does not prevent the Governor from administering and enforcing the delegation.

The bill provides for Federal plans to be used only if—

The State plan, after a period of at least 90 days, fails to meet the target substantially; or

The State fails to have a plan filed or approved after a period of at least 180 days after the target is set.

In addition, the President must determine that for a 3-month period in the future, a severe energy supply interruption exists that is likely to be equal to, or greater than, a 10-percent reduction in total available supply of motor fuel or other petroleum products as compared to a prior 3-month period. Thus, Federal implementation is not easy.

One such Federal plan that is mentioned in the bill as an option is a standby sticker system. It is not necessary that it be specifically mentioned because the bill authorizes it anyway, but it has received a great deal of attention as an effective conservation measure. Under the plan, a car owner chooses the day each week such owner would not drive that car. The bill does not specify whether or not the day must be the same for all vehicles owned by that person. Provision would be made for exemptions. Many agree that this system is an important option because it will save gasoline.

Finally, S. 1030 amends the Energy Policy and Conservation Act to require that the President prepare a new standby motor fuel rationing plan, including all necessary preimplementing regulations and other steps necessary for implementation. By motor fuel, I mean gasoline and diesel fuel. Such a plan would provide that end-user coupons be distributed on a basis that results in the degree of shortfall involved being equally shared among the various States, taking into consideration the latest available data. This data requirement insures that growth within a State, as well as actual conservation savings, will be considered. It also provides that such coupons shall, to the maximum extent practicable, be available to each end-user on a basis which takes into account the needs of end-users. Adequate coupons are to be available for priority users, such as agriculture and trucking. The completed plan must be submitted to Congress at least 30 days before any effort is made to implement it.

The rationing plan will be subject to a one-House veto under the EPCA procedures requiring that a disapproval resolution reach the floor. The amendment provides that a severe energy supply interruption means a national energy supply shortage which has resulted, or is likely to result, in a daily shortfall in this country of petroleum product supplies, including crude, for at least 30 days, of an amount equal to at least 20 percent of the daily petroleum product supplies available for the past year.

Provision is made for a 90-day progress report, including data on coupon distribution on the basis of need, on the use of local boards as provided in EPCA.

Section 1 of the bill as reported (H. Rept. 96–373) is the short title of the Act, the "Emergency Energy Conservation Act of 1979."

Section 2 amends the Energy Policy and Conservation Act to require that the President prepare a new standby motor fuel rationing plan, including all necessary preimplementing regulations and other steps necessary for implementation. Such a plan shall provide that end-user coupons shall be distributed on a basis that results in the degree of shortfall involved being equally shared among the various States. It also provides that such coupons shall, to the maximum extent practicable, be available to each end-user on a basis which takes into account the needs of end-users. Adequate coupons are to be available for priority users.

The rationing plan will be subject to a one-House veto under the EPCA procedures requiring that a disapproval resolution reach the floor. The amendment provides that a severe energy supply interruption means a national energy supply shortage which has resulted, or is likely to result, in a daily shortfall in this country of petroleum product supplies, including crude, for at least 30 days of an amount equal to at least 20 percent of the daily petroleum product supplies available for the past year.

Provision is made for a 90-day progress report, including data on coupon distribution on the basis of need, on the use of local boards as provided in EPCA, and on the use of licensed drivers as the method of distribution of coupons.

Section 3 establishes a new emergency energy conservation program as part of title VI of NECPA.

Section 631 contains findings and purposes. Section 632 defines terms used in the bill.

Section 633 establishes a minimum purchase program for gasoline to reduce tank topping. A $5 minimum is established for all autos except eight-cylinder autos, which would be subject to a $7 minimum. The amounts could be raised. The provision could be implemented in a State upon request by the Governor or nationally upon a finding by the President.

Section 634 requires the President to set conservation targets for the States for gasoline and diesel fuels. He may also set targets for other fuels if he makes a finding that they are necessary because of an energy supply interruption or international energy program commitments. All targets must be reviewed within 1 year of their promulgation, and the President must make a new finding if a target is continued for more than 1 year. The targets are based upon a uniform base period, and each State would be required to develop a plan to reduce consumption by a uniform percentage.

Section 635 requires the Governors to develop plans within 45 days which are designed to meet or exceed the target established for the State. The plan may include measures authorized under State law or measures which the Governor requests authority to implement under Federal law. If the Governor relies on a Federal grant of authority, the State's attorney general must determine that such a delegation of authority to the Governor is not prevented by State law. In preparing the plan, the Governor must consult with representatives of affected businesses and local governments. The Governor must also consult with fuel retailers to arrange for staggering of business hours. The Secretary of Energy then must review the plans and approve them unless they are not likely to achieve the targets or fail to meet certain other criteria. The States are responsible for enforcing their plans. Failure to submit the plans may result in loss of State grants under title III of EPCA.

Section 636 requires the President to implement a Federal conservation plan in a State if he determines, on the basis of consumption data and other factors, that the targets have not been met and are likely to continue not to be met and there is a severe energy interruption.

Section 637 requires the President to establish the Federal conservation plan, which may include a standby automobile sticker system as one option but he need not develop such a proposal. The Federal plan may not include weekend closings. Violations are punishable by civil penalties of no more than $100.

Section 638 describes the standby automobile sticker system, which may be a component of the Federal plan. The sticker system would provide that all automobiles (with certain exceptions) would have to bear a sticker indicating the day of the week during which the car would not be driven. The owner of the automobile could select the day of the week indicated on the sticker. Driving the automobile on the prohibited day would be subject to a penalty.

Section 640 requires the Secretary to conduct a study and report to Congress on commercial and industrial storage of gasoline and middle distillates.

Section 641 provides for a delegation of enforcement and delegation responsibilities to the States.

Section 642 states that the Secretary shall use his authority under ESECA to collect necessary data. The Secretary is required to collect timely information on pricing, supplies, and distribution of data. He must analyze the data and inform the public of such data.

Section 643 provides that regulations will be developed pursuant to the Department of Energy Act.

Section 644 states that State laws in conflict with the act are superseded.

Section 645 is a sunset provision, providing for expiration of the authorities on September 30, 1981.

Section 4 provides clerical amendments.

Section 5 permits funding from accounts authorized or appropriated for contingency plans under EPCA.

Section 6 makes the bill effective on date of enactment.

☐ 1430

Mr. BROWN of Ohio. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Chairman, I thank the gentleman from Ohio for yielding. I rise in opposition to S. 1030. This legislation provides for immediate authority to impose some type of rationing plan upon the occurrence of a 20-percent shortfall based upon the most recent data available, projected to last at least 30 days. There would be no opportunity for Congress to review the nature of the plan before it is submitted for our approval for implementation purposes only, in the middle of a crisis. There is no guarantee that such a rationing plan would or would not be different from the last plan, soundly defeated by the House of Representatives. And, the President's rationing authority is unlimited as to what might be included in such a plan.

Let us take a look at what we defeated earlier in this session here in the House of Representatives. The plan would have allocated shortages, and coupons—not gasoline. According to GAO, it would have taken more than a year to put this massive bureaucratic nightmare into effect. It would have cost at least $1.2 billion over 9 months. It would have limited average usage to 10 gallons per week for an average driver. Owing to differences in driving habits from region to region and from State to State, it would have resulted in massive income transfers from rural to urban areas, no matter how much historical use was taken into account. It would have done nothing to eliminate the unfair and unworkable allocation system which has, in the words of Secretary Schlesinger, "put the gasoline where the cars are not."

The Department of Energy cannot now allocate fairly among regions. How can the Department of Energy be expected to allocate fairly among individuals?

Some Members of Congress are urging that we impose gasoline rationing now; we should examine the reasons why they do, and explain the reasons why we should not. They say that under a rationing scheme we would at least know how much gasoline we would get, and that it is available when needed.

However, a rationing program exists now in the hundreds of rules and regulations governing the price and allocation of gasoline, and these rules and regulations are the very cause of the long gasoline lines we have experienced. The way to end gasoline lines is not to ration out coupons, but simply to end the confusing and unworkable allocation system.

Proponents of rationing say that rationing would assure that the needs of priority users such as farmers, ranchers, senior citizens, would be met. However, the current allocation system run by the Department of Energy has already established priorities, with the expected result of competition for Government favor in doling out limited supplies of fuel. This was recently brought to light by the competition between truckers and farmers for limited supplies of diesel fuel. Rationing would merely exacerbate this sort of unfortunate competition.

The bottom line is that calls to impose rationing are political busy work, not political leadership.

This bill also has wide ranging, unbridled wholesale powers delegated to the executive branches of Federal and State governments, with virtually no review whatsoever. The mandatory conservation measures could be any kind of plan, from mandatory closings of businesses to reduced working schedules, all of which could have staggering economic impacts.

Under this bill the President is given the authority to set conservation targets when he determines that a severe energy supply interruption exists or is imminent. The bill, however, does not stipulate what those targets would be. And, as we have seen, when the President implemented the building temperature restrictions plan, the severe energy supply interruption finding offers no security against premature implementation.

Mr. Chairman, I urge the Members of this body to rise in opposition to this legislation and to defeat it.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to my good friend from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I will be brief in asking my colleagues to support this legislation.

This is the second time the House has tried to give the President this authority. I think that we are all agreed that the President needs some tools to deal with the gasoline crisis that we have just been through; the crisis which, in some respects, is lingering; and the crisis which may recur at any time. I think that the trigger which must be reached before rationing can be imposed in this legislation is too high, and during the 5-minute rule several of my colleagues and I will offer an amendment to reduce the 20-percent figure to a more reasonable figure. I think that a 20-percent shortfall in the supply of gasoline available in this country would cause such chaos that all Americans would want to see some sensible rationing plan imposed as an alternative to the chaos that would then be abundantly evident in the gasoline lines that would stretch around the blocks and down the streets.

I think that the 20-percent trigger was a mistake. It does make the bill somewhat more palatable to some Members of this body who would not vote for it without a very high threshold figure, but I think it is obvious that if the shortfall of the size that we have just gone through can cause the problems that it did, we can very easily have very, very serious problems with a shortfall much less than the 20 percent. So, when the time comes I would certainly urge my colleagues to support an amendment to lower the 20-percent threshold; but in any event I would ask my colleagues to support this legislation.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Ohio.

Once again we are talking in Congress about a stopgap type of measure to meet a serious problem, and that is the shortage of gasoline in this country. All we are doing is talking about an allocation, a rationing of the shortage. We do nothing to cure the problem. The problem is price control. Only one commodity in the United States today—only one—is under price control. That one item is oil and gas. Why do we put an item under price control? That is something that politicians do so that they can be popular with the voters back home.

Congress takes the real price, and then artificially by law creates a low price way down here. We have not fooled anybody; we are not fooling the American people. Temporarily, they are just buying a bargain.

Just to bring everyone up to date on what the real value of gasoline is, I want to read the current gasoline price figures. I got these from Ernestine Adams of Energy Week. Today, right now, in Athens, gasoline costs $2.83 a gallon. Over in Rome, it is $2.16; in Tel Aviv, gasoline is $2.36; in Johannesburg it is $2.60; in Japan, it is $2; in Copenhagen it is $2.12; in Paris, it is $2.22 a gallon; in Madrid it is $2.30; in Yugoslavia it is $4.25 for a gallon of gasoline.

Now, if we were in a free market it is true that gasoline would probably, in this country, go up to about $1.35 a gallon. But you know, at that, the country would save in so many ways. Because we all know, and it has been told us many times, this rationing procedure will cost this country $2 billion. From our past experience we know what we get as a first guess is just for openers. Two years ago, we started the Department of Energy and allocated $5 billion. Within 2 years, this Department of Energy asked for $11 billion. In other words, within 2 years they have taken a problem and turned it into a national crisis, and they doubled the amount of money they spent in doing it. Right now, we are talking about $2 billion to run this confused coupon system. I do not care how we finally decide on allocating these coupons, we are going to find that half the people think they are not getting a fair shake, and this half will be upset.

How are we going to actually distribute the coupons? Some say we might do it through the banks. We have had gasoline lines before, but now we are going to have bank lines. There is no type of allocation system in peace time that is ever going to work. The only answer is complete and total decontrol. We do not need to meet every other week on this oil situation.

What we need to do is provide a little course with basic economics. Basic economics would let the marketplace decide how gasoline will be priced. I just heard that this law would provide a system where we will take care of different people with pressing needs.

□ 1440

We will take care of the farmers. We will take care of the truckers. The reason those two groups were taken care of is they are the first two groups who came out and made a lot of noise. The farmers said, we are short, so they immediately said, "Give the farmers diesel." When they gave the farmers diesel, then the truckers were short. So the allocation board said, "We will give the diesel to the truckers." California said they were short, and since Governor Brown is a very good friend of President Carter's, when Governor Brown asked him for gasoline out there, they gave it to him. So everyone will consider themselves critically short.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, surely—surely now 5 years after the OPEC embargo, after repeated crises with energy supply in this country, and now after the most recent gas lines that have affected perhaps 20 different States—surely now we can agree that we must, simply must, have in place a standby rationing plan.

I think it was very shortsighted of this Congress when the matter came up a few weeks ago to have rejected a standby plan. Let us recall the history on that. Everyone seemed to have some problem with some specific part of the proposal.

Somebody had taxicabs in his area who felt they were not going to be fairly treated. Somebody else had farmers in his area who felt they were not going to be fairly treated. Somebody else said, we have wide-open spaces and we use more miles per person in automobile travel than somebody else; we will not be fairly treated.

Somebody else said, we have drivers that have to get to work because there is no mass transit in our area. Somebody else had suburbanites who would be disadvantaged as a result of the fact that everywhere they have to go is spread out and the buses do not serve them, and so on.

So the plan was defeated. It was defeated even after the President of the United States took account of all of the objections and came to the Congress and said, OK, we will have a plan based on historical-use patterns.

Nothing could have been fairer than that. Yet it was defeated by a coalition of parochial concerns by a majority of the Members of the House.

I hope today we can overcome those parochial concerns. I hope we can recognize that a standby plan by definition is one in which everyone is going to have to make some sacrifices, that the objective is not to have everybody get exactly what they have been getting. The objective is to share as fairly as possible any shortfall.

What kind of a shortfall? We are talking, of course, about a major supply interruption. We are not talking about a plan that would click in until there is a major supply interruption, although I think we should have a plan that gives the President more flexibility than the 20-percent trigger would give.

I would hope that we would support an amendment to reduce the trigger to, say, 15 percent or less, so that there is no gap between when we might need the plan and when we would be able to put it into effect.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I just take this opportunity to point out once again to the committee that this bill is 51 pages long. In those 51 pages there are 34 pages that are absolutely unnecessary, redundant, and provide powers which are already on the statute books today. I am not referring to the gasoline-rationing portion of the bill but to the conservation plans. If you read the headings of this bill, if you read the statements of purpose, it would sound like there is an urgent emergency in the country today in terms of fuel supply, which there is not. No. 2, it would appear that we are absolutely defenseless, that we have no powers at either the Federal or State level to deal with moderate shortages that may have existed in the past and might appear once again in the future. That is absolutely wrong.

The fact is we passed a law in 1975 called EPCA. That law allows the President at any time he perceives a shortage existing, or one that may appear in the future, to ask the Congress to implement or approve any kind of conservation or temporary emergency fuel-use-reduction plan that they can possibly devise down at DOE.

I think the Members of this House ought to remember that this procedure has been used many times. In April plans were proposed, for instance, to require weekend closings. That was submitted pursuant to EPCA. It was evaluated by Congress and rejected on the ground that it would not save any energy, and it would cause enormous disruption. At the same time a plan under that existing procedure, which is still on the books today, was proposed by the Department of Energy to set temperature rules for the commercial and industrial buildings of this country. That plan, too, was evaluated by the House and Senate. It was approved in June by the Congress, and that plan has been implemented just as the law provides.

So what I am suggesting here is that we have all the authority that we need on the books today to give the President tools to deal with moderate shortages, with shortages of a lesser magnitude than that would require we go to the extreme rationing program that is provided by this bill.

In light of that, why do we want to pile now on top of that preexisting authority, that mechanism procedure that has been tried and has worked? Why do we want to pile on top of that another vast grant of authority to impose conservation plans but in this instance there would be absolutely no recourse in the event that DOE came up with a plan that was a bad idea, that might be counterproductive, that would not work, because in this bill, in the 34 pages dealing with conservation programs, unlike the existing EPCA procedure, plans formulated by DOE or delegated to the States could be implemented immediately without any congressional approval, without any opportunity for veto on the part of either the States affected or on the part of the Congress.

I intend to offer an amendment to remove that unnecessary portion of the bill.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, underlying this debate, of course, is a larger debate about whether we give as much attention to conservation as we do to production. Our friends on this side of the aisle have been reminding us already in this debate that we need to go the production route and not so much the conservation route. The gentleman from Alaska and others have pointed that out.

The recent Harvard Business School study indicates, of course, just the opposite. It says that oil, gas, nuclear, and coal are not going to be any great panacea, and you can get a lot more out of conservation and conservation incentives than you can out of production. But all of that is really immaterial, in a sense, to this debate. In the long term we can still have that debate about how much we need to emphasize production and how much we need conservation. But in the shorter term, none of the production proposals that our friends offer or that the President supports, or that some of us will support, are going to focus on the crisis of gasoline shortage in the next year and 2 years and 3 years. If we have import quotas put on, which we probably will, and if we have distillate needs not being met for the farmers to do the harvest, for the truckers, and for home heating oil, there is only one place to turn and that is to gasoline conservation. That is what this bill addresses.

Some of us who started 3 or 4 years ago almost cavalierly talking about the need for gasoline rationing, who have sat through hearings and listened to witnesses, now agree with the gentleman from Texas (Mr. GRAMM) and the gentleman from Michigan (Mr. STOCKMAN) that we should not in fact rush into gasoline rationing. We should not take it too casually or be too cavalier about it. It could be an economic disaster. But at the very least, and I think the gentleman from Texas (Mr. GRAMM) agrees, the President ought to have standby authority, if there is some trigger in there, and the gentleman has put a trigger in.

□ 1450

Rationing, then, is a last resort and I think the committee clearly intends it as this is wrong. I think America has a great termediate conservation steps that this bill addresses.

Now, one of those many tools that the President can use is something called the sticker plan. The gentleman from Ohio (Mr. LATTA) in debate on the rule addressed it. He was not for it. It is not something that is entirely equitable, but neither is any plan. Almost all the experts we talked to felt that the sticker plan, the 1 day a week where you pick a day to keep your car off the road—and you may be forced to pick a Saturday or Sunday—say it is the one tool that gets us significant gasoline conservation.

If we reach the 10-percent shortfall that the gentleman from Michigan (Mr. STOCKMAN) has put into the bill, if we reached the 10-percent shortage and we have to go to those intermediate conservation measures, the sticker plan is by far, head and shoulders, above everything else, it is better than closing the shopping malls, it is far better than closing the Orange Bowl in Miami, it is far better than closing Dodgers' Stadium, although the way the Dodgers are playing maybe some people would like to close Dodgers' Stadium, but the fact of the matter is the sticker plan is the most equitable and there will be an amendment to knock it out and I hope my colleagues will leave it in the toolbox that the President has.

I would ask my colleagues on this side of the aisle—seven people over there voted for the last rationing bill—if we cannot get a little more cooperation on this short-term problem of getting some conservation.

Some people who are very much proproduction, who have been very supportive of what the producers wanted to do in this country, on our side of the aisle such as the gentleman from Texas (Mr. GRAMM) and others, have indicated their willingness to go along with the bill so long as it has triggers in it and ample safeguards and I think we should have the same kind of spirit to give the President these tools with the proper restraints from the Republican side of the aisle.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LOEFFLER. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I rise in opposition to this legislation. I think we have a great opportunity at this time as Members of Congress to adequately take care of the energy needs of our Nation for the future. Many of us think you should emphasize production so that the economy of our country continues at the pace it has been able to in the past, so there is employment for all of our citizens.

The energy plans that have been presented to us by the President go in the opposite direction. We look for a time when America is smaller, when job opportunities are less and we look at the future with a defeatist attitude. I think this is wrong. I think America has a great future and can have a greater future than we have had in the past.

A few weeks ago we were asked to look at a rationing program for gasoline. Now, with the only intervening occasion to require immediate action being the increase of OPEC oil prices, we are asked, in an emergency, to approve a plan which would give the President carte blanche as far as providing a rationing plan for the American people is concerned.

We give the President the power and the authority to devise a plan himself although we reserve a very mild protection in being able to reject proposal for a short period after it has been devised but we may be right up against a real emergency in the future when we start approving the plan that is given to us.

I believe that the President should present the Congress with an emergency plan in advance that he believes is equitable and that the Congress should have an opportunity to pass it into law if Congress believes it meets the needs of the country.

It is not the rationing program I am opposed to so much in this legislation as it is the powers of the President given under the conservation program set up in this legislation.

The bill purports to give the Department of Energy and the President power to authorize the Governor of a State to take actions not authorized by State legislatures. The President and the Department of Energy could under the bill invalidate a State conservation plan at their own discretion. The conservation provisions ignore the congressional review safeguards of EPCA. I think it is important that we have an amendment in this bill that allows the Congress to look at the plans that are devised and pass on them one way or the other before they are put into effect. For that reason I will have a congressional veto provision which I will offer to the Congress this afternoon governing the second portion of this bill, the conservation portion.

I do not think any President should be given unchecked powers. We in the Congress have a duty to those we represent to protect them from arbitrary government.

When this bill was in committee we made sure that the rationing component was subject to a one-House veto, although a very weak mechanism. However, our committee unwisely neglected to take even this simple precaution regarding the conservation section of this bill.

Let us make no mistake. The conservation part of this bill has just as much potential for severe disruption of the lives of the American people as the rationing provision. For that reason I ask for a no vote on the legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I want to express my appreciation to the gentleman from Michigan for his courtesy in yielding to me at this time.

I rise to indicate that as one who had very strong objections to the rationing bill which was voted down a few weeks ago and who, in fact, voted against that bill, I find the legislation before us now, as it applies to standby rationing authorization, a much better thought-out proposal and one which I will support.

Mr. Chairman, I find it gratifying that in the report that has been submitted by the committee they take note of the fact that the first bill did not sufficiently provide for recognition of priorities for needs and uses.

I quote from page 22 of the report:

> In short, there appears to be numerous cases of inadequate consideration given to such uses.

I was especially concerned in New York with the fact that our taxicab industry which provides a great deal of foundation for our tourist industry, as well as for other aspects of our city's economy, would not have been given any more consideration than cars used for pleasure. Although this bill itself does not spell out the provisions, it indicates that priorities have to be set forth in the plan which will ultimately be submitted to us.

What the bill does in sum is to provide that the needs of end users must be considered in any plan that is drawn up. That is the kind of legislation which I think makes the most sense.

I also find very significant and helpful the provision which requires that there be a very serious analysis of drivers' licenses as the basis for determining eligibility for rationing coupons rather than vehicle registrations. Finally, the shortfall is to be equally shared among the States and the people of the States. This legislation should, if implemented by the President as required and suggested by the bill before us provide the kind of standby authority and ultimate gas rationing plan that this country needs.

There will, of course, be some amendments offered which may help to make this even a better bill and I intend to support those. I especially intend, when we come to the title dealing with the emergency conservation plan, to oppose the unmitigated and absolute power which the executive branch would have under the bill to permit only such regulations by any agency of Government which are consistent with the conservation plan.

□ 1500

In sum and substance, I am satisfied with the work that the committee has done. I appreciate the courtesy of the gentleman in yielding me time to make this statement in support of this legislation.

Mr. LOEFFLER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise today in opposition to this legislation. On May 10 we voted on similar legislation and overwhelmingly defeated it.

Nothing really has changed since that time with regard to the rightness or the wrongness of rationing. No economic laws have been repealed since that time. If rationing was bad then, rationing is bad today.

If anything, we should have learned something from this recent episode of gasoline shortages. We should have learned that the market is a wonderful place to take care of shortages. The Government created the shortages. The lines were formed because of overregulation and overtaxation and price controls on fuel.

What happened was that the market came in and dissipated these lines as soon as the price went up a certain percentage. Today the lines are gone, but this is a result of the marketplace working. The lines are caused by Government. The lines are dissipated by the marketplace. That is a fundamental lesson that if we do not learn we will continue to make errors, and compound our energy problems.

The most serious mistakes we have made in this Congress have always been under duress. All we have to do is go back and think about the Gulf of Tonkin resolution. Under duress and stress and under a sense of hysteria we do things that we are usually sorry for.

Even though we have had a lot of gasoline lines and have received a lot of messages from our constituents, this is not reason enough to compound the problem by instituting a program of rationing. Economically it is foolish. Rationing has never been proven beneficial throughout history even with the many times it has been tried. It does nothing for production. Our problem is a shortage of fuel available to the people and rationing will not produce fuel.

I think one tragic message in this bill is that one of the stated purposes of this bill is to require that "all States share fuel shortages equally." To me that is a tragic purpose. Allocating shortages is symbolic of a pessimistic, no-growth philosophy preached by the planners who have seen all their plans fail and will not admit to the bankruptcy of their ideas. Only the optimism of a free society with a market economy can we achieve the growth and abundance of energy we desperately need.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to my good friend, the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Chairman, on May 10 this House voted down the President's standby rationing plan and I think there were good reasons that it was voted down.

First of all, it was not a standby rationing plan. It was a rationing plan. There was in that proposal, as it was sent to the Congress and as it came to the floor of this House, no restriction on the President's power to ration. The Senate had passed the Stevens resolution expressing the sense of the Senate that rationing take place only with a shortfall of 20 percent or greater, but we had no real protection.

That problem with the bill has been eliminated in the proposal that we bring to the House floor today. We have required that the President find a 20-percent shortfall for 30 days or more, or evidence that such a shortfall is imminent, in order to impose rationing.

There are those who talk about rationing in a cavalier manner, but those who sat through our committee hearings, those who understand the marketplace, understand that rationing by its very nature is inefficient, inequitable, and expensive.

We are talking about $2 billion of Government expense. We are talking about 50,000 bureaucrats. We are talking about as much as $3 billion imposed on the private sector. That is why this 20-percent trigger is included, to assure that the Members of this body and the American people know that we are not talking about giving the President unrestricted power to ration. We are talking about giving him the power to use rationing only during a catastrophic shortage where our Nation has no viable alternatives.

In hearings, it was clearly indicated by both the administration and scholars outside the Government that only with a shortfall in the 20- to 30-percent range could the benefits of rationing come anywhere close to offsetting the costs.

Second, when we came to the floor to vote on the President's plan, there had been six plans before this body. Most of the Members who voted were confused as to what plan we were voting on.

Here today we bring a clearly defined plan before the Congress. Each State shall share in the shortfall equally. To the maximum extent possible, account shall be taken of individual business necessities, of where the people live, of the availability of mass transit. This, I believe, represents a substantial improvement over the situation we faced in trying to sell the President's confused program.

Finally, this measure also includes conservation measures. They are broad. They are general. They give the States the option to act first. These conservation measures have a protective trigger of a 10-percent shortfall to assure that they are not used prematurely. None of these mechanisms for allocation and conservation are perfect. The best laws of economics surely must function only in heaven. The marketplace provides the second best alternative and Government is a very, very poor third.

I think it is important to remember that in the event of a catastrophic shorttage of 20 percent or greater, the American people are going to demand rationing. We have here, I think, a well-reasoned plan that represents the best options we can give them under those circumstances.

I urge my colleagues to keep this a standby plan, to note the cost that rationing would impose on the American people and stick with the 20-percent trigger to assure that the plan will be used only in the event of a catastrophic shortage.

I think with that proviso, we can go home and tell our constituents that we abided by EPCA, that we put a plan on the shelf and that the plan protects us against capricious rationing. It gives us broad general tools to deal with the shortage.

No one is claiming that this plan or any plan could be a substitute for deregulation and increased energy production.

Mr. LOEFFLER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, in the name of energy conservation, this measure provides for a broad grant of emergency authority to the President, authority that cannot be reviewed or checked by the Congress or by the States.

In the interests of fulfilling our responsibility to our constituents, I believe that the Congress should reserve for itself the right to disapprove any rationing plan which the President may submit.

Both the gentleman from North Carolina (Mr. BROYHILL) and I intend to offer amendments to this measure to provide the Congress with a congressional veto in order to protect the American public from being further impacted by a faulty, inequitable plan.

Accordingly, I will be urging my colleagues to support our amendments in order to provide for a congressional review of the substance of any rationing plan.

Mr. LOEFFLER. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I rise in opposition—this legislation would delegate to the President an unusual degree of power. It asks the Congress of the United States to approve, in advance, sight unseen, whatever rationing plan the President devises. It gives the Federal Government total control over the amount of energy consumed and over the purpose of energy consumption—all energy consumption—in this country.

This amounts to severe economic control over our people, and there are few checks on Executive power in this bill. In fact, there is no legislative review of Federal or State conservation measures taken under this legislation.

Mr. Chairman, I do not feel this grant of power is warranted by the past performance of the executive branch, and this administration in particular. The gasoline shortage of a few weeks ago was the direct result of the Government's existing allocation system. And even our States have been far more effective in managing supplies than has the Department of Energy.

Why should we give the President more power when he has not demonstrated the ability to run the country with the powers he already has?

It seems to be fashionable to compare our current energy problems with war—and particularly with World War II. I do not believe that comparison goes far enough. Gas rationing was instituted during World War II in an age when we had far better public transportation, and far less reliance on the automobile—and it did not work well. Black marketeers bought and sold ration coupons and made a fortune in so doing. What makes anyone think it would not happen again?

But what is more important, why must we substitute a huge Federal bureaucracy, an intricate system of allocation, rationing and control, for what could be simply and quickly accomplished by reliance on the free market system? Immediate decontrol of gasoline prices would accomplish the same purpose—without centralizing such awesome power in the office of the President.

But decontrol is a tough decision. I believe it must be made, if we are to encourage production and solve our energy crisis, and I believe it is far preferable to the legislation we are considering today. I oppose this bill, as one more crippling blow against our economic freedoms, and I urge my colleagues to vote against it.

□ 1510

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want it made very clear that these are emergency authorities which would vest in the President of the United States. I want to make it very plain that no amount of decontrol and no price increases that would not even decontrol, regardless of whether we favor that or not, would provide us with a mechanism to meet a 20-percent shortfall in gasoline or petroleum product. The country exists today, having gone through a 5- to 10-percent decline in supply by reason of the Iranian crisis, at a time when hardship and frustration and anger were abroad in the land.

I hope my colleagues will not substitute rhetoric for wise provisions against dangerous and bad circumstances. I refer to major shutoffs in petroleum supply. I would hope my colleagues would recognize the need of clothing the President of the United States with the necessary authorities to meet the hazards that would occur by reason of a shutoff in supply. I would hope my colleagues and friends here would realize the need to see to it that this Nation has the ability to commence a major conservation program crafted in the States by the Governors of the States, and that they would understand that we are trying to preserve the Federal system and to afford the States an opportunity to bring forward plans that would best meet their own circumstances and their own needs, but that when that has failed, if we have a major shutoff, we have provided the mechanism that is necessary to allocate not by price, not by hardship, not by shortage, but by some method of governmental action which assures a reasonable method of fairness.

We must remember that before this can take place the President has to submit the plan to the Congress and it must survive a one-house veto under the provisions of EPCA, and that no committee chairman or subcommittee chairman or Senate filibuster or Senate rule of courtesy can deny the House and the Senate an opportunity to vote on this matter.

Mr. LOEFFLER. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Chairman, during the Easter recess, when I was back in Iowa, a number of oil jobbers from my area came to me and pointed out that they were unable to find middle distillate supplies in our part of the country. As the parade of oil jobbers to my doorstep continued, I became quite certain that there was indeed a problem in our part of the Nation. But when I came back here to Washington and began to ask representatives of the Department of Energy about the shortage, I soon discovered that their answer to my question was: "What shortage?"

We were 2 weeks into that shortage of middle distillates in the Midwest before any of the Department of Energy people even began to recognize the problem. We were 4 weeks into that shortage before it was generally recognized in the Department of Energy and in the Government that we had a problem with middle distillate supplies in the Midwest.

Because of that difficulty that we had in our area this spring, I am offering today two amendments to this bill, one to establish a monitoring system for middle distillate supplies across the country, and the other to set up an agricultural set-aside program.

Right now the Department of Energy has no way of identifying whether or not we have a shortage. In this legislation, we plan how we are going to respond to the shortage, but nobody in the Department of Energy has the wherewithal to tell us whether or not we have a shortage and what our supply-and-demand situation is. I think we must work to develop a system whereby we can determine what our middle distillate supply situation is in the Nation.

In order to project shortages, the Department of Energy now relies on outdated State-by-State information; the DOE people look at projections of supply and demand from the oil companies; they talk about last year's figures and try to extrapolate from last year's figures. But nobody is able to accurately and timely assess petroleum supply and demand situations.

Since we need a monitoring system, I urge support for my amendment.

Mr. LOEFFLER. Mr. Chairman, I yield 30 second to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would really like to address this more in the form of a question, if I may, to the chairman of the subcommittee. I would appreciate his attention on this.

On page 18 of the report, Mr. Chairman, it states:

> If neither House of Congress disapproves the request within 15 days, the plan becomes effective.

My question is: What if this 15-day period took place during a recess of Congress?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, a recess of more than 3 days vitiates it, and those 15 days must be days during which time both Houses of Congress are in session.

Mr. HOPKINS. Is that provided for in the bill?

Mr. DINGELL. That is provided for in EPCA, which is the mechanism that is used here.

Mr. Chairman, we have very carefully seen to it that if the matter comes to the floor for a vote, it will be taken care of.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman very much.

Mr. LOEFFLER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in strong opposition to S. 1030, the Emergency Energy Conservation Act of 1979.

During his so-called energy speech earlier this month, President Carter said that we, as a nation, have lost confidence in the future. In part, he blamed many of our current problems on that loss of confidence. Is it any wonder that the American people have lost confidence in the future when their elected representatives in Congress keep suggesting measures such as S. 1030 as an answer, or at least part of an answer, to our current energy shortage? I think not.

S. 1030 represents a basic fault in our current approach to solving energy shortages. We continuously keep inventing new Government programs which in the end only increase the social and economic disruptions caused by our energy problems.

The American people do not want rationing. They do not believe rationing will work. They do not believe rationing is necessary. They do not believe rationing can cope with the thousands of different aspects of our lifestyle. They doubt that our Government is even capable of implementing a rationing program without tremendous difficulty and expense.

The American people want positive steps taken to solve our energy problems. They want to see things like increased use of solar energy and development of synthetic fuels and nuclear energy.

Rationing is a negative alternative to our energy problems. Rationing can only add to the cost of an energy shortage without producing 1 gallon of gasoline that would not otherwise be available. Rationing only attempts to justify a major shortage by giving the appearance that the shortage is being equally shared.

The cost of a national rationing program depends, of course, on the specific provisions of the program. However, I think it is fair to say that rationing would cost around $2 billion a year.

Since rationing does not, in any way, add to the energy output of this Nation, I suggest that we take that money and use it to develop new sources of energy. We can use it to build the Clinch River breeder reactor which we will be debating later today. We can use it to develop shale oil, solar energy, coal gasification, or to explore for and develop new sources of domestic crude oil.

These are the steps which the American people want to take. These are the steps which will give the American people confidence once again that their Government is capable of dealing with the problems of today.

As though rationing by itself was not bad enough, S. 1030 couples it with an even worse idea—the automobile sticker system. This system would force the American people to place a sticker, which by the way they would have to purchase, on their car. This sticker would designate one day in the week on which the car could not be driven.

That type of conservation just will not work. There are too many people who simply must rely on their car to get to work or do the thousands of other things which require the use of an automobile. What are we to do with the housewife who works part time and takes the children to a sitter when she is at work? It is easy to say that she should use mass transit or carpool. But what if those choices are not available to her? Are we to have a special sticker for her and the millions of other persons whose livelihood depends on the automobile?

Further, consider if you will what happened here in Washington, D.C., earlier this summer when the gas lines were long. People responded by taking mass transit. However, the system quickly became overloaded. The head of Metro had to ask people not to use Metro during the peak hours to prevent the system from breaking down completely.

What would happen if all of a sudden thousands of people were forced to use mass transit? It is obvious that chaos would result. Any mass transit system is designed to handle efficiently only so many people. To throw thousands more into the system overnight would severely overtax the capabilities of the system. We should not fool the American people into thinking that mass transit alone will solve our energy problems. Our society is more complex than that.

Gas rationing and auto stickers are simple answers. They are attempts to manage a major shortage of energy. They in no way help to avoid that shortage. It is the simple truth that gas rationing or stickers can only make that shortage more disruptive, more frustrating, and more expensive.

The President asked us to say something good about America in his energy speech. I say, "Kill gas rationing." That is the best thing we can do for the future of America.

The American people will not tolerate the Federal Government telling them that they cannot drive on a certain day of the week. They will not tolerate having to purchase gas rationing coupons. They will not tolerate a Congress which refuses to tackle the hard problems of how to produce more energy.

We must defeat this measure and move on to the development of an energy policy designed to produce more energy. That is the only answer the American people are willing to accept. That is the only answer which will bring this Nation out of the death grip of OPEC. That is how we can best restore confidence in the future.

I urge defeat of this measure. The American people demand it.

The CHAIRMAN. The Chair will state that the gentleman from Texas (Mr. LOEFFLER) has 5½ minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 6 minutes remaining.

The Chair recognizes the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I rise in opposition to this bill.

Mr. Chairman, I want the Members to remember that it was just 10 days ago that the President said to 220 milion people on television that we all ought to have more faith in America. Well, rationing in peacetime, as far as I am concerned, is the antithesis of that admonition.

Government-induced rationing is not the way to express faith in America or in our economic system. Government policies of the past 8 years have created this shortage in the first place. The natural reaction on the part of Congress and the Government generally is to ration that shortage so that the energy pie becomes smaller and smaller and smaller.

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I think that we ought to be expressing faith in America by policies that make that energy pie bigger and bigger and bigger. Less Government regulation is the answer, not more.

The President said in his TV speech, "Say something good about America!"

The best way for Congress to do that is by saying "No" to peacetime gasoline rationing.

Mr. LOEFFLER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to S. 1030, standby rationing and emergency program to conserve energy.

I have had occasion to discuss rationing with many of my constituents. Many of them have told me, "Let us have rationing; it is fairer." However, when I explain to them, as I have done on numerous occasions, exactly what it was that the President proposed last time, how we would have this very complicated coupon system, how you would have to wait in line at a bank to get the coupons in the first place and, perhaps, then go and wait in line again at the gas station to use the coupons, how, if those coupons were not sufficient for your needs—and they would not be, for almost all of my constituents—needed extra coupons would have to be purchased on a so-called white market—at great expense—they quickly lose their enthusiasm for rationing.

I think what we are being asked to do today is even worse than that, because we do not know what the President will propose to us. We have no idea whether it will be fair to any of our constituents. I think if we are going to have a standby rationing system at all, it should be one that we approve before it goes into effect.

I have heard nothing from the President and DOE indicating that they have changed their mind about the fairness, et cetera, of the rationing plan they submitted before. I have heard nothing indicating they would submit a different or better plan. All I heard was a condemnation of Congress for rejecting what a majority for us considered to be an unfair, illogical, costly bureaucratic monstrosity.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I appreciate the gentleman from Michigan yielding to me, and I rise specifically to ask the gentleman a question to the effect whether or not thought has been given to providing coupons to handicapped people who do not drive but who have a car and who, of course, need to go from place to place. Has thought been given to providing them with an allocation of coupons, or would that be left to the administration?

Mr. DINGELL. If the gentleman will yield, that is possible to be done under the proposals which lie before us.

I read from the provisions of the EPCA, which relates to handicapped persons:

> For purposes of this part, the term "handicapped persons" means any individual, who, by reason of disease, injury, age, or congenital malfunction, or other permanent incapacities, is unable, without special facilities, to utilize mass transit * * *

So it is in the act. It is in the basic act to which this is an amendment.

Mr. BRINKLEY. I thank the gentleman.

Mr. LOEFFLER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. GOLDWATER).

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, once again this House faces another nightmarish scheme to open the door for "big brother" to come into our lives. Back in May this House took one of the wisest actions of this Congress and soundly defeated a similar plan 159 to 246. I would hope that the recent antics of the Carter administration, or what is left of it, would reaffirm the wisdom of that vote. I would also hope that before my colleagues vote on this monstrosity that they reflect back just a few weeks to the time when Mr. Carter was hidden away from the public. After only 3 days absence by the President the gaslines in the Washington area had vanished. Maybe if the Carter White House left Washington permanently the whole energy crisis would disappear.

It is not so farfetched to look at this linkage between Mr. Carter and the energy crisis. The energy problems in this Nation were born and bred from Government action. Federal controls on oil prices and the subsidy of inefficient means of travel, like the billions poured into the Federal highway system while the railroads collapsed, all had their part to play in putting us in the present energy fix. The last thing we need to do is to allow those who caused the mess to have more power to dig us in deeper. Yet, that is just what this bill provides for. No matter how many amendments are tacked on, no matter how many special interests are placated with shortsighted provisions, the basic concept of creating a statist framework for solving our problem remains intact.

Our Nation was not built by the Federal Government. Our energy and transportation breakthroughs did not happen because of some key regulation written by a faceless Ph. D. in sociology out of some cubicle in the bureaucracy. Our Nation was built on individual initiative fueled by freedom. It was not freedom that got us into this mess, it was a lack of freedom. An inability to raise venture capital because of confiscatory capital gains taxes and personal income taxes was one reason, redtape and mountains of regulation was another.

Only because of the limiting of freedom were we insulated from the rising energy prices in the world until it was almost too late. Only through the lack of freedom did we not have the innovations needed to create new sources of fuel and to better exploit existing ones. Only through the ongoing harassment by Government are we not able to free our minds to think of new avenues to approach the energy problems. Government holds over our heads the threat of fines or imprisonment if we do not file every report, meet every regulation, and pay every trivial fee before a new invention, a new product, or a new fuel can be brought out into the open and employed to make a better tomorrow.

If we really stood back and looked at the situation, that is exactly what we would see. It is incredible, but true. If someone tomorrow discovered a method to get 200 miles to a gallon in existing cars he or she could not run out the next day and start selling it to their neighbors. The Federal Trade Commission would soon step in and demand tests. The Department of Energy would step in and want to conduct blue ribbon studies. If the inventor expanded production and hired two assistants the Department of Labor would step in with inspectors and probably shut the whole operation down until further studies were conducted. These are not problems arising out of freedom, yet you would think so the way that term is criticized in this administration.

It is incomprehensible to many in this Congress and this administration that we might just have too much Government already. It is beyond their understanding that poor mortals like our citizens might actually find a way out of this energy crisis without some new Government takeover of another element of economic or personal freedom. Their attitude is a travesty of their oaths of office. The constitution was born out of a concern for the balance between freedom and the need for some government. In swearing to uphold the constitution they imply their agreement with its principles. The Neofascist state of having the government tells us when we can drive and how we can purchase goods is something that should be in fiction novels not in American law. No wonder former aides to Hitler are coming out in public support of Mr. Carter's energy plans, they must feel right at home with the concept of the state above the people and the President's political survival above the state.

These words may sound harsh, but we are not talking about some minor proposal in this Chamber. We are talking about granting the most sweeping powers ever granted to a President in peacetime. If this substitute passes we are telling America that we think it is in the interests of this Nation to allow Government to, in effect, abolish the private market system and to govern everyone's lifestyle. That is quite a set of powers. It is ironic that many in this House who were around during the "Imperial Presidency" of Nixon and who were shocked at those abuses of power have few qualms about giving the authority in this proposal to the "Nonimperial Presidency" of Jimmy Carter. I will be interested to see the voters' reactions when they must buy $5 a gallon rationing stamps from black marketeers and cannot take their child out to the zoo on his or her birthday because there is no gas or they do not possess the right color sticker for their car's windshield. This is not the vision of America our Founding Fathers saw. It is more like the workers' paradise envisioned by a bearded scholar at work in the British Museum back in the 1840's.

Mr. Chairman, I urge defeat of this despicable affront to what this country stands for.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to this bill. This bill does nothing more than incorporate the worst features of the original House and Senate bills, with a dangerous grant of rationing authority to the President. This is not a solution to the gasoline allocation system, but a hysterical response to gas lines. Have we not seen enough of Federal control over the price and allocation of motor fuels? The allocation program we have now has done nothing but aggravate the supply situation, and promote absurd inequities between different regions of the country. How can it remotely be expected that a Government rationing program, which is by nature infinitely more complex, would ration fairly among individuals?

As it is, this bill approves a gas rationing plan in advance, sight unseen, with details of the plan both unknown and largely unlimited. Without congressional review, there is no guarantee that the rationing plan is or would be workable to sustain the Nation through a 20-percent drop in petroleum supplies.

Even if we should agree in principle that a rationing program is desirable, which I do not, we should not do so in a way which simply and carelessly grants the President sweeping powers to control all energy consumption. This bill is nothing more than an irresponsible and blind trust in the ability of the executive branch to deliver the country from its fuel and energy shortage. If recent events have taught us anything, it should be clear that this administration has enough trouble making policy within its own house. We should certainly not trust their efforts to run this House.

I know that it may be necessary to conserve gasoline and other forms of energy in the event of a serious gas shortage in the near future. I also know that we do not need more arbitrary and unfair plans proposed by the bureaucrats at the Department of Energy. They continue the classic pattern of establishing 101 rules for gas allocation, from coupons to gasless days—the kind of patchwork of plans, experiments, proposals that do not provide the proper solution to this country's energy problems. They are simply short-term expedients which distract us from the central fact that this country needs a fundamental shift in its priorities, aimed at reducing our dependence on foreign oil. The first step toward that goal is to get the Government out of the way and let the free domestic market set the supply and price of oil. This bill is another step in the wrong direction.

Mr. LOEFFLER. Mr. Chairman, I yield the remainder of my time to the gentleman from Ohio (Mr. Brown).

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) is recognized for 2½ minutes.

Mr. BROWN of Ohio. Mr. Chairman, today the House will consider S. 1030, the Emergency Energy Conservation Act of 1979, as reported by the Committee on Interstate and Foreign Commerce. Since this bill is complex and differs significantly from the one the Senate passed on June 5, I would like to take this opportunity to explain just a couple of the provisions of the Commerce Committee version before we get to the amending procedure.

Mr. Chairman, the most significant part of this bill is the conservation plan part. Under this provision, the President sets conservation targets. But we should know that these targets are not designed to correspond in any way to the level of shortage which may exist; in other words, the President has open-ended authority to set a target to say anything he wants to say, 10 percent, 25 percent, 75 percent of the energy shortage.

Second, each State is to develop and implement a conservation plan to meet these targets within 45 days. If the State plan misses the target, if a 10-percent shortfall exists, and if the President wishes, the Federal plan, which he designed, about which we know nothing at this point, is imposed on that State. There is no congressional or State legislative review whatsoever. In fact, there is a provision explicitly allowing the Governors to supercede their State legislatures if they wish.

Finally, it should be noted that the President's unchecked authorities are so broad that curfews, mandatory retail closings, residential energy limits, further temperature restrictions, anything could be imposed under this plan that the President might consider to be appropriate.

Mr. Chairman, this is a rotten piece of legislation in its breadth. It is not bad in its purpose. But the Congress certainly should retain some control over what the administrative branch of Government wishes to do.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding.

Does the rationing plan in the bill contemplate a coupon system? Does it say that?

Mr. BROWN of Ohio. It could be anything. It does not suggest what the system may be. It could be the system that the majority of the House voted against just a few weeks ago. There is no description of the plan, because the President may impose anything he wishes.

Mr. BURGENER. If they ever did go to coupons, I would hope that they would be counterfeitproof because that would be the only appreciating currency we have.

Mr. BROWN of Ohio. The gentleman makes a good point and, Mr. Chairman, I would hope that the gentleman and other Members who are hearing and watching will vote against this bill as it now stands.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Chairman, I rise today in strong support of the Emergency Energy Conservation Act of 1979. The fuel shortages and long lines at gas stations this summer have pointed out the need for a plan to meet the crisis in an organized way. I believe this legislation provides a rational method for dealing with fuel shortages.

Mr. Chairman, 2 months ago this body had before it a standby gasoline rationing plan which was defeated. I supported that plan, as I support this one, and I would like to tell you why.

First of all, approval of this plan does not mean we will ration gasoline in the United States of America. It does not mean that the American people will have to endure the inconveniences of a shortage created at the whim of government. It does mean, however, that if a shortage arises through disruption of supply, we will have a rational basis to spread it around evenly so that no one portion of America will suffer at the benefit of another. I am afraid that the current system of gasoline allocation and the market mechanism, such as it exists in the oil industry, created just that event this summer in many parts of our country.

The legislation we are considering today requires the President to prepare a standby gasoline rationing plan. While it does not spell out the details of this plan, it does include many of the concerns of both bodies of Congress. The plan would have to insure that the shortage is shared equally by the States and by all groups in a fair and equitable manner. Priority users would have to be taken into account, as would relative needs of all persons to the extent possible. The plan could not include weekend gasoline station closings, but it could include a sticker system whereby the owner of a car should decide on 1 day of the week his car could not be driven, a creative idea of my friend from Connecticut (Mr. MOFFETT).

This legislation calls for input from the States. The President would have to set conservation targets for each State for gasoline and diesel fuels. All States would be required to develop a plan to reduce consumption by a uniform percentage within 45 days of the President's announcement of the conservation targets. Only if a State plan is found to be inadequate would the Federal plan take effect in that State, and the plan could not be implemented unless the President determines that there is a 10-percent shortage in energy supplies.

Mr. Chairman, I believe it is imperative that this Nation be prepared for fuel shortages. This legislation would set up reasonable guidelines to develop a system for rationing fuel if the need arises. While it does not mandate gasoline rationing, it provides the mechanism for a rationing plan in case of emergency and maximizes congressional input into the plan. I urge my colleagues to support the bill.

● Mr. MURPHY of New York. Mr. Chairman, when the President's original gasoline rationing program was presented to the Congress, I voted against it, not because I oppose the basic concept of rationing, but because such States as New York were saddled with a severely unbalanced distribution formula, which, in our case, would have both reduced our supplies as a reward for our excellent conservation efforts, and would have sent the bulk of those smaller supplies upstate. That original plan also failed to incorporate consideration for such necessities as taxis, which, by city charter, are required to be an integral part of the overall mass transit system of New York. Similarly, Staten Island would have been severely hurt because the island has little more than a limited bus system to fill the gaps in the mass transit system, while the balance of New York City at least has direct access to the subway system.

I would also point out here that even though congressional investigations have discovered that New York State is, on a per capita basis, the most gasoline-efficient State in the Nation, we would have suffered a reduction in our allocations of up to 45 million gallons a month.

In an additional attempt to fill the gasoline void, my Select Committee on the Outer Continental Shelf held extensive hearings to determine the reasons for delays in the development of offshore oil and gas resources. A GAO report, for example, showed that the Interior Department and the Energy Department have simply failed to work together, or in some instances, even talk to each other, in the development of offshore policy. While New Yorkers, and the rest of America, wait in interminable gas lines, it is intolerable that Government agencies charged with the solution of those problems are locked in a dispute about the fundamental questions of energy policy.

And so we are now faced with a vastly revised rationing plan, which is considerably more flexible and rational than the original take-it-or-leave-it approach which I voted against. This newest proposal is now subject to amendment by the Congress, as well as a much more equitable and flexible allocation formula which brings into play the realistic demand figures of today, rather than the wasteful historic-useage allocations which rewarded those who had not undertaken conservation measures.

This is the time for tough decisions with regard to our energy usage. If we are to become more self sufficient, we must encourage development of alternate sources. Nuclear, solar, coal, gasohol, and geothermal must all be aggressively researched and developed. I have supported spending levels to assist such research and development above the levels recommended by the President, and I shall support today's proposal for a reasonable, equitable system of rationing, if it should become necessary.●

● Mr. BOLAND. Mr. Chairman, I rise in strong support of S. 1030, the Emergency Energy Conservation Act of 1979.

In May, the House had an opportunity to vote on a gasoline rationing plan. That plan was rejected. I believed, at that time, that it was absolutely essential that we have, in place, a procedure for distributing gasoline supplies in the event of a severe shortage. The events of the last 2 months, in which the American people have attempted to cope with the effects of a relatively modest supply shortfall, have graphically demonstrated the utter folly of not planning for more serious energy shortages.

It is not possible to devise a gasoline rationing plan or an energy conservation plan that will satisfy everybody. An inability to achieve unanimity, however, should not deter efforts to formulate the best possible plan. S. 1030 grants the President authority to establish and implement both a gasoline rationing plan and a Federal energy conservation plan. Even though the bill grants this authority to the President, it reserves to the Congress two important roles in the formulation of the rationing plan. First, the President must report to the Congress, within 90 days of the bill's enactment, on the specific elements which the plan will include. Second, should the President desire to implement the plan, a one-House veto is available to Congress as a means of blocking that implementation. These requirements, in addition to the stipulation that the Nation must have suffered a fuel shortage of 20 percent for at least 30 days before the President can ask for implementation, guarantee that the authority granted by the bill will remain in a standby status, to respond to only the most serious gasoline shortage.

Mr. Chairman, the time has long since passed when we could afford to ignore our energy problems. We are perilously dependent on foreign sources of supply. We consume energy at a rate far in excess of our ability to replace it. The slightest fluctuations in supply and price send shockwaves through our economy. We must come to grips with the fact that we do not control our own energy destiny. Until we do, by developing and adopting alternative sources of energy and by a massive conservation effort, we must make plans to cope with the possibility of a massive supply disruption. Those plans must include the type of rationing system and energy conservation system outlined in S. 1030. I therefore, urge that the bill be approved.●

● Mr. FRENZEL. Mr. Chairman, America needs a standby rationing plan. I believed that last month when I voted against the President's proposal because it was not a good nor a fair plan, and I believe it today.

But I am very surprised that this Congress would consider giving the President carte blanche authority to devise a rationing scheme without having the slightest idea of what that scheme is. This is the Congress that say it wants to protect its prerogatives, but it is apparently willing to simply give away an overbroad grant of its power to the President.

I am willing to vote for a standby plan, but I will not vote the President absolute power to do whatever he wants. We need to see the plan before we give away this authority.

The President's last offer was rejected by this House. It was not needs based. It was a historically based allocation modified to satisfy whatever group last complained about it. It granted equal value to "cruising" and to working. It is biased toward high density population areas and against low density areas.

It gave the same priority to the student driving to school rather than using a taxpayer paid bus as it did to the salesman who must drive to make a living. If gave the some priority to doctors as to people who are unemployed.

Because the President is likely to impose just that sort of plan, I cannot vote to give him this authority.

I believe the President has the manpower in the $12 billion Department of Energy to produce a fair rationing plan. I believe we ought to see that plan before we vote for it.●

● Mr. CORRADA. Mr. Chairman, I rise in support of S. 1030, the Emergency Energy Conservation Act of 1979 This legislation would enable the President to respond to an emergency energy situation. In allowing each of the States to prepare and submit their own energy conservation plan, this legislation provides the flexibility needed to insure that no segment of our country is unduly affected by an emergency.

Our experience of past few months here in Washington with a shortage of gasoline should be warning enough that our country can ill-afford to face a future energy emergency unprepared. I would hope that time will never come, but in this decade alone, we have seen it happen not once, but twice.

I urge my colleagues to approve of this legislation which would give us the framework needed to respond to a crisis situation.●

● Mr. JOHNSON of California. Mr. Chairman, paragraph 5(B) of subsection 634(a) of S. 1030 requires that before any executive agency adopts any new rule or policy of general applicability, it must find that the new rule or policy is consistent with conservation targets established under that section. Such findings are not subject to appeal.

Generally, section 634 authorizes the President to establish emergency conservation targets for fuel.

While it is not totally clear as to what particular agencies this provision would apply, it seems that it could apply to some of the transportation agencies subject to jurisdiction of the Committee on Public Works and Transportation. The rules of the House specifically confer transportation jurisdiction upon the Committee on Public Works and Transportation. However, it is apparent that the only authority delegated is the authority to make an affirmative finding, if the facts warrant. The Public Works and Transportation Committee has not considered this provision of the bill; and, although no specific objection will be raised at this time, I would suggest that in the future the committee be advised of such provisions in advance so that the committee may examine the effects of the provision on the committee's programs. Moreover, I wish to state unequivocally that the failure to object to the inclusion of this provision in the bill should not be construed as any waiver of the jurisdiction of the Committee on Public Works and Transportation, nor lack of interest by the committee in the subject matter.●

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

To authorize the President to create an emergency program to conserve energy, and for other purposes.

S. 1030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Energy Conservation Act of 1979".

DEVELOPMENT OF STANDBY RATIONING PLAN

SEC. 2. (a) The Congress finds that—

(1) a standby rationing plan for motor fuel should provide, to the maximum extent practicable, that the burden of reduced supplies of motor fuel be shared by all groups in a fair and equitable manner and that the economic and social impacts be minimized; and

(2) such a plan should be sufficiently flexible to respond to changed conditions and sufficiently simple to be effectively enforced and administered.

(b) Section 203(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6263(a)) is amended by striking out "The President shall prescribe," and inserting in lieu thereof "As soon as practicable after the date of the enactment of the Emergency Energy Conservation Act of 1979, the President shall prescribe,".

(c) Section 201(e) of such Act (42 U.S.C. 6361(e)) is amended—

(1) by striking out all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(e)(1) The President may put a rationing contingency plan into effect if—

"(A) the President—

"(i) has transmitted a copy of such contingency plan to the Congress;";

(2) by redesignating subparagraphs (A) and (B) as clauses (ii) and (iii), respectively;

(3) in clause (ii) (as redesignated), by inserting after "has found" the following: ", not earlier than 30 days after the transmittal of such plan,", and by inserting after "program" the following: ", subject to paragraphs (2) and (3)";

(4) by amending clause (iii) (as redesignated) to read as follows:

"(iii) has transmitted to the Congress in accordance with section 551(b) a request to put such contingency plan into effect; and";

(5) by redesignating paragraph (2) as subparagraph (B); and

(6) by inserting at the end thereof the following new paragraph:

"(2)(A) As used in paragraph (1), the term 'severe energy supply interruption' means a national energy supply shortage which the President determines—

"(i) has resulted or is likely to result in a daily shortfall in the United States of petroleum product supplies for a period in excess of 30 days (including reductions as a result of an allocation away from the United States under the international energy program) of an amount equal to 20 percent or more of such daily supplies which were available during the 12-month period before such determination,

"(ii) is not manageable under other energy emergency authorities, including any energy conservation contingency plans approved under subsection (b),

"(iii) is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic stocks of refined petroleum products, and

"(iv) is having or can reasonably be expected to have a major adverse impact on national safety or the national economy.

"(B) For purposes of paragraph (1)—

"(i) the commencement of international hostilities, including commitment of troops by the President, in accordance with applicable law, or

"(ii) the determination that rationing of gasoline and diesel fuel is necessary for assuring adequate supplies for protecting the national security,

shall be sufficient cause, notwithstanding subparagraph (A), for the President to determine that a severe energy supply interruption exists or is threatend.

"(3) As used in paragraph (1), the term 'necessary to comply with obligations of the United States under the international energy program' refers to a necessity which is determined to have impacts comparable with those provided for under subparagraphs (A) and (B) of paragraph (2).".

(d)(1) Within 90 days after the date of the enactment of this Act, the President shall prepare and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the measures taken after such date of enactment (and the costs thereof) to establish a system of rationing of gasoline and diesel fuel pursuant to sections 201 and 203 of the Energy Policy and Conservation Act (42 U.S.C. 6261, 6263), together with a description of the measures to be taken in establishing such system, a timetable for completion of such measures, and an estimate of the costs thereof.

(2) The report under paragraph (1) shall include—

(A) a description of the extent to which coupons or other evidences of right under such a rationing system would be distributed to each end-user of gasoline or diesel fuel on the basis of such end-user's needs, and an explanation of the extent to which such distribution may not be based on such end-user's needs;

(B) an analysis of providing that the entitlement under the rationing system to such end-user rights be granted on the basis of individuals licensed to operate motor vehicles on the public roads and highways, and explanation of the extent to which such entitlement will be granted on that basis; and

(C) a description of the extent to which the rationing system would meet the needs and hardships of end-users by the use of local boards as provided for under section 203(d) of such Act (42 U.S.C. 6263(d)), and an explanation of the extent to which such boards may not be used.

(3) The President shall keep such committees fully and currently informed about the progress of efforts to establish a system of rationing and of any problems and delays in establishing the system.

(e) Section 203(a) of such Act (42 U.S.C. 6263(a)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(3) Any rationing contingency plan prescribed under this section shall provide that—

"(A) the end-user rights specified in paragraph (1) shall be distributed on a basis that results in the degree of shortfall involved being equally shared among the various States, considering the most recent data available.

"(B) to the maximum extent practicable, such rights shall be made available to each end-user on a basis which takes into account the needs of such end-user; and

"(C) adequate end-user rights are available to carry out the requirements of paragraphs (1) (A) and (B).".

(f)(1) Section 201 of such Act (42 U.S.C. 6261), as amended by subsection (b), is further amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Section 201(b) of such Act (42 U.S.C. 6261(b)) is amended by striking out "Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective" and inserting in lieu thereof "Except as otherwise provided in subsection (c), no energy conservation contingency plan may become effective".

(3) Section 201(c)(1) (as redesignated) of such Act (42 U.S.C. 6261(c)(1)) is amended by striking out "a contingency plan" and inserting in lieu thereof "an energy conservation contingency plan".

(4) Section 552 (b) and (d)(2) of such Act (42 U.S.C. 6422 (b) and (d)(2)) are each amended by inserting "energy conservation" before "contingency plan" each place such term appears.

(5) Section 552(d) (3) and (4)(A) of such Act (42 U.S.C. 6422(d) (3) and (4)(A)) are each amended by striking out "a contingency plan" each place such term appears and inserting in lieu thereof "an energy conservation contingency plan".

(6) Section 201(e) (as redesignated) of such Act is amended by striking out "or (e)(1)(B)" and inserting in lieu thereof "or (d)(1)".

(7) Section 203(d)(2) of such Act is amended by striking out all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(2) Any rationing contingency plan under this section shall set forth—".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read section 2.

□ 1530

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1540

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Clerk concluded the reading of section 2.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is interesting that after years and years of Government policy against producing energy that once again the Congress now decides to work on a bill to allocate out the shortages that have been created by the Congress.

Out in my State of Idaho if we have to have ration coupons, some people have to drive as far as 100 miles just to check the cattle. This is one of the most ridiculous things I have ever heard of, to come up with some kind of a Government scheme to issue coupons to ration fuel. Yet, with all of the technology we have developed today there is not a pickup truck in the State of Idaho or anywhere else in the country, or an automobile that runs on ration coupons.

Somehow the Members of Congress think they can get together here and pass some kind of a program to issue ration coupons and then go home for the August recess and tell everybody what a wonderful thing we have done. I think we should just take a look at some of the President's energy programs he is talking about.

The program the President is now working on is one of more Government control, and we wonder why it is we have a production crisis in the country. Let us just take a look at some of the things that have happened since President Carter entered into office that he has been advocating.

He has supported the lockup of 70 percent of the lands in Alaska with the greatest potential for energy and mineral development. These areas are now under various wilderness classifications and are off limits to any energy exploration.

The President has supported overzealous environmental regulations governing the use of coal, which will make little improvement in actual air quality, but which will have a devastating impact on the cost of using coal by utilities.

The President has proposed more wilderness areas under RARE II, roadless area review studies, including some of the prime areas for energy development in the Rocky Mountain overthrust belt.

The President has vetoed an agreement to purchase natural gas and oil from Mexico.

He has failed to streamline the licensing of nuclear powerplants, causing years-long delays in building new plants.

The President has created a massive new Department of Energy which has continued a disastrous gasoline allocation program which has caused gas lines in some parts of the country and has generally played havoc with energy distribution throughout the United States.

In addition to all of these things, they are now talking about wanting to confiscate oil profits from people who produce oil and gas, somehow thinking that that is going to make more production. What we are doing is we are here today legislating on giving the President, the same President that has done all of these things against producers, a President who has an antiproducer mentality, a self-defeating, crepe-hanging, pessimistic view of the future, that somehow living with less is better and saying that what we are going to do now is we are going to give everybody a ration book, and everybody can get some coupons out of that book. If they are lucky I guess they can light a match and maybe get a gallon of gasoline somewhere, if there is any gasoline available. But rationing coupons do not make more gasoline.

This whole program is a waste of the time of the Congress of the United States; it is a waste of time to tell the American people that a rationing program will work. It is a good example of Government inefficiency at its best for us to even be here discussing this subject. What we ought to do is get the Government out of the way once and for all and turn this thing over to the marketplace and allow and encourage people to produce oil, produce gas, produce nuclear power, produce coal. That is where the answer to the energy production is; it is not in some kind of Government scheme. It is in oil, gas, coal, nuclear. That is where the answer is. We do not need to have some kind of a scheme of ration coupons to ration gasoline.

I would urge the defeat of this whole proposition today on the part of the Congress. It will save us billions of dollars; it will save us incredible heartaches and headaches and frustrations on the part of our constituents we represent around the country. The whole thing can be summed up nicely by saying it is a big can of worms that is not needed; it is unnecessary and adds to the already overburdened taxpayers and overregulated consumers and producers in this country. I urge a "no" vote on this bill.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 18, line 11, strike out "20 percent" and insert in lieu thereof "15 percent".

□ 1550

Mr. OTTINGER. Mr. Chairman, this amendment, very simply, reduces the trigger that appears in the bill stating that in order for the President to institute or to send to Congress a plan for implementing rationing, that there is to be a 15 percent or more likelihood of a shortfall during a 30-day period, as opposed to the 20 percent that is provided in the bill; subject, of course, to a one-House veto.

My colleagues on the subcommittee, Congressmen ECKHARDT, SCHEUER, GORE, SWIFT, MAGUIRE, and MARKS, join with me in separate views with respect to this legislation because we felt that the trigger that is provided is unrealistic and unduly ties the President's hands in being able to institute rationing in the event of a severe energy supply emergency. While we support the bill and the rationing program that it provides, we were very concerned that in this particular aspect the bill places too many roadblocks in the President's path. In fact, I feel that the bill approaches being a fraud on the public in this respect because, while purporting to give the President authority to institute rationing in the event of a severe energy supply interruption, he would not in truth have such authority until a truly catastrophic situation prevailed in this country.

I believe the President must have sufficient standby rationing authority should events make it all too clear that we are vulnerable and unprepared. In the event of a severe energy supply interruption, the President must be able to rapidly seek the implementation of rationing. That is why I am concerned about the committee's very restrictive definition of severe energy supply interruption to mean only a national energy supply shortage which has resulted, or is likely to result, in a daily shortfall in the United States of petroleum products and supplies for a period in excess of 30 days of an amount equal to 20 percent or more of such daily supplies which were available during the 12-month period before such determination. That is a quote from the bill.

What this means is that the President cannot seek congressional concurrence to implement rationing until a 20-percent shortfall has occurred, or is found likely to occur. This provision is so restrictive as to be unrealistic. What is the President to do if there is a 16 percent shortfall that is wreaking havoc with our Nation and its economy? We have just seen parts of the country in virtual chaos from a mere 10-percent shortfall that produced long gasoline lines and wasted huge amounts of petroleum products as people waited in those gas lines to obtain gasoline.

The President must have more flexible authority. Congress is fully protected from arbitrary use of that authority by the one-house veto provided in the Energy Policy and Conservation Act, which is incorporated in this measure. Any proposal by the President to implement rationing must first be submitted to Congress, subject to the expedited one-House veto provision.

I am also concerned that S. 1030, as reported, ties the President's hands vis-a-vis our obligations under international energy programs by redefining the necessity to meet those obligations as only pertaining to a situation, "Determined to have impacts comparable with those provided for * * *" by this 20-percent shortfall requirement. This provision is truly mischievous because it constitutes an unconscionable roadblock against this country meeting its international obligations. I will be offering an amendment later to particularly address that problem.

I would like to point out that before the President can institute rationing, according to the bill, he has not only to meet this shortfall definition, but he also has to find that the supplies shortage is not manageable under any other energy emergency authorities, including any energy conservation contingency plans.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Under the bill, the shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of domestic supplies of refined petroleum products, and is having or can reasonbly be expected to have a major adverse impact on national safety or the national economy. So, the President cannot just institute rationing under any circumstance. It has indeed to be a very serious situation facing the country before he can act to institute rationing, subject to a one-House veto.

To say that there has to be utter chaos in this country before he can do that, I think, is wrong. The gentleman from Pennsylvania (Mr. MARKS) will shortly be offering a substitute to my amendment to eliminate the 20-percent limitation altogether. My amendment reduces it to 15 percent. I offer the 15 percent with the feeling that that is more likely to be adopted by the House, but I do support the position of the gentleman from Pennsylvania, and I will support his substitute. If that fails, then I hope the House would at least reduce this unreasonable 20-percent requirement to 15 percent.

I seek support not only for my amendment, but for the amendment that will be offered by Mr. MARKS.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with the greatest affection and respect that I view my good friend and colleague from New York (Mr. OTTINGER), who is one of the most valuable members of the committee, and with whom I have labored long in this area of energy. I must say, Mr. Chairman, that I ordinarily view his amendments with a great deal of reverence and respect, as I do him.

I must indicate, Mr. Chairman, that in this instance I cannot support his amendment. I do rise in opposition to it. The committee considered the question of the trigger and at what point the President should be able to submit a rationing plan to the Congress. It was the consensus of the committee, fairly arrived at and firmly arrived at, that rationing, being an emergency matter, should be addressed as an emergency matter, and that the President should be impelled to make a finding that a 20-percent shortfall in supply is anticipated.

While good men and honest men may differ on this matter, it must be recognized that the testimony the committee has received over the years has been that 15 percent is a shortfall in energy supply, certainly in the area of gasoline, that is manageable through other mechanisms. We have embodied in the bill the mechanism and the conservation authorities which we vested in the President and the States. It is our hope that the shortfall would be administered in that fashion.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my dear friend, since I mentioned him in such favorable terms.

Mr. OTTINGER. Mr. Chairman, I just wanted to say that while I greatly enjoy my chairman's praise, as I told him many times in the past, I would be happy to have him forgo the praise and support my amendment.

Mr. DINGELL. I deeply regret, although I would like to do both, I would like to supply the praise.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, rationing of any substance, including particularly gasoline, is a very severe action, a very drastic action. The committee bill rightly does not give the authority to implement rationing to the President except under certain circumstances. One of those circumstances is in the event of a serious shortfall of fuel. The committee determined that the 20-percent projected shortfall was a reasonable one. If the President could project a shortfall of 20 percent and finds that this would be an emergency situation, then the President could implement the rationing authority.

It would seem to me that to drop this requirement at this time is going to give authority to the President that the Congress has not intended.

☐ 1600

Mr. LOEFFLER. I thank the gentleman for yielding. I also join in his opposition to the pending amendment. Although I am now opposed and always have been opposed to gasoline rationing, this legislation has been crafted to allow gasoline rationing to occur only when a 20-percent shortfall has occurred or is likely to occur to meet the definition of a "severe energy supply interruption." If rationing must be imposed, it should only be implemented as a measure of absolute last resort. For this reason I join with my colleague, the gentleman from North Carolina, in opposition to this amendment.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, throughout this debate, both today and when we voted May 10 on the standby rationing plan submitted by the President, we discussed it as a standby plan, to insure that it was standby in substance and not just in rhetoric. I think it is important that we again review what we are talking about in rationing. We are not talking about a magic cure-all for our problems. We are talking about a $2 billion program. We are talking about 50,000 bureaucrats to allocate coupons. We are talking about a catastrophic impact on the American economy that will affect the daily lives and the business lives of all Americans.

In hearings, both administration witnesses and witnesses outside the Government consistently testified that rationing could not pay for itself, comparing benefits to costs, at anything less than a 20- to 30-percent shortfall. So I think it is important that Members of this House recognize that the 20-percent trigger in this bill is in itself a compromise. I think it is important that we assure that this very powerful tool is used only if we are faced with an absolutely catastrophic shortage.

I think it is also important to note that this piece of legislation before us today has 35 pages which deal with the problems that can be dealt with through odd/even plans, through sticker plans, through State programs implemented by State governments and run by States. I think it is important that we hold the big-ticket item, that we hold rationing, until there are no alternatives. We are talking about big costs. The 20-percent shortfall is in itself a compromise.

I urge my colleagues to vote no on the Ottinger amendment, to vote no on the substitute to be offered by the gentleman from Pennsylvania (Mr. MARKS) which would lower the trigger to zero, and then to vote "no" on the international trigger which the gentleman from New York (Mr. OTTINGER) will later put forth.

I think it is important that we give the President the power to ration in an emergency, but I am not willing to give the President additional power by lowering this trigger further below the compromise that the committee has already reached. That compromise is not based on political rhetoric. It is based on a comprehensive study of the costs and benefits of rationing.

I ask the Members of this body to stay with the committee, to vote to maintain the 20-percent trigger so that we require some finding that the 20-percent shortage exists or can be expected to exist before we ration. Remember that we have 35 pages of voluntary and mandatory programs to use in lieu of rationing in the event of smaller shortages.

AMENDMENT OFFERED BY MR. MARKS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. OTTINGER

Mr. MARKS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARKS as a substitute for the amendment offered by Mr. OTTINGER: Page 18, strike out lines 6 through 13.

Page 18, line 14, strike out "(ii)" and insert "(i)".

Page 18, line 17, strike out "(iii)" and insert "(ii)".

Page 18, line 20, strike out "(iv)" and insert "(iii)".

POINT OF ORDER

Mr. BROYHILL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL. Mr. Chairman, I make a point of order that the amendment is not in order because under the rules and precedents of the House an amendment to strike out language in a bill is not a proper substitute for an amendment to strike out language and insert new language.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. MARKS) desire to be heard on the point of order?

Mr. MARKS. I do, Mr. Chairman. Mr. Chairman, the purpose of the amendment is to strike the section of the act proposed by the committee.

The CHAIRMAN (Mr. FASCELL). The Chair is prepared to rule.

The amendment offered by the gentleman from New York (Mr. OTTINGER) is a perfecting amendment. The amendment offered by the gentleman from Pennsylvania (Mr. MARKS) as a substitute for the amendment offered by the gentleman from New York (Mr. OTTINGER) is an amendment to strike and is not in order at this time until the perfecting amendment is disposed of.

The Chair sustains the point of order.

The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The question was taken; and on a division (demanded by Mr. OTTINGER) there were—ayes 5, noes 30.

RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 93, noes 329, not voting 12, as follows:

[Roll No. 382]

AYES—93

Anderson, Calif.
Ashley
Aspin
Barnes
Bedell
Bennett
Bingham
Boner
Bonker
Brademas
Brodhead
Burton, John
Burton, Phillip
Carr
Corman
D'Amours
Danielson
Dellums
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Fowler
Garcia
Gore
Hall, Ohio
Harkin
Harris
Hawkins
Holtzman
Howard
Jeffords
Johnson, Calif.
Kastenmeier
Kildee
Lehman
Levitas
Lloyd
Lowry
Lundine
McCloskey
McHugh
Maguire
Markey
Marks
Matsui
Miller, Calif.
Mineta
Mitchell, Md.
Nolan
Obey
Ottinger
Pease
Peyser
Pritchard
Ratchford
Reuss
Richmond
Rodino
Rosenthal
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
Stark
Stokes
Stratton
Studds
Swift
Udall
Ullman
Van Deerlin
Vanik
Vento
Weaver
Weiss
Wolff
Wolpe
Wydler
Yates

NOES—329

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Flippo
Florio
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory

McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—12

Boiling
Bonior
Campbell
Conyers
Diggs
Emery
Flood
Forsythe
Leach, La.
Walgren
Wilson, C. H.
Wright

☐ 1620

The Clerk announced the following pairs:

On this vote:

Mr. Walgren for, with Mr. Flood against.
Mr. Conyers for, with Mr. Campbell against.
Mr. Diggs for, with Mr. Emery against.

Mr. WYDLER changed his vote from "no" to "aye."

Mrs. COLLINS of Illinois, Mr. HUTTO, and Mr. CARTER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: Page 17, line 1 after "Act of 1979" insert the following: "(but in no event later than 180 days after such date)".

Page 17, strike out line 3 and all that follows down through line 3 on page 18, and insert in lieu thereof the following:

(c) Section 201 of such Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsection:

"(g) (1) For purposes of applying subsection (b) (3) or (e) (1) in the case of any rationing contingency plan, the term 'serve'.".

Page 18, line 6, strike out "(i)" and insert in lieu thereof "(A)".

Page 18, line 14, strike out "(ii)" and insert in lieu thereof "(B)".

Page 18, line 17, strike out "(iii)" and insert in lieu thereof "(C)".

Page 18, line 20, strike out "(iv)" and insert in lieu thereof "(D)".

Page 18, amend line 23 to read as follows: "(2) For purposes of applying subsection (b) (3) or (e) (1) in the case of any rationing contingency plan—

Page 19, line 1, strike out "(i)" and insert in lieu thereof "(A)".

Page 19, line 4, strike out "(ii)" and insert in lieu thereof "(B)".

Page 19, line 7, strike out "subparagraph (A)," and insert in lieu thereof "paragraph (1),".

Page 19, line 10, strike out "(3) As used in paragraph (1)," and insert in lieu thereof "(3) For purposes of applying subsection (b) (3) or (e) (1) in the case of any rationing contingency plan,".

Page 19, line 14, strike out "subparagraphs (A) and (B) of paragraph (2)" and insert in lieu thereof "paragraphs (1) and (2)".

Page 21, strike out line 18 and all that follows down through line 19 on page 22.

Page 22, line 20, strike out "(7)" and insert in lieu thereof "(f)"

Page 22, after line 24, insert the following new subsection:

(g) Section 201(e) of such Act (42 U.S.C. 6261(e)) is amended by striking out all that precedes paragraph (1) and insert in lieu thereof the following:

"(e) Beginning at any time during the period beginning on the date of the enactment of the Emergency Energy Conservation Act of 1979 and ending at the end of the first 60-calendar-day period of continuous session (determined in accordance with section 552(c)) which occurs after the 180th day after such date of enactment (or if earlier, the date of such plan may be approved), the President may put a rationing contingency plan into effect if—

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Mr. Chairman, S. 1030, as reported by the Committee on Interstate and Foreign Commerce, contains in section 2, a blind grant of authority to the President over the design of a gasoline and diesel fuel rationing plan. The bill does reserve a one-House veto over the timing of the implementation, but reserves no congressional review over the plan itself. Congress will not be able to review or approve or reject the rationing plan unless we specifically reserve to ourselves a congressional review provision.

It is by now well known that many in this country want the President to have the standby authority to implement a rationing program during very serious energy shortages. These Americans are trusting us in the Congress to make sure that the national rationing plan is workable and fair. We cannot deliver on our trust unless we reserve the power to review the President's plan.

Because S. 1030 does not provide for any congressional review of the plan itself, I offer an amendment to allow us to review and approve the plan in accordance with the Energy Policy and Conservation Act (EPCA). The President would submit his plan, both Houses of Congress would, under an expedited procedure, review the particulars of the plan for fairness and efficiency. If the plan is fair and workable, I am confident that rapid congressional approval will result.

Under the bill as now drafted, there is no time requirement on when the plan must be submitted—only that it be "as soon as practicable." Knowing this administration and this Department of Energy, that could mean another 2 years. My amendment would call for the submission of the plan no later than 180 days, with a quick 60-day period for Congress to review and approve the plan.

What if the country should fall into a 20-percent shortfall before the plan has been submitted or before it has been approved? My amendment provides for this emergency contingency by allowing the President to implement a rationing plan at once, subject of course to the congressional one-House veto. This means the President and the country would not be left "defenseless"—he would have the power to act.

I believe my amendment provides for two circumstances which the bill as drafted does not resolve:

First. If there is time to review the merits of the plan's design, the Congress is given the authority to review and approve the President's plan.

Second. If there is not time to review the plan, the Congress will allow the President to implement his rationing plan during an emergency development of a 20-percent shortfall in daily petroleum product supplies.

I strongly believe this improves this bill. It does not "straitjacket" the emergency preparedness of this Nation, but, rather, adds to our ability to handle rationing at a 20-percent shortage by assuring the Nation that we are not only equipped but well equipped.

I urge my colleagues to support my amendment. Thank you, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, can my good friend tell me how this amendment differs from existing law under which we just rejected the President's plan?

Mr. BROYHILL. It does not differ from that. In fact, what we do is track present law; that is, we provide 180 days that he present the plan for us, providing for a 60-day review period.

Mr. DINGELL. Mr. Chairman, I thank my friend. The gentleman is always courteous.

Mr. Chairman, I withdraw my point of order.

Mr. BROYHILL. Mr. Chairman, because S. 1030 does not provide for any congressional review of the plan itself, I do offer this amendment to allow us to review and approve the plan in accordance with the Energy Policy and Conservation Act.

☐ 1630

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) to reinstate the existing procedures under the Energy Policy and Conservation Act for the approval of the specific gas rationing plan recommended by the President.

I submit that we were right when the House rejected the last Presidential rationing plan and I would vote against that plan again.

Any proposed gas rationing plan is certain to have widespread effects on all of our constituents.

We must fulfill our responsibility to the American people to affirmatively and carefully review whatever rationing plan the President submits to us.

Accordingly, I urge support of the gentleman's amendment.

Mr. BROYHILL. Mr. Chairman, I strongly believe this amendment improves the bill. It does not straitjacket the emergency procedures for preparedness that we perhaps need for the Nation, but it does improve the bill and I urge its adoption.

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. Mr. Chairman, I do not insist on my point of order.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand the good intent of my friend, the gentleman from North Carolina (Mr. BROYHILL), but his amendment would put us in the same quagmire we were in when we last turned down the President's program for a rationing plan. It would open us up to all the special interests that want to be taken care of and who would be coming in and pleading their cause to various elements of the Congress that they needed special recognition. I am afraid we would never get a plan approved.

We do have the protection under this bill of a one-House veto, and that does give us the chance to tell the President, "No, your plan is no good" or "No, we don't think the situation is severe enough in order for a plan to be implemented." To send up or to require the President to send up a bill and for 60 days to have all the special interests playing with it would be unduly burdensome.

I would like also to point out that because we would have to go through a considerable rulemaking procedure, we would involve ourselves in an enormous amount of additional expense that I think would just lead us to frustration.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to my friend, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to ask the gentleman this:

This proposal of the gentleman from North Carolina (Mr. BROYHILL) is merely the EPCA procedure which is now in effect unless we pass this bill, and surely the gentleman from New York (Mr. OTTINGER) voted for EPCA. I did, although I was a little unique on this side of the aisle in so doing. But that procedure is the procedure that brought us the last plan.

If, short of the passage of this amendment offered by the gentleman from North Carolina (Mr. BROYHILL), the President could return to us the plan that the House rejected a couple of weeks ago and we would have no choice but to have to accept it or decide that there was going to be no plan at all.

Mr. Chairman, I think that is sort of an unacceptable situation. Does the gentleman not also think so?

Mr. OTTINGER. Mr. Chairman, if the President sends up the same plan as he did the last time, that would be most unfortunate. Heaven forbid. I hope he will learn.

We have a provision here that requires the Department to formulate a plan promptly and allow the committees of Congress that are concerned to review that plan and to have congressional input. But if we were to require this to be brought to the floor, as the last plan was, and to be subject to all the special interest pressures we saw then and all the special pleading provisions, I am afraid it would result in no plan at all.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, we required that under EPCA of President Ford, who was then sitting in office. We required that he come up with a plan, and that we would have a vote on it presumably in 1976, which was an election year.

We did not quite have the emergency then that we have had recently, but it was required of President Ford by the Congress then, and it seems to me that the President is now required to do that still under the EPCA law. We have had the emergency and I do not see why we do not ask him to provide another plan for us and give us the opportunity to vote on it. It seems to me that is only fair.

Mr. OTTINGER. Mr. Chairman, I think what we have demonstrated is the great difficulty of getting Congress to act upon the specifics of a particular plan, because every segment of industry and every segment of society is affected and will want special consideration. I think it is far better to have the President formulate the plan and submit it to the House subject to our veto.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield for just one final comment: It is that what the gentleman is suggesting is that we just abandon any right to speak to the plan itself and turn it all over to the President. I think that is somewhat irresponsible, under the effort of the Congress to try to control these things and have its input.

We ought to be as responsible as the President for whatever that rationing proposal is, it seems to me.

Mr. OTTINGER. Mr. Chairman, we have, as I have indicated, provided for our input under the bill. We require the Department to send us a plan and give us an opportunity to review it. We have not submitted it to action on the floor because of the difficulties that have been demonstrated in the past. I do not think we would be able to get a rationing plan under those circumstances. I do think that we have provided adequate protection for the Congress with the one-House veto on implementation and with the provisions for review that we have made.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(On request of Mr. LOEFFLER, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to my friend, the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wonder what assurances the gentleman can give me that a plan submitted by the President would be any better than the plan he submitted earlier which we soundly defeated.

Mr. OTTINGER. Mr. Chairman, I can give the gentleman no such assurances. But then, on the other hand, I cannot give the gentleman any assurance that it would be any worse than what we did to that plan. Once it got here and in the other body, we virtually butchered that plan and made it unacceptable through trying to provide special provisions for each interest that was concerned. I think the President will have learned something from his experience.

We have provided that he submit that plan to the committees, the committees will have a chance to communicate with him, and I hope we can then get the President to devise a more equitable plan.

We have provided some guidelines in this legislation as well to guide the President and to insure that there must be equal treatment among the States and there ought to be consideration of individual needs, which was not provided in the previous plan.

Mr. KRAMER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by my colleague, the gentleman from North Carolina (Mr. BROYHILL).

□ 1640

Think about what we are doing here. Think about what we are doing. We are saying that if the plan is deficient, like we determined it was on May 10 by a vote of 159 for and 246 against, let us not go back and change the plan. Let us get rid of the law that allows us to correct the deficiency.

The purpose of this amendment is to restore the opportunity and the responsibility of the Congress to review and approve a rationing contingency plan submitted by the President. What we are doing here, if we do not adopt this amendment, is totally abrogating our legislative responsibility.

I point out to my colleagues and fellow Members here that I know that we have a lot of amendments, and I do not want to belabor the body with needless rhetoric; but I ask the Members to think about the magnitude of the defeat of the amendment offered by my colleague, the gentleman from North Carolina.

What we are simply doing is saying that we cannot be responsible, we cannot formulate legislation, so let the President of the United States do it on our behalf.

The very fact that the review process which we undertook revealed serious deficiencies in the administration's proposed plan reinforces in my mind the importance of the congressional review process. If the Members think for a moment that a rear-end congressional review process allowing us only 15 days to act in a period of crises and hysteria is sufficient to amend a plan in a way that makes sense, I submit that proposition defies total logic.

Let us look at the record. We have had the opportunity four times now to go to the bat on the EPCA review procedures. Two times the President's proposals never got out of committee. One time they got out of committee and onto the floor and were defeated on the floor, and only one time, in the case of the temperature settings, was the President's plan that was actually submitted approved under the provisions of EPCA. So 75 percent of the time, three out of four times, we have turned the President down. Now we do not even want to know what he is going to do to us. We simply say to him, "Mr. President, do not tell us until the fact is an accomplished fact, we do not want to know the bloody details in between, we only want to know the horror of the end result."

I am really astonished that this body would accept the failures of the administration as its own and then compound that error by denying itself a meaningful role in the review process in the future.

Having seen how deeply this issue cuts in the lives of our constituents, I think we should be keenly aware, more than ever before, of the importance of the representative system of government We should strive to strengthen that system, not dilute it through grants of unbridled power to the Executive, such as is contained in this bill.

The Members of this body are elected to represent the interests of their constituents. The nature of the system is to meld those divergent interests into a consensus on national priorities, not to abrogate that responsibility to the executive branch. If a majority cannot be reached, then the question must be asked if the national interest is really served in acting without majority support.

I urge my colleagues to remember the fact that they were elected to make tough decisions, not to turn over the interest of their constituencies to the executive branch with a blank check and not to escape criticism for an unpopular action, such as rationing.

I urge the Members to support the Broyhill amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his statement. It seems to me that all I heard from the administration, after we had turned down the President's plan, was a condemnation of the House. The President, so far as I know, never said, "Gee, maybe we made some mistakes in our proposal, perhaps we ought to go back to do it again." I personally think we would get exactly the same plan. We would have 15 days to turn it down while faced with a 20-percent shortfall in our energy situation—an impossible situation. I think the amendment makes an awful lot of sense. I hope my colleagues will accept it and vote for it.

Mr. KRAMER. I thank the gentleman. I could not agree with the gentleman more.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my colleagues in the House heard me direct a question to my beloved friend, the gentleman from North Carolina (Mr. BROYHILL). I said, "How does this amendment vary from existing law with regard to rationing?"

The gentleman said, "Not at all."

The hard fact of the matter is the amendment offered by the distinguished gentleman from North Carolina, for whom I have the greatest affection, not only enacts existing law, not only reinvents the wheel or reinvents the automobile, but it does so in a less satisfactory fashion, because, in addition to everything else, before the President can impose a plan, he must find that there is a 20-percent shortfall.

The consequences of the adoption of the amendment offered by my good friend, the gentleman from North Carolina, are that we would require at least 240 more days to elapse before we can consider meaningfully a question relating to rationing, by which time we could have had a major shortfall in supply stemming from disorders in Iran.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Mr. Chairman, since I have mentioned the gentleman's name, I will yield briefly.

Mr. BROYHILL. Mr. Chairman, on that point I think the gentleman should go back and read my amendment, because I took care of that in the amendment.

Mr. DINGELL. Mr. Chairman, I have read the gentleman's amendment, and I remain of the same opinion, in spite of the high regard I have for the gentleman.

Mr. BROYHILL. Mr. Chairman, under the terms of the amendment, in that 200-day period the President would have the authority to submit a plan to us, and we would then trigger the 15-day approval period. So I purposely put that in there so as not to tie the President's hands during that period of time.

Mr. DINGELL. Mr. Chairman, in any event, the amendment would still be subject to the 20-percent shortfall and would be precisely the same language under which we proceeded to reject a standby rationing plan last May 10.

What are we going to be considering under the legislation before us? Rationing to go into place tomorrow? Absolutely not.

We are going to be considering a "standby" rationing plan.

In addition to all things else—and I hope I will have the attention of the gentleman from North Carolina—the gentleman's amendment will require redoing something which costs better than $3 million. It will require the wastage of $3 million in hearings and proceedings to accomplish. It will require, in addition to that, probably an additional $12 million in printing costs, because that is what was involved in the printing of the coupons and the stickers. The consequences will be that at the end of this prolonged period of time the House will still find itself faced with the need to first affirmatively approve the plan and then, subsequently, to reject by a one-House veto the imposition of the plan.

Mr. Chairman, my colleagues on the Republican side would have us believe that this is delegation run rife. In point of fact, it is not delegation run rife. In point of fact, what we are doing is affording the President, subject to safeguards, and I would call to the attention of my Republican colleagues the language on page 21 in the bill, where in we have set out the standards and the criteria very carefully that the administration must apply in arriving at its rationing plan. We then compel the administration, before any rationing plan can go into place, to submit itself to a one-house veto, and to do so within a period of 15 days, during which time the House and the Senate will be continuously in session.

The amendment, although I am sure it is offered with the best of intentions, is, nonetheless mischievous. It simply reenacts existing law, it imposes additional liabilities, great additional expenses, substantial amounts of administrative action and hearings, a great deal of boil and toil, and probabilities of litigation and court review. In addition to that, it will probably occasion wastage of a substantial period of time in probably upward to $3 million.

At the conclusion of having complied with the Broyhill amendment, if the House is unwary enough to adopt it, my colleagues will find themselves then faced with precisely the same situation as regards the standby rationing plan as under existing law. It makes no sense to adopt this amendment at all, and I urge my colleagues to reject it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I have the greatest of respect for my colleague, the gentleman from Michigan (Mr. DINGELL), having served with him now for some time on this committee. I supported the gentleman in that EPCA bill that he crafted so carefully, and he is a master legislator.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. Brown of Ohio and by unanimous consent, Mr. Dingell was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, I have no objection to the gentleman proceeding. I would like to have him end on that note.

Mr. BROWN of Ohio. Mr. Chairman, I will continue on that note and I will end on that note, too; but I just want to inquire as to what the difference is now, after we have had the shortages that resulted from the allocation authority that we originally gave to FEA, now the Department of Energy, back in 1973. We have had the shortage situation for several months in certain parts of the country. What is the difference between now and the situation back in 1975 when we had no shortage and we required the President at that time to submit a plan and had the right to veto that plan here?

☐ 1650

Now we are saying, "Mr. President now you can do anything you want to do to us."

Mr. DINGELL. No, that is not what we are saying at all.

First of all, as far as the gentleman's comments, I want to indicate I have the greatest affection for the gentleman from Ohio. He is my dearest friend.

The hard fact of the matter is that it must be recognized that the shortfall in supply in this country was occasioned not by allocation regulations, but it was occasioned by the Iranian disorder which substantially reduced probably by somewhere between 5 and 8 percent of the amount of oil coming into this country. That was the cause of the shortfall, not the allocation.

Now we are trying to do away with the allocation system. We will through the President's program for decontrol.

But the proposal that we have before us now is to assure that we will be able to craft in as reasonably responsive and short period of time a proposal for rationing which will enable the country to meet the very real possibility of a significant shortfall in supply stemming from disorder or difficulties abroad, such as possible disorder inside Saudi Arabia, perhaps a continuance of disorder in Iran, perhaps a shutoff of supply from Nigeria or perhaps a shutoff of supply from Libya, which has indicated the possibility of termination of supply for a period of 2 years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. Broyhill).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROYHILL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 234, not voting 15, as follows:

[Roll No. 383]

AYES—185

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bethune
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Myers, Ind.
O'Brien
Pashayan
Paul
Perkins
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
White
Whitehurst
Whittaker
Whitten
Williams, Mont
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NOES—234

Addabbo
Akaka
Albosta
Anderson, Calif.
Annunzio
Anthony
Ashley
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Cavanaugh
Chisholm
Clay
Coelho
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Holtzman
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Weiss
Whitley
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—15

Alexander
Bolling
Bonior
Campbell
Conyers
Diggs
Emery
Flood
Forsythe
Leach, La.
Moorhead, Calif.
Treen
Walgren
Wilson, C. H.
Wright

☐ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Emery for, with Mr. Walgren against.

Mr. Moorhead of California for, with Mr. Conyers against.

Mrs. FENWICK changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1710

Mr. GILMAN. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

Mr. DINGELL. Mr. Chairman, I reserve points of order.

The Clerk read as follows:

Amendments offered by Mr. Gilman: Page 17, strike out lines 10 and 11 and insert in lieu thereof the following:

"(i) has transmitted a copy of such contingency plan to the Congress in accordance with section 551(b) and neither House of the Congress has disapproved (or both Houses have approved) such plan in accordance with the procedures specified in section 551;";

Page 17, beginning on line 15, strike out "not earlier than 30 days after the transmittal of such plan," and insert in lieu thereof "if the plan is not disapproved during the period provided for such disapproval (or if the plan is approved) under clause (i),".

Page 19, line 14, strike out the quotation marks and the period which follows.

Page 19, after line 14, insert the following new paragraphs:

(4) For purposes of considering the plan submitted to the Congress under paragraph (1)(A)(i), the 5 calendar days specified in section 551 shall be lengthened to 10 calendar days and the 15 calendar days shall be lengthened to 30 calendar days.

"(5) No amendment to any such plan may take effect unless that amendment is submitted and not disapproved (or is approved) as provided for under paragraph (1)(A)(i)."

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I have also reserved a point of order, could the gentleman tell us briefly what the amendment does?

Mr. GILMAN. Essentially, this amendment provides for a 30-day one-House veto of the President's plan. The bill before the House, has stripped from the Congress the opportunity to provide a review of any Presidential plan.

Mr. DINGELL. If the gentleman would permit, what he does is, he requires two one-house vetoes for the President's plan.

Mr. GILMAN. No, my amendment provides only one one-House veto of the President's plan.

Mr. DINGELL. But two one-House vetoes, because the bill already provides for a one-House veto. You add one more for a total of at least 45 calendar days of continuous session.

Mr. GILMAN. The bill presently provides for a one-House, 15-day veto of the implementation of any plan. My proposal provides for a one-House veto of the plan itself.

Mr. DINGELL. So then we have two one-House vetoes, a veto of the plan and a veto of its implementation.

Mr. GILMAN. With one exception, we do not without my proposed amendment have anything to say about any proposed plan.

Mr. DINGELL. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. OTTINGER. Mr. Chairman, reserving the right to object, can the gentleman tell us whether this is an opportunity to amend the plan?

Mr. GILMAN. This does not provide for the opportunity to amend the plan. Neither my amendment nor the proposal as written by the committee provides any opportunity to amend. My amendment simply provides for a veto, and if the veto is exercised, requires the House to return the plan to the President with whatever recommendations we may have. The President then could promptly resubmit a revised plan.

Mr. OTTINGER. Further reserving the right to object, what are the amendments the gentleman is melding? The gentleman asked that several amendments be considered en bloc.

Mr. GILMAN. I am having passed over to the gentleman from New York a copy of my proposed amendments. They all refer to the one-House veto.

Mr. OTTINGER. They all are related?

Mr. GILMAN. Yes, they all provide for the one-House veto, and are all related.

Mr. OTTINGER. I thank the gentleman, and I withdraw my reservation of objection.

Mr. DINGELL. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. GILMAN) that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. GILMAN) that further reading of the amendments be dispensed with and that they be printed in the RECORD?

There was no objection.

Mr. GILMAN. Mr. Chairman, this emergency energy bill as reported by the committee contains no provision for any sort of congressional review over the workings of the President's rationing plan. Some of the bill's proponents have said that the expedited procedures of EPCA are too slow. I believe that they are misinformed.

Since this legislation does not empower the Congress with any opportunity to review and approve the merits of a Presidential rationing plan, we ought to at least reserve for ourselves a one-House 30-day veto period over the substance of the plan.

While the bill, as reported by the committee, allows the Congress to veto the implementation of a rationing plan, it strips the Congress of any voice with respect to the provisions of the plan itself. Under my amendment, Mr. Chairman, the President would submit his plan, and if after 30 days neither House of Congress disapproved the plan, it would then be approved and held in a standby status.

Under this congressional veto, the Congress could assure the Nation that we would be well-armed to deal with the serious energy shortages that rationing is designed to address. A one-House veto is not carelessly given by either body of this great legislature. In effect, my amendment is a provision allowing us to reject only the most careless, the most inequitable, and most preposterous type of rationing.

All of my colleagues are concerned about protecting the American people from any faulty rationing program. This one-House veto amendment would allow us the opportunity to do just that, without, in any way, holding up any legitimate rationing plan which, hopefully will be produced by the administration. It would also protect us from being forced to buy a pig in a poke.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I support the gentleman. I think it is a good amendment. It is very similar to the amendment that I offered. My amendment provided for two-house approval of the President's rationing plan. The amendment of the gentleman from New York provides that the plan would be submitted to the Congress, and could be disapproved by any one house upon majority vote of that one house. Does that describe the differences between the amendment that I offered and the amendment the gentleman from New York is offering?

Mr. GILMAN. Yes; and I thank the gentleman from North Carolina for drawing that distinction. I also want to call attention to the fact that the gentleman's proposal would have required a 60-day period for approval.

Mr. BROYHILL. If the gentleman would yield further, the other difference, of course, is that I provided for a 60-day congressional review period, and the gentleman provides for a 30-day congressional review period.

Mr. GILMAN. That is correct, and I appreciate the gentleman focusing our attention on that distinction.

Mr. Chairman, my amendment, essentially substitutes a one-house vote for the more difficult to obtain two-House approval.

The veto provisions under my amendment would operate under the expedited procedures of section 551 of the act, which is retained by this bill, for the purposes of considering whether or not Congress desires to veto the President's intention to implement any standby program.

Mr. Chairman, the committee's report sets forth extensive criticism of the last rationing program that the President submitted to the Congress. But, despite that protest, I am amazed that at the conclusion of its discussion, the committee's report indicates that the President ought to be allowed to submit another plan without any congressional review.

Accordingly, Mr. Chairman, I urge my colleagues to support this amendment providing a 30-day one-House veto over the substance of any proposed rationing plan.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is essentially the same kind of effort that was put forward in the Broyhill amendment, just defeated, and is subject to most of the same evils. While the House would not have an opportunity to amend this plan affirmatively, still the House would be subject to all the same special interest press, as would the other body, and it would only give the special interests that felt they were disadvantaged by a plan the ability to have it turned down in either house in order for it to be defeated. This amendment puts us in a situation where, in practicality, we probably could not get a standby rationing plan before the public and in the hands of the President and in the event of any emergency.

I would like to point out to the committee that this is not a plan that is going to be instituted tomorrow. This is a plan that is to be held in reserve only in the event of the severest kind of emergency. It does not go into effect unless it is anticipated that there will be a 20-percent shortfall throughout the country, which means the country would be in chaos.

□ 1720

It would not go into effect unless the situation were not manageable under other energy emergency authorities. It would not go into effect unless the emergency was expected to persist for a period of time sufficiently to threaten the adequacy of domestic stocks of refined petroleum products. It would not go into effect unless the emergency is having, or can reasonably be expected to have, a major adverse effect on the national safety or the national economy. Under those dire circumstances it is just essential that the President have the authority to impose rationing and that there be a plan in place. I am just fearful that any plan that has to be put up in advance subject to congressional approval under a one-House veto and under another one-House veto to implement is just not going to get approved. I think it is so important in view of the kind of threats that we do face of international interruptions completely beyond our control that we do have a program that is capable of being instituted by the President in the event of a severe emergency.

I urge the defeat of the amendment.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think my friend, the gentleman from New York (Mr. OTTINGER), just said that any attempt to do what the gentleman from New York (Mr. GILMAN) recommends in his amendment would be subject to self-interest groups coming back to us and suggesting that the distribution method in the plan for their special interest is awry in some respect.

It seems to me that one thing should be considered. The criticism of the previous plan was not criticism solely by self-interest groups since, if we consider that this is a suburban nation, the suburbs under the previously submitted plan were severely disadvantaged under it. If that is a self-interest group, so be it, but how can we afford to look away from this kind of an amendment when the administration has been so lax in developing a system or a procedure or a plan which completely neglected the kinds of elements that are vital to the survival of these people in mass transportation deficient areas? There is a great difference between those people on the one hand who are targeted with a cash-coupon system with one vehicle, living in a city which has access to all kinds of transportation systems, and those on the other hand who are disadvantaged because they reside in mass transportation deficient areas, that is suburban or rural areas.

It seems to me that in the face of the kinds of plans that we have seen from this administration, which lack the fairness and equity and balance that we know is required, that we just must have the right to look at this again. There is no question that if it is triggered at a chaotic 20 percent of product that we will be in bad shape in this country, but the disruption that would be caused by another such plan coming down from the White House such as we got the last time, it seems to me, merely shifts one form of chaos for another and makes it imperative that we look at the plan once more from the point of view of the so-called special interests of huge groups of people who would be severely disadvantaged by something like this.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding. I have no reason to come to the defense of the administration or its last plan. I thought it was a bad plan. I also represent a suburban district, and I thought we did get shortchanged. But what we are talking about here is a plan which would only go into effect in the event of a dire emergency, and even that plan is better than having chaos throughout the country in the event of the kind of emergencies that would trigger it in.

Mr. AMBRO. I would like to reclaim my time. It is very short time. I will tell the Members that I do not think any reasonable person in this room or this Nation does not understand what the gentleman just said but we do not buy that argument. How can the gentleman urge that if we get to the chaotic situation of a 20-percent shortfall of product that we can then afford to endorse any plan that comes from the White House that does not seem to balance things out and make equity a primary consideration. The previous administration plan was an administrative nightmare with respect to gas checks for coupons which will shift us from lines at the pump to lines at the bank, targeted vehicles and not need, had a white market provision that assured the gouging of those people whom I represent by virtue of the sale of surplus coupons. The whole plan was ludicrous. If we do not look further into it and if we endorse it in advance, we will have completely abrogated our responsibilities.

Mr. CARNEY. Mr. Chairman, will the gentleman yield ?

Mr. AMBRO. I yield to my neighbor to the east.

Mr. CARNEY. I thank the gentleman for yielding.

I would just like to take this opportunity to associate myself with the remarks the gentleman made. The special-interest groups the gentleman was talking about are 66 percent of the population of the United States, those people living in suburbs and urban areas. What the gentleman has said is quite accurate, and I am proud to associate myself with those remarks.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

Let one of those of us in the West join with the gentleman from the East. I think the gentleman makes a good deal of sense in everything he has said.

Let me add one more thing. When we are talking about special-interest groups and how they can come in and confound this program, they can move far faster than the people can, and the necessity for changing from 15 to 30 days lies in that. It takes about a week to get the message to the people and certainly they should then have adequate time to study the plan and contact their Representative. I do not have all that much confidence in the White House crew to give them a blank check authority on designing a rationing plan.

The CHAIRMAN. The time of the gentleman from New York (Mr. AMBRO) has expired.

(At the request of Mr. ANDREWS of North Dakota, and by unanimous consent, Mr. AMBRO was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS of North Dakota. If the gentleman will yield further, I think what we have to recognize is that if a plan comes down from the President, it takes some time for the news to get around this Nation of ours and for the reaction to come back in, and a 30-day period gives the people in the gentleman's suburban areas and in my rural areas the chance to have input and to make sure that whatever rationing program we have is equitable across the Nation. The gentleman makes an excellent point; all of his points are good. But also remember that the public will better be served by giving them the appropriate time to come in as well and be heard. It is amazing that this administration, that says it values input from the people, seeks to circumvent their opportunities to be heard on something that affects them as much as gasoline rationing.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. AMBRO was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield for just an observation without opening up that metaphysical can of worms that the Nation is made up of self-interest groups. Each one of us is.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I would like to identify one other special-interest group. My district happens to be a lot of small industrial towns scattered with a few miles between each throughout the central and western part of Ohio wherein we have a lot of people who drive 25 or 30, or 40 or 50 miles one way to the plant site at which they work and home again, and those people who have that requirement for making a living, like the traveling salesmen, were not included in the other plan that was proposed to us. That is why I would like to have an opportunity to put my imprimatur either of approval or disapproval on the plan that the President comes up with. I must say that the President perhaps was not totally to blame for the last plan that he presented to us because, literally, I think they picked up a plan that was in its nascent phases before this administration took over and just simply dropped in on the House of Representatives. But the House has a responsibility to its own constituents in this area, and we ought to have the opportunity to exercise that responsibility.

Mr. AMBRO. I agree with the gentleman completely, except that I would wrap up by saying that the House had the opportunity to develop a plan, and I, indeed, am sorely sorry that it did not put the gentleman's imprimatur and mine and everyone else's on a plan that we could develop, send to the White House for their approval, and get back here. But since we have got only this route open to us, I think the gentleman's amendment is an excellent one, and I urge the Members to pass it.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. AMBRO. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding. I want to compliment the gentleman on his amendment and certainly to agree with the idea that this Nation is composed of a whole bunch of different special interests. I think that is why we are here. We are here to represent all of these various interests, whether we want to label them special or by some other designation. Certainly they have a right to be represented and a right for us to look at a plan before it is actually put into effect, before we get to the very crisis situation that would be here.

The CHAIRMAN. The time of the gentleman from New York (Mr. AMBRO) has expired.

(At the request of Mr. OTTINGER, and by unanimous consent, Mr. AMBRO was allowed to proceed for 2 additional minutes.)

Mr. AMBRO. I would like to thank the gentleman. But lest we get to the point where we feed the opposition the argument that this very colloquy develops the thought that it would be chaos acceding to the special interests of all, these special interests that I am talking about are those people who live in mass-transportation-deficient areas, which represent a huge block of this country and which have not been addressed by the previous plan of the White House.

□ 1730

Now, it may very well be that if this amendment fails that at least the White House gets the message that we are very concerned about those areas as a block.

Mr. OTTINGER. Will the gentleman yield, Mr. Chairman?

Mr. AMBRO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

We have just seen a demonstration of the exact reasons why we cannot pass a plan in the House of Representatives. We have the westeners who say they need particular consideration, we have the industrial Midwest who have their interests, we have taxicab drivers, we have the suburbs, each of which wants to make sure their people are going to be taken care of.

In a rationing plan, obviously there is going to have to be sacrifices. No Representative is going to want sacrifices by the particular interest in his group. That is why it seems to me we have to rest the authority in the President to come up with a plan subject to a one-House veto with respect to implementation.

I thank the gentleman for yielding.

Mr. AMBRO. I anticipated the gentleman's argument.

Mr. AMBRO. Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment. Mr. Chairman, the difference between this amendment and the amendment just rejected by a large vote by the House is really cosmetic. The difference is between Tweedledum and Tweedledee. In that, the gentleman from North Carolina pointed out we were essentially reenacting existing law. In this, we are also essentially reenacting existing law with the changes that I had mentioned before, meaning that there had to be a finding of a 20-percent shortfall before the President could implement the plan. Instead of requiring the House to affirmatively approve the plan and the Senate to affirmatively approve the plan in the first instance, we have two one-House vetoes.

The first one-House veto will occur whenever the President submits a plan to the Congress. At that point, each House will have 30 calendar days of continuous session to disapprove the plan.

The second one-House veto occurs when the President wants to implement the plan, assuming neither House disapproves the first time. This time, each House will have 15 calendar days of continuous session to disapprove the plan.

Mr. Chairman, this hardly strikes me as being a difference of any significance between what we now have under EPCA.

A comment was made about people who come from suburban areas. I come from suburban areas. I come from people who use the automobiles. As a matter of fact, the automobile is manufactured and used extensively in a highly mass transit deficient area where I live.

I know one thing, if this country has a major shortfall in supply—and it may very well do so this fall—one which will compel a choice between gasoline for driving and fuel for heating homes we will be in a difficult way. We are going to need a standby rationing plan that is fully ready to be implemented if needed. We are going to need one quickly. We are going to need the ability to respond quickly. This amendment would deny the President that authority.

I would again commend to my colleagues the fact the committee has circumscribed the President's powers very significantly. First of all, within 90 days after enactment of legislation the President has to submit to the House a statement of how he proposes to use the powers which have been vested in him and to describe the actions which he will take to the best of his ability. He must thereafter continually keep Congress advised.

Subsequent to that the President may, if he finds there is a 20-percent shortfall in supply, submit to the Congress a finding that rationing should be implemented. That is a significant safeguard, as our colleague Mr. GRAMM has observed. Even then the plan cannot be implemented without a congressional one-House veto opportunity.

Now, the question is, how much delay, how many impediments does this body want to lay in the face of the President before he can meet the consequences of a major supply interruption? We have already said he cannot act. He cannot implement the plan unless there is a 20-percent shortfall and congressional approval.

Mr. Chairman, this kind of nakedness to a politically unstable area, to the possibility of supply shutoff as we saw during Iran, is absolutely intolerable. If you ask any American who stood in the gas line this summer or any resort owner or any of the truckers or farmers who faced hardship during that shortfall or if you ask any of the folks who may very well have cold homes because we have chosen gasoline over heating oil or because we have chosen diesel fuel over heating oil, you will find how the people want standby rationing in this country and you will find there may be a more stern response than that which we are seeing. They want to be prepared. No one wants to see it implemented. But they want us in readiness.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will yield to the gentleman from New York.

Mr. GILMAN. I merely want to clarify one point. This amendment does not delay the procedures under this program in any manner. As presently provided by the committee's proposal there is a 30-calendar day layover from the time the President transmits a plan to the Congress until the plan can be put into effect.

All this amendment does, during that 30-day period, is to provide for a one-House veto.

Mr. DINGELL. Mr. Chairman, do I have the time or not? I decline to yield further.

The CHAIRMAN. The gentleman from Michigan has the time.

Mr. DINGELL. The answer is the gentleman does strike the 30-day period in the committee bill. He does not say when the plan must be submitted to Congress.

The practical consequences of the gentleman's amendment are long periods of delay before the President can even submit anything, plus two opportunities for legislative vetos.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GILMAN, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, I will now yield to my good friend, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I submit again that this one-House veto amendment does not add any additional time. It takes place during the 30-day layover period after the President has devised and submitted a plan to the Congress.

I ask the gentleman to please explain how any additional time would be added. How does the gentleman compute the 240-some days that he refers to?

Mr. DINGELL. Mr. Chairman, if the gentleman will permit, first he requires two one-House vetoes. One before the plan goes on standby and one before the plan can go into effect.

Mr. GILMAN. Will the gentleman yield?

Mr. DINGELL. I yield further to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. My amendment requires only one one-House veto.

Mr. DINGELL. Mr. Chairman, I must tell the gentleman I count two in his amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield to me?

Mr. DINGELL. I will yield to the gentleman from New York.

Mr. OTTINGER. I might point out what has not been pointed out before and that is that any rationing contingency plan prescribed under this section shall provide that the end user right specified shall be distributed on a basis that results in the degree of shortfall involved be equally shared among the various States.

Mr. DINGELL. If the gentleman will permit, I have a letter here signed by the gentleman from New York, BENJAMIN A. GILMAN, Member of Congress. It says:

> I intend to propose an amendment to S. 1030 to provide for a procedure whereby either House of Congress could by simple resolution disapprove the terms of the proposed rationing plan during the 30-day period following its submission.

That is the first of the one-House vetoes.

The second of the one-House vetoes follows before the plan can go into effect which is still provided in the Committee bill and is not changed by the amendment. That is two one-House vetoes, plus the time that it takes for the process of developing the plan.

Mr. GILMAN. Will the gentleman from Michigan again yield?

Mr. DINGELL. I now yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Yes, the bill in its present language provides for a one-House 15-day veto of the implementation of a standby plan in the event there is an emergency.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. I yield again to the gentleman from New York and will repeat that his amendment provides for two one-House vetoes.

Mr. GILMAN. My amendment provides only for a veto of the plan itself to give the Congress an opportunity to review the proposal, not the implementation of the proposal, but to look at the draft of the President's proposal and say whether Congress approves or disapproves, thereby avoiding the necessity for signing a blank check and avoiding buying a pig in a poke. It enables the House to have some input on such an important consideration.

Mr. DINGELL. Mr. Chairman, there are still two one-House vetoes. The bill provides a one-House veto for the plan to go on standby under the amendment offered by the gentleman and then there is the subsequent requirement of the bill that, before the plan can be implemented, the President has then got to submit to a one-House veto plus all the findings.

Mr. GILMAN. Mr. Chairman, will the gentleman yield once again?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, the one-House veto applies during the 30-day transmittal period to the Congress and adds not 1 day of additional time to the procedures presently prescribed in this legislation.

Mr. DINGELL. What the gentleman has done, and I have great respect for the gentleman, he has still required two one-House vetoes. They will take at least 45 calendar days of continuous session. The bill provides for one one-House veto before the implementation can take place; the gentleman would require one one-House veto before the President could put the plan on the shelf for standby.

□ 1740

Thus, I say that is just too much. It is literally a reenactment of existing law. It disregards the fact that the President has in any event to make a finding of a 20-percent shortfall in supply before he can implement the plan. So I would urge my colleagues to reject the amendment.

Now I yield again to the gentleman.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is correct. There would be two vetoes, one by way of my amendment for the plan and one by the committee's proposal for the implementation of the plan.

I think Congress certainly deserves some input on such an important consideration as a standby rationing plan.

I urge my colleagues to support this amendment.

Mr. DINGELL. Mr. Chairman, I would point out that at under precisely this mechanism the House has already shown itself on May 10 incapable of putting a standby plan on the shelf.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. STOCKMAN, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my colleague, the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I just want to say for the benefit of the House, the chairman of the committee is usually a model of lucidity; but I think in the last few minutes the gentleman has done his very best to totally obfuscate what this amendment does.

Mr. DINGELL. Now, wait. Since we are on my time, all I have done has been to quote from a letter sent me by our good friend, the gentleman from New York (Mr. GILMAN).

I find myself hard put to say that I have obfuscated a matter on which the gentleman from New York (Mr. GILMAN) and I happen to be in agreement.

Now, if the gentleman wants to say that the gentleman from New York (Mr. GILMAN) obfuscates, I will not quarrel with it. But when the gentleman says that I obfuscate, I must necessarily say that the gentleman is in error.

And I yield again.

Mr. STOCKMAN. Well, let me say to the chairman, the discussion has obfuscated the issue. What this amendment does is add a one 30-day period to the mechanism provided in the bill before us. It does not go back to the old law. It does not require rulemaking. It does not require 2½ years. That is the old law.

Mr. DINGELL. Well, the gentleman is in error, because what happens is that before the President can submit a plan, he has got to go through the rulemaking process, as was offered by the gentleman from New York (Mr. GILMAN). That takes a goodly period of time. I pointed out that it took in the case of the last two administrations about 2½ years.

I respect my colleague, but I differ with the gentleman.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

I would like my colleague, the gentleman from New York (Mr. GILMAN) the author of the amendment, to offer the correct understanding of what his own amendment is. I think it has, as my colleague, the gentleman from Michigan (Mr. STOCKMAN) has said, been thoroughly confused by the past colloquy.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from California for yielding and I thank the gentleman for giving me this opportunity to underscore that what this amendment seeks to do is to provide an opportunity for the House to review any Presidental rationing plan. Under the committee bill, when a plan has been drafted by the President and submitted to the Congress, there is a 30-day layover period. During that 30-day layover period, the House would have the opportunity to impose a congressional veto of the plan. There is no additional time that is added by this amendment to that procedure. If the plan is found faulty and the House vetoes it, it would be sent back to the President. He can then immediately resubmit a new plan for our consideration, taking note of any objections that have been voiced. There is not any undue delay. And it would not occur during an emergency period. Our rationing, plan would take place at a time when we can look at the plan objectively, try to improve it, try to take care of some of the criticisms that may be voiced here, some of the criticisms that were voiced in the committee report, some of the criticisms that we voiced in the last plan when we rejected it. If there are some sound constructive criticisms, those objections be eliminated from the plan so that it provides the kind of program that is needed for our entire Nation and not just for one or two segments of our population.

Mr. ROUSSELOT. Mr. Chairman, could the gentleman answer the complaint about the extra 240 days? Is that true?

Mr. GILMAN. I am frank to say, I do not know how our distinguished chairman arrived at the 240-day period. I would welcome hearing how he arrived at that computation.

Mr. ROUSSELOT. Maybe it is modern math.

Now I yield to my colleague, the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Mr. Chairman, I would like to ask whether or not this is not the way it works: Built into the present bill we have a one-house veto in terms of implementation.

Now, if we reach a 20-percent shortfall of product, in a year and a half, the implementation of whatever plan would have to come back and we could review it for a veto.

What the gentleman from New York (Mr. GILMAN) is suggesting, however, is that between now and a year and a half, hypothetically, let us say in 6 months, the White House gets its act together, develops a plan, they then can send it back here for review. It is not a period of crisis. We are not motivated by anything that would be chaotic. There is plenty of time to look at the plan. It is not, as I thought was suggested by my friend, the gentleman from Michigan, something that is subject to a two-house veto at a time of crisis.

The review of the plan can be done in a deliberative, studious, reasoned manner, so that all considerations can be looked into and then once that has been done, the President will have a plan to submit for implementation at a later time when it is triggered at 20-percent shortfall. Is that accurate?

Mr. ROUSSELOT. Does the gentleman want to answer that?

Mr. GILMAN. I thank the gentleman from New York (Mr. AMBRO) for helping to clarify this procedure. That is the intent of this proposal and that is precisely the procedure that would be followed.

I thank the gentleman for his remarks.

Mr. AMBRO. Now, if the White House does not develop a plan in time, then that is not our problem.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for his enlightened comment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to my colleague, the gentleman from North Carolina (Mr. BROYHILL), a distinguished member of the committee.

Mr. BROYHILL. Mr. Chairman, the gentleman from Michigan mentioned something about a rulemaking process. I know of no requirement that the President has to go through the Administrative Procedures Act in drawing up the rationing plan. All that bill says is that as soon as practical after the date of the enactment, the emergency, that the President shall prescribe such a plan.

All that the gentleman from New York is attempting to do is to say that when he has this plan written, that he submit it to the Congress for a period of 30 days for review.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague, the gentleman from North Carolina, the ranking member, for giving us additional light on this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(At the request of Mr. BAUMAN, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would suggest to the committee that the authors of this bill and the administration do not want Congress to have any say about this rationing plan. They want to draw up a plan that could well be just as sufferable as the last one we rejected. They could then hold the plan in standby and when the emergency arose, as defined by the President under this bill, the Congress would be forced to vote on the plan in an emergency situation, warts and all, and Congress would be forced to swallow it.

This amendment gives the Congress the right to vindicate its constitutional duties under article I of the Constitution to legislate for our constituents. Now, if you do not care about the so-called special interests in your district, real people, those are the special interests you represent here, do not vote for this amendment. Swallow the Dingell bill whole, the Carter bill. The President says it all the time, "trust him," "trust him," "trust him." You have heard it from his lips.

Now, I am saying that the fate of the people we represent is too important to entrust to the President alone. We, as the Congress, should have the right under this amendment to review the rationing plan, suggest changes, and require those changes, not in an emergency atmosphere, but as a regular part of our constitutionally sworn duties. That is the issue here.

I am sorry that a great many of my colleagues on the other side on the last vote voted not on the merits, but on the wishes of the Speaker.

We had better start representing our people.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleagues comments. I do not think we want the warts. I support the amendment of the gentleman from New York (Mr. GILMAN).

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 187, not voting 15, as follows:

[Roll No. 384]

AYES—232

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Boner
Bouquard
Bowen
Breaux
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fountain
Frenzel
Fuqua
Gilman
Gingrich
Glickman
Goldwater
Gradison
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Neal
Nelson
O'Brien
Oakar
Panetta
Pashayan
Paul
Perkins
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOES—187

Addabbo
Anderson, Calif.
Annunzio
Ashley
Atkinson
AuCoin
Baldus
Barnes
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brown, Calif.
Burlison
Burton, Phillip
Carr
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Danielson
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harris
Hawkins
Hefner
Heftel
Holtzman
Howard
Hughes
Jenkins

Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Luken
Lundine
McCloskey
McHugh
McKay
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Weaver
Weiss
Whitley
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Yates
Zeferetti

NOT VOTING—15

Bolling
Conyers
Diggs
Emery
Flood
Florio
Forsythe
Fowler
Holland
Leach, La.
Lowry
Treen
Walgren
Waxman
Wright

☐ 1800

The Clerk announced the following pairs:

On this vote:

Mr. Lowry for, with Mr. Florio against.
Mr. Emery for, with Mr. Walgren against.

Mr. PRITCHARD and Mr. DASCHLE changed their vote from "no" to "aye."

Mr. JENRETTE changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. DINGELL. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Michigan (Mr. Dingell).

The question was taken; and on a division (demanded by Mr. Dingell) there were—ayes 120, noes 88.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 162, not voting 23, as follows:

[Roll No. 385]

AYES—249

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holtzman
Howard
Hubbard
Hughes
Hutto
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Rose
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—162

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Frenzel
Gibbons
Gilman
Gingrich
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hyde
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Martin
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—23

Bolling
Burton, John
Carr
Conyers
Diggs
Emery
Flood
Florio
Forsythe
Fowler
Holland
Leach, La.
Long, La.
Michel
Murphy, N.Y.
Roberts
Rosenthal
Stokes
Udall
Walgren
Waxman
Wilson, C. H.
Wright

☐ 1820

Mr. HANLEY and Mr. JENRETTE changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Fascell, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the Senate bill (S. 1030) to authorize the President to create an emergency program to conserve energy, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I will not object, I think it is important to comment on the action that the House has just taken in rising. We had a very important bill which was being considered in the Committee of the Whole House on the State of the Union. An amendment was adopted which would have given the House more time to look over, or given them time to look over a plan which the President of the United States would submit for rationing, and for some reason or other this House does not want to look it over. I personally feel that we should look it over. Whenever it is important, whenever something like this occurs which is important to the House, then it does seem to me we should proceed with the regular order and adopt the bill. I am sorry that it happened this way and I hope that we will proceed with this very important piece of legislation just as rapidly as possible.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to

the request of the gentleman from New York?

There was no objection.

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3920) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3920, with Mr. MITCHELL of Maryland in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from Florida (Mr. BAFALIS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on October 20, 1976, President Ford signed into law H.R. 10210, which contained the most sweeping changes in the unemployment compensation laws that Congress has approved since the inception of that program. We broadened unemployment insurance coverage substantially, and we did not know for certain the potential impact of the new coverage.

□ 1830

We provided in that bill for a National Commission on Unemployment Compensation to conduct a 2-year study to answer a number of questions that at that time the committee and the House were not prepared to answer. The Commission was authorized until July 1, 1979. However, the appointments were not made and the first meeting held until March of 1978.

The Commission has a number of obligations under its mandate. Because of the delay in appointing Commission members, it was unable to conclude its work by July. This bill will extend the life of that Commission for an additional year. It will also compensate the members of the Commission, which clearly should have been addressed when the bill was first passed. We failed to do that, and we would like to make that correction.

A third provision in the bill will exempt the Commission from the Federal Reports Act. In view of the fact that this is a congressional commission and not an executive department commission, it should not have to have clearance from OMB.

Title IV of the bill extends for another 2 years the exclusion of certain alien farmworkers from the Federal unemployment insurance tax system. When we provided unemployment insurance to farmworkers under H.R. 10210, we excluded for a 2-year period the coverage of alien farmworkers for what seemed to us then, and seems to me now, some very valid reasons. But, we included that exclusion as one of the matters that the Commission should study and make recommendations about. The present exclusion ends on January 1, 1980. Clearly, the Commission will not have reported back to us by that time, and so we recommend an additional 2-year exclusion for those workers.

At this point I would like to provide a more detailed explanation of the National Commission and the provisions of H.R. 3920.

Public Law 94-566, enacted in October 1976, established a National Commission on Unemployment Compensation for the purposes of undertaking a thorough and comprehensive examination of the present Federal/State unemployment insurance system and recommending needed changes in the laws that govern the unemployment compensation programs. Such a commission had been recommended in 1974 and 1975 by the Federal Advisory Council on Unemployment Insurance, consisting of labor, management, and public members who advise the Secretary of Labor on the Nation's Unemployment Compensation program. Also, in its 1975 legislative proposals, the Department of Labor, with the approval of the administration, recommended that Congress establish such a commission, to be composed of members appointed by the President and the presiding officers of the two Houses of Congress.

In the Committee on Ways and Means report on H.R. 10210, which became Public Law 94-566, the following statement is made concerning the national study commission established by the legislation:

> There are two primary reasons for the study by a national commission provided in this section. First, it has been 40 years since the establishment of the basic unemployment compensation program. Changes have been made in the program on an "ad hoc" basis, at both the State and Federal level, that have not received a sufficiently thorough and comprehensive examination. Second, the changes made in this bill are limited in scope and do not address many of the problems and proposed changes that have been raised. It is appropriate that past changes, the changes contained in this bill, and issues such as further broadening of coverage and modifying the benefit structure and financing provisions be considered and evaluated by a national commission.

Title IV of Public Law 94-566, signed into law on October 20, 1976, provided for the establishment of a National Commission on Unemployment Compensation consisting of 13 members appointed as follows (one of whom to be appointed chairman by the President):

First. Three members appointed by the President pro tempore of the Senate.

Second. Three members appointed by the Speaker of the House of Representatives.

Third. Seven members appointed by the President.

The law directed the appointing authorities to consult with one another to insure that there would be a balanced representation of interested parties on the Commission, and that the Commission had at least one representative of labor, industry, the Federal Government, State government, local government, and small business.

The Commission was directed to study and evaluate the present unemployment compensation programs, including, but not limited to:

First. Examination of the adequacy, and economic and administrative impacts, of the changes made by this act in coverage, benefit provisions, and financing;

Second. Identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

Third. Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

Fourth. Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

Fifth. Examination of the problems of claimant fraud and abuse in the unemployment compensation programs, the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse, and problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

Sixth. Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

Seventh. Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

Eighth. Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

Ninth. Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

Tenth. Identification of any weaknesses in such method and any problem which results from the operation of such method;

Eleventh. Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

Twelfth. Examination of the feasibility

and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance programs.

As originally enacted, Public Law 94-566 would have required that the Commission file an interim report by September 30, 1978, and a final report not later than January 1, 1979. Delays in appointing Commission members made these dates unrealistic and Congress altered the reporitng dates. Present law requires an interim report by September 30, 1978 and a final report by July 1, 1979. The Commission submitted an interim report in November 1978. Both the House of Representatives and the Senate passed legislation in the 95th Congress further extending the Commission's reporting dates: To November 15, 1978 and November 15, 1979 for two interim reports and to March 15, 1980 for the final report. Final action on this legislation, however, was not completed before adjournment of the 95th Congress.

Section 1 of H.R. 3920 would provide compensation for members of the Commission at a rate not to exceed the per diem equivalent of the amount payable for GS-18 of the general schedule under section 5332 of title 5, United States Code. The actual per diem rate of payment would be established by the Commission. As of March 1, 1978, members would be compensated for each day, including travel time, during while they were engaged in the performance of services for the Commission. Members who are full-time officers or employees of the United States, including Members of Congress, would not be entitled to compensation.

The heavy schedule and workload of the National Commission has imposed serious financial burdens on those members whose participation affects their regular employment. The compensation provided by this section is necessary to offset such financial burdens and to make it possible for all members to participate fully in this important study. The compensation provided by this bill is similar to that provided to members of the National Commission on Employment and Unemployment Statistics and the National Commission on Social Security.

Section 2 of the bill would extend the due date of the Commission's final report from July 1, 1979 to July 1, 1980. In addition, it would require the Commission to submit such interim reports as it deems appropriate.

Because of the delay in appointing the members, the Commission requested that the deadline for the submission of its final report be extended. The extensions provided by this section would allow the Commission sufficient time to engage in the thorough and comprehensive study of the unemployment compensation programs required under the provision of Public Law 94-566.

The Federal Reports Act requires Federal agencies seeking identical information from 10 or more individuals or from other agencies to obtain prior clearance from the Office of Management and Budget (OMB). Also, executive branch guidelines (OMB Circular A-19) require that formal communications with the Congress be cleared by OMB. The National Commission on Unemployment Compensation is subject to these requirements.

Section 3 exempts the Commission from the Federal Reports Act and also provides that any reports it makes to Congress will be made directly and without OMB clearance.

The National Commission on Unemployment Compensation was created by an act of Congress as a temporary body to study the unemployment insurance program and to provide Congress with its findings and recommendations, with a view toward assisting the Congress in the development of future legislation. The Commission is not, therefore, comparable to an executive branch agency. In fact, it is composed substantially of individuals selected by the Congress. In view of the purpose and composition of the Commission, the committee feels it would be inappropriate to subject the Commission to clearance by the Office of Management and Budget either for the information the Commission may request from individuals and agencies or for the reports it may submit to Congress.

The purpose of generally requiring OMB clearance of Federal agencies' requests for information is to insure that agencies collect as little data as necessary and thus impose as small a burden as possible on the people who are asked to provide that data. The purpose of exempting the Commission from this procedure is most assuredly not to generate excessive paperwork. In fact, the Commission assures me that it contemplates imposing no regular reporting requirements on anyone and no requirements at all on private businesses. The purpose of the exemption is merely, as the report on the bill explains, to restate the principle that a commission with members appointed by the Congress shall not be subject to executive branch control.

The final section of the bill pertains to the application of the Federal unemployment tax to certain alien farmworkers. Under present law, the Federal unemployment insurance tax is imposed on farm operators who employ 10 or more agricultural workers in 20 weeks or have a quarterly payroll for agricultural services of at least $20,000. The Federal tax is currently 0.7 percent on the first $6,000 of annual wages. A temporary provision in Federal law excludes from this tax alien farmworkers admitted to the United States pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. This exclusion, which expires on January 1, 1980, applies both to the payment of the Federal unemployment tax on wages paid to such alien farmworkers and to the counting of these workers in the determination of whether the farm operator has sufficient farmworkers or pays sufficient wages to be subject to the Federal tax for other agricultural workers in his employ.

Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act pertain to residents of foreign countries who do not intend to abandon such residency and who are admitted to the United States to work for a temporary period of time during peak agricultural crop seasons. They are admitted only after the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that there are not sufficient workers in the United States who are available to do the specific work the nonresident workers are admitted to perform.

Because these farmworkers do return to their countries, they would not be able to collect any unemployment compensation to which they might be entitled as a result of their employment in the United States. It was argued, therefore, that farmers should not be required to pay unemployment taxes on such workers. The committee, however, was concerned that excluding such workers from the Federal unemployment tax might provide an incentive for farmers to use these nonresident workers rather than U.S. workers for whom the Federal unemployment tax would be payable. The committee originally approved the temporary exclusion in current law so that Congress would have the opportunity to assess, on the basis of information and recommendations provided by the National Study Commission, whether such an exclusion did provide an incentive to hire alien workers over available U.S. workers.

Section 4 of this bill would extend from January 1, 1980, to January 1, 1982, the temporary provision in present law that exempts employers from paying the Federal unemployment tax on agricultural services performed by the alien farmworkers described above. The National Commission has not yet reported to the Congress on this matter, and it is the committee's position that the exclusion should be continued until it can assess its impact on the basis of information and recommendation supplied by the Commission. However, this section would change current law to provide that services performed by such alien farmworkers would be counted in determining whether an employer paid sufficient wages for farm services or employed enough farmworkers to make him subject to the Federal unemployment tax for other farmworkers in his employ.

Mr. BAFALIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3920, a measure relating to the National Commission on Unemployment Compensation. These amendments had the support of the minority members of the Subcommittee on Public Assistance and Unemployment Compensation and of the full Ways and Means Committee.

Congress created this Commission in Public Law 94-566 for the purpose of securing a thorough examination of the Federal-State unemployment insurance system and of obtaining recommendations for possible modifications in the statutes governing the program. The 13-

member Commission is presently in the midst of its task. The amendments before the House of Representatives today will permit the Commission to fulfill its purposes in an appropriate manner.

Section 1 of the bill provides compensation, at a rate not to exceed the GS–18 per diem equivalent, for Commission members who are not full-time officers or employees of the United States.

Section 2 would extend the due date of the Commission's final report from July 1, 1979, to July 1, 1980, a postponement necessitated by some delay in the Commission's establishment.

Section 3 would exempt the Commission from clearance requirements of the Office of Management and Budget, an appropriate exemption in light of the fact that the Commission is not comparable to an executive agency, is composed to a considerable degree by congressional appointees, and is intended to provide Congress with its findings.

Section 4 would extend from January 1, 1980 to January 1, 1982 a temporary provision in present law which exempts employers from paying the Federal unemployment tax on agricultural services performed by certain alien farmworkers who are admitted to this country under the specific authority of the Immigration and Nationality Act. These workers are admitted only when the Secretary of Labor has determined that insufficient U.S. workers are available to perform the tasks involved. The alien workers return to their own countries upon completion of their contracts and, thus, are ineligible for any unemployment compensation benefits based upon their U.S. employment.

Imposition of the tax on these services would mean that the employers would be required to pay a tax related to services performed by persons who could not receive the associated benefits. Congress established the current temporary exclusion so that it could fully assess the implications of excluding or taxing these alien workers' services. The Commission has been asked to provide Congress with research and recommendations on this matter, but has not yet submitted its report. Thus, this provision would extend the exclusion so as to enable Congress to obtain the Commission's views before the implementation of a permanent policy.

I respectfully urge the adoption of H.R. 3920.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I would like to speak in favor of the bill. I will, however, offer an amendment to strike section 4 of the bill because we have a situation in this country where we are really encouraging the importation of foreign workers to take jobs that would otherwise be available to American workers by exempting them from paying the unemployment compensation tax.

This, I think, is unfair. The continuation of what is referred to as the H–2 employees' exemptions is opposed by the Secretary of Labor—or at least the person who was Secretary of Labor at last report, when this bill was considered in our committee. It is opposed by the Farm Workers Union and labor groups across the country.

During the consideration of my amendment I would ask for the Members' support in striking section 4, which would require the employers to pay their fair share, as they must for American employees, and give more Americans a chance to get the jobs which are so badly needed in so many parts of the country.

● Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 3920, the Uemployment Compensation Commission bill and urge its speedy passage. Passage of this bill is essential toward permitting the Commission—under the distinguished chairmanship of Wilbur J. Cohen, former Secretary of HEW—to fulfill its congressional mandate to examine in depth the problems associated with the unemployment compensation system and recommend changes for improving the program. As a member of this Commission, I can personally attest to the seriousness of the issues under discussion—such as adequate benefits, sound financing, federal standards, and re-insurance—and to the urgency with which solutions are needed to prevent the unemployment compensation program from going bankrupt at a time when it is most needed.

Indeed, the most recent recession in 1975 and 1976 resulted in heavy unemployment which tested the capacity of many States to pay unemployment compensation benefits. But, aside from several States going into debt to the Federal Government in the borrowing of funds to pay benefits, the system held and proved that it can do the job for which it was created. It is precisely for the purpose of allowing the unemployment compensation program to do its job in a better manner that the National Commission on Unemployment Compensation was created. And the Commission cannot complete its very important work without the extension of time which this bill provides.

Economic assumptions now indicate that we could experience a recession at the end of this year. The latest round of price hikes by OPEC heighten the probability of hundreds of thousands of additional workers laid off their jobs. These workers will turn to unemployment compensation to help tide them over until they obtain new employment. Will all the States have adequate resources in their trust funds to pay out the necessary benefits? Will the benefits themselves be adequate to insure proper income support so that these workers do not suffer a loss either in their living standards or purchasing power? If we consider the answers to these questions to be serious enough to warrant the creation of a special Commission to study the problems in depth, then we should have no hesitation in approving this bill to extend the time in which the Commission may accomplish its task.

Mr. Chairman, I urge the Members' support of H.R. 3920, not only for the sake of the Commission but for the sake of our country itself.●

Mr. BAFALIS. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 3920

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAY OF MEMBERS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

(a) GENERAL RULE.—Paragraph (1) of section 411(e) of the Unemployment Compensation Amendments of 1976 (relating to pay and travel expenses) is amended to read as follows:

"(1) PAY.——

"(A) IN GENERAL.—Members of the Commission who are not full-time officers or employees of the United States shall be paid compensation at a rate not to exceed the per diem equivalent of the rate payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which they are engaged in the performance of services for the Commission.

"(B) OFFICERS OR EMPLOYEES OF THE UNITED STATES.—Except as provided in paragraph (2), members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of such section 411(e) is amended by striking out "section 5703(b)" and inserting in lieu thereof "section 5703".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1979, and shall apply with respect to services performed on or after March 1, 1978.

SEC. 2. SUBMISSION OF REPORTS BY THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION.

(a) INTERIM REPORTS.—Subsection (f) of section 411 of the Unemployment Compensation Amendments of 1976 (relating to interim report) is amended to read as follows:

"(f) INTERIM REPORTS.—The Commission shall, from time to time, transmit to the President and the Congress such interim reports as the Commission deems appropriate.".

(b) FINAL REPORT.—Subsection (g) of such section 411 (relating to final report) is amended by striking out "July 1, 1979" and inserting in lieu thereof "July 1, 1980".

SEC. 3. EXEMPTION OF NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION FROM REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET CLEARANCE.

(a) EXEMPTION FROM CLEARANCE REQUIREMENTS.—Section 411 of the Unemployment Compensation Amendments of 1976 is amended by adding at the end thereof the following new subsection:

"(j) EXEMPTION FROM REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET CLEARANCE.—

"(1) FEDERAL REPORTS ACT.—The requirements of chapter 35 of title 44, United States Code, shall not apply to the Commission.

"(2) REPORTS TO CONGRESS.—Any reports submitted to the Congress by the Commission shall be submitted directly to the Congress and shall not be subject to any requirements for clearance of reports by the Office of Management and Budget.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. EXCLUSION OF CERTAIN ALIEN FARMWORKERS.

(a) GENERAL RULE.—Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1954 (relating to agricultural labor) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1982".

(b) LABOR PERFORMED BY ALIENS TAKEN INTO ACCOUNT FOR DETERMINING WHETHER OTHER AGRICULTURAL LABOR IS COVERED.—Subparagraph (A) of section 3306(c)(1) of such Code is amended by striking out "not taking into account labor performed before January 1, 1980, by" each place it appears and inserting in lieu thereof "including labor performed by".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1979, for services performed after such date.

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK: Beginning with line 12 on page 4 through line 26, page 4, strike section 4 of the bill.

Mr. STARK. Mr. Chairman, this amendment is quite simple. There is a practice in this country of bringing in H–2 employees. When an employer can certify that there are no American workers available to do a job, these employees are then contracted for in the country of their origin. They are restricted from transferring employment, and they must return to the country of their origin at the completion of the job. If they are fired or disciplined in any way, they are blacklisted in their country of origin and probably never allowed to return to this country to work.

They live in conditions which are generally good, but the employer does not have to pay unemployment tax. He does not have to pay social security tax, and therefore, we put the American employees at a disadvantage.

☐ 1840

What happens in actuality is that emloyers have gone into State courts and forced a determination, generally in friendly State courts, that they cannot find American workers.

The opponents of this amendment will suggest that there ought to be better enforcement. I agree, but there is no question, and Secretary Marshall in his letter to me said, that they, the U.S. Department of Labor, "* * * believe that this provision is harmful to domestic farmworkers and is inconsistent with the intent of the Immigration and Nationality Act which allows for the admission of temporary foreign workers only when unemployed workers in this country are not available."

The gentleman from New Jersey (Mr. THOMPSON) in the CONGRESSIONAL RECORD of July 21, 1979, entered a statement in favor of my amendment. He said he would not be present during the consideration of the bill but he wanted to make the following statement. I quote in part:

> Section 4 of H.R. 3920 allows for the continued exemption of agricultural employers from paying unemployment insurance taxes on wages paid to alien workers who are imported into this country under a temporary alien worker program—known as the H–2 program. Unfortunately, financial savings created by this exemption serve to motivate employers to hire alien rather than U.S. workers.
>
> The ultimate result of employers' preferences for foreign laborers is the increasing unemployment of workers in this country. Already, the unemployment rate of U.S. farmworkers ranges from a low of 9 percent in summer months to more than 18 percent in winter. The average annual income for migrant workers, including income from both farm and nonfarm work, is only $3,761 according to USDA data.
>
> Maintaining the jobs and wages of U.S. workers without the depressant effect created by an influx of large numbers of temporary aliens is vital to the health and survival of farmworker families existing on these marginal incomes.

Suffice it to say he goes on for many paragraphs in support, and he concludes and urges support for my amendment to delete section 4 of H.R. 3920.

One argument is that American workers are paid the slightly higher wage to compensate for the alien workers being brought in. The fact is that if an American worker refuses to take this adverse wage rate, which is slightly higher than the minimum wage rate, he is considered unavailable for work and, therefore, gives the employer a reason for bringing in foreign workers.

The adverse wage rate in effect acts as a ceiling above which no American farmworker can collect a wage. This extension of section 4 serves to put a cap on the earnings of our American farmworkers who are already too underpaid and too poorly treated. I think we cannot allow that to continue. This may be a small matter, but we have seen a growth of the curb on the States in which H–2 workers are being imported, and I think this would be one step to putting an end to that program which does a disservice to our American citizens who so badly need employment at this time.

I urge adoption of the amendment.

Mr. BAFALIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is unfortunate that on a tax bill we have gotten into the argument as to whether it is proper procedure to allow nonimmigrant aliens to come into this country for the purpose of harvesting our crops.

The gentleman from California (Mr. STARK), in his dissenting views—and I would just like to quote what he said—says:

> I would have no objection to section 4 of H.R. 3920, which continues to exclude employers of H–2 workers from the Federal unemployment tax, if the aliens brought in under the H–2 program, in fact, were not taking jobs that American workers were willing and able to perform.

Mr. STARK goes on to say that the H–2 program does not actually work as it is intended, and that aliens sometimes get jobs that should go to domestic workers. Therefore, it seems that his principal concern is not with section 4 of this bill, the temporary extension of this unemployment provision for a period of 2 years, but it is with the H–2 program itself. I would suggest that he would better be advised to address this matter to the Labor Committee and to talk to the Department of Labor. If in fact the Department of Labor is not properly certifying that American workers are not available to harvest crops, then the problem lies there.

What we have before us today is an entirely different matter. As the gentleman from California, the chairman (Mr. CORMAN), pointed out, when we made unemployment compensation avaliable to farmworkers, we excluded those farmworkers that come from foreign lands under a contract for a specific period of time and for one very basic reason: they can never collect unemployment compensation. They return to their native lands. So it was felt that it might be improper to call upon an agricultural employer to pay an unemployment compensation tax to people who could never in fact benefit from it. The matter has been somewhat controversial—the question of unemployment compensation and the question of H–2 workers.

When this Commission was established, we determined that this matter should be studied by the Commission. The Commission has not reported back yet, and that is the reason this bill is now before us. We are asking for an extension of the time when the Commission reports back to us. It seems to me if we are going to fund this Commission, if we are going to spend additional public moneys to have this Commission do its job—and it is a creature of the Congress—then certainly we in the Congress should wait for this Commission to report back and not try to usurp the very decisions they are trying to make.

I would tell the Members that if this amendment were to pass and this section were deleted, even though I have been a strong supporter of this entire measure, I could no longer support it, because it does not make sense to extend a commission past the period of time when the Congress does not even want to hear what they have to say.

I think it is important in closing, Mr. Chairman, that I just tell the Members that in my judgment it costs much more money to bring workers in from overseas than it does to hire American workers. Let me just give the Members some examples as to why I say that.

Employers who hire H–2 workers must pay transportation costs from the workers' departure site to the job site and return. For the applegrowers this figure can go as high as $200 per H–2 worker. For Florida sugar growers it is approximately $130 per H–2 worker.

Were a grower to hire only U.S. workers and not use the U.S. Employment

Service, he would not be required to pay any transportation.

Employers who hire H–2 workers must post a bond of $200 per H–2 worker to assure each such worker's return to his own country.

There is no such requirement for U.S. workers.

Employers who use H–2 workers must furnish housing to all workers hired.

Were a grower to hire only U.S. workers and not use the Employment Service, he would not have to furnish housing or could charge rent for housing.

Employers who hire H–2 workers must furnish all workers with meals for which they cannot charge more than $4 per day. If he only hired American workers, that ceiling would not apply, and other circumstances would not apply.

Employers who hire H–2 workers must furnish all workers free transportation from the campsite to the worksite and return.

This requirement would not apply in other circumstances.

Employers who hire H–2 workers are required to pay all workers at least the adverse effect wage rate that is much higher than the prevailing wage. Once they hire offshore workers, they must pay at least the adverse effect wage rate.

Finally, they must guarantee that all workers who are employed must be employed for at least three-quarters of the workdays of the total period for which they are contracted. I can tell the Members if American growers can find people to come into the fields and harvest, they would not want to go to the additional expense of bringing in foreign workers. It is far more costly to do that. That is a matter to be decided by the Commission and eventually by this Congress. I think it would be premature for this Congress tonight to take this provision out of this bill.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. KELLY, and by unanimous consent, Mr. BAFALIS was allowed to proceed for 2 additional minutes.)

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

I would like to ask the gentleman, do the proponents of the amendment argue that this gives unfair advantage to the imported labor and that it is a disadvantage to the domestic labor, and that is why this amendment seems like a good idea?

Mr. BAFALIS. That is the argument, I might tell my dear colleague, that is being used.

Mr. KELLY. If the gentleman will yield further I would like to ask this question. You say, well, no, that is not true. And they say, oh, yes, it is. So it is an "Oh, yes, he did," and "Oh, no, he didn't," kind of argument. But I would like to ask the gentleman this. Is there not a lead-pipe-cinch certainty, without any kind of argument, that the American consumer—that forgotten individual out there in the community—is going to pay these additional costs every time they buy anything that is produced on American farms? Is that not so?

Mr. BAFALIS. That is true, I will say to the gentleman from Florida (Mr. KELLY). But let me add one more thing, if I may. The gentleman has brought up the very crux of my argument. One side says it costs more; the other side says it costs less. One side says it takes a job away from the American worker; the other side says it does not. That is why this matter has been referred to the Commission. That is what is at the heart of this very matter, and for us tonight to try to make a decision on that matter before the Commission reports back to us, in my judgment, would be terribly wrong.

Mr. KELLY. Will the gentleman yield further?

Mr. BAFALIS. I yield to the gentleman.

Mr. KELLY. But it is a certainty that the consumer will suffer, whether it is a "he did" or "he did not"? No matter which way that argument goes, the consumer is going to pay more for what he buys in the stores. Is that not so?

Mr. BAFALIS. When the cost of labor goes up in the fields, that is absolutely correct.

□ 1850

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I speak on this amendment from personal experience. As many of you know I spent 10 years as an assistant to my predecessor. This issue has come up many time before saying, why do we not hire American labor.

You all know what jobs mean, you have been asked for patronage, you have been asked to hire people in your 18 slots.

I am telling you today, every Member of the House, I have jobs—9,000 jobs for American workers.

The premise of this amendment is improper. The fact is that if 9,000 jobs are going begging it is because Americans will not take them. This is not just a minimum wage, $3.20 or $3.26 an hour but $3.80 an hour to come and do the job in my district on sugar.

And I will tell you, if you have not been there to see what the job is, I do not blame people for not accepting this work but the bottom line is that American workers are not available.

At one time I was assigned to take the opposite position and ask why they are hiring aliens. The people of my area and my former boss said we should hire Americans. We searched the State of Florida. We found we could also go into Texas and Louisiana and not find people to take these jobs.

Therefore, the basic premise is improper, Mr. Chairman.

It is also said, let us put more money into the unemployment fund to cover the cost of those who are working. That would apply to all of us, then. Let us put more money into the social security fund and demand it of every employee even those who never ever will have the right to collect that money. That is not our system. That is not proper. That is what we said when we started this program. These people will never ever have the ability to collect unemployment. You and I as members will never have the ability to collect social security unless maybe we change jobs. If we do, if we are forced to pay into this fund it would be improper and that is not the purpose.

The basic premise is wrong. The jobs are there. The Labor Department must certify there is no one willing to take these jobs. It does cost more.

Mr. Chairman, in answer to my colleague from Florida it would be better to pay a lesser cost and hire American workers; employers would prefer to do this but they cannot find American workers to do this job.

Mr. Chairman, the other alternative is to do nothing and Americans are sick and tired of seeing crops turned over and buried in the fields because we have no one to harvest the crops.

Mr. Chairman, I think there are a couple of points that need to be brought up.

The double cost. It is just about double, to hire an alien worker as compared to an American worker. It would be ridiculous to go out and seek this type of labor so we are not encouraging this. We are asking for a 2-year extension to resolve this problem, to make some proper judgments and not just to say, "Well, we will just put a little more money in the till, even though the people who are paying it, the beneficiaries, will never ever be able to collect on these funds."

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am familiar, having debated in committee, with the sugar problem in Florida. It is important that it be noted an offer was made in committee to exempt the sugar workers in Florida and let them continue on this basis. That was turned down.

Mr. Chairman, what the gentleman says is not true of the other crops across the country. It is also interesting to note that in Hawaii where the sugar workers are unionized and earn a little over $5 an hour they have plenty of workers lining up to do the work.

So that I submit at a fair wage there are American citizens who will do the work.

Sometimes it is important to protect all of our citizens who may be denied jobs across the country.

Mr. MICA. Mr. Chairman, I would heartily disagree with the gentleman. At $3.80 an hour, plus room and board, and transportation, that is not exactly a minimum wage. That is a working wage. It is tough work. I ask you. Anyone who thinks they should vote for this, we were looking for 9,000 in Florida alone to hire at $3.80, plus room and board, plus transportation. So it makes a lot of sense to say let us let the Commission resolve this matter, not force people to pay for benefits. That is not our system, to pay for benefits forced by law on those who will never ever qualify.

I think we need to look at this, we need to give them a little time. That is why the Commission was established.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Florida.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Mica was allowed to proceed for 3 additional minutes.)

Mr. MICA. I yield to the gentleman from Florida (Mr. Kelly).

Mr. KELLY. The Congress is on the threshold of considering a sugar bill. Does the gentleman in the well favor the sugar bill that is coming down?

Mr. MICA. I favor a bill that would save our consumers a little money and do our American worker and our American sugar industry justice.

Mr. KELLY. Mr. Chairman, I would like to ask this question of the gentleman: The sugar bill that is coming down is going to cost the consumer and the taxpayer in this country, one or the other or both, some money.

Mr. MICA. That is not a correct statement, Mr. Chairman. The present policy is costing the American consumer twice as much as if we just imposed a little tariff.

Mr. KELLY. It is going to cost the consumer instead of the taxpayer but in any event my point is this: The reason the Government is having to come to the aid of the sugar industry is because the costs of production are too high. The amendment of the gentleman from California is simply going to drive up the cost of producing all American agriculture and certainly that is going to drive up the cost of sugar.

Mr. MICA. Mr. Chairman, I think the gentleman has totally misunderstood my position. Any job that an American will take to harvest lettuce or sugarcane or whatever, fine. They can and will and should take that job. I am talking about the tens of thousands of jobs that no one will take.

Newspaper ads were run in 36 cities in Florida, all over Louisiana, all over Texas, and nobody wants the jobs.

Mr. KELLY. Mr. Chairman, will the gentleman yield further?

Mr. MICA. I do yield to the gentleman from Florida.

Mr. KELLY. The amendment is going to increase the cost of production, is it not?

Mr. MICA. The amendment will increase it? Well, you are saving that in the light of possibly no production?

Mr. KELLY. No, Mr. Chairman, I am talking about the amendment that is coming before the House now adding additional costs to production.

Mr. MICA. No.

Mr. KELLY. Then, when the employer pays the additional cost then that is free, it cost nothing?

Mr. MICA. It might be that the particular sugar might cost more, that particular lettuce, but it may be we will have no sugar or lettuce or vegetables or crops. All of these will be turned under, turned back, not harvested. We have seen this happen due to lack of labor. I would not want any of my colleagues to misunderstand my position. I want Americans to have jobs and every job that is available they ought to have a priority and they ought to be able to take that job and have a right to that job.

I am simply talking about a question that has been before the House. It cannot be resolved by a commission in the time period that they have been charged with. They have asked for 2 years. I think it is only reasonable and proper that we do not turn all these crops under while we are waiting to make a decision.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Mica was allowed to proceed for 2 additional minutes.)

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I happen to serve on the commission. I believe I am the only Member of Congress on the commission. I would say this is a subject that we have been looking at and we are not in a position to make a judgment about it at this time but it is a subject that we are very, very interested in and will be giving some recommendation in the near future.

Mr. MICA. I think that seals the argument. The commission is concerned and is ready to make a proposal very shortly to the Congress.

I would hope that the Congress will take this into consideration and understand again my offer: 9,000 jobs for anyone who might feel this amendment is proper.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I want to point out, in the spirit of compromise that was offered, we would have waited for the recommendations of the commission and extended it until such time as the commission reports. If the commission reports adversely section 4 would have the effect of extending it for 2 years even in the event the commission recommends to force the payment of unemployment benefits as they already have for 15- and 16-year-olds who also will never receive benefits.

Mr. MICA. If the gentleman would like to withdraw his amendment I would be happy to consider this at a future date and see what changes we could make on this.

Mr. STARK. Well, that was offered, unfortunately, some time ago and turned down so this was the only course left.

□ 1900

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. MICA. Yes.

Mr. BAFALIS. Mr. Chairman, I would just like to explain why that so-called compromise was not accepted. Once the Commission reports, then this Congress must take time to hold hearings on the Commission findings and the Congress must act. If we use the same date the Commission made its report, it will be impossible for the Congress to act.

Mr. MICA. Well, I understand. I simply want to say that if someone does have 50 cents or a dollar extra to buy that vegetable or that sugar that they maybe could not afford, that it ought to at least be available. We have just heard the Commission report. This amendment should be defeated.

Mr. ROBINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not represent any sugar interests, but I do represent the area of Virginia that produces most of the apples that are grown in that State and I am familiar with the way that this program has operated there.

This is acknowledged as a tax bill and certainly the effect of deleting this section would serve exactly that purpose. It would tax the users of off-shore labor and apple growers in particular with regard to its application in terms of the ability to harvest the apple crop on an annual basis.

For more than 20 years the growers of Virginia and West Virginia and adjoining States have been attempting to get enough domestic labor to harvest the apple crop and have not been successful. We have recruited in the States of Mississippi, Alabama, Florida, Texas, in the cites of Washington and Baltimore, in the heart of the unemployed areas, in the coal fields, bringing in these people and exposing them to the job opportunity, working at the adverse wage rate which has been established and which has been established by the Department of Labor which certainly is sympathetic to these people.

We simply do not get enough. There is not a year when there has been an exception to the fact that there have been domestic workers on hand doing the work, but not in sufficient quantities. The last year was certainly no exception.

Were it not for the off-shore workers being available as a final recourse based on a certification by the Department of Labor, the apple crop in the area would simply not get harvested.

Certainly, as the gentleman from Florida pointed out, this would impact in due time on the consumer, because it would drive the price up. It is, I can assure you, because of fighting this battle on an annual basis, driving people out of the orchard business.

It is very difficult to get young men to go into it right now. That is the single most significant reason.

Now, let me describe for you the current situation that our applegrowers face, because they are right now viewing with a great deal of apprehension the latest plan of the Department of Labor which involves the operation under contract of a private firm of an orientation camp in Puerto Rico. Last year the Department of Labor recruited hundreds of Puerto Ricans after providing them with inadequate information as to the nature of the work they would be expected to do. This was done in the full knowledge that in the upper 48 States this labor was not going to be available. So the Department of Labor flew them to the mainland and dumped them in the orchard areas in the eastern apple producing States. It was not the fault of the bewildered people that most of them were not competent to work in an apple harvest. They had been given inadequate information and no training whatsoever.

Now, the Department of Labor has promised to do better this year. The "better" is a short course in apple picking in Puerto Rico, where they grow no apples. How they are going to accomplish this remains to be seen, and those seeking the work will be familiarized with apple picking through lectures, through movies, and in practicing climbing ladders.

Now, I might add that this noble experiment is going to be at taxpayers' expense using CETA funds.

I will tell you, it is mighty discouraging to the growers that the use of these laborers has to go through such a belabored experience each year. They certainly do not do it for fun and can prove they do not do it to save money.

May I again add that employers are able to get this labor only when certified by the Department of Labor at an adverse effect wage and, believe me, this does not come easily.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. ROBINSON) has expired.

(At the request of Mr. STARK, and by unanimous consent, Mr. ROBINSON was allowed to proceed for 2 additional minutes.)

Mr. STARK. Mr. Chairman, would the gentleman yield to me for a question?

Mr. ROBINSON. I would be happy to yield to the gentleman from California.

Mr. STARK. Mr. Chairman, it is my understanding the gentleman just said that the people from Puerto Rico who were brought into Virginia were bewildered and unable to pick apples because of inadequate training and preparation, but I would assume then that the people who came from Jamaica under the H-2 program had adequate training in the Jamaican apple orchards; is that correct?

Mr. ROBINSON. The people that came in from Jamaica were screened properly in terms of the process that I mentioned.

The way that the people from Puerto Rico were recruited was by a sound truck going through the areas of the communities and advising that good wages and labor opportunities existed and free transportation to the States.

Mr. STARK. Mr. Chairman, if the gentleman will yield further, is it not correct that many of these workers were American citizens, arrived and asked for work and were denied work by the orchardists?

Mr. ROBINSON. It is not accurate to state that, because to the best of my knowledge all of those that were available for work were given an opportunity in the orchards. Many of them did not stay on the job as much as 1 day.

Mr. STARK. Mr. Chairman, I thank the gentleman.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I would just like to know how many thousands of American workers could be hired if they were available?

Mr. ROBINSON. In the area of Virginia that I represent, approximately 2,000.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I would like to commend the gentleman in the well for bringing this out.

I would like to say to my friend, the gentleman from California, the proponent of this amendment, that this is a widespread problem. The gentleman has spoken with knowledge of the problem in Virginia. In my own district in northern New York, that is what we call MacIntosh country where the great MacIntosh apple orchards are.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. ROBINSON) has again expired.

(At the request of Mr. McEWEN, and by unanimous consent, Mr. ROBINSON was allowed to proceed for 2 additional minutes.)

Mr. McEWEN. Mr. Chairman, if the gentleman will yield further, may I say that the growers up there, go as they do in Virginia, as they do all across the country, to tremendous expense advertising in papers and radio and in this program we have had trying to recruit in Puerto Rico.

I say to my friend, the gentleman from California, on the Jamaicans, I am sure I could not go back and I am sure the gentleman in the well could not, to the origin of this. They have been coming in for years, so the remark about where did they learn to pick apples in Jamaica, they have been coming in year after year to harvest our crop. Were it not for these Jamaicans who come in, believe me, we would not have a harvest of this apple crop.

I commend the gentleman from Florida who is pointing out that this would be a tax with no benefit for those that are employed, because they are laborers coming in for a temporary period.

So I hope that this amendment, Mr. Chairman, is rejected and that we wait out whatever recommendation the Commission has.

□ 1910

Finally, at this point let me say that as far as the growers of my district or agricultural labor employers anywhere in the country are concerned, I cannot believe they pay for airline tickets to bring people from Jamaica because that is cheaper than paying the unemployment tax—not in any way. They are paying more, but they are paying it because they have to pay it to get the competent labor to do the job.

We have had, I say to the gentleman from Virginia (Mr. ROBINSON), the same experience, unfortunately, with Puerto Ricans who were not advised what it was they were going to do. Some of them stayed just a day and then left. Had it not been for the wonderful work of our labor from Jamaica, the crops simply would not have been harvested.

Mr. ROBINSON. Finally, Mr. Chairman, I would like to make this comment regarding the fact that there have been court cases which the gentleman from Florida mentioned—and I believe he referred to most of them as "State courts"—within my memory there have been numerous cases wherein the Department of Labor and the employers have gone to court, and in not one single instance have the employers lost. And these are Federal courts, not State courts, may I say to the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am amazed that my friend, the gentleman from New York, with a perfectly straight face, would say that they import Jamaicans to take the jobs that Americans would take because even though it costs more, they are superior to Americans. I did not think there would be anybody who would stand on this floor and say that foreign workers were superior to American laborers. I am surprised the gentleman would state that any foreign workers are superior to any American workers, even the very worst of ours.

Mr. McEWEN. Mr. Chairman, would my friend, the gentleman from Michigan, yield?

Mr. FORD of Michigan. Mr. Chairman, aside from the righteous anger that this assertion stirs in me as an unpatriotic slur on American workers, it just indicates that the gentleman does not understand what has been happening. I, as the Members may recall, was the chairman of the Subcommittee on Agricultural Labor of the Committee on Education and Labor of the House for a number of years. I spent a good deal of time trying to broker and negotiate with the people involved in the apple industry in particular. I am very familiar with the difference in the cost of Jamaican workers in Virginia and American workers in Virginia.

The apple growers in Virginia bucked and kicked and screamed when we pressured the State of Virginia through the Labor Department to force them, when they were attempting to recruit American workers, to tell the workers the truth about how much they could make picking apples.

The interesting thing is that they were telling the Jamaicans they could make as much as $4 an hour in those days on piecework picking apples in Vrginia, and they were telling workers in West Virginia, where we had large numbers of people employed in the coal country, that they could make at best $2.50 and $3 an hour. In effect, they were discouraging the American workers, and as a matter of fact, the Virginia department—not the Federal Government but the State of Virginia—stepped forward to end this practice as unfair.

The procedure was changed, and we reduced the number of foreign workers coming into the State of Virginia for a short time. Unfortunately, this administration has now let the bars down. I might say that we reduced the number of foreign workers taking American workers' jobs during both the Nixon and the Ford administrations, and now it surprises me to see—apparently I had not been paying enough attention recently—that this phenomena has been beginning to grow again.

The gentleman from Florida talks about the need for workers in sugar cane. I had the interesting experience as chairman of the subcommittee of having farm labor contractors testify before me that black people from the southern part of the United States did not have the physical stamina to chop sugar as well as Jamaicans chopped sugar.

That kind of shocked me a little bit because I was familiar with the fact that the Japanese-American population in Hawaii got its start under virtually the same circumstances, for the express purpose of working in the sugarcane fields. So you can be smaller than I am in Hawaii and have a brown skin and you can chop sugarcane, but you can be as large as they come and have a black skin and be an American, but if you are not a Jamaican, you cannot chop sugarcane in Florida. That never made much sense to me and to my committee.

I have talked to the people who represent the Caribbean governments that are involved, and let us understand this. This is a very interesting kind of labor contracting that borders on country-to-country slavery. The government actually oversees the making of the contracts with our American growers to import these people. The gentleman from New York said that obviously they would not pay plane fares to bring those people up here and go to that extra expense if they were not superior. It is true that we were also told that the Jamaicans could pick apples more skillfully than Americans.

Mr. McEWEN. Mr. Chairman, that is twice the gentleman has referred to me in his remarks, so would the gentleman yield to me?

Mr. FORD of Michigan. Yes.

Mr. McEWEN. At what point will the gentleman yield? Will the gentleman yield now?

Mr. FORD of Michigan. Yes; I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I thank my colleague for yielding.

The point I make, I say to the gentleman, is made for two reasons. The first is the unavailability of American labor, even with advertising by radio and television to get them. They do get American workers who are excellent workers, but not in sufficient numbers. That is the first point.

And of course the other reason is that the Labor Department will certify that we may bring in foreign labor.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman the point that really should be made, I guess, is with respect to the amendment. The question here is whether or not we will extend to people as an encouragement for employing non-American laborers an additional tax saving by excusing them from paying unemployment compensation premiums or taxes.

It has been argued by the principal sponsor of that provision in the bill that since these people do not collect, they should not have to pay for it. But that overlooks the fact that every employer pays jointly into the unemployment insurance fund. Not only are we listening to Members here on this floor today who advocate that we hire foreigners to take American jobs but we hear those who are advocating that we let other American employers who hire American citizens pay more than their fair share to maintain this fund while we let these people who are importing foreigners pay them at slave wages.

And it is for expressly that purpose. They do not pay Social Security, and they do not pay any of the other costs. They have them hanging on the string. The minute they get a little uppity, they throw them back on the plane and they spend the rest of their lives in Jamaica repaying the cost of the plane ride. They get sent back if they talk up just one time. We can be sure they will never join a union, they will never complain about working conditions, or they will never talk about living conditions.

As a matter of policy under the two preceding administrations of the gentleman on this side of the aisle we have rejected that as American policy, and I think this House should reject it by voting yes on the amendment offered by the gentleman from California (Mr. STARK).

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I just want to make something perfectly clear. No one in this debate on this floor today has ever advocated that we should give jobs to foreigners in preference over Americans. I made a plea and my colleagues made a plea for 9,000 and now 11,000 workers to come in and take jobs, and they are not at slave wages but at least at the minimum wage.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has again expired.

(On request by Mr. BAFALIS, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Florida.

Mr. BAFALIS. Mr. Chairman, if this amendment is adopted to strike section 4, does the gentleman then support the bill?

Mr. FORD of Michigan. Mr. Chairman, I do not know that this is the only amendment that is going to be offered.

Mr. BAFALIS. Mr. Chairman, I will say that to my knowledge, it is the only amendment that is going to be offered.

Mr. FORD of Michigan. Then I will take the gentleman's word for it.

If the bill is cleaned up in proper shape, I will be glad to support the bill.

I will ask the gentleman in return, does that change his mind? Does he withdraw the amendment in return for my support? Is that what the gentleman suggests?

Mr. BAFALIS. No. I did not offer the amendment. This is in the bill.

The gentleman from California (Mr. STARK) offered the amendment to delete the section. My question is, if the section is deleted, will the gentleman support the bill?

Mr. FORD of Michigan. More accurately stated, will the gentleman join in opposition and support the amendment if I will support the bill? I will make a deal right here on the floor. I will vote for the bill if the gentleman votes for this amendment.

Mr. BAFALIS. If the amendment passes, the gentleman does not intend to support the bill?

Mr. FORD of Michigan. No, I did not say that at all. I think it is an irrelevant question, but if the gentleman wants to make a political deal right here in front of the television cameras, I will make it. You vote for the amendment offered by the gentleman from California (Mr. STARK), and I will vote for the bill.

□ 1920

Mr. BAFALIS. Mr. Chairman, I got the gentleman two minutes of additional time. If the gentleman will be kind enough to yield to me, I will appreciate it.

Mr. FORD of Michigan. That is fair. It is an easy up or down proposition.

Mr. BAFALIS. The point I wanted to make to the gentleman is that if this provision comes out of the bill, there is not any reason to have the Commission. We heard the gentlewoman from Ohio say that at this time the Commission has not made a decision. Why should we then go ahead and spend more money for this Commission, when we are going to take away their authority? We do not need the Commission. We do not even need the bill if this provision comes out.

Mr. FORD of Michigan. Mr. Chairman, is the gentleman suggesting that the committee is incapable of responding to the recommendation of the Commission if legislation is warranted?

Mr. BAFALIS. The Commission has not made a recommendation at this point, as attested to by the gentlewoman.

Mr. FORD of Michigan. I am sure that if legislative relief is necessary, the committee will be quick to respond.

Mr. BAFALIS. I would suggest to the gentleman that the committee would be a better place to solve the problem of those foreign workers than the Ways and Means tax-writing committee.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from Florida could answer a question. My understanding is that the committee's provision includes a significant modification of the present law in response to testimony received from the workers' organizations, and it provides that the agricultural services performed by such alien workers would be counted in determining whether an employer was subject to Federal unemployment tax for other farmworkers in his employ; is that correct?

Mr. BAFALIS. The gentleman from California is absolutely correct.

Mr. ROUSSELOT. Then that partially answers the complaint of the gentleman from California (Mr. STARK)?

Mr. BAFALIS. Yes. We found during the hearings that, the way the law was constructed in 1976, employers did not have to count offshore laborers as part of the total numbers required for them to pay unemployment compensation tax on American workers. We corrected that deficiency in this bill.

Mr. ROUSSELOT. So this bill corrects that deficiency?

Mr. BAFALIS. As it relates to American workers.

Mr. ROUSSELOT. Right. And that is part of the concern of my colleague, the gentleman from California.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

M. ROUSSELOT. I yield to my colleague, the gentleman from Virginia.

Mr. ROBINSON. I thank the gentleman for yielding.

Mr. Chairman, I would again like to point out, as this debate on this amendment begins to close, that this amendment was defeated in committee by a vote of 3 to 1, by 24 to 8, and I think that that is a significant vote, indicating that the proper resolution of this problem is to leave it to the Commission, as is suggested in the very section that the gentleman from California would like to delete.

I would further like to take issue with the gentleman from Michigan in his recitation of the way in which the apple-picking industry was represented in attempting to recruit domestic workers in the years when the offshore labor was increased and then decreased, because, to my knowledge, the growers themselves individually went into the fields in various States attempting to recruit people because they were in such desperation that they knew they were going to lose crops.

At the present time we do not know what the size of this apple crop is going to be, and they did not know then. And the reason that the amount of workers goes up and down to such an extent is because the crops vary in productive size from one year to the next. I certainly hope, in the interest of being fair to the apple industry and to the various areas affected in agriculture by this, we are able to retain this section and let the Commission deliberate it properly.

Mr. ROUSSELOT. I think the gentleman from Virginia makes an excellent point, and that is, our committee considered very, very carefully the fact that the Commission is the one that should make this basic determination. That is the purpose of extending this time, as my colleague, the gentleman from Florida, has pointed out. Why should we prejudge the work of the Commission? Our colleague, the gentlewoman from Ohio (Ms. OAKAR), a member of the Commission, stated that she is confident the Commission will move very positively on this issue and has assured the Congress that they will do that.

Mr. Chairman, I urge my colleagues to vote down the amendment offered by my colleague, the gentleman from California.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I was elected to this body last year in a special election in February. I do not believe I was here 90 days when a group of very poor and destitute people who had arrived from San Juan, P.R., who were brought here to work the apple fields of Virginia, to work the apple fields of New York, arrived to find that there were no jobs. They had been recruited, and they came here desperately seeking to try to pick up a few meager dollars to take back with them. When they arrived here, they were told that no jobs were available. It was a heck of an experience to me, I must say, Mr. Chairman, because, frankly, as a New Yorker and one who is familiar with agriculture, especially the apple growers and that particular segment of our agricultural industry in the State of New York, we historically in the State of New York have had Puerto Ricans come to pick. It seems to me that if we go back to that same place today and try to recruit people to come here, they will be discouraged. They will be discouraged because of what took place last year.

I spoke to the Department of Labor and I asked them about certification. I must tell the Members that I sent that letter in, and I believe it was a year later when I received an answer. Most of these people do not have the lobby that the apple industry has. They are poor people who are trying to make a living. I can tell the Members that in the year 1979, if the people who arrive this year to work the fields are not considered as American citizens, I would like my colleagues who oppose this amendment to please rise and say they are not citizens. The fact of the matter is that we find ourselves here really embarrassed. It is all right to sit here and to think about the apple growers, but I just wish that some of these gentlemen, some of these people who are opposed to this amendment, were in my office to see the look on these people's faces. It really broke my heart. I speak as one who was born in the United States of Puerto Rican parents.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Virginia.

Mr. ROBINSON. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the gentleman from New York that the industry would welcome him being on hand to see how this matter has been handled. It has been misrepresented to the gentleman, I can assure him. I wish that he could have been there last fall to see the efforts that were exerted to try to teach these people to pick apples and to encourage them to stay on the job because their services were badly needed.

Mr. GARCIA. Mr. Chairman, let me respond to that, if I may.

What the gentleman is saying is—and I think the gentleman from California stated it earlier—in terms of the training and in terms of the continuity of people working in the apple orchards of this country, I am certain that those people who arrived here who were alien workers were trained at one point, and they must have learned somehow. I believe very strongly that the same thing pertains to American citizens, that they can learn as well. The problem is that the opportunity is not afforded.

Mr. ROBINSON. Mr. Chairman, I would beg to differ with the gentleman, if the gentleman will continue to yield. The opportunity is afforded, and the workers are welcome. We need them. And goodness knows, we do not want to go through this hassle on an annual basis. It is expensive and it is ridiculous when there are people who can do the work.

Mr. GARCIA. Mr. Chairman, I would be more than willing, in response to the gentleman from Virginia, to participate and go to those fields and watch and see how these young people who are American citizens are being trained to work those apple orchards and the type of cooperation.

Mr. ROBINSON. Mr. Chairman, the gentleman will be welcomed.

Mr. GARCIA. Mr. Chairman, I would be more than willing to respond to the gentleman from Virginia, to go into those apple orchards and spend time with him to see the type of response and the manner in which these people are treated, American citizens.

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Florida.

Mr. BAFALIS. Mr. Chairman, I am sympathetic with the gentleman's argument. I do not really know what happened during that period of time. But the most important thing is that striking this section is not going to correct that problem.

The argument is made that it is going to make foreign workers less attractive. I can assure the gentleman that if you do not have people available to pick your crop, if you are going to spend $200, $300, $400, $500 more to get them here, you are still going to bring them here instead of letting those apples rot in the fields or the sugarcane rot in the fields.

The gentleman really ought to take his argument to the Labor Committee. He ought to talk to the gentleman from Michigan. We ought to make sure the Department of Labor does not certify bringing foreign workers into this country when there are American workers available. This bill does not do that. This bill only extends for a period of 2 years until we can get a Commission report.

There may be some very valid arguments. If they are true, the Department of Labor has not done its job, our Committee on Labor has not done its job to change the laws. Do not take it out on this bill. This is the wrong place to make this fight.

□ 1930

Mr. GARCIA. Well, it is the first opportunity I have had since last year, when those poor people came into my office, the very first opportunity to talk about the question of those persons who were American citizens and those persons who were not American citizens, and if I am afforded this opportunity, I must take advantage of it.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I would like to associate myself with the gentleman's comments and say that the act that the gentleman described here is apparently illegal under our existing laws. If there is any evidence or documentation of alien workers taking American jobs, then I would associate myself with this type of amendment in the future.

This is not the case, however. There are many, many crops being plowed under, many, many jobs going begging in many, many places.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have gone a little far afield on the plight of farmworkers in this country. I am sure that all of the things that have been said are, from time to time, relevant. They are not relevant to this issue, I suggest.

Let me refresh the memory of my colleagues as to where we have been and where we are.

For 40 years people who toil in the fields were denied the benefit of unemployment compensation. Some of us tried for a long time to correct that situation.

A gentleman here in the Chamber, the gentleman from Minnesota (Mr. FRENZEL), was very, very helpful in that respect, and the late Congressman Steiger, was probably the man most responsible for extending that very important social benefit to farmworkers.

When we extended unemployment insurance to farmworkers we were uncertain about its workability. One of the things that concerned us was the advisability of requiring unemployment insurance recordkeeping for alien farmworkers who cannot possibly under the law ever receive benefits.

Now, we cannot rely on the impact of the unemployment tax, that averages 2.9 percent, to make the decision as to whether we use American labor or foreign labor. That must be decided under the exercise of the police power of this Nation, not under the exercise of the tax power of the unemployment compensation system.

There are a half million farmworkers who now have unemployment insurance protection who did not have this protection before H.R. 10210 was adopted. We set up the Commission because, as I said early on, there were some questions and concerns that needed further study, and the issue before us was one most serious.

I would like to receive the Commission's recommendation before we change current law.

If, in truth, the Department of Labor and the committees in this Congress responsible for writing labor law are permitting the kinds of violations that have been recited here, that must be corrected, but do not rely on the unemployment insurance system to do it.

I would hope that the Committee of the Whole, and eventually the House, would agree with the Ways and Means Committee that the imposition of the unemployment tax on these alien farmworkers sought to be deferred until we can take a closer look at it.

Someone said, "Well, let's go ahead and cover alien farmworkers with unemployment compensation," then we will have done all we are supposed to do, and all of the evils that have been paraded before us today will be corrected. Please do not believe that. This unemployment tax is not that big. I would hope the committee would vote down the amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I want to concur in his historical perspective and his analysis of the amendment before us.

As the gentleman knows, there are a number of us on the committee who are barely supporting the bill in its present form. Should this amendment prevail, who knows what would happen to the bill.

I think the gentleman has given the House good advice, to vote down the amendment.

I thank the gentleman.

Mr. CORMAN. I thank the gentleman. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. STARK).

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. STARK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provision of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 386]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton

Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Treen
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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The CHAIRMAN. Three hundred and ninety-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from California (Mr. STARK) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 325, not voting 24, as follows:

[Roll No. 387]

AYES—85

Anderson, Calif.
Aspin
Atkinson
Barnes
Bedell
Bingham
Blanchard
Bonior
Brademas
Brodhead
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Collins, Ill.
Dellums
Dicks
Dixon
Dodd
Downey
Drinan
Eckhardt
Edgar
Ford, Mich.
Ford, Tenn.
Garcia
Gephardt
Gore
Gray
Green
Harkin
Harris
Hawkins
Holtzman
Ichord
Kastenmeier
Kildee
Kindness
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Lowry
McCormack
Maguire
Markey
Mikulski
Mikva
Miller, Calif.
Mitchell, Md.
Moffett
Myers, Pa.
Nedzi
Nolan
Oberstar
Ottinger
Rangel
Ratchford
Reuss
Richmond
Rodino
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
Stark
Stewart
Stokes
Studds
Tauke
Thompson
Vento
Waxman
Weaver
Weiss
Wolpe
Yates

NOES—325

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Frost
Fuqua
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Shuster
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Synar
Taylor
Traxler
Treen
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—24

Andrews, N.C.
Ashbrook
Ashley
Bolling
Conyers
Davis, S.C.
Diggs
Duncan, Oreg.
Edwards, Calif.
Emery
Flood
Forsythe
Gaydos
Holland
Lundine
McKinney
Moorhead, Pa.
Rhodes
Ritter
Thomas
Udall
Vander Jagt
Walgren
Wright

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So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MITCHELL of Maryland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3920) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes, pursuant to House Resolution 352, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 544, HEALTH PLANNING AMENDMENTS OF 1979

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 544) to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, WAXMAN, SATTERFIELD, PREYER, BROYHILL, and CARTER.

DISAPPROVAL OF EXTENSION OF PRESIDENTIAL AUTHORITY TO WAIVE FREEDOM OF EMIGRATION REQUIREMENTS UNDER SECTION 402 OF THE TRADE ACT OF 1974 WITH RESPECT TO ROMANIA

Mr. VANIK. Mr. Speaker, pursuant to section 152(d) of Public Law 93-618, the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 317, disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the resolution be limited to not to exceed 1½ hours, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. SCHULZE), and by myself.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 317, with Mr. MITCHELL of Maryland in the chair.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair still would like to stay with the commitment it made to the House that we rise at 9 o'clock.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Pursuant to section 152(d) of Public Law 93-618, and the unanimous-consent agreement, the gentleman from Ohio (Mr. VANIK) will be recognized for 45 minutes, and the gentleman from Pennsylvania (Mr. SCHULZE) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. I rise in opposition to House Resolution 317, which would disapprove the continuation of MFN tariff treatment to the products of Romania.

Mr. Chairman, the question before us is whether Romania has met the requirements of section 402 of the Trade Act of 1974, the Jackson-Vanik emigration amendment. Section 402(c) permits the President to waive the freedom of emigration requirements of section 402(a) if he determines that the waiver will promote the objectives of that section and if he receives assurances that the future emigration practices of the country will lead substantially to the achievement of those objectives.

The waiver authority was granted for an 18-month period subject to 1-year extensions if the President determines that such extension will substantially promote the objectives of section 402 and recommends such an extension to the Congress.

There can be no doubt that the extension of MFN status in 1975 and its annual renewal since that time has promoted the free emigration objectives of the Jackson-Vanik amendment. In the fiscal year prior to the granting of MFN, 312 individuals emigrated from Romania to the United States. In fiscal year 1979, that number had grown to 1,686, an increase of more than 500 percent. Emigration to the Federal Republic of Germany has also been running at very high levels, with over 11,000 individuals departing for West Germany in 1978.

Although emigration to Israel has declined, it is important to note that the Jewish community in the United States has given its unqualified endorsement of the continuation of MFN to Romania. Testimony was presented to the Subcommittee on Trade stating that the Romanian authorities had given concrete assurances which, it is hoped, will remove remaining impediments to the freedom of Romanian Jews to emigrate. In this connection, I am pleased to call the attention of my colleagues to a July 15 report in the Jewish Week publication that Romanian President Ceausescu has assured the American Jewish Joint Distribution Committee that any Jew wishing to leave Romania for family reunion in Israel or any other country would be able to do so.

Thus, Romania's emigration performance since the granting of MFN has demonstrated its compliance with the Trade Act requirements and the recent developments regarding Romanian Jewish emigration evidence its willingness to continue to work in a humanitarian manner toward the resolution of divided family cases.

Mr. Chairman, it must be remembered that our primary purpose is to build a trade relationship with Romania—one that will promote mutual economic advantages. The United States-Romanian Trade Agreement has enabled us to make substantial gains in this direction. Only 4 years ago, prior to the granting of MFN, two-way trade with Romania amounted to $408 million; it is expected to reach $1 billion by 1980. It is true that we experienced a $30 million deficit in 1978. However, this trend has been reversed in the first 5 months of 1979 which show an $84 million surplus for the United States.

But, there are benefits accruing from such a relationship far more important than the economic advantage it brings. Trade promotes peace—without the cost necessary to maintain our military preparedness. In addition, where goods are traded, so must ideas and cultural values be exchanged. A stable trade relationship creates a setting in which other problems can be amicably resolved. Finally, trade is a means of obtaining important U.S. foreign policy objectives, thus out of trade comes the cement that holds the world together in peace.

In this regard Members should note that Romania continues to conduct its foreign relations in a manner which indicates an independence not shown by other Warsaw Pact members, including nonparticipation in pact military maneuvers; establishment of broad economic relations with the West through its membership in the World Bank, the IMF, and the GATT; continued strong support for the Arab-Israeli peace; and nonparticipation in the OPEC oil embargo.

Mr. Chairman, in the 4 short years that the United States-Romania Trade agreement has been in effect, we have witnessed the substantial advancement of U.S. objectives in humanitarian, economic, and political areas. Continued extension of MFN will provide opportunities for further advancement of these objectives. On the other hand, disapproval of MFN for Romania, will not only severely limit such opportunities, it will very likely result in the loss of much that has already been accomplished.

I want my colleagues to know that I am concerned with human rights problems which exist not only in Romania, but in all parts of the world—east and west. I believe these concerns can best be addressed by supporting continuation of the U.S. relationship with Romania. United States-Romanian relationships both in commercial-economic and political terms are complex and cannot be turned on and off each year. Adoption of the disapproval resolution in the House could permanently push Romania from its stance of independence from the Soviet Union into a closer relationship with the rest of Eastern Europe. This would be tragic and probably irrevocable.

Mr. Chairman, I strongly urge my colleagues to vote against House Resolution 317, and continue most-favored-nation treatment to Romania.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the distinguished chairman of the Committee on Ways and Means (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I wish to commend the distinguished chairman of the Subcommittee on Trade for his statement and for his long efforts in this field. If anyone is qualified to speak on this issue it is the gentleman from Ohio. The gentleman's diligence has been of great benefit to this Nation. I commend the gentleman for what he is doing. I strongly support the continuation of MFN for Romania. I think it would be a national disaster not to move forward and continue to build this trading relationship with Romania. I commend the gentleman and urge all Members to support the committee's position.

Mr. VANIK. Mr. Chairman, I thank my distinguished chairman. I want to point out the way we continue MFN with Romania is to vote no on the resolution that is before us that was offered by the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from New York.

Mr. CONABLE. Certainly the authorship of the Jackson-Vanik by the gentleman in the well qualifies him to take a strong position on this issue. The gentleman is supporting the position that would disapprove the resolution of disapproval. In other words, urging a no vote on all of us.

I think we are well aware of the fact Romania has preserved a high degree of independence in international affairs. There is no doubt about it also that she has paid a price at home in terms of her rigid adherence to Communist principles. I think it is in the interest of this Nation, however, to try to disentangle the countries of Eastern Europe from dependence on the Soviet Union and we certainly should encourage the independence that Romania has shown. Trade is a neutral weapon in the world; it is a weapon nonetheless that can be used to continue this process of disengaging Eastern Europe from the hegemony of Russia. I hope that my colleagues will support the lead of the gentleman in the well who has worked so hard on this and vote no on the resolution of disapproval.

Mr. VANIK. Mr. Chairman, I want to thank our distinguished colleague from New York and I want to point out, because of the uncertainties in Yugoslavia, Romania becomes increasingly important in its relationship with the United States.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am very happy to yield to my distinguished colleague from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to join in the commendations of the gentleman for his stand on this issue. As has been pointed out, no one speaks with better authority.

As the chairman of the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs, I would like to join the gentleman in urging a "no" vote on this resolution.

This action would serve us no good purpose and it would do a great deal of harm in our efforts to develop trade in Eastern Europe and in our efforts to encourage Romania to continue an independent foreign policy.

The gentleman will well recall it was Romania that first broke the line among the so-called Communist-dominated countries in seeking to cooperate with the Jackson-Vanik amendment and establish its eligibility for a most favored nations treatment. For us at this stage to reverse what we have for the last couple of years would be a great mistake in my judgment.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my distinguished colleague from Oregon.

Mr. AuCOIN. I appreciate the gentleman yielding. I wish to associate myself with the gentleman's remarks and to compliment the gentleman for the excellent work the gentleman has done in bringing forward a proposition in which the House can approve most favored nations status for Romania. I think the leadership is sound, I think the logic is absolutely impeccable. This country needs to develop its trading relations with Eastern bloc countries and I think the gentleman and his committee has done an excellent job in this regard. I strongly compliment the gentleman. I particularly compliment the gentleman from New York (Mr. CONABLE) for the remarks he has made regarding this important question.

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Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding and say that I compliment the gentleman on his leadership on this matter, not only of trade, but on human rights.

I concur in the gentleman's assessment that the benefits of MFN and on an annual review basis for Romania has been extremely helpful, not only in our relations and in our trade, but also in the human rights practices of that country.

Let me say that the Commission on Security and Cooperation in Europe, which I chair, has been very closely monitoring the Romanian effort.

I can tell the Chair any my colleagues that the Romanians have been extremely cooperative with every single case that I know of that has been raised in the House by our colleagues in the House on any family reunification case or immigration case and have done their utmost to get the facts and to resolve as quickly as they can those cases which were presented to them.

I believe in all fairness, not only on the Jewish problem but also on other cases, that the Romanians have demonstrated good faith in trying to meet the requirements of what we call good human rights practice.

Therefore, I think under the circumstances that we should vote no on the resolution of disapproval and again extend for 1 year, subject to all the reviews which the gentleman has pointed out, the question of MFN to Romania.

Mr. VANIK. Mr. Chairman, I thank the gentleman and I also want to compliment the gentleman for the splendid work of the Commission in observing and and carefully monitoring the Helsinki Accord.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I get somewhat confused on our human rights standards in different parts of the globe.

Now, I have been in Romania and I have not been in Zimbabwe, Rhodesia, but I would ask the gentleman in the well, is the repression, oppression, and suppression greater in Zimbabwe, Rhodesia, where we impose sanctions than it is in one of the great police states of this world, Romania, where if you talk to someone on the street they have to report it to a police officer. Could the gentleman tell us that?

Mr. VANIK. I cannot respond. I have no knowledge that is special to me. I have no experience in the Rhodesian problem.

Mr. HYDE. The gentleman has visited Romania?

Mr. VANIK. Oh, yes, I have visited Romania.

Mr. HYDE. Would the gentleman not agree that human rights there are down to almost zero?

Mr. VANIK. On the contrary, I just made a statement in which I said that we are making tremendous progress.

Mr. HYDE. When is the last time they had an election there?

Mr. VANIK. As the co-author of the Jackson-Vanik amendment, I feel they have met the requirements of the statute. On this basis, I urge the House to vote no on the resolution.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

Mr. VANIK. Mr. Chairman, I yield to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to House Resolution 317 and in support of continuing most-favored-nation tariff treatment for Romania. Quite simply, I believe that the continuation of trade benefits is the most practical method of assuring that the Romanian Government will allow increased emigration—including emigration to Israel—and facilitate family reunification. I am pleased to note the commitments given on these issues recently to the leadership of the American Jewish community by the Romanian Government.

I had also been concerned about a matter which, while it did not fall explicitly within the ambit of the freedom of emigration requirements of section 402 of the Trade Act, did reflect directly on the Romanian Government's willingness to deal forthrightly and cooperatively with the United States on other matters of mutual concern. The issue was Romania's willingness to provide judicial assistance to our Government in seeking to bring alleged Nazi war criminals to justice.

Based on substantial and meaningful steps taken by Romania in recent weeks to assist Justice Department prosecutors in a pending denaturalization case against a Romanian national living in the United States alleged to have been involved in war crimes, I now believe a pattern of judicial cooperation has been firmly established. The Romanian Government has provided voluminous documentary material requested by the Justice Department, has agreed to allow the questioning of witnesses both informally and in formal proceedings in Romania, and has stated that it will provide Department investigators with access to government archives in Bucharest. United States' prosecutors will leave shortly to take advantage of these new commitments.

Both Ambassadors to the United States Ionescu and Ambassador Bogdan of the Foreign Ministry have told me personally of the desire of their government to continue to cooperate in the future in cases of other Romanian nationals living in the United States suspected of war crimes.

In light of these commitments on emigration and judicial assistance by the Romanian Government I support the extension of the MFN waiver.

I also want to commend the chairman of the Trade Subcommittee (Mr. VANIK) for his leadership on this issue and for his willingness personally to bring my concerns to the attention of the subcommittee and the Romanian Government.

Mr. VANIK. Mr. Chairman, I yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding. I want to associate myself with the gentleman's remarks.

I concur with the gentleman in the gentleman's assessment of our relations with Romania.

As the chairman of the Subcommittee on Agriculture that monitors foreign agriculture, this is of great interest to us that we continue the progress that we have made in relation to Romania.

I think the gentleman has chosen a wise course for us to take to extend for another year and continue our communication, continue the possibilities of agricultural trade both ways, if possible.

I think that this will be very helpful if we endorse and approve the gentleman's motion this evening.

Mr. VANIK. Mr. Chairman, I yield to

the distinguished gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding and commend the gentleman for the gentleman's position and associate myself with the gentleman's remarks.

My experience with the Romanians in this case, so far as immigration cases are concerned, has been an excellent one. Rare is the occasion when my office has made a request for their cooperation that that cooperation was not forthcoming.

I think it is important that we continue to hold forth this carrot in order to encourage the Romanians to continue and improve their already improved position.

I commend the gentleman for his position.

Mr. VANIK. Mr. Chairman, I would like to at this time permit the gentleman from Pennsylvania (Mr. SCHULZE) to use some of the gentleman's time.

I would be glad to yield such time as I may have that remains, after the gentleman is afforded an opportunity to have some speakers address themselves on this position.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. SCHULZE) is recognized for 45 minutes.

Mr. SCHULZE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the author of House Resolution 317, I would like to share with you the reasons I introduced this resolution and why I feel Romania no longer deserves nor is qualified for special trade privileges.

Since the passage of the Jackson-Vanik amendment, the United States has made it clear to the rest of the world that if a country desires most-favored-nation status it must demonstrate a willingness to allow free emigration.

Most-favored-nation status is an asset used by our Government in the international arena to provide special trade favors to foreign governments. While some may argue as to what constitutes a favor, other countries certainly behave as if they value this trade status with us very highly. We are not obligated to grant this status to everyone. We exercise our sovereign will when we do grant MFN to a new country, and it is reasonable to set certain conditions. The United States is the most powerful producing and trading nation on Earth. We possess the most advanced technology, and trading with us on favorable terms is a definite advantage to any country. The American people deserve the best possible deal in any contractual arrangement in which we enter.

Four years ago, Congress recommended that Romania become the first Communist nation to receive MFN. There was great hope at that time, that they would become an example to the rest of Eastern Europe. I must say that I too shared that hope and did support the original MFN resolution.

In return for MFN and the millions of dollars of U.S. Government credits, Romania gave us their solemn pledge to live up to the objectives of the Jackson-Vanik amendment and to implement the requirements of the Helsinki accords.

Mr. Chairman, I say to you that Romania has repeatedly violated these assurances. It might not be realistic to expect Romania to allow its citizens all of the rights which our citizens enjoy. I did not expect, however, that the level of oppression and the number of emigration barriers would increase with the granting of MFN.

Romania has become, since MFN, one of the most repressive governments in Eastern Europe—to argue that the Soviet Union, East Germany or even Vietnam are more repressive is not pertinent to this discussion for none of these countries has MFN nor have they pledged to implement the Jackson-Vanik provisions.

This year, for the first time in 3 years, the House is taking a long hard look at Romania's record in meeting these assurances. It is not a very pretty sight. I doubt that very many of my colleagues are aware of some of these abuses and so I ask each of you to listen, and to listen carefully to the facts as they are discussed here this evening.

Our routine extension of most-favored-nation status sends the message to the oppressed citizens of the world that we give nothing but lip service to human rights; to many others it says that we do not stand behind our principles.

You may ask, how has Romania violated these policies in the past 4 years? First, this government continues to abuse their Hungarian population. There are over 2½ million Hungarians who are being forced to assimilate themselves into the Romanian culture. They have done away with Hungarian schools, bilingual signs, and any form of self-administration for these Hungarian people. Today, Hungarians find it difficult to find employment and cities overwhelmingly populated by Hungarians are now governed by non-Hungarian speaking mayors.

Second, Romania operates formed labor camps. A political or religious activist who does not agree with the government runs the risk of being shipped off to such facilities as Jilava Psychiatric Hospital or one of the Danube Delta labor camps. Here, prisoners of conscience and religious believers are many times injected with large quantities of drugs or are subjected to electro-shock treatments as a means of political reeducation.

Third, emigration to Israel is still declining significantly from a yearly high of 4,000 people prior to MFN to less than 1,200 in 1978 to less than 300 people so far this year. While the B'nai B'rith has recently reversed its position from opposing MFN, to now supporting an extension based on secret assurances from the Romanian Government, one must question whether or not these secret assurances will be kept when public assurances to our Government have been repeatedly broken.

And last and most importantly, lets examine the changes in the emigration barriers which have been established since 1975. Before MFN, in order to be able to emigrate from Romania a citizen had to fill out one lengthy application form. One barrier to freedom existed.

Now, in the 4 years since we granted MFN, a citizen must:

One, get on a waiting list for a preapplication form;

Two, fill out the preapplication form;

Three, complete the lengthy application form itself; and

Four, if an individual's application or preapplication is denied, he must wait an additional 6 months before reapplying. Where there was one, there are now four barriers to freedom.

Each of these barriers requires various lengths of time and is designed to prevent people from indicating a desire to leave by increasing at each level the amount of harassment, intimidation, and punitive actions.

It does not take a genius to figure out that this process could, and many times does, take a lifetime before approval to leave is granted. All during this time, a potential emigrant risks losing his job, his family, educational opportunities for his children and the support of his community.

When the United States granted most-favored-nation status to Romania, we did so in the hope that the emigration barriers would be liberalized.

Emigration is the last resort for those people who can no longer survive in their homeland. Just try to imagine for a moment how oppressive life must be to force an individual to sacrifice his past and his present for an unknown future.

With this in mind, I find it particularly reprehensible that the Romanian Government persists in increasing on a yearly basis the number of emigration barriers, while simultaneously seeking renewal of MFN benefits.

For three years, Congress has gone through this summer ritual of accepting carte blanche, assurances that Romania would liberalize their emigration policies. In reality, the barriers are ever increasing.

Another aspect of the Romanian Government's disregard for human rights is reflected in their treatment of national minorities, especially the 2½ million Hungarians, Europe's largest minority.

The subcommittee received very detailed, factual, well-supported evidence—confirmed by independent Western sources—of a systematic effort to destroy a whole network of Hungarian cultural institutions, to deprive this ethnic group of its language, traditions, and cultural identity.

A former alternate member of the Romanian politburo gave dramatic evidence of this campaign, in letters which he sent to the West. He trusted our commitment to human rights in our foreign policy. As a result of sending these letters, he was exiled, vilified, threatened—and now lives subjected to constant harassment.

I emphasize the element of destruction in this process. It is the closing of schools where children can study in their mother tongue. It is the elimination of one of Europe's oldest universities. It is a campaign of extreme ethnic, cultural, and religious intolerance which the Hungarians are protesting.

This deculturalization campaign is a very germane issue when we claim to view the full picture of Romania's performance in human rights.

Mr. Chairman, you have heard and will hear during the course of this debate much about our current favorable trade balance with Romania. While this figure is an improvement over last year's $29 million deficit, let's take another view of the trade picture.

As documented by Amnesty International, I would like to relate to you the conditions existing on some of the island camps which make up Romania's Danube Delta labor system. Here, prisoners of conscience are regularly sent out, at great personal risk, to collect snakes in the marshes and dense undergrowth.

These prisoners are forced to catch and kill these snakes and the skins are then sent to the United States as part of our import trade with Romania, to be used in such luxury items as shoes, women's handbags, and belts.

These imports represent a portion of that trade surplus which the proponents of continued MFN are citing in support of their arguments.

I do not believe that we need this type of trade.

I do not suggest, Mr. Chairman, that we close the door on Romania forever. Rather, I recommend that we revoke this one small privilege for the year ahead. This will provide Romania with 1 year in which to fulfill that good faith pledge made to us some 4 years ago. If the Romanians are serious about their need for trade and their desire to be equal partners then they should give us clear indication of that desire.

So far, we have seen only religious persecution, blatant violations of human rights, and the imposition of barriers established to prevent emigration.

It is time to pay more than token lip service to human rights. Only by once again setting an example, will the United States be considered credible; only by standing up for the policies of free emigration and human rights will the nations of the world again take us at our word.

I urge my colleagues to vote yes on this resolution, and send the message that we are once again willing to wear that mantle of moral leadership.

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Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I will be happy to yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I rise in support of this resolution, and I do so with a great deal of reservation.

Over the past 3 years I have supported extending MFN status to Romania, but I believe that the time has come, in assessing the lack of improvement of conditions in Romania, to say that this year we are not going to make or extend that status for a 12-month period, in order to give the Romanian Government an opportunity to live up to the promises they have made over the years, which I feel they have not met, and the agreements which they signed, the international agreements which they were committed to and have not fulfilled.

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Many of the points the gentleman in the well has referred to are worth noting. In the last year alone, rather than easing the emigration policy, they have made the policy more complicated. Rather than expediting measures so that people would have an easier egress from that country, they have added yet another barrier in that process. Certainly the plight of 2.5 million Hungarians in that country, a minority population, rather than their condition being improved, it has worsened.

I would point out to my colleagues who have pointed to progress that, over the past year, I have written some six or seven different pieces of correspondence to the Romanian Government asking about specific families and cases. It was only 2 weeks ago that I got answers to those letters, ironically, just before this measure was to come before this Chamber.

I would point out to my colleagues the case of the Rauta family, an individual who defected to this country more than 5 years ago, and for the past 5 years we have been trying to expedite the exit of his family from that country. Repeatedly the Romanian Government has denied the opportunity for this man's family to join him. That certainly is not a record of a country which is interested in human rights.

The MFN status is an important status. It extends economic development not just to their country, but to ours as well.

I do not believe we are going to see a break-off in our relationship if for one year we deny the Romanian Government that privilege. I think we would do ourselves well in this House to say to the Romanian Government that they must do better, not worse, which is what they have done over the past years.

I compliment the gentleman for the position he has taken on this resolution, and I would urge my colleagues to support it.

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for his remarks. What the gentleman says is so true. None of us do this with any glee or any joy in our hearts. We are sorry that we have to do it. But those barriers have been increasing.

Mr. Chairman, at this point I include in the RECORD a list of many other Romanians who are wishing to emigrate.

The list referred to is as follows:

RUMANIANS SEEKING EMIGRATION AND PRISONERS OF CONSCIENCE IN ROMANIA

ROMANIAN JEWS SEEKING TO EMIGRATE

Nissim Doru, Suren Spandarian St. nr. 5, Bl, O D 21 B, sc. E, ap. 207.

Harry and Rodika Flomin, Partizanilor Street 39, Bl, c23, Ap. 46, Tiglina 1, Galati 6200, Rumania.

Eugen Fundulea, St. N. Balcescu 55, Bl. 8 Ap. 36, Buzau, Rumania.

Marta Gheorghiu, Bulevardul Cosbue, Bl. Ml, Ap. 6, Galati, COD, 6200, Rumania.

Sergui and Ruxandra Ratescu (and their son Sebastian), Str. Liviv Rebreanu no. 7, Bl, 51, et. 8, Ap. 123, Sector 4, Bucharest, Rumania.

Jeana Ratescu, B–dul Muncil no. 94, Bl. 1B, et. 1, Ap. 3, Sector 3, Bucharest, Rumania.

Silviu and Monica Grunberg, Cartier Cornisa, Bl. Turn 6, et. 1, Ap. 7 sc. B, Bacau, Rumania.

Radu and Gherghina Iliescu, 5N. Grigorescu St., Arad-Rumania.

Liza Marie Ramniceanu (and their daughter Florentina), 2A Principatale Unite, Bucharest, Rumania.

Mircea and Margareta Ruse (and their daughter Monica Ruse, and their son Dorin Ruse, Dorin's son and wife Doina), 28 Racaci Street, Cluj, Rumania.

Haghes Belinstein, Sos Stefan cel Mare No. 1, Bloc 1, sc. 2, Ap. 64, Intra A, et. 5, Bucharest 71216, Rumania.

Manoil and Doina Faibish, 111 Dorobanti Road, Bl. 9A Ap. 227, Bucharest, Rumania.

Benianim and Musa Goldemberg (and their daughters Paula and Magda and his mother), Soseaua Oinac 48, Bl. H3 sc. B, Ap. 22, Giurgiu, Judetul 11fov, Rumania.

Silviu and Monica Grunberg, Cartier Cornisa, Bl. Turn 6, et. 1, Ap. 7, sc. B, Bacau, Rumania.

Radu and Gherghina Iliescu, 5N, Grigorescu St., Arad, Rumania.

Viorica Jancu, 9 Av. Protopopescu, Bucharest, Rumania.

Victor Manesce, Sos M. Bravu 42–62, Bl. P8, Ap. 94, Bucharest, Rumania.

Solmon Meier, Calcaina Street 6, Iasi, Rumania.

Anton and Maria Negrea (and five children), Bd. Magheru 9, Sc. 1, et. 1, Ap. 1, Sector 1, Bucharest, Rumania.

Liza Marie Ramniceanu (and her daughter Florentina), 2A Principatale Unite, Bucharest, Rumania.

Ilio and Ileana Ritter (and their son Eugene), Ilia Pintilie Street 11/1/6, 2675 Petrosani, Rumania.

Mircea and Margareta Ruse (and their daughter Monica Ruse, and their son Dorin Ruse, Dorin's wife Dorina and Dorin's son, Christian), 28 Racaci Street, Cluj, Rumania.

Iuliu and Veturia Satran (and their son, Robert, aged 9), Aleea Lipanesti No. 2, Sector 4 bl. J22 sc. B ap. 16, Bucharest, Rumania.

Gheorghe and Ileanu Stefanesce (and their two sons), 114 Aleea Vergulin Street, Bucharest, Rumania.

Morris and Rebecca Terdiman (and their daughter and son-in-law Lazer and Angela Sfetcu and their grandson, Adrian Sfetou), 4 Pajurei Street, Bl. B3, entrance A, ap. 5, Ploesti, Code 2000, Rumania.

Leia Weiss (and her son Nisen and her daughter Dorina, Dorina's husband and Dorina's son), Plutasului Street No. 1, Piatra Neamt, Rumania.

Viorica Wexler, Bolinteano 2, Sector 4, Bucharest, Rumania.

Migai and Irina Babus (and her mother Henriette Anghelovici), 23 Blvd. Ion Sulea, sc 3, No. 104, Bucharest, Rumania.

Adrian Iosifescu, Romulus Street 75, Et. 1, ap. 6, Sector 4, Bucharest, Rumania.

Sorin and Ada-Adelina Moisi (and their son Marc-Daniel), Remus Street 10, Et. 2, ap. 3, Sector 4, Bucharest, Rumania.

Eddy Barash, Alea Lipanesit No. 2, Bl. J21, sc, B, et. 1, ap. 14, Sector 4, Bucharest, Rumania.

Victor Manescu, sos M. Bravu, 42-62 Bl. p. 8, ap. 94, Bucharest, Rumania.

Lili Kovacs and daughter Vera, and son Andrei, Ferentari St. 72, Bloc. 4c, Ap. 23, Bucharest, Rumania.

Rodica Aronescu, 196 Calea Calarasi St., Bucharest, Rumania.

Celilia and Vasile Damian (and their son, Daughter-in-law and three daughters), 25 Costache Negri Str, Sector 6, Bucharest, Rumania.

Anca Mihaela Kantar, Antim 12, Sector 6, Bucharest, Rumania.

Andrei Mihai Kantar, 14 Negustori, Sector 4, Bucharest, Rumania.

Rozalia Helmer, Str. Stefan, Furtuna 2, Timisoara, Rumania.

Yosef and Marianna Imberg (and their two children Arodin and Maura), Str. Gheorghe Lazar 27, Et. 2, ap. 12, 1900 Timisoara, Rumania.

Burah and Tica Wolf, Str. 7 November 25, Bl. 3, sc. C, ap. 3, Husi, Rumania.

Aurora Klein, Burgundia Mare Str. 27, Beius, Judetul Bihor, Rumania.

Sergiu and Ruxandra Ratescu (and their son Sebastian), Str. Liviv Rebreanu no. 7, Bl. 51, et. 8, ap. 123, Sector 4, Bucharest, Rumania.

Jeana Ratescu, B-dul Muncii no. 94, Bl. 1/B, et. 1, ap. 3, Sector 3, Bucharest, Rumania.

Mr. and Mrs. Pedro Schein (and child), Str. Traian 34, ap. 26, Galati, Rumania.

Anda and Mirel Sherer, Alexander Petofi, Sector 1, Bucharest, Rumania.

Solomon and Estera Slima (and their daughter Andriana), Str. 7. November, Bl. C, sc. B, et II, ap. 4, 6575 HUSI-jud., Vaslui, Rumania.

Andrei and Lilla Wertheimer (and their daughter Eva), 13 Decembrie Street nr. 14, ap. 4, 1900 Timisoara, Rumania.

Adam, Gabriela, Str. Delca Nova No. 36, Sector 4, Bucharest.

Ambrus, Emaric, his wife and child, Str. Traian Vuia No. 19, Iugoj.

Andrei, Elena, Bul. Dimitrie Cantemir, Bloc 18, Sc. 2, Et. 3, Apt. 47, Sector 5, Bucharest.

Andrei, Elena (grandson Constantin Doncu), Str. Gh. Serban No. 2, Bloc 8C, Sc. 2, Et. 8, Apt. 96.

Andrei, Ileana, daughter Maria, Bloc A4, Apt. 19, Hipodrom, Braila.

Ardeleanu, Vasile and Silvia, son Dorin, Str. Gh. Lazar ⅓, Arad.

Austriacu, Maria, children Carmen and Octavian, #79 Bul. Republicii, Apt. 2, Sector 3, Bucharest.

Azamfir, Lucretia, Str. Microraion No. 3, Bloc 24, Sc. B, Apt. 13, Lugoj, Timis.

Badea, Viorel Sorin, Str. Andrei Mureseanu No. 1A, Sector, 3, Bucharest.

Badescu, Carmen, Aleea Com½ozitorilor No. 18, Bloc 17, Sc. 14, Apt. 111, Sector 7, Bucharest.

Barbu, Elena, daughter Viorica, Aleaa Otesan No. 7, Apt. 163, Sector 2, Bucharest.

Bazilescu, Irina and Sergiu, daughters Anca and Ilinca, 6 Intrarea Caragiale, Sector 2, Bucharest.

Bejan, Florin, c/o Ana Andronic, Str. Alcea Secuilor No. 1, Bloc 19, Sc. D, Apt. 47, Berceni, Sector 5, Bucharest.

Beloiu, Alina, Popa Petre No. 29, Bucharest 2.

Bercea, Josif, Chirion Chirila, Ioan, Lydia, Devora, Bul. Lenin No. 85, Cluj, Napoca.

Bernhardt, Carolina (nee Donavel) and Sebastian, Calea Timisorii No. 13, Jimbolia, Jud. Timis married daughter Barbara Schopsz (her husband Antoniu-ioan, their son Anton Gunther), Leninstrasse 11, Jimbolia, Jud. Timis.

Bilius, Delia, son Christian Emanuel, Str. Brezoianu No. 44, Apt. 1, Sector 7, Bucharest.

Bolos, Ana, children Codrut and Monica, Str. Cricovului No. 7A, Sector 8, Bucharest.

Bora, Ioan, Str. Iacobinilor No. 24, Oradea.

Botan, Ana, son Elisei (wife Victoria, children Ovidiu, Claudiu, Anea); grandson Serafim Caita Mandra (wife Rodica, daughter Laura) Str. Traian Vuia No. 12, Petrila, Ioguj.

Bucica, Victoria, sons Ioan and Marcel-Adrian, Str. Mitropolit Veniamin Costache No. 1, Constanta, Cartierul Vile Noi.

Bulboaca, Alexandru and Natalia daughter Iuliana, Str. Valea Lunga No. 14, Bloc Z3, Sc. 1, Et. 3, Apt. 15, Sector 7, Bucharest.

Buna, Cornelia (nee Dan), son Andrei, Cornelia's mother Ana Dan, Calea Victoriei 4850, Apt. 85, Sc. B, Sector 1, Bucharest.

Butnaru, Maria and Migai, sons Dorel, and Ion, Comuna Comarna, Satul Osoi, Jud. Iasi.

Buznei, Ruxandra, daughter Nicoleta Lavinia, Cartierul Crihada, Bloc A4, Sc. 2, Nr. 9, Turnu Severin.

Dantis, Maria, nephew Paun Ion, Comuna Spulber, Jud. Vrancea.

David, Aurel and Rodica, sons Adrian and Vasile, Comuna Mintjul Gherlii No. 80, Jud. Cluj.

Deliu, Francisca Catalin, Str. Pavat No. 28, Sc. 2, Et. 2, Apt. 51, Bucharest.

Deznan, Maria (nee Bora) and Pavel, Str. Cocorilor No. 65, Arad.

Dinu, Mihaela and Nicolae, son Gabriel, grandmother Maria Carjan, Aleea Traian Dumitrescu No. 4, Sector 4 prin Nerva Train No. 45, Bucharest.

Dobre, Ileana, son Anton, grandson Octanian, Str. Dr. Mihail Mirinescu No. 9, Bucharest.

Dragan, Ion and Elena, Str. Bacalogiu No. 2, Sector 2, Bucharest, daughter Viorica and her finance, Petre Zahei, Str. Spandarin No. 11, Sector 2, Bucharest.

Dulgheru, Iona, Virgiliu, Alex. Maghioros No. 19, Apt. 96, Sector 7, Bucharest.

Dumitrascu, Nicolae, Str. Verdisoaia, Comuna Codaesti, Jud. Vaslui.

Dumitrascu, Nicolae, Jr., Ateliarele C.F.R.-Nioulina, Iasi.

Dumitrescu, Elena and Nicolae, Str. Vorzesti No. 8, Sector 2, Bucharest.

Dumitrescu, Octavian and Mioara Laura, Str. Tunari No. 15, Sector 2, Bucharest, Miora Laura's mother Lucretia Palici, Str. Saturn No. 378, Brasov.

Dumitrescu, Solomon and wife, Micro Raion I, Aleea Pinilor, Bloc 5, Et. 1, Sc. A, Apt. 5, Lugoj.

Dumitrescu, Rev. Viorel, his wife and son, Comuna Visag, Jud. Timis.

Dunei, Liliana, Dunei, Mirela (nee Battschett), Str. Mangalia No. 59, Timisoara.

Enache, Mihaela, son Marian (his wife and son), Str. Cismelei No. 1, Bloc 1D, Et. 5, Apt. 155, Constanta.

Ferk, Hugo, daughter Margaret Ferk-Ciobanu and her son Christian Victor Ciobanu, Resita, Str. Stefan cel Mare, Bloc 1, Apt. 14, Jud. Caras.

Foias, Nicoletta, daughters Anta and Dara Bul. N. Titulescu No. 155, Bl. 21B, Sc. B, Apt. 37, Parter s. 8, Bucharest.

Fametescu, Petre and family, Bul. Jon Sulea No. 33, Bloc. N4, Apt. 13, Et. 2, Sector 4, Bucharest.

Frangu, Rev. Traian and Stela (nee Stanca), Str. Mircea cel Batran No. 49, Ploesti.

Fundulea, Eugen, Str. N. Balcescu 55, Bl. 8, Apt. 36, Buzau.

Gaba, Florian, Str. Luterana No. 1, Et. 2, Apt. 11, Sector 7, Bucharest.

Galdau, Marin and Dorina, sons Florian and Valentin, Str. Bega No. 10, Sector 6, Bucharest.

Ganescu, Dragos and Cornelia, children Magdalena and Elena, Aleea Vergului No. 4, Bl. 15, Sc. A, Et. 2, Apt. 7, Sector 3, Bucharest.

Gartu, Atanasie and Anna, daughters Cristina and Miheala Str. Teiul Doamnei No. 108, Apt. 77, Sc. 1, Et. 9, Bucharest.

Gavrila, Adrian and Iulia, Bl. Tudor Vladimirescu No. 93, Et. 2, Apt. 11, Iasi.

Geordunescu, Christian and Aurelia, Str. Compozitorilor No 22, Bloc. 4S14, Et. 3, Apt. 48, Sector 7, Bucharest 77353.

Gorgescu, Maria and Traian, son Bogdan, Traian's natural mother Alexandrina Paciu, Intrarea Ion Sulea No. 4, Bloc I18, Apt. 35, Sector 4, Bucharest 7000.

Georgescu, Viorica, daughter Stela, Bul. Ion Sulea No. 72, Bl. PM, No. 31, Sc. B, Et. 4, Apt. 65, Sector 4, Bucharest.

Gherciu, Mihaela, Str. Azurului No. 3, Sector 3, Pantelimon, Bucharest.

Gherghe, Maria, 20 Movilei, Galati.

Gherchiceanu, Dumitru and Olimpia, son Radu, 80 Dr. Maximillian Popper, Sector 4, Bucharest 74276.

Ghita, Roxana, Str. Targu-Neami No. 6, Bloc. D10, Apt. 33, Sector 7, Bucharest 74276.

Ghyka, Dr. Grigore, Str. Reconstructiei No. 4, Bloc 27, Et. 6, Apt. 71, Sector 2, Bucharest.

Grigore, Tatiana and Gheorghe, son Silviu, Str. Nazarcea No. 59, Sector 8, Bucharest.

Grindea, Sorin and Pedronela, Bul Lacul Tei 126–128, Bloc 17–18 Sc. G, Et. 2, Apt. 250, Sector 2, Bucharest.

Gross, Aurel, Str. Maior Campeanu No. 23, Bloc A, Sc. B, Et. 2, Sector 8, Bucharest.

Gugiu, Aurelia and Marian, son Cristian Paul, Str. Valea lui Mihai 3, Bloc T.D. 14, Et. 7, Apt. 47, Sector 7, Drumul Taberei, Bucharest.

Herman, Virgin and Viorica, sons Virgil and Sorin, Str. Soimilor, Bloc 98, Sc. C, Apt. 19, Tirnaveni, Jud. Mures.

Hilbert, Josif, Magdalena, Francise, Bagdazar 24, 2900 Arad.

Iancu, Veronica, Bul. Aviatorilor No. 19.

Iliescu, Nicolae and Ana Maria, children Dan and Rodica, Aleea Barajul Bistritei No. 5, Bloc G, Apt. 39, Bucharest.

Ilis, Eugenia and Aurel, children Daniel and Graxicla, married sister Craziela Petcu, Str. Aleea Berceni No. 8, Sc. B, Et. 3, Apt. 33, Sector 6, Bucharest.

Iona, Andre, and Stefana, children Mircea and Marieta, Str. Steagul Rosu, Bloc U10, Sc. D, Apt. 63.

Comuna Slobozia, Jud. Talomita.

Ionescu, Virginia, son Richard Alexandru, Str. Austrului 4, Sc. B, Sector 2, Bucharest.

Istodor, Teodor-Valentin, Str. Petre Ionescu No. 2, Bloc 6, Apt. 57, Sector 4, Bucharest.

Jaliu, Iona-Cristel and Gabriela, Str. Trapezulu No. 2, Bloc M6, Sc. 1, Et. 9, Apt. 40, Sector 4, Bucharest.

Lerescu, Constantin and Silvia, Str. Fildesului No. 8, Bucharest.

Lerescu, Livia, Calea Calarasi No. 99, Bucharest.

Levarda, Deru-Liviu, son Mihai, Str. Valea Siretului No. 1, Bucharest.

Lipan, Ionel and Anica, son Nicolea, Str. Industriei No. 100, Braila.

Litu, Ioana and Dumitru Comuna Pietrosani, Jud. Teleorman.

Marandici, Olivia (nee Ion), Aleea Compozitorilor No. 5, Bloc G9, Et. E, Apt. 20, Sector 7, Bucharest.

Marin, Voicu and Elisabeta, children Bogdan and Corina, Str. Somesul Rece 19, Sector 1, Bucharest.

Marmara, Alexandru and Margaret, son Oresti, Bul. 1 Mai No. 148, Apt. 41 Et. 10, Bucharest.

Meglei, Ilie, Mihai, their niece Miheala Popovici, Str. Lacurilor No. 73A, Brasov.

Meleasa, Florica, daughter Alexandra, Str. Siret No. 15, Sector 8, Bucharest.

Melinte, Petru and Ileana, children Mariana, Gabriela, Petru, Vasile and Mihai (Mihai's wife Mariana, their daughter Mihela), Petru's brother Mihai, Str. Musatin No. 15, Bloc P5, Sc. A, Et. 3, Apt. 2, Cartierul Alexandru Bun, Iasi.

Mereuta, Savin and Sanda, Str. Rascoala No. 34, Constanta.

Mesterman, Siunea and Mariana, son Dan, Calea Grivitei No. 105, Bucharest.

Mihailescue, Cristina, Aleea Terasei No. 5, Bloc A1, Apt. 24, Sector 5, Bucharest.

Miliu, Gheorghe, Str. Ecaterina Varga No. 46, Constanta.

Mironescu, Emilia, 19 Emil Bodnaras Str., Apt. 57, Sc. 2, Sector 7, Bucharest.

Misici, Mircea, Str. Dianei No. 10, Bucharest.

Moisi, Ada Adelina and Sorin, son Marc Daniel, Str. Remus No. 10, Et. 2, Apt. 3, Sector 4, Bucharest.

Moldovan, Eugenia and Ion, Str. Stefan cel Mare No. 45A, Sibiu.

Moldoveanu, Liviu and Maria, Str. Aurel Vlaicu No. 2, Bucharest-Voluntari 72921.

Mucichescu, Dan, son Matei Codin, Str. Alexandru Vitze No. 23, Sector 6, Bucharest 76226.

Munacaciu, Monica and husband, daughter Ana, Str. Mihai Bravul No. 294, Bloc 6, Apt. 7, Sc. B, Et. 9, Sector 7, Bucharest.

Munteanu, Ion, daughter Iona, Alees Terasei No. 10, Bloc R12B, Sc. C, Apt. 47, Et. 1, Sector 5, Bucharest.

Munteanu, Timotei, Calea lui Traian No. 19, San-Nicolaul Mare, Banat 1976.

Nagy, Gyula, brother Attila, Str. Gh. Alexandrescu No. 20, Bl. N1, Sc. 1, Apt. 13, Et. 4, Cluj-Napoca 3400.

Naod, Magdalena, Comuna Genei No. 598, Jud. Timis.

Neagoe, Emilia, parents Aurelian and Margarete Neagoe, Str. Becatei 6A, Bloc V7, Apt. 125, Sector 4, Bucharest 74692.

Nedelcu, Valentin, son Tudor, Str. Dostoievski No. 34, Cluj-Napoca.

Nedin, Gheorghe and Florica, Comuna Cenad, Arad, Niculescu, Cristian, Aleea Compozitorilor No. 4, Apt. 7, Bloc F17, Drumul Taberei, Bucharest 66.

Novic, Alexandru, Intrarea Plutonier Major, Luicu Vasile 5, Sector 3, Bucharest.

Oprisu, Valeria Stela, Str. Delavrancea No. 14, Deva, Jud. Hunedoara.

Oros, Vasile and Maria (nee Suciu), son Romeo, Str. 25, Octombrie, Bloc 48, Sc. A, Apt. 3, Carie, Jud, Satul-Mare.

Orza, Carol and Elena, son Iosif Eugen, Str. Lt. Caranda No. 55, Sector 6, Bucharest 7000.

Paul, Viorica, children Mihaels and Vincius, Satultilecus No. 389, Com. Tileagd, Jud. Bihor.

Pazara, Gheorghe and Florica, sons Dan and Corneliu, 192 Bul. Alexandru Lapusneanu, Bloc 18, Sc. A, Et. 3, Apt. 16, Constanta 8400.

Penescu, Florica, Str. Piata Kogalniceanu No. 8, Sc. C, Et. 2, Apt. 10, Sector 6, Bucharest.

Petrescu, Corneliu and Eliza, Str. Plutonier Pazon Marin No. 3, Bucharest.

Petrescu, Gabriela Marilena, Str. Burdujeni No. 5, Bloc A14, Sc. 3, Apt. 34, Sector 4, Bucharest.

Pintilie, Filimon and Eleonora, two children, Bd. Bucuresti, Bloc 3, Apt. 31, Baia Mare.

Pod, Jianu and Elisabeta, two children, Str. Teuilui, No. 4 Sc., Apt. 16, Timisoara.

Pop, Alexandrina, son Emil Laurentiu, Str. Maramures No. 2, Et. 2, Apt. 5, Sector 7, Bucharest.

Popa, Gheorghe, son Alin Mircea, Str. Hrisovului No. 13, Et. 1, Apt. 7, Bloc D3, Bucharest 8.

Popescu, Doru Eugeniu, Str. Ciurea No. 9, Apt. 2, Sector 3, Bucharest.

Popescu, Lacramiora and Doru, daughter Adina, c/o Ion Popescu, Str. Moise Nicoara No. 32, Sector 4, Bucharest.

Popescu, Silvia, son Silviu, Str. Faurei No. 4, Cartier Pajura, Bloc C9, Sc. C, Sector 8, Bucharest.

Pora, Gavril and Ana, Str. Avram Iancu No. 55, Brasov 2200.

Preda, Gheorghe Victor (see Istodor), Str. Arhitect Sterian No. 9, Sector 3, Bucharest.

Presneanu, Steriana and Aureliu, son Petre, Str. Vulturilor No. 131, Sector 4, Bucharest.

Racovitza, Mihai and wife, daughter Iona, Str. Petre Poni No. 7, Sc. B, Et. 1, Bucharest 8.

Radoescu, Dan and wife, two children, Str. Mircea Badescu No. 13, Sector 4, Bucharest.

Radu, Nadina Silvia, Str. Piata Kogalniceanu No. 8, Sc. C, Et. 2, Apt. 10, Sector 6, Bucharest.

Raducan, Constanta, Cal. Grivitei No. 214, Bloc L, Apt. 12, Sector 8, Bucharest, Raducanu, Panait Marian and Maria Elena, Str. Nicolae Serban No. 12, Sector 7, Bucharest.

Ramniceanu, Liza Maria, daughter Florentina, Str. Principatele Unite No. 2A, Bucharest.

Rauta, Ecateria, son Mihai, Str. Alexandra Moghioros 32, Bloc A11, Sc. F, Et. 4, Sector 7, Bucharest.

Reznic, Anton and Ana, children Paris and Carmen, Str. Salcillor No. 17, Tulcea.

Roibu, Maria, daughter Iona Maria, Bul. Balcescu No. 32–35, Et. 4, Apt. 19.

Roth, Johann and Johanna (nee Knall), son Hans (his wife Brigide), Aurel Vlaicu Str. No. 29, 2475 Agnita.

Sabau, Francism and Barbara, 11 children, Str. Matei Corvin No. 6, Oradea Mare, Jud.

Sabau, Fancisc and Iuliana, Str. Aurora Bihor.

No. 26, Oradea, Jud. Bihor.

Sabau, Iosif and Magdalena, 13 children, Str. Tudor Vladimirescu No. 64, Oradea Mare, Jud. Bihor.

Salvetiu, Gh. Lucian and Iuliana Susana, children Lucian Marinel, Viorel Tudorel, and Gelu, Iuliana's mother Iudit Kondaci, Semlac 1171, Jud. Arad.

Sapy, Lajos and Viorica, children Zsolt and Zsuzsana, Str. Neculuta No. 34, Lugoj, Jud. Timis.

Sevescu, Natalia, Str. Slanic No. 24, Sector 4, Bucharest, daughter Maria Ciobotaru, Calea Gribitei No. 67, Sector 8, Bucharest, daughter Lucia Ciobotari (her son Octavian), Calea Dorobantilor No. 15, Bloc 10, Sc. C, Et. 5, Sector 1, Bucharest.

Sima, Georgeta, children Florin and Gabriel, mother Aurora Tocaciu, Aleea Valea Prahovei, Bloc 830 bis, Sc. 2, Et. 3, Apt. 57, Drumul Taberei, Bucharest.

Simplaceanu, Virgil and Elena (nee Galdau), Aleea Dumbravita No, 3, Bloc T8, Apt. 65, Et. 5, Drumul Taberei, Bucharest.

Sita, Gheorghe and Maria, son Gheorghe (his wife Lunuta), married daughter Viorica Simon, Str. Bebenalau No. 1, T.G. Mures.

Soni Matyas and wife, Aleea Scarisoara No. 10, Apt. 19, Cluj-Napoca.

Sredoiev, Sofia, children Iadrance and Gabriel, Comuna Rudna No. 3, Cod. 1940, Jud. Timis.

Stancu, Constantin and Daniela, sons Bogdan and Alin, Str. Emilie Racovitza No. 13, Bloc EM2, Sc. E, Apt. 100, Sector 5, Bucharest.

Stoian, Ioan and Biliana, daughter Cristina Emilia, Str. 1, Decembrie No. 6, Apt. 5, 1900 Timisoara.

Stoicescu, Silvia, daughter Valentina, Str. Calusei No. 40, Sector 3, Bucharest.

Tecu, Ilie, Cartierul Craiovita noua, Bloc 15, Sc. 1, Apt. 14, Craiova.

Telibasa, Vena and Mihai, sons Marius and Dan, Sos. Giurguili No. 164, Bloc V, Apt. 13, Bucharest.

Tiprigan, Toader and Frasina, sons Dinu and Radu, Str. Alex. Vlahuta No. 6, Suceava.

Toader, Ion and Aurora, son Marin Ovidiu, Str. Nicolae Balcescu No. 19, Slatina, Jud. Olt.

Toader, Nicolae and Zenovia, daughter Rozalia Delia, Cartierul Crisan II, Bloc Zal, Sc. 5, Apt. 12, Slatina, Jud. Olt.

Tolea, Christian, 75122 Bd. Dimitrie Cantemir No. 21, Pt. 82, Sector 5, Bucharest.

Topan, Gherghina and Mircea, daughter Simona, Str. Otesanu No. 2, Bloc OD 53A, Apt. 33, Et. 8, Sector 2, Bucharest.

Tudorache, Alexandru, son Iulian Petre, Sos. Giurgiului No. 126A, Bloc 16, Et. 2, Apt. 10, Sector 5, Bucharest.

Ungureanu, Marin, Str. Musat Radulescu No. 30, Sector 6, Bucharest.

Untsch, Regina, 3136 Sarasul pe Tirnave 89, Jud. Sibiu/Op.p. Medias 2, son Johann Untsch and family, 3151 Velt 171, Jud. Sibiu.

Vasilescu, Anica, son Eugen, Str. Tomas No. 3, Bloc H5, Apt 16, Sector 4, Bucharest.

Veresteanu, Nicolae, Str. Patriotilor No. 1, Bloc PM 16, Sc. B, Apt. 38, Sector 4, Bucharest.

Vicente, Catinca, Str. Partizanilor No. 46, Bloc 4, Apt. 15, Tiglinal, Galati.

Vladionau, Lucia, daughter Nicoleta Moucha (her husband Remus, their children, Ioana and Stefan), Str. Calomfirescu No. 4, bis, Et. 1, Apt. 4C, Sector 4, Bucharest.

Vladu, Constantin, Str. Mangalia No. 7, Timisoara.

Volonci, Cristina, Str. Trubadur No. 18, Bloc 2A, Apt. 47, Timisoara.

Welker, Margareta, son Peter (his wife Susanna, their children Richard and Reinhold), 1948 Sacalaz No. 397. Jud. Timis.

Zaharia, Ilie and Odette, Bul. Magheru 32–36, Sc. C, Apt. 20, Bucharest.

Zarnescu, Dumitru and Elena, son Bogdan, Str. Plut. Petre Ionescu No. 5, Bloc X19, Sc. A, Et. 4, Apt. 17, Sector 4, Bucharest, (married daughter Gabriela Jaliu listed seperately).

Zonis, Isac, Aleea Fetesti 6–12, Bloc I–6, Sc. F, Apt. 82, Et. 2, Sector 4, Of. Postal 57 Cart. Titan.

MARRIAGE

Andras, Eva, daughter Simona Selaru, Str. Fundatura Rulmentului No. 13, Bloc 1, Apt. 10, Brasov.

Calin, Olga Lucia, Str. Valea Buzaului No. 3, G13, C, Et. 4, Apt. 34, Bucharest.

Clipa, Jane, Calea Rahovei 281, Et. 1, Apt. 3–4, Sector 6, Bucharest.

Diaconescu, Sorina, children Hugar Catalin and Alexandra Christina Bogdan, Str. Petre Ionescucu No. 91, Sector 4, Bucharest.

Fulor, Liliana, Aleea Poiana Cernei No. 2, Bloc E5, Apt 9, Sector 7, Bucharest.

Iosifescu, Adrian, Str. Romulus No. 75, Et. 1, Apt. 6, Sector 4, Bucharest.

Luca, Corneliu, Sos. Giurgiului No. 10, Bucharest.

Margineanu, Doina, Str. Otavei No. 4, Bloc S20, Et. 7, Apt. 32, Sector 4, Bucharest 49.

Moise, Elena, Str. Spartarului No. 1, Sc. 11, Et. 1, Apt. 18, Sector 2, Bucharest.

Moisin, Andriana, Str. Zongarii, Bloc 19C, Apt. 19, Et. 4, Oravita, Jud. Caras-Severin.

Nastasescu, Mihaela, Str. Petru Poni No. 20, Constanta 8700.

Nicolescu, Septima, Str. Vulcan No. 8, Cluj, cousin Ioan Teodosiu, Str. Bucuresti Noi No. 93–97, Bloc 3B, Sc. B, Apt. 67, Et. 5, Bucharest.

Olariu, Mihai V., Sos. Mihai Bravu No. 284A, Bucharest.

Paulescu, Alexandru, Str. Stupinei No. 27, Sector 3, Bucharest.

Pit, Dumitru, 37 Aluminei, Oradea.

Popescu-Basarab, Ana Maria, daughter Marina Stoenescu, Str. Nicopole No. 21, S.5, Bucharest.

Prislopeanu, Ioan, Bucharest.

Raiciof, Rodica Eugenia, Str. Gh. Misail No. 36, Bucharest.

Toderici, Georgeta, Str. Bozieni, Bloc 830 bis, Sc. 2, Et. 3, Apt. 57, Sector 7, Bucharest, Drumul Taberei.

Niculescu, Radu, son Radu and son Dan, Comuna Voineasa, Judetul Valcea.

Miss Suzana Mezincescu, Str. Stefan Mihaileanu 2B, R 73101, Sect. 3, Bucharest.

EMIGRATION

Babus, Mihai and Irina, Irina's mother Henriette Anghelovici, 23 Bul. Ion Sulea, Sc. 3, Nr. 104, Bucharest.

FAMILY VISITS

Chesches, Istina, Str. Stirbey Voda No. 182, Sector 7, Bucharest.

Diplan, Diana, Parents Zucretia and Constontia Diplan, Str. Dr. Nicioae Tomescu No. 4, Sector 6, Bucharest Of. Postal 35.

Martin Doru, Str. 23 August N3, Cluj-Napoca 400.

Muntean, Doina, Str. Dr. Lister No. 5A, Sector 6, Bucharest.

Niculescu, Corina, Aleea Compozitorilor No. 4, Apt. 7, Bloc F17, Drumul Taberei, Bucharest 66.

Parvulescu, Dumitru, Sector 6, Bucharest.

Rauta, Susana, Str. G. Cosbuc No. 19, Alba-Iulia, Jud. Alba.

Russu, Elena, Str. Alexandru Sahia No. 22, Bucharest.

Tutuianu, Ilie, Bul. Ch. Dimitrov No. 121, Bloc 1, G. 5, Sc. 5, Sector 3, Bucharest.

Prisoners of conscience in Romania and their religion

Mircea Dragomir, Str. Rocilor No. 5, Sector 7, Bucuresti—Seventh Day Adventist.

Nicolae Radoi, Str. Partizanilor, nr. 41, Caransbes, Caras Severin—Baptist.

Petre Cocirteu, Caransebes, Str. Tiglariel, Nr. 33B, Caras Severin—

Ionel Prejban, Otelul Rosu, Str. Tineretului, Bloc 5, Apt. 202, Caras Severin—Baptist.

Dimitru Abrudan, Oradea, Str. Iacobinilor, Nr. 33A, Bihor—Baptist.

Loan Samu, Medias, Str. Hula Veche, Nr. 51, Sibiu—Pentecostal.

Viorel Lactus, Commune Dirlos, Str. Lopeti, Nr. 478, Sibiu—Pentecostal.

Francisc Paris, Commune Dirlos, Str. Sasimil, Nr. 108, Sibiu—Pentecostal.

Dumitru Muresan, Commune Arcalia 231, Bistrita Nasaud—Baptist.

Paramon Gagea, Str. Lempes 5, Bistrita Nasaud—Pentecostal.

Simon Holbura, Commune Mijlocenii Birgaului, Nr. 249, Bistrita Nasaud—Pentecostal.

Gheorghe Budusan, Str. Dornel, Nr. 4, Bistrita Nasaud—Orthodox.

Lucian Bistriceanu, Commune perisor, Dolj—Reformed Seventh Day Adventist.

Ioan Samu, Str. Jula Veche, Nr. 51, Sibiu—Pentecostal.

Dumitru Lusca—Pentecostal.
Titi Gheorghe Lacatus—Pentecostal.
Name Unknown—Pentecostal.
Dimitrie Ianculovici—
Fr. Gheorghe Calciu-Dimitreasa—
Mihai Oara—Baptist.
Radu Capusanu and Toderic—Baptist.
Ursan Family (Bucharest)—Baptist.
Filip Dinca—Baptist.
Gheorghe Brasoveanu—
Dr. Ioan Cana—
Gheorghe Fratila—

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from California

Mr. DORNAN. Mr. Chairman, it is a privilege to speak in support of this excellent amendment, and I would like to point out just a few facts from the extension of my remarks that I am submitting.

One of the most significant and fundamental violations that we have seen in Communist Romania in the last year took place on March 10, 1979, when a Romanian Orthodox priest, Father Gheorghg Calciu-Dumitreasa was arrested in Budapest. Now, March 10, of this year, is the date that I mentioned. On that date the distinguished gentleman from Connecticut and I were about to depart from our respective ends of the country for Germany on a human rights mission to ask that the Bundestag extend the statute of limitations—they did better than that; they did away with it—to continue the hunting of Nazi war criminals.

It seems to me that it was just yesterday when we were departing on this mission. That is when this arrest took place. This Romanian Orthodox priest had taken only an independent line in his attitude toward the State involvement in church affairs in Romania. For this specific injustice he is still in jail.

It reminds me of a conversation that I had with one of our distinguished State Department officials in a Mideastern country. He was very high in one of our embassies. I do not want to identify the embassy or his exact position because he may be reassigned behind the Communist Iron Curtain again. He was in the Romanian Embassy for many years. He would be acknowledged to be a general, very liberal State Department employee. He described the situation in Romania for the half a decade he was there as fascist-socialism. He said they rule by the long knife. He said:

> I do not care what Mr. Ceausescu's image is on the international scene, in his home he rules by murder and torture.

It gave me an opportunity, because I had only inquired about this in my one visit to Romania back in 1969 and gotten vague answers, to inquire of this very high American official in our Embassy about the following fact that I first became aware of in a book by Rev. Richard Wurmbrand, who had spent 14 years in the cells as a political prisoner of Romania. I had asked Reverend Wurmbrand, and it was confirmed for me by this high State Department official, if it is true that in the main square of Romania in the center of town that there is an extension of tunnels that comes from the Justice Building down under the street and that they literally keep their political prisoners under the very cobblestones where President Richard Nixon drove by in his limousine when he visited that country. Our State Department official and Reverend Wurmbrand both confirmed to me that this is an absolute known fact in the country. And those cells are still filled with political prisoners at this very moment, and now Father Dumitreasa has joined those political prisoners.

I think that if there is to be any meaning in this current administration's constant reference to human rights—and I think it is their greatest page of glory—if it is to be consistent and to have any meaning, we just simply cannot make a trivial matter out of most-favored-nation status.

So, it is with great pleasure and some sorrow, having visited this country and talked to the people who are suffering there, that I join in this excellent amendment and urge all of my colleagues to please vote for House Resolution 317 tonight.

Mr. Chairman, it is a privilege to speak in support of a House resolution of which I am a primary cosponsor. The privileges of most-favored-nation status ought not to be conferred on a government that violates the basic human rights of its people—inherent human rights agreed upon internationally. The Bucharest government, since 1945, has engaged in numerous acts of terror against its people by denying their legitimate rights. There has been little progress to ameliorate the situation, despite promises to do so from Romanian Communist President Nicolae Ceausescu. Even so, since 1975, the Congress has repeatedly failed to recognize these violations, has continued to grant most-favored-nation status to Romania. It is incumbent upon the United States to reinforce the fight for human rights in Communist Romania and therefore deny most-favored-nation status to Romania until these injustices have been rectified.

The Romanian people who have refused to espouse communism are being systematically victimized. They are denied their freedom to work, to emigrate, to reunite with their families, and to seriously practice religion. Allow me to illustrate by citing some flagrant examples of violations of human rights by the Communist regime, committed since 1945.

First, the regime has established forced labor camps—a form of peonage—whereby politically persecuted individuals are compelled to engage in what is tantamount to slave labor. These institutions, passing under the name of 'voluntary labor" camps, abuse workers who are "recompensed" at a bare subsistence level and nominal pay.

A second flagrant violation of human rights by the Bucharest government is failure to allow progressive repatriation. Instead, it pursues a policy of restricted emigration by keeping separated families apart and preventing ethnics from reoccupying their homeland. This is the fifth year that congressional trade subcommittees have considered the President's recommendation to grant Romania an extension of the waiver of the human rights provision of the 1974 Trade Act, section 402. This section places emphasis on the emigration performance of nonmarket countries, but as a concession, contains a provision allowing for an annual waiver. But Romania continues to get her waiver while no realistic improvements in emigration practices are observable nor appear to be in the future. There is evidence of official obstacles to emigration. As recently as January 4, 1979, Dumitru Muresan was arrested and commited to a psychiatric ward for a month for, "seeking to emigrate to the USA and broadcasting a memorandum of Radio Free Europe in which he requested emigration."

A third and probably the most significant violation of fundamental human rights in Communist Romania is the right to believe in and worship God freely. Religious toleration is given official lip service. But its absence is evidenced by the Bucharest government's attempts to stifle spiritual freedom by repressing religious activities. For instance, on March 10, 1979, Romanian Orthodox priest, Father Gheorghe Calciu-Dumitreasa was arrested in Bucharest. The religious leader was outspoken and took an indepndent line in his attitude toward state involvement in church affairs. This minor, specific injustice is shadowed over by numerous accounts of persecution, torture, and imprisonment of individuals participating in religious activities.

In light of these flagrant violations of human rights, Congress continues to grant most-favored-nation status to Communist Romania. In the past, we have voted for most-favored-nation status with the understanding that progress toward the ideal of human rights should be realized or—at the very least—approximated. We do not have any such assurances in the case of Romania. Indeed, the persecution of ethnic Hungarians has been stepped up in the past 2 years, as Mr. Schulze has carefully documented. It should be the moral responsibility of the United States to assist those who struggle for human rights. The Bucharest government has also signed numerous international agreements advancing the cause of human rights, among them the Final Act of the Helsinki Conference. But, the Romanian Communist Government continues to violate its agreements, partially because the United States and other Western nations do not insist on the reciprocity which is implied in all international treaties and conventions. Rather, acceding as we do by blindly granting most-favored-nation status, the United States actually encourages totalitarian governments such as the Romanian regime. I, therefore, urge the Members of this body to oppose the granting of most-favored-nation status to the Communist Government of Romania. A vote for House Resolution 317 is a vote for human rights. Please remember that.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for yielding and I want to commend the gentleman from Pennsylvania for his pertinent observations.

Today, the House has under consideration House Resolution 317, a resolution of disapproval concerning the President's recommendation to the Congress advocating further extension of most-favored-nation (MFN) status for Romania. This recommendation calls for a waiver of the human rights provision, section 402, of the 1974 Trade Act.

Known as the Jackson-Vanik amendment, this section places particular emphasis on emigration performance of nonmarket countries. For practical political reasons, annual waivers were provided for some categories of countries who, despite imperfect performance, had made progress in previous years and verifiable assurances given for the future.

I have had a longstanding concern about Romania and the efforts of some of her citizens to exercise their human rights as guaranteed by the Romanian Constitution and the Helsinki accords. I recently raised these concerns, together with other Members of the House in a joint letter to our colleague, the distinguished gentleman from Ohio, Mr. VANIK, chairman of the Subcommittee on Trade of the Ways and Means Committee, which has jurisdiction over the MFN question.

In that letter, it was pointed out that during the past 4 years many of us in the House concurred with the President's recommendation advocating further extension of most-favored-nation status in the hope of genuine rather than cosmetic improvements in Romania's performance. To our distress, however, the evidence indicates that serious problems in several areas remain:

First. Ever-increasing complexities of emigration procedures plus harassment;

Second. Major problems of separated families;

Third. Drastic curtailment of Romanian emigration to Israel;

Fourth. Accelerated deculturalization of ethnic minorities;

Fifth. International uncovering of psychiatric detention and forced labor by Amnesty International; and

Sixth. Constant reports of religious harassment for most religious denominations, particularly for groups such as Pentecostals and Witnesses.

I recently met with Romanian Ambassador Nicolae Ionescu to directly express my concerns and dissatisfaction. I made it abundantly clear that any further support for MFN status rests entirely on that nation's assurances that emigration procedures, especially preapplication procedures, will be improved.

Recently, Mr. Jack Spitzer, president of B'nai B'rith International, testified before the Subcommittee on Trade on the record of Romanian emigration. Acting as spokesman for the Conference of Presidents of Major American Jewish Organizations, Mr. Spitzer stated that in the last 4 years, his organization was reluctant to recommend another extension of MFN status. However, recent developments have led them to make a positive recommendation. As stated by Mr. Spitzer—

> We have received concrete assurances from the Romanian government—assurances which have been shared with and endorsed by, the Department of State—that in the spirit of the Jackson-Vanik amendment, will hopefully remove remaining impediments to the freedom of Jews to emigrate.

Mr. Spitzer also stated that—

> Romanian foreign policy, particularly with respect to the Middle East, has been a courageously independent one. Romania alone among the Eastern bloc countries maintains friendly and productive relations with Israel. Indeed, President Ceauceseu was a major catalyst behind the Israeli-Egyptian peace process that culminated in the signing this past March.

Based upon their belief that these assurances were made in good faith and will be honored by the Romanian Government, the conference now endorses the renewal of MFN for Romania. They conclude that the Romanian Government has shown "a spirit of cooperation and flexibility" in helping to resolve their differences that serve as a model for solving other human rights issues.

Based upon the experience of the conference, the recommendations of Congressman VANIK, and assurances from the Romanian Government, I have reluctantly decided not to oppose MFN status at this time. However, I hope that my vote will not be seen as support for or approval of the human rights situation in Romania. Instead, it is my intention to follow more closely than ever and scrutinize in more detail the respect for human rights in that country. Along with the gentleman from Pennsylvania (Mr. SCHULZE), I remain deeply concerned about the apparent setbacks that have taken place and I hope that my colleagues will maintain a vigilant effort to insure that all of Romania's promises are kept.

Mr. Chairman, I want to commend the authors of the resolution before us, House Resolution 317, for their efforts in raising this issue and providing the vehicle for this important debate. At this time, however, I believe that the best interests of our Nation will be served by allowing the Romanians an opportunity to follow their words with deeds.

Mr. SCHULZE. I thank the gentleman for his remarks.

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Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. MOORE), my colleague on the Ways and Means Committee.

Mr. MOORE. Mr. Chairman, I thank my subcommittee chairman for yielding.

Mr. Chairman, I agree fully in the use of all possible political and trade leverage to encourage Romania to reduce emigration barriers and commit itself to human rights. There is a legitimate question raised by the gentleman from Pennsylvania (Mr. SCHULZE) as to whether an extension of most-favored-nation trade status for an additional year would be the best means to implement and apply this leverage. I compliment him for raising this question and he has done this House and Nation great service by addressing our attention to it.

The gentleman from Pennsylvania has been very thorough, diligent, and competent in his handling of this matter. I do not think there is anyone more concerned with the threats of communism, denial of human rights, and barriers to emigration than he. He is quite correct that this extension should not be enacted without discussing these concerns.

Having done so, however, I support the extension for only 1 year and do so in agreement with the reservations expressed by the gentleman from Pennsylvania (Mr. SCHULZE) as to why Romania must be encouraged to reverse its recent reluctance to allow emigration, particularly by its Jewish population. I disagree that cancellation of most-favored-nation status for Romania is the best means to encourage less restrictive emigration practices. I fear this would only force Romania to retreat from its trade and political exchange with the West and return to increased reliance upon the Soviet Union. This certainly would not encourage the relaxation of emigration restrictions or improvement of human rights conditions as the Soviets are among the world's worst offenders in both instances.

I believe extension of most-favored-nation status to Romania will continue to let us chip away at Soviet influence over Romania, chip away at restrictive emigration limitations, and chip away at its human rights violations. I find encouragement in support for the 1-year extension by B'nai B'rith as it closely monitors Jewish emigration on a day-to-day basis and supports only those alternatives it finds to promote freedom of emigration.

Mr. Chairman, I do not support trade, especially under the same conditions granted free nations of the world, with Soviet satellite nations unless we can reasonably expect to guide those nations away from Soviet influence. We have made gains toward this end with Romania and I believe we will continue to make gains by this extension and lose them without it. Those gains are necessary for world peace, human rights, and our economy.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL), my distinguished colleague on the Ways and Means Committee.

Mr. FRENZEL. Mr. Chairman, I too oppose House Resolution 317, a resolution introduced by Mr. SCHULZE, Mr. McDONALD, and Mr. DORNAN to disapprove another year's extension of Presidential authority to waive with respect to Romania the freedom of emigration requirements of section 402 of the Trade Act of 1974. As already discussed, passage of this resolution would have the effect of removing most-favored-nation (MFN) status for Romania as well as eliminating duty-free treatment for specified Romanian products under the generalized system of preferences (GSP) and preventing the extension of credits or investment guarantees to that country.

Passage of House Resolution 317 at this time would be a serious mistake, both with respect to the continued development of U.S. trade with Romania and with respect to the promotion of freedom of emigration that the Jackson-Vanik amendment—section 402 of the Trade Act—has tied to the normalization of trade relations with nonmarket economies.

Trade between the United States and Romania has grown steadily during the 1970's, but has been especially impressive since MFN was extended to Romania late in the summer of 1974. Since that time, total trade between the two countries has more than doubled. In 1979, total trade is expected to reach $800 million—20 percent above 1978 levels. Currently, the United States is the second largest Western supplier of goods to Romania, and Romania is the fourth largest supplier of imports to the United States among nonmarket economies—just ahead of the Soviet Union.

Furthermore, the United States consistently has had a trade surplus with Romania ranging from $25 to $60 million during the period 1972–77. Only in 1978, did this country experience a trade deficit with Romania. This deficit amounted to $29.2 million and occurred as a result of increased exports to the United States of petroleum products and synthetic rubber coupled with an unusually good crop year in Romania that curtailed their need for imports of agricultural products from the United States. However, we have returned to a surplus situation during the first 5 months of this year and the trend is expected to continue for the foreseeable future.

The healthy positive trade situation between the United States and Romania that these statistics reveal is not important merely because of the economic benefits which both countries derive from such an arrangement. The granting of MFN to Romania and the continued encouragement of free trade between the two countries is not a gratuitous act on our part. Clearly, the United States benefits economically. Indeed, in a period when this country's trade deficit is so grave, surplus trade situations should be nourished as a valued asset to our economy.

But equally important is the influence the United States can have on Romania as a Western free market country trading with a Communist nonmarket economy and as partners in the world trading community. American firms have designed and built plants in Romania under contract and have trained employees in technical and managerial skills. Joint ventures have been initiated in Romania, where the United States is a part owner in exemplary firms that serve as a showcase for American business expertise. Romania is a party to the General Agreement of Tariffs and Trade (GATT), has participated in the multilateral trade negotiations as a developing country, and has given every indication that it will adhere, to the best of its ability, to the new trading rules and codes of conduct recently finalized in Geneva. Thus, MFN status for Romania has resulted in the development of many avenues for influence and direction with respect to Western business enterprise, Western culture, and Western ideology.

In granting MFN status, whereby mutual benefits are realized, the United States has reserved for itself, in statute, a specific avenue for influence with respect to emigration. The Jackson-Vanik amendment provides that a Communist country, in order to gain MFN status, must permit free emigration or, in cases where the President waives the requirement, the country must make a concerted and measurable effort to improve its emigration situation. The waiver is granted as a result of a determination by the President that such a waiver will promote the objectives of free emigration with respect to the country in question.

I believe the objectives of the Jackson-Vanik amendment are being achieved with respect to Romania and that MFN status is one of the most important mechanisms by which free emigration can continue to be promoted in that country. Since MFN with extended in 1974, overall emigration from Romania to the United States has increased from 312 in fiscal year 1975 to 1,196 in fiscal year 1978. As of the end of May of this year, emigration levels are more than 50 percent higher than a comparable period last year. Overall emigration from Romania to West Germany is almost 10 times as high as to the United States. The figures are discouraging with respect to emigration from Romania to Israel. Emigration to Israel, thus far this year, is 30 percent below a comparable period of time last year.

The committee is very concerned about the figures on Romanian emigration to Israel and has reviewed very carefully the possible causes for this downturn. At this time, we think it is possible that the reduction in emigration to Israel is not the result of any discriminatory practice or procedure on the part of the Romanian Government, but rather is the result of the reduced Jewish population, estimated at 40,000, which accounts for the lion's share of Romanians desiring emigration to Israel. As well, the Jewish community in Romania is largely composed of elderly people not wishing to leave their homes at this point in their lives. Furthermore, persons of Jewish background may emigrate from Romania without going to Israel, and therefore would not be reflected, separately, in the statistics. Nevertheless, the Jewish community in the United States sought and received assurances from the Romanian Government that, hopefully, will remove whatever impediments to Jewish emigration that may remain. As a consequence of these assurances, B'nai B'rith, the organization that took the lead in the negotiations, has endorsed a continuation of the waiver and of MFN status.

Another matter of great concern to the committee is the allegation that preapplication procedures in various localities in Romania are used in a discriminatory way, that such procedures are unstructured and therefore are unpredictable, and that they may be used to disguise emigration statistics in order to give an unrealistic picture of an improved emigration situation. We strongly protest any such use of preapplication procedures and will monitor very closely over the next year the performance of the Romanian Government in seeing that such procedures are not used to reduce the number of applications for emigration or to otherwise thwart the Jackson-Vanik amendment.

In spite of the problems that admittedly exist, Romania's performance with respect to emigration has improved markedly since MFN was extended 5 years ago. MFN status for Romania, along with the Jackson-Vanik requirements has given the United States considerable leverage and influence over Romania's emigration policies. The policies of the Romanian Government are by no means perfect. Romania is a Communist country with a society much different than our own and a government much more repressive than we would like to see. But we must not lose sight of the fact that the extent to which we can force our values on any Communist country is very limited.

However, a normalized trade situation that is tied to the requirement that continued improvement in emigration also be shown represents a degree of leverage and influence that we do not want to lose. Without MFN, such leverage and influence would not exist. Nor could it easily be replaced should it be taken away. There is a great risk that Romania would return to even more repressive policies, placing untold hardships on prospective emigrants, should we prevent the extension of the waiver authority today.

I urge my colleagues to vote for continued MFN status, and for the continued involvement of the United States on behalf of those who wish to emigrate from Romania, by voting for the Vanik motion to table the resolution of disapproval.

I thank the chairman for yielding.

Mr. SCHULZE. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman has 21 minutes left.

Mr. VANIK. Mr. Chairman, let me suggest to the gentleman from Pennsylvania that it was assured that the House would be out by 9 o'clock tonight.

Mr. SCHULZE. Mr. Chairman, how much time does the other side have?

The CHAIRMAN. The gentleman from Ohio has 23 minutes left.

Mr. VANIK. Mr. Chairman, I will yield all but a minute and a half to close. I will give that time to my distinguished colleague from Illinois (Mr. DERWINSKI).

Mr. SCHULZE. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Chairman, I rise in support of the gentleman from Pennsylvania and House Resolution 317. I have listened to and read all the sophisticated arguments by the proponents of continuing MFN and find them wanting. It all reminds me of the arguments that have been used by the Department of State on Yugoslavia for years and years. However, Yugoslavia is still a Communist nation and civil liberties are far and few between. Nothing has changed.

If we are considering emigration, the figures do not look encouraging, except for the usual spurt of permissions to leave that we see each time Romania's MFN status comes up for renewal.

Romania is still one of the most oppressive regimes in the Communist world, a dubious distinction at best. As with any Communist nation, she claims to be a champion of the workers. Why then did the Romanian Government react with savage repression and a wave of arrests when a "free trade union of Romanian workers" was formed? Such are the methods used in handling the grievances of the workers in a "socialist paradise."

Worse than this is the continued repression of organized religion in Romania. Practicing religion in Romania can get you a substantial fine in spite of what Romania's constitution says. You can also lose your job for believing in God or at the least get demoted to a lower job if your belief is discovered.

Romania also continues to suppress its national minorities, in particular its Hungarian minority, by attempting to submerge the Hungarian culture.

Now we are told by the proponents of MFN that by continuing this privilege, we are more likely to influence the Romanian Communist Government for the better. However, on the other hand we are told by some of these same people that we should continue to isolate Rhodesia and that is the way to influence that situation. Now where is the logic of the continued sanctions against a friendly Rhodesia while maintaining contacts with the repressive government of Romania? Where are the major improvements in Romanian behavior since we first granted MFN status? I know of none.

Many may say that trade improves understanding and eases tensions between nations. History supports this concept only when neither nation is part of an expansionist movement. Carthage was an active trader and was anxious to extend their trade with Rome until Carthage was destroyed by Rome. Constantinople was the richest nation on earth at the time of its prime and that wealth was based on pace and trade. In 1453 Constantinople was destroyed and the Eastern Roman empire terminated by the growing Ottoman empire.

Prior to World War II, we were an active trading partner with Japan. Germany was an active trader with France and England but that did not hold back the conflict of the Second World War.

If we are sincere on this point, why the hypocrasy on trade with Rhodesia. I urge the adoption of House Resolution 317.

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Mr. SCHULZE. I yield 1 minute to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, it will be a great surprise I am sure to the House that I rise in favor of this resolution.

Mr. Chairman, I rise in support of House Resolution 317 which would disapprove the Presidents' recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania.

Mr. Chairman, it is fitting that in our observance of Captive Nations Week we are asked to once again consider Romania's role in our Nation's trade and foreign policy. It is at this point, Mr. Chairman, that I propose to Members of Congress that we can no longer overlook the Romanian Government's performance in lieu of its assurances.

In 1975 the Socialist Republic of Romania became the first Communist nation to be granted most-favored-nation status under the Jackson-Vanik amendment to the Trade Act of 1974. In return for that privilege, Romania pledged to comply with the terms of that amendment in promoting free emigration and human rights. Unfortunately, that country has failed. As a result, for the fourth time in as many years we are being asked to waive section 402 of the Trade Act in hopes that doing so will encourage free emigration in Romania.

On this issue, Mr. Chairman, we should be resolute. We should refuse to compromise on the ideal of individual freedom and basic human rights in order that the present conditions in Romania might justify granting that country MFN status. And those conditions which have characterized Romania during the past few years have, indeed, been grave.

> Ion Dobre, an employee of the Romanian National Theatre in Bucharest, twice attempted to cross the Romanian frontier without official permission before his arrest in the fall of 1974. He apparently decided to leave the country after repeated applications to the central passport office in Bucharest had been turned down because of his "unsuitable" political beliefs.
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> The arrest of Ion Dobre took place at the Yugoslav/Romanian border. He was subsequently confined to the Dr. Petru Groza Psychiatric Hospital. From 1975 to 1977 he was treated with Plegomazin in quantities of up to 800 mlg. daily over long periods of time. He has been told he suffers from "paranoiac schizophrenia." He suffers from anemia, but has not been treated for it.

This case, appealed to Amnesty International, and others like it represent repeated violations of the terms of the Jackson-Vanik amendment to which the Romanian government agreed.

In another case, Cornel Iliescu, a young worker from Bucharest, joined a group of Romanian citizens who publicly protested against the decision of the Romanian authorities to refuse to allow them to leave the country. This group consisted of 18 predominantly young people, many of whom had been subjected to persecution for their social and political activities in the past. On April 18 of last year the group staged a demonstration, carrying slogans such as "Let us exercise our international rights to freedom of movement." They were arrested within minutes.

Most of them were subjected to interrogations lasting over a week, which were accompanied by severe beatings. The beatings were administered by state security police at the Calea Rahovei and Beldima Street Securitate stations with truncheons and rubber hoses.

And the list goes on.

Since the granting of MFN status in 1975, the network of obstacles which one wishing to leave Romania must overcome has become still more discouraging. Obtaining the basic application to leave consists of first filling out a preliminary application form which is obtained only after moving up a waiting list for the preliminary form itself. Furthermore, the Romanian Government has recently added yet another step to its network by requiring a 6-month delay before an individual may appeal after having either his preliminary or final application rejected. Citizens who have tried to leave after being refused permission, have been imprisoned and, in some cases, confined in psychiatric clinics, according to some reports. Clearly, this whole process is designed to discourage any expression of a desire to leave.

Throughout the lengthy process, prospective emigrants are generally subjected to personal threats, possible loss of job and family, and numerous methods of harassment.

Today, Romania's twisted emigration policy continues to violate not only the terms under which Romania was first granted MFN status, but agreements reached at Helsinki as well. While Romanian emigration to the United States has risen since MFN status was granted, emigration to Israel has plummeted. During the first 10 months of fiscal year 1979, arrivals in Israel dropped 30 percent from 1978 figures. Similarly, the 1978 and 1977 fiscal years were also characterized by such a decline. Prior to the granting of MFN status in 1975, more than 4,000 Romanian Jews were permitted to emigrate. Thus far this year, only 251 Romanian Jews have been allowed to leave. Thus, the number of Romanians actually arriving in Israel since 1974 has, in fact, declined since MFN treatment toward Romania was initiated. Contrary to explanations issued by the Romanian Government, reports indicate this sudden drop does not represent a change in attitude among Romanian Jews. Clearly, this trend directly contradicts Romania's pledge to implement a policy of free emigration as outlined in the Jackson-Vanik amendment. Furthermore, this trend suggests that waiving the Jackson-Vanik amendment has, in this case, done little to encourage free emigration.

Another issue I find to be inconsistent with the intent of the Jackson-Vanik amendment involves national minorities in Romania.

Reports indicate the ruling regime is attempting to systematically eliminate all facets of Romania's Hungarian culture.

By prohibiting the usage of the Hungarian language in public institutions and elsewhere, an effort is being made to virtually deprive the Hungarians of their language and thus, their cultural identity. Other steps being taken toward denationalizing Romania's minorities include discrimination against minorities in employment and the absence of their representation in government. And of course, we are all familiar with those conditions described by dissident Karoly Kiraly.

Mr. Chairman, as the first Communist nation to be granted MFN status under the Jackson-Vanik amendment, in 1975 Romania became a precedent in American trade and foreign policy in hopes that it would serve as an example to other nations. Today, after 4 years of empty assurances to end restrictive emigration policies, Romania's status as a most-favored-nation occupies an embarrassingly ugly space in American trade and foreign policy.

Most Favored Nation status is a privilege to be earned—not a given right. The government of Romania has, in my opinion, failed to earn that privilege. Given those circumstances, Mr. Chairman, I urge my colleagues to vote "yes" on House Resolution 317 to dissapprove the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania.

Mr. VANIK. Mr. Chairman, I yield 1 minute to close the debate to the distinguished gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I welcome the opportunity to speak on the most-favored-nation treatment for Romania.

Our trade with Romania, which has been stimulated by the granting of most-favored-nation status 4 years ago, has resulted in U.S. trade surpluses with Romania of $56 million in 1975; $50 million in 1976; $26 million in 1977; and although we had a trade deficit in 1978 of $27 million, first quarter figures for 1979 show a U.S. trade surplus of $36 million.

There has been an impressive volume of trade between our two countries, which has been of benefit to both. In 1974, U.S. imports from Romania were $130 million. This year they are expected to reach $350 million, and U.S. exports to Romania will probably approach $400 million.

However, I also believe it is important to take into account foreign policy, as well as trade, considerations in judging the value of continued MFN status for Romania.

Romania has conducted its foreign relations in a manner which indicates independence not shown by other members of the Warsaw Pact. Romania has not joined in military maneuvers conducted by Warsaw Pact nations nor permitted them to take place in Romania. In addition, Soviet troops are not stationed within their borders.

Romania has established broad economic connections with the West and is the only Warsaw Pact member to have joined the World Bank and the International Monetary Fund.

May I also call to the attention of the subcommittee the independence Romania has evidenced in international conferences reflecting a philosophy of each Communist country having the right to pursue its own policy.

Other foreign policy positions which Romania has taken which should be kept in mind include her favorable relations with Israel; her nonparticipation in the OPEC oil embargo; and the usefulness to the United States of Romania's relations with such countries as Albania and the Democratic People's Republic of Korea.

Of course, Romania was the only country which signed a trade agreement with the United States under terms of the Jackson-Vanik amendment.

For all the above reasons, I am convinced that we should extend most-favored-nation status to Romania. It is in our national interest to do so for both economic and political reasons.

Mr. Chairman, let me just sum this up. Last week we had Captive Nations Week. I led the commemoration in the House of Captive Nations Week.

I do not think for a moment that I would be supporting Mr. VANIK if I thought he was helping communism. Let me just point out two issues.

First, this discussion of the Hungarian minority rights is totally irrelevant because there is only one thing we can do with the Hungarian minority. If they are a minority in Romania, we could give the area back to Hungary. That is a Communist country too, so what have we achieved? Nothing. It is all words.

Second, the Government of Romania has an independent foreign policy. I see a few of my colleagues, like the Speaker who are old enough to remember Yalta. That was when the mistake was made, that is when these countries were consigned to communism.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. VANIK. Mr. Chairman, I yield 30 seconds to the gentleman.

Mr. DERWINSKI. In 1956 we had the Hungarian revolution. The West did not go in. In 1968 we had the invasion of Czechoslovakia, and the West did nothing. Nobody is preaching liberation. The only way one can wean these people away from the Soviet Union is through trade, through supporting the Vanik position. I urge my colleagues' rejection of the resolution of disapproval.

Mr. SCHULZE. Mr. Chairman, I yield myself one and one-half minutes.

Mr. Chairman, as we come to a vote on this important issue, I ask each of my colleagues to consider the ramifications of extending most-favored-nation status to Romania for another year.

If recent history is any indication, what we can expect is:

First, the continued forced assimilation of the 2½ million Hungarians residing in Romania and a further elimination of their cultural institutions.

Second, a further decline in emigration to Israel with the projected figure for this year falling to an all time low since the granting of MFN.

And finally, the creation of additional barriers designed to prevent emigration of Romanian citizens regardless of their religious affiliation.

A few short weeks ago this house recessed to commemorate the Fourth of July—and Members of this body spread across this Nation to participate in ceremonies in their home districts.

We rode in parades, listened to the stirring music of marching bands, watched the flag of our country waving in the breeze and took the platform to speak.

And we spoke of our love of country, our history, our sacrifice, and used the words "liberty" and "freedom." Today we have the opportunity to give deeper meaning to those words. We have an opportunity to stand up and be counted in favor of freedom, liberty and human rights.

I urge you to vote "yes" on this resolution.

● Mr. HAMILTON. Mr. Chairman, I speak today in support of the extension of the waiver authority to Romania under section 402 of the Trade Act. I hope that my colleagues in the House will give these matters careful consideration and then take positive action in order to continue the progress we have already achieved in our relations with Romania and in our relations throughout Eastern Europe.

Mr. Chairman, in my work on the Committee on Foreign Affairs and as chairman of the Subcommittee on Europe and the Middle East, I have come to several conclusions about Eastern Europe in general and our ties with Romania in particular which I would like to reiterate today:

First, policies toward the countries of Eastern Europe which stress the positive and which treat each nation as important in its own right do make progress and do serve our national interests in the region.

Second, careful, measured steps toward full normalization of relations allow time for the countries of Eastern Europe to rebalance themselves between East and West. Such steps also allow time for the resolution of all outstanding issues and for exploration of all areas of potential mutual benefit.

Third, the peoples of Eastern Europe and the people of the United States share a very positive disposition toward one another, thereby creating a solid basis for friendly relations.

Fourth, mutually beneficial, expanded trade is possible between the United States and the countries of Eastern Europe. Trade can also be a driving force in improving overall relations.

The extension of most-favored-nation status to Romania should be viewed as an important way of keeping our relations with that country moving in positive directions. It seems to me essential that we pursue a positive course if we are ever to replace the military standoff in central Europe with greater trade, communication, contact, and cooperation between East and West.

OUR RELATIONS WITH EASTERN EUROPE

The attraction and influence of the West is strong and increasing in the countries of Eastern Europe. The impact of Western ideas and ways of doing things extends into politics and economics as well as into the cultural and religious aspects of life in Eastern Europe. Eastern Europe has strong historical traditions linked to the West which lubricate this flow of information and influence. The tremendous welcome to Pope John Paul II in Poland, the outpouring of human interest and religious devotion, certainly provide us with a measure of this heightened Westward orientation of many peoples in Eastern Europe.

Recent journalistic reports from Eastern Europe comparing conditions there to conditions in the Soviet Union indicate an exciting level of cultural activity, much of it inspired by Western Europe and the United States. Political satire in cabarets and theaters, an abundance of Western books, films, newspapers and magazines, freewheeling discussions of world events in schools and on the street, greater travel to the West, increased church activities, and local news media less dependent on Moscow sources and more interested in diversifying their news coverage with Western sources.

What the Soviets have offered East Europeans, especially in culture and education, in the last 34 years has soured. Most East Europeans look to the West and not to the East to satisfy their intellectual curiosities, creativities, and interests. Many East Europeans have had a chance to witness Soviet shortcomings first hand, such as the lack of consumer goods in the Soviet Union, and they do not want their own countries to mirror the Soviet image.

Even though the landscape of détente appears to us to be fraught with dangerous hills and hairpin turns, to East Europeans détente has signaled a period of relative calm which has allowed them time and space to explore and develop greater contacts with the West. It seems that East Europeans see continued détente as the best means for them of easing away from the military, political, and economic imperatives of their relationship with the Soviet Union nad moving toward more diverse relations with the West.

The golden rule until recently has been that, as long as the Warsaw Pact allies maintain their military commitment to the pact and as long as the Communist Party remains constantly alined with Moscow, expressions of independence and openness to the West will be tolerated.

Taking the example of Romania we see important developments:

We can see that Romania has pursued independent foreign policies such as maintaining relations with China and Israel and playing a positive role in recent Middle East peace efforts which have included the Soviet Union;

We have even seen reports that Romania has dared to present a challenge to the Soviet Union by protesting increased Warsaw Pact spending and portraying its Communist Party as more purely nationalist; and

Apparently, Romania is also the first and only Warsaw Pact country to stop sending students to Moscow's Higher Komsomol School which is a training center for young Communist League leaders.

While there certainly seems to be increased trade potential for our country with the countries of Eastern Europe we must be careful not to raise false expectations nor to exaggerate the political and economic impact of more trade. In many ways the Soviet Union and the countries of Eastern Europe are natural trading partners. So, even though many analysts predict a certain leveling off and weakening of the economic ties, particularly in energy—gas, oil, and electricity—between the Soviet Union and Eastern Europe, those predictions need to be judged in a relative sense because the West cannot substitute itself in those energy-supplying relationships and the link to the Soviet Union will still be strong in most cases. So, in political terms, the Soviet Union will maintain strong economic leverage with the countries of Eastern Europe for some time.

That being said we can also state that Romania does more business with the West than with the Soviet Union. This economic reality must influence and explain Romania's more independent domestic and foreign policy posture. Romania does about 33 percent of its trade with the West and only 18 percent with the Soviet Union.

OUR RELATIONS WITH ROMANIA

Ever since 1964 Romania has pursued many policies which diverge significantly from Soviet policies. The differences in policy have been important ones such as maintaining diplomatic relations with Israel during the 1967 war and a denunciation in 1968 of the Warsaw Pact invasion of Czechoslovakia. Romania has not participated in Warsaw Pact troop maneuvers nor permitted them on its soil. So, it comes as less of a surprise that this year Romania refused to increase its Warsaw Pact spending.

Sometimes Romania's foreign policy positions have coincided with U.S. policies and we have tried to be responsive and supportive at these times in order to encourage Romanian independence from Soviet policies while also hoping that the Romanian example will embolden other East European states to become more pluralistic in their foreign policies and world outlook.

For example, President Ceausescu has shown sincere diplomatic interest and has taken repeated initiatives to try to play a helpful role in facilitating the peace process in the Middle East. He played a crucial role in President Sadat's peace initiative and 1977 trip to Jerusalem. The most recent expression of this constructive Middle East role is President Ceausescu's recent tour of a number of African states where he is reported to have attempted to widen diplomatic support for President Sadat and the peace process and to mediate some of the glaring disputes between Egypt and the other Arab states.

There are additional positive features to our relations with Romania:

Our contacts have been at several levels of government and those contacts have been frequent and cordial;

Bilateral trade has expanded to over $650 million and both countries have talked about a goal of $1 billion in bilateral trade by 1980. MFN status for Romania has had a very positive effect on both Romanian exports to the United States and on bilateral trade in general. Romania wants to increase trade with the United States for economic and political reasons; and

The United States and Romania now have a consular convention, scientific and cultural agreements, and military exchange visits.

It seems clear that if Romania's attempts to minimize its economic and political links to the Soviet Union are to succeed it will need very positive incentives and support from the United States, Western Europe, and China.

It is my opinion that the more we press onward with these positive aspects to our relations and constantly seek to find better ways to make relations improve in mutually beneficial directions the less we will have to pressure on those aspects of our relations which cause strain and tension, including human rights considerations and emigration problems.

It is, Mr. Chairman, in this area of human rights and emigration policies that some concerns have been expressed in the United States. Some Americans remain troubled by the treatment of Hungarian groups in Romania's Transylvania region. Other Americans are concerned about recent and substantial decreases in emigration to Israel of Romanian Jews. It is clear that we need to continue to work with Romania to reduce strains in our relations resulting from problems that can arise on these issues.

Two questions which should be raised during this year's review process regarding Romanian emigration are:

First. Why have the numbers of Jewish emigrees to Israel continue to decline? and

Second. Why do we continue to hear complaints about harassment and tedious emigration procedures for Romanians wishing to emigrate to Israel?

I do not have answers to these questions nor do I wish to attribute any responsibility for problems which may exist. This review by Congress allows us an opportunity to raise such concerns with the Romanian authorities drawing their attention to problems which may be easily corrected or, in fact, may be beyond their control. Despite these present problems, the overall emigration picture seems still to be positive:

Over 300,000 Romanian Jews have been permitted to emigrate to Israel since the end of World War II. This figure is large compared to the remaining Jewish community in Romania estimated at between 20,000 and 100,000;

Romanian emigration to the United States and West Germany has increased steadily since MFN was granted in 1975;

President Ceausescu's joint statement with President Carter referred to progress in the humanitarian field; and

Individual cases which have been presented to the Romanian authorities by either executive, congressional, or private sources have, by and large, received favorable responses.

Our relations with Romania on these issues of emigration show progress but some problems remain and need adequate explanations. I think it is correct for the President to issue the waiver in order to continue our relation with Romania on a positive note hoping that that in itself will help stimulate momentum for further progress on these emigration problems.

Mr. Chairman, it certainly seems to be in our national interest to encourage the type of progress we have been in Romania in the rest of Eastern Europe by improving and broadening our relations with specific countries when and where we feel it is appropriate to do so.

Therefore, I do urge my colleagues in the House to act favorably on the President's recommendation to extend the waiver provisions of section 402 of the Trade Act for Romania. Approval of the President's decision will advance our relations with Romania while also having a positive impact on our relations with the other countries of Eastern Europe.●

● Ms. OAKAR. Mr. Chairman, while I wish to publicly thank Chairman Vanik for his assistance in immigration problems, the truth is we have not been totally successful. Mr. Speaker, I rise in support of House Resolution 317 disapproving the President's recommendation to extend waiver authority under the Trade Act of 1974 with respect to Romania. We would betray the letter and the spirit of section 402 of the Trade Act—the Jackson-Vanik amendment—were we to acquiesce in the President's recommendation to continue most-favored-nation treatment for Romania without taking a critical look at Romania's efforts to allow freer emigration. Congress has the right—as well as the responsibility—to know what the facts really are regarding the number of Romanians permitted to emigrate to the United States and other countries before we agree to continued MFN for Romania. Speaking for myself, I am not convinced that the Romanian Government has acted in such a way on the emigration questions as to deserve continued MFN treatment.

I do not support extension of MFN to Romania for the simple reason that my office in the past 2 years has handled constituent cases involving emigration of Romanian citizens without any success in obtaining specific assurance that these people would be given exit visas to come to the United States to be reunited with their families. As of this date, these constituents—who are political refugees—are still waiting for members of their families to be given exit visas, even though the Romanian Government promised more than a year ago to provide the necessary passport papers as soon as possible. The assurance of freer emigration loses much of its meaning and credibility when a government deliberately erects roadblocks in the form of waiting lists, preapplication procedures, and prolonged interrogation, not to mention the opening of private mail, disconnecting of transatlantic phone calls, and subjecting would-be emigrants to veiled threats, verbal abuse, and other forms of personal harassment.

The Romanian Government is guilty of these actions, yet we are told that renewing most-favored-nation status for Romania is in the best political and economic interests of the United States and Romania. Who is fooling whom? I would like to see trade relations between us and Romania result in mutual benefit, but not if it means that people, deprived of basic human rights, must out of sheer desperation risk their lives by sneaking across a heavily guarded and barbed-wire border because their own country denies them the freedom to emigrate.

Before we are sold the seductive argument that trade relations should not be held hostage to human rights rhetoric, let us, in good conscience, as whether we are more interested in a favorable balance-of-trade than we are in protecting the inalienable right of people to emigrate for the purpose of being with their families.

I urge this House, steeped in a proud tradition of liberty and justice, to send a clear message of condemnation of Romanian denial of free emigration by voting for the disapproval resolution.●

● Mr. WEISS. Mr. Chairman, I rise to speak in opposition to House Resolution 317 which would disapprove most-favored-nation status for Romania. My support of the extension of MFN status while unenthusiastic is nonetheless firm.

When MFN for Romania was first being considered by the Congress in 1975, the relevant House and Senate committees agreed to the extension with the understanding that the emigration performance would continue to rise in proportion to the number of individuals indicating a desire to leave. In taking favorable action on MFN, the Congress accepted the State Department's urging that actual future Romanian performance be used as the measure by which to judge that country's compliance with section 402(c) of the Trade Act of 1974.

Clearly, Romania's performance in the area of emigration has been less than satisfactory. Since 1974, Romanian emigration to Israel has fallen from more than 3,700 to a projected 1979 level of less than 700. Combined emigration to the United States and Israel has fallen over 30 percent since 1974.

However, just recently, the Conference of Presidents of Major American Jewish Organizations and the Romanian Government completed a series of discussions during which the Romanian Government gave several important assurances concerning emigration. These assurances included the following:

First. The Romanian Government will furnish to representatives of the Presidents Conference as soon as practicable, but no later than the end of August, an accounting of the number of pending applications by Romanian Jews seeking to emigrate. The accounting will include the date each application was filed. This accounting will be furnished thereafter on a regular periodic basis.

Second. The Romanian Government will invite Rabbi Rosen, the chief Rabbi of Romania, to make it known to the Romanian Jewish community that persons wishing to emigrate are free to do so, meaning that applications will be readily available and will be processed expeditiously. Should misunderstandings arise in the future, the Romanian Government has indicated its willingness to have Rabbi Rosen repeat these assurances.

Third. The Jewish community of Romania will be informed through appropriate and effective channels that persons seeking to emigrate to Israel may, but shall not be required to, obtain letters of invitation from relatives in Israel.

However, persons seeking to emigrate to Israel shall receive the same treatment from the Romanian Government in passing upon their applications whether or not such letters of invitation have been obtained. It is understood by the Romanian Government that the conference may, as a result of such letters of invitation, assemble a list of persons seeking to apply for permission to emigrate from Romania and that this list will be used by it in future consultations with the Romanian Government. Further, the Romanian Government has assured the representatives of the conference that it will seek to resolve favorably cases which derive from such a list.

My support of an extension of MFN status for Romania is based on a belief that these assurances will lead to a free flow of emigrants from Romania. There are, however, several serious reasons for caution. The agreement was arrived at between the Romanian Government and a private organization. Both parties to the agreement have stated that the agreement is not legally binding. Several times in the past, the Romanian Government has given assurances concerning emigration and human rights to various groups and individuals. I am sure that many of my colleagues have received such assurances, which, for whatever reasons, have never become actualities.

We must therefore do our best to insure that the Romanian Government is held accountable for the assurance it has given this year. During the next 12 months we must keep a careful watch on the levels of emigration to both the

United States and Israel. Should the Romanians fail to fulfill their commitment to a free flow of emigration—as outlined in the agreement between the Romanian Government and the Conference of Presidents—we will have no choice but to withhold MFN status next summer.●

● Mr. MARKS. Mr. Chairman, I rise in opposition to House Resolution 317, a bill which would deny extension of most-favored-nation trading status to Romania.

Mr. Chairman, I believe it is in the best interest of this Nation, and in the best interest of our friends in Romania, to extend most-favored-nation status to that country for another year. To be sure, it is important for trade purposes—we have generally run a balance-of-trade surplus with Romania since they received MFN in 1975, and our trade surplus is expected to be around $50 million, out of $750 million traded between us, in 1979.

Nonetheless, I believe there is another critical reason why extension of MFN to Romania should not be denied—and this reason is perhaps even more compelling than the admittedly attractive concept of a trade surplus. And that, Mr. Chairman, is the importance of MFN as a tool to increase our leverage with the Romania Government and to encourage increased emigration. We must do whatever we can to influence their government to moderate their human rights and emigration policies.

Mr. Chairman, I believe that if we revoke Romania's MFN status, we concomitantly will relinquish whatever influence we have to affect positively our economic and political relationship with Romania—as well as relinquishing any chance to induce Romania to allow increased emigration for those who want to leave, without fear of harassment.

It is my understanding that the Romanian Government recently indicated to B'nai B'rith that they would allow increased emigration to Israel, and that as a result of that B'nai B'brith supports extension of MFN, hence opposing the resolution. The Ways and Means Committee opposes the resolution. The administration opposes the resolution. The Commission on Security and Cooperation in Europe, charged with monitoring compliance with the provisions of the Helsinki Act, opposes the resolution. And finally, Mr. Chairman, I oppose the resolution. I urge all of my colleagues to do the same.●

● Mr. SYMMS. Mr. Chairman, I wish to thank my colleague DICK SCHULZE for introducing House Resolution 317, a resolution disapproving the continuation of "Most Favored Nation" status benefits for Romania. It is important for the United States to be more discerning about granting countries special trade privileges, especially countries that have restrictive emigration policies. The present administration has recommended extending the waiver authority under the Trade Act of 1974, with respect to Romania, a country which has extremely restrictive emigration policies and a very poor record of human rights. For that reason, I think the Members should support Congressman SCHULZE's resolution to disapprove extending the waiver authority to Romania.

George Meany, president of the AFL–CIO, has contacted the Secretary of State regarding considerable human rights violations in Romania; namely the harassment and persecution of workers attempting to establish trade unions and individuals trying to set up a human rights monitoring group. In a letter to Cyrus Vance on May 8, 1979, Meany stated the following:

> It has come to my attention that SLOMR [Free Trade Union of Romanian Workers], along with another Romanian human rights group, the "Christian Committee for the Defense of Religious Liberty and Freedom of Conscience," (A.L.C.R.) has suffered intense persecution at the hands of the Rumanian authorities. Specifically, members of both groups have reportedly suffered beatings, threats of internment in mental hospitals, loss of employment, arrest and imprisonment on charges fabricated by the police to discredit the character of the individual or the group.

At the conclusion of that letter Meany says:

> I would hope that the U.S. government would request information about the conditions described in this letter and make known to the Romanian authorities our intention to take these conditions into account in assessing whether Romania is entitled to most-favored-nation status.

If the United States grants the waiver authority without considering some of these violent acts by the Romanian Government against their own people, then I seriously question this administration's pledge to improve human rights around the world.

In testimony before the Ways and Means Subcommittee on Trade, Congressman SCHULZE brought out all of the obstacles placed in the way of persons wishing to emigrate; and the fact that since MFN status has been granted to Romania, the number of people being allowed to emigrate has actually declined. This administration and the State Department have always claimed that if the United States grants MFN status to Romania, or any Communist country, we will have greater leverage on their emigration policies. However, Romania has shown no sign of improving their policies, and the administration continues to extend MFN status rather than pressing the Romanian authorities to provide a freer emigration system.

There is one particular case that I know many distinguished members of the Trade Subcommittee and many Senators interested in human rights have worked on since 1973. I refer to Mr. Constantin Rauta, an electrical engineer who came to the United States in 1973 as part of an official party to prepare for President Ceausescu's visit to this country. As soon as Mr. Rauta arrived in this country, he requested asylum and immediately applied for passports and exit visas for his wife Ecaterina and son Mihai. As could be expected, the Romanian Government was extremely upset with Mr. Rauta's actions, but they have been punishing his wife and child ever since for Mr. Rauta's desire to live in a free country.

As I mentioned above, many Congressmen and Senators, especially Chairman VANIK, have tried to assist Constantin Rauta in obtaining exit visas for his wife and child from the Romanian Government. The State Department is well acquainted with Mr. Rauta's case, and they have received many letters on his behalf from the Congress. Yet, the Romanian Government refuses to grant these visas, and they have placed Mrs. Rauta and her son under virtual house arrest.

Mr. Rauta has talked with me and my staff on several occasions regarding his family in Romania. I have contacted the State Department and was told that they were working on reuniting the family, but that the Romanian Government was very hardheaded on this case. That is why it is so upsetting when our Government just waives compliance with the freedom of emigration sections of the Trade Act of 1974 and does not press Romania on some these unresolved divided family cases.

If the United States is not going to ask countries to comply with some of the agreements they sign, such as the United Nations Universal Human Rights Declaration, which Romania signed, or the Helsinki accords; then what is the purpose of concluding these agreements. If we do not carry out the provisions of those agreements by allowing for freer emigration policies and the right to request asylum in another country, then these declarations of human rights are nothing more than nice-sounding words which most people have no intention of honoring.

I think we should be honest with ourselves; and I ask that the administration thoroughly reviews what it says about human rights. If it is serious about wanting to stop human rights violations, then let us press the Romanian Government to reunite divided families, such as the Rauta family. If the administration is not serious, then let us stop all of these grand meetings around the globe where the world leaders profess their commitment to freedom and the right to emigrate.

I urge the Members who are truly concerned about human rights to support Congressman SCHULZE's resolution and not extend the waiver on MFN status for Romania.●

● Mrs. FENWICK. Mr. Chairman, the resolution to deny extension of most-favored-nation trade status to Romania underscores the difficulties in dealing with human rights issues.

It is not easy to move repressive governments, of the right or left, into allowing their citizens to enjoy basic human rights. Our leverage is limited, and it is hard to persuade governments to accede to our requests. We must insist on our goal, but what may work with one country may not work with another.

Romania is a particularly difficult situation and is regarded by most observers as one of the most repressive governments in Eastern Europe. There have been problems concerning emigration. The number of Romanians allowed exit visas for Israel has fallen and the barriers of bureaucracy and harassment have increased. There also have been continued complaints by other minority groups, especially the Hungarians living in Romania, that they have been the victims of a program of forced assimilation, and other abuses.

The Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, on which I served, has been monitoring the situation in Romania and in the other nations which signed the 1975 Helsinki accords. None of us is satisfied with the situation. The right of travel and the reunification of families, were among the basic rights pledged in the Helsinki Final Act. Emigration practices were the focus, also, in the 1974 Jackson-Vanik amendment to the Trade Act, which this pending resolution, House Resolution 317, would affect. Although the treatment of minorities is not specifically mentioned in Jackson-Vanik and although some observers feel that the treatment of Hungarians in Romania is part of the overall repression, we are naturally sensitive to the complaints.

The question remains, however, as to how we can best obtain improvements in the overall situation. Along with other members of the Helsinki Commission, and its staff, I have had discussions with Romanian officials on these issues. As a result, a good number of specific cases have been solved. Outside organizations, too, have had some discussions which they believe will lead to progress, especially in the matter of emigration.

There is no doubt in my mind that we can achieve more, for more people, if we try to widen rather than limit our contacts with Romanian officials.

Our concern for our country's long-term interest and for the human rights of individuals, will best be served, I believe, by continuing most-favored-nation status for Romania.●

Mr. VANIK. Mr. Chairman, I yield myself such time as I may consume.

I want to say that I hope the members of the Committee will vote "no" on the Schulze resolution.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That the House of Representatives does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 1, 1979, with respect to the Socialist Republic of Romania.

Mr. VANIK. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MITCHELL of Maryland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 317) disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania, had directed him to report the resolution back to the House with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SCHULZE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 126, nays 271, not voting 37, as follows:

[Roll No. 388]

YEAS—126

Abdnor
Applegate
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Brinkley
Broomfield
Burgener
Carney
Chappell
Clausen
Cleveland
Clinger
Collins, Tex.
Conte
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Dodd
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Ferraro
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hammer-schmidt
Hance
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Horton
Hyde
Ichord
Jeffries
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leath, Tex.
Lederer
Lent
Lewis
Livingston
Lott
Lundine
Lungren
McClory
McDade
McDonald
Marlenee
Marriott
Mathis
Miller, Ohio
Mitchell, N.Y.
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Oakar
Oberstar
Panetta
Pashayan
Patten
Paul
Petri
Pursell
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Symms
Taylor
Trible
Vander Jagt
Walker
White
Whitehurst
Whittaker
Winn
Wyatt
Wydler
Wylie
Young, Fla.

NAYS—271

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Carter
Cheney
Chisholm
Clay
Coelho
Coleman
Collins, Ill.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Leach, Iowa
Leach, La.
Lee
Lehman
Leland
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
McCloskey
McCormack
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moore
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Obey
Ottinger
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—37

Andrews, N.C.
Annunzio
Ashbrook
Bolling
Burton, John
Campbell
Cavanaugh
Conyers
Davis, S.C.
Diggs
Duncan, Oreg.
Emery
Flood
Ford, Tenn.
Forsythe
Hawkins
Holland
Hollenbeck
McKinney
Moffett
Montgomery
Moorhead, Pa.
Nichols
Pepper
Pritchard
Quayle
Railsback
Spellman
St Germain
Stump
Thomas
Treen
Udall
Walgren
Wilson, C. H.
Wright
Young, Alaska

□ 2120

The Clerk announced the following pairs:

Mr. Walgren with Mr. Emery.
Mr. Wright with Mr. Forsythe.
Mr. Conyers with Mr. Ashbrook.
Mr. Diggs with Mr. Young of Alaska.
Mr. Flood with Mr. Treen.
Mrs. Spellman with Mr. Campbell.
Mr. St Germain with Mr. Pritchard.
Mr. Pepper with Mr. Railsback.
Mr. Moorhead of Pennsylvania with Mr. Hollenbeck.
Mr. Hawkins with Mr. Thomas.
Mr. Montgomery with Mr. Quayle.
Mr. Duncan of Oregon with Mr. McKinney.
Mr. Annunzio with Mr. Cavanaugh.
Mr. John L. Burton with Mr. Moffett.

Mr. Davis of South Carolina with Mr. Udall.

Mr. Charles H. Wilson of California with Mr. Nichols.

Mr. Stump with Mr. Holland.

Mr. Ford of Tennessee with Mr. Andrews of North Carolina.

Mr. STANGELAND and Mr. PASHAYAN changed their votes from "nay" to "yea."

Messrs. CHENEY, DERRICK, TRAXLER, and SHELBY changed their votes from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE LEADERSHIP OF JOHN RHODES

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, there has been a great deal of speculation in the news media over whether our distinguished minority leader will step down at the end of this Congress.

Much of that speculation has been accompanied by reports of criticisms by various Members over the "style" of his leadership.

It is therefore refreshing to see an article that goes to the heart of the leadership that JOHN RHODES has provided for the minority—the quality and substance of his efforts.

Such an article was written recently by a veteran reporter who has known JOHN RHODES for many years, Ben Cole of the Arizona Republic and the Indianapolis Star.

I commend it to my colleagues for their reading, and include it in the RECORD at this point:

[From the Indianapolis Star, July 18, 1979]

RHODES LEADERSHIP CONSTRUCTIVE

(By Benjamin R. Cole)

WASHINGTON.—Rep. John J. Rhodes of Arizona, the minority leader of the U.S. House of Representatives, is a man whose instincts are entirely constructive.

Playing parliamentary Halloween tricks on the Democrats doesn't appeal to him, and he sees little point in harassing the majority just for fun.

His kind of leadership seeks to perform a better job than the opposition. He wants the nation to know Republicans have a better idea. He tries to get across the message that his party stands for a prosperous and peaceful America. He literally wrote the book on a "Republican Agenda," spelling out a constructive program for GOP lawmakers.

His kind of politics departs from tradition. Some of the impatient young members of the House minority would like to throw Rhodes out and install a blood-and-guts leader who perhaps might not get much done but would make lots of noise doing it.

Recently, Rhodes went onto the floor of the House with a speech that took many days to write. It was without question one of the great speeches delivered in the chamber. Its subject was the nation's energy program, and he laid out carefully a total program for making America self-sufficient.

Point by point, program by program, the Republican leader set forth a plan to free the nation from Arab oil and salvage the economy from the threat of shortages. He called it the speech President Carter should have made July 5, but didn't.

The Administration would do well to embrace the Rhodes proposals. He called for alternative energy sources, development of synthetic fuels, the unshackling of the American oil industry, reliance on nuclear energy, solar power, a sensible accommodation of energy requirements and environmental goals. It was an imaginative yet realistic and workable scheme for today and the future.

Unfortunately, few Americans even knew Rhodes made the speech. The leader of the Republican minority in the House isn't exactly the darling of the media. But some of Rhodes' young critics among the House members sat in the benches to hear what he said.

They should have been impressed to see Rhodes demonstrate what he considers real opposition leadership.

Since coming to the point where he is almost ready to give up the fight and return to private life, Rhodes is a liberated man. His speech on energy was, in a sense, his own declaration of independence. He was telling the Democrats how to solve the energy problem, right enough. But he was telling Republicans how he thinks they should go about outdoing the majority and winning elections.

Later the same week, Rhodes and his lieutenants announced a plan for cutting taxes to head off recession. Their plan would strike at unemployment before it happened, sparing the nation billions in transfer payments and lost revenue. It was another instance of getting out ahead of the Democrats with a better idea.

Between public appearances, Rhodes met with the freshman class of House Republicans. He told them that right now it is 50-50 whether he seeks to stay in the House.

He has indicated by his actions that if he leads, it must be his way. John Rhodes cannot be what he is not.

Young Republican congressmen are going to have considerable weight in tilting the balance on Rhodes' decision whether to go or seek to stay. Perhaps they will want to come down on the side of a positive leadership.

THE LATE W. E. "ED" WILLIAMSON

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, with deep sorrow and a sense of great personal loss, I announce to the House the passing of the chief clerk and staff director of the Committee on Interstate and Foreign Commerce, W. E. (Ed) Williamson, who died yesterday of cancer.

Ed was born November 10, 1907, in Magnolia, Ark., and resided there before coming to Washington in 1957. He graduated from Henderson State University and became football coach and principal of Bearden High School in Arkansas. He enlisted in the U.S. Army in 1942 and rose to the rank of captain at the time of his discharge 4 years later. He served from 1947 to 1950 as circuit and chancery court clerk in Magnolia. He was mayor of Magnolia at the time former Congressman Oren Harris appointed him to the Commerce Committee staff. He was a member of the Masonic Lodge; the American Legion; past district governor of Lions International; past president, Magnolia Chamber of Commerce; and until recently, served on the official board of the Mount Vernon Place Methodist Church, Washington. He is survived by his wife, the former Sue Harris, of the home in Falls Church, Va.; two sons, W. E., Jr., U.S. Navy, California, and James T. of Arlington, Va.; two daughters, Susanne Barr of Colorado Springs, Colo., and Beth Fennell of Arlington, Va.; and four grandchildren.

I have had the pleasure of working with Ed Williamson since he came to Washington in 1957, first in my capacity as a member of the Committee on Interstate and Foreign Commerce, and since 1966, as its chairman. If I may paraphrase Will Rogers, "I never met a person who didn't like Ed Williamson." He was a true Southern gentleman in every sense of the word.

He had an engaging personality, and his eagerness to help others endeared him to many Members and employees of this House.

He will be missed in the days ahead by those who loved him, but as Christians, we are taught not to mourn the dead but to rejoice in knowing that they have been received into the Kingdom of Heaven.

Mr. Speaker, on behalf of the Committee on Interstate and Foreign Commerce, with a sad and heavy heart, I extend to the surviving loved ones of our dearly departed friend our deepest sympathy, and pray that God grant him eternal peace.

GENEVA CONFERENCE ON RESETTLEMENT OF REFUGEES FROM SOUTHEAST ASIA

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, an important 2-day conference was held in Geneva to deal with the resettlement of refugees from Southeast Asia. By any standards, this meeting must be considered a success.

Yesterday, I met with Ambassador Dick Clark, the U.S. coordinator for refugee affairs, to discuss the results of the Geneva Conference and review the steps that must be taken to implement the pledges that were made there. Judging by this meeting, I am confident that the world community is ready to deal with this problem. For the sake of these refugees, I hope that the participating nations will act without delay.

I wish to commend Ambassador Clark for his untiring efforts in Geneva. Without his presence, the outcome of the conference would have been much less certain. I requested the Ambassador to investigate the possibility of including those Maos or Mungs who supported our troops in Laos as refugees for resettlement in our country.

Mr. Speaker, I also want to recognize the efforts of Vice President Mondale. He offered some important and imaginative proposals in Geneva. One of these was the creation of an international resettlement fund to help developing nations overcome the financial burden of absorbing Southeast Asian refugees.

Mr. Speaker, I ask unanimous consent that Mr. Mondale's address to the Geneva Conference be printed in the Record so that all Members may have the benefit of his remarks.

Address of Vice President Walter Mondale

Once again the countries of the world turn to the United Nations. When problems touch the whole human community, no other forum provides a vision more encompassing. When national interests conflict and collide, no institution convenes us with greater moral authority. The United Nations is often criticized, and sometimes even maligned. But the common ground it provides us deserves our thanks and our praise. On behalf of the United States—and, I believe, on behalf of all nations in the world community—I thank Secretary-General Waldheim and High Commissioner Hartling for their leadership in convening us here today.

Mr. Secretary-General, some tragedies defy the imagination. Some misery so surpasses the grasp of reason that language itself breaks beneath the strain. Instead, we gasp for metaphors. Instead, we speak the inaudible dialect of the human heart.

Today we confront such a tragedy. In virtually all the world's languages, desperate new expressions have been born. "A barbed-wire bondage," "an archipelago of despair," "a flood-tide of human misery": with this new coinage our language is enriched, and our civilization is impoverished.

"The boat people." "The land people." The phrases are new, but unfortunately their precedent in the annals of shame is not. Forty-one years ago this very week, another international conference on Lake Geneva concluded its deliberations. Thirty-two "nations of asylum" convened at Evian to save the doomed Jews of Nazi Germany and Austria. On the eve of the conference, Hitler flung the challenge in the world's face. He said, "I can only hope that the other world, which has such deep sympathy for these criminals will at least be generous enough to convert this sympathy into practical aid." We have each heard similar arguments about the plight of the refugees in Indochina.

At stake at Evian were both human lives—and the decency and self-respect of the civilized world. If each nation at Evian had agreed on that day to take in 17,000 Jews at once, every Jew in the Reich could have been saved. As one American observer wrote, "It is heartbreaking to think of the . . . desperate human beings . . . waiting in suspense for what happens at Evian. But the question they underline is not simply humanitarian. . . . It is a test of civilization."

At Evian, they began with high hopes. But they failed the test of civilization.

The civilized world hid in the cloak of legalisms. Two nations said they had reached the saturation point for Jewish refugees. Four nations said they would accept experienced agricultural workers only. One would only accept immigrants who had been baptized. Three declared intellectuals and merchants to be undesirable new citizens. One nation feared that an influx of Jews would arouse antisemitic feelings. And one delegate said this: "As we have no real racial problem, we are not desirous of importing one."

As the delegates left Evian, Hitler again goaded "the other world" for "oozing sympathy for the poor, tormented people, but remaining hard and obdurate when it comes to helping them." Days later, the "final solution to the Jewish problem" was conceived, and soon the night closed in.

Let us not re-enact their error. Let us not be the heirs to their shame.

To alleviate the tragedy in Southeast Asia, we all have a part to play. The United States is committed to doing its share, just as we have done for generations. "Mother of exiles" it says on the pedestal of the Statue of Liberty as the port of New York. The American people have already welcomed over 200,000 Indochinese. Their talent and their energies immeasurably enrich our nation.

We are preparing to welcome another 168,000 refugees in the coming year. The governors and the Members of Congress in our delegation—as well as outstanding religious and civil leaders throughout America—are a symbol of the enduring commitment of President Carter and the American people.

Many nations represented here have risen to history's test, accepting substantial numbers of refugees. The ASEAN states, China, and Hong Kong have offered safety and asylum to over half a million refugees from Vietnam, Laos and Kampuchea since 1975. And others have opened their doors.

But the growing exodus from Indochina still outstrips international efforts. We must work together, or the suffering will mount. Unless we all do more, the risk of fresh conflict will arise and the stability of Southeast Asia will erode. Unless this conference gives birth to new commitments, and not simply new metaphors, we will inherit the scorn of Evian. It is a time for action, not words.

I would like to outline seven areas where action is needed.

First and foremost, the fundamental responsibility must rest with the authorities of Indochina, particularly the government of the Socialist Republic of Vietnam. That government is failing to ensure the human rights of its people. Its callous and irresponsible policies are compelling countless citizens to foresake everything they treasure, to risk their lives, and to flee into the unknown.

There must be an immediate moratorium on the further expulsion of people from Vietnam. We must stop the drownings and establish a humane emigration program. The policy of expulsion which has lead to so many tragic deaths must end. It must be replaced by a policy which enables those who wish to leave their homes to do so—in safety, and by choice and in an orderly manner.

At the same time, we must not forget the land people driven from their homeland by conflict and foreign invasion. The nations of the world must promote a political settlement in Kampuchea. The survival of a whole people is in grave doubt. Neither the Pol Pot nor Hang Samrin regimes represents the Cambodian people. The conflict, and the human tragedy in its wake, must stop. The international community must not tolerate forced expulsion of entire populations. I call on all governments to allow normal free emigration and family reunification. My government supports efforts to negotiate a program of orderly direct departures from Vietnam—but not at the expense of those in camps elsewhere in Southeast Asia already awaiting resettlement, and not as part of a program of expulsion of ethnic or political groups.

Second, I urge the countries of first asylum to continue to provide temporary safe haven to all refugees. The compassion these nations have shown earn them the respect and admiration of the world's community. But these nations cannot bear this responsibility alone. We call on them to persist in their spirit of humanity so that our common effort can proceed.

Therefore, third, the rest of us must provide assurances to first-asylum countries that the refugees will find new homes within a reasonable period of time. To meet this objective, we call on all nations to double their resettlement commitment, as the United States has already done. Moreover, we must all be prepared to commit ourselves to multi-year resettlement programs—for the problem will not be solved quickly. The United States government is now seeking that authority.

Fourth, each of us must make a greater contribution to the relief efforts of the United Nations High Commissioner for Refugees. The UNHCR will need increased resources now and in the coming years to care for growing refugee populations, and to alleviate the misery in refugee camps. The UNHCR may require an estimated $400 million for its Indochina programs in 1980.

To do our part to help, I am privileged to announce today that my government will ask our Congress to allocate $105 million for those programs—more than double our current effort. We are also ready to assign highly qualified Peace Corps volunteers to work in the camps in Southeast Asia—to work not only with the individual countries, but also in the programs of the UN High Commissioner. We urge other nations to undertake similar programs of support.

Fifth, it is essential that we relieve pressures on existing camps and create a network of new transit centers for refugees destined for permanent resettlement elsewhere. Given the magnitude of the refugee population, such centers must accommodate at least 250,000 refugees. My government has endorsed the initiative of the ASEAN states for UN-sponsored refugee processing centers. President Carter applauds the government of the Philippines for the bold and exemplary steps it has taken—a model of responsible world leadership. Today I am especially pleased to announce that we are requesting more than $20 million from the Congress to finance our share of such new UNHCR facilities.

Sixth, we must extend refugee resettlement to nations who are ready to receive them—but who do not have the resources to do so. Today, on behalf of the United States government, I propose the creation of an international Refugee Resettlement Fund. If other nations join us, we will ask our Congress for contributions to the Fund totalling $20 million for the first year. We ask today that other nations match us. We recommend that the Fund be capitalized at $200 million. This Fund could, for example, endow an international corporation which would help developing countries embark on their planning and secure additional resources for this high humanitarian purpose.

Seventh, and above all, we must act to protect the lives of those who seek safety. The United States is acting vigorously to save refugees from exposure and starvation and drowning and death at sea. As Commander-in-Chief of the military, the President of the United States has dramatically strengthened his orders to our Navy to help the drowning and the desperate. Today the President has ordered four additional ships from the Military Sealift Command to be dispatched to the South China Sea—where they will be available both to transport tens of thousands of refugees from camps to refugee processing centers, and to assist refugees at sea. At the same time, the President has also ordered long-range Navy aircraft to fly patrols to locate and seek help for refugee boats in distress. And the President is asking our private shipping industry and unions to persist with their time-honored efforts to help refugees at sea. We appeal to other governments to do the same—and to accept for resettlement those who are picked up.

Mr. Secretary-General, fellow delegates, in conclusion let me reiterate two points.

First, the international community must not tolerate this forced expulsion. We call upon Vietnam to cease those policies which condemn so many to flee. There must be an immediate moratorium on expulsions.

The freedom to emigrate is a fundamental human right. But no nation is blind to the difference between free emigration and forced exodus. Let us impose a moratorium on that exodus. Let us have a breathing spell during which all of us—governments, voluntary agencies, and private individuals alike—mobilize our generosity and relieve the human misery. And let us urge the government of Vietnam to honor the inalienable human rights at the core of every civilized society.

Second, our children will deal harshly with us if we fail. The conference at Evian forty-one years ago took place amidst the same comfort and beauty we enjoy at our own deliberations today. One observer at those proceedings—moved by the contrast between the setting and the task—said this:

"These poor people and these great principles seem so far away. To one who has attended other conferences on Lake Geneva, the most striking thing on the eve of this one is that the atmosphere is so much like the others."

Let us not be like the others. Let us renounce that legacy of shame. Let us reach beyond metaphor. Let us honor the moral principles we inherit. Let us do something meaningful—something profound—to stem this misery. We face a world problem. Let us fashion a world solution.

History will not forgive us if we fail. History will not forget us if we succeed."

PUERTO RICAN DAY PARADE

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RODINO. Mr. Speaker, this Sunday, July 29, the city of Newark will sponsor its 17th annual Puerto Rican Day parade. This parade has grown into a statewide event in which tens of thousands of citizens participate. This year's celebration is expected to be the largest parade in the history of our recognition of Americans of Puerto Rican background.

I am very proud that this parade is held in my home city of Newark, and I want to commend the Puerto Rican residents of New Jersey who have worked so tirelessly to make this special day a success. While the list would be too long for me to name everyone who contributed their time and effort, let me mention Roberto Rivera, who is president of the statewide parade, Raul Lopez, who is the grand marshal, and Ms. Agnes Santiago, this year's queen of the parade. Also, the distinguished Governor of Puerto Rico, Carlos Romero Barcelo, will be attending.

The parade is the focal point of a week of activities displaying Puerto Rican culture and educational contributions. Anyone who has visited Puerto Rico cannot have missed the rich and varied culture of the island. Unfortunately, the accomplishments of Puerto Ricans—in the fields of literature, arts, drama, music, sports, to name a few—are not as appreciated as they should be on the mainland.

Americans of Puerto Rican background are hard-working, ambitious, and creative people who are proud of their heritage. I am looking forward to the day when more Puerto Rican Americans hold prominent positions in all areas of our society.

The parade provides an opportunity for all Americans to recognize the importance of Puerto Rican heritage to our ethnic identity as a Nation. Our strength as a Nation is derived from the cultural diversity of our citizens, and Puerto Rican Americans play an integral part in that diversity.

Mr. Speaker, on Monday, Newark Mayor Kenneth Gibson raised the Puerto Rican flag above city hall and proclaimed this week Puerto Rican Week in our great city. Gov. Brendan Byrne, recognizing the statewide appreciation of Puerto Rican Americans and their culture, is signing a proclamation today, July 25, in honor of Puerto Rican Week.

Mr. Speaker, this year once again I will have the honor of participating in the parade with my constituents of Puerto Rican ancestry. I am privileged to number many of them as my dear friends and supporters.

I salute them on this day of celebration of their heritage and of their role as Americans.

Mr. Speaker, following is the text of Governor Byrne's proclamation of Puerto Rican Week in New Jersey:

PROCLAMATION

Whereas, Puerto Ricans of New Jersey have distinguished themselves and this state through their spiritual and cultural values, immeasurable contributions to the social and economic progress of the Garden State, and dedication to the responsibilities of American citizenship;

And whereas, The Senate and General Assembly of this state have resolved to declare July 25th of each year as Puerto Rican Day in the State of New Jersey;

And whereas, Through acts of the United States Congress the people of Puerto Rico have attained the rights and privileges of American Citizenship and political sovereignty as an associated free state of these United States;

And whereas, It is appropriate we help commemorate the significant events and the continuing contributions to this state by the Puerto Rican people through civic celebration and formal recognition;

And, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim July 22 through 28, 1979 as Puerto Rican Week in New Jersey.

THE MAGNIFICENT SERVICE OF JOSEPH A. CALIFANO, JR.

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 60 minutes.

Mr. RODINO. Mr. Speaker, I wish to express my great appreciation for the magnificent service to the Nation of Joseph A. Califano, Jr., who will soon be leaving the position of Secretary of Health, Education, and Welfare.

I have known and often worked with Joe Califano for almost 20 years. Through all that time, I have admired his brilliance, his energy, his patriotism, and his commitment to human welfare.

Joe Califano has distinguished himself as a lawyer, as an official of the Department of Defense, as a special assistant to President Lyndon B. Johnson, as the author of two books, and—most recently—as HEW Secretary since January, 1977.

In his 2½ years of directing the HEW Department, he has built an extraordinarily impressive record in that extraordinarily difficult assignment.

Secretary Califano's achievements have included reorganization of the Department and substantial reduction of fraud and waste in HEW programs. He has helped prepare new designs to control the rising costs of hospital care and to establish a national health insurance program.

He has worked with Congress to increase Federal support for education and to improve Federal education programs. He has been responsible for new emphasis on disease prevention, new campaigns against smoking and alcohol abuse, and new financial strength for the social security system.

Throughout his service as HEW Secretary, Joseph Califano has continued to display an awesome capacity for hard work, a distinctively practical humanitarianism, and a style of frankness and openness which is rare and refreshing in this city.

Above all, he has sustained a consistent sense of loyalty—loyalty to the noblest American principle, serving human needs.

Others have recognized Secretary Califano's superb service, including President Carter. The President has commented several times to me on what he called the excellent and outstanding performance of Joe Califano in a tough job.

No matter what degree of pessimism surrounded him in a time of budget cutting and liberal retrenchment, no matter what the magnitude of the task he faced, no matter what pressures were applied to him, Joe Califano has not wavered in his dedication to service toward the fulfillment of human needs in America.

In his letter of resignation to the President, he wrote:

> I have called HEW the Department of the people because its programs touch the lives of so many people each day. The Department reflects a compassion of the American people.

Joseph Califano's compassionate leadership, his sense of the human reality of problems and programs and his articulate voice will be missed from a position of formal authority in Washington.

But I am glad that he will—as he stated last Thursday when his resignation was accepted—

> Continue speaking out on public issues and on behalf of the people served by this Department, people who must be able to turn to their Government for compassion, hope, and help.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject matter of my special order today, Joseph A. Califano, Jr.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding. I commend the gentleman for taking this special order and associate myself with his remarks.

Mr. Speaker, I join with my colleagues in commending the work of Secretary of Health, Education, and Welfare Califano. Although we have disagreed on occasions, I respected his ability and his beliefs. Secretary Califano has served this country with great distinction under President Johnson and as Secretary of HEW.

As a fellow New Yorker, we are proud of him and wish him well.

□ 2130

Mr. BRADEMAS. Mr. Speaker, will the distinguished gentleman yield?

Mr. RODINO. I yield to the distinguished majority whip, the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I thank my colleague from New Jersey and I compliment the gentleman on attaining this special order.

Mr. Speaker, I want to join with the gentleman from New Jersey in paying tribute to Secretary Califano and I would like to observe, Mr. Speaker, that it seems to me the objective standards by which the performance of a Cabinet officer normally is judged are the following:

First. Has he established and maintained control over the department he heads?

Second. Has he established and maintained an effective working relationship with Congress?

Third. Has he been an effective steward of the program of the President?

Mr. Speaker, I believe that judged by all three of these standards, Joseph Califano rates high marks not only in President Carter's Cabinet but, indeed, in comparison to the Cabinet of any other recent President.

Mr. Speaker, I have for nearly 21 years had the privilege of serving on the Committee on Education and Labor, one of the committees in the House with jurisdiction over a number of the programs that are administered by the Department of Health, Education, and Welfare. I have, therefore, had firsthand opportunity to observe the work of Secretary Califano and I think it fitting that note be taken at this time of some of the highlights of the 2½ years of Secretary Califano's service as head of the Department of Health, Education, and Welfare.

Mr. Califano worked with Congress to implement the President's policy of increasing Federal support for education—40 percent in a period of 2 years. He was instrumental in securing enactment of major legislation to improve Federal programs for education at all levels, including the landmark Middle Income Student Assistance Act of 1978, a major administration priority.

He focused new attention on the prevention of disease and illness, a major ingredient in the President's 1976 election campaign.

He designed the administration's proposals aimed at controlling the rising costs of hospital care and developed the administration's national health insurance initiative.

He designed the administration's proposals, passed by Congress in modified form, to assure the financial integrity of the social security system.

He reorganized and streamlined the Department.

He reduced dramatically fraud, abuse, and waste in HEW programs.

Let me, Mr. Speaker, speak of Secretary Califano's stewardship of the Department of Health, Education, and Welfare in still more personal terms.

Mr. Speaker, at a time when it is fashionable to criticize those who serve in public office, I think it only fair that tribute be paid to those who have assumed the most demanding responsibilities and have carried them out with integrity, acumen, and effectiveness.

Joseph Califano has met those tests during his years of service as Secretary of Health, Education, and Welfare and I want to express my appreciation to him for his service to the Nation.

I thank the distinguished chairman of the Committee on the Judiciary for having yielded to me.

Mr. DRINAN. Mr. Speaker, would the gentleman yield?

Mr. RODINO. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding. I too commend my distinguished chairman for bringing our attention to the devotion of Joseph Califano. I became acquainted with Mr. Califano years ago when he was a very devoted person in the White House with President Johnson. He labored diligently during those years. He was immensely loyal and all of his talents developed.

After his service with President Johnson he wrote a book on government which I commend to my colleagues because it is an example of what a public servant can do when he sets forth his entire philosophy.

In the 2½ years Mr. Califano has been Secretary of probably the most difficult Department in Washington, he has had many achievements. We see the hospital cost containment bill which hopefully is going through the Congress soon, we see the finished out plan for a health insurance program for the administration and we can thank Secretary Califano for those.

I think one of the lasting monuments to Mr. Califano will be his enforcement of the civil rights laws. Everywhere across this country Mr. Califano demonstrated he believes in the rule of law and relentlessly he carried out all the Civil Rights Act and the Voting Rights Act and I think he is to be commended for that.

One of the things he has not received adequate credit for is that he helped to initiate inspectors general in the various departments of HEW and they already have investigated fraud and have saved millions of dollars for the taxpayers.

One of the things that particularly endears Mr. Califano to me is the crusade he has launched in antismoking. I recall very vividly the story of Joe Califano's 13-year-old son who was asked what he wanted for his birthday and he said very movingly to his father, "I want you to stop smoking" and Mr. Califano who had been smoking two or three packs a day stopped as a birthday gift to his 13-year-old son. I have used that story and the American Cancer Society has used that story. We should have all across this country millions of kids who at their 13th birthday ask as their present that their parents stop smoking.

Mr. Califano has been gifted with a lot of natural talent and a superb education at Holy Cross College and Harvard Law School. I lament his leaving the Government and I know that he will come back again and all of us will welcome his coming back because he has been a very superb public servant.

I thank the gentleman from New Jersey again for his bringing Mr. Califano to our attention.

Mr. RODINO. I thank the gentleman from Massachusetts.

Mr. Speaker, I yield to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

I want to commend the gentleman for his very worthwhile statement in behalf of Joe Califano. I want to associate myself with the gentleman's remarks and also with the remarks of the gentleman from Massachusetts (Mr. DRINAN) who clearly pointed up many of the great things that Joe Califano has done in Government going back these many years in the interest of civil rights, in the interests of the needy of our land and those who need understanding and help from their Government.

Joe Califano has been a great leader in these fields. My friendship with Joe Califano goes back about 15 years when he was one of the key aides in the White House in the Johnson administration. I have watched his activities throughout those years, even in the years when he was not in government. Even in those years when he was not a public servant he had a very real commitment to these very worthwhile goals and objectives, something which we all want and admire in our public officials and also in our private citizens.

In the last several years as Secretary of HEW, one of the most difficult jobs in our country and, in fact, in the world, I believe Joe Califano exemplified the absolute best which we want in our public servants.

□ 2140

I think he has been one of the finest public officials that we have had in the history of the United States. I think we are poorer for his having gone, but I know he will continue to work in these fields and in these areas where he has given so much and where he has a very real commitment.

I admire Joe. I think he is the kind of man that the American citizens want as a public servant and I think that the Republic is poorer for his having gone.

Mr. RODINO. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman and I certainly commend the gentleman for taking this time to commend a truly great American and truly great public servant.

One of the things that Jimmy Carter pledged when he was running for President was embodied in the slogan, "Why not the best?"

It seems to me that in terms of the people he selected for his cabinet he, indeed, selected the best type of American and the best type of citizen one could find. No one could possibly be better fitting in that category than Joseph Califano. It has not been my privilege to work with him in connection with any committee or subcommittee on which I serve, but I have gotten to know him as an individual in his capacity as the Secretary of Health, Education, and Welfare, explaining to us health insurance planning, explaining to us cost containment on an informal basis, explaining to us the various humanitarian programs that he has espoused.

I think also one cannot fail to be impressed with the masterful way that he has brought that huge, sprawling and many times inefficient organization into some semblance of a hard-hitting streamlined public-serving bureaucracy.

It seems to me that it is a sad thing that he has left right when the fruits of all his labors have begun to be apparent to everyone; but nevertheless, his achievements will be a monument to him many years after he has retired even from public life. In the meantime, it seems to me we are all in his debt for what he has done for the Government and for the American people.

I certainly commend the gentleman for this tribute.

Mr. RODINO. Mr. Speaker, I thank the gentleman.

I yield to the gentleman and my colleague from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman for yielding. I want to express my appreciation to the dean of my delegation and the great chairman of the Committee on the Judiciary for taking this time to focus the attention of the House and of America on the contributions of Joseph Califano as Secretary of HEW.

If one were to look for the qualities that one would wish to find in a member of the cabinet, surely one would look for courage, for independence, for imagination, for brilliance and for effectiveness. Those are the qualities that Joseph Califano so clearly demonstrated. He had an unusual gift based in his experience and his judgment for knowing how to get things done in this complex world of ours, both inside and outside of government.

I think there is a consensus that Joe Califano was the best HEW Secretary we have had in our history. He was the first Secretary to get control of HEW and to truly administer it and to make it work, as it should and can work for the people of this country. He was the first to recognize, and these are really very, very important initiatives, the crucial importance to the lives of Americans of environmental and occupational health hazards. He was really the first to tackle in a serious way the escalating costs of medical care. His commitments to the historic unfinished task of achieving equal rights and equal opportunities for all Americans has been unexcelled.

He is an individual, as the gentleman in the well so fully knows and knows from his long association with Mr. Califano, he is an individual of highly unusual qualities and skills.

I would say that the country should be looking for 15 Joe Califanos to serve in its cabinet, not saying goodbye to the one that we have got.

It is a great and hopefully only a temporary loss to the Nation.

I thank the gentleman for yielding.

Mr. RODINO. Mr. Speaker, I thank the gentleman from New Jersey.

I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I thank the distinguished gentleman from New Jersey for yielding to me. I want to commend the gentleman for taking this special order so that we can all express our appreciation and high regard for a truly outstanding American and a truly outstanding Secretary of HEW.

Joe Califano's services as Secretary of HEW coincide with my length of service in the Congress. I happened to serve on the Committee on Education and Labor and on a number of those subcommittees he has appeared on behalf of legislation that was developed under his leadership.

I think it goes without saying that he has been generally regarded to be perhaps the top member, not only of this administration in the Cabinet, but I have heard senior members of the Committee on Education and Labor who have worked with all the Secretaries of HEW and whose term in Congress goes back to the very creation of the Department of HEW state publicly on that morning when we discovered to our great shock and amazement that Mr. Califano's resignation was going to be accepted, I have heard those senior Members from the chairman of the Committee on Education and Labor on down through numerous subcommittee chairmen, that in their recollection and knowledge Mr. Califano, indeed, has been the best and most outstanding Secretary of HEW.

So it seems highly inappropriate that he would be leaving, not because of his own volition, but because his formal resignation, which was requested of all members of the Cabinet, has been accepted.

I think that the loss really is not Mr. Califano's. Knowing the amount of work and time he has put in day after day for these past 2½ years, he and his family are the beneficiaries of his resignation having been accepted. The losers, I think, are those of us who work with the administration and ultimately the losers are the American people, because I think that we are going through a very difficult and severe time for America. There is a great attack on all the programs that the Secretary of HEW is charged with enforcing. In this time of lean and austere budgets, we tend to confuse waste with the actual commitment of programs and moneys to provide the basic necessities for Americans who without Government help could not survive.

Joe Califano never forgot that. He never became cynical and he always demonstrated his absolute concern for the people for whom he was charged with providing for.

I know that he will continue to provide great service to his country in the future, whether it be as a private or a public citizen. It has been really a great honor and distinction for those of us who had the occasion to work with him.

Mr. Speaker, I thank the gentleman for yielding this time.

Mr. RODINO. Mr. Speaker, I thank the gentleman from New York.

Mr. GUARINI. Mr. Speaker, will the esteemed chairman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. GUARINI. Mr. Speaker, I want to join with the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), my colleague, on this special order and share in their fine tribute.

We hear often throughout our country that the American people are looking for leadership, for someone who can see over the next hill or into the next valley and change our course accordingly. We look for someone who can tell us not only where we are heading as a nation but why we are heading there. More important still, we seek leaders who show us where we should be going.

Secretary Califano is a leader with a deep moral commitment to the public good of our country. But he is much more than that, because leadership is more than good intentions. He is a man with the ability to inspire those working with him both in the administration and in Congress. Time and time again we have listened to Secretary Califano present his views—and those of his President—with forcefulness and clarity. When we listened we knew that the Secretary was capable of acting on his convictions, perhaps more capable than any of his predecessors.

Joe Califano, as head of one of the largest and most important Federal departments, has demonstrated an administrative competence and sensitivity of the highest order. He has initiated programs to eliminate waste and fraud from human assistance and medicaid. He has taken steps to reduce the default rate on student loans, rèvived the office of civil rights, undertaken a comprehensive review of the social security program and shown an active interest in women's issues.

Secretary Califano's sense of fairness and knowledge of legislative procedures are well known and appreciated among Members of this Congress. President Carter promised an open administration and Secretary Califano has been faithful to that pledge; his candor and accessibility have been demonstrated repeatedly to those of us concerned about the lives of our constituents.

Joe Califano has been a controversial figure because he has tried to do what is right in the face of powerful forces who place the national interest on the back burner whenever their own interests appear threatened. Secretary Califano saw the thousands of people killed by lung cancer each year and decided that our Government should discourage citizens from smoking, which is really nothing but prolonged suicide. He saw that our children were destroying their teeth and retarding the development of their brains by eating junk food rather than food containing protein, fiber, and vitamins. In short, he was criticized because he was passionately concerned about the health, education, and welfare of every American. In my opinion, there is no higher praise possible for a Secretary of Health, Education, and Welfare.

I join in this evening's salute to Joseph Califano, whose service to America is in the finest traditions of our Nation. I know that we will dearly miss the Secretary, for he was the enemy of mediocrity. More than any member of the Cabinet, he has demonstrated that government can and must be a positive force in the lives of the American people. He knows that our common enemy is not Government, but Government which is insensitive and blind to the needs of Americans. I know that there will always be a place for Secretary Califano in the public life of our Nation, just as America's health, education, and welfare has always been first in Secretary Califano's heart.

I commend my colleague from New Jersey for having arranged this special order. This tribute to a great American.

☐ 2150

Mr. RODINO. Mr. Speaker, I thank the gentleman from New Jersey (Mr. GUARINI) for his contribution.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding, and I also commend him for taking this special order and giving the Members an opportunity to pay tribute to the qualities and accomplishments of Joe Califano.

During my years in Washington I have had the opportunity to have a number of common experiences with Secretary Califano. Indeed it was Joe Califano who gave me my first opportunity to come back to Washington and get involved in Government.

As a second lieutenant at Fort Ord, Calif., I took the opportunity to write a letter to an assistant to the President whom I did not know but whose last name was Califano and who was also someone who had gotten his job as assistant to the President because he had written a letter to the then President, President Johnson. And indeed Joe Califano responded to someone he did not know by providing some opportunities here in Washington to interview with agencies and with departments and to then be able to become a part of the Government in this country.

And so I owe him. I owe him that, and I thank him for giving me that opportunity.

As a special assistant to the President at a time when I was a special assistant to a Senator, we had an opportunity to work together on a number of important projects relating to HEW and a number of programs that were initiated during the time he was assistant to the President.

Most importantly, I would say, Joe Califano had the opportunity to serve as Secretary of the Department of Health, Education, and Welfare and I had the opportunity at one time to serve as Director of the Office of Civil Rights of the Department of Health, Education, and Welfare. Both of us to some extent shared the same experience in our departures. It was not the quality of our work that was questioned, it was not our capability, it was not our dedication, but it was the politics of the situation and our relationships with the White House that resulted in our departures from Government.

It is regrettable, I think, that the White House has seemed to focus on Joe Califano with regard to questioning the loyalty of Cabinet members. There is no one in this Cabinet and perhaps no one who will come into this Cabinet who was more loyal than Joe Califano to this administration.

Indeed the White House questioned whether Joe Califano was committed to the Department of Education. I might tell the Members on the floor that I was in California and received a phone call from Secretary Califano urging me to vote for the Department of Education and strongly urging that I try to support the President in this effort. Indeed, if it were not for his phone call and the phone call of the Vice President, I do not think I would have voted for the Department of Education.

So it is regrettable that this has taken place. I appreciate the opportunity to pay tribute to this very special individual because I know how difficult this period of time is for him and for his family.

But the ultimate test in this business of government service is whether those of us who, in the service of our fellow citizens, can draw the line in our personal philosophies. We have a tremendous number of temptations and a tremendous number of pressures to constantly sell out on our ideals and our principles and what we believe in. The best test of an individual is when he is able to draw the line and not give in to those temptations and be able to look at himself the next morning in the mirror.

Mr. Speaker, Joe Califano will be able to do that. He will be able to do that because he knows in the end that he did the right thing for this administration, for the Department of Health, Education, and Welfare, and for the Nation.

Mr. Speaker, I thank the gentleman for yielding.

Mr. FAZIO. Mr. Speaker, I thank the tleman yield?

Mr. RODINO. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would particularly like to associate my remarks with the remarks of the gentleman from California (Mr. PANETTA) who just preceded me. I would also like to thank the gentleman in the well, the chairman of the Committee on the Judiciary, for giving us the opportunity to make a few comments on the career of Joseph Califano.

I did not know Joseph Califano personally, but I identify with him personally because I think he is personified with a whole generation of Americans who decide to dedicate their lives to public service despite the obvious inequities and unfairnesses that sometimes take place as a result of that kind of career choice.

Mr. Califano is the kind of man who, as a liberal, defended welfare programs from attacks by those who lacked compassion and understanding of the value of those programs to our society.

On the other hand, he was never insulated, never cut off from those legitimate concerns that people have about fraud and abuse which occur not only in behalf of the recipients but the providers of those programs.

Mr. Califano is a balanced man. He is a man whose experience in government led him to take an overview and provide for the most complex department the Government has ever had to run, the Department of Health, Education, and Welfare.

I was particularly impressed by the fact that he handled his resignation with tremendous aplomb, never attacking those who caused his downfall, and that, I think, indicates that in the future we will see, once more at least, Joseph Califano returning to Government and putting forth his best efforts in behalf of those who have seen the value of his service. He will do that without flinching, knowing that at some point perhaps he will have to terminate his service to the public and to the people who hired him because he knows that public service is full of potential pitfalls.

But life is not fair, and he knows that we all have to ride out the storm, knowing, as the gentleman from California (Mr. PANETTA) said, that our principles must come first above all else.

Mr. Califano was the consumate professional, and I say that knowing that in this day and age more and more people are turning against people who make government service their career. He is not afraid to have dedicated his life to that pursuit that improves the human condition, knowing full well that he will not always receive the acclaim that he probably deserves, but knowing that for him that kind of dedicated service is really why he has made his career choice, and also knowing that, whether he is in public service or in the private sector, his pursuits will always be in line with his ultimate goal which is to see the human condition improve.

He is no cynic, despite the fact that he has had tremendous exposure to the realities of political life. He has sustained his idealism that will guide him in the future and will guide him hopefully back into service on behalf of his Nation and the people of his political party who believe so strongly in the values he espouses.

Mr. Speaker, I would simply like once more to thank the gentleman from New Jersey (Mr. RODINO) for giving us the opportunity to speak on behalf of this great individual who, I know, is only temporarily stepping down from the public stage.

Mr. RODINO. Mr. Speaker, I thank the gentleman from California (Mr. FAZIO).

● Mr. RUSSO. Mr. Speaker, Joe Califano was a professional. He devoted years of hard labor to the development of programs in which he believed and he brought to each job the commitment and tenacity we need in the people given the tough assignments.

This is not to say that Joe and I do not have our differences. Certainly philosophically we were not always in agreement and on a number of issues we have been in opposite corners and come out fighting. But because he is a fighter for what he believes in, I have always respected him, despite our differences. Even through the disagreements, I respected that determination and the integrity that Joe Califano has always represented.

I wish this talented public servant well in all future pursuits, and I wish good luck to those who are going to be coming up against him. He has earned his battle ribbons as have many of those who resisted him. Wherever Joe goes I am sure it is not going to be serene and peaceful because he is never going to be afraid to churn up the waters, even if it does rock a boat or two.●

● Ms. MIKULSKI. I would like to join my colleagues in praising the work of Joseph Califano as Secretary of HEW. Since the days of the Great Society, I have been aware of his commitment to helping the underserved people of this country. But this year, as a member of the Health Subcommittee, I have had the opportunity to work with him on many issues—children's health, hospital cost containment, and the reform of the mental health system. Joe Califano worked with our committee in a spirit of mutual respect. I enjoyed working with him on behalf of making quality health care available to more Americans at a price they can afford.

In addition, I believe that Joe Califano became more sensitive to the needs of women during his service as Secretary. I particularly appreciate the really exceptional appointments he made to HEW, such as our former colleague Martha Keys; and his commitment to reform the social security system and end its present discrimination against women.

Joe Califano was a vigorous, able Secretary. He can be proud of the contributions he made to public policy.●

● Mr. MINETA. Mr. Speaker, I would like to join my colleagues today in commending Secretary Joseph A. Califano for the fine job he has done as Secretary of our Government's largest Federal department, Health, Education, and Welfare.

HEW is a Department that affects just about every single American in some way at some time. In previous years, the Department had come into disfavor for poor administration, a lack of coordination in its programs, and bureaucratic mazes that seemed designed to thwart the very purpose of the Department—assisting those in need.

It is my view that the Secretary has been an important influence on the Department, moving it a great deal toward more accountable administration and more compassionate and equal treatment of those affected by the Department's programs.

Joe Califano has had a long and very distinguished career in public service, one with which we are all very familiar. I feel that the major reason for the successes he has had at HEW was the fact that he was so intimately involved, while working with President Lyndon Johnson, in the design of many of the programs he administered while Secretary. He knew how they were intended to work, and was, therefore, able to more readily identify the problems and design workable solutions.

The late President Johnson once wrote:

> I wish the public had seen the task of ending poverty the same way as they saw the task of getting to the moon, where they accepted mistakes and failures as part of the scientific process. I wish they had let us experiment with different programs, admitting that some were working better than others.

Secretary Califano was willing to take new approaches to dealing with these problems. He was willing to admit that some of the programs within his Department were working better than others.

To his credit, Joe Califano has been a strong and independent force within the administration. I know, Mr. Speaker, that you and my colleagues in the House will join today in thanking Joe Califano for the very commendable job he has done as Secretary of HEW. He will be missed.●

● Mr. EARLY. Mr. Speaker, when any citizen makes a substantial sacrifice in the service of his country he deserves our highest commendation. That is why I am very happy to join in this great tribute to our recent and distinguished Secretary of Health, Education, and Welfare, the Honorable Joseph A. Califano, Jr.

Mr. Califano brought exceptional knowledge, dedication, and talent to the demanding job of HEW Secretary. His legal brilliance was nationally recognized; he had previous experience in the operation of Federal agencies; he had the special past experience of having served in a high White House advisory position; he had the unique advantage of being an original contributor to the creation of the complex social betterment programs the HEW Department is called upon to administer. He was and is also known to be an independent thinker and director.

If there had been an open competitive civil service examination for the position of HEW Secretary Mr. Califano would be undoubtedly the best qualified candidate in the country. His list of accomplishments in improving the operating efficiency of HEW for the taxpayer's benefit and the benefit of those directly affected by the Department programs is unparalleled. They are too many to even begin to try to list here. Suffice it to say now that the President is quoted, as saying, following his acceptance of Mr. Califano's resignation: "Your performance has been superb. The department has never been better run."

Throughout his mature life Joe Califano has demonstrated a genuine concern for the welfare of all his fellow Americans and the wholesome progress of his country. That is why he gave up, cheerfully, a most lucrative law practice, to serve his President and his Nation. Simply put, his job was to "improve the quality of life" for millions of Americans. He fulfilled the job far beyond the mark of any predecessor in HEW or any other department of the Federal Government.

He will be forever known and honored as one of the ablest Government servants in our national history. That will be his only reward for the great personal sacrifices he has made and the intense patriotic dedication he has consistently demonstrated. I am sure that is the only reward he wants or would accept. His departure from the Government is a tremendous national loss, especially in this challenging period. I know that he will still continue to contribute his brilliant talents to our national leaders whenever he is called upon because that is the type of person he is. I salute him as a great man, a great patriot, and an unexcelled administrator. I wish him every blessing as he reenters the more peaceful life of an ordinary American citizen.●

● Ms. FERRARO. Mr. Speaker, the dust is settling in Washington following last week's Cabinet changes. The President has assured us that the shakeup is finished. He has assured 550 White House employees that their jobs are secure as long as they remain loyal and competent, as indeed he has the right to do. A regrettable result of last week's activities is the resignation of HEW Secretary Joseph Califano.

Joe Califano will leave the Carter administration having added another chapter to his legacy of dedicated and effective service to his country. Every Democratic administration from John Kennedy's to Jimmy Carter's has called upon Joe Califano. Each time he has responded in a manner which proved his ceaseless commitment to bettering the lives of all Americans. The Kennedy, Johnson, and Carter administrations have been distinguished ones, partly as a result of Joe's service.

Joe Califano has brought to the Government both an innate sense of compassion and decency, and the rare ability to transform that compassion and commitment into workable social programs. He has helped us tackle new problems, and has brought new and effective solutions to old, ongoing ones. He has helped us face head on the pressing social issues of the 1960's and 1970's, and has given us the leadership necessary to work together to solve them. For two decades, Joe Califano's name has been associated with the finest and most innovative social programs we have had.

He has put human needs and fundamental rights as his first priority, and has helped them to become top priorities of the Federal Government. The compassion, insight, and vision which Joe Califano has brought to HEW has helped to make this Nation become the great provider for our people that we are. He will be sorely missed.

Mr. Speaker, I would not for a minute argue with the President's right to hire and fire his assistants as he sees fit. However, I do feel compelled to mention that the terms under which Joe left the administration were less than politic. I regret that a man of his dedication, a man with a record of outstanding public service, is leaving his current post under a cloud of uncertainty. The honor which Joe Califano has brought to this, and previous administrations, should warrant an equally honorable transition period.

It is a happy coincidence for me that Joe Califano and I share not only many beliefs, but an ethnic background as well. Italian-Americans are proud of Joe Califano, his spirit of public service, and the role model he has provided for our children.

As a Member of this House, I believe we all owe a debt of gratitude to Joseph Califano for helping our Nation to become as great and strong as we are. I am proud to be able to call him my friend, and I am proud that our terms in Washington coincided and allowed me the opportunity to work with him.●

● Mr. OBERSTAR. Mr. Speaker, our Nation is fortunate to have citizens like Joe Califano who are willing and proud to undertake careers of public service.

Despite HEW's reputation as being one of the hardest departments to administer, Joe Califano has established a solid record as an administrator and as one of the best Secretaries in the Department's 25-year history.

HEW's constituents are not the rich and the mighty, but the poor, the sick, the old, and the young child. Joe Califano has been a most eloquent and effective champion for that constituency.

This special order is just one indication of the affection and administration for Secretary Califano among the Members of this House. I know I speak for many of my colleagues when I say I hate to see him leave HEW.

When President-elect Carter announced his intention to nominate Joe Califano as Secretary of HEW in 1976, it was a good decision. In his 2½ years as Secretary, Joe Califano demonstrated the wisdom of that decision and justified without question the confidence the President-elect showed in nominating him.●

● Mr. LAFALCE. Mr. Speaker, Joseph A. Califano's tenure as Secretary of Health, Education, and Welfare has been marked by one concept more than anything else, a commitment to excellence; indeed, his tenure produced such excellent results that they deserve attention, appreciation, and applause; I wish to describe those accomplishments today.

Joseph Califano was first and foremost a man concerned with protecting the poor, the infirm, the aged, and the needy in a time of tightening budgets. He effectively championed the position that those least able to help themselves could be protected by the Government by making the Government more efficient, that compassion and wastefulness were not synonymous.

To this end, he reorganized and streamlined HEW and made major, dramatic reductions in fraud, abuse, and waste in HEW programs.

To insure that our Nation's system of social security protection was improved, he designed the administration's proposals and labored strenuously for passage of legislation to assure the financial integrity of the social security system.

To provide health care protection at reasonable prices for all Americans, Joe Califano fought for effective hospital cost containment legislation, and battled with conservatives and liberals alike in behalf of the administration's national health care policies. His conflicts with both the American Medical Association and Senator KENNEDY on the subject of health care give eloquent testimony to his loyalty to the Carter administration.

To further improve the health of Americans, Joe Califano vigorously encouraged an expansion of research and attention to the prevention of disease and illness, efforts which brought him both acclaim and criticism. But, Mr. Speaker, Joe Califano was not afraid of criticism; he realized that to battle for excellence in Government, excellence in social policy, and excellence in HEW was to invite criticism from those who were tied to the old, established standards. A leader, Mr. Speaker, does not avoid or hide from criticism; he chooses his path and endures whatever pitfalls he encounters in pursuit of his goal.

To provide an improved system of Federal support for education, Joe Califano worked with Congress to implement a number of significant laws in the field of education. His labors were a major reason why the administration's Middle Income Student Assistance Act of 1978 passed Congress and became law.

Joseph A. Califano served HEW, the President, and the Nation with uncommon vigor and fortitude. The results of his service can be seen in numerous new Government programs which he shepherded through the administration and Congress, and in a Department of Health, Education, and Welfare which is far more efficient and compassionate. In his own pursuit of excellence, Joe Califano never took his eyes off the ideal of compassion, never closed his mind to new, innovative ideas, and never forgot the honor which comes from serving his President and his Nation.●

● Mr. ZEFERETTI. Mr. Speaker, I want to join my colleagues in briefly calling attention to the distinguished accomplishments of former HEW Secretary Joseph Califano. His dedication to public service has spanned a number of years and his versatility can best be appreciated by the fact that he helped formulate a number of the Great Society programs under President Johnson, and he was then brought back into public service by President Carter to administer many of those same programs at HEW.

While we differed philosophically on a number of issues, there is no doubt that Mr. Califano is a topnotch innovator, a first-rate administrator and an individualist unafraid to speak his mind. For these qualities he has my utmost respect. I feel that we need more people such as the former Secretary in the service of the Federal Government, not fewer.

In closing, I just want to say that it is my sincere hope that Joseph Califano will continue to actively participate in the mainstream of American public life so that we may all continue to benefit from his knowledge and expertise.●

● Mr. BIAGGI. Mr. Speaker, I rise to join my colleagues in paying tribute to a most dynamic leader and an able administrator in the crusade to better the lives of all Americans, Joseph Califano

I need not elaborate upon Joe Califano's credentials which led him to be chosen to head our most diverse and also most complex Federal agency, the Department of Health, Education, and Welfare. His association with the Johnson administration, his role as an architect of the Great Society program and his knowledge and skill with the Washington process have served to prepare him for the role as the overseer of the health, education, and social welfare of this Nation.

While I would certainly be quick to compliment him for his role in working with this body on the variety of issues which we must deal with, I would like to take this opportunity to specifically highlight his contributions to the educational affairs of this Nation. We on the Education and Labor Committee are deeply indebted to Joe for his close cooperation with us in helping to improve and expand the programs and facilities of the learning institutions in this Nation and address the needs of the people, young and old, who attend them.

As the ranking New York member of this committee, as well as a member of the Postsecondary Education Subcommittee, I have seen the improvement in the responsiveness of the Federal Government to postsecondary institutions since Joe Califano took charge. As he himself noted in March 30 testimony to our subcommittee, "No reason, however compelling, can justify Federal constraints upon academic freedom and integrity." To underscore this commitment, note the fact that in fiscal year 1980 alone, Federal assistance to postsecondary education totaled $10 billion—an increase of $8 billion from 10 years ago. In New York State, the average costs of postsecondary attendance have increased 65 percent since 1973—not an unusual figure. The Department has responded to this increase with an awareness of the problem by these increased financial commitments.

The educational amendments of 1976 addressed this problem in a concise and comprehensive fashion. They expanded the Federal commitment while also simplifying many of the regulations so they would be more accessible to more people. The "Control of Paperwork" amendment to title IV of the general provisions of these amendments, section 406(g), is a good example of how the Federal Government can streamline its data collection efforts. The educational amendments of 1978 took a step further in providing a more comprehensive approach to the control of paperwork and HEW is to be commended in addressing this issue.

One of the largest groups in need of financial assistance which had in the past been all but ignored in the Federal student financial assistance programs were those from middle income backgrounds. Last year, the Middle Income Student Assistance Act (MISAA) expanded eligibility for awards to approximately one-third of the students enrolled in postsecondary education to help defray the rising costs of their education. Joe Califano took the lead in these initiatives and as a result of these programs, the Office of Education estimates that it will provide 37 percent or $4.9 billion of the $13 billion that will be spent in 1980 on college tuition and fees.

Another one of the problems which had been overlooked by past administrations has been the collection of defaulted Federal student loans. Let me highlight what Joe Califano and HEW have done regarding this problem in the past 4 years:

Five times the amount of guaranteed student loans had been collected between January and March 1979 than the year before;

Over 30,000 defaulters of guaranteed student loans began repayment or fulfilled their obligations during the second fiscal quarter, more than 3 times the total for the entire fiscal year 1977;

Federal collectors are now converting these defaulted accounts to repayment at a rate of 2,500 a week. This rate is 8 times higher than it was before Joe Califano took office;

In April 1978 there were about 400,000 in default in this program. By this past March 1, this number had dropped to 300,000;

"Project cross-check" has been devised to track down defaulters who are also on the Government payroll;

From August 1978 to March 1979, HEW had referred over 4,600 civil cases to U.S. attorneys, compared to a total of about 500 for the previous 5 years; and

As a result of these efforts in the area of guaranteed student loans, the default rate has been reduced from 14 percent in fiscal year 1978 to a recent figure of 10 percent.

History has changed our educational institutions. The civil rights movement of the 1960's has had a great effect upon this country in the 1970's. The character and population of these institutions have been altered and expanded. Joe Califano has acknowledged and responded to this change during his tenure as Secretary of Health, Education, and Welfare. Those of us who are involved in educational affairs are aware that we need a diverse package of educational opportunities for the citizens of this country and he has helped us shape such a package. For this we are deeply indebted to him and his efforts in this area.

All of us here are aware of the need this country has for strong, devoted and aggressive leadership in the field of public service. Joe Califano is a leading purveyor of this leadership. Let us hope that he will be heard from again.●

● Mr. MAZZOLI. Mr. Speaker, the dismissal of Joseph Califano from the Department of Health, Education, and Welfare is a disappointment to all of us who know him to be a distinguished public servant.

His commitment to improving the way of life for the less fortunate in America is a model for each of us in public life.

There are few people in Washington who have tackled the vast array of problems with the talent and determination of Joe Califano. I admire his dedication to do what he knew to be the best for the Nation, regardless of opposition from the influential.

I wish him well as he reenters private life.●

● Mr. MINISH. Mr. Speaker, I am extremely disappointed by the dismissal of Joseph Califano as Secretary of the Department of Health, Education, and Welfare.

In my 17 years in Washington, I have met very few people who approach Joe Califano's ability, dedication, and integrity. Two and a half years ago, he left an extremely lucrative law practice in order to accept one of the most demanding and thankless positions in our Government. He has done his job well.

No one, least of all Joe Califano himself, denies that he has been an active and sometimes controversial Secretary of HEW; no one who does so much for so many people can avoid ruffling a few feathers. He is a man with a strong sense of fairness and justice, whose drive and intelligence have enabled him to translate his ideals into actions. In a city full of talkers, Joe Califano has been a doer. Despite criticism and pressure from various special interest groups, he has consistently done what he thinks is best for all the citizens of the United States.

Joe Califano has contributed a great deal to our country. I am sure the President will come to realize that firing him is a serious mistake. The real loser in this unfortunate episode is not Joe Califano, but rather the 220 million Americans who will no longer enjoy the benefit of his work.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join my distinguished colleague, Hon. PETER W. RODINO, JR., who has taken this special order, in recognizing the tremendous service that Joseph A. Califano, Jr., has performed as Secretary of the Department of Health, Education, and Welfare during the last 30 months.

He has been an innovative and effective Secretary. He did not duck any of the tough issues. He fought long and hard for what he believed to be the best interests of the administration which he served. His work on smoking, drug abuse, alcoholism, welfare cheating, and a multitude of other programs that make HEW the largest agency in our Government will be long remembered by the people of this country.

He has been referred to as probably the greatest Secretary of Health, Education, and Welfare the Department has ever had, but as for me, that is not as important as the fact that he served his country with dedication, with devotion, and with a desire to improve the lot of the millions upon millions of Americans who rely on the services of the Department of Health, Education, and Welfare.

I have known Joe since 1964, when I was first elected to Congress and he was serving as special assistant to the then Secretary of Defense Robert S. McNamara. From that position, he went on to become special assistant on domestic affairs to President Lyndon B. Johnson. He was the chief architect of many Great Society programs and helped to guide the legislation through Congress.

Subsequently, as Secretary of Health, Education, and Welfare in the Carter administration, he did an admirable job of administering those laws which he was responsible for placing on the statute books.

I was delighted when he returned to Government service under President Carter, and I know that the substantial contribution he made to the Carter administration during the last 30 months is appreciated by the President and the people of America.

Joe Califano is a product of the Borough of Brooklyn. He has a penchant for excellence and always demands excellence in his work and from those who work with him. At HEW, he fought long and hard to halt the waste of taxpayers' money through fraud and incompetence. These efforts have been both fruitful and beneficial for our Nation.

There are few men in American life who have given more of themselves to good government and who have a more compassionate understanding of human problems than Joe Califano. Joe Califano has always been in the forefront of efforts to implement meaningful solutions and effective actions on behalf of the citizens of our country. His energetic commitment to high standards has been an inspiration to his friends and to his fellow citizens, and his outstanding accomplishments in Government will be long remembered by all those who have followed him and his work in our Government.

I join my colleagues in extending to Joe our appreciation for his service to our Nation and our warmest best wishes for ever-increasing success. Although he leaves Government service, he has recommitted himself to continue his fight to make America strong. He has said that he will continue his efforts to help President Carter in his struggle to resolve the energy problem, to curb inflation, to increase employment, and to make our Nation energy self-sufficient.

We shall miss you, Joe, but you will be back.●

● Mr. RINALDO. Mr. Speaker, the abrupt dismissal of Joseph A. Califano from his post as Secretary of the Department of Health, Education, and Welfare represents an extremely serious loss to all the people of this country. We never will have enough good people in Government and need every one that is available. In Joe Califano's case, the loss is of unique dimensions.

The Department of Health, Education, and Welfare has one of the most sensitive and important jurisdictions in the entire Federal Government. It accounts for over one-third of the Federal budget and employs some 45,000 people. Since its initial organization, HEW has correctly earned the reputation as an extremely difficult if not impossible management task.

When he was appointed to the Department in 1977, Joe Califano was undaunted by the nature of the challenge before him. He immediately applied his exceptional talents as an attorney and as an administrator as well as his tremendous capacity for hard work to his duties as the most effective Secretary in the Department's history.

His initiatives and new approaches in a wide variety of areas have left an indelible imprint on HEW and have touched nearly every facet of our lives. His efforts to cut soaring medical and hospital costs are particularly well known. He pioneered in innovative techniques to control fraud and waste in the programs administered and funded by his Department, and was especially vigorous in combating fraud in the medicare, medicaid, and student loan programs. His antismoking campaign attracted wide attention throughout the country.

Mr. Speaker, as the country enters a period of increased attention and challenge in the domestic area, the Department of Health, Education, and Welfare will continue to need the best possible leadership available in this country. It is a matter of great concern to me that we had such a leader in Joe Califano only to lose him at a time when he was needed the most.●

● Mr. VENTO. Mr. Speaker, Joseph Califano's resignation as Secretary of the Department of Health, Education, and Welfare can only be regarded as a major loss, both to the administration and the American people.

He was one of the brightest talents in Federal Government with a long record of administrative and legislative accomplishments. I had the pleasure of working with him personally on many key legislative issues, and he has always had my highest respect and admiration.

As a veteran of President Lyndon Johnson's administration, he helped shape and develop many of the Great Society programs which touch the lives of millions of Americans each day. As HEW Secretary, he had the responsibility of administering and implementing those programs, programs which tend to the needs of the old, the young, the poor, the ill and the handicapped. He was able to demonstrate that Government can do the things that are necessary for the social stability of our society, and that Government can do them not just with competence but with compassion.

Under the Califano banner, HEW made great strides in expanding protections for the health of all Americans, assuring equal education opportunities for all citizens, and guaranteeing the individual rights of victims of all kinds of discrimination. He also made some needed internal changes including the elimination of fraud in HEW programs and the computerization of Department records.

Mr. Califano deserves our highest praise for his professional competence and also for his personal leadership on the most sensitive issues. He was not afraid to take a forthright and outspoken stand on issues like the hazards of smoking and necessity of school desegregation. His courageous positions provoked those whose special interests he opposed, and—in the end—he paid a dear price for his integrity and moral leadership.

I want to wish Mr. Califano the best of luck in his future endeavors and I want to thank him for his significant contributions to our society and to the American people.●

● Mr. WAXMAN. Mr. Speaker, no Secretary of Health, Education, and Welfare has been as forceful, as effective, or as compassionate as Joe Califano. I know personally how gratifying it was for him to be able to administer so many of the programs first enacted into law during Lyndon Johnson's Presidency. In those years, he served on the Domestic Council, and developed a series of landmark initiatives—for civil rights, for income security, for education, for the welfare of the needy and the elderly, for health—which reflected this Nation's decency, generosity, and sensitivity.

Joe Califano has remained committed to those great goals, and the millions they serve, despite all the assaults they have weathered in recent years. Indeed, as Secretary of the Department, he reiterated this Nation's dedication to their fulfillment.

Though some would wish to turn away from our responsibilities to the poor, or the challenges faced by the oppressed, or the burdens confronting all victims of discrimination, or the hardships visited on the elderly, Joe Califano never wavered from meeting their needs. And in the education of our children, and the task of strengthening our universities, Joe Califano insured that these ongoing concerns would never be diminished.

The Department itself is responsible for the hundreds of billions of dollars—more than any other Cabinet Department—invested in our human resources. Joe Califano brought managerial expertise and order to this most trying of positions. No matter how much anyone could disagree with his philosophy, none can quarrel with his skill in mastering the bureaucracy, or inspiring leadership and tenacity in his subordinates. Joe Califano made HEW work, and work well.

I was deeply privileged, as chairman of the Subcommittee on Health and the Environment, to have had an opportunity to work closely with him on common priorities in health care. None is more important than national health insurance. On this issue, as on so many others, Joe Califano labored courageously to develop as comprehensive, effective, and progressive a program as possible.

Joe Califano is a champion of all these endeavors, and more. We are indebted, as a nation, to the great public service he rendered as Secretary. I know he will continue to make the most significant contributions to our people and the country.●

● Mr. FORD of Tennessee. Mr. Speaker, he has always been effective, efficient, responsive, and resourceful. His competency as a manager is unmatched, and his attention to complicated detail is both resolute and remarkable.

I am deeply saddened that the President saw fit to accept the resignation of Joe Califano. The close relationship we have developed over the past 2½ years enabled both of us to see the legislative needs of the people of this Nation.

Joe was an accomplished architect who could carve a legislative blueprint and make alterations for all sides: North, South, East, or West. His views on black and white mixed agreeably without sacrificing the true tones of either color. He had a genuine concern for the poor, the elderly, and the disadvantaged.

And, most importantly, he was very accessible whenever we needed him whether it be to explain a legislative proposal or personally review a constituent problem buried in bureaucratic redtape. It has indeed been a privilege and pleasure to work with Joe.

He built a sturdy bridge between HEW and the Congress—a bridge which will hopefully be as open for two-way travel the remainder of the administration.●

● Mr. CORMAN. Mr. Speaker, Joe Califano gave the people of this Nation dedicated and distinguished service as Secretary of Health, Education, and Welfare. In the past 2½ years I have had the privilege of working closely with him on issues of particular importance to the poor and disadvantaged.

Recently, we worked together on the administration's recommendation for a national health policy. Joe's deep understanding of the need for quality health care for all Americans and willingness to listen to problems and negotiate solutions helped structure a proposal which has gathered a broad base of support. Because of Joe Califano's commitment to the needs of others he was instrumental in including universal first dollar coverage for maternity and infant care in the President's plan. When the Carter health package is passed by the Congress, it will be in large part due to the efforts of Joe Califano.

Joe also provided tireless efforts to the Subcommittee on Public Assistance and Unemployment Compensation's success in reporting out the President's welfare package just last week. He was never too busy to help resolve disputed provisions or obtain needed outside support of interest groups, public officials, and private citizens for this complex issue. He helped make possible the first step toward comprehensive reform.

His days were long and even when they probably seemed never-ending, Joe Califano was available to Members of Congress. There has never been a Secretary in my 19 years of public service that has been more effective and willing to work with Congress.

Joe Califano is a man of action. His contributions were many, his counsel to Congress wise, and his service to his country exemplary. I commend and thank Joe Califano, and wish him every success in his future endeavors.●

● Mr. FASCELL. Mr. Speaker, it is with a great deal of pleasure that I take this opportunity to pay special tribute to Joseph A. Califano for his dedicated service and outstanding contributions to the quality of life of our Nation.

Serving as the steward of the Nation's welfare is no easy task. The mission of providing for the health, education, and welfare of a multitude of constituents as administrator of the Federal Government's largest executive agency is a difficult task. Reasonable men may disagree on how to carry out such a difficult mission, but few would disagree that Secretary Califano's performance was impressive. He brought to the office a dynamic leadership and unquestioned commitment to social concerns. He was toughened by years of experience to the rigors of Washington politics.

Yet, he never lost his sense of high social purpose or deep commitment to the welfare of needy Americans. Joe Califano can look back on his Federal Government service with pride and a sense of accomplishment. In his role as special assistant to President Lyndon B. Johnson, he worked with skill and determination on a series of difficult social issues—consumer problems, auto safety, civil rights, water pollution control, creation of the Department of Transportation, the Office of Economic Opportunity and the model cities program, among others.

While his work in these areas constituted significant contributions in themselves, they were also training for his later assignment as Secretary of HEW. In his tenure as Secretary, Joe displayed qualities of leadership which will stand as an example and inspiration to his successor.

He laid the foundation for reform of the agency. The day after he took office in January 1977, he announced the formation of a broad-based study group to examine the Nation's welfare programs. By the end of May, he announced the administration's tentative welfare reform program. He led an effort to curb soaring medical care costs and stood for prompt and stringent enforcement of our civil rights laws in education. Perhaps the finest example of his sensitive social conscience was his announced goal to use the authority of his office to pursue immunization of 20 million American children against the leading diseases that plague childhood by the fall of 1979. In addition, he hoped to institutionalize a permanent system of immunization of the millions of children born in the United States each year.

Joe Califano's years of experience inside and outside the Government, combined with his keen awareness of social measures, brought to the office a unique combination of skills. His hard work and capable leadership in combination with those skills brought hope to thousands of Americans who depend on HEW for the stable and efficient delivery of services. We owe a debt of gratitude to Joe Califano for his genuine concern for, and vigorous efforts on behalf of, the American people. I join with our colleagues in wishing him all the best in his future endeavors.●

CONGRESS MUST END COUNTERPRODUCTIVE WAGE-PRICE SANCTIONS ON LABOR AND CAPITAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, today I am introducing a bill to end the administration's enforcement of so-called voluntary wage-price guidelines with heavy and coercive sanctions.

The wage-price program may be the single most unfair administration policy toward working and saving Americans. It is certainly an impediment to economic growth. For the Government to devalue the dollar and the earnings of workers at the current rate of 13.4 percent, while enforcing a 7-percent limit on wages, is nothing less than highway robbery.

Unfortunately, this practice is consistent with the administration's peculiar and barbaric views on inflation. According to the former Director of the Council on Wage and Price Stability, Barry Bosworth, the administration believes that inflation is caused by "the average American." Administration economic policy is certainly aimed at the average American. The administration sees only two possible methods for reducing inflation, according to Mr. Bosworth—some form of wage and price controls, or higher unemployment.

"The Carter administration admits that the Government simply does not know how to administer wage and price controls," Mr. Bosworth said at a recent conference on inflation. But, he said, "unless something like this works, wages can be held down only by creating fear that workers are going to lose their jobs."

The administration's sanctions, which are enforced only for wages, threaten workers with exactly such a choice. Either workers accept a cut in real pay, amounting to 6.4 percent a year at current inflation rates, or else risk losing their jobs as Federal contracts are withheld from employers who deal with the Government.

The AFL–CIO recently challenged the enforcement of these guidelines in a court suit. Along with Senator HEINZ, Congressmen STOCKMAN of Michigan, and BROWN of Ohio, I was among 24 Members of Congress who filed a friend of the court brief supporting the AFL–CIO.

It was and remains clear to us that these sanctions violate the Congress prohibition of mandatory wage and price controls and the purpose of the Federal Procurement Act. We also believe that wage and price controls are unfair and ineffectual, since they deal with the symptoms and not the causes of inflation.

Unfortunately, this view was not upheld by the judicial process.

A district court judge upheld the AFL–CIO's position and ruled that the President had indeed exceeded his authority in imposing the sanctions. However, a panel of circuit court judges argued on appeal in favor of a broader interpretation of Congress intent to support the administration's anti-inflation efforts. The lower court ruling was overturned, and the Supreme Court declined to hear the case.

I believe the circuit court would have done well to confine its arguments to the law rather than to venture into economic theory. The entire 4,600-year history of wage and price controls does not disclose a single case in which such controls succeeded. The results have ranged without exception from ineffectual to destructive, depending on the amount of coercion involved.

History shows instead that inflation is always caused by a government's devaluation of its currency. No worker, no union, no business can devalue the national currency. Like every other good, the U.S. dollar's value is affected by supply and demand. Inflation occurs when the Government supplies dollars faster than people demand them—creating money faster than the economy grows. When the value of each dollar falls, the average price of goods rises. Inflation will end only when the Government restores some guarantee of a constant exchange rate between dollars and goods. For nearly 200 years in this country, until 1971, as long as the Government honored such a guarantee, there was no significant inflation.

Penalizing workers is not the answer to inflation. To solve the problem of too much money chasing too few goods—inflation—we must tighten money and vigorously cut tax rates to increase saving, investment, employment, and production.

The bill I introduce today provides that:

Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States may withhold Government contracts or apply any other sanction to enforce compliance with voluntary wage-price guidelines.

I am honored to name as original cosponsors with me Congressmen Brown of Ohio, Stockman, Whitehurst, Quayle, Symms, Rousselot, Paul, Solomon, Shumway, Thomas, Frenzel, Derwinski, Jeffries, Coughlin, Walker, Gingrich, and Young of Alaska.

The bill has been introduced in similar form in the Senate by my friend, Senator Bob Dole. The only difference is that Senator Dole's bill deals exclusively with the denial of Government contracts, whereas this bill also forbids "any other sanction."

I urge my colleagues to join me in ending this most unfair and—since it is aimed at working men and women—literally counterproductive administration policy.●

EXPORT TASK FORCE ARTICLE NO. 12: WE ARE TONGUETIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, I recently had the privilege to add my name as a cosponsor of H.R. 4526, the Education for Exporting Act. The bill, authored by our colleague Sam Gibbons, is designed to promote American competitiveness in world markets through improved educational opportunities.

Outside the United States only 4 percent of the Earth's population speaks English. This, coupled with the fact that 9 out of 10 Americans cannot speak, read, or effectively understand any language but English, gives insight into one reason why America is ineffective in capitalizing on economic opportunities throughout the world. H.R. 4526 would begin the process of alleviating this situation. I would ask that my colleagues give their utmost consideration to adding their names as cosponsors of this bill.

The July 30, 1979, issue of Newsweek featured in its "My Turn" column an article by the former U.S. Senator from Arkansas J. William Fulbright. Former Senator Fulbright presents a strong case for the teaching of foreign languages in our high schools and colleges. As Senator Fulbright says:

> Our linguistic and cultural myopia is losing us friends, business and respect in the world.

I highly recommend former Senator Fulbright's article to my colleagues:

We're Tongue-Tied

(By J. William Fulbright)

Our heritage and our culture have caused most Americans to assume not only that our language is universal but that the gestures we use are understood by everyone. We do not realize that waving goodbye is the way to summon a Filipino to one's side, or that in Italy and some Latin-American countries, curling the fingers in a beckoning motion is a pantomime of farewell.

Those private citizens who sent packages to our troops occupying Germany after World War II and marked them GIFT to escape duty payments did not bother to find out that *Gift* means poison in German. Moreover, we like to think of ourselves as friendly, yet we prefer to be at least 3 feet or an arm's length away from others. Latins and Middle Easterners like to come closer and touch, which makes Americans uncomfortable.

Our linguistic and cultural myopia and the casualness with which we take cognizance—when we do—of the developed tastes, mannerisms, mores and languages of other countries, are losing us friends, business and respect in the world.

Even here in the United States, we make few concessions to the needs of foreign visitors. There are no information signs in four languages on our public buildings or monuments; we do not have multilingual guided tours at Mt. Vernon or in Arlington National Cemetery. Very few restaurant menus have translations, and multilingual waiters, bank clerks and policemen are rare. Our transportation systems have maps in English only and often we ourselves have difficulty understanding them.

CULTURAL BLINDNESS

When we go abroad, we tend to cluster in hotels and restaurants where English is spoken. The attitudes and information we pick up are conditioned by those natives—usually the more affluent—who speak English. Our business dealings, as well as the nation's diplomacy, are conducted through interpreters.

For many years, America and Americans could get by with cultural blindness and linguistic ignorance. After all, America was the most powerful country of the free world, the dispenser of needed funds and commodities, the peacemaker, the "top banana" in the global cast.

But all that is past. American dollars no longer buy all good things, and we are slowly beginning to realize that our proper role in the world is changing. A 1979 Harris poll reported that 55 percent of Americans want this country to play a more significant role in world affairs; we want to have a hand in the important decisions of the next century, even though it may not always be the upper hand.

It is clear that in order to play a significant role, more of us will have to know languages and understand cultural differences. In 1976, only 4 percent of high-school graduates had spent two years learning a foreign language; in 1977, only 9 percent of degree-credit college students were enrolled in foreign-language courses. In the same year, it was found that only 14.3 per cent of college freshmen could speak a second language, no matter how many courses they had absorbed. Two years of study gives a student only a taste of the basics of a language. The fact that fewer than one in twenty recent graduates from public high schools have studied any foreign language for more than two years shows the limitations of our linguistic achievement.

Unfortunately, foreign-languages and cultural studies have often been discouraged at the high-school level because many guidance counselors believe that this kind of knowledge has little commercial value. But this perception is obsolete: already one out of eight jobs in industry and one out of five in agriculture depend on international trade. Many more positions may soon require the secondary skill of a foreign language.

The general feeling is that language skills can be purchased as needed. This is a strange notion if one can visualize the rapid-fire talk and signals used when a contract is being negotiated, and gauge the handicap under which an American competes with foreigners facing him at a conference table. The foreigners are usually capable of communicating quickly with one another while the American must rely on the accuracy of an interpreter from another culture.

Americans are similarly handicapped in conducting foreign policy. In recent years, our graduate centers for international and area studies have received less and less Federal money, which has resulted in declining enrollments in international studies at the undergraduate level. Just when our need for diplomatic skills is most intense, we are failing to train generations of diplomats to fill many overseas posts.

In Teheran in 1978, only nine of the 60 Foreign Service officers could speak Persian. In Pakistan, only five American's 32 diplomatic officials are required to be proficient in Urdu. In Kenya, only one officer of 22 in the American Embassy is required to speak Swahili. It is very difficult to find in the service a bilingual interpreter of Chinese or Japanese.

LOGICAL STEPS

For the important work of international affairs, long years of study are required to thoroughly master a language and to acquire in-depth knowledge of the societies the student wishes to enter. The President's Commission on Foreign Language and International Studies is considering how Americans can become better citizens of the world. To teach languages to youngsters—the younger the better—and to greatly expand educational exchange programs would seem to be logical steps.

In Jamaica, N.Y., there is a high school which offers nine languages, including Hebrew, Chinese, Russian and Greek. The school provides a two-year career course to selected students who wish to enter the fields of international trade, tourism or diplomacy. It is one of the few high schools to offer international studies along with the appropriate languages. There should be many more such schools.

Georgetown University has already received a grant, recommended by Congress and administered by the International Communication Agency, to provide administrative costs for a program that would permit paying students at the university to exchange places with foreign counterparts in any of 40 universities in eight nations.

If the pilot program at Georgetown is successful, it is expected that Congress will recommend that it be repeated at other American universities. We need all the versions of international cultural and educational interchange we can create if the growing parochialism of Americans, both old and young, is to be replaced with knowledge and understanding.

House of Representatives,
Washington, D.C., July 24, 1979.

Dear Colleague: We have recently introduced legislation, H.R. 4526, the "Education for Exporting Act," to help promote American competitiveness in world markets through improved educational opportunities.

Last year, as a result of our serious difficulties in international trade, our trade deficit reached about $34 billion. Of course many reasons underlie this huge deficit, but one we too often overlook is American inability to compete effectively in foreign markets as a result of our relative provincialism.

Outside the U.S. only 4 percent of the earth's population speaks English. This, coupled with the fact that nine out of ten Americans cannot speak, read, or effectively understand any language but English, gives insight into one reason why America is ineffective in gaining economic opportunities in the world.

Among industrialized nations, the U.S. stands alone in its neglect of foreign language study. All too often American firms go overseas and expect those in the foreign markets to understand the English language, thus placing many American businesses at a terrible competitive disadvantage.

We must realize the potential benefits of language and area skills joined to U.S. technology and management expertise. The Education for Exporting Act will put us on this profitable path.

The purpose of our legislation is to promote student foreign language and international business study through a series of programs. The bill, among other things, would establish overseas internships to allow students to live in and study foreign markets. By such efforts to promote a better blending of language and international business skills in our young people, we can become more effective in expanding U.S. exports, increasing competitiveness abroad, reducing our trade deficit, and helping to pay for our oil imports.

This bill would establish a Foundation to promote programs to insure that language and foreign area studies are tailored to business needs, and that more U.S. business people have studied foreign languages and cultures and have some valuable skills in international business operations. In the short run, the Foundation's programs will help our competitive position through the provisions of market research, product servicing, and translation services to small and medium sized firms.

In short, the role of the Foundation is to provide the incentive for some long run changes in our approach to language and business training.

This bill has been designed very much with our current budget problems in mind, since this is not the time for expensive new programs. It would minimize the costs to the Treasury by:

(1) allowing the Foundation to charge for its services

(2) authorizing the receipt of tax-free contributions from the private sector

(3) a ten-year sunset provision

(4) the use of multipliers—e.g., working through overseas American Chambers of Commerce to deliver services.

The U.S. has a terrible structural weakness in its export program, exemplified by the fact that a mere 250 firms account for 80 percent of all exports. This Act will help tap the 88 percent of all manufacturing firms not presently engaged in exporting. If we can encourage just a few of these firms to enter the export market, it will result in a stronger U.S. trade position.

We feel that the Education for Exporting Act will help us make some very real gains in improving our overall trade imbalance by increasing international awareness in our business community and among our young people. If you would like to co-sponsor, please have your office contact either Craig McNeill of Congressman Gibbons' Office (x53376) or Vickie Otten of Congressman Simon's Office (x55201).

Sam Gibbons, Bill Alexander, Charles Vanik, Paul Simon, Stephen Neal, Gillis Long, Bill Frenzel, James Jones, and Parren Mitchell, Members of Congress.●

NIE: STRONGER UNDER THE LEADERSHIP OF PATRICIA GRAHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I take this time to say a few words in tribute to the work of Dr. Patricia Albjerg Graham, who several weeks ago resigned her position as Director of the National Institute of Education (NIE), to return to Harvard University, where she has been appointed to the chair of the Charles Warren Professor History of Education.

As sponsor in the 92d Congress of the legislation which created the National Institute of Education, I have of course followed its record with interest. The NIE was created to encourage equality of educational opportunity in our country through the support of basic and applied research aimed at developing "dependable knowledge about the processes and teaching and learning."

Mr. Speaker, one of the reasons I became such a vigourous champion of the NIE is that I believed that in the field of education—I am sure my colleagues in the House and Senate have the same observation in respect of other areas of public policy—we were too often put in the position of having to make judgments on major policy questions without adequate data and analysis to guide us. At that great friend of American education, President Lyndon B. Johnson, used to say, "My problem is not so much doing what is right as knowing what is right."

EARLY PROBLEMS

Mr. Speaker, many of us recall the early difficulties of the NIE: its policymaking National Council on Educational Research was not appointed for nearly a year after the creation of the agency;

It inherited a number of often trivial and esoteric projects transferred from the office of education;

And the funds for the agency were slashed in half during the second year of its existence.

NEW DIRECTIONS

Patricia Graham arrived as the Director of the NIE in 1977 and acted vigorously and, I believe, Mr. Speaker, effectively, to help turn this situation around.

Dr. Graham moved to give the NIE greater coherence through a reorganization which reduced the number of major administrative units from 8 to 4 and the number of program divisions from 29 to 16.

Minority representatives from the top leadership positions in the agency went from 0 to 31 percent today.

Following intensive scrutiny of 17 regional education laboratories and research centers, she resolved long standing problems with these by creating a long-term funding relationship with 15 of them.

And, Mr. Speaker, Dr. Graham articulated clearly the two principal missions of the NIE: enhancing equity in education and helping improve educational practice.

Finally, during Dr. Graham's tenure, the research program of the NIE has matured and produced a number of research reports of quality including:

A clear and comprehensive evaluation of title I of the Elementary and Secondary Education Act;

A Rand study on the effects of collective bargaining in schools;

A report, Tax Wealth in 50 States, examining issues involved in financing our schools;

Plain Talk About School Finance, a useful guide for teachers and the general public.

A teachers guide, Cognitive Development of Children, now in its second printing and aimed at helping teachers understand what we know of the intellectual development of children; and

A study of violence and vandalism in the schools.

Mr. Speaker, it was, I believe, in large part because of such constructive developments as these that Congress, in the 1978 education amendments, transferred the National Assessment of Educational Progress to the NIE and that the House-Senate conferees on that legislation applauded the agency as a unique and solid resource for both policymakers and educators.

DR. PATRICIA GRAHAM

Dr. Patricia Graham, Mr. Speaker, a graduate of Purdue University, in my own home State of Indiana, has a doctorate from Columbia University and after having served as a teacher at Deep Creek High School in Norfolk County, Va., moved on to assume the vice presidency of Radcliffe College and to serve as professor of education at Harvard.

As I have said, this outstanding scholar has now returned to Harvard to fill a chair, endowed a dozen years ago but not filled until a scholar of her stature could assume it.

Mr. Speaker, I know that all Members of the House and Senate who worked with Patricia Graham will wish her well in her new responsibility.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a brief statement concerning the work and goals of the National Institute of Education from the official journal of the National Association of Administrators of State and Federal Education Programs. The statement follows:

NATIONAL INSTITUTE OF EDUCATION UNDER GRAHAM MEETS CHALLENGES

"Can an agency created to fund research and development to acquire 'far more dependable knowledge about the process of learning' avoid the temptation to explore esoteric subjects and concentrate on its work of improving schooling?" was just one of the Congressional challenges directed to Dr. Patricia Albjerg Graham while she was being considered to head up the National Institute of Education two years ago.

"Yes, indeed it can and indeed it has!" is the consistent Congressional response to be heard in May 1979.

Citing language directing NIE to examine "far more dependable knowledge about the process of learning and education," Director Graham, in a recent interview recalled having announced that NIE's major missions would be (1) to improve equity in education and (2) to support work designed to improve school practice. As evidence of NIE's ability to make a difference, Dr. Graham pointed out the effects of such projects as the NIE Study of Title I, its study of vandalism and violence in schools, and the development at the Wisconsin Research and Development Center of the Individually-Guided Education Program.

Called upon to provide leadership in the conduct and support of scientific inquiry into the educational process and to disseminate improved education practices and products, Dr. Graham indicates that NIE is currently concentrating its efforts on six priority problem areas: (1) Basic Skills, (2) Education Equity, (3) Finance and Productivity, (4) School Capacity for Problem Solving, (5) Education and Work, and (6) Dissemination.

To achieve its objectives in these areas, NIE has organized its operations around three broad program areas: (1) Teaching and Learning, (2) Educational Policy and Organization, and (3) Dissemination and Improvement of Practice.

A National Council on Educational Research made up of leading citizens active in education, provides NIE with General policy guidance and reviews its operations. This Council of 15 members, appointed by the President and confirmed by the Senate meets bimonthly. Its Chairman is Dr. John E. Corbally, President, University of Illinois, Urbana

However, much of what NIE undertakes is mandated by the Congress, specific programs designed to provide the Congress with dependable information for its policy determination and education legislation. The Title I Study, the Safe Schools Study, and the Vocation Education Study are examples of Congressionally mandated studies

Finally, the Education Division of the Department of Health, Education, and Welfare, contributes to NIE planning and guidance.●

INVESTMENTS IN ART BY PENSION FUNDS PERMITTED UNDER NEW REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, effective July 23, 1979, under regulations interpreting the Employee Retirement Income Security Act of 1974 (ERISA), the fiduciaries of America's private pension plans are now permitted to invest in works of fine art and other art objects. These regulations represent a modest breakthrough in channelling more private funds—perhaps millions of dollars over the next several years—into the art market, thereby serving to strengthen the art market in the United States.

ERISA was enacted to provide systematic protections and guarantees to the 35-million workers who participate in the Nation's 500,000 private pension plans. In 1977, these plans had assets of about $250 billion, and paid out roughly $20 billion in benefits to some 8 million beneficiaries.

Sections 401–406 of the law set out the responsibilities of the fiduciaries who make investment decisions for these plans. Traditionally, these investments have been in U.S. Government securities, corporate and other bonds, preferred and common stock, mortgages and other such assets. Guiding these decisions has been the so-called prudence rule, designed to insure that this fiduciary responsibility is marked by care, skill, prudence, and diligence.

The question has arisen: How much latitude in investment judgment could be tolerated under the prudence rule? Specifically, could fiduciaries responsible for these pension plans consider investments in other areas, such as art, which have the potential to diversify and strengthen these plans' portfolios as much as any other, but which would be a departure from traditional practice?

I posed these questions to the Department of Labor and the Comptroller of the Currency. Recently, museum officials, market analysts, and scholars have come to believe that investment in art can serve the dual purpose of providing an excellent return over time as well as inject new capital into the art market—to the benefit of artists and the institutions, such as museums, that support them.

The responses to my correspondence and the new Department of Labor regulations effective July 23, make clear that the prudence rule governing investments is to be construed broadly. If, to the fiduciaries of a pension plan, investments in fine art appear to be sound or would diversify and strengthen their portfolios, there is no legal barrier to pursuing it. The decision rests with the fiduciaries of the plan.

These interpretations of law mean that potentially millions of dollars in pension funds could be channeled into the arts. ERISA's objective is to protect against any erosion of the security of American employees. Today, that means finding hedges against inflation. Under certain circumstances, that hedge may well be found in the art market.

I believe there now exists the possibility for the development of exciting financial arrangements between pension funds, museums, collectors, and artists—to the benefit of all concerned, including the public. Arrangements could be made whereby art purchased by pension funds would be displayed in museums or other public places, rather than being locked up. Indeed, many of the purchases will surely come from private collections, presenting the possibility that some of the acquisitions could be opened to the public. Investment programs in the works of living American artists could conceivably be established.

It is critical, however, that these opportunities must be approached with responsibility and creativity if the security of American workers is not to be compromised, if artists are to receive the benefits of an injection of new capital into the market, and if the public's access to, appreciation, and enjoyment of the arts is to be enhanced.

Whether this occurs rests solely on the foresight and sensitivity of the managers of these transactions.

I believe this is a significant development in the art market. It is my hope these new opportunities will be fully discussed by all involved in the coming months, and that pension funds, museums, collectors, investors, and artists will begin to actively explore them.

The following are certain relevant documents regarding these regulations:

December 21, 1978.

Re Proposed regulation 2550.404a–1(b) (1).

Hon. RAY MARSHALL,
Secretary of Labor, Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: The Department's Office of Pension and Welfare Benefit Programs has had under consideration for several months a proposed regulation (section 2550.404a–1(b) (1)) which clarifies the responsibilities of fiduciaries of retirement plans under the "prudence rule" pursuant to the Employee Retirement Income Security Act of 1974 (P.L. 93–406).

Specifically, the proposed rule states that investment decisions are to be made taking into account the overall plan investment portfolio. In doing so, the rule would provide greater flexibility to fiduciaries in making a range of sound investments for the beneficiaries of these retirement plans.

Recently, increased attention among those involved with the arts has centered on whether investments in fine arts may be contemplated by the fiduciaries of these plans. Strong arguments have been advanced by market analysts, museum officials and scholars that the prospect of such investments would not only be attractive to the pension plans as a means of diversifying and strengthening their portfolios, but would also yield the secondary dividend of strengthening the art market, to the benefit of artists and museums.

Indeed, the British Rail Pension Fund has, since 1974, invested some $40 million in visual art. The Fund's officials are reportedly extremely pleased with this policy, and have contended that these investments have proved more profitable than their holdings of stocks and other securities.

The spirit of the proposed regulation would seem to permit fiduciaries, in adhering to the "prudence rule" governing investments under the Act, to consider investments in fine art. However, the proposed regulation is silent on this as well as other potential investments, such as real estate and precious metals. The question therefore arises as to the Department's intent with respect to this proposed regulation.

It is my understanding that this proposed regulation will not be made final until at least February, 1979. Accordingly, I would like to be advised whether, first, the proposed regulation would afford fiduciaries of affected employee benefit plans the ability to invest in visual art, or; second, an amendment to ERISA would be necessary to provide for this permissive authority.

I also wish to express my belief that the proposed rule is very worthwhile and will prove to be of great benefit to the plans covered by ERISA.

Please accept my thanks for your consideration and review of this matter. With good wishes, I am,

Sincerely,

HENRY A. WAXMAN.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., February 2, 1979.

Hon. HENRY A. WAXMAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WAXMAN: Your recent letter to Secretary of Labor Marshall has been directed to me for response. Your letter inquires about the application of the prudence in investment regulation which has been proposed by the Department in implementing its responsibilities under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether (1) the proposed regulation would afford fiduciaries of affected employee benefit plans the ability to invest in visual art, or (2) an amendment to ERISA would be necessary to provide for the permissive authority.

The proposed regulation is intended to provide guidance and clarification of the "prudent man rule" contained in section 404(a)(1) of ERISA which provides, in part:

". . . a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and . . . (B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims . . ."

The "prudent man rule" is, of course, an integral part of the common law of trusts. However, the legislative history of ERISA indicates that the common law of trusts should not be mechanically applied to pension plans where the objectives are quite different from personnel trusts. In furtherance of these guidelines, the Department's proposed regulation on prudence in investment is based on the proposition that the prudence of any investment for an employee benefit plan should be judged in relation to the role which the proposed investment is to play in the portfolio. While the merits of a particular plan investment must be judged in light of the facts and circumstances particular to the needs of each employee benefit plan at the time the investment is made, the common law requisite of judging the prudence of each investment in a portfolio independently does not exist under ERISA.

The legislative history of ERISA further indicates that it is not the intent of this provision to establish a "legal list" of approved investments; rather, that the courts will interpret the rule "bearing in mind the special nature and purpose of employee benefit plans". H.R. Rep. No. 93–1280, 93rd Cong., 2nd Sess. 302 (1974).

The Department has received several comments suggesting that the proposed regulation, either implicitly or explicitly, address a particular form of investment or investment course of action. Rather than address specific forms or vehicles of investment, the proposed regulation takes the position that under ERISA the relative riskiness of a specific investment or investment course of action does not render such investment or investment course of action either per se prudent or per se imprudent.

Whether the proposed regulation would afford fiduciaries of affected employee benefit plans the ability to invest in visual art cannot be addressed other than in the context of the plans entire investment portfolio. Any decision about the inclusion of objects of art in a plan portfolio must be made by the fiduciaries of that plan in the context of all relevant facts and circumstances and the plan's total investment portfolio.

With respect to your second question regarding the necessity of amendment to ERISA to provide for the permissive authority for such investment, it is the position of the Department that the "prudent man rule" of ERISA affords the latitude of investment options necessary for the investment purposes of employee benefit plans. To the extent that any plan investment is found prudent under the guidelines as discussed above, the permissive authority for such investment exists within the language of the statute as currently written.

The Department is currently evaluating those comments received to the proposed regulation and will give consideration to the points which you discuss in making a decision on the language to be included in the final regulation. We appreciate your comments and interest in this matter.

Sincerely,

Jack A. Warshaw,
Acting Assistant Secretary of Labor.

March 26, 1979.

Mr. John G. Heimann,
Comptroller of the Currency, Department of the Treasury, Washington, D.C.

Dear Mr. Heimann: For several months, I have been reviewing a proposal by some involved in the visual arts that the fiduciaries of pension funds regulated under the Employee Retirement Income Security Act of 1974 (P.L. 93–406) be permitted, in exercising their judgment under the "prudence rule", to invest in works of visual art.

Recently, I corresponded with the Department of Labor on this issue and received a reply which indicates that such investments would not be considered per se prudent or imprudent, but can only be judged in the context of the entire investment portfolio. Thus, under certain circumstances, such investments would be permitted.

It is my understanding that some pension plans under ERISA are administered by banks. It has been brought to my attention that the handbook for bank examiners issued by your office (dated August, 1978) views investments in visual art and art objects by trust funds as improper under the prudence rule. Specifically, section 9.4070 of the examiner's handbook states:

9.4070.—Investment in speculative assets is not proper in investing trust funds under the prudence rule and might expose the bank to liability in the event a loss should be sustained, unless such investment is specifically authorized by the terms of the governing instrument.

Although not an all inclusive list, the following investments can usually be deemed speculative: Art Objects . . . paintings . . .

This guidance to bank examiners, and hence to the banks under their jurisdiction, would appear to conflict with the more flexible interpretation, implementation and enforcement of the "prudence rule" under ERISA. This could preclude banks which administer pension plans under ERISA from permitting the plan portfolios to include investments in visual art.

I hope you would agree that conflicting guidance by two federal agencies to fiduciaries of pension plans under ERISA is not desirable. Therefore, I wish to learn:

1. Whether Section 9.4070 of the handbook for federal bank examiners does, in fact, effectively preclude banks which administer pension funds under ERISA from investing, under the "prudence rule" in visual art;

2. If this is correct, whether you would amend this guideline in order to have it conform with the proposed regulations of the Department of Labor interpreting the "prudence rule" under ERISA; and,

3. The number, and volume, of pension funds under ERISA which are administered by the national banks.

Enclosed for your review is my correspondence on this issue with the Department of Labor. I look forward to your earliest response.

With appreciation for your attention and consideration, I am,

Sincerely,

Henry A. Waxman.

Comptroller of the Currency,
Administrator of National Banks,
Washington, D.C., May 8, 1979.

Hon. Henry Waxman,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Waxman: Your letter of March 26, 1979, concerning investment in art objects by pension plan fiduciaries has been referred to me for reply.

Your letter demonstrates your concern for consistency between the Comptroller's trust examination procedures and the Labor Department's proposed regulation implementing the prudence rule under the Employee Retirement Income Security Act of 1974 ("ERISA), 29 U.S.C. § 1001–1381, with respect to investments of pension trust funds in visual art and art objects. Specifically, you inquire whether Section 9.4070 of the Comptroller's Handbook for Trust Examiners effectively precludes national banks which administer pension funds under ERISA from investing in visual art and art objects even though under the Labor Department's proposed regulations implementing the prudence rule, such investments would not be impermissible per se. If this section does preclude such investments by national bank pension trustees, you inquire whether this Office proposes to amend it. Lastly, you inquire about the number and volume of pension funds covered by ERISA which are administered by national banks.

Section 9.4070 of the Comptroller's Handbook for Trust Examiners states:

9.4070. Investment in speculative assets is not proper in investing trust funds under the prudent man rule and might expose the bank to liability in the event a loss should be sustained, unless such investment is specifically authorized by the terms of the governing instrument.

Although not an all inclusive list, the following investments can usually be deemed speculative: Art objects . . . Paintings

This section reflects the position of this Office prior to the enactment of ERISA. Clearly it would not preclude such investments if they were specifically authorized by the governing instrument. Since the rule of prudence contained in ERISA now supersedes the common law as to employee benefit trusts, our trust examiners are now following the Labor Department's interpretation of the ERISA prudence rule in applying this section to investments not authorized by the governing instrument. When the Handbook is next revised, Section 9.4070 will be amended to reflect that it has been superseded with respect to employee benefit trusts by ERISA.

We do not compile separate statistics on the number or volume of employee pension plans administered by national banks. However, the enclosed Table–1 which has been compiled from our trust examination reports, indicates that the total number of employee benefit plans administered by national banks in 1977 was 204,081 and that the assets of these plans totalled $129,089,029. While we do not have exact figures on the number of these plans which are covered by ERISA, we presume that most of them are. Also enclosed for your information is Table B–41, showing by state the volume of assets of employee benefit plans administered by national banks.

I trust that this is responsive to your inquiry.

Very truly yours,

Donald A. Melbye,
Special Assistant for Congressional Affairs.

[Excerpted from the Federal Register. June 26, 1979]

Pension and Welfare Benefit Programs
(29 CFR Part 2550)

Rules and Regulations for Fiduciary Responsibility; Investment of Plan Assets Under the "Prudence" Rule.

Agency: Department of Labor.

Action: Final regulation.

Summary: This document contains a final regulation relating to the investment duties of a fiduciary of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act). The regulation is relevant to the investment of assets of employee benefit plans for which fiduciaries have investment duties, and, therefore, it affects participants, beneficiaries and fiduciaries of all such plans.

Effective date: July 23, 1979.

For further information contact: Paul R. Antsen, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–8971, or Gregor B. McCurdy, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–9141.

Supplementary information: On April 25, 1978, notice was published in the Federal Register (43 FR 17480)[1] that the Department had under consideration a proposal to adopt a regulation, 29 CFR §2550.404a–1, under section 404(a)(1)(B) of the Act, relating to the investment duties of a fiduciary of an employee benefit plan. Section 404(a)(1)(B) of the Act provides, in part, that a fiduciary shall discharge his duties with respect to an employee benefit plan with the care, skill, prudence, and diligence under the

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Footnotes at end of article.

circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims (the "Prudence" rule).[2]

Public comments were received, in response to the proposal, that generally supported the tentative views of the Department reflected therein, although many suggestions for specific revisions were offered. A few comments opposed the adoption of the proposed, or of any, regulation concerning these matters. Among the reasons given in opposition to the adoption of the proposed regulation were: (1) that the courts, rather than the Department, should determine how the "prudence" rule is to be interpreted; (2) that the Department's views regarding the requirements of the "prudence" rule, as reflected in the proposed regulation, are incorrect; (3) that it is impractical to attempt to define "prudence" by regulation; and (4) that the proposal did not accomplish its stated objectives. The Department has considered the comments opposing adoption of the regulation, but has not been pursuaded that its interpretation of the requirements of the "prudence" rule set forth below is incorrect. It believes, moreover, that adoption of a regulation concerning the investment duties of fiduciaries under the "prudence" rule is appropriate because such a regulation would provide guidance for many plan fiduciaries in an important area of their responsibilities under the act.

Counsel for one group of interested persons, while supporting the proposed regulation in principle, asked that they be given an opportunity to express their views at a public hearing on the proposed regulation. They also suggested that the regulation should, in any event, be republished to give interested persons additional opportunity for comment. The Department has considered these requests, but has determined that neither a public hearing nor republication of a proposed regulation is necessary or appropriate.

Accordingly, after consideration of all the written comments received, the Department has determined to adopt the proposed regulation as modified and set forth below.

DISCUSSION OF THE REGULATION

The legislative history of the Act indicates that the common law of trusts, which forms the basis for and is federalized and codified in part 4 of Title I of the Act, should, nevertheless, not be mechanically applied to employee benefit plans.[3] The "prudence" rule in the Act sets forth a standard built upon, but that should and does depart from, traditional trust law in certain respects.

The Department is of the opinion that (1) generally, the relative riskiness of a specific investment or investment course of action does not render such investment or investment course of action either *per se* prudent or *per se* imprudent, and (2) the prudence of an investment decision should not be judged without regard to the role that the proposed investment or investment course of action plays within the overall plan portfolio. Thus, although securities issued by a small or new company may be a riskier investment than securities issued by a "blue chip" company, the investment in the former company may be entirely proper under the Act's "prudence" rule.

Accordingly, paragraph (b)(1) of the regulation, as adopted, provides generally that, with respect to an investment or investment course of action taken pursuant to a fiduciary's investment duties, the requirements of the "prudence" rule have been satisfied if the fiduciary has acted in a manner consistent with appropriate consideration of the facts and circumstances that the fiduciary knows or should know are relevant, including the role that the investment or investment course of action plays in that portion of the plan's investment portfolio with respect to which the fiduciary has investment duties.

* * * * *

Paragraph (b)(2) of the regulation sets forth factors that are to be included, to the extent applicable, in an evaluation of an investment or investment course of action if a fiduciary wishes to rely on the provisions of the regulation. They are: (1) the composition of the portfolio with regard to diversification: (2) the liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the plan: and (3) the projected return of the portfolio relative to the funding objectives of the plan. These factors are adopted substantially as proposed, except that the first factor has been revised, in response to questions raised by some of the comments, to make clear that the word "diversification" is to be given its customary meaning as a mechanism for reducing the risk of large losses; that factor, as originally proposed, referred to "diversification of risk." The second factor has also been modified in order to make clear that its principal subject matter is all anticipated cash requirements of the plan, and not solely those arising by reason of payment of benefits.

* * * * *

Numerous comments were received with respect to the factors set forth in paragraph (b)(2). Several persons requested that the Department clarify or define terms such as "diversification of risk", "risk," "volatility" and "liquidity." For example, some persons asked what specific measurements of volatility, risk and liquidity should be utilized by fiduciaries in making investment decisions for a plan. The Department believes that, in view of the modifications (discussed above) made in the regulation as adopted, it is neither necessary nor appropriate for the regulation to contain such definitions.

Several commentators asserted that certain specified types of investments, such as, for example, investments in small or recently formed companies, or non-income producing investments that are not securities (such as, for example, certain precious metals and objects of art) have not been viewed with favor, traditionally, as trust investments. Those comments urged that the regulation specify the extent to which such investments are permissible under the "prudence" rule. Other commentators made reference to the traditional principle that trust investments should be income-producing, and suggested that the appropriate measure of investment "return" should be defined to mean "total return"—that is, an aggregate return computed without regard to whether a contributing factor thereto consists of income or capital items. Although the Department consider that defining "return" would be beyond the appropriate scope of this regulation, it believes that the "prudence" rule does not require that every plan investment produce current income under all circumstances. As indicated above and in the preamble to the proposed regulation, the Department believes that the universe of investments permissible under the "prudence" rule is not necessarily limited to those permitted at common law.

However, the Department does not consider it appropriate to include in the regulation any list of investments, classes of investment, or investment techniques that might be permissible under the "prudence" rule. No such list could be complete; moreover, the Department does not intend to create or suggest a "legal list" of investments for plan fiduciaries.

The preamble to the proposed regulation stated (as does this preamble) that the risk level of an investment does not alone make the investment *per se* prudent or *per se* imprudent. Comments were received which asserted that such proposition is inappropriate and would promote irresponsibility on the part of plan fiduciaries. Other commentators not only agreed with the proposition, but also suggested that it should be incorporated in the regulation. The Department believes that both of these concerns are addressed by the modifications, discussed above, made to paragraph (b)(2) of the regulation as adopted.

The Department has determined that this regulation is not a "significant regulation" as defined in the Department's guidelines (44 FR 5570, January 26, 1979) implementing Executive Order 12044.

STATUTORY AUTHORITY

The regulation set forth below is adopted pursuant to the authority contained in section 505 of the Act (Pub. L. 93–406, 88 Stat. 894 (29 U.S.C. § 1135)). Although the regulation is an "interpretative rule," within the meaning of 5 U.S.C. § 553(d), the effective date of the regulation is July 23, 1979, consistent with the statement of the Department, in connection with the regulation as proposed, that such regulation would be effective 30 days after its adoption.

FINAL REGULATION

Accordingly, Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by inserting in the appropriate place to read § 2550.404a–1 as set forth below:

§ 2550.404a–1 Investment Duties.

(a) *In general.* Section 404(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (the Act) provides, in part, that a fiduciary shall discharge his duties with respect to a plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) *Investment Duties.* (1) With regard to an investment or investment course of action taken by a fiduciary of an employee benefit plan pursuant to his investment duties the requirements of section 404(a)(1)(B) of the Act set forth in subsection (a) of this section are satisfied if the fiduciary (A) has given appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including the role the investment or investment course of action plays in that portion of the plan's investment portfolio with respect to which the fiduciary has investment duties; and (B) has acted accordingly.

(2) For purposes of paragraph (1) of this subsection, "appropriate consideration" shall include, but is not necessarily limited to, (A) a determination by the fiduciary that the particular investment or investment course of action is reasonably designed, as part of the portfolio (or, where applicable, that portion of the plan portfolio with respect to which the fiduciary has investment duties), to further the purposes of the plan, taking into consideration the risk of loss and the opportunity for gain (or other return) associated with the investment or investment course of action, and (B) consideration of the following factors as they relate to such portion of the portfolio:

(i) The composition of the portfolio with regard to diversification;

(ii) The liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the plan; and

(iii) The projected return of the portfolio relative to the funding objectives of the plan.

(3) An investment manager appointed,

Footnotes at end of article.

pursuant to the provisions of section 402(c) (3) of the Act, to manage all or part of the assets of a plan, may, for purposes of compliance with the provisions of paragraphs (1) and (2) of this subsection, rely on, and act upon the basis of, information pertaining to the plan provided by or at the direction of the appointing fiduciary, if—

(A) such information is provided for the stated purpose of assisting the manager in the performance of his investment duties, and

(B) the manager does not know and has no reason to know that the information is incorrect.

(c) *Definitions*. For purposes of this section:

(1) The term "investment duties" means any duties imposed upon, or assumed or undertaken by, a person in connection with the investment of plan assets which make or will make such person a fiduciary of an employee benefit plan or which are performed by such person as a fiduciary of an employee benefit plan as defined in section 3(21) (A) (i) or (ii) of the Act.

(2) The term "investment course of action" means any series or program of investments or actions related to a fiduciary's performance of his investment duties.

(3) The term "plan" means an employee benefit plan to which Title I of the Act applies.

Signed at Washington, D.C., this 20th day of June 1979.

Ian D. Lanoff,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

FOOTNOTES

[1] *See also* 43 FR 27208 (June 23, 1978), in which notice was given of an extension of the original comment period.

[2] The regulation pertains only to the investment duties of a fiduciary of an employee benefit plan. Section 404(a) (1) (B) of the Act, however, requires that a fiduciary discharge *all* his duties in accordance with the "prudence" rule.

It should also be noted that, although the proposed regulation made reference to an additional requirement of section 404(a) (1)—that the fiduciary discharge his duties solely in the interest of plan participants and beneficiaries—that reference has been deleted from the regulation as adopted. This was done to avoid suggesting that satisfaction of the "prudence" rule with respect to an investment or investment course of action necessarily implies satisfaction of that additional requirement.

[3] *See, e.g.*, H.R. Rep. No. 1280, 93d Cong., 2d Sess. 302 (1974).

HEARINGS ON U.S. REFUGEE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Holtzman) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Refugees, and International Law will hold a public hearing on Tuesday, July 31, 1979 to continue its oversight of U.S. refugee policy. Our witness will be the Honorable Cyrus Vance, Secretary of State, accompanied by the Honorable Dick Clark, Ambassador-at-Large and U.S. Coordinator for Refugee Affairs. The hearing will be held in room 2141, Rayburn House Office Building and will commence at 9:30 a.m.

The subcommittee is especially anxious to hear from Secretary Vance in view of his recent meetings on the refugee issue at the Tokyo summit and the ASEAN foreign ministers' meeting in Bali, and in light of the administration's new commitments at last weekend's U.N. sponsored Conference in Geneva. We look forward to his analysis of these events and his assessment of current U.S. policy in this area.●

PUT THE CLINCH RIVER BREEDER REACTOR TO REST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Brown) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, the debate on the Clinch River breeder reactor project has gone on for years, while the waste in money and talent has piled up. It is time to resolve this issue, recognizing the deadlock between the Carter administration and the past Congress, in the only sensible fashion, by compromise.

The Fuqua-Brown amendment to the Department of Energy authorization bill is a genuine compromise, which recognizes the fears of those who believe we will need breeder reactors in the next decade or so, and the fears of those who believe we are wasting the taxpayers' money on a dangerous project. As in the case of the B–1 bomber during the Ford administration, the Fuqua-Brown amendment preserves all options until the spring of 1971, while eliminating wasted money and talent between now and then. The Clinch River breeder reactor project is not essential to the development of breeder reactors, and may even be a detriment to this goal. At the same time, going ahead with this project will tell the rest of the world that we do not care to practice what we preach about developing the best nuclear technologies.

Mr. Speaker, the editorial in this morning's Washington Post summed up this matter most appropriately. I urge all my colleagues to review it.

The editorial follows:

[From the Washington Post, July 25, 1979]

PUTTING AN END TO CLINCH RIVER

Every year that the debate drags on, the case against the Clinch River Breeder Reactor gets stronger. The technical, economic and nonproliferation arguments are solid and persuasive. The large budgetary savings—$1.5 billion—should put the final nail in the Clinch River breeder's coffin.

The issue before Congress is not whether the country needs a breeder. That is a separate question. The issue now is whether the country needs this breeder and on the timetable that has been set for it. The right date for commercial deployment of a breeder depends on three key factors: demand for nuclear power; available uranium-ore resources; and the capital cost of the breeder in particular—how much more expensive it is than current reactor types. What do we now know about each of these?

In 1970, when the Clinch River breeder was first authorized, projected nuclear demand for the United States in the year 2000 was about 1 million megawatts. The most recent figures for that same year project about 20,000 megawatts. And these were calculated before Three Mile Island. Regarding resources, in 1970 the United States estimated its uranium reserves at 1.36 million tons. In 1979, the estimate is 4.3 million tons, of which 2.4 million fall into the most certain categories. So that even taking the most conservative view, our reserves of uranium ore have doubled in this decade, despite substantial production. Both these trends—the dramatic decline in demand and the growth in resources—have been mirrored worldwide.

The third factor, the likely cost of the breeder, is harder to predict. The administration's view, confirmed by many outside experts, is that the breeder will be between 1.2 and 1.7 times more expensive than current reactors. What all these numbers mean is that the breeder break-even point, the point at which a breeder becomes competitive and therefore economically justified, will come when uranium ore costs about $150 a pound. Today it costs $40 a pound. Putting these cost estimates together with the supply-and-demand figures, experts can calculate that the break-even point for breeders in this country will not come until after the year 2020—perhaps long after. Why then build the Clinch River breeder? It is a costly demonstration plant of a design that is almost 10 years old already. In the year 2020, its design will be 50 years old—a Model-T of reactors.

Supporters of Clinch River argue that if it isn't built, the United States will lose its leadership position in this potentially important technology. The opponents reply, soundly, that from a technological view money spent on the Clinch River breeder is wasted, since it is already an obsolete design, and that the U.S. position can be preserved and strengthened through a sensible R & D program that emphasizes safety and improved alternatives to current breeder designs. This makes good sense.

The administration's program, though still overfunded, will put the United States in a position to build a breeder reactor *if and when* it is needed. No one can responsibly predict today how far in the future that may be. But given the breeder's cost and undeniable proliferation risk, it would certainly be bad policy to encourage its premature use.

For far too long the Clinch River breeder has diverted the attention of Congress and the administration from other nuclear issues—especially safety and waste disposal—as well as from other energy issues that are far more important to the national welfare. This year Clinch River should be sent once and for all to its grave.●

SECRETARY CLAYTOR REITERATES POSITION TAKEN BY SECRETARY ADAMS ON FRONT SEAT SAFETY REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Fazio) is recognized for 5 minutes.

● Mr. FAZIO. Mr. Speaker, the House is set to debate the Department of Transportation appropriations bill Thursday or Friday, as you know. One of the major issues will be the amendment to overrule the Secretary of Transportation's requirement that autos be equipped with technology to protect front seat occupants during accidents.

I happen to believe that this requirement is a relatively liberal one in terms of flexibility and eminently sensible in terms of safety. Especially with cars getting smaller and smaller in order to save fuel, elements of safety which we can build into them are getting more and more in the public interest.

It is important to note in this context, Mr. Speaker, that the new Secretary of Transportation, W. Graham Claytor, has made it one of his first orders of business to reiterate the position taken on front seat safety requirements by his predecessor, Mr. Brock Adams. I would like to request that the letter Mr. Claytor sent to Members of the House July 24 be inserted into the Record in case any Members did not have the opportunity to see it.

The Secretary of Transportation,
Washington, D.C., July 24, 1979.
Hon. Vic Fazio,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Fazio: Last week former Secretary Adams wrote to urge your opposition to any amendment that would hamper the ability of the Department of Transportation to work with the auto makers and suppliers to offer the full range of automatic crash protection to the American public.

I want you to know that I support Mr. Adams' position and the work which this Department has done over the years to help reduce the needless death and injury on our Nation's highways.

The standard issued by Mr. Adams two years ago is a performance standard. It permits manufacturers to use any technology they choose to automatically prevent death or serious injury to front seat occupants in a 30 mile-per-hour frontal barrier crash.

Manufacturers worldwide have been working for some time to build this increased safety into their vehicles. They are working on various technologies, including two which have been offered commercially to the American public in significant numbers: air cushion restraint systems, offered primarily by General Motors in the mid-1970's, and automatic belts, offered by Volkswagen since 1975.

In the 1980's, cars will be smaller because we must save energy. We need to build increased safety into them, and the savings in fuel will more than pay for the additional safety.

Sincerely,
W. Graham Claytor, Jr.,
Acting Secretary.●

THE ADMINISTRATION OPPOSES REGISTRATION FOR THE DRAFT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, the House will soon be given an opportunity to vote on a provision in the Department of Defense authorization bill for fiscal year 1980 (H.R. 4040) which, if enacted, will once again require young men to register for the draft. I strongly oppose the resumption of draft registration, and I am particularly opposed to the manner in which the Armed Services Committee has seen fit to bring this important issue before the House. Never before have amendments to the Military Selective Service Act been included in the annual defense procurement bill, yet this is precisely what the Armed Services Committee has chosen to do with the complex issue of resuming draft registration.

I am convinced that a careful examination of the registration issue will, at the very least, lead the Members of this body to conclude that we are being asked to take unnecessary action by the Armed Services Committee.

In recent weeks, we have been informed by Secretary of Defense Harold Brown that the Department of Defense does not support the resumption of draft registration. Acting Selective Service System Director Robert Shuck has stated repeatedly that, with the appropriate increase in computer capability, he is confident that his Agency can deliver inductees in accordance with the Defense Department's emergency mobilization timetable without requiring peacetime registration. James T. McIntyre, Jr., Director of the Office of Management and Budget, has stated that the administration does not support the resumption of draft registration.

If there is any doubt still remaining in the House about the administration's position on registration, let me dispel that doubt once and for all. I have just received a letter from Stuart Eizenstat, Assistant to the President for Domestic Affairs and Policy, which reiterates many of the concerns raised by Secretary Brown and Director McIntyre, and which concludes unequivocally that the "administration opposes new legislation to reimpose peacetime registration for the draft." Mr. Eizenstat further reminds us that the "President already has adequate authority to require registration if circumstances warrant."

The recent debate and vote on the rule providing for the consideration of H.R. 4040 is a good indication of how troubling the draft registration issue is for Members of the House. When the full House considers H.R. 4040, I hope we will reject this ill-advised attempt to reimpose peacetime registration. We should also give full consideration to the views of the administration, which are clearly expressed in Mr. Eizenstat's letter. The full text of the letter is as follows:

The White House,
Washington, D.C., July 23, 1979
Hon. John F. Seiberling,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman John Seiberling. Thank you for your letter to the President of April 9, 1979, concerning the draft, compulsory non-military national service, and universal registration.

The Administration opposes new legislation to reimpose peacetime registration for the draft. The President already has adequate authority to require registration if circumstances warrant. We do not believe it is necessary to impose this burden on our nation and its youth at this time when there are effective ways to improve the capability of the Selective Service System so that it can respond quickly in time of emergency.

In the event of an emergency mobilization, the Department of Defense manpower demands will be substantial. Particularly in the early days, much of that manpower comes from those who have already voluntarily obligated themselves to serve in the event of a mobilization. Beyond that, however, beginning thirty days after a decision to mobilize, the department would need to begin receiving inductees.

We are concerned that at present the Selective Service System might not be able to meet the thirty day requirement. In the near term, we think that the proper course of action is to enhance the standby ability of the Selective Service System, including its computer resources, its staffing and its planning. We are confident that, if adequate funds are provided by the Congress, the Selective Service System will be able to develop the capability to meet our requirements. An Administration funding request is now before Congress. Last year, the Congress chose not to fully fund that request. Passage of the full amount of this year's recommended appropriation measure would be a productive step in improving our posture.

We believe that the critical step towards achieving our goals is not immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in case of mobilization actually to process them, through the Selective Service System.

Sincerely,
Stuart E. Eizenstat,
Assistant to the President
for Domestic Affairs and Policy.●

CONFERENCE REPORT ON H.R. 4388, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1980

(Due to mechanical limitations, the conference report on the bill, H.R. 4388, making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes, filed July 25, 1979, will appear in the next issue of the Record.)

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Solomon) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.

Mr. Brown of Ohio, for 60 minutes, today.

(The following Members (at the request of Mr. Rahall) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Waxman, for 5 minutes, today.

Mr. Ford of Tennessee, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. Brown of California, for 5 minutes, today.

Mr. Fazio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. McKay.

Mr. Luken, to extend his remarks following the remarks of the gentleman from Florida (Mr. Pepper).

Mr. Fithian, on the Madigan amendment, immediately following colloquy with Mr. Benjamin.

Mr. Kemp, to revise and extend his remarks immediately following those of Mr. Nowak on H.R. 3996.

(The following Members (at the request of Mr. Solomon) and to include extraneous matter:)

Mr. Rhodes.

Mr. Roth.

Mr. Rudd.

Mrs. Snowe.
Mr. Dickinson.
Mr. Derwinski.
Mr. Courter.
Mr. Wydler in two instances.
Mr. Paul.
Mr. Fish.
Mr. Archer.
Mr. Kramer.
Mr. Findley.
Mr. Hyde.
Mr. Stanton.
Mr. Marks.
Mr. Sensenbrenner.

(The following Members (at the request of Mr. Rahall), and to include extraneous matter:)

Mr. Rodino.
Mr. Stark in two instances.
Mr. Boner of Tennessee.
Mr. Bonker.
Mr. Peyser.
Mrs. Schroeder.
Mr. Hamilton.
Mr. Dellums.
Mr. Moakley.
Mr. Swift.
Mr. Garcia.
Mr. Jenkins.
Ms. Oakar in two instances.
Mr. Miller of California.
Mr. Nowak.
Mr. Jenrette.
Mr. McDonald in five instances.
Mr. Scheuer in two instances.
Mr. Skelton.
Mr. Simon in five instances.
Mr. McCormack.
Mr. Fazio.
Mr. Patterson.
Mr. Carr.
Mr. Waxman.
Mr. Bingham.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin water enhancement project; to the Committee on Interior and Insular Affairs; and

S. 1309. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4537. An act to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes;

H.R. 4591. An act to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes; and

H.R. 4712. A act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 23, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 2729. To authorize appropriations for activities for the National Science Foundation for fiscal year 1980, and for other purposes; and

H.R. 4289. Making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

ADJOURNMENT

Mr. FAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 p.m.) the House adjourned until tomorrow, Thursday, July 26, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2111. A letter from the Director, Council on Wage and Price Stability, Executive Office of the President, transmitting the Council's findings and recommendations on the need to promote greater productivity growth, pursuant to section 3(c) of the Council on Wage and Price Stability Act, as amended (93 Stat. 23); to the Committee on Banking, Finance and Urban Affairs.

2112. A communication from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96–166); to the Committee on Foreign Affairs and ordered to be printed.

2113. A letter from the Secretary of State, transmitting the first in a series of monthly reports ordered by the President on developments with respect to Zimbabwe-Rhodesia; to the Committee on Foreign Affairs.

2114. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2115. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Jacuzzi Brothers, Inc., Little Rock, Ark., for a research project entitled "Small-Diameter Corrosion Resistant Pumps for In Situ Leaching," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

2116. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting volume three of the second annual report of the Administration, pursuant to section 57(a)(2) of the Federal Energy Administration Act of 1974, as amended; to the Committee on Interstate and Foreign Commerce.

2117. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend sections 503, 504, 606 (6), 804 and 905(a) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

2118. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement and supplemental information on the West Kentucky tributaries project, Obion Creek, Ky., pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

2119. A letter from the Chairman, National Commission on Unemployment Compensation, transmitting the second report of the Commission, pursuant to section 411 (g) of Public Law 94–566; to the Committee on Ways and Means.

2120. A letter from the Comptroller General of the United States, transmitting a report on the Nation's efforts to commercialize solar heating systems (EMD–79–19, July 20, 1979); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

2121. A letter from the Comptroller General of the United States, transmitting a report on the economic and energy effects of alternative oil import policies (EMD–79–78, July 24, 1979); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4811. A bill for the relief of the city of Nenana, and for other purposes; with amendment (Rept. No. 96–387). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee of conference. Conference report on H.R. 4388 (Rept. No. 96–388). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LUNGREN: Committee on the Judiciary. H R. 2098. A bill for the relief of Antonio Rivera Aristizabal (Rept. No. 96–389). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI (for himself, Mr. Pepper, Mr. Roybal, Mr. John L. Burton, Mr. Hughes, Mr. Drinan, Mr. Grassley, Mr. Ratchford, Mr. Mitchell of Maryland, Mr. Fazio, Mr. Corrada, Mr. Weiss, Mr. Moakley, Mr. Flood, Mr. Wolff, Mr. Akaka, Mr. Mineta, Mr. Gray, and Mr. Rangel):

H.R. 4952. A bill to amend the Age Discrimination Act of 1979 to provide that State and local laws may not permit certain activities to be exempt from the prohibitions established in such act unless such activities are specifically directed or permitted by Federal statutes; to the Committee on Education and Labor.

By Mr. BONKER:

H.R. 4953. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 4954. A bill to continue until the close of June 30, 1982, the existing suspension of duties on manganese ore (including ferruginous ore) and related products; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. Zablocki, Mr. Buchanan, Mr. Rosenthal, Mr. Wolff, Mr. Solarz, Mr. Bonker, Mr. Studds, Mr. Ireland, Mr. Barnes, Mr. Wolpe, Mr. Broomfield, Mr. Derwinski, Mr. Winn, Mr. Gilman, Mr. Pritchard, and Mrs. Fenwick):

H.R. 4955. A bill to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance; to the Committee on Foreign Affairs.

By Mr. KEMP (for himself, Mr. Brown of Ohio, Mr. Stockman, Mr. Whitehurst, Mr. Quayle, Mr. Symms, Mr. Rousselot, Mr. Paul, Mr. Solomon, Mr. Shumway, Mr. Thomas, Mr. Frenzel, Mr. Derwinski, Mr. Jeffries, Mr. Coughlin, Mr. Walker, Mr. Gingrich, and Mr. Young of Alaska):

H.R. 4956. A bill to prohibit the enforcement of compliance with voluntary guidelines by withholding contracts or applying any other sanction; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ST GERMAIN:

H.R. 4957. A bill to authorize negotiable order of withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, to authorize federally insured credit unions to receive share draft deposits, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SNOWE (for herself and Mr. Emery):

H.R. 4958. A bill to prohibit trading in potato futures on commodity exchanges; to the Committee on Agriculture.

By Mrs. SPELLMAN:

H.R. 4959. A bill to provide a prepaid dental care program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. VENTO:

H.R. 4960. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Gerald F. Spiess; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALKER:

H.R. 4961. A bill to amend section 118(a) of title 28, United States Code, to provide for the holding court for the eastern district of Pennsylvania at Lancaster, Pa.; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself, Mr. Preyer, Mr. Maguire, Mr. Luken, Mr. Walgren, Ms. Mikulski, Mr. Leland, Mr. Murphy of New York, and Mr. Carter):

H.R. 4962. A bill to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER (for himself, Mr. Hyde, Mr. McClory, Mr. Railsback, and Mr. Simon):

H.J. Res. 380. Joint resolution proposing an amendment to the Constitution of the United States allowing the President to veto individual items in appropriations bills; to the Committee on the Judiciary.

By Mr. ROTH:

H. Res. 388. Resolution amending the Rules of the House of Representatives to create a standing Commttee on Energy in the House; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 4963. A bill for the relief of Yeung Wai Liu; to the Committee on the Judiciary.

H.R. 4964. A bill for the relief of Lum Mei-Kum Moy and Hoi-Ping Moy; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 4965. A bill for the relief of Dana Braford Barretto; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 4966. A bill for the relief of the estate of Philip H. Ward; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 628: Mr. Fish.

H.R. 1060: Ms. Mikulski.

H.R. 1735: Mr. Leland.

H.R. 2077: Mr. Patterson.

H.R. 2172: Mr. Shumway.

H.R. 2535: Mr. Brodhead.

H.R. 3937: Mr. Hawkins, Mr. Stark, Mr. Carr, Mr. Stokes, and Ms. Mikulski.

H.R. 4093: Mr. Murphy of Illinois, Mr. Lowry, Mr. Markey, and Mr. Rosenthal.

H.R. 4309: Mr. McClory.

H.R. 4400: Mr. Daschle, Mr. Hollenbeck, Mr. Livingston, and Mr. Martin.

H.R. 4443: Mr. Patterson.

H.R. 4760: Mr. Perkins, Mr. Hughes, Mr. Simon, Mr. Whitehurst, Mr. Winn, Mr. Marriott, Mr. Richmond, Mr. Guyer, Mr. Ashbrook, Mr. Grassley, Mr. Bethune, Mr. Lagomarsino, Mr. Pursell, Mr. Hollenbeck, Mr. Moorhead of California, Mr. O'Brien, Mr. Solomon, Mr. Goodling, Mr. Watkins, Mr. Rinaldo, Mr. Miller of Ohio, Mr. Stanton, Mr. Sensenbrenner, Mr. Conte, Mr. Barnard, Mr. Natcher, Mr. Leath of Texas, Mr. Myers of Indiana, Mrs. Fenwick, Mr. Jeffords, Mr. Whitten, Mr. Seiberling, Mr. Reuss, Mr. Smith of Iowa, Mr. St Germain, Mr. D'Amours, Mr. Cavanaugh, Mr. Bereuter, and Mr. Duncan of Tennessee.

H.J. Res. 3: Mr. Nichols, Mr. Udall, Mr. Pashayan, Mr. Patterson, Mr. Goldwater, Mr. Corman, Mr. Fazio, Mr. Beilenson, Mr. Fadham, Mr. Hawkins, Mr. Hutto, Mr. Chappell, Mr. Lehman, Mr. Mathis, Mr. Hansen, Mr. Benjamin, Mr. Hamilton, Mr. Fary, Mr. Murphy of Illinois, Mr. Findley, Mr. Simon, Mr. Smith of Iowa, Mr. Bedell, Mr. Sebelius, Mr. Mazzoli, Mr. Boland, Mr. Conte, Mr. Markey, Mr. Hagedorn, Mr. Oberstar, Mr. Montgomery, Mr. Taylor, Mr. Forsythe, Mr. Rodino, Mr. Roe, Mr. Lujan, Mr. Gilman, Mr. Kemp, Mr. Preyer, Mr. Harsha, Mr. Latta, Mr. Ullman, Mr. Dougherty, Mr. Ertel, Mr. Kostmayer, Mr. Lederer, Mr. Walker, Mr. Campbell, Mr. Daschle, Mr. Jones of Tennessee, Mr. McDade, Mr. Whitehurst, Mr. Rahall, Mr. Staggers, Mr. Reuss, Mr. Zablocki, Mr. Won Pat, Mr. Ccrrada, Mr. Vander Jagt, Mr. Long of Maryland, Mr. Jenrette, Mr. Edwards of Alabama, Mr. Charles H. Wilson of California, Mr. Price, Mr. Natcher, Mr. Bowen, Mr. McEwen, Mr. Stenholm, Mr. McKay, Mr. Dicks, Mr. Pursell, Mr. Marriott, and Mr. Waxman.

H.J. Res. 139: Mr. Murphy of Pennsylvania.

H.J. Res. 145: Mr. Stack, Mr. Simon, Mr. Dougherty, Mr. Wolpe, and Mr. Gray.

H.J. Res. 265: Mr. Hanley.

H. Con. Res. 158: Mrs. Boggs, Mr. Phillip Burton, Mr. Corman, Mr. de la Garza, Mr. Dodd, Mr. Duncan of Oregon, Mr. Duncan of Tennessee, Mr. Evans of Indiana, Mr. Findley, Mr. Gibbons, Mr. Hightower, Mr. Jones of Oklahoma, Mr. Nichols, Mr. Neal, Mr. Roberts, Mr. Wirth, Mr. Preyer, Mr. McCormack, Mr. Drinan, Mr. Aspin, Mr. Brodhead, Mr. Brown of California, Mr. Davis of South Carolina, Mr. Eckhardt, Mr. Fountain, Mr. Mathis, Mr. Patterson, Mr. Perkins, and Mr. Ullman.

H. Res. 339: Mr. Mottl, Mr. Vento, Mr. Young of Missouri, Mr. Daschle, and Mr. Ertel.

PETITIONS, ETC.

Under clause 1 of rule XXII,

181. The SPEAKER presented a petition of the Western Governors' Conference, San Francisco, Calif., relative to resolutions adopted at the 1979 annual meeting of the conference, which was referred to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. DASCHLE:

—Page 58, after line 19, insert the following new section:

BIOMASS ENERGY RESOURCES INFORMATION COLLECTION AND DISSEMINATION

Sec. 602. (a)(1) The Secretary of Energy shall collect, review, and disseminate to the general public information regarding—

(A) the identification of biomass energy resources,

(B) the collection of biomass energy resources,

(C) the direct use of biomass energy resources,

(D) the conversion of biomass energy resources,

(E) the utilization of the products of conversion of biomass energy resources,

(F) financial assistance and incentives for direct use of biomass energy resources, conversion of biomass energy resources and products of conversion of biomass energy resources,

(G) the laws of the United States applicable to the use, collection, conversion, sale, transportation or other disposal of biomass energy resources, conversion of biomass energy resources and products of conversion of biomass energy resources.

(2) The Secretary shall ensure the general public is informed of the availability of information collected and reviewed under paragraph (1).

(b) Not later than 90 days after the close of each fiscal year occuring after the date of the enactment of this Act, the Secretary shall submit to each House of Congress a report describing the activities undertaken by the Secretary to carry out subsection (a), the results of such activities, and any recommendation of the Secretary regarding the implementation of such subsection in such fiscal year.

(c) There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1980.

By Mr. GLICKMAN:

—Title I is amended by adding the following new Section after line 2, page 34 and renumbering subsequent sections accordingly:

"Sec. 122. Notwithstanding provisions of Section 107 and Section 119(E) of this Act, five percent of the total funds authorized under those sections for nuclear fission energy programs and capital equipment expenses not related to construction, excluding those amounts authorized under Section 107(B), 'Civilian Waste Management,' Section 107(C), 'Spent Fuel Storage,' Section 119(E)(2), 'Civilian Waste Management,' and Section 119(E)(3), 'Spent Fuel Storage,' shall not be expended for programs authorized under Section 107 and Section 119(E), but shall be available to the Secretary for energy supply research and development programs authorized under Sections 101, 102, 103, 106, and 114 of this Act designed to efficiently meet energy needs for transportation. Not less than thirty days prior to reprograming of funds under this Section, the Secretary shall report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources as to details of the planned reprogramings."

—Title VIII is amended by inserting after the word "used" on line 7, page 69, the following: "as provided for in Section 122 of this Act or".

By Mr. LAGOMARSINO:

—Page 3, line 5, strike out "(F)" and insert in lieu thereof "(G)".

Page 3, after line 4, insert the following new item: (F) Heavy oil conversion technology, $30,000,000.

Page 57, after line 9, insert the following new section:

TRANSFER OF SPENT NUCLEAR FUEL TO TERRITORIES AND POSSESSIONS OF UNITED STATES

SEC. 505. No spent nuclear fuel may be transferred to any potential site for the interim storage of such fuel which is located in the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Committee on Foreign Affairs and the Committee on Science and Technology of the House of Representatives and the Committee on Foreign Relations and the Committee on Energy and Natural Resources of the Senate of such transfer.

By Mr. McCORMACK:

—Page 12, line 7 strike "$10,400,000" and substitute in lieu thereof "$15,900,000".

By Mr. VENTO:

—Sec. 502(b)(1), add the following new subsection (C) and renumber accordingly.

"(C) be based on the assumption that these facilities will be designed solely for the temporary storage of spent fuel and that the storage capacity shall not be expanded beyond the level needed to meet the amount of spent fuel withdrawn from the core of any nuclear reactor licensed by the Nuclear Regulatory Commission prior to 1990, and, where appropriate and consistent with applicable law, foreign nuclear reactors."

—Sec. 502(b)(1), add the following new subsection (C) and renumber accordingly:

"(C) be based on the assumptions that:

"(i) these facilities will be designed solely for the interim, short-term storage of spent fuel;

"(ii) these facilities will be used solely for the near term need;

"(iii) the storage capacity shall not be expanded beyond the level needed to meet the amount of spent fuel withdrawn from the core of any nuclear reactor licensed by the Nuclear Regulatory Commission prior to 1990, and, where appropriate and consistent with applicable law, foreign nuclear reactors: and

"(iv) facilities for the long-term or permanent storage of spent fuel and nuclear high level waste shall be made available as soon as possible."

H.R. 3180

By Mr. KRAMER:

—Page 47, after line 24 insert the following new section 205 (and redesignate the succeeding sections accordingly):

PROMULGATION OF REGULATIONS

SEC. 205. (a)(1) No regulation promulgated by the Secretary of Energy on or after the date of the enactment of this Act shall be effective after the expiration of the two-year period beginning on the effective date of such regulation unless the Congress expressly provides for the continuance of such regulation. In the case of any regulation promulgated by the Secretary of Energy before the date of the enactment of this Act, such regulation shall not be effective after the expiration of the two-year period beginning on the date of the enactment of this Act unless the Congress expressly provides for the continuance of such regulation.

(2) If the Congress fails to provide for the continuance of any regulation during the applicable period specified under paragraph (1), the Secretary of Energy may not reinstate the regulation by promulgating any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of paragraph (1).

H.R. 4034

By Mr. ERTEL:

—Page 45, insert the following section after line 21 and redesignate subsequent sections accordingly:

EXPORTS OF HIDES AND SKINS

SEC. 110. Paragraph (1) of susbection (f) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104(a) of this Act, is amended by adding at the end thereof the following: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, monitor the export of animal hides and skins for purposes of determining the supply of and demand for such hides and skins.".

—Add the following sentence before the closed quotation marks at the end of the amendment: "The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, monitor exports of animal hides and skins for purposes of determining the supply of and demand for such hides and skins."

H.R. 4040

By Mr. BEARD of Tennessee:

—Page 17, after line 2, insert the following new title (and redesignate the succeeding title and sections accordingly):

TITLE VIII—CONGRESSIONAL STUDY COMMISSION ON DEFENSE READINESS AND MOBILIZATION CAPABILITY

DEFENSE READINESS AND MOBILIZATION CAPABILITY STUDY

SEC. 801. (a) There is hereby established a commission to be known as the Congressional Study Commission on Defense Readiness and Mobilization Capability (hereinafter in this section referred to as the "commission").

(b)(1) The commission shall conduct a comprehensive study of the current defense mobilization capability of the United States and the current capability of the Armed Forces to sustain forces upon mobilization. Such study shall be based upon the best available information available to the United States intelligence community and shall be conducted in light of all foreseeable threats to the national security of the United States and its allies.

(2) The commission shall prepare recommendations with respect to the current defense mobilization capability of the United States based upon the study conducted pursuant to paragraph (1). In preparing such recommendations, the commission shall give thorough consideration to legislative proposals relating to defense manpower requirements that have been introduced in the House of Representatives or the Senate during the 96th Congress.

(c)(1) The commission shall consist of 24 members, appointed as follows:

(A) The Speaker of the House of Representatives shall appoint 12 members of the commission, nine of whom shall be Members of the House of Representatives and three of whom shall be appointed from among individuals who are not Members of the House of Representatives.

(B) The President pro tempore of the Senate shall appoint 12 members of the commission, nine of whom shall be Senators and three of whom shall be appointed from among individuals who are not Senators.

(2) Members of the commission shall serve for the life of the commission. A vacancy in the commission shall be filled in the same manner in which the original appointment was made.

(3) The commission shall select a chairman and vice chairman from among its members. If the chairman is a member of either House of Congress, the vice chairman may not be a member of the same House.

(4) For the purposes of this subsection, the term "Member" includes any Delegate to the House of Representatives and the Resident Commissioner from Puerto Rico.

(d) The commission shall prepare a report of its findings and recommendations and shall submit such report to the Congress not later than the end of the 6-month period beginning on the date of the enactment of this Act.

(e) The commission shall expire thirty days after the filing of its report under subsection (d).

H.R. 4473

By Ms. HOLTZMAN:

—Page 12, line 13, strike "248,951,000" and insert in lieu thereof "456,251,000".

By Mr. LONG of Maryland:

—On page 12 of the bill, line 13, strike out "$248,951,000" and insert in lieu thereof "$456,241,000".

S. 1030

By Mr. BROWN of Ohio:

—Page 37, line 18, strike "or".

Page 37, line 20, strike the period and insert in lieu thereof a comma.

Page 37, after line 20, insert the following:

"(iv) a restriction on the hours during which any business may operate."

—Page 43, after line 11, add the following new subsection:

"(f) LIMITATION ON MEASURES REGULATING THE OPERATION OF PUBLIC OR PRIVATE HOMES FOR THE ELDERLY.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any public or private home for the elderly unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) LIMITATION ON MEASURES REGULATING THE OPERATION OF ANY SOCIAL SERVICE INSTITUTION.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any social service institution unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) LIMITATION ON MEASURES REGULATING

The Operator of Any Religious Institution.—

The plan established under subsection (a) may not provide for any measures that would restrict the operation of any religious institution unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Energy Production, Exploration or Transportation Facility.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any energy production, exploration, processing or transportation facility unless such plan permits any establishment or facility affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Institution Providing for the Public Health and Safety.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any institution or facility providing for the public health and safety unless such plan permits any establishment or facility affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Common Carriers.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any common carriers, including taxicabs, buses and mass transit systems unless such plan permits any establishment or facility affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Sports Facility.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any sports facility unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Affecting Full Food and Fiber Production.—

The Plan established under subsection (a) may not provide for any measure which would affect full food and fiber production, as determined by the Secretary of Agriculture, unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Educational Institution.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any educational institution unless such plan permits any institution affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Public or Private News Gathering or Disseminating Business or Organization.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any public or private news gathering or disseminating business or organization unless such plan permits any business or organization affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Temperature in any Public or Private Hospital, Health Care Facility, or Like Establishments.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Hours of Operation of Any Retail Establishment.—

The plan established under subsection (a) may not provide for any measures that would regulate the hours of operation of any retail establishment unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Fraternal Organization.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any fraternal organization unless such plan permits any organization affected by such restriction to achieve an equivalent reduction in energy consumption by other means."

—Page 43, after line 11, add the following new subsection:

"(f) Limitation on Measures Regulating the Operation of Any Hotel, Motel, or Lodging Establishment.—

The plan established under subsection (a) may not provide for any measures that would regulate the operation of any hotel, motel, or lodging establishment unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by other means.

By Mr. KRAMER:

—Page 17, strike out line 3 and all that follows down through line 4 on page 18, and insert in lieu thereof the following:

(c) Section 201 of such Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsection:

"(g)(1) The term 'severe energy supply interruption', when used in subsection (b)(3) in the case of any rationing contingency plan, means a national energy supply.

Page 18, line 6, strike out "(i)" and insert in lieu thereof "(A)".

Page 18, line 14, strike out "(ii)" and insert in lieu thereof "(B)".

Page 18, line 17, strike out "(iii)" and insert in lieu thereof "(C".

Page 18, line 20, strike out "(iv)" and insert in lieu thereof "(D)".

Page 18, amend line 23 to read as follows: "(2)" In applying subsection (b)(3) in the

Page 19, line 1, strike out "(i)" and insert in lieu thereof "(A)".

Page 19, line 4, strike out "(ii)" and insert in lieu thereof "(B)".

Page 19, line 7, strike out "subparagraph (A)," and insert in lieu thereof "paragraph (1),".

Page 19, line 10, strike out "As used in paragraph (1)," and insert in lieu thereof "In applying subsection (b)(3) in the case of any rationing contingency plan,".

Page 19, line 14, strike out "subparagraphs (A) and (B) of paragraph (2)" and insert in lieu thereof "paragraphs (1) and (2)".

Page 21, strike out line 18 and all that follows down through line 19 on page 22.

Page 22, line 20, strike out "(7)" and insert in lieu thereof "(f)"

—Page 22, after line 24, insert the following new subsection:

"(g) Section 203(f) of such Act (42 U.S.C. 6263(f)) is amended by striking out "shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973." and insert in lieu therof "shall cease to have effect after September 30, 1980.".

By Mr. MOORHEAD of California:

—Strike out section 3, beginning on page 23, line 1, and ending on page 50, line 2.

Strike out section 4, beginning on page 50, line 3, and ending on page 51, line 2.

Page 51, line 4, strike out "Sec. 5." and insert in lieu thereof "Sec. 3.".

Page 51, line 14, strike out "Sec. 6." and insert in lieu thereof "Sec. 4.".

—Page 35, beginning on line 13, strike out "application of one or more of the following measures described in such plan:" and all that follows down through line 7 on page 36 and insert in lieu thereof the following: "application of one or more measures which are described in such plan, which are authorized under the laws of that State, and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions).

Page 38, strike out line 1 and all that follows down through line 25.

Page 39, line 1, strike out "(f)" and insert in lieu thereof "(d)".

Page 39, line 8, strike out "(g)" and insert in lieu thereof "(e)".

Page 47, line 11, strike out ", 635(e),".

Page 47, line 15, strike out "or section 635(d)".

—Page 37, after line 20, add the following: "(iv) a restriction on the hours during which any business may operate."

Page 43, after line 11, add the following new subsection:

"(f) Plan May Not Authorize Restrictions On Business Hours.—The plan established under subsection (a) may not provide for the restriction of the hours during which any business may operate."

—Page 43, after line 11, add the following new subsection:

"(f) Limitation On Measures Regulating Business Hours.—The plan established under subsection (a) may not provide for any measures that would restrict the hours of operation of any business unless such plan permits any establishment affected by such restriction to achieve an equivalent reduction in energy consumption by means other than reducing operating hours."

—Page 43, after line 11, insert the following new subsection:

"(f) Congressional Review of Standby Plan.—(1) After promulgation of a standby Federal emergency conservation plan, the Secretary shall transmit such plan to the Congress, together with his findings in support of such plan, in accordance with section 551(b) of the Energy Policy and Conservation Act. Such plan may become effective only if either House of the Congress has not disapproved (or both Houses of Congress have approved) such plan in accordance with the procedures specified in section 551 of such Act.

"(2) For purposes of considering the plan submitted to Congress under paragraph (1), the 15 calendar days specified in section 551 (c) and (d) shall be lengthened to 30 calendar days.

By Mr. RINALDO:

—Page 37, line 18, strike out "or".

Page 37, line 20, strike out the period and insert in lieu thereof ", or".

Page 37, after line 20, insert the following: "(iv) a standby automobile sticker system.

Page 42, strike out lines 8 through 11 and insert in lieu thereof:

"(c) PLAN MAY NOT INCLUDE A STANDBY AUTOMOBILE STICKER SYSTEM.—The plan established under subsection (a) may not include a standby automobile sticker system.

Page 43, strike out line 12 and all that follows down through line 9 on page 45.

Page 27, after line 13, insert the following new paragraph:

"(15) The term 'standby automobile sticker system' means any restriction applicable to automobiles (or classes thereof) which, by means of stickers or other devices, identifies vehicles which are prohibited from being operated on designated days (or other periods of time).

By Mr. STOCKMAN:

—Page 43, after line 11, add the following new subsection:

"(f) PLAN MAY NOT AUTHORIZE RESTRICTIONS ON BUSINESS HOURS.—The Plan established under subsection (a) may not provide for the restriction of the Hours during which any business may operate."

EXTENSIONS OF REMARKS

NATIVE INGENUITY CONSERVES ENERGY, CUTS COSTS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. FUQUA. Mr. Speaker, our success in winning the energy war will depend greatly on the individual exercise of inventive ingenuity by citizens faced with everyday problems.

As an example of that inventiveness—and how it can increase profits while benefiting the Nation—I commend to you the story of Bobby Sherrod of Greenville, Fla.

Mr. Sherrod operates a lumber mill which receives rough cut trees and creates finished boards for the construction trade. The final stage in producing that finished product is the drying process which uses large amounts of energy to heat a kiln to 255° F, 24 hours a day, 7 days a week, 52 weeks a year.

Until recently that kiln consumed 1,000 gallons of propane fuel daily at a daily cost of about $400.

A byproduct of the lumber mill is wood shavings created in the planning process. The shavings have normally been sold to a particle board plant for virtually nothing.

Mr. Sherrod saw an opportunity to reduce his kiln heating costs significantly and make more economic use of his wood shavings and contracted with a small manufacturer to install a system designed to create gas for the kiln from the wood refuse.

Working on it personally for more than a year in connection with the manufacturer, he has now developed the system to the point where it can provide total fuel for his kiln for stretches of 10 days at a time before it has to be shut down for cleaning.

On each one of the days the wood gas is used as primary fuel, the Nation saves 1,000 gallons of propane gas and Mr. Sherrod reports that his business saves about $150 a day after paying increased personnel costs. Mr. Sherrod estimates it will take 3 to 4 years to recapture his investment of more than $150,000 in the new process at the current rate of utilization, but he hopes the system can still be refined further for longer burns. But, even at the current utilization rate, Mr. Sherrod is contributing significantly to energy conservation and building himself a competitive advantage in the market by reducing his overhead.

Mr. Speaker, that is the kind of imaginative innovation which has made this Nation great and which will be one of the chief ingredients in our successful battle for energy independence. I commend Mr. Sherrod to my colleagues and the Nation as an example of effective management of personal and national resources.●

WOMEN IN THE WORK FORCE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mrs. SCHROEDER. Mr. Speaker, women are joining the U.S. work force at the rate of a million a year. Women wage earners represent 51 percent of the labor force in 1979, whereas in 1870 women wage earners represented only 15 percent of the labor force. More of these women are becoming union members and becoming increasingly influential in the U.S. labor movement at both local and national levels. Female unionists now total 4.3 million or 25 percent of union membership. Women have accounted for more than 50 percent of the growth in union membership over the last 10 years.

Women, however, are not new to the labor union struggles. It was in 1734 that the first women's labor organization was established by maid servants to protest abuses from their mistresses' husbands in New York City. The second recorded strike of factory workers in American history occurred in 1828 in Dover, N.H. by 400 women.

In 1845, because of the poor conditions of workers in the mill industries, mill workers of Lowell, Mass., formed the Female Labor Reform Association. The group started with 12 members—within 6 months it was 500 members strong. One of the first alliances between female and male labor unions in the labor movement was between the Female Labor Reform Association and the New England Workingmen's Association in their effort to lobby for a 10-hour work day.

The first labor organization in the United States to accept women members on an equal basis was the Knights of Labor, which was founded in 1869. A few female leaders attained local and even national leadership. One of these women was Mrs. George Rodgers, mother of 12, who in 1886 was the chairman for the Chicago area of the Knights of Labor. Mother Jones, who is today's featured Minutewoman, was an organizer for the Knights of Labor. Her motto was, "Pray for the dead and fight like hell for the living."

Other women unionists emerged as labor leaders in their specific trades. One of these women was Rose Schneiderman, who helped form the first female local within the United Hat and Cap Makers Union. She was elected to the general executive board, becoming the first woman in the trade union movement to hold such a high position.

It was through the efforts of women like Mother Jones and Rose Schneiderman, as well as the thousands of women who collected dues, obtained charters, formed bargaining committees in their shops, and talked up the need for unionization, that women laid the foundations of unionism in industry.●

TRIBUTE TO MS. FRANCES M. ALBRIER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding achievements and contributions of a truly magnificent woman, Ms. Frances Albrier. Ms. Albrier, a Berkeley civic leader, has for 40 years persistently fought against racial bias. She has won several honors for her invaluable public service. In 1954, she was given the NAACP's prestigious Fight for Freedom Award. In 1971, she received the California Congress of Parents and Teachers, Inc., Honorary Service Award—their highest honor. This was given to her for her work with the intergroup education project in Berkeley for which she served as membership chairperson for 2 years; for her work since 1960 as a social resource volunteer and speaker on African culture in the Berkeley and Oakland schools; and most particularly for inspiring interest in service to youth through the PTA such that she was able to reactivate a PTA unit at an Oakland junior high school.

Ms. Albrier was born in Mt. Vernon, N.Y., and educated at Booker T. Washington School in Tuskegee, Ala., and Howard University, from which she received a degree in general social services. Her late husband, Willie Albrier, was a bartender on the Southern Pacific's lounge cars. During those years, Ms. Albrier served as president of the Women's Auxiliary of Local 456 AFL, Dining Car Cooks, Waiters, and Bartenders Union.

During the thirties, Ms. Albrier was a social service caseworker for the State.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In 1938, she was elected to a post on the Democratic Central Committee of Alameda County, and served on the committee for 18 years. During World War II, she was a welder at Kaiser Shipyards, and also did volunteer work in the Red Cross, the Motor Corps, the USO, the Fannie Wall Children's Home, the Visiting Nurses Association, and the NAACP.

It was as early as 1938 when she ran for the Democratic Central Committee that Ms. Albrier sought an end to racial bans. In 1939, she worked to stop racial discrimination in the hiring policy of the Berkeley schools. That year, she joined with other concerned women and formed the East Bay Welfare Women's Club, a political nonpartisan group, to urge the hiring of nonwhite school personnel in Berkeley. Ms. Albrier then ran for the city council of Berkeley. Although she was defeated, her campaign and her talks about discrimination in hiring did bring about policy change, enabling black teachers to be employed in the schools. She also organized picket lines at Berkeley business establishments where racial discrimination was practiced in hiring.

Ms. Albrier has served as vice president of the Berkeley Women's Town Council, on the board of directors of the South Berkeley model cities program, and as president of the Northern Federation of Colored Women's Clubs.

In March of 1971, the assembly rules committee of the California Legislature passed a resolution commending Ms. Albrier for her "outstanding record of achievements in public service." In May of this year she was awarded a national award by the Black Caucus Senior Center on Aging. Ms. Albrier has won the respect of numerous people for her unwavering commitment to improve the quality of life in her community. I think it is thus appropriate to honor her, and to thank her, for a job well done. It is my honor to bring the accomplishments of this woman to your attention.●

MERITS OF AIRBAGS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. SCHEUER. Mr. Speaker, my colleagues undoubtedly are aware that there is a vigorous debate ongoing concerning the merits of airbags. One of the more thoughtful considerations of the merits of this life-saving system was offered last week in a letter to colleagues by two of this body's most esteemed Members, Representative John J. Rhodes, the minority leader, and Representative Bob Eckhardt, chairman of the House Commerce Subcommittee on Oversight and Investigations. I am pleased to insert their letter into the Record:

Washington, D.C., *July 17, 1979.*

Dear Colleague: Our colleague, John Dingell, has asked you to support an amendment to the Department of Transportation appropriations bill (H.R. 4440) that would prohibit the Department from enforcing its 1977 automobile passive restraint standard in the form in which it was promulgated and approved by the Congress.

The standard currently calls for the manufacture of vehicles capable of protecting their front-seat occupants from injury in frontal crashes of 30 miles per hour, beginning with the 1982 model year. The standard permits the manufacturers to use any technology they wish to meet its performance criteria.

Mr. Dingell's amendment would prevent the DOT from enforcing the standard if the manufacturers chose to use any technology other than belt systems. He is asking you to turn the performance standard required under the National Motor Vehicle Safety Act of 1966 into a design standard, and to rule out the use of the other presently available technology, the air cushion restraint system (or airbag).

We are strongly opposed to Mr. Dingell's amendment. Congress requires the agency to set standards based on broad performance criteria, to permit the highest degree possible of competition and innovation in the market. If the agency should be kept out of the business of designing cars, it is even more appropriate that the Congress stay out of a highly technical judgment on the relative merits of competing passive restraint systems.

The Dingell amendment is, we are afraid, but a prelude to attempts to have Congress outlaw airbags, so that none of the manufacturers will have to compete with each other on the basis of superior safety technology. For this reason, too, we urge you to oppose the amendment. Having told the manufacturers that we want them to produce safer cars, we have no business telling them which technology they must or must not use to comply with the law.

Bob Eckhardt,
Chairman, Subcommittee on Oversight and Investigations.
John J. Rhodes,
Minority Leader.●

SWEET SUGAR DEAL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. FINDLEY. Mr. Speaker, an excellent editorial statement appeared in the July 16 issue of the State Journal-Register, a daily newspaper in Springfield, Ill. The editorial was headed "Sugar Producers After a Sweet Deal" and it echos my sentiments regarding sugar legislation soon to come before this body.

The editorial points out the special interest nature of the proposed sugar legislation and its cost to the taxpayer-consumers of this country. I commend this editorial to my colleagues. Its text follows:

Sugar Producers After a Sweet Deal

Politics, it is said, is the system we use to pass out the goodies to the several selfish interests in our society.

And, among these interests, the sugar lobby has always been one of the most successful. Congress now is considering one of the sweetest deals the sugar lobby has ever sought to put over on the American consumer and taxpayer.

The White House has bought the deal and President Carter, unaccountably, has given it his support, despite the fact that his own chief inflation fighter, Alfred Kahn, believes the present sugar program is highly inflationary.

The present sugar program is costing consumers about $2.6 billion a year in higher food costs, Kahn says. The proposal would enrich the program to about $3 billion a year, all at the expense of consumers and taxpayers.

What Congress should do is to provide for the orderly phasing out of the present sugar price support program instead of expanding it.

But key congressmen and senators from sugar-producing states stand guard for their constituents against any attempt to end Uncle Sam's role as their sugardaddy—influential men like Sens. Frank Church and Russell Long, and Reps. Tom Foley and Al Ullman.

The House Agriculture Committee has approved a bill (HR2172) which would increase the sugar price support from 14.73 to 15.8 cents a pound as of Oct 1 and provide for further increases to around 17 cents in 1980 and over 18 cents in 1981. In addition, the bill provides for a half cent a pound payment from the federal government.

The measure would benefit 14,000 farmers, representing less than 1 percent of the nation's farms and less than 1 percent of total crop acreage.

The farmers would benefit at the expense of most other Americans, who are already paying sugar prices that are 30 percent higher than they were two years ago.

It is hard for us to understand how the president of all the people could support such a special interest measure. We cannot see how any legislator not accountable to a special interest constituency can support it.●

TESTIMONY OF A. F. GROSPIRON, PRESIDENT, OCAW, ON THE OIL IMPORTS ACT OF 1979

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. CONYERS. Mr. Speaker, the distinguished president of the Oil, Chemical, and Atomic Workers International Union, A. F. Grospiron, recently testified in support of legislation sponsored by Representatives Rosenthal, Rose, and myself to create a Federal corporation to purchase foreign oil. The Oil Imports Act of 1979 (H.R. 3604) would provide the effective means to curb the OPEC cartel and the multinational oil companies' market power, which together have brought about the crisis of energy costs we are experiencing today. I recommend that my colleagues read carefully his July 17 testimony before the Ways and Means Trade Subcommittee, which follows:

Statement of A. F. Grospiron

Since the Arab oil embargo of 1973–1974, the United States has become increasingly dependent on imported oil instead of moving toward energy independence. This has taken place because, following the recession of 1975, the U.S. economy has strongly expanded and has been accompanied by a growing utilization of petroleum products, particularly in connection with transportation.

The immediate energy crisis in reality is a crisis only in the supply of oil. Oil, natural gas and coal supply almost 95 percent of the energy consumed in the United States. Natural gas and coal are now in reasonably adequate supply from indigenous sources. However, oil makes up about 45 percent of total energy use in the United States. As imports provide about 45 percent if this nation's oil supplies, this means that 20 percent of total U.S. energy is now imported.

The dependence on imported oil, particularly OPEC oil, makes the United States vulnerable to cut-offs of supply such as those which occurred in the Arab embargo and the Iranian political upheaval. Further, the world price of oil is completely controlled by the OPEC cartel. This makes the U.S. subject to arbitrary price rises at the whim of OPEC, such as that which just occurred. The resulting high costs of imports impairs the stability of the U.S. dollar because of growing adverse trade balances.

The key task of this Congress in the field of energy is to deal adequately with the problem of oil imports. This means improving the security of U.S. access to oil supplies. It means bringing into being free world marketplace bargaining in place of arbitrary price fixing by the OPEC cartel. There are two parallel ways of going toward these objectives. Both should be pursued at the same time.

The first is to take steps to reduce the level of oil imports. This would decrease U.S. dependency on OPEC, as the United States is the largest purchaser of international oil. Significant reductions in U.S. imports would place downward pressure on world oil prices. It could convert this year's alleged scarcity of oil into a visible glut. The steps that need to be taken to reduce oil imports are conservation plus the development of domestic alternatives to imported oil.

The second and more direct way of reducing the power of OPEC has received comparatively little attention thus far. This is to take steps to set up free competitive marketplace bargaining conditions in international oil commerce. This is the purpose of the Conyers-Rosenthal-Rose bill, H.R. 3604, which OCAW is supporting.

The current situation is that all buying and selling of oil imported into the United States is carried out by a small group of multinational corporations. These corporations have absolutely no interest in bargaining with the producing nations over price.

One reason that the multinationals are unlikely to oppose the will of the OPEC governments at the present time is because, in their perception, any vigorous stand might imperil their access to OPEC oil.

A second reason for the surrender of the multinations to OPEC is that OPEC price rises cost the multinationals nothing as they are immediately passed through to the final customers. In fact, OPEC price rises are to the actual benefit of the multinationals. OPEC price increases place upward pressure on the prices obtainable for the multinationals' own oil produced in the U.S. and other non-OPEC countries.

The multinationals are so involved in the maintenance of their present status quo that it is impossible for them to effectively represent U.S. interests as bargaining agents in behalf of U.S. consumers.

H.R. 3604 would provide for direct participation of the United States in international trading of oil for U.S. import. This bill would set up a public corporation along the lines of TVA to buy and sell all oil imported into the U.S. after a phase-in period. The corporation would have the latitude to enter into long-term contracts for oil at fixed prices or to accept sealed bids for spot deals. Contract oil is by far the most important, spot dealing normally supplying oil for unplanned exigencies.

It must be conceded that any marketplace buyer is in a poor position in a time of scarcity of supply. The present apparent scarcity of oil in international commerce is probably highly artificial. However, this can not be presently tested because a competitive marketplace situation does not exist. This year's scarcity is likely to be transformed into next year's glut giving any genuine bargaining by a public corporation a fair chance. The reasons for this conclusion are spelled out in the following discussion.

The cost of production of oil put aboard a tanker at Ras Tanura, the main Saudi Arabian port, is officially quoted as 29 cents per barrel. The "official selling price" of this oil is $18. To this is added a 40-cent surcharge. The selling price is 63 times cost. This extraordinary spread between sales price and cost is vulnerable to substantial price cutting even if only a modestly competitive market were to exist. In truly competitive markets, the spread between delivered cost and sales price is only about 1.7 times for commodities.

The historical situation of the world oil industry has always been one of incipient or actual glut except during crisis situations such as World War II and the Arab embargo. Oil gluts have been endemic in the oil industry for over a century. This is in spite of periodic concerns that the United States and the world was running out of oil. The first of these public concerns was expressed by the U.S. government over sixty years ago, shortly after World War I.

The 1920's, however, were a period of uncontrolled oil glut.The glut led to a worldwide price war beginning in 1920 between Royal Dutch Shell and New Jersey Standard (now Exxon). The war was waged in India, the Far East, Europe and then even in the United States, using low priced Russian oil. New oil was also developing at this time in Venezuela, Mexico and Iraq. A nightmare of competitive marketing loomed ahead for the oil companies.

All this was ended by the Achnacarry agreement of 1927 among the Big Three: Exxon, Shell and BP. Through participation in production consortia in the Middle East, California Standard (Chevron), Texaco, Mobil and Gulf became essential partners in the Achnacarry agreement. This agreement divided up participation in world production and markets, ending any moves to marketplace competition.

The maintenance of artificial market prices requires the careful control of the volume produced to avoid disruptive surpluses. It is essential that this control be centralized and well disciplined to prevent overproduction from a country from eroding prices. The late John M. Blair, formerly Chief Economist for the Senate Subcommittee on Monopoly showed in the Control of Oil that from 1950 to 1972, total production in the countries now forming OPEC was remarkably well adjusted to the constant growth rate of demand. This obviously required centralized coordination as the production rates in the individual countries fluctuated wildly during this period in response to changing political and economic conditions in each country.

The situation changed abruptly when the OPEC governments seized control and imposed astronomical increases of oil prices. Previously, the price structure had been preserved by careful control of production rates by the oil companies. Production rates were now in the hands of the individual OPEC members.

The record shows that the OPEC countries have been far less successful in controlling and avoiding surplus production than were the multinationals. While there have been highly conflicting predictions of the extent of the world's oil resources and of the dates that oil resources may run short, there has been virtual unanimity regarding the existence of surplus oil supplies right up to the time of the Iranian revolution.

Larry Auldridge, in the Oil and Gas Journal of August 29, 1977, stated that:

"Record crude-oil production during the first half of 1977 has virtually flooded non-Communist markets.

"Crude stockpiles in the U.S. and Europe are nearly brimming. Tankers are slow-steaming on the high seas to delay oil deliveries, and many are lying idle in or near ports, unable to unload cargoes."

Lee Smith, in Dun's Review of September, 1978, said:

"In recent weeks, a surprising new phrase has been on the lips of Houston oilmen, New York bankers, Arab ministers and Carter Administration strategists. That phrase is, of all things, 'oil glut.' For while the drying up of oil supplies remains one of the world's most pressing long-term problems, a surplus will exist for the next few years."

There were numerous other articles in similar vein appearing in the years between 1975 and 1979.

With the huge difference between the actual cost of OPEC oil and its price, it is important to determine how prices could be maintained in the face of a large surplus of production capacity. Surplus supplies began to mount with the drop in demand because of the world recession which followed the Arab embargo. The maintenance of cartel prices under this condition would seem to imply an extraordinary amount of discipline among OPEC. This discipline does not appear to have been the case.

The fact that surplus oil for sale appeared in substantial quantities in the years between 1974 and 1979 clearly shows that OPEC discipline was lacking. What then maintained the world cartel prices?

The obvious answer is that no countervailing marketplace forces existed. The multinational oil companies with their predominant position in oil buying and selling were perfectly content to maintain the artificial prices even for oil from non-OPEC sources. Their ownership of production capacity in the U.S. and elsewhere provided ample incentive for them to keep up prices.

It may be fairly concluded that the marketing control of crude oil by the multinationals provides a line of defense around the OPEC priecs. By selective buying the multinationals have been able to determine how much of, and whose oil, is sold on the international market. This power is limited only by the terms of "lifting agreements" with host countries. These agreements provide for minimum rates of crude oil production in each country.

Thus it was the marketing control of OPEC oil by the companies which succeeded in bringing about a small drop in oil production in the non-Communist world in the first half of 1978. Larry Audridge reported in the August 28, 1978 issue of the Oil and Gas Journal, under the headline "OPEC bears thrust of oil output decline," that global production had dropped just 1.1% but that OPEC oil had plummeted 9.3 percent, 2.65 million barrels per day. (The magnitude of this drop must have brought production levels near the minima prescribed in the various lifting agreements.)

Audridge stated that:

"Stepped up production from the Alaskan North Slope, the North Sea, and Mexico effectively backed out a considerable amount of OPEC crude exports."

The above sources are all non-OPEC and out of any system of control by OPEC. The increases in production from the Alaskan North Slope, the North Sea and Mexico were essentially uncontrollable in terms of any OPEC attempts to regulate the world market.

It should be apparent that the OPEC governments did not welcome and certainly did not initiate the drop in their oil output. The drop cost them collectively $12.6 billion. Only selective buying by the oil companies could have conceivably determined the pattern of oil production and deprived the OPEC governments of this revenue.

We come now to the question of how the Iranian shortfall in production could have created a world shortage of crude oil after the tremendous surpluses of 1977 and 1978. It is concluded here that the effect of the Iranian shortfall on world supplies of crude oil has been greatly exaggerated by the oil companies and OPEC, and that it may simply not exist.

The following is quoted from the Oil and Gas Journal of May 22, 1978:

"About 3 million bbl of crude oil goes up for sale every day in non-Communist countries without finding a buyer.

"And there's an estimated additional 6 million b/d of hooked-up capacity that isn't being produced because of the surplus market.

"W. H. Blackledge, assistant to the president of Gulf Oil Exploration & Production Co., says almost all of the excess crude is controlled by members of the Organization of Petroleum Exporting Countries.

"Blackledge expects non-Communist crude supply to continue in surplus for the next 3–5 years, with capacity sufficient to meet demand through the mid-1980's"

The total surplus capacity cited by Blackledge totals 9 million barrels per day. The normal exports of Iranian oil totaled 5 million barrels per day. Thus shortfalls resulting from the Iranian political upheaval could be replaced by bringing onstream existing surplus capacity.

Between 1975 and 1979, OPEC oil prices had declined slightly in real terms because of the depreciation of the U.S. dollar in which oil prices are reckoned and because of inflation. The stationery price of OPEC oil in this period was due entirely to the admittedly large surplus of production capacity.

The alleged world deficit in production capacity following the Iranian crisis created the necessary backdrop of confusion and hysteria which enabled the OPEC governments to institute their latest round of extortionate increases.

With the expected restoration of Iranian oil production, the large world excess of production capacity will again become highly visible.

A competitive world market in crude oil, however, cannot exist as long as a small group of multinationals, bound together by their mutual holdings in consortia, remain in exclusive control of the buying and selling of international crude oil. A third force such as would be created by H.R. 3604 is necessary for free marketplace bargaining with OPEC, with other oil producing countries and with the multinational corporations. Only then can an excess of oil producing capacity have any commercial meaning in marketplace terms.

It has been generally taken by the public at large that OPEC constitutes an invincible cartel. If this were correct, moves to bargain with individual OPEC members or even with non-OPEC oil producing countries would be simply useless. But this is far from being the case.

The members of OPEC have divergent interests and sharp disagreements. The meetings in 1977 revealed one such disagreement over pricing. At this time, Saudi Arabia and the United Arab Emirates took a 5-percent increase while the other OPEC members raised prices 10 percent.

The OPEC disagreements on pricing this year resulted in an agreement that has been characterized by the Petroleum Intelligence Weekly (July 2, 199) as "New OPEC 'System' Seen as Blueprint for Price Chaos." The "Official Selling Prices" for API Gravity 34 crude now range all the way from $18.00 up to $21.85 including surcharges.

In addition to the above price range for the same kind of oil (API 34), there are even larger disparities and disagreements about different kinds of oil and different geographical locations. To quote the same issue of the Petroleum Intelligence Weekly again:

"But the really big pricing loophole that threatens to undermine the basic two-tier OPEC "system" is the unspecified "normal differential" that each producer is free to add on for quality and location factors. There was virtual deadlock on that point even within the two main camps. OPEC producers have traditionally set such differentials for the major crude oils within a "band" of about $2 a barrel (surrounding the "marker" base). This "band" has been widened to at least $4 a barrel now, and even more if one attempts to justify the basic $2 OPEC surcharge on the grounds of quality and location too.

This price range in a situation with incipient surplus capacity would be a hayday for buyers in a free competitive market. It would put pressures on the prices at the upper end of the range.

In the international market controlled by the multinationals, it may be expected that oil bought at all prices will be sold at prices corresponding to the upper end of the range. The differentials will be simply absorbed into the downstream profits of the companies, with no benefit to the ultimate customers. It may be observed that the differentials in the new 1979 prices are large in terms of consumer prices. A difference of $4 per barrel is equivalent to 10¢ per gallon at the gasoline pump.

H.R. 3604 is designed to remove exclusive control of the buying and selling of foreign oil from the multinationals. To this end, the American Oil Importing Corporation, a nonprofit corporation like TVA, would be established. The corporation would be outside the Administration and insulated from day-to-day political pressures. The sole function of the corporation would be to negotiate directly with producers, shop around the world for oil at lowest prices and resell the oil in the United States. Under the terms of H.R. 3604, the corporation would function as an ordinary business organization with a Board comprising a President and not more than three other officers appointed by the U.S. President for fixed terms to manage the corporation in the same way that industrial corporations are managed.

The corporation would have a number of ancillary benefits. Other than preserving the necessary secrecy of information which might influence or affect the market value of crude oil or petroleum products, which might require the withholding of information for a fixed time, the operations of the corporation would be in public view. This means that it would provide the government and the American people with reliable information about oil purchased overseas, where it is refined and whether shortages or surpluses exist. This information is presently kept as top secret "proprietary" by the multinationals. Its release into the public domain is urgently needed. Only by information about the full facts concerning imported oil can this nation's energy policy decisions be formulated in any meaningful way.

The American Oil Import Corporation would put U.S. refiners on an equal basis. Artificial "transfer pricing" would be ended, with refiners becoming equal in access to imported oil, whether or not they owned foreign oil producing assets or had preferred access to oil abroad. Sales of crude by the corporation would be managed on an equitable basis to promote competition among domestic refiners. Imports of oil products would be managed in a way to insure maximum utilization of U.S. refining capacity.

At this point, some additional remarks about the longer term future of world crude oil availability are in order. There is remarkable diversity of opinion concerning the extent of the potential oil resources of the world. The recent CIA report predicted physical shortages of crude oil commencing in the 1980's. On the other hand, Dr. Bernardo Grossling reported in a study commissioned by the World Bank estimated total world resources as high as 6,000 billion barrels, an amount sufficient for 280 years at the present rates of consumption.

Information about the world's oil resources is exceedingly speculative as practically all the geophysical data obtained by exploratory work is in the hands of the oil companies and closely held as proprietary information. Publicly available information, however, indicates that there is oil potential in many Third World countries.

Not surprisingly, the oil companies oppose serious drilling in these areas. Exxon executive Howard Page once told a Senate Subcommittee investigating the lag in development of new oil resources outside present areas:

"I might put some money into it if I was sure we *weren't* going to get some oil, but not if we were going to get oil because we are liable to lose the Aramco concession". (underlining ours)

The major multinational oil companies are not likely to undertake serious drilling in these areas in view of the dangers to themselves of over-extending the world's oil productive capacity. In any case, if undertaken by the multinationals, the newly developed oil would be subject to the same kind of selective purchasing that the cartel exhibited in being able to back out 9.3 percent of the production of OPEC oil last year. The Third World countries with petroleum resources are just going to have to sit there until the multinationals decide that the cartel needs new oil supplies. In the meantime, potential oil revenues to these countries will have to wait.

There is a way around the reluctance of the major multinationals to undertake exploratory drilling in Third World countries. That way is to provide independent funding to wildcat operators outside of multinational channels. This could be done through the World Bank, the Export-Import Bank, direct U.S. government loans and by guarantees of private loans.

The World Bank announced on January 18, 1979, that it would offer substantial loan assistance to developing nations that hope to exploit oil and natural gas reserves. The Bank estimates that 60 developing countries would benefit from the loans which could amount to $1.2 billion a year by 1982. As might be expected, Exxon opposes this program, contending that it is unnecessary. Most of the other oil companies have been reported as opposing the World Bank Program.

It is clear that an urgent task is to provide funding to independent oil exploration and developments efforts outside the control of OPEC and the major oil companies if the power of the world oil cartel is to be broken. However, it is also true that even were independent oil production developed in Third World countries, free market competition could be crippled if the multinationals remain in complete command of all non-Communist world oil buying and selling. These companies successfully boycotted Mexican nationalized oil in 1938 and Iranian Mossodegh oil in 1951. They could succeed again in the future.

Looking into the possible longer term future of the OPEC multinational oil company control of world oil if the present situation is allowed to drift, the passage of H.R. 3604 will be seen as exceedingly urgent.

Until new international arrangements are instituted, it can be anticipated that OPEC prices will eventually rise to a final "equilibrium" situation. The equilibrium price situation in this instance must be carefully distinguished from the advent of free competitive markets. The equilibrium price of crude oil in this situation will be only reached when people can no longer afford to buy oil products and the volume of demand sinks to the point where producing country revenues and company profits start declining. This is known as the point of diminishing returns. As the demand for oil in the industrial world is relatively inelastic (that is, price increases produce little decline in demand), the final "equilibrium" price of crude oil is likely to be astronomical. While there is no point to speculations about the precise upper bound of this price, it may exceed any of the current expectations.●

WRONG SIGNAL ON AIRBAGS

HON. JON CLIFTON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. HINSON. Mr. Speaker, the New York Times of this morning carried an editorial which sets out the issue of passive restraints in automobiles better than anything I have seen in print. I commend the editorial to the attention of the House, and to a letter received today from the Automotive Occupant Protection Association which advocates passive restraint systems in all new cars by 1984.

AUTOMOTIVE OCCUPANT
PROTECTION ASSOCIATION,
Arlington, Va., July 24, 1979.

DEAR MEMBER OF CONGRESS: The Automotive Occupant Protection Association is dedicated to reducing the number of deaths and injuries resulting each year from accidents on our nation's highways.

One of the major tools in this effort is the Department of Transportation's safety standard which requires passive restraint systems in all new cars by 1984.

The attached editorial from today's New York Times addresses the need for the development of effective occupant protection systems, both air bags and automatic seat belts.

More importantly, the editorial presents many good reasons for opposing the Dingell Amendment to HR 4440, the DOT appropriations bill. This amendment would severely hamper the efforts of DOT to make automobiles safer for all motorists.

We feel this editorial raises many points which should be considered before you vote on this amendment. We commend it to your attention.

DAVID LAMBERT,
President.

[From the New York Times, July 24, 1979]

WRONG SIGNAL ON AIR BAGS

Congressman John Dingell of Michigan hopes to deflate the push for air bags in future cars with a mischievous piece of legislation. It would bar the Department of Transportation from spending any money to "implement or enforce" any air bag requirement. The practical effect would be negligible; there won't be anything to implement or enforce until the 1982 model year, and research and development could continue. But the Dingell amendment would send out the wrong signals. It would undermine public confidence in the air bag, raise questions among manufacturers about the worth of air bag investment and, if renewed in future years, eventually make it impossible for the department to enforce its safety standard.

That standard does not specify air bags. It simply requires that all new cars be equipped with devices that automatically protect front-seat occupants from serious injury or death in a 30-mile-an-hour frontal collision into a solid barrier. The added protection is needed because only 14 percent of all drivers bother to fasten their seat belts.

Only two protective devices are likely to be available. One is the automatic belt system, already installed on many Volkswagen Rabbits, which wraps around the occupant as the door closes. The other is the air bag—offered as an option by General Motors in mid-1970's—which inflates at the impact of a crash and cushions the occupant from the dashboard or steering wheel. Most cars would have the cheaper automatic belts, but air bags will most likely be needed on large cars with room for three in front. No automatic belt appears workable for the middle seat.

Mr. Dingell and other opponents have raised legitimate questions about the air bag. Tests with dummies and animals indicate that the rapidly inflating bags might injure a child who is standing or kneeling out of position instead of sitting properly—a problem that needs looking into. Cost is also in dispute. The Transportation Department estimates that air bags will increase the list price of a car by $200; the manufacturers, projecting smaller sales, say $500. And the benefits are unproved. The Transportation Department estimates, conservatively, that automatic restraints will prevent 9,000 deaths and 65,000 injuries a year, with savings of $4 billion in medical and other costs. These estimates are "not fully supported," says the General Accounting Office.

But presumably the practical problems can be overcome and the cost questions should be resolved in the market place. If air bags can't compete with automatic belts in safety or cost, they will disappear—and alternative provisions may have to be made for that small percentage of cars that can't use the belts. But Mr. Dingell's proposal is, at best, premature. It will accomplish nothing positive and it will prejudice the outcome of this technological competition. Air bag development should continue at full speed. Virtually everyone agrees that air bags can save lives.●

TAX BREAKS FOR BUSINESS HAVE A CATCH 22

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. VENTO. Mr. Speaker, the recent host of State and Federal tax incentives offered to induce businesses to relocate in specific States or communities have had important effects. The revenue losses persist long after the headlines have faded. The burdens ironically fall heavily upon existing businesses and residents within a community. This competition has not always resulted in the best decisions as far as geographic or practical business considerations are concerned. The Neal Peirce article which follows addresses the unfortunate consequences and realities of States and localities vying against each other for business relocation:

[From the Minneapolis Tribune, July 8, 1979]

TAX BREAKS FOR BUSINESS HAVE A CATCH 22

(By Neal R. Peirce)

WASHINGTON.—Like medieval alchemists who thought they could turn worthless metals into gold, state and local officials are desperately outbidding each other with special business tax abatements and inducements—all at the taxpayers' expense—to lure new factories and offices.

The tax revenues forgone are staggering and appear to be rising as more and more governments join the tax abatement game. The cost in some states has now exceeded $100 million a year. "No economic policy has been more poorly argued and documented, yet so uniformly and warmly supported by special interest lobbyists," according to economists Bennett Harrison and Sandra Kanter. "These business incentives do not produce new output or jobs."

Aside from adding no net wealth to the national economy, state and local tax abatements have unpleasant side effects. Almost invariably, they force all other businesses and homeowners to shoulder an inequitably high tax burden. Or they cause underfunding of schools, highways and other facilities a locality needs to serve its own citizens—and to generate real economic growth.

Name any conceivable tax break a state or locality could grant to business and some government around the country will have tried it. The bag of tricks includes outright abatements of property taxes for up to 25 years, revenue-bond financing to build plants (pioneered in Mississippi in 1936 and now available in 45 states), corporate income-tax exemptions, inventory tax exemptions, sales tax forgiveness on new industrial equipment, accelerated depreciation of industrial equipment—and many others.

Ironically, many officials are now starting to detect the Catch 22 in special business tax breaks: The more they offer, the less impact the breaks have—but the harder it is for any one state or locality to reject using them. "I'm increasingly troubled by the competition among states," says Michigan Gov. William Milliken, former chairman of the National Governors Association. "We're just outbidding each other. Each one is trying to put in more incentives. There has to be some point of marginal utility when it becomes counterproductive within the country."

Yet even Milliken acknowledged that without a special tax abatement it might have been impossible for his state to save a 5,000-worker Chrysler plant in Detroit's inner city.

However widespread, the special industrial tax breaks have run up against a strong wind of critical comment from independent economists. They contend:

State and local taxes account for only a minuscule part of business expenditures, so that abating them can't affect operating costs decisively. For most firms, says Citibank economist Roger Vaughan, labor costs are 20 times as large as state and local tax payments. Cumulatively, labor, transportation, energy costs, marketing conditions and the general industrial and living climate will eclipse local tax factors in any rational corporate location decision.

For the record, many businesses say local abatements are important to them. But with increasing candor, some top business leaders are telling a different story. Says William Sneath, board chairman of Union Carbide: "I do not believe tax breaks or reduced responsibility are at the core of most corporate relocation or investment decisions." Lewis Lehr, president of U.S. operations for the 3M Co.: "The free ride of a two- or five-year tax moratorium while capital costs are recovered is not the solution. Sooner or later, somebody has to pay for state services."

Many firms deceive localities into thinking they will go elsewhere unless an abatement is offered—when in fact their market options leave them little other choice.

Tax abatements can generate serious ill will among a state's own firms and traditional job providers. "It may not be long before such indigenous companies are testing the waters in neighboring states," Illinois Issues reports. "Those states that subsidize new industry are creating unfair competition for their domestic plants, just as if they were directly subsidizing these firms' competitors."

Tax incentives are seldom made available to small firms which, according to pioneering research by David Birch of MIT and others, are creating two-thirds of the nation's new jobs. And political forces usually make it impossible to target the incentives to center-city or poor rural areas that need help the most.

Taxpayers often fail to note the heavy price they pay for industrial captures. To win its celebrated tax abatement war with Ohio for the Volkswagen plant eventually attracted to New Stanton, Pennsylvania had to promise: state outlays of $40 million to buy and refurbish an old Chrysler plant for VW, leasing it back to VW for 30 years (the first 20 years at a laughable 1.7 percent interest rate); floating $25 million in state bonds for highways and a special railway spur; tapping public employees' pension funds for a $6-million loan to VW; and forgoing 95 percent of VW's local taxes for the first two years and 50 percent for the following three years.

For this effort, Pennsylvania now has an auto plant in a rural location, rather than a city where it would alleviate unemployment problems. And the factory is plagued by serious labor problems.

Rather than abatements, Vaughan suggests a balanced and equitable overall state tax system. States should reduce taxes obviously far out of line and reduce clearly counterproductive business taxes. Wisconsin, for instance, in 1973 reduced its high property tax on machinery and business equipment. Industrial activity picked up immediately, despite the state's other high taxes, high factory wages and heavy unionization.

If tax abatements serve any function at all, it's in convincing industry that a state really wants to have it. But a better path to the same end would be to reduce regulatory red tape and other bureaucratic obstacles, instituting such steps as one-stop shopping for environmental and licensing clearance.

A Massachusetts labor leader suggested to me that the only way out of the abatement thicket would be a sort of SALT agreement among the states to eliminate the unnecessary tax incentives. But the complexity of differing state tax codes would make the real SALT negotiations look simple by comparison. The best hope probably lies in states learning—with a hand from skeptical citizens and home-based industries—how self defeating tax abatements usually are. And then, in their own self-interest, they might return to more rational and fair taxation systems.●

APPEAL FOR FAITH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. SKELTON. Mr. Speaker, the Lexington Advertiser News had an editorial regarding President Carter's appeal for faith. It is food for thought for all of us, and I attach hereto a copy of the editorial, written by Charles Coy.

[From the Lexington Advertiser-News, July 19, 1979]

APPEAL FOR FAITH

President Jimmy Carter is giving us hope in a strong program to bring unity to America during a time of crisis. The president has told us what must be done by telling us unpleasant truths and showing us the way out of a period of national peril in regard to energy, inflation, recession and faith.

The most devastating peril is the loss of faith in the great American dream that our land is the land of opportunity and our children will be able to live better than we.

Jimmy Carter is ready to lead us. He has told us what must be done and how we must tell Congress and ourselves. He is saying America occupies a place of special danger in the world, but a danger no greater than our forefathers faced on numerous occasions in the past.

The president has pointed out the enemy, and we find the enemy to be ourselves. Only we can take ourselves out of danger by renewing our faith in the great American dream by each sacrificing a little for the well-being of all.●

THE CARBON DIOXIDE PROBLEM: IMPLICATIONS FOR POLICY IN THE MANAGEMENT OF ENERGY AND OTHER RESOURCES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. OTTINGER. Mr. Speaker, earlier this month four eminent scientists submitted a report to the President's Council on Environmental Quality which details their concerns about the global impacts of continuing to increase the levels of carbon dioxide in the atmosphere. That increase results directly from our continued profligacy in the burning of hydrocarbon fuels.

As the scientists indicate, if the world continues to increase the carbon monoxide levels in the atmosphere, we could—within the next couple of generations—begin to see serious consequences in our global weather patterns and, worse, the beginnings of a "greenhouse effect." As the report states:

> If the trend is allowed to continue, climatic zones will shift, and agriculture will be displaced. Such a series of changes would have far reaching implications for human welfare in an ever more crowded world, would threaten the stability of food supplies, and would present a further set of intractable problems to organized societies. The best estimates suggest that there would be the least change in temperature in the tropics but polar regions would grow substantially warmer. With sufficient high latitude warming the ice cap in the western part of the Antarctic Continent could disappear in a period as short as two centuries, causing a 20-foot rise in sea level with resulting inundation of low-lying coastal zones.

Mr. Speaker, as the Congress continues its discussions on energy and the development of synfuels and increasing utilization of coal, carbon dioxide is a serious problem and one which must be considered. I commend to my colleagues the paper prepared for the Council on Environmental Quality by George M. Woodwell, Gordon J. MacDonald, Roger Revelle, and C. David Keeling.

The paper follows:

A REPORT TO THE COUNCIL ON ENVIRONMENTAL QUALITY

I. THE CO_2 PROBLEM

Man is setting in motion a series of events that seem certain to cause a significant warming of world climates over the next decades unless mitigating steps are taken immediately. The cause is the accumulation of CO_2 and other heat-absorbing gases in the atmosphere. The result is expected to be a differential warming of the atmosphere near the earth's surface, a warming that will probably be conspicuous within the next twenty years. If the trend is allowed to continue, climatic zones will shift, and agriculture will be displaced. Such a series of changes would have far reaching implications for human welfare in an ever more crowded world, would threaten the stability of food supplies, and would present a further set of intractable problems to organized societies. The best estimates suggest that there would be the least change in temperature in the tropics but polar regions would grow substantially warmer. With sufficient high latitude warming the ice cap in the western part of the Antarctic Continent could disappear in a period as short as two centuries, causing a 20-foot rise in sea level with resulting inundation of low-lying coastal zones. Enlightened policies in the management of fossil fuels and forests can delay or avoid these changes, but the time for implementing the policies is fast passing.

The carbon dioxide content of the atmosphere is increasing at an annual rate that is now about 1.5 ppm in a background of about 333 ppm. The increase since 1860 is at least 40 ppm, possibly as much as 70 ppm. Precise data on the increase are available since 1958 when monitoring stations were established on Mauna Loa in the Hawaiian Islands, at the South Pole, and intermittent sampling was intensified elsewhere. The data show that the rate of increase is accelerating as the world use of fossil fuels increases. The rates of both are between 3 and 4 percent annually. This rate means that in each period of between 18 and 23 years approximately twice as much CO_2 accumulates in the atmosphere as accumulated in the previous period.

The problem is that CO_2, in contrast to the major atmospheric components O_2 and N_2, absorbs infra-red radiation, which is the principal outgoing radiation from the earth's surface to outer space. Over any extended period the infra-red radiation emanating from the top of the atmosphere must balance the solar radiation absorbed by the atmosphere, the oceans, and the earth's surface. The increase in the CO_2 in the atmosphere can thus be expected to result in a rise in the surface temperature until the outgoing infra-red radiation comes into balance with the absorbed solar radiation. The extent of the heating that will result depends on many factors and is difficult to predict, but there is reasonable agreement that it will occur and will be conspicuous before the end of this century. The changes in climate that will follow such an increase in temperature are also elusive.

The experience from models of world climate is that the warming may be as much as an average of 2–3° C for a doubling of the CO_2-content of the atmosphere and that the warming will be greater by a factor of three of four near the poles and less in the tropics.

There appear to be very few clear advantages for man in such short-term alterations in climate. The displacement of agriculture in a world constantly threatened by hunger would alone constitute an extremely serious international disruption within the lifetimes of those now living. The warming of the Antarctic could, according to some estimates, result in the disappearance of the West Antarctic ice sheet in a period as short as 200 years. Such a process could be started by an increase in summer temperature in the Antarctic ocean surface waters of 5° C. Such an increase could occur in 50–75 years if current trends continue. A complete disappearance of the West Antarctic ice sheet would raise sea level by as much as 20 feet worldwide.

By itself the increase in atmospheric CO_2 would probably be beneficial for agriculture because the added CO_2 will act as a fertilizer for crop plants. But there is little basis for hope that a decades-long warming of the earth will result in benefit for man. Certain areas now suitable for agriculture will become arid, others, now limited by short season, will become arable.

The cause of the current increase in CO_2 in air is the oxidation of carbon compounds worldwide. Fossil fuels are one, probably the major, source. The harvest of forests and the decay of soil humus are thought by some to be an equally important contemporary source, althougth its importance will decline with time. The important fact, however, is that the atmosphere is a comparatively small reservoir. It contains about 700×10^{15} g of C. The biota is variously estimated as containing about 800×10^{15} g; the humus, $1{,}000–3{,}000 \times 10^{15}$ g; and the oceanic water nearly $40{,}000 \times 10^{15}$ g. Reserves of fossil fuels contain at least $5{,}000 \times 10^{15}$ g. The current use of fossil fuels is releasing $5–6 \times 10^{15}$ g C annually and the biota and humus are probably contributing an amount of similar order of magnitude. The combustion of fossil fuels has the potential for a greatly increased rate of release over the next years. The most remarkable aspect of the current circumstance is the fact that the CO_2 content of the air is as stable as it is. Clearly, a shift in any of these carbon pools or rates of transfer has the potential for altering the CO_2 content of the atmosphere. This series of shifts is already underway. For this reason, if for no other, the industrialized nations, now scrambling for policies in the management of increasingly scarce supplies of energy, should be considering the implications of their policies for the CO_2 balance of the atmosphere.

If we wait to prove that the climate is warming before we take steps to alleviate the CO_2 build-up, the effects will be well underway and still more difficult to control. The earth will be committed to appreciable changes in climate with unpredictable consequences. The potential disruptions are sufficiently great to warrant the incorporation of the CO_2 problem into all considerations of policy in the development of energy.

II. THE ELEMENTS OF POLICY IN MANAGEMENT OF THE WORLD CO_2 PROBLEM

The challenge is obviously worldwide. The problem cannot be resolved by one nation acting alone. However, the U.S. provides leadership on many international issues. The elements of policy proposed here in outline are for the U.S. They apply as well to the world.

1. *Acknowledgement of the problem*: The CO_2 problem is one of the most important contemporary environmental problems, is a direct product of industrialization, threatens the stability of climates worldwide and therefore the stability of all nations, and can be controlled. Steps toward control are necessary now and should be a part of the national policy in management of sources of energy.

2. *Conservation of fossil fuels*: The first element of any policy that offers the hope of being effective is conservation. Limitation of the rate of exploitation of fuels is possible. The rate is controlled currently by price, taxation, and regulation. It can be controlled as a matter of policy. All actions of government should be reviewed to determine effects on the total use of carbon-based fuels.

3. *Choice of fossil fuels*: The choice of fossil fuels and the use made of them bears heavily on the amount of CO_2 released to produce a unit of energy. The production and consumption of liquid or gaseous fuels from coal (synthetic fuels), for instance, is estimated to release 3.4×10^{15} g C per hundred quads (10^{15} Btu) of energy as opposed to 1.45×10^{15} g C for an equivalent amount of energy from natural gas. The difference in CO_2 released is a factor of 2.3 times greater for the coal route to gas than by using natural gas alone. If the coal is burned directly, use of 100 quads of energy releases 2.5×10^{15} g C. These are merely examples. Details appear in Table 1, below.

Fuel:	*Carbon in 10^{15} g.*
Oil	2.0
Gas	1.45
Coal	2.5
Coal: converted to gas or oil (synthetic fuels)	3.4

Table 1. Carbon released in CO_2 per 100 quads of energy released as heat. (One quad = 10^{15} Btu.) (from MacDonald 1978).

4. *Reforestation:* It seems elementary that we have reached the point worldwide where the CO_2 problem alone dictates a need to balance the harvest and other transformations of forest with some other storage of carbon. The regrowth of forests is the obvious solution: total respiration, including fires, should be less than or equal to, but not more than, total photosynthesis on a regional and worldwide basis. There are many additional advantages in such a program, quite apart from the advantages gleaned from wise management of the CO_2 problem.

It is our conviction that an appropriate reaction to the mounting worldwide squeeze on supplies of energy requires consideration of the CO_2 problem as an intrinsic part of any proposed policy on energy.

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SELECTED REFERENCES

Bolin B. and W. Bischof, 1970 Variations of the Carbon Dioxide Content of the Atmosphere in the Northern Hemisphere, Tellus 22, 431–442.

Atmospheric Carbon Dioxide Variations at the South Pole, 1976 A, Tellus 28, 552–564.

Keeling, C. D. et al., 1976 B, Atmospheric Carbon Dioxide Variations at Mauna Loa Observatory, Hawaii, Tellus 28, 538–551.

Kellogg, W. W., 1978, Is Mankind Warming the Earth?, Bulletin of the Atomic Scientists: Feb. 11–19.

Lamb, H., 1977, Climate, Present, Past and Future, Vol. 2, Methuen, London.

MacDonald G. J. F. 1978, An Overview of the Impact of Carbon Dioxide on Climate, Mitre Corporation, McLean, Virginia 22102.

Manabe, S. and R. Wetherald, 1975, The Effect of Doubling the CO_2 Concentration on the Climate of a General Circulation Model, Jour. Atmos. Sciences 32, 3–15.

Revelle, R. and W. Munk, 1977, The Carbon Dioxide Cycle and the Biosphere in Energy and Climate, Report of the Geophysics Study Committee, National Academy of Sciences, Washington, D.C.

Revell, R. and H. Suess, 1957, Tellus 9, 18–27.

SCEP 1970, Man's Impact on the Global Environment: Assessment and Recommendations for Action, in Study of Critical Environmental Problems, Cambridge, MIT Press.

SMIC 1971, Inadvertent Climate Modification, Report of the Study of Man's Impact on Climate (SMIC), Cambridge, MIT Press, 319 pp.

Woodwell, G. M. and E. V. Pecan (eds.), 1973, Carbon and the Biosphere U.S.A.E.C., Technical Information Center, Springfield, Virginia, 392 pp.

Woodwell, G. M., R. H. Whittaker, W. A. Reiners, G. E. Likens, C. C. Delwiche, and D. B. Botkin, 1978, The Biota and the World Carbon Budget Science 199, 141–146.

G. M. Woodwell is Director of the Ecosystems Center of the Marine Biological Laboratory and immediate past President of the Ecological Society of America.

Gordon J. MacDonald is Henry R. Luce Professor of Environmental Studies, Dartmouth College, Hanover, New Hampshire. A member of the National Academy of Sciences, he served on the Council on Environmental Quality, Washington, D.C.

Roger Revelle, a member of the National Academy of Sciences, is currently at the University of California at San Diego. He was for eleven years Richard Saltonstall professor of Population Policy and Director of the Harvard Center for Population Studies.

Charles David Keeling is Professor of Oceanography, Scripps Institute of Oceanography, La Jolla, California. ●

RECLASSIFYING DOLLHOUSE MINIATURES AS MODELS

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. JENKINS. Mr. Speaker, on March 20, 1979, I introduced a bill, H.R. 3110, with my colleagues WYCHE FOWLER and DICK SCHULTZE, that would amend the tariff schedules of the United States to provide a new category for dollhouse miniatures. Our bill was intended to reclassify dollhouse miniatures as models rather than toys.

I have today reintroduced this bill to make technical corrections in the language of the new item number which the bill would cerate. The change is purely technical and a matter of drafting preference and it conforms fully with the intent of the sponsor and cosponsors of the original bill.

There has been a longstanding disagreement between the U.S. Customs Service and the hobby industry regarding the proper classification of various articles used primarily as hobby or craft items. The Customs Service has classified these items under the provision on toys. Several decisions of the Customs Court concerning small scale model trains and equipment has forced the Customs Service to recognize that certain model articles are not classifiable as toys.

The Congress responded to this problem of misclassification in 1962 by revising the tariff schedules of the United States to provide for certain models under a series of "model provisions"—TSUS 737.05–737.15. Simultaneously, Congress broadened the definition of "toy" which has inadvertently exacerbated the toy-versus-model classification problem.

The Customs Service continues to classify various hobby and craft items as toys or parts of toys if those articles are not specifically named in the model provisions or if the articles are not to actual scale of the real article. Items which have notably remained misclassified are miniature construction components and furnishings used by hobbyists to construct or furnish collector-quality dollhouses.

The bill which I have today introduced and its predecessor, H.R. 3110, creates a new tariff category for certain dollhouse miniatures and establishes the principle that model and craft articles used by hobbyists and collectors are not toys. To assure workability of the new category and avert ambiguity in the administration of the tariff schedules, the new category would apply only to dollhouse miniature imports that are constructed approximately to one-twelfth scale and that are chiefly used for purposes of collection or decoration.

This week the Subcommittee on Trade of the Committee on Ways and Means will hold public hearings on this bill. I urge my colleagues' favorable consideration.●

DRAFT REGISTRATION UNNECESSARY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. VENTO. Mr. Speaker, this week Members of the House will consider an amendment to the Department of Defense appropriations bill for fiscal year 1980 which calls for selective service registration for all 18 year olds beginning in January 1981.

My distinguished colleague from Minnesota, Mr. OBERSTAR, recently addressed this issue in an article written for the Minneapolis Star. I want to call Mr. OBERSTAR's remarks to the attention of my distinguished colleagues in the House, because he so correctly argues that registration, at this time, is totally unnecessary and will be viewed as a first step toward resumption of the draft.

The larger question, however, raised by Mr. OBERSTAR and with which I completely concur, is that a resumption of registration in peacetime poses serious and disturbing questions regarding our democratic society and the impact such a policy would mean in terms of personal liberties and freedoms in our society.

I commend Mr. OBERSTAR for his statement in opposition to the resumption of registration and hope my fellow colleagues will peruse his comments before voting on this important issue.

The article follows:

CONGRESS SHOULD REJECT REGISTRATION PROPOSAL

(By JAMES L. OBERSTAR)

With little fanfare and less justification, the U.S. Congress is about to consider one of the most potentially divisive issues since the Vietnam War.

In a few days the House will vote on legislation requiring 18-year-olds to register for the draft, effective Jan. 1, 1981. While the legislation before the House does not reinstitute the draft, both proponents and opponents of the peacetime draft see the vote as the first step toward its resumption.

Historically, the draft has been the exception in the U.S., not the rule. Congress approved the first conscription legislation only during the Civil War. Because the rich were allowed to hire substitutes to serve in their place, the burden of conscription fell to the poor. Furthermore, only 2 percent of the Union Army was ever conscripted.

The draft lapsed until the U.S. entered World War I in 1917, and was renewed at the beginning of World War II in Europe. After the war, the peacetime draft was not the product of a conscious decision to restore conscription, but a continuation of the wartime draft at greatly reduced conscription levels.

In 1972 the last American was drafted and we returned to our tradition of an all-volunteer armed force in peacetime.

Standby registration and resumption of the draft are now being considered amid a chorus of dire statements about the all-volunteer force.

Charges that the AVF is a failure have given the current debate a false urgency.

The fact is that the AVF is not a failure.

The Department of Defense (the folks who should know and care), in a study released only seven months ago, stated:

"The AVF has provided the military services with a full-strength, active force equal to, or superior to, that projected by the Gates Commission."

The percentage of high school graduates among recruits has risen since the end of the draft from 68 to 77 percent. Scores on intelligence tests have increased significantly. The percentage of recruits in the lowest mental category eligible for military service has dropped from 17 to 4 percent. Desertion rates and court martial rates are down from their peaks at the height of U.S. involvement in Vietnam.

In addition to these facts arguing against a return to conscription, the very nature of compulsory service in peacetime raises profoundly disturbing questions in a democratic society.

The draft means far-reaching intervention in and control over the lives and freedom of individual Americans. I can imagine no other government action which involves greater coercion or deprivation of liberty. This concern is no idle philosophical point; it goes to the heart of what it means to live in a democracy.

Compulsory service, in the absence of a clear and present national emergency, goes directly counter to the fundamental principles upon which this country was founded.

The 96th Congress has not given the issue of registration and the draft anywhere near the consideration it deserves. Yet, within days we will vote on standby registration as part of a multibillion-dollar defense authorization bill. Legislation dealing with the draft has never come to the House floor as an amendment to a spending bill.

Proponents of standby registration authority argue that it is necessary to speed mobilization efforts in the event of a national emergency. That argument doesn't hold up on closer scrutiny.

Right now the Selective Service, with an annual budget of $7 million, could deliver the first inductees within 65 days of mobilization. The Carter administration feels that's not soon enough, and has proposed spending $9 million in the coming fiscal year to accelerate the Selective Service delivery system. This will cut mobilization time by 40 days, to only 25 days. Adding registration would cut mobilization time by only 13 days more, and would cost another $2 million under the most conservative estimates. Furthermore, registration would mean a massive bureaucracy, keeping records on every young man in this country.

Proponents of registration and the draft have failed to make the case for the legislative proposal facing Congress in the coming days.

I see the responsibility of Congress as clear: We have the duty to reject the ill-considered proposal at this time, subject it to the sanitizing scrutiny of public debate, and resume consideration only when the American people have come to an informed opinion on this major policy issue.●

NEW DETROIT OPPOSES CONSTITUTIONAL AMENDMENT ON BUSING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. CONYERS. Mr. Speaker, I want to share with my colleagues a letter I received from New Detroit, Inc., in opposition to the proposed constitutional amendment to prohibit schoolbusing.

New Detroit is the first urban coalition in the Nation, founded in 1967 and the model for so many others across the country. It is a very broad-based coalition that includes the leadership of all groups in the Detroit community, the labor unions, professions, the business community, churches, civic and community organizations, and government. It works closely with all citizens and ethnic groups, and has accomplished a great deal in revitalizing our city.

New Detroit opposes the Mottl amendment to the Constitution. In its opposition it reflects not only a highly diverse range of individuals and institutions, but also long experience at community building. It is, therefore, in a unique position to judge this amendment and the damaging impact it would have.

I urge my colleagues to read New Detroit's statement, which follows:

NEW DETROIT INC.,
Detroit, Mich., July 20, 1979.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: We are writing to you today because of our deep concern about the matter to be considered by the House of Representatives on Tuesday, July 24, 1979—House Joint Resolution 74, the Mottl Amendment. We know you share our concerns about this Amendment. We are writing you and all other members of the Michigan delegation to express our opposition.

Our concerns about this proposed constitutional amendment are manifold. It places restraints on the ability of the courts to correct injustices by removing busing as a tool to correct de jure school segregation. In effect, the equal protection clause of the 14th Amendment would be partially repealed. We are reminded of the words of Chief Justice Burger in the Supreme Court's unanimous decision in the Swann school desegregation case: "Desegregation plans cannot be limited to the walk-in school."

As Justice Oliver Wendell Holmes pointed out eighty years ago, the strength of our Constitution and a major reason for its endurance rests on the fact that it has rarely been laid open to particular social or economic preferences. Our Constitution outlines the structures by which we govern ourselves and sets forth the fundamental civil rights that government must respect. Slavery is the only social arrangement our Constitution has ever specifically endorsed, and prohibition the only social policy it has ever expressly sought to implement. Those two exceptions surely substantiate Justice Holmes' reminder.

It would be most distressing if the House of Representatives were to observe the 25th anniversary of the Brown vs. Board of Education decision by approving an Amendment which would so seriously undermine that which gave a new birth to equal opportunity in America.

This Amendment would not interfere with busing for the purpose of enforcing the 14th Amendment; it would also interfere with the ability of school officials to efficiently use school resources and taxpayers' dollars.

In Michigan, for example, local school districts have the authority, as recognized by state and federal court action, to determine student assignments and school attendance boundaries. This authority allows school officials to make adjustments due to population shifts, overcrowding, declining enrollments, and other unforeseen problems.

Michigan has also been involved in school consolidation efforts since 1963 which creates K-12 school districts by joining two or more small districts providing less than a full 12 year program. In this process, the state seeks to increase efficiency and improve the quality of instructional programs by closing small schools and replacing them with schools that have more comprehensive programs though busing is required for the students to get there. These local and state prerogatives must be maintained.

In short, this Amendment would stop all school busing even though it occurs principally to improve the educational programs offered our children. In Michigan more than one million school children are bussed to school; only a very small percentage of them, less than 5 percent, are bussed for racial balance purposes.

Certainly the Congress should not be sending out to the state legislatures such a "sledgehammer" amendment which would create many more problems than those it presumably is attempting to solve.

We are confident that you will be present on the floor of the House, and that your voice will be heard on July 24, 1979 in opposition to this Resolution.

Respectfully,

WALTER E. DOUGLAS,
President.
FRANK M. HENNESSEY,
Chairman.●

COSTS OF THE DAVIS-BACON ACT

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. ERLENBORN. Mr. Speaker, I have no doubt we would all agree that the greatest economic problem facing the American people today is inflation. This common enemy, which robs us of the benefits of our work, also has the effect of hampering the efforts of both private industry and Government to plan into the future. As a result, there is an ever-increasing lack of confidence in the strength of our economy.

This overpowering peril shows no sign of abating, however. While economists may differ as to the depth of the situation, all agree that, at the very least, we stand to suffer a recession followed by a poor recovery. The productivity of our economy, once the envy of the world, has plunged to a record low point, and millions of Americans face the personal disaster of prolonged unemployment.

Along with the inflation, itself, is the even greater problem caused by our failure to seize opportunities to fight inflation effectively with bold measures that would restore the integrity of our economic system. I refer in this case, specifically, to the effect upon inflation of the Davis-Bacon Act.

I would like to share with my colleagues the following case history of the application of Davis-Bacon to the construction of a rapid transit system in Dade County, Fla. The Davis-Bacon problem relates to a set of new wage determinations by the Department of Labor for workers on this massive project:

COSTS OF THE DAVIS-BACON ACT—METROPOLITAN DADE COUNTY RAPID TRANSIT

	Heavy construction		
	Prevailing wage Sept. 17, 1976 (decision No. FL 76-1102 University Station)	Prevailing wage June 8, 1979 (decision No. FL 79-1094 concrete girder)	Percent change (+)
Carpenters	$7.60	$11.37	51
Cement masons	6.00	11.73	95
Ironworkers	6.58	11.62	76
Laborers	3.52	4.97	41
Pile driver	5.25	9.73	85
Truck drivers	3.50	4.65	33
Bulldozer operators	7.01	9.26	32
Crane operator	8.20	10.00	22
Grader operator	7.26	9.26	26
Loader	7.01	8.96	28
Mechanic	7.26	6.94	5
Oiler	6.36	6.98	10
Roller	6.36	8.06	27
Scraper	6.66	8.06	21
Trencher	7.11	8.06	13
Average increase			40

As the figures provided by the Labor Department bear out, the percentage increase between one wage determination and the other is a full 40 percent. Even if we consider that the new rates occurred at the end of a 3-year interval, the increase is not justified by the actual increase in the cost of living; and such increases in themselves only add to the seemingly uncontrollable inflation. Furthermore, it seems paradoxical that while the administration has set 7 percent as the tolerable increase in wages and prices in this period of inflation, the Department of Labor would set so high an increase. The overall increase in cost, Mr. Speaker, must be considered in light of the fact that the rapid transit project is in excess of $1 billion and labor costs account for a full third of that.

The Davis-Bacon Act has its origins in the great depression, as a remedy to the payment of exceedingly low wages at a time of exceedingly high unemployment. Furthermore, other forms of wage protection which Americans now enjoy were not in effect when Senator Davis, a former Labor Secretary proposed his bill.

In short, Davis-Bacon was designed to inflate a depressed economy in 1931. Now, in 1979, when we suffer from every conceivable economic ill at once, with inflation being most acute, it is difficult to justify keeping in effect a law that will further inflate the economy.

In conclusion, I ask my colleagues, as they ponder the weighty task of finding an escape from our expected economic troubles to look seriously at Davis-Bacon and its effects, and consider the benefits to our economy of being free from Davis-Bacon caused inflation.●

QUESTIONNAIRE SURVEY IN KENTUCKY

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. HOPKINS. Mr. Speaker, the results are now in from my recent questionnaire survey of constituents in the Sixth Congressional District in Kentucky. The Sixth District is a diverse district in the center of Kentucky. It includes industrial areas, urban, and suburban communities, small towns, and farmland. Its thinking on political issues is likely to be a bellwether of important national trends.

Mr. Speaker, I am grateful to all those constituents who took the time to fill in the questionnaire and put on 15 cents postage to return it.

Mr. Speaker, the results of this survey confirm the idea that there is a mood in the Nation to hold down spending and cut back on Government activity in some areas. The highest percentage of yes votes—84 percent—was recorded as a response to the question:

Do you favor a constitutional amendment requiring a balanced budget except during national emergency?

When asked what they would most like to see Congress do in the near future, 76 percent said:

Reduce Federal spending and the size of the Federal Government.

It appears that the national sentiment in favor of reducing Federal spending is still running very strong.

Mr. Speaker, the poll also reveals, contrary to what some commentators have been saying, that the voters do understand that cutting back on Government spending will require saying no to some potentially attractive Government programs. For example, only 19 percent of the people responded negatively to the question, "Do you think Congress should work harder balancing the budget even if that means cutting some Federal programs?" Only 17.6 percent of the respondents said they favored a tax supported national health insurance program for everyone.

Mr. Speaker, the prevalent attitude in the Sixth District, as in the Nation generally, against the mushrooming growth of Government can undoubtedly be traced to a belief that one of the evil consequences of big government and unbalanced budgets is the seemingly unstoppable inflation which now attacks our Nation. The people are angry about inflation but it seems that they realize that the centralization of power in

Washington, which has created the inflation, cannot be counted on to cure it. Only 25 percent of the voters thought mandatory, across-the-board wage and price controls was the most effective way to reduce inflation. In view of the high level of frustration and anger about rising prices, this ought to be considered a rather low positive response.

It indicates that many people have learned from our past experience that Government controls are ineffective, inequitable, and lead to shortages.

Mr. Speaker, however much the voters may wish to restrain Government spending, there seems to be a general consensus that this should not be done if it will result in sacrificing our vital interest in national security. An absolute majority—57 percent—responded positively to the question.

Should the United States spend more money on national defense?

The people realize that a strong defense capability is absolutely necessary to protect vital American interest.

Mr. Speaker, many constituents have written suggesting that some particular issue should have been covered in the questionnaire. However, limitations of space, plus the need to prepare the questionnaire in advance of its mailing date, resulted in some important issues being left out. I sincerely hope that constituents will continue to write me on any issue which is important to them. Such expressions of voter opinion as are reflected in constituent letters or in the results of this questionnaire are invaluable in letting elected officials, including myself and others in Washington know what is on the voters' mind.

Mr. Speaker, although the total number of voters who participated in this poll cannot be precisely ascertained it is clear that more than 10,278 responses to the questionnaire were tabulated. This total is far in excess of the number of persons polled by the commercial polling organizations. Accordingly, I am encouraged by this broad constituent participation—and I am pleased indeed, to find myself philosophically and politically so closely attuned to those whom I am charged with representing in this great legislative assembly. The questionnaire results follow:

[In percent]

	Yes	No	Don't know
THE SCOPE OF GOVERNMENT			
(1) Should tax dollars be used to help finance congressional campaigns as proposed by some groups such as Common Cause?	18	68	14
(2) Should Congress vote against any attempt to increase the Federal Government's control over the private ownership of handguns?	61	37	2
(3) Some people believe that Congress should create a new agency, a Department of Education, to deal with education matters that are now being handled by the Department of Health, Education, and Welfare. Do you believe we need a new government department?	22	73	5
(4) Should Federal regulatory agencies be required to prepare an "economic impact statement" showing how much proposed new regulations would cost businesses and consumers?	80	12	8
Do you support the use of Federal funds for abortions:			
(5) On demand?	8	81	12
(6) In special cases such as rape, incest, or when there is danger to the life of the mother?	34	45	21
(7) Not at all?	22	35	43
(8) Do you favor a constitutional amendment prohibiting abortions except to save the life of the mother?	32	26	42
(9) Do you support HEW Secretary Califano's campaign to stop cigarette smoking?	26	74	0
AGRICULTURE			
(1) Do you favor the Federal Government raising price supports for farm products to guarantee 100 percent of parity?	8	63	29
(2) Should the Federal Government restrict the imports of foreign agricultural products in order to maintain a fair price for farm products?	61	26	13
(3) Should the Federal Government work to increase exports of American farm products including tobacco?	69	20	11
DEFENSE			
Should the United States spend:			
(1) More money on defense?	59	16	25
(2) Less money on defense?	17	55	28
(3) Should the United States approve the SALT agreement if there are no guarantees that the Soviet Union is complying with its part of the agreement?	37	59	4
(4) Should the United States approve the SALT agreement if it weakens our national defense in relationship to that of the Soviet Union?	28	66	6
TAXES, GOVERNMENT SPENDING, AND INFLATION			
Do you feel American taxpayers need a substantial reduction (10 percent a year for the 3 years) in the amount of Federal income tax they must pay?			
(1) Yes, without qualification	28		
No, without qualification		10	
Yes, if Federal spending is reduced	62		
(2) Do you support Congressman Hopkins' efforts to pass a constitutional amendment which would require a balanced Federal budget except in times of national emergency? (Kentucky and many other States have such a requirement as part of their constitution)	84	15	1
(3) Should Congress allow parents a tax credit for college tuition expenses?	59	39	2
(4) Do you favor indexing personal income tax brackets to the rate of inflation (to prevent Americans from being automatically pushed into higher tax brackets when they receive a pay raise to compensate for inflation, often without actually increasing purchasing power)?	76	6	18
(5) Do you favor new tax incentives for business to expand and create more jobs?	71	22	7
(6) Do you think Congress should work harder at balancing the Federal budget even if that means cutting some Federal programs?	77	19	4
If so, please suggest Federal programs you would eliminate or reduce in size			
(7) Which do you think would be more effective in reducing inflation (check one):			
Cut Government spending and regulation?	75		
Wage and price controls?	25		
FOREIGN AFFAIRS			
(1) This year Congress will be asked to approve funds implementing the Panama Canal treaties. Should Congress refuse to approve these funds and stop the turnover of the Canal to Panama?	68	32	0
(2) Should the United States continue to support the non-Communist government of Nationalist China (Taiwan)?	73	13	14
(3) Should the United States work with the Government of Mexico to increase imports of oil from that country?	65	22	13
(4) Do you feel the United States should reduce its financial support of the United Nations?	60	30	10
SOCIAL SECURITY			
(1) Some people believe that the social security system can be improved by taking nonretirement benefits (such as aid to the handicapped) our of the system and financing these nonretirement benefits with funds from the general treasury. Do you support this approach?	68	14	18
Other plans have been proposed to keep the social security system from running out of money, do you support (check one):			
(2) Increasing social security taxes?	39		
(3) Reducing social security benefits?	33		
(4) Raising to 68 the age a person may receive social security benefits?	26		
HEALTH CARE			
Proposals to implement some form of national health insurance are before the Congress. Which of the following do you favor (check one)?			
(1) The present system of private insurance and health care which includes some Federal programs to aid the poor (medicare), veterans and Indians?	51		
(2) A new tax-supported program to cover everyone?	18		
(3) A new tax-supported program to cover everyone against so-called "catastrophic illnesses" (essentially what is now covered by private major medical insurance programs)?	24		
(4) The efforts of some in the health care field to voluntarily reduce the increase in medical care costs?	45		
POSTAL SERVICE			
Do you favor:			
(1) Increasing postal rates?	12	75	13
(2) Elimination of Saturday mail deliveries?	57	35	8
(3) Closing and consolidating small post offices?	47	33	20
(4) Increasing government subsidies of the postal service?	12	57	31
(5) Allowing private enterprise to compete with the postal service?	69	27	4
ENERGY			
Would you support:			
(1) Raising gasoline taxes?	18	71	11
(2) Rationing gasoline?	33	58	9
(3) Deregulating natural gas production and marketing?	53	24	23
(4) Increasing development of nuclear energy?	44	32	24
(5) Federal development of solar energy and other new energy sources?	57	24	19
(6) Easing environmental restrictions so that coal can play a more important role in solving our nation's energy problems?	71	12	17

NATIONAL PRIORITIES

	Percent
Which 2 of the proposals listed below would you most like Congress to do in the near future: (Please check.)	
(a) Reduce Federal spending and the size of the Federal Government?	76
(b) Increase the defense preparedness of the United States?	39
(c) Help farmers get better prices for their products?	10
(d) Cut taxes?	23
(e) Improve business and employment opportunities for the poor by increasing spending for Federal jobs?	4
(f) Improve business and employment opportunities for the poor by providing incentives for private industry to create new jobs?	18
(g) Provide incentives for domestic energy producers to meet this country's energy needs?	29
(h) Raise taxes on energy to cut consumption?	8
(i) Other	------

Note: Many people checked more than 1 for answer.

●

THE STATUS OF INDEPENDENT CONTRACTORS FOR TAX PURPOSES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. PAUL. Mr. Speaker, Mr. Gilbert Turner, president of the Boring & Tunneling Co. of America, Inc., is one of Houston's great entrepreneurs and a most articulate champion of the free enterprise system.

Recently he testified before Ways and Means on the importance of the independent contractor, and why he must not be put out of business by unconscionable Government rules and regulations.

Because Gil's testimony is so important, I would like to call excerpts from it to my colleagues' attention.

I am proud to have Gil for a friend and a constituent. I urge all the Members of this House to pay attention to his words:

THE STATUS OF INDEPENDENT CONTRACTORS FOR TAX PURPOSES

(Testimony of Mr. Gilbert Turner)

Mr. Chairman and members of the committee, my name is Gilbert Turner. I have been a businessman for the past 30 years. A major part of my experience has been in construction and closely related fields. I got my start in business working nights, weekends, and holidays as an independent contractor in addition to my regular job as an employee.

Today, I am president of the Boring and Tunneling Company of America, Inc. in Houston, Texas. I am here representing the Associated General Contractors of America. Primarily, I am here to speak in behalf of the small businessman in construction requesting amendments to H.R. 3245.

Mr. Chairman, the purpose of these hearings is to clarify the status of as many payees as possible for tax purposes so that wasteful and unnecessary litigation and harassment will be eliminated in the future. We also believe a proper objective of these deliberations should be to provide consistency among the various Federal agencies in their definition of who is and who is not an independent contractor. That is, the law should permit an individual to anticipate with some reasonable certainty whether or not he qualifies as an independent contractor regardless of which governmental agency he is confronting. . . . Finally, we believe these hearings provide Congress an opportunity to protect the common law in this area and to promote private free enterprise by precluding regulations that would not allow the entrepreneurial system to operate.

I want to speak on behalf of the entrepreneurial business people, whether they be large or small, who are working under very difficult circumstances to produce the goods and services the public wants, at a price the public can afford to pay, and at a profit that will enable them to pay the taxes that Washington wants and still stay in business during the rainy days that always seem to come.

Mr. Chairman, we are up to our eyeballs in rules, regulations, directives, procedures, inspections audits and paperwork from an ever-increasing hord of agencies of the federal government. When the agencies of the federal government become bogged down in their own creation of these inhibitors of productive effort, they pass them on down to local governmental agencies as a price for federal grant money. These local agencies in turn, pass all this on to the business community. The business community must then pass on to the consumer this tremendous economic loss of productivity through higher prices for fewer goods and services.

I am appalled that Sec. Lubick proposes that even if it were reasonable for the payor to treat the worker as an independent contractor, and even if the worker has signed a statement electing out of the system, the payor would still be liable for "its share" of FICA and FUTA taxes without any attempt by the IRS to determine whether the worker has paid his SECA taxes. Also, Sec. Lubick has the effrontery to urge that any criteria adopted for determining whether a person is an employee or an independent contractor should "provide certainty by erring only on the side of classifing workers as subject to graduated withholding." It is apparent that Sec. Lubick represents a desire by the IRS and by some circles of government to collect the most taxes possible in the easiest way possible for the government, with little regard for the administrative burden placed on the productive segment of our society. This, coupled with the apparent goal of eventual elimination of the small, independent, free entrepreneurs, to be replaced by more placid, more regimented, and less productive employees is an insidious infringement of our cherished freedoms and a drag on our productivity.

Instead of discouraging the proliferation of the small independent contractor we should do everything in our power to encourage their growth, even to the extent of giving tax incentives. For many present day businessmen, the gray area of employee or non-employee status was the first step in establishing their own business enterprise. In some instances it was full time work, in others it was part time, extra work, at nights and on weekends and holidays. These are fiercely independent people who are trying to get ahead on their own. And I might point out that many of them are minorities who are being encouraged to start their own business by other governmental agencies. They are performing valuable services and fulfilling vital needs which result in substantial economic benefits for our economy.

In another example of erroneous thinking Sec. Lubick made the statement that "in effect, the employee pays the employer's share of the payroll tax in the form of lower gross wages." I don't care what Sec. Lubick says, this simply is not so in the construction industry. In the construction industry the contractor figures each of his elements of cost and arrives at a total cost. To this total cost he adds a hoped for profit in order to arrive at his bid to the consumer. His portion of the social security tax plus that of the employee is included in the total cost and is paid by the consumer in increased contract price for the construction he gets. In fact, when social security taxes are raised substantially, many employers increase their workers' pay so that the take home pay is not reduced. The consumer also pays this added cost. This is pure and simple economics, and nowhere is it more obvious than in the construction industry. No amount of economic pronouncements or bureaucratic rhetoric can make it otherwise.

There seems to be a general agreement in the private sector that independent contractors should be distinguished from employees and exempted from federal withholding tax requirements. The problem exists in defining an independent contractor.

The Gephardt proposal is a sincere effort to simplify the definition of an independent contractor in practical terms, including the independent contractor's control of hours of work, place of business, and fluctuations in earnings. AGC does not see any significant application of the Gephardt proposal to the status of independent contractors on on-site construction. . . .

However inappropriate the Gephardt points would be to construction contractors, they would not appear to be detrimental and, for that reason, AGC would have no objection to enter against them, provided they were accompanied by the following three amendments AGC offers to this legislation:

First, if the individual is not qualified under the five points of the Gephardt proposal, the statute should still give him the opportunity to qualify as an independent contractor under the current IRS common law definition of an independent contractor.

Second, the most common use of independent contractors for on-site construction involves bona fide owner operators of trucks and power equipment. AGC does not believe that the Gephardt proposal or the current IRS definition adequately recognizes the status of this important industry. Therefore, AGC would urge the committee to include a special category of independent contractor for those individuals who qualify as bona fide owner operators of trucks or other equipment in construction and allied industries.

Finally, Mr. Chairman we offer a third amendment to provide a safe harbor for those workers who hold themselves out as independent contractors and who either worked for five or more payors during the previous year, or who anticipate working for five or more payors during the current year.

AGC emphasizes that the committee recognize the special status of owner operators in the construction industry. This definition is not sufficiently recognized under either the Gephardt proposal or the current IRS definition. The status of owner operators in construction is highly important to providing necessary opportunities for minorities and disadvantaged persons to enter the construction industry as entrepreneurs.

AGC's principal recommendations then would be, in summary:

1. The burden of withholding, accounting for and remitting to the IRS should not be imposed upon employers who hire independent contractors.

2. The IRS should be instructed by Congress to refrain from any overt actions that will inhibit the use of independent contractors or reduce their valuable contribution to our economy. Punitive penalties should not be imposed for non-willful violations of code provisions.

3. In addition to the Gephardt safe harbor criteria, alternate safe harbor provisions should be provided for payors of payees providing owner operated power equipment.

(B) Alternate safe harbor provision should be provided for to an independent contractor who holds himself out as independent contractor and who has performed similar services for as many as five payors during the past year, or expects to perform such services for five or more payors during the current year.

4. Payors in addition to all of the above, should continue to be protected by the traditional definition of independent contractor under common law.

Thank you for this opportunity to share this vital information with you.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. CLINGER. Mr. Speaker, on July 23, 1979, I was absent from the floor of the House of Representatives because I was back in the 23d Congressional District of Pennsylvania. Had I been present, I would have voted in the following fashion:

Rollcall No. 369: H.R. 4440: Transportation Appropriations—The House agreed to resolve itself into the Committee of the Whole, "yea"; and

Rollcall No. 370: H.R. 4034. Export administration amendments—The House agreed to resolve itself into the Committee of the Whole, "yea".●

SUDDEN INFANT DEATH SYNDROME

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. WAXMAN. Mr. Speaker, I was recently contacted by Dr. Norman Lewak of Alameda, Calif., concerning current statistics on sudden infant death syndrome (SIDS).

According to the figures compiled by the National Sudden Infant Death Syndrome Foundation, SIDS is the No. 1 cause of death in infants after the first week of life. Mysteriously, the baby who dies from this ailment often appears healthy prior to death—hence, the disease's chilling name. This disease causes from 8,000 to 10,000 deaths among infants in the United States every year. Similar rates of occurrence are found in Europe, Australia, and Canada.

According to the report of the Senate Committee on Labor and Human Resources to accompany S. 497 (the Emergency Medical Services Systems Amendments of 1979 and Sudden Infant Death Syndrome Amendments of 1979), at the present time, a total of 33 projects in 29 States are being funded to provide information and counseling services, as well as to carry out data-gathering activities. These projects provide services to a population base of approximately 126 million. Specifically, education and training is provided to those who come in contact with the families of SIDS victims to sensitize them to the special needs of family survivors. More than 2,000 educational programs have been conducted during the past year. In addition, the projects work toward improved coordination and development of community resources to deal with SIDS cases. They also assist in the development and distribution of SIDS informational and educational materials. These, materials include films, TV spot announcements, and brochures.

These projects are funded by the Sudden Infant Death Syndrome Act of 1974 (Public Law 93-270)—embodied in title XI.B. of the Public Health Service Act.

The act, extended in 1977, created a system of counseling and information services for the families of SIDS victims, authorized the dissemination of educational materials on crib death, and called for the establishment within the National Institute of Child Health and Human Development (NICHD) of a program of biomedical research into the causes and prevention of SIDS.

I would like to share with my colleagues a pamphlet which is particularly helpful in informing the public of the problem of sudden infant death syndrome, and how its occurrence can trigger a chain of tragic reactions among close family members and friends. I close my remarks by reprinting in the CONGRESSIONAL RECORD this useful brochure compiled by the sudden infant death research team of Children's Orthopedic Hospital and Medical Center and the University of Washington, in Seattle, Wash., and the National Foundation for Sudden Infant Death, Inc.

The information follows:

FACTS ABOUT SUDDEN INFANT DEATH SYNDROME

THE BASIC FACTS ABOUT SIDS

SIDS is a definite disease and is the number one cause of death in infants after the first week of life.

SIDS cannot be predicted or prevented, even by a physician.

The cause is not suffocation, aspiration or regurgitation, although sometimes death certificates use such terms in error.

A minor illness such as a common cold may be present, but many victims are entirely healthy prior to death.

There is no suffering; death occurs within seconds, usually during sleep.

SIDS is not contagious in the usual sense. Although a viral infection may be involved, it is not a "killer virus" that threatens other family members or neighbors. SIDS rarely occurs after seven months of age.

SIDS is not hereditary; there is no greater chance for it to occur in one family than in another.

The baby is not the victim of a "freakish disease." About 8,000–10,000 babies die of SIDS every year in the United States (two or three per 1,000 live births).

SIDS is at least as old as the Old Testament and seems to have been at least as frequent in the 18th and 19th centuries as it is now. This demonstrates that new environmental agents, such as birth control pills, fluoride in the water supply and smoking, do not cause SIDS. Despite increased attention in the literature in recent years, the incidence of SIDS is not rising.

MOST FREQUENTLY ASKED QUESTIONS

What is SIDS?

SIDS (Sudden Infant Death Syndrome), commonly known as "crib death" or "cot death," is a disease which causes from 8,000 to 10,000 infant deaths annually in the United States. SIDS has been with us since Biblical times, but only in recent years has it been recognized to be a "specific disease entity." It is best defined by describing a typical case. An apparently healthy infant, usually between the ages of three weeks and seven months, is put to bed without the slightest suspicion that things are out of the ordinary.

He may have signs of a slight cold. Some time later the infant is found dead. Often there is no evidence that a struggle has taken place, nor did anyone hear the baby struggling. Sometimes, though, the child has obviously changed position at the time of death. An autopsy reveals, at most, a minor degree of inflamation of the upper respiratory tract, but no lesion sufficient to account for death.

Often the autopsy reveals absolutely no evidence of illness. In about fifteen per cent of crib death cases careful examination does demonstrate a previously unsuspected abnormality or a rapidly fatal infectious disease, such as meningitis or pneumonia. A thorough autopsy can put the family at ease about this.

Was it my fault?

Virtually every parent feels responsible for the death of his child, until the facts are known. In untold thousands of cases much needless blame has been placed by one parent upon the other, by relatives upon the parents, upon a babysitter who happened to be with the infant at the time it died, or upon the family doctor who pronounced the infant healthy shortly before it died. We know of families that have been broken up by repercussions arising from this problem.

Therefore, it is important to make clear that SIDS cannot be predicted, and in the light of present knowledge SIDS cannot be prevented. The disease has no specific symptoms and occurs in the best families, to the most competent, careful and loving parents. Indeed, we often feel that the victims of SIDS are unusually robust, healthy and obviously well cared for. Even when the infant has recently shown signs of a slight cold and has been taken to the doctor, nothing has been found that would lead him to anticipate SIDS. Regardless of how thorough the examination or of the treatment prescribed, SIDS cannot be predicted even by a physician. SIDS can occur in hospitals, and many physicians and nurses have lost their own babies to SIDS.

Did my baby suffocate in its bedding?

It is not uncommon for victims to be found wedged into the corner of their cribs or with their head covered by blankets. Sometimes their face is turned down into the pillow or mattress or is discolored. Under such circumstances, it is natural to assume the baby smothered. However, SIDS also occurs under conditions where there is no possibility of smothering.

The baby can be found without any articles of bedding, clothing, toys or pets around or near the face. The autopsy findings are identical in both types of cases. Investigators have found that even when infants are covered by bedding, the amount of oxygen is not reduced to the point of causing suffocation. Thus it is possible to say with certainty that SIDS is not caused by external suffocation.

Could my baby have vomited and choked after his last feeding?

SIDS is not caused by vomiting and choking. Sometimes milk or even blood-tinged froth is found around the mouth or on the bedding. This has been shown usually to occur after death, and at autopsy is found not to block the internal air passages.

Can SIDS be prevented?

There is no known way to prevent its occurrence. No symptoms exist, so extreme anxiety will serve no useful purpose. Although SIDS is not infectious in the usual sense, there are many health reasons why it is better to avoid taking a young infant into crowds of people. This does mean infants should be kept away from small family groups or kept away from others in their family, but unnecessary exposure to crowds can often be easily avoided.

What causes SIDS?

There have been many theories through the years as to the cause of SIDS. None of these have yet been proven and most have been discounted. Years ago an enlarged thymus gland was believed to block off the infant's airway, but this has been disproven. Allergy to cow's milk has been suspected by some to bring on sudden reaction severe enough to cause death.

However, recent studies on antibodies in SIDS cases have failed to support this theory, and many SIDS babies have been entirely breast-fed. Recent research suggests that the developing infant has unusual physiological reflexes during certain phases of sleep, and these may bear a relation to the mechanism of death. Other theories that have been discounted are: bacterial infection, radiation fall-out, use of modern machines and drugs, smoking, adding bleach to the diaper wash, "whip-lash" injury to the spinal cord, air pollution, and fluoridation. It is important to emphasize that SIDS is not a new disease and is no more frequent now than it was centuries ago.

Did my baby suffer?

SIDS can occur within five minutes, and is probably almost instantaneous. There may be some movement during the last few seconds of life, accounting for the displaced blankets or unusual positions that are sometimes evident. However, the babies do not cry out and very often show not the slightest trace of having been disturbed in their sleep. Therefore, it is safe to conclude that SIDS does not cause pain or suffering to the baby.

Was it something infectious?

Is the immediate family in danger?

SIDS is not contagious in the usual sense of the word. For example, if one of twins in the same bed is taken by SIDS, the other is usually spared. There are seasons during which SIDS is more commonly seen but there is no reason for unusual concern in cases where an infant is exposed to a SIDS case. SIDS virtually never happens after the first year of life, so older children are not at risk. There is no need to be concerned about contamination from clothing, bedding or furniture of a SIDS baby. The common viruses which appear to play a leading role in SIDS do not survive outside living bodies.

Would it have helped if I had breast fed my baby?

Breast feeding does not prevent SIDS. Literature of previous centuries, when nearly all babies were breast-fed, mentions the problems of sudden infant death. Recent research shows SIDS occurs to breast-fed as well as to bottle-fed babies. Breast feeding is recommended to mothers because the breast milk is usually well-tolerated by the baby. Some additional antibodies are received from the mother in the colostrum which is present before the actual breast milk comes in. However, a baby is born with his major supply of antibodies that help him fight infection.

What about babies we might have in the future?

According to the best available data, SIDS is not hereditary, and any future babies in a family will run no more than a one per cent risk of recurrence. More harm than good may be done to a subsequent child by excessive anxiety over SIDS.

A special leaflet on this problem, entitled "The Subsequent Child" by Carolyn Szybist, R.N., is especially helpful. This is available upon request from the NSIDSF.

Is this a new disease? Aren't there more deaths of this kind now?

There is evidence that SIDS has been with us since antiquity. In Biblical times it was referred to as "overlaying." Then, as in some cultures today, mothers slept with their infants. When a mother woke to find her child dead, she assumed she must have rolled over on him and caused his death. Any new mother, however, knows how aware she is of the new baby and how impossible it would be for her to do this.

We do not believe there has been an increase in the number of SIDS cases in recent years, but there is more publicity about them than in the past. Studies in many areas of the world consistently show the figures of two to three SIDS deaths per 1,000 live births. Enlightened communities list the cause of death as SIDS or "crib death;" other areas list them as "suffocation," etc. This is a tragedy for the family as it leaves them with a lifelong feeling of guilt by indicated neglect. This is absolutely untrue and unnecessary. In some communities, confusion still exists about this disease. Only recently have the research facts about SIDS been added to medical school texts.

Do these deaths occur all over the World?

There is evidence that SIDS is an extremely widespread condition. Studies of the syndrome in Europe, Australia, Canada and throughout the United States have all revealed similar rates of occurrence. SIDS occurs as frequently in the southern states as in the cooler climates of the Northwest and the Northeast.

PROBLEMS OF GRIEF—ABOUT PARENTS' GRIEF

After the initial shock and the numbness of the first few days begin to wear off, parents find that they are left with a prolonged depression. There will be "ups and downs" that can be brought on by a thoughtless or innocent remark from someone who doesn't understand the disease or by remembering that it is the same day of the week or date in the month that the baby died. At these low points, it is often very helpful for them to talk to a member of the "parents group." (See section on "Sources of Help and Information.")

Only another parent who has had this same experience can convincingly say that things won't always look as they do today, that time really does make a difference. If there is no such person available, the family physician or minister can be reassuring.

Parents find that it is difficult to concentrate for any length of time. The mind wanders, making it difficult to read, write, or make decisions. Some experience a "whirling around" sensation or pressure in the head. This is very normal and does not indicate that a person is losing his mind. Sleep is difficult, often leaving parents fatigued. If they have a family to care for or a job to get back to, they may need some temporary help from their doctor in the form of mild medication in order to get some rest. Even with sleep, the feeling of exhaustion persists.

Those in grief may experience muscular problems or other physical symptoms centering around the heart or in the stomach. Often there is no appetite, and they eat only because they know they must. They may feel "tied in knots" inside. Mothers nearly always say their arms "ache to hold their baby."

There may be an irresistible urge to get away, a fear or dread of being alone, or unreasonable fears of danger. If there are other children, parents fear for their safety and don't want to let them out of their sight, but at the same time may be afraid of or shun the responsibility of caring for them. Even with this concern about their children, there may be feelings of extreme irritation and impatience with their behavior. Parents rely a great deal on family and friends, but at the same time may resent their help and feel guilty about this. The situation is made even more difficult when the community around them does not understand SIDS. Friends or relatives who are trying to help seem to say the wrong things or do not understand the disease.

The grief reaction of husband and wife may be different.

It is quite normal that husbands and wives express their grief in different ways and this is not always understood. For instance, mothers generally need to "talk out" their grief while fathers tend to suffer more in silence. Husbands are diverted by their work while wives are usually at home surrounded by constant reminders. Very often the loss of the infant is the first grief situation either parent has faced.

Children's reaction to death.

Children will be affected in some way by a death in the family. A small child who is too young for explanations needs mainly to be shown love and affection by his parents for his own security. Little ones may have some very frightening thoughts that they cannot express. They may cling to the parents and do naughty things to get the attention they need.

If there are older brothers and sisters in the family, one can expect special kinds of grief reactions. Children often feel terribly guilty about the death of a sibling. They often fear their own thoughts toward the baby could have caused its death. An older child should be told as much about the facts as he is able to understand. He should feel that this is an open subject in the family and that he can express his thoughts or questions about death as they arise.

Children may not show their grief in obvious ways. Because they cannot deal effectively with tragedy, they may deny it and seem quite unconcerned. It is important to talk with brothers and sisters about the death and to discuss the fact that this was a disease. It is best not to say "the baby 'went away' in sleep." It is important to explain that the reason the baby died is because of a disease that strikes suddenly to only a few infants of that particular age. Brothers and sisters should be assured that older members of the family including themselves are immune. (In cases where there is a surviving twin, the entire family should receive special counseling.)

Many youngsters have been a source of strength for the family. They have written poetry and verse and often have a very simple, unshakeable faith about the pattern of life and death. Some children, on the other hand, because of circumstances or age or emotional make-up, have felt great insecurity after an infant's death. This has manifested itself by nightmares, bed wetting, difficulty in school, and other disturbances. Any such problems should be discussed with the child's doctor.

Close relatives, babysitters, et cetera.

Occasionally the baby is in the care of relatives or babysitters when the death occurred. This is a special problem and counseling should be made available to them also. It is often helpful for them to have literature or talk with the doctor. At first parents may tend to blame the babysitter or to blame themselves for having left the baby at all. On occasion the mother has been blamed by the husband or relatives for the death of the baby. So it is important that everyone understands about the disease. Often giving literature is more helpful than trying to explain.

SOURCES OF HELP AND INFORMATION

National Sudden Infant Death Syndrome Foundation, 310 S. Michigan Ave., Chicago, Ill. 60604, Phone: (312) 663–0650.

This is a national organization with chapters in many areas of the United States. It maintains contact with and makes referrals to other groups and individuals concerned about Sudden Infant Death Syndrome, some of whom are not directly affiliated with it. The purpose of the NSIDSF is to assist parents, educate the community about SIDS, and promote SIDS research.

The Foundation was the first organization to call attention to the need for research and has awarded grants to assist several studies. It promotes and sponsors programs of professional counseling, publishes a quarterly newsletter and distributes literature. It financially supports the mailing of information to various community agencies and medical groups. Many prominent physicians and lay people serve on its advisory board and as officers. It formerly was named the Mark Addison Roe Foundation and was started by the Jedd Roe family whose son Mark was a victim of SIDS when they lived in Greenwich, Connecticut.

Administered by a board of trustees composed at present of eighteen doctors and laymen, the Foundation is a tax-exempt, charitable corporation supported by contributions from the public and from a small number of private philanthropic foundations.

Donations can be mailed to the Chicago address or to any local chapter. (The Foundation sends an acknowledgment card to the donor and to the family of the person being memorialized.)

A Medical Board appointed by the trustees advises them on all medical matters, recommends action on applications for research grants, and sets medical policy for the Foundation. The Medical Board consists of:

Marie A. Valdes-Dapena, M.D., Chairperson; J. Bruce Beckwith, M.D., James Luke, M.D.; Eli Gold, M.D., Lester Adelson, M.D.; Alfred Steinschneider, M.D.; Edward Shaw, M.D.; Larry V. Lewman, M.D.; Elliot Weitzman, M.D.

SCIENTIFIC INFORMATION

Two major sources of scientific information regarding SIDS are: Sudden Death In Infants: Proceedings of the Conference on Causes of Sudden Infant Death in Infants (1963), National Institute of Child Health and Human Development, Bethesda, Md. 20014.

Proceedings of the Second International Conference on Causes of Sudden Infant Death in Infants (1970), University of Washington Press, Seattle, Wash. 98105.

A bibliography of articles, publications and films dealing with SIDS can be obtained from the Chicago office.●

PARALYSIS IN A RISK-FREE SOCIETY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. PAUL. Mr. Speaker, the search for a risk-free society, through the use of government, is a sign of decadence. Henry Fairlie points out in an excellent article in the Washington Post.

The answer to the spiritual malaise which both the President and Mr. Fairlie see in our country is by cutting back the source of that malaise: overweening Government.

It is Government that debilitates our society and our people. The American people are still a great people. Prune the Government to constitutional size, and we would again demonstrate that. Rid our citizens of a giant bureaucracy, massive taxes, Government inflation, and deadening regulations, and America would lead the world in peace and productivity once more.

The article follows:

[From the Washington Post, July 22, 1979]

PARALYSIS IN A RISK-FREE SOCIETY

(By Henry Fairlie)

When the President spoke of the decline in America's confidence in its future—which all of its anxious but hoping allies regard as a real and ominous phenomenon—my mind fixed immediately on one of its most obvious but almost unmentionable causes. The once rambunctious American spirit of innovation and adventurousness is today being paralyzed by the desire to build a risk-free society.

No other great industrialized society has reacted with what can only be described as such palsy to the accident on Three Mile Island. It is simply beyond the bounds of credulity that the French would halt or reduce their huge nuclear power program—would forego their own chance to be "energy-secure"—in response to the kind of misadventure that is naturally to be expected in any humanly inspired endeavor.

Yet in his television address, the president of the United States did not dare to mention nuclear power, and on the following day he corrected the omission only in a muted and almost strangled voice.

No other country took it into its head to ground the DC-10s for as long as did the United States, and I hope that Sir Freddie Laker and the operators of other airlines will succeed in their suits for damages. After the remarkable record for efficiency and safety that has been set by the American aircraft industry in its fleets of planes which today carry the traffic of the world, one engine falls off one aircraft in circumstances that are unlikely ever to be repeated and the American authorities seem almost to set out to destroy the reputation of as trustworthy a commercial aircraft as is now flying.

But these are only the two most recent and glaring examples. The desire to build a risk-free society runs through the whole of American life today. It is draining the spirit from America's inventiveness and from its hope for the future.

If the American people for the first time no longer believe that life will be better for their children, it is at least in part because they are beginning to think that there will be no food which their children will be able to eat without dying like rats of cancer, no form of transport that will be considered safe enough to get them from here to there and in fact nothing that their children may safely do except sit like Narcissus by a river bank and gaze at their wan and delicate forms as they throw the last speck of granola to the fish.

The desire to build a risk-free society has always been a sign of decadence. It has meant that the nation has given up, that it no longer believes in its destiny, that it has ceased to aspire to greatness, and has retired from history to pet itself.

If many more safety regulations are introduced in the United States, it might as well have men with red flags walking in front of the automobiles. Ralph Nader seems sometimes to be interested in designing not motor cars but baby carriages, and even then the baby probably would be suffocated by air bags. He appears not to be aware that one of the main uses to which cars are put is necking, and that this is very difficult if the yearning couple are held back by a harness of seat belts that would hold down even an unbroken stallion.

In no other country is the *faddishness* of environmentalism so rampant as in America today. If some of the more extreme of the environmentalists had their way, there would have been no industrial revolution, no burst of industrial might in America at the end of the last century, none of the brilliant inventiveness of its technology in the past generation, and as a result millions of Americans would still be living the confined lives of the past, and many more millions in Europe would be enduring existence of mere serfdom, their lives bound within (as Marx put it) the narrowest possible compass.

There is a way in which much of my writing about America as an outsider has turned on these questions. For although I am often cheerfully bemused by the more fanciful and extravagant displays of American technology and gadgetry, and although I think that they are sometimes carried too far, so that people may soon use a Cusinart to scramble an egg before they cook it, I have no doubt that in important ways it is here that lies the genius of the country; for what it all says is that things "ain't necessarily so." Do not Americans now distrust their future because they are being told that the things (including nature) are necessarily so?

Zero population growth is the purest expression of the risk-free society. Preciously and exquisitely "I" am here; there are enough wild berries for "me" at least to live on; let no one else come and spoil it.

Back to Eden: For what was Eden but a garden of zero population growth; and indeed what was it but a risk-free society of two? But whenever I try to imagine the life of Adam and Eve, before their fall, it seems to me that it must have been one of infinite boredom.

But the more one thinks seriously of their boredom, the more one realizes why mankind had to escape into risk. Part of the malaise of the American spirit at the moment seems to me simply an expression of boredom. It hangs like a pall, worse than any pollution, over the lives of the people. There is no ship to board; it has been laid up as unseaworthy. There is no carriage to the stars; it might fall like Skylab. It is dangerous to dream; one might feed in one's sleep on a carcinogen. Feverishly and fretfully, the unused energy is spilling out, into the frenzy of white water and the disco.

I turn from the notion of a risk-free society to the epic of Homer, to the magnificent testimony to a people's will in the Old Testament, to the sagas of the Vikings and the daring of the Elizabethans, and there is not a hint of a safety regulation in one of them. But turn nearer to hand. It was not just the wretched and oppressed who came to America, but the wretched and the oppressed who would risk. It was the strong, and not the weak, who came, and then still came. They did not ask if the Mayflower was seaworthy—it was a miserable hulk even for its times—and into our own century they still got onto tubs that might break apart to cross an ocean. What I feel most in America now is the ever more constricted sinews of a country that was made by such people.

Soft and swaddling are the constraints—do not do this because it might hurt you; even worse, it might make you feel "uncomfortable"—but they are binding the spirit of a great people like a fetter.

This draining pusillanimity runs into personal as well as into social relationships. The American people are being cajoled into talking to each other as I used to think that only a few people talked to their indoor plants. To ask a president to reach so deep into a malaise is to task too much. What is "wrong" with America can be put quite simply. With a Ralph Nader at the head of a wagon train, no one would have made it across the plains, none would have crossed the Rockies and no immigrant would have pushed noisomely out of the gutter.

Risk-free living is sweat, danger and death. From those come the laughter. And curiously, from those comes also the ease of heart.●

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. NELSON. Mr. Speaker, I was absent due to family obligations when the House voted on two procedural motions yesterday. I would have voted aye on Rollcall No. 369, to go into the Committee of the Whole to consider H.R. 4440, making appropriations for the Department of Transportation, and I would have voted aye on Rollcall No. 370, to go into the Committee of the Whole to consider H.R. 4034, the Export Administration Amendments.●

BROOKINGS, S. DAK., CENTENNIAL CELEBRATION SPEECH

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. ERDAHL. Mr. Speaker, one of my distinguished constituents, Harold E. Stassen, gave the centennial celebration address at Brookings, S. Dak., on July 4, 1979, entitled "A New American Agricultural Program—A Bulwark for Freedom." I submit the text of his speech for the information of my colleagues. It contains some innovative approaches which should be considered as Congress and the administration develop an agriculture policy aimed at preserving family farms.

The speech follows:

A New American Agricultural Program—A Bulwark for Freedom

(By Harold Stassen)

Citizens of South Dakota: on this Centennial Day for you; this Declaration of Independence day for all Americans, I bring you the congratulations and the friendly greetings of your Minnesota neighbors.

This is a day to think of freedom, and of history, and, especially, of freedom in the future of America.

As we meet in the beginning years of the third century since the birth of our nation, we are all keenly aware that we are experiencing one of the most serious threats to our future freedom.

Extreme inflation is one of the greatest domestic dangers for a free people. Extreme inflation is like an arsenic poisoning to the internals of a free society.

One of the many bad consequences of extreme inflation is that it makes it very, very difficult to successfully operate a family farm, and even more difficult for sons and daughters to inherit and operate a family farm.

But family farms have been one of the bulwarks of the freedom and independence of our country ever since that first Fourth of July.

On this day, I speak to you forthrightly of my views upon this critical issue of freedom.

I hold, from my long experience, that it is urgent that we adopt a new American Agricultural Policy and Program.

Central to that new American Agricultural Policy and Program should be the establishment of a Federal Farm Family Reserve Board, to do generally for the farmers what the Federal Reserve Bank Board has done for the banks.

This Federal Farm Family Reserve Board would be placed in charge of a substantial fund of money, raised by a small charge on all imports of all products of the land, including coffee, bananas, cocoa, and all other such imports of the land. This Board would also be in charge of the reserves and surplus of farm products, which would first of all be kept in the control of the individual farmers who would be helped financially in providing for the storage holding of crops.

The Federal Farm Family Reserve Board would be authorized and directed to pay to every farm family, from its funds, up to 100 percent parity on the first $100,000 of farm production each year on each farm.

The unlimited guarantee of 100 percent parity would be unmanageable, and would result in more big corporate farms, more controls and less family farms. But the guarantee of making good on 100 percent of parity for the first $100,000 of each farm's products can be and should be done. It would assist in a stability of supply of all farm products. It would contribute to future freedom and security for all. It would be one of many factors to stop inflation.

The Federal Farm Family Reserve Board would also be directed to arrange to keep the national and world markets free and open, to do everything it could do constructively to develop world prices up to 100 percent of parity, to arrange for other countries, such as the oil/rich, food/poor countries to help carry the world food reserves, to oppose hoarding and monopolies, to make credit reasonably available to farm families, to foster research in other uses for agricultural products, such as alcohol for fuel, and fibers for plastics and for clothing and for construction.

This Federal Farm Family Reserve Board would have members of each major crop, from different parts of the country, from both major political parties, and also have consumer representation.

Members of the Board would be appointed for long terms, with approval of the advice and consent of the Senate, and would be rather independent of the Presidents, just as the Federal Reserve Bank Board is and has been.

We need to lift our Americans agricultural policies and programs away from the year-to-year politicking and mistakes of Presidents and their secretaries of agriculture of either party.

We must recognize that agriculture is unique. It is labor, and it is capital, and it is a way of life. It is also more dependent on uncontrollable conditions of the weather, locally and worldwide, than any other activity.

There has been a very bad trend of freezing out and discouraging family farmers and shifting to big corporate farmers. This is not a good trend. It endangers the long term future freedom for America.

We must also make it easier for sons and daughters to inherit a family farm.

It is now very difficult for a farm family to pass the farm along to sons and daughters because of a very heavy inheritance tax burden. This must be changed, and sons and daughters should be able to inherit a substantial family farm with a value of $500,000 without inheritance taxes, if they intend to keep and operate it. The same important principle should apply to the small family businesses. The excessive inheritance taxes are wiping out family farms and family businesses, and this is harmful to everyone.

Throughout every part of our Policies and Programs for 1980's, we should think through the foundations of America's greatness, the fundamentals of maintaining freedom, and reach out progressively for new answers for the future well being of all Americans.

This is only one of the many changes that are needed to safeguard our future freedom by stopping the inflation and stopping it with full employment.

It can be done, and it must be done.

In the days and weeks ahead, leading to the 1980 decisions of the American people, there is no more important use of our freedom, than to use it to talk through and decide the major issues which will affect our future freedom.

In this spirit, I thank you for this invitation to talk with you today, at this Centennial Celebration in Brookings, South Dakota, good neighbor of my native Minnesota.●

MCPL TASK FORCE

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. BEDELL. Mr. Speaker, as the debate on ratification of SALT II progresses, we hear repeated claims by opponents of this vital treaty to the effect that the American Military Establishment is opposed to the agreement, that our NATO Allies are unhappy with it, that the United States cannot adequately verify Soviet compliance, and that this is a public relations attempt by the administration to pull a foreign affairs coup to bolster its image. Taking each point in order, I urge my colleagues in both Houses of Congress to note the following:

That the Chairman of the Joint Chiefs of Staff, speaking for the full complement of Chiefs, has said for all who will listen.

> . . . all of us judge the agreement which the President signed in Vienna as in the U.S. national interest and merits your support.

That the NATO alliance has unanimously endorsed the treaty as being in the national security interests of Western Europe, and urged us on to SALT III.

That the treaty is most assuredly adequately verifiable, so much so, in fact, that one of its best known critics, Mr. Paul Nitze, concedes the point on Soviet cheating by saying, "what could be gained by cheating would not be strategically significant," and as William Colby, former CIA Director, has said, we would know of any violations long before it could affect the strategic balance.

That the past two (Republican) administrations paved the way for the present culmination of negotiations in SALT II; the Carter administration was in no rush to barter strategic advantages for a politically motivated "quick fix."

As a member of MCPL who has given these matters long and close consideration, I would like to commend the following article from the Washington Post to the attention of my colleagues:

[From the Washington Post, July 23, 1979]

Common Sense on SALT

(By Clayton Fritchey)

Gerard Smith is a distinguished corporation lawyer-diplomat, who served under President Nixon as director of the Arms Control and Disarmament Agency, as well as chief negotiator of SALT I. He also served in the State Department under President Eisenhower as chief of policy planning. In reference to SALT II, he says:

"While the Senate alone has the constitutional mandate to give its advice and consent to treaty ratification, the collective common sense of the American people, all of whom have a very high personal stake in the outcome, will also be of crucial importance."

It is a timely warning to the public not to ignore the debate on limiting strategic arms simply because it is supposed to be so complicated, so technical and recondite, as to be over the heads of most citizens.

President Carter acknowledges that the details of the treaty are formidable, but he also notes that the fundamentals "are not so complex." And he too says, "When all is said and done, SALT II is a matter of common sense."

The hearings before the Senate Foreign Relations Committee seem to bear this out, for the essence of the conflicting testimony, after being exposed to informed senatorial questioning, is not beyond popular understanding. In the end, it will come down to the public having to decide whose word to take. That's where common sense hopefully will prevail.

Will the people, for instance, ultimately rely on the advice and recommendations of the Joint Chiefs of Staff, who on balance are unanimously for the treaty, or will they be more impressed by the objections of Lt. Gen. Edward Rowny, who for six years represented the Joint Chiefs on the SALT negotiating team?

The Joint Chiefs are composed of the head of the four services, plus the chairman, Air Force Gen. David Jones. After prolonged study on their own plus the advice of the Pentagon's many experienced arms experts, the chiefs normally told the Foreign Relations Committee that "all of us judge that the agreement which the president signed in Vienna is in the United States' national interest, and merits your support."

Then came Gen. Rowny, who resigned from the Army on June 30. Although supposedly the representative of the chiefs on the negotiating team, Rowny has long been identified with the powerful cold-warrior congressional bloc, whose influence was instrumental in getting him the SALT job in the first place.

Rowny flatly told the senators the treaty was "not in the best interests of the U.S." He would not concede there might be honest differences of opinion. "The emerging treaty," he bluntly charged, "is not in our interests since it is inequitable, unverifiable, undermines deterrents, contributes to instability and could adversely affect NATO and Allied coherence."

The clear implication was that the chiefs and other backers of the treaty were either retarded, or indifferent to the security of the United States, or both. Sen. Edmund Muskie observed that Rowny was making "serious charges."

The Senator asked the general how he alone, among the negotiators, knew the United States could have got a better deal. Rowny's answer was that "the people who negotiated this thing at Geneva at times had their hands tied"—an unsupported insinuation that his colleagues had compromised their convictions.

The Rowny indictment reflected not only on the Joint Chiefs but on all the officials (Republican and Democrat alike) who have been supporting SALT pacts, including the last three presidents of the United States, the various arms-control directors and the several chief SALT negotiators.

Whatever the shortcomings of SALT II, it is generally conceded to be an improvement over SALT I, which was ratified by the Senate by a vote of 88 to 2. Rowny says that new treaty is verifiable, but even Paul Nitze, the super-SALT critic seems undisturbed by this issue "because the limits are so high that what could be gained by cheating against them would not appear to be strategically significant."

Gerard Smith notes the SALT agreements have been in force since 1972 without violations. He also asks: If SALT II gives the Russian all the best of it, as the critics contend, why did they sit on it? In respect to Rowny's charges that the treaty could be a blow to NATO, the best answer is that the NATO defense ministers have already endorsed the agreement.

Larry Smith, a strategic affairs specialist, believes that SALT can make the use of nuclear weapons less likely, but doubts that this can be demonstrated mathematically or through sophisticated war-game analysis.

"But somehow," he says, "we all know deep down in our gut that the simple premise of SALT is the recognition by both nations, indeed the entire human race, that we have a desperate stake in avoiding nuclear war." In short, a matter of common sense. ●

FINANCING TREATMENT FOR HIGH BLOOD PRESSURE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. PEPPER. Mr. Speaker, hypertension is a national health problem, directly related to cardiovascular disease, heart attack, stroke, kidney failure, and blindness. An estimated 60 million Americans suffer from borderline or definite high blood pressure. An asymptomatic disease, it has been known as the "silent killer." Unless tested, a person may not be aware that he or she suffers from this condition until one of its serious consequences makes itself known.

Because of the prevalence of hypertension among the elderly, the Select Committee on Aging and its Subcommittee on Health and Long-Term Care, both of which it is my privilege to chair, have undertaken a major initiative in this area.

Last fall, I appointed a Blue Ribbon Advisory Panel on the Treatment of High Blood Pressure in America, composed of Americans distinguished in the fields of medicine, business, labor, and philanthropy to advise the committee on steps we might take to combat this serious national health problem. The panel came before our committee in January of this year with a report which outlined the nature and extent of hypertension, gave an overview of current efforts to combat hypertension, and made recommendations for legislative and administrative action to strengthen our ability to wipe out this insidious enemy of the Nation's health.

Among the distinguished members of this panel was Mr. Michael Gorman, executive director of the Citizens for the Treatment of High Blood Pressure, Inc. Mr. Gorman has a long history of involvement with the health field, beginning with President Truman.

A guest editorial by Mr. Gorman, entitled "Financing Treatment for High Blood Pressure," appeared in the June 1979 issue of Urban Health magazine. In this piece, Mr. Gorman outlines some of the current issues involved in providing treatment for high blood pressure, and I wish to call this very informative article to the attention of my colleagues.

I ask unanimous consent that the text of Mr. Gorman's article be printed at this point in the RECORD.

FINANCING TREATMENT FOR HIGH BLOOD PRESSURE

(By Mike Gorman)

Prior to 1970, there was scant public awareness of the dimensions and consequences of high blood pressure. More than half of Americans who had high blood pressure did not know they were victims of the disease. Of those who had been diagnosed as hypertensive, less than 20 percent were on effective therapy.

The picture has changed dramatically in this decade. The initial impetus came from the creation of the National High Blood Pressure Education Program under the aegis of the National Heart, Lung and Blood Institute. Its assigned task was to educate both health professionals and the lay population on the incidence of high blood pressure and on the measures which could be taken to control what had really become an epidemic.

As the initial statistics began to pour forth highlighting the gravity of the problem, the mission of attempting to contain the disease of high blood pressure in America seemed almost hopeless. The National Center for Health Statistics estimated that there were 35 million Americans who had definite high blood pressure and another 25 million who had borderline hypertension readings which indicated that they should be watched. Most discouraging, however, was the disclosure that only three million of these hypertensives were taking medication and achieving control of the disease.

It was soon apparent that the federal government could not even begin to do a total job in this area. Dr. Theodore Cooper, who was Director of the National Heart Institute when the program was launched in 1972, insisted from the outset that this effort must not be restricted to the federal government alone. It was his contention that the HBPEP must draw heavily upon medical, health and voluntary organizations if it were to succeed.

That it has is evidenced by a 1977 survey which showed that more than 1,800 state and local volunteer organizations were participating in the high blood pressure program. The survey points out that these figures do not include hundreds of thousands of hours of volunteer time contributed by the 130 national organizations which are directly involved in this undertaking. For example, at the January, 1979 House Select Committee on Aging hearings on hypertension in America, Dr. Frank Stanton, president of the American Red Cross, informed the Committee that his organization, through its 3,000 chapters across the country, had screened six million Americans for high blood pressure in 1978 alone.

Dr. Robert Levy, director of the National Heart Institute, has estimated that financial support for the federal High Blood Pressure Educational Program has increased by only about 10 percent per year and remains more or less constant at a level of about three million dollars annually.

"This amount, though," Dr. Levy stressed in a recent interview, "when multiplied by the leverage of volunteers, the use of public service time, the donations of the media, the participation of the entire general community, as well as the use of time, space and staff on the part of professional and lay organizations such as hospital and medical associations, the American Red Cross and Citizens for the Treatment of High Blood Pressure translates into an annual expenditure of between $50 and $100 million for the entire effort."

We now can point to remarkable results in this combined voluntary and governmental effort. The most dramatic example is the reduction of strokes. Hypertension is a major causative factor in 75 percent of all first strokes, which kill some 200,000 persons and disable over one million people each year in the United States. In an editorial in the March 1, 1979 issue of The New England Journal of Medicine, Dr. Levy pointed to a remarkable 36 percent decline in strokes since 1962, with more than two-thirds of that drop occurring since 1972, the year the National High Blood Pressure Educational Program began. In the 1950's, for example, the stroke mortality rate declined less than one percent per year; in the mid-1970's, the mortality rate dropped to an amazing degree—greater than five percent per year.

It would be erroneous to conclude from the above figures that the epidemic of high blood pressure has been contained. At the hearings this year before the Select Committee on Aging, a panel of 15 of the country's most outstanding authorities on hypertension reported that we had won several important skirmishes, but that the big battle was still ahead. Even if one took the most optimistic estimate that ten million Americans now appear to have their blood pressure effectively controlled, 25 million people are still either unaware that they have high blood pressure or receiving inadequate treatment for it.

The Panel presentation on the economic costs of circulatory diseases and hypertension was equally chastening. For example, a detailed study by the Public Services Laboratory of Georgetown University estimated the cost of these diseases at $50.4 billion, with direct costs of high blood pressure accounting for $10.5 billion of this total. The direct cost to the federal government in noncontrollable expenditures for high blood pressure was equally staggering—$4.2 billion in Medicare costs; $3 billion in Social Security costs, and additional high costs under Medicaid, Supplementary Security Income, and other Federal programs.

Federal response to these overwhelming figures can only be described as minimal. From 1973 to 1975, Citizens for the Treatment of High Blood Pressure put a high priority on the passage of legislation providing hypertension formula grants to states, in hopes that these grants would be catalysts in starting new programs where few existed. Late in 1975, Congress passed the initial legislation authorizing these grants to the states. However, the language governing the grant restricted it to "screening, detection, diagnosis, prevention, and referral for treatment for hypertension." The omission of a clear treatment authority was, from our point of view, totally unjustifiable. As we pointed out in testimony in 1975 and subsequent years, why screen, detect and diagnose, and then refuse to provide funds for the bottom line of the whole endeavor—treatment? Moreover, this formula grant was also funded at a miserably low level. In spite of a legislative authorization of $35 million for the first year of the program—Fiscal 1976—the actual money appropriated was $3,500,000 for all 50 states! This was an amount generous enough to just about cover the hypertension problem in the District of Columbia. In Fiscal 1977, the program was funded at nine million dollars, and in Fiscal 1978, at $11 million. Funding for the current year has remained at last year's level.

As we predicted, when the states began to administer the program, they came smack up against the issue of funding for treatment. Citizens therefore developed a questionnaire, which was sent through the Association of State and Territorial Health Officials, asking its member State Health Commissioners for their opinion on the treatment question. Thirty states responded favorably for treatment authority under the grant; six states were against it on the grounds that if treatment was added as another mandated function under the inadequately funded grant, there would be little money for screening and detection; and six additional states said they wanted treatment authority if the funding level were increased. The controversy came to a head in 1978 when Dr. Robert Whalen, then New York State Health Commissioner representing the Commissioners' organization, told the Congress that "any new legislation should include authority for states to pay for medications where necessary for ambulatory hypertensives. In New York, the need is great enough that the entire formula grant could be usefully expended on medication. We would agree that it appears that 10 to 15 percent or more patients do not initiate or persist with an adequate therapeutic regimen because of the cost factor of medication."

At the hearings of the House Select Committee on Aging, payment for treatment, which includes a few visits to the doctor each year plus drug costs, was the paramount issue during the entire day of deliberations. Dr. Michael E. DeBakey, chairman of CTHBP, pointed out that hypertension is far more prevalent among the elderly, the poor and blacks. The National Heart Institute has estimated that treatment of a hypertensive costs only between $100 and $200 a year. However, answered Dr. DeBakey, "it is still often too expensive for the poor, who are the disease's most frequent victims."

Additional statistics were presented by the Committee staff to underline Dr. DeBakey's point. For example, 25 percent of Americans with family income under $5,000 have high blood pressure, while in the $5,000 to $10,000 bracket, only 12 percent have high blood pressure. The staff also reported that 22 percent of black Americans have high blood pressure, as compared with 15 percent among whites. A number of Panel members regarded this last figure as much to conservative. For example, Dr. Cooper pointed out that in central Harlem the death rate from heart attacks is 42 percent above the rate for New York City as a whole; stroke deaths are 22 percent higher than the city as a whole.

The economic barrier to treatment is even more unyielding among the elderly. Among persons over 65 years of age, 40 percent with family incomes under $5,000 have high blood pressure. In the 75 and over age group, 64 percent have definite or borderline hypertension, with very few able to pay for treatment.

As a result of these hearings and other hearings in July of 1977, the 46-member Select Committee on Aging adopted the following major recommendations: (1) Medicare should be amended to include coverage for the detection, diagnosis and treatment (including drugs) of hypertension; (2) Medicaid should be expanded so that the states are mandated to provide hypertension screening, diagnosis and treatment, including drugs; and (3) Congress should amend the Public Health Service Act to allow treatment under the new hypertension project grants to the states which were authorized in 1978.

In all of these aforementioned endeavors, Citizens for the Treatment of High Blood Pressure has played a key role. At its very first meeting in 1972, the CTHBP Board of Sponsors unanimously passed a motion that Citizens would not apply for any funds from the federal government, depending totally on contributions from individuals, foundations and corporations in the private sector to support its newsletters, publications and legislative activities. The fundamental philosophy guiding our targeted activities is the belief that government can only do so much—that the major portion of the offensive against hypertension will have to be created and maintained by voluntary health organizations, medical and allied health societies, business and labor and, most important, strong citizen participation.

In 1977, CTHBP achieved a long-time goal with the establishment of a Field Office to serve as a catalyst in stimulating activities in the private sector. The ultimate goal of the Field Office is the development of an organized network of citizen groups at state and local levels which can not only influence governmental funding for hypertension but, more significantly, can stimulate volunteer efforts. At the present time. Citizens' affiliates are in varying stages of development in 17 states. In each of these states, we are building a broad based coalition which will eventually become a potent local voice for all activities in the field of high blood pressure control.

Elliot Richardson, who continues to serve as Honorary Chairman of the organization he helped to create, pointed out that "The fight against hypertension is a classic example of the good things that can happen when the private and public sectors and concerned citizens combine their talents, energy and dedication in a common cause."

Dr. Michael Alderman noted just a year ago in an article in this journal: "There is no precedent for successful prolonged treatment of any chronic disease."

We are firmly convinced that we are in the process of creating that precedent.●

TONGUETIED AMERICANS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. MAZZOLI. Mr. Speaker, I regret very much that I can neither speak nor comprehend a foreign language. And, I believe the general lack of foreign language skills is an impediment—though not an insurmountable one—to developing solid international relationships with the leading as well as the developing nations of the world.

I recommend highly to my colleagues the following statement of the United Technologies which appeared recently in several publications on the subject of foreign language skills.

The article follows:

TONGUETIED AMERICANS

Travel abroad and you'll find, almost everywhere, people with enough grasp of English to give you directions, interpret a menu for you, or help with your travel schedule. But a non-English speaking visitor to this country is hard-put to find such help.

Among industrialized nations, the U.S. stands alone in its neglect of foreign language study. In the face of growing world interrelationships—political, diplomatic, economic—Americans' familiarity with the tongues of others is in sorry decline.

Last year the President Commission on Foreign Language and International Study was formed to find ways to live up to international agreements in which the U.S. has pledged to encourage the study of foreign languages and civilizations. The commission's initial findings are dismaying:

Nine out of ten Americans cannot speak, read, or effectively understand any language but English.

About 90% of all colleges have no language requirements for admission. One-quarter of all high schools do not teach any foreign language.

College language enrollments have declined 21.2% in the past decade.

Foreign language enrollments dropped 15% among high school students between 1968 and 1974. Less than one-quarter of high school students now study a foreign language, as against 32% in the mid-1960s.

Only 17% of American foreign language students taught wholly in this country can speak, read, or write the foreign language easily.

The prevailing sense in this country toward those in other lands seems to be: Let 'em speak English.

It's a foolhardy attitude. It ill serves America's interests and objectives in the world community. Unless it's changed, the U.S. will find itself at a disadvantage in grasping economic opportunities and meeting its diplomatic responsibilities around the world.

At a time of detente with Russia and rapprochement with China, an appallingly small number of American students are taking up those languages at the advanced levels necessary for fluency. One member of the presidential commission voiced distress on learning that the U.S. Foreign Service no longer requires any foreign language background for new service officers. Because so few Americans study foreign languages, he found, the State Department was forced to drop the requirement.

Much of America's economic growth in the years ahead will come from international trade. More and more people will be needed with skill in foreign tongues. By not pursuing language studies, many young people are cutting themselves off from rewarding careers in international business.

Knowledge of other languages and cultures is indispensable to fruitful international relationships. We in this country would do well to support and stimulate such knowledge, lest we find ourselves standing around with nobody to talk to except ourselves.●

CONSTITUENT SUGGESTS GASOLINE RATIONING PLAN

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. BARNES. Mr. Speaker, this week the House will consider new legislation to authorize the President to activate a standby gasoline rationing plan under specified circumstances. S. 1030, with amendments by the House Committee on Interstate and Foreign Commerce, would provide broad guidelines for the content of a rationing plan which the President might submit, but would not require explicit details to be worked out at this point.

Recently I met with many of my constituents at a town meeting in Sandy Spring, Md., and the whole subject of the gas shortage was the major item discussed. One of those attending, Mr. Frederick E. Wang of Silver Spring, Md., made a number of interesting suggestions about some specifics which the President might include in a gasoline rationing plan. Mr. Wang's proposal appears simple and workable, and I have sent it to administration officials and the relevant congressional committees for examination, I submit a memorandum prepared by Mr. Wang for the information of my colleagues:

A PROPOSAL; GASOLINE CONSERVATION IN THE UNITED STATES

Faced with a nationwide gasoline shortage, I would like to recommend a two-tier-pricing system, not as a perfect solution but, rather as the best possible solution among various alternatives.

The two-tier-prices are to be fixed as follows (figures are given only as an example):

Basic allotment—70¢ per gallon:

Every registered private auto (commercial users are to be considered separately) in this country will be issued coupons (this can coincide with the issuance of car plate) to purchase 800 gallons of gas per annum at 70¢ per gallon at any gas station in the U.S.

Extra allotments—$2 per gallon:

Any motorist can purchase any amount of gas over and above the basic allotment at $2 per gallon. Or alternatively, the motorist can purchase coupons from people who did not use up their basic allotment at a price mutually agreed upon between the buyer and the seller.

MERITS UNDER THE SYSTEM

(a) There would be no wasteful gas-lines. Existing complex formula of DOE fuel allocation would not be necessary. Gas stations will be given as much gas based on the number of coupons they turn in, thus gas supplies will follow the demand wherever they may be throughout the country.

(b) Odd-even day purchase or minimum purchase regulations (which often yield more demerits than merits) will not be necessary.

(c) Individual motorist can be certain what amount he or she is getting (or not getting) throughout the year and can plan on it—thus, there would be no "panic-buying" or "topping."

(d) Built-in economy incentive in the system (70¢ vs. $2 per gallon) will lead people to car-pool and economize in the use of gasoline (particularly if people know that they can sell their unused gas coupons for an extra profit).

(e) Holiday-, vacation-, tourists-oriented industries will not unnecessarily suffer by Saturday, Sunday closing, odd-even restriction, or just a simple uncertainty of gas supplies at the stations.

(f) Gradually decreasing the amount of basic allotment over the span of several years, will allow people time to adjust to a new life style that uses less gasoline.

(g) In general, the pressure of inflation due to gas-price-hike will diminish.

(h) $2 per gallon price will be enough incentive for the "American know-how" to come up with an alternate or substitution to our transportation problem (e.g., synthetic fuel, revolutionary different type of transportation means).

In summary, the system will provide incentives for the general public to save gasoline, and for the energy-related industries to work harder for a long-term solution—and most importantly with least government interference!●

RESCUE THE BOAT PEOPLE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. DORNAN. Mr. Speaker, during World War II, stories of unbelievable horror came out of Eastern Europe detailing the mass extermination and incineration of Jews. These stories were greeted with disbelief and inaction. It was only at the end of the war, when the victorious allies were sweeping through Europe, that these horror stories were found to be true. Weak justification can probably be found for allied inaction—all considerations were unfortunately forced to be subordinate to the demands of achieving military victory over Hitler.

Now, in 1979, the world is being confronted with a similar modern horror story, the "boat people." However, in 1979, unlike the World War II years, there is no "great crusade" which permits us the luxury of diverting our attention from the plight of the tragic "boat people." The nightmare of the "boat people" presented in statistical terms is frightening—every month 60,000 Indochinese refugees, many of them ethnic Chinese living in Vietnam, flee their homeland. At present, there are 330,000 refugees languishing in often subhuman conditions all over Southeast Asia. These are the survivors—those who survived starvation, drowning, dehydration, shark attacks, rape and murder by pirates. It has been estimated that as many as 250,000 may have perished by those means.

Last week, I sent an urgent letter to the President and to the then Secretary of the Navy, W. Graham Claytor, asking them to send the Navy on a mission of mercy to the South China Sea to aid in rescuing these people. I made note of the fact that the Navy has performed numerous missions of mercy in the past and that it would be in accordance with its honorable tradition to do so again.

I want to call the attention of my colleagues to a full-page ad in the Washington Post of July 19, 1979, in which we are called, once again, to render assistance to these suffering people, dying at the rate of 1,500 per day. This ad was sponsored by Edward J. Daley of World Airways and Dianne Lawson and Michael Morrissey of Refugees International.

I support the pleas of Mr. Daley, Mr. Morrissey and Ms. Lawson. How can we turn our backs on these people? I would point out that the "boat people" have become "boat people" directly as a result of our policies in Southeast Asia. It is too late to do anything about that. However, it is not too late to repay the debt we owe these people, many of whom served the United States when we were in Southeast Asia.

The Carter administration has stated that the monthly quota of refugees has been raised from 7,000 to 14,000. I applaud this. It is now the responsibility of Congress to appropriate the funds to care for these additional refugees. This in no way violates precepts of fiscal conservatism. To me, this is an issue which transcends politics or ideology. We are directly responsible for the creation of conditions which have led to the flight of these unfortunate souls from Communist tyranny. We have no other choice but to help.

The Washington Post ad follows:

TO THE SENATORS AND REPRESENTATIVES OF THE U.S. CONGRESS:

By pledging to double America's monthly quota for Indochinese refugees and by generously increasing funds for resettlement, President Carter seized the initiative at the Tokyo Summit and, we hope, set an example other nations will follow at the Geneva Conference this week. But much more needs to be done.

America's new monthly quota does not help those refugees in the most imminent danger—those who are crammed onto the beaches of Malaysia, adrift in boats on the South China Sea, stranded on the borders of Thailand, Cambodia, and Laos. They are subjected to robbery, piracy, rape, murder, typhoons, starvation, and disease. For the past month over 500 a day have been towed out to sea: 56,000 were refused landing and 46,000 were pushed back across the border. These displaced people require immediate rescue.

It is therefore with a sense of great urgency that we of Refugees International, a recently formed group of private citizens working individually and with volunteer agencies to help the refugees of Southeast Asia, respectfully ask the Senators and Representatives of the U.S. Congress to:

Propose and pass legislation allowing immediate emergency entry of 100,000 refugees—beyond the quota of 14,000 refugees to be received each month.

Provide ships and planes for an immediate rescue mission to remove 100,000 refugees from the beaches, boats, and borders.

Re-open housing and processing facilities used during the 1975 evacuation, when 150,000 Vietnamese refugees were rescued and resettled in 6 months. Refugees International will help provide volunteers with multi-lingual and technical expertise to assist.

Volunteer agencies, civic and church groups, and concerned individuals are standing by with secured guarantees of sponsorship for the refugees from Indochina. Refugees International has requested that the leaders of such groups advise you of their readiness to receive these people.

We urge you to act today. Each day of delay now means the death of at least 1,500 Indochinese refugees.

Edward J. Daley, President and Chairman of the Board, World Airways, Inc., Oakland International Airport, Oakland, CA 94614.

Dianne Lawson, Area Director, Refugees International, c/o Grady Mangham, World Relief Corp., Suite 801, 1800 K Street N.W., Washington, D.C. 20006, Tel. (202) 785–4869, Cable: Relief, Wash., D.C.

Michael Morrissey, Director, Refugees International, c/o Environmental Planning Institute, Hirakawa-Chuo Building, 2-4-16 Hirakawa-Cho, Chiyoda-Ku, Tokyo 102, Tel. 239–1651.●

AID FOR PART-TIME STUDENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. WEISS. Mr. Speaker, today I am introducing legislation to benefit a group of students who are among the most ambitious, yet are virtually ignored by the grant programs of the Higher Education Act. These students, most of whom support themselves by full-time employment, are enrolled part time in undergraduate programs. While they represent greater than one-third of our entire undergraduate population, they receive less than 10 percent of the educational grants the Federal Government awards to undergraduate students.

Part-time undergraduates fall into two categories: First, those enrolled less than full time but at least half time, classified as halftime students; and those students enrolled less than half time. At present, halftime students are eligible for educational opportunity grants, but for only 4 years, so they are unable to receive aid long enough to earn diplomas. Less-than-halftime students are currently unable to receive any supplemental educational opportunity grants.

The bill I am introducing will address these inequities by extending the period of eligibility for basic and supplemental education opportunity grants—BEOG, SEOG—from 4 to 8 years, and by extending SEOG's to less-than-half-time students. Further it will allow SEOG's of less than $200, and eligibility will continue to be determined by the campus aid officer. The institution will not be required, but rather allowed to use part of its SEOG funds for less-than-half-time students only if it wishes to do so. The bill does not include any increase in authorization for SEOG's.

Ninety-five percent of the less-than half time undergraduates, all of whom are presently ineligible for grant assistance, are financially self-supporting. They are employed full time, many have families, and yet still pursue an education. Almost 80 percent of these students would qualify for Federal assistance if eligible, far more than any other group of students. Their situations vary vastly; many were forced to work full time after graduating from high school because of family financial difficulties; many are middle-aged women who are recently divorced or widowed and must, for the first time in their lives, support themselves and their children; still others are women with small children who would like to enter the job market later in their lives, when less bound by family obligations.

The following are two examples. A 50-year-old woman wishes to attend community college to prepare for a career in order to provide for her family if something should happen to her husband. She has 5 small children, most of whom are still at home. Her educational goal is an associate's degree in business. Even though her husband is a college professor in the $16 to $18,000 salary range, it is not enough to allow her to take even one course when the cost of books, transportation, child care, and other extras are added to that of the tuition. Even if she could afford to attend college at least half time and possibly receive a BEOG, her family responsibilities would not allow her to do so.

A 30-year-old woman in her senior year of her bachelor's degree in sociology is single, with a 6-year-old child and an adjusted gross income of $2,792. She works as a teacher's aid and is hoping that her degree will help her attain a better paying job on a full-time basis. She has no help from welfare for medical needs, and there is no extra allowance in her small income for tuition, books, child care, and transportation for one course a quarter. She is unable to take more than one course per quarter because her job and child consume the rest of her time. So although she would qualify financially for Federal assistance, she is currently ineligible.

It is evident that both of these individuals are enrolled on a part-time basis for very justifiable reason. Yet both are thwarted in their attempts to obtain an education by their ineligibility for Federal assistance.

The second section of this bill which extends the eligibility for BEOG's and SEOG's from 4 to 8 years is in recognition of the change in the nature of the student population. The "typical" student is no longer the 18-year-old, full-time, dependent student. Like the half-time student, those enrolled less than full-time are often working, and have a family. These are the students of today, and of the future; yet under the present system they receive less than 8 percent of all Federal student aid dollars. And these students are committed to their education. In 1975 over 94 percent of all part-time students completed the courses for which they were enrolled. They are not enrolled part-time on a whim, rather they cannot afford the necessary funds, nor the time. In fact, a lack of funds is cited by part-time students as the major reason for discontinuing their education.

The intent of the Congress, and the commitment of this Nation to equal educational opportunities for all students is clear. It is now time not only to reaffirm this commitment, but to carry it out. The legislation that I am introducing today will help to open the financial aid system, and insure an opportunity for all students in need. I strongly urge my colleagues to join me in support of this measure.

A copy of the bill follows:

H.R. —

A bill to reduce certain eligibility requirements for basic and supplemental educational opportunity grants

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Education Amendments of 1979".

EXTENSION OF ELIGIBILITY

SEC. 2. (a) Section 411(a)(4)(A) of the Higher Education Act of 1965 is amended by striking out "four academic years" and inserting in lieu thereof "eight academic years".

(b) Section 413B(b)(1)(B) of such Act is amended by striking out "four academic years" and inserting in lieu thereof "eight academic years".

EXTENSION OF ELIGIBILITY

SEC. 3. (a) Section 413B(a)(2)(B) of the Higher Education Act of 1965 is repealed.

(b) Section 413B(b)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if that student is maintaining satisfactory progress in the course of studies he is pursuing, according to the standards and practices of the institution awarding the grant.".●

DENIAL OF FREEDOM OF HUMAN RIGHTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. DERWINSKI. Mr. Speaker, last week, as the Members know, was the 20th anniversary of Captive Nations Week, which was appropriately observed in the Congress as well as across the country. The importance of this observance is to place emphasis on the denial of freedom of human rights to over 100 million non-Russians held captive by Communist rule.

The conduct of the executive branch's foreign policy and the misdirection of its human rights campaign is the subject of an article appearing in the Chicago Sun-Times of June 27, by the distinguished columnists, Rowland Evans and Robert Novak. I insert their column at this point:

HUMAN RIGHTS FIASCO

(By Rowland Evans and Robert Novak)

WASHINGTON.—Sec. of State Cyrus Vance's sudden cancellation of a private meeting here last Thursday to report Vienna summit progress on human rights in the Soviet Union laid bare this tragic fact: Human rights, the shining emblem of Jimmy Carter's foreign policy, vanished almost without a trace in Vienna.

Aides of Vance note that at 2 p.m. last Thursday Vance was preparing for an emergency session of the Organization of American States, forcing cancellation of the human-rights session with officials of the National Conference on Soviet Jewry. But that simply camouflages the fact that the human-rights meeting had become superfluous. It would have lasted only long enough for Vance to say, "They stonewalled us."

Whether President Carter could somehow have broken through that stone wall when the subject of human rights was on the table at his last session with Soviet President Leonid Brezhnev June 18 is questionable. Talking to the ill and aging Soviet leader was not easy. Brezhnev's aides did not help when Carter, reading from a prepared statement, laid out his case for human rights.

"The whole conversation consisted of two people talking past each other," one participant in the Vienna summit told us. "It was a non-starter." Advisers to Brezhnev quietly instructed Carter's men that this was no time to spoil the party by pressing Brezhnev on human rights.

But acknowledging Carter's difficulty in trying to shame the Communist leaders of Russia on the human-rights issue does not conceal the widening gap between the promise and the reality of the President's languishing campaign for Soviet human rights.

Indeed, not only did Carter blink first when he and Brezhnev clashed on human rights; State Department authors of the modest communique displayed surprising ignorance of the long, careful U.S. effort to contain the Kremlin's use of verbal aggression to thwart U.S. human-rights goals.

"Inexcusable drafting mistakes," one high State Department official candidly admitted to us after publication of the Vienna communique. "Worse than that, just plain stupid."

One glaring mistake was the use of the phrase "All-European Conference" in the section of the communique titled "International Issues." That reference to the Helsinki and Belgrade conferences, and a follow-on session in Madrid next year, used a verbal construction that played right into the 16-year Soviet campaign hitherto resisted by the United States. Moscow has always pushed the idea of an "All-European Conference" to emphasize the outsider roles of the United States and Canada. The proper description is "the conference on security and co-operation in Europe," or CSCE.

The opening of the communique on "General Aspects of U.S.-Soviet Relations" committed graver errors. It emphasized the superpowers' "respect for sovereignty and nonintervention in each other's internal affairs." That Kremlin-style construction was insisted on by the Russians because "nonintervention" is their buzzword against the U.S. human-rights campaign.

Throughout the communique these verbal inflections carry an unprecedented Russian accent. For example, it unquestioningly accepts Soviet-inspired language that the United States and the Soviet Union "noted with satisfaction the positive developments which have taken place in recent years with respect to the situation on the European continent (and) the significance of the Final Act" of the Helsinki CSCE conference.

On the human-rights front, there have been no "positive developments" in the Soviet Union (except increased Jewish emigration). Instead, the dissident movement has been abused, broken up and smashed in the years following the Helsinki conference.

In the Vienna communique, the magic phrase "human rights" appears not once. Nor did the U.S. side obtain even a fleeting reflection of the human-rights verbiage hammered into place after Helsinki and Belgrade.●

FOOD SECURITY ACT OF 1979

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. GILMAN. Mr. Speaker, the House Committee on Agriculture and the House Committee on Foreign Affairs recently held a joint hearing on the Food Security Act of 1979, legislation establishing a wheat reserve to be used for emergency international food assistance.

To date, over 90 of our colleagues have cosponsored this legislation, which my friend and colleague, the gentleman from New York (Mr. MCHUGH) and I have introduced. This measure is virtually identical to a bill favorably reported last year by both the House Committee on Agriculture and the House Committee on International Relations.

Subsequent to our introduction of the Food Security Act of 1979, the administration proposed its own version of the measure which was also considered during the joint hearing.

Testifying at that hearing, I stressed that:

> The need for a food security reserve will markedly increase, yet, unless the reserve is created in the very near future, it will become increasingly difficult for us to establish this reserve.

Mr. Speaker, in order to share with my colleagues my observations and findings concerning the urgent need for enactment of this legislation, I request that the full text of my statement before the House Committee on Agriculture and the House Committee on Foreign Affairs be inserted at this point in the RECORD:

FOOD SECURITY ACT OF 1979

Mr. Chairman, I welcome this opportunity to appear before the House Committee on Agriculture and the House Committee on Foreign Affairs during these joint hearings on the Food Security Act of 1979.

As pointed out earlier, there are three measures entitled the "Food Security Act of 1979" before these committees: H.R. 3611, legislation I introduced on April 10, 1979; H.R. 3612, a measure identical to H.R. 3611, also introduced on April 10, 1979 by my good friend and colleague the gentleman from New York, Matthew McHugh; and H.R. 4489, introduced on June 15, 1979 at the request of the Administration by Chairmen Foley and Zablocki. To date, 87 of our colleagues have cosponsored H.R. 3611 and H.R. 3612.

H.R. 3611 is virtually identical to legislation these committees favorably reported last year. Unfortunately, last year's measure was placed on the House's agenda late in the last Congress and, caught up in a last minute crush of what was termed "priority" legislation, was not considered by the House.

I submit to you today that H.R. 3611, as testimony before these two committees last year underscored, is "priority" legislation deserving favorable consideration by these two committees, by the House and by the Senate.

H.R. 3611 amends the Agricultural Trade and Development Assistance Act of 1954, Public Law 480, by establishing a 4 million metric ton reserve stock of wheat which may be used when a sufficient quantity of this commodity is otherwise unavailable to carry out Public Law 480 agreements. Last year's measure as reported by the House Committee on Agriculture called for a 3 million metric ton reserve stock. The Committee on International Relations, adopting an amendment I introduced, established a 6 million metric ton level. I am confident that the 4 million metric ton level can meet with the acceptance of both committees, thus enabling the measure to receive quick, favorable consideration by these two committees.

The change in title of this year's measure connotes a leaner, trimmer bill shorn of provisions tying this reserve in any way to an internationally negotiated reserve system. While our hopes were high last year that negotiations to establish such a reserve system would be fruitful, these negotiations collapsed earlier this year and thus, any current attempt to link an American food assistance with an international system would be addressing at best a vague and cloudy area. However, both the President and the Congress should work diligently for a quick resumption of these important negotiations.

In essence, H.R. 3611 plugs into Public Law 480, thus providing a "backup" within our existing food aid administrative system for meeting current and future Public Law 480 commitments. I am hopeful that by plugging this reserve into the existing administrative framework of Public Law 480, the concept of an emergency wheat reserve can more quickly become a reality than if our task were establishing new and complicated institutional apparatus to administer such a reserve. It is my contention that initially any emergency reserve should be incorporated into the tested administrative framework of the Public Law 480 system.

This approach differs from the Administration's proposal, contained in H.R. 4489, providing the President with discretionary powers to dispense up to 300,000 tons of wheat in instances where Public Law 480, as determined by the President, could not quickly enough respond to a "major disaster." As we learned during our consideration of this matter last year, Public Law 480 has responded promptly and effectively to "major disasters," and I seriously question the wisdom of taking this first step outside of the established Public Law 480 guidelines and criteria pertaining to food assistance by increasing the President's discretionary powers.

Last year, I joined with other witnesses before these committees in describing the clear and growing recognition that emergency reserves are crucial to any meaningful food assistance program. While many have long recognized the need for such a reserve, the calamitous world food production shortfalls of 1973/74, reducing U.S. and world food stocks to bare bone levels, dramatically underscored the genuine need to establish emergency reserves. World food stocks, estimated to be at 75 days of world consumption carryover before the crisis, fell sharply by 1975 to approximately 40 days. The United Nations Food and Agriculture Organization (FAO) has roughly established a 65 day supply as the minimum safe level for world food security.

The 1974 World Food Conference, subsequent sessions of the World Food Council, the Seventh Special Session of the United Nations General Assembly, the UN Conference on Trade and Development, and the International Wheat Council strongly endorsed the concept of emergency reserves, stating that if the world food assistance program was not to be again faced with "bare shelves" when faced with a global food crisis (a crisis exacerbating the already grim plight of the world's hungry and malnourished) determined action to establish such reserves was imperative.

The United Nations Committee of the Whole, meeting in New York this past March, urged that food reserves be established at adequate levels and took into account the need for "an internationally coordinated over-all system of national food reserves."

These hearings and passage last year by these committees of legislation to establish an emergency reserve reflect Congressional concern about this matter.

In a December 1978 letter to me, Secretary of Agriculture Bob Bergland gave his assurance of the Administration's strong commitment to establishing an emergency wheat reserve "as an integral part of our strategy to combat world hunger."

The Presidential Commission on World Hunger, of which I am a member, while not yet having issued its initial report on findings and recommendations, has at meetings to date found its members in general agreement that this nation should move quickly towards establishing an emergency reserve.

I wish to emphasize the word *quickly* because the propitious opportunity described last year to establish this reserve could soon evaporate.

U.S. Department of Agriculture projections of May 15, 1979 indicated grain stocks for 1979/80 to be significantly below the levels of last year and quite possibly below any of the last three years.

The New York Times in a June 15, 1979 editorial warns that we should be "Getting Ready for the Lean Years." The Times states that:

"Bumper harvests since 1975 have provided a chance for most nations to acquire reserves at low prices. But time is running out. Wheat prices have risen 40 percent in the past two years. . . . The Soviet Union, forseeing a reduced harvest, is back in the market in a big way. Bad weather could cause food shortages as soon as next year."

A Washington Post article of June 14, 1979, by Dan Morgan, reported that the possibility of a grain shortage was:

"A common theme of global projection issued in recent weeks by the Department of Agriculture, the Food and Agriculture Organization of the United Nations, the International Wheat Council, and private crop analysts."

"Grain stocks in exporting countries," Mr. Morgan observed, are at "about the level that existed in 1971." However, "these stocks may provide a somewhat smaller buffer now because of increases in population worldwide." This article also reminds of the disaster of a sudden, major Soviet intrusion into the grain market.

A July 1, 1979 New York Times article by Seth S. King points discouragingly to a sense of "deja vu," that "among those who buy, sell, and give grain away," "it was beginning to resemble 1972, 1974, and 1975." The article indicates that to the poor nations who depend on Public Law 480 loans to "fill a large portion of their food needs," "wheat and corn already $1 per bushel higher than a year ago . . . means that the amount they're able to buy with this year's loan is now 20 to 25 percent less."

Mr. Chairman, my statement clearly outlines the situation in which we now find ourselves: the need for a food security reserve will markedly increase, yet, unless the reserve is created in the very near future, it will become increasingly difficult for us to establish this reserve.

Our committees were farsighted in their wisdom last year to pass legislation similar to that under consideration today. I am confident that that same wisdom will prevail, and that Congress and the Administration will intensify their efforts towards quick enactment of the Food Security Act of 1979.

I thank the Chairmen of these two committees for the opportunity to testify in support of the legislation Mr. McHugh and I have introduced, and commend them for expeditiously bringing this matter before these committees.●

THE CASE AGAINST PUBLIC INTERVENOR FEES

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. RUDD. Mr. Speaker, a major argument against the use of taxpayer dollars to pay for the expenses of selected individuals and public groups who testify before Federal regulatory agencies is that the agencies themselves would abuse such a practice by "stacking the deck" in favor of a predetermined position or policy.

This does in fact happen, as Daniel J. Popeo, general counsel for the Washington Legal Foundation documented today in testimony before the Senate Judiciary Subcommittee on Administrative Practice and Procedure.

Aside from this one convincing reason not to provide what are termed "public intervenor fees," there are ample constitutional and other reasons not to allow taxpayer dollars to be used to pay for the participation of parties and vested interests in Government rulemaking proceedings. Mr. Popeo outlined some of these reasons in his congressional testimony, many of them based upon legal precedents.

I am pleased to be cosponsoring legislation to stop the use of Federal funds to pay so-called public intervenors (H.R. 4827), introduced by the gentleman from Ohio (Mr. HARSHA). For the benefit of Members of the House of Representatives who might not otherwise be aware of this good testimony before the other body, I would like to include the testimony at this point in the RECORD:

TESTIMONY OF DANIEL J. POPEO

On behalf of the Washington Legal Foundation, let me express my appreciation to the distinguished members of the Senate Judiciary Subcommittee on Administrative Practice and Procedure for this invitation to testify on legislative proposals which would provide financial assistance to parties appearing in agency rulemaking who represent the public interest.

The Washington Legal Foundation is a nonprofit corporation organized to engage in litigation and the administrative process in matters affecting the public interest. The Washington Legal Foundation currently has more than 60,000 members and contributors throughout the country. My comments reflect exclusively the interests of our members and the public as a whole, not any organizational interest of the Washington Legal Foundation. The Washington Legal Foundation is currently involved in litigation across the United States regarding government regulation, crime victims, major constitutional issues and other vital public interest legal matters.

Let me stress at the outset that we favor public participation in administrative and judicial proceedings and along with other public interest groups, the Washington Legal Foundation has compiled a record of active participation in such proceedings on behalf of the public interest. As a public interest organization, the Washington Legal Foundation would expect to benefit substantially from this proposed legislation. However after much reflection, we have come to the conclusion that it would not be in the public interest to provide financial assistance at the taxpayer's expense to the already thriving public interest community.

It is the prevailing rule in American law, as stated by the Supreme Court in *Alyeska Pipeline Service Company* v. *The Wilderness Society*, that a victorious litigant is not entitled to recover attorney's fees from the loser.[1] In federal administrative proceedings, as in federal courts, the victorious party cannot recover attorney's fees from the loser.[2] Only one agency, The Federal Trade Commission, is expressly empowered to provide compensation for parties participating in rulemaking proceedings.[3] There is some question as to whether other federal agencies are authorized to extend financial assistance to interested parties whose participation is considered necessary to the disposition of an administrative proceeding.

The conflicting decisions of courts and agencies on the question of government reimbursement for public participation in administrative proceedings clearly indicates the need for Congressional resolution of this issue. On February 19, 1976 the Comptroller General of the United States issued an opinion to the Nuclear Regulatory Commission approving agency assistance to participating parties when their participation is considered essential to a disposition of the proceedings and they lack sufficient funds.[4] Based on this opinion, the Second Circuit Court of Appeals, in *Greene County Planning Board* v. *Federal Power Commission* ruled that the Federal Power Commission was authorized to pay intervenor's expenses.[5] However the Court reversed itself in a later en banc rehearing, holding that it was not bound by the Comptroller General's opinion and denied the FPC the authority to reimburse public participants.[6] The Court based its decision on the principle that "no officer or agent of the United States may disburse public money unless authorized by Congress to do so."[7] Alluding to the *Alyeska* decision, the Court said:

> In light of the Supreme Court's very broad language in *Alyeska Pipeline Service Co.* v. *The Wilderness Society*, . . . that "absent statute or enforceable contract, litigants must pay their own attorney's fees", a finding that the Federal Power Commission is empowered to reimburse intervenors for their legal expenses must await appropriate Congressional action.[8]

However in 1978, the United States District Court for the District of Columbia reached a different result in *Chamber of Commerce of the United States* v. *United States Department of Agriculture*.[9] In this case, the Court refused to grant an injunction prohibiting the Department of Agriculture from funding consumer participation in an administrative rulemaking. The decision was

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Footnotes at end of article.

based on the broad authorizattion of the Department to expend money in the regulation of meat and poultry products.[10] The Court distinguished *Greene County* by pointing to the reluctance of the FPC in that case to pay an intervenor's fee, whereas in *Chamber of Commerce*, the Agriculture Department supported and wished to finance the consumer study in order to achieve a more balanced record in the rulemaking.[11] In addition, this case involved the funding of a study for the Department by an independent consumers group, which is clearly distinct from reimbursing participants in an administrative rulemaking who represent their own self interest. Perhaps because of these conflicting decisions, most federal agencies have been reluctant to establish programs providing financial assistance to participants in agency proceedings. This uncertainty will probably continue until Congress has clarified the issue by passing or rejecting legislation.

In *Alyeska Pipeline Service Company* v. *The Wilderness Society*, the Supreme Court expressed reluctance to establish a wide-ranging exception to the traditional rule against granting court costs.[12] The Court recognized that to do so would have the effect of overruling a federal statute[13] prohibiting the award of attorney's fees in a suit involving the United States unless the statute specifically provides. The Court realized that determining which statutes to award attorney's fees under is a policy matter best left to Congress for a decision on a case-by-case basis. An analysis by the Congressional Research Service found over sixty separate statutes in which Congress provided for the award of attorney's fees.[14] The Washington Legal Foundation believes the legislation pending before this committee would not be in the public interest, since a similar case-by-case approach should be made in providing federal assistance for participation in agency rulemaking.

In recent years, it has become increasingly apparent that government regulation imposes a substantial burden on the American economy. In addition to the costs of complying with government regulation, delays which result from drawn out administrative rulemaking proceedings also spur inflation. Environmental activists have been able to use administrative and judicial proceedings to delay, sometimes for years, government approval of needed business expansion. The Senate Judiciary Committee should think long and hard about this problem before approving a measure such as this bill which would encourage and even subsidize further delays in the regulatory process. The problem with federal administration today is not a lack of public intervenors, but the inability of regulatory agencies to cope with this increased participation and still provide for a prompt disposition of proceedings. It is our position that the regulatory process would be improved more by internal reforms which haste the completion of proceedings than by an increase in public participation which will further delay them.

As others have recognized, there is a substantial potential for collusion between agency bureaucrats and public representatives in the application of this legislation. Since a ceiling will be placed on the expenditures of each agency, then to the extent there are more qualified participants than funds available, agency bureaucrats will be put in the position of selecting among equally qualified participants. Bureaucrats who support a proposed regulation could arrange for like-minded public participants to be favored in receiving financial assistance. It should be recognized that no matter how stringent the regulations governing such financial assistance, abuses are inevitable. Even a separate, and theoretically independent, office within each agency responsible for payments to participants would not guarantee the absence of improper influence by agency officials.

Federal financial assistance may also destroy the incentive for public interest groups to develop and maintain their own sources of support. Private sources of support. Private sources of funds might dry up if people conclude that public interest groups do not need assistance since they are being financed by the federal government. A dependency on government funds will lead to a bias in favor of the agency viewpoint on many issues.

An example of how this legislation will be implemented can be found in the 1978 hearings held by the EPA on its proposed rule to reimburse expenses of public participants. Skip Laitner, Executive Director of the Community Action Research Group in Ames, Iowa, testified in support of the proposed rule by describing how he was induced to appear at the hearings:

> I would not have been here today, even though I received a letter from Kay telling me about this hearing, until a Region VII staff member called me personally and talked to me about it and persuaded me that I ought to come and said, we'll pay your expenses, and that type of thing. I'm here.

Clearly, agency bureaucrats will make a regular practice of stacking the hearings with participants favorable to their point of view.

Furthermore, no evidence has been presented to indicate that public participation in administrative proceedings has been so inadequate as to require government subsidy. Rather the opposite seems to be true. In all proceedings of any consequence, public interest groups have been able to muster sufficient resources to adequately participate and put their views on record. Currently, individuals and groups unable to afford an appearance at hearings are provided with a procedure whereby they may present their views in writing at a fraction of the cost.[15] Furthermore, these public interest groups often have access to substantial funding from local lobbying groups and coalitions whose narrow interests they often represent. There is, in our opinion, no need to further subsidize these organizations with $20,000,000 of the American taxpayer's money.

We also question the value of the sort of "public" participation which this bill seeks to encourage. Many of the so-called public interest groups who appear in judicial and administrative forums are in reality special interest groups claiming to speak for the public. There has, in recent years, been a proliferation of narrow special interest groups who actually work to delay or sabotage necessary economic development which would benefit consumers and provide jobs. By what right should the taxes of all Americans be used to subsidize the operations of such special interest groups which command a minimum of support? Such groups ought to go out into the marketplace of ideas to find support for their actions. Most public interest groups, including the Washington Legal Foundation, have been able to attract sufficient contributions from private citizens to actively represent their view of the public interest. This essentially private function should not be made subject to government interference through selective financial assistance. We have learned that federal aid quickly leads to federal control.

This legislation promises to bestow great benefits on a select group of attorneys who will specialize in representing public interest groups before federal agencies. We seriously doubt whether the rule-making process will benefit by more lawyers and longer delays. What is especially ominous is the failure of this bill to place any limits on the amount of financial aid which may be awarded, either in hourly rates, or total billable hours on a given matter. As currently drafted, the cost of this legislation could far exceed the $20,000,000 proposed. There is substantial potential for abuse in this bill, which may provide extraordinary benefits for a few lawyers, without greatly improving public participation in administrative proceedings.

We would like to recommend several changes in the language of the bill which would decrease the potential for abuse and serve the public interest.

Financial assistance for participation should only be granted when the participating group is essential to the disposition of the proceeding. The bill as currently drafted would grant assistance if the intervention "could reasonably be expected to contribute substantially to a fair disposition of the proceeding." This language is exceedingly broad and would cause unnecessary delays and expense. It is possible that several participants, each representing similar viewpoints, would be given financial support. The language should be changed to provide assistance only for participation "necessary" to the disposition of the proceeding.

The bill should also be rewritten to provide that financial assistance can be granted only when the participating group does not command sufficient resources to appear without government aid. As currently drafted, a group could receive assistance if the economic interest it represents is small in comparison with the cost of effective participation, regardless of the funds it has available. A well financed interest group could therefore apply for and receive federal aid if the economic interest it represents is sufficiently small. If this legislation is passed, it should provide financial aid only for those groups which would be completely unable to participate otherwise.

We would also recommend that financial assistance payments only be made at the conclusion of proceedings, when the agency has had an opportunity to evaluate the contribution made by the participating group. This is the procedure now followed by courts when awarding attorney's fees. If financial assistance is not awarded until the completion of a proceeding, a participating group would be required to demonstrate some degree of public support. Without such a change, a group with no funds or public backing could collect financial assistance from the federal government for an appearance.

Speaking for the Washington Legal Foundation and its 60,000 members, I would like to reiterate my belief that this measure will not advance the public interest while wasting $20,000,000 of the taxpayer's money. I thank you, Mr. Chairman, for this invitation to testify before the Senate Subcommittee on Administrative Practice and Procedure on this proposed legislation.

NOTES

[1] *Alyeska Pipeline Service Company* v. *The Wilderness Society* 421 U.S. 240, (1975).

[2] *Turner* v. *Federal Communications Commission*, 514 F.2d 1354 (D.C. Cir. 1975).

[3] 16 C.F.R. § 1.17 (1978).

[4] In Matter of Costs of Intervention-Nuclear Regulatory Commission, Decision B–92288 (February 19, 1976).

[5] *Greene County Planning Board* v. *Federal Power Commission*, 559 F.2d 1227, 1235 (2nd Cir. 1976) (*en banc*), *cert. denied*, 98 S. Ct. 1280 (1978).

[6] Id, at 1238.

[7] Id. at 1239.

[8] Id. at 1239–1240.

[9] *Chamber of Commerce of the United States* v. *United States Department of Agriculture*, 459 F. Supp. 223 (D.D.C. 1978).

[10] 21 U.S.C. § 469, 680.

[11] *Chamber of Commerce*, supra note 9, at 221.

[12] *Alyeska*, supra note 1, at 271.

[13] 28 U.S.C. 2412.

[14] Proposed Public Participation in Federal Agency Proceedings Act of 1977: Hearings on S. 270 Before the Subcommittee on Administrative Practice and Procedure of the Senate Comm. on the Judiciary, 95th Cong., 1st Sess. (1977) (Congressional Research Service Report by Henry Cohen).

[15] Administrative Procedure Act, § 4, 5 U.S.C. § 533, (1978).●

TRIBUTE TO A LEADING KANSAS CITIAN, DUTTON BROOKFIELD

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. COLEMAN. Mr. Speaker, on Monday, July 23, 1979 Kansas City, Mo., lost one of its finest citizens, Dutton Brookfield. While never attaining the elective offices he sought, Dutton Brookfield exemplified the style of business and community leadership which has shaped Kansas City into a thriving metropolis.

Mr. Brookfield, 61, was president of the Unitog Co., which manufactures and services uniforms and business apparel that are sold and rented nationwide. His untimely death came as the result of complications that developed after a fire in which he was severely burned.

The loss of Dutton Brookfield leaves a void in the metropolitan Kansas City area which will be hard to fill. His civic contributions were numerous.

A native Kansas Citian, he was president of the Chamber of Commerce of Greater Kansas City in 1973 and the following year was named "Mr. Kansas City," the highest award bestowed by the chamber.

He was campaign chairman of the Heart of America United Way Campaign in 1961, president of the civil council in 1973–74, a trustee of Midwest Research Institute since 1965, president of Kansas City Rotary International in 1954–55, and a director of the American Royal Association and the Starlight Theater Association.

Mr. Brookfield held two gubernatorial appointments: A 4-year term on the Kansas City Police Board; and, the Jackson County Sports Authority on which he served as chairman during the successful $102 million bond issue campaign which culminated in the construction of the Harry S. Truman sports complex.

He lost two bids for mayor of Kansas City, first in 1963 and again in 1971. But, as his activities clearly indicate, he never lost his will to serve his fellow Kansas Citians.

In addition to his presidency of the Unitog Co., Mr. Brookfield was active in other business affairs. He was director of Northwestern Mutual Life Insurance Co., the First National Bank of Kansas City, the Kansas City Power & Light Co., the Southwestern Bell Telephone Co., and American Can Co. He was a member and director of the National Association of Manufacturers.

Dutton Brookfield possessed remarkable qualities of energy and leadership. He was a man who directed his own affairs, and those of his community, with skill and sensitivity. His loss to our city is incalculable. As a friend his loss is a very personal one for me. I ask my colleagues to join me in expressing our deepest sympathy to his family and countless friends.●

REMARKABLE PARENTS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. MATSUI. Mr. Speaker, I would like to bring to the attention of my colleagues two remarkable parents who are constituents of mine. Masao and Sumako Itano of Sacramento have raised a family of four under most difficult circumstances, yet all four children have become outstanding citizens.

Though Masao attributes his children's success to their desire to study, I believe credit must be given to him and Sumako for encouraging their children to obtain an education. Learning had always been important to Masao, who left Japan at the age of 17 to seek an education in San Francisco. After attending high school there, he worked his way through the University of California at Berkeley, and graduated in 1917 with a degree in agriculture.

Masao and his young family moved to Sacramento where he did some farming, and he began an insurance business. However, the family was uprooted after Pearl Harbor, and Masao was forced into an internment camp for Japanese Americans.

Harvey, the eldest son, was a chemistry major at UC-Berkeley during that period. He wanted to come home to help his family, but his father wrote that he should never give up his education, and that Harvey should complete his courses.

Harvey graduated in 1942, but neither he nor his family was able to attend the ceremony because all had been confined to the internment camps. Yet even while imprisoned, Dean, Edith, and Masashi continued their education.

Upon their release, the children completed their formal education. Dean became a banker-lawyer, Edith a dietician, and Masashi a pathologist. Recently, Harvey became the first Japanese American to be named to the National Academy of Sciences.

Masao and Sumako can also take pride in their grandchildren among them including a Ph. D. in physics from Harvard, two fishery biologists, and an electrical engineer.

Such accomplishments by children and grandchildren can only come about by loving and supportive parents. It is fitting then, that Masao and Sumako be honored for all of their efforts.●

THE GASOLINE SHORTAGE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. RAILSBACK. Mr. Speaker, I talked with many people in Illinois' 19th District during the Fourth of July recess. Most of the discussions centered on energy, and, particularly, the gas shortage. As you know, many blame the oil companies and the Federal Government for the shortage.

I understand that allocation, pricing, and environmental regulations have adversely affected supplies. However, the extreme drop in crude oil supplies from which the gasoline is made seems strange, and people are having trouble believing that an oil shortage actually exists.

I, too, have questioned the industry's explanation for the shortage and have wondered what, if anything, could have been done to soften or even halt it. While reading the July 1 Chicago Tribune, I came across an article by Donald L. Barlett and James B. Steele entitled "How Blunders Cut Our Supply of Gas." I found the article to be extremely informative, and I think it sheds some light on the issue. I am therefore submitting it for the RECORD so that others may have the opportunity to read it.

The article follows:

HOW BLUNDERS CUT OUR SUPPLY OF GAS

(By Donald L. Barlett and James B. Steele)

Federal Government decisions and American oil industry actions last year guaranteed the shortage of gasoline and other petroleum products that currently afflicts the nation.

What's more, those same actions by industry and government—aggravated by Congress' failure to develop a workable national energy policy after six years of debate—have virtually assured the nation of suffering at least spot shortages of home heating oil next winter.

The severity of shortages will depend upon whether the coming winter is colder than usual, and whether industry and government dramatically step up imports of heating oil in the coming months.

Whether the decisions by government and industry last year were made deliberately to create shortages, or resulted from simple miscalculation, bungling, and inept planning, is unclear.

What is clear is that as recently as early last year, the oil industry was faced with the "problem" of a huge surplus of oil—a surplus that some oilmen feared might last seven years.

In its 1977 annual report, published early in 1978, Gulf Oil Corp. told its stockholders: "The world crude (oil) surplus is expected to continue possibly through 1985. The 1978 surplus . . . is estimated at up to 3.5 million barrels per day."

What is also clear, our investigation has established, is that:

Both the Department of Energy and the oil industry knew last year—or certainly should have known—that they were embarked on a course that would reduce the supply of oil while demand was increasing; and would thereby send prices soaring.

Contrary to the repeated assertions of the secretary of energy, James Schlesinger, and some oil company executives, that the current fuel emergency was triggered by the shutdown of Iranian oilfields, events leading to the shortage were set in motion by the oil industry and the federal government long before the revolution in Iran.

While the Iranian shutdown did disrupt world-supply patterns, it did not cause the long lines at gasoline stations, weekend closings or rising prices. It only exaggerated the situation.

Simply put, what happened was that an effort by the oil industry—with the Department of Energy idly looking on—to tighten up the oil market went awry.

The not-too-surprising results were skyrocketing prices at the gas pump and at the wellhead in member-nations of the Organization of Petroleum Exporting Countries (OPEC).

The year 1978 began, as Gulf Oil Corp. told its stockholders, "with a world (crude) oil surplus." Indeed, during the first three months of 1978, the Oil and Gas Journal, the industry's authoritative trade publication, reported:

"The international oversupply forced some of OPEC's producers with premium, higher-priced crude to cut prices during the first quarter by between 1 and 30 cents a barrel. . . . More cuts were made to apply to second-quarter sales." (A barrel contains 42 gallons—159.6 liters.)

Reviewing the global surplus of crude oil, the magazine noted that Nigeria was "one of the worst-hit countries with production of about 700,000 barrels daily without a market.

Venezuela had surplus production of 400,000 barrels daily, the magazine said, Iraq, 500,000 barrels, Iran, between 300,000 and 500,000 barrels, and Algeria and Libya, between 400,000 and 500.000 barrels.

In the United States, the market for all this excess petroleum was weak.

From January to April, 1978, the average price of a gallon of gasoline nationwide rose half a penny. And from April, 1977, to April, 1978, the price increase had amounted to just one-tenth of a penny.

By the last week in May, 1978, the price of gasoline in some cities had actually fallen from the same week a year earlier.

In Philadelphia, regular gas was selling for 65.5 cents a gallon, down from 65.9. In Charlotte, N.C., it was 66.6 cents, down from 67 cents. And in Chicago, it was 65.5 cents, down from 66.5 cents.

In response to the soft market, the oil companies began drawing down their inventories of gasoline and crude oil—this, despite the fact that inventories early in 1978 already were below the levels of some earlier years.

At the same time, the companies cut back on imports of refined products—such as residual and distillate fuel oils that are used to heat homes, run diesel engines and generate electricity—and slashed crude oil imports as well.

The decision a year ago to dramatically reduce crude oil imports, even though oil company inventories were already low, coincided with the international surplus that was forcing prices to inch down even in OPEC countries.

This reduction in crude imports meant that during 1978 American refineries received about the same volume of crude oil as they had the preceding year, even though demand—use of gasoline and other petroleum products by consumers—rose 1.7 per cent, from 18.43 million barrels a day to 18.74 million barrels a day, in the same year.

So it was that the United States ended 1978 with drastically depleted inventories, reduced imports of refined products and crude oil, and refineries operating at 88 per cent of capacity, down from 89.6 per cent in 1977.

To make matters worse, the Department of Energy in December of 1978 diverted the largest volume of crude oil ever to something called the Strategic Petroleum Reserve—the federal government's stockpile of oil set aside for distribution only in the case of dire national emergency.

The oil market in the United States was no longer soft.

Here, step by step, is how it all came about, as reconstructed from interviews and an examination of hundreds of industry and government documents:

During 1978, American oil companies imported crude oil at the rate of 6.048 million barrels a day. This was down 546,000 barrels from the 1977 crude oil import average of 6.594 million barrels daily.

While it is true that oil shipments from Iran dipped in December, for the full year imports of Iranian crude oil, and refined products processed from Iranian crude, were up by an average 9,800 barrels a day over 1977.

In stark contrast, petroleum imports from Saudi Arabia, the world's largest oil exporter and the OPEC country regarded as the United States' strongest ally in the Middle East, were slashed by 244,400 barrels a day from the rate of imports in 1977.

Imports from Nigeria also were cut, by 240,100 barrels a day. Imports from Venezuela were reduced 58,300 barrels daily. Even petroleum imports from Canada were down, falling 53,600 barrels from 516,900 barrels in 1977 to 463,300 barrels in 1978.

When added together, American oil companies actually sliced imports from Saudi Arabia, Nigeria, Venezuela, and Canada a total of 696,000 barrels daily all throughout 1978. At the same time Iranian imports were up by 9,800 barrels.

Interestingly, imports of crude oil into the United States during the first four months of this year—when the shortages were already in place, prices were rising and the nation ostensibly was feeling the brunt of the Iranian shutdown—actually increased 8.7 per cent over the same period in 1978, jumping 499,000 barrels from 5.716 to 6.215 million barrels daily, according to American Petroleum Institute statistics.

In addition to their sharply curtailed purchases of crude oil abroad in 1978, American oil companies also reduced their imports of refined products, such as home heating oil and diesel fuel.

These imports were cut back 211,000 barrels daily from 2.193 million barrels daily in 1977 to 1.982 million barrels last year.

The overall reduction in imports of refined products and crude oil at the very time there was a global glut of oil—totalled 757,000 barrels a day.

That 757,000 barrels a day would have been more than enough to eliminate the current gasoline shortage and avoid the series of events that have sent the price of gasoline soaring as much as 25 cents a gallon in the past six months, to levels of more than $1 a gallon in some cities.

The deliberate slash in imports by oil companies—the slash that brought on the current shortage and high prices—is even more dramatic when measured in historical terms.

In 1973, for example, American oil companies imported refined products at the rate of 2.767 million barrels a day—40 percent, or 785,000 barrels a day more than they brought into the country last year

Oil industry representatives have attributed the lower gasoline inventory late last year to a surge in demand during a warmer-than-usual fall that kept motorists on the highway.

As one industry spokesman put it: "Last fall has become known as the extended driving season."

While it is true that gasoline consumption was up 3.4 percent last year, compared to a 2.9 percent increase in 1977, it was still well below the 4.5 percent increase in demand posted in 1976, when there were no shortages.

What's more, while total demand for all petroleum products increased 5.6 percent during 1977, it rose just 1.7 percent last year.

Despite that modest increase in oil use, by October, 1978, all industry indicators pointed to spot shortages of petroleum products in the weeks and months to come.

Because demand increases each year, inventories of petroleum products must grow also, just to stay even. But inventories of gasoline dropped throughout last year. By October, inventories totaled 213,691,000 barrels—the smallest October volume since 1972.

Measured in terms of days of supply, the oil companies at that time had enough gas to last the country only 29 days—the first time in this decade that gasoline inventories had been allowed to drop below a 30-day supply.

Inventories of distillate—heating oil and diesel fuel—totaled 233,084,000 barrels, the first time since October, 1973, that the supply fell below 70 days.

It was the winter of 1973–74, of course, during the Arab oil embargo, that the United States was hardest hit by heating oil shortages.

Nonetheless, even with those numbers staring them in the face, government and industry late last year remained cheerfully optimistic about prospects of having adequate supplies in 1979 to meet the growing demand for oil products.

Even in December, when Shell Oil Co. announced that it intended to cut back on deliveries of gasoline, there was no undue alarm.

"Gasoline supplies appear adequate despite persistent rumors there may be shortages soon," reported the Wall Street Journal on Dec. 4, 1978. As the Journal spelled out the view of one high-level official in the Department of Energy on the Shell allocation plan:

"This is a corporate problem, not a national problem.

"It boils down to a few consumers who won't be able to buy their favorite brand."

One month later, in January, 1979, Texaco joined Shell in announcing a cutback in gasoline deliveries to its dealers as supplies across the country continued to tighten.

Still, the Department of Energy diverted 204,000 barrels of crude oil a day into the strategic petroleum reserve that month—the third largest shipment in the 17-month history of the project.

At the same time, the Energy Department repeatedly predicted that the price of gasoline would go up just 12.8 cents a gallon from the end of 1978 to the end of 1980 if price controls were removed, and only 9 cents a gallon if controls remained in effect. (In fact, of course, prices have risen by 12 cents a gallon, and more in some locations, just in the last five months.)

In February and March, there were further curtailments of gasoline deliveries to retailers by other major oil companies—including Exxon, Standard of California, and Mobil.

By April and May, the gasoline shortage was full-blown, as long lines at service stations became commonplace in California and stations across the country began closing on Sundays, limiting hours of operation on other days and limiting purchases.

There were shortages of diesel fuel, and business and industry were urged to reduce consumption of distillate fuel oil through conservation measures or by switching to natural gas.

All of this came about even though overall demand for petroleum products during the first four months of the year actually declined by 0.5 percent, falling from 19.470 to

19.366 million barrels daily, according to American Petroleum Institute figures.

By May, the average price nationwide for a gallon of regular gasoline had shot up 16.4 percent, going from 68.7 cents in January to 80 cents the last week of May. It has risen more since.

The 11.3-cent price increase during the four-month period far exceeded projections by the Energy Department of a 9-cent increase over two years.

From the last week in May, 1977, to the last week in May, 1978, when oil companies were awash in crude oil and gasoline—"We're drowning in crude," one oil industry executive put it in the summer of 1977—the average price of a gallon of regular gasoline went up only 0.6 percent, from 63.5 to 63.9 cents.

But from the last week in May, 1978, to the last week in May, 1979, when oil companies had made a conscious effort to reduce supplies of petroleum products, the average price of a gallon of gasoline soared 25.2 percent, from 63.9 to 80 cents.

By June, regular gasoline was selling for 93.9 cents a gallon in California, thereby virtually assuring permanent, $1-a-gallon gasoline before summer's end.

Throughout the weeks of steadily rising prices, both oil industry spokesmen and Energy Department officials attributed the move toward $1-a-gallon gasoline to the shutdown of Iranian oil fields.

But the industry's own statistics show the price increases actually were triggered by the decision to deplete the inventories during 1978—when crude oil was plentiful and comparatively cheap.

Martin Lobel, a Washington lawyer and former congressional aide who has specialized in oil industry policy, summed it up this way:

"Had the companies not drawn down their inventories, we would have had sufficient oil. There would have been little impact on price. There would have been enough cushion to absorb the Iranian cutback with minimum disruption."

Just as the major companies had simultaneously reduced imports all last year, they suddenly began increasing imports early this year. From January through April, imports of all oil were up 4.3 per cent from the same period last year; imports of crude oil were up 8.7 percent. Imports of refined products—gasoline and fuel oil ready for consumption—however still were down, lower by 7.1 per cent than they were in 1978.

But the increase in imports of all petroleum products taken together was enough to alert OPEC. And prices at the wellhead started heading straight up.

This spring, as it became apparent that American oil companies had slashed their inventories to precariously low levels by importing less oil all last year and that they therefore would need to sharply increase their imports in months to come, the Arab countries began adding surcharges to the contract price of their oil—oil that was suddenly in great demand. (The official price for Arab light oil, the bench mark crude, is $14.55 a barrel. Depending on quality, other countries price their oil proportionately higher.)

Kuwait imposed a $1.20-per-barrel surcharge, retroactive on all oil sold during the first quarter of the year. Oman added $1.02 a barrel. Other countries followed swiftly.

Algeria and Nigeria raised prices $2.45 a barrel, to about $21. Libya added $3.01 a barrel, bringing its price to more than $21 a barrel.

In addition to raising their contract prices, some OPEC countries also began setting aside larger quantities of oil for sale in the spot market—that is, sales not previously contracted.

Because of intensive bidding by American oil companies, and by foreign companies more directly affected by the Iranian cutoff, the price on the spot market rose to almost $40 a barrel.

The Energy Department, which had failed to take any action during 1978 when the oil industry was running down its inventories, responded by offering a $5-a-barrel subsidy to American refineries that needed it to buy, and pay for, the high-priced oil on the spot market. This response did bring more oil into the country, but it also helped drive up the prices Arab countries were charging for spot oil—and angered European countries, which now have to pay the new, higher price.

That decision, which served only to push world prices higher, was typical of policies initiated by the Energy Department—policies that not only contributed to the shortage in the first place, but aggravated it once it became a reality.

For several years now, Energy Department regulations have prohibited oil companies from charging higher prices for unleaded gasoline produced by expensive new refineries. Not too surprisingly, the industry has therefore failed to invest in new refinery equipment at precisely the time that such equipment is needed to increase the output of unleaded gas.

At the same time, one set of federal environmental regulations has required that auto companies produce cars that run on unleaded gas while another set of regulations has barred oil companies from using certain additives needed to produce unleaded gasoline in older refineries.

Newer refineries with more sophisticated equipment can produce high-octane unleaded gas without such additives. But it is precisely these refineries that oil companies have been discouraged from building because of federal price controls on unleaded gas.

Other Energy Department regulations also discourage gasoline production—such as various complex formula that permit oil companies to pass through more cost—that is, charge more—for petroleum products other than gasoline than for gasoline itself.

Further compounding the problem, when the lines began forming at gas stations early this spring, the Energy Department finally took note of the industry's low inventories of all petroleum products—and promptly and inexplicably ordered refineries to step up production of distillate fuel oil at the expense of gasoline.

Then, as it has done so many times in the past, the Energy Department a few days later reversed this policy and directed refiners to increase gasoline production.

All that exacerbated the problem. But did not cause it. The conflicting demands of government regulations aside, American oil companies during the five years after the oil embargo not only deliberately failed to increase their inventory levels, but in fact decreased their supplies in storage, as measured by days of supply on hand.

"If we had had decent inventories, the United States could have shrugged off the Iranian oil cutoff," said Dr. Joseph Lerner, a Washington energy economist, and retired Federal Trade Commission official, long active in government oil policy-making decisions.

Meanwhile, the government allocation of gasoline coupled with the panicky reactions of motorists who now keep their tanks full, have further exaggerated the present shortage.

Under Energy Department allocation rules, oil companies are required to set aside gasoline for individual states and priority users.

As for the oil industry, refiners operated at only 85 percent of capacity from January through April, up slightly from 84.3 percent during the same period last year.

But refinery production was held down in 1978, and operations were, and are, well below the peak levels of earlier years, when the utilization rate moved into the 90 percent range.

With U.S. refinery capacity now at about 17.3 million barrels daily, a shift of a single percentage point in operation means a difference in production of 170,000 barrels daily of refined products.

Because refinery utilization remained virtually static and imports of refined products were down, during the first four months of this year, spot shortage of gasoline are assured for the rest of this summer and fall, unless there is a marked reduction in demand.

Early in June, Energy Secretary Schlesinger noted that major oil companies had cut back the refining of gasoline in the last week despite a large increase in imports of crude oil available to refine.

Schlesinger said the Nation's refineries operated at only 84.5 percent of capacity in the week of June 4–11, a significant drop from the week before, when they operated at 87 percent of capacity—even though crude oil imports in the same week rose to 95 percent of last year's mid-June level.

Schlesinger said he found this situation "troublesome, disappointing and irritating," and said his department is pursuing a review along with the Justice Department, of charges that refineries have deliberately held down gasoline production to increase prices.●

REXFORD TUGWELL

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. GONZALEZ. Mr. Speaker, the news reports bring the sad notice of the passing of a most distinguished American, an original and seminal thinker, a man whose name is now etched indelibly in history. This man was Rexford Guy Tugwell. He was one of the charter members of the Franklin D. Roosevelt brains trust.

I was in school when he was a most active national public figure, but over the misty past clear in my mind. He it was who really saved Puerto Rico. He it was that demonstrated brilliance of mind and unshakeable faith in the American way and dream.

Mr. Speaker, I offer the New York Time's report on this event appearing today, Tuesday, July 24, 1979.

[From the New York Times, July 24, 1979]

REXFORD TUGWELL, ROOSEVELT AIDE, DIES

(By Albin Krebs)

Rexford Guy Tugwell, one of the three original members of President Franklin D. Roosevelt's New Deal "brains trust," died Saturday at Cottage Hospital in Santa Barbara, Calif.

Mr. Tugwell, who was 88 years old, had lived in the Santa Barbara area for a decade, and had been hospitalized with an undisclosed illness since June 19.

Mr. Tugwell was considered a brilliant economist, educator and political theoretician by Mr. Roosevelt and his colleagues. He never shied from controversy, seeming to relish his apparently self-chosen role as a sort of lightning rod to conduct criticism away from Mr. Roosevelt.

Although best remembered for his sometimes stormy New Deal days, Mr. Tugwell enjoyed a long public career of diverse callings.

RECRUITED FOR INNER CIRCLE IN 1932

He was a 41-year-old economics professor at Columbia University in 1932 when he was recruited, along with two Columbia colleagues, Raymond Moley and Adolf A. Berle, to form the inner circle of Roosevelt planners and advisers. The group, which came to be known as the "brains trust," was charged with charting the quest of the then-Governor of New York for the Presidency.

After four years of service in the Roosevelt Administration, for the most part in the Department of Agriculture, Mr. Tugwell was chief planner for New York City, chancellor of the University of Puerto Rico, Governor of Puerto Rico, an official at the University of Chicago, and, finally a senior staff member of the Center for the Study of Democratic Institutions at Santa Barbara. In the last post he headed the study group that in 1970 proposed a new Constitution for the United States.

He was born July 10, 1891, to the former Dessie Rexford and Charles Henry Tugwell, a well-to-do farmer and cannery owner in Sinclairsville, N.Y., a small town 12 miles from Lake Erie. His father was able to send him to school in Buffalo and later see him through bachelor's, master's and doctoral degrees from the University of Pennsylvania's Wharton School of Finance and Commerce.

"MAGNIFICENCE OF PLANNING"

It was at Wharton that Mr. Tugwell became a passionate believer in what he termed "the magnificence of planning," which he thought could eliminate most economic ills, particularly in agriculture, which had always been plagued by cycles of scarcity and glut.

After teaching stints at Pennsylvania, the University of Washington and in Paris, Mr. Tugwell, in 1922, became an associate professor of economics at Columbia. He succeeded to full professorship in 1926.

The next year, in which the anarchists, Sacco and Vanzetti, were executed, Mr. Tugwell and a group of liberals visited the Soviet Union, and the trip generated a blaze of publicity. None of them were converted to Communism, they later reported, but many in the group, Mr. Tugwell among them, were impressed with what he called "the power of the collective will" in the Soviet Union.

The visit was to plague his political career. In the Roosevelt Administration, editorialists loathe to personally attack the popular President delighted in using the despised "brains trust" intellectuals as whipping boys. To these critics, Mr. Tugwell was "Rex the Red."

Mr. Tugwell, who was often prolix and divagative in his written and oral statements, had an atypically succinct answer to such charges: "Liberals like myself would like to rebuild the station while the trains are running; radicals prefer to blow up the station and forego service until the new structure is built."

Mr. Tugwell held the title of Assistant Secretary of Agriculture in the early years of the New Deal, but he advised Mr. Roosevelt on a wide spectrum of policies for recovery from the Depression.

He was credited with the idea of licensing, and thus limiting, the planting of many major crops in surplus, and of paying farmers for not growing some crops.

He was a zealous crusader for Government regulation of businesses, and his efforts in 1933 to strengthen the Food and Drug Administration delayed his confirmation as Under Secretary of Agriculture.

Mr. Tugwell was named to head the new Resettlement Administration in 1935, which sought to move farmers from worn-out to tillable land. The agency organized several experimental cooperative farms, and Mr. Tugwell also pumped millions of dollars and a considerable portion of his time and talents into the planning of four model "greenbelt" towns, designed to relieve urban congestion. His efforts were attacked by New Deal critics as "collectivist," however, and in the absence of Congressional support, the resettlement projects were liquidated by 1938 at a loss.

That year was an eventful one for Mr. Tugwell. He was divorced from his wife, the former Florence Arnold, with whom he had two children, Tanis and Marcia. He married his secretary, Grace Foulke, with whom he was to have two sons, Tyler and Franklin. And he became chairman of the New York City Planning Commission.

EFFORTS IN PUERTO RICO

In 1941 Mr. Roosevelt sent him to San Juan as chancellor of the University of Puerto Rico, and later that year appointed him Governor of the island. Mr. Tugwell worked vigorously toward achieving economic and social betterment for Puerto Ricans, dismaying powerful sugar plantation owners and bankers by enlisting the aid of Puerto Rican politicians.

When he left San Juan in 1946, Mr. Tugwell was 55, but he remained vigorous, salty and handsome, and refused to take a vacation. He served as director of the University of Chicago's Institute of Planning for four years, then stayed at the university as a professor of political science, retiring in 1957.

In the years that followed he held visiting professorships at a number of universities in the United States and abroad, while continuing to turn out books, many of them based on New Deal experiences. His 1968 volume "The Brains Trust" won the Bancroft prize in history. "In Search of Roosevelt" appeared in 1972, when Mr. Tugwell was 81.

HEADED CONSTITUTION PROJECT

With his well-known irreverence for sacred cows, Mr. Tugwell was perhaps a perfect choice for the task of supervising the drafting of a model new Constitution. When he accepted the post of senior fellow at the Center for the Study of Democratic Institutions, it was with the understanding that most of his time there would be devoted to the project.

A draft of the proposed charter was offered "for discussion" in 1970, and it provided for creation of "The United Republics of America," 20 regional republics carved out of "the former 50 states." It suggested restricting the President to a single nine-year term, abolishing the Supreme Court in favor of various "high and special courts," and converting the Senate into an advisory body similar to Britain's House of Lords.

These recommendations stirred some discussion, but not widespread controversy, in legal and academic circles. The criticism fazed Mr. Tugwell no more than any ever had, and in early 1975, he said he was "still tinkering with, still studying, still revising, still thinking about" Constitutional reform.●

SYNTHETIC FUEL SUBSIDIES: THE PORK BARREL GOES WHOLE HOG

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. KEMP. Mr. Speaker, Americans must question the wisdom of a proposal to cut our reliance on foreign energy imports by levying $140 billion in taxes in the next 10 years on American energy which can be produced more cheaply than imported oil—to subsidize synthetic fuels which cost more to produce than imported oil. Clearly, American consumers would end up paying for the scheme—both for additional imported oil to replace discouraged U.S. production, and to subsidize the uneconomical energy projects.

Yet when the first phase of just such a plan was put to a vote recently, as part of the Defense Production Act reauthorization, only 25 Members of this House opposed it. Representative TOBY MOFFETT's now-familiar statement, that "the synfuel thing is greased," is apt. The legislative lubrication for synthetic fuel subsidies comes straight from the pork-barrel.

In an outstanding article published in Inquiry magazine (August 6 and 20, 1979), Bruce Bartlett reviews the history of this not very new idea. He explains why such an unappealing and costly proposal has received widespread support in Congress, and argues convincingly that the refusal of private companies to build synfuel plants without heavy subsidies should be a warning to the Americans who will have to pay for them. I commend this excellent article to the attention of my colleagues.

The article follows:

SYNTHETIC FUEL BOOTY

(By Bruce Bartlett)

The long gas lines in the Washington, D.C., area and other parts of the country have put renewed pressure on Congress to "do something" about the energy shortage. Having proven itself incapable of, on the one hand, eliminating the price controls that discourage production, or, on the other, adopting restrictive energy conservation measures, Congress has instead turned to a new proposal. It is one beloved by the AFL–CIO, the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Gas Association, and the oil shale industry: a $100 billion crash program to develop synthetic fuels. But the program probably won't work, and the U.S. consumer will be left holding the bag while big companies reap huge profits at no risk.

Synfuel is a broad term for usable oil and gas manufactured from coal, oil shale, tar sands, and other unconventional sources. The basic process through which this transformation takes place is not new. It was first developed by the Germans during World War II and is known as the Lurgi process. At present the South Africans and the Canadians are the only ones making large-scale use of synfuels. The South Africans have been manufacturing oil from coal since 1955 and are at present expanding their facilities, and the Canadians are engaged in making oil from tar sands. In both cases, however, the projects are heavily subsidized by government.

The reason why synfuels have never been developed by private industry in the United States (or anywhere else for that matter) is quite simply the cost. Even with the high OPEC price for oil, it is still about 50 percent more costly to manufacture synthetic oil from coal. And even this cost estimate may be optimistic, for as yet there have been no commercial-scale synfuel plants built in the United States that can yield cost data. Indeed, consistently, the more economists and engineers study the subject, the higher the cost estimates go. As Harry Perry, an engineer with Resources for the Future, puts it: "The closer you get to building the plant the more you take a real hard look on the ground and the more the costs go up."

In order to get around this fundamental stumbling block, those favoring synfuel development have been trying for at least four years to get the government into synfuels in a big way. Back in 1975 Vice President Nelson Rockefeller first suggested the need for a massive synthetic fuel development program. He proposed a $100 billion package of grants, loan guarantees, subsidies, and price supports, with an Energy Independence Authority largely to launch synfuel and other new energy sources.

Hoping to be able to push the program through, one piece at a time, the administration proposed as a start a $6 billion loan guarantee program to build commercial-scale synthetic fuel plants. The measure was tacked onto the Energy Research and Development Administration authorization bill for 1976 by the Senate after the bill had already passed the House. There were no hearings, virtually no debate, and little opposition to the synfuel amendment in the Senate. The loan guarantee program was approved by a vote of 80 to 10.

Passage in the Senate put opponents of synfuels in the House in a difficult position. Because the synfuel amendment was retained in conference, they had to try to strike that section from the conference report on the House floor, a very difficult thing to do. Nevertheless, thanks to quick work by a coalition of fiscal conservatives and environmentalists opposed to the synfuel loan guarantees, and a timely editorial against the plan by the Wall Street Journal, the synfuel section of the bill was deleted by a vote of 263 to 140.

Undaunted by this setback the Ford administration returned the following year with a new request for a mere $2 billion to build two synthetic fuel plants. The House Science and Technology Committee, under the leadership of its strongly prosynfuel chairman, Olin Teague of Texas, doubled the size of the program and sent it on for additional consideration by the House Banking Committee and the Interstate and Foreign Commerce Committee.

As the loan guarantee bill moved through the committees the opposition increased. Environmentalists like Representative Richard Ottinger of New York argued that large-scale development of synfuels would be a disaster for the environment because such production will necessitate large-scale surface mining for coal and oil shale. They also argued that cleaner, more economical, second-generation synfuel processes are in the offing and that money invested in currently available synfuel technology would be wasted. Lastly they expressed fear that a heavy investment in synthetic fuels would close off development of solar energy and other alternative sources.

On the other hand, fiscal conservatives were largely concerned about three things: existing government policies such as price controls that discourage the development of conventional oil and gas, the use of government loan guarantees to finance the project, and the fact that synfuel is uneconomical to produce. Typical were the comments of Representatives James Broyhill, James Collins, Samuel Devine, and John McCollister, in dissenting from the Interstate and Foreign Commerce Committee report on H.R. 12112: "Such programs as H.R. 12112 will weaken the free enterprise system by artifically supporting the development of industries which are being stifled by overregulation. These same industries would most likely flourish in a free market environment. . . . The loan guarantee program is essentially a government subsidy to pay for government regulation."

Unfortunately for the supporters of synfuels, the General Accounting Office supported the critics on almost every point. In a report issued on August 24, 1976, the GAO said flatly that "government financial assistance for commercial development of synthetic fuels should not be provided at this time." The GAO report had a devastating impact on the synfuel bill, but what may have been the final blow was delivered by Representative Ray Madden of Indiana, chairman of the House Rules Committee. On September 23, 1976, the House took up consideration of a rule to provide for floor debate on the synfuel bill. In an unprecedented action Madden urged his colleagues to vote down the rule, which would effectively kill the bill. "This is not only a turkey, it's a gobbler," he said. The House then proceeded to vote it down by a one-vote margin, 192 to 193.

Nothing more was heard about synfuels during the Ninety-fifth Congress, but now, like a phoenix, the synfuel bill is back again. This time however the synfuel supporters are being much more clever and have successfully disarmed the opposition by selling the program as a defense measure.

For some reason, when the Defense Production Act of 1950 came up for reauthorization earlier this year it was referred to the House Banking Committee. There it was referred to the Economic Stabilization subcommittee chaired by Representative William Moorhead of Pennsylvania. Moorhead has long been a staunch supporter of synfuels and by coincidence among his constituents is the Koppers Company. The Koppers Company is heavily involved in coal gasification and has strongly backed earlier government synfuel proposals. Thus the Defense Production Act was linked to a new synfuel bill that included an open-ended loan-guarantee authority for the building of at least five synfuel plants capable for producing 500,000 barrels of synthetic crude oil per day by 1984.

The Moorhead bill moved quietly through the Banking Committee and was reported out on May 15 with only one dissenting vote. Apparently the combination of gas lines and alleged national security implications demolished the opposition. Moorhead's hometown paper, the *Pittsburgh Press*, for example, likened his bill to a necessary wartime measure. So closely was synfuel associated with American defense that Jack Anderson quoted one commitee member as saying. "By turning this into a defense bill I had to vote for it even though I'm dead set against it." This view seems to be widespread. Even Ottinger, who led the opposition in earlier years, has now climbed on the bandwagon.

The relative ease with which the synfuel bill seems to be advancing, in contrast to earlier years, has encouraged its supporters to push for even more. Thus Representative Jim Wright, House majority leader, pushed on the House floor for a massive expansion of the synfuel program. This action authorized an increase from a target of 500,000 barrels per day to 2 million per day. Since the Congressional Budget Office estimates that the Moorhead bill may cost as much as $22 billion, this puts the Wright plan in the $88 billion range at least. In addition, Senator Henry Jackson has come up with his own energy bill that would, among other things, authorize $5 billion to build fifteen synfuel plants. In order to spread the wealth around and attract cosponsors Jackson made a point of specifying the following projects:

$500 million for the Solvent Refined Coal I project in Kentucky (supported by Senators Wendell Ford and Walter Huddleston);

$700 million for the SRC II project in West Virginia (supported by Senator Robert Byrd);

More than $1 billion for high- and low-BTU coal gasification projects in Ohio and Louisiana (supported by Senators Howard Metzenbaum and Bennett Johnston);

Geothermal plants now tentatively set for Idaho, California, and New Mexico locations (supported by Senators Frank Church, Alan Cranston, and Pete Domenici);

$300 million in loan guarantees for an urban and industrial waste conversion plant (supported by Senator Bill Bradley of New Jersey); and

$250 million for a new fuel-cell demonstration program pushed by United Technologies Corporation of Connecticut (supported by Senator Lowell Weicker).

A rather ominous section of the Jackson bill would essentially abolish what protection from pollution we have now. Section 204 of Senator Jackson's bill gives the secretary of energy authority to classify a proposed energy facility as a priority project. When such determination is made the project becomes exempt from portions of environmental laws, and the right to challenge such action in court is severely limited. Certainly petty environmental rules have hampered energy production on numerous occasions, but giving Jim Schlesinger the sole power to authorize pollution or override environmental safeguards would hardly seem to be the best approach. Moreover, Senator Domenici and ten others have introduced a $75 billion synfuel plan to produce five million barrels of oil equivalent per day by 1990. And Representative Carl Perkins, who is from a coal-rich district in Kentucky, has rammed through the House Education and Labor Committee—of all places—a $200 billion synfuel program that would make extensive use of coal.

In order to build support for the Jackson-Moorhead-Domenici-Perkins energy plans a sophisticated public relations effort is being geared up. The same week that Jackson's bill was introduced, major articles and editorials in favor of synfuels appeared in the *Washington Post* (which had opposed synfuel editorially in previous years), *Newsweek*, and the *New York Times*. One proposal in particular that received wide attention was authored by three influential Washington, D.C., veterans: Paul R. Ignatius, former secretary of the air force; and Lloyd N. Cutler, senior partner in one of Washington's biggest law firms. Each piece essentially repeated the same line: Synfuels may be expensive but it is better to pay the price than to be dependent on OPEC any longer. As the *Times* put it:

> The arguments against a crash program for synthetic fuels are strong, and until recently they would have been persuasive. Much of the money is likely to be wasted, since no one is sure which production techniques are cheapest or how best to manage their development. The opportunities for pork-barreling and corruption would be plentiful. . . .
>
> But five years of dissension and half-measures have changed that outlook. Americans bitterly resist solutions that require them to face the limits of their influence over foreign energy suppliers. Synthetic fuels offer a way out that fits the nation's image of itself and allows the inevitable economic sacrifices to be seen as the consequences of American strength, not weakness.

One can have sympathy for the view that OPEC should not have the control it does over world fuel prices, without sinking $100 billion into questionable energy technologies. The arguments against the first two synfuel bills are still valid. It makes no sense to rush headlong into developing synthetic oil at a cost of $30 to $40 per barrel when the wellhead price of lower-tier domestic crude is held down to $5.75 per barrel and foreign oil can be purchased for about $20 a barrel.

The fact that loan guarantees would be

used to build these synfuel plants in no way diminishes their actual economic cost. As Assistant Secretary of the Treasury Gerald Parsky testified on an earlier synfuel loan guarantee program:

"Any type of federal financial assistance resulting in the undertaking of energy projects which would not otherwise have been undertaken will lead to some redirection of resources in our capital markets. Such incentives increase the demand for capital while, having little or no effect on the overall supply of capital. They tend to cause interest rates to rise and channel capital away from more economic uses to less economic uses. In short, the proposed program of Federal incentives will direct capital away from other areas of our economy into synthetic fuels production."

Many argue for this kind of redirection of capital as if there were a legitimate national-security factor involved, or as if we were dealing with businesses somehow barred from access to capital markets. Yet the military uses only about 2 percent of U.S. crude oil consumption, so it cannot be claimed that national security is involved. In fact, Department of Defense officials who testified on the Moorhead bill refused to endorse it as necessary for national defense. Moreover, the companies involved with synthetic fuels are among the largest, such as Gulf, Shell, Exxon, Amoco, and Occidental Petroleum.

It would appear, in the final analysis, that companies that might be interested in synthetic fuel development, especially as the price of foreign crude goes higher, may well hold out for government loan guarantees and price supports because they expect Congress will provide them. It would be foolish for a company contemplating the building of a synfuel plant to do so on its own when the government stands ready to assume all the risk. This is what primarily bothered the lone dissenter on the House Banking Committee, Representative Ron Paul of Texas, about the Moorhead bill.

"As a proponent of free enterprise capitalism," Paul said, "I find it quite disturbing that we are continuing on a course of subsidizing private corporations and creating government corporations to achieve the goals of the Defense Production Act. In view of the fact that the government, that is, the American taxpayer, is assuming the risks of both the lending institutions and the corporations themselves, this bill might better be called the 'Corporation Welfare Rights Act of 1979'. . . Beside HR 3930, the bailouts of Lockheed and Penn Central pale into insignificance. What we see in HR 3930 is a blueprint for the combination and collusion of big government and big business to exploit the American middle class, the American taxpayers."

Unfortunately, it seems very unlikely that Representative Paul's view will prevail. On June 26, the House of Representatives approved the Moorhead bill by the lopsided vote of 368 to 25. Conspicuously not among those who voted nay were such environmentalists as Ottinger, Patricia Schroeder, and Andrew Maguire, and such fiscal conservatives as John Ashbrook, Philip Crane, and Robert Dornan. The twenty-five dissenters, almost evenly divided between Republicans and Democrats, were a small but heroic band of the most resolute environmentalists and fiscal conservatives. Apparently Representative Toby Moffett was guilty of gross understatement when he said before the House vote, "The synfuel thing is greased. You've never seen such a locomotive."

The Senate's response now remains unclear. The Defense Production Act was passed by voice vote on June 20 without the synfuel section. On June 27 the Senate decided to hold additional hearings on the synfuel section of the Defense Production Act, but since the section was referred jointly to the Senate Energy Committee, the Governmental Affairs Committee, and the Banking Committee, this could turn into the biggest "Christmas tree" bill of all time, with every senator attaching his pet energy program as an ornament.●

HEALTH CARE IN RURAL AMERICA

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. NOLAN. Mr. Speaker, I would like to take this opportunity to alert my colleagues to a recent report released by the Department of Agriculture entitled "Health Care in Rural America."

The report, prepared by the Department's Economics, Statistics and Cooperatives Service, concludes that the health needs of rural citizens are not being adequately met. The report reveals that the major reason rural Americans have inadequate access to health care services is poverty.

Clearly, the time has come for the Federal Government to construct and implement a comprehensive rural development policy, which would recognize the special needs and problems of rural citizens. A key component of this policy should be a national strategy to eliminate rural poverty and thereby improve rural health care delivery.

I am inserting the press release from the Department of Agriculture announcing the release of the report.

The release follows:

USDA Says Health Care Lags in Rural America

Washington, July 20.—Rural areas continue to have greater unmet health needs and "fewer health resources than any other area of the United States," says Mary C. Ahearn, an economist with the U.S. Department of Agriculture.

A report issued here today says every 100,000 metropolitan dwellers are cared for by 157 doctors, while every 100,000 nonmetropolitan Americans are served by only 71 doctors. In addition, rural areas have only about a third as many medical specialists per 100,000 population.

Ahearn said while distribution of hospital and nursing home beds per capita is more nearly equal between the two areas, rural facilities are generally older, are less likely to be accredited and often lack specialized services, such as respiratory, therapy and psychiatric services.

The recent reversal of the rural-to-urban population migration has increased the strain on the health care system in totally rural areas because the increase in the number of physicians in these areas between 1970 and 1975 did not keep up with population increases.

The report, "Health Care In Rural America," says poverty is a major obstacle to improved health care in rural areas since a disproportionately larger number of rural residents live in poverty.

According to Ahearn, "Poverty increases the incident of disease through its relation to poor nutrition, housing and sanitation, and as family incomes decrease, the average number of disability days per person per year tends to increase. Poverty also decreases an individual's ability to buy needed care, both directly, and indirectly through insurance plans."

The report, issued by the department's Economics, Statistics, and Cooperative Service, describes other special rural area health problems and some of the major government programs for dealing with them.

Single free copies of "Health Care in Rural America" (AIB–428) are available from ESCS publications, room 0054–S, U.S. Department of Agriculture, Washington, D.C. 20250. Please include your zip code.●

SURVIVAL OF U.S. LEATHER INDUSTRY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. RODINO. Mr. Speaker, later this week we are scheduled to consider the Export Administration Act Amendments of 1979. At that time an amendment will be offered to restrict cattle hide exports under certain conditions.

I have joined in cosponsoring this amendment, for I believe action is urgently needed if we are to prevent the demise of our domestic leather using industry and employment it generates. It is unconscionable to me that we should continue export policies that are causing irreparable damage to this industry and the thousands of jobs it provides while other countries refuse to cooperate in achieving an equitable trade arrangement.

The July 1 issue of Retailweek contains an excellent article outlining the problem and I ask that it be included in the Record for the information of my colleagues.

The article follows:

On the Trail for Cattlehides

The recently launched Hide Action Program may turn out to be the domestic leather industry's last stand. Unless export controls are imposed, the U.S. leather industry won't be able to afford the price of U.S. cattlehides.

Time was, the leather industry—from tanning to turning out the finished product—was a major U.S. industry ranking right up there along with the likes of the steel industry. Today, those who are still left in the U.S. leather industry are finding it necessary to band together and attempt to impress upon Washington that this industry is in danger of becoming as extinct as the buggy whip.

Yes, everyone in Washington already knows that the shoe people in particular have been living with a knife in the back known as imports. But what the entire leather industry is trying to explain to Washington is that as difficult as it is to compete with imports of finished goods, the manufacturers of footwear as well as handbags, luggage, outerwear, sportswear *et al.* might as well throw in the sponge if they cannot buy the U.S. hides needed to make U.S. products because the majority of them are being sold to those same countries which produce the finished products, which come back to the U.S. to haunt the industry for the second time around.

The irony of the situation is that the United States is the major supplier of cattle hides to the world, representing about 15% of the world supply. But the majority are sold abroad with these exports representing about 75% to 80% of the world supply. This world-wide demand for U.S. cattlehides is exacerbated by the fact that other countries with substantial herds—such as all the South American countries—totally prohibit the export of hides; preferring to keep them at home to develop and protect their own leather industries. These restrictions create an inordinately high demand for U.S. cattlehides that has been abetted by the cattlemen's restrictions in the size of the cattle slaughter.

This combination of foreign demand, South America's refusal to sell hides, and a reduced U.S. cattle slaughter have caused the price of U.S. hides to skyrocket. The domestic industry's dilemma began in 1972 when Argentina cut off its sale of hides, eliminating about 12-million hides from the world market. Hide prices then jumped from 14 cents to 32 cents a pound, then stabilized in the area of 38 cents a pound. At that time the U.S. exported about 48% of its hide supply.

But between 1975 and 1977 U.S. cattlemen began to reduce the size of their herds. Cattle slaughter peaked in 1976 when 43.2-million hides were available, but it is estimated that the number of hides available in 1979 will be down to 34.2-million. While supply has been dwindling, however, world demand for U.S. hides has been escalating; exports are expected to take 24.5-million of the 34.2-million in 1979. This means that the U.S. in 1979 will be exporting 71.6% of its hide supply and supplying 75% to 80% of the world hide trade. This export level also means only about 10-million hides will be left for U.S. producers when domestic requirements for hides are between 18- and 20-million a year.

This shortage has created price levels that the industry cannot afford to pay, even if enough hides were available. The jump from 14 cents to 38 cents in the early 1970s looks like the good old days. By December 1978 prices reached 58 cents a pound; but between December 1978 and May 1979 prices zoomed to more than $1 a pound.

Neither declining supply nor higher prices have dampened the foreign appetite for U.S. hides. Where else are the Far Eastern and Eastern Bloc countries—anxious to build a business in finished leather goods but without a cattle supply of their own—to go for hides? The U.S. is virtually the only country left with both a large cattle supply and freebuying access to this supply.

The country taking the greatest advantage of U.S. policy is Japan. Though it closes its doors to U.S. finished leather products, Japan, nevertheless, has an insatiable appetite for U.S. hides; buying 35.9% of U.S. hide exports in 1978. The purchases of Japan and Korea combined account for more than 50% of exports with 30 other countries accounting for the rest. Due to an exchange rate advantageous for Japan, the price of U.S. hides has not deterred Japanese purchases. On the contrary, the Japanese have been buying more.

The upshot is that neither Brazil, Argentina, Uruguay, Mexico, India nor Pakistan—countries with substantial herds—will sell hides in the open market. They want to protect their domestic industries. Japan, Korea and the Eastern Bloc will buy almost all the hides the U.S. has to sell, but they will not take finished leather goods. They want to protect their domestic industries. That leaves countries such as Canada, Australia, New Zealand and those in western Europe as world markets for the sale of hides; but it is the U.S. that has the greatest supply. Now the U.S. leather industry is saying—enough is enough. It is saying it doesn't object to operating within the traditional laws of supply and demand; but it cannot survive when, in reality, this means only the U.S. has the supply and every other country makes the demand.

That is why several trade associations in the industry have banded together to launch what is called the Hide Action Program (HAP). This program is an attempt to bring the plight of the industry to the forefront through demonstrations in cities hosting leather-using industries and by blitzing members of Congress and President Carter with letters and personal visits. The program's goal is to convince Washington that action is needed now in the form of export controls on U.S. hides that would both bring down the price of hides and make more of them available to U.S. producers.

HAP's message is that the alternative to action from Washington is the ultimate extinction of the domestic leather industry with the resulting loss of thousands of jobs or, at best, price increases in leather products that the industry estimates could cost customers over $1-billion a year. Given the high U.S. hide prices and the fact that foreign countries are dependent on these hides, customers switching to imported leather products is no longer a viable alternative in an effort to economize. Neither U.S. nor imported leather goods may be affordable by U.S. consumers.

Unfortunately, this recent mobilization by the industry has only a slim chance of producing results. Though it has been aware of the hide situation since 1972, Washington has never displayed any great sense of urgency in alleviating the problem. In 1972, following Argentina's action, the concept of export controls was entertained and then quickly dropped. Since then, despite preferential tariff treatment for the so-called developing countries, these same countries have ignored Washington's efforts to persuade them to sell their hides on the open market. And, negotiations with Japan have extracted only an unofficial promise that it will reduce purchases of U.S. hides by 10 percent. But, even if Japan were to honor this 'promise'—which it hasn't—this 10 percent figure is meaningless since U.S. cattlehide supplies have decreased by much more than this 10 percent figure.

Leather industry members claim that it is only their current desperate plight and past failures in attempting to resolve the problem through negotiations with foreign countries that have left no choice but to push for export controls. If this means that the U.S. leather industry is going to have to explain this 'protectionist' move—so be it. The industry prefers free trade in hides but has been unable to achieve it. Understandably, the industry is now tired of being "the unwitting patsy in the international free trade game". So it is shooting for export controls because all else has failed.

Unfortunately, there is another and more powerful lobby in Washington; they know how to use a sixshooter, too. This lobby consists of the cattlemen, or as the leather industry prefers to call them, the cowboys. They have already made it clear to Congress and the Administration that they don't hanker for hide controls. They like things just the way they are. Evidently their message has been heard, for the Administration has already also declared itself against export control of hides.

But, never fear, Washington will concoct a solution, even if it is the wrong one. Right now Washington has suggested that it might be willing to provide subsidized loans to enable U.S. industry members to afford U.S. hides. Unfortunately, Washington has overlooked the fact that loaning money to U.S. manufacturers for the purpose of buying hides at already inflated prices will merely drive the price of hides ever higher, insuring that more and more of the domestic leather industry will surely go down the drain.

It is now high noon for the domestic leather industry. The HAP program is, at least, a sure sign that it intends to go down fighting.●

SPANISH SURNAMED WOMEN OF YESTERYEAR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mrs. SCHROEDER. Mr. Speaker, my State of Colorado and other Southwestern States are particularly enriched by the influence and heritage of Hispanic peoples. Colorado's Hispanic women honor the historic cultural ties which bind them together. Today's active Chicanos, speaking out for their people, know well the stories of their mothers and grandmothers. Marcella Trujillo, in her article, "The Colorado Spanish Surnamed Woman of Yesteryear," shares the legacy of a past which continues to nourish the present.

The article follows:

THE COLORADO SPANISH SURNAMED WOMAN OF YESTERYEAR

(By Marcella Trujillo)

The history of the Spanish surnamed in Colorado has survived in our communities through the oral tradition or preservation of the archaic speech in Colorado dialect. If the older generation of the state were to compile autobiographies, we would have recorded a rich history of tradition, lifestyle and customs going back to the seventeenth century. In this preface to the contemporary Chicanos, I would like to offer some aspects handed down to me through oral tradition going back so far, it is untraceable, except to say that I am fifth generation, born in the San Luis Valley of Colorado.

My father has said to me as it was said to him, that Del Norte lost by one vote in becoming the state capitol. I often wonder if Del Norte had been the state capitol, our history might have been similar to that of New Mexico, with more emphasis on the Spanish speaking and our Indo-Hispanic culture.

I would like to comment on the earlier generations of women in the Valley, emphasizing this area since it was the oldest settlement in Colorado. Southern Colorado with northern New Mexico was the first European settlement in the United States. Although we can speak of earlier expeditions, we cannot talk of settlements because the earlier Spaniards such as Coronado returned, and did not settle here. Since there were not state boundaries at that time, to talk about northern New Mexico and southern Colorado is to speak about the same region even today. This Valley is 7,000 feet high, in a basin surrounded by mountains, causing an isolation that has caused this area to be exploited economically, causing the population to migrate into the larger cities. It is well known that politicians have not put industry into this area, one of the most picturesque in Colorado, with the end result that today, this area is economically depressed and the largest percentage of Chicanos on welfare rolls are from this area.

It is said that the Spanish who explored this area in the 16th and 17th centuries chose it as the site for settlement because the valleys, streams and mountains reminded them of the area they had come from. In 1598, Juan de Oñate with 300 families and Tlaxcaltecan Indians came into this area to homestead. While waiting in Mexico for permission to enter the territory, he had married a mestiza and brought her with him.

Both cultures, the Indian and the Spanish-American learned much from each other. From the Indians, the woman learned how to bake bread outdoors in adobe hornos, how to dry meat (charqui), today, called 'jerky,' and learned how to store the meat in sacks for the winter. The Indians also showed how to make dyes for blankets and how to cure, using herbs.

The area was agricultural and included some land grants. In these tightly knit communities, neighboring farmers and their families helped each other harvest the crop. It was a communal and cooperative system, and up to 1968, the people in San Luis owned a common ejido where they grazed their cattle. At that time, there was a gun battle between the people of the ejido, and the New York anglo who put up a fence around it, claiming that the land was his through a recent sale.

It was common to have large families in earlier times so that each family could supply their own farmhands. As the people begin to lose their land through taxation or illegal manipulations of the gringo, they continued to have large families so that the whole family could provide an economic base of survival. Also, many children died in childhood, so having large families guaranteed that enough would survive to provide for the family and to take care of the parents in their old age since nursing homes were unheard of. It was not unusual to find three generations in one household. Later after the second World War, as we migrated to the urban cities, Pueblo or Denver, we kept contact with the relatives behind, renting houses in the neighborhood as they became available for those who were to follow the migration pattern.

In my own childhood, I remember that the women spent the summer drying fruits and vegetables, as well as canning before refrigerators came into use. It was common to have a casita for food and meat storage. Sometimes walk-in-holes were dug in the earth, called "subterraneos," which served as a cold storage area. Almost everyone in the neighborhood has a "huerta" in their yards, and water was supplied from artesian wells which irrigated the lawns and gardens. I remember that among my relatives and neighbors, it was a rare occasion for anyone to buy at the store since food was provided for by the garden, and meat from killing hogs, sheep or chickens was shared by all the relatives and the immediate neighbors. Dairy products were sometimes supplied by relatives living on the farm.

Curanderismo and the parters (Midwives) were common in my grandmother's day. My own grandmother, Martina Rendon Lucero, born in 1864 and died in 1950, had never been to the hospital in her life, except to die at the age of 86. Women had a knowledge of home remedies. Today, the herbs they planted still grow wild in the mountains and valleys by a generation of women who were used to caring for their own families, relatives and neighbors in their communities, rather than going to doctors.

The same beliefs that gave rise to the Penitents, a religious cult, produced legends about brujas (witches) and true stories about the gypsies who traveled in the Valley and were much feared because they had the reputation of stealing children.

The food that we ate was Indian and Spanish. It was Indian in the types of chili that we ate, some peculiar to this day to Colorado and New Mexico, such as the long green chili. Other regional foods include the chicos, pinon, panocha, cheese made from goat milk, requeson, sweet rice, corn, lamb, beef, capirote called "sopa" and flour tortillas, different than the thin kind made today, but which were thick and puffy.

The dating and marriage customs of earlier times were much different than today. Often, marriages were arranged between the families. If a suitor was rejected, it was customary to give him pumpkins. If he was accepted, he would read a long poem of eulogy, to the new lineage. In my grandmother's time, dating was not permitted, and even with the noviazgo (engagement) women were often chaperoned much as they were in Mexico or Spain.

Weddings generally lasted three days. Prior to the wedding, there were banquets hosted by each of the families. The gown and rings were paid for by the groom, the wedding by the bride's parents and the dance by the padrincs. During the wedding, the "versero" would sing the traditional coplas abcut marriage. These were verses handed down by oral tradition and performed at weddings. They remain alive in the Valley with the older generation and will probably die with them unless recorded. It was customary for the mothers of the bride to cry when the versero sang the copla starting with the line, "ya no hay madre, ya no hay padre . . ." The versero would also compose poems about the guests present and this would call for money to be thrown at his feet while he sang.[1]

During the wedding, the bride and groom's parents gave the "bendición"—blessing before the newly married couple left on their honeymocn. The wedding reception was full of ritual and ceremony, including the wedding march which was usually marched to the song, "Zacatecas."

Interestingly enough, the dialect which had persisted since the 16th and 17th century tells us something about Spanish surnamed women. They called their dresses "tunicos," a term that is old as Roman times—the tunic, "Downtown" was "la plaza" which tells us that the towns were constructed arcund squares. Beds were called "camaltas" (cama-altas) which tells us that the earlier beds must have been built higher than today's, since "camalta" means high bed. The mattresses were often made of goose feathers or sheep's wool.

Proverbs which are found in Don Quijote are still in use today. The fact that the dialect has persisted, but which is slowly dying out, tells us that another concept of the 16th Century lifestyle may still be eltant. I am referring to the 16th Century concept of honor which originated in Europe. "Honra" and "honor" were the 2 points of honor (pundonor) which governed the family institution. "Honor" was what a man thought of himself—"My name is my fame, i.e., reputation," and "Honra" was what others thought of him. As in Spain and Mexico, the women of the family were considered the repositories of that honor. If their behavior stained the family name, it was a "pundonor" and the men of the family were required to cleanse the family name by duels. While this was not the case in Colorado, it did put emphasis on the fact that it was a man's duty, husband, father or brother to watch carefully over the young women of the family. Hence a woman's activities were restricted so as not to provoke the men's machismo.

Whether this concept of honor reinforced machismo as we know it today, it is a fact that the ballad "Rosita Alvirez" is well known and perpetuated among the Chicanos of Colorado. The men identify with the young men in the ballad, Hipolito, the macho, and the women sympathize with Rosita, the victim of that machismo, killed for rejecting him publicly at a dance.

—Rosita, no me desaires
la gente lo va a nortar.
—Pues digan lo que digan
contigo no he de bailar.[2]

This concept of honor also manifested itself with the initiation of La Raza Unida Party in Colorado in 1970. The Democratic party had challenged the signatures of Raza Unida prospective voters because these people hadn't wanted to swear to God, but rather on their honor. We were even called "atheists" by the press, because the Anglo community didn't realize that honor was as sacred to us as the concept of God.

Corky Gonzales and I took the stand in court to explain this cultural difference, and ended with a quote from Pedro Calderon de la Barca's, concept of honor play, El Alcalde de Zalamea:

Con mi hacienda;
pero con mi fama no.
Al Rey la hacienda y la vida
se ha de dar; pero el honor
es patrimonio del almo.
y el almo solo es de Dios.[3]

After his testimony, having explained this cultural difference which dated back to the Siglo de Oro in Spain (ending c. 1682), La Raza Unida was granted admittance as a third party and the signatures of those who had sworn on their honor were accepted.

Although the Valley has often been called a culture of poverty by well meaning sociologists, this was not so in earlier times. The Spanish surnamed ancestors under the Spanish and Mexican dominion had prestige and wealth. A remnant of that prestige was noticeable in the use of "don" and "doña," titles of respect and used by everyone up the decade of the 40s.

Education was limited in the Valley, so the girls were sent to Loretto Heights Academy in Denver, or to the business schools in Denver. Boarding was provided by the nuns at St. Rose's home, formerly at 8th and Champa Sts. This was true in my mother's generation. She finished business school in Denver in the 20s, and this may have been the last generation to do so before the economic depression created the educational gaps between the 30s and 40s. The careers then sought were secretarial and nursing.

Knowing the English language was often the only qualification needed for the women to teach school, and these women were the teaching faculty for all grade levels in the Valley.

Nurse's training in the Valley sometimes meant internship at a doctor's office or traveling with him on his cases, as was the case of Gertrude Manzanares of Alamosa in the 30s as a Public Health nurse. While traveling in Texas, she was approached by an agent for a soda pop manufacturer for permission to use her picture on a soda pop bottle. She declined the offer because her mother told her that decent girls didn't do such things. The interpreters of the community were often drawn into fighting for social issues and cause because of their intermediary position.

Truly the Colorado women of the past were more repressed by families and society. The effects of that repression have been felt by today's Chicano.

It would be naive to think that only those women engaged in feminist organizations are activists for a social change. The mother in each family serves as a motivating factor for the whole family's success and only their children can speak to that and give credit where credit is due. Each family has an unsung heroine, but who must surely be praised individually, and not just on Mother's Day which is daily in our Colorado communities, wherever Chicanos live.●

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[1] As an aside, the youngest verser I know is in his 40s, Paul Pacheco, of Monte Vista, Colorado, and being this young could well make him one of the last of the versero tradition.

[2] "Rosita, you have no right to reject me in public." "Well let them say what they want, I am not going to dance with you."

[3] "I will give the king my life and my property but not my honor since honor belongs to the soul and the soul belongs only to God."

THE DRAFT AND NATIONAL SERVICE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. PAUL. Mr. Speaker, the draft and national service are wrong morally, and on this ground alone should be opposed.

But they are also bad ideas economically, as a recent article in Reason magazine demonstrates.

We need a stronger, more effective national defense; compulsion would not achieve it. Nor will it increase public service by young people.

I would like to draw this article to my colleagues' attention. It contains information that we all should ponder carefully.

The article follows:

THE COST OF CONSCRIPTION

(By William P. Field, Jr., and Donald J. Boudreaux)

(NOTE.—Besides being immoral, forcing people into military or national service is not cost-effective.)

There is a great deal of disquieting talk in the United States these days about reverting to conscription of the nation's youth. This conscription is to be used not only to fill the military ranks but also, under the dubious title of "national service," to fill federal government jobs or jobs designated as desirable by the federal government.

Libertarians thought the battle against conscription had been won, but statists almost never give up on any possibility for increasing their power. Today, an alliance of conservatives (who want the military draft) and liberals (who want mandatory national service) has created a very real possibility that a proposal combining both could obtain the congressional votes necessary for passage.

Obviously, such a proposal is even more repulsive and immoral (if degrees of immorality are possible) than a proposal for a military draft alone. The technical skills of a philosopher are clearly not necessary in order to reject it on purely moral grounds. Our purpose here, however, is not to restate the moral arguments against this draft-national service proposal but rather to explain the economic falacies involved. Even these provide ample reason for opposition to the proposal.

NO MONEY MAGIC

Those wishing to reinstitute the draft (mostly conservatives) mainly emphasize the enormous and exploding costs of military manpower. They argue that these costs make it much more difficult for the United States to finance all its needs for military hardware and technology. This difficulty, in turn, makes it more likely that the United States will eventually fall behind the Soviet Union in both areas. Obviously, with a draft, wage rates for military personnel could be lowered and outlays for manpower reduced. This is what conservatives mean by their claim that use of the draft would lower defense costs. Thus, they conclude that "the military problem" could be solved, or at least substantially alleviated, by a return to military conscription.

This argument seems to have a kind of superficial validity, but it falls apart completely when subjected to economic analysis. Contrary to the claim of the conservatives, the reinstitution of the draft would not result in the true cost of military personnel being magically lowered from the cost of the present all-volunteer force. The true economic cost of having an individual in the military is not the wage he is paid but rather the goods and services he could have produced in the private economy—the opportunity cost, as it is called by economists.

The wage rate an individual earns in the private economy is a minimum indication of his productivity there. No businessman who expects to continue in operation can afford to pay a worker more than the value of his output. With an all-volunteer army, individuals must be paid at least what they could have earned in the private economy to induce them to volunteer. Thus, the taxpayer has to pay the true cost of having these individuals in the military.

The result of the use of the draft to obtain military personnel would be that the economic burden of the military, rather than being *reduced*, would simply be *shifted* from the general taxpayer onto the shoulders of the conscripted individuals. A tax break would be given to civilians at the expense of the draftees, who would pay a tax in the form of forgone wages and benefits. Obviously, this would reduce the size of the reported military budget, but it would not reduce the cost of the military to the society as a whole.

But the situation is actually much worse than this. The true economic cost to society of armed forces obtained through conscription would inevitably be much greater than the cost of an all-volunteer force, for at least two reasons.

GREATER COSTS

First, under an all-volunteer system, individuals with the poorest alternatives (the lowest opportunity cost) tend to be the ones who volunteer. Thus, the nation obtains military manpower at the least cost in sacrificed private output. With a draft, individuals would be forced by a set of arbitrary rules to join the military. Many of these individuals would have very high opportunity costs (some would have particular skills, either latent or already developed, in athletics, art, business, science, etc.). Consequently, the cost of obtaining the same amount of military personnel, in terms of lost private-sector output, would inevitably be much higher.

Another factor that would increase economic costs of the military if a draft were used to obtain personnel is the misuse of resources that would occur within the military. Since under a draft the explicit cost of manpower would be artificially lowered, those officers making decisions about how various tasks should be performed would think of manpower as a relatively cheap resource. This would lead to the overuse of manpower relative to machinery, as draftees would be used to perform all sorts of menial tasks. Consequently, more draftees would be needed, each costing the private economy much more than his military pay and each suffering the loss in the form of reduced wages.

The same argument can be extended to the decisionmaking process concerning appropriate battlefield techniques. Military commanders must choose among an almost infinite number of possible combinations of planes, tanks, ships, other equipment, and manpower. Inevitably, if the cost of one of these items is held down artificially, military decisionmakers will tend to overuse that item. Thus, with a draft, all planning for potential wars would tend to involve an overuse of manpower, and in an actual war inflated casualties would result. Notice that we are not assigning evil motives to anyone but rather simply pointing out that relative prices inevitably affect decisions.

In short, then, the draft, far from reducing the true economic cost of military operations, would only serve to substantially inflate that cost while imposing large, inequitable burdens on the unfortunate draftees. Those who wish to reinstitute the draft will find no support for their argument in economic analysis.

Turning now to the "national service" aspect of the current proposal (that portion appealing to liberals), we find that it is even more disastrous in economic terms than is the draft aspect. The implied assumption of the "national service" proposal is that every individual should have to do something for other Americans during at least some short period of his life and that only those individuals who work for the federal government or in jobs designated as desirable by the federal government do anything of benefit to their fellow citizens.

SERVICE FALLACIES

Those who accept this argument are obviously blind to the process that enabled the great wealth of the United States today to be created—the free market. They are obviously blind to the beneficial social effects of voluntary individual actions. Their argument implies that individuals working on a farm, in a factory, in a fast-food restaurant, or in any other form of private employment are performing no services of value to their fellow citizens.

As totally fallacious as that argument obviously is, think of the other side of it for a minute. According to the advocates of "national service," if we take millions of young Americans and force them to become federal government employees or to accept those jobs designated for them by the federal government, they are somehow to become highly productive individuals providing huge benefits to their fellow Americans. After all, if the Department of Energy just had another 20,000 employees, especially 18- to 24-year-olds with high school diplomas, just think how much more efficient it would be and what benefits it could offer Americans!

The economic fallacies here are so obvious that the temptation is to simply ridicule the proposal. Unfortunately and unbelievably, many politicians and citizens are taking the proposal quite seriously. Thus, it is essential that the economic arguments against compulsory national service be spelled out clearly.

THE EFFICIENT HAND

These arguments all revolve around the central point that the "invisible hand" of the free market is a more efficient allocator of resources than the "visible hand" of government. This one conclusion stands out unmistakably in even the most cursory study of economics. Whether you approach economics from theoretical, historical, or empirical perspectives, it is impossible to reach any conclusion but that the market almost always works and government planning almost never works. Different approaches to economics may involve different methods of reaching it, but the conclusion is crystal-clear. And why is the "invisible hand" superior to the "visible hand"?

First, as so eloquently explained time after time over the last 50 years by F. A. Hayek, there is no way for government planners to obtain all the information necessary to run the entire economy. The government cannot come close to gathering and analyzing all the relevant specific knowledge needed to enable it to act as an efficient allocator of human resources. With respect to compulsory national service, it would be impossible for government to figure out the most productive use of millions of young people, especially since they would all differ in skills and interests.

Second, even if the information problem could be solved, James Buchanan and other economists of the "public choice" school have pointed out that it is out of touch with reality to think that government decisionmakers are even concerned with taking whatever action will most benefit all individuals in the United States. Those involved in government decisionmaking—whether they are politicians, bureaucrats, or special-interest groups—act in their own self-interest just as individuals in the private economy do. The traditional distinction between a selfish private sector and a selfless public sector is toally fallacious.

Decisions about what to do with all these "national service" workers would be made on the basis of the self-interest of the decision-makers. Politicians would want the workers used in such a way as to maximize the number of votes they would obtain from the services provided. Bureaucrats would want the workers used to increase the size and power of their particular agencies. Special-interest groups would want their own pet projects carried out. How could anyone believe that such a struggle for advantage could end up making efficient use of national service workers?

Other arguments could be marshaled against the "visible hand." We could look at past experience with programs creating government jobs and how they tend to become simply make-work projects. We could talk about how difficult it is to get rid of such programs once they are established, even if they were originally supposed to be temporary in nature. We could talk about specific cases of failure of the "visible hand" such as the postal service, public schools, urban renewal, and zoning. But surely the two arguments already discussed in some detail are sufficient to explain why government planning is inherently inefficient and "national service" would inevitably be disastrous.

There is only one conclusion to be drawn from economic analysis—any form of conscription is economically unwarranted and undesirable. The economic effects that necessarily accompany the use of conscription, whether for military manpower or national service, are undeniably harmful, rather than beneficial. The economic evidence is overwhelming—individual choice is much more efficient than government compulsion.

Of course, those who advocate conscription do not draw only from economics. Arguments based on morality and patriotism also appeal to many Americans. Economic arguments can be used to clear up some of the misunderstandings that make conscription seem attractive, but clearly the moral arguments must be attacked directly. The basic immorality of force and the absurdity of the idea that patriotism can be encouraged by the use of conscription must be emphasized again and again. In this case as in others, libertarians must continually restate the central point that individual liberty not only yields the most efficient economic results but also is the only truly moral system.●

AIRBAG DEBATE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. RINALDO. Mr. Speaker, when this body debates the appropriation for the Department of Transportation, an amendment will be offered by the gentleman from Michigan (Mr. DINGELL) to prohibit the National Highway Traffic Safety Administration from using any of the appropriate funds to implement and enforce an airbag standard during the upcoming fiscal year. There has been intensive lobbying on this issue and the Members have heard many arguments, both pro and con, on the issue of mandatory installation of airbags in this country's automobile fleet. After listening to both sides of the argument, I reached the conclusion that we just do not have enough information about the effectiveness of airbags to require their installation in all new cars. Therefore, I plan to vote for the amendment when it is offered on the floor.

There is, however, one argument which I find particularly persuasive which has not been widely discussed by the Members of this body and this is the product liability implications of mandating airbags at this time without sufficient real world knowledge of their effectiveness. The Consumer Protection and Finance Subcommittee, on which I serve as ranking minority member, is currently holding a series of hearings to examine the product liability problem now facing this country's manufacturers. We have seen that the incidence of product liability litigation has been rapidly increasing to the point that many manufacturers find it difficult to even obtain product liability insurance. Installation of airbags at this time would present unique product liability problems for this country's automobile manufacturers and I think that we need to be well aware of these problems before we agree to mandate airbags on this country's automobile fleet.

These problems were recently discussed in a study done by Harbridge House, Inc., a Boston, Mass., consulting firm under contract to the National Highway Traffic Safety Administration. Harbridge House concluded that:

> Current trends in the tort litigation system, working on the high expectations likely to be aroused by compulsory passive restraint systems, will cause a considerably higher frequency of product liability suits to be launched against the auto makers and, very likely, a higher product liability related cost. The magnitude of this incremental cost remains virtually impossible to forecast.

To support this conclusion, Harbridge House made the following statement:

> Although the treatment of product liability differs in the 50 different U.S. jurisdictions, in the past decade there has been a growing shift away from the concept of manufacturer negligence toward one of strict liability. As this has occurred defenses of abnormal use, assumption of risk, and contributory negligence have been diminished. According to Professor Richard Epstein of the University of Chicago Law School, a widely acknowledged expert in liability law, the tenor of the times is in favor of the plaintiff's recovery with the burden of proof on the defendant. This change in the interpretation of liability has been accompanied by the retroactive application of new interpretations. In addition, some jurisdictions are permitting the awarding of punitive damages.
>
> The passive restraint systems to be implemented under MVSS 208, no matter what their degree of actual reliability in performance, are likely to arouse even higher levels of performance expectation. Because of the technical limitations of both air bags and passive seat belts, we believe that these expectations are likely to generate a high frequency of litigation. This appears to be already foreshadowed by the 1976 experience of General Motors in its ratio of lawsuits to air bag deployments. Concern about the unpredictability of the air bag product liability risk has been cited by Eaton Corporation as a principal reason for abandonment of its air bag program.
>
> The uncertainty present in the rapidly shifting definitions of liability in many states presents a variety of issues in which risk forecasting becomes uncommonly difficult. The following are just a few illustrative hypothetical instances:
>
> The owner of a car equipped with a passive seat belt system is injured and claims the use of deficient technology (i.e., the choice by the manufacturer of belts rather than air bags) because of the resultant cost saving.
>
> The owner of a car equipped with an air bag is injured, primarily because that person did not affix the lap belt, but nonetheless claims manufacturer liability.
>
> The owner of a car equipped with a passive restraint system disconnects the system, is injured, and claims manufacturer liability on the grounds that system should not have been so easy to disconnect.
>
> Although passive restraint systems will generate fewer bodily injury claims, they also seem certain to generate many more product liability claims. Without major changes in the tort litigation system of the sort proposed by the Department of Commerce Interagency Task Force on Product Liability, the financial impact could reach massive proportions and hold broad implications as an issue of public concern.

Mr. Speaker, it would be sheer foolishness for the Members of this body to approve mandatory installation of airbags without thinking through all the ramifications of such action. By supporting the Dingell amendment, we will guarantee that needed research and development into any unanticipated problems with airbags will continue.●

STATEMENT ON THE EDUCATIONAL TESTING ACT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. WEISS. Mr. Speaker, I am today introducing the Educational Testing Act of 1979, also known as the truth in testing bill, along with Congresswoman SHIRLEY CHISHOLM and Congressman GEORGE MILLER.

This bill addresses the growing concern among parents, students, teachers, academic administrators and the general public about the appropriate uses of standardized tests in the admission process for postsecondary schools. The legislation is an extension of measures enacted in California last October and in New York 2 weeks ago.

Colleges and graduate and professional schools rely heavily on standardized test results in deciding which students to admit. These examinations have a profound impact on the educational and occupational future of millions of Americans.

Serious criticisms regarding the reliability and objectivity of standardized tests have been raised from many quarters in recent years. Studies have shown, for example, that the examinations are poor indicators of achievement in school and are marked by cultural, racial, and geographic bias. A 1977 study by the California Postsecondary Education Commission demonstrated that the scholastic aptitude test (SAT), which is widely used as a criterion for admission by undergraduate institutions, discriminates against students from lower-income backgrounds. The study found that "the average family income for students who earned 650 or more points (out of 800) on the SAT was $26,400. Students in the lower range—below 350 or more—had a mean family income of $14,500."

A 1975 University of California at Berkeley study offers a similar conclusion. Students whose family income was below $6,000 scored 92 points lower on the SAT than did students whose family income was $30,000 or higher, the study said.

Another Berkeley report found that high school students with high grade point averages but low SAT's did as well in college as those students with high SAT's. In fact, according to study author Dr. Harrison Gough, "they were more apt to take the BA degree within 4 years."

Equally crucial is the admission by the testing industry itself that the standardized exams cannot measure creativity, judgment, determination, experience, or idealism—characteristics which will influence academic accomplishment and which should be considered as pertinent admission criteria.

It is not, however, the purpose of this legislation to tell the testing industry what questions to ask on the exams or to tell schools what weight to assign to test results. Instead, the bill is designed to alleviate bias inherent in the tests, to improve public accountability and to mandate financial disclosure.

One section of the legislation requires testing companies to send the U.S. Commissioner of Education studies or reports they compile on the tests and their results. This provision will foster a better understanding by institutions and the public of the uses and limitations of the tests. The bill also directs the Commissioner to assemble data on the income status and background of test takers in order to determine the fairness of the exams.

Another section of the legislation stipulates that students be given basic information before they take the test so that they will have a better understanding of the exam's purpose and the meaning of its results. The bill states that the registration form for the tests must state the following: the purpose of the exam; its subject matter; the knowledge or skills on which students will be tested; the predictive value of the test; the margin of error for the exam and an explanation of the scoring scale; the ability of preparation courses to improve scores; the test taker's privacy rights; the length of time for which results will be kept by the companies; the date on which a student will receive results; and testing facilities available to the handicapped.

The bill also mandates disclosure of the test questions and correct answers after an exam has been given if a test taker requests such information. Research on the validity of the tests and public discussion of the merits of the exams will be encouraged by this provision. This feature will likewise reduce the risk of computer error causing a test taker to be incorrectly scored.

It should be stressed that some students already have access to the questions used on previous tests. Companies specializing in preparation courses for the standardized exams routinely send employees to take the tests and to memorize or copy questions. Those students who can afford to enroll in these expensive coaching sessions then receive the benefit of taking practice tests that contain actual questions used on earlier exams.

The testing industry objected strongly to inclusion of the question and answer disclosure provision in the recently enacted New York legislation. Testing company lobbyists argued that this feature would increase the cost of preparing the tests. Indeed, administrators of national standardized tests for dental and medical schools are now threatening to stop giving the exams in New York State unless they are given a special exemption from this provision of the new law. Law school admission test administrators are likewise reported to be considering such a boycott of New York.

This is not only outrageous arrogance on the part of the testing companies, it is also a gross distortion of the true costs involved in preparing the tests.

The cost of exam development is actually quite small, and the development of new tests which may be necessitated by the answer-disclosure provision should not result in any significant increase, if any, in the fees for test taking. In 1976, for example, less than 3 percent of the income of the admissions testing program (SAT and achievement tests) was spent on test construction, according to information provided by the New York Public Interest Research Group (NYPIRG). A 1972 "activity analysis" prepared by the Educational Testing Service showed that less than 10 percent of total test cost is attributable to test development. According to NYPIRG study of Educational Testing Service data, question writing accounted for only 23 cents of the fee charged takers of the 1971 SAT exam, only 34 cents for the law school admission test, 56 cents for the graduate records examination and 34 cents for the graduate management admission test.

It should also be noted that between 1974-75 and 1976-77 the amount of revenues in excess of expenditures for the SAT exam ranged from $3,028,178 to $3,541,000, according to a NYPIRG study. Since the SAT and most other standardized tests are prepared by nonprofit companies, any additional costs could easily be absorbed through use of excess revenues.

The legislation likewise directs testing companies to disclose basic financial data concerning income and expenditures and to explain the way in which fee scales for the tests are determined. Students taking the law school admission test must, for example, pay a registration fee to the Law School Data Assembly Service, an arm of the Educational Testing Service, and pay a separate fee to ETS for the test itself. In return, ETS will send the results to no more than three law schools. A student must pay an additional $5 for each additional law school to which test results are to be sent. Perhaps disclosure of the fee scale information will help explain why $5 is charged for what would seem to be a rather inexpensive procedure.

Mr. Speaker, I believe for all these reasons that the Educational Testing Act of 1979 meets a clear and vital public need. I urge my colleagues to join us in moving toward prompt enactment of this bill.

A summary of the bill and a copy of the bill itself follow:

SECTION-BY-SECTION SUMMARY OF THE EDUCATIONAL TESTING ACT OF 1979

Sec. 1. States title.

Sec. 2. Findings and Purposes.

Sec. 3. Information to Test Subjects and Postsecondary Educational Institutions

States that each test agency shall provide to any test taker in clear and understandable language a minimum of information that should accompany the registration form.

Purpose of test;

Subject matter of test and knowledge and skills being tested;

Correlation of certain data concerning students' grades and test score and career performance and test score; margin or error and explanation of scoring scale;

Ability test preparation courses to improve students' scores;

How score will be reported;

How background information on student will be reported;

Privacy rights of students;

How long student scores will be kept;

Time period in which student will receive score;

Services for handicapped students;

Comparison of test score performance of students and major income groups;

Notice that upon request the student can receive a copy of his answer sheet with the answers revealed and the appeal or review procedure if student wishes to question his/her score;

Also requires that if scores of test subject is delayed over 10 days, the test subject and institution where score is sent will be notified of delay.

Sec. 4. Reports and Statistical Data and Other Information

Requires the Commissioner of Education to be provided the following:

Studies, evaluations or statistical reports pertinent to a test which are prepared by test agency. Requires specific names within studies, etc. to be protected;

A copy of contract for services between test agency that produces test and another test agency that sponsors or administers the same test;

Requires a report within a year by Commissioner on the above and other info. Requires all data submitted to Commissioner to be public record; and

The Commissioner must also include an evaluation of available data concerning relationship between test scores and the completion of test preparation courses.

Sec. 5. Promoting a Better Understanding of Tests

This section requires additional information to the Commissioner in order to promote a better understanding of standardized tests and stimulate independent research on such tests.

Each test agency must provide:

A copy of standardized test within 30 days after the results of such tests are released.

A copy of all test questions used in calculating test score (raw score).

Corresponding acceptable answers to those questions.

All rules for transferring raw scores into scores reported to the test subject and postsecondary educational institutions with an explanation of such rules.

Similar information should be made available to students if requested. The test agency should provide individual answer sheet of students as well if so requested.

The information submitted to the Commissioner shall be made available to the state education agencies or commissions and will be public record.

Sec. 6. Privacy of Test Scores

Clearly states that no test score of an individual can be released to anyone without a specific authorization from individual test subject.

Sec. 7. Testing Costs and Fees to Students

In order to ensure that tests are being offered at a reasonable and affordable costs to test subjects, certain financial information will be provided to the Commissioner by test agency.

Sec. 8. Regulations and Enforcement

Sets out that the Commissioner shall promulgate regulations for bill within 120 days after effective date of the Act and that failure of regulations to be promulgated in a timely fashion will not stop the bill from becoming effective.

Also sets a penalty for noncompliance with the Act and expresses severability.

Sec. 9. Definitions

Contains all key definitions of terms used in the Act.

Sec. 10. Effective Date—180 days after date of enactment.

H.R. —

A bill to require certain information be provided to individuals who take standardized educational admissions tests and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Educational Testing Act of 1979".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) standardized tests are a major factor in the admission and placement of students in postsecondary education and also play an important role in individuals' professional lives;

(4) there is increasing concern among citizens, educators and public officials regarding the appropriate uses of standardized tests in the admissions decision of postsecondary education institutions;

(5) the rights of individuals and the public interest can be assured without endangering the proprietary rights of the testing agencies; and

(6) standardized tests are developed and administered without regard to State boundaries and are utilized on a national basis.

(b) It is the purpose of this Act—

(1) to ensure that test subjects and persons who use test results are fully aware of the characteristics, uses, and limitations of standardized tests in postsecondary education admissions;

(2) to make available to the public appropriate information regarding the procedures, development, and administration of standardized tests;

(3) to protect the public interest by promoting more knowledge about appropriate use of standardized test results and by promoting greater accuracy, validity, and reliability in the development, administration, and interpretation of standardized tests; and

(4) to encourage use of multiple criteria in the grant or denial of any significant educational benefit.

INFORMATION TO TEST SUBJECTS AND POSTSECONDARY EDUCATIONAL INSTITUTIONS

SEC. 3. (a) Each test agency shall provide to any test subject in clear and easily understandable language, along with the registration form for a test, the following information:

(1) The purposes for which the test is constructed and is intended to be used.

(2) The subject matters included on such test and the knowledge and skills which the test purports to measure.

(3) Statements designed to provide information for interpreting the test results, including explanations of the test, and the correlation between test scores and future success in schools and, in the case of tests used for post baccalaureate admissions, the standard error of measurement and the correlation between test scores and success in the career for which admission is sought.

(4) Statements concerning the effects on and uses of test scores, including—

(A) if the test score is used by itself or with other information to predict future grade point average, the extent, expressed as a percentage, to which the use of this test score improves the accuracy of predicting future grade point average, over and above all other information used; and

(B) a comparison of the average score and percentiles of test subjects by major income groups; and

(C) the extent to which test preparation courses improve test subjects' scores on average, expressed as a percentage.

(5) A description of the form in which test scores will be reported, whether the raw test scores will be altered in any way before being reported to the test subject, and the manner, if any, the test agency will use the test score (in raw or transformed form) by itself or together with any other information about the test subject to predict in any way the subject's future academic performance for any postsecondary educational institution.

(6) A complete description of any promises or covenants that the test agency makes to the test subject with regard to accuracy of scoring, timely forwarding or score reporting, and privacy of information (including test scores and other information), relating to the test subjects.

(7) The property interests of the test subject in the test results, if any, the duration for which such results will be retained by the test agency, and policies regarding storage, disposal, and future use of test scores.

(8) The time period within which the test subject's test score will be completed and mailed to the test subject and the time period within which such scores will be mailed to test score recipients designated by the test subject.

(9) A description of special services to accommodate handicapped test subjects.

(10) Notice of (A) the information which is available to the test subject under section 5(a)(2), (B) the rights of the test subject under section 6, and (C) the procedure for appeal or review of a test score by the test agency.

(b) Any institution which is a test score recipient shall be provided with the information required by subsection (a). The test agency shall provide such information with respect to any test prior to or coincident with the first reporting of a test score or scores for that test to a recipient institution.

(c) The test agency shall immediately notify the test subject and the institutions designated as test score recipients by the test subject if the test subject's score is delayed ten calendar days beyond the time period stated under subsection (a)(8) of this section.

REPORTS AND STATISTICAL DATA AND OTHER INFORMATION

SEC. 4. (a)(1) In order to further the purposes of this Act, the following information shall be provided to the Commissioner by the test agency:

(A) Any study, evaluation, or statistical report pertaining to a test, which a test agency prepares or causes to be prepared, or for which it provides data. Nothing in this paragraph shall require submission of any reports or documents containing information identifiable with any individual test subject. Such information shall be deleted or obliterated prior to submission to the Commissioner.

(B) If one test agency develops or produces a test and another test agency sponsors or administers the same test, a copy of their contract for services shall be submitted to the Commissioner.

(2) All data, reports, or other documents submitted pursuant to this section will be considered to be records for purposes of section 552(a)(3) of title 5, United States Code.

(b) Within one year of the effective date of this Act, the Commissioners shall report to Congress concerning the relationship between the test scores of test subjects and income, race, sex, ethnic, and handicapped status. Such report shall include an evaluation of available data concerning the relationship between test scores and the completion of test preparation courses.

PROMOTING A BETTER UNDERSTANDING OF TESTS

SEC. 5. (a) In order to promote a better understanding of standardized tests and stimulate independent research on such tests, each test agency—

(1) shall, within 30 days after the results of any standardized test are released, file or cause to be filed in the office of the Commissioner—

(A) a copy of all test questions used in calculating the test subject's raw score;

(B) the corresponding acceptable answers to those questions; and

(C) all rules for transferring raw scores into those scores reported to the test subject and postsecondary educational institutions together with an explanation of such rules; and

(2) shall, after the test has been filed with the Commissioner and upon request of the test subject, send the test subject—

(A) a copy of the test questions used in determining the subject's raw score;

(B) the test subject's individual answer sheet together with a copy of the correct answer sheet to the same test with questions counting toward the test subject's raw score so marked; and

(C) a statement of the raw score used to calculate the scores already sent to the test subject if such request has been made within ninety days of the release of the test score to the test subject.

The test agency may charge a nominal fee for sending out such information requested under paragraph (2) not to exceed the marginal cost of providing the information.

(b) This section shall not apply to any

standardized test for which it can be anticipated, on the basis of past experience (as reported under section 7(2) of this Act), will be administered to fewer than 5,000 test subjects nationally over a testing year.

(c) Documents submitted to the Commissioner pursuant to this section shall be considered to be records for purposes of section 552(a)(3) of title 5, United States Code.

PRIVACY OF TEST SCORES

SEC. 6. The score of any test subject, or any altered or transferred version of the score identifiable with any test subject, shall not be released or disclosed by the test agency to any person, organization, association, corporation, postsecondary educational institution, or governmental agency or subdivision unless specifically authorized by the test subject as a score recipient. A test agency may, however, release all previous scores received by a test subject to any currently designated test score recipient This section shall not be construed to prohibit release of scores and other information in a form which does not identify the test subject for purposes of research leading to studies and reports primarily concerning the tests themselves.

TESTING COSTS AND FEES TO STUDENTS

SEC. 7. In order to ensure that tests are being offered at a reasonable cost to test subjects, each test agency shall report the following information to the Commissioner:

(1) Before March 31, 1981, or within 90 days after it first becomes a test agency, whichever is later, that test agency shall report the closing date of its testing year. Each test agency shall report any change in the closing date of its testing year within 90 days after the change is made.

(2) For each test program, within 120 days after the close of the testing year the test agency shall report—

(A) the total number of times the test was taken during the testing year;

(B) the number of test subjects who have taken the test once, who have taken it twice, and who have taken it more than twice during the testing year;

(C) the number of refunds given to individuals who have registered for, but did not take, the test;

(D) the number of test subjects for whom the test fee was waived or reduced;

(E) the total amount of fees received from the test subjects by the test agency for each test program for that test year;

(F) the total amount of revenue received from each test program; and

(G) the expenses to the test agency of the tests, including—

(i) expenses incurred by the test agency for each test program;

(ii) expenses incurred for test development by the test agency for each test program; and

(iii) all expenses which are fixed or can be regarded as overhead expenses and not associated with any test program or with test development;

(3) If a separate fee is charged test subjects for admissions data assembly services or score reporting services, within 120 days after the close of the testing year, the test agency shall report—

(A) the number of individuals registering for each admissions data assembly service during the testing year;

(B) the number of individuals registering for each score reporting service during the testing year;

(C) the total amount of revenue received from the individuals by the test agency for each admissions data assembly service or score reporting service during the testing year; and

(D) the expenses to the test agency for each admissions data assembly service or score reporting service during the testing year.

REGULATIONS AND ENFORCEMENT

SEC. 8. (a) The Commissioner shall promulgate regulations to implement the provisions of this Act within 120 days after the effective date of this Act. The failure of the Commissioner to promulgate regulations shall not prevent the provisions of this Act from taking effect.

(b) Any test agency that violates any clause of any provision of this Act shall be liable for a civil penalty not to exceed $2,000 for each violation.

(c) If any provision of this Act shall be declared unconstitutional, invalid, or inapplicable, the other provisions shall remain in effect.

DEFINITIONS

SEC. 9. For purposes of this Act—

(1) the term "admissions data assembly service" means any summary or report of grades, grade point averages, standardized test scores, or any combination of grades and test scores, of an applicant used by any postsecondary educational institution in its admissions process;

(2) the term "Commissioner" means the Commissioner of Education;

(3) the term "postsecondary educational institution" means any institution providing a course of study beyond the secondary school level and which uses standardized tests as a factor in its admissions process;

(4) the term "score reporting service" means the reporting of a test subject's standardized test score to a test score recipient by a testing agency;

(5) the term "standardized test" or "test" means—

(A) any test that is used, or is required, for the process of selection for admission to postsecondary educational institutions or their programs, or

(B) any test used for preliminary preparation for any test that is used, or is required, for the process of selection for admission to postsecondary educational institutions or their programs,

which affects or is conducted or distributed through any medium of interstate commerce, but such term does not include any test designed solely for nonadmission placement or credit-by-examination or any test developed and administered by an individual school or institution for its own purposes only;

(6) the term "test agency" means any person, organization, association, corporation, partnership, or individual which develops, sponsors, or administers a standardized test;

(7) the term "test preparation course" means any curriculum, course of study, plan of instruction, or method of preparation given for a fee which is specifically designed or constructed to prepare a test subject for, or to improve a test subject's score on, a standardized test;

(8) the term "test program" means all the administrations of a test of the same name during a testing year;

(9) the term "test score" means the value given to the test subject's performance by the test agency on any test, whether reported in numerical, percentile, or any other form;

(10) the term "test score recipient" means any person, organization, association, corporation, postsecondary educational institution, or governmental agency or subdivision to which the test subject requests or designates that a test agency reports his or her score;

(11) the term "test subject" means an individual to whom a test is administered; and

(12) the term "testing year" means the 12-calendar months which the test agency considers either its operational cycle or its fiscal year.

EFFECTIVE DATE

SEC. 10. This Act shall take effect 180 days after the date of its enactment.●

CELEBRATION OF WEIRTONIAN LODGE NO. 183, ORDER OF THE ITALIAN SONS AND DAUGHTERS, EXPRESSES TRUE MEANING OF AMERICA AS LAND OF OPPORTUNITY

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, July 25, 1979

● Mr. RANDOLPH. Mr. President, the cohesive strengths of America far outweigh the divisive elements of our society. Those who decry the workings of our democratic system give too much credence to the strident voices of self-interest. A common bond of patriotism rests on our diverse heritage. There is a general recognition that the United States—with all its problems of inflation, energy shortage, unemployment, and poverty—is still the best country on Earth to enjoy freedom and seek greater opportunity. To properly assess the present, we must review our past.

Recently, it was my pleasure and privilege to attend the 25th anniversary celebration of Weirtonian Lodge No. 183, Order of the Italian Sons and Daughters of America in Weirton, W. Va. Chester Grossi is president of the Weirtonian Lodge.

It was an inspiring event. The descendents of immigrants proudly pointed to the successes of their peers. Their awareness that hard work, determination and, yes, a sense of gratitude for being a citizen of this land, was pervasive.

"We of the Weirtonian Lodge feel blessed to be citizens of a wonderful country," summed up former lodge president and program chairman Michael Sinicropi, "where anyone may walk in God's sunlight, or moonlight, with head erect, without rancor, distrust, or without fear."

The tide of millions of struggling immigrants helped to make this promised land richer, greater, and more beautiful, he stressed to the 400 persons present. Often they gave their lives in hard work, in the construction of bridges, highways, and down in treacherous mines. They were highly instrumental in the wonderful creation of the gigantic cities and powerful fleets, the greatest pride of the Americans, he continued.

Everytime America championed the cause of justice, freedom and right, the sons and daughters of Italian immigrants were the first and the most numerous to fight in America's wars. In World War II, 800,000 Americans died. Of these, 120,000 were sons of Italian immigrants. "This pure and inspiring love of both countries should be for every Italian an incentive to greater conquest in the future," he concluded.

This theme was extended by the remarks of two outstanding speakers, Representative MARIO BIAGGI and Guy V. Mendola, national president of the Order of Italian Sons and Daughters of America. I ask that their words be printed in the RECORD, so that my colleagues and other readers can share in the feeling of ethnic pride and patriotism of these good Americans.

The addresses follow:

STATEMENT BY MARIO BIAGGI

It is indeed a pleasure for me to be in "Almost Heaven—West Virginia." This term does in deed have a basis in fact. It has been a singularly distinct honor to be introduced by the illustrious senior senator of your state, Jennings Randolph, a man who for decades has distinguished himself in Washington as one of the preeminent legislators of this century. We have worked together over the years on issues related to the handicapped and occupational diseases such as black lung, to name but a few. He is highly respected by his colleagues in the Congress and is adulated in Washington.

It is also nice to be with my friends from the Wiertonian Lodge No. 183, Italian Sons and Daughters. This is a milestone event—the 25th anniversary dinner dance. It marks a quarter century of community involvement, of services to the Italian-American community. This is the very essence of the greatness of this nation, the dedication and power of the small organization and the club. You are to be congratulated on this momentous occasion and a special commendation goes to Michael Sinicropi, a leader in his own right and a man dedicated to the ideals which make the Italian-American community in this nation so vital. Again, I am most honored to be here with you on this joyous event.

To remember the words at the beginning of that classic novel, Tale of Two Cities, "It was the best of times, it was the worst of times." So it was with the millions of immigrants who flocked to America in the 19th and early 20th centuries. The best of times was reflected in the fact that many had escaped oppression, denial of opportunity and dire economic conditions. Yet for others, it was the worst of times. The golden dream was tarnished—defamation and abuse, all the attendant evils which made this such a dark era in American history.

Yet American immigrants triumphed despite adversity. They endured stoically, they sacrificed, they persisted and they built this nation. Happily, with the passage of time and the advancement and accessibility of education, this land became enlightened to a substantial degree. Later, immigrants and their descendants for the most part were not subjected to stereotype and abuse.

Yet in 20th century America, the perception of immigrants has changed—for the better. Blacks, once depicted as lazy and slovenly, are no longer subjected to this. The Irish, portrayed as inordinate consumers of alcohol are no longer seen in this light. Those of the Jewish faith, burdened over the years with the portrayal of being wily and conniving, happily are no longer characterized in this derogatory fashion.

All of the aforementioned groups and others have been successful in correcting this condition in all areas, especially in the vitally important area of media portrayal. I highlight this development to emphasize the plight of the Italian immigrant and the Italian-American of today. The problems today still exist, perhaps not to the same degree, but exist nonetheless—hardships, impediments, in the pursuit of careers.

It is a burden. The persistence of defamation and discrimination continues to burden the Italo-American community. Of course, there are some among us who were fortunate enough not to be affected. Hence, they choose not to regard it as their problem. However, it is incumbent upon all of us to address ourselves to the pursuit of a solution. Those who have experienced and have been burdened by the normal vicissitudes of general living could be and are as a result, demoralized. They are the ones which we have an obligation to act for. As one ancient Hebrew scholar once noted, "If I am not for myself, who will be for me? But if I am for myself alone, what am I? And if not now, when?"

Yes, ladies nad gentlemen, we must recognize the inherent power of the media in the area of portrayals and images. Let me recount a personal story. In my travels, I met a woman who had been told in advance that I was a New York City policeman for 23 years with many decorations and more than a dozen injuries incurred in the fight against crime. This woman revealed to me that I was the first Italian that she had ever met. The very first question she asked—was I a member of the Mafia? I threw up my hands in futility and realized that this woman was only reacting to a perception that had been developed by the media over the years in its depiction of Italo-Americans in a consistently negative light. This heightened very dramatically the power of the media and its subsequent responsibility to correct this deficiency.

The question is, What do we do? The answer is that much is being done. I have raised the issue of discrimination against ethnic Americans to new dimensions in this Congress. In this year, a real push is being directed at the media—why—because their bread and butter—the Communications Act of 1934 is coming up for Congressional reauthorization. Already, I have met with the President and senior officials of the ABC Television network to register our objections to some of their programming and choice of sponsors, both of whom often serve to depict Italian Americans in a disparaging light. A similar meeting was held with NBC officals. The remaining network will be met with later.

What is the objective? Fairness in media—a recognition of the inherent worth of ethnic Americans in this nation—a fervent initiative to remove the vestiges of discrimination from the shoulders of immigrants and their descendants. In light of past abuses, we have a right to expect positive portrayal of Italo-Americans by the media. Discrimination so runs against the grain of our nation—the greatest democracy in the world. Its solutions must be viewed as one of this nation's most overriding and compelling concerns.

STATEMENT BY GUY V. MENDOLA

It gives me great pleasure to be here tonight with the members, guests, and friends of Weirtonian Lodge to help them celebrate the 25th anniversary of one of the most vibrant lodges in our Order.

We are proud of the public service Weirtonian Lodge has extended to the community at large and of the fraternal service it is rendering to its members as a viable unit of our Order.

In writing about its history in the program book issued at the Order's 17th biennial convention in 1964, when the lodge was only 15 years old, their historian wrote:

"Weirtonian Lodge No. 183 does not have a motto. If it did, it would probably read 'Participation, Promotion, and Progress' or 'Service above self,' for this lodge has become one of the most respected organizations in Weirton, W. Va. for its leadership in civic affairs."

The resolution passed by the city officials of Weirton declaring the week of June 3 "Weirtonian Week" re-emphasizes that public service role.

I join with the Weirton city officials in expressing the price of the Order of Italian Sons and Daughters of America in the achievements of Weirtonian Lodge. We extend to the officers and members of this lodge—our fraternal brothers and sisters—our congratulations and best wishes during this celebration of their 25th anniversary. We salute them for bringing honor and distinction not only to themselves but to the Order of Italian Sons and Daughters of America as well.

Our Order was in existence 25 years when Weirtonian Lodge came into being. This year, as Weirtonian Lodge marks its 25th anniversary, the Order is celebrating its Golden Jubilee. During both these celebrations, Weirtonian Lodge and the Order are holding fast to the ideals of our founders—ideals which have not diminished in importance with the passing of the years.

Down through the years, ISDA has been dedicated to certain ideals—ideals which have provided us with the finest concepts of life and which have influenced us in aspiring for the pinnacle of achievement.

We are not an aged and decrepit fraternity whose usefulness has passed. Our growth has not slowed down with the passing of the years. In fact, it has increased. This fact alone provides us with dramatic proof that there very definitely is a place for ISDA in today's world—that the ageless ideals proclaimed by our founders still have merit.

In our programs to create cultural awareness and ethnic identity, ISDA is not trying to establish a superior ethnic role for American Italians. Into the rich tapestry of American life has been woven the story of the Italian immigrants who came to these shores to add their blood and their sweat to the building of a great nation. Our founders shared one thing in common with all Americans: belief in the greatness of our country. They always dared to dream great dreams, and their eyes sparkled as they envisioned the roles they and their children would play in making those dreams come true.

During our Golden Jubilee Celebration, while we salute our forebears and laud the accomplishments of the past, our sights are fixed on the progress we can achieve in the future. As we look forward to the start of a new half century in our Order's history, we call upon all Americans of Italian descent to join with us in the important work which still lies ahead. Now is the time for new leaders and new ideas to further enrich the Italian American dream of the future.

We still have a vital role to play in the building of a better America. As the leading fraternal organization of Americans of Italian descent in the nation today, ISDA is committed to achieving that objective in a very special way during our Golden Jubilee Celebration.

We cannot live in the past. We must live in the present. And we must live for the future as each of us brings out the best in ourselves so that America may be better for the coming of our fathers and our mothers and for the contributions we make to our society.

America is what we make it—in our communities—in our homes—in our hearts.

America means the living, striving dreams in the souls of men and women—the men and women who give it the wisdom of their heads . . . the skill of their hands . . . the beliefs of their hearts.

They dream of homes that are the very foundation of human society. They are homes where love and peace may reign. They plan for families where children can be taught tradition and the truth and the way. They designed a land where youth can stretch forth its arms to opportunity.

This was the American dream of our Italian mothers and fathers. They made that dream come to life for us. They nourished it in love. They preserved it in loyalty. They made a place of respect for us in our neighborhoods. They made a place of honor for us in our communities.

Tonight we acknowledge our debt to the fathers and mothers out of whose dreams we are here—Americans all.

They came here in the dawn of their American day perhaps with empty hands. But their hearts were filled with the hope of opportunities here to be found. With their very hands they helped to fashion the earth of this—their adopted land. And they fashioned their children in fidelity to home—to faith in God—and to love of country.

Tonight—we pledge our love to those mothers and fathers if they are living. We pledge our loyalty to them if they have passed away and are remembered in cherished memories.

In the spell of this wonderful night—let our prayer for them—and let our pledge from ourselves—rise from our heart of hearts.

We must not—we shall not fail them.

God bless them.

And God bless the America which was good to them—which they taught us to love—and which now invites each of us to make the unique contributions only we can make as American Italians.●

INFANT FORMULA: PROBLEMS AND SOLUTIONS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. DELLUMS. Mr. Speaker, it is with great pleasure and relief that I announce today that the Infant Nutrition Act, H.R. 4093, a bill which I introduced 2 months ago, now has 50 cosponsors. I say relief because the need for this legislation is so urgent, and the more ardent supporters we have, the sooner that need can be allayed. The Infant Nutrition Act would, if passed, regulate the sale of infant formula to indigent nations, and put a halt to the overpromotion of that product which has been largely responsible for the death or near-death of some 10 million infants every year. If the U.S. Congress will only recognize the magnitude and urgency of this problem, I believe we can go a long way toward solving it, and toward setting an example for the other industrialized nations of the world to follow in terms of defining the role of corporate responsibility in a changing world.

Mr. Speaker, I note with interest that representatives of several infant formula companies—and indeed one Representative here in the House—have been referring widely to an article entitled "Babies in Poverty" by Mr. Lee Edson, which appears in the Lactation Review, volume IV, No. 1. They describe the Edson piece as a "well-balanced and objective treatment of this complex problem."

The frequency with which infant formula companies refer to the current Lactation Review article and to a previous study conducted by the Human Lactation Center—publishers of the Lactation Review—raises questions in my mind. Is the Human Lactation Center truly impartial? Do its publications really offer a "balanced" view of the infant formula controversy?

Very recently a copy of a memo written by Ms. Dana Raphael, the Lactation Center's director, and addressed to its board of directors, came into my possession. In this memo, dated November 20, 1978, Ms. Raphael discloses that she had recently consulted on a film prepared by the Nestle Corporation, the major distributor of infant formulas in the Third World.

In addition, the concluding paragraph in Ms. Raphael's memo reads as follows:

> Lee Edson, a New York Times Magazine writer, has agreed to write the history of the breast/bottle controversy for us and we will put that out in a Lactation Review. I am guessing that the formula companies will want to buy this and distribtue it widely.

Mr. Speaker, my mind is still open on this subject, but I must say frankly that the preceding paragraph suggests a very strong possibility of a compromising conflict-of-interest situation. I would like to know more about the extent of Ms. Raphael's consulting work for the Nestle Corp. and any other infant formula maker with which she might have similar arrangements. I would like to know more about how many copies of the Lactation Review article and of the Center's previous publications have been purchased by infant formula manufacturers, and at what price.

To clarify my concern, I see nothing wrong with Ms. Raphael serving as a consultant for any or all of the infant formula makers or for anyone else. I see nothing inherently wrong with companies such as Bristol-Myers or Abbott Laboratories purchasing and distributing copies of the Lactation Review. Yet I have a very substantial objection when these companies and their consultants cloak their advocacy efforts with characterizations of "impartiality" and "well-balanced views."

I have asked my staff and several internationally recognized nutrition and health experts—two of whom resigned from the board of the Human Lactation Center because of its advocacy role—to prepare for me a detailed critique of the center's various publications on the subject of infant feeding. My colleague GEORGE MILLER is also involved in this effort, and has some further comments in today's CONGRESSIONAL RECORD. We will be pleased to share the result of this work today and in the near future. In essence, it is Ms. Raphael's contention that infants living in chronic poverty in less developed countries must have supplementary bottle feeding by the age of three months or they will die, and that formula makers are actually trying to save the lives of children fed by undernourished mothers. I am certain that executives of these companies do indeed have a humanitarian motive in promoting use of their products, but I am equally as certain that they wouldn't be in these countries unless it meant profits. If adequate nutrition were, as they claim, their main concern, they would focus on feeding the mother—at half the cost of infant formula—so that her milk would give the full nutritional benefits so superior to artificial feeding products.

What follows is an excerpt from a letter written by Ms. Raphael to our former colleague, Michael Harrington when he successfully offered an amendment to the 1978 foreign assistance appropriations bill:

EXCERPT

> W.H.O. has begun an extensive study of breastfeeding. To my knowledge (we were together in New Delhi last month), they have just completed their first survey. The published reviews of the literature by the director of the W.H.O. Maternal and Child Division, Angel Petros-Barvazian, suggests that the data on the whole breast/bottle issue is what we call "soft" evidence. Researchers in England (Thomson and Black) also reviewed all the material that is easily available on breastfeeding and come to a similar conclusion. The Human Lactation Center made a comprehensive review of the same data and *we too have concluded that there are no studies which support* (*or deny*) *the claims that bottle feeding is damaging babies or that breastfeeding saves them*. (Emphasis added).
>
> Chemical research of breast milk shows unqualified benefits of breast milk over cow's milk in laboratory studies. Equivalent studies on human babies have not been made. In fact, though we at the Center are the first group to do in depth studies of breastfeeding in the women's home environment, even we cannot make the statement that women are breastfeeding less.
>
> The real problem is that babies in the LDCs born of mothers who are undernourished must have supplementary foods by three months along with breast milk or they stop growing. Very soon they weaken and become susceptible to diseases. Only well nourished Western women can feed their infants exclusively on breast milk for five or six months.
>
> It is our fear that this information is not known to those who have the power to withhold export rights of critically necessary food. We therefore continue to offer further evidence.
>
> Our field studies in Egyptian and Indian villages show that where breastfeeding women are too poor to supplement their infants' diet, mortality is highest (up to 60% despite breastfeeding). In more affluent groups everywhere, women have sufficient funds to buy supplementary foods, and the added nutrition is fed along with their breast milk. Most babies survive in such circumstances.
>
> The remarkable research done for PAHO by Puffer and Serrano on the related "causes" of morbidity and, mortality in Latin American children bears out this finding. *The data show quite clearly that illness and death in children of poverty level parents are directly related to impure water supplies, lack of effective sanitation and an inadequate supply of supplementary food.* (Emphasis added.)
>
> *Please understand that I am not saying that breast-feeding is no good, nor should be stopped and replaced by bottle feeding.* (Emphasis added.) Breast milk is essential for most infants in this world as is supplemental food. They complement each other.
>
> In your committee's Report to the Congress there is an underlying assumption that children would not die if transnational products were removed from the view of poor women. This is far too simple a solution. For example, officials of the Amul Corporation, the huge Indian dairy cooperative, say only one percent of all the milk used in India to supplement breastmilk is commercial processed milk. They claim to have the major share of these sales. (The other 99% is fresh milk from bullocks, goats and cows.) The current price of each can of milk is about $2., and the average annual income of most Indian families is about $75. So this processed dairy milk is out of the question even though mothers know full well that, next to human milk, the milk of other mammals is by far the best supplementary food. What is feasible, though admittedly only a stopgap measure, is to reinstate or continue shipment of free or subsidized food.
>
> I urge you to consider how much the information on this issue has become politicized, emotional and unfactual. For instance, we are asked to believe that women don't know how to use this Western invention. They don't clean bottles. They dilute the milk because they can't read the labels. Non-

sense. How can that be when mothers have been giving their children dry milk for thirty years (P.L. 480)? *They know all too well the dangers, the worst of which is not having anything to feed.* (Emphasis added.)

Take another example. There is a statement in the Report that "reliance on bottle feeding has contributed to a sharp rise in infant malnutrition (page 32)." Contradictory evidence exists on this claim. Once again, the data used to substantiate the rise in malnutrition is based on personal conversations or interviews with mothers of sick children in the hospital without proper safe guards to assure the validity of the questions or the reliability of the answers. For three decades during the period when these studies were made, infant mortality actually declined (U.N. Demographic Data) due in large part to greater availability of food combined with improved health care.

You can see why we urge your Committee to make sure no counter productive measures result from your work which reduce access to any foods, or tie policies about the export of foods to developing countries with the sentiments of government people about breast-feeding. Hunger should leave no room for paternalism, self-interests or lobbying for or against transnational food corporations.

If you are truly interested in protecting the basic human rights of parents to keep their children alive, you should consider amending Section 113 of your Report on Infant Nutrition so that (1) any causal relationships between infant food distribution and infant morbidity are spelled out, not just assumed; (2) any impression that our government's food export policies are tied to acceptance by other nations of breastfeeding as the only alternative must be eliminated; (3) a "strong" invitation is extended to the U.S. multinational food corporations to work cooperatively with government to help reduce the costs and increase the availability of supplemental food; (4) data on changes in feeding behavior are examined within the context of economic, political, health, educational environmental and social norms in these countries.

I would welcome communications with anyone on this issue by phone: 203-259-5995 or in Washington.

DANA RAPHAEL, Ph. D.,
Director.●

MORE ON INFANT NUTRITION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. MILLER of California. Mr. Speaker, my colleague from California, Mr. DELLUMS, has inserted in the RECORD today a letter written by Dana Raphael, the director of the Human Lactation Center. Statements in this letter have come under serious criticism by many well-respected medical and health professionals in the field of infant nutrition. I would like to share with you a letter responding to the concerns raised by the Human Lactation Center. The letter follows:

THE POPULATION COUNCIL,
New York, N.Y., May 4, 1978.

Representative MICHAEL HARRINGTON,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE HARRINGTON: We have recently had occasion to read the letter of January 5, 1978, addressed to you from Dana Raphael of the Human Lactation Center. We feel that the assertions made in this letter require a strong response from professionals who share an interest in issues of infant nutrition and health problems in the developing world. Dana Raphael does not document the alleged "grave errors of fact in the amendment" of your sub-committee, yet she herself commits grave errors of interpretation of existing data. The January 5 letter is thus a most misleading document which, unfortunately, purports to serve as technical advice to your committee.

It seems to us that several points require comment:

1. Ms. Raphael cautions against accepting the UNPAG's assertion of "documented adverse nutrition impact" of the substitution of bottle for breastfeeding. She asserts that no studies have proven such an association and that the International Pediatrics Association and the PAG do not conduct research. In fact, these two organizations are in a very strong position to review existing data, which is what they have done. While they have not mounted research programs, the PAG and International Pediatrics Association have performed a very valuable research service to the scientific community by looking at a range of existing evidence and forming sound conclusions based upon many studies, not just one. Raphael may be right that there are no experimental studies in which babies have been deliberately exposed to different types of feeding under controlled conditions, but there are an overwhelming array of studies done throughout the world[1] (using historical as well as contemporary data) which, regardless of methodology, all point in one direction: the best way to feed an infant to insure optimal health is breastfeeding alone for the early part of the first year. There are no studies which come to the opposite conclusion, i.e. that bottle-feeding would be a preferable practice from the point of view of the health of babies. A recent 2,000 mother prospective study conducted over two years in the Philippines once again establishes a bottle-milk/infant mortality linkage.[2]

2. It should be noted that the "well-meaning professionals" referred to in page one, paragraph three of Ms. Raphael's letter are also exceptionally well-informed. She herself, on the other hand, does not seem to be quite so well-informed. She noted that there are no studies where the "actual eating patterns of infants prior to hospital admission has been observed." This is misleading. There are many studies which document the "eating patterns of infants prior to admission" although these patterns may not have been observed by a study team in the home environment of the infant before the onset of illness. By this quibble does the author of the letter mean to discount entirely mothers' statements on whether their infants were being bottlefed or breastfed?

3. In the paragraph that refers to WHO's studies (page 2, paragraph 2) Ms. Raphael states that the data on breast/bottle feeding is "soft evidence." We agree that in some aspects of research on breastfeeding and breastfeeding trends, the evidence is "softer" than in other areas. For example, although it is widely accepted that there has been a decline in breastfeeding in developing countries, the pattern and nature of this trend remains largely unquantified by hard data. All attentive professional observers will agree, however, that a decline exists, albeit with differing patterns and proceeding at different rates in different environments. On the other hand, evidence on the health advantages of breastfeeding is quite firm—and evidence exists in widely divergent socioeconomic and environmental conditions.[3]

4. In the third paragraph on page 2, Ms. Raphael asserts that there are "unqualified benefits of breast milk over cow's milk in laboratory studies," but that "equivalent studies on human babies have not been made." What does this mean? Laboratory studies have demonstrated the reasons that breastfed babies are immunologically and nutritionally better protected from illness than non-breastfed babies: the immunoglobulins, active lymphocytes and other protective substances in human breast milk are ingested by babies who are breastfed. Scientists believe that these factors help to explain the better resistance to disease demonstrated by breastfed babies. The evidence for the immunologic protection comes from the better health status in the real world—where mothers and babies exist. What kind of "equivalent" studies in a laboratory does Ms. Raphael propose are necessary using human babies?

5. In the same paragraph, Ms. Raphael asserts that although the Human Lactation Center is doing in-depth studies of breastfeeding in women's home environments,[4] their researchers cannot state that "women are breastfeeding less." Of course! They are studying extremely small numbers of women who are, in fact, breastfeeding. Concerned professionals are worried about societal trends in breastfeeding: many women seem to be abandoning breastfeeding either altogether or very early in their infants' lives. These trends are clear to those who have spent many years working in health programs abroad, and who view with alarm the rapidity of decline in breastfeeding, especially in urban and periurban areas. The serious problem is caused by a change in patterns of behavior in large population groups; one can always find and study individual women who are breastfeeding as extensively and intensively as women in their mother's generation.

6. We agree with Ms. Raphael that a critical nutritional problem exists when infants who need supplemental food are either not given such food or given inappropriate dietary supplements (page 2). This is one of a number of very real and very serious nutritional problems which imperil the health of young children in developing parts of the world. It is not, as Ms. Raphael maintains, *the only* problem. The problem of inadequate and/or inappropriate supplementation of infants is *not the same problems* as the problem of decreased breastfeeding. Furthermore, there is no substantiation for Ms. Raphael's assertion that three months should be chosen as the optimum age for commencing supplementation. Khanjanasthiti and Wray[5] showed that Thai women, for example, are perfectly capable of fully nursing their babies for at least six months, with no supplementation needed to maintain adequate growth. Physicians disagree on details as to the *exact age* at which an infant needs supplementary feeding; in fact, the right time for supplementation probably varies somewhat in differing health and nutritional environments. The evidence to date, however, indicates that the age at which supplementation becomes necessary nutritionally is probably later than three months: five or six months are frequently suggested, and this conforms with our knowledge of infant development and maturation. Also, the earlier introductions of supplementary foods increase the risk of often lethal weanling diarrhea. In any event, *it is dangerous to confuse the issue of supplementation with the issue of breastfeeding.* Even when supplementation becomes necessary, breastfeeding can remain a significant part of the infant's diet and still provide an incomparable source of nutrition for the growing child.

The implication in Ms. Raphael's letter is, of course, that the infant formula feeds marketed by American international corporations stand as optimal supplements when babies are no longer able to derive all their nutrition from the breast. It is clear, however, that these infant formulas are probably *less* desirable as supplementary feeds than many indigenous products, already part of the family's diet, which could be used by

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Footnotes at end of article.

mothers at far less cost and with more safety. Food from the spoon is less likely to be bacteriologically contaminated than milk in a bottle, and the mother may be more likely to continue breastfeeding if she is feeding her child a cereal supplement, instead of another milk product.

7. Ms. Raphael claims to know of a study that shows breastfed infants have a 60% mortality rate (page 2 last paragraph). This sounds, on the face of it, incredible. What study is she citing and how was the evidence compiled? If such a study exists, it must refer to very special population groups under extraordinary conditions of deprivation. Of course, as Raphael notes, the nutritional status of young children is better in more affluent groups—and so is survival. But affluence implies a host of important advantages aside from supplementary feeding. (In the United States, in fact, it implies a greater likelihood of breastfeeding!) Certainly, it is unscientific to state that the reason that affluence is beneficial to health is that babies in higher socioeconomic groups are supplemented with formula feeds. They also have cleaner environments, better housing, more available medical services, and healthier parents.

8. On page 3, Raphael states that the data of Puffer and Serrano from Latin America show that childhood morbidity and mortality are "directly related to impure water supplies." It is perhaps difficult to understand exactly what Ms. Raphael means by a "direct relation" between death and impure water supply. Clearly, poverty implies less adequate sanitation and less adequate water supply, both of which are potentially noxious to health. But the extent of the health injury imposed by such environmental conditions depends also upon the resistance factors in the host organism (in this case, the baby), and it is quite clear that one of the key determinants of resistance is nutritional status.[6] Good immunological defenses will help to keep to a minimum health problems from a noxious environment. In a very threatening environment, breastfeeding offers the best protection for an infant. This is borne out by the Puffer and Serrano study: the data show a very strong correlation between lack of breastfeeding and early infant mortality.

9. Raphael (page 3, paragraph 3) uses the simplistic and misleading argument that the extreme expense of commercial supplementary products will keep such supplements out of the hands of poor people who are unable to use them properly. Supplementary products, advertised to poverty groups, become desired objects and are used within the economic and environmental constraints of those groups. This means, stated simply, that the products are used, but used improperly and become real health hazards in themselves. High prices become incentives to use expensive products sparingly—not to abandon their use.[7]

10. Raphael asserts that the issue of breastfeeding has become politicized, emotional, and unfactual (page 3, paragraph 4). We agree. The issue has become politicized because there are deep, important vested economic interests involved. It is emotional because it involves the lives and deaths of small children. It has become unfactual because of arguments such as Ms. Raphael's. To wit, Raphael makes the incredible argument that because women in the LDC's have been exposed to American donations of dried powdered milk they could not possibly be misusing infant formula. This is illogic at its best. Ms. Raphael must have seen herself, in her travels, the extent to which unclean bottles with over-diluted formula are offered to infants. For Ms. Raphael to deny the serious problem of improper use of formula on the assumption that PL480 aid magically protects against misuse of milk products, casts doubt on the relevance and accuracy of all her other assertions.

11. At the bottom of page 3, Ms. Raphael asserts that contradictory evidence exists on the claim that bottle-feeding contributes to a rise in infant malnutrition. As stated above, we are not aware of any evidence which contradicts the claim or shows that infant malnutrition has been decreased by an increase in bottle-feeding. All of the data, to the present, seem to point in the same direction: that increased early use of bottle-feeding increases the extent and makes earlier the onset of infant malnutrition.

The fact that, worldwide, infant mortality rates have declined is often put forward in answer to the charge that bottle-feeding has caused infant malnutrition to increase. Yet, this decline in mortality rates is *irrelevant* to the bottle/breast controversy. Improved standards of living—better housing, water supplies, food and, in some cases, extension of health services and preventive health measures—can account for the lowered early mortality. The overall mortality statistics come from a data base very different from the breast/bottle studies and reflect powerful, macro-trends in society. These overall rates cannot separate out the individual effects of many positive and negative influences which, in combination, produce a societal infant mortality statistic. Finally, it is simply not true that infant mortality has declined everywhere. Brazilian data, for example, show that infant mortality has *risen* in the cities of Sao Paulo and Belo Horizonte, attributable most probably to increased malnutrition in periurban groups.[8]

12. We agree with Ms. Raphael (page 4) that your influential committee should continue to be vigilant in avoiding counterproductive recommendations. "Sentiments of government people about breastfeeding" (page 4) are not the issue, however. Facts are the issue, and the facts which are available point in one direction most strongly: breastfeeding is the optimum way to nourish human newborns and protect them from the ill effects of unhealthy environments; appropriate supplementary food must be introduced somewhere around the middle of the first year of life; and policies designed to promote healthful infant feeding patterns must be developed in concordance with socioeconomic realities in diverse parts of the globe. Sometimes, the choices for health are clear: the superiority of breastfeeding to any other mode of early infant nutrition is demonstrable and trends towards its abandonement should be combatted with vigor.

We hope that your committee will examine the issue of infant feeding carefully, taking into account the considered opinion of the scientific community and the weighty evidence on the benefits of breastfeeding in early infancy, as it continues to seek ways of protecting the health of infants in developing countries from deleterious social and economic trends.

Yours truly,

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Barry M. Popkin, Ph.D., Assistant Professor and Economist, School of Public Health, University of North Carolina.

Footnotes at end of article.

FOOTNOTES

[1] R. R. Puffer and C. V. Serrano, *Patterns of Mortality in Childhood* (Pan American Health Organization-World Health Organization, Washington, D.C. 1973); J. B. Wyon and J. E. Gordon, *The Khanna Study: Population Problems in the Rural Punjab* (Harvard University Press, Cambridge, Mass. 1971); S. Plank and L. Milanesi, "Infant Feeding and Infant Mortality in Rural Chile," *WHO Bulletin* 48:203–210, 1973; J. Knodel, "Breast-Feeding and Population Growth," *Science*, 198, pp. 1111–1115, Dec. 16, 1977; also references cited in T. H. Greiner, "Infant Food Advertising and Malnutrition in St. Vincent" (thesis), Cornell University, August 1977.

[2] Barry M. Popkin, personal communication. Study done by Dr. Trinidad Osteria, currently with the Cholera Research Laboratory, Dacca, Bangladesh.

[3] Well-known beneficial aspects of breastfeeding include the provision of immunological protection to the infant, the stimulation of a desirable emotional linkage between the mother and the child, the supply of a low-cost nutritionally adequate diet for the infant, and the prolongation of the period of postpartum amenorrhea. Cunningham, *Journal of Pediatrics*, 19 May 1977; Goldman, *Journal of Pediatrics*, 1977; Hambraeus, *Pediatric Clinics of North America*, 1977; Klaus and Kennell, *Maternal-Infant Bonding: The Impact of Early Separation or Loss in Family Development*, Mosby, 1976; D. B. Jelliffe and E. F. P. Jelliffe, *Human Milk in the Modern World* (Oxford University Press, 1978).

[4] Incidentally, the Human Lactation Center is *not* unique in its in-depth studies of women who breastfeed. INCAP (in Guatemala) and Popkin et al. (in the Philippines) have also conducted such research. Other references to breastfeeding studies are cited in W. H. Mosley (ed.), *Nutrition and Human Reproduction* (Plenum Press: New York, 1978).

[5] P. Khanjanasthiti and J. D. Wray, "Early Protein-Calorie Malnutrition in Bangkok Slums, 1970–1971," *J. Med. Assoc. Thailand* 57:468–476, 1974.

[6] Scrimshaw et al. (N. S. Scrimshaw, M. Behar, M. A. Guzman, and J. E. Gordon, "Nutrition and Infection Field Study in Guatemalan Villages, 1959–1964," *Archives of Environmental Health* 18:51–62, January 1969) showed that nutritional supplementation was more effective in reducing mortality in a rural Guatemalan village than was a program of environmental sanitation and the provision of medical care.

[7] In fact, it is clear that foods which are expensive per calorie will lower nutritional intake in a poor population, because they displace cheap staple foods. Popkin ("Economics and Nutritional Policy," *Arch Latin de Nutr* 25:7, 1975) showed this with simulations, and it is discussed by Popkin and Latham ("The Limitations and Dangers of Commerciogenic Nutritious Foods," *Amer J Clin Nutr* 26:1015, 1973). If the mother uses scarce family cash to supplement breast milk with formula, one bottle a day will cost more than all the extra calories needed to produce breast milk for the baby. The entire family's nutritional status is likely to decline, and the baby is likely to get sicker than ever from a contaminated bottle.

[8] C. H. Wood, "Tendencias de Mortalidade Infantil e Distribucão de Renda: Estudio Sobre Belo Horizonte e Sao Paulo" (mimeographed paper), Cedeplar, Faculty of Economics, Federal University of Minas Gerais, Brazil.●

NELLIE BLY: LADY JOURNALIST

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mrs. SCHROEDER. Mr. Speaker, today's Minutewoman is Ida Wells Barnett, a Memphis newspaper publisher, who spoke out against lynching and mob violence. Nellie Bly was another female journalist of the late 19th century. She, too, was a truthseeker with a compulsion to expose social injustice. Bly broke all the rules of the male-dominated newspaper world, thus changing the course of American journalism. I submit the following article by Edward C. Norton (from the summer 1979 issue of Nieman Reports) which describes the life and work of this most uncommon woman:

NELLIE BLY: LADY JOURNALIST

(By Edward C. Norton)

Nellie Bly's Sunday column was an innovation in newspaper publishing in 1893.

When she walked into the city room of The New York World that first day, half the derbies there must have swiveled to follow her voyage through the big, dusty, disheveled news factory.

Every few feet there were spittoons, targets for the cigar smokers and tobacco chewers. According to reliable historical reports it was not unknown for reporters and editors to swig a bit of whiskey while they worked in their all-male domain. The bottle was as much part of the trade as a wad of folded copypaper shoved into a reporter's coat.

But here was this young woman: she had checked and noticed that no receptionist barred entry to the newsroom. Publishers in 1887 didn't see any merit in paying someone just to sit outside the editorial department. The idea then was to lure news through the portals, but not necessarily in the form of a young lady.

The lass was fair-skinned, dark-haired and had a most straightforward pair of brown eyes. She wore a Paris dress, the best she could afford. She was on a most serious mission. She wanted Joseph Pulitzer to hire her as a reporter, and let her cover a balloon flight.

Elizabeth Cochrane, twenty-two, of Pittsburgh, was politely ushered out of the newsroom that first day, and was asked to put her request for a job in writing to Pulitzer. A few days later she received a note rejecting her application.

The World did not know Miss Cochrane, then. Donning another expensive dress, and realizing that she had to succeed this time because she had lost her purse with most of her savings, the young woman walked into The World's newsroom a second time, and barged into a meeting being conducted by the ailing, and noise-sensitive Pulitzer. A batch of stunned rewritemen and copy editors tried to bar her way, but it was impossible for them to give the bum's rush to a young lady.

Finally, an editor knocked at the press magnate's door, and told him he had an unannounced visitor. "The lady's name is Nellie Bly. She says she's a newspaperwoman and a good one. Maybe she is. She doesn't give up easy, I'll say that."

Pulitzer and his managing editor spoke with the attractive applicant. She plunked a batch of newspaper clippings on the desk before them. The clips were of stories she had covered in Pittsburgh and in Mexico. She had written about tenement life, millworkers and their families. In Mexico she wrote about peons, prisons and corruption in government.

Miss Bly—the name she chose in Pittsburgh to mask her real identity—was not one of the few women newspaper workers whose specialties were recipes or poetry. She was an honest-to-God street reporter who had covered mayhem in a tough American city, and in a neighboring nation where the sound of gunfire was common.

The young Pennsylvanian was hired. She suggested that her first assignment be an investigation of conditions in New York City insane asylum on Blackwell's Island. She would pretend to be insane and have herself committed as a destitute patient.

And that's what happened. Within three months Nellie Bly was a household name among New York newspaper readers. Within two years she became a worldwide figure for besting Jules Verne's fictional eighty-day circumnavigation by actually going around the world in seventy-two days.

Miss Bly knocked 'em dead, in an age when young women were expected to be "ladies" (the demarcation line was sharp), to be married by twenty-five and to be mothers, in that order. Any deviation from the program was not appreciated. And, while women could write discreet novels, their efforts were not expected or welcomed in the hurly-burly world of journalism. Like most other facets of late nineteenth century American life, newspapers were strictly a male preserve.

Nellie Bly single-handedly changed that.

Who was she? She was the daughter of an Irish immigrant who pulled himself up by his own work to become a judge. She was a straight-standing, no-nonsense young woman who left scores of stunned young men in her wake.

Nellie Bly went into the insane asylum, taking on faith that Mr. Pulitzer would remember her, and get her out. Nellie Bly found conditions to be scandalous, and even though she acted normally while inside the locked doors, no one paid any attention to her. About the time Nellie felt that she would really lose her mind, a lawyer arrived to spring her from the cage. The subsequent articles were, to use an over-worked word, a sensation.

Afterward Nellie looked around the throbbing city, crowded with daily boatloads of immigrants. For one article she played the role of stage performer. She interviewed the wives of Presidents, and she sought the big story. She was all of twenty-two.

After her escapades in the Blackwell's Island asylum, Miss Bly had become the story. She was a certain circulation booster for The World. She was fortunate in that the paper was able to use only line drawings of her face and figure. Thus she was able to pursue her stories without fear of being instantly recognized. When she would identify herself, many men and women refused to believe that such a youthful person could be the hard-nosed reporter.

What really put Miss Bly on the map was her trip around the world. She carried all she needed in a satchel, and wore a checkered floor-length coat and a peaked cap which afterward set a fashion. Before she left, on October 10, 1889, along with forty-two year old Thomas A. Edison, she attended the dedication of the new World tower on Park Row. According to a biography of Nellie by Mignon Rittenhouse, the building was demolished in 1956—its era had passed—and the workmen who tore down the structure found the box which had been set in the cornerstone. It contained a copy of The World for October 9, 1889, and on its front page was another Nellie Bly interview, this time with a murderess in state prison.

Nellie's trip around the world was a stunt, pure and simple. When she started from a wharf in Hoboken there was much skepticism in the competitive press that she had actually left. Some press people even felt that Pulitzer had hired a squad of male reporters whose combined work was identified as that of Nellie Bly. The public was loyal, however, and wanted to believe in her.

Nellie found that travel in 1889 was hard work: rough ocean crossings, unwanted attention from would-be suitors, and rail and steamship connections that were haphazard at best. She met Jules Verne at his home and charmed him. She rushed off, through the Suez Canal, to Ceylon and on to Japan, the only pleasant stay on her voyage. She arrived home to be greeted with adulation from people, coast to coast, and for the better part of a year afterward she toured the lecture circuit and wrote a book. She was truly a media star and a darling, except that in those days it was "medium" star.

Nellie returned to the newsroom, but as the years rolled by she found the stories repetitive. There wasn't much difference in interviewing poor folks in the slums of the Lower East Side or the prairie state farmers wrecked by the Panic of 1893. In 1895 she married a seventy-two year old millionaire New York factory owner. Her husband died nine years later, in 1904, leaving her a thirty-seven year old widow with responsibility for a hardware business. She tried, but bad luck and thieving employees pushed the business to bankruptcy. Nellie went to Europe, returned in 1919, a legend in her own time, and in need of a job.

Arthur Brisbane, Hearst's editor-columnist remembered the pert young woman with whom he had worked on *The World*. He put her on *The Journal*, and gave her a column in which she wrote about homeless children. Nellie had done everything but have children. On January 22, 1922 in New York City she died of pneumonia. She received modest obituaries, but *The Journal* said she was considered to have been the best reporter in America.

After her passing, Nellie left a cliché phrase in the language, and added to journalism jargon, "Who do you think you are? Nellie Bly?" became a regular query to ambitious women editorial workers, and the term "sob-sister" came into the language, based partially on the emotional reportage of the woman who had broken all the rules.

In recent times Nellie has been forgotten by the public. A few years ago, the men and women of a New York press club contributed a new headstone for Nellie's grave, so she is still remembered by some in the news business.●

TWENTY-FIRST OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. ZABLOCKI. Mr. Speaker, it is a privilege to join my colleague in the 21st observance of Captive Nations Week—an event in which I have participated since its inception.

As the principal sponsor of House Joint Resolution 373, recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II, I am reminded once again—as are other Members of this Chamber—of what the concept of liberty means to those who have so long been denied it.

I support this observance as one who does not seek confrontation with the Soviet Union but as one who has long supported efforts, both by this administration and previous administrations, to negotiate meaningful agreements with other nations, including those nations who disagree with us, on a variety of issues involving our national security. Such support, however, should never be interpreted to mean that I, or my colleagues, condone repressive actions by the Soviet Government in other areas.

Mr. Speaker, there is an evident need to approach this subject responsibly and realistically—recognizing that progress in the human rights field will come in stages, if at all, and will require all of the perseverance and steadfastness of purpose which the nations of the free world can muster.

The year 1979 has, in fact, been an important milestone for Eastern Europe: The visit of Pope John Paul II to Poland had an uplifting effect on the human spirit—not only in that country but beyond its borders and around the world. I have already commented at some length about that historic visit and have specifically commended both the Vatican and the Government of Poland for the restraint which was generally exhibited on both sides—thus insuring its overall success. I should also mention at this time that Polish authorities have recently made important concessions in easing restrictions on emigration in specific cases. These are welcome gestures, indeed, and should contribute toward a more stable and positive relationship between Poland and the United States.

At the same time, it should be noted that ominous, darker clouds have recently appeared on the horizons of Czechoslovakia, where a renewed campaign against so-called dissidents appears to be in the offing. This wou'd clearly be a retrogressive move—leading inevitably to universal condemnation by the American people and increased tensions between our two nations. It is a situation which all freedom-loving peoples and especially we should monitor closely and react to with appropriate firmness and censure.

Mr. Speaker, Captive Nations Week serves as a reminder to all Americans of the goals and principles upon which this Nation was founded, as well as the basic human aspirations of others who are less fortunate but equally dedicated to them. It reminds us also that the cause of freedom requires patient and persistent effort, as well as "eternal vigilance."●

HONORING THE MORMON PIONEERS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. SYMMS. Mr. Speaker, July 24 is an important date in the settlement of the West. It was on that date 132 years ago that the Mormon pioneers first arrived in the Salt Lake basin, after a long journey to escape religious persecution.

Today members of the Church of Latter-Day Saints, the Mormons, observe July 24 as "Pioneer Day" in remembrance of their ancestors who forged a flourishing society out of the desert wilderness.

Led by Brigham Young, the new president of the church, the pioneers started to build a new city as soon as they arrived in the valley.

The land was vast and untamed. Lorenzo Young, brother of Brigham Young, described the valley in the journal he kept to recount the trip west:

> The foothills skirting the valley yielded no timber except several scattered scrub cedar and pines. There were a few cottonwoods and a clump or two of willows along City Creek. The valley afforded no cooling forest shade, no green savannahs relieved the monotony of desolation. The most prominent varieties of vegetation were wild sunflowers with large yellow blossoms, and species of dwarf thistle peculiar to the uplands which grew thin on the dry benches, contending with the wild sage for the scanty nourishment afforded by arid soil.
>
> These plants were loaded with hideous crickets, their black and brown bodies forming anything but a pleasing contrast with the yellow tint of the sunflower blossoms.
>
> The air was almost painfully clear and the ground dry and parched. There was none of the haziness of lower altitudes to modify the sun's rays, and there was no shelter from them except under tents and wagon covers; still the heat was not as exhausting as in the lower regions.

Despite the many problems encountered by the settlers, Brigham Young promised:

> As the Saints gather here and get strong enough to possess the land, God will temper the climate and we shall build a city and a temple to the Most High God in this place. We will extend our settlement to the east and west, to the north and south, and we shall build towns and cities by the hundreds, and thousands of Saints will gather in from the nations of the earth. This will become a great highway of nations.

Brigham Young's vision of the future has largely been fulfilled. The Mormons settled throughout the West and played key roles in establishing many Idaho communities. Liberty, Bennington, Paris, Montpelier, Ovid, St. Charles, Soda Springs, Lemi, Cambridge, and many others were strongly influenced by the Mormon pioneers who settled there.

The church has grown and now has a membership that spreads across the globe.

The Mormon pioneers who settled in the Salt Lake basin displayed an independent spirit, a strong belief in God, their families, and the country, and a determination that saw through the hardest of times.

The traits shown by those pioneers are needed today as the American people tackle new problems and new challenges.

One of the most inspiring aspects of the Mormon faith is the strong emphasis on individual initiative and private solutions. The Mormon faith exemplifies members of a religious community providing for each other's needs, instead of asking the Government to do it.

It is important that we pause and remember these traits as we honor the pioneers who helped settle the West. Their strong heritage can play an important role in the future of our country.●

COURT-ORDERED BUSING NOT DOING THE JOB

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. BONER of Tennessee. Mr. Speaker, after much research, consultation with many constituents and a conscientious review of the effects of court-ordered busing in Davidson County, Tenn., over the past 7 years, I will vote to send to the States this constitutional amendment to end mandatory busing.

Court-ordered busing in Davidson County has resulted in an erosion of support for public education, the loss of community cohesion and spirit, and the placing of the greatest burden on black pupils at their tenderest ages, in grades one through four.

High school students have been forced to ride the bus at 6 o'clock in the morning and elementary school students, during the winter months, have had to walk several blocks from their bus stops to their homes after darkness has fallen.

I would like to address the matter of the right of the American people to have a voice in this critical issue. I believe our citizens should have that voice. Passage of this amendment by the House and Senate will give the people a voice, through the participation of their State legislatures, in the ratification process. The crisis of confidence in government can be combated by involving citizens more directly in the democratic and governmental processes.

Mr. Speaker, underlying the busing question is a far more vital issue we must all address and that is insuring that all students in the Fifth District of Tennessee and across the Nation are able to receive the highest quality of education available to them within their communities.

I believe the highest quality of education must be provided to every student wherever he or she lives and wherever he or she attends school. Moreover, this education must be provided in an environment that accurately reflects the community in which our students live. As adults, we must meet a most critical need of our children by helping them to adjust to the society they live in. We must do this by assuring that they attend school with other children of all economic and ethnic backgrounds.

Mr. Speaker, I support an integrated school system in Davidson County. I believe such a system can best be achieved through the strategic placement of new schools and the proper and careful clustering of schools within the community. In voting for this amendment, I feel the need for a greater exercise of commitment and leadership throughout the entire community to finding new ways to insure the best possible education for every student.

In conclusion, Mr. Speaker, I would like to underscore the underlying issue of providing our children with the highest quality of education, wherever they may live or go to school. We must seek policies that will contribute to the achievement of this high standard. I think we have found that busing has not made a positive contribution and that new alternatives must be developed.●

THE AGONY OF VIETNAM REFUGEE BOAT 0105

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. STARK. Mr. Speaker, I commend to my colleagues' attention the following article from the New York Times titled "The Agony of Vietnam Refugee Boat 0105." In graphic terms it describes why it is so necessary for all civilized nations to take immediate steps to end this tragedy.

The Agony of Vietnam Refugee Boat 0105

(By James P. Sterba)

Pasir Bayat, Indonesia, July 19.—They threw their dead overboard with enough regularity to attract a constant escort of sharks.

Altogether, 20 people died during the two and a half months it took Boat No. 0105 to get from Vietnam's Mekong Delta to this sandy cove in Indonesia's Anambas Islands. But death, which has been the fate of thousands trying to make the same journey, is only one reason other refugees here refer to No. 0105 as the "unlucky boat."

Boat 0105 left Kien Giang on April 4 with 380 people in 66 families. About half were ethnic Chinese and half were Vietnamese who had adopted false Chinese names and identification so they could leave with the Government's blessing from an unofficial exit center.

PRICE RISES DURING DELAY

Arrangements began in November, but before Boat 0105 could leave, local cong an, or security agents, said they had received orders to halt the unofficial exits temporarily. The freeze was lifted in March, but it took three weeks for would-be passengers to accumulate enough gold to pay the cong an. Between November and March the unofficial exit fee had risen to 10 taels of gold, from 8, or to about $3,000, from about $2,400.

Since only ethnic Chinese were allowed to leave this way, additional bribes had to be paid to keep the cong an from checking the passengers of 0105 too carefully.

About 10:30 P.M. on April 4, Boat 0105, which was designed to carry river cargo, pulled out of Kien Giang with a Government patrol boat escorting it. The next morning, in the South China Sea, the escort boat turned around and its crew waved goodbye.

Bac Minh Chai, a 39-year-old former teacher, said the engine stopped two days later and Boat 0105 bobbed through an overnight storm that left most of the people aboard terrified and sick. Some of their food and water was washed overboard.

The next morning, another boat approached. The refugees waved and smiled, said Mr. Bac, and so did the crew of the other boat, who turned out to be Thais. As soon as they were lashed alongside 0105, they brandished a pistol and several knives, axes and screwdrivers. They took the men from the refugee boat onto their own and took their watches and rings and the gold some of them had hidden in their clothing.

NIGHTMARE IS REPEATED

The Thais took necklaces, watches and rings from the women. The men, said Mr. Bac, tried to arrange a deal to pay off the pirates, but they could not communicate because of the language barrier.

While several Thais guarded the men on their boat, six others took Vietnamese girls below the deck of 0105 where, as children and other women looked on, they raped them. Then the Thai guards on the other boat switched places with those on 0105 and the acts were repeated.

It was the first of 23 boardings by Thai fishermen-turned-pirates as Boat 0105 floundered helplessly with an engine that would not run.

"Every day two or three boats came up," said Lam Quantri Toi, a 33-year-old electrical engineer from Ho Chi Minh City. "We tried to tell them we had nothing left, but they searched anyway. They took clothes and tools and even pencils."

Freighters passed, but they were always too far away and never stopped. After the sixth day, people started dying. There was no more fresh water. Food was all but exhausted. The first to die was an infant, then the elderly and young children.

ARRIVAL IN MALAYSIA

By the time all the valuables on board were gone, some of the Thai pirates who came aboard apparently felt sympathetic and gave the refugees a little food and water. One group even tried unsuccessfully to fix the engine.

On April 27, a small Malaysian fishing boat towed Boat 0105 to the Malaysian coast in the state of Kelantan, where the refugees were given food and water but confined by police to a holding camp and not allowed to communicate with the local people. They stayed there until June 17. In the interim, their Malaysian guards solicited and received sexual favors from girls in the holding camp. It was the only thing of value the members of Boat 0105 had left.

On June 17, the survivors of Boat 0105 were ordered back on board. For the next two days and nights, they were towed by a Malaysian Navy patrol boat. The navy crewmen then cut the tow rope and told the Vietnamese they were 18 miles from the Anambas Islands. Their engine ran for an hour, then quit again.

On June 23, they sighted Mubur Island, and an Indonesian fishing boat towed them to this refugee camp.

With no money or other valuables for food or shelter, the survivors of Boat 0105 stand out from the other refugees here in their poverty. Unlike many of the others, they do not criticize the relief supplies of food, paid for by the United Nations, when they arrive without cooking oil or fish. They smile more than the others and are much more courteous to the Indonesian hosts. And they do not complain.●

BELIEVES H.R. 7 WILL SOLVE PROBLEM

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 20, 1979

● Mr. EVANS of Indiana. Mr. Speaker, it has been only a few days since the House passed H.R. 7, the Monetary Control Act of 1979. Support was overwhelming and hardly because it was a noncontroversial issue.

From the onset the problems were identifiable—the erosion of member banks from the Federal Reserve System and the commensurate lack of ability to control the money supply. It was only when the Banking Committee considered the possible solutions that the end became less fathomable.

Nevertheless, the struggle that commenced a year ago has finally culminated in a bill that I believe will solve the problem of Fed attrition and at the same time deal with the inflationary implications of lack of monetary control.

I commend Chairman Henry Reuss and ranking minority member Bill Stanton for their stewarding of the ship. I wholeheartedly admire the chairman's diligence for not abandoning the cause even when it appeared we were headed for the Bermuda Triangle. But for those who know our distinguished chairman, the end hardly could have been otherwise. At times it was his sheer will to resolve this problem that kept it alive.

I would also like to recognize the diligence and perseverance of Chairman Miller and all the banking organizations. Many thanks also, to the experienced bankers in my own district who continued to monitor our progress in the Banking Committee and make their practical considerations known so that we could work out real concerns which they initially held.●

CAPTIVE NATIONS WEEK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1979

● Mr. McDADE. Mr. Speaker, this week marks the 20th Anniversary of "Captive Nations Week," observed in commemoration of those people still subject to the oppressions of tyranny. Although we, as American citizens, live in a society dedicated to the concepts of freedom and democracy, it is important to remember that all people do not exist in such an atmosphere. Millions of Americans today live and work in this free society, while in their native lands others continue to endure oppression.

I feel that "Captive Nations Week" is particularly important as it gives us time to reflect on our own hard won liberty. Too often, we take for granted or fail to exercise those rights and privileges which our forefathers fought so hard to obtain. And too often, we fail to remember that as a nation, we must work together to preserve those liberties to which we have grown so accustomed.

America is dedicated not only to freedom within its borders, but to freedom for all peoples everywhere. The atrocities we are still experiencing in the corners of the world serve as a reminder that Americans must continue to vigilantly defend and advocate the cause of freedom in the hope that "Free World" and "world" will someday become synonymous.●

LUMPKIN CITIZENS DO NOT QUIT

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. JENKINS. Mr. Speaker, I would like to share the following article which appeared in the Gainesville Times with my colleagues. The article tells about the unsinkable spirit of the people of Lumpkin County, an area nestled in the heart of the north Georgia mountains.

The article follows:

They Do Not Know Meaning of Quit

(Alma Bowen, Times News Editor)

Don't ever tell Lumpkin County citizens they can't do something. That county apparently doesn't know the meaning of can't.

Consider, for example, the Lumpkin County Hospital. The hospital sits atop Crown Mountain off Highway 60, and passers-by can't tell that its walls are glued together with frazzled friendships, ulcers and mammoth headaches. Against all odds, the hospital was built because Lumpkin Countians refused to give in.

Money for the hospital was donated by practically every citizen in the county because they said they didn't want to speed down the winding highway to Gainesville with a loved one dying on the back seat. So battling tooth and toenail, they got a hospital which today is coming into its own as a good medical center drawing patients from surrounding counties.

Consider also that Lumpkin County doesn't have a manmade lake like so many other counties in North Georgia. The U.S. Corps of Engineers once mentioned putting a reservoir in southern Lumpkin County and started a fire in the hearts of Lumpkin's people that still blazes.

The lake would have supplied water for Atlanta and would have had an up-and-down water level. Dahlonegans quickly dubbed it the yo-yo lake and fought it so dramatically that months later a member of the Corps was overheard to say to another member of the Corps at an Atlanta meeting, "Oh, Lord, don't mention that Lumpkin lake. Don't even think about it. I don't want to get those people up there upset again."

Whatever the Corps had been thinking, the Lumpkin County people stopped, and they are ready to go to war today if anyone is thinking of putting a yo-yo lake in their vicinity.

Have you ever noticed a big green highway sign on Interstate 85 in downtown Atlanta that points tourists to Dahlonega. The sign has been there for years and looks out of place where it is located, but it didn't just happen there. The story is told that the sign was put there at the insistence of Dahlonega citizens who wanted tourist trade. A town that will tackle the barracuda that is the U.S. Corps of Engineers would find the Georgia highway department to be a piece of cake.

And consider Dahlonega and Georgia's capitol building. While the rest of the state may see Georgia's capitol as simply a building necessary to house Georgia lawmakers, if citizens elsewhere consider the building at all, Dahlonegans regard the capitol dome as their very own. Those who know the history of the gold roof on Capitol Avenue cannot view its gleam without thinking of the little mountain town and its citizens.

Dahlonega not only provided the first gold to cover the dome, but took it to Atlanta in a wagon train. After it covered the hemispheric roof with gold from their own ground, Dahlonega citizens become concerned with its preservation.

During the administration of Gov. Carl Sanders, 1960–64, they became alarmed about the starlings roosting on the precious metal. The late Ben Fortson, who served for so many years as secretary of state, had frightened the stubborn birds out of the trees with a gun, but the gun method didn't seem appropriate for a golden dome.

Dahlonegans knew there was more than one way to shoo a starling. They knew of a moonshine still which had produced a people-killing liquid, and they figured that anything that killed people could surely do in a bird. At least that's the way George Dover tells the story.

They put that whiskey still in a truck and hauled it to Atlanta. There wasn't time for a wagon train, and anyway, it was in the dead of winter. The Georgia State Patrol met them outside of town and escorted the citizens and their illegal still to the capitol. There on the snow-covered ground underneath their own regal dome the Dahlonegans cranked up their illegal moonshine still and proceeded to produce a brew guaranteed to kill people and hopefully starlings.

It isn't known if the brew worked, but the starlings had to have been impressed with the ingenious method. Those birds probably talked about the downright stubbornness of Dahlonegans when they set out to do something, and then took wing to easier times.

No doubt Dahlonega's latest project will be accomplished—the project spearheaded by the Dahlonega Jaycees to regild the old capitol dome. There's no record of Dahlonegans ever starting something, then giving up.●

LA PALMA RUNNING CELEBRATION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. PATTERSON. Mr. Speaker, the impact of proposition 13 has been felt in Orange County cities in numerous ways since last June. Among budget cuts exercised by the city of La Palma was the decision to discontinue their Fourth of July parade and fireworks display. In seeking an alternative program to honor the birth of this country and to provide their residents with the traditional celebration they have come to anticipate, the city has come up with an innovative citywide event.

This event, a 5K and 10K running celebration, will be cohosted by the La Palma Police Association, the city of La Palma, and Automatic Data Processing, Inc. Beginning runners and families are being encouraged to enter into the events, which will also include wheelchair athletes.

The actual run course which parallels the four main streets of the city will be incorporated into the La Palma Fitness Loop, a permanent recreation facility. This marked fitness loop will be available to residents as a permanent facility and as a sign of the city's commitment to physical fitness.

Mr. Speaker, I feel this event has captured the spirit of the Fourth of July. Civic organizations, local businesses, industry, and city staff have all worked together to create this event for La Palma and they have contributed to the development of a permanent facility for the better health and enjoyment of their residents.

I ask my colleagues to join with me in honoring the city of La Palma and the planners of this event for their innovative program, and the effective way in which they have maintained the Spirit of '76 in their Fourth of July celebration.●

ENERGY CONSERVATION

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SWIFT. Mr. Speaker, when I was in my district during the most recent district work period I met with the chamber of commerce of my hometown, Bellingham, Wash. It boasts an exceptional group of community leaders and I was extremely pleased to find that this group of businessmen had joined together to form an energy conservation task force. While this action was no doubt prompted by our most recent gasoline shortages, it still reflects substantial leadership because it took place at a time when a great many Americans believed there was no real shortage and were loath to consider conservation measures.

This type of leadership at the local level is essential if the United States is to meet the twin goals of energy conservation and expanded energy production.

As a suggestion to others who may be interested in developing this kind of local program I would like to insert in the Record at this point a brief description of several of the projects that have been suggested by the task force:

Establishment of park-and-ride programs for the Bellingham Transit System and encouragement and support of the local mass transit programs.

Prepare a car pool model for the urban core of the city.

Focus attention on conservation programs of the several utility companys which serve our area.

Provide the local news media with information concerning energy consumption and ramifications of unlimited demand for energy supplies locally.

Organize public forums to inform and enlighten the business community and the general public.

Draw upon the expertise of industry, Western Washington University and other sources to prepare information that is of immediate use by local people.

Sponsor promotions that focus attention on energy conservation and how it can benefit the individual consumer, local business and industry.

Explore ways to mitigate the impact of the gasoline shortage and inevitable shortages of other energy resources by plannig now and seeking alternatives.

These are interesting and innovative projects evolved at the local level that can be carried out at the local level to assure one community and one area's business interests can be doing their part in a national energy conservation effort.

It might also be useful to state this task force's philosophy and objectives. In a memorandum to me they stated it this way:

> As representatives of business and industry, the task force holds steadfast to its faith in the strength, innovation and courage of private enterprise to find answers to the so-called energy crisis. We believe that in partnership with government the problems we face can be turned instead into challenges awaiting our conquest. The result, we believe, is the continuation of an America that provides the maximum opportunity for every individual to share abundantly in the life, liberty and pursuit of happiness we presently enjoy.

In Bellingham, the task force is moving ahead under the sponsorship of the chamber, under the leadership of the chamber's president, Fielding Formway and the chairmanship of Chuck McCord. While I think these men, the other members of the task force and this effort are to be commended, it is more important that it be recommended to other communities throughout America. Conservation is only one of the two legs we need in order to meet our energy goals in the future. But it is the leg that will bring the most immediate relief from the problems we will be facing in the years immediately ahead while efforts to increase production of petroleum and electrical energy continue.

This is one community's effort. This is a very good beginning.●

TRIBUTE TO PAUL F. RIETZKE III

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. COURTER. Mr. Speaker, the American people have always placed special pride in the unique human qualities of courage and tenacity. Today I would like to recall an act of bravery and unselfish commitment to human life which can be cherished by all Americans.

Paul F. Rietzke III was an Air Force veteran, volunteer fireman, and resident of Lake Hopatcong, N.J. On his 45th birthday, Mr. Rietzke was working near the Raritan River when he suddenly heard the hollowing sound of six drowning voices. He turned toward the river and committed his life to rescuing the helpless waders. Five persons were saved; Mr. Rietzke died while trying to save the sixth, a young child.

Mr. Speaker, Paul Rietzke was a rare human being. His fearless action along the Raritan can only be described as valiant, bold, and courageous. It was an act dedicated to the sanctity of life.

The poet William Thackeray said a long time ago: "Bravery never goes out of fashion." This thought, more than anything else, must have been the personal credo of Paul F. Rietzke. Without concern for his own life, Mr. Rietzke plunged into the Raritan River to save the lives of others. He gave to us a visible definition of the word "valor."

To the widow and family of Mr. Rietzke, I offer my deepest condolences. Paul Rietzke loved his fellow man. His act of heroism will not easily be forgotten. The memory of the action itself, rather than the words I speak here today, will be the final tribute to Paul F. Rietzke.●

EMPLOYMENT FOR HANDICAPPED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. MOAKLEY. Mr. Speaker, I rise to speak of a tragic problem our Nation faces that is both unfortunate and unnecessary: This is the plight of our qualified handicapped workers who are unable to find a job.

There are millions of disabled Americans who are well qualified to fill many productive jobs but are unable to find employment because of unfounded myths and misunderstandings which influence many employers' decisions concerning the hiring of the handicapped.

Fears of increased insurance rates, lower job performance and job stability, poor attendance, and the required physical adjustment turn employers away from hiring the handicapped.

However, a study conducted by the Du Pont Co. on their 1,452 employees with physical handicaps disproves all of these assumptions.

The survey established that there was no increase in compensation costs and no lost time injuries, there were minimal physical adjustments required, 96 percent rate average or better with respect to on and off the job safety, 91 percent rated average or better with respect to job performance, 93 percent rated average or better with respect to job stability, 79 percent rated average or better with respect to attendance.

It went on to add that there seemed to be a direct relationship between job performance and the severity of the ailment. Amputees, blind persons, and paraplegics were at the top of the job performance list. It is obvious that given the opportunity the handicapped can be an asset.

An article in the May 1979 issue of Nation's Business, entitled "Disabled Workers Are No Handicap to Business," emphasized that "[the handicapped] as employees are absent less, produce more and stay longer."

Many individuals interviewed in this article underscored the growing acceptance of employers of the handicapped worker and their potential service to business. The president and founder of Richmond Combined Enterprises, Inc., which employs 55 production employees of which 52 are disabled, said that the handicapped,

> Are the best people on earth to hire. They take great pride in the quality of their work. Many of them feel this is the first time they have had the opportunity to do quality work and they also have a chance to be independent.

Donald S. Goering, general manager and part owner of GPK Product Inc. says his disabled employees are good business.

The handicapped are time and again faced with the dilemma of being discriminated against in employment opportunities because they are evaluated on the basis of false generalizations, misconceptions, and misinformation about their handicaps and not on the basis of their job skills, productivity, or performance. Our handicapped deserve the opportunity to be evaluated and hired on the basis of their ability and not their handicap.

When the problems of the handicapped are discussed, many people envision wheelchairs, and blind or deaf persons. But the term "handicapped" encompasses many other problems, such as heart disease, emphysema, arthritis, and even alcohol abuse. We must be aware of large differences between the types of handicaps and not assume all disabilities are incapacitating.

Today there are over 54 million Americans who are considered disabled throughout our country. This amounts to a startling 25 percent of our population. But what is more shocking, is that 40 percent of the disabled who have job skills and are employable cannot find work. This is a terrible waste of our country's human resources and talent.

We cannot allow this to happen. This great Nation has a commitment to helping those in need of assistance. We cannot turn our back on the handicapped. We must demonstrate this Nation's willingness to fight for the needs of all our people.

Mr. Speaker, I hope my colleagues will join with me in this vital struggle to give the handicapped an equal opportunity in employment.●

SUPPORT FOR AMTRAK

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. LUKEN. Mr. Speaker, it is important that Congress throw its full support behind the development of a passenger rail system which will meet our growing needs for an alternative to the use of the passenger car.

As a member of the Interstate and Foreign Commerce Committee, I can assure the other Members of the House that this bill gives Amtrak its first real chance to make a national passenger rail system work by giving it the business and financial tools it has not had before. For example, it gives Amtrak its first multiyear authorization, more flexible ridership criteria, and allows States to help the Federal Government fund Amtrak lines.

The bill also sets up a new route system for Amtrak that is more expansive than the drastic and unreasonable cuts proposed by the Department of Transportation. For example, there is $20 million included which will allow the continuation of five major trains, including one, the Shenandoah, which goes through my city of Cincinnati, Ohio.

I believe that we need to pass this bill as a signal to the Nation and the world that we are serious about doing something about our restricted ability to move people around with means other than automobiles during an energy crisis. We do not yet know to what extent we are going to have to rely on our passenger rail system in the future but we have had a vivid demonstration in the last few months that we are running short on fuel for cars, trucks, and planes and that people are willing to turn to the trains. In fact during June alone, 1,400,000 requests for space on Amtrak were denied because all the seats were filled. We have a strong responsibility to develop an excellent rail passenger system in this country to take care of our current need, and our future expanding need for good interstate mass transit.

I urge my colleagues to take meaningful action to restore the strength of our rail passenger system by passing this bill.●

A STRUCTURED FRAMEWORK FOR SALT DECISIONMAKING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

Mr. SKELTON. Mr. Speaker, John M. Collins, Senior Specialist in National Defense of the Library of Congress Congressional Research Service, recently addressed a symposium here in Washington regarding the strategic arms limitation treaty. I found his remarks to be most informative, and I urge the Members to read them. They are as follows:

A STRUCTURED FRAMEWORK FOR SALT DECISIONMAKING

(By John M. Collins)

SALT II is so complicated and such an emotional matter that salient issues consistently get lost in the shuffle.

Still, the task confronting our Senate is straightforward, when defined in the following terms: should the pact signed by Presidents Carter and Brezhnev be approved in its present form?

I support Congress, which provides my paycheck. That inhibits me from publicly espousing a position, either pro or con, so my purpose at this symposium is simply to demonstrate a structured framework for decisionmaking. I'll stick strictly to military considerations, in conformance with my assigned topic, leaving political input to foreign policy experts.

There are fifty different ways to fill out Figure 1, depending on personal persuasion. Paul Warnke would postulate one set of problems, responses, and implications, Paul Nitze another. All sorts of shades are possible in between.

I've put my presentation together using composite viewpoints of SALT opponents, liberals along with conservatives, to show how the severest critics, even cynics, just possibly could arrive at unexpected conclusions, if they keep open minds.

INTERCONTINENTAL BALLISTIC MISSILES

Let me walk you through this sample assessment, starting with ICBMs.

Practical problem

Problem one, on the upper left hand side of the list is both pressing and practical.

Its cause is no secret. U.S. strategists stress a Principle of War called Economy of Force. The Soviet side stresses Mass. Those incompatible principles, applied to ICBMs, spawned diametrically different policies over the past two decades.

We chose quality instead of quantity. The Soviets chose both. We chose missile accuracy instead of size. The Soviets chose both. SALT II institutionalizes consequent U.S. inferiority in fixed-site ICBMs, especially "heavy" models with many large MIRVs that will soon be a Soviet specialty.

The payoff was predictable. Most students of the subject seeem to agree that a Soviet first strike could smother America's Minutemen by the mid-1980s. No SALT proposal over the past seven years would have prevented that predicament.

So what's the prognosis? Follow the figure from top to bottom and left to right to trace the present pact's influence.

SALT II, to start with, leaves us in the lurch, but it's better than nothing, because it limits the level of Soviet launchers and the stock of Soviet warheads with single-shot hard target "kill" potential. Put a check in the "SALT Helps" column.

U.S. abilities to verify the quantities and characteristics of Soviet ICBMs have always been imperfect at best, even with Iranian listening posts in place. SALT II, however, improves our prospects, because it prohibits deliberate interference with national technical means. It also simplifies surveillance, by insisting that some telemetry remain "in the clear," and so on. Chalk up a second plus for SALT.

Pre-launch survival for U.S. ICBMs would be better if we substituted mobile models for missiles in silos. The SALT II Protocol forbids flight-testing from mobile platforms before 1982, but lead times to produce components will take at least that long, so it doesn't make much difference.

The Soviets, however, may yet contend that U.S. systems under study, including "shell games" and trenches, are incompatible with the pact, because they depend on deliberate concealment for success. Acceptance of the Treaty, skeptics say, consequently should be contingent on public reconciliation of Soviet reservations. Otherwise, all bets should be off. Meanwhile, the spread sheet lists SALT II influence as a murky "Unknown."

Active defense plays almost no part in this country's deterent plans. Second-strike U.S. ICBMs depend entirely on silos for protection. That exposed posture, coupled with comparatively low U.S. force levels, makes Soviet missiles most dangerous.

SALT II, however, permits us to change our policy. SALT I is the only barrier to ballistic missile defense.

Perceptual problem

Problem Two, left-center on the slide, suggests that U.S. steps to duplicate Soviet countersilo capabilities, in conformance with our quest for "essential equivalence," might shore up perceptions of this country's strength, but would poorly serve practical purposes.

Disciples of that school concede that SALT in no way would keep the United States from installing large MX ICBMs in silos. Mobile missiles with the same wallop may also prove acceptable. Still, U.S. powers would by no means match Moscow's, even if our force equalled theirs exactly in quantities and characteristics.

This country, you see, is committed to a second-strike strategy. Cosmetic abilities to crack Soviet silos would lack much meaning, these seers say, if Soviet first strike missiles took flight before SAC's force arrived.

Countersilo inequities, caused by Soviet SS–18s and SS–19s, for which we have no counterparts, are consecrated by SALT. That shortcoming can be condoned, in this clique's opinion, provided the Administration swaps Minuteman in silos for some mobile model—not necesarily a semi-mobile system like multiple shelters or miles of trench.

Bonus effects could be considerable, because masses of Soviet MIRVs serve an important purpose only as long as U.S. ICBMs present static targets. Moscow's missiles would lose much of their practical punch if we went mobile. Real force reductions conceivably could result in the long run, since relatively few Soviet warheads would be required to cover U.S. cities and other countervalue targets. That's how the story goes.

HEAVY BOMBERS

So much for the land-based ballistic missile leg of the beleaguered U.S. triad. What about heavy bombers?

Something like 75 B–52Ds were delivered to SAC in 1957. The last B–52H models entered service in 1962. Those aging aircraft suffer from fatigue, and penetration probabilities are hard-pressed to keep pace with improvements in Soviet air defense.

Two possible solutions, singly or in combination, are most often posed.

We could deploy air-launched cruise missiles (ALCMs) in sufficient quantities to saturate Soviet air space. The most restrictive SALT II limit would allow 2,400 on 120 bombers which, so equipped, could cover many more targets than 300-odd B–52s in their present configuration. SAC could strike with well over twice that quantity on a combination of cruise missile carriers, as long as American ballistic missiles with MIRVs remain at present levels, which are well below allowable limits.

Alternatively, or in addition to ALCMs, we could develop and deploy superior manned penetrating bombers as a substitute for B–52s. The overall SALT II ceiling on launchers is the only control, and it wouldn't stop us. Budgetary limits are more likely.

SUBMARINE-LAUNCHED BALLISTIC MISSILES

U.S. ballistic missile submarines face no serious problems in the foreseeable future, with or without SALT II. Their survival at sea still seems assured. Our stock of 40 KT Poseidon warheads is sufficient to cover 200 Soviet cities, with many remaining for "soft" military targets.

That part of the Soviet population and production base in blast shelters would probably survive if we struck, but surface installations would suffer severely from SLBMs until Soviet active and passive protective measures degrade U.S. retaliatory powers more drastically than they do at present.

Higher SALT levels would do less to counter possible progress in Soviet civil defense than hard target capabilities for our SLBMs, a course that is technologically feasible and is not SALT constrained.

CONUS DEFENSE

No consideration of SALT would be complete without a look at strategic defense, a forgotten quantity in U.S. deterrent equations.

The Continental United States (CONUS) at this stage is nearly naked to nuclear attack. There is little protection of any kind for second-strike U.S. systems, the American people, or our production base. Collateral casualties and damage could be colossal, even in a carefully controlled counterforce war with the Soviets.

SALT II places no prohibitions on any steps to improve U.S. active or passive defense posture.

The SALT I antiballistic missile (ABM) Treaty of 1972, with its subsequent Protocol, would permit U.S. scientists and technologists to push research in that field to the fullest extent possible, confined solely by the state of our art. It does, however, exclude development of exotic systems and deployment, which is pay dirt. U.S. decisionmakers could abrogate the Treaty if America's "supreme interests" were deemed in jeopardy, but political repercussions would likely be immense and the military spinoff unpredictable. SALT I consequently shows as a culprit.

CONUS DEFENSE A DILEMMA FOR U.S. ALLIES

The absence of CONUS defense also creates dilemmas for this country's friends overseas, as the left hand column indicates.

The so-called "nuclear umbrella," which U.S. leaders still promise to allies, has leaked like a sieve since we lost nuclear superiority during the last decade. Massive Retaliation against the Soviet Union would no longer be a rational response for this unprotected nation if Moscow tried to seize NATO territory or struck U.S. consorts in other countries. That fact of life also dilutes deterrent powers of U.S. tactical nuclear weapons, because we cannot control escalation by threatening to strike the Soviet homeland with our Sunday punch.

No changes in SALT II ceilings to ensure "equality" could cure that situation. The crucial requirement is for CONUS defense, which is constrained by SALT I, not SALT II.

SOVIET MEDIUM-RANGE BOMBERS AND MISSILES

Some critics fault SALT II for failing to control theater nuclear systems, but not everyone considers those findings well founded.

Sophisticated Soviet Backfire bombers and SS-20 intermediate-range ballistic missiles (IRBMs) with MIRV warheads are basically problems for U.S. allies and associates along the Soviet periphrey, not the United States, according to the U.S. intelligence community. Our arms controllers have struggled unsuccessfully to limit "theater" systems of that sort since 1965, when we seriously started to pursue Mutual and Balanced Force Reductions (MBFR) in Europe. SALT II conferees struck the same stone wall, partly because of complications caused by U.S. forward-based fighter aircraft, which we have not considered negotiable for SALT purposes.

SALT II, however, does not restrain U.S. and allied strategists from creating comparable capabilities by installing MRBMs and more medium bombers (such as FB-111s) on allied soil. Intermediate-range ground-launched cruise missiles (GLCMs) would also be acceptable, once the Protocol expires in December 1981, provided development is complete.

The question, therefore, is not whether we can station new nuclear systems in Western Europe, with the express purpose of striking the Soviet Union. The question is whether we should.

Finally, better air defenses for U.S. allies are perfectly permissible as a means of balancing the Backfire menace. An ABM shield for friends remains beyond reach, because SALT I restrictions forbid us to pass them present or future technology in that field.

CONCLUSIONS

The foregoing summary of SALT implications culminates with seven conclusions concerning this country's nuclear strategy and force requirements, if the illustrative input suits your fancy, and you accept the procedures:

SALT II, in and of itself, does very little to enhance or undercut U.S. security. Almost every notation says "Neutral."

Serious U.S. problems prevail, with or without the proposed pact, but all can be solved without scrapping SALT.

SALT II constraints on the Soviets, however slight, would help curtail future U.S. force requiremnets and conserve costs.

SALT II verification clauses, however incomplete, would simplify intelligence estimates of Soviet strength and U.S. courses of corrective action.

Some form of mobile ICBM is essential to a U.S. triad with three dependable legs.

Allied problems are not soluble by SALT at this stage.

SALT I ABM restrictions should be reconsidered.

DECISION: Approve the SALT II pact in its present form, provided a mobile ICBM system of our choice is admissible, and the Administration takes immediate steps to install it.

CODA

The assessment I've presented is, of course incomplete. Many other military matters might be mentioned. Economic and political linkage, if you like, is missing.

I've made no attempt to sell SALT or scuttle it. The spread of opinion used for expository purposes was pulled from a broad spectrum. I could have drawn on a dozen other perspectives. My pitch, I repeat, was to demonstrate a decisionmaking technique, trying to show in the process that calculations concerning SALT can lead to sound conclusions only in context with strategies. Playing a simple "numbers game" is simply not enough.

FIGURE 1

Strategic nuclear problems (present or impending): Potential responses	SALT I, II Treaty influence			
	Helps	Hinders	Neutral	Unknown
U.S. Problems:				
Intercontinental ballistic missiles:				
Practical problem:				
Pre-launch vulnerability:				
Limit Soviet hard target capabilities	II			
Verify those limits	II			
Deploy mobile ICBM's				II
Deploy ABM		I	II	
Perceptional problem:				
Superior Soviet countersilo capability:				
Equality in ICBM silos		II		
Deploy MX in silos			II	
Deploy mobile MX				II
Heavy bombers:				
B-52 post-launch vulnerability:				
Deploy sufficient cruise missiles and/or			II	
Bomber replacements for B-52			II	
Submarine-launched ballistic missiles:				
None serious:				
Planned improvements			II	
Conus defense:				
No protection for U.S. population, production base, or 2d-strike systems:				
Improve air defenses			II	
Improve civil defense			II	
Press ABM/ASW R. & D			I, II	
Deploy ABM		I	II	
Problems of U.S. Allies:				
U.S. nuclear umbrella leaks:				
Improve Conus defense		I	II	
Deterrent value of TAC nukes declines:				
Improve Conus defense		I	II	
Backfire bombers:				
Restrain deployment		II		
Improve allied air defense			II	
Soviet IRBM'S/MRBM's:				
Restrain deployment		II		
Deploy United States or Allied IRBM's/MRBM's			II	
Deploy GLCM's			II	
Deploy allied ABM		I	II	

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TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO EXCLUDE FROM GROSS INCOME THE INTEREST ON DEPOSITS IN CERTAIN SAVINGS INSTITUTIONS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. BONKER. Mr. Speaker, today I am introducing a bill to exclude from gross income the interest on deposits in certain savings institutions.

We in Congress must do what we can to encourage savings on the part of the American public. The United States has one of the worst savings records of any of the major industrialized nations. There are many reasons for this, but one is clear: Our tax laws penalize the saver.

This bill would attempt to address that penalty. It is not complicated—gross income for tax purposes would not include amounts received as dividends or interest on deposits up to $500. The limit would be $1,000 in the case of a joint return.

As it stands now, our savers are being hurt twice. They are hurt by the ravages of inflation, which outstripes the interest rates banks can afford to pay, and they are hurt by the tax laws, which imposes another penalty on that interest.

I believe this legislation could go a long way in addressing both problems. It would encourage savings, thereby strengthening our lending institutions, which make home mortgage loans available for our American families.

A good savings plan has always made good sense for a family. It makes good sense for a nation as well. We in Congress should do what we can to support and encourage sound financial practices. I urge my colleagues to support this legislation.●

TONGUE-TIED AMERICANS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SIMON. Mr. Speaker, I sometimes read "public service ads" put in by various companies which in fact are very self-serving.

Very much an exception to that rule is an ad which has appeared in some

American newspapers placed by United Technologies regarding our need for further knowledge in the field of foreign languages.

I hope my colleagues will take the time to read the ad of United Technologies.

The ad follows:

TONGUE-TIED AMERICANS

Travel abroad and you'll find, almost everywhere, people with enough grasp of English to give you directions, interpret a menu for you, or help with your travel schedule. But a non-English speaking visitor to this country is hard-put to find such help.

Among industrialized nations, the U.S. stands alone in its neglect of foreign language study. In the face of growing world interrelationships—political, diplomatic, economic—Americans' familiarity with the tongues of others is in sorry decline.

Last year the President's Commision on Foreign Language and International Study was formed to find ways to live up to international agreements in which the U.S. has pledged to encourage the study of foreign languages and civilizations. The commission's initial findings are dismaying:

Nine out of ten Americans cannot speak, read, or effectively understand any language but English.

About 90 percent of all colleges have no language requirements for admission. One-quarter of all high schools do not teach any foreign language.

College language enrollments have declined 21.2 percent in the past decade.

Foreign language enrollments dropped 15 percent among high school students between 1968 and 1974. Less than one-quarter of high school students now study a foreign language, as against 32 percent in the mid-1960s.

Only 17 percent of American foreign language students taught wholly in this country can speak, read, or write the foreign language easily.

The prevailing sense in this country toward those in other lands seems to be: Let'em speak English.

It's a foolhardy attitude. It ill serves America's interests and objectives in the world community. Unless it's changed, the U.S. will find itself at a disadvantage in grasping economic opportunities and meeting its diplomatic responsibilities around the world.

At a time of detente with Russia and rapprochement with China, an appallingly small number of American students are taking up those languages at the advanced levels necessary for fluency. One member of the presidential commission voiced distress on learning that the U.S. Foreign Service no longer requires any foreign language background for new service officers. Because so few Americans study foreign languages, he found, the State Department was forced to drop the requirement.

Much of America's economic growth in the years ahead will come from international trade. More and more people will be needed with skill in foreign tongues. By not pursuing language studies, many young people are cutting themselves off from rewarding careers in international business.

Knowledge of other languages and cultures is indispensable to fruitful international relationships. We in this country would do well to support and stimulate such knowledge, lest we find ourselves standing around with nobody to talk to except ourselves.●

COMMITTEE ON ENERGY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. ROTH. Mr. Speaker, our Nation has no higher priority than the development of an effective, comprehensive national energy program.

Energy is the lifeblood of our economy. The future of this Nation depends in large part upon the policies Congress adopts on energy.

Passage of the National Energy Act last year was an important measure. But other steps are required if we are to reach our energy goals.

Even now, Congress is considering energy legislation related to President Carter's July 15 speech, in which he outlined several key proposals and called for early action.

Despite the importance of energy, legislative jurisdiction is fragmented like no other subject in the House of Representatives.

JURISDICTION OVER ENERGY

Later this week, I will introduce a resolution providing for the creation of a Standing Energy Committee in the House of Representatives.

The new committee would have jurisdiction over all energy policy matters including those related to production, conservation, research and development, and energy regulation.

Passage of this resolution would, for the first time, place in a single committee responsibilities for energy that are now scattered among several committees of the House.

ENERGY COMMITTEE OVERDUE

There is an understandable and natural tendency among committees with responsibility for energy matters to schedule activities in order to have a piece of the action and to share the public spotlight.

As long as this situation prevails, energy policies and programs will suffer. So, too, will prospects for a solution to our energy problems.

Establishment of an energy committee in the House is long overdue. Congress must shoulder a major part of the blame for our not having a rational, effective energy policy in America before now. The way responsibilities have been fractionalized, perhaps we could not expect much. But the Nation's urgent need for action on the energy front—now—compels us to realize the institutions and structure of Government in order to respond to today's needs and to make timely and logical policy decisions that under the present House structure are virtually impossible. Why? Because such energy policy actions cut across jurisdictional lines of several committees.

PROOF OF NEED

In April 1975 the President submitted to Congress a proposal for a comprehensive energy program. There is general agreement that but for the creation of the House Ad Hoc Energy Committee the administration's proposal would not have made it through the House to be passed by the last session of Congress.

Now we learn that a special task force has been established in the House in order to handle energy proposals such as those related to President Carter's recent TV address to the Nation calling for action to help solve the country's energy problems.

Creation of the House Ad Hoc Energy Committee in 1977 and now the special task force are proof of the need which my resolution addresses.

The last Congress acted to create the Department of Energy. This action placed all the energy responsibilities in the executive branch in a single Cabinet agency. Also during the last Congress a reorganization in the Senate resulted in the placement of all responsibilities for energy in a single committee.

AREAS OF JURISDICTION

My proposal—the establishment of a House Energy Committee—would better enable this body to exercise its increasingly important responsibilities for energy. It would facilitate operations with the Senate, greatly aid the House in handling its oversight responsibilities of the Department of Energy, and provide a better means of handling the President's recently announced proposals for an energy mobilization board, an energy security corporation, and other specific energy proposals.

Under my proposal, the new Energy Committee's jurisdiction would include:

Energy policy (production and conservation); energy regulation; energy research and development; natural gas and oil production; coal production, distribution and utilization; hydroelectric power; solar energy systems; nonmilitary development of nuclear energy; naval petroleum reserves; and energy related aspects of deep water ports.

Study and review, on a comprehensive basis, matters relating to energy and report thereon from time to time.

TRANSFER OF RESPONSIBILITY

The resolution does not propose a wholesale reorganization of the House. Rather, it proposes establishment of an energy committee and the transfer to it of the above listed jurisdictions from the existing committees. Appropriate staff personnel from the existing committees who are performing such functions could also be transferred.

I urge my colleagues to join me in this effort to assure that the Nation's energy situation is given the priority consideration and treatment it deserves. This committee would be able to give its attention, solely and totally, to the solution of our energy problems. Its efforts would not be distracted, delayed, or diffused by other requirements as is now the case with the other existing committees who have multiple responsibilities.●

TAX CUT POSSIBILITIES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. RHODES. Mr. Speaker, evidence is mounting that the economy is moving into rough waters. The need for a tax cut also becomes more clear. I believe the question now simply is when and what kind of tax cut Congress will enact.

In an interview published in the Chicago Tribune of July 23, Michael K. Evans of Evans Economics, Inc., discusses tax cut possibilities, and calls for a tax cut emphasizing individual savings accounts which would stimulate investment in the plants and facilities we will need to counter unemployment. By creating these IRA's, we would encourage savings, which now are less than 5 percent of total income.

It is obvious that the needed tax cut should be fashioned carefully, with the aims of helping to stimulate investment to pave the path to recovery.

I urge that my colleagues take time to read this brief analysis of the economic challenges that face our economy, the American people, and this Congress.

Text of the article from the Chicago Tribune is as follows:

Tax Cut Possibilities

Political events in Washington have overshadowed economic ones in recent days, but statistics on the nation's output of goods and services, released Friday, confirmed that the economy had turned sharply downward. Forecaster Michael K. Evans of Evans Economics, Inc., rules out a "soft landing" and urges a prompt tax cut aimed at stimulating savings and investment. The recession, he says, will be more severe than most during the postwar years, though not as deep as during the 1974–75 period. Evans was interviewed by Tribune business reporter Terry Atlas. The following is an edited transcript:

Q—What implications for the economy do you see in last week's Carter administration shakeup?

A—It reflects a man who's run amuck; he has absolutely no idea what he's doing. The big news is the GNP [gross national product], not Carter's musical-chairs game.

Q—Will the ouster of Treasury Secretary [W. Michael] Blumenthal and the move of Federal Reserve chairman [G. William] Miller to Treasury change economic policy?

A—It won't make any difference. Miller was a tool of the administration at the Fed, and at the Treasury he'll continue the same policies he would have anyhow, which are basically Mr. Carter's policies.

Q—Does that leave the economy directionless?

A—It's leaderless; the direction is clearly down.

Q—As you said, the news is the second quarter GNP figure. It was down (after removing inflation effects) at a 3.3 percent annual rate. How does that compare with expectations?

A—We were calling for a 3 percent drop, so we got this one right. The consensus forecast was for about a 1 percent decline. so therefore it's a lot worse than most people thought. Car sales was the major number that went down, but it was weak across the board, really. No major component of GNP went up except inventories, and of course they'll have to be reversed in the second half of the year.

Q—What does this signal for the remainder of the year?

A—I think real GNP will continue to decline through the first quarter of 1980 at a 3 percent annual rate. The unemployment rate should start rising sharply now and hit a peak of 8.5 percent in the middle of next year. Inflation will slow down, but not nearly enough Inflation will slow to about 9 percent by the end of this year and to about 8 percent in 1980.

Q—What policy actions need to be taken? Is a tax cut appropriate?

A—We're going to have a tax cut next year, and that's obvious now that GNP has fallen as far as it has. But we need what I call a new-style tax cut, which is one that stimulates savings and investment as opposed to an old-style tax cut, which simply stimulates consumption.

Q—How do you do that?

A—Several possibilities have been suggested. One is to reduce the lives for depreciation allowances to 10 years for all structures and five years for equipment. The other possibility is what I call an "individual savings account," where the first $1,500 of interest income, dividend income, and capital gains would be exempt from tax.

If we do this, we can gradually work to get the rate of unemployment down over the long term. If we just have another consumption-style tax cut, we've accomplished nothing. We get ourselves out of the recession, but the inflationary spiral just goes on, and it's worse the next business cycle peak than it was this time, just as has been the case for the last five business cycles.

Q—When should a tax cut be put into effect?

A—Yesterday. Of course, you know what's going to happen: The cut will be passed the day the recession ends, more or less. This is the eighth postwar recession, and we've never had a tax cut before the recession was over.

Q—How serious is the recession that's begun? Will there be a "soft landing"?

A—We'll have the unemployment rate rising from 5.8 to 8.5 percent; that's more than usual but not as bad as in 1974–75. I can't call it a soft landing anymore, though. It will be more severe than the average postwar recession, but not as bad as 1974–75.●

CORPORATE RESPONSE TO ASBESTOS-RELATED HEALTH HAZARDS

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. KRAMER. Mr. Speaker, during the course of hearings before the Education and Labor Committee in recent months on the problem of occupational diseases, and particularly asbestos-related disease, a great deal of public attention has been focused on the issue of corporate responsibility for the problems and for the solutions. Unfortunately, reports of the health problems affecting workers in the asbestos industry and attempts to establish corporate culpability have overshadowed the many positive steps which the industry has taken over the years to advance the level of medical and scientific knowledge about the health effects of asbestos exposure and to protect the worker against possible hazards.

One company which has taken such steps over the years is the Johns-Manville Corp. The contributions this company has made, however, to advance the state of medical and scientific knowledge about the health effects of asbestos exposure, and the efforts it has made to protect its employees, have been largely ignored in the public accounts of the company's role in the asbestos health issue. Those who are quick to point an accusing finger at the company for not anticipating health effects on workers which did not become evident for many years after exposure ignore the simple fact that knowledge available to us now was not available at the time of exposure.

They ignore the fact the company did make substantial contributions over the years to the development of medical knowledge about the health effects of asbestos exposure and took steps to protect its workers against those hazards as they become known. And they further ignore the role of the U.S. Government in its regulation and use of asbestos materials, and in exposing Government workers to those materials during the time period when medical knowledge of the hazards of such exposure was incomplete for both Government and private industry.

In an effort to bring some balance to the public record, I would like to bring to the attention of my colleagues some of the arguments which the Johns-Manville Corp. has made in response to an article which appeared recently in the Washington Star and was reprinted in the Congressional Record. The following points were excerpted from a letter from John McKinney, chairman of the board of Johns-Manville Corp. to the editor of the Washington Star:

1. Early reports of disease resulting from the intense exposures in asbestos textile mills in England did not indicate that disease would be generated in the far lower exposure levels of other mining, manufacturing and insulating operations. Experience with other dust related diseases pointed to a contrary conclusion.

2. Medical and scientific studies were initiated by industry and participated in by the U.S. Public Health Service. These studies concluded in the recommendation by the U.S.P.H.S. of standards for exposure to airborne asbestos. These standards were adopted by the American Conference of Government Industrial Hygenists, and J-M operations met these standards.

3. Lung cancer among cigarette smoking asbestos workers was not predictable from earlier knowledge of the disease of asbestosis among abestos textile workers. The first such indication was developed in a Johns-Manville sponsored study in 1959 and confirmed in a Johns-Manville assisted study by Dr. Selikoff reported in 1964.

4. A total of about 250,000 people have been exposed to asbestos in private industry occupations. More than a million workers have been exposed in occupations controlled by the government—mostly World War II shipyards.

5. Government sponsored research of insulation workers in shipyards concluded in 1946 that insulation work was not an unreasonably hazardous occupation at exposure levels many times current standards. The study was subsequently recognized as faulty and the conclusions tragically incorrect.

6. At the time when industry is asserted to have withheld from workers knowledge of asbestos health hazards, Navy doctors were surgically implanting asbestos into the lung cavities of submariners in an effort to prevent collapsing of lungs.

7. Johns-Manville believes that the money now being spent in the third party litigation, with inconsistent and unpredictable results and with attendant high legal cost and court burdens, should better be spent in direct compensation programs.

8. Johns-Manville is willing to participate in a compensation program with respect to its own employees (in addition to workers compensation already provided by the company) if the government will accept responsibility for persons injured in environments controlled by the government. Johns-Manville is willing to participate in a program to provide additional funding to compensate those injured by asbestos who fit into neither industry employee nor government categories.

9. The use of asbestos insulation in ships being constructed and rehabilitated was critical to the nation's war effort in the 1940's. Its use was required by government specifications.

10. Much of the disease being experienced can be traced to the rip out of old insulation in ships being rehabilitated, rather than to the installation of new insulation products. Those work practices were under the direct control of the government.

11. Government knowledge of the incidence of asbestos disease and its causation has been as complete and as current as industry knowledge. Government's responsibility to workers in its own controlled work places is at least as great as the responsibility of industry to workers in the private sector.

12. The government has consistently for decades promoted the production and use of cigarettes without which over 97% of the asbestos workers who died of lung cancer would not have died of that disease.

13. The incidence of asbestos related disease has declined as a result of dust controls voluntarily developed and installed by industry. A Johns-Manville asbestos cement plant which began operations in 1958 has no cases of asbestos disease depite past exposure level exceeding today's standards.

In addition to these points. I would like my colleagues to be aware of some of the specific actions which the Johns-Manville Corporation has taken to advance medical knowledge of asbestos hazards and to protect its workers against those hazards. The following points are taken from the company's annual report for 1978:

1. Recognition in 1930 of the first American medical studies of possible health hazards from asbestos. This was in response to information that the heavy and constant asbestos exposure in the textile mills of England might be hazardous. These studies preceded by years any independent action by the United States Public Health Service or any medical organization.

2. Organization in the 1930's of industry support for extended research at the Saranac Laboratories of the Trudeau Foundation, a leading pulmonary disease research facility.

3. Voluntary adoption and adherence to the recommended exposure limits of the United States Public Health Service.

4. Physical examination programs available for employees continually since the 1930's: leading research reports in the early detection of disease.

5. Information prepared and distributed since the 1930's to inform employees of the work practices and protections necessary to eliminate the hazards recognized at the time.

6. Respirator programs installed where exposure might exceed "safe exposure levels."

7. Hundreds of engineering projects and millions of dollars spent for dust control, including the "invention" of equipment where none existed.

8. The first to place warning labels on asbestos insulation products in 1964 in response to the new evidence that dust from such products might create a hazard to people working with the products.

9. Continued funding of independent medical and scientific research including that of leading experts such as Dr. Irving J. Selikoff of Mt. Sinai Hospital in New York City.

10. Cooperative programs with industry and with labor organizations to disseminate information about asbestos and health, and to continue research.

11. Adoption of mandatory no-smoking programs for workers occupationally exposed to asbestos—the first broad-scale, anti-cancer program in American industry." ●

MARIO POLVOROSA: MAN OF GOLDEN DEEDS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. STARK. Mr. Speaker, today I would like to place in the RECORD a few words about one of the leading citizens of San Leandro, Calif., Mr. Mario Polvorosa, a city councilman and vice-mayor.

Mario Polvorosa is one of those good humans who cannot resist the opportunity to help others. As a result, many, many San Leandrans—and others—have benefited. A list of funds raised, organizations benefited and people aided by Mario is truly impressive.

Mr. Speaker, I am not the only one who is aware of Mario's role in the community as a good Samaritan. On July 31, 1979, the Exchange Club of San Leandro will honor Mario Polovosa at a luncheon at which he will be presented with the Exchange Club Book of Golden Deeds. As Rene M. Moal, chairman of the Book of Golden Deeds program recently wrote to me:

> The purpose of the Book of Golden Deeds is to recognize the good deeds of heroes and heroines of everyday life. It is exclusively an Exchange Club project that not only bestows contemporary honors upon worthy people, but also documents their accomplishments as an inspiration to future generations.

The Exchange Club could not have picked a finer person to honor. Mario is a public servant who goes beyond the normal duties of an elected public official to help those who need help. Whether it is raising money for jackets for the traffic cadets at St. Leanders School, getting blood donations for the seriously ill or getting equipment for a victim who suffered a severed spinal cord, Mario generously gives his time, efforts and special talents to the cause. And he is successful. In these days of "let Sam do it," Mario Polvorosa is a Sam for all seasons and all citizens. He delivers what he sets out to do. And what he delivers is aid to the afflicted and help for the hurting. He is a good public official and a good human. I am honored to count him among my friends.●

SOMOZA BETRAYED

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. McDONALD. Mr. Speaker, the Department of State and our President have just completed the overthrow of President Somoza. American Ambassador Pezzullo is already bragging about our action in downing Somoza.

Ambassador Pezzullo professes not to know what kind of government will emerge in Nicaragua, but it is clear to anyone who has followed the issue. The simple fact is that the Sandinistas have the guns. The Sandinistas did not win a major military victory, but they won the political fight, and this they could not have done without U.S. help.

The Augusta (Georgia) Chronicle penetrated the fog created by our policymakers in a very succinct editorial printed on July 18, 1979. I commend it to the attention of my colleagues:

[From the Augusta Chronicle, July 18, 1979]

SOMOZA BETRAYED

The downfall of Nicaraguan President Anastasio Somoza Jr. is a blow to the West and the anti-Communist cause.

Most galling is that the Nicaraguan chief of state, who tried hard to be a friend of the United States, was stabbed in the back by the Carter administration and the State Department. Liberals in the State Department hated the anti-Communist Nicaraguan government, and ranked it side by side with such "ogres" as Taiwan, Chile, Rhodesia and South Africa. And, in recent years, these liberals have been harping on Somoza's "human rights" record as justification for his overthrow.

Granted, Anastasio Somoza was no Thomas Jefferson. He and his family ran Nicaragua for 42 years under an autocratic but industrially progressive regime. But compared to the Marxist government of Panama, which the Carter administration consistently praises and looks at "objectively," the Somoza regime was paradise!

What Americans are now witnessing during the current guerrilla war in Nicaragua—and during the vacuum that has now been created by Somoza's departure to the United States—is the Carter administration tendency, often displayed before, to cheer on enemies of the governments it hates. Tragically, in Nicaragua's case, the result of this overt and covert anti-Somoza campaign no doubt will be the installation of a new Marxist guerrilla government similar to that imposed on Panama by Gen. Omar Torrijos. The evidence is there for all to see that the Sandinista guerrillas who want to take power in much the same style as Fidel Castro did in Cuba are heavily armed by Cuba and the Soviet Union.

It was just in mid-June that over 125 U.S. senators and congressmen wrote a letter to President Carter urging that our government stop the arms embargo to Somoza's national guard troops. They also advocated that Carter stop giving moral support to the Sandinistas. If Mr. Carter had thrown full arms and moral support behind the Nicaraguan government at that time, we believe that Somoza could still have militarily beaten the rebels.

The congressional letter also pointed out that the Communists could "control an area bordering on two oceans stretching from Panama to the vast oil reserves of Mexico. And at that point, this nation will bitterly regret the day it lacked the resolve and forcefulness to take proper action in support of President Somoza."

The shah of Iran, President Somoza and all too many Western leaders through the years can testify to U.S. abandonment and betrayal. What ally is next to be targeted? ●

BILL KAJIKAWA—FOUR DECADES OF FOOTBALL AT ARIZONA STATE UNIVERSITY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. RUDD. Mr. Speaker, I would like to pay tribute to an outstanding Arizonan who has contributed immeasurably to athletics in my home State.

After more than four decades of football at Arizona State University—first as an All-Border Conference tailback at Arizona State Teachers College at Tempe, and then as coach of successor ASU's Sun Devils freshman football players—Bill Kajikawa has retired.

Bill Kajikawa came to Arizona in 1929, when the State was a mere 17 years old. It was not an opportune time, during the middle of the Great Depression, when the population of Phoenix comprised only 50,000 people. In the ensuing years, Maricopa County has grown to 1.6 million people.

Kajikawa was recruited as a varsity player for the ASTC Bulldogs by Vernon Tuckey, himself a Bulldogs player and ASTC student body president. He was aware of Kajikawa's outstanding football record at Phoenix Union High School.

Vern remembers going over to the Kajikawa home in downtown Phoenix. Bill was in Los Angeles. His mother spoke only very limited broken English, and Vern spoke no Japanese. But somehow Vern was able to make arrangements to meet Bill downtown when he returned to Phoenix the next day.

Tuckey hit the jackpot. Kajikawa was accompanied by two other All-State football players—Mutt Guthrie and Don Gillette—and Vern persuaded all three of them to come out to Tempe the next day, where he signed them up for the Bulldogs on the spot. This day signalled college football history in Arizona.

"Kaji," as a legion of former players affectionately call him, started out with the Bulldogs on a football scholarship that consisted of a room-and-board work program. This was enticing at a time when the Depression bread line was a common phenomenon.

He played three seasons at old Irish Field, where a crowd of 3,000 for a Bulldogs game was considered substantial. Not in his wildest dreams did he ever visualize an Arizona State University, now, Sun Devils game before 70,000 excited fans.

When he graduated in 1941, Kaji took his freshman coaching job which he held until this year. His dynamic coaching assured his position with the freshman squad through the tenure of eight varsity football coaches. Kaji also coached basketball and baseball.

Looking back on the four decades of football, Kaji has seen many changes in the game. He recently stated in an interview with the Arizona Republic:

> It has become a business venture, and, perhaps in a way a vicious cycle. If you don't have the people [attending], you don't have the team, can't recruit and can't get the good coaches. Maybe there's a little over-emphasis, but it doesn't bother me. Arizona State has been fortunate to be able to keep up with the trends.

We, in Arizona, believe that we have indeed been fortunate to have had the benefit of Kaji's industry and leadership in molding the future of so many fine young men.

I would like to include the Arizona Republic's story on the occasion of Kaji's retirement at this point in the RECORD:

[From the Arizona Republic, July 22, 1979]

KAJIKAWA'S TENURE AT ASU SPANNED ERA OF GROWTH IN FOOTBALL

(By Verne Boatner)

When Arizona State football coach Frank Kush assembles his troops at Camp Tontozona next month, a major task will be to find adequate replacements for those who have departed.

One pair of shoes may be all but impossible to fill.

The shoes belong to 66-year-old Bill Kajikawa, who won't be on the sidelines this fall for the fist time in more than four decades.

After 41 years of coaching Arizona State's freshmen football players, Kajikawa has retired.

"Kaji," as a legion of former players call him, officially stepped down a year ago, only to heed Kush's plea for "one more year."

But now, claims Kajikawa, the former All-Border Conference tailback, the retirement is permanent.

"Nobody is indispensable," he said. "But it's going to be tough sitting in the stands after all these years."

After graduation in 1937 from the Tempe school that was known as Arizona State Teachers College, Kajikawa was hired to handle the freshmen by head coach Rudy Lavik.

He has held the position ever since, except for time out for World War II. Eight football coaches—Lavik, Dixie Howell, Hilman Walker, Steve Coutchie, Ed Doherty, Larry Siemering, Clyde Smith and Dan Devine—have come and gone while Kajikawa has remained. For the past 21 years, he has been grooming high school graduates for Kush.

He also coached baseball and was the head basketball coach when Ned Wulk appeared on the scene in 1957.

"It has been a wonderful experience," he said, "but all good things must come to an end."

The state of Arizona was only 17 years old when the Kajikawa family moved from California to Phoenix.

It was hardly an opportune time, 1929. Phoenix was a city of only about 50,000.

Kajikawa's stepfather opened a barber shop at Madison and Second Street.

Phoenix Union was the only high school in town when Kajikawa—who had missed a lot of schooling while touring Japan with his parents—enrolled as a 17-year-old freshman.

Age was no problem, for in those days athletes were eligible for high school sports until their 21st birthday.

Kajikawa, 5-foot-7 and 125 pounds, had never been exposed to organized sports. He was one of about three Japanese-American students "and probably the first to participate in sports at Phoenix Union."

With an enrollment of about 4,500, Phoenix Union was the kingpin of sports in the state. More than 200 students played football on either the varsity or in intramurals.

Kajikawa was one of the few sophomores ever to make the varsity. By graduation, he had earned nine varsity letters, in football, basketball and baseball.

"We went first class in every way," he recalled. "The varsity got new uniforms every year."

And in an era when Notre Dame was still traveling to Southern California by bus, the Phoenix Union Coyotes were chartering Pullman coaches for games in California, New Mexico and Texas.

While Arizona State and the Univeristy of Arizona were lucky to draw 3,000–4,000 fans, overflow crowds of more than 10,000 jammed Phoenix Union's newly erected stadium.

The Coyotes annually played Northern Arizona and the U of A's junior varsity, but ASTC was not deemed strong enough. In addition to the annual Thanksgiving Day game with the Phoenix Indians, the Coyotes even played their own postseason game—challenging top prep powers from out of state.

"I remember one year a team came out from Chicago," said Kajikawa.

An Arizona tSate football player and student body president, Vernon Tuckey, decided to do something aobut the deplorable state of football on the Tempe campus. He and his friends recruited nine all-staters, including Kajikawa, who by then was a robust 138 pounds.

"It was the middle of the Depression," said Kajikawa. "Some of the players had been out of school two or three years and couldn't get a job."

A "scholarship," which was actually a work program for room and board, sounded enticing at a time when bread lines were common.

"We had to work three hours a day for our meals," said Kajikawa. "None of the athletes could afford books. So we would wait until 10 o'clock at night, when the wealthy students were going to bed, and borrow their books to study."

Despite Tuckey's efforts and Kajikawa's individual achievements, the ASTC's Bulldogs were destined to remain the UofA's whipping boy for years to come.

He played three seasons on old Irish Field, before Goodwin Stadium was dedicated his senior year. A crowd of 3,000 was considered good.

"Not in my wildest dreams would I have ever visualized that one day Arizona State would play before 70,000 fans," he said.

Kajikawa was worrying over what he would do at graduation when Lavik offered him a job. He married his wife, Margaret, in 1941. They have two daughters.

Looking back at four decades of football, Kajikawa said, "The Peach Bowl (1970) was the turning point for ASU football. We left one era and entered a new one on the strength of that game.

"Another big game was when we beat North Carolina State (1960) when they had Roman Gabriel. There have been a lot of other great victories, but the climax was Southern Cal last season."

Kajikawa singled out Al Dalmolin ('34–'36), Whizzer White ('47–'50), Dave Graybill ('53–'56) and J. D. Hill ('67–'70) as the greatest ASU athletes he ever saw.

"But there were many others," he said. "Graybill and Hill had to be two of the greatest all-round athletes we ever had. J. D. could have excelled at basketball, baseball, anything."

Kajikawa has seen many changes in college football but nothing very alarming.

"It has become a business venture," he said, "and, perhaps in a way a vicious cycle. If you don't have the people (attendance), you don't have the team, can't recruit and can't get the good coaches. Maybe there's a little overemphasis, but it doesn't bother me.

"Arizona State has been fortunate to be able to keep up with the trends.

"I'm just proud to have been part of the growth. I really enjoyed all the years of working with players and coaches.

"And when I see a former player who has made good in his chosen field, I'm as proud as if he were my son. Hopefully, I helped a little bit along the way."●

OVERPOPULATION CAUSING PROBLEMS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SIMON. Mr. Speaker, as we strive to solve the many great crises confronting the Nation and the world—energy shortages, skyrocketing inflation, poverty and hunger—one most conclude that the overwhelming majority of the most crucial problems can be traced to overpopulation.

Many developing nations are currently experiencing massive movements of people from the rural areas to already overcrowded cities. Recently, the distinguished Rafael Salas, Executive Director of the United Nations Fund for Population Activities, addressed himself to the highly disturbing consequences of what he terms the largest migratory movement in human history.

Frequently, we are so preoccupied with immediate problems that we overlook others that are growing and intensifying. The result is that remedies often arrive late and are almost invariably more costly both in human terms and in dollars and cents. For this reason, I call your attention to the remarks of Mr. Salas as they appear in the current edition of Popline, the world population news service, a monthly publication of the Population Action Council.

The article follows:

OVERPOPULATION CAUSING PROBLEMS

UNITED NATIONS, N.Y.—Mass migrations from rural to urban areas of the Third World are "setting the scene for insurrections in the years to come," asserts a leading United Nations spokesman.

The "migration syndrome" can become the seed of unrest in burgeoning areas undergoing fierce competition for jobs, housing and services, says Rafael Salas, executive director of the United Nations Fund for Population Activities.

The population shift in developing countries as seen by Salas as the largest migratory movement in human history.

Urban population, which has doubled since mid-century, may well double again before the end of the century, he says.

In less developed regions, the urban population has increased from approximately one-sixth of the total population in 1950 to nearly one-third today and could soar to almost one-half within the next three decades, Salas continues.

From 1950 to 1975, the urban population in Africa tripled and it is expected to triple again by the end of the century. Asia and Latin America will experience a slightly less but still dramatic urban population growth.

Some 60 percent of the urban expansion in the Third World is due to "natural population increase," Salas maintains.

However, a relatively new and potentially explosive factor in urban growth is the willingness of vast numbers of rural inhabitants to uproot themselves from their villages and farms and move to the cities.

The attraction to urban areas that has been developing over the past several decades is due to the promise of employment and improvements, no matter how little, in their lifestyles.

Many national governments view migration as one of their primary population concerns. It is becoming a serious obstacle to development goals, affecting industrial location policies and investment allocations for schools, housing and hospitals.

"The causes of migration are quite obvious," says Salas. "Conditions exist that make the village life of sheer subsistence in small-scale agriculture unbearable for more and more people."

Conversely, Salas points out, a certain "romantic attraction to the cities offsets the reality that most migrants are forced to live in shanty towns upon their arrival. Village life in the Third World cannot compare with what the big cities seem to offer."

Overcrowding is but one in "a complex web of problems" caused by migration, Salas emphasizes, adding:

"Most migrants come to find work, and many of them do. They earn more than they ever dreamed of earning in the village and are able to send money back home. As small as the amounts may be, this causes an economic imbalance to say nothing of restlessness at home.

"Younger sons and brothers are disinclined to till the soil as they dream of joining fathers and older brothers in the city. Wives wait in the villages for husbands to earn enough to send for them, and instead of training youngsters for a life of agriculture, the dream is of the city.

"They realize, too, that life in the city offers a better chance at education, diversification in employment and a different social life. The attraction is great. The city is a magnet."

Salas stresses that migration is not only a trend but also "a hard reality that governments must recognize before population problems become impossible."●

INTEND TO AMEND H.R. 4839

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. McCORMACK. Mr. Speaker, I wish to make it known that when the Department of Energy authorization bill (H.R. 4839) comes to the floor, I intend to offer an amendment to restore funding for certain civilian power applications under the inertial confinement fusion program. Several parts of this program, which had been included in the President's budget, have not yet been authorized either under this bill or under a separate bill reported out by the Armed Services Committee. My amendment will correct this omission.

The text of the amendment follows:

AMENDMENT

On page 12, line 7 strike "$10,400,000" and substitute in lieu thereof "$15,900,000".●

RESOLUTION TO REVITALIZE THE SOUTH BRONX

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. GARCIA. Mr. Speaker, the following resolution of the Synod of the Northeast of the United Presbyterian Church in the U.S.A. is a great credit to that Synod. The members have unabashedly expressed their belief that revitalization of our urban areas, particularly the South Bronx, must be a major priority.

The suffering and human degradation of those living in the South Bronx stand in stark contrast to the hope and promise of the American dream that this Nation has long cherished.

As the resolution so forcefully states, it must now fall to us in government, whether it be on the local, State, or Federal level, to recognize the plight of these people, hear their pleas, and help them to rebuild their areas. President Carter has noted that we must move ahead to establish an agenda for the 1980's. There is no issue which should be given greater priority in the coming decade than the rebuilding of our inner cities.

Our Nation cannot continue to be divided between those with unlimited opportunity and those with none. The unity which we all seek can be found in a concerted effort by the Federal Government to work together with local communities and community organizations to provide the opportunities for advancement that the residents of these areas are so anxious to achieve. We must move now to commit ourselves to do nothing less than make the fulfillment of the American dream a real possibility for a significant portion of our Nation.

The resolution referred to, follows:

RESOLUTION

Whereas the top-priority concern of the Synod of the Northeast of the United Presbyterian Church in the U.S.A. is the New York City Metropolitan Area; and

Whereas the area of the South Bronx is a vital part of that city; and

Whereas we have seen with our own eyes the deplorable shambles that this section of the city has become, and heard with our own ears of the human suffering and degradation that residents of that section must endure; and

Whereas we note that plans for renewal and rehabilitation seem to be at a standstill, even while arson, vandalism, and wholesale abandonment of buildings continues at an alarming rate;

Therefore, be it resolved that the Synod of the Northeast, composed of representatives of twenty-one presbyteries which contain over 383,000 active members of the United Presbyterian Church in the U.S.A., from New York, New Jersey, and the six New England states, assembled at our annual meeting at Fordham University, Bronx, New York, June 13-16, 1979, do call upon public officials of the city, state, and federal governments to make every effort swiftly to formulate and implement a workable plan to renew the South Bronx and make it once more an area decent for human habitation.●

SYNTHETIC FUEL COST ESTIMATES UNDER REVIEW

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. ARCHER. Mr. Speaker, several weeks ago, in anticipation of an intensified debate in the Congress on alternative energy sources, I asked the Library of Congress to undertake a study of comparative fuel costs.

The first portion of that study, the segment dealing with synthetic fuels, has been completed—and in view of the President's proposal for an ambitious Federal synthetic fuels program, I feel it is most important that my colleagues in the Congress have an opportunity to see the estimated costs that are involved to the American consumer.

Please note that all estimates are in current 1979 dollars. Additional segments of the comparative costs study will be released as they become available.

The study follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 17, 1979.

To: House Ways and Means Committee, Attention: Representative Bill Archer.

From: Paul Rothberg, Analyst, Physical Sciences, Science Policy Research Division, and David Gushee, Chief, Environmental Policy and Natural Resources Division.

Subject: Cost Estimates: Synfuels That Might Be Commercialized Under the Provisions of the Proposed "Energy Trust Fund."

In response to your request, we have prepared a tabel of estimated capital costs and price per barrel of products for a variety of synthetic fuels made from coal and oil shale. These estimates are our "best guesses" arrived at on the basis of previous estimates made by, or for, the Department of Energy; selected industry estimates made before congressional committees, as modified by us on the basis of inflation rates; changes in OPEC oil prices since the original estimates were made; and our own judgments.

All estimates are in 1979 dollars and represent cost as of the initial period of operation. The estimated product and capital costs assume a constant OPEC price of $18 per barrel in 1979 real dollars. Should the OPEC price in real terms change during the period of construction, the product and capital costs would also rise.

We wish to emphasize that estimates of synfuels costs are subject to much uncertainty. These economic projections are likely to remain uncertain until several plants have operated and produced fuels on a reliable basis for a sufficiently long period of time. A discussion of major uncertainties facing a coal-based synfuels industry is given in CRS report No. 79-134.

We would also add that new detailed cost estimates, despite the time they take and the costs that they incur, would be unlikely to reduce the uncertainties in these estimates by very much, because of the uncertainties in the underlying assumptions.

SELECTED SYNFUELS TECHNOLOGIES THAT MIGHT BE COMMERCIALIZED UNDER THE PROPOSED "ENERGY TRUST FUND" [1]

Technology/Process	Estimated capital cost [2] [3]	Plant output	Economic incentives allowed under existing law (July 1979)	Estimated price of product at plant [2] [3]
A. Oil shale synfuels:				
Above ground oil shale processing retort/Tosco, Paraho, Union Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$30 to $50 per refined barrel.
Multiple mineral oil shale processing/Superior Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
Vertical modified in situ oil shale processing/Occidental Petroleum Corp.	$900 million	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
B. Coal synfuels:				
Hi-Btu coal gasification/Lurgi	$2 to 2.5 billion	250 million cubic feet of gas	Loan guarantees, joint Federal industry cooperation, investment tax credits for synfuels.	$5 to $8 per mcf at plant gate.
Medium-Btu coal gasification/numerous processes available.	$250 million	75 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4.75 to $6.50 per million Btu.
Low-Btu coal gasification/numerous processes available.	$4 to $5.5 million	1 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4 per million Btu using $35 per ton coal.
Coal liquefaction/possibly Fischer Tropsch	$2 to $2.5 billion for a syncrude plant.	50,000 barrels per day	Loan guarantees, guaranteed prices, purchase of products, investment tax credit for synfuels.	$35 to $50 per refined barrel at plant gate.

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[1] For synfuel technologies, e.g., oil shale processing systems and coal synfuels systems, it is difficult to estimate the project and product costs. Many uncertainties are associated with the economics of technologies that have not yet been commercialized. Economic projections on synfuels technologies are likely to remain uncertain until several plants have operated and produced fuels on a reliable basis for a sufficiently long period of time. Because of these uncertainties, the number presented in this table should be considered to be "best guesses" and are subject to much uncertainty.

[2] All cost and price figures are in 1979 dollars and are assumed to represent costs as of the period of initial operation.

[3] "Best guess" estimates, prepared by Rothberg and Gushee. ●

IN DEFENSE OF ISRAELI ATTACKS ON PLO INSTALLATIONS IN LEBANON

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. KEMP. Mr. Speaker, there has been considerable discussion in recent days about Israel's policy of conducting military operations against suspected PLO installations in Labanon. It is no secret that the PLO now uses Lebanon as its base for conducting terrorist operations against Israel. The PLO has infiltrated terrorists into Israel by land and sea, not to attack military installations, police facilities, or symbols of the Israeli Government, but to attack the most defenseless elements of Israeli society unarmed women and children.

The PLO terrorists frequently are "suicide squads" who have no expectation of completing their mission alive. Hence, they are trained and organized to inflict the greatest amount of damage on Israeli civilians possible, knowing that they will have no escape. To deal with the terrorist threat, Israel has adopted the only reasonable course. Israel is striking at the bases from which the PLO terrorists operate in Lebanon. To do otherwise would require nothing short of a police state in Israel.

Israel has conducted land, sea, and air raids into areas of Lebanon where PLO terrorists are known to be based. Since the Lebanese civil war, there has been a considerable movement of PLO bases from their original concentration around refugee camps to being widely dispersed throughout Lebanon. Thus, in order to strike at the bases from which the PLO terrorist operations originate, air and commando strikes must be made throughout Lebanon.

It is disappointing to hear statements made by Members of Congress, the State Department, and others who equate Israel's effort to strike at the source of terrorist assaults on Israeli civilians with the terrorist assaults themselves. To do so provides the terrorists with the very objective they seek. It equates self-defense with terrorism, thereby undermining the ability of a democratic society to defend itself against totalitarianism and subverts the meaning of the English language. I submit that the stakes in this issue are much larger than the survival of Israel: they are involved with the means by which any democratic society can defend itself against totalitarian mehods of warfare. The PLO is not a nationalist organization; it is a Communist organization whose exploitation by the Soviet intelligence apparatus is so well documented as to be beyond question.

I strongly support Israel's right to self-defense against terrorist attacks by means of bringing these attacks to the bases which support them. Only when democratic societies adopt a resolute posture against terrorism of the type Israel has pioneered, will there be some hope that the terrorist menace can be surpressed.●

DISSENTING VIEWS ON SACCHARIN

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. MAGUIRE. Mr. Speaker, the House of Representatives will soon vote on H.R. 4453—to amend the Saccharin Study and Labeling Act (Public Law 95–203) to extend the mortorium on the ban on saccharin. Mr. OTTINGER and I actively opposed this bill in the Committee on Interstate and Foreign Commerce and presented an alternative to the bill. Our bill—H.R. 3852—would allow the Secretary of Health, Education, and Welfare to reinitiate the proposed rulemaking to make saccharin available to consumers as an over-the-counter drug. These regulations would take place 3 years after their promulgation. If an alternative non-nutritive sweetener to saccharin is developed and regulations issued, saccharin would then be sold immediately as an over-the-counter drug. Our bill also provided for these regulations to take place "if the Secretary finds on the basis of new evidence that saccharin presents an unreasonable and substantial risk of illness."

I would like the Members of the House to recognize the strength of our commitment to this issue. I submit for the CONGRESSIONAL RECORD Mr. OTTINGER's and my dissenting views printed in the committee report (No. 96–348) on the saccharin extension to accompany H.R. 4453.

The dissenting view follows:

DISSENTING VIEWS

(By RICHARD L. OTTINGER and ANDREW MAGUIRE)

Two years ago Congress enacted the Saccharin Study and Labeling Act (P.L. 95–203) to prohibt the Food and Drug Administration from restricting the use of saccharin and to direct the National Academy of Sciences (NAS) to review all available information and report back to Congress regarding the carcinogenicity of saccharin.

At that time, we felt that with proper safeguards this 18-month moratorium made sense. In view of the lack of political and scientific concensus, the moratorium allowed continued marketing for the millions of Americans who felt the need for saccharin, while it gave industry time to develop a safe substitute for saccharin and the NAS time to evaluate the validity of the tests which had indicated saccharin was a carcinogen.

Unfortunately, two years have passed and we are no closer to the objective of finding a safe substitute than we were when we enacted the moratorium in 1977. In spite of this, the Congress now is considering extending the moratorium for two more years. We don't think this makes sense. It is time to take some positive steps to encourage the development of alternative sweeteners and to prevent the continuation of a known cancer-causing substance in our food.

The best solution is to find a safe substitute for saccharin. There would be no reason to require FDA to allow a proven carcinogen of any strength in our food supply if a safe substitute were available. Indeed, there was no action taken to interfere with the FDA when it banned cyclamates because saccharin was available.

In April, we introduced legislation to set a clear date for the phaseout of saccharin in order to put industry on notice that it must come up with a substitute and to provide a reasonable time and the incentive to do this. In addition this bill provided that FDA could take action sooner if a substitute were approved during this period. An amendment to allow this was not adopted by the committee.

H.R. 4453 as reported by the committee not only leaves the final disposition of saccharin up in the air, it delays the day when industry will introduce a safe substitute. In addition, it does nothing to protect millions of Americans from the continued consumption of a substance which the NAS report confirmed is a carcinogen.

Several of the arguments used in support of this legislation should be addressed.

It is alleged that overweight people and diabetics need saccharin to control their weight. The scientific evidence suggests, however, that saccharin raises the sugar level and thus stimulates the appetite.

Where a doctor feels that saccharin is medically necessary for his patient, there would be no problem having saccharin available as a prescription drug. We would have no problem making it available as an over-the-counter drug if it were properly labeled as to the risk involved with consumption. It is quite a different story, however, to have it included in food and soft drinks which people, particularly children, are likely to ingest oblivious to the risks.

It is argued that people should have freedom of choice, even though the sweetener unquestionably poses increased cancer risk. We don't believe the freedom of choice argument makes sense in this case. It would be more prudent to treat saccharin as we do prescription drugs, that is, restrict public access because of the serious risks involved.

Lastly, it is still argued that the carcinogenic risk from saccharin is unproven. But, as the NAS notes, saccharin has been controversial almost from its first introduction into food 70 years ago. In fact, there is considerable evidence, both suggestive and demonstrative, that indicates saccharin causes cancer in both animal and man. Relying upon epidemiological evidence, one notes that both the Canadian study by Howe (1977) and the Wynder study (1977) indicate saccharin's carcinogenic potential in human populations. Howe observed a causal relationship between bladder cancer and humans. Although the relative risk was small among the observed group, the fact that an increase could even be observed in a relative insensitive epidemiological study should red flag saccharin as a public health risk.

The Wynder study noted that: "The data appear to support the hypothesis of a statistical association between saccharin usage and bladder cancer in man even to the extent of exhibiting dose-response relationships with duration and usage."

Three standard animal tests for carcinogenicity have demonstrated that saccharin causes cancer in rats. These are the 1973 Wisconsin Alumni Research Foundation test, the Food and Drug Administration's 1973 test, and the 1977 test by the Canadian Government's Health Protection Branch. The NAS and the Congressional Office of Technology Assessment studies independently confirmed the scientific validity of all three tests.

Many people, both laypersons and legislators, are uncomfortable using inferences from epidemiological data and animal data to predict human cancer risk. Yet those agencies with the responsibility to regulate in the public interest—EPA, FDA, CPSC, and OSHA—must rely upon these data to protect the public from cancer because—due to cancer's long latency period—direct human evidence is impossible. And that reliance has been repeatedly upheld in the Courts.

There are substitutes for saccharin being tested. The Coca Cola Company has stated it could have a substitute on the market within 90 days if saccharin were banned. We should require a safe substitute be developed and marketed within the two year periods of this bill. That is the only way we will succeed in getting a substitute produced and get saccharin out of our food supply.●

AMTRAK AND POSTAL SERVICE SHOULD COOPERATE TO SAVE MONEY AND ENERGY

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. JENRETTE. Mr. Speaker, DOT did not address one source of revenue that can have an economic impact on Amtrak—mail and express. Mail transportation has always been an instrumental part in making a passenger train economically viable. When passenger trains were profitable, it was due to a combination of passenger, mail, and express revenues, as well as overhead cost allocation based on frequent service. The present Amtrak system serves 20 of the Nation's 21 bulk mail centers. The DOT plan as passed by the House serves sixteen. Mail and passengers can be joint products; they can both pay toward the cost of the train. In fact, years ago rail passenger transportation in rural areas was often a byproduct of mail transportation. Amtrak should be encouraged to develop their services in concert with the needs of the U.S. Postal Service.

I have often wondered how we could heavily subsidize these two federal agencies without requiring that they cooperate. I believe both the Postmaster General, Mr. Bolger, and Amtrak's President, Mr. Boyd, would be agreeable to cooperation in this historically interrelated field if given the proper push or maybe a heavy shove by Congress.

Postal revenues give us a means to save money while maintaining a high level of service.

This amendment provides for a 5-year plan to maximize mail and express revenues. The plan will be furnished the Congress not later than March 31, 1980, and plan will address Postal Service and Amtrak cooperation including the extent that the authorized route structure can be used for mail and package express transportation. This study will be "nuts and bolts" and will state how many baggage cars can move how many tons of mail and packages and at what times.

A private study recently done by Frank Shaffer of Chicago demonstrated that coordination between the U.S. Postal Service and Amtrak for transportation of bulk mail on what is essentially the present Amtrak system, could provide $50 million in revenue to Amtrak. An injection of $50 million in yearly revenues could not help but improve Amtrak's fiscal position, and certainly give us a better taste here in Congress. This does not include revenue from first-class mail.

Congress will be involved in this study and I believe we have a responsibility to act to save taxpayers money.●

THE PRESIDENT'S ADDRESS TO THE NATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 25, 1979, into the Congressional Record:

The President's Address to the Nation

President Carter's July 15 address to the nation was surely one of the most extraordinary speeches ever given by an American chief executive.

In opening paragraphs that can only be described as remarkable, the President came down very hard on his own performance in the White House. Indeed, he was tougher on himself than he was on anyone else. He listed and discussed a litany of criticisms of the job he had done as President, and he acknowledged that he had not closed the gap between the citizens of the country and the government. Citing the criticism that he was only managing the government, not leading the people, Mr. Carter tried to project the public image of a strong leader who had recognized his shortcomings and was ready to start anew. Speaking in the tones of a crusading evangelist, he exhorted the people to be proud of "hard work, strong families, close knit communities, and our faith in God." Americans have not often heard their Presidents say such words.

Although it is too early to judge, the address may have been a turning point for the President. It has been no secret that Mr. Carter is in deep political trouble. Public opinion surveys taken before the speech had dropped him to an historic low. The speech and his performance in the next few months will very likely determine his chances of remaining in office into the 1980s. When Mr. Carter spoke to the nation, he knew that the people doubted his leadership and would greet his words with a mixture of skepticism, hope, anxiety, and willingness to sacrifice. He also knew that failure to measure up would doom his approaching candidacy.

The President delivered the address not only to turn his political fortunes around, but also to turn the fortunes of the country around. Mr. Carter believes that the nation has lost confidence in its ability to overcome the obstacles that lie ahead. He sees not only the government, but also the major institutions of our society, scarred and deeply shaken by the assassinations, Vietnam, Watergate, and other troubling events. In his view, the challenge to his leadership is to begin to restore the nation's faith in itself. Mr. Carter noted time and again that the energy problem is subordinate to his main theme. It is symptomatic of a crisis of the American spirit and a breakdown of the cohesion and common purpose in the nation. The energy problem happens to be the one to grasp. Concerted national action to solve it can serve as the cutting edge for American resurgence in other areas. The President's task, then, is formidable: to rescue a faltering administration, to rekindle Americans' confidence in themselves, and to set the nation on the path to energy independence. The people have heard the promise. Now they will assess the performance.

Despite the expectations created by the "domestic summit" at Camp David, the energy program offered by the President contained no big surprises. The highlights of the program are a limit on imports of oil, the establishment of an energy security corporation to develop substitutes for oil and an energy mobilization board to expedite the construction of important projects, a requirement that utilities cut their consumption of oil, incentives for the development of heavy oil, unconventional gas, and oil shale, assistance for mass transit, and programs to aid low-income families hit by high energy prices. The total cost of these initiatives would be $142 billion, to be funded principally by a tax on the windfall profits of oil companies.

The President made an important energy commitment in his address: this nation is going to reduce its imports of oil. To fulfill the commitment, Mr. Carter is relying on conservation for the first few years, but his overall effort is designed less for the immediate energy problem and more for a long-term result. Although it will not be easy for the President to maintain public support in the months to come, most of the new energy legislation is already moving in Congress. I expect that the House of Representatives will have completed action on at least five major energy bills before the August recess. Congress has a responsibility to consider Mr. Carter's proposals promptly and fully, but it should not hesitate to choose other options if it finds them better.

My guess is that the President caught the nation's attention with his discussion of the crisis of confidence. Many Americans have been disturbed by our apparent drift, and Mr. Carter may have succeeded in expressing their concerns. These people know that the nation had to get together on a plan of action, so they may be with the President even if they do not agree with every detail of his program. I think that most Americans want the President to succeed. They feel better when he acts with decisiveness. It is obvious, however, that more than a single speech will be required to make a lasting impression.

At very least, the President has given the country a plan to free itself from dependence on foreign oil. There has really been no such plan until now. I believe that if the people get a renewed sense of direction from the plan, even if it is costly and difficult to implement, they will look at themselves and their nation in a new light.●

ORDINATION OF NEW BISHOPS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Ms. OAKAR. Mr. Speaker, the ordination of Bishop-elect James A. Griffin, Bishop-elect James P. Lyke, and Bishop-elect Anthony M. Pilla which will take place in St. John Cathedral, diocese of Cleveland, on August 1, 1979, is a time of great joy and celebration for people of all faiths.

The elevation to bishop of these three outstanding priests is a reflection of their humble dedication to God and to their fellow man. They are to be congratulated for receiving this honor in recognition of their untiring and unselfish service to the Catholic church.

Each one of the new bishops will bring to the diocese of Cleveland a variety of backgrounds and expertise that will enhance the church and draw closer her members in the common goal of peace and social justice for all people.

May I now join with the hundreds of well-wishers and extend my personal congratulations to Bishop-elect James A. Griffin, Bishop-elect James P. Lyke, and Bishop-elect Anthony M. Pilla, and pray for Godspeed in their holy work.●

THE LUCK OF THE OUTBACK

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. BINGHAM. Mr. Speaker, one of our good friends in the world, Australia, rarely gets attention in our media and most Americans know too little about it. A recent article in the Washington Star makes the same point vividly in connection with the fall of Skylab. The article, by John Shaw, a visitor in Washington and a former Time correspondent who now lives in Canberra, follows:

The Luck of the Outback

(By John Shaw)

Praise be to Skylab—not for scaring the sharks and kangaroos in Australia but for putting that country on American front pages. This is an event so strange that you, or at least we Australians, will probably have to wait for another episode of comet-like rarity to experience it again.

Over at the Australian Embassy I'm sure they're framing the clippings, to be rushed off in the diplomatic pouch to Canberra. (Last time Australia made the front sections of the dailies hereabouts was during the 1977 Washington visit of Prime Minister Malcolm Fraser, when President Carter couldn't even get Fraser's first name right.)

But, you may say, lucky country that manages to stay *out* of American headlines. Who wants the attention paid to Nicaragua or Iran if the cost of admission is crisis?

I'm not advocating that American newspapers be only good-news papers. In fact, Australia, with its problems of inflation and unemployment, and controversies over nuclear power and the plight of its Aborigines, wouldn't rate space on that level. I'm aware, too, that the American press is so short of acreage that even such significant matters as the personal lives of Linda Rondstat, Bianca Jagger, and Jacqueline Bouvier Kennedy Onassis—people with relevance for all our futures—hardly get the space they merit.

And as a Georgetown hostess put it to me the other evening, "Australia is so far away from Washington." True—just as Washington is far away from Australia, and, indeed, often seems far away from anywhere.

So why should this faraway country, short on crisis and long on calm, rate the attention of American editors and their readers? One pointer: had Skylab crashed a few minutes earlier or later it might well have have plowed into one or other of the two most important American intelligence and military communications bases outside the United States These electronic security outposts are in the Australian outback, at Alice Springs and North West Cape. Since Iran fell out of American orbit, these have acquired an added significance not generally recognized in the U.S. Nor, may I add, by Australians themselves.

Now, Australia is not about to ask for the bases to be dismantled, or up the post-Iran ante for having them there. They are not at issue and there is bipartisan political approval for them.

But perhaps Americans should know more about the country that houses them. Until Skylab came down, like a gift from heaven for my cause, I had not seen in more than two weeks of reading the Star, that Other Paper, and that good, grey institution in New York, a single item about Australia. Not even a baseball score (yes, they do play more than cricket and croquet there). On U.S. television, John Newcombe, a transplanted tennis tycoon, keeps the Australian flag flying with his flat twang—but he's now so omnipresent that he passes for just another handsome local huckster. In the same period, there was zealous overkill coverage of the squalid and predictable internal politics of Nicaragua, a country which, in all seriousness, I doubt interests many Americans.

Until American editors can be persuaded to report regularly on Australia, the country will have to rely on the prize-winning novels of Patrick White and Thomas Keneally and the sensitive movies of Peter ("Picnic at Hanging Rock") Wier to carry its message across the Pacific.

What is the message? It has many sides. Australia is big, rich, complex, replete with energy deposits, and increasingly involved with Japan, China, and, of course, the United States.

I suspect there's a good deal of unsatisfied curiosity about Australia in Middle America which, I gather, senses the similarities.

Australians, for their part, have a thirst for Americana which has, in recent years, led some Australian papers, which already have Washington and New York bureaus, to also appoint correspondents to report at length on the wonders and weirdos of the West Coast.

In short, Americans, often astonishingly well served with foreign news, are missing a story. Not one of crisis, but of progress and people (the latter far outnumbered by sheep and kangaroos, it is true) in a faraway country which, as I vainly search for news of it, seems even farther away than it really is from America and its national and human concerns.●

EMPIRE STATE FOUNDATION OF INDEPENDENT LIBERAL ARTS COLLEGES

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. WYDLER. Mr. Speaker, in this day when corporations are so frequently criticized for lack of social responsibility, I believe it proper to balance the picture by calling attention to an area where the corporate world is helping to a great degree. I refer to the Empire State Foundation of Independent Liberal Arts Colleges and the support they are receiving from over 380 companies in the United States.

The Empire State Foundation is a consortium of 26 of the finest colleges in the world, all located in New York State. These colleges are Adelphi University, Alfred University, Bard College, Barnard College, Colgate University, D'Youville College, Elmira College, Hamilton College, Hartwick College, Hobart and William Smith Colleges, Houghton College, Iona College, Ithaca College, Keuka College, Manhattanville College, Nazareth College, College of New Rochelle, Roberts Wesleyan College, Russell Sage College, St. Lawrance College, College of Saint Rose, Sarah Lawrence College, Skidmore College, Union College, Wagner College, and Wells College. Through membership in the Empire State Foundation, corporations are contracted to contribute scholarship dollars to aid these colleges, which basically must exist without support from the public treasury. Today over 54,000 students are enrolled in these fine colleges and over 60 percent receive some type of scholarship aid.

The Empire State Foundation was founded 26 years ago and in that time $15 million has been distributed to colleges from this outstanding foundation, which has obtained its money solely from industry and business in the United States. A number of our leading corporations have recently given a challenge grant to the Empire State Foundation to match any new or increased gifts received from the business world.

I call attention to this all-important means of aiding independent colleges in our Nation and pay my respects to the Empire State Foundation and to the companies in New York State and throughout the Nation who are accepting the responsibility to help meet the needs of our Nation.●

PLO WELCOME MAT OUT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. FINDLEY. Mr. Speaker, unaccountably, the United States still declines to have any direct communication with the Palestine Liberation Movement. The willingness of the PLO to undertake talks is expressed in an interview with a prominent PLO official, as reported in the Manchester (England) Guardian by the distinguished journalist, David Hirst.

I have had direct confirmation myself on two different occasions of the willingness of the PLO to begin direct communication with the United States.

To me, it is astounding that the United States, having as it does such deep interests in advancing a comprehensive peace in the Mideast, would miss an opportunity to get firsthand the thoughts of a political organization which occupies a critical role in that region.

Anyone acquainted with the politics of the Mideast must accept the fact that the Palestine problem—that is, its insistence on self-determination for the people living within the West Bank and Gaza Strip—is the central, fundamental problem, and further, that the PLO is the unchallenged organization of Palestine interests. The United States cannot do an end-run around the PLO. The PLO will not wither away. At some time, direct discussions with the PLO must occur, and the sooner this begins, the sooner a just settlement of comprehensive nature will occur. A comprehensive peace is the key to lasting peace for Israel, as well as for other states of the region.

The Hirst interview shows clearly the PLO welcome mat is out. What is the holdup from the standpoint of the United States?

Here is the text of the Hirst interview:

WE DARE U.S. TO MEET US—PLO

"Who says that we refuse any dialogue with the United States? What angers us is that there is no dialogue. What organisation in the world would refuse a dialogue with a superpower? I dare the Americans to meet any PLO representative openly or secretly."

Abu Iyyad, the Fatah "second-in-command," threw down this challenge in an interview with the Beirut newspaper Al-Safir at the weekend.

It came amid reports that such a dialogue was already under way, and that this was in response to pressures exerted on the United States by such Arab "moderates," as Saudi Arabia Crown Prince Fahd insisted recently that it was "incumbent on the United States to talk to the PLO."

When President Sadat is not denouncing the Palestinian leadership for its denunciations of himself, he also urges the same thing—and renewed the plea during a session of the "autonomy" talks last week.

There have indeed been contacts between leading Palestinians, not formally members of the PLO, and the United States, but what the PLO really means by a dialogue is an encounter by which it achieves—or in the course of which it can reasonably expect to achieve—recognition of its claim to be the legitimate representative of the Palestinian people, the institutional expression of their legitimate aspirations.

According to the PLO, the existing "dialogue" is no such thing. It is, at the most, a sop to the Saudis and Sadat. The American side has to conduct it in such a furtive, noncommital manner as to reassure the Israelis that it remains faithful to the crippling pledge which Dr. Kissinger gave them in a memorandum of understanding attached to the 1975 Sinai disengagement agreement: namely, that the United States "will not recognise or negotiate with the PLO so long as the PLO does not recognise Israel's right to exist and does not accept Security Council Resolution 242. . . ."

For the Arabs, "talking to the PLO" is shorthand for adopting a serious, realistic approach to that whole complex of interlocking problems known as the Middle East crisis. It means an acknowledgement of what, to them, has always been the obvious: that the Palestinians are the heart of the matter. In their view, the Americans are attempting the impossible, or rather, for some reason or other—weakness, desperation, opportunism or ignorance—they are being misled by the Israelis into attempting it.

Through Sadat and his "separate peace," they are trying to build a structure of Middle East peace and security which, stripped of the necessary pieties, lacks the indispensable cornerstone of Palestinian acquiescences.

In Arab eyes, the chief symptom of this persistent American lack of realism is now the strenuous denials, by American officials such as "autonomy" negotiator Robert Strauss, that there is any link between and Arab-Israeli settlement and America's manifest self-interest in the shape of the continued flow of oil to Western markets.

There would, of course, still be an energy crisis if there were no such thing as a Palestine problem, but what Arabs of all political persuasions—from the Saudi Oil Minister, Ahmad Zaki Yamani, to George Habash, leader of the Popular Front for the Liberation of Palestine—are in their various ways saying is that it is the endemic political instability of the oil-producing regions which lends the crisis such potentially explosive gravity, and that nothing contributes more to this instability than the unresolved conflict in Palestine.

Yamani said recently that he would not be surprised if the Palestinians, out of desperation, blew up a tanker or two in the Straits of Hormuz.

It was up to the United States to forestall such a calamity by getting the Israelis out of the occupied territories. Saudi Arabia has now followed this warning by increasing its oil output from 8½ to 9½ million barrels a day. Characteristically, it is using a carrot, not a stick. For the Popular Front, by contrast, the production increase is a "service to imperialism and a clear blow to the (anti-Sadat) Baghdad summit conference resolutions."

In fact, where Saudi Arabia raises or lowers production, the message is essentially the same: it has a unique, if diminishing, ability single-handedly to help or harm the Western economy. The decision to help is of itself a warning the next time it might be obliged to harm—and so on until it either induces the United States to act or, thanks to some Palestine-related upheaval such as a tanker or two sabotaged in Hormuz, it loses independent control of its resources.

The Arabs recall that before the October 1973 war, American leaders affected a somewhat similar outward imperturbability in the face of clear warnings about the Arabs' eventual resort to the "oil weapon." Since then the Saudis and other oil-producers have refrained from labouring the connection between oil and politics.

But is has always been at least implicit, and if Yamani is now making it explicit, that is not a change of policy, but merely a more rigorous application of it.

As the Arabs see it, the choice facing the West may not be an immediate one, but, the longer it is delayed the more dangerous the circumstances in which it will eventually be obliged to take it.

The Beirut Daily Loreint-le Jour put it this way: "Either the Americans baulk at paying any longer, in their daily life, for the Biblical conquests of Menachim Begin, or they (and with them, perhaps, a Europe impressed by Arab moderates but exasperated by cutback and fears for the future) give their support to military adventure among the oilfields."

At present, it appears to the Arabs that the second choice enjoys greater appeal than the first. Symptoms of this are the strength of those tendencies within the American Administration and public opinion which seek—in the words of Stuart Eizenstat, the head of President Carter's energy task force—to "Mobilise the nation around a real crisis with a clear enemy—OPEC."●

LEATHER SHORTAGE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mrs. SNOWE. Mr. Speaker, the domestic leather-using industry is facing a major crisis. The problem is an insufficient quantity of the industry's basic raw material, cattle hides, and skyrocketing prices.

So imbalanced has been the supply for domestic leather tanners and manufacturers that Americans now get fewer than one hide of every four sold by U.S. cattlemen, and cattlehide prices have tripled in the last 17 months, the highest inflationary increase of any raw material produced in our economy.

The consequence of this situation is the loss of American jobs which is just beginning to be evidenced. I would like to bring to my colleagues' attention an article which appeared in the Lewiston (Maine) Sun on June 28 and which exemplifies the severity of the crisis in this industry:

Shoe Shops Extending Layoffs for More Than 500 Employees—Leather Availability, Prices Are Blamed

(By Tom Robustelli)

More than 500 Lewiston-Auburn shoe shop workers will suffer an additional week or two unpaid layoff during July, because of a shortage of leather, the managers of three local shoe manufacturing plants told The Journal today.

Stride Rite Corp. of the Hotel Road in Auburn will lay off its 200 employees four weeks, instead of the usual two weeks, Plant Manager Henry Venzlowsky confirmed.

Billen Shoe Co. of Oxford Street, Lewiston will close for two weeks during July, leaving its 300 employees without a paycheck for an additional week this summer.

And, about 20 employees of the Lawrence Shoe Co. in Lewiston will be out of work three weeks this summer, instead of the usual two, a plant official said.

News of the extended layoffs came just hours before a rally in Lewiston's Kennedy Park this afternoon, where hundreds of shoe workers were scheduled to protest a shortage in cow hides to make leather for U.S. shoe manufacturers.

Local shoe makers said today the extended layoffs were a short-term effect of the hide shortage. If the situation is not corrected in a matter of months, "it'll put some people out of business, you can bet on it," warned one plant manager.

Lewiston-Auburn, Area Chamber of Commerce Executive Vice President Gary Cain said the shoe industry problems "are a concern of ours." "The Chamber is supportive of any action that is required to assure these people that their jobs will remain," Cain stated.

The extended layoffs were the immediate cause for worry among the affected manufacturers today.

Venzlowsky said Stride Rite will be closed from June 29 to July 30 this year because, "the quality of materials and the delivery of materials is terrible."

"The raw leather stock that the tanners have to work with is poor. The leather that we're getting is of much poorer quality than what we were getting six months ago," Venzlowsky explained.

Venzlowsky said some of Stride Rite's 200 workers will receive a week of vacation pay, and will be eligible for three weeks of unemployment compensation.

He said others not eligible for vacation pay, should be able to collect four weeks of unemployment. But some may get no compensation during the entire four-weeks layoff, Venzlowsky indicated.

"I don't know what these people are going to do. We had a meeting with the employees and tried to explain that this is not Stride Rite's fault. I think they understood, but they are not pleased," Venzlowsky remarked.

Billen Shoe Co. President Jerome Feinstein said the additional one-week layoff at his firm was also due to a shortage in leather goods.

"I can't get the right leather in here. I'm not getting enough of any kind, and when I do, the price is out of sight," Feinstein complained.

"We're going down for two weeks—that's all I hope we'll be forced into," he said.

Several other local makers of footwear said they had enough leather to continue regular production schedules, but plant managers warned of future disaster if more hides are not made available to U.S. manufacturers.

"One of the things that the leather shortage has done is that it has driven the price of leather up so high that it's hard to compete with foreign manufacturers," observed Joseph Chabot, vice president of manufacturing for the Charles A. Eaton shoe company.

The Eaton company employs about 900 people in Lewiston, Auburn and Richmond.

Chabot said American-made adult shoes have jumped from $5 to $10 per pair over the last year, and children's shoes are up $2 to $5 per pair. He said leather now costs U.S. shoe makers between $2.30 and $2.60 per foot, $1 more than a year ago.

The high price has forced some manufacturers to turn to vinyl and other synthetics, Chabot indicated. "We're trying to design around the problem" Chabot said of the Eaton's Bonon footwear division in Auburn, which manufactures golf shoes.

The synthetics, however, do not cut costs significantly, and are a poor substitute for leather, Chabot said. It's a situation that could affect shoe sales, the company executive acknowledged.

"We consider this hide situation very serious. No question, all of our jobs are threatened," he stated.

Other manufacturers whose production has not yet been affected, were just as skeptical.

"If this keeps up for another month or so it's really going to hurt," remarked Ray Thibault, manager of the Arno Moccasin Co. plant on Saratoga Street in Lewiston.

Thibault said the company might consider temporarily laying off 100 employees, about two-third's of its workforce, if leather did not become more available in coming months.

William Bartholomew, general manager of the Lewiston division of Timberland Co., said his firm bought enough leather in advance to remain in production through the summer. But he speculated the company could run into trouble this fall if leather is not more available.

Workers at many of the affected plants will protest at a "barefoot in the park" rally in Kennedy Park at 4 p.m. today.

The rally is being sponsored by the Hide Action Program, a national leather industry coalition brought together to lobby for a cut in hide exports.

A lobbyist for the group, Richard Ferry, said greater Lewiston-Auburn, with 22 shoe manufacturing plants, "is the greatest impacted area in Maine."

Chamber of Commerce executive Gary Cain, scheduled to speak at today's rally, expressed the concerns of the Lewiston-Auburn business community:

"I'll certainly let the people there know that the Chamber is interested in this thing. We're interested in the industry, and in the jobs provided by that industry." ●

CONSTITUTIONALITY OF DRAFT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. PAUL. Mr. Speaker, in his new book, "The Warmongers," economist

Howard Katz discusses the constitutionality of the draft.

Conscription goes against all our traditions of respect for individual rights, and it would weaken us militarily, rather than strengthen us.

I would like to draw excerpts from Mr. Katz' writing on this subject to my colleagues' attention:

THE CONSTITUTIONALITY OF CONSCRIPTION

The U.S. Constitution is a document enumerating the powers of government. If a power has not been listed in the enumeration, it has not been granted. Thus the Federal Government is limited to the powers listed in the Constitution. The only exception to this is the doctrine of implied powers, but implied powers were not to be construed—as Jefferson had feared—as an open door to any action the government wanted to take. By Hamilton's (the originator of the concept of implied powers) own statement, implied powers were non-coercive in nature and did not extend to any power which abridged a right. From this we concluded that legal tender is not an implied power of the Government and that only a hard money system is in accord with the Constitution. . . .

Conscription, like legal tender, is not an enumerated power in the Constitution. Congress does have the enumerated power to raise an army, and the advocates of conscription argue that the draft is a means to effect this power. They thus rely on the doctrine of implied powers—that means to a constitutional end are themselves constitutional. . . . Hamilton himself was not so inconsistent. When he was arguing for the chartering of a national bank, that is, for the extension of a government power, he was careful to add the qualifying test: "Does the proposed measure abridge a pre-existing right of any State or of any individual?"[1] He was not prepared to assert the constitutionality of any measure which did.

That the doctrine of implied powers must be so qualified follows, not only from the authority of Hamilton, but from the very nature of government, which derives its power to abridge a person's rights from that person's consent. Consent is not to be understood as an abstract philosophical concept. Americans have a detailed bill of particulars enumerating the powers of their government to which they give their consent (when they come of voting age). This is the Constitution.

Conscription cannot be an implied power because it abridges the right of liberty, the right to simply conduct one's own affairs and mind one's own business with no harm to anyone else.

If we study the men who actually wrote the Constitution, we find a much greater appreciation of its proper meaning than in modern apologists for the state. For example, in 1814 President Madison was under tremendous pressure to use conscription to raise an army. The war was going badly, and the New England militia would not obey orders. But Madison never tried to claim that the Federal Government had the power to conscript. (In fact the Chairman of the Military Committee, in bringing out Madison's bill to raise an army stated: "I will not go into an argument to show that you can, like other Governments, resort to other modes of raising armies than that of voluntary enlistment."[2]

Madison's proposal to raise an army did not involve Federal conscription directly, but it did involve the use of the state governments to force men into the army; hence it was attacked by its opponents as a conscription bill. Congressman Miller of New York used the same reasoning in helping to defeat Madison's bill that Madison himself had used against the central bank, the argument of strict constructionism. He argued:

This conscription is unconstitutional. The Government of the United States is a Government of limited powers. You take by grant; your powers are special and delegated—that must be construed strictly. "All powers not delegated, are reserved to the States or the people." [This was the addition to the Bill of Rights which had been proposed by Madison himself.] Your authority is defined—you take nothing by inference or application, except what may be "necessary and proper for carrying into execution" the powers expressly granted.[3]

This was the same argument Madison had used 13 years earlier against Hamilton. Unfortunately, Madison as President did not live up to the principles which Madison as political philosopher has expounded.

A doctrine of strict construction is not needed to show Federal conscription laws to be unconstitutional. As noted above, Hamilton's doctrine of loose construction, properly understood, leads to the same conclusion. This was also the position of Chief Justice Roger Taney who wrote the following draft opinion on the Civil War conscription act:

It appears to me impossible to believe that a constitution and form of government framed by such men can contain provisions so repugnant to each other. For if the conscription law be authorized by the Constitution, then all of the clauses so elaborately prepared in relation to the militia, coupled as they are with the declaration "that a well regulated militia is necessary for the security of a free State," are of no practical value and may be set aside and annulled whenever Congress may deem it expedient.

The power to do this is, I understand, claimed under the clause which gives Congress the power to raise and support armies.

It is true that the power is delegated without specifying the manner in which the armies are to be raised. But no inference can be drawn from these general words that would render null and inoperative the plain and specific provisions in regard to the militia, to which I have above referred. No just rule of construction can give any weight to inferences drawn from general words, when these inferences are opposed to special and express provisions, in the same instrument.

But apart from this consideration the words themselves, even if they stood alone, will not, according to their known and established use and meaning in the English language, justify this construction.

During the period when the United States were English Colonies, the Army of England—the standing army.—was always raised by voluntary enlistments,—and the right to coerce all the able bodied subjects of the Crown into the ranks of the Army and subject them to military law, was not claimed or exercised by the English government—and when the power to raise and support armies was delegated to Congress, the words of the grant necessarily implied that they were to be raised in the usual manner.—And the general government has always heretofore so understood them and has uniformly by its own offices recruited the ranks of its "land forces" by voluntary enlistments for a specified period.[4]

While we are on the subject of Hamilton's doctrine of implied powers, it is worthwhile to note that another way in which the existing power structure violates the law is in its conception that foreign policy is exclusively the President's domain.

Under Hamilton's doctrine, granting a power implies the granting of the *means* to actualize that power (provided these means do not violate the purpose for which the power was given). If we look at the powers granted to Congress by the Constitution in the sphere of foreign affairs, they are as follows:

To regulate Commerce with foreign Nations . . . regulate the value . . . of foreign coin . . . To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations; To declare war, grant letters of marque and reprisal and make rules concerning captures on land and water; To raise and support armies . . . To provide and maintain a navy.[5]

Since these are powers of Congress, it follows that *Congress* must exercise the means which relate to these as ends. For example, if a delicate negotiation can make the difference between war and peace, then it is representatives of *Congress* who should conduct the negotiation, not representatives of the President. Otherwise, the negotiation could present Congress with a *fait accompli* and make a nullity of the Constitutional provision giving Congress the power to declare war. This has in fact happened several times in American history, most notably where Lincoln's arming of Fort Sumter led to the Civil War (which began before Congress could even be called into session) and where F.D.R.'s pressure against the Japanese led to World War II.

As against these substantial powers, the President has few powers in foreign affairs. He has a few minor powers in conjunction with the Congress, and he is commander-in-chief of the Army and Navy. This latter is only a military office (akin to a six-star general); it carries no *political* authority, and if it were embodied in a separate individual, that person would be subordinated to both the President and Congress. Since each branch of government should exercise the means appropriate to its powers, it is the Congress which should be conducting most of America's foreign policy.

It may be felt that such considerations are legalisms, relevant only to lawyers, not to the average man. "It doesn't matter whether the draft *should be* constitutional," people say. "It is a fact that the Supreme Court has upheld the draft, and the Supreme Court's interpretation of the Constitution becomes the Constitution. The Constitution is what the Supreme Court says it is. That's the American system."

Fortunately it isn't the American system. . . . America's founding fathers did not invest the Supreme Court with the power to interpret the Constitution. They did not invest any person or group with such authority.

This seems difficult for some people to understand. Surely there must be some authority. How do disputes get resolved? But the Founding Fathers—whose ancestors had fought fiercely for the principle that each person must interpret the moral law in accord with his own conscience—intended that each person interpret the legal law in accord with his own conscience. Indeed, they could not have understood our modern view.

How could there be a supreme authority, they would ask if they were alive today? What will you do when, as you see it, the authority does wrong? Will you commit evil merely because the authority orders you to? Impossible! To say that it is always right to submit to the supreme authority is saying that it is right to do evil—a contradiction in terms.

What the Founding Fathers had in mind was a decentralization of power. Each individual had the obligation to interpret the Constitution in accord with his own conscience. If there was a disagreement, naturally each side would use its power to enforce its interpretation, and the more powerful side would win out.

Footnotes at end of article.

Of course this is what happens anyway, but the advantage of recognizing this and deliberately constructing a decentralized system of power is that under a decentralized system the neutral faction (too big and too diffuse to control) will generally decide the issue in as non-partisan a way as is humanly possible. But if a supreme authority exists, one faction will try to seize control of it, and then all interpretations will be made in terms of the view of this group; no opposing point of view will have a chance. This is what has occurred in the 20th century as the Constitution has been so tortured out of all resemblance to its original intent that in many respects we do indeed live under a system that says that black is white. Hamilton had an interesting comment on this: he said:

> It may in the last place be observed that the supposed danger of judicial encroachments on the legislative authority which has been upon many occasions reiterated is in reality a phantom. Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty from the general nature of the judicial power, from the objects to which it relates, from the manner in which it is exercised, from its comparative weakness, and from its total incapacity to support its usurpations by force. And the inference is greatly fortified by the consideration of the important constitutional check which the power of instituting impeachments in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There can never be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations.[6]

Here Hamilton was wrong as the barriers which he and the other Founding Fathers erected against judicial usurpation have failed. Yet we can see that Hamilton was wrong because he was too practical-minded, too realistic. When Hamilton points out that the Supreme Court does not have the capacity to support its verdicts by force, he has in mind a President like Andrew Jackson who would refuse to enforce a Supreme Court decision he thought was wrong. He has in mind a Congress which would impeach judges who violated the Constitution on a popular issue. He could not conceive of an abject and servile population which had the power to overturn Supreme Court usurpations but which was too awed by authoritarianisms to do anything about it and actually believed that black became white because the Supreme Court said it was.

FOOTNOTES

[1] Alexander Hamilton, "Opinion on the Constitutionality of the Bank," February 23, 1791. (author's italics)

[2] Mr. Troup, as quoted by Mr. Miller, *Congressional Record*, December 1814, H. of R., p. 775.

[3] Congressman Miller, speech to House of Representatives, December 1814, *History of Congress*, p. 778.

[4] Roger B. Taney, Thoughts on the Conscription Law of the U. States—Rough Draft Requiring Revision, by M. L. York for Geo. Bancroft, May 1886.

[5] United States Constitution, Article I.

[6] Alexander Hamilton, Federalist No. 81, *The Federalist Papers*, (New York, New American Library, 1961), pp. 484–85.●

HUMAN RIGHTS SAFEGUARDS—AN AMERICAN CONCERN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 24, 1979

● Mr. BIAGGI. Mr. Speaker, for the past 22 months, I have been chairman of the Ad Hoc Congressional Committee for Irish Affairs which today boasts 130 Members of Congress. We have successfully focused attention on the multifaceted issue of Ireland with an eye toward moving the Irish issue off dead center and in the direction of resolution with peace and justice.

Throughout this period and for years previous, I have found the existence of human rights violations to be a main contributor to the strife and violence which so afflicts Ulster. In the past several years, the human rights problem has been the focus of attention by the European Commission and Court of Human Rights as well as Amnesty International. Documented instances of inhumane practices were revealed and in the case of the European Court of Human Rights, Great Britain pleaded guilty to these violations of human and civil rights.

Dr. Fred Burns-O'Brien, an attorney who serves as the Deputy National Director of the human rights-based Irish National Caucus has prepared a paper entitled "Safeguards for Human Rights." It is a most reasoned and thoughtful presentation which describes the conditions necessary to institute such safeguards. For many in Ireland, these safeguards are nonexistent, beginning with the past and promoting the ongoing human right abuses which occur in Ulster.

I urge my colleagues to review this paper and to work with me on restoring human rights to all Ireland as a major step forward in the pursuit of peace and justice for this troubled land.

SAFEGUARDS FOR HUMAN RIGHTS

(By Dr. Fred Burns-O'Brien)

If legislation such as the Special Powers Act of 1920 in Northern Ireland or the Offences Against the State Act 1939 in Southern Ireland and other repressive laws replacing or supplementing these laws are to be condoned as basic and necessary for the security of a democratic nation, then legislation must provide absolute safeguards to insure that basic human rights or protected. Repressive legislation with provisions for internment without trial or non-jury courts, should not be necessary in any society holding itself democratic, but most states that claim to be democraties do have such legislation on the law books.

The right to some vestige of security within a society is a right which is essence for any scheme of ordered liberty rooted in the tradition and conscience of free human beings. It is fundamental to basic human freedom. A violation of security and ordered liberty must be brought to the attention of world justice under the protection of international law. The vehicle for such protection is the Universal Declaration of Human Rights. Nations that have repressive legislation offer the means of repression. The legislation is the vehicle by which security forces commit acts of brutality in the name of law and order.

Suspects should have absolute rights of protection from brutality in the interrogation process and general due process of law even where there is concrete evidence on which to base a future court case. Guilt cannot be predetermined. Guilt can be insured when there is the means for detention and interrogation whereby a confession may be gotten through coercion. In Northern Ireland such confessions are admissible as evidence to convict. It may be the only evidence proffered.

The arbitrary search of homes of citizens and arrests without charge, where there is no evidence is purely political harassment and not in the interests of justice. The excuse that people are suspected of terrorist activity or sympathizing with terrorists without courtroom evidence is a sham at best.

The right of every individual to be secure in his or her home is fundamental. To violate the security of the home or person, there should be probable cause of the suspicion of a crime at a minimum.

A search warrant should be necessary in order to violate a person's home. The search should be carried out at a reasonable time of the day or evening rather than the all too frequent entering a home by force in the middle of the night, and ripping apart walls and woodwork, and arresting inhabitants for no other reason than the most vague of suspicions. The element of surprise would not be lost, since those to be searched would not be aware of the date of the search.

If a search warrant were obtained and incriminating evidence were found pursuant to the warrant, there would be no rights violated and a "clean arrest" could be made. A valid arrest and trial would enhance respect for the judicial process and the criminal procedures would not be as suspect among the citizenry.

The legal system in Northern Ireland has been selectively and arbitrarily applied. In many instances, there are two legal systems, one for the Majority and one for the Minority. One can easily see the difference in the disparity of sentences for the same crimes. There is also the distinction lately of one system for the priviledged and one for the poor. To obtain the trust of the people, the legal system has to restore the word legal into that system.

There must be evidence of serious wrongdoing even in a political arrest. In fact there should be a higher standard for political arrests. This would at least be tolerable in a few instances.

If a warrant is unobtainable and an arrest is deemed necessary at the instant, a search incident to that arrest may be warranted, as long as the arrest is not arbitrary and political at the same time. There must be the standard of probable cause applied. The suspect should be suspected of more than just a misdemeanor.

Citizens should be protected on the streets as well as the home. Mobility should not be interrupted at a whim of a policeman or soldier on the streets. There is too much detaining people on the streets for "mere suspicion." Certainly, a member of the police may question any person who presents a danger to life or limb, and a search may ensue. But all standards previously enumerated apply.

If in fact a policeman were to find a weapon, then a person is of course subject to arrest, but not a beating which is far too often the case. Searching at random without a warrant is carte blanche for harassment and the police hold their activities up to suspicion.

There should be a reason to suspect any person halted for alleged unlawful conduct to justify an initial inquiry and a reasonable suspicion of danger to further warrant a search of his or her person for contraband. Safeguards should require a policeman or soldier to later justify his conduct if a citizen brings charges.

The violence in Northern Ireland does present certain circumstances under which a policeman might have to question and search people in justifiable circumstances presenting a probable cause for suspicion. However, in the society as it exists in Northern Ireland today, the security forces are far too often the initiators of violence institutionalized and otherwise.

The right to privacy is basic to the dignity of a human being and when removed, it takes a moral courage to disobey unjust laws. We who took part in the civil rights campaign in the United States know well civil disobedience. The law and ordered society cannot supercede the people who make up that society.

Any person who is arrested and detained, if this can be deemed acceptable, deserves an impartial trial by an impartial jury of his peers. The individual should be apprised of the charges and given immediate access to defense counsel so an adequate defense can be prepared.

The crime itself, assuming there is one, should not be vague or prompted by politics. An ascertainable standard of conduct is paramount. The crime itself must also be ascertainable. The law under which the individual is arrested should not be so vague as to encompass any and all activity. This would enable any member of society engaged in political dissidence to be arrested under vague legislation.

During trial there must be an impartial judge as well as an impartial jury. Under the Diplock Court system in Northern Ireland and the Special Court system in Southern Ireland, there are no true safeguards for the proper disposition of due process of law. Those the state wants to convict are convicted, and the systems guarantee that this is the case.●

BORIS AND YAKOV SOSNA

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. PEYSER. Mr. Speaker, in recent years, we have become increasingly aware that the Soviet Union is permitting more of its citizens to emigrate to other countries. For example, last year the Soviet Union issued 28 864 exist visas. Records show that as of June 30 of this year, almost 25.000 people have been allowed to leave the country. On the surface, this may seem that Soviet authorities are easing their emigration policies, but we must take into consideration the fact that thousands more are applying than in previous years. While this news is somewhat heartening, there are still thousands of individuals being denied their freedom. I would like to draw my colleagues' attention to the plight of two Russian Jews who have tried to emigrate to Israel.

Yakov and Rimma Sosna first applied for an exit visa in 1974. They have been consistently denied permission to emigrate ostensibly on the grounds that Rimma Sosna had access to state secrets while employed as a telecommunication engineer. She lost her job soon after their son, Boris, had applied for an exit visa in 1973.

Yakov Sosna, formerly chairman of the Soviet War Veterans of a factory employing over 30,000 is a much decorated army veteran. Because of repeated attempts to emigrate he has lost his job and is now earning meager wages at a rubber shoe factory. As a result of the enormous pressure incurred as a result of his desire to leave the country, he suffered a severe heart attack from which he never fully recovered.

At the present time, their son Boris is living in Israel and has since been reunited with Yakov Sosna's mother, who has not seen her son in more than 30 years. He continues to write to his American friends in the hope that enough pressure will be brought to bear so that his family can be reunited.

As a signatory of the United Nations Universal Declaration on Human Rights and as a party to the Helsinki Final Act, the Soviet Union had indicated its commitment to internationally recognized human rights. The world's regard can only decline as a result of the discriminatory treatment of the Sosnas.

I have written to Secretary General Brezhnev and various Soviet officials regarding this couple. I hope that my colleagues will take note of their situation and join me in this effort to allow them to emigrate.●

CHEAPER CRUDE OR NO MORE FOOD

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. NOWAK. Mr. Speaker as the price of imported oil continues to rise, we are hearing more and more about using U.S. food products as bartering items. "Cheaper crude or no more food"; A bushel of wheat for a barrel of oil"; and similar slogans are gaining popularity.

There is an undeniable appeal about these proposals, but they are not quite the simple solutions they seem at first glance. When some in-depth study is done on actually holding food hostage to the price of oil, other possible ramifications are discovered.

I am not convinced that there are insurmountable barriers to having the United States and other food-exporting nations use their production powers to greater advantage. But we should realize current drawbacks to "wheat cartels," bushel-for-barrel pricing, and so forth.

The Department of Agriculture has prepared an issue briefing paper on this subject, and I am placing it in the Record so that these issues can be kept in mind as Congress considers various proposals for maximizing U.S. agricultural exports:

July 18, 1979.

A Bushel of Wheat for a Barrel of Oil

BACKGROUND

Between 1972 and 1978 the world price of oil quadrupled. During that period the cost to the U.S. of imported oil rose from $3 billion to $33 billion. In 1978 we imported 2.3 billion barrels compared with 810 million barrels in 1972. America's growing expenditures for oil have fueled inflation creating sizable deficits in our balance of trade. Increasing fuel prices have affected our standard of living.

THE ISSUE

In recent months, there have been a number of proposals to use food exports as a tool to offset the rising price of oil in world markets. The most common recommendations are to:

1. Trade a bushel of wheat for a barrel of oil.
2. Organize an international cartel to control the production, price and distribution of wheat.
3. Create a national grain board to control exports of U.S. grains.
4. Peg export prices of U.S. farm products to the price of imported oil.

This paper explores the pros and cons of these proposals.

TRADING A BUSHEL OF WHEAT FOR A BARREL OF OIL

Trading one commodity for another is nothing more than a barter, the oldest form of trade. Under existing legislation, the government has authority to enter into barter arrangements. However, there are specific restrictions on the use of that authority: We can barter only to meet critical strategic stockpile requirements, for foreign economic and military aid programs or to meet requirements of government agencies.

Barter arrangements are most attractive when one or both countries have balance of payments problems and at least one of the countries does not have adequate foreign exchange to purchase the needed supplies commercially. Another reason for bartering is that the products of either country may not be up to international standards, making it difficult to sell them in commercial markets under accepted terms and conditions.

A barter arrangement can also be entered into to guarantee a continuing flow of the commodities for the shipping as well as the receiving nation.

If the United States were to enter into a barter arrangement, it would most likely be on the basis of guaranteed supplies. How would it work, if in fact it would work at all? Suppose the United States and Mexico entered into negotiations for the exchange of grain, say for example corn, for oil.

First, both governments would have to guarantee each other specific quantities of these commodities on a continuing basis. Since the oil is government controlled the Mexican government presumably could make such a guarantee. But the U.S. government woud have to make arrangements to buy grain from farmers for future delivery in order to fix the terms of the barter arrangement. Such an arrangement would be difficult to make in the U.S.

A second issue would be the terms of trade. For example, how much corn would be exchanged for the oil, given the fact that commodity prices and international exchange rates are constantly changing? Working out equitable terms of trade that take into account shifting differentials between the price of corn and the price of oil would be extremely difficult, if not impossible.

A third issue would be methods to prevent barter arrangements from reducing expected commercial sales. In the case of Mexico, the U.S. has an advantage over most other suppliers due to lower transportation costs. Over the past several years, the U.S. has supplied nearly 90 percent of Mexico's grain import needs. It is doubtful, therefore, that Mexico would buy any more grain from the U.S. than is presently the case.

The amounts of oil and grain which would be exchanged would depend on their respective values. U.S. farmers, as well as the Commodity Credit Corporation (CCC), would press to receive the greatest amount of oil possible for a given quantity of corn. Mexico would press just as hard for its oil price. Obviously, if grain buyers knew they could easily purchase grain from alternative sources or could increase production, they would adjust the bargaining process accordingly.

The CCC, an agency of the U.S. Department of Agriculture, was established to protect farm income, among other things.

The country whose commodity was in shortest supply would have the upper hand in any bargaining. At present grain is more readily available than oil.

Another complicating factor, according to USDA lawyers, is existing legislation that makes it doubtful whether the CCC would legally be able to buy enough grain in commercial markets to fulfill a barter agreement, if the price of grain were higher than the loan rate. Of course, such purchases by the CCC would be necessary only if CCC stocks were not adequate.

Countries that depend on us for grain would, in general, consider perhaps many alternatives. They would be concerned that trading oil for grain would displace domestic grain production If it would, could the displaced resources be economically used in other ways?

Finally, if the U.S. did enter into a barter agreement with Mexico, the oil the U.S. received would become government property. Under existing authority, the President would then have to declare a national emergency to get the oil out of the government stockpile and into the domestic market.

ORGANIZING AN INTERNATIONAL CARTEL

There would be no point in a barter arrangement unless it improved the terms of at least one partner. To improve grain prices above current levels implies a cartel that can effectively limit supply.

In its basic form, a cartel is a combination of businesses or governments formed to regulate production, pricing and marketing of similar goods by its members.

Those who support the idea of a wheat cartel contend it would serve a number of useful functions: It could withhold wheat from oil-exporting nations until the world price of wheat rose to levels comparable with oil, protect wheat importing nations against sharp price fluctuations and increase farmers' prices.

Those opposed foresee a number of major administrative and economic obstacles. To begin with, participation in an international wheat cartel would require creation of a national wheat (or grain) marketing board.

Next, the government would have to implement a system of licensing or other export controls. And, the government would have to determine how much wheat each importing country would be allowed to receive. The licensing and allocation feature would represent a fundamental departure from the longstanding policy of free enterprise in the United States.

To be effective, an export cartel must be able to control supply. Together, the U.S., Canada, Australia and Argentina export three-fourths of the wheat that moves in world trade with the U.S. alone providing almost half. However, to make the cartel work, each member would probably have to reduce wheat exports and in all likelihood accumulate surplus stocks at the same time. A reduction in exports leading to stock accumulations might be contrary to government policy objectives.

For example, over 60 percent of the growth in world wheat trade during the past 10 years has gone to the U.S. Would this country be willing to accept a smaller share of growth in world wheat trade to benefit other cartel members? Australia is committed by law to holding down its wheat supplies by aggressively increasing its exports and would almost certainly regard the limitations imposed by cartel membership politically unacceptable.

Enforcement of such an arrangement would be important and difficult because the incentive to break the cartel's rules would be great. For each country that has surplus stocks and which is withholding supplies in order to increase prices, the incentive to sell otherwise low priced grain and capture markets from other cartel members would be expected to put severe strains on any such arrangement.

There are a number of smaller exporters such as Turkey, Greece, India, Romania and South Africa that collectively account for about 5 percent of world wheat trade. These countries export their wheat even when it must be subsidized and would undoubtedly find it impossible to adhere to cartel-imposed restrictions. They would probably operate outside the cartel, thereby disrupting prices and trade patterns.

A most significant factor affecting the success of a wheat cartel would be the reaction of wheat-importing nations. Some would strengthen domestic agricultural policies to achieve higher levels of production and reduced imports. Others, such as the Soviet Union, where wheat is an important feed grain, would look to alternative grains, thereby reducing demand for wheat. A number of developing countries that currently subsidize wheat consumption, such as Brazil and Egypt, would shift to such foods as rice or manioc to reduce their wheat imports.

The concept of a wheat cartel is not new. As long ago as 1933, some countries made an effort to establish one. The International Wheat Agreement was not a cartel and it still met stiff resistance from importers who felt wheat prices were pegged too high. During the 1960's the agreement was renegotiated with lower wheat prices. Nonetheless, the organization failed in 1967 when the U.S. and Canada became unwilling to continue carrying the burden of huge stocks and the wheat market was flooded with exports, largely from Australia. Historically, commodity agreements or cartels have been unsuccessful.

Finally, to compare a wheat cartel with an oil cartel such as the Organization of Petroleum Exporting Companies, is to ignore the fundamental differences between the products. Wheat is a renewable resource. It can be grown each year. It is grown in almost every country in the world so production can be greatly expanded. Unlike oil, there are effective substitutes and export trade does respond to prices. And the cost of storing excess wheat can be great.

Oil is not a renewable resource. A very large share of the supply is controlled by a small number of producers. There are few substitutes at competitive prices now and expanded production requires a long-term period and a large investment in research and development. Because there are so few substitutes for oil and because it is essential to the production of so many things, oil price increases do not reduce consumption very quickly. And oil can be stored indefinitely underground at very low cost.

CREATING A NATIONAL GRAIN BOARD TO CONTROL U.S. WHEAT EXPORTS

A national grain marketing board, as has been proposed, would be a federal agency empowered to handle all export sales of wheat, rice, feed grains and soybeans. The agency would negotiate sales for export of such commodities, barter for other goods, accept purchase bids from foreign purchasers and offer selling bids in the world market.

Those in favor of a National Grain Board cite the following advantages:

Some governments have expressed the desire to buy U.S. commodities on a government-to-government basis.

It is simpler to keep track of supplies of grain available for export if there is a single seller of U.S. grain on the international market.

It would be impossible for foreign buyers to deal secretively and, at times, simultaneously with different exporting companies.

It would be easier to negotiate long-term agreements with importers when desirable.

It would eliminate the need for the Export Reporting System since the National Grain Board, as the sole seller, would automatically have this information.

Those opposed to a national grain board pose the following objections:

It would involve a much greater degree of government control of the marketing system. A single exporting agency might be slow to respond to changes in international markets.

There would be less flexibility in responding to price changes as a method of resource allocation. Consequently, resource allocation would be less efficient than in an open marketing system.

The cost to the U.S. government of a national grain board could be high. The initial investment would have to be substantial to take over the present private system. The Canadian Wheat Board, for example, which exports only about 20 percent as much grain as the U.S., employs over 600 people and has many overseas offices.

Less innovation in the handling and marketing of grain would probably occur.

PEGGING THE PRICE OF WHEAT TO THE PRICE OF OIL

However much U.S. agricultural export prices have increased, they have lagged far behind the rising price of oil. As a result, there have been a number of proposals that the price of U.S. wheat be tied to the price of oil. Generally speaking, the recommendation is that if the price of oil is $15 per barrel, then the price of wheat earmarked for export to the oil exporting countries should be raised to $15 per bushel.

As simple as the proposal sounds, the enforcement of such a pricing strategy would be difficult if not impossible. The demand and supply characteristics of grain are not similar to oil, so it is unlikely that the prices can be linked.

U.S. agricultral exports have risen from about $6.0 billion in 1969 to more than $29 billion in 1978. They currently account for 20 percent of total U.S. exports. Furthermore, about one of every three acres of farm commodities produced in America is exported. This includes more than 50 percent of U.S. wheat, rice and soybean production and about one-fourth of corn.

In light of the large volume of U.S. farm exports, coupled with this country's historical role as a major supplier of food aid to needy countries, many people often assume that the United States controls the world's food supply.

Such is not the case.

The United States produces about 15 percent of the world's food. Although we are the leading exporter of farm products, we actually command only 17 percent of total world agricultural trade. Consequently, any major unilateral action by the U.S. such as raising the price of wheat to $15 per bushel could only backfire.

That is, importing countries could step up their own wheat production or else shift to substitute products. Since U.S. agriculture is heavily dependent on revenues derived from exports, the resulting decline in America exports could be disastrous.

Moreover, continuation of the current level of U.S. exports depends on this nation's ability to produce efficiently and sell abroad at competititive prices. Many nations are capable of expanding production to meet export opportunities and some, such as Brazil and France, are already doing so.●

GOVERNMENT IS THE REAL REASON FOR SHORTAGES, INFLATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. McDONALD. Mr. Speaker, one of the few bright spots in our Atlanta newspapers are the columns they print by Prof. James Green. Everyone is looking for a scapegoat for the gas lines, and inflation up here. They need look no further. "We have met the enemy and he is us," as Pogo Possum used to say. Professor Green explains in a column printed in the Atlanta Journal and Constitution for Sunday, July 8, 1979, why this is true. The column follows:

GOVERNMENT IS REAL REASON FOR SHORTAGES, INFLATION

(By James Green)

An executive called. He was angry. He was perplexed. "I simply don't know what lies behind the gas shortages, the rampant inflation, the strikes and shootings, the intense social tensions and the growing uncertainties which plague businessmen, investors and consumers. Oh, I know the explanations given us in the press, but I simply don't know what is really causing all these distortions in our work and lifestyles."

This call was not unusual. There is a growing crisis of confidence. Economist F. A. Hayek predicted exactly the current state of affairs back in 1946 in his book, The Road to Serfdom. Events are now fulfilling his prophecies of rampant inflation and excessive government interference.

Political theory today is undermining the market system. If government can't solve a problem, policies are adopted to make it worse. The government can then apply "crisis management" to direct use of resources, to direct capital investment and to apportion market opportunities.

Gas shortages at the pump are a prime example. Improvised rationing schemes and driver dissatisfactions abound. Recent polls indicate a preference for across-the-board rationing by government over market rationing through higher prices. Not surprisingly, we are being conditioned to think this way. The next step is a comprehensive federal rationing scheme extending government authority further over our work and consumption patterns.

Yet the facts are that the current gasoline shortages stem from the misallocation of supplies caused by Department of Energy regulations. Too much gasoline has been allocated to rural areas and too little to urban centers. Oil companies are not allowed to shift supplies from loose to tight market areas to correct demand/supply imbalances.

Energy regulations short-circuit the effective, rational distribution system developed over the past decades by the oil companies. Who gets the blame? The oil companies and the independent truckers, of course. Both have their hands tied by inflexible government-imposed rules.

About inflation, our most pernicious problem, government spokesmen point the accusative finger at businessmen who raise prices and unions that push up wages. But rising prices do not cause inflation, they merely report it.

The fact is that government has simply printed too much money, causing precipitous depreciation in its purchasing power. Higher prices and higher wages provide the only option open to maintaining one's real income. Government-imposed price and wage controls are merely an attempt to conceal government's disastrous confiscation of our purchasing power, our savings and our financial security.

Since 1967, government has increased the supply of money and credit at three times the rate the economy has been able to raise its output of goods and services. Responsibility for inflation is government's alone.

All you and I can do is use options at hand to minimize the negative impact on us individually. To reduce these options the government imposes wage and price controls. But no such controls can make our money worth more in terms of goods and services.

Government's capacity to undermine the economy and to blame it on one or another scapegoat is unlimited. If government is permitted to put an across-the-board ceiling on prices and a floor under wages, no independent businessman, investor or worker can stand erect for long in exercising his rights to choose where to work, what to produce, what to sell and what to buy.

I suggest that when Americans recognize and know what lies behind our ongoing problems they will refuse to abdicate their rights to the bureaucrats. Instead they will forthrightly tell their congressmen to get the government "off their backs."●

DONALD KENNEDY RETIRES AS FDA COMMISSIONER

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. BRADEMAS. Mr. Speaker, one of the ablest persons to serve in public life in recent years is Donald Kennedy, who recently retired as Commissioner of the Food and Drug Administration.

I take this time both to pay tribute to him for his outstanding service in this controversial but challenging position and ask unanimous consent to insert at this point in the RECORD an article by Nicholas Wade in the July 13, 1979 issue of Science magazine concerning Donald Kennedy.

The article follows:

KENNEDY LEAVES AS FDA COMMISSIONER—STANFORD BIOLOGIST BROUGHT NEW APPROACH TO AGENCY

"Balik basdan kokar," goes the old Turkish proverb—"A fish rots from the head down." It may be that resurrections, when they occur, proceed the same way. The Food and Drug Administration, a long despised bureaucracy in good odor with almost no one, has recently undergone a most surprising transformation, and the reason seems to lie in the brief but enlivening reign of its now departing commissioner, Donald Kennedy.

It was not that Kennedy made sweeping changes in the agency—his 2-year tenure of office did not allow time for that; nor did he succeed in his major legislative initiative of a drug regulatory reform bill. But his style produced an intangible change of great moment. He raised the esteem in which the agency was held by outsiders, and in doing so he transformed morale within.

"Public confidence is a very fragile and important thing, and he has worked on that very effectively. That is the most important thing he has done in the FDA," says the agency's former general counsel Peter Hutt.

Somehow or other, Kennedy managed to gain the respect of all the FDA's constituencies, a group whose members do not invariably see eye to eye with each other. "He has been a very good commissioner, I am saddened to see him go," observes Sidney Wolfe of the consumer oriented Health Research Group. "He brought an élan and brilliance to that organization which it needed. He turned a phrase as well as anyone I have ever heard in my life," remarks John Adams, scientific director of the Pharmaceutical Manufacturers Association.

Kennedy also enjoyed an unusually cordial relationship with Congress, a body accustomed to batting the FDA commissioner about like a shuttlecock. Unlike Energy Secretary James Schlesinger, whose approach to hostile questions is to intellectually demolish the questioner, and thus lose the battle, Kennedy's style was to disarm his interogators with charm and a direct but tactful answer. Academic politics, he had found, was the best possible rehearsal for thinking on one's feet at a congressional hearing.

Kennedy arrived at the FDA in April 1977 from Stanford University, to which he is now returning as vice president for academic affairs. A neurobiologist and member of the National Academy of Sciences, he is the kind of scientist one expects to see around the National Institutes of Health or the President's science adviser. It was precisely this convention that Kennedy hoped to break. His goal in becoming commissioner of the FDA, he said in an exit interview, had been to make the process work, and to command the respect of the scientific community and most of the public in doing so. "But I had something secondary to prove. I am convinced that the better scientists in academic life have not had as great a respect for the regulatory process as they should. Academic scientists have preferred to fly into Washington to give some advice to government through the Academy and then fly out again. My argument is that more significant science policy is made every day at the working interface between the regulatory agencies and Congress, and that that too is worth the interest of academic scientists."

One seasoned FDA watcher suggests that although Kennedy's aim was to bring more and better science into decision-making, he may have been appalled to find how little science, and how much politics, is involved in major decisions. Kennedy concedes that "I think I probably had the idea when I came in here that the ratio of science to policy was higher than I have in fact experienced it." But his ideas about the nature of regulation do not seem to have changed much during his tenure: asked if he found the commissioner's job much as he expected, Kennedy says that "I have learned a lot, without being able to write down for you what it is. I have a sense of the roles of all the different actors—the White House, the Congress, the policy leadership as opposed to the career bureaucracy."

I guess a lot of the things I thought were comparatively simple I have learned to respect the complexity of." As for decision-making, Kennedy has no magic formula: "I can't distill out a rule. You just have to look at every one and dig into the merits and consult widely. Academic scientists are are often telling me, 'How can you decide a matter like that when the data are not clear?' But often you have to decide when the data are not as good as you would like."

Kennedy has been surprised by how uncoupled the public impact of a decision and the difficulty of making it can be. Saccharin was one of the most troublesome issues that crossed his desk, but "only because of the political problems and public credibility problems—I never thought saccharin was one of the difficult problems to decide on the merits. The science was clear. I have not changed my view on that." Kennedy inherited and supported a decision to remove saccharin from the market, but Congress delayed the ban for 18 months.

Articulacy, charm, what one collegaue calls his "fantastic ease at communicating with quite different audiences"—these have been Kennedy's weapons in dealing with Congress. He managed to make allies, even friends, out of natural critics of the FDA's regulatory policies, such as the congressmen who represent agricultural interests. He tourer the poultry industry in North Carolina with Charles Rose, chairman of the House subcommittee on dairy and poultry. He went to a fundraiser for Fred Richmond, chairman of the domestic marketing and nutrition subcommittee.

Yet Congress on several occasions thwarted Kennedy's actions, often for reasons that seemed more obviously in sectional interests than the public's. It intervened in the FDA's attempts to control saccharin, nitrates, and antibiotics in animal feeds. Rose and Richmond used the political clout of the farm lobby in Congress to sandbag the FFDA on its new ice-cream regulations, an issue which on its merits the FDA should have won hands down. The agency proposed to let ice-cream makers use casein, the principal protein of milk, in their mixes. The dairy interests fought the measure on the grounds that it would reduce the nutritional quality of ice cream, although the real motive of their opposition was that it would have added to the politically already high cost of the federal milk support program (Science, 26 August 1977).

"I think that the whole staging of the ice-cream brouhaha, claiming to be in the interest of the consumers and in fact being in the interest of the dairy industry, was one of the more amazing examples of cynicism I have seen in this town," Kennedy says. In the view of some observers, he backed down from the ice-cream fight because he recognized the political reality: some of the most powerful members of Congress opposed him and there was no point going down fighting for principle on a relatively minor issue. Kennedy replies that the FDA didn't have a watertight case: "If we had, I would have pressed it further even though we would have been beaten anyway."

He is philosophical about his defeats. "A lot of people in agencies feel that any struggle of this kind is a victory you have to win. Many have said, 'Don't you feel awful about saccharin?' I don't see it that way. To the extent that saccharin has been a good national education on toxicology problems, I think it may have been beneficial, and similarly with the ice-cream confusion, if it had been able to play out a little longer on the real grounds of discussion."

If Congress was one constraint on Kennedy's freedom of actions, another, in many people's perception, was the dominating personality of Secretary of Health, Education, and Welfare Joseph Califano. Califano is said to put enormous heat on his key people and, say some observers, has intervened in areas of his department where no Secretary of HEW has gone before or should go again. Kennedy, however, seasons his praise of Califano with only the most delicate criticism: "He has done one or two things which I have disagreed with, and several things which have given me a momentary pang. What I have always said about Califano is that he is going to give you a pang every now and then. His values are terrific, as are his abilities and interests. We would never have gotten the whole question of drug regulatory reform to anything like the level of public and congressional interest that we have, without Joe's support. It just means enormously more when the Secretary is behind you. Given a choice between a Secretary who will let us alone and a Secretary who will just occasionally give us a little more help than we thought we needed, I wouldn't hesitate which to choose."

Kennedy declines to cite the two issues on which he disagreed with Califano. With two issues on which outsiders believe he was overruled—the banning of phenformin and the National Immunization Policy—he says he agreed completely with his Secretary.

Kennedy reports that he has "never had the slightest interference" in his freedom of action from either the White House or the Office of Management and Budget. He met Carter on only two occasions, both ceremonial.

Under his tenure the FDA may perhaps have moved to greater openness from a situation in which consumers tended to be heard less equally than other interests. Kennedy disagrees with the proposition that, as a protector of the consumer's interest, the agency should position itself nearer to the consumer than the industry: "I think the FDA should be open to all its constituencies on an even-handed basis." It did not look that way from the drug industry's lobbying arm, the Pharmaceutical Manufacturers Association. "He was falling over backwards to accommodate the consumer advocates," says the PMA's John Adams. "Wolfe [of the Health Research Group] seemed to have the hex on him. Kennedy's justification was that the FDA exists to protect the consumer. He bent over backwards to accommodate them at the expense of other groups such as doctors and industry."

"It's just not correct," says Kennedy, "that Sid Wolfe and I had any kind of private relationship. I made a number of decisions which he vigorously disapproved of, just as I made some decisions which the PMA vigorously disapproved of. I honestly thought I dealt pretty even handedly with these groups and called the issues as I saw them."

Kennedy's major clash with the PMA came in an area into which the FDA has not ventured before, because it has no statutory authority there—the economics of the drug industry.

Kennedy favored giving consumers more information about generic drugs, about the fact that the same chemical, under different brand names, may sell at very different prices. "That's none of his damned business," snaps Adams. The PMA recently lost this contention in court, Kennedy notes; in any case, "We were almost invited in by the PMA member firms because of their claim that there is a difference between brand names and generic drugs," Kennedy replies. He also differed with the PMA on his bill for drug regulatory reform, which aimed to encourage innovation in the drug industry and in return to exercise more control over drugs after they reached the marketplace. "The PMA may think we are stubborn and wrong-headed at looking at the economics of this industry. But I think industry has to get over with its sense that the world is a conspiracy between the public interest movement and the regulators," Kennedy suggests.

Two years is a short time in which to reshape an agency with 7500 people and an annual budget of $300 million. Kennedy had hoped to stay in a full 4-year term, but the Stanford job couldn't wait. A consequence of his leaving so quickly is that the changes he has made may not stick, a problem of which he is well aware: "The question of whether I have been successful here will depend on whether or not some things I think I have had a little effort on get made permanent." He lists among these some senior appointments he had made, and his healing of some old wounds created when a group of FDA employees found reason to protest that management was overruling their decisions. "I have tried to be a strong public advocate of the agency and I think that this has taken. If some of that holds, and if the people here believe in themselves, which they really deserve to, then that will be the most important thing I have done here."

"Now leadership in Government, I have learned, affects the public perception of organizations much more than it does their inherent worth," he wrote in a statement announcing his resignation. Kennedy's is a hard act to follow, and if it is too hard, his legacy may be shortlived. But he will at least have shown what a touch of style can do.

—Nicholas Wade.●

DESERVED RECOGNITION FOR PHILLIP BURTON

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SEIBERLING. Mr. Speaker, there has come into my hands a list of awards received by our colleague Phillip Burton, during the past 12 months, from various citizen organizations and local governments. We all know of the many achievements of our colleague in environmental and humanitarian legislation, but I am not sure many of us are aware how widely recognized he is in other parts of this country and the world.

It is gratifying that others have seen fit to pay tribute to his outstanding achievements. Accordingly, I am inserting the list of awards in the Record following these remarks:

Awards Received by Phillip Burton, M.C. During the Past 12 Months

May 6, 1978: Sierra Club.—"Distinguished Achievement Award" for longstanding vision, dedication and commitment to the conservation of our Nation's natural resources—and with particular recognition of his indomitable efforts to establish the Greater Redwood National Park and the Golden Gate National Recreation Area.

June 26, 1978: National Newspaper Publishers Association.—"Outstanding Political Service Award" in grateful recognition of his highly significant contribution to the effectiveness of black Members of Congress. Presented—National Convention of Black Publishers, Cleveland, Ohio.

Sept. 11, 1978: Wilderness Society.—Life Membership in the Wilderness Society. Presented in Washington, D.C.

Oct. 16, 1978: National Recreation & Parks Association.—"National Congressional Award" for outstanding leadership in the Congress on parks and recreation matters. (Miami Convention)

Oct. 23, 1978: City of Los Angeles.—Special Recognition by Mayor Tom Bradley for Mr. Burton's successful efforts, "intensity and sheer energy" in establishing the Santa Monica Mountains National Recreation Area, which provides 90,000 acres of natural park and recreation preserve land—in the Omnibus National Parks and Recreation Act of 1978. Presentation at Los Angeles City Hall.

November, 1978: California Council of Landscape Architects.—Citation for dedication to humanity and commitment to public trust through environmental legislation.

Dec. 18, 1978: Guam Department of Parks and Recreation.—"Certificate of Award" in recognition of "Outstanding Support," of Guam. Sent via mail.

Jan. 5, 1979: Trust for Public Lands.—"Don Quixote Land-Saving Award". Presented in San Francisco.

Jan. 27, 1979: Friends of the Boundary Waters Wilderness.—Presentation of BWCA scenic print in appreciation of his authorship of Boundary Waters Wilderness legislation and his leadership efforts (along with Congressmen Don Fraser and Bruce Vento of Minnesota) to expand, protect and preserve the wilderness in northern Minnesota. Presented in Minneapolis—State Meeting.

Feb. 27, 1979: FONO (Legislature of American Samoa).—Concurrent resolution of commendation for his efforts in authoring and securing passage of legislation ("a political and historical milestone and achievement") in extending to American Samoa the right to elect its first delegate to the House of Representatives.

Mar. 24, 1979: National Wildlife Federation.—"Legislator of the Year" for outstanding contributions to the wise use and management of the nation's natural resources, and efforts in the National Parks and Recreation Act of 1978 and other legislation. (Toronto, Canada, convention)

Apr. 27, 1979: American Rivers Conservation Council.—"Distinguished River Conservation Award of 1978" in recognition of outstanding efforts to preserve rivers and other natural areas through the National Parks and Recreation Act of 1978 and other legislation.

May 5, 1979: Sierra Club.—1st recipient—Edgar Wayburn Award in recognition of distinguished public service in the protection of America's national parks and wilderness areas. Presented in San Francisco.●

DEAN RAFFAELE SURIANO: ALUMNUS OF THE YEAR; MAN OF THE YEAR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. HYDE. Mr. Speaker, I am pleased to bring to the attention of my colleagues two distinctive honors recently conferred upon Raffaele Suriano, D.D.S., the dean of the Loyola University School of Dentistry in Maywood, Ill.

On April 19, Dr. Suriano was presented the Alumnus of the Year Award at the Loyola University Dental Alumni Association's 25th Annual Homecoming Dinner in Chicago. Dean Suriano was chosen for the award by the board of governors of the association for his contributions to the school, the alumni association, and the dental profession.

In addition to that auspicious honor, Dr. Suriano was also recently awarded the "Man of the Year" award at the 45th Annual Spring Dinner of the Arcolian Dental Arts Society. The society honored Dr. Suriano for his many years of devoted and unselfish efforts toward the advancement of dentistry.

A native of Kenosha, Wis., Dr. Suriano was graduated from Loyola University's College of Arts and Sciences in 1941, and then received his D.D.S. from the dental school in 1944.

Dr. Suriano was named dean of the dental school in 1973 after a 30-year-career in the U.S. Army Dental Corps where he retired with the rank of colonel. During his military career, he directed the educational and training programs for the health services and was also responsible for procurement and career management. His last assignment before retiring was as deputy chief of staff, Personal Health Service Command, Department of the Army.

Dr. Suriano is a member of the American Dental Association, and a fellow of the American College of Dentists and the International College of Dentists.

Dr. Suriano has not only distinguished himself among his peers in the dental profession, but he is a well known and widely respected member of his community.

As a personal friend of Dr. Suriano, I can attest to the fact that the honors recently bestowed on him were richly deserved. I know my colleagues in the House join me in extending congratulations to Dr. Suriano, as well as best wishes for future success and fulfillment.●

CLINCH RIVER EXTRAVAGANZA

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. BINGHAM. Mr. Speaker, I would like all of my colleagues to read the compelling case made by the Washington Post for putting Clinch River behind us, and pursuing productive energy strategies instead.

Their arguments strongly favor the Udall/Bingham approach to nuclear breeders—which will be offered as an amendment tomorrow to H.R. 3000, the Department of Energy authorization bill.

We recommend a strong, broadly based R. & D. effort to find safe, proliferation-resistant and economically advanced nuclear alternatives. To waste scarce energy dollars now on unnecessary and dangerous commercial projects is energy foolhardiness.

PUTTING AN END TO CLINCH RIVER

Every year that the debate drags on, the case against the Clinch River Breeder Reactor gets stronger. The technical, economic and nonproliferation arguments are solid and persuasive. The large budgetary savings—$1.5 billion—should put the final nail in the Clinch River breeder's coffin.

The issue before Congress is not whether the country needs a breeder. That is a separate question. The issue now is whether the country needs this breeder and on the timetable that has been set for it. The right date for commercial deployment of a breeder depends on three key factors: demand for nuclear power; available uranium-ore resources; and the capital cost of the breeder in particular—how much more expensive it is than current reactor types. What do we now know about each of these?

In 1970, when the Clinch River breeder was first authorized, projected nuclear demand for the United States in the year 2000 was about 1 million megawatts. The most recent figures for that same year project about 20,000 megawatts. And these were calculated before Three Mile Island. Regarding resources, in 1970 the United States estimated its uranium reserves at 1.36 million tons. In 1979, the estimate is 4.3 million tons, of which 2.4 million fall into the most certain categories. So that even taking the most conservative view, our reserves of uranium ore have doubled in this decade, despite substantial production. Both these trends—the dramatic decline in demand and the growth in resources—have been mirrored worldwide.

The third factor, the likely cost of the breeder, is harder to predict. The administration's view, confirmed by many outside experts, is that the breeder will be between 1.2 and 1.7 times more expensive than current reactors. What all these numbers mean is that the breeder break-even point, the point at which a breeder becomes competitive and therefore economically justified, will come when uranium ore costs about $150 a pound. Today it costs $40 a pound. Putting these cost estimates together with the supply-and-demand figures, experts can calculate that the break-even point for breeders in this country will not come until after the year 2020—perhaps long after. Why then build the Clinch River breeder? It is a costly demonstration plant of a design that is almost 10 years old already. In the year 2020, its design will be 50 years old—a Model-T of reactors.

Supporters of Clinch River argue that if it isn't built, the United States will lose its leadership position in this potentially important technology. The opponents reply, soundly, that from a technological view money spent on the Clinch River breeder is wasted, since it is already an obsolete design, and that the U.S. position can be preserved and strengthened through a sensible R. & D. program that emphasizes safety and improved alternatives to current breeder designs. This makes good sense.

The administration's program, though still overfunded, will put the United States in a position to build a breeder reactor if and when it is needed. No one can responsibly predict today how far in the future that may be. But given the breeder's cost and undeniable proliferation risk, it would certainly be bad policy to encourage its premature use.

For far too long the Clinch River breeder has diverted the attention of Congress and the administration from other nuclear issues—especially safety and waste disposal—as well as from other energy issues that are far more important to the national welfare. This year Clinch River should be sent once and for all to its grave.●

CHICAGO TRIBUNE HITS SALT II DEBATE ON TARGET

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. CARR. Mr. Speaker, last month the Chicago Tribune printed an editorial supporting SALT II which is one of the most accurate and concise analyses I have had the pleasure to read. I will now insert it in the RECORD, and I commend it to the attention of my colleagues:

[From the Chicago Tribune, June 24, 1979]

THE SALT II DEBATE

It has taken more than six years of negotiation by three U.S. administrations to complete the strategic arms limitation treaty that now awaits its fate before the U.S. Senate. Every comma represents hours of discussion, every article months of bargaining. The combined intellects of some of America's most astute political and technical thinkers helped to shape its 40,000 words of text. Few, if any, international agreements have been as painstakingly drafted.

Now, the U.S. Senate is preparing to subject the treaty to yet another round of analysis and debate. That is as it should be. Not only does the Senate have a constitutional duty to examine each of the SALT II premises, it has a moral duty to ascertain whether the treaty does what it is intended to do: Slow the arms race without detriment to our national security.

After studying its text, and the many arguments for and against it, we are fully confident that the SALT II agreement can fulfill that goal without the need for Senate amendments.

That is not to say SALT is a perfect treaty. We would have liked substantial reductions in nuclear arsenals and constraints on the troublesome advances in warhead accuracy. But since those results proved impossible to obtain, it is enough that the treaty achieves the desirable goal of limiting the total number of warheads as well as limiting missile numbers. That slows the arms race without interfering with our ability to develop systems to defend against increased accuracy.

The arguments advanced so far against the treaty have not been convincing. Some [such as Sen. Henry Jackson's intemperate accusations of "appeasement"] can be dismissed as mere political posturing. Others—although they represent sincere doubts on the part of responsible people—have been effectively answered. Some of the main arguments and answers are worth reiterating as the ratification debate begins.

A HEAVY MISSILE "GAP"?

This objection would have force if the advantage meant the Soviets could translate greater throw-weight into more warheads. But the treaty sets limits on the number of warheads carried on each missile, which means that heavy missiles cannot deliver significantly more weapons than lighter ones. Modern nuclear weapons depend for their effectiveness on accuracy and dependability, not megatonnage.

THE "BACKFIRE" QUESTION

The most modern Soviet bomber, the Tupolev 22M ("Backfire"), is not limited by the treaty although it can theoretically hit targets in the U.S.

This argument fails to recognize that the treaty documents' treatment of bombers, if they favor either side, favor the U.S. The Soviets agreed that they will not alter the Backfire bomber to improve its strategic value and will not significantly increase its production. It was advantageous for the U.S. to leave the TU-22M out of the treaty because its inclusion would have given the Soviets ground for insisting on limits to U.S. planes stationed in Europe and Asia and such U.S.-based planes as the FB-111 which have capabilities similar to the TU-22M. We made no promises on these aircraft similar to the promise the Soviets made on the Backfire.

CAN THEY CHEAT?

Critics claim the treaty is not sufficiently verifiable, especially since important monitoring stations in Iran have been lost.

Behind this objection is a fear that the Soviets might secretly develop a system in violation of the agreements and spring it on us suddenly as a full-blown operational threat. But weapons development involves activity on such a large scale that we are able to detect new systems long before they can be deployed operationally. Illegal development would be quickly spotted by methods as simple as old-fashioned cloak-and-dagger work and as sophisticated as satellite surveillance. The loss of the Iranian stations temporarily reduced our ability to detect certain narrow aspects of missile development, much like the loss of a piece in a jigsaw puzzle. As long as we have the rest of the pieces—and we do—the picture will be clear.

IS IT ENOUGH?

Other critics say the treaty not only fails to slow the arms race, it actually promotes it by forcing the U.S. (and probably the Soviets, too) to deploy an entirely new generation of weapons—the mobile missile.

It is the growing accuracy of Soviet missilery, not SALT II, that makes the U.S.'s mobile MX missile necessary—by the early 1980's Soviet missiles may be accurate enough to wipe out a large part of our present Minuteman force in a surprise first strike. The complexities of the accuracy problem were too great to be resolved in SALT II, so even if there were no treaty the problem would remain and MX would be necessary. [SALT II does, incidentally, make prospective MX systems simpler and cheaper, and it is a step toward future arms negotiations that may be able to resolve such qualitative problems as accuracy.]

SOVIET BEHAVIOR

Opponents insist that the treaty should be rejected because of the abysmal Soviet record on human rights and the Kremlin's adventures in Africa.

It is precisely these ideological and political differences that make SALT II important. A friendly nation does not pose a nuclear threat; a hostile one does. SALT II provides a mechanism for reducing the danger of localized conflicts escalating into nuclear holocaust.

There is a final anti-SALT II argument that is more metaphysical than technical. The argument makes the point that after three decades of clear strategic superiority the U.S. is now entering into an agreement that puts the two superpowers at parity. There are many in the Senate and across the country who fear SALT II is a sign that the American people are losing their will and, worse, that the treaty will lull us into such a false sense of security that we will refuse to provide adequately for our defense. SALT must be scrapped, they argue, to give us the freedom and the incentive to build up a strategic force that overmatches the Soviets' in size, megatonnage, and sophistication.

Since this is a metaphysical argument it requires a somewhat metaphysical answer. An excellent one was supplied by no less an authority on national strength than Dwight D. Eisenhower. In his final report as chief of staff in Europe, Ike wrote:

"National security does not mean militarism or any approach to it. Security cannot be measured by the size of munitions stockpiles or the number of men under arms or the monopoly of an invincible weapon. That was the German and Japanese idea of power which, in the test of war, was proved false. Even in peace, the index of material strength is unreliable, for arms become obsolete and worthless; vast armies decay imperceptibly while sapping the strength of the nations supporting them; monopoly of a weapon is soon broken. But adequate spiritual reserves, coupled with understanding of each day's requirements, will meet every issue of our time."

We firmly believe, as did President Eisenhower, that the United States possesses "adequate spiritual reserves" to meet the challenges of a totalitarian regime whose policies are designed to break its people's spirit. We have no need to terrify ourselves into doing what is necessary for our security.

There is no doubt that every member of the U.S. Senate also believes in the nation's inner strength. So we are confident that the senators, certain of the country's determination both to protect its liberty and to minimize the possibility of an unthinkable war, will ratify this honorable treaty.●

ANTI-OPEC STRATEGY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SCHEUER. Mr. Speaker, I am impressed with the thrust of the President's energy program and am prepared to support it. I am concerned, however, about the absence of an anti-OPEC cartel strategy.

I am pleased to have been joined by 32 of my colleagues in presenting a letter to the President outlining some of the anti-OPEC initiatives that I would like to see undertaken. I commend it to my colleagues' attention:

LETTER TO PRESIDENT CARTER

DEAR MR. PRESIDENT: We are greatly encouraged by your recent speeches on our nation's energy problems. Your proposals are solid. We believe that they could be strengthened by adding short-term program strategies aimed at:

Breaking the OPEC cartel's monopoly stranglehold over the price and supply of oil; and

Providing American consumers with abundant and secure supplies of energy at reasonable prices.

In dealing with the OPEC cartel, we have to recognize that it is not a solid bloc. Rather, it is made up of nations with very different political and economic interests:

Some of OPEC's members—Saudi Arabia, Kuwait, Libya—have very high per capita incomes and can feasibly reduce production and thereby leave oil in the ground for future generations to exploit

Other members of OPEC—Indonesia, Venezuela, Nigeria—have low per capita incomes; large and growing populations; and costly, urgently needed development programs.

The latter group of countries needs oil revenues now. Therefore, we should attempt to deal bilaterally with individual members of OPEC, applying one overriding criterion: are their actions consistent with U.S. security and economic interests?

Accordingly, we should not simply impose a blanket quota on our oil imports. Rather, our policy should discriminate between OPEC members and non-OPEC producers, and also between the members of OPEC. Therefore we should:

Emphasize imports from Western Hemisphere producers, both OPEC (Venezuela) and non-OPEC (Canada and Mexico). These supply sources are far more secure than those elsewhere.

Try to buy more oil from producers with low per capita incomes, like Venezuela, Mexico, Nigeria, and Indonesia. This would help somewhat to narrow the gap between "have" and "have not" nations.

Maintain a policy of denying tax credit for payments exacted by OPEC countries from the oil companies, to maintain the cartel price.

Do more to finance oil exploration and production in the developing countries, through the U.N., the World Bank, and the Inter-American Development Bank, for example.

Offer "minimum lifting agreements", contracts by the U.S. to take a certain minimum amount of oil each year, for a number of years at a "floor" price, or the world price, whichever is the higher.

Such agreements would enable the developing country oil producers to obtain the needed capital investment funds from private banks, the World Bank, or the regional development banks for Asia, Africa, and Latin America.

The U.S. Government should act as purchasing agent and give first option to non-OPEC producers, and next to OPEC producers not hostile to the United States. Any residual demand would then be open to bids by the other OPEC producers.

We commend you for your recent leadership on the energy issue. We would be happy to meet with you, to discuss our suggestions to strengthen further your generally excellent program.

With every warm best wish.

Yours,

James H. Scheuer, Michael D. Barnes, Anthony C. Beilenson, Jonathan B. Bingham, James J. Blanchard, Robert W. Edgar, Vic Fazio, Sam Gibbons, Albert Gore, William J. Hughes, James M. Jeffords, John J. LaFalce, Sylvio O. Conte, Brian J. Donnelly, Robert K.

Dornan, Frank J. Guarini, John B. Anderson, Andy Ireland, Robert J. Lagomarsino, Jerry M. Patterson, Claude Pepper, Melvin Price, Charles B. Rangel, Benjamin S. Rosenthal, James M. Shannon, John B. Breaux, Charles Rose, Andrew Maguire, Doug Walgren, George Miller, Thomas J. Downey, Robert A. Young, Pete Stark.●

PIPELINE GAS FROM COAL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SIMON. Mr. Speaker, the increasing concern about excessive reliance on imported oil continues to move the Nation closer to greater use of our most abundant and readily available energy resource, coal.

Representing southern Illinois, one of the Nation's major coal-producing regions I am only too well aware of the environmental problems that have been holding us back from using this tremendous reserve of energy.

But the environmental problem isn't the only thing holding us back. Greater use of coal has been hindered by a lack of foresight among those in Government responsible for shaping a strategy for alternatives to oil.

There has been too much talk and not enough action in developing processes for turning coal into clean-burning synthetic fuels.

This has been true for one of the most promising forms of synthetic fuel, high Btu gas from coal. In 1975, Congress first authority Government support for building a major plant to demonstrate the commercial feasibility of producing pipeline quality gas from the variety of coals mined in the United States. A second demonstration project was authorized in 1976.

Four years later, we are still engaged in design work on the first authorized plant. Not a dollar has been spent on the second proposed demonstration project.

If we were willing to make the commitment of resources, at least two of the "second generation" processes for turning coal into pipeline quality gas could be quickly moved to construction and demonstration. The COGAS process, proposed for demonstration at an Illinois site, and the Slagging Lurgi process, proposed for construction in Ohio, have been in competition for several years now for the demonstration project approved in 1975. A lesser degree of design work is also being supported by the Department of Energy on a third process, known as HYGAS, which could eventually be moved to construction and demonstration.

On a 50–50 cost-sharing basis with contractors, these potential demonstration plants would cost the Federal Government $200 or $300 million each, perhaps more with inflation. That is a lot of money, but there is also a lot of potential for reducing our oil imports by producing on a synthetic fuel that can be carried into our homes and factories through existing pipeline delivery systems.

I think we need to construct and demonstrate at least both of the plants that have been authorized by Congress. And we should consider building three plants using all three processes for which we have been supporting design work with Federal funds. The competition of techniques is necessary if we are to determine the most economic and technically reliable methods for producing high Btu gas from coal.

We know how to make gas from coal; the question we answer with demonstration plants is, "Can we manufacture synthetic gas at a price that makes it practical as a substitute for oil?"

I would like to offer some insight into the economics of synthetic fuels by reprinting in the RECORD the following paper produced by the COGAS Development Co. of Princeton, N.J., designer of one of the processes being supported by the Department of Energy.

The COGAS process would produce some synthetic liquid fuel—including home heating oil—as well as pipeline quality gas.

While the following paper is designed to promote a particular process, it demonstrates the fast-changing economics of oil pricing, which is making production of synthetic fuels attractive in the energy marketplace:

PIPELINE GAS FROM COAL—THE COGAS PROCESS

The Illinois Coal Gasification Group[1] (ICCG) demonstration plant project (Department of Energy budget item 76–1–b) uses the COGAS process developed by the COGAS Development Company[2] (CDC).

The objective of the project is to design, construct, and operate a plant to demonstrate this advanced American process. The demonstration plant will confirm the desirability of process commercialization and eliminate eocnomic and technical uncertainties. It will show compatibility with environmental and regulatory requirements and develop performance and cost data for the design of full scale commercial plants having a total capital requirement exceeding $1.5 billion each.

This booklet underlines the importance and need for a Government-supported high-Btu gas-from-coal demonstration plant as a prelude to construction of commercial plants. It presents the advantages of rapid commercialization of the COGAS Process to produce gas and liquids from coal to replace imported oil.

SUMMARY

The ICGG demonstration plant project uses the COGAS Process. The advantages and benefits of the COGAS Process in transforming coal—our most abundant resource—into synthetic fuels to displace imported oil are unique. Cost-competitive and environmentally benign commercial production of pipeline gas, sulfur-free heating oil, industrial fuel oil and naphtha can be a reality within this decade.

Prompt construction of this demonstration plant is one of the most important actions that our nation can take to begin to reduce our reliance on imported oil. If the Department of Energy will make the decision necessary to start construction of the jointly funded (50/50 by ICGG and DOE) proposed ICGG demonstration plant in 1980, commercial plants could be in operation by 1989.

Over a 20-year period, the cost of producing these liquid and gas products from domestic coal in commercial plants will be no greater than the current cost for an equivalent amount of imported oil. Spending the money at home means jobs, in addition to a favorable impact on this country's balance of payments and overall economy.

The COGAS Answer to a New Urgency to Displace Imported Oil:

The energy problem

Dependence on foreign oil supplies which are subject to political upheaval.

Increasing OPEC prices.

Adverse balance of payments.

Meeting Basic Objectives:

To displace oil imports;

To maintain environmental standards;

To expand delivery of energy beyond the constraint of rail transport of coal; and

To expand the supply of domestic gas to its fullest market potential.

The COGAS process answer

Independence due to production from the abundant domestic U.S. coal resources.

Synthetic gas and oil at prices that are competitive.

Keeps money at home for a stronger dollar.

The COGAS Process:

Provides pipeline gas and synthetic oil which are directly substitutable for and interchangeable with refined oil products;

Production plant is designed to meet environmental standards. The clean fuel products avoid the added costs incurred in the direct use of coal;

Uses existing gas pipeline systems to transport energy; and

Produces substitute natural gas.

The Beneficially Unique COGAS Process:

Produces liquids which are readily marketable: sulfur-free, premium commercial-quality Heating Oil, Industrial Fuel Oil and Naphtha, in addition to Pipeline Gas.

Has no undesirable by-products and no emissions detrimental to health and the environment.

Can use any type of coal without pretreatment or size selection. Will process lignite, Western, Mid-Western and Appalachian agglomerating coals with a wide range of sulfur and ash contents.

Has a high safety factor because the process operates at low pressure.

Uses air instead of oxygen, which saves the energy and plant cost required to produce the oxygen.

Ground breaking could take place next year for the ICGG/DOE demonstration plant. Detailed construction design of this small but fully commercial-mode-plant will be complete in 1980 under the current schedule. Pilot proven and backed by a comprehensive data base, the COGAS process is well beyond the speculative and uncertain research and development stage.

A commercial COGAS Process plant, were it in operation today, would be supplying gas and oil dependably to commercial and industrial customers at prices competitive to the import-based oil they are now burning. As oil prices rise, the increasing income from the sale of COGAS oil helps reduce the price at which the pipeline gas must be sold.

The COGAS Process Products:

COGAS is the ideal process to produce Coal-Derived Fuels which displace imported oil in the Residential, Commercial and Industrial Markets. Gas represents at least two-thirds of the energy output and the remainder is synthetic liquids interchangeable with commercial petroleum products.

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[1] ICGG Partners: Mid-Continent Gasification Company; Peoples Gas Light Coal Gasification Company, Inc.; CILCO Energy Corporation; CIPS Energy, Inc., and North Shore Coal Gasification Company, Inc.

[2] COGAS Partners: Consolidated Gas Supply Corporation a Subsidiary of Consolidated Natural Gas Company; FMC Corporation; Panhandle Eastern Pipe Line Company, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Pipeline Gas—the environmentally best fuel.

Sulfur-free Heating Oil to extend domestic supplies. Also useable as transport fuel.

Sulfur-free Residual Oil to extend domestic supplies for use by industry.

High quality Naphtha to extend domestic supplies for producing Unleaded Gasoline and Chemical products.

THE MARKET FOR COGAS PROCESS PRODUCTS

Oil consuming sector	1978 domestic oil consumption [1] (million barrels/day)	Oil import reduction
Cogas process products can reduce oil imports:		
Residential and commercial—heating (space and water)	3.6	Cogas pipeline gas and fuel oils can replace all petroleum products used in this consuming sector.
Industrial—process and heating fuel; process raw material	3.3	Cogas pipeline gas, fuel oils and naptha can replace much of the petroleum products used in this consuming sector.
Transport	10.1	Cogas fuel oils and naphtha can replace a limited portion of the petroleum products used in this consuming sector.
Electricity generation	1.8	Cogas pipeline gas and fuel oils can replace all the petroleum products used in this consuming sector.
Total (of which imports averaged about 8)	18.8	

[1] DOE Monthly Energy Review, May 1979.

Note: More than ½ of U.S. oil consumption (for residential, commercial, industrial, and electricity generation) is replaceable with pipeline gas and synthetic oil from Cogas.

The Cogas process products can replace almost all of the imported oil.

TYPICAL COMMERCIAL COGAS PROCESS PLANT ECONOMICS [1]

[The money spent in the United States to pay for jobs, coal, plant, and equipment, and the cost of financing over a 20-year period to produce gas and oil products in a commercial Cogas plant is no more than the money that would otherwise be paid for foreign oil imports.]

Products	Daily production	Million barrels per year	
		Btu's	Fuel oil equivalent [2]
Pipeline gas (million cubic feet)	265	83.0×10^6	14.3
Fuel oil:			
Distillate (No. 2) (barrels)	12,450	24.5	4.2
Residual (No. 6) (barrels)	4,700	10.0	1.7
Naphtha (barrels)	3,800	6.4	1.1
Total annual energy yield		123.9×10^6	21.31

[Mid-1978 dollars]

Investment:	Millions
Plant cost	$1,185
Other capitalized costs	465
Total investment	1,650

Annual costs:	Billions per year
Bituminous coal at $22.50 per ton	$193
Production cost	44
Depreciation	81
Financial charges (20-yr average)	112
Total 20-yr average annual cost	430

Unit revenue required to cover 20-year average annual cost:	
Expressed as dollars per million Btu's	3.47
Expressed as dollars per barrels of fuel oil [2]	20.20

[1] After construction and operation of the demonstration plant.

[2] Distillate fuel oil at 5.825 million Btu per barrel.

Note: This anaylsis shows that over a 20-year period the average price of Cogas products is equivalent to $20.20 per barrel of fuel oil produced from imported crude and thus can replace such fuel oil without a cost penalty.

TYPICAL COMMERCIAL COGAS PROCESS COSTS VERSUS MARKET PRICES

Impact of oil market-price changes on commercial plant gas costs (hypothetical cases based on November 1978 and May 2, 1979 oil prices) (millions):		
Annual costs (20-yr average)	$430	$430
Market value of oil products [1]	116	162
Costs to be covered by gas	314	268
(Annual production of 83×10^6 million Btu's.)		
Unit gas cost, dollars per million Btu	$3.78	$3.24

[1] Value of fuel oil, New York Harbor and naphtha, Caribbean Cargo from Platt's Oilgram, derived as follows:

Product	Millions barrels per year	Nov. 1, 1978		May 2, 1979	
		Average price	Value (millions)	Average price	Value (millions)
No. 2 fuel oil	4.1	$16.45	$68	$20.90	$86
No. 6 fuel oil	1.6	15.29	24	21.03	33
Naphtha	1.3	19.32	24	34.125	43
Total oil price impact			116		162

●

MARK SANBORN

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. STANTON. Mr. Speaker, very recently we had a visit from the Future Farmers of America whose president, Mark Sanborn is a constituent of mine from East Orwel, Ohio. I am proud to bring to my colleagues' attention his remarks before the 1979 Congressional Breakfast on July 19, 1979. With persons like Mark Sanborn coming along in another generation America's future is bright, Mr. Speaker.

The remarks follow:

PRESENTATION TO THE 1979 CONGRESSIONAL BREAKFAST STATE FFA PRESIDENT'S CONFERENCE

(By Mark Sanborn)

The National Officers' International Goodwill Tour to Japan last February broadened our perspectives in many ways. Like most Americans who have the good fortune to travel internationally we returned to our native land with an even greater pride in our citizenship, but we also carried back with us the realization that the United States doesn't have a world monopoly on "the best of everything." Japan's rapidly growing industrial power and their superiority in the export of finished goods was somewhat shocking. Obviously we live in a highly competitive world and it concerns me that no longer is the U.S. the world leader in as many areas as it once was. Russia now possesses a strategic advantage. China has always possessed greater manpower and the Japanese have taken the lead in International Trade.

There are, however, at least two great distinctions that the United States still maintains, and these are especially dear to the Future Farmers of America. These distinctions are agriculture and education.

No other farmers of the world can come close to comparing with the productivity of American farmers. In 1976 one American farmer produced enough food to feed himself and 56 others. Today, just three years later, he can feed a total of 59. Agricultural exports have been a vital stabilizing factor in our economy and Americans still spend a lesser percent of their disposable income on food than do other consumers of the world.

I personally doubt that there is anywhere in the world where a quality education is more readily available to every citizen than here in the United States. A shining star in the public instructional system is that of vocational education as evidenced by the fact that in Spring of 1978 unemployment of vocational educational students was 5.2 percent lower than that of youth in the same age range. Vocational Education Programs like Vocational Agriculture incorporate not only the teaching of knowledge but also the training of specific job skills as well as the development of attitude, leadership and character through vocational youth organizations such as the FFA. Vocational education is the most well received of all federally funded programs in that for every $1.00 provided federally is matched by an average of $9.00 at the state level.

Agriculture and education, America's great distinctions, complement each other. Our agricultural prosperity allows us to allocate resources to the development of areas such as education and certainly our public instructional program trains young people for the field of work and industries like agriculture benefit.

If agriculture and education are indeed America's great distinctions, then what is being done to strengthen and preserve them? It is irony in the deepest form that these two areas are often the most ignored and the first to feel the effects of reduced government spending.

Since its conception the FFA has utilized the concept of incentives as a stimulus for success. I am gravely concerned that the incentives that have made agriculture and education great are lacking in our present society. We have removed incentive from agriculture by ignoring the voice of farmers and agribusinessmen until crisis situation arose and by legislating volumes of unwarranted regulations.

I can think of no professionals more underpaid than teachers. They have the greatest impact on a young person's life than anyone outside the immediate family, yet we expect them to provide their services at a salary that prevents interested students from entering the profession. Recently, I heard of a legislator who commented that teachers just don't have the dedication that they once had, and that increases in salary were foolish. He thought they should teach on the basis of their dedication, not salary. This is only partially correct, for as important as personal satisfaction and dedication is, I can think of no other professionals, as in the field of medicine and law, who perform merely on this basis. People like this who provide such necessary services are well paid, and I think that teachers, and farmers are no different. Financial reward is an important incentive in any career.

The problems I mentioned are but a few and I am not suggesting that we should guarantee anyone a fixed profit or income. Rather, I suggest that we examine our priorities and address current problems faced by agriculture and education. What are you and I doing to advance America's great distinctions?

The Declaration of Independence has stood as one of the greatest documents of human freedom of all time. Perhaps it is time, in the interest of the freedom we enjoy, to declare our dependence on agriculture to provide life giving food and fiber and upon education to develop the most important resource our country possesses—our youths' minds. Once we have declared our dependence and acted accordingly, then we can go about successfully the business of continuing to build the greatest nation on earth—the United States of America.●

TRIBUTE TO W. E. WILLIAMSON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. WAXMAN. Mr. Speaker, Ed Williamson, the chief clerk and staff director of the House Committee on Interstate and Foreign Commerce, lost his private battle with cancer on July 24. With his characteristic dutifulness, he worked until his very final days.

Ed Williamson served the Commerce Committee for 22 years. With legendary attention to detail and parliamentary skill he shepherded through the Commerce Committee the key domestic programs of six Presidents.

He had the stirring voice of an orator, and his presence gave dignity to every meeting of the Commerce Committee. When he called the roll on key votes, his resonant tones and penetrating glance reminded every member another chapter in the Nation's history could be written that day. Ed Williamson monitored thousands of votes during the span of his career, yet he never treated bills perfunctorily. To him every piece of legislation was given importance.

Ed Williamson knew what it was to assume the responsibilities of elected office. He was mayor of Magnolia, Ark., at the time Oren Harris appointed him to the Commerce Committee staff. He had a strong sense of public service, and served from 1947 to 1950 as circuit and chancery court clerk in Magnolia. His military record was distinguished: He enlisted in the U.S. Army in 1942, and rose to the rank of captain at the time of his discharge 4 years later.

Ed Williamson believed in the integrity of Congress as an institution, yet he was always approachable and never pompous. He had a fatherly regard for new Members and staff, whom he systematically tutored on House rules and committee procedures, so that Commerce Committee business could always be conducted in an orderly manner. He gave us all a sense of history and purpose in the work we undertook; at the mention of medicare and medicaid, or new cabinet departments, Ed Williamson gently reminded us, "I was there. I remember the vote."

Ed Williamson shared with us all our legislative victories and defeats. His beaming smile of satisfaction when a bill was reported, and his compassionate glance to a chairman when months of work ended only in a narrow defeat, will never be forgotten. He was so much a part of the Commerce Committee that it will be hard for all of us to continue along without his strong voice announcing the day's agenda. He will be missed.●

CAPTIVE NATIONS WEEK

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to speak about the captive nations of the world during this very special Captive Nations Week.

Freedom is a condition so basic and necessary to human beings that any action restricting this God given privilege is a blatant violation of human rights. Our Nation was founded on the belief that all men are created equal and that freedom is an undeniable right of every individual. It is therefore my belief that we as a Nation have an obligation to encourage these ideals both in our own country and in others.

This week we are commemorating those people who have demonstrated their persistant struggle for independence in spite of mounting Communist oppression. The people of these nations endear themselves to us since our Nation was once subject to similar oppressive demands. The inexhaustible determination that these people have shown in their struggle for independence is a true indication of their love for the freedom of which they have been so unjustly deprived.

History books tell countless stories of individuals, as well as nations, whose drive for independence was never diminished in spite of mountainous difficulties. The determined efforts of the Polish generals Pulaski and Kosciuszko during the Revolutionary War are worthy of acknowledgement. Their actions clearly demonstrate the willingness of one nation to aid another when its individual freedoms are being denied. We should now do the same by assisting their people in their drive for independence from oppressive conditions. Newspapers today reveal moving stories of the plight of the Southeast Asian boat people, the indefatigable drive for freedom of Soviet Jews like Anatoly Shcharansky, and many other struggles for basic human rights. The morals and determination of these and many other individuals have fully enhanced the American ideology of individual freedom.

There has been little progress since World War I in improving the plight of those nations subject to the oppression of the Soviet Union. The number of nations succumbing to Communist advances is increasing at an alarming rate.

A large portion of the global population is now subject to the policies of Communist institutions. As of now, there is little evidence that the expansionistic Communist trend is dissipating.

America, in spite of its own hard-earned freedom, has been too complacent in dealing with the plight of other nations. Our foreign policy has changed from one of containment and active resistance to a policy based on negotiation and compromise, often at the expense of our Nation's ideals.

The United States is both capable of and responsible for actively attempting to prevent further Communist advances into nations too weak to defend their basic human rights. It is our further responsibility to try to help those nations now subject to these oppressive intrusions. We must immediately abandon our passive attempts at assuring human rights around the world, and instead actively promote the ideals which made this country a great protector of basic human freedoms.

Freedom is something which we must strive for; like many other things, it only survives when we work at it. We must wish for it with all our hearts and constantly remind ourselves that it is something very difficult to obtain and very easy to lose. As an active leader of the free world, we cannot be satisfied with passive denunciation of infringements upon individual freedom. We must instead demand total compliance with the Helsinki accord and actively promote those ideals upon which the agreement is based.

The many captive nations of the world will continue to demonstrate their love for the freedom of which they have been in July each year—Captive Nations deprived so unjustly. We commemorate their brave efforts during the third week Week. This week is not only for acknowledging their efforts, but also for reexamining our policies in order to assure ourselves and others of the ideals for which this country stands.●

COUNTRIES ILLS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. WYDLER. Mr. Speaker, Russell Baker who writes a regular column for the New York Times is known for his sharp wit and very humorous articles.

The one that follows is not very funny for the American people, but it does prove that there is a lot of truth told in jest.

The article follows:

PLAYING BY THE BOOK

(By Russell Baker)

The President started the week with a humble confession of inadequacy. Always be humble, especially if you are arrogant, goes the old political maxim. Mr. Carter's display of humility was one in which he could take not only pride but also satisfaction, since his popularity rating in the polls shot up several points almost immediately.

After the humility came the dynamism. Always be dynamic, especially if you don't plan to do much, goes the old political maxim. Mr. Carter boarded his dynamic Presidential jet, burned a large quantity of oil to go to Kansas City, and made a second speech on television in which he asked us to join him in "this war."

This accorded with the old political maxim, which states, always elevate intractable domestic problems to the level of "war," especially if you can't go on ignoring them without inviting defeat at the polls (cf. Lyndon Johnson's War on Poverty, Gerald Ford's War on Inflation).

The call for war support was issued in a louder voice than the President usually uses and by gestures with a clenched fist. Always look tough when you talk war, goes the old political maxim, especially if you are talking about intractable domestic problems instead of war.

For some reason, neither press nor television said that the humility, the dynamism, the war call, the raised voice and the clenched fist meant there was "a new Carter." This defied an old journalistic maxim which goes, always declare an old, familiar politician to be a new politician when he changes his voice level, speech writer or image technician (cf. The seven "new Nixons" created by journalism between 1953 and 1973).

Several journalists, however, did observe that Mr. Carter's conduct suggested he had been born yet again. Never pass up the chance for a wisecrack, goes the old journalistic maxim, especially if the polls show not many people are likely to be offended.

Continuing to charge off in all directions, the President flew back to Washington and collected the resignations of all his top hands, though he intended to keep all but a handful. Always charge off in all directions, goes the old political maxim, especially if you want to create enough headlines to conceal the fact that you are not going anyplace.

Press and television immediately said that calling for all hands to resign was unprecedented, although President Nixon had done the same thing after the 1972 election. Always convert a bemusing event into melodrama by calling it unprecedented, goes the old journalistic maxim, especially if it isn't.

Precisely who or what the enemy was in the war for which the President requested support was not clear. Stuart Eizenstat, in a famous memo to the boss, had wanted him to name OPEC the villain. The President did not. Never make an enemy who can give you more trouble than you can handle, goes the old political maxim, especially if you can take on an enemy who is a pushover.

Despite his humility, the President managed to identify several enemies who had failed the country much worse than he had. Among them were Washington, Congress and Big Oil.

All are pushovers, and the President pushed them over with much humility and fist-clenching. Washington, he suggested, was the worst. One had the impression he was being held prisoner in Washington and was being compelled by subtly sinister means into governing inadequately.

Making Washington the enemy of the people's goodness, of course, was a tactic he used successfully to get elected in 1976. Always go back to what worked in your first big success, goes the old political maxim, especially if nothing else seems to work (cf. President Nixon's efforts throughout Watergate to recreate his triumphant "Checkers" speech of 1952).

As for Big Oil, the President announced that he had squads of auditors poised to attack their books. There is no old maxim being observed here, but only a universal truth. Nobody loves a rich man, and almost everybody will pay good money to see banana peels placed under his Guccis.

As for Congress, its vulnerability is understood by small children. Always denounce the Congress, goes the old political maxim, especially if you are humble about your own inadequacies.

As the week ended, hints from the White House suggested that the President was also thinking of adding the Washington news industry to the list of opponents responsible for his inadequacies. There were complaints that these wretches "sensationalize" with wanton extravagance and impede and distort the President's efforts to communicate with the good people outside Washington.

Always blame the news industry for your inadequacies, goes the old political maxim, especially if it devotes as much attention to your inadequacies as it devotes to your humility (cf. John F. Kennedy, Lyndon Johnson, Richard Nixon).

The President, of course, is also waging a campaign to be re-elected in 1980. Washington is the only place on earth so despicable, goes the old political maxim, that people will struggle like tigers to get there and fight like lions to stay there.●

DICKINSON'S BILL TO HELP DOD AIR TRAFFIC CONTROLLERS HAS BROAD SUPPORT

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 25, 1979

● Mr. DICKINSON. Mr. Speaker, during the past three Congresses I have introduced legislation which would give civilian air traffic controllers at the Department of Defense the same rights and benefits with regard to retirement and job retraining that were accorded air traffic controllers of the Federal Aviation Administration at the Department of Transportation under Public Law 92–297, which was enacted on May 6, 1972.

This legislation is, I believe, simply a matter of providing equity. The Congress has recognized the special problems encountered by the 17,000 FAA air traffic controllers and the need for a legislative remedy. The 200 DOD air traffic controllers have the same physical and mental stresses as the FAA controllers and ought to be accorded the same treatment under the law.

Hearings on my current bill, H.R. 1781, were held before the House Subcommittee on Civil Service on June 26, and July 13, 1979. I was very pleased with the gracious and courteous reception from my distinguished colleague who chairs the subcommittee, the Honorable PAT SCHROEDER of Colorado and the other members of the subcommittee who were most receptive to this legislation.

Favorable departmental reports have been received from the Office of Management and Budget and the Office of Personnel Management. Mr. Carl Clewlow, Deputy Assistant Secretary of Defense for Civilian Personnel Policy, testifying in support of the bill on July 13, 1979, said:

> In the interest of equity, we believe that the Department of Defense civilian controllers who are actively engaged in the separation and control of air traffic, and who are performing like duties to those air traffic controllers in the Department of Transportation, should be treated the same as their counterparts in the Department of Transportation.

At the time I testified before the Civil Service Subcommittee, I was joined by Mr. Jerry Byrd, data systems officer, Cairns Army Radar Approach Control, Fort Rucker, Ala. Mr. Byrd made a very comprehensive and persuasive statement in support of H.R. 1781 which I would like to call to the attention of my colleagues.

STATEMENT OF JERRY BYRD

Most Honorable Chairwoman, Honorable Subcommittee Members, the Honorable Congressman Dickinson, Distinguished Counsel.

I consider it a great privilege and a distinct honor to appear before you today in behalf of approximately 200 Department of Defense civilian air traffic controllers stationed at ATC facilities throughout the United States. I truly hope that you will sense that there is something different about my being here today—something special. What is different and what is special is the thing which makes me most proud to be an American—and that is the opportunity that one has—no matter what his station in life, not only to express himself to his government—but to be heard. I truly believe that my being here today is "what it's all about"—for I come to you from the lowest level of government to present a petition for your honest and unbiased consideration. I am not a lobbyist, nor a Union official, and since I occupy a staff air traffic position, I will not be covered by this amendment. I do however, speak for a special interest group. That being those who have a special interest in seeing that all people are treated fairly and equitable under the law. Yes, I am prejudiced in my support of the DOD controllers urgent need for parity with his FAA counterpart. And quite frankly, I honestly believe that the decision that you will make on this issue is one of the easiest you'll ever have to make. We certainly recognize that many important measures are being studied by your committee, and that it may seem insignificant to be considering a proposition which affects only about 200 Civil Service employees. But "believe you me", if their need was not real and factually documented, I certainly wouldn't be here today.

It appears to me, that some of the questions you must answer in order to approve this bill are these.

1. Is there a demonstrated need for this legislation.

2. Is the need appropriately documented.

3. Is the proposed resolution equitable.

4. Does this bill have the support of those who will be affected, and by those who must administer it.

The answer to all of these questions is an unqualified "yes".

If you will please refer to the "Profile of an Air Traffic Controller": on page 7 of the report which I presented to you entitled The Case for Amending P.L. 92-297 to Include Department of Defense Civil Air Traffic Controllers, H.R. 1781, you will note the DOD controller, when compared with the FAA controller, is doing the same job, with the same civil service job series code (GS-2152), controlling the same aircraft, meeting and maintaining the same medical standards, and the same standards for certification and rating, while abiding by the same rules and regulations for the control of air traffic. This in itself is clear and convincing evidence of the oversight of not including DOD controllers under the provisions of P.L. 92-297.

One of our basic causes of concern is the discriminatory aspect of providing career benefits for civil service air traffic controllers employed by DOT and not providing like benefits for identically situated controllers employed by other Federal agencies. Although it is a gross inequity, it is not for this reason that the DOD controller requests coverage under the law, but rather because an actual, proven need exists!

The pressures associated with the air traffic control profession and the resultant early physical deterioration of controllers was first documented for the 92nd Congress in the "Courson Report" prepared by a blue-ribbon Air Traffic Controller Career Committee at the direction of the Secretary of Transportation. P.L. 92-297 is the result of this Committee's recommendations.

For years DOD controllers have been denied coverage under this law primarily because the Department of Defense, Civil Service Commission, and others, objected on the grounds that there was no specific evidence to justify their inclusion. However, in April of 1977, the Honorable Harold Brown, Secretary of Defense, requested Department of Army to again "look into this matter" and in May of that year, Congressman Dickinson was advised that Department of Army had been requested to examine the work of air traffic controllers at Fort Rucker, Alabama, in conjunction with representatives of the Civil Service Commission and the Department of Transportation. The purpose of the study was to "identify specific controller requirements and human factors to determine whether Defense Department controllers had a problem comparable to that in the Department of Transportation requiring a like solution."

This study was conducted during July and August of 1977 by a Team which gathered data from DOD installations employing air traffic controllers and which also accomplished on-site surveys at Fort Rucker, Alabama, Fort Hood, Texas, and the FAA ATC radar facility at Washington National Airport. This was done in order to compare Army Air Traffic Control operations with those of an FAA facility. The visit to Washington National Airport confirmed that controller duties performed and equipment used by FAA controllers was the same as those found at Fort Rucker and prompted this statement from the report. "The Study Team could discern no basic differences in duties between Army and FAA controllers who are actively engaged in the separation and control of aircraft." The assessment by the FAA Representative, who participated as a member of the study team, was that "Occupationally there is no basic difference between the duties being performed by FAA air traffic controllers and the civilian air traffic controllers at Fort Rucker and Fort Hood."

This report, entitled "The Study of Department of the Army Air Traffic Controller Duties and Human Factors," dated August 1977, is replete with affirmations of the virtual identical aspects of the FAA and DOD controller positions and of the physical demands of the occupation. However, it is significant that the report considered the matter of comparability or noncomparability of DOD controllers with DOT controllers, as an issue separate from the fundamental issue of whether there was a need to include DOD controllers under the law. This need was to be determined by assessing the actual duties being performed, problems of recruitment and retention, as well as medical evidence of "burnout" problems. The Report concludes by recommending, without qualification, that DOD controllers be covered by P.L. 92-297.

Another compelling reason for including DOD controllers under the provisions of this law is that some major insurance companies will not "write" disability income protection for air traffic controllers solely due to their occupation. Page 29 of the report which I have presented to this subcommittee contains a copy of a letter one of our controllers received from the Prudential Insurance Co. of America. I quote from the letter:

"Our underwriting rules prohibit us from considering air traffic controllers for disability pay coverage. Please be assured that no adverse medical information was received and that your application was declined solely due to your occupation."

If an employee of the Federal Government cannot obtain necessary insurance to protect his income because of the inherent debilitating aspects of the occupation, then surely the Federal Government has an obligation to provide appropriate protection. Public law 92-297 affords this protection.

Without question, there exists a precedent for providing these benefits to air traffic controllers staffing facilities located at military installations. In fact, the FAA itself staffs at least 21 air traffic control facilities located on military installations. Figure 3, page 31, of my report lists these facilities. It is indefensible that our Government would knowingly continue the discriminatory practice of providing these benefits to FAA controllers at military installations and not provide them to DOD controllers at identical facilities.

If you will indulge me, I would like to speak personally to this issue because I am not just a layman, but rather a professional air traffic controller with experience in many types of facilities, at all levels of operation.

I speak as one who has personally experienced the mental and physical strain of controlling aircraft in and out of busy airports; as one who has experienced the stress of staying on the radar scope or in the tower for long periods of time without a break; as one who has been confronted with the necessity of making successive decisions carrying life and death consequences—where the standard is always perfection; and finally, as one who has experienced the day-in-day-out wear and tear on the individual, and the disruption of a normal family life and social relationships, brought on by frequently changing shift requirements.

I also speak as one who has seen controllers break down and weep, on the job, as the result of the intense pressure and constant demand to speed the flow of traffic—knowing full well that the impending rush of air traffic will exceed his reasonable capacity, but also knowing that he must operate at the limits of his capabilities, on the brink of human disaster, for as long as necessary.

I've seen a controller get up from hours at a busy radar scope, walk to a wall and stand with his face only inches away, staring blankly at nothing and unconsciously remove his necktie—and not realize what he is doing.

I have seen the most confident, even-mannered controller turn into a growling, irritable, irascible controller—who snaps at other controllers and pilots as well, as the intense control pressure builds.

I have also seen the most boring, tedious air traffic situation change in an instant to a tense, harrowing, and grueling contest between man, machine, and time, as a controller and a pilot lock hands in a frightening effort to stave off disaster in an emergency situation. And I have seen man lose.

I beg of you, please don't let anyone sway you in your resolve to correct this inequity.

In conclusion, this Committee has within its power the means to correct an oversight of long standing. These controllers have been overlooked because their small number does not give them any political "clout"; because they do not have the powerful voice of the FAA, or the representation of a national labor union. But their need is real—it is irrefutably proven and unquestionably justified. The facts clearly support the proposition!

I would certainly be remiss if I did not publicly express the gratitude of DOD controllers throughout the U.S. to Congressman Dickinson, whose efforts in their behalf are a shining example of non-partisan representation. I would also like to express my gratitude to this Subcommittee for giving us this forum.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 26, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 27

8:30 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on S. 1280, to provide financial and technical assistance to States and local governments in developing and expanding energy-related activities.

3110 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation

Business meeting on pending committee business.

235 Russell Building

Foreign Relations

To continue closed hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

S-116 Capitol

Judiciary

To hold hearings on S. 680, to provide for the rights of citizens to sue in Federal courts for unlawful governmental action.

6226 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of government-sponsored inventions in order to encourage private industry participation in Federal research and development programs.

5110 Dirksen Building

Labor and Human Resources

Business meeting, to mark up S. 1075, to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and doctors, and to provide more education to doctors and health professionals regarding the use of approved drugs; and S. 446, to provide legal protection to the employment rights of handicapped citizens

4232 Dirksen Building

*Veterans' Affairs

To resume hearings on S. 870, to amend and extend education programs administered by the Veterans' Administration for veterans and dependents, and S. 881, to provide for the protection of certain officers and employees of the Veterans' Administration assigned to perform investigative or law enforcement functions.

412 Russell Building

9:45 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 524, 581, 730, 932 (as passed the House), 950, 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.

5302 Dirksen Building

10:00 a.m.

Armed Services

To continue closed hearings on the military implications of the SALT II Treaty.

S-407, Capitol

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To receive testimony from officials of the Harvard University, School of Business on a 6-year review of energy resources.

3110 Dirksen Building

Finance

To hold hearings on the nomination of William G. Miller, to be Secretary, Department of the Treasury.

2221 Dirksen Building

Foreign Relations

To hold hearings on S. 1450, to promote the foreign policy of the United States.

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs relating to State and local governments.

457 Russell Building

Select on Intelligence

To continue closed hearings on issues relative to the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).

224 Russell Building

Joint Economic

To hold hearings on the impact of inflation on the Federal tax system.

S-207, Capitol

2:00 p.m.

Appropriations

Transportation Subcommittee

To mark up the substance of H.R. 4440, making appropriations for fiscal year 1980 for the Department of Transportation.

1224 Dirksen Building

Conferees

On S. 544, to revise and extend, through fiscal year 1982, programs administered under the Public Health Service Act.

S-207, Capitol

2:30 p.m.

Foreign Relations

To hold hearings on pending nominations.

4221 Dirksen Building

3:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

JULY 28

9:30 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

JULY 30

8:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Charles W. Duncan, Jr., of Texas, to be Secretary of Energy.

3110 Dirksen Building

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To hold oversight hearings to examine the scope of current agricultural transportation problems.

322 Russell Building

9:15 a.m.

Governmental Affairs

To hold hearings on S. 930, to restrict free Federal employee parking.

3302 Dirksen Building

9:30 a.m.

Environment and Public Works

Business meeting on pending committee business.

4200 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Judiciary

To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

Select on Indian Affairs

To hold hearings to discuss alternative solutions to litigation to resolve water rights disputes between Indians and non-Indians.

5110 Dirksen Building

2:00 p.m.

Budget

Business meeting, to begin mark up of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Judiciary

To hold hearings on the nominations of Richard D. Cudahy, of Wisconsin, to be U.S. Circuit Judge for the Seventh Circuit; and Edward C. Reed, Jr., to be U.S. District Judge for the District of Nevada.

6226 Dirksen Building

JULY 31

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To continue oversight hearings to examine the scope of agricultural transportation problems.

322 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 663 and 875, bills to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.

6226 Dirksen Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on proposed legislation to establish a home energy efficiency program.

3110 Dirksen Building

Judiciary

Business meeting, on pending calendar business.

2228 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).

4232 Dirksen Building

10:00 a.m.

Budget

Business meeting, to continue mark up of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Governmental Affairs

To resume joint oversight hearings with the Subcommittee on Energy, Nuclear Proliferation, and Federal Services, on the activities of the Department of Energy.

3302 Dirksen Building

1:00 p.m.

Conferees

On S. 237, to clarify and expand jurisdiction of U.S. magistrates and improve access to the Federal courts.

S–207, Capitol

2:00 p.m.

Appropriations

Business meeting, to mark up the substance of H.R. 4440, making appropriations for fiscal year 1980 for the Department of Transportation, and to resume consideration of H.R. 4393, making appropriations for fiscal year 1980 for the Department of the Treasury, and the U.S. Postal Service.

S–128, Capitol

3:00 p.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

AUGUST 1

9:30 a.m.

Environment and Public Works

Business meeting on pending committee business.

4200 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

10:00 a.m.

Budget

Business meeting, to continue markup of the second concurrent resolution on the Congressional budget for fiscal year 1980.

6202 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Governmental Affairs

To continue joint oversight hearings with the Subcommittee on Energy, Nuclear Proliferation, and Federal Services, on the activities of the Department of Energy.

3302 Dirksen Building

1:00 p.m.

Conferees

On S. 237, to clarify and expand jurisdiction of U.S. magistrates and improve access to the Federal courts.

S–207, Capitol

3:00 p.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the management and implementation of hazardous waste programs under the Resource, Conservation, and Recovery Act, 1976.

1224 Dirksen Building

AUGUST 2

8:30 a.m.

Veterans' Affairs

To hold hearings on S. 1518, to allow for the disclosure of certain information by the Veterans' Administration to consumer reporting agencies in order to make assessments in cases of outstanding debts.

457 Russell Building

9:30 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

10:00 a.m.

Budget

Business meeting, to continue markup of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Judiciary

To hold hearings to examine the policy and intent of a statutory charter which defines the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the activities of the Indian Health Service, Department of Health, Education, and Welfare.

5110 Dirksen Building

AUGUST 3

10:00 a.m.

Budget

Business meeting, to continue markup of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

SEPTEMBER 10

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on proposed authorizations through fiscal year 1990 for airport development aide programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 11

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on proposed authorizations through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 12

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

457 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on proposed authorizations through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1979.

235 Russell Building

SEPTEMBER 13

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on proposed authorizations through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 18

9:30 a.m.

Labor and Human Resources

To hold hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 19

9:30 a.m.

Labor and Human Resources

To continue hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 20

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 25

11:00 a.m.

Veterans' Affairs

To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.

5110 Dirksen Building

CANCELLATIONS

JULY 30

10:00 a.m.

Commerce, Science, and Transportation Aviation Subcommittee

To hold hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

AUGUST 1

10:00 a.m.

Commerce, Science, and Transportation Aviation Subcommittee

To resume hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

AUGUST 2

10:00 a.m.

Commerce, Science, and Transportation Aviation Subcommittee

To continue hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

SENATE—*Thursday, July 26, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9 a.m., in legislative session on the expiration of the recess, and was called to order by the Acting President pro tempore, Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

We thank Thee, O Lord, for Thy mercies which are new every morning and for every new opportunity to serve Thee by serving our Nation.

"If, on our daily course, our mind
Be set to hallow all we find,
New treasures still, of countless price,
God will provide for sacrifice.

"Only, O Lord in Thy dear love,
Fit us for perfect rest above,
And help us, this and every day,
To live more nearly as we pray."

Amen.

—John Keble, 1827.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I believe I have just 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader.

OBJECTIONS TO THE GENOCIDE CONVENTION MADE IN 1950 ARE OUTDATED

Mr. PROXMIRE. Mr. President, today I would like to remind my distinguished colleagues of two of the important distinctions between the circumstances surrounding ratification of the Genocide Treaty in 1950 and ratification of the treaty in 1979.

In 1950, as a report from the section of individual rights and responsibilities of the American Bar Association points out, one of the objections to ratifying the treaty was that Government action by treaties was a "new concept." Their hesitancy was understandable in view of the Senate's lack of past experience with such matters. At that time their contention was valid.

However, since that time, the United States has entered into well over 4,000 international agreements "without any noticeable diminution of its sovereign independence, nor any noticeable debasement of its standards to an international average."

The point is that the United States has entered into many treaties. This is no longer a "new concept," but rather an effective means of establishing international law.

The report also points out that in 1950 some opposition to the treaty was based on the belief that the Genocide Convention would override the legislative power of Congress. There was concern particularly with respect to civil rights legislation. It was suggested in 1949 that the Genocide Convention would be used to rationalize Federal legislation in this area.

In 1949 that may have been a reasonable consideration. In 1979, 30 years later, it can be said without any degree of doubt that the Constitution is completely adequate to "sustain any civil rights legislation likely to be proposed and passed and certainly far more ample to coverage than any authority possibly derived from the Genocide Convention."

It is clear that in both instances that a cautious approach was necessary, but that with time such an approach no longer served any purpose or was in fact justified.

I strongly urge my fellow colleagues to look anew at the Convention on the Prevention and Punishment of the Crime of Genocide, to consider it by standards that are applicable today, and finally to ratify the Genocide Treaty.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I have no need for my time under the standing order. I yield it to the distinguished Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

SNOWMOBILING

Mr. PRESSLER. Mr. President, there is a real need for recreation in our lives. As a consequence, there is also a real need to treat all recreation equitably in our energy actions.

Moreover, I am strongly in agreement with the new and important role played by recreation in the lives of my constituents.

I have been impressed by the changes which have taken place in snowmobiling.

It burst into the scene in the early 1960's, growing far more rapidly than anyone dreamed possible. The reason was clear; it tapped a very real and previously unmet need for active recreation during the winter months in the snowbelt.

There were three basic problems. The first was the machine itself. It was loud. It broke down. It bogged down in deep snow and steep terrain. The second problem was that there were no places designated for snowmobiles to be used safely and to avoid conflicts with wildlife and other human activities. Finally, there was no way to communicate with snowmobilers. They were those masked riders in the night, alone or in small groups.

All that has changed dramatically. Snowmobiling continues to grow rapidly. In fact, according to A. C. Neilsen, it is the third fastest growing recreational activity in America. The Department of the Interior tells us some 14,000,000 Americans now snowmobile. And everybody anticipates further growth. But the problems that emerged with the beginnings of snowmobiling have now disappeared.

Today's machine is a marvel. It is quieter than many cars. The safety record of the sport has improved greatly, so that it is now a family undertaking. And there are now all kinds of places to go by snowmobile. Many States have several thousands of marked and maintained public trails, many close to population centers and many of which are also available during warm-weather months for hiking, bicycling, and equestrian use.

Unlike some activities, snowmobiling has footed the bill for the development of these trails—tens of thousands of miles of snowmobile trails—across the snow belt. The trails were developed and are maintained by State registration fees on the vehicles and in some cases the State fuel tax on gas used in snowmobiles.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

This success story is one in which we can take great pride.

It is an example of American ingenuity overcoming adversity. Certainly this body needs to make clear that we are not about to take inequitable actions on energy, land, or other matters which could seriously jeopardize the progress we have seen to date and the promise for still more to come.

(The remarks of Mr. PRESSLER in connection with the submission of a resolution are printed under routine morning business.)

Mr. PRESSLER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. PROXMIRE). Does the Senator from West Virginia yield to the Senator from Nebraska?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I thank the Chair very much.

(The remarks of Mr. EXON in connection with the submission of a resolution are printed under routine morning business.)

RECOGNITION OF SENATOR JEPSEN

Mr. BAKER. Mr. President, I ask the Chair, is there a special order in my name this morning?

The PRESIDING OFFICER. The Senator from Iowa (Mr. JEPSEN) is to be recognized for not to exceed 10 minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield the time allocated to me under the special order entered on yesterday to the distinguished Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for 20 minutes.

NOMINATION OF PATRICIA WALD

Mr. JEPSEN. Mr. President, the Senate has confirmed the nomination of Patricia Wald to the District of Columbia Circuit Court of Appeals. I voted against her nomination, and I want to take a moment to explain my reasons for doing so.

If the Senate is to perform its duty of confirming Presidential nominations responsibly, it must not act simply as a rubberstamp. It must scrutinize the person and the person's background. This is particularly important in situations where the Senate is considering lifetime appointments to the Federal bench.

A position as judge on the U.S. Circuit Court of Appeals is a very influential and powerful one. The courts in general are often pressed by those seeking changes to social conditions to go considerably beyond what most jurists accept as their duty, namely, to interpret the laws as written by Congress within the confines of the Constitution. In effect, they are often asked to legislate by judicial fiat.

Over the years, the District of Columbia Court of Appeals, probably more than any other court, has transformed itself into a minilegislature. Many of its judges have shown no hesitation in using it as a forum from which to create new law in order to redress what they consider to be congressional inaction to redress society's social ills.

To a certain extent the judges cannot avoid making social policy. Legislation passed by Congress is oftentimes overly broad in character and vague in its language. Moreover, the intent behind a lot of legislation is left in serious doubt. As such, the courts and their judges for numerous reasons feel obliged to fill in the gaps.

Thus, Mr. President, my opposition to the nomination of Patricia Wald did not stem from any disagreement with her politically. Nor did her proposed solutions to the problems that children encounter as a normal part of growing up cause me to cast my disapproval, although I certainly disagree fundamentally with her assessment and approach. I objected to Mrs. Wald's nomination because of the single-minded devotion to ideological activism that is so readily apparent when one reviews her legal career. Most of all however, I objected to her nomination because of her demonstrated willingness, in the absence of legislation, to be a court activist in order to make her views the law of the land.

To substantiate this claim I would just like to cite a 1972 treatise on drug abuse, published by the Ford Foundation, in which Mrs. Wald said:

> Many improvements in the present law-enforcement approach toward drug abuse may have to come from the courts . . . The adjustment of our now-primitive body of drug abuse laws to new medical developments in research and treatment *may well have to come about through a series of court cases as well as, and even in the absence of, legislative changes.* (Emphasis added.)

My criticism here is not in any way intended to question the sincerity with which Mrs. Wald has pursued her goals, nor could it ever detract from the many accomplishments she has made throughout her life, such as serving as articles editor of the Yale Law School Journal, clerking for Judge Jerome N. Frank on the Second Circuit Court of Appeals, and serving on such Presidential commissions as the Johnson Commission on Crime in the District of Columbia.

The fact still remains, however, that Federal judges are appointed for life. Once they are appointed, the Congress, the President, and more significantly, the voters have no control over them. If by judicial decree they happen to make a certian social policy the law of the land, and if such policy cuts against the grain of the will of the American people, they are accountable to no one, and the people are without recourse.

With this in mind, Mr. President, I could not in good conscience vote to approve of the nomination of Mrs. Patricia Wald to fill a vacancy in the District of Columbia U.S. District Court of Appeals.

POW-MIA RECOGNITION DAY

Mr. JEPSEN. Mr. President, last year the Congress, in the form of a joint resolution, established that the President of the United States shall proclaim July 18, 1979, as National MIA-POW Recognition Day in honor of the many members of the armed services who are or have been prisoners of war or missing in action as a result of our commitment to preserving the peace and in the defense of freedom around the globe.

On July 18, 1979, the Veterans' Administration office in Des Moines, Iowa, in accordance with the House and Senate joint resolution held civic activities in conjunction with the city of Des Moines.

Mrs. Jackie Day of the Veterans' Administration read a poem which was written by Mr. Robert Triplett, a veteran, who was a former patient in the Des Moines Veterans' Administration Hospital, but who is now deceased.

Mr. President, I am deeply concerned over the lack of attention, respect, and honor given to the many individuals who have served with honor in our armed services. We must as a Nation remind our youth and country as a whole of the great sacrifices and suffering that has preceded and maintained this Nation's strength and security.

I would like to read the poem:

WHITHER PATRIOTISM?

How pitiable are those
Too embarrassed to stand
And pay respect and honor
To the emblem of their land.
Some scarcely deign to look
At the flag that waves afar
And care less about the meaning
Of every stripe and star.

Others prefer to look away
And slyly taunt instead
Or heap a muttered insult
On those who bare their head.

A few have raised their fist aloft
In anger unrestrained,
What think those whose hallowed blood
Some foreign field has stained?

Don't they know the reasons
Behind their country's birth?
Do they fail to recognize
Their precious freedom's worth?

Thank God for the many
Who do what they should do
And proudly pay their due respect
To the red, the white, the blue.

I'm not a super patriot,
Just an ordinary guy,
Who appreciates our Nation's flag,
Forever may it fly!

S. 1576—STUDENT FREEDOM OF CHOICE ACT

Mr. JEPSEN. Mr. President, today I introduce a bill which would amend section 8(a)(3) of the National Labor Relations Act to exempt anyone employed on a part-time or temporary basis who is a student enrolled or registered to be enrolled in a full-time educational program in a high school, college, university, business or trade school. The purpose of this bill to insure our Nation's students' right to hold a job without being forced to join a union, but at the same time not interfere with their voluntary participation. A similar amendment would be made to the Railway Labor Act. The effect of such an amendment would be to prevent employers from discriminating against any employee who is a qualified student and refuses to join or pay dues or fees to a union as a condition of employment.

Students are in a unique employment situation, Mr. President, because they are generally able to work less than 12 weeks out of the year. During the other 40 weeks they are continually incurring expenses that amount to far more than anything they are able to earn. Consequently, students need every penny they can earn during their short term of employment. Often the money has to last all year, and it is crucial to their continuing education

Presently many of our youth are running into an enormous problem while working part time. Under current laws, a single union may be selected to act as the sole bargaining agent for the entire work force of a company or an industry. Ordinarily workers join the union or pay dues or fees in lieu of membership within 30 days of employment. Students are not excepted from the union requirements and are expected to pay if they want to work. The irony here is that the unions are taking money away from people who do not intend to make such part-time employment their life's work. In addition, there is no thought on the part of these young men and women, or on the part of the unions, that they can participate in any of the benefits for which the money is paid—health insurance, pension plans, vacation, sick pay, and wage increases. Mr. President, in effect the unions are receiving a direct windfall subsidy from America's students without providing any services in return. The unions are simply taking advantage of their unwilling benefactors.

In response to the situation students find themselves in because of the inequities in present law, they are beginning to fight back. Student newspapers across the Nation have printed a myriad of letters and editorials supporting a student's right to work. In my own home State of Iowa, right to work essay contests draw hundreds of entries each year. Organized youth groups have adopted resolutions and drafted bills supporting an exemption for students from compulsory unionism.

Because of the efforts of many people, the right to work principle has received increasing support among the Nation's youth. Surveys have shown that 79 percent of all U.S. citizens between the ages of 18 and 29 opposed the forced unionism of public employees, and 69 percent of that same group opposed the compulsory unionism of industrial workers.

The argument for the Student Freedom of Choice Act stands on two substantial points. The first is that an employee's right to join or not to join a union is vital to the survival of personal freedom, and any attempt to deny that right is in direct opposition to our constitutional guarantees. Second, the student's short tenure of employment generally excludes him from the union benefits for which they have paid. Combining these two factors with the high cost of modern education, the argument for this bill is strong indeed, on both pragmatic and moral grounds.

Mr. President, in this country where we try to instill in our youth the finest of principles including the virtues of hard and honest work, and where we now have over $700 million outstanding on national direct student loans in default representing over 4 billion on matured principal, we should not allow labor unions to establish obstacles, economic disincentives, and even harassments against those students who want to work to support themselves and their education.

Students need an exemption from the compulsory unionism provisions of the National Labor Relations Act. This bill will provide that exemption and guarantee a student's right to work.

Mr. President I welcome and encourage the support of my colleagues.

S. 1577—NATIONAL RIGHT-TO-WORK ACT

Mr. JEPSEN. Mr. President, the bill I am introducing today amends section 7 of the National Labor Relations Act and section 2 of the Railway Labor Act by deleting those provisions which compel an individual employee to join or pay money to a labor union or any other private organization in order to hold a job. This legislation will benefit not only those employees falling under the Labor Relations Act and the Railway Act, but also airline employees as well, none of which are presently covered by State laws which favor right to work.

Officials of organized labor presently enjoy a combination of special privileges under law, and immunities from prosecution when violating the law.

Frederich Hayek puts the whole thing in perspective:

> We are indeed already experiencing a pronounced decline of the rule of law in the field of labor (sic). Public policy concerning labor unions has, in little more than a century, moved from one extreme to the other. From a state in which little the unions could do was legal if they were not prohibited altogether, we have now reached a state where they have become uniquely privileged institutions to which the general rules of law do not apply. They have become the only important instance in which governments signally fail in their prime function—the prevention of coercion and violence.

If the first amendment guarantee of "freedom of association" is to mean what it should, its converse, the right not to associate, must also be protected. Nowhere is this more important than in the field of employment. Just as one should not be prevented from joining a union while holding a job, neither should one be required to join a union in order to remain employed.

Is affiliation with a union a decision that should be made by the union? Should the management decide? Or should the individual be allowed to decide himself? For a union and employer to bind a worker in a contract, when he may not even be employed at the time of its signing, is a clear denial of his rights.

Mr. President, the principle of right to work does not interfere in any way with legitimate union activity. It only gives the individual worker a choice in deciding what is best for his own personal needs—a principle so fundamental to our society today.

Legislation based upon the principle of right to work is not a new idea. Right-to-work statutes or right-to-work amendments to State constitutions are in effect in 20 States today. My home State, Iowa, has one such statute, and has had since April of 1947.

Opponents argue that right to work has a depressing effect on the economy. This simply is untrue. Compulsory unionism is prohibited by law in 10 of the 13 States which had the lowest unemployment rates in 1978. Collectively, the 20 right-to-work States had an average unemployment rate of 5 percent, while the average rate for the remaining States was 6.2 percent.

The right-to-work States have healthier economies, wider employment, less poverty, and less unemployment than those States with no right-to-work laws.

Another argument opponents supply is that right to work has a despiriting effect on union membership. But, Mr. President, labor's own statistics refute this assumption. In the 20 right-to-work States, the AFL–CIO is doing proportionately better in terms of getting new members and sustaining its membership than it is in the old line industrial States that have no right-to-work laws.

That union affiliation should be voluntary, not compulsory, is the view of the great majority of the people as shown by every measure of public opinion—newspaper polls, public opinion surveys, congressional polls, editorial reaction. How can we deny support for right to work when a recent Roper survey showed that 69 percent of the American people favored such a proposal? Only about 1 out of 5 of the more than 90 million employed people in this country have chosen to join a union, although their right to join is guaranteed by Federal and State law. In NLRB-supervised elections in 1978, 218,280 workers voted for no union, 199,283 voted for unions.

Mr. President, their figures should not be surprising to any of us. Indeed, the hallmark of the courageous founder of the American labor movement, Samuel Gompers, was his undying devotion to the principle of voluntarism. His words are particularly well suited for today's setting:

> I want to urge devotion to the fundamentals of human liberty—the principle of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible. I want to say to you, men and women of the American labor movement, do not reject the cornerstone upon which labor structure has

been built—but base your all upon voluntary principles and illumine your every problem of consecrated devotion to the highest of all purposes—human well being in the fullest, widest sense.

Mr. President, I welcome and encourage the support of my colleagues.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 9:30 a.m., with statements therein limited to 2 minutes each.

Mr. JEPSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed, for not to exceed 1 minute, to the consideration of Senate Resolution 202.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding that this is necessary to consider the legislation which will be before the Senate today; and in that case we have no objection.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The resolution (S. Res. 202) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 111, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 111, the Panama Canal implementing legislation. Such waiver is necessary to permit the consideration of legislation authorizing new budget authority for fiscal year 1980 for programs relating to the implementation of the Panama Canal Treaty. The Committee on Armed Services was unable to consider and dispose of the proposed legislation prior to May 15, 1979, because it was deemed prudent to await House passage of the legislation before marking up the Senate version.

For the foregoing reasons, pursuant to section 402(a) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act was waived with respect to H.R. 111 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PANAMA CANAL TREATY ACT OF 1979

The Senate proceeded to consider the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, which had been reported from the Committee on Armed Services with an amendent to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Panama Canal Act of 1979".

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STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that treaty.

DEFINITIONS AND GENERAL PROVISIONS

SEC. 3. (a) As used in this Act, references to the Panama Canal Treaty of 1977 and related agreements mean the Panama Canal Treaty between the United States of America and the Republic of Panama signed September 7, 1977, the agreement relating to and implementing that Treaty signed on the same date, and any agreement concluded pursuant to the Exchange of Notes relating to Air Traffic Control Services signed September 7, 1977.

(b) The Canal Zone Code is hereby redesignated, and hereinafter in this Act referred to as, the Panama Canal Code.

(c) Except as otherwise provided in this Act or the amendments made by this Act, or where inconsistent with the provisions of this Act or the amendments made by this Act, or unless in the context the charge is clearly not intended or is used in reference to a time prior to the effective date of this Act (hereinafter in this Act referred to as the "effective date" unless the text indicates otherwise), the term—

(1) "Panama Canal Company" shall be deemed to mean "Panama Canal Commission".

(2) "Company" shall be deemed to mean "Commission" wherever such term has reference to the Panama Canal Company.

(3) "Canal Zone Government" shall be deemed to mean "Panama Canal Commission".

(4) "Governor" or "Governor of Canal Zone" shall be deemed to mean "Panama Canal Commission" wherever such term has reference to the Governor of the Canal Zone.

(5) "President" shall be deemed to mean "Administrator" wherever such term has reference to the president of the Panama Canal Company.

(6) "Government of the Canal Zone", or "Government", wherever the reference is to the Government of the Canal Zone, shall be deemed to mean "United States of America".

(7) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to mean "Panama Canal waters" and "waters of the Panama Canal", respectively.

(8) "Canal Zone Merit System" shall be deemed to mean "Panama Canal Employment System".

(9) "Canal Zone Board of Appeals" shall be deemed to mean "Panama Canal Board of Appeals". (d) Reference to the Canal Zone in provisions of the Panama Canal Code or other laws of the United States which apply to transactions, occurrences, or status after entry into force of the Panama Canal Treaty of 1977 shall be deemed to refer to areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(e) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress proposed legislation which would—

(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty, and

(2) incorporate the remaining provisions of the Panama Canal Code into the United States Code, proposing any changes thereto considered advisable in light of the experience as of that time under that Treaty.

(f)(1) It is the sense of the Congress that the additional costs resulting from implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares that the direct appropriated costs of implementation to be borne by the taxpayers over the life of the treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the administration during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in the net taxpayer cost of approximately $665,700,000, plus appropriate adjustment for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Canal safely and efficiently and keep it secure.

TITLE I—PANAMANIAN RELATIONS AND SECURITY MATTERS

CONSULTATIVE COMMITTEE

SEC. 101. (a) The President shall designate and the Secretary of State shall coordinate the participation of representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of Panama on matters of policy affecting the operation of the Canal. The Committee shall have no authority to direct the Panama Canal Commission or any other agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 102. (a) The United States of America and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Members of the Joint Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with section 103 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any civil service status or privilege on account of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission, establish rules of procedure, to be used by the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States of America and the Republic of Panama.

TRAVEL EXPENSES

SEC. 103. While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Panama Canal Commission, and the representatives of the United States on the Panama Canal Consultative Committee and on the Joint Commission on the Environment shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

AUTHORITY OF THE AMBASSADOR

SEC. 104. (a) The United States Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Panama Canal Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a), shall apply with respect to the activities of the Panama Canal Commission.

SECURITY LEGISLATION

SEC. 105. (a) It is the sense of Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces in the former Canal Zone after the expiration of the Panama Canal Treaty of 1977, and for the maintenance of installations and facilities, after the expiration of the treaty, for the use of United States military forces stationed in the former Canal Zone. The President shall report to the Congress in a timely manner on the status of negotiations conducted pursuant to this section.

(b) Sections 34 and 35 of title 2 of the Panama Canal Code are repealed.

(c) Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191), is amended by (1) striking the second paragraph, and (2) striking out "the Canal Zone," in clause (b) of the third paragraph.

(d) Section 4 of the Act of November 15, 1941 (50 U.S.C. 191b), is repealed.

(e) Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195), is amended by striking the term "the Canal Zone and".

(f) Section 1 of the Act of August 9, 1954 (50 U.S.C. 196), is amended by striking the term "including the Canal Zone,".

ARMS EXPORT CONTROL

Sec. 106. Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by striking out subsection (d) thereof.

PRIVILEGES AND IMMUNITIES

Sec. 107. The Secretary of State shall from among persons recommended by the Panama Canal Commission determine, and shall maintain and from time to time furnish to the Government of the Republic of Panama, the list of those officials and other persons who shall enjoy the privileges and immunities accorded under Article VIII of the Panama Canal Treaty of 1977.

TERMINATION OF CANAL ZONE GOVERNMENT; TRANSFER OF RECORDS

Sec. 108 (a) Chapter 1 of title 2 and sections 31, 32, 33, 333, and 334 of title 2 and sections 5081 through 5092 of title 6 of the Panama Canal Code are repealed.

(b) The Panama Canal Commission, any agency or department, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, agency, department, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record) to any other agency, department, or court of the United States if such action is determined by the Commission, the head of the agency or department concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be accomplished under the coordination of and with the approval of the Ambassador.

PAYMENT TO PANAMA; REPEALER

Sec. 109. Title I of the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1974 (87 Stat. 636), is amended by striking out the heading "Payment to the Republic of Panama" and the entire paragraph under such heading.

TITLE II—PANAMA CANAL COMMISSION

Part 1—Organizational Matters

ESTABLISHMENT; PURPOSES; LOCATION OF OFFICES

Sec. 201. (a) Section 61 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 61. Panama Canal Commission; establishment; purpose; offices; and residence

"(a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations, and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (in this Code referred to as the 'Commission') is established as a body corporate and as an agency and instrumentality of the United States, and is declared to be the successor to the Panama Canal Company.

"(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for the use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish agencies or branch offices in such other places as it deems necessary or appropriate in the conduct of its business. Within the meaning of the laws of the United States relating to jurisdiction or venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and of the eastern judicial district of Louisiana.".

(b) Subsection (a) of section 62 of title 2 of the Panama Canal Code is amended by striking out "Company" and inserting in lieu thereof "Panama Canal Company" and striking out "Panama Canal Company" and inserting in lieu thereof "Commission".

PAYMENT OF INTEREST TO THE TREASURY

Sec. 202. (a) Subsection (e) of section 62 of title 2 of the Panama Canal Code is amended to read as follows:

"(e) In order to reimburse the Treasury, as nearly as possible, for the interest cost of the funds or other assets directly invested in it, the Commission shall pay interest to the Treasury on the net direct investment of the Government in it as defined by subsections (a), (c), and (d) of this section, and shown by the receipt described therein at a rate determined by the Secretary of the Treasury. For the purpose of computing the interest payable in a given year, the average cash balance of the Commission on deposit with the Treasury in that year shall be subtracted from the net direct investment of the Government in the Commission, as defined in subsections (a), (c), and (d) of this section, and the interest cost shall be computed only on the balance of the net direct investment less the aforementioned cash balance. Payments of the interest charges shall be made annually to the extent earned, and if not earned, shall be made from subsequent earnings.".

(b) Subsection (f) of section 62 of title 2 of the Panama Canal Code is amended by striking out "account for its surplus" and inserting in lieu thereof "compute its capital surplus account".

(c) Section 70 of title 2 of the Panama Canal Code is amended by inserting "including operating expenses and payments required by paragraph 5 of Article III and paragraphs 4 (a), (b), and (c) of Article XIII of the Panama Canal Treaty of 1977," after "working capital requirements,".

EXPENDITURES AND PAYMENTS TO PANAMA

Sec. 203. (a) Subsection (g) of section 62 of title 2 of the Panama Canal Code is amended to read as follows:

"(g) The Commission shall pay directly from Canal operating revenues to the Republic of Panama those payments required under paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. In determining the adequacy of operating revenues for the purposes of payments to Panama under paragraph 4(c) of that Article, such operating revenues of a given fiscal period shall be reduced by—

"(1) all costs attributable to the operation, maintenance, and improvement of the Canal of that period including (i) operating expenses determined in accordance with generally accepted accounting principles, (ii) payments to Panama under paragraphs 4 (a) and 4(b) of that Article and under paragraph 5 of Article III of the Treaty, (iii) amounts in excess of depreciation and amortization programed to fund requirements for plant replacement, expansion, and improvements, and (iv) interest paid to the Treasury under subsection (e) of this section;

"(2) amounts allocated prior to the effective date of an increase in toll rates for the purpose of matching revenues with expenses during the period projected for the increase to remain in effect;

"(3) the accumulated sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of such cost requirements of the Panama Canal Commission over operating revenues; and

"(4) working capital requirements of the Commission as approved annually by its board of directors.".

(b) Any accumulated unpaid balance under paragraph 4(c) of article XIII of the Panama Canal Treaty of 1977 at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date.

PUBLIC SERVICE PAYMENTS TO PANAMA

Sec. 204. Section 62 of title 2 of the Panama Canal Code is amended by adding a new subsection (h) to read as follows:

"(h) Payments by the Commission to the Republic of Panama for providing public services in accordance with paragraph 5 of Article III of the Panama Canal Treaty of 1977 shall be treated for all purposes as an operating cost of the Commission.".

BOARD OF DIRECTORS OF COMMISSION

Sec. 205. Subsection (a) of section 63 of title 2 of the Panama Canal Code is amended to read as follows:

"(a) A board of directors shall manage the affairs of the Panama Canal Commission. The President of the United States shall appoint the members of the board in accordance with pragraph 3 of article III of the Panama Canal Treaty of 1977. Nothing in this chapter or any other law shall be construed to prohibit the appointment of any officer or employee of the United States, or any person who is not a national of the United States, as a member of the board of directors of the Commission or as an officer of the Commission. The members of the board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each director shall, subject to paragraph 3 of article III of the Panama Canal Treaty of 1977, hold office at the pleasure of the President, and, before entering upon his duties, shall take an oath faithfully to discharge the duties of his office.".

QUORUM OF BOARD OF DIRECTORS

Sec. 206. Subsection (c) of section 63 of title 2 of the Panama Canal Code is amended to read as follows:

"(c) The directors shall hold meetings as provided by the bylaws of the Commission. A quorum for the transaction of business shall consist of a majority of the directors of which a majority of those present are nationals of the United States.".

ADMINISTRATOR AND DEPUTY

Sec. 207. Section 64 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 64. Administrator and Deputy

"The President of the United States shall appoint the Administrator and Deputy Administrator of the Commission. The Administrator shall be appointed by and with the advice and consent of the Senate and, subject to the direction and under the supervision of the board, shall be the chief executive officer of the Commission. The Administrator and Deputy Administrator shall hold office at the pleasure of the President.".

OFFICE OF OMBUDSMAN

Sec. 208. (a) There is established within the Panama Canal Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the board of directors of the Panama Canal Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests and suggestions of employees (and their dependents) of the Panama Canal Commission and other United States Government agencies acting in the area of the Canal Zone before the effective date of this Act, concerning administrative problems, inefficiencies, and conflicts caused within agencies of the United States Government as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Panama Canal Commission or any other agency of the United States.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d) The Ombudsman shall be a citizen of the United States.

(e) The Office of Ombudsman shall terminate at the expiration of the Panama Canal Treaty of 1977.

SUITS AGAINST COMMISSION

SEC. 209. Paragraph (3) of subsection (a) of section 65 of title 2 of the Panama Canal Code is amended to read as follows:

"(3) sue and be sued in its corporate name, except that—

"(A) its amenability to suit is limited by the immunities provided by Article VIII of the Panama Canal Treaty of 1977, and otherwise by law;

"(B) salaries or other moneys owed by the Commission to its employees shall not be subject to attachment, garnishment, or similar process, except as otherwise expressly provided by the laws of the United States; and

"(C) it is exempt from any liability for prejudgment interest;".

APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT

SEC. 210. The matter preceding clause (1) in subsection (a) of section 66 of title 2 of the Panama Canal Code is amended to read as follows:

"(a) Subject to the Government Corporation Control Act (31 U.S.C. sec. 841 et seq.), and to the Panama Canal Treaty of 1977 and related agreements, the Commission may:".

COMMISSION PROPERTY AND ASSETS; DEPRECIATION AND AMORTIZATION

SEC. 211. (a) Sections 67 and 73 of title 2 of the Panama Canal Code are repealed.

(b) Section 68 of that title is amended to read as follows:

"§ 68. Assets and liabilities

"(a) Property and other assets of the Panama Canal Company and of the Canal Zone Government which are not transferred to other United States Government agencies or to the Republic of Panama, or otherwise disposed of, shall, notwithstanding section 5 of the Act of July 16, 1914, as amended (31 U.S.C. § 638(a)), be the property and assets of the Commission from and after the effective date of the Panama Canal Act of 1979, and except as otherwise provided by law, the Commission shall assume the liabilities of the Panama Canal Company and Canal Zone Government then outstanding.

"(b) The Commission may depreciate the Panama Canal, its complementary works, installations, and equipment, and all other property and assets of the Commission, and may amortize over the life of the Panama Canal Treaty of 1977 the right to use certain assets such as housing made available to the United States under that Treaty and related agreements. The value of these use rights, as determined by the Commission, shall be established as an asset on the books of the Commission and amortized over the period of use. The basis of accounting for the assets transferred and to be depreciated should be the net replacement value of those transferred assets which will ultimately require replacement to maintain the service capacity of the Canal. Depreciation of these assets should be recorded ratably over their service lives.

"(c) The assets and liabilities referred to in this section shall be deemed to have been accepted and assumed by the Commission without the necessity of any act on the part of the Commission except as otherwise stipulated by section 62 of this title.".

REGULATIONS REGARDING NAVIGATION, PASSAGE, AND PILOTAGE

SEC. 212. (a) The introductory phrase to section 1331 of title 2 of the Panama Canal Code is amended by striking out "President" and by inserting in lieu thereof "Commission".

(b) Paragraph (1) of section 1331 of title 2 of the Panama Canal Code is amended by striking out "harbors and other waters of the Canal Zone" and by inserting in lieu thereof "waters of the Panama Canal and areas adjacent thereto including the ports of Balboa and Cristobal".

(c) Paragraph (4) of section 1331 of title 2 of the Panama Canal Code is amended by striking out "waters of the Canal Zone" and by inserting in lieu thereof "waters of the Panama Canal and areas adjacent thereto including the ports of Balboa and Cristobal".

FUNDS AND ACCOUNTS; FURNISHING OF SERVICES; REIMBURSEMENT

SEC. 213. (a) Section 231 of title 2 of the Panama Canal Code is repealed.

(b) Section 232 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 232. Furnishing of services; reimbursements

"(a) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

"(b) Such agency as the President may designate is authorized to provide educational and health care services to persons eligible to receive such services under the Panama Canal Treaty of 1977 and related agreements. Notwithstanding any other provision of law, funds appropriated to such agency shall be available for conducting educational and health care activities, including kindergartens and college, formerly carried out by the Canal Zone Government, and for providing the services related thereto. Notwithstanding any other provision of law, the agency or agencies designated by the President to provide health care services to those categories of persons referred to in this subsection shall do so on a basis no less favorable than that applied to its own employees and their dependents.

"(c) Amounts expended for furnishing such services to persons eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements, less amounts payable by such persons, shall be fully reimbursable to the agency furnishing the services, except to the extent that such expenditures are the responsibility of that agency. The appropriations or funds of the Commission shall be available for such reimbursements on behalf of employees of the Commission and other persons authorized to receive such services and eligible pursuant to the Panama Canal Treaty and related agreements. The appropriations or funds of other agencies conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such agencies and their dependents.

"(d) The appropriations or funds of United States Government agencies conducting operations in the Republic of Panama shall be available to defray the cost of (1) health care services to elderly or disabled persons who were eligible to receive such services prior to the effective date, less amounts payable by such persons, and (2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to persons who were receiving such services at the expense of the Canal Zone Government prior to the effective date.

"(e) For purposes of the reimbursement of the United States of America by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of the Panama Canal Treaty of 1977 or related agreements, which reimbursement is provided for in paragraph 8 of article 10 of that Treaty, the Commission shall be deemed to be the United States of America.".

(c) Section 233 of title 2 of the Panama Canal Code is amended by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Commission".

(d) Section 234 of title 2 of the Panama Canal Code is amended by striking out "Canal Zone" and by inserting in lieu thereof "Commission".

(e) Section 235 of title 2 of the Panama Canal Code is amended by striking out "Canal Zone Government and the Panama Canal Company" and inserting in lieu thereof "Commission".

PUBLIC PROPERTY AND PROCUREMENT; TRANSFERS AND CROSS SERVICING

SEC. 214. (a) Section 371 of title 2 of the Panama Canal Code is repealed.

(b) Section 372 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 372. Transfers and cross-servicing between agencies

"(a) In the interest of economy and maximum efficiency in the utilization of Government property and facilities, there are authorized to be transferred, notwithstanding section 5 of the Act of July 16, 1914, as amended (31 U.S.C. § 638(a)), between departments and agencies, with or without exchange of funds, all or so much of the facilities, buildings, structures, improvements, stock, and equipment of their activities located in the Republic of Panama as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee. With respect to transfers without exchange of funds, transfers to or from the Commission are subject to section 62 of this title.

"(b) The Commission and other agencies of the United States may enter into cross-servicing agreements for the use of facilities, furnishing of services, or performance of functions.

"(c) The provisions of this section shall be applicable to the Smithsonian Institution.".

Subtitle B—Tolls

MEASUREMENT RULES; CHANGES IN RATES

SEC. 221. Section 411 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 411. Prescription of measurement rules and tolls

(a) The Commission may prescribe, and from time to time change—

"(1) the rules for the measurement of vessels for the Panama Canal; and

"(2) subject to section 412 of this title, the tolls that shall be levied for the use of the Canal.

"(b)(1) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in subsection (a) of this section. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 412 of this title, and the Commission's adherence to the requirement for full consideration of the following factors in Understanding (1) set forth in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal:

"(A) The costs of operating and maintaining the Panama Canal.

"(B) The competitive position of the use of the Canal in relation to other means of transportation.

"(C) The interests of both parties in maintaining their domestic fleets.

"(D) The impact of such an adjustment on the various geographical areas of each of the two parties.

"(E) The interests of both parties in maximizing their international commerce.

"(2) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls if such revisions proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register appraising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates by the Commission which proposes rates higher than those in the preceding proposal.

"(3) After the proceedings have been conducted pursuant to paragraphs (1) and (2) of this subsection, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President.

"(4) Upon publication of the notice pursuant to paragraph (3), the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

"(5) Rules of measurement or rates of tolls prescribed pursuant to this chapter shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

"(6) Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.".

SETTING OF RATES UNDER NEW TREATY

SEC. 222. In order to insure that the rates of tolls in effect on the effective date are adequate to meet the requirements of section 412 of title 2 of the Panama Canal Code, as amended by section 223 of this Act, the Panama Canal Company is authorized, in advance of that date to change the rates, effective on the effective date, such change to be subject to the approval of the President whose action in the matter shall be final. If and to the extent that time permits, the Company shall give three months' notice, by publication in the Federal Register, of such proposed changes in rates of tolls, during which period a public hearing shall be conducted.

BASES OF TOLLS

SEC. 223. (a) Subsection (b) of section 412 of title 2 of the Panama Canal Code is amended to read as follows:

"(b) Tolls shall be prescribed at rates calculated to cover as nearly as practicable all anticipated costs of maintaining and operating the Panama Canal, together with the facilities and appurtenances related thereto, including interest, depreciation of assets as provided in section 68, amortization of use rights, and the payments to Panama pursuant to paragraph 5 of Article III and paragraphs 4(a) and 4(b) of Article XIII of the Panama Canal Treaty of 1977. In determining the rates of tolls, there may also be taken into account unrecovered past costs, funding required to establish or maintain a capital reserve account programed to fund requirements for plant replacement, expansion, and improvements, and the necessity of establishing reserves for the purpose of matching revenues with expenses during the period projected for a given toll rate to remain in effect. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.".

(b) Subsection (c) of section 412 of title 2 of the Panama Canal Code is amended to read as follows:

"(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.".

(c) Subsection (d) of section 412 of title 2 of the Panama Canal Code is amended—

(A) by deleting the words "of articles XVIII and XIX of the convention between the United States and the Republic of Panama concluded on November 18, 1903, and";

(B) by inserting a comma in place of the period at the end of the subsection; and

(C) by adding thereafter "and of Articles II, III, and VI of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.".

Subtitle C—Claims

MEASURE OF DAMAGES; TIME FOR FILING; BOARD OF LOCAL INSPECTORS

SEC. 231. Chapter 11 of title 2 of the Panama Canal Code is amended as follows:

(a) The title of the chapter is amended to read "CLAIMS ARISING FROM OPERATION OF CANAL."

(b) Section 271 of title 2 of the Panama Canal Code is repealed.

(c) Section 291 of title 2 of the Panama Canal Code is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and the following: "unless it is established that the injury was not proximately caused by the negligence or fault of any officer or employee of the company acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal."; and

(2) by striking out in the fourth sentence "the side" and inserting in lieu thereof "any portion of the hull".

(e) Section 293 of title 2 of the Panama Canal Code is amended to read as follows:

"§ 293. Measure of damages

"(a) In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

"(1) actual or estimated cost of repairs;

"(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for only the time the vessel is actually undergoing repairs, on drydock or otherwise;

"(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire, for only the time the vessel is actually undergoing repairs, on drydock or otherwise; and

"(4) except as prohibited by subsection (b) of this section, or by any other provision of law, other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

"(b) Agent's fees or commissions, general average expenses, attorney's fees, bank commissions, port charges or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural shall not be allowed.

"(c) The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if availabe as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the use of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.".

(f) Section 294 of title 2 of the Panama Canal Code is amended by striking out "or" in paragraph (5), by renumbering the paragraph (6) as paragraph (7), and by inserting a new paragraph (6) to read as follows:

"(6) time necessary for investigation of marine accidents; or".

(g) Section 296 of title 2 of the Panama Canal Code is amended by striking out "United States District Court for the District of the Canal Zone" in the first sentence and inserting in lieu thereof "United States District Court for the Eastern District of Louisiana".

(h) Section 297 of title 2 of the Panama Canal Code is amended by inserting "(a)" before "Notwithstanding" and by adding at the end of such section the following new subsection:

"(b) Lack of knowledge on the part of the master, officers, crew, or passengers that an accident giving rise to a claim under this chapter has occurred does not excuse noncompliance with the requirements of this section.".

(i) Chapter 11 of title 2 of the Panama Canal Code is amended by adding at the end thereof the following new sections:

"§ 298. Time for presenting claim and commencing action

"A claim against the Commission under this chapter shall be forever barred unless it is presented in writing to that agency within two years after such claim accrues or unless action is begun within one year after the date of mailing of notice of final decision on the claim by the Commission.

"§ 299. Board of Local Inspectors

"(a) There is established a Board of Local

Inspectors of the Commission which shall perform, in accordance with regulations prescribed by the Commission—

"(1) the investigations called for by section 297 of this chapter; and

"(2) such other duties in matters of a marine character as it may be assigned by the Commission.

"(b) The Commission shall, by regulation, designate the members of the Board of Local Inspectors and establish procedures by which such board carries out its functions.

"(c) In conducting the investigations provided for by subsection (a) of this section, members of the Board of Local Inspectors may summon witnesses, administer, oaths, and require the production of books and papers necessary thereto.".

Subtitle D—Sea Level Canal Study

UNITED STATES-PANAMA JOINT COMMITTEE; STUDY

SEC. 241. (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama to study the possibility of a sea level canal in the Republic of Panama pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the text of the study shall be transmitted by the President to the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b).

TITLE III—EMPLOYEES AND POSTAL MATTERS

Subtitle A—Panama Canal Commission Personnel

DEFINITIONS

SEC. 301. As used in this substitue, the term—

(1) "Executive agency" has the meaning given that term in section 105 of title 5, United States Code;

(2) "uniformed services" has the meaning given that term in section 2101(3) of title 5, United States Code;

(3) "competitive service" has the meaning given that term in section 2102 of title 5, United States Code; and

(4) "United States", when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

SEC. 302. (a) Except as provided by section 64 of the Panama Canal Code and section 208 of this Act, and in accordance with this subtitle, the Panama Canal Commission may appoint without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, fix the compensation of, and define the authority and duties of, officers, agents, attorneys, and employees necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any other Executive agency or the Smithsonian Institution, including individuals serving in the uniformed services, may, if appointed under this section or section 64 of the Panama Canal Code, serve as officers or employees of the Panama Canal Commission.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 303. (a) The head of any agency may enter into agreements for the transfer or detail to the Panama Canal Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 304. (a) Except as provided in subsection (b), any individual who is serving in a position in the Panama Canal Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator or Deputy Administrator of the Panama Canal Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Panama Canal Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 305. The Panama Canal Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any account from which the Commission has expended such amount.

COST OF LIVING ALLOWANCE

SEC. 306. Effective beginning October 1, 1984, each officer and employee of the Panama Canal Commission who is a citizen of the United States employed prior to the date of entry into force of the Panama Canal Treaty of 1977, or who is a person of any nationality recruited outside the Republic of Panama on or after that date, may be paid an allowance to offset any increased cost of living which may result from the termination of the eligibility of the officer or employee and his dependents to use military postal services, sales stores, and exchanges. The amount of the allowance may be determined by the Commission.

EDUCATIONAL TRAVEL BENEFITS

SEC. 307. (a) The Panama Canal Commission shall provide by regulation for roundtrip transportation between the Republic of Panama and the United States or, in the case of a person described in subparagraph (2), between the Republic of Panama and the country in which such person is recruited, for undergraduate college education for dependents of individuals who—

(1) are United States citizens employed prior to the date of entry into force of the Panama Canal Treaty of 1977, or

(2) are recruited outside the Republic of Panama on or after the date.

(b) The regulations prescribed by the Panama Canal Commission under this section shall—

(1) provide eligibility requirements which must be met by such dependents to qualify for transportation under this section, including a requirement that all eligible dependents must be under 23 years of age; and

(2) limit the transportation provided to one round trip during any one-year period.

TRANSFER OF CERTAIN FUNDS

SEC. 308. In order to reimburse the Treasury, as nearly as possible, for the cost of certain liabilities assumed by the Department of Defense because of the transfer to activities of the Department of employees from the Panama Canal Company and the Canal Zone Government pursuant to the Panama Canal Treaty of 1977, the Panama Canal Company shall pay into the United States Treasury—

(1) the amount of leave liability of the Panama Canal Company and the Canal Zone Government to such employees existing at the time of entry into force of the said Treaty, and

(2) the estimated amount that, except for the transfer of such employees, would have been paid by the Panama Canal Company and the Canal Zone Government for their repatriation travel and transportation upon entry into force of the Treaty.

INAPPLICABILITY OF CERTAIN BENEFITS TO CERTAIN NONCITIZENS

SEC. 309. (a) Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapter 83 of such title 5, relating to civil service retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are inapplicable to any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Panama Canal Commission occurs on or after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

(b) Subparagraph (B) of section 8701(a) of title 5, United States Code, defining employee for purposes of life insurance, is amended to read as follows:

"(B) an individual who is not a citizen or national of the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution, in the area which was then known as the Canal Zone; or".

(c) Clause (ii) of section 8901(1) of title 5, United States Code, defining employee for purposes of health insurance, is amended to read as follows:

"(ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;".

Subtitle B—Wage and Employment Practices

DEFINITIONS

SEC. 321. As used in this subtitle, the term—

(1) "agency" means—

(A) the Panama Canal Commission, and

(B) an Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 322(b)(2) of this Act;

(2) "position" means a civilian position in the Panama Canal Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 322. (a) After considering any recommendations of the Panama Canal Commission, the President shall establish a Panama Canal Employment System. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service; and

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service.

(b)(1) The Panama Canal Commission, and any Executive agency and the Smithsonian Institution to the extent of any election under paragraph (2), shall conduct their employment and pay practices relating to employees in accordance with the Panama Canal Employment System and regulations prescribed by, or under the authority of, the President in accordance with this subchapter.

(2) The head of any Executive agency and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(c) Subject to the provisions of this title, the President may, from time to time and after considering any recommendation of the Panama Canal Commission, amend or modify any provision of the Panama Canal Employment System, including any provision relating to selection for appointment, reappointment, reinstatement, reemployment, and retention, with respect to positions, employees, and candidates for employment.

(d) The President may, to the extent the President determines appropriate—

(1) exclude any employee or position from coverage under any provision of this subtitle; and

(2) notwithstanding section 302, extend to any employee, whether or not the employee is a citizen of the United States, the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service.

EMPLOYMENT STANDARDS

SEC. 323. The head of each agency shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subtitle, any regulations prescribed thereunder, and the Panama Canal Employment System.

INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM

SEC. 324. Notwithstanding any repeal made by this Act or any provision of this title, the provisions of subchapter III of chapter 7 of title 2 of the Canal Zone Code establishing the Canal Zone Merit System, together with the regulations prescribed thereunder, as in effect on September 30, 1979, shall continue in effect and shall apply with respect to employees until the Panama Canal Employment System is established and in effect pursuant to section 322 of this Act.

BASIC PAY

SEC. 325. (a) The head of each agency, in accordance with the provisions of this subtitle, shall establish, and from time to time may revise, the rates of basic pay for positions and employees in the agency.

(b) The rates of basic pay may be established and revised in relation to the rates of basic pay for the same or similar work performed in the United States or in such areas outside the United States as may be designated in the regulations prescribed under section 333.

(c) The head of each agency may make adjustments in rates of basic pay established under subsection (b) in amounts not to exceed the amounts of the adjustments made from time to time by or under statute in the corresponding rates of basic pay for the same or similar work referred to in such subsection (b). The head of the agency may designate the effective date of any such adjustment, except that that date may not be earlier than the effective date of the adjustment in the corresponding rate of basic pay.

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 326. The standards established pursuant to section 323 and the rates of basic pay established pursuant to section 325 shall be applied without regard to the citizenship of the employee or individual concerned.•

RECRUITMENT AND RETENTION REMUNERATION

SEC. 327. (a) In addition to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

(1) before October 1, 1979, was employed by the Panama Canal Company, by the Canal Zone Government, or by any other agency in the area then known as the Canal Zone;

(2) is an employee who was recruited on or after October 1, 1979, outside of the Republic of Panama for placement in the Republic of Panama; or

(3) is a medical doctor employed by the Department of Defense in the Republic of Panama or by the Panama Canal Commission;

if, in the judgment of the head of the agency concerned, the recruitment or retention of the individual is essential.

(b) Any employee described in more than one paragraph of subsection (a) may qualify for a recruitment or retention differential under only one of those paragraphs.

(c) Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay for the same or similar work performed in the United States by individuals employed by the Government of the United States.

(d) Subchapter III of chapter 59 of title 5, United States Code, relating to overseas differentials and allowances, shall not apply with respect to any employee whose permanent duty station is in the Republic of Panama and who is employed by an agency.

BENEFITS BASED ON BASIC PAY

SEC. 328. For the purpose of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement;

(3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 325 plus the amount of any additional compensation provided under section 327.

SALARY PROTECTION UPON CONVERSION OF PAY BASE

SEC. 329. (a) In the case of any employee whose rate of basic pay is determined in relation to rates of basic pay for the same or similar work in the United States and is converted to a rate of basic pay pursuant to section 325(b) which is determined in relation to rates in areas other than the United States pursuant to that subsection, the employee shall continue to receive a rate of basic pay not less than that to which the employee was entitled immediately before the conversion.

(b) This section shall cease to apply with respect to any employee if the employee is placed in a position—

(1) for which the rate of basic pay is determined in relation to rates of basic pay in the United States pursuant to section 325(b); or

(2) which is of a lower grade.

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

SEC. 330. An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 331. (a) Subject to the provisions of this subtitle, the President shall prescribe regulations establishing a Panama Canal Board of Appeals (hereinafter in this subtitle referred to as the "Board"). The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 332. The decisions of the Board shall conform to the provisions of this subtitle.

APPEALS TO BOARD; PROCEDURE; FINALITY OF DECISIONS

SEC. 332. (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 330. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the President) after the date of the transmittal of the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a), a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

ADMINISTRATION BY THE PRESIDENT

SEC. 333. (a) The President shall prescribe regulations necessary and appropriate to carry out the provisions of this title and coordinate the policies and activities of agencies under this title.

(b) The President may establish an office within the Panama Canal Commission as the successor to the Canal Zone Central Examining Office. The purpose of the office shall be to assist the President in—

(1) carrying out the President's coordination responsibility under subsection (a); and

(2) implementing the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards, and similar matters.

(c) The President may delegate any authority vested in the President by this title and may provide for the redelegation of that authority.

APPLICABILITY OF CERTAIN LAWS

SEC. 334. This title does not affect the applicability of—

(1) the provisions of title 5, United States Code, which relate to preference eligibles;

(2) the provisions of title 5, United States Code, which relate to removal or suspension from the competitive service; and

(3) the provisions of section 5544(a) of title 5, United States Code, which relate to wage-board rates and overtime, with respect to classes of employees who were covered by those provisions on the date of the enactment of this Act.

Subtitle C—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 341. (a)(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Panama Canal Commission; or

(ii) to a position in an Executive agency or the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Panama Canal Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) shall be generally no less favorable, on or after the date of the transfer referred to in clause (A) of this paragraph or the date of the appointment referred to in clause (B) of this paragraph, as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in clause (A)(iii) of this paragraph which takes place before that date, on the date of the transfer.

(2) The terms and conditions of employment referred to in paragraph (1) are the following:

(A) rates of basic pay;

(B) tropical differential;

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(F) leave and travel, except as modified to provide equity with other employees within the agency to which the employee is transferred;

(G) transportation and repatriation benefits;

(H) group health and life insurance;

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and position classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) saved pay provisions; and

(N) severance pay benefits.

(3)(A) No spending authority (as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974) provided for under this subsection shall take effect before October 1, 1979.

(B) Effective October 1, 1979, any individual who, but for subparagraph (B), would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5, United States Code, but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

PLACEMENT

SEC. 342. (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Govenment of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

Subtitle D—Retirement

EARLY RETIREMENT ELIGIBILITY

SEC. 351. (a) Section 8336 of title 5, United States Code, is amended—

(1) in subsection (c), by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) An employee is entitled to an annuity if the employee—

"(A) was a law enforcement officer or firefighter employed by the Panama Canal Company or the Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(B) is separated from the service before January 1, 2000, after becoming 48 years of age and completing 18 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 18 years."; and

(2) by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i)(1) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed by the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if the employee is separated—

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.

"(2) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed, at a permanent duty station in the Canal Zone, by any Executive agency other than the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if—

"(A) the employee is separated involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service; and

"(B) the separation is the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements.

"(3) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Canal Zone Government, the Panama Canal Company, or the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or Republic of Panama; and

"(B) 'Executive agency' includes the United States District Court for the District of the Canal Zone and the Smithsonian Institution.".

(b) (1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1), would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

EARLY RETIREMENT COMPUTATION

SEC. 352. Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraphs:

"(2) The annuity of an employee retiring under this subchapter who was employed by the Panama Canal Company or Canal Zone Government on September 30, 1979, is computed with respect to the period of continuous Panama Canal service from that date, disregarding any break in service of not more than 3 days, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.

"(3) (A) In the case of an employee who has service as a law enforcement officer or firefighter to which paragraph (2) of this subsection applies, the annuity of that employee is increased by $8 for each full month of that service which is performed in the Republic of Panama.

"(B) In the case of an employee retiring under this subchapter who—

"(i) was employed as a law enforcement officer or firefighter by the Panama Canal Company or Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(ii) does not meet the age and service requirements of section 8336(c) of this title;

the annuity of that employee is increased by $12 for each full month of that service which occurred before October 1, 1979.

"(C) An annuity increase under this paragraph does not apply with respect to service performed after completion of 20 years of service (or any combination of service) as a law enforcement officer or firefighter.

"(4) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or Republic of Panama; and

"(B) 'Executive agency' includes the Smithsonian Institution.".

(b) (1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1), would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

RETIREMENT UNDER SPECIAL TREATY PROVISIONS

SEC. 353. (a) (1) Subect to subsection (b), and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a) (2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2);

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Panama Canal Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph (3) of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) shall not exceed the individual's entire lump-sum credit (as defined in section 8331 (8) of title 5, United States Code).

(c) (1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe, and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States, including nonappropriated fund activities of the Department of Defense, in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who, on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of five years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in subclauses (i) and (ii) of this clause.

(2) The retirement annuity referred to in paragraph (1) with respect to any employee will cover retroactivity, from October 1, 1979, all periods of service, described in clause (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 354. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) (1) Notwithstanding any other statute, the Panama Canal Commission shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to or on behalf of employees and their survivors to the extent attributable to the amendments made by sections 351 and 352, and the provisions of sections 341(b) and 353(a) (1) of the Panama Canal Act of 1979.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office of Personnel Management. The Panama Canal Commission shall pay to the Fund the amount so determined in annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.".

CASH RELIEF TO CERTAIN FORMER EMPLOYEES

SEC. 355. (a) The Panama Canal Commission, under the regulations prescribed by the President pursuant to the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b), that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of the termination of his services for disability prior to October 5, 1958, had less than ten years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Panama Canal Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a), under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of the termination of his services for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of the termination of his services had resided continuously with him for at least five years immediately preceding the termination of such employee's services under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b), would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13 (a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understandings attached to the Treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916

SEC. 356. Artificial limbs or other appliances for persons who were injured in the service of the Isthmian Canal Commission or of the Panama Canal before September 7, 1916, may be purchased by the Panama Canal Commission out of any funds of the Commission.

Subtitle E—Leave

LEAVE FOR JURY OR WITNESS SERVICE

SEC. 361. Section 6322(a) of title 5, United States Code, is amended—

(1) by striking out "the Canal Zone, or"; and

(2) by striking out "Islands." and inserting in lieu thereof "Islands, or the Republic of Panama.".

Subtitle F—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATING BOARD; RELATED EMPLOYEES

SEC. 371. (a) For the purposes of sections 307, 341, 342, 351, and 352, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Panama Canal Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Panama Canal Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

Subtitle G—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

SEC. 381. The provisions of chapter 71 of title 5, United States Code shall not apply to the Panama Canal Commission or to its personnel. In lieu thereof, the President shall establish a form of collective bargaining, applicable to the Commission's employees; into which is incorporated the substance of sections 7102, 7106, 7116, 7120, and 7131. The form of collective bargaining so established shall contain such other necessary provisions, and shall be administered, so as to provide the Commission's employees with the right to bargain collectively under the same conditions and with respect to the same subject matter that obtains where that right is exercised generally in the Federal service within the continental United States.

Subtitle H—Postal Matters

POSTAL SERVICE

SEC. 391. (a) The postal service established and governed by chapter 73 of title 2 of the Panama Canal Code shall be discontinued on October 1, 1979.

(b) The provisions of chapter 73 of such title 2 relating to postal-savings deposits, postal-savings certificates, postal money orders, and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

(c) The Panama Canal Commission shall take possession of and administer the funds of the postal service and shall assume its obligations. The Commission and the United States Postal Service may enter into agreements for the transfer of funds or property and the assumption of administrative rights orr esponsibilities with respect to the outstanding obligations of the postal service.

(d) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Panama Canal Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

(e)(1) The second sentence of section 403 (a) of title 39, United States Code, is amended by striking out "Except as provided in the Canal Zone Code, the" and inserting in lieu thereof "The".

(2) Section 3401(b) of title 39, United States Code, is amended—

(A) by inserting "or" before "the Virgin Islands"; and

(B) by striking out "or the Canal Zone,".

(3) Section 3402 of title 39, United States Code, is hereby repealed.

(4) Section 3682(b)(5) of title 39, United States Code, is amended by striking out "the Canal Zone and".

TITLE IV—TREATY TRANSITION PERIOD

Subtitle A—Laws Continued in Force

LAWS, REGULATIONS, AND ADMINISTRATIVE AUTHORITY

SEC. 401. (a) To the extent not inconsistent with the Panama Canal Treaty of 1977 and related agreements and the provisions of this Act, the Panama Canal Code and other laws, regulations, and administrative authority of the United States applicable in the Canal Zone immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in force for the purpose of the exercise by the United States of law enforcement and judicial jurisdiction during the transition period provided for in Article XI of the Panama Canal Treaty of 1977 (hereinafter in this title referred to as the "transition period").

(b) In accordance with paragraph 1 of Article IX of the Panama Canal Treaty of 1977, it is the sense of Congress that organizations and businesses operating and individuals living in the Canal Zone before the effective date of this Act should not be taxed retroactively by the Government of the Republic of Panama.

TRANSITION AUTHORITY OF PRESIDENT

SEC. 402. Except as expressly provided to the contrary in this Act, in any other statute, or in the Panama Canal Treaty of 1977 and related agreements, the authority necessary during the transition period to protect the rights and carry out responsibilities of the United States specified in Article XI of the Panama Canal Treaty of 1977 is vested in the President.

Subtitle B—Courts and Attorneys

JURISDICTION

SEC. 411. (a) During the transition period, the jurisdiction of the United States District Court for the District of the Canal Zone and the magistrates' courts under title 3 of the Panama Canal Code shall be continued, subject to the limitations set forth in Article XI of the Panama Canal Treaty of 1977.

(b) For purposes of the exercise of the jurisdiction provided in Article XI of the Panama Canal Treaty of 1977, the United States District Court and magistrates' courts referred to in subsection (a) shall construe the terms "United States citizen employees", "members of the United States Forces", "civilian component", and "dependents" as such terms are defined in the Panama Canal Treaty of 1977 and related agreements, and shall construe the term "areas and installations made available for the use of the United States" to mean (1) the Panama Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of that Treaty, (2) the Ports of Balboa and Cristobal described in Annex B to that agreement, and (3) the Defense Sites and Areas of Military Coordination described in Annex A to the Agreement in Implementation of Article IV of that Treaty.

DIVISION AND TERMS OF DISTRICT COURT

SEC. 412. The United States District Court for the District of the Canal Zone may conduct its affairs at such places within the areas made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, and at such times, as the district judge may designate by rule or order.

TERMS OF CERTAIN OFFICES

SEC. 413. Notwithstanding the provisions of sections 5, 41, 45, and 82 of title 3 of the Panama Canal Code, the term of office of a district judge, magistrate, United States attorney, or United States marshal shall extend for a period of thirty months beginning on the date on which the Panama Canal Treaty of 1977 enters into force, and any such term shall be subject to such extension of time as may be provided for the disposition of pending cases by agreement between the United States and the Republic of Panama, pursuant to the last sentence of paragraph 7 of Article XI of the Panama Canal Treaty of 1977.

RESIDENCE REQUIREMENTS

SEC. 414. Sections 5(d), 7(d), 41(d), and 45(d) of title 3 of the Panama Canal Code, the second sentence of section 42 of such title, and the second sentence of section 82(c) of such title, which provisions require that certain court officials reside in the Canal Zone, are hereby repealed.

SPECIAL DISTRICT JUDGE

SEC. 415. (a) Section 6 of title 3 of the Panama Canal Code is amended to read as follows:

"§ 6. Special district judge

"The chief judge of the judicial circuit of the United States in which the district court lies may designate and assign a special district judge to act when necessary—

"(1) during the absence of the district judge;

"(2) during the disability or disqualification of the district judge because of sickness or otherwise to discharge his duties; or

"(3) when there is a vacancy in the office of district judge.".

(b) Each designation and assignment by the chief judge under section 6 of title 3 of the Panama Canal Code, as amended by subsection (a) of this section, shall be made in accordance with chapter 13 of title 28 of the United States Code, which shall be deemed to apply for such purposes.

MAGISTRATES' COURTS

SEC. 416. (a) The two magistrates' courts established pursuant to section 81 of title 3 of the Panama Canal Code and existing immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in operation during the transition period unless terminated during such period under subsection (b) of this section.

(b) During the transition period, the President may terminate one magistrate's court, together with the positions of magistrate and constable corresponding thereto, if the President determines that the workload is insufficient to warrant continuance of that court. If one of the courts is so terminated, the remaining magistrate's court shall exercise the jurisdiction that otherwise would have been exercised by the terminated court and shall take custody of and administer all records of the terminated court.

OATH OF ATTORNEYS

SEC. 417. Section 543 of title 3 of the Panama Canal Code is amended to read as follows:

"§ 543. Oath of attorneys admitted to bar

"Before receiving a certificate the applicant shall take and subscribe in court an appropriate oath prescribed by the district judge.".

Subtitle C—Prisons

PRISONS; PAROLE; PARDONS

SEC. 421. (a) Subsection (c) of section 6503 of title 6 of the Panama Canal Code is amended to read as follows:

"(c) Pursuant to the provisions of section 5003 of title 18, the United States Code, the Governor may contract with the Attorney General for the transfer to the custody of the Attorney General of prisoners sentenced by the United States District Court for the District of the Canal Zone to terms of imprisonment in excess of one year.".

(b) After entry into force of the Panama Canal Treaty of 1977—

(1) all prisoners imprisoned in United States prisons pursuant to contracts entered into pursuant to subsection (c) of section 6503 of title 6 of the Panama Canal Code, as amended by subsection (a) of this section, shall be committed to the custody of the Attorney General as if committed in accordance with part III of title 18 of the United States Code;

(2) all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment of one year or less, shall be committed to the custody of the Panama Canal Commission;

(3) the Panama Canal Commission shall prescribe, and from time to time may amend, regulations providing for the management of prisoners in the jails located in the areas and installations made available for the use of the United States pursuant to the Panama Canal Treaty and related agreements, including provisions for treatment, care, assignment for work, discipline, and welfare; and

(4) chapter 355 of title 6 of the Panama Canal Code is repealed.

(c) After the entry into force of the Panama Canal Treaty of 1977, all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment in excess of one year, shall be committed to the custody of the Attorney General pursuant to parts III and IV of title 18 of the United States Code.

(d) Sections 6501 through 6505 of title 6 of the Canal Zone Code are repealed.

(e) Subsections (c) and (d) of this section shall take effect ninety days after entry into force of the prisoner exchange agreement referred to in paragraph 11 of Article IX of the Panama Canal Treaty of 1977 but no later than ninety days prior to the end of the transition period referred to in paragraph 1 of Article XI of that Treaty.

TITLE V—SPECIAL IMMIGRANTS

SPECIAL IMMIGRANTS

SEC. 501. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) relating to the definition of special immigrant, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by inserting after subparagraph (D) new subparagraphs (E) and (F) to read as follows:

"(E) an immigrant who is an employee of the Panama Canal Company or Canal Zone Government, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of the Panama Canal Treaty of 1977, and who has performed faithful service for one year, or more, and his spouse and children who accompany or follow to join him; or

"(F) an immigrant, and his spouse and children who accompany or follow to join him, who is a Panamanian national and (i) who, prior to the date of entry into force of the Panama Canal Treaty of 1977, has been honorably retired from United States Government employment in the Canal Zone (or former Canal Zone) with a total of fifteen years, or more, of faithful service or (ii) who, on the date of entry into force of the Panama Canal Treaty of 1977, has been a faithful employee of the United States Government in the Canal Zone (or former Canal Zone) for fifteen years or more and who subsequently is honorably retired from such employment.".

(b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relating to waivers of conditions of inadmissibility to the United States, is amended by adding after paragraph (8) the following new paragraphs (9) and (10):

"(9) The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraphs (E) or (F) of section 101(a)(27).

"(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraphs (E) or (F) of section 101(a)(27) and who applies for immigration no later than thirty calendar months after the date the Panama Canal Treaty of 1977 enters into force.".

(c) Notwithstanding any other provision of law, not more than 25,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E) and (F) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 7,500 shall be admitted in any single fiscal year.

TITLE VI—MISCELLANEOUS PROVISIONS; TECHNICAL AND CONFORMING AMENDMENTS: EFFECTIVE DATE PROVISIONS

HEALTH DIRECTOR; HOSPITALS

SEC. 601. (a) In chapter 57 of title 5 of the Panama Canal Code, references to "hospitals", to the "Health Bureau", and to the "health director", shall be deemed to be, respectively, to the hospitals operated by the United States in the Republic of Panama after the effective date, to the organizational unit operating such hospitals, and to the senior official in charge of such hospitals.

(b) In section 4784 of title 6, section 2 of title 7, and sections 32, 35 through 38 of ttile 8 of the Panama Canal Code, reference the health director shall be deemed to be to the senior official in charge of the hospitals operated by the United States in the Republic of Panama after the effective date.

DISINTERMENT, TRANSPORTATION, AND REINTERMENT OF REMAINS

SEC. 602. (a) There are hereby authorized to be appropriated for the fiscal year beginning October 1, 1979, and subsequent fiscal years, such sums as may be necessary to carry out the purposes and provisions of reservation 3 to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, adopted by the United States Senate on March 16, 1978, such sums to be made available to those agencies that are directed and empowered by the President of the United States to carry out such purposes and provisions.

(b) With regard to remains that are to be reinterred in the United States, the United States shall not bear the cost of funeral home services, vaults, plots, or crypts unless otherwise provided for by law.

CANAL ZONE COLLEGE

SEC. 603. Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offers upon the effective date of this Act.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 604. (a) The table of chapters at the beginning of part 1, title 2, of the Panama Canal Code is amended—

(1) by striking out the item relating to chapters 1, 3, and 7; and

(2) by striking out the item relating to chapter 11 and inserting in lieu thereof the following:

"11. Claims Arising From Operation of Canal .... 271.".

(b) The chapter designation and table of sections at the beginning of chapter 3 of title 2 of the Panama Canal Code are repealed.

(c) The table of sections at the beginning of chapter 5 of title 2 of the Panama Canal Code is amended—

(1) by striking out the item relating to section 61 and inserting in lieu thereof the following:

"61. Panama Canal Commission; establishment; purposes; offices; and residence.";

(2) by striking out the item relating to section 64 and inserting in lieu thereof the following:

"64. Administrator and Deputy.";

(3) by striking out the item relating to section 67;

(4) by striking out the item relating to section 68 and inserting in lieu thereof the following:

"68. Assets and liabilities.";

and

(5) by striking out the item relating to section 73.

(d) Chapter 7 of title 2 is repealed.

(e) The table of sections at the beginning of chapter 9 of title 2 of the Panama Canal Code is amended—

(1) by striking out the item relating to section 231; and

(2) by striking out the item relating to section 232 and inserting in lieu thereof the following:

"232. Furnishing of services; reimbursements.".

(f) The chapter designation at the beginning of chapter 11 of title 2 of the Panama Canal Code is amended to read as follows:

"Chapter 11—CLAIMS ARISING FROM OPERATION OF CANAL".

(g) The table of sections at the beginning of chapter 11 of title 2 of the Panama Canal Code is amended—

(1) by striking out the item relating to section 271;

(2) by striking out the subchapter heading for subchapters I and II; and

(3) by striking out the item relating to section 293 and inserting in lieu there of the following:

"293. Measure of damages.".

(h) Chapter 11 of title 2 of the Panama Canal Code is further amended—

(1) by striking out the subchapter heading above section 271; and

(2) by striking out the subchapter heading above section 291.

(i) The table of sections at the beginning of chapter 13 of title 2 of the Panama Canal Code is amended by striking out the items relating to sections 333 and 334.

(j) The table of sections at the beginning of chapter 15 of title 2 of the Panama Canal Code is amended—

(1) by striking out the item relating to section 371; and

(2) by striking out the item relating to section 372 and inserting in lieu thereof the following:

"372. Transfers and cross-servicing between agencies.".

(k) The table of chapters at the beginning of chapter 1 of part 3 of the Panama Canal Code is amended by striking out the items relating to sections 2 and 3.

(l) The table of sections at the beginning of chapter 17 of title 3 of the Panama Canal Code is amended by striking out the item relating to section 543 and inserting in lieu thereof the following:

"543. Oath of attorneys admitted to bar.".

(m) Sections 2 and 3 of title 3 of the Panama Canal Code are repealed.

(n) The table of sections at the beginning of chapter 237 of title 6 of the Panama Canal Code is amended by striking out the items relating to sections 5081 through 5092 and by striking cut the subchapter heading for subchapter III above the item relating to section 5081.

(o) Chapter 237 of title 6 of the Panama Canal Code is amended by striking out the subchapter heading above section 5081.

(p) The table of chapters at the beginning of part 3 of title 6 of the Panama Canal Code is amended by striking out the item relating to chatper 355.

(q) Section 5102(c) of title 5, United States Code, is amended by striking out clause (12) and inserting in lieu therof the following:

"(12) any Executive agency to the extent of any election under section 322(b) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;".

(r) Clause (87) of section 5316 of title 5, United States Code, is amended to read as follows:

"(87) Administrator of the Panama Canal Commission.".

(s) Clause (7) of section 5533(d) of title 5, United States Code, is amended—

(1) by adding "or" at the end of subclause (E);

(2) by striking out "; or" at the end of subclause (F) and inserting in lieu thereof a period; and

(3) by striking out subclause (G).

(t) Section 5583(b) of title 5, United States Code, is amended—

(1) by adding "and" at the end of clause (1);

(2) by striking out clause (2); and

(3) by redesignating clause (3) as clause (2).

(u) Section 8146 of title 5, United States Code, is amended—

(1) by striking out "Canal Zone" in the catchline and inserting in lieu thereof "Panama Canal Commission";

(2) by striking out "Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone" in subsection (a)(1) and inserting in lieu thereof "Panama Canal Commission are concerned to the Commission";

(3) by striking out "or from funds of the Panama Canal Company" in the first sentence of subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The President may authorize the Panama Canal Commission to waive, at its discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Panama Canal Commission for temporary disability, either total or partial.".

EFFECTIVE DATE

SEC. 605. (a) Except as otherwise provided in subsection (b) of this section and in section 421(d), the provisions of this Act shall take effect on the effective date of the Panama Canal Treaty of 1977.

(b) Sections 222, 341(a), 342, 351, 352, 371, 413, 421(a), 501, and 602 of this Act shall become effective upon the date of the enactment of this Act.

The ACTING PRESIDENT pro tempore. The time for debate on H.R. 111 is limited to 4 hours, to be equally divided and controlled by the Senator from Michigan (Mr. LEVIN) and the Senator from Texas (Mr. TOWER), with 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order, and with the vote on final passage to occur no later than 6:30 p.m.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time designated to be under the control of Mr. TOWER be transferred to the control of Mr. LAXALT.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor for the consideration of H.R. 111: Bob Seltzer, David Hansell, Bruce Gregory, and Jim Crutchfield of my staff; John Roberts of the Armed Services Committee staff; Robert Dockery of the Foreign Relations Committee staff; and Scott Cohen of Senator PERCY's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I ask unanimous consent that Al Drischler of my staff be granted the privilege of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, first, on behalf of Senator STENNIS, I wish to read a portion of his statement and submit the remainder for the RECORD. He is unable to be here this morning because of chairing a hearing of the Armed Services Committee relative to the SALT matter.

His statement reads as follows:

Mr. President, the bill before the Senate today is an important one—H.R. 111, a bill designed to implement the Panama Canal Treaties of 1977. Whatever your opinion of the wisdom of these treaties—and my colleagues will remember that I voted against them—everyone should agree that we must enact the legislation necessary to carry out our international obligations and provide for our citizens who will be living and working in Panama after the treaties go into effect. So this is not an occasion to debate the treaties again.

I can't stress enough how important it is that we dispose of this legislation promptly. The treaties go into effect on October 1, and a number of complicated personnel changes and administrative reorganizations must take place on that date. The transition cannot be accomplished without this legislation, and there simply must be some reasonable lead time. If we can pass this bill promptly, we can get down to working with the House in conference so that the implementation of the treaties can be accomplished smoothly and on time.

This is a very complicated bill, and earlier this year I asked Senator Levin to take a special look at the issues for the committee and formulate some recommendations. He traveled to Panama for the Committee, and he has made himself an expert on this legislation.

I am blushing as I read this, Mr. President.

Early on, in our discussions, it became clear to us that there were some good ideas in the House-passed bill, which engendered a great deal of controversy among our colleagues in the other body. There were also good ideas in another bill, S. 1024, which had been proposed by the Administration. We set out to fashion a composite bill which incorporated large sections of the House bill, parts of the Administration bill, and some ideas of our own. Senator Levin proposed that composite bill as a substitute amendment for H.R. 111 in our markup, and after some excellent amendments, it was adopted. Members can look at the committee report on the substitute amendment for a detailed analysis of its provisions. Let me just make a few preliminary points.

First, we took care to reduce the cost to the American taxpayer just as much as possible. The bill reported by the Committee will cost the taxpayer much less than the Administration bill, because it incorporates the cost of early retirement plan into the toll base and because it continues the payment of interest to the Treasury. However, it is also a less expensive bill than the House-passed version, since it takes out several expensive personnel provisions added in the House that were not in the Administration bill. So it is the least-cost alternative. It also contains a Sense-of-the-Senate provision, introduced by Senator Exon, which expresses the Senate's concern that costs over the life of the treaty be kept at the minimum level consistent with our operational and defense responsibilities.

Second, we retained for the Commission which will operate the canal under the treaties the same government corporation form that has been so successful for the Panama Canal Company since 1951. We spent a good deal of time on this issue, and concluded that the Commission could operate best as a corporation, like TVA and similar enterprises. We also concluded that this form would be cheaper, and much less disruptive. I might add that the testimony overwhelmingly supported this conclusion—Governor Parfitt, the GAO, and an outside accounting consultant, all testified that the government corporation form was far preferable to the appropriated funds agency in the House-passed bill.

Third, the bill as it has come out of the committee is consistent with the treaties. As I said, it is important that we do not include any provisions that violate the spirit of the letter of the treaties, because it would put into jeopardy the rights that we worked so hard to safeguard by reservation last year.

This is a complicated bill, and there will be plenty of time today to go more deeply into its provisions.

At this point Senator Levin will outline in more detail what is in the committee substitute as reported to the Senate.

Mr. LEVIN. Mr. President, last year, after a long and vigorous debate, this body gave its advice and consent to two treaties, the Panama Canal Treaty and the treaty concerning the permanent neutrality and operation of the Panama Canal. On October 1, 1979, the three major existing treaties between the United States and the Republic of Panama, which date back as far as 1903, will terminate, and the new treaties will immediatley become effective. By agreeing to these treaties, we have initiated a transition to a new status for the Panama Canal, and a new partnership between the United States and Panama.

In order to carry out the commitments which the United States made by virtue of the ratification of the Panama Canal treaties, the Congress must now adopt legislation to implement those provisions of the treaties which require specific statutory changes. This bill which was approved by the Armed Services Committee, and which we are bringing to the Senate floor today, is intended to accomplish that purpose.

Some of the significant portions of the Panama Canal Treaty are self-executing—for example, the assumption of full Panamanian sovereignty over the Canal Zone on October 1, and the transfers of property and facilities from the United States to Panama over the 20-year life of the treaty. But legislation is required to establish the entity to operate the canal for the next 20 years, to provide equitable treatment for employees of U.S. agencies in Panama, and to make those changes in U.S. law which are necessary to accommodate the changes in the nature of the U.S. presence in Panama which are contemplated by the treaties, for example, the termination of U.S. judicial and other governmental functions in the Canal Zone.

The bill which the Armed Services Committee has reported is a composite, incorporating portions of the bill proposed by the administration, and portions of the bill passed by the House. Many provisions of both of those bills paralleled each other, and the committee chose what it considered to be the superior provision in those cases. On the issues of substantive disagreement, the committee chose in some areas to accept the administration proposal, in some areas the House version, and in several cases chose to formulate its own provision differing from both of the bills which were before it for consideration.

Before discussing the specific provisions of the legislation which is before us today, I would like to outline a number of general considerations which I believe should serve as a guide as we consider the implementation of these treaties.

COST

A paramount concern of all Members of the Senate, both this year and last, is the cost of the U.S. taxpayers of implementation of these treaties. Regardless of whether we favored or opposed the treaties themselves, all of us would like to see them implemented in a manner which imposes the least burden possible on the Federal Treasury consistent with our obligations. Moreover, this concern about cost was aggravated by the existence of a number of different and apparently conflicting cost estimates which were circulating both during the treaty debate last year and subsequent to it.

There are a few points which I think will help to clarify the situation. First of all, it remains true, as the administration testified last year, that U.S. tax revenues will not be used to make the payments to Panama mandated by the treaty. Those treaty payments to Panama will come entirely from toll revenues. However, there are of course expenses which will be borne by the Treasury which are necessary for the maintenance of a U.S. military presence in Panama, both for the protection of the canal itself and for the furtherance of our other defense objectives in Latin America. Other expenses which we will bear include the provision of those services which are necessary to keep a skilled American work force in Panama to operate the canal. In other words, the money which is required to implement the treaty is going to salaries of employees of and for the maintenance of facilities of the Department of Defense—and not to the Republic of Panama. Of course, no funds are appropriated in this bill. This is not an appropriation or authorization bill.

There has been concern about the information on the costs of the treaties which was available to members of the Senate prior to the ratification votes last year. Fortunately, the Senate did not have to rely on outside analyses, but had two "in-house" estimates of cost prepared by two of its own committees, the Senate Armed Services Committee and the Senate Budget Committee, prior to its vote. These estimates have, in many respects, turned out to be remarkably accurate, given the preliminary nature of the information with which those committees were dealing. On February 23, 1978, Chairman STENNIS presented to the Senate an estimate of "potential Cost to United States For Items Not Covered By Panama Canal tolls until 2000 A.D." which totaled $1,023 billion. Five days later, Chairman MUSKIE presented his committee's estimate that total treaty requirements would be in the range of $712.5 to $720.9 million. Both of these estmates were based on somewhat different assumptions and were presented well in advance of the votes on ratification, which took place on March 16 and April 28. It is significant to note that the State Department formally confirmed the accuracy of the Budget Committee's figures.

I do not believe that any useful purpose is served by debating today the question of who knew what and when last year. The task before us now is to write legislation which will implement the treaties in the least costly fashion, consistent with the obligations imposed upon us by the treaties. I believe that the Armed Services Committee has performed that task well, and has pared the cost to the bone. Let me describe the provisions of this bill which will keep costs to a minimum.

First, unlike the administration proposal the committee decided to require that the Commission continue the payment of interest on the U.S. investment in the canal. That requirement has resulted in the payment of over $371 million in interest to the Treasury from 1951 until now, and will mean about $300 to $400 million more over the life of the treaty. This action is in accordance with concerns expressed by many Members last year.

For instance Senator CANNON offered a reservation on the subject which was adopted relative to continuing the interest payments out of tolls. The Panama Canal Commission, operating as a government corporation, continues to have the use of certain assets of the U.S. Government, and the committee felt that the Treasury should continue to receive some compensation for the use of those assets.

Second, the committee decided to fund the employee early retirement system, which I will discuss in greater detail later, from toll revenues. The administration bill provided for this expense to come from the Treasury. The committee felt that the program was a legitimate operating cost of the Commission, and therefore that it could reasonably be charged to the toll base rather than the U.S. taxpayer. This action will save the Treasury roughly $334 million over the life of the treaty as well.

Third, the committee chose not to mandate the continuation of certain employee pay and benefit items, which would add significantly to the Defense Department costs under the treaty. The committee bill does not require payment of U.S. minimum wage to new employees of the Canal Commission or the Defense Department. Both agencies have promised that current employees will continue to receive minimum wage. Also, the bill would permit Defense to conform to its worldwide system certain pay and benefit items for employees who are transferred to it from the Panama Canal Company. Although it is difficult to project these items 20 years into the future, the cost savings of these decisions by DOD estimate will probably be in the $300 to $400 million range over 20 years.

Finally, the committee has attempted to protect against unanticipated cost increases in the future and to express the desire for a cap on costs by adding an expression of the sense of the Congress that the costs of implementation should not exceed those estimates presented by the administration in March of 1979, subject to the condition that the actual costs should be consistent with the obligations of the United States to operate a safe and efficient canal and to keep it secure. Those cost estimates, which totaled $870.7 million, were reduced by the cost of the early retirement program, which as I have indicated, the committee chose to fund through tolls, thus leaving an estimated cost to U.S. taxpayers, over the 20-year period, of $665.7 million, with appropriate adjustments for inflation. This provision was offered in committee by Senator EXON.

Mr. President, these cost-cutting actions have been made in full conformity with the terms of the Panama Canal Treaty. There is little else we can do to cut costs without reneging on our obligations under the treaties, which I am sure no Member of this body would want the United States to do. I might point out that the bill reported by our committee costs the taxpayer less over the 20-year life of the treaty, by as much as $400 to $600 million, than either the administration version or the version that passed the House.

OPERATION OF THE CANAL

A second objective of this legislation is to implement the treaties as smoothly as possible, with minimal disruption to the canal operation. In furtherance of this objective, the committee felt that prudence dictated that the fewest possible changes should be made in the operating structure of the canal entity, and only those necessary to accommodate the change from Company to Commission. In this regard, the committee decided that the Commission should continue to operate as a Government corporation.

There are a number of reasons for this decision, but perhaps the most persuasive of them is the splendid success with which the company has operated as a corporation over the past 28 years. Prior to 1951, the operation of the canal and related functions was carried on by an appropriated funds agency called the Panama Canal. In 1951, these functions were incorporated into the Panama Canal Company subject to the Government Corporation Control Act of 1945. The change was made because the prior mode of operation was considered to be chaotic, proper financial accounting impossible, and management flexibility inadequate for the running of what is essentially a business enterprise. Since its conversion to the corporate form, the company has not only operated within its revenues, but has returned to the Treasury over $331 million in interest and $40 million in dividends. The discipline of profit and loss accounting is the best guarantee we have that the Commission will not become a drain on the U.S. Treasury.

Moreover, the corporate form of operation, subject to the requirements of the Government Corporation Control Act, provides for strict congressional control and accountability, through annual submission and approval of the operating budget by the Appropriations Committees of both Houses, and through mandatory audits by the General Accounting Office. Also, reversion to the appropriated funds form would entail significant costs. Witnesses at the committee's hearings estimated those costs at approximately $5 million initially, to modify the accounting system, and some additional continuing cost because of the need to maintain two separate sets of books: those required of all Federal agencies, in obligations and expenditures form, and profit and loss accounting as well, for purposes of toll calculation and determination of whether money is owed to Panama under the so-called contingency payment. These witnesses also testified that these changeovers, if they were to be made, would require several years to implement fully, and simply could not be smoothly effected by the October 1 treaty date. If Congress were to mandate such changes, we would risk throwing the Commission in financial chaos, and jeopardize the success of the new operation from the start. For all of these reasons, and others, the committee proposes that the corporate form be retained by the Commission.

PROTECTIONS FOR OUR EMPLOYEES

We must be sensitive to the future well-being of the current employees of the Panama Canal Co., and of other Americans living and working in the Canal Zone. It is they who will perhaps suffer the most if we fail to fully and smoothly implement the treaties. If we do not make adequate provision for our employees, we risk creating severe discontent and administrative problems for the managers of the canal, and will make needlessly traumatic the transition for our loyal employees, many of whom will be needed to continue the smooth operation of the canal.

The committee bill provides a number of protections for U.S. employees of the Commission, and for those employees who will be transferred to the Department of Defense as a result of the treaty. The bill establishes a liberalized retirement program for those employees, as promised by the treaty, with the dual purpose of providing equitable treatment for those employees who do retire as a result of the treaty, and of encouraging essential employees to remain with the Commission, since the enhanced retirement option will remain open to them through the life of the treaty. The bill also authorizes a recruitment and retention differential, to compensate employees for the expense and hardship of overseas service, and a cost of living allowance, to compensate employees for the effective reduction in their standard of living which will occur in 1984, when they lose access to military PX, postal and other services. Also, the bill establishes a placement assistance program for those employees who are separated as a result of the treaty.

The bill also contains provisions which modify U.S. immigration laws in order to facilitate the immigration of certain Panamanian citizen employees of the United States who have served us loyally, but who may wish to leave Panama after October 1. These would be primarily people of West Indian descent who have or may have difficulty integrating themselves fully into Panamanian society as the United States presence in Panama diminishes.

INTERNATIONAL OBLIGATIONS

As we consider this legislation, we must be mindful of the international obligations which we have undertaken in consequence of our approval of the Panama Canal treaties. We have voluntarily entered into two international obligations, and the Panamanians and others in the world community have the right to expect that we will abide by the letter and spirit of our treaty commitments.

It is in our interest to maintain the security of the canal, and thus contribute to our own national security, by shaping legislation which insures that it will continue to be open to free and unobstructed use by vessels of the United States and other nations. In its considereration of the treaties last year, the Senate went to great lengths to protect U.S. rights as regards the defense of the canal, and Panama has agreed to Senate amendments and reservations to the treaties which insure those rights. If we implement these treaties in a way which is consistent with the commitments we have made, then we will protect those treaty rights. If, however, we try to tack onto this legislation terms which violate the treaties, even for the ostensible purposes of strengthening our defense rights, we will only succeed in throwing those treaty-guaranteed rights into jeopardy.

The Armed Services Committee took great care to exclude from its bill any provisions which would be violative of the treaties. I believe that all Members of the Senate, even those who opposed the treaties last year, recognize that they have now been ratified in accordance with our constitutional processes, and that it would be inconsistent with our position as a great power, and irresponsible for us to pass implementing legislation which is in any way inconsistent with the provisions of those treaties. The treaties contemplate a new cooperative relationship between the United States and the Republic of Panama, in which both nations will work together to continue the smooth and efficient operation of the canal, and to maintain its security. This legislation, if fully consistent with the treaties, will further that cooperation, and thereby provide the best and most effective protection for the canal in the future.

OTHER PROVISIONS OF THE BILL

Although many of the provisions of the bill are detailed and technical, there are others, in addition, to those I have already mentioned, which deserve some comment. Let me now briefly discuss them.

COMMISSION BOARD

The treaty establishes a nine-member Board for the Panama Canal Commission, with the United States retaining a five-to-four majority over the life of the treaty. The committee bill leaves open to the discretion of the President the American membership of the Board. He would have the option to appoint Government officials or private citizens, but the committee urged in its report that the Board members he appoints, whatever their affiliation, should be prepared to be active, participating members of the Commission. The bill also provides for Senate advice and consent to the nomination of American members of the Board, and of the Administrator of the Commission. Under the treaty, the Administrator will be a U.S. citizen until 1990, and a Panamanian citizen thereafter. The members will serve at the pleasure of the President.

LABOR-MANAGEMENT RELATIONS

The committee bill gives the Commission and the Department of Defense the flexibility to design a labor-management system responsive to the needs of operations in Panama and a largely Panamanian work force. It does, however, retain some of the elements of the collective bargaining system for Federal employees established by title VII of the Civil Service Reform Act of 1978.

RESERVATIONS AND UNDERSTANDINGS

The committee incorporated into this bill several reservations and understandings offered by Members of the Senate to the resolutions of ratification of the two treaties last year. I have already mentioned the reservation by Senator CANNON, regarding the continuation of the payment of interest by the Commission. The committee also included the substance of a reservation offered by Senator NUNN to the neutrality treaty, allowing the United States and Panama to enter into negotiations to arrange for stationing U.S. troops and the maintenance of facilities in the former Canal Zone after the year 2000.

The bill includes an understanding offered by Senator LONG to the neutrality treaty, requiring the Commission to consider certain factors before making any toll adjustments. The bill also adopts two provisions dealing with the payments to Panama: A reservation proposed by Senators HOLLINGS, HEINZ, and BELLMON, stipulating that any unpaid balance due under the contingency payment to Panama, at the termination of the Panama Canal Treaty, would be payable only to the extent of any operating surplus in the last year of the treaty, and an understanding offered by Senator DANFORTH that toll rates would not be set at levels designed to cover the contingency payment.

Mr. President, that summarizes major provisions of the committee bill. In the course of this debate, I am sure we will have the opportunity to discuss other portions of the bill which are of particular concern to individual Senators.

Let me close by stating again that smooth implementation of the Panama Canal treaties is not only consistent with the obligations we assumed last year, but is entirely in our own self-interest. It will insure for us the defense rights which we secured under the treaties last year. It will protect our employees, and encourage them to remain with the Commission and to help keep it functioning efficiently. And, finally, it will help us to begin our new partnership with Panama on the right foot, and in a spirit of cooperation.

Mr. President, we in the Senate are rightfully proud of the long and honorable history of this body. I am confident that our actions on this legislation will reflect that pride and honor, and that having given our advice and consent to the Panama Canal treaties, we will now act to insure that they are carried out smoothly and in keeping with the letter and spirit of those treaties.

Mr. President, I ask unanimous consent that Donald Herr, of Senator JAVITS' staff, be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I yield to the junior Senator from Massachusetts (Mr. TSONGAS).

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. LEVIN. I am happy to yield to the majority leader.

Mr. ROBERT C. BYRD. While the Senator from Massachusetts is responding to a telephone call.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, on April 18, 1978, the Senate resolved, with two-thirds of the Senators present and voting having voted affirmatively, to advise and consent to the Panama Canal Treaty.

That action by the Senate was the culmination to one of the most lengthy and thorough debates in Senate history. The debate on the Panama Canal Treaty and the companion Neutrality Treaty began on February 8, 1978, and 38 days were spent by the Senate in considering the treaties. In Senate consideration of treaties, only the Treaty of Versailles in 1919 and 1920 consumed more time, and that treaty was not considered on an uninterrupted basis, as were the Panama Canal treaties.

During the course of its debate, the Senate added to the treaties, strengthening them and meeting legitimate concerns raised by Senators.

On June 16, 1978, President Carter and General Torrijos of Panama exchanged instruments of ratification in Panama, thus completing the ratification process.

On October 1 of this year, the Panama Canal Treaty will enter into force. Under the treaty, the United States will have the right to operate and protect the canal until the year 2000. Under the Neutrality Treaty, we have the permanent right to defend the canal against any threat to its open and secure operation.

It is our obligation to live up to the provisions of these treaties. They were fully considered and legally ratified according to our constitutional processes. The honorable and proper course is to see that the treaties are implemented in a manner fully consistent with the Senate's actions last year.

The legislation before us today is, I believe, equitable and consistent with the principles and provisions of the treaties. This implementing legislation would, as provided in the treaty, establish a U.S. agency, the Panama Canal Commission, to operate the canal. The Commission will be governed by a nine-member Board of Directors, composed of five American and four Panamanian members. Day-to-day administration will be provided for by an American Administrator and a Panamanian Deputy Administrator until 1990, after which the Panamanian will assume the Administrator's position.

The Committee on Armed Services, under the leadership of its chairman (Mr. STENNIS) has reported a bill which I believe is deserving of strong support. It corrects many of the serious defects in the legislation approved by the House of Representatives. The House bill contained a number of provisions which were simply not equitable and not consistent with the Senate-approved treaties.

It is particularly important to note that the version of the bill reported by the Armed Services Committee would entail less expense to the American taxpayer than either the House-passed bill or the administration's proposal. It is estimated that over the next 20 years, the administration bill would have cost $870 million and the House version $830 million. The bill reported by the Armed Services Committee would cost substantially less—$650 million over 20 years. Thus, Mr. President, the committee has reported a bill that is less expensive than the other proposals while remaining consistent with the principles of the treaties.

Particularly, Mr. President, I want to take note of and to pay tribute to the role of the distinguished junior Senator from Michigan (Mr. LEVIN) in bringing this bill to the Senate and in his work in the committee in connection with the bill.

He has discussed this bill with me on several occasions. He has taken his responsibility in the utmost seriousness and he has discharged his responsibilities in helping to guide the bill through the committee processes in a very effective and skillful way.

I have been greatly impressed by the dedication and the high sense of purpose that have been demonstrated by the Senator from Michigan (Mr. LEVIN).

Mr. President, to pass legislation which would be inconsistent with the treaties would be counterproductive in many respects, undoing the Senate's careful and courageous action of last year. This legislation lays the foundation for the cooperative relationship with Panama provided in the treaties. It also enables us to deal fairly with our own employees who are associated with the Canal operation.

Again, I want to take note of and pay tribute to the role of the junior Senator from Michigan (Mr. LEVIN) in bringing this legislation to the Senate and managing the bill on the floor. This is an important and complex bill and Mr. LEVIN deserves major credit for his efforts. I know he will do an excellent job as he manages the bill today.

Mr. LEVIN. Mr. President, I thank the majority leader for his support, his remarks, and his personal remarks. They are most helpful and most appreciated.

Mr. President, I reserve the remainder of my time.

Mr. LAXALT. Mr. President, I yield the floor to Senator THURMOND for whatever time he may require.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able Senator from Michigan (Mr. LEVIN) for the dedication and intense interest and zeal he has shown in this important legislation.

He has given a great deal of time to it and is to be highly commended.

Mr. President, I also commend the able counsel who worked with him, Mr. John Roberts of the Armed Services Committee staff of the Senate. He is an able lawyer and has served in so many capacities on our committee.

Mr. President, I also commend the able Senator from Utah (Mr. LAXALT) again for the fight he led to defeat this treaty. It was only passed by two votes, I believe. If his wisdom and leadership had been followed, we would not be undertaking this task that we have today.

Mr. President, the Senate now has before it the Panama Canal implementing legislation which is required by the Panama Canal treaties proposed by the Senate in a close vote last spring.

The bill reported out by the Senate Armed Services Committee is a composite of H.R. 111 as passed by the House and S. 1024 as proposed by the administration.

CANNOT SUPPORT BILL

Mr. President, I did not support this bill in the committee and I cannot support it on the floor. In my judgment this composite bill lacks features which I consider vital to protect the interests of the American people and insure our national security.

While the Senate composite bill does include features which I consider better than certain House provisions it, at the same time, lacks various provisions of the House bill essential to maintain U.S. control in controversies certain to develop during the next 20 years.

Further, our hearings disclosed that the costs of these treaties will be far in excess of any figure even remotely suggested by the administration during the Senate debate when the treaties were proposed last year. In other words, the Senate acted without full knowledge of the costs of these treaties, and I place the responsibility for these miscalculations squarely at the door of the State Department and the administration. While some of us projected these astronomical costs during the treaty debates, our claims were denied by the administration.

TESTIMONY MISLEADING

Mr. President, I cannot help but look back upon the testimony given us last year by the administration. Secretary of State Cyrus Vance told Congress "the treaties require no new appropriations, nor do they add to the burden of the American taxpayer." Deputy Secretary of State Warren Christopher also testified last year that "the treaties will not require any appropriations from the American taxpayer." Even President Carter told the American people the treaties would place no burden on the American taxpayer.

It is inconceivable to me how the administration could have been so naive on these costs. Just prior to our hearings in 1978, the State Department finally admitted there would be $350 million in "certain expenses." Just prior to the House hearings in March of this year, these costs requiring direct appropriations were revised by the State Department to $870 million. This episode represents the poorest performance before Congress in cost estimating in my memory. The end result of these bad estimates was that the Senate last year ratified these treaties without fully realizing the direct or indirect costs to the American people.

COSTS OF $4.2 BILLION

Of course, these particular costs were those requiring appropriations from the U.S. Treasury. To focus on the total costs, we must include the $2.1 billion in canal revenues which will be paid to Panama, the value of the canal itself, and loss of revenue to the U.S. Treasury. The House Merchant Marine and Fisheries Committee has estimated these total costs at $4.2 billion, which is a figure even greater than I estimated during the consideration of these treaties, which was something more than $3 billion.

Mr. President, on top of these huge costs I am concerned that in the mid-1980's additional appropriated funds will be needed to keep the canal in operation. Previous testimony by the Governor of the Canal Zone and the Comptroller General has indicated this is a strong possibility.

ADDITIONAL COSTS LIKELY

In other words, should the canal be unable to remain a self-sustaining operation in the 1980's and 1990's, Congress will be called upon to appropriate additional funds which even the opponents of the treaties have not yet attempted to estimate.

Mr. President, there have been many warnings on the costs of these treaties. Earlier this session, the man who was vice president of the Canal Company for 20 years, Mr. Philip L. Steers, Jr., made a telling statement during hearings on this legislation in the House. He told the House Members we have seen only "the tip of the iceberg" when it comes to the costs of these treaties.

Thus, the costs of these treaties are a primary issue. This composite bill now before the Senate adds to those costs in some respects, and reduces them in others. The Senate should hold the cost to the taxpayer to a minimum. However if we burden the canal to the financial breaking point, what little money is saved initially will pale in significance to the costs which will fall upon the taxpayer in the 1980's and 1990's.

APPROPRIATED FUND AGENCY

Mr. President, another issue of great concern to me is the feature of the Senate bill based upon the administration recommendation that the new Panama Canal Commission be a corporate fund agency.

The administration wishes to continue the corporate fund approach which will give primary control of the Commission to the administration. It is my view that we should adopt the approach in the House bill—and I hope this can be accomplished in conference—which provides that the new Commission be an appropriated fund agency subject to authorization and appropriation by Congress.

It is my view that in the next 20 years, Panama will place great pressure on the administration in office to submit to their demands as issues come into dispute regarding operation of the canal. Under the corporate form, the administration is apt to see these issues as foreign policy questions rather than as ones which should rise or fall on their own merit.

It is my conclusion that if the appropriated fund agency is adopted, the administration will use the Commission more carefully, as they will know that any additional expenses will be subject to congressional approval. Thus, I would favor this transition taking place on October 1, 1980, and that an emergency fund be established for the appropriated fund agency to handle any unexpected operational problems.

Mr. President, I also favor more representation of the views of the U.S. ports and shippers than is allowed in the composite bill. These views could be important in enabling the canal to make its way in a self-sufficient manner.

Mr. President, these are a few of the issues which trouble me and others as regards this bill. Some of these issues may be addressed here on the Senate floor and others in the conference with the House.

However, regardless of the outcome of this legislation, I believe this entire episode represents one of the real tragedies in American history. The Senate made a grave mistake in approving these treaties, and the act was undertaken with more misinformation about the effect of our decision than in anytime in my memory. It was a sad day for the Senate, and I believe we will soon see the day when even those who supported the treaties will regret it.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I preface my remarks by pointing out that I am the only Member of this body who got here because he supported the Panama Canal treaties.

My decision to run and to give up my House seat was a direct result of my unhappiness with the incumbent's position on the Panama Canal Treaty. I felt that it was important that this country recognize the new realties in the Third World and that the State of Massachusetts should have a Senator who strongly supported the Panama Canal treaties. It was my unhappiness over the fact that that was not the case that precipitated my decision to run for this seat. Although the common wisdom is that if you ran on the basis of suporting the Panama Canal treaties, you lost, there is at least one instance in which someone is here for exactly opposite reasons.

Mr. President, I support H.R. 111 as amended and reported by the Senate Armed Services Committee. This bill of implementation is consistent with both the letter and spirit of the Panama Canal treaties ratified by the Senate on April 18 of last year. In considering this legislation, we must bear in mind the overriding concerns that were pivotal in the Senate Armed Services Committee's final determinations. The Senate must affirm the committee's measured view, which takes into account, first, possible violation of our Nation's commitment to Panama as articulated and agreed to in 1978; second, efficient administration and operation of the canal, guaranteeing uninterrupted U.S. access for the indefinite future, and third, the welfare and security of U.S. citizens and other persons working for the present Panama Canal Company and the Department of Defense in Panama.

Any attempt to amend this bill would lessen hopes for smooth transition under the treaty beginning October 1, 1979.

More importantly, attempts to attach crippling amendments to the implementing bill would negate the efforts of four Presidential administrations to establish a more viable partnership with Panama and the other nations in the Western Hemisphere, based on cooperation and mutual respect, not confrontation and domination. The United States must develop firmly rooted partnerships based on equity and international cooperation.

For 2 full months in the 95th Congress, the Senate engaged in a heated debate over the adoption of the Panama Canal Treaty and the accompanying treaty concerning the permanent neutrality and operation of the Panama Canal. As a Member of the House of Representatives at that time, I was not able to take an active role in that dialog. In considering this bill of implementation, it is vital that the Senate not lose sight of the objectives and ideals articulated in that debate. We have moved beyond the stage of treaty ratification to the stage of implementation of the treaty's intent. It is to this point that I would like to now speak.

Over the course of the past 75 years, Panamanians have sought territorial integrity, and the end of a foreign presence in what must be regarded as the internal affairs of their country. Panama deserves the right to assume the reins of national control. Dissatisfied with the original 1903 treaty and the subsequent treaties of 1936 and 1955, Panama has aired major grievances: U.S. control of its major economic resource; the presence of a foreign country behaving "as if it were sovereign" in part of its territory; the size of the U.S. military presence in the Canal Zone and the perceived meagerness of the U.S. annuity.

This dissatisfaction was driven home to Americans in 1964, when anti-American riots erupted over the display of American and Panamanian flags in the Canal Zone. The joint declaration of April 3, 1964, between representatives of the United States and Panama committed the nations to future negotiations. Although attempts to rectify this inflammatory situation never reached fruition in the ensuing decade of turmoil and resentment, Presidents Johnson, Nixon, and Ford pursued negotiations. The formal delivery of the ratification instruments for the two Panama Canal treaties by President Carter and General Torrijo in June of 1978 was the culmination of the efforts and commitments of three previous administrations.

During debate of the treaty last March and April, Senate Majority Leader BYRD pointed to what I think lies at the heart of antiratification, anti-implementation sentiment. Senator BYRD spoke of those who feel that—

> We are sliding down the mountain of greatness, that the Vietnam war—and now the possibility of what some of the opponents refer to as "giving up" the Panama Canal—are signs that our National fiber is being peeled away, that America is soft.

In responding to this sentiment, it is critical to emphasize America's changing role in a rapidly shifting world where the right of self determination and nonintervention is demanded loudly by many nations.

Smooth implementation of the treaties is essential to our good faith relationship with Panama, all of Latin America, and other Third World nations throughout the world. It is a test of U.S. commitment to equity and maturity in future global relationships.

Panama's right to exercise greater control over a canal which intersects and divides it both geographically and psychologically is self-evident. Attempts to violate the spirit and intent of the 1978 treaties through diluting amendments would undercut our integrity as a nation.

In addition to enhancing our position as a world leader and eliminating what many Latin American and Third World leaders regard as colonial holdover, successful implementation of the treaties would prevent deeper entrenchment of anti-American sentiment and the very real threat of violence. Failure to comply with the terms of the treaty would increase the likelihood of sabotage and guerrilla attacks, given the intensity of Panamanian nationalism. General instability in the canal area could be a major deterrent to world commerce. Our best guarantee of efficient canal management and an open, accessible, secure waterway is to insure Panamanian self-interest. As my colleagues are aware, the House passed H.R. 111 on June 21 by a vote of 224 to 202. The bill as adopted by the House differs substantially from the substitute we have before us today. In the eyes of the Carter administration and a majority of members of the Senate Armed Services Committee, many provisions of the House bill constitute a violation of the treaties, an attempt on the part of Congress to rewrite the treaties and give the United States a better deal. I concur with this judgment.

I believe the following provisions would violate the 1978 treaties:

Establishing the new Panama Canal Commission as a U.S. Government agency, subject to regular Congressional appropriation and authorization.

Placing the Panama Canal Commission under the direction of the Defense Department.

Requiring congressional approval of all property transfers to Panama.

Giving the United States military control of the canal during wartime.

Conditioning U.S. payments to Panama on whether our President and our Congress determine that Panama is interfering in the affairs of another nation.

America's right to retain operating control and protect the canal until the year 2000 is adequately assured under the treaty ratified by the Senate. Further, under the treaty concerning the permanent neutrality and operation of the Panama Canal, the United States and Panama are granted permanent rights to maintain the neutrality of the canal. As amended, the treaty clarifies these rights to provide that—

> Each of the two countries . . . shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the canal.

It also provides that "in the case of need or emergency" the war vessels of the United States and Panama would be permitted "to go to the head of the line of vessels in order to transit the canal rapidly."

Any attempts to extend America's role beyond the terms agreed to in ratification is a breach of good faith. I will not be a part of that effort.

I urge my colleagues to support passage of the Armed Services Committee substitute for H.R. 111. I commend Chairman STENNIS, Senator LEVIN, and their colleagues on the committee in their efforts to report a bill that both protects U.S. interests and meets our obligations to the nation of Panama and to the developing world.

Mr. President, let me conclude simply by reflecting on the U.S. role in the third world.

I am the first Member of the Senate who has actually lived for an extended period of time in the third world, having served in the Peace Corps in Ethiopia. I am also one of the first Members, as is Senator LEVIN, who have come to this body of the so-called Vietnam generation. There are many members of our generation who are not alive today because Members of the Senate felt that the Vietnam war was an appropriate vehicle of policy in the third world. They did not look at Vietnam as a country with its own nationalism, with its own views, with its own pride, but rather looked at Vietnam as a kind of pawn between the United States and the Soviet Union.

We played out that policy, and people sitting in this Chamber during that period of time voted in such a way that 55,000 American lives were lost.

Most of those were young, and that indeed is history, but those of us who are older make policy. We make wars. It is the younger people of our society who get killed in them.

It is one thing to have a war when we are protecting interests of the United States. It is another thing to have a war when we are pursuing outmoded, outdated, and erroneous policies. I would have hoped that after Vietnam we would have learned something. I do not think we have.

We are still pursuing the old policies that the world is divided into two camps, ourselves and the Soviets, and nothing else matters.

Had the Senate turned down the Panama Canal treaty last year, who would have applauded? I will tell you who would have applauded. Fidel Castro. Fidel Castro would have loved to see the United States Senate reject the treaties, because that would have given him entree into Latin America. It is ironic that those who are so quick to criticize Castro would have been those who would have given him the greatest chance he could possibly have had of undermining U.S. relations in the third world.

It is not only Congress that finds itself subject to that 19th century Teddy Roosevelt view of the world; it is also the administration. Two examples in recent months come to mind. One is in Angola, where the president of Angola is seeking to withdraw from the Soviet embrace and is seeking recognition by the United States, and we do not give it. We do not give it because this administration, despite the advice it is getting, is afraid of conservative reaction. Are we to follow their leadership?

The second example is also in Africa. It is Ethiopia, where I spent 2 years of my life. In that case, we had a leader, Haile Selassie, whom we supported despite the fact that in part of that country, through corruption and circumstance, millions of people were dying from the droughts. We hung on to Haile Selassie for the simple reason that he was a friend of ours. Well, today Ethiopia is a Soviet client. We pursued that policy, and we are paying the price.

Indeed, there are those in this body who would have wanted us to support the Shah of Iran, as if somehow we could have waved a magic wand and saved him, or as if we could have waved a magic wand and saved Somoza.

I do not know how long it will take before another generation comes to this body which views the world as it now exists, and not with the views of the fifties. But I would hope that as time goes on, we would look at the Third World as a place where people have pride and as a place where people have their own views, and see that it is in the long-term interest of this country that we will have to recognize reality and deal with the world as we find it. Because our strength is not in stubbornness. Our strength is not in our Teddy Roosevelt approach to international politics. Our strength is in our Declaration of Independence, our Constitution, our morality, and our commitment to human rights. That, in the long term, is what the United States is all about, and it is certainly about time to recognize that.

I commend the Senator from Michigan for his leadership, and I thank the Senator from Nevada for allowing me to speak at this time.

The PRESIDING OFFICER. Who yields time?

Mr. LAXALT. Mr. President, I now yield the Senator from North Carolina whatever time he may require.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair, and I thank my friend from Nevada. I commend him not only on the fight that he waged last year, but on his leadership on the pending legislation.

Mr. President, as I have sat here this morning listening to the comments that have been made, I thought of my friend Jim Allen, the late distinguished Senator from Alabama, who stood for many hours over there last year in opposition to this treaty. Senator Allen is no longer with us, but I have the belief that he is watching these proceedings this morning, and it may be that he is chuckling a little bit at some of the statements that have been made.

We have a different Senate today, in contrast to the one which approved these treaties last year, and I have an idea that if the ratification of the treaties were now before the Senate as now constituted, in all probability they would not gain the necessary two-thirds vote. But that is speculation, and I cannot be proved right or wrong.

In any event, Mr. President, I for one miss the late departed Senator from Alabama. I wish he were here to participate in the debate on this legislation, as well as on many other issues coming before the Senate this year.

As for this legislation that is before us, Mr. President, the best that can be said for it is that it is deeply flawed. It fails to carry out some of the fundamental purposes of this body, which, in a departure from wisdom, last year approved the resolution of ratification to the Panama Canal treaties. This legislation does not acknowledge the fundamental principle of article IV, section 3 of the U.S. Constitution, which requires joint action by both Houses of Congress to transfer U.S. territory and property to another nation.

So the distinguished junior Senator from Michigan is in fact presenting us with legislation which breaks the most solemn commitments to the employees of the canal organizations, both U.S. citizens and Panamanian citizens. Moreover, it breaks the most earnest assurances of the Carter administration given time and time again last year, and of the proponents of the treaties that the U.S. taxpayers would "not have to pay a single dime" as the saying went for giving away our most sacred rights of sovereignty and the product of American engineering and organizational genius. Lastly, this bill seals our relationship with a nation, Panama, which has amply demonstrated that it has no intention of reciprocating the duties and obligation of the treaties—a nation ruled by an unelected dictatorship characterized not only by Marxist-Leninist adventurism but by crude and ruthless gangsterism.

Mr. President, that is not overstating the case. Those are the facts, and the Carter administration knows it. Therefore, any Senator who votes for this legislation today is putting himself in a most compromising position. Each Senator, of course, will have to analyze for himself the liabilities of support for this legislation. But I will tell Senators this: The American people have not forgotten the Panama Canal, nor is it going to fade from memory as some political circles evidently have hoped. Panama itself is going to see to that. And despite a massive coverup by the Carter administration, Panama's long and intimate relationship with Castro's Cuba, and its significant role as an eager and willing partner in the export of Communist revolution in Africa, not to mention Latin America, has now been proved beyond any reasonable doubt. So it is that scenario that Senators who vote to approve this bill must confront.

We knew before that the Torrijos family was deeply involved in gangster-style smuggling, international drug transfers, skimming gambling operations in Panama, and operation of prostitution rings. We knew that all the facilities of the Government of Panama were available to promote and further these sordid enterprises.

But now we know also that the Panamanian Government has been engaged in gunrunning—not just gunrunning for a profit, but gunrunning to fulfill the most ambitious plans of the Marxist-Leninist enclave in the Caribbean. Five men stand indicted in Miami for illegally smuggling military weapons to Panama—to a so-called hunting and fishing club run by the notorious head of Panama's secret police, Col. Manuel Noriega. Testimony before the House Panama Canal Subcommittee has established that the total of these shipments reached $5 million over the past 2 years—and, incidently, that they all carried export licenses approved by the U.S. Department of State.

Four others stand indicted in Texas today for an attempt to smuggle $100,000 worth of machine guns to Panama—again, an indictment that is just the tip of the iceberg.

I say again it is this scenario that Senators must confront when they vote, if they do, to approve the pending bill.

These men who have been indicted will eventually come to trial; but the point is not the individual guilt or innocence of the accused. The point is that no one seriously questions the material facts of Panama's deep involvement, on an official governmental basis, in the smuggling racket. Some of the indicted principals have fled to Panama, and Panama has not offered to return them for trial.

And, of course, it is not just the smuggling that is at issue; it is the purpose of the smuggling. Some of the very arms which the U.S. State Department approved for export to Noriega's hunting and fishing club were captured from the Sandinista guerrillas in Nicaragua. The identical serial numbers have been matched.

There is no question about it. That is a part of the scenario Senators must confront in voting, if they do, to approve this legislation.

Nor were the guns smuggled from the United States the only ones that turned up in Nicaragua. Hundreds of other weapons, of a peculiar make made by a factory in Belgium for export only to Cuba, have also been found in Nicaragua. These guns had special identifying marks that conclusively established that they came to Nicaragua from Cuba.

The U.S. Government knew full well—right in the middle of the treaty negotiations, and the treaty debates in the Senate last year—that Panama was intimately involved in cooperation with Cuba's export of Marxism-Leninism. Our Government knew last year when these treaties were debated in this Chamber that these weapons were being transported from Cuba in Panamanian planes, and sent to Costa Rica by Panamanian planes. Our Government knew last year when these treaties were being debated in this Chamber that Panama was transporting the guerrilla leaders to Cuba for conferences with Castro and for training. Our Government knew last year when the Carter administration was saying it would not cost a thin dime to give away the Panama Canal that reinforcements—that reinforcements for the guerrillas were being carried on Panamanian planes to Costa Rican Sandinista bases. Our Government knew last year that Panama had organized, trained, and sent a volunteer brigade to fight in Nicaragua alongside the Marxists.

And there is more, Mr. President. We know now that Panama sent not only the highly publicized volunteer brigade, but also Panamanian regulars to fight in the Nicaraguan insurrection. And yet we hear today this was merely a matter of the people of Nicaragua speaking when a president friendly to the United States was overthrown by Marxist revolutionaries. This is nonsense. The truth is, our Government knew these things all along, even while the Carter administration was trying to convince the American people that it was a good thing to give the canal away. A courageous American, Lt. Gen. Gordon Sumner, has testified that as early as 1977, he had reported on his conversations with Torrijos to the U.S. Government.

General Sumner had warned our Government but he was ignored.

In those conversations, Torrijos bluntly said it was his intention to overthrow the Governments of Nicaragua, Guatemala, and El Salvador.

But General Sumner was pushed aside and his warnings were ignored.

The propaganda battle continued and this Senate, unwisely, approved the resolution of ratification.

Col. James Thomas is another courageous American who has testified that the U.S. Government had substantial information about the close and intimate liaison of Torrijos and Castro. But that information was kept secret by the administration.

Finally, we have the now well-known CIA memorandum, placed in the CONGRESSIONAL RECORD on July 9 by Congressman GEORGE HANSEN, that detailed the close collaboration of Castro, Panama, and the Sandinista revolution.

Mr. President, this is the kind of thing about which Jim Allen stood on the floor hour after hour pleading with the Senate to listen to and consider. But Jim Allen was ignored. The administration had its way. So we come to this day. What does all of the information to which I have just alluded mean, Mr. President?

It means obviously, that Panama will continue to pursue its revolutionary program against the interests of the United States and the neutrality of the canal.

Panama, in such activity, is violating the Rio Treaty and the OAS Charter. In such activity, Panama is violating the 1903 treaty which is still in effect. Panama, in such activity, is violating the 1977 Neutrality Treaty which she has ratified and under which she solemnly undertook the obligation to maintain the regime of neutrality in the canal.

For it is evident that once a position has been taken on the one side of a belligerency, Panama will eventually allow the canal to become involved. In fact, Panama already has done so.

On May 23, and on June 8, two private merchant vessels of the Mamenic Line suffered mutinies while anchored in Canal Zone waters in Balboa Anchorage. The vessels were then taken at gunpoint to Panamanian waters by the crew. On June 28, because the vessels were of Nicaraguan registry, the Panamanian press reported that Panama was expropriating the vessels for—guess what?—the Sandinista revolution.

Now there are two issues involved. One is that several serious crimes occurred in waters of U.S. jurisdiction—mutiny, piracy, assault with a dangerous weapon, and grand larceny. The perpetrators of those crimes should be returned to U.S. jurisdiction. Second, the vessels are private merchant vessels, and not the property of the Nicaraguan Government. Panama is using political criteria in expropriating the vessels for the Marxist revolution in Nicaragua. If Panama is applying political criteria to vessels transiting the canal, then Panama is already violating the Neutrality Treaty. We can well expect more incidents of that sort, as Panama moves more openly into the Marxist-Leninist revolution in the Caribbean.

Moreover, Mr. President, both ABC and CBS television networks have reported that between 4,000 and 8,000 combat-ready Soviet troops have moved into Cuba. This amounts to the command and control unit for a corps. No doubt we shall soon be seeing further Cuban adventures around the Caribbean perhaps with Soviet troops in the leadership cadres. The chances that Panama will slip more and more into the Soviet-Cuban orbit are increasing every day.

That is why I hope that Senators will think very carefully today before they vote to give away the canal.

There is an old saying in North Carolina; fool me once; shame on you. Fool me twice, shame on me. The Senate was fooled last year—some Members of it. That is one time. Is the Senate going to be fooled twice? If so, shame on the Senate.

I say again that this issue, this giveaway of the Panama Canal, this paying a Marxist-Leninist government in Panama to take it from us through blackmail, is going to remain a live issue in the minds of the American people the more that Panama stirs up anti-American revolution among her neighbors. The American people are not dumb. The American people have long memories, particularly when integrity is involved. But the American people will not need long memories if the headlines continually remind them of the mistake we made in turning the canal over to Torrijos.

We should not be rushed into making these important decisions today. The treaties are not—I repeat for emphasis, not—the law of the land. Unless a treaty is self-executing, it does not become the law of the land until the implementing legislation is passed. That is what we have before us. That means that the 1903 treaty will continue in effect until the implementing language is passed.

In the case *Whitney* v. *Robertson*, 124 U.S. 190 (1880), the court said:

> When the stipulations of a treaty are not self-executing, they can only be enforced pursuant to legislation to carry them into effect, and such legislation is as much subject to modification and repeal by Congress as legislation upon any other subject. If the treaty contains stipulations which are self-executing, that is, they require no legislation to make them operative, to that extent they have the force and effect of a legislative enactment. Congress may modify such provisions, so far as they bind the United States, or superseded them altogether.

Mr. President, there are also a number of other court cases which support this contention, and I ask unanimous consent that three legal memorandums on this topic, including one by the Library of Congress, be printed in the RECORD at the conclusion of my remarks.

So the U.S. Senate need not be in any haste to approve this implementing legislation today. We owe it to the American people to reject this legislation, to reconsider the mistakes that have already been made, and to ponder the misrepresentations by the administration last year, when the American people were told, over and over again, that the giveaway of the Panama Canal will not cost the American taxpayers one thin dime.

How many times did we hear the President himself say that? And spokesmen for the administration fanned out across this land at taxpayers' expense to assure the American people that not one thin dime of the taxpayers' money would be spent.

The 1903 treaty, Mr. President, will continue in effect until the implementing language is passed by this Congres. The American people deserve better implementing language than this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Courts Support Congressional Freedom to Act on Panama Canal Treaty

(Taylor v. Morton (2 Curt 454 1855) affd (67 U.S. 481–1862))

This case deals exclusively with the authority of the legislative branch in dealing with treaties. The entire decision deserves attention. The following exerpts give the salient points of the decision as they bear on the right of Congress to modify or repeal or fail to implement the Panama Canal Treaty of 1977. The case cited with approval *Foster* v. *Neilson*—27 U.S. 314, which stands for the proposition that where a treaty of the United States is not self-executing in its entirety, it lacks force and effect without the affirmative act of Congress.

Taylor goes beyond the Foster decision in setting forth clearly the autonomous power of the Congress to modify, repeal or to refuse to act with regard to treaties ratified in the normal course of events.

"It must be admitted also, that in general, power to legislate on a particular subject, includes power to modify and repeal existing laws on that subject, and either substitute new laws in their place, or leave the subject without regulation, in those particulars to which the repealed law applied. There is nothing in the mere fact that a treaty is a law, which would prevent Congress from repealing it."

"I think it is impossible to maintain that, under our Constitution, the President and the Senate exclusively, possess the power to modify or repeal a law found in a treaty. If this were so, inasmuch as they can change or abrogate one treaty, only by making another inconsistent with the first, the government of the United States could not act at all, to that effect, without the consent of some foreign government; for no new treaty, affecting, in any manner, one already in existence, can be made without the concurrence of two parties, one of whom must be a foreign sovereign. That the Constitution was designed to place our country in this helpless condition, is a supposition wholly inadmissible."

"To refuse *to execute* a treaty, for reasons which approve themselves to the consentious judgment of the nation, is a matter of the utmost gravity and delicacy: but the power to do so, is prerogative, of which no nation can be deprived, without deeply affecting its independence. . . . That it (the power) must reside somewhere, *and be applicable to all cases*, I am convinced I feel no doubt that it belongs to Congress." (emphasis added).

"In conformity with these views was the action of Congress in passing the act of July 7, 1798 (1 Stat 578), declaring the treaties with France no longer obligatory on the United States."

"Is it a judicial question whether a treaty with a foreign sovereign has been violated by him; whether the consideration of a particular stipulation in a treaty, has been voluntarily withdrawn by one party, so that it is no longer obligatory on the other; whether the views and acts of a foreign sovereign, manifested through his representative have given just occasion to the political department of our government to withhold the execution of a promise contained in a treaty, or to act in direct contravention of such promise? I apprehend not. These powers have not been confided by the people to the judiciary, which has no suitable means to exercise them; but to the executive and legislative departments of our government."

No comment is needed beyond the clear and unequivocal statements in this decision. The American Law Division of the Library of Congress concurs in the clear meaning of the decision in a memo addressed to Congressman George Hansen, and dated July 17, 1979.

There is no question that the Congress is free of *any* restraints in dealing with this treaty other than the good of the country. It is legally free to work its will on both the desirability, merits and form of the treaty. Nothing contained in the Panama Canal Treaty is beyond the legal and proper acts of the Congress. The Panama Canal Treaty of 1977 is open to total review by the Senate and hereafter by the House upon consideration of the Conference report.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 17, 1979.

To: The Honorable George V. Hansen, Attention: Mr. McKenna.
From: American Law Division.
Subject: Analysis of two cases involving the Treaty power.

This memorandum is submitted in response to your request of July 13, 1979, and our conversations with Mr. McKenna on that date as well as on July 16, 1979.

The federal circuit court sitting in Massachusetts) decided the case of *Taylor* v. *Morton* (23 F. Cas. 784: Case No. 13,799) in 1855. That decision was later affirmed by the U.S. Supreme Court (67 U.S. 481). Per your request, we have analyzed the circuit court decision only.

The case involved an action in assumpsit for monies received, and was brought against the Customs Collector at the Port of Boston. The plaintiffs were importers of Russian hemp. They claimed that the duties owed on hemp imports should have been measured by an 1832 (U.S.-Russian) most favored nation treaty, rather than by the Tariff Act of 1842 which imposed a higher level of duties on all hemp products.

The court first noted that its judicial function did not include the duty to determine whether the legislation violated the treaty commitment, but only whether the treaty or the law governed this case.

The court then stated that the legislative power has the constitutional capacity to modify or repeal treaty made law. It pointed out that although the legislative power to regulate commerce and impose duties ". . . might be and was expected to be exercised in conformity with existing treaties" (page 786) no constitutional requirement mandated that the legislative power be obedient or subservient to the treaty power. Although recognizing that refusal to execute a treaty was a grave act, the court indicated that non-execution was an option available to the legislature.

Finally, the Taylor court commented that the question of whether a foreign sovereign has violated a treaty, or whether the acts of a foreign government are such as to justify withholding the benefits or obligations of a treaty provision, are questions that belong to the political branches of the government, and not to the judiciary.

Taylor v. Morton briefly discussed the concept of self-executing treaties which was considered in much greater length in the second case we were asked to analyze, *Whitney* v. *Robertson*, 124 U.S. 190 (1888).

The plaintiffs in Whitney were sugar importers, suing to recover customs duties paid under protest. Their claim was based on a most-favored nation clause in a treaty between the United States and the Dominican Republic, the exporting country. Although the treaty with the Dominican Republic predated the statute authorizing the impost, a subsequent treaty between the United States and the Hawaiian Islands, and appropriate implementing legislation, permitted Hawaiian sugar to enter the United States duty free. It was the plaintiffs' contention that the most-favored-nation clause in the Dominican treaty entitled Dominican sugar to equal treatment. The court found that the Hawaiian provision was a specically bargained-for concession, running only to the Hawaiian Islands, and that the clause in question in the Dominican treaty was not intended to prevent such special concessions. Whitney, at 192–93. As an alternative rationale for rejecting the plaintiffs' claim, the Court noted that the customs statute "[wa]s of general application," and that it was enacted subsequent to ratification of the Dominican treaty. *Id.* at 193–94. When the terms of a treaty are not "self-executing," implementing legislation is required. *Id.* at 194. Such legislation is always subject to congressional revision at a later date. The court noted that treaty terms which are "self-executing" require no implementing legislation, drawing their force as law directly from the supremacy clause of the Constitution. *Id.* Such treaty terms are not "superior," however, to ordinary legislative acts, and "[w]hen the two relate to the same subject . . . but . . . are inconsistent, the one last in date will control the other." *Id.* Courts are obliged "to . . . give effect to the latest expression of the sovereign will." *Id.* at 195.

If we may be of further assistance in this matter, please contact us.

KENNETH MERIN,
Legislative Attorney.

Note to Testimony on Powers of Congress To Modify or Annul Treaty Provisions

The foundation issue involved in the passage by the House and the Senate of implementing legislation for the Panama Canal Treaty is whether the legislation can legally go outside the terms of the treaty or is bound to operate solely to put the treaty into actuality by merely setting into place what the treaty agrees to.

Even H.R. 111 carries elements which are not within the terms of the treaty and which in some items are in contravention of the treaty. You will remember that the question was raised whether the Congress had the power to pass implementing legislation which contained the so-called Pashayan amendment to H.R. 111. This amendment required that any payment required by Article XIII, section 4(c) be withheld from the government of Panama upon certification of a condition not contained within the terms of the treaty itself.

H.R. 111 itself contradicts the Treaty in withholding the transfer of certain property to Panama until December 31, 1999 while the treaty transfers all property on the entry into force of the treaty.

Reference has already been made to the case of Foster v. Nielsen, 27 U.S. 253 (1829). There the Supreme Court lays down a rule which has not been subsequently abandoned or overruled:

"Our constitution declares a treaty to be the law of the land. It is consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself without the aid of any legislative provision. But when the terms of the stipulation import a contract—when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department; and the legislature must execute the contract, before it can become a rule for the court."

To the same effect are the Head Money Cases, 112 U.S. 580 (1884) and *Taylor* v. *Morton*, Fed. Cas. No. 13,799 (1855), affirmed 67 U.S. 481 (1862). Throughout all these cases runs the single theme that a treaty is the law of the land in exactly the same manner as a Congressionally enacted statute. The clear implications of that comparison bear directly on the power of Congress to modify, repeal or refuse to execute a treaty.

Whitney v. *Robertson*, 124 U.S. 190 (1888) states the rule of law even more flatly: "When the stipulations (of a treaty) are not self-executing, they can only be enforced pursuant to legislation to carry them into effect, and such legislation is as much subject to modification and repeal by Congress as legislation upon any other subject. If the treaty contains stipulations which are self-executing, that is, require no legislation to make them operative, to that extent they have the force and effect of a legislative enactment. *Congress may modify such provisions, so far as they bind the United States, or supersede them altogether*. (Emphasis added).

I would point out to the Senate that the Department of State was early on questioned in detail on this very subject. Much effort was expended by the Counsellor to the Department in examining and explaining legal opinions on self-executing treaties. The Senate was never informed that there was a line of cases like the Taylor v. Morton, Head Money and Whitney v. Robertson cases which clearly recognize in Congress power to amend, repeal and act in effective scope on any treaty, self-implementing or not.

Finally, it is clear that the Congress is relatively unlimited in the scope of its review of any treaty and that modifications to the Panama Canal Treaty of 1977 are within the powers of Congress. H.R. 111, the Pashayan amendment to it and the Hansen (Honesty) amendment which lost by a narrow margin in the House are all within the power of Congress. Further, Congress can, if these cases are to be followed, even repeal the treaty entirely.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Nevada for yielding to me. Again, I commend him on his splendid leadership in this issue. I yield back such time as I may have remaining.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Nevada is recognized.

Mr. LAXALT. I thank the Senator from North Carolina.

Mr. President, as he indicated, we spent weeks and weeks on this floor a year or so ago fighting the Panama Canal Treaty and attempting to induce our colleagues to reject the provisions of that treaty. We were unsuccessful by a vote or two.

I might say that during the course of that period of time there were two men, the Senator from North Carolina and the Senator from Alabama, God bless him, Jim Allen, who were on this floor for literally hundreds of hours helping to assist in the development of the issues, the very complex issues, that flowed from the treaty.

I might say that, speaking for myself and for many others on this floor, we miss Jim Allen. Standing here on the floor, debating once again the Panama Canal Treaty, brings fresh to mind or memory the great contribution that this man made on the floor of this Senate for so many years.

Like so many matters in life, we really do not miss people until they are gone, we do not fully miss them.

But this man, and I can remember him as the Senator from North Carolina indicated, hour after hour after hour, week after week, month after month, literally gave his life to the floor.

There is not much glamour left on the floor of the U.S. Senate these days because it is transformed. We are so occupied now with our committee responsibilities and constituent responsibilities that the old days, when much of the life and work of the Senate was spent here on the floor, is no longer.

Couple that with the introduction of our electronic instrumentation and the debates on the floor can be piped all over the Capitol, into the various offices of the Senate, and everywhere else, and the attendance and the work on the floor has been diminished to the point, ordinarily, that only those who are directly involved in a piece of legislation as a matter of responsibility are here.

That is why, Mr. President, as far as I am concerned, and I am sure that this sentiment is shared by all my colleagues who were here at the time, we miss so much having Jim Allen being here on the floor, being one of the most efficient, one of the most conscientious, watchdogs that this body ever had.

I know the Presiding Officer shares in that view because he was across the aisle in those many months through which we extensively debated the many provisions of the Panama Canal treaties. To say the least, much of that time was spent in stimulating debate, with, most of the time, the Senator from Alabama, and always in a courtly, gracious manner.

Mr. President, I am strongly opposed to the implementing legislation on the Panama Canal treaties which is currently before us.

It may be said that whether or not we proceed with the treaties now is irrelevant, that is behind us, and I suppose in a psychological sense that is true.

When I look at the interest, the dramatic interest we had in terms of our colleagues on the floor, the public, the press, and all the rest of it, over a year ago, as compared to the lack of interest demonstrated on the issue this time, the message is clear.

As far as this body is concerned, it is "Panama-ed" out and when the final vote, on that dramatic evening, came on the second treaty, I think the Senate, for all intents and purposes, tuned out.

But as the Senator from North Carolina indicated, our job is not done because there are many provisions within the treaty itself which are not self-executing. That is the purpose for which this legislation is back here on the floor, in order to flesh it out in respect to those provisions that do not deal directly with execution within the four corners.

As we know, I was among the leaders of the opposition to the Panama Canal treaties of 1977 and, very frankly, I feel that it is my responsibility to do what I can to prevent these treaties from taking effect in their present form.

As I am sure that many of those in this body realize, this is precisely what is expected of us by the vast majority of our constituents, and anybody who thinks the Panama Canal issue is dead, out in the country, are absolutely mistaken.

We indicated here time after time that what the Senate was contemplating by way of ratifying those treaties was contrary to the will and intent of the vast majority of all Americans.

That was hotly disputed, and continuously, by the supporters of the treaty. But I think probably the proof of the eating in this situation resulted in the elections last time. I might say the casualty rate on the part of those who were promptly identified in support of the treaties, with rare exception, was exceedingly high.

The people in this country vented their strong displeasure with Senators on this floor who supported this treaty. As a result, several of our colleagues who were strongly in support of that treaty are no longer here.

As the Senator from North Carolina indicated, the interest of the people in the Panama Canal and the treaty and its implementation will be an interest of long standing.

I have a strong suspicion, for the reasons he asserted, that the concerns we had on this floor were that if we transferred the Canal facilities to the country of Panama it was only a matter of time before it fell within the Soviet orbit.

Since that time, there has been indication after indication after indication that that is probably what is happening.

Panama has been actively engaged, by objective evidence, in concert with Castro, in an effort to support the Sandanista movement in Nicargua.

I do not think anyone can seriously question that in substantial degree there is a vital connection between Soviet interests in that part of the world and, certainly, the Cuban interests and the Panamanian connection.

As the Senator from North Carolina indicated, within the last few weeks we have had indicted five people in the State of Florida for gun smuggling to a phony gun reservation of some kind run by Colonel Noriega, who was prominently mentioned in these debates, in Panama, for the avowed purpose of that smuggling, and shipment was to eventually get those arms in the hands of the Sandanistas in Nicaragua.

So the concerns we have had and expressed then continue to be expressed and are a matter of concern today, because I am absolutely convinced—I was then and I am even more now—that in approving these treaties we jeopardized very seriously our national defense.

It was indicated here time and time again that we had agreed that as to the Panamanians, historically, this was an opportunity to redress those grievances, that all would be well in Central and South America, that if we approved them that suddenly they would love us. It just has not happened. We knew it would not. Because if there is one thing in this world we should learn as a country, we just do not buy love and affection, and we certainly do not command love and affection, when we respond to the kind of extortion that was practiced upon this U.S. Senate in eventually approving those treaties.

I rather think that between now and 2000 there will be time after time after time that this Senate and this country will regret deeply the fact that we ever approved those treaties, because what we see now, as I see it, is only the tip of the iceberg.

I hope that this does not occur. But I rather suspect that it is only a matter of time that we will have de facto domination of that important defense facility by the Soviet Union through the Castro connection. Just a matter of time.

As we learned here through the course of hearings and certainly fully explored here on the floor, the canal is of vital, strategic importance to the United States and the free world.

Efforts were made during the course of the debate to degrade the importance of the canal: It was outdated; in this period of technology, it was not as important as it was before. But we had people like Tom Moorer who testified before the committees and all over this country on television, who indicated that the Panama Canal facility was of prime strategic importance and would continue to be so for many years.

Last year's treaties were approved in the teeth of popular opposition running in most cases 2 to 1 against relinquishing rights over the Panama Canal. Now we are here today discussing legislation designed to give practical effect to these unpopular treaties.

Proponents of H.R. 111 maintain that owing to the ratification of last year's treaties we now are somehow obligated to approve this year's implementing legislation.

The Senate approved. So the House and the Senate should lie down peacefully, accept the fact that rape is inevitable, and try to enjoy it. Well, this is one Senator who does not buy that. A number of House Members did not buy that, because the fact is that the final implementing vote in the House was a scarce two votes.

It may well be that if we in the Senate register strong opposition to the final implementation provisions, this will give some additional courage and a message to the House Members, so that when the conference report is presented, we finally will be able to kill these treaties then.

It is said that this would be a bad result. It is said that it would not make any difference, because the President, through his executive authority, could go ahead and implement the treaties himself. Fine. If that be the case, I will accept that. At least, that will not be our responsibility. That will be an executive responsibility, discharegd by the occupant of the White House.

I would think that in terms of what has developed since we approved these treaties, the known activity of Panama in concert with Castro, the known activity of Panama in connection with interfering in the internal affairs of Nicaragua, that would be a proper result.

I fail to see how doing something the American people did not want us to do last year compels us this year to repeat this mistake. Personally, I just cannot believe that somehow two wrongs make a right.

Last year, this Chamber resounded with calls to statesmanship and courage as treaty proponents reassured one another that what they were doing was somehow "right" even though their constituents strongly disapproved of it.

Treaty proponents echoing Edmund Burke argued that a Senator owed to his constituents his judgment. They maintained that a Senator was more than just a seismograph for registering the depth and intensity of his constituents' feelings.

Well, there might be some logic to that. I do not think we should be influenced and have our decisions here dictated by what the most recent poll results are. Too many of us do that already. If we were to do that, we could install 100 computers in these various chairs and feed the information into the computers and have a nice, clean computer result.

I note, too, that by virtue of the knowledge and information that comes to us every day, very often we do have information that is superior to that of our constituents; and in those cases, I suppose, we should take the point properly and lead our constituents.

However, I think the Panama Canal issue was different from most other issues; because in the years I have been in public life, I have yet to see an issue in which more concern or interest was reflected in the constituency than in the Panama Canal issue. I have yet to see an issue in which private citizens by the thousands and thousands wrote us letters analyzing the contents of the treaty and came forward with a better analysis and better conclusions than most so-called experts and pros that we have here in Washington.

So that we had out there a very interested and a very educated constituency. For that reason, I felt that this was one of those cases in which we, as Senators, should be particularly mindful of the wishes of our constituency, recognizing that it was a peculiar situation in which they were as well versed in the facts as we were.

So far as saying that we are more than just seismographs or computers here, so far as that statement is concerned, I suppose it is true. But the mere fact of being opposite one's constituents on an important issue cannot so lightly be assumed to be tantamount to good judgment, courage, or statesmanship. Quite the contrary. For those of us with strong faith in the character and good sense of the American people, it is a most perilous position and not one to be assumed without the deepest reflection and most serious conviction.

It is well for my colleagues to remember that the very same Edmund Burke whose quote on the judgment of the representative outweighing that of his constituents was so bandied about during the debate on the Panama Canal treaties also said in a letter to the Bell Club of Bristol on October 31, 1777

> We Members of the House of Commons are like other men who all want to be moved by praise or shame; by reward and punishment.

That is true. That is human nature. That certainly is political human nature. We do not like criticism. We like to be praised. We like to feel that our constituents and the people of the country like what we do.

> We must be encouraged by our constituents and we must be kept in awe of them or we shall never do our duty as we ought.

That is true. Essentially, he is saying that, by and large, we are here representing our constituents, and when that constituency is informed and believes strongly, we should be responsive, without being automatic to the will of our constituency.

The Panama Canal is a monument to American ingenuity and expertise. It is also vital to our national security and economic well-being. Even the treaty proponents of last year would not disagree with this assertion. They acknowledge the continuing strategic and commercial importance of this facility. And at least in theory, they claim that the treaties and this legislation are designed to safeguard our continuing use of it.

On the defense side of the issue, there can be no question of the canal's importance. I alluded to this before. The testimony of Thomas Moorer, former chairman of the Joint Chiefs of Staff, and Admiral Holloway, then Chief of Naval Operations, before the Senate Armed Services Committee, rendered a clear military judgment. As Admiral Moorer put it:

> In fact, there is no feasible war plan for the United States taking into account our reduced forces and extended commitments that does not assume that the Panama Canal will be available on a full-time priority use basis.

How strong can it be? Here is a man independent of the politics of Washington, independent of the policies of the White House, former chairman of the Joint Chiefs, doing his own thing as honestly as he could.

In much the same fashion, he is now seeking in terms of the SALT agreement. He has impressed me as much as any military person I have ever found around this town. He made as strong a statement as could be made in connection with the importance of the facility and its relationship to our national security. The implications of his statement are obvious.

The canal greatly enhances our naval flexibility. Indeed, it could be argued that whatever naval flexibility we still possess is a direct function of access to the Panama Canal.

It also allows us to forego the necessity of using two entirely separate Atlantic and Pacific fleets. In wartime the speed with which men and material could be transferred is crucial and should the canal fall into hostile hands or be closed because of inept management, it is the people of this country who would pay the most immediate price.

The commercial importance of the canal is also quite significant. The increasing use of the canal to transport Alaskan crude to the gulf and east coasts of this country is just one example.

At the present time—and I am at times somewhat surprised by the law of knowledge of the American people generally as to what our oil import situation is, or how we transport our oil, but at the present time, in terms of our Alaskan crude, we are sending through the Panama Canal for east coast and gulf coast consumption 300,000 to 400,000 barrels per day. There is substantial activity in connection with the export of that oil from Alaska.

Given the ongoing importance of the canal, I believe it is relevant to ask why the United States would want to relinquish sovereign control. However, this question has unfortunately been put beyond our purview by the ratification of both Panama Canal Treaties last year.

But an important question from last year reoccurs: Why should the taxpayers of this country be charged to pay Panama to take the canal from us? There is no need at this point to list the numerous and vehement denials by key administration spokesmen in last year's hearings that there would be any appropriated funds involved in the Panama Canal Treaty implementation.

We heard time after time after time that the Panama Canal Treaty was not going to cost 1 nickel to the taxpayers of this country. Even the President, as the Senator from North Carolina indicated, stated that time after time, and the hordes of administration spokesmen that we had traveling the country in support of the treaties said the same thing: "It is not going to cost us a nickel."

It may be painful, but all this propaganda about giving the canal to Panama without cost to the taxpayers just was not going to happen. The provisions of this measure make it clear that is indeed a pay-away. They clearly indicate that the bottom line result of those treaties is that it is a pay-away, that we are not only giving the Panama Canal facilities to Panama, but we are paying them for the privilege of taking it away from us. They make it clear that there are taxpayer dollars being used, and the only question is as to the amount of those dollars.

Senator LEVIN indicates, if my figures are correct, that the figure is in the $750 million to $1 billion range. Yet we were assured last year, when we were debating this, that there would not be 1 nickel of taxpayer funds involved in this transaction.

Mr. President, on balance I believe this is a seriously flawed piece of legislation. I believe, as reported by the Committee on Armed Services, it contains a number of serious deficiencies. In order to economize on the time of the Senate, I will simply list those deficiencies at this point. However, later in the course of the debate my colleagues in opposition to this measure and I will speak specifically, in detail, to each one of these shortcomings.

First on the form of the Panama Canal Commission, the question is whether it should be continued as a Government corporation or converted to an appropriated funds agency. Section 232 of H.R. 111 as passed by the House, establishes the Commission as an appropriated funds agency subject to the usual appropriation and authorization procedures. The committee reported bill continues the Commission as a U.S. Government corporation in a kind of semiautonomous status. It is my feeling that for the United States to effectively undertake its treaty mandated responsibilities in both the defense and operations area, congressional oversight will prove necessary.

Well, the committee report from the Committee on Armed Services takes that matter into consideration, but not very seriously. They contend that by virtue of the fact that the Panama Canal Commission will be engaged in the accounting procedures, and with all the technical changes that would be required, it would make it unfeasible for it to be cleared here and subjected to the appropriations process.

I frankly do not see why, because it seems to me that during the course of these next several years it would be very effective, considering all the doubts we have heard expressed over these treaties, to have congressional oversight. I think it is far better than creating a semiautonomous agency which will be on its own, subject to very little oversight from this Congress. Therefore, I think it desirable that we have this kind of mechanism established.

A second deficiency concerns the question of implementation costs and whether or not such costs should be collected at the expense of the contingent annuity provided for under the treaties. As many of my colleagues know, article 13, section 4(c) of the treaty provides that Panama will receive an annual payment of up to $10 million from canal revenues to the extent they exceed expenditures. The House-passed version of H.R. 111 more realistically defines such expenditures, to include important costs to the United States such as the relocation of military bases by the Defense Department before authorizing payment to Panama of the contingent annuity. The committee reported bill provides for payment of such costs out of appropriated funds.

Now we get back to the original thesis. As Senator BURDICK will readily recall discussing, we were practically assured that we would not have to dip into the till in order to implement this treaty.

Mr. HELMS. Not one thin dime.

Mr. LAXALT. Not one dime. Not one nickel. So what is wrong, now, in at least taking the costs we are going to incur in implementing the treaty off the top, and subtracting that from the $10 million annually? To me it makes total, complete sense, because the bottom line result of doing it otherwise is that we will shift the benefit from these transactions from us—and we are entitled to that, I would think—to the Panamanians, thereby providing some decent political material for them to do as they will with, within the parameters of Panama, as opposed to saving the taxpayers of this country some money.

So I would think that the provisions of the House bill, which simply says that the costs that we are going to incur in connection with the transfer of the military facilities and other incidental costs should be borne from the toll costs and taken off the top, and subtracted from the annuity payment, make total fiscal sense; and I might say I am certain that the Senator from Connecticut would agree with that unassailable logic.

A third deficiency in the committee-reported bill is that it allows Panama to continue receiving payments of the contingent annuity and other payments even if it is interfering actively in the internal affairs of its neighboring countries. In view of recent revelations concerning Panamanian and Cuban involvement in Nicaragua, it is a very serious question as to whether treaty payments authorized by this legislation should be used to foster revolutionary unrest elsewhere in Central America. The House-passed version prohibits payments in the event that Panama is certified by the President or by concurrent resolution by the Congress, is interfering in the internal affairs of neighboring states.

What possibly could be wrong with that? The concern we expressed before was that Castro, acting as a stooge for Panama, would be interfering with the internal affairs of neighboring states, to the detriment of that part of the world. This would simply restrain them in the most effective manner possible, because if we caught them at it, we would simply cut off the funds.

It would seem to me that just as we do in the appropriations process there is no quicker way to get the attention of a government like Panama or an executive agency than to cut off their funding if a violation of congressional intent occurs.

Another deficiency concerns the question of transfer of canal property under the treaty. As is well known, this is an issue near and dear to the hearts of our colleagues in the other body. Section 373 of H.R. 111 as passed by the House prohibits all transfers of canal property to Panama except pursuant to an act of Congress and approves only those transfers which take place on the effective date of the treaty. Subsequent transfers during the life of the treaty and upon its termination would require further acts of Congress.

What is this all about?

Well, it is simply this: There has been a strong feeling and tradition in Washington for many, many years that even though you have a treaty of the type we passed on Panama, the principal function in terms of ratification constitutionally is ours. But there is also a strong feeling, as we all remember, that in connection with the property transfers that required joint concurrence and the House should be cut into the action. They were very distressed, and I think with good cause, that in terms of attempting to have them consider only the transfer of property aspects they were literally cut off at the pass.

As I remember, they even initiated litigation and through technicalities they were deemed not to have a proper standing in court.

Well, now, through the implementing legislation they do have their shot at it, so to speak, and they do have an opportunity to speak to whether or not the transfer of properties is subject to congressional approval. Bearing in mind that those properties to be transferred at the time of the ratification of the treaty would be self-executing, this related only to future proposed transfer. They went ahead and wrote it into their bill, H.R. 111.

I think, frankly, this makes a lot of sense because it is their constitutional and statutory responsibility whenever this Government chooses to transfer property of the taxpayers' that it requires congressional concurrence. In the future, as we look at substantial transfers of property in Panama pursuant to the provisions of this treaty, that would require another look, the House of Representatives would be permitted to look at that transfer and consider whether or not it is fair and equitable, and eventually place on it its stamp of approval.

The House, being somewhat untrustful in this particular issue, saw fit to write it specifically in black and white within the four corners of the implementing legislation. I must say to my House colleagues I do not blame them a bit. So far as my approach to this treaty is concerned, I think that everything possible to safeguard the rights of this country should be written specifically within the four corners of the treaty as we attempted to do and certainly within the four corners of this implementing legislation. That is precisely what they did.

I think, as indicated before, that the bill, which has been passed out of the committee to the Senate, not taking the House provision, is seriously deficient in that respect.

Yet another deficiency and one which I will myself address somewhat later concerns the direction of the Panama Canal operations by a U.S. military officer in a time of war. Continuing a provision first established in the Panama Canal Act of 1912, section 108 of the House-passed version of the bill provides that when the United States is at war or the President determines war to be imminent, that he may authorize a U.S. military officer to assume control of the operations of the canal. The committee-reported bill lacks any such provision and allows even in wartime for a commercially oriented, split-commission approach.

I think the House is absolutely right in including this provision and we are going to press for it this afternoon by way of amendment. Why? Because that Commission, first of all, is business oriented. There will be, hopefully, military types within its composition. We attempted to direct and safeguard the appointment process but there has been resistance to that on the ground that it would make for less flexibility on the part of the appointing authority. That is an arguable point.

If we get to the point where we are at war or the President thinks we are near war, and recognizing, as I said, that our military people say this is a vital, strategic facility, I do not want a bunch of business people sitting on that board. I think that is a military judgment as opposed to a business judgment, to be made quickly and effectively. As I say, without taking too much more time on this particular matter, we will offer this amendment this afternoon and press for its adoption. I think the House was absolutely right in including it within the provisions of H.R. 111.

Mr. President, I have other matters to discuss, but I know that the Senator from Utah, who assisted so valuably during the course of the debates on the treaty, has now arrived on the Senate floor and I am certain that he would like to speak concerning this legislation. I commend him and thank him once again for the valuable help and assistance he provided in the handling of this legislation today.

Mr. President, I yield to the Senator from Utah, Senator HATCH, whatever time he may require.

The PRESIDING OFFICER (Mr. CHILES). The Senator from Utah.

Mr. HATCH. I thank my colleague and compliment him on his leadership today and in the prior debate on the Panama Canal Treaty. I do not think we could have had a better leader, a more sincere and dedicated leader, or a person who has spent more time in working with his colleagues with courtesy, dignity and self-restraint, under circumstances which were extremely difficult at the time.

Mr. President, with consideration of H.R. 111 by this body, Congress likely is bringing to an end one of the less illustrious episodes in our country's history. While this is not the place to repeat the same arguments, or raise the same objections, dealth with at such length in the last Congress, I would like to suggest that the concerns of many of us at that time have not subsided.

There were those of us who warned that the treaties symbolized the pattern and practice of retreat from world responsibilities that has marked the United States since Vietnam. This fear has not lessened in the past year. During that time, long-time Western allied governments in Iran and Nicaragua have fallen, at least partially as a result of political paralysis in the United States; we continue to give aid and comfort to hostile anti-Western elements in Southern Africa despite the appearance of a new, moderate, democratically elected regime in Rhodesia; A SALT treaty has been signed which, in the view of many, consigns the United States to permanent strategic inferiority.

A new Soviet puppet government has been installed in Afghanistan while the erratic policies of the United States sometimes seem aimed at encouraging similar results in nearby Turkey; pro-Western opponents of the Marxist regime in Angola go ignored by the United States; the Taiwanese people are betrayed; and the United States continues to view with equanimity the adventures of the Cubans around the world.

There is uncertainty and concern among our NATO allies. The Panama Canal treaties fit into this pattern of affairs all too neatly.

There were those of us who also warned during the debates that the present Panamanian Government was a contributor of instability in that part of the world, and that the orderly flow of commerce would never again be as well assured as it is today in U.S. hands. This concern, too, has been reinforced since that time. Overwhelming evidence has been presented, particularly to the House Panama Canal Subcommittee, that the Torrijos—or the Royo—government, has been actively involved in supporting guerrilla operations directed against the late Nicaraguan Government, a fellow member of the Organization of American States and an ally of the United States—or should I say, a former ally of the United States. Panama, in effect, has been serving as an intermediary in a arms smuggling operation in Central America, according to both Lt. Gen. Gordon Sumner, former chairman of the Inter-American Defense Board, and Col. Joseph Thomas, a former senior officer on Latin American Affairs in the Department of Defense.

This has occurred despite the express provisions of article I, section 2 of the Canal Treaty which states that:

> The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted . . .

At the time of the treaty debate, there were also those who warned of the extremely serious constitutional difficulties in ignoring the legitimate role of the House of Representatives in this critical debate. Much of the difficulty that has arisen with respect to the implementation legislation could well have been avoided had the House been accorded its proper constitutional role in the treaties themselves.

At the time, opponents argued that article IV, section 3 of the Constitution was specific with respect to the role of "Congress" in the process of disposing of territory and property belonging to the United States. In its entirety, the appropriate language reads:

> The Congress shall have power to dispose of and make all needful roles and regulations respecting the territory or other property belonging to the United States.

"Congress," of course, means the Senate and the House acting concurrently.

While it is clear that the Senate stands alone in its responsibility to offer "advice and consent" to the President in the area of treaty-making, it is just as true that some forms of treaties do not become fully operative without the action of both Houses of Congress. The canal treaties are a clear example of this.

I shall not retrace the constitutional development of the congressional role in the treaty-making process, except to say that it was the understanding, as far back as the 18th century, that, with respect to those treaties in which it played a part, the House was expected to bring to bear the same weight of judgment that it brings to bear on any other form of legislative action.

(Disturbance in the visitors' galleries)

The PRESIDING OFFICER. The Senator will suspend until the Sergeant at Arms has restored order in the gallery.

The Senator may continue.

Mr. HATCH. The House was not to be subject to the sort of legislative blackmail that characterized the Executive response to the debate there. Had the House, and therefore Congress, rejected the implementation legislation, and therefore the treaties, it would not have been the House that would have been responsible for the loss of U.S. rights in the Canal Zone that the administration has warned about; it would have been the responsibility of the executive branch. It is not the right or authority of the executive branch to default on its duty to maintain the property of the United States in the event that Congress chooses not to transfer it.

The House, in my opinion, has acted responsibly in according substantial discussion and debate to the canal treaties. The treaties have had a far more tortuous and difficult course in that body than if the President and this body had agreed last year to allow them the constitutional voice to which they were entitled.

The House, in my opinion, has acted with particular responsibility in pursuing their responsibilities under article I of the Constitution to protect the public Treasury. The relatively conservative estimates of the House Merchant Marine and Fisheries Committee have suggested that the cost of the treaties to U.S. taxpayers will be in the neighborhood of $720 million. In addition, canal users, which translates into American consumers, will be paying an additional $2.8 billion between now and the end of the century. Another $650 million in property transfers will be involved. All of this, despite the pious promises of the Carter adminstration that there would be no additional and no hidden costs to the treaty.

It is for exactly this reason—the revelations of the House concerning costs of the treaties—that the House is provided with an indirect role in the treaty-making process. It is a further illustration of the workings of the doctrines of checks and balances that the Founders were so careful to include within the fabric of the Constitution.

Mr. President, during the debate on the canal treaties in 1978, I remember our distinguished friend and former colleague, the late great Senator from Alabama (Mr. Allen) standing on the other side of the floor and arguing, as I had argued, that the canal treaties were going to cost us hundreds of millions, if not billions, of dollars. We were told we did not know what we were talking about. First, they denied that we were transferring American property, at least until Senator Allen, Senator HELMS and myself brought in the actual boxes containing the original fee simple deeds. Then they admitted we had the property.

We then indicated that these treaties were going to cost us hundreds of millions, if not billions, of dollars.

I remember the President going on network TV stating in no uncertain terms that the treaties would not cost the American taxpayers a cent.

Secretary Vance said the same thing as did other representatives of the State Department.

They had access to the same information that Senator Allen, Senator HELMS, and I had access to. They knew darn well that it was going to cost the American taxpayers hundreds of millions, if not billions, of dollars. Yet they denied it at the time.

If we cannot believe the representatives of Government with regard to something as clearcut as that, then how can we believe their assertions with respect to the SALT II treaties, because the American people saw the President make that comment after listening to the debate on the floor, where comments were made by Senators on both sides of the floor, but against the Panama Canal treaties.

Mr. President, I would briefly like to note that a number of new constitutional objections have been raised in recent months concerning the treaties. Most of these center around the propriety of the new Panama Canal Commission. The executive-appointed administrative agency to oversee canal affairs through the end of the century. The Commission is to be appointed partly from among U.S. citizens and partly from among Panamanian nationals.

Dr. Charles Breecher, a former State Department official and an officer of the American Society of International Law, has noted the following objection to the creation of this Commission: First, article 3, section 3 (establishing the Commission) invests in nonresident aliens the authority of the U.S. Government. Second, it is violative of the 14th amendment's privileges and immunities clause by prohibiting American citizens from any opportunity of ever filling a specific number of positions on a U.S. Government agency; third, the Panamanian nationals on the Commission are not subject to Senate advice and consent, or impeachment, per article 2, section 2 of the Constitution.

Fourth, the terms of the Commission place unconstitutional restrictions upon the ability of the President to exercise his full article 2, section 2 appointment power.

Disregard for the clear terms of the Constitution has marked the history of our consideration of the canal treaties.

I happened to be the sponsor of the amendment bringing up the article 4, section 3, clause 2 argument that U.S.-owned property cannot be transferred without consent of both Houses of Congress, and not simply the Senate.

At that time, there were 232 Members of the House of Representatives, better than 50 percent of them, who called for the privilege—the right—to vote on the transfer of U.S.-owned property. They were ignored.

This is one reason, I presume, why it was such a difficult task for the President to get implementing legislation through the House of Representatives.

I suspect that if the Senate again heeds the President and approves implementing legislation without the Murphy amendments that there is going to be another battle in the House over this legislation.

If their legislation is not the legislation which comes from conference, I suspect the Panama Canal Treaty implementing legislation and the Panama Canal treaties may be a long time with us.

I also suspect that the effects of the treaties, if successfully implemented, will also be with us long after this Congress is part of the history books.

I would once again like to compliment my colleagues who have valiantly attempted to point out to the American people the problems with regard to the original Panama Canal treaties, as well as this implementing legislation, and compliment them for the work they have done in attempting to educate their fellow colleagues to the perils of our present course.

I was never one who said, "We bought it, we paid for it, and we should never have to give it back."

I thought that some form of treaty could have worked—reasonable, decent treaties that would have benefited not only Panama, but our great Nation as well.

(Mr. DECONCINI assumed the chair.)

Mr. LEVIN. Mr. President, the remarks here this morning reflect the deep divisions that existed in the Senate last year and that still exist, the deep divisions that exist in the country, and the differences that still exist relative to the Panama Canal.

A number of statements have been made that do require refutation. I happen to agree that the issue before us is the implementation legislation and not whether or not the ratification should have taken place last year. But so that the record can be clear in at least one respect, I would like to state to the Senate some of the figures which were estimated last year relative to the cost of treaty implementation.

In a letter dated February 10, 1978, from the Secretary of Defense, the Secretary of State, and the Secretary of the Army to all Senators, the implementation estimate—the total appropriations impact, as they put it—was unlikely to much more than $350 million. That estimate ignored—and I think improperly ignored—the loss to the Treasury of the interest payment which was going to be foregone.

If you added that foregone interest—which I think most Members of the Senate, as indicated during the ratification debate, felt should have been included—to the implementation cost estimated in February of last year, months before the ratification vote, the total figure was $728 to $770 million. That was one figure which was before the Senate a month or two before the ratification vote.

Another figure that was before the Senate before that vote was $1.23 billion, which our Armed Services Committee estimated the implementation costs to be. A third figure which was before the Senate was the estimate of the Budget Committee on February 28, 1978, of $712 to $720 million.

So that the Senate did have before it various estimates last year, long prior to the ratification votes which took place on March 16 and April 18 of last year, relative to the implementation costs.

Mr. President, we are not here today to look at the wisdom of the treaty, to look at the election returns and judge who won and who lost based on the support of or opposition to the treaty. I do not believe we are here today to judge the Somoza regime or the Sandinista regime or what role governments, including our own, had in that episode in Nicaragua. We are not here to judge the past. We are here to judge the bill before us and the amendments which will be offered to it.

The bill we are offering to the Senate, Mr. President, saves $400 million to $600 million over the bill which was adopted in the House and over the bill which is recommended by the administration. So that the bill we are offering to the Senate is $400 million to $600 million cheaper than the alternatives which have been offered to this body by the House or by the administration.

In addition, the $667 million we are offering the Senate is $50 million less than the Budget Committee estimated the implementation would cost, and it is $350 million less than the Armed Services Committee estimated this treaty would cost when they made their estimates last year.

So that the bill we have before us is not only the cheapest of the three alternatives; it is also substantially less than the estimates that were made last year. But what it all comes down to is this: This is not an authorization bill; it is not an appropriations bill. The Senate is going to have many opportunities, at least 20 of them, one a year during each appropriations cycle, to approve the budget of the Panama Canal Commission.

If the Senate, when it comes time to approving that budget, does not want housing, does not want schools, does not want commissaries, does not want hospitals, which are provided for in that budget, the Senate will have an opportunity to reject those implementation costs when the Appropriations Committee bill comes in with those budgets, year after year, for 20 years.

The question has been raised about some of the amendments which will come up a little later today. The question is asked, What is wrong with getting our cost of implementation from the tolls? It violates the treaty; that is what is wrong.

What is wrong with a military officer operating the canal in a time of war and bypassing the Commission? It violates the treaty; that is what is wrong. There are ways of giving military control, if we want to, during time of war; but there are ways of doing it which are consistent with the treaty, without bypassing the board. Then there is the other way, which is going to be proposed in the amendment before us, which bypasses the board, which bypasses the Commission; and under the treaty, it is the Commission which must operate the canal.

The American people were divided on these treaties, Mr. President, as was the Senate. Where they are not divided is that the Senate keep its word and that this country keep its word. They are not going to support, and I do not believe the Senate is going to support, any amendment which violates the treaties which were ratified by this body.

I believe that the Senate, including Senators who were deeply opposed to this treaty, are going to carry out the commitments this country made, whether we like them or not, because they were made and because we want our word to be good in this world.

Mr. MATHIAS. I make the point of order that a quoroum is not present, and ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. I yield the floor to the Senator from Maryland (Mr. MATHIAS) for the purpose of proposing an amendment.

UP AMENDMENT NO. 453

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 453.

On page 187 strike lines 3 through 15 and insert in lieu thereof the following:

"Sec. 381. Labor Management Relations (a) Nothing in this Act shall be construed to affect the applicability of Chapter 71 of Title 5, United States Code, relating to labor-management and employee relations, with respect to the Panama Canal Commission or the operations of any other Executive Agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

"(1) the definition of 'employee' shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship; and,

"(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors.

"(b) Labor management and employee relations of the Panama Canal Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules and regulations of the United States."

Mr. MATHIAS. Mr. President, I believe the pertinent provision of this amendment is that the provisions that would be affected by nationality should not be operative when this implementing legislation goes into effect.

The bill as reported by the committee omits the provision contained in the bill that was passed in the other body applying title VII of the Civil Service Reform Act of 1978 as the statutory foundation to govern union representation and collective bargaining for employees of the Panama Canal Commission in the area presently described as the Canal Zone.

In other words, we are abandoning the policy which has been adopted and which is part of the law as it applies to civil servants who work for the United States, we are abandoning that policy for American citizens who are working in the territory formerly known as the Canal Zone. And for this provision of existing law, for rights which exist today and which would be withdrawn by this legislation, this bill would substitute another policy under which the President would establish some kind or form of collective bargaining. We do not quite know, I do not believe, today, what that would be, but it would be something. It incorporates the substance, but it omits the substance of other provisions of title VII.

This, it seems to me, is a serious omission.

It omits, for example, the provision contained in the bill passed in the other body providing that labor-management relations affecting the Panama Canal Commission and other Federal agencies, their employees and the unions representing their employees shall be governed not by the administrative provisions of Panamanian law, but solely by the applicable laws, rules, and regulations of the United States.

This seems to me to create ethical as well as legal problems.

The ethical problems relate to the promises which were made here on the floor of the Senate, as well as elsewhere, that the American citizens who were employees of the Panama Canal, who wanted to continue in their professions and jobs in that employment, would not find their conditions of employment degraded by the provisions of the Panama Canal Treaty or any implementing legislation which might follow.

I think to deny these American citizens the protections of law which they have had, which every other American citizen who works as a civil servant still has, does raise some serious ethical questions.

This amendment would restore to the pending legislation the labor-management provisions that were adopted in the other body. It will continue to establish by law a firm foundation. I repeat again, it is nothing new, it is nothing different, it is nothing unique, it is nothing novel. It is the foundation which the Congress established last year for all Federal employees for constructive labor-management relations between the Panama Canal Commission and the other Federal agencies and their employees in the area presently designated as the Canal Zone.

Mr. HELMS. Will the Senator yield?

Mr. MATHIAS. Yes; I am happy to yield.

Mr. HELMS. Mr. President, I commend the Senator on his amendment. I submitted last evening for printing almost the same amendment. My amendment is No. 376. In light of the Senator having called up his amendment, for which I commend him, I wonder if he would make me cosponsor?

Mr. MATHIAS. I am very pleased to do so. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. This demonstrates what the Senator from North Carolina and I know, but which a lot of other people do not know, that we agree on a lot more things than meets the eye.

Mr. HELMS. The Senator from Maryland believes in fairness, and I hope it can be said that the Senator from North Carolina does. What this amendment proposes to do is to treat the employees fairly in line with the promises made last year.

Mr. MATHIAS. That is correct. We do not want to make fish of one and fowl of another if we do not adopt this provision.

Mr. HELMS. Exactly.

Mr. MATHIAS. And I do not think we want to go back on the type of assurances which have been given. I am sure the Senator from North Carolina had, as I had, many letters from employees or their families last year.

Mr. HELMS. I did, indeed.

Mr. MATHIAS. Those assurances were given, that their positions would not be adversely affected.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, title VII applies to U.S. employees but not to noncitizen employees; does it not?

Mr. MATHIAS. That is my understanding.

Mr. THURMOND. And noncitizen employees have their own arrangement, their own setup.

Mr. MATHIAS. That is right. It would not apply to non-Americans.

Mr. THURMOND. This amendment would apply to the noncitizens; would it not?

Mr. MATHIAS. Will the Senator repeat that?

Mr. THURMOND. I said the amendment of the distinguished Senator from Maryland would apply to noncitizens.

Mr. MATHIAS. No; it would apply to citizens, not to noncitizens.

Mr. THURMOND. Would this apply to all employees in the Canal Zone?

Mr. MATHIAS. To the U.S. citizens employed by the Commission.

Mr. THURMOND. The Defense Department is strongly opposed to this and the administration is strongly opposed to it.

With this amendment, the Panamanian employees of the Commission and the Department of Defense would come under U.S. labor-management regulations for adjudication of labor-management disputes and thus be subject to U.S. laws although they are Panamanians.

Mr. MATHIAS. Let me put this proposition to the distinguished Senator from South Carolina. Let us suppose that, as a result of this amendment, the working conditions of some Panamanian employees of the Panama Canal Commission were to be improved. What would be the Senator's choice? Would he downgrade the conditions of employment of American citizens to the level of those of Panamanian citizens, or would he rather have a few Panamanians upgraded to protect the standard of employment of the American citizens who are employed there?

Mr. HELMS. If the Senator will yield, the compelling point, in the view of the Senator from North Carolina, is that a flat-out promise, unquestioned assurance, was given last year to the employees in this specific regard. Is that not correct, I ask my friend from Maryland?

Mr. MATHIAS. My recollection is that, many times, it was repeated that the conditions of employment of Panama Canal employees would not be adversely affected.

Mr. HELMS. I think that is indisputable. I think that the Government of the United States ought to keep its word. There may be some aspects along that line that I do not like, but I do like the idea of keeping our word. That is the reason I support this amendment.

Mr. Presidnt, the employees of the Panama Canal Company and the Canal Zone government represent one of the most highly skilled and motivated groups in the entire U.S. Government. They were called down to the Canal Zone to pursue lifetime careers in an enterprise of unique energy and skill. Many of them have devoted a lifetime to that pursuit, and they have a special pride in the American accomplishmnt on the isthmus.

When the Senate acted last year to give away the Panama Canal by abolishing the Canal Zone, the Senate also removed from the most loyal and dedicated group of U.S. employees the protections and security of U.S. law and the U.S. Constitution. Instead, they would be placed under one of the most arbitrary and ruthless dictatorships in the world, in a very uncertain atmosphere, with the threat of Communist takeover of the Panamanian Government hanging over their heads.

Indeed, the OAS found that Panama has a terrible record on human rights. I shall not take time to read the entire report, or even the summary which I hold in my hand, but it is worth perusing.

Mr. President, I ask unanimous consent that the summary of the OAS human rights report on Panama be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, what we have done, in effect, is to break our contract with this loyal and dedicated group. We have welshed on the bargain by which they were induced to dedicate their lives to this service. There is nothing that we can do to really make it up to these employees. However, certain concrete promises were made to the employees by the administration. A key promise was that the terms and conditions of employment would be no less favorable under the new setup than at present. That promise has not been kept in this legislation.

Last year, Congress passed the Civil Service Reform Act, covering all Government employees. In particular, title VII of that act set up uniform rules governing wage increases and other labor-management relations. At present, title VII covers Canal Zone employees because the Canal Zone is considered part of the United States.

However, the Civil Service Reform Act removes overseas employees from the uniform rules. The Senate bill treats canal employees as though they were overseas employees, not covered by title VII. But if the terms and conditions of employment are to be no less favorable, then the employees must have their title VII rights restored.

The amendment of the distinguished Senator from Maryland would make this issue uniform with the House bill. It would restore title VII rights to the canal employees, thereby keeping the bargain. I might add that this amendment is fully endorsed by the American Federation of Government Employees and the AFL–CIO.

EXHIBIT 1

[From the Human Rights Watch, No. 4, February 1979]

OAS REPORT CONFIRMS FLAGRANT VIOLATIONS OF HUMAN RIGHTS BY DICTATORSHIP

The Inter-American Commission on Human Rights of the Organization of American States reports on the grave "Situation of Human Rights in Panama". Approved in June 1978, released in November and printed in January 1979, the 122 page Report gives details of torture, murder, exiling forced labor by the National Guard, the police of the military dictatorship of General Omar Torrijos.

The Commission documents that the regime is guilty of violations of the full range of human rights. Recommendations for urgent reforms are noted in the Report. The study included a nine day "on site" visit by 3 members of the Commission, 3 staff attorneys and 2 assistants.

SUMMARY OF THE COMMISSION REPORT

Chapter 1. The Legal Framework.—

Panama is a signatory to over 20 international instruments relating to human rights. Panama's 1972 Constitution provides human rights protection, but the concentration of powers in the Executive permits suspension of guaranteed human rights.

Chapter 2. The Right to Life, Liberty and Personal Security.—

The Report details:

Cases of death or mysterious disappearance such as that of Father Hector Gallego (P. 19–21), a Catholic priest who "had organized peasant cooperatives that affected economic interests of the Torrijos family". He was arrested by the National Guard and never seen again. "As a consequence (of his death) there were created difficult problems between the Church and the Government." In this and the many cases of death atributed to the National Guard the Commission concludes "the Government of Panama did not carry out an impartial and exhaustive investigation."

Forced and unremunerated labor of unsentenced detainees.

Torture by the National Guard by such tactics as:

Electric shocks to vital parts of the body, ears, genital organs and the anus (as in the case of Leopoldo Aragon, P. 30).

Holding prisoners incommunicado for an indeterminate length of time.

Physical beatings of male or female prisoners, most often with a hose.

Fondling of private parts of female prisoners and threats of rape.

Subjecting prisoners to long interrogation periods while depriving them of rest, sleep, food or water.

The Commission concludes that the above charges are substantiated.

Chapter 3. The right of protection from arbitrary arrest (habeas corpus).—

Writs of habeas corpus are denied or avoided by keeping prisoners incommunicado. Unless someone outside knows of his predicament, a writ is an inaccessible remedy (as in the case of Eusebio Marchosky, P. 32).

The Commission concludes arbitrary arrests have occurred . . . the protection of habeas corpus has been ineffective.

Chapter 4. Right to due process and a fair Trial.—

The Constitution guarantees trial according to law, except that public officials may fine or arrest anyone who insults them or who is in contempt of their authority.

The lack of due process and a fair trial is very serious because the police night judges play a very important role in the criminal justice system of Panama. 46% of the 547 sentenced prisoners on the penal Island of Coiba had been sentenced by police night judges. Summary justice is illustrated by the fact that 98.5% of those had been arrested and sentenced the same night (10% sentenced apparently for nothing more than suspicion).

Of the total sentenced in 1977, almost 50% were sentenced in November when the Coiba penal colony requires harvest labor. None of the 251 appeals made were effective.

American citizens are arbitrarily arrested, jailed without trial, held incommunicado, habeas corpus denied, jurisdiction shifted, judicial orders illegally countermanded by the Chief of the Secret Police. The Report cites, as an example, the case of an American, Cassandra Lee Gosler, (P. 60–66), who was imprisoned for more than 6 months without trial, accused of international drug traffic. She was never tried but eventually freed. The Commission concludes, "The case of Cassandra Lee Gosler corroborates allegations that:

1. The legal process is not respected.
2. The judiciary and the public prosecutors do not have complete independence of action, and.
3. In some cases, the National Guard disregards the legal process and attempts to impose its will upon the courts and prosecutors."

Chapter 5. Right to freedom of investigatin, opinion, expression and dissemination.—

Freedom of expression is still "given with an eye dropper". The restrictive self-censorship Decree 343 was cancelled, in a cosmetic gesture, but it was soon replaced by Law No. 8, which among other improprieties, requires licensing of all newsmen.

The Report cites crackdowns on independent media and commentary; i.e., the stoning of radio station "Impacto"; the arrest and exile of its owner; shutdown of the station and arrest of employees. Earlier dictatorship threats to Radio Impacto had been triggered by its "coverage of student strikes against communist influence".

Press is controlled by the dictatorship either by its ownership by members of the government or by business associates of the dictator. This results in "a uniform expression of the government's position", "absence of other points of view and a tendency to manipulate the news", and "initimidating and denigrating persons considered as opponents of the government." The Commission concludes that the right of investigation, opinion, expression and dissemination would be sufficiently protected only "if interpreted by an independent judiciary".

Chapter 6. Right of assembly and association.—

In today's Panama, labor groups are semiofficially forced to become part of the Federacion Sindical, a communist controlled labor federation created by the government to control organized labor. Independent labor groups fail to get favorable action on union matters at the Labor Ministry. New unions are not given the legal recognition or denial required by law. Professions (those) requiring license (to work) can only get renewals through government recognized unions.

Some political parties continue to exist and to hold meetings, but without their legal character they are subject to suppression at any time, and they cannot participate in elections as parties.

The Commission concludes "that the government of Panama has employed formal and informal means that make the parties feel insecure and inhibit the right of association."

Chapter 7. Right to residence and movement.—

Although the Panama Constitution specifically prohibits exile of Panamanian citizens, hundreds were exiled by threats or force.

Some exiles were allowed to return, but there was no general permission until April 14, 1978. Since then, the fact that many exiles fear to return or only make occasional visits to their homeland suggests their apprehension is based on the trumped up criminal charges still pending against them, and that there is no safety for dissidents under the continuing structure.

The Commission "has taken notice of the return to Panama of some of the exiles".

Chapter 8. The right to vote and participate in government.—

Gerrymandering (P. 108) results in the regime's self-perpetuation. Only 8 percent of the electorate—in sparsely, easily controlled rural districts—elect sufficient representatives so that by themselves they elect the President of the country.

Under the dictatorship, the legislature (Assembly) has lost or had drastically limited its check on the Executive, power of approval, investigatory or censure powers, appointive or judicial powers and power to enact legislation.

The Commission concludes "the average citizen may have an opportunity to participate in government through appointment, but his participation through suffrage counts for very little."

The report makes strong recommendations to the government and the Panamanian people.—

1. Insure effective independence of the judiciary and instruct officials to comply expeditiously with judicial order.
2. Protect persons in custody from "physical abuse", with particular efforts "to prevent sexual abuse of women".
3. Apply strictly . . . the norms prohibiting forced labor.
4. Provide persons accused of criminal offenses with adequate means to prepare and conduct their defense" and "elimination of the night court procedures which permit jailing without . . . opportunity to prepare their defense.
5. Implementation of international and Constitutional provisions and thus prevent exiling and expatriation of Panamanians.
6. To take steps which would allow judicial review of cases involving persons convicted by administrative action under Decree Law 342.
7. Guarantee "rights" to organize and assemble for peaceful political purposes and dissemination of views.
8. Apply generally recognized norms for classification and separation of persons in custody.
9. Relieve existing congestion in detention centers and prisons and to assure availability of adequate medical facilities . . . particularly on Coiba Island.

Comments and 1978 violations subsequent to the report.—

The Commission Report confirms the grave disparity between guaranteed human rights under Panama's Constitution and the systematic violations and denials of those rights by the Torrijos regime.

The Government of Panama, responding to the Commission's Report, takes issue with the cut-off date of June 1, 1978. It contends that thereafter changes have taken place. However the June 1st date, by strange coincidence, leaves unreported a shocking series of repressive and regressive violations which began the next day.

June 2, 1978: With the stoning of Radio Mia by a government instigated group. Reported reason and timing for the attack was the station's commentaries on increasing communist activities.

June 14: From Newsweek.—

Last week's violence erupted when students who support Torrijos—and whose leaders are paid out of state funds—attempted to break up a meeting of law students opposed to the treaties. The clash turned lethal when the progovernment students, joined by undercover agents of the G2, Panama's secret police, opened fire with small arms. As the fusillade continued, a gray pickup truck sped past the melee and a black-clad man crouching in the pack sprayed the anti-Torrijos students with bursts from an Israeli-made Uzi sub-machine gun.

"This country is finished," said a housewife who supports Arias's call for a return to democracy. "If Torrijos and the *Guardia Nacional* [the army] are willing to murder students two days before Jimmy Carter arrives, they'll hunt us down like dogs after he leaves." Arias himself told Newsweek that a national committee uniting the country's numerous opposition factions had been formed. "Panama's problems are more economic than political." he said. "But the first step is to get rid of Torrijos . . . He's basically a policeman who has found himself in power. It's too much for him." Arias charged, "so he takes refuges in drinks and drugs and women."

June 16: In the village of Capira 12 supporters of former President Arias' Panamenista Party are arbitrarily arrested. Taken to the National Guard station, they are brutally tortured. One, Roman Rivera, was murdered. Rodolfo Bravo, near death, was finally hospitalized. This has become the Inter-American Commission's Case #2936.

June 29: The Panamanian Catholic Bishops Conference issues a Pastoral Letter on "The Situation of the Country". It condemns, among other government action, the brutal slaying of University students on June 14; the arrest and torture of the group of countryfolk at Capira; the fact that "certain Marxist elements speak not only for the government but for the whole nation". The Letter called for an open investigation of the above matters and for a correction of the serious defects of the structure of government which denies liberty and rights.

Though the Commission's Report touches on religious freedom, the report cuts off before the Pastoral Letter, nor does it cover the brief anti-semitic outburst (which Archbishop McGrath condemned from his pulpit). The anti-semitic incidents and press comments followed immediately after the April 16, 1977 signing of the Torrijos-Khadaffi "Mutual Support Treaty" in Libya, which Panama ratified in October 1977.

July: The recurring pattern of illegal arrests of members of the media and of students continues.

August: A repetition of the national election mockery in which political parties are denied participation.

September: The Panama Government, in a letter to the O.A.S. Commission, acknowledges National Guard Culpability for the tortures and murder of Case #2936; promises trial of the guilty, but exonerates commissioned officers in advance.

October: The newly elected National Assembly predictably elects Torrijos' selection for President of the country. Omar Torrijos remains Commander in Chief of the National Guard.

It is clear from the June through October actions of the Torrijos regime that there is a pattern of recurring outbursts of gross violations of human rights by murder, torture, arrests and threats, while simultaneously there is a continuing repression of rights to a free press and political freedom.

The Commission's Report corroborates the Panamanian Committee for Human Rights reports and testimony before Congressional committees on 5 occasions. With this official substantiation, various questions are raised:

1. Has faulty intelligence produced the distorted and often inaccurate Human Rights Reports and testimonies by the U.S. Department of State, thus allowing the Panamanian dictatorship to solidify its position?

2. Will Section 660 of the Foreign Assistance Act be enforced by this Congress? The section prohibits U.S. support for police and prisons. How can other denial of support for a repressive government help the freedom loving Panamanians in their struggle to regain their former democracy?

3. What measures can be taken to protect the civil and human rights of U.S. citizen employees of the Panama Canal from the arbitrary and capricious justice of Panama's present dictatorship?

Mr. HELMS. I thank the Senator from Maryland.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. MATHIAS. Yes.

Mr. THURMOND. As a matter of fact, 80 percent of the employees are Panamanians, are they not?

Mr. MATHIAS. A large percentage are.

Mr. THURMOND. In other words, this title 7 now applies to U.S. employees. If the amendment of the distinguished Senator passes, that will embrace the Panamanian employees, too, who constitute about 80 percent. Is that not correct?

Mr. MATHIAS. I posed a question to the distinguished Senator: If that is the effect, would he not rather have the positions of Americans protected, as we promised they would be, even if it means that it is some amelioration of the working conditions of the Panamanians?

Mr. THURMOND. Will the distinguished Senator cite to me where we promised that?

Mr. MATHIAS. I believe if the Senator would go back——

Mr. THURMOND. I am informed that we never made such a promise.

Mr. MATHIAS. Well, if the Senator will take the debate——

Mr. THURMOND. I should like the Senator to cite that, if he has authority for it.

Mr. MATHIAS. I believe if we peruse the record of what was said in this Chamber during the long debate in which we discussed the Panama Canal Treaty, in one way or another, it was said repeatedly that the position of the Americans who had devoted their lives as patriotic citizens to the service of their country, by working for the Panama Canal Commission, would not be jeopardized or downgraded as a result of that service.

Mr. THURMOND. What the Senator is doing is applying this to the Panamanians. He is bringing them under the rules and regulations of the U.S. labor relations system. There has been no such promise made along that line, so I am informed. I should like the Senator to cite his authority if there has been any promise made, and I understand it has not been made, to that effect.

Mr. MATHIAS. The Senator's recollection and mine differ to that effect.

Mr. THURMOND. I just consulted the counsel to the Committee on Armed Services, Mr. Roberts, and he says that the position I have taken is correct.

Mr. MATHIAS. That means the Senator is willing to downgrade the position of Americans who have devoted their lives patriotically to this service.

Mr. THURMOND. Not the Americans, no.

Mr. MATHIAS. That would be the effect of the Senator's opposition to this amendment.

Mr. THURMOND. U.S. employees will remain under it.

Mr. LAXALT. Will the Senator yield for a question?

Mr. MATHIAS. I am happy to yield, but first let me respond to the Senator from South Carolina.

Mr. LAXALT. Surely.

Mr. MATHIAS. On page 187 of the bill, it is provided that the Panamanians will be dealt with under an Executive order. What we are doing is simply providing by statute for what would otherwise be done by Executive order, thereby to get some certainty into the law.

Now I am happy to yield to the distinguished Senator from Nevada.

Mr. LAXALT. Mr. President, I just wondered, under the existing situation, are the employees who are American citizens covered under civil service?

Mr. MATHIAS. Certainly.

Mr. LAXALT. So the effect of this amendment——

Mr. MATHIAS. Is to preserve their position.

Mr. LAXALT. Not only that, but to expand the coverage to include Panamanians who are presently not covered under the umbrella of the Civil Service Commission. Is that where we are?

Mr. MATHIAS. If it has that effect, that would be the price of preserving the status quo for the Americans who are now there.

Mr. LAXALT. The one point I want to tie down for my own purpose is whether, under existing law, without any amendment of this kind being adopted, the employees of the the Panama Canal Commission who are American citizens are presently covered by civil service?

Mr. MATHIAS. Yes.

Mr. LAXALT. I thank the Senator.

Mr. MATHIAS. Mr. President, I want to point this out, in the time left to me: this amendment would involve no additional cost to the Government, since the agencies and officials who are administering and enforcing it—this is in further response to the Senator from Nevada—are already in place under the Civil Service Reform Act which was adopted here last year. So this would make good on the pledges which were given when the Panama Canal Treaty was negotiated and ratified, that the rights and benefits of employees maintaining and operating the canal would be no less than they were before October 1, 1979, which is the date the treaty goes into effect.

Mr. LAXALT. Will the Senator yield on one other question here?

Mr. MATHIAS. Surely.

Mr. LAXALT. Can the problem possibly be this, that the DOD employees, after the strike-off date of October 1, would continue to be protected by civil service?

Mr. MATHIAS. I am sure that is the case.

Mr. LAXALT. But as of October 1, those employees who are American citizen employees of the Canal Company, would not be. Is that where we are?

Mr. MATHIAS. The Senator is very perceptive.

Mr. LAXALT. Even though they are American citizens.

Mr. MATHIAS. So we could have American citizens working in the same office—in fact, at opposite sides of the same desk—one of whom would be protected by the law and one of who would lose that protection by virtue of the treaty. This amendment is designed to rectify that discriminatory treatment.

Mr. President, I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska has no time.

Mr. LEVIN. The Senator from Nebraska will be handling this for the majority side, Mr. President. I yield all the time to the Senator from Nebraska.

Mr. EXON. I thank my colleague from Michigan.

Mr. President, as a matter of explanation, the Senator from Nebraska has been asked to handle the position of the Committee on Armed Services on this measure because the Senator handling this on the floor was one of the four members of the Committee on Armed Services who did not go along with the majority of the Armed Services Committee when this issue was passed out to the floor. So I appreciate very much the opportunity to handle the majority recommendations of the Armed Services Committee.

At the outset, Mr. President, let me state that, while I was not here in the Senate last year, had I been here, I would not have voted to approve the Panama Canal Treaty.

But, as I have said before, that is water over the Panama Canal dam, so to speak, and, rightly or wrongly, the Senate did confirm that treaty.

My concern, therefore, has been to keep the commitments to the international community and, in particular, along with Panama.

At this time we have no choice, it

seems to me, but to move ahead with the decision of the U.S. Senate in its last session. Therefore, it has been my goal to try and do whatever I could to control the cost to the American taxpayer of the implementation of the Panama Canal treaties.

We had long hearings on this matter. The Senator from Michigan in his opening remarks this morning indicated that he and the committee agreed basically to an Exon amendment that reduced the overall costs of the implementation of this treaty far, far below what would have been allowed or authorized under the bill passed by the House of Representatives.

So the situation that we are in now, it seems to me, is that we must move ahead for the implementation of this treaty with the least cost and under the best terms possible under the circumstances.

Therefore, I rise in opposition to the amendment that has been offered by the Senator from Maryland.

I suspect we could debate this a long time, and I suppose we will use up the hours on each side. But, Mr. President, I will just run through some of the concerns and some of the thought processes that went into the thinking, I believe, of the majority of the members of the Armed Services Committee when we knocked out title VII of the House bill.

First, under treaty provisions, conditions of employment shall be the same for all nationalities. Therefore, application of title VII will constitute the first time that provision will apply to foreign nationals anywhere in the world.

I emphasize again, the first time.

I think it is important we underline those words because, of all the arguments against this matter, I believe that if we accept the amendment that has been offered by the Senator from Maryland we will be taking a first step that could have some important consequences on down the line.

Presently, foreign nationals employed at the U.S. Embassies and Defense Department facilities are not covered. If title VII were applied to Panamanian nationals who work for the Commission or DOD, it could set an unwanted precedent for the future, in my opinion.

The use of U.S. agencies to adjudicate labor disputes of even Panamanian employees makes very little sense.

The Panama Canal Commission should have the flexibility to design a labor-management system responsive to this unique situation—and it is a unique situation, and I suggest that it is important that we view that unique situation, certainly, in that context, because the labor force is mostly Panamanian and will become increasingly so for the next 21 years.

During the time when we finally turn over the Panama Canal in toto to Panama.

The planned system will incorporate most of the provisions of title VII which can logically be applied to the unique situation in Panama.

Both management and the unions in the Canal area recognize the need for locally based and wholly dedicated dispute resolution machinery, the necessary machinery that should and could be in place to resolve them.

Under proposals in the bill now, the President is authorized to establish a form of collective bargaining giving Panama Canal Commission employees the same conditions that generally exist in U.S. Federal service.

Placing Panamanian employees of the U.S. Government in Panama under a U.S. system would mean that Panamanian authorities would have no in-country control over or method of influencing the resolution of disputes involving their own citizens. The result could be escalation of many disputes to the political level, with State Department involvement. This could be a frequent irritant, complicate dispute resolution and be generally disruptive, during the terms as contained in the treaty, when we turn this over finally, in about 21 years.

In a related matter that is not involved in the treaty, but something I think is equally important, I suggest, Mr. President, that should we put title VII back in, we would, or at least we might, violate the status of forces agreement between Panama and the United States. That agreement states that labor-management provisions must conform to Panamanian law.

I emphasize that last point, however, is not in the treaty, but I think it very legitimately should be considered.

Therefore, I oppose, on behalf of the majority of the Armed Services Committee, the amendment offered by the Senator from Maryland.

Mr. SARBANES. Will the Senator from Maryland yield 3 or 4 minutes?

Mr. MATHIAS. I am happy to yield 4 minutes to the Senator from Maryland.

Mr. SARBANES. Mr. President, I think it is very important to make a fundamental point about this amendment. It is that, unlike some other amendments which I understand may be brought up later in the day, it does not in any way touch on the terms of the treaties that were ratified last year.

I was very pleased to hear the Senator from Nebraska underscore that point in the comments he just made.

The amendment deals with an aspect of the implementing legislation that is separate and apart from the American-Panamanian relationship as it is involved in carrying out the terms of the treaty.

It deals simply with how the United States is going to act in an employee-employer relationship. There are no treaty terms that bear upon the amendment that is pending.

We do not have here the issue we may have on other amendments which will be brought to the floor, that is amendments that run counter to or undercut or prevent us from carrying out, with full faith and credit, the terms of the treaties that were ratified by the Senate of the United States last year, the Neutrality Treaty and then the Panama Canal Treaty.

I think it is very important that that point be established and be clearly understood.

I think my distinguished colleague from Maryland has made some very strong arguments on behalf of this particular amendment, the rationale for it, and why there is merit to the proposition of placing labor-management relations in the framework and in the context in which this amendment sets them out.

It is very important, I think, again to underscore that one can judge the substance of this amendment without having to be concerned in any way as to whether the amendment is or is not consistent with the terms of the treaty, or whether we would be undercutting or undermining the obligation that we assumed last year.

It is my understanding that this is one of the points which the distinguished Senator from Nebraska was making with respect to this amendment.

Mr. STENNIS. Mr. President, will the Senator yield me 2 minutes on the bill?

Mr. EXON. Mr. President, I yield time to the distinguished chairman of the Armed Services Committee.

Mr. LEVIN. Mr. President, I ask unanimous consent at this time that the 2 minutes be charged against the bill rather than this amendment.

The PRESIDING OFFICER. Without objection, it is os ordered.

Mr. STENNIS. I thank the Senator.

Mr. President, first I thank Senator Levin for his outstanding work. He labored long and faithfully and conferred with every member of our committee before he started building the bill together. He was ably assisted from time to time by the Senator from Nebraska, Senator Exon, and others.

We had a very good around-the-table discussion on this bill as a whole. It is an implementation, primarily, of the treaty. I am talking about the bill as a whole.

Briefly put, there are good points in the original bill and in the House bill and represents our collective views rather well. We do know that there will be matters in conference about which there is honest disagreement with the present position of the House of Representatives. We think these should go on to conference. I certainly am grateful for all those who agreed that it be taken up today with a time limitation.

So, leaving out the present amendment now, I am supporting the bill as the best we could do at that point in meeting a practical situation that does require some legislation.

On this amendment itself, I think it is correct to say that it is entirely apart, as I understand it, from the treaty itself, that it is a policy question for us to decide here, and I expect to vote against the amendment. But really I am primarily interested in the bill and moving it on to conference where we will have a chance to work it out with the House of Representatives.

I thank the Senator, again, who has worked on this bill and the time yielded.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, will the Senator yield to me?

Mr. EXON. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment.

Under current law title VII would apply to U.S. employees on October 1. We must remember that we have control of this property until October 1. After then it becomes Panamanian property.

The Panamanian employees of the Commission and the Department of Defense agency will come under U.S. labor-management relations for adjudication for labor-management disputes and thus subject to U.S. laws in that respect.

While the Panama Canal Company employees are technically covered under title VII at present there is only a labor relations program based on an Executive order. This current program does not include an exclusive recognition of unions, grievance procedures and collective bargaining agreements. U.S. citizens would be covered under title VII as is now the case.

But there is no place in the world where foreigners would be covered by title VII unless we do it here.

About 57 percent of the employees within the Panama Canal operation at present are members of unions.

Title VII coverage is in conflict with the treaty status of forces agreement. Our people down there then would be under a status of forces agreement, and this is article 4, and this is a key point that I want the Senate to understand, that article 4 of this treaty provides that the terms of employment shall "conform with the general principles contained in the labor laws of the Republic of Panama."

That is as plain as can be.

A system is needed that conforms with Panama's customs and practices and not those of the United States, and that is what is proposed to be set up. That is what the administration wants done. That is what President Carter and the administration favors. They are opposed to this amendment.

Under the title VII approach disputes would be subject to judicial review of the U.S. Court of Appeals which would be unenforceable in a foreign country.

How are you going to get a foreign national, a person in another country subject to the U.S. Court of Appeals? Our people will be under title VII. They are subject to the court of appeals. But a foreign national would not be because this property goes over to Panama October 1.

The administration plan calls for labor relations policy incorporating certain sections of title VII but modified to meet the local situation and Panama's local situation. This is the case in other countries where we have a status of forces agreement and employ large numbers of foreign nationals.

Mr. President, I think it is very clear. The U.S. Court of Appeals will not have any jurisdiction over these people. Our people would be under title VII. All the Americans will be protected. But the Panamanians are under Panamanian law. It is the Panamanian country after October 1. Therefore, their law applies to them and there will have to be a status of forces agreement there just like in the other countries of the world.

For that reason, it seems to me that this amendment is completely out of order. It is contrary to the treaty and should not be adopted .

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield myself time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, the distinguished Senator from South Carolina has stated that labor practices in the Canal Zone today are being administered under an Executive order and not under the provisions of title VII of the Civil Service Reform Act.

I do not think you can deprive U.S. citizens of the legal protection which the acts of Congress give them, and I am sure the Senator from South Carolina would not do that. Title VII provides by its language that it only will exclude an alien or noncitizen of the United States who occupies a position outside of the United States.

So clearly, American citizens working in the Canal Zone today are entitled to the protection of title VII, and they have that protection; and if we do not preserve that protection for them we will degrade their conditions of employment.

In the bill which the Armed Services Committee has sent to us and is presently being debated in the Chamber today, there is language on page 167 which I think responds to the question of the Senator from South Carolina to me a minute or two ago. He said point to the language which makes the promise that the conditions of employment will not be adversely affected. I referred him to the debate which we held here in the Senate, but that means going into the library and checking the indexes. But in this bill, the bill that is before us, on page 167, line 3, it says "* * * the terms and conditions of employment * * * shall be generally no less favorable, on or after the date of the transfer referred to"—and so forth—"than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 3, 1979."

It seems to me that is a clear reference in the language of the bill itself to the kind of general understanding that we had here in the Senate at the time the treaties were ratified that we were not going to degrade the position of American citizens who were working there.

Mr. LAXALT. Mr. President, will the distinguished Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. LAXALT. Senator THURMOND in his remarks indicated, and I want to know if I understood it correctly, that under the present situation without the amendment American employees of the Canal Company will be protected under title VII. But the coverage of the Panamanians is totally prohibited under the expressed terms of the treaty which provide that they should be covered under laws of Panama. What is the distinguished Senator's position on that contention?

Mr. MATHIAS. Well, I think, as my colleague from Maryland (Mr. SARBANES) just said here a minute ago, that the treaty is neutral on this subject.

Mr. LAXALT. Senator THURMOND spoke to that specifically. Is it your position that the language he expressed here is neutral in nature?

Mr. MATHIAS. I do not believe the language of the treaty would prohibit the kind of amendment we are considering here today.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LAXALT. Does the Senator from Nebraska wish time?

Mr. EXON. Does the Senator from Nevada want some time?

Mr. LAXALT. I am in control of the time.

Mr. MATHIAS. Mr. President, I yield myself some time.

In further response to the Senator from Nevada, I might say, if he will turn to page 187 of the bill, section 381, he will see the bill itself provides that the President "shall establish a form of collective bargaining, applicable to the Commission's employees," and what we are doing is doing it by statute instead of having the President do it by Executive order. It seems to me what is sauce for the goose is sauce for the gander, and we can establish this provision of law, which merely is a repetition of the policy the Congress has already established for every other civil servant, and we are doing it by statute instead of by Executive order.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield time to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to repeat that the Americans will be under title 7. None of them is going to be excluded. Nobody is going to be hurt. But October 1 this country goes to Panama. It no longer is part of the United States. No longer do we own it. Therefore, we have no control over it, and that is the reason they wrote into the treaty article IV. This provides that "The terms of employment shall conform with the general principles contained in the labor laws of the Republic of Panama as to the Panamanians." It is recognized that we have no control over the Panamanians then and, therefore, this position was written into the treaty. The circuit court would have no control over Panamanians down there. It is not in our country. No Federal court in this country has jurisdiction over citizens of another country, and that is what you are putting the Panamanians here under the control of the courts of this country by this amendment. It would be a great mistake to attempt to do that, and it should not be done.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, will the Senator yield so that I can respond?

Mr. EXON. I will yield on the Senator's time.

Mr. MATHIAS. Very quickly. I point out again to the Senator from South Carolina the same passage I just referred to a minute ago, that on page 187, section 381, it states:

> The provisions of chapter 71 of title 5, United States Code shall not apply to the Panama Canal Commission or to its personnel.

That means they would not have the protection of title 7 by the terms of the bill itself.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. EXON. I yield some time to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the distinguished Senator from Maryland purportedly read section 381 of this bill. However, he only read part of it. He did not read it all. In other words, I think the rest of it explains the situation. The part he did not read is:

> The form of collective bargaining so established shall contain such other necessary provisions, and shall be administered, so as to provide the Commission's employees with the right to bargain collectively under the same conditions and with respect to the same subject matter that obtains where that right is exercised generally in the Federal service within the continental United States.

So it is recognized there is a difference there, and it sets out they can bargain collectively and that they can come in and deal with the unions on a situation that is similar. But you cannot put those people under title 7. Our courts have no jurisdiction.

Mr. MATHIAS. Why not? You can put them under an Executive order by the President. Why not?

Mr. THURMOND. Because we give up the property. We give it up. It is no longer ours. The Panama Canal now is——

Mr. MATHIAS. But the Senator——

Mr. THURMOND. I have not yielded yet—is not our property. October 1——

Mr. MATHIAS. Will the Senator now yield, Mr. President?

Mr. THURMOND. October 1 we give it up, and after that then the Panamanians are under the control of Panama.

Mr. MATHIAS. Mr. President, will you now yield for a question?

Mr. THURMOND. I am pleased to yield.

Mr. MATHIAS. Will the Senator tell me why it is wrong to establish a principle of law by statute when we are contemplating doing the exact same thing by Executive order of the President of the United States?

Mr. THURMOND. Because we are losing control of the property as of October 1. It no longer belongs to the United States. Our courts would have no jurisdiction there, and that is the reason why the administration is opposed to this, and they have provided in article IV of the treaty that the terms of employment shall conform with the general principles contained in the labor laws of the Republic of Panama. So it is very clear.

Mr. MATHIAS. Is the Senator suggesting—and I cannot really believe that he is—that the Executive order of the President of the United States has some extraterritorial effect that an act of Congress does not? I believe that would be an extraordinary provision of law.

Mr. THURMOND. Mr. President, it has no intention of covering employees of Panama.

Mr. MATHIAS. Well, we do not know that.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Maybe we can clarify this. There seems to be a difference of opinion on the floor of the U.S. Senate, which is not unusual, I might add.

Let me read section 381 in toto and see if we can come to some general agreement on what it does or does not say and what is implied.

> SEC. 381. The provisions of chapter 71 of title 5, United States Code shall not apply to the Panama Canal Commission or to its personnel. In lieu thereof, the President shall establish a form of collective bargaining, applicable to the Commission's employees; into which is incorporated the substance of sections 7102, 7106, 7116, 7120, and 7131. The form of collective bargaining so established shall contain such other necessary provisions, and shall be administered, so as to provide the Commission's employees with the right to bargain collectively under the same conditions and with respect to the same subject matter that obtains where that right is exercised generally in the Federal service within the continental United States.

That means to me that, basically, what we are saying here, and what I think is a good condition, is that since we are making a change that the Senator from South Carolina has referred to, we are putting people in Panama in control of the collective bargaining process, as I think they should.

I just do not see how we can rationally accept the idea that since we are going to turn over this canal essentially on October 1, we should expect the Americans working in conjunction with those from Panama to come under the labor laws and rules and regulations of the United States of America. I do not think that is the way we should treat the Panamanians, with whom we are trying to get along.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. MATHIAS. I thank the Senator for his instructive approach. I think he has made a good suggestion, to try to decide what we can agree on; then, if we narrow down the differences we have between us, perhaps we can resolve them.

However, going back to 187, can we agree, first of all, because that seems to be in dispute, that title VII will not apply?

Mr. EXON. I believe that is what it says.

Mr. MATHIAS. We can agree on that.

Mr. EXON. The Senator from Maryland and I can agree on that.

Mr. MATHIAS. I do not suspect that we can commit ourselves for the other 98 Senators. If the Senator from Nebraska and I can agree, we are doing pretty well.

Mr. SARBANES. Mr. President, if the Senator will yield for a moment, I agree with him, and I want to increase the number of people who agree by 50 percent. [Laughter.]

Mr. MATHIAS. That is a major step forward.

The Senator has read the further provisions of section 381, and that looks to the establishment by the President of some alternative form. The language is in lieu of the protection of chapter 7. All this amendment does is to provide for keeping chapter 7.

The question is raised as to the dual citizenship problem here, that it involves Panamanians and Americans. But under the provisions of section 381, no distinction is made between Panamanians and Americans.

In line 11, it says:

> So as to provide the Commission's employees with the right to bargain collectively.

It does not say the Commission's U.S. employees or the Commission's Panamanian employees. It says the Commission's employees.

In the report of the committee on page 33, relating to section 381, it says:

> This section would exempt the Panama Canal Commission and its United States citizen employees from Title VII of the Civil Service Reform Act of 1978. In its place, the President would be required to establish a system of collective bargaining, applicable to the Commission's employees, into which is incorporated the substance of certain sections of the statutory scheme and the same collective-bargaining rights as are exercised generally by employees in the Federal service in the United States.

It seems to me that if that was the intent of the committee, we can do it just as well by statute as we can by delegating that responsibility to the President. If we do it by statute, then it seems to me that we make good on the pledge which appears on page 167 of the bill, which is that the terms and conditions of employment shall be generally no less favorable on or after the date of transfer. That is really the whole purpose of this amendment.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. MATHIAS. The time is not mine.

Mr. EXON. I yield.

Mr. SARBANES. Mr. President, I want to underscore what the chairman of the committee pointed out, which is that the issue before us is a policy question with respect to the rights and the framework in which you wish to handle the employees of the Panama Canal Commission.

There is nothing in the terms of the treaty that precludes or argues against this amendment or that would render it inconsistent with its terms.

So it is a question, as the Senator from Maryland pointed out, of how you want to handle the employees. As he has ably pointed out, the provision contained in the bill permits the President to establish, by Executive order, a certain framework. Since that is permitted, we certainly can establish by statute the framework that we may consider desirable.

Mr. MATHIAS. Since the Senator has the floor, I wonder if I may interrupt him for 1 minute.

He is a distinguished member of the Committee on Foreign Relations. I am sure he will recall that article 3, section 3, of the treaty—and I hope the Senator from South Carolina will give us his attention on this—provides:

> Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

The laws of the United States of America.

Further, the treaty provides:

> The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

If the United States of America has the right to establish the "forms of collective bargaining," certainly we can do it by statute as well as by Presidential order.

Those are provisions of the treaty which I am sure my colleague from Maryland will recall, and it seems to me that they are very pertinent to the amendment which is now pending.

Mr. SARBANES. In fact, I think the provisions to which the Senator from Maryland has referred make it clear that this amendment is absolutely consistent with the terms of the treaty; and we are back to the matter that was raised by the chairman of the committee when he said that what is at issue with this amendment is a policy judgment. Members must make the policy judgment of how they wish to treat employees, both our citizens and other nationals who are employees, and what framework should be established for them in terms of labor-management relations. That is the only question.

It is a policy question, and I think the Senator from Maryland has well outlined the merits that lie behind the amendment he is offering.

The PRESIDING OFFICER (Mr. Melcher). The time of the Senator from Maryland has expired.

The Senator from Nebraska has 5 minutes remaining.

Mr. EXON. Mr. President, I will make some closing arguments in this regard.

I point out that on page 187, in section 381, which we have discussed a great deal, there is a term in the last two sentences, lines 14 and 15: "Is exercised generally in the Federal service within the Continental United States."

We should recognize here that if we accept the amendment offered by the Senator from Maryland, we are running some grave risks, possibly with some diplomatic problems, sometime in the future.

In short, I do not think it is wise for us to run the risk of complicating this situation any more than it is right now. It does not seem correct to me to place Panamanian employees under U.S. law and open up the possibility of labor disputes becoming diplomatic disputes.

What happens if the Panamanians become upset at a U.S. appeals court ruling on a labor matter in Panama? Let us think about that.

Mr. President, I think we have covered generally all the issues very clearly. There are just two key closing points I would like to make.

Under the treaty provisions, conditions of employment shall be the same for all nationalities. Therefore, application of title VII, which would be reinstated if we adopt the amendment by the Senator from Maryland, would constitute, for the first time, a provision that would apply to foreign nationals anywhere in the world.

The last point, which I think is quite important——

Mr. MATHIAS. Mr. President, will the Senator yield for one point?

Mr. EXON. I will if I have some time, yes.

Mr. MATHIAS. Very briefly, the Senator may be right on that, but that is what the treaty provides we should do.

Mr. EXON. That is not the interpretation of myself or other members of the committee, and I just cannot agree with my distinguished friend from Maryland on that particular point.

Placing Panamanian employees of the U.S. Government in Panama under the U.S. system would mean that Panamanian authorities would have no way, no control or method of influencing the resolving of labor disputes.

I hope my colleagues will see fit to turn down the amendment offered by the Senator from Maryland.

Does anyone else seek time?

Mr. LEVIN. Mr. President——

Mr. EXON. I yield to the Senator from Michigan.

Mr. LEVIN. I thank the Senator from Nebraska.

Mr. President, the most important point in this debate is that whichever way we go on this amendment is consistent with the treaty. The chairman of the committee has made it clear, the Senator from Nebraska made it clear in opening up his remarks to the Senate, and I think it is abundantly clear that the policy option is there. We can provide these benefits either by statute or by Executive order.

In any event, they will be provided, and there are policy reasons pro and con to provide them either through statute or executively. But what has got to be left clear, so that it does not confuse later amendments this afternoon, is that whichever way we go on this vote is not mandated by the treaty. Either way we go is consistent with the treaty.

I want to make one clarifying point to what the Senator from South Carolina said. The Senator from South Carolina quoted article VII, section 2, and I believe mistakenly indicated that he was quoting from the treaty in support of his arguments. In fact, I believe the Senator would agree that he was not quoting from the treaty, but from an implementation agreement to that treaty.

So even his argument, I believe, is clearly a policy argument, and not one mandated by treaty language.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Alaska (Mr. Stevens) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 453) of the Senator from Maryland (Mr. Mathias). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton) and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

The PRESIDING OFFICER. Has every Senator in the Chamber voted?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—53

Baker
Bayh
Bentsen
Biden
Boschwitz
Bradley
Burdick
Chafee
Church
Cranston
Culver
Danforth
Durenberger
Durkin
Ford
Gravel
Hart
Hatch
Hatfield
Heinz
Helms
Humphrey
Jackson
Javits
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevens
Stone
Tsongas
Young

NAYS—45

Armstrong
Baucus
Bellmon
Boren
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
DeConcini
Dole
Domenici
Exon
Garn
Glenn
Goldwater
Hayakawa
Heflin
Hollings
Inouye
Jepsen
Johnston
Long
Lugar
Matsunaga
McClure
Morgan
Nunn
Packwood
Proxmire
Pryor
Simpson
Stennis
Stevenson
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—2

Eagleton
Huddleston

So Mr. Mathias' amendment (UP No. 453) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 454

(Purpose: To require congressional authorization to transfer Canal property to Panama)

Mr. STEVENS. Mr. President, I have an amendment at the desk which I ask to have considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 454.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 132, line 16, strike all through page 133, line 24, and insert in lieu thereof the following:

"(B) Section 68 of that title is amended to read as follows:

"'Section 68. Assets and Liabilities

"'(A) All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this act, and, except as otherwise required by law, the United States shall assume the liabilities of the Panama Canal Company then outstanding. The Panama Canal Company may use such property, facilities, and records of the Panama Canal Company as is necessary to carry out its functions.

"'(B) In the interest of economy and maximum efficiency in the utilization of government property and facilities, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvements, stocks, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

"'(C) The Panama Canal Commission may enter into cross serving agreements with any other agency of the United States for the use of facilities, furnishing of services, or performance of functions.

"'(D) The Panama Canal Commission, any other agency or department of the United States, and any United States Court in the Republic of Panama may transfer any of the records (or copies thereof) of the Commission, or of such agency, department, or court, as the case may be, including records acquired from the Canal Zone Government or the Panama Canal Company (including vital statistics), to any other agency or department of the United States and, in coordination with the Ambassador and with his approval, to the Government of the Republic of Panama.

"'(E) The provisions of this section shall apply to the Smithsonian Institution.

"'(F) No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

"'(G) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transfer pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States.'"

Mr. STEVENS. Mr. President, I have just been informed that there is a redundancy on page 2 of the amendment. Paragraphs (B) and (C) are already in the bill. I ask unanimous consent to modify my amendment by deleting paragraphs (B) and (C) and relettering the following sections accordingly.

The PRESIDING OFFICER. The Senator has that right.

The amendment was modified as follows:

Beginning on page 132, line 16, strike all through page 133, line 24, and insert in lieu thereof the following:

"(B) Section 68 of that title is amended to read as follows:

"'Section 68. Assets and Liabilities

"'(A) All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this act, and, except as otherwise required by law, the United States shall assume the liabilities of the Panama Canal Company then outstanding. The Panama Canal Company may use such property, facilities, and records of the Panama Canal Company as is necessary to carry out its functions.

"'(B) The Panama Canal Commission, any other agency or department of the United States, and any United States Court in the Republic of Panama may transfer any of the records (or copies thereof) of the Commission, or of such agency, department, or court, as the case may be, including records acquired from the Canal Zone Government or the Panama Canal Company (including vital statistics), to any other agency or department of the United States and, in coordination with the Ambassador and with his approval, to the Government of the Republic of Panama.

"'(C) The provisions of this section shall apply to the Smithsonian Institution.

"'(D) No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

"'(E) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transfer pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation is excess to the needs of the United States.'"

Mr. STEVENS. Mr. President, this is an amendment to restore a provision that is in the House bill, requiring congressional authorization to transfer property in Panama. It is not a subject that I raise lightly, because I think there are tremendous implications in the provisions of the bill before us, suggesting that property and assets that belong to the United States can be transferred by a treaty. I have resided in a territory, which is now a State, my State is offshore from the contiguous 48 States and know from my service in the executive branch and here in Congress the totality of Federal ownership, and U.S. ownership of property and assets abroad. For this reason, I consider this provision to be one of the main provisions of the House bill.

It is not a question of the prerogatives of the Senate as against the prerogatives of the House. The question is whether it takes an act of Congress to approve the transfer of property owned by the United States. It should clearly be the position of the Senate, in my opinion, that Congress can transfer property, not the President by treaty.

The Senate committee bill does not protect the constitutional preogatives of Congress. The House had this provision in its bill, and it has been deleted.

This constitutional issue was discussed at length during the debate on the treaties. I do not think it necessary to repeat all of the points that were made at that time, but it is a most important question to those of us who do live offshore who might be subject to treaties purporting to dispose of our property. It is entirely possible that a treaty with Canada, for instance, could attempt to deal with some of the islands of the State of Alaska, or a treaty with one of the Pacific-rim nations could try to deal with a question of the property rights in the form of naval bases that the United States has on Guam. I could think of other places throughout the world where we have property rights and those property rights exist under the Constitution, as I view it. Article IV, section 3, clause 2, specifically states:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

We all know the past record of litigation that was filed by 60 Members of the House on this question. The District Court of the District of Columbia dismissed the case for lack of standing. The court of appeals issued a split decision indicating that it could affirm the dismissal for lack of standing and stating that the House did not have exclusive power to dispose of American property, while the dissent said that the House did have exclusive power. On writ of certiorari, the Supreme Court denied the writ without comment or explanation.

It is not known, of course, on what grounds the Supreme Court denied that petition. The issue that is not resolved because of the action taken by the Supreme Court.

We are considering a question of Presidential power versus the role of the Congress as an institution as opposed to the role of the Senate and its power to approve or to advise and consent to treaties entered into by the executive branch. In reviewing the question, I feel that the constitutional provision, which specifically deals with property and territory of the United States, ought to be clearly reaffirmed by Congress.

This amendment does not abrogate the treaties. The amendment authorizes the transfer required by the treaty for October 1, 1979.

Let me repeat that: The transfers that were to take place on October 1, 1979, are specifically protected by this amendment.

The House agreed to that and I agree with that, but subsequent transfers must be made by an act of Congress.

I voted against the Panama Canal treaties last year. I thought they were not in the best interests of the United States and that they were ambiguous. I still take that position and I would take that position again today.

But the treaties were ratified by the Senate and there is nothing we can do to change that ratification. However, we still have the obligation to protect the American constitutional system, and to defend the rights of the Congress as an entity, vis-a-vis the executive branch, when making decisions concerning the property of the United States.

What I am simply trying to do is to assure the Constitution is upheld and that the voice of both Houses of the Congress are involved. In dealing with disposal of and rules and regulations concerning the disposal of American property we should have an act of Congress and not a treaty negotiated by the State Department and presented to us by the President.

My amendment simply requires that the Congress exercise the powers that were granted it by the Constitution.

This is not a specious argument. For those who do not realize it, there were some treaty negotiations going on in Germany this year which dealt with a worldwide concept dealing with wildlife and the management of wildlife.

Under our traditional concept of law the States have the right to manage wildlife, not the President or the State Department.

Mr. President, the committee information given in the first section (a), (d), and (e) is redundant. So I apologize to the Senate and ask that the amendment be modified to strike that provision, also.

The PRESIDING OFFICER (Mr. PRYOR). The Senator has the right.

The amendment will be so modified.

The amendment, as further modified, is as follows:

Beginning on page 132, line 16, strike all through page 133, line 24, and insert in lieu thereof the following:

"(B) Section 68 of that title is amended to read as follows:

"'(A) No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

"'(B) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transfer pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States.'"

Mr. STEVENS. Mr. President, I will send to the desk a modification of the amendment so it is clear what my intent is as to the amendment that is before the Senate.

As I was saying, we discovered those treaty negotiations concerning international wildlife management and I was pleased we were able to send a member of my staff to the negotiations going on in Germany.

We have property rights in that wildborder with Canada and we have wildlife that transits the frozen part of the Bering Sea and goes to Siberia.

We have property rights in the wildlife and they are subject to our laws.

I think it is entirely possible that this precedent we are involved with now, a precedent which provides that the treaty power alone will dispose of property rights of the United States, will come back to haunt us.

The Constitution could not be more specific in dealing with the property belonging to the United States. It is a congressional power. It is not a power solely conferred to the President of the United States or to the Senate in its role in the ratification of treaties.

I would urge that the Members of the Senate consider this. This should not be an issue in the conference with Members of the House.

If I were a Member of the House, I would take affront at the Senate striking out. By striking this provision we are saying to the Members of the House that they do not have a constitutional role in dealing with the property of the United States when that property is subjected to the treaty power of the President.

I would hope we will have some discussion as to why the committee saw fit to take this action.

If there is a feeling that the House has no such role, then I think we ought to debate that. I hope former Members of the House will come over here to participate in this debate because this is one of the concepts that brings great division in the Congress.

There is a division between the two Houses right now.

I think they have invaded the prerogatives of the Senate with regard to the new Senate Building.

They certainly invaded the prerogatives of the Senate the other day with regard to the question of the pay that we had in a legislative appropriations bill for employees of the Senate.

It appears that they were even willing to go so far as to start investigating the individual details of our expenditures.

Now, this kind of division comes about because someone over here is rubbing them the wrong way.

I hope that is the case because if they are really intent on getting involved in the operations of the Senate, then, as a member of the Appropriations Committee, I intend to get fully involved in the operations of the House.

But, as a practical matter, I think it is a matter of comity and, in recent action we have taken, we have denied that comity with regard to the House of Representatives.

This provision being stricken from the bill, in my opinion, will create one of the worst relationships with the House of Representatives the Senate has fostered in my 11 years in the Senate. There is no reason for it, and it is a valid constitutional provision added by the House of Representatives.

So I would urge the Members of the Senate to consider this amendment to restore this provision of the House bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, the argument made by the able Senator from Alaska is very familiar to me because it was made repetitively in the course of the Senate's consideration of the Panama Canal treaties.

The argument was heard and then rejected by the Senate. The basis for the Senate's decision was well founded.

Time and time again, property owned by the United States, but located in foreign countries, has been transferred by a self-executing treaty.

The Panama Canal treaties do not represent the first time that property belonging to the United States has been transferred under the terms of a self-executing treaty properly ratified by the Senate alone.

In such cases, the law is clear. Concurrence by the House of Representatives is not necessary.

As recently as June 1, 1978, a Federal court has addressed itself to this issue, in the case of Edwards against Carter.

A group of Congressmen, Members of the House of Representatives, sought an injunction to block the transfer of the property conveyed to Panama under the Panama Canal treaties upon the ground that the Constitution states:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; . . .

The able Senator from Alaska also relies on this provision of the Constitution, arguing that both Houses of Congress must join in authorizing any conveyance of U.S. property.

The Court, however, held that the law of this country does not require, nor does the Constitution, the concurrence of the House of Representatives for the transfer of U.S. property, when that is accomplished through the terms of a self-executing treaty.

I quote from the précis of the decision of the U.S. Court of Appeals for the District of Columbia, which held that "the property clause of the Constitution is not the exclusive method for disposing of Federal property and the United States is not prohibited from employing an alternative means constitutionally authorized."

In that opinion, the Court also held that "the property clause of the U.S. Constitution does not prohibit the transfer of U.S. property to foreign nations through self-executing treaties."

That is the law, Mr. President, reaffirmed as recently as June 1978.

The Senate properly disposed of this question when we deliberated at length the Panama Canal treaties last year.

Our decision conformed with the law. Our position has recently been reaffirmed by the Court of Appeals of the District of Columbia. I, therefore, feel that it would flout the law, as well as create a very unhappy precedent for the Senate, if the amendment offered by the Senator from Alaska were to be adopted.

Mr. LEVIN. Mr. President, I yield to the Senator from Mississippi so much time as he may need.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I thank the Senator who is the manager of the bill on the floor.

Mr. President, I am certainly not going to discount Alaska's present representation here in this Senate. I could not do that. We all knew that State would be well represented when these matters came up.

We have a legal situation here. I did not vote for the treaty when it was up on its merits but I think now where we know the treaty has passed, it seems to me like in the case of this kind it is settled law already. At least in a foreign country, the treaty process is a valid one, authorized under the Constitution and frankly, being in a foreign country that process in transferring property is the one that is most likely to be used.

We have other property in Panama, considering it a precedent is that country alone. We have other real property and if it does not pass under the treaty in these future years according to the formula, as I understand, we would have to come back here again and again and again in an effort to decide this matter.

Everything considered we decided firmy that as it applies here—we have these court dceisions already that have been presented here and will be discussed further—we have that precedent. We have this treaty and in this case at least, it having gone this route, there is no other way to go now. We cannot turn back. We should not turn back as a practical matter. It has already been decided.

So far as the House of Representatives is concerned, I will not yield to anyone being more concerned that all of their prerogatives be respected by this body, and we will have a conference here. If we can keep this bill in the form reported, this will be one of the major issues, and we will have to deal with it and with them the very best we can, and we will be prepared on that and they will be. Something will come back to this body that we hope will be acceptable to each body.

So let us not defeat this process now by anticipating some kind of a lack of comity that does not exist. There is no lack of comity on this subject, at least with the House of Representatives. These are the ordinary established processes and anyone who tries to tell me the House of Representatives will not approach it in a spirit of reconciliation if possible, or adjustment, into finality, is contrary to all the experience I have had with them. They are experts at comity. They do not run out on a duty or turn their back on something and say in an arbitrary fashion, "Get out of the way."

They will cross swords and try to work something out if this bill goes to conference the way it is now on this point, and this is a deliberate conclusion, and I hope that can be sustained by the Senate vote.

I have no objection to anyone proposing amendments, of course.

I thank the Senator for yielding.

Mr. LEVIN. Mr. President, I yield as much time to myself as I may need.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the amendment of the Senator from Alaska violates the treaty. It is that simple. It is that important. It is that vital.

The treaty reads in article 13, section 2:

> The United States of America transfers to the Republic of Panama all right, title, and interest the United States of America may have with respect to all real property as set forth below.

And it sets it forth below.

That treaty purports to be the document of transfer, including the property which is going to be transferred at the end of the year 1999 at which point all real property that was used by the United States for the purposes of the treaty is transferred to the Republic of Panama.

Article 13, section 2 of the treaty which this Senate has ratified transfers property to the Republic of Panama.

We may not have liked that, at which point we should have sought an amendment to the treaty. We may not agree with that and we may feel that the House of Representatives should have a part in this process. This is not the time to do that. This is the time to implement a treaty which has been ratified by the Senate.

The court, as Senator CHURCH has indicated, has ruled in this case, and this is an opinion which is not an abstraction in some other set of facts where the argument could be the facts in this case are different. The opinion in Edwards against Carter relates to the facts before us. It relates to the transfer of property in the Panama Canal pursuant to this treaty. And this opinion specifically on the point holds that the treaty power as contained in article 2 provides that property can be transferred from the United States.

This opinion of the court of appeals was an opinion which was in effect affirmed by the U.S. Supreme Court when they denied certiorari in this case on May 15, 1978.

So we do not have to argue about legal precedents in different cases and argue whether or not that precedent applies in this case or some other precedent. We have a court opinion in this case which rules that this treaty being a self-executing treaty can transfer property of the United States to Panama.

Now, the problem with H.R. 111 in this regard is that it sets up conditions on the transfer of property to Panama which the treaty provided for. Those conditions are that the U.S. Congress, by law, must provide for the transfer of property.

The specific section of H.R. 111 which is at issue here, and which this amendment would seek to attach to our bill, says that:

> No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

In the face of a treaty which transfers that property without such legislation and in the face of an opinion by the Court of Appeals in Edwards against Carter, which says that that treaty is a proper way to proceed, there is more than one way to transfer property. You can transfer property by enactment of a law by Congress, and so said Edwards against Carter. But you also can transfer property by treaty which is self-executing, and so says Edwards against Carter. So the provision of H.R. 111 flies in the face of that court opinion, and I do not believe we are going to have a great problem with the House of Representatives on this, although we have a difference of opinion, and there is no reason to assume we cannot work out a proper disposition of this problem in conference as we have historically done with the House of Representatives.

This is not we interposing ourselves in front of the House of Representatives' wishes. It is the Constitution as interpreted by Edwards against Carter which has decided this very issue for us.

Mr. President, as I started off saying, this amendment is a treaty violation. If we begin down this road with a new partner, the Republic of Panama, the ends are not going to be pleasant, and we are going to be, by our starting on the treaty violation road, inviting treaty violations by the Republic of Panama.

I do not think it is in our interest to do that. It is in our interest to be circumspect, to be certain that the U.S. Government complies with the spirit and the law of this treaty, and it gives no excuse, no excuse whatsoever, to the Republic of Panama for not living up to its obligations, because we have important rights under this treaty.

We have rights to run the canal until the year 2000, we have rights to use the property in the Canal Zone, including the right to station troops in the Canal Zone; and we cannot begin down the road of violating this treaty unless we want to invite the Republic of Panama to engage in treaty violations also. It is a dangerous road that this kind of amendment would have us try.

It not only invites treaty violations by the other side, but when you adopt amendments or laws which violate treaties it means this country does not take its obligations seriously. It signals to the world that we are not going to keep our word. Whatever we may agree or disagree on relative to the Panama Canal treaties in this body—and I was not here last year, although I know the passions which were expressed, and they are understandable—nonetheless, I think we would agree on one thing certain, all of us, whether we are for the treaties or opposed to the treaties, I think we would all agree that we cannot violate these treaties, that we cannot go back on our word; that we take our international obligations seriously.

Mr. President, the United States has always done this. We have been circumspect under the most difficult circumstances, and even down in Cuba where we have a base at Guantanamo Bay we have been able to preserve that base because we have been circumspect in our carrying out of the treaty even though Cuba has given us cause after cause for violating the treaty if we wanted to. Certainly Cuba has given us numerous times, numerous reasons, for backing away from that treaty, for withholding payments under that treaty, for engaging in violations of the treaty on our side because they violated the treaty on their side.

But what we have never done, even in Cuba, even with those provocations at Guantanamo Bay, is given Cuba the excuse to violate the treaty under which we occupied Guantanamo.

It would be self-defeating in the extreme if we added any amendment, including this one, to this bill which would give Panama justification for violating its obligations under the treaty.

Mr. President, I ask unanimous consent that an opinion which we have received from our general counsel to the Armed Services Committee, John Roberts, be printed in full in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., July 17, 1979.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: You asked me, in preparation for committee markup of that bill, to review H.R. 111 and determine whether any of its provisions are inconsistent with the Panama Canal Treaty of 1977, which the bill is designed to implement. I have studied the provisions of H.R. 111 and I conclude that several provisions, falling into three major areas, are inconsistent with the letter or the spirit of the Treaty.

The first area involves new conditions on the payments to Panama. It is here where the bill most clearly conflicts with the plain words of the Treaty, in my opinion. Article XIII of the Treaty sets down in some detail the three types of payments Panama is to receive—$.30 per ton of traffic (adjusted over time), a $10 million fixed annual payment, and an additional $10 million to be paid only to the extent that revenues of the Commission exceed its expenditures in any given year. Section 250 of H.R. 111 sets three new conditions to be met before these payments are received. Section 250(c) provides that Panama is to receive no payments at all in any year that it levies retroactive taxes on former Canal Zone businesses, Section 250 (e) provides that no payments from surplus may be made until those surpluses have been applied to payment of all U.S. costs of Treaty implementation, and Section 250(g) provides that no payment from surplus may be made in any year that Panama is found by Congress or the President to be interfering in the internal affairs of another country.

It is an elementary and well-settled principle of international law that while domestic legislation may change the effect of a treaty inside the territory of one of the signatories, it may not affect the international obligations of the Treaty. Therefore, any attempt by legislation to impose new conditions on the payments to Panama laid down by the Treaty would be inconsistent with it. If the United States were to cause the Commission to withhold a payment under these provisions, the Treaty would be violated, and Panama could take such action under international law as it felt appropriate. This is likely to happen, particularly under Section 250(e).

A second type of Treaty violation or potential violation has to do with transfer of property. The Treaty itself purports to transfer property of the United States to Panama according to a specific schedule.

In Edwards v. Carter, the U.S. Court of Appeals for the District of Columbia held that the treaty power was sufficient to effect such a transfer. Thus the property transfers under the Treaty are self-executing, and require no further legislation. Sections 373 and 374 of H.R. 111, however, operate on quite another theory. Those provisions authorize transfers to be carried out on October 1, 1979, but provide that any further transfers under the Treaty must be specifically authorized by legislation.

These provisions are clearly inconsistent with the self-executing nature of the Treaty, and suggest to Panama that the United States may by subsequent legislation refuse to consent to certain transfers, including the final transfer of all remaining Canal assets in 1999. It is doubtful that these provisions could as a practical matter preserve for our use property that the Treaty purports to transfer on some specified date during the life of the Treaty, since the use rights would expire by operation of the Treaty and the United States would have no right to continue to use the property. Nonetheless, I view these provisions as clearly inconsistent with the Treaty, and if the United States were to refuse to turn over some piece of property designated for turnover on a specific date it would be in violation of its international obligations under the Treaty.

Finally, there is a group of provisions in H.R. 111 that relate to the same portion of the Treaty—that part of Article III which provides that the United States will carry out its responsibilities to operate the Canal until the year 2000 by means of a U.S. entity called the Panama Canal Commission. The Commission Board is to have minority representation by Panama and is to control the operation of the Canal. In several respects, H.R. 111 impinges on this clear delegation to the Panama Canal Commission. For example, Section 102 states that the Board "shall act under the direction of the Secretary of Defense." Moreover, Section 101 states that the Commission itself shall be "subject to the direction of the Secretary of Defense." Finally, Section 108 states that in time of war or imminent threat of war the President may designate a military officer to exercise "exclusive authority and jurisdiction over the operation of the Panama Canal."

The first two of these provisions are, in my view, inconsistent with the spirit of the Treaty, which is clearly premised on the operational authority of the Commission. They suggest that the Secretary of Defense may override the bi-national decision making authority of the Board, and even are subject to the interpretation that he could direct the actions of the Panamanian members, which is clearly inconsistent with the Treaty. The third provision, relating to wartime control by a military officer, is more clearly inconsistent with the Treaty, however, since it seems to contemplate a complete replacement of the Commission in that situation. Of course, these provisions involve potential violations, since the Secretary of Defense or the President may not take any action that displaces the authority of the Commission. Nonetheless, since they seem to add new conditions to the Treaty arrangements unilaterally, they are, in my view, inconsistent with the Treaty obligations of the United States.

Sincerely,

JOHN C. ROBERTS,
General Counsel.

Mr. LEVIN. One paragraph of that opinion as it relates to this particular amendment reads as follows:

> A second type of Treaty violation or potential violation has to do with transfer of property. The Treaty itself purports to transfer property of the United States to Panama according to a specific schedule.
>
> In Edwards v. Carter, the U.S. Court of Appeals for the District of Columbia held that the treaty power was sufficient to effect such a transfer. Thus the property transfers under the Treaty are self-executing, and require no further legislation. Section 373 and 374 of H.R. 111, however, operate on quite another theory. Those provisions authorize transfers to be carried out on October 1, 1979, but provide that any further transfers under the Treaty must be specifically authorized by legislation.
>
> These provisions are clearly inconsistent with the self-executing nature of the Treaty, and suggest to Panama that the United States may by subsequent legislation refuse to consent to certain transfers, including the final transfer of all remaining Canal assets in 1999.

Mr. President, we had long and extended hearings on this bill in the Armed Services Committee, and we had a long markup on this bill in the Armed Services Committee, and we disagreed with each other on many issues. This was not one of them. As divided as the Armed Services Committee members were on policy issues, such as this one we just voted on as was contained in the Mathias amendment, where there was a divided vote in the committee no one on the committee offered any amendment, including this one, which would violate the terms of the treaty.

We discussed this amendment and other provisions of H.R. 111 because we knew they would be forthcoming or might be forthcoming in amendments on this floor.

We discussed them because we wanted to get a feel of the committee relative to these matters, and although we did not take any vote, because nobody offered the amendment, there was no voice raised in the Armed Services Committee for this amendment or any other amendment again which is inconsistent with the terms of the treaty.

I hope the Senate will reject this amendment, Mr. President.

I yield the floor.

Mr. **STEVENS**. Mr. President, I understand the Armed Services Committee and I understand the Department of Defense and their feelings about this. It is just too bad that, having given away the Panama Canal once, they want to give the President authority now to give away all of the property that the United States is using in carrying out the purposes of the treaty between now and 1999.

The real question is who defines what the treaty means in terms of the property of the United States? Is it going to be the executive branch? We are going to give the President of the United States in 1999 or any official acting for him the power to define what was meant in 1977 when it says:

> Upon termination of this treaty all real property and nonremovable improvements that were used by the United States of America for the purpose of this treaty or related agreements and equipment relating to the management, operation, and maintenance of the canal remaining in the Republic of Panama—

In other words, under that treaty someone is going to have to decide what was the real property or nonremovable improvements used for the purpose of this treaty or related agreements, or was equipment related to the management, operation, and maintenance of the canal remaining in the Republic of Panama.

That is a decision for Congress to make. That is what our amendment says. It does not reverse the treaty. I would be more than happy if we had a chance to vote again on the Panama Canal Treaty. I have a good idea some people have changed their minds about it in view of what they have seen. But this is a second giveaway. The bill allows the executive branch to decide what equipment and what property was related to the use and operation of the canal during the period of this treaty.

The Congress of the United States is not going to be involved with that at all. As a matter of fact, even the Senate is not going to be involved in it at this time.

Somehow, someone has to get hold of their senses here and realize what that treaty means as it is being interpreted. I understand the Department of Defense: All you have to do is get all the airplanes out of there by 1999 and Panama cannot take them. But what does it mean about equipment or property acquired between now and then? Do we really intend to give the Commission the right to spend money of American taxpayers to acquire property and then give it away? That is the interpretation of this treaty, and that is what the manager of this bill is saying.

That is what the general counsel of the committee is saying. We are being urged not to get involved in the congressional process or the constitutional issue. This treaty was ratified by the Senate once, and, having ratified it, we are being told we gave up all powers of Congress over property of the United States that was used in connection with the operation of that canal.

That is sheer stupidity, in my mind. I cannot understand why we, as Congress, should give up our powers, not only the powers of the House but also the powers of the Senate.

There will not be many of us sitting around here in 1999. But, I believe there will be some people who will wish we had preserved the role of Congress in the disposal of property.

Let me read it again, to make sure the manager of the bill understands what I am saying:

> Upon termination of this treaty, all real property and nonremovable improvements that were used by the United States of America for the purposes of this treaty and related agreement and equipment related to the management, operation, and maintenance of the canal remaining in the Republic of Panama.

That, of course, is paragraph 2(d). The first part of it says:

> The United States of America transfers, without charge, to the Republic of Panama all right, title, and interest the United States of America may have with respect to all real property, including nonremovable improvements thereon, as set forth below.

Just look at that:

> . . . all real property and nonremovable improvements that were used by the United States of America for the purposes of this treaty.

Does that include the dock in New Orleans that the Panama Canal Company uses? The Senator from Louisiana is here, and he can confirm that the Panama Canal Company has a dock in New Orleans. Does it include that? Does it include the boat that goes back and forth from New Orleans to Panama?

What does it mean should be transferred to Panama in 1999? It does not even specify that it means real property located in Panama. It does say equipment located in Panama, but it does not say real property. It says equipment remaining in the Republic of Panama. It does not say real property in Panama.

I think it is high time some people put on their heads and look at what we are doing. We are trying to preserve the role of Congress in defining the terms of this treaty as it evolves.

I keep hearing the same thing I heard all during this debate: that we should genuflect to this little dictator in Panama because if we do not, the standing of the United States in the world is going to be diminished. That is what got us into trouble with SALT, so far as I am concerned. Having genuflected to him in Panama, we have to kneel and scrape to the Russians.

This is a serious legal proposition, and it is being tossed away as some sort of obeisance that we have to give to Panama.

This has to do with the role of Congress in interpreting the treaty as it evolves. It does not cancel the treaty. It gives Congress the power to determine what that term means.

Some day, someone will be standing on the floor of the Senate and say, "I am sure Congress never meant to use taxpayers' funds, funds derived from the management under the terms of this treaty, for real property," or, "We never meant to include real property outside of Panama."

But they already will have done it, because you are going to give them carte blanche. Having given away the Panama Canal, you are opening the door to giving away all real property, nonremovable improvements, and equipment related to the management, operation, and maintenance of the Panama Canal. Some executive officer is going to make the decision, and Congress will not be involved at all.

If I ever saw an abdication of congressional responsibility, this is it. The House of Representatives is absolutely right, in my opinion, to assert the role of Congress in the continuing definition of what is property of the United States that is subject to the terms of that treaty.

I am disturbed by the position of my good friend from Mississippi. I know what it means to have JOHN STENNIS either with you or against you. I feel as strongly about this as I do about anything else, and I fear it because of the precedent set under the treaty power.

We are saying that having once entered into a treaty that deals with the property of the United States, it then is subject to executive interpretation as to what it means in terms of what property is involved. We will rue the day we set this precedent, although it appears that we are going to do so.

I hope the House of Representatives prevails. I hope they stand firm in the role they have asserted for Congress as a whole. It seems to me to be very shortsighted not to do so.

Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER**. The Senator has 9½ minutes remaining.

Mr. **STEVENS**. I am prepared to yield back the remainder of my time.

Mr. **LEVIN**. I yield myself 2 or 3 minutes.

Mr. President, the question is not whether we genuflect to some foreign power, dictatorial or otherwise. We should not. I hope this body never will, and I know it never will. The question is whether we genuflect to the law, whether we genuflect to the Constitution. That is the genuflection that is at issue here.

We know what the Constitution says. And we know what the law says. We know what the Court has interpreted in this case the Constitution and this treaty to mean.

Article VI, paragraph 2, of the Constitution states:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land.

This Senate and this Congress believe in the rule of law. I know it deeply. I knew it before I came to the Senate. I did not have to come here 6 months ago to find out that we believe in the rule of law.

This treaty is law; and whether or not this treaty is going to apply to a certain dock or a certain boat is a question of interpretation. Congress does not interpret law, nor does it interpret treaties. Courts interpret treaties and interpret law.

This treaty says that upon termination of this treaty, all real property and nonremovable improvements that were used by the United States of America for the purposes of this treaty and related agreements and equipment related to the management, operation, and maintenance of the canal remaining in the Republic of Panama shall be given to the Republic of Panama in the year 1999. That is what is stated in the treaty ratified by the U.S. Senate last year.

Again, whether that language applies to a specific piece of property in Florida or New Mexico or Texas or Panama depends upon the interpretation of those words, and Congress does not interpret treaties. Congress ratifies treaties—at least, the Senate does, if it wishes—and Congress passes laws.

I think the good Senator from Alaska has confused the role of Congress when he says that we are not going to have any role in deciding in 1999 whether or not a certain dock is going to be transferred. Whether or not it is transferred depends upon whether or not this treaty applies to it, and whether this treaty applies to it is a matter for judicial interpretation, if there is a dispute, not a matter of policy, which is what Congress is here for.

Mr. President, at this time, if the Senator from Alaska is willing to yield back the remainder of his time, I would be happy to do so.

Mr. STEVENS. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton) and the Senator from Kentucky (Mr. Huddleston) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. Pressler) is necessarily absent.

Mr. LEVIN. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. Moynihan). Is there any Senator in the Chamber wishing to vote who has not voted?

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. A rollcall vote is in progress. Is there any other Senator wishing to vote?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—41

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Cochran
Cohen
DeConcini
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Laxalt
Long
Lugar
Magnuson
McClure
Melcher
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—56

Baker
Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Danforth
Durenberger
Durkin
Exon
Glenn
Gravel
Hart
Hatfield
Heinz
Hollings
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—3

Eagleton
Huddleston
Pressler

So Mr. Stevens' amendment (UP No. 454, as modified) was rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, under the agreement, the bill is to be disposed of no later than 6:30 p.m. today. There are several amendments still pending. The Senate has been taking quite a bit of time on each amendment thus far. I wonder if we could get an agreement to reduce the time on any amendment to 30 minutes. That would still leave the managers of the bill free to yield time from the bill on any amendment.

I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

AMENDMENT NO. 372, AS MODIFIED

(Purpose: To provide congressional participation in sea-level canal study)

Mr. GRAVEL. Mr. President, I send to the desk an amendment with a modified page 4, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel) proposes an amendment numbered 372, as modified.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

Strike out everything beginning with line 11, page 148, down through line 2, page 149, and insert in lieu thereof the following:

ESTABLISHMENT

Sec. 241. To implement that provision of paragraph 1 of Article XII of the Panama Canal Treaty in which the United States and Panama "commit themselves to study jointly the feasibility of a sea level canal in the Republic of Panama", there is hereby established the International Sea Level Canal Study Commission, hereinafter referred to as the "Commission".

DUTIES

Sec. 242. (a) In General.—The Commission shall conduct such studies and investigations as may be necessary, including onsite surveys, and including an updating of the report of the Atlantic-Pacific Interoceanic Canal Study Commission (submitted pursuant to Public Law 88-609), to assess the feasibility of a sea level canal in Panama and to prepare an environmental report in accordance with section 102 of the National Environment Policy Act and in connection with such studies and investigations.

(b) Report of Commission.—Within three years after the date on which the initial appointment of all members of the Commission is completed the Commission shall submit to the President, the Congress, and the Government of Panama, a report of its findings and recommendations. The report of the Commission shall include, but not be limited to—

(1) an environmental report in accordance with section 102 of the National Environmental Policy Act;

(2) an inventory and assessment of flora, fauna, and ecosystems of Panama as they relate to the construction and operation of a sea level canal, including but not limited to—

(A) potential migration of marine organisms through a sea level canal and the potential ecological effects of any such migration;

(B) natural or manmade barriers that might mitigate the effects of any such migration; and

(C) other potential environmental effects of a sea level canal;

(3) an analysis of the best techniques and equipment presently available or which could be developed to excavate a sea level canal;

(4) the preparation of alternative designs for financing the construction of a sea level canal;

(5) an assessment of the economic feasibility of a sea level canal, including, but not limited to—

(A) an analysis of a sea level canal in relation to alternative transportation modes;

(B) an evaluation of the potential contribution of a sea level canal to alleviate the problem of world energy shortages;

(C) an assessment of the impact of a sea level canal on world commodity movements and world port development;

(D) an analysis of world ship population profiles associated with projected interoceanic trade flows;

(6) a review and assessment of alternate routes for the construction and operation of a sea level canal across Panama.

(7) an assessment of the national security and foreign policy ramifications of a sea level canal; and

(8) an assessment of the general interest expected by individuals, public and private organizations, and nations engaged in international commerce in connection with construction and operation of a sea level canal.

MEMBERSHIP

SEC. 243. (a) NUMBER AND APPOINTMENT.—(1) Except as provided in paragraph (2), the Commission shall consist of ten members as follows:

(A) One member appointed by the President pro tempore of the Senate.

(B) One member appointed by the Speaker of the House of Representatives.

(C) Three members appointed by the President.

(D) Five members appointed by the Government of Panama, which appointment shall constitute agreement by the Government of Panama that establishment of the Commission satisfies the provision of paragraph 1 of article XII of the Panama Canal Treaty.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—The Chairman of the Commission shall be elected by the Commission from among its members.

POWERS

SEC. 244. (a) HEARINGS.—The Commission or, if authorized by the Commission, any committee consisting of one or more members, may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places as the Commission or such committee deems advisable. In the conduct of hearings, testimony and evidence may be given in either English or Spanish, and transcripts, reports, and materials of the Commission shall be made available in both languages.

(b) IN GENERAL.—For purposes of carrying out its duties under this title, the Commission may—

(1) secure directly from any department or agency of the United States information necessary to enable it to carry out such duties, and, upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to that body subject to applicable law;

(2) accept, hold, administer, and utilize funds and utilize services and property, both real and personal, provided by the host country or any international organization, in United States and the host country are both members, for the purpose of aiding or facilitating the work of the Commission;

(3) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(4) to such extent, or in such amounts, as are provided in appropriation Acts, enter into contracts, agreements, or other transactions without regard to section 4709 of the Revised Statutes of the United States; and

(5) utilize, on a reimbursable basis or otherwise, the personnel and facilities of other departments and agencies of the United States, and accept and utilize the services of voluntary and uncompensated personnel.

(c) ADDITIONAL POWERS.—(1) The Commission may utilize, on a reimbursable basis or otherwise, the personnel and facilities of any agency of the Government of Panama.

(2) The Commission may employ non-United States citizens or nationals of Panama, notwithstanding any other provision of law.

TERMINATION OF COMMISSION

SEC. 245. The Commission shall cease to exist sixty days following the submission of its report under section 242.

DIRECTOR AND STAFF OF COMMISSION

SEC. 246. (a) DIRECTOR.—The Commission shall appoint a Director who shall be compensated at a rate not to exceed that in effect for level II of the Executive Schedule.

(b) STAFF.—The Commission may appoint and fix the pay of such additional personnel as it deems desirable.

(c) APPLICABILITY OF CIVIL SERVICE LAW.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(d) FEDERAL EMPLOYEES.—Any Federal employee subject to the civil service laws and regulations who may be detailed to the Commission shall retain civil service status without interruption or loss of status or privilege.

(e) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

PAY AND TRAVEL EXPENSES

SEC. 247. (a) IN GENERAL.—Except as provided in subsection (b), members (if citizens or nationals of the United States) of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level II of the Executive Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission. The compensation, if any, of members of the Commission who are citizens or nationals of Panama for service thereon shall be the responsibility of the Government of Panama.

(b) EXCEPTION.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress or full-time officers or employees of the Government of Panama shall receive no additional pay on account of their service on the Commission.

(c) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members thereof (whether or not citizens or nationals of the United States) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 248. There are authorized to be appropriated, effective October 1, 1979, and without fiscal year limitation, for purposes of carrying out the provisions of this title such sums as may be necessary, but not to exceed $8,000,000.

EFFECTIVE DATE

SEC. 249. The provisions of this title shall take effect upon enactment.

Mr. GRAVEL. Mr. President, before I explain the amendment, which is an amendment which passed the Senate before in close to its present terms, let me say the amendment is merely to provide a study of the possibility of building a sea-level canal across the isthmus, which I personally think, after some study, would be advantageous to the economy of the United States. I am not prejudging that issue. All I am suggesting is that we should make the study so that what we do is in the national interest.

This has been taken up by the Armed Services Committee. I know the Senator from Mississippi, the chairman of that committee, is knowledgeable on this subject, since he also passed through this body an appropriation to fund this study. I wish to yield to him at this time so he might explain his position.

Mr. STENNIS. Mr. President, if the Senator will yield to me quite briefly, we are holding hearings on the SALT matter and they are in progress now. I must return there.

Two years ago, Mr. President, in the Committee on Appropriations, we had this matter up and considered it and later, in that session, I was impressed with the idea of a sea-level canal. Later, here on the floor, there was a rollcall vote on the matter for a study—a study only. That is what applies here. That was approved by the Senate by a vote of 2 to 1. I know there were several who contributed in that debate, but I looked it up the other day, just to see about the vote. It was a rollcall, and was about that margin.

I thought then and I think now that the matter is far from settled by virtue of passing that treaty. It is going to be something that, in the future, we perhaps will need, and it is worth this study. So I am going to support the Senator's amendment on that basis and on that basis alone.

Mr. GRAVEL. I thank my colleague from Mississippi.

Mr. MAGNUSON. Will the Senator yield?

Mr. GRAVEL. I am happy to yield to my distinguished colleague, the Senator from Washington.

Mr. MAGNUSON. I want to associate myself with the Senator's amendment. I have a long history of interest in this matter. When Lyndon Johnson and I were in the House of Representatives, we were authorized by Carl Vinson, then chairman, to go down and look at the prospects of this second canal as it would affect our defenses. We did. We looked in Colombia, we looked in Nicaragua. We looked at the Gulf of Tehuantepec. We came to the conclusion then that a second canal should be built. Then World War II came along and the idea of the second canal died out. If we had built it then, we would probably have had it at a cost of about one-tenth of what it would cost now.

I voted for the Panama Canal Treaty mainly on the basis that we were not going to be giving Panama much of anything. The Senator from Alaska has gone into this in some detail. We figured out that by the year 2000, only about 20 percent—which will be 80 percent of the world's fleet then, the way they are building ships today—could use the Panama Canal. So I figured we were not giving them much by the year 2000. But we need a sea-level canal.

There was a commission appointed. Johnson then became President and he appointed a commission, headed by Bob Anderson of Texas, who was Secretary of the Treasury. They went into the matter at some length and recommended a second, sea-level canal, to Johnson, who was then President. His interest never died in it, as mine never has.

I am hopeful that we can have another study and bring it up to date, because obviously, with the growth in maritime technology and the growth in ships and so on, the present canal is not going to be able to handle much shipping—as it cannot handle a lot of it now, as a military matter alone, a defense matter.

I am hopeful that the committee will accept this amendment and we can proceed with this very important study and bring it up to date.

The Commission made a great study. I think we can use a lot of the so-called Anderson Commission's work. Frankly, Lyndon Johnson and I recommended going through Nicaragua, going through the lake. We thought that was the best way to do it. And the Gulf of Tehuantepec is a good way to do it, but that is so costly now.

Technology now available can be used to build a second canal through mountainous territory north of the present canal. We can use nuclear explosions to level it off. I am hopeful that the committee will accept this amendment.

I did not want to take up the Senator's time.

Mr. GRAVEL. The Senator did not take up any of my time. His voice was an important one to have enunciate on this particular issue.

I ask the managers of the bill if they would have any objection to accepting this amendment, which I think is abundantly reasonable, asking us to study something that could possibly be in the enlightened self-interest of this great Nation of ours. To be opposed to acquiring knowledge strikes me as wrong. I ask the managers of the bill to propound their views, with the possibility of accepting this, since it has been passed once before and we would not be pioneering or breaking any ground.

Mr. MAGNUSON. If the Senator will yield, the present canal is only 114 feet wide at its widest point and abeam. Most ships now, particularly oil tankers, are much wider. A sea-level canal would solve that problem.

Mr. LEVIN. Mr. President, I should personally be happy to accept the amendment. The committee did vote on this matter and voted not to accept the amendment.

Mr. President, I am most impressed by the Senator from Washington, head of our Appropriations Committee, supporting this amendment, although there is an $8 million price tag to it, but because of the fact the Armed Services Committee specifically considered this amendment and rejected it, I am unable to accept the amendment.

I yield to my colleague from Nebraska all of the time we have on this amendment.

The PRESIDING OFFICER (Mr. STEWART). The Senator from Nebraska.

Mr. EXON. I thank my friend from Michigan.

Mr. President, I rise in opposition to the amendment offered by the Senator from Alaska.

As has been already said, the Armed Services Committee, among its other considerations and deliberations on this bill, rejected the proposition that has been offered again, in good faith, of course, by my friend from Alaska.

The Senator from Alaska came before the Armed Services Committee during our hearings on this and recommended specifically what he is recommending here today in the form of the amendment.

After due consideration, a majority of the Armed Services Committee rejected bringing that to the floor.

So I rise first in the representation of the majority on the Armed Services Committee in opposition.

There are several considerations I think we should bring into play here, despite the fact that I understand the U.S. Senate in several previous cases has, indeed, agreed to the funding of such a study, specifically not different from what is being suggested here today. It seems to me that there are some other considerations we should give to this.

There is a part of the treaty that says in anticipation of the action contemplated here today that before we even think about building another canal in Panama, that we have to get the approval of Panama.

In the first instance here, it seems to me that it would not be responsible for the U.S. Senate to spend $8 million to study construction of a new canal in Panama until such time as we first have discussed this with the Government of Panama to see whether or not they are interested, under any circumstances, of allowing us to build a new Panama Canal.

I guess, therefore, we are putting the cart in front of the horse by even considering the expenditure of $8 million.

Mr. GRAVEL. Will the Senator yield on that?

Mr. EXON. I am glad to yield on the Senator's time.

Mr. GRAVEL. I am happy to make a brief statement on that point. My colleague is very generous. So we can proceed in this colloquy in an orderly fashion.

But the Government of Panama signed in the treaty the possibility of making that study.

The amendment I sent to the desk had a provision added to it in writing on page 4 that after the five members from Panama have been selected by the Panamanians, and obviously one must presuppose that if they put five members up to serve on the Commission that they must be in favor of it. But I have added specific language, so there is no misunderstanding, that with the appointment this shall constitute an agreement by the Government of Panama that the language under paragraph 1 of article 12 is satisfied. The language in the treaty.

I also have a letter, which I did not bother to update for this debate, because I have spoken to the Chief of State Torrijos when he was in charge, and I have now spoken with the President personally when he was at Blair House here, and with the Ambassador, and there is great enthusiasm in Panama over the possibility of this study.

I will quote from one letter dated June 26, 1978, and there is no new information other than this:

> The Government of Panama is interested in the completion of a joint study which will update the Atlantic-Pacific Interoceanic Canal Study Commission Report and Evaluate the economic and environmental factors considered, the feasibility of a sea level canal.

Mr. President, I ask unanimous consent that the letter be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EMBAJADA DE PANAMA,
Washington, D.C., June 26, 1978.
Hon. MIKE GRAVEL,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR GRAVEL: Pursuant to your request and without any designs to intervene in the debate which is presently taking place around the Gravel-Magnum amendment to an act authorization certain Public Works on rivers for navigation (HR 8309), I have been instructed by my government to reply to you as follows:

The Government of Panama is interested in the completion of a joint study which will update the Atlantic-Pacific Interoceanic Canal Study Commission Report and Evaluate the economic and environmental factors considered, the feasibility of a sea level canal.

I take this opportunity to reiterate the assurances of my highest esteem and consideration.

R. A. BILONICK-PAREDES,
Charge D'Affaires.

Mr. GRAVEL. Mr. President, I just wanted to clear up the point the Senator made, that we need to stop everything and get their permission.

I would hope my colleague would accept this as permission for us to go ahead and authorize the study, so we can go ahead and find out what is in our interest.

I thank my colleague for permitting me to interrupt his presentation.

Mr. EXON. Will the Senator yield for a question on that very point?

Mr. GRAVEL. I am happy to, if the clerk could monitor the time spent on each side.

Mr. EXON. In the establishment of this Commission and the $8 million the Senator requests for funding, have the Panamanians played any role whatsoever in the determination of how the committee would be selected? Have they agreed what the duties of this Commission would be? Has there been any discussion other than the preliminary discussion the Senator has indicated with regard to the fact that they might not object to our, at least, going ahead with the study?

Mr. GRAVEL. If there is concern on the part of my colleague that they would not join us, then there is not a penny to be spent, because the Commission contemplates 10 people, 3 appointed by the President of the United States, 2 appointed by the Congress, and 5 appointed by the Panamanians.

So we will not even have the first meeting of that Commission if they do not put up their five members.

We are not intervening as to how they will select them. That is their business. We are concerned about our five, and that is all laid out, and the duties, similarly.

The Commission would meet and act in their interests in the operation. We are merely outlining the procedures our Government normally uses for these types of studies.

Obviously, the American members of that Commission would be bound by this.

Mr. EXON. If I understand the basic thrust of the Senator from Alaska, it is that thus far the Panamanians have not given any indication whatsoever that they would be unalterably opposed to at least a study.

Mr. GRAVEL. That is right. In fact, I just quoted a paragraph that they are enthusiastic about the possibility of a study.

Mr. MAGNUSON. Will the Senator yield?

Mr. EXON. I will yield to the Senator from Washington.

Mr. MAGNUSON. They approved wholeheartedly of the Anderson Commission. We spent some time in Panama, and the Government of Panama, I think the President then, was all for it. They took the Commission out and surveyed the land, and they looked on the work with great enthusiasm.

I have not heard anything from Panama that they would be against looking at the possibility of a second canal. They realize that the old canal is getting outdated and that something is going to have to be done sooner or later.

Mr. GRAVEL. I really do want to represent fully to the Senate my concerns, with the President of Panama Torrijos' genuine enthusiasm, and to the point we discussed the possibility of an international seminar in Panama on the subject next year as a preliminary.

But, of course, this would be a more methodical approach, involving ourselves, since of the traffic that goes through the canal, one-third of all that traffic is goods destined to the American people, or from the American people, going from the east coast to the west coast, or from the west coast to the east coast.

So as to the consumers in the Senator's State, the farm products out of his State that go to the Orient, a good deal passes through the Panama Canal. He should have a vital interest that the cost of transportation of that product is as efficient as can be devised, and this might be the most efficient way to get the best price for commodities for his people.

I do not say it is. But I say that I have brought forth sufficient data to cause an interest on the part of the Panamanians and on the part of our Government that that study should be done.

Mr. EXON. I thank the Senator.

I think the point is well taken and well made by the Senator from Alaska. I will then follow up the comment from the Senator from Washington.

I certainly would agree with the Senator from Alaska that the Panama Canal and its ability to transport different types of goods, including grain—and a lot of grain goes through the Panama Canal—is of keen interest to the people of Nebraska. That is why the people of Nebraska though we should not have given the first canal that we built in Panama back to Panama. I am not surprised particularly to find out, therefore, that the Panamanian Government is quite enthused about the possibility of us making a study to build another canal.

It just seems inconceivable to me that at a time when we are thinking about implementing the Panama Canal Treaty and, as I said when I was on this floor about an hour ago, I do wish that I had had a chance to be here to vote against the Panama Canal Treaty, but since it has been passed by the Senate, I am going to do my best to implement that treaty so that we do not violate the commitment of the United States of America confirmed in the Senate last year.

But to think that we are here now implementing that treaty against the best wishes of many of us, against the interests of the people of the State of Nebraska, and I can tell you that they feel overwhelmingly against this, at the same time we are thinking about spending another $8 million to do a study to build another canal in Panama is almost inconceivable to me, and I hope that on retrospect the Senate will reject the amendment offered by the Senator from Alaska.

Mr. GRAVEL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. GRAVEL. Mr. President, I ask unanimous consent that I may proceed for 10 minutes. I want to make a summation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, to properly speak to the point of my colleague, I can understand his emotion because had he been here he would have voted against the treaty, and the fact he was not here, the treaty was passed and probably some of his constituents misunderstood the situation and they are opposed to the treaty.

What I cannot understand is the representation that is made that it would be in the best interest of the people of Nebraska to vote against an authorization of $8 million to study what might be in the interest of the people of Nebraska. I do not think the people of Nebraska are like that. I think the people in Nebraska think if they can save some money or improve their price advantage in the sale of their product, they would be for that, and I am sure my colleague would be for that if he could focus on the problem as it exists.

I am not advocating the United States go build the sea level canal. All I am advocating is that we get the data and find out if it is in our interest because if it is in our interest since we are a one-third user we have to assume that it would be in the interest also of two-thirds of the other users. That is not us. That is the rest of the world.

So if we are going to build a sea level canal it is not us. It is we as citizens of the world who are going to build it. So it is going to be a world canal, and it would be owned by the Panamanians. It will not be owned by us or any other country. So as far as they are concerned, they are thinking in terms of the present canal.

But if the figures I have are correct, they are going to break a leg to see that a new canal comes into being, and so are you going to break a leg to see that a new canal comes into being because the figures I have, and they have not been disputed in the 2 years that they have been available throughout the world, are to the effect that as to the present canal starting in 1966 roughly 90 percent of the world tonnage could go through that canal. Then all of a sudden in 1977 only 42 percent could go through that canal. If you take that trend line during that 12-year period and you were to extend it all the way out you would find out that most of the tonnage will not be able to go through the canal in very short order.

So to be very conservative, what I have done is I have just taken a third of that trend line and shown that at the year 2000 when you and some of the people in Nebraska may think that you gave a canal away, what you have given them is a canal where 90 percent of the world tonnage cannot even go through. You can fight all you want to keep that artifact of antiquity. But what you are interested in and what the people of Nebraska are interested in is the maximum utilization of efficiency in the transportation of your product. That is going to put bread on the table of the people of Nebraska and every other part of the country.

And not to spend the money to acquire that knowledge in my mind is suicidal in a very technological society.

This map here that I show you is the reason why I have an interest, coming from Alaska, in Panama. Right here on the North Slope in Prudhoe Bay one-third of all the oil of the U.S. reserve is right there on a little plot of ground of 190,000 acres, and one-fourth of all the natural gas. That is just the beginning, we hope, of what Alaska can provide in the way of energy security to this great Nation of ours.

How do we get it to the market? I have an Arthur D. Little study preliminary to the money we want to spend that indicates the cheapest way to get it to market is through supertankers. Not even the pipelines compare to the economic benefits of bringing it in.

You have already as a taxpayer spent $22 million studying the feasibility of a sea level canal. That money goes down the drain unless you can figure out if there really is a need for this. That study which was completed in 1970, 1 year or 2 years after the discovery of Prudhoe Bay, did not give proper consideration to the transportation of oil. They talked about 40 million tons. The potential here is 140 million tons of transportation.

So not to recalculate the situation and find out what is to our advantage literally is foolhardy because it is the Senator's people in Nebraska who pay the cost of gasoline. If that gasoline per barrel is an additional $1.50 a barrel, then the Senator is not doing his job in protecting their economic interests.

So I think the least we can do is make this study, not close our eyes to its possibility, and after we have the study the Panamanians can make their decision, we can make our decision, Japan can make its decision, and every other country.

Let me just add to the comments I made with respect to Japan. I have a letter from the President of the Chamber of Commerce of Japan. I have been to foreign powers and have made this presentation on the value of the Panama Canal to the world maritime community. I have been accepted in Germany, Japan, London, and Suez. And one of the results of his has been the interest in Japan which is the second largest non-South American user of the Panama Canal. I will just quote a few sentences that he makes:

> I have always kept in mind the possibility of the project since it was discussed during your visit to Tokyo . . .
>
> . . . the efficient traffic through the Canal is of great importance to Japan.
>
> If the project of constructing a new Canal can be realized, we hope that it would become a great monument to the cooperation between our two countries.
>
> Our rough draft of the project, while it is still in the embryonic and private stage, has been explained to our Prime Minister, Mr. Ohira, prior to his visit to the United States in late April of this year.

This is what they are talking about, and I will submit for the RECORD a proposal they are working on for the construction cost of $8.3 billion.

Mr. President, I ask unanimous consent that a letter to me from the Japan Chamber of Commerce and Industry, dated June 6, 1979, and an article entitled "Japanese Float $8.3 billion Sea Level Panama Canal Plan" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE JAPAN CHAMBER OF
COMMERCE AND INDUSTRY,
June 6, 1979.

Senator MIKE GRAVEL,
U.S. Senate,
Washington, D.C., U.S.A.

DEAR SENATOR GRAVEL: Your enquiry with the Japanese Embassy in Washington concerning a new Panama Canal has been conveyed to us through the Ministry of Foreign Affairs. I have always kept in mind the possibility of the project since it was discussed during your visit to Tokyo in November, 1976.

I have had a good opportunity of visiting the Republic of Panama in March, 1977, and of observing the present operations of the Canal. More than half of the ships that go through the Canal carry the cargoes from or to Japan and the efficient traffic through the Canal is of great importance to Japan.

We Japanese businessmen are anxious that the close and friendly relations be maintained and improved upon between Japan and the United States of America. If the project of constructing a new Canal can be realized, we hope that it would become a great monument to the cooperation between our two countries.

Our rough draft of the project, while it is still in the embryonic and private stage, has been explained to our Prime Minister, Mr. Ohira, prior to his visit to the United States in late April of this year.

It would be best if we could talk about the idea but I am afraid that it would not be possible for me to visit the U.S. in the near future because of my tight schedule. If you have another opportunity of visiting Japan, please let me know.

I have written this letter in order to give you brief explanations of our present position. I believe that the response in the similar context has been made to you through our Ministry of Foreign Affairs.

Finally, I would look forward to realization of a concrete plan in the earliest possible future, and wish to have an opportunity of meeting with you again in the not too distant future.

Sincerely,

SHIGEO NAGANO,
President.

JAPANESE FLOAT $8.3-BILLION, SEA-LEVEL PANAMA CANAL PLAN

Another plan has surfaced for building a second canal through Panama. The latest proposal comes from the president of Japan's Chamber of Commerce who is promoting the new isthmus crossing as a means for shipping Mexican crude oil to Japan as well as a route for large crude carriers ferrying Alaskan oil to eastern and southern U.S. ports.

The Japanese proposal calls for construction of a new canal parallel to the north of the existing 65-year-old Panama Canal. The grand plan involves excavating a 54-mile-long, sea-level canal through the mountainous Panamanian terrain at an estimated cost of $8.3 billion. The proposed canal would be approximately 660 ft wide and need to an estimated 80 ft deep to accommodate oil tankers with a maximum carrying capacity of 300,000 dwt.

Japan is preparing to propose the plan to government officials in the U.S. and Panama under a major international undertaking as part of a wide-ranging economic cooperation program for the stabilization of the Central American area. The Japanese also view the proposed canal as one way to stabilize world energy supplies.

Mr. GRAVEL. Mr. President, if we want to back out of the world, if we want to step aside and say that we are no longer a major power concerned about major transportation elements in our society, particularly when we use a third of it and we are prepared to let the Japanese go forward in world macroleadership in this area, then shame on us if we have difficulties in the future. It is just a beginning of the end of our leadership in the world.

So I would hope that my colleague from Nebraska would realize the importance of what this possibly could be for his people in Nebraska, and recognize that I will not stand on the floor of the Senate 2 years from now or 10 years from now and ever ask that the United States build a sea-level canal. I would ask the world build a sea-level canal in partnership with the people of Panama because it is their land and it is an international waterway. It is not ours.

You may feel bad about your giving away something you did not want to give away, but let me tell you we have not been overly generous in what we gave them because it is not going to be too much by the time we do give it to them.

I reserve the remainder of my time.

Mr. EXON. How much time do I have?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining.

Mr. EXON. I thank the Senator from Alaska for his explanation.

I would just like to make a comment or two.

I expect at the time of debate over what the route from the Alaska oil fields to the United States would be—you will remember there was a great debate as to whether we should come across Canada with those lines or whether we should go across Alaska, put that oil in ships, and I will stand corrected if I am wrong, but I believe the idea was to bring those ships down to the west coast of the United States of America where we were supposed to build some refineries so that we would not have to take all of that oil down through the Panama Canal and up to the Gulfport refineries.

It might be that the people of the United States were not fully informed at that time, but I do not believe that when that matter was considered we thought about taking all of that oil through the Panama Canal.

I reserve the remainder of my time now, but I would like to yield, if I may, to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. The Senate Armed Services Committee defeated this amendment when it was before it. I do not think it is wise to pass and agree to the amendment. I do not believe we should study building a new canal, which we would have to spend billions on to construct and, undoubtedly, would have to give away to Panama, Nicaragua, or some other country in the future.

The American people are disgusted with the giveaway of the present canal. I think the Senate would be very unwise to set in motion another giveaway, the cost of which cannot even be imagined.

The argument is made, I believe, that the present canal will not take care of the big ships in the future. The present canal will take care of 98 percent of the naval ships.

I realize that some of the big oil tankers today go up to the canal and then they siphon oil into smaller ships and they go through. They can do that or if they have to go around the Horn it is true it costs more. But there is no emergency, and the fees they would pay when these fees are increased now—and they will be increased—to go through that canal will not cost any more than going around the Horn. There would be the time element involved, of course.

But considering all of the facts concerning the matter, in my opinion it would be a mistake to take any step at this time, especially with the mood of the American people now, because I can tell you the American people are still against giving away this Panama Canal, upon which we acted last year. I hope the amendment will be defeated.

Mr. GRAVEL. Mr. President, I will be very brief.

Mr. MAGNUSON. Mr. President, will you yield a half a minute?

Mr. GRAVEL. I yield to the Senator from Washington.

Mr. MAGNUSON. I question the Senator's statement that 98 percent of the military ships can go through the canal. Ninety-eight percent did he say or did I hear him wrong?

Mr. THURMOND. That is right, all but the big aircraft carriers.

Mr. GRAVEL. That is if you count all the PT boats we used in the Second World War.

Mr. MAGNUSON. We are dealing with tonnage and not number of ships.

Mr. GRAVEL. The point is we are dealing in tonnage rather than number, and I just want to close by stating very briefly to my colleague from Nebraska when he states the oil was to come down to the west coast, the companies involved well knew, and we knew this in debate, they were supposed to be able to build refineries and retrofit these refineries. The Federal Government would not let them take the cost of retrofitting, so the surplus of oil in the wells remained because—we imported because—the refineries could not handle Alaskan crude in the volume needed.

The markets are there. The problem is very simple. It is we, the Government, that caused that difficulty.

There is nothing we can do about it. There is nothing we can do about that problem.

The other thing is Alaska has a future in oil and gas, and Alaska can bring it to the south 48 through the canal. It has been repeatedly said that we are going to build it. I want to make the record clear once and for all that I have never stood here on the floor saying we should build it, and I hope I am never quoted as having said that, and I hope the argument will not continue in that vein.

What I am saying is we should study what our economic interest is, and then once we have that knowledge we can then make a determination of what we want to do with that knowledge. That might be that we do nothing. It might be that we suggest to Panama we might guarantee some financing. It might be we would take the issue to the United Nations and ask them to do the financing. But all of those options would be open to us. Until we know what is in our best economic interests, we can do nothing but live in ignorance.

The purpose of this amendment is to dispel the kind of life we would have in this country in abysmal ignorance.

I want to thank my colleague for his cooperation in this colloquy. I hope it has been enlightening. It is the first time we have been able to engage in colloquy on this subject on the floor, and it has not diminished my respect for him as a very fine Senator who has been making outstanding contributions in this body.

The PRESIDING OFFICER. The Senator from Alaska's time has expired.

Mr. EXON. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes and 13 seconds.

Mr. EXON. Let me then close by saying that I appreciate the excellent explanation made by my friend from Alaska.

I suspect the Government has been part of the problem in not allowing us to build refineries on the west coast to use the crude that we get from Alaska, which we all understand is the type of crude that will not go to ordinarily what refineries we have there now.

But if the Government is the one standing in the way of building refineries on the west coast, refineries that could take that Alaskan crude instead of shipping it through the Panama Canal, then I would suggest that the Government is also the one that could correct that. So I am not prepared to buy the argument that we essentially need a new canal in Panama because we are going to have, as near as we can see into the future, to transport oil from Alaska.

I would agree there may be some other needs but, at a time when we are giving away one Panama Canal, whatever it is worth and, at the same time we are doing that, to tack on an $8 million study for a new canal in Panama, just seems to me to make no sense whatsoever.

I repeat, in closing, that the Armed Services Committee did study this and rejected it in a vote in committee, and I hope my colleagues on the floor will do likewise if and when this comes to a vote.

I reserve the remainder of my time, Mr. President.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. EXON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and desires to do so?

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—43

Baker
Baucus
Bayh
Bradley
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Ford
Gravel
Hart
Hatfield
Heflin
Hollings
Inouye
Jackson
Javits
Johnston
Kennedy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Randolph
Ribicoff
Sarbanes
Sasser
Stennis
Stewart
Tsongas
Williams

NAYS—54

Armstrong
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Glenn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
McClure
Metzenbaum
Morgan
Percy
Proxmire
Pryor
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—3

Eagleton
Huddleston
Pressler

So Mr. GRAVEL's amendment (No. 372, as modified) was rejected.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on any remaining rollcall votes today be limited to 10 minutes on each vote, and that the warning bell sound after 2½ minutes.

Mr. DOLE. Mr. President, will the majority leader yield at that point?

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. The Senator from Kansas has three amendments. I do not intend to take over a couple of minutes on each. I am not sure there will be a rollcall vote on each of them, but, if so, could they be back to back?

Mr. ROBERT C. BYRD. Shall we get consent for that, so that if the yeas and nays are ordered it can be done in that manner?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, has the question been put on my first request, to limit rollcall votes to 10 minutes?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if rollcall votes are ordered on the amendments by the Senator from Kansas (Mr. DOLE), on any or all of them, those rollcall votes be back to back; and I ask unanimous consent that the time on each amendment be limited to——

Mr. DOLE. I am willing to limit it to 10 minutes. They may want more.

Mr. LEVIN. One of them will require more time, depending on which order he brings them up.

Mr. LAXALT. The contingency amendment.

Mr. ROBERT C. BYRD. Shall we say 10 minutes on each amendment other than the contingency amendment?

Mr. LEVIN. Fifteen minutes on each.

Mr. ROBERT C. BYRD. Fifteen minutes on each amendment, to be equally divided, but with respect to the contingency amendment one-half hour?

Mr. DOLE. Mr. President, do I have 10 minutes on each of the others?

Mr. ROBERT C. BYRD. Seven and a half.

Mr. DOLE. All right.

The PRESIDING OFFICER. Will the Senator repeat his request?

Mr. ROBERT C. BYRD. Yes. Mr. President, the Senator from Kansas has three amendments. He may want rollcall votes, or someone may, on any or all of them.

The request is that on each of the two amendments there be 15 minutes, with the time equally divided in accordance with the usual form, that on the third amendment, the contingency amendment, there be a 30-minute time limitation on that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that the votes be back-to-back, if there be rollcall votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 455

(Purpose: To amend H.R. 111 to provide for the selection of the Five U.S. members on the Panama Canal Board of Directors of Commission)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself and the distinguished Senator from South Carolina (Mr. THURMOND) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself and Mr. THURMOND, proposes an unprinted amendment No. 455.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, line 7, following "of the Senate" add the following:

"At least one of the members of the Board who are nationals of the United States shall be experienced and knowledge in the management of operation of an American flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States. The three members referred to in the preceding sentence shall hold no other office in or be employed by the Government of the United States."

Mr. DOLE. Mr. President, I understand on this amendment there are 7½ minutes to a side, which is satisfactory to the Senator from Kansas. I will take about 2 minutes and then yield to the distinguished Senator from South Carolina.

Mr. President, in proposing that three of the five U.S. members of the Comsion's Board of Directors be individuals from outside the U.S. Government, with experience in the fields of labor, shipping and ports, and the export-import business, the Senator from Kansas appreciates the concern expressed in the Armed Services Committee "that members drawn from particular interest groups might tend to be more concerned with representing their interest group and not with the overall best interests of the enterprise."

Yet I also countenance the committee's concern "that a Board composed entirely of Government officials might well be unable to devote full attention to the business of the Commission and could even bring a departmental parochialism similar to that which the committee was concerned with avoiding in the House bill." I would add that this language is the same as the House bill. In direct response to this concern it is evident from review of that log book of Panamanian Directors now in charge that these officials are simply never there, consequently they are unable to devote full attention to their business.

Addressing the committee's first concern, it seems to me that including three members from the private sector on the Board is both a reasonable and potentially invaluable factor because representatives who are experienced and knowledgeable in canal shipping operations, exporting—importing operations and labor matters are inclined to be sensitive to two key aspects of canal operations—the financial viability of the canal and the economics of its use, and second, policies which promote a stable work force. The special expertise from which these members will draw will be vital to the successful operation of the canal, and will be in the best long term national interests of the United States. After all, the canal is essentially a commercial enterprise and therefore will need successful commercial experience.

PROVIDES BALANCED LEADERSHIP

Inclusion of these members and their private business and professional experience would contribute to and provide a good balance in the leadership of the Board. This balance is preferable to a parochial approach resulting from identification with the particular interests of one or another department of the Government. This concept of coordinating private sector members with Government agencies is not without precedent. For instance the U.S. Railway Association has private board members.

Appointing members with previous involvement in canal operations is advisable in light of Panama's unstable economic condition and past failure in economic management. Their finance sector has been called a "stone-age economy." In the recent House hearings the inclusion of a labor experienced member was strongly and substantially supported by port interests and union leaders. Many of the associated costs involved in the canal transfer have been tied to retention of skilled labor and the training and continued retention of a new labor force.

Mr. President, it is because of these concerns, which the Senator from Kansas feels would be considerably alleviated by the inclusion of these civilian members on the Board of Directors, that I send to the desk an amendment and ask for its immediate consideration. If the Senate acts favorably on this measure, which is consistent with the House version of the bill, the Congress will have acted to provide enhanced security for America's interests in the canal.

I now yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of this amendment. I am pleased to join the able Senator from Kansas as a cosponsor.

Under the administration bill, five U.S. Board members of the Commission will be subcabinet members of various departments, such as Commerce, Interior, Defense, and so forth. Mr. President, these members would have full-time jobs in their own departments and may lack the time and interest to make a real contribution to the Board. Further, they will look to a central figure in the administration for policy and guidance.

This amendment merely requires that three of the five U.S. Board members have experience in shipping, ports, and labor matters and not be officers of the U.S. Government.

Mr. President, I feel this is very important. I am hopeful that the able Senator from Michigan will see fit to accept it. It is very vital that we have people there who are familiar with this work. It will give expertise that we will not have in any other way.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we oppose this amendment. The committee considered but did not adopt this amendment. This amendment would deprive the President of the United States from picking the persons whom he feels best represent the interest of the United States on this Commission. We feel there is no basis to limit the President in that way. He ought to have the flexibility to select those people he thinks are best regardless of what particular segments of our community they happen to represent.

It introduces a new danger, that is, that the Board members see themselves as representing particular interest groups rather than the interests of the United States. One of the things we are all determined to do with the new operation of the canal is to make certain that the interests of the United States are maintained. We have a 5-to-4 majority on that Board.

We have given the President in this bill the power to select those members. They serve at the pleasure of the President. They are subject to the advise and consent of the Senate. We want to make certain that they represent the best interests of this country and that there be no restrictions on whom the President is able to select. We think it is unwise and unnecessary to place representatives of special interests on this board, to mandate that, by law, depriving the President of the power to select whom he will.

I think a good point is raised by the Senator from Kansas, relative to the amount of time put in by some of the public members. I think the point is well taken and we have addressed ourselves to that in our report with language making that point very, very clear, and stating that the President should take steps to insure the Board members he appoints are prepared to be active and contributing members.

The Senator from Kansas is correct that too often members are appointed to a board and then do not take an active enough position.

Basically, we do not want to build in special interest representatives on this Board. We want people who are going to be subject to the direct control of the President in a very direct way.

He has indicated already that he is going to have representatives from the Secretary of Defense, the Secretary of State, the Department of Commerce, the Secretaty of the Treasury, and the Department of Transportation represented on this Board. This gives him an extremely tight control of the Board. Later on this afternoon we will probably be talking about amendments which would take powers away from the Board or give other persons power over the Board. Those amendments would violate the treaty.

This is an instance where we want to have the Board as tightly constructed as possible, subject totally to the control of the President of the United States, representing no special interests, so that the President of the United States can have the American interests expressed without any doubt on that Board.

In terms of representing a labor interest, labor is in through the collective bargaining, shipping and ports through the toll study procedure. We do not need assurances that the more narrow interests are going to be reflected on that Board and thereby change the focus of this Board, which is that they should represent the American interests in total and be subject to the total control of the President.

Mr. SARBANES. Will the Senator yield for a question?

Mr. LEVIN. Yes.

Mr. SARBANES. Will the report of the committee preclude the President from nominating and the Senate from advising and consenting to someone who fell into one or another of the categories contained in the amendment?

Mr. LEVIN. In no way. It leaves it open to the President to select whom he will, if the President wishes to select representatives or, more strictly speaking, persons with experience. We are not talking about representatives under this amendment but we are talking about limiting this to persons with experience in certain areas.

Mr. SARBANES. The difference is that under the committee bill this could be done if the President nominated or if the Senate insisted upon it in exercising the advise and consent function, but it is not mandated that it must be done. Is that correct?

Mr. LEVIN. Absolutely.

Mr. SARBANES. I thank the Senator.

Mr. THURMOND. Will the Senator yield?

Mr. LEVIN. I yield the floor.

Mr. THURMOND. Mr. President, the Senator from South Carolina does not recall that this was brought before the committee. I understood the able Senator to say that the committee did not act favorably on this. In fact, the committee did not act at all on this matter.

The Senator may have considered it himself, but I do not recall its coming before the committee.

Mr. LEVIN. I do thank the Senator for raising that question. I was very careful when I commented on this that this matter was raised before the committee—which I did; I am sure the committee records will reflect it—and that the committee did not adopt the House provision. The committee did not vote on this matter at all.

Mr. THURMOND. The committee did not take any action at all on it.

Mr. LEVIN. The committee did not take any action, but it took no action after I advised the committee of the action of the House and recommended against our taking any action.

I think the Senator is correct when he says that the committee took no action whatsoever and I think I am correct in saying it took no action after I fully advised it of the House provision.

Mr. THURMOND. I thank the Senator.

Mr. President, I want to say just a word.

The PRESIDING OFFICER. Who yields time to the Senator from South Carolina?

Mr. DOLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. DOLE. I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, Gulf and Atlantic Coast States strongly support this amendment, as their ports and shipping interests will be most impacted by toll increases and other decisions of the Board.

We understood from the testimony that the President would appoint these sub-Cabinet members and these people are all so busy with their work, we feel this is so important and means so much to the ports all along the east coast and down in the gulf, that it would be very helpful if this amendment were adopted.

I might say that they are not representing special interests; they are merely experienced members. They will be experienced in their line of work and should be able to run a more efficient operation.

Mr. DOLE. Mr. President, I appreciate the remarks of the distinguished Senator from South Carolina and also the comments of the Senator from Michigan and the Senator from Maryland. It seems to me that we all have had some experience on our own with commissions. The Senator from South Carolina just pointed out that these are very busy people we are talking about putting on the commission. It does seem to me that the House had considerable testimony on this matter. They did consider it carefully. It is identical to the House provision. After all, the canal is essentially a commercial enterprise and therefore will need successful commercial experience. I think the issue is drawn.

The Senator from Kansas is prepared to yield back the remainder of his time. First, I want to designate that the President will still have two appointments and he will still have total freedom in the areas we specify, so we are not trying to tie the President's hands. We are suggesting that three of the five should have some special expertise because of the importance of the canal and because of the importance of the operations and its financial base.

On that, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEVIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 26 seconds.

Mr. LEVIN. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, this amendment relates to the appointment of the board. I never heard of any kind of request from the shippers or anybody like that. Certainly, they are entitled to be heard. Our purpose here was to stick to the idea of representation being chosen on the responsibility of the executive branch—that is the ordinary pattern—then have it come here for consideration of the legislative branch. In this field, the Senate from the beginning has had the responsibility of handling this. In that way, we would get a balanced situation.

If there were not ability enough or representation enough across the board, the Senate could turn them down. That is the system used ordinarily, and it works mighty well. In that way, some representation can be given. If it is proven to be those that more or less have the viewpoint of the shippers, there is nothing hidden in this bill. It is just a pure, plain, ordinary, tested, simple manner of trying to divide up these functions.

We can go to conference anyway. It will be left in conference for adjustment. I hope that the Senate can leave the bill in this condition.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. LEVIN. Mr. President, I yield myself 1 minute from the bill.

One of the additional difficulties of enumerating persons with this particular type of experience is that we have other people with other experiences which also, arguably, should be represented. How about somebody who has been involved in consumer affairs? Are we going to say one person should be representing consumer interests? The producers are going to say, "Why are not the producers represented on this Board?" So an added danger to all the ones which have been mentioned, particularly by the Senator from Mississippi, is the fact that once you start specifying, you either have to explain to all the other interests why they are left out or you have to start incorporating them into the bill. Then everybody loses sight of what that commission should be, which is a reflection of the American interests.

That is the critical question in the amendment, whether or not we want in any way to imply that we are going to have representatives of special interests that must be appointed to that board.

This matter should be left to the President.

As the Senator from Maryland well pointed out, the President can appoint, under our bill, representatives of these interests or persons with experience in these lines of business or otherwise, if he wishes. But there is no requirement that should be imposed on the President.

The PRESIDING OFFICER (Mr. MUSKIE). All time has expired.

Mr. DOLE. May the Senator from Kansas have 1 minute on the bill?

Mr. LEVIN. I am happy to yield 1 minute on the bill.

Mr. DOLE. I think the point has been made. The Senator from Michigan and the Senator from Mississippi have explained their view. Rather than prejudice the conference, I think the better part of wisdom would be to withdraw the amendment, which I shall do at the end of this minute. The Senator from South Carolina and the Senator from Kansas have expressed what we think are the strengths of this proposal. It is in the House bill and, rather than lose the amendment, which I think would happen on the Senate floor, it is in my interest and the interest of what I think we are trying to achieve to withdraw the amendment.

Mr. President, the Senator from Kansas withdraws the amendment.

The PRESIDING OFFICER. The Chair states that unanimous consent is required.

Mr. DOLE. I ask unanimous consent to withdraw the amendment.

Mr. STEVENS. Reserving the right to object, where does that leave the proposed amendments? It does not affect the time agreement we have had?

Mr. DOLE. No, Mr. President.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment was withdrawn.

Mr. SARBANES. Will the Senator from Michigan yield me 30 seconds?

Mr. LEVIN. Yes.

Mr. SARBANES. I say to the Senator from Kansas that I think there is merit to the argument that the five Americans on the Board should not necessarily all come out of the Government. But I do not think it ought to be mandated in the legislation where they should come from. That question should be left to the interaction between the President and his nomination, and the Senate in the advise-and-consent function. I think if we leave it there, we shall be able to get a balanced board as we all perceive it and it ought not to be compelled or mandated in the law.

UP AMENDMENT NO. 456

(Purpose: To amend H.R. 111 to provide for the recovery of implementing costs under the Panama Canal Treaty of 1977)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk in behalf of myself and the Senator from Minnesota (Mr. BOSCHWITZ) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated:

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. BOSCHWITZ proposes an unprinted amendment numbered 456.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, after line 8, add a new subsection (c):

"No payments may be made to Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless expended funds are used to reimburse the United States Treasury for all costs of implementation of the Panama Canal Treaty of 1977 as described by the Comptroller General in the report submitted to the Congress pursuant to section 236 of this Act, including costs previously paid by the Panama Canal Company and now assumed by other United States Government agencies. These costs are to be considered as operating costs of the Commission. All other operating costs shall be paid by the Commission prior to these costs. However, in computing the toll base under section 412 of the Panama Canal Code, no provision shall be made for the recovery of these costs."

The PRESIDING OFFICER. The Chair inquires whether this is the other 15-minute amendment?

Mr. DOLE. This is a 30-minute amendment, Mr. President, 15 minutes to a side. I shall take just a few minutes, then yield to the Senator from Alaska.

Mr. President, I think there is a feeling, whether it is totally accurate or not, that when we debated the Panama Canal treaties, and it took a great deal of time, weeks and weeks and weeks of the Senate's time, there is some concern now about whether or not we may have been misled about the costs involved in those treaties.

Mr. President, a major matter of concern to many of us in the Senate, representing the great interest the people of the United States have shown in the Panama Canal debate, has been the costs involved in implementing the treaties. As we all know, the treaties were approved in the Senate by the narrowest possible margin—a single vote—and there is great doubt whether or not the Senate would now find the necessary support to pass these treaties if they came before us today. The Senator from Kansas did not support those treaties then and probably, like most Americans, would not support them now, particularly in light of the estimates that have surfaced recently bearing on the costs to the U.S. taxpayer for giving our Panama Canal to Panama.

It is not too extreme a position to state that many of us were misled about the costs involved with those treaties. During the debates in the Senate, of paramount concern was the economic aspect of ratification. In the face of that concern, treaty managers on the floor of the Senate, the State Department, and the administration all made categoric and emphatic statements that the implementation of the treaty would not cost the taxpayers any money. They denied that tolls would be raised beyond 14 percent, which was in keeping with the rise in the CPI. A comparison of the near unanimous vote for the Cannon reservation, which required repayment of the interest on the U.S. investment in constructing the canal, and the Danforth understanding, limiting the base upon which toll computations could be made, with the ultimate vote on the treaty itself clearly underscores the Senatorial interest and concern in limiting the economic impact of the treaty on the American taxpayer.

RISING ESTIMATES

During the consideration on implementing legislation in the House, a strong case has been made that the cost of appropriations to implement the treaties will run between $2 and $6 billion and that the inflationary impact, while not yet precisely known, will be substantial.

The Senate voted consent to the treaties with a single vote margin. At the time of that vote, many Senators relied on the representations of the administration as to cost factors of the treaties. Whether intentionally or not, those representations were totally erroneous. There is some indication now that those estimates were less than accurate.

President Carter, in an interview with Barbara Walters, said:

> We wanted a treaty that wouldn't cost taxpayers anything and we got it.

Secretary of State Vance and Secretary of the Treasury Blumenthal in February 1978, denied any cost to the taxpayer. Now the State Department indicates toll increases will be at least 50 percent higher than the cap of 14 percent as stated during the debate prior to the vote, and it may rise to as much as 35 precent.

PANAMANIAN DEBT TO RAISE TOLLS

We have had a lot of discussion on the House side and on the Senate side.

On April 10 of this year, a member of the House revealed a shocking and unfortunately deteriorating public debt situation in Panama that has a high degree of likelihood that it will affect Canal tolls in the future. I would like to quote the information this Congressman released:

> The data transmitted just last month by the American embassy in Panama to the Secretary of State in Washington reveals a $2.4 billion debt level equalling the size of Panama's gross domestic product (GDP) with increases projected to push debt servicing to an incredible 71 percent of the consolidated budget by 1983.

So now we have rising tolls and rising energy costs. Continuing:

> We see a dramatic political impact on the advisability of implementing the Panama Canal Treaties of 1977 in the statement: The estimated $60-70 million yearly canal payment to the GOP (Government of Panama) under the new treaties rests on the assumption that probable toll increases over the next few years, aggregating upwards of 50 percent above present rates, will not reduce the current level of canal traffic.

In addition, we have another factor, and that is Alaskan crude and the costs of that, and the fact that as those costs and the tolls increase it will raise the energy costs for many Americans. I do not know of many Americans who do not think energy costs have about reached their peak at this moment.

ENERGY COSTS AND RISING TOLLS

When toll rates are increased—and this Senator believes that to be a safe prediction—it will have an immediate effect on the American consumer. Energy is a good example. Right now tankers carrying Alaskan crude oil from the North Slope are steaming toward Panama. Up to 500,000 barrels per day of Alaskan crude oil is shipped through the canal to gulf coast refineries. These refineries supply the east coast with half its requirements for refined petroleum, and the proposed toll increases of 30 percent will drastically affect prices of heating oil and other products just prior to this 1979–80 winter season. This Alaskan crude is necessary to keep the refineries operating at a more economical capacity, and supplies 7 percent of the petroleum supply itself; therefore, any toll increase will be felt by the American consumer.

The State Department now admits treaty implementation will involve some taxpayer costs; for example, military facility relocations and Defense Department support functions for Americans. It appears that special employee benefits will be required to help retain the present skilled work force and to maintain efficient canal operations.

Payments to Panama are not part of that direct cost. They will come from canal revenues which the U.S. taxpayer will only see indirectly, but not, as I have mentioned insignificantly. It seems to this Senator that the costs to the United States ought to come also from canal revenues. These are legitimate costs associated with the security and continued smooth and profitable operation of the canal system. We are giving up the canal of our own volition. Why, especially in view of the arguments made before the Senate vote on ratification, should we pay for this "privilege"? These costs should be considered with the operating costs that are defrayed from operating revenues—not from the U.S. Treasury in Washington. We will be paying our share of the tolls anyway—much, much more than we are now as it turns out.

Estimates on the cost of implementing these treaties vary from nearly $1 to over $4 billion. The final figure is not as important as who ought to pay. The United States "bought" these treaties on the basis of zero cost. The Senator from Kansas believes we ought to do our best to keep it that way.

MAKING THE TREATIES EQUITABLE

For that reason, I have sent to the desk an unprinted amendment that was just read. The amendment simply provides that:

> No payments may be made to Panama under paragraph 4(c) of article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to reimburse the United States Treasury for all costs of implementation of the Panama Canal Treaty of 1977 as described by the Comptroller General in the report submitted to the Congress pursuant to section 236 of this act, including costs previously paid by the Panama Canal Company and now assumed by other United States Government agencies. These costs are to be considered as operating costs of the Commission. All other operating costs shall be paid by the Commission prior to these costs. However, in computing the toll base under section 412 of the Panama Canal Code, no provision shall be made for the recovery of these costs.

Article XIII(4)(c) of the treaty provides that Panama will receive an annual payment of up to $10 million from canal revenues to the extent that they exceed expenditures. The language above, taken from the House bill, this amendment was adopted by the House, effectively neutralizes the annuity by including as canal expenditures all costs to the United States, such as relocation of military bases by the Defense Department, whether related to the operation of the canal or not. This will allow recovery of U.S. treaty implementation costs at the expense of the contingent annuity payment to Panama provided for under the treaty, and is in keeping with the spirit of the treaties as most Senators believed them to be at the time they were ratified.

I yield the remainder of my time to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to speak on the amendment offered by my distinguished colleague, Senator Dole. As he is aware, there is no one in this body who was more opposed to the Panama Canal Treaties than I was. I believe that the United States made a grave mistake in ratifying those treaties and I believe that that mistake will haunt us for years to come.

The Panama Canal Treaties are already beginning to haunt Alaska on this issue of cost. Despite statements to the contrary by the administration during consideration of the treaties, the American taxpayer is being presented with a tremendous bill to implement these treaties. During Senate consideration of the documents, before us at the time of treaty ratification, I warned many of my colleagues in the Senate that the U.S. taxpayer would be forced to bear the burden of the transfer. I share Senator Dole's concern about this burden but I am concerned with the Senator's amendment.

What this amendment will do is include all U.S. expenses, including the movement of military bases, and other installations, in the operating expenses of the Panama Canal Commission. It is true that these additional costs will prevent Panama from receiving the additional $10 million it may receive if there are moneys left over from the canal revenues, because there will not be any additional revenues, but it could have a more detrimental effect on the United States, by further increasing the price of our energy supply because of the increased cost in bringing Alaskan oil through the Panama Canal.

Let me point out, we are sending through the canal now 255,000 barrels per day, and that could increase to as much as 480,000 barrels per day soon. That oil is now being sent through at a cost of nearly 20 cents per barrel.

Under section 223 of this legislation, tolls would be prescribed at rates calculated to cover, as nearly as "practicable, all anticipated costs of maintaining and operating the canal."

In other words, tolls will be raised to cover all costs and the U.S. citizen will be paying those costs in the form of higher energy prices. At a time when the country is facing an energy crisis termed a "moral equivalent of war," when we should be trying to decrease our dependence on foreign sources of energy, it does not make sense to me to pass legislation which will surely increase the cost of domestic oil. Half of the oil from Alaska must pass through the canal on the way to refineries on the gulf coast and the eastern seaboard. The latest figure predicts a 50-percent increase in tolls, according to a March telegram from Ambassador Moss.

Mind you, these are treaties which we were told would not increase the revenues.

I shall read a paragraph from an unclassified telegram of March 2 of this year. It is a telegram in the form of a memo from Ambassador Moss to Secretary Vance. It is a very interesting paragraph.

It states this:

> Looking ahead, the GOP—

I hasten to add that is the Government of Panama—

> faces a very difficult fiscal situation over the next few years, stemming primarily from its debt burden which may become even more crushing than at present. Rising interest charges plus treaty implementation costs could easily absorb most of the increased income from the Canal, leaving little room for normal growth in Ministerial operations. The outlook is further clouded by economic and Canal Treaty uncertainties which have major financial implications for Panama. Of primary importance—economic growth must resume in order to bolster Panama's income tax base, which is essential to a rising revenue trend. Neither the timing nor extent of recovery is at all certain, however, even though the GOP looks for a substantial upturn beginning in 1979. This will hinge to an important degree on how well the GOP handles the railroad, ports, and its other treaty responsibilities, as well as on the various political and economic considerations which have been suppressing private investment/economic growth over the past four years. Moreover, the estimated $60 to $70 million yearly Canal payment to the GOP under the new Treaties rests on the assumption that probable toll increases over the next few years, aggregating upwards of 50 percent above present rates, will not reduce the current level of Canal traffic.

Mr. President, I can tell you that there is no way to reduce the canal traffic for Alaskan oil. If we are to reduce our dependency on foreign oil, we must increase the flow of Alaskan oil. It makes little sense for us to try to decrease our dependence on foreign oil by increasing the cost of transportation to American refineries.

Now, Ambassador Moss tells us we can expect upwards of a 50-percent increase in toll rates.

Mr. President, that is going to have a drastic effect on the price of Alaskan crude going through that canal. It is not a price that Alaskans are going to pay. It is a price that the people who consume oil on the east coast and the gulf coast of the United States produced in my State are going to pay.

I do not think the country can stand any further increase in energy costs, particularly just to give Panama a windfall payment of $10 million. That is what this is about. That is what the Senator from Kansas is addressing.

I hope that my distinguished colleague will tell me if his amendment could result in an additional cost which would raise the price of transportation of domestic energy sources, and specifically I ask him if he would agree to a stipulation which would state, in particular, that no toll shall be raised on the cost of transport of any domestic energy.

Mr. President, I hope to have the comment of the Senator from Kansas on that matter. But I also hope to address the same question to the manager of the bill.

What is the Senate going to do in conference with the provision from the House of Representatives? It does not take into account the impact of these increases on the transportation of domestically produced energy. I point out it is not only oil from Alaska going to the canal eastward. It is coal produced in West Virginia.

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. STEVENS. Is there any time remaining on the bill?

Mr. LEVIN. Yes.

Mr. LAXALT. Yes.

The PRESIDING OFFICER. There are 15 minutes remaining on the bill.

Mr. STEVENS. I ask for 5 minutes on the bill.

Mr. LAXALT. I yield 5 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. STEVENS. Mr. President, is the Senator from Kansas willing to add a statement that, in particular no tolls should be raised on transport of domestic energy, to the end of his amendment?

Mr. DOLE. The Senator from Kansas has no objection.

I think it would read no increase in toll would be allowed under this amendment. What is the balance of it?

Mr. STEVENS. On the transportation of any domestic energy source.

I was just pointing out to the Senator from Kansas and the Senate that coal from West Virginia and from the East is transported through the canal, also. This is going to have an impact both ways on the transportation and the distribution of domestically produced energy. And it is something we warned the Senate about, Mr. President, something that the administration failed to consider at the time it gave away the canal and gave the tremendous power to that dictator down there.

If the Senator will modify his amendment to that effect I will appreciate it.

Mr. DOLE. Does the Senator from Alaska have some language there?

Mr. STEVENS. I do have.

My question to the manager of the bill is: Assuming that the amendment of the Senator from Kansas is not adopted, as I understand it, the issue of tolls will not be before the conference unless we do something here now to change the House version so that tolls in and of themselves will be at issue. I do not think this issue of the increased cost of energy to the consumer, not to the producer, but to the consumer, is going to be raised in conference.

Could the Senator from Michigan tell me? Am I incorrect about that?

Mr. LEVIN. Mr. President, the question of the tolls can be raised in conference. The impact on the tolls, the various amendments and various portions of the bill, are going to be in conference.

Mr. STEVENS. My interpretation of the treaty is that we cannot have discriminatory tolls. That is one of the provisions of the treaty.

Mr. LEVIN. That is correct.

Mr. STEVENS. Unless the amendment of the Senator from Kansas passes, which says no toll is going to increase and in particular tolls upon domestic energy, this will not be a conference item.

I urge the Senate, if the Senator from Kansas will adopt my amendment, to support the amendment of the Senator from Kansas in order to protect their constituents.

Again, let me point out that it is almost a half-million barrels a day and you are talking about an increase of a minimum of 10 cents a barrel. If my memory is correct that is about the equivalent of a half a cent at the pump. I would think twice about that if I were a Member of the Senate from any part of the United States.

Mr. DOLE. Mr. President, I ask unanimous consent that I may modify my amendment to include the following words:

After "costs," the last word in the amendment change the period to a semicolon and add "in particular no toll shall be raised on the transport of any U.S. domestic energy source."

Mr. STEVENS. I thank the Senator from Kansas and I thank the Senator from Nevada and the Senator from Michigan for yielding time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 128, after line 8, add a new subsection (c):

"No payments may be made to Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless expended funds are used to reimburse the United States Treasury for all costs of implementation of the Panama Canal Treaty of 1977 as described by the Comptroller General in the report submitted to the Congress pursuant to section 236 of this Act, including costs previously paid by the Panama Canal Company and now assumed by other United States Government agencies. These costs are to be considered as operating costs of the Commission. All other operating costs shall be paid by the Commission prior to these costs. However, in computing the toll base under section 412 of the Panama Canal Code, no provision shall be made for the recovery of these costs; in particular no toll shall be raised on the transport of any U.S. domestic energy source."

Mr. LEVIN. Mr. President, first of all, there is nothing in the amendment, as I read it, by the Senator from Kansas that relates to prohibitions on toll increases.

Second, there is such an amendment which I understand has been printed which has not yet been offered, and that issue could be taken up at that time.

The Governor of the canal is very much opposed to such a limit. They would not be able to operate under many circumstances if there were a prohibition against toll increases.

Third, the treaty specifically says that tolls must be just, reasonable, equitable, and consistent with the principles of international law, and those principles are such that you cannot have discriminatory tolls. You cannot have tolls which charge one price to the goods of one country and another price to the goods of another country.

So if the amendment is intended to set a different toll or result in a different toll for American goods than it does for other goods, that toll would be a violation of, certainly would be a violation of, the treaty. I do not think the Senate would want to adopt an amendment that is so clearly in violation of the treaty.

I now yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, let me try to get before you the picture of how this committee worked on this matter, gentlemen. After in-depth study by the committee counsel and by Senator LEVIN, who proved to be very adept in work of this kind, we had a full committee meeting and went over all these provisions, and then carried the matter over until the next week, time to elapse so that everyone would have a chance to make any suggestions he wished.

I am not suggesting anyone was derelict, but I am emphasizing we went at this thing methodically, and it was—may I have the attention of the Senator from Kansas when he can, I will wait until he can—and the questions here about how many changes could be made under the treaty and related matters about tolls, here is the position, in effect, that we took, that we will leave all those matters so that in all events they will be in conference, whether the Senate touches it or not; it is in the House bill according to certain calculations and language, and take the bill on, let it go to conference with those provisions in there, and then after further study and even a hearing, if necessary, by you gentlemen, a further in-depth legal study, and the presentation by the House conferees, we will have a better chance to find a way—I do not think we are very far apart—find a way here to go as far as possible in getting an adjustment to these matters that are complex at best.

I know that was the decision of our committee, and there was some reservation about some of these amendments. But, as a whole, that is the way we settled the matter. I still believe we have been helped here by the Senator from Kansas, the Senator from Alaska, and the Senator from South Carolina, and others, but we still need some flexibility to work this matter out with the House conferees to see what we can do in getting a just, proper, and legal adjustment of these matters.

We put a world of work into this bill. I was not for the treaty, not at all. But I know we have got to do something now in its implementation, and we all seem to agree on it.

So I submit that for the consideration of all those Senators present. I thank the Senator for yielding the time.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. LEVIN. I would be happy to yield.

Mr. SARBANES. Mr. President, I see some very severe difficulties in this amendment. In the first place, the treaty requires just, reasonable, and equitable tolls consistent with the principles of international law; that is, nondiscriminatory tolls, which is the present requirement under the Hay-Pauncefote Treaty. It was a concept we carried forward in the treaties we approved last year. So if we come in with favored tolls of a particular commodity of a certain country, then we violate the treaty that we agreed to.

Second, we will have established a terrible precedent. I mean, after the year 2000 the canal tolls are going to be in the hands of Panama, not even in the hands of the American-controlled commission, and we will have established for them just the reverse precedent. They can turn that precedent around at that point, and instead of charging lesser tolls for that particular commodity for the United States, charge higher tolls for that particular commodity for the United States.

So the last thing in the world we want to do, it seems to me, is to abridge the concept of nondiscriminatory tolls. In the long run the principle of nondiscriminatory tolls is to the advantage of the United States as a heavy user of this waterway for the shipping of commodities in which we are concerned.

Now, on the costs, there is no question that the more we load onto the costs and try to include in the operating costs, the higher we are going to push the tolls.

When we debated this last year, after we got over the somewhat extended language that the President used on one occasion and started analyzing the thing, I think we reached an understanding on the floor of the Senate—it was certainly my understanding—that the operating of the canal, the cost of operating the canal, and any payments provided for by the treaty to Panama, would come out of the toll structure; in that sense the statement that that aspect would not cost the American taxpayer anything was correct. Those costs are to be included into the toll structure.

It was not intended to include in and to have covered, once we analyzed the treaty and discussed them, the costs connected with the military in terms of their operations, which will continue in the Republic of Panama until the end of the century and may well continue beyond the end of the century, depending on whether the United States and the Republic of Panama agree on such continuation or not. That is 21 years down the road.

We do not know where we will be at that point, but if some of these arrangements work out well, we may indeed continue a military presence, although Panama would have to agree at that time or sometime prior to that.

I differ with those people who assert we understood that costs relating to military operations would be included in the tolls. I do not think that was the case—we finally clarified that—and now to load those costs onto the toll structure is going to drive your toll structure way, way up, and create the kind of problems that the Senator from Alaska referred to. He seeks protection against that problem for Alaskan oil by including a discriminatory arrangement for that particular product into this amendment.

But if we try to do that we run counter to the treaty requirement of just, reasonable, equitable, nondiscriminatory tolls; second, we establish a precedent which would come back to haunt the United States many times over.

So I see those two very large defects in the proposal that is pending before us.

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague and I express my appreciation to him for his management of this bill.

As I understand our duty now, it is to find a way to implement the treaty we have supported, and certainly to resist any effort to change and modify that treaty, so much so that it would look like it might be an act of bad faith on our part. That is why I am concerned about the pending amendment, because I think it would really change the terms of the treaty because payments were very much the essence of the consideration that was involved in all of the arrangements that were worked out.

I would, because I have not had the opportunity to speak on the treaty itself, like to comment first on the treaty and then go directly to the heart of the amendment, preceded by a comment as to why I think we have worked out now something that is in the national interest.

Mr. President, no matter what our individual positions were on the Panama Canal Treaties. The unfunded liability in our interest to enact the legislation necessary to implement the treaties and to enact as fair a bill as we can. I certainly do commend the fine work which has been done by the Senate Armed Services Committee, with the leadership of Senator Levin, in reporting out a responsible piece of legislation. It deserves the full support of the Senate.

I wish to offer my special thanks to the committee for agreeing to incorporate two amendments which I had introduced to bring about a more equitable arrangement for sharing some of the costs of implementing the treaties—specifically, the loss of revenues to the U.S. Treasury in the form of annual interest payments, and the cost of early retirement for canal employees. I believe these are costs which legitimately should be shared by all the countries which would benefit from continued use of the canal, and certainly that in no way changes the treaty itself, is within the authority, within the provisions of the treaty for us to implement those amendments which will raise the revenue, which will help share the cost, and have those users of the canal bear the costs of expenses incurred by the United States of America, and not shifted to the backs of the taxpayers, but have a good portion of that shared by those who are benefiting from the use of the canal.

Last year, after studying the excellent cost analysis done by the Senate Armed Services Committee, I stated my intention to work for such amendments. This year the House has already adopted similar provisions, and I am gratified that they have met the approval of the Senate committee.

As Senators know, the administration has opposed continuing the interest payments to the Treasury, currently about $20 million per year, or about $400 million between now and the year 2000. The Armed Services Committee's findings last year were that this loss of revenue to the U.S. Treasury must be viewed as a true cost of the treaties. As a former businessman, I heartily agree with this view and respectfully disagree with the administration. Last year, I was pleased to join my colleagues in overwhelmingly approving Senator Cannon's reservation No. 6 to the resolution of ratification of the Panama Canal Treaty, which calls for the continuation of the interest payment.

The second amendment involves the cost of early retirement for Panama Canal employees who would not be leaving had there been no Panama Canal treaties. The unfunded liability to the United States has been estimated at between $205 and $270 million. The lives of the employees who will participate in this early retirement program have been directly affected by the treaties. I think that this is another cost which should appropriately be shared by all the countries which will continue to benefit from the canal as a result of the new treaties.

The toll increase which can be expected as a result of these amendments falls in a range which has been described by Canal Zone Governor Parfitt as having only a "slight impact" on canal traffic.

While I continue to believe that the treaties serve our most important economic, security, and political interests, I think it is only fair that the U.S. taxpayer not be asked automatically to bear all the costs associated with the changeover of the control of the canal. This implementing legislation not only furthers our national interests in the Hemisphere, but it also serves the interests of the American taxpayer.

With respect to the pending amendment, Mr. President, I feel that this amendment risks a treaty violation. It will not result in any appreciable savings to U.S. taxpayers. Since the legislation requires that tolls be set at levels no higher than necessary to meet operating expenses, it is unlikely that any substantial surplus will ever be generated. The claim that the U.S. taxpayer will be greatly benefited by the application of this hypothetical surplus to U.S. costs is largely illusory. The amendment is an exercise in posturing. It risks a violation of the treaty and the resultant threat to U.S. rights without conferring any meaningful benefit on the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Will the Senate yield me 1 additional minute?

Mr. LEVIN. I yield the Senator 1 minute.

Mr. PERCY. When we consider that the previous amendments I have mentioned result in substantial, measurable benefits to the taxpayer without in any way going against the grain of the Panamanians, who have labored with us so hard to find a treaty that could be fair and equitable by both sides, I think we risk a grave danger of having an amendment that may well be looked upon as a breach of faith.

The amendment is inconsistent with our obligation under article XIII(4)(c) of the treaty to pay to Panama the first $10 million of any surplus of revenues of the canal over expenditures. It is clear from this legislation and from the treaty that the United States need not set tolls at a rate sufficient to generate a surplus of revenues. It is equally clear that the United States is entitled to pay all costs of operating and defending the canal from toll revenues before any contingent payment to Panama is due. The amendment goes further than this, however. It requires that if any surplus is generated, it must first be applied against costs incurred by the United States which bear no relation to the operation, management, or maintenance of the canal.

I am all for every way we can possibly increase revenue to this country and to relieve the burdens on the taxpayer. But I think it would not be in our interests to do so in a way that might breach the good faith we have had over a period of years in negotiating this treaty.

The **PRESIDING OFFICER**. All time on the amendment has expired.

Mr. **LEVIN**. Mr. President, do I have time remaining on the bill?

The **PRESIDING OFFICER**. The Senator from Michigan has 57 minutes.

Mr. **LEVIN**. I yield myself 5 minutes on the bill.

Mr. President, first, I thank the Senator from Illinois for his kind comments. Most important, I thank him for his testimony before the Senate Armed Services Committee, when he eloquently and persuasively talked about the two money-saving items which he has just mentioned and described for all of us today.

His testimony certainly was a major part of our consideration in deciding to save the $400 to $600 million which this bill before the Senate does save the American taxpayer. This is because the early retirement benefits and the interest payments are going to come out of the tolls, as recommended last year in the reservation and as highly recommended by the Senator from Illinois in his testimony before the Senate Armed Services Committee.

Addressing myself now to the amendment before us, Mr. President, the amendment, as amended, contains two treaty violations. The amendment to it adds a treaty violation, and I shall address myself to each, because they really are two separate issues.

The first treaty violation was contained in the original amendment of the distinguished Senator from Kansas. That violation results from the amendment providing that no contingency payments may be made to Panama until after all the treaty implementation costs have been paid back to the United States.

First of all, as the Senator from Illinois pointed out, this is illusory. It is very unlikely that there will be any surplus from which any contingency payment could be made or from which the implementation costs of the United States would be reimbursed by the Commission. Those implementation costs are payments to American employees and contractors, not to Panama.

The costs are within the control of the Commission. For the next 20 years, year by year, an appropriation bill will have to come out of the Appropriations Committee approving the budget of the Panama Canal Commission. On each yearly action of the Appropriations Committee, they can decide and the Senate can decide whether or not the implementation costs in fact will be made. If they are made—and I think we want to maintain schools for our people down there, and hospitals for our people, and recreational facilities, and that is what we are talking about with implementation costs—if those costs are made, those costs are payments to American employees, not to Panama.

So there is no justification for those costs coming out of the tolls, in any event, and it is unlikely that those costs possibly could be reimbursed from the tolls. That would be a policy decision of the Commission.

The first problem with this amendment is that it conditions the contingency payment upon payment back to the U.S. Treasury of those implementation costs. That is a violation, a direct violation, of the treaty.

Mr. President, the treaty provides that the Republic of Panama shall receive from the Panama Canal Commission certain payments, and they are specified. There is an annual amount which is computed at the rate of 30 cents per Panama net ton which goes through the canal. Then there is a specific, fixed annuity that goes to Panama, out of operating revenues, of $10 million.

The third payment, the so-called contingency payment, of up to $10 million is then to be paid out of operating revenues "to the extent that such revenues exceed expenditures of the Commission."

In other words, if there is a surplus after the operating costs of the Commission are paid, then and only then could that contingency payment be made. But, then, under the treaty, the contingency payment would be made.

The **PRESIDING OFFICER**. The Senator's 5 minutes have expired.

Mr. **LEVIN**. I yield myself an additional 5 minutes on the bill.

Mr. President, the first problem with the amendment is that it attaches additional conditions.

It attaches additional conditions to the possibility that the contingency payment would be made.

We cannot unilaterally attach conditions to the payments that are owing contingently or as a matter of right to the Republic of Panama. We cannot sit here and rewrite a treaty and say, "Gee, we wish we would have added this other condition on getting reimbursement for implementing costs; we would have like to have done that."

This is not the time or the place to rewrite the treaty. This is the time to implement the terms of the treaty, and we cannot, as a matter of law, putting aside the matter of conscience and the matter of pride, attach new terms to this treaty.

We have already submitted for the record the opinion of the general counsel of the Armed Services Committee, Mr. Roberts, on this matter. He has rendered an opinion. I will read only one paragraph from it. The opinion, in relevant part, reads:

> Article XIII of the Treaty sets down in some detail the three types of payments Panama is to receive—

He then points out that a usual provision, which is similar to this amendment, provides that no payments from surplus may be made until those surpluses have been applied to the payment of all U.S. costs of treaty implementation, and then adds:

> It is an elementary and well-settled principle of international law that while domestic legislation may change the effect of a treaty inside the territory of one of the signatories, it may not affect the international obligations of the Treaty. Therefore, any attempt by legislation to impose new conditions on the payments to Panama laid down by the Treaty would be inconsistent with it. If the United States were to cause the Commission to withhold a payment under these provisions, the Treaty would be violated, and Panama could take such action under international law as it felt appropriate.

As I mentioned earlier, Mr. President, treaty violation begets treaty violation. If we start walking down the road of treaty violations, we have every reason to believe that Panama will do likewise; and we have vital interests in Panama, including the right to run that canal, including the use of property, including the right to station troops, and other vital interests.

If we adopt any amendment with a treaty violation in it, we have a right to assume that that will be done on the other side, and I do not think that is our interest.

The great objection to this amendment, as pointed out by the Senator from Maryland, is the added line that "no toll shall be raised on the transport of any U.S. domestic energy source."

That has a certain appeal, but I believe all of us realize that the way the canal has been operated under international law and under the treaty, which requires that international law be applied to see that the canal is operated in such a way that you cannot have discriminatory tolls, we should not, by a law written in this Chamber, adopt something which clearly violates this treaty and violates international law.

That part of the amendment as amended, that no toll should be raised on the transport of any U.S. domestic energy source, discriminates on its face between the way U.S. energy sources and other energy sources might be treated.

Because of those violations, Mr. President, I urge that the amendment be defeated.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment (UP No. 456).

Mr. **DOLE**. Mr. President, I ask for the yeas and nays on the amendment.

Under the agreement, the vote will not actually take place until after we finish with the next amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, under the unanimous-consent agreement entered into, I think the Senator from Kansas now proceeds to his third amendment, on which there is a time agreement of 7½ minutes on a side; is that correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 457

Mr. DOLE. I send my third amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and others, proposes an unprinted amendment numbered 467: On page 129, line 12, insert the following: section 206:

(a) The President is authorized to take any appropriate action to assure that the Panama Canal—

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, line 12, insert the following:

"SEC. 206. (a) The President is authorized to take any appropriate action to assure that the Panama Canal shall remain open, secure, neutral, and accessible pursuant to Reservation I of the Panama Canal Treaty of 1977.

"(b) The authority conferred by this section shall be exercised notwithstanding any vote by members of the Panama Canal Commission then in office.".

Mr. DOLE. I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Mr. TOWER, Mr. STEVENS, Mr. PACKWOOD, Mr. GARN, Mr. LAXALT, Mr. HATCH, Mr. HELMS, Mr. THURMOND, and Mr. JEPSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, before addressing the merits of this amendment, let me say, with reference to the amendment just offered, that all that amendment would do is at least provide that some of those implementation costs of the United States be defrayed from operating revenues from the Panama Canal contingency fund. We do not say that tolls cannot be raised. We just say they cannot be raised just to make up the $10 million outlay to the Government of Panama. It seems to me that is not inconsistent with what we were talking about when the treaty was ratified.

But with reference to the amendment just offered by the Senator from Kansas, this amendment is a reinforcement of a number of discussions we had when we were considering the Panama Canal Treaties.

It grants to the President of the United States the authority to take any appropriate action to insure that the Panama Canal remains open, secure, neutral, and accessible in accord with reservation I of the Panama Canal Treaty of 1977.

It further states that any subsequent actions of the President, under these conditions, shall be exercised notwithstanding any vote by members of the Panama Canal Commission then in office. This provision insures our right to act independently to protect and defend the canal whenever its operations are threatened in any way.

As the Senator from Michigan has just said, we have a vital interest in the Panama Canal. It is a vital American interest, and it seems to me that these assurances are necessary as a step toward clarifying the confusion over our defense and passage rights granted the United States under the Panama Canal Treaty.

It has become a source of extreme concern to this Senator that statements by official sources in Panama and by our own administration officials have cast doubts—indeed have proven false—statements made before the treaties were ratified by the Senate on critical areas.

We have had what I think were inaccurate statements by Panamanian officials and officials of this Government with reference to costs, and it should be made clear that the defense provisions of the negotiated accords are not subject to these same misunderstandings or new interpretations.

We do not want to be forced to rely on "interpretations"—conflicting interpretations of America's rights to protect and defend the Panama Canal. In spite of the fact that President Carter told us the provisions were "clearly understood" by the leaders of our two nations, an "understanding" is not legally binding. Neither President Carter nor Gen. Omar Torrijos will occupy positions of authority during the decades when the treaty provisions become significant. There must be some basis in law to insure that their pledge will be honored.

Consider the ramifications of a conflicting "understanding." Our Nation's military leadership, which had endorsed the treaties, expressed their interpretation that "if neutrality is violated, then the United States has the responsibility to intervene in Panama and restore the neutrality regime of the canal." This from the testimony of Adm. James Holloway, Chief of Naval Operations, before the Senate Armed Services Committee in January 1978.

Yet Gen. Omar Torrijos states his interpretation that "it is necessary for the United States to be committed so that when we ring the bell here, when we push the button, a bell rings over there, and the United States comes in defense of the Panama Canal." General Torrijos' interpretation obviously contradicted that of our own military leaders, who believed in our administration's contention that the decision to defend the canal would be unilateral in nature.

Secretary of Defense Harold Brown has testified that "we feel strongly that the United States should take whatever action was necessary to maintain neutrality," and Ambassador Sol Linowitz insisted that "it is for the United States to make the determination as to how we should respond and how we should defend our rights." However, the chief Panamanian negotiator, Escobar Bethancourt, has stated that the United States will not determine when neutrality is violated, and that the treaty "does not establish that the United States has the right to intervene in Panama."

Secretary of State Cyrus Vance has also testified that "in practical terms, as I understand it, our ships can go to the head of the line," in gaining passage through the canal, yet the Panamanian negotiator has said, if "the gringos with their warships say 'I want to go through first,' then that is their problem with the other ships waiting there."

Mr. President, with a deep concern about these weaknesses and ambiguities, I say we should be bold enough to correct them in a straightforward and nonapologetic manner. This amendment will remove this doubt. The next generation may have to bear the consequences if we do not make our position clear now, and we will have failed our constitutional duty to the national interest and the American people.

It seems to me that this amendment states it very clearly.

Mr. President, I introduce this amendment with the belief that it will help to resolve this problem. The administration repeatedly told us how unnecessary it was to attach modifications to the Panama Canal Treaties because certain limitations and guarantees were understood by the leaders of the two countries. But the American people have since had a rude awakening and now feel the need for further insurance in meeting the best interests of our country in the future.

We had, as everyone knows, a great debate about that when we talked about the treaty itself.

It seems to me that we ought to speak very clearly and forthrightly, and not be apologetic. This amendment would remove any doubt, at least about what Congress authorizes the President to do. Whether or not the President does it would be a decision made by whoever the Executive might be at the time, but it seems to me that it is in the national interest. I introduced the amendment because I believe it might strengthen the President's hand, whoever the President might be.

It seems to me we went through the exercise about how we could not attach any limitations or any reservations or amendments to the treaty. We were told it would not cost anybody very much money, that it would not cost the taxpayers any money. We found out that that was not totally accurate, but we are not talking about the cost. We are just suggesting that by this amendment we are saying to the President of the United States, whoever that President might be, that he has that authority, and that he has the support of the Congress of the United States. I would hope the amendment would be adopted.

I reserve the remainder of my time.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Mr. LEVIN. Mr. President, the amendment before us by the Senator from Kansas creates the same type of violation of the treaty which exists in other amendments which may be offered, which provide that a military officer run the canal during time of war.

Part A of this amendment says that the President is authorized to take any appropriate action to insure that the Panama Canal shall remain open and accessible pursuant to reservation 1. There is no problem in that regard, Mr. President.

The problem is in the next section, which is that the authority conferred by this section shall be exercised notwithstanding any vote by members of the Panama Canal Commission then in office.

Mr. President, article II of the treaty provides that the treaty shall be subject to ratification in accordance with the constitutional procedures of the two parties.

It then sets forth some rights for canal operation and management.

Then in article III, section 3, it states that pursuant to the foregoing grants of rights, the United States of America shall, in accordance with the terms of this treaty and provisions of U.S. law, carry out its responsibilities by means of a U.S. Government agency called the Panama Canal Commission, which shall be constituted by, and in conformity with, the laws of the United States of America.

Then the treaty goes on to say, Mr. President, that the Panama Canal Commission shall be supervised by a board composed of nine members, five of whom shall be nationals of the United States of America and four of whom shall be Panamanian nationals. The grant of rights to manage, operate, and maintain the Panama Canal are set forth in this treaty. Those rights must be carried out in the way which the treaty sets forth.

It says that that responsibility will be carried out by means of a Government agency called the Commission, the Panama Canal Commission, and that Commission shall be supervised by a board composed of nine members.

Not only are the rights specified, but the way in which those rights and obligations are carried out are also specified in this treaty.

The problem with the amendment before us is that it says, notwithstanding the vote of the Panama Canal Commission, that the President can act in any way he deems fit. It bypasses the Commission. This is a bypass-the-Commission amendment. Under the treaty, this simply cannot bypass the Commission.

The President has the right to control the Commission. He appoints the majority of its members. They serve at his will. He can replace them any time he wants. If they do not carry out what he deems to be important he can replace them all and he can put in anybody he wishes to carry out his orders. But the control of the canal, of its operations, must be through the Commission under this treaty. Innocuous as this sounds, and as superficially appealing as this amendment sounds, saying the President can act to protect the canal notwithstanding any vote by the Commission, it violates the essential provision of this treaty that the Panama Canal Commission, which is a partnership, a majority of Americans and four Panamanians, that partnership shall carry out the responsibilities of the United States, and a board of the Commission is going to be in operational control of this new canal arrangement.

So, Mr. President, as reluctant as I am, because of the apparent appeal of this, it seems innocuous, particularly in section A, the problem is it is a bypass-the-Commission amendment. No amendment which bypasses the Commission can be adopted without violating this treaty. It is a general principle which I hope will follow when other amendments are offered. No amendment which bypasses the Commission should be adopted by this Senate, because the treaty is so clear that it is the Commission which must carry out the responsibilities of the United States under this treaty.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back the remainder of our time.

Mr. LEVIN. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote will occur first on unprinted amendment No. 456, on which the yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—34

Armstrong
Baker
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cohen
DeConcini
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Melcher
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Thurmond
Tower
Wallop
Warner
Young

NAYS—62

Baucus
Bayh
Bellmon
Bentsen
Biden
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
Durenberger
Durkin
Exon
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Hollings
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—4

Eagleton
Huddleston
Inouye
Pressler

So the amendment (UP No. 456) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 457

The PRESIDING OFFICER. Under the previous order, the vote will now occur on UP amendment No. 457 offered by the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—46

Armstrong
Baker
Bellmon
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cannon
Cochran
Cohen
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Mathias
McClure
Melcher
Morgan
Packwood
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Thurmond
Tower
Wallop
Warner
Young

NAYS—50

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Danforth
Durkin
Exon
Glenn
Gravel
Hart
Hollings
Jackson
Javits
Kennedy
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—4

Eagleton	Inouye	Pressler
Huddleston		

So the amendment (UP No. 457) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any further amendments to be proposed?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 373

(Purpose: To prevent payments to the Republic of Panama if either the President or Congress determines that Panama is interfering in the affairs of another nation)

Mr. HELMS. Mr. President, I call up amendment No. 373 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 373:
>
> On page 128, after line 8, insert the following new subsection:
>
> (c) Upon a determination by either the President of the United States or the Congress by concurrent resolution that the Republic of Panama is interfering in the internal affairs of any other state, either directly or indirectly, no payments shall be made to Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, and under the note regarding economic and military cooperation of September 7, 1977, or any other provisions, until a subsequent determination by either the President or the Congress by concurrent resolution that such interference has ceased.

Mr. HELMS. Mr. President, this amendment says what it means and it means what it says. It says simply if Panama fails to observe the key principles of international law regarding nonintervention and integrity of territory then the Panama Canal Commission is not authorized to make the payments required under the treaty.

Mr. President, earlier today on the Senate floor I discussed the actions of the Republic of Panama in shipping arms, materiel, and troops to the Sandinista rebellion. I pointed out that this was accomplished through a close and intimate cooperation with the Communist government of Cuba, and that it indicated that Panama would continue to support revolutionary activities for the overthrow of legally constituted governments.

Indeed, as I pointed out, the former head of the Inter-American Defense Board, Gen. Gordon Sumner, has testified that as early as 1977, Torrijos told him of his intentions to overthrow the legally constituted governments of Nicaragua, Guatemala, and El Salvador, and boasted of his efforts even at that time to undermine those governments. The evidence is overwhelming that Panama has been intervening in the internal affairs of other nations.

This afternoon I have received a letter from the Acting Governor of the Canal Zone, the Honorable James H. Tormsy. This letter confirms the information I discussed this morning concerning the seizure of private merchant vessels in the waters of the Canal Zone, and Panama's intention to turn them over to the revolutionary government. Governor Tormsy writes:

> Your information is correct that the El Salvador arrived at Balboa on May 23 and that the Honduras arrived at Cristobal on June 8 and transited the following day. Both vessels were anchored within the confines of the Balboa Anchorage in the Canal Zone until they were moved to waters under Panamanian jurisdiction on June 22. Circumstances of these vessel movements are described in notarized statements of their respective masters addressed to Port Authorities, Canal Zone.

And then the Governor goes on:

> According to a July 23 communique made public by the Panamanian Government, the vessels are being held in custody with an intention of ultimate relinquishment to the Nicaraguan revolutionary government . . . I am not aware of any process being initiated to restore the vessels to their owners.

Finally, he adds:

> "I have been advised that the U.S. Embassy has information that the HOPE is in a Cuban port." That is another vessel.

Mr. President, once again we see confirmation that Panama is following the same revolutionary policies as Cuba; and while Cuba is an irritant and a danger, we by no means will ever have the close relationship which we will have with Panama. If Panama is going to continue to apply political criteria to vessels transiting the canal, then there can be no hope of neutrality.

Mr. President, it is clear that Panama is in violation of many solemn treaties in such actions.

Let us look, for example, at the principles of the OAS Charter. This is what Panama agreed to:

> The American States reaffirm the following principles:
>
> a) International law is the standard of conduct of States in their reciprocal relations.
>
> International order consists essentially of respect for the personalty, sovereignty, and fulfillment of obligations derived from treaties and other sources of international law . . .
>
> e. The American States condemn war of aggression: victory does not give rights.
>
> f. An act of aggression against one American State is an act of aggression against all the other American States.

Now let us look at chapter IV of the OAS Charter:

> Article 12. The political existence of the State is independent of recognition by other States. Even before being recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and consequently to organize itself as it sees fit, to legislate concerning its interests, to administer its services and to determine the jurisdiction and competence of its courts . . .
>
> Article 18. No State or group of States has the right to intervene, directly or indirectly for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force, but also any other form of interference or attempted threat against the personalty of the State or against its political, economic, and cultural elements.
>
> Article 20. The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever.

So we see, Mr. President, that Panama has been most flagrantly guilty of violating the rights of another member state.

Now, Mr. President, let us look at Panama's obligations under article 18 of the 1903 treaty—the treaty which currently governs Panama's actions. The 1903 treaty says:

> The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity.

Now look at the 1977 treaty, which is scheduled to go into effect on October 1:

> Article IV. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions, which threaten the security of the Panama Canal or of ships transiting it.

Is it too much to ask, Mr. President, that Panama already has a moral obligation to abide by this provision? And what about the 1977 Neutrality Treaty? Article II says:

> The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world.

How can Panama, therefore, seize the private merchant vessels of another nation and apply political criteria of expropriation?

If Panama does not live up to its side of the bargain, we have no obligation on our side. My amendment simply says that if Panama fails to observe the key principles of international law regarding nonintervention and integrity of territory, then the Panama Canal Commission is not authorized to make the payments required under the treaty.

It makes no sense whatsoever to pay another country that is violating international law to our disadvantage and to the disadvantage of all nations.

Now I might point out that this amendment does not violate the treaty, nor does it change its terms. As long as Panama lives up to its obligations, we are obliged to make the payments. But if Panama breaks the regime of neutrality, thereby inviting attack upon the canal, and disrupting harmony among nations, then it would be astonishing if we had to continue to make payments.

Panama itself has made this provision necessary. It has no impact if Panama fulfills its obligations; but it is extremely necessary if Panama does not.

Mr. President, I ask unanimous consent that the letter from Acting Governor Tormsy be placed in the RECORD at the conclusion of my remarks. I further ask unanimous consent that an article from the journal American Relations entitled "Panama's New Concept of Neutrality," and two articles from Human Events on Panama's connections with Castro be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Canal Zone Government,
Balboa Heights, July 25, 1979.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: In the absence of Governor Parfitt who is in Washington in connection with a Board of Directors meeting, I am responding to your letter regarding Nicaraguan merchant vessels, El Salvador, Honduras and Hope.

Your information is correct that the El Salvador arrived at Balboa on May 23 and that the Honduras arrived at Cristobal on June 8 and transited the following day. Both vessels were anchored within the confines of the Balboa Anchorage in the Canal Zone until they were moved to waters under Panamanian jurisdiction on June 22. Circumstances of these vessel movements are described in notarized statements of their respective masters addressed to Port Authorities, Canal Zone. This is the only information I have concerning the incidents. I have no information indicating that either vessel was boarded by the Panamanian Guardia Nacional while in Canal Zone waters. An investigation was initiated by the Office of the United States Attorney promptly upon being informed of the statements of the two masters and I suggest that you might wish to refer your questions concerning possible mutiny or other violations of criminal statutes to the Department of Justice.

According to a July 23 communiqué made public by the Panamanian Government, the vessels are being held in custody with an intention of ultimate relinquishment to the Nicaraguan revolutionary government. I have been informed that the Panamanian Government has been helpful in assisting United States Embassy efforts to prevent loss or damage to cargo aboard the vessels. I am not aware of any process being initiated to restore the vessels to their owners. Neither am I aware of any determination being made that the incidents constituted a violation of the neutrality of the Canal nor of any protest being contemplated. However, I suggest you may wish to refer your inquiry on this point to the State Department.

I have been advised that the U.S. Embassy has information that the Hope is in a Cuban port. There is no indication it was involved in any incident in the Canal Zone.

I hope this information will be of assistance.

Sincerely yours,
James H. Tormsy,
Acting Governor.

Panama's New Concept of Neutrality

The collapse of President Anastasio Somoza's government in Nicaragua on July 17 came about as the combined intervention of Cuba, Panama, and the United States, using Costa Rica as a staging area, with the secondary assistance of the Andean pact nations. The downfall of Somoza has established the disturbing precedent that a peaceful government which is under attack by subversive elements no longer has the right to defend itself and its people if it does not meet the test of leftist ideological purity.

The pressures applied to Somoza defied every standard of respecting the sovereignty of non-belligerent nations. To put it briefly, the United States, through diplomatic pressures, disarmed Somoza's National Guard at the same time that it turned a blind eye to the role of Panama as the agent of Panama in shipping arms, munitions, and guerrilla reinforcements to the Sandinista terrorists. Moreover, there is still an open question about U.S. State Department approval of export licenses for some $4 million worth of automatic weapons shipped to a so-called hunting and fishing club owned by Panama's notorious G–2 head, Col. Manuel Noriega—arms which later turned up in Sandinista hands in Nicaragua.

No one ever nominated the Somoza government as a model of democratic achievement. Yet, when compared to underdeveloped countries in Africa, Asia, and other Central American lands, it earned plus marks for stability, prosperity, education, distribution of wealth, clean elections, and regard for Constitutional procedures. On the negative side were authoritarian rule, stern repression of subversion, restriction of the political process, corruption of the National Guard, and self-aggrandizement of the ruling family. Yet the penchant of the President for owning a piece of key business enterprises in his country led to a vested interest in efficiency and development, and the creation of more jobs for his people, rather than to bureaucratic entanglement and collapse, as happened in Panama. Nor were the Somozas ever charged with operating international drug-running, gambling, and prostitution ventures, as did the Torrijos family in Panama.

Indeed, it is difficult to imagine any standard of political judgment by which the U.S. State Department could exonerate a corrupt and degenerate Omar Torrijos, best described as a common gangster even though he maintains impeccable Marxist connections, while at the same time turning the full fury of its diplomatic activity against Anastasio Somoza. Yet the State Department's investment of its credibility in the unpopular and unworkable Panama Canal treaties made it necessary to do so.

At one time during the Panama Canal treaty debates last year in the Senate, a mural appeared on a public wall in Panama City portraying the Sandinistas in the guise of heroic socialist realism. Cooler minds quickly saw to it that the mural was painted out over night, lest the Senate get some inkling of the true orientation of the Panamanian government. The whitewash of the Panamanian dictatorship has now worn thin, revealing even that the present regime is willing to apply political criteria to the passage of vessels in Canal waters. Panama's new concept of neutrality calls into question Panama's good faith in respecting the Neutrality Treaty. A close study of that new concept of neutrality therefore will tell us not only what happened to Nicaragua, but what might happen to the Panama Canal in the not-too-distant future.

I. PANAMA'S NEW CONCEPT OF NEUTRALITY

"The Panamanian people's and government's solidarity with the Nicaraguan people's struggle has not been maintained at an abstract or theoretical level. This is not the moment to show it, but the Panamanian people's and government's solidarity has been real, specific, and effective and will continue to be so until Anastasio Somoza is overthrown."—Adolfo Ahumada, Justice Minister of the Republic of Panama, June 8, 1979.

On March 13 and March 16, two vans with the markings of the Firestone Rubber Company slipped across the Nicaraguan-Costa Rican border. In each case they were intercepted by the Nicaraguan National Guard, acting upon an informer's tip. For inside, hidden under the tires, the guardsmen found carbines, rocket launchers, hand grenades, pistols, machine guns, dynamite, and ammunition intended for the Sandinista guerrillas.

Among the weapons in the vans were two groups of special significance.

In the first group were seventy .30 caliber M–1 carbines purchased from Johnson Firearms in New Jersey and Universal Firearms in Miami by the Panamanian Consul, Egardo Lopez. They had been shipped to a Panamanian hunting and fishing club, Caza y Pesca, S.A., according to U.S. government records of the serial numbers.

In the second group were 49 FAL 7.62 caliber rifles made in Belgium, of a unique model that was sold only to Cuba. They were of the same type as 181 identical rifles already captured from the Sandinistas. The same rifles had turned up earlier with Cuban troops in Angola, and in 1963 in an abortive Castro-sponsored plot to overthrow the Venezuelan government of Romulo Betancourt.

The Panamanian Consul, Egardo Lopez, was identified in 1975 as being the second most highly paid member of the Panamanian G–2, according to payroll documents leaked by opponents of the Torrijos regime. The most highly paid, of course, was the G–2 boss, Colonel Manuel Noriega, who happens to be a principal stockholder in Caza y Pesca. In short, it is a front for G–2 operations.

The Miami Indictments

Two months later, on May 15, the U.S. District Court of the southern district of Florida indicted five men in connection with the purchase and delivery of arms between September 1978 and January 1979. Those indicted were:

Jose Pujol, Miami air cargo manager for Air Panama.

Jose Antonio (Tony) Alvarez, a licensed Miami gun dealer and exporter, who is a Cuban exile married to a Panamanian wife.

Carlos Wittgreen, President of Caza y Pesca, S.A.

James Allen Howell, diplomatic security analyst and former lecturer in electronic security and police subjects at the National Intelligence Academy in Fort Lauderdale, a private police training and equipment research firm.

Walter Donald McComas, a Miami gun exporter.

Although the indictment technically charged the five with a conspiracy to export guns without keeping proper records—namely, suppressing the name of Wittgreen as the ultimate recipient—the overt acts alleged in the indictment covered a broader perspective. Although only $25,000 shipment of arms was actually seized, the indictment lists purchase after purchase of weapons destined for Wittgreen.

Moreover, it appears that the Panamanian Consul, Lopez, was omitted from the indictment only because of confusion over whether he had diplomatic immunity. According to the affidavit of Special Agent Donald R. Kimbler, of the Bureau of Alcohol, Tobacco and Firearms, Lopez signed the sales documentation for Pujol personally. Moreover, Pujol stated flatly that the arms purchases were part of $2 million in arms purchases which Panama intended to send to "Nicaraguan guerrilla forces."

On November 10, the day after the weapons were seized, Lopez was interviewed by Kimbler and told him, according to the Kimbler affidavit, that he, Lopez, had been involved in at least seven firearms transactions involving the purchase of over two hundred firearms to be exported from the United States. Lopez further told Kimbler that "he had received his instructions from an official of the Panamanian G–2, an intelligence agency of the Republic of Panama."

On May 11, President Aristides Royo of Panama said in Washington, D.C. that Lopez had been removed as consul on October 11, 1978. However, U.S. State Department records show that Lopez was replaced only in January 1979, and was still acting consul at the time he was interviewed on November 10. Moreover, the gun purchases by Pujol on behalf of Lopez began on September 20.

It is unlikely, however, that either Lopez or Wittgreen will face charges in U.S. courts for the transactions since both are now in Panama, and there is no extradition treaty with Panama.

The Texas indictments

On May 3, four Texas men were arrested by agents of the BATF after being indicted in an alleged gunrunning conspiracy involving 1,000 machine guns destined for Panama. Bail for the central figure in the conspiracy was set at $1 million.

During the investigation leading up to the arrests, BATF agents seized thousands of machine gun parts after serving a search warrant January 12 at a location in Devine, Texas. The parts, for military-type automatic weapons, were valued at more than $100,000.

Those arrested by BATF were:

Robert W. Bradsby, of San Antonio, arrested May 1.

Mortimer Fairchild, of San Antonio, arrested April 25.

Elmer Ballance, of Devine, Texas, arrested April 26.

Tibor Dombi, of Harlington, Texas, arrested May 1.

The four were indicted on April 24.

Cuban aircraft in Costa Rica and Panama

On May 30, observers in Panama reported the landing of a Cuban aircraft of Russian manufacture, an Ilyushin 62, in Panama, from which two hundred fully equipped men disembarked and boarded Panamanian Air Force trucks. On the same day a four-engined aircraft painted yellow with a red star on its tail was impeded from landing near Siena in northwest Nicaragua to give support to the Sandinistas. Later the same plane was spotted at the Rio Hato Air Force Base in Panama.

Nicaraguan intelligence reported that on June 4 a Panamanian Air Force plane landed at the Liberia airport in northern Costa Rica and discharged men and materiel to Sandinista forces fighting the Nicaraguan National Guard at "El Naranjo" just across the border in Nicaragua.

II. THE SUMNER REVELATION

Such events are no surprise to those within the Administration who are concerned about the drift of the situation, but are unable to speak out. One such man is Lt. General Gordon Sumner, USA, Ret., who retired last year after testifying against the Panama Canal treaties before the Senate Armed Services Committee. At that time General Sumner, who, as head of the Inter-American Defense Board had personal contact with all Western Hemisphere heads of state and defense authorities, testified that the overwhelming percentage of IADB members were deeply concerned over the transfer of the Canal to Panama.

During last year's testimony, however, Sumner was still on active duty. Last month, Sumner testified again before the House Panama Canal Subcommittee of the Merchant Marine Committee. At this time, Sumner testified that for two years he had been trying to get the Administration's attention to the fact that he had personal knowledge that Torrijos for two years had been conducting subversive actions against Nicaragua and El Salvador, even at the climax of the treaty negotiations with the United States.

Sumner told the Subcommittee:

"My personal knowledge of Panama's involvement came from a two hour conversation with General Omar Torrijos in November, 1977. He told me then of his intention to support rebellion in his neighbor republics. Following the bi-annual meeting of the Conference of the American Armies in Managua, Nicaragua, I traveled to Panama where a meeting with General Torrijos had been arranged by the Chief of Delegation from Panama.

"While attending the Conference of American Armies in Managua, I had several conversations with President Somoza during which he outlined in great detail the Sandinista subversive effort and the support they were receiving from Havana. According to Somoza and some of his staff, some of this support was being funnelled through the Guardia Nacional of Panama. Naturally, this was a very disturbing and potentially disruptive development for the IADB, to say nothing of the impact on the Panama Canal negotiations.

"During my meeting with General Torrijos, I brought up this subject, fully expecting a full-blown denial. Much to my surprise and chagrin, General Torrijos defended the Sandinistas and his support of their efforts. Further, he stated that he would continue and increase this support. . . .

"In addition to the Sandinistas, General Torrijos strongly defended the opposition that was developing in El Salvador and stated that he, too, would support and assist the insurgents in their efforts to unseat his classmate, General Romero."

After his discussion with Torrijos, General Sumner produced a memorandum which was forwarded to the late Chairman of the Joint Chiefs of Staff, General George Brown. The IADB, however, is an independent body like the OAS, and not under the command of the JCS, and Sumner received no response.

Later Sumner took up the matter in a personal conversation with Robert Pastor, of the National Security Council. Pastor, who has been known in the past to refer with contempt to important Latin American countries such as Brazil and Argentina, according to firsthand accounts by U.S. diplomats, responded in the same way to General Sumner's warning. Indeed, his reaction was to ask what the IADB was, and if there was any reason why it shouldn't be disbanded.

Pastor is a member of the Institute for Policy Studies Group, who worked with IPS to prepare for the Carter-Torrijos treaties. IPS has a far-left orientation. At the time Pastor was involved, its Latin American affairs were in the hands of Orlando Letelier, who was receiving money from Cuba for his work.

THE THOMAS TESTIMONY

Despite Sumner's testimony, a State Department official, J. Brian Atwood, protested sharply the fact that the hearings were being held at all, and denied that the U.S. government had any information that Cuba and Panama were funneling arms to the Sandinistas.

Yet still another retired military officer spoke up to the contrary. Colonel James C. Thomas, USAF Ret., resigned on May 1 after six years duty in the office of the Secretary of Defense with primary supervisory responsibilities for Latin American affairs. Thomas, in fact, took early retirement because he felt frustrated at the way the State Department ignored the realities of Cuban subversion.

Thomas told the Subcommittee:

"The Administration has long had extensive information indicating Cuban, Panamanian, Costa Rican and—at times, Venezuelan—support for the Sandinistas. Yet the Administration has been strangely quiet regarding this aspect of the problem. This Administration appears to be incapable of raising a strong voice of protest against the terrorism which emanates from the left, apparently feeling that to do so would somehow weaken its stance on human rights."

III. THE CIA MEMORANDUM

The truth of Col. Thomas's remarks was soon attested to by a CIA memorandum leaked to the Chicago Tribune on June 27. The memo, dated May 2—the day after Col. Thomas retired—demonstrated that the U.S. government had been following the Cuban-Panamanian activities for a long time. The memorandum made clear that Atwood's testimony on the lack of knowledge of Cuba's role was totally false.

Following the brief excerpts published in the Tribune, the entire text of the memorandum was placed in the Congressional Record by Congressman George Hansen of Idaho, who, together with Congressman Bob Bauman of Maryland, has been spearheading the fight to expose the Administration cover-up of Panamanian involvement in Caribbean subversion. Hansen and Bauman, more than any others in the House of Representatives, have been devoting long hours of investigation and political organization on the Canal questions.

Among the key points of the CIA memo were the following:

"Since late September our information indicates that Cuba has on at least two and probably three occasions supplied arms to the FSLN Sandinista Front for National Liberation. On each occasion Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms. Reporting from several sources indicates that in late September Cuba shipped eight crates of arms—including 50-caliber machine guns designed to serve as an anti-aircraft weapon—to Panama via a Panamanian air force plane for later transshipment to FSLN forces in Costa Rica."

"In early November Cuba made its second delivery of arms destined for the FSLN. According to a reliable source, during the week of 5–11 November three Panamanian air force planes returned to Panama from Cuba carrying crates that contained AK–47 rifles, 50 caliber machine guns, and hand-held mortars. By the end of the month the Panamanians had flown these arms to Liberia, Costa Rica, where they were given to the FSLN."

"Members of the FSLN 'General Staff' reportedly stated at a meeting on 13 April that their inventory included an undisclosed number of antitank rockets of Soviet and French manufacture that Cuba has provided via Panama. Although the 'General Staff' members did not specify when Cuba had supplied the arms, other information indicates that Panama delivered arms to FSLN forces in Costa Rica about the time of the meeting."

"Training in Cuba of FSLN Guerrillas—which has continued at low levels for years—has apparently been on the upswing, especially since January. Early that month a Panamanian emissary reached an agreement with Fidel Castro to send to Cuba FSLN exiles who formerly would have been granted safe-haven in Panama. On 10 March a subordinate of Noriega's said the Panama is serving as a bridge to transport FSLN personnel to Cuba where they undergo training before returning to Nicaragua."

"Members of the FSLN 'General Staff' reportedly said on 13 April that Cuba has trained 300 of the FSLN combatants currently in the field. In early April an official of the FSLN Tercerario faction reportedly said that half of his faction's regular combatants have received training in Cuba."

"Havana especially wants regional Communist parties to support the Sandinistas. Toward that end the Cubans in early February promoted a meeting in San Jose, Costa Rica that was attended by the Communist parties from the Central American countries as well as from Mexico and Panama. Cuban delegates used the occasion to urge their counterparts to bolster their assistance to the FSLN by creating safehavens in their countries, providing facilities for military training and supplying arms and other equipment."

"Cuba reportedly also funnels assistance to the FSLN through two groups in Costa Rica. A member of the Central Committee of the Costa Rican Communist party—the Popular Vanguard Party—said in early March that Cuba had begun to channel limited financial assistance to the FSLN through his party. The Cubans may also be helping to fund a 'Committee of Solidarity with the Sandinista Front' headed by self-professed FSLN member Ernesto Cardenal, a Nicaraguan priest who resides in Costa Rica."

"In early March, leaders of the three major FSLN factions traveled to Cuba to meet with Castro. The Cuban leader is said to have spent nearly 48 hours over a four-day period helping to hammer out a basis for cooperation. As a result of the meeting a unified FSLN directorate was established containing three members from each faction."

"The Cubans have urged the Sandinistas to combine their efforts to intensify the guerrilla struggle with a highly pragmatic political approach designed to broaden the FSLN's base of popular support for a movement to oust Somoza. For example, during Castro's meeting with FSLN leaders in March, he reportedly urged them to play down the Marxist nature of their programs at this point and to offer to join with non-Marxists in forging a broad coalition. FSLN leaders have taken steps to comply with his request."

The Sandinista "Provisional Government"

Castro's advice to the Sandinistas was not long in bearing fruit. On June 16, a clandestine radio "somewhere in Nicaragua" announced the formation of a five-member provisional government to supplant the government of President Somoza. The make-up of the junta displays the typical characteristics of Marxist-controlled coalition governments throughout history, namely, a majority of Communists, with a sprinkling of collaborating figure-heads who have no power. The five are:

Violete Barrios de Chamorro, the widow of Pedro Joaquin Chamorro. Her husband was the dedicated opposition leader to President Somoza, even though Somoza apparently allowed his newspaper and political activities to flourish. Chamorro was mysteriously assassinated in a killing that was never solved, although no serious accusations were ever leveled against Somoza. His wife has no political experience, and her only base, the newspaper, was burned in recent fighting in Managua.

Alfonso Robelo, owner of a large cooking oil business. Robelo is the founder of an ineffectual opposition party, the Nicaraguan Democratic Movement, which was a member of the defunct Broad Opposition Front.

Sergio Ramirez, a member of the Marxist-oriented Group of Twelve, the first attempt to build a coalition. A Sandinista, Ramirez was one of the first to advocate the coalition strategy for a Sandinista takeover. He was also secretary-general of Educa, a publishing house sponsored by several Marxist Central American universities. He is regarded as an effective spokesman to deal with non-Marxists.

Moises Hassan, a university professor and a leader of the National Patriotic Front, the so-called political arm of the Sandinistas.

Daniel Ortega, a member of the Sandinista movement's nine-man National Directorate, established by Castro in Havana in March to coordinate the three factions. Ortega is a member of the Tercerario faction, half of which according to the CIA memo, has been trained in Cuba.

Panama welcomes the Sandinista junta

Panama, which was one of the first of the leftist Latin nations to break relations with President Somoza's government, was the first to recognize the new Sandinista junta. On June 21, Panama's delegate to the OAS, Foreign Minister Juan Antonio Tack (still implicated in the unresolved heroin-smuggling case involving Torrijos brother, Moises) announced that Panama was extending recognition.

Moreover, Torrijos immediately sent his private jet to Costa Rica to bring the junta to Panama City. Instead of landing at Tocumen International Airport, outside of the city, the jet brought the junta into the Guardia Nacional's Paitilla Point airport, where thousands of government workers, released for the occasion, welcomed their arrival.

As the caravan left the airport, it pulled up at Torrijos' private residence on 50th Street near Via Brazil, about two blocks away, for an unscheduled meeting with the supposedly retired Panamanian strongman.

Along with the junta came Hugo Spadafora, a former subcabinet member of President Aristides Royo's cabinet, who took a leave of absence to organize and lead a group of Panamanian "freedom fighters" to help the Sandinistas. Spadafora's group was given training, armament, and logistical support by the Panamanian government, and the government newspaper *Critica* frequently features accounts of his exploits. A few days after the Panama City meeting, for example, *Critica* featured a two-page interview with pictures of Spadafora in Sapao, Nicaragua after the Sandinistas had captured a Guardia Nacional headquarters there. Although it is difficult to judge the extent of involvement of Spadafora's unit, several Panamanians have been killed in the fighting.

Hijacking in Canal Zone waters

The extent of the Panamanian government's commitment to the Sandinista "government of national reconcilation" may be judged by the hijacking of three vessels which Panama says will be turned over to the Nicaraguan revolutionary junta. The vessels belonged to the Mamenic Line, personally owned by Anastasio Somoza, At least two of the three vessels were in Canal Zone waters when they were boarded by Guardia Nacional authorities. The vessels are:

"MV El Salvador" which arrived at Balboa at 5:14 AM on May 23, on a local call. It was due to return to Corinto, Nicaragua, when an alleged mutiny occurred while in port.

The "Honduras" arrived at Cristobal at 6:55 AM on June 8th, made the transit of the Canal on the ninth, and was bound for Corinto. It went to anchor in the Balboa anchorage "due to crew problems." The captain refused to go along with the mutiny, and was kidnapped.

The "Hope"—named after the President's wife—was "captured on the high seas" according to a Sandinista announcement made in Panama City on June 25. The vessel was boarded in an act of piracy by a Sandinista guerrilla group. The spokesman said that the vessel would be kept in a secret place until the Sandinista government took over in Nicaragua.

The Panamanian government announced that the other two vessels would also be given to the Sandinista government when it assumed control of Nicaragua.

The three incidents have cast a chill over the maritime world, for it is clear that the government of Panama has made itself an accessory to the worst crimes in maritime law—piracy, mutiny, hijacking, and kidnapping of a captain, without even a veneer of legality. Instead, Panama appears to be judging the incidents upon the emotional basis of revolutionary justice, without reference to the law of the sea.

Plainly, Panama has violated the neutrality of the Canal even before the Canal treaties go into effect. Yet the United States has made no effective protests because of the delicacy of the situation of the treaty implementing legislation in the U.S. Congress. Although Canal Zone witnesses are positive that the seizure of the first two vessels occurred in Canal Zone waters under U.S. jurisdiction, the issue does not even turn on that violation. Whether the incident occurred in U.S. waters or in Panamanian waters, Panama still has made no effort to return the vessels to their legal owner. If this is Panama's attitude now, what will it be when Panama controls the Canal?

IV. THE SITUATION IN PANAMA

Meanwhile, the situation in Panama continues to deteriorate. Panama seeks to play a large role in the meeting of the so-called "non-aligned states" headquartered in Havana. Panama was the first Latin American country to recognize the Polisario guerrillas, a Soviet-backed insurrection against the King of Morocco. An ambassador from the so-called "Saharan Arab Republic," Ahmedu Suilen, arrived in mid-June and presented his credentials.

Meanwhile, the Independent Lawyers Movement, in a daring move, made a public statement protesting a series of brutal incidents against their members, carried out apparently with the complicity of Noriega's G–2. One of their members was assaulted and beaten in front of his apartment by two masked youths. Another lawyer's office was invaded by masked thugs of the same description, holding a knife against the neck of one of the office workers. An insurance agency had its windows broken after the proprietors had sponsored a "God and Panama Rally" in Chiriqui.

Nor do the ordinary working people fare any better. On June 11, Panama City taxi drivers staged a protest demonstration against rampant inflation and a 22¢ a gallon leap in gasoline prices, without compensating increases in fares. The Guardia Nacional reacted violently after the taxis had tied up traffic for three hours. Using teargas and tow trucks, they smashed their way through the demonstration. That night the city was quiet, but while the cab drivers were meeting at their union hall, the police went out with heavy equipment and destroyed 120 taxicabs, leaving the wrecks littered around the city as "warnings." The result was a taxi, bus, and truck strike that paralyzed Panama's major cities.

Meanwhile, a Panamanian columnist, Miguel Gongora, wrote a column criticizing the government for the price increases. On June 12, Torrijos' agents jumped him in front of his house and beat him severely.

Another journalist, Ricardo Quiroz, criticized the government on a radio program for the beating of Gongora. As Quiroz signed off the air, assailants entered the radio station and beat him up, along with his secretary.

In Colon, where government economic policies had raised the jobless rate to 20 percent, the riots flared up again. According to the veteran Latin American analyst and reporter Virginia Prewett, four important buildings were burned, and the Guardia Nacional sprayed crowds with teargas and birdshot from U.S.-made Huey helicopters. One was killed, and many wounded. Six days later, a high school student demonstration burst out to attack the Guardia. One was killed, and 27 wounded.

The Torrijos statement

Only a few days after the killing of the high school student, Torrijos issued one of his rare written statements, signed by him personally. "Somoza," he said, "is the epicenter of a criminal earthquake." Then he urged the Sandinistas to use moderation in their takeover of Nicaragua.

[From Human Events, July 14, 1979]

Castro's Plans To Conquer Central America

While Americans were joyfully celebrating their independence last week a serious new threat to their liberties was developing at their very own doorstep: a Cubanized Central America. Thanks to Jimmy Carter's enfeebled foreign policy, Fidel Castro, whom the Administration used to insist was something of a benign tumor in the Hemisphere, has been making significant inroads into virtually every nation between Mexico and Colombia. Those advances, furthermore, have now been confirmed by a May 2 Central Intelligence Agency report, a copy of which has been obtained by Human Events.

And if Central America, with its strategic Panama Canal, falls to the revolutionary left, can Mexico and Venezuela, with their strategic oil supplies, be far behind?

A quick look at Central America shows the following: Nicaragua is on the brink of a takeover by the Sandinistas, which are Cuban-spawned, trained and supplied. El Salvador is under mounting terrorist attacks, also fostered by the Cubans. Guatemala is now threatened by Cuba as well. Panama's rulers, of course, are working hand-in-glove with Castro, especially in the effort to topple Nicaragua's President Somoza.

The Administration, from the President on down, has aimed a few, low-keyed barbs at Castro, but its rhetoric, soft as it is, is still louder than its actions. There is some real concern, however, even in the most dovish quarter. Robert Pastor, the National Security Council's expert on Latin America, has sent a secret memorandum to the White House about Castro's rising influence and the deep fears of non-Communist leaders in the Caribbean area.

In a June 18 report prepared for the President, Pastor relayed information given him by Henry Forde, the foreign minister of Barbados, an island nation in the Caribbean. The secret report was first broken by the Chicago *Tribune's* John McClean. According to the Pastor memo, the "Cubans are all over the place in the Caribbean," and what especially worries Forde and such men as Prime Minister Eric Williams of Trinidad and Tobago and Premier Lee Moore of St. Kitts and Nevis is the total lack of an American response.

The May 2 CIA memo confirms that the Cubans are everywhere, but it also shows they are concentrating their fire on Nicaragua's President Somoza, believing him to be the linchpin that keeps Central America from falling into Communist hands. The memo also shows that the key vehicle Castro is using to try to knock off Somoza is the Sandinistas of FSLN, which, even the State Department acknowledged in 1977, "was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory."

According to the CIA memo, the Castro government believes that prospects for revolutionary upheaval in Central America have "markedly improved" because of the weakened position of Somoza and "the ripple effect his removal would have on other countries in Central America." As a result of this belief, Cuba has intensified its efforts to "unify insurgent groups not only in Nicaragua—where Cuba has concentrated its efforts—but in Guatemala and El Salvador as well."

Not only has Cuba "stepped up its on-island training of guerrillas from each of these countries," but, for the first time in several years, has begun to actively supply arms to the Sandinistas. It has also been successful in persuading leftist movements and parties in the Central American region to "increase their assistance to the FSLN" and to funnel Cuban aid to the Sandinista forces as well.

A reader could reasonably infer from the memo that, without Cuba's critical assistance, the FSLN threat to Nicaragua would be dramatically diminished. Indeed, it was Castro who managed to fuse the various FSLN factions into a relatively cohesive, anti-Somoza unit. In early March, leaders of the three major FSLN factions traveled to Cuba to meet with Fidel.

"The Cuban leader," notes the memo, "is said to have spent nearly 48 hours over a four-day period helping to hammer out a basis for cooperation. As a result of the meeting, a unified FSLN directorate was established, containing three members from each faction. In return, Castro reportedly promised that Cuba would increase its assistance in the form of money, arms and ammunition."

In addition, Castro "reportedly urged them to play down the Marxist nature of their programs . . . and to offer to join with non-Marxists in forging a broad coalition. FSLN leaders have taken steps to comply with his request."

Key passages from the memo suggest just how deeply Cuba is involved; they also show that Castro's major ally in the undermining of Somoza is Panama. Here are some of the memo's most important excerpts:

"Since late September, our information indicates that Cuba has on at least two and probably three occasions supplied arms to the FSLN. On each occasion, Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms. Reporting from several sources indicates that in late September Cuba shipped eight crates of arms—including 50-caliber machine guns designed to serve as an anti-aircraft weapon—to Panama via a Panamanian air force plane for later transshipment to FSLN forces in Costa Rica."

"In early November Cuba made its second delivery of arms destined for the FSLN. According to a reliable source, during the week of 5–11 November three Panamanian air force planes returned to Panama from Cuba carrying crates that contained AK–47 rifles, 50-caliber machine guns, and hand-held mortars. By the end of the month, the Panamanians had flown these arms to Liberia, Costa Rica, where they were given to the FSLN."

"Circumstantial evidence indicates that the Cubans were involved in the recent activation of the Panamanian-Costa Rican resupply route to the FSLN. Members of the FSLN 'General Staff' reportedly stated at a meeting on 13 April that their inventory included an undisclosed number of anti-tank rockets of Soviet and French manufacture that Cuba provided via Panama."

"Training in Cuba of FSLN guerrillas—which has continued at low levels for years—has apparently been on the upswing, especially since January. Early that month a Panamanian emissary reached an agreement with Fidel Castro to send to Cuba FSLN exiles. . . . On 10 March, a subordinate of Noriega's [head of Panamanian intelligence] said that Panama is serving as a bridge to transport FSLN personnel to Cuba where they undergo training before returning to Nicaragua."

"Evidence on the total number of FSLN guerrillas who have received training in Cuba is spotty. Members of the FSLN 'General Staff' reportedly said on 13 April that Cuba has trained 300 of the FSLN combatants currently in the field. In early April, an official of the FSLN Terciario faction reportedly said that half of his faction's regular combatants have received training in Cuba."

"A major element in Cuba's approach to the Nicaraguan situation has been its effort to encourage leftist groups in neighboring Central American countries to aid the FSLN. Havana especially wants regional Communist parties to give support to the Sandinistas. Toward that end the Cubans in early February promoted a meeting in San Jose, Costa Rica, that was attended by the Communist parties from the Central American countries as well as from Mexico and Panama. Cuban delegates used the occasion to urge their counterparts to bolster their assistance to the FSLN by creating safe-havens in their countries, providing facilities for military training, and supplying arms and other equipment. Plans were also discussed for a follow-up meeting later this spring probably in Havana that would prepare a strategy for assisting revolutionary activity throughout Central America."

But Fidel has his eye focused on other areas as well. So far as Guatemala is concerned, says the CIA memo, the "main thrust of Cuban policy at this point—as it has been for several years—is to encourage the various insurgent groups to join together in a common effort to undermine the government."

Havana's closest links "are to the Guerrilla Army of the Poor (EGP), and the Cubans have used it as a hub to broaden their ties with other insurgent groups. According to a reliable Guatemalian source, on 12 January a Cuban official met in Guatemala with leaders of the EGP, the Rebel Armed Forces (FAR), and the dissident wing of the Guatemalan Communist party (PGT) to urge these three action-oriented groups to unify.

"The Cuban official counseled them to coordinate plans to factions, to integrate training of their respective members, and to make a greater effort to infiltrate labor movements. . . ."

In late January, a follow-up meeting was held at which two Cuban advisers offered to furnish training in Cuba for "PGT dissidents" and "FAR members." For some time, the Cubans have trained EGP guerrillas in Cuba, but are apparently branching out.

There is also evidence to suggest that the Cubans may be willing to take a more direct role in counseling Guatemalan insurgents. A reliable intelligence source says that "in late February, representatives of the EGP offered the services of three Cuban "experts" to work in Guatemala with the FAR and PGT dissidents to 'coordinate' the assassinations of several government security officials. . . . The Cubans have also worked hard to encourage the orthodox faction of the Guatemalan Communist party (PGT) to lend its support to local insurgent groups."

Cuban actions on behalf of insurgents from El Salvador have also been on the upswing. An untested CIA source reports, for instance, that in February "about 50 members of the military army of the Popular Liberation Forces (FPL)—the group with which Cuba has maintained the closest ties—were in Cuba receiving four months of military and ideological training. The source said that upon returning to El Salvador these guerrillas were slated to serve as leaders for a force of 2,000 newly trained Salvadorans representing the 'Popular Militia' of the FPL-dominated Popular Revolutionary Bloc.

"Cuba has also had links with at least one of the two smaller Salvadoran terrorist groups, the Armed Forces of the National Resistance (FARN). Eduardo Sancho Castaneda—reportedly the FARN's leading strategist—has apparently been his organization's chief conduit to the Cubans. He has maintained regular contact with Cuban officials in Costa Rica and Mexico and has occasionally travelled to Cuba. For some time the Cubans have also been pushing for greater cooperation between the El Salvadoran Communist party and the various insurgent groups."

In other words, Castro is on the march, and the question, as always, remains: what does Jimmy Carter propose to do about it other than talk or temporarily join hands with the Communists to call for the removal of rightist Latin leaders?

[From Human Events, July 28, 1979]

COMMUNISTS POISED TO TAKE OVER NICARAGUA

Under tremendous military, economic, and diplomatic pressure from the United States, Gen. Anastasio Somoza Debayle, whose family ruled Nicaragua for more than 40 years, flew on July 17 to exile in Miami. Though U.S. policy-makers hoped this would finally resolve the civil war in that country, the blunt truth is that Somoza's departure will almost certainly make things worse, for poised to take over the nation Somoza left behind are the Cuban-spawned and Cuban-trained Sandinista forces.

Make no mistake: Nicaragua, which many geostrategists believe is the key to the control of Central America, has been removed from the pro-Western camp and is almost certain—barring a miracle—to become a Marxist state that marches in lockstep with Fidel Castro. And if Central America, with its strategic Panama Canal, falls to the revolutionary left, can oil-rich Venezuela and Mexico be far behind?

Much of this debacle can be laid at the doorstep of Jimmy Carter's foreign policy. Somoza may have been an unappetizing ruler from certain points of view, and not all of them left-wing. But he had his saving graces. He was subject to elections, and he allowed *La Prensa*, a vigorous anti-Somoza newspaper, to flourish in the capital of Managua until the recent escalation of the civil war. "The media are private and often highly critical," asserted the liberal Freedom House in 1978. Somoza was also pro-Western, anti-Communist and did not export revolution.

But the United States, which instituted an arms embargo against Somoza in 1977 and began to markedly reduce economic aid under President Carter, radically undermined his regime, making it so vulnerable to terrorist attacks that Somoza was eventually driven from power. Will a better regime materialize? Not likely.

Locked in a bitter civil war with the Sandinistas, who were getting arms, ammunition and training from Cuba, special help from Panama and even assistance from Costa Rica and Mexico, Somoza became increasingly unpopular, especially since he had to resort to repressive measures to counteract the Sandinistas. Moreover, he lost popularity as we continued to undermine his authority, and he, himself, made several mistakes.

To help "resolve" the situation, the United States in recent weeks led the drive in the OAS and elsewhere to force him out of his country. Initially interested in just seeing Somoza removed—without inviting the Sandinistas in as his replacement—the U.S. later, when Somoza himself appeared ready to go, began negotiating his departure with the five-man "Junta of the Government of National Reconstruction," which was a Sandinista creation that had surfaced this year in Costa Rica.

With Somoza's eventual agreement, the junta was officially scheduled to take over Nicaragua last week, within 72 hours after the President touched down in Miami, but Somoza's immediate successor, Francisco Urcuyo Maleano, tossed a monkey wrench into the formula by claiming he would refuse to relinguish the reins of government.

Urcuyo did not last long. First, the U.S. threatened to deport Somoza, who was believed to have been behind the Urcuyo maneuver, unless Urcuyo carried out the agreement. And as the junta entered Leon, a Sandinista stronghold, the National Guard, which had refused to surrender while Somoza was still in office, began to crumble before the Sandinista forces, with Urcuyo fleeing to Guatemala. How long the remnants of the Guard, whose top officers had fled the country with Somoza, would continue to resist the Sandinistas was unclear as we went to press.

When the junta assumes power, there is no reason to believe it won't try to impose a Communist state on the Cuban model. The junta is an official creation of the Communist born and bred Sandinistas. Of the five members, three are considered hard left.

One of the five, Daniel Ortega Saavedra, not only commands a Sandinista unit, but serves as a member of the nine-man Sandinista directorate that was forged by Fidel Castro in Havana this past March. Ortega is a member of the Sandinistas' Tercerario faction, half of which, according to a May 2 CNA memo, has been trained in Cuba. According to the Washington *Post's* Karen DeYoung, whose writings have been extremely favorable toward the Sandinistas, Ortegas came to Costa Rica to talk with the U.S. negotiator, William Bowdler, "and participated in drawing up the transition plan" ending in Somoza's departure.

Junta member Sergio Ramirez is also a member of the Marxist-oriented Group of Twelve, and is said to be a Sandinista member, though he does not say so publicly. In a floor speech last week, Sen. Jesse Helms (R.–N.C.), a member of the Foreign Relations Committee, called Ramirez a "Sandinista," saying he was "one of the first to advocate the coalition strategy for a Sandinista takeover. He was also secretary general of *Educa*, a publishing house sponsored by several Marxist Central American universities. He is regarded as an effective spokesman to deal with non-Marxists." The June 30 New York *Times* quotes Ramirez as denying he's a Communist, but admitting that the junta, which is to rule Nicaragua, "was prepared by the Sandinist Front."

Moises Hassan, a leader of the Sandinista-allied United People's Movement, is, according to DeYoung, "the junta's most radical member. . . ." Hassan has been quoted as calling for mass executions of those in the National Guard.

Yet this, as they say, is only the beginning. Under pressure from the United States to "broaden" its base, the junta on July 14 named a dozen members of a prcposed 18-member cabinet. A number of the cabinet members were moderates and businessmen, but the key positions went to hard-line Communists and radicals.

Ernesto Cardenal, for instance, was named Minister of Culture. A radical poet and priest, Cardenal has been a major Sandinista spokesman. He is also a strong admirer of Fidel Castro. Cardenal has visited Cuba many times and according to a Feb. 11, 1978, Radio Havana broadcast, he personally briefed Castro on the Nicaraguan situation. From Cuba, Cardenal also gave three-times daily anti-Somoza newscasts. Author of the book, In Cuba, which, of course, sings Castro's praises, he has been quoted as saying, "there is only one Latin America, and that is Che Guevara's fatherland."

The Maryknoll priest, the Rev. Miguel D'Escoto, was selected as Foreign Minister. D'Escoto—see story below—is a hard-line radical who embraces revolutionary violence. In his introduction to the book, *Guardians of Dynasty*, D'Escoto discloses he wants to impose something akin to Communism on Nicaragua. He admits that the "overthrow of Somoza" is only a first step toward bringing about "the revolutionary changes" that "more socially concerned Nicaraguans would like to see," but he emphasizes that Somoza's removal is "an indispensable step in that direction."

Yielding possessions and privileges is difficult to do, he concedes, and "the construction of a just, noncapitalistic system can only be the result of a moral conversion." But if "the elite are not up to this kind of patriotic action, then their reluctance will only serve to prove that the Frente Sandinista de Liberacion Nacional had been right all along in choosing violence and guerrilla warfare as the only viable strategy to bring about change."

In other words, "Father" D'Escoto, a supposed disciple of Christ, doesn't bat an eyelash when condoning terror as a means of altering Nicaragua's economic system. In the same introduction, D'Escoto condemns the Somoza government for killing "martyrs" "like the Frente's Carlos Fonseca Amador." Fonesca, killed in a shootout with the Nicaraguan National Guard in November 1976, was, according to an April 19, 1977, memo from the State Department's Michele M. Bova, director, Central American Affairs, "a proponent of Marxist-Leninist theory who had closely followed the Castro revolution in Cuba and whose attachment to the Cuban revolutionary model strongly influenced" the development of the Sandinistas.

Far more ominous, however, is the appointment of Tomas Borge Martinez as Minister of Interior. In her July 14 dispatch from Managua, Karen DeYoung acknowledged that Borge was "a self-described Marxist" who "heads the Prolonged Popular War faction of the Sandinista National Liberation Front, including much of the nucleus of the original, 17-year-old Sandinista organization. . . . As interior minister, political analysts said, Borge will also serve as director of police functions and thus will be in a better position to keep mavericks from his faction in line."

Miss DeYoung, however, omitted some critical details on Borge's background, including his well-established links with Cuba. A revolutionary who had engaged in subversion and terror, Borge was captured by the Nicaraguans and sentenced to a 30-year jail term in 1977. During his trial, Borge admitted he had spent several months in Cuba in 1960 receiving military training at the hands of the Cuban army. In 1967, he returned to Cuba with more than 15 terrorists for additional training. "This group," he said at the trial, "received the standard guerrilla course and certain special courses in communications, military sanitation, explosives and training in arms such as bazookas. . . ."

On Aug. 24, 1978, Borge, along with some 60 other revolutionaries, was released from prison, as a result of a deal Somoza made with the Sandinistas after they had seized the national legislature. On September 26 he arrived in Havana to begin a lengthy stay with Fidel Castro. When veteran liberal journalist Tad Szulc visited with Borge in Panama City just prior to Borge's trek to Cuba, Szulc noted that the long-time revolutionary had "emerged as the political and ideological leader of the Nicaraguan rebel movement that calls itself the 'Sandinist Front of National Liberation' (FSLN)."

With the aid of Borge, Castro managed to fuse the various FSLN factions into a relatively cohesive, anti-Somoza unit. In early March, according to a May 2 CIA memo (see July 14 issue, page 1), leaders of the three major FSLN factions traveled to Cuba to meet with Fidel.

"The Cuban leader," notes the memo, "is said to have spent nearly 48 hours over a four-day period helping to hammer out a basis for cooperation. As a result of the meeting, a unified FSLN directorate was established, containing three members from each faction. In return, Castro reportedly promised that Cuba would increase its assistance in the form of money, arms and ammunition." A key leader of the directorate is Borge.

The junta, however, which is to become the provisional government of Nicaragua, has placed Borge in charge of the police.

Despite some accounts to the contrary, the Sandinistas are thorough-going Communists. The State Department's April 19, 1977, letter to then Rep. Ed Koch stated the guerrilla movement "was founded in Havana in September 1962 by a group of leftist extremists who had been active for some years in revolutionary causes in Nicaragua. Carlos Fonseca Amador, perhaps their most significant leader, was a proponent of Marxist-Leninist theory."

Wade H. R. Mathews, Director of the Office of Central American Affairs of the State Department, sent a letter to Sen. Jesse Helms (R.–N.C.) on Nov. 20, 1978, emphasizing that all factions of the Sandinistas were Marxists.

"The three factions," said Mathews, "differ primarily over tactics rather than ideology."

The guerrillas, noted Tad Szulc, after he had interviewed them, "left no doubt about their admiration for the Cuban revolution, whose influence is powerful within the movement . . . ."

The commander of the Sandinista armed forces, Eden Pastora Gomez, also told Szulc that when his group comes to power it would expropriate all of Somoza's property, nationalize natural resources and implant social justice along with the establishment of a "popular Democratic army."

In sum, communism has made a major new advance, right on our own doorstep, and a good share of the blame should be laid on Jimmy Carter.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield to the distinguished chairman of the Committee on Foreign Relations.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, it may come as a surprise to some Members of the Senate, but Panama is an independent country. It is not a satellite of the United States, it is not a territory of the United States, it is not a colony of the United States.

We have entered into a solemn treaty. It is the law of the land. It has been ratified by the Senate, and provides a fair and workable basis between two soverign governments, the United States and the Republic of Panama, for operating the canal between now and the end of the century.

We have committed the word of the United States as to how the tolls of that canal will be divided between the two governments.

I do not want the time ever to come when it is said of the United States that our treaties are not worth the paper they are written on. If this amendment is adopted, Mr. President, the treaty we have entered into with Panama will not be worth the paper it is written on, because the amendment busts the treaty wide open. It imposes a condition upon Panama by which the United States will determine whether or not the terms of the treaty will be honored, based upon the transfer of guns to Nicaraguans, a happening that came long after we ratified the treaty, and is not even contemplated by any provision of the treaty.

Many of us are concerned about what has happened in Nicaragua. I hope that out of the shambles and the savagery that have characterized the relationship between the Somoza regime and the people of that ravaged country there may emerge a government based upon democratic principles and controlled by moderate elements that are still participating in the political process there.

We hope for the best, but we cannot determine what will happen in Nicaragua by imposing an unlawful condition upon Panama.

We cannot exalt our influence in this hemisphere by breaking our solemn word. That is what we will be doing if we adopt this amendment. We will be tearing up the treaty, because we resent a revolution that has driven Somoza from power in Nicaragua.

Do not think that the adoption of this amendment will stop the transport of guns to Nicaragua. If there are Panamanians who favor the revolutionary movement in Nicaragua, and certainly there are many, do not think this amendment will stop them. It will have just the opposite effect, in my judgment. It will inflame them. It will make them all the more determined to spread revolution throughout Central America against rotten dictatorships of the Somoza character.

The United States cannot get its way by laying down demands upon other sovereign people, in violation of the solemn covenants contained in our treaties. We will only undermine our influence and make ourselves the object of their contempt.

So I hope that the Senate will resolutely defeat this amendment. We have pledged our word, and as we are an honorable people, I trust we will keep it.

Mr. LEVIN. Mr. President, the Senator from Idaho has stated as eloquently as possible the consequences of this proposed action, if the Senate takes it.

It has been suggested by Senator HELMS that there is no violation. I want to read to the Senate what the treaty says, and then I want to read to the Senate what the amendment of Senator HELMS would have us do.

The treaty says that the Republic of Panama shall receive an annual amount to be paid out of canal operating revenues at 30 cents per Panama Canal net ton; a fixed annuity of $10 million; the contingency payment, which we discussed previously here this afternoon.

I repeat: The treaty says that the Republic of Panama shall receive.

The amendment which has just been offered says that we are going to attach another condition—conditions above and beyond conditions set forth in the treaty—to the payments that the Republic of Panama is entitled to.

This amendment says that if either the President or Congress—if we decide unilaterally—decides that the Republic of Panama is interfering in the internal affairs of another State, either directly or indirectly, whatever that means, no payments shall be made to Panama under paragraph 4(c).

We cannot change the bargain. Many Americans did not like the bargain; other Americans did; and the Senate was deeply divided as to whether or not this was advisable. The ratification vote unleashed a tremendous emotional debate over the value of this treaty. But we cannot change the bargain unilaterally by coming here a year later and saying that although the treaty says you are going to get payments A, B, C, and D—shall receive—we are now going to attach a new condition if we, either the President or Congress, think you are even indirectly interfering in another country's affairs. We then are going to see to it that the Commission does not pay you what you are entitled to.

That is a material breach of the treaty. It is perhaps the most serious breach of any we have considered here today, because this goes to the question not of the contingency payment to Panama, which in all likelihood is not going to be paid anyway, but this goes to the payments to Panama to which they are entitled under the treaty.

Put ourselves in their shoes or reverse the scene. How would we like it if the Republic of Panama adopts a law unilaterally which says that the rights we are entitled to under the treaty—the right to station troops in Panama, the right to operate and maintain the canal until the year 2000— would be forfeited if they decided unilaterally—their President or their Congress decided—that we, directly or indirectly, interfered in the affairs of another country?

How would we like it if the Congress of Panama were to say that we intervened in the internal affairs of Vietnam and they were going to kick us out of the canal because they decided, unilaterally, that we had interfered, directly or indirectly, in the affairs of another country?

Mr. STENNIS. Mr. President, will the Senator yield me 2 minutes, without losing his right to the floor?

Mr. LEVIN. I yield 2 minutes to the Senator.

Mr. STENNIS. I appreciate the Senator yielding. I have asked for this time because I have to attend a SALT hearing.

Mr. President, I have been very much concerned about some of these provisions. We have never yielded one bit from the idea that we would give all the matters that were in the House bill full consideration at the conference.

On these money matters, this one is so plainly—I say this with great deference—beyond the call of the treaty, it goes so far and so plainly and for all those conditions, that, as strong as I was against the treaty and although I thought it was a mistake to enter into it, I have to yield to the idea that this language is far beyond the call of anything that is left for us to set.

We already have had our day in court, and we voted for that treaty. I think we should willfully carry this out. We would be hailed before the bar of justice in an international court, or whatever it is called, we would have committed a grave error and overrun our authority, and we would be declared in default.

If there is any segment of this amendment that is tied into matters that are already in the House bill, we can and will give the utmost consideration to it in conference. I am not saying we will bring back a magical bill, but we will bring back the best we can.

We have the benefit of the chairman of the Committee on Commerce, Mr. CANNON, who has part of the jurisdiction, under the Senate rules, with regard to matters of the canal. So we will have talent and knowledge on this matter among the conferees.

I believe we have to leave off the greater part of this amendment. But if there is any segment of it in there, it will receive the fullest consideration with the conferees in the House. They are going to be prepared, able, and willing to fight for their bill.

I hope the amendment, under these conditions, is not adopted.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes and 14 seconds.

Mr. HELMS. Mr. President, I assure my friend from Mississippi for whom I have the deepest respect, that he will have a chance to evaluate this amendment because it is in the House bill, with the precise language of this amendment. This amendment is nothing new. It was deleted in committee in the Senate, unfortunately.

I hope I can make my point without appearing to be disrespectful to Senators who may disagree with me, but I am bewildered by the arguments that have been made against this amendment. I will tell Senators what the arguments amount to.

They amount to a concession that we should turn over Latin America to the Marxists, because we cannot do anything about it. Well, Mr. President, we can try.

They ask how we would like it if we were Panama. I will tell you how I would feel if I were Panama and I saw the United States of America rejecting this amendment. I would laugh my head off.

If this amendment is adopted, the Senate of the United States will be acting in the best interests not only of the United States of America but the free world as well.

Why, in the name of Heaven, should we even consider subsidizing lawlessness?

In the 1977 Neutrality Act, which Panama agreed to—and I call this to the attention of my friend, the chairman of the Foreign Relations Committee—the Republic of Panama declares the neutrality of the canal in order that, both in time of peace and in time of war, it shall remain secure and open to peaceful transit by the vessels of all nations.

That does not mean some nations, Mr. President. That means all nations. "On terms of entire equality, so that there will be no discrimination against any nation or its citizens or subjects."

That does not mean nations that happen to be allied with Fidel Castro or Omar Torrijos. It means all nations, Mr. President. I suggest that the vessels I discussed a moment ago had a right to transit that canal, and not be seized by Torrijos' henchmen and handed over to the Sandinistas.

Mr. President, let me make this clear: I may be the only Senator here who feels this way, but every time I get a chance to vote against the spread of Marxism, I am going to do it.

We should not have given away the Panama Canal last year, and we should not today adopt this implementing legislation, which just hands it all to Torrijos on a silver platter. It is just as simple as that. A little later on, before 6:30, I will offer some more details about that, Mr. President, but for the time being I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, under the terms of the Panama Canal Treaty, the canal itself is being operated by a commission which is controlled by the United States, and it will continue to be controlled by the United States between now and the end of the century. Any charges that the canal is being closed to any ship are charges that should therefore be directed toward the commission itself, over which we exercise effective control.

I do not know of any case where the canal has not been operated in a way consistent with the terms of the treaty as a neutral waterway, and if there is such a case, then the commission itself is answerable to us, for we not only possess but will continue to have controlling interest over the commission for the life of the treaty.

Mr. HELMS. Mr. President, when I hear such comments as that, I say, with deference and respect to my friend, that I am reminded of Lewis Carroll's Through the Looking Glass, when Humpty Dumpty said:

> When I use a word, it means just what I choose it to mean; neither more nor less.

A lot of words have been spoken here today, Mr. President, which fall into that category.

The Senator from Idaho surely knew that I was not talking about the Panama Canal Commission; I was talking about the Marxist leaders of Panama. Panama has officially announced the expropriation of two private merchant vessels for political reasons. What will happen when Panama has full jurisdiction? I hope my command of English is sufficient to have make that distinction clear, and I believe I did. I am astonished at the Senator's statement that he does not know about these episodes involving privately owned merchant vessels. I can provide him with the documentation, if he is interested.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. HELMS. I am sorry. Time is so limited. I hope the Senator will use the time on his own side. I know he will understand.

Mr. LEVIN. I am happy to yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 1 minute and 33 seconds remaining.

Mr. LEVIN. How much time on the bill, Mr. President?

The PRESIDING OFFICER. The Senator has 44 minutes remaining on the bill.

Mr. LEVIN. I yield the Senator such time as he may require.

The PRESIDING OFFICER. The Senator might consider the 6:30 cutoff for the final vote.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. Have I now been given 1 minute and 33 seconds in which to wax eloquent?

Mr. LEVIN. I am happy to yield the Senator additional time from the bill.

The PRESIDING OFFICER. The Senator now has 1 minute remaining.

Mr. TSONGAS. I ask unanimous consent that 4 of the remaining 44 minutes be available, under this time frame, to this Senator.

Mr. LEVIN. I am happy to yield the Senator from Massachusetts 4 minutes on the bill.

Mr. LAXALT. Mr. President, in terms of the agreement of a final rollcall vote at 6:30, as I understand it, the opponents have 11 minutes left. I would hope as a result of all this discussion we are not totally wiped out, because we are, in addition, looking at a final rollcall vote.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. TSONGAS. I thank the Chair, and I will attempt to use a little less than the 4 minutes and make my points quickly.

Mr. President, I think the Senator from Michigan said it quite well. You can imagine what would happen here if the President of Panama announced in the morning that because of our involvement, for example, in Zaire, he has decided it is improper and we will no longer have access to the canal. The outrage in this body would be so thick you could bottle it. That is all right, because we are the big boys in the block; but if they do it, they are the Third World countries; my God, what could you expect?

When I came to this Chamber from the House side about a month ago, I tried to walk in that door with my 2-year-old child, and I was stopped at the door by the guard because I was violating the decorum of the Senate. Why my 2-year-old daughter would be such a national menace is beyond me, but we have decorum here.

What about a man's word? What about honor? When you give your word, does it not mean something?

Are we so heavily taken with the notion of turning our backs on our word? That is all right, but a 2-year-old child is somehow violative of the decorum of the body. What a strange set of values.

This is an attempt to kill the treaty; that is all it is, and it should be labeled as such. I can understand the reason. Think of the great patriots that we have supported in the last few years. Trujillo in the Dominican Republic; there was a man who loved his people. Batista in Cuba; there was a great patriot. Lon Nol in Cambodia. Diem in Vietnam. Haile Selassie, in his last years in Ethiopia. When you look at that arrangement, and then along comes Somoza, you want to hang on to him, because that is what we have stood for.

Mr. President, that is not what we stand for. What we stand for are people who run governments who happen to care about their people, who get the support of the United States because of their principles, and not because they get up and mouth rhetoric about Marxism. Our strength is our Constitution, our morality, our human rights, and our set of beliefs. With those strengths we can take on anybody and handle him.

When we engage in this kind of paranoia about other countries that are acting like independent nations, of all things, we are diminished as a people and a country, and we provide the exact entree for the Soviets and Cubans that everyone is worried about.

If you want Castro to toast tonight, pass the amendment. If you want the Soviets to toast tonight, pass the amendment. If we are concerned about long-term American interests, why do we not concern ourselves about something as simple as honoring our word?

I yield back the remainder of my time.

Mr. HELMS. Mr. President, I am prepared to yield back the balance of my time, provided the opponents will do the same.

The PRESIDING OFFICER. The opponents have no time remaining on the amendment.

Mr. HELMS. Very well. I agree it is important to keep one's word, and I imagine my friend from Massachusetts would make that all-encompassing. I would just remind the Chair that on the television, I heard the President of the United States assure the citizens of this country that the Panama Canal treaties would not cost them one thin dime. All I want to do, again, is help the President keep his word.

I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Michigan, on the bill, yield to me for a question?

Mr. LEVIN. If I have time.

Mr. HARRY F. BYRD, JR. Looking at the clock, it would appear that following this rollcall there will be virtually no time left. The Senator from Virginia would like to address a few inquiries to the manager of the bill, and possibly present an amendment. Will that be possible under the existing conditions?

The PRESIDING OFFICER. The Senator would be able to offer an amendment. However, the Senator would not have time remaining to speak to the amendment.

Mr. HARRY F. BYRD, JR. That makes it quite awkward, because neither I nor anyone would know whether he should vote for or against the amendment. In the first place, the author of the amendment would like to have a colloquy with the manager of the bill to establish some facts in regard to it.

That cannot be done.

The PRESIDING OFFICER. The Chair informs the Senator that under the existing agreement, the vote on final passage must occur not later than 6:30. However, that will not preclude the offering of amendments.

The Senator from West Virginia.

Mr. RANDOLPH. Is there time remaining on the Helms amendment?

Mr. HELMS. I have yielded the remainder back.

Mr. RANDOLPH. I know, but that does not mean that the Senator cannot change his mind to give a colleague some time.

Mr. HELMS. Mr. President, I hope the majority leader can come to the floor and entertain a suggestion that there be a little time extension to take care of this situation.

The PRESIDING OFFICER. The Chair informs the manager of the bill that there is time remaining on the bill. There are 19 minutes remaining on the bill.

Mr. HARRY F. BYRD, JR. May I ask the Senator if time is to be made available? I will not press it at the moment, but I would hope that before the vote is taken, arrangements can be made for this Senator or others who may not have amendments, but who may want to direct inquiries to the managers of the bill.

Mr. LEVIN. I will be happy to yield 2 minutes to my colleague from Virginia from the bill and 2 minutes to my colleague from Massachusetts from the bill. I understand that would be agreeable with the minority. I hesitate to do that because of the shortage of time left, given the 6:30 time limitation agreed to by unanimous consent.

If there is no objection——

Mr. SARBANES. I suggest to the manager of the bill that we do that now, before we go to a vote.

Mr. LEVIN. That is exactly right.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I would like to ask the majority leader whether he is willing to amend the unanimous-consent request so that after this vote is taken the Senator from Virgina might have an opportunity to query first the manager of the bill and, second, if necessary, to present an amendment. I am not certain I will present the amendment until I have had the opportunity to query the manager of the bill. If the amendment is presented, I would like to have at least enough time to explain the amendment and give the facts in regard to it.

Mr. HELMS. Mr. President, I ask unanimous consent that I may be able to reclaim the time I yielded back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator has 2½ minutes remaining.

Mr. HELMS. Mr. President, I ask unanimous consent that I be able to lay aside my amendment so that the Senator from Virginia can call up his amendment. I ask for the yeas and nays on his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. Reserving the right to object to the unanimous-consent request, am I correct in understanding what is proposed would not take us past 6:30 for the final vote? If it had that effect, I would object.

Mr. HELMS. It will take us past 6:30 if people keep talking about it, I will say to the Senator. But I want the Senator from Virginia to have the chance to call up his amendment and make his inquiries.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina. The Senator from Michigan has yielded time on the bill.

May I ask the Senator from Michigan this question: As I understand it, the Panama Canal Company, all of the stock of which is owned by the United States, will have a balance of $88.1 million. Would there be any objection on the part of the manager of the bill to an amendment which, instead of permitting that $88.1 million to go into the new company on October 1, would take $15 million of that and let it go to the taxpayers of the United States, to let it come back to the Federal Treasury in the form of a dividend on the stock which the President of the United States, as the sole stockholder, now owns in the name of the people of the United States?

Mr. LEVIN. Those are revenues from the company that they pay to the Treasury. I do not think it is up to the Senate to disburse their bank account any more than to disburse their other assets. As much as I would like the Treasury to be enriched by using part of the assets of the Panama Canal Company, I do not think we can properly do that. If the new board, on October 1, assuming the board is in existence at that time, wants to make such a payment to the Treasury, that would be up to them. But I do not think we can take these assets and disburse them this way.

Mr. HARRY F. BYRD, JR. But that cash asset is owned by the U.S. Government. The U.S. Government is the sole stockholder and will be the sole stockholder until October 1. Why is it necessary? Why is it not possible? It does not violate any treaty at all. It does not have anything to do with the treaty. Why should that cash be turned over to another company when it is now the property of the American taxpayer?

Mr. LEVIN. Because all of the assets of that company are the property of the American taxpayers. That is their bank account. They need that for operating expenses. Some of that bank account is obligated. We have no more right to use that bank account than we do to seize any other asset of the company and sell it and take the proceeds into the Treasury.

Mr. HARRY F. BYRD, JR. Does the Senator from Michigan mean to say that the President of the United States as the sole stockholder, through his directors, cannot declare a dividend?

Mr. LEVIN. No. I agree with the Senator from Virginia. I think that the corporation, acting through its board of directors, can do whatever legally that board can do. But it is the Senate which the Senator is suggesting to declare the dividend, not the board. It is the Senate which the Senator is suggesting use part of that company's bank account. I do not think it can happen that way because we are not the board of directors of that company.

Mr. HARRY F. BYRD, JR. That company is owned by the people of the United States.

Mr. LEVIN. That is correct.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. May we have another 2 minutes?

Mr. LEVIN. If there is time remaining and no objection from the minority on this, I will be happy to yield an additional minute or two, but we will run close to the 6:30 time.

The PRESIDING OFFICER. Two minutes remain.

Mr. HARRY F. BYRD, JR. That $88 million as of today and until October 1 is an asset of the people of the United States.

Mr. LEVIN. It is an asset of the company which is owned by the people of the United States.

Mr. HARRY F. BYRD, JR. Assets of the company, which company is owned by the people of the United States.

Mr. LEVIN. Indeed it is like all the other assets of that company, which company is owned by the people of the United States.

Mr. HARRY F. BYRD, JR. My question is, Why should not the people of the United States have an opportunity to have some dividend from that money rather than turning the entire cash surplus over to another company which is not owned by the Government of the United States?

Mr. LEVIN. I am just repeating. I am afraid my answer to that is that there is a board of directors of that company which has been selected by the people through their president and that board of directors runs that company and disposes of or otherwise utilizes their assets. One of their assets is the bank account through the treaty. If the people through the representatives want to disburse those assets, they can do so, but we cannot.

Mr. HARRY F. BYRD, JR. We are not only giving away the Canal, but giving away $80 million with it.

Mr. LEVIN. No; not at all.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from North Carolina.

Mr. ROBERT C. BYRD. Mr. President, is the vote about to occur on the amendment by Mr. HELMS?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, this amendment imposes or would attempt to impose a new condition on a treaty already agreed to by the U.S. Senate. It would be inconsistent with the mutuality of obligations undertaken by two sovereign nations when they ratified the treaties. I hope that the Senators will be well aware of what they are doing if they support this amendment. I earnestly hope it will be defeated.

The Senate has gone on record as having approved the ratification of the treaties. To come along now with a piece of legislation and adopt an amendment the effect of which would be to impose a new condition on a treaty which has already been agreed to, I think, would be unwise and would be a blot on the escutcheon of the U.S. Senate and this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator for Hawaii (Mr. INOUYE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER (Mr. CANNON). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 22, nays 73, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—22

Armstrong
Boren
Boschwitz
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Laxalt
McClure
Morgan
Randolph
Schmitt
Schweiker
Simpson
Stone
Thurmond
Tower

NAYS—73

Baker
Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Fackwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—5

Bellmon
Eagleton
Huddleston
Inouye
Pressler

So Mr. HELMS' amendment (No. 373) was rejected.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, as one of eight members of the Senate Armed Services Committee who opposed H.R. 111, the Panama Canal implementing legislation as amended, I would like to advise the Senate that in my judgment this bill fails to provide adequate congressional control over the canal in the 20-year treaty period which begins October 1, 1979.

As the Senate is aware, on October 1 the Canal Zone ceases to exist and U.S. operation of the canal within Panama is granted to our Nation only by the treaty and only through 1999. Our military presence there to 1999 is also permitted by the 1977 Panama Canal Treaty which establishes a type of status of forces agreement similar to that which we have in other foreign countries around the world.

Therefore, in my judgment, it is essential that Congress implement these treaties in a manner which provides maximum control during our 20-year period of responsibility for operation and maintenance of the canal.

This bill fails to provide that control chiefly because it embraces the recommendation of the executive branch that the new Panama Canal Commission operate as a corporate agency. This approach does not permit the type of control embodied in the appropriated fund agency as included in the House version of H.R. 111 and rejected by our committee in the Senate.

Mr. President, the canal operated very successfully as an appropriated fund agency prior to 1951. Mr. Philip Steers, Jr., former financial vice president of the canal, strongly favors this approach. The House bill also provides for a $40 million emergency fund which gives the appropriated fund agency ample flexibility yet brings the actions of the Commission into close congressional scrutiny.

There are other provisions of importance lacking in this bill. It fails to provide adequate representation of maritime interests in the governing Commission; it fails to maintain the transfer-of-property provision of the House bill; it fails to provide for military control in wartime and it lacks other features which would strengthen control from a defense and administrative standpoint.

The control issue also goes to other provisions of this bill. For instance, the Commission Board under the Senate version will be made up entirely of sub-Cabinet officers rather than including some representatives of our ports and shippers as provided in the House bill. This feature is important because if tolls are to be maintained at a level necessary to keep the canal self-sufficient we must have the views of those most affected by these changes.

Mr. President, it should also be pointed out to the Senate that prior to action on the treaties last year many of us urged submission of the implementing legislation at that time. Instead the Senate was refused this legislation and therefore refused information which may have impacted on the votes of some Senators.

As the Senate knows, I opposed the treaties. Nothing has come to light since that time which persuades me my position was incorrect. In fact, the huge costs of these treaties—estimated by the House Merchant Marine Committee at $4.2 billion—and the conduct of Panama in the Nicaragua uprising amply fortify the position I took last year.

Mr. President, in conclusion I would like to stress to the Senate that the form in which these treaties are implemented will to a large part determine the future of the canal. Only through tight congressional control can the safety and efficiency of the canal be assured. For these reasons I believe this bill falls short in providing that tight rein we will need to manage what I believe will be a difficult 20-year period in which the interests of this country and Panama will frequently clash.

CANAL TREATIES NEED MORE THAN IMPLEMENTATION

Mr. DOLE. Mr. President, today the Senate is faced with an issue that once deeply divided this body—the Panama Canal Treaty give-away. I voted against and have seen little to make me doubt the wisdom of that vote. But we face the problem now with new knowledge and a new perspective. The dire predictions of those who opposed the treaties have started to come true. The Senate must remember its vote in order to be able to say it fulfilled its responsibility to the Nation. With two separate opportunities to consider the best interests of this Nation and the clearly expressed will of the people can we proceed in what is clearly an ill-considered disregard of the evidence? We shall, as a body, deserve the criticism of history and we shall not have the defense that hindsight has 20-20 vision.

This is our opportunity to exercise hindsight. I urge that we take the opportunity and reconsider a bad treaty and force the parties to make a better argeement through this implementing legislation. I believe everyone realizes that facts either not clear, or not made available last year make the need for reappraisal self-evident. Even the people of Panama who have been clamoring for more U.S. funds ever since it became clear that Uncle Sam and his pocketbook were really pulling out, realize all issues have not been adequately addressed. The majority of Americans were not willing to see us give Panama away last year and I do not think that they are any more willing this year to do it again and pay billions of dollars for the privilege.

The Senate voted consent to the treaties with a single vote margin. At the time of that vote, many Senators relied on the representations of the administration as to cost factors of the treaties. Whether intentionally or not, those representations were totally erroneous. It is difficult to conceive how the Senate, forced to rely on the expertise of the State Department can view the misrepresentations as being in good faith. If they were, where is the professional competence on which the Senate relied, not only in the economic sphere, but in the effect of the treaty on our relations with other nations and the necessity of the treaty for our defense posture? If the errors on the fiscal impact of the treaty were in good faith, then every aspect of the treaty is subject to the same margin of error as State's promises on the money aspects. If those representations were made in bad faith, then there is serious question of the nature of the advise and consent procured from the Senate on the treaty.

In either case, the consideration of the implementation legislation as it comes to us from the other body is the last chance of reconsidering the results of a vote made on representations which are now conceded to be false. The Senate may do anything from approving the administration's bill to voting to declare the treaty null and void. At least, we must review our vote in the light of the revelation that we were told what we wanted to hear during our advice and consent hearing. It is still within our power to stop implementation of the treaty, if we are satisfied that we were lied to for the specific purpose of inducing us to approve the treaty. The people of the Nation are still interested and concerned over the transfer to Panama of the canal. We cannot shirk a duty because it is unpleasant or reflects on the State Department's tactics. What we do about the Panama Canal and the legislation implementing its transfer is of crucial importance both to the United States and to the rest of the Western Hemisphere.

Mr. LAXALT. Mr. President, as we prepare to vote on this legislation, I feel that we must keep in mind four major premises which have long characterized our relationship with the Panama Canal. These are, first, the need to uphold the honor of the United States of America; second, to protect our workers in the Canal Zone; third, to provide for the defense of this major world asset; and finally, to maintain a free flow of commerce for the nations of the world. As I see it, H.R. 111 runs directly counter to each of these objectives.

Historically during our operation and ownership of the canal, we have emphasized each of these goals. It is a path that we should continue upon during the canal transition period. Certainly, during the debate on the treaties last year and during the present debate on the implementing legislation, it has been shown that significant differences on these premises exist between our understanding of our rights and obligations under the treaties and the interpretation that has been clearly articulated by the Panamanian leadership. At the very least, it is therefore incumbent upon Congress in this implementing legislation to come up with strong and clear legislative provisions in order to help clarify these potentially dangerous differences.

This is our obligation now. It certainly did not end in the spring of 1978 when the Senate approved the Panama Canal Treaties.

Mr. President, H.R. 111 should not be seen as an isolated act without ramifications. Proponents of this measure argue that we need to pass this bill in order to keep our word in the world. I see it as compounding a mistake.

As I mentioned earlier, the Panama Canal remains of overriding importance to the commerce and defenses of the United States. However, the question of what the treaties represent for us as a nation must be just as seriously considered. As I said last year, the Panama Canal Treaties set a defeatist tone for our overall foreign policy which is unworthy of our people and which we will likely be a long time living down. I believe that the legislation before us today simply continues us down this unfortunate road. U.S. policy in recent years seems to be characterized by continued retreat. We have the recent examples of Korea, Vietnam, Taiwan, Iran, Rhodesia, and before us today, Panama.

When the canal is turned over to Panama, supported by the action of this implementing legislation, the canal will be held hostage and at the whim of not only a Castro-leaning, if not Communist government, but by every dissident group in Panama now or in the future vying for political power. We can expect that the first target in Panama in time of any civil trouble will be the canal.

Half the oil from Alaska must pass through the canal on the way to refineries on the gulf coast and eastern seaboard. Yet we want to place the canal in the hands of a government that is friendly to Communist nations that follow a worldwide policy of encirclement, encirclement designed to allow crippling pressure to be placed on America and our allies at will. In this legislation we pay them to take it.

As our naval fleet has shrunk in numbers, the canal has increased in military importance. All but our largest ships can use it and U.S. defense strategy still depends on quick transit from Atlantic to Pacific that only the canal can provide. Yet we propose to relinquish control and pay Panama to take it. Considering the volatile history of this part of the world, we can expect that the commerce and stability of the canal will soon be in constant jeopardy.

Those who support this legislation, this sacrifice of interest to avoid the threat of trouble, engage in what I believe to be very fallacious reasoning.

Their argument goes like this:

Because we could not face Communist pressures in the Caribbean and Central America, the United States entered into the treaty highly beneficial to General Torrijos. The proponents of this legislation now say this is the law and that the Members of the U.S. Senate must implement it. We have no choice but to implement—by paving the likes of Torrijos to take what Americans once owned and many died to create. Needless to say, this argument is the purest sophistry, legal nonsense.

If this body, as elected representatives of the people, really had no choice but to accept this legislation, then the Constitution would not require us to be here today sitting in judgment on implementing legislation. Clearly our discretion is not limited as a matter of law by the action of the administration or the previous action of the Senate.

Mr. President, international politics in general is a notoriously treacherous business. Motivations and credibility of potential partners must be carefully assessed. I ask my colleagues to look at the state of the world, the state of America in the world. Unless we are very careful, radical opportunists will use the canal against us at the earliest opportunity.

Mr. President, as I put it earlier, the policy of the United States has become a policy of retreat and appeasement. I see no reason to continue it.

The American people sense this, know this. The U.S. Senate has already approved two poorly written and unpopular treaties. It is time for us to correct our past mistakes. It is time we in the Senate did what we are elected to do—vote the will of the people. It is time we stood up and protected our interests and preserved our control. We can start here and now with a "nay" vote on this legislation.

Mr. JEPSEN. Mr. President, I rise in opposition to this bill.

This country went through a long and emotion-charged debate last year. The question was whether or not the Senate should ratify the Panama Canal Treaty as it was proposed by the administration. I have consistently held the position that if I had been a Member of the Senate last year, I would have voted against the treaty. But, for good or bad, the Senate did ratify the treaty and now it is up to us to define the terms of its implementation.

In our desire to cooperate with the administration, however, we must not accept the position originally established by them that the implementing legislation should move along unamended. Everyone knows that the House has not done so, and because of its efforts, what many consider to be a superior bill has been adopted by its Members.

The Senate Armed Services Committee made substantive changes to the House version, changes which I feel diluted the protections offered to the American taxpayer by the House bill. For this reason, I voted against the bill in committee as it was finally marked up.

The following are some of the key areas in which the House-passed Murphy bill, H.R. 111, differs from the Senate Armed Services Committee proposal. They form the basis upon which I must object to the pending proposal.

First. Recovery of U.S. treaty implementation costs at the expense of the contingent annuity payment to Panama provided for under the treaty.

Article XIII(4)(c) of the treaty provides that Panama will receive an annual payment of up to $10 million for canal revenues to the extent that they exceed expenditures. Section 250(e) of H.R. 111 effectively neutralizes the annuity by including as canal expenditures all costs to the United States, such as relocation of military bases by the Defense Department, whether related to the operation of the canal or not. There is no corresponding section in the Senate bill.

Second. Bar to payments to Panama if the United State determines it is interfering in other countries.

Section 250(g) of H.R. 111 bars payments to Panama of the contingent or anything else if the President or the Congress determines that Panama is interfering in the internal affairs of any other state. The Senate bill, of course, imposes no such condition on Panama.

Third. Congressional authorization to transfer Canal property to Panama under the treaty.

Section 373 of H.R. 111 prohibits all transfers of canal property to Panama except pursuant to an Act of Congress, and approves only those transfers which take place on the effective date of the Treaty. Subsequent transfers during the life of the Treaty and upon its termination would require further acts of Congress. The Senate bill assumes this matter to be self-executing.

Fourth. Direction of canal operations by a U.S. military officer in time of war.

Section 108 of H.R. 111 provides that when the United States is at war or the President considers war to be imminent, he may authorize a U.S. military officer to assume control of the operation of the canal. The Senate bill lacks any such provision, assuming that the President has ample authority under the treaty to provide for the defense of the canal.

Fifth. Membership on the Canal Commission's Board of Directors.

In Section 102 of H.R. 111, it is provided that three of the five U.S. members of the Commission's Board of Directors will be individuals from outside of the U.S. Government with experience in the fields of labor, shipping and ports, and the export-import business. The Senate bill provides that the five U.S. members should be senior officials drawn from interested executive branch agencies.

Sixth. Direction of the Canal Commission and its Board of Directors by the Secretary of Defense.

H.R. 111 (sections 101 and 102) stipulates that the Commission and its Board of Directors will act under the "direction" of the Secretary of Defense. The Senate bill is more general, giving the Secretary of Defense oversight responsibility for the canal operation, but not clear direction.

Mr. President, in particular, I want to cite two principal features of H.R. 111 that are not included in the Senate version, and which I feel are fundamentally necessary for the protection of the American taxpayer.

The first deals with the form of the Panama Canal Commission, that is, whether or not it is to continue as a government corporation or be converted to an appropriated funds agency. Section 232 of H.R. 111 establishes the Panama Canal Commission as an appropriated funds agency subject to the usual appropriation and authorization procedures. The Senate bill continues the Commission as a U.S. Government corporation, the form under which the Panama Canal Company has operated since 1950.

The provision for a noncorporate agency subject to the financial controls applicable to the Government agencies has important subsidy effects in maintaining close congressional oversight over the canal operations, a matter that will assume increasing importance with the passage of time as a result of progressive changes in the organization and management of the canal contemplated by the treaty.

hearings that he favors the appropriated

Points in favor of the appropriated fund agency are:

First. The canal operated very successfully as an appropriated fund agency prior to 1951.

Second. The most qualified witness on financial matters, the former financial vice president of the Canal Company, Mr. Philip Steers, testified in the House fund agency.

Third. The $40 million emergency fund added by the House provides ample financial flexibility for the appropriated fund agency approach.

Fourth. The canal has a good record of forecasting revenues and expenses.

Fifth. The corporate agency is not exempt from a serious traffic downturn.

Sixth. The appropriated fund agency provides assurance that funds will be available to meet expenses even during variances in traffic.

Seventh. When asked why the House took the appropriated fund approach, Governor Parfitt stated he thought there were two main reasons:

First, money needed to operate the corporation would be misused by trying to accommodate Panama, and second, in 10 years the administrator of the Commission will be a Panamanian and he will be under great pressure to accommodate Panama's demands.

Mr. President, I believe these are good reasons why we need the accountability provided in the appropriated fund approach.

Second, Mr. President, section 253 of H.R. 111 insures that the U.S. taxpayers are protected and provides for congressional restraints on property transfers and tax expenditures. But the Senate committee version only gives limited assurances to the taxpayer by stating simply that the costs of implementation to be borne by the taxpayers over the life of the treaty should be kept to the absolute minimum.

As I stated earlier in my remarks, because the treaty has been ratified, we in fact are obliged to the people and country of Panama. We must honor that commitment. But this matter of honor cannot be a one-sided affair. As representatives of the people of the United States we owe as much to keeping our commitments to those we serve, the taxpayers of this Nation, as we do to the leaders of Panama.

Section 253 does no more than keep the promises that were made by the President of the United States, by Senators, and others who were proponents of the treaties. The promise was simply that the taxpayers would be immune from any costs in these treaties and that the tollpayers would have minimal obligations.

All I am saying is that since there seems to be considerable costs involved whether one uses the State Department figures where they minimize the figure down to $871 million, after saying that there would be no fees involved, or whether it is the high figure of $4 or $5 billion we have heard from various sources, our commitment to the people we are working for, the people we serve, the people whom we have a primary responsibility to, is at stake.

So, Mr. President, the question boils down to whether or not we are going to force the people of the United States who are clear up to their necks in fuel problems and inflation, and who did not want this treaty in the first place, to pay for the privilege of Panama taking control of the canal. I think we should not, we can not.

As the pending legislation is drafted I do not think the kind of assurances that we should be giving the American taxpayer exist. At a minimum we should include the provisions of section 253 to H.R. 111 which in part prohibits payments to Panama where the money is derived from tax revenues of the United States unless certain conditions are met and unless such money is specifically authorized and appropriated by Congress. The taxpayers of America deserve at least this much protection and accountability.

The Senate is unlikely to agree to these things today, I am aware of that. For this reason, I cannot lend my support to the pending implementing legislation.

Mr. HELMS. Mr. President, in listening to some of the rhetoric on the floor this afternoon, defending what, in the opinion of the Senator from North Carolina, is the indefensible, I was struck by the tone of the rhetorics. There was a note, almost of desperation, to turn back amendments defending the rights of the American people. There seemed to be undue concern for offending the sensibilities of Panama, and an obvious fear that the Panama Canal Commission would fall under the undue influence of Congress.

Then, this afternoon, I received a copy of a very interesting letter. It is dated July 11, 1979, only 2 weeks ago. It is from Panama President Royo to President Carter.

In this letter, President Royo attacks the House version of H.R. 111, section by section. On page after page he claims that the United States will be violating the treaty if this legislation is passed. Throughout he interprets the treaty, not as a partner, but as a sovereign running the show. And obviously, this is exactly what he is doing.

What this letter says, Mr. President, is that there is no meeting of minds. The opponents of the treaty pointed this out time after time. When the resolution of ratification was approved, Panama issued a white paper rejecting most of the Senate amendments. I made a lengthy analysis of that paper on the Senate floor on June 5, 1978.

Last winter, the House Panama Canal Subcommittee, after a visit to Panama, found that there were wide areas of disagreement over basic points of the treaty. I wrote to the President and asked him to withdraw the treaty while there was still time.

Now we find that Panama is specifically rejecting the legislation passed by the House. Many of his criticisms apply also to the legislation which is before us today.

I think, therefore, that it is hopeless to find an agreement at this late date. This letter is not only an insult to Congress; it is an indication of the folly of the Panama Canal giveaway. If we wish to uphold the dignity of the United States then reject this legislation. It is so fatally flawed that no amendments can make it satisfactory.

Mr. President, I ask unanimous consent that the letter from President Royo to President Carter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INFORMAL TRANSLATION OF LETTER DATED JULY 11, 1979, FROM ARISTIDES ROYO, PRESIDENT OF THE REPUBLIC OF PANAMA, TO JIMMY CARTER, PRESIDENT OF THE UNITED STATES

ESTEEMED FRIEND: In the conversations we had in Washington, D.C., during my visit from May 9 to 11, I presented to you in detailed form the reasons for which my Government considered that the draft bill (H.R. 111) was not consistent with the letter and the spirit of the Torrijos-Carter Treaties.

On the same days as our White House meeting, this bill was being discussed in the House of Representatives. I have an intense and clear recollection of the sense and sincerity of your words. I recall the promise which you made to my country, through me as an intermediary, to the effect that you would work with all earnestness to arrange that the final text of the law to be approved by Congress should faithfully conform with what was agreed between our two countries. I am happy to know that you are continuing to maintain this honorable determination. I hope that, in its progress in the Senate and in the subsequent Conference of the Members of both Houses, the law that is approved will reestablish calm among the citizenry of Panama, who have observed with deep uneasiness the attempt to introduce in the law provisions which would injure the Treaties.

I therefore continue to be confident that our common efforts, joined with the common approach that will prevail to the Congress, will result in the law as enacted being consistent with its single purpose—facilitating the fulfillment by the United States of the obligations, and the exercise of the rights, which my country granted it in the Panama Canal Treaty.

Pursuant to the cordial relationships that exist between us, I regard it as a testimonial of friendship, as well as a duty of leadership, to share with you my reflections, observations and positions with respect to H.R. 111, which entails a reaffirmation of what I told you when I had the signal honor of conversing with you in your official residence.

1. A detailed and exacting examination of the provisions of H.R. 111 permits me to observe that many of them grant authority to the President of the United States, that is to say, that they are not mandatory but rather authorizations. This means that, to the extent to which these discretionary powers are not exercised, there would be no Treaty violations of the type suspected by the Panamanian people. Nothing would contribute so much to dissipating such thinking in my country—and I am only carrying out my duty in telling you this—as a timely declaration—that is, before October 1 next—to the effect that the President of the United States will not exercise such powers, having decided as always to proceed with respect to the Republic of Panama with total devotion to the provisions of the 1977 Treaties.

2. Before commenting on the various provisions that I consider violative of our compact, it is necessary to point out that the Treaties bind both countries and that neither Panama nor the United States, through legislative action, can alter what was agreed therein. For its part, the Government of the Republic of Panama, in the fulfillment of its duties and the exercise of its rights, will adhere exclusively to the substance of the Treaty agreement. United States internal legislation is not a source of law for the Republic of Panama, just as the laws which the Panama Assembly passes are not for the United States of America.

3. I will now detail the provisions which contradict the agreements signed by the two countries on September 7, 1977:

SECTION 3

Even though Subsections (a) and (b) therein state that the purpose of the Canal Zone Code is the exercise of the authority that Panama granted the United States under the Treaty and that it will not apply to matters in which the United States may not exercise jurisdiction pursuant to the "Panama Canal agreements," it must be pointed out that Article XI(1) [sic: actually Article IX(1)] of the Treaty says precisely and clearly that ". . . the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty." Accordingly, Article XI estabishes a transition period of 30 months, during which the laws of the United States will be applied concurrently with those of the Republic of Panama. In other words, the Canal Zone Code will only be valid until the end of the 30-month period which has been granted, and only to the extent that it does not contradict Treaty terms.

The Preamble of the Treaty states that it will serve "as the basis for a new relationship between the two countries . . . ." The definitions of Section 3 are therefore incorrect to the extent that they assume a mere change of names, so that what was formerly called "the Canal Zone Government" will now be termed "the United States of America" and so that what was called "the Governor" will now be read as "the Panama Canal Commission." Beneath these word changes there can be discerned a disregard of the fact that the Treaty is designed to produce a fundamental change in our relationships which, moreover, is in the mutual interest of our two countries.

It cannot be ignored that the Treaty is based on the sovereignty of the Republic of Panama, which as territorial sovereign grants a concession to the United States. The rights of the United States cannot be interpreted broadly but rather, narrowly. The United States has no more rights in Panama than those which the Treaty confers upon it. The jurisdiction of the United States in Panama will end forever from the first day of October next, and the United States will exercise only those powers which the Treaty gives it and which are carried out in conformity with the correct Treaty interpretation.

SECTIONS 101 AND 102

These Sections are consistent with Articles III(3)(a) of the Treaty stipulating that the Panama Canal Commission ". . . shall be supervised by a Board . . . ." Nevertheless, Section 101 places the Commission under the direction of the Secretary of Defense. The supreme authority for the Commission is the Supervisory Board and placing it under the direction of any other official denies what has been agreed upon.

Moreover Article III of the Treaty stipulates that the United States will carry out its responsibilities through a U.S. Government agency, which will be directed by a Supervisory Board. This fact demonstrates unequivocally that the agency in question should have its own identity and should not be a mere appendix of the Secretary of Defense.

SECTION 102

In Subsection (b) of this Section the law law states that "each Member of the Board shall hold office at the pleasure of the President (of the United States)." This is not correct as it applies to the Panamanian Directors, since Article III(3)(b) of the Treaty envisages that "in case of removal of a

Panamanian Member of the Board at the initiative of the United States of America, both parties will consult in advance in order to reach agreement concerning such removal. . . ." If this rule entails the necessity of agreement with Panama, it is not correct to stipulate that the Panamanian Directors may be removed from office at the discretion of the President of the United States.

Subsection (c) of Section 101 requires that a quorum of the Canal Commission must include the presence of a majority composed of the American Directors. This is an additional requirement not agreed to by the parties in Article III of the Treaty and thus amounts to an infraction of the Treaty.

SECTION 103

Since the Administrator will from 1980 be a Panamanian designated by Panama (Article III(3)(c)) it is evident that from that date forward the advice and consent of the Senate will no longer be required.

SECTION 104

It is appropriate to indicate that Article III(3)(c) of the Treaty creates the post of Administrator and Deputy Administrator of the Canal Commission and envisages that the Deputy Administrator will occupy the second-highest executive post and that no official not created by the Treaty can be placed on the same level with him.

SECTION 106

As Article VI of the Treaty does not specify the number of Members of the Joint Commission on the Environment, Panama interprets as a suggestion which might be made to it in due course, and to which it will duly respond, the reference to the figure three as the number of Members of this Commission.

SECTION 107

This Section provides for the payment of travel expenses to representatives of the United States in the Environmental Commission. In the opinion of my Government if the Panama Canal Commission is to pay these expenses, it will also have to meet the travel expenses of the Panamanian representatives. Otherwise there would be an act of discrimination not justified by the Treaty.

SECTION 108

The observations made with respect to Sections 101 and 102 are applicable here. There can be no authority above the Supervisory Board of the Panama Canal Commission. Thus this Section clearly conflicts with Article III(3)(a) of the Treaty.

SECTION 111

I consider it desirable to have the office of ombudsman, but since this is not mentioned in the Treaty, its creation should be left to the discretion of the Commission. Quite aside from this point, as more than 75 percent of the employees will be Panamanians, it seems logical that this official should also be a Panamanian, and that it would be correct to have one Panamanian and one American ombudsman.

SECTION 112

It is asserted here that the United States should negotiate with the Republic of Panama regarding the presence of American troops in the territory of my country after the Treaty expires. It is appropriate to quote Article V of the Neutrality Treaty: "after the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory."

It is also appropriate to note that the Protocol to the Neutrality Treaty remains open for the adherence of all countries of the Earth and that once other States adhere to it, this Treaty will no longer establish a bilateral relationship between the United States and Panama. Consequently, any modification of Article V quoted above would require not only the consent of Panama but the consent of all those other States with an interest in the Neutrality Treaty.

SECTION 121(B)

We consider it desirable that the freedom of the United States to name officers to serve in the Panama Canal Commission should be limited by the guidelines on labor matters contained in Article X of the Treaty. The legislation under consideration must give full force to these guidelines which were agreed upon for the defense of Panamanian employees.

SECTION 125

My Government considers the payment of an additional sum to workers who lose the right to buy in post exchanges, use the mail and buy in military commissaries to be very fair. But the Section grants this privilege only to American citizens. This becomes an injustice since we know that many Panama Canal Company employees currently live in the Canal Zone and enjoy the above-mentioned privileges. The additional sum [cost of living allowance resulting from the termination of these privileges after five years] should in justice be paid to all employees without regard to nationality. This is required by Article X(5) of the Treaty.

SECTION 126

This Section establishes educational benefits for American students who travel to the United States. This privilege too should be established on a non-discriminatory basis so as not to conflict with Article X(6) of the Treaty.

SECTION 153

This rule permits the President to prescribe regulations regarding the activities of an agency which would be established within the Panama Canal Commission. Since this agency is not authorized by the Treaty, there appears here a violation of Article III(3) which clearly states that the functions of the United States should be carried out under the direction of the Supervisory Board of the Panama Canal Commission.

SECTION 209

This establishes a cash assistance system for certain employees who contracted illnesses in the course of their work on the Panama Canal and have thereby been prevented from continuing their employment. This is an act of justice which deserves full support from my Government. I therefore request that it be incorporated in the draft in the Senate draft bill S. 1024.

SECTION 225

Subsection (b) stipulates that labor-management relations will be regulated solely by United States law. Clearly the Panama Canal Treaty is also a law of the United States, but the objective of this Subsection is to ensure that other labor laws of the United States should prevail to the detriment of the Treaty. Inasmuch as Article X of the Treaty and Article VII of the Agreement in Implementation of Article IV of the Treaty contain labor standards, these must necessarily be applied.

SECTION 232(C)(1)

In this provision the Canal Commission is barred from spending funds not appropriated by law. The Republic of Panama respects American Constitutional procedures; but in defense of its rights, it considers it appropriate to point out that, in accordance with Article III of the Treaty, the United States is to "provide for the orderly transit of vessels through the Panama Canal." In addition, Article III of the Neutrality Treaty requires the United States to maintain the security, efficiency and proper maintenance of the Canal. Further, Article XIII of the Canal Treaty imposes on the United States the obligation to turn the Canal over to Panama, in 1999, ". . . in operating condition. . . ." All of this leads unequivocally to the conclusion that it is the duty of the United States to make available each year the funds required to guarantee the effective operation of the Canal. Section 233 of H.R. 111 is thus correct in permitting the Commission to utilize an emergency fund to ". . . ensure continuous, efficient, and safe operation of the Panama Canal. . . ." I find objectionable Subsection (c)(2) [actually (a)(2)] insofar as it grants the Secretary of Defense the authority to determine the amount he deems appropriate for the use of the Canal Commission. Congress may not ignore the fundamental importance of Article III(3)(a) which stipulates that the Commission is to be directed by the Supervisory Board. The legislative provision under discussion appreciably reduces the authority of the Commission to issue its own budget.

SECTION 250(a)

The final portion of Subsection (a) of this Section changes what was agreed to in Article III (4) of the Canal Treaty. It was there agreed that whenever there was a surplus or a deficit with respect to the sum of $10 million that the United States is to pay to Panama for the services described in that Article, the surplus or deficit will be met, in three equal parts, during the three subsequent years. Subsection (a) of Section 250 envisages that Panama should repay any surplus in a single year, while granting the United States the right to compensate for any sum it may owe Panama with the credit established against Panama as a result of any payments [in excess of actual costs] made during the previous three years.

SECTION 250(b)

This provision is designed to nullify Panama's right under Article XIII (4) (c) of the Treaty to receive up to $10 million whenever there is an annual Canal operating surplus. The depreciation and interest included in Section 234 should be excluded in computing Canal operating expenditures. Nothing in the Treaty authorizes the United States to accumulate deficits over years of operation in order to reduce what is owed to Panama. Article XIII(4)(c) authorizes Panama to receive up to $10 million annually to the extent that revenues from the Canal operation exceed the expenses of the Panama Canal Commission, including sums paid in conformity with the Treaty. If unauthorized expenses are added in order to make the calculation in question, this obviously represents a breach of the word of honor given by the United States in the Treaty.

SECTION 250(C)

The objective of this provision is to deny to Panama payments to which it is entitled in accordance with the Treaty in the event that Panama levies retroactive taxes on certain persons. The correct interpretation of Article IX (1) was the object of an exchange of notes between our two countries, and there is no necessity for this provision. Panama considers it insulting and accordingly believes that its elimination from the text of the law should take place.

SECTION 250(e)

This provision would also deny to Panama the right to receive the sum specified in Article XIII(4)(c), in charging to operational expenditures of the Canal "all costs of implementation of the Panama Canal Treaty. . . ." This is not what we agreed to and Panama never assented to it, and could do so only by disowning its sovereign rights, in assuming the costs the United States incurs to carry out the Treaty. This provision is designed to artificially augment the operating costs of the Commission at the expense of Panama. This amounts to a unilateral modification of the

Treaty, an illegal endeavor under international law.

SECTION 250(f)

Through this provision unagreed conditions are added so that Panama would have to apply for title over property or rights which the United States might transfer to it. My Government maintains that the Treaty constitutes title through which the Republic of Panama acquires property rights over certain items specified in the Treaty. No other formality or instrument is necessary to attain this purpose, and Panama has sufficient legal means, without the necessity of any additional act by the United States, to inscribe in the name of the Republic of Panama, in the Public Register, the items whose ownership is gained through the Treaty.

SECTION 250(g)

The purpose of this provision is to impose a new condition on what was agreed in Article XIII(4)(c) of the Treaty before Panama may receive the amount therein provided. If Paragraph (g) is approved the contingent annuity payment would be conditioned upon the President of the United States and Congress deciding that Panama was not interfering in the internal affairs of another country. The truth is that this amounts to an intervention in the internal affairs of Panama and that the Congress of the United States is granting itself a judicial function which does not belong to it, in the international field. Moreover the result would be that this paragraph would put the United States in the reprehensible position of judge and party to a dispute, a situation exceedingly unjust and outside every consideration.

SECTION 253(b)

Study of this provision leads to the conclusion that its objective is to impose new conditions on Panama's acquiring the control or possession, as the case may be, of property to be transferred pursuant to the Treaty. It is the firm position of my Government that the Treaty provides sufficient title for the Republic of Panama to acquire the property included in the Treaty, and that consequently no additional formality or instrument is required to perfect this title.

SECTION 257

(Apparently Section 271)

My Government is satisfied with the structure of machinery designed to present claims against the Panama Canal Commission to the extent that it is immune from Panamanian jurisdiction pursuant to Article VIII(2) of the Treaty. Section 297 requires, for the presentation of claims against the Commission, that before the ship concerned leaves the Canal an investigation should have been made by "the competent authorities." But my Government thinks it necessary to point out that in applying Article 297, there should be taken into account:

a. That, in accordance with Article IX of the Treaty, Panamanian law should be applied in the area placed at the disposal of the United States for its use in conformity with the Treaty;

b. That the administration of justice by the United States should end in Panama 30 months from the entry into force of the Treaty (Paragraph 4(b)(ii) of the Annex to the Treaty); and

c. That the claims envisaged in Section 297 are those presented by private persons and not by the Republic of Panama which would be done through diplomatic machinery (Article XVIII of the Agreement in Implementation of Article III of the Panama Canal Treaty).

SECTION 298

Under this Section a Board of Local Inspectors is established to investigate accidents that occur in the Canal. It is given the authority to receive testimony, administer oaths, and require the production of books and papers necessary for the investigation. This means that the Board of Inspectors would have a judicial function. Therefore the comment with respect to Section 297 is pertinent as regards Section 298.

The Republic of Panama is modernizing its maritime legislation, having in mind that there are international conventions regulating navigation and maritime commerce, and that the Canal Zone courts have established very important precedents regarding responsibility in the Canal.

Moreover, it is a known rule of private international law that the substantive law applicable for courts in deciding on claims based on extracontractual fault is the *lex loci delicti commissi*, that is to say, the law of the place where the illegal deed occurred. Such substantive law can only be that of Panama because the Treaty has as its fundamental objective the recovery by Panama of its jurisdiction over the present Canal Zone. I must also reiterate that Panama agreed with the United States in Article III(3) of the Treaty that the United States would exercise its responsibilities through the Panama Canal Commission. Consequently the President of the United States is not authorized to grant powers to any Board. The exercise of the powers granted by Panama to the United States can only be effected by the Panama Canal Commission. Otherwise the functions of the four Panamanian Directors on this Commission would be enormously reduced.

SECTIONS 371 AND 372

These provisions state that the property of the Panama Canal Company should revert to the United States and that property would be transferred between various U.S. agencies. My Government affirms that what the parties agreed to in Article III(3) of the Treaty is that the United States will fulfill its responsibilities through the Panama Canal Commission. This means that the assets of the Panama Canal Company should be transferred to the Commission, which moreover should always possess sufficient funds for the Canal to function uninterruptedly, in an efficient way.

SECTIONS 373 AND 374

The intent of these Sections is to reopen the entire debate over American Constitutional law, which had already been decided by a United States court. The court decided that property of the United States can be transferred by Treaty. But these Sections stipulate that no property of the United States located in Panama may be transferred without a law enacted by the United States Congress, which is to say that the transfer of such property can only be feasible through action by the House of Representatives. My Government does not object to the House of Representatives deciding to confirm what the Senate has already done in granting its advice and consent to the Canal Treaty. But my Government does strongly object to any attempt to establish a new condition in the way of Panama's acquiring property transferred by the Treaty, which in its own terms becomes effective October 1 next. My comment with respect to Section 253(b) is pertinent here.

SECTION 411

Both countries have agreed that it is for the United States to fix reasonable tolls for the use of the Canal (Article III(2)). But as Panama has envisaged, this function can only be discharged by the Panama Canal Commission (Article III(3)). Since Section 411 authorizes the President of the United States to fix tolls, Panama must indicate its dissent from this Treaty violation which would prevent it from appropriately expressing, within the Panama Canal Commission and through its four Directors, its point of view on such an important matter.

SECTION (412)(C)

It is very clear in Article II of the Neutrality Treaty that tolls may not be discriminatory. We recall the great toll battle with Great Britain which President Wilson decided with great civic virtue in favor of the United Kingdom. Notwithstanding this weighty precedent, there is an attempt in this Section to authorize discrimination for the benefit of ships bound for Panamanian or American ports.

SECTION 412(d)

Here the President of the United States is authorized to exempt from the payment of tolls certain United States Government vessels, which represents a violation of Article II of the Neutrality Treaty.

SECTION 412(e)

The Treaty of November 18, 1901, known as the Hay-Pauncefote Treaty, was not signed by Panama. When Article I of the Canal Treaty of 1977 abrogated the Isthmian Canal Convention of 1903, all that remained was a link between the United States and the United Kingdom.

With respect to the Treaty of April 6, 1914 signed by Colombia and the United States, I must observe that this document was not signed by the Republic of Panama and does not bind it. The juridical-political problems created by this Treaty have been resolved in part by Article VI of the Neutrality Treaty. Moreover my Government is strongly desirous of solving this problem in a fraternal way through direct negotiation between Panama and Colombia. I consider it neither necessary nor appropriate to include Paragraph 412(e) in the legislation.

SECTIONS 701 AND 702

In the judgment of my Government the United States lacks the authority to regulate the transit of aircraft and the possession of alcoholic beverages, as well as the power to deport anyone from areas whose use Panama grants to the United States.

Section 702 gives the Commission such broad powers that it practically results in the reestablishment of the Canal Zone Government which both Governments agreed should cease to exist from the first of October next. The Annex to the Canal Treaty provides in Paragraph 2 that the Panama Canal Commission "shall not perform Governmental functions." Nor can the United States perform such functions through any other means or mechanism. Sections 701 and 702 are based on a presumed denial that the Treaty has terminated the Canal Zone and the Government of the Canal Zone. For this reason my Government considers them contrary to the Treaty.

SECTION 1331

My Government objects to granting the President power to make such regulations, because the Canal Commission alone has this power within the limits granted (Article III(3)). Moreover the technical authority granted by Panama to the United States, which the Commission will exercise as regards the navigation of vessels in the ports of Balboa and Cristobal, refers to the necessity that they be under the direction of pilots of the Commission (Article V(6) of the Treaty). But this authority does not extend, as Paragraph 5 of Section 1331 states, to the licensing of officers or other operators of vessels transiting the Canal or entering the ports of Balboa and Cristobal. This authority resides in the States of the nationality of the vessels using the Canal or the ports of Balboa or Cristobal.

Mr. President: I have written this letter taking very much into consideration that we have covenanted an association between our two countries and remembering the emphasis the United States gave to the concept of association as the key to the heart of the treaty.

The association referred to can only become effective if the powers which Panama conferred upon the United States in that Treaty are exercised by the Panama Canal Commission, as specified with complete clarity in Article III(3) of the treaty. The fundamental fault of H.R. 111 is that it substantially decreases the powers of the Commission in order to attribute such powers to the President of the United States. Anyone who reads the Treaty without prejudices or preconception will understand that this is not what was agreed.

Panama will assume exclusive control of the Panama Canal at the end of the present century or before, if so agreed. The accepted purpose for placing four Panamanian Directors on the Panama Canal Commission was and is to familiarize Panama with all the administrative and maintenance aspects of the Canal. This purpose would be frustrated if decisions on the management of the Canal were taken outside of the Commission. In this way such decisions would violate the letter and spirit of the Treaty. I trust that our concerted action will open avenues of cooperation within the Commission.

My country has an excellent record of adherence to its commitments. The Panamanian Government and people are ready to comply with the Panama Canal Treaty and the Treaty concerning the Permanent Neutrality of the Canal. We only hope that the United States will do the same. For this purpose it is necessary to make the adjustments in H.R. 111 which I have proposed in this letter, and to trust that, if provisions contrary to or destructive of what our two countries agreed to in the Treaties should remain in the law, the President of the United States will follow an appropriate policy in exercising the powers which the law in question grants him.

President Carter, on October 1 the Panamanian people will be jubilant, as after 75 years of strife it will be united from boundary to boundary and from coast to coast under one flag and one sole jurisdiction. And while Panamanians and Americans celebrate together the beginning of a new relationship, based on the respect for Panamanian sovereignty, Panamanian and American workers will continue working in harmony to offer to the world the opportunity of increasing commercial interchange through the use of the Panama Canal, which is an international public service.

I take this occasion to renew my best wishes for your personal success and for that of your distinguished family, as well as for the increasing prosperity of the United States of America.

ARISTIDES ROYO,
President of the Republic of Panama.

Mr. KENNEDY. Mr. President, I rise in support of the amended version of H.R. 111 as reported by the Committee on Armed Services. I believe the committee has done a commendable job of protecting the interests of the United States in a manner which is fully consistent with our treaty obligations.

However, the companion bill, as passed by the House, contains a number of provisions that not only will be detrimental to smooth operation of the canal, but to our relations with the Republic of Panama, and to our reputation as a nation that will keep its word, obey international law, and respect its treaty obligations. Provisions in the House bill also tend to undermine the constitutional role of the Senate of the United States. The Senate has given its advice and consent to the Panama Canal Treaties and the President has ratified them. The effect of the provisions of the House will be to revoke the decisions made in this Chamber last year, decisions that are ours alone to make.

It is my understanding that amendments will be offered today that will cause these provisions to be placed in the Senate version of H.R. 111. I must reiterate that our interests in the smooth operation of the canal, in the maintenance of good relations with Panama and Latin America, and our standing in the international community that respects its treaty commitments will be jeopardized by the provisions contained in the House bill. I urge my colleagues to vote against these amendments, and to send the Senate conferees into conference with a clear mandate to bring forth a bill that is in the spirit of the Panama Canal Treaties.

As chairman of the Senate Judiciary Committee, I am especially concerned with the implications of these amendments from the legal perspective—our country's standing under international law and the role of the Senate as laid down by our Constitution. What will be our standing in the international community if we, by adopting the provisions of the House bill, arbitrarily revoke the solemn obligations of a treaty negotiated in good faith, ratified by this body, and signed by the President? Furthermore, certain measures being proposed today fly in the face of decisions by U.S. courts and constitutional provisions concerning the duties of the Senate. Not only will we be undermining our credibility as a partner to international treaties, but we also undermine the duties and prerogatives of the Senate.

Not only is our credibility as a treaty partner and our relationship with Panama—our junior partner in the operation of the canal—at stake. For it is a fact that Latin Americans have for years viewed our Panama Canal policies as a litmus test of our relations in the Western Hemisphere. The canal has cut through not only Panama, but the hemisphere as a whole. American President after American President has talked about new relationships of equality and maturity. This is a critical opportunity for the United States to match words with deeds—not only to make Panama whole but to begin to make our relationships whole with all the peoples of Latin America.

A number of measures in the House bill, and their corresponding amendments before us today, are clearly inconsistent with the letter and the spirit of the treaty. One possible amendment would have the effect of incorporating section 250 of the House bill into the Senate version, to impose new conditions on the U.S. obligation to make payments to Panama—conditions which are not contained in the treaty. Among these is a provision that would cut off payments to Panama in the event that that Government were found to be interfering in the internal affairs of another nation. A second provision in section 250 effectively eliminates the so-called contingency payment—which under article XIII(4)(c) of the treaty allocates the first $10 million of canal profits to Panama—by diverting it to pay for the cost of maintaining a U.S. presence in Panama.

The treaty requires that the rights of the United States to operate, manage and maintain the canal be exercised through the new Panama Canal Commission under the supervision of the Binational Board composed of five United States and four Panamanian nationals. Section 101 of the House bill provides that the new Panama Canal Commission will be subject to the direction of the Secretary of Defense. Section 108 provides that in time of war, the President may designate a U.S. military officer to assume exclusive jurisdiction and control over the operation of the canal. Were these provisions adopted here in the Senate, it would imply that the United States can simply disregard or supersede the role assigned by the treaty to the Panama Canal Commission and its Board, thus depriving Panama of the minority role in canal management which it was guaranteed under the treaty. Neither of these provisions is necessary to protect U.S. interests.

The House bill, in sections 373 and 374, seeks to prohibit the transfer of any property to the Republic of Panama without specific approval by the Congress. Although it would authorize the transfers effected by the treaty on October 1, the subsequent transfers called for in the treaty would require additional legislation.

The provisions of the treaty which transfer property to Panama in accordance with a fixed schedule at the beginning of the treaty period, during the life of the treaty, and upon its termination are clearly self-executing. By adopting measures similar to those of the House bill, and requiring further action by Congress to effect the transfers, we imply that the United States had further discretion with respect to these transfers; and signals to the Panamanians that the United States may not act in good faith in carrying out its obligations.

All of these provisions have one thing in common—they seek to alter the solemn treaty signed by Panama and the United States last year. The consequences of such action on the part of the United States would be extremely serious. First, our relations with the Republic of Panama over the next 20 years would be adversely affected. Panama has thus far demonstrated a high degree of commitment to implementing these treaties fully and faithfully in accordance with both their letter and their spirit. Panama has exhibited an amazing degree of restraint and patience in view of all too often provocative statements which have been made in this country during the course of our domestic debate over the treaty itself, and over this legislation. On the part of some who opposed the treaty there seems to be a desire to punish Panama for having reached an agreement with the United States. I believe that Panama should be commended, not condemned, for having adopted negotiation rather than confrontation as a means for resolving its differences with the United States.

Can we reasonably expect Panama to continue carrying out its commitments under the treaties if we were to go on record in this legislation as claiming the right to ignore the terms of the treaty whenever we consider that to suit our interests? I think not. The best means available to the United States for assuring Panama's continued full and faithful cooperation in pursuing our mutual interests in an efficient canal is for the United States to conduct its relations with Panama on the basis of full cooperation and complete respect for the spirit as well as the letter of the treaty.

Apart from the damage which we would do to our relations with Panama by departing from the treaty terms in this legislation, we would damage the reputation of the United States throughout the world as a reliable treaty partner and a nation which respects international law. What nation would be willing to enter into a treaty relationship with the United States if we publicly proclaim that we are not prepared to honor our obligations under international law?

More disturbing than the immediate impact which enactment of these House provisions would have on our relations with Panama and our stature in the world community is the long-term implication of such legislation for the constitutional role of the Senate in the treaty-making process. The Constitution is quite clear with respect to the process by which the United States undertakes treaty commitments. The President, by and with the advice and consent of two-thirds of the Senate, is empowered to enter into treaties which are binding legal obligations on the United States under international law and are the supreme law of the land under our domestic legal system.

Whatever the views of individual Members of the Senate with respect to the merits of the Panama Canal Treaties, I believe that the Senate as an institution cannot permit the treaty obligations of the United States to be tampered with through subsequent legislative action. To do so would be to establish a precedent that the advice and consent of the Senate is not the determinative step in establishing international commitments as provided in the Constitution, but rather that the actions of the Senate in the treaty-making process are subject to review and modification by the Congress as a whole.

Although this challenge to the constitutional role of the Senate is raised by all of the provisions of the House bill which are inconsistent with the international treaty obligations approved by this body, it is most apparent in the provisions of the House bill relating to transfer of property. These provisions seek to overturn the self-executing provisions of the treaty and to require that each piece of property to be transferred be approved by statutory enactment. Last year the Senate debated this issue for 3 days in connection with Senator HATCH's proposed amendment to the treaty which would have required House approval of property transfers.

The majority leader spoke eloquently of the damage which would be done to the constitutional prerogatives of the Senate if we were to accept such an amendment. I and a number of my colleagues pointed out on the floor of the Senate that the statements of the Founding Fathers in the debates which led to the adoption of the U.S. Constitution, opinions of the U.S. courts through the history of the Republic, and past treaty practice all supported the power of the Senate, through the treaty-making process, to dispose of U.S. property. After thorough and searching debate the Senate voted to reject the proposed amendment. The position taken by the Senate with respect to its authority under the treaty clause was upheld by the courts in the case of *Edward* v. *Carter* (580 F. 2d 1055, cert. denied, 98 Sup. Ct. 2240 (1978)).

The Circuit Court of Appeals for the District of Columbia addressed the constitutional issue on its merits and held that the President and the Senate clearly had the authority under the Constitution to dispose of U.S. property in the Canal Zone by treaty and that no further legislative act was required. Any amendment that held otherwise would be a direct challenge to the Senate, the courts, and the U.S. Constitution.

Having outlined the important concerns raised by its corresponding Senate amendment, I wish to praise Chairman STENNIS, Senator LEVIN and our other distinguished colleagues on the Armed Services Committee for their diligent study of the complex issues involved in this legislation and their perception of the dangers inherent in the House bill. The amended bill which they have reported clearly and effectively eliminates those aspects of the House bill which are inconsistent with the treaty.

I do not mean to imply that the House has no role to play with regard to the implementation of the Panama Canal Treaties. In fact, it has a very substantial role in contributing to the decisions in a wide variety of areas which are left open to the discretion of the United States by the treaty. For example, whether the new Panama Canal Commission should be established as a Government corporation like the present Panama Canal Company or whether it should be created as an appropriated funds agency is a legitimate policy matter to be decided by U.S. legislation. While I concur fully with the view of the Armed Services Committee that the corporate form is by far superior in terms of managerial and financial efficiency, the House is entitled to its own point of view on this matter within the framework of the treaty. What we cannot accept are those provisions that go beyond the discretion and authority reserved to the United States under the treaty and seek to change its terms. Such provisions are dangerous to our relations with Panama, to our standing in the world community, and to the role of the Senate under the Constitution.

I urge my colleagues to vote against any amendment that violates a treaty that has been negotiated in good faith by both signatories, has been ratified by the Senate, and signed by the President—and that has bound us under international law. I urge my colleagues to reject such amendments and to vote for final passage of S. 1024, thereby giving the Senate conferees a clear mandate to bring the conference version into compliance with the treaties. The continued operation of the canal, our relations with Panama and all of Latin America, and our standing in the international community as a nation that respects its treaty obligations, all depend on our accepting this responsibility and supporting the committee version of this bill.

Mr. MATSUNAGA. Mr. President, I rise in support of H.R. 111, as amended and reported by the Committee on Armed Services. The debates on the Panama Canal Treaties are now history, and the treaties are a reality. No last minute rhetoric can undo that, and any damaging amendment to this implementing legislation can only cause the credibility of the United States to suffer in the eyes of the world.

The primary aim of this body should be to facilitate, with rapidity and smoothness, the complex changeover establishing a U.S. Government instrument to operate the Panama Canal. I believe that the provisions of H.R. 111, as reported by the Armed Services Committee to maintain the features of the present Panama Canal Company, features that will enable the Panama Canal Commission to operate within the form of a corporate organization, rather than as an appropriated funds agency, will accomplish this purpose.

I also believe that any language that would stipulate operation of the canal, subject to the direction of the Secretary of Defense or that would make it possible for the President to appoint a military officer to operate the canal in the event that either the United States or Panama is engaged in war or such war is imminent, and that places an overriding emphasis on the role that will be played by the Department of Defense and the military in the operation of the canal, would be unnecessary and harmful.

Mr. President, in urging support of the pending legislation, I wish to emphasize the following four points:

First. On October 1, 1979, the Canal Zone will disappear and our own military forces will be operating in a foreign country with its consent.

Second. The treaties allow the United States to operate the canal with Panama's consent, and not as its sovereign owner.

Third. Panama will be receiving payments from tolls for use of their resources.

Fourth. The approximately $871 million of appropriated costs for implementation, over the life of the treaty that will be borne by taxpayers—a cost ceiling which is reemphasized in section 3(f)(1)—are primarily for U.S. workers and the deployment and equipping of U.S. military forces. The main point here is that this is money going to Americans and not to Panama.

It seems to me that we have a great opportunity to send a message to other nations, particularly those in the Western Hemisphere, that the days of big stick diplomacy are gone forever, and that there is no longer a need for the people of Latin America to distrust or fear the gringos of the North.

This is a time when the United States has the opportunity to contribute, through a smooth and graceful changeover, to the pride and dignity of the Panamanian people—feelings that can only improve the future relationship between our two countries, and perhaps work their way into other hemispheric relationships, as well.

Mr. President, I remember, so well, speaking before this august body, 1½ years ago, in support of the Panama Canal Treaties. At that time I recounted the ugly chapter in American history where the United States supported the creation of the Republic of Panama and its independence from Colombia in 1903, and then proceeded to negotiate a treaty with a French engineer, Philippe Bunau-Varilla, who had a financial interest in building the canal, without any representative of the new Panamanian Nation ever being present. Over half a century of enmity has been the sorry result.

However, in another vein, we must acknowledge that perhaps the Teddy Roosevelt days of swagger and bluster—of which the 1903 Panama Canal Treaty was a part—were a necessary step in our growth toward national maturity—part of fighting our way into the ring of international power that would enable us to protect our freedoms from tyranny. But there comes a time when the scale is tilted and power becomes oppressive.

The United States has suffered sorrow and agony in this decade—a moral civil war—and perhaps in the process we have gained a better perspective of who we are as a nation. Perhaps we not only know, but can find serenity in the knowledge, that we do not have to carry a big stick, and that other nations have the right to decide for themselves what their internal politics will be.

The President, in his press conference last night, reaffirmed our basic foreign policy of self-determination when he stated, in reference to allegations that the overthrow of the Somoza regime in Nicaragua was engineered by Cuba, that "It is a mistake for Americans to assume—that every time an evolutionary change takes place or even an abrupt change takes place in this hemisphere that somehow it is the result of secret, massive Cuban intervention. The fact in Nicaragua is that the incumbent government—the Somoza regime—lost the confidence of the Nicaraguan people." He concluded by saying that "the people of Nicaragua have got enough judgment to make their own decisions," and that the United States will use its efforts "in a proper fashion, without interventionism, to let the Nicaraguans, let their voices be heard in shaping their own affairs."

Mr. President, by approving the implementing legislation of the Panama Canal Treaties, we will place ourselves on the threshold of "setting things right"—a process viewed by my own native Hawaiian people with great reverence as "ho' oponopono." Let us do so and set ourselves firmly on the side of right.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Huddleston), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from South Dakota (Mr. Pressler), and the Senator from Delaware (Mr. Roth) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber desiring to vote who has not voted?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—63

Baker
Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Exon
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Hollings
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—32

Armstrong
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cannon
Cohen
Dole
Domenici
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Melcher
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Thurmond
Tower
Wallop
Warner

NOT VOTING—6

Bellmon
Eagleton
Huddleston
Inouye
Pressler

So the bill (H.R. 111), as amended, was passed.

Mr. LEVIN. I move to reconsider the vote by which the bill was passed.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to implement the Panama Canal Treaty of 1977 and related agreements, and for other purposes.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill, as passed, be printed in full with amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I do want to briefly and quickly, because of the hour, thank a number of people who worked with me on the bill. First, Senators Laxalt, and Thurmond who were so cooperative and helped to create a good spirit here today.

I want to thank staffwise John Roberts, Frank Sullivan, Ed Kenney of the Armed Services Committee staff; David Hansell, Bruce Gregory, Peter Lennon, Bob Seltzer and James Cruchfield of my staff; and Greg Pallas of Senator Exon's staff.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. LEVIN. I would be happy to yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, just 1 minute. I am delighted to commend Senator Levin for a masterful piece of work he did from the ground up on this bill.

I asked him to take the lead way back in January. He was not familiar with it even then, except in a general way. He studied it, he went to lawyers, went everywhere, he went down to Panama—came back speaking the language—he just really stayed with it, conferred with the Senators, and had suggestions to make, and I thank him and commend him highly.

Mr. PRYOR. I wonder if the Senator from Mississippi will yield to me? The Senator from Michigan has the floor. Mr. President, will the Senator yield to me?

Mr. LEVIN. I would be happy to yield, but I want to thank the Senator from Mississippi for his overly gracious comments. He has been extremely helpful to me.

Mr. PRYOR. Mr. President, I simply today would like, as a Member of the freshman class of Senators who came in just 6 months ago, to commend my friend, the junior Senator from the State of Michigan, for the way and manner in which he has managed and handled an extremely emotional and volatile issue with great skill and with great understanding, being fair to all sides in this debate which has taken place today.

I think it demonstrates his skill, and certainly his ability to grasp an extremely complex issue, and to learn very, very quickly what is necessary in the field of legislative debate.

I would like to commend my friend from Michigan for the manner and method in which he has handled himself, and which he has handled this very, very hard issue today.

Mr. LEVIN. I want to thank the Senator from Arkansas for those comments. It has been wonderful to be in this freshman class, and one of the best parts about it was coming in with him.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. LEVIN. I would be happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I am so proud of this freshman class that I want to not only associate myself with the remarks of the distinguished Senator from Arkansas but also want to claim membership in that freshman class.

Mr. LEVIN. We can arrange that.

Mr. ROBERT C. BYRD. It is an outstanding class of Senators, and I have already commented today earlier on the leadership that was provided by the distinguished Senator from Michigan (Mr. Levin) on this bill.

I take the floor again to commend him, and I am delighted to see other Senators recognizing the kind of ability and skill, competence, and dedication demonstrated.

While the Senator is yielding to me, I want to also express my thanks to Senator Laxalt, Senator Thurmond, Senator Helms, and other Senators who have been on the opposing side. They fought a good fight, they kept the faith, and they cooperated in connection with the agreement and with the leadership, and I am indebted to them.

Mr. President, I ask unanimous consent that when the Senator from Michigan yields the floor that there be a period for the transaction of routine morning business in which Senators may speak up to 15 minutes, with the period not extending beyond 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I did want to thank my friend, the majority leader, for his remarks. His presence is supportive, whether he is here helping or back in his office; where we know he is there, and it is for all of us in the freshman class when we take these responsibilities, and we are indebted to him for the courtesies he has shown to us over these months.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

HIS NAME IS MUDD AND HE IS PROUD OF IT

Mr. MATHIAS. Mr. President, for 60 of his 79 years, Dr. Richard Mudd of Saginaw, Mich., has been struggling to clear the family name. He has been working to banish the expression "His name is Mudd" from the lexicon of infamies.

Yesterday, Dr. Mudd came within a hair's breadth of victory and, when I talked with him last night, he pronounced himself "very pleased indeed."

What pleased Dr. Mudd—and it pleases me too—was a letter from President Carter expressing his personal belief that Dr. Mudd's grandfather, Dr. Samuel A. Mudd, had been wronged by his contemporaries and by history. That Dr. Mudd, of course, was the Maryland physician, who set the leg John Wilkes Booth had broken in his jump from the Presidential box to the stage at Ford's Theater after assassinating President Lincoln and who, for his trouble, was found guilty of involvement in the assassination conspiracy by a military commission at a trial that was as unfair as it was illegal.

"I want to express my personal opinion," the President wrote Dr. Mudd's grandson, "that the declarations made by President (Andrew) Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment." The President closed his letter with these magic words:

> I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Those are the words Dr. Mudd of Saginaw has, for so many years, longed to hear spoken by a President of the United States. I am very grateful to President Carter for finally giving him that satisfaction.

On August 18, 1977, Congressman Paul Simon and I sent a petition to President Carter stating our belief that Dr. Samuel Alexander Mudd was innocent of any involvement in the conspiracy to assassinate President Lincoln, and asking the President to use his authority as Commander in Chief to confirm Dr. Mudd's innocence by declaring his conviction null and void. Twenty-four of our colleagues joined with us in signing that petition and numerous other appeals have been made to the White House over the past several years.

In connection with our petition, the President was advised by the Justice Department that "all legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon" and he was told that he "could not set aside the conviction." Considering this stricture on his options, the President has responded to the appeals presented to him generously and with compassion.

I am particularly grateful to the President for bringing the Mudd case to this happy conclusion because I have been pinch-hitting in the effort to clear Dr. Mudd's name for our late dear colleague and friend, Senator Philip Hart, who was a great personal friend of Dr. Richard Mudd and tireless in the defense of the Mudd family name. I inherited the Mudd case from him and when you bat in place of a giant like Phil Hart, you want a hit in the worst way. Thanks to President Carter's letter, we have got one that I think would please Phil Hart and satisfy his longtime desire to see justice done in the Mudd case.

I am sure my colleagues rejoice, as I do, that justice deferred is not justice denied and that they join me in congratulating Dr. Richard Mudd on this happy outcome to his lifelong struggle.

I want to thank the President for his eloquent letter to Dr. Mudd and I would also like to thank the President's Counsel, Robert J. Lipshutz, for his help and patience throughout the effort to achieve the objective which we celebrate today: Restoring to Dr. Samuel Alexander Mudd his good name.

Mr. President, I ask unanimous consent that Mr. Lipshutz' letter to me transmitting the news of our success and President Carter's letter to Dr. Mudd be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, D.C., July 25, 1979.

Hon. Charles McC. Mathias,
U.S. Senate,
Washington, D.C.

Dear Senator Mathias: As you now are aware, the President has acted upon the request to take action which would restore full dignity and respect to the name of Dr. Samuel Mudd. The very explicit letter which he has written to Dr. Richard Mudd is the very most that he is able to do under our laws, and I trust that the very sincere expressions in that letter meet fully with your approval.

Thank you very much for your patience and cooperation in helping to correct any remaining misperception about the honor of Dr. Samuel Mudd, as well as any reflection which this misperception might have had on the reputation of his descendants.

My warmest personal regards.

Sincerely yours,
Robert J. Lipshutz,
Counsel to the President.

THE WHITE HOUSE,
Washington, D.C., July 24, 1979.

Dr. Richard Mudd,
Saginaw, Mich.

To Dr. Richard Mudd: I am aware of your effort to clear the name of your grandfather, Dr. Samuel Alexander Mudd, who set the broken leg of President Lincoln's assassin, John Wilkes Booth, and who was himself convicted as a conspirator in the assassination. Your persistence in these efforts, extending over more than half a century, is a tribute to your sense of familial love and dedication and is a credit to the great principles upon which our nation was founded.

Your petition and the petitions submitted to me on behalf of your grandfather by numerous members of Congress, several state legislatures, historians and private citizens have been exhaustively considered by my staff over the past two years. Regrettably, I am advised that the findings of guilt and the sentence of the military commission that tried Dr. Mudd in 1865 are binding and conclusive judgments, and that there is no authority under law by which I, as President, could set aside his conviction. All legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon on February 8, 1869.

Nevertheless, I want to express my personal opinion that the declarations made by President Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment.

While a pardon is considered a statement of forgiveness and not innocence, the Johnson pardon goes beyond a mere absolution of the crimes for which Dr. Mudd was convicted. The pardon states that Dr. Mudd's guilt was limited to aiding the escape of President Lincoln's assassins and did not involve any other participation or complicity in the assassination plot itself—the crime for which Dr. Mudd was actually convicted. But President Johnson went on to express his doubt concerning even Dr. Mudd's criminal guilt of aiding Lincoln's assassins in their escape by stating:

". . . it is represented to me by intelligent and respectable members of the medical profession that the circumstances of the surgical aid to the escaping of the assassin and the imputed concealment of his flight are deserving of a lenient construction, as within the obligations of professional duty and, thus, inadequate evidence of a guilty sympathy with the crime or the criminal;

"And . . . in other respects the evidence imputing such guilty sympathy or purpose of aid in defeat of justice, leaves room for uncertainty as to the true measure and nature of the complicity of the said Samuel A. Mudd in the attempted escape of said assassins . . ."

A careful reading of the information provided to me about this case led to my personal agreement with the findings of President Johnson. I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Sincerely,

JIMMY CARTER.

THE PRESIDENT'S ENERGY MESSAGE

Mr. MATHIAS. Mr. President, last night in his televised press conference, President Carter forecast that the Senate would try "to gut" the windfall profits tax that he has proposed to finance his $142 billion energy program. I am sorry the President made that remark. Talk of that sort is unwise.

But since the President is borrowing trouble for his energy program in the Senate, I think I can identify several areas where trouble may lie. Tonight, in a talk to the board of directors of the Maryland Chamber of Commerce, I plan to discuss weaknesses that I believe mar the President's energy proposals. I ask unanimous consent that the text I have prepared for that occasion be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Mr. President, although I have serious reservations about aspects of the President's energy plan, I would like now to pledge my cooperation to the President in seeing that his proposals receive the serious attention they deserve in the Senate. And I pledge my best efforts to insure that the Congress sends to the White House for the President's signature an energy program that will reconcile the priorities of the present with the promise of the future.

EXHIBIT 1

ENERGY: FOOL'S PARADISE REVISITED

Tonight I want to talk a little about our energy problem and about how President Carter proposes to attack it. Then I'd like to move on to questions and answers because this is an area where there are a lot of questions that need answering.

Usually I don't go around quoting myself but, to make a point, I'd like to begin by reading you the opening lines of a speech I made to the Frederick County Chamber of Commerce five and a half years ago. On January 24, 1974, in the winter of the Arab oil embargo, I warned that:

"These are not shortages which have sprung upon us suddenly or that will pass with the coming of spring. We must consider all energy questions in the context of whether shortages are a temporary dislocation or a coming way of life."

I went on to make two predictions—one right and one wrong. My correct prediction was that the increasing world demand for oil would "bring higher prices and uncertain supply as the OPEC countries . . . will be in an increasingly strong position to dictate terms to the consuming nations."

My wrong prediction centered on an analogy I used to dramatize our energy dilemma.

"For the last 30 years," I said, "we have been on an energy binge and like anybody awakening with a hangover, there is the acutely painful moment when the window shade is raised and the bright sunlight pours in." Then I added: "We can never draw that shade again . . . we are on the wagon to stay."

But here I was wrong. Just as soon as the lines at the gas pumps disappeared and the embargo was lifted, we pulled the shade back down and resumed our interrupted binge. In the six wasted years since then, we have become more besotted with energy than ever.

Today new lines at the gas pumps warn us to sober up. And I hope we will take that warning seriously—it may be the last we get. But I am worried. I am worried because the President's interest in energy seems to be reactive; his concern seems to have been prompted largely by the concern of others, and I am afraid that, if the gas lines dissipate as they appear to be doing, his sense of urgency about energy independence may dissipate along with them.

When President Carter told the American people on April 20, 1977, that our diminishing energy resources and our inordinate energy consumption posed the greatest challenge we would face in the next decade, I applauded him. I was not among those who joked about his "moral equivalent of war."

But I told the President then that he would have to repeat and repeat his warnings until every voter and every taxpayer fully understood the subtle linkage between energy and modern civilization—that energy is not just an aspect of modern society—that it is society's lifeblood—that our economy . . . food, jobs, industry, income, homes, transportation . . . all of these and more depend on energy.

The President didn't do that. He said his energy piece and then put his cardigan sweater into moth balls. He gave his time and attention elsewhere.

Only this month, when the American people were fed up with the gas lines and with the double-talk they were getting from the Department of Energy, was the President's attention finally brought back to focus squarely on the energy problem.

What brought the President back on track was a memo from a White House assistant which explained the energy crisis to him not in terms of how it affects our national security, but in terms of how it affects the political career of Jimmy Carter.

The President got the message and in response he launched what one columnist called a "bizarre exercise in the conduct of the presidency"—the Camp David domestic summit. Since then, in three speeches, the President has outlined an energy program with a $142 billion price tag, and he has stage-managed a cabinet and White House staff purge.

But throughout this unfolding drama of born-again leadership, through all the sound and the fury, I have been straining to detect some sign that the hard energy decisions that must be made, have been made. And I have been waiting for the President to level with the American people about just how tough it's really going to be to become energy independent and to call on them to make the very specific sacrifices they will surely have to make now and for many years to come until alternate energy sources begin to produce.

In a letter to Thomas Jefferson, written just after the Revolution, John Adams observed that: "By the time the American revolution took place, a revolution had already taken place in the minds of the people."

I think we have the same sort of situation today. By the time the President got back from the Tokyo economic summit, the American people were way out in front on energy and the President is still scrambling to catch up. The American people are ready to conserve, to make sacrifices, to share discomforts, to do whatever is necessary to make this country energy-secure. But they want to know exactly what is necessary and why it is necessary. And they want the burdens, whatever they may be, to be shared equally and fairly.

As columnist Hobart Rowen observed, ". . . this is where Carter failed to be presidential, casting himself only in the role of candidate for renomination. On the conservation side, his proposals are far from enough."

You don't move a people primed for sacrifice and ready for action by oration, you do it by example. And if you don't set any examples to underscore your rhetoric, pretty soon the people stop listening and slide back into their accustomed way of doing things. That is what happened in 1974 and in 1977 and we can't let it happen again.

But, as it says in the Bible: "Hope long deferred maketh the heart sick." And already I see signs that disturb me. This week, for example, when I drove to Baltimore, I was only one of two drivers on the road observing the 55-mile speed limit.

Reflect for a moment on this contrast. On returning from the Tokyo summit, where the United States, Japan and the major Western nations agreed to a common goal of a five percent reduction in oil consumption, President Carter cancelled a scheduled energy speech and went directly to Camp David, where he remained for 10 days without saying a word to the American people about anything.

West German Chancellor Helmut Schmidt, on the other hand, went to the Bundestag as soon as he returned and from there appealed to Germany's auto industry to introduce cars with lower fuel consumption. The automakers could accomplish the job in less than 18 months, he said, and "take a leading international position in the area."

That's the kind of talk that makes sense in an industrial society. But so far we have not heard a single word from the President about what our automakers can do to contribute to the solution of this problem. Not even when he was right there in Detroit, making an energy speech last week, did the President think to challenge the American auto industry the way Chancellor Schmidt challenged German automakers.

A 2-mile-a-gallon increase in the average fuel economy of the American auto fleet in 1985 would equal the amount of output of 10 synthetic fuel plants, I am told. And yet the President has left the auto industry entirely out of his program.

Here again the people are out in front. Since the gas lines began forming, Cadillac sales in Maryland are down 44.6 percent and Volkswagen sales are up 71.9 percent, according to the Motor Vehicle Administration. But, of course, gas lines aren't visible from the windows of Air Force One.

The shift to energy-efficient cars is absolutely inevitable. What is not inevitable, and what we should avoid at all cost, is the shift to energy-efficient foreign cars, because that means American jobs. But, if Detroit isn't persuaded to come up with viable alternatives, that shift too will be inevitable.

Here's another sure thing: the automaker who comes up first with a car that gets 50 to 75 miles a gallon will corner the world market. Last week gasoline prices in Israel went from $2.32 to $2.50. In Italy they are paying $2.25 a gallon for regular; in France $2.22 and in West Germany $1.80. In each of these countries, they pay more in tax on a gallon of gas than we're paying right now for a gallon of gas, tax and all. Our price per gallon is 90-odd cents for regular, including 13 cents tax. In Italy just the tax on a gallon of gas is $1.60; in France it is $1.53, and in West Germany it is $1.09.

Not only hasn't the President set any positive examples to capitalize on the public mood, but he has set some negative ones. Throughout the Camp David retreat, helicopters plied their way back and forth to Washington regularly ferrying White House staff and others to the mountain to advise the President. Each of these chopper trips—and there were dozens of them—consumed 150 gallons of fuel, or enough to take the average motorist about 3,000 miles. With that kind of an example before them, Americans are understandably reluctant to give up a once-a-year vacation trip by car in order to conserve gasoline.

The President himself made two energy-expensive plane trips away from Camp David to "listen" to people in Carnegia, Pennsylvania, and Martinsburg, West Virginia, when he could more easily have hiked over to Thurmont to accomplish the same thing. The good citizens of Thurmont, or Frederick, or any of a dozen nearby Maryland towns would have been happy to fill the President in on American attitudes at a fraction of the energy cost of his trips to Pennsylvania and West Virginia.

The President missed his best opportunity to get the American people on the conservation bandwagon when he ended his talk to 60 million Americans by asking them to "say something good about America." What he should have asked them to do was to show their support for an energy-secure America by taking public transportation to work the next day, or by walking, biking, skating, jogging, or carpooling.

An appeal of that sort would have brought a tremendous response. I think the streets of every city in America would have been full of people eager to prove their support for conservation. It would have been an outward and visible sign that we could and would work together for a common goal. And it would have said something good about America.

Or the President could have announced in his Sunday speech that in order to conserve energy he would not take Air Force One to Kansas City and Detroit the next day; that he would make his scheduled speeches by television hookup instead.

These may seem like small gestures. And maybe they would be, if you or I made them. But when the President of the United States makes that kind of a gesture, it is magnified many times. It commands attention and respect. It inspires. As Teddy Roosevelt pointed out: The White House is a bully pulpit.

The press has covered the substance of the President's proposals for solving the energy problem in detail, so I won't dwell on them. As Senate Majority Leader Robert Byrd pointed out in his analysis of the President's speech, "Congress is already well ahead in its development of most of the legislation to which (the President) referred."

I would like to mention three omissions, however, that I think cripple the President's plan:

(1) he did not call for immediate decontrol of the price of oil,

(2) he did not deregulate the price of gasoline, and

(3) when he said in Kansas City that nuclear power must play "an important role to insure our energy future," he did not say a word about our colossal nuclear waste disposal problem.

We must begin to pay the real price for the energy we consume and any program to make us energy-secure that doesn't come to grips with that notion is bound to fail. Our decades-long energy binge depended on artificially low prices. Letting prices rise to their natural level now would put the brakes on consumption. The unseen hand of the marketplace is a powerful force—far more powerful than any regulatory framework the Congress or the President could devise. It must be allowed to work its will.

The price I suggest is high. It will be high. But we must ask ourselves—"the price for what?"

Is it merely the price for pleasure driving or even commuting to work? Is it the price for the creature comfort of a warm house?

No—and this must be made crystal clear in the minds of the American people. What we aim to secure, for which we must be willing to pay the price, is jobs: jobs that support the working men and women of America. By making this sacrifice we aim to keep our factories running and to assure the survival of our industrial society. No less is at stake, and no less will save it.

It is equally urgent that we make a firm national commitment to solve our nuclear waste disposal problem. Right now there are 75 million gallons of high-level nuclear waste from atomic weapons production in temporary storage facilities. And there will be 40 million more gallons of military radioactive waste by the year 2000. In addition, each of the United States' 67 nuclear power plants produces about 30 tons of spent fuel a year. They have already accumulated about 4,000 tons of radioactive waste and by the year 2000 as much as 100,000 tons will have accumulated in that deadly stockpile.

The costs involved in a nuclear waste disposal program will be large but they must be paid. Nobody knows exactly what the bottom line will be, but $20 billion for the military waste alone is the most conservative figure you hear. An energy program that glosses over the facts of nuclear waste disposal does a disservice to the American people.

And finally, we must not let 15 or 20 years of environmental protection go down the drain in a frantic search for quick energy solutions.

The President has laid a heavy burden on the Congress. He proposes an Energy Mobilization Board to "cut through red tape, the delay and the endless roadblocks to completing energy projects." This board would be authorized to override federal, state and local laws if they delay construction of new domestic energy facilities. Like Pontius Pilate, he's washing his hands of due process.

Unfortunately, it is human nature when an emergency arises to underestimate the importance of the process created to solve the emergency. Contingency planning becomes the order of the day and quick results the object of the exercise. Such plans cancel, contradict and reinforce each other by accident. Few are related to one another and none to any overall image of what the future should be.

Congress should act expeditiously on the energy proposals before it, but it should not be stampeded into hasty judgment. Congress must produce an energy plan that establishes a healthy balance between competing demands on our limited resources. Undoubtedly much of the bureaucratic enforcement of environmental standards has lacked common sense and Congress will have to inject some common sense into these regulations. But I am not prepared to adopt a casual attitude toward the environment, as the President seems to have done.

We must not allow ourselves to be seduced into unwise and expensive crash programs by false hopes about the promise of synthetic fuels. We must find out just how many BTU's are burned up in making a BTU available from a new energy source. Obviously, if it takes 11 BTU's to make just 10 BTU's available, we're going to lose the energy battle. No resource, whether it be oil shale or coal, is adequate unless it can be mined, processed, transported, and the land affected properly reclaimed, for less energy than can be derived from the resource itself.

We must also recognize the tremendous strain that technologies such as oil shale, coal liquefaction and nuclear energy place on our land, air and water resources. Like oil, they are finite resources and all are in increasingly short supply. There's not a major city in America that doesn't have its share of air pollution alerts every year. Experts predict a water crisis just around the corner, too. And as Rog Morton said: To get a useful amount of oil from shale, you'd have to dig the Grand Canyon every afternoon.

The principal thrust of the President's program is toward expanding fossil fuel capacity. Such a policy ignores the finite nature of our world and the delicate balance that exists between the many elements of our ecosystem. Continued heavy use of fossil fuels jeopardizes the equilibrium that sustains all life. The potential effects on world climate alone from additional quantities of carbon and sulfur dioxide and particulates should give us pause before proceeding to expand energy use by burning fossil fuels.

Solar energy has long been the stepchild of our energy inventory. Yet all energy comes from the sun and is either transformed or reradiated. Solar energy is clean and it is infinite. Whatever crash energy programs we undertake now must be undertaken with the clear understanding that we are simply buying the time to develop the capacity to sustain our economy on renewable energy sources.

In weighing the various elements involved in a search for an energy-secure future, we should be guided by the knowledge that we must live within the limits of a finite world, mindful of our obligation to succeeding generations.

THE MARRIAGE TAX

Mr. STEVENS. Mr. President, I want to alert my colleagues to today's Washington Post in which appeared an editorial entitled "Sintax." Sintax refers to a provision in the Tax Code that often results in married, working couples paying higher taxes than two, single individuals with the same combined income. My good friend, Senator MATHIAS, has taken the lead to eliminate this marriage tax with legislation which permits married couples to file separate tax returns. Not only would this legislation remove the code's marriage tax, as mentioned in the Post editorial, but it would also be a step toward a more equitable Tax Code by which individuals are taxed on the basis of income, not marital status.

Senator MATHIAS has already enlisted the support of 20 Senate cosponsors and I understand that the Finance Committee will be holding hearings on this legislation sometime this fall. I hope that the committee will move expeditiously to report the legislation so that the Senate can demonstrate its support for removal of the sintax.

The editorial from the Washington Post follows:

SINTAX

Sen. Charles Mathias calls it the "sin subsidy." Rep. Millicent Fenwick says it's a "tax on marriage." Whatever it is, the provision in the Internal Revenue code that lumps together the incomes of husbands and wives for tax purposes is taking a beating on Capitol Hill this summer. About a fourth of the House and a fifth of the Senate have signed on as co-sponsors of the Mathias-Fenwick bill that would permit married couples to file separate tax returns.

The tax policy this bill attacks treats the income of a married couple as if one person had earned all of it. This means a family with a $20,000 income pays about $2,745 in taxes regardless of whether one or both spouses work. But it also means that if each spouse earns $10,000 they pay $400 more than they would if they were not married. That difference, which gets larger as incomes go up, is the "marriage tax." It occurs because combining incomes throws the second wage-earner into a higher tax bracket than he or she would otherwise be in.

This anomaly has existed for a decade, but the intensity of interest in it is new. Rep. Fenwick has a host of stories—of the young woman who said she and her boyfriend couldn't afford the $668 in taxes a marriage would cost, of the minister who advised a young couple to forgo marriage because of the additional taxes, and of the female judge in New York who weighed the prices, in taxes, of marriage against the disadvantages of simply living with him. "There are 1.1 million non-sanctified relationships in this country," Rep. Fenwick says. "Government ought not to be pressing people away from marriage."

This issue would seem a natural for the Carter administration. It was President Carter, after all, who warned his staff against the evils of living in sin and urged marriage upon some reluctant associates. But the administration, while sympathetic, has yet to embrace the Mathias-Fenwick bill.

There are problems, you see. The first is money. Eliminating the "marriage tax" would eliminate $4 billion or $5 billion in federal income taxes. The other problem is more intriguing. As long as tax rates are progressive, some group of taxpayers will be shortchanged. It's either married couples with two incomes (as the law stands) or married couples with one income (as the law would be if Mathias-Fenwick prevails) or single people (if all married couples were allowed to split the family income).

The choice is not easy. But Sen. Mathias probably has the best of it with his argument that tax policy should "shore up the American family." That much-battered institution is having a tough enough time as it is and needs all the help it can get.

CONGRESSIONAL SYMPOSIUM ON CO_2 AND ENERGY POLICY

Mr. **RIBICOFF.** Mr. President, the United States faces a serious dilemma. Our efforts to reduce our dependence on imported oil may include some exceptional dangers to our environment. Prominent scientists have brought this danger to my attention, and I think their concerns deserve to be shared with my colleagues.

The problem is the increased accumulation of carbon dioxide in the atmosphere caused by the use of fossil fuels. The buildup of CO_2 produces what is called a "greenhouse effect" which unnaturally warms the Earth's surface. This warming could reach the point of having a major impact on the world's climates, ocean currents, growing seasons, and sea level.

The dilemma between our energy shortage and CO_2 poisoning is triggered by the possibility that synthetic fuels exacerbate CO_2 production. I am deeply troubled by this possibility because I have strongly supported proposals to develop synthetic fuels.

The United States has no choice but to reduce our dependence on foreign oil. Senator DOMENICI and I have introduced and held hearings on S. 1377, a bill to produce several million barrels of synthetic fuels per day by 1990. Similar bills have been introduced in both Houses of Congress. Synthetic fuels and conservation are widely seen as possible avenues to alleviate our energy problem.

Mr. President, we have to consider the possible existence of a Faustian bargain in certain synthetic fuels. In the course of hearings on S. 1377 my committee received a report from scientists of high reputation in this field. Dr. Gordon MacDonald, chief scientist for the Mitre Corp., on leave from Dartmouth College, and a former member of the Council on Environmental Quality, presented testimony. Dr. MacDonald presented a report by him and three others:

Dr. George Woodwell, of the Woods Hole Oceanographic Institute;

Dr. Roger Revelle, of the University of San Diego; and

Dr. C. David Keeling, of Scripps Institute of Oceanography.

I ask unanimous consent that the report be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **RIBICOFF.** Mr. President, the thesis of their report is that synthetic fuels produce 2.3 times more CO_2 than does an equivalent amount of natural gas. A massive synthetic fuels program would therefore accelerate accumulations of CO_2 into the atmosphere. The carbon dioxide content of the atmosphere will double by the year 2030 at present rates. Dr. MacDonald estimates that the doubling will occur in the year 2010 if we move to an economy based on coal and synthetics.

He amplifies his thesis in an editorial in the Washington Post today, and I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. **RIBICOFF.** Mr. President, the Climate Board statement advises that,

> There should be clear recognition that the massive expenditures required to create a national synthetic fuels capability, desirable as that capability may be for the next few decades, do not necessarily commit our nation or others to large-scale dependence on coal for the indefinite future.

Mr. President, I am troubled by these sober assessments. Serious and knowledgeable people are warning us of a basic danger to this Earth on which we live. I first discussed CO_2 accumulation just recently with German Chancellor Schmidt, who brought the problem to my attention. The Chancellor believes that it is a major threat to the future of mankind. I have reviewed some of the work being done in Germany on the matter and find that Germany scientists regard it to be a potentially grave problem.

Mr. **RIBICOFF.** Mr. President, last week I sought advice from the President of the National Academy of Sciences, Dr. Philip Handler. When I reached him he was chairing a meeting of the Academy's Climate Research Board. Dr. Handler and the Climate Board sent me a preliminary statement of CO_2 and energy policy, and I ask unanimous consent that Dr. Handler's letter and the statement be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. **RIBICOFF.** Mr. President, the problem is particularly troublesome because these atmospheric effects may not be reversible. There may be no known remedy if we let CO_2 accumulation go too far. As a minimum procedural safeguards and climatic impact assessments are essential to insure that these problems are considered before we give synthetic fuels the green light.

We have to take a closer look at synthetic fuels. I have scheduled a symposium on the CO_2 effects of synthetic fuels in the proposed energy program for 10:30 a.m. next Monday, July 30, in the Governmental Affairs Committee Room, 3302 Dirksen. I have invited respected authorities to participate with Senators in an around-the-table setting. I invite my colleagues to attend. I will submit for the RECORD a list of experts planning to participate.

Mr. President, I am eager to find solutions to our grave and serious energy problems. If certain synthetic fuels involve extreme dangers whose effects are postponed until later years, we must know more about them.

I ask unanimous consent to have the list of experts printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EXPERTS INVITED TO PARTICIPATE IN CO_2 SYMPOSIUM

1. Dr. Bert Bolin, Department of Meteorology, University of Stockholm, Sweden.

2. Dr. Wallace Broecker, Newberry Professor of Geology, Lamont-Doherty Geological Observatory, Columbia University.

3. Dr. Jules Charney, Alfred P. Sloan Professor of Meteorology, Massachusetts Institute of Technology.

4. Dr. Lester Machta, Director of Air Resources Laboratory, National Oceanographic and Atmospheric Administration.

5. Dr. Roger Revelle, Professor of Science & Public Policy, University of California-San Diego.

6. Dr. Ralph M. Rotty, Institute for Energy Analysis, Oak Ridge Associated Universities.

7. Dr. Steve Schneider, National Center for Atmospheric Research, Boulder, Colorado.

8. Mr. David Slade, Manager, Department of Energy CO_2 Climate Effects Research Program.

9. Dr. Joseph Smagorinsky, Director, climate modeling program, Princeton University and Director of Geoghysical Fluid Dynamic Laboratory, National Oceanographis and Atmospheric Administration.,

10. Dr. George Woodwell, Director of the Ecosystems Center, Marine Biological Leboratory, Woods Hole Oceanographic Institute.

EXHIBIT 1

THE CARBON DIOXIDE PROBLEM: IMPLICATIONS FOR POLICY IN THE MANAGEMENT OF ENERGY AND OTHER RESOURCES

I. THE CO_2 PROBLEM

Man is setting in motion a series of events that seem certain to cause a significant warming of world climates over the next decades unless mitigating steps are taken immediately. The cause is the accumulation of Co_2 and other heat-absorbing gases in the atmosphere. The result is expected to be a differential warming of the atmosphere near the earth's surface, a warming that will probably be conspicuous within the next twenty years. If the trend is allowed to continue, climatic zones will shift, and agriculture will be displaced. Such a series of changes would have far reaching implications for human welfare in an ever more crowded world, would threaten the stability of food supplies, and would present a further set of intractable problems to organized societies. The best estimates suggest that there would be the least change in temperature in the tropics but polar regions would grow substantially warmer. With sufficient high latitude warming the ice cap in the western part of the Antarctic Continent could disappear in a period as short as two centuries, causing a 20-foot rise in sea level with resulting inundation of low-lying coastal zones. Enlightened policies in the management of fossil fuels and forests can delay or avoid these changes, but the time for implementing the policies is fast passing.

The carbon dioxide content of the atmosphere is increasing at an annual rate that is now about 1.5 ppm in a background of about 333 ppm. The increase since 1860 is at least 40 ppm, possibly as much as 70 ppm. Precise data on the increase are available since 1958 when monitoring stations were established on Mauna Loa in the Hawaiian Islands, at the South Pole, and intermittent sampling was intensified elsewhere. The data show that the rate of increase is accelerating as the world use of fossil fuels increases. The rates of both are between 3 and 4 percent annually. This rate means that in each period of between 18 and 23 years approximately twice as much CO_2 accumulates in the atmosphere as accumulated in the previous period.

The problem is that CO_2, in contrast to the major atmospheric components O_2 and N_2, absorbs infra-red radiation, which is the principal outgoing radiation from the earth's surface to outer space. Over any extended period the infra-red radiation emanating from the top of the atmosphere must balance the solar radiation absorbed by the atmosphere, the oceans, and the earth's surface. The increase in the CO_2 in the atmosphere can thus be expected to result in a rise in the surface temperature until the outgoing infra-red radiation comes into balance with the absorbed solar radiation. The extent of the heating that will result depends on many factors and is difficult to predict, but there is reasonable agreement that it will occur and will be conspicuous before the end of this century. The changes in climate that will follow such an increase in temperature are also elusive. The experience from models of world climate is that the warming may be as much as an average of 2–3°C for a doubling of the CO_2-content of the atmosphere and that the warming will be greater by a factor of three or four near the poles and less in the tropics.

There appear to be very few clear advantages for man in such short-term alterations in climate. The displacement of agriculture in a world constantly threatened by hunger would alone constitute an extremely serious international disruption within the lifetimes of those now living. The warming of the Antarctic could, according to some estimates, result in the disappearance of the West Antarctic ice sheet in a period as short as 200 years. Such a process could be started by an increase in summer temperatures in the Antarctic ocean surface waters of 5°C. Such an increase could occur in 50–75 years if current trends continue. A complete disappearance of the West Antarctic ice sheet would raise sea level by as much as 20 feet worldwide.

By itself the increase in atmospheric CO_2 would probably be beneficial for agriculture because the added CO_2 will act as a fertilizer for crop plants. But there is little basis for hope that a decades-long warming of the earth will result in benefit for man. Certain areas now suitable for agriculture will become arid, others, now limited by short season, will became arable.

The cause of the current increase in CO_2 in air is the oxidation of carbon compounds worldwide. Fossil fuels are one, probably the major, source. The harvest of forests and the decay of soil humus are thought by some to be an equally important contemporary source, although its importance will decline with time. The important fact, however, is that the atmosphere is a comparatively small reservoir. It contains about 700×10^{15} g of C. The biota is variously estimated as containing about 800×10^{15} g; the humus, $1000–3000 \times 10^{15}$ g; and the oceanic water nearly $40,000 \times 10^{15}$ g. Reserves of fossil fuels contain at least 5000×10^{15} g. The current use of fossil fuels is released $5–6 \times 10^{15}$ g C annually and the biota and humus are probably contributing an amount of similar order of magnitude. The combustion of fossil fuels has the potential for a greatly increased rate of release over the next years. The most remarkable aspect of the current circumstance is the fact that the CO_2 content of the air is as stable as it is. Clearly, a shift in any of these carbon pools or rates of transfer has the potential for altering the CO_2 content of the atmosphere. This series of shifts is already underway. For this reason, if for no other, the industrialized nations, now scrambling for policies in the management of increasingly scarce supplies of energy, should be considering the implications of their policies for the CO_2 balance of the atmosphere.

If we wait to prove that the climate is warming before we take steps to alleviate the CO_2 build-up, the effects will be well underway and still more difficult to control. The earth will be committed to appreciable changes in climate with unpredictable consequences. The potential disruptions are sufficiently great to warrant the incorporation of the CO_2 problem into all considerations of policy in the development of energy.

II. THE ELEMENTS OF POLICY IN MANAGEMENT OF THE WORLD CO_2 PROBLEM

The challenge is obviously worldwide. The problem cannot be resolved by one nation acting alone. However, the U.S. provides leadership on many international issues. The elements of policy proposed here in outline are for the U.S. They apply as well to the world.

1. Acknowledgement of the problem:

The CO_2 problem is one of the most important contemporary environmental problems, is a direct product of industrialization, threatens the stability of climates worldwide and therefore the stability of all nations, and can be controlled. Steps toward control are necessary now and should be a part of the national policy in management of sources of energy.

2. Conservation of fossil fuels:

The first element of any policy that offers the hope of being effective is conservation. Limitation of the rate of exploitation of fuels is possible. The rate is controlled currently by price, taxation, and regulation. It can be controlled as a matter of policy. All actions of government should be reviewed to determine effects on the total use of carbon-based fuels.

3. Choice of fossil fuels:

The choice of fossil fuels and the use made of them bears heavily on the amount of CO_2 released to produce a unit of energy. The production and consumption of liquid or gaseous fuels from coal (synthetic fuels), for instance, is estimated to release 3.4×10^{15} g C per hundred quads (10^{15} Btu) of energy as opposed to 1.45×10^{15} g C for an equivalent amount of energy from natural gas. The difference in CO_2 released is a factor of 2.3 times greater for the coal route to gas than by using natural gas alone. If the coal is burned directly, use of 100 quads of energy releases 2.5×10^{15} g C. These are merely examples. Details appear in Table 1, below.

TABLE 1.—*Carbon released in CO_2 per 100 quads of energy released as heat.* (*One quad*$=10^{15}$ *Btu.*) (*from MacDonald 1978*)

Fuel:	*Carbon in 10^{15} g.*
Oil	2.0
Gas	1.45
Coal	2.5
Coal: converted to gas or oil (synthetic fuels)	3.4

4. Reforestation:

It seems elementary that we have reached the point worldwide where the CO_2 problem alone dictates a need to balance the harvest and other transformations of forest with some other storage of carbon. The regrowth of forests is the obvious solution: total respiration, including fires, should be less than or equal to, but not more than, total photosynthesis on a regional and worldwide basis. There are many additional advantages in such a program, quite apart from the advantages gleaned from wise management of the CO_2 problem.

It is our conviction that an appropriate reaction to the mounting worldwide squeeze on supplies of energy requires consideration of the CO_2 problem as an intrinsic part of any proposed policy on energy.

George M. Woodwell, The Ecosystems Center, Marine Biological Laboratory, Woods Hole, Mass., Gordon J. MacDonald, Dartmouth College, Hanover, N.H., Roger Revelle, University of California-San Diego, La Jolla, Calif.; and C. David Keeling, Scripps Institute of Oceanography, La Jolla, Calif.

EXHIBIT 2

[From the Washington Post, July 26, 1979]

THE SYNFUELS MISTAKE

(By Gordon J. MacDonald)

The president and the Congress have presented the nation with the exciting prospect of solving the energy problem by building plants that will convert our abundant coal resources into more readily usable fuel, such as oil or "natural gas." In an almost crisis atmosphere of the moment, the true environmental and economic costs of synthetic fuels have been overlooked in the apparent desire to provide an easy answer to a complicated problem.

The most important environmental issue associated with a major commitment to synthetic fuel is the possible worldwide change in climate resulting from the loading of the atmosphere with carbon dioxide. This gas, present in minute amounts, absorbs heat that would otherwise radiate from the earth out into space. Carbon dioxide acts as a blanket keeping the earth warm. Increasing the carbon dioxide content of the atmosphere will increase the number of blankets and raise the temperature of the earth.

These changes in temperature could bring about significant world-wide changes in the way people live. The changes are today poorly understood—but could have far-reaching implications for human welfare in an ever more crowded world, would threaten food supplies and present a further set of intractable problems to organized societies.

When will the carbon dioxide content of the atmosphere increase to levels where the effects become noticeable? The answer depends on how fast the world increases the use of carbon-based fuels, natural gas, oil and coal, and on whether or not synthetic fuels become an important element in the world fuel economy. To make synthetic fuels, energy must be used. That use of energy produces carbon dioxide, as does the burning of the synthetic product. The net result is that synthetic fuels produce two to three times more carbon dioxide than do the natural fuels.

If the world continues along the lines of the past 30 years, and if the current mix of gas, oil and coal is maintained, then the carbon dioxide content of the atmosphere will double in about 50 years. If, on the other hand, the world shifts to coal and synthetic, then the doubling will come in about 30 years. The 20-year acceleration may not seem large, but it could eliminate the time needed to develop the alternative fuel of the future—solar, fusion or nuclear.

The basic policy question associated with the climatic impact is that we may not be absolutely certain that the earth is warming up until 1990 or 1995. By that time, if synthetic-fuels investment and infrastructure are in place, it will be extraordinarily costly in economic and social terms to move away from a synthetic-fuel economy. Once hooked, the cure for synthetic-fuel addiction would be very costly.

The energy challenge is obviously worldwide and cannot be resolved by one nation acting alone. The communique from the Tokyo summit made it clear that the Western nations recognized the longer-term economic and environmental issues of using carbon-based fuels. However, the United States provides leadership on many international issues. The elements of policy I propose here are for the United States, but they apply as well to the world:

1. *Acknowledgement of the problem:* The CO_2 problem is one of the most contemporary environmental problems, is a direct product of industrialization, threatens the stability of climates worldwide and therefore the stability of all nations, and can be controlled by controlling fuel policies. No technical means of controlling carbon dioxide exist today. Steps toward control are necessary now and should be part of the national policy in management of resources of energy.

2. *Conservation of carbon-based fuels:* The element of any policy that offers the hope of being effective is conservation. Limitation of the rate of exploitation of fuels is possible. The rate is controlled currently by price, taxation and regulation. It can be controlled as a matter of policy. All actions of government should be reviewed to determine effects on the total use of carbon-based fuels.

3. *The choice of carbon-based fuels* and the use made of them bears heavily on the amount of CO_2 released to produce a unit of energy. Natural gas is by far the best carbon-based fuel for limiting carbon-dioxide production.

The proposals for a massive synthetic-fuels program arise from the misconception that the United States is running out of natural carbon-based fuels. That assumption is wrong. For example, over the past few years I have studied the probable reserves of natural gas. I am convinced from my work and that of my colleagues that, in the continental United States, there exist vast resources of natural gas in both shallow and deep basins that have not been exploited. The lack of exploitation flows from the fact that historically, in terms of constant dollars, the energy content of natural gas has been underpriced by 10 to 30 percent with respect to coal, 100 percent with respect to domestic oil and 200 percent with respect to imported oil. As a result, there has been little economic incentive to develop this resource, which in burning produces less carbon dioxide than any of the other carbon-based fuels. In the longer term, solar, fusion and nuclear power may provide alternative options that are both environmentally and economically compatible.

My idea is that before we commit ourselves to the construction of a major synthetic-fuels infrastructure involving the investment of billions of dollars, we should make every effort to understand not only the short term benefits and the costs, but also the longer-term consequences to the generation that must live with the decisions taken today.

Exhibit 3

National Academy of Sciences,
Washington, D.C., July 19, 1979.

Hon. Abraham Ribicoff,
U.S. Senate,
Washington, D.C.

Dear Senator Ribicoff: This will respond to your telephone call of 18 July concerning the seriousness of the carbon dioxide problem as it relates to a possible national synthetic fuels program. As it happens, our Climate Research Board is meeting at our Study Center at Woods Hole, Massachusetts this week. Accordingly, I brought your concerns to their attention. Regrettably, we did not have a copy of Gordon MacDonald's statement available and, hence, can make no comment thereon.

The Board discussed the matter and then asked a small panel to draft a statement for transmittal to your committee. That statement, attached, is not a formal report from the Academy since it has not gone through our normal review procedures. It does, however, convey the sense of the nation's most distinguished experts concerning these matters and is entirely in conformity with my own understanding of the situation in question.

Allow me a few extra comments.

1. Our assumption is that worldwide energy use will continue to increase, particularly in various developing nations, and that, in effect, use of both shale oil and liquefied coal would be an increment over the total worldwide use of fossil fuels (coal, oil, gas) that would otherwise occur. The consequences of CO_2 buildup are independent of where in the world fossil fuel combustion occurs.

2. All fossil fuels contribute to the buildup of CO_2 in the atmosphere, the effect being smallest for natural gas, greater for petroleum or shale oil, yet greater for coal and greatest for liquefied coal since one must use energy derived from coal to liquefy other coal in such processes. (This order is stated on a per BTU basis.)

3. The statement indicates that the CO_2 problem is real. CO_2 buildup is occurring due to fossil fuel combustion and it will have climatic consequences. But their exact nature and the balance of beneficial and harmful effects, and where they will occur, are not yet definitely predictable.

4. Given the immense scale of worldwide fossil fuel use, the potential scale of synfuel production from coal can make only a relatively small additional contribution to CO_2 accumulation in two or three decades. Given the exigencies of our national circumstances, this small increment does not appear to be a weighty deterrent to a national coal liquefaction or gasification effort. But it must be recognized that we must be willing to regard that capability as a medium term measure which the nation should view as, in effect, amortizable in about three decades and which the nation may have to abandon, or at least not expand further, when the consequences of CO_2 accumulation become more clear than they are today.

5. Three decades is a relatively short time in which to conduct the research and development which will position the nation to put in place the next generation of energy sources.

Sincerely yours,

Philip Handler,
President.

National Research Council,
Washington, D.C., July 19, 1979.

A STATEMENT ON CO_2 AND ENERGY POLICY

We believe it to be important that the phenomenon of increasing carbon dioxide (CO_2) concentration in the atmosphere be widely understood as a major consideration in discussions of future energy policy. Major national* and international efforts are in progress with the goal of predicting the societal consequences of increasing levels of CO_2. Such consequences, of course, must be viewed against the background of a large number of other risks and benefits inherent in all energy supply systems.

The scientific basis for judging the consequences of increasing CO_2 emissions into the atmosphere is as yet quite uncertain. The associated increase of atmospheric concentrations can only be estimated approximately because of limited knowledge of the response of the oceans and the land vegetation to such an increase. Estimates of the possible climatic effects are likely toward the end of the century. CO_2-induced changes in temperature and rainfall patterns during the next century, with significant implications for the nations of the world, represent a definite possibility. Different people and regions may (or may perceive themselves to) be favored or harmed by either actual or predicted changes. An increased amount of CO_2 in the atmosphere and associated consequences, beneficial and deleterious, will most likely remain for several centuries.

The CO_2 problem arises from both the total amount of CO_2 added to the atmosphere and from the rate at which it is being added. If the rate were sufficiently slow, most of the CO_2 would be taken up by the oceans and there would be little effect on the atmosphere. If the rate is rapid and increasing geometrically, as has been the trend for the past 30 years with the ever increasing worldwide use of fossil fuels, a large fraction of the added CO_2 remains in the air. If this trend continues, the CO_2 content of the air will be doubled before the middle of the next century. By the year 2000, the projected increase over the present value of 335 parts per million will be much smaller, about 30 to 60 parts per million.

A major program of synthetic liquid fuel production from coal would somewhat speed up the rate at which CO_2 is added to the air, particularly if similar programs were followed by other industrialized nations, such as the USSR with its large coal reserves. For example, if five million barrels per day of synthetic liquid fuel were to be produced for the next 20 years and added to the world consumption of oil projected above, the atmospheric CO_2 content in the year 2000 would increase by about an additional two to three parts per million.

We recognize that a synthetic fuel program based on coal is a major energy supply option. If, in the future, it appears that continuing increases in atmospheric CO_2 are likely to have significant deleterious effects, then it may be necessary to shift to other alternatives which introduce less CO_2 into the atmosphere. We therefore urge that provisions be made now to assure that such other alternatives will be available if and when they are needed. There should be clear recognition that the massive expenditures required to create a national synthetic fuels capability, desirable as that capability may be for the next few decades, do not necessarily commit our nation or others to large-scale dependence on coal for the indefinite future.

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* The Congress and the Executive established the National Climate Program through the National Climate Program Act, Report No. 95–1489, August 1978, to help the nation understand and assess this and other issues.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 89

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I transmit herewith the Saint Lawrence Seaway Development Corporation's Annual Report for 1978. This report has been prepared in accordance with Section 10 of the Saint Lawrence Seaway Act of May 13, 1954, and covers the period January 1, 1978 through December 31, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *July 26, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:06 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4537. An act to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes;

H.R. 4591. An act to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes; and

H.R. 4712. An act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. EXON).

The message also announced that the House insists upon its amendments to S. 544, an act to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. WAXMAN, Mr. SATTERFIELD, Mr. PREYER, Mr. BROYHILL, and Mr. CARTER were appointed as managers of the conference on the part of the House.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 4392, an act making appropriations for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. SLACK, Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. HIGHTOWER, Mr. WHITTEN, Mr. O'BRIEN, Mr. ANDREWS of North Dakota, and Mr. CONTE were appointed as managers of the conference on the part of the House.

At 2:48 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 3920. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, without amendment, adversely:

S. 1319. A bill to authorize certain construction at military installations, and for other purposes (together with minority views) (Rept. No. 96-259).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Health, Education, and Welfare.

(The above nomination from the Committee on Finance was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WARNER, from the Committee on Armed Services:

W. Graham Claytor, of the District of Columbia, to be Deputy Secretary of Defense.

(The above nomination from the Committee on Armed Services was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

William P. Hobgood, of Virginia, to be an Assistant Secretary of Labor.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

Alan Keith Campbell, of Texas, to be Director of the Office of Personnel Management. (Ex. Rept. No. 96-12.)

Jule M. Sugarman, of Virginia, to be Deputy Director of the Office of Personnel Management.

Vincent P. Barabba, of New York, to be Director of the Census. (Ex. Rept. No. 96-13.)

Leon B. Applewhaite, of New York, to be a Member of the Federal Labor Relations Authority.

H. Stephan Gordon, of Maryland, to be General Counsel of the Federal Labor Relations Authority.

John W. Macy, Jr., of Virginia, to be Director of the Federal Emergency Management Agency.

Eldon D. Taylor, of Virginia, to be Inspector General, National Aeronautics and Space Administration.

A. Lee Fritschler, of the District of Columbia, to be a Commissioner of the Postal Rate Commission.

(The above nominations from the Committee on Governmental Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEPSEN:

S. 1576. A bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JEPSEN (for himself and Mr. THURMOND):

S. 1577. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Labor and Human Resources.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 1578. A bill for the relief of Doctor Halla Brown; to the Committee on the Judiciary.

By Mr. BOREN (for himself and Mr. LONG):

S. 1579. A bill to amend title IV of the Social Security Act to provide for a demonstration program of block grants to States in lieu of Federal matching for aid to families with dependent children; to the Committee on Finance.

By Mr. TALMADGE (by request):

S. 1580. A bill to amend the Plant Variety Protection Act to clarify its provisions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CANNON (by request):

S. 1581. A bill entitled the "Airport and Airway Improvement Act of 1979."; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (by request):

S. 1582. A bill entitled the "Airport and Airway Revenue Act of 1979."; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. Levin):

S. 1583. A bill to amend Title V of the Motor Vehicle Information and Cost Savings Act; to the Committee on Commerce, Science, and Transportation.

By Mr. McGOVERN:

S. 1584. A bill for the relief of Flora Kalaydjian; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 1585. A bill for the relief of Yuk Yee Li; to the Committee on the Judiciary.

S. 1586. A bill for the relief of Jaime G. Vega and Paz Vega, husband and wife; to the Committee on the Judiciary.

By Mr. McCLURE;

S. 1587. A bill to provide economic incentives for the production of alcohol fuels and for the construction and operation of alcohol fuel production facilities; to establish a system to assure a constant supply of stocks for the operation of such production facilities; to encourage and promote alcohol fuels, alcohol fuel blends and related research, and for other purposes; to the Committee on Finance.

S. 1588. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Governmental Affairs.

S. 1589. A bill to amend the Public Rangelands Improvement Act of 1978, to prevent the loss of economic grazing units, to prevent increased unemployment and food inflation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHWEIKER (for himself, Mr. Bellmon, Mr. Hatch, Mr. Cohen, Mr. Laxalt, and Mr. Schmitt):

S. 1590. A bill to amend the Public Health Service Act and the Internal Revenue Code of 1954 to provide for comprehensive health care reform, and for other purposes; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN:

S. 1576. A bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes; to the Committee on Labor and Human Resources.

(The remarks of Mr. Jepsen when he introduced the bill appear earlier in today's proceedings.)

By Mr. JEPSEN (for himself and Mr. Thurmond):

S. 1577. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Labor and Human Resources.

(The remarks of Mr. Jepsen when he introduced the bill appear earlier in today's proceedings.)

By Mr. MATHIAS (for himself and Mr. Sarbanes):

S. 1578. A bill for the relief of Dr. Halla Brown; to the Committee on the Judiciary.

DR. HALLA BROWN

Mr. MATHIAS. Mr. President, I send to the desk, for myself and my colleague (Mr. Sarbanes), a bill for the relief of Dr. Halla Brown. This bill is identical to a bill introduced in the House by Delegate Fauntroy. The bill would require the Secretary of the Treasury to pay to Dr. Brown the sum of $700,000 to compensate her for injuries suffered in an automobile accident in the District of Columbia.

Over 5 years ago, a married couple—both promient Washington physicians—were driving in the District of Columbia when a car ran a red light and slammed into their car. Both drivers suffered painful injuries, but Dr. Brown, a passenger in the car that was struck, was the real victim. This tragic incident confined her to a hospital bed for over a year and a half. It rendered her a quadriplegic; it deprived the Washington area of a skilled doctor at the peak of her talents.

As a result of the accident, Dr. Brown will require round-the-clock nursing for the rest of her life. Her husband, Dr. Rosenbaum, notes:

> She can't be left alone for a minute.

Nurses must change her position every couple of hours to prevent bed sores; her respiration is less than normal, causing her to run out of breath after only a few minutes of talking; she is subject to extreme fluctuations in blood pressure, which can cause brain damage if she is not immediately tilted backwards in her wheelchair. Being paralyzed from the neck down, she explains:

> The only thing I can move is my head. But I can't move it normally.

As might well be expected, medical costs have been exorbitant. Although many bills were covered by medical insurance, costs continue to escalate and policies begin to expire. Round-the-clock nursing care costs have already risen from $114 to $165 a day, or over $60,000 a year. In addition, her annual lost earnings are conservatively calculated at $50,000 a year.

Ordinarily, it could be expected that compensation would be forthcoming from the offending driver or his insurance company to help defray these staggering expenses. But this was no ordinary case. The driver of the other vehicle was the cultural attaché of the Panamanian Embassy. Thus, he was fully shielded from legal liability by the doctrine of diplomatic immunity then in effect in the United States.

The saga of Dr. Brown's efforts to obtain adequate compensation makes depressing reading. At the time of the accident, our diplomatic immunity law, unchanged since 1790, provided absolute immunity from criminal, civil and administrative jurisdiction for all diplomatic personnel, regardless of rank or duties, and thus insulated all diplomatic personnel, such as the Panamanian cultural attaché, from becoming entangled in a legal suit.

Given the status of the law at that time, Dr. Brown's only recourse was to make repeated requests to the driver's embassy for indemnification. At first, the Panamanians refused to make such payments. It was only after intense pressure through State Department diplomatic channels that Dr. Brown finally obtained a belated and inadequate ex gratia payment of $100,000. Had the Panamanians fulfilled their moral obligation to compensate Dr. Brown fully, it would not be necessary for me to introduce the bill I have just sent to the desk.

Indeed, it was episodes such as that involving Dr. Brown which spurred congressional action to modernize our antiquated laws governing diplomatic immunity from criminal, civil and administrative jurisdiction. Public Law 95–393, approved by the President on September 30, 1978, finally brought our diplomatic immunity laws into the 20th century. The new act:

Repeals the 1790 statute;

Brings the United States in accordance with provisions adopted by 81 participating states at the 1961 Vienna Diplomatic Conference, and

Provides that the scope of the immunity conferred is commensurate with the rank and duties of the diplomatic personnel.

Equally important, it makes special provision to insure a means for injured Americans to obtain compensation from diplomatic personnel. Specifically, it:

Requires compulsory vehicle liability insurance for all diplomatic personnel;

Allows an injured party to bring an action directly against the diplomat's insurance company, and

Precludes the insurer from asserting the diplomatic immunity of the insured as a defense against any claim covered by such policy.

The enactment of the Diplomatic Relations Act of 1978 was clearly one of the major legislative achievements of the 95th Congress. It will work a profound reform in our diplomatic immunity laws. Above all, it will go far toward insuring that cases, such as Dr. Brown's, are not repeated in the future. But, it only operates in the future. It does not apply retroactively. Thus, it is of no direct benefit for those whose tragic injuries prompted congressional action in the first place.

The need for relief for Dr. Brown seems indisputable. Her injuries are permanent. Her expenses are far beyond the family's resources. She has exhausted all other avenues of relief. Moreover, the failure of the United States to act more promptly in modernizing its diplomatic immunity laws denied her the opportunity to seek compensation through traditional legal channels. A private bill is her final hope. I believe we have a clear responsibility in this case. Therefore, I urge your support of my bill as a fair indemnification to Dr. Halla Brown for her personal suffering caused by a diplomat who, under our laws of the time, could not be held liable.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, as well as the reports of both the Departments of State and Justice on H.R. 3359, the House counterpart to the bill I introduce now.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay to Doctor Halla Brown, of the District of Columbia, out of any money in the Treasury not otherwise appropriated, the sum of $700,000, less any amount certified to the Secretary of the Treasury by the Secretary of State pursuant to subsection (b). Such sum represents the uncompensated portion of the loss incurred by Doctor Halla Brown for injuries suffered in an automobile accident on April 20, 1974, in Washington, District of Columbia, involving Alberto Watson-Fabrega, a diplomat accredited to the Republic of Panama, which loss is uncompensated by the Republic of Panama, or by personal insurance.

(b) The Secretary of State shall certify to the Secretary of the Treasury the amount, if any, paid in connection with the loss described in subsection (a) to Doctor Halla Brown by the Republic of Panama during the period of April 20, 1974, to the date of enactment of this Act.

(c) The payment made pursuant to subsection (a) to Doctor Halla Brown shall be in full satisfaction of all claims of Doctor Halla Brown against the Republic of Panama arising from such automobile accident.

(d) After the date of enactment of this Act, any amount paid by other parties in settlement of any claim of Doctor Halla Brown against the Republic of Panama arising from such automobile accident shall be subrogated to the United States.

Sec. 2. No amount in excess of 10 per centum of the sum paid to Doctor Halla Brown in accordance with the first section of this Act shall be paid to or received by any agent or attorney for services rendered in connection with this claim. Violation of this section is a misdemeanor, and any person convicted theref shall be fined not more than $1,000.

Department of State,
Washington, D.C., July 3, 1979.
Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives

Dear Mr. Chairman: The Department of State supports the intent of H.R. 3359, a bill for the relief of Dr. Halla Brown, but cannot address itself to the equity of the amount of funds which the bill proposes to appropriate.

It has been the Department's position over the years that the Federal Government is not liable for the tortious acts of foreign governments or their personnel in this country. Moreover, the Department has consistently opposed approaches which would make the Government an insurer vis-a-vis claims brought by citizens who have been frustrated by the shield of diplomatic immunity.

Nevertheless, Dr. Brown's tragic accident is the most dramatic instance known to us of personal injury suffered by one of our citizens at the hands of a foreign diplomat. The fact that the diplomat was uninsured coupled with his entitlement to immunity resulted in a complete denial of relief from him. This led to efforts by the Department of State to induce his government to make an *ex gratia* payment, based on compassion and not on assumption of legal liability. These efforts were ultimately successful in bringing about a payment of $100,000, which we believe constitutes the most substantial compensation ever extended by a foreign government in a case of this kind. However, the sum appears to be insufficient to defray the heavy expenses of Dr. Brown's long-term care.

Dr. Brown's plight in a unique way served to underscore the lack of recourse available to innocent victims who may sustain personal hardship in certain cases involving diplomatic immunity. The reforms contained in the Diplomatic Relations Act of 1978 which require all foreign mission members to carry automobile liability insurance and which incorporate the "direct action" provision allowing an injured party to sue the insurance carrier directly in those instances where diplomatic immunity may continue to be involved, are in part responses to deficiencies in the justice system that had been dramatized by Dr. Brown's misfortune. Her inability to benefit personally from the legislation for which her tragic case was perhaps the prime motivation must only compound the poignancy of Dr. Brown's predicament. Taking all the exceptional circumstances into consideration the Department of State believes some compensation from the Treasury to be justified on humanitarian grounds.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

J. Brian Atwood,
Acting Assistant Secretary
for Congressional Relations.

U.S. Department of Justice,
Washington, D.C., July 5, 1979.
Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
Washington, D.C.

Dear Mr. Chairman: The Department of Justice would like to present its views on H.R. 3359, 96th Congress, a bill "for the relief of Doctor Halla Brown."

Subsection (a) of the bill would authorize a payment to Dr. Brown of $700,000 for injuries suffered by her as a result of a 1974 automobile accident caused by a Panamanian diplomat in the District of Columbia. Under subsection (b), the amount to be paid out of the Treasury would be reduced by any moneys which Dr. Brown may recover from the Panamanian Government.

The tragic case of Dr. Brown has received wide publicity and has been instrumental in inducing Congress to enact legislation to modernize our antiquated laws governing diplomatic immunity, and to impose upon the diplomatic body a mandatory insurance requirement. P.L. 95–393 was approved by the President on September 20, 1978. This Act:

(1) Codifies the privileges and immunities provisions of the Vienna Convention as the sole United States law on the subject;

(2) Repeals existing Federal legislation which is inconsistent with the Vienna Convention;

(3) Requires foreign diplomats in the United States to carry liability insurance against risks arising from the operation in the United States of automobiles, vessels, or aircraft, at a level to be established by the President; and

(4) Creates as a matter of Federal law, a substantive right of an injured or damaged party to proceed directly against the insurance company where the insured diplomat enjoys immunity from suit.

In the hearings leading up to the enactment of P.L. 95–393, Dr. Brown's case was discussed and documented in detail (see "Diplomatic Privileges and Immunities," Hearings and Markup before the Subcommittee on International Operations of the Committee on International Relations, House of Representatives, 95th Cong., 1st Sess., pp. 76–83). Dr. Brown, a physician and professor of medicine at George Washington University, was severely injured as a result of the negligent operation of a car by an uninsured Panamanian diplomat; Dr. Brown has been a paraplegic since 1974. At the time of the accident, and continuing until the present, the laws of the District of Columbia did not require operators of vehicles to take out liability insurance. The diplomat enjoyed immunity from suit in this country, and the Panamanian Government disclaimed responsibility for the damages.

The expenses incurred by Dr. Brown for medical treatments to date have exceeded $200,000; she incurs charges for nursing services at $126 per day (approx. $46,000 per year); her future medical expenses will be substantial; and her economic loss and impaired earning capacity is calculated at $50,000 per year.

Although there is no legal obligation on the part of the United States to compensate Dr. Brown for the damages which she suffered, we believe that her claim deserves the most compassionate consideration, particularly in view of the grave nature of her situation. We must note that it is in part the Federal Government's long inaction in failing to impose a mandatory insurance requirement on foreign diplomats which contributed to Dr. Brown's predicament. Although remedial legislative steps have now been taken with respect to the diplomatic community, such legislation will not benefit Dr. Brown.

This Department has no objection if Congress determines that relief for Dr. Brown is appropriate. We express no opinion on the reasonableness of the $700,000 amount other than to note that, in view of the gravity of Dr. Brown's injuries and her probable incapacity for the rest of her life, the amount is not out of line with judgments rendered by the courts under similar circumstances.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Alan A. Parker,
Acting Assistant Attorney General.

Mr. SARBANES. Mr. President, I am pleased to join with my distinguished colleague, the senior Senator from Maryland, in cosponsoring S. 1578, a bill for the relief of Dr. Halla Brown.

My able colleague has fully described the gravity of Dr. Brown's injuries, sustained in April of 1974 when the automobile in which she was a passenger was struck by a vehicle driven by an uninsured foreign diplomat. Nothing can repair the physical harm which Dr. Brown has incurred, and the disability which she endures. Yet, even with the great and severe damage which she has suffered to her person, Dr. Brown is courageously trying to move ahead with her life. Using special equipment, she attempts to type and edit scientific manuscripts. Her sheer determination to survive serves as an inspiration and a model for many other people similarly afflicted.

The medical expenses faced by Dr. Brown and her husband are immense and crushing. Her precarious situation is worsened by her inability to proceed legally against the negligent party. Let me point out that both the Department of Justice and the Department of State agree that it is both equitable and just for the United States, in this special case, to provide for Dr. Brown's compensation. Her plight stems from Federal law, dating back to 1790 and in effect until December of last year, which granted to all diplomatic personnel complete immunity from all civil, criminal, and administrative actions. This situation was exacerbated by the fact that no Federal law required diplomtic personnel enjoying immunity to carry liability insurance, and by the absence of any provision permitting an injured party to proceed directly against the insurance company of a diplomat responsible for an injury.

At the time of the collision, had the negligent party been an American, or a foreign national not covered by the diplomatic immunity statute then in effect, Dr. Brown could have proceeded directly against that party. It was only because of the diplomatic immunity laws in effect until last year that she was placed in legal limbo.

Her case illustrated the anomaly of the 1790 law, which accurately reflected diplomatic practices and conditions of an earlier era of our Republic. Then, the United States enjoyed diplomatic relations with only a few countries. Consequently, there were few foreign missions present, and they were represented by only a few people.

This law remained in effect for almost 200 years, despite the many changes in society, the growth in the number of foreign missions in the United States, and the fact that, in many cases, foreign missions now include significant numbers of personnel who are not diplomats.

The 1963 Vienna Convention, which more than 120 nations, including the United States, have signed, reflected the international consensus that modern conditions required a change in the regulations governing the status of diplomatic personnel. Its provisions formally recognize three diplomatic categories, only one of which—full-fledged diplomats and their families—is totally exempt from civil and criminal law. The other categories enjoy limited exemptions. Through a quirk, however, the 1790 law remained in effect here, because the Justice Department ruled that it overrode the more restrictive immunities granted by the Vienna Convention.

And so, our first task was to rewrite the law, and we have accomplished that. The Diplomatic Relations Act of 1978 does three things: First, it repeals the 1790 statute, so that the more limited privileges and immunities of the Vienna Convention are the sole law in the United States. Second, it requires foreign diplomats in the United States to carry liability insurance, at a level established by the President, against the risks arising from the operation in the United States of automobiles, vessels or aircraft. Third, it creates as a matter of Federal law a substantive right of an injured or damaged party to proceed directly against an insurance company where the insured diplomat enjoys immunity from suit.

Because the provisions of the new law are not retroactive, Dr. Brown has been unable to take advantage of the protection which it offers American citizens. Therefore, we must now embark on a necessary second step, to provide for the relief of Dr. Brown. We must act, not because we are legally obligated to compensate Dr. Brown, but because it is right and proper that we do so. We must act from a spirit of compassion and justice on behalf of one who has suffered tremendous bodily harm, without any recourse to remedial action.

That is the intention of H.R. 3359, and I strongly urge my colleagues to support this bill.

By Mr. BOREN (for himself and Mr. LONG):

S. 1579. A bill to amend title IV of the Social Security Act to provide for a demonstration program of block grants to States in lieu of Federal matching for aid to families with dependent children; to the Committee on Finance.

FAMILY WELFARE DEMONSTRATION PROGRAM ACT

● Mr. BOREN. Mr. President, I am today introducing the Family Welfare Demonstration Program Act. I am proud to be joined in this effort by the distinguished chairman of the Senate Finance Committee, RUSSELL LONG. This bill provides us an opportunity to utilize State and local units of government which are the most responsive, best equipped and most competent levels of government to develop programs to meet the needs of millions of families with children.

Recipients of aid to families with dependent children (AFDC), welfare administrators, elected officials and taxpayers have been disappointed and frustrated at our inability to accomplish needed reforms in this program. There is probably no single proposition which has met with more unanimous agreement than the need for welfare reform. Yet, for a decade, the debate has gone on about how to accomplish this end. During that time welfare reform proposals have run the gamut from total federalization of the program to minor tinkering with the current program to simple financial bail-out of States by changes in the Federal matching formula.

The Family Welfare Demonstration Program Act does not provide massive, permanent reformation of the welfare system of this country, nor does it pump more billions of Federal dollars into the existing system. It does not solve all the problems of many related programs such as food stamps, medicaid, social services and others. It does attempt to entice support by promising huge amounts of new Federal money for everyone. The bill which Senator LONG and I introduce today does, on the other hand, put us on the road to meaningful reform of the AFDC program which will result in a better program for recipients and taxpayers alike.

The Family Welfare Demonstration Program Act establishes a period of 5 years, beginning October 1, 1980, as an AFDC demonstration project period during which States could either continue to operate under current Federal requirements or could elect to conduct a block-grant demonstration project. The single requirement for States which elect to conduct a demonstration project would be that they conduct activities and provide assistance which in their judgment will most effectively benefit and promote the social welfare of children and families with children in that State. The amount of block-grant funds would be equal to their fiscal 1979 Federal AFDC funding adjusted annually for inflation and population changes. Evaluation studies of the projects would be conducted by the State and by the General Accounting Office with an interim report due by the end of 1984 and a followup report due by the end of 1985. At the end of the 5-year period, September 30, 1986, the current AFDC program and the demonstration project would both "sunset" unless specifically extended by Congress. At that time Congress will have the benefit of the State projects upon which to make an informed judgment on how to best meet the needs of these familes.

It is my firm belief that given the opportunity granted them in this bill, States will show overwhelmingly that they can deliver better benefits, respond quicker and more compassionately to the unique needs of the very people we are trying to help, and do it more efficiently and with greater administrative accuracy than can the Federal Government. Today, States literally find themselves in the worst of both worlds. They are told that AFDC is a State-administered program with Federal financial participation while at the same time they are deluged with hundreds of pages of regulations on minute administrative requirements and eligibility criteria. As recently as last week there was debate in this Chamber regarding AFDC error rates. I am told that a substantial part of these errors are themselves created by irrational administrative requirements.

Finally, Mr. President, I have recently learned of a situation in Oklahoma which underscores the need for us to reconsider the direction we are going with the AFDC program. While serving as Governor of Oklahoma, I initiated legislation which broadened the requirement for work registration and authorized a pilot project for work and training called the "work experience program." This program is voluntary and is available on a statewide basis. Statistics developed by the Oklahoma Department of Institutions, Social and Rehabilitative Services indicate that the percentage of those who desire to go to work when given the opportunity is close to 99 percent. The work experience program placements are solicited from nonprofit community resources and almost 4,000 individuals have been placed voluntarily in about 800 work sites. The length of placement rarely exceeds 6 months and in many cases results directly in employment or placement in other education or training programs. I was shocked when informed recently by State officials that this highly successful program is now in jeopardy because of an HEW policy interpretation. Such a restriction on the State's ability to implement meaningful programs for recipients of AFDC is disappointing to me and, more importantly, to the thousands of potential beneficiaries of this and other innovative programs.

It is crucial that we get the welfare reform issue off high center and moving toward a solution. I believe the Family Welfare Demonstration Program Act provides an opportunity to do just that. This Congress has a responsibility to seek alternatives to the present welfare systems. For too long we have used Federal funding as a carrot and as a club and have compounded the problem with overregulation. We must continue our commitment to the poor of this country by providing funding of programs which are responsive to their needs. The AFDC program is uniquely suited to innovative and responsive programs which can be developed and administered by the States. I urge you to join with me in this effort to move forward in reforming our welfare system.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Family Welfare Demonstration Program Act".

DEMONSTRATION BLOCK GRANT PROGRAM

SEC. 2. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION BLOCK GRANT PROGRAM

"SEC. 412. (a)(1) Any State may elect (subject to the provisions of this section) to participate in a block grant program and receive payments under the provisions of this section for any quarter beginning on or after October 1, 1980 and ending prior to October 1, 1986. Any State which elects to participate in such program for any quarter shall not receive any payment for such quarter under section 403 of this Act.

"(2) The Governor of any State which elects to participate in such program shall notify the Secretary of such State's election at least six months prior to the first day of the first quarter for which such State elects to participate in the program.

"(3) No State may begin to participate in such program in any quarter beginning on or after October 1, 1981.

"(4) A State may terminate its participation in such program beginning with any quarter that—

"(A) begins at least two years after the beginning of the quarter for which that State first participated in the program, and

"(B) begins at least six months after the date on which the Governor of the State notifies the Secretary of that State's election to terminate participation in the program.

"(5) This section and section 403 shall cease to be effective, and no payment shall be made under either such section, for any period after September 30, 1986, unless either or both such sections are specifically made effective for any such period by legislation enacted after the date of the enactment of this Act.

"(b)(1) Each State participating in the block grant program under this section for any quarter shall receive, for each such quarter, a payment in an amount equal to 25 percent of that State's adjusted base period amount for the fiscal year in which such quarter falls.

"(2) The base period amount for any State shall be equal to the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403 (a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403, and increasing such total amount by the amount of expenses incurred for social and supportive services provided in accordance with section 402(a)(19)(G).

"(3) The adjusted base period amount for any State—

"(A) for the fiscal year beginning October 1, 1979, shall be equal to the base period amount, and

"(B) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to the adjusted base period amount for the preceding year as adjusted for such State in accordance with paragraphs (4) and (5).

"(4) The adjusted base period amount for any State as determined under paragraph (3) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(A) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(B) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this paragraph the Consumer Price Index for any quarter shall be the arithmetical means of such index for the three months in such quarter.

"(5) The adjusted base period amount as determined under paragraph (3) and increased under paragraph (4) for any State shall be increased or decreased (if such State has had an increase or decrease in population) for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(A) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(B) a percentage equal to the percentage increase or decrease in the population of such State on January 1 of the preceding fiscal year as compared to the population of such State on January 1 of the second preceding fiscal year (as determined by the Secretary not later than April 15 of the preceding fiscal year, on the basis of the best estimates available from the Bureau of the Census, and rounded to the nearest one-tenth of 1 percent.)

"(c) Payments under this section shall be used by the State to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under this part; and for this purpose the State may waive any or all of such requirements and limitations including those relating to the work incentive program under part C and the child support program under part D of this title.

"(d)(1) Any State participating in the block grant program under this section shall determine who among the individuals receiving assistance or participating in the activities conducted under the program shall be eligible for medical assistance under the State plan approved under title XIX of this Act.

"(2) Individuals determined to be eligible for such medical assistance shall, for purposes of title XIX of this Act, be deemed to be individuals receiving aid under this part; except that no such individual shall be so deemed if he would not be eligible for aid under this part, as in effect immediately prior to the enactment of this section, on account of his family status.".

(b) Section 403 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The provisions of this section shall not apply to any State with respect to any quarter for which such State is receiving a payment under section 412 of this Act.

REPORT BY COMPTROLLER GENERAL

SEC. 3. (a) The Comptroller General of the United States shall conduct a study and evaluation of the block grant programs conducted by States pursuant to section 412 of the Social Security Act, and of the aid to families with dependent children programs carried out in States not participating in the block grant program.

(b) The Comptroller General shall submit to the Congress an interim report with respect to such study and evaluation on or before December 31, 1984, and shall submit to the Congress a final report on or before December 31, 1985.

(c) No payment may be made under part A of title IV of the Social Security Act to any State which fails to cooperate with the reasonable requests of the Comptroller General in carrying out his duties under this section, for so long as such failure to cooperate continues.●

By Mr. TALMADGE (by request):

S. 1580. A bill to amend the Plant Variety Protection Act to clarify its provisions; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am introducing today, at the request of the administration, a bill to amend the Plant Variety Protection Act to clarify its provisions.

The Plant Variety Protection Act (Public Law 91-577), enacted into law on December 24, 1970, authorized the establishment of a Plant Variety Protection Office in the Department of Agriculture.

The office issues certificates of plant variety protection to assure developers of novel varieties of sexually reproduced plants exclusive rights to sell, reproduce, import or export such varieties, or use them in the production of hybrids or different varieties for a period of 17 years. Since implementation of the act, the Department has found it necessary to amend the act to refine and update the terminology so that it may be more easily understood by individuals using the act. This bill would allow publication of the name of the applicant and whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed. In addition, the provisions of the Plant Variety Protection Act would be altered to conform with the International Union for the

Protection of New Varieties of Plants (UPOV).

Mr. President, no additional budget outlays would be required as a result of this bill.●

By Mr. CANNON (by request):

S. 1581. A bill entitled the "Airport and Airway Improvement Act of 1979"; to the Committee on Commerce, Science, and Transportation.

S. 1582. A bill entitled the "Airport and Airway Revenue Act of 1979"; to the Committee on Finance.

● Mr. CANNON. Mr. President, I am introducing today, by request, the administration's proposed bills to extend the Airport and Airways Development Act of 1970 and the Airport and Airways Revenue Act of 1970.

I do not intend to support these proposals in their present form. Rather I will be introducing, in the near future, my own bills to extend this important program. My proposal will include a dramatic new alternative to simply extending the existing ADAP system with only minor changes. However, both these proposals will be considered during hearings by the Aviation Subcommittee on a new airport development program.

Most objectionable in the administration bill is the level that has been proposed for FAA operations and maintenance funding. As I have said before, I am not philosophically opposed to reasonable increases in FAA O. & M.; however when the administration proposes a $7 billion increase in O. & M. while offering less than a third of that amount for improving the airport and airway system's safety, I do not consider such a proposal reasonable.

In fairness, I would note that a number of the other program changes and adjustments included in this proposal have merit, and show that a good deal of thought has been applied to making the program work more efficiently.

Because I believe that it is important to have the Senate consider a range of alternatives, I will introduce a bill that will include some of the administration's bills attractive features, and most importantly, will reflect my continuing commitment to eliminate Federal Government regulation and involvement whenever possible.●

By Mr. McCLURE:

S. 1587. A bill to provide economic incentives for the production of alcohol fuels and for the construction and operation of alcohol fuel production facilities; to establish a system to assure a constant supply of stocks for the operation of such production facilities; to encourage and promote alcohol fuels, alcohol fuel blends and related research, and for other purposes; to the Committee on Finance.

UNITED STATES MOTOR FUEL INDEPENDENCE ACT OF 1979

● Mr. McCLURE. Mr. President, over the past 2 years, this Nation has witnessed the rebirth of an alcohol motor fuel industry that many so-called authorities felt could never happen. But as the dreary facts of our energy crises—the fact that OPEC has raised their per barrel oil cost to $23.50 July 1; the fact that Libya, from whom we import 10 percent of our requirement, on Friday June 29 announced their possible intention to shut off all exports to the United States; and the fact that, despite everything else, we continue to halt exploration for and production of domestic energy sources—come more and more into focus, the immediate and absolute necessity of developing a viable domestic alcohol-gasohol industry has become of paramount importance.

Sensing the importance of this matter, many of us here in the Congress have introduced numerous alcohol fuel related bills. Similarly, several departments and agencies of the executive branch have gotten into the act by promulgating countless regulations which in one way or the other assist the development of a national alcohol fuels industry.

However, as is so often the case, many diverse individuals and organizations of government are taking significant actions without any one having full command of the "whole picture." The confusion created by this situation has thus obviously caused great frustrations among a large sector of our populace interested in being a part of the move to alcohol fuels.

In an effort to ease much of this confusion, and to further hasten our move to a large, nationwide alcohol fuels industry, I am today introducing the "United States Motor Fuel Independence Act of 1979."

Among the major elements of this bill is a provision requiring the Secretary of Energy to collect all alcohol-fuels-related information and make it available for distribution to the public. Not only will such a provision relieve much of the confusion and frustration that has developed, but will facilitate a larger and faster movement toward alcohol fuels by persons throughout the country.

Along the same lines, many public and private organizations are now making alcohol fuel related loans to individuals and businesses. However, the rules and regulations surrounding many are hazy at best, thus doing nothing but adding to the confusion of where to get funds to get into the alcohol manufacturing business. My bill again relieves this confusion by requiring a Government listing of all loans, grants, incentives, rebates, and other financial benefits so individuals can know immediately where best to pursue some of the financial resources necessary to begin construction and production facilities.

Other important sections of my bill will amend the Clean Air Act to guarantee that alcohol fuels will be legally acceptable; provides additional research into such areas as animal and human consumption of the alcohol byproducts and the reduction of the nitrous oxide emissions resulting from the combustion of alcohol fuels; further clarifies the use of set-aside and diverted acres for crops devoted to the production of alcohol; and provides an additional 10-percent investment tax credit for property associated with, and the actual production of, alcohol fuels.

In addition, this legislation indefinitely extends the 4 cents Federal fuel tax reduction for alcohol fuels and requires the Federal Government to reimburse to the States the amount of receipts lost because of their implementation of a similar tax reduction; relaxes the alcohol fuel production regulations imposed by the Government through the Bureau of Alcohol, Tobacco, and Firearms; and, finally, provides that petroleum be allocated on a priority basis to those persons engaged in the production of gasoline or special fuels which are to be mixed with alcohol.

In short, Mr. President, my bill is comprehensive in nature, combining a variety of original provisions and provisions authored by several of my learned colleagues. I feel it is particularly important that this comprehensive legislation be introduced and considered today, as the Senate Energy and Natural Resources Committee is even now considering action on title VIII, which deals with gasohol, of the Energy Supply Act.

While I firmly believe title VIII is an excellent vehicle from which to develop the essential alcohol fuels industry, every effort must be made to assure that the legislation that Congress will likely pass in this regard does not unjustly and unnecessarily prejudice—either positively or negatively—one sector of our economy over another.

While it makes sense to utilize the existing petroleum industry's network for distribution of motor fuels, it may not, indeed does not, seem to me to be desirable to require that production of alcohol should be in the hands of the oil producers and refiners exclusively. It would indeed be ironic if, in our haste, we created a gasohol monopoly in the hands of the existing oil industry.

The decision that Congress will make must rather be based on the principles of free enterprise—giving individuals throughout this country the ability to enter the alcohol-gasohol manufacturing business, while at the same time utilizing to the greatest extent possible the transportation and distribution facilities already within reach of our private and public business sectors.

With the proper addition of Government-sponsored loans, grants and tax incentives, I firmly believe this country could easily meet—indeed exceed—the alcohol motor fuel sales requirements found with title VIII. And, I firmly believe this legislation I am introducing today will significantly help to meet these goals.

We must all recognize that the days of cheap oil and gas are long gone, and while it seems unlikely we can significantly reduce the prices we pay, we are not too late to reduce our dependency on foreign oil imports. The fact is, gasohol will reduce our dependence on foreign petroleum. Gasohol will ease our current gas shortage and will reduce our trade deficit. The fact is, gasohol will help reduce overall auto emissions and, most of all, will help this Nation's farmers. Indeed, gasohol is one of America's fuels for the future, and we must take steps to assure its large scale development right now.

Mr. President, I ask unanimous consent that the text of the "United States Motor Fuel Independence Act of 1979" be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Motor Fuel Independence Act of 1979."

FINDINGS

Sec. 2. The Congress finds that

(1) The United States currently imports excessively large quantities of crude and refined oil; and

(2) the importation of such large quantities of crude and refined oil has placed the United States in an unfavorable balance of trade situation; and

(3) the importation of such large quantities of crude and refined oil creates susceptability to foreign oil production and sales curtailments and artificially high world oil prices; and

(4) such curtailments and high prices could spell economic disaster for the United States and

(5) renewable resources in the United States can provide a source of alcohol suitable for blending with gasoline or special fuels to significantly decrease the need for imported oil; and

(6) the United States currently has an abundant supply of surplus renewable agricultural resources, and other renewable resources, which can be converted to alcohol; and

(7) the United States has the ability to produce for the future, quantities of renewable resources necessary for human and animal consumption and for the production of significant quantities of alcohol; and

(8) the United States is not currently producing and utilizing renewable resources to the greatest extent possible; and

(9) must take immediate steps to reduce the importation and utilization of foreign crude and refined oil products and increase the production and utilization of domestic alcohol fuel and alcohol fuel blends produced from renewable resources.

CLEAN AIR ACT AMENDMENT

Sec. 3. Section 211 of the Clean Air Act (42 U.S.C. 1857) as amended by inserting the following new subsection (h):

"(h) Notwithstanding any other provision of this Act or of any other provision of law, subsections (a), (c) and (f) of section 211 shall not apply with respect to the introduction of industrial hydrocarbons and alcohols into any fuel or to the increase in the concentration of industrial hydrocarbons and alcohols used in any fuel."

ALCOHOL FUEL INFORMATION

Sec. 4. (a) The Secretary shall, through the Department of Energy, make available to the public such public information concerning alcohol fuels as the Secretary may have at his disposal. Such information shall include, but is not limited to types and availability of all loans relative to the production of alcohol fuels and construction of alcohol fuel plants, technical information concerning such production and construction, and other such technical and nontechnical public information as may be requested.

(b) The Secretary may, at his descretion, assess reasonable charges for any printed information made available and distributed to the public under subsection (a) of this section. However, in no case will such charges be assessed in excess of the actual value of printing such information.

RESEARCH

Sec. 5. (a) Section 1419 of the Food and Agriculture Act of 1977 (7 U.S.C. 3154) is amended by striking the whole of Section 1419 and adding in substitution thereof the following new paragraph:

"Sec. 1419 (a) The Secretary of Agriculture, following consultation with the Secretary of Energy and other appropriate officials, shall make grants under this section to colleges and universities, governmental and non-governmental and profit and non-profit institutions for the purpose of conducting research related to the production marketing of (1) coal tar, producer gas, and other coal derivatives for the manufacture of agricultural chemicals, methanol, methyl fuel and alcohol-blended motor fuel (such agricultural chemicals to include, but not be limited to fertilizers, herbicides, insecticides and pesticides), (2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products, and (3) other industrial hydrocarbons made from agricultural commodities and forest products. The Secretary shall place special emphasis on making such grants available for research projects including but not limited to, (1) new and undeveloped agricultural crops highly suitable for conversion to alcohol fuels, (2) human consumption of all or part of the digestable by-products remaining from the production of alcohol, (3) animal consumption of all or part of the digestable by-products remaining from the production of alcohol, and (4) reduction of the nitrous oxide emissions resulting from the combustion of alcohol fuels or alcohol fuel blends.

(b) There are hereby authorized to be appropriated for the purposes of carrying out the provisions of this section $10,000,000 for each of the five fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984.

(c) Notwithstanding any other provision of law, the Secretary, when making research grants under subsection (a) of this section, shall make every effort to award such grants to as many colleges, universities and institutions nationwide as is economically and efficiently practical; provided that no limit shall be placed on the amount awarded to any one college, university or institution within any one State."

(b) Subsection (b) of Section 1420 of the Food and Agriculture Act of 1977 (7 U.S.C. 2669) is amended by striking out in the first line of subsection (b) the word "four" and inserting in lieu thereof the word "thirty-five."

(c) Subsection (b) of Section 1420 of the Food and Agriculture Act of 1977 (7 U.S.C. 2669) is further amended by adding at the end thereof the following new sentence:

"To the greatest extent possible, the Secretary of Agriculture shall award such pilot project guaranteed loans to public, private or cooperative organizations organized for profit or non-profit, or to individuals, in as many diverse geographic, economic, and climatic areas of the United States as practical, and shall, to the greatest extent possible, award such guaranteed loans to such organizations or individuals on a basis of diverse and innovative production or marketing plans, placing particular emphasis on the production of alcohol fuels from diverse agricultural commodities."

(d) Subsection (c) of Section 1420 of the Food and Agriculture Act of 1977 (7 U.S.C. 2669) is hereby repealed, and the remaining subsections (d), (e) and (f) shall be reassigned as (c), (d) and (e) respectively.

PRODUCTION FEEDSTOCKS

Sec. 6. (a) Subsection (a) of Section 112 of the Agriculture Act of 1949, as amended (7 U.S.C. 1445g), is further amended by (1) striking the word "may" and inserting in lieu thereof the word "shall"; (2) striking the words "(other than the commodities for which acreage is being set aside or diverted)"; and (3) striking the words "is not likely to increase the cost of the price support programs,".

(b) Subsection (b) of Section 112 of the Agricultural Act of 1949, as amended (7 U.S.C. 1445g), is further amended by (1) striking the words "may" and inserting in lieu thereof the words "shall"; and (2) striking the words "is not likely to increase the cost of the price support programs,".

LOANS

Sec. 7. (a) Within 120 days of the date of enactment of this legislation, the Secretary shall submit to the Congress a comprehensive list of all types of loans, grants, incentives, rebates or any other such private, state, or federal economic or financial benefits now in effect or as yet undeveloped which can or have been used for the study, planning, construction and manufacturing facilities which will ultimately produce alcohol to be used as a motor fuel or motor fuel blend.

(b) (1) Based on such information developed pursuant to subsection (a) of this section the Secretary shall, within 120 days of the enactment of this legislation, formulate and submit to the Congress various proposals setting forth the pros and cons of such economic or financial incentives or benefits which can be utilized to promote and guarantee the immediate study, planning, construction and manufacturing facilities which will ultimately produce alcohol to be used as a motor fuel or motor fuel blend.

(2) The Secretary shall, at the time such various proposals are submitted, stipulate; (i) which proposal or propoals, in the opinion of the Secretary, will best serve to promote and guarantee the immediate study, planning, construction and manufacturing facilities which will ultimately produce alcohol to be used as a motor fuel or motor fuel blend, and (ii) which proposal or proposals, in the opinion of the Secretary, is the best course of action for the United States to take on a short and long term basis.

INVESTMENT CREDIT: PRODUCTION

Sec. 8. (a) In General.—Paragraph (2) of section 46(a) of the Internal Revenue Code of 1954 (relating to amount of credit for current taxable year) is amended—

(1) by striking out "and" at the end of subparagraph (A) (ii),

(2) by striking out the period at the end of subparagraph (A) (iii) and inserting ", and",

(3) by inserting at the end of subparagraph (A) the following new clause:

"(iv) in the case of qualified alcohol fuel property, the alcohol fuel percentage.", and

(4) by adding at the end thereof the following new subparagrpah:

"(F) Alcohol Fuel Percentage.—For purposes of this paragraph, the alcohol fuel percentage is 10 percent with respect to the period beginning after December 31, 1979.".

(b) Definitions of Qualified Alcohol Fuel Property.—Section 48 of such Code (relating to definitions and special rules) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Qualified Alcohol Fuel Property.—For purposes of this subpart, the term 'qualified alcohol fuel property' means section 38 property (determined without regard to this subsection and paragraph (11) of subsection (a)) which—

"(1) is used as an integral part of the manufacturing or production of gasoline or special fuels mixed with alcohol and with respect to which no tax is imposed by reason of section 4081(c) or 4041(k),

"(2) constitutes research facilities in connection with such manfacturing or production, or

"(3) constitutes a facility used in connection with respect to such manufacturing or production for the bulk storage of such gasoline or special fuels.".

INVESTMENT CREDIT: BUILDINGS

SEC. 9. (a) Subsection (a) of section 48 of the Internal Revenue Code of 1954 (relating to definition of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) Buildings and structural components used in alcohol fuel production.—

"(A) IN GENERAL.—Notwithstanding the words '(other than a building and its structural components)' in subparagraph (B) of paragraph (1), a building and its structural components shall be treated as section 38 property to the extent of so much of the qualified investment (as determined under subsections (c) and (d) of section 46) is such building or its structural components as is attributable to qualified alcohol fuel expenditures paid or incurred with respect to such building and its structural components.

"(B) Definition of qualified alcohol fuel expenditures.—For purposes of this paragraph, the term 'qualified alcohol fuel expenditures' means amounts—

"(i) chargeable to capital account of such building and its structural components.

"(ii) paid or incurred for property or for additions or improvements to property (or related facilities) with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which has a useful life of 3 years or more, and

"(iii) paid or incurred with respect to that portion of such building or its structural components which is used in connection with the production or manufacture of gasoline of special fuels mixed with alcohol and with respect to which no tax is imposed by reason of section 4081(c) or 4041(k).".

(b) Section 46(c) of such Code (relating to the definition of qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) Applicable percentage in the case of certain alcohol fuel property.—Notwithstanding paragraph (2), the applicable percentage in the case of property which is section 38 property by reason of section 48 (a)(11), the applicable percentage shall be equal to one-half of the applicable percentage determined without regard to this paragraph."

FUEL TAX REDUCTION

SEC. 10. (a) Section 221 of the Energy Tax Act of 1978 (26 U.S.C. 4041, 4081) is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to make payments to any State which adopts and implements a fuel tax reduction on the sale of any gasoline or liquid fuel—

"(A) in a mixture with alcohol; if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) Such payments shall be made in the amount that such States' fuel tax receipts have been reduced resulting from implementation of said fuel tax reduction.

"(3) Such payments shall be made on a quarterly basis unless otherwise arranged and agreed upon jointly by the State and the Department of the Treasury.

"(4) The Secretary of the Treasury is directed to submit, as part of each fiscal year budget to be presented to the Congress, his estimate of the amount of payment necessary to fulfill the purposes of this section.

"(5) There is authorized to be appropriated such sums as the Secretary of the Treasury deems necessary to fulfill the purposes of this section."

(b) Subsection (a)(2) of section 221 of the Energy Tax Act of 1978 (26 U.S.C. 4081) is amended by placing a period after the number "1978" and striking the words thereafter, "and before October 1, 1984."

(c) Subsection (b)(2) of section 221 of the Energy Tax Act of 1978 (26 U.S.C. 4041) is amended by placing a period after the number "1978" and striking the words thereafter, "and before October 1, 1984."

(d)(1) Subparagraph (H) of section 6416 (b)(2) of the Internal Revenue Code of 1954 (relating to specified uses and resales) is amended by inserting the words "or in a mixture described in section 4081(c)" after "section 4041".

(2) Paragraph (2) of section 4081(c) of the Internal Revenue Code of 1954 (relating to the later separation of gasoline) is amended by inserting the words "(or in respect to which credit or refund was allowed or made by reason of section 6416(b)(2)(H)" after "this subsection".

EMERGENCY ALLOCATION

SEC. 11. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(f) to the extent practicable and consistent with the objectives of subsection (b), the mandatory allocation program established under the regulation under subsection (a) shall be so structured as to result in the allocation, during each period the regulation applies, of

(1) crude oil to refineries engaged in the production of gasoline or special fuels which are to be mixed with alcohol, and

(2) refined petroleum products to persons engaged in the production or marketing of such gasoline or special fuels,

which is sufficient to meet the demands for such products".

ALCOHOL FUEL PRODUCTION REGULATIONS

SEC. 12. (a) The Internal Revenue Code of 1954 is amended by redesignating section 5181 as section 5182 and by inserting in lieu thereof the following new section 5181:

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) Notwithstanding any other provision of this Title or of any other provision of law, the Secretary, upon application, shall issue operating permits for distilled spirit plants established solely for producing, procesing, storing, using, and distributing distilled spirits exclusively for fuel use.

"(b) Such application shall include the name and address of the applicant, the location of the plant, and the volume of distilled spirits anticipated to be produced. Based on such application, the Secretary shall issue within 30 days of receipt of such application said operating permit.

"(c) If, based on the application, the Secretary determines that said permit should not be Issued, the Secretary shall, within 30 days of receipt of such application, give notice in writing to the applicant of the Secretary's determination; and such notice will include, in detail, the circumstances resulting in the Secretary's determination.

"(d) No determination made pursuant to subsection (c) of this section shall prejudice any further application for permit made by the same individual, individuals or organization whose application for permt had previously been denied.

"(e) If, within 30 days from the Secretary's receipt of said applications, said permit has not been received by the applicant and said notice of permit denial has not been received by the applicant, the applicant shall assume said permit has been issued and may lawfully commence operation.

"(f) Distilled spirits produced under this section shall be withdrawn free of tax from the premises of every distilled spirits plant exclusively for fuel use.

"(g) Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use. Distilled spirits produced under this section shall be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use. Such substances must be added prior to withdrawal from the premises of a distilled spirits plant.

"(h) For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal."

"(i) Notwithstanding any other provision of this Title or of any other provision of law, no bond shall be required for the production, processing, storage, use, or distribution of distilled spirits manufactured for fuel use.

(b) Section 5601(a) of the Internal Revenue Code of 1954 is amended by adding the word "or" after paragraph 14 and by adding a new paragraph 15 to read as follows:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

(c) Section 5214(a) of the Internal Revenue Code of 1954 is amended by striking from paragraph (10) the period and inserting in lieu thereof a semicolon and the word "or" and by adding a new paragraph (11) to read as follows:

"(11) free of tax in the case of distilled spirits produced under section 5181.".

(d) Section 5004(a)(2)(B) of the Internal Revenue Code of 1954 is amended by striking out "or (3)," and inserting "(3), or (11),".

(e) Section 5005(d) of the Internal Revenue Code of 1954 is amended by striking out "or (3)," and inserting "(3), or (11),".

(f) Section 5025 of the Internal Revenue Code of 1954 is amended by redesignating paragraph (m) as (n) and by adding a new paragraph (m) to read as follows:

"(m) DISTILLED SPIRITS FOR FUEL USE.—The processing of distilled spirits exclusively for fuel use produced under section 5181 shall not be deemed to be rectification within the meaning of section 5021, 5081 and 5082.".

(g). Section 5083 of the Internal Revenue Code of 1954 is amended by adding a new paragraph (16) to read as follows:

"(16) Processing distilled spirits for fuel use, see section 5025(m).".

(h). The table of sections for subchapter B of chapter 41 of the Internal Revenue Code of 1954 is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following:

"5181. Distilled spirts for fuel use.".

DEFINITIONS

SEC. 13. As used in this Act, the term—

(1) "alcohol" means ethanol, methanol, or any other alcohol which is produced from renewable resources and which is suitable for use by itself or in a blend with other fuels as a motor fuel;

(2) "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on farms, public streets, roads and highways;

(3) "motor fuel blend" means any fuel consisting of a mixture of alcohol and any other motor fuel;

(4) "special fuels" means any non-gasoline substance suitable as a fuel for self-propelled vehicles designed primarily for use on farms, public streets, roads or highways;

(5) "renewable resource" means any substance which is a source of energy, and which is now or can be produced in the future so as to be made available in adequate quantity on a yearly or semi-yearly basis;

(6) "Secretary", except where specifically

stated otherwise, means the Secretary of Energy.

EFFECTIVE DATES

SEC. 14. (a) The amendments made by sections 3, 4, 5, 6, 7, 10, 11, 12, and 13 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by sections 8 and 9 of this Act shall apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is begun or completed by the taxpayer after December 31, 1978, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection during such period,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after such date, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsection (c) and (d) of section 46 of such Code) attributable to qualified progress expenditures made after such date.

APPROPRIATIONS

SEC. 14. There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act $10,000,000 for each of the fiscal years 1980, 1981, 1982, and 1983.●

By Mr. McCLURE:

S. 1588. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Governmental Affairs.

● Mr. McCLURE. Mr. President, today I am reintroducing a bill which provides that a general election must fall between the time a congressional pay increase is voted upon and the time it goes into effect.

This proposal is particularly relevant at this time when the House has recently passed a 5.5-percent raise in lawmakers' pay from $57,500 to $61,650. The bill would eliminate charges of conflict of interest, as no Member of Congress could receive a pay raise in the same Congress in which the pay raise was enacted. Not until the first day of the following Congress could any pay increase for Members be paid. This legislation does not address the merits of any specific increase, but only the timing of any such pay increases.

A policy which allows no Member of Congress to receive a pay raise in the same Congress in which the pay raise is enacted is critical to the credibility of any Federal salary raise proposal. Many State legislatures have already made this stipulation in their legislative pay procedures.

The necessity to attract and retain people of high quality within the ranks of senior Federal officials and judgeships is obvious to us all. Because any pay raise proposals for Members of Congress are linked to increases for other top level Federal officials, there exists a built-in conflict; for the Congress must approve any such proposal. In addition to the mood of the American people on pay raises, is the damage which can be done to this country in lost talent if legislative representatives do not feel free to vote as objectively as possible on top level Federal pay raises. A delay in implementing a pay raise for elected officials gives the electorate the opportunity to express themselves on that issue and helps prevent this conflict of interest.

Many top level Federal employees and Federal judges have been penalized because of Congress inability to discuss pay proposals realistically. My bill would provide Congress and the American people with a much better way to deal with the question of pay raises.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, section 225 of the Federal Salary Act of 1967, or any other provision of law, an individual referred to in paragraph (1) may not have his rate of pay increased—

"(A) by or under any law passed during a Congress;

"(B) under paragraph (2) of this section (except to the extent subparagraph (A) of this paragraph applies), if an alternative plan transmitted by the President under section 5305(c)(1) of title 5, United States Code, does not take effect by reason of the adoption during a Congress of a resolution disapproving such plan;

SEC. 2. The amendment by the first section of this Act shall apply with respect to laws passed by either House of Congress after September 30, 1976 and alternative plans and recommendations regarding pay transmitted by the President after such date.●

By Mr. McCLURE:

S. 1589. A bill to amend the Public Rangelands Improvement Act of 1978, to prevent the loss of economic grazing units, to prevent increased unemployment and food inflation, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. McCLURE. Mr. President, I am today introducing legislation designed to prevent the potentially catastrophic economic downfall of the Western U.S. livestock industry. Mr. President, we are already beginning to see the first hints of how this downfall will occur and it is absolutely imperative that it be stopped now.

Under the auspices of the National Environmental Policy Act and an infamous court decision which suggested the insufficiency of programmatic environmental reviews being conducted by the Bureau of Land Management, the BLM is currently in the process of preparing full-bore environmental impact statements on 212 grazing units throughout the West. Our experience with this process—some 22 have so far been filed—has been frightening at best, as the BLM has seemingly been intent on producing EIS's which ultimately force ranchers out of business.

I might add at this point that forcing ranchers out of business at a time when the Government is fighting to keep food inflation, particularly meat, down is totally contradictory. Yet it is occurring with apparently few people recognizing it.

The means by which our ranchers are being forced out is commonly known as grazing cuts—a phenomenon the BLM has employed extensively under the guise of being the only alternative available which will result in improved range conditions. Nothing can be further from the truth, as many of this Nation's most eminent range scientists have proved conclusively that cuts in cattle numbers absolutely do not have to occur in order to improve the range. On the contrary, conclusive evidence abounds that proper management of cattle left on the range can achieve good, if not better, range improvement results.

Excellent examples of what these cuts mean in terms of destroying the economic feasibility of a Western ranching operation—and thus putting operators out of business—can be found in the first two grazing units for which EIS's were filed in my own State of Idaho. Filed in 1978 after years of study, the Challis unit is now developing allotment management plans for each grazier based on the EIS. Because the EIS did not even consider any reasonable alternative other than cuts, each of the 38 permittees will be forced to graze fewer cattle on less land for the life of the 15 year EIS schedule. Seven of these 38 graze along the scenic East Fork of the Salmon River and are facing outrageous cuts of between 24 and 63 percent.

It doesn't take an economist to figure out a viable cattle operation generally cannot tolerate such cuts and these graziers along the East Fork seem to bear this out. Several thousand acres of this choice bottom land has already been sold to developers for subdivision of vacation homes, and more is destined to soon go the same road.

I might add that the BLM itself admitted that subdividing the land would likely increase pressure on the salmon fishery and disrupt critical spawning, cause tremendous degradation of water quality, increase critical water demand because of residential use, severely disrupt herds of deer, antelope and elk, and completely eliminate an entire herd of bighorn sheep residing along the East Fork. Despite these things—which the environmentalists and the graziers wanted to avoid—the BLM nevertheless is implementing exactly what will cause the most harm to everybody.

In the second example, the Shoshone grazing unit, implementation of the EIS would result in such devasting cuts that a Federal district court last month issued an injunction on further proceedings so that the graziers could have ample time to build an adequate defense against the BLM's plans. The total cut for the area is about 54 percent from present qualified use and some of the largest ranchers are facing cuts in excess of 70 percent.

The BLM feels a 54-percent cut in grazing—which, again, will simply make a great many operations noneconomical units—will result in a loss of only 15 jobs and $203,550 in yearly income. These figures are ridiculously, almost humorously, low, and the more accurate figures from the various local lending institutions indicate that as many as 50 or more jobs will be lost if the plan outlined in the Shoshone EIS is put in effect. The actual amount of income lost to the area is anybody's guess.

These two examples are totally consistent with the type of situation developing on the various other grazing units as the allotment management plans as suggested by the EIS's are presented to the permittees. And, as I mentioned earlier, the price we pay for improved range through such drastic cuts will do nothing but give food inflation another shot in the arm. What is more, it will put more Americans out of work at a time when our unemployment figures are already too high and will totally disrupt many western communities. The Challis area is a perfect example of this.

Mr. President, the legislation I am introducing today amends the Public Rangelands Improvement Act of 1978, which the House and Senate passed overwhelmingly last year, so that no rancher will be forced to take more than a 10-percent cut in any one year nor more than a 20-percent cut in any period of 10 consecutive years (10 years is the typical life of an allotment management plan). This will allow small but meaningful cuts to be made when necessary but will prevent the callous, unnecessary drastic cuts that will destroy the economic viability of most western operations.

An added feature of my legislation allows such large cuts to be made in those unique situations when grazing cuts are, in fact, the only viable option available to improve the range. Proper hearings and the opportunity for appeal would, however, be made available to those ranchers who faced these drastic cuts.

It is extremely important to remember, Mr. President, that ranchers who graze on the public lands have the most to lose from poor range, and thus desire, perhaps more than all others, that the range does, indeed, improve as quickly as possible. Further, it is a recognized scientific fact that such improvement can come about without the drastic cuts proposed by the BLM. And, finally, if my legislation is not adopted and implemented favorably by the BLM, I can guarantee that many Western cattlemen will be a thing of the past—an unpleasant prospect that all Americans will be forced to pay for in more ways than one.

Mr. President, I ask that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(a) of the "Public Rangelands Improvement Act of 1978" (43 U.S.C. 1901), is amended by inserting the following new sentence after the words, "within the area to be covered by such allotment management plan.":

"*Provided, however,* no permit or license outstanding in any calendar year shall be reduced by more than ten percent in any one year or more than twenty percent in any period of ten consecutive years, unless it can be shown after reasonable notice to all interested parties and a proper hearing, that irreparable damage will occur to the rangeland involved unless a greater reduction in livestock grazing is effected." ●

By Mr. SCHWEIKER (for himself, Mr. Bellmon, Mr. Hatch, Mr. Cohen, Mr. Laxalt, and Mr. Schmitt):

S. 1590. A bill to amend the Public Health Service Act and the Internal Revenue Code of 1954 to provide for comprehensive health care reform, and for other purposes; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

COMPREHENSIVE HEALTH CARE REFORM ACT

● Mr. SCHWEIKER. Mr. President, I rise to introduce legislation addressing the pressing issues of health care cost containment, catastrophic health insurance, and preventive health care. I announced this proposal to the Senate on June 12 and am now happy to be joined by Senators Bellmon, Hatch, Cohen, Laxalt, and Schmitt in presenting it in bill form. I am hopeful that the Subcommittee on Health and Scientific Research, on which I am the Ranking Republican, will hold hearings on this bill later this session.

COMPREHENSIVE HEALTH CARE REFORM PROPOSAL

Mr. President, I will ask that a detailed summary of this bill be printed in the Record at the conclusion of my remarks.

BASIC APPROACH

This comprehensive approach to the fundamental problems facing our health care delivery system will: First, reduce health cost inflation by encouraging large employers to offer their employees at least three competitive health insurance plans and by requiring that at least one plan offered by all employers contain a 25-percent cost-sharing provision for hospital services up to 20 percent of family income in order to be tax deductible; second, provide all Americans with protection against the costs of catastrophic medical expenses through tax incentives to the private sector and improvements in the medicare program; and third, encourage preventive health care by requiring that any tax deductible health insurance plan must contain a prescribed level of preventive benefits.

Our package is designed to respond to three pressing health care needs that are inextricably linked: Hospital cost containment, catastrophic health insurance, and preventive health care. Hospital cost containment has been the subject of intense debate in Congress for the past 2 years. Escalating medical costs have caused increased public demands for improved health insurance coverage, particularly against catastrophic health care expenditures. There is also growing awareness throughout our society of the advantages of preventive health care and the need to improve access to it.

Despite these clear public needs Congressional action in all three areas has been delayed by growing disenchantment with Government regulation as a solution to social problems, fewer Government dollars with which to attack them, and increased reluctance to pump scarce resources into the Washington regulatory pipeline. In the health field, more and more experts are concluding that fundamental reforms of the basic structure of our health care delivery system are imperative if permanent solutions to these problems are to be found.

I believe escalating health care costs result not from a lack of regulatory controls on the industry but from the noncompetitive structure of the third party health care reimbursement system. This system has been encouraged to spread by our Federal tax laws, which give generous deductions to individuals and employers for purchasing broad and inefficient health insurance coverage. To break this inflationary spiral, we need to encourage consumers to participate in health care pricing decisions and stimulate competition in the health insurance industry.

Our bill will change the nature of these tax incentives to encourage the patient to pay a larger share of short-term hospital care expenses, thereby bringing the patient back into pricing decisions. It will also reorient health insurance coverage to protect against the costs of high cost illness, and encourage better health through preventive care.

REDUCING HEALTH COST INFLATION

THE PUBLIC NEED

There is no question about the need to reduce the unacceptable escalation of medical costs in this country. In 1950, the average cost per patient day in one of America's hospitals was $15.62. By 1978, it had risen to $227.52, an increase of almost 1,400 percent. During that same period, consumer prices as a whole had risen by less than 200 percent. Thus, the cost of a day in a hospital from 1950 to 1978 rose by more than seven times the rate of all other prices in the economy. Within the last 5 years, moreover, the cost of an average patient day in one of America's hospitals has almost doubled, whereas overall prices during the same period increased by less than 50 percent. Rising hospital costs account for more than 40 percent of all health expenditures and have thus been a primary cause of comparable increases in all health care costs.

The Federal Government has a direct stake in this problem because of its impact on the Federal budget. The Federal Government will spend about $54 billion in fiscal year 1980 on various health-related programs. Of this amount, Federal expenditures for hospital care will be about $35 billion, an increase from 1969 of $28 billion or about 450 percent. By 1984, Federal taxpayer expenditures for hospital care will reach $48 billion, an increase of over 90 percent from their estimated 1979 level.

GOVERNMENT RESPONSE TO THE PROBLEM

In recent years Congress has not been unaware of growing public alarm over rising health care costs. As the ranking Republican of the Senate Human Resources Committee and its Health Subcommittee, I have worked for years in searching for ways to attack it. One of our primary initiatives has been the Health Planning and Resources Development Act of 1974, which has attempted to encourage the States and local communities to make more effective use of our health care resources by reducing the duplication and proliferation of health services, facilities, and equipment. In addition, I have authored legislation to promote the growth of health maintenance organizations, which encourage more economical ways to deliver quality health care by emphasizing preventive and ambulatory services through internal cost containment mechanisms. Finally, recent medicare and medicaid legislation has attempted to discourage fraud and abuse and encourage greater efficiency in services reimbursed by the Government under these programs.

While I believe these avenues hold great promise, it must be admitted that their full impact will not be felt, nor their success known, for a number of years. Meanwhile, growing public concern over ever increasing rates of inflation requires more immediate action.

Earlier this session, the Carter administration sent to Congress the third in a series of legislative proposals designed to reduce hospital costs by Federal regulation. The bill would place hospitals under a form of price controls whenever their rate of expenditures rose by more than HEW-calculated standards. Thus, the administration's plan to reduce health care costs would focus on Federal revenue caps.

While I share the administration's goal of reducing hospital costs, I believe its proposed solution would do more harm than good. Aside from a disturbing number of technical difficulties in the way the program is designed, the administion's regulatory policy will do nothing to attack the fundamental causes of health cost inflation, which are rooted in the third-party reimbursement system. Establishing an HEW bureaucracy to control hospital expenditures will itself be inflationary. It will lead to anticipatory price increase and higher administrative costs.

It will adversely affect quality of care by arbitrarily limiting national health expenditures and will inject the Federal Government into medical decisionmaking. And it will preclude promising private sector efforts to attack the problem in a nonregulatory fashion such as the voluntary effort and devices promoted in the bill we introduce today.

The administration is attempting to build public support for this simplistic regulatory strategy by making it the centerpiece of its anti-inflationary program. It argues that we do not have time to attack the more basic causes of health care inflation because the problem of general inflation requires more immediate action. Recent evidence, however, has shown that this line of reasoning is deceptive, since the President's cost containment bill will have only a negligible impact on the rate of inflation in the economy as a whole. This point was originally argued by Prof. Martin Feldstein before our health subcommittee. A recent study by Data Resources, Inc., confirming his findings, estimates that the impact of the President's cost containment bill on inflation in the general economy over the next 5 years will be only one-tenth of one percent annually—see table 1. This is understandable since hospital expenses represent only 3.5 percent of the gross national product.

TABLE 1.—RATES OF INFLATION IN THE ECONOMY WITH AND WITHOUT THE ADMINISTRATION'S COST CONTAINMENT BILL

[Annual percentage rates of change CPI—All urban consumers]

	1979	1980	1981	1982	1983	1984
No cost containment program	8.9	7.6	7.1	7.0	6.8	6.6
Administration cost containment program	8.9	7.6	7.0	6.9	6.7	6.5
Difference	0	0	−.1	−.1	−.1	−.1

Source: The Macroeconomic Implications of the Hospital Cost Containment Act of 1979, prepared by Data Resources, Inc. (May 1979).

Thus, we should not be driven into a simplistic regulatory solution to a complex health care problem by the administration's argument. Health care cost inflation is a serious problem in its own right because of the devastating effects medical bills can have on those who bear the brunt of them. While the number of people who actually incur large medical bills is not large in number relative to the entire population, the fact remains that almost everyone in our society is a potential candidate for their devastating effects. As a result of this fear, many pepole are spending large amounts of money on inefficient health insurance protection. In addition, Government expenditures on health through medicare, medicaid, and other public programs are rising so quickly that precious resources are being diverted from other social problems. Thus, we should not be pushed into ineffective regulatory solutions in hopes that they will reduce inflation in the general economy. But we should look for effective long-term solutions to health cost inflation because it squanders resources badly needed in other areas.

THE FUNDAMENTAL CAUSES OF HEALTH COST INFLATION

Contrary to arguments made by the administration, escalating health care costs result not from a lack of regulatory discipline, nor from the unwillingness of the medical community to do something about them. They result from the fact that 90 percent of the Nation's hospital bills are paid by insurance companies or other third-party payors not directly involved in setting the price for that care. An arrangement in which the patient (or consumer) demands a level of service set primarily by the doctor (or supplier), with a third party picking up the tab, represents a "blank check" arrangement that is bound to be inflationary.

In addition, Federal tax laws which allow employers and employees to deduct cost of health insurance premiums have encouraged individuals to purchase as much insurance as possible for routine medical services. Over the last quarter century, the percentage of out-of-pocket expenses paid by the patient once he goes to the hospital has fallen from 50 to 10 percent. Patients, therefore, have little incentive to monitor the cost of services provided by the doctors and hospitals. By the same token, doctors and hospitals have little incentive to monitor costs since insurance companies or other third parties to the arrangement are paying the bills. Ultimately, the cost is borne by the patient in the form of increased insurance premiums.

Another reason for health care cost inflation is a lack of competition in the health care industry. While the reasons are varied and complex, a basic cause is the fact that few individuals have the opportunity to make price-conscious decisions between alternative insurance plans. Generally, an employer makes the choice of a health plan on behalf of his employees. Where alternatives are available, employees do not always realize direct financial benefits for choosing more efficient plans. This lack of competition gives insurers little reason to aggressively control costs.

Clearly, Government-imposed price ceilings will not be an effective solution to this problem. What is needed instead are incentives for the various parties in this structure—patients, doctors, hospitals, and insurance companies—to monitor costs and participate more effectively in health care pricing decisions.

PROPOSED COST CONTAINMENT STRATEGY

Mr. President, our bill will attack the problem of health cost inflation by stimulating competition and encouraging the patient to participate more actively in health care pricing decisions.

Our bill will require that employers with more than 200 full-time employees, as a condition of deducting premium contributions from their gross income, offer their employees the choice of at least three competing health plans.

In addition, certain new tax conditions would apply to any employer regardless of size. The employer would have to make the same dollar outlay for health benefits per employee, whether that outlay went entirely to the employee's insurance carrier or was divided between premium payments and rebates to the employee. If an employee chose a plan whose premium cost was less than the employer outlay per employee, he would be entitled to receive the difference between the outlay and the cost of the plan he chose on a tax-free basis. This would insure that employees receive some direct financial reward for choosing lower cost, more efficient health plans. Throughout this process, the role of collective bargaining agents would be preserved.

In order to encourage the consumer to participate in health pricing decisions, our bill will also require that one of the plans offered by all employers, and by the Government to its employees, contain substantial cost-sharing provisions. At least one offering must contain an annual copayment rate for hospital services of at least 25 percent, effective until annual family medical expenses exceed 20 percent of the family's annual income from wages on self-employment. There is no requirement that any individual enroll in the high copayment option. It will be entirely voluntary. Frequently, however, this plan will have the least expensive premium payments of those offered by the employer. And where the cost is less than the employer outlay, a tax-free rebate would result.

Requiring three health plans to be offered to employees by large firms will work to lower health costs in several ways. Since it is generally the employer who makes the choice of a health benefits plan for his employees, the forces of competition are often precluded from operating within employee groups. If that choice is passed through to the employees themselves, more competitive alternatives will become available. Employees could compare notes and force insurance plans to improve benefits and lower premiums to accommodate their needs.

This process will be encouraged by the availability of tax-free rebates. Competition will also encourage health plans to provide clearer informational material to individual subscribers, thereby enhancing general understanding of the salient differences between various types of plans. "Multiple choice" marketing of health plans will force the insurers to monitor the cost, quality, and overall efficiency of doctors and hospitals in an effort to make premiums and benefits more competitive.

It will thus encourage people to choose the lower cost health plan and thereby promote cost containment even where the patient does not directly pay for the service or is otherwise indisposed to be conscious of price. Finally, multiple choice creates a climate in which innovative health care plans with internal cost containment mechanisms will flourish. Encouraging employees to select a high coinsurance plan will also have significant results.

Studies done by noted health economists have shown that reinvolving the patient in hospital care pricing decisions will result in considerable savings. If third-party payors picked up 85 percent of the hospital bill instead of the present 90 percent, then the dollar value of ineffectual hospital care and testing eliminated by doctors and patients acting together would exceed the Congressional Budget Office's estimates of the administration cost containment plan's savings.

Such a modest change in health care financing would save more than the administration's plan because patient cost-consciousness will be aroused. Currently, for every 10 cents a patient has to pay, a third party pays 90 cents. If the patient paid 15 cents for every dollar's worth of care he received, the third-party payor would finance 85 cents. The financial leverage facing the patient would be fundamentally altered. Instead of each $0.10 patient payment resulting in a $0.90 insurance-side payment, our plan would encourage a 25-percent patient payment and a 75-percent insurance company payment. Bearing a greater percentage of the direct cost, the patient would lower his demand for some health services. There are studies available, however, showing that this should not affect the quality of health care if it is appropriately linked to ability to pay. I have great confidence that patients and doctors working together will be better able to eliminate wasteful medical practices than the Department of Health, Education, and Welfare. One would certainly expect that those with the greatest amount of self-interest in cutting wasteful hospital expenses would do a better job than those far away from the scene. It is for this important reason that the bill rejects the regulatory approach suggested by the administration and seeks instead to increase patient cost consciousness.

COST IMPACT OF PROPOSED COST CONTAINMENT STRATEGY

Table 2 summarizes the estimated annual savings from the bill to Federal, State, and local governments, and to the private sector.

Table 3 states the estimated cost impact over the next 5 years, assuming gradually increased acceptance of the 25-percent copayment option.

TABLE 2.—*Annual fiscal impact of Schweiker comprehensive health plan*

	Billion
I. Federal Government:	
Savings from hospital cost containment [1]	−$2.5
Cost of medicare improvements	0.8
Reduction in tax revenue [2]	1.5
Net savings	0.2
II. State and local government:	
Savings from hospital cost containment [1]	0.7
Reduction in tax revenue [2]	0.2
Net savings	0.5
III. Private sector:	
Savings from hospital cost containment [1]	−4.3
Reduction in taxes	−1.7
Cost of preventive health programs [3]	2.0
Cost of catastrophic pooling program	1.0
Net savings	3.0
Summary of fiscal impact:	
Savings from hospital cost containment [1]	−7.5
Cost of medicare improvements	0.8
Cost of preventive health programs [3]	2.0
Cost of catastrophic pooling program	1.0
Net savings	3.7

[1] Assume that 41 percent of employed population enrolls in 25 percent copayment plan.

[2] Government revenues fall because business deductions rise by $8 billion, reflecting the cost of new expenditures for catastrophic health insurance premiums and preventive health initiatives. Government revenues rise because itemizable deductions for medical expenses falls due to universal catastrophic health insurance.

[3] It is believed that preventive health measures will result in significant systemwide savings due to lower expenses required to treat illness diagnosed early and a reduction in the amount of production lost because of worker illness. But no savings are included as an offset against $2 billion in new preventive expenditures.

TABLE 3.—ANNUAL HOSPITAL EXPENDITURES, 1980-84

[In billions of dollars]

	1980	1981	1982	1983	1984	Total
No plan	93.6	104.9	117.4	131.7	147.9	595.5
Schweiker plan	91.2	100.4	110.4	121.6	134.1	557.7
Savings	2.4	4.5	7.0	10.1	13.8	37.8

HOSPITAL SAVINGS UNDER THE SCHWEIKER COMPREHENSIVE HEALTH PLAN, 1980–84

[In billions of dollars]

Year	Total	Private sector	State and local government	Federal Government
1980	2.4	1.4	0.2	0.8
1981	4.5	2.6	.4	1.5
1982	7.0	4.0	.7	2.3
1983	10.1	5.8	1.0	3.3
1984	13.8	7.9	1.4	4.5
Total	37.8	21.7	3.7	12.4

ASSUMPTIONS

1. Enrollment changeover to 25-percent co-payment option—Percent of privately employed population in: 1980, 18; 1981, 29; 1982, 41; 1983, 53; 1984, 65.
2. Estimates of national hospital expenditures in 1979 and 1984 without a policy change are those provided by the administration.
3. Hospital expenses between 1979 and 1984 grow at a constant rate during the period.
4. An employee who elects the 25-percent co-payment option will order 20-percent less in hospital services than one who has an 18-percent co-payment policy.
5. Doctors will treat medicare and medicaid patients in the same manner as they will treat privately funded patients. Since private patients will be cutting back on their purchases somewhat, doctors will treat publicly funded patients with somewhat lower resources than otherwise, too.

While equal employer contributions with tax deductible premium rebates have not been made available nationally as an incentive to encourage conservation of medical resources, empirical examples do exist of savings being achieved through competition between various plans, copayments for medical expenses, and preventive coverage.

In 1978 the University of California offered several plans to its 80,000 employees. Included among them were first dollar coverage plans, health maintenance organizations (HMO's), and low-option plans with copayments and deductibles. The low-option plan required a $100 deductible and a 20-percent copayment up to a level of $3,100 in medical costs, for employee premium savings over a basic and major medical package of $61 per month. Of the 80,000 employees in the University of California system, 23,000 prefer this plan even though there were no provisions for tax-free premium rebates and they were losing an $11 subsidy per month from the university by choosing the high copayment plan. As an institution, the university did not provide self-insurance for the first $700 of out-of-pocket payment which was required before the plan 100 percent of medical costs, so individuals were willing to bear the risk of paying $700 in order to save $61 per month.

The State of Hawaii also offers an instructive case of competition in health care plans. Hawaii has two dominant medical insurance plans, Hawaii Medical Service Association (HMSA) and the Kaiser Foundation Health Plan, Inc., an HMO. Competition between these two plans has required emphasis on appropriate utilization of services by its members and cost containment in all areas of health services. While HMSA has been functioning since the 1930's, the Kaiser Foundation only entered the Hawaiian market in 1958. Since the entry of Kaiser, HMSA has expanded its benefits and further emphasized cost containment in order to compete. In 1960 HMSA instituted first dollar coverage for such preventive services as biennial physical examinations, routine well-baby checkups, and immunizations. In addition, Kaiser's presence in Hawaii prompted HMSA to develop its own HMO package. Competition from HMSA, on the other hand, has forced Kaiser to keep its premium rates competitive.

CATASTROPHIC HEALTH INSURANCE

The bill will insure that all Americans have "minimum catastrophic protection" against the cost of all medical expenditures—other than long-term nursing care—over 20 percent of annual family income from wages and self-employment income. For the employed population, tax deductions for insurance premiums will not be allowable unless a plan contains this minimum level of protection. Additional Federal payments will finance catastrophic protection for the elderly under medicare; and a special insurance pooling arrangement will be used for small-firm employees, uninsurable risks, and those without access to health insurance.

CURRENT HEALTH INSURANCE NEEDS

Until recently, there were large numbers of Americans without health insurance. This led to a host of private and governmental efforts to increase the general availability of health insurance coverage. As a result of such efforts, we find that today more than 90 percent of all Americans have access to some form of public or private health insurance coverage. Much of that coverage is inadequate, but the fact that most Americans have some form of insurance coverage is quite significant. It means that the primary challenge facing us today is to reorient existing insurance arrangements rather than supplant them with a Government-run insurance program.

While there are many areas for possible improvement in insurance coverage across the Nation, available statistics indicate that a primary need is to improve protection against the expenses of catastrophic illness. Statistics on the number of Americans without catastrophic coverage range from the administration's figure of 40 percent to the Health Insurance Institute's estimate of 12 percent. Clearly, millions of Americans now live with the fear that a serious injury or illness will lead to bankruptcy, yet a large number of insurance plans do not contain adequate coverage of these costs. As my colleagues are aware, no feature of national health insurance has more popular support or is demanded more often than improved protection against catastrophic health costs.

The need for catastrophic insurance is particularly strong among our elderly citizens who tend to have higher medical expenses than other segments of the population. Current medicare benefits, with high copayments and deductibles, a 150-day hospital confinement limit, and no upper ceiling on patient cost-sharing, give our elderly citizens little protection against very high hospital bills.

Many Americans, moreover, are without any health insurance coverage, not because they do not have access to health benefits plans, but because changes in circumstances have caused their coverage to lapse. Individuals who fall into this "gap" include the temporarily unemployed, children previously covered under their parents' health plans who lose coverage upon reaching the age of majority, and spouses and children covered under a family plan whose health coverage ceases due to the death of an insured head of household. Additionally, many employer plans do not cover spouses and family members.

PROPOSED CATASTROPHIC PLAN

Our bill will insure the availability of catastrophic health insurance protection to the entire population without an additional Federal program and at a cost to the Federal Government of only $0.8 billion. This additional Federal cost will result almost entirely from adding catastrophic benefits to the medicare program. For the rest of the population, catastrophic coverage will be made available through some relatively simple adjustments in the existing private insurance market.

A. FOR EMPLOYED INDIVIDUALS AND THEIR FAMILIES

Rather than establish a Government-run catastrophic insurance program, the bill will utilize the tax code to require health benefits plans of employers with more than 50 employees to contain catastrophic benefits. Under current law, employers may for tax purposes deduct from their gross income any contributions they make for employee health benefits plans. In addition, these employer contributions are not included in the employee's taxable income.

The bill would require that any health benefits plan contain minimum catastrophic coverage if the employer and the employee were to continue to receive the benefit of these deductions and exclusions. For these purposes, minimum "catastrophic" coverage would be defined as complete coverage, without copayments, of medical expenses incurred annually by an individual and his family in excess of 20 percent of the family's annual income from wages and self-employment income. Relevant medical expenses would include inpatient hospital care and certain other medicare-covered expenditures.

The bill uses a percentage of annual income as the catastrophic threshold rather than a fixed dollar level because I believe any determination of which expenses are catastrophic in nature depends on family income. A $10,000 hospital bill might not impair the well-being of a wealthy family, but it would create unbearable financial strain for a family with a $15,000 income. For reasons of equity, then, catastrophic expenses should be measured in proportional terms, reflecting differences in the ability to pay a hospital bill of a given size. Moreover, by limiting the definition of income for wages, or income for self-employment in lieu of wages, problems of administering an income-related threshold should be minimized.

Available information indicates that catastrophic benefits, when added to existing health insurance policies, are relatively inexpensive, depending on the level of underlying basic coverage. Therefore, most large employers would probably be able to absorb the cost of these additional benefits without undue hardship. However, the bill would not specify who would pay the cost of these health insurance premiums. That decision would be left to the collective bargaining process.

B. FOR EMPLOYEES OF SMALL FIRMS AND OF THOSE WITHOUT EMPLOYER HEALTH PLANS

For those who work for small employers—fewer than 50 employees—and for those without access to any employer health benefits plan, my bill would use a "pooling mechanism" to provide catastrophic health insurance protection.

Toward this end, my bill would provide that insurance carriers would be required, as a condition of participating in Federal health programs such as medicare and medicaid, to enroll such individuals in proportion to their business in any State. States would be encouraged to set up programs to keep track of whether insurance companies were meeting this obligation and to assign to carriers individuals without access to employee health plans.

Alternatively, insurance carriers in a State could set up and administer their own pooling mechanism if they wished. Since its mechanism would in effect make these enrollees members of larger groups, the cost of their premiums would in most cases be low enough for them to afford. However, the bill would specify that premiums charged such individuals could be no higher than 125 percent above the rate charged to large group enrollees for similar protection in the same geographic area.

It is generally difficult for individuals who do not belong to large employee groups to purchase catastrophic or other health insurance protection at a reasonable premium. This is because large groups require lower marketing costs. They also enable insurance companies to estimate risks more accurately and spread those risks across a large number of individuals. Thus, in order to make catastrophic insurance available to individuals who are not members of large employee groups without resorting to a Government insurance program, a mechanism must be used to include small or nongroup enrollees in larger insurance pools.

An additional function of this mechanism would be to relieve small employers of the additional paperwork and cost of administering a catastrophic health benefits plan.

The pooling mechanism could not be used by individuals eligible for catastrophic insurance under Government plans, such at medicare, medicaid, or veterans' health benefits.

The catastrophic threshold and definition of medical services is defined in the same way as it is for large employer health benefits plans.

C. MEDICARE

Under current medicare law, an individual must not only pay a $160 deductible under part A and a $60 deductible under part b, but he must also continue to bear a portion of his hospital costs through ongoing copayments, regardless of how large his medical expenses become. These copayment rates include $40 per day for the 61st through the 90th day per benefit period and $80 per day for the 60-day lifetime reserve. Medicare will not pay hospital costs after the 150th day. These limitations clearly do not provide adequate protection against the costs of catastrophic illness for our Nation's elderly.

The bill would eliminate the 150-day hospital confinement limit and revise the current copayment provisions. An individual would have to pay 20 percent of the cost of hospital care regardless of how many days he was in the hospital except that once coinsurance payments under parts A and B reached 20 percent of income in any 1 year, all coinsurance requirements would cease.

The additional cost to the Federal Government of these provisions would be about $0.8 billion per year.

D. UNINSURABLE RISKS

Any individual who could not get catastrophic insurance in the private marketplace at a reasonable cost because of poor health would be eligible to participate in the pooling mechanism outlined above. A maximum premium cost would be defined as 125 percent of large group rates in the geographic area. Any additional expenses would be borne by the insurance plan itself but should not inordinately raise premium rates since the number of individuals involved is relatively small.

E. TEMPORARILY UNEMPLOYED, SPOUSES, DEPENDENTS, AND THOSE WHO LOSE COVERAGE DUE TO CHANGE OF CIRCUMSTANCES

The bill would further condition employer deductions and employee exclusions on "extension of coverage" provisions. An individual would have to remain covered for at least 6 months after termination of employment if he had been on the job and enrolled in the plan for at least 30 days. In addition, spouses and children under the age of 25 would have to be covered by catastrophic benefits and remain covered for at least 6 months in the event of the death of the employee-policyholder.

HEALTH PROMOTION—DISEASE PREVENTION BENEFITS

In addition to a cost containment mechanism and plans for catastrophic coverage, the plan contains a health promotion-disease prevention benefit package. Prevention is the most effective method for cost containment, and the cost of prevention itself is usually extremely low relative to the cost of medical care for the disease in question. Preventive measures are also indicated since for many diseases our therapies remain imperfect and total cures are not yet possible.

The bill includes six prevention benefits: maternal care, "well-baby" clinic services, childhood immunizations, hypertension screening, cervical cancer screening, and periodic health examinations.

The National Center for Medical Statistics reports that between 1930 and 1945 medical advances permitted the average life expectancy to increase by almost 6 years; during the 1945 to 1960 interval life expectancy increased by approximately 4 years; and most recently between 1960 and 1975 the increase was less than 3 years. Conversely, the cost of health care and hospitalization has increased exponentially in recent years. The total cost of illness, which includes estimates of the short- and long-term medical cost of disease as well as the wages lost to illness and the effect on gross national product, has increased dramatically. In 1963 the total cost of illness was $93.5 billion whereas in 1972 it was $188.8 billion. In summary, a dollar spent on medical care is buying less and less in terms of national health.

Two types of preventive measures offer great promise for containing health costs and improving both the length and quality of life. Primary prevention measures when applied to the healthy, general population prevent the development of certain diseases. Secondary prevention measures are screening procedures that detect the presence of early disease in the population, thereby permitting early treatment and preventing serious morbidity and mortality from the disease. At a time when Federal budgetary austerity is limiting the amount of resources available for national health missions, we must be diligent in our efforts to insure that these limited means are used to improve health in the most effective manner. It is interesting to note that in 1976 the Federal expenditure for all prevention and health promotion programs, including environmental programs, was only 2.6 percent of the total Federal expenditure for health care and research.

Prevention and promotion measures, aside from the traditional public health procedures that deal with sanitation and immunization, are a relatively new and underdeveloped approach to health. A number of preventive interventions, such as alterations in the environment, socioeconomic status or family structure, are beyond the scope of our current health care system or are not presently amenable to legislative action. In other health care areas we have not yet developed sufficiently reliable or proven prevention techniques for inclusion in a general health plan. For example, behavioral-based health problems such as smoking, alcohol, or drug abuse, and violence, are difficult to prevent by the available health education methods. Nevertheless, it makes no sense to wait for all of the answers; we should move ahead with preventive programs of proven value.

The six preventive health benefits in the bill must be provided in the insurance plans offered by employers who seek special tax status, as well as in plans offered under the State-administered pooling arrangements. These benefits offer a combination of primary and secondary preventive measures.

First, the health insurance plans will be required to offer maternal care, that is, medical examinations, treatment, and counseling for pregnant women, delivery service, and post partum care. Infant mortality in the United States is excessive: Over 50,000 infant deaths occur each year. One of several responsible factors is inadequate pre- and post-natal care. This tragic problem is also addressed by the second benefit is my plan: The provision of newborn care and well-baby clinic services during the first year of life. These measures are necessary to prevent and treat the nutritional and infectious problems that are a major health problem for infants and children.

In addition, well-baby services permit the detection of congenital deformities and diseases and allow the early application of corrective procedures to prevent lifelong disability. Also included in the benefit package are vision and hearing examinations for children between the ages of 2 and 6 years. The third benefit directed to child health is the provision for childhood immunizations including DPT, polio, measles, mumps and rubella. The value of this program for the prevention of death, suffering, and deformity has been proven over several decades. In the early 1950's, 20,000 Americans were afflicted each year with poliomyelitis and the consequent burden of illness in dollars and quality of life was enormous.

During the 1970's, following the use of polio vaccines, the total number of polio victims has been less than 100. Whooping cough, diphtheria, tetanus, and smallpox have been nearly eradicated by immunization. The incidence of measles has declined from 442,000 cases in 1960 to 24,000 cases in 1975. The importance of these statistics is illustrated by the fact that 1 of every 1,000 children with measles will die and in 1964 rubella caused 20,000 permanent congenital defects in the offspring of infected mothers. However, we must take note of a disturbing trend; namely, that participation in immunization programs is declining. If this trend is not reversed the unexposed and nonimmunized children will be at a risk for major and costly epidemics of these diseases.

The final three prevention benefits are directed to the adult population. Hypertension screening will be provided over the lifespan starting with teenagers. Cardiovascular disease is the leading cause of death and contributes the major burden of illness in this country; hypertension, in turn, is one of the most common and damaging forms of cardiovascular disease. It is estimated that over 25 million Americans have high blood pressure and that at best 40 to 45 percent of these are receiving adequate treatment. Hypertension was calculated to contribute $16 billion to the cost of illness in 1975. The estimated annual savings to the national economy by successfully treating all hypertensives would be approximately $8 billion. Since the cost of detection and treatment programs are estimated at about $5 billion, this translates to a net yearly benefit of $3 billion.

The second adult prevention program provides screening for cervical cancer in women by means of the pap smear test. Cancer detection and control studies indicate that the best cancer prevention investment, in terms of initial dollar effects on a cost-effective ratio, is the detection of cervical cancer.

Finally, the bill would provide periodic health examinations and counseling for the adult population. Counseling services include education about health promotion measures—that is, diets, methods to stop smoking or drinking and exercise programs—as well as the explanation of therapeutic programs for diseases discovered during screening—that is, blood pressure control programs or management of diabetes.

We have left the ultimate parameters of these preventive services flexible, to be updated by HEW regulations, so that the changing state of the art in preventive care can be accommodated.

Although the cost effectiveness of periodic exams in the well population is still controversial, the continuing advent of new diagnostic and screening techniques and continuing therapeutic advances should progressively enhance the potential benefits of periodic examinations.

A relative lack of previous experience with national efforts at providing prevention programs makes it very difficult to cost account this prevention-promotion package. Many people in the well population, particularly the young, are already receiving some of these services, but for the most part they are paying for this out of pocket or are receiving benefits as part of an HMO plan. The provision of these services as benefits in a health insurance plan would insure utilization of a wider scope of prevention programs by a larger segment of the population. Estimates provided by the private health insurance industry indicate a per capita cost of between $2 to $10 per year for adults and approximately $10 per year for children. I estimate that the total yearly cost to the private sector for this preventive package will be approximately $2 billion. The provision of counseling services as an adjunct to the medical and screening services contained in the package would probably cost an additional $7 per capita.

If these preventive health measures were followed nationwide, they almost certainly would pay for themselves. First, there is the obvious savings from the early diagnosis of a problem with minimal financial outlay, thereby eliminating large therapeutic and disability expenses in the future.

Second, preventive health programs eliminate some of the major reasons for lost production in our economy. Lost production from sick leave exceeds that from labor strikes by an overwhelming factor. Finally, there is the very human factor behind preventing illness. When the incidence of illness falls, fewer Americans must suffer its debilitating physiological and psychological effects. I feel these three savings make an overwhelming case for preventive medicine.

Cost effective studies are underway for prevention programs and clear effectiveness has been demonstrated for programs such as maternal care, immunization and hypertension screening. One must bear in mind that short-term savings in dollars are not likely with preventive measures. The payoff is long term through the prolongation of life—avoidance of premature death—and improvement in the quality of life. The bill recommends using the savings from hospital cost containment to finance this innovative preventive health program. Increasing patients' cost consciousness in the manner that I have outlined earlier will lower national hospitalization expenses by approximately 6 percent annually.

CONCLUSION

In sum, Mr. President, I believe that in national health policy we are faced with three primary interrelated needs—cost containment, catastrophic health insurance, and preventive care—which must be addressed with a unified, comprehensive program. Our bill will attempt to do just that.

The fundamental cause of rampant health cost inflation and lack of catastrophic and preventive health insurance benefits is a noncompetitive third party reimbursement system weighted too heavily toward first-dollar hospitalization coverage. Scarce resources and disenchantment with Government regulation make it unlikely that yet another public program will be the solution.

In this situation, we can use tax incentives to offer Americans a tradeoff: If they are willing to pay slightly more in copayments for low-cost medical care, they can save enough money to obtain catastrophic protection and preventive care. In addition, they can stop the health cost inflationary spiral without new Government regulation. We can also use tax incentives to help restore competition to health care by giving our citizens a greater variety of health insurance choices and insuring that they will save money on premiums if they choose more efficient providers of care.

I believe this approach to be more realistic, more effective, and clearly less costly than the Government regulation route. I look forward to working with my colleagues in the House and Senate, and with all interested parties, to further perfect the legislative language of the bill.

As we pursue the debate on hospital cost containment and national health insurance for the remainder of this session, I intend to advocate as forcefully as I can this nonregulatory approach to insuring that all Americans have access to quality health care at a reasonable cost.

Mr. President, I ask unanimous consent to print in the RECORD the text of the bill we introduce today at the conclusion of the detailed summary.

There being no objection, the summary and bill were ordered to be printed in the RECORD, as follows:

S. 1590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Health Care Reform Act".

TITLE I—COST CONTAINMENT INCENTIVES

SEC. 101. The Public Health Service Act is amended by adding the following new title at the end thereof:

TITLE XIX STANDARDS FOR HEALTH BENEFIT PLANS

"PART A—COST CONTAINMENT INCENTIVES

"CONDITIONS FOR FEDERAL TAX BENEFITS

"SEC. 1901. No deduction shall be allowed under section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses), and no exclusion shall be allowed under section 106 of such Code (relating to contributions by employer to accident and health plans), for any contributions by an employer, to a health benefit plan for his employees, unless such employer meets the requirements of this part.

"COPAYMENT OPTION

"SEC. 1902. (a) An employer must offer to his employees at least one group health benefit plan for inpatient hospital services (notwithstanding any other health benefits available to an employee) having an annual copayment for hospital services, to be paid by the employee, of at least 25 percent, except as provided in subsection (b).

"(b) The copayment requirement of subsection (a) need not apply with respect to a period—

"(1) beginning with the date on which an employee and his spouse and dependent children covered under the plan have incurred out-of-pocket medical expenses during a calendar year in an amount in excess of 20 percent of the combined income of such individuals from wages and net earnings from self employment during the preceding calendar year, and

"(2) ending on the last day of such calendar year.

"(c) For purposes of this section, the term 'medical expenses' means expenses incurred for—

"(1) inpatient hospital services (as defined in section 1861(b) of the Social Security Act);

"(2) post-hospital extended care services (as defined in section 1861(i) of such Act);

"(3) home health services (as defined in section 1861(m) of such Act);

"(4) medical and other health services (as defined in section 1861(s) of such Act); and

"(5) prescription drugs and biologicals.

"(d) The requirements of this section shall apply to an employer only to the extent that such a plan is available.

"EMPLOYER CONTRIBUTION AND EMPLOYEE REBATES

"SEC. 1903. (a) If an employer makes an expenditure for any group health benefit plan offered by such employer on behalf of his employees, such employer shall make the same expenditure with respect to each plan per employee enrolled in such plan, regardless of the actual premium cost.

"(b) If an employer's expenditure under this section is more than the premium cost of the group health benefit plan selected by an employee, the employee shall receive the excess of the employer's expenditure amount over the premium cost, in cash or other benefits from the employer. Such amount shall not be considered income to the employee in accordance with section 106 of the Internal Revenue Code of 1954.

"(c) No employer shall unilaterally lower the amount of his expenditure for health benefit plans per employee offered by such employer after the effective date of this title, except for the purpose of complying with subsection (d).

"(d) No employer shall expend an amount for a health benefit plan on behalf of an employee in excess of the premium cost of the most costly group health benefit plan offered by such employer in which at least 10 percent of his employees are actually enrolled at the time that the expenditure is made.

"MULTIPLE CHOICE OF HEALTH PLANS

"Sec. 1904. (a) Each employer having at least 200 full-time employees shall make available to his employees a choice of not less than three health benefit plans, each of which meets the requirements of this title and each of which is offered by a different carrier.

"(b) The requirements of this section shall apply to an employer only to the extent that such plans are available.

"(c) For purposes of this title the term 'full-time employee' means an employee who works for any one employer at a rate of at least 25 hours per week, and has been such an employee for more than 30 days.

"RIGHTS OF COLLECTIVE BARGAINING REPRESENTATIVE

"Sec. 1905. (a) If any of the employees of an employer are represented by a collective bargaining representative or other employee representative designated or selected under law, offer of the group health benefit plan described in section 1902—

"(1) shall first be made to such collective bargaining representative or other employee representative, and

"(2) if such offer is accepted by such representative, shall then be made to each such employee.

"(b) Failure of a collective bargaining representative to accept such a plan shall not relieve the employer or employees of any requirement of this title for purposes of the Internal Revenue Code.".

TITLE II—CATASTROPHIC ILLNESS INSURANCE

Sec. 201. Title XIX of the Public Health Service Act (as added by title I of this Act) is amended by adding at the end thereof the following:

"Part B—Catastrophic Illness Insurance

"EMPLOYER PLANS—CONDITIONS FOR FEDERAL TAX BENEFITS

"Sec. 1921. No deduction shall be allowed under section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses), and no exclusion shall be allowed under section 106 of such Code (relating to contributions by employer to accident and health plans), for any contribution by an employer, having 50 or more full-time employees, to a health benefit plan for his employees, unless such plan meets the requirements of sections 1922 and 1923.

"MINIMUM CATASTROPHIC BENEFITS

"Sec. 1922. (a) A health benefit plan shall provide for payment, without any cost sharing by any individual covered under the plan, for medical expenses incurred by any employee or his spouse or dependent children covered under the plan with respect to any period—

"(1) beginning with the date on which such employee and his spouse and dependent children covered under the plan have incurred out-of-pocket medical expenses during a calendar year in an amount in excess of 20 percent of the combined income of such individuals from wages and net earnings from self employment during the preceding calendar year, and

"(2) ending on the last day of such calendar year.

"(b) For purposes of this section the term 'medical expenses' means expenses incurred for—

"(1) inpatient hospital services (as defined in section 1861 (b) of the Social Security Act);

"(2) post-hospital extended care services (as defined in section 1861(i) of such Act);

"(3) home health services (as defined in section 1861 (m) of such Act);

"(4) medical and other health services (as defined in section 1861(s) of such Act); and

"(5) prescription drugs and biologicals.

"COVERAGE FOR DEPENDENTS; CONTINUITY OF COVERAGE

"Sec. 1923. (a) (1) A health benefit plan shall provide the coverage required under section 1922 to the employee, and to his spouse and any of his dependent children (up to the age of 21) for whom he wishes to provide coverage under the plan, without regard to any pre-existing medical condition.

"(2) For purposes of this title a dependent child of an employee is an individual who is a child of such employee, and is a dependent of such employee within the meaning of section 152 of the Internal Revenue Code of 1954.

"(b) The plan shall continue coverage for covered individuals for a period of 6 months after the member employee becomes unemployed, ceases to be a full-time employee, or dies. Such coverage shall be continued in the same manner and subject to the same conditions as when such member employee was a full-time employee, but the plan may discontinue such coverage if the member employee becomes eligible to enroll in a plan as an employee of another employer or obtains equivalent catastrophic coverage. This subsection shall not apply to a member employee who was an employee for a period of less than 30 days.

"CARRIER POOLING REQUIREMENTS FOR CERTAIN INDIVIDUALS

"Sec. 1924. (a) Every carrier shall enter into an arrangement in each State in which it conducts business for the purpose of providing catastrophic illness insurance and preventive care coverage to those individuals in such State who are not eligible for a group health benefit plan meeting the requirements of this part and part C of this title, and are not eligible for a government program of health care. Such arrangements shall be made by the States or by mutual agreement among carriers.

"(b) Arrangements required under subsection (a) shall provide that—

"(1) individuals described in such subsection are assigned on an equitable basis to carriers;

"(2) each carrier shall provide coverage, which meets the requirements of section 1922 and part C of this title, to such individuals;

"(3) the proportion of such individuals assigned to a particular carrier in a State shall be equal to the proportion of the health benefit business provided in such State by such carrier; and

"(4) the premium cost to the individual for a health benefit plan under this section shall not exceed 125 percent of the premium cost of comparable group health benefit plans offered in the same geographic area.

"(c) For purposes of this title the term 'carrier' means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the insurer, including a health benefit plan duly sponsored or underwritten by an employee organization.

"(d) Any carrier that fails to meet the requirements of this section shall not be permitted to participate in any health benefits program paid for in whole or in part with Federal funds.".

MEDICARE COVERAGE FOR CATASTROPHIC ILLNESS

Sec. 202. (a) Section 1812(a)(1) of the Social Security Act is amended to read as follows:

"(1) inpatient hospital services;".

(b) Section 1812(b) of such Act is amended—

(1) by striking out "(subject to subsection (c))";

(2) by striking out paragraph (1); and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Section 1812(c) of such Act is repealed.

(d) Section 1812(e) of such Act is amended by striking out "(c)," and by striking out "inpatient hospital services,".

(e) Section 1813(a)(1) of the Social Security Act is amended—

(1) by inserting "(A)" after "Sec. 1813. (a)(1)";

(2) by striking out all that follows the first sentence thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(B) Such amount shall be further reduced by a coinsurance amount equal to 20 percent of the charges imposed with respect to such individual for such services, but only for days which are not within a benefit period with respect to that individual (as defined in section 1861(bb)).".

(f) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) in the case of all services described in section 1832(a) which are rendered during a benefit period (as defined in section 1861 (bb)), 100 percent of the reasonable charge, reasonable cost, customary charge, or other criteria (as the case may be) as those criteria are otherwise determined for such services under this section.".

(g) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Benefit Period

"(bb) The term 'benefit period' means, with respect to any individual, a period during any calendar year—

"(1) beginning with the day on which the total expenses incurred by that individual (and not reimbursed under this title) during the calendar year for services for which any benefits under this title are payable, exceeds 20 percent of such individual's income from wages and net earnings from self-employment for the preceding calendar year, and

"(2) ending on the last day of such calendar year.".

TITLE III—PREVENTIVE CARE

Sec. 301. Title XIX of the Public Health Service Act (as added by titles I and II of this Act) is amended by adding at the end thereof the following part:

"Part C—Preventive Care

"CONDITIONS FOR FEDERAL TAX BENEFITS

"Sec. 1941. No deduction shall be allowed under section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses), and no exclusion shall be allowed under section 106 of such Code (relating to contributions by employer to accident and health plans), for any contributions by an employer, having 50 or more full-time employees, to a health benefit plan for his employees, unless such plan meets the requirements of this part.

"PREVENTIVE CARE SERVICES

"SEC. 1942. (a) A health benefit plan shall provide coverage for the following services (as defined by the Secretary in regulations) to individuals covered under the plan—

"(1) comprehensive maternal care;

"(2) newborn and childhood screening and counseling for heritable and acquired diseases;

"(3) vision and hearing examinations for children;

"(4) childhood immunizations;

"(5) hypertension screening and counseling for adults;

"(6) screening and counseling for cervical cancer; and

"(7) periodic health examinations for adults.

"(b) The Secretary shall establish age and sex parameters with respect to the requirements of subsection (a), which shall be reviewed and updated where appropriate on a biennial basis.

"CARRIER POOLING REQUIREMENT

"SEC. 1943. Any carrier entering into an arrangement under section 1924 of this Act shall provide preventive care coverage meeting the requirements of this part to those individuals for whom such carrier is required to provide coverage under such arrangement.".

TITLE IV—INTERNAL REVENUE CODE AMENDMENTS

SEC. 401. Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

"(h) LIMITATION ON DEDUCTION OF COST OF HEALTH BENEFIT PLANS.—No deduction shall be allowed under subsection (a) for expenses paid or incurred by an employer in providing a health benefit plan for his employees, their spouses, or their dependents, unless such employer complies with the provisions of title XIX of the Public Health Service Act, to the extent such title applies to such employer. If a deduction is allowed under subsection (a) for such contributions, such deduction shall include any cash payment or other benefit made by the employer to the employee under section 1903 of the Public Health Service Act.".

SEC. 402. Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS

"(a) IN GENERAL.—Gross income does not include—

"(1) contributions by the employer to accident or health plans for compensation (through insurance or otherwise) to his employees for personal injuries or sickness, or

"(2) contributions by the employer to his employees as required under section 1903 of the Public Health Service Act.

"(b) PUBLIC HEALTH SERVICE ACT REQUIREMENTS.—The exclusion provided by subsection (a) shall not apply to contributions to a health benefit plan by an employer, or to contributions described in subsection (a) (2), unless such employer meets the requirements of title XIX of the Public Health Service Act, to the extent those requirements are applicable to such employer.".

TITLE V—EFFECTIVE DATES

SEC. 501. (a) Except as provided in subsections (b) and (c), the amendments made by this Act shall be effective with respect to taxable years beginning after December 31 of the year in which this Act is enacted.

(b) If, at the time the amendments made by this Act (other than those made by section 202) become effective, an employer has in effect a health benefit plan for his employees which is an item covered under a collective bargaining agreement, such amendments shall not be effective with respect to such employer until such time as the collective bargaining agreement expires, or January 1, 1982, whichever is earlier.

(c) The amendments made by section 202 of this Act (relating to title XVIII of the Social Security Act) shall become effective on the first day of the first calendar month beginning more than six months after the date of the enactment of this Act.●

SUMMARY OF THE COMPREHENSIVE HEALTH CARE REFORM ACT OF 1979

I. BASIC PRINCIPLES

The bill addresses the health care issues of hospital cost containment, catastrophic health insurance, and disease prevention in a comprehensive and consistent manner.

It does so, not with further regulation or by setting up costly new government programs, but by rearranging federal tax incentives to attack the root cause of all three problems: a third-party reimbursement system, subsidized by federal tax deductions for health insurance premiums, that is noncompetitive and too heavily oriented toward providing first-dollar insurance coverage used primarily for short-term hospital care.

Under this "third-party reimbursement system," 90 percent of all hospital bills are currently paid by insurance plans or government programs. Consequently, neither patients, doctors, nor hospitals have adequate incentives to hold down the prices of health care. Escalating costs, in turn, lead people to demand more insurance coverage for the relatively low-cost hospital services they encounter most often—broadening the range of services subject to third-party reimbursement but leaving people unprotected against the less frequently encountered catastrophic or preventive care expenses. Moreover, there is little competition in the health care system to help break this inflationary spiral.

The bill will change the third-party reimbursement system in a way that will attack the problems of rising costs, inadequate catastrophic coverage, and limited availability of preventive care.

(1) *To reduce health cost inflation, it will*—

(a) Encourage competition by requiring large employers, as a condition of deducting premium contributions from their gross income, to offer their employees the choice of at least *three* competing health plans.

(b) Encourage the patient to participate more actively in hospital service pricing decisions by requiring that at least *one* employee health plan offered by all employers contain a 25% cost-sharing provision for hospital services, effective until medical expenses exceed 20% of family income from wages and self employment. The employer would have to make this option available to his employees in order for the premium costs of any health plan he offers to be deductible from his gross income.

(c) Ensure that employees will receive a direct financial reward for choosing a high-deductible or other low-cost health plan in the form of tax-free premium rebates.

(2) *To provide all Americans with a minimum level of catastrophic protection,* the bill will utilize a combination of (a) additional prerequisites for tax deductible insurance plans, (b) state-administered insurance pooling arrangements, and (c) increased Medicare benefits.

(3) *To encourage preventive care* the bill will require that all insurance plans receiving favorable tax treatment contain a specified minimum level of health promotion/disease prevention benefits, without copayments.

COST IMPACT

Total new *federal outlays* under the plan would be approximately $.8 billion per year, primarily for new medicare benefits. Projected *savings* to the federal government from the additional copayment provisions alone would be $2.5 billion per year.

The *cost* to the *private sector* will be about $3 billion per year. This will be offset by projected savings to the private sector from the annual copayment provisions alone of approximately $5 billion per year.

Therefore, the bill will offer the American people a tradeoff: if they are willing to share a little more or their short-term hospital costs through copayments, they can save enough money to obtain catastrophic protection and preventive care.

II. COST CONTAINMENT PROVISIONS

A. *To encourage competition:*

In order for an employer to deduct his contributions to employee health benefits plans from his gross income for federal tax purposes—

1. If he has more than 200 full-time employees, he must offer them the choice of at least three health insurance plans. Each must be sponsored by an independent organizational entity.

2. An employer, regardless of the number of employees he has, must make the same dollar outlay for health benefits per employee (whether that outlay goes entirely to the employee's insurance company or is divided between premium payments to the insurance company and rebates to the employee.) An employer's outlay per employee for health benefits (though usually referred to as "employer contribution") is a known category and would not be hard to determine for purposes of administering the law. It is an amount set by the employer in advance on an annual basis through negotiations with employee representatives.

In addition:

Outlays per employee could not be lowered after the bill's effective date.

Outlays per employee could not exceed the amount of the highest cost plan actually selected by at least 10% of the employees. (This will ensure that an employer can not use an artificially high outlay level to funnel tax free income to employees.)

3. If an employee chooses a plan whose premium cost is less than the employer's outlay per employee, he will be entitled to receive the difference between the outlay and the cost of the plan on a tax-free basis (or he could receive the payment in the form of other tax-free fringe benefits). Currently, few employers pass on such premium savings directly to their employees, giving them little incentive to choose lower cost plans.

EXAMPLE 1

	Plan 1	Plan 2	Plan 3
Total premium cost	$2,000	$1,000	$500
Employer contribution to plan	2,000	1,000	500
Employee contribution to plan	0	0	0
Refund to employee (employer outlay minus total premium cost)	0	1,000	1,500

Note: Employer's total outlay per employee, $2,000.

EXAMPLE 2

	Plan 1	Plan 2	Plan 3
Total premium cost..........	$1,000	$500	$250
Employer contribution to plan......	600	500	250
Employee contribution to plan......	400	0	0
Refund to employee (employer outlay minus total premium cost)....	0	100	350

Note: Employer's total outlay per employee, $600.

4. The definition of health plans that must be offered is very broad. Generally, it includes all standard insurance arrangements certified under state laws, as well as health maintenance organizations and prepaid group practices.

5. The rights of collective bargaining agents are preserved by requiring that health plan alternatives be offered to the employees through them.

B. *Consumer Cost-Sharing:*

In order for any employer to continue to deduct any health insurance contributions from gross income, he must offer his employees at least one plan which includes an annual copayment rate for hospital services of at least 25%, effective at least until annual medical expenses exceed 20% of family income from wages or self-employment. The availability of tax free rebates (described above) will encourage employees to select this option, since it will frequently have a much lower premium cost than the other plans offered. A 25% cost-sharing plan would also have to be offered to government employees.

Cost impact

Negligible cost to federal and state governments.

$7.5 billion per year *savings* to the health system as a whole ($2.5 billion to the federal government and $5 billion to the private sector.)

III. CATASTROPHIC PROVISIONS

A. *For large-firm employers and their families—*

1. In order for premium costs to be tax deductible by employers or employer contributions to be tax exempt for employees, the plan for which the premium was paid must contain a minimum level of catastrophic protection for the employees *and their families*. Also, catastrophic coverage *must* continue for at least 6 months after an employee left the job.

2. This requirement will apply only to firms with more than 50 full-time employees and only to policies covering full-time employees.

3. The minimum level of catastrophic coverage will be full payment of all "medical expenses" (as defined under Medicare, excluding long-term nursing home care) incurred annually in excess of 20% of family income from wages or self-employment.

Cost impact

Negligible cost to federal and state governments.

Negligible cost to private sector but $6 billion financing burden shifted from employees to employers.

B. *For small firm employees (less than 50 employees), uninsurable risks, self-employed, and those without government or private insurance—*

1. States in cooperation with insurance carriers, will be encouraged to set up a mechanism for equitably assigning such individuals to insurance companies or carrier-sponsored insurance pools.

2. In order to continue participating in federal programs, an insurance company will have to enroll assigned individuals to provide them at least with catastrophic protection (as defined in section A, above). The premiums charged to assigned individuals can be no more than 125% of their comparable large-group rates for similar protection in the same geographic area.

Cost impact

Negligible cost to federal and state governments.

$1 billion cost to private sector.

C. *For the Elderly—*

Medicare will be restructured to provide catastrophic benefits.

Under current law, an individual must pay a $160 deductible under part A (hospital insurance) and a $60 deductible under part B (physician services insurance). There are also copayment requirements for hospital care: $40 per day for the 61st through the 90th day, and $80 per day for days he draws from a 60-day lifetime reserve. There is also a 150-day limit on covered hospital days.

The bill eliminates the 150-day limit and revises the copayment rates. An individual will have to pay 20% of the cost of hospital care regardless of the number of days he is in the hospital. However, once part A and B copayments reach 20% of annual net income in any one year, all copayment requirements would cease.

Cost impact

$0.8 billion per year to federal government.

IV. PREVENTIVE BENEFITS

In order for an employer to deduct the costs of health insurance premiums or an employee to exclude employer contributions from taxed income, the plan for which the deduction is claimed must contain:

1. Comprehensive (prenatal and perinatal) maternal care;
2. "Well-baby" clinic services, newborn nursery screen, vision and hearing exams;
3. Childhood immunizations;
4. Hypertension screening;
5. Cervical cancer screening; and
6. Periodic physical examinations.

Cost impact

Negligible cost to state and federal governments.

$2 billion per year cost to private sector.

This requirement would apply only to firms with more than 50 employees. Employees of firms with less than 50 employees would receive these preventive benefits through the state-administered pooling mechanism described in section III, B above. The individuals eligible for the pooling arrangement would also receive the preventive benefits, with the same 125% premium cap that applies to catastrophic benefits.●

● Mr. BELLMON. Mr. President, I am pleased to cosponsor the comprehensive health care reform proposal offered by the distinguished senior Senator from Pennsylvania. I congratulate him for the leadership he has shown in developing an innovative approach to the problem of health cost containment and the need to restructure health financing in this country.

There can be no doubt that we must control spiraling health costs. Federal expenditures for health care have been doubling every 5 years since the enactment of medicare and medicaid legislation in 1967. Within the past 5 years, the cost of an average patient day in an acute care hospital has nearly doubled while the overall Consumer Price Index has increased less than 50 percent.

Mr. President, I am pleased that the proposal offered by Senator SCHWEIKER addresses the basic causes of health cost inflation. There is a widespread consensus among health economists that third party reimbursement has reduced incentives on the part of both providers and consumers to be cost conscious. Over the last quarter century, the percentage of out-of-pocket costs paid by patients admitted to a hospital has declined to about 10 percent. Thus, there is little incentive for patients to monitor costs or to seek low-cost options for either care or health insurance. Physicians and hospitals have little incentive to monitor costs since they are reimbursed for all costs regardless of whether or not these costs are competitive with other providers.

Several proposals have been offered to control health cost inflation. These can be classified into two basic approaches: greater governmental regulation and increased competition and market incentives. In the past few years, major attempts have been made to control costs through expanded Federal and State regulation. This includes various Federal limits on reimbursements and other attempts to "fine tune" reimbursement methods, professional standards reviews (PSRO's), health planning activities and State rate review programs.

To date, there is very little evidence that these efforts at cost containment have been effective in moderating the rate of inflation in health services. For example, a recent Congressional Budget Office study found little evidence that PSRO's were cost effective. I find it ironic, Mr. President, that there are strong efforts to expand Federal regulation in the health area at the same time that we are admitting that regulation in other sectors of the economy has failed to contain costs and maximize benefits to the public.

There is compelling evidence, however, that competition can be effective in containing health costs and promoting more efficient utilization of health resources. The State of Hawaii represents a clear case in which competition has served to keep costs under control. Hawaii has two large medical insurance plans, Hawaii Medical Services Association (HMSA) and Kaiser Foundation health plan, which compete for health business. As a result of this competition, hospital costs in Hawaii are only about 70 percent of the national average despite the fact that costs of other goods and services tend to be above averages on the mainland.

In the Minneapolis-St. Paul metropolitan area, seven HMO's compete with traditional fee-for-service providers for a share of the local health-care market. For 1979, total patient revenue for hospitals in this area is predicted to increase by about 9.8 percent compared to 12.8 percent nationally. This rate of increase is less than that being suggested by the administration in its proposed hospital revenue cap legislation. In addition to the Twin Cities area, there is evidence that growing competition between HMO's and traditional providers is helping to moderate costs in Seattle, Denver, and sections of California where HMO's have achieved significant penetration in the health care market.

Mr. President, the approach being proposed by Senator SCHWEIKER will be relatively simple and easy to administer. It requires that any insurance program contain three basic provisions in order for the premiums to qualify for business or individual tax deductions. First, all large employers (over 200 employees) must offer at least three competitive health insurance plans, including, where possible, an HMO plan. The options offered to employees must include one which contains a 25 percent cost-sharing provision for hospital services up to 20 percent of total family income. Employer contributions must be the same regardless of which option the employee selects and employees who choose low-cost options receive any savings below employer contributions as nontaxable income. Second, all plans must include catastrophic protection for costs which exceed 20 percent of family income. (Medicare benefits are expanded to provide for a 20 percent copayment up to 20 percent of family income.) Third, all benefit plans must include certain essential preventive health services such as maternal and well-baby care, immunizations, hypertension screening, and cervical cancer screening.

Mr. President, I am convinced that increased competition and expansion of individual responsibility for health care decisons is the best route for us to follow in both controlling costs and in promoting more appropriate utilization of health resources. We must modify structural characteristics in the health-care market which promote cost-escalation, overutilization, lack of cost-consciousness, and redundant capacity. This bill represents a first step in modifying some of the perverse incentives in the present reimbursement system. It is essential that we not embark upon a major expansion of Federal regulations and controls without first attempting to control costs through competition and individual choice. It will be possible to impose controls at a later time if the market mechanism fails to contain costs or creates unusual hardships for certain individuals or groups.

I am afraid also that major expansion of Federal health-care financing as is now being considered will fuel an even higher level of inflation in this sector unless it is preceded by the reintroduction of competitive forces, as the Schweiker bill proposes.

Again, I wish to express appreciation to Senator SCHWEIKER for his initiative in developing this unique and innovative approach to the problem of financing health care. I look forward to working with him and other interested Members of the Congress in the development of this nonregulatory approach to health financing reform.●

● Mr. HATCH. Mr. President, as a member of the Senate Labor and Human Resources Committee and its Health and Scientific Research Subcommittee, I am pleased to join Senator SCHWEIKER in cosponsoring the "Comprehensive Health Care Reform Act." In these fiscally austere times, this is a commonsense approach to the problems facing our health care delivery system and a sane alternative to the $18 to $60 billion proposals now being bandied about congressional circles.

The Comprehensive Health Care Reform Act will address the health-care issues of catastrophic health insurance preventive medical care and hospital cost containment. The beauty of it is that it will do so not with further regulation or new government programs, but by using the tax system to promote more competition in health delivery and to put more emphasis on controlling costs.

The advocates of socialized medicine never point out that only 5 percent of Americans lack any health insurance, and a slightly higher percentage lacks catastrophic coverage. Both these groups could be protected by slightly expanding coverage of existing health programs. We are told that without more Government control, costs will go through the roof. But it was precisely when all the Government's programs, regulations, and paperwork began weighing down on the health care community that medical costs first took off. How will even more bureaucracy lead to lower costs?

We can solve the pressing problems of escalating medical costs, but only by reducing Government control and regulation and by simultaneously promoting more competition. The Comprehensive Health Care Reform Act is a sensible step in the right direction. I pledge to work with Senator SCHWEIKER and my other colleagues in the Labor and Human Resources Committee during the process of this legislation to assure that the final bill reflects the promise we make today—a fiscally painless, comprehensive health bill.●

● Mr. COHEN. Mr. President, I have been pleased by the recent attention Congress has paid to the issue of health insurance. Certainly, the goal of all proposals under consideration is to provide access to quality services at an affordable price. It seems to me that we have reached a crossroads on the path toward this goal. On the one hand, we can move toward a public-utility type of health delivery system based on regulation, or on the other hand, we can move toward a free-market system of health care based on competition.

We have produced the most sophisticated health-care delivery system in the world. Most citizens are covered for services and pleased with the care they receive. However, rising costs are interfering with the ability of the system to make further improvements in health benefits or status. Policymakers are frustrated when available funding is eaten up in the inflationary spiral, and individuals suffer when they fall between the cracks of available insurance coverage.

Currently, Government health costs paid through medicare and medicaid are rising by half again as much as those paid by all private insurers. It is not surprising then to see the Government leading the crusade to limit these increases. I agree that costs must be controlled, but suggest that there is a way to accomplish the goal through economic rather than political intervention. The administration's revenue control plan contains no basic reforms in the Government reimbursement system which has fueled inflation. It merely places a standby cap on the existing system.

The future of health care in America is contingent on our ability to control cost. No health plan will do a good job if it does not do a good job of cost control. Competition places the incentives to control costs on efficiency and effectiveness—regulation places the incentives on bureaucracy and redtape.

Today I have cosponsored two pieces of legislation, introduced by Senators SCHWEIKER and DURENBERGER, which clearly point us down the path of competition. While some specifics of the two proposals may differ, both bills would infuse the system with competitive features by requiring that the employers offer employees a choice of at least three alternative health-care plans; by requiring employers' contributions to premiums to remain the same, regardless of the employees' choice; and by rewarding employees who choose an economical plan by allowing them to keep the savings while employees who choose a more costly plan pay the additional cost. Furthermore, the bills protect consumers against plans which may not offer adequate coverage by requiring at a minimum that insurance plans cover catastrophic costs and preventive health services.

I believe that, as the debate on health issues intensifies, serious thoughtful debate should be given these constructive and worthwhile proposals. ●

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier by Mr. SCHWEIKER, for himself and others, to amend the Public Health Service Act and the Internal Revenue Code of 1954 for comprehensive health-care reform, and for other purposes, be jointly referred to the Committees on Finance and Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BENTSEN, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 655

At the request of Mr. WEICKER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 655, the Small Business Investment Incentive Act.

S. 689

At the request of Mr. TALMADGE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Wyoming (Mr. SIMPSON), the Senator from South Carolina (Mr. THURMOND), the Senator from Vermont (Mr. STAFFORD), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of S. 689, the Veterans'

Disability Compensation and Survivor Benefits Act of 1979.

S. 1070

At the request of Mr. Percy, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 1070, to provide a 3-year residency requirement for aliens receiving supplemental security income benefits and to require aliens admitted for permanent residency to have a sponsor who will contract to support them for 3 years, or to have other means of support.

S. 1295

At the request of Mr. Culver, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 1295, a bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare.

At the request of Mr. Baucus, the Senator from Delaware (Mr. Roth), the Senator from Arkansas (Mr. Pryor), and the Senator from New York (Mr. Javits) were added as cosponsors of S. 1295, a bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare.

S. 1411

At the request of Mr. Chiles, the Senator from Kentucky (Mr. Huddleston) and the Senator from Utah (Mr. Garn) were added as cosponsors of S. 1411, the Paperwork and Redtape Reduction Act of 1979.

S. 1444

At the request of Mr. Baucus, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 1444, a bill to amend the Internal Revenue Code of 1954 and title 28 of the United States Code to provide for the award of reasonable court costs, including attorney's fees, to prevailing parties in civil tax actions, and for other purposes.

S. 1465

At the request of Mr. Talmadge, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1486

At the request of Mr. Church, the Senators from South Carolina (Mr. Hollings and Mr. Thurmond) were added as cosponsors of S. 1486, a bill to exempt family farms and non-hazardous small businesses from the Occupational Safety and Health Act of 1970.

S. 1523

At the request of Mr. Thurmond, the Senator from South Carolina (Mr. Hollings), the Senator from South Dakota (Mr. McGovern), the Senator from Mississippi (Mr. Cochran), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of S. 1523, a bill to amend title 38, United States Code, to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration.

S. 1542

At the request of Mr. Percy, the Senator from Missouri (Mr. Danforth) was added as a cosponsor of S. 1542, the Small Savers Incentive Act of 1979.

S. 1549

At the request of Mr. Boren, the Senator from Missouri (Mr. Danforth) was added as a cosponsor of S. 1549, a bill to amend the Internal Revenue Code of 1954 to change the period for the payment of taxes under section 4161(a) of such code.

AMENDMENT NO. 219

At the request of Mr. Weicker, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of amendment No. 219 intended to be proposed to S. 712, a bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

SENATE RESOLUTION 205—SUBMISSION OF A RESOLUTION RELATING TO EUROPEAN ECONOMIC COMMUNITY WHEAT EXPORT SUBSIDIES

Mr. PRESSLER submitted the following resolution, which was referred to the Committee on Finance:

S. Res. 205

Whereas 30,600,000 metric tons of wheat, comprising 60 percent of the wheat harvested in 1978 in the United States, was sold in the marketing year ending in May 1979 for export from the United States;

Whereas the European Economic Community reimburses exporters for paying subsides to producers of wheat in the countries which are members of the European Economic Community, for the purpose of increasing the amount of wheat exported from such countries;

Whereas the reimbursement by the European Economic Community of exporters who pay such subsidies prevented the United States from selling for export an estimated 3,300,000 metric tons of wheat in the 1979 marketing year;

Whereas this loss of sales of wheat for export from the United States reduced the export earnings of the United States by approximately $885,000,000 in the 1979 market year;

Whereas increasing the production of wheat in the United States depends on expanding markets for wheat exports;

Whereas the Ministers of Agriculture of the European Economic Community met on June 2, 1979, and took no action to eliminate or limit the reimbursement of exporters for subsidies to be paid to producers of wheat for export from the countries which are members of the European Economic Community;

Whereas the General Agreement on Tariffs and Trade Subsidies Code establishes procedures to resolve disputes regarding the fairness and justification of the reimbursement of exporters for such subsidies; and

Whereas the Secretary of Agriculture has the authority to provide subsidies for the production of wheat for export from the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Special Representative for Trade Negotiations should consult with the Ministers of Agriculture of the European Economic Community to persuade them and, through them, the European Economic Community to cease reimbursing exporters for subsidizing the production of wheat for export from the countries which are members of the European Economic Community, and

(2) if the European Economic Community refuses to cease reimbursing exporters for subsidizing such production of wheat, then—

(A) the United States should take action in accordance with the General Agreement on Tariffs and Trade Subsidies Code to compel the European Economic Community to cease paying such reimbursements.

(B) the Secretary of Agriculture should implement a program to pay any subsidies necessary to make the price of wheat for export from the United States competitive with the price of wheat for export from the countries which are members of the European Economic Community.

Sec. 2. The Clerk of the Senate shall transmit a copy of this resolution to the President and to the Special Representative for Trade Negotiations.

EEC WHEAT EXPORT SUBSIDY

Mr. PRESSLER. Mr. President, my statement is brief, but I hope it clearly expresses some of the concerns which some of my South Dakota agricultural constituents have conveyed to me concerning the Tokyo Round Multilateral Trade Agreements.

First, it has been brought to our attention that the U.S. dairy industry will be the primary loser in these agreements. While the administration has attempted to portray the agreements in an all winners-no losers light, the testimony of U.S. dairy industry groups clearly argues otherwise.

The MTN agreements with European Common Market countries will substantially increase cheese imports into our food market. The result of that increase likely will be a decrease in earnings of dairymen and others connected with the production, processing, transportation, and sale of American cheeses.

The purported result of the increase in cheese imports is lower cheese prices for American consumers. But, if one keeps in mind that, of necessity, the American dairy industry will become more reliant on Government supports—supports provided by the taxpaying, consuming public—as the result of the industry's declining earnings, then I really wonder if American consumers will be getting the bargain cheese prices so highly touted by the administration.

There are also other U.S. dairy products which will be adversely affected by the trade agreements entered into in the Tokyo Round, as testified to by dairy industry spokesmen. Not only dairy products will be affected. It is my understanding that the agreements will permit larger quantities of EEC dried milk products into this country. These are products which, for example, can be used as substitutes for certain potato and grain products.

Second, I am concerned about the agreement to phase in a 60-percent tariff reduction on fine wool imports for the same reasons that I am concerned about increases in the cheese import quota. That is, the necessary reliance of our rapidly declining wool-growing industry on governmental incentives will increase as the importing of foreign wool grows space. The proclaimed benefit to American consumers of finished fine wool products is therefore somewhat questionable. Certainly, there can be no question but that the United States must maintain a viable wool-producing industry—not only for the benefit of wool producers, but also for the thousands upon thousands of workers in our economy who need a steady and assured supply of American wool, and for an even larger number of American consumers who appreciate the tremendous value of wool products. We should not let happen to the wool industry nor to any part of our food and fiber production what has happened to our energy supplies.

A great nation cannot remain great if its energy, food, and fiber resources are the captive of alien economic and political whims and interests.

Third, I am not impressed that the Tokyo Round MTN accomplished enough with respect to increasing the export potential of American beef, which is universally recognized as the very best quality beef in the entire world.

What the trade agreements have done is to trade somewhat larger, but not enough larger, Japanese and other beef import quotas for the U.S. concession of a much larger U.S. minimum guaranteed beef import quota (1.2 billion tons annually) and a further lowering of beef import tariffs.

Fourth, the MTN legislation does not go far enough in protecting American grain producers and traders, but especially wheat producers, from the basic unfairness of exorbitant European Common Market export subsidies to European grain producers. The effect of those subsidies is to enable European wheat to sell at a lower price than American exported wheat in other countries of the world. We need to have equivalent standards of competition in world wheat trade which apply evenly to all grain exporting nations.

While the MTN legislation does contain new procedures in regard to export subsidies, the language in the bill still does not clearly enough specify the protection needed by U.S. grain industry against European primary export subsidy practices as they impinge on European versus U.S. grain export competition in third country markets.

Fifth, the MTN legislation treats highly subsidized European modified potato starches as industrial products. Yet these potato starches will be competing head-on with American corn producers and corn millers. Further, the tariff on these potato starches is to be substantially reduced—futher threatening the U.S. domestic market of American corn producers. With this and other provisions, how can the administration claim that the MTN resulted in "all winners and no losers"?

I am pleased to note that, in a recent statement by the Executive Council on Family Farmers of the AFL-CIO, the AFL-CIO recognized some of the problems of the American farm exports efforts.

That group had this to say about the export problems of American farmers in testimony before Senator Stevenson's Subcommittee on International Finance:

> Family Farmers also face serious international trade problems. Other nations subsidize their agricultural exports heavily. Since they do not require the health and safety standards the United States imposes on domestic agriculture, we believe the same standards should be applied to imports, and agricultural imports labeled as to country of origin.

American farmers are glad to have that kind of understanding and support from their union friends and their industrial worker friends, and we hope that support and friendship continues.

What bothers me and many American farmers is that, after many years of trying to negotiate acceptable international trade agreements covering agricultural products, we are still so far short of agreements which protect the good health of American agriculture and a healthy and independent food supply for American consumers.

In view of some of the problems I perceive with the MTN implementation legislation, I hope that all Senators will appreciate the fact that remedial legislation for the support of the various sectors of American agriculture will continue to be necessary and crucial to the survival and the prosperity of the nation.

Mr. President, in view of the reasons I have suggested here for the enactment of certain remedial legislation where foreign trade practices impinge inequitably on American farm producers, I respectfully submit a resolution and request that it be given quick attention and support by my distinguished Senate colleagues.

SENATE RESOLUTION 206—SUBMISSION OF A RESOLUTION RELATING TO THE 1980 WHEAT CROP SET-ASIDE PROGRAM

Mr. EXON (for himself and Mr. BOREN) submitted the following resolution, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 206

Whereas, the Secretary of Agriculture has been given the responsibility by law to establish crop set-aside programs for the 1980 crop year for certain agricultural commodities; and

Whereas, the Secretary of Agriculture will be making his decision on the wheat set-aside program for the 1980 crop year on or before August 15, 1979; and

Whereas, the 1979 wheat harvest, which included a 20 percent set-aside, produced some 215 million bushels of wheat which will add to this Nation's current domestic surplus; and

Whereas, a decision to not have a wheat set-aside for the 1980 crop year can only result in a fence-row-to-fence-row planting practices similar to those that occurred in the mid 1970's and resulted in excessive surpluses during a time of reduced world demand and in financial ruin for a large segment of this Nation's wheat producers; and

Whereas, official Department of Agriculture estimates indicate that 78 million acres will be planted to wheat in the absence of a set-aside program, an estimate by industry of 82 million acres is far more realistic; and

Whereas, 82 million acres of wheat production in 1980, a substantial increase over the estimate of the Department of Agriculture, would drive market prices down from their presently improved level and result in significant savings only to foreign buyers at the expense of domestic producers; and

Whereas, it is the responsibility of the Secretary of Agriculture to use the authority granted him by law to protect the Nation's agriculture sector through the formulation of policies designed to improve production practices and ultimately eliminate the cheap food philosophy which has permeated our Federal Government for too many years: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should, and is hereby urged and requested to, establish a minimum wheat set-aside for the 1980 crop year of not less than five percent of the 1980 wheat acreage.

Mr. EXON. Mr. President, I am submitting today a resolution expressing a sense of the U.S. Senate that the Secretary of Agriculture establish a 1980 set-aside for wheat of a minimum of 5 percent.

Mr. President, it is my understanding that the Secretary of Agriculture will be announcing his intentions for a set-aside for the 1980 crop year for wheat before August 15. A similar announcement will be made for feed grains later this year. These announcements will have a dramatic effect on our crop production for the next year. It will mean either continued improvement in market prices or a return to hard times. It is my opinion and the opinion of many major farm organizations that the decisions to establish a set-aside program for wheat and feed grains will be actions which will determine the future of our food plant in this Nation.

It is widely known among agriculture circles that in the near future, the Secretary intends to delete the set-aside for wheat and later this year for feed grains. Spokesmen for the Secretary cite vastly improved market prices coupled with strong export demand as their reasoning behind this policy. Nationally, we can realistically expect to see over 82 million acres of wheat planted in 1980, not the 78 million USDA estimates. This significant increase will only serve to drive wheat prices down to mid-1970 levels.

Mr. President, I am introducing this resolution expressing a sense of the Senate that the Secretary of Agriculture establish a minimum 5-percent set-aside for wheat during the 1980 crop year. This modest figure will insure continued participation in the program and keep wheat production at moderate levels. It will also provide our Nation with sufficient domestic reserves and allow us to meet world demand.

Mr. President, the Congress has provided the Secretary of Agriculture with the authority to establish policies to carry out its statutory directives which are in the best interests of agriculutre. There are times, however, when congressional directives must be clarified. It is my view which is shared by many within the agriculture community that clarification is necessary on this vital issue. This resolution will provide the Secretary with the necessary will of the U.S. Senate and I ask that this matter be acted on as expeditiously as possible before the August 15 deadline.

SENATE RESOLUTION 207—SUBMISSION OF A RESOLUTION PROPOSING A SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

Mr. DECONCINI (for himself, Mr. FORD, Mr. LEAHY, Mr. HATFIELD, and Mr. SCHWEIKER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 207

Resolved, That

(a) (1) There hereby is established in the Senate of the United States a select committee to be known as the Select Committee on Narcotics Abuse and Control (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of nine Members of the Senate.

(2) Members of the select committee shall be appointed by the President Pro Tempore of the Senate. One member of the select committee shall be designated by the President Pro Tempore to serve as chairman of the select committee.

(3) At least one member of the select committee shall be chosen from each of the following committees of the Senate: the Committee on Armed Services, the Committee on Government Operations, The Committee on Foreign Relations, the Committee on Commerce, the Committee on Human Resources, and the Committee on the Judiciary.

(4) Any vacancy occurring in the membership of the select committee shall be filled in the same manner as the original appointment.

(b) The chairman of the select committee may establish such subcommittees of the select committee as he considers appropriate. Any such subcommittee shall be composed of not less than four members of the select committee.

SEC. 2. The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of narcotics abuse and control, including, but not limited to, international trafficking, enforcement, prevention, narcotics-related violations of the Internal Revenue Code of 1954, international treaties, organized crime, drug abuse in the Armed Forces of the United States, treatment and rehabilitation, and the approach of the criminal justice system with respect to narcotics law violations and crimes related to drug abuse; and

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting narcotics abuse or control.

SEC. 3. (a) For the purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee, may sit and act at such times and places as it considers appropriate whether the Senate is sitting, has recessed, or has adjourned.

(b) For the purposes of this resolution, the select committee, or any subcommittee thereof authorized by the select committee to hold hearings, may hold such hearings, and may require, by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it considers necessary. Subpoenas may be issued under the signature of the chairman of the select committee or any member of the select committee designated by him, and may be served by any person designated by such chairman or member.

(c) A majority of the members of the select committee shall constitute a quorum for the transaction of business, except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony. The chairman of the select committee, or any member of the select committee designated by him, may administer oaths or affirmations to any witness.

(d) The select committee and any subcommittee thereof and its staff may conduct field investigations or inspections. Members and staff of the select committee may engage in such travel as may be necessary to conduct investigations relating to the purpose of this resolution.

SEC. 4. The select committee may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, and clerical and stenographic assistants as it considers necessary to carry out the purpose of this resolution. The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee, other than expenses in connection with meetings of the select committee or any subcommittee thereof held in the District of Columbia.

SEC. 5. (a) The select committee shall report to the Senate with respect to the results of any investigation conducted by the select committee, or any subcommittee thereof, under section 3(d).

(b) The select committee shall submit an annual report to the Senate which shall include a summary of the activities of the select committee during the calendar year to which such report applies.

(c) Any report of the select committee under this section which is submitted during a period in which the Senate is not in session shall be filed with the Clerk of the Senate.

SELECT COMMITTEE ON NARCOTICS

● Mr. DECONCINI. Mr. President, on behalf of myself and four distinguished colleagues—Senators FORD, HATFIELD, LEAHY, and SCHWEIKER—I am submitting a Senate resolution to establish a Select Committee on Narcotics Abuse and Control.

There can be little doubt that illicit narcotics are one of the key elements affecting the entire range of societal problems that currently plague us. I view narcotics as the nexus or connect-point between organized crime and American society. Narcotics create unbelievable wealth that enables organized crime to infiltrate all segments of our society. In the process of creating that wealth, American citizens are reduced to psychological slavery—automatons who will rob, steal, and kill to support their habit. A vast proportion of the street crime that today makes American cities intolerable to decent citizens results from the slavery of heroin and associated drugs.

Illicit narcotics is big business. It employs more people than Exxon, the largest corporation in the world. No one knows for sure, but the most conservative estimates place the street value of illicit narcotics at $50 billion annually. For the most part, that money comes from other crime—robbings, burglaries, muggings, and so on. If we were reasonably successful in eliminating illicit narcotics, we would simultaneously have eliminated a large portion of what we generally refer to as "street crime."

During 1976, the FBI reports that there were 609,000 drug-related arrests. About 60,000 of those were heroin or cocaine related; 441,000 were marihuana related; 18,200 were connected with synthetic or manufactured narcotics; and 90,000 were associated with other dangerous drugs. But the cost to society exceeds both the cost of the narcotics and the number of arrests. We spend at least $1 billion for law enforcement and rehabilitation.

But why create a separate Senate committee to deal with this problem? As most of my colleagues are aware, the House of Representatives has already recognized the need for such an approach and it currently has a Select Committee on Narcotics Abuse and Control. Going through a process similar to our own, our House colleagues concluded that this was the only practical method for effectively dealing with the whole range of issues raised by illicit narcotics.

At present, jurisdiction over narcotics abuse and control is scattered among at least five standing committees. The Judiciary Committee oversees the enforcement aspect through its oversight of DEA and the FBI, as well as its control over criminal laws and penalties. The problems associated with drug rehabilitation and education are dealt with in the Human Resources Committee. The international aspects of narcotics control, especially the eradication program, is handled by the Foreign Relations Committee. The interplay between the different levels of government resides with the Governmental Affairs Committee. And finally, the Armed Services Committee handles narcotics problems as they relate to the Armed Forces.

Each of these jurisdictional designations is legitimate, and it is not our purpose to undermine them. The committee we are proposing would be nonlegislative, following the model of the Aging Committee rather than the Small Business Committee. However, the Select Committee on Narcotics Abuse and Control would be ideally situated to investigate the problems of illicit narcotics as an integral whole, a multifaceted problem requiring a coordinated approach. Thus, while it would not be legislative in a technical sense, it would be in a position to develop a coherent national strategy and then present its findings in the way of legislative proposals to the relevant standing committees.

The Select Committee would "conduct a continuing comprehensive study and review of the problems of narcotics abuse and control" and produce a record from which the standing committees can better perform their legislative responsibilities. More specifically, the Select Committee's activities would include—but not be limited to—international trafficking, enforcement, prevention, narcotic related violations of the Internal Revenue Code, international treaties, organized crime, drug abuse in the Armed Forces, treatment and rehabilitation, and the criminal justice system as it related to narcotics laws violations and crimes related to drug abuse.

The time has come for the Senate to create within itself the machinery to deal effectively with narcotics related issues. Our present decentralized jurisdictional approach has not been particularly successful. Because each of the standing committees has only a small portion of the narcotics problem within its jurisdiction, none has a sufficiently strong base from which to develop a comprehensive and cohesive approach to the problem. The creation of a Senate Select Committee on Narcotics Control and Abuse may not be the ultimate answer, but it will advance our struggle to deal with this malignancy within our society. Thus, I urge my colleagues to support the proposal.●

SENATE CONCURRENT RESOLUTION 35—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO SELF-DETERMINATION FOR PUERTO RICO

Mr. MOYNIHAN (for himself, Mr. JACKSON, Mr. HATFIELD, and Mr. McGOVERN) submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 35

Whereas, the people of Puerto Rico freely chose the present form of their association with the United States in a popular referendum in 1952; and

Whereas, successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Puerto Rico; and

Whereas, certain other governments lacking in a clear understanding of the U.S. relationship with Puerto Rico have questioned the status of Puerto Rico and the extent to which its citizens enjoy the right to self-determination: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress takes this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States, through peaceful, open and democratic processes.

Mr. MOYNIHAN. Mr. President, I am submitting today a concurrent resolution which would reaffirm the view of the Congress that the people of Puerto Rico retain their right to self-determination, and that the Congress continues to respect and will respect, such decisions as Puerto Ricans properly make about their own political future.

It may seem odd that we would undertake to reaffirm what is to us an obvious point, but it is made necessary by the continuing efforts of the totalitarian states to distort and to defame the nature of the relationship between the citizens of Puerto Rico and their fellow citizens on the American mainland. And it is made necessary, too, by the commitment of the Democratic Party and the Republican Party—as expressed in both our national platforms in 1976—to the principles of self-determination and democratic process.

On September 12, 1978, the so-called Committee on Decolonization of the General Assembly of the United Nations voted 10 to 0, with 12 abstentions and 2 absent, to condemn, in effect, the relationship between the United States and the Commonwealth of Puerto Rico. The resolution, in effect, called for the separation of our two peoples. Now, of the 10 nations which voted against us, all were dictatorships of one form or another, all guilty of the violation of political and civil rights which they allege the United States to have committed in Puerto Rico.

When I served as Permanent Representative to the United Nations, we had confronted the same measure, and were able to kill a similar Cuban initiative by a vote of 11 to 9. Our failure to do so in 1978 obliged me to urge upon the administration a more vigorous defense not merely of America's interests in this matter, but of America's reputation. I consider the resolution I submit today to be part of that effort—but something more. For it is not merely the United States which is slandered by such egregious distortions of reality at the United Nations, but the people of Puerto Rico especially. They, who have attained to a level of self-governance and civil liberty which all those states which condemned ought properly to envy and respect, are entitled to a renewed congressional demonstration of praise and support.

I stress that this is not the responsibility of either of our political parties, but of both. This resolution has the support of Senator JACKSON, chairman of the Energy and Natural Resources Committee which has jurisdiction of these matters, and of Senator HATFIELD, the ranking Republican Member. Its simple and straightforward support for the right of the people of Puerto Rico "to determine their own political future and to change their relationship with the United States, through peaceful, open, and democratic processes" is the position of the President of the United States, unequivocally stated in his proclamation of July 25, 1978, upon the 80th anniversary of the association between Puerto Rico and the United States.

Mr. President, I believe it important that the Congress, in a demonstration of solidarity with our own principles and with the people of Puerto Rico take the simple step of once again endorsing this proposition. It must be made plain to the Cubans and the Soviets, that we remain unshaken in our conviction, and increasingly angered by their efforts to meddle in our affairs. It is more than past time for the United Nations to return to real abuses of political rights in this world—and they will be found in abundance in the totalitarian system of Cuba, surely not in the democratic system of Puerto Rico.

Mr. MOYNIHAN subsequently said: Mr. President, earlier today I submitted for myself, Senator JACKSON, Senator McGOVERN, and Senator HATFIELD a concurrent resolution calling attention to the fact that once again this year the United Nations Committee on Decolonization, as it is called, will take up a resolution to be introduced by the Government of Cuba condemning the relationship between the United States and Puerto Rico.

Mr. President, a year ago this resolution was passed by the Decolonization Committee, the Committee of 24 as it is sometimes called, by a vote of 10 to nothing, with 12 abstentions and 2 absentees. We face the prospect that a similar outcome could take place this year.

This year the tenor of the resolution and the votes for it are even stronger in the case of the tone, and larger in the case of the supporters. It is my purpose, and the purpose of like-minded persons in the House of Representatives, to put those concerned on notice that the U.S. Congress severely disapproves of this farce, this travesty, whereby each year, with the one exception of 1975, the totalitarian nations of the world have gathered to condemn the democratic relations between the United States and Puerto Rico.

Every President in the United States since Dwight D. Eisenhower has asserted the commitment of the American people to self-determination for the people of Puerto Rico. This resolution merely restates that commitment.

Mr. President, there is a further fact this year. This year for the first time the nonalined nations, as they continue to call themselves, will be meeting in a Communist capital, in Havana. The resolutions of the nonalined, which will turn up in the coming General Assembly in New York, and the draft platform, are already circulating in the world. They have been drafted by the Cubans, no doubt in the closest consultation with their Soviet masters. We are going to face the prospect of an ostensibly nonalined caucus, doing the most explicit will of the Soviet Union in the United Nations, and it is time for the United States to say, "We won't have it."

In particular, Mr. President, I ask the attention of the Senate to the fact that the Committee of 24 this year, as for some years past, is chaired by Tanzania, represented there by a most distinguished Tanzanian diplomat, Mr. Salim Salim.

In the past it has been the practice of Tanzania to treat with very little interest what the United States might think on this matter. But I wonder if it would not be possible on this occasion to draw the attention of, both of the Department of State, which supports this resolution—Secretary Vance is altogether in favor of our adopting it—and the Government of Tanzania, to say that we regard this as an unfriendly act. We have so stated in the past, in 1975, and we shall state it again.

If the Government of Tanzania goes forward with the sponsorship of this Cuban resolution, does it really believe that it can then come to the Congress of the United States and ask the Congress of the United States to help pay for its invasion of Uganda?

We read every week that the finances of Tanzania are in the most desperate condition, that because of its wars they have extended themselves and they have not been able to extricate themselves, and that they therefore are asking the help of the international community. That means they are asking the United States to pay for their war. It may well be that the international community owes a certain attention to this question. But if the country of Tanzania is going to associate itself with the totalitarian Communist effort to misrepresent and to condemn the relationships between the free peoples of Puerto Rico and the United States, then Tanzania should get its aid from Cuba.

Cuba seems to have an excess of resources, sending its armies here and there around the world to do the bidding of the Soviet Union. Perhaps if it saved on its military activities in Africa, it could provide the deficit which Tanzania needs so desperately to be made up.

The governments of the United Nations should understand that we take democracy seriously; and because they perhaps do not, because perhaps they do not understand it, because perhaps they are violently opposed to it, they should not be allowed to think we consider this resolution anything but an affront to our honor and that we will act accordingly.

The Department of State is capable of doing this, as it demonstrated in 1975; and if the honor of the American people means anything, it will do so again this year.

Mr. President, I ask unanimous consent that I be permitted to include in the Record a series of statements from the National Democratic Platform of 1976 and the National Republican Platform of 1976, and statements by President Carter and Ambassador Young concerning the American commitment to self-determination for Puerto Rico.

There being no objection, the material was ordered to be printed in the Record, as follows:

Appendix

The proposed concurrent resolution on Puerto Rican self-determination is based upon the following excerpts:

National Democratic Party Platform, 1976: "We are committed to Puerto Rico's right to enjoy full self-determination and a relationship that can evolve in ways that will most benefit U.S. citizens in Puerto Rico . . ."

National Republican Party Platform, 1976: "The principle of self-determination . . . governs our positions . . . on Puerto Rico . . . as it has in past platforms. We again support statehood for Puerto Rico, if that is the people's choice in a referendum, with full recognition within the concept of a multicultural society of the citizens' right to retain their Spanish language and traditions . . ."

Question and Answer, Press Conference of President Carter, September 17, 1977:

"Q. Mr. President, I'm from San Juan, Puerto Rico. Buenas tardes.

"The President. Muchas gracias.

"Q. Would you object to a U.N. fact-finding team going to Puerto Rico to look into the idea, the charges that have been raised, that we are a colony of the United States?

"The President. Yes, I would object to that. I don't have any objection to any analysis of the question, but I think my own statement and the statement of all the leaders of our country that whatever Puerto Rico's people want to do is acceptable to me. If the Puerto Rican people want to be a commonwealth, I will support it. If the Puerto Rican people want to be a State, I will support it. If the Puerto Rican people want to be an independent nation, I would support it.

"Q. But the U.N. has no jurisdiction?

"The President. I don't think the U.N. has any jurisdiction. And particularly when this question is raised by Cuba, a government that has no respect for individual freedom or individual liberty and permits no vote of any kind in their own country, to accuse us of trying to subjugate the people of Puerto Rico, to me, is absolutely and patently ridiculous."

Proclamation of President Carter, on the 80th Anniversary of Puerto Rico's association with the United States; Commonwealth of Puerto Rico, July 25, 1978:

". . . I would like to emphasize that the United States remains fully committed to the principle of self-determination for the people of Puerto Rico. President Eisenhower made that commitment in 1953, and this has been the position of all U.S. administrations since that time. We continue to regard it as the fundamental principle in deciding Puerto Rico's future.

"My administration will respect the wishes of the people of Puerto Rico and your right to self-determination. Whatever decision the people of Puerto Rico may wish to take—statehood, independence, Commonwealth status, or mutually agreed modifications in that status—it will be yours, reached in accordance with your own traditions, democratically and peacefully.

"Governor Romero Barcelo has called for a referendum after the 1980 elections in Puerto Rico to decide Puerto Rico's future status. Should the government of Puerto Rico decide to hold a referendum, I will support, and urge the Congress to support, whatever decision the people of Puerto Rico reach . . ."

Statement of Ambassador Andrew Young, United States Representative to the United Nations, preceding consideration of Puerto Rico's "status as a non-self-governing territory" by the United Nations Committee of 24, August 28, 1978:

". . . The United States will respect and support the rights of the Puerto Rican people to determine again their political course through a free and democratic referendum. . . . Its present relationship with the United States was freely chosen by the people of Puerto Rico."

"Any change in this relationship will also be freely chosen. This has been the position of successive U.S. administrations. . . ."

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF HOUSING AND URBAN AFFAIRS APPROPRIATIONS, 1980—H.R. 4394

Amendment No. 385

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself, Mr. Cranston, Mr. Durkin, Mr. Thurmond, Mr. Stafford, Mr. Humphrey, and Mr. Stone) submitted an amendment intended to be proposed by them, jointly, to H.R. 4394, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

Amendment No. 386

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Randolph, Mr. Durkin, Mr. Matsunaga, Mr. Thurmond, and Mr. Stone) submitted an amendment intended to be proposed by them, jointly, to H.R. 4394, supra.

● Mr. CRANSTON. Mr. President, I am today submitting an amendment to H.R. 4394, the Department of Housing and Urban Development-independent agencies fiscal year 1980 appropriations bill to add $25,096,000 to the Veterans' Administration medical care account. Joining me as cosponsors of the amendment are Veterans' Affairs Committee members, Senators Randolph, Durkin, Matsunaga, Thurmond, and Stone.

Mr. President, I am proposing this amendment to add sufficient funds to cover the fiscal year 1980 costs of implementing the Health Care Amendments Act of 1979 (Public Law 96-22), which was signed by the President on June 13, 1979. Effective October 1, 1979, this new law establishes new programs of readjustment counseling for Vietnam-era veterans and preventive health-care services for certain veterans with service-connected disabilities, expands the VA's alcohol and drug treatment program, and makes certain other improvements in the VA health-care system. The VA, in its fiscal year 1980 budget documents and testimony before the Committee on Veterans' Affairs indicated that 346 additional full-time equivalent employees (FTEE's) would be required in fiscal year 1980 for the new readjustment counseling program alone and would be requested when the authorizing legislation was enacted. The need for these additional personnel and the Administration's intention to request funding specifically for them were confirmed in a June 15, 1979, letter from the Administrator of Veterans' Affairs, to me, which was reprinted at page S7815 of the June 18, 1979, daily edition of the Record.

In a July 19, 1979, letter from Mr. John P. White, Deputy Director of the Office of Management and Budget, to the distinguished Senator from Wisconsin and very able chairman of the Appropriations Subcommittee on HUD-Independent Agencies (Mr. Proxmire), Mr. White reiterated the administration's intention to submit a budget amendment "very shortly" and stated that "the $25,000,000 for the Health Care Amendments Act includes funding for an additional 346 FTEE's".

Mr. President, the Appropriations Committee, in its consideration of H.R. 4349, added $76,380,000 to the President's budget request for the VA's medical care account. I had recommended the addition of that amount; and it is the same amount that was added in the House-passed version of this legislation. However, in adopting this add-on to the VA medical care account, it clearly appears, from the committee's report—Senate Report No. 96-258, at page 78—that the Appropriations Committee intended, as had the House of Representatives, the $76.4 million add-on to be used for an additional 3,800 FTEE's which the committee, as had the House Veterans' Affairs Committee, found were needed for the VA health care system so as to restore personnel cuts imposed by the administration in fiscal year 1979. I applaud the action by the Appropriations Committee in adding these funds because the VA health-care system is suffering from serious program reductions that were brought on by the administration's refusal to utilize a $55 million add-on to the medical care account appropriated by the Congress last year for additional personnel and other necessary expenses.

Neither committee report evidences any intention to provide for the additional personnel and other costs needed to implement Public Law 96–22. This seems due largely to the administration's inexplicable failure to submit, in time for the Senate Appropriations Committee markup of H.R. 4394, a budget amendment for the fiscal year 1980 costs of carrying out the extremely important programs established by Public Law 96–22.

Mr. President, if funds earmarked for Public Law 96–22 are not included in H.R. 4394 when it is enacted, the VA will face a Hobson's choice with respect to implementing the programs provided for the new law. Either it must violate the authorizing law and delay those programs—including the already far too-long delayed readjustment counseling program for Vietnam-era veterans—until a supplemental appropriations bill is enacted, which is not likely to occur until very late in fiscal year 1980; or it must, in contravention of the clear congressional intent expressed in the reports of the Appropriations Committees of both Houses, propose to divert resources appropriated for other purposes in order to carry out these programs.

Therefore, Mr. President, I am submitting this amendment to add an additional $25.1 million to the VA's medical care account for the specific purpose of funding the 450 additional FTEE's and other related costs associated with the implementation of the Health Care Amendments Act of 1979. This amount, approximately the same amount Mr. White indicated in his letter to the Senator from Wisconsin (Mr. PROXMIRE), is needed to implement Public Law 96–22.

The figure I am proposing, although approximately the same as the administration will apparently request, is alined somewhat differently. We have included $3,092,000 in funding for the preventive health-care program, including 104 FTEE's—the amount initially proposed by the VA—and have reduced the dental care add-on from $5,888,000 to $2,796,000 in view of the Veterans' Affairs Committee's express intent, in adding the new dental care eligibilities for totally disabled service-connected veterans and ex-POW's, that this care be provided largely by realining the responsibilities of existing in-house dental staff and with minimal expenditures for fee care.

In proposing to reduce the amount suggested by the Administration as necessary to fund dental treatment for the new eligibles, I believe that the administration's analysis is in error in two ways: First, the number of individuals the Administration believes will seek treatment under this new authority—19,480 out of 122,770 100 percent service-connected veterans and 8,000 out of 100,000 POWs—appears to be unrealistically low, and, second, the administration's estimate is based on an assumption that all new eligibles would be treated on a contract fee basis, a result clearly at odds with the committee's intent.

Thus, the amount I am proposing would not result in holding the new beneficiaries to such an unrealistically low estimate of those who would take advantage of the new eligibility so long as the provision of the necessary care is accomplished in accord with the recent amendments to section 612 of title 38 made by Public Law 96–22 which should greatly reduce the extent of dental care provided on a contract fee basis. Under my assumptions, less then 10-percent of the new eligibles would be handled on a fee basis and even this amount seems excessive if the criteria governing provision of contract fee care are properly applied as intended by the committee.

Mr. President, I strongly urge all of my colleagues to support this amendment.●

NOTICES OF HEARINGS

JOINT ECONOMIC COMMITTEE

● Mr. BENTSEN. Mr. President, on Wednesday, August 1, 1979, the Joint Economic Committee will hold a hearing to examine the proposal to establish a regulatory budget. The hearing will also consider the need for a cost effectiveness requirement for major government regulations. The witnesses will include the Honorable George Eads, member of the Council of Economic Advisers; Dr. Robert Crandall of the Brookings Institution; Dr. James Miller of the American Enterprise Institute; and Prof. Arthur Wright of Purdue University, who coauthored an upcoming study for the committee on the regulatory budget. Professor Wright will be accompanied by two other coauthors of the paper, Prof. Christopher DeMuth of Harvard University and Mr. Richard Shackson of the Carnegie-Mellon Institute of Research.

The hearing will begin at 10 a.m. in room 1202 of the Dirksen Senate Office Building. Persons interested in additional information may contact the Joint Economic Committee at 224–5171.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources of the Committee on Energy and Natural Resources.

The hearing is scheduled for August 6, 1979, beginning at 9 a.m. in the City Chambers, Las Cruces, N. Mex. Testimony will be heard on the grazing program of the Bureau of land Management.

For further information regarding the hearing, you may wish to contact Ms. Deborah Merrick at 224–7150.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management of which I am chairman will conduct oversight hearings on EPA management of its hazardous waste program including implementation of the Resource Conservation and Recovery Act of 1976 on Wednesday, August 1, 1979, at 3 p.m. in room 1224 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a field hearing in New Mexico.

The topic of the hearing will be coal development in New Mexico.

The hearing will commence at 10 a.m. on August 9, 1979, in the lecture room of San Juan College in Farmington, N. Mex. If there are any questions regarding this field hearing please contact Thomas L. Laughlin of the subcommittee staff at 202–224–2564.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the sessions of the Senate today, and tomorrow, July 27, to consider pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate today to hold a hearing on trade reorganization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Practice and Procedure of the Committee on Judiciary be authorized to meet during the session of the Senate today to consider regulatory reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today to consider the proposed amendments to the Federal Election Campaign Act and other legislative and administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, August 1, 1979, to hold a hearing on EPA management of its hazardous waste program, including implementation of the Resource Conservation and Recovery Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today to hold a hearing on USDA research and extension programs as they apply to the family farm.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FBI AND CIA SHATTERED

● Mr. TOWER. Mr. President, the Dallas Morning News of June 16 carried a most disturbing article entitled, "FBI and CIA Shattered, Laird Warns," by Dick West, editorial director emeritus of the News.

Mr. West traces the decline of counterintelligence and espionage activities by the CIA and FBI in face of increases by the Soviet Union in its clandestine force in the United States. He points out that the Soviet Union has doubled the number of its intelligence officers in the United States while we have vetoed new personnel and facilities requested by the FBI and CIA.

I have great respect for Dick West and recommend this article to my colleagues. Mr. President, I ask that the article be printed in the RECORD.

The article follows:

FBI AND CIA SHATTERED, LAIRD WARNS

(By Dick West)

Sometimes, a former FBI agent reflected recently in a tone of discouragement, "you wonder if we deserve to survive."

In 1972, the FBI investigated nearly 18,000 cases involving suspected espionage against this country.

Because of hogtying legislation and Justice Department guidelines, last year the FBI investigated fewer than 200.

Four years ago it had constant contact with 1,100 informants risking their lives feeding our security system vital information about potential enemies.

Last year the FBI had only 41.

The CIA must now answer to eight—repeat, eight—congressional committees. Under oath, of course. And often with reporters present.

Can you imagine the Soviet Union washing such linen in public, deliberately announcing to the world what its foreign spies are doing?

It really doesn't matter how much gas we have for Sunday afternoon drives or how many color TV sets entertain us in the evening; it doesn't matter, if we are committing national suicide in the essential field of intelligence.

Any FBI or CIA agent—current or former—will give a lusty "amen" to the ominous warning by Mel Laird, former Secretary of Defense, that these agencies "have been shattered."

Writing in a recent Reader's Digest, Laird revealed that between 1971 and 1976 the number of people employed in clandestine (spying) services was cut in half; more recently, another 820—about 20 percent of the remaining force—were fired.

In the meantime, the Soviet Union has increased its clandestine force in the United States.

In 1978 the FBI asked for a slight increase in personnel for counterintelligence. Congress said no.

Can you believe that the number of communist spies in the United States now outnumber FBI counterintelligence agents by a "wide margin," to use Laird's phrase?

By now you who are reading this must be asking yourselves, "What's the point, what are we doing to ourselves?"

It's the continuation of a story which began during the Depression when a sizable element in this country became disenchanted with the American economic system and cast longing eyes toward some form of socialism.

What we now call bureaucracy or big government in Washington became a haven for the disenchanted, who worked overtime on social experiments and eventual adoption, in America, of a socialistic state.

The same element detested expenditures for national defense.

More recently—since 1974—the CIA has been the target of "blunderbuss" investigations; forums, according to Laird, "for lurid and wildly false allegations against our intelligence community."

"Congress and the administration overreacted by subjecting the CIA and FBI to severely restrictive legislation and enfeebling edicts."

Said former Secretary of State Henry Kissinger: "We have seriously damaged our entire intelligence capability."

Laird added: "Thus besieged, the CIA has been demoralized by its own leadership policies."

Both the CIA and FBI have made mistakes; but the mistakes were blown out of proportion by those who, in good conscience, don't believe in spending money on our own security.

The Soviet Union has doubled the number of its intelligence officers in the United States within the last five years; the known total is more than 900.

In the meantime, in this country, we veto new personnel and facilities requested by the FBI and CIA.

When some brave soul occasionally suggests we are flirting with national disaster, he is accused of being a freakish hangover from the Joe McCarthy days. (This is the modern version of guilt by association.)

In the field of intelligence, it is difficult for a democracy, such as ours, to compete with a dictatorship.

If a Russian newspaperman reveals a highly secretive military development, he can be sentenced to death or to hard labor on the frozen tundras in Siberia. His counterpart in America might with a Pulitzer prize.

Hitler warned what he would do. Lenin warned in the 1920s what communism would do.

Isn't it reasonable to ask: What are we going to do?●

THE SALT TRADE-OFF

● Mr. McGOVERN. Mr. President, the Senate debate on the SALT II Treaty should be an informative and conscientious consideration of one of the most important foreign and defense policy issues to come before Congress in this era. The Senate should be displaying its skill at examining the technical provisions of the treaty as well as the broad national security issues which form the foundation of our global posture.

But I confess I now watch with dismay as our consideration degenerates into a parliamentary version of the television program "Let's Make a Deal."

Behind the first curtain was the M–X ICBM.

Behind the second curtain is a new intermediate-range bomber.

Yesterday we learned that behind the third curtain is a $7- to $10-billion additional increase in military spending.

In the television version of "Let's Make a Deal," the players get to select only one of the prizes behind the curtains. But in the parliamentary version, the players get the prizes behind all the curtains. And I am sure we have not seen the end of the giveaways yet.

Mr. President, frankly I am appalled at this process. Some months ago, I had thought that the President would have to make a few side deals about the development of new weapon systems to win enough votes to ratify the SALT II Treaty. I was prepared to look at the barter arrangement and weigh these few new promises against the promise of future arms reduction in SALT III.

But the bargaining which is now going on—as exemplified by the demand yesterday for an additional $7 billion in military spending above the billions of dollars in real growth already committed to the military budget for next year—exceeds even my fears about the escalatory impact of the arms control ratification process.

Mr. President, with all due respect to the individuals who have proposed these new procurement and spending measures, let me state clearly that what we are witnessing is nothing less than parliamentary blackmail.

It is blackmail because the advocates of these deals are attempting to use one-third of the Senate to achieve what it should require one-half of the Senate to achieve.

We have a new budget process in Congress. We have an appropriations process. Let the advocates of higher military spending or new weapon systems make their case before the Budget and Appropriations Committees. Let them debate the national need for an additional $7 billion in real growth on the Senate floor. Let them try to win 51 votes just as every other appropriation must do.

But instead of taking that constitutional path, the big spenders are in essence telling us: "If we are not promised new military spending which normally requires a majority vote in the Senate, we will use our one-third vote to block ratification of the SALT II Treaty."

I do not regard it as democratic to allow one-third of the Senate to displace the majority of the Senate.

Mr. President, the hyprocisy of turning an arms control treaty into a military procurement bill is simply too much to stomach. I ask Senators to seriously consider how far down this road can we go before the whole SALT process becomes so distorted that it loses all meaning. My position on this problem is well known.

But let me repeat once more: It will not improve American security to allow an arms control treaty to become a blank check for adding to our arsenals of nuclear overkill. And I am not willing to vote for the illusion of arms control.

Mr. President, at some point the administration is going to have to let me know just how far it is willing to go in this weapons marketplace to secure enough votes for ratification. President Carter apparently is trying to toughen up his image as a national leader. Well, this is a good place to begin. We have heard him taking on the special interests in the energy industry. Let him take on the special interests in the military/industrial complex as President Eisenhower, a great American and a great American general, did a generation ago.

Let him inform the American people that additional real growth funds are not required for our national defense, will waste the taxpayers' dollars, and will fuel the engine of inflation.

I agree that we should not import a single drop of oil more than we need.

But I also believe that we should not spend a single dollar more for wasteful and unwarranted military boondoggles.●

THE MAROON BERET

● Mr. STONE. Mr. President, in an era when this country spends millions every year to recruit young people into the Armed Forces, I am surprised to learn that in spite of the cries of past and present airborne troopers, the Secretary of the Army has refused to reinstate the traditionally accepted headgear of the Airborne Unit of the Army, the maroon beret.

It is the history of the maroon beret that makes this headgear a symbol of tradition and esprit de corps. The tradition started during World War II when tens of thousands of our military airborne were stationed in England. At that time, the British soldiers quite literally "took their hats off" to the American Military Airborne. They actually gave our men their British maroon berets.

This longstanding tradition was officially recognized in 1973 when the Department of the Army announced that "nonstandard" items were permitted with the sanction of the unit commander and the tacit consent of the Department of the Army.

However, in January of this year, the Secretary of the Army rescinded the order and announced that only items of uniforms authorized by regulation were to be worn.

Since that time, the maroon berets have fought hard for the reinstatement of their cherished cap, a symbol of their years of dedication, sacrifice, and pride in their uniform and their country.

Senate Concurrent Resolution 10 will remedy this situation as it will reinstate this symbol of pride and tradition.

Therefore, I urge my colleagues to support the reinstatement of the maroon berets.

Mr. President, I ask that an article from the July 23 edition of Forbes magazine on this subject be printed in the Record.

The article follows:

Brass Hats on Empty Heads

You'd think the Army had trouble enough over grossly inadequate enlistments without compounding the problem with utter foolishness. In the Armed Forces, morale is, in essence, pride in one's unit. When the risks and challenges are greater, so too there's greater pride in achievement. The U.S. Marines are a case in point; so too the Army's Green Berets and the Rangers.

But when the paratroopers on the one hand and air assault troops on the other, plus the mountain troops based in Alaska and spearhead tank units as well, wanted to continue wearing their distinctive headgear, Pentagon Army brass said No.

If the Secretary of the Army doesn't have the good sense to overrule with a Yes, maybe Secretary of Defense Brown will realize how consequential such seemingly little things are in providing the spirit that helps to make up for inadequate numbers.

The Army should take a leaf from Navy Secretary W. Graham Claytor, who is returning to U.S. sailors their traditional uniform after they were briefly Zumwalted into outfits that had 'em all looking like movie theater ushers.●

RAISING THE QUALITY OF EDUCATION

● Mr. McGOVERN. Mr. President, occasionally good news raises more eyebrows than bad news, and the findings of a team of British experts heightens our expectations and our hopes for raising the quality of education in the United States. An article appearing in the New York Times reports the conclusions of a 4-year study, directed by Michael Rutter, professor of child psychiatry at the University of London, which found that schools do make a significant difference for the socially disadvantaged, as well as the socially privileged.

Contrary to the American theory espoused by Dr. James Coleman, the British study discounts his rigidly held view that schools can do little to overcome the deleterious effects of poor neighborhoods and poor families.

Too often the promise of education has been frustrated—and all we can do is wring our hands. But news from Britain might pull us out of a self-defeating acceptance of student performance which is entirely unacceptable: A functional illiteracy rate of 42 percent for black and 56 percent for Hispanic 17-year-olds. Their research proves that poor achievement for the disadvantaged is not the way it has to be, but more often is the way we expect it to be.

I urge my colleagues to give serious consideration to Professor Rutter's findings, and leave behind the low scores and the paralyzing effects of perceived incompetence.

Mr. President, I request that the following article be printed in the Record.

The article follows:

Study Indicates Why Some Schools Succeed

(By William Borders)

London.—What makes a child learn? What keeps him from it? Is it the school building or the pupil-teacher ratio? The mood of the classroom? The way the lessons are taught? Or, in the long run, do things like that really not matter much, and is a child's academic fate determined instead by such factors as his race, his family's social class and the condition of his neighborhood?

That traditional debate has been joined by a group of British experts in an important new book that disputes some well-established theories about elementary education.

After a four-year study of 12 schools in poor neighborhoods of London, they found that the way a school is run can make a huge difference in how much a child learns and how he behaves.

Their findings, backed up with impressive statistics, fly in the face of a popular American theory that holds that if a student body has too many social disadvantages, there is not much that can be done for it educationally:

"Our study should give hope to anyone who had despaired of improving the quality of education in inner cities," said Dr. Janet Ouston, one of the four co-authors of the book, which is called "Fifteen Thousand Hours" (a reference to the total amount of time that a child spends at school). "Simply put, we found that there really are ways that the schools can be improved to make them more effective."

What matters most, the researchers found, is what they called the ethos of a school—the general tone of the place—which seemed to have more effect on pupil performance than such factors as the age of the physical plant or how strictly the children were disciplined.

The finding that schools do make a difference may seem obvious; as the book concedes, it "will come as no surprise to parents, who often go to a good deal of trouble to get their children into schools of their choice."

But regardless of what parents have thought, a good many professionals on both sides of the Atlantic have been greatly influenced over the past decade by Dr. James Coleman and Christopher Jencks, two American educators whose writings led many to the conclusion that schools in the poorest neighborhoods are unlikely to do much for their pupils until the neighborhoods are improved.

"Variations in what children learn at school," Mr. Jencks wrote in 1972, "depend largely on variations in what they bring to school, not on variations in what schools offer them," and the result achieved by a school "depends largely on a single input—the characteristics of the entering children."

That theory, and what some see as the debilitating determinism that it encourages, are disputed by the London study.

"The findings showed that school differences were not just a reflection of intake patterns, and that much of the effects of schools were linked with their features as social organizations," the authors declare, and then set out to prove it, showing how similar schools only a few miles apart can produce radically different results.

If the Jencks theory is correct, two inner-city schools that take in the same proportion of boys with behavior problems should turn out about the same proportion of boys with behavior problems. But that is not at all what happened in the schools studied here.

VARIATION IN BEHAVIOR PROBLEMS

"Fifteen Thousand Hours" describes what it calls School A and B, in each of which one-third of the incoming 10-year-olds had exhibited behavior problems, such as truancy, vandalism or insubordination. Four years later, fewer than 10 percent of the boys at School A had behavior problems, whereas the proportion at School B had risen to 48 percent.

"Clearly, one school was doing the right thing and the other was not," Dr. Ouston said. "In other words, the school did make a difference."

The research team, which was headed by Michael Rutter, a professor of child psychiatry at the University of London, came to the same sort of conclusion in regard to academic achievement. Although the schools studied tended to have pupils of about the same intellectual range, as measured by independent tests at the age of 10, there was marked variation in how the children did a few years later.

In one of its most startling findings, the University of London team reported that children in the bottom aptitude rank of the best school did as well, in final examination scores, as the children in the top rank of the worst school. In other words, a dull child entering one of the better schools had statistically the same chance to make good grades as a bright child entering one of the worst ones.

Moreover, a school that was good in one area tended to be good in others as well, reinforcing the theory that how the school is run makes a difference.

The book did not try to comprehensively assess exactly what it is that makes good schools good, leaving that to future research. But Dr. Rutter's team tentatively concluded that a major factor in making schools good was what it called "their characteristics as social institutions," including the degree of academic emphasis, the degree to which teachers got involved in lessons, the availability of rewards for students, and the extent to which children were given responsibility.

PRAISE HELPED STUDENTS

Children tended to do better, for example, in schools where the classes began on time, where teachers gave immediate and frequent praise, and where the pupils were made to feel that success was expected of them.

Naturally, good teaching was of great importance. But the study found, in comparing the schools, that "it was very much easier to be a good teacher in some schools than others."

For example, it concluded that results were better in the schools in which the disciplinary policy and the curriculum were discussed and worked out together by the teachers, rather than being dictated from above.

"It was not just that this facilitated continuities in teaching—although it did—but also that group planning provided opportunities for teachers to encourage and support one another," the book concluded.

INEQUALITIES IN BEST SCHOOLS

In the best schools, though overall standards were higher, inequalities persisted. In the schools in which children of ordinary ability did better than usual, the able children also tended to do better. And it continues to be a built-in advantage to have well-educated parents.

The comparison is analogous, the book explains, to changes in body height: over the last 50 years, the height of the average British school child has increased by 9 centimeters (about 3½ inches), presumably because of better nutrition. But that does not mean, of course, that all children are now the same height. There have been "major changes in level, without any reduction in inequality."

The same thing can be done, "Fifteen Thousand Hours" maintains, with academic performance; schools can be improved to the benefit of everyone's performance.

"It is not argued that schools are the most important influence on children's progress," the book concludes. "Education cannot compensate for the inequalities of society. Nevertheless, we do suggest that schools constitute one major area of influence, and one which is susceptible to change." ●

S. 344—THE BILLBOARDS ARE BACK

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works last held 2 days of hearings on S. 344, my bill that would add flexibility in the billboard control law. Since those hearings, I have read a most interesting article that appeared in the June issue of the Progressive. The article is by William Steif, Washington correspondent for the Scripps-Howard newspapers.

In the article, Mr. Steif writes:

> After thirteen years of controversy, billboard company lobbying and budget pressures not only have brought the sign-removal program to a virtual halt, but also threaten to reverse the trend so that more signs may spring up along the roads. . . . The new Federal legislation also adds a curious wrinkle to constitutional law: It overrides state and local billboard-zoning controls on all Federal-aid highways.

Mr. President, I ask that a copy of Mr. Steif's article be printed in the Record.

The article follows:

[From the Progressive, June 1979]

The Billboards Are Back: And So Are the Junkyards

(By William Steif)

When President Carter signed a highway bill last November, he doomed Lady Bird Johnson's chief contribution to her husband's "Great Society."

That was the Highway Beautification Act of 1965, designed to remove billboards and junkyards from the 42,000-mile Interstate Highway System and the 300,000-mile primary highway system.

Aften thirteen years of controversy, billboard company lobbying and budget pressures not only have brought the sign-removal program to a virtual halt, but also threaten to reverse the trend so that more signs may spring up along the roads. And the junkyard program is dead, left without legislative authorization.

That is the effect of amendments to the 1965 law included in the highway bill Carter signed.

The new Federal legislation also adds a curious wrinkle to constitutional law: It overrides state and local billboard-zoning controls on all Federal-aid highways. There are a million miles of such roads in the nation.

The triumph of the billboard lobby has been so complete that the White House's Office of Management and Budget recommended no funds be allocated in the President's budget for fiscal 1980, starting October 1, for the branch of the Federal Highway Administration which is supposed to enforce billboard and junkyard controls. Carter agreed, over the protest of Transportation Secretary Brock Adams, and that's the way his budget went to Congress. A result of this will be to scrap all enforcement action under the 1965 law.

And yet the 1965 law remains on the books, with the nation paying lip-service to controls on billboards and junkyards. The billboard industry, which grossed well over $500 million last year and which has shaken out from many small firms in the mid-1960s to a business dominated by a few large conglomerates today, is delighted to keep Lady Bird's law in place. The industry investment is now protected by the law.

That is because, under last November's amendments, at least 250,000 billboards are added to the 200,000 for which the Federal Government must compensate owners if the billboards are removed.

Present Federal liability for removing these billboards is estimated at $1.3 billion. Under the penurious funding Congress has been allowing the billboard-control branch of the Federal Highway Administration, it would take more than a century to buy up all the billboards.

Under the 1965 law, the Federal Government was to put up 75 percent of the funds needed to compensate owners for "non-conforming" signs on Interstate and primary highways, and the states 25 percent. The highways were and are mostly paid for by Federal funds but built by state engineers. It took years for the state laws to be changed to conform with the Federal billboard rules, but they finally were.

Also under the 1965 law, commercial and industrial zones were exempted from the Federal law so far as billboard controls went. That meant cities, counties, and states could zone areas commercial or industrial and control signs as they wanted. Many signs simply were declared "illegal" and could be torn down without compensation to owners.

Compensation on Interstate and primary roads now averages about $2,000 per billboard; but on secondary and urban Federal-aid highways, not covered until last November by law, compensation averages about $5,000 per billboard. Massachusetts recently paid more than $1 million to owners of thirteen billboards removed in the Boston area under state law.

Most of the signs that have come down over the years since the 1965 law went into effect have been the "illegals" scrapped under state powers. By contrast, in 1978 only 13,000 signs came down under the Federal compensation program, and in fiscal 1979 only about 2,000 will come down.

The companion program to screen, relocate, or remove junkyards has moved even more slowly than billboard removal. It costs about $37,000 to deal with the average junkyard.

Congress has been squeezing the billboard and junkyard-removal branch's budget, so that this year there is only $13.1 million for its work. Almost half of that goes to provide "bonus" payments to twenty-three states that agreed to billboard controls on the Interstate system before the 1965 law was enacted. Their "bonuses" are 0.5 percent of annual Interstate construction costs.

Adding the 250,000-plus signs in commercial and industrial zones to the compensation rolls would not only pinch the Federal treasury but also hurt many state treasuries.

But the Carter Administration has gone a step further, and now seems to be saying that it is perfectly all right to erect new billboards along the Interstate system. The Federal Highway Administration's chiefs have overruled lower-echelon officials and permitted construction of at least fifty-six new billboards along a stretch of Interstate 95 in southern Georgia, and possibly double that number.

Georgia is a test case. The tourist industry pressured the billboard industry, which pressured county and state officials for the billboard permits. Nine I–95 interchanges in the state's two southernmost counties were provided with commercial zoning of about 750 acres per interchange. This phony zoning—phony because there is so little commerce or industry in the two largely rural counties—then allowed local officials to issue billboard permits. When this was brought to the attention of Karl S. Bowers, head of the Federal Highway Administration, he decided the Georgia billboards probably violated the law "but not to the extent that they should be sanctioned. . . . I wouldn't want to characterize this as abuse."

That means that if the billboard industry can lobby successfully at the local level, the Federal Government won't interfere.

On the other hand, if environmentalists who want billboard controls win a local fight, they could lose at a higher governmental level. Pennsylvania's legislature is considering a bill that permits the state to preempt local zoning which restricts billboards. That bill has been checked with George McInturff, "environmental consultant" of the Outdoor Advertising Association of America, and has received his blessing. The bill would enable signs to proliferate—and the Federal Government evidently will do nothing about it.

McInturff, a lawyer and former FBI man, is the guru of the industry. Until mid-1974, he was chief of the Federal Highway Administration's scenic enhancement division, which was supposed to control billboards. He retired and by the end of 1974 had been hired to "consult" on local zoning matters by the OAAA. The other major billboard lobby is the Roadside Business Association, primarily representing rural sign interests.

Behind OAAA and RBA are a few major companies. The biggest is National Advertising, a subsidiary of the 3M Co., with at least 50,000 billboards. Second is Foster & Kleiser, a subsidiary of the Metromedia television chain, and third is the outdoor advertising division of Combined Communications, a media conglomerate recently purchased by the Gannett Company, which owns seventy-nine daily newspapers. The billboard companies' sales have been rising about 20 per cent annually, and many of the companies operate with profit margins well over 20 per cent.

The big billboard companies have an advantage often unperceived by outsiders: They do a lot of business with politicians, and politicians are eager to curry their favor, for billboards are a favorite—and cheap—election medium.

The industry is well-connected on Capitol Hill, especially with the public works committees of the Senate and House. When Representative James C. Wright, Texas Democrat, was a member of the House Public Works Committee, he worked feverishly to water down Lady Bird's billboard-control law and set up a "commission" that was supposed to recommend changes in the 1965 law. Wright is now the Democratic majority leader.

Senator Jennings Randolph, the West Virginia Democrat who heads the Senate Public Works Committee, votes with the billboard industry, and Senatory Henry M. Jackson, Washington Democrat, is another influential friend. Jackson was behind an amendment in the bill Carter signed in November to lessen the law's ban on electronic billboards.

Electronic billboards—like giant, flashing television commercials along the nation's highways—may be the Ultima Thule of the nation's billboard industry, but they hardly jibe with what Lady Bird Johnson was thinking of in 1965. In those days some people, at least, still recalled the late Ogden Nash's prophetic lines:

> I think that I shall never see
> A billboard lovely as a tree.
> Perhaps, unless the billboards fall,
> I'll never see a tree at all.●

HOW THE SOVIET UNION LOOKS AT SALT

● Mr. McGOVERN. Mr. President, I would like to share with my colleagues one of the most helpful statements on SALT which has been presented to the Foreign Relations Committee thus far. The testimony was presented by Dr. Robert Legvold.

I regard it as important because it helps us avoid a narrow national perspective on these issues. In a bargaining or negotiating situation, you have to take account of how the other party views the issues. We have heard a great deal of discussion in the SALT debate about perceptions. Many analysts feel that what counts is not only the reality of force levels, but also the perception of these forces in the eye of the beholder, the Soviet Union. Yet we do not make a sufficient effort to understand how the beholder perceives the war scenarios, strategic doctrine, and so on.

Dr. Legvold's statement is a significant contribution to helping us understand Soviet perceptions. For this reason, I submit Dr. Legvold's statement to be printed in the RECORD.

The text of the statement follows:

TESTIMONY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

(By Robert Legvold)

As someone interested in Soviet affairs, I think I can best aid you by focusing on the attitudes that the Soviet side brings to SALT. These, of course, are not easily determined, but neither are they so inaccessible as we sometimes assume. Nor are they so crude as we sometimes imagine for want of knowing. They are a mix of subtlety, ambivalence, assertiveness, and concern roughly consistent with the complexity of strategic trends and the challenge of SALT, and, in my judgment, they are important to consider.

THE SOVIET AND AMERICAN APPROACHES TO WAR AND ITS AVOIDANCE

No factor more vexes the effort to negotiate arms control with the Soviet Union than the differences between us. Not the differences in ideology or political order, though these matter ultimately. The more fateful differences are in the structure of our military forces, in the nature of the threats we face, and in the strengths and vulnerabilities of the alliances we rely on and mean to defend.

The United States has built forces stressing diversity, flexibility, and technological prowess; the Soviet Union, numbers, firepower, and redundancy. Our means of nuclear attack comprise a TRIAD, a concept that has come to have considerable importance to us. The Soviet Union has persisted instead with essentially a DYAD, one resting heavily on land-based ICBMs. But Soviet ICBMs, in turn, being larger than ours, will pose a threat to this part of our deterrent sooner than we can threaten any part of theirs. Should both countries develop the ability to destroy the others' fixed ICBMs, however, the implications are graver for the Soviet Union because roughly three and a half times more of its forces are ICBMs. And should the competition turn toward acquiring invulnerable counterforce weapons, an increasingly likely prospect, the superiority of our next generation of SLBMs and mobile ICBMs over theirs makes the implications graver still.

Discrepancies like these—the practical consequence of the differences in the throw-weight of each side's ICBMs, in the levels of their SLBM technology, and in the versatility of their delivery vehicles—are SALT's great burdens. Add to these the effects of geography, the China factor, and allies who bring vastly different resources and concerns to the common defense, and the plight of SALT II or any other attempt to reach meaningful and negotiable strategic arms limitations emerges more clearly.

The asymmetries in capabilities, enemies, and alliances deeply influence the perspectives each side brings to the SALT process. But there is still another important asymmetry—this, in the way the two leaderships think about war and its prevention. The contrast stems not from a more cynical or cavalier attitude on the part of one leadership toward the risks of war. Nor, as some seem to suggest, from a Soviet willingness to treat war, even nuclear war, as an acceptable means to their political ends. No such willingness exists, not as reflected in what they say and write.

The real contrast is in the way the two nations cope with the theoretical possibility of nuclear war. Given the suicidal implications of using nuclear weapons, American strategists have concentrated on the psychology and framework of deterrence—that is, on the process of dissuading the Soviet Union from risking nuclear war or, if war comes, on cutting it short. Strengthening our ability to dissuade has not been divorced from defense—that is, from developing the ability to fight a war—but the stress has been on structuring choice and, if you will, "bargaining" in the shadow of nuclear conflict. By this I mean spinning out scenarios designed to convince the Soviet leaders in advance that we can and will attach too high a price to any prize they may wish to capture with military force. In the process, the civilian strategists, game theorists, and scientists who dominate strategic thinking in this country have come to worry most about the credibility of our deterrent, the stability of the nuclear balance in moments of crisis, and the raising or lowering of the nuclear threshold.

In the Soviet Union, the task of dealing with the specter of nuclear war belongs to military men. They, by tradition and profession, make it a matter of waging war. By preparing to prosecute war successfully, they assume, they are both deterring war and putting their country in the best possible position should deterrence fail. Nuclear weapons have revolutionized warfare, and this they recognize. But their inclination is still to approach the problem as traditionally as possible, committing themselves to victory on the battlefield and, to this end, the destruction of the other side's war-making potential.[1] The more abstract notion that the outcome of a nuclear war can be decisively shaped by launching a limited number of nuclear weapons at a selected set of (military) targets and then waiting to see whether the other side will desist remains largely alien to their way of thinking. Thus where we tend to start with deterrence pressing on to defense, ultimately subordinating defense to deterrence, they skip the issue of deterrence and concentrate on defense, assuming deterrence will follow.

THE CONSEQUENCES FOR SALT

Inevitably the different way Soviet and American leaders think about nuclear war influences the way they judge the strategic balance, the trends altering it, and the process of regulating it. Inevitably it also shapes their perspectives on the SALT II accords.

Some say that our original goals in SALT were doomed to failure because, as events turned out, the Soviet Union did not share them. We envisaged SALT as a chance to reduce and stabilize the strategic nuclear balance, to turn the competition from arms building, and to shift these resources in other directions. The Soviet leaders, in contrast, it is said, viewed the SALT process not so much as a joint enterprise to manage the arms race as an opportunity to codify their superpower status and, if possible, to improve their military position by impeding U.S. defense efforts. We were simply working on different levels.

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[1] "Winning" a nuclear war in this sense is scarcely as good in Soviet eyes. It is better than losing, but no Soviet leader in the last twenty years, military or civilian, has suggested that nuclear war would be anything than an unimaginable calamity, leaving victor and vanquished in virtually the same condition.

It seems to me that this misstates the problem. For the Soviet leadership SALT has been preeminently a political exercise, but in the sense of the contribution that arms efforts make to the over-all U.S.-Soviet relationship. From the beginning, the Soviet leaders have been more inclined to focus on the place of arms control in East-West relations than on the role of arms control in restructuring the military balance or in imposing a particular discipline on the arms competition. They have tended to urge SALT as a necessary and integral part of a broader process of easing tensions between our two countries, arguing the obvious proposition that not much progress can be made if both are locked in any unyielding arms competition. The challenge of using SALT to shape the strategic nuclear balance has concerned them less.

Indeed, by and large, their natural preference has been to define the objectives of SALT modestly, rather than get bogged down in the complexities and intractable dimensions of a far-reaching effort to regulate the strategic arms race. In SALT I, they would have been happy to settle for an ABM agreement, and it required considerable determination on the part of the Nixon Administration to negotiate the interim agreement limiting offensive weapons. In SALT II, they have generally sought the simplest and least arduous route to agreement, meaning inevitably a less ambitious one. They have not pressed to circumscribe or avoid new technologies, threatening to make the strategic arms competition more unmanageable, like MIRV or mobile ICBMs. And, when in March 1977 they were offered the opportunity to achieve major reductions, they angrily backed away. Their anger had to do with what they regarded as the one-sided nature of the 1977 proposals, but this did not fully explain their refusal to respond with counterproposals.[2]

This preference for unencumbered arms control, I think, in large part traces back to the Soviet Union's broader political stakes in SALT. True, another powerful syndrome is at work, a Soviet reluctance to constrain the other side if it means constraining yourself. But the same can be said of the American approach to SALT, and that has not prevented us from trying to push SALT in more ambitious directions. Rather, the further explanation is that the Soviet Union cares more about the political effect of a successful SALT process, and, for this, small steps, setting aside the hard choices that generate controversy, may be best.

It is also true that the Soviet Union has looked upon SALT as a mechanism for controlling American military programs. Preventing the United States from going forward with an elaborate ABM system was obviously a high prority for the Soviet Union in 1969. Limiting, even eliminating, the contemporary U.S. cruise missile program has also been a major Soviet objective in SALT. But, we, too, have sought to circumscribe through SALT Soviet weapons that are particularly disturbing to us. The ceiling on SS-9s in SALT I is a case in point and so is our attempt to impede the development of a fifth generation of Soviet ICBMs in SALT II. The attempt to use SALT to hamper the other side's defense efforts is not what divides us.

Neither the self-serving aspects of the Soviet aproach to SALT nor its political stake in SALT proves that the Soviet Union has no desire to stabilize the nuclear balance or to shrink both countries' strategic arsenals. The problem is in defining what it means to stabilize the balance, a problem that ultimately traces back to our contrasting way of thinking about nuclear war and its avoidance.

It is not merely that our attempts to give stability to the nuclear balance, that is, to reduce the incentives to squeeze the trigger first in crisis situations, come across to Soviet observers as self-seeking. Thus, from the original Option E proposed in the opening rounds of SALT I to the March 1977 scheme for "deep cuts," our efforts to increase crisis stability have seemed distinctly in our favor. Again and again we have come back to the notion of abandoning potentially vulnerable ICBMs, where so much of the Soviet effort is focused, and moving the competition to less vulnerable SLBMs, weapons of a more clearly second-strike character, but in which we hold a clear technological edge, not the least in the race to turn them into first-strike weapons. On the other hand, a Soviet might note, when the most "destabilizing" weapon of the last decade was introduced, that is, MIRV, we introduced it and we did so without giving much thought to SALT and an agreement to banish MIRVed forces on both sides.

There is, however, a more profound problem than notions of stability that appear to Soviet leaders as discriminatory and calculated to enhance U.S. advantage. The problem is that our notions of what is stabilizing and destabilizing in the strategic arms competition, to a large degree, remain alien to them. This, some would argue, arises out of the Soviet tendency to equate stability with the growth of Soviet military power. The point is not made derisively: Soviet speakers do suggest that a stronger Soviet Union is the surest guarantee of nuclear stability; indeed, it is the way they most commonly discuss the issue. (To say the least, it is not an approach that will get the two sides very far.)

Still, this does not gainsay the extent to which our own concept of stability is a function of the way we happen to think about nuclear deterrence. Worrying about a Soviet ability to destroy 90 percent of our fixed land-based ICBM force, while we can destroy only 60 percent of theirs, makes sense at a certain level of abstraction. For us, the abtraction is important, because we have predicated deterrence on ensuring that the Soviet Union cannot come out ahead in any nuclear exchange. This proposition has a significance of its own, independent of the question of what objective could activate a chain of events resting on this 30 percent margin, what fortuities would threaten to undo any calculus based on the 30 percent, and what other dimensions of war might prove more decisive.

For the Soviet leaders, however, given their approach to nuclear deterrence, this proposition has no significance independent of these other considerations. They are less sensitive to and, happily, less emboldened by Minuteman vulnerability, because of the difference in approach. Less sensitive, because they are inclined to view their ability to destroy a large part of the Minuteman force as simply one component in a war-fighting strategy—that is, a measure, albeit a critical one, for reducing the damage a foe can inflict in the course of a war. They are less emboldened, because, as they judge matters, this ability affords them little leverage as long as they cannot launch and win a war at a tolerable cost.

By the same token, I think they are baffled by and more than a little mistrusting of the concern expressed by many in this country over trends in so-called "static indicators." They understand the psychological problem. They understand that numbers and seeming inferiorities in the tally of weapons—megatonnage, throw-weight, total warheads, numbers of delivery vehicles, and so on—have an impact on the public mind. But, when serious defense planners and analysts make the gap in the throw-weight of the two countries' forces decisive, arguing that by this gift the Soviet Union can launch a nuclear attack knowing that after each exchange its remaining forces will be fractionally larger than American forces, Soviet observers suspect ulterior motives.

Because Soviet defense planners make do with the science of war, abjuring the development of "strategic doctine," they look upon our attention to doctrine as politically inspired. That is, they think the fussing we do with declaratory policy, replacing the "doctrine of massive retaliation" with "flexible response," modified by the "doctrine of limited nuclear options," is designed to squeeze the maximum political-psychological leverage out of a defense posture. Talk about the meaning of the discrepancy in throw-weight, translated into a concept like "escalation dominance," the language of American strategists, is lumped into the same category.

Soviet and American views of SALT II also derive to an important degree from their respective views of military trends, a further dimension shaped by our contrasting approaches to the challenge of nuclear war. In this country what different people think about the SALT II accords follows closely from their apprehension over the comparative momentum of Soviet and American military efforts. The fears generated by recent trends impinge constantly and heavily on judgments about SALT II, even where the connection, both for good and ill, is nearly nonexistent.

Not surprisingly, in the Soviet Union, the link between the evolution of the military balance and SALT matters less. Whatever the defects of the agreements—and from the Soviet perspective there are a number—these are softened by the general context. SALT or no SALT, the Soviet Union has made enormous strides in overcoming its strategic nuclear inferiority. In these circumstances, even the most equitable agreement looks different to the side losing ground than to the one gaining ground.

But the contrast has still deeper sources. Because we and our NATO allies place so much weight on U.S. strategic forces, accepting the abstractions of deterrence theory and neglecting other dimensions of our common defense, the erosion of our comfortable advantages in the nuclear competition is particularly disturbing. SALT may have very little to do with this situation and it may offer little solution—short of the futility of expecting it to re-establish American strategic superiority—but it becomes its victim. Suddenly everything, even at the margin, acquires significance: the chance that the Soviet Union could use its large medium-range BACKFIRE bombers in a nuclear attack on the United States, the chance that a disputed interpretation of the SALT protocol might impede our efforts to rectify a deteriorating theater nuclear balance, and the chance that the Soviet Union would cheat under the terms of SALT and, escaping detection, produce a larger and more accurate successor to the SS-19 two or three years earlier than it could if it waits for the Treaty to expire.

Both in its posture and in its concepts, the Soviet Union is less dependent on carefully calculated nuclear deterrence. Because the Soviet Union believes the decisive feature of any general war will be the ability of one side to triumph at all levels, from conventional to nuclear, and has designed a posture around the integration of capabilities for fighting at all levels, it worries less about the precise calibration of the nuclear balance. Or, to put the matter another way, it has a different sense of what constitutes the basis for "nuclear blackmail." To a Soviet mind it is not the ability to wipe out one leg of a TRIAD that counts most, and even less is it a gap in throw-weight, translated into a scenario in which one of two devasted countries after a series of nuclear exchanges ends up with a fraction more weapons. Rather, the decisive consideration in the Soviet perspective is the over-all military balance. Provided one has a sufficient ability to survive a nuclear attack and strike back with a certain level of viciousness, the key concern is with prosecuting war, and that involves something much beyond the refinements of nuclear strategy.

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[2] They also resented the way the proposal was sprung on them and objected to an attempt, as they saw it, to throw over Vladivostok and the laboriously negotiated compromises of the intervening two and a half years. Still, the Soviet reaction was so swift and sharp that obviously they had not even paused over the prospect of making more of SALT.

Not that the Soviet Union has ceased to worry about trends in the strategic arms competition. In a looser fashion, the Soviet leaders do apparently fear the twists and turns that the competition may yet take. They are concerned with the implications of cruise missiles and what the introduction into Europe of large numbers of these weapons, blurring the line between conventional and nuclear, will mean. They are beginning to stir at the prospect of a race in counterforce weapons. And, in general, they continue to watch warily for the new directions in which we, with our technological superiority, will push the nuclear arms competition. But these are concerns for the future, for SALT III, and the Soviet leaders do not feel them so acutely as we feel ours. For the moment, the two countries' anxiety over military trends is out of phase.

I have chosen not to address more directly the concerns that are usually debated, because I believe the problem runs more deeply. I could have made the case that, whatever our image of emerging Soviet superiority, the Soviet leadership does not share the same perception. I could have summarized for you the defects that the Soviet leaders see in the treaty. I could have reviewed for you the compromising the Soviet Union did to get this agreement, by way of disproving the impression that we have let ourselves be slickered. I could have commented on the faithfulness with which the Soviet Union keeps the contracts it signs or the likelihood that it wants an inadequately verifiable agreement. The reality in all these cases, I am convinced, is more reassuring than assumed by many of those who oppose SALT II or who would substantially rewrite it.

I did not because I think the factors that lead the two countries to view strategic trends and SALT II so differently—that make these agreements so controversial in our country and not in the Soviet Union—flow from far deeper considerations. Much of the trouble SALT II is in stems from our basic outlook, from the way we choose to define what counts in the nuclear balance, from the way we choose to define Soviet calculations, and, ultimately, from the way we choose to cope with the specter of nuclear war. Much of the trouble with SALT—and a challenge that we must deal with more effectively if the process is to come to really matter—stems from the fact that the Soviet Union does each of these things another way.●

INSTITUTE OF SCIENTIFIC AND TECHNOLOGICAL COOPERATION

● Mr. DeCONCINI. Mr. President, an article appeared in today's Washington Post which I believe merits some reflection by my colleagues. The Senate recently voted to eliminate the authorization for the Institute of Scientific and Technological Cooperation. This was a reasoned first step toward stemming the tide of our burgeoning Federal bureaucracy.

Written by Werner Fornos, the article discusses what is in my view the crux of the present foreign aid debate: "Should foreign aid be spent on research in laboratories at home, or on effective programs within the countries it is intended to help?"

Mr. President, I ask that the article be printed in the Record.

The article follows:

Just Another Research Subsidy

(By Werner Fornos)

A House-Senate conference committee will meet within the next few days to consider reviving the administration's proposal for an Institute for Scientific and Technological Cooperation, defended in a Washington Post editorial ["A Modest Aid Proposal," July 7]. In pleading the case for building yet another federal bureaucracy, the editorial argued that "the ISTC idea strikes a lot of thoughtful people as lawfully promising." It further contends that because "only $25 million" was requested for establishing the agency "the very modesty of the idea . . . made it so attractive."

There are also many thoughtful people who understand that the initial price tag for creating any new federal bureaucracy is but a small fraction of what it inevitably becomes within a few short years.

At a time when federal funds are being withdrawn from lunch programs for needy children and when Congress considers rolling back benefits for survivors of Social Security recipients, a $25 million federal revenue-sharing program for colleges is out of order.

In attempting to characterize opponents of ISTC as those who would turn their backs on the less fortunate people of the world, The Washington Post is particularly unfair. Among the members of the Senate who voted against the proposal were such champions of humanitarian assistance as Sens. Inouye, Bayh, Leahy, Nelson, Proxmire and Weicker. U.S. aid to the Third World is necessary and should be delivered to programs directly helping the poorest of the poor break the cycle of deprivation and misery destined to continue unless a helping hand is extended by an enlightened, developed world proceeding on a course of compassion, understanding and common sense.

Perhaps it is only coincidental, but nevertheless relevant to the debate, that the same Senate Foreign Relations Committee that recommends approval of a $25 million expenditure to establish ISTC, saw fit to cut $23 million from the administration's request for one of the most vital and proven foreign-aid efforts—world population assistance.

The question underlying the ISTC issue is: Should foreign aid be spent on research in laboratories at home, or on effective programs within the countries it is intended to help?

Certainly, there is much vital research warranting expenditures of federal dollars but not at the expense of much needed humanitarian efforts already under constant attack by those still clinging to the antediluvian concept of isolationism.

The Senate, which last month defeated the ISTC proposal, would be well-advised to flatly reject any conference report containing efforts to resurrect it.●

THE PROGRESSIVE MAGAZINE CALLS SALT II A DELUSION

● Mr. McGOVERN. Mr. President, the Progressive magazine in its August issue calls the SALT II Treaty a fraud and a delusion because it institutionalizes the steady buildup toward nuclear disaster rather than reversing the arms race. The editorial is very uncompromising. It calls for the rejection of SALT as a means of waking up the public to the fact that the nuclear arms race is out of control. I am not yet prepared to subscribe to the Progressive's nuclear medicine but I think it has accurately diagnosed the disease. It states a blunt truth: That SALT thus far has failed to control, much less reduce, the creation of ever more destructive nuclear stockpiles on both sides. Regardless of the soundness of its advice about rejecting the treaty, the editorial conveys an important sense of frustration about SALT which I believe the administration needs to address more persuasively than it has thus far. For this reason, the editorial is important enough to share with my colleagues and I ask that it be printed in the Record.

The text of the article follows:

The Irrelevant SALT Debate

With the opening of Senate debate on ratification of the second Strategic Arms Limitation Treaty (SALT II), signed a few weeks ago by the two nuclear superpowers, Americans face a momentous choice affecting the peace and security of the world. But it is not the kind of choice the proponents and opponents of SALT II would have us believe.

If it were simply a question of whether the United States should step up or cut back the nuclear arms race—the issue pictured by both sides—there could be no doubt what the Senate should do. It should vote overwhelmingly for ratification.

If SALT II, even with all the loopholes the negotiators found it necessary to leave for the nuclear weapons makers, were the only feasible alternative to unrestrained competition, a plausible case could still be made for ratification.

If SALT were no more than a symbol of America's firmly grounded intention to achieve nuclear arms reductions at some later and more propitious time, then the symbolic act would be worthy of support.

But the treaty is none of those things. It is neither a cutback nor a freeze nor even the faint promise of a slowdown of the deadly enterprise to which this nation and its rival seem alterably committed. It is, in fact, a further cementing of that commitment.

As an instrument for effectuating nuclear arms reductions, SALT is a fraud and a delusion. It deserves to be rejected—not because there is any merit in the claim of those who profess to see in it a threat to "national defense" but because that claim is irrelevant to the real issue that demands attention.

The issue the Senate should be considering is not by what means and to what ends and under what terms strategic arms will be controlled, as the SALT debate would have it. The issue is whether such weapons serve the national interest. That issue can best be raised—perhaps it can only be raised—through rejection of a premise which, by accepting and regulating nuclear weapons, serves only to institutionalize them.

To side with those who excoriate SALT for opposite reasons may seem unthinkable to some. But it must be remembered that the nuclear weapons makers and their lobbyists are not the only threat to peace. Equally dangerous is the notion that the threat can be averted through a process of accommodation.

As the quickening tempo of the nuclear arms race has made increasingly clear, SALT is the culmination of an accommodation process that goes back many years.

Two decades ago, outraged public opinion forced the superpowers to suspend nuclear weapons tests which were polluting the atmosphere with radioactive fallout. But rather than a comprehensive test ban that would have curtailed weapons development as well, the world settled for a treaty that permitted the testing to continue underground—and development has been escalating ever since.

A few years later, mounting concern about the worldwide proliferation of nuclear weapons was effectively dissipated by the signing of the Nuclear Non-Proliferation Treaty, which since 1970 has been scattering nuclear power technology and nuclear weapons know-how to the four corners of the earth.

The Nuclear Non-Proliferation Treaty focused attention and concern on the growing stockpiles of the nuclear weapons states, to which the superpowers responded with the concept of "strategic arms limitation," once again lulling the world community into inaction.

From a total of three or four thousand warheads when the SALT negotiations began in 1969, the U.S. strategic stockpile rose to 6,800 in 1972, when SALT I was signed. It now stands at 9,500 with the signing of SALT II, which permits it to rise to 14,000 by 1983. The Soviet stockpile, though smaller, has climbed correspondingly.

The allowance of such comfortable numerical ceilings—as high as either side could wish—is only one of SALT's many accomplishments. The SALT process has also permitted the nuclear establishments to introduce, bargain for, win, and then develop whole new weapons systems—the multiple warhead missile, the cruise missile, and now the mobile missile, a thirty-billion-dollar boondoggle extracted by the Pentagon as its price for accession to SALT II.

SALT has been equally successful in drawing attention away from nuclear weapons research and development (the mainspring of the arms race) and from burgeoning systems of tactical nuclear warfare—both conveniently excluded from the arms limitation agenda.

But SALT's most enduring and deadliest contribution has been its impact on the opposition to the arms race. Having claimed and won acceptance as the central framework for nuclear weapons policy debate, it has come close to destroying the only solid base from which a real alternative to nuclear war can be created.

The alternative to the nuclear arms race is not SALT or other forms of "arms control" which serve only to legitimize the steady buildup toward nuclear disaster. The alternative is nuclear disarmament. Its cause would be better served by defeat rather than victory for a policy which offers only the semblance of arms limitation.

If the United States and the Soviet Union are to continue their deadly game of "nuclear chicken," let them do so openly without the flim-flam of strategic arms limitation talks. The full realization that the arms race is out of control may be what the public needs to spur it to action.

If, as Alan Wolfe suggests in a recent issue of the Nation, SALT II is "the attempt of two declining superpowers to maintain their hold on a world that is slipping out of their control," then let the world thwart that effort while there is still time.

For Americans, let the demand for an accounting begin now, before the Senate is done debating irrelevancies. The accounting will matter little in years to come, when, from the rubble of the next world war, the accusing finger points not just to those who engineered the nuclear arms race but to those who always meant to stop it.●

THE EFFECT OF FEDERAL POLICIES ON SMALL FAMILY FARMS

● Mr. HATCH. Mr. President, over the last 2 days the Select Committee on Small Business, on which I serve, has held joint hearings with the Agriculture Committee on the impact and effect that Federal agricultural research and extension policies have had on small family farms. According to testimony in these hearings, nearly 70 percent of the Nations farmers can be classified as small, with gross sales at less than $20,000 per year. Yet these same farms receive less than 25 percent of the benefits of federally supported agricultural research. It is not surprising, therefore, to learn that these small family farms are being extinguished at a rate of over 5,000 per week.

Mr. President, this Nation thrives on technological innovation, and we have not lived up to our commitment to provide the genious needed to let the individual farmer compete. I do not think I am bold in suggesting that the private sector might have success where the Government has failed. As in any monopoly dominated field, however, agricultural research leaves little reward for the entering competition.

But agricultural research is beginning a new age, and big business would be wise to learn a new form of economic morality. Control Data Corp. has undertaken an agricultural research program which could set the trend in reversing the flow of family farm extermination.

The CDC program can identify, collect, package, and distribute specific crop and livestock technologies designed to achieve optimum use of available resources. These technologies, together with a companion use of individualized, computerized "how to" information will deliver a package of information to the small family farmer that, for the first time in years, can make a small family farm profitable.

The rewards for CDC are not extensive, nor are they imminent. But the broad social benefit of this venture belies attitudes of managerial greatness. Mr. President, this type of responsible, moral enterprise is the foundation of our great land. Risk, for the hope of freedom when the stakes are high, that is America.

Mr. President I would like to thank Mr. Ralph J. Thomson, general manager of corporate strategy implementation at Control Data Corp., for his testimony before our joint hearings. And I applaud CDC for boldly showing that true enterprise spirit of venturing where they have not been.

Mr. President, I commend the testimony of Mr. Thomson of CDC to my colleagues, and ask that the text of his testimony be printed in the Record.

The testimony follows:

CDC Small Family Farm Operations: Private Sector Approach

As the number of U.S. farms has drastically declined in the post-war period (3.5 million lost), it has been conceded that much social and political benefit to rural communities would be derived through improving the lot of small farmers. However, very few voices were raised to claim that smaller farm units would produce attractive economic benefits to their operators, or that they could become significant contributions to the food chain.

In light of recent economic events (largely induced by the energy crisis), there is a growing body of evidence that better solutions to many of the basic problems plaguing the nation's agricultural sector can be realized by means of the small family farm than can be achieved through the large capital-intensive operations so highly dependent on fossil fuels.

In many kinds of production, if given the right tools of resource management, education and innovative appropriate technology of operations, the small scale farm makes maximum use of the nation's agricultural resources with the least amount of environmental damage, and with the least expenditure of energy and capital. Thus, these hearings on the adequacy or inadequacy of current federal research and extension efforts are timely and vital.

Before processing further, I should provide my frame of references for discussing the term "small family farm" and what I mean by small farm "viability". Of the many definitions, I favor National Rural Center's broad working thesis, which highlights the entrepreneurial nature of the small agricultural unit:

The family or individual relies on farm income for a substantial part of its (his) livelihood.

The operating family or individual manages or controls the farm business and contributes the majority of the farm labor.

Family or individual income is moderate or less.

The "economic viability" of a full time small family farm should be defined as the ability of the operation to generate enough revenue on a continuing basis to meet all operating costs, service its debts, and provide a competent farmer with a reasonable standard of living. Instead of concentrating on farming operations with gross sales of under $20,000 (or $40,000 for that matter), it is more meaningful to focus on net income, with the goal of providing at least the economic equivalent of the national median annual income (currently $17,000).

It is a commonplace to note that America's small farm sector has been neglected and underserved by federal agriculture research and education/training programs. The basic orientation of agricultural research and extension policy has been to maximize returns on farm investments through the support of large-scale operations;

There have been some scattered "pluses" amidst the generally negative approach to small family farms:

(1) The effective paraprofessional programs in several states, as exemplified by the Missouri experience;

(2) The research programs on Integrated Pest Management;

(3) The recent increasing conceptual attention devoted by Secretary Bergland to the structural policy hindrances embodied in post-war farm Acts which provide payments and benefits based on large volumes of production;

(4) The low-interest limited resource farmer loan programs of the Farmers Home Administration; and

(5) New interagency emphasis on farm-sized energy production.

However, the basic pattern of neglect of the small farm still predominates. Federal policies continue to reveal a fragmented, piecemeal response to small-scale agricultural needs. Notwithstanding the landmark legislation of the 1970 Agriculture Act, 1972 Rural Development Act and the 1977 Food Development Act—all of which made special provision for small farm research and model/demonstration projects—no actual funds were authorized until fiscal year 1979, and then a mere $3 million.

The current Title V research program is at best moribund in its underfunded state.

The asymmetry between large scale and small-scale-oriented research and extension is vividly highlighted in the assignment of only $5 to $20 million (depending on the measuring rod) to small farms-related programs within the current $700 million research and extension budget. In short, either less than 1 percent or, at best 3.3 percent of that budget is allocated to programs serving 72 percent of the U.S. farm population. The Administrator of the USDA Extension Service, himself, recently admitted that only 5 percent of agriculture extension services and 25 percent of agriculture research services are of direct assistance to small operators.

And yet, there never has been any lack of substantive small-scale agriculture problems to address and to correct. We can start with the continuing rapid decline in the numbers of farms, much of it due to inefficient "know-how" in production technology, management of small enterprises and marketing of small farm products (to my mind, the most difficult issue). We continue with the increasing OPEC-punctuated menace of U.S. energy profligacy (including inefficiencies within the agricultural sector), the increase in bland, sometimes less nutritious foods put on American tables and the need for small-scale local or regional production/marketing to alleviate high packaging and shipping costs. We observe with mounting alarm rising costs of equipment and land, as well as the continuing environmental degradation through top-soil erosion, losses in fertility, pesticide contamination of our waters, and water scarcity—all by-products of large-scale, chemically-based farm operations. We view the limited market access for small producers who now face the loss of traditional, open, competitive markets because of contractual arrangements which limit or exclude the smaller operator. This list, regrettably, can be added upon substantially.

Thus, there is a demonstrated need to change the focus of current Federal programs in agriculture research and extension toward an increased emphasis on strengthening the position of the small family farm and associated small food processing operations.

My firm believes that such a shift is not only a reasonable and supportable, but an imperative proposition—one which will yield substantial dividends, not only to the small farmer or food processor, but to American agriculture in general (including large operators), the urban dweller, and the American consumer, wherever he may live.

We further believe that a key element in bringing about an effective re-direction is technology, broadly defined as knowledge or "Know-How", not merely information or data. And when we speak of assembling agriculture technology, we refer to "competencies" in three basic areas:

(1) Production, (2) small enterprise management and planning, and (3) marketing, especially regional and local. Capital, government policies pertaining to commodity prices, tax structure, inheritance laws, investment tax credit, etc., and other factors are important, but without technology appropriate to the task, capital and government policy cannot have the desired effect.

We are convinced that available technology (if properly packaged and disseminated) and future research (if vigorously and intelligently pursued) will lead to profitable and viable small family farm operations (without benefit of subsidies). The very existence of substantial numbers of currently available appropriate technologies holds the promise of the development of many more. More important the very existence of a number of successful small farm operations currently employing appropriate technologies, holds the promise of replication. These objectives cannot be accomplished overnight, but there is enough existing applicable technology to get meaningful results in a few years and—with adequate and continuing research support—reach national significance within ten to fifteen years.

Control Data is sufficiently dedicated to this idea that it will provide substantial seed monies to establish a degree of private sector momentum for initial activities, with a view to future joint funding and in kind inputs from public sources.

Our seed monies are directed to selected institutions and groups to stimulate the following areas:

1. Agriculture development programs emphasizing the comprehensive collection and packaging of sets of existing intensive crop, livestock and equipment technologies for viable small family farm operations and optimized for each U.S. agricultural geography.

2. Corollary agriculture research programs for ongoing R. & D. in environmentally protective, low-cost, energy-efficient farming practices and vertically integrated businesses.

3. Education and training programs based upon an extensive, yet focused, curriculum development project which will transmit skills associated production technology marketing and management package described in Item 1 above, and, as they become available, those referenced in Item 2. This generation of "How-To" curricula (which assumes productive links between the considerable expertise available in USDA Cooperative Extension programs, colleges and industry) will provide the foundation for a systematic educational resource, bringing to the small family farmer tools of production and management technology currently available mainly to large-scale operators. Education/training packages will be delivered principally through the flexible and transportable medium of individualized instruction and computer based education.

The first actual functional step in our small farm program will be the establishment of Control Data's initial AG Development Center in Central Minnesota. This will be an operational family farm project, which will assist in developing commercially and environmentally successful small farms and food processing buinesses. Utilizing the computer, this, and other planned AG Centers, will identify, then collect, package and distribute specific crop and livestock technologies. Each set of these technologies will be optimized to achieve maximum use of land, equipment, labor and capital for a specific geography, taking into account available processing, distribution and market demand. Companion, computer-managed individualized curricula will be used in training the farmers on the "How To" elements of employing each new technology or knowledge skill.

The services to be provided through this and subsequent AG Centers throughout the U.S. will include:

A. The establishment of model small farm operations reflecting new technology consistent with high production/acre, low capital investment, and decreased consumption of fossil fuels;

B. The provision of a full range of individualized, multi-media-based education and training courses to enable application of these technologies.

C. The creation of a mechanism to reserve large tracts of land for beginning and entry-level farm families, which will be transferred following subdivision into affordable smaller farms.

D. Assistance in the organization of efficient, centralized purchasing and the establishment of smaller processing units (and other related agribusinesses) which are essential to the profitable marketing of the agricultural crops.

E. Assistance in obtaining necessary financial services, both public and private.

F. Access to a computer which catalogs technologies and management applicable to small scale farming.

In the next few months we will provide an opportunity for at least ten entry farmers in Minnesota to start up and own small farms ranging from 30 to one hundred fifty acres and to employ all appropriate technologies necessary to produce crops which will provide a minimum net family income equal to the national median. Initially, the farms will concentrate on specialty products and small-scale animal agriculture involving intensive farming techniques.

After the proper processing and marketing infra-structures are in place, the opportunity will also be provided for several entrepreneurs to start up small point-of-production food processing businesses.

There are several other small farm projects to mention. One is the Pine County small farm project which Control Data has established at the request of sixteen existing Central Minnesota small farmers to help them improve operations and make a decent on-farm living.

The second is a small farm improvement project with Sterling Institute in Vermont. Sterling is a Vocational School that operates a small farm. This is the first step in my firm's investigation of the establishment of a series of competency-based small farm oriented short course agriculture institutes in selected U.S. rural locations.

A third program contemplates the establishment of AG Centers on two or three Indian Reservations.

In addition, two computer-based education and training centers in Louisiana and Mississippi will be established to assist southern (principally Black) small farmer organizations with basic mathematical and reading skills, as well as practical agricultural vocational technical training.

In addition to the supporting research grants and these small farm projects, my firm is sponsoring the start-up of several small urban food growing and processing businesses and investing in small companies developing products useful in small-scale agriculture.

What has been described in Phase 1 of our small scale agricultural program.

In a second phase to begin in late 1979, Control Data will solicit the involvement of other organizations in a rural development consortium called Rural Venture, Inc. which will expand the ranges and number of small scale operations to include other crops and products in additional areas of the U.S., and equally important, to plan and manage the implementation of comprehensive regional programs to improve rural living. Currently, no single entity—public or private—is capable of planning, distributing, and managing development resources, initiating business ventures, and stimulating applied research on a scale adequate to deal with the problems of rural America. The consortium will be similar to its existing urban counterpart, City Venture Corporation, which is composed of 13 businesses, professional and religious organizations now planning and managing implementation of the comprehensive programs for revitalizing blighted urban areas.

The Rural Venture consortium will not be a "developer" in the classic sense. Principal revenue will not come from ownership, construction and appreciation of land values. Rather, Rural Venture's main earnings will come from royalty income on technologies furnished, service income from training and education fees for providing farm management and production assistance, and fees from contracts with Federal, regional and state governments for developing and managing the implementation of programs for rural and community aid.

Rural Venture will market its services to community groups, towns, state and federal agencies. Where appropriate, investments will be made by the consortium in private, mainly small business opportunities and innovative projects to demonstrate advanced technologies related to rural development. Rural Venture will demonstrate that the building and rebuilding of the American countryside is a growth industry, providing opportunities for private enterprises to realize reasonable, long-term return on investments.

We believe that initiatives such as Rural Venture will magnify the impact of federal and other public resources. Acting as "private sector packagers," they can combine a variety of federally funded programs with private initiative, thus helping a community to build more self-reliance and the ability to better respond from within to its own changing needs rather than continuing to have so much dependence upon government programs and/or philanthropy.

SOME RECOMMENDATIONS

As I mentioned earlier, there is enough existing and emerging technology to make a meaningful start, but ongoing R&D is needed for small farms to achieve attractive profitability and to become significant food producers.

We would hope that funding for Federal agriculture and education will be redirected toward smaller scale operations in gradually, but significantly increasing amounts. The first year, for example, the need might be estimated at an additional $4–5 million, and thereafter increasing incrementally so that over a five-year period total new expenditures might be around $100 million. Perhaps as much as half would be required to augment education and training programs for small family farmers. But direction and management are more important than total dollars.

The current technical base for small farms and food processors must be broadened. The research and educational agenda is still considerable. Following are a few key categories for suggested new or ongoing R&D attention, many of which will be equally useful to the American farm community at large:

1. Renewable Energy Sources.
2. Energy self-sufficient farms.
3. Reduced energy Techniques.
4. Organic techniques/fertility cycling.
5. Alternative (minimum) tillage techniques.
6. Interplanting/intercropping.
7. Reduced Water Techniques.
8. Alternative fertilizers, pest controls.
9. Small-scale farm implements.
10. New low-cost-small-scale food preservation and storage processes.
11. New plant varieties for high-value crops.
12. Improved biological nitrogen fixation.
13. Year-round, energy-efficient greenhouses.
14. Small farm management techniques.
15. Small farm marketing systems, outlets.
16. New small farm organizations and models.
17. Comparative analyses of successful small farmers in developing countries as well as Israel, Japan and Western Europe.
18. New methods of disseminating information to small operators.

With the promise of new research breakthroughs, and the attendant social benefits of technological innovation on American small farms, it seems appropriate to close by citing a section of the 1977 National Science Foundation study on "Appropriate Technology and Agriculture": The resource, environmental and economic concerns which have surfaced in the U.S. over the past several years impact significantly on agriculture. No longer can one assume that the present agricultural methods are the sole way to produce food. The problems which confront a resource-constrained economy demand viable agricultural alternatives to large-scale energy and resource-intensive agriculture. The National Science Foundation, the Department of Agriculture, and other agencies such as the Environmental Protection Agency should build on current research efforts in this field. They should also support new research projects . . . leading to the evolution of an agriculture which is highly productive, environmentally sound and economically feasible.●

SYNFUELS

● Mr. McGOVERN. Mr. President, I have become increasingly concerned about the administration's recent energy proposals which focus on a massive synthetic fuel development program.

I concur wih the mood of Congress and the American public, that the Federal Government must take swift action on our worsening energy situation, however, it is apparent that our new-found passion for synfuels comes not from any deeply considered perception of our energy crisis, but from OPEC price rises and our constituent complaints about gas lines. Yet, absent any comprehensive understanding, the administration is prepared to embark on a synfuel program which will cost the taxpayer $140 billion.

Perhaps the greatest indicator of uncertainty in synfuels development, is that the coal industry, which should stand to benefit, and private investors have been hesitant in their support for synthetic fuels.

Another factor causing sizable concern, is that the administration is prepared to overlook the serious environmental problems associated with deriving liquid and gaseous fuels from fossil fuels. The President made it clear that environmental regulations must be bent or broken to accommodate rapid synfuel development. I am sure that many of my colleagues and I would be willing to allow for some loosening of environmental restrictions if we were assured that the President's program was an affirmative step toward energy security. However, as Richard Corrigan recently observed in a National Journal article on synfuels, "if these proposed plants are still regarded as lemons in the eyes of the private sector, it does not follow that they merit subsidies from the Government."

As an alternative, I strongly urge my colleagues to consider a national energy program which will provide substantial short term contributions to our energy supply picture. Such a program cannot focus upon those technologies which remain uncertain or policies that will promote dissent among the public. While it may be necessary to move ahead with synthetic fuels, such action should continue to be of an exploratory nature. Immediate gains can be made through a strong commitment to conservation and renewable energy, as discussed in the recent Harvard Business School study.

Mr. President, I request that an article, "Synfuels in Haste, Repent at Leisure," which appeared in the July 13, 1979 issue of Science magazine be printed in the Record.

The article follows:

[From Science magazine, July 13, 1979]

Synfuels in Haste, Repent at Leisure

A moonshot-style technical venture which could cost several times more than did the Apollo program seems likely to emerge in the next few weeks as Congress's response to the national energy situation.

Synfuels fever has hit Capitol Hill. On 26 June the House passed a bill committing the government to purchase 500,000 barrels a day of synthetic fuels by 1985 and 2 million barrels a day by 1990. The aim is to reduce reliance on imports, now running at 8.5 million barrels a day.

Building the plants to satisfy even the first production target could cost the taxpayer from $18 to $22 billion, the Congressional Budget Office estimates. An even more ambitious synfuels program is being pushed by Senator Henry Jackson in a bill already endorsed by 14 of the 19 members of his energy committee. One section of the bill authorizes nearly $5 billion for constructing 15 synthetic fuel demonstration plants. The full costs of the bill have not yet been estimated, but even supporters concede that they would be colossal.

Synfuels are the liquid and gaseous fuels that can be derived in a variety of forms from solid fossil fuels such as coal, oil shale, and tar sands. A handful of small commercial plants produce (synthetic) natural gas from coal in the United States, but so far the only liquid fuel plant operating on a commercial scale is the Sasol I plant in South Africa.

Congress's newfound passion for synfuels is viewed by energy analysts with a spectrum of emotions that runs from qualified enthusiasm to outright dismay. What is remarkable is that the coal industry, which should be the leading beneficiary of any crash synfuels program, has serious doubts as to whether Congress's various schemes will do more good than harm in making synfuels commercially viable. A confidential review prepared on 18 June by the staff of the National Coal Association suggests that the bills under consideration "may do little to speed up the commercialization of coal gasification or liquefaction. This evaluation does not square with either the professed desire of many members of Congress to move ahead with Synfuels or widespread perception in Washington that the legislative proposals are major steps forward—with great benefit to the coal industry. Thus, any position taken by the coal industry that doesn't square with popular wisdom may be difficult to explain."

Congress certainly believes it is doing the coal industry a big favor. Speakers in the House debate last month referred to America's commanding position in owning one third of the world's known supply of coal. "We could be the Middle East of the world in coal," proclaimed House majority leader Jim Wright of Texas, a leading instigator of Congress's backing of synfuels. Why then are the coal analysts so lukewarm about having Congress pump billions of dollars into their industry."

The problem lies not with synfuels but with Congress. The spur for action comes not from any deeply considered perception of the energy situation but from OPEC price rises and constituents' complaints about gas lines. Having done little about energy this year except reject the President's conservation and rationing plans, Congress wants urgently to be seen as taking positive action of some kind. "The American people are in the mood to do something, even if it is wrong," Senator Dale Bumpers, a supporter of the Jackson bill, said at a news briefing last month.

For the last 7 years, synfuels have been an idea whose time has never quite come. Somehow or other, the estimated price at which synfuels would become competitive with oil has steadily risen, always dancing a few dollars above the current world price of oil. In 1973, when crude was $3.50 a barrel, the cost of making oil from shale was reckoned at $4.50. With crude up to $17 before last month's OPEC price hike, synfuel oil from shale was estimated by the Department of Energy to cost up to $25 a barrel, and oil from coal even higher.

Uncertainty about the long-term price advantage of synfuels over crude is presumably one reason why the oil companies—which own 20 percent of the coal in the United States—continue to show so little interest in building synfuel plants. According to a study done by the Census Bureau for the National Science Foundation, private industry spending for research and development in synfuel production amounted to only $201 million in 1978, whereas $7.8 billion of private money was spent the previous year in exploring for oil and gas in the United States.

Exxon, which recently laid out more than $1 billion to buy an electric motor firm, is moving slowly on coal liquefaction, and then only with the help of Department of Energy contracts. "If these proposed plants are still regarded as lemons in the eyes of the private sector, it does not follow that they merit subsidies from the government," observed Richard Corrigan in the National Journal.

The Office of Management and Budget evidently shares the oil companies' judgment that synfuels' hour has not yet come. It slashed the fiscal year 1980 budget request for all synfuel projects down to $285 million—$70 million less than in 1979. Congress considered synfuels in 1975, when the House killed a Senate proposal authorizing $6 billion in loan guarantees; similar legislation failed by a one-vote margin in the House in 1976.

Up until 7 May 1979, when the second National Energy Plan was sent to Congress, the Administration's policy toward synfuels was to support a group of demonstration projects so that significant capacity could be built by private industry when oil prices rose high enough. Synthetic liquids, the energy plan predicted, would not make a significant contribution to national supply until 2000, when they would produce from 300,000 to 1 million barrels a day.

But at a breakfast meeting on 21 June with congressional leaders, Carter was persuaded to lend his support in principle to the Moorhead bill, a legislative sleeper which had suddenly come to life. The bill takes the arcane form of an amendment to the Defense Production Act of 1950. Its purpose is to guarantee a market for 500,000 barrels a day of synthetic fuels by requiring the Department of Defense to purchase that much by 1985. It passed the House by a margin of 368 to 25, including an amendment from Jim Wright—adopted by voice vote which raised the production target to 2 million barrels a day by 1990.

In the mind of its sponsor, Representative William S. Moorhead of Pensylvania, a major purpose of the bill is "to send a message" to the world that the United States is resolved to stand up against OPEC by increasing its energy supply. "We have had enough blackmail and extortion threats, we are fed up with our apparent inability or unwillingness to do something meaningful. And we are not about to go the way of ancient Rome." Moorhead explained in introducing his proposal to the House.

For those in desperate straits, synfuels are a technically viable option. The Sasol 1 plant in South Africa already produces 10 percent of the country's liquid fuel needs from coal. A work force of 20,000 is struggling to complete a second plant, the $1.2 billion Sasol 2, by 1981, and work has already been started on the $3.8 billion Sasol 3, to come on stream in 1982. The three plants will provide 47 percent of the country's current oil consumption. The contractor for Sasol 2 and 3 is the Fluor corporation of Irvine, California. The cost of production is classified information, but South African sources suggest that it is as low as $25 a barrel.

The United States, however, has a broader range of choices than South Africa. Critics of Congress's approach to synfuels believe a crash program to produce synfuels offers numerous opportunities for disaster. "People want action, but let's have action that doesn't involve shooting ourselves in the foot," says one synfuels expert. In his view, more demonstration plants need to be built before launching into mass production of synfuels. "The basic fact of the matter is that we don't know if shale oil costs $15 or $30 a barrel, if coal oils cost $35 or $50. Before you make major commitments you need to know where you are at."

Administration officials are willing to yield to the congressional penchant for synfuels to the extent of increasing the Department of Energy's synfuel plant demonstration program from two to perhaps five or ten plants, but they hope to avoid getting into any crash production program. "The stuff coming out of Congress is uncoordinated and not very well thought out, but nevertheless reflects an obvious groundswell of public feeling, and we have to do something more dramatic," says an Administration energy expert.

Outside Washington, however, some energy analysts believe strongly that development of synfuels should be left almost entirely to the private sector, and that the government's most useful contribution would be to stop interfering in the market mechanisms which otherwise would bring synfuels on stream in an orderly and efficient way. For the last several years U.S. energy policy has been to keep the domestic price of energy well below the world level. The policy has stimulated energy demand, discouraged domestic production, and in the process has had the effect of subsidizing oil imports from OPEC. Of the 8.5 million barrels a day imported by the United States, no less than 5 to 6 million are directly attributable to the low price policy, according to MIT energy analysts Paul I. Joskow and Robert S. Pindyck. They object to the Department of Energy's synfuels commercialization program because "offering government subsidies of one form or another to developers of new energy forms means requiring the nation to pay much more for energy than is necessary. This is exactly what government policy should avoid."

New York consultant Irwin Stelzer is another economist who opposes government subsidies for synfuel plants. Regardless of how much capital is needed, the market will find the money if it sees the profit there but not otherwise. "That's what economics does. It stops projects that nobody wants to pay for," he told the Energy Daily.

The reason why the coal industry is so lukewarm about Congress's synfuels visions is really that it perceives Congress as acting from motives of panic and political grandstanding rather than serious analysis. What will happen when the summer gas lines shrink and Congress recovers from synfuels fever? With the atmosphere of crisis past, Congress might not be willing to pass the further appropriations necessary to complete the projects. Such uncertainty about congressional resolve is unlikely to encourage investors. Even the possibility of government involvement can retard ventures by private industry, notes a staff review prepared for the National Coal Association, because private investors may not wish to assume the risk if there is any chances of the government doing so for them.

The review, a private report to the board of the National Coal Association suggests three possible postures that coal producers should take toward the bill designed to make America the Middle East of the world in coal. One course is to oppose the Moorhead bill outright on various grounds including that it "involves the government excessively in synfuels and may even be counterproductive," as well as distracting Congress's attention from action needed to permit increased coal use, a second course is to "explain why the bill provides little if any help," and a third is to support the bill "on the grounds that it is intended to be supportive of synfuels in general and possibly synfuels from coal, and may provide some new encouragement."

The review offers similarly underwhelming endorsement for the Jackson bill in the Senate, suggesting that the board of the National Coal Association either support selectively the bill's sensible provisions, if any, or else opposes the bill on the grounds that "many of its features have little or no promise."

In supporting synfuels Congress has its eye on national security as much as anything, and its fears are partly shared within the Administration. Synfuels could not help energy supplies for several years, but a crash program is seen by some as a signal of national resolve to deal with the energy problem. "OPEC takes our threats about synfuel production far more seriously than what we say about conservation," explains one Administration analyst. Others view the possible contribution of synfuels to national security as beside the point, since for its own security, let alone that of its more oil-dependent allies, the United States could not allow Middle Eastern resources to fall into the wrong hands: "We are not planning to abandon Western Europe and Japan just yet," says a congressional aide opposed to the synfuels proposals.

For congressmen, a crash synfuels program offers many temptations: thousands of new jobs, the appearance of dramatic action, no unpopular decisions. But the government has to appear credible in what it does, particularly to the private investors whom it wishes to help launch a synfuels industry, and to foreign observers. The problem is that credibility comes with making hard choices, and a moonshot-style synfuels program, at least in the forms Congress is now considering, could be just too easy.●

EDITORIAL FROM MITCHELL, S. DAK., ENDORSES NUCLEAR ARMS MORATORIUM

● Mr. McGOVERN. Mr. President, last week I announced my intention to offer legislation to the resolution of ratification for SALT II which would instruct our negotiators in SALT III to seek an immediate freeze or moratorium on additional deployments of nuclear weapons by the Soviet Union and the United States and an annual program of 10 percent reductions in all the aggregate and sublimit launcher totals for 3 years. A summit conference would be convened after 3 years of these percentage annual reductions to evaluate the process.

Shortly after I made this proposal, Vice President MONDALE visited South Dakota to present the administration's position on the SALT II Treaty. Several of the participants at the meetings with the Vice President as well as several editorials noted my concern that SALT may not be achieving its arms control and reductions purpose. I was especially pleased to read the editorial comment on SALT in the Daily Republican, published in Mitchell, S. Dak., which concludes that my moratorium and reductions proposal is "important to the pact—an assurance that we do not find ourselves getting into a bigger race than we have now with the Soviets."

For the consideration of my colleagues, I ask to have printed in the RECORD the Daily Republican editorial on SALT.

The text of the editorial follows:

[From the Daily Republic, July 21, 1979]

SALT II: THE DOUBTS

SALT II might not rate in the top two crisis areas when we talk about the problems of President Carter, but it does have a good deal of impact on the future of our defense posture.

With that in mind, Vice President Mondale is doing his best to convince the American public that the intentions are good and that the end result will be an agreement of positive nature.

But the concerns of a good many senators, including those of our state are genuine. There is—in the mind of the vice president—very few in the elite 100 Club who have made up their mind on how they will vote.

While the Administration is hopeful that the vice president's trip will help impress upon the constituents of those senators the value of the treaty, it is unlikely that there will be much input from the public when it comes to voting for or against ratification.

Sen. McGovern has questioned the pact even though he is one person the Carter camp thought they could count on. While McGovern has always maintained a dovish stance on arms buildup, his points of concern are legitimate.

He asks that the treaty go further in reducing the super power arsenals. The loophole to his support would be the simultaneous passage by the senate of a resolution calling for negotiations to work on a moratorium on a new arms system plus ten per cent overall cuts of strategic arms over the next three years.

His view that the treaty could be interpreted as a arms buildup rather than control is shared by other undecided senators. While the administration's intentions might seem good, there is enough evidence in the wording of the treaty that can justify that fear.

We believe the resolution is important to the pact—an assurance that we do not find ourselves getting into a bigger race than we have now with the Soviets.

We agree with the vice president in his analysis that there has to be trust in treaties though.

"If we take the position that treaties are meaningless then we might as well forget them."

True. We need treaties and we need treaties based on their ability to gain maximum amount of impact. We also have to negotiate them with the idea that the other party can be trusted in the keeping of the provisions of that document. In the case of Russia, we have no greater a gamble with guarantees than we have with others whom we ink treaties with. But regardless of who we make them with, we must be assured without doubt, that our position is the one that can give us the most reassurance that we are getting a fair deal.●

ADDRESS OF DR. AURELIO PECCEI, THE RECIPIENT OF THE CHARLES A. LINDBERGH AWARD FOR 1979

● Mr. PELL. Mr. President, on May 22, 1979, Dr. Aurelio Peccei of Turin, Italy, received the Charles A. Lindbergh Award. This honor is presented anually to a person who, in the judgment of the board of directors of the Charles A. Lindbergh Fund, has dedicated himself to achieving a balance between technological growth and environmental protection. The fund, itself, was established in the 50th anniversary of Lindbergh's solo flight across the Atlantic.

Dr. Peccei is only the second person to receive the Lindbergh Award. The first international award went to Robert O. Anderson, chairman and chief executive officer of the Atlantic Richfield Co., chairman of the Aspen Institute for Humanistic Studies, and a supporter of numerous civic, educational, and cultural endeavors.

Aurelio Peccei is indeed a distinguished and highly qualified individual, and is certainly most deserving of this very high honor. His business career is one of outstanding achievement. Dr. Peccei joined the Fiat Co., of Turin in 1930 and has been a member of its management committee since 1950. He heads the Latin American affairs division, and is chairman of the board of Fiat Concord of Argentina. He is also chairman of Italconsult, which is the foremost firm of engineering and economic consultants in Italy, and has served as president since its incorporation in 1957. From 1964 to 1967 Dr. Peccei was president and chief executive of the Olivetti Co. of Ivrea, and today serves as vice chairman.

During World War II, Dr. Peccei was active in the Resistance Movement of Italy and served 1 year in jail as a result of those activities.

Dr. Peccei is equally well-known as the founder and a member of the Club of Rome, which was established in 1968 by 30 people from 10 countries. These people shared a mutual concern that the problems confronting our world were inextricably bound together and that solutions could be sought only on a world basis involving the cooperative efforts of all nations.

Mr. President, as a member of the Club of Rome, I have long been impressed by the breadth of knowledge and the far-sighted wisdom of Dr. Peccei. I had the privilege of speaking at the ceremony at which Dr. Peccei was presented the Lindbergh Award and the pleasure of hearing his remarks on accepting the award.

Those remarks are an indication of this man's extraordinary talents. His words, however, are meant for much more than simply a demonstration of his considerable abilities. They have a particularly meaningful ring for our Nation, which today finds itself in the midst of a national crisis, the roots of which go far beyond the question of energy. The crisis, as Dr. Peccei points out so clearly, is the direct result of an untrammelled, headlong rush on behalf of technological advancement without concern for the exhaustion of resources and destruction of our environment. It is a crisis which has reached the point where the very existence of all mankind and the planet we inhabit is at stake. If we are to survive, the need to balance knowledge and nature is not only critical but essential.

Dr. Peccei's message is one of urgency. It merits both thoughtful consideration and careful action by all of us, and I ask that the text of Dr. Peccei's address be printed in the RECORD.

The address follows:

REMARKS BY AURELIO PECCEI

Like many other millions, I first heard of Charles Lindbergh when he had just started his solo flight over the Atlantic, and already was between stars and ocean, alone with his soul and his daring. He suddenly conquered our hearts and imagination. We felt we belonged with him in his hour of triumph; and this occurred again after a few years, in his hour of grief and tragedy. Only much later we learned of his commitment to and love for Nature.

Now, in retrospect, he appears to us as one of those rare individuals who, endowed with special gifts, are capable of encompassing within their sights a great many facets of our polymorphic life and of making a synthesis which escapes the vision of other people. And since a holistic approach has patently become indispensable, one begins also to realize how great Lindbergh's merit really was, for he perceived all this so many years ago.

If I may say a word of appreciation for the promoters and directors of the Charles A. Lindbergh Fund as well, it is for the purpose which inspired them in wanting to make these ideas known among the public at large, bestowing grants and awards on people who in meritorious though different ways try to apply the teachings of Lindbergh. I am profoundly grateful and moved for having been selected this year as one of those to receive this high honor.

Lindbergh grasped the need for a balance between technological progress and protection of the environment way before modern technologies acquired the tremendous potency they have today or the ecological conscience became the strong motivating force it has come to be. He said this more poetically and more precisely with the words which have been adopted by the Fund as its motto: "The human future depends on our ability to combine the knowledge of science with the wisdom of wildness".

With your permission, I will try to interpret the message Lindbergh entrusted to this simple and comprehensive equation, and use it to cast light on some flaws which render our current thinking so inadequate for facing up to the unprecedented challenges of our time. This may be my modest contribution to the updating and upgrading of this thinking.

When reasoning about the human future, it certainly is inappropriate and unwise to refer to science in a reductionist manner. This is, however, what invariably is being done. The usual shortcut is to consider science as constituted by just a few disciplines singled out to represent it, such as the exact sciences or the hard and biological sciences alone. Whatever the breadth of the boundaries one may wish to assign to these elite sciences, such an approach is erroneous and misleading. To exclude from the "inner realm" of sciences the human and moral sciences or any other branches of knowledge is not only unwarranted but also likely to perpetuate attitudes riddled by preconceptions and misconceptions. Our vision of the state of our terrestrial abode and our condition in it has in fact become partial and distorted and, as a consequence, incomplete or slanted is also our action, to the point that what we often consider to be "problems" or "solutions" have instead little connection with reality.

A reason one sometimes hears to justify why the so-called soft sciences are kept in the background is that they cannot be, or have not yet been, systematized like the hard ones, and thus are more prone to subjective or controversial formulations. While this may be true, it is no less true that this is to a large extent precisely due to the way our material civilization has neglected ideas and programs which have to do with "the soft underbelly of society", investing instead almost all available time, talent and treasure on those which hold a promise of "progress and growth". There are thus at present gross imbalances between different branches of knowledge, and yet we tend to concentrate almost exclusively on the development of some, while disregarding the bulk of the others. The detriment of this ill-advised stance is aggravated by the prevailing technological trends, because it is technology which has the greatest impact on world developments, and its polarization toward certain sectors is even more accentuated than that of science.

Poor judgment and misplaced priorities have put humankind in a spot. Using the science-technology complex as its cutting edge, in a couple of decades humankind has made fantastic breakthroughs in some directions though remaining stagnant on other fronts. Such a very uneven performance has created socio-cultural distortions and disorder throughout the whole system. From institutions to the economy, from urban settlements to the remotest villages and their environment, from the productive establishment to modes of life, disharmony reigns supreme.

The need to revise the scope and the very concept of science and technology has been recognized and reiterated time and again, particularly since science policy has become an important item of debate. If science is to serve humanity as a whole and if its applications through technology are to be developed so as to ensure the maintenance of a social and natural environment suitable for human life, the entire enterprise will have to undergo a major reorientation in terms of objectives and practices very different from the present.

If I may be allowed to imagine what Lindbergh had in mind mentioning "the knowledge of science" as the first term of the equation, I submit that it is "human knowledge" in both its full theoretical sweep and practical implementation. As English is not my mother tongue, I often turn for linguistic support to Webster's. This defines knowledge as "the sum total of what is known; the whole body of truth, fact, information principles or other objects of cognition acquired by mankind". This is, truly, knowledge. There is no limitation in this concept. I believe that Lindbergh, accustomed as he was to the wide-open spaces, would not have wished to put limits to it.

This interpretation leads by necessity to a similarly broad one of the second term of the equation. Lindbergh called it "the wisdom of wildness". We may call it the wisdom of Nature, for wilderness is the very heart of Nature. No doubt, this wisdom dwarfs any human knowledge. We are steadily unveiling the mysteries of life and matter but all we are actually able to do is merely to scratch at their surface. For sure, the ways of Nature have been developing unceasingly by trial and error and a myriad other processes for many thousand million years, while only relatively recently homo sapiens, Nature's last child, succeeded in struggling out from the family of hominids to start his own, unique venture.

Even if his appearance dates, say, as far back as 500,000 years, or 5,000 centuries, initially he was just a weakling on the defensive, and his presence in the world was scanty and scattered. He was, however, developing a cunning mind and peculiar skills by which to pile up knowledge and apply it at will, in order to increase his capacity in the struggle for life and protect himself from the hazards of the environment. But it is only in the last period of his existence—by and large 100 centuries, which correspond to what we generally call historical times—that he set out in earnest to explore and colonize the planet, enhancing his rule or proving his worth by founding mighty empires and shining civilizations, and lifting his spirit to conceive great religions. This is the period in which he asserted himself as the dominant species among all others.

During the last two centuries, however, things started to change again, first slowly, then ever more rapidly and drastically. Having taken command, man began to launch one revolution after the other—the industrial, the scientific and the technological revolutions in succession, which all but mutated the order and nature of things on Earth. Indeed, the tremendous accomplishments achieved by these revolutions are so far-reaching that man's previous painstakingly acquired experience has been rendered utterly irrelvant practically overnight.

The watershed between the two epochs was marked by the appearance in recent decades of high technologies and complex artificial systems—in aerospace, defense, production, transport, communications, information, data storage and retrieval, etc.—which have radically transformed life on the planet. The man-made world soon became not only gigantic and formidable, but even monstruous. That is why man found himself increasingly unable to adapt to the extraordinary transformations, wrought by him. And he was confronted by another unexpected and bewildering development. Though the increasingly more complex systems he was able to engineer were interlocked with the ecosystem's delicate networks. they lacked the latter's self-regulating and self-healing, homeostatic qualities, and thus began to destabilize the ensemble.

Not even Nature's experience and wisdom were prepared for such an onslaught. It was now the turn of Nature to be on the defensive; and if it were itself thrown off balance, the consequences would be unfathomable—perhaps not for some lesser species, but almost certainly for the arrogant homo sapiens.

A moment of truth is thus approaching and may arrive even before the end of the century—just a tiny instant in the clock of the universe, but enough for humankind to jump from four to six thousand million and escalate its formidable might to a new acme. It is therefore essential and urgent for man to realize that he has to undertake responsibility for these regulatory functions concerning the entire natural-artificial system complex which he previously thought were the domain of Nature or of Providence. According to Julian Huxley, "his role, whether he wants it or not, is to be the leader of the evolutionary process on Earth, and his job is to guide and direct it in the general direction of improvement".

Is not this the essence of Lindbergh's message? The lesson we all have to learn from it and from our own reasoning is that never before has human fate depended so decisively on our collective attitude toward the natural world. It is in fact up to us to choose and shape our own future on this beautiful but vulnerable planet. By living in harmony with the texture of life on Earth, we can do what is required not only to sustain our present swollen population but even to accommodate decently the even greater numbers expected in the foreseeable future; or, we can do the opposite and continue to sap this planet's life-supporting capacity, ending by wiping out our own species by creeping ecocide, as thoroughly as we now can with a bang by nuclear suicide.

As I have mentioned, the appearance and expansion of our species, viewed in perspective, is just a brief episode in the majestic evolution of Nature which begot it, perhaps in a spring of glory or maybe in a season of confusion. It would be—or, simply and very plainly, it is—supremely foolish of us to disregard the fact that we are part and parcel of this immense evolving whole which not only brought us about but unceasingly provides the conditions which permit us to remain alive, or even to entertain the illusion that we have unlimited proprietory rights over it, but no liability at all. Our belongingness to Nature, as the primary fact of our existence, is fraught with obligations. Anything we do to weaken Nature, ultimately weakens us.

The pervasive human crisis of our time has profound roots in the incoherence of our thinking and behaviour with respect to this overarching reality. What is more, our present thrust is directed at changing this reality in a way which widens still further the gap between us and it. This is a disastrous course indeed. It would however be premature to draw the conclusion that it can end only by our own ending. For all its gravity, the situation is still manageable because the human creature, who has become the main agent of change on Earth, has still other and largely unused reserves of intelligence and moral resources in his inner self, which can lead him to discover his own foolhardiness, and thus set out to catch up with the degrading global situation and turn it around before it is too late.

Let me conclude with this hopeful note. The conviction that our terrestrial salvation lies within our reach inspires the latest project sponsored by The Club of Rome on the human learning capacity or learnability. A Report will be presented on June 6–8, 1979 at a large international meeting in Salzburg, Austria. The ideas it brings forth support and complement Lindbergh's message.

To apply "the knowledge of science" to understand the depth and breadth of our interconnections with Nature is to take a first, essential step toward redressing our lopsided condition. The clarification it will produce, tremendously important in itself, will almost inevitably trigger off a chain reaction of other steps and clarifications enabling human kind to establish responsibility its course toward the future. To put fresh order into our relations with Nature is therefore tantamount to laying the foundations for another phase of human ascent and self-fulfillment.●

SKYROCKETING HEALTH COSTS

● Mr. HEINZ. Mr. President, a nation battling a major economic recession cannot sidestep the issue of skyrocketing health costs. All Americans have found themselves seeking substantive cutbacks of every sort, and nowhere are we more conscious of fiscal restraint than in the area of health care. Patients, doctors, hospital administrators, and legislators are learning to overcome the myth that whenever the medical community provides a service accompanying costs must be exorbitant.

I have consistently fought to lower health care costs and to eliminate waste. In this session of Congress, I cosponsored the Health Insurance Reform Act to amend the Internal Revenue Code of 1954 and the Social Security Act to encourage competition in the health industry and to induce employers to offer catastrophic health insurance to workers. My reading of a recent article by Robert M. Heyssel on "The High Cost of Health" has led me to reflect in greater depth on the complicated issues associated with reducing profligacy in health care without jeopardizing the provision of the best possible health services for all Americans.

Equity and practicality should direct all efforts by this Congress as we move toward the adoption of some form of national health insurance, but the question of whether the long-term problems of inflationary health costs can be eliminated remains. The suggestions which Mr. Heyssel has mentioned are noteworthy and seem to support my belief that the Health Incentives Reform Act is moving in the right direction. Only by building on a successful model of a health maintenance organization, by opening up free market competition in hospital care, by establishing "a basic but clearly limited set of covered benefits that all third-party payers must offer," and by stimulating new knowledge and new technology can this Nation overcome the high costs of health care. I believe that Mr. Heyssel's article is cogent and ask that the text be printed in the RECORD.

The article follows:

THE COST OF HEALTH

(By Robert M. Heyssel)

BALTIMORE.—The debate over the medical-care "crisis" and how to solve it may well have reached a crisis of its own.

Out of sheer frustration with the plethora of conflicting facts, polls and proposed solutions, we may find ourselves willing to adopt a "do something—anything" approach in order to put an end to this confusing and exhaustive debate.

It would appear that no problem or issue in American society today can be characterized as other than a "crisis." Perhaps the attention of the citizenry can only be gained by warning it that all or part of the Republic is in danger of imminent collapse.

To ignore the health-care-cost problem or deny that it is of concern to Americans would be wrong.

But to tell the American people that a comprehensive national health insurance program will get them more medical care at no more cost or only slightly more is equally wrong.

To argue that costs will not rise as rapidly with a full-blown system of national health insurance ignores the experience of other nations.

There is a series of problems in American medicine today, not a "crisis." These problems are not peculiar to any of the highly developed countries, nor difficult to understand in a historical context.

The fact is that our problems grow directly out of a broad range of scientific discoveries, of societal change and political decisions.

All of them stem from success: success in biology and physics, and the application of that knowledge to medicine.

While it's popular to blame the doctors, medical schools and the hospitals for the "crisis," one might as well blame the physicists. They, after all, helped put together the framework of understanding and the technology that made possible modern biological investigation.

This, in turn, led to the explosion of medical technology that we have today and the demand of the people that it be made widely available to everyone, a demand responded to by the Government.

Research and technology have changed the product and the results of medical care in the last two decades. We are not paying for iron lungs and orthopedic repair of polio-damaged limbs. Pneumonia does not kill 30 percent of its victims. But we are paying for kidney transplants, total hip replacements, coronary bypass procedures, and radiation treatments, along with sophisticated emergency care of severe trauma patients. A day in a cancer hospital can cost up to $600.

Each new medical or scientific breakthrough improves the quality and the outcomes of care, but in most instances the cost of care rises proportionately.

Incorporating the latest advances in medical treatment while combating the forces of inflation in supplies, labor and energy is a daily challenge for hospital administrators and others seeking to provide quality care at a reasonable cost.

Solving the health care cost problem may be difficult, but we should capitalize on present strengths and not be crisis-oriented.

Stimulating competition, forcing some changes in the current system where needed, is in the long run a less risky and better alternative than the proposals that seek wholesale change under the legislative and regulatory aegis of the Federal Government.

We should not set out to dismantle the system we've put in place with great effort and at great expense.

First, there is a need to change the way the medical system pays both physicians and hospitals. The customary fee-for-service system for surgeons and physicians is a mechanism constructed to lead to over-use of many available procedures. We have a successful model of one alternative—the health maintenance organization—and we should build on it. There is evidence that competition will work and can provide high-quality accessible care.

Second, we must move away from cost reimbursement for hospitals and toward incentives and pricing policies that create something more akin to a free market.

Third, we need to establish an element of personal choice and responsibility in the payment system. We need to establish a basic but clearly limited set of covered health benefits that all third-party payers must offer. There should be sharp limitation on hospital coverage, based on diagnostic and medical condition, with no or partial payment for purely elective or cosmetic procedures or treatment, and full coverage for necessary or vital care related to disease or illness. Purchase of insurance to cover the elective or cosmetic care must be paid for by the recipient or counted wholly as taxable income if provided as a fringe benefit.

Finally, we need to understand that our way out is not through cutting off research money, maintaining the status quo through regulation, or sliding into a federally dominated system through federally financed and regulated national health insurance.

Rather, relief will come by stimulating new knowledge and new technology and through increased competition brought about by restructuring the incentives and choices for hospitals, physicians, and the consumers of medical care.●

THE BENEFITS OF HOME INSULATION

● Mr. CULVER. Mr. President, I would like to share with my colleagues a revealing column published recently in the Washington Post regarding the vast potential for energy savings in America's homes. The column focuses on the need for widespread weatherization of our Nation's residences, and suggests that current levels of home weatherization are very inadequate.

As we all know, the price of crude oil is at an all time high and likely to climb higher. Currently, foreign oil is selling for around $20 a barrel and further increases may be only months away. In less than 2 years, the price of domestically produced oil will be reaching the level of foreign crude, which by then some say could be selling for $30 or more. As far as synthetic fuel is concerned, the cost of deriving liquid fuel from coal is estimated between $27 and $45 per barrel, and shale oil is expected to cost $25 to $35 a barrel. In stark contrast is the cost of conserving a barrel of oil through residential conservation: Recent administration figures put the estimated cost of saving the equivalent of a barrel of oil a day at less than $10.

As the column points out, home weatherization improvements include calking, weatherstripping, adding storm windows and doors, tuning up furnaces, insulating attics and sidewalls, and covering various openings with plastic or other materials to stop air leakage. Some, or all, of the home repairs may reduce heating fuel consumption by perhaps a fourth to as much as three-fourths. The potential energy savings from eliminating energy waste in American homes is estimated around 1.6 million barrels a day, which is more than half the world shortage of oil in recent months.

The immediate and permanent advantages of insulating one's home include the obvious savings of perhaps hundreds of dollars a winter in heating bills, an increase in the value of the home, as well as a cooler home in the summer, meaning reducing air-conditioning bills in many homes. This type of conservation does not involve personal sacrifice such as enduring colder home temperatures or reducing one's amount of driving. In fact, it actually saves money over a period of years.

But besides being less expensive, conserving a barrel of oil through home weatherization has many other benefits over importing or producing another barrel of oil. Full-scale home weatherization would create hundreds of thousands of productive jobs. It would reduce our dependence on foreign oil, lessening our vulnerability to foreign pressure and disruptions in a steady supply of crude oil. It would lessen our reliance on an expensive synthetic fuels program.

Widespread weatherization offers the potential of dramatic short- and long-term payoffs in energy conservation, instead of waiting until the late 1980's or the 1990's to realize significant returns. And by lessening demand on the world oil market, strengthening the dollar overseas, and freeing Federal funds—in addition to lowering utility bills—residential conservation would reduce inflationary pressures.

Mr. President, since 1973 the Federal Government has been operating a very promising low-income home weatherization program, of which I have been a strong supporter. Although it has weatherized some 500,000 homes at no charge to the poor and elderly owners, that represents only a dent compared to the estimated 8 million substandard homes in need of such improvements. We in the Congress must insure that this vital program operate at maximum efficiency, unhindered by shortages of funds, materials, or labor.

Also, Congress has created a tax credit of up to $300 for 15 percent of the cost of energy saving home improvements, such as insulation, storm windows and doors, efficiency-enhancing furnace modifications, and related measures. This serves as an added incentive and savings for taxpayers to undertake such needed home improvements.

Mr. President, the fundmental imbalance in energy consumption and supply that is causing our energy crisis will not be solved quickly, easily, or through one or two measures. Increased conservation or production alone will not do the job. We should not view full-scale home weatherization as an alternative to any other approach—indeed the more sound strategies we adopt the sooner we can correct the energy shortage and ultimately achieve energy independence. But neither can Congress afford to consider any realistic energy package that underemphasizes the vast energy-saving potential home weatherization has to offer—particularly given the fact that it is more economical, relatively painless, less inflationary, and has dramatic short- and long-term payoffs.

Mr. President, I urge my colleagues to give this article their close attention and consider the vital role home weatherization can play in solving our energy crisis. The authors are with Princeton University's Center for Energy and Environmental Studies. I ask that this column from the July 24, 1979, Washington Post be printed in the Record.

The column follows:

Saving Energy at Home

(By Lawrence J. Becker and Gautam S. Dutt)

Lost in all the talk about new and exotic energy sources—synthetic fuels from coal, oil from tar sands and shale, electricity from the sun, etc.—is a less exciting but very real and practical way to increase our energy availability. This energy resource comes not from the sky or from under the ground but from our homes. By eliminating energy waste in home heating, the equivalent of 1.6 million barrels of oil a day becomes available for gasoline and other energy needs. This is three times as much oil as we imported from Iran before their revolution, and almost half of what we now import from Arab and Iranian sources.

Despite the great potential that exists in boosting residential energy efficiency, relatively little attention has been paid to this alternative. Perhaps this is because people are not aware of how much could be saved. Perhaps energy efficiency is linked in people's minds to conservation, and to many people conservation means freezing in the dark. Or maybe it is because improving energy efficiency does not catch the imagination like advanced-technology programs, such as landing a man on the moon.

Although there has been no concerted effort to improve residential energy efficiency, the need for such improvement has not gone totally unrecognized. The Department of Energy has proposed a program to encourage the installation of energy-conserving measures in existing homes. The program is centered around "energy audits," similar to those being offered by some utilities. During an audit, a technician examines a home for energy-wasting defects, such as inadequate insulation, cracks around doors and windows and the lack of storm windows. The resident is left to follow up on the auditor's recommendations. DOE expects the program to benefit only a quarter of U.S. households and to save 200,000 barrels of oil a day by 1985. This is only one-eighth of the savings that could be achieved economically.

There are several reasons why DOE so greatly underestimated energy savings. A major reason is that its audit focuses only on some of the more obvious areas of energy waste. However, studies conducted by Princeton University researchers have shown that greater waste occurs because of heat lost through obscure air leakage paths. Although most obscure heat losses are difficult to detect, they can be eliminated with little extra effort when they are identified.

We recommend the following prescription for saving energy in the home. A pair of "house doctors," trained technicians, enter a house carrying diagnostic equipment and about $10 worth of building materials. As they walk through the house looking for obvious defects, they identify and eliminate obscure heat-loss paths. For example, when checking insulation levels in the attic, they seal openings around flues and pipes by stuffing them with glass fiber and close small cracks with caulking compound.

They close larger air-leakage paths, such as those above dropped ceilings and stairwells, by taping or stapling a sheet of polyethylene over the opening. They install foam gaskets to reduce air leagage through electrical switches and outlets on outside walls. They also tune up the furnace. According to our experiments, about 20 percent of the space heat may be saved in a typical house by just these on-the-spot improvements. Thus, sizable energy savings will be achieved in all houses visited, even if residents themselves take no followup action.

How can residents be encouraged to achieve the large energy savings that are nationally desirable? One way is to permit utilities to finance the conservation measures and to include the investment in their rate bases. The resident would pay for the conservation measures only when the house was sold, presumably at a higher price that reflected the improvements. Utilities would also benefit, because financing these improvements would be cheaper than expanding supply. A form of this plan is being tried in Oregon.

The process of upgrading the nation's homes can start today and yield results much sooner than most supply-increase options. The house-doctor calls would cost residents $10 billion, but would save them $102 billion at today's price of imported oil. This would be cheaper than importing oil at $2 a barrel! If all oil- and gas-heated homes were upgraded to the cost-effective limit, the nation would save $173 billion in foreign exchange over the life of the improvements. The fuel savings per household would average $280 per year.

Conservation through improved energy efficiency has many advantages. People will not have to sacrifice comfort or convenience to save energy. Increasing energy efficiency will also reduce pollution and inflation, create jobs and, perhaps most important, reduce our dependence on foreign oil. Given these benefits, can we afford not to undertake a major program to make our homes more energy-efficient?●

HOW TO OBTAIN A GOVERNMENT PERMIT TO START A STILL

● **Mr. BAYH.** Mr. President, interest and enthusiasm over alcohol fuels has increased steadily over the last several months as gasoline available to motorists has steadily decreased and prices have risen. President Carter indicated in his energy speech of July 15 that his administration plans to make significant strides toward the goal of alleviating our Nation's dependence on foreign oil imports by encouraging the use of alternative fuels, including alcohol fuels. I was encouraged by the President's mention of gasohol in his speech, as it is the only alternative petroleum substitute immediately available to the Nation.

As Chairman of the newly established National Alcohol Fuels Commission, and in my capacity as Senator from Indiana, I have received numerous requests for information about Government procedures for granting permits for the production of alcohol fuels. Many of these requests are from individuals who would like to produce enough alcohol to run their own vehicles. However, the instructions issued by the Government to date have been discouraging in their complexity. I have been working with the Bureau of Alcohol, Tobacco and Firearms to insure that the Government assists citizens interested in this new alternative energy source, rather than discouraging them with complex and fruitless regulatory burdens and jargon.

On April 22, along with 20 of my colleagues, I introduced S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979, which will grant the Secretary of Treasury the authority to waive needless regulations for alcohol fuel production as well as to streamline those that are necessary.

Until the time that S. 1200 passes the Congress, and needless redtape can be cut, the best option available to individuals who want to establish a still is to obtain an "experimental" permit. This can be done by writing a letter to the appropriate regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms describing, in detail, where the still will be located, what use will be made of the alcohol, and the process that will be used to produce it. Upon receipt of this letter, the ATF will issue an experimental permit which allows the production of alcohol for use on the owner's property only. Additional forms are also required by law to report on the still's impact on environmental and water quality. This procedure is a considerable improvement over the steps required of large commercial producers, and can easily be utilized by small scale alcohol fuel producers who would like to make their own energy.

The Bureau of Alcohol, Tobacco, and Firearms recently issued information explaining clearly, but in detail, the necessary procedures to follow when an experimental permit is sought and ATF's regional office addresses. I ask that this information be printed into the Record.

The material follows:

Gasohol and ATF

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for administering the laws in the Internal Revenue Code which relate to distilled spirits (alcohol).

THE LAW

The Internal Revenue Code of 1954, 26 U.S.C. 5171 states:

(a) "Every person shall, before commencing . . . the business of a distiller . . . make application for and receive notice of the registration of his plant."

(b) "Every person required to file for registration . . . shall, before commencing any . . . operations, apply for and obtain a permit . . ."

APPLICATIONS FOR DSP PERMITS

The law provides for two types of distilled spirits plant (DSP) permits. The operating permit authorizes alcohol to be produced for sale or any nonexperimental purpose. The experimental DSP permit authorizes experimentation and development of distillation and industrial uses of alcohol. The experimental DSP permit does not authorize the sale of alcohol.

Qualification of a DSP for an operating permit is an extensive procedure which requires preparation of numerous forms and the conduct of investigations to determine whether operation of the DSP can be legally approved.

Qualification for an experimental DSP, which would authorize production of alcohol for personal fuel use, not for sale, is much abbreviated. There are no prescribed forms. Write a letter to the Regional Regulatory Administrator for the region where the plant is to be located.

Your letter must completely describe all land, buildings, and equipment (stills, vats, tanks) that will be utilized in producing the alcohol. The letter should also describe the planned uses of the alcohol (e.g., heating fuel, lawnmower or other engine fuel, etc.). If you intend to use the alcohol as a fuel in a motor vehicle, you should describe the property on which the vehicle will be operated. You may describe the portion of your property which you wish to comprise your experimental plant by a drawing. You should describe the process you will use to produce alcohol including feedstocks, yeasts, enzymes, and distillation method. Describe the type of security you will use to protect the alcohol you produce from theft or other unauthorized removal from your premises.

Include in your letter application your estimate of the amount of alcohol you intend to produce during any period of 15 consecutive days. If your application to operate an experimental plant is approved, you will be required to file a distiller's bond in an amount sufficient to cover the liability for Federal tax on alcohol you produce during any 15-day period. You must also provide environmental and water quality information relating to your proposed plant. The bond form ATF F 2601, and Environmental forms ATF F 4805 and ATF F 4871, may be obtained from the regional office.

Alcohol produced may be used only at the plant premises (i.e., the land which your application describes as experimental distilled spirits plant premises) in experimental processes; none may be sold or given away. Any alcohol removed from your premises must be taxpaid at the rate of $10.50 per proof gallon or completely denatured in accordance with one of the formulas listed below.

A permit or authorization issued by ATF does not relieve you of responsibility for complying with any state and local requirements concerning the production and use of ethyl alcohol.

Please contact us or our office in your region if you need further assistance.●

WINDFALL PROFITS TAX

● Mr. DOLE. Mr. President, last night at the President's news conference, an assault was launched against the Congress and specifically the Senate Finance Committee on the so-called windfall profits tax. The President has called for a massive public effort to pressure the Senate in its deliberations.

The President stated he needed in excess of $140 billion to promote his program. This money, he claims, must be raised by the windfall profits tax. The President failed to mention, however, that the decontrol of oil and increases in world price will raise $173.5 billion in new revenue through the Federal income tax and Federal royalties by the end of 1990.

Mr. President, as I have stated before, the term "Windfall profits tax" is a misnomer. The tax is levied on the domestic production of crude oil without any correlation to the concept of profit. Several days ago, at a meeting with the President, I stated my intent to support a tax which emphasizes production. In my opinion, the crisis in confidence is not with the people of this country or the Congress of the United States.

I ask that the accompanying table be printed in the RECORD.

The table follows:

INCREASE IN FEDERAL REVENUE AS A RESULT OF DECONTROL WITHOUT A WINDFALL PROFITS TAX

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Federal income tax revenue	3.0	8.1	11.3	12.5	13.9	15.0	16.5	18.1	20.1	22.0	23.9
Federal royalty payment increase	.2	.5	.6	.7	.8	.8	.9	1.0	1.1	1.2	1.3
Total	3.2	8.6	11.9	13.2	14.7	15.8	17.4	19.1	21.2	23.2	25.2
Total 11-yr income in revenue without windfall profits tax (billions)						173.5					

Source: Prepared by minority staff, Senate Finance Committee, from information supplied by Joint Committee July 26, 1979. ●

AUGUST 21—DAY OF SHAME: HOUR OF HOPE

● Mr. BAYH. Mr. President, this August 21 will mark the 11th anniversary of the Soviet invasion of Czechoslovakia—a Czechoslovakia at that time on the road to a "different path" of socialism. Such political diversity was deemed at that time intolerable to the continuing hegemony of the Soviet Union over the Warsaw Pact countries. It might therefore be appropriate to reflect on the kind of stability which the brutal Soviet military invasion and military occupation has wrought.

Perhaps the foremost lesson which the Soviets should have learned from their brutal suppression of the Czech and Slovak people's unquestionable display of courage during the "Prague Spring," was that all the tanks and troops and bullets and bombs cannot extinguish the desire of a people to be free. The human spirit is beyond the power of the spiritless to subdue and less within the control of Marxist-Leninists to defeat. The emergence of the "Charter 77" human rights group is evidence of this and the nearly 1,000 courageous Czechoslovak men and women, intellectuals and workers are certain proof of this continuing struggle. At a time when our President talks to the American people about the "crisis of confidence" and spirit in this country, we can be proud of those Americans of Czech and Slovak descent whose relatives still bear witness to the proposition that freedom for some is still a dream which requires relentless dedication.

It could be that 1979 may mark a turning point in the fortunes of human rights in Czechoslovakia and elsewhere. Who can ever forget the touching scene of Czech Catholics within view of Pope John Paul II during his triumphant visit to his native land holding high a message not to forget his Czech brothers and sisters.

I believe that message was not just for the Pontiff but for all men and women who value human rights and human dignity, whatever their race or religion.

So the stability which the rumble of tanks sought to bring to the "socialist commonwealth" appears now to be threatened by the refusal of those in Czechoslovakia to reject religious beliefs and their quest for basic political liberties. To the extent that other nations behind the Iron Curtain have now awakened should make the planners in the Kremlin who desire to develop the "new Soviet man" all that much more nervous as trouble in their own provinces threatens the yoke of Russian Sovietism. In the 19th century, Karl Marx decried Russia as the prison house of nations. That description is no less true today and it is no less vulnerable to the power of political forces advocating nonviolent change.

Mr. President, it is a privilege today to commemorate the victory of the Prague Spring. Yes, a new political order is not installed in the capital of Czechoslovakia. Yes, there have been victims in this heroic struggle of the Czech and Slovak people. But those who might believe that the flame of freedom died in that country on August 21, 1968, ignore the real historical significance of the event we are reflecting upon. And that significance rests in the fact that a thousand days of shame can never for one instant erase the power of a single hour of hope.●

AMENDING THE SALT TREATY

● Mr. HEINZ. Mr. President, I want to bring to the attention of my colleagues an article that recently appeared in the Economist concerning the SALT Treaty, and specifically the amendment process. I found the article most interesting and useful both in its discussion of the proper congressional role in providing advice and consent to treaties—which the President does not seem to fully understand—and in its listing of areas said to be in need of amendment. I commend that article to the attention of Senators, and I ask that it be printed in the RECORD.

The article follows:

A-WASTIN' CHRISTIAN KISSES

President Carter has been wasting Christian kisses on a heathen idol's foot. Except for the Salt-2 treaty, about which more anon, Mr. Carter flew home on Monday from his weekend with President Brezhnev in Vienna with a virtually empty briefcase.

No progress in cutting the armies confronting each other in central Europe; in banning chemical or radiological warfare; in limiting the two superpowers' sales of weapons to gun-hungry small countries; even in prohibiting satellites which could shoot down other satellites carrying the wrong flag. No progress, above all, in persuading Mr. Brezhnev to understand that "the code of detente"—Mr. Zbigniew Brzezinski's phrase—is going to have to mean fewer Cuban troops, Soviet advisers and assorted communist armaments plonked down in delicate parts of Africa and Asia. Mr. Brezhnev, who was there for the Salt, brushed aside these matters almost contemptuously. The only other item in Mr. Carter's home-coming briefcase, nestling alongside the signed Salt treaty, was that photograph of the president yielding to a well-planned Brezhnev kiss: misleading symbol of a peacemaking that did not happen.

The judgment of Vienna therefore turns on the value of Salt, the strategic arms limitation treaty. The document signed on Monday, as Mr. Carter himself told congress that evening, is imperfect. So is any result of prolonged international bargaining; but this one's imperfections are large.

IT KEEPS A FRAMEWORK

Two things should be said in defence of the text signed in Vienna, one negative and one positive. The negative one is that the recent growth in Soviet nuclear power—to the point where it will be able, by around 1982, to destroy almost all America's land-based missiles at a single stroke—is not the fault of the Salt negotiations. It is the product of Russia's mammoth weapons-building programme over the past decade, which a United States wrangling with itself spectacularly failed to match or counter. Once that had happened, the Americans never really had a chance of persuading the Russians to give up all the new missiles they had spent years of costly effort to build. The positive virtue of Salt-2 is that—unlike the Salt-1 predecessor of 1972—it does go most of the way towards establishing the principle that each side may have the same numbers of major nuclear weapons. The disturbing main exception to this principle of equality is the provision which allows the Russians to have 308 super-big missiles, and the United States none.

Even with warts, provided the warts are not large, a Soviet-American agreement on nuclear weapons is manifestly desirable. It is the centerpiece of the superpowers' relationship. The limits it sets on how many nuclear weapons each country may build and deploy give the military planners of both sides a broad measure of the power of the adversary they face. The agreement imposes on Russia an obligation not to conceal its nuclear weapons, which the New York Times, the Washington Post and the rest of America's open society prevent America from doing. It also—most important of all, perhaps—gives each power the right to monitor the other's weapon developments and force levels, a legal mutual involvement in the rival planning processes. If Salt dies, the Soviet-American relationship will pass through a period of nervous uncertainty until a new centerpiece for the relationship can be found.

BUT DOES IT KEEP THE BALANCE?

The basic criticism of Salt-2, at a time of emerging Soviet neo-imperialism, is that it is not really an equal treaty, and could therefore create a false sense of security in American public opinion which could affect America's defense policy in the coming years. It is probably going too far to say that the euphoria created by Salt-1 was the main reason why the United States has let itself be dangerously overtaken in nuclear weapons in the past few years; but there is no doubt that Salt-1 contributed to the process. Salt-2, which is said by its proponents to put a "cap on the arms race", could have an even more damaging effect. There is, in fact, no real cap, because both sides are proceeding briskly with the development of new weapons. Salt-2 will halt the nuclear competition no more than Salt-1 did.

The matter now goes to the American senate. The debate which will decide whether Salt-2 lives, dies or survives after senatorial surgery has so far been stronger on emotion than on reasoned argument. The words "warmonger" and "appeasement" have been flung to and fro. The pro-Salt lobby has come perilously close to saying that it is the duty of the senate to approve the treaty so that the president will not lose credibility. There are indeed groups for arguing that the senate should not reopen negotiated packages, but Mr. Carter's personal position is not one of them. The anti-Salters have deployed the equally specious but slightly more sophisticated proposition that the treaty is defective because the United States had to make more and bigger concessions during the negotiations. This may be true, but it is not central. The main issue is whether this document helps to keep the Soviet-American balance of power.

Two things could destroy that balance in the Salt-2 years under Salt-2s terms. One is the arrival of a moment when Russia could feel strong enough to destroy the core of the American nuclear force with a single cataclysmic attack, while still holding enough weapons in reserve to carry out a devastating second strike should the United States retaliate. For the loss of part of Russia, the Soviet leaders might believe they could destroy the United States and gain the world. Even if they do not go to that horrific extreme, the evident superiority in nuclear weight they will acquire in the early 1980s, plus their growing superiority in non-nuclear weapons, may tempt them to put intolerable pressure on the west at various vulnerable points in Asia, Africa and Latin America. There is no question that, mainly because of the sheer size of its missiles, Russia will come to surpass the United States in most categories of nuclear strength—including deliverable megatonnage and the number of missile warheads—during the life of the Salt-2 treaty. That will change the east-west relationship in a fundamental way, and make the world a more dangerous place.

TO AMEND, OR NOT TO AMEND

So can Salt-2 be improved by the senate? Article 18 of the treaty says that it may be amended, and prescribes how. But it is not quite as simple at that.

The objections to senatorial amendment are not to be dismissed lightly. The less compelling one is that Russia would not allow it. Mr. Brezhnev, who would obviously prefer Salt-2 as it is, did indeed say threateningly on Sunday that "any attempt to modify one of its elements would be a perilous exercise." But other spokesmen for the Soviet position have said privately that the Russians will not reject the idea of amendment out of hand, provided the changes do not cut too deep into the Soviet interest. The Russians like Salt-2 because it is a good treaty for them, which is precisely what makes so many Americans suspicious of it. This is an American tactical advantage. The Russians will probably, when the harrumphing is over, agree to consider amendments rather than see the whole thing lost. That will take time, but time does not matter all that much so long as both sides continue to act as if Salt-1 were still in force, as they have been doing since Salt-1 formally expired nearly two years ago.

The more powerful objection to amending is that many of America's friends—not just admirers of Salt-2, but some of its critics too—are worried by the prospect of a senate which wants to untie and re-knot complicated agreements which the administration has laboriously worked out with foreign governments. This senatorial interference is not a new phenomenon. The senate's power to give advice and consent to the executive branch of the government when it makes international treaties is a familiar part of the American constitution. Between 1789 and 1929, according to E. S. Corwin's history of the constitution, the senate agreed to roughly 900 proposed treaties, but killed another 200 either by rejecting them outright or amending them so much that they were abandoned. Most of the dead 200 were relatively minor matters; some, such as America's part in the Treaty of Versailles in 1919, were not.

This built-in complication to the American government's dealings with the world has, however, loomed larger lately: partly because America matters so much more these days; partly because, since Vietnam and Watergate, the congress has asserted its authority against the president more vigorously. There have been a number of occasions recently—last year's tax treaty squabble still rankles in Britain—when the administration has been obliged by congressional pressure to change its negotiating position desperately late in the day. Nothing unique about that, for foreign policy is not and cannot be conducted in any democracy without reference to parliament; it just happens more often with America. But if a treaty text on a subject as important as Salt-2, and as sweatily wrestled through to signature, were now reopened by the senate, a lot of people might wonder whether they could ever negotiate coherently with America: whether, indeed, they have two competing Americas to deal with.

NO CHANGE COULD MEAN NO TREATY

Against this, there are two arguments in favour of amending the present Salt-2 text. The first is that the decision to amend or not to amend any treaty has to take into account the desirability of the specific proposed changes as well as the diplomatic consequences of making any change; and some of the proposed changes to Salt-2 would be welcome improvements. The second is that, if Mr. Carter tells the senate he will contemplate no amendments whatsoever, he will certainly increase the vote in favour of rejecting Salt-2 entirely. That is important: no Salt at all would be a pity.

Mr. Carter's Panama treaty had to go through much the same amendment hoop before it was, by the narrowest margin, ratified. That did little harm because Panama took the amendment with good grace. To be sure, a major amendment of Salt-2 would be another matter if, despite the present hints of Soviet flexibility, it in fact killed the treaty. But the ensuing patch of turbulence in east-west relations could no doubt be survived. The larger worry is that the affair would disturb America's generally pro-Salt allies, who also dislike the prospect of senatorial amendments to major treaties becoming a habit.

A senate lesson to Mr. Carter might have the desirable effect of making the executive branch of the government learn—as it has not done with Salt-2—to build the views of congress into its negotiations with foreign countries, before it signs on the dotted line. It is also likely that American public opinion will eventually turn against the sort of anarchy in foreign policy that an excessively pugnacious congressional attempt to bring the "imperial presidency" of Lyndon Johnson and Richard Nixon under control is liable to cause. But that, for America's negotiating partners, may be a somewhat distant consolation.

SOME OF THE POSSIBLE CHANGES

The main suggested amendments over which this argument of advantage and counter-advantage will be fought out are as follows:

Keeping Minuteman alive. If America's land-based Minuteman missiles are to be protected against the danger of an obliterating Soviet attack in the early 1980s, part of the Minuteman force may have to be made mobile. The Russians have said that they would regard some methods of making Minuteman mobile—methods the Americans may decide they want to use—as unacceptable. Rather than build a future crisis into Salt-2, the critics say this should be sorted out now: for instance, by defining the (still, astonishingly, undefined) word "launcher", dotted all over the treaty.

Heavy missiles. The treaty allows the Russians to possess 308 SS–18 monster missiles—each with up to 10 warheads, each warhead bigger than almost any existing American warhead—but does not allow the Americans to have any. The United States does not need such missiles at the moment, and could not in fact build any for deployment in the lifetime of Salt-2. But the critics argue that it may need them after Salt-2, and that the present ban on them—an exception to the treaty's rightly applauded principle of equality—should be removed, less the Russians use it as a precedent when Salt-3 comes to be negotiated.

The protocol. This curious sub-treaty appended to the main treaty, to last until the end of 1981 (the main treaty goes on through 1985), prohibits the testing of mobile missiles before 1982, and sets a limit on the range of ground-launched and sea-launched cruise missiles until then. The critics say that the Russians will try to squeeze America into continuing the protocol after 1981, which would stop the Americans providing their European allies with the right sort of cruise missile technology to balance the growing power of Soviet missiles aimed at western Europe. It is therefore suggested that either (a) the protocol should be scrapped or (b) the unilateral statement the Americans plan to make, saying that the protocol will definitively expire after 1981, should be embodied in the treaty, to have equal force with the rest of the document.

The Backfire bomber. This long-range supersonic bomber is not at present going to be included in the Salt count, because the Russians say that it does not have "strategic"—meaning intercontinental—range, though it can in fact get to the United States by refueling in the air. It is covered by a separate Russian statement, which promises not to build more than around 350 Backfires by 1985, outside the Salt rules. The critics wonder why the Russians insist on this distinction. They want the Backfire numbers to be controlled by the treaty—if necessary by raising the permitted number of launchers, and by also hauling into Salt the rather similar American FB–111 bombers assigned to the Strategic Air Command.

Verification. Some critics say the present methods of checking that the rules are being respected need to be strengthened.

If Mr. Carter is to get Salt-2 through the Senate, he will clearly have to pay a price. The steady growth of Soviet military power, the swelling confidence this gives to Soviet diplomacy, and Mr. Carter's failure at Vienna to make the slightest dent in this Soviet confidence, all point to the necessity of pinning the Carter administration down to a programme of counter-measures. These include ensuring the survival of the Minuteman force, and the earliest possible deployment of the Trident missile submarine and the (post-Salt-2, alas) M–X missile, or a combination of two of these three; strengthening the alliance's Europe-based nuclear forces; and continuing the belated non-nuclear rearmament of Nato, begun this year after a dozen years of 3-5%-a-year growth in Russia's military spending.

Over and above this deployment of military hardware to counter Russia's arsenal, the Carter administration has to be prodded and pushed by congress into defining a way of exacting a price from the Russians if they and their allies will not behave with more restraint in Africa, south-east Asia and elsewhere. A practical means of applying leverage to Mr. Brezhnev—the ratification of Salt-2 itself apart—has yet to be found. The search for it should be American's foreign policy priority as it goes into the worrying 1980s.

These conditions can, and should, be hung on the Salt treaty as it stands. The question now to be decided is whether this is enough: or whether the treaty itself, for all the raised eyebrows, should be amended.●

DELTA SIGMA THETA

● Mr. BAYH. Mr. President, during the week of August 11–17, Delta Sigma Theta, a public service sorority will celebrate its 35th annual convention in New Orleans, La. On the eve of their convention, it is only fitting that we take a few minutes to commend this organization, consisting of over 95,000 college-educated women, who are predominantly black.

For over 50 years Delta Sigma Theta has been in the forefront of the struggle to improve the quality of life for our citizens. In their efforts to bring human dignity to all Americans, they have undertaken an array of activities such as educational improvement, economic development, and improved housing for our poor, our elderly, and our handicapped.

One need only examine some of their activities to realize that these dedicated and concerned women are accomplishing many great things. Recently, they received a $134,000 grant from the Department of Health, Education, and Welfare, for the purpose of developing a women's educational equity training and assessment program. The goal of this worthwhile project is to develop and test materials to be used by personnel in public and private institutions and community groups in an effort to combat sex stereotypes and promote educational equity for women. This program has been quite successful and they deserve credit for their commitment to eradicate sex discrimination by attacking sex stereotypes.

Delta Sigma Theta has also received a $2.76 million grant from the National Science Foundation, for the purposes of establishing a resource center which will identify potential scientists and engineers from the minority and low-income communities.

At a time when education is so key to the successful integration of minorities and low-income citizens into the mainstream of the American economy, such a project is commendable. Furthermore, Delta Sigma Theta has been involved in a program offering counseling services, tutorial assistance, career testing and evaluation services, and financial aid services to minority high school students in an effort to improve their chances of successfully completing a college education.

Not only has Delta Sigma Theta been actively involved in the area of education, they have also taken an active role in all our efforts to ratify the equal rights amendment as well as the District of Columbia Voting Rights Act. During their 1978 regional conferences, more than 4,000 letters were written by their members across the country in support of the ERA. They have also been active in the various States in the effort to ratify the District of Columbia Voting Rights Act, which would give the voting franchise to over 650,000 American citizens residing in the District.

Many of these accomplishments are due to the outstanding leadership of one person, Mrs. Thelma Thomas Daley. Under her able leadership, this organization has become one of the leading advocates of rights for minorities and other low-income citizens of this country. Our congratulations go out to this outstanding lady as she prepares to relinquish the mantle of leadership to one of her colleagues whom we know will continue to lead this organization in a direction of outstanding service to our community.

Finally, Mr. President, I would like to congratulate the Delta Sigma Theta chapters located in Anderson, Muncie, Bloomington, Evansville, Fort Wayne, Gary, Indianapolis, and South Bend, Ind., and located on the campuses of Purdue University, Indiana State University, Indiana University, and Ball State University, for their contribution to the success of this very important organization.●

VETERANS' ADMINISTRATION REHABILITATION CONFERENCE

● Mr. KENNEDY. Mr. President, recently our colleague, Senator RANDOLPH addressed the Rehabilitation Conference sponsored by the Veterans' Administration. During the week of July 9–13 conference participants analyzed and formulated Veterans' Administration program needs, opportunities and future directions as they related to the "concept of rehabilitation" in the Veterans' Administration.

As chairperson of the Senate Human Resources Subcommittee on the Handicapped, Senator RANDOLPH has provided sensitive and outstanding leadership on the issues affecting millions of this Nation's handicapped citizens.

I ask that there be printed in the RECORD Senator RANDOLPH's remarks to the Veterans' Administration Conference.

The address follows:

REMARKS BY SENATOR JENNINGS RANDOLPH

It is gratifying to be with you this evening and to be a part of this important Conference on the Rehabilitation of America's Disabled Veterans. You are participating in an exciting task during this conference, and I am pleased to have the opportunity to share this occasion with you.

As a member of the Veterans Affairs Committee and as chairman of the Subcommittee on the Handicapped, I commend you, Administrator Cleland, and indeed all of you for the work you are doing on behalf of disabled veterans by providing comprehensive rehabilitation services: That is a noble goal and one which I share with you.

This is an era of challenge and opportunity for handicapped Americans and for those committed individuals who believe in the capability of this Nation's handicapped citizens. We are all challenged to provide equal opportunities for handicapped citizens, and there is much work to be done if America is to fulfill its promise to all of its citizens.

The time is right, however, for following through and expanding on program initiatives which so vitally affect handicapped individuals. In this country today, there is a growing awareness that the presence of a disability should not limit an individual's opportunities. There is an increasing recognition and understanding that a handicapped individual has the same needs and desires as a nonhandicapped individual to achieve appropriate education and training, to be employed, to live in the community, and to enjoy leisure activities. Attitudes are changing towards this Nation's handicapped citizens. Attitudes are changing because of the impact of rehabilitation programs which have been demonstrated that handicapped people "can do". Handicapped citizens, if given the appropriate training, services and opportunity can be a vital part of American society. Attitudes are changing because handicapped children now have a right—established by Federal law—to go to school. Attitudes are changing because of the public awareness created by the convening of a White House Conference on Handicapped Individuals in May of 1977. Attitudes are changing, also, because of the work of dedicated individuals such as yourselves who believe that the capabilities of an individual should be recognized and developed. Recognizing and developing the capabilities of the individual represents the essential concept behind rehabilitation programs for handicapped Americans.

Rehabilitation programs for handicapped individuals have a long and illustrious history. As you know, in 1920, with the passage of the Smith-Fess Act, a State-Federal partnership in vocational rehabilitation was initiated. This 1920 Act was stimulated, of course, by the World War I vocational rehabilitation program for veterans. Today, the State-Federal vocational rehabilitation program and the veterans vocational rehabilitation program play important roles in preparing handicapped individuals for employment.

These programs are more than service programs; these programs are a demonstration of a commitment made by this Government to assure individual rights for all Americans. Individual rights must begin with the right to grow and develop as an independent, self-supporting person. To violate this right is to ignore the mandates of dignity, respect, and opportunity accorded all citizens by the freedoms enumerated in the United States Constitution. Americans deprived of this right and whose life choices have been affected by a quirk of birth or fate must have assurances that they will have a chance to maximize their capability to work and live independently. Rehabilitation programs are one of the primary means of achieving this goal. Together, the State-Federal vocational rehabilitation program and the veterans rehabilitation program substantially impact on the needs of handicapped Americans.

You are here to determine how that already positive impact can even more effectively address the needs of handicapped veterans.

It was reassuring to read the document "concept of rehabilitation in the Veterans Administration" sent to me by your able Administrator, Max Cleland. I was again reminded by the similarity in goals shared by veterans rehabilitation program and the State vocational rehabilitation program.

Members of the Veterans Affairs Committee and the Subcommittee on the Handicapped, have been very much aware of two major needs for many years: The need for comprehensive services and the need for individualized services. Both the Veterans' Administration and the Rehabilitation Services Administration are increasing their efforts towards these two critical needs.

As many of you know, in 1978, the Rehabilitation Act of 1973 was substantially amended. A major new program was initiated: comprehensive services for independent living. This program will be targeted at those very severely handicapped persons who may have been overlooked in the past because of the severity of their disability. Vocational potential is not a requirement for eligibility. The goal of the program is to enhance a handicapped individual's capacity to live independently, and if possible, to obtain appropriate employment. This new programmatic thrust, coupled with the vocationally oriented State grant rehabilitation program offers a comprehensive approach for meeting the multitude of needs of handicapped Americans. This same comprehensiveness is set forth as a basic principle in the Veterans' Administration concept of rehabilitation. The Veterans' Administration recognizes that a "disability . . . affects multiple areas of a person's life" and that "comprehensive rehabilitation services should begin at the earliest point possible after impairment and continue until the objective is achieved." This is so very important. A comprehensive service approach, which intervenes as soon as possible after identification of a handicapped condition, is crucial to the individual's well being.

The Veterans' Administration also advocates that "the underlying philosophy of rehabilitation is that each individual is viewed as possessing unique assets and should have the full opportunity to participate in and contribute to society to the maximum extent possible." As chairman of the Subcommittee on the Handicapped, it has also been my goal to emphasize and address the individual needs of everyone served under the Rehabilitation Act of 1973, as amended.

The Education for all Handicapped Children Act and the Developmental Disabilities Act is the goal of these programs to bring into the mainstream of American Society handicapped persons, and the best way to accomplish this goal is by individualized services. It is gratifying to see that the individual needs of disabled Americans are being addressed by these programs. The Veterans' rehabilitation program, the State vocational rehabilitation program, the special education programs, and programs for developmentally disabled individuals. It is exciting to see the handicapped individual respond to this individualized attention which seeks to draw forth and maximize his or her talents.

The Veterans Administrations' principles of rehabilitation—comprehensiveness, integration, flexibility, and individuality—will create a climate in which services will be even more meaningful to the disabled veteran. The Veterans' Administration rehabilitation objective of "physical, social and vocational independence to the maximum extent possible" is a goal which all of us here seek for handicapped Americans.

You are here to develop new strategies to meet the rehabilitation needs of disabled veterans. You are engaged in an exciting task, and I am honored to have had the opportunity to contribute to this occasion. It has been a privilege to have shared this time with you. I commend you for your efforts on behalf of disabled veterans.●

THE DANGERS OF "PROGRESSIVE GOALS"

● Mr. HUMPHREY. Mr. President, in this time of America's crisis, I am heartened by the increasing legion of young Americans who, despite their exposure to the liberal litany peddled in most of our schools and universities, see clearly the cause of our economic, political, and spiritual malaise.

Today an article written by Roger Barris, a college student and summer intern on Capitol Hill, was published in the Washington Star. I am pleased to print it in the RECORD so that the incisive thoughts of Mr. Barris can be read throughout the land.

Mr. President, I ask that the article to which I have referred be printed in the RECORD.

The article referred to follows:

THE DANGERS OF "PROGRESSIVE GOALS"

As a member of the so-called "Me-Generation," I wish to offer an alternative explanation for the present political scene, one that does not rely on any assumptions of narcissism.

It has been almost 40 years since Friedrich Hayek, an Austrian economist and future Nobel Prize winner, published his prophetic work, *The Road to Serfdom*. Based on his experiences with Nazi Germany, it warned of "dangers to freedom inherent in social planning." Hayek noted that it was one of the supreme virtues of a free-market economy that it requires only minimal societal consensus to function.

But, in opposition to this, he noted that as a government undertook to direct the resources of society, the need would arise to hierarchically rank the ends to which those resources would be directed. It is the essence of the economic problem that there are never enough resources to satisfy all ends simultaneously. It is a fallacy, however, to assume that society will be able to reach a broad consensus on this ranking.

To paper over this fact, governments adopt the vague formulae of the "common good" and "reasonableness." These ambiguities are passed on in the form of general vaguely-worded "laws" which delegate their specific implementation to "experts." The representative bodies themselves fall into disrepute, since they reflect the indecisiveness of society in general, and increasingly the call goes out to circumvent the "talk shops."

Soon minorities or "special interests" begin to exercise control far beyond their numbers, representing a cohesive view amid the vacuum. The culmination of this trend is the nihilistic call for some "leader" to "do something," though society could never agree on what he should do. These are the conditions for a Hitler.

Does this sound familiar? Do we not find Congress increasingly fragmented and ruled by special interests as it marches along the path toward economic control and intervention? Do not the apathetic voting records indicate disgust with this "talk shop," and is not the growing tendency to rely on the executive a harbinger of the call for an economic dictator?

Do we not increasingly chafe under the arbitrary delegation of power to regulators? In fact, was not Jimmy Carter's campaign, where so much emphasis was placed on form over substance, the first sign of the cry to "do something," though we could never agree on what?

Perhaps before we rush to blame the "Selfish Generation" for our present woes, we should examine our "progressive" goals and realize that they are incompatible with democracy and, ultimately, individual liberty.●

NCOA 18TH ANNUAL INTERNATIONAL CONVENTION

● Mr. DOLE. Mr. President, at the recent Noncommissioned Officers Association of the United States of America (NCOA) 18th International Convention held in New Orleans, La., Mr. Normand M. Gonsauls, NCOA president, presented me with the association's prestigious "L. Mendel Rivers Award for Legislative Action."

At the same time, NCOA's 150,000—plus members also honored our colleague, Senator Robert Morgan from North Carolina. The NCOA's Special Vanguard Award was presented to him for his efforts in establishing equity in many personnel policies that are currently unfair to enlisted men and women of the Armed Forces. Assisting Mr. Gonsauls in presenting the award was former Sergeant Major of the Army, Leon Van Autreve who is the association's vice president.

In accepting his award, Senator Morgan offered comments on the current issue of draft legislation. Although I may not fully agree with the Senator's comments concerning the need to restore mandatory peace-time registration, the Senator spoke very convincingly on the need to reestablish the position and prestige of our noncommissioned and petty officers in the U.S. Armed Forces.

Mr. President, I request that Senator Morgan's remarks given at the NCOA's 18th Annual International be printed in the Record.

The remarks follow:

A Professional NCO Corps

"I am personally very grateful that you have chosen to give me the coveted Vanguard Award of the Non Commissioned Officers Association.

"But more than that, I am grateful because this may send a signal to the civilian and military leaders, and to my colleagues in the Congress.

"The signal is that we still have a dedicated professional NCO Corps that recognizes what improvements are necessary if we are to have a strong, reliable military.

"For too long now, I have watched as the morale and discipline of our military has been chipped away little by little. The penny-wise, pound-foolish actions of people who believe that the military is just another job—the people who believe that patriotism, discipline, and fighting spirit can be bought by salary alone.

"By your support of me in my efforts to provide conditions of dignity, fairness and equity for our military people, we can show others what you as professionals know to be true—that we must re-create a mood in this country where service to the country and disciplined behavior as citizens and soldiers are recognized as the minimum requirements for enjoying the benefits of this land.

"That is one of the primary reasons why I have attempted to restore registration for Selective Service. We do need it for potential mobilization reasons. But an even more basic reason is that we need to remind our youth that there is no free ride. That citizenship, and its benefits, carry with it the duty to serve.

"I don't want a generation of American youth growing up not having a basic respect for the duty and privilege of serving their country and respect for those people of exceptional dedication who make it their lives.

"Another signal that I want people to get from this occasion and this organization is that the position and prestige of the NCO Corps must be restored and enhanced if we are to cure those problems of discipline and morale that so concern us all.

"Some of the attitudes in our military leadership must be changed if we are to restore pride and leadership to our troops. There is currently an attitude that everything must be handled at the highest levels.

"In at least one of our services, people of any rank, at any post, are encouraged to call duty officers in Washington directly if they think they have a problem. I could not think of a quicker way to destroy the leadership relation of the NCO to the troops than by this encouragement to bypass the very person who has the best knowledge of the situation and the best capability to solve any existing problem. If the problem cannot be solved by the NCO on the spot, he is also the one to know where to get help for the solution. "We must abandon this idea that only Washington knows best and restore the NCO to his rightful place as the leader of his men.

"You will note that I say 'leadership' and not 'management' or 'command.' Anyone can command. All it takes is force behind you. Management is something you do in a civilian organization. But leadership is that special quality of inspiration and care that characterizes the good NCO. This is the person who must be restored to his rightful place.

"I accept this Vanguard Award from NCOA with gratitude to you and your devotion to your country. I will try to help you in creating the military we all need."●

(The remarks of Mr. Moynihan in connection with the introduction of legislation are printed under Routine Morning Business.)

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Gravel). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 4394

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the HUD appropriation bill, H.R. 4394, there be a time agreement as follows:

Three hours on the bill to be equally divided between Mr. Proxmire and Mr. Mathias; 30 minutes on any amendment; 1 hour on an amendment by Mr. Proxmire to cut assisted housing; 1 hour on an amendment by Mr. Mathias and Mr. Baker on revenue sharing; 1 hour on an amendment by Mr. Javits on the section 236 flexible subsidies; and 20 minutes on debatable motions, points of order or appeals, if the Chair submits the point of order to the Senate for its discussion; and that the agreement be in the usual form with respect to the division and control of time.

Mr. BAKER. Mr. President, will the Senator yield to me a moment?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader. I wonder could it be possible, in view of the requirements of some Senators on this side, if we could put the Mathias-Baker amendment on revenue sharing first in the list of amendments to be considered under this order?

Mr. ROBERT C. BYRD. Mr. President, in response to the distinguished minority leader, I add that to my list.

I add two provisions to my request, one that immediately upon the conclusion for the orders of recognition of Senators on tomorrow morning, the Senate proceed to the consideration of HUD appropriations bill, and, second, that the amendment by Mr. Baker and Mr. Mathias be the first amendment on the floor.

Mr. MAGNUSON. Mr. President, do I understand the Senator intends to bring up the HUD appropriations bill tomorrow?

Mr. ROBERT C. BYRD. The first thing tomorrow.

Mr. MAGNUSON. Tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. All right.

We made an announcement that we were going to bring it up Monday. But instead we are going to push it ahead to tomorrow?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. I think that is good.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair and thank all Senators, and I thank the distinguished minority leader.

The text of the agreement follows:

Ordered, That on Friday, July 27, 1979, following the disposition of any special orders, the Senate proceed to the consideration of H.R. 4394 (Order No. 273), making appropriations for the Department of Housing and Urban Development, with 30 minutes on any amendment (except an amendment by the Senator from Wisconsin (Mr. Proxmire) relative to cutting assisted housing by $700 million, on which there shall be 1 hour; an amendment by the Senator from Maryland (Mr. Mathias) and the Senator from Tennessee (Mr. Baker) relative to revenue sharing, on which there shall be 1 hour, and which shall be the first floor amendment to be taken up under this agreement; and an amendment by the Senator from New York (Mr. Javits) relative to flexible subsidies, on which there shall be 1 hour), to be equally divided and controlled the mover of such and the manager of the bill, and with 20 minutes on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Maryland (Mr. Mathias): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

NO SATURDAY SESSION

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me further to state, there will be no session of the Senate on this Saturday.

SPECIAL ORDERS FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the leaders are recognized under the standing orders, Messrs. DANFORTH, BAKER, STEVENS, TOWER, and ROBERT C. BYRD be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nominations on the Executive Calendar beginning with Calendar No. 271 and going through Calendar No. 276, with the exception of Calendar No. 274.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—these items are cleared on our Executive Calendar. We have no objection to proceeding to their consideration and their confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations which were considered and confirmed en bloc are as follows:

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Daniel Edward Leach, of Virginia, to be a member of the Equal Employment Opportunity Commission.

CONSUMER PRODUCT SAFETY COMMISSION

Stuart M. Statler, of the District of Columbia, to be Commissioner of the Consumer Product Safety Commission.

SECURITIES INVESTOR PROTECTION CORPORATION

Brenton H. Rupple, of Wisconsin, to be a Director of the Securities Investor Protection Corporation.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Leroy D. Clark, of New York, to be General Counsel of the Equal Employment Opportunity Commission.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the votes by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. Then I ask unanimous consent that immediately following the recognition of the two leaders under the standing order, the Senate proceed to the consideration of the HUD appropriation bill.

The PRESIDING OFFICER. That order has been entered.

Mr. ROBERT C. BYRD. No; the previous order, I believe, was following the orders for the recognition of any Senators, but there are none entered, so I thought I had better modify the request.

The PRESIDING OFFICER. If there are none, then that request is in order. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of the HUD appropriations bill under a time agreement. There will be rollcall votes, and hopefully tomorrow it will be possible to complete action on that bill, and also on the D.C. appropriation bill.

As for the D.C. appropriation bill, that has not yet been cleared for action on tomorrow and a time agreement has not been entered into; but it is hoped that overnight there might be some progress in those directions.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:12 p.m. the Senate recessed until tomorrow, Friday, July 27, 1979, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 1979:

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a Member of the Railroad Retirement Board for the term of 5 years from August 29, 1979.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Daniel Edward Leach, of Virginia, to be a Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1984.

CONSUMER PRODUCT SAFETY COMMISSION

Stuart M. Statler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 1979.

SECURITIES INVESTOR PROTECTION CORPORATION

Brenton H. Rupple, of Wisconsin, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1981.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Leroy D. Clark, of New York, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, July 26, 1979*

The House met at 10 a.m.

Dr. Carroll Hubbard, Sr., the Southern Baptist Theological Seminary, Louisville, Ky., offered the following prayer:

O Lord, our Lord, how majestic is Thy name in all the Earth.

Thou hast been our help in generations past: Thou art our hope for the future. We implore for ourselves and our Nation Thy grace and guidance.

Grant us a new awareness that government is by divine appointment and that those elected to high office are servants of God. May these representatives of the people be able to perceive issues clearly, to make decisions judiciously, and to act courageously for the common good. Bestow upon them spiritual strength and a wisdom far above their own.

Let us all experience a fresh dedication to the ideas and institutions which have made America great.

Create in us today the purpose of mind "to do justice, and to love kindness, and to walk humbly with our God" (Micah 6: 8).

We pray in the name of the Lord Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 4392. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4392) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hollings, Mr. Magnuson, Mr. Eagleton, Mr. Inouye, Mr. Burdick, Mr. DeConcini, Mr. Bumpers, Mr. Sasser, Mr. Weicker, Mr. Hatfield, Mr. Stevens, Mr. Laxalt, Mr. Garn, and Mr. Young to be the conferees on the part of the Senate.

DR. CARROLL HUBBARD, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, naturally, it is a real joy to have with me in the House Chamber today my father, Dr. Carroll Hubbard, Sr., of Louisville, Ky., who led the prayer for us today and serves as guest chaplain for today.

One limitation regarding being a Member of Congress is that service at the Nation's Capital requires almost all of us to move from our home area and be in the Washington area most of the time. This causes, for example, my wife Joyce and our daughters Kelly and Krista and me to spend most of our time in the Washington area, with a home in McLean, Va., and away from my parents, Dr. and Mrs. Carroll Hubbard, Sr., and my wife's parents, Mr. and Mrs. Floyd Hall, of Metropolis, Ill.

One of the joys of summertime is that my wife's parents and my parents visit us and together we can enjoy the beauty and thrills of our Nation's Capital and Washington, D.C. That special occasion of togetherness is ours this week here.

APPOINTMENT OF CONFEREES ON H.R. 4392, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. SLACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Slack, Smith of Iowa, Alexander, Early, Hightower, Whitten, O'Brien, Andrews of North Dakota, and Conte.

JEANNETTE RANKIN, 1880–1973

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the day after Pearl Harbor, the U.S. House of Representatives voted 388 to 1 to declare war on Japan. The dissenting vote was that of Congresswoman Jeannette Rankin from Montana. This was the second time she had voted against U.S. entry into a world war. In her first term in Congress she voted against U.S. entry into World War I. She stated:

> The first time the first woman has a chance to say no to war she should say it.

In 1916, Jeannette Rankin was the first woman elected to the House of Representatives. Defeated in a bid for the Senate in 1919 she continued to work for peace. She attributed her setbacks to flaws in the machinery of the democratic process, never to democracy itself.

In 1968, at age 87, Jeannette Rankin came to Washington one more time. She led 5,000 women, the Jeannette Rankin Brigade, in protest against the war in Vietnam. Jeannette Rankin was an ardent pacifist who boldly declared the futility of war:

> You can no more win a war than you can win an earthquake.

TRIBUTE TO AMA FRANCES HICKS

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I was saddened to learn about the recent death of Mrs. Ama Frances Hicks on July 12. Luke Hicks, staff assistant in the Office of the Doorkeeper and a close personal friend, told me of his mother's death in Mill Valley, Calif., which had been her home for 25 years.

Mrs. Hicks was a native of Tennessee, and moved out West with her husband to California in 1957. In Mill Valley, she was active in several community organizations: She was president of the sewing club, and active in the Methodist church. In 1965, she became grand noble of the Blysthesdale Lodge of the Rebekahs. Mrs. Hicks was respected and loved in her community—her vigor and enthusiasm was unsurpassed. I feel that Mrs. Ama Hicks embodied the true spirit of American womanhood in all of her endeavors.

Mrs. Hicks led a rich, full life. On October 12, she would have celebrated her 85th birthday. In her lifetime, she witnessed the passing of the last century into this one, and saw the many changes and events that took place in this country over the decades.

I know that she was proud of Luke, her only son. Luke said that, "when my mother died, I lost my best friend." Mrs. Hicks was survived by a sister, Mrs. Arizona Leutke. I would like to pay my respects to the passing of Ama Frances Hicks, and extend my condolences and warm aloha to her family.

MAGNETIC FUSION ENERGY PROGRAM

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, 2 days ago I wrote to Acting Under Secretary of Energy, John Deutch, requesting that the Department of Energy consider an aggressive acceleration of the magnetic fusion energy program. The goal of this accelerated effort would be to have a magnetic fusion electric demonstration plant on the line before the end of the century. I consider nuclear fusion to have the greatest future potential of any advanced energy technology; and I believe that we must move forward aggressively to realize the promise of this infinite and cheap supply of usable energy.

REPRESENTATIVE BROYHILL SUPPORTS GILMAN CONGRESSIONAL REVIEW AMENDMENT

(Mr. BROYHILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROYHILL. Mr. Speaker, I was amazed last night to hear the President's response during his press conference to a question about the Gilman amendment which we added to the Emergency Energy Conservation Act, S. 1030. I must take strong issue with the President's interpretation of Representative Gilman's amendment.

The President seemed to be confused and misinformed as to what this amendment would do. He implied that the amendment ties his hands in the event of a national emergency, that it would interfere with his power to implement a gasoline rationing plan in the event of a national emergency. The inference is that the House has acted irresponsibly in adopting the Gilman amendment.

This simply is not the case.

Under the committee bill, the President is able to devise the gasoline rationing approach he prefers, put this plan on the shelf and store it for future implementation. Then, if he finds that fuel shortages hit 20 percent below average supplies, he can pull this plan he has devised off the shelf and put it into use. Congress would then have 15 days to review the President's decision to implement the plan.

The catch is this: In its review Congress would be focusing, not on the details of the plan, but on whether the severity of the energy emergency warranted the implemention. In other words, the substance of the plan itself would not be considered.

The Gilman amendment lets Congress have a reasonable, logical look at the plan before it is stored away for possible future use. Under the terms of Mr. Gilman's amendment, Congress has 30 days in which to review the President's plan subsequent to its submission. This period would be used to review the actual content of the plan itself to make certain the plan is a responsible and equitable approach to a very serious problem. If Congress does not act on the proposal within 30 days, under the Gilman approach the plan is set on the shelf and is subject to the same 15-day veto provision as in the committee bill.

Under the terms of the Gilman amendment, we are only asking that Congress have the right to review the details of the plan the President devises. Obviously, such a plan would be put into reserve until an energy emergency occurs.

Frankly speaking, we must all concede that the provision of S. 1030 we are questioning here is not the result of a well thought-out energy policy. Rather, this is a mere reaction to the fact that a gasoline rationing plan has already been submitted to this body and has been rejected. Now we are asked to endorse sight unseen, blindfolded if you will, a future plan as yet to be devised by the President. Further, we will not be able to question the specifics of that proposal unless a critical shortfall of fuel forces our hand and the President invokes a rationing plan.

It only stands to reason, Mr. Speaker, that Congress should consider a rationing plan in the cool and calm atmosphere afforded by the Gilman amendment rather than wait until necessity compels Congress to debate this issue in the heat of an emergency.

Let me underscore one important point. A vote for the Gilman amendment is not a vote against the idea of preparing a contingency plan to be held for use in the unfortunate eventuality that gasoline rationing must be considered.

But there are so many variables here. We have heard a multitude of criticisms about possible components of the plan. Some Members have expressed concerns that different regions of the country would not be treated fairly under a plan, that urban areas would receive too much gas, that rural areas would not receive enough.

Some Members have expressed concern about a possible "white market" in rationing coupons which would drive costs up and make gasoline affordable principally for the well-to-do.

Yet others have expressed the belief that the costs associated with such a program would run into the hundreds of millions of dollars. Or that such a plan could not be implemented quickly enough during a time of emergency. The list goes on and on.

In all fairness to everyone, and in light of the controversy which has already been proven to surround rationing, why is there objection to a review of the content of the plan prior to its promulgation?

I have listened to the debate, and one thing I notice is that the term "special interests" has been tossed about continuously.

Is a person about to lose his or her job because of rationing a special interest?

Is a person who sees his small business fail because of the effects of rationing a special interest?

Is a traveling salesman who relies on gasoline to perform his job a special interest?

Is the person who lives in a rural area with no access to public transportation and inadequate supplies of gas for ranching or farming a special interest?

These are the questions I put to my colleagues.

In all our fervor over sections and paragraphs and titles of subsections, are we forgetting those we represent? Gasoline use touches upon the everyday life of almost all American citizens. These citizens sent us here to look out for their best interests. Let us use some commonsense here. Let us do the job we were sent here to do and make certain a rational approach is adopted. Only the elected officials, responsible to the public, should make the kinds of decisions needed here, rather than turn dictatorial powers over to an imperial Presidency while a blindfolded, bound, and gagged Congress stands helplessly by.

A COURAGEOUS CONGRESS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, last night, the deliberations of the House were the subject of some "instant analysis" by the President, who characterized as "timidity" the adoption of my amendment providing for a one-house veto of the provisions of any gas rationing plan.

I would respond to the President that the timidity, if any, is on the part of the administration, which apparently is unwilling to subject its rationing plans to congressional scrutiny.

The House action providing for a congressional veto demonstrated that there are those of us in the Congress who wish to act responsibly and are courageous enough to consider the merits of any rationing plan prior to placing it in a stand-by status.

I was heartened, Mr. Speaker, to hear the President indicate that his major concern was the quick implementation of rationing under emergency conditions.

I re-emphasize that my congressional veto amendment contains no roadblocks to implementation. Since a congressional approved plan will be in place "on the shelf" when any emergency occurs, any debate will focus only on the most immediate problem—whether or not the emergency warrants rationing, rather than on the substance of the plan.

□ 1010

THE CONGRESSIONAL BASEBALL GAME

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I am pleased to report that the media-interest in tonight's congressional baseball game is at a fever pitch.

And, is there any wonder that the media is interested in the 18th Annual Roll Call Congressional Baseball Game? It has all the ingredients of the major news stories of the summer: It is as filled with tension and anticipation as the Skylab landing. It has produced tempers as hot as a mile-long gas line. It has all of the drama of a week's seclusion at Camp David. And, I can promise you that tonight my fine-tuned Republican team will demonstrate such razzle-dazzle on the bases that last week's Cabinet shuffle will pale in comparison.

I would like to remind my colleagues that the game will be played tonight at Four-Mile Run Stadium—home of the Alexandria Mariners—at 7:15 p.m. I also would like my Republican colleagues to recall the old saying "He also serves who only comes and cheers." I ask them all to come to witness our 15th drubbing of the Democrats.

UNRESPONSIVENESS OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, more than a month ago, I wrote to the Secretary of Health, Education, and Welfare to register some serious concerns and complaints from my constituents over failure of the Central Arizona Health Systems Agency to act according to public needs.

To date, I have received no response from the Secretary.

It is almost too coincidental that the response to these documented irregularities made known to the Secretary was delayed so that it would not arrive until after the House had considered legislation extending and expanding the authority for federally chartered health planning agencies such as CAHSA.

Such dilatory tactics by Federal officials should not be tolerated.

I believe that Congress should consider a statutory time limit on executive branch responses to congressional inquiries.

Substantial penalties should be imposed when Federal officials fail to take appropriate action when requested to do so in behalf of the public by elected representatives.

CONGRESS WOULD LIKE A SHARE IN APPROVAL OF STANDBY RATIONING AUTHORITY

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, we join our colleague the gentleman from Kentucky, CARROLL HUBBARD, in welcoming his father, Dr. Hubbard, who once again as guest chaplain delivered the very beautiful prayer.

Mr. Speaker, 11 days ago our President told the Nation the critical situation our Nation is in, particularly concerning energy. Again last night, for the first few minutes of his press conference, he once again identified energy as the Nation's No. 1 problem.

Yet, last night when this body was considering what the President and the Democrat leadership of this Congress identify as an important part of the President's program, standby authority to ration, the bill was abruptly removed from the program and at this point, has not been replaced on the calendar. Why? Because this body about 4 weeks ago rejected one of the President's standby authority rationing programs. Angrily, he said, "Let Congress write it."

That is all we asked last night was to have a share in the approval of a standby authority before we ever have to consider putting it in place.

CONGRESS AND PRESIDENT SHOULD STEP ASIDE AND LET AMERICA PRODUCE ITS OWN ENERGY

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LIVINGSTON. Mr. Speaker, 2 weeks ago the President had a clear choice to make on energy: Get the Government out of the business or get it further in. Unfortunately for everyone, he chose more Government.

Government does not produce energy. Geologists, engineers, drillers, investors—these are the people who produce energy. And the President has chosen to attack those people, labeling them the "oil lobby" and charging that they wish to rob the American people.

Constantly pitting one part of America against another part is not the way to win the energy war—or any war. It is sometimes the way to win an election, but it is no way to run the country.

How can the President expect us to pull together when he constantly pulls us apart? Attacking Congress is no way to get a coherent energy policy—and attacking the oil companies is no way to produce more oil.

I believe in the ability of America to produce its own energy, and I believe that Congress and the President ought to get out of the way so we can do just that.

BICENTENARY-ERA COMMISSION

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RHODES. Mr. Speaker, I am pleased to cosponsor legislation to establish the Citizens' Commission for the Commemoration of the Federal Government Bicentenary Era.

The purpose of this bill is to focus public awareness on our heritage—on the trials, tribulations, sacrifices, and courage that went into forging the Government of this Republic between 1776 and 1800.

It has become apparent that millions of Americans take our liberties for granted, and are oblivious to the obligations of citizenship such as voting and participation in the political process. Today, with TV and print media, the story of the founding of representative government can be presented for mass circulation, in fascinating ways.

The legislation that my colleague from Texas, Mr. WRIGHT, and I are sponsoring, would launch an official Federal effort to stimulate and coordinate observances of the anniversaries of significant dates in our Nation's struggle to become a functioning republic.

This approach resulted in a gala celebration of our bicentennial year. Certainly, there is a demonstrated need for more awareness by more Americans of the unique Government we have, and the fierce challenges our forefathers and mothers overcame to pass on to us this priceless legacy of freedom and opportunity.

I urge my colleagues in the House to rally around this bill, to help us launch an appropriate tribute to the founding of the United States of America.

CAN YOU BELIEVE THAT THE PRESIDENT CHARGES CONGRESS WITH TIMIDITY?

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I rise in defense of the Speaker and of the majority leader, and of the gentleman from Michigan (Mr. DINGELL), my good friend and of all my colleagues here in the House who were being kicked around by the President of the United States during his press conference last night.

How dare the President charge us with timidity? How dare he say this about his own leaders with a 2-to-1 majority in this House?

I think it is unfortunate that the President of the United States, who should bring people together, should try and divide his own ranks by these constant attacks on the Congress of the United States, which is controlled by you, Mr. Speaker, obviously—that was shown last night—and by the Democratic Party's majority.

I looked up the word "timidity," and found the definition—"lacking in courage, or self-confidence; easily frightened or overawed."

At least the President does know the English language, and he ought to know the meaning of the word "timidity" very well.

THE PLIGHT OF IOSIF MENDELEVICH

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVITAS. Mr. Speaker, I am pleased to join my colleague, Mr. HOWARD, and others in participating in the "Shatter the Silence Vigil, 1979," in an effort to improve emigration for Soviet Jews.

Today, I would like to discuss the case of Iosif Mendelevich. His case presently has two significant aspects. With the release this past April of seven of the Prisoners of Conscience convicted in the infamous Leningrad Trial of 1970, there remains in prison three from that trial, two non-Jews and Mendelevich. It is unjust for some who received harsher sentences than Mendelevich's to have been freed, and to keep him and the others incarcerated.

Second, and perhaps this is one of the reasons why the Soviets chose not to release Mendelevich along with the others, he is an observant Jew. He eats only kosher food, thus limiting an already paltry diet upon which he must subsist while working at hard labor. He insists on wearing the traditional skullcap, and works extra hours 6 days a week so that he does not have to work on the Jewish Sabbath. This, apparently, does not sit well with the Soviets.

Born into a family close to Jewish traditions, the 31-year-old Mendelevich and his family were refused permission to emigrate to Israel three times between 1967 and 1970. On June 15, 1970, he was arrested at the Leningrad airport for the alleged attempt to steal a plane to Israel. Simultaneously, Soviet Jewish activists were apprehended in cities throughout the Soviet Union. After worldwide expressions of outrage Mendelevich's original sentence of 15 years was reduced to 12. He is scheduled to be released from prison in 1982. We must continue to cry out for justice, and, once again, I say it is unjust for this man to have to continue to work at hard labor for several more years while some of his fellow prisoners, a number of whom received harsher sentences than his, are now enjoying freedom from prison.

Certainly, it would be in the spirit of the Helsinki Conference for the Soviets to review this case and others mentioned above. I urge my colleagues to be continually aware of human rights violations, not only in the Soviet union, but elsewhere—wherever they exist.

THE BRAVERY OF VIKTORAS PETKUS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to review and extend his remarks.)

Mr. DORNAN. Mr. Speaker, many of us in this House are trying to, over the next month, hopefully not years, mention each morning one of the prisoners of conscience who are held in the Soviet Gulag concentration camps.

This morning I would like to speak of Viktoras Petkus, the 50-year-old Lithuanian Catholic and present cellmate of Anatoly Shcharansky, has now completed over one year of his current sentence—10 years hard labor in Chistopol prison and 5 years of enforced exile from Lithuania.

Petkus is no newcomer to the struggle for human rights. Eighteen years after his birth in 1929, in Raseiniai, Lithuania, he was arrested for his activities in a Roman Catholic youth organization which opposed Lithuania's annexation by the U.S.S.R.

When not in prison, Petkus courageously fought for basic human rights. He distributed reading materials to interest fellow Lithuanians in native history, religion and literature. He assisted the mother of Simas-Kudirka in working for Kudirka's release from a Soviet prison, and also attempted to attend the trial of Sergei Kovalev in Vilnius, but was detained by the KBG.

The efforts of Petkus, as well as Shcharansky, in founding the Moscow Lithuanian Helsinki Monitoring Group, are well-known to all of us. Petkus went on to prepare twelve of the Helsinki Group documents, as well as to attempt organizing a "Supreme Committee on the National Movements of Estonia, Latvia and Lithuania."

My colleagues, though you are well aware of the details of the work of Petkus as a leader in the Lithuanian Catholic movement, I cannot impress upon you enough the severity of his situation now. Having no known relatives to plead his case, he fights solely for the only family he has—the Lithuanian people. However, it is not his own people who can free him from the deplorable conditions under which he is forced to live and work. It is only the Western world that can secure his release and freedom.

It is of utmost importance that we not let our familiarity with the Petkas case dissipate. His fate is in our hands. The more we learn of such Soviet dissidents the more we must impress Soviet authorities with our dedication to the release of these heroic people.

Mr. Petkus was designated a "Prisoner of Conscience." Let us also become "prisoners" of our consciences. Let us never forget the plight of Petkus or the other imprisoned Helsinki Monitors. The actions that we take to help free Petkus will set the stage for future releases. And it is only through our unrelenting concern that we can free our own consciences.

☐ 1020

THE LATE W. E. "ED" WILLIAMSON

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I take this time to announce to the House the sad news that the longtime counsel to the Interstate and Foreign Commerce Committee, Ed Williamson, has passed away. His funeral is going to be today. He was a good friend to many of us and a tremendous help and guide to the committee. I am sure we will all miss him and extend our sympathies to his family.

AFTER GOOD SUMMIT MEETING DEMOCRATIC BASEBALL TEAM REORGANIZED

(Mr. CHAPPELL asked and was given permission to address the House for 1 minute.)

Mr. CHAPPELL. Mr. Speaker, I take this time to speak briefly on the ball game coming up tonight. The gentleman from the other side of the aisle, Mr. CONTE, has been doing a lot of big talk about how the Republicans are going to take on the Democrats tonight. I am here to tell him if he wants to stay out of the loss column, the only chance he has is to pray for rain so the game will be postponed.

Mr. Speaker, we have reorganized the Democratic team. We know we have not had the best of luck in the past 2 or 3 years. But we want the Members to know we have been up to the summit. We have held a good summit meeting, and closed the confidence gap. Our players turned in their contracts and we have renegotiated them. We needed more weight so we have brought MENDEL DAVIS back for heavy work. We needed stronger leadership so we drafted our majority leader, JIM WRIGHT, as our chief of staff. The Members would be surprised how that has improved the attendance of our baseball team at the practices. He is going to be out there in full uniform, and he is going to be directing the team. I guess we are just going to call him "Chairman of the Joint Chiefs of Staff."

We have had some problem on the bases in the past. Some players were so fast they overran the other runners on the bases. So this year we have decided to put earphones on our players to receive the signals from the bench. We first planned to use two signals "whoa" and "Go." But surmising the independence of our players we determined that one signal is preferable. So the signal will be "Go" all the way—and "Whup" the Repubs good.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. Not at this time.

The SPEAKER. The gentleman's time has expired.

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent to have 1 additional minute.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. CONTE. Mr. Speaker, reserving the right to object, I am sorry, but the gentleman under the rules of the House cannot have it.

Mr. KAZEN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CONTE. Reserving the right to object, Mr. Speaker——

The SPEAKER. The gentleman reserves the right to object. Does the gentleman object?

Mr. CONTE. I reserve the right to object, Mr. Speaker. The last week when I made my speech about the coach of the Democratic team——

Mr. KAZEN. Nobody questioned the gentleman, sir, nobody interrupted him.

Mr. CONTE. Last week, I fear I may have made a mistake when I said that my Democratic opponents would rely solely on fossil fuel. From the remarks of the gentleman from Florida, it is clear that they will also have plenty of windpower and hot air.

The SPEAKER. The gentlemen can argue in the bus on the way to the game.

PROVIDING FOR CONSIDERATION OF H.R. 3000, DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 379 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 379

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Science and Technology, Interstate and Foreign Commerce, and Interior and Insular Affairs now printed in the bill, it shall be in order to consider, immediately after the enacting clause of the bill is read, the text of the bill H.R. 4839 as an amendment in the nature of a substitute for the bill, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, and clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Tennessee (Mr. QUILLEN) and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 379 provides for the consideration of H.R. 3000, Department of Energy civilian programs authorization for fiscal year 1980.

Mr. Speaker, before I proceed further I have an unanimous consent request with regard to this resolution. I ask unanimous consent that the resolution be amended by striking out the words "for amendment" on page 2, lines 22 and 23, and inserting in lieu thereof the following language: "as an original bill for the purpose of amendment under the 5-minute rule." Mr. Speaker, this phrase was inadvertently left out of the rule as reported. This will simply allow for a more orderly procedure when the bill is being considered for amendment.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MURPHY of Illinois. Mr. Speaker, House Resolution 379 provides for an open rule with 1½ hours of general debate to be divided as follows: 30 minutes to the Committee on Science and Technology, 30 minutes to the Committee on Interstate and Foreign Commerce, and 30 minutes to the Committee on Interior and Insular Affairs. In each instance the time is to be equally divided and controlled by the chairman and the ranking minority member of the respective committees.

The rule provides for a waiver of section 402(a) of the Congressional Budget Act since one of the committees did not meet the May 15 reporting date requirement. However, the Budget Committee supports the granting of the waiver in this instance since that committee, the Committee on Foreign Affairs, decided not to report the bill because of its limited jurisdiction over certain titles of the bill. The other committees did satisfy the May 15 reporting requirement. Thus, the Budget Committee has no objection to the waiver.

In addition, House Resolution 379 makes in order H.R. 4839 as an amendment in the nature of a substitute for the original bill to be read by titles instead of by sections. Each title shall be considered as read. H.R. 4839 is the compromise bill agreed to by the three committees to resolve many of their jurisdictional problems. Since the resolution has been amended, this substitute will be considered as an original bill for purposes of amendment under the 5-minute rule. Points of order are waived against the substitute for failure to comply with clause 7, rule XVI—the germaneness rule—as well as with clause 5, rule XXI, which prohibits appropriations in an authorization measure. House Resolution 379 also provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3000 authorizes appropriations of $6.9 billion for several department of energy civilian programs in fiscal year 1980. The bill provides for programs in research and development in nuclear, solar, fossil and other energy sources and includes funding for the Clinch River breeder reactor. In addition, the bill authorizes funds for the Federal Energy Regulatory Commission, the Economic Regulatory Administration, the Energy Information Administration and the strategic petroleum reserve.

Mr. Speaker, I wish to commend these committees for working so well together in resolving many of their jurisdictional differences on this very complex but necessary piece of legislation. I know of no opposition to the rule, although some Members are concerned with various provisions in the bill. I urge the adoption of House Resolution 379 in order that we may discuss and debate this legislation.

Mr. Speaker, I yield to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Illinois (Mr. MURPHY) has explained the provisions of the rule very thoroughly and very accurately.

☐ 1030

Mr. Speaker, it is time for action by this House to solve the energy problem without so much comment or criticism emanating from the White House. So, today, as we face this measure on the floor, it is time for action. It is time for more nuclear energy; for more solar energy, both research and technology; it is time for more geothermal energy. It is time for more coal gasification; it is time for basic research; it is time for action.

Without any lengthy speech I am going to commit myself to its time for action by reserving the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 404, nays 6, not voting 24, as follows:

[Roll No. 389]

YEAS—404

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes

Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Bauman
Burton, Phillip
Crane, Daniel
Crane, Philip
Paul
Weiss

NOT VOTING—24

Bolling
Burton, John
Chisholm
Conyers
Davis, S.C.
Drinan
Emery
Flood
Forsythe
Hall, Ohio
Holland
Lee
McDonald
Mitchell, Md.
Moffett
Pepper
Rosenthal
Santini
Treen
Walgren
Walker
Waxman
Williams, Ohio
Young, Alaska

☐ 1040

The Clerk announced the following pairs:

Mr. John L. Burton with Mr. Emery.

Mr. Mitchell of Maryland with Mr. Forsythe.

Mr. Santini with Mr. Walker.

Mr. Walgren with Mr. Williams of Ohio.

Mrs. Chisholm with Mr. Young of Alaska.

Mr. Davis of South Carolina with Mr. Lee.

Mr. Flood with Mr. Hall of Ohio.

Mr. Pepper with Mr. McDonald.

Mr. Moffett with Mr. Rosenthal.

Mr. Conyers with Mr. Waxman.

Mr. Holland with Mr. Drinan.

Mr. PAUL changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1050

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 3000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATION

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Fuqua).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3000, with Mr. Boland in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. Fuqua) will be recognized for 15 minutes; the gentleman from New York (Mr. Wydler) will be recognized for 15 minutes; the gentleman from Michigan (Mr. Dingell) will be recognized for 15 minutes; the gentleman from Ohio (Mr. Brown) will be recognized for 15 minutes; the gentleman from Arizona (Mr. Udall) will be recognized for 15 minutes; and the gentleman from Idaho (Mr. Symms) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I urge the support of all Members today for what I think is the most significant energy bill to come before this Chamber this year. I say this because the programs and projects authorized in this bill are designed to develop our domestic resources and improve our technologies for the short, medium, and long term. It has required a great deal of work within our Committee on Science and Technology to bring before the House a bill which will spend the money wisely and accelerate areas such as photovoltaics, coal liquid demonstration plants, fusion technology, and conservation.

The work has been broader than our committee because the Department of Energy has other functions to perform which are handled by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs. Mr. Dingell and Mr. Udall and their staffs have been most cooperative in working with us and the fruits of our labors are reflected in the fact that there are no disagreements between the committees in the bill before us today.

Mr. Chairman, now is the time to act. We need assured sources of energy supply and we must develop the technologies to take advantage of our abundant coal reserves, oil shale reserves, and agricultural land skills that are underutilized. The Congress has an excellent record in accelerating these technologies. Our committee first authorized demonstration plants for high-Btu and low-Btu gas in fiscal year 1976. Those plants have not yet been built. In that year, we also authorized two coal liquefaction pilot plants and I am pleased to report both of them are completing construction at this time and should be operating in the near future. The technologies contained in this bill are geared to the production of energy domestic resources. This is the key to achieving our energy independence.

Our Nation is blessed with vast resources in many regions of our country. We have the technology and scientific skills that cover a broad range of potential applications. This bill keeps our scientists working on these applications while at the same time, providing for the construction and operation of plants which are on the forefront of technology and from which decisions about commercial plants can be made.

Mr. Chairman, I hope these brief remarks serve to indicate that Congress has been toiling in the vineyards these past several years. This bill seizes that initiative and presents an aggressive Federal program. I am personally proud of our record and can only say that we would be far better off today if the several plants that have been authorized in the past were built, or at least under construction.

The cooperation we have had with others in understanding the situations we face has been outstanding, and I urge your cooperation in supporting this bill which is absolutely vital to achieve the goals of energy production we jointly seek.

On the 1st of May, the Committee on Science and Technology reported favorably on H.R. 3000, the initial bill introduced to authorize appropriations for fiscal year 1980, for consideration by the House. The Committee on Science and Technology shares jurisdiction over this legislation with the Commerce and Interior Committees. In order to simplify consideration of the bill on the House floor, the committees have worked together to resolve differences and overlaps which came about as a result of each committee's separate actions. The committees, at the suggestion of the Parliamentarian, have introduced a bill, H.R. 4839, which represents a resolution of those differences.

H.R. 3000 contains an authorization for Department of Energy research, development, and demonstration programs of approximately $6.1 billion, an increase of $241 million above the administration's authorization request of January 1979. The work on our part of this bill has been carried out by our distinguished subcommittee chairmen: Mike McCormack, who handled the nuclear, geothermal, low-head hydro, electric and storage systems and basic research programs; Richard Ottinger, who has worked on the fossil, solar, and conservation programs; Jerome Ambro, who worked on the environmental research and development programs; and Tom Harkin, who handled transportation and energy conservation programs.

The committee made significant changes in the bill as it was submitted by the administration. In the nuclear fission programs, the committee funded the Clinch River breeder reactor project at $183.8 million; it increased the DOE request for civilian nuclear waste treatment technology by $6.75 million, and added $5 million to begin demonstration of high level waste solidification at the nuclear fuel services facility at West Valley, N.Y. It added $27.4 million to the converter reactor program to bolster the effort in reprocessing of converter reactor spent fuel and to develop high-temperature gas reactor technology.

In the fusion energy program, the committee recommended modest changes that would accelerate development of the most promising magnetic fusion alternatives in an effort to proceed more quickly to the successful demonstration of a fusion power reactor. Thus, the committee increased the development and technology subprogram by $4.3 million and decreased the applied plasma physics program by $5.5 million. It also added $10.4 million to the inertial confinement—or laser—fusion program, for civilian power applications.

In geothermal energy, the committee added $4 million for a second hydrothermal demonstration powerplant, an important project which was previously authorized by Congress, but has yet to be initiated by the administration. The committee decreased the geopressured resource activity by $4 million, which will have the effect of reducing the number of new geopressured wells to be drilled from five to four.

In electric energy and storage systems the committee restored funding to critical programs to develop efficient and safe high-voltage transmission lines, to control the transfer of bulk electrical power to different regions on the Nation's utility grid system, and to continue development of advanced energy storage systems.

In fossil energy programs, the committee added a total of $45 million for the solvent refined coal demonstration plants—$20 million for SRC–I and $25 million for SRC–II. These propects are aimed at converting coal to clean solid and liquid fuels for boiler use.

Looking to the long-range technologies which will use coal and other fossil fuels more efficiently, we added $4.5 million for thermionics and $9 million for fuel cells.

Although we are interested in developing synthetic fuels from coal, we recognize that in the next 25 to 30 years the primary use of coal will be direct combustion, for generation of electricity and for industrial process heat. Since the Department of Energy focus has been on energy production technology rather than on end uses, we added $2 million for a program plan and a technical implementation plan for coal-fired electric power generation technologies.

In conservation, we added $29 million for urban-waste-to-energy grants and loan guarantees. This will have a twofold effect—in disposing of our urban waste and in using it as a resource to generate energy. This is a specific mandate to the DOE to take action in this direction.

The committee also added $26.75 million for industrial energy conservation, specifically for industrial process efficiency and industrial cogeneration of heat and electricity.

In solar applications, we added $25 million for photovoltaics and another $15 million for solar heating and cooling demonstration systems development. Our recommendation for the Federal photovoltaic utilization program of $10 million, which was not requested by the Department of Energy, is an indication of our desire that photovoltaic technology be demonstrated as soon as possible.

Turning to the environmental area, I am pleased to report that the administration's proposed budget reflected recommendations made by the committee in previous authorizations. The major change made by the committee was the addition of $2.5 million in authorization for research into appropriate cleanup procedures following a nuclear accident. The committee believes that the restoration of contaminated areas to productive use has not been adequately examined and that research into this area is essential.

Finally, we have approved the administration's request for a healthy basic energy research budget, so essential to our long-term goals. These programs include materials science, chemistry, geological science, and energy-related aspects of the biological sciences. We have also approved the request for a strong general science program in the areas of high-energy and nuclear physics, assuring that our Nation will continue to be a world leader in the search for new knowledge about the fundamental nature of matter and energy.

Mr. Chairman, the energy research, development, and demonstration authorization bill reported by the Committee on Science and Technology represents a strong effort to get this Nation's energy program on track and moving toward a solution of our many energy problems. I urge my colleagues to adopt this important piece of legislation.

Mr. WYDLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill we are going to consider here today is an important bill for our Nation because it deals with the question of supply of energy. This is one vote that members of the committee and of the House can cast knowing that they are coming to grips with the supply issue, and I hope every Member will consider that most seriously as we consider the bill and some of the amendments that are going to be offered to the bill this afternoon.

There is an urgent need to pass the second energy supply bill of this Congress in the form of H.R. 3000. As I said before, we must demonstrate the seriousness with which the Congress approaches the question of energy supply by ratifying this bill. We must then exert the utmost pressure on the other body to do the same with their version, S. 688.

Just as in the Moorhead synthetic fuels bill, which the Congress overwhelmingly approved a few weeks ago, we here are answering the need for energy supply by setting forth congressional policy in the absence of a firm commitment on this front by the administration. The administration's recent push for synthetic fuels is a blatant attempt to catch up with the Congress after the Moorhead initiative. In this bill we are putting more distance between ourselves and the administration on the question of nuclear policy.

The major focus of controversy in this bill, as it has been for the last 3 years, is the Clinch River breeder reactor project. We have strong reasons for proceeding with this project and the objections to it by the administration have been literally shot full of holes in every aspect. The General Accounting Office has strongly confirmed the position of our committee and the whole House that this country must retain a commitment to build a breeder and demonstrate that this important energy supply technology is available when we need it.

□ 1100

I have discussed this matter with the Japanese, the Germans, the British and the International Atomic Energy Agency. The United States remains a minority of one on this issue, standing against the development of a breeder reactor.

On the Committee on Science and Technology we have also taken an initiative to hammer out a viable program in nuclear fuels reprocessing research and development.

Unfortunately, the administration has chosen not to request any funds for the Barnwell nuclear fuels plant, despite all indications that it should be the developing countries first international reprocessing plant with programs conducted under advanced nuclear safeguards.

Neither have we neglected the long term nuclear option in magnetic fusion. There have been recent breakthroughs in this most promising technology. It will present a savings in time and money if we can move now and move boldly to augment the fusion budget and push the promising Tokamak concept toward technology demonstration. The administration, unfortunately, seems to continue to lag behind in this area also. So, we must lamentably conclude that the administration feels no urgency to push ahead on the advanced technology fronts in either fission or fusion.

In the area of civilian waste management, there is overwhelming evidence that the technology for safely isolating nuclear waste for long periods of time is at hand. Our Subcommittee on Energy Research and Production documented this view conclusively in hearings this May. We must get on with demonstrating to the citizenry that the technology is indeed here and that the corresponding geological work at specific alternative sites must now be done.

I will be supporting the Goldwater-Dannemeyer amendment to this bill to assure that this end is achieved on a reasonable timetable.

The additional requirements for nuclear safety R. & D. have emerged clearly from our committee hearings on this topic held in late May. We heard from representatives of the nuclear industry, nuclear critics, the Nuclear Regulatory Commission, State representatives and Adm. Hyman Rickover, head of the naval nuclear propulsion program. We also received testimony from Dr. George Low, the former deputy administrator at NASA, who gave us an aerospace perspective.

I was particularly interested in what Admiral Rickover and Dr. Low had to say so we might set a new benchmark for nuclear safety systems. We identified several specific areas where DOE is now prepared to move out with an enhanced program. I shall offer an amendment to this bill to provide $5 million for the following technical program elements:

First. Improved methods of risk assessment.

Second. Improved safety systems including component and plant layout approaches.

Third. Refined methods of safety data analysis and studies of hydrogen explosions and related reactor systems problems.

I believe that this add-on complements the $5 million authorization in title VII of this bill which the committee provided for DOE to develop a program to train nuclear operators. That program should incorporate the latest advances in our knowledge of the man-machine interaction.

In my opinion, these new thrusts should follow through on our commitment to make the Three Mile Island accident the "Apollo 204 Fire" for the nuclear industry. I believe this will be a basis for constructive utilization of all the data derived from this accident.

As the members of this committee may remember, we did in the middle of the Apollo program have a very serious accident occur, an accident in which three of our astronauts were killed in training. There were some in those days that said we should end that program and not take any more risks, but instead of doing that we pulled our program together, improved the safety of the program and went on from that accident to make the program a better program and a successful program. That is what we should be doing with what we have learned from the Three Mile Island accident as well.

Mr. Chairman, there are many important provisions in this bill that will help to increase the energy supply for our Nation in the years to come. I hope the members of this committee will give this bill the support it needs to indicate to the President and the administration that we mean business in increasing energy supply. The funding of general science and research in this bill is quite healthy and basic energy sciences have been increased from fiscal year 1979 by over 20 percent.

Our committee intends to pursue closely the important relationship between these programs and the early phases of technology development programs in nuclear, fossil, geothermal, and the other energy sources. The major amendments to this bill adopted by the Science and Technology Committee and, in some cases modified in joint jurisdictional negotiations with the other two committees, are significant. I should mention that the West Valley solidification demonstration project on nuclear waste is to be an important milestone in that area.

Mr. Chairman, the thrust of this bill can be summarized in three words: supply, supply, supply.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I want to rise in support of the legislation and to commend the gentleman from New York (Mr. WYDLER) on the gentleman's work as ranking minority member of the full committee and on the Subcommittee on Energy Research and Production and most particularly for the gentleman's pragmatic and farsighted approach to the energy dilemma.

Mr. Chairman, as a member of the Science and Technology Committee I would like to speak today in support of H.R. 3000, the Department of Energy authorization bill.

This Nation is facing a serious and complex energy dilemma, and disagreements abound on possible solutions to the problem. No panacea has been discovered, no single answer is most appealing. But there are several energy sources which have a great deal of potential, and this bill is notable for the fact that it emphasizes the most promising of these, although admittedly we must proceed cautiously in some areas.

The committee has once again acted in support of the development of the breeder reactor. The margin this year was wider than last, reflecting this body's awareness of the increasing necessity for new energy-producing methods and the debate reflected the body's recognition of environmental factors. Arguments for the breeder have already been advanced which have pointed to its technological benefits and the energy needs in this Nation that the breeder could fill, recognizing the finite nature of other energy sources and the time needed to develop others. But energy issues touch on all sectors of American life, so I would like to mention a subsidiary result of safe breeder development which supports its use. Simply put, reactor construction means jobs. Organizations with a tradition of concern about unemployment, such as the AFL-CIO, have publicly advocated the advancement of safe breeder technology. It would be foolish for us to ignore an industry which would have a doubly beneficial impact on our Nation's economy.

The widespread use of the breeder reactor and other alternate sources would not only reduce our dependence on foreign oil and our trade imbalance which fuels inflation, but also could help diminish the unemployment rate in certain regions of the Nation and ameliorate social ills, such as crime, which are aggravated by a high jobless percentage.

Magnetic fusion is another important energy field which is advanced by our committee in this bill. The work at the Princeton Plasma Physics Laboratory has been especially exciting. They have achieved higher temperatures and have come closer to energy breakeven than most people expected. Construction of a new fusion machine, the Tokamak Fusion Test Reactor, was begun at Princeton before these achievements. I strongly support the committee's initiatives to fund an upgrading of this new facility which will allow these achievements to be taken into consideration in the new facility's design. If we do this, I hope to be able to announce in the near future that more breakthroughs have occurred at Princeton and that they have demonstrated the temperature and confinement period necessary to extract more energy from a fusion reaction than we initially supplied in heating the gas.

In coal gasification and liquefaction, the committee authorized adequate funds for further research and development, but I would like to see signs of a stronger commitment to certain features of these technologies. In gasification, we should not ignore schemes for making low Btu gas for utility use and conversion to electricity. And as far as liquefaction is concerned, the gasoline crunch in the Northeast has convinced many residents of that region of the pressing need to develop alternate fuel sources. I would like to see this urgency reflected in the pace of the adaption of this technology to the fossil energy program.

I am in support of the committee in its recommendation of $2 million more for direct combustion than was directed by DOE. This year, as in last year's authorization bill, particular emphasis had been placed on the application of fluidized bed combustion to clean coal burning. It is imperative that atmospheric and pressurized fluidized bed approaches be pushed to commercialization. Advanced environmental control technology must be considered in the course of this research and development so that sensible clean air provisions are applied to new concepts.

I will conclude with a few cautionary remarks about our spending on energy development. The temptation on some funding programs for energy, with long range potential but relatively minimal results in the short term, is to subject them to less rigorous cost benefit inspection and this, too, frequently results in a waste of public money. We cannot allow this to happen with solar energy and geothermal energy, for example, although properly funded and supervised by a Congress mindful of its oversight role, solar and photovoltaic programs can make a valuable, marketable contribution in coming decades.

Mr. Chairman, I must restate my support of H.R. 3000, and urge all Members concerned about the formulation of a coherent and practical energy policy to join me in voting for this legislation.

Mr. WYDLER. Mr. Chairman, I thank the gentleman for his kind comments.

Mr. FUQUA. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, this legislation is divided into many parts. We present it according to subcommittee jurisdiction. The Subcommittee on Energy Research and Production deals with nuclear energy, geothermal energy, low head hydroelectricity, basic energy sciences, high energy psysics, nuclear physics, electric energy systems and electric energy storage.

I congratulate Chairman FUQUA and the ranking minority member on our committee, the gentleman from New York (Mr. WYDLER) for the tremendous efforts they have put forth in coordinating and pulling this bill together, along with the chairmen of the other committees who will be sharing responsibility for the bill.

I think this is one of the most important energy bills this Congress will handle this year. I completely agree with what the gentleman from New York has just said about energy supply. The thrust of this legislation is that we must produce energy from domestic sources. This is what we are talking about, and it is the only way that we are ever going to relieve our dependence upon imported oil. In spite of any conservation program, no matter how successful, we must produce energy from domestic sources, and there are only two significant energy sources for this Nation for the balance of this century and early next century. They are nuclear fission and clean fuels made from coal. We must rely heavily upon these. That is why this legislation, moving forward aggressively with our nuclear programs is so important to the Nation.

As the gentleman from New York has mentioned, in our nuclear program we fully funded the Clinch River breeder reactor project. This is a continuing project which was, in its budget request, totally ignored by the administration. No funding was requested, either to discontinue it or to continue the CRBR.

The Committee also funded the Barnwell reprocessing plant in South Carolina, continuing the research and development programs related to nuclear fuel reprocessing, not only for a breeder program, but also for conventional nuclear powerplants.

□ 1110

In addition the committee set aside a million dollars for a special study of an internationally managed nuclear fuel reprocessing center at Barnwell. In addition to that, we took an important policy position which I believe the Members of this House will overwhelmingly endorse, and that is that we established that spent nuclear fuel elements would not be thrown away as if they were waste.

Ninety-eight percent of the contents of a spent fuel element is fuel, and a spent fuel element about 6 inches across and about 10 feet high, as it comes from a nuclear powerplant still contains the energy equivalent of 8 million to 10 million barrels of oil, if used in a breeder program. I repeat, 8 to 10 million barrels of oil equivalent from each spent fuel bundle.

So the committee has taken a strong policy position that spent fuel shall not be considered as waste which may be stored temporarily, but not thrown away, as assumed in the words "permanent storage."

On the other hand, we have moved forward aggressively with a waste disposal program, accepting an amendment from the gentleman from New York, STAN LUNDINE, who proposes to glassify the liquid wastes in storage at West Valley, New York. The committee is sponsoring this program as a demonstration to show that indeed this Nation does have the technology to totally remove all high level nuclear wastes from the biosphere forever.

The committee added funds for a safety research program for nuclear powerplants and for the training of nuclear powerplant operators. It became very evident to the committee in its investigation that one of the great weaknesses in the Three Mile Island accident was the inability of the operators to handle nuclear accident situations because of inadequate training and inadequate discipline. So we have increased funding for a training program—for nuclear plant operators.

We have also funded programs to increase the mid-term efficiency of our nuclear powerplants and make them more efficient. Making our nuclear powerplants 10 percent more efficient by the year 1985 will have the effect of adding almost a half a million barrels of oil a day to our energy supply. That is the result of just having our nuclear powerplants 10 percent more efficient.

Mr. Chairman, I rise in support of H.R. 3000.

The events of this summer have brought home with a vengeance how much we need a coherent energy policy; and how much we need an effective energy research, development, demonstration, and production program. We simply cannot afford to continue to drift from year to year while oil gets more expensive, OPEC gets more powerful, and the economy staggers from the hammer blows of repeated energy famines. There are major R. & D. policy decisions that need to be made now. They should be made through a fully supported authorization bill that forcefully communicates the will of the Congress to pursue a course that will lead us out of the energy bind in which we find ourselves.

The Committee on Science and Technology has looked long and hard at the energy program submitted to the Congress by the administration. In a number of areas we have found it grossly deficient, and these deficiencies have been corrected by committee actions. The bill that stands before us represents a major step in the direction of a comprehensive and coherent energy program.

Mr. Chairman, before I move into a discussion of the specific provisions of this bill, I would like to express my thanks to the gentleman from Florida (Mr. FUQUA), for his dedicated efforts in guiding this piece of legislation from its initial unimaginative beginnings to its present form. His leadership as chairman of the Committee on Science and Technology, his fairness, and his determination to consider all aspects of the problem have been essential to the formation of an innovative and responsible energy bill.

I would also like to note the very substantial contributions of our ranking minority member, Congressman JOHN WYDLER, whose constructive actions have served to strengthen this bill in many ways.

The programs I will discuss today are those that are under the jurisdiction of the Subcommittee on Energy Research and Production of the Committee on Science and Technology, which I have the honor to chair. Those sections cover DOE's programs in nuclear fission, including civilian waste management and uranium enrichment and resource assessment; fusion energy; geothermal and low-head hydroelectric energy; electric energy systems, and storage systems; basic research, and general science and research.

NUCLEAR FISSION AND URANIUM ENRICHMENT ACTIVITIES

For the nuclear fission and uranium enrichment programs, the Committee on Science and Technology voted to authorize appropriations of $2,263,773,000, an increase of $202,850,000 over the amount requested by the administration. A large fraction of this increase goes to support the Clinch River breeder reactor project (CRBRP), which the administration chose to ignore completely in submitting its budget request to the Congress.

Within the nuclear fission program, the committee voted to increase authorization for conventional nuclear plant systems research by $27.7 million; for civilian waste management by $13.25 million; for breeder reactor systems by $91.9 million; and for uranium enrichment and resource assessment activities by $70 million. I would like, Mr. Chairman, to briefly describe these changes.

CONVENTIONAL NUCLEAR PLANT RESEARCH

In the nuclear plant program, the committee increased authorization for reactor technology by $32.4 million, and decreased authorization for advanced reactor systems by $4.7 million. The reactor technology increases included the following actions:

Safety programs were increased from $3.5 to $8.5 million, to enable DOE to establish an operations training program for civilian nuclear powerplant operating personnel. This program would draw on DOE's experience with the naval reactor operator training program, but would be compatible with existing civilian operator training programs. Its purpose would be to provide intensive training for nuclear plant, operators, with particular emphasis on dealing with a wide range of operational anomolies.

Light water nuclear fuel cycle R. & D., which was dropped from the fiscal 1980 budget request, was restored by the committee at a level of $10 million. This funding allows for continued work in coprocessing and refabrication begun in fiscal 1979, and complements the fuel cycle effort in the breeder reactor program. The committee directed that $1.0 million of this increase be used to study options available for using the Barnwell nuclear fuel plant as an international facility at the conclusion of the international nuclear fuel cycle evaluation.

The high temperature gas-cooled reactor (HTGR) programs was increased by $13 million, for a total authorization of $25 million. The administration proposed to close out the program to develop gas-cooled reactor steam cycle work in fiscal 1980, and to limit work on the HTGR to direct-cycle gas turbine plants and process heat applications. Both of these advanced technologies are being developed also in the Federal Republic of Germany. The committee increase will make it clear that the United States will be a strong partner with that nation in the development of high temperature gas-cooled reactors.

The committee also provided $4.4 million for HTGR thorium cycle research and development, which restores this program, dropped by the administration, to half the level of funding for fiscal 1979. In its action on this program, as well as on LWR fuel cycle R. & D., the committee is affirming its belief that the administration's decision to halt the reprocessing of converter reactor spent fuel is premature and contrary to the most informed views offered to the committee in its hearings on the present bill.

Funding for a new program called advanced reactor systems was cut by $4.7 million, to a level of $5.3 million. Much of this program is aimed at developing low-enriched fuel for research and test reactors, as a means of reducing the risk of proliferation of nuclear weapons. The committee noted that these reactors, most of them 1 megawatt or smaller, are not considered to be major proliferation threats. The committee action is made with the understanding that only one reduced enrichment demonstration core should be fabricated, installed and tested.

WASTE MANAGEMENT

In the area of civilian nuclear waste management, Mr. Chairman, the committee has made relatively few changes. Nevertheless, the changes that have been recommended reflect the committee's deep dissatisfaction with the slow and uncertain pace at which the administration is moving in this critical area. Despite a budget of almost $200 million per year for the past several years, the waste management program still consists of study after study, panel after panel, and deferral after deferral of the demonstration of a technology that is in hand now and has been in hand for years.

In an effort to get this program moving, the committee voted to increase its authorization by $13.25 million. Specifically, two areas have been increased:

The civilian waste treatment technology program was increased by $8.25 million, including $6.75 million for operating expenses and $1.5 million for the environmental and energy technology facility at Richland, Wash. The operating expense increase restores funding cut from the civilian high-level waste technology program in the fiscal 1980 budget request. DOE justified the cut on the basis that part of the waste vitrification effort had been transferred to the defense waste management program. However, there are substantial differences between civilian and defense high-level waste, and separate development programs are necessary for each.

A nuclear waste solidification demonstration program at the West Valley Nuclear Center was funded by the committee at a level of $5 million. The high-level liquid nuclear wastes stored there resulting from the operation of the nuclear fuel services reprocessing facility at West Valley present an unusual opportunity to demonstrate solidification of liquid wastes on a large scale. A recently completed DOE study acknowledges Federal responsibility for this high-level waste, and indicates that a vitrification demonstration project will be a 10-year effort costing about $130 million to complete. It is essential that this project be started immediately.

In addition to these budget changes, the committee adopted an amendment discouraging the wasteful practice of burying spent fuel elements before all the useful energy value is extracted from them. Underground tests simulating the irretrievable storage of spent fuel assemblies from nuclear reactors are to be prohibited. The once-through fuel cycle extracts only about 2 percent of the potential energy value contained in the uranium in spent fuel assemblies. Throwing them away is completely contrary to the national commitment to conservation of needed energy.

The committee's amendment is not intended to prohibit the demonstration of permanent disposal of nuclear isotopes which are truly wastes. The committee is strongly in favor of placing canisters of glassified wastes in deep geologic repositories or test facilities at the earliest possible date.

NUCLEAR BREEDER REACTORS

When we speak of breeder reactors, we are dealing with the heart of the nuclear development program. Here, as in the case of the waste management program, the committee is concerned with the slow pace pursued by the administration, and particularly with its efforts to abandon the centerpiece of the program, the already authorized Clinch River demonstration facility, and to substitute a vague and unsatisfactory alternate design, with no commitment to build a plant. Once again, as in the last 2 years, the committee has voted full funding for the Clinch River project, and this action increases the plants project's subprogram of the liquid metal fast breeder reactor program by $183.8 million.

At the same time, the committee reduced the administration request for the conceptual design study for an advanced breeder plant from $55 million to $15 million. This activity involved personnel who are also working on the CRBR, so the CDS cannot proceed at the $55 million level with CRBR proceeding as the committee believes it should.

The committee made changes in the authorization of a number of construction projects in the breeder program. It increased the fiscal 1980 authorization of project 78–6–e, Energy Technology Engineering Center—ETEC—Facility modification at Santa Susana, Calif., from $5.5 to $9.5 million to provide for continuity of the project, which had been delayed for 8 months. The additional $4 million will result in a total authorized amount through fiscal 1980 of $16.9 million. This increase also represents a $1.8 million increase in the total estimated cost.

At the request of the Department of Energy, project 78–6–f, Fuels and Materials Examination Facility, and project 77–4–c, High Performance Fuel Laboratory, at Richland, Wash., have been combined into a single project to effect a cost savings. These two projects have therefore been deauthorized and a new project, 80–ES–16, Fuels and Materials Examination Laboratory, has been created. The new project was authorized through fiscal 1980 for $53 million. This represents an increase of $17 million over DOE's budget request. The total estimated cost of the new project—FMEL—$139.8 million.

Project 78–6–c, safety research experimental facilities, at Argonne Laboratories in Idaho, has been authorized at $3.6 million for fiscal 1980, bringing the total authorized amount through fiscal 1980 to $27.7 million. This amount represents full authorization for that part of the safety research experimental facilities which is known as "Phase I—Treat Upgrade." DOE requested transfer of previous appropriations from Project 78–6–d, EBR II safety research modifications, to project 78–6–c. The committee has no objection to the transfer of $5 million of appropriations to 78–6–c, but did not completely deauthorize 78–6–d. It thus left $1.5 million in the EBR II safety research modifications project.

The operating expense authorization for the water cooled breeder program was increased by $3 million to $60.9 million. This increase resulted from moving the proof-of-breeding activity from fuel cycle research and development to the water cooled breeder program, since this activity supports the Shippingport atomic power project.

The gas-cooled fast reactor program was left unchanged at a total authorization of $26 million. Also, fuel cycle R. & D. operating expenses were increased by $10.5 million, to permit continued testing and studies at the Barnwell Nuclear Fuel Plant in South Carolina. Of this amount, $10 million is directed toward continuing the ongoing research program at Barnwell with an emphasis toward utilization of the facility in a coprocessing mode. The other $500,000 is authorized to be spent at Barnwell to undertake preliminary conceptual engineering studies on waste vitrification, plutonium conversion and mixed oxide fuel fabrication facilities. These preliminary conceptual studies will help prepare Barnwell to be used as an international fuel cycle center should the decision be made to use the facility in that way. Finally, the $3 million proof-of-breeding activity moved to water cooled reactor programs resulted in a net increase in fuel cycle R. & D. of $7.5 million.

URANIUM ENRICHMENT

Enrichment of uranium is a DOE activity in which revenues received go far to offset the costs of operating existing facilities and constructing new facilities as needed. In some years, including fiscal year 1980, the projected enrichment revenues exceed the budgeted cost of enrichment activities.

At one time, the revenues received for enrichment for private nuclear facilities, both domestic and foreign, were retained by the Department's predecessor agencies and made available to fund agency programs. This practice permitted very wide discretion on the part of the agency as to the application of these funds. In the last Congress, the enactment of Public Law 95–238 directed that the revenues received from the sale of enrichment services be used to offset the cost of providing the service.

In its fiscal 1980 budget request, however, the Department would use enrichment revenues, not only to offset enrichment activities, but also to support the national uranium resources evaluation (NURE) program. The budget request for the NURE program is exactly $84,303,000—the amount by which enrichment revenues are projected to exceed the requested funding of enrichment activities.

The Department thus appears to be justifying its expenditures for both enrichment and the NURE program on the basis of revenues received, rather than on the basis of need and cost. The committee has reservations about this "justification by revenue" argument; it considers it important that these activities be reviewed and funded like any other budget activity. To do otherwise obscures the true cost of the program. The committee therefore intends to review the present practice during the coming months to determine if the treatment of enrichment revenues should be further amended.

In other action on the enrichment budget, the committee increased the construction authorization for project 78–8–g, the add-on centrifuge enrichment facility at Portsmouth, Ohio, by $70 million. In submitting its budget request for this project, DOE assumed that the fiscal 1979 authorization was valid. Since the fiscal 1979 authorization bill did not become law, the budget request was understated by $70 million.

FUSION ENERGY

The second major DOE activity I would like to describe today is the fusion energy program. This great prospective source of essentially unlimited energy is being pursued in two forms: magnetic confinement fusion, in which fusion energy is released by confining highly energetic ionized gas within strong magnetic fields; and, inertial confinement fusion, which uses powerful laser or particle beams to initiate the fusion reactions in fuel pellets.

MAGNETIC FUSION

For the magnetic fusion program in fiscal 1970, the committee voted to authorize $343,058,000, a decrease of $15.55 million from the administration's request. However, this decrease is a result of the committee's approval of only partial authorization for several construction projects, rather than the full authorization requested by DOE. In terms of budget authority for fiscal 1980, the committee recommended an increase of $12.3 million, for a total of $376,358,000.

The magnetic fusion program is divided into four subprograms: Confinement systems; development and technology; applied plasma physics; and reactor projects.

For the confinement systems subprogram, DOE requested $103.55 million in authorization and $136.75 million in the authorization figure unchanged, but recommended decreasing budget authority by $5 million. This cut will slow the pace of the mirror fusion test facility construction, while the important tandem mirror experiment and Beta II field reversal experiments go ahead on schedule.

The committee voted to increase the authorization for development and technology by $4.8 million, for a total of $62.35 million, and to redirect an additional $4 million. These actions support the engineering test facility and the conceptual design of the chief alternate concept, the Elmo Bumpy Torus (EBT). These are the two most critical activities in the mainline Tokamak program, and yet there is no explicit delineation of funding for them in the fiscal 1980 budget.

The committee reduced the authorization for applied plasma physics subprogram by $5.5 million, to $70.15 million. The reduction would cut back certain experimental activities and delete the stellerator and certain generic theory efforts. The rest of the reduction would be spread across the board within the applied plasma physics subprogram.

In the reactor projects subprogram, the committee recommended increased budget authority of $15 million for the fusion materials irradiation test facility, but provided only partial authorization for the project by reducing authorization by $17.85 million. As the fusion program develops—and significant and encouraging progress has been made in the past several years—the engineering of facilities that can convert fusion energy into useful forms becomes more and more urgent. Testing and verification of appropriate materials for fusion reactors is an important part of this process, to be carried out at the FMIT facility, and the committee action will accelerate its construction by 1 year. The committee also added $3 million to the operating expenses authorization for reactor projects for the development and testing of the prototype accelerator for the FMIT facility, to keep it in phase with accelerated construction of the facility.

INERTIAL CONFINEMENT FUSION

The bulk of the development effort in inertial confinement, or laser, fusion is carried out by DOE's defense program. For fiscal 1980, however, the Committee on Science and Technology has added $10.4 million to provide support for civilian power applications at two operating facilities. The laser users facility at the University of Rochester was funded with an additional $5.6 million to assure that scientific experiments that support civilian applications can be performed at high power levels. Funding of $4.8 million was also provided for civilian power applications at the KMS laboratories.

GEOTHERMAL AND LOW-HEAD HYDROELECTRIC ENERGY

Geothermal energy offers a large but underutilized potential of energy, both for electric power generation and for direct heat applications. The geothermal energy development program is beginning to show substantial results, with commercial geothermal projects moving beyond the conventional dry steam facilities, such as the Geysers facility in northern California, to begin using the water-dominated heat sources that are much more common. This commitment to geothermal resources has been made more practical by incentives and demonstration projects under the DOE program, and by the economic incentives such as investment tax credits, depletion allowances, and intangible drilling cost deductions provided by the 1978 National Energy Act.

There are three principal types of geothermal energy resources. In increasing order of estimated size, they are hydrothermal, geopressured, and hot dry rock. The budget request for fiscal 1980 for hydrothermal resources program is $59.1 million, down sharply from the $70.9 million of the previous year. DOE justified this reduction by arguing that the hydrothermal technology is ready for commercialization, so that the need for developmental efforts on the part of the Federal Government are not as great. However, the committee restored $4 million of the cut and reauthorized a second 50-megawatt hydrothermal demonstration plant, previously authorized in Public Law 95–238. Despite the appropriation of funds for this project in fiscal 1979, DOE has not proceeded with the project.

The committee believes that two demonstration plants are needed, using different technologies and located in different geologic formations. There is little evidence that private industry will commit to this plant without Government involvement.

The fiscal 1980 budget request for geopressured resources was $36 million, an increase of $8.3 million over the previous year. The committee voted to decrease this request by $4 million, cutting back the number of new geopressured wells to be drilled from five to four. The committee believes that with rapid expansion of the program proposed by DOE, drilling would likely outpace the collection, analysis and assimilation of the information gained in earlier drilling, as well as that from new wells. Moving too rapidly also seems unwise in view of the difficulty in drilling DOE's first geopressured wells. The committee endorses the expanded activities in the geopressured resource program, but believe that success in determining the economic potential of the resource is more likely if the program is paced to take optimum advantage of all new information.

The third subprogram in this activity is geothermal technology development, for which the fiscal 1980 budget request was $43.9 million, a $13.7 million reduction from the previous year. Much of the technology development subprogram is concerned with hydrothermal resource development, and the cut in the budget request parallels the reduction in that program. However, the technology subprogram also includes the work on hot dry rock, and the committee voted to increase the authorization by $500,000 for that activity. The increase will meet the rapid escalation of drilling costs for the geothermal exploratory well at Los Alamos Scientific Laboratory. This well is proposed for use as a hot dry rock resource to heat laboratory buildings at the site.

LOW-HEAD HYDROELECTRIC POWER

The small-scale hydropower development program seeks to revitalize an energy resource that was essentially abandoned over the past several decades. At one time, small dams provided water power for the generation of a modest amount of electricity for small communities and individual manufacturing operations. Many of these facilities were abandoned because of the availability of low-cost electricity resulting from increasingly efficient central-station powerplants and low-cost fuels. With the increased cost of imported oil, the economics of power production have changed, and it is believed that many dams could be redeveloped to install generating facilities capable of providing competitive electric power.

The fiscal 1980 budget request for the low-head hydropower program was $8.486 million, a decrease of about $10 million from the previous year. The cut was justified on the basis that the technology for low-head hydro is well advanced, and the program already has underway eight demonstration projects. The committee left the DOE request unchanged.

ELECTRIC ENERGY SYSTEMS

The electric energy systems program is concerned with the integration of new technologies such as solar power into the electric energy network, and with expanding the capability of the Nation's electric energy transmission networks. It is broken down into two subprograms; power supply integration and power delivery.

The committee increased the power supply integration subprogram by $3 million to $19.9 million. This increase restores funding for the systems development and control function, for which no funds were included in the fiscal 1980 budget request. The funds would support electric service reliability studies requested by the Economic Regulatory Administration, as well as studies for interregional power transfer and electric grid system stability. Both these activities were mandated by the Public Utilities Regulatory Policies Act of 1978.

The power delivery program is concerned with three areas: The effects of electric fields resulting from high-power transmission lines; the development of underground cables and compact stations, and high-voltage direct current technology. The administration's 1980 budget request has cut this program to the bone, from $24.5 million in fiscal 1979 to $9 million. It proposes to eliminate all work on high-voltage direct current technology and reduce support of underground cables and compact stations by more than 60 percent.

The committee does not agree with this policy. It voted to increase this program by $10 million, including $6.7 million for underground transmission and compact stations, and $3.3 million for the high-voltage direct current subprogram. The work on underground transmission and compact stations is important because of a serious shortage in available overhead transmission corridors in some areas, and because of environmental concerns about high-voltage overhead cables. Regarding high-voltage DC lines, the results of the National Grid Study suggests that these systems would be advantageous for inter-regional grid connections. The funds would support work on component technology and would also support work on underground DC cable systems.

ENERGY STORAGE

The energy storage program has two major components: Battery storage technology and thermal and mechanical energy storage. Battery storage activities include development of near-term batteries, advanced batteries, solar applications, and electrochemical systems research. The committee made no change in the administration's proposed $32 million for these activities.

Among the activities in the thermal and mechanical storage subprogram are thermal storage, chemical and hydrogen storage, mechanical storage, magnetic storage, and utility applications.

The budget request for the thermal and mechanical storage subprogram for fiscal 1980 is $30.84 million. The committee voted to increase this amount by $4.7 million. The increase would provide $4 million for the chemical/hydrogen activity, which was reduced in the fiscal 1980 budget request by two-thirds compared to fiscal 1979. The fiscal 1980 budget request would support only hydrogen production work, and would postpone hydrogen storage, transmission, and distribution work. In order to provide continuity in the development of hydrogen technology, the committee recommends maintaining the pace of hydrogen storage, transmission, and distribution activities in the overall DOE hydrogen program.

In addition, the increase provides $700,000 for the magnetic storage activity. This activity was also reduced in the fiscal 1980 budget request by two-thirds, which would result in a slowdown in the construction schedule for the 10 kWh superconducting magnetic energy storage unit (SMES) for electric transmission line stabilization. The unit, to be installed on the Bonneville Power Administration transmission line between Washington State and California, would be the first utility application of a superconducting magnetic storage device. The committee recommends maintaining a modest level of effort in the SMES activity.

BASIC RESEARCH

The basic research program has four major components: Basic energy sciences, technical assessment projects, university research support and technical program and policy analysis. The basic energy sciences activities are subdivided into materials sciences, nuclear sciences, chemical sciences, engineering, mathematical and geosciences, advanced energy projects, and biological energy research. The fiscal 1980 budget request for these activities is $250 million, and the committee recommends that this amount be authorized.

The technical assessment projects subprogram provides a vigorous assessment of a broad range of energy technologies, including both existing and proposed initiatives, by means of studies, workshops, panels and other mechanisms. Also included in this subprogram is the solar-power satellite (SPS) activity, which was formerly included under the solar R. & D. budget. The SPS effort was transferred to the basic research program because it is currently an evaluation activity only. The fiscal 1980 budget request for the technical assessment projects subprogram was approximately $11.5 million, which the committee left unchanged.

University research support consists of a number of activities that had previously been budgeted and managed separately under various other programs. It includes university institutional agreements, university reactor fuel assistance, and university coal research laboratories.

The university institutional agreements activity provides support at universities and colleges for energy-related research focused on longer term research problems, many of which cut across individual energy technologies. In addition to research awards to a small number of major universities with significant energy programs, this activity includes a minority institutions research program to develop new energy research capability at smaller, traditionally minority universities and colleges.

The university reactor fuel assistance program supports specialized nuclear energy research facilities which are not duplicated elsewhere in National Laboratories or in private industry.

The fiscal 1980 budget request for university research support is $4.171 million in authorization, and an additional $5 million in budget authority for the coal research laboratories activity. This last activity was previously authorized by the Surface Mining Control and Reclamation Act of 1977, and amended by the Public Utilities Regulatory Policies Act of 1978, and requires no further authorization for fiscal 1980.

The committee left unchanged the budget request for this program. With regard to the coal research laboratories activity, however, the committee expressed its strong interest that the establishment of these laboratories be made in such a way as to increase the number of universities that are capable of making significant contributions in basic coal research.

The technical program and policy analysis subprogram, the fourth component of the basic research program, provides the personnel resources to see that research and development activities are properly balanced and coordinated. The fiscal 1980 request for this activity is $2.417 million, which the committee left unchanged.

GENERAL SCIENCE AND RESEARCH

Included in the general science and research program are high energy physics and nuclear physics.

The high energy physics program conducts research on the fundamental nature of matter and energy. It has as its goal the exploration and understanding of the properties of matter and energy in their most basic forms. It also develops new technologies needed for particle acceleration and detection, which frequently find application in other DOE programs. The program also plays a role in developing and maintaining talented scientific manpower for the Nation's future needs in this important field of science.

The DOE program now includes four large accelerator centers—at Argonne and Brookhaven National Laboratories, at the Fermilab accelerator in Illinois, and at the Stanford Linear Accelerator Center (SLAC) in California. The Zero Gradient Synchrotron (ZGS) at Argonne will be shut down in fiscal 1979. A broad base of experimental user groups located at 6 DOE laboratories and 42 universities, theoretical groups at 6 DOE laboratories and 36 university campuses, and a program of advanced technology R. & D. focused largely at the four accelerator centers and the Lawrence Berkeley Laboratory, make up the rest of the program. Three major new facilities are under construction or due for completion: A 15 GeV by 15 GeV positron-electron colliding beam facility at SLAC; the "energy saver" project at Fermilab, which will provide 500–1,000 GeV protons interacting on fixed targets; and the 400 GeV by 400 GeV Isabelle proton-proton colliding beam facility at Brookhaven.

The program has three components: physics research, which supports theoretical work and the planning and design of experiments; facilities operations, which supports the operation of the accelerator centers; and high energy physics technology, which supports advanced accelerator R. & D. and associated projects.

The administration's authorization request for fiscal 1980 for the high-energy Physics research, which supports theorequest includes $241.5 million for the Isabelle accelerator at Brookhaven, which would fully authorize the project. The committee voted to authorize the project only partially, and reduced the authorization by $151.5 million. This decrease will have no effect on the project's total cost and completion date. It will not affect the obligations and outlays for fiscal 1980 and is not intended to affect the obligations and outlays in future years. Isabelle is a $275 million project, and is scheduled to be completed in fiscal 1986. By partially authorizing the project, the committee and the Congress will be assured a continuing role in reviewing it while the facility is under construction.

The nuclear physics program has three major components: medium energy nuclear physics; heavy ion nuclear physics; and nuclear theory.

Medium energy nuclear physics is concerned with experimental research aimed at improving our understanding of the atomic nucleus and of the interaction of nuclear and subnuclear particles with atomic nuclei. The principal facilities used for these experiments are the Clinton P. Anderson Meson Physics Facility (LAMPF) at Los Alamos National Laboratory, and the William H. Bates Linear Accelerator at the Massachusetts Institute of Technology. All accelerator operations costs for these facilities are supported by the medium energy nuclear physics activity. For fiscal 1980, two projects to improve the two accelerators are included in the authorization request: a project to increase the Bates accelerator power from 400 MeV to 700 MeV, and an expansion of critically needed offline space for operations prior to the final positioning of equipment at LAMPF.

Heavy ion nuclear physics studies the atomic nucleus through the use of probes of heavy ions, which are projectiles of nuclei heavier than the helium nucleus. The use of these massive—on the nuclear scale—and complex projectiles creates new conditions for the study of nuclear phenomena. Beams of heavy ions are produced by accelerator facilities, the major ones being the superHILAC and Bevalac at Lawrence Berkeley Laboratory and the Holifield Heavy Ion Facility at Oak Ridge. The National Superconducting Cyclotron Laboratory at Michigan State University will provide a major expansion of heavy ion research capabilities at the existing laboratory. This new facility will be built by the Department of Energy and then turned over to the National Science Foundation for operation.

The nuclear theory activity has as its goal the development of physical theories that can describe a system in a comprehensive way and predict results which are in accord with experimental measurements. The characterization of properties of objects such as mass, charge, and angular momentum and the identification of the forces of nature such as gravitational, electromagnetic, and nuclear, allow the theorists to describe physical systems with the use of mathematical formulas.

The fiscal 1980 authorization request for the nuclear physics program is $104.768 million. The committee recommends that the full amount requested be authorized.

Mr. Chairman, that concludes the summary of the programs under the jurisdiction of the Subcommittee on Energy Research and Production. Together with the programs presented by the other subcommittees of the Committee on Science and Technology, they represent what I believe is a forceful and efficient means of grappling with the ever-increasing dilemma of our modern civilization: The need for energy in a period of rapid transition. I urge the Congress to adopt this bill without any major amendments.

Mr. ROE. Mr. Chairman, I rise in support of the Department of Energy fiscal year 1980 authorization bill. This bill provides funding for programs that create the technology to enable us to break the economic stranglehold being placed on this Nation by the cartel of oil producing nations. The very future of our great Nation depends on how successful we are in that endeavor.

I strongly endorse the proposals called for in this legislation for a strong commitment to the development of synthetic fuels. I have introduced legislation in this House calling for the construction of synthetic fuel plants in the near future.

Solar technologies involving direct energy production and photovoltaic cells are emerging as are other developmental technologies. Although it is difficult to see how they may be developed into large scale systems in the near future, it is important to insure that there is adequate funding for their continued development.

But we must also insist that there is a balanced approach to our energy future and that "mix" must include a significant increase in the use of nuclear energy.

The most practical method of insuring guaranteed long-term nuclear energy supplies is the development and construction of breeder reactors. The Clinch River Breeder Reactor program is one of vital importance and we must insure in this legislation that its construction goes ahead without any further delay.

Some of my colleagues though do not agree with that assessment. They would have us go back to the drawing board and spend millions more for "breeder studies," even though more than a billion dollars has already been invested in the Clinch River program.

My good friends would suggest that the breeder reactor program be stopped and that we go into a long, drawn out term of looking, reviewing and asking what do we do next? They are literally saying to the Nation that we will not go with the breeder reactor at all, but that we are going to do a little more research on the subject.

Meanwhile, we are encouraging other nations like France and Japan to go into advanced breeder study. We have provided the Japanese with plutonium and told them to move ahead with breeder technology and that we do not want to handle that in this country. You can bet the Soviet Union is not taking that same approach.

Let me say that it is tragic, if not totally damnable that 40 percent of the inflation that is economically strangling our country is due to energy disruption.

Every dollar increase in the cost of energy increases the cost of production in this country. Virtually everything that we touch, or that touches us, everything that is manufactured by mankind—the clothes we wear, the cars we drive, the food we eat—involve the input of energy. We cannot increase energy input in excess of 400 percent over a period of several years and not expect, if not invite, catastrophic economic dislocation in virtually every segment of our society as well as in every American home.

Not only Clinch River, but the breeder reactor program in general, represent a tremendous source of energy and a highly significant technological advance for our country. Breeders can extend our uranium resources sixtyfold. The energy value of uranium already mined and above ground—the byproduct of our enrichment operations that can only be used in breeders—is roughly equal to our total unmined coal resources or at least three times the total OPEC oil resources.

To ignore or simply walk away from the continued demonstration of this vital energy source would be criminal. To kill Clinch River would assuredly be a clear sign to energy consumers worldwide that we are not concerned about pursuing alternate energy resource recovery programs, achieving increased energy production or eliminating our critical dependence on foreign energy sources. As Members of Congress we cannot, we must not, take the responsibility of throwing $1.5 billion in taxpayer dollars and 20 years of invaluable research out the window.

This committee and the Congress have demonstrated tremendous courage and great vision in the past in developing advance designs and technologies throughout this Nation which ultimately have touched the lives of each and every man, woman, and child. On behalf of the American people and the Nation as a whole, we have exercised our prerogative and responsibility as legislators and made that investment.

Let us not forget that in 1776, Thirteen Colonies took a stand against tyranny and oppression and made a commitment to seeking independence. Their road to independence was not an easy one.

Over 200 years later, we are being asked by the President and by the American people to make a similar and equally critical commitment to energy independence from the economic oppression and tyranny of foreign energy sources such as the OPEC cartel. Few would disagree today that our road to energy and economic independence will be an easy or short one. However, it is encumbent on every Member of Congress who shares this goal to protect the technological investment and advances we have made to date. As a nation we can afford to do no less.

Mr. WYDLER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, as the ranking minority member on the Subcommittee on Natural Resources and Environment, I would like to take this opportunity to commend our subcommittee chairman, the gentleman from New York (Mr. AMBRO), for the excellent work that he and other members of the subcommittee did during the course of our hearings and consideration of the activities of the Assistant Secretary for Environment and the programs under the jurisdiction of our subcommittee. I would also like to commend my chairman and the other members of the subcommittee for the strong sense of fiscal responsibility they have shown in the consideration of this bill.

Within the scope of our subcommittee jurisdiction we labored long and hard to make sure the meritorious programs were funded and that all available resources were put toward their highest and best use, I think it is fair to report to the House that our efforts this year have been largely successful.

There is one particular issue that I would like to discuss briefly before the House today. As many Members of the House recall, last March 28 the United States suffered the worst nuclear accident in American history at the reactor located just south of Harrisburg, Pa., on Three Mile Island. During the course of that accident we were all aware of the potential threat not just to people in the immedate area of the reactor itself, but people far down wind.

As a result of the Three Mile Island reactor accident and of my deep and abiding concern for the health and the safety of the American people, I offered an amendment to the bill today before the House to provide $2,500,000 for studies to be conducted by the Assistant Secretary of Energy for Environment to determine precisely what contingency planning is necessary to help us mitigate the consequences of similar accidents in the future should they ever occur, and also to help us make contingency plans for recovery efforts. Both the Subcommittee on Natural Resources and Environment and the full Committee on Science and Technology overwhelmingly supported this amendment. In fact, there were indications at the time that such efforts were desperately needed on the Federal level.

Since that time, our Subcommittee on Natural Resources and Environment journeyed to the Three Mile Island nuclear plant on June 1, 1979, and toured that facility and had an opportunity to discuss informally the accident itself and the contingency plans which were in place at the time of the accident and modifications since then. The next day, Saturday June 2, 1979, our subcommittee spent all day on a hearing held nearly in the shadow of the cooling towers of Three Mile Island, to address the environmental and health impacts of that accident.

One of the witnesses to appear before our subcommittee that day was the Honorable Ruth C. Clausen, the Assistant Secretary for Environment of the U.S. Department of Energy. At that time, I asked Mrs. Clausen whether or not she and her staff had determined if that $2.5 million was necessary, and if so, how it would be spent. Her testimony to the subcommittee was that yes such a study was indeed necessary, and that she saw the product of this study as a comprehensive report that would be fully coordinated with the appropriate agencies and organizations of the Federal Government, and that it would include such things as a review and analysis of existing Federal and State capabilities for responding to major nuclear accidents, an analysis of the required radiation monitoring equipment, and the methodology currently in use to provide common data to be able to estimate levels of radiation exposure to the public and to determine environmental contamination. She went on to say that she would review the various radiation protection guides and protective action guidelines which currently exist for recontamination of restoration of property. Mrs. Clausen indicated that there is a need for a review and analysis of decontamination and restoration methodology including the kind of equipment which would be used, plans and resource requirements needed for recovery from an accident situation, and restoration of land use. She also said that she wished to identify further research and analytical efforts associated with the development of emergency planning.

Mr. Chairman, for many years the attitude of the Government has been that Federal responsibility for disasters in nuclear plants regulated by the Federal Government ends at the fence line. The one clear lesson of Three Mile Island, is that the protection of the American public in this area is clearly a responsibility of the Federal Government. I do not believe that it is the sole responsibility of the Federal Government, but only at the Federal level can we make the type of emergency contingency plans which will cover accidents uniformly throughout the United States. The $2.5 million included in this bill is a small step in the right direction.

Mr. FUQUA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, my Subcommittee on Energy Development and Applications has what I consider the most exciting part of the budget for new energy in the research and development area. We have fossil fuels and the new technologies for using those in a clean manner. We have both the solar applications and the solar technology programs to bring along these most promising areas for the future.

This bill is not merely a supply bill in the sense of producing new energy resources, but it is also a supply bill in a very major way by means of developing new conservation technologies by which we can save and use more efficiently the energy we already have. We have made major increases in that area.

We also have the very interesting and promising area of biomass.

Mr. Chairman, I would like to acknowledge the tremendous help we had on this from all the subcommittee members and particularly from the ranking minority member, my colleague, the gentleman from New York (Mr. FISH). He has been very helpful. He has gone over all the programs with us in detail, and he has made many worthwhile initiatives. He gets credit particularly for moving ahead very fast in the promising technology of waste energy where his efforts brought many of the possibilities of this technology to the attention of the committee.

We have also had marvelous support from the chairman of the full committee and the ranking minority member of the full committee, the gentleman from New York (Mr. WYDLER), and from a staff that I think is incomparable anywhere in the House of Representatives. They have, under tremendous time constraints, done a most tremendous job, and I must thank them very personally for their help.

Finally, I want to commend the Chairmen of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, their Energy and Power Subcommittee, Mr. DINGELL, and the Interior and Insular Affairs Committee, Mr. UDALL, for their superb cooperation in getting these three important committees together to present this critical authorization bill before the House. We may have had our differences in the past but we are here today together in mutual support of this important legislation to see that our country has the proper resources to do the job ahead. This work has had bipartisan support by all committees and deserves the serious consideration by all Members.

I think that we have done a responsible and a very useful job for the country in this bill. In the area of fossil fuel energy, perhaps the most important action that we have taken is to fully fund the SRC technologies, both SRC-1 and SRC-2. This gives us the promise of clean solids in the case of SRC-1 and clean liquids, particularly for utility applications, with SRC-2.

We have also made very substantial increases in the fuel cell area, which is exciting for our cities because it promises a clean resource for producing electricity without pollution in the major cities of the United States.

With respect to the solar part of the budget, of course, as the Members of the House know, this is a particular area of concern and interest on my part. We have increased the total budget from $763 million in the DOE request to $873 million, and that is an increase of over $110 million in the solar area.

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We have pushed that just as hard as we felt that it could be pushed. We held more hearings on photovoltaics than perhaps any other subject because the Department of Energy failed to come in with a program to proceed with the Photovoltaic Act which was authored by my friend and colleague, the gentleman from Washington, (Mr. McCormack), and the gentleman from California, (Mr. Goldwater). That was an excellent piece of legislation, and we have insisted that that be proceeded with.

As we consider this bill, I would like to share with you my thoughts about the role of R. & D. with respect to the energy problem as well as a description of the committee's actions on the fossil, solar, and conservation programs, and why these actions will be an important contribution to the Nation's energy problem in the short as well as the long run.

We have known for a long time, at least since 1973, that we have an energy problem. It is clear that the energy problem has become an energy crisis which certainly needs both long- and short-term solutions. Those near-term efforts must include aggressive conservation requirements and incentives for the residential and commercial sector, more stringent requirements for automotive fuel efficiency, and firm examination of the oil industry to insure that the Nation's refinery capacity is used optimally.

We often hear that conservation will produce unendurable changes in lifestyle: for many of us gaslines and higher prices are changing our lifestyles now. Uncertainties in winter heating oil supplies may mean disastrous changes for some this winter. What is vividly clear this summer is that whatever happens, our lives and lifestyles will be changed. This new air-conditioning limit is the first example of this change that comes to mind.

Sensible but aggressive conservation policies are vital in the short term to lessen our dependence on imported oil and the economic havoc that results. However, we will still be faced with future supply problems, as domestic oil supplies decrease, no matter how quickly we integrate conservation measures in our lives. Thus, whatever Congress and the administration acts on now, we must bear in mind that our energy policy must be seen within a timespan of decades, not just months. Within such a context, research, development, and demonstration have both a natural and a necessary place.

Of course, we must also realize that research is only one tool and the problems of society are too complex to be solved with one approach. Nonetheless, it is a powerful tool and one of the most important for examining and solving our energy situation. The Government has a tremendous obligation to support the long-range research and development on technologies to address energy production and conservation. The Government also has the obligation to evaluate the research and development that has already been pursued; it must also set priorities and make program choices for those technologies which are ready to be demonstrated. There are a number of such technologies available to us now in renewable energy resources, the fossil energy area, as well as in conservation where decisions to demonstrate are appropriate and the administration has been slow to make commitments.

The question then arises as to what should be the balance between R.D. & D. programs for energy conserving technologies and the programs for energy production technologies. Without doubt, this country has used its energy in ways that in the context of today's energy prices are unacceptably wasteful. In the past, our industries used the cheap energy available without regard for its nonrenewable nature and society accepted this practice. Clearly this cannot continue.

Great strides have been made in the past 5 years to increase the efficiency of industrial energy use; yet, much can still be done, although it will require substantial improvements in technology and large capital investments. In addition, we need to address the areas of residential and commercial space heating and cooling as well as transportation, if we are to have any significant impact on our nonindustrial energy use. Further improvements will require technological ingenuity to develop housing, automobiles, and new industrial processes which will use whatever fuels are available to us in the most efficient way possible and seek alternatives to oil. At this time the possible advances in this sector are very exciting.

We cannot separate our solutions to the energy problem from environmental issues. We may not be able to live in a world if the production of that energy means ruined landscapes and deadly air and water. Whatever energy production technologies are devised, whether renewable or nonrenewable, they must be clean. I reserve my strongest support for the renewable energy production technologies—active solar, hydroelectric, passive solar, wind and biomass—because they are the most environmentally acceptable, as well as the most affordable and job intensive. At some future time, I would hope that solar energy and advanced conservation technologies might provide all of our energy needs, and I support an aggressive policy to achieve that goal.

However, in the next 20 to 30 years, it appears that we will need to expand our domestic sources of energy in addition to solar and conservation, particularly in view of the great difficulty of persuading the administration, Congress, and the public of the opportunities and needs for a sufficiently aggressive program for conservation and renewables. The most promising candidate seems to me to be our fossil energy sources and in particular, natural gas and coal. Fortunately, the ingenuity of our scientists and engineers are exploring ways to utilize coal in a more environmentally acceptable manner, although most in place technology for coal use demonstrates that it is not by nature a clean fuel.

At this point I would like to take some time to describe to you in more detail the committee's actions in the areas of research, development, and demonstration for the Department of Energy's conservation, fossil, and solar programs.

Conservation is a blanket term that covers energy use efficiencies in many economic sectors, such as transportation, industry, and buildings, and many different kinds of decisionmaking. It is difficult therefore for public policy to grasp, but the potential effect of utilizing existing energy supplies more efficiently is equivalent to 7.5 million barrels of oil per day. This is the finding of the National Academy of Science and the American Physical Society has arrived at an even higher figure. These results fly in the face of conventional wisdom; yet the lifestyle changes and economic impacts will be considerably less daunting than massive coal, nuclear, or synthetic fuels.

For these reasons and many others the Science Committee added $91,950,000 to the President's request. The additions are to the following programs: Waste-to-energy, cogenerating fuel cells, district heating, industrial process efficiency, industrial cogeneration, appropriate technology, alternate fuels, and vehicle propulsion research.

The DOE waste-to-energy research and demonstration program has become critical because of the Ocean Dumping Act of 1972 and because cellulose, a major component of urban waste, can be used as a feedstock for synthetic fuels. The Ocean Dumping Act of 1972 (Public Law 92-532) forbade ocean disposal of urban solid and sewage waste after 1981. This deadline makes alternate waste disposal methods essential, particularly for the large coastal urban areas which have practiced ocean dumping for years. DOE waste-to-energy programs offer promise in providing an answer to this problem but also of mitigating our energy supply problem as well.

In the fiscal year 1978 DOE authorization (Public Law 95-238) the Science Committee instituted a loan guarantee program for alternative fuels which directly applied to waste-to-energy technologies demonstrations. In the same bill, the committee also legislated a direct grant program for municipalities so that they could utilize these technologies to solve their own waste and energy problems. The committee thus has added $29 million to the conservation budget; $19 million would implement the direct grant program for municipalities, $10 million is added to underwrite the loan guarantee program, which would permit $100 million of loans to be guaranteed by the Federal Government.

Neither of these programs were budgeted by DOE for fiscal year 1980. The committee is aware of overlapping jurisdictions in this area between the Department of Energy and the Environmental Protection Agency, but the committee feels strongly that the efforts of both agencies are needed—an EPA program to enable municipalities to utilize existing technology and the DOE program to demonstrate new technologies.

Another technology to increase our efficient utilization of both natural gas, coal based synthetic gas and the naphtha byproduct of petroleum are phosphoric acid fuel cells. At a relatively small size, these fuel cells can be utilized in a cogenerating mode for residential, commercial and small industrial users for the production of both electricity and heat. Though there is still opportunity for the development of these fuel cells, it was clear to the committee that the current generation is ready for field testing and demonstration now. To accomplish this, the committee added $10.5 million to the conservation program for field testing a number of these fuel cell systems.

The area of industrial conservation also offers an opportunity for Federal investment that would provide a most cost-effective return to the American people for energy savings. Major energy savings are available, if new industrial processes are developed and cogeneration technologies are utilized.

The industrial sector has by far led the other energy consuming sectors of our economy in the efforts to conserve energy; further conservation in this sector requires changes in production and processing technologies. The development of new processes will entail both technical risks and capital investment of such a magnitude that the committee thinks the industrial sector will be unlikely to undertake these improvements for some time without Federal support. However, it is also the opinion of the committee that the energy savings from such development is by far the most promising opportunity for the mid-term. Thus, the committee added $12,750,000 for a number of projects to improve industrial process efficiency.

The committee acted to expand the advanced development and demonstration work in industrial cogeneration by $11,500,000. The advantages of cogeneration are substantial—about half as much fuel is used to produce electricity and steam as would be needed to produce the two separately. Unfortunately many firms perceive the technology risk as too high compared to the projected return on investment. Additionally, the Nation as a whole suffers because the equivalent cost of saving fuel through cogeneration is far below the cost of new fuel supplies or new synthetic fuel production. The committee's improved funding hopefully will reduce the technical risks and improve the reliability of cost estimates so that industry can move with greater confidence into cogeneration.

Another area which the committee looked at carefully was appropriate technology. The appropriate technology program is an effort which reaches out to communities to develop energy saving and production technologies that meet the real life needs of people. It is the poor that are hardest hit by energy price increases, and the appropriate technology program is directed toward low-cost approaches to energy conservation, solar utilization and the like.

During 1978, a pilot program was executed in region IX, primarily in California and has since been expanded nationwide. In response to a request for proposal, for example, the DOE received some 3,300 proposals in the Northeast alone; within the current DOE request for funding in fiscal year 1980, only 130 of these could be funded. The committee has added $15 million to permit a more adequate expansion of the appropriate technology program to all regions of the country and to enhance its ability to fund a larger portion of successful proposals. This is the only Federal program which has been available directly to individuals, local nonprofit organizations, State and local agencies, Indian tribes, and small businesses. The committee feels emphatically that this program should be expanded.

I have said before that in the long term I hope that solar technologies and renewable resources will satisfy the bulk of our energy needs. However, solar technology is not simply a long term option. In the very near term, solar space and hot water heating can serve to displace imported oil currently used for those purposes. Since reliable storage systems are not yet available, current solar technologies are intermittent energy suppliers and must be backed up with conventional energy production.

This fuel saving function of solar technologies links them naturally to conservation efforts. The part of the Department of Energy programs which address the problems of current solar technologies is called solar applications. The committee has taken special care and attention with these programs.

Within the solar applications efforts, the systems development program received special attention. There are four main subprograms in this area: Passive heating and cooling, solar industrial process heat, active heating, and active cooling.

The committee examined each of these subprograms through oversight activity during the past year and during the authorization hearings and acted to add a total of $15,500,000. In the committee's view passive heating and cooling and industrial process heat deserve the top priority. The delay in recognizing the potential of these applications has left a considerable investment and development momentum in danger. The committee recognizes that active cooling systems for buildings are in the component and prototype development stage despite the many prototype systems that have been incorporated into demonstration buildings. All too often such demonstrations have indicated the present high cost of systems presently commercially available and the clear need for further systems development activities to develop lower cost approaches to active solar hot water and space heating.

The committee added $7.0 million to allow R. & D. to continue but at a reduced pace compared with prior years. This increase will permit final assembly and field testing work on eight systems which would not otherwise have proceeded in fiscal year 1980. The systems mentioned during full markup are as follows: Two 3-ton residential cooling systems, three 75-ton industrial cooling systems and three 25-ton commercial building systems. This action will preserve the technology already developed with $20.0 million of prior year expenditure.

The committee added $3.5 million to accelerate hybrid passive-active systems according to the national plan for passive solar systems.

The committee also added $2 million to advance the field testing of solar-assisted heat pumps with emphasis on the solar components. Improved performance which is the goal of design revision, and field testing will speed commercial market introduction. Thirteen systems designs are ready for field testing; the committee's addition will allow all to move into field testing.

The committee also added $3 million to meet the urgent need for component cost reductions and performance improvements and to identify the technical and cost problems associated with solar system components.

The committee also reviewed the outcome of the solar buildings demonstrations program which were pursued under the mandate of the Solar Heating and Cooling Demonstration Act of 1974. To date, the results of the demonstration have been mixed. Both highly successful systems performance and disappointing engineering and institutional practices have been demonstrated.

The committee desires that the lessons learned during equipment design, manufacture and installation for these projects are not lost through abrupt program termination. The committee added $4.5 million to the authorization request for fiscal year 1980 is to provide manufacturers and building contractors the opportunity to modify systems components which have been installed in demonstration buildings. Such actions should yield improved solar systems and enhance the performance of many demonstration buildings.

Further, the committee extended the Solar Heating and Cooling Demonstration Act of 1974 for 1 year. This will enable the Department of Energy to continue work on combined heating and cooling systems to bring the Department's efforts on competitive combined systems closer to realization.

A rational energy future for this country will also depend upon innovative developments in solar thermal collectors, solar electric technologies, including advances in photovoltaics and storage systems, as well as the use of the resources available in the wind and ocean. Further, we must pay careful attention to the use of the nation's biological resources of energy as well. In examining the Department of Energy's solar technology programs, the committee paid careful attention to certain areas. In the case of solar thermal systems, which utilize lenses or mirrors to focus sunlight onto receivers, which produce high temperature heat for conversion to electricity or mechanical power, the Committtee acted modestly. It incerased the authorization by $900,000 for completion of phase I and initiation of phase II of the Crosbyton Solar Power Project, which consists of a 65-foot diameter fixed spherical bowl solar concentrator. This project not only explores a novel solar concept but also could provide 5 megawatts of electric power to a municipal system as well as powering irrigation systems at its location.

Last year the Congress overwhelmingly passed into law the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (P.L. 95–590). This law which was authored by Congressmen Mike McCormack of Washington and Barry M. Goldwater, Jr., of California, established an aggressive $1.5 billion 10-year program to develop low cost photovoltaic systems and to utilize these systems in a gradually increasing scale to develop a strong competitive photovoltaic industry. The photovoltaic program that was presented to the committee by DOE in the fiscal year 1980 budget was not consistent with the congressional intent as called for by the legislation. The photovoltaic budget presented to us contained an aggressive research and development effort for advanced photovoltaic materials which have the potential of major cost reductions in the long term. However, there was no clear commitment by the administration to develop and utilize the photovoltaic technologies presently being pursued by the photovoltaic industry. There are a wide variety of applications where photovoltaic systems are presently cost effective, and with the cost reductions that are likely with refinements and mass production of the present technology a strong industry can be established. This integrated program approach of aggressive advanced material R. & D. coupled with the full development and utilization of the present photovoltaic technology will most optimally hasten the day when photovoltaics will significantly contribute to this Nation's energy needs.

It was in this light that the committee reviewed the DOE photovoltaic program budget request. The actions taken by the Committee on this program are in the area of near term photovoltaic technology development and utilization.

The Committee's action on the solar photovoltaics program was to increase the administration's request by $25 million; $20 million of this increase in funding is for the test and applications element of the program to fund the completion of additional first-cycle photovoltaic flat plate and concentrator experiments. This increase restores the funding that was originally planned for this activity, but had been diverted by DOE to fund several unsolicited proposals and international photovoltaic projects. The additional experiments that will be completed through construction will provide valuable data on: First the systems integration of photovoltaics in the private sector; second, the actual balance of systems requirements and costs; third, the reliability of photovoltaic systems; and fourth, their public acceptance in these high-visibility experiments. This level of procurement in the test and applications area will also assist in creating a marketplace for introduction of photovoltaics recommended in recent studies by Westinghouse, General Electric, Texas Instruments, MIT, and industry.

The remaining $5 million of the increase is earmarked for the low-cost silicon array (LSA) project, managed by the Jet Propulsion Laboratory. The LSA project is developing the production technology necessary for all the steps in the production process for photovoltaic arrays. This increase will permit the scaling up of promising production technologies which have been proven technically feasible in laboratory-scale processing units and will keep the project on schedule for attaining its cost reduction goal of 50 cents per peak watt (Wp) in 1986.

The committee has taken special care with the wind program, because it represents the renewable resource, which could make the largest energy impact in the least amount of time. The committee added a total of $8,400,000 to the program, the total figure consists of both increases and decreases; the increases total $15.4 million and the decreases amount to $7 million. In the near to midterm, wind technology is limited by the lack of reliable storage systems. However, like these other technologies, wind turbines offer a significant opportunity for saving oil reducing our dependence on oil imports. One of the most attractive markets for the use of wind turbines will be for dispersed utility applications.

To encourage this application the committee added $4 million for a fourth MOD–2 wind turbine, which would be integrated with three other machines at a single site. This would provide a 10 megawatt station to yield data on problems associated with both a multi-wind turbine unit as well as the interface with a utility grid. In addition, such a configuration would provide the program with a unit that is more consistent with utility needs and would more easily compare to other solar electric technologies, which are aimed at the same utility market.

In addition to this demonstration effort the committee added $10 million to support a parallel design and development effort leading to the testing of two prototypes for the MOD–3 megawatt scale wind turbines. This would allow two contract teams to be involved in the development work, which would offer a reduction in the cost of power that would significantly broaden the utility and direct-site markets for wind energy systems.

Finally, the committee added $1,400,000 to accelerate the wind resources assessment efforts, which could provide additional detailed assessments of regions of the country where there is believed to be high wind energy potential.

The reductions of $7 million were taken from three wind program activities. The committee reduced the authorization for the field testing of small wind machines by $4 million, having observed that the Department of Energy appears to have evolved an overly lavish and costly program to field test small wind machines. The testing program should be targeted on several promising high wind resource utility areas, instead of the Department's present approach of testing two machines per State and U.S. territories. This would allow the examination of the effects of significant concentrations of wind energy being added to a local utility grid, rather than the DOE plan which would result in limited useful information on small wind machine interface with utilities. The committee also reduced the technology development programs and innovative concepts programs.

The fossil energy research and development program in the Department of Energy is one of its largest. This is appropriate given the important role that our fossil resources must play in the coming years. The lion's share of this $786,642,000 authorized by the committee goes to the coal research and development program. A smaller share goes to the oil and gas programs.

In large part, this arises because there is significant industrial participation and willing investment in the areas of enhanced oil and gas recovery. The appropriate government role in these areas is being carefully assessed by the Department as well as the committee. The committee's major action in this area was to add $5.5 million for enhanced gas recovery program to support improved resource characterization of what may be abundant gas reserves in the Western Tight Sands and the Eastern Devonian Shales.

The committee placed great stress on the coal program, the committee added a total of $33,500,000 to the coal program. This addition represents a combination of specific increases and decreases. The major decreases represent construction projects, such as the high Btu pipeline demonstration plant. The requested authorization for this project would have been in excess of the required appropriations. The committee decreased the requested authorization for this project by $27 million, which will not affect the requested appropriation.

Another example of a decrease was $10 million for the low-medium Btu fuel/gas small industrial demonstration project, which the Department of Energy has decided will not continue, since the budget request was submitted. Other programs were cut because it was the committee's judgment that they were not sufficiently promising, or that they were accelerated in excess of the Department's ability to manage them or that the Federal role in the programs has not been sufficiently demonstrated.

For example, in the area of chemical coal cleaning the committee decreased the program by $2 million, since there is not yet any clear indication that chemical coal cleaning will be economically competitive with other methods of coal preparation. In the area of advanced environmental control technology, the committee decreased the budget for lime/limestone reliability by $5 million, since the program addresses currently available technology whose improvement should be addressed directly by the utilities.

The committee's positive actions on the coal program reflect its views on the two major strategic goals of coal utilization. The coal program should be directed toward two goals: First, the use of coal for the clean and efficient production of electric power and second, the conversion of coal to synthetic liquids and gases as substitutes for those markets which currently use imported oil.

In its authorization hearings, the committee received testimony from the Department of Energy stating that the major thrust of the fossil program for fiscal year 1980 was to be the direct combustion coal. This strategic emphasis was reflected in new programs and increased efforts in the combustion systems area and the advanced environmental control technology programs. The committee agrees with the importance attached to these areas, but the committee feels strongly that the emphasis should not simply be on combustion but rather on the use of the coal for electric power production and to some extent for industrial process heating.

The major use of coal for the next 25 years will be the environmentally acceptable production of electric power. This can be carried out either in a centralized or decentralized fashion with or without cogenerating capabilities for process heat. The Department has a number of technologies in addition to combustion technologies and post-combustion and cleanup technologies, which belong in such an overall strategy. These include gasifier combined cycle systems with present-day turbines and later with advanced high-temperature turbines; fuel cells also offer the option of decentralized use and/or cogeneration. The MHD technology is also an option for the production of electric power generation.

The committee added $2 million for the Department to develop an integrated program management plan and technical implementation plan to establish departmental priorities and criteria for the various technologies for the production of electric power. In addition to this overall strategic plan, which must be developed the committee added $3 million for the MHD program, which will permit the integrated operation of a prototype MHD combustor with the currently available MHD channel. This will permit experience to be gained before the installation of the 50 megawatt combustor and channel at the Component Development and Integration Facility at Butte, Mont.

The committee also added $9 million for the development of fuel cells for utility applications as well as advanced development for the on-site cogenerating fuel cell. The committee also increased the thermionics program by $4,500,000 to continue the work on this advanced coal-fired electric power generating technology. Within the gasification program, the committee redirected $7 million for entrained bed gasification technology; the intent of this increase was to provide a gasifier that could be used in combination with a gas turbine/steam turbine combined cycle generating system for electric power production.

The committee is also dramatically aware of the need to use the Nation's coal resources to provide synthetic substitute liquids and gases. This need is twofold: First, alternative fuels may replace substantial amounts of imported oil which have put our national economy in jeopardy and second, defense requirements will need assurance of sufficient domestically controllable resources to fuel our defense mobility forces which may otherwise be in a perilous situation.

Major initiatives which the committee took in the coal area added a total of $54 million for both the SRC–I and SRC–II demonstration projects. The demonstration of these coal conversion technologies will help to establish the infrastructure necessary to utilize coal for synthetic fuels. Ultimately they will lead to the development and utilization of technologies that will not only provide clean fuels for our electrical and gas utilities, but will also provide a model for those technologies producing fuels that will directly impact our transportation sector, the major consumer of our petroleum supplies.

Another area in the synthetic fuels production technologies, which the committee chose to emphasize was peat gasification. The Nation has approximately 1,400 quads of energy stored in its peat resources. However, peat is located often in areas where there is not a lot of energy utilization; for example, in Alaska there are 700 quads of peat alone. To utilize this resource on a national basis requires the conversion of peat into an easily transportable fuel. Thus, gasification of the highly reactive peat to methane would allow it to be shipped in our conventional gas pipelines. Thus, the committee added $6,700,000 to continue the development of peat gasification technology.

I have tried here to hit the highlights of the committee's actions in the conservation, solar, and fossil areas. I have tried to give you a sense of the approach which the committee took and which I believe in with respect to these technologies. I would like to note in closing our close cooperation with the Interior and Energy and Water Development Subcommittees of the Appropriations Committee. I wish to thank my colleagues, Tom Bevill and Sid Yates, whose time and attention are very much appreciated. Finally, I would like to acknowledge the many hours of thought and work which my fellow members of the Science and Technology Committee and our excellent staff put into the formulation of this legislation. I hope that our colleagues here today will carefully consider this bill and vote for it overwhelmingly.

Mr. WYDLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. Winn).

Mr. WINN. Mr. Chairman, I rise in support of the bill H.R. 3000, authorizing appropriations for the Department of Energy for fiscal year 1980 as reported from the Science and Technology Committee, and urge my colleagues to support this legislation. I must admit that the bill before us is not perfect, but it is imperative that Congress pass a DOE authorization bill this year because we were unable to pass one last year. It is necessary that the Department be guided by congressional intent on its overall program.

We are all aware that the Speaker has called for the 96th Congress to emphasize the oversight functions of the legislative branch. In keeping with the role of the "oversight Congress," we should avoid becoming too picky in considering the Department's program as laid out in this authorization bill, and should remember that all of the energy subcommittees in the House have committed themselves to close scrutiny of the operations of the departments under the DOE budget for fiscal 1980. It would therefore seem advisable to pass this authorization bill as promptly as possible and to fine-tune the DOE program through the fiscal year 1981 authorization after a year of intensive oversight of the Department by all relevant subcommittees.

This oversight should by no means be unfocused or undirected. One of the primary areas for consideration should be the management problems at DOE, about which I am greatly concerned. In the R. & D. area, Congress should emphasize the balancing of research efforts so that most of the appropriated funds are dedicated to programs dealing with energy sources from which we will be obtaining most of our energy in the medium range and long-term future. We should look specifically at our projected needs for electricity, residential and commercial heating and cooling, and transportation fuels, and plan our legislative program accordingly. This means that Congress should avoid the temptation of devoting our money and effort to popular technological fads and other marginal energy sources.

I regret to say that this standard was not rigidly adhered to in this year's DOE budget, and that disproportionate amounts of money were appropriated for certain programs which involve important technologies that are politically attractive but not our most promising energy technologies of the future. For instance, I note that research in the field of ground-based solar energy accounted for $864 million. I am in favor of meaningful development of solar energy to take care of its fair share of our energy problems, but I do not feel it is a panacea, and the usefulness of ground-based solar energy as an electricity source is particularly overrated.

On the other hand, there are energy technologies which have not, unfortunately, been emphasized in the past but which are now gaining well-deserved attention, particularly from the Science and Technology Committee. For example, I am quite pleased that our committee voted to increase the authorization for development of biomass energy from $42 to $57 million. I was also glad to see the formation of the National Alcohol Fuels Commission, which will explore the energy potential of gasohol. Although the contribution of alcohol fuels in the mid-1980's is not likely to be substantial, DOE reports that "they represent an important energy component and building block for the longer term." In addition, this impact in particular regions may be quite significant—much greater, in fact, than national figures would suggest.

In summary, I would ask at this time that Congress leave the more picayune details of the Department of Energy to subcommittee oversight and move with a sense of urgency to get the fiscal year 1980 DOE authorization signed into law.

Mr. WYDLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. Roth).

Mr. ROTH. Mr. Chairman, I would like to compliment the chairman of our Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua), and also the subcommittee chairman, the gentleman from Washington, (Mr. McCormack), who has done an outstanding job; and our minority leader, the gentleman from New York (Mr. Wydler), for their vision and their dedication.

I know of no Members in the House who work harder than they do, and I think the House can recognize their contribution.

Mr. Chairman, the debate on H.R. 3000 is far greater than the question of simply appropriating funds for the Department of Energy. It is far greater than a debate of whether or not the benefits of the bill outweigh the unjustified increases in spending for more regulatory functions within the Deartment.

Today, we decide whether we as a Congress assembled, and we as a nation are willing to look at the 21st century. Today, we decide whether or not we believe enough in the quality of life to invest in some efforts to maintain it for our future generations.

We who live in the great Badger State often live by what we proudly call "the Wisconsin tradition." Simply defined, the "Wisconsin tradition" is a belief in the future that justifies an investment today.

Wisconsin is a State almost totally energy dependent. Yet, we are also a people who strive to build and maintain a quality of life. We believe in education. We believe in technology. And we are willing to combine the two with government and private dollars to accomplish our goal.

One such example is energy. Today Wisconsin receives over 33 percent of its energy from nuclear power. We have found that this new technology in energy production can blend with our farmlands and industrial parks for the good of all. We have found that most citizens have come to recognize the joint partnership required for a better life.

In H.R. 3000, we invest over $6 billion in energy research and production. We do so because we believe Americans want energy, and they want a quality of life. Today, we invest the majority of those funds, almost $3 billion in nuclear research and development. Today, we show the country and the world that we believe nuclear power can and will be a viable source of our energy. Today, we bring the Wisconsin tradition to the U.S. House of Representatives.

Mr. WYDLER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, I rise in support of the bill H.R. 3000, authorizing appropriations for the Department of Energy for fiscal year 1980, but in opposition to the decision of the Committee on Science and Technology to provide funds for the Clinch River breeder reactor for yet another year. My feeling is that if we should decide to spend the amount of money authorized for this project, it would be far more beneficial to our Nation to invest this money in the development of other alternative energy resources.

BACKGROUND

We are facing perhaps one of the most serious crises ever to confront our Nation. Our Nation's inability and unwillingness to face the energy issues squarely and to take drastic action in the last 5 years have now come to haunt us. This energy crisis has drained the financial strength of our country and now seriously threatens our national security. I fear that our current trends which have new led us to import almost half of our daily consumption of petroleum could soon have serious repercussions on our military posture. Guaranteed access to an insured supply of energy is essential to insure our national defense.

Our Nation has only recently awakened to our pressing energy problems. The long lines at the gasoline stations and the dramatic increases in the price of gasoline have made us painfully aware of their seriousness. Developments in Iran, Saudi Arabia, and elsewhere, as well as the crude oil price increases recently passed by the OPEC cartel, have served notice that our Nation can no longer afford to be as dependent on foreign supplies of oil. As we have seen, OPEC prices will continue to increase, and we will spend more than $60 billion this year for foreign crude oil and crude oil supplies, a staggering blow to our balance of trade position.

These events have made it imperative that we press forward with the development of our domestic energy resources, particularly solar and fossil. We must now take advantage of the potential billions of barrels of oil shale, tar sands and heavy oil deposits, and the vast abundance of coal reserves which lie in our country. The question has become not whether we will need to develop our alternative energy resources, but instead, when will they be needed. If they are not developed in a timely fashion, I am afraid that our Nation may suffer a severe economic and political crisis by the late 1980's or early 1990's.

Those of us who have frequently urged a commitment to solar, are pleased to see the President establish a national goal of deriving 20 percent of the Nation's energy needs from the Sun by the year 2000. To attain this goal or better will require funding levels which parallel the historical attention which has been heaped on the nuclear industry. Solar energy offers us a virtually inexhaustible energy source that can be developed in a manner consistent with our environmental goals. In fact, it might just be the deciding factor in whether we can truly ever become energy independent.

In the near term, we have now recognized that conservation offers us the most promising potential to reduce our vulnerability to uncertain foreign oil supplies, and to help us meet our future energy demands. The myth that energy conservation may lead to a reduced standard of living and unemployment must be laid to rest.

In recent reports, the Council on Environmental Quality and the Harvard Business School Study clearly point out the numerous benefits that could be obtained from existing and additional conservation measures. I am hopeful that the bill before us now will help us accelerate the development of more energy-efficient technologies that will allow us to take advantage of these benefits.

It is against this background that we must consider H.R. 3000, the legislation which authorizes funding for the Department of Energy, and in particular, for its research, development and demonstration programs. This legislation contains many essential elements that must be passed if we are to ever become energy independent. After much effort and careful review of the administration's request, the Committee on Science and Technology has structured a piece of legislation which will give our energy programs the momentum they need to help us accelerate the development of our inexhaustible energy resources.

I am pleased to see that our committee is reporting a bill which, for the second year in a row, authorizes more dollars on nonnuclear research and development than it does on nuclear fission research and development. I wholeheartedly support this trend. Our past governmental policies have made it much more difficult for solar and renewable resource technologies to compete. I am hopeful that this new trend of enhanced funding of solar energy and other alternative technologies will help these technologies become competitive with nuclear fission technologies, and allow us to reap the enormous benefits which they have to offer. In this regard, I have recently introduced a resolution to encourage the President to develop an accelerated conservation and alternative energy program.

Before discussing the specifics of the bill, I would like to compliment the distinguished chairman of our committee, the gentleman from Florida (Mr. Fuqua), the ranking minority member of our committee, the gentleman from New York (Mr. Wydler), and the chairman of our subcommittee (Mr. OTTINGER) for their fine leadership in bringing this bill to the floor. They have worked many long and hard hours on this bill, and they should be commended for their efforts. As a result of their hard work, I am confident that we have structured a well-balanced, aggressive program that will allow us to effectively accelerate the development of our energy resources.

SOLAR, BIOMASS, FOSSIL, AND CONSERVATION, PROGRAMS

As to the specific features of the bill, the committee has added over $24 million for the solar technology and applications programs, with significant increases in solar systems development and the solar photovoltaics program. These changes will help the Department of Energy have a more balanced and effective solar program, both for dispersed and central applications.

In biomass, our committee has authorized over $57 million for the fuels from biomass program. Of this amount, close to $25 million is devoted specifically to alcohol fuels activities. These fuels show much promise for providing a portion of our energy needs in the transportation sector. With these funds, I hope that the Department of Energy will place the emphasis on the biomass program that it deserves.

In the fossil program, the committee authorized over $805 million for fossil energy research, development, and demonstration, and resource applications, an increase of $41 million over the administration's budget request. I was particularly pleased that the committee has added over $45 million for the two solvent refined coal (SRC) demonstration projects. The SRC program shows much promise for allowing us to utilize our enormous coal resources in an efficient and environmentally acceptable manner. These two projects can provide us with the needed information for determining investment costs for commercial-sized plants using the SRC process.

In the conservation area, the committee has authorized a total of $437 million, a dramatic increase of approximately $102 million over the administration's budget request. As I stated earlier, our Nation has much to gain from accelerated conservation measures and these increases will help us to sooner reap these benefits. Of particular importance is the municipal waste-to-energy program, which offers the potential for making fuel out of waste materials that would otherwise be discarded, and at the same time helping us solve our disposal problems. The committee has authorized an additional $19 million for the financial support effort, with $5 million specifically earmarked for construction activities, and an additional $10 million for loan guarantees to construct municipal waste-to-energy demonstration facilities. Without this funding, I am afraid that municipalities will not press forward at the present time with the construction of these facilities.

OTHER ENERGY PROGRAMS

The committee has authorized many other energy programs which I believe are of particular significance. For fiscal year 1980, the committee has authorized $8 million for small-scale hydroelectric power research, development, and demonstration activities. In addition, $10 million is provided for loans for studies to determine the feasibility of undertaking small hydroelectric power projects at existing dams. The committee has added $9.7 million to expedite development and bring down costs of underground transmission cables and high voltage d.c. cables for the transmission of electricity from powerplants. An additional $8 million will also be spent for expanded work on the possible environmental effects of the electric fields associated with high voltage overhead transmission lines in New York and other States.

CLINCH RIVER

Mr. Chairman, I would like to go on record as opposing the funding provided by the committee for the Clinch River breeder reactor project. I believe that it would be unwise at this time to authorize $183.8 million for Clinch River in light of the President's intent to terminate the project.

We have visited the Clinch River breeder reactor issue many times before. The pros and cons are well known. The proliferation risks, enormous costs, environmental concerns, and safety problems with this project have been outlined in detail, and I do not think it is necessary to discuss these problems in detail again.

I believe that the Committee on Science and Technology has made a tactical error in not terminating this project. The need to get an authorization bill enacted into law is even more pressing than ever. On numerous occasions, the President has stated his intent to veto an authorization bill that contained funding for Clinch River, and has instead offered a compromise to strengthen the breeder base research and development program. This compromise will provide for a stronger breeder program, which will, in fact, enhance the program by allowing for a more rational design. The fact that an authorization was not passed into law last year is clear evidence of what will happen again this year if we continue to insist on authorizing Clinch River.

Mr. Chairman, Clinch River was originally authorized as a crash project in response to our diminishing supply of uranium. Utilities, however, have encountered numerous licensing difficulties for new nuclear plants, causing the cancellation of many of these plants, resulting in a corresponding reduced use of uranium. Preliminary reports from the NURE program have indicated that our domestic uranium resources are larger than we originally thought. Thus, the original breeder demonstration schedule no longer makes economic or technical sense. The Clinch River project is now an anachronism and should be treated as such.

After 9 years, ground has not been broken on the project, and we have no right to expect ground to be broken while Jimmy Carter remains our President, be it 2 or 6 years, and restarting the licensing will take even more time. Key employees working on the project have been leaving, which is to be expected. We cannot expect highly skilled and motivated individuals at the peak of their careers to stick to a project that is indefinitely stuck in the mud. We clearly continue to be in a no-win situation. We cannot afford to wait any longer to cut our losses.

Mr. Chairman, let us face the energy future, stop living in the past, and push ahead with an aggressive energy research package that the President can live with.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from New York (Mr. WYDLER) and the gentleman from Washington (Mr. MCCORMACK) especially as they pertain to support for the Clinch River project.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. RITTER), a member of the committee.

Mr. RITTER. Mr. Chairman, I think the American people have an opportunity here, through the judicious actions of their Representatives on the Committee on Science and Technology, to move ahead and solve some of our energy problems. The considerations of the Committee are well deliberate and oriented toward practical solutions.

I urge the support of my colleagues for H.R. 3000 and its substitute H.R. 4839 to provide the United States with an energy future that is real, not blue sky.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise in support of the DOE authorization bill for fiscal year 1980. It is doubtful whether the energy situation in the United States has ever been more critical than it has been so far this summer, and shortages could very possibly get even worse. Gasoline lines are the most striking signs of the makeshift, improvised and impractical energy policy which the United States has had in recent years, and which the Carter administration has done nothing to improve. It is ridiculous for a world power such as the United States to allow itself to remain enslaved by OPEC. This bill is an admirable attempt to deal with our problem in a rational and progressive fashion and judiciously utilize our resources on a short and long-term basis. I have comments to make about several sections of the bill.

I would first like to discuss the need for this country to develop its geothermal energy resources. They are found in at least 37 States, and in especially large quantities in California. I support the combined efforts of Federal, State, and local governments to turn the promise of geothermal energy into reality. I also agree with the action by the Science and Technology Committee to add to the DOE request $4 million for design studies and procurement of long-lead materials for a second 50 megawatt demonstration plant, which I think is necessary to assure the effectiveness of a binary cycle energy conversion system. I feel that we should insist that this plant be funded, even if it means a confrontation with the administration.

The issue on which my views are furthest from the administration position, however, is the Clinch River breeder reactor. Frankly, I am amazed that we cannot arrive at a middle ground on the breeder question. As the administration continues its ill-considered policy, other nations are leaving us far behind in developing this valuable technology and our energy situation is becoming more and more crucial. Our committee has voted to continue this project and study prospects for future breeders, and I heartily endorse this action.

I am also pleased to note that the committee authorized $10.5 million to be spent in fiscal year 1980 at the Barnwell Nuclear Fuel Plant in South Carolina, with $10 million going to the ongoing research program and the other half million to conceptual engineering studies. DOE did not request any funds this year for this project, for which about $16 million was appropriated in fiscal year 1979. I feel that the committee is following the proper course in keeping the reprocessing option open.

All of this is not to say that nuclear energy is the only remedy available to us. Other technologies have great potential and our committee has made appropriate recommendations as to the funding of these projects. One of these involves the innovative method of coal gasification, converting abundant coal supplies to replace dwindling natural gas supplies. Of particular interest to me is the development of the molten salt gasification process. The Science and Technology Committee wisely added $4 million to explore the production of medium Btu gas with this process. For example, the use of this method allows the gasification of a wide variety of coals with a high purity product gas, and it makes possible other uses besides gasification. For example, the transformation of nuclear waste into a more compact and easily disposable waste form. This is high-leverage research and development funding.

Coal liquefaction and biomass are other technologies which are intended to use abundant materials such as coal and alcohol to replace or supplement scarce resources such as gasoline. Anyone who has waited in 90 degree heat in a gasoline line knows the necessity of researching and developing alternative fuels, and our committee has agreed. It has recommended an expenditure of $51 million more than DOE requested for coal liquefaction, and has concurred with DOE on an expenditure of almost $58 million for biomass development. The economics of these energy sources are presently uncertain, but their potential is unquestioned, and further research must be done.

The technology which I would like to discuss in concluding my remarks is one about which I have always been optimistic: solar energy. I am interested in seeing further research and development of both central station and distributive applications of solar power, and both fields are adequately funded in this bill. Central station systems are exemplified by the pilot central receiver plant under construction near Barstow, Calif., which is to be tied in with a fossil field electric plant already existing nearby. This complex will utilize the approach known as solar retrofit repowering, in which a fossil-field plant is provided with a supplementary solar fixed energy source. Photovoltaic solar cells, on the other hand, are examples of distributive solar applications, and I am pleased that the committee has authorized $25 million more for this project than DOE requested. Photovoltaic solar cells directly convert sunlight into electricity, and comprise a technology worthy of much long-range consideration and deserving of the money which the committee recommended.

Mr. Chairman, this is a good bill, and our committee has done a fine job in preparing it for consideration. I recommend its passage.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. Bouquard) a very distinguished member of the committee.

Mrs. BOUQUARD. Mr. Chairman, although there are some points of disagreement on specific projects contained in this legislation, I want to take this opportunity to commend my chairman for the effort that he has put forth to bring to the House floor a bill which is truly responsive to the energy needs of this Nation. Chairman Fuqua has worked diligently to solve a number of jurisdictional disputes associated with this measure.

I cannot recall a single instance during the consideration of the bill where he did not make every effort to be fair and evenhanded in his treatment of the issues involved. I want to express my appreciation to him. Mr. Wydler, the ranking minority member of the committee, has also distinguished himself in the contribution that he has made to this legislation. I also want to express my appreciation to the committee staff for the assistance they have given to the members in the preparation of the bill and the committee report. My friend and esteemed subcommittee chairman from Washington, Mr. McCormack, has devoted an enormous amount of time and effort and expertise to bringing the best possible piece of legislation to the House floor. This body should be grateful to these individuals for the job they have done.

Mr. Chairman, earlier this year President Carter called for an emergency program which stressed both long and short term needs. This bill amply meets the requirements set down by the administration. The President defined our long term energy program to include solar-photovoltaic, fusion, and advanced fission breeder reactors. This bill carefully addresses each of these areas. This bill merits the strong and active support of this House. This bill is an excellent one and I hope it can enjoy overwhelming support. We have made a conscious effort to accelerate the development of those programs which are capable of meeting energy needs in the near future, and we have supported reasonable and prudent funding levels for those programs which will yield energy only in the more distant future.

This bill strongly supports the rapid development of solar power. We have, in anticipation of the President's emphasis on synthetic fuels pushed for further development of coal, and improved conservation technology. And we have continued to support the orderly development of nuclear power.

There are a number of areas in this bill which are deserving of special comment, I was especially pleased with the attention given by the committee to the development of fusion power, and the emphasis on improvement of our uranium enrichment policy. But I am equally proud of the budget conscious attitude displayed by the committee.

There are many projects which I would personally like to see funded at higher levels, but the committee has worked diligently to bring forth a bill which remains within the budget guidelines and still meets the funding needs for a responsible, productive energy program.

The bill is an excellent one, and I would hope that it can enjoy overwhelming support in the House.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. Harkin).

Mr. HARKIN. Mr. Chairman, I rise in support of H.R. 3000 the 1980 DOE authorization.

I would call the attention of my colleagues to a relatively small, but very important part of the bill. On page 3, line 13, of the substitute text (H.R. 4839) the Science Committee has authorized $113 million for transportation conservation.

Included in this figure are two very important programs:

First. The electric vehicle program; and

Second. Research on alternate liquid-fuel automotive engines, such as the gas turbine and the Stirling.

Both of these efforts are aimed at reducing our dependence on foreign oil, without forcing us to give up the freedom of personal mobility that we now enjoy. I believe that it is essential to move aggressively in this area. Americans want and, in fact, our whole economy depends on personal transportation.

Yet, the gas lines that we have seen this summer, clearly show that something is going to change. Either we improve the automobile or we will be forced to accept a drastically altered lifestyle.

Let me point out further that money invested in conservation research, such as this, is extremely cost effective. If we can improve the average mileage of our cars by only 10 miles per gallon, we can save 4 million barrels of oil a day.

These programs cannot only do this but will enable us to move to alternate energy sources for transportation as well. So, they fit perfectly with the call that President Carter recently made for energy security. I urge my colleagues to approve this bill.

Mr. Chairman, transportation uses more petroleum-derived fuel than all other energy-consuming sectors in the United States combined and accounts for about 26 percent of all energy consumed in this country. Energy consumption in transportation is increasing more rapidly than in any other sector—9 percent between 1975 and 1977.

The Department of Energy has a small but cost-effective program aimed at developing more energy-efficient technology for this important sector. The goals of the program are to improve the energy efficiency of transportation by: First, achieving a 10-percent reduction in the level of gasoline consumption projected for 1985; and second, reducing total energy use in the sector by 25 percent from the 29 quads now projected for the year 2000. Ultimately, the goal is to reduce the transportation sector's almost total dependence on petroleum. Specific reduction goals are 500 barrels per day by 2000 and 4,600 barrels per day by 2000.

For fiscal year 1980, the Department requested $95,861,000. To this amount was added $20,900,000 for a total of $116,761,000 in the Science Committee's portion of the bill.

Most of these funds will be directed at improving the fuel efficiency of light-duty vehicles because they currently consume 35 percent of all petroleum used in the United States, at a rate of 5,750,000 barrels a day. Program objectives include:

First. Demonstrate by 1983, as required by the Automotive Propulsion R. & D. Act of 1978 (Public Law 95–238, Title III), new automotive engine options (gas turbine and Stirling) for industry commercialization decisions that are 30 percent more fuel efficient than projected conventional 1983 engines with comparable performance, have a multifuel capability, and meet the most stringent proposed emission standards.

Second. Accelerate commercialization of electric/hybrid vehicles by at least 10 years through research, development, demonstrations, incentives, removal of barriers, and other related activities in accordance with the Electric and Hybrid Vehicle R.D. & D. Act of 1976 (Public Law 94–413, as amended).

Third. Develop and test batteries, components, and vehicle systems which will improve the performance, increase the reliability and reduce the cost of electric and hybrid vehicles. Near-term efforts (through 1985) are focused on special-purpose, electric vehicles; long-range efforts (through 1990) are on hybrids and general-purpose electrics.

Fourth. Develop and demonstrate energy saving propulsion system options for large trucks and buses for industry commercialization by 1983.

Fifth. Complete solutions to operational and reliability problems with the use of alcohols (straight and blends) in conventional spark-ignition engines for highway vehicles by 1983.

Sixth. Establish by 1985 appropriate fuel/engine combinations to optimize the resource/process/fuel engine system for oil shale and coal derived fuels; develop by 1985 one or more practical hybrid fuels consisting of a combination of petroleum and unconventional materials from nonpetroleum resources.

The Science and Technology Committee took action to increase funding in three areas:

First. Vehicle propulsion R. & D. (heat engine program)—mandated by Public Law 95–238, title III, this program is focused on development of two alternative automotive engines, the gas turbine and the Stirling engine.

In the gas turbine program, work has concentrated on concept formulation. Three contractor teams have been involved: GM-Detroit Diesel Allison/Pontiac Division; Ford/Air Research Corp.; and Chrysler/Williams Research. Fiscal 1980 will be the year the program moves into hardware development. Two different concepts are being proposed. One is the well-established two-shaft, two-turbine machine with a conventional transmission. The other has a single turbine with a continuously variable transmission.

Originally, plans called for selection of two contractors in June 1979 to proceed with hardware development. OMB directed that a single-contractor approach be used. An additional $7 million in fiscal year 1980 would support a second contractor, utilizing the same work scope and schedule as the first.

The situation in the Stirling program is somewhat different. Two contractors had been involved in concept formulation with fiscal year 1980 planned as the year for start of hardware development. Unfortunately Ford pulled out in late 1978 citing other business pressures, not technology shortcomings. This left the MTI/United Stirling AMC combine as the only variable Stirling contractor in the world. Nevertheless, DOE feels it would be possible to educate a second contractor to the point where further development of the Ford hardware could proceed.

Such a contractor would have to operate to a lesser work scope and a stretched out timetable. But the committee felt that the advantages to be gained from competition and the reduced risk to eventual commercialization justify the special treatment. An additional $5 million is needed in fiscal year 1980 to conduct such a program.

Second. Electric vehicle program. Established by Public Law 94–413, the EV program called for cost shared purchase and demonstration of 1,700 vehicles in fiscal year 1980. The law allows DOE to reduce this number if adequate justification exists.

DOE proposed a buy of 700 vehicles, citing insufficient U.S. industrial capacity to meet the larger number. The committee disagreed, in part, with this conclusion and increased the budget request by $8 million to support a buy of 1,100.

Third. Alternate fuels utilization. The DOE program as proposed emphasized testing of alcohol fuels only. The committee added $900,000 to include testing of oil-shale and coal-based fuels.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I rise in support of the Department of Energy authorization bill for fiscal year 1980. This bill is a balanced piece of legislation reflecting many days of hard work on the part of three committees. The bill as reported does a good job of balancing priorities and making sure that none of the important developing technologies, that we need so badly, is neglected. I want to especially commend the efforts of Chairman DON FUQUA and ranking minority member JOHN WYDLER on their untiring efforts in bringing forward this complex legislation in a timely, fair manner.

I think by this point everyone realizes that this country is in a tremendous energy bind. Our problem is much greater than gas lines and temporary inconvenience in not being able to spend leisure hours exactly as we wish. We are heavily dependent on foreign nations for much of the energy which is the lifeblood of our industry, our jobs, our transportation, and our comfort. This is a critical situation, as serious as we have faced in peacetime, and one which we must overcome if we are to revive our economy and retain our position of leadership in the world.

This legislation is a step in the direction of relieving our dependence on foreign oil and building a new energy future for this country. It contains vigorous programs for the development of all the emerging energy technologies which are now seen as being viable within the next 40 years. There are healthy programs in developing improved solar energy systems with a major effort in photovoltaics, and responsible programs in wind, solar heating and cooling, biomass, and several other solar technologies. One of the biggest areas of increase is in energy conservation research, finding more efficient processes in all energy consuming sectors of our economy. The long-range options like fusion and the breeder reactor also receive reasonable allocations of funds under this legislation. I feel this approach is crucial; we cannot permit any of these technologies to slip until we know for sure where, from domestic sources, we can meet all our energy needs.

I am a fiscal conservative and it may seem strange to some to see me speaking strongly in favor of a major spending proposal. Here, however, we have a prudent expenditure for the future of our Nation. When compared with our needs and the relationship of secure energy supplies to the well-being of our Nation, the amount requested here is certainly reasonable. Furthermore, the programs are not designed for long-term Federal control. There is a conscious effort to work in partnership with industry, with heavy Government involvement in the early stages when the risks are great but with greatly increasing private sector influence and cost sharing as we approach the development stages where we are preparing for complete industry takeover of the technologies. We are not going to get out of this situation unless we have industry and Government working hand-in-hand on responsible programs.

Therefore, I urge all my colleagues to support this important legislation.

Mr. FUQUA. Mr. Chairman, I yield the remainder of my time to the gentleman from New York (Mr. LUNDINE).

The CHAIRMAN. The gentleman from New York (Mr. LUNDINE) is recognized for one-half minute.

Mr. LUNDINE. Mr. Chairman, I would like to compliment the chairman and the ranking minority member of the full committee and the Subcommittee on Energy for the work they have done in fashioning I think a very constructive bill. I am very interested in the waste demonstration solidification project at West Valley in New York State, which I believe will be a major contribution to America's effort to develop a nuclear waste management program.

Mr. Chairman, title I of the substitute version of H.R. 3000, which has been endorsed by the Science and Technology, Interior, and Interstate and Foreign Commerce Committees for consideration on the floor, contains authorization for the Department of Energy to carry out a nuclear waste management demonstration project on the high level liquid nuclear wastes at the Western New York Nuclear Service Center in West Valley, N.Y.

The Western New York Nuclear Service Center is the site of the only commercial nuclear reprocessing operation ever undertaken in this country. This undertaking was encouraged by the Atomic Energy Commission as a first step toward commercialization of the back end of the nuclear fuel cycle. In fact, over 60 percent of the spent fuel reprocessed at West Valley was provided by the Federal Government from operation of the N reactor at the Hanford, Wash., Federal installation. The operation has been closed down since 1972 and will never be reopened as a nuclear reprocessing facility. Located on the site are approximately 600,000 gallons of high level liquid nuclear waste resulting from reprocessing operations, two solid nuclear waste burial grounds, a reprocessing facility, and a spent fuel receiving pool.

An amendment I authored to authorize the Department of Energy to carry out a nuclear waste demonstration project on the high level liquid waste at the site was adopted by the House Science and Technology Committee during their consideration of H.R. 3000. To accommodate several concerns raised by members of the Interior and Interstate and Foreign Commerce Committees changes have been made in the original amendment which I sponsored and which was adopted by the Science and Technology Committee.

The major change which has been made in my original amendment is the addition of a requirement for a cost-sharing arrangement to finance the project. Under the joint committee substitute version, a non-Federal share of the cost of the project not to exceed 10 percent is required. The Department of Energy estimate to complete this project, including the respository fee, is $130 million.

Although the Federal Government's key role in encouraging this venture and promoting its development establishes the responsibility of the Federal Government to provide for the safe and permanent disposal of these high level liquid nuclear waste at the site, the colicensees of the site, New York State and Nuclear Fuel Services, Inc. have some responsibility in this regard as well. Many interests, including the Federal Government, State of New York, commercial operator, and the public will benefit from successful completion of this project. For this reason I do not regard the cost-sharing arrangement being suggested here today as an unacceptable concession.

Beyond acknowledgement of some non-Federal cost-sharing responsibility, the practical effect of this substitute amendment should be the same as the original amendment adopted by the Science and Technology Committee. There is clear intent to acknowledge Department of Energy management and financial responsibility to implement a program to safely dispose of these high level liquid wastes. The project shall move forward in the upcoming fiscal year with appropriations which have already been approved by this legislative body a few weeks ago, through initiation of environmental, safety, and engineering work as well as conclusion of contracts to insure a cost-sharing arrangement, transfer of title to the high level liquid nuclear waste to the Federal Government, and utilization by the Department of Energy of property and facilities at the center. The project should be completed in a timely and uninterrupted manner.

Beyond this, there is one distressing aspect of the legislation under consideration here today about which I am deeply concerned. That is, the economic, social, and safety impact of this project on the West Valley community which I represent in Congress. This tiny community of less than 2,000 in population has already borne the brunt of what has turned out to be a major national experiment in nuclear reprocessing and now must provide the support services and community cooperation for this—another first step in nuclear technological development.

A provision considered by the Science and Technology Committee during debate on this matter, to authorize the Department of Energy to conduct a fiscal impact study of the effect on the local community from this project, was narrowly defeated. At this time, I want to reiterate my strong belief that in carrying out this project, the Department of Energy, State of New York, and commercial operator, should give consideration to the needs of this tiny community in upstate New York. Beyond this, as a matter of national policy, it is important that the Federal Government begin to focus on the related impacts on communities across the country with similar experiences. As this project goes forward, I intend to continue to be an advocate for the best interests of the West Valley community above all else.

As I noted, in addition to the high level liquid nuclear waste and reprocessing facility at the site, there is also two low level nuclear waste burial grounds and a spent fuel holding pool. The future disposition of these aspects of the site remains unresolved and will be determined independent of this project after careful consideration has been given to available alternatives. This determination will remain that primarily of the people of New York State, the owner of the site. I am encouraged that the future disposition of these other aspects of the site can be resolved in time on their own merits.

The unresolved problem of nuclear waste handling and disposal is a serious national concern which must be addressed without delay. The West Valley demonstration project authorized in the legislation before you today is an important link in the overall evolution of an acceptable national nuclear waste management policy. The Federal Government will benefit substantially from the successful demonstration of waste-handling techniques for the high level liquid nuclear waste at the site and will gain invaluable first-hand experience that can be applied to other nuclear waste management problems resulting both from our national defense program and commercial applications. Utilization by the Federal Government of the facilities at the West Valley site offers a unique opportunity to gain this knowledge and experience in a practical and cost-effective manner.

I urge your support for the joint committee substitute language under consideration today.

The CHAIRMAN. All time of the Committee on Science and Technology has been utilized.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of the bill, H.R. 3000, which provides authorizations to the Department of Energy for fiscal year 1980. Through the cooperative efforts of Chairman STAGGERS, UDALL, and FUQUA, and ranking minority members, Messrs. CLAUSEN and WYDLER, as well as the chairman and ranking minority members of the affected subcommittee, we have been able to present to the House a revision of the original bill, which has been introduced as H.R. 4839, and which reflects the views of the various committees while avoiding jurisdictorial problems and duplication.

As to matters within the jurisdiction of the Interstate and Foreign Commerce Committee, title II of the bill before you today would authorize appropriations to the regulatory programs within the Department of Energy which would include the Energy Regulatory Administration, the Federal Energy Regulatory Commission, and the Energy Information Administration. In addition, the bill would provide $3 million for the Office of Hearings and Appeals and $8.3 million for the strategic petroleum reserve, which is the amount requested by the administration for this program. However, the bill does not authorize any additional funds for the operation and implementation of this program and specifically provides that of the funds which were appropriated in fiscal year 1979 for petroleum purchases, not more than $110 million may be used for fill and leach operations, standby operational storage, planning and facility or equipment site design, construction and acquisition.

Mr. Chairman, some months ago, the administration sought to reprogram more than $700 million of the funds appropriated to this program. This reprograming would have covered funds for both fiscal years 1979 and 1980. Our committee was greatly concerned about the reprograming and indicated to the administration that we support a certain level of funding for 1979 and a certain level for 1980. But, more importantly, we did not want the Department to use the funds specifically authorized and appropriated for the purchase of oil for other purposes. We believe very strongly that if the administration wants to increase the funding for other programs, it should specifically request funds for those purposes and through the normal authorization process and not try to raid petroleum purchase funds. The SPR program is important; it must be completed. We must take steps now to complete it. We must fill the reserve. The appropriations that we have provided are designed to fill the reserve. They should not be used for other purposes.

We want to also stress that we are not satisfied with the way the Department has handled this program. Improvements have been made in this program since our hearings of last December and earlier this year, but much more needs to be done, and the agency must move more rapidly to complete the program.

Title III of the bill includes funds for solar commercialization and for certain conservation programs, as well as funds for State and local conservation functions under the Energy Policy and Conservation Act and the Energy Conservation and Production Act. I would point out to the Members that the Department has recommended that the State funds be made a part of other legislation which the administration has submitted to Congress. This committee will consider that other legislation, but we could not do so prior to the enactment of this legislation.

Title V of the bill has been referred jointly to our committee and to the Committee on Interior and Insular Affairs. Our committees are fully in accord with the amounts authorized for the uranium resource assessment program, spent fuel disposition, and decontamination and decommissioning activities. In addition, this title includes a section 502 in which we have provided a procedure for dealing with away-from-reactor storage of spent fuel. This provision directs the Department to conduct specific studies and provide a mechanism for the selection and designation of away-from-reactor storage sites with the full participation of the Governors of the affected States and the public and for the issuance of a final report concerning the designation of sites. That report will also include recommendations concerning the modification and expansion of existing sites at reactors. An additional report will be provided concerning the cost of both on-site and away-from-reactor storage, and the fees to be charged to the utilities for this purpose. I emphasize that the bill makes it very clear that no funds can be used for the acquisition of a site, or for the construction of any facility on any site, before all of these activities are taken and a subsequent act of Congress is enacted which specifically authorizes funds for this purpose.

Mr. Chairman, I think this is a very important provision and has been carefully crafted so the Department can continue its efforts to identify and resolve the problem without prematurely committing the Congress or the administration to a specific course of action until we know the parameters of the problem, and whether the proposed sites can be readily available for use. It also provides the State and the public with a significant role in the decisionmaking process.

Section 503 is an amendment which was offered by my distinguished colleague from Tennessee, Mr. Gore, to have the Secretary of Energy conduct a study to determine whether Federal assistance similar to that provided under the Uranium Mill Tailings Radiation Control Act of 1978 should be provided to the Tennessee Valley Authority to conduct remedial action at the uranium mill tailing site at Edgemont, S. Dak., which TVA purchased after the previous owners ceased mill operations at the site.

Section 504 provides for the Secretary of Energy to study and devise a plan for the emergency removal from foreign countries of spent fuel of U.S. origin where necessary. The steps should include, where appropriate, the initiation of specific detailed feasibility studies for receiving such fuel, and in accordance with applicable provisions of law, the acquisition of such spent fuel of the physical capability for implementing a retrival operation. I stress the point that all of these activities must be carried out in accordance with applicable provisions of law, including various statutes relating to the use of foreign vessels.

Title VI, which was referred to our committee and the Committee on Science and Technology, includes authorizations for funding for buildings and community systems for the extension service, for appropriate technology, for urban waste energy conservation, fossil energy activities, solar application, and industrial conservation.

Title VII generally provides funds for various departmental activities, particularly administrative-type activities, including funds for the program and management and for the Office of Inspector General, the Secretary, and other offices within the Department. It also provides funds for the uranium enrichment program and for in-house energy management. Section 702 of this title directs the Secretary of Energy to conduct a study to develop a program to be conducted by the Department of Energy which would provide for retraining and training of civilian nuclear reactors operators. The training program must be in accordance with applicable requirements of law and regulations, and the responsibility for establishing regulatory requirements would remain with the Nuclear Regulatory Commission. The Secretary of Energy would provide a report of this study to the Congress, and it could be implemented, unless the Congress disapproves of the idea.

Section 703 provides for a commercial waste management report and section 704 relates to international energy assistance.

Title VIII of the bill provides general limitations on activities of the Department such as road reprograming, use of unexpended balances, and limitation of use of revenue. The committees felt that these were all important to carry out the programs of the Department.

Mr. Chairman, I urge support for this very important energy bill which provides an opportunity for this country to move forward in energy development.

□ 1130

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I want to just at this point commend my mentor and chairman, the gentleman from Michigan (Mr. Dingell), and also the gentleman from Florida (Mr. Fuqua) for a job very well done.

Later in the day we will have under the amendments a proposed amendment to continue decontrols on oil and this debate on decontrolled prices raises a number of very, very important issues which the House will be addressing at that point.

Mr. Chairman, the debate on oil decontrol raises a number of important issues that all Members of the House need to address—and which deeply affect our country and our future. As a supporter of phased decontrol of oil prices, I want to share with my colleagues the conclusions which I have reached during 4 years of membership in the Subcommittee on Energy and Power.

In the opening of the recent Democratic caucus debate, the question was raised: Who controls oil prices? The implication of the question is that if oil prices are decontrolled, we are only further playing into the hands of the OPEC cartel. The reality of the situation is that, like it or not, the cartel already effectively controls the price of oil. And, like it or not, existing price controls only reinforce the power of the oil cartels. And that price—or cartel—is not going to be broken until we face the energy issue squarely. No amount of rhetoric or political maneuvering in the Congress will dent the cartel.

The point was also raised that the proposed windfall profits tax is simply a politicians protection device. Let me again suggest the reality: The real politicians protection device is the orchestrated assertion that increased oil prices are the problem. The clear implication of the arguments of those who support continued controls is that we have an energy policy that works, and that any change is a sellout to the oil companies. The policy suggested by the resolution debated in the Democratic caucus (to continue controls on oil) is the real political protection device. Rent price controls have not created more apartments in New York, and oil price controls will not create more oil. Instead of facing the reality of a declining energy supply, the proponents of continued controls view price increases as the problem. I do not impugn their motives: I just think they are wrong.

The problem is not price increases; the problem is economic and geological. Price increases are a response to a diminished supply, a failure to conserve, and a continued dependence on one energy source of which OPEC controls the marginal supply. Artificially regulating these prices subsidizes additional consumption, inhibits exploration, creates distortions in our energy distribution system, and reflects the impact of economics on alternative energy sources.

How to analyze the conflicting arguments? Let us first try to escape the emotionalism of the past energy holy wars which have swept the Congress, and let us try to avoid the certainty which flows from holy positions. Above all, let us not be misled by those who argue that there are simple answers or obvious villains here. I have found it to be useful to balance the cost of decontrol against the benefits of decontrol—let me share my analysis with you:

The Cost of Decontrol: Decontrol will cause higher prices, but this should be put in context. First, higher prices would occur—as they have in past years—even with continuation of price controls. Second, the debate over decontrol concerns somewhat less than 40 percent of all the crude oil we use—the rest is already at or near world prices.

Forty-three percent of our oil is imported (world price).

Seven and one-half percent is from Alaska, or the Naval Petroleum reserve (including transportation, Alaskan oil is effectively at world price).

Seven and one-half percent is stripper oil (which has been, for sometime, effectively at world price).

About 6 percent is deep stripper and marginal wells, which will now go to the world price, along with newly discovered oil under proposed DOE regulatory changes distinct from legal decontrol.

Thus, more than 60 percent of our total crude oil supply is already at or near world price. This leaves less than two-fifths of our crude oil supply under price controls. Further, it should be noted that all products from refineries except for gasoline are presently decontrolled. Despite some controls on crude, therefore, consumers are paying decontrolled product prices for middle distillates and residual fuel oil. These make up about 50 percent of the barrel. The other half is gasoline. With full decontrol we can expect these decontrolled prices to rise somewhat as the cost of crude to refineries increases, but it will not be a dollar-for-dollar increase. Combined with other slippage in the regulatory structure, by the time oil gets to the consumer, we are now left with 15 to 20 percent of our oil effectively under price regulation.

Thus, I believe that the present debate over decontrol is often couched in somewhat specious terms. This is not an all or nothing arrangement, or a debate of control or decontrol. The reality of the situation is that relatively little of our oil—15 to 25 percent—is under price controls. Thus, the debate should focus on the costs of decontrolling this remaining oil, compared to the benefits that will result from this decontrol. I think the evidence clearly indicates that the benefits far outweigh the costs, and that we should immediately confirm the administration's policy on decontrol.

The projected inflationary impact of decontrol is relatively small and therefore is not a convincing argument for maintaining controls. Under the President's proposal, decontrol is phased in over nearly 3 years, so that the inflation impact is .03 percent in 1979; 0.2 percent in 1980; 0.2 percent to 0.3 percent in 1981 or a cumulative 0.5 percent to 0.7 percent over the 3 years. Major future price increases by OPEC would increase this impact.

There is no question that in these troubled economic times, with sharp inflation, these are real costs and they cannot be ignored. A rational analysis has to measure what we get for this increased cost. Let me present what I believe to be the five areas of return to the economy and to the American people:

One, Supply: There is a temptation to misinterpret the projected supply response, just as there is a temptation to overemphasize the new oil supplies that will result from decontrol. We have estimates ranging from 400,000 to 2 million barrels extra per day by 1985, because of the economic stimulus of decontrol. No matter what numbers you choose, there are several factors that must be kept in mind:

First, we have to find new reserves of oil and decrease the decline of production which has been dropping dangerously since it peaked in 1970 at 11.3 million barrels per day (including natural gas liquids). Production dropped to 9.8 million barrels per day in 1977 but increased to 10.3 million barrels per day in 1978 as a result of increasing Alaskan production. Alaskan production has now leveled off as limited by the transAlaskan pipeline and total U.S. production will again show a decline.

Are additional incentives necessary? I believe so. New exploration is expensive; tertiary recovery techniques are expensive. Most of the easy finds in this country have been made, and new oil is going to cost more. There is also another valid answer to this question. At present, oil and gas production companies' returns on equity are slightly below the national industrial average. Certainly rates of return for this sector of the economy—which should be a national priority—should not be below the national average for industry as a whole.

Second, we cannot ignore the value of the additional production projected from decontrol. The administration's projections of 300,000 barrels per day by 1982, and 700,000 barrels per day by 1985, is oil that we would otherwise import. And the amount relative to our needs is not insubstantial, particularly when we recognize that the over 500,000 barrel shortfall resulting from Iran shutdown caused severe shortages that are felt.

Third, the argument that an increased price produces relatively little new production is a narrow argument; it neglects the return from conservation, economic efficiencies in supply allocation, impact on alternative energy supplies, and the strength of the dollar in foreign markets, which are the other benefits of decontrol.

Finally, an answer should be given to the question most often asked by the opponents of decontrol: "Don't the oil companies already have enough incentive?" I believe that this is the wrong question. The question most fundamental is: "What is the marginal cost of each extra barrel of oil to the U.S. economy, and to whom will this be paid?" The marginal cost is the world price. Each additional barrel that we do not produce domestically is imported at the world price. With decontrol the user of the marginal barrel of oil will pay its true price, and that cost will be reflected in energy and investment decisions throughout the economy concerning conservation and alternative energy sources.

At present, no one in the United States pays the marginal cost of oil. Through the convoluted entitlements system, those who import that extra barrel of oil are subsidized by those who do not, and—theoretically—every refinery has an average cost of oil. This is bad economics, and bad public policy.

Second. Conservation—We can divide oil use into three different economic sectors: Industrial, 35 percent; commercial and residential, 15 percent; and transportation, 50 percent. Each of these sectors should be examined separately to understand the potential conservation effects of decontrol.

Industrial. A major energy conservation effort is successfully underway in American industry. Total industrial energy use—not just oil—has decreased by 6 percent since 1973, while the economy has grown 12 percent in real terms. Industrial energy use in the United States has decreased more than in any other major industrial economy since 1973; our energy use overall has increased by only 1 percent a year since 1973, compared to an average of 3½ percent per year over the previous 20 years. Our overall energy use is over 10 percent lower than it would have been had we followed the 1953–73 trend line. Clearly, the economy is responding to increased prices. Industrial capacity does not turn over quickly, but we can expect significant future savings as architects, engineers, and managers factor in the cost of energy, something they generally have not done until recently.

Commercial and residential. Here the record is not as good, but the incentives are not as clear, either. An industry can invest scarce capital in energy conservation, and realize a predictable rate of return on that investment. The homeowner too often does not have the available capital; or the cost of borrowed capital is far higher in the short term than the dollars saved from decreased energy use. There is significant long-term conservation potential here, however, as builders and architects adjust, spurred by various regulatory and tax incentives. How soon and how strong will we send the conservation signal to this community? If we delay the difficult decision on price, the response will also be delayed.

Transportation. The argument for higher prices as an incentive for conservation is also less clear in the transportation sector. Fifty percent of our oil goes to transportation use, compared to about 25 percent in Germany and 15 percent in Japan.

Unfortunately, gasoline consumption continues to increase despite the need for conservation and perceived higher prices. Part of the explanation is that the real price of gasoline has not increased since 1974; in constant 1972 dollars, a gallon of regular cost 44.8 cents in 1974, and 41 cents in April 1979. The only time the real price of gasoline rose—from 36 cents in 1973 to 44 cents in 1974—consumption declined. But the evidence is conflicting and claims about the conservation effect of higher gasoline prices are mixed.

More promising developments are the fact that new autos are now 50 percent more efficient than they were in the early 1970's. According to most estimates, this efficiency will result in a net 5-percent reduction in gasoline consumption below current levels by 1985, despite the increase in the numbers of automobiles on the road. Again, this is a long-term issue—smaller, more efficient cars, more mass transportation, changes in our love affair with the automobile.

The summary of the conservation issue is best found in these statistics: The American economy is 35 percent more energy intensive than Germany's and 67 percent more than Japan's. The biggest differences are in the transportation and commercial/residential sectors, and these will require significant changes over the long run.

Third. Regulation. A significant positive result from decontrol will be the flushing of the present regulatory structure. Current oil regulations are inefficient, shot through with exceptions and cause major distortions in the petroleum sector of our economy.

For example:

The present entitlements program subsidizes imports in the neighborhood of $5 billion per year;

The small refiner bias has created a good deal of inefficient refinery capacity. Since the present law was passed, many new, small refineries have been built, many of which cannot efficiently refine the supplies of increasingly heavy and high sulfur crude oils, nor make unleaded gasoline. Yet these small, inefficient refineries are subsidized by the large ones;

Utilities, which should have the incentive to move to coal-fired electricity have no incentive to do so as long as the price of residual fuel oil is kept unrealistically low, at the average rather than the marginal price;

Under current entitlement program regulations, all domestic oil is assumed to be of the same quality although it is not. Until recently California refineries, which depend on heavy California crude stock, were paying the same entitlements subsidy as other refineries using higher quality crude, a windfall for the latter group;

At a time when we need new processing units in refineries, to produce lead free gasoline and to process heavy and high sulfur crudes, Government regulations allow the refiner to recapture only the cost of borrowed principal and interest, not a return on equity, and therefore leaves little incentive for needed new construction;

Because production qualifies for the higher price of the stripper category if it is less than 10 barrels per day from a well, there is a great incentive for the producer to reduce production from 14 or 15 barrels to 10. One proposed solution is to expand the definition of stripper to 20 barrels per day. What will then happen to those wells which are now producing 25 barrels? The production disincentive will be moved but maintained; and

A warning: When the crude decontrol issue is behind us, the next major energy issue facing the Congress and the administration will concern refineries. As outlined above, the present regulatory structure has badly skewed the investment in new refinery capacity and efficient use of our existing capacity. In the future, the unmet demand for unleaded gasoline, and for gasoline altogether, is going to create a net set of refinery-related problems that will demand our early attention.

The examples go on and on in this encrusted, outmoded, and inefficient regulatory structure. They exist for refineries, producers, pipelines, marketers, and ultimately for all consumers. We keep patching up the leaky system, granting a price increase for Long Beach's municipally owned lower tier oil, because the profits will accrue to a city, not a company; making small refiner millionaires, and developing bizarre stripper definitions. If we continue this archaic and inefficient regulatory policy, we will simply see more and more exceptions to try to make the regulations work, or in response to them. For example, Louisiana and Texas have considered State excise taxes on exported oil, which will move oil right back into the interstate versus intrastate complexities that plagued natural gas for years.

Regulation breeds economic inefficiency and inequality, and it is time to flush the system. Decontrol will accomplish this end; the maintenance of controls will only serve to magnify the existing problems.

Fourth. Alternative energy supplies. How long are we going to put off the day of energy and economic reality? Energy is a long-term problem—when are we going to start? Decontrol will provide more price certainty, against which alternative energy investment decisions can be made. Until the price of oil is high enough, investment and changes in our energy infrastructure will not be made. A good example of the validity of price incentives are found in natural gas. Until recently the price controls on conventional gas discouraged independent drilling for gas, as opposed to associated gas—produced along with oil.

As oil prices are decontrolled, we begin to approach the window where alternative energy sources become viable. Arabian crude is now selling for close to $20 a barrel. The following are some ball park estimates in current dollars of the thresholds for alternative energy sources; capable of producing the energy equivalent of a barrel of oil:

Coal liquefaction (nonmethanol), $30–$35.

Shale oil, $22–$26.

Very heavy crude, $20.

Solar collector, $30.

Methanol, $25–$35.

Unconventional gas, $20–$30.

We are nearing the economic threshold for the development of alternative energy sources. Decontrol will help to stimulate investments that should have been made long ago.

And, because it will take a decade or more before alternative energy sources can have a major impact on the Nation's energy supply, each day we delay in stimulating investments in these alternative energy resources means 1 day longer before these sources becomes available. We can postpone this thrust, or we can accept the reality that tomorrow's issue will be supply, not simply price.

Fifth. Value of the dollar. The best economic testimony indicates that last year 1 percent of our total inflation rate was caused by the decreased value of the dollar. While the specific economic trail, from decontrol to increased production and conservation, to lessened imports and a slowed dollar flow overseas is complex, it is very real. We paid about $45 billion for oil imports in 1978. Without that huge transfer abroad we would have had a positive balance of trade. The United States this year will pay about $50 billion for oil imports, by 1985 the cost of imports will probably double to $100 billion. This enormous drain will keep continuing pressure on the dollar in overseas markets and could cause disastrous weakening of the currency. The country cannot afford to permit this situation to continue indefinitely. It is probably fair to estimate that the cost of decontrol in inflation from higher costs—discussed earlier—will in part or in whole be offset by a strengthened dollar.

In addition, we cannot quantify the value of signalling to the world the intent of the United States to become serious about energy. Our failure to raise domestic oil prices to world levels to date has meant that neither our European allies nor the OPEC nations take our oil conservation protestations seriously. And we know that OPEC will continue to take advantage of our increasing dependency.

SUMMARY

The question of decontrol is an economic and a political question. In the foregoing I have attempted to outline what I believe are the compelling economic arguments for decontrol. Hopefully they speak for themselves.

The political argument is harder to quantify. But it is easy to outline what the political argument is not—or should not be.

This is not an argument for or against big oil and small oil, for or against Marcor or J. C. Penney's. While there has unquestionably been some very poor management by the industry, we should not reply in kind.

This is not an argument for or against the Department of Energy or bureaucrats. It is an argument about public policy which, once resolved, must then be executed by the executive branch with aggressive and effective oversight by the Congress.

Finally, this is not an argument about price increases, nor should we view price increases as the sole problem. It is an argument about supply, about economic and about geological problems.

The political issue is whether we have the foresight to focus on our future problem, on the need to pay more and use less. If we refuse to do so, if we refuse to take the difficult and unpopular position, then we will not be exercising our responsibilities, nor will we be leading the country. I would hope that responsibility and leadership would characterize the ultimate decision of the House of Representatives on the issue of energy.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4839, an amendment offered in the nature of a substitute to H.R. 3000. Many of the titles of H.R. 3000 were concurrently referred to the Committee on Interstate and Foreign Commerce, the Committee on Science and Technology, and the Committee on Interior and Insular Affairs. The many differences in the provisions which were reported out by the various committees have been negotiated among the committee staffs, and a workable compromise bill, H.R. 4839, has been forged.

While I personally feel that more and more should be done to reduce the massive spending which is authorized under this legislation, I do accept, in the spirit of compromise, the authorization levels reached in H.R. 4839. It must be remembered that the DOE has never had an authorization bill since its not-so-immacuate inception. I do believe that the time is right to have a DOE authorization bill made into law. I urge my colleagues to support the compromise bill, H.R. 4839.

There are two additional matters which I would like to address before yielding to my colleagues. The first deals with the authorization for the uranium enrichment add-on facility at Portsmouth, Ohio. This plant, using the energy saving gas centrifuge method of enriching uranium, has been plagued by slippages in its completion schedule. The first module of this add-on, originally slated for mid-1986, is now due in mid-1988. Completion of the facility is now set for 1993. I have been assured that the money authorized in this bill is sufficient to meet this goal. I have also been assured that no further schedule slippages will occur, and that if the schedule can be accelerated, it will be. I am in favor of that, and I am glad that sufficient money has been authorized to complete rapidly this efficient new technology at Portsmouth.

Second, I believe that we need to understand the limited nature of section 702 of the bill, which deals with the establishment of a training program for nuclear reactor operators. Under this program, the Department of Energy is to develop a program to train nuclear reactor operators. The program is to be nonmandatory and must train the operators in accordance with the licensing requirements established by the Nuclear Regulatory Commission. The program also is to be submitted to the Congress and will begin operating unless it has been disapproved by either House of Congress.

Several points need to be made. First, I do not believe anyone in this Congress is against improving the training of nuclear reactor operators. I certainly favor improving that training because I believe it will result in safer operation of our nuclear powerplants. Second, I am not at all convinced that the DOE is competent enough to do the job right. However, I believe that DOE should be given the opportunity to develop a training program. If it is good enough, it will be patronized by the industry. If it is not, then perhaps the research and development could be used by the private sector. It is critical, therefore, that it is understood that this program is not mandatory—a reactor operator may still be licensed by the NRC if he receives his training elsewhere and meets the NRC licensing requirements.

Finally, although I would not have involved the DOE in training operators at all, I agreed to include this provision in the compromise bill with the understanding that the DOE's role is to be strictly limited to developing and running a training program. DOE is not to insinuate itself into the NRC rulemaking procedures. DOE is not to review the work of the NRC. DOE is not to establish operator licensing requirements. DOE is to use whatever expertise it has at its disposal, however limited, to develop an operator training program in accordance with the applicable requirements of law and regulations which govern the granting of operating licenses to nuclear reactors. That is the assurance I have been given in agreeing to include this provision in this bill, presented as a compromise among the three committees having jurisdiction over DOE authorizations.

□ 1140

Mr. Chairman, I yield to the gentleman from Illinois (Mr. CORCORAN) 5 minutes.

Mr. CORCORAN. Mr. Chairman, if there is one thing that we should have learned from the gasoline shortages throughout the United States this year, I think it is that we have to anticipate the requirements and the needs in the field of energy that we have as a country and plan ahead in order to provide adequate solutions for those needs. It seems to me that movement from crisis to crisis by this Congress or by the executive branch on any issue of importance such as energy, the environment, the economy, foreign affairs, or any other public policy issue that confronts the United States, we should always anticipate what the problem will be and move appropriately in time to provide adequate solutions. Nowhere is this more true, it seems to me, than with respect to nuclear waste management.

One of the reasons in my second term in Congress I sought and was selected to join the Interstate and Foreign Commerce Committee was to serve on the Energy and Power Subcommittee because of its responsibilities for nuclear waste management, something that in 30 years of commercial use of nuclear power our country has not addressed adequately.

For the benefit of my colleagues, I would like to briefly review our current status as it relates to proceeding with the implementation of the President's spent fuel program. What we have pending before us is a slightly revised version of section 403 of H.R. 11392, the fiscal year 1979 DOE authorization reported by the Commerce Committee in the last Congress. The current bill contains language relating to the commercial spent fuel storage program in section 502. Principal elements include:

First. A requirement to complete and publish a need study on interim spent fuel storage within 30 days of enactment;

Second. Initiation of hearings in each State selected as a candidate for any regional facilities;

Third. An expression of the need to complete these hearings by March 1, 1980, in order to report to Congress by approximately April 15, 1980; and

Fourth. Transmittal to Congress by February 1, 1980, of a report discussing costs of acquisition or construction and criteria for determining the one-time fee for interim storage and final disposal.

As I will review for the RECORD later in more detail, the Department of Energy has fulfilled essentially every requirement called for and is in a position to proceed with State hearings tomorrow. There have been extensive NEPA (National Environmental Policy Act) related activities beginning in late 1977, which have led to the release of several environmental impact statements from the Department of Energy and related agencies. These public documents cover domestic spent fuel storage, foreign spent fuel storage, charges for storage and disposal, and the overall commercial waste management programs.

An important aspect of what we will vote on is a direct and early involvement of the States that may be candidate sites for spent fuel storage. The Governors of these States will play a formal role in developing the local plans for acquisition and operation. This aspect of the program has already been undertaken by Department officials on a limited basis and certainly should continue aggressively. I would hope the Department will not read the pending legislation as any constraint in this regard, but rather as an encouragement to continue what they have been doing in this respect.

My colleagues should also be aware that the Senate has addressed the spent fuel storage issue in their version of the fiscal year 1980 DOE authorization bill, S. 688. The Senate has opted to use the statutory vehicle of the construction line item, project 79-1-P, which was first approved in 1979 to assure continuity as well as important progress toward the goal of providing initial off-site storage capacity by the early eighties. The Senate Energy Committee has proposed that $25 million of the $300 million requested for the facilities by the President be made available in fiscal year 1980 for specific site activities short of actual acquisition. Of the approved funding, $5 million is set aside for the study of cost and potential sites.

I personally feel that many elements of the House and Senate provisions are compatible. Both bodies are committed to the sense of urgency in taking the initial steps required to advance the program. I trust that my colleagues will support this vitally needed program both now and in any supplementary legislation treating the mechanics of transfer of title and refund for recovered fuel value.

Before I conclude, Mr. Chairman, I would like to address a couple of questions to the distinguished chairman of the Energy and Power Subcommittee, the gentleman from Michigan (Mr. DINGELL).

If the gentleman will respond, Mr. Chairman, am I correct in stating for the record that the Subcommittee on Energy and Power will proceed expeditiously to conclude the hearing record on H.R. 2586, the Spent Nuclear Fuel Act of 1979?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I will be happy to yield.

Mr. DINGELL. Mr. Chairman, the gentleman has provided valuable leadership in this and we are going to move just as soon as possible on the legislation referred to.

Mr. CORCORAN. I thank the chairman.

One other question I have is whether or not the Commerce Committee intends that the Department of Energy pursue all aspects of this program, including review of candidate sites to assure a timely submittal of their initial report which is called for in section 502 of this legislation?

Mr. DINGELL. The answer to that question is yes.

Mr. CORCORAN. I thank the chairman for his assurances.

Mr. Chairman, in conclusion I would just hope that my colleagues would recognize the urgency that we in the United States have with respect to nuclear waste management and also accept the recommendation of the committee that section 502 does address the problem. In my judgment it is the minimum course that we should take at this time in order to get on top once and for all of the very serious problem of storing on both an interim and a permanent basis the nuclear wastes which have been accumulating in this country for many, many years.

□ 1150

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. Chairman, if the gentleman will yield, I yield 1 extra minute first to express to my colleagues how effective the gentleman's work has been on the Energy and Power Subcommittee, the minority side, of the Commerce Committee, and also to express my appreciation for the cooperation we received from the majority side, the chairman of the committee, the gentleman from Michigan (Mr. DINGELL), in fashioning this legislation. I also want to say a kind word about the members of the Science and Technology Committee, both the majority and minority, who have been so cooperative. I also want to express my real appreciation for the help we received from the minority side of the Interior Committee, for their help in our consideration of this bill.

It is a complex proposition that we are into, where a piece of legislation is referred to three different committees, and jurisdiction must be shared. There were some tensions in past years on the resolution of these problems between the committees, but I think this year a good job has been done by all three committees in trying to work out these problems. I, for one, am deeply appreciative, because it makes a difficult job, the job we are trying to do here, much easier.

Mr. Chairman, I wanted to say that, while the gentleman from Illinois was in the well.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, I do not ask for additional time because of the comments made commending the gentleman from Illinois, but I certainly would agree and underscore the comments of the gentleman from Ohio about our colleagues who have been involved in this difficult process.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I would like to commend the gentleman from Illinois (Mr. CORCORAN) for specializing in this area and providing us with his leadership. I would like to point out to my colleagues on the floor and for the record the difference between spent fuel and nuclear waste. As I understand it, this legislation deals with the commodity of spent fuels and it is important that spent fuels should not be classified as waste. Indeed, if the policy of the present administration is changed, or a subsequent administration changes that policy, those spent fuels can serve as the energy equivalent of billions of barrels of oil through the technique of reprocessing.

So, the storage of those spent fuels is putting aside in a safe and effective way, energy for the future. They are not wastes.

Mr. CORCORAN. I thank the gentleman for his comment.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, today we will have an amendment to reimpose EPCA crude oil controls until October 1, 1981. I hope the House will support the amendment. Inflation is currently running at an annualized rate of over 14 percent, and energy is the principal driving force. In May, energy prices added 4.31 percentage points to the annual rate of inflation, a large impact than during any month following the October 1973 embargo.

Since February, total consumer energy prices and wholesale figures have both increased at an average annual rate in excess of 50 percent, and that rate was in excess of 100 percent during the month of June. The costs of decontrol will be added on to these runaway consumer costs. Moreover, with the most recent OPEC price increases the President's decontrol program will cost much more than anticipated when he proposed it.

Based on current world prices, the Congressional Budget Office has estimated that decontrol will cost $27.8 billion through 1981, and $135 billion through 1985. With the OPEC price increases, those numbers become $40.7 billion through 1981 and $209 billion through 1985. That last figure calculates out to about $2.5 billion a month in increased costs to consumers and inflationary pressures in the economy.

Across-the-board decontrol allows already discovered oil to receive cartel-set prices even though the investments have already been made and little additional oil would be produced. Old oil would go from about $6 a barrel to $20, a 230-percent increase. Paying that additional money for old oil which would have been produced in any event will not significantaly reduce imports.

Decontrol eliminates any connection between cost of production and price even for new oil. The Harvard Business School Energy Future Report shows that since 1973 the regulated price of newly-found oil has already more than tripled while drilling costs have only doubled. So decontrol does not help produce much new oil either. The incentives are already there, as study after study has showed.

According to the Congressional Budget Office, decontrol would increase domestic production by only 2.9 percent of projected 1985 demand. And it would cost us $135 billion to bring in that additional 2.9 percent. According to Administration estimates, we could make nearly as much oil available if we adopted residential and commercial conservation programs at a cost of only $2 billion through 1990 as opposed to the $135 billion figure through 1985 for marginal increases in production.

Now, people will say that if we do not decontrol we are going to lose the revenues from the windfall profits tax. Let us look at that. Assuming the House passed version, the windfall profits tax between now and 1981 would collect only $11 billion. After 1981, between 1982 and 1985, it would collect $30 billion. The key point to understand is that that $30 billion will be collected regardless of the action we take today on decontrol between now and 1981. If we keep controls, when the synfuels program that the President has proposed comes on line in the 1980's we will still be collecting a substantial windfall profits tax on domestically produced oil that is sold at world prices. That money will in fact be there even if we prevent decontrol from going through today.

I have received 17,000 letters against decontrol from citizens in my State of New Jersey and across the country which I presented to the Speaker earlier today. Americans do not want more unnecessary inflation when they do not get any substantial benefits in either production or conservation in return.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I appreciate very much the subcommittee allowing me to take some time to discuss what I found out about the Department of Energy in my position as subcommittee chairman on the Civil Service Committee.

Mr. Chairman, on March 29, 1979, the Subcommittee on Civil Service, which I chair, held hearings on personnel management at the Department of Energy. What we found was a disorganized, poorly run Department. After 18 months of operation, the Department of Energy seemed to lack the goals necessary to structure the agency. Agency management appeared incapable of putting to constructive use the talents and energies of its 19,000 employees.

Within the next month, the staff of the subcommittee will go back to DOE to find out whether improvements have been made. Our return visit was going to be sooner. Every time when a reexamination seemed timely, however, another cloud burst over the top of the Forrestal Building. Crisis after crisis prevents the Department of Energy from ever getting on an even keel.

At our March 29 hearings, we found the following personnel management problems at DOE:

Below the Assistant Secretary level, the organizational structure was not clearly articulated. The Department conceded that the conservation and solar and defense programs lacked fully approved organizational structures. Our staff investigation revealed that, in other areas as well, the organizational structure was not clear to the employees. Complaints were received from branch chiefs and similarly situated officials that no organizational structure was evident to them in any part of the Department.

A very high proportion of branch chief, division director, and office director positions was filled on an acting basis. As of April 1, 164 of the 424 filled branch chief positions were filled by people in acting capacity. One hundred and seventeen of the 354 division-director and 52 of the 211 office-director jobs were filled in the same way. Employees filling positions on an "acting basis" have no job security or tenure. They can be removed from their position without an adverse action or any cause. An employee in such a vulnerable position, especially if he or she is interested in gaining a permanent appointment, is likely to be excessively compliant with the wishes of management.

As of the time of the hearing, a full one-third of the positions in DOE lacked position descriptions and approved classifications. While the number has creeped up since then, large numbers of positions are still not under approved position descriptions. Without a position description, there is no way to know whether the job is classified at the proper grade level. Furthermore, employees are unable to tell whether they are fully performing all the functions of their position. They do not know what the critical elements of performance are. They do not know whether they have been subjected to reductions in grade. Such a situation results in a scared work force, extremely responsive to the whims of management.

The old Civil Service Commission performed a personnel management evaluation on DOE a year ago. In the course of this study, CSC found that nearly 30 percent of a representative sample of DOE jobs were misgraded, with most being overgraded. This costs the taxpayer a large amount of money. CSC found that DOE lacked a serious classification maintenance system. In our hearings, it was revealed that the Department is contracting out for the services of classifiers. Subsequently, DOE has attempted to cure the actual cases of misclassification which the Civil Service Commission found. I was upset to find out that the misclassifications were corrected not by downgrading the position but rather by abolishing the position, creating a new employee into that job. This is just about the most blatant example of grade creep I have seen.

Minority representation in DOE is abysmal. While the Department claims to have the best affirmative action program in the Government, equal employment complaints linger on far longer than the 180-day statutory deadline. Women are only 35 percent of the whole workforce at DOE, compared with 43 percent of the Government as a whole, and over 50 percent of the population. Blacks are virtually unrepresented in higher level positions in DOE, comprising only 1.4 percent of the supergrades.

Employees complain about extended details, frequent transfers, and details to positions with no work. If these allegations are true, it indicated that the Department of Energy does not know what to do with its employees.

I am concerned, Mr. Chairman, with the chaos at the Department of Energy. My subcommittee will continue to look into this problem. The Office of Personnel Management plans a nationwide personnel audit of DOE next year. In the meanwhile, I urge the authorizing committees to keep a keen eye on the Department of Energy. If the mismanagement, confusion, and misuse of employees continues for another year, some of us might start rethinking the utility of having a separate Department.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, the Department of Energy fiscal year 1980 authorization bill and fiscal year 1979 supplemental authorization bill will be considered by the House today and tomorrow. It is likely that an amendment that would take away the President's power to gradually remove crude oil price controls will be offered. Such an amendment would seriously impair our efforts to meet our international obligations to the other Western industrialized nations and would deal our country a serious blow as it attempts to formulate a rational and effective energy policy. For these reasons, I urge my colleagues to oppose vigorously any such amendment.

Crude oil prices have been legislatively controlled since 1973 under the authority vested in the President by the Emergency Petroleum Allocation Act. In 1975, the EPAA was amended by the Energy Policy and Conservation Act. At the time that the crude oil pricing system was established, its proponents stated that it was designed with two goals in mind; providing producers with adequate incentives to search for and produce additional oil supplies while at the same time protecting the consumer from price increases. This pricing policy has failed miserably in both respects. The impact of these prices controls on our domestic crude oil production particularly has been devastating.

In 1973, the year controls were imposed under the EPAA, lower-48-State production averaged 9.2 million barrels per day. By the end of 1978, lower-48 production had declined by over 20 percent—to only 7.2 million barrels a day. At the same time price controls were discouraging domestic production, they also had the effect of artifically subsidizing imports through the complicated entitlements program which transfers money from domestic oil users to imported oil users. As a consequence, while our domestic production was declining, use of more expensive and less dependable imported oil increased by 23 percent between 1973 and January 1979.

Today, despite 1.2 million barrels of production per day from Alaska, we meet only about 50 percent of our crude oil needs from our own production as compared with 1970 when the United States produced enough oil to meet some 76 percent of its crude oil needs.

It is without question that our crude oil pricing policy has failed to provide us with the crude oil we need to keep our economy running smoothly. This pricing policy has been an even larger failure, however, in its impact on consumer prices.

Since 1972 the amount of dollars the United States has spent on imported petroleum has increased from slightly over $3 billion to an estimated 1979 import bill of a staggering $60 billion. In this same time frame, average retail gasoline prices in the United States have increased from 36 cents a gallon to over 85 cents—and this is under price controls.

By discouraging investment in domestic production and alternative technologies, by encouraging consumption, and by subsidizing foreign imports, we have tightened the supply-demand balance in the world oil markets, thus allowing OPEC to charge more for its oil than it would have been able to in the absence of price controls. This has detrimentally affected our balance of payments and has contributed to the rate of inflation.

Thus, far from protecting the consumer, price controls have had the effect of driving up the prices for goods and services throughout the economy. Perhaps the Washington Post said it best when it concluded that the protection afforded by price controls "is, in fact, spurious. Because controls have held domestic prices low, Americans have used much more than otherwise they would have done, and that in turn has made it much easier for the oil-exporting countries to keep raising the world prices that are now feeding back into the American economy. It is quite possible that Americans are paying higher oil prices today, after 8 years of controls, than they would be paying if there had been no controls at all."

On April 5, the President announced his program for phasing out crude oil price controls. This phaseout can begin without legislative action under the terms of the Energy Policy and Conservation Act which was passed in 1975. Under EPCA, crude oil price controls became discretionary with the President as of June 1, 1979. After that time, the President has the options of allowing controls to lapse altogether or continuing them in whatever form he chooses. All legislative authority for crude oil price controls expires on September 30, 1979, unless, of course, this authority is legislatively extended.

The President's program is the best approach for ending the damaging effects of regulation. First, the President's program calls for a gradual increase in the price of the third of our total crude oil consumption that is under price control. During the period June 1, 1979, through September 30, 1979, the controlled price will rise to world market levels. This decision to gradually permit prices to return to world market levels will add a total of only about 0.6 percent to the Consumer Price Index by the end of 1981, as compared with over 1.7 percent if prices were immediately decontrolled. In addition, this steady escalation in prices over 28 months gives consumers time for additional conservation efforts. Conservation by price does work, as evidenced by the experience of Germany and Japan, neither of which have petroleum price controls. Since 1973, the economies of these countries have grown without an overall increase in crude oil consumption. Data Resources, Inc., estimates that decontrol will reduce U.S. consumer demand by 300,000 barrels a day by 1981.

Second, the President's decontrol program will provide additional capital and price incentives to U.S. firms to increase exploration and production efforts. Oil and gas are getting hard to find and much more expensive to produce—deeper wells, expensive techniques to produce, and expensive platforms for offshore production. As a general matter, higher prices will allow producers to assemble the capital needed to increase U.S. supplies. Moreover, the President's program provides several specific incentive programs to encourage increased production.

The administration estimates that between 740,000 and 840,000 barrels a day more crude oil will be produced during 1985 under its decontrol program as compared with continued controls. Chase Econometrics, Inc., estimates the U.S. supply response at 2,400,000 barrels per day in additional crude oil by 1985. Every one of these barrels would replace foreign oil imports—which might not be available to the United States in 1985.

In June, at the economic summit in Japan, the President promised the leaders of the other Western industrialized nations that the United States would take strong steps to reduce our oil imports between now and 1985. Only if we allow the President to gradually remove crude oil price controls can this commitment be met.

It is clear that decontrol is necessary for the long-term health of the U.S. economy. Extension of controls will have a disastrous impact on U.S. production and consumption. In addition, it would demonstate to the rest of the world that the United States does not take its international obligations seriously.

I strongly urge my colleagues to vote against any attempts to trade away the future economic welfare of this country and vigorously oppose extension of price controls on crude oil.

Mr. Chairman, I would like to take just 1 minute to say a word with reference to our colleague, the gentleman from Pennsylvania (Mr. RITTER).

The gentleman from Pennsylvania (Mr. RITTER) as many of my colleagues know, is unusual in that he is one of the very small handful of Congressmen with technical backgrounds. As such, he offers a different and valuable insight to the legislative process, especially on issues such as energy and technology, about which his background gives him a special familiarity.

For my colleagues' information, I might note that Mr. RITTER received his doctor of science degree from the Massachusetts Institute of Technology. He has served as a professor on the faculty at a university which is distinguished nationally for the excellence of its scientific and technical programs, namely, Lehigh University in Bethlehem, Pa. More recently, Mr. RITTER managed the development of new research programs for nearly 10 years at Lehigh across a broad cross-section of fields, in science and technology as well as the social sciences and humanities, before his election to Congress last year. Previously, he had also served as an engineering consultant to various firms in the materials field.

I would suggest that the Congress has too few of such technically trained Members—we can count them on the fingers of one hand. We could use more people of his quality and ability in the Congress.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I will be glad to yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding. I want to compliment the gentleman from Ohio for the leadership he has given to the House with respect to the decontrol question. I think it is not only paramount that the amendment to stop decontrol is defeated, but actually what we should be doing here is to take out this entire section of the bill where we have given the Department of Energy the ability to go in and allocate and disrupt the retail distribution and wholesale distribution of petroleum products in the country. That part of the bill is the part I find very obnoxious, and it is unfortunate that it is in the bill. If anything, we ought to be getting rid of the entire segment immediately, now, and get those people out in the private sector doing something worthwhile.

I thank the gentleman for his leadership on this.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. PRICE) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On July 25, 1979:

H.R. 4289. An act making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

On July 26, 1979:

H.R. 4537. An act to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF ENERGY AUTHORIZATION ACT FOR FISCAL YEARS 1980 AND 1981—CIVILIAN APPLICATIONS

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I rise in support of H.R. 4839 as an amendment in the nature of a substitute for H.R. 3000, the Department of Energy authorization for fiscal year 1980. This is a clean bill representing the substantive agreements of the chairmen of three committees of jurisdiction and I think it is a good and comprehensive recommendation.

I want to briefly discuss some provisions of the bill of particular interest to the Committee on Interior and Insular Affairs. Perhaps our most concerted effort went toward development of an amendment requiring the Secretary to provide us with a justification and cost report on Federal and private provision of away-from-reactor interim spent fuel storage. I worked with my colleague Mr. SHARP and with the Commerce Committee to send a clear message to the Department. This committee is interested in helping to solve a problem which the nuclear industry has at least in part as a result of Federal policies or lack of action. The committee is willing to support Federal provision of away-from-reactor storage space for nuclear spent fuel if it is necessary. But the committee believes the Department in its spent fuel storage proposals has not given adequate consideration to the extent to which the nuclear industry is undertaking to solve its own problem, or of the additional measures realistically available to the utilities. We did not have enough information on storage capacity requirements, possible storage sites, or storage costs to proceed this year with a program. We hope that the Department will complete the study and have the results back to us in time to allow us to make a decision on this issue for next year's authorization.

With regard to foreign spent fuel, H.R. 4839 includes a $5 million authorization for the Secretary to begin immediately preparing to receive any nuclear fuel which might have to be removed from foreign reactors for nonproliferation reasons. Although the Secretary is authorized to undertake certain kinds of construction activities, which might include physical modifications of existing federally owned facilities, the provision is not in any way intended to authorize the Secretary to acquire or construct new storage capacity for spent fuel.

No changes were made in the administration budget for requested civilian waste management programs, although the Secretary is required to report to the Congress with regard to its progress in selection of sites for commercial high level waste repositories, and with regard to its activities resulting from the recommendations of the Interagency Review Group on Nuclear Waste Management.

H.R. 4839 does include a new program to begin cleaning up high level wastes resulting from a commercial reprocessing operation at the West Valley, New York Nuclear Fuel Services Center. The Committee on Interior and Insular Affairs held a hearing on the amendment proposed by the Science Committee and received testimony from the Department and from the Nuclear Regulatory Commission, among others, explaining the remedial and the research and development aspects of the project. The Committee feels that Federal assistance to the State of New York represented by the amendment serves three purposes: First. Appropriately involves the Federal Government in helping to pay for certain clean-up activities at the site, including waste solidification and transportation and facility decommissioning; Second. Helps to remedy what is over the long term a serious health and safety problem, and Third. Provides an opportunity to conduct research and development activities relating to liquid high level waste solidification which will be useful to our national waste management program. The Committee will continue to oversee the regulatory, remedial and health and safety aspects of this program.

The budget for another remedial program, the uranium mill tailings cleanup, was increased by $5 million, to bring the total for decontamination and decommissioning activities in title V of the bill to $28,000,000. The committee believes that carrying out the mandates of the Uranium Mill Tailings Control Act should be a top priority of the Department since it clearly affects the health and safety of populations now exposed to tailing piles.

The Committee agreed to an amendment recommended by the Commerce Committee requiring the Secretary to study a uranium mill tailings pile at Edgemont, S. Dak. for possible eligibility for remedial action under the Uranium Mill Tailings Control Act. The Committee notes that the site could only be included if inclusion were consistent with the provisions of the act. The act prohibits inclusion of tailings piles under license by the Nuclear Regulatory Commission and contains other constraints on eligibility.

Funding for the uranium enrichment program is recommended to be increased for fiscal year 1980 by $70 million, applicable to the Portsmouth gas centrifuge project. This increase corrects an error in the administration budget request and does not change the total project authorization.

Section 702 of the bill would require the Secretary to develop a program to improve the training of commercial nuclear reactor operators. The Interior Committee is continuing its oversight of the recent nuclear accident at the Three Mile Island plant in Pennsylvania, where inadequate operator training contributed significantly to the severity of damage. The Committee hopes that in developing a training program, the Department will pay special attention to the lessons of Three Mile Island as determined by the congressional inquiries, the President's Commission and the Nuclear Regulatory Commission. Five million dollars is recommended to be authorized to carry out this program.

The Department's budget for international activities is recommended to be increased by $10 million to provide energy planning assistance primarily for less developed countries.

For programs in titles IV, V, and VII of H.R. 4839, the Interior Committee and the other committees of jurisdiction are recommending budget increases totaling $103,281,390. Of that, as noted above, $70 million for uranium enrichment programs does not represent an increase over the President's budget but rather corrects an arithmetical error by the Department.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. SHARP) and wish to thank him for the outstanding work he has done on our committee on this legislation.

Mr. SHARP. I thank the chairman of the Committee on Interior and Insular Affairs and just wish to add my voice in support for H.R. 4839, the amendment in the nature of a substitute for H.R. 3000, the Department of Energy authorizations for fiscal year 1980.

I would just briefly like to call the attention of our colleagues to title V regarding spent fuel. We have worked out an arrangement between the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs to address for the orderly and expeditious consideration of the serious question of what to do about spent fuel, how to provide for interim storage in this country. We have set up a procedure to help us identify more clearly the need for away-from-reactor storage, to see to it that the Department of Energy is able to identify potential sites for such storage, and to place the Congress in the position next year, when we consider the authorization bill for 1981, of being able to make a decision as to whether or not to purchase one or more of these sites and in what manner we should proceed with the serious question of away-from-reactor storage.

I thank the gentleman for yielding.

Mr. UDALL. Mr. Chairman, I reserve the balance of my time.

Mr. SYMMS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in reluctant support of H.R. 3000 and more particularly the substitute amendment, H.R. 4839, which represents a consensus between the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

I must say, Mr. Chairman, that although the committees have reached a consensus on substantive issues and funding levels for the various DOE programs in fiscal year 1980, the House should look closely into the jurisdictional issues that seem to delay the authorization process and consider ways to more rationally delineate committee jurisdictions to the extent that overlaps and joint referral situations are minimized. We are criticized because we cannot report authorizing legislation in a timely fashion, and the result is that the appropriating committees are acting in the absence of guidance from the authorizing committees. This situation appears to be the rule rather than the exception. I would urge the Speaker to take steps to remedy this problem before the 1981 fiscal year authorization is before us.

Having said that, Mr. Chairman, I would like to make a few comments regarding the authorization measure before us. I will comment on two sections of the bill in which I have a particular interest. One of these sections that I believe is important is section 502 of H.R. 4839. In this section we authorize $5 million for a study to look into the need for interim storage of spent fuel from nuclear reactors in the near term. While I am not one who supports studies by the bureaucracy in general, I do believe that we must look into this very real and serious problem. Estimates from the nuclear industry indicate that if we do not have the capability to store on an interim basis spent fuel from commercial reactors by 1984, at least three nuclear facilities will have to shut down.

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I do not have to tell my colleagues the seriousness of having such situation arise. I believe that the study called for in section 502 will provide information upon which we can act to develop such storage capacity and, thereby, avoid shortfalls of electrical generating capacity by 1984.

Another important section of this bill upon which the Committee on Interior and Insular Affairs and the Committee on Science and Technology have worked closely is section 105. Of particular importance is the provision dealing with the West Valley, N.Y., service center and the nuclear waste issue associated with that facility. I believe that this provision marks one of the first real attempts to come to grips with the nuclear waste issue.

As my colleagues know, this section authorizes the Secretary of Energy to carry out a high-level nuclear waste management demonstration project whose purpose is to vitrify the liquid waste at the center and, thereby, provide a safer means for transporting and disposing of it in the future. Of course, none of this would have been necessary if the current administration in their antienergy policies would not have abandoned our capability to reprocess nuclear waste and to further utilize the same waste in breeder reactors which we appear to have abandoned also.

I would urge my colleagues to support this provision.

The foregoing are two provisions of the measure before us which I specifically wanted to comment on, although I do support several of the other research and development projects.

I think in general this bill is a Catch-22 situation, as the gentlewoman from Colorado mentioned. The gentlewoman mentioned some of the mismanagement of the Department of Energy. I think we all know the nightmare DOE has caused in their allocation and price regulation in the retail and wholesale distribution of petroleum products. Certainly that part of the Department of Energy should be abolished. It should not be out into the future, it should have happened yesterday. I think it does put those of us in the Congress in a Catch-22 situation since this is all one big package.

I believe personally we were in a much better position as a country to come to grips with those things where we wanted Government involvement in basic research and development with the old ERDA Administration, rather than trying to put all of this business into one big department and have it managed under a multibillion-dollar package which makes it much more confusing and much more difficult and allows for much more bureaucratic slowdown.

Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I support H.R. 3000, the DOE authorization bill, which I feel sets a reasonable agenda for the department on the coming fiscal year. However, I must qualify my endorsement of this legislation by expressing concern with the fact that it does not go far enough in some areas. My remarks today will concentrate on the breeder reactor, reprocessing, high temperature gas cooled reactors, and geothermal energy.

BREEDER REACTOR TECHNOLOGY

I wish to express my opposition to the counterproductive breeder reactor policy of the Carter administration. If the United States follows such a policy it will permanently surrender world leadership in the use of a very valuable energy source. The breeder's proliferation risks are definitely manageable under modern safeguards and these concerns do not justify scrapping research and development of this nearly limitless source of energy.

REPROCESSING

We have a recommendation that $10.5 million be spent on research and conceptual engineering studies at the Barnwell Nuclear Fuel Plant in South Carolina. This plant uses a process whereby fast reactor fuels, which are generically similar to light water reactor fuels, are reprocessed by using the same base technology. Although new equipment concepts and additional process steps must be developed, long-range additional process steps must be developed, long-range considerations make this project an integral part of a viable nuclear program sustained by the Congress.

On the other hand, I was dismayed to see the committee allow a considerable reduction in the development of the high temperature gas-cooled reactor fuel recycle program. Although there are some points in favor of reorienting this program to the direct-cycle concept, on balance I think that this technology is more efficient and marketable than its detractors contend and that funds earmarked to it will barely sustain a "critical mass" of talent.

In section 124 of this bill, the committee has taken a strong position on the question of spent fuel versus high level waste. We have included a prohibition on deep geological burial of spent fuel under any of the authorized research, development, and demonstration activities in civilian waste management. This Nation cannot afford to even consider wasting the precious energy in the uranium and plutonium of spent fuel assemblies.

Also, although there is no provision on this bill for funding the Rigatron concept, I am consoled by the fact that DOE has promised to review this concept carefully because of its great potential.

GEOTHERMAL ENERGY

Another source which this Nation has in ample supply is geothermal energy. In modifying the administration's budget for various programs, the committee recommended an increase of $500,000 over the DOE request for geothermal. I was particularly pleased by the increase in the authorization for technology to extract energy from hot dry rock where my amendment was adopted at full committee. The purpose of this add-on is to cover the rapid escalation of drilling costs for the geothermal exploratory well at Los Alamos Scientific Laboratory, where significant progress in this technology has been made.

Mr. Chairman, I must say that although certain funding does not go as far as I would like, it is a very good bill and should be given the strong support of my colleagues in the House.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I rise in support of H.R. 3000. One area I would like to focus on is the area of wind energy. Our Nation has traditionally depended upon fossil fuel resources to meet its energy needs. Now we are caught in a situation where the availability of those fossil fuel sources is declining and their cost is soaring to unbelievable heights. We must find viable alternatives and we must do so now. Perhaps we will find that there is no one answer to the energy problem. But it is incumbent upon us to explore all possible alternative energy sources to assess the contribution each might make toward meeting our energy needs.

The winds which blow over the United States provide a virtually inexhaustible source of energy, with a total power capacity estimated at 100,000 gigawatts of electricity.

Experts believe that if this resource could be tapped successfully it alone could provide at least 2 percent of our national energy needs by the year 2000—or as much as the Alaskan North Slope oil fields.

The DOE wind energy program is seeking ways to efficiently and cost-effectively harness this energy. A measure of the importance the Science and Technology Committee attaches to these efforts can be seen in the committee's approval of wind energy authorizations for fiscal year 1980 which, at $75.4 million, are more than double the authorization for fiscal 1978.

As an indication of the level of development which wind energy has reached, I would like to cite the final report of the Research, Development and Demonstration Panel of the President's Domestic Policy Review of Solar Energy.

The panel found that, and I quote, "there are no technological breakthroughs necessary" for development of wind energy. It said further that DOE anticipates that "advanced systems currently in the conceptual state will be capable of producing electricity at a cost of from 1½ to 3 cents per kilowatt hour." If the low end of that range is reached, wind energy will be competitive with our least expensive sources of conventional power.

The DOE program is well underway. By this fall, DOE will have three 200-kilowatt wind machines installed and producing electricity, as well as its first megawatt-scale machine, a 2-megawatt system located in Boone, N.C.

In considering the DOE budget request of $67 million, the committee judged that the interests of the wind program would be best served by selected increases, decreases, and rearrangements of support for different program elements.

I strongly support the accelerated efforts called for by the increase in funding for the MOD-2 wind farm which will be comprised of four 2½-megawatt machines—an increase of $4 million—advanced work on the MOD-3 advanced megawatt wind generator—$10 million—and the additional funding of $1.4 million for wind characteristics studies. These increases, I believe, will serve to fund those efforts which will give us the greatest return on our dollar investment in wind energy.

I might also add that I have been sufficiently impressed by the potential of wind energy to join with Mr. Mineta and Mr. Jeffords in introducing H.R. 3558, the Wind Energy Systems Research, Development and Demonstration Act of 1979, which would establish a $1 billion 7-year research and development program aimed at making wind energy cost-competitive and bringing it into widespread use. To date, we have been joined in that effort by 81 other Members of the House.

Mr. Chairman, I am convinced that the increase in wind energy funding called for in H.R. 3000 is essential to a balanced wind energy program. I urge my colleagues to support this measure and its provisions funding this promising technology.

Mr. SYMMS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Chairman, I take this time to say that during the 5-minute rule I am going to offer an amendment cosponsored on behalf of myself and my California colleagues (Messrs. Lewis, Thomas, Lungren, Coelho, Mineta, Clausen, and Rousselot) that will earmark some funds in the bill for development of refinery techniques for heavy oil.

As the Chairman and my colleagues know, the President in his energy message of July 15 proposed special treatment for heavy oil—immediate decontrol and exclusion from the windfall profits tax. Inasmuch as estimates are that there are some 100 billion barrels of heavy crude oil in place in the United States, and inasmuch as there are some 1 trillion barrels of such oil in Canada, we can see that this is a very important potential energy resource. However, Mr. Chairman, unless this oil can be refined the resource is going to go largely untapped, unused, and will not add to the energy base.

Mr. Chairman, I think this amendment will go a long way in at least helping to demonstrate Government concern. I had originally intended to offer an amendment providing some $30 million. In discussions with the committee we have agreed to lessen that amount to $2 million, but at least that will start the process and perhaps in the Senate additional time will be available to work out something that will be of more immediate help.

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Mr. SYMMS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I do not know to whom to address these questions, but I have questions.

I notice here that we are taking immediate steps to prepare for removal of U.S. spent fuel from foreign countries.

How can it be that we are intending to give asylum or to act as a place for refuge for the waste nuclear products of other countries?

I understand that the reason given is because we turn off their supplies of uranium if they do not send the spent fuel back; but we still have not solved to the satisfaction of everybody in this country the disposal of our own waste.

How can it be that we are still intending to give asylum and to store the wastes of foreign countries who happen to buy our uranium? That is question No. 1.

The other program I would ask about is the $2.7 million for nuclear energy programs and only $1.3 million, less than half, for renewable sources and for conservation.

Now, that seems to me not a very fortunate division of resources. I ask for the reasons for that.

I would like to know how much is going into the fusion program, which I suppose is under the nuclear energy umbrella of $2.7 million. These are some of the questions and I would be grateful for answers.

Could we have them?

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I would be happy to yield.

Mr. McCORMACK. Mr. Chairman, the program to store spent fuel from foreign countries is an administration program which is designed to attempt to dissuade certain foreign countries from reprocessing their own fuels. It makes sense from whichever way you approach the question. The administration is trying to reduce the potential for weapons proliferation. I applaud the attempt. I think it is rather meaningless, because I do not expect anybody is going to try to make weapons from nuclear fuel. It is too expensive and the weapons quality is too poor.

On the other hand, some foreign nations may only have 1, 2, 5, or even 10 nuclear powerplants and that does not justify a reprocessing plant.

Mrs. FENWICK. But what are we going to do with it?

Mr. McCORMACK. Well, ultimately it will be reprocessed in this country and the 98 percent of the fuel that is still there will be reclaimed.

It is important to understand that each spent fuel bundle has the energy equivalent of between 8 and 10 million barrels of oil. It is an extremely valuable energy process.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. Fenwick) has expired.

Mr. SYMMS. Mr. Chairman, I yield my 1 remaining minute to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield for the other half of the gentlewoman's question?

Mrs. FENWICK. I yield.

Mr. McCORMACK. Mr. Chairman, the gentlewoman mentioned the ratio of the cost of nuclear energy research and development demonstration as compared to renewable resources. The nuclear energy program includes all the fission program and all the fusion research and all the uranium enrichment for our nuclear powerplants. It is all included in that one big block of money.

It is not nearly so lopsided as one would expect if one breaks it down.

Mrs. FENWICK. How much is for fusion?

Mr. McCORMACK. About $343 million for magnetic fusion and then about $156 million for inertial confinement fusion, part of it in this bill and most of it, $146 million, in another bill.

Mrs. FENWICK. Something over $500 million, then?

Mr. McCORMACK. Approximately, yes, all told.

I should point out that nuclear energy is much further advanced than solar or geothermal energy and this means.

Mrs. FENWICK. I know.

Mr. McCORMACK. For this reason, because nuclear energy is more advanced, we are now at the point in time where the facilities needed to support the nuclear program are much larger and inherently more expensive.

For this reason the larger nuclear expenditures are justified. While these larger projects cost more, the payback is more energy per dollar later on; so you cannot really compare nuclear technology with a younger technology. It is an apples and oranges comparison.

You can do solar energy research in your garage, but it takes $50 million to even start a nuclear research laboratory.

● Mr. CLAUSEN. Mr. Chairman, the bill contains funding for our civilian energy programs.

Of particular importance is the emphasis the bill places on general energy conservation and the use of renewable energy technology. These programs are an essential part of our drive toward energy independence.

The bill authorizes the funds needed by our various power marketing administrations to undertake programs to promote energy efficiency and to allow them to purchase and construct facilities which use sources of energy such as wind, geothermal, solar, and wood waste.

The use of these renewable, clean energy sources is consistent with our environmental objectives as well as our goal of our energy independence.

The bill also addresses a very important nuclear issue, the future of our nuclear waste management program. The problem of permanent, safe disposal of nuclear waste is one of several key issues which needs to be resolved before we consider moving ahead with further development of nuclear power.

Our bill directs the Department of Energy to provide a report on its implementation of the recommendations of the President's Interagency Review (IRG) Group on Nuclear Waste Management.

Foremost among these policy questions is whether or not we should move ahead quickly to choose a permanent storage repository. Our report provisions will allow us to closely monitor the Department's activities in this field.

An interim issue is the question of the away-from-reactor storage of spent fuel. I concur with the position taken by our distinguished chairman of the full Interior and Insular Affairs Committee (Mr. Udall) that we must have access to adequate storage facilities to meet our domestic and nonproliferation goals.

If there is any possibility or threat of the misuse of fuel of U.S. origin from foreign reactors, we must be prepared to move swiftly to withdraw the fuel, return it to the United States, and safely store it in existing Government facilities. Five million dollars is authorized in our bill to permit the preparation of these emergency contingency plans.

Our portion of the authorization adequately addresses our vital civilian energy programs under the jurisdiction of DOE, and I urge my colleagues to join our committee in supporting this important legislation.●

Mr. ROSTENKOWSKI. Mr. Chairman, as my colleagues are aware, the subject of the various applications of atomic power is most timely. Related to this fact is the complexity of this issue. In particular, H.R. 3000 had to be addressed by four standing committees of this body. At the outset, I want to express my appreciation to the four committee chairmen for their efforts to bring this measure before us today.

Mr. Chairman, I want to voice my strongest support for a vigorous continuation of the Clinch River breeder reactor project. The information which this project will provide us is essential to the development of an effective national energy policy. If we are ever to achieve our goal of energy independence, we must act now to insure that we will have the option of deploying the commercial breeder reactor in the next decade. I am as concerned as any about the horrors of plutonium proliferation, and I am anxious to see strict international safeguards agreed upon, but I cannot let the doors be closed on two decades of breeder research when the energy needs of this Nation are so pressing.

I strongly believe that the future of this Nation is linked to the discovery of a commercially feasible, virtually inexhaustible energy source. That source appears to be the breeder reactor. We know that the breeder is an inexhaustible source of energy. The crucial Clinch River project will tell us if it is commercially feasible. This is not an outright commitment to commercialization. The Clinch River project is designed only to demonstrate and determine the feasibility of producing electricity with a commercial-scale breeder reactor.

This Nation is in the midst of a worsening energy crisis. As elected representatives, we have a responsibility to vigorously pursue alternative energy source research. We can no longer depend on exhaustible fuel sources—be they fossil fuels or uranium—to satiate our growing energy needs. It would be folly to become dependent on another exhaustible resource when we have the alternative of a virtually inexhaustible form of energy.

At present, the breeder reactor is the only nondepleting energy system in the later stages of development. While conventional reactors use only 1 to 2 percent of the potential energy in uranium, breeder reactors will use as much as 60 percent of this precious energy source. In addition to their very obvious advantages in fuel economy and conservation, breeder reactors also have environmental advantages. Breeders discharge less heat than current nuclear reactors and, unlike conventional reactors, they do not pollute the air with combustion products. Breeders will also eliminate the need for large-scale mining operations which scar the land. Indeed, much of the uranium for breeder reactors has already been mined and is available in residue and tailing reserves.

To abandon Clinch River now would be to throw away 25 years of research. We must realize that if we terminate or defer the project now, it will be more difficult to reassemble the scientists and technicians at a later date.

Construction costs, and other related expenses, will only rise the longer this essential project is delayed. Presently, the total cost of the Clinch River project will only be a fraction of our annual expenditures for OPEC oil. This comparison is even more poignant when we realize that the breeder would tap an energy source immeasurably greater than all known OPEC reserves.

The dangers of a plutonium economy are not significantly greater than those of a conventional uranium economy. Though uranium does not offer an instant weapons capability, weapons can be made from enriched uranium or the plutonium currently being produced as a byproduct of fission in conventional reactors. In fact, the nuclear weapon fabricated by India was made with plutonium from a conventional Canadian light water reactor.

It is unreasonable to assume that Western European nations and Japan will abandon, or even defer for any lengthy period of time, their breeder research programs when 80 to 90 percent of their energy is dependent on imported oil. In fact, since the President announced his decision to curtail our breeder program, Western European nations have signed a pact to continue their own breeder research programs regardless of the American position.

The fact that other nations are pursuing policies which might lead to proliferation of weapons-grade plutonium does not make it right for us to pursue a similar policy. But we cannot hope to stop proliferation by unilaterally withdrawing from the breeder community. And we cannot expect a strong voice in international nonproliferation negotiations if we are not on the breeder team.

Mr. Chairman, I want to see an America strong enough to stand free of the tight reins of OPEC oil, strong enough to take a lead in offering developing nations needed energy security, and most importantly, strong enough to make a commitment to energy independence. To take these leads, we must vote for full funding of the Clinch River Breeder Reactor project.

● Mr. SANTINI. Mr. Chairman, I rise in opposition to the amendment offered by Mr. GOLDWATER to H.R. 3000 which would require the Department of Energy to construct a nuclear waste facility by 1985.

I am particularly disturbed by the provision mandating that DOE examine the Nevada test site and Hanford, Wash., locations. The purpose of this amendment is not clear. DOE is already spending considerable time and energy studying the feasibility of locating a long-term storage site in Nevada as well as other locations. The following is a response by the Department of Energy to several questions I asked in June 1979. It indicated why no decision can be made on the specific location of a waste site prior to 1984.

WASTE MANAGEMENT QUESTIONS ON NEVADA FROM CONGRESSMAN JAMES SANTINI

Q1. What is the expected date of selection for the sites?

A1. The primary mission of the Nevada Test Site (NTS) is to provide a location for testing of nuclear weapons. It has been agreed between the Waste Management Program and the Weapons Test Program that areas available for consideration for a radioactive waste repository would be limited to the southwest corner of NTS. A major Waste Management Program Milestone for NTS is the determination at the end of FY 1979 whether any major hydrologic or geologic impediment existed at the NTS that would preclude its selection as a location for a repository. At this time several specific sites on NTS have been considered, evaluated and rejected on a technical basis as potential locations. They include Syncline Ridge, Calico Hills, Topopah Wash and Wahmonie Stock (see Tab A). If no major impediments are identified, evaluation of the remaining areas could result in a positive determination on site selection by 1984. The current area of consideration is limited to Yucca Mountain.

Q2. Is any preliminary data available on whether Nevada meets hydrological and geothermal criteria?

A2. Preliminary data is available that indicates that Nevada has many attractive areas from a hydrologic and geotechnical viewpoint. However, since the bulk of the work has been limited to the NTS, it is not possible to indicate whether Nevada meets hydrological or geothermal criteria. On the NTS several areas, as noted in the answer to Question 1, have been shown to be unacceptable from a geological viewpoint. For the remaining area on NTS all the data will not be available to make a positive decision to the acceptability until 1984. However, it could be possible before 1984 to make a determination that there is some impediment that would disqualify it.

Q3. Has a decision been made to use granite formations rather than salt formations for storage?

A3. A decision to use granite formations rather than salt formations for storages has not been made. While questions have been raised about the use of salt formations no decision has been made concerning its use. Research work is still underway to provide answers to the questions that have been raised. Granite formations have been suggested as potential geologic media that would be suitable for disposal of radioactive waste. Research work, including that at NTS, is underway to determine if granite can provide the isolation of radioactive waste. The Climax Stock granite, site of the spent fuel test, is an area which has been reserved for nuclear weapons testing and is not available to the waste program on a long-term basis for consideration as a potential repository location.

Q4. Would the site of a storage facility in or near the Nevada Test Site preclude the use of the site for continued weapons testing?

A4. Technical studies indicate that, with proper siting and design of a repository, long-term isolation of radioactive waste and continued use of the NTS for weapons testing could be compatible. In addition, administrative action has also been implemented that reserve the northern quadrants of the site for future weapons shots.

Q5. I understand that spent fuel from

Turkey Point, Florida will be transported to Nevada this summer for use in an experiment. Are similar experiments being conducted in other locations? If not, is this an indication that Nevada is high on the list of sites to be selected? What precautions are being taken to prevent accidents?

A5. Thirteen (13) commercial spent fuel assemblies will be transported to Nevada from Turkey Point, Florida this summer and fall. These assemblies will be canistered in stainless steel containers at the Engine-Maintenance and Disassembly (E–MAD) Facility and, at any one time, eleven (11) will be emplaced at the Spent Fuel Test Facility which is located in the Climax Stock granite formation at NTS. The purpose of this experiment is to obtain generic, not site-specific, data on the physical response of a large granitic rock mass to thermal and radiation effects from emplacement of radioactive waste (see Tab B). Similar experiments have been performed in a bedded salt formation at Lyons, Kansas and are being planned in a basalt formation at the Hanford Site in Richland, Washington. NTS has been chosen because the facilities are available to conduct the test, not because of repository siting considerations.

Our shipments of spent fuel assemblies will be made in a Nuclear Regulatory Commission (NRC) approved and certified shipping container (casks). Such shipments will comply with the requirements of the certificate of compliance governing the use of the cask and will be made in accordance with all Federal, state and local regulations applicable to the transport of hazardous materials. The transport carrier responsible to accomplish the transport of the cask containing the spent fuel assemblies has trained drivers who are knowledgeable of the rules and regulations applicable to shipments of hazardous materials. As the shipments move from origin to destination, as in the past, the Nevada Operations Office will require the carrier's central dispatch office to furnish in-transit passing reports so that the general location of each shipment will be known each time the report is provided.

Precautions are also being taken to prevent accidents associated with spent fuel transportation, operations, and testing performed on the NTS. A comprehensive Safety Assessment Document is being prepared and is scheduled to be published in January 1980 which will address all of the safety-related issues of the Spent Fuel Test—Climax (SFT–C). This document is presently in preparation and is scheduled to be published in January 1980. A Table of Contents for this document is enclosed for your information (see Tab C).

The receipt and canistering of the spent fuel for the SFT–C to be performed later this year will be carried out in accordance with procedures established and approved for the Spent Fuel Handling and Packaging Program Demonstrations. NVO–198, "Safety Assessment Document for the Spent Fuel Handling and Packaging Program Demonstration at the Nevada Test Site," December, 1978 provides the published assessment of the safety-related issue of the operations conducted at the E–MAD Facility including canistering the spent fuel and placement in lag storage. The Safety Assessment Document for the SFT–C will address the safety-related issues pertinent to the operation commencing with loading the canistered spent fuel at E–MAD for transport to the SFT–C storage location. No spent fuel assemblies will be moved to the Climax Stock without completion and approval of the Safety Assessment Document and procedures applicable to the SFT–C.

Q6. Will the governor of each state have the right to approve or disapprove site selection?

A6. The DOE supports the Interagency Review Group (IRG) position on this question, which is that the technical and social-political success of the waste management program will largely depend on effective state participation in the process and is committed to provide the states a substantive, participatory role in the program. The IRG has recommended that the President establish by executive order an Executive Planning Council to consist of selected governors, selected Indian nation representatives, officials of national organizations of state and local governments and representatives of DOE and other Federal agencies. This Executive Council will (1) identify joint Federal-state planning activities in nuclear waste management and (2) identify and agree on the appropriate existing or new mechanisms and time tables for carrying out such joint activities.

By use of the expression "state veto" the IRG means the possibility that a state could at one specific moment approve or disapprove Federal site investigation activities or a proposal to site a repository or other facility. This veto concept as used did not include an ongoing dialogue and cooperative relationship between Federal and state authorities. By contrast the suggested program of "consultation and concurrence" implies an ongoing dialogue, and the development of a cooperative relationship between state and all relevant Federal agencies during program planning and the site identification and characterization programs on a regional basis. Under this approach the state effectively has a continuing ability to participate in activities at all points throughout the course of the activity and if it deems appropriate, to prevent the continuance of Federal activities. The IRG believes that such an approach will lead to better protection of the states' interests than would a system of state veto.

The Nevada Operations Office of DOE has for many years maintained good communications with officials in the State of Nevada government. This spring Governor List received a complete briefing on the commercial nuclear waste storage investigations in Nevada. Members of the Governor's staff including officials of the Nevada Department of Energy and the State Planning Coordinator's Office have been invited to all of the formal technical review sessions on the nuclear waste program conducted by the Nevada DOE office before technical experts from the scientific community who are not part of the nuclear waste program. In addition, one half of the technical reviewers themselves are made up of experts from the Nevada scientific community including the University of Nevada, Las Vegas, the Desert Research Institute of the University of Nevada, Reno and the Mackay School of Mines. The involvement of these Nevada personnel from the early days of this program and the inclusion of their comments on the program's work from the beginning will help assure that if a repository site is found on NTS, it will be acceptable to the State of Nevada.●

● Mr. GONZALEZ. Mr. Chairman, this morning I received a letter from the President, which I assume each of my colleagues also received, in which the House is urged to reject the Moffett amendment. That amendment would restore price controls on domestic oil production.

In order that the record can be clear on the President's position, I ask consent to make his letter part of the RECORD. Further, to make clear my own feeling about the energy program in general and the question of controls in particular, I ask consent to enter my reply to the President in the RECORD.

It is important to understand that oil prices have always been administered, and not subject to market forces, since the emergence of the industry in its modern form. Originally, the industry was monopolized by Standard Oil. After Texas became the dominant producer of oil in this country, production levels were determined through monthly action of the Texas Railroad Commission, which worked closely with the oil industry. This control of production levels maintained prices at the levels desired by the industry. In today's world the floor price of oil is set by OPEC. In short, decontrol of domestic prices does not mean a return to the market as the term is normally used; it merely means letting American prices enjoy the floor set by OPEC. The question is really one of whether our oil production will be priced through a public mechanism or through one controlled by the world oil cartel.

Beyond that, of course, there is the bald fact that decontrol is intended as much to discourage consumption as anything else. The misnamed and misdirected windfall profits tax assures that any production incentives afforded by higher prices will be minimized. Meanwhile, the tax will reward foreign production.

The control of oil prices holds no charm for me, since I oppose price controls in the general sense. But we are not dealing here with a commodity whose price has ever, in modern times, been set by the forces of a free market.

THE WHITE HOUSE,
Washington, D.C., July 26, 1979.

HON. HENRY B. GONZALEZ,

TO MEMBERS OF CONGRESS: Soon the House of Representatives will consider an amendment to the Department of Energy Authorization Act designed to repeal the program of phased decontrol of crude oil which I announced last April 6 and which began June 1.

I urge you in the strongest terms to join me in opposition to this amendment. Phased decontrol involves sacrifice. But it is and must be a critical component of our national effort to achieve energy security. As such, phased decontrol is essential to our national security.

By itself the decontrol program I am implementing will increase production by 1 million barrels per day by 1990. It will also encourage conservation and use of alternate forms of energy, such as solar power.

In combination with a fair windfall profits tax such as I have proposed and the House has enacted, phased decontrol permits the major national investment required to cut our oil import needs in half over the next decade, and to help our neediest citizens meet the burdens of rising energy prices. The $140 billion of investments I have proposed over the next ten years—in alternate energy sources, in conservation, in mass transit and auto efficiency, and in aid for those in need—are critically dependent on oil decontrol and an adequate windfall profits tax.

The war against energy dependence will involve all of the citizens of our country—in their homes, in their workplaces, in their communities. But it must begin with you. With your help, I am convinced that the House of Representatives will act with courage in the national interest.

Sincerely,

JIMMY CARTER.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 26, 1979.

HON. JAMES E. CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have just been handed your letter asking that the House defeat amendments to the Department of

Energy authorization bill, which are intended to keep oil price controls in effect.

You recognize, I know, that your legislative program has been one that I have consistently supported. I voted for the standby gasoline rationing program; and for many other proposals that required me to face considerable opposition. I point this out so that you will understand that my position on decontrol has nothing to do with what you have called "timidity" on the part of the Congress in dealing with energy issues.

I understand clearly that higher energy prices will tend to discourage consumption. simply by pricing fuel out of reach of those least able to afford it. And I, likewise, understand that higher prices should encourage greater efforts toward production. But there are so many inconsistencies in the energy program that I feel compelled to vote for the amendment on maintenance of price control.

For many months, I have patiently tried to explain to your advisers that the coal conversion policy is in direct conflict with transportation policy, and that coal conversion is, in fact, being hampered, if not defeated outright, by high transportation costs allowed by the Interstate Commerce Commission, costs which are supported by the Department of Transportation and opposed (correctly) by the Department of Energy. Most recently, I wrote to ask that you take a personal interest in this policy conflict, and that you settle firmly on the side of coal users. I hope that you will do this.

With respect to oil pricing, it is clear that higher prices will discourage consumption by those who are least able to afford higher prices. Yet, you have also proposed that certain consumers be given subsidies. I submit that it makes little sense to subsidize consumers in one part of the country while throwing the full burden on others who are equally in need of help. People in my part of the country have seen their home heating bills triple, and quadruple, without a glimmer of concern from official Washington, a record that stretches through three administrations. Now it is proposed to subsidize still further users of imported heating oil. This is blatantly unfair. Meanwhile, the ordinary working people of my area, and the poor, not only are to have no utility help, but are to have no help with rising transportation costs. These consumers have suffered in patience, only to see an energy program that clearly ignores their needs, even as it provides help to others, in other parts of the Nation. I cannot explain in any satisfactory way how this can be fair. Clearly, it is not fair.

The windfall profits tax passed by the House is not, I feel, a constructive one. It is, in fact, not a tax on excess profits, but a severance tax. The tax strikes at the producer level, which is where the greatest incentives need to be, instead of at the integrated oil company level, which is where the excess profits lie. Indeed, by failing to address excess profits, the tax exempts foreign production and thereby creates a double disincentive for oil independence. It discourages independent domestic exploration and production even as it rewards foreign production.

Please be assured that I have no doubt of your sincerity. You know that I have supported you on many difficult issues, without regard to my own political interests. My position is, I emphasize, one of disagreement, not political timidity.

Like you, I believe that this country has no choice but to do those things which will weaken the power of oil exporting countries over us. Like you, I believe that the task is urgent. Like you, I believe that the struggle will be long and hard, and that it must involve each one of us. It is a matter of the most profound regret that I must say that I cannot support you on this particular issue. Though my feelings are not in conformance with yours, I trust that you will accord my position the same consideration and respect that I have given yours. Most of the time, you and I have agreed. It is most likely that I will be among your most consistent supporters in the future. For that reason, I am confident that you will accept my candor as a mark of my respect for you, something that you would expect from one who honestly and earnestly wishes you well.

Respectfully,

HENRY B. GONZALEZ,
Member of Congress.●

● Mr. McKAY. Mr. Chairman, I rise to support continued funding of the Clinch River Nuclear Breeder Reactor. It seems to me that the issue we decide here today is whether or not we are going to continue to pursue the continued development of an essential energy source of the future.

The issue is one of foresight. Back in the 1950's with the Paley Commission report we were warned of a serious shortage of oil as an energy source by the 1970's. Had the Congress then realized the critical domestic and strategic crisis we now face, no doubt they would have proceeded to develop synthetic fuels. We are now rushing this synfuels alternative a decade late.

We must move ahead now with development of this breeder reactor so that by the 1990's, we can make intelligent decisions concerning commercialization of the breeder program and on to fusion.

Upon my recent trip to Europe with my friend the majority leader, JIM WRIGHT, I observed firsthand the priority placed by England on developing nuclear power as the answer to energy needs of the future. I visited the breeder reactor at Dounreay, Scotland, and observed the advances they have made with their technology.

America cannot afford to bypass any safe alternative to OPEC oil including the development of the Clinch River Breeder Reactor. For these reasons I urge my colleagues to support the funding recommendations of the Science and Technology Committee.●

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, all time has expired.

Pursuant to the rule, in lieu of the amendments recommended by the Committees on Science and Technology, Interstate and Foreign Commerce, and Interior and Insular Affairs now printed in the bill, it shall be in order to consider by titles the text of the bill, H.R. 4839, as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate the enacting clause.

The enacting clause reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Civilian Programs 1980 Authorization Act".

The CHAIRMAN. The Clerk will designate title I.

Title I reads as follows:

TITLE I—RESEARCH AND DEVELOPMENT

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following fossil energy coal programs:

(A) Mining research and development, $48,000,000.

(B) Coal preparation research and development, $12,150,000.

(C) Coal liquefaction, $96,006,000.

(D) Surface coal gasification, $88,150,000.

(E) In situ coal gasification, $9,900,000.

(F) Advanced research and technology development, $38,500,000.

(G) Advanced environmental control technology, $37,450,000.

(H) Heat engines and heat recovery, $52,300,000.

(I) Combustion systems, $36,603,000 including $2,750,000 for alternative fuel utilization.

(J) Fuel cells, $28,500,000.

(K) Magnetohydrodynamics, $75,000,000.

(L) Personnel resources, $11,057,000.

SEC. 102. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following fossil energy oil and gas programs:

(A) Enhanced oil recovery, $20,900,000.

(B) Oil shale, $27,000,000.

(C) Drilling and offshore technology, $3,000,000.

(D) Advanced process technology, $3,500,000.

(E) Enhanced gas recovery, $32,410,000.

(F) Personnel resources, $1,069,000.

SEC. 103. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation R.D. & D. programs:

(A) Building and community systems, $99,300,000.

(B) Industrial energy conservation, $51,150,000.

(C) Transportation, $113,245,000.

(D) Conservation multisector:

(1) Inventors program, $3,200,000.

(E) Personnel resources, $7,662,000.

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following solar technology programs:

(A) Solar thermal, $73,805,000.

(B) Photovoltaics, $147,700,000.

(C) Wind, $43,260,000, including $500,000 for innovative technology for vertical axis systems.

(D) Ocean systems, $23,600,000.

(E) Personnel resources, $3,144,000.

SEC. 105. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following solar applications programs:

(A) Systems development, $61,500,000.

(B) Demonstrations, $52,000,000.

(C) Personnel resources, $2,860,000.

SEC. 106. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following biomass research and development programs:

(A) Biomass research and development, $54,500,000.

(B) Personnel resources, $838,000.

SEC. 107. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following nuclear fission energy programs:

(A) Converter reactor systems:

(1) Thermal reactor technology, $63,900,000, including the following amounts for—

(a) LWR fuel cycle R. & D., $10,000,000;

(b) HTGR thorium recycle, $4,400,000.

(2) Advanced reactor systems, $5,000,000.

(3) Advanced isotope separation technology, $46,200,000.

(B) Civilian waste management—operating expenses, $182,450,000, including the following amounts for—

(1) Terminal isolation research and development, $156,500,000.

(2) Waste treatment technology and other activities, $20,950,000.

(3) West Valley Project—

(a) (1) The Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall carry out, in accordance with the provisions of section 107(B)(3) of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (A) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (B) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(2) During the fiscal year ending September 30, 1980, the Secretary shall:

(A) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center containing such wastes, including safely breaching the tanks, operating waste removal equipment, and sluicing techniques, and

(B) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses.

(3) Title to the high level liquid wastes at the Center shall be transferred to the United States upon payment by the State of New York and other appropriate persons of an appropriate fee, as determined by the Secretary, for the perpetual care and maintenance of such wastes.

(b) There is authorized to be appropriated to the Secretary not more than $5,000,000 for the fiscal year ending September 30, 1980 for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required—

(1) to provide for the transfer of title of such wastes and the payment therefor,

(2) to enable the Secretary to utilize property and facilities at the Center for the project.

(3) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide for ultimate disposition of the high level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate, and

(4) to otherwise provide for the conduct of the project in a timely manner.

(c) In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

(d) Not later than February 1, 1980, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under subsection (b) of this section, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

(e) Other than the costs and responsibilities established by section 107(B)(3) for the project, nothing in such section shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in such section shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of section 107(B)(3) shall not apply or be extended to any facility or property at the Center which is not used in conducting the project.

(C) Spent fuel storage R. & D.—operating expenses, $4,700,000.

(D) Advanced nuclear systems:

(1) Advanced systems evaluation, $2,600,000.

(2) Space and terrestrial applications, $34,300,000.

(E) Breeder reactor systems:

(1) Liquid metal fast breeder reactor plant projects:

(a) Fast flux test facility, $76,200,000;

(b) Clinch River breeder reactor, $183,800,000; and

(c) Breeder reactor studies, $15,000,000.

(2) Liquid metal fast breeder reactor technology, $142,400,000.

(3) Liquid metal fast breeder reactor test facilities, $75,300,000.

(4) Water cooled breeder reactor:

(a) Shippingport atomic power, $12,600,000.

(b) Light water breeder reactor, $30,900,000.

(c) Advanced water breeder applications, $14,400,000.

(d) Proof of breeding, $3,000,000.

(5) Gas cooled fast reactor, $19,988,000.

(6) Fuel cycle reasearch and development:

(a) Reprocessing, $18,100,000.

(b) Barnwell nuclear fuel plant, $10,500,000.

(F) National uranium resource assessment research and development, $7,000,000.

(G) Personnel resources, $17,344,000.

Sec. 108. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following nuclear fusion programs:

(A) Magnetic fusion:

(1) Confinement systems, $83,500,000.

(2) Development and technology, $52,300,000.

(3) Applied plasma physics, $56,600,000.

(4) Reactor projects, $42,100,000.

(B) Inertial confinement fusion (civilian applications), $10,400,000.

(C) Personnel resources, $3,158,000.

Sec. 109. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following geothermal energy research and development programs:

(A) Hydrothermal energy, $37,850,000.

(B) Geopressured resources, $31,700,000.

(C) Geothermal technology development, $42,300,000.

(D) Personnel resources, $2,215,000.

Sec. 110. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following low head hydroelectric development programs:

(A) Low head hydroelectric development, $8,000,000.

(B) Personnel resources, $468,000.

Sec. 111. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following electric energy systems programs:

(A) Power supply integration, $19,900,000.

(B) Power delivery, $18,300,000.

(C) Personnel resources, $1,466,000.

Sec. 112. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following energy storage systems programs:

(A) Battery storage, $32,000,000.

(B) Thermal and mechanical storage, $35,540,000.

(C) Personnel resources, $1,425,000.

Sec. 113. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following basic energy sciences programs:

(A) Nuclear sciences, $30,700,000.

(B) Materials sciences, $81,300,000.

(C) Chemical sciences, $58,800,000.

(D) Engineering, mathematical and geosciences, $23,900,000.

(E) Advanced energy projects, $16,600,000.

(F) Biological energy research, $6,900,000.

(G) Personnel resources, $2,570,000.

Sec. 114. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following supply research and development programs:

(A) Technical assessments projects, $10,500,000.

(B) University research support, $4,000,000.

(C) Technical program and policy analysis, $2,417,000.

(D) Personnel resources, $637,000.

Sec. 115. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following high energy physics programs:

(A) Physics research, $71,850,000.

(B) Facilities operations, $105,100,000.

(C) High energy technology, $37,050,000.

(D) Personnel resources, $1,133,000.

Sec. 116. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following nuclear physics programs:

(A) Medium energy nuclear physics, $41,700,000.

(B) Heavy ion nuclear physics, $33,600,000.

(C) Nuclear theory, $6,100,000.

(D) Personnel resources, $368,000.

Sec. 117. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the uranium enrichment process development program, as follows:

(1) Uranium Enrichment Process Development operating expenses, $77,400,000.

SEC. 118. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following environmental research and development programs;

(A) Overview and assessment, $60,900,000.

(B) Environmental research, $154,170,000.

(C) Life sciences research, $40,500,000.

(D) Decontamination and decommissioning research and development, $9,000,000.

(E) Personnel resources, $12,825,000.

SEC. 119. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for capital equipment expenses not related to construction for the following energy research and development programs:

(A) Fossil:

(1) Coal, $3,000,000.

(2) Oil and gas, $2,600,000.

(B) Conservation:

(1) Building and community systems, $1,000,000.

(2) Industrial energy conservation, $500,000.

(3) Transportation, $1,100,000.

(4) Solar applications, $3,000,000.

(C) Solar, $12,700,000.

(D) Biomass, $500,000.

(E) Nuclear fission:

(1) Converter reactor systems, $8,800,000.

(2) Civilian waste management, $11,800,000.

(3) Spent fuel, $2,000,000.

(4) Advanced nuclear systems, $2,100,000.

(5) Breeder reactor systems:

(a) Liquid metal fast breeder reactor, $22,000,000.

(b) Water cooled breeder reactor, $2,100,000.

(c) Gas cooled breeder reactor, $1,500,000.

(d) Fuel cycle research and development, $2,500,000.

(F) Nuclear fusion:

(1) Magnetic fusion:

(a) Confinement systems, $10,950,000.

(b) Development and technology, $8,050,000.

(c) Applied plasma physics, $4,450,000.

(d) Reactor projects, $6,850,000.

(G) Geothermal, $3,200,000.

(H) Electric energy systems, $800,000.

(I) Energy storage systems, $2,160,000.

(J) Basic energy sciences programs, $14,050,000.

(K) Technical assessment projects, $500,000.

(L) High energy physics, $36,000,000.

(M) Nuclear physics, $8,200,000.

(N) Uranium enrichment process development, $5,030,000.

(O) Environmental programs, $16,000,000.

SEC. 120. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for supply research and development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(A) Fossil:

(1) Project 80–FE–1, Technology transfer building, Bartlesville, Oklahoma, $3,000,000.

(2) Project 80–FE–2, Renovation and upgrading of Building B–1, Morgantown, West Virginia, $1,750,000.

(3) Project 80–FE–3, Program support facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,700,000.

(4) Project 80–FE–4, Gasification test facility, site undetermined, $15,000,000.

(5) Project 80–FE–5, Pressurized fluidized bed utility engineering development system, $10,000,000.

(6) Project 80–FE–6, Catalytic gasification pilot plant, site undetermined, $4,700,000.

(7) Project 80–FE–8, H-Coal Liquefaction pilot plant, Catlettsburg, Kentucky, $27,000,000, for a total project authorization of $131,200,000.

(8) Project 80–FE–9, Exxon donor solvent pilot plant, Baytown, Texas, $5,000,000, for a total project authorization of $61,300,000.

(9) Project 80–FE–10, Atmospheric fluidized bed component test and integration unit, Morgantown, West Virginia, $9,297,000, for a total project authorization of $39,860,000.

(10) Project 80–FE–11, Pressurized fluidized bed combined cycle pilot plant, Woodridge, New Jersey, $3,500,000, for a total project authorization of $29,800,000.

(11) Project 80–GPP–1, General plant projects for energy technology centers, six locations, $5,600,000.

(12) Project 76–1–b, High Btu synthetic pipeline gas demonstration plant, site undetermined, an additional sum of $28,000,000 for a total project authorization of $122,000,000.

(13) Project 78–2–d, SRC–I (Solids) Demonstration Plant, $20,000,000, for a total project authorization of $60,000,000.

(14) Project 79–1–r, SRC–II (Liquids) Demonstration Plant, $25,000,000, for a total project authorization of $75,000,000.

(B) Conservation:

(1) Project 80–C–1, Black-liquor hydro pyrolysis recovery system, $1,000,000.

(2) Project 80–C–2, Cogeneration demonstration, $4,500,000.

(3) Planning and Design Project 80–C–3, Acid or Enzymatic Hydrolysis, Process Development Facility, for the conversion of urban waste and biomass-derived cellulose via a continuous process to alcohol. The Secretary of Energy shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, no later than six months following the date of the enactment of this Act, an independent evaluation study of the need for two facilities of this type.

(4) Project 80–C–4, Waste-to-Energy Demonstrations, various locations, $5,000,000.

(C) Solar:

(1) Project 80–ES–1, Wind energy systems test center building, Rocky Flats, Colorado, $2,140,000.

(2) Project 80–ES–2, Shenandoah large scale experiment, Shenandoah, Georgia, $4,800,000, for a total project authorization of $9,060,000.

(3) Project 80–ES–19, Small communities systems applications experiment No. 1, location to be determined, $3,795,000, for a total project authorization of $4,610,000.

(4) Project 80–ES–20, Multi-unit Mod 2, wind farm site undetermined, 10 MWe, $18,300,000, for a total project authorization of $30,900,000.

(5) Project 80–ES–21, Mod 3, Advanced megawatt scale, two wind turbines, $10,000,000.

(6) Project 79–1–m, OTEC–1, Ocean test facility, Keahole Point, Hawaii, $10,700,000, for a total project authorization of $33,000,000.

(7) Project 79–1–q, Solar Energy Research Institute facility, Golden, Colorado, and additional sum of $15,000,000 for a total project authorization of $18,000,000.

(8) Project 76–2–b, Ten megawatt central receiver solar thermal power plant, Barstow, California, an additional sum of $36,500,000 for a total project authorization of $108,000,000.

(D) Biomass:

(1) Project 80–B–1, Biomass thermochemical experimental facility, site to be determined $2,000,000.

(E) Nuclear Fission:

(1) Project 80–ES–3, Physical security and safeguards project, test reactor area, Idaho National Engineering Laboratory, Idaho, $1,200,000.

(2) Project 80–ES–4, Laundry decontamination facility, Idaho National Engineering Laboratory, Idaho, $2,200,000.

(3) Project 80–ES–5, Modifications to reactors, various locations, $2,800,000.

(4) Project 80–ES–6, Boilers, heating and ventilating, and fuel tank and roof replacement, Idaho National Engineering Laboratory, Idaho, $1,900,000.

(5) Project 80–ES–7, Plant operation maintenance facility, Richland, Washington, $2,000,000.

(6) Project 80–ES–11, Idaho Laboratory facility, phases I and II, Idaho National Engineering Laboratory, Idaho, $22,000,000.

(7) Project 80–ES–12, Near surface test facility, phase II (spent fuel), Richland, Washington, $3,600,000, for a total project authorization of $8,015,000.

(8) Project 80–ES–13, Near surface test facility, phase I (electric heaters), Richland, Washington, $2,900,000, for a total project authorization of $12,430,000.

(9) Project 80–ES–14, Core flow test loop, Oak Ridge, Tennessee, $3,212,000, for a total project authorization of $9,089,000.

(10) Project 80–ES–15, Gas reactor in-pile safety test loop, INEL, Idaho, $1,300,000, for a total project authorization of $3,583,000.

(11) Project 800–GPP–1, General plant projects, breeder program, $12,300,000.

(12) Project 80–GPP–1, General plant projects, Richland, Washington, $3,300,000.

(13) Project 80–GPP–1, General plant projects, advanced nuclear systems, $800,000.

(14) Project 78–6–e, Energy technology center facility modifications, Energy Technology Engineering Center, Santa Susana, California, an additional sum of $9,500,000 for a total project authorization of $16,900,000.

(15) Deauthorize Project 78–6–f, Fuels and materials examination facility, Richland, Washington, in the sum of $104,600,000, for an outstanding project authorization through fiscal year 1980 of $30,200,000.

(16) Deauthorize Project 77–4–c, High performance fuels laboratory, Richland, Washington, in the sum of $5,000,000, for an outstanding project authorization through fiscal year 1980 of $6,500,000.

(17) Project 80–ES–16, Fuels and materials examination laboratory, Richland, Washington, $53,000,000, for a total project authorization of $53,000,000.

(18) Project 80–ES–24, Environmental and engineering technology facility, Richland, Washington, $1,500,000, for a total project authorization of $2,500,000.

(19) Project 78–5–b, Fuel cycle R&D integrated equipment test facility (IET), Oak Ridge National Lab, $6,400,000, for a total project authorization of $15,400,000.

(20) Project 79–1–c, Safeguards and security improvements, Richland, Washington, $7,500,000, for a total project authorization of $12,000,000.

(21) Project 79–1–h, Maintenance and storage facility, Richland, Washington, $13,700,000, for a total project authorization of $16,700,000.

(22) Project 78–6–c, Safety research experimental facilities (TREAT upgrade), Argonne National Laboratory West, Idaho, $3,600,000, for a total project authorization of $27,700,000.

(23) Project 78–6–d, Experimental breeder reactor (EBR–II), Argonne National Laboratory West, Idaho, for fiscal year 1980, deauthorize the sum of $5,000,000, for a total authorized amount through fiscal year 1980 of $1,500,000 for A–E only.

(F) Nuclear Fusion:

(1) Project 80–GPP–1, General plant projects, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $1,400,000.

(2) Project 80–GPP–1, General plant projects, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000.

(3) Project 80–MF–1, PDX Neutral Beam, Princeton Plasma Physics Laboratory, New Jersey, $6,600,000.

(4) Project 80–MF–2, Double-III neutral beams, San Diego, California, $2,500,000.

(5) Project 80–MF–3, EBT-proof of principal experiment, location to be determined, $9,100,000.

(6) Project 80–MF–4, Large Coil Test facility, Oak Ridge, Tennessee, $2,000,000, for a total project authorization of $5,300,000.

(7) Project 78–3–b, Fusion materials irradiation test facility, Richland, Washington, an additional sum of $50,000,000 for a total project authorization of $71,300,000.

(G) Geothermal:

(1) Project 80–G–1, 50 MWe geothermal demonstration, Valles Caldera, New Mexico, $20,450,000, for a total project authorization of $39,851,000.

(2) Project 80–G–2, second 50 MWe demonstration power plant, $4,000,000, for a total project authorization of $8,000,000.

(H) Basic energy sciences:

(1) Project 80–ES–9, Intense Pulsed Neutron Sourse–I (IPNS–I), expanded experimental capabilities, Argonne National Laboratories, Argonne, Illinois, $2,400,000.

(2) Project 80–ES–10, Chemical and materials sciences laboratory, Lawrence Berkeley Laboratory, Berkeley, California, $12,600,000.

(3) Project 80–GGP–1, General plant projects, various locations, $250,000.

(I) High energy physics:

(1) Project 80–GS–1, Accelerator improvements and modifications, various locations, $6,000,000.

(2) Project 80–GPP–1, General plant projects, various locations, $5,000,000.

(3) Project 78–10–b, Intersecting storage accelerator (ISABELLE) 400x400 GeV, Brookhaven National Laboratory, Upton, New York, an additional sum of $90,000,000 for a total project authorization sum of $123,500,000.

(4) Project 79–9–b, Energy saver, Fermi National Accelerator Laboratory, Batavia, Illinois, an additional sum of $26,900,000 for a total project authorization of $38,900,000.

(J) Nuclear physics:

(1) Project 80–GS–2, Bates Linear Accelerator Beam Recirculator Project Middleton, Massachusetts, $1,800,000.

(2) Project 80–GS–3, Experimental support addition, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $2,400,000.

(3) Project 80–GS–4, Accelerator improvements and modifications, various locations, $1,600,000.

(4) Project 80–GS–5, National Superconducting Cyclotron Laboratory, Michigan State University, East Lansing, Michigan (A–E and long-lead procurement only), $6,000,000.

(5) Project 80–GPP–1, General plant projects, various locations, $3,000,000.

(K) Uranium Enrichment:

(1) Project 79–2–d, Technology test facilities, various locations, and additional sum of $13,000,000 for a total project authorization of $20,000,000.

(L) Environmental:

(1) Project 80–ES–8, Modification to life sciences and environmental research facilities, various locations, $3,500,000.

(2) Project 80–CPP–1, General plant projects, related to life sciences and environmental research, $2,500,000.

Sec 121. (a) With respect to Department of Energy civilian research and development programs, the Federal share of each plant and capital equipment construction project, other than a construction project for which funds are authorized under section 107(E) (1) (b) of this Act, shall be funded exclusively from an account separate from operating expenses; and, for purposes of the President's annual budget submission and of related reports submitted by the Secretary to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, each plant and capital equipment construction project shall be assigned or reassigned to one of the following categories:

(1) Major Construction Projects.—All construction projects having a total estimated Federal cost of $5,000,000 or more. Each such project shall be set forth by name, location, total estimated cost, total estimated Federal cost, description, justification, cost details, and outlays for pertinent fiscal years. Appropriate documentation shall also be provided.

(2) Minor Construction Projects.—All construction projects having a total estimated Federal cost between $1,000,000 and $5,000,000. These projects within each program area may be submitted in combined form. Accompanying documentation shall include the name, location, description, total estimated cost, and total estimated Federal cost of each project. By December 1 of each year, the Secretary shall issue a report to each such Committee describing all changes in the list of these projects and in the funding among them.

(3) General Plant Projects.—All general plant construction projects having a total estimated Federal cost of up to $1,000,000. These projects within each program area may be consolidated into one item.

(4) Planning and Design.—The architect and engineering phase for construction projects (title I design and title II design) within each program area may be combined into one item. Site work or other construction activities may not be included. Accompanying documentation shall include a description by subprogram of the effect, purpose, and estimated cost of such planning and design.

Notwithstanding the preceding provisions of this section, operating expenses may be used for (A) any construction project having a total estimated Federal cost of $500,000 or less, (B) the conceptual design of any project, (C) the procurement and installation of individual components fabricated for research and development or testing when such components are not an integral part of a basic facility or construction project, (D) experimental test equipment to conduct specific investigations but not for long-term research and development use, and (E) solar heating and cooling demonstrations.

For major construction projects where it is in the national interest to initiate construction in advance of the next annual budget cycle, the Secretary or Under Secretary shall notify the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate sixty days in advance of commencing construction under this section, shall provide those committees with a detailed justification for commencing construction in advance of such cycle, shall (subject to the applicable limitations in title VIII) reprogram necessary funding from other major construction projects, and shall inform those committees of the sources of the funding and of the effect on the particular projects from which the funding was taken.

(c) For purposes of this section—

(1) the term "total estimated Federal cost" with respect to a construction project means the most current estimate of the cost which will be borne by the United States Government of all activities ultimately constituting a part of the project;

(2) the term "total estimated cost" with respect to a construction project means the most current estimate of the cost of all activities ultimately constituting a part of the project;

(3) the term "construction project" means the design, construction, or modification of a Department of Energy civilian research and Technology of the House of Representatives and the Committee on Energy and plants, processing and reprocessing plants, utilities, and improvements; and for this purpose (A) only facilities uniquely related to a larger construction project may be combined with that project, and (B) when minor construction projects or general plant projects are submitted in combined form, completed projects including all dedicated equipment must always be used in these submissions;

(4) the term "conceptual design" means the formative stage in the design of a facility leading to preliminary estimates of size, capabilities, and design criteria and an inital understanding of the interrelationships among the facility's significant features;

(5) the term "title I design" means the refinement of the design concept by means of preliminary engineering drawings, outline specifications, cost estimates, and schedules, the identification of long-lead procurement, site improvements, and applicable code standards, and the consideration of structural, hydraulic, chemical, mechanical, and electric constraints and capabilities; and

(6) the term "title II design" means the development of the details of each aspect of title I design to the point where a contractor can order the components and proceed with construction, including complete engineering calculations considering all applicable codes, standards, and contract provisions, detailed specifications, dimensioned drawings, and procurement data, a precise cost estimate, and a firm-construction schedule.

(d) As used in this section, the term "program" includes any of the categories listed in subsection (a) of this section, and any construction project included in the category of major construction projects as described in paragraph (1) of such subsection. *Provided*, That if the current total estimated Federal cost of any major construction project exceeds the original estimated Federal cost by more than 10 percent, such funds may be acquired from other major construction projects upon written notice to the Committee on Science and Technology of the House of Representatives and the Energy and Natural Resources Committee of the Senate.

(e) Whenever the provisions of this section conflict or are inconsistent with any other provision of this Act or the Energy Reorganization Act of 1974, Public Law 93–438, as amended, the provisions of this section shall govern.

Sec. 122. (a) No funds appropriated pursuant to any authorization contained in this title may be obligated for expenditure or expended for long-lead procurement, land acquisition, or construction for any plant and capital equipment project listed in subsection (b), where the estimated total Federal cost of the project is greater than $50,000,000 unless—

(1) the Secretary has submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report showing the nature, purpose, and amount of the proposed obligation or expenditure and its relationship to the overall project plans; and

(2) (A) a period of sixty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has elapsed after the submission of such report, or

(B) each such committee (before the expiration of such period) has transmitted to the Secretary written notice to the effect that it has no objection to the proposed obligation or expenditure.

(b) The projects to which subsection (a) applies are as follows:

Project 76–1–b, High Btu Pipeline Gas Demonstration Plant.

Project 78–2–d, SRC–I (Solids) Demonstration Plant.

Project 79–1–r, SRC–II (Liquids) Demonstration Plant.

Project 79-1-9, Solar Energy Research Institute, Golden, Colorado.

Project 80-FE-4, Gasification Test Facility; Site Undetermined.

Project 80-FE-5, Pressurized Fluidized Bed Utility Engineering Development System.

Project 80-FE-6, Catalytic Gasification Pilot plant; Site Undetermined.

Project 80-G-2, Second 50 MWe Geothermal Demonstration Plant, New Mexico.

(c) In order to facilitate the early activation of solar experiments, long lead procurements of a computer, commitment of title I and title II design, and site construction consisting of roads and utilities on Project 79-1-9, Solar Energy Research Institute, Golden, Colorado, may proceed prior to the submissions required by subsection (a)(1) of this section.

SEC. 123. In any case where—

(1) funds appropriated to the Department of Energy for fiscal year 1979 or any prior fiscal year under the heading "Operating expenses" were specifically assigned to a particular project,

(2) a portion of the funds so assigned for such project remained unexpended on March 1, 1979, and

(3) funds are appropriated to the Department for such project (for fiscal year 1980), pursuant to the authorization contained in paragraphs (A) (4), (5), (6), (7), (8), (9), or (10), (B) (1) or (2), (C) (2), (3), or (4), (D)(1), (E) (7), (8), (9), or (10), (F) (3), (4), (5), or (6), or (G)(1) of section 120 of this Act, under the heading "Plant and Capital Equipment" instead of for "Operating expenses",

the unexpended amount described in paragraph (2) (or so much thereof as remains available for such project and unexpended on September 30, 1979) when so specified in an appropriation Act shall be transferred to the new appropriation account established for such project pursuant to the Act making the appropriations described in paragraph (3), and the amount so transferred shall be merged with any funds in such new account and thereafter accounts for as one fund.

SEC. 124. No funds appropriated pursuant to any authorization in this title may be obligated for expenditure or expended by the Secretary to place, bury, or store in any subsurface geologic repository for research, development, and demonstration purposes any irradiated nuclear fuel assembly, or part thereof, from any nuclear reactor unless the geologic repository is designed so that all fuel assemblies, or parts thereof, to be placed, buried, or stored can be easily and economically retrieved. Nothing in this section shall be construed to prohibit the placement, burial, or storage of reprocessing wastes which have been glassified, vitrified, or otherwise appropriately treated to provide long-term isolation from the biosphere.

SEC. 125. Section 19(c) of Public Law 93-409 is amended by striking out "and 1979, $50,000,000 in the aggregate" and inserting in lieu thereof "1979, and 1980, such sums as may hereafter be authorized in annual authorization Acts".

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 37, after line 15, add the following new section:

SEC. 126. (a) As soon as practicable and not later than February 1, 1980, the Secretary of Energy shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Berkeley Laboratory under contract numbered W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contract.

(b) The Secretary of Energy shall study the types of contracts that would best provide for the continued performance of the work performed under the contract referred to in subsection (a). The Secretary shall include in any contract proposed to replace such contract terms to assure that—

(1) the paramount objectives and missions of such laboratory continue to be in the field of basic scientific research:

(2) the transition from management of such laboratory by the University of California to management by any new contractor will be orderly, invlove a minimum of uncertainty, and provide employee rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratory by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratory as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratory.

(c) The Ernest Orlando Lawrence Berkeley Laboratory at Berkeley, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Berkeley National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Berkeley Laboratory shall after such date be considered to be reference to the Ernest Orlando Lawrence Berkeley National Laboratory.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous censent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, does this amendment relate to the Lawrence Laboratory?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, this relates to the Lawrence Berkeley Laboratory, which is in the State of California.

Mr. ROUSSELOT. And the one managed by the University of California?

Mr. FUQUA. Yes.

Mr. ROUSSELOT. Mr. Chairman, I know the gentleman is going to explain it, but just for now, so that we make sure the House has read the fine type, what does it basically do?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield further, I intend to explain the amendment. This requires a study only by the Department of Energy to review the possibilities in case that contract were ever terminated by the State of California, as has been proposed by the Governor.

Mr. ROUSSELOT. I see. Well, as the gentleman knows, the board of regents voted last week to continue the Lawrence Laboratory. Is there anything in here that would be an encouragement to the Federal Government to terminate it?

Mr. FUQUA. There is not in any way anything intended either way; but I think there should be a contingency plan.

Mr. ROUSSELOT. This amendment is basically neutral as it relates to the continuation at the University of California as a manager of these facilities.

Mr. FUQUA. The gentleman is correct.

Mr. ROUSSELOT. I appreciate the gentleman's explanation.

Mr. Chairman, I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. FUQUA) that the amendment be considered as read?

There was no objection.

Mr. FUQUA. Mr. Chairman, the amendment has partially been explained to the gentleman from California (Mr. ROUSSELOT).

There has been some concern expressed by the Governor to the board of regents in California about the operating conditions of these laboratories, that I might add are great national resources and assets, about the work that they may be doing in the area of weapons research and that this should be separated. These research programs are very integral parts of the programs that are being carried on at all three of the laboratories, the Livermore, the Berkeley, as well as the Los Alamos laboratories.

This contract with the Department of Energy has been working very well. It has been going on for some time and it expires in September of 1982.

Since this concern has been expressed, and particularly since it is of such vital importance to this country and to the Committee on Science and Technology, I proposed the amendment so that the Department of Energy could review some contingency plans that they may have in the event that this contract was terminated and also what type of transition might take place and if there were other interested parties entering into such a contract in this area.

I have talked to several of my colleagues from the State of California, to reassure them that this is not an attempt to summarily sever that contract that has been going on for a long time; but I think the Department of Energy needs to have a contingency plan in case events should occur that that contract was terminated.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. FUQUA. I will be happy to yield to the distinguished ranking minority member of the Committee on Science and Technology.

Mr. WYDLER. Mr. Chairman, I am trying to read through this amendment and trying to comprehend exactly what we are intending to do here today. The little information that I have about this problem is gained from reading newspapers.

☐ 1230

The story that went around regarding the situation was that the Governor of California, Governor Brown, as a member of the board of regents of California, within the last few weeks made a request to the board of regents that they terminate all activities of this laboratory and in effect terminate the contract. Then, as a result of that request the board of regents rejected his motion or suggestion and voted to continue the activities of the laboratories of the University of California.

But I also understand—and I am sure it is a fact—that the Governor has the power to continuously appoint new members of the board of regents, and so the danger to the laboratories continues, and there might come a situation where he will get a majority vote of the board of regents and in effect terminate the contracts of the laboratories.

Is that what the situation actually is? As I understand it, that is where we are today.

Mr. FUQUA. Mr. Chairman, that is my understanding. By a vote of 15 to 7 and 1 abstention, the board of regents just recently, last week, voted to continue the contractual obligation to the Department of Energy. Now, that may change, but I think in a situation such as this we need a contingency plan. This is true of all our laboratories, not necessarily just these laboratories. Should there be a potential problem with the contractor, the Department of Energy or the laboratory—and this is true whether it be Brookhaven or Argonne or Oak Ridge or one of the other laboratories which are operated on a contract basis with some type of university affiliation; and I concur with this wholeheartedly because I am not proposing the Government take over these laboratories—there should be some type of contingency plan for somebody to operate these laboratories without an interruption in the very valuable work that is going on there.

Mr. WYDLER. Mr. Chairman, if the gentleman will yield further, I tend to agree with the gentleman, but the question I would ask is: Why should the Government not at this point start to consider seriously changing its relationship with the existing laboratories if the Governor is going to insist they be taken out of the university system? If that is the threat, why do we not just accommodate him and protect our own interests in that way? That would seem to be the sensible way for the Federal Government to proceed.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Fuqua) has expired.

(By unanimous consent, Mr. Fuqua was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would like to say to my colleague, the gentleman from New York (Mr. Wydler), that several of us from California have talked to the board of regents. As a matter of fact, some of them called us, and they were rather concerned that the signal would go out that the Governor represents the mainstream of thought in California on this issue.

He does not, and I think the vote of the board of regents, regardless of the fact, reflects that attitude, even though several of those appointments were the Governor's. So I think that the fact that the board of regents has flatly rejected this idea and the fact that they gave it very careful consideration should be some proof that just because the Governor is on the board of regents does not mean that he is the whole and only factor in determining what the University of California in all of its activities does.

So I really do not believe that the Congress today should believe that the Governor is representing the main thought in California. I think just the opposite is true, and I think the board of regents reflected that in its vote. As a matter of fact, I know that it is true. They gave this issue very thorough and complete thought. They considered this for better than 2 weeks. The first time they did not vote on it; they just passed it over for another time.

I think it would be wrong to interpret that our Governor on this issue represents what the board of regents or the majority thought is in California on this subject. I do not think he does.

On the other hand, I think that the gentleman from Florida (Mr. Fuqua) is right, that maybe the Government should protect itself in having some kind of contingency in case—and we pray that it does not happen—Governor Brown does in fact get a majority of people on the board of regents who think as he does or as Jane Fonda does.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Fuqua) has again expired.

(By unanimous consent, Mr. Fuqua was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the only thing I can say to the Governor of California—and I am glad his view is not the view of the members of the board of regents and, I hope, not the view of the people of the State of California—is that this laboratory is a very valuable asset to our country and it is also a very valuable asset to the State of California. If they do not appreciate it and do not want it, I am personally convinced there are many States in the Union that would be just delighted to be hospitable to the Federal Government in establishing laboratories in their States.

If the Governor wants to bring that about as a result, then I think he is heading in the right direction. I think there are plenty of places that would be delighted at that outcome. There are plenty of States that would be delighted and overjoyed to have this great national asset and this great State asset established in their States.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I understand what my colleague, the gentleman from New York (Mr. Wydler) is saying. I want to say that I think the majority of the people in California understand that this is a valuable asset for both the country and the State. Before the gentleman gets a gleam in his eye to take it away and put it in New York, I think I am safe in saying that we would be delighted to keep it in California for now.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I would like to ask the gentleman why the study indicates only this particular contract with this particular laboratory. We have other laboratories that are under contract with the University of California that face the same problem. For example, we have the Lawrence Livermore Laboratory and the Los Alamos Scientific Laboratory.

Why is it particularly limited to this, or is that perhaps the contract that governs the overall situation?

Mr. FUQUA. Mr. Chairman, I might respond to the gentleman from New Mexico (Mr. Lujan) and say that that would be in the Department of Energy National Security authorization bill. That is the Department which has the primary jurisdiction over those laboratories where the weapons work is conducted. So a similar amendment might be offered to that bill.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Fuqua) has again expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Fuqua was allowed to proceed for 4 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the committee chairman for yielding.

I just want to indicate my support for this amendment. I think this kind of contingency plan is consistent with a number of other initiatives being taken by the Department of Energy, specifically the reanalysis counts that are going on relating to the Rocky Flats Plant in Colorado. I think this is consistent with that, and I commend the gentleman for offering this amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I just want to make it clear that the amendment does not in fact terminate the contract. It only provides for a standby mechanism for the University of California to do so.

Mr. FUQUA. That is correct.

Mr. LAGOMARSINO. Mr. Chairman, I certainly concur in what my friend, the gentleman from California (Mr. Rousselot) said, and I hope the amendment will be adopted.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I rise in support of this amendment. Under the current structure of the management of these laboratories, I do not think it is quite clear as to the process of the termination of contracts. In fact, in California our Governor raised this question, and probably appropriately so.

With this particular study, we can create an orderly process if in fact a termination is decided upon. So I think this is good, because these laboratories are an integral and an important part of not only our national defense but of our energy concerns, and to have a premature disruption in the operation of those facilities would, I think, be disastrous.

So, Mr. Chairman, I think this amendment offered by the chairman of our committee is a good one. It will bring consistency and orderliness to the process of managing these laboratories.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for his contribution.

Mr. Chairman, I might point out again in the remainder of my time that this does not sever that relationship. It only provides for a contingency plan for some laboratories that have contributed very greatly to the enhancement of the well-being of this country in a great many research and development projects. They have been very well operated, and this is to ensure that there will not be any interruption in this service.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

AMENDMENT OFFERED BY LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 3, line 3, strike out $3,500,000 and insert in lieu thereof "$5,500,000."

Mr. LAGOMARSINO. Mr. Chairman, I am today offering an amendment to H.R. 3000 (H.R. 4839) as a substitute authorizing funds for the purpose of heavy oil conversion technology. I offer this amendment on behalf of myself and my colleagues, Congressman LEWIS, THOMAS, LUNGREN, COELHO, MINETA, CLAUSEN and ROUSSELOT.

Estimates indicate that there are 100 billion barrels of heavy crude oil in place in the United States and 1 trillion barrels of heavy crude oil reserves in Canada. Although this resource is vast, most of it is presently unrecoverable because current refining methods are inadequate, costly, and environmentally hazardous. Presently, refining techniques produce unacceptable levels of difficult to dispose of waste, including threatening sulfur emissions. New and innovative refining techniques could permit us to utilize this wealth of crude oil at our disposal, to meet present and future energy demands.

As you know, the President, in his energy message July 15, proposed to immediately decontrol heavy oil, exempting it from the windfall profits tax. This action will, of course, result in long-term incentives for heavy crude refining investment, as well as production. However, it has come to my attention that there is already a cost-effective technology to facilitate the development of heavy crude oil refining methods. One such project, proposed by a small refiner in my district in California, provides an encouraging approach to manufacturing gasoline feedstock and other high value products from the thick high sulfur crude oils, abundant in our Nation, without producing hard to dispose of wastes and significant environmentally threatening emissions. This demonstration refinery plant in California has the capacity to convert 5,100 barrels of heavy crude oils and residual oils a day into valuable natural gas and gasoline, while removing sulfur. All residual oil is eliminated and, as already mentioned, the process is nonpolluting.

Unfortunately, the project was presented late in the DOE budget process. Although DOE has expressed strong interest in this concept it simply does not now have the funding with which to proceed. My amendment would allow DOE to assist in developing this technology. At a time when we cannot afford to overlook any technologies which might assist in enhancing vital domestic energy supplies, it is crucial that we expedite those projects which are economically and environmentally appropriate. This process, in fact, would be possible on a quicker time scale and at a lower cost than massive coal conversion programs.

Mr. Chairman, unless the fiscal year 1980 DOE authorization bill is amended to enable DOE to fund such projects, at least one crucial year will be wasted in developing technology paramount to tapping our vast domestic heavy crude oil reserves. However, this vitally important project came to our attention only within the last several days. Although I had originally intended to offer an amendment authorizing $30,000,000 for the purpose of developing heavy oil conversion technology, I realize that the Subcommittee on Energy Development and Applications and the full Science and Technology Committee (responsible for this portion of the bill) has not had an ample opportunity to explore and review this project.

However, I do understand that the committee would be willing to accept an additional $2,000,000 to get this project off the ground. While I believe that the project would need substantial additional funds. I nevertheless accept the committee's recommendation. But, of course, I would hope that the other body might be able to work out additional funding so that this important technology might get started.

Mr. Chairman, I would strongly urge that my colleagues support this amendment to the DOE authorization legislation.

□ 1240

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, the subcommittee and the full committee have had a chance to look at the amendment. We think it makes a very useful contribution to the DOE research program, particularly setting up the design on which we can go further in the near future for conversion of heavy oils to more usable fuels, which is a very worthwhile thing, and we are prepared to accept the amendment.

Mr. LAGOMARSINO. I thank the gentleman for his remarks.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, the minority also accepts this amendment. I recognize this as a very peculiar problem in heavy oils. In California there is a great resource there, but it needs the research and development to be extracted safely and in environmentally sound ways. It does have the potential to add greatly to our energy in the future.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I have no objection to the amendment, but I really do not fully understand what we mean when we talk about heavy oil. Will the gentleman explain what makes oil heavy oil? What makes it become heavy oil?

Mr. LAGOMARSINO. The term "heavy oil" refers to its specific gravity. I guess the best way to describe it is that light oil is something like gasoline; heavy oil would be more like tar. As a matter of fact, some of the heavy oil we are talking about, if you look at it, cannot be distinguished from tar. It is very heavy, very hard to refine, almost useless unless you can find a way to refine it.

Mr. WYDLER. How do you mine it? How do you get it to the surface?

Mr. LAGOMARSINO. It can be produced by tertiary methods of production, steam, primarily, heat, fire sometimes, flooding in other cases. It depends on how heavy it is. It is a very heavy oil. It probably requires some application of heat to melt it, and also dilutants are used, which, of course, are very expensive.

Mr. WYDLER. Am I correct in thinking that this is one of the items that the President mentioned in his speech as something he is going to give tax incentives, to promote its production?

Mr. LAGOMARSINO. Yes. As a matter of fact, the President proposed immediate decontrol of heavy oil and also that they not be subject to the windfall profits tax. He has not so far specifically defined heavy oil for that purpose, but it would be in the range we have been talking about.

Mr. WYDLER. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Chairman, I appreciate the gentleman offering the amendment because, as we both know, there are new ways being developed to extract this very heavy oil about which the gentleman from New York has inquired as to how we know what it is we are talking about. I compliment the gentleman for bringing it up, because I think it is an important area. There are vast reserves, as the gentleman has already mentioned, not just in California, but in other places, and I think it is a resource of which we should make use, and so I do support the amendment.

Mr. LAGOMARSINO. I thank the gentleman for his contribution.

Mr. LEWIS. Mr. Chairman, I strongly support research and development for all potential domestic energy sources, and I am especially pleased that the DOE authorization bill has been amended to include an initial, though extremely small, effort to promote development of technology to better utilize our heavy oil resources.

As the world has exploited petroleum deposits, the most economical approach has been to develop the most easily refined deposits first. Most of the Nation's, and the world's, refinery capacity has been designed for and works best on "light" (easily flowing) and "sweet" (low-sulfur) crude oils.

As domestic U.S. oil production decreases and we become more dependent upon imported oil, we face the choice of either developing our ability to tap our deposits of relatively heavy, or thick and viscous, oil, or seeing our imports increase at a more rapid rate than they otherwise would, while also becoming more vulnerable to price hikes than we would be with greater internal supply capacity.

California has an estimated 20 billion barrels of recoverable heavy crude oil and the United States has a total of over 40 billion barrels of known recoverable oil. It is estimated that there are over 100 billion barrels in place in the United States. Canada has an estimated 1 trillion barrels of heavy oil reserves.

These heavier crudes will become much more readily available if they can be processed without leaving a large residue of low-value, sludgy "residual" oil. Further, the very thick hydrocarbon materials found in "tar sands," such as those in Utah and Canada, are of the sort requiring refining techniques other than those developed for light and "sweet" crude oils.

Thus, we are forced to find ways to develop the capacity to refine the more viscous crude oils, with their heavier burdens of carbon, sulphur, and metals, without causing environmental problems.

Because the western United States has the largest deposits of heavy oils, the need for "retrofits" of refinery capacity to handle such oils is greatest there. California is in an anomalous position It has more crude oil underground than is needed to supply its petroleum product needs. Much more crude oil is north of it in Alaska. But California imports crude oil from overseas and in addition imports gasoline from other portions of the United States. Further, we are under pressure to export our Alaskan crude oil to Japan, instead of using it to supply the Western United States, including the Pacific Northwest and the Mountain States. This pattern of lack of proper domestic refining capacity for the west coast crude oils strains our balance of payments and, in a shortage situation such as today, drains gasoline supplies from other States.

Boosting our capacity to use heavy crudes for automobile and household heating purposes, without creating surplus "residual" oil, will give us more elbow room as we work through our transition to greater reliance upon coal, solar energy, and other alternative sources.

One project being undertaken by a small California refinery has demonstrated an ability to convert heavy oil into naptha (the basic constituent of gasoline), distillates (of the sort used for home heating), and gases of the sort used in the manufacture of fertilizer and commercial heating. Pure sulfur was separated out, in a form suitable for commercial use, rather than being left in the petroleum products or vented to the atmosphere. There was no coke residue, no heavy residual materials.

This unique reactor design can be combined with complementary hardware standard in refinery operations—which supplies the oxygen and steam needed, separates out sulfur, and channels the major products into separate streams for storage and use.

While the design is advanced, it works from well recognized principles. An outstanding advantage of this process is that there are no significant emissions into the atmosphere.

Increasing our ability to use "heavy" domestic crude oil with technology such as this would make the United States less vulnerable to instability overseas and the profit-maximizing price and supply moves of the OPEC countries. We cannot expect to avoid substantial dependence upon offshore supplies of oil for the foreseeable future. But every bit of elasticity helps. Every bit of inelasticity hurts: In the pocketbook.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Amend H.R. 4839 by:

(a) Deleting, at page 10, lines 22 through 25, inclusive; and

(b) Adding, immediately after line 15, page 37, a new section 126, to read as follows:

SEC. 126. (a) Notwithstanding section 106 of Public Law 91-273, as amended, or any other law, the Secretary of Energy (hereinafter referred to as "the Secretary") is authorized and directed to complete only—

(1) systems design for the Clinch River breeder reactor project; and

(2) procurement and testing of such components as he determines to be useful in conducting research and development on advanced fission technology or otherwise in the public interest, including, but not limited to, the prototypic sodium pump and pump drive, the prototypic steam generator, the in-vessel transfer machine, and the prototypic secondary control rod systems.

(b) The Secretary of Energy is directed to take such action with respect to contractual instruments previously entered into in connection with the Clinch River breeder reactor project pursuant to section 106 of Public Law 91-273, as amended, as in his judgment are necessary or appropriate to carryout this section: *Provided however,* That nothing in this section is intended in any way to affect, modify, or prejudice any existing rights of any party, under any such contractual instrument.

(c) The Secretary shall assure that any generic environmental or technical issues related to carrying out the elements of the Clinch River breeder reactor project described in subsection (a) of this section are fully documented and discussed with the staff of the Nuclear Regulatory Commission. The Secretary may initiate any necessary and appropriate modifications in any existing liquid metal fast breeder reactor facilities to test, and shall provide for the testing and evaluation of components which are completed pursuant to subsection (a)(2) of this section:

(d) The Secretary is directed to initiate a conceptual design study of a new breeder reactor test plant. The conceptual design effort will focus on a liquid metal fast breeder reactor plant. This design effort shall include the conceptual planning, conceptual studies, systems studies, and systems designs. The conceptual design effort shall also include preliminary costs analyses, engineering drawings, utility interconnect studies, and consultations with the Nuclear Regulatory Commission staff on generic environmental and safety issues. In preparing the conceptual design the Secretary shall take into consideration criteria including, but not limited to, ability to test alternative fuels of the reactor for proliferation-resistance and other factors, economic factors, safety, and the technical viability of the technology.

(e) The Secretary shall undertake to identify and evaluate a reasonable number of alternative sites potentially appropriate for a new breeder reactor test plant and shall include his assessment in the report submitted pursuant to subsection (f).

(f) The Secretary is directed to submit to the President and to the Congress, no later than March 31, 1981, a final report containing the conceptual design, together with his recommendations and additional documentation necessary to support his recommendations. In reaching his recommendations, the Secretary shall consider other breeder and advanced reactor concepts to more efficiently utilize uranium, in addition to the liquid metal fast breeder reactor.

(g) The Secretary shall utilize existing contract design personnel to the maximum extent practicable in carrying out the provisions of subsections (a)(1), and (d) of this section.

(h) In addition to the reappropriation of unexpended funds previously appropriated for the Clinch River breeder reactor project, which is hereby authorized to carry out this section, there is hereby authorized to be appropriated an additional sum of $107,000,000 to carry out this section.

(i) This section shall take effect upon the date of enactment.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, our distinguished colleague, the gentleman from California (Mr. BROWN), joins with me in offering this amendment this afternoon. This is the third time in recent years that I recall that we have been involved in a debate on whether or not to continue with the Clinch River breeder reactor project. We have been up and down this hill. We voted for it and against it.

I might point out that I have supported the Clinch River in the past, but I have realized since that time that that was the wrong position. Changing my mind did not come easy. It was not something that I took lightly; it was something that was done after a great deal of study and careful thought.

Let me say that I am speaking of a project, not the breeder reactor. I support the concept of the development of a breeder reactor and a breeder reactor program. I think it is essential for this country to meet our long-range energy goals that we must have a very strong, highly technical development program for the breeder. But do not confuse Clinch River with killing the breeder.

Clinch River is a project that happens to be named and proposed for location in Tennessee on the Clinch River. But I might further point out that the licenses have not even been approved for this project. There is no construction going on, no ground construction going on. The site has not been approved by the NRC yet. And if, for some reason, they should decide that it should not be there at this particular site in the district of our distinguished colleague and very valuable member of our committee, a member who I am very happy to know, my friend, the gentlewoman from Tennessee (Mrs. BOUQUARD), it is estimated it will cost between $700 and $900 million to change the location to some other site.

Since the time back in the 1960's, when the cost of energy in this country was very cheap, when people were promoting the utilities, when they were promoting the Gold Medallion Homes, all electric, when we thought that an energy crunch was totally out of the question and that was the last thing on the mind of the American people, we had a tremendous growth in this country, both economically as well as population during that period of time.

But what has happened since that time? We have had an energy crunch. Since 1973 people have become more concerned about the cost, as the OPEC prices increased, the domestic prices increased. People began to decide, "Well, maybe natural gas is not such a bad thing to heat my home with or my hot water with." We have had the beginning of a rapid increase in solar hot water heaters throughout the country. We have decided that it is important to put insulation in our homes. And since that time in the middle 1960's, when our projections were then estimated to be some fantastic figure, the projections today are less than half of what they were at that time.

The question comes up: Well, listen, who are you trying to kid? The French and the Japanese are going ahead full force, the U.K. is going ahead full force with a breeder reactor.

Mr. Chairman, I say to my colleagues to look at the resources in these countries. Both Japan and France have no uranium, they have no coal, they have no alternative but to try to preserve the uranium sources that they have today and to go to a breeder reactor. If I were in that country, I would be an avid supporter of moving ahead today, if not yesterday, in the development of a demonstration project or breeder. But we do not have that problem in this country today. We have a problem, but we have vast resources of coal. This House has already passed a synthetic fuels bill that will move forward with the development of synthetic fuels for coal. We have vast sources of uranium. As a matter of fact, we have a considerable amount of uranium in this country. I am sure that reference will be made to a GAO report. I have supported and opposed GAO reports, too, depending upon what my philosophy was on how I supported that project. But the GAO even admitted in their report that the uranium rich countries, such as Canada and Australia, could continue using uranium intensive converter reactors for many, many years. But the United States, quoting the GAO report, is not in either class, the class being that of France and Japan.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FUQUA) has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 5 additional minutes.)

Mr. FUQUA. Mr. Chairman, I quote from the GAO report:

> It has significant quantities of uranium and other resources, such as coal. As a result, the decision to commercialize the breeder is not so clear cut, resting on a complicated set of assessments of the U.S. energy situation.

□ 1250

Now, we have proposed a very strong program. We are spending more money in this country in this bill that we have before us today for breeder technology than all of Western Europe put together.

Someone suggested, well, we need to go ahead with it, even if it is old technology.

My friends, for those of us who may be old aviation buffs, it is about like using an old Ford trimotor compared to a new Boeing 767 that is on the drawing boards.

What we are proposing is that we utilize the component parts of the current Clinch River project, that we have a study to see just exactly what we do need, what are our future requirements? What size should we have?

We realize now that our scientists have said that we can build a much larger project than the 385-megawatt project that the Clinch River project is, that we can go with a much larger project. We do not have to go back with that. We can come up with the concepts and how to better utilize uranium, and what type of project do we need in the future.

When I first came to Congress in 1963, one of the biggest issues in my State at that time and also in New England was whether or not we would lift the import quotas and tariffs on imported oil coming into this country. It was very cheap a barrel then, but today in that short period of time, from 1963 to 1979, look what has happened to this country.

If you have a crystal ball, I hope yours is better than mine, because I get little cataracts on it before it gets fuzzy when you look down the road as to what exactly our energy needs are going to be, what the projections are that the people have had in this country, the requirement for a Clinch River type for a breeder today is not here.

We can build at a future date a much more advanced project than we have to date. This amendment does not kill. This amendment does not impede. It strengthens the breeder technology program that we need in this country so much.

The President has said repeatedly that he does not think it is necessary. This is one occasion I happen to agree with him. I think he is absolutely right.

We had a distinguished group of Nobel laureates before our committee recently. One of the things they said—and these are some very eminent men. I think this was Dr. Bethe who made the comment that Clinch River was an outdated project, that we ought to go forward with a more advanced program than the Clinch River project. I agreed with him. I think this is what we need to do.

My friends, the Clinch River project is dead. It is dead. We are wasting our time if we think we can keep resurrecting this project every year. The President is not going to sign the bill with this in there. We are going to be in a stalemate as we have been before and marching up and down this Hill before.

What we should do is have a decent funeral today and go on with a much more advanced program. I think it is in the national interest, and I think it is in the interest of this Congress to move on and quit fooling with this project and advance our thinking to much and better in the years to come rather than working with outdated programs.

I urge the adoption of the amendment.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, 11 days ago, President Carter came down from the mountain and announced again that this Nation must resolve to find alternatives to oil and gas and do everything possible to develop our domestic energy resources.

Here we are again debating the future of an energy source which should be one of this Nation's key hopes for solving the energy problem. Without nuclear energy, the United States last year might have had to burn an additional 470 million barrels of oil to make electricity.

This amount of oil could be converted to at least 12 billion gallons of gasoline, a year's supply for 17-some million automobiles.

Nuclear power's contribution will nearly triple by 1985 as plants now under construction come into operation. I shudder to think about the real crisis we would be in if all that oil had to be used to generate electricity instead of fueling our cars and heating our homes.

Here again we come to the question of one of several energy alternatives, nuclear energy, and specifically whether or not we should continue a significant level of research and development and demonstration of breeder technology.

It has been pointed out many, many times on this floor and during our hearings that this particular project of breeder technology development—and the demonstration of CRBR has been going on for some 25 to 30 years, it is not a recent phenomenon, it is not a recent start—we have already spent over $700 million on breeder technology.

At some point in time, whether it is solar energy or geothermal energy or biomass conversion, we have got to stop studying and demonstrate the state of the art as it exists at that time to see if it answers a lot of the questions, social, economic, licensing, or whether that technology is compatible with our needs.

That is precisely the function of the Clinch River breeder reactor, to demonstrate after 30 years of development a technology and find out whether in fact it works or does not work.

Now, the Clinch River project is some 75 percent completed. The only reason it has not been licensed is because the administration has decided not to license it. That is not to say that it could not be. It certainly could be. It has been carefully designed. It has been carefully thought out. Component parts are practically all built and stored in a variety of places around this country.

As we sit discussing this year after year after year, we are continually losing our leadership in nuclear technology.

Looking back on the history of nuclear energy and the atom, back in the fifties under Eisenhower, we exported nuclear technology. We brought scientists and engineers here. We taught them about the atom and its peaceful uses. Today in other countries, in Japan, Russia, the U.K., France, and Germany, they are proceeding full bore ahead on developing this breeder technology.

As we sit here discussing whether we should or should not, we are losing our leadership, and in that loss I think goes also the high standards of safety and technology superiority. I think it is premature. I think it is an act of folly to put our heads in the sand and deny this opportunity of demonstrating this particular technology.

I would suggest, Mr. Chairman, that we should continue with this funding irrespective of whether the President is not enlightened to it or not, but certainly we should proceed as a body of separate authority and responsibility in pushing ahead this technology, which we could, yes, study and study and study; but at some point in time, we have got to see whether it works or not.

I think it is a wise course of action to take. I would suggest we vote down this amendment by my very able chairman, the gentleman from Florida (Mr. Fuqua) who has in the past, over years and years and years rose in support of the Clinch River breeder reactor, and for some reason today he decided to change his mind.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I will yield to the gentleman from New York.

Mr. WYDLER. I have the greatest respect for the gentleman from Florida. I think in his enthusiasm, in his presentation to the committee, though he might have just given some people a false impression that somehow by voting against the Clinch River breeder reactor we were going to help the breeder program.

The CHAIRMAN. The time of the gentleman from California (Mr. Goldwater) has expired.

(At the request of Mr. Wydler and by unanimous consent, Mr. Goldwater was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, if the gentleman will continue to yield, let us get it absolutely clear that what the administration is proposing, and that is his amendment, is to terminate the one real demonstration program that we have in our country, to demonstrate the practicality of taking a breeder reactor and producting electricity from it, something useful for mankind and for our country.

□ 1300

That is the purpose of this amendment. If we pass this amendment we are left with nothing but a program of pieces and parts and a vague hope that we are going to do something in the future and whatever that is nobody knows. That is really the choice that the members of this committee and this House are going to have to make today, whether we want a real program of demonstration or a vague promise, meaning really nothing. Does not the gentleman agree that is what we are voting on when we vote on the amendment proposed by the gentleman from Florida (Mr. Fuqua)?

Mr. GOLDWATER. The gentleman is absolutely correct. We all know we have been trying to reach a compromise with the White House for many, many years. We have said to them, OK, we can go along with your study, but how about a commitment? That is the failure of this amendment. All it does is further study this issue without a commitment certain to proceed with demonstration.

If we had a commitment I would suggest to the gentleman that perhaps we could get a consensus on the committee for making a change in the direction in this demonstration. But all we are asked to do is approve another study without any commitment to demonstrate, and actually build some kind of facility to demonstrate a technology that has been ongoing for over 30 years.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(At the request of Mr. McCormack and by unanimous consent Mr. Goldwater was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman.

Mr. McCORMACK. The point the gentleman made about working toward a compromise is very well taken. Perhaps it would be well for all of the Members to know that the gentleman from New York (Mr. Wydler), the ranking minority member of the committee, and I wrote a formal letter to the President suggesting a compromise in which we agreed that we would support the President in designing his own liquid metal fast breeder reactor for construction sometime in the 1980's, and that under those conditions we would agree with him to terminate the Clinch River breeder reactor. He refused any sort of an accommodation on this; refused to even talk about it at all. Accordingly, administration amendment being presented by the chairman of the committee, with all due respect, represents a position that says we must kill the Clinch River breeder reactor and kill the forward movement of our breeder program, all in exchange for nothing but a promise of a study.

Mr. GOLDWATER. The gentleman is absolutely correct. I know the gentleman has been down to the White House on many, many occasions trying to work out a compromise.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona has again expired.

(At the request of Mr. Fuqua and by unanimous consent Mr. Goldwater was allowed to proceed for 1 additional minute.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the chairman of the committee.

Mr. FUQUA. I asked unanimous consent that the amendment not be read because it was rather long, but I would like to point out to the gentleman that in subparagraph (f) of the amendment is the statement, and I will read it to the gentleman, that after the report is reported back in March of 1981 "a final report containing the conceptual design, together with his recommendations," speaking of the Secretary, "his recommendations and additional documentation necessary to support his recommendations."

Now, the Secretary can recommend we go to site selection, and in reaching his recommendations the Secretary shall consider "other breeder and advanced reactor concepts to more efficiently utilize the uranium, in addition to the liquid metal fast breeder reactor."

So we are making some progress, and I would prefer maybe that we went ahead on a demonstration project at this time, but I think it destroys the study if we are going to make a conclusion before the end of the study. I think the Secretary is mandated in this to come back with those recommendations and supporting documentation.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona has again expired.

(By unanimous consent Mr. Goldwater was allowed to proceed for 30 seconds additional.)

Mr. GOLDWATER. I appreciate what the Chairman is talking about, but again, some of our great concerns here, really all the gentleman is asking for is to study a larger concept in a breeder demonstration program, and we do not have too much problem with that. But again, there is not an established policy that we are going to proceed. The study is just to see what kind, and what fuels, and what shape and form, and maybe perhaps where it should be located. We want an affirmative commitment that we are going to do it, and I think until we get that we have to hang onto what we have. I think that has been the big problem.

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FUQUA

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment offered by Mr. FUQUA: Page 10, lines 22 and 23, strike out "Clinch River breeder reactor, $183,800,000" and insert in lieu thereof "Activities related to the termination of the Clinch River breeder reactor project, $52,000,000".

Page 10, line 24, insert after the comma "including the study described in subsection (f) of this section,".

Page 11, line 2, strike out "$142,400,000" and insert in lieu thereof "$107,000,000".

Page 11, line 4, strike out "$75,300,000" and insert in lieu thereof "$50,300,000".

Page 11, line 15, strike out "$18,100,000" and insert in lieu thereof "$12,000,000".

Page 11, strike out lines 16 through 17.

Page 11, insert after line 20 the following new subsection:

(f) The Secretary of Energy shall conduct a comprehensive study on advanced fission energy strategies and shall submit a report of the results of the study to the Congress not later than March 31, 1981. In conducting the study, the Secretary of Energy shall review the potential role of nuclear energy for supplying electricity in the United States for periods of fifty and one hundred years into the future. The study shall include an examination of alternative advanced fission energy strategies, including strategies designed around breeder reactors, particularly the liquid metal fast breeder reactor, and those based on reliance on advanced converter reactors which provide for more efficient use of uranium (including advanced light water reactors, high temperature gas-cooled reactors, and heavy water reactors). With respect to each strategy reviewed under the study, the Secretary of Energy shall examine matters relating to research and development, budgetary considerations, safety, proliferation of nuclear materials, and licensing. The report submitted to the Congress shall contain recommendations of the Secretary of Energy regarding the possibility of reprograming funds authorized to be appropriated under this section for the purpose of conducting studies respecting the safety of light water reactor technology. The Secretary shall consult with the heads of other appropriate Federal departments and agencies in carrying out the study.

Page 16, line 22, strike out "$22,000,000" and insert in lieu thereof "$17,400,000".

Page 17, line 4, strike out "$2,500,000" and insert in lieu thereof "$1,200,000".

Page 22, line 10, strike out "$2,800,000" and insert in lieu thereof "$2,000,000".

Page 23, line 12, strike out "$12,300,000" and insert in lieu thereof "$6,000,000".

Page 23, strike out lines 17 through 21.

Page 23, line 22, strike out "(15)" and insert in lieu thereof "(14)".

Page 24, line 3, strike out "(16)" and insert in lieu thereof "(15)".

Page 24, line 8, strike out "(17)" and insert in lieu thereof "(16)".

Page 24, lines 11 and 12, strike out "$53,000,000" each place it appears and insert in lieu thereof "$21,000,000".

Page 24, line 12, strike out "(18)" and insert in lieu thereof "(17)".

Page 24, line 16, strike cut "(19)" and insert in lieu thereof "(18)".

Page 24, line 18, strike out "$6,400,000" and insert in lieu thereof "$3,000,000".

Page 24, line 19, strike out "$15,400,000" and insert in lieu thereof "$12,000,000".

Page 24, line 20, strike out "(20)" and insert in lieu thereof "(19)".

Page 25, strike out lines 1 through 3.

Page 25, line 4, strike out "(22)" and insert in lieu thereof "(20)".

Page 25, line 8, strike out "(24)" and insert in lieu thereof "(22)".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I thought the distinguished gentleman from Florida (Mr. FUQUA) gave a very compelling and moving address in support of his amendment. But I agree with him that the Clinch River breeder reactor is dead, the practicalities are that the Persident is not going to sign legislation that contains further funding for the Clinch River. I think we would all be wise if we would give this project a decent burial and comfort the widows and maybe let the gentleman from Washington (Mr. MCCORMACK) be one of the pallbearers, and get on with the business of the country.

The time has come to make hard energy decisions and to readjust our expectations and our energy programs to face tough new realities. The amendment offered by myself and Mr. BINGHAM is an attempt to do that. It offers Congress a chance to look at our breeder development program as part of our national nuclear energy program and as part of an international effort to focus on energy sources that are economic; that are reliable, and that fit the difficult situations we are in.

The Udall/Bingham proposal would have the effect of putting on "hold" to the obsessive preoccupation with development of the commercial liquid metal fast breeder reactor technology, which is only one—only one of many possible means to expanding the use of uranium resources. I would liken it to the decision by the United States to forego the race with Europe to develop the SST and to work instead to improve our more economical and environmentally benign jumbo jet. Our amendment puts the liquid metal fast breeder reactor technology where it belongs: As a potentially promising technology in competition with other promising advanced reactor technologies, which may be ready and necessary at some point after about 2020 but which have not yet shown a clear winner among them.

STAKES ARE HIGH AND DIFFICULT TO STOP

In taking this stand Mr. BINGHAM and I are up against billions of dollars invested in this one technology to date.

One point should be perfectly clear: Breeder reactor development does not have now and will probably never have any effect on our national energy independence or on our liquid fuels problem; that is, gasoline lines. Today the total amount of our crude oil used for electric power generation is only 10 percent. By the time a breeder reactor is likely to be on line for commercial purposes, our national fuel conversion policy will have brought that amount down substantially. Therefore, even if replacing our entire electrical generating capacity with breeder reactors would have an insignificant effect on our oil import, or oil consumption rates.

The breeder program included in the science and technology proposal is grossly inflationary: It includes massive sums of money to continue building and testing components for a liquid metal fast breeder reactor when the national program may be headed in a different direction. The time to make a real commercialization decision will be several years down the road.

The Fuqua/Brown proposal is presented as resulting in a savings of billions of dollars as a result of termination of the Clinch River project. The fact is that Fuqua/Brown sets us up for a commitment to a larger and more expensive breeder program than Clinch River; if we really want to save money we have to either cut both projects, which Udall/Bingham would do, or go ahead and build Clinch River and hope we can get away without ever having to fund the new project.

Our amendment leaves us the a breeder development budget larger than that of any European country. The Udall/Bingham amendment provides DOE with nearly $350 million to study not only plutonium-based breeder technologies but all promising advanced fission ideas so that if and when we do need to extend our uranium supply, and when doing so is economically feasible, we will have chosen the technology best adapted to our society's goals of safety and security as well as energy sufficiency.

I urge support of the substitute amendment and the defeat of both the Fuqua and the Science and Technology Committee proposal.

☐ 1310

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I find myself in a particularly difficult position on these two amendments. I was reminded of the TV series of William Bendix in "The Life of Riley." When things got a little bit difficult, the program would always end with, "What a revolting development."

I find myself in that position, having to oppose the amendments offered by not only the chairman of the one committee, but the chairmen of both committees on which I serve. But, Mr. Chairman, this has been a most confusing chain of events on the whole breeder program.

On the one hand we are told by the administration and by the amendment offered by Mr. FUQUA that, "If only you will not persist in this business of the breeder, we will give you a bigger and better one."

It does not really make a lot of sense. If we are going to talk about proliferation, which was the original argument as to why we should not go ahead with breeder technology, is not the fuel in the "Carter Bigger and Better Breeder" just as subject to proliferation problems as the fuel in the Clinch River breeder reactor? So, I cannot understand why this new track has come about.

On the other hand, if we completely ignore the question of going into breeder technology, how is that going to help the problem? Other countries are moving right ahead with it, and the only thing that we will find is that we will lag behind the rest of the world in this technology. I cannot see where that is to the benefit of this country.

It is not a thing that we are just asked to abandon a thought that we had of going into breeder technology. This thing has been going on for a long time, and we have some responsibilities to the people who have joined us in this effort. The utilities that were asked to join us as partners in this endeavor have put up over $100 million already in cash, and one of the things that we are going to have to do is give them back that money if we do not follow through, or even if we change concepts and try to go on to the "Carter Bigger and Better Breeder."

Parts have been ordered already for Clinch River. As a matter of fact, it is my understanding—I have not seen it—but there is a tremendous warehouse that costs over a million dollars, just the warehouse alone, to keep some of the materials that will be used in this project. And so, to abandon all of that and start all over, to start reviewing a new concept, I think is just not in the best interests of this country.

Mr. Chairman, I would urge the defeat of both amendments that my two chairmen have offered to this bill.

Mrs. BOUQUARD. Mr. Chairman, I move to strike the last word, and I rise in opposition to the substitute amendment.

Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from Arizona (Mr. UDALL). He forthrightly tells us that his amendment intends to terminate the Clinch River breeder project, but in order to clarify his position for Members of this body, I wonder if I might address one or two questions to my good friend from Arizona, who chairs the Committee on Interior and Insular Affairs. From his position on this distinguished panel, he does exercise great influence and great authority over the use of public lands in this Nation.

I wonder if the gentleman is aware of the fact that, according to the Department of Energy, about 40 percent of the uranium ore in this Nation lies beneath the surface of our national parks, our wilderness areas, our wildlife refuges, and our national forests? I wonder if the good chairman of the Interior Committee would be supportive of efforts to open up these facilities in our national parks, our wilderness areas, our wildlife refuges, and our national forests for uranium mining in order to meet the demands for nuclear fuel which will result from our failure to develop a breeder reactor.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Arizona.

Mr. UDALL. I do not know whether we are going to have to have more breeders down the road or the exact role nuclear power is going to play in our future, but I suspect that it has a role. The uranium is where the Almighty put it, and, as the gentlewoman indicated, a lot of it is on public lands. In our committee in recent years, we tried to get on these parks, wilderness areas, so that we could make out what we needed to get on the public lands in an orderly way in order to develop our resources.

Mrs. BOUQUARD. I appreciate my friend's response. I would like to remind my colleague that I joined with him a few weeks ago in supporting the "conservation vote of the century," the Udall substitute to the Alaska lands bill. So, I wonder if the gentleman has any estimates of the lands with uranium ore in those lands.

Mr. UDALL. In the Alaskan lands legislation we were very careful to draw boundaries so that two-thirds of all the mineral sources were outside the boundaries. We cannot do much about the Great Smokies, the Grand Canyon, the national parks in the country. I do not think the country is ready to turn them loose.

Mrs. BOUQUARD. So the gentleman does not support opening these areas for mining. The reason I asked this question is, in my congressional district we have rock formations known as the Chattanooga shale deposit. That deposit contains very minute quantities of uranium ore. They are so minute that for every 200 tons of this rock, they can only produce 1 pound of uranium ore. Yet, the Department of Energy includes these deposits in their resource estimates. Really and truly, I do not want to see one-third of the State of Tennessee strip mined to provide this fuel. But this will be the inevitable impact of termination of the breeder reactor project. Without the Clinch River project, there will be no effective nuclear program.

Now, it is possible that the gentleman from Arizona feels that we would be better off simply ignoring the contribution that nuclear power can play for our energy independence, because I know that he is very concerned about the requirements of the Clean Air Act. But, if we do not use nuclear fuel and nuclear plants, then we will either burn more coal or we are going to have to do without electrical energy. Two million barrels of oil every day go to produce electricity, and that same electricity can be produced by either coal or by nuclear power. Now, if we are forced to burn more coal, then we are going to have to relax the clean air standards. This is due to the fact that the areas that are most dependent on oil-generated electricity are generally the areas that have the most significant air pollution problems.

For example, today California generates about 55 percent of their electricity from oil; New York, 35; and several New England States have 60 percent of their electrical power generated from oil. These are the areas, my colleagues, where we are going to have to put the coal plants.

So, I wonder if my colleagues would be supportive of efforts to relax the clean air standards and environmental reviews and appeals processes to bring these plants on-line in the shortest time possible?

□ 1320

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mrs. BOUQUARD was allowed to proceed for 3 additional minutes.)

Mrs. BOUQUARD. I was wondering if the gentleman from Arizona (Mr. UDALL) would be inclined to relax environmental standards so we could put more coal plants on line.

Mr. UDALL. If the gentlewoman would yield, there are very serious trade-offs. We have got to do something to work it out. If we do not go nuclear, we have to go coal. People are going to be killed in coal mines and suffer from bad air. We have to work it out, and I think we can do it. But I am not in favor of relaxing the Clean Air Act. From what I have seen up to today, it is not necessary.

Mrs. BOUQUARD. I will say to my friend, the gentleman from Arizona, if he does wish to protect the wilderness lands in this country from mining for uranium and coal, and if he wants to maintain the existing standards for clean air, and if he wants to end the Nation's dependence on the foreign supply of oil, the only mechanism we have to reach these goals lies in the continued development of nuclear energy generating capacity. This is a position which requires a prompt, orderly introduction of the breeder reactor or, to put it quite simply, our Nation is going to have to do without. I do hope that this puts into proper perspective the meaning of the proponents of this amendment.

I urge the defeat of this amendment.

The CHAIRMAN pro tempore. The time of the gentlewoman has expired.

(At the request of Mr. MCCORMACK, and by unanimous consent, Mrs. BOUQUARD was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentlewoman for yielding. I want to emphasize one point that the gentlewoman from Tennessee has made, and I want to confirm her in this debate. We are talking about the availability of nuclear fuel. The administration projects up to 395 nuclear powerplants on the line in this country by the year 2000. The known and probable reserves of uranium are about 2,400,000 tons A nuclear plant operating for 50 years requires about 10,000 tons. So we have only enough nuclear fuel for 240, or perhaps 300 plants. The fact is that, given the presumed life of nuclear plants, and our known and probable reserves—and we now have already explored all of our most promising known areas for uranium—we have enough fuel for no more than about 300 plants without a breeder program. This is what we are talking about, and it demonstrates why we should support continuation of the Clinch River breeder project.

Mrs. BOUQUARD. I thank the gentleman.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman—and those who are watching the proceedings on closed circuit television sets, which I am told I am not supposed to mention but I do not think it is any secret that that is what many of the Members do and must do—I just want to set the stage so everybody is very clear first on what we are voting on probably within the next hour.

The amendment was offered by the gentleman from Florida, which is the administration amendment or the Carter amendment. That amendment in effect would stop the Clinch River project. It terminates the project in clear words. It terminates the Clinch River project and brings into immediate effect all the results that will flow from that termination in the way of legal obligations owed by the U.S. Government which, in my judgment, and I am going to demonstrate this before this debate is over, will probably cost our Government about $1.5 billion for nothing. We will get nothing for it, but that will be the result of terminating the Clinch River project. The hope that his amendment offers to us is that the same President apparently who has decided to kill the Clinch River project, no matter what, will allow his administration to propose a bigger and better breeder reactor for our country. I do not know how many people really believe that. It is a nice hope. It is a nice thing to put out as a possibility, but it is not realistic, and I think any Member here who thinks about it knows that if we are not going to build the rather modest Clinch River breeder reactor project, we are not going to build any breeder reactor project, at least not as long as the present occupant of the White House is there. We have been offered a substitute for that amendment, and that is the substitute offered by the gentleman from Arizona (Mr. UDALL) and that is the vote that will come first. That amendment, I would say, is more honest than the other amendment in that it sets the matter clearly before this body. He not only wants to terminate the Clinch River project and kill it and finish with it, but in effect he wants to totally and utterly gut our breeder program as a nation so that we would be out of the breeder business almost in a total fashion. But it is a more honest amendment, because the first amendment will really have the same effect although it is done in a more subtle fashion.

I urge the House, those Members who are concerned about the supply of energy for our Nation, not to take this step backward. I say to those who are supporting fusion, those who are supporting fusion energy, do not take this step backward because I ask you this: If our need for energy is down and our need for electricity is down, as these people tell us, and that we will not need so much in the years ahead, why are we going to spend a half billion dollars to try to develop fusion energy, whose main purpose is to produce electricity, is basically the same time frame as the breeder reactor? Why would we go ahead and spend a half billion dollars for this very chancy, untried new source of power to produce electricity if we buy the arguments that they are making here to us today that the need for electric power is going down and, therefore, we do not need the breeder? If we do not need the breeder, we do not need the fusion program either. Let us face that fact and look it right in the face.

What we are being asked to do here today is turn our backs on the new and real technology of the future—that is what this vote is all about—and that is what this President has done in many areas of our national endeavors. He has asked us to turn our backs on the technology of the future. If we as a body do that today, we are going to make our country a second-rate one in the years ahead. We will certainly not be able to compete with the breeder-oriented countries of the world, which will include the major countries of the world. They are going ahead with their breeder programs. The only country—the minority of one country—in the world saying no to the breeder today is our country. France is saying "Yes" to the breeder; England is saying "Yes" to the breeder; Japan is saying "Yes" to the breeder. West Germany is saying "Yes" to the breeder.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 5 additional minutes.)

Mr. WYDLER. The Soviet Union is making an all out effort to not only develop the breeder but put it into use and practice in their country. In the face of this we are being asked to go ahead and have a coal economy—or last week it was changed to a synthetic fuels economy. The President, who blinks at trying to demonstrate on a small scale the practicality of using a breeder reactor is asking this Nation to commit itself to an $88 billion commercialization synthetic fuels program. He wants to go all out in total commercialization of synthetic fuels, spend $88 billion for that, and blinks because maybe in this case we will have to spend a billion or two dollars to build a small demonstration project to prove the viability of the breeder reactor for commercial purposes. It is an insane type of policy that he is calling on for this House and this Committee to pass.

The committee this year, I would say, did a great job on the breeder reactor. The committee chairman, as we saw, was opposed to the continuation of the mittee vote was stronger for the breeder project in the committee, but the com- reactor program this year than it was last, and I think it is because they realize the realties of the situation that we face.

The General Accounting Office—and I do not ask the Members to take my word for this—has analyzed the administration arguments and found them totally wanting and has strongly suggested to the Congress that if we want a breeder program, we continue the Clinch River breeder reactor project. I hope that type of advice, coming from the source that it is, will be listened to very seriously by this House today.

☐ 1330

This is the argument that gets me the best of all, this project is dead because the President said so, and we should lie down and let it die. We should be parties to the murder. I say, let us not be a timid Congress. Let us say to the President we have the courage of our convictions, to say to him in this country: We are going to try to increase the supply of energy from our own sources in every way we can. We are going to test and try to demonstrate it and wherever we can help to make our country now and in the future independent of foreign sources of energy.

If you say that to yourself—and so many Members do say that to themselves—then I ask you how can you turn your back on one of the most realistic, proven potential sources of energy for the future of our Nation?

I just want to speak for a few minutes to the newer Members of this body who were not here in the last few years to give them a few minutes of the history of where we are today. This is not a fight brought about by the Congress, this is a fight insisted upon by the President of the United States.

Let us think how this project came into existence. Many years ago the President of the United States, a different President of the United States, asked American industry to join together with the Government in a project to develop a new source of energy, the breeder reactor. Industry said yes and joined with him. Today we have a President of the United States who suggests that industry join together with Government to develop another new source of energy, synthetic fuels. A very great parallel.

The breeder reactor project started, American industry involved itself and has invested $100 million in this project to date. The President supported the program, the Congress supported the program, the program moved forward.

So it did under Presidents Nixon and Ford. Then when President Carter came to office he submitted his first budget to our committee which reduced the spending for the Clinch River breeder reactor. It did not cut it out, it just reduced the spending a small amount to slow the project down. A few months later the President submited a new budget to our committee and asked us to, in effect, terminate this project. The reason he gave to the Congress and to the American people at that time was the danger of proliferation of the plutonium in the world's economy. That was the reason he gave when he first asked that the Clinch River breeder reactor be stopped.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. WYDLER was allowed to proceed for 3 additional minutes.)

Mr. WYDLER. That is a very inconsistent argument, of course, today because he is now proposing, if we can believe the gentleman from Florida, to build us a bigger and better breeder reactor.

Be that as it may, at that time he said the reason he wanted it stopped was to stop the danger of proliferation in the world. That argument fell flat on its face, mainly because all of the other countries of the world said they did not understand the argument, they were going to go ahead and develop their own breeder reactors.

Last year the President did not use that argument at all to the Congress of the United States. Instead he came in and he said to us, "The reason I don't want Clinch River, it is an uneconomical project to build." They tried to prove to us with dollars and cents it did not pay to build the project. The problem with that argument is the Clinch River breeder reactor project is not a commercial project, it is a demonstration plant. It is not supposed to come out on the bottom line. So that argument has been abandoned as well and we are down to the argument the gentleman from Florida made and I was with the President when he made that argument. His argument was, "If I were the President of France I would build the breeder reactor but I am the President of the United States and I don't think we need it. Our problems in energy are not as severe as the energy problems of France."

How many of us believe that? I think our energy problems are just as severe as the energy problems of France and we need to utilize every form of possible energy we can utilize in our Nation, and I certainly do not want to be second in this world to the French Government and I surely would not want to be second in this world to the Soviet Union in the development of new sources of energy.

All the arguments have been specious. The President wants to kill this project. The Congress can roll over and play dead if it wants to. It will be doing a serious disservice to the American people if it does so.

I ask the members of this committee and this House to stand up and be heard in favor of increased supplies of energy for the future of our country.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am honored to be a cosponsor of the Udall amendment. I believe that the issue before us at this time is not nuclear energy versus no nuclear energy, and it is not breeder versus no breeders. The issue is essentially whether we are going to move ahead now or very soon in the next year or two with a decision for the commercialization, the development on a commercial scale of breeder reactor technology. It is our position that that decision not only need not be made now, because we have time to make it. The time when breeder technology may become economically sensible, the experts have generally agreed, will be sometime after the turn of the century. It would be undesirable and wasteful to make that decision now, on the basis of the technology which is probably already obsolete if not obsolescent. Why go ahead with the development of a large-scale, expensive reactor with serious safety problems? Why go ahead with that now rather than pursue the more fundamental research and development activities which our amendment contemplates and which are included in the bill if you adopt the Udall-Bingham amendment?

We would still have the largest breeder R. & D. program in the world, assuming the adoption of the Udall-Bingham amendment. It would amount to some $350 million and because it stays at the R. & D. stage and does not move to the commercialization stage, that program is in a position to take advantage of such technological developments and improvements as are made throughout the world from time to time.

Let us just have a look at safety. Many people in this country are concerned about light-water reactors today, and with good reason after Three Mile Island. Do you know what the Clinch River type of breeder uses for a coolant? It uses sodium for a coolant. Do you recall from your elementary chemistry days what it was like to handle sodium? Sodium was something you could not permit to have any contact with air or with water, or you were in serious trouble.

There are other aspects of the Clinch River-type of design that are dangerous. It is capable of producing an explosion that could rupture the containment. That is not true of your light-water reactor, but a breeder reactor of that type is so capable. That is another reason to defer the decision on the type of breeder reactor with which we are going ahead.

I would like to take just a little time to quote from a letter which you all have, which you probably have not had a chance to read, from the National Taxpayers' Union. This is an organization I must say I have not always agreed with but in this case I think they are on target. They urge you as representatives to vote for the Udall-Bingham amendment. The Udall-Bingham amendment, it points out, would leave us with the largest breeder R. & D. program in the world, and at the same time avoid wasteful spending—up to $200 million—on premature, Clinch River—related oriented breeder fuels and components. This would be in addition to saving $184 million by putting an end to the Clinch River project itself.

The letter says:

> One of Congress' present highest priorities is the development of an adequate energy program for the future. However, in attempting pursue this goal one should not throw all common sense and fiscal rationality to the wind. Because of cost and technical reasons the Clinch River Breeder Reactor is simply no longer needed. We cannot afford to allow panic over energy to force us into a needless and wasteful expenditure on this outmoded and technically obsolete demonstration projects.

And going on with what the National Taxpayers' Union has to say:

> Taxpayers' dollars can also be saved by cutting the overall LMFBR R&D program by $200 million. This cut in the breeder program would not jeopardize the solution to long term energy programs nor would it delay the commercialization of the breeder. In fact, according to estimates the decision on the commercialization of the breeder can be deferred until the first quarter of the 21st century.

☐ 1340

That is the National Taxpayers Union talking.

Now, what that would do is open up for use toward other much more necessary energy programs, such as those we have been talking about in this Congress, somewhere in the neighborhood of $300-plus million that we can save.

This, Members of the Committee, is a good economy vote.

I urge support for the Udall-Bingham amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my remarks will start off as one of our colleagues had already stated, that we have visited the Clinch River breeder reactor issue many times before. The pros and cons are well known. The proliferation risks, enormous costs, environmental concerns, and safety problems with this project have been outlined in detail, and I do not think it is necessary to discuss these problems in detail again.

I believe that the Committee on Science and Technology has made a tactical error in not terminating this project. The need to get an authorization bill enacted into law is even more pressing than ever. On numerous occasions, the President has stated his intent to veto an authorization bill that contained funding for Clinch River, and has instead offered a compromise to strengthen the breeder base research and development program. This compromise will provide for a stronger breeder program, which will, in fact, enhance the program by allowing for a more rational design. The fact that an authorization was not passed into law last year is clear evidence of what will happen again this year if we continue to insist on authorizing Clinch River.

Mr. Chairman, Clinch River was originally authorized in 1971 as a crash project in response to our diminishing supply of uranium. Utilities, however, have encountered numerous licensing difficulties for new nuclear plants, causing the cancellation of many of these plants, resulting in a corresponding reduction in the use of uranium. Preliminary reports from the NURE program have indicated that our domestic uranium resources are larger than we originally thought. It is generally agreed that estimates of uranium reserves have almost doubled in the last 9 years. We have learned today that we have a 50-year supply of uranium for 240 nuclear plants. Thus, the original breeder demonstration schedule no longer makes economic or technical sense. The Clinch River project is now an anachronism and should be treated as such.

We have heard and will hear repeatedly during this debate that the United States needs a breeder program; that other countries are far ahead of us; and that we are headed for a second-rate position in breeder technology.

Mr. Chairman, the fact is that funding Clinch River does not address any of these valid concerns. Dependence on foreign breeders is not the issue before us. Breeders themselves are but one option among the so-called inexhaustibles.

Clinch River's 10-year-old design is already obsolete. The U.S. position in this technology will be better served through a sensible R & D. program, rather than funding a program that is already out of date.

Let me repeat—construction of Clinch River will not move us to the forefront of breeder technology. Rather, it will merely demonstrate our capacity to build a Model T breeder.

We have the alternatives before us to maintain a strong breeder program. The Fuqua-Brown amendment contemplates a larger breeder plant design study. It will focus on more promising breeder technologies than that technology to be employed at Clinch River.

We have nothing to fear from foreign competition. We are outspending all European nations together on breeder R. & D. Certainly, this is true if we enlist our technological genius in a new design study to consider different breeder technologies and alternate fuel cycles.

After 9 years, ground has not been broken on Clinch River, and we have no right to expect ground to be broken while Jimmy Carter remains our President, be it 2 years or 6 years, and restarting the licensing will take even more time. We clearly continue to be in a no-win situation. We cannot afford to wait any longer to cut our losses. Those who believe a balanced energy program should include the breeder, will serve their conviction and their view of the national interest by joining in the new direction promised in the Fuqua-Brown amendment.

Mr. Chairman, let us face the energy future, stop living in the past, and push ahead with an aggressive energy research package that the President can live with.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I want to compliment, of course, the distinguished chairman of my Committee on Science and Technology and certainly my good friend and distinguished chairman of our Committee on the Interior, the gentleman from Arizona (Mr. UDALL) and the gentleman from Florida (Mr. FUQUA) and, of course, the ranking minority member (Mr. WYDLER) of the Committee on Science and Technology.

We have listened for 6 months, and I usually get to the floor and I am filled with fire and brimstone because I do not like to speak about things that I do not know something about and I do not like to speak about things that I do not really believe in one way or the other; but I also have a sense of humor that I would like to share with the House.

We started out this momentous debate on the point of view that we were serving a funeral mass. I think if we are going to have a funeral mass, then what we ought to be doing is putting on our black coats and ties and we ought to be joining here together and we ought to invite our brethren who are watching us today from the heights of their castles in the air and looking at the television and they follow the debate, and I say that with the greatest of respect, because we are really having a funeral mass. Both of our distinguished chairmen and my dearest friends came up and said, "It's dead, it's dead. Let's bury it."

Well, I do not think it is dead. I do not think it is dead any more than any other piece of the programing for energy development of this Nation.

Now, we sat here for 6 months. I have fought on the side, arm in arm, with the chairman of the Committee on the Interior and arm in arm with the chairman of the Committee on Science and Technology; but think with me a minute. Review with me a minute what we have done. "What hath thou wrought?"

Every single energy issue that has come before this House from January to now, whether it had to do with oil shale, tar sands, hydroelectric power generation, nuclear generation, there have been vast coalitions that have been opposed.

What new energy have we put into place in the last 6 months or the last 4 years or anything in production to provide 1 new ounce, 1 kilowatt of energy for the Nation?

☐ 1350

I say to the Members, "You answer that." What have we put into place? Nothing; and the Nation comes and looks at this debate, and the people say, "What will we do?"

Now we hear the taxpayers' groups that come out, and we are asked, "Why should we panic over energy?" I say, "Great Scott, don't panic over energy?"

All right, except for the point of view that in my State and in other States people are not only burning up internally themselves with anger and distrust and perhaps misjudgment, but they are waiting in those gas lines and they cannot even get their much needed fuel supply.

Why should we panic over energy? Why do we not just turn the temperature up to 90 degrees in here and maybe we can smoke out some energy decision in all our buildings?

The people are panicked over energy. The Nation is panicked over energy and rightfully so.

Do we concur in this point of view that if our Saudi Arabian friends or the people in Iran or any of the OPEC nations cut off our oil supply, we are in trouble? Nigeria announced this morning maybe they will cut back on production. What would it mean to the United States? What would it mean to those gas lines and the energy needs of our people?

We can forget the gas lines. What would it mean to the productivity of goods and services in the United States? So many people think of gasoline as being the problem of energy. That is not the only issue.

The fundamental, basic issue in the Nation with inflation and the fundamental basic issue in the Nation with the energy situation is that we cannot increase the cost of energy by 500, 600, or 700 percent in a matter of 5 years and not have an enormous impact upon the cost of production of goods because energy is production. And those people who are concerned about the United States becoming second rate because we do not control our energy supply for production are most real in what they are speaking of.

Mr. Chairman, we come back and we talk further in some of this debate and we are saying, "You know, this is what the experts say." Let me tell the Members what an expert is. I will ask the Members how many experts testify before their committees and before my committee?

The opposition goes and gets one set of experts, and they become the experts in their field and they are the soothsayers with the tablets coming down from the mountain top. Then those of us who disagree hire the economists and the experts on the other side, and they wrangle before the committee.

But what have the experts done to us? Those very same experts who have testified time and time again are the know-it-alls who never have had the responsibility of running for office or of having people come out and support what they believe in or of staying on one side of an issue. Many of these experts are for sale. It depends on how much money they are paid to appear and testify before respective committees. They are not lobbyists; they are experts.

Oh, yes, we are told the experts have said we do not need nuclear energy, we do not need the breeder reactor, that we can wait until the year 2000.

The CHAIRMAN pro tempore (Mr. NATCHER). The time of the gentleman from New Jersey (Mr. ROE) has expired.

(By unanimous consent, Mr. ROE was allowed to proceed for 3 additional minutes.)

Mr. ROE. So, Mr. Chairman, the experts come aboard. They have now testified again, and we debate this issue today, and the experts say to us, "You know, what Mrs. BOUQUARD said, you are all wrong." The others say, "You know what Mr. UDALL said. You don't know the facts." The experts disagree.

Mr. Chairman, I know Members want me to yield, but let me finish my dissertation, and then perhaps I will give up some of my time.

Mr. Chairman, one of my good friends, my delightful friend, said that we really do not have to cross that bridge until the year 2000. But there is also a bridge we have to cross known as the "Rubicon." It is an "economic Rubicon," and any time we falter and fall apart in developing the technical expertise and endanger the freedom of this nation and the knowledge of this nation technologically, we are continuing to depend on the rest of the world. Must we look to them for breeder knowledge, or must we develop it here?

We are not talking about commercializing the breeder reactor. That is nonsense. It is not obsolete. Nothing is obsolete that has not yet been born.

People will tell us there will be plenty of time. We have already waited too long in America. They say that there will be plenty of time to develop new technology. I say that we will go to hell in a handbasket, and the people will throw this Congress out unless that decision is made now.

That is what the issue is about. We cannot turn out our ideas, our dimensions, and our technologies. We do not have the vehicles to do it.

We spent a billion dollars on this program. Do we have the right to throw it down the drain and say that we will develop something else in the next 10 or 15 years? This is not an issue of Democrats versus Republicans or the President versus the Congress. We have in place in our hands the technology of the breeder reactors which is crucial to the energy supply of this Nation.

What will our answer be to our constituents when we come back if they come to us and say, "Well, they cut off our oil supply."

Who is going to answer for that in the fall on the heating oil supply that we may not have? One oil supply disruption can happen in the world, and where are we then?

We are going to study and debate and study and debate some more, but, God, let us get on with it. This is one thing we have in our hands. It is the high technology of the breeder reactor, not the vehicle but the technology itself to place into focus the program and move ahead with it.

Mr. Chairman, this does not mean that the fierceness of my response is one of lack of respect and decency and honesty to every Member in this room, but I must point out that there is always a great challenge in life. We hear it said that "the operation was a success, but the patient died." Or we hear, "if I had only made the decision when the decision had to be made."

Or how about the fact of this statement: "More mistakes are made from the lack of facts than from poor judgment."

Here we sit with technological information ready to go ahead, ready to start. We fought this issue for 5 or 6 years. This is not a debate on technology; it is a debate on the future economic policy and sovereignty of this Nation.

Mr. Chairman, to let this get away from us now would be one of the greatest travesties of justice I can imagine.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me say to my fellow colleagues what brings me to the well is to clarify some points that were brought up by the gentlewoman from Tennessee (Mrs. BOUQUARD) and the chairman of the Committee on Interior and Insular Affairs concerning the lands which are not available for the production of the very important uranium that exists within the State of Alaska.

My good chairman and I have discussed this many times before—and I refer to the gentleman from Arizona (Mr. UDALL)—concerning the whereabouts of the known mineral resources within my State. In fact, contrary to his statement, one of the largest, if not the largest, single uranium finds in the United States is within one of the monuments designated by the President of the United States. I think that should be made clear. It is a valid existing right. It is there, but it will not be able to be mined because of its classification by the President of the United States.

I would also like to remind the Members—and I say this respectfully because on the floor of the House I have a great deal of respect for other people's beliefs—that the people who are promoting this amendment, this amendment that would kill a project that this Nation does need, are the same people who also spoke so reverently about locking my great State up.

I could not agree more with the gentleman who spoke just previously from the well. This Congress must act on the production of all facets of energy, including the breeder reactor, including the dams that must be built, including the wells that must be drilled, including the coal that must be mined, and yes, including geothermal and solar and all the other sources of energy. But, as the gentleman just said previously, this Congress in 8 years' time and certainly during the time I have served here has not passed but one piece of legislation that has produced 1 Btu. We did that because of an environmental lawsuit against the Alaska pipeline. We had to have a special act of Congress to override the special interest groups that have brought this great Nation of ours to a grinding halt under the guise of clean air and clear water and all of those good things that we hold dear to our hearts. But in the meantime not one new refinery has been built, not one new dam has been built, no oil of any significant value has been found, and the coal mines are below the level they were before World War II.

That, I say to my good friends, is what is wrong with this Nation today. Yet I hear someone tell me that we do not need all these different facets of energy, that we can wait. We can wait, but still we are sending $75 billion abroad to buy oil from the foreign countries.

I listened to the President who attacked the oil companies last night and placed the blame on their shoulders. Let me tell the Members where the blame lies. It lies upon our shoulders because we have responded to a special interest group, a group that is really the zero growthers, the nonexpansionists, this diverse group that says we cannot allow a man to reach his zenith.

And let me say to the Members that if we listen to them and do as they say, I hope the people will throw us all out because we do not deserve to represent this great Nation, we do not deserve to be here to put our people coming in future generations at the total mercy of those countries in the world that have really made us dope addicts. We depend upon energy.

So, Mr. Chairman, I say to the Members that to take away whatever facet we have to produce that energy is wrong. I urge the Members to consider carefully not only this amendment and defeat it, but, when we get to this floor in future months, as we must, to quit responding to that group that says, "no, no, no," and to this administration and the people who have surrounded the President and have given him ill advice. Let us get on with our act of producing energy.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I thank the gentleman for yielding.

The point the gentleman makes is, I think, extremely significant, and every Member of the Committee should understand this.

☐ 1400

The administration's argument this year is that we have a plentiful supply of uranium to continue to build and supply light water reactors for many years to come and, therefore, the conclusion is that we do not have to go ahead with the breeder. But they are assuming that every ounce of uranium can be used. And that means, at the gentleman is pointing out, we have to go into the monument areas of Alaska and mine the uranium, we have to go into the other national parks of our country and mine the uranium, we have to go into every community where it exists and mine it all, so that we could continue to run our light water reactor plants. I do not think that is a choice that the American people would like to make when, instead of that, we could take the used fuel, which today we do not know what to do with, and turn it into fuel to run a breeder reactor. We could take our spent fuel—it is not waste, but many people think it is waste—and turn it into a natural resource.

Mr. YOUNG of Alaska. I agree with the gentleman.

Mr. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I cannot believe that we are hearing these arguments with regard to energy. Every Member in this room—every Member in this room—has gone home time and time again and told the people at home, "I am doing my level best to produce the energy that this Nation so sorely needs." And yet here we are, saying that there is a quality to the energy that the United States needs. One is good quality, if it is produced a certain way, apparently if it comes from the oil out of OPEC nations, but if it could come from another source, we ought to consider that source, because that alone somehow makes a difference in the needs of this Nation with regard to its energy needs. And, frankly, I cannot believe that we are engaged in this kind of a discussion.

I have in the past had my doubts about this reactor, as some of the Members here know, and I am in no way the expert that some of the Members in this room really are, and I have never pretended to be; but I will tell the Members one thing—I did agree with the President when he spoke just a few short days ago, when he said that we must solve the energy problem.

Here is a potential of another solution. Let us assume—which I do not believe—but let us assume that it will not work. I do not think that is the case. Even if it would not work, it is still worth the money to go forward, it is worth the effort to go forward, to try to achieve a solution to the problems of energy in the United States today.

Also all those Members who are experts in this room today pro or con know that this process will indeed work. When you walk right over there to that door and flick the switch, when electrical energy comes through those lines and the lights go on, I doubt seriously that there is a man or woman in this Chamber who can tell you the origination of that power. Or, for that matter of fact, care a great deal.

Do the Members know what we spent so far? A little over $700 million.

Now let us talk about what it will cost to shut it down. It will cost, roughly, a quarter of a billion dollars, $250 million. This is nonsensical at a time when we are faced with problems in our economic world, it is nonsensical at a time when energy is of the utmost importance to this country, because Clinch River breeder reactor represents a solution. The abundance of energy represents a solution to many of our economic problems.

I cannot believe the insanity that we go forward with around here at times.

I am not asking for something that is unreasonable. I am asking for energy. And the American public is asking for energy. At this point I really beg of you, I truly beg of you, would you just reconsider what it is you are really doing here. Are you producing the energy that this Nation needs, or are you somehow involved in some emotional process? Maybe your egos are on the line. I honestly do not know what it is. All I know is, I told the people who elected me that I would do my best, my level best, to find the energy that is so important for this country to go forward—and by God, I am going to do it.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, I do not know whether the gentleman from Alaska (Mr. YOUNG) is still in the Chamber.

Mr. YOUNG of Alaska. I am here.

Mr. SEIBERLING. I wonder if the gentleman can enlighten us as to where is this great uranium find he was referring to.

Mr. YOUNG of Alaska. If the gentleman will yield, it is north of Fairbanks. In fact, if the gentleman wants the specific location, it is north of Fairbanks, in the middle of the Yukon monument location. And when you pass the bill you cannot mine in a monument that is a refuge.

Mr. SEIBERLING. I thought that was what the gentleman was referring to. It is in the White Mountains area.

Mr. YOUNG of Alaska. It is beyond the White Mountains, farther north than the White Mountains.

Mr. SEIBERLING. The boundaries of the monument and the boundaries of the national wildlife refuge monument in the bill that passed the House are both drawn so as to exclude the great, vast bulk of the uranium finds in the White Mountains area. I just finished rechecking that point with the staff of the subcommittee. There is absolutely no question to it. I think it is important to set the record straight. We have taken great pains in the drawing of the national monuments in Alaska to exclude areas of high mineralization, as the gentleman knows.

Mr. YOUNG of Alaska. We have discussed this before, and I do not want to use up the time of the gentleman from California (Mr. BROWN). The boundaries may be outside of it, but you cannot cross the monuments. There is no way you can mine that mine. As I said before, you can have land on the Moon with uranium, but if you cannot get to it you cannot use it. I do not want to use up the time of the gentleman from California, but I will say to my good friend, the gentleman from Ohio, that we have discussed this back and forth and back and forth. All I know is this: If the gentleman is truly sincere in this, when this bill finally comes back to the floor there will not be any question in anybody's mind, including mine, that this mine can be mined for the needs of this Nation.

Mr. SEIBERLING. I am glad to hear such assurances from the gentleman, but let me say that the matter is already accomplished, as the House knows, having debated it at great length. There is full access guaranteed to all mineral claims within or without the national monuments in Alaska.

Mr. Chairman, if the gentleman will yield for just one other point which I think is important, there is more than enough uranium outside any national parks, outside any wilderness areas, to take care of the needs of this country far beyond the end of this century.

The gentleman from Arizona is absolutely right. We do not need to cross that bridge for a long, long time to come.

Mr. BROWN of California. Mr. Chairman, I appreciate the contribution that both Members have made on my time.

Mr. Chairman, I have a great deal of difficulty in getting emotional about this subject, having been through this argument so many times in the past. In fact, I have some difficulty in even developing the motivation to impose upon the time of the House to discuss it further. But I think it is important that we try to have a balanced discussion between the proponents and opponents of the Clinch River breeder reactor.

I began my relationship with the Clinch River breeder as a supporter. I served on the Joint Committee on Atomic Energy during a brief period of time when the Clinch River project was within that jurisdiction, and since then, on the Science and Technology Committee. I have been persuaded by the facts, what I consider to be the facts, that it is not timely to go forward with the Clinch River project, but that it is important that we maintain a strong breeder research and development program and include in that program the preliminary design work on the next generation of breeders and on alternative methods of breeder design and operation.

This position has led me to join with my distinguished colleague who spoke so eloquently on this matter, the gentleman from Florida (Mr. FUQUA), chairman of the Committee on Science and Technology, in offering the amendment which he has presented. I cannot at this time go so far as to support the amendment offered by the gentleman from Arizona and by the gentleman from New York, the Udall-Bingham amendment, although I recognize that this amendment does reflect a growing sentiment within the Nation, a growing sentiment that is antagonistic to further development of any nuclear programs, at least until we can demonstrate that we have solved the problems of the light water reactor technology which we have in place in his country.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

□ 1410

Mr. BROWN of California. Mr. Chairman, I do not think that the majority of the House is ready to support the Udall-Bingham amendment, but I hope that a majority will recognize the wisdom of supporting what I feel is the sensible and moderate position represented by the Fuqua-Brown amendment.

I think we have to have a nuclear program. I think we have to have a breeder program. The two are inseparable. You cannot have a permanent nuclear program without breeders.

All of those who have studied the situation even to a slight degree, agree on this. But I do not think that it is necessary to deploy for commercial demonstration purposes a breeder reactor at the present time. We have 30 years' experience with breeders. We have built breeders since the early fifties. We have built experimental breeders.

At one point, as I think most of you know, the utility industry thought they were ready to proceed with breeders without further Government help. They built the Fermi plant in Detroit.

That plant proved to be a failure. It had a partial core melt down during the process of testing after it was completed, and it was never put into service.

In fact, that is the reason for the Government in effect mounting a rescue operation for the utility industry by going into the Clinch River reactor program.

We would take over where the private utility industry failed, and we would build, primarily at the taxpayers expense, the next generation of breeders. Well, at that time we thought it was necessary. The evidence today is that it is not necessary.

What we are doing today in this House, as the debate amply demonstrates is that which the House does so well. We are going to gallop full speed ahead to solve an energy problem which does not exist. We are going to "fix" something that needs no fixing.

We all want to solve the energy problem, but the energy problem is not a shortage of electricity now or in the foreseeable future. Our energy problem is a shortage of liquid fuel, largely for transportation purposes. Only a small percentage of oil is used to generate electricity, and by the time and breeder technology can be deployed, it will be far less than it is today.

This shortage of oil is where our present energy crisis is. It will not be solved by generating breeder electricity. All available studies now indicate that we have ample resources of uranium and coal to meet our electrical generating needs until well into the next century.

Mr. RITTER. Mr. Chairman, will the gentleman yield ?

Mr. BROWN of California. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I would like to point out to my distinguished subcommittee chairman and to my colleagues in the House that the electricity generated in this country is composed of, some 17 percent, of about 600 million barrels of oil a year and that any electricity that is not generated by one of these other technologies or the coal that is not coming out of the ground must be made up for. Unless the lights are going to go out, that electricity or brand new forms of storage are developed, it must be generated by imported Middle Eastern oil, which is exactly what we are doing today.

Many regions all over the country are definitely dependent on Middle Eastern oil or OPEC oil that is coming in this country at vast and strangulation prices.

I thank the gentleman.

Mr. BROWN of California. I thank the gentleman for his contribution. His facts on the current situation are correct. We still today generate a small portion of our electricity from oil. We will not, by the time this Clinch River plant is on line or any future breeder technology, be doing that, which is the basis for my statement that the Clinch River breeder will not replace any oil, and it is oil that we are short of. It is oil that we have to have today.

If we go back to our constituents and tell them we have solved the energy problem by voting for Clinch River, if they know anything, they are going to laugh in our face.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Why do we set the temperature in this room at 78 degrees, and we are advised all over the country that public buildings set them at that, and set them back to 65 in the winter if there is no oil shortage? Why are we concerned about electrical energy then?

Mr. BROWN of California. I expect that it may be that it is good for your soul to suffer, more than anything else.

Let me make one or two other points as long as I have taken the liberty of usurping the time of the House in this fashion.

There are several other points that need to be made about this program.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. The GAO report has been referred to, and the GAO does support a continuation of the Clinch River project, but the report is worth reading, because it makes a number of points which should be made.

It says, for example, because of the uncertainties inherent in forecasting electrical demand rates, it is difficult to predict when commercial liquid metal fast breeder reactors will be needed.

This is true. We thought they would be needed in the eighties when this program was originally planned. Today, it is inconceivable that they will be needed before the year 2000, probably closer to 2020. The GAO report recognizes this.

It also says, for those of you who are wondering about the cost, that it will cost the Federal Government between $1.3 billion and $1.5 billion more to build the Clinch River breeder plant, than to scrap it. If you can save up to $1.5 billion by terminating a project which has no economic justification you are going to have a difficult time explaining to your constituents why you went ahead and wasted that extra $1½ billion.

The point has been made that the other nations are going ahead with these programs. Yes, some of them are. But not nearly as fast as you might think.

For example, the statement in the GAO report says that Britain is going ahead with the construction of a program. The fact is Britain is not going ahead. They are in a holding pattern right now. They have not selected a site. They do not have an approved site for their next generation of breeders. They will not even begin construction until they select such a site, and go through a lengthy public hearing process. It is indefinite at the present time as to when they are going to do that.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

The CHAIRMAN. The time of the gentleman from California (Mr. Brown) has again expired.

(At the request of Mr. McCormack and by unanimous consent, Mr. Brown of California was allowed to proceed for 30 additional seconds.)

Mr. McCORMACK. What the gentleman is talking about with respect to Great Britain is the British decision to proceed with a 1,000- to 1,200-megawatt commercial breeder plant. The fact is the British have had their equivalent to Clinch River, their breeder of the same size, in operation since 1973.

If we get ours on the line by 1987, which is the nearest estimate if we start now, we would only be 14 years behind the British.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. The status of the United Kingdom program is that no decision on future commercial breeder plants will be made until a public inquiry on that subject is concluded, and that public inquiry has not even begun. The gentleman is right. They have a plant of the size the gentleman indicated. I might say that the gentleman has in his own district a fairly good-sized breeder plant. We call it a fast-flux test facility, but it is a moderate-sized breeder reactor incomplete only to the extent it is not intended to supply power in a power network, but it is a breeder reactor.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. I am sorry to again rise to correct a point. The fast-flux test facility has no breeding blanket. It is a test bed only. It is one-third the size of the Clinch River plant, and of course, about one-tenth the size of a commercial plant.

Mr. BROWN of California. The point that I would like to make in conclusion is the point that I have already emphasized. We want to solve an energy problem. We want to do it in a timely, cost-effective way. Clinch River is not the way to do it.

The continuation of a sound, properly directed, research and development program as contemplated by the administration and as contained in the Fuqua-Brown amendment is the proper course to follow at the present time.

To do otherwise would be to seek to solve the wrong problem in the wrong way and at the wrong time and at a cost which cannot be justified.

I ask my colleagues to vote yes on the Fuqua-Brown amendment.

□ 1420

Mr. WEAVER. Mr. Chairman, I move to strike the last word and I rise in support of the Udall substitute amendment.

Mr. Chairman, several distinguished speakers have discussed the economics of energy and of the nuclear system, and I would like to address that subject.

We seem to be perplexed in this Nation as to why we have such things as inflation and recession at the same time. We do not seem to know what is wrong with our economy.

Actually, the answer is a rather simple one. The gentleman from New Jersey mentioned it. The fact is that energy costs in this Nation, and I am talking about almost all new forms of energy, from imported oil to nuclear energy, have increased as if they were on skyrockets. They have not increased over old forms of energy 10 and 20 percent, they have increased fourfold, sixfold, eightfold, all in the last few years. This has sent enormous shock waves throughout our economy, adding to the price of almost everything we use and everything we buy. Therefore, the Consumer Price Index has gone up at rates of 10, 12, and 14 percent a year.

Inflation, however, is the increased amount of money in the economy. What has happened is as the sharply increased costs of energy have occurred, the Government, we, have, through deficit spending and other devices, put the money out into the marketplace into the hands of people in order to cover the costs of this increased energy. Otherwise we say we would go into recession so, therefore, we have deficits and we increase the money supply causing inflation. The money has been increased to cover the cost of this increased energy.

Today we have a weak dollar and are slipping into recession at a time of staggeringly high inflation. Our Government's response is not to deal with the real problem, which is the high cost of energy. Instead, they deal with the symptoms. They have just raised interest rates once again to protect the dollar, and they are buying dollars on the foreign currency markets in order to keep the dollar from falling further. These are both highly detrimental to our economy. They will mean that the recession we are going into will be deeper, and longer and more dangerous.

There is an answer. The answer is obvious. The answer is clear. Our people today are continuing to live as if oil were $2 a barrel, not $20. Our people are continuing to live as if electricity were still 5 or 10 mills a kilowatt hour instead of 60, 80, and 100 mills a kilowatt hour. That is the reason we have turned down the lights and that is the reason that we must not squander energy in this Nation any more as we have done in the past when oil was $2 a barrel and electricity was 5 mills a kilowatt hour. We can no longer afford that.

The single most inflationary way to meet the energy problem today would be, of course, new production, because new production is extraordinarily more expensive than what we have today. Synfuels will cost probably twice as much as foreign oil. The fast breeder reactor will be so expensive, as we have already heard testimony, that people could not even afford to buy the electricity produced by the fast breeder reactor today, even with today's high energy costs.

There is one simple answer and that is addressed by the Udall-Bingham substitute amendment today, and that is do not go into these extremely inflationary new energy forms today, but to conserve what we do use.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 2 additional minutes.)

Mr. WEAVER. The breeder we all know is 25 or more years away. Nuclear plants take 10 years to build. But conservation can be implemented today, tomorrow, within 6 months, and it can cure our economic problems, the problem of inflation and recession at the same time. It is conservation which is the cheapest, safest and most immediate form of energy. We do not need to change our lifestyle. Both Dr. Schlesinger and the new book "Future Power" says we can cut down 30 percent of our use of energy in this country today, and they outline the details of how to do it without changing our lifestyle in any way. As a matter of fact, we would live better lives, cleaner lives, more disciplined lives and we would be a stronger Nation, and less dependent, of course, on foreign oil.

Just to conclude, I simply would say that that is the answer, the Udall-Bingham substitute amendment is the answer to really solve the real problems of this Nation. And if we do not, if we do not we are going into a depression. I am serious, we are going into a depression that will make the 1930's look like a pink tea party.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I think that the points made by the gentleman from Oregon are the most telling in this debate.

What we are about to do now is pour extra hundreds of millions of dollars into a technology which the recent Harvard Business School Energy Report indicates, contrary to widespread impression, "Even the world's most technically advanced breeder reactor development program (in France) is decades away from making any significant addition to that country's nuclear power supply." Today we have the opportunity of taking those extra hundreds of millions of dollars and not pouring them down a rathole into this technology. The breeder program is a bridge to our energy future that we do not have to cross until at least the year 2000. Let us cut through the haze and realize that we are speaking of long-term energy solutions, and that anything we discuss today will mean nothing for the short-term energy crisis of gasoline lines and shortages of oil. We need a coherent, intelligent productive, and safe energy system in the next century and today as well. The amendment offered by the gentleman from Arizona and the gentleman from New York would do so.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

(At the request of Mr. MARKEY and by unanimous consent, Mr. WEAVER was allowed to proceed for 30 additional seconds.)

Mr. MARKEY. Will the gentleman continue to yield?

Mr. WEAVER. I yield to the gentleman.

Mr. MARKEY. All we are saying is that when we must make that decision we do not want this bridge to be littered with white elephants like Clinch River or other near-term commercial breeder technologies that make it impossible for us. We would be far wiser today if instead we were voting to increase programs for energy efficiency and energy productivity, which do not receive the incentives and subsidies that the fast breeder reactor has traditionally received. So I thank the gentleman for yielding.

Mr. STOCKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an old debate, and unfortunately it gets less, rather than more, enlightening as time goes on.

But I would like to ask that today, just for a moment, we step down off this plane of vague rhetoric and sweeping ideological assertions about energy, and that we desist for a moment at least in the implication that support for the Clinch River breeder project is a test of our energy manhood.

I support the Fuqua amendment for one simple reason. It is simply too early to commercialize breeder reactors and the breeder technology. I would suggest to my colleagues that they can support that position, the Fuqua amendment, without fear of being antiproduction or antienergy.

I happen to think that my proproduction credentials are about as good as anybody else's. If I had my way, I would decontrol oil now, I would decontrol natural gas now, and I would start digging for coal anywhere around this country Mr. Udall would allow me to dig.

We do not have to worry if we support this amendment about being accused of being antinuclear. I happen to support careful development of nuclear power. And I have two plants in my district.

I took some satisfaction a couple of weeks ago when in committee we had a moratorium amendment, and I was able to help defeat that amendment.

☐ 1430

I think what we have to recognize is, despite the severity of the energy problem we have in this country, we are not going to solve it by throwing globs of money at any project or any idea that comes down the pike.

I think we have to recognize that the problem is not entirely to maximize production, but it is equally important to minimize the cost of additional energy supplies we get in the future. I would like to suggest to the House today that we are not dealing with energy in the abstract; we are not dealing with energy independence; we are not dealing with gasoline lines or liquid fuel operations. We are talking about one simple question; that is, in the next two decades do we have the resources and technology online presently to produce the electrical power we are likely to need without commercializing the breeder in the nineties. I would suggest that we clearly have it in the form of coal and other technology, and we ought to get moving.

I think we need to recognize that this annual debate we have on Clinch River is simply a rear guard effort to keep a project alive that was conceived before 1973, and we have to recognize finally, after 6 years, that the energy world has changed entirely and completely; indeed, has been revolutionized, since 1973 when this whole project and this whole commercialization time schedule was designed. In fact, the insistence on building the Clinch River project or retaining that old commercialization time schedule reminds me of the flat Earth folks' insistence that Columbus was wrong.

There are three major things that have changed radically since the 1969–73 period when this time schedule and this project was designed. First, the rate of growth in electricity demand, and therefore all forecasts or projections for the year 2000, have collapsed, utterly collapsed. This project was based on the scenario of 7-percent growth annually in electrical demand. The fact is, it is growing at less than half that today, and the growth rate is likely to decline even further.

So therefore, instead of talking about the year 2000 in terms of 2,000 gigawatts of electrical demand, in terms of 1,000 gigwatts of nuclear capacity, today as we look ahead to the year 2000 we are talking about 800 to 1,000 gigawatts, half the electrical power. If we are talking about half of that from nuclear—and I do not see that given the regulatory crisis and the climate we have today—the fact is that we have more than enough uranium resources today in this country and around the world to support 2,000 gigawatts of nuclear capacity. If we do not start changing the regulatory process, we are not going to reach that at this rate. And new orders, in the last 36 months have been practically zero.

The second thing is a static thing. In 1970, the projected total rose 1.4 million tons. Today it has increased threefold, to 4.3 million tons. The fact is that when we hear this 2.4 million figure, that is the proven inventory. It is like saying that when you run a candy store, when you run out of candy on the shelves there will never be anymore candy.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. Stockman was allowed to proceed for 3 additional minutes.)

Mr. STOCKMAN. The second thing we have to remember about the uranium supply is that the technological possibilities have improved, the efficiency of the enrichment process, and therefore our yield of nuclear fuels is increasing and will improve as we move toward the year 2000.

The third fact is that they are discovering large amounts of new uranium around the world, as was indicated by the Canadian discovery last year and renewed activity in Australia. As a matter of fact, it would be well worthwhile for Members of the House to pick up a copy of today's Wall Street Journal, where they will find that the market is predicting a collapse of the $40 uranium price because demand is continuing to erode and supply prospects improve.

The third thing that has changed is, simply and unfortunately, that the nuclear climate in this country has soured. That means that if we are to move from the current generation of technology we have proven, and hopefully we can license, into a totally new generation technology, by the time we get a licensable commercial breeder the costs are going to have escalated so violently that they will be well beyond the range anybody imagined in 1973 or in 1970.

That brings us to the bottom line. We are switching the technology of the relatively low-priced uranium, due to the fact that the demand was lower than was projected and the supply is likely to be better, and we are going to face, on the other hand, excessively high and uncertain costs for the advanced new technology embodied in this generation of breeders.

I suggest, therefore, that it is simply premature to move toward commercialization at this time. Let me conclude by saying that if one is a member of the pro-production group do not be intimidated by all this fierce rhetoric we have heard here today. Do not vote to waste $1.5 billion on a commercialization program.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I just wanted to associate myself with the gentleman's remarks relating to the Clinch River breeder reactor. It seems to me he very effectively exposed three of the myths which surround the construction of the Clinch River reactor.

First, he talked about the energy manhood argument; if the Europeans are doing it, if the British are doing it, if the French are doing it, therefore we should do it. That is like saying that if they continue to use sail for vessels, that we should continue to use sail. That is myth No. 1.

The second relates to demand for electricity. The gentleman's figures, which Members should look at carefully, he is absolutely correct in saying that the situation has changed remarkably. We do not have that demand for electricity unless by building the breeder we are going to back out of oil.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. Wirth and by unanimous consent, Mr. Stockman was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. The first myth is the energy manhood myth. The second myth is the demand for electricity myth. The third is the uranium myth. As the gentleman correctly points out, we now have very significant supplies of uranium. As the price has gone up in the Rocky Mountain area, we are in the process of mining the tailings, and doing so at a profit.

Mr. STOCKMAN. I think that is a good argument. One of the reasons this is happening is that we do not have price controls on uranium. If we want to really get the breeder built, put price controls on uranium and we will have a supply shortage.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would just like to make one point. The gentleman is entitled to his point of view. However, the gentleman talked about the Clinch River breeder reactor as being a commercialization project. I think the gentleman's assumption, if I can suggest it to him, is all wrong. The Clinch River breeder reactor is not a commercialization project. It is a demonstration project which is trying to help us to find out whether we should in fact try to commercialize a breeder reactor.

We are trying to learn whether this very important step is bad or whether we should go to commercialization. In fact, the gentleman may be right; it may be that when we build it and test it and find out what the problems are, what the commercial aspects are, we will find out that it is not a sensible policy. So, it is not a commercialization project. We had this argument 2 years ago. I thought that was done with by then. We were thinking of tomorrow's problems.

Mr. STOCKMAN. I would say that I understand the gentleman's argument perfectly. If I misspoke, then I apologize for that. But, clearly we are building a demonstration plant of this magnitude as the first step in a commercialization track that would begin in the nineties. I would like to make the point to the gentleman that there are literally hundreds of technologies we could possibly commercialize.

□ 1440

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 1 additional minute.)

Mr. STOCKMAN. The point remains that we cannot spend a billion dollars to build a demonstration plant for every one of these technologies to find out whether it ought to be commercialized or not. We have to make some hard judgments ahead of time like the kind we have been discussing here this afternoon.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Colorado.

Mr. WIRTH. I think the gentleman from New York (Mr. WYDLER) just made a case about the fourth myth of this debate, and that myth is that somehow we are killing the breeder reactor. That is not the case at all. We are just going from a first generation to the next generation. Whether or not this is commercial is not the point. The point is, let us go with the most far-out, modern technology and not a technology of the 1960's. We are continuing the breeder technology; we are not killing it. And every Member who says we are killing it is absolutely incorrect.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding. I want to associate myself with the gentleman in the well and the gentleman from Colorado (Mr. WIRTH). I think this has been a most informed and informative discussion.

Mr. STOCKMAN. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, first of all, we are talking about two amendments that do just about the same thing. The Brown-Fuqua amendment would kill Clinch River, very seriously weaken our energy program and make the United States look absolutely foolish all over the world. The Udall-Bingham amendment does that, but it does something more. After all they would kill the Clinch River, they would want to jump up and down on the corpse for awhile. But both amendments are killing it. I think it is important to understand that both of the amendments are equally damaging, equally destructive, and equally unacceptable. When we come to vote on them, I hope no one will say, well, I voted against that terrible Udall-Bingham amendment, but I am going to vote for that nice, soft, Fuqua-Brown amendment. Remember, the nice, soft, Fuqua-Brown amendment still leaves the corpse on the floor; and all of us embarrassed as can be, because the Clinch River project will have been killed, and we will be standing here with blood on our hands for it.

To speak just a minute to the Udall amendment, it not only kills Clinch River, it dramatically cuts the base program, cuts out funding for the Barnwell nuclear fuels plant, and then proposes to spend more money expanding the research and development programs that have been rejected, after thousands of scientific man-years of research and development have been conducted all across the world. Talk about Model T's. We went through two whole decades of figuring out which was the best breeder technology, and now as an excuse to kill Clinch River just because he assumes—maybe he does not know—he assumes we do not know, but all of this research has been done already, it is an excuse to do it all over again so we do not have to move for a breeder program, and we can spend another 20 years in research.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

The fact of the matter is that the Udall-Bingham amendment does not propose any expenditures already in the committee bill. It is simply cutting them.

Mr. McCORMACK. I believe the gentleman will find that his amendment expands into other technologies, other breeder technologies, whether it is in the money or the words.

Let me talk just a minute about the costs involved in this thing. We act as though just cutting this program is going to allow us to walk away from it. There are various estimates as to how much it will cost to kill the Clinch River project. They vary from a billion and a quarter dollars to $1.5 billion. That is what we have got in it, and what it would cost to pay for our debts, probably to have some moderate lawsuits, pay interest on money that is invested, to do some testing on component parts that would have to be done, and so on. We would then have to start all over again to start another breeder project, which would be another LMFBR with exactly the same technology which we now have. I think it is important to understand that.

The next point is that they have been trying to scare us with the safety argument. The gentleman from Arizona (Mr. UDALL) talked about the safety of nuclear powerplants and the terrible uncertainty of this thing. The fact is that liquid metal nuclear plants are probably even safer than the extremely safe light-water plants we have today. The fact is that liquid metal does not boil away. You cannot lose it. When you put it down in the pot, it is simply there, and acts as a tremendous heat sink. It is a tremendously forgiving material. A liquid metal-cooled plant is a very safe machine. This is why all of the industrialized nations of the world—England, France, Germany, Japan, and Russia, and the low countries of Western Europe and Italy—all have agreed to go with the LMFBR.

The gentleman from New York (Mr. BINGHAM) is trying to scare us with the terrible word "sodium." Remember your high school days when you put sodium on the stove and watched it boil. Gasoline is a terrible scare word. Put it on your skin, and it will burn. The point is, we are not going to put sodium in the water. We put it inside the LMFBR, and we seal it up in there. Let us keep our thoughts in context here.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Would the gentleman recommend using gasoline as the coolant for reactors?

Mr. McCORMACK. No. Sodium is much better. Gasoline is a fine coolant. Sodium is much better.

The point has been made that liquid fuel is our problem; electricity is not our problem. I would like to point out to the Members that this building is now running at an uncomfortably high temperature, and all public buildings are in this country, because we presumably do not have enough fuel for our electricity. I have a map here put out by the New York Times earlier this week that shows how much oil is being used on the west coast to generate electricity: 60 percent in New England; 35 percent in the Middle Atlantic States; 22 percent in the South Atlantic States; 77 percent in California. This is oil, most of it OPEC oil, being imported into this country and being used to generate expensive electricity.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McCORMACK was allowed to proceed for 5 additional minutes.)

Mr. McCORMACK. The fact is, as someone has said, they threw a red herring across the trail and said CRBR is not going to replace any oil. Do not go home and tell your folks it is. Of course it is not. It is an experimental test bed, a research reactor, to demonstrate how we would generate electricity with this particular size machine, this particular type technology. What it does is it gives the foundation for a decision to commercialize at some future date with intelligent information.

Over and over again we have had this

red herring about we should not be commercializing the breeder. Of course we should not be commercializing the breeder. We do not know enough about it. That is why we want to build this plant, so we can test it out and have the experience of building it and operating it, and have the engineering knowledge and the operational knowledge that would come from this operation, so that when we have to make the decision, when the fuel crunch is so tight, that we are going to know we are either going to have to stop building nuclear plants and start building breeder plants, and we are going to have adequate experience and knowledge to make an intelligent decision.

In spite of statements made on this floor earlier in this debate, the General Accounting Office report makes it quite clear, and over and over and over again in our hearings the testimony has made it quite clear, that that decision will very likely come in the early 1990's. By that time all of the uranium that is available, the known and probable reserves, will have been committed by the nuclear plants in operation or under construction at that time. By that time they will have been committed, and they will still be far short of requirements for energy, even with the most successful of conservation programs.

The point has been made that our electric growth rate has collapsed. The fact is that it is still 3.5 percent per year. It has been 7 percent, and it is now way down—all the way down to 3.5 percent per year. Do the Members recognize that a 3.5-percent-per-year growth rate still means that it doubles in 20 years?

"Oh, McCORMACK, that is just your opinion," somebody says. Just remember that is straight, pure mathematics, just as simple and basic as 2 and 2 are 4. A 3.5-percent-per-year growth rate means doubling within 20 years. By the end of this century, at the rate we are now going and with this colossal growth rate, we still must double our energy production capacity. These are facts we are facing.

The General Accounting Office report points out that we will not have enough uranium. It makes it quite clear. The question is, Why should they not kill Clinch River? Why should they not just take the easy way out? The fact is that we do not have an ongoing breeder program. Sure, we still have a basic program under the Fuqua amendment. But it would not be moving forward. We would not have the engineering experience and the operating experience we need to make intelligent decisions. And if we do not have that, we will not have the fuel when we need it and we would be putting ourselves in exactly the same position with respect to uranium in 1990 as we are today with oil, because we did not take intelligent steps 10 years ago. That is what this issue is all about.

There is another reason we should not kill this project: because of its impact on the free world. I have photographs here of all the other breeders across the world that I will share with anybody who wants to see them.

☐ 1450

Breeders have been operating for as long as 7 years in England, France, and Russia. Russia is now building and finishing its second, and scoping a bigger breeder than anyone else in the world. And France, where they are building a 1,200 megawatt commercial breeder which will be on the line 4 years before we can have the Clinch River breeder on the line.

What about the impact on OPEC, and our friends who are depending on us? Killing Clinch River will be saying to them, we are really not serious about solving the energy problem. We really do not care. We ignore the fact that nuclear is one of the only two important energy resources we have to solve our problems in the present century and the early part of the next century. We ignore the fuel supply.

The question has been made there will be no benefits now from CRBR, so we should not waste the money. Yet we are spending $500 million for fusion research. All of which I applaud, which I supported, which I put in my bill. We are spending $1.5 billion over the next 10 years for photovoltaics research, under a bill that I sponsored, a bill I believe in. We have to do this with new technologies. They are expensive.

It is fundamental to understand that the GAO, writing for us, our GAO, the GAO of the Congress, has said that the administration's arguments on this issue are phony, they are unreliable, that we will need the breeder, we will need to make intelligent decisions on the breeder by the early 1990's and we cannot intelligently get there without CRBR. I suggest we kill both amendments. Vote no on both the Brown amendment and the Udall amendment.

Mr. UDALL. Mr. Chairman, we have had a long debate and there are other titles to get to. I would ask, for myself and the gentleman from Florida (Mr. FUQUA), unanimous consent that all debate on the Udall substitute and all amendments thereto close at 3:05.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

Mr. BADHAM. Mr. Chairman, reserving the right to object, there have been many of us, unfortunately, who, for one reason or another, were not members of the committee and I think a little more time would be in order.

Mr. UDALL. Mr. Chairman, I would revise my request that all debate on the Udall substitute and all amendments thereto close at 3:20.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for just a little over 1 minute each.

The Chair recognizes the gentleman from Michigan (Mr. WOLPE).

(By unanimous consent, Messrs. UDALL, BINGHAM, and WEAVER yielded their time to Mr. WOLPE.)

Mr. WOLPE. Mr. Chairman, I rise in support of the Udall-Bingham substitute, but want to spend just a moment talking about the important points of agreement between the two amendments that are before us today.

First, Mr. Chairman, both amendments that are being offered, both the Fuqua-Brown amendment and the Udall-Bingham amendment, agree and would mandate that the Clinch River breeder be killed. It should be killed because it is an obsolete technology.

If there is any question about that, the Committee on Science and Technology received direct testimony just a few weeks ago from Dr. Hans Bethe, one of the world's leading nuclear scientists who is certainly an advocate for the development of nuclear power and an advocate, moreover, for the development of the breeder concept and design.

Let me quote from Dr. Bethe's testimony before our committee:

> In my opinion, we shall need something like the breeder sooner or later. Perhaps a little later now than we thought a while ago, because the demand for power has increased less fast than we anticipated. But sometime in the not-too-distant future, we shall need a breeder or a similar device.
>
> Now, that breeder does not need to be the Clinch River breeder. In fact, the Clinch River breeder is rather obsolete. Such a long time has elapsed between the design of that reactor and the building, so that we would probably be better off to start from the beginning and to have a new design for the breeder.

The fact of the matter is we are being asked today to commit ourselves to an additional $1.5 billion expenditure for an obsolete technology that is incredibly wasteful and cannot be justified to the taxpayers of this country.

A second important point of agreement between the two amendments before us is that breeder research should, in fact, continue. Neither of the amendments that are before us today would even touch the $330 million authorization for the continuation of breeder research. That breeder research program would still represent the largest breeder research program in the entire world. So those who would argue that a vote for one of these amendments is a vote to kill a breeder research program are simply misleading this body.

There are two points of difference, however, between the two amendments. The first is that the Brown-Fuqua amendment mandates that we commit ourselves today to the development of a demonstration commercial breeder reactor. By 1981, under the terms of the Fuqua-Brown amendment, the Government would have to come forward with a specific concept, with a specific design, even recommendations for a specific site. The Udall-Bingham substitute amendment would postpone that decision to move toward commercialization of the breeder technology.

The second major point of difference between the two amendments concerns money. The Udall-Bingham amendment is $200 million less costly than the Fuqua-Brown amendment. That is $200 million that can be either returned as a saving to the taxpayer or set aside for the development of energy research and development that would far more effectively address this country's most immediately pressing energy problems.

Much has been said about the relationship between oil and the proposal to commercialize the breeder reactor. The fact of the matter is today, only 9 percent of all of our petroleum resources are going to the generation of electricity. Fifty-four percent of our petroleum resources are going to transportation. Does this not suggest that our greatest research and development priority ought to be the development of alternative transportation fuels to reduce our petroleum dependency?

The end product of the breeder reactor is electricity. That is the least demanding end use toward which our available petroleum supplies are directed. I submit that to pretend that somehow we are impacting upon our petroleum dependency by commercializing the breeder reactor technology is simply, again, misleading. It is, rather, diverting scarce dollars that should be used to impact on the immediate energy requirements of this country.

This body is going to be tested many times in the weeks ahead. We are going to be told that the effort to use discretion, the effort to attempt to establish our energy priorities is somehow irresponsible. Every time there is a program that is going to be offered up in the name of energy, we are going to be told that our failure to support such a program is unpatriotic.

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I submit that we simply cannot allow ourselves to be intimidated by that kind of demagogic appeal. We do no one any favor—not ourselves, not our constituents, not our country—when we abrogate our responsibility to establish our energy priorities and to insure that taxpayers dollars are used wisely and effectively. Just as other problems our country is facing will not be solved by throwing money at them indiscriminately, so the energy problem will not be solved by wasteful and irresponsible expenditures.

The test we need to apply in determining our energy research and development priorities is whether or not a proposed expenditure on one technology offers greater or lesser potential for reducing our dependence on petroleum than alternative expenditures. Our criterion, I submit, should be what research and development initiatives offer the greatest potential for displacing petroleum. What technologies and approaches will accomplish this goal most quickly, most cheaply, and with least public health and environmental damage?

In my judgment, the Clinch River breeder reactor and related proposals for "bigger and better" breeders badly fail this test.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. DOUGHERTY).

(By unanimous consent, Mr. DOUGHERTY yielded his time to Mr. BADHAM).

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, we have been discussing the future of America and what type of America we will have. We have been talking about what size and shape of America we are going to have in the future: Whether we are going to have a smaller America that is going to settle for hotter houses and buildings in summers and colder houses and buildings in winters and less food and less transportation and less production; or, whether we are going to have a greater and stronger America that can meet the challenges that we face now, have faced in the past, and will face in the future.

The Clinch River breeder reactor is just one symbol of this. Will we or will we not use technology and technological advances that we have at hand. The anti's say, "No, we should not." It is like saying there is no sense in having an army until we have a war or no sense in building a B-1 until the Russians are on the way to attack. Foolish.

Now, what we are talking about is a technology that Japan, the Soviet Union, France, Great Britain, and Germany, are all using and they are laughing at the United States of America because we will not use what we developed. Why not? Because we say that would be proliferation.

Well, what does that mean, proliferation, if the technology is already fact, existant, and used by friend and foe alike?

THE ENERGY VALUE OF BREEDER REACTORS

Breeder reactors represent a tremendous source of energy. They can extend our uranium resources by a factor of about 60 times. The energy value of uranium already mined and above ground—the byproduct of our enrichment operations that can only be used in breeders—is roughly equal to our total unmined coal resources or at least 3 times the total OPEC oil resources.

To walk away from demonstration of this vital energy source would be a clear signal to energy consumers and other nations that we are not serious about pursuing increased energy production to reduce worldwide shortages and perilous and costly dependence on foreign energy sources, such as the OPEC nations.

Almost every other industrialized nation is actively engaged in a strong breeder research and development program centered on an intermediate scale demonstration plant. These nations fully recognize the dramatic resource utilization potential of breeders compared to light water reactors (sixtyfold increase). France, Britain, and Russia are currently operating CRBR scale plants.

GENERAL ACCOUNTING OFFICE VIEW

On May 7, 1979, the General Accounting Office issued a detailed report entitled "The Clinch River Breeder Reactor—Should the Congress Continue to Fund It?" Some of its highlights are:

> The Clinch River Project is not technically obsolete, and its intermediate size is a logical and prudent step in developing liquid metal fast breeder reactor technology.
>
> Terminating the Clinch River Project accomplishes very little in the area of nonproliferation.
>
> If the Clinch River Project is terminated, much of the $674 million already spent on it may be wasted.
>
> . . . it will be difficult at best and perhaps impossible to maintain a strong liquid metal fast breeder reactor program without building the Clinch River Project.

On May 11, 1979, the administration released a white paper detailing its criticism of the CRBR plant. GAO was asked to do an analysis of this document and issued its report entitled "Comments on the Administration's White Paper—The Clinch River Breeder Reactor—An End to the Impasse" concluding:

> GAO found that the Administration's presentation of several key issues and facts could have been more balanced and informative.

In reference to the White House paper, the GAO report is replete with words such as "misrepresentation," "omission of facts," "invalid assumption," and "highly questionable."

In another GAO report dated May 23, 1979, entitled "Nuclear Reactor Options To Reduce the Risk of Proliferation and To Succeed Current Light Water Reactor Technology," the liquid metal fast breeder reactor, or more specifically Clinch River, was clearly placed on an equal or preferred footing when compared on a number of bases with nine other advanced reactor concepts.

Specifically, the report calls for consideration of the next generation of nuclear power to be assessed against a broad range of social, political, economic, environmental, and technical factors—a path endorsed strongly by an international nuclear fuel cycle evaluation working group in a recent report. The report states that,

> No fuel cycle should be avoided solely on proliferation grounds if there are good and prudent economic and energy strategic arguments in favor of introducing it on an industrial scale.

THE CHALLENGES TO CLINCH RIVER

A number of the allegations which have been made by opponents of the CRBR demonstration plant should be kept in perspective:

Clinch River is the right plant: After 3 years of rigorous licensing review by the Nuclear Regulatory Commission, the CRBR design has been updated to reflect safety standards consistent with conventional nuclear plants. CRBR represents a prudent 2½ times scale-up beyond the fast flux test facility and is a necessary low-technological risk, high-confidence step in the development of breeder technology. Many new technological advances are being incorporated into the CRBR design such as the new heterogeneous core announced only several months ago. Additionally, the abundant flexibility in the reactor provides the opportunity for U.S. leadership in demonstrating the practicability of fuel cycles which might come from the international nuclear fuel cycle evaluation (INFCE).

Clinch River will be operating at the right time: Experience in licensing, building, and operating an intermediate scale breeder demonstration plan will be needed in the mid-1980's if prudent decisions are to be made by utilities about the long-term need for inexhaustible energy from breeders. Even if one were to accept the argument that commercialized breeders would not be needed before 2020, as maintained by the administration, we are already late with progress on CRBR.

Clinch River can be built at the right cost: It has been estimated that cancellation of CRBR would cost the American taxpayer more than $1.4 billion. This compares to a cost of going ahead with the project of $2.5 billion in year of expenditure dollars. More than 70 percent of the value of CRBR components has been ordered and fabrication of the order is half completed. Scrapping Clinch River and starting over on a new plant will undoubtedly cost a great deal more. The utility contribution to Clinch River is the largest commitment ever made by the industry-at-large—753 utilities participating—cancellation of the project would jeopardize the possibility of any future joint ventures involving private funds.

Clinch River is the right place: As a result of extensive review by the Nuclear Regulatory Commission, the Clinch River site was given approval as suitable from both a public health and safety and an environmental impact standpoint. The hearings, suspended by the administration, will provide the opportunity for full weighing of any remaining public concerns regarding the plant and its operation.

The Clinch River breeder reactor demonstration project is a vital element of the U.S. energy future—it deserves strong continued congressional support.

The Clinch River breeder reactor puts us on the road to the technology of the future which we must have. We cannot retrench. We do not want a smaller America. Americans might want somebody else to sacrifice, but Americans do not want to sacrifice themselves.

I do not want less. I want more. I think Americans want more, more production, more energy and the way to do it is not just with Clinch River, not just with nuclear power, not oil, not coal, not shale, not synfuels; we have to have them all.

Depleted uranium, not usable for light-water reactors in use today, is stored in canisters in Portsmouth, Ohio, Paducah, Ky., and Oak Ridge, Tenn. This uranium in energy equivalent is worth $20,000,000,000,000—that's right, $20 trillion. It is owned by the U.S. taxpayer and is already mined. The breeder reactor unlocks this energy source.

Three Mile Island, the most serious nuclear accident which ever occurred, resulted in no loss of life or injury to the public, and the investigation of this accident doubtless will further improve nuclear safety.

What are we telling private industry? We have encouraged them, "Come on out on the end of the gangplank with hundreds of millions of dollars to go in partnership with the Federal Government for a Clinch River breeder reactor."

What we are going to do? We will get you out there and cut off the gangplank.

Do you think any other private company in this United States is going to advocate going into partnership with the Federal Government that does that, constantly, time after time? The answer is "No." Clinch River is another symbol because of that.

We have a technology. For heavens' sakes, America, let us use it.

I do not want the lights to go out. America does not, either.

If you want to sit here and preside over a dark and cold America, be my guest, but I will not be with you. And America has more sense than to accept that archaic, head-in-the-sand-type leadership, or I should say nonleadership.

(By unanimous consent, Mr. GORE yielded his time to Mrs. BOUQUARD.)

(By unanimous consent, Mr. FISH yielded his time to Mr. COUGHLIN.)

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, today the House once again must debate and vote on the Clinch River breeder reactor demonstration project. This issue occurs at a particularly appropriate time when the United States must rally to meet the challenge of tighter world oil supplies and rising energy costs. We must decide today whether we continue with the full funding of our commercial liquid metal fast breeder program or reallocate our energy research and development dollars to other energy alternatives.

I rise in support of the Udall-Bingham amendment which would terminate the Clinch River breeder reactor project and throttle down the headlong rush for early commercialization of the LMFBR.

As my colleagues are well aware, the LMFBR program has claimed a disproportionate share of the U.S. energy R. & D. funds since 1969 and represents the single largest expenditure of nuclear fission research dollars.

It is the subject of huge cost overruns. Clinch River from $400 million in 1971 to $2.5 billion today. Engineering corps to design and build it cost-benefits "out of control."

The Udall-Bingham amendment would establish a technological design study which would require a careful and thorough study of all advanced fission technologies and not commit us directly to a plutonium reactor. In addition, the amendment includes $330 million for a broad, intensive research and development program on breeders, while deleting $200 million for the premature development of commercial LMFBR components and fuels. It also urges the Secretary of Energy to increase efforts on the light water reactors in order to address the safety problems highlighted by the Three Mile Island incident and which threatens the future operation of LWR's.

I have been in the forefront on efforts to terminate the CRBR project since 1974. I can imagine that my colleagues are well aware of the economic, technological, safety, and security arguments which I have repeatedly brought before you, so I will not address these points yet again.

However, I urge my colleagues to give very careful consideration to all three options which are open to the U.S. nuclear breeder program. Today this Nation faces an energy crisis. This shortage is in liquid fuels. Plutonium breeders will not displace the use of liquid fuels or be commercially feasible until after 2020. This Nation must find answers to the energy shortage over the next 10 to 20 years.

The committee bill will spend $670 million this year for the breeder development program with this amount increasing annually. The Clinch River breeder reactor project would consume almost half of this amount. I do not believe that this is the wisest use of our limited energy R. & D. funds. With an annual inflation rate of over 10 percent, the need to control unnecessary Federal spending becomes more critical. We must avoid overcommitment to a program which will preclude alternative energy development programs which could more immediately answer our energy needs.

I urge your support of the Udall-Bingham amendment. It provides a reasonable insurance policy for the United States in funding the world's largest breeder R. & D. budget, but avoids a commitment to an expensive and dubious demonstration project. This allows the United States to probe more economical, secure and safer breeder designs, and redirect energy R. & D. funds to encourage additional nuclear technologies and strengthen nuclear safety programs.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment and in support of the action of the Committee on Science and Technology in providing full funding for the Clinch River breeder reactor.

Mr. Chairman, the Clinch River breeder reactor demonstration plant represents only one of several energy options this country is looking at to replace its dependence upon fossil fuels, especially oil and gas. It is an important option, because as we move forward in the next decade or so, it is going to be more important than ever that we begin right now to find substitutes for the diminishing supply of the world's oil and gas.

Nuclear energy is one of our most significant options. As we look back a number of years to the 1950's, we see that the United States was truly the originator and developer of nuclear energy. We were unquestionably the leader in this field. In the atoms for peace program of that decade, we felt it was important to share our technology and our knowledge with the rest of the world, and we began a concerted effort of exporting nuclear technology. We invited to this country literally thousands of foreigners to be trained in our expertise of nuclear energy.

We have gone along during these years with a very aggressive program, and in fact today, because of our leadership, the world enjoys a movement toward the use of nuclear energy, a safe use of the atom that will make up for the diminishing supplies of oil and gas.

Now we come to this administration, which all of a sudden has decided to change the policy of this country, to change the policy of nuclear energy use, and to precipitously close our doors to the advancement of atomic energy. It is strange that the United States is pursuing a unilateral energy disarmament policy and abrogating its leadership in breeder technology. It is understood that most other countries do not share our abundance of knowledge and our large resources of oil and gas, and so, therefore, these other countries are not following our leadership but are pursuing their own course in developing, demonstrating, and in fact building breeder reactors.

It is also very strange that this administration takes an entirely different approach than it does for the breeder regarding conventional nuclear powerplants, which I might remind the Members also can produce weapons-grade material.

The President has changed this country's position on breeder technology primarily based on his legitimate concern over the possibility of proliferation. And then, when that concern was proved to be basically false, he changed his reasoning to one of economics, an argument which is certainly debatable.

But how can you debate the worth of an energy alternative until we know by actual demonstration, by actual online effort, whether it is going to be economically feasible for this country to depend on it?

In my opinion, the answer to proliferation is one of action instead of default. We need a parallel technology effort in as well as diplomacy in order to dampen down the threat of proliferation of weapons-grade material.

Mr. Chairman, I say to my colleagues that I support the continuation of Clinch River for many reasons. Let me cite just a few.

We have so far spent over $700 million on this demonstration project, and it represents the culmination of some 25 or 30 years of research and development on breeder technology. So far, 75 percent of the equipment for the Clinch River breeder reactor has been ordered. The design is almost complete. All of the materials for the 11 steam generators to be required have been ordered, most of them have been received, and they are just now being fabricated and put together. If you kill this project, you will kill and destroy the many millions of dollars that have been so far spent on this plant. We will not receive commensurate value in return.

Mr. Chairman, in addition, there are over 753 utilities which have committed themselves to this project and have recently reaffirmed their support, and have already committed some $254 million to this project.

In addition to that, it is interesting to note the bipartisan support that has developed for the breeder. In addition, the NAACP, many labor organizations, business, the American people, and certainly the National Governors' Council support continuation of this demonstration program.

I say to my colleagues that one of the main reasons I think we need to demonstrate this technology is because the breeder reactor does represent an increased utilization of the available uranium supplies in this country and in the world. And let me point out that there is debate, there is uncertainty as to the amount of uranium left in the world. Some people will put the assured and probable reserves at a low figure of 1.8 million tons, as does the National Academy of Sciences. On the other hand the administration is very liberal and generous, and they peg it at 3.1 million tons, thereby saying we have sufficient uranium to delay the need for the breeder. But I think that uncertainty makes it even more compelling to vote down this amendment.

In my opinion, in order to assure the safe utilization of nuclear energy worldwide, the United States must continue its leadership. By voting this amendment in and canceling Clinch River, we would abrogate our leadership, our knowledge, our technical expertise, and certainly our ability to guide the rest of the world in the safe use of nuclear energy and the high standards that we have supported to date.

In addition to that, by canceling the Clinch River breeder reactor we would disrupt an industrial base which has been put together over the years. Termination of the Clinch River Breeder reactor would result in a significant loss in the program, more than 10 years' delay, and certainly an added significant cost. I think it is time, after all these years, to go ahead with this project.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. Jenrette).

Mr. JENRETTE. Mr. Chairman, I have heard a great deal today in the debate about where we should be, where we are and where we should be going.

I think that we must look at it very closely as it relates to the complete cutoff of all of our programs.

I would say particularly, "Woe unto Moe," as far as the gentleman's amendment is concerned.

We must look at where we are going in the future. I think a meat ax approach of cutting it off completely would be irrational and would be wrong and I would ask particularly the Udall-Bingham amendment be voted down.

The CHAIRMAN. The Chair now recognizes the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. Mr. Chairman, I rise in strong opposition to both the amendments that are pending.

I became a member of the Appropriations Committee that funds Clinch River 8 years ago. Up until the past 2 years every year since that time we have had requests for modifications and changes in the plan, modernizing, updating the plans for Clinch River.

Now we are being asked again today to wait to vote for an amendment that would provide for a study to come in 1981. When was the last time you remember a study being brought to us timely, on time?

The issue today is do you want an alternative? If you do, you had better vote down both of these amendments, because a vote for these is only a further delay in coming forth with a badly needed alternative to our energy problems today.

(By unanimous consent, Mr. Bailey yielded his time to Mr. McCormack.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Chairman, an aspect of this problem that I think has been overlooked, and I rise in support of the Udall amendment and that failing, in support of the Fuqua amendment; an aspect of that that has been overlooked has been the role of the United States attempting to carry on in regard to proliferation of nuclear weapons internationally. If Clinch River continues we will be in a much weaker position to exert an influence against the spread of nuclear weapons.

There is no hurry about the development of the breeder reactor, the commercialization of that approach. There is ample time. There is no real shortage that impels us to move in this direction. What we need is to wait for a technology that will give timely warning of diversion of the byproduct of the breeder reactor for weapons grade plutonium. That time will come. It is not yet at hand, but we ought to wait until it does arrive.

The CHAIRMAN. The Chair now recognizes the gentlewoman from Tennessee (Mrs. Bouquard).

Mrs. BOUQUARD. Mr. Chairman, we truly are a great country and we are a free count. But one of the major reasons is because we are blessed with an abundant supply of energy. Our continued greatness is tied to the use we make of this energy abundance. Certainly the world looks to us as the technological leader, as the provider of technology to aid in the development of their Nation. We cannot abdicate our responsibility to our own country, or to our neighbors throughout the world. We have an obligation to develop and deploy technologies that meet the common needs of mainkind. Clearly, one of the foremost of those needs is the availability of reliable, cost-efficient, abundant energy.

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We know that we only have enough uranium, in assured reserves, to fuel about 250 light water reactors. Now if we limit our annual growth in energy demand to 4 percent per year, which is going to be a great accomplishment indeed; and, at the same time if we save through conservation one-third of our present energy consumption; if we look to solar for 5 percent of supply, if we look to hydroelectric for 2 percent, and if we look to coal for one-third of our projected needs and we cut our imports of oil by one-half.

If we continue our domestic production at two-thirds at the rate we produce at the present time; if we can do every one of these things; we are still going to require some 400 light waterplants on line by the year 2000, if we are serious about meeting energy consumption need, and we simply do not have an assured supply of uranium, sufficient for even this highly optimistic projection.

Reference has been made to the issue of proliferation. I agree that this is a matter of concern but I truly believe if we can assure the world of an adequate supply of relatively inexpensive, abundant energy, this is going to be a far greater source of strength and stability that we can share with the rest of the world, than any nation can provide to its people from the acquisition of atomic weapons.

This certainly is the area in which we must work to see that not only do we have the vital energy supplies that we need, but at the same time we can say to the neighbors, "We will share our knowledge with you," we will also continue to have the energy we need not only for our technological advances but for our economic and military strength as well.

(By unanimous consent, Mr. Hillis yielded his time to Mr. Wydler.)

The CHAIRMAN. The Chair now recognizes the gentleman from Texas (Mr. Stenholm).

Mr. STENHOLM. Mr. Chairman, I rise in strong opposition to the Udall-Bingham amendment.

Some 10 years ago, when Clinch River was born, I was the manager of a rural electric cooperative. Our members invested their money in that project at that time, and I say at this time the rural electric cooperatives of America still believe that it is in the best interests of America to go on with the project.

Twenty-five years ago we were warned by responsible people that if we do not change our attitude toward energy, the day would come when we would be dependent on foreign sources. We are here.

I ask all the Members here, with the punitive attitude we have toward the oil and gas industry, if we eliminate the breeder reactor from our future energy sources, what will the price of coal be in 1990? What will the price of electricity be in 1990?

Competition is the best friend of the consumer.

Mr. Chairman, compared to a $60 billion foreign oil bill and compared to an $88 billion investment in synthetic fuels, a $1.5 billion additional investment in Clinch River for this country, with a $183 million downpayment, could be the best fiscally prudent decision that we can make for energy in America this year.

(By unanimous consent, Mr. Wydler yielded 1 minute of his time to Mr. Ritter.)

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Ritter).

Mr. RITTER. Mr. Chairman, I rise in opposition to the amendment. The GAO was set up to provide the Members of this body with information, with as objective and critical an eye toward the value of our expenditures as they possibly could provide. The GAO report makes mincemeat out of the Carter administration attack on the breeder program. The GAO report, in effect, says "Go ahead."

I notice that a lot of Members here who are constantly referring to GAO reports in other areas are ignoring this particular GAO report.

Mr. Chairman, what kind of energy we have in the year 2000 depends so much on what we do today, tomorrow, next week, and next month. Technology is not just a few hundred million dollars here and a few hundred million dollars there. Technology is people. It is time, what we have assembled, what this Congress has assembled in Clinch River, Tennessee, is more than just $700 million worth of hardware, $300 million in obligations, or $400 million worth of closing costs added on. What is there is teams of individuals who have dedicated a whole segment of their lives to making a reality out of a plan.

The breeder technology involves a human effort, a community effort, a commitment. To rip and rend asunder that kind of basic human team effort and community effort goes well beyond its dollar cost, and I advise the Members to watch with great caution that their vote on this amendment does not have the effect of performing deadly surgery on the Federal Government's ability and reputation to live up to its obligations.

I urge my colleagues to support it.

(By unanimous consent, Mr. Roe yielded his time to Mr. McCormack.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, CRBR is not obsolete. It is not an obsolete technology, it is not an obsolete design. The GAO report makes that abundantly clear. Even the core has been redesigned during the last year.

While we have been moving along on this project, we have been updating it all the time. The technology is no different from that being studied for nuclear plants in France, in Russia, in Great Britain, and so on.

My next point deals with the suggestion that the gentleman from Illinois (Mr. Findley) made about the threat of producing weapons-grade plutonium in CRBR. That argument had not been brought out before, and I am sorry it comes so late. I will try to respond to it with this one simple fact:

The conventional nuclear powerplants that will be on line in this country before Clinch River could be built will routinely produce 500 times as much plutonium as CRBR will produce. That is the same kind of plutonium in the same physical form. Those nuclear plants will produce 500 times more than CRBR.

To pretend that the Clinch River project by itself uniquely contributes to weapons proliferation is nonsense, and we should treat it as such.

We need to worry about weapons proliferation throughout the nuclear program, whether associated with breeders or conventional plants, but the fact is that the key to preventing diversion is not at the nuclear plant. It is at the fuel reprocessing center. This should be an international center, supervised by the IAEA, and with appropriate institutional and technological safeguards. This we can do without great difficulty. It is important that we not be frightened by the fact that the CRBR will produce plutonium.

This is not weapon-grade plutonium, even though it is plutonium. It is heavily contaminated with plutonium 240, and nobody has ever made a weapon with such material.

The next point is this: The administration's argument, which is the position of the Fuqua-Brown amendment, is that we should delay the decision to move forward with the breeder program. This, in turn, is based on the administration's forecast of what our electric energy requirements would be in the year 2020. That is 41 years in the future. So they are saying we should not start before 1985 because they know what our demands will be in the second decade of the 21st century.

How would you like to go back 41 years to 1938 and project our energy requirements and energy problems of today, and make policy on such predictions?

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Wydler).

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I rise in opposition to the Udall amendment.

Mr. Chairman I rise in opposition to the Udall and Fuqua amendments to delete funds for the Clinch River breeder reactor project.

We are in the midst of the most severe energy crisis our Nation has ever experienced. Instead of hiding our heads in the sand about possible alternatives to expensive petroleum-based energy sources, we need to be continuing our efforts to develop alternative sources that will help to decrease our dependence in foreign supplies. The passage of this amendment would not help us to accomplish this goal.

The President has been very careful to try to agree with the energy proposals of the major energy-consuming nations of Great Britain, France, West Germany, and Japan. Yet he has not wanted to go along with their approach to breeder plants. These nations have been willing to take upon themselves some of the obvious risks associated with the development of nuclear breeder reactors because of the significant contribution they can make to supplying electrical energy for their citizens.

If the United States is to free itself from its petroleum operated electrical generating plants and dependence on a nonrenewable source of energy, we must proceed with the development of a safe and efficient breeder reactor. How do we know the full potential of this type of energy source unless we are willing to take advantage of the opportunity to continue to construct and refine the ability of this unique form of energy production to continue to contribute to the energy needs of our Nation?

I can certainly understand the fear and emotionalism of many opponents to nuclear energy. But we cannot allow these feelings to cause the scientific possibilities to be ignored and result in this project being dismantled. We have invested too much time, money, and effort in this development to scrap Clinch River. If there are substantial dangers associated with the breeder reactor that warrant substantial concern, we certainly cannot solve them by shutting down the project.

We can only find these answers to these problems by working on them at the same time that the breeder reactor program is continuing. We cannot afford to close our eyes to this type of positive program. What we need is to take the concern of nuclear opponents and work on rational and realistic solutions to these concerns. No one ever solved this type of complex problem by running away and ignoring it.

The energy future of our Nation must not be allowed to be held hostage to any unfounded suggestions that we are playing with potential national disaster with breeder reactors. I do not deny that there are problems that do not exist, but I do deny that nuclear power cannot play an important role in America's future energy dependence. Just as we cannot afford to go into further nuclear development with a closed mind to past nuclear problems, we cannot go into our energy future with a closed mind about the contributions that the breeder can make.

Nuclear fission is the cheapest, safest, and cleanest source of energy available to help gain our energy dependence. We cannot suppress the technology that will be necessary to insure that this is also one of the safest sources of energy once the best and most appropriate safeguards are instituted. This can be assured only through continued work and development.

☐ 1520

Mr. WYDLER. Mr. Chairman, I think the Members should be well aware of what they are incurring in the way of costs by terminating the Clinch River project. I would say to the gentleman from New York (Mr. Bingham), who said it is an economy vote, that the gentleman should listen very carefully as to

The contract termination costs—and what it will cost the American taxpayers. I am being very, very conservative in this estimate—would be $135 million. You would have to modify the fast flux test facility so that you could test the components that we have built already and have for the project. That would cost about $300 million. The cost to cover the utility payback—and, of course, they have to be paid back, they have put in the money—and litigation over other uncompleted contracts will be about $375 million. The total termination costs would be $810 million. The funds we have spent on this project to date is $700 million. It would cost the taxpayers $1,500,000,000 for nothing.

I hope the Members will vote against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Fuqua) to close the debate.

Mr. FUQUA. Mr. Chairman, we have been debating two amendments simultaneously. The Udall-Bingham amendment I think goes too far, and I urge a "no" vote on that amendment. The Fuqua-Brown amendment is the middle position. It provides us an opportunity to leap forward.

The Clinch River, if it went today, would not go into effect and operation until approximately 1987. It would take another 7 years after that before we have a commercial project. So if someone is trying to lead you to believe that the lights are going to dim because you voted for the Fuqua amendment, that is absolutely wrong. We have to rely on other near-term sources of energy before we get into the exotic technology that we are working on in the breeder.

So I urge a "no" vote on the Udall amendment and an "aye" vote on the Fuqua amendment, and let us get on with the business of this country's energy needs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. Udall) as a substitute for the amendment offered by the gentleman from Florida (Mr. Fuqua).

The amendment offered as a substitute for the amendment was rejected.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in light of the strong decision of the committee, those who were here during the debate on the Udall-Bingham amendment, I strongly support now the Fuqua proposal. It is far superior to what the Science and Technology Committee brought in.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Arizona (Mr. Udall) and urge a vote for the Fuqua-Brown amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FUQUA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 237, not voting 15, as follows:

[Roll No. 390]

AYES—182

Albosta
Ambro
Applegate
Ashley
Aspin
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clay
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
Deckard
Dellums
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Ertel
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gray
Guarini
Hall, Ohio
Hamilton
Harkin
Hawkins
Heckler
Hefner
Heftel
Holtzman
Howard
Huckaby
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lundine
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marlenee
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mottl
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pritchard
Quayle
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Skelton
Solarz
St Germain
Stack
Stark
Stockman
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Williams, Ohio
Wirth
Wolff
Wolpe
Wylie
Yates

NOES—237

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boner
Bouquard
Bowen
Breaux
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Flippo
Foley
Ford, Mich.
Fountain
Frenzel
Gaydos
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt

Hance
Hanley
Hansen
Harris
Harsha
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hutto
Hyde
Ichord
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McKay

Marriott
Martin
Mathis
Michel
Miller, Ohio
Mineta
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Pashayan
Patten
Perkins
Pickle
Preyer
Price
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Satterfield
Sawyer
Schulze
Sebelius
Shelby
Shumway

Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stratton
Stump
Symms
Taylor
Thomas
Treen
Trible
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—15

Bolling
Chisholm
Conyers
Crane, Daniel
Crane, Philip

Flood
Forsythe
Holland
Jenrette
Marks

Mazzoli
Pursell
Santini
Stewart
Walgren

☐ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Walgren for, with Mr. Santini against.

Mrs. Chisholm for, with Mr. Philip M. Crane against.

Mr. Conyers for, with Mr. Flood against.

Mr. Marks for, with Mr. Daniel B. Crane against.

Mr. LIVINGSTON changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1540

AMENDMENT OFFERED BY MR. MAVROULES

Mr. MAVROULES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mavroules: Page 2, line 17, strike out the period and insert "and $27,400,000 for atmospheric fluidized bed system."

Mr. MAVROULES. Mr. Chairman, before I get into my statement I wish to commend the chairman of our Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua) and also the subcommittee chairman and the members for a commendable job in their performance in bringing this bill to the floor.

Mr. Chairman, I offer an amendment to set aside $1.5 million to cover the cost for an additional project for small scale atmospheric fluidized bed combustion technology, by redirecting already existing funds within the combustion systems programs.

The advancement of such a technology is in the interests of this Nation as it strives for energy independence.

Industrial steam generation consumes one-sixth of this Nation's energy. I am talking about over 4 million barrels of imported oil a day.

As a step in remedying this situation, the fuel use act and the Department of Energy's industrial applications program are directed at converting utilities and large industrial boilers from oil or natural gas to an alternative fuel like coal.

But no consideration has been given to the possibility of converting the small industrial and commercial boiler market.

Such boilers, as well, consume a large percentage of foreign oil imports each day, and unlike the larger boilers that use residual oil, these smaller ones use precious distillate fuels.

Our course of action should be clear: We must advance the small scale technology proposed in this amendment.

For if coal could be burned in small industrial and commercial boilers, the large volume of distillate presently consumed in these systems could be directly converted to heating oil, gasoline, or diesel fuel—areas where it is most needed.

In the past, the reasons why the small boiler market was not targeted for conversion to coal was largely economical. But the technological advances in second generation fluidized bed combustors have changed all of that.

Today is our opportunity to promote this technology and call for demonstration projects for small, clean, coal-burning systems.

One final point, Mr. Chairman.

Some of the criticism leveled at the Department of Energy has been its failure to bring more small business participation into its research development, and demonstration programs.

And yet these smaller concerns play an important role in our economic development as a whole and can play an even greater role in dealing with the energy problems shared by every man, woman, and child in America.

They should be encouraged.

The funds I ask for would speed up significantly the availability of this technology, which is a positive step toward our energy independence.

Almost as important, these funds bring the resources of the small business concerns to bear on a problem of national dimension.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the distinguished chairman of the committee.

Mr. FUQUA. I also hope the gentleman will yield to the gentleman from New York (Mr. Ottinger). We have had a chance to examine the gentleman's amendment. I think he makes a good point and the fluidized bed for small boilers is a technology that we need to put some additional emphasis on as far as I am concerned, and I am willing to accept the amendment. I think the gentleman from New York feels likewise.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to my distinguished chairman.

Mr. OTTINGER. I agree with the gentleman and the chairman and I congratulate the gentleman on his amendment. This amendment would provide for a redirection of $1½ million from a pressurized fluidized bed project which is to be canceled and thus it will add no additional funds. The funds would be utilized for an innovative, small atmospheric fluidized bed combustor, producing less than 20,000 pounds per hour of steam and utilizing a 2-stage combustion approach. The project has many advantages. It would be of a size of interest to small users, smaller than those currently marketed. It develops a concept that permits efficient operation at low-load factors, which has been a problem for most fluidized bed units.

It is sufficiently developed in small sizes to have application within the next 5 to 7 years. I think it is a worthwhile project and I am happy to support the gentleman's amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I am pleased to yield to the ranking minority member.

Mr. FISH. Mr. Chairman, I want to say on behalf of the minority that we have no objection to the redirection of funds. I compliment the gentleman on his amendment.

Mr. MAVROULES. I thank the gentleman very much. With those statements, Mr. Chairman I would yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Mavroules).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: Page 10, after line 10, insert the following:

(4) Intermediate Scale Technology Demonstration Project (site unspecified)—

(a) The Secretary shall promptly initiate and carry out a project, as provided in this section 107(B)(4), to construct a technology demonstration repository capable of receiving up to one thousand (1000) tons of solidified nuclear wastes. The Secretary shall take the steps necessary to insure that such repository shall be capable of operating by September 30, 1985.

(b)(1) As soon as practicable, but no later than six months after the date of enactment of this Act, the Secretary shall make a preliminary determination on (A) the location of one or more sites suitable to serve as a technology demonstration repository, and (B) suitable techniques and methods for the design, construction, and operation of a technology demonstration repository. In making such determination, the Secretary shall specifically consider candidate sites located on Federal Government lands in basalt media at Hanford, Washington, and in tuff or granite media within or immediately contiguous to the Nevada Test Site.

(2) The Secretary shall report his preliminary determination to both Houses of Congress by written communication within fifteen days after the date such determination is made.

(c)(1) Within six months after the preliminary determination required under subsection (b), the Secretary shall select a specific site for a Federal technology demonstration repository and suitable techniques and methods for the design, construction, and operation of such repository. Upon selecting such site, techniques, and methods, the Secretary shall (A) submit a report to both Houses of Congress specifying the reasons for making such selection and an estimate of the total costs of such repository, and (B) authorizes the initiation of detailed design activity and completion of site—specific geology directed toward the ultimate construction and operation of such repository.

(2) Any actions taken under this subsection shall take into account, as fully as possible, the preliminary determination made by the Secretary under subsection (b).

(d) The Secretary shall authorize construction of the technology demonstration repository if he finds that there is reasonable assurance that the detailed design for the construction of the repository, including necessary structures related thereto, can be implemented in a manner compatible with the use of such site for such repository.

(e) The Secretary shall submit to both Houses of Congress a report, by not later than September 30, 1980, specifying the construction schedule for the technology demonstration repository; Provided, That such schedule shall insure that the repository is in operation by September 30, 1985. Such schedule shall, to the maximum extent possible, include specific dates for the commencement and completion of construction on such repository.

(f) As soon as he deems necessary, the Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, operate, and maintain such facilities, major items of equipment, and real property (including, where appropriate, any interest therein) as may be necessary to meet the objectives of this section. Fee title to all such facilities, items of equipment, and real property shall be vested in the United States.

(g)(1) The Secretary shall provide funds, by contract (to the extent provided in appropriation Acts), to initiate, continue, supplement, and maintain research, development, and demonstration activities which are necessary to carry out his duties under this section. The Secretary may enter into such contracts with any person.

(2) Each contract under this section shall be entered into in accordance with such rules as the Secretary may prescribe under the provisions of this section. The Secretary may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(h) In carrying out the project, the Secretary shall consult with the heads of appropriate Federal agencies and other persons as he deems fit.

(i) For the purposes of this section 107(B)(4)—

(1) the term "nuclear wastes" means the high-level radioactive wastes, and transuranium contaminated wastes, resulting from civilian nuclear fuel reprocessing operations;

(2) the term "technology demonstration repository" means a federally owned and operated test facility in the form of a physical structure or earthwork capable of permanently disposing of nuclear wastes, and shall include underground and supporting facilities necessary to receive, prepare, conduct tests with, and permanently store such materials; and

(3) the term "operation" means testing carried out in the technology demonstration facility to insure that nuclear waste management technology is demonstrated in an integrated fashion.

(j) There is hereby authorized to be appropriated to the Secretary not to exceed $5,000,000 for the fiscal year ending September 30, 1980, to carry out the project. Any amount appropriated pursuant to this paragraph shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I rise to offer an amendment that will help us press forward with our energy program. I offer this amendment jointly with my distinguished colleague from California (Mr. DANNEMEYER). Our amendment would direct the Secretary of Energy to build and operate a demonstration test repository for the long-term disposal of nuclear wastes by no later than September 30, 1985.

The issue of nuclear wastes is of considerable importance to the Nation, and is a problem which has already been neglected for too long a period of time. Our Nation must face this problem now or we may have to face the prospect of closing our nuclear plants in the near future. We have already been forced to limit construction of new nuclear plants in some areas of the country due to the public's perception of the nuclear waste problem, and we must act now to assure that this situation gets better, not worse.

During our hearings on the DOE authorization bill, I was disappointed to see that the Department of Energy has still failed to establish a comprehensive nuclear waste management program. We have heard the administration talk for quite a long time now about their intention to develop such a program and build a permanent repository, but as far as I can tell, no actions have yet been taken to get the job done.

We in Congress must take the necessary actions now to help our Nation solve its energy problems. Our amendment allows us to proceed with the construction of a critical energy project. It sets the timeframe for building the nuclear waste test repository that this Nation badly needs. Under this amendment, the Secretary is also directed to consult with the Nuclear Regulatory Commission, EPA and other appropriate parties in carrying out the nuclear waste project.

Mr. Chairman, we believe that we need to take these actions now. The Nation needs a firm policy to manage our nuclear wastes. Our amendment would help us to establish that policy. For this reason, we urge our colleagues to support this amendment.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I would be happy to yield to the distinguished gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, we have had this amendment under consideration for a number of days. In our subcommittee we had hearings on legislation similar to this, but for a somewhat more aggressive program and a larger facility. Because of the fact that the administration has been so slow, and because of the fact that the technology does exist, I am going to accept the gentleman's amendment.

I think everyone will agree that it is, if anything, an optimistic amendment in its goals, but I think the time has come for this country to set out to develop a waste repository and to demonstrate that we have the technology for totally removing all of the nuclear wastes from the biosphere whatever, and this amendment will accomplish that goal. I support the amendment.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. McCORMACK and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I will be happy to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I think the gentleman's amendment comes at a very appropriate time. As the gentleman pointed out, various States are taking the position that until the waste disposal problem is solved, whatever that might mean, they do not want to go ahead with nuclear development.

I think it is incumbent on the Federal Government to start moving forward with a demonstration project. I think the amendment the gentleman has offered gives us that opportunity. I am pleased to accept it on behalf of the minority.

Mr. Chairman, this amendment is tailored to address the real need for a solution to the nuclear waste dilemma without getting bogged down in more studies. The Congress has been presented with overwhelming evidence that technology can assure safe isolation of nuclear waste in a "permanent" repository; that is, for periods of hundreds to several thousand years, is well in hand.

The technical experts agree that the time is ripe for action on the front. However, the administration's Interagency Review Group (IRG) on Waste Management has neither set a firm goal for demonstration of such waste isolation nor stressed in a positive manner the tremendous depth of experience of the Federal Government in nuclear waste technology. This amendment presumes that such a reasonable goal should be set and on that basis mandates a timetable for construction of and testing in an intermediate scale technology demonstration repository. It is fitting that this be described as a technology demonstration facility because it is indeed a first-of-a-kind facility. It will be built at a scale large enough to demonstrate that we have the technological answers in hand.

The selection of sites for this important facility is based on the fact that these two areas have been heavily subjected to either extensive nuclear weapons tests (Nevada) or to experiments involving handling of nuclear materials (Hanford) to such a degree as to be considered contaminated. The GAO pointed out this preference in their report on waste management. This concept of a technology demonstration repository is perfectly consistent with the strong congressional sentiment which has emerged for "fast-track" or "priority" energy projects.

There is no reasonable basis, I believe, for objecting to the inclusion of nuclear projects, particularly one as critically needed as this, in the category of "fast-track" activities.

Thus, Mr. Chairman, it is clear that all the pieces are ready to be fit together. The technology for packaging the waste has been demonstrated, the site-specific geology on the location of the demonstration repository is straightforward and remains to be done. It is time that we proceeded to integrate these answers on technology and geology.

I hope my colleagues will support this in the spirit of enhancing the nuclear energy supply option.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I want to join in congratulating the gentleman from California for offering his amendment, and particularly for getting it accepted. I have joined with the gentleman from California in introducing legislation which does substantially what his amendment would do.

I think we ought to recognize that in this period when we are facing an energy crisis, that we cannot afford to put any kind of energy to one side, particularly nuclear energy. Until the Three Mile Island incident came along, which gave the antinuclear people a new shot in the arm, the major objection to nuclear power was the fact that we had no way to dispose of the waste products. That was a misunderstanding. There is no problem with disposing of the waste products. The experts tell us that these can be encased in glass, for example, and buried in the desert and be perfectly safe.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. STRATTON and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. If I can conclude my remarks, there is no problem about getting the waste situation solved. The problem has been, as the gentleman from Washington has said, in the leadership. There has been no effort to mobilize the resources of the country to deal with this problem of collecting the wastes and burying them somewhere. This is exactly what the gentleman's amendment would do. I think it is a major step forward.

Mr. GOLDWATER. I thank the gentleman.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

Mr. DANNEMEYER. Mr. Chairman, I rise to speak in favor of the amendment offered by my friend and esteemed colleague from California. I would like to commend him on his remarks that speak so clearly to the heart of this issue. I would like to take a few moments of the time of the House to further discuss this issue which is so crucial to the long-term energy security of the Nation.

At the outset, it should be clearly understood that this amendment is a recognition of a political impasse insofar as development of adequate nuclear waste storage facilities is concerned. There is no technological impasse that can reasonably be construed as standing in the way of this measure. The interagency review group, set up by the President to study this issue, would like to create the feeling that there is a fog of technological uncertainty surrounding the question of nuclear waste storage. Nothing could be further from the truth.

The House has heard ample testimony from a wide variety of sources, that we presently possess the know-how to safely and economically deal with nuclear wastes. The reprocessing and long-term storage of nuclear wastes is going on at this very moment in Japan and France and the irony of it is that they are employing technology that has its roots, if you will, right here in the United States. Yet here we sit without so much as a pilot project to facilitate further study and implementation of nuclear waste disposal. It is an unfortunate state of affairs when a small group can paralyze the Nation's progress on establishment of needed nuclear waste storage.

Allow me, if you will, to illustrate the degree to which this problem at the Federal level has spread to the States. As a member of the Resources, Land Use and Energy Committee of the California State Legislature, I was close to the energy issue and the questions surrounding nuclear power generation in particular. In 1978, the California State Assembly considered a bill which would have exempted the Sun Desert nuclear reactor near Blythe, from a 1976 State law, precluding the further licensing of nuclear power plants in California until the Federal Government has demonstrated the technology for long-term storage of nuclear waste. The State senate overwhelmingly passed the legislation to exempt this particular project from the State law, but the bill became bogged down in the assembly energy committee. The rationale used to kill this bill was that there was no Federal effort directed at solving the nuclear waste issue.

This situation in California illustrates two problems created by this Federal inaction. First, the absence of a demonstration program has placed many States in the position of uncertainty regarding long-term nuclear waste disposal. Second, the lack of progress on this issue has created an aura of doubt surrounding the disposal of nuclear wastes, doubt that has raised concern over the use of nuclear energy per se. This baseless fear has acted to delay the development of a sorely needed alternative energy supply.

There is the additional danger that this inaction, spawned by ignorance of the facts surrounding nuclear waste disposal, could result in a real crisis by the middle of the next decade. Testimony by the Nuclear Regulatory Commission has indicated that storage capacity for spent fuel rods will be exhausted at many reactors by the mid-1980's and that these reactors will have to be shut down if an alternative means of storage of nuclear wastes is not established. This bill is designed to alleviate this problem by mandating that a demonstration nuclear waste facility be completed by September 30, 1985.

This amendment proposes the most basic of nuclear waste storage facilities that can be used to demonstrate the feasibility of dealing with such waste. The amendment calls for the Secretary of the Department of Energy to select either Hanford, Wash., or the Nevada Test Site as a site for the demonstration repository. The facility must be operational by September 30, 1985. The amendment calls for the Secretary of DOE to report to Congress upon determination of a site and when a construction schedule is determined. These last provisions insure close congressional oversight of the project and will enable us to monitor the progress of DOE in complying with the mandate of the amendment.

In his recent address to the Nation, the President stressed the need for "fast tracking" vital energy related projects. I feel that this emphasis on his part is a recognition of the present and future problems that this Nation faces. This amendment is, in a sense, a "fast track" solution of a future dilemma that deserves the support of the House. I strongly urge your support of this amendment.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding. Just very briefly, I am advised and informed and persuaded that if we are able to reprocess the so-called spent fuels that we are generating from nuclear power plants that are on line today, that will be a very valuable source of energy for the future. I hope that the gentleman in his amendment would make sure, through langauge or through report language or further amendment, that the spent fuels and the long-term storage will take advantage of this tremendous pool of energy, and that the energy so stored therein would be retrievable so that it would not be stored in such a way that it would not become retrievable, as it would be if it were stored willy-nilly and be irretrievable.

Mr. GOLDWATER. The gentleman makes a good point. It is a point that once we decide on a policy of reprocessing, we should be able to retrieve those fuels from the repositories.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. I rise in support of his much needed amendment.

Let me ask my colleague, because I was not present at the committee hearings, why no later than September 30, 1985? Why not 1982 or something to speed up the process?

Mr. GOLDWATER. I feel the same kind of urgency.

Mr. ROUSSELOT. Especially in California.

Mr. GOLDWATER. It is just a matter of the facts. The 6-year period was chosen because it is the current best estimate of the time required for site selection, architects, engineering, and construction. The administration is talking about a longer period, but I personally think we have studied this to the point where we are able now to proceed in a minimum amount of time, which would be 6 years.

Mr. ROUSSELOT. So the gentleman is setting 6 years, which is in fact the quickest time?

Mr. GOLDWATER. I think that is a reasonable time frame.

Mr. ROUSSELOT. I thank the gentleman for offering the amendment.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. DANIELSON and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding. I support the amendment. We have not done enough in the disposal area. We must take the lead. This demonstration project is a good first step. I hope it will lead to many more important steps in this area. I think the gentleman is on the right track.

Mr. GOLDWATER. I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I certainly join in the gentleman's amendment and compliment him.

I was just wondering if he has decided in whose district the disposal site would be. Maybe the gentleman would like to have it in his district.

Mr. GOLDWATER. That decision is left up to the Department of Energy in consultation with the gentleman from California, as well as myself.

Mr. DANIELSON. There will be a lot of consultation.

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Mr. LEWIS. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

Mr. LEWIS. I thank the gentleman for yielding. I would like to compliment the gentleman on his amendment and associate myself with his remarks.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I read in the gentleman's amendment as follows:

> (f) As soon as he deems necessary, the Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, operate, and maintain such facilities, major items of equipment, and real property (including, where appropriate, any interest therein) as may be necessary to meet the objectives of this section. Fee title to all such facilities, items of equipment, and real property shall be vested in the United States.

First of all, can the gentleman tell me, the amount authorized in the amendment is $5 million; is that correct?

Mr. GOLDWATER. For 1980, yes.

Mr. DINGELL. Can the gentleman tell me what is the total cost of the land acquisition, the construction, and the other things that would go with the plant?

Mr. GOLDWATER. It is anticipated, although not specifically stated in the amendment, that it would be on Federal land. There are suggestions in the amendment that sites be examined in Nevada as well as the State of Washington. The estimated total cost is approximately $350 million, based on architectural-engineering estimations on salt depositories.

Mr. DINGELL. What is the date of those previous estimates? When were those estimates made?

Mr. GOLDWATER. Those estimates, according to my facts, were made within the last 3 or 4 years.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. What is the date of those estimates?

Mr. GOLDWATER. The estimates are based on the last 1 or 2 years. I do not know the exact timing, but they are recent studies.

Mr. DINGELL. Recent studies? Is it years? A couple of years ago?

Mr. GOLDWATER. I do not have the dates.

Mr. DINGELL. There is a tremendous importance in the costs, in the dates of the studies.

Mr. GOLDWATER. Obviously, the costs are very important. The best estimates I have are approximately $350 million. Obviously, when we get into the engineering program, we are going to be able to pin costs down more closely.

Mr. DINGELL. But it is not a new estimate.

Mr. GOLDWATER. It is not an estimate based on today. It was based on, several years ago.

Mr. DINGELL. If this is going to be placed on Federal land, why is condemnation authority needed?

Mr. GOLDWATER. The amendment does not proscribe precisely the location.

Mr. DINGELL. I thought the gentleman had advised me that this was to be on Federal land.

Mr. GOLDWATER. It is not specified in the amendment. However, even though it is anticipated that it would be on Federal land, it is possible that the site would not be. This authority is made available in the latter case.

Mr. DINGELL. What the gentleman is really telling me is he is not sure where it is really going to be put, whether it is on Federal land or not.

Mr. GOLDWATER. No, I am not.

Mr. DINGELL. Can the gentleman tell me whether any studies have been made or any criteria laid down with regard to what would be the area or the kind of area, or the kind of structures in which the repository of this nuclear waste would be placed?

Mr. GOLDWATER. To my knowledge, it could be in a number of locations or geological formations that have been studied, such as the salt formations located at the Hanford facility or the salt formations in New Mexico.

Mr. DINGELL. Have these studies been completed with regard to the different formations and where they would be?

Mr. GOLDWATER. These studies have been completed, and there have been ongoing studies, and they will continue to be studied.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. I think I can help clarify this. The fact is that the Department of Energy is presently conducting studies in different parts of the country in different types of rock formations, in very large salt formations at the Hanford project, the granite formations in Nevada, and a couple of other formations, in tuffs, which is a type of volcanic rock. At the present time these studies have been, of course, going on for a long time, and they are continuing. They are expanding.

Mr. DINGELL. Are they complete?

Mr. McCORMACK. They will probably never be complete, I suspect, not for 50 years.

This year they will be putting heaters, electric heaters, in these facilities to study the effect of heat, and within a year they will be putting in canisters of waste that have already been made for a demonstration in research, canisters of spent fuel just for research purposes. But, after all, it is a fairly simple concept. One digs a shaft like a mine shaft several thousand feet into the Earth in a stable geologic formation, pushes tunnels in the side, and then puts holes in for these canisters to be put into. It is handled by remote-control equipment. We are really ready to go ahead with the project; otherwise I would not have agreed with the amendment.

Mr. GOLDWATER. I thank the gentleman from Washington.

Mr. DINGELL. Can the gentleman from California tell me, these studies have not yet been completed?

Mr. GOLDWATER. I think the gentleman from Washington addressed himself to that particular question.

Mr. DINGELL. Have there been any recommendations from the DOE, from the NRC, or from the USDA with regard to this matter?

Mr. GOLDWATER. This is a subject that is not new. I am sure the gentleman is well aware of that. It has been discussed. There have been recommendations.

Mr. DINGELL. Are there any official recommendations?

Mr. GOLDWATER. The point of my amendment is to quit discussing it and quit recommending and to proceed with a definitive program. That is the purpose of the amendment.

Mr. DINGELL. Have the States been consulted with regard to this?

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California (Mr. GOLDWATER) has raised a very significant issue that clearly must be dealt with by our Government in order to meet the needs of a nuclear program.

This amendment directly affects the jurisdiction of the Interior Committee and the committee chairman must regretfully object to it and urge my colleagues to reject it. The Interior Committee has jurisdiction over the siting and construction of permanent repositories for nuclear waste. Mr. GOLDWATER has introduced a bill similar to the amendment before us today, H.R. 1852, which has been referred to our committee, along with the Science and Commerce Committees. The amendment includes provisions which are highly controversial and which should be fully considered prior to enactment. These include:

First. A deadline by which a repository must be constructed which is 7 years earlier than the most optimistic projections of when that could be accomplished.

Second. A requirement that the Government pay for construction of a small-scale repository which would only hold 1,000 tons of waste. Such an idea was rejected by interagency review because it would be a huge investment for too small a use. Repositories are expected to be designed to hold about 10,000 tons of waste.

Third. The repository could only accept for storage wastes from civilian reprocessing operations. We do not have enough such waste to fill the repository. The repository could accept neither defense high level waste nor spent nuclear fuel from power reactors.

I hope the House will agree that this amendment is not an appropriate addition to the DOE authorization.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I would be happy to yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

I think the gentleman may be a little bit misled here as to what is going on. The gentleman from California (Mr. GOLDWATER) did have a bill of his own, which is one bill, but the amendment he is offering today is not similar to the original bill that the gentleman from California (Mr. GOLDWATER) submitted to the House. The bill today is similar to H.R. 4818, which was referred by the Parliamentarian of the House to the Committee on Science and Technology only. So there is no question of jurisdiction involved in this amendment. I think there is confusion in the gentleman's mind, and if he would check it, he would see that this problem really does not exist in this particular amendment.

Mr. SHARP. I will tell the gentleman from New York that the Committee on Interior and Insular Affairs, among others, has jurisdiction over licensing and siting of some of these projects and will clearly have a role to play in this. I am sure if the gentleman from Arizona (Mr. UDALL) were here, he would vigorously defend that role.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman's yielding. I think the gentleman points out a very important problem. It is not enough just to solve these problems by rewriting the Federal statute. In other words, the problems that affect nuclear storage, that is to say, long term or, as the gentleman from California (Mr. GOLDWATER) pointed out, permanent, is a very serious problem. For instance, the gentleman from Washington points out that these shafts are sunk through, I guess the testing he is talking about, rather stable geologic formations. But the thing is we are talking about tens of thousands of years that these materials would have to remain in a semipermanent type of repository. We are not talking about a very light topic.

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In addition, of course, we are saying we should demonstrate this and we should demonstrate this capability very quickly, but we also ought to do it on the basis of what we know and what we do not know about this period.

As the gentleman from Washington pointed out, there are a number of studies that are going on, the salt depository studies that are carried on show a certain amount of plasticizing of the material. These salt caverns which were at one time thought to be bone dry have water going through them. Also hydration, as my colleague, the gentleman from Michigan (Mr. DINGELL), indicates.

This is not a simple "yes, we ought to go ahead; no, we ought not." The problems that emanate from a permanent disposal site will be with us for a very long time. Everyone would like to solve that problem. We would like to solve that threshold thing. I think the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce have worked out away-from-reactor storage proposals in this measure which will provide the most prudent way to go so we can meet the near-term needs in terms of spent fuel.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. SHARP was allowed to proceed for 5 additional minutes.)

Mr. SHARP. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I think we should have a look at that proposal as being a near-term solution and then let the studies go on, as the gentleman from Washington pointed out, with the heat and the different geologic formations, the chemistry and minerals and substances in these rocks so we do not end up creating any more problems.

We have temporary storage on site, for instance, which has been expanded, it is controversial, it ought to be controversial; we are talking about away-from-reactor storage here and this proposal which will negate any negative effect that is coming with regard to nuclear power in terms of meeting the storage needs.

I agree there has been a great deal made out of long-term or permanent storage and, indeed, there ought to be. There is a basic question about whether we are going to reprocess materials or go into long-term storage. Those are questions that are of some moment and we are not going to solve that problem by just setting up another problem with a demonstration, permanent type of storage which will create more problems than it will really solve.

I appreciate the gentleman from Indiana (Mr. SHARP) yielding. I would urge we vote against the Goldwater amendment at this time and deal with the type of solution that has been thought out and constructed in this bill with regard to the away-from-reactor storage.

Mr. SHARP. Mr. Chairman, I would just add I think a vote against this amendment in no way suggests an absence of commitment and an absence of concern about getting on with a clear-cut policy on permanent storage of waste materials in this country. I think it is a question of the prudence with which we move on the issue and, therefore, I would urge that the amendment be rejected.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. DINGELL. Mr. Chairman, I have great respect and affection for the author of the amendment. I also have great respect for the committee system. I am not able to tell the House where this amendment would go. A more careful reading of the amendment and an analysis of the comments made by the gentleman from California indicates the House should proceed with rare care in adopting this amendment.

The gentleman tells us on the basis of surveys this program is going to cost $350 million. However, he said that the surveys and studies are old. This means we may be taking on a liability of double that or triple that and, if the gentleman from California can deny we are taking on a $700 million to $1 billion liability, I will yield to him right now so he can deny it.

Mr. Chairman, a reading of the amendment is very interesting. The gentleman from California says that the storage program will take place on public lands. However, later he tells us that the Secretary—as the language of the amendment reads, that as soon as he deems necessary the Secretary is authorized to acquire by purchase, lease, condemnation or otherwise, construct, operate and maintain such facilities, major items of equipment, real property including, where appropriate, any interests therein which may be necessary to meet the objectives of this section. Free title to all such facilities, items of equipment and real property shall be vested in the United States.

So, essentially, we are taking on apparently a large land acquisition program. Now, there are some other things about this. The Department of Energy shows us the program cannot be completed in terms of preparing the studies necessary until 1984 or 1985. This means that we will not be ready to engage in a sensible program of site selection, which is authorized by this construction, which is authorized by this, reprocessing of the waste or converting it into solids until at least that time.

Let me read you the last paragraph, if you want to hear some curious language. This is curious language that literally sets my hair on end as a legislator.

I read from paragraph (j) of the amendment:

> Any amount appropriated pursuant to this paragraph shall remain available until expended—

Now, that is all right. It is subject to a point of order but it is all right—

> and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

Now, we have here a proposal which falls in the jurisdiction of three committees, the Committee on Science and Technology, the Committee on Interior and Insular Affairs, the Committee on Interstate and Foreign Commerce. It must be pointed out while hearings have been held in each of these committees, no hearings have been held on this particular proposal. The Department of Energy tells us they are not ready to go forward on the program and, indeed, there are provisions made for going forward in an intelligent and a rational way in connection with the West Valley program. We have programs to permit the vitrification of waste up there and to finally move toward an intelligent resolution of the handling of that particular waste.

The program calls for only 1,000 tons, but it is not beyond the realm of possibility, given the amount of waste that is here and everything else, that we might wind up with a 10,000-ton program.

If we are troubled about the fact we are setting up a large program we might think about where we are going to put it. It has been said that it could be put in salt domes. Well, all of a sudden we find out salt domes are not dry, that water exists in the salt domes, that salt domes exist in the region of aquifers. The heat of these processes which go on in connection with nuclear wastes will cause it to melt down through the salt and will cause water hydration which is present in the salt to release itself with the result that these bodies of solidified waste will sink to goodness knows where, perhaps until they go down to some aquifer.

Now, perhaps that is not a problem here, I do not know. Perhaps we have ourselves a very nice and tidy resolution by simply saying we will have a program in place by 1985.

Mr. Chairman, I would prefer to think the Congress of the United States would want to proceed on the basis of careful studies which would analyze and find out where this is going to be done. In other words, whose State, whose geographical area, whose congressional district is going to be blessed with this? What kind of formation is going to take place?

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. DINGELL. Yes, I will yield to the gentleman from New York. Perhaps he wants to tell me he wants it in his district. I will yield to him if he does want it.

Mr. WYDLER. No, and I do not think those kinds of remarks really help the Committee arrive at a sensible solution to a problem.

Mr. DINGELL. Well, I am raising questions.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. SHARP, and by unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman continue to yield?

Mr. DINGELL. I will be glad to yield to my friend from New York.

Mr. WYDLER. Mr. Chairman, I do not think that those kind of comments really help.

What I tried to do is give the gentleman some thought. This amendment is, in effect, a bill that was introduced here in the House of Representatives. I tried to tell the last gentleman, the number of the bill is H.R. 4818——

Mr. DINGELL. And no hearings have been held on it.

Mr. WYDLER. No, that is true, but it was referred to the Committee on Science and Technology.

Mr. DINGELL. And what the gentleman is telling me is that in its wisdom the Committee on Science and Technology has not gotten around to considering legislation. And that wisdom, I must confess, I probably applaud.

Mr. WYDLER. If the gentleman will let me finish he might want to agree with me, I do not know, but at least if he would let me finish my thought.

Mr. DINGELL. I am always anxious to agree with the gentleman when he is right.

Mr. WYDLER. If the gentleman would let me finish my thought it might be helpful.

Mr. Chairman, this was sent to our committee so there is really no jurisdictional question here. The reason it was sent to our committee is that this is not the American program for waste disposal. This proposes a demonstration project so that we can try to find out how a waste disposal system might work so that the gentleman's committee, in due course, in considering how to proceed with the matter, might have this experience in its possession so it could make a wise and informed judgment.

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Mr. DINGELL. Mr. Chairman, I thank the gentleman for the point the gentleman raises; but will the gentleman deny that we have a demonstration project here in the form of the West Valley project which the gentleman supports?

Mr. WYDLER. Well, I certainly do.

Mr. DINGELL. Does the gentleman disagree with the project?

Mr. WYDLER. Of course, I disagree with it. If the gentleman would consider the fact that at West Valley what we are proposing to do, and this would be part of that if the gentleman would think about it.

Mr. DINGELL. I am not aware that this says this will be the West Valley project or that it shall be joined with the West Valley project.

Mr. WYDLER. I am trying to tell the gentleman——

Mr. DINGELL. If the gentleman will permit, the way I read it, the way it says we are going to have two projects.

Now I yield to the gentleman.

Mr. WYDLER. What we are trying to do at West Valley, and that is proposed in this bill, too, is to take the liquid waste at West Valley and solidify that waste and put it somewhere, so we are going to have to take it somewhere. It would be very nice if we were to have a project where we could take it and deposit it to find out how the waste disposal system works.

Mr. DINGELL. I do not have any problem with that.

Mr. WYDLER. Then why not support the bill?

Mr. DINGELL. But as I read this, this amendment also authorizes a program of solidification and other things with regard to waste.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I yield to the gentleman from Minnesota.

Mr. VENTO. There are places we can put that waste. We can put it in Hannaford, we can put it in Sheffield, Ill. There are a number of sites where it can be placed.

What we are talking about here is a permanent disposal site for nuclear waste. I guess that is the intent of it. That is the way I read it.

The point is that if we would use basic logic, if we would use the best information that we had available at one particular time and the dominant concept in what was the appropriate waste, we would not put it in some salt domes that ended up having water come into them, which definitely represented a danger in terms of the problem, in terms of permanent waste.

Now, in addition to that, I do not think we need that type of experiment or demonstration with regard to this type of waste. I think that the author of this amendment and I have the same goal; that is, of course, to eventually solve the problem of permanent or long term storage of nuclear waste.

It does not do us well, we are really going to set back the cause of solving that if, indeed, we create another problem when we dump into this before we have all the information, before the studies are done, before we give the opportunity to the departments to come up and testify.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. DINGELL. I think the gentleman raises an excellent point. There are several points here.

One thing that my good friend, the gentleman from New York ignores is that in the amendment it authorizes practically a whole duplication of the West Valley project; so instead of one demonstration project—well, I will refer the gentleman to section G(1).

If the gentleman will read it, the gentleman will find he is authorizing a whole other project. So now we have the West Valley project and we have another project.

The author of the amendment says it is going to cost $350 million. The gentleman says it is going to be on the basis of old figures. I do not know how old the figures are, but I know that old figures have a way of doubling and redoubling when you talk about estimates.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I will yield to the gentleman.

Mr. VENTO. In reading the amendment, it talks about there is hereby authorized to be appropriated by the Secretary not to exceed—you know, that sounds to me like an appropriation bill in an authorization bill. That is what it sounds like to me. I think the gentleman read that and meant to make that point.

Mr. DINGELL. I read that and I am referring to subsection J, which is the last paragraph in the amendment.

The responsibilities we are assuming here in this amendment, which has never been heard by any of the committees of jurisdiction on which the Department of Energy indicates they cannot meet the deadlines, that they have no talent to carry this matter forward in the time fixed, when we have other demonstration projects under consideration, makes very poor sense and the amendment should be rejected.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I think it is important, a couple of things are important to understand. First of all, we are talking about a test facility. We really are not getting into the turf of other committees with a test facility. We have already determined that in our agreements on this bill that we have before us today.

Second, we have had hearings in the committee on the Goldwater bill from which this amendment was redrafted into a much smaller proposal and a much smaller operation.

In the testimony before our committee, the representative of the Department of Energy said in response to this sort of a discussion:

> We think that the use of intermediate scale facilities if such an acceptable opportunity were available would be useful from a technical point of view in terms of the knowledge generated.

And so on.

Mr. Chairman, I think this is the key point. We are talking about a small technical facility, some place in the country where using whatever the Department of Energy believes is the best rock formation for this test at this time, we make a small facility and take the waste that we have available and put it in as a test.

Now, we will have the West Valley waste and when it is classified under the West Valley program, it will simply be stacked in the canyon at West Valley in the canyon building there. We will want to move it someplace. It is a beautiful opportunity to test out the concept of storing this waste underground.

Now, I think one may legitimately criticize the idea of bringing up this big package as an amendment to a bill on the floor. I wrestled with this problem myself. I toyed with the idea of what to do with this, because I think that we have to move forward, and yet I have problems with putting this big an amendment on a bill.

I think the thing to remember is this. We are not going to have another opportunity at this this year. If we do not put this amendment for this test facility on this bill now, we are going to lose a year in the United States in demonstrating the storage of nuclear waste.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. ROUSSELOT. Is my understanding correct that this committee has had two sets of hearings on this issue this year and last year? Is that correct?

Mr. McCORMACK. Yes, that is correct.

Mr. ROUSSELOT. Twice?

Mr. McCORMACK. That is correct.

Mr. ROUSSELOT. So that the argument that there have been no hearings is not true.

Mr. McCORMACK. It is not correct. There have been hearings held on this subject.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I would be glad to yield.

Mr. WYDLER. Mr. Chairman, I think the committee and the House have to consider the quandry we are in as a nation if we ever want to solve the nuclear waste problem. I am sure all of us realize that those who do not want nuclear energy use the argument that we have a waste problem and we have not solved it yet as a very good argument against nuclear energy in general. It is a very good argument.

The proponents of nuclear energy want to solve the waste problem; but then when we try to solve it, we immediately run into a question where somebody comes forth, as we have it now, saying that unless you can solve the whole problem here and now with a total answer to every question that can be raised, we are not going to go forward.

Well, we are putting ourselves in a situation where we will never deal with this problem. We have got to take it one step at a time, and this is an intelligent first step from which we will learn and from which the other committees will be able to exercise their jurisdiction wisely and well.

So I would only suggest to the House, this is an important first step on a long road that this country and the world has to follow to totally solve the nuclear waste problem; but if we do not take the first step, we are not likely to make much progress at all; so I hope the House and the committee will adopt the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think it is important that we solve that problem; but I would ask that we not be quite as irrational as those that suggest we oppose nuclear power.

Yes, it is being used, because it is somewhat a legitimate argument; but it is not a threshold decision right now in terms of whether we build or do not build nuclear powerplants; but there has to be a resolution of it. By crowding this in, you are liable to do more damage to your cause than if you actually agree with the proliferation of nuclear powerplants than you are to do good.

You are not going to solve this simply by adding this language.

So I would ask the gentleman from Washington and the gentleman from New York to wrestle a while more with their consciences and I want to assure them that the Interior Committee has had innumerable hearings on waste disposal over the last years. Let us continue the research work in this area. We have somewhat of a start and let us continue it.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

(At the request of Mr. VENTO, and by

unanimous consent, Mr. McCormack was allowed to proceed for 5 additional minutes.)

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for his point.

I think there is one thing that we have to remember here. I do not think I am exaggerating the case when I say this is our only chance this year. If we do not do it now, we lose it this year. I think we are all of us adults enough to know that this bill has got a long way to go.

□ 1630

It is going to go into conference, and the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce are going to be involved in the conference with a bill from the Senate which has similar figures in it. I am anxious to work with the Members of the other body in conference on agreeing to a compromise and responding to the issues that have been expressed. But we should do something now, and I think if we recognize this as a vehicle and a starting point, we can work together and get something that is worthwhile passed this year.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think that if wishing could make it so, then we would have a solution right now to the long-term waste disposal problem in this country and in other countries. But we have not yet had any conclusive proof that there is a satisfactory long-term answer which scientists can even agree that we ought to go forward on, on a permanent basis.

There is still a substantial difference of opinion in the scientific community as to whether or not there is either a facility or a technique which deserves to have a consensus of opinion from the scientific community. Instead, there is substantial opposition from within that scientific community.

I think this amendment proposes the people who live near Hanford, Wash., the Nevada test site, and possibly Carlsbad, N. Mex., among others, will be subjected to an experiment. I fear that the areas that are proposed for the construction of these facilities would be endangered by the repositories, and they may become the victims of a dangerous thermonuclear Ponzi game.

While we enjoy the political benefits of claiming to have solved the nuclear waste problem, we are saying to other people, "We are going to experiment with you in long-term waste disposal." And then if it does not work out in 10, 20, or 30 years, we would say that today we were simply not willing to accept the fact that we can store nuclear wastes away from reactor sites or in expanded on-site storage. Indeed, we can do this for another 10, 15, or 20 years by reracking the spent fuel storage pools and licensing away from reactor facilities. But no, this amendment would rush pellmell into an ostensibly long-term solution of this question without having had a sufficient scientific, investigatory analysis of the prospective sites now being analyzed by the Department of Energy and other Federal agencies. If this amendment is approved today, I think what we may have done is rush to judgment without any need to do so.

Those Members who are proponents of nuclear power can stand here and say to those of us who believe that there has not been a satisfactory answer to many questions that we are being obstructionists, and that we are being in our own way reactionary. That is not the case at all.

What we are saying is that the Department of Energy, the Environmental Protection Agency, the U.S. Geological Survey, and the Nuclear Regulatory Commission, as part of the Interagency Review Group on Nuclear Waste Management, all say that proceeding to a first repository in the next year would be a very dangerous proposition. There is major scientific field work, there are field investigations, and there are engineering studies which are all necessary prerequisites before we can assure the safety of that first site.

Let me call your attention to the final report of the Interagency Review Group, which was comprised of 14 Federal agencies and chaired by the Department of Energy. They just returned in March of this year their final report, and it is the most definitive work which to this point has been done. It states that there are major scientific, engineering, and institutional questions with respect to long-term nuclear waste disposal. The earlier Federal mood of easy optimism has now clearly changed.

The Interagency Review Group analysis states that the first permanent waste repository could not be completed until 1988 or 1992 at the earliest. I think this finding is something that should not be taken lightly. It should not be dealt with in an on the floor, lack of full analysis manner, with no scientific environmental analysis, and with the offering of this kind of an amendment.

I think that continued surface storage of nuclear waste is possible through the period of time that the gentleman from California (Mr. Goldwater) is addressing. I think the gentleman indeed is the one who is prejudging this question.

I think it is important for us to understand that surface waste disposal will bring us to 1985, the period with which the gentleman is concerned. We have the time needed to allow us to make a careful analysis of all the technologies which are being considered. At the same time, surface storage will preserve the gentleman's right to continue to be an advocate of the nuclear industry. But based upon the facts that are arrived at by the National Academy of Sciences, by the Nuclear Regulatory Commission, by the Department of Energy, the U.S. Geologic Survey, the EPA. I remain at this point unconvinced that it is possible for us to have a site on line by September of 1985, much less than that proposed for later years, which is what the agencies which have responsibility for this are recommending. In fact, on June 27 before the Energy and Power Subcommittee hearing on nuclear waste storage, Dr. Worthington Bateman, Acting Deputy Under Secretary of the Department of Energy, testified that the 1988-92 time frame is optimistic.

So I would urge all of those Members, whether they be nuclear proponents or opponents, to recognize that any judgment which is made at this time is premature and it is ill-conceived. The amendment which is being proposed here by the gentleman from California (Mr. Goldwater) is ill-advised at this point in time.

Mr. Chairman, I believe it will ultimately lead to an endangering of the environment and those human beings who are in the near vicinity of any waste disposal facility which is selected.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Markey) has expired.

(On request of Mr. Sharp, and by unanimous consent, Mr. Markey was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Massachusetts (Mr. Markey) and point out that this amendment requires that the Department of Energy establish a nuclear waste repository to be in operation no later than September 30, 1985. And that is so whether or not we have adequate information and whether or not the studies that are still on-going at that time are favorable or unfavorable.

Furthermore, I point out that this is hardly just a small demonstration, and that the facility contemplated here, which is called a technological demonstration repository, is to be capable of receiving up to a thousand tons of high-level radioactive wastes and transuranium contaminated wastes resulting from civilian nuclear fuel reprocessing operations.

This is a very substantial facility indeed, going well beyond any scientific demonstration stage.

Lastly, I would like to express my severest concern about short circuiting or the possible short circuiting of NRC licensing review. I think that the NRC is gradually building for itself some credibility in the field of assuring public safety. Short circuiting that agency is going to lead to grave doubts in people's minds about whether indeed the public is being safeguarded.

The amendment does not indicate whether the repository should be licensed by the NRC. However, the time frame indicated by the amendment would not enable the NRC to conduct a thorough licensing investigation and review of the proposed site or facility, even if it were decided that NRC should make that review. So the licensing has not been mandated.

Mr. Chairman, I think for even the proponents of nuclear energy it would be unwise to proceed with a large-scale facility of this kind before the studies are actually in.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I agree that this is not really a pro or con position on the question of nuclear power. The question is how we are going to move prudently to solve the critical pollution problems that we face.

It is very clear in this bill that we provide for the conducting of tests on how to handle the storage of nuclear wastes in the ground. It is clear that we move ahead with $70 million for permanent sites for the storage of nuclear waste. It is also clear that the proposal pending before us is not simply a research and development project; it is a full-fledged facility that has to be licensed.

This clearly falls in the jurisdiction of other committees outside the Committee on Science and Technology. It should be reviewed thoroughly by them.

The amendment has the question of a deadline in it, and it establishes the construction of a considerable and sizable facility at considerable expense. I do not think that we should set a waste disposal deadline, Mr. Chairman, and the adoption of this amendment, I believe, would only feed the fuels of public doubt.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has again expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. Mr. Chairman, in conclusion, I should say that this is not a pronuclear or an antinuclear question. It is a prosafety question.

We have ample facilities already with reactor storage and onsite storage which makes it possible for us to keep securely and safely the waste which we have right now, and we can do that into the indefinite future—50 years or a hundred years, if we have to, until we establish a safe method of permanent underground disposal.

I think a judgment which we would make right now would be premature. It is a judgment that does not have to be made. It confuses decisiveness with a logical decisionmaking process. I think for us to make a decision right now would be to prejudge criteria which are made by people far wiser than those of us on the floor of the House of Representatives during a debate which takes place in half an hour or an hour on this question and which has such long-term ramifications for the health and safety of the people of this country. We do not need a crash project. We need a safe project.

Mr. Chairman, I strongly oppose the adoption of this amendment.

□ 1640

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California.

A few facts: Cost of facility:

The DOE Generic Environmental Impact Statement on Waste Management, April 1979, serves as the basis of the $350 million cost figures.

Thus, we are within 3 months of that time.

Site selection. The two priority sites are Hanford, Wash. (basalt formations) and the Nevada "test site" (granite). These are already contaminated areas and they do not now involve Federal intrusion, condemnation, buying up of other private lands, and so forth.

Mr. Chairman, all of us are being asked by our constituents: What about the waste disposal problem? What are you doing about the waste disposal problem?

I think we have made some progress in this energy bill. I think this amendment goes a long way toward furthering that progress. This amendment is not pulled out of thin air. The Committee on Science and Technology and the Subcommittee on Energy, Research, and Production have gone over the question of waste management and disposal time and again in the last several years. This amendment results not from in haste, as the opponents state, but over time, with a studied consideration of the different variables.

It is so interesting, to me, that some of the biggest opponents to progress in the area of nuclear energy, of moving ahead with safety, are the same people who have time and again risen on the floor of this House to kill one element or another of our energy supply, our energy production future. I was just thinking about New England. New England gets right now 60 percent of its electricity from oil, and that oil is imported oil. New England, 60 percent; the Mid-Atlantic region 35 percent; and California 70 percent, need to give their people—California, in particular since they have a State law currently blocking new licenses—the kind of intelligent reassurance that the waste disposal problem is being handled. That we are making progress, that we in the Congress are not just bogged down in study after study after study and jurisdictional disputes among committees with differing philosophies toward the very technology itself. The people want to see a clean start on waste management and this Nation has the goods to do the job.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield for a brief observation?

Mr. VENTO. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank my colleague for yielding.

Mr. Chairman, I have had a chance to compare the language of H.R. 4818 against the amendment that has been offered by the gentleman from California (Mr. GOLDWATER).

We have been advised—and I think in good faith—by our colleagues that these two are the same. They are emphatically not. For example, in connection with the authorization appropriation, section 7, such funds as are necessary to carry out the purposes of the act may be authorized. The appropriation provisions of this authorized appropriation, reappropriation, authorization of any funds that have ever been appropriated here.

In addition to this, there are to be fees paid.

In addition to that, I would point out that there is to be a site selection of three candidate areas under the proposal which is in H.R. 4818. There is only one in the proposal here before us. They are not the same. I imagine there are other differences that have not come to the attention of my dear friend, the gentleman from New York, and I am sure that he may, perhaps, on more careful scrutiny, tell us what they are.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, what I said, and what I am saying again, is that the amendment that has been offered to the bill before the committee today is based on the bill that the gentleman is holding in his hand, and which I gave him just a few moments ago, and that the substance of the two are identical.

Mr. DINGELL. They are not identical.

Mr. WYDLER. There obviously have to be some differences between an amendment and a piece of legislation. But the substance of the two is identical.

Mr. DINGELL. If the gentleman will yield further, they are not identical. They are most emphatically not identical. As a matter of fact, it has this extraordinary language, which says:

> There is hereby authorized to be appropriated to the Secretary not to exceed $5,000,000 for the fiscal year ending September 30, 1980 to carry out the project. Any amount appropriated pursuant to this paragraph shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

There are other differences. I would be glad to read them to the gentleman. I know the gentleman says in good faith they are the same. They are not.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I would like a clarification from the author of the amendment or the gentleman from Washington, with respect to the requirement that the NRC license such a facility. It was not specific in my previous statement, but as I have been told later, it may indeed specifically say that the NRC licensing procedure is not required.

Mr. VENTO. If the gentleman from California would respond to the gentleman, I think the gentleman from New York raises a very good question. Does the NRC have the authority to license the demonstration facility that he proposes in his amendment?

Mr. GOLDWATER. If the gentleman

will yield, according to the Reorganization Act of 1974, a research and test demonstration facility, a research and test facility, does not need to be licensed. There is no requirement for licensing.

I think this would, in fact, this low-scale demonstration project, provide some questions that I am sure the regulatory process would be asking and, therefore, another reason why we need to proceed ahead.

Mr. OTTINGER. If the gentleman will yield just briefly, I have here a fact-sheet that I presume has been distributed by the gentleman from California, saying what the amendment will do and what it will not do. It says it will not provide a legislative veto for the States, it will not require the facility to obtain a license.

Mr. VENTO. I think that the gentleman from California has agreed with the fact that it would not be licensed. I think that the safeguards contained in the licensing process are put in place for a very good reason.

I will be as brief as I can. I think that the proposal here is brought forth in good faith. There is a lot of criticism with regards to the solving of the permanent disposal problem, but I think the net effect of this amendment might very well cause a greater loss of credibility than nuclear power even suffers from today. I think that if the Members would stop and think: yes, there is a great hue and cry about the safety of nuclear power plants—and maybe in your minds it is justified, maybe it is unjustified—but why raise the possibility of causing another incident in terms of permanent disposal, which indeed will not only seal the fate, in terms of the waste, but would seal the fate of finding a solution to this problem.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. VENTO) has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, I would submit to my colleagues there are two proposals, there are two measures, which I think are positive steps toward solving this problem, the West Valley proposal, in terms of vitrification, and, of course, away from reactor storage. There are no special problems with regard to storage, and the decisionmaking process with regards to whether we trust or do not trust commercial nuclear plants. There are no real limitations in that particular sense. So I do not think we ought to grasp at irrational proposals to solve this problem simply because opposition seems to be irrational. In other words, this body has a responsibility to be very prudent, to be very careful. These decisions will indeed seal the fate of nuclear power if they are made in the wrong context. So I do not see what the rush is to make this decision. We have no threshold problems with regard to the construction of nuclear powerplants. So let us move ahead. We are moving ahead with research in terms of these questions, and we ought to really resolve those questions.

AMENDMENT OFFERED BY MR. FUQUA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. GOLDWATER

Mr. FUQUA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA as a substitute for the amendment offered by Mr. GOLDWATER: Page 10, after line 10, insert the following:

(4) Intermediate Scale Technology Demonstration Project (site unspecified)—

(a) (1) As soon as practicable, but no later than six months after the date of enactment of this Act, the Secretary shall make a preliminary determination on (A) the location of one or more sites suitable to serve as a technology demonstration repository, and (B) suitable techniques and methods for the design, construction, and operation of a technology demonstration repository. In making such determination, the Secretary shall specifically consider candidate sites located on Federal Government lands in basalt media at Hanford, Washington, and in tuff or granite media within or immediately contiguous to the Nevada Test Site.

(2) The Secretary shall report his preliminary determination to both Houses of Congress by written communication within fifteen days after the date such determination is made.

(b) (1) Within six months after the preliminary determination required under subsection (b), the Secretary shall recommend a specific site for a Federal technology demonstration repository and suitable techniques and methods for the design, construction, and operation of such repository. Upon selecting such site, techniques, and methods, the Secretary shall (A) submit a report to both Houses of Congress specifying the reasons for making such selection and an estimate of the total costs of such repository, and (B) authorize the initiation of detailed design activity and completion of site—specific geology directed toward the ultimate construction and operation of such repository.

(2) Any actions taken under this subsection shall take into account, as fully as possible, the preliminary determination made by the Secretary under subsection (b).

(c) The Secretary shall submit to both Houses of Congress a report, by no later than September 30, 1980, specifying the construction schedule for the technology demonstration repository; *Provided*, That such schedule shall insure that the repository is in operation by September 30, 1985. Such schedule shall, to the maximum extent possible, include specific dates for the commencement and completion of construction on such repository.

There is hereby authorized to be appropriated to the Secretary not to exceed $2,000,000 for the fiscal year ending September 30, 1980 to carry out the project.

☐ 1650

Mr. WYDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GOLDWATER. I reserve the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman will state his objection.

Mr. GOLDWATER. Mr. Chairman, I have not had an opportunity to see this amendment. I have no idea what it does to the original amendment. So therefore, I would like to have the Clerk read it unless I can get a copy of it.

The CHAIRMAN. The Clerk will read.

(The Clerk concluded the reading of the amendment.)

The CHAIRMAN. The gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes in support of the substitute.

Mr. FUQUA. Mr. Chairman, it is with reluctance that I offer the amendment, but it is one of the problems that we get into when very complex amendments are offered to bills, and when they really have not been thoroughly considered in hearings.

I think what we have, and I do not object to the thrust of the amendment originally offered by the gentleman from California (Mr. GOLDWATER), that we should move forward and do something about waste management. But I think what we have here in the substitute amendment that has been offered, offers a study to be made by the Secretary of Energy and to go into really copying some of the language that the gentleman from California offered about the location of different sites, suitable techniques and methods and design and construction and the operation of some of the demonstration repositories and in the other preliminary determination sent to both Houses of the Congress and then this report be submitted to the Congress, both Houses, by September 30, 1980, specifying a construction schedule and technology demonstration depository to determine if they can be in operation by the time specified in here and that may not hold true, and to include specific dates and so forth, and really a plan of action and authorizing $2 million for the first year to carry out this act.

I think this gets us out of some of the problems that we were in earlier. I think that it simplifies the amendment to the point that I hope that the Members could agree to it, and I think it will ultimately accomplish the same purposes that the gentleman from California intended to do with the amendment that he offered.

I urge the adoption of the substitute amendment.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to this substitute amendment.

Mr. Chairman, this amendment completely guts the whole intent of the original amendment, which was designed to stop studying this question and begin doing something about it. I am only taking the lead of the President of the United States as addressed to the Congress, a need to expedite as soon as possible some of our major energy sources, one of which, the President emphasized, is nuclear energy.

One of the great stumbling blocks in nuclear energy development is what we do with waste.

We have in California a number of nuclear facilities which have been jeopardized, as well as if in fact killed, because we do not have in this Nation any means of handling nuclear high-level waste.

The waste efforts and intentions of this gentleman, taking the lead of the President, are to offer a very small-scale technology demonstration project, which would have in place in a specific time a repository for high-level waste.

It just seems to me that if we adopt the substitute offered by my chairman, that once again, we are going to have another study.

I point out to my colleagues that this issue has been studied to death. The Congress, and our own Science and Technology Committee, has had 2 years of hearings on waste management. We have before us an interagency review group draft and final report that was issued in the spring of 1979 on this issue, requested by the President. The Batelle Institute has made numerous studies of it. The ARC has studied this thing to death. The AEC has studied this thing to death.

There is currently in place in a variety of locations around the country measure devices, geologists and other scientists studying this question of waste disposal.

Now, how long do you want to study it? That is the question.

If we accept the amendment, we are going to study it some more. If you adopt my amendment, we will begin, and have by 1985, a small-scale test facility to demonstrate this question of whether we can safely store waste material.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Florida.

Mr. FUQUA. I might point out to my good friend that in the substitute amendment I have offered there is nothing in here that does any less than your amendment would have done by September of 1980, and then at that time hopefully, after a plan has developed similar to what we are doing at West Valley, then we can move forward with a specific plan of action to implement the recommendations that they make.

So, if we adopted the gentleman's amendment, it would not accelerate anything any faster than it would be by the substitute.

Mr. GOLDWATER. Well, I would suggest that it does do substantial damage to my amendment, if for no other reason than my amendment says it shall be built by 1985.

All we do with the gentleman's substitute is to study it and report to the Congress by 1980, and at that point we can decide whether we are going to proceed or not. That is the major difference. If we want to build it, if we want to initiate and put in place a program that will ensure that there is a repository for nuclear waste, then we vote down the substitute amendment of the gentleman from Florida (Mr. Fuqua) and adopt the Goldwater amendment.

If we are interested in more studies, then we adopt the substitute amendment. That is basically the difference between the two.

☐ 1700

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the substitute.

Mr. Chairman, last year it was my privilege to serve as a member of the assembly in California on the energy committee, and that is where I got started on this issue of nuclear energy and disposal of waste. It was fascinating to me to listen to the scientists who came before our committee last year on the issue of whether or not we would go forward with the building of a Sun Desert facility way down in the south of California near Blythe. The scientists told us, one after another in our committee deliberations, that the evidence is that we have the technological capacity at the present time to store waste safely and on a long-term basis; that we have a political decision or a political problem which prevents us from reaching a very necessary step on the part of the National Government; hence, this amendment that the gentleman from California (Mr. Goldwater) and myself have offered.

I would like to just read to the Members very briefly some of the comments by several of the scientists of repute who have given us the benefit of their judgment.

> In our judgment, there exists sufficient confidence in glass as a waste encapsulent system that it should be used to begin a national waste solidification program as soon as possible.

Those are the words of Dr. Larry Hench of the University of Florida.

Dr. Raul Deju, director of the basalt waste isolation program at Hanford, said as follows:

> In conclusion, investigations to date give further confidence that dry storage of various waste forms is feasible and that ultimate disposal of nuclear waste can be ascertained regardless of the solid waste forms being considered for disposal.

In other words, the scientific evidence is overwhelming that we have the capacity to store this waste on a long-term basis. I say we should in this forum have the courage politically to go down the road of laying the foundation for storing waste. We can do it at one of the facilities designated in the amendment, not the substitute. We do not have to go out and buy more land. There are existing at least two Federal facilities where this waste storage capacity can take place.

The substitute of the gentleman from Florida is quite clear. He seeks to establish another study. I say we do not need another study, we have studied it enough. It is time to get on with this project of deciding that we are going to store long-term waste.

I sometimes suspect, although I cannot prove this, that there are those around who seek to use the issue of not having solved the storage of waste on a long-term basis as a means of preventing further utilization of nuclear energy in our country. I cannot really say that is true, but sometimes I suspect that. I am satisfied there are none of those in this Chamber, and for that reason I am sure they will base their vote solely on the basis of the scientific evidence that we can do that and defeat the substitute and adopt the amendment offered by the gentleman from California (Mr. Goldwater).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua) as a substitute for the amendment offered by the gentleman from California (Mr. Goldwater).

The question was taken; and on a division (demanded by Mr. Goldwater) there were—ayes 38, noes 32.

So the amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater), as amended.

The amendment, as amended, was agreed to.

Mr. FUQUA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Boland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3000) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST H.R. 4930, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 96–391) on the resolution (H. Res. 389) waiving certain points of order against the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending

September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION'S ANNUAL REPORT FOR 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers; referred to the Committee on Public Works and Transportation:

To the Congress of the United States:

I transmit herewith the Saint Lawrence Seaway Development Corporation's Annual Report for 1978. This report has been prepared in accordance with Section 10 of the Saint Lawrence Seaway Act of May 13, 1954, and covers the period January 1, 1978 through December 31, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *July 26, 1979.*

□ 1710

REQUEST FOR PERMISSION TO APPOINT CONFEREES ON H.R. 4389, DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4389), making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I ask for this time only to ask what the program for tomorrow is going to be.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Speaker, responding to the gentleman from Maryland, the program for tomorrow is as follows:

H.R. 2462, maritime authorizations, fiscal year 1980;

H.R. 3633, nurses training amendments;

H.R. 4034, Export Administration Act Amendments of 1979.

Mr. BAUMAN. I thank the gentleman.

PERSONAL EXPLANATION AS TO VOTES

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives during two rollcall votes on Monday, July 23, 1979, and during one rollcall vote on Wednesday, July 25, 1979. I would like to announce how I would have voted on each of these had I been present.

Rollcall No. 369, July 23, 1979, the House agreed, by a vote of 214 yeas to 4 nays, to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 370, July 23, 1979, the House agreed, by a vote of 217 yeas to 5 nays, to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 377, July 25, 1979, the House agreed, by a vote of 387 yeas to 5 nays, to resolve itself into the Committee of the Whole. I would have voted "yea."

ORANGE COAST NATIONAL URBAN PARK

(Mr. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PATTERSON. Mr. Speaker, today I have introduced a bill with my colleague from California, ROBERT BADHAM, which provides for the stablishment of the Orange Coast National Urban Park. The purpose of the bill is to protect the rich natural and cultural resources of the Irvine Coast, Laguna area of California, including the last remaining portion of undeveloped shoreline along the Irvine Coast.

The bill will provide for the urban recreation needs of millions of people and it will assist the State and local governments in providing for a balance of planned urban development and open space and recreational opportunities.

This legislation recognizes the need to exercise fiscal restraint at the Federal level. It authorizes $38 million in matching Federal funds for the acquisition of lands within the park.

This authorization will match the commitment by the State of California to purchase portions of land within the boundaries of the proposed park.

In addition, the bill requires the Secretary of the Interior to negotiate a cooperative agreement with the State of California to manage and administer the park. This joint pooling of State and Federal funds should insure maximum protection and preservation of the area with the limited amount of Federal dollars provided for in the bill.

The proposed Orange Coast National Urban Park encompasses approximately 19,000 acres of land that stretches 3.5 miles along the Irvine Coast between Corona Del Mar and South Laguna Beach, Calif., and reaches as far as 3 miles inland. The terrain includes steep walled canyons, ridges, marine terraces, sea cliffs, beaches, and two inland lakes and offers vistas of both the ocean and inland portions of the county.

The sea coast and marine resources in the area are of national significance and should be protected. Fossil records have been identified in the area which date back as early as 17,000 years ago. The proposed park contains numerous known archeological and paleethnological sites which can provide us with valuable information pertaining to the occupational history of the region.

Five rare and endangered species of birds are known to have ranges within portions of the proposed park and the cottage community of Crystal Cove, which is in the proposed park, has been nominated to the National Register of Historic Places as an historic district.

In addition to its natural and cultural resources, the proposed site for the Orange Coast National Urban Park can offer a diversity of recreational opportunities to serve the needs of southern California residents.

The park is within 1 hour's drive of at least 10 million people and will be easily accessible to many forms of mass transit.

In this time of energy conservation and gasoline shortages it is necessary to redirect our Federal park acquisition funds away from the great open spaces which are far away from centers of populations, to areas where they are accessible to the 70 percent of Americans who live in urban areas.

A national urban park will help to make up the deficit in parks and recreation areas which currently exists in the area. The Southern California Association of Governments projected in 1978, that Orange County will need an additional 33,250 acres for regional parks by the year 2000.

The Federal interest in urban recreation and in the Irvine Coast Laguna area, dates back to 1976 when Congress mandated the Interior Department to take a close look at recreation in the county's urban areas to determine the appropriate role of the Federal Government in providing for these needs. The heritage conservation and recreation service and the National Park Service in its national urban recreation study, listed the site of the Orange Coast National Urban Park as,

> One of the most significant open space and recreational resources which should be preserved and developed for recreational use.

There is widespread support for a national urban park in Orange County. The area has, for years, been the subject of much controversy at the local level. The demand for housing and urban growth has put tremendous pressure on local governments to intensively develop this only remaining open space area. It is increasingly evident that local land use regulations and ordinances will no longer be an effective means for preserving the area. In addition, the local budgetary restraints imposed by proposition 13 will further threaten the Irvine Coast Laguna area.

The legislation Congressman BADHAM and I are introducing today meets this concern by sharing the responsibility to protect and manage the area with the State of California. The bill will also insure that the transportation needs of the region will not be hindered by a national urban park.

The major landowners, the Irvine Co. and the Aliso Viejo Co., have been extremely cooperative and supportive of efforts to preserve the land. A national urban park has widespread public support. A number of private conservation and public interest groups have been working actively for years to preserve and protect the area.

The State of California has been interested in the area for several years and is in the process of negotiating with the Irvine Co. to acquire $38 million worth of land within the park. The California Coastal Commission, under the mandate of the California Coastal Act of 1976, is interested in preserving much of the proposed park and is currently reviewing development plans prepared by the Irvine and Aliso Viejo Companies.

The Federal interest in the area came to a focus last year when Congress passed the National Parks and Recreation Act of 1978. The act authorized the Park Service to study the area to determine the feasibility and desirability of including it as a part of the National Park System. The Park Service study, which comprised about 24,000 acres in the Irvine Coast Laguna area, identified four alternatives as feasible strategies for preservation and use of the areas significant land resources. The bill I am introducing today is a combination of several of the alternatives proposed by the Park Service.

The 19,000 acres of land in my bill represents the greatest area of concern for preservation and protection and reflect a variety of diverse and often conflicting interests. It is intended that this bill will provide the necessary vehicle for further consideration and study of the area, by the public, the Congress, and the administration, to determine exactly how much of the land can be and should be acquired by the Federal Government for a national urban park.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. PATTERSON. I will yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, it is a rare occasion when the gentleman who represents California's 38th Congressional District (Mr. PATTERSON) and I agree on issues which come before this House. However in the case of legislation to establish an Orange Coast national urban park in California, we are in full agreement—thus the joint sponsorship of the measure we are introducing today.

My support for a park in the Irvine Coast area of southern California dates back to the late 1960's. As a member of the California State Assembly, I and then State Senator Dennis Carpenter were responsible for obtaining $7.6 million in earmarked State park funds to purchase the Irvine Coast and two main canyons for 50 percent of the appraised value. This, incidentally, represented practically all of the useful parkland in the area. Unfortunately, this purchase was blocked.

Today that $7.6 million is part of the State's $38 million which has been designated for land acquisition in the Irvine Coast area. The legislation we are jointly introducing today authorizes the Federal Government to match the State of California's appropriation of $38 million for the purchase of some truly beautiful acreage in Orange County for the purpose of a national urban park.

The National Park Service recently completed a congressionally mandated study of the proposed park area. Negotiations between Mr. PATTERSON and me have resulted in what I consider to be a fair and equitable bill which will protect the taxpayers' pockets, while protecting the Irvine Coast area for all to enjoy. I hope this legislation will receive the swift and favorable consideration of my colleagues.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Kansas (Mr. JEFFRIES) is recognized for 5 minutes.

● Mr. JEFFRIES. Mr. Speaker, although I was present to vote on all of the amendments to the Amtrak authorization bill, I was detained yesterday and unable to vote on its final passage. Since my constituents have a right to know my position on the bill, I would like to enter in the record that I would have voted "yes" for passage of H.R. 3996 as amended.●

LEGISLATION TO AUTHORIZE MEDAL OF HONOR TO HERMAN MILLER

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, I am today introducing legislation to authorize the President to present the Medal of Honor to Mr. Herman Miller, a centenarian and long-time resident of San Diego County.

Mr. Miller was recommended for the Medal of Honor on May 18, 1900, by his company commander for heroism during a 3-day engagement against Philippine insurgents in the village of Batac in mid-April 1900. Unfortunately, the recommendation was apparently swallowed up in the morass of military paperwork and subsequently shunted aside by the growing unpopularity of the U.S. involvement in the Spanish-American War. His last hopes were dashed when Congress in 1918 wiped the slate clean on unresolved Medal of Honor requests.

Mr. Miller and his daughter, Mrs. Eva McGinnis, have waged a battle over a period of years for his Medal of Honor, but without success, despite indications of interest and support from a wide variety of individuals and organizations. Former Congressman Edouard Victor Michel Izac introduced a private bill in Mr. Miller's behalf during the 77th Congress. The measure was dropped into the hopper on December 9, 1941, but, needless to say, was put aside in the sequence of events which followed the Japanese attack on Pearl Harbor 2 days earlier.

When Mr. Izac left Congress after World War II, the matter was put to rest for a number of years. I am today reintroducing the identical language of Mr. Izac's bill. With the recent renewed interest in several individuals who were denied the Medal of Honor because of a lack of timeliness in presenting their cases to the chain of command, I feel that the time is ripe for a reconsideration of Mr. Miller's case. He is a spry and personable gentleman whose patriotism and national pride would bring tears to your eyes. In these days of national self-denigration, it is important to remember that it is men and women like Mr. Miller who have made America strong and free.

It is an honor to represent Mr. Miller's Medal of Honor request to the Congress and I would urge favorable consideration.●

THE REGIONAL ENERGY CORPORATION BILL

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. WYDLER) is recognized for 5 minutes.

● Mr. WYDLER. Mr. Speaker, I introduce legislation to create regional energy corporations.

These regional energy corporations may be formed by three or more eligible States. An "eligible State" is defined in the bill as—

> A State which is adjacent to two or more States . . . two States should be deemed to be adjacent if such States have a common boundary.

This bill proposes to facilitate, finance, and stimulate projects with a regional impact on the cost, supply and efficient use of energy. The corporations proposed by this bill would contribute to the work of all areas of the partnership—Federal, State, private—and hopefully do away with many of the stumbling blocks now slowing or interfering with energy development.

This bill is different from H.R. 2511, introduced on February 28, 1979, in that H.R. 2511 is restricted to the Northeast while the bill which I introduce today is national in character; in short, all 50 States stand to benefit from it and not those confined to one region of the Nation.

This bill also provides production facilities for nuclear energy; H.R. 2511 does not mention nuclear.

The Congress will create the corporations and clearly set forth the areas of their jurisdiction and power. The Corporations will be quasi-public in character. They will be responsible to and administered by a board of directors which will consist of five members appointed by the President, subject to Senate approval; a member appointed by the Governor of each State which joins the Corporation; and finally, the private sector which will select two members.

A corporation may be organized when three adjacent States enact the legislation necessary for that purpose. The board of directors will prepare the terms and conditions which financial institutions and private industry located or involved in the region may subscribe to the corporation's capital stock.

The bill authorizes the corporations to take part in financing energy-related projects through guarantees, loans and equity investments or other forms of aid. Funds for this purpose will be available by borrowing through the issuance of bonds or notes, which will be secured by a Federal guarantee at a ratio of 15 to 1 which will be established on the basis of capital contributions.

Projects which will be encouraged include transportation and distribution facilities; promotion or production of conservation techniques; new technological developments related to energy; and production facilities for coal, and optimum siting decisions on nuclear plants.

The environmental regulations promulgated by the National Environmental Policy Act as well as all other Federal regulatory requirements and all other laws must be adhered to by the corporation.

What is the Federal role? Simply stated, it is to authorize formation of the corporations, and to provide capital for desirable projects in those cases where there is inadequate private support; and to provide necessary oversight through constant scrutinization of audits and reports.

Mr. Speaker, the corporations, then, will not supersede Government agencies already in existence, they will supplement them. Their purpose is to assist desirable projects in those instances which private business, standing by itself, cannot implement. In every instance, the corporations will work side by side with private financial institutions, and assist them in every reasonable way.

My bill is also intended to encourage State participation in regional efforts to commercialize synthetic fuels technology and speed the utilization of these new fuels by industry. Certain regions must await resolution of specific technical problems before synthetic fuels can be produced at commercial scale.

Caking coals mined in the Eastern United States, for instance, cannot be converted to gas with off-the-shelf technology. The States should have the capability to fund planning to encourage gasification projects for pipeline quality product tailored to these needs. The regional corporations should engage in cost sharing with the Department of Energy and regional industries.

The corporations should provide the States with the capability to work with the proposed Federal Energy Security Corporation in meeting the administration's goal of 2½ million barrels per day of oil substitute by 1990. Unconventional gas from the shales of the East, the tight sands of the West, and the brine off the gulf is to provide 20 percent or more of that goal. The corporations should be involved in these enhanced recovery projects and should address the questions of distribution of this gas as well as the desired overall fuel mix by State.

Liquefaction is the crucial technology which provides a direct oil substitute for the transportation sector. The Energy Security Corporation is to provide up to $88 billion of backing for synthetic fuels production chiefly through construction of full-scale plants. Regional corporations must participate in evaluating the tradeoffs to be made in determining which liquefaction technology is preferable. There is considerable opportunity for the regional energy corporations to serve as a sort of commercialization broker between regional industries and the Department of Energy.

I also envision the States working with the Energy Mobilization Board through the corporations. The board is intended to eliminate redtape by assuring that decisions on energy projects are made in a timely fashion. The States have a major stake in seeing that such projects go ahead without compromising public health and safety. The Board will have the right to establish schedules for Federal, State, and local permit processes. The corporations should provide a regional perspective that will reduce parochialism in siting and scheduling such priority energy projects.●

U.S. CAPITOL POLICE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, August 1 marks an important date in the history and progress of the U.S. Capitol Police Force, which began when the seat of our Federal Government was moved from Philadelphia to Washington, D.C., in 1801. I feel that the Members of the House of Representatives should be fully informed about this event for it is only with their support and cooperation that it has been achieved, and the progress obtained can be continued.

Mr. Speaker, on August 1, the results of the second Capitol Police biennial promotional process will become effective. The first competitive promotion examination was an experiment only 2 years ago. In May of 1977, the Capitol Police Board, with the encouragement of the Committee on House Administration and the concurrence of the House, adopted the policy that promotional matters for members of the Capitol Police force shall be governed by a competitive process, based entirely upon merit, and without regard to means of appointment or political affiliation.

It was not until 1965 with the appointment of James M. Powell as chief of police that the U.S. Capitol Police began to come into its own as a respected member of the law enforcement community. In less than a decade and half, much progress has been made. With the advent of our new promotional system, we have journeyed a long way toward the professionalization of our police force.

Today the U.S. Capitol Police has an authorized strength of over 1,000. Today, we have a modern, up-to-date program for both academic and firearms training. Today, we have our own special operations unit for use in time of disturbances and disorders. We have one of the most modern communications systems in the area. We have a patrol detail consisting of foot patrolmen, K-9 patrols, scout car patrols, as well as motorbike patrols. We have a well-trained professional photographic and identification section, as well as an investigations division.

In brief, here, as reported by Chief of Police Powell, is how the new promotional policy will be implemented to assure fairness and equity for all police officers:

> In the most recent process, 473 candidates openly competed for numerical eligibility rankings in the grades of Sergeant, Lieutenant and Captain. The process consisted of a potential evaluation of candidates by their supervisors and a written examination. An additional Oral Review Board was required for candidates competing for the grade of Captain.
>
> Each participant will be personally apprised of his composite score and a list will be published, with the identity of the participants encoded in such manner as to ensure the confidentiality of the individual, in order that the participants will be fully aware of their standing in relation to the remaining participants for the same rank.
>
> As openings in various ranks become available through attrition, retirements, etc., the Chief of Police will submit the names of the first three individuals on the list to the Capitol Police Board for consideration. As

promotions are made, interdepartmental memoranda will be published, identifying the individuals promoted, by their encoded designation. This will enable each member of the force to compare his composite score with that of the individual receiving the elevation in grade.

If there should be any appeal by members of the force as a result of this procedure, it will be addressed to the Capitol Police Board for resolution.

As I have indicated, we are extremely proud of the progress made by the Capitol Police in recent years. We believe the combined capabilities and professional expertise of the force are equal to any law enforcement agency in the Nation.●

THE SYNFUELS MISTAKE

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, the House has passed a bill to develop synfuels and more legislation in this area is on the way. However, the development and use of synfuels in sufficient quantities to offset our insatiable demand for foreign oil is not without serious problems. To clearly explain some of these problems, I heartily recommend to my colleagues the consideration of the following article by Gordon J. MacDonald, which appeared in the Washington Post on July 26, 1979. The author is a former member of the Council on Environmental Quality and is a professor of environmental studies at Dartmouth College.

The article follows:

THE SYNFUELS MISTAKE

(By Gordon J. MacDonald)

The president and the Congress have presented the nation with the exciting prospect of solving the energy problem by building plants that will convert our abundant coal resources into more readily usable fuel, such as oil or "natural gas." In an almost crisis atmosphere of the moment, the true environmental and economic costs of synthetic fuels have been overlooked in the apparent desire to provide an easy answer to a complicated problem.

The most important environmental issue associated with a major commitment to synthetic fuel is the possible worldwide change in climate resulting from the loading of the atmosphere with carbon dioxide. This gas, present in minute amounts, absorbs heat that would otherwise radiate from the earth out into space. Carbon dioxide acts as a blanket keeping the earth warm. Increasing the carbon dioxide context of the atmosphere will increase the number of blankets and raise the temperature of the earth.

These changes in temperature could bring about significant worldwide changes in the way people live. The changes are today poorly understood—but could have far-reaching implications for human welfare in an ever more crowded world, would threaten food supplies and present a further set of intractable problems to organized societies.

When will the carbon dioxide content of the atmosphere increase to levels where the effects become noticeable? The answer depends on how fast the world increases the use of carbon-based fuels, natural gas, oil and coal, and on whether or not synthetic fuels become an important element in the world fuel economy. To make synthetic fuels, energy must be used. That use of energy produces carbon dioxide, as does the burning of the synthetic product. The net result is that synthetic fuels produce two to three times more carbon dioxide than do the natural fuels.

If the world continues along the lines of the past 30 years, and if the current mix of gas, oil and coal is maintained, then the carbon dioxide content of the atmosphere will double in about 50 years. If, on the other hand, the world shifts to coal and synthetics, then the doubling will come in about 30 years. The 20-year acceleration may not seem large, but it could eliminate the time needed to develop the alternative fuel of the future—solar, fusion or nuclear.

The basic policy question associated with the climatic impact is that we may not be absolutely certain that the earth is warming up until 1990 or 1995. By that time, if synthetic-fuels investment and infrastructure are in place, it will be extraordinarily costly in economic and social terms to move away from a synthetic-fuel economy. Once hooked, the cure for synthetic-fuel addiction would be very costly.

The energy challenge is obviously worldwide and cannot be resolved by one nation acting alone. The communiqué from the Tokyo summit made it clear that the Western nations recognized the longer-term economic and environmental issues of using carbon-based fuels. However, the United States provides leadership on many international issues. The elements of policy I propose here are for the United States, but they apply as well to the world:

1. *Acknowledgement of the problem:* The CO_2 problem is one of the most contemporary environmental problems, is a direct product of industrialization, threatens the stability of climates worldwide and therefore the stability of all nations, and can be controlled by controlling fuel policies. No technical means of controlling carbon dioxide exists today. Steps toward control are necessary now and should be part of the national policy in management of resources of energy.

2. *Conservation of carbon-based fuels:* The element of any policy that offers the hope of being effective is conservation. Limitation of the rate of exploitation of fuels is possible. The rate is controlled currently by price, taxation and regulation. It can be controlled as a matter of policy. All actions of government should be reviewed to determine effects on the total use of carbon-based fuels.

3. *The choice of carbon-based fuels* and the use made of them bears heavily on the amount of CO_2 released to produce a unit of energy. Natural gas is by far the best carbon-based fuel for limiting carbon-dioxide production.

The proposals for a massive synthetic-fuels program arise from the misconception that the United States is running out of natural carbon-based fuels. That assumption is wrong. For example, over the past few years I have studied the probable reserves of natural gas. I am convinced from my work and that of my colleagues that, in the continental United States, there exist vast resources of natural gas in both shallow and deep basins that have not been exploited. The lack of exploitation flows from the fact that historically, in terms of constant dollars, the energy content of natural gas has been underpriced by 10 to 30 percent with respect to coal, 100 percent with respect to domestic oil and 200 percent with respect to imported oil. As a result, there has been little economic incentive to develop this resource, which in burning produces less carbon dioxide than any of the other carbon-based fuels. In the longer term, solar, fusion and nuclear power may provide alternative options that are both environmentally and economically compatible.

My idea is that before we commit ourselves to the construction of a major synthetic-fuels infrastructure involving the investment of billions of dollars, we should make every effort to understand not only the short term benefits and the costs, but also the longer-term consequences to the generation that must live with the decisions taken today.●

SHATTER THE SILENCE, VIGIL 1979

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 minutes.

● Mr. HOWARD. Mr. Speaker, as sponsor of the project "Shatter the Silence, Vigil 1979" I come before you today to add the names of Solomon Inditsky and his family to our list of Soviet Jews who have been denied permission to emigrate from the U.S.S.R.

Solomon Inditsky, his wife, Khana, and daughter, Isabella Novikova, and her 13-year-old son, Mark, applied for permission to emigrate to Israel in 1971. During the last 6 years they have received five refusals for a variety of reasons including secrecy, although there was nothing classified about the work Solomon Inditsky was involved in as an electrical engineer. Other reasons for refusal have ranged from technical excuses to: "You'll be here a long time to come."

Because the family applied for exit visas, family members lost their jobs and have since been unable to work despite the fact that they possess skills which are valuable assets to the labor force: Khana is a pediatrician and Isabella is an electrical engineer.

Last October, young Mark was to become a bar mitzvah in Moscow. Soviet authorities would not allow him to be called to the Torah in the synagogue because he is a "refusenik"—one who has applied to emigrate and has been refused. Mark's bar mitzvah had to be held in secrecy, in a private apartment.

The Inditsky family has committed no crime. The family simply wishes to live in Israel with close relatives and among the people in the land of their fathers. It would seem that no one and nothing should prevent the achievement of such an aspiration, since it complies in full with Soviet laws and does not harm Soviet interests.

It is my hope that "Shatter the Silence, Vigil 1979" will help improve emigration for Soviet Jews who find themselves in situations similar to the Inditsky family. To date 38 Members of Congress have participated in the 1979 vigil, each pleading the case of a "refusenik" before the House of Representatives.

There is a great need to ease the exit requirements for Soviet Jews and to end the official and unofficial harassment of people who strive to gain their individual freedom. My colleagues and I pray that the appeals we have made in behalf of the "refuseniks" will assist these noble people in their struggle for freedom.●

SALT II AND THE POLITICS OF FEAR

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, despite the passing of weeks since the national debate on SALT II began, I have read few pieces that put the case against SALT II in better frame than a recently rediscovered column by Seymour Weiss in the Wall Street Journal. The fundamentally flawed antitreaty arguments, which lean on fear of Russians for credibility, are reproduced again and again. And no scrutiny of new information seems to be able to affect the pace and pitch of the old hawkish cant.

Seymour Weiss warns us (Wall Street Journal May 24), that being afraid of the epithet "warmonger" is no reason to buy SALT, suggesting such a fear motivates the administration and those who see benefit in SALT II. He parades before us a litany of past Soviet sins that presumably disqualifies the Soviet Union as a partner to any treaty, ever. Mr. Seymour ties the beginning of this rancorous doubt to the end by invoking "political context," which he alleges to be lacking, except in the form of another buzz-word, "appeasement," and completes his overkill with rhetorical references to Hitler, Munich, and totalitarianism.

In a climate of mutual suspicion, the easiest choice is continued mistrust. Therefore, it is a cheap effort to prey on the American public's fear and suspicion of Soviet intentions and to encourage the false belief that by signing SALT II President Carter compromises national security, or that by stalling ratification a vaguely defined danger is averted.

Moreover, it is irresponsible to exploit the administration's commitment to honesty by alleging that the admitted "imperfections" in SALT II are invalidating. Negotiation between two parties necessarily involves compromise in both directions. And, in negotiation between heavily armed antagonists an agreement will be of value to the extent that it limits destructive capability and the likelihood of conflict: In theoretical terms it will be "imperfect" to the extent that it fails to disarm the potential adversaries. Therefore, the argument as to whether or not a treaty is "good" must hinge on an analysis of what the agreement does and does not accomplish. SALT II does:

Set a weapons ceiling on intercontinental nuclear weapons for the first time ever, with a further decrease of 150 nuclear launchers in force by 1982;

Oblige an actual decrease in the total number of Soviet nuclear delivery systems now arrayed against American targets;

Allow the United States to deploy an additional 190 ICBM launchers—if we wish—including the MX mobile missile capable of carrying up to 10 separately targetable nuclear warheads;

Force a deceleration on rapid Soviet progress in the technology of nuclear delivery systems by limiting both signatories to one new type of intercontinental ballistic missile;

Open the way for further negotiation in the direction of nuclear weapons control and on other important matters; and

Reduce uncertainty and the possibility of a calamitous "mistake."

SALT II does not:

Forbid deployment of the air-launched cruise missile;

Alter the present status quo of rough parity between the United States and U.S.S.R. in favor of the Soviet Union;

Limit American surveillance; it enhances data collection;

Compromise the ability of the United States to respond to nuclear assault with so great a counterattack as to make the "first strike" option impossibly costly to the Soviets. (Both superpowers now have the nuclear might to obliterate all life on this planet several times over); and

Cost more in taxpayer dollars than without SALT II, at a time of budget constraint and inflation. (Actually, under the treaty the Pentagon could spend an estimated $30 billion less for strategic weapons over the next 10 year.)

Many Americans will find it difficult to accept the idea that the Soviets fear U.S. strategic strength, that the Russian leadership could feel wary of the intention of such a well-meaning people as we believe ourselves to be. That others view us in this different light is uncomfortable at best, but to ignore the reality of the Kremlin's concern is a case of very risky myopia. And if overwhelming superiority in nuclear armaments is so significant an enhancement of our interests, how do SALT opponents interpret America's humiliating failure to work its will in Hungary, Czechoslovakia, and Southeast Asia in the years of undisputed American strategic superiority? We ought to have derived something from our recent history besides a more exercised attitude of antagonism.

The relationship of the two superpowers is of vital concern to all nations. The entire planet would pay the price of instability if it led to nuclear confrontation. If Mr. Weiss seeks the political context of SALT II, he may take stock of the politics of planetary survival as the sufficient context for United States-Soviet negotiation. Therefore, the moral responsibility we share with the Soviet Union in concluding the interim pact known as SALT II would be best served if the U.S. Senate ratifies the treaty.

On May 27, Rev. Jesse Jackson told a crowd of 13,000 at the University of Rhode Island commencement:

> There are few issues, if any, that are more critical to our two countries and the world than that SALT II be ratified.

He is right. Members of the House and Senate must support the treaty.

BILL INTRODUCED TO AMEND CHARTER OF TRINITY COLLEGE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. Pease) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, the purpose of the bill H.R. 4976, which I am introducing today, is to amend in several respects the corporate charter granted to Trinity College in Washington, D.C., by the act of April 8, 1935, 49 Stat. 113:

First, to increase the number of persons who may serve as trustees of the college.

Second, to clarify that the board of trustees shall elect officers of the board of trustees as well as officers of the college.

Third, to provide that the officers of the college need not be members of the board of trustees.

Presently, the trustees must number not less than 8 nor more than 15. The present charter does not specifically grant the trustees the power to elect or appoint officers of the board of trustees but does provide that the officers of the college must be members of the board of trustees.

This bill was introduced at the request of the board of trustees and officers of Trinity College. These changes in the charter are proposed as part of an extensive self-evaluation and improvement of the college's administration structure pursuant to a grant under title III of the Higher Education Act of 1965, Public Law 89-329, as amended. The proposed changes will permit the election or appointment of additional trustees to meet the increased workload of the evaluation and the resulting proposals. The removal of the officers of the college from membership on the board of trustees will avoid the overlapping of roles, responsibilities and interests of these separate and distinct components of the administrative structure.

BACKGROUND

Trinity College of Washington, D.C., was founded in 1877 for the higher education of women. It is located on Michigan Avenue and Franklin Street NE. More than 800 students are enrolled in the college primarily in undergraduate studies in the liberal arts, and in graduate programs in professional fields. Graduate programs are coeducational.

Trinity College was originally organized and operated under certificate of charter filed in 1897 pursuant to the incorporation provisions of subchapter 1 of chapter 18 of the Code of Laws of the District of Columbia. In 1935, Congress enacted the special Charter Act of April 8 (49 Stat. 113), which was similar to legislation enacted for the benefit of other colleges and universities in the District of Columbia.

From its founding, Trinity College has drawn students from all over the United States as well as from many foreign countries. The college has become a national institution recognized for the excellence of its programs. Accredited in 1917 by the Association of American Universities, it was in 1921 accredited by the Middle States Association of Colleges and Schools.●

CONFERENCE REPORT ON H.R. 4388

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes.

Conference Report (H. Rept. No. 96-388)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4388) making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 15, 25, 26, 33, 34, and 35.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 12, 13, 18, 19, 27, 28, 29, 32, and 36, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,371,147,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$228,279,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$588,249,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$36,015,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$142,145,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,451,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$213,053,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,761,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,614,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 3, 7, 8, 9, 14, 17, 22, 24, 30, and 37.

Tom Bevill,
Edward P. Boland,
John M. Slack,
Lindy (Mrs. Hale) Boggs,
Bill Chappell,
John W. Jenrette, Jr.,
Julian C. Dixon,
Jamie L. Whitten,
John T. Myers,
Clair W. Burgener,
Virginia Smith,
Silvio O. Conte
(except as to amendments Nos. 18, 30, and 37),
Managers on the Part of the House.

J. Bennett Johnston,
John C. Stennis,
Warren G. Magnuson,
Robert C. Byrd,
Ernest F. Hollings,
Walter D. Huddleston,
Quentin N. Burdick,
Jim Sasser
(except amendment No. 30),
Dennis DeConcini,
Mark O. Hatfield,
Milton R. Young,
Richard S. Schweiker,
Henry Bellmon,
James A. McClure,
Jake Garn,
Harrison Schmitt,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4388) making appropriations for energy and water development for fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—DEPARTMENT OF ENERGY

OPERATING EXPENSES

Energy supply, research and development activities

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,048,523,000 for Operating Expenses, Energy Supply, Research and Development Activities, instead of $2,050,623,000 as proposed by the House and $2,053,823,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds appropriated for Operating Expenses, Energy Supply, Research and Development Activities are allocated as shown in the following table:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT—OPERATING EXPENSES

	Fiscal year 1980	
	Budget estimate	Conference allowance
Solar applications:		
Systems development	$46,000,000	$52,000,000
Demonstrations:		
Buildings	33,500,000	35,750,000
Agricultural and industrial process heat	14,000,000	14,000,000
Federal photovoltaics demonstrations		10,000,000
Market development and training	24,300,000	20,500,000
Program direction	2,341,000	2,341,000
Total, solar applications	120,141,000	134,591,000
Solar technology:		
Solar thermal electric power systems	72,905,000	72,905,000
Photovoltaics energy development	122,700,000	139,700,000
Wind energy conversion system	48,860,000	45,260,000
Ocean systems	23,600,000	28,600,000
Program direction	2,892,000	2,892,000
Total, solar technology	270,957,000	289,357,000
Geothermal:		
Hydrothermal resources	37,850,000	42,250,000
Geopressured resources	35,700,000	35,700,000
Geothermal technology development	41,800,000	41,800,000
Program direction	1,802,000	1,802,000
Total, geothermal	117,152,000	121,552,000
Biomass:		
Technology support	$16,000,000	$16,000,000
Production systems	5,700,000	5,700,000
Conversion technology	23,000,000	22,500,000
Research and development	8,300,000	7,800,000
Support and other	1,500,000	1,500,000
Program direction	796,000	796,000
Total, biomass	55,296,000	54,296,000
Hydropower:		
Low head hydroelectric development	8,000,000	8,000,000
Feasibility studies loan program	10,000,000	10,000,000
Program direction	324,000	324,000
Total, hydropower projects	18,324,000	18,324,000
Nuclear fission:		
Converter reactors:		
Thermal reactor technology	36,500,000	69,000,000
Advanced reactor systems	9,700,000	4,700,000
Program direction	2,016,000	2,016,000
Total, converter reactors	48,216,000	75,716,000

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT—OPERATING EXPENSES—Continued

	Fiscal year 1980	
	Budget estimate	Conference allowance
Nuclear fission—Continued		
Commercial waste management:		
Terminal isolation research and development	$158,100,000	$146,350,000
Waste treatment technology	14,200,000	14,200,000
Support programs	2,100,000	2,100,000
Program direction	1,365,000	1,365,000
Total, commercial waste management	175,765,000	164,015,000
Spent fuel storage:		
International spent fuel storage	4,200,000	3,000,000
Domestic spent fuel storage	13,800,000	8,000,000
Program direction	482,000	482,000
Total, spent fuel storage	18,482,000	11,482,000
Advanced nuclear systems:		
Space and terrestrial applications	34,300,000	34,300,000
Advanced systems evaluations	2,600,000	2,000,000
Program direction	1,206,000	1,206,000
Total, advanced nuclear systems	38,106,000	37,506,000
Breeder reactors:		
Liquid metal fast breeder reactor base program	348,900,000	308,900,000
Water cooled breeder reactor	57,900,000	57,900,000
Gas cooled breeder reactor	19,988,000	19,988,000
Fuel cycle research and development	21,100,000	21,100,000
Program direction	11,398,000	11,398,000
Total, breeder reactors	459,286,000	419,286,000
Total, nuclear fission	739,855,000	708,005,000
Magnetic fusion:		
Confinement systems	83,500,000	83,500,000
Development and technology	48,000,000	48,000,000
Applied plasma physics	62,100,000	56,600,000
Reactor projects	39,100,000	42,100,000
Program direction	2,905,000	2,905,000
Total, magnetic fusion	235,605,000	233,105,000
Electric energy systems and storage:		
Electric energy systems power supply:		
Power supply and system management	16,900,000	16,900,000
Power delivery	8,600,000	18,300,000
Program direction	1,340,000	1,340,000
Total, electric energy systems	26,840,000	36,540,000
Energy storage systems:		
Battery storage	32,000,000	32,000,000
Thermal, mechanical and other storage	30,840,000	30,840,000
Program direction	1,302,000	1,302,000
Total, energy storage systems	64,142,000	64,142,000
Total, electric energy systems and storage	90,982,000	100,682,000
Environment:		
Environmental research and development:		
Overview and assessment	$58,400,000	$55,000,000
Biomedical and environmental research:		
Human health studies	30,280,000	26,580,000
Health effects research in biomedical systems	47,790,000	47,790,000
Environmental studies	46,160,000	45,660,000
Physical and technical studies	23,880,000	23,880,000
Carbon dioxide effects research/assessment	6,280,000	6,280,000
Subtotal, biomedical and environmental research	154,390,000	150,190,000
Program direction	9,369,000	9,369,000
Total, environmental R. & D.	222,159,000	214,559,000
Decontamination and decommissioning:		
Management of surplus radioactively contaminated DOE facilities	9,000,000	9,000,000
Remedial action for former DOE contractor installation MED/AEC sites	11,500,000	11,500,000
Remedial action for inactive uranium mill tailing sites	11,500,000	11,500,000
Program direction	199,000	199,000
Total, decontamination and decommissioning	32,199,000	32,199,000
Total, environment	254,358,000	246,758,000
Basic energy research:		
Basic energy sciences:		
Nuclear sciences	30,700,000	30,700,000
Material sciences	81,300,000	79,000,000
Chemical sciences	58,800,000	55,100,000
Engineering, mathematical and geosciences	23,900,000	20,100,000
Advanced energy projects	16,600,000	10,000,000
Biological energy conversion and conservation	6,900,000	6,000,000
Program direction	2,116,000	2,116,000
Total, basic energy sciences	220,316,000	203,016,000
Technology assessment projects:		
Assessment projects	3,000,000	2,500,000
Solar powered satellite	7,500,000	5,000,000
Program direction	466,000	466,000
Total, technical assessment project	10,966,000	7,966,000
University research support:		
University institutional agreements	2,300,000	2,300,000
University reactor fuel assistance	1,700,000	1,700,000
Program direction	171,000	171,000
Total, university research support	4,171,000	4,171,000
Tech program and policy analysis	2,417,000	2,000,000
Total, basic research	237,870,000	217,153,000
Total, operating expenses	2,140,540,000	2,123,823,000
Unobligated balances		−75,300,000
Total, energy supply, research and development—operating expenses	2,140,540,000	2,048,523,000

The conferees agree with the Senate report language which recognizes the market potential of solar thermal repowering. Repowering oil and gas-fired plants in the Southwestern States could provide a sufficient initial market for commercialization of the central receiver system and substantially reduce foreign oil imports. The Department is directed to proceed in fiscal year 1980 with a solar repowering experimental program and make sufficient funds for that purpose available from within the large thermal power systems program.

The conference allowance of $139,700,000 for Photovoltaics is to provide the funds recommended by both Houses for additional flat plate and concentrator experiments, as well as funds to continue those development and demonstration projects expressly noted in the House and Senate reports accompanying the fiscal year 1979 appropriations bill. Before proceeding to construction of the solar national exemplar project, the Department is directed to submit the report of the results of the studies for this project for approval by the Committees on Appropriations.

The conferees agree with the Senate report language requesting the Department to analyze the need for a national wind energy test facility.

The conferees also agree with the Senate report language with regard to the Hydropower small-scale construction loan program.

The conferees' allowance of $69,000,000 for Converter Reactors, Thermal Reactor Technology provides $3,600,000 for light water reactor reprocessing and refabrication technology at Hanford, Washington, $11,500,000 for the Barnwell Nuclear Fuels facility as provided in the Senate allowance and $4,400,000 for Thorium Recycle as provided in the House allowance. As reflected in the Senate report, the Department is directed to evaluate possible international and domestic uses for the Barnwell facility at the conclusion of the International Fuel Cycle Evaluation (INFCE) and report to Congress on those possible uses no later than April 1, 1980.

Within the funding provided for commercial waste management, the Department is directed to provide necessary technical support to study and recommend a nuclear waste solidification program at West Valley, New York, and to assist the State of New York as appropriate in developing such a program.

The conferees agree to the redirection of $2,500,000 in Energy Storage Systems as reflected in the Senate allowance. This redirection provides $2,000,000 for hydrogen storage and $500,000 for magnetic storage concepts.

The conferees agree with the Senate report language regarding the Department's role as lead agency for the nuclear medicine program.

OPERATING EXPENSES

Uranium supply and enrichment activities

Amendment No. 2: Appropriates $60,523,000 for Operating Expenses, Uranium Supply and Enrichment Activities, as proposed by the House instead of $64,523,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes anticipated revenues from enrichment services available for obligation for the purposes of 31 U.S.C. 665 in order to insure continuity of production activities.

The funds appropriated for Operating Expenses, Uranium Supply and Enrichment Activities, are allocated as shown in the following table:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES—OPERATING EXPENSES

	Fiscal year 1980	
	Budget estimate	Conference allowance
Uranium resource assessment	$74,415,000	$56,415,000
Program direction	4,108,000	4,108,000
Total, uranium resource assessment	78,523,000	60,523,000
Advanced isotope separation technology	46,200,000	46,200,000
Uranium enrichment	$764,283,000	$780,069,000
Program direction	2,326,000	2,326,000
Total, uranium enrichment	766,609,000	782,395,000
Less uranium enrichment revenues	−782,542,000	−828,595,000
Unobligated balance carried forward	−63,000,000	
Total, uranium supply and enrichment activities—Operating expenses	45,790,000	60,523,000

OPERATING EXPENSES

General science and research

Amendment No. 4: Appropriates $336,900,000 for Operating Expenses, General Science and Research, as proposed by the Senate instead of $334,050,000 as proposed by the House. The funds are allocated as shown in the following table:

GENERAL SCIENCE AND RESEARCH—OPERATING EXPENSES

	Fiscal year 1980	
	Budget estimate	Conference allowance
BASIC SCIENCES		
Life sciences research and biomedical applications:		
General Life Sciences	$22,910,000	$22,910,000
Biomedical Applications	17,590,000	17,590,000
Program Direction	237,000	237,000
Total, life sciences research	40,737,000	40,737,000
High energy physics:		
Physics Research	71,850,000	71,850,000
Facility Operations	105,100,000	105,100,000
High Energy Technology	37,050,000	37,050,000
Program Direction	589,000	589,000
Total, high energy physics	214,589,000	214,589,000
Nuclear physics:		
Medium energy physics	$41,700,000	$41,700,000
Heavy ion physics	33,600,000	33,600,000
Nuclear theory	6,100,000	6,100,000
Program direction	174,000	174,000
Total, nuclear physics	81,574,000	81,574,000
Total, general science and research—Operating expenses	336,900,000	336,900,000

OPERATING EXPENSES

Atomic energy defense activities

Amendment No. 5: Appropriates $2,371,147,000 for Operating Expenses, Atomic Energy Defense Activities, instead of $2,350,547,000 as proposed by the House and $2,388,147,000 as proposed by the Senate. The funds are allocated as shown in the following table:

ATOMIC ENERGY DEFENSE ACTIVITIES—OPERATING EXPENSES

	Fiscal year 1980	
	Budget estimate	Conference allowance
Inertial confinement fusion	$108,890,000	$111,890,000
Naval reactors development:		
Submarine propulsion reactors	160,100,000	160,100,000
Surface ship propulsion reactors	55,600,000	55,600,000
Supporting R. & D	16,900,000	16,900,000
Program direction	8,767,000	8,767,000
Total, naval reactors development	241,367,000	241,367,000
Weapons activities:		
Research and development	421,143,000	415,000,000
Testing	198,000,000	213,000,000
Production and surveillance	732,000,000	718,000,000
Program direction	34,958,000	34,958,000
Total, weapons activities	1,386,101,000	1,380,958,000
Verification and control techology	36,800,000	36,800,000
Materials production:		
Production reactor operations	$170,800,000	$180,000,000
Processing of nuclear materials	77,200,000	81,600,000
Supporting services	55,714,000	64,000,000
Flourinel processing of nonproduction fuels and related activities	21,390,000	21,390,000
Program direction	944,000	944,000
Total, materials production	326,048,000	347,934,000
Defense waste management:		
Interim waste operations	125,851,000	120,000,000
Long-term waste management technology	94,449,000	74,449,000
Terminal storage	20,800,000	6,000,000
Decontamination and decommissioning	2,000,000	2,000,000
Transportation R. & D	5,000,000	5,000,000
Program direction	1,522,000	1,522,000
Total, defense waste management	249,622,000	208,971,000
Nuclear materials security and safeguards	43,227,000	43,227,000
Total, atomic energy defense activities—Operating expenses	2,392,055,000	2,371,147,000

For inertial confinement fusion, the conferees have provided $44,200,000 for glass laser experiments; $29,300,000 for gas laser experiments; $12,200,000 for electron and particle beam experiments; $5,000,000 for the national laser users laboratory; $7,900,000 for the industrial laser program; $12,200,000 for other supporting research; and $1,090,000 for program direction.

The allowance of $6,000,000 for terminal storage research in Defense Waste Management is to provide operations through March 31, 1980. This will allow ample time for resolution of program goals and objectives in authorizing legislation. The conferees have provided these funds solely for the purpose of continuing activities for the long-term storage of defense wastes.

OPERATING EXPENSES

Departmental administration

Amendment No. 6: Appropriates $228,279,000 for Operating Expenses, Departmental Administration, instead of $237,329,000 as proposed by the House and $228,029,000 as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $6,165,000 in the bill for the Office of Inspector General.

The funds are allocated as shown in the following table:

DEPARTMENTAL ADMINISTRATION—OPERATING EXPENSES

	Fiscal year 1980	
	Budget estimate	Conference allowance
SALARIES AND EXPENSES		
General management:		
Office of the Secretary	$2,544,000	$2,544,000
Office of the Controller	7,959,000	7,959,000
Inspector General	3,357,000	4,977,000
Procurement and Contracts Management	6,517,000	6,399,000
Administration	16,990,000	16,525,000
General Counsel	11,091,000	10,439,000
Assistant Secretary for Intergovernmental and Institutional Relations	8,262,000	7,800,000
Assistant Secretary for Policy and Evaluation	5,652,000	5,652,000
Assistant Secretary for International Affairs	4,170,000	4,170,000
Subtotal, general management	66,542,000	66,465,000
Program administration:		
Assistant Secretary for Energy Technology	1,946,000	1,441,000
Assistant Secretary for Resources Applications	661,000	544,000
Assistant Secretary for Environment	2,800,000	2,420,000
Assistant Secretary for Defense Programs	2,140,000	1,751,000
Assistant Secretary for Conservation and Solar Applications	519,000	455,000
Office of Energy Research	1,192,000	779,000
Subtotal, program administration	9,258,000	7,390,000
Field offices:		
Operations offices	50,651,000	50,351,000
Regional representatives	5,698,000	5,229,000
Regional counsels	3,347,000	3,066,000
Power marketing coordination	436,000	436,000
Subtotal, field offices	60,132,000	59,082,000
Other expenses:		
Other salary expenses	$7,491,000	$7,102,000
Benefits	14,825,000	15,594,000
Travel	5,312,000	5,600,000
Services	89,906,000	89,906,000
Subtotal, other expenses	117,534,000	118,202,000
Total, salaries and expenses	253,466,000	251,139,000
Program support:		
Policy analysis and systems studies	16,500,000	16,500,000
Intergovernmental and institutional relations	35,906,000	32,546,000
International cooperation in nonnuclear technologies	2,000,000	2,000,000
International policy studies	1,500,000	1,500,000
In-house energy management	3,600,000	3,600,000
Security investigations	16,400,000	16,400,000
Cost of work for others	24,994,000	24,994,000
Miscellaneous revenues	−109,754,000	−121,660,000
Changes in inventories	19,260,000	16,260,000
Total, program support	10,406,000	−7,860,000
Total, operating expenses	263,872,000	243,279,000
Unobligated balances		−15,000,000
Total, departmental administration—Operating expenses	263,872,000	228,279,000

For Salaries and Expenses the conferees have provided $251,139,000 as proposed by the Senate instead of $247,233,000 as proposed by the House.

The conferees recognize that the Department will undoubtedly have to have some flexibility to redirect, or reallocate positions in order to respond to potential energy initiatives by the Congress and the Administration, and in order to meet other circumstances and changed conditions that may evolve. Therefore, the Committees on Appropriations will carefully consider any proposed changes in yearend strengths from the allocations shown in the following table and which will not exceed a total end strength of 4,677 full-time positions.

DEPARTMENTAL ADMINISTRATION SUMMARY OF STAFFING

	Fiscal year 1979	Fiscal year 1980	
		Request	Recommendation
YEAREND POSITIONS			
Office of the Secretary	85	85	85
General Counsel	311	361	350
Inspector Generel	100	100	155
Administration	715	715	696
Procurement	218	222	217
Controller	305	299	299
International Affairs	131	131	131
Policy and Evaluation	190	176	176
Intergovernmental and Institutional Relations	292	263	250
Subtotal	2,347	2,352	2,359
Assistant Secretary for Energy Technology	47	47	44
Assistant Secretary for Resource Applications	19	18	18
Assistant Secretary for Environment	71	71	71
Assistant Secretary for Defense Programs	62	60	60
Assistant Secretary for Conservation and Solar Applications	15	15	15
Office of Energy Research	30	25	23
Subtotal	244	236	231
Operations offices	1,816	1,806	1,806
Regional counsels	75	119	109
Regional representatives	264	157	157
Power marketing coordination	15	15	15
Subtotal	2,170	2,097	2,087
Total	4,761	4,685	4,677

The allowance includes $6,165,000 and 155 positions for the Office of Inspector General.

The conferees have provided $32,546,000 for Intergovernmental and Institutional Relations instead of $32,296,000 as proposed by the Senate and $33,596,000 as proposed by the House. The allowance provides:

$10,574,000 for Technical Information Services;

$10,000,000 for Education, Business, Industry and Labor Affairs;

$2,550,000 for Consumer and Public Affairs;

$750,000 for Indian Affairs; and

$8,672,000 for Community Assistance.

The Committees on Appropriations will favorably consider a reprogramming request from the Department to insure sufficient funds for Los Alamos community assistance in the event that impact aid under Public Law 874 is reduced below levels anticipated in the formulation of the fiscal year 1980 budget request made to the Department by Los Alamos.

PLANT AND CAPITAL EQUIPMENT

Energy supply, research and development

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment appropriating $448,478,000 for Plant and Capital Equipment, Energy Supply, Research and Development, instead of $413,878,000 as proposed by the House and $444,478,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds are allocated as shown in the following tables:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT PLANT AND CAPITAL EQUIPMENT—CAPITAL EQUIPMENT

	Fiscal year 1980	
	Budget estimate	Conference allowance
SOLAR APPLICATIONS		
Systems development	$1,000,000	$1,000,000
Demonstrations: Buildings	2,000,000	1,000,000
Total, solar applications	3,000,000	2,000,000
SOLAR TECHNOLOGY		
Solar thermal electric power system	3,000,000	3,000,000
Photovoltaics energy development	7,300,000	7,300,000
Wind energy conversion system	1,400,000	1,400,000
Ocean systems	700,000	700,000
Total, solar technology	12,400,000	12,400,000
GEOTHERMAL		
Hydrothermal resources	800,000	800,000
Geopressured resources	300,000	300,000
Geothermal technology development	2,100,000	2,100,000
Total, geothermal	3,200,000	3,200,000
Biomass	500,000	500,000
NUCLEAR FISSION		
Converter reactors:		
Thermal reactor technology	500,000	500,000
Advanced reactor systems	300,000	300,000
Total, converter reactors	800,000	800,000
Commercial waste management:		
Terminal isolation R. & D	9,300,000	9,300,000
Waste treatment technology	2,500,000	2,500,000
Total, commercial waste management	11,800,000	11,800,000
Spent fuel storage: Domestic spent fuel storage	2,000,000	2,000,000
Advanced nuclear systems: Space and terrestrial applications	2,100,000	2,100,000
Breeder reactors:		
Liquid metal fast breeder reactor base program	22,000,000	22,000,000
Water cooled breeder reactor	2,100,000	2,100,000
Gas cooled breeder reactor	1,500,000	1,500,000
Fuel cycle research and development	2,500,000	2,500,000
Program direction	21,000	21,000
Total, breeder reactors	28,121,000	28,121,000
Total, nuclear fission	44,821,000	44,821,000
MAGNETIC FUSION		
Confinement systems	$10,950,000	$10,950,000
Development and technology	7,550,000	7,550,000
Applied plasma physics	4,450,000	4,450,000
Reactor projects	6,850,000	6,850,000
Total, magnetic fusion	29,800,000	29,800,000
ELECTRIC ENERGY SYSTEMS AND STORAGE		
Electric energy systems power supply:		
Power supply and system management	100,000	100,000
Power delivery	400,000	700,000
Total, electric energy systems	500,000	800,000
Energy storage systems:		
Battery storage	1,100,000	1,100,000
Chemical mechanical and other storage	1,060,000	1,060,000
Total, energy storage systems	2,160,000	2,160,000
Total, electric energy systems and storage	2,660,000	2,960,000
ENVIRONMENT		
Environmental research and development:		
Overview and assessment	2,200,000	2,200,000
Biomedical and environmental research	11,900,000	11,900,000
Total, environmental R. & D	14,100,000	14,100,000
Decontamination and decommissioning: Management of surplus radioactively contaminated DOE facilities	400,000	400,000
Total, environment	14,500,000	14,500,000
BASIC RESEARCH		
Basic energy sciences:		
Nuclear sciences	1,300,000	1,300,000
Material sciences	6,500,000	6,300,000
Chemical sciences	4,200,000	3,600,000
Engineering, mathematical, and geosciences	1,450,000	1,250,000
Advanced energy projects	200,000	200,000
Biological energy conversion and conservation	300,000	300,000
Other capital equipment	100,000	100,000
Total, basic energy sciences	14,050,000	13,050,000
Technology assessment projects: Solar-powered satellite	500,000	500,000
Total, basic research	14,550,000	13,550,000
Total, capital equipment	125,431,000	123,731,000

ENERGY SUPPLY RESEARCH AND DEVELOPMENT PLANT AND CAPITAL EQUIPMENT

		Fiscal year 1980	
Project No.	Construction projects	Budget estimate	Conference allowance
	SOLAR TECHNOLOGY		
	Solar thermal electric power systems:		
76-2-B	10 MWe central receiver solar thermal powerplant, Barstow, Calif.	$36,500,000	$36,500,000
80-ES-2	Shenandoah large scale experiment, Shenandoah, Ga.	4,800,000	4,800,000
80-ES-19	Small communities systems application experiment No. 1.	3,795,000	3,795,000
	Total, solar thermal electric power	45,095,000	45,095,000
	Wind energy conversion systems:		
80-ES-1	Wind energy systems test center building, Rocky Flats, Colo.	2,140,000	2,140,000
80-ES-20	Multiunit mod 2 wind farm 10 MWe	14,600,000	14,600,000
	Total, wind energy conversion system	16,740,000	16,740,000
79-1-M	Ocean systems: Ocean test facility	10,700,000	10,700,000
79-1-Q	Solar energy research institute facility: Solar energy research institute facility.	27,000,000	10,000,000
	Total, solar technology	99,535,000	82,535,000
	GEOTHERMAL		
	Hydrothermal resources:		
80-G-1	50 MWe geothermal demonstration, Valles Caldera, N. Mex.	20,450,000	20,450,000
80-G-2	Second 50 MWe demo powerplant, site undetermined.		4,000,000
	Total, geothermal	20,450,000	24,450,000
	BIOMASS		
80-B-1	Thermo chemical experimental facility	$2,000,000	$2,000,000
	NUCLEAR		
	COMMERCIAL WASTE MANAGEMENT		
	Terminal isolation R. & D.:		
80-GPP-1	General plant project (1979—$0)	500,000	500,000
80-ES-12	Near surface test facility phase 2, Richland, Wash.	3,600,000	3,600,000
80-ES-13	Near surface test facility phase 1, Richland, Wash.	2,900,000	2,900,000
	Total, terminal isolation R. & D	7,000,000	7,000,000
	Waste treatment technology:		
80-GPP-1	General plant project (1979—$0)	2,800,000	2,800,000
80-ES-7	Plant operation maintenance facility, Richland, Wash.	2,000,000	2,000,000
	Total, waste treatment technology	4,800,000	4,800,000
	Total, commercial waste management	11,800,000	11,800,000
	SPENT FUEL DISPOSITION		
79-1-P	Domestic spent fuel storage: Spent LWR fuel storage facility, site undetermined.		5,000,000

ENERGY SUPPLY RESEARCH AND DEVELOPMENT PLANT AND CAPITAL EQUIPMENT—Continued

Project No.	Construction projects	Fiscal year 1980 Budget estimate	Fiscal year 1980 Conference allowance
	BREEDER		
	Liquid metal fast breeder reactor:		
80-ES-3	Test reactor area physical security and safeguards, INEL, Idaho Falls, Idaho.	$1,200,000	$1,200,000
80-ES-11	Idaho laboratory facility, phase I, Idaho Falls, Idaho.	4,000,000	4,000,000
80-ES-4	Laundry decontamination facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho.	2,200,000	2,200,000
80-GPP-1	General plant project (1979—$14,985)	12,300,000	16,300,000
80-ES-5	Modifications to reactors, various locations	2,800,000	2,800,000
80-ES-6	Boilers, heat ventilating, fuel tank, and room replacement.	400,000	1,900,000
79-1-C	Security improvements, Richland, Wash	4,500,000	4,500,000
79-1-H	Maintenance and storage facility, Richland, Wash.	13,700,000	10,700,000
78-6-C	Safety research experimental facility, Idaho, National Engineering Laboratory, Idaho (A. & E., long-lead procurement and limited construction only).	3,000,000	8,000,000
78-6-E	Liquid metal engineering center modifications, Santa Susana, Calif., (A. & E. and long-lead procurement only).	5,500,000	5,500,000
78-6-F	Fuels and materials examination facility, Richland, Wash.	36,000,000	53,000,000
77-4-D	Fuel storage facility, Richland, Wash	5,500,000	5,500,000
	Total, liquid metal fast breeder reactor	91,100,000	111,600,000
	Gas cooled breeder reactor:		
80-ES-14	Core flow test loop, Oak Ridge, Tenn	3,212,000	3,212,000
80-ES-15	In pile safety test loop, INEL, Idaho	1,300,000	1,300,000
	Total, gas cooled breeder reactor	4,512,000	4,512,000
78-5-B	Fuel cycle research and development: Advanced fuel recycle integrated equipment test facility, Oak Ridge, Tenn.	6,400,000	6,400,000
	Total, breeder	102,012,000	122,512,000
	Total, nuclear	113,812,000	139,312,000
	MAGNETIC FUSION		
	Confinement systems:		
80-MF-1	PDX neutral beams, Princeton, N.J	6,600,000	6,600,000
80-MF-2	Doublet-III neutral beams, San Diego, Calif	2,500,000	2,500,000
78-3-A	Mirror fusion test facility, Livermore, Calif	33,200,000	28,200,000
	Total, confinement systems	42,300,000	37,300,000
80-MF-4	Development and technology: Large coil test facility, phase I, Richland, Wash.	$2,000,000	$2,000,000
80-MF-3	Applied plasma physics: EBT—Proof of principal experiment.	9,100,000	9,100,000
	Reactor projects:		
80-GPP-1	General plant project (1979—$1,400)	4,900,000	4,000,000
78-3-B	Fusion materials irradiation test facility, HEDL, Washington (A. & E. and long-lead procurement).	10,000,000	10,000,000
76-5-A	Tokamak fusion test reactor, Princeton, N.J	30,100,000	30,100,000
	Total, reactor projects	45,000,000	44,100,000
	Total, magnetic fusion	98,400,000	92,500,000
	ENVIRONMENT		
	Biomedical and environmental research:		
80-ES-8	Modifications and additions to biomedical and environmental research facilities, various locations.	3,500,000	3,500,000
80-GPP-1	General plant project (1979—$6,000)	2,500,000	2,500,000
	Total, environmental research and development.	6,000,000	6,000,000
	BASIC RESEARCH		
	BASIC ENERGY SCIENCES		
	Materials sciences:		
80-ES-9	Intense pulsed neutron source-1 upgrade, Argonne National Laboratory, Argonne, Ill.	2,400,000	2,400,000
80-GPP-1	General plant project (1979—$0)	250,000	250,000
78-13-A	National synchrotron light source, BNL, Upton, N.Y.	9,000,000	9,000,000
	Total, materials sciences	11,650,000	11,650,000
80-ES-10	Chemical sciences: Chemical sciences addition, LBL, Berkeley, Calif.	6,300,000	6,300,000
	Total, basic energy sciences	17,950,000	17,950,000
	Total, construction	358,147,000	364,747,000
	Unobligated balances		−40,000,000
	Total, capital equipment	125,431,000	123,731,000
	Total, energy supply, research, and development—Plant and capital equipment.	483,578,000	448,478,000

The conferees agree to the deletion of funding proposed by the House for Project 80-ES-21, Mod 3, advanced megawatt scale, two wind turbines in the wind energy program with the understanding that the parallel development of this system technology will proceed in the development program funded under Operating Expenses.

The managers are in agreement that the Department of Energy should proceed without further delay with the development of a 50-MW binary-cycle conversion geothermal demonstration plant as authorized in P.L. 95-238 and for which $4 million is appropriated in this bill for architect/engineering design studies and long lead-time materials. To this end, the managers direct the Department of Energy to select a site for this demonstration plant within three months.

PLANT AND CAPITAL EQUIPMENT

Uranium supply and enrichment activities

The conferees agree with the allocations proposed by the Senate for Plant and Capital Equipment, Uranium Supply and Enrichment Activities, instead of those proposed by the House.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes anticipated revenues from enrichment services available for obligation for the purposes of 31 U.S.C. 665 in order to insure continuity of production activities.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES PLANT AND CAPITAL EQUIPMENT

	Fiscal year 1980 Budget estimate	Fiscal year 1980 Conference allowance
CAPITAL EQUIPMENT		
Uranium resources assessment	$3,110,000	$2,500,000
Advanced isotope separation technology	8,000,000	8,000,000
Uranium enrichment	23,430,000	23,430,000
Less uranium enrichment revenues	−26,540,000	−31,430,000
Total, capital equipment	8,000,000	2,500,000

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES PLANT AND CAPITAL EQUIPMENT

Project No.	Construction projects	Fiscal year 1980 Budget estimate	Fiscal year 1980 Conference allowance
80-GPP-1	Uranium resource assessment: General plant project (1979—$1,500).	$2,500,000	$1,500,000
80-GPP-1	Advanced isotope separation technology: General plant project (1979—$10).	800,000	800,000
	URANIUM ENRICHMENT ACTIVITIES		
	Gaseous diffusion operations and support		
0-UE-1	Control of gaseous effluents, gaseous diffusion plants.	2,300,000	2,300,000
80-UE-2	Control of water pollution, gaseous diffusion plants.	7,500,000	7,500,000
80 UE-3	Plant facilities security improvements, gaseous diffusion plants.	4,500,000	4,500,000
80-UE-4	Power recovery demonstration cells, gaseous diffusion plants.	3,500,000	3,500,000
80-UE-5	Motor and switchgear upgrading, gaseous diffusion plants.	7,900,000	7,900,000
80-GPP-1	General plant project	16,200,000	16,200,000
80-UE-6	UF6 tails cylinders and storage yards, gaseous diffusion plants.	7,000,000	7,000,000
71-1-F	Process equipment modifications, gaseous diffusion plants.	$64,600,000	$64,600,000
	Total, gaseous diffusion operations and support.	131,500,000	113,500,000
	Gas centrifuge operations and support:		
79-2-D	Techology test facilities, various locations (A. & E. and long-lead procurement only.)	13,000,000	13,000,000
76-8-G	Enriched uranium production facilities, Portsmouth, Ohio.	322,675,000	322,675,000
	Total, gas centrifuge operations and support.	335,675,000	335,675,000
	Revenues	−500,918,000	−449,975,000
	Unobligated balance end of year	49,243,000	
	Total, uranium enrichment activities	−2,500,000	−800,000
	Total construction	800,000	1,500,000
	Total, capital equipment	8,000,000	2,500,000
	Total, uranium supply and enrichment activities—plant and capital equipment.	8,800,000	4,000,000

PLANT AND CAPITAL EQUIPMENT

Atomic energy defense activities

Amendment No. 10: Appropriates $588,249,000 for Plant and Capital Equipment, Atomic Energy Defense Activities, instead of $546,249,000 as proposed by the House and $618,249,000 as proposed by the Senate. The funds are allocated as shown in the following tables:

ATOMIC ENERGY DEFENSE ACTIVITIES PLANT AND CAPITAL EQUIPMENT—CAPITAL EQUIPMENT

	Fiscal year 1980	
	Budget estimate	Conference allowance
Inertial confinement fusion	$8,500,000	$8,500,000
Naval reactors development:		
Submarine propulsion reactors	10,725,000	10,725,000
Surface ship propulsion reactors	3,900,000	3,900,000
Supporting research and development	1,175,000	1,175,000
Total, naval reactors development	15,800,000	15,800,000
Weapons activities:		
Research and development	55,990,000	48,990,000
Testing	21,810,000	21,810,000
Production and surveillance	26,200,000	26,200,000
Program direction	164,000	164,000
Total, weapons activities	104,164,000	97,164,000
Verification and control technology	1,060,000	1,060,000
Materials production:		
Production reactor operations	$10,400,000	$10,400,000
Processing of nuclear materials	9,800,000	9,800,000
Supporting services	9,800,000	9,800,000
Flourinel processing of nonproduction fuels and related activities	5,000,000	5,000,000
Total, materials production	35,000,000	35,000,000
Defense waste management:		
Interim waste operations	8,575,000	7,000,000
Long-term waste management technology	2,985,000	2,985,000
Terminal storage	440,000	440,000
Total, defense waste management	12,000,000	10,425,000
Nuclear materials security and safeguards	3,400,000	3,400,000
Total, capital equipment	179,924,000	171,349,000

ATOMIC ENERGY DEFENSE ACTIVITIES, PLANT AND CAPITAL EQUIPMENT

		Fiscal year 1980	
Project No.	Construction projects	Budget estimate	Conference allowance
	Inertial confinement fusion:		
80-PE&D-1	Plant engineering design	$1,500,000	$1,500,000
80-AE-11	Target fabrication facility, Los Alamos Scientific Laboratory, New Mexico.		1,000,000
80-AE-12	Target fabrication facility, Lawrence Livermore Laboratory, California.		1,000,000
78-4-A	High energy laser facility (NOVA), Lawrence Livermore Laboratory, California.	56,000,000	56,000,000
75-3-B	High energy laser facility, Los Alamos Scientific Laboratory, New Mexico.	12,000,000	12,000,000
	Total, inertial confinement	69,500,000	71,500,000
	NAVAL REACTORS DEVELOPMENT		
	Submarine propulsion reactors:		
80-AE-1	Fluids and corrosion test facilities upgrading, various locations.	12,100,000	12,100,000
80-GPP-1	General plant project (1979—$0)	2,300,000	2,300,000
	Total, submarine propulsion facilities	14,400,000	14,400,000
	Surface ship propulsion reactors:		
80-AE-1	Fluids and corrosion test facilities upgrading various locations.	4,425,000	4,425,000
80-GPP-1	General plant project	800,000	800,000
	Total, surface ship propulsion reactors	5,225,000	5,225,000
	Supporting research and development:		
80-AE-1	Fluids and corrosion test facilities upgrading, various locations.	1,375,000	1,375,000
80-GPP-1	General plant project (1979—$200)	200,000	200,000
	Total, supporting research and development	1,575,000	1,575,000
	Total, naval reactors development	21,200,000	21,200,000
	WEAPONS ACTIVITIES		
	Weapon research and development:		
80-AE-4	Addition to computer facility, Sandia Laboratories, Livermore, Calif.	2,800,000	2,800,000
80-GPP-1	General plant project (1979—$18,400)	25,400,000	22,400,000
79-7-B	Fire protection improvements, Los Alamos Scientific Laboratory.	2,500,000	2,500,000
79-7-C	Proton storage ring, Los Alamos Scientific Laboratory, New Mexico.	14,700,000	14,700,000
79-7-L	Systems research and development laboratory, Sandia Laboratory.	12,000,000	12,000,000
78-16-C	High explosive flash radiography facility, Lawrence Livermore Laboratory, California.	2,000,000	2,000,000
78-16-G	Radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico.	4,000,000	4,000,000
78-16-I	Laboratory support complex, Los Alamos Scientific Laboratory, New Mexico.	3,000,000	3,000,000
	Total, weapons research and development	66,400,000	63,400,000
	Weapons production and surveillance:		
80-AE-5	Ground launch cruise missile, production facilities, various locations.	7,000,000	4,000,000
80-AE-6	Utilities restoration, equipment replacement upgrade, various locations.	39,400,000	25,000,000
80-AE-7	Relocate water towers, Mound Laboratory, Miamisburg, Ohio.	1,400,000	
80-AE-8	Advanced size reduction facility, Rocky Flats Plant, Golden, Colo.	5,000,000	5,000,000
80-AE-9	New polymer production facility, Kansas City, Mo.	1,400,000	1,400,000
80-AE-10	Additional loading facilities, Savannah River, S.C.	3,500,000	3,500,000
80-PE&D-1	Plant engineering and design (1979—$10,000)	3,600,000	2,500,000
79-7-E	Production and assembly facility, Pantex Plant, Amarillo, Tex.	8,000,000	8,000,000
79-7-N	Utilities system restoration, Y-12 plant, Oak Ridge, Tenn.	$13,300,000	$13,300,000
79-7-O	Universal pilot plant, Pantex Plant, Amarillo, Tex.	3,900,000	3,900,000
78-16-D	Weapons safeguards, various locations	2,000,000	2,000,000
77-11-C	8-inch artillery fired atomic projectile production facilities, various locations.	4,600,000	4,600,000
71-9	Fire safety and adequacy or operations condition project, various locations.	7,000,000	7,000,000
	Total, weapons production	100,100,000	80,200,000
	Total, weapons activities	166,500,000	143,600,000
	MATERIALS PRODUCTION		
	Processing of nuclear materials:		
80-AE-2	Replace obsolete processing facilities, H-B line, Savannah River, S.C.	8,200,000	8,200,000
78-18-E	Environmental safety and security improvements to waste management and materials processing facilities, Richland, Wash.	17,000,000	17,000,000
	Total, processing of nuclear materials	25,200,000	25,200,000
	Supporting services:		
80-GPP-1	General plant project (1979—$1,500)	13,000,000	13,000,000
80-PE&D-1	Plant engineering design (1979—$1,500)	2,400,000	2,400,000
79-7-I	Transmission and distribution systems upgrading, Richland, Wash.	11,400,000	11,400,000
	Total, supporting services	26,800,000	26,800,000
	Flourinel processing of nonproduction fuels and related activities:		
80-AE-3	Steam generation facilities, Idaho Chemical Processing Plant, Idaho Falls, Idaho.	10,000,000	10,000,000
80-GGP-1	General plant project (1979—$0)	2,000,000	2,000,000
80-PE&D-1	Plant engineering and design (1979—$0)	1,000,000	1,000,000
79-7-H	Utilities replacement and expansion, Idaho Chemical Processing Plent, Idaho National Engineering Laboratory, Idaho Falls, Idaho.	3,200,000	3,200,000
77-13-A	Flourinel dissolution process and fuel receiving improvement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho.	53,400,000	53,400,000
	Total, flourinel processing of nonproduction fuels and related activities.	69,600,000	69,600,000
	Total, materials production	121,600,000	121,600,000
	DEFENSE WASTE MANAGEMENT		
	Interim waste management:		
80-GPP-1	General plant project (1979—$2,000)	8,880,000	4,000,000
80-PE&D-1	Plant engineering and design (1979—$0)	6,820,000	2,000,000
79-7-K	Waste management facilities, Savannah River, S.C.	14,000,000	14,000,000
78-18-B	High level waste storage facilities, Savannah River, S.C.	11,000,000	11,000,000
	Total, interim waste operations	40,700,000	31,000,000
80-PE&D-1	Long term waste management technology: Plant engineering and design (1979—$6,000).	14,500,000	6,000,000
77-13-F	Terminal storage: Waste isolation pilot plant, Delaware Basin, Southeast New Mexico.	55,000,000	22,000,000
	Total, defense waste management	110,200,000	59,000,000
	Total, construction	489,000,000	416,900,000
	Total, capital equipment	179,924,000	171,349,000
	Total, atomic energy defense activities—plant and capital equipment.	668,924,000	588,249,000

The conferees have provided $5,000,000 in Operating Expenses for the National Laser Users Facility, which was not requested in the President's budget, and $7,900,000 in Operating Expenses for the industrial laser program, an increase of $300,000 over the budget. The conferees consider that these funds will allow pursuit of aggressive laser fusion programs at these facilities and have deferred, without prejudice, for future consideration funds for further facility upgrading.

The conferees have provided $6,000,000 for Project 80-PE&D-1, Plant Engineering and Design for the Defense Waste Management program, the same level as in FY 1979 pending resolution of the construction program in authorizing legislation.

Considering the significant differences in authorizing legislation being considered in the House and in the Senate, $22,000,000 has been provided for Project 77-13-F, Waste Isolation Pilot Plant, Southeast New Mexico, to continue selected project activities through March 31, 1980. This will permit resolution of project status and objectives by the Congress in the authorizing legislation. The $22,000,000 includes $10,000,000 for land acquisition and $12,000,000 for project design and development. These funds are provided solely for the purpose of continuing project activities related to the storage of defense wastes.

PLANT AND CAPITAL EQUIPMENT

Departmental administration

Amendment No. 11: Appropriates $36,015,000 for Plant and Capital Equipment, Departmental Administration, instead of $31,015,000 as proposed by the House and $40,515,000 as proposed by the Senate. The funds are allocated as shown in the following tables:

DEPARTMENTAL ADMINISTRATION—PLANT AND CAPITAL EQUIPMENT

	Fiscal year 1980	
	Budget estimate	Conference allowance
CAPITAL EQUIPMENT		
Program support:		
General support	$4,305,000	$4,305,000
Intergovernmental and institutional relations	510,000	510,000
Total, program support	4,815,000	4,815,000

DEPARTMENTAL ADMINISTRATION—PLANT AND CAPITAL EQUIPMENT

Project No.	Construction projects	Fiscal year 1980	
		Budget estimate	Conference allowance
	PROGRAM MANAGEMENT AND SUPPORT		
	In-house energy management:		
80-DA-1	Modifications for energy management, various locations.	$19,700,000	$15,000,000
80-DA-2	Automated energy management system, Argonne National Laboratory, Illinois.	4,500,000	
80-DA-3	Process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Ohio.	4,200,000	4,200,000
80-DA-4	Automated energy management system, Pantex Plant, Amarillo, Tex.	4,000,000	4,000,000
80-DA-5	Conversion of boiler No. 5 to high sulfur coal firing, Argonne National Laboratory, Illinois.	5,000,000	5,000,000
	Total, in-house energy management	37,400,000	28,200,000
	OTHER SUPPORTING ACTIVITIES		
80-PE&D-1	Plant engineering and design—Nondefense plant engineering and design (1979—$3,000).	$9,000,000	$3,000,000
	Total, construction	46,400,000	31,200,000
	Total, capital equipment	4,815,000	4,815,000
	Total, departmental administration—plant and capital equipment.	51,215,000	36,015,000

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

Amendment No. 12: Deletes language proposed by the House permitting the purchase of one fixed wing aircraft.

Amendment No. 13: Appropriates $122,800,000 for Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration, as proposed by the Senate instead of $124,900,000 as proposed by the House.

The managers agree with the Senate report language expressing concern regarding the cost of space for WAPA Headquarters, and the Senate position that none of the funds provided are to be used to pay for space in Denver if the costs are higher overall than locating near the Federal Center.

GENERAL PROVISIONS, DEPARTMENT OF ENERGY

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits transfer of not to exceed 5 percent of selected appropriations between such appropriations with the prior approval of the Committees on Appropriations.

Amendment No. 15: Deletes language proposed by the Senate to reduce the total amount of budget authority for the Department of Energy by $6,880,000 for reduction of motor vehicle use. The Department has extensive responsibilities for transportation of special nuclear material, the guarding and protection of sensitive sites and construction and maintenance of key electricity transmission systems, all of which must be provided for in DOE appropriations to meet essential needs.

The conferees encourage the Department to achieve at least a 10 percent reduction in the use of motor vehicle fuels, including fuels for all vehicles owned by the Federal Government, commercial rental, leased, trip and interagency motor pool vehicles as defined in the Federal Motor Vehicle Fleet Report, dated September 1978, of the General Services Administration. The Committees on Appropriations intend to review further the Department's efforts and achievements in reduction of motor vehicle fuel consumption in connection with the review of the FY 1981 budget.

PROGRAM COSTS

The following table reflects the program cost and outlay level associated with appropriations provided for in the bill.

DEPARTMENT OF ENERGY—PROGRAM COSTS

[In thousands of dollars]

Program	Fiscal year 1980	
	Budget estimates	Conference allowance
OPERATING EXPENSES		
Energy supply, research and development:		
Solar applications	$132,360	$143,260
Solar technology	263,004	277,229
Geothermal	113,377	116,337
Biomass	53,838	53,838
Hydropower projects	17,568	17,568
Fission	755,599	741,349
Fusion	234,158	242,858
Electric energy systems and storage	89,441	96,691
Environment	244,958	239,258
Basic research	234,024	227,061
Total, energy supply R. & D.	2,138,327	2,155,449
Uranium supply and enrichment activities:		
Uranium resources assessment	74,293	60,793
Advanced isotope separation technology	48,500	48,500
Uranium enrichment	763,949	763,949
Less uranium enrichment revenues	−782,542	−812,809
Total, uranium supply and enrichment activity	104,200	60,433
General science and research	332,038	329,188
Atomic energy defense activities:		
Inertial confinement fusion	$114,490	$119,240
Naval reactors development	249,567	249,567
Weapons activities	1,341,841	1,349,700
Verification and control technology	35,600	35,600
Materials production	308,948	339,312
Defense waste management	230,286	195,548
Nuclear materials, security, and safeguards	39,227	39,227
Total, atomic energy defense activities	2,319,959	2,328,194
Departmental administration	259,114	245,571
Total, operating expenses	5,153,638	5,118,835
Capital equipment	324,382	317,289
Construction	970,730	909,585
Total, plant and capital equipment	1,295,112	1,226,874
Power marketing	75,786	77,886
Federal Energy Regulatory Commission	66,406	59,600
Special Foreign currency	883	883
Geothermal resources development fund	1,000	1,000
Grand total	6,592,825	6,485,078

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENQUIRER—CIVIL

General investigations

Amendment No. 16: Appropriates $142,145,000 for general investigations instead of $142,296,000 as proposed by the House and $140,795,000 as proposed by the Senate.

The conferees have provided $200,000 under the Big Sandy River study to continue the reevaluation of the Haysi Lake, Virginia project.

Within available funds, the Corps should review the report of the Chief of Engineers on the Los Angeles and San Gabriel rivers and Ballona Creek, California published as House Doc. 838, 76th Congress, and any other pertinent reports, with a view to determine whether a modification of any of the recommendations contained therein are advisable at the present time, in the interest of landslide, soil erosion, and drainage problems, and related matters with particular reference to the Baldwin Hills area, vicinity of Los Angeles County, California.

The conferees agree with the Senate report language which directs the Corps of Engineers to utilize available operation and maintenance funds to develop a comprehensive plan for control and treatment of wastewater that flows into Greer's Ferry Lake, Arkansas, and a plan for solid waste management in the area around the lake.

The conferees have recommended $400,000 to continue the Ben Franklin Lock and Dam study. However, the conferees are aware of the objections that have been raised to the proposed Lock and Dam and emphasize that inclusion of these study funds does not represent a determination that the project should, in fact, be built. Among the items to be studied are the impacts the proposed project would have on fishery resources, ground water tables in the Hanford area, future uses of the Hanford site, cultural resources, and the unimpounded reach of the Columbia River.

The conferees agree with the Senate report language regarding the Kentucky River and tributaries, Ky. study and the Green and Barren Rivers, Ky., navigation study.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language relating to the study of the diversion of Lake Michigan water at Chicago.

The funds appropriated are to be allocated as shown on the following table:

GENERAL INVESTIGATIONS—STATE AND PROJECT

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	ALABAMA		
(FDP)	Brewton and East Brewton	$69,000	$69,000
(N)	Little Lagoon at Gulfshores		62,000
(N)	Mississippi River Navigation System—Adequate mooring facilities for watercraft.	200,000	200,000
(SPEC)	Tennessee-Tombigbee Waterway	477,000	900,000
(N)	Warrior-Tombigbee Rivers, Ala. and Miss	200,000	200,000
	ALASKA		
(FDP)	Kuskokwim River basin—Bethel Bank stabilization		260,000
(FDP)	Small hydroelectric plants	350,000	350,000
(FDP)	South-Central Railbelt area	385,000	385,000
(N)	South-Central region of Alaska	308,000	308,000
(N)	St. Paul Island Harbor		100,000
	AMERICAN SAMOA		
(N)	Harbors and rivers	200,000	200,000
	ARIZONA		
(FDP)	Gila River and tributaries, Arizona and New Mexico.	430,000	550,000
(FDP)	Metropolitan area of Tucson	330,000	330,000
	ARKANSAS		
(N)	Arkansas River hydro study		300,000
(FDP)	Arkansas River in the vicinity of Fort Smith-Van Buren.	50,000	50,000
(FDP)	Little Rock metropolitan area	180,000	180,000
(FDP)	Ouachita River basin	730,000	1,200,000
(FDP)	Pine Bluff metropolitan area	90,000	90,000
(FDP)	Poteau River, Arkansas and Oklahoma		170,000
(COMP)	Red River below Denison Dam authorization report Arkansas, Louisiana, Oklahoma and Texas.	145,000	145,000
(N)	St. Francis River navigation	109,000	109,000
(COMP)	White River Basin authorization report, Arkansas and Missouri.	150,000	150,000
(FDP)	White River basin reservoirs, Arkansas and Missouri.	250,000	250,000
	CALIFORNIA		
(FDP)	Alamada Creek upper basin	140,000	140,000
(N)	Bolinas Lagoon		55,000
(FDP)	Calleguas Creek (phase I)	120,000	120,000
(FDP)	Carmel River and tributaries	255,000	255,000
(SP)	City of Alameda shoreline		95,000
(N)	Coast of northern California (harbors for light-draft vessels).		70,000
(N)	Crescent City Harbor		100,000
(FDP)	Eel River		160,000
(FDP)	Guadalupe River	242,000	242,000
(N)	Humboldt Harbor and Bay		190,000
(FDP)	Los Angeles County drainage area review	400,000	400,000
(N)	Los Angeles-Long Beach Harbors (including San Pedro Bay model study).	100,000	100,000
(FDP)	Morrison Creek stream group (phase I)	300,000	300,000
(FDP)	Northern California streams	125,000	125,000
(N)	Oakland inner harbor		100,000
(N)	Oceanside Harbor	95,000	95,000
(FDP)	Sacramento River and tributaries (bank protection and erosion control).		600,000
(N)	Sacramento Valley navigation	115,000	115,000
(FDP)	Sacramento-San Joaquin Delta	150,000	150,000
(FDP)	San Diego County streams	285,000	285,000
(N)	San Francisco Bay area (in depth)	280,000	280,000
(FDP)	San Francisco Bay shoreline		150,000
(FDP)	San Joaquin River basin	475,000	700,000
(FDP)	San Lorenzo River		75,000
(N)	San Pedro Bay ports	400,000	400,000
(FDP)	Santa Ana River basin and Orange County	400,000	400,000
(FDP)	Santa Ana River (phase I)	680,000	680,000
(FDP)	Whitewater River	640,000	640,000
	COLORADO		
(FDP)	Arkansas River and tributaries above John Martin Dam (phase I).	$200,000	$200,000
	CONNECTICUT		
(N)	Bridgeport Harbor	115,000	115,000
(COMP)	Connecticut River basin authorization report, Connecticut, Massachusetts, New Hampshire.	85,000	85,000
(SPEC)	Long Island Sound—dredged material containment study.	350,000	350,000
(FDP)	Rippowan River	126,000	126,000
	DELAWARE		
(N)	Delaware Estuary, salinity intrusion	100,000	100,000
	DISTRICT OF COLUMBIA		
(SPEC)	Metropolitan Washington water supply	700,000	700,000
	FLORIDA		
(N)	Apalachicola River below Jim Woodruff lock and dam	100,000	100,000
(FDP)	Bayou Texar		100,000
(FDP)	Canal 18–Jupiter inlet—Loxahatchee River, central and southern Florida	150,000	150,000
(FDP)	Central and southern Florida water supply	200,000	200,000
(N)	Choctawhatchee River and tributaries (Pea River), Florida and Alabama		50,000
(SP)	Dade County (north of Haulover Beach Park)	99,000	99,000
(N)	Fort Pierce Harbor	125,000	125,000
(SP)	Flagler County Beach		20,000
(N)	Golden Gate Estates		100,000
(N)	Gulf Coast Passes, IWW, Caloosahatchee River to Anclote River		80,000
(N)	Jacksonville Harbor	170,000	170,000
(FDP)	Jacksonville Metropolitan Area	172,000	172,000
(FDP)	Kissimmee River—Lake Okeechobee	150,000	150,000
(SP)	Martin County	63,000	63,000
(N)	Okeechobee Waterway (St. Lucie Canal)	131,000	481,000
(N)	Pensacola Harbor	60,000	60,000
(FDP)	Pinellas County		80,000
(SP)	Sarasota County		50,000
(FDP)	Shark River slough area		100,000
(FDP)	Withlacoochee River region		100,000
(N)	Tampa Harbor study		30,000
	GEORGIA		
(FDP)	Metropolitan Atlanta area	251,000	251,000
(FDP)	Metropolitan Savannah area	250,000	250,000
(N)	Savannah Harbor comprehensive study	70,000	100,000
	GUAM		
(N)	Harbors and rivers	330,000	330,000
	HAWAII		
(FDP)	Harbors and rivers in Hawaii	200,000	200,000
(N)	Hilo area comprehensive study	325,000	325,000
(FDP)	Kihei District	100,000	100,000
	IDAHO		
(FDP)	Columbia River and tributaries, Idaho, Montana, Oregon, Washington	1,150,000	1,250,000
(FDP)	Heise-Roberts area		20,000
(FDP)	Upper Snake River and tributaries, Idaho and Wyoming	450,000	450,000

GENERAL INVESTIGATIONS—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	ILLINOIS		
(SPEC)	Carlyle Lake and Lake Shelbyville	$50,000	$50,000
(FDP)	Chicago—south end of Lake Michigan, Ill. and Ind.	200,000	200,000
(FDP)	Chicago and underflow plan (phase I)	1,500,000	1,500,000
(FDP)	Degognia and Fountain Bluff lock and dams and Grand Tower D. & LD.	147,000	147,000
(SPEC)	Diversion of Lake Michigan water at Chicago	100,000	100,000
(FDP)	East Cape Girardeau, Clear Creek, N. Alex, Preston, and Miller, D. & LD.	70,000	70,000
(FDP)	Fox River and tributaries, Illinois and Wisconsin	420,000	420,000
(FDP)	Illinois shore of Lake Michigan		200,000
(N)	Illinois shore from Waukegan to Illinois-Wisconsin State line.		100,000
(FDP)	Mississippi River, Coon Rapids Dam to Ohio River, Illinois, Iowa, Missouri, and Wisconsin.	300,000	300,000
(N)	Mississippi River, year-round navigation, Illinois, Iowa, Minnesota, Missouri and Wisconsin.	98,000	98,000
(FDP)	Quad-Cities urban study	247,000	247,000
(FDP)	Richland Creek	270,000	270,000
(FDP)	Rock River at Rockford	175,000	175,000
	INDIANA		
(FDP)	Little Calumet River (phase I)	750,000	750,000
(COMP)	Wabash River Basin authorization report, Indiana and Illinois.	150,000	150,000
	IOWA		
(FDP)	Des Moines River bank erosion, Iowa, Missouri	178,000	
(FDP)	Iowa and Cedar Rivers, Iowa and Minnesota	150,000	150,000
(FDP)	Metropolitan Sioux City and Missouri River, Iowa, Nebraska, and South Dakota.	149,000	149,000
	KANSAS		
(FDP)	Arkansas River, Great Bend, Kans. to John Martin Dam, Colo.	155,000	155,000
(FDP)	Arkansas River, Great Bend, Kans. to Tulsa, Okla.	270,000	270,000
(FDP)	Grand (Neosho) River, Kans. and Okla	100,000	100,000
(FDP)	Kansas and Osage Rivers	850,000	850,000
(FDP)	Stranger Creek basin	100,000	100,000
(FDP)	Verdigris River, Kans., Okla	160,000	160,000
	KENTUCKY		
(FDP)	Camp Ground Lake, Ky. (phase I)		250,000
(FDP)	Kentucky River and tributaries		150,000
(N)	Lower Cumberland and Tennessee Rivers below Barkley Canal, Ky. and Tenn.	125,000	125,000
(FDP)	Tug Fork Valley, Ky., Va., and W. Va. (phase I)	283,000	283,000
(FDP)	Upper Cumberland River Basin, Ky. and Tenn	150,000	150,000
	LOUISIANA		
(FDP)	Aloha Rigolette area		150,000
(N)	Gulf IWW Louisiana-Texas section, Louisiana, Texas.	370,000	370,000
(FDP)	Louisiana coastal area	100,000	150,000
(FDP)	Mermentau, Vermilion, and Calcasieu Rivers and Bayou Teche.	100,000	100,000
	MAINE		
(N)	Eastport	60,000	60,000
(SPEC)	Passamaquoddy Tidal power	860,000	860,000
(N)	Portland Harbor (debris study)	20,000	20,000
(N)	Searsport Harbor	30,000	30,000
(FDP)	St. John River	76,000	76,000
	MARYLAND		
(SPEC)	Chesapeake Bay study, Maryland and Virginia	2,515,000	2,515,000
(N)	Chesapeake City Bridge	72,000	72,000
(FDP)	Monongahela-Youchiogheny River Basin, Md., Pa., W. Va.	436,000	436,000
(N)	Smith Island		95,000
	MASSACHUSETTS		
(N)	East Boat Basin		35,000
(FDP)	Housatonic River Basin, Mass. and Conn	180,000	180,000
(N)	Lynn Harbor	60,000	60,000
	MICHIGAN		
(N)	Great Lakes connecting channels and harbors, Mich., Ill., Ind., Minn., Ohio, Pa., N.Y., Wis.	740,000	740,000
(FDP)	Great Lakes, particularly Lakes Ontario and Erie, Mich., Minn., N.Y., Ohio, Pa., Wis.	613,000	613,000
(SPEC)	Great Lakes-St. Lawrence Seaway navigation SSN extension, Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, Wisconsin.	2,300,000	750,000
(N)	Little Girls Point	106,000	106,000
(SPEC)	Water levels of the Great Lakes, Mich., Ill., Ind., Minn., N.Y., Ohio, Pa.	550,000	550,000
	MINNESOTA		
(SPEC)	Great River resources management study, Minnesota, Illinois, Iowa, and Wisconsin.	1,423,000	1,423,000
(FDP)	Minnesota River Valley	365,000	365,000
(N)	Reservoirs at Headwaters of Mississippi River	230,000	230,000
	MISSISSIPPI		
(N)	Biloxi Bay to East Harrison County industrial park		$50,000
(N)	Mississippi Sound and adjacent areas	$486,000	486,000
(FDP)	Pascagoula River Basin	276,000	276,000
(N)	Pascagoula Harbor		35,000
(N)	Pearl River, Miss. and La	80,000	80,000
(FDP)	Pearl River Basin, Miss. and La		500,000
(FDP)	Sowashee Creek (phase I)	250,000	250,000
	MISSOURI		
(FDP)	Cape Girardeau-Jackson metropolitan area	263,000	263,000
(FDP)	Metropolitan region of Kansas City, Mo. and Kans.	65,000	65,000
(FDP)	Plattin Creek	46,000	46,000
(FDP)	Prosperity Lake (phase I)	150,000	150,000
(N)	St. Louis Harbor, Mo. and Ill	317,000	371,000
(FDP)	St. Louis metropolitan area, Mo. and Ill	450,000	450,000
(FDP)	White River Basin, county line lake	100,000	100,000
	MONTANA		
(FDP)	Flathead and Clark Fork River Basins	173,000	
	NEVADA		
(FDP)	Truckee Meadows	275,000	275,000
	NEW HAMPSHIRE		
(N)	Portsmouth Harbor and Piscataqua River, N.H., Maine.	110,000	110,000
(FDP)	Southeastern New Hampshire	128,000	128,000
(FDP)	Winnipesaukee River	80,000	80,000
	NEW JERSEY		
(SP)	Barnegat Inlet (phase I)	200,000	200,000
(FDP)	Cape May Inlet—Lower township (phase I)	80,000	80,000
(FDP)	Hackensack River, N.J. and N.Y	255,000	255,000
(FDP)	Passaic River basin, N.J. and N.Y. (phase I)	2,500,000	2,500,000
(FDP)	Raritan River basin	380,000	380,000
(N)	Raritan River, Washington Canal and South River	80,000	80,000
(FDP)	Third River	120,000	120,000
	NEW MEXICO		
(FDP)	Rio Grande and tributaries (Rio Puerco/Rio Salado) (phase I).	580,000	580,000
(FDP)	Rio Grande and tributaries, New Mexico and Colorado.	430,000	430,000
	NEW YORK		
(N)	Buffalo Harbor		100,000
(FDP)	Delaware River tributaries in New York State	170,000	170,000
(N)	Great Lakes to Hudson River (All-American Canal).	200,000	200,000
(N)	Hempstead Harbor		55,000
(N)	Howland Hook channel area		50,000
(FDP)	Irondequoit Creek	150,000	150,000
(N)	Jones Inlet and Freeport, Long Island		40,000
(SP)	Lake Ontario shoreline study		300,000
(FDP)	Morrisonville and vicinity	26,000	26,000
(FDP)	Oswego River Basin	300,000	300,000
(N)	St. Lawrence Seaway, additional locks	500,000	500,000
(COMP)	Susquehanna River Basin authorization report, New York, Pennsylvania, and Maryland.	200,000	200,000
(FDP)	Upper Allegheny River Basin, N.Y. and Pa	250,000	250,000
(FDP)	Wallkill River (black dirt area), New York and New Jersey (phase I).		200,000
(FDP)	Westchester County streams, New York and Byram River, Conn.	74,000	74,000
	NORTH CAROLINA		
(SP)	Bogue Banks and Bogue Inlet	130,000	130,000
(FDP)	Lumber River, N.C. and S.C	175,000	175,000
(FDP)	Roanoke River (South Boston and vicinity), North Carolina and Virginia.	260,000	260,000
(SP)	West Onslow Beach and New River Inlet		20,000
(SP)	Wrightsville Beach	153,000	153,000
	NORTH DAKOTA		
(FDP)	Grafton (phase I)	200,000	200,000
(FDP)	Pembina River (phase I)	300,000	300,000
(FDP)	Red River of the North, N.D. and Minn	624,000	770,000
	OHIO		
(FDP)	Central Ohio survey	300,000	300,000
(N)	Cleveland Harbor (phase I)	245,000	245,000
(N)	Gallipolis locks and dam, Ohio and West Virginia (phase I).	450,000	450,000
(FDP)	Grand Lake St. Marys	150,000	150,000
(SPEC)	Lake Erie—wastewater managment, Ohio, Michigan, New York, Pennsylvania, and Indiana.	652,000	652,000
(N)	Lorain Harbor	275,000	275,000
(FDP)	Miami River, Little Miami River and Mill Creek	300,000	300,000
(FDP)	Western Lake Erie shore	210,000	210,000
	OKLAHOMA		
(FDP)	Canadian River and tributaries, Oklahoma, New Mexico, and Texas.	190,000	190,000

GENERAL INVESTIGATIONS—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980 Budget estimate	Fiscal year 1980 Conference allowance
(FDP)	Red River and tributaries above Denison Dam, Okla. and Tex.		$150,000
(FDP)	Tenkiller Ferry Lake	$230,000	230,000
(FDP)	Tulsa urban study	300,000	300,000
	OREGON		
(N)	Columbia River at the mouth, Oregon and Washington.	100,000	100,000
(FDP)	Days Creek Lake (phase I)		400,000
(N)	Rogue River at Gold Beach		260,000
(COMP)	Williamette River basin authorization report	156,000	156,000
	PENNSYLVANIA		
(FDP)	Beaver River Basin, Pa. and Ohio	150,000	150,000
(FDP)	Chartiers Creek	50,000	50,000
(FDP)	Clarion River acid mine drain (phase I)	150,000	150,000
(FDP)	Delaware River Basin, Pa, N.J. N.Y., Del	170,000	170,000
(N)	Delaware River dredging disposal study, Pennsylvania, New Jersey, and Delaware.	200,000	200,000
(FDP)	Kiskiminitas River Basin	100,000	100,000
(FDP)	Lehigh River Basin		50,000
(FDP)	Lock Haven (phase I)	75,000	75,000
(SP)	Presque Isle Peninsula (phase I)	500,000	500,000
(N)	Schuylkill River review	64,000	64,000
(FDP)	Wyoming Valley (phase I)	200,000	200,000
	PUERTO RICO		
(N)	San Juan Harbor (phase I)	170,000	170,000
	RHODE ISLAND		
(FDP)	Pawcatuck River and Narragansett Bay drain, basin, river, Massachusetts.	350,000	350,000
	SOUTH CAROLINA		
(N)	Charleston Harbor	100,000	100,000
(N)	Georgetown Harbor		100,000
(FDP)	Lynches River	40,000	40,000
(FDP)	Waccamaw River		40,000
	SOUTH DAKOTA		
(FDP)	Eastern South Dakota and Upper Big Sioux River, S. Dak. and Iowa.	243,000	243,000
(FDP)	Missouri River, S. Dak., Neb. N. Dak. and Mont	500,000	500,000
(FDP)	Western Dakotas region of South Dakota	225,000	225,000
	TENNESSEE		
(FDP)	Memphis metropolitan area	200,000	200,000
(FDP)	Metropolitan region of Nashville	375,000	375,000
	TEXAS		
(FDP)	Brazos natural salt pollution control (phase I)	300,000	350,000
(FDP)	Brazos River and tributaries	70,000	70,000
(FDP)	Buffalo Bayou and tributaries	300,000	300,000
(FDP)	Colorado River and tributaries	260,000	260,000
(FDP)	Denison Dam—Lake Texoma, Tex. and Oka	50,000	50,000
(N)	Galveston Bay area navigation	265,000	300,000
(SP)	Galveston County shore erosion		300,000
(N)	Guadalupe River, channel to Victoria	200,000	200,000
(FDP)	Lake Texoma water supply facilities, Texas and Oklahoma.	115,000	200,000
(FDP)	Little Cypress Creek		125,000
(FDP)	Nueces River and tributaries	191,000	191,000
(FDP)	Palo Blanco Creek and Cibolo Creek	160,000	160,000
(N)	Sabine River navigation	400,000	600,000
(FDP)	San Diego Creek		100,000
(FDP)	San Jacinto River and tributaries	39,000	150,000
(FDP)	Walnut Branch		50,000
	UTAH		
(FDP)	Colorado River and tributaries above Lee's Ferry, Utah, Ariz., Colo., N. Mex., Wyo.	50,000	150,000
(FDP)	Jordan River basin	150,000	150,000
	VIRGIN ISLANDS		
(FDP)	Puerto Rico—Virgin Islands pipeline study, Virgin Islands and Puerto Rico.	$400,000	$400,000
	VIRGINIA		
(FDP)	Chowan River, Va. and N.C	88,000	88,000
(N)	Deep Creek, Newport News	100,000	100,000
(N)	Hampton Roads drift removal	110,000	150,000
(N)	Norfolk Harbor, Craney Island	67,000	67,000
(SP)	Norfolk vicinity Willoughby Spit	265,000	265,000
(FDP)	Richmond (phase I)	189,000	189,000
(FDP)	Roanoke River, upper basin	140,000	140,000
(FDP)	Virginia Beach (phase I)	200,000	200,000
	WASHINGTON		
(N)	Ben Franklin lock and dam		400,000
(FDP)	Chehalis River and tributaries	200,000	300,000
(COMP)	Puget Sound and adjacent waters	809,000	1,152,000
(FDP)	Puyallup River		120,000
(N)	Seattle Harbor, Duwamish Waterway	200,000	450,000
	WEST VIRGINIA		
(N)	Big Sandy River, W. Va., Ky., Va	300,000	500,000
(FDP)	Guyandotte River Basin, vicinity of Logan and Mullens.	125,000	125,000
(COMP)	Kanawha River Basin authorization report, West Virginia, North Carolina, and Virginia.	230,000	230,000
(FDP)	Metro region of Huntington, W. Va.; Ashland, Ky.; Portsmouth, Ohio.	200,000	200,000
	WISCONSIN		
(FDP)	Wisconsin River at Portage	127,000	127,000
	Total, all States	59,736,000	68,905,000
	Coordination studies with other agencies	5,665,000	5,665,000
	NATIONWIDE STUDIES		
(SPEC)	Hydropower resources study	2,900,000	2,900,000
(SPEC)	National waterway study	2,045,000	2,045,000
	REVIEW OF AUTHORIZED PROJECTS		
	Restudies of deferred projects	168,000	253,000
	Review of completed projects (sec. 216, Public Law 91–611).	267,000	342,000
	Neches River Basin, additional hydropower at Town Bluff Dam, Tex.		(75,000)
	Review for deauthorization (sec. 12, Public Law 93–251).	100,000	100,000
	Total, review of authorized projects	535,000	695,000
	COLLECTION AND STUDY OF BASIC DATA		
	Stream gaging (U.S. Geological Survey)	550,000	550,000
	Precipitation studies (National Weather Service)	300,000	300,000
	International water studies	105,000	105,000
	Flood plain management services	8,510,000	8,510,000
	Hydrologic studies	330,000	330,000
	Scientific and technical information centers	300,000	300,000
	Coastal data collection	1,550,000	1,550,000
	Transportation systems	400,000	400,000
	National program of inspection of dams	30,000,000	30,000,000
	Total, collection and study of basic data	42,045,000	42,045,000
	Research and development	20,240,000	20,240,000
	Reduction for anticipated savings and slippages		−350,000
	Total, general investigations	133,166,000	142,145,000

Type of project:

(N)	Navigation
(FDP)	Flood Damage Prevention
(SP)	Shoreline Protection
(SPEC)	Special
(COMP)	Comprehensive
(Phase I)	Authorized for Phase I Stage of Advance Engineering and Design in the Water Resources Development Act of 1974 or 1976

Construction, general

Amendment No. 18: Appropriates $1,467,566,000 for construction, general as proposed by the Senate instead of $1,440,481,000 as proposed by the House.

The conferees have not included funds for the Burlington Dam project in North Dakota based on testimony by the Corps of Engineers that previously appropriated funds are sufficient to complete current preconstruction planning efforts involving design improvements to be included in forthcoming reauthorizing legislation.

None of the funds provided in fiscal year 1980 may be used for the construction of the reregulating dam portion of the Libby Additional Units and Reregulating Dam, Montana.

The conferees agree that the allowance of $5,000,000 for the Aquatic Plant Control Program should be used for the most critical needs nationwide.

The conferees agree with the Senate report language regarding the Continuing Authorities Program. It is the conferees intent that projects approved by the Chief of Engineers, for which firm local cooperation agreements are available, proceed to construction in a timely manner. Toward this end, the Corps should exercise the same transfer procedures between the continuing authorities programs as are used for individual projects in the regular construction program.

The funds appropriated are to be allocated as shown on the following table:

CONSTRUCTION GENERAL—STATE AND PROJECT

Type of project		Fiscal year 1980			
		Budget estimates		Conference allowance	
		Construction	Planning	Construction	Planning
	ALABAMA				
(MP)	Jones Bluff lock and dam	$3,500,000		$3,500,000	
(N)	Mobile Harbor (Theodore ship c hannel)	8,300,000		10,300,000	
(N)	Montgomery to Gadsden, Coosa River channel				$1,000,000
(N)	Tennessee-Tombigbee Waterway, Ala. and Miss	165,000,000		165,000,000	
(FC)	Fort Toulouse Bank stabilization			1,000,000	
	ALASKA				
(MP)	Bradley Lake power project		$1,700,000		1,700,000
(FC)	Chena River lakes	27,500,000		27,500,000	
(N)	Hoonah Harbor	2,793,000		2,793,000	
(N)	Kake Harbor		195,000		195,000
(N)	Metlakatla Harbor	3,705,000		3,705,000	
	ARIZONA				
(FC)	Indian Bend Wash	2,300,000		2,300,000	
(FC)	Phoenix and vicinity (stage 2 and remaining work)	208,000,000		3,400,000	
	ARKANSAS				
(MP)	Degray Lake	800,000		800,000	
(N)	McClellan-Kerr Arkansas River navigation system, locks and dams, Arkansas and Oklahoma	5,500,000		5,500,000	
(FC)	McKinney Bayou, Ark. and Tex		155,000		155,000
(MP)	Norfork Lake—Highway bridge	6,800,000		6,800,000	
(MP)	Norfork Lake—Power units 3 and 4		200,000		200,000
(N)	Ouachita and Black Rivers, Ark. and La. (1960 act)	400,000		20,400,000	
	CALIFORNIA				
(FC)	Alhambra Creek		200,000		100,000
(FC)	Bear River				340,000
(N)	Bodega Bay		106,000		106,000
(FC)	Cottonwood Creek		1,100,000		1,100,000
(N)	Crescent City Harbor	1,100,000		120,000	
(FC)	Cucamonga Creek	13,000,000		13,000,000	
(FC)	Dry Creek (Warm Springs) lake and channel	49,300,000		49,300,000	
(N)	Fishermans Wharf				200,000
(FC)	Goleta and vicinity		100,000		100,000
(N)	Los Angeles—Long Beach Harbors	4,000,000		4,000,000	
(FC)	Merced County Streams		880,000		880,0000
(MP)	New Melones Lake	12,000,000		12,000,000	
(N)	Noyo River and Harbor		240,000		240,000
(FC)	Pajaro River		135,000		135,000
(FC)	Sacramento River and major and minor tributaries	200,000		200,000	
(FC)	Sacramento River Bank protection project	2,900,000		2,900,000	
(FC)	Sacramento River, Chico Landing to Red Bluff	1,500,000		400,000	
(N)	San Diego River and Mission Bay	220,000		220,000	
(N)	San Francisco Bay to Stockton (J. F. Baldwin and Stockton ship channels)	650,000		460,000	
(FC)	San Luis Rey River		300,000		300,000
(FC)	Santa Maria Valley levees	2,000,000		150,000	
(FC)	Walnut Creek	6,400,000		6,400,000	
(FC)	Wildcat and San Pablo Creeks	11,200,000		650,000	
	COLORADO				
(FC)	Bear Creek Lake	2 400,000		2,400,000	
(FC)	Trinidad Lake	1,260,000		1,260,000	
	CONNECTICUT				
(FC)	New London	900,000		900,000	
(FC)	Park River	8,800,000		8,800,000	
	DISTRICT OF COLUMBIA				
(FC)	Potomac Estuary pilot water treatment plant	2,100,000		2,100,000	
	FLORIDA				
(BE)	Broward County (reimbursement)	2,850,000		2,850,000	
(FC)	Central and Southern Florida	6,300,000		6,300,000	
(FC)	Dade County	2,600,000		2,600,000	
(BE)	Fort Pierce Beach	923,000		923,000	
(FC)	Four River basins	6,000,000		6,000,000	
(N)	Port Everglades Harbor	11,300,000		11,300,000	
(N)	St. Lucie Inlet (sec. 201)	3,300,000		3,300,000	
(N)	Tampa Harbor (main channel)	23,100,000		23,100,000	
	GEORGIA				
(MP)	Hartwell Lake, Ga. and S.C. (5th unit)	2,800,000		2,800,000	
(MP)	Richard B. Russell Dzm and Lake, Ga. and S.C	45,000,000		45,000,000	
(N)	Savannah Harbor extension	9,100,000		3,000,000	
(MP)	West Point Lake, Ga. and Ala	1,000,000		1,000,000	
	HAWAII				
(N)	Barbers Point deep draft harbor, Oahu	10,000,000		6,000,000	
(N)	Honolulu Harbor, Oahu	4,716,000		1,716,000	
(FC)	Kahoma Stream, Maui		150,000		150,000
(N)	Kikiaola small boat harbor, Kauai		85,000		85,000
(N)	Maalaea small boat harbor, Maui		95,000		95,000
	IDAHO				
(MP)	Dworshak additional unit		275,000		275,000
(MP)	Dworshak Dam and Reservoir	7,200,000		7,200,000	
(MP)	Lewiston-Clarkston Bridge, Idaho and Washington			8,500,000	
(FC)	Placer Creek		280,000		280,000
	ILLINOIS				
(FC)	East Moline	1,200,000		1,200,000	
(FC)	East St. Louis and vicinity	1,800,000		1,800,000	
(FC)	Eldred and Spankey drainage and levee district		325,000		325,000
(FC)	Fulton	3,900,000		3,900,000	
(FC)	Hartwell drainage and levee district		200,000		200,000
(FC)	Hillview drainage and levee district		220,000		220,000
(N)	Illinois Waterway, Dresden Island lock and dam (rehabilitation)	2,500,000		2,500,000	
(N)	Illinois Waterway, Starved Rock lock and dam (rehabilitation)	3,000,000		3,000,000	
(FC)	Kaskaskia Island drainage and levee district	13,200,000		3,300,000	
(N)	Kaskaskia River navigation	5,200,000		5,200,000	
(FC)	Little Calumet River			50,000	
(N)	Lock and dam 26, Mississippi River, Alton, Ill. and Missouri	20,000,000		20,000,000	
(N)	Locks and dam 52, Illinois and Kentucky (rehabilitation)	720,000		720,000	
(N)	Locks and dam 53, Illinois and Kentucky (rehabilitation)	290,000		290,000	

CONSTRUCTION GENERAL—STATE AND PROJECT—Continued

Type of project	Construction, general—State and project	Fiscal year 1980			
		Budget estimates		Conference allowance	
		Construction	Planning	Construction	Planning
(FC)	McGee Creek drainage and levee district	$2,000,000		$3,500,000	
(FC)	Meredosia, Meredosia Lake and Willow Creek D & LD		$200,000		$200,000
(FC)	Meredosia, Willow Creek and Coon Run drainage and levee district		200,000		200,000
(FC)	Milan	12,045,000		400,000	
(N)	Mississippi River between the Ohio and Missouri Rivers (regulating works), Illinois and Missouri	3,000,000		3,000,000	
(FC)	Moline	20,468,000			250,000
(FC)	Nutwood drainage and levee district		230,000		230,000
(FC)	Rock Island	780,000		780,000	
(FC)	Rock River, areas 2, 3, 4, and 5		150,000		150,000
(FC)	Rockford	1,600,000		1,600,000	
(N)	Savanna Harbor		50,000		50,000
(N)	Smithland locks and dam, Illinois, Indiana, and Kentucky	8,800,000		8,800,000	
(FC)	South Beloit		75,000		75,000
	INDIANA				
(FC)	Evansville	2,900,000		2,900,000	
(N)	Newburgh locks and dam, Indiana and Kentucky	1,068,000		1,068,000	
(FC)	Patoka Lake	1,494,000		1,494,000	
(N)	Uniontown locks and dam, Indiana and Kentucky	1,467,000		1,467,000	
	IOWA				
(FC)	Clinton	3,000,000		3,000,000	
(FC)	Coralville Lake	500,000		500,000	
(FC)	Evansdale (sec. 201)		65,000	265,000	
(N)	Mississippi River, old lock 14 (rehabilitation)	2,492,000		2,492,000	
(FC)	Missouri River levee system (L611–614 only)	12,130,000		2,300,000	
(FC)	Missouri River levee system, Iowa, Nebraska, Kansas, and Missouri	3,300,000		3,300,000	
(N)	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska	2,600,000		2,600,000	
(FC)	Red Rock Dam—Lake Red Rock	1,300,000		1,300,000	
(FC)	Saylorville Lake	3,000,000		3,000,000	
(FC)	Waterloo	4,900,000		4,900,000	
	KANSAS				
(FC)	Big Hill Lake	4,000,000		4,000,000	
(FC)	Clinton Lake	2,253,000		2,253,000	
(FC)	El Dorado Lake	10,800,000		10,800,000	
(FC)	Hillsdale Lake	6,800,000		6,800,000	
(N)	Kansas River navigation		140,000		140,000
(FC)	Onaga Lake		275,000		275,000
(FC)	Towanda Lake		300,000		
	KENTUCKY				
(FC)	Big South Fork National River and Recreation Area, Ky. and Tenn	13,600,000		13,600,000	
(FC)	Cave Run Lake	3,300,000		3,300,000	
(FC)	Dayton	3,300,000		3,300,000	
(MP)	Laurel River Lake	3,600,000		3,600,000	
(FC)	Paintsville Lake	4,700,000		4,700,000	
(FC)	Southwestern Jefferson County	5,100,000		5,100,000	
(FC)	Taylorsville Lake	3,000,000		10,000,000	
(MP)	Wolf Creek Dam—Lake Cumberland (rehabilitation)	6,200,000		6,200,000	
	LOUISIANA				
(N)	Atchafalaya River and Bayous Chene, Boeuf, and Black	4,900,000		4,900,000	
(FC)	Grand Isle and vicinity (sec. 201)		107,000	157,000	
(FC)	Lake Pontchartrain and vicinity (hurricane protection)	11,000,000		11,000,000	
(FC)	Larose to Golden Meadow (hurricane protection)	7,800,000		7,800,000	
(N)	Mermentau River	2,370,000			
(N)	Mississippi River, Baton Rouge-Gulf Mexico—SW pass and bar	400,000		400,000	
(N)	Mississippi River, gulf outlet	1,000,000		1,000,000	
(FC)	New Orleans to Venice (hurricane protection)	2,200,000		2,200,000	
(N)	Overton-Red River Waterway (lower 31 mi only)	5,800,000		5,800,000	
(N)	Petit Anse, Tigre, and Carlin Bayous		120,000		120,000
(N)	Red River emergency bank protection, Louisiana, Arkansas, Oklahoma, and Texas	3,900,000		3,900,000	
(N)	Red River Waterway, Mississippi River to Shreveport	70,000,000		70,000,000	
(FC)	Red River Waterway, Shreveport, La., to vicinity of Index, Ark		200,000		200,000
(N)	Vermilion lock (replacement)	3,400,000		3,400,000	
(FDP)	West Agurs levee				50,000
	MAINE				
(MP)	Dickey-Lincoln School Lakes		710,000		710,000
	MARYLAND				
(FC)	Bloomington Lake, Md. and West Virginia	18,300,000		18,300,000	
	MASSACHUSETTS				
(N)	Cape Cod Canal highway bridges (rehabilitation)	4,100,000		4,100,000	
(FC)	Charles River natural valley storage areas	1,400,000		1,400,000	
(FC)	North Nashua River	600,000		1,000,000	
(BE)	Revere Beach		100,000		100,000
	MICHIGAN				
(N)	Cedar River Harbor		50,000		50,000
(N)	Cross Village Harbor		70,000		70,000
(N)	Muskegon Harbor (rehabilitation)	250,000		250,000	
(FC)	Red Run drain and lower Clinton River		550,000		550,000
(FC)	Saginaw River	500,000		500,000	
	MINNESOTA				
(FC)	Bassett Creek		280,000		280,000
(FC)	Big Stone Lake—Whetstone River, Minn. and S. Dak	709,000		709,000	
(FC)	Chaska		220,000		220,000
(FC)	East Grand Forks		165,000		165,000
(FC)	Mankato and North Mankato	5,000,000		5,000,000	
(N)	Mississippi River, lock and dam 1 (rehabilitation)	7,800,000		7,800,000	
(FC)	Rochester (phase I)		270,000		270,000
(FC)	Roseau River	500,000		500,000	
(FC)	Wild Rice River, South Branch and Felton ditch	1,400,000		1,400,000	
(FC)	Winona	2,800,000		2,800,000	
	MISSISSIPPI				
(N)	Yazoo River, Belzoni Bridge (advance participation)	3,000,000		3,000,000	
(N)	Yazoo River		200,000		200,000

CONSTRUCTION GENERAL—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980			
		Budget estimates		Conference allowance	
		Construction	Planning	Construction	Planning
	MISSOURI				
(FC)	Blue River channel, Kansas City	$2,500,000		$2,500,000	
(MP)	Clarence Cannon Dam and Reservoir	12,600,000		12,600,000	
(MP)	Harry S. Truman Dam and Reservoir	33,000,000		33,000,000	
(FC)	Little Blue River channel	1,600,000		1,600,000	
(FC)	Little Blue River Lakes	13,000,000		13,000,000	
(FC)	Mississippi River, agricultural area No. 8, Elsberry	675,000		675,000	
(FC)	Perry County drainage and levee districts 1, 2, and 3	2,200,000		2,200,000	
(FC)	Pine Ford Lake		$500,000		$500,000
(FC)	Smithville Lake	7,000,000		7,000,000	
	MONTANA				
(FC)	Flathead River at Kalispell		100,000		100,000
(FC)	Great Falls	2,000,000		2,000,000	
(MP)	Libby additional units and reregulating dam	20,000,000		20,000,000	
(MP)	Libby Dam, Lake Koocanusa	6,100,000		6,100,000	
	NEBRASKA				
(FC)	Bank stabilization and recreational development (sec. 707, Public Law 95–625), Nebraska and South Dakota				500,000
	NEVADA				
(FC)	Humboldt River and tributaries				200,000
	NEW JERSEY				
(FC)	Elizabeth	8,000,000		6,200,000	
(N)	Manasquan River (rehabilitation)	3,055,000		3,055,000	
	NEW MEXICO				
(FC)	Abiquiu Dam (rehabilitation)	1,970,000		1,970,000	
(FC)	Los Esteros Lake	3,240,000		3,240,000	
(FC)	Rio Grande Floodway, Truth or Consequences (Hot Springs) unit		100,000		100,000
(FC)	Santa Fe River and Arroyo Mascaras		395,000		395,000
	NEW YORK				
(FC)	Ardsley (sec. 201)		100,000		100,000
(N)	Cattaraugus Harbor	1,500,000		1,500,000	
(FC)	Dansville and vicinity		90,000		90,000
(N)	Dunkirk Harbor	800,000		800,000	
(BE)	East Rockaway Inlet—Rockaway Inlet and Jamaica Bay (part I)	1,000,000		1,000,000	
(FC)	Ellicott Creek	100,000		100,000	
(FC)	Fire Island Inlet—Montauk Point		600,000		600,000
(N)	Irondequoit Bay	170,000		170,000	
(N)	New York Harbor collection and removal of drift, New York and New Jersey	2,000,000		2,500,000	
(N)	Port Ontario Harbor		210,000		210,000
(FC)	Saw Mill River at Elmsford and Greenburgh		71,000		71,000
(FC)	Scajaquada Creek	1,000,000		1,000,000	
(FC)	Yonkers	3,200,000		3,200,000	
	NORTH CAROLINA				
(N)	AIWW—Replacement of Federal highway bridges	1,270,000		1,270,000	
(FC)	B. Everett Jordan Dam and Lake	5,500,000		5,500,000	
(FC)	Falls Lake	27,700,000		27,700,000	
(BE)	Fort Fisher and vicinity		300,000		300,000
(N)	Manteo (Shallowbag) Bay			2,000,000	
(N)	Masonboro Inlet jetties	2,145,000		2,145,000	
(FC)	Randleman Lake		650,000		650,000
	NORTH DAKOTA				
(FC)	Missouri River, Garrison Dam to Lake Oahe	120,000		120,000	
(FC)	Sheyenne River		240,000		240,000
(FC)	Williston, N. Dak., water intake			480,000	
	OHIO				
(FC)	Alum Creek Lake	2,400,000		2,400,000	
(FC)	Caesar Creek Lake	7,700,000		4,400,000	
(FC)	Chillicothe	3,000,000		3,000,000	
(N)	Cleveland Harbor (rehabilitation)	5,300,000		5,300,000	
(FC)	Cuyahoga River basin	1,800,000		1,800,000	
(FC)	East Fork Lake	5,079,000		5,079,000	
(N)	Geneva-on-the-Lake (sec. 201)		140,000		140,000
(FC)	Muskingum River lakes (rehabilitation)	4,500,000		4,500,000	
(FC)	Newark	1,560,000		1,560,000	
(FC)	Point Place, Toledo	1,000,000		1,000,000	
(FC)	Reno Beach—Howard Farms area		50,000		50,000
(N)	West Harbor			100,000	
	OKLAHOMA				
(FC)	Arcadia Lake	59,600,000		3,900,000	
(FC)	Arkansas—Red River basins chloride control, Oklahoma, Kansas and Texas		3,185,000		2,200,000
(FC)	Candy Lake	4,800,000		4,800,000	
(FC)	Clayton Lake	11,300,000		11,300,000	
(FC)	Copan Lake	11,600,000		11,600,000	
(MP)	Lake Texoma (perimeter access roads), Oklahoma and Texas				50,000
(MP)	Fort Gibson Lake—Power units 5 and 6		280,000		280,000
(FC)	Skiatook Lake	9,400,000		9,400,000	
	OREGON				
(FC)	Applegate Lake	30,000,000		32,000,000	
(MP)	Bonneville 2d powerhouse, Oreg. and Wash	126,000,000		126,000,000	
(N)	John Day lock (rehabilitation)			1,700,000	
(MP)	John Day lock and dam—Lake Umatilla, Oreg. and Wash	1,433,000		1,433,000	
(FC)	Lower Columbia River Bank protection, Oreg. and Wash	1,400,000		1,400,000	
(MP)	McNary lock and dam, Lake Wallula, Oreg. and Wash	4,700,000		4,700,000	
(N)	Nehalem Bay (rehabilitation)			3,000,000	
(N)	Umpqua River	9,800,000		9,800,000	
(FC)	Willamette River basin bank protection	1,100,000		1,100,000	
(FDP)	Willow Creek Lake			3,200,000	
	PENNSYLVANIA				
(FC)	Chartiers Creek	2,000,000		2,000,000	
(FC)	Cowanesque Lake	9,500,000		9,500,000	
(N)	Emsworth locks and dam (rehabilitation)	2,500,000		2,500,000	
(FC)	Hay Creek, Birdsboro		100,000		100,000
(N)	Monongahela River, locks and dam 3 (rehabilitation)	4,200,000		4,200,000	
(BE)	Presque Isle Peninsula	750,000		750,000	
(FC)	Tamaqua		75,000		75,000
(FC)	Tioga—Hammond Lakes	2,400,000		2,400,000	

CONSTRUCTION GENERAL—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980			
		Budget estimates		Conference allowance	
		Construction	Planning	Construction	Planning
	PUERTO RICO				
(N)	Ponce Harbor		$150,000		$150,000
(FC)	Portugues and Bucana Rivers	$7,300,000		$7,300,000	
	RHODE ISLAND				
(N)	Bristol Harbor		100,000		100,000
	SOUTH CAROLINA				
(N)	Cooper River, Charleston Harbor	15,900,000		26,000,000	
(N)	Little River Inlet, S.C. and N.C	3,300,000		3,300,000	
(N)	Murrells Inlet	2,220,000		2,220,000	
	TEXAS				
(FC)	Aquillia Lake	5,000,000		5,000,000	
(FC)	Arkansas-Red River basins chloride control, area 8	7,600,000		7,600,000	
(FC)	Aubrey Lake			500,000	
(FC)	Baytown	34,000,000		5,000,000	
(FC)	Big Sandy Lake		350,000		350,000
(N)	Brazos Island Harbor	3,600,000		3,600,000	
(FC)	Buffalo Bayou and tributaries	300,000		300,000	
(FC)	Buffalo Bayou and tributaries—Addicks and Barker Dams (rehabilitation)	800,000		800,000	
(FC)	Clear Creek		300,000		300,000
(FC)	Cooper Lake and channel			500,000	
(N)	Corpus Christi ship channel	2,450,000		1,700,000	
(FC)	El Paso	8,200,000		8,200,000	
(FC)	Freeport and vicinity (hurricane flood protection)	1,353,000		1,353,000	
(N)	GIWW—Chocolate Bayou	840,000		840,000	
(FC)	Highland Bayou	1,100,000		1,100,000	
(FC)	Lakeview Lake	32,000,000		32,000,000	
(FC)	Lavon Lake modification and East Fork Channel improvement	3,500,000		3,500,000	
(FC)	Lewisville Dam (rehabilitation)	2,000,000		2,000,000	
(FC)	Millican Lake		300,000		300,000
(N)	Mouth of Colorado River	1,400,000		1,400,000	
(FC)	Neches River and tributaries salt water barrier		500,000		500,000
(FC)	Port Arthur and vicinity (hurricane flood protection)	2,800,000		2,800,000	
(FC)	Red River levees and bank stabilization below Denison Dam, Ark. and La	5,000,000		5,000,000	
(FC)	San Antonio channel improvement	2,200,000		2,200,000	
(FC)	San Gabriel River	5,231,000		5,231,000	
(FC)	Texas City and vicinity (hurricane flood protection)	3,500,000		3,500,000	
(N)	Texas City channel industrial canal	3,500,000		3,500,000	
(FC)	Three Rivers	1,500,000		1,500,000	
(FC)	Trinity River project		840,000		840,000
(FC)	Vince and Little Vince Bayous	830,000		830,000	
	VIRGINIA				
(N)	Elizabeth River, Southern Branch (sec. 201)	3,425,000		3,425,000	
(FC)	Four Mile Run	2,638,000		2,638,000	
(FC)	Richmond filtration plant		225,000		225,000
(FC)	Virginia Beach streams, canal No. 2		80,000		80,000
(BE)	Virginia Beach (reimbursement)	200,000		200,000	
	WASHINGTON				
(MP)	Chief Joseph Dam additional units	17,000,000		17,000,000	
(N)	Grays Harbor				600,000
(MP)	Ice Harbor additional units	1,700,000		1,700,000	
(MP)	Little Goose additional units	2,400,000		2,400,000	
(FC)	Lower Granite lock and dam			1,400,000	
(MP)	Lower Monumental additional units	1,600,000		1,600,000	
(MP)	Lower Snake River F & WL compensation, Washington, Idaho, and Oregon	9,100,000		9,100,000	
(FC)	Mill Creek Lake (rehabilitation)	700,000		700,000	
(FDP)	Skagit River levee and channel improvement			1,000,000	
(MP)	The Dalles additional units, Washington and Oregon	1,119,000		1,719,000	
(FC)	Willapa River at Raymond		160,000		210,000
(FC)	Yakima River at Ellensburg		120,000		120,000
	WEST VIRGINIA				
(FC)	Beech Fork Lake	1,100,000		1,100,000	
(FC)	Burnsville Lake	3,450,000		3,450,000	
(FC)	East Lynn Lake	1,464,000		1,464,000	
(FC)	Oceana		280,000		280,000
(FC)	R. D. Bailey Lake	6,800,000		6,800,000	
(FC)	Stonewall Jackson Lake	9,100,000		9,100,000	
	WISCONSIN				
(N)	Green Bay Harbor		30,000		30,000
(FC)	Prairie Du Chien	875,000		875,000	
(FC)	State road and Ebner Coulees		150,000		150,000
	MISCELLANEOUS				
(N)	Small navigation projects (sec. 107)	6,500,000		7,500,000	
(FC)	Small flood control projects (sec. 205)	18,000,000		18,000,000	
(BE)	Small beach erosion projects (sec. 103)	2,000,000		2,000,000	
(FC)	Emergency streambank and shoreline protection (sec. 14)	3,700,000		3,700,000	
	Recreation facilities at completed projects	16,000,000		16,000,000	
	Small snagging and clearing projects (sec. 208)	500,000		500,000	
	Mitigation of shore damages attributable to navigation projects (sec. 111)	1,300,000		2,300,000	
	Streambank erosion control evaluation demonstration (sec. 32, 1974 act)	5,350,000		7,500,000	
	Shoreline erosion control demonstration (sec. 54, 1974 act)	1,500,000		1,500,000	
	Aquatic plant control (1965 act)	3,980,000		5,000,000	
	Employees compensation	4,536,000		4,536,000	
	Reduction for anticipated savings and slippages	−96,626,000		−81,426,000	
	Subtotal	1,752,255,000	22,439,000	1,443,444,000	24,122,000
	Total, construction, general	1,774,694,000		1,467,566,000	
	Full funding requested for new construction starts not included in allowance	−354,943,000			
	Total, net construction, general (excluding full funding)	1,419,751,000		1,467,566,000	

Note: Type of project: (N) Navigation, (FC) Flood control, (BE) Beach erosion control, (MP) Multiple-purpose, including power.

Flood control, Mississippi River and tributaries

The conferees earmark, within available funds, $750,000 for the Atchafalaya Basin, Louisiana project as proposed by the Senate.

The Chief of Engineers is directed to review the current flood control regulation procedures for the Yazoo Basin Headwater lakes with a view toward determining whether modifications should be made in these procedures that would increase the downstream flow in the rainy nonfarming season so as to decrease soil erosion from the foothill area and enable the Corps to retard or stop the flow at such times as may improve the planting, cultivation and harvesting of crops on lands below the reservoirs.

No part of the funds in this bill shall be used to acquire flowage rights or property rights of any kind in connection with the Grenada Lake, Mississippi project, except upon the voluntary agreement of the owner of such property.

The Corps is urged to review the flood control problems associated with 20 Mile Creek and Little Browns Creek, Mississippi, and report back to the Committees on Appropriations with appropriate solutions to the problems.

Operation and maintenance, general

Amendment No. 19: Appropriates $848,500,000 for operation and maintenance as proposed by the Senate instead of $850,314,000 as proposed by the House.

The funds appropriated are to be allocated as shown on the following table:

OPERATION AND MAINTENANCE—STATE AND PROJECT

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	ALABAMA		
(N)	Alabama-Coosa rivers	$2,575,000	$3,500,000
(N)	Bayou La Batre	156,000	336,000
(N)	Black Warrior, Warrior and Tombigbee Rivers	5,414,000	8,000,000
(N)	Dauphin Island Bay	99,000	152,000
(N)	Dog and Fowl River	168,000	252,000
(N)	Gulf intracoastal waterway, Alabama, Flordia, and Mississippi (Mobile District).	2,601,000	4,600,000
(MP)	Jones Bluff lock and dam	1,881,000	2,400,000
(MP)	Millers Ferry lock and dam—William "Bill" Dannelly Reservior.	2,429,000	2,429,000
(N)	Mobile Harbor	4,215,000	4,215,000
(N)	Perdido Pass	147,000	300,000
(N)	Removal of aquatic growth (Hyacinths)	35,000	35,000
(N)	Tennessee-Tombigbee Waterway, Ala. and Miss	1,915,000	1,915,000
(MP)	Walter F. George lock and dam	3,026,000	3,026,000
	ALASKA		
(N)	Anchorage Harbor	1,149,000	1,149,000
(N)	Dillingham Harbor	461,000	461,000
(N)	Homer Harbor	287,000	287,000
(N)	Ninilchik Harbor	208,000	208,000
(N)	Nome Harbor	447,000	447,000
(N)	Stikine River	43,000	43,000
	ARIZONA		
(FC)	Alamo Lake	512,000	512,000
(FC)	Painted Rock Dam	277,000	277,000
(FC)	Whitlow Ranch Dam	52,000	52,000
	ARKANSAS		
(MP)	Beaver Lake	1,513,000	1,513,000
(MP)	Blakely Mountain Dam—Lake Ouachita	2,151,000	2,151,000
(FC)	Blue Mountain Lake	455,000	455,000
(MP)	Bull Shoals Lake	2,199,000	2,199,000
(MP)	Dardanelle lock and dam	2,458,000	2,458,000
(MP)	Degray Lake	2,439,000	2,439,000
(FC)	Dequeen Lake	473,000	473,000
(FC)	Dierks Lake	387,000	387,000
(FC)	Gillham Lake	313,000	313,000
(MP)	Greers Ferry Lake	2,364,000	2,364,000
(N)	Helena Harbor	188,000	188,000
(N)	McClellan-Kerr Arkanasa River navigation system, Arkansas and Oklahoma.	12,709,000	13,000,000
(FC)	Millwood Lake	700,000	700,000
(MP)	Narrows Dam—Lake Greeson	1,670,000	1,670,000
(FC)	Nimrod Lake	600,000	600,000
(MP)	Norfork Lake	1,602,000	1,602,000
(N)	Osceola Harbor	245,000	245,000
(N)	Ouachita and Black Rivers, Ark. and La	2,700,000	2,700,000
(MP)	Ozark—Jeta Taylor lock and dam	1,989,000	1,989,000
(N)	White River	925,000	925,000
	CALIFORNIA		
(FC)	Black Butte Lake	1,024,000	1,024,000
(N)	Bodega Bay Harbor	270,000	270,000
(FC)	Buchanan Dam—H. V. Eastman Lake	555,000	555,000
(N)	Channel Island Harbor	650,000	1,000,000
(FC)	Coyote Valley Dam (Lake Mendocino)	1,445,000	1,445,000
(N)	Crescent City Harbor	630,000	630,000
(FC)	Farmington Dam	71,000	71,000
(FC)	Hidden Dam—Hensley Lake	562,000	562,000
(N)	Humboldt Harbor and Bay	1,187,000	1,187,000
(FC)	Isabella Lake	1,293,000	1,293,000
(FC)	Los Angeles County drainage area	2,334,000	2,334,000
(N)	Los Angeles—Long Beach Harbor model	75,000	360,000
(FC)	Merced County Stream group	131,000	131,000
(FC)	Mojave River Dam	207,000	207,000
(N)	Moss Landing Harbor	80,000	80,000
(N)	Napa River	1,315,000	1,315,000
(FC)	New Hogan Lake	972,000	972,000
(MP)	New Melones Lake (downstream channel)	191,000	191,000
(N)	Noyo River and Harbor	340,000	340,000
(N)	Oakland Harbor	886,000	886,000
(N)	Oceanside Harbor	600,000	600,000
(N)	Petaluma River	588,000	588,000
(FC)	Pine Flat Lake	866,000	866,000
(N)	Redwood City Harbor	20,000	20,000
(N)	Richmond Harbor	642,000	642,000
(N)	Sacramento River and tributaries (debris control)	355,000	355,000
(N)	Sacramento River	1,773,000	1,773,000
(N)	San Francisco Bay and Harbor (drift removal)	1,035,000	1,035,000
(N)	San Francisco Bay—Delta model structure	400,000	1,450,000
(N)	San Francisco Harbor	1,126,000	1,126,000
(N)	San Joaquin River	100,000	100,000
(N)	San Pablo Bay and Mare Island Strait	1,435,000	1,435,000
(N)	San Rafael Creek	350,000	350,000
(FC)	Santa Ana River Basin	2,181,000	2,181,000
(N)	Santa Barbara Harbor	400,000	400,000
(N)	Santa Cruz Harbor	$590,000	$590,000
(FC)	Success Lake	883,000	883,000
(N)	Suisun Bay channel	240,000	240,000
(FC)	Terminus Dam (Lake Kaweah)	766,000	766,000
(N)	Ventura Marina	2,000,000	2,000,000
(N)	Yuba River	25,000	25,000
	COLORADO		
(FC)	Bear Creek Lake	125,000	125,000
(FC)	Chatfield Lake	297,000	297,000
(FC)	Cherry Creek Lake	187,000	187,000
(FC)	John Martin Reservoir	590,000	590,000
(FC)	Trinidad Lake	267,000	267,000
	CONNECTICUT		
(FC)	Black Rock Lake	170,000	170,000
(FC)	Colebrook River Lake	178,000	178,000
(N)	Connecticut River below Hartford	364,000	364,000
(FC)	Hancock Brook Lake	47,000	47,000
(FC)	Hop Brook Lake	271,000	271,000
(FC)	Mansfield Hollow Lake	286,000	286,000
(FC)	Northfield Brook Lake	94,000	94,000
(N)	Norwalk Harbor	331,000	331,000
(N)	Stamford Harbor	404,000	404,000
(FC)	Stamford Hurricane Barrier	128,000	128,000
(FC)	Thomaston Dam	289,000	289,000
(FC)	West Thompson Lake	188,000	188,000
	DELAWARE		
(N)	IWW, Chincoteague Bay to Delaware Bay	6,000	6,000
(N)	IWW, Delaware River to Chesapeake Bay, Del. and Md.	7,919,000	7,919,000
(N)	IWW, Rehoboth Bay to Delaware Bay	210,000	210,000
(N)	Lewes Harbor of Refuge		700,000
(N)	Murderkill River	100,000	100,000
(N)	Wilmington Harbor	965,000	965,000
	DISTRICT OF COLUMBIA		
(N)	Anacostia River basin, D.C. and Md	710,000	710,000
(N)	Potomac and Anacostia Rivers drift removal, District of Columbia, Maryland, and Virginia.	350,000	350,000
(N)	Washington Harbor	460,000	460,000
	FLORIDA		
(N)	Apalachicola Bay	519,000	519,000
(N)	Apalachicola, Chattahoochee and Flint Rivers, Fla. and Ga.	2,691,000	2,691,000
(N)	Canaveral Harbor	1,185,000	1,185,000
(FC)	Central and southern Florida	3,839,000	3,839,000
(N)	Charlotte Harbor	463,000	463,000
(N)	Clearwater Pass	220,000	220,000
(N)	Cross-Florida barge canal	816,000	816,000
(N)	East Pass Channel	151,000	151,000
(N)	Fernandina Harbor	1,742,000	1,742,000
(N)	Fort Pierce Harbor	225,000	225,000
(N)	IWW, Caloosahatchee to Anclote River	496,000	496,000
(N)	IWW, Jacksonville to Miami	1,789,000	1,789,000
(N)	Jacksonville Harbor	2,325,000	2,325,000
(MP)	Jim Woodruff lock and dam—Lake Seminole	4,026,000	4,026,000
(N)	Longboat Pass	250,000	250,000
(N)	New Pass, Sarasota	710,000	710,000
(N)	Okeechobee Waterway	1,366,000	1,366,000
(N)	Oklawaha River	36,000	36,000
(N)	Palm Beach Harbor	415,000	415,000
(N)	Panama City Harbor	218,000	218,000
(N)	Pensacola Harbor	1,136,000	1,136,000
(N)	Ponce de Leon Inlet	611,000	611,000
(N)	Port Evergaldes Harbor	300,000	300,000
(N)	Port St. Joe Harbor	400,000	400,000
(N)	Removal of aquatic growth (Hyacinths)	1,745,000	2,500,000
(N)	St. Augustine Harbor	882,000	882,000
(N)	St. Lucie Inlet	215,000	215,000
(N)	Tampa Harbor	1,294,000	1,294,000
	GEORGIA		
(MP)	Allatoona Lake	2,887,000	2,887,000
(N)	Atlantic intracoastal waterway (Savannah District)	1,035,000	1,035,000
(N)	Brunswick Harbor	1,729,000	1,729,000
(MP)	Buford Dam—Lake Sidney Lanier	3,783,000	3,783,000
(MP)	Carters Lake	2,944,000	2,944,000
(MP)	Clark Hill Lake, Ga. and S.C	2,896,000	2,896,000
(MP)	Hartwell Lake	4,443,000	4,443,000
(N)	Savannah Harbor below Augusta	1,537,000	1,537,000
(N)	Savannah Harbor	4,777,000	8,000,000
(MP)	West Point Lake, Ga. and Ala	2,379,000	2,379,000

OPERATION AND MAINTENANCE—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	HAWAII		
(N)	Hilo Harbor	$1, 200, 000	$1, 200, 000
	IDAHO		
(MP)	Albeni Falls Dam	1, 393, 000	1, 393, 000
(MP)	Dworshak Dam and Reservoir	3, 541, 000	3, 541, 000
(FC)	Lucky Peak Lake	512, 000	512, 000
	ILLINOIS		
(N)	Calumet Harbor and River, Ill. and Ind	325, 000	325, 000
(N)	Calumet Harbor and River, Ill. and Ind. (diked disposal).	660, 000	660, 000
(FC)	Carlyle Lake	1, 870, 000	1, 870, 000
(N)	Chicago Harbor (diked disposal)	280, 000	280, 000
(N)	Chicago River (diked disposal)	660, 000	660, 000
(FC)	Farm Creek reservoirs	080, 000	80, 00
(N)	Illinois Waterway, Ill. and Ind. (LMVD)	841, 000	841, 000
(N)	Illinois Waterway, Ill. and Ind. (NCD)	13, 270, 000	13, 270, 000
(N)	Kaskaskia River navigation	780, 000	780, 000
(FC)	Lake Shelbyville	2, 628, 000	2, 628, 000
(N)	Mill Creek and South Slough	30, 000	30, 000
(N)	Mississippi River between Missouri River and Minneapolis, Minn.—Illinois, Minnesota, Wisconsin, and Iowa (LMVD).	9, 634, 000	9, 634, 000
(N)	Mississippi River between Missouri River and Minneapolis, Minn.—Illinois, Minnesota, Wisconsin, and Iowa (NCD).	24, 564, 000	24, 564, 000
(N)	Mississippi River between the Ohio and Missouri Rivers.	8, 185, 000	8, 185, 000
(FC)	Mouth of Sangamon River	75, 000	75, 000
(FC)	North Branch Chicago River		150, 000
(N)	Ohio River locks and dams, Illinois, Pennsylvania, Indiana, Ohio, West Virginia, and Kentucky.	24, 293, 000	24, 293, 000
(N)	Ohio River open channel work, Illinois, Pennsylvania, Indiana, Ohio, West Virginia, and Kentucky.	4, 602, 000	4, 852, 000
(FC)	Rend Lake	1, 567, 000	1, 567, 000
(N)	Waukegan Harbor	380, 000	380, 000
	INDIANA		
(FC)	Brookville Lake	275, 000	275, 000
(N)	Burns Waterway Harbor	2, 215, 000	2, 215, 000
(FC)	Cagles Mill Lake	242, 000	242, 000
(FC)	Cecil M. Harden Lake	513, 000	513, 000
(FC)	Huntington Lake	290, 000	290, 000
(N)	Indiana Harbor	1, 325, 000	1, 325, 000
(N)	Indiana Harbor (diked disposal)	85, 000	85, 000
(N)	Michigan City	135, 000	135, 000
(FC)	Mississinewa Lake	294, 000	294, 000
(FC)	Monroe Lake	278, 000	278, 000
(FC)	Patoka Lake	248, 000	248, 000
(FC)	Salamonie Lake	279, 000	279, 000
	IOWA		
(FC)	Coralville Lake	956, 000	956, 000
(FC)	Missouri River, Kenslers Bend, Nebr. to Sioux City, Iowa, Nebraska, and South Dakota.	58, 000	58, 000
(N)	Missouri River, Sioux City, Iowa to the mouth	9, 836, 000	9, 836, 000
(FC)	Rathbun Lake	1, 159, 000	1, 159, 000
(FC)	Red Rock Dam—Lake Red Rock	922, 000	1, 480, 000
(FC)	Saylorville Lake	1, 051, 000	1, 414, 000
	KANSAS		
(FC)	Clinton Lake	659, 000	659, 000
(FC)	Council Grove Lake	311, 000	311, 000
(FC)	Elk City Lake	273, 000	273, 000
(FC)	Fall River Lake	359, 000	359, 000
(FC)	John Redman Dam and Reservoir	432, 000	432, 000
(FC)	Kanopolis Lake	653, 000	653, 000
(FC)	Marion Lake	379, 000	379, 000
(FC)	Melvern Lake	709, 000	709, 000
(FC)	Milford Lake	1, 227, 000	1, 227, 000
(FC)	Perry Lake	1, 034, 000	1, 034, 000
(FC)	Pomona Lake	663, 000	663, 000
(FC)	Toronto Lake	247, 000	247, 000
(FC)	Tuttle Creek Lake	787, 000	787, 000
(FC)	Wilson Lake	585, 000	585, 000
	KENTUCKY		
(MP)	Barkley Dam—Lake Barkley	3, 313, 000	3, 313, 000
(FC)	Barren River Lake	557, 000	557, 000
(FC)	Buckhorn Lake	347, 000	573, 000
(FC)	Carr Fork Lake	443, 000	443, 000
(FC)	Cave Run Lake	270, 000	270, 000
(FC)	Dewey Lake	618, 000	618, 000
(FC)	Fishtrap Lake	561, 000	561, 000
(FC)	Grayson Lake	421, 000	421, 000
(N)	Green and Barren Rivers	777, 000	777, 000
(FC)	Green River Lake	571, 000	721, 000
(N)	Hickman Harbor	130, 000	130, 000
(N)	Kentucky River	2, 542, 000	2, 542, 000
(MP)	Laurel River Lake	462, 000	502, 000
(FC)	Martins Fork Lake	147, 000	207, 000
(FC)	Middlesboro	46, 000	46, 000
(FC)	Nolin Lake	628, 000	628, 000
(FC)	Rough River Lake	689, 000	689, 000
(MP)	Wolf Creek Dam—Lake Cumberland	2, 049, 000	2, 049, 000
	LOUISIANA		
(N)	Atchafalaya River, Morgan City to Gulf of Mexico	640, 000	640, 000
(N)	Barataria Bay Waterway	645, 000	1, 000, 000
(FC)	Bayou Bodcau Reservoir	190, 000	190, 000
(FC)	Bayou Pierre	15, 000	15, 000
(N)	Bayou Teche and Vemilion River	40, 000	40, 000
(N)	Bayou Teche	$185, 000	$185, 000
(FC)	Caddo Lake	80, 000	80, 000
(N)	Calcasieu River and Pass	7, 827, 000	7, 827, 000
(N)	Freshwater Bayou	900, 000	900, 000
(N)	Gulf Intracoastal Waterway	6, 708, 000	6, 708, 000
(N)	Houma Navigation Channel	485, 000	1, 135, 000
(N)	Lake Providence Harbor	165, 000	165, 000
(N)	Mermentau River	2, 550, 000	2, 550, 000
(N)	Mississippi River outlets, vicinity of Venice	510, 000	510, 000
(N)	Mississippi River, Baton Rouge to gulf	19, 515, 000	25, 915, 000
(N)	Mississippi River, gulf outlet	5, 595, 000	5, 595, 000
(N)	Red River Waterway, Mississippi River to Shreveport.	975, 000	975, 000
(N)	Removal of aquatic growth, Louisiana and Texas	1, 163, 000	1, 163, 000
(FC)	Wallace Lake	180, 000	180, 000
(N)	Waterway from intracoastal waterway to Bayou Dulac.	520, 000	520, 000
	MAINE		
(N)	Portland Harbor	1, 874, 000	1, 874, 000
	MARYLAND		
(N)	Baltimore Harbor and Channels	2, 470, 000	3, 470, 000
(N)	Baltimore Harbor (drift removal)	125, 000	125, 000
(N)	Baltimore Harbor (prevention of obstructive deposits).	180, 000	180, 000
(FC)	Cumberland, Md. and Ridgeley	36, 000	36, 000
(N)	Lower thoroughfare and Deal Island	175, 000	175, 000
(N)	Ocean City Harbor and Inlet and Sinepuxent Bay	300, 000	300, 000
(N)	Parish Creek	185, 000	185, 000
(N)	St. Peters Creek	185, 000	185, 000
	MASSACHUSETTS		
(FC)	Barre Falls	236, 000	236, 000
(FC)	Birch Hill Dam	193, 000	193, 000
(FC)	Buffumville Lake	210, 000	210, 000
(N)	Cape Cod Canal	2, 665, 000	2, 665, 000
(FC)	Conant Brook Dam	77, 000	77, 000
(FC)	East Brimfield Lake	162, 000	162, 000
(FC)	Hodges Village Dam	292, 000	292, 000
(N)	Green Harbor		225, 000
(FC)	Knightville Dam	232, 000	232, 000
(FC)	Littleville Lake	179, 000	179, 000
(FC)	New Bedford, Fairhaven and Acushnet hurricane barrier.	111, 000	111, 000
(FC)	Tully Lake	187, 000	187, 000
(N)	Wellfleet Harbor		280, 000
(FC)	West Hill Dam	103, 000	103, 000
(FC)	Westville Lake	203, 000	203, 000
	MICHIGAN		
(N)	Arcadia Harbor	76, 000	76, 000
(N)	Big Bay Harbor	128, 000	128, 000
(N)	Black River (Port Huron)	265, 000	265, 000
(N)	Black River Harbor	128, 000	128, 000
(N)	Caseville Harbor		100, 000
(N)	Channels in Lake St. Clair	774, 000	774, 000
(N)	Charlevoix Harbor	865, 000	865, 000
(N)	Cheboygan Harbor	87, 000	87, 000
(N)	Detroit River	6, 565, 000	6, 565, 000
(N)	Detroit River (diked disposal)	7, 124, 000	7, 124, 000
(N)	Frankfort Harbor	965, 000	965, 000
(N)	Grand Haven Harbor and Grand River	405, 000	405, 000
(N)	Grand Marais Harbor	121, 000	121, 000
(N)	Grand Traverse Bay Harbor	122, 000	122, 000
(N)	Harbor Beach Harbor	425, 000	425, 000
(N)	Holland Harbor	207, 000	207, 000
(N)	Inland route	160, 000	160, 000
(N)	Keweenaw Waterway	300, 000	300, 000
(N)	Leland Harbor	118, 000	118, 000
(N)	Little Lake Harbor	145, 000	145, 000
(N)	Ludington Harbor	136, 000	136, 000
(N)	Manistee Harbor	148, 000	148, 000
(N)	Monroe Harbor	683, 000	683, 000
(N)	Monroe River (diked disposal)	4, 800, 000	4, 800, 000
(N)	Muskegon Harbor	169, 000	169, 000
(N)	Ontonagon Harbor	315, 000	315, 000
(N)	Pentwater Harbor	120, 000	120, 000
(N)	Portage Lake Harbor	97, 000	97, 000
(N)	Presque Isle Harbor	86, 000	86, 000
(N)	Rouge River	596, 000	596, 000
(N)	Rouge River (diked disposal)	2, 275, 000	2, 275, 000
(N)	Saginaw River	3, 021, 000	3, 021, 000
(FC)	Sebewaing River	56, 000	56, 000
(N)	Sebewaing River	653, 000	653, 000
(N)	St. Clair River	752, 000	752, 000
(N)	St. Joseph Harbor	178, 000	178, 000
(N)	St. Joseph Harbor (diked disposal)	1, 772, 000	1, 772, 000
(MP)	St. Marys River	8, 673, 000	8, 673, 000
(N)	Whitefish Pointe Harbor	117, 000	117, 000
	MINNESOTA		
(FC)	Big Stone Lake-Whetstone River	87, 000	87, 000
(N)	Duluth-Superior Harbor, Minn. and Wis	1, 041, 000	1, 041, 000
(N)	Grand Marais Harbor	57, 000	57, 000
(N)	Knife River Harbor		89, 000
(FC)	Lac Qui Parle Lake	173, 000	173, 000
(FC)	Lake Traverse, Minn. and S. Dak	297, 000	297, 000
(N)	Minnesota River	177, 000	177, 000
(FC)	Orwell Lake	99, 000	99, 000
(FC)	Red Lake Reservoir	48, 000	48, 000
(N)	Reservoirs at headwaters of Mississippi River	1, 240, 000	1, 240, 000
(N)	St. Croix River, Minn. and Wis	118, 000	118, 000
(N)	Two Harbors Harbor	243, 000	243, 000
(N)	Warroad Harbor		347, 000

OPERATION AND MAINTENANCE—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	MISSISSIPPI		
(N)	Biloxi Harbor	$394, 000	$394, 000
(N)	Cadet Bayou	148, 000	148, 000
(N)	Gulfport Harbor	1, 219, 000	1, 219, 000
(FC)	Okatibbee Lake	521, 000	521, 000
(N)	Pascagoula Harbor	2, 536, 000	2, 536, 000
(N)	Pearl River, Miss. and La	99, 000	99, 000
(N)	Rosedale Harbor	91, 000	91, 000
(N)	Yazoo River	55, 000	55, 000
	MISSOURI		
(MP)	Clarence Cannon Dam and Reservoir	1, 045, 000	1, 045, 000
(FC)	Clearwater Lake	1, 576, 000	1, 576, 000
(MP)	Harry S. Truman Dam and Reservoir	2, 650, 000	2, 650, 000
(FC)	Long Branch Lake	345, 000	345, 000
(FC)	Meramec Park Lake	185, 000	185, 000
(N)	New Madrid Harbor	142, 000	142, 000
(FC)	Pomme de Terre Lake	941, 000	941, 000
(FC)	Smithville Lake	410, 000	410, 000
(MP)	Stockton Lake	1, 384, 000	1, 384, 000
(MP)	Table Rock Lake	2, 446, 000	2, 446, 000
	MONTANA		
(MP)	Fort Peck Lake	1, 855, 000	1, 855, 000
(MP)	Libby Dam-Lake Koocanusa	2, 051, 000	2, 051, 000
	NEBRASKA		
(MP)	Gavins Point Dam-Lewis and Clark Lake, Nebr. and S. Dak.	4, 197, 000	4, 197, 000
(FC)	Harlan County Lake	1, 370, 000	1, 370, 000
(FC)	Papillion Creek and Tributaries Lakes	156, 000	156, 000
(FC)	Salt Creek and Tributaries Lakes	290, 000	290, 000
	NEVADA		
(FC)	Martis Creek Lake, Nev. and Calif	185, 000	185, 000
(FC)	Pine and Mathews Canyon Lakes	51, 000	51, 000
	NEW HAMPSHIRE		
(FC)	Blackwater Dam	156, 000	156, 000
(FC)	Edward MacDowell Lake	223, 000	223, 000
(FC)	Franklin Falls Dam	964, 000	964, 000
(FC)	Hopkinton-Everett Lakes	408, 000	408, 000
(FC)	Otter Brook Lake	249, 000	249, 000
(N)	Portsmouth Harbor and Piscataqua River	475, 000	475, 000
(FC)	Surry Mountain Lake	327, 000	327, 000
	NEW JERSEY		
(N)	Absecon Inlet	305, 000	305, 000
(N)	Barnegat Inlet	310, 000	310, 000
(N)	Delaware River, Philadelphia to sea, New Jersey, Delaware, and Pennsylvania.	16, 841, 000	16, 841, 000
(N)	Delaware River, Philadelphia to Trenton	1, 560, 000	1, 560, 000
(N)	Keyport Harbor	336, 000	336, 000
(N)	Manasquan River	155, 000	155, 000
(N)	Matawan Creek	336, 000	336, 000
(N)	New Jersey Intracoastal Waterway	702, 000	702, 000
(N)	Raritan River	1, 200, 000	1, 200, 000
(N)	Shrewsbury River	403, 000	403, 000
	NEW MEXICO		
(FC)	Abiquiu Dam	382, 000	382, 000
(FC)	Cochiti Lake	660, 000	660, 000
(FC)	Conchas Lake	539, 000	539, 000
(FC)	Galisteo Dam	91, 000	91, 000
(FC)	Jemez Canyon Dam	160, 000	160, 000
(FC)	Los Esteros Lake	248, 000	248, 000
(FC)	Two Rivers Dam	92, 000	92, 000
	NEW YORK		
(FC)	Almond Lake	192, 000	192, 000
(FC)	Arkport Dam	73, 000	73, 000
(N)	Bay Ridge and Red Hook Channels	1, 008, 000	1, 008, 000
(N)	Black Rock Channel and Tonawanda Harbor	1, 180, 000	1, 180, 000
(N)	Bronx River	358, 000	358, 000
(N)	Browns Creek	60, 000	60, 000
(N)	Buffalo Harbor	1, 270, 000	1, 270, 000
(N)	Cape Vincent Harbor	590, 000	590, 000
(N)	East Rockaway Inlet	501, 000	501, 000
(FC)	East Sidney Lake	243, 000	243, 000
(N)	Hudson River Channel	1, 898, 000	1, 898, 000
(N)	Hudson River	1, 735, 000	1, 735, 000
(N)	Jamaica Bay	600, 000	600, 000
(N)	Jones Inlet	836, 000	836, 000
(N)	Long Island Intracoastal Waterway	460, 000	460, 000
(N)	Mamaroneck Harbor	1, 120, 000	1, 120, 000
(N)	Mattituck Harbor	143, 000	143, 000
(FC)	Mount Morris Lake	570, 000	570, 000
(N)	New York and New Jersey Channels, N.Y. and N.J.	956, 000	956, 000
(N)	New York Harbor	1, 898, 000	1, 898, 000
(N)	New York Harbor (drift removal)	2, 426, 000	2, 426, 000
(N)	New York Harbor (prevention of obstructive deposits).	590, 000	590, 000
(N)	Newtown Creek	168, 000	168, 000
(N)	Oswego Harbor	150, 000	150, 000
(N)	Rochester Harbor	1, 140, 000	1, 140, 000
(FC)	Southern New York flood control projects	272, 000	272, 000
(N)	Westchester Creek	840, 000	840, 000
(FC)	Whitney Point Lake	398, 000	398, 000
	NORTH CAROLINA		
(N)	Atlantic Intracoastal Waterway (Willmington District)	$3, 669, 000	$3, 669, 000
(FC)	B. Everett Jordan Dam and Lake	255, 000	255, 000
(N)	Beaufort Harbor	262, 000	262, 000
(N)	Cape Fear River above Willmington	314, 000	314, 000
(N)	Channel Back Sound to Lookout Bight	138, 000	138, 000
(N)	Lockwoods Folly River	219, 000	219, 000
(N)	Manteo (Shallowbag) Bay	967, 000	967, 000
(N)	Morehead City Harbor	1, 890, 000	1, 890, 000
(N)	Ocracoke Inlet	591, 000	591, 000
(N)	Silver Lake Harbor	430, 000	430, 000
(FC)	W. Kerr Scott Dam and Reservoir	705, 000	705, 000
(N)	Willmington Harbor	2, 345, 000	2, 345, 000
	NORTH DAKOTA		
(FC)	Baldhill Dam-Lake Ashtabula	500, 000	500, 000
(FC)	Bowman-Haley Lake	68, 000	68, 000
(MP)	Garrison Dam-Lake Sakakawea	4, 150, 000	4, 150, 000
(FC)	Homme Lake	97, 000	97, 000
(FC)	Pipestem Lake	252, 000	252, 000
	OHIO		
(FC)	Alum Creek Lake	313, 000	313, 000
(N)	Ashtabula Harbor	715, 000	715, 000
(N)	Ashtabula Harbor (diked disposal)	2, 400, 000	2, 400, 000
(FC)	Berlin Lake	993, 000	993, 000
(FC)	Caesar Creek Lake	224, 000	224, 000
(FC)	Clarence J. Brown Dam and Reservoir	271, 000	271, 000
(N)	Cleveland Harbor	5, 733, 000	5, 733, 000
(N)	Conneaut Harbor	175, 000	175, 000
(FC)	Deer Creek Lake	439, 000	439, 000
(FC)	Delaware Lake	344, 000	344, 000
(FC)	Dillon Lake	199, 000	199, 000
(FC)	East Fork Lake	248, 000	248, 000
(N)	Fairport Harbor	787, 000	787, 000
(N)	Huron Harbor	376, 000	376, 000
(N)	Lorain Harbor	420, 000	420, 000
(FC)	Massillon	10, 000	10, 000
(FC)	Michael J. Kirwan Dam and Reservoir	361, 000	361, 000
(FC)	Mosquito Creek Lake	358, 000	358, 000
(FC)	Muskingum River reservoirs (14 reservoirs)	3, 109, 000	3, 109, 000
(FC)	Newark	10, 000	10, 000
(FC)	North Branch of Koskosing River Lake	93, 000	93, 000
(FC)	Paint Creek Lake	354, 000	354, 000
(N)	Rocky River Harbor	680, 000	680, 000
(FC)	Roseville	10, 000	10, 000
(N)	Sandusky Harbor	725, 000	725, 000
(N)	Sandusky Harbor (diked disposal)	200, 000	200, 000
(N)	Toledo Harbor	2, 385, 000	2, 385, 000
(C)	Tom Jenkins Dam	160, 000	160, 000
(FC)	West Fork of Mill Creek Lake	217, 000	217, 000
	OKLAHOMA		
(FC)	Arkansas-Red River Basins chloride central data stations, Oklahoma, Kansas, and Texas.	547, 000	547, 000
(FC)	Birch Lake	319, 000	319, 000
(MP)	Broken Bow Lake	745, 000	745, 000
(FC)	Canton Lake	518, 000	518, 000
(FC)	Clayton Lake	74, 000	74, 000
(FC)	Copan Lake	233, 000	233, 000
(MP)	Denison Dam-Lake Texoma, Okla. and Tex	2, 875, 000	2, 875, 000
(MP)	Eufaula Lake	1, 876, 000	1, 876, 000
(MP)	Fort Gibson Lake	1, 574, 000	1, 574, 000
(FC)	Fort Supply Lake	265, 000	265, 000
(FC)	Great Salt Plains Lake	235, 000	235, 000
(FC)	Heyburn Lake	214, 000	214, 000
(FC)	Hugo Lake	627, 000	627, 000
(FC)	Hulah Lake	394, 000	394, 000
(FC)	Kaw Lake	672, 000	672, 000
(MP)	Keystone Lake	1, 156, 000	1, 156, 000
(FC)	Oologah Lake	759, 000	759, 000
(FC)	Optima Lake	248, 000	248, 000
(FC)	Pensacola Reservoir-Lake O' the Cherokees	5, 000	5, 000
(FC)	Pine Creek Lake	389, 000	389, 000
(MP)	Robert S. Kerr lock and dam and reservoir	1, 666, 000	1, 666, 000
(MP)	Tenkiller Ferry Lake	1, 171, 000	1, 171, 000
(FC)	Waurika Lake	299, 000	299, 000
(MP)	Webbers Falls lock and dam	1, 711, 000	1, 711, 000
(FC)	Wister Lake	238, 000	238, 000
	OREGON		
(FC)	Blue River Lake	85, 000	85, 000
(MP)	Bonneville lock and dam	5, 325, 000	5, 325, 000
(N)	Chetco River	289, 000	289, 000
(N)	Columbia and lower Willamette Rivers below Vancouver, Wash. and Portland.	4, 217, 000	4, 217, 000
(N)	Columbia River at the mouth Oregon and Washington	4, 433, 000	4, 433, 000
(N)	Columbia River between Vancouver, Wash. and The Dalles, Oreg.	219, 000	219, 000
(N)	Coos and Millicoma Rivers	100, 000	100, 000
(N)	Coos Bay	3, 095, 000	3, 095, 000
(N)	Coquille River	208, 000	208, 000
(FC)	Cottage Grove Lake	425, 000	425, 000
(MP)	Cougar Lake	580, 000	580, 000
(N)	Depoe Bay	84, 000	84, 000
(MP)	Detroit Lake	1, 320, 000	1, 320, 000
(FC)	Dorena Lake	210, 000	210, 000

OPERATION AND MAINTENANCE—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
(FC)	Fall Creek Lake	$385, 000	$385, 000
(FC)	Fern Ridge Dam and Lake	485, 000	485, 000
(MP)	Green Peter—Forster Lakes	1, 100, 000	1, 100, 000
(MP)	Hills Creek Lake	655, 000	655, 000
(MP)	John Day lock and dam, Oregon and Washington	5, 688, 000	5, 688, 000
(MP)	Lookout Point Lake	1, 735, 000	1, 735, 000
(MP)	Lost Creek Lake	1, 430, 000	1, 430, 000
(MP)	McNary lock and dam, Oregon and Washington	6, 298, 000	6, 298, 000
(N)	Port Orford	418, 000	418, 000
(N)	Rogue River Harbor at Gold Beach	1, 044, 000	1, 044, 000
(N)	Siuslaw River	973, 000	973, 000
(N)	Skipanon Channel	352, 000	352, 000
(N)	Tillamook Bay and Bar	423, 000	423, 000
(N)	Umpqua River	1, 069, 000	1, 069, 000
(N)	Willamette River above Portland and Yamhill River	71, 000	71, 000
(N)	Willamette River at Willamette Falls	365, 000	365, 000
(FC)	Willamette River bank protection	105, 000	105, 000
(N)	Yaquina Bay and Harbor	1, 048, 000	1, 048, 000
	PENNSYLVANIA		
(N)	Allegheny River	3, 274, 000	3, 274, 000
(FC)	Alvin R. Bush Dam	138, 000	138, 000
(FC)	Aylesworth Creek Lake	67, 000	67, 000
(FC)	Beltzville Lake	311, 000	311, 000
(FC)	Blue Marsh Lake	238, 000	238, 000
(FC)	Conemaugh River Lake	313, 000	313, 000
(FC)	Cowanesque Lake	82, 000	82, 000
(FC)	Crooked Creek Lake	370, 000	370, 000
(FC)	Curwensville Lake	409, 000	409, 000
(FC)	East Branch Clarion River Lake	459, 000	459, 000
(N)	Erie Harbor	365, 000	365, 000
(FC)	Foster Joseph Sayers Dam and Reservoir	309, 000	309, 000
(FC)	Francis E. Walter Dam	272, 000	272, 000
(FC)	General Edgar Jadwin Dam and Reservoir	67, 000	67, 000
(FC)	Johnstown	9, 000	9, 000
(FC)	Kinzua Dam and Allegheny Reservoir	1, 156, 000	1, 156, 000
(FC)	Loyalhanna Lake	497, 000	497, 000
(FC)	Mahoning Creek Lake	322, 000	322, 000
(N)	Monongahela River	4, 450, 000	4, 450, 000
(FC)	Prompton Lake	175, 000	175, 000
(FC)	Punxsutawney	14, 000	14, 000
(FC)	Raystown Lake	1, 085, 000	1, 085, 000
(N)	Schuylkill River	577, 000	577, 000
(FC)	Shenango River Lake, Pa. and Ohio	1, 079, 000	1, 079, 000
(FC)	Stillwater Lake	100, 000	100, 000
(FC)	Tioga-Hammond Lakes	437, 000	437, 000
(FC)	Tionesta Lake	632, 000	632, 000
(FC)	Union City Lake	208, 000	208, 000
(FC)	Woodcock Creek Lake	352, 000	352, 000
(FC)	York, Indian Rock Dam	139, 000	139, 000
(FC)	Youghiogheny River Lake	893, 000	893, 000
	SOUTH CAROLINA		
(N)	Atlantic intracoastal waterway (Charleston District)	2, 560, 000	2, 560, 000
(N)	Charleston Harbor	3, 945, 000	3, 945, 000
(N)	Georgetown Harbor	2, 270, 000	3, 020, 000
(N)	Little River inlet, S.C. and N.C	138, 000	138, 000
(N)	Port Royal Harbor	450, 000	450, 000
(N)	Shipyard River	330, 000	330, 000
(N)	Town Creek	160, 000	160, 000
	SOUTH DAKOTA		
(MP)	Big Bend Dam—Lake Sharpe	2, 865, 000	2, 865, 000
(FC)	Cold Brook Lake	72, 000	72, 000
(FC)	Cottonwood Springs Lake	179, 000	179, 000
(MP)	Fort Randall Dam—Lake Francis Case	3, 880, 000	3, 880, 000
(MP)	Oahe Dam—Lake Oahe, S. Dak. and N. Dak	4, 055, 000	4, 055 000
	TENNESSEE		
(MP)	Center Hill Lake	1, 649, 000	1, 649, 000
(MP)	Cheatham lock and dam	2, 243, 000	2, 243, 000
(MP)	Cordell Hull Dam and Reservoir	1, 811, 000	1, 811, 000
(MP)	Dale Hollow Lake, Tenn. and Ky	1, 881, 000	1, 881, 000
(MP)	J. Percy Priest Dam and Reservoir	1, 486, 000	1, 486, 000
(MP)	Old Hickory lock and dam	2, 549, 000	2, 549, 000
(N)	Tennessee River, Tenn., Ky., and Ala	4, 339, 000	4, 339, 000
(N)	Wolf River	209, 000	209, 000
	TEXAS		
(FC)	Bardwell Lake	419, 000	419, 000
(FC)	Belton Lake	668, 000	668, 000
(FC)	Benbrook Lake	739, 000	739, 000
(N)	Brazos Island Harbor	4, 000, 000	4, 000, 000
(FC)	Buffalo Bayou and tributaries	427, 000	427, 000
(FC)	Canyon Lake	485, 000	485, 000
(N)	Channel to Port Bolivar	55, 000	55, 000
(N)	Clear Creek and Clear Lake		140, 000
(N)	Corpus Christi ship channel	5, 484, 000	5, 484, 000
(N)	Double Bayou		160, 000
(FC)	Estelline Spring experimental project	44, 000	44, 000
(FC)	Ferrells Bridge Dam—Lake O' the Pines	1, 200, 000	1, 200, 000
(N)	Freeport Harbor	2, 130, 000	2, 130, 000
(N)	Galveston Harbor and channel	4, 300, 000	4, 338, 000
(FC)	Granger Lake	371, 000	371, 000
(FC)	Grapevine Lake	878, 000	878, 000
(N)	Gulf intracoastal waterway	6, 135, 000	7, 000, 000
(FC)	Hords Creek Lake	291, 000	291, 000
(N)	Houston ship channel	5, 175, 000	6, 000, 000
(FC)	Lake Kemp	169, 000	169, 000
(FC)	Lavon Lake	735, 000	735, 000
(FC)	Lewisville Dam	1, 302, 000	1, 302, 000
(N)	Matacorda ship channel	2, 790, 000	2, 790, 000
(FC)	Navarro Mills Lake	489, 000	489, 000
(FC)	North Fork Lake	227, 000	227, 000
(FC)	O.C. Fisher Dam and Lake	$373, 000	$373, 000
(FC)	Pat Mayse Lake	313, 000	313, 000
(FC)	Proctor Lake	393, 000	393, 000
(N)	Sabine-Neches Waterway	5, 800, 000	5, 800, 000
(MP)	Sam Rayburn Dam and Reservoir	1, 879, 000	1, 879, 000
(FC)	Somerville Lake	550, 000	550, 000
(FC)	Stillhouse Hollow Lake	551, 000	551, 000
(N)	Texas City channel		25, 000
(MP)	Town Bluff-B.A. Steinhagen Lake	398, 000	398, 000
(N)	Trinity River and tributaries	653, 000	653, 000
(FC)	Waco Lake	636, 000	636, 000
(MP)	Whitney Lake	1, 433, 000	1, 433, 000
(FC)	Wright Patman Dam and Lake	1, 220, 000	1, 220, 000
	VERMONT		
(FC)	Ball Mountain Lake	368, 000	368, 000
(N)	Narrows of Lake Champlain	23, 000	23, 000
(FC)	North Hartland Lake	341, 000	341, 000
(FC)	North Springfield Lake	472, 000	472, 000
(FC)	Townshend Lake	275, 000	275, 000
(FC)	Union Village Dam	145, 000	145, 000
	VIRGINIA		
(N)	Appomattox River	628, 000	628, 000
(N)	Atlantic intracoastal waterway	2, 064, 000	2, 274, 000
(N)	Chincoteague Inlet	280, 000	280, 000
(FC)	Gathright Lake	709, 000	709, 000
(N)	Hampton Roads, Norfolk, and Newport News Harbors (Drift removal)	186, 000	186, 000
(N)	Hoskins Creek		300, 000
(N)	James River	1, 006, 000	1, 006, 000
(MP)	John H. Kerr Dam and Reservoir, Va. and N.C	2, 801, 000	2, 801, 000
(FC)	John W. Flannagan Dam and Reservoir	457, 000	457, 000
(N)	Norfolk Harbor (prevention of obstructive deposits)	210, 000	210, 000
(N)	Norfolk Harbor	2, 190, 000	2, 190, 000
(FC)	North Fork of Pound River Lake	340, 000	340, 000
(MP)	Philpott Lake	953, 000	953, 000
(N)	Waterway on the coast of Virginia	1, 380, 000	1, 380, 000
(N)	Wishart Point		200, 000
	WASHINGTON		
(N)	Bellingham Harbor	440, 000	440, 000
(MP)	Chief Joseph Dam-Rufus Woods Lake	3, 593, 000	3, 593, 000
(N)	Columbia River at Baker Bay	155, 000	155, 000
(N)	Columbia River between Chinook and Sand Island	615, 000	615, 000
(N)	Cowlitz River	170, 000	170, 000
(N)	Ediz Hook	25, 000	25, 000
(N)	Grays Harbor and Chehalis River	3, 490, 000	3, 490, 000
(FC)	Howard A. Hanson Reservoir	444, 000	444, 000
(MP)	Ice Harbor lock and dam	2, 335, 000	2, 335, 000
(N)	Lake River	13, 000	13, 000
(N)	Lake Washington ship canal	2, 498, 000	2, 498, 000
(N)	Lewis River	81, 000	81, 000
(MP)	Little Goose lock and dam—Lake Bryan	1, 434, 000	1, 434, 000
(MP)	Lower Granite lock and dam	2, 382, 000	2, 437, 000
(MP)	Lower Monumental lock and dam	3, 137, 000	3, 137, 000
(FC)	Mill Creek Lake	480, 000	480, 000
(FC)	Mud Mountain Dam	845, 000	845, 000
(N)	Neah Bay	1, 200, 000	1, 200, 000
(N)	Puget Sound and its tributary waters	1, 055, 000	1, 055, 000
(N)	Quillayute River	475, 000	475, 000
(N)	Seattle Harbor	255, 000	255, 000
(N)	Skamokawa Creek	25, 000	25, 000
(FC)	Stillaguamish River	30, 000	30, 000
(N)	Swinon ish Channel	235, 000	235, 000
(FC)	Tacoma, Puyallup River	25, 000	25, 000
(MP)	The Dalles lock and dam Washington and Oregon	4, 352, 000	4, 352, 000
(N)	Willapa River and Harbor and Naselle River	110, 000	110, 000
(FC)	Wynoochee	544, 000	544, 000
	WEST VIRGINIA		
(FC)	Beech Fork Lake	332, 000	332, 000
(FC)	Bluestone Lake	466, 000	466, 000
(FC)	Burnsville Lake	539, 000	539, 000
(FC)	East Lynn Lake	553, 000	553, 000
(FC)	Elkins	105, 000	105, 000
(N)	Kanawha River	3, 580, 000	3, 580, 000
(FC)	R. D. Bailey Lake	317, 000	317, 000
(FC)	Summersville Lake	615, 000	615, 000
(FC)	Sutton Lake	1, 217, 000	2, 000, 000
(N)	Tygart Lake	407, 000	407, 000
	WISCONSIN		
(N)	Ashland Harbor	111, 000	111, 000
(N)	Cornucopia Harbor	64, 000	64, 000
(FC)	Eau Galle River Lake	374, 000	374, 000
(N)	Fox River	2, 545, 000	2 545, 000
(N)	Green Bay Harbor	560, 000	560, 000
(N)	Kenosha Harbor	90, 000	90, 000
(N)	Kewaunee Harbor (diked disposal)	1, 580, 000	1, 580, 000
(N)	La Pointe Harbor	36, 000	36, 000
(N)	Manitowoc Harbor	305, 000	305, 000
(N)	Fensaukee Harbor	400, 000	400, 000
(N)	Port Wing Harbor	73, 000	73, 000
(N)	Saxon Harbor	72, 000	72, 000
(N)	Sheboygan Harbor (diked disposal)	1, 735, 000	1, 735, 000
	MISCELLANEOUS		
	Environmental and water quality operational studies	5, 730, 000	5, 730, 000
	Inspection of completed works	2, 863, 000	2, 863, 000
	Scheduling flood control reservoir operations	979, 000	979, 000

OPERATION AND MAINTENANCE—STATE AND PROJECT—Continued

Type of project		Fiscal year 1980	
		Budget estimate	Conference allowance
	PROTECTION OF NAVIGATION		
	Removal of sunken vessels and obstructions	$2,000,000	$2,000,000
	Protection, clearing, and straightening channels (sec. 3).	200,000	200,000
	Prevention of obstructive and injurious deposits	(980,000)	(980,000)
	General regulatory functions	40,000,000	40,000,000
	Drift removal	($4,122,000)	($4,122,000)
	Removal of aquatic growth	(2,943,000)	(2,943,000)
	Project condition surveys	3,379,000	3,379,000
	Surveillance of northern boundary waters	1,000,000	1,000,000
	General reduction for savings and efficiencies		−4,747,000
	Total, operations and maintenance	825,500,000	848,500,000

Type of Project:
(N) Navigation
(FC) Flood Control
(BE) Beach Erosion Control
(MP) Multiple-Purpose, Including Power

Alaska Hydroelectric Power Development Fund

The conferees agree with the Senate report language regarding the Alaska Hydroelectric Power Development Fund.

Revolving Fund

The conferees direct that prior to the acquisition of new automatic data processing equipment the Corps is to submit a detailed plan to the House and Senate Committee on Appropriations for approval.

TITLE III—DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

General Investigations

Amendment No. 20: Appropriates $34,451,000 for general investigations instead of $36,905,000 as proposed by the House and $34,176,000 as proposed by the Senate.

The appropriations are to be allocated as shown on the following table:

GENERAL INVESTIGATIONS—STATE AND PROJECT

	Fiscal year 1980	
	Budget estimate	Conference allowance
ARIZONA		
Boulder Canyon, Hoover powerplant modifications	$252,000	$252,000
Colorado River storage project power peaking capacity (see Utah).		
Energy research and development program, geothermal (see California).		
Geothermal resource investigations (see California).		
Lower Colorado River water conservation and efficient use program (see California).		
Reclamation and energy resources, LMNRA Wilderness designation.	610,000	610,000
Water conservation opportunities, Imperial District (see California).		
Whipple Wash pumped-storage (see California).		
CALIFORNIA		
Central Valley:		
Fish and wildlife management study	200,000	200,000
Sacramento River division, Red Bluff diversion dam powerplant.	80,000	80,000
Sacramento River division, West Sacramento Canal unit reformulation.	95,000	145,000
Shasta division, Keswick powerplant enlargement	40,000	40,000
Delta support studies	700,000	835,000
Energy research and development (geothermal) (see Colorado).		
Geothermal resource investigations	910,000	910,000
Lahontan basin total water management study (see Nevada).		
Lower Colorado River water conservation and efficient use program.	30,000	30,000
Orland Stony Gorge-East Park powerplants	85,000	85,000
Susanville geothermal investigations	325,000	325 000
Truckee River basin study, Boca-Prosser powerplants	90,000	90,000
Ventura County water management	120,000	120,000
Water conservation opportunities, Imperial Irrigation District.	50,000	50,000
Whipple Wash pumped-storage	200,000	200,000
Wind-hydroelectric opportunities study	50,000	100,000
COLORADO		
Colorado River storage project power peaking capacity (see Utah).		
Dominguez Reservoir	100,000	100,000
Energy research and development	677,000	677,000
Front Range unit (Long's Peak division, P-SMBP)	105,000	105,000
Grand Mesa reformulation	100,000	100,000
Llano Estacado, Playa Lake water resources study (see New Mexico).		
Low-head hydroelectric evaluation and inventory	421,000	421,000
Platte River study (see Nebraska).		
Republican River Basin water management study (see Nebraska).		
Upper Colorado resource study	10,000	10,000
Water resources planning and engineering research	2,962,000	2,962,000
Wind-hydroelectric energy (see Wyoming).		
IDAHO		
Boise, Anderson Ranch powerplant—3d unit	10,000	10,000
Boise power and modification study	370,000	370,000
Minidoka, Minidoka powerplant rehabilitation and enlargement	35,000	35,000
Owyhee powerplant	106,000	106,000
Palisades powerplant enlargement	79,000	
Southwest Idaho water management study	105,000	105,000
Upper Snake River, Oakley fan division reformulation	10,000	10,000
Upper Snake River water management study	110,000	100,000
Llano-Estacado Playa Lake water resources study (see New Mexico).		
KANSAS		
Solomon River Basin water management study (P-SMBP)	$243,000	$243,000
MONTANA		
Republican River Basin water management study (P-SMBP) (see Nebraska).		
Canyon Ferry powerplant	95,000	95,000
Fort Benton reformulation	75,000	75,000
Gibson powerplant study (Sun River)	100,000	100,000
Hungry Horse, Hungry Horse powerplant enlargement and reregulating reservoir	50,000	50,000
Tiber powerplant study (Marias River)	75,000	75,000
Total water management study (P-SMBP) (see South Dakota).		
Yellowtail afterbay powerplant study (Bighorn River)	75,000	75,000
NEBRASKA		
Farwell unit water conservation study (P-SMBP)	40,000	40,000
Little Blue unit reformulation (Blue division, P-SMBP)	150,000	150,000
Otoe-Cass unit (P-SMBP)		75,000
Platte River study (formerly Platte River water management study)	450,000	450,000
Republican River Basin water management study (P-SMBP)	255,000	255,000
Sparks unit (P-SMBP)	150,000	150,000
NEVADA		
Boulder Canyon, Hoover powerplant modification (see Arizona).		
Geothermal resource investigations (see California).		
Lahontan Basin total water management study	75,000	75,000
Lower Colorado River water conservation and efficient use program (see California).		
Reclamation and energy resources, LMNRA wilderness designation (see Arizona).		
NEW MEXICO		
Energy research and development program (see California).		
Geothermal resource investigations (see California).		
Llano-Estacado Playa Lake resources study (formerly Llano-Estacado total water management study)	200,000	200,000
Lower Colorado River water conservation and efficient use program (see California).		
Raton water supply	80,000	80,000
Santa Cruz Dam and Reservoir		50,000
Tularosa Basin water and energy study	200,000	200,000
NORTH DAKOTA		
Apple Creek unit (P-SMBP)		100,000
Garrison diversion unit, M. & I. water facilities (Garrison division, P-SMBP)	100,000	100,000
Total water management study (P-SMBP) (see South Dakota).		
OKLAHOMA		
Geary	100,000	100,000
Llano Estacado Playa Lake water resources study (see New Mexico).		
Norman water augmentation study (formerly Norman modification)	8,000	8,000
Seward	70,000	70,000
OREGON		
Boise power and modification study (see Idaho).		
Grande Ronde River study		100,000
Klamath, Butte Valley division	30,000	30,000
Klamath project, main division, A-canal		50,000

GENERAL INVESTIGATIONS—STATE AND PROJECT—Continued

	Fiscal year 1980	
	Budget estimate	Conference allowance
Lower Deschutes River study	$125,000	$125,000
Owyhee powerplant (see Idaho).		
Rogue River basin, Grants Pass division	95,000	95,000
Rogue River basin, Medford division reformulation	129,000	129,000
Siletz River basin	75,000	75,000
Umatilla basin	180,000	180,000
Upper John Day	125,000	125,000
SOUTH DAKOTA		
Eastern South Dakota M. & I. studies, James division (formerly Oahe unit, M. & I. water facilities)	100,000	
Lower James, Fort Randall water diversion proposal	300,000	300,000
Kaspapi unit	75,000	75,000
Oahe riverside irrigation study	150,000	100,000
Total water management study, Missouri River upstream of Gavins Point (P-SMBP)	120,000	120,000
Web domestic water pipeline		100,000
TEXAS		
Llano-Estacado total water management study (see New Mexico).		
Nueces River Basin study	200,000	200,000
Texas Basin, Big Cow Creek	150,000	150,000
Texas Basin, Bon Wier	200,000	200,000
UTAH		
Colorado River storage project power peaking capacity	855,000	855,000
Energy research and development program geothermal (see California).		
Geothermal resource investigations (see California).		
Lower Colorado Basin water conservation and efficient use program (see California).		
Upper Colorado resource study (see Colorado).		
Wind-Hydroelectric energy integrated study (see Wyoming).		
WASHINGTON		
Yakima, Cle Elum and Tieton powerplants	210,000	210,000
Yakima Valley water management study	131,000	131,000
WYOMING		
Colorado River storage project power peaking capacity (see Utah).		
Palisades powerplant enlargement (see Idaho).		
Minidoka powerplant rehabilitation and enlargement (see Idaho).		
Upper Snake River, Oakley fan division (see Idaho).		
Upper Snake River water management study (see Idaho).		
Wind River Basin water supply study	$40,000	$40,000
Total water management study (P-SMBP) (see South Dakota).		
Platte River study (see Nebraska).		
Wind-hydroelectric energy integrated study	5,946,000	3,946,000
VARIOUS		
Colorado River water quality improvement	2,456,000	2,615,000
General engineering and research:		
Atmospheric water resources management	7,871,000	9,371,000
Development of cloud seeding techniques	(500,000)	(2,000,000)
General planning studies	250,000	250,000
Special investigations:		
Environmental and interagency coordination activities	2,095,000	2,095,000
Investigations of existing projects	499,000	499,000
Minor work in connection with completed project investigations	915,000	915,000
Technical assistance to States	105,000	105,000
Print reports	35,000	35,000
Projects not yet identified	25,000	25,000
Total, various	14,260,000	15,910,000
Distributive charges for service facilities, unliquidated obligations, etc	−54,000	−54-000
General reduction due to slippage, savings, and carryover balances	−1,250,000	−1,250,000
Classified pay raise (Executive Order 12087)	500,000	500,000
Total, general investigations	34,320,000	34,451,000

Construction and rehabilitation

Amendment No. 21: Appropriates $213,053,000 for construction and rehabilitation instead of $215,453,000 as proposed by the House and $205,953,000 as proposed by the Senate.

The conferees direct that of the funds previously appropriated for the Auburn Dam, California, $20 million is to remain available pending completion of the study of the safety aspects of the project.

The conferees agree with the Senate report language regarding the Garrison Diversion Unit, N.D. and American Falls Dam, Idaho.

The conferees recommend an appropriation of $1,500,000 for the O'Neill Unit in Nebraska. The Bureau of Reclamation is under court injunction prohibiting further project construction until additional information regarding site geology and dam stability is developed. Based on the current information it will take most of fiscal year 1980 to develop the information required by the court, thereby reducing the funding needed by $4,500,000. The amount recommended is required to develop and prepare a supplement to the final environmental impact statement. This action is based solely on budgetary grounds and is not to be construed as diminished support for this project. The conferees direct that within sound engineering practice and insofar as is reasonable and does not violate state law, minimal stream flow from the Norden Dam in the O'Neill unit complex shall be no less than 100 cubic feet per second (cfs) when water supplies permit and no less than 50 cfs even in time of drought or water scarcity as determined by the Bureau of Reclamation. The conferees hereby refer to Federal Government control over releases of water from Federal projects and do not intend to imply any change in the historic right of a state to allocate its own water supplies.

The appropriations are to be allocated as shown on the following table:

CONSTRUCTION AND REHABILITATION—STATE AND PROJECT

	Fiscal year 1980			
	Budget estimates		Conference allowance	
	Construction	Planning	Construction	Planning
CALIFORNIA				
Central Valley project:				
Allen Camp unit		$75,000		$75,000
Sacramento River division	$27,704,000		$27,704,000	
San Luis unit	4,810,000		4,810,000	
Auburn-Folsom South unit:				
Auburn Dam and Reservoir	926,000		926,000	
Auburn area facilities	100,000		100,000	
Folsom South area facilities	100,000		100,000	
All other Auburn-Folsom South unit facilities	11,779,000		11,779,000	
Subtotal, Auburn-Folsom South unit	12,905,000		12,905,000	
Miscellaneous project programs	12,077,000		12,077,000	
San Felipe division	20,884,000		20,884,000	
Total, Central Valley project	78,380,000	75,000	78,380,000	75,000
COLORADO				
Fryingpan-Arkansas project	24,727,000		24,727,000	
San Luis Valley project, closed Basin division	4,168,000		4,168,000	
IDAHO				
Teton Basin project, lower Teton division	500,000		500,000	
NEVADA				
Southern Nevada water project	$41,041,000		$41,041,000	
NEW MEXICO				
Brantley project	6,000,000		1,000,000	
OKLAHOMA				
McGee Creek project	115,400,000		9,000,000	
TEXAS				
Nueces River project	15,470,000		15,470,000	
Palmetto Bend project	2,560,000		2,560,000	
WASHINGTON				
Chief Joseph Dam project, Oroville-Tonasket unit	2,000,000		2,000,000	
Columbia Basin project:				
Irrigation facilities	30,736,000		30,736,000	
Block 26 laterals			1,500,000	
East High area environmental impact statement			100,000	
Third powerplant	9,100,000		9,100,000	
Total, Columbia Basin project	39,836,000		41,436,000	
Yakima project, Kennewick division		$300,000		$300,000

CONSTRUCTION AND REHABILITATION—STATE AND PROJECT—Continued

	Fiscal year 1980			
	Budget estimates		Conference allowance	
	Construction	Planning	Construction	Planning
VARIOUS				
Colorado River comprehensive environmental statement		$900,000		
Drainage and minor construction:				
Boise project, Payette division, Idaho	$504,000		$504,000	
Klamath project, Oregon-California	1,626,000		1,626,000	
Leadville drainage tunnel project, Colorado	25,000		25,000	
Little Wood River project, Idaho	100,000		100,000	
Mann Creek project, Idaho	100,000		100,000	
Minidoka project, American Falls Dam, Idaho	224,000		224,000	
Miscellaneous engineering services, Colorado	10,000		10,000	
Mountain Park project, Oklahoma	100,000		100,000	
Recreation facilities at existing reservoirs, various States	240,000		240,000	
Rogue River basin project, Savage Rapids Dam fishway modifications, Oregon	193,000		193,000	
San Angelo project, Texas	1,000,000		1,000,000	
Solano project-Lake Berryessa recreational facilities, California	1,329,000		1,329,000	
Tualatin project, Oregon	600,000		600,000	
Ventura River project-Casitas Reservoir open space, California	4,510,000		4,510,000	
Washita basin project, Oklahoma	500,000		500,000	
Washoe project, Nevada-California	735,000		735,000	
Total, drainage and minor construction	11,796,000		11,796,000	
Rehabilitation and betterment:				
Carlsbad project, New Mexico	450,000		450,000	
Central Oregon irrigation district, Oregon	344,000		344,000	
Central Valley project, Georgetown divide public utility district, California	1,594,000		1,594,000	
Crooked River project, Ochoco Irrigation District, Oreg.	24,000		24,000	
Huntley project, Montana	600,000		600,000	
Lower Yellowstone project, Montana	500,000		500,000	
Minidoka project, Burley irrigation district, Idaho	195,000		195,000	
P–SMBP, Frenchman-Cambridge division, Nebraska	700,000		700,000	
Roosevelt water Conservation District, Ariz	700,000		700,000	
Salt River project, Arizona	942,000		942,000	
Shoshone project, Garland division, Wyoming	600,000		600,000	
Shoshone project, Willwood division, Wyoming	100,000		100,000	
Sun River, Greenfield division, Wyoming	900,000		900,000	
Yakima project, Grandvies Irrigation District, Wash	100,000		100,000	
Total, rehabilitation and betterment of existing projects	7,749,000		7,749,000	
Safety of dams:				
American Falls Dam, Idaho			$19,200,000	
Bartlett Dam, Ariz			3,000,000	
Boise project, Black Canyon Dam, Idaho	$250,000		250,000	
Minidoka project, Jackson Lake Dam, Wyo	200,000		200,000	
Minidoka project, Island Park Dam, Idaho	1,761,000		1,761,000	
Newlands project, Lahontan Dam, Nev	2,076,000		2,076,000	
Orland project, Stony Gorge Dam, Calif	1,155,000		1,155,000	
Rapid Valley project, Deerfield Dam, S. Dak	700,000		700,000	
Safety of dams, miscellaneous construction, various States	1,000,000		1,000,000	
Sun River project, Gibson Dam, Mont	450,000		450,000	
Sun River project, Willow Creek Dam, Mont	500,000		500,000	
Total safety of dams	8,092,000		30,292,000	
PICK-SLOAN MISSOURI BASIN PROJECT				
MONTANA				
Lower Marias unit, Tiber Dam modifications	5,770,000		5,770,000	
NEBRASKA				
North Loup Division	11,950,000		11,950,000	
O'Neill unit	6,000,000		1,500,000	
SOUTH DAKOTA				
Oahe unit	180,000		180,000	
Pollock-Herreid unit		$200,000		$200,000
WYOMING				
Riverton unit	4,517,000		4,517,000	
VARIOUS				
Drainage and minor construction:				
Dickinson unit, North Dakota	1,255,000		1,255,000	
East Bench unit, Montana	100,000		100,000	
Frenchman-Cambridge unit, Nebraska	134,000		134,000	
Helena Valley unit, Montana	100,000		100,000	
Owl Creek unit, Wyoming	70,000		70,000	
Yellowtail unit, Montana-Wyoming	300,000		300,000	
Total, drainage and minor construction	1,959,000		1,959,000	
Total, Pick-Sloan Missouri Basin program	30,376,000	200,000	25,876,000	200,000
Unidentified anticipated unobligated balance brought forward	−56,000,000		−56,000,000	
Undistributed reduction based upon anticipated delays	−20,417,000		−27,517,000	
Subtotal	311,678,000	1,475,000	212,478,000	575,000
Total, construction and rehabilitation	313,153,000		213,053,000	
Full funding requested for new construction starts not included in allowance	−106,400,000			
Total, net construction and rehabilitation (excluding full funding)	206,753,000		213,053,000	

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts language relating to American Falls Dam, Idaho.

Colorado River Basin salinity control projects

Amendment No. 23: Appropriates $34,761,000 for Colorado River Basin salinity control projects instead of $38,194,000 as proposed by the House and $32,348,000 as proposed by the Senate.

The funds appropriated are to be allocated as shown on the following table:

	Fiscal year 1980	
Colorado River Basin salinity control—State and project	Budget estimate	Conference allowance
TITLE II		
COLORADO		
Grand Valley systems improvement and management unit	$7,071,000	$3,650,000
Paradox Valley unit	3,175,000	3,163,000
NEVADA		
Las Vegas Wash unit	4,573,000	573,000
Subtotal, title II	14,819,000	7,386,000
VARIOUS		
TITLE I		
Measures below Imperial Dam	23,000,000	27,000,000
Classified pay raise (E.O. 12087)	375,000	375,000
Subtotal, title I	23,375,000	27,375,000
Total, Colorado River Basin salinity control	38,194,000	34,761,000

Operation and maintenance

The conferees call attention of the Department of Interior to the Senate report language regarding the Washoe Project, Nevada (Stampede Division) and agree that nothing with respect to this appropriation should be construed as ratification or approval of the current or past operations of the Stampede Division of the Washoe project.

Loan program

The conferees have included, within available funds, $368,000 for the Lewiston Orchards Irrigation District, Idaho, as proposed by the Senate.

General provisions

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the per acre repayment obligation in Block 26 of the Columbia Basin project, Washington, shall be the same as those set forth in repayment contract 11 R 1444, dated October 9, 1945, as amended.

TITLE IV—INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

Appalachian regional development programs

Amendment No. 25: Appropriates $356,500,000 for the Appalachian regional development programs as proposed by the House instead of $358,600,000 as proposed by the Senate.

Amendment No. 26: Earmarks $229,000,000 for the Appalachian development highway system as proposed by the House instead of $224,000,000 as proposed by the Senate.

The conferees agree with the report language of the House, including $14,300,000 for the recently authorized Corridor X development highway.

DELAWARE RIVER BASIN COMMISSION

Contribution to Delaware River Basin Commission

Amendment No. 27: Appropriates $257,000 for the contribution to the Delaware River Basin Commission as proposed by the Senate instead of $383,000 as proposed by the House.

NUCLEAR REGULATORY COMMISSION

Salaries and expenses

Amendment No. 28: Appropriates $363,340,000 for salaries and expenses of the Nuclear Regulatory Commission as proposed by the Senate instead of $358,340,000 as proposed by the House. The conference agreement includes a total of 3,034 permanent positions for fiscal year 1980.

TENNESSEE VALLEY AUTHORITY

Payment to Tennessee Valley Authority Fund

Amendment No. 29: Appropriates $148,677,000 for payment of the Tennessee Valley Authority Fund as proposed by the Senate instead of $146,177,000 as proposed by the House.

Amendment No. 30: Reported in disagreement.

WATER RESOURCES COUNCIL

Water resources planning

Amendment No. 31: Appropriates $34,614,000 for water resources planning instead of $37,556,000 as proposed by the House and $24,002,000 as proposed by the Senate.

Amendment No. 32: Earmarks $2,788,000 for expenses to administer the act as proposed by the Senate instead of $4,330,000 as proposed by the House.

Amendment No. 33: Earmarks $3,112,000 for preparation of assessments and plans as proposed by the House instead of $2,815,000 as proposed by the Senate.

Amendment No. 34: Earmarks $3,134,000 for expenses of river basin commissions as proposed by the House instead of $3,119,000 as proposed by the Senate.

Amendment No. 35: Earmarks $21,000,000 for title III grants to States as proposed by the House instead of $10,700,000 as proposed by the Senate.

Amendment No. 36: Earmarks $4,000,000 for the Upper Mississippi Comprehensive Management Plan as proposed by the Senate instead of $5,400,000 as proposed by the House.

TITLE V—GENERAL PROVISION

Construction of an extension to the New Senate Office Building

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $57,480,700 for continued construction of the Hart Senate Office Building, establishing a ceiling on the total cost of the building of $142,627,700, providing for the transfer of personnel and property from existing buildings to the new building upon completion and directing the Architect of the Capitol to submit a report to the Senate on the costs of razing and/or renovating certain existing buildings.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for 1890 follow:

New budget (obligational) authority, fiscal year 1979	[1] $10, 381, 887, 900
Budget estimates of new (obligational) authority, fiscal year 1980—All titles	[2] [3] 11, 051, 972, 700
Titles I through IV	[3] (10, 994, 492, 000)
House bill, fiscal year 1980—All titles	10, 685, 930, 000
Titles I through IV	(10, 685, 930, 000)
Senate bill, fiscal year 1980—All titles	10, 886, 495, 700
Titles I through IV	(10, 829, 015, 000)
Conference agreement—All titles	10, 856, 475, 700
Titles I through IV	(10, 798, 995, 000)
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979—All titles	+474, 587, 800
Titles I through IV	(+417, 107, 100)
Budget estimates of new (obligational) authority, fiscal year 1980—All titles	−195, 497, 000
Titles I through IV	(−195, 497, 000)
House bill, fiscal year 1980—All titles	170, 545, 700
Titles I through IV	(+113, 065, 000)
Senate bill, fiscal year 1980—All titles	−30, 020, 000
Titles I through IV	(−30, 020, 000)

[1] Includes supplemental appropriations (H.R. 4289) amounts.

[2] Includes request of $57,480,700 for New Senate Office Bldg. not considered by the House.

[3] Excludes $505,092,000 not allowed for full funding.

Tom Bevill,
Edward P. Boland,
John M. Slack,
Lindy (Mrs. Hale) Boggs,
Bill Chappell,
John W. Jenrette, Jr.,
Julian C. Dixon,
Jamie L. Whitten,
John T. Myers,
Clair W. Burgener,
Virginia Smith,
Silvio O. Conte
(except as to amendments Nos. 18, 30, and 37),
Managers on the part of the House.

J. Bennett Johnston,
John C. Stennis,
Warren G. Magnuson,
Robert C. Byrd,
Ernest F. Hollings,
Walter D. Huddleston,
Quentin N. Burdick,
Jim Sasser
(except amendment No. 30),
Dennis DeConcini,
Mark O. Hatfield,
Milton R. Young,
Richard S. Schweiker,
Henry Bellmon,
James A. McClure,
Jake Garn,
Harrison Schmitt,
Managers on the part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. Chisholm (at the request of Mr. Wright), for July 26, 27, and 30, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma), to revise and extend their remarks, and to include extraneous matter:)

Mr. Jeffries, for 5 minutes, today.

Mr. Bob Wilson, for 5 minutes, today.

Mr. Miller of Ohio, for 10 minutes, today.

Mr. Wydler, for 5 minutes, today.

(The following Members (at the request of Mr. Wolpe) to revise and extend their remarks and include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Mr. AuCoin, for 5 minuutes, today.

Mr. Pease, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Roe, immediately following the remarks of Mr. McCormack during consideration of H.R. 3000 in the Committee of the Whole today.

(The following Members (at the request of Mr. Edwards of Oklahoma) and to include extraneous matter:)

Mr. Shuster in two instances.

Mr. Symms in three instances.

Mr. Anderson of Illinois in two instances.

Mr. Derwinski in two instances.

Mr. Miller of Ohio in three instances.

Mr. Courter.

Mr. Vander Jagt.

Mr. Findley.

Mr. Philip M. Crane in two instances.

Mr. McKinney.

Mr. Broyhill in two instances.

Mr. Dougherty in two instances.

Mr. Michel.

(The following Members (at the request of Mr. Wolpe) and to include extraneous matter:)

Mr. Gudger in two instances.

Mr. McCormack.

Mr. Rangel.

Mr. Mavroules.

Mr. Ford of Tennessee.

Mr. Ford of Michigan.

Mr. Wirth.

Mr. Rosenthal.

Mr. Minish.

Mr. LaFalce.

Mr. Weaver.

Mr. Miller of California.

Mr. Santini.

Mr. Dingell in five instances.

Mr. Howard.

Mr. Scheuer.

Mr. Shannon.

Mr. Charles H. Wilson of California in two instances.

Mr. Long of Louisiana.

Mr. Obey.

Mr. Markey.

ADJOURNMENT

Mr. WOLPE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 15 minutes p.m.) the House adjourned until tomorrow, Friday, July 27, 1979 at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2122. A communication from the President of the United States, transmitting proposed supplemental appropriations language for fiscal year 1979 and amendments to the requests for appropriations for fiscal year 1980 (H. Doc. No. 96–168); to the Committee on Appropriations and ordered to be printed.

2123. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize additional appropriations for the Department of State for Migration and Refugee Assistance for fiscal years 1980 and 1981; to the Committee on Foreign Affairs.

2124. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2125. A letter from the Director, Office of Administration, U.S. Nuclear Regulatory Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2126. A letter from the president, U.S. Capitol Historical Society, transmitting the Society's audit report for the year ended January 31, 1979, pursuant to section 13(a) of Public Law 95–493; to the Committee on the Judiciary.

2127. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting the seventh annual report on the ocean dumping permit program, covering calendar year 1978, pursuant to section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended; to the Committee on Merchant Marine and Fisheries.

2128. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement and supplemental information on the Kaskaskia Island Drainage and Levee District project, Illinois, pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of July 25, 1979*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 2172. A bill to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes; with amendment (Rept. No. 96–125, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted July 26, 1979*]

Mr. CONYERS: Committee on the Judiciary. S. 961. An act to amend the Speedy Trial Act of 1974; with amendments (Rept. No. 96–390). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 389. Resolution waiving certain points of order against H.R. 4930. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–391). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Tennessee:

H.R. 4967. A bill to authorize the Commissioner of Education to make grants to Fisk University, Nashville, Tenn., for the William Levi Dawson Institute of Public Affairs; to the Committee on Education and Labor.

By Mr. FOWLER:

H.R. 4968. A bill to amend the Internal Revenue Code of 1954 to provide that in certain cases the net operating loss carryover period for a taxpayer who ceases to be real estate investment trust shall be the same as the net operating loss carryover period for a taxpayer who continues to be real estate investment trust; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 4969. A bill to amend title II of the Social Security Act to provide that the waiting period for disability benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. Railsback, Mr. Thompson, Mr. Conable, Mr. Brademas, Mr. Anderson of Illinois, Mr. Phillip Burton, Mr. Buchanan, Mr. Udall, Mr. Fish, Mr. Giaimo, Mr. Tauke, Mr. Barnes, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Bereuter, Mr. Beilenson, Mr. Bingham, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brodhead, Mr. Brown of California, Mr. Burlison, Mr. Butler, Mr. Carr, Mr. Coughlin, Mr. D'Amours, Mr. Danielson, Mr. Daschle, Mr. Dellums, Mr. Dicks, Mr. Dodd, Mr. Donnelly, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Emery, Mr. Erlenborn, Mr. Ertel, Mr. Fascell, Mrs. Fenwick, Ms. Ferraro, Mr. Findley, Mr. Fisher, Mr. Flood, Mr. Gephardt, Mr. Gilman, Mr. Glickman, Mr. Gore, Mr. Guarini, Mr. Hall of Ohio, Mr. Harkin, Mr. Harris, Mr. Hollenbeck, Mr. Horton, Mr. Hughes, Mr. Hutto, Mr. Jacobs, Mr. Jeffords, Mr. Kastenmeier, Mr. Kostmayer, Mr. LaFalce, Mr. Leach of Iowa, Mr. Lehman, Mr. Leland, Mr. Lowry, Mr. Lundine, Mr. McCloskey, Mr. McHugh, Mr. McKinney, Mr. Madigan, Mr. Maguire, Mr. Markey, Mr. Mavroules, Mr. Mica, Mr. Mikva, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Mitchell of New York, Mr. Moakley, Mr. Moffett, Mr. Moorhead of Pennsylvania, Mr. Nelson, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Petri, Mr. Pritchard, Mr. Preyer, Mr. Price, Mr. Quayle, Mr. Regula, Mr. Reuss, Mr. Richmond, Mr. Rosenthal, Mr. Roybal, Mr. Sabo, Mr. Scheuer, Mrs. Schroeder, Mr. Seiberling, Mr. Sharp, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stack, Mr. Stark, Mr. Studds, Mr. Swift, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Williams of Montana, Mr. Wirth and Mr. Won Pat):

H.R. 4970. A bill to amend the Federal Election Campaign Act of 1971 to reduce campaign contributions by nonparty multicandidate political committees for election for the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. HOWARD (for himself and Mr. Johnson of California):

H.R. 4971. A bill to promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LAFALCE:

H.R. 4972. A bill to amend the Small Business Investment Act of 1958; to the Committee on Small Business.

By Mr. MILLER of California (for himself and Mr. Conyers, Mr. Gore, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Beilenson, Mr. Bonior of Michigan, Mr. Brown of California, Mr. Buchanan, Mr. Carr, Mrs. Chisholm, Mr. Dellums, Mr. Dixon, Mr. Dornan, Mr. Downey, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of California, Mr. Glickman, Mr. Gray, Mr. Guarini, Ms. Holtzman, Mr. Lent, Mr. Long of Maryland, Mr. Maguire, Mr. Markey, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Neal, Mr. Nolan, Mr. Ottinger, Mr. Pepper, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Vento, Mr. Waxman, Mr. Weaver, Mr. Weiss, and Mr. Wolpe):

H.R. 4973. A bill to amend title 18 of the United States Code to impose penalties with respect to certain nondisclosures by business entities as to dangerous products; to the Committee on the Judiciary.

By Mr. NEAL (by request):

H.R. 4974. A bill to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PATTERSON (for himself and Mr. Badham):

H.R. 4975. A bill to establish the Orange Coast National Urban Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEASE (for himself and Mr. Howard):

H.R. 4976. A bill to amend the act of April 8, 1935, to increase the powers and the number of members of the board of trustees of Trinity College of Washington, District of Columbia; to the Committee on the District of Columbia.

By Mr. ROE:

H.R. 4977. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service connected; to the Committee on Veterans' Affairs.

By Mr. TREEN:

H.R. 4978. A bill to establish minimum periods of time for the completion of the consultation procedure required by the Fish and Wildlife Coordination Act in the case of permits related to drilling for oil or gas, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 4979. A bill to establish minimum periods of time for the issuance of permits under section 404 of the Federal Water Pollution Control Act relating to drilling for oil or gas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. VANDER JAGT:

H.R. 4980. A bill to amend the Internal Revenue Code of 1954 to exempt certain coin-operated gaming devices from taxation; to the Committee on Ways and Means.

By Mr. WRIGHT (for himself, Mr. Rhodes, Mr. Bennett, Mr. Conable, Mr. Derwinski, Mr. Fisher, Mr. Harris, Mr. Pickle, Mr. Rodino, Mrs. Spellman, and Mr. Udall):

H.R. 4981. A bill to establish the Citizens' Commission for the Commemoration of the Federal Government Bicentenary Era for the purpose of encouraging and providing activities to commemorate the development of the Federal Government during the period 1776-1800; to the Committee on Post Office and Civil Service.

By Mr. WYDLER:

H.R. 4982. A bill to authorize the creation of Regional Energy Corporations and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporations and other financial assistance to such corporation; jointly to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. DANIELSON (for himself, Mr. Moorhead of California, and Mr. McClory):

H.J. Res. 381. Joint resolution to amend the Ethics in Government Act of 1978; to the Committee on the Judiciary.

By Mr. SAWYER:

H.J. Res. 382. Joint resolution to proclaim March 20, 1980, as "Agriculture Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

271. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to dredging of the Amite and Comite Rivers; to the Committee on Public Works and Transportation.

272. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to national health insurance; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

273. Also, memorial of the Legislature of the State of Louisiana, relative to the standards of eligibility for medicaid assistance; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. WEAVER:

H.R. 4983. A bill for the relief of Ishrat Rahim and Umair Rahim; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 4984. A bill to authorize the President of the United States to present, in the name of Congress, a Medal of Honor to Herman Miller; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2118: Mr. Matsui.

H.R. 2414: Mr. Anderson of Illinois.

H.R. 3053: Mr. Drinan, Mr. Fazio, and Mr. Wirth.

H.R. 3106: Mr. Petri, Mr. Jeffries, Mr. Heftel, and Mr. Sharp.

H.R. 3227: Mr. Hanley, and Mr. Florio.

H.R. 3255: Mr. Scheuer, Mr. Neal, Mr. Clay, Mr. Roybal, and Mr. Stark.

H.R. 3286: Mr. Williams of Montana, and Mr. Jenrette.

H.R. 3349: Mr. Hall of Texas.

H.R. 4215: Mr. Kogovsek.

H.R. 4367: Mr. Broyhill, Mr. McDonald, Mr. Lott, Mr. Tauke, Mr. Chappell, Mr. Robinson, Mr. Myers of Indiana, and Mr. Hyde.

H.R. 4685: Mr. Lowry and Mr. McCloskey.

H.J. Res. 230: Mr. Campbell, Mr. Corrada, Mr. Dougherty, Mr. Ertel, Mr. Fazio, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fountain, Mr. Frost, Mr. Gudger, Mr. Hefner, Mr. Hinson, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Jacobs, Mr. Jones of North Carolina, Mr. Kemp, Mr. Kindness, Mr. LaFalce, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Lewis, Mr. Lott, Mr. Madigan, Mr. Murphy of New York, Mr. Neal, Mr. Patterson, Mr. Pepper, Mr. Preyer, Mr. Rudd, Mr. Sebelius, Mr. Simon, Mr. Skelton, Mr. Wolff, Mr. Wolpe, and Mr. Gray.

H. Con. Res. 102: Mr. Atkinson and Mr. Patterson.

H. Res. 302: Mr. Mitchell of Maryland, Mr. Boner of Tennessee, Mr. Bingham, Mr. Moakley, Mr. Minish, Mr. Murphy of Pennsylvania, Mr. Drinan, Mr. Conte, Mr. Forsythe, Mr. Edgar, and Mr. Downey.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 79

By Mr. TAYLOR:

—Page 21, after line 13, insert the following new section:

LOCAL RESIDENT PREFERENCE FOR APPOINTMENTS OF POSTMASTERS IN SMALL COMMUNITIES

Sec. 3. Section 1001(b) of title 39, United States Code, is amended—

(1) by striking out "Officers" and inserting in lieu thereof the following: "(1) Subject to the provisions of paragraphs (2), (3), (4), and (5) of this subsection, officers"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In making any appointment to the position of postmaster at any post office serving a delivery area which has a population of 25,000 or less, the Postal Service shall appoint to such position—

"(A) an individual who—

"(i) for the one-year period ending on the date on which such appointment is made, has been an employee of the Postal Service in such post office and resided within the delivery area of such post office or the city or town in which such post office is located; and

"(ii) otherwise qualifies for appointment to such position; or

"(B) in any case in which, at the close of the period during which applications for such position are accepted, no individual described in subparagraph (A) of this paragraph has applied for such position, an individual who—

"(i) for the one-year period ending on the date on which such appointment is made, has resided within the delivery area of such post office or the city or town in which such post office is located; and

"(ii) otherwise qualifies for appointment to such position;

unless, at the close of the period during which such applications are accepted, no individual described in subparagraph (A) or (B) of this paragraph has applied for such position.

"(3) The Postal Service shall publish in the Federal Register its list of qualifications for appointment of an individual to a position of postmaster. Such qualifications may not limit consideration to an individual who is already a postal employee.

"(4) In any case in which the position of postmaster becomes available at any post office described in paragraph (2) of this subsection, the Postal Service shall provide to postal patrons of such post office adequate notice that such position is available and that any individual may apply for such position. At a minimum, such notice shall—

"(A) be displayed in a conspicuous place in such post office for the thirty-day period ending on the last date on which applications will be accepted for such position; and

"(B) include a list of the qualifications for appointment of an individual to such position, a description of the duties and responsibilities of the individual appointed to such position, and an explanation of the procedures which will be followed in making the appointment.

"(5) The determination of the population referred to in paragraph (2) of this subsection shall be based on the most recent census taken by the Secretary of Commerce under section 141 of title 13, United States Code.".

Redesignate the subsequent sections accordingly.

H.R. 3000

By Mr. HEFTEL:

—Page 40, after line 23, insert the following new subsection:

(c)(1) There are authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, an amount not to exceed $2,000,000 for the purposes of developing a plan for the consideration, establishment, and implementation of a reserve under the Strategic Petroleum Reserve Plan in the State of Hawaii in order to provide substantial protection against the interruption or reduction of petroleum imports to such State.

(2) The Secretary of Energy shall transmit a copy of such plan to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate before the earlier of March 31, 1980, or the expiration of 180 days after the date of the enactment of this Act.

By Mr. KOSTMAYER:

—Page 79, insert after line 25, the following:

SMALL BUSINZSSES

Sec. 814. (a) In order to carry out a policy that the Department maximize procurements of research and development from small businesses, not less than 25 percent, determined on the basis of value, of research and development projects and services procured by the Department with funds authorized to be appropriated under this Act shall be procured from small businesses, except as provided in subsection (b). The preceding sentence shall apply notwithstanding section 15 of the Small Business Act.

(b) If the Secretary determines that compliance with the 25 percent requirement set forth in subsection (a) is impracticable, the Secretary shall transmit to the Committees on Science and Technology, Interstate and Foreign Commerce, Small Business, and Government Operations of the House of Representatives, and to the Committees on Energy and Natural Resources, Governmental Affairs, and Small Business of the Senate, a report which—

(1) apprises such Committees of the impracticability of compliance with such requirement,

(2) lists the reasons for such determination of impracticability, and

(3) presents the measures to be implemented by such Department in order to meet such requirement in subsequent years.

(c) For purposes of this section, the term "small business" shall have the meaning given such term under section 3 of the Small Business Act.

By Mr. RAHALL:

—Page 2, line 4, strike out "$48,000,000" and insert in lieu thereof "$56,000,000".

By Mr. SYMMS:

—Page 40, after line 23, insert the following new subsection:

(c) Notwithstanding the provisions of subsection (a)(2), no funds authorized to be appropriated pursuant to this section may be used to promulgate, administer or enforce any regulation or to issue or enforce any order which would have the effect of continuing any mandatory allocation or price controls for crude oil or any petroleum product.

By Mr. VENTO:

—Add the following new section 202:

SEC. 202. (a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for the promulgation and implementation of a regulation under authority available to the President under the Emergency Petroleum Allocation Act of 1973 (Public Law 93-159) providing for the mandatory allocation of middle distillate fuels in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Such regulation shall apply to all middle distillate fuels produced in or imported into the United States.

(b) The regulation under subsection (a) shall take effect not later than fifteen days after its promulgation and, except as provided in subsection (c), may thereafter be amended by the President as provided for in the Emergency Petroleum Allocation Act of 1973.

(c) Any amendment to the regulation under subsection (a) of this Act which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts middle distillate fuels from the provisions of such regulation may take effect only as prescribed in subsections (c), (d), and (e) of section 12 of the Emergency Petroleum Allocation Act of 1973.

H.R. 4034

By Mr. MILLER of Ohio:

—Page 8, add the following after line 24:

"(3) In issuing rules and regulations to carry out this section, particular attention shall be given to the difficulty of devising effective safeguards to prevent a country that poses a threat to the security of the United States from diverting critical technologies to military use, the difficulty of devising effective safeguards to protect critical goods, and the need to take effective measures to prevent the reexport of critical technologies from other countries to countries that pose a threat to the security of the United States. Such regulations shall not be based upon the assumption that such effective safeguards can be devised.

—Page 37, at the end of line 3, add the following new sentence: "If the President, upon receiving a recommendation from the Secretary of Defense under this subsection, does not notify such office or agency within thirty days after receiving such recommendation that he disapproves such export, the President shall notify Congress of the recommendation of the Secretary of Defense that such export be disapproved and that he has not disapproved such export.".

—Page 55, after line 10, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(2) There is authorized to be appropriated to the Department of Defense to carry out its functions under section 5 of this Act the sum of $2,500,000 for the fiscal year 1980.

By Mr. SHANNON:

—Page 45, insert the following section after line 21 and redesignate subsequent sections accordingly:

EXPORTS OF HIDES AND SKINS

SEC. 110. Subsection (f)(1) of section 7 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) by inserting "(A)" after "(f)(1)"; and

(2) by adding at the end thereof the following:

"(B) Notwithstanding the provisions of subparagraph (A), in order to carry out the policy set forth in section 3(7) of this Act with respect to cattle hides and skins, cattle hides and skins may not be exported in any year in an amount which is a greater percentage of the total supply of cattle hides and skins produced in the United States than the percentage of the total supply of cattle hides and skins produced in the United States which were exported during the years 1974 through 1978. The limitation set forth in the preceding sentence shall not apply if the President, after receiving the recommendations of the Secretary and the Secretary of Agriculture, determines that—

"(i) countries which are major producers of cattle hides and skins and which, on the effective date of this subparagraph, have in effect restrictions on the export from those countries of cattle hides and skins resume reasonable levels of exports of cattle hides and skins; or

"(ii) during the last calendar year ending before such determination is made, the supply of cattle hides and skins produced in the United States, after deducting the amount of such hides and skins exported during that calendar year, was sufficient to meet the demands of the domestic economy.

The Secretary and the Secretary of Agriculture shall submit to the President recommendations so that the President has sufficient information to make the determination described in this subparagraph. Before making such recommendations, the two Secretaries shall hold public hearings, after providing reasonable notice thereof, and shall afford interested parties an opportunity to submit written comments, with or without oral presentation, at such hearings. Any determination of the President made under this subparagraph shall be valid for a period of one year.".

H.R. 4040

By Mr. CLAY:

—Page 28, line 6: strike the words "male persons" and insert in lieu thereof "citizens".

Page 28, line 17, strike the words "prepare and".

Page 28, line 18, strike the word "Congress" and insert in lieu thereof "states".

Page 28, line 23, strike the word "automatically" and insert in lieu thereof "magically".

Page 29, line 4, strike the word "induct" and insert in lieu thereof "invite".

Page 29, line 16, strike the word "also" and insert in lieu thereof "probably".

Page 29, line 18, strike the word "discretion" and insert in lieu thereof "mood".

Page 30, line 3, strike the word "considers" and insert in lieu thereof "dreams".

Page 30, line 6, strike the words "revise and modernize" and insert in lieu thereof "rehabilitate".

Page 30, line 20, strike the word "periodic" and insert in lieu thereof "spontaneous".

Page 30, line 20, strike the words "training exercises" and insert in lieu thereof "dress rehearsals".

Page 30, line 21, strike the words "training exercises" and insert in lieu thereof "dress rehearsals".

Page 30, line 23, strike the word "shall" and insert in lieu thereof "should".

Page 31, line 6, strike the words "further declares that" and insert in lieu thereof "thinks".

Page 31, line 8, strike the word "other" and insert in lieu thereof "government".

Page 31, line 12, strike the word "functions" and insert in lieu thereof "imagination".

Page 31, line 14, strike the word "reorganization" and insert in lieu thereof "modernization".

Page 31, line 5, strike the word "new" and insert in lieu thereof "special".

By Mrs. SCHROEDER:

—Page 28, strike out line 3 and all that follows down through line 24 on page 30 and insert in lieu thereof the following:

PRESIDENTIAL RECOMMENDATIONS FOR SELECTIVE SERVICE REFORM

SEC. 812. (a) The President shall prepare and transmit to the Congress a plan for reform of the existing law providing for registration and induction of persons for training and service in the Armed Forces. Such plan shall include recommendations with respect to—

(1) the desirability and feasibility of resuming registration under the Military Selective Service Act as in existence on the date of enactment of this Act.;

(2) the desirability and feasibility of establishing a method of automatically registering persons under the Military Selective Service Act through a centralized, automated system using existing records, together with a discussion of the impact of alternative methods of establishing such a registration system on privacy rights under the Constitution and under statutes protecting such rights (including section 552a of title 5, United States Code), and the impact of such alternative methods on other constitutional issues.

(3) the desirability of the enactment of authority for the President to induct persons registered under such Act for training and service in the Armed Forces during any period with respect to which the President determines that such authority is required in the interest of the national defense;

(4) whether women should be subject to registration under such Act and to induction for training and service in the Armed Forces under such Act;

(5) the desirability and feasibility of providing authority for the President to induct persons into the Individual Ready Reserve;

(6) whether persons registered under such Act should also be immediately classified and examined or whether classification and examination of registrants should be subject to discretion of the President;

(7) such changes in the organization and operation of the Selective Service System as the President determines are necessary to enable the Selective Service System to meet the personnel requirements of the Armed Forces during a mobilization in a more efficient and expeditious manner than is presently possible;

(8) the desirability, in the interest of preserving discipline and morale in the Armed Forces, of establishing a national youth service program permitting volunteer work, for either public or private public service agencies, as an alternative to military service.

(9) such other changes in existing law relating to registration, classification, selection, and induction as the President considers appropriate; and

(10) other possible procedures that could be established to enable the Armed Forces to meet their personnel requirements.

(b) The President shall transmit with the plan required by subsection (a) proposals for such legislation as may be necessary to implement the plan and to revise and modernize the Military Selective Service Act.

(c) The plan required by subsection (a), together with the proposed legislation required by subsection (b), shall be transmitted to the Congress not later than January 15, 1980, or the end of the three-month period beginning on the date of the enactment of this Act, whichever is later.

Redesignate the succeeding sections accordingly.

By Mr. WOLPE:

—Page 23, line 25, after the word "Appropriations" add the words "Foreign Relations".

Page 23, line 25, after the word "Appropriations" add the words "Government Operations".

Page 24, strike line 11.

Page 24, strike lines 12–15.

Page 24, strike line 16.

Page 24, strike lines 17–18.

Page 24, strike lines 19–21.

Page 24, strike line 22.

Page 24, strike line 23.

Page 25, strike lines 1–3.

Page 25, strige line 4.

Page 25, strike lines 5 and 6.

Page 25, strike lines 7 and 8.

Page 25, strike lines 9 and 10.

Page 25, strike lines 11–13.

Page 25, strike lines 14–16.

Page 25, strike lines 17–19.

Page 25, strike lines 20–22.

Page 25, strike lines 23–25, and lines 1–3, page 26.

Page 29, line 1, strike the words "school records and".

Page 29, line 1, strike the words "school records" and insert in lieu thereof "FBI files".

H.R. 4440

By Mr. ANDERSON of California:

—Page 13, line 16, strike out "$4,000,000" and insert in lieu thereof, "$10,000,000".

Page 13, line 17, strike out "$2,000,000" and insert in lieu thereof, "$5,000,000".

EXTENSIONS OF REMARKS

WHY THE UNITED STATES NEEDS A NEW OIL IMPORTING SYSTEM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. ROSENTHAL. Mr. Speaker, the New York Times yesterday printed under the caption "Why the U.S. Needs a New Oil Importing System" a letter from our distinguished colleague, JOHN CONYERS. I also believe the letter to be noteworthy and, accordingly, bring it to the attention of my colleagues.

The letter follows:

To the Editor:

President Carter's July 15 speech to the nation, to the extent that it dealt with the energy crisis, was riddled with inaccuracy and evasiveness, despite his assertion that the American people want honest answers, not easy or evasive ones. His view that we can substantially reduce our use of foreign oil over the next several years is highly misleading.

His assertion the next day in Kansas City that the world lacks enough oil to meet demand is diversionary cant. His lack of any reference to the role of the oil industry, alongside the OPEC cartel, in engineering shortages, impeding new crude oil development in non-OPEC countries as well as heavy oil production on Federal lands in the U.S., and in promoting exorbitant prices is a glaring evasion.

The public anxiety about oil is not only directed at its soaring price and uncertain supply, but more profoundly reflects their perception of the lack of control over this basic resource. The picture of small number of oil-producing countries and a handful of multinational oil companies arrogantly lording over this essential wealth is understandably an infuriating one.

The latest OPEC prices for oil are a hundred times or more the cost of its production put aboard a tanker. This extraordinary spread between cost and price and the remarkable absence of any competitive challenge is the measure of the price-fixing, supply-restricting powers of the OPEC cartel and the market power of the big oil companies. The greatest fear of both is another world oil glut that would depress prices and undermine their control over supply. A recent study commissioned by the World Bank indicates there are vast untapped petroleum reserves outside of OPEC that could sustain current demand for another few hundred years.

After all, over 80 percent of all oil wells ever drilled exist in North America. The cartel could not survive without the support of "big oil," so heavily committed to the OPEC states through ownership, investment, contractual service and privileged markets, and its collaboration in synchronizing worldwide production, shutting down operating wells, and limiting purchases from non-OPEC producers.

Nothing can be of greater importance than to devise an alternative to the existing oil import structure. That alternative has to create four things: (1) an independent purchasing agent for all foreign oil used in the U.S.; (2) a capability to engage in government-to-government purchases from OPEC countries and create long-term contracts with non-OPEC producers in order to spur development of their reserves; (3) a Federal authority to oversee imports and their allocation in times of shortage, that the U.S. alone among the industrial powers lacks; and (4) a public oil corporation to develop the half of all our domestic energy resources, including competitively priced heavy oil, that exist on Federally owned lands.

The Oil Imports Act of 1979 (H.R. 3604), which Representatives Benjamin Rosenthal, Charles Rose, and myself, along with 42 other members, have sponsored, provides that workable alternative. It would establish a Federal nonprofit corporation whose sole responsibility is to purchse foreign oil at the lowest prices and from the most diverse sources. It would resell the oil in the U.S. in ways that spur competition among domestic marketers, insure equitable distribution and maximize domestic refining capacity.

A new system of oil importing is needed to curb the cartel's pricing power. A public energy corporation to develop energy resources on Federal land would furnish the competitive force so lacking in the industry today. Presidential disregard of the oil market marriage of OPEC and "big oil" is bound to lead to still-born policy.

JOHN CONYERS,
Member of Congress,
First District, Michigan.●

LOUISIANA "MINUTEWOMAN"—HARRIET DAGGETT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. LONG of Louisiana. Mr. Speaker, I applaud Congresswoman SCHROEDER'S "Minutewomen" series and join her celebration of America's outstanding women and their contributions to our history and heritage.

One of Louisiana's energetic daughters, Harriet Spiller Daggett, was the first woman to hold a full-time professorship at a law school accredited by the American Association of Universities and Colleges. As professor of law at Louisiana State University, she produced hundreds of articles and eight books; taught more than a thousand fledgling lawyers; and became the Louisiana authority on mineral law, community property, successions, donations, and laws affecting children. Her book, "The Community Property System of Louisiana" was published in 1931, reprinted in 1945, and is still the basic authority on Louisiana community property law.

At President Harry Truman's invitation, Dr. Daggett acted as technical specialist for the midcentury White House Conference on Children and Youth in 1950. She also worked with the Louisiana Library Commission and the Children's Code Commission and was instrumental in establishing the family court of East Baton Rouge Parish which now serves as a sort of living monument to her energy and competence.

Coming from an oil-rich State, her contributions to mineral law were especially valuable. In 1953, she founded the Louisiana State University Mineral Law Institute to help acquaint lawyers with mineral rights in Louisiana. She was one of the principal architects of the Louisiana Mineral Code.

Dr. Daggett died in 1966 and is honored by a formal portrait in the law building at Louisiana State University. Her contributions to Louisiana jurisprudence and her eloquent defense of the rights of women and children have earned her a place of high regard in Louisiana's history.●

SPEEDING UP OUR PROGRAM FOR FUSION ENERGY

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. McCORMACK. Mr. Speaker, 2 days ago I wrote to acting Under Secretary of Energy, John Deutch, requesting that the Department of Energy consider an aggressive acceleration of the magnetic fusion energy program. The goal of this accelerated effort would be to have a magnetic fusion electric demonstration plant on the line before the end of the century. I consider nuclear fusion to have the greatest future potential of any advanced energy technology; and I believe that we must move forward aggressively to realize the promise of this infinite and cheap supply of usable energy.

A copy of the letter follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, D.C. July 24, 1979.

Dr. JOHN M. DEUTCH,
U.S. Department of Energy,
Washington, D.C.

DEAR JOHN: As you are aware, the Subcommittee on Energy Research and Production spent several days last week in meetings with its newly formed Fusion Advisory Panel. I was pleased that you had an opportunity to have dinner with the Panel members and to sense the urgency the members of the Panel and I feel with regard to moving forward aggressively with the Magnetic Fusion Program.

The presentations made to the Panel and the Subcommittee by Mr. Kintner and Dr. Canavan of the Department of Energy were extremely helpful and informative. The facts they presented, along with the existing familiarity with the subject by the Panel members, led us to conclude that we must at once explore the possibility of substantially increasing the pace of the Magnetic Fusion Program; much faster than is apparently being contemplated by the Administration. The members of the Panel and I were indeed distressed to hear that the Administration's target date for getting a magnetic fusion electric generation demonstration facility on the line has slipped to the year 2015.

Accordingly, I would like to take this opportunity to formally request that the Department of Energy explore the details of a substantially more aggressive scenario for reaching our goal of commercial fusion electricity. Will you please prepare for the Subcommittee a detailed schedule, including all significant steps and the cost of each, for getting a magnetic fusion electric demonstration plant on the line by the year 1995; and a similar schedule, with details and costs, by the year 2000?

I should advise you that we are completely sincere about moving forward with such a program. I believe that the Congress is prepared to authorize and appropriate the extra funds necessary to accomplish this goal. I see no reason why the Subcommittee would not authorize $250 million more than the Administration's present plan for magnetic fusion for fiscal 1981; and equivalently increased sums for the following fiscal years in order to have a demonstration plant on the line before the end of the century.

We consider the potential contribution of fusion electricity to our society to be of such great importance that it must not, under any circumstances, be limited by routine budgetary considerations.

May I hear from you soon on this matter?

Sincerely,

MIKE MCCORMACK.
Chairman, Subcommittee on
Energy Research and Production.●

"BUDGET OF HOPE" STILL THE BEST HOPE FOR OUR COUNTRY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. VANDER JAGT. Mr. Speaker, at yesterday's news conference Frank Cormier of the Associated Press asked the President, "Republicans in the House are talking about introducing a Budget of Hope as contrasted with what they are calling your Budget of Despair, which is roomy enough to accommodate a large election year tax cut—that will be hard to vote against in an election year, won't it?" The President's response was very distressing. He said, "You can't get something for nothing," and that this was no time for "wastefulness" and "destroying the budget."

The President's attitude sums up the whole Democratic approach—sit tight and pretend the recession will go away. Pretend that if we do nothing new, we can fight an annual inflation rate of 13 percent.

The new Secretary of the Treasury predicts that unemployment may go up to 8.25 percent. What does that mean? It means that 2 to 2¼ million Americans will be out of work. Instead of getting something, they will get nothing.

As for wastefulness, I want the Democrats to ask the American families who worry about filling a grocery cart every week. "Is it wasteful for you to have a 10 percent tax cut? Is it wasteful for you to get more take-home pay?"

The Republicans are offering much more than a tax cut—we are offering an entire "Budget of Hope." That budget is a new vision—that this country can be better governed.

We are offering a budget of real hope and opportunity—not the phony hope which the Democrats offer of sitting tight while the unemployment line grows, and your only hope is that the line does not reach you.

The Democrats' Budget of Despair promises us: Less real take-home pay; 2 million more unemployed; energy prices which will go up 30 percent and the concern if you will be able to even get fuel for your home and your car.

During the last two Carter budgets, the average working American has lost ground—even with cost-of-living increases, they are taking home $6 a week less in real money.

Our Budget of Hope offers help to the family who is worried about filling a grocery cart. It offers a real tax cut—creating more jobs and fighting the recession.

I call on my Republican colleagues in the Congress and, yes, my Democrat colleagues as well, to speak out on the "Budget of Hope" in the weeks to come. It is a budget that offers a sound program to fight the recession and provide real and meaningful hope and confidence for our Nation's future well-being.●

A TRIBUTE TO PAUL F. RIETZKE III

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. COURTER. Mr. Speaker, the American people have always placed special pride in the unique human qualities of courage and tenacity. Today I would like to recall an act of bravery and unselfish commitment to human life which can be cherished by all Americans.

Paul F. Rietzke III was an Air Force veteran, volunteer fireman, and resident of Lake Hopatcong, N.J. On his 45th birthday, Mr. Rietzke was working near the Raritan River when he suddenly heard the hollowing sound of six drowning voices. He turned toward the river and committed his life to rescuing the helpless waders. Five persons were saved; Mr. Rietzke died while trying to save the sixth, a young child.

Mr. Speaker, Paul Rietzke was a rare human being. His fearless action along the Raritan can only be described as valiant, bold, and courageous. It was an act dedicated to the sanctity of life.

The poet William Thackery said a long time ago: "Bravery never goes out of fashion." This thought, more than anything else, must have been the personal credo of Paul F. Rietzke. Without concern for his own life, Mr. Rietzke plunged into the Raritan River to save the lives of others. He gave to us a visible definition of the word valor.

To the widow and family of Mr. Rietzke, I offer my deepest condolences. Paul Rietzke loved his fellow man. His act of heroism will not easily be forgotten. The memory of the action itself, rather than the words I speak here today, will be the final tribute to Paul F. Rietzke.●

DAWSON INSTITUTE

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. FORD of Tennessee. Mr. Speaker, presently, there is no facility in this country dedicated primarily to giving the black person an equal opportunity to learn both the rudiments and the refinements of public administration. Yet, more and more black citizens are being elected or appointed to positions of responsibility and leadership within their communities, their States, and their country. In many, if not most instances, they must cope with complex administrative problems without the benefit of either formal preparation or prior participation in Government at the management level.

That is why I am introducing a bill today to authorize the Commissioner of Education to make grants to establish the William Levi Dawson Institute for Public Affairs, to be based at Fisk University in Nashville, Tenn.

The Dawson Institute will offer two kinds of programs:

First, undergraduate study leading to a degree in public administration, and second, summer workshops in policy administration for public officials, especially those in small communities.

The former would be developed for full-time undergraduate students who seek managerial-level careers in public life, and the latter would address itself to the needs of practicing officials who wish to increase their administrative ability for the benefit of the local citizenries they serve.

Fisk University, an institution long committed to educational opportunities for all citizens, and a university where every curricular decision and every funding appropriation is made with the welfare and advancement of the black citizen in mind, now proposes to establish this public affairs institute.

It is altogether fitting that such an undertaking should be dedicated, as a living monument, to a public servant such as William Levi Dawson.

Congressman William Levi Dawson, elected to the House in 1942, worked his way through both Fisk University and Kent Law School in Chicago. He is one of Fisk's most distinguished alumni, graduating magna cum laude in 1909.

William Levi Dawson believed that the business of politics was public service. He felt that "participation in politics is the crowning glory of an American citizen and is the greatest weapon to gain and safeguard the rights of citizens."

With such a conviction, William Levi Dawson would be pleased indeed to see an institute which bears his name rising to meet the needs of both aspiring and practicing officials who desire to serve well in the public cause. Although he appreciated the contributions of professionals in other fields, he was adamant that "we should develop political leaders in their own right."

The objective of the Dawson Institute is to produce knowledgeable, skilled, sensitive leaders. Moreover, it will pursue that goal in an area, and among the very people whom Dawson himself saw as being so in need of such training.

The Dawson Institute for Public Affairs at Fisk University now comes forward to meet a critical and growing need. With the very essential financial support of the Congress of the United States, a body whose membership has known well the devoted service of William Levi Dawson, the goals of this Institute can become real.

The Dawson Institute can provide trained public administrators for careers in public service, increase the opportunities for black men and women in this field and pay lasting tribute to the career of a dedicated Congressman, a loyal son of Fisk University and a devoted American.●

GREAT DECISIONS 1979 OPINION BALLOTS

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. GUDGER. Mr. Speaker, it has been my pleasure to receive the Great Decisions of 1979 Opinion Ballots from the Foreign Policy Association (FPA) which conducts this survey annually.

The FPA is well known to all of us here and across the Nation for its service in helping to broaden the public's perception of the U.S. role in the world and is relation to world peace.

Among the findings in this year's ballot: Strong, even "painful and unpopular" measures may be necessary to uphold the world value of the dollar and U.S. world economic leadership; a negotiated reduction of forces on both sides in Europe is a preferred way to keep the East-West military balance—but meanwhile, strengthen NATO to catch up with the Warsaw Pact arms buildup; take special steps to help developing countries through trade preferences and technology to serve "basic human needs" of the poor; in black Africa, concentrate more on problems of the countries in the area than on opposing Soviet-Cuban influence.

I found the opinions expressed in the poll highly informative and commend them to my colleagues and I would like to commend the FPA for another outstanding ballot.

Mr. Speaker, at this time I am pleased to insert into the RECORD the results of the Great Decisions 1979 Opinion Ballot:

[In percent]

	Approve	Go along without enthusiasm	Oppose	No opinion
TOPIC 1: THE TECHNOLOGY EXPLOSION (Ballots tabulated: 5,649)				
1. The basic U.S. policy on applying science and technology to the needs of the less-developed countries (LDC's) should be to:				
(a) Treat science and technology as bodies of knowledge to be used for the benefit of all mankind, and work out ways of sharing this knowledge with the LDC's	65	21	8	6
(b) Endeavor to safeguard the U.S. technological lead, and make commitments for sharing technology and skills only when concessions of equal value can be obtained in return	27	27	31	15
2. In sharing technology with the LDC's, the United States should:				
(a) Work primarily through governmental agencies, such as the proposed Foundation for International Technological Cooperation	31	35	19	15
(b) Work primarily through the U.N. and its agencies	32	31	21	16
(c) Minimize governmental involvement and leave the job mainly to business and the market economy	23	22	36	19
3. Insofar as the U.S. Government is involved in sharing technology with the LDC's, it should:				
(a) Emphasize simpler technologies which enable LDC's to cope with basic human needs and help their populations escape from poverty	70	14	4	12
(b) Take the position that it is up to the governments of the LDC's to decide what technologies they require, and then try to meet their requirements	26	31	23	20
TOPIC 2: TRADE AND THE DOLLAR (Ballots tabulated: 5,406)				
1. In the short term, to protect the world value of the dollar and bring imports into balance with exports, the United States should:				
(a) Encourage worldwide reduction of trade barriers, even though some American industries and workers will suffer hardships	51	29	13	7
(b) Raise trade barriers to protect our industries, even though other nations are likely to increase barriers against our exports, and prices paid by American consumers are likely to rise	10	20	52	18
2. With regard to products manufactured in developing countries, the United States should:				
(a) Maintain and extend U.S. tariff preferences that favor importation of such products, even when these compete with some U.S. industries	31	36	21	12
(b) Raise barriers against importation of such products, especially when produced with low-wage labor	19	22	40	19
3. Over the long term, U.S. economic policy should be designed to:				
(a) Protect the world value of the dollar and U.S. world leadership by t*king measures to control inflation, increase productivity, and reduce our balance-of-payments deficit, even if these measures prove painful and unpopular	66	17	6	11
(b) Accept a pluralistic world economic system in which the dollar would no longer occupy a central position	28	31	22	19
(c) Make the United States more self-sufficient and less dependent on international trade, even if this meant a lower standard of living for Americans	33	44	26	17
TOPIC 3: NATO AND THE RUSSIANS (Ballots tabulated: 5, 120)				
1. In order to maintain the military balance in Europe, the United States should:				
(a) Give first priority to strengthening NATO	40	33	15	12
(b) Give first priority to concluding agreements with the Soviet Union that would lead to the reduction of military forces on both sides in Europe	53	24	12	11
(c) Work to develop a nuclear capability that would be under NATO control, rather than exclusively under United States control	16	25	44	15
(d) Rely mainly on the U.S. strategic nuclear capability to deter Soviet pressure in Europe	19	24	41	16
2. If it becomes clear that NATO can be strengthened only at the cost of a larger budget deficit, increased taxes, or reduction of expenditures to maintain the quality of life in the United States, the United States should give priority to:				
(a) Strengthening NATO regardless of cost	21	30	34	15
(b) Maintaining the quality of life in the United States	30	33	16	21
(c) Holding the line on taxes and the budget deficit	42	29	11	18
TOPIC 4: DEALING WITH CHINA (Ballots tabulated: 3,884)				
1. In deciding on policies to be followed with regard to the People's Republic of China (PRC), the United States should:				
(a) Use the prospect of closer relations with the PRC primarily as a "lever" in order to obtain more satisfactory terms in negotiations with the Soviet Union	22	33	28	17
(b) Develop our relations with the PRC primarily on the basis of China's increasing importance in world affairs	73	17	4	6
2. With regard to the People's Republic of China (mainland China) and the Republic of China (Taiwan) the United States should:				
(a) Continue present policies: i.e., maintain full diplomatic relations with Taiwan; liaison office in Peking; defense treaty with Taiwan; encourage trade with both	[1] 22(42)	15(26)	32(19)	31(13)
(b) Give full and unconditional recognition to the People's Republic of China, sever diplomatic relations with Taiwan, and renounce bilateral defense treaty with Taiwan	14(13)	15(20)	43(53)	28(14)
(c) Give full recognition to People's Republic of China on condition that it provide firm assurances it will use peaceful means only to resolve the status of Taiwan	64(51)	15(23)	7(14)	14(12)
(d) Give full recognition to People's Republic of China while giving Taiwan guarantees United States will use force, if necessary, to defend it against aggression by Peking	14(18)	16(25)	42(40)	28(17)
3. Regarding export to the People's Republic of China of arms and technologies that have major military applications, the United States should:				
(a) Facilitate such exports	11	14	36	39
(b) Limit such exports	58	13	10	19

Footnote at end of table.

[In percent]

	Approve	Go along without enthusiasm	Oppose	No opinion
TOPIC 5: THE U.S. AND LATIN AMERICA (Ballots tabulated: 3,613)				
1. In its policy toward Latin America, the goals to which the United States should give the main emphasis are those relating to:				
(a) Military security	13	29	38	20
(b) Advancement of human rights and social progress	47	31	9	13
(c) Mutual economic benefit through trade and investment	80	12	2	6
(d) Maintaining friendly relations with leading nations in the region	66	18	3	13
2. In pursuing its goals in Latin America, the United States should follow the strategy described in the text (see pp. 51–52) under the heading of:				
(a) Regional supremacy	8	16	46	30
(b) Idealistic leadership	20	31	21	28
(c) World cooperation	70	14	5	11
(d) Minimum commitment	20	26	29	25
3. If a situation seriously affecting United States interests arises in Latin America, the United States should:				
(a) Restrict itself to diplomatic and economic measures in dealing with the situation	61	17	9	13
(b) Retain the option of using military measures, if necessary, in addition to other measures	23	27	30	20
TOPIC 6: BLACK AFRICA (Ballots tabulated: 3,318)				
1 With regard to black Africa, the United States should:				
(a) Use all necessary means, short of sending American military personnel, to oppose Soviet and Cuban influence in the area	27	23	36	14
(b) Work with black African nations, regardless of their attitudes toward the Soviet Union, to assist them in solving their problems and achieving stability	66	21	7	6
(c) Reduce United States involvement in black Africa	12	22	48	18
(d) Repeal congressional restraints on U.S. Executive action in black Africa, and give the President a free hand to deal with each situation as he finds appropriate	17	25	40	18
2. If guerrilla warfare in Rhodesia (Zimbabwe) continues and escalates, the United States should:				
(a) Support the present regime in its effort to make the "internal settlement" succeed	21	24	33	22
(b) Persist in working to settle the conflict by compromise between white and black factions, including the Patriotic Front	51	25	11	13
(c) Cease all U.S. involvement in efforts to settle the conflict, and prepare to accept whoever wins as the legitimate leadership of an independent nation	18	23	41	18
3. With regard to South Africa, the United States should:				
(a) Maintain cool, correct relations while continuing to oppose apartheid	55	21	9	15
(b) Work closely with South Africa to maintain stability in southern Africa	32	25	25	18
(c) Support a full-scale, mandatory U.N. economic embargo against South Africa until it abandons apartheid and adopts majority rule	20	21	40	19
TOPIC 7: WORLD LAW OF THE OCEANS (Ballots tabulated: 2,945)				
1. In its policy at the U.N. Conference on the Law of the Sea (UNCLOS III), the United States should:				
(a) Accept the best compromise treaty that can be reached, even though in the American view it has imperfections, in order to safeguard agreements already arrived at and move closer to the international rule of law	60	22	12	6
(b) Seek conclusion of a treaty confined to those articles on which consensus can be reached, even if this means leaving major issues of international law unsettled	40	36	14	10
(c) Abandon the conference if no agreement is reached by the end of 1979 and protect U.S. interests through bilateral negotiations	12	12	64	12
2. Specifically in regard to exploitation of the deep seabed, the United States should:				
(a) Accept the proposed provisions as they now stand with only minor modifications	29	30	23	18
(b) Unless the proposed provisions are substantially modified in the interest of developed countries and private seabed mining firms, reject them and proceed to mine the seabed unilaterally	19	20	43	18
TOPIC 8: INTERNATIONAL TERRORISM (Ballots tabulated: 2,936)				
1. The position of the U.S. Government in regard to terrorism should be that:				
(a) Terrorism is never justified	57	17	15	11
(b) Terrorism may be justified against repressive governments when all other means to remove these governments or change their policies have failed	22	29	32	17
2. In dealing with terrorist incidents, the United States should adopt—and try to get other nations to adopt—a policy of:				
(a) No compromise: no ransom, no negotiations, no political concessions	33	20	30	17
(b) Flexibility, depending on the circumstances of each incident, not giving in completely but not necessarily refusing to make concessions	50	25	15	10
(c) Stronger counterterrorist preventive measures, including use of spies, paid informers, computerized dossiers, etc	42	27	16	15
(d) Laws restricting the publicity that may be given to terrorist incidents by the mass media	35	23	28	14
3. In regard to international terrorism in general, the United States should:				
(a) Work for worldwide areement in the U.N. on sanctions against nations tolerating terrorists, even though the agreement may not be as strong as we would like	74	13	3	10
(b) Work for agreement on a strong sanctions policy, even though some nations refuse to join the agreement	61	19	5	15
(c) Concentrate on efforts to eliminate the grievances throughout the world that give rise to terrorism	55	17	14	14

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[1] Numbers in parentheses below are from the 1977 opinion ballot on the same options.

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COAST GUARD DRUG LAW ENFORCEMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. GILMAN. Mr. Speaker, because of commitments in my congressional district, I was unable to be present on Monday, July 23, 1979, during the consideration of H.R. 2538, facilitating increased enforcement, by the Coast Guard of laws relating to the importation of controlled substances, a measure that I helped coauthor. I want to commend my colleague from New York, the distinguished chairman of the Subcommittee on Coast Guard and Navigation (Mr. Biaggi) for his leadership in bringing this measure to the floor and to all of my colleagues who helped obtain passage of this legislation: especially members of the Coast Guard Subcommittee and its distinguished ranking minority member (Mr. Treen), and the members of the Committee on Merchant Marine and Fisheries and its distinguished chairman and ranking minority member (Mr. Murphy and Mr. McCloskey, respectively).

H.R. 2538 is a revision of H.R. 10371 and H.R. 10698, measures that the distinguished gentleman from New York (Mr. Biaggi) and I respectively authored during the 95th Congress and supported by the Select Committee on Narcotics Abuse and Control in its recent report on drug traffickers in south Florida. It closes a glaring loophole in Coast Guard seaborne drug interdiction on the high seas that under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513) prohibited the importation of dangerous drugs into the 12-mile U.S.-customs zone, but omitted making possession of controlled substances on the high seas a Federal offense. This omission required our drug law enforcement authorities to prove that the drug traffickers conspired to import dangerous drugs * * * a burden difficult to establish.

H.R. 2538 closes that loophole. Its fourfold purpose is to prohibit first, any person on board a vessel of the United States (or on board a stateless vessel), on the high seas from manufacturing, distributing, or possessing (with the intent to manufacture or distribute), a controlled substance; second, a U.S. citizen on board any vessel from committing this same offense; third, any person on board any vessel within U.S.-customs waters from manufacturing or distributing (including possessing with intent to manufacture or distribute), a controlled drug; and fourth, any person from possessing, manufacturing, or distributing a controlled substance, including the intent to import a controlled drug into the United States or knowing that the controlled drug will be unlawfully imported into the United States.

Penalties for violating this legislation are prescribed under existing law, specifically up to 15-years imprisonment, a maximum fine of $25,000, or both, for narcotic drug violations and an imprisonment of up to 5 years, a maximum fine of $15,000, or both, for certain non-narcotic drug violations. Repeated convicted drug violators would be punished by twice the penalties authorized under the Comprehensive Drug Abuse Prevention and Control Act.

H.R. 2538 also prohibits and penalizes the attempt or conspiracy to commit drug proscribed conduct and provides for the seizure and forfeiture of property involved in illicit drug trafficking.

Mr. Speaker, our Nation's borders have become an open sieve for a multibillion dollar narcotics trafficking business. Illicit drugs are no longer trickling into our Nation. Rather, it is a global tidal wave of epidemic proportions estimated to exceed $45 billion just in the United States alone.

Hardly a day goes by that narcotics traffickers are not able to penetrate our borders, infect our citizens with their deadly drugs and reap millions of dollars in untaxed profits. Hardly a day goes by that Federal, State, and local law enforcement agents do not seize some marihuana, cocaine, heroin, and Phencyclidine (commonly known as "angel dust" or "PCP"), not by the pound but many times by the ton and by the boatload and the planeload.

In 1978, the U.S. Coast Guard participated in the seizure of 167 vessels, the arrest of 867 drug traffickers, the seizure of more than 3.5 million pounds of marihuana worth more than $1.3 billion, compared to the seizure in 1977 of 58 vessels, the arrest of 294 drug traffickers and the seizure of more than 1.2 million pounds of marihuana (or approximately 34 percent of the 1978 seizure) worth more than $425 million.

As of July 20 of this year, the Coast Guard participated in the seizure of 62 vessels, the arrest of 274 drug traffickers, the seizure of more than 1.2 million pounds of marihuana, 41,580 pounds of hashish and other contraband worth an estimated street value of more than $628 million.

Mr. Speaker, if our Nation is going to effectively interdict narcotics trafficking, then statutes under which our law enforcement agencies operate must be perfected to permit our dedicated law enforcement agents to properly perform their dangerous tasks. H.R. 2538 is a step in that direction.

I urge my colleagues in the other body to join with their colleagues in the House of Representatives in supporting this legislation, thereby enhancing the Coast Guard's authority to interdict drug traffickers on the high seas and imposing stiff penalties upon the convicted drug violators.●

ENERGY AND EMPLOYMENT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. ANDERSON of Illinois. Mr. Speaker, I want to call the attention of my colleagues to an important report recently issued by a special panel of the United Nations Association, charged with looking into the relationship between energy and employment. The full report is available from UNA offices in Washington and New York, but I ask permission to place the summary here in the RECORD. It represents the thoughtful findings of a distinguished group drawn from labor, business, and academia, and of intensive discussions over a number of months.

SUMMARY

As has been demonstrated so dramatically in recent years, *energy* is more important to the health of the global economy and to individual nations than any of us suspected even five years ago, after the jolting effects of the OPEC oil embargo. While recognizing that most developing countries (LDCs) face very different problems from those of the advanced countries, particularly the U.S., we thought useful lessons for both ourselves and others could be learned by examining certain aspects of U.S. energy and employment policy. With this purpose in mind the Economic Policy Council formed the Energy and Jobs Panel in May 1978.

What we discovered was that distressingly little study had been given at any level to the employment aspects of an effective national program to conserve energy and develop alternate fuel sources. Inquiries directed to public and private agencies by the Panel indicated that there is now a modest start toward assessing the potential impact on jobs and jobholders of various possible approaches to the energy problem, but it would be misleading to suggest that any discernible sense of urgency yet seems to enliven these efforts. This situation persists, despite extensive prior hearings and final passage of the National Energy Act of 1978 and likely decontrol of oil prices. Both can be expected to speed the transition, already under way, to reduced growth in energy use and to a different mix of energy supply.

It is evident that changes in the level and distribution of employment, including significant dislocation, are certain to accompany basic changes in existing energy patterns and that responsible planning is essential to minimize the hardships such adjustments would otherwise occasion for workers and their families when overall needs for personnel or for specific skills are drastically altered. The need for such planning is heightened by the probability that the impact is likely to be decidedly uneven, with certain industries and regions much more heavily affected than others.

In the present mood of public skepticism about proposals for large-scale extension of Government responsibilities or spending, the soundness of programs designed to train or retrain workers, to move them to distant locations, and/or to provide financial assistance for family needs will rightly be subjected to intense scrutiny. That questioning spirit undoubtedly will apply to each specific proposal for a carry-over to workers displaced by shifts in energy policy of the principle long recognized in legislation affecting trade policy, i.e., that Federal adjustment assistance is required to cushion the adverse impact that certain employers and their employees must bear in furtherance of the national welfare. (At the very least, however, it strengthens the case for more intensively examining programs enhancing labor mobility.)

Public policymakers should therefore be expected to make a good-faith effort to assess the job implications of energy strategies for pricing, conservation, alternate energy development, and expansion of conventional energy production. Greater knowledge of potential job impacts would allow planning to maximize favorable employment effects and minimize adverse effects. Such anticipatory actions could forestall the need for after-the-fact dislocation assistance, identify areas of substitute employment (such as railroad rehabilitation, which has social as well as economic benefits, design training programs to fill changing occupational requirements, and so forth.

Research on energy-jobs relationships is thus necessary in a number of broad areas, as outlined in the Report which follows. We recommend that highest priority be given to studies in these fields:

The degree to which capital, energy, and labor are substitutable or complementary;

Geographic and industrial shifts in demand, production, and employment associated with changing energy supply and price;

Employment effects of conservation and of changing the energy mix—either through alternate technologies or by substitution of coal for oil and gas.

Whatever be the agenda or order of priority, the urgency of focusing top-level attention on the job aspects of the nation's search for energy self-sufficiency is the most insistent recommendation to emerge from our study. That is the blankest of blank spots in all current U.S. planning, and we suspect in other nations, both developed and developing, as well.●

RALPH R. SCALZO

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. GONZALEZ. Mr. Speaker, I am sorry to know that Lt. Ralph R. Scalzo will be retiring from the U.S. Capitol Police on August 8.

I have known Lieutenant Scalzo since I arrived to serve in the House in 1961 and have known him to be a dedicated law enforcement officer.

Lieutenant Scalzo has given 39 years of service to the Federal Government, beginning with World War II when he served with the Army in Europe. Twenty-five of these years have been spent on Capitol Hill where he had the pleasure to participate in the inaugural ceremony of six Presidents as well as serve under five Speakers of the House.

I take this opportunity to commend

Lieutenant Scalzo for the fine service he has given to the Nation and wish him well in his retirement years.●

CAPTIVE NATIONS WEEK RESOLUTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. DERWINSKI. Mr. Speaker, last week the 20th anniversary of Captive Nations Week was commemorated by rallies, church services, and other activities across our country. One such rally was held in the Richard J. Daley Plaza in Chicago.

I direct the attention of the Members to the Captive Nations Week resolution adopted by the Chicago Captive Nations Week Committee and a special resolution adopted by that group dealing specifically with the new Soviet citizenship law which declares Soviet citizenship for all persons born in or descended from those born in Russia or any other lands occupied by the Soviet Union, regardless of their present residence or true citizenship status. I wish to insert both of these resolutions into the RECORD at this point:

RESOLUTION COMMEMORATING CAPTIVE NATIONS WEEK

Whereas, the Senate and the House of Representatives have authorized the President of the United States of America to proclaim the third week of July as Captive Nations Week, and

Whereas, Communist Imperialism has already enslaved one third of mankind and is making further inroads in Asia, Southern Europe, Africa and Latin America, and

Whereas, the military strength of the Western Powers is declining relative to the strength of the Soviet Union, making it harder to deal from a position of strength, and

Whereas the United States as a member of the United Nations has pledged to uphold the ideals of the United Nations Charter and to take joint and separate action to promote universal respect for all without distinction as to race, sex, language, or religion.

Now, therefore *be it resolved* by the Chicago Captive Nations Week Committee, to urge the United States to assume real and moral leadership in dealing with these problems. We urge the United States to consider beforehand, the effect any of its agreements and policies with the Soviet Union may have on the oppressed people of Eastern Europe, Asia and Cuba. We remind the United States and the Western countries that, agreeing to the Soviet Unions illegal annexations and occupations would set a precedent for accepting international lawlessness.

Be it further resolved, That the restoration of the sacred rights of all nations based on principles of democracy, self-determination, and sovereignty within their respective boundaries, must become the goal of Western and Soviet Policy. Only then will the world have a chance for a just and lasting peace. The United States is deceiving itself if it thinks it can bring peace to Europe as a partner of the Soviet Union while ignoring the wishes of the captive people of Europe.

Be it further resolved, That the President, in order to assure true and genuine peace in the Baltic region in particular and in Europe in general, should instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of Principle VIII of the Helsinki Final Act, concerning equal rights and self determination of peoples to the end that the right of self determination be returned to the peoples of Lithuania, Latvia and Estonia.

Be it further resolved, That the United States stop selling equipment and technology to the Soviet Union and Red China, which enhances the ability of an oppressive Soviet Government to stay in power.

Be it further resolved, That the United States, build up its military power relative to the Soviet Union. The present decline in United States power, if it continues, could prove fatal to the United States.

Be it further resolved, That is committee, once again urge the establishment of the permanent Captive Nations Committee (House Resolution 211) and Freedom Academy, which, is long overdue.

RESOLUTION DENOUNCING NEW SOVIET CITIZENSHIP LAW

Whereas, on July 1, 1979 a new law took effect in the Soviet Union purporting to effect the citizenship of all persons born in or descended from those born in Russia or any of the lands occupied by the Soviet Union alleged to be states of the Soviet Union; and,

Whereas, this new law declares all such persons to be citizens exclusively of the Soviet Union, regardless of their present residence or true citizenship status; and,

Whereas, this exclusive Soviet citizenship status is being forced on millions of people against their will, even those living outside the claimed borders of the Soviet Union; and,

Whereas, this new law would give the Soviet rulers an alleged excuse to harass citizens of other nations, including the United States, under the guise of exclusive Soviet citizenship; and,

Whereas, this harassment could be particularly acute and potentially threatening to the life and liberty of any such persons traveling to their land of heritage to visit relatives or to witness the Olympic Games; and,

Whereas, the inhibition of travel by such persons is a violation of the Helsinki Accord, to which the Soviet Union is a signatory; and,

Whereas, these newly claimed alleged "Soviet Citizens" feel intimidated by the new law even in their own homes outside the reaches of territory occupied by the Soviet Union; now therefore.

Be it resolved, By the Captive Nations Committee of Chicago Illinois, U.S.A., that we do denounce the new Soviet citizenship law and call upon rulers of the Soviet Union to repeal it; and,

Be it resolved, That we do call upon the United States Department of State to protest the refusal of the Soviet Union now to recognize the proper and legal citizenship of American citizens and urge the State Department to seek repeal of the law; and,

Be it further resolved, That we beseech our fellow American citizens to join us in protesting this dangerous injustice.●

MOTOR CARRIER SAFETY BILL

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. HOWARD. Mr. Speaker, today I am introducing legislation designed to improve safety in the trucking and bus industries. Chairman JOHNSON is joining me in sponsoring the bill. The purpose of the bill is to foster better safety conditions for our Nation's highways, and for those who work in these industries.

The bill represents one suggested manner for achieving better safety conditions. I am completely open to any recommendations that will help to create safer conditions in those industries. Therefore, my hope is that there will be broad participation in the consideration of this proposal.●

SYNTHETIC FUELS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. WIRTH. Mr. Speaker, with all of the discussion about synthetic fuels, I thought my colleagues would be interested in some further information on the issue. One of the potential sources for synthetics is oil shale.

While I have long believed that we must develop oil shale (to see if it can work), we must be aware of the problems that stand in the way. Some of these are outlined in the following letter.

We can sort out these problems, but only if we first recognize that they exist. Much of the proposed legislation ignores the problems, or waives the safeguards and substantive provisions of law that allow the framework for solving these problems.

I hope my colleagues will join me in developing an orderly process for the development of synthetic fuels.

The letter follows:

STATE OF COLORADO,
DEPARTMENT OF NATURAL RESOURCES,
Denver, Colo., July 19, 1979.

EDITOR, THE DENVER POST,
Denver, Colo.

DEAR SIRS: I would like to clarify some of the comments and conclusions reported in the article entitled "Peril to Colorado Agriculture Seen In Carter Energy Plan," Tuesday, July 17th, on page 1.

The Colorado Department of Natural Resources' evaluations indicate that an oil shale industry of about 500,000 barrels per day (including the associated population growth) could be developed in Colorado without reductions in the amount of surface water presently used by, or projected for use by, irrigated agriculture on the western slope. This is because oil shale companies, as well as others, own numerous surface water rights which can be used to develop the water supplies needed for that size industry without injury to irrigators. While oil companies have already purchased small amounts of water from ranchers and farmers, the amount of water involved is not great when compared with that presently consumed by irrigated agriculture on the west slope.

If oil shale development were to exceed about 500,000 barrels per day, questions about the availability of surface water for the industry would be encountered. The matter is, however, exceedingly complex. Unresolved issues concerning the interpretation of interstate compacts, hydrologic variations, environmental contraints, differences in oil shale technologies, uncertainties as to the level of development of competing water uses, and several other factors make it difficult to predict the circumstances which Colorado may ultimately face. However, in the event that a growing oil shale industry were to find that the water rights which it owns are insufficient, then it is probable that the industry would purchase additional water rights from irrigated agriculture.

The level of oil shale production contemplated by the Carter Administration over the next decade (400,000 barrels per day) is not likely to require significant trade-offs between the use of water for irrigated agriculture and energy development. However, if the size of the oil shale industry continues to grow over time, we anticipate that purchases of agricultural water may increase, thereby affecting the future of western Colorado's irrigated agricultural economy. Thus, the state intends to continually evaluate the potential water demands of the Carter Administration's proposals and those of others as well.

There are other relationships between west slope agriculture and oil shale development that will be equally important in the years ahead. These will include the impacts on small, rural communities of large and sudden influxes of people, potential urbanization of agricultural lands, changing social and cultural values, potential migration of workers out of the agricultural labor force, and many other factors that must be carefully and thoughtfully evaluated. Any federal program to develop Colorado's oil shale resources must address itself to these concerns and provide the budgetary commitment necessary to permit local communities to deal effectively with the growth which they will experience.

Sincerely,
Harris D. Sherman,
Executive Director,
Colorado Department of Natural Resources.●

ON BEHALF OF THE CAPTIVE NATIONS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1979

● Mr. DOUGHERTY. Mr. Speaker, I would like to add my voice to those participating in the 20th anniversary of Captive Nations Week.

It is 20 years since President Eisenhower signed Public Law 86-90 to honor and commemorate those nations under Communist control or occupation. May of these nations are still dominated by that control. In fact, since 1959 we have had more peoples added to the list in such places as Cuba, Vietnam, and Cambodia. For the people of Eastern Europe and the Baltic States, however, the wait for freedom has been the longest and most painful. They have systematically been denied their political, cultural and, oftentimes, religious rights. It is because many of these people risk severe consequences for speaking out against Communist tyranny that I feel compelled to commemorate their struggles by speaking out in support of them. I also see this as a happy occasion in the sense that after 20 years we have not forgotten the people of the captive nations nor do we intend to forget them. Furthermore, it is good to see many of my colleagues participating in this anniversary with their own statements of support. I do not underestimate the strength and moral force of the Congress. The Soviet Union hears our voice on Anatoly Shcharansky; the West German Government hears our voice concerning the continued prosecution of Nazi war criminals. So, I am honored to join with my colleagues' voices on behalf of those millions under Communist domination who yearn to be free.●

BULK MAIL CENTER MECHANIZATION CANNOT HANDLE FILM CASES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. FORD of Michigan. Mr. Speaker, the Postal Service and its customers were in for a surprise several years ago when the 21 new bulk mail centers came on line. They discovered—apparently by trial and error—that the Rube Goldberg-like mechanical mail-processing equipment with which the BMC's are equipped could not handle a substantial portion of the kind of parcels for which the bulk mail centers were specifically designed. For example the BMC's are unable to process film cases—ordinary plastic and fiber film shipping cases used by thousands of libraries, senior citizens' homes, centers for the deaf and handicapped, colleges, vocational training schools, and dozens of other local organizations.

According to Postal Service officials, the plastic cases slide down the mail chutes fast enough to damage other parcels or even endanger postal workers. They say that the straps binding together the fiber cases become entangled in the machinery and render the cases nonmachineable. The fact remains that plastic and fiber cases have been in use for many years—since well before former Postmaster General "Red" Blount ever dreamed of building the $1 billion bulk mail centers. While the centers were supposedly designed to handle these film containers, the design proved faulty. The result of this design failure—a failure of the Postal Service, not of film shippers—is that many films are not being machined but must be hand processed, a time-consuming and inefficient way to get the job done.

Faced with this problem back in 1976, the Postal Service considered requiring new packaging standards for films. These standards would have meant scrapping all existing fiber and plastic cases, an expense that most film shippers—including libraries, colleges, schools, and nonprofit groups—could not have borne. Fortunately, the Postal Service reconsidered and did not require the new kind of package.

More recently, the Postal Service has proposed a $1.50 surcharge on single piece, parcel post, zone-rated mail. The new surcharge would not include film cases. Nevertheless, I am advised by the National Audio-Visual Association (NAVA), speaking for itself and a dozen other organizations, that the Postal Service does not rule out the possibility of a film surcharge sometime in the future. Such an added cost of doing business would hurt a lot of county service organizations and some film distributors, most of which are small businesses, and would force others out of business.

What is needed is a permanent solution to the problem. Working with NAVA, the Postal Service has found that plastic cases weighing 5 pounds or less can be machined at some of the bulk mail centers. The lightweight cases are mixed with other parcels which serve as cushions and slow the cases as they go down the chutes. So far, however, the Postal Service has refused to modify the BMC machines or adapt them to film cases. In all equity, a comprehensive engineering study to achieve this end should be undertaken before a surcharge is considered and before new packaging standards are investigated.

I hope the Postal Service will work on correcting the faults in the bulk mail centers' mechanization before placing the heavy burden of a surcharge on film users across our land.●

SOVIETS DISREGARD HELSINKI ACCORD

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. SHANNON. Mr. Speaker, all the nations that signed the Helsinki accord and the United Nations Declaration of Human Rights agreed to permit families to emigrate to the country of their choice. The Soviet Union, which has signed both of these agreements, has failed to live up to its obligations. Many Jewish families live in constant danger of arrest and cruel harassment. The failure of the Soviet Union to abide by accord promises necessitates action by Members of Congress.

I would like to bring to mind the plight of Grigory and Natalia Rosenstein and their two sons who have been denied emigration since 1974. Both parents strongly desire to bring up their family in Israel. As Mrs. Rosenstein asserts:

> It is important for us and for our children to be brought up in our homeland, studying the language, history, life and culture of our people. Here, my husband is not even allowed to work. . . . I appeal for support to all my colleagues, all those bringing up children and those who understand suffering and pain. . . .

Mr. Rosenstein, 33, a cyberneticist, has been senselessly jailed numerous times in an attempt by Soviet leaders to diminish Jewish activism.

This flagrant violation of human rights must be curtailed. I call upon my fellow colleagues to exert pressure on the Soviet Government in order to alleviate the unnecessary suffering and oppression of Soviet Jews.●

RESOLUTION FOR CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

• Mr. DERWINSKI. Mr. Speaker, at a time when the Soviet Union is intensifying its efforts to bring more peoples under dictatorial control as shown in their proposed citizenship laws, it is important that we recognize that our encouragement and support of the national observance of Captive Nations Week and our year-long emphasis of its concept does much to blunt the machinations and propaganda practices by the Soviet Union.

I wish to direct the attention of the Members to a resolution adopted by the South Florida Capitive Nations Committee and to insert the program of the rally held by that organization in Miami on July 21, to commemorate the 20th anniversary of Captive Nations Week.

The resolution follows:

RESOLUTION

We the officers and leaders of the member organizations of the South Florida Captive Nations Committee gathered at the Torch of Friendship, Biscayne Boulevard, Miami, Florida, Saturday, July 21, 1979.

We hereby resolve that:

Because; the Soviet Communists have continuously violated all agreements protecting basic freedoms, most recently the Helsinki Agreements.

Because; the threat of Communism is subjugating more persons in developed and underdeveloped nations to an oppressed slave-type existence each year.

Because; a threat to freedom and liberty at any part of the world diminishes our own freedom and liberty,

Therefore; this Captive Nation Observance at the Torch of Friendship should bring to the minds of the President of the United States, the Secretary of State, and other government officials the plight of the captive nations of the world. This Committee urges our government to restore our military to its highest level of preparedness to insure that we do not become victims of Soviet aggression and become another captive nation such as: Afghanistan, Albania, Angola, Armenia, Bulgaria, Byelorussia, Cossackia, Croatia, China, Czechoslovakia, Cambodia, Estonia, East Germany, Georgia, Hungary, Idel-udel, Jamaica, North Korea, Latvia, Lithuania, Laos, Poland, Roumania, Serbia, Slovenia, Tibet, Turkestan, Ukraine, North Viet Nam, South Viet Nam, and closest to our borders, Cuba.

Be it resolved that we pledge our full support to the defense of the United States of America and we condemn all forms of government that deny freedom, liberty, and equality to people. With this annual observance of Captive Nations Week we join our silenced brothers and sisters behind the curtains of the world in the cause of freedom, liberty and justice for all. We ask almight God, under whose providence and blessings we enjoy our freedoms and human rights, to help us and all free nations to bring justice, liberty, and peace to all mankind.

In witness whereof, the South Florida Captive Nations Committee has caused this Resolution to be executed and attested to this 21st day of July, 1979, A.D.

Rev. John Paul Nagy, General Chairman; Omelan Hrab, Co-Vice Chairman; Earle Silver, Secretary; Andrew Gromadski, Co-Chairman; Petras Silas, Vice Chairman; Longina Brylewski, Treasurer.

CAPTIVE NATIONS WEEK OBSERVANCE, BY THE SOUTH FLORIDA COMMITTEE

Miami, Florida, July 21, 1979, 10:30 A.M.—torch of friendship. The Twentieth Annual Observance, according to Public Law 86-90, 1959.

THE PROGRAM

Procession of the Nationality Groups from the Main Library to the Torch of Friendship.

National Anthem—Let by Olga Pavlova, Ukranian Soprano, concert and recording artist.

Pledge of Allegiance: John Paul Nagy Jr., Vice President, Coral Gables Jaycees.

Invocation: The Rev. John Paul Nagy M. Div.—Hungarian Church of Reformation.

Presentation of colors and anthems (first stanza) of each Nation. Musical Selection: Olga Pavlova, accompanist: Joseph Nagy, kantor. "God Bless America."

Principal address: Professor Peter Hargital, Florida International U. Musical Selection: Olga Pavlova. Ukrainian Song. Prayer by N. Fornco.

Greetings and introduction of guests: From Mayor Stephen P. Clark—Commissioner, William Oliver, from Mayor Maurice Ferre.

Presentation of the Joint Resolution: Earl Silver, Committee's Secretary.

Prayer for the Captive Nations: The Rev. Fr. John J. Vereb, from Hollywood, Representing the Archdiocese of Miami.

Hymn to be sung in unison by all participants: "America".

My Country 'tis of thee, Sweet land of liberty; Of thee I sing; Land where my fathers died, Land of the Pilgrims pride, From ev'ry mountain side Let freedom ring.

Closing Address—Olga Maksimovich—visiting teacher.

Closing Prayer: The Rev. Martin N. Anorga, First Spanish United Presbyterian Church, Miami.

At this twentieth observance we remember the following Captive Nations and people:

Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia.

Estonia, Latvia, Lithuania, Albania, Bulgaria, Yugoslavia/Serbes Croats and Slovenes/Poland, Rumania, North Korea.

Hungary, East Germany, Mainland China, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos.

Who's next? Ethiopia? Afghanistan? South Yemen? Rhodesia? Republic of China? South Korea? Zaire? Nicaragua?

South Florida Captive Nations Committee's officers:

General Chairman, Rev. John Paul Nagy; Co-chairman: Andrew Gromadski; Secretary, Earl Silver; Vice Chairman, Omelan Hrab; Treasurer, Longina Brylewski; Public Relations, Katherine Hodivsky, Petras Silas.

We shall remember, and we shall remind all Americans year after year of the unbearable life which the Captive Nations must endure on their God given land!

From: South Florida Captive Nations Committee—Rev. John Paul Nagy, General Chairman, 2924 West Flagler Street, Miami, Florida 33135. Phone: 864-6095—642-0511; Earl Silver, Secretary—Phone: 531-2640.

"FOR IMMEDIATE RELEASE"

What: Annual Observance—South Florida Captive Nations Week—The constituent organizations of the Committee of Captive Nations of South Florida will meet in a march and rally to present to the public a resolution asking for support for the captive nations of the world. This resolution will be sent to the President of the United States, U.S. Senators LAWTON CHILES and RICHARD STONE, U.S. Representatives DANTE FASCELL, WILLIAM LEHMAN, and CLAUDE PEPPER, and local governmental officials. We join captive nations observances in progress all over the nation in a common plea for freedom for the enslaved peoples of the Communist world.

Principal Speaker: Professor Peter Hargitai—FIU.

Closing address: Olga Maksymovich, Visiting Teacher of Dade County Public Schools.

Greeting from: Mayor Stephen Clark and Mayor Maurice Ferré.

Patriotic Songs by: Olga Pavlova, Ukrainian Soprano.

The officials and honoured guests will lead representatives of each Captive Nation group in a formal observance, from the Main Library.

When: 10:30 a.m., Saturday, July 21, 1979.

Where: Torch of Friendship, Biscayne Boulevard, Miami, Florida.

On Radio WKAT a formal consultation will be held by Sherley Spelerberg on July 19, 1979, Thursday from 10 P.M. to 1 A.M.

The representatives of Captive Nations Committee will be: Rev. John Paul Nagy, General Chairman; Earl Silver, Secretary; Andrew Gromadski, co-chairman; Polish-American Congress, Professor Peter Hargitai, of FIU; Omelan Hrab, Ukrainian Congress; Vytauntas Semaska, Lithuanian American Congress.

SOUTH FLORIDA CAPTIVE NATIONS COMMITTEE,
2924 W. FLAGLER ST., MIAMI, FL.

His Excellency The Arch Bishop, The———. The Moderators, The Deans, The Rabbis, the Pastors of all faiths, serving God's Kingdom in South Florida.

Fathers, Brothers, Sisters!—July 1979.

This year, the twentieth annual Captive Nations Observance will be held in Miami on July 21, 1979 in Bayfront Park at 10.30 A.M., with a procession from the Main Library to the Torch of Friendship, where a program will be presented by the participating representatives of different nationalities.

The purpose of this observance is to remember those who are subjugated by Communist dictators and to remind Christians, Jews, Moslems, Buddhists and other religious groups and organizations about the plight of those—deprived of their freedom. On July 17, 1959, there were 22 Captive Nations around the world. Today the number has increased to 30 captive nations.

In view of this no freedom loving man or organization can be indifferent to the plight of the captive nations.

America, as a nation, has always defended the persecuted and oppressed. Today, when more and more peoples are being enslaved, it is more important than ever to avow and reaffirm our firm belief in "Liberty and Justice for all."

We must never forget the savage suppression of the Hungarian Freedom Fight of 1956, the Posnan Revolt the same year in Poland the Invasion of Czechoslovakia in 1968 and the most recent Communist atrocities in Combodia, South Vietnam and Laos. The sufferings of these innocent peoples should not be allowed to fade into history, but should inspire us to further effort to bring Freedom and Peace to our world.

We know that the captive nations in the USSR and in the subjugated countries are true allies of the United States of America and to the American people. They are ceaselessly struggling against a brutal and merciless oppressor.—They need our moral support, our sympathy and prayers.

During this 20th Observance of Captive Nations Week, we must show our unfortunate brethren that they are not forgotten by the American people. . . . that we sympathize with their plight and will stand by them and help them to achieve freedom and independence.

Everybody's support and prayer is needed.—Please let your people know the time and place of this Observance, either in your bulletin or from your pulpit. We ask for your special prayer for all captive nations on July 22, 1979.

In the name of the Committee: Andrew Gromadski, Co-Chairman; Rev. John Paul Nagy, General-Chairman; Earl Silver, Secretary.●

HOUSE OF REPRESENTATIVES—*Friday, July 27, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Truly my soul waiteth upon God; from Him cometh my salvation. He only is my rock and my salvation; He is my defense; I shall not be greatly moved.—Psalms 61: 1, 2.

O Lord, in the concerns and cares of this life, we remind ourselves that You are the Creator and Redeemer and it is in Your providence that we look for refuge. We rejoice that whatever our situation or need, You have promised to be with us—to forgive, to heal, to restore, to strengthen, and finally to assure us with the gift of life eternal.

Bless all Your people this day, and keep us in Your everlasting arms. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 111. An act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

DEMOCRATS TRIUMPH GLORIOUSLY OVER REPUBLICANS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, initially I took this time to express my surprise and dismay at what I perceived to be the absence of the gentleman from Massachusetts (Mr. CONTE), who always on the morning after the annual baseball game between the Democrats and the Republicans takes the floor to extol the virtues of that great American game and to report upon its outcome. Now, just as I rose to make that comment, down the aisle walked said gentleman from Massachusetts (Mr. CONTE) and I shall, therefore, retract anything that I might have said of an unkind nature about his absence. I see that he is here, which proves that he is a great, good sport, for the Democrats triumphed gloriously 7 to 3 over the Republicans last night.

I think it worth mentioning that the gentleman from Ohio, Mr. MOTTL, last night went all the way. Also it might be observed that the Republican pitcher, Senator BILL COHEN, obviously had great fear of my batting prowess, since he never threw the ball where I was swinging.

Mr. DAVIS of South Carolina. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished gentleman from South Carolina, whose smashing double to center field was one of the heroic highlights of the game.

Mr. DAVIS of South Carolina. I thank the gentleman for yielding. I rise to associate myself with the words of the distinguished majority leader and to tell the Chair that for the first time in history the rollcall trophy belongs to the Democratic Party. After many years of defeat, we snatched it from them. The gentleman from Massachusetts (Mr. CONTE) was great, but he just could not pull one more out.

Let me say, Mr. Speaker, there was great leadership having our majority leader in right field, a place where no balls were hit—thank goodness. But we did come back with a great victory, and say to the other side of the aisle, who fought valiantly, who put up a good fight, that we hope that they can continue their losing tradition as we go toward November of 1980.

APPOINTMENT OF CONFEREES ON H.R. 4389, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. NATCHER, FLOOD, SMITH of Iowa, PATTEN, OBEY, ROYBAL, STOKES, EARLY, WHITTEN, MICHEL, CONTE, O'BRIEN, and PURSELL.

CONGRATULATIONS ON THE CONGRESSIONAL BASEBALL GAME VICTORY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I want to congratulate the gentleman from Florida (Mr. CHAPPELL) and the gentleman from South Carolina (Mr. DAVIS) on their victory last night. I can take nothing away from them. It was a hard fought contest. Both sides showed flashes of brillance on the diamond.

I caution them, however, from making too much of this unexpected turn of events. I have sent the word out that this should not signal a crisis of confidence in our squad. I have asked my teammates to rally and, whenever they can, to "Say Something Good about the Republican team." I would like to start it off. I say—RON PAUL and his two-run, out-of-the-park homer; I say DON CLAUSEN and his hot bat that got us into the game in the third; I say the lightning speed of JOEL PRITCHARD on the bases; I say that valiant fielding effort of Senator THAD COCHRAN, who sustained an injury in the cause, but who is back at his desk this morning ready to fight again; I say the mighty arm of Senator BILL COHEN; I say the never-say-die spirit of the entire team that produced a rally in the sixth; and I say, watch out for us in 1980.

SOVIET CITIZENSHIP LAW

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, on July 1, the Soviet Government promulgated a new citizenship law that is frightening to many Americans. This law states that anyone born in the Soviet Union retains Soviet citizenship regardless of citizenship in another country. Once a Soviet citizen, there is no way an individual can renounce this citizenship. He or she is permanently subject to the full extent of Soviet law. Our office has repeatedly attempted to get an interpretation of this law from the Soviet Consulate and the State Department without any success.

This new Soviet law is a direct threat to the American citizenship of hundreds of thousands of Americans of Eastern European ancestry. If they travel to the Soviet Union they do so under the threat of harassment to themselves and to their relatives. The arrogance and insensitivity that lies behind such a law is unbelievable to me.

Equally unbelievable has been the inability of our State Department to respond officially to repeated requests of Members of Congress and their constituents for clarification on this matter. If the administration cannot get the Soviets to talk about this citizenship issue, it is difficult to believe that the Russians would be more forthcoming on strategic arms matters. Finally there should be no MFN treatment for the Soviet Union until they resolve this citizenship issue.

SUPPORT THE COAST GUARD

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I would like to voice my strong support for the Coast Guard Drug Law Enforcement Act. As the Nation's primary maritime enforcement agency, we must give the Coast Guard sufficient powers if their efforts against the infiltration of illegal drugs are to be successful. H.R. 2538 would prohibit all trafficking of illicit drugs on the high seas which the United States can reach under international law. The possession or dispensing of drugs for legitimate medical purposes would not be prohibited.

This law is especially important to the State of Hawaii. The House Select Committee on Narcotics Abuse and Control has documented Hawaii's role as a transshipment point to the mainland for Southeast Asian heroin. In a report on hearings held in Hawaii in 1978, the committee found that the amount of air and sea traffic passing through Honolulu makes it difficult to intervene in drug smuggling. It is important to recognize that the consequences of this drug trafficking are felt in all 50 States. I therefore urge my colleagues to support H.R. 2538 because better drug enforcement will protect the Nation's youth from drug abuse.

☐ 1010

SUPPORT FOR THE SALT II TREATY

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEASE. Mr. Speaker, former CIA Director William Colby is not a man that one would describe as "soft" on the Soviets. Because of his familiarity at the highest level with the systems of American intelligence gathering, his observations about SALT II are especially enlightening. In the July 17 Washington Post Mr. Colby points out an important consideration that has not received attention commensurate with its significance. That consideration is the importance the Soviet Union has attached to attaining the stature of an equal partner in the SALT process, a psychological factor that makes it possible to bargain with sufficient credibility to accomplish a real agreement. In a position of perceived inferiority the Soviet Union has traditionally shied away from the negotiation process. The perception of rough equivalence is a factor for stability since it reduces fear, that is, the awareness of one partner that the other cannot be equally constrained by the terms of an agreement.

Of course the technical details of military hardware are the meat of the treaty before the Senate. But perceptions of approximate parity within the Soviet Union have shaped the spirit of SALT and have been pivotal in achieving real agreement. Thus while one-sided agreements may seem to favor the United States, they include the intense incentive for the Soviets to sneak in an advantage at every point so as to achieve the stature of a peer in the process.

Crippling amendments make some Americans feel more secure about their ability to bluster. Many of us, however, see them as destroying an element of stability that is the crux of SALT II.

I include for the benefit of my colleagues this article to be inserted in the RECORD:

SOVIET SALT POLITICS

(By William E. Colby)

Weapons systems, military forces and intelligence machinery are the stuff of SALT II. Debate rages over each of these to the bewilderment of the public and the delight of the experts. But there is another dimension to the debate, which is as important as any single detail. The political background of the treaty, within the Soviet Union and in the international arena, must be factored into the eventual decision on ratification, amendment or rejection. Only by including this dimension can its individual details be given their proper weight.

The Soviet Union's political process is certainly different from the American. But different interests and points of view do exist in the Soviet system, and there are procedures for resolution of those differences within the bureaucracy, the party apparatus and the leadership council. From the record of negotiations of SALT II, it is clear that a number of balancing trade-offs took place in the Soviet negotiating position and in Soviet acceptance of the final version. Hardheaded Soviet insistence on retaining the heavy missile was balanced by Soviet acceptance of equal aggregate force totals, despite earlier arguments that our Europe-based and allied nuclear forces that can strike the U.S.S.R. should be included in the American count. American insistence on counting rules was accepted despite their penalizing some single-warhead Soviet missiles and launchers by counting them as multiples, because their prototype was so tested.

Some Soviet concessions were more apparent than real, such as the agreement to abandon the mobile SS16, which was apparently a dud. But others will require substantial changes in established Soviet practices, such as the destruction of 250 existing Soviet launchers, the limit to one new missile instead of the usual four per generation, the exchange of data on forces and test notifications despite longstanding Soviet paranoia about secrecy, and the restriction of the heavy missile to 10 warheads rather than allowing it to be improved to carry its full capability of 30 or more. The final text also represents Soviet acceptance of future improvements in America's forces through the MX missile and cruise missiles, the latter compromise balancing American agreement that the Soviet Backfire not be counted, with limitations imposed on each side's weapon.

These Soviet concessions reflect a Soviet political decision that the benefits of SALT II to the U.S.S.R. outweigh them. The primary benefit was the cap it put on the American arms race and the danger that the American sleeping giant might arise and outdistance the Soviets in this technology in the same dramatic way it did in the 1960s space race. Recognition as an essentially equal superpower also represents a long-sought Soviet goal, and SALT II's numerical and qualitative provisions make this plain.

But a sense of the bargaining that occurred among Soviet decision-makers can be seen from the Soviet reaction to President Carter's March 1977 suggestion to "amend" the agreements reached in 1974 at Vladivostok to reduce the Soviet heavy-missile force from 300 to 150 launchers. The reaction was sharp and harsh, showing that the 1974 trade-offs were viewed as firm rocks in the negotiated balance, not subject to later rearrangement. Americans blithely contemplating similar amendments now should recall the criticism of the naiveté and brashness of the American diplomacy in that instance.

The final text of SALT II reflects these compromises made within the Soviet government, just as it reflects the compromises made within the U.S. government. The treaty before the Senate thus does not satisfy every Soviet interest, as it does not satisfy every American. But it is the culmination of a series of mutual compromises and concessions, to which the Soviets contributed in substantial measure. The Soviet political consensus this reflects is a fact that must be weighed as the Senate now judges the treaty.

Ratification, of course, is a different subject in the two countries, but the review required for Senate ratification could find an analogy on the Soviet side if the treaty is not ratified and an obviously ailing President Brezhnev dies. The succession crisis then would seize the Soviet leadership. Previous successions suggest that this would produce an interim period of confusion and maneuvering, followed by the rise a few years later of a new leader and the possible adoption of new policies.

Failure of U.S. ratification thus could open a political interstice in which strategic weapons would be without agreed controls during a Soviet succession struggle. Wholly new policies and positions could be advocated by contenders for power and for support within the Soviet leadership. An agreement fully ratified before the passing of Brezhnev could, of course, be subject to actual if not legal repudiation by his successor, but that would be a much more difficult and dangerous defiance of American power than drastic proposals for Soviet "amendments" of a text still not formally adopted by the two governments.

American allies, the Soviet Union and its allies and the uncommitted nations closely observe the firmness and competence of the

American management of the strategic arms relationship between the United States and the U.S.S.R. Brinksmanship and provocation would draw criticism, but indecision and weakness would create doubts. As concern has grown over American leadership in the fields of energy, international finance and assistance to embattled friends, so disarray and lack of an American consensus in the strategic nuclear field could cause qualms about basic alliance relationships and could bring about shifts in the center of political gravity from the United States toward the U.S.S.R.

As the debate moves to include these broad political dimensions beyond the details of SALT II, it should also stimulate consideration of the other problems America faces with respect to the Soviet Union. These must include our conventional-force imbalance and the problem of dealing with Soviet subversion and Cuban proxies. We must also face up to the need for firm support of our friends and allies against outside siren songs or internal turmoil, despite cries for our noninterference.

This dimension need not "link" all our problems with the Soviets to SALT II and make it hostage to our satisfaction across the board. But it should alert us to the need to fashion appropriate policies, programs and weapons to protect ourselves and our allies at each level of threat. In this larger political dimension, the benefits of SALT II can be better appreciated for the talents and resources it will free to devote to other purposes. The "small step for man" presented in SALT II can then be firmly taken by Americans as a component of a "giant step for mankind" that a stable U.S.-U.S.S.R. relationship could produce.

SUPPORT FOR STANDBY GASOLINE RATIONING PLAN

(Mr. FISHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, it is imprudent and unconscionable that this country does not yet have a standby gasoline rationing plan. The gaslines may have diminished, but our tenuous energy circumstances more than likely will result in sudden disruptions of supply in the future. We should be prepared to act in a way that assures proper management of severely reduced supplies.

Right now, in the absence of severe crisis, is the best time for the President to develop a plan for use in an emergency. It is not the time for the House to continue to wrangle over details. The Congress will still have veto power over any rationing plan the President puts forward.

The House has had two go-rounds on this legislation already. I urge my colleagues to approve next week legislation that will give the President the authority to move ahead on a standby rationing plan.

PERSONAL EXPLANATION

(Mr. HALL of Texas asked and was given permission to address the House for 1 minute.)

Mr. HALL of Texas. Mr. Speaker, I ask that the RECORD show that I support the amendment offered by my colleague, the gentleman from New York (Mr. GILMAN), on Wednesday, July 25, 1979, to S. 1030, the Emergency Energy Conservation Act of 1979. I inadvertently voted "nay" but it was my intent to vote for the gentleman's amendment. This is a fair and equitable amendment that helps to restore the role of Congress in the decisionmaking process of Government, and I am pleased that it passed. I commend the gentleman from New York for offering his amendment.

CONGRESSMAN GREEN SALUTES NEW YORK "MINUTEWOMAN"

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, it is appropriate that Members of the House are using the month of July to bring attention to women who have made substantial contributions to our history. In a month when we celebrate our Nation's birthday and, in the instance of this year, when our Government issued the Susan B. Anthony dollar coin, I am pleased to join in Representative SCHROEDER's effort to highlight certain of our country's "minutewomen."

In consultation with Sister Rita Arthur of Marymount Manhattan College, I have decided to recognize and salute Leonora O'Reilly, whose record is representative of the many women of accomplishment from the history of Manhattan's East Side.

As a labor leader, social reformer, civil rights activist and suffragette, pioneer in vocational education, and rank-and-file organizer, this valiant woman devoted her life to improving the status of women in the labor market. In 1886 at the age of 16 and working a 10-hour day in a Third Avenue shirtwaist factory, Leonora O'Reilly organized the Working Women's Society, which in 1890 became the New York Consumer's League. In 1897 she organized a women's local of the United Garment Workers of America and in 1902 began her career in vocational education for women, a cause in which she firmly believed.

O'Reilly was a charter member of the National Women's Trade Union League, a founder of the National Association for the Advancement of Colored People and chair of the industrial committee of the New York City Woman Suffrage Party. Her investigation of the Triangle Shirt Waist Co. fire in 1911 in which 146 women burned to death led to improved safety laws, regulations, and methods of enforcement. An East Side resident from 56th, 60th and 80th Streets, Leonora O'Reilly warrants our recognition and esteem today as a little known heroine and pioneer in the women's movement from the 18th Congressional District of the State of New York.

STANDBY GASOLINE AUTHORITY

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, last Wednesday the President accused the Congress of timidity because this body insisted that Congress have the opportunity to review any standby gasoline plans and have the right to approve or disapprove. Since that time, the President has been calling some of the Members, I understand. Then, yesterday, the Democrat leadership of this body said it was not timidity that caused the Members to vote the way they did, particularly on the Democrat side; the leadership said they did not know what they were doing.

Mr. Speaker, I am sure that the American people, particularly the constituents back home, will be watching next week to see just who are those individuals who may change their vote from "yes" to "no" identifying themselves as the ones who did not know what they were doing when they voted for the Gilman amendment.

☐ 1020

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 111, PANAMA CANAL ACT OF 1979

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. MURPHY)?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so to propound an inquiry to the Chair.

Under the rule which allows wide discretion to the Speaker to appoint conferees on any bill, the Speaker may designate certain conferees to deal with only limited portions of the bill.

The bill that is the subject of the request of the gentleman from New York, H.R. 111, had a joint referral to four different committees, the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on the Judiciary and the Committee on Merchant Marine and Fisheries. Those first three committees had very limited jurisdiction over parts of the bill. If this request is granted, is it the intention of the Chair to designate conferees limited to the jurisdiction of the committees which they represent, rather than to permit all conferees to vote on the entire bill?

The SPEAKER. The Chair will appoint the conferees from all committees and they will have authority to negotiate on the entire bill.

Mr. BAUMAN. Mr. Speaker, I object to the request.

The SPEAKER. Objection is heard.

MARITIME AUTHORIZATIONS, 1980

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2462) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2462, with Mr. YATES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, July 20, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $256,208,000;

(3) For expenses necessary for research and development activities, not to exceed $16,360,000;

(4) For maritime education and training expenses, not to exceed, $25,874,000, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $6,785,000 for financial assistance to State marine schools, and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) For operating expenses, not to exceed $35,598,000, including not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows.

Committee amendments: On page 2, line 13, immediately after the colon, insert ": *Provided,* That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense: *Provided further,* That in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series".

On page 3, line 1, immediately before the semicolon, insert ": *Provided,* That no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense".

On page 3, line 8, strike out "$25,874,000" and insert in lieu thereof "$29,374,000".

On page 3, line 11, strike out "$6,785,000" and insert in lieu thereof "$10,285,000".

On page 4, after line 2, insert the following:

SEC. 4. During fiscal year 1980 the aggregate amount of new loan guarantees authorized by title XI of the Merchant Marine Act, 1936, shall be limited to $1,500,000,000.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, line 13, strike $101,000,000" and insert in lieu thereof "$32,000,000".

Mr. McCLOSKEY. Mr. Chairman, this amendment was thoroughly debated in the general debate. It cuts $69 million from the ship construction subsidy fund, $23 million each for the construction of three $46 million bulk carriers.

The program under which these funds are requested has been characterized by Chairman MURPHY as a failure.

More than that, by the American shipowners who are required to operate ships that are constructed with construction subsidies; the program has been characterized as an albatross about their necks.

In the recent study by Harbridge House, which was made under the direction and supervision of former Maritime Administrator, Andrew Gibson, Mr. Gibson pointed out that in many instances the 50-percent subsidy does not equalize the cost of a U.S. vessel with foreign building alternatives.

Mr. Gibson pointed out that this program under which we ask $69 million today be deleted, if unchanged, there continues to be a trend which causes ship operating companies receiving operating differential subsidies to bear heavier and heavier burdens of supporting the shipbuilding industry. In a healthy industry, such a result might be of little concern; however, the state of the operating differential subsidized industry today is far from healthy. Two companies have gone bankrupt; three others operated at a loss last year. The remaining five subsidized liner companies are not operating in a state to attract new capital.

The one U.S. company that is making large sums of money, that is interested in expanding its operation, Sea Land, is building its ships in Japan or Korea at a cost of less than 50 percent of what they would have to pay in the United States.

I would like to quote from Sea Land's letter, already published in the RECORD, of Sea-Land as to why they were building foreign. They said this in a letter dated March 29 of this year:

> The D–9 class vessels were contracted for $30 million each in a fixed dollar contract. Our ship construction department estimates that U.S. construction costs of about $80 million per vessel. The differential is $50 million; but section 502 of the 1936 Act permits a maximum subsidy of 50 percent of the U.S. cost or $40 million.
>
> Therefore, even with a 50-percent construction differential subsidy, our company would have paid a penalty of about $120 million to get later delivery of 12 ships from yards with little or no experience in building the required machinery plants. In addition, there would have been a further penalty of a delay of about 12 months in starting the service. Added to that, the sequence of delivery from American yards would have been at least every 90 days versus every 30 days.

Now, this question forces the House to a decision as to whether we will support shipyards in the United States or whether we will support the concept of a competitive flag merchant marine capable of carrying the 40 percent of our bulk cargo that the chairman and I have agreed upon.

Now, if we pass this comprehensive bill with a goal of 40 percent of our bulk cargo being carried on U.S.-flag ships, rather than the 1 percent that is carried today, the question comes that by building these three ships at a cost of $46 million, rather than buying the same ships or ships similar to them for perhaps $20 million in the public market, we are creating a disadvantage for the U.S. companies that we are seeking to make profitably competitive.

I would submit, Mr. Chairman, that this program which is clearly discredited should not be continued. To cut the $69 million as my amendment proposes is merely to affirm what the Appropriations Committee bill did 2 weeks ago when the proposed appropriation of $101 million was cut back to $32 million by a 2-to-1 vote by this House.

☐ 1030

Mr. Chairman, it is true that since that vote the administration has proposed a program to get statutory authorization for these three bulk carriers, but no hearings have yet been held, and if the past record is any indication, there is no guarantee they will build the ships even if we authorize the construction of these three bulk tankers in further legislation.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. McCLOSKEY. Mr. Chairman, to continue, even if we authorize in a future piece of legislation these three bulk carriers, the past record of the Maritime Administration on building the ships they have asked for authority to build would give us no assurance that they would build these ships.

In 1976 they requested $195 million for a similar purpose; they deferred $247 million. They received no money in 1977, but they still deferred $201 million. In 1978 they requested $135 million, but they deferred $122 million. Last year they requested $157 but spent $23 million. Thus in the last 4 years the Maritime Administration has deferred more money than has been requested in legislation such as this, legislation that has not even reached a hearing before our committee.

Mr. Chairman, I would suggest that my amendment be adopted, confirming the action we took in the Committee on Appropriations 2 weeks ago.

Mr. ZEFERETTI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the construction differential subsidy is aimed at erasing the inequity in construction costs between foreign and American shipyards. It is extended to any qualified vessel operating in U.S. foreign trade constructed in a U.S. shipyard. Subsidy payment is generally based on the difference between United States and foreign shipbuilding prices.

Without the CDS program, our shipyard mobilization base, necessary to the defense and security of the United States would be seriously endangered.

Foreign governments have acknowledged the importance to their economic and defense stature of a national shipbuilding capacity. Many nations aid shipbuilding industries by developing new merchant subsidies and providing direct governmental funding. This makes it increasingly difficult for U.S. yards to compete.

Continued loss of shipbuilding orders and contracts will result in a significant reduction in shipyard employment, but throughout our economy as well. An economic impact study prepared last year for the Maritime Administration indicates that every dollar of sales by the shipbuilding industry produces a total output of $2.10 in the economy. Approximately 50 percent of the cost of a U.S.-built ship consists of purchased materials and components which come from all areas of the United States. A decrease of 50,000 in shipyard employment would result in the loss of another 150,000 jobs in supporting industries.

In early May, Seatrain Ship Building Corp. of Brooklyn, N.Y., laid off 1,300 of its 1,450 workers as a result of large financial losses in operations. Included in Seatrain's reasons for closure were: Lack of sufficient subsidy programs and cohesive U.S. maritime policy. As a result, the yard could not compete on world terms. It would be an irreversible error to allow our vital shipbuilding base to further erode. We cannot allow CDS funds to be cut back by even 1 cent.

For that reason Mr. Chairman, I urge my colleagues to oppose this amendment.

Mr. GAYDOS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose the amendment offered by the gentleman from California.

The Merchant Marine Act of 1970 established as a national policy the maintenance of a base of efficient shipbuilding and ship repair facilities. Specifically, the act expanded the construction differential subsidy program to all qualified U.S.-flag vessels engaged in our foreign trade. I support this policy and our Nation's effort to rebuild our merchant marine fleet.

MERCHANT MARINE FLEET

Reducing the $101 million construction differential subsidy to $32 million as provided for in this amendment, would both compromise our national security and have serious economic repercussions.

In order to be eligible for funds under the CDS program, a vessel must be constructed in a U.S. shipyard, owned by U.S. citizens, manned by an American crew, and operated under the U.S. flag. As a result, shipyard construction promoted by this act has significant positive ripple effects throughout the economy. This construction program, as authorized in H.R. 2462, will provide $114 million in new construction support and generate $228 million in new shipbuilding activity. An economic impact study indicates that the $228 million in shipyard business which would be brought about by this program will result in a national economic impact of $783 million and 16,200 man-years of employment for the U.S. labor force.

As chairman of the Steel Caucus here in the House, as well as the Representative of a district deeply involved in the production of steel. I am painfully aware of the serious consequences that this amendment could have for the steel industry in this country. Shipyard construction under the CDS program so far has involved over a million tons of steel. The American steel industry can ill afford to lose this source of demand for steel products. Currently, inflation and the gas shortage are forcing the automobile industry to cut back on production, thus reducing domestic demand for steel.

Concurrently, predatory pricing policies by foreign steel producers are cutting into our export market. At this time of economic difficulties for our steel industry, any action by the Congress which would produce further hardship could be considered ill timed, to put it mildly, or reckless, to put it accurately. Many European shipbuilding nations and Japan have realized the importance of maintaining a strong domestic fleet and have taken steps to achieve that goal. I can only hope that we will see fit to do the same for our own domestic fleet, as well as for all those industries which will be affected by this legislation.

In sum, let me reiterate that H.R. 2462, in its present form, represents an investment in the American economy and our national security. Therefore, I urge my colleagues to defeat this damaging amendment and to support this much needed piece of legislation.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. It is my pleasure to yield to the gentleman from California (Mr. McCLOSKEY), the sponsor of this amendment.

Mr. McCLOSKEY. Mr. Chairman, I just want to say respectfully to the chairman of the Steel Caucus that it is true that this would affect roughly 27,000 long tons of steel if the ships are not built in U.S. shipyards. But against that 27,000 long tons of steel that we may not use, if the synfuel bill passes, the bill which overwhelmingly passed this House, we are going to have a requirement for an incredible 191,000 long tons of steel. That is about six or seven times as much in steel orders that will be added to the gentleman's industry than will be taken away if by this amendment we take away this 27,000 long tons.

Therefore, this Congress, during this year, is certainly not being unkind to the steel industry. We are giving seven times as much to the steel industry as we are taking away by this amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, I will respond to the gentleman from California (Mr. McCLOSKEY). First let me say I know he is sincere in offering that explanation, and I believe it has some merit.

However, the argument does not stand up to scrutiny. As far as the steel industry generally is concerned I find that the suggestion at best is conjectural. There is no real substance to it, and there is the possibility it may not come about and we may never have synfuel.

I know the gentleman is trying to respond to an argument that I think is very positive and logical as far as shipbuilding is concerned, but I think it is too conjectural to depend on something that may not occur.

Let me say this as well: It may occur, and if it does occur, the steel industry has lost so much over the last 10 years to predatory foreign trade practices that this is going to be just one scintilla—a smidgen, to put it more accurately—a smidgen of relief, because we need not only this production for our steel industry we need all the synfuel possibilities and anything else the steel industry might get accidentally or on purpose through this Congress or on its own initiative.

☐ 1040

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Mr. Chairman, I strongly suggest to the gentleman that it is so unfair at this time that the overall philosophy prevail in the amendment as it is offered by the gentleman.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

With due respect to my good friend from California (Mr. MCCLOSKEY), I must take exception to his assertion that "shipbuilding subsidies promote inefficiency, incompetence, and featherbedding in U.S. shipyards."

The inference here is that the availability of construction-differential subsidy provides U.S. shipyards the opportunity to "pad" their bids and to produce ships in a lackadaisical manner. This simply is not true. Even a cursory examination of historical prices for U.S.-built ships, both subsidized and unsubsidized, will show that prices of like ships do not vary, with or without subsdiy.

The source or sources of funding does not dictate price. Shipbuilding in the United States is a matter of private enterprise in which competitive forces, not the availability of construction-differential subsidies, dictate the price of a ship. For each new contract, each competing shipyard must develop their most efficient production plan to produce a winning bid. In the performance of a contract, the shipyard must be diligent and competent to insure cost control to avoid financial loss.

It would therefore be grossly inappropriate and wholly inaccurate to infer that construction-differential subsidies promote inefficiency or incompetency or featherbedding.

It also needs to be pointed out that a study for the Presidentially appointed Commission on American Shipbuilding in 1973 by Lester B. Knight & Associates, Inc., found no evidence that "on a man-hour basis, U.S. shipbuilding is less productive than foreign shipbuilding." A preponderance of professional opinion continues to support this conclusion that U.S. shipbuilding efficiency is by no means second rate.

I therefore oppose the amendment to cut shipbuilding subsidies in the pending measure.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, to the gentlewoman from Louisiana and to the gentleman in the well I have to say that my remarks that were quoted do not really apply to the Avondale Shipyard. Quoting from Business Week of July 16, 1979, the President of Avondale, which is located in Louisiana, stated that Avondale is "15 percent cheaper than anyone else in the number of man hours required to build a ship."

The article states:

> The only commercial shipbuilding company in the U.S. that is now adding to backlog is Avondale Shipyards Inc. . . . Avondale has 1.1 billion in orders that will keep it busy through 1982. But the key to Avondale's success . . . is that in addition to its main shipyard, it operates another profit-making yard that makes oil rigs and a third that repairs boats operating on the Mississippi River.
>
> . . . and even more important, Avondale is not unionized. Its management can get higher productivity from workers (who are paid from 30 cents to 60 cents an hour higher than other shipyard workers) because it can shift them from one trade craft to another.

We are not going to keep shipyards in business by not adopting this amendment. One shipyard will get the contract, presumably, to build the ships. That shipyard will be in the South, presumably Texas, Mississippi, or Louisiana. Possibly it will be Avondale.

I can well understand why shipbuilders around the country will join in league with one another, come to each other's defense, but the last people who need this $69 million are the people from Louisiana, because they have the only competitive or at least the most competitive shipyard in the country and they are not going to get that money; and, if they do, it is not going to save our shipyard people.

Mr. LIVINGSTON. I appreciate my colleague pointing out the great advantages of our shipyards down there in the South, and I think the gentleman has accurately pointed out that we have a tremendous asset. I am sure with the gentleman's comments there will be a lot of contractors looking forward to giving Avondale a lot of business. But in addition to that, the shipbuilding industry needs the subsidies to survive.

Mrs. BOGGS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by the gentleman from California.

As I pointed out during the debate last Friday, this effort to reduce the funding of the construction-differential-subsidy program is most premature. The Merchant Marine Committee is working on its own omnibus legislation; the Senate Subcommittee has its own plans; the administration's maritime initiative is long overdue; and my colleague, PAUL TRIBLE, and I are getting ready to introduce our proposals. The CDS program has worked reasonably well in the past. Let us not short-circuit it before we know what we are getting into.

The gentleman from California has left the implication that the proposed ships to be financed in fiscal year 1980 by the CDS program cannot be built with less than a 50-percent subsidy. In response I can only point to the facts: the CDS program provides up to 50 percent of construction costs to help make U.S.-flag ships cost competitive with other nations. At present, there are 31 vessels under CDS assisted contracts. Estimated total cost of these vessels is $2 billion. The percentage of CDS assistance ranges from 16.5 percent to 49.95 percent.

Mr. Chairman, I would like to insert for the RECORD, a list of ships currently under construction that utilize the CDS program:

Ships under construction or contracted for construction using the construction differential subsidy program

	Estimated total cost (in millions)	Percentage of CDS support
Avondale Shipyards, Inc.:		
Liquefied natural gas tankers (3)	$309.0	16.50
Lighter-aboard ships (LASH) (2)	139.5	40.08
Tug barges (3)	156.2	49.39
Containerships (3)	272.0	49.98
Bath Iron Works Corp.: Containerships (2)	86.4	49.64
Bethlehem Steel Corp.: Containerships (2)	156.6	49.64
Equitable Shipyards, Inc.: Cargo ships (3)	28.5	48.52
General Dynamics Corp.: Liquefied natural gas tankers (2)	310.0	25.48
Levingston Shipbuilding Co.: Dry bulk ships (5)	$200.0	49.95
Newport News Shipbuilding & Drydock Co.:		
Liquefied natural gas tanker (1)	94.2	25.74
Crude tanker (1)	138.2	38.75
Peterson Builders, Inc.: Roll-on/Roll-off ship (1)	16.7	42.15
Seatrain Shipbuilding Corp.:		
Tug barges (2)	42.5	38.05
Roll-on/Roll-off barge (1)	12.7	41.34
Sun Shipbuilding Corp.:		
Roll-on/Roll-off containerships (2)	137.4	48.85
Roll-on/Roll-off containership (1)	70.0	49.36

Source: U.S. Merchant Marine Data Sheet, U.S. Department of Commerce, Maritime Administration, June 1, 1979.

This amendment would eliminate funding for three bulk cargo vessels. It is important to note that the U.S. bulk cargo fleet is in an abysmal state. Currently, American ships carry less than 2 percent of the dry bulk cargo and less than 4 percent of the liquid bulk cargo transported in the U.S. foreign trade. In light of increased future reliance upon foreign sources for strategic materials, we must strengthen our bulk carrier fleet. If this amendment prevails, we will severely cripple this important effort.

Worldwide, shipbuilding is reeling from the worst depression it has ever known. Shipyards through the world are closing. In almost every Western nation, governments are stepping in to try to maintain their own shipbuilding base, in recognition of the strategic importance of shipbuilding and, most important, in recognition of the contribution of shipbuilding to their national economy. Our colleague from California proposes that we rush in to take advantage of this situation and snap up low-priced ships.

This might make some sense, superficially, but what would be the long-term costs to the Nation's Treasury? What would be the social costs that the American people will have to pay?

Mr. Chairman, an economic study conducted by a highly respected research firm, Data Resources, Inc., shows the of construction costs, the fiscal year 1980 CDS program will have on our national economy. In conjunction with carryover funds and the 50-percent private share of construction costs, the fiscal year 1980 CDS program represents a total of new shipbuilding activity on the order of $228 million. DRI, utilizing its macroeconomic and input-output models, that this would yield a total national economic impact of $782.9 million and some 16,200 man-years of employment in the U.S. labor force. This impact results from the interaction of the shipbuilding industry with other sectors of the U.S. economy. Actual expenditures would extend very probably over a 3-year period and would flow to every part of the country.

Mr. Chairman, we are talking about American citizens and American jobs. This is probably one of the best (or worst) examples of shipping American jobs to foreign countries. Latest projections of foreseeable merchant and naval ship construction prospects, by government and industry alike, indicate that the present U.S. shipyard work force will drop by nearly 66,000 before 1985. It is important to note that about 47,000 of these will be skilled production workers, many of whom come from minority groups in areas of chronic unemployment. Another 200,000 workers in supporting industries will be similarly affected.

In sum, this amendment would result in the progressive degradation of American shipbuilding and would require the American merchant marine to rely on foreign shipyards. We must not gloss over the domestic economic and strategic consequences of this action:

An essential national capability would not be assured;

The balance of international payments would be negatively effected;

Employment for skilled shipyard craftsmen would decrease;

Tax revenues would diminish; and

Reliance on foreign shipyard sources could only herald the doom of other essential national needs—U.S. shipbuilding and U.S.-flag shipping among them.

I urge the defeat of this amendment.

Thank you.

□ 1050

Mr. GAYDOS. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Does the gentlewoman agree with me when I take the position that this is a free enterprise story as suggested by the maker of the amendment when he brings in the productivity aspect, and by that implication union and nonunion, closed or open shop. He talks about the shipyards in Avondale being more competitive. Does the gentlewoman share my observation in this matter that we are talking about foreign competition?

I do not care about internal competition, whether Avondale or other Louisiana shipyards can build a ship better or cheaper than any in the Northeastern States. I do not care about that. I am talking about putting the American production and the American maritime industry on an equal, fair competitive basis in order that they are able to compete fairly in the international competition.

The CHAIRMAN. The time of the gentlewoman from Louisiana has expired.

(By unanimous consent, Mrs. Boggs was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. Does the gentlewoman share my feelings in this matter?

Mrs. BOGGS. I share the feeling of the gentleman most specifically. I would like to say to the gentleman that whatever affects shipping anywhere affects shipping in our areas, in our particular areas. The very fact that perhaps Avondale Shipyard does not need the work or perhaps would not be the recipient of the contracts, would certainly prove that I am for shipyards and shipping and American jobs and American shipping capabilities in every part of the country.

I thank the gentleman.

Mr. McCLOSKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from California.

Mr. McCLOSKEY. Since my name was mentioned for the first time as the "maker of the amendment," I saw our Chaplain blush in the corner, but I want to point out that this question that has been raised about technology, that a study for Maritime Administration in January of 1979 came to the conclusion that in spite of $1.6 billion in subsidies, our shipbuilding program is failing.

The CHAIRMAN. The time of the gentlewoman from Louisiana has expired.

(At the request of Mr. McCloskey and by unanimous consent, Mrs. Boggs was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 391]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi

Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1100

The CHAIRMAN. Three hundred sixty-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1110

The Chair recognizes the gentlewoman from Louisiana (Mrs. BOGGS).

Mr. McCLOSKEY. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from California.

Mr. McCLOSKEY. In trying to respond to the gentlewoman's argument that U.S. shipyards were hurt by foreign shipyard labor costs, in a study by the Maritime Administration in January of this year, they pointed out that the reason for the failure of this program—and it is conceded to be a failure by Chairman MURPHY—the study found that the problem was as much in obsolete technology as in excess labor costs. In 70 elements examined, foreign shipyards, based on overall evaluation, employ a higher level of technology in 51 cases of the 70 than do U.S. shipyards.

In a review of 16 critical elements, the study found that improvement in 9 of those 16 would not require more than minor capital investment, but would depend primarily on management initiative. It would appear that we are destroying the competitive nature of our shipyards by this subsidy program because, if they get the subsidy, then they need not compete and they become noncompetitive.

Ms. MIKULSKI. Mr. Chairman, I move to strike the last word, and I rise to oppose the McCloskey amendment.

The two main elements of this annual authorization of appropriations for maritime programs are the construction and operating differential subsidy amounts. With respect to construction-differential subsidy, the Merchant Marine and Fisheries Committee favorably reported the administration's fiscal year 1980 request of $101 million, a decrease of $56 million from the amount authorized last year. These funds, together with the $23 million carried forward will provide a total construction program level of $124 million, to fund the construction of four vessels; three dry bulk vessels, and one LASH for the Waterman Steamship Corp. called for under an existing operating-differential subsidy contract.

This is indeed a modest vessel construction program, Mr. Chairman, and modest funding, especially when one considers the present marginal status of the U.S.-flag merchant fleet.

Mr. Chairman, I hope the committee bill is adopted and the McCloskey amendment is defeated.

Mr. EDGAR. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I rise in opposition to the proposal of the gentleman from California (Mr. McCLOSKEY) to eliminate the construction-differential subsidy funds in H.R. 2462.

In recent months, he has been particularly vocal in voicing criticisms of the U.S. shipbuilding industry which are debatable to say the least.

For example, the gentleman from California says:

> The requirement to buy U.S.-built ships puts an albatross around the necks of U.S. steamship companies.

He neglects to point out that the "requirement" for U.S.-built ships in foreign commerce occurs only when world market forces disadvantage the U.S. owner/operator and operating-differential subsidy is available to equalize that disparity.

U.S. owner/operators have long been free to purchase their ships wherever they wish. In fact, roughly 700 vessels of 1,000 gross tons and over were built for U.S.-based companies or their affiliates in the years 1958–78, while in the same period, U.S. shipbuilders delivered 447 merchant ships of 1,000 gross tons and over to U.S. owner/operators. In other words, about 60 percent of shipping requirements from U.S. owners over a span of 20 years has been built abroad.

Few of the foreign-built vessels have been registered under the American flag for the reason that the existing Internal Revenue Code permits deferral of current taxation on foreign-flag shipping income by U.S.-owned foreign corporations to the extent that these earnings are reinvested in qualified shipping assets, including construction of vessels by foreign shipbuilders. By another incongruity in the Internationl Revenue Code, foreign-built merchant ships when U.S. documented are entitled to the existing 10-percent investment tax credit which was originally intended to stimulate domestic industrial production.

Of the 447 vessels constructed for U.S.-flag registry, 234 (4,926,100 gross tons) involved construction-differential subsidy and 205 (4,892,700 gross tons) were unsubsidized. Interestingly, in terms of numbers and tonnage, the split has been very nearly 50/50.

From all of this, one can readily and reasonably conclude that there is no, and there has been no, albatross present to impede U.S. owners. They have been free to acquire their ships here or abroad as they wish, but if they want Government furnished operating-differential subsidy they must build in this country to preserve a modicum of shipbuilding capability for national security purposes. That has historically been the thrust of U.S. maritime subsidies.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California (Mr. McCLOSKEY), which would result in a major and damaging change in the present and long-standing ship construction subsidy program.

The amendment would delete the CDS element of the bill.

We oppose this negative and destructive amendment for the following reasons:

The CDS element in the bill would not be eliminated because it would damage our marginally adequate shipbuilding industrial base.

First. The national security of the United States requires that we maintain our own shipyard mobilization base.

Second. Our shipbuilding industrial base is currently only marginally adequate.

A Navy/Marad study completed in 1977 and updated in 1978 indicates that the current U.S. shipbuilding mobilization base of between 60 and 70 construction and repair yards would be only marginally adequate to meet U.S. needs in a short NATO war and would require augmentation in a long war. This study will be updated again, this year, to reflect new Navy estimates of the ship loss and damage to be expected in a NATO war.

Third. One of the functions of the construction-differential subsidy program is to support our shipbuilding industrial base.

The CDS program now accounts for about 10 percent of the capacity of the U.S. construction shipyards and unsubsidized commercial work for another 20 percent, with the Navy accounting for the remainder.

Fourth. Elimination of the CDS program would seriously impact on our shipbuilding industrial base.

Elimination of the CDS-supported shipyards would materially degrade our shipbuilding industrial base. Even with continued CDS funding, it is likely that several U.S. shipyards will go out of business within the next few years of anticipated low-level contracting for new U.S.-built ships. Therefore, it is crucial that the CDS program be continued if we are to maintain the shipbuilding industrial base required by our national security.

During the debate pertaining to fiscal year 1980 appropriations for construction-differential subsidy (CDS), the gentleman from California (Mr. McCloskey) indicated that the shipbuilders council had stated that the present U.S. industrial shipbuilding base of 26 shipyards will be reduced to 8 by 1985. This misrepresentation is compounded by his further indication that we should "all concede that the number of shipyards in America are going to drop from 26 to 8 or 12 or 13 * * *"

The testimony of the shipbuilders council made earlier before the subcommittee on merchant marine of the Committee on Merchant Marine and Fisheries took note of the fact that absent any change in current U.S. maritime/naval strategy, "it can be predicted that no more than eight or nine shipyards will hold major shipbuilding contracts in 1984." There was no prediction of wholesale shipyard closings as Mr. McCloskey implied on several recent occasions.

The above underscored statement was intended as a warning that failure to pursue a judicious revision of U.S. maritime policy would result in a contraction of the Nation's capability to build major commercial and naval ships. Skilled manpower would dissipate; more ominously, the manufacturers of ship components, equipment or essential spare parts would turn away from marine business; and shipyard facilities would be diverted to less specialized uses.

The purpose of H.R. 2462 is to provide the necessary, but minimum funding for the basic maritime programs of the Commerce Department which support the U.S.-flag merchant fleet. Mr. McCloskey's amendment runs directly contrary to the object of H.R. 2462, and would destroy the basic support for aid for the construction of U.S.-flag ships.

Boiled down to its essence, this McCloskey amendment would eliminate the CDS program which has been in place since 1936. As a concomitant to this precipitate action, and as a substitute, the amendment would have us purchase our vessels for the U.S.-flag fleet from foreign sources.

It is claimed, in support of the amendment, that there are all kinds of bargain basement vessels floating idly about the waters of the world waiting to be purchased—but this is not true.

The purchase by China of many of its merchant vessels from foreign sources is cited as an example for the United States to do the same. However, China is not the United States and the Chinese merchant fleet is not the U.S. merchant fleet. Most of these Chinese foreign purchased merchant vessels are small and uneconomical. They simply are not at all useful for our merchant fleet needs and do not fit our trades.

The scheme envisioned in this McCloskey amendment would mortally cripple our shipbuilding capability, quickly resulting in the destruction of our shipbuilding yards. It would destroy any future U.S. shipbuilding capability and leave us helpless in this regard in the event of a national emergency. It would provide us with secondhand, used, foreign vessels instead of new capital equipment, and nothing depreciates faster than a used, sophisticated, ocean-going vessel. The practical results of this amendment are inimical to the best interests of the United States in every aspect.

Finally, the gentleman from California (Mr. McCloskey) in support of his amendment, argues that there are no contracts for the construction of bulk carriers and no bulk carrier building. This is simply not so. I have a letter from the Levingston Co. in Texas to the Maritime Administration indicating that the Point Shipping Corp. and the Levingston Shipbuilding Co. have reached an agreement in principle to construct two 36,000 deadweight tons bulk carriers. Not only are the gentleman from California's facts wrong, but his amendment would terminate such U.S. shipbuilding as the two bulk carriers in question.

In addition, Mr. McCloskey, has argued constantly that there is no dry bulk vessel program so that we therefore do not need this subsidy money. The Appropriations Committee deleted $69 million from the CDS funding contingent upon the administration sending up its dry bulk vessel program. The administration sent this program up to Congress on Tuesday, July 24. Thus, the Appropriations Committee contingency has been met and the gentleman from California (Mr. McCloskey) can no longer argue that there is no dry bulk vessel program.

This subsidy program should be scrutinized, and may need overhauling, but this is certainly not the place or time for such a major undertaking. In fact, this is being done right now by our committee in comprehensive hearings on H.R. 4769, the omnibus maritime bill. The amendment is bad, it is ill-timed, negative and destructive and must not be adopted.

I urge my colleagues to vote against this ill-considered amendment.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

I would like to ask the chairman, what logical reasons are there in support of Japan's being the leading shipbuilder? She has no natural resources as a nation. She has no particular geographic location. She has no special skills. Why should Japan be building 41 to 45 percent of all the ships built in all of the world and the United States building went down under this yoke and is not permitted to exercise our free enterprise system and our own international competitive position?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Gaydos, and by unanimous consent, Mr. Murphy of New York was allowed to proceed for 1 additional minute.)

Mr. GAYDOS. If the gentleman will yield further, is there an explanation for that, I ask the chairman?

Mr. MURPHY of New York. Yes, there is an explanation for that. It is because the Japanese Government and the Japanese industry and the Japanese political structure and the Japanese workers are joined together to build a fabulous shipbuilding industry, and they reserve cargo for their fleet. They carry at least 40 percent of their foreign water-borne commerce in their own fleets, and they are built on a deal basis. In fact, the United States goes to Japan to find out the cost of the construction of a vessel so that when our subsidy programs are applied, we take the basic cost in the Japanese yard compared with the American cost, and then we add that differential as the subsidy. But the Japanese are aggressive, and they are the world's major shipbuilding country today. We are not asking to be the major shipbuilding country; all we are asking to do is to have the necessary shipbuilding industrial base necessary for the security of America, both military and economic.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Dicks, and by unanimous consent, Mr. Murphy of New York was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I will be happy to yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

I am very concerned about the pending amendment particularly from a national security viewpoint. Is it not true that in World War II one of the major reasons the United States prevailed in that conflict was because of the fact that we had an industrial base here to produce ships both in the merchant marine and also for our Navy? I am very concerned that the way we are going, we are not going to have that industrial base. We are not going to have the ability to respond.

I can say, as a member of the Defense Subcommittee on Appropriations, one of the things that we are most concerned about is how we are going to resupply NATO, how we are going to be able to get personnel and equipment abroad. I think the pending amendment will do damage to that shipbuilding base. The gentleman has described this very well. I certainly hope the House will reject the pending amendment.

Mr. MURPHY of New York. The gentleman brings up a very, very important point. In my city alone during World War II there were seven major new construction yards. One of them employing 75,000 workers. It was called the Brooklyn Navy Yard. That yard was closed 10 years ago, along with many other yards, and we have almost lost our public construction yards in this country through various downturns and lack of focus on defense problems within our country. The gentleman knows we are at a critical turning point as far as Navy construction is concerned.

Mr. DICKS. If the gentleman will

yield, I also point out to the gentleman that our public shipyards around the Nation today do not do any new construction of merchant ships. It is all done in private yards. So if anybody thinks we are going to be able to turn to our public shipyards to do new construction, they simply are not aware of the facts. That is why this kind of amendment is very dangerous.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I am also concerned about the defense aspect, but I would like to speak also to what our colleague, the gentleman from Pennsylvania (Mr. GAYDOS) said.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mrs. FENWICK, and by unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. If the gentleman will yield further, China has apparently just bought 228 ships with millions of tons of capacity for $1 billion, and that would pay for only about 20 U.S. ships. But leaving that aside, why can we never get from the Department of Defense any word as to what ships they need?

The last time we had a cargo preference bill here on the floor, it was for tankers, and the Department of Defense testified that they did not need tankers. We are always talking about defense, but we never have a concrete suggestion from the Department of Defense as to what we should be doing.

Mr. MURPHY of New York. There is a reason for that.

Mrs. FENWICK. We can justify endless expense on the basis of defense, perhaps, but we cannot justify it on the basis of a free enterprise economy.

Mr. MURPHY of New York. The reason for what the gentlewoman just said is that the Navy concentrates on fighting ships, and it will only focus on fighting ships because it is in the dollar battle before the Appropriations Committee at all times. Unless it focuses on those fighting ships, it cannot say what support units, tankers along with cargo ships will be needed. That is not their primary interest. They want those CVN's and other military vessels. The gentlewoman will have an opportunity very shortly to express herself on this defense matter.

Mr. DICKS. If the gentleman will yield, the gentleman from New York is absolutely correct on this. We simply do not have enough money in the defense appropritions bill to even take care of the ships that we need for fighting purposes. We are so far behind, it is shocking, and yet it is necessary that we have a strong merchant marine capacity.

Mrs. FENWICK. If the gentleman will yield, if the Department of Defense will tell us what cargo ships they need in case of an emergency, we would not have to put it in a defense bill, we could put it in the maritime bill. But if we are going to justify it on defense, let us get some information from Defense.

Mr. DICKS. I think we can get that from the Chiefs of Naval Operations.

Mrs. FENWICK. Never, never. Ever since I came down here, I have been asking for it. Never.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

The maritime legislation now before the House will authorize $438 million for maritime programs operated by the Department of Commerce. This money will be used for the construction and operation of U.S.-flag ships, for maritime education and training, and for the national defense reserve fleet.

America's merchant fleet is in a deplorable state. All of these programs are vital if we are to keep our present fleet afloat and revitalize our merchant shipping. A strong merchant marine is all important to our Nation's economy and security.

The construction differential subsidy is an important part of our maritime program and should be fully funded. At a time when merchant and naval ship construction prospects are down and when thousands of shipyard and other related workers are losing their jobs, we cannot afford to lose a single contract to build a single ship in an American shipyard. That is why the amendment of the gentleman from California must be defeated.

Make no mistake about it, the CDS program makes a substantial contribution to our maritime industry and to our Nation's economy. According to the U.S. Department of Commerce the shipyard and supporting industry employment that is currently attributable to the CDS program totals 27,000. In addition, the tertiary employment induced in the economy as a whole by this maritime industry employment is estimated at 65,000, yielding a total of 92,000 jobs attributable to the CDS program at the present time.

The gross national product contribution generated by the CDS program in fiscal year 1979 is estimated to be about $1.1 billion. This total, reflecting ongoing economic activity generated by 1979 work on all CDS ships under construction in the year, cannot be tied to any one year's appropriation. The contracting level, as you know, has varied from year to year and the order book in the aggregate generates a continuing stream of significant economic activity. The construction work expected to be generated by the $101 million requested for fiscal year 1980 should add about $400 million to that stream of economic activity, or GNP, during the years between ship contracting and delivery.

In summary, Mr. Chairman, let me say that the CDS program is an important part of this maritime legislation and is making an important contribution to U.S.-flag shipping. This is the time to encourage the building and operation of U.S.-flag ships and we should do nothing to discourage these important activities.

□ 1130

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I will be happy to yield to the gentleman.

Mr. McCLOSKEY. I thank the gentleman for yielding, particularly because we are in disagreement on this amendment.

I rise to try to respond to the question of the gentleman from Washington (Mr. DICKS): "If we adopt this amendment will we not hurt our national shipyard base from a national defense standpoint?"

The fact of the matter is the Defense Department has never been able to tell us how many shipyards they need. We presently have 26. It is conceded by every element in the industry that that number of shipyards will drop to 16 or 13 or perhaps even 8 over the next 10 years.

If this amendment is adopted, one contract for three ships will be denied to a yard in Livingston, Tex., that the chairman referred to. One yard will be preserved with jobs in Livingston, Tex., but those other 25 yards will get no benefit from this amendment and no longer today do we need the shipbuilding base we needed for World War I or World War II. We never plan again to send 3 million or 5 million men in an expeditionary force in a conventional war in either Europe or on the Asian continent. We are in a new ball game. The chairman has admitted that this program is a failure. He wants to continue it 1 more year while he presents, and I agree with him that we present, a new program to modify a law which is no longer workable.

If you vote for this amendment today the vote merely confirms the 2-to-1 vote in the House 2 weeks ago to cut $69 million out of the appropriations process. It is only happenstance that the authorization bill comes up after the appropriation. We have already cut the $69 million by a 2-to-1 record vote in this House.

Mr. Chairman, it is understandable to me that the shipyard lobby, that the steel lobby, would come forward to try to defend this program. I pointed out to our friends in the steel industry that they are going to get seven times as much steel from one synfuel plant as they will from these three ships if we adopt this amendment.

If we are going to balance the budget as the Committee on the Budget suggested, a cut of $50 million in maritime subsidies, if we are going to confirm the Committee on Appropriations' $69 million cut, then this amendment cuts the same $69 million we cut 2 weeks ago.

Mr. TRIBLE. Let me say in response to my colleague from California that I think it would be premature for us to act here today to weaken this maritime program until we have an opportunity to answer the very questions the gentleman poses.

What is the shipyard base required to meet the needs of this Nation in time of war and national emergency? The fact is we have been unable to receive that information from the Navy. I believe it is important that the Committee on Merchant Marine and Fisheries and the Committee on Armed Services, and I serve on both of these committees, act in concert to require an answer to these very important questions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. TRIBLE was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

The gentleman from California (Mr. McCLOSKEY) consistently says that this program has been a failure. The gentleman quotes the chairman as saying it has been a failure.

The program has been a failure to the extent it has not produced the amount of shipping we thought it would produce in 1970 and we envisioned some 30 vessels a year. We all hoped that perhaps the maritime industry in this country would once again be rehabilitated.

The fact is, it has not produced those kinds of numbers, simply because we did not provide sufficient moneys.

Now, there may be some criticism of the construction differential subsidy. I may share that criticism with the gentleman from California but this is not the way to correct whatever inequities or whatever wrongs or whatever faults we find in that program.

The Subcommittee on Merchant Marine is currently embarking on hearings on the maritime omnibus bill, which is the proper place to correct whatever faults we have. Not here. Not through this amendment.

The gentleman refers to a point that one shipyard will be the beneficiary. In the light of the disastrous activities and the dire predictions of the fate of shipyards, to help one this time would to me be salutary. If we continue and we provide sufficient funds, we will continue to help the shipyards and prevent that very drastic reduction that we anticipate.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BIAGGI, and by unanimous consent, Mr. TRIBLE was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield further?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. BIAGGI. There is a large picture here. There is a picture here of the United States and the entire maritime industry. We have Japan, which has moved right to the forefront for no special reason.

We have the raw materials, we have the expertise, we have the manpower and very interestingly, Mrs. Thatcher of the United Kingdom has just announced she is going to denationalize all of the industries, all of them save one, and that one is shipbuilding. You know what that means. They are going to subsidize and subsidize and subsidize so they can regain and enjoy a prominent position in that arena of business to the detriment of the United States, unless we, in turn, respond in similar fashion.

This amendment would reek havoc on whatever little hope we may have.

I remember that in 1970 the administration said we would have a maritime service that we, as Americans, could all be proud of and we on that committee said, "Hopefully; at last," and we had faith and we voted accordingly. Some of us exercised some doubts and reflected them in comments, but at least we had hope. Well, the hopes were dashed. That administration did not respond and administrations thereafter did not respond. To attempt to take away these three bulk cargo vessels at this time, in my judgment, is very poor, poor judgment and conduct.

I thank the gentleman for yielding.

Mr. TRIBLE. Mr. Chairman, I thank the gentleman for his contribution.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from Pennsylvania.

Mr. BAILEY. Mr. Chairman. I oppose the amendment to H.R. 2462, offered by the gentleman from California (Mr. McCLOSKEY), to eliminate construction-differential subsidy and to make operating-differential subsidy available to foreign-built merchant vessels.

Elimination of construction-differential subsidy is fraught with the boomerang potential of substantial social costs to the public treasury. For example, in late March of this year, the Department of Labor certified that "workers and former workers engaged in the construction of oceangoing ships at the Sparrows Point, Md., shipyard of Bethlehem Steel Corp., displaced by reason of 'dumping' by foreign shipbuilders offering below-cost prices, are entitled to adjustment assistance under section 222 of the Trade Act of 1974."

The procurement of 12 large containerships from shipyards in Japan and South Korea by Sea-Land Service, Inc. was cited by the Labor Department as a primary justification for this determination favoring U.S. shipyard workers who could be entitled to 70 percent of their average weekly wages up to a maximum of $250 per week for as long as 52 weeks. Assuming this finding would apply to all of the 47,000 production workers now facing unemployment in this country by 1985 (workers in at least two other yards are already formulating similar appeals to the Labor Department), the maximum cost to the Federal Treasury could exceed $600 million—nearly twice the amount Sea-Land is allegedly committed to pay Far East shipyards.

In other words, by discarding construction-differential subsidies and approving operating-differential subsidies for foreign-built ships, not only will opportunities for U.S. shipbuilders and their employees be foreclosed but also opportunities to minimize very probable extra costs to the public treasury will be foreclosed.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. PRICE) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MARITIME AUTHORIZATIONS, 1980

The Committee resumed its sitting.

Mr. BOWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would simply like to reemphasize the remarks just made by the chairman of the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. BIAGGI) regarding British shipbuilding.

Prime Minister Margaret Thatcher, in her sharp cutbacks on government subsidies and support for private industry in Britain, has seen fit to exempt the shipbuilding industry. In fact, she has committed 250 million pound sterling, which is the equivalent of about 550 million U.S. dollars, for the purpose of subsidizing shipbuilding in Britain.

Bear in mind that the British merchant fleet is only about one-fourth the size of America's, but, yet, Britain has seen fit to devote this large amount to subsidies for that fleet.

Mr. Chairman, today we are seeking but $101 million, a very low figure, well below the $300 million to $400 million per year we have devoted to this program in past years.

I want to commend the gentleman from California for cosponsoring the new omnibus maritime bill which addresses the entire question of reorganization, reform, and revitalization of the maritime industry.

Mr. Chairman, I submit that that legislation which will be before us in only a few months is the appropriate vehicle to deal with this major issue. This annual maritime authorization bill is not the place to cut the heart out of our maritime subsidy program.

When the new legislation is presented, that will be the time and place when the Congress should consider a major issue such as the one which we are being asked to vote upon at this time.

Mr. Chairman, I urge Members to vote against this amendment.

□ 1140

Mr. PATTEN. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, I well remember in 1916 the Kaiser was sinking our ships. He was starving England and most of Europe and President Woodrow Wilson in this body declared war in 1917 because the subs were sinking our ships in the Atlantic and all over the world.

I well remember 1939 when the policy to kill the lifeline of our country and England was to sink our ships.

I was in Madison Square Garden, Jimmy Walker was in charge, there were 20,000 people trying to cheer our merchant men to sail to the North Sea to help feed Russia to keep her in the fight. It was a terrible struggle.

Take those shipyards in my area—50,000 workers. We could not get lead. We could not get wood. Under the most trying conditions we built ships. They were phenomenal.

Our lifeblood as a nation today looks to the Pacific. We are so undermanned in every ship that it is not even funny.

The very security of our Nation depends upon the high seas. Some of the remarks made here hurt me. In my lifetime I have seen the sea lanes make the difference between me being a free man and surviving in this country—so I am against this amendment.

Mr. WYATT. Mr. Chairman, I move to strike the requisite number of words. I am opposed to the amendment.

Mr. Chairman, the purpose of H.R. 2462 is to provide the necessary, but minimum, funding for the basic maritime programs of the Commerce Department which support the U.S.-flag merchant fleet. Mr. McCloskey's amendment runs directly contrary to the object of H.R. 2462, and would destroy the basic support for aid for the construction of U.S.-flag ships.

Boiled down to its essence, this McCloskey amendment would eliminate the CDS program which has been in place since 1936. As a concomitant to this precipitate action, and as a substitute, the amendment would have us purchase our vessels for the U.S.-flag fleet from foreign sources.

It is claimed, in support of the amendment, that there are all kinds of bargain basement vessels floating idly about the waters of the world waiting to be purchased—but this is not true.

The purchase by China of many of its merchant vessels from foreign sources is cited as an example for the United States to do the same. However, China is not the United States and the Chinese merchant fleet is not the U.S. merchant fleet. Most of these Chinese foreign purchased merchant vessels are small and uneconomical. They simply are not at all useful for our merchant fleet needs and do not fit our trades.

The scheme envisioned in this McCloskey amendment would mortally cripple our shipbuilding capability, quickly resulting in the destruction of our shipbuilding yards. It would destroy any future U.S. shipbuilding capability and leave us helpless in this regard in the event of a national emergency. It would provide us with secondhand, used, foreign vessels instead of new capital equipment, and nothing depreciates faster than a used, sophisticated, oceangoing vessel. The practical results of this amendment are inimical to the best interests of the United States in every aspect.

Finally, the gentleman from California, in support of his amendment, argues that there are no contracts for the construction of bulk carriers and no bulk carrier building. This is simply not so. I have a letter from the Levingston company in Texas to the Maritime Administration indicating that the Point Shipping Corp., and the Levingston Shipbuilding Co. have reached an agreement in principle to construct two 36,000 DWT bulk carriers. not only are the gentleman from California's facts wrong, but his amendment would terminate such U.S. shipbuilding as the two bulk carriers in question.

This subsidy program should be scrutinized, and may need overhauling, but this is certainly not the place or time for such a major undertaking. In fact, this is being done right now by our committee in comprehensive hearings on H.R. 4769, the omnibus maritime bill. The amendment is bad, it is ill-timed, negative, and destructive and must not be adopted.

I urge my colleagues to vote against this ill-considered amendment.

Mr. LUKEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, from the heartland of America where there is no shipbuilding industry that I know of, I also oppose the amendment.

Mr. Chairman, I oppose this amendment because we need to maintain a construction differential subsidy, and a preference for U.S. ships in carrying Government cargoes in order to keep the U.S. shipbuilding industry competitive with foreign shipbuilders.

In the past decade, the U.S. shipbuilding industry has increasingly been undercut by foreign builders, especially by those in Japan. It is imperative that we keep the U.S. shipbuilding industry from being undercut in this way for two main reasons.

First, the American economy is not hurt by these subsidies as proponents of this amendment claim, but is actually stimulated because the $101 million we spend on this subsidy will ultimately contribute nearly $2.7 billion to the national GNP and provide 230,000 jobs nationwide. It also provides the majority of these jobs in the Northeast/Midwest area of this country which has for several years been facing an economic decline.

Second, a strong shipbuilding industry—thus a strong U.S.-based merchant marine fleet—is indispensable to a strong U.S. defense structure. In event of a major war, we have to have a strong shipping capability because it is impossible to send the heavy materials, or the quantity of materials necessary to defend this Nation's and the free world's freedom by air. It will have to go by ship. The Soviet Union recognizes the importance of this and has been greatly expanding their merchant marine fleet over the last two decades so that it is now one of the largest and most up-to-date merchant fleets in the world. We cannot let our shipping capacity decline in view of this fact.

I urge my colleagues to vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 139, noes 246, not voting 49, as follows:

[Roll No. 392]

AYES—139

Archer
Badham
Bafalis
Barnard
Bauman
Bedell
Beilenson
Bereuter
Bethune
Blanchard
Brodhead
Broomfield
Brown, Ohio
Campbell
Carney
Carr
Carter
Cheney
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Dannemeyer
Deckard
Derwinski
Dickinson
Eckhardt
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Frenzel
Gephardt
Gingrich
Glickman
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hance
Harris
Hillis
Hopkins
Horton
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lewis
Loeffler
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
McHugh
Marriott
Martin
Mica
Michel
Mikva
Miller, Ohio
Mineta
Moorhead, Calif.
Myers, Ind.
O'Brien
Obey
Panetta
Pashayan
Paul
Pease
Petri
Pursell
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Royer
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Simon
Smith, Nebr.
Solomon
Stangeland
Stanton
Stenholm
Stockman
Stump
Synar
Tauke
Thomas
Vander Jagt
Vanik
Walker
Whitley
Whittaker
Winn
Wirth
Wydler
Wylie
Yates
Young, Fla.

NOES—246

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Cavanaugh
Clausen
Clay
Clinger
Coelho
Collins, Ill.
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Emery
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frost
Fuqua
Gaydos
Gilman
Ginn
Gonzalez
Goodling
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harkin

Harsha
Hawkins
Heckler
Hefner
Heftel
Hinson
Holland
Hollenbeck
Holt
Holtzman
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCormack
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mikulski
Minish

Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Ratchford
Reuss
Rinaldo
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Runnels
Russo
Sabo
Satterfield
Scheuer

Seiberling
Shannon
Shelby
Skelton
Slack
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Taylor
Thompson
Traxler
Trible
Udall
Van Deerlin
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—49

Anderson, Ill.
Bolling
Brooks
Broyhill
Chappell
Chisholm
Cleveland
Conyers
Corman
Cotter
Crane, Philip
Diggs
Dougherty
Downey
Edwards, Calif.
Evans, Ga.
Flood

Ford, Tenn.
Forsythe
Fowler
Garcia
Giaimo
Gibbons
Hightower
Huckaby
Jenrette
Lott
Lundine
McDade
Maguire
Mathis
Mazzoli
Miller, Calif.
Moffett

Nolan
Pickle
Rangel
Richmond
Rodino
Rousselot
Santini
Smith, Iowa
Symms
Treen
Ullman
Walgren
Williams, Ohio
Wilson, Bob
Young, Alaska

□ 1150

Mr. SAWYER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1200

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, line 23, after "series" insert: ": *Provided further*, That no funds authorized by this paragraph may be used to construct any vessel which will have a subsidized manning level 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessel".

Mr. McCLOSKEY. Mr. Chairman, I know when I am licked by the steel caucus and the shipbuilding caucus in combination. I want to assure the steel caucus and the shipbuilding caucus that this amendment in no way harms them. What this amendment does is to require that if we are going to spend subsidy funds to subsidize the crew costs on a ship, that the manning level of that for which we are expending taxpayers' money be no higher than 50 percent above the Coast Guard manning level for the safety and the security of the vessel.

Let me cite to the committee the precise reasons why I offer this amendment. Last year, Pacific Far East Lines went into bankruptcy. One of the reasons Pacific Far East Lines stated to our committee that they went into bankruptcy was because the union on the west coast forced them to carry a crew of 40 on a ship where the Coast Guard manning level was 22. This is the LASH ship of the kind we are funding in this program, and the Coast Guard said that to operate this ship safely you had to have a crew of 22. The same LASH ships operating out of New Orleans carry a crew of 32, 10 above the minimum level for safety purposes. This amendment would limit the crew of that LASH ship to a crew of 33, 1 above the level at which it is being operated profitably. The difference is that Pacific Far East Lines was forced by this union to featherbed and to carry a crew well above 50 percent over the safety level. In fact, a crew of 40 is 25 percent higher than the crew that that same ship was carrying out of gulf coast ports. Where the rub comes is that those 8 additional crew members are paid for by taxpayers of the United States through an operating differential subsidy, this year about $250 million. All this amendment does is to say that if we are going to subsidize the operation of U.S. ships carrying U.S. crews, they cannot be subsidized at a level 50 percent higher than the safety level set by the Coast Guard.

I submit there can be no argument against this amendment except to argue that there should be featherbedding, because the Coast Guard is the agency designated by our Government to say how many crew members are needed to operate our ships safely. To have the taxpayers pay more than 50 percent above the safe minimum is an outrage.

Mr. BIAGGI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it would seem to me that if this amendment was introduced 10 years ago, I would certainly have supported it. To construe that opposition to this amendment would be to favor featherbedding I think is an excursion into the realm of fantasy. But the fact of the matter is, the amendment is needless. There has been substantial progress made. The Coast Guard establishes its manning standards, minimum manning standards. I think those are the critical words, "minimum standards." The Coast Guard does not make any provision for the personnel in the steward's department. The limitation of 50 percent above the Coast Guard minimum may or may not be adequate, depending upon the type of vessel, trade, and other operational factors, again placing emphasis on minimum standards. It does not give recognition to the modern day vessels and their operations where different manning levels are required.

With relation to featherbedding, I said before that in yesteryear and ancient history it would have been applied, that criticism was sound. Where you do have occasional abuses, it should be addressed. It does develop as a result of the collective bargaining process, where people sit down and agree. But there may be an occasional abuse. It does not run rampant. The fact of the matter is, the record speaks for itself. In 1968, there were some 54,000 seagoing vessels. Today there are 20,000. Today a 250,000 deadweight-ton tanker has a crew of 30, compared with a 15,000 deadweight T-2 tanker with a crew of 45. There is a reduction. Automation has come into play. The consequence, naturally, is a diminution of the need for personnel and is reflected by reduction in numbers. The first new container ships, with a crew of 37, replace the C-2 type, each with a crew of 47.

The National Maritime Union testimony showed the following levels of operating costs: rails, 51 percent, motor carriers, 50 percent, airlines, 41 percent, and maritime, 20 percent.

Vessel-manning is too serious a question to be dealt with in an arbitrary fashion. The number and qualification of crew members have to be carefully reviewed and based upon operational and maintenance procedure. This is currently being done by the Maritime Study Board.

Consideration should also be given to the possible impact of the Subcommittee on Standards and Training, which met in London on January 22-26 of this year. The most significant item considered was manning, and there was a general agreement for the development of a document covering principles and guidelines for manning on a universal basis.

In light of the above, the amendment, frankly, is outdated, and it borders on the mischievous. I know the author of the amendment would hardly have introduced one knowingly, but I think the statements speak for themselves. Ten years ago it would have been welcomed, and I would have been a strong supporter, but today it is really needless.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. SNYDER. We are talking now about the commercial carriers and factors to be considered that do not have to be considered with regard to the Coast Guard, such as trade routes on which they are traveling, what they are carrying, the number of ports of call at which they have to stop, things of this nature, which are not factors in the Coast Guard minimum manning levels.

Mr. BIAGGI. That is true. But these are matters of collective bargaining, and that is the practice, ofttimes, which we abide by and, sometimes, are burdened by. But I think it clearly sends a message that, when the collective bargaining process is under way, it should be a very realistic process, considering all of our concerns.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I think the gentleman was present in the committee room with myself 3 years ago when the *Monterey* and the *Mariposa*, the last two subsidized U.S. passenger ships were going out of operation because they were losing millions of dollars a year that the taxpayers were subsidizing. And what happened was that the unions that manned the *Mariposa* and the *Monterey* came before our committee and said to us, "Congress, if you will continue the subsidy to operate these U.S. passenger ships, we can cut our manning level as much as half." The operators of the lines said, "The reason we are losing so much money is because we are having to accept these manning levels negotiated by the unions."

The gentleman is correct, this would be a cap on the union's ability to force featherbedding above 50 percent over what the Coast Guard requires. If the Coast Guard and IMCO come out and say that only 30 people are needed to safely operate a ship, why should we authorize Government funds to pay more than 45, more than 50 percent higher?

Mr. BIAGGI. Except that applying uniform standards and giving consideration to all of the variables that do enter into the operation would be, I think, restrictive, and that would place a hardship. It might even raise some question of safety.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 27, noes 26.

☐ 1210

RECORDED VOTE

Mr. BIAGGI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 183, not voting 55 as follows:

[Roll No. 393]

AYES—196

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Ashley
Aspin
Badham
Bafalis
Barnard
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Boland
Bonker
Bouquard
Brademas
Brinkley
Broomfield
Brown, Ohio
Burgener
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Dannemeyer
Davis, Mich.
Derrick
Derwinski
Devine
Dickinson
Dornan
Drinan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Fountain
Frenzel
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Heckler
Hefner
Hillis
Hinson
Holt
Hopkins
Horton
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Levitas
Lewis
Loeffler
Lujan
McClory
McCloskey
McDonald
McHugh
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
O'Brien
Panetta
Pashayan
Paul
Pease
Petri
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Roth
Royer
Rudd
Runnels
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Studds
Stump
Tauke
Taylor
Thomas
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitley
Whittaker
Whitten
Winn
Wirth
Wydler
Wylie
Yates
Young, Fla.

NOES—183

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Applegate
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bowen
Breaux
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Clausen
Clay
Coelho
Collins, Ill.
D'Amours
Daniel, R. W.
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Duncan, Oreg.
Eckhardt
Edgar
Emery
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Flippo
Florio
Foley
Frost
Fuqua
Gaydos
Gephardt
Gilman
Ginn
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Harsha
Hawkins
Heftel
Hollenbeck
Holtzman
Howard
Hubbard
Hutto
Johnson, Calif.
Jones, N.C.
Kazen
Kildee
Kogovsek
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McCormack
McKay
McKinney
Madigan
Markey
Marks
Matsui
Mavroules
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pepper
Perkins
Peyser
Price
Pritchard
Rahall
Ratchford
Reuss
Rinaldo
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Shannon
Shelby
Slack
Snowe
Snyder
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Swift
Synar
Thompson
Traxler
Trible
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Whitehurst
Williams, Mont.
Wilson, C. H.
Wolff
Wolpe
Wright
Wyatt
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—55

Anderson, Ill.
Bolling
Brodhead
Brooks
Broyhill
Chappell
Chisholm
Cleveland
Conyers
Corman
Cotter
Crane, Philip
Deckard
Diggs
Early
Edwards, Calif.
Evans, Ga.
Flood
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Garcia
Giaimo
Gibbons
Hightower
Holland
Huckaby
Ireland
Jenrette
Lott
Lundine
Lungren
McDade
McEwen
Maguire
Mathis
Mazzoli
Moffett
Nolan
Pickle
Rangel
Richmond
Rodino
Rousselot
Santini
Smith, Iowa
Symms
Treen
Ullman
Walgren
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Young, Alaska

☐ 1220

Messrs. DEVINE, ABDNOR, KEMP, and DAVIS of Michigan changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SNYDER: On page 3, line 4, after "Defense" insert: ": *Provided further*, That an operator receiving funds under this paragraph may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if:

"(a) the vessel is less than ten years of age,

"(b) the suspension period is not less than twelve months, and

"(c) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce.

Any operator making such an election is entitled to full reinstatement of the suspended contract on request until October 1, 1984. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of this provision".

Mr. SNYDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

☐ 1230

Mr. SNYDER. Mr. Chairman, two of the basic objectives of H.R. 2462 are to promote the maintenance of a U.S. merchant marine fleet capable of providing essential shipping services and to insure our national security.

It was in an attempt to achieve these objectives that the operating differential subsidy program was initially instituted. The operating differential subsidy provides for payment of Government funds to private U.S. ship operators in an effort to close the gap between the costs of operation by U.S. operators and the lower costs of operation by foreign ship operators.

After listening to the testimony of the Maritime Administration, as well as the subsidized and unsubsidized operators during the hearings on the authorization, I came to the conclusion that something was wrong with the operating subsidy program.

I learned that in spite of $2.8 billion in subsidy since 1970 our subsidized fleet had declined in size and the profit picture was bleak. In fact, in the last 20 months 2 of our 10 subsidized steamship companies went bankrupt, 3 operated in the red, and 1 was taken over. Our small subsidized bulk carrier fleet has not done much better. In the last year, 4 of the 12 companies operating subsidized bulk carriers lost money or broke even. Five of the remaining eight made a total profit of only $700,000 after operating subsidies of $10 million.

And, that is not because the market is bad. During the same period our unsubsidized companies were making money. The evidence of this is clear: Two of the three largest unsubsidized operators are embarked on major expansion programs.

The reasons for this soon became obvious: The subsidy programs had too many strings attached. The restrictions on the operators actually prevented them from going out into the free market and competing for cargo.

After realizing this, I thought it would be valuable to conduct an experiment. We would allow subsidized operators to give us their subsidy in exchange for dropping the operating restrictions on those vessels they took off subsidy. If the operator, unemcumbered by Government redtape, can then compete, make money, and stay off subsidy, it will also be relieved of its vessel replacement obligation. But, if before October 1, 1984, the operator found it cannot make money without subsidy it can reinstate its subsidy contract, with all restrictions, including the replacement obligation.

In drafting this amendment I included several safeguards which, I do not believe are too onerous.

First, the only vessels which would be eligible would be those less than 10 years of age. This provision protects against a situation where an operator could avoid its replacement obligation on a vessel which was almost at its replacement age.

Second, the minimum suspension period is 12 months. I added this safeguard because I wanted to avoid a situation where an operator would jump in and out of the subsidy program in order to "skim" a few lucrative cargoes. I also wanted to avoid a situation which would create an inordinate amount of paperwork for the Maritime Administration.

Third, the suspended restrictions are only those which exist because of the receipt of operating subsidy. If an operator suspended operating subsidy for ships which were built with construction subsidy, it could not use this amendment to escape the restrictions which limit the right of ships built with construction subsidy to serve the domestic trades.

The final safeguard is that an operator who elects to suspend its subsidy must maintain its financial condition at a level acceptable to the Secretary of Commerce. I believe this condition is appropriate to protect the substantial financial interest which the Government has in most subsidized steamship companies.

I do not know how many operators will take advantage of this program, however, I believe it is important that we try something new. It is clear that something has to be changed.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT OFFERED BY MR. SNYDER

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York to the amendment offered by Mr. Snyder: Insert after the word "Commerce" first appears a new paragraph (c) as follows:

(d) The owner agrees to pay the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

Mr. MURPHY of New York. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky.

The Subcommittee on Merchant Marine, on May 24, 1979, held hearings on the proposal of Mr. Snyder to provide greater flexibility to operators of vessels in the U.S. merchant marine who receive operating differential subsidy, under the provisions of a program whose funding is the subject of the authorization measure now before the House.

The issues considered during our hearings were raised originally during the committee's consideration of the authorization for fiscal year 1980. Because of the uniqueness of the recommendation and the fact that ample time could not, at that time, be devoted to adequate review of the amendment, we held hearings specifically to explore the merits of proposals designed to make more flexible the operations of carriers who participate in our subsidy programs.

The Maritime Administration during the hearing supported "the concept of maximizing the operational flexibility of its subsidized fleet," and with the safeguards included in the amendment, I believe we have before us a concept which can be implemented.

This amendment is premised on the assumption that the restrictions attached to the receipt of subsidy, while necessary to the integrity of the current maritime programs, may prevent operators from moving into trades where the cargo is and where their profitability may be enhanced. The options in the 5-year experiment will provide the Congress and the administration with an empirical as well as conceptual base upon which to determine the course of our maritime policy.

The amendment of the gentleman from Kentucky is designed to accord subsidized companies greater operating flexibility by releasing them from contractual sailing obligations if they in turn suspend their right to receive operating subsidies. In certain instances, such companies have been prevented by their contracts from operating in preference trades reserved for American ships. They would now be allowed to do so through the suspension of these contracts.

However, since their vessels will be competing in such trade not with foreign ships, but only with unsubsidized American vessels, it would not be proper to allow them to retain their construction subsidies, which would give them an unfair advantage against vessels built at full American cost—almost double the cost of construction with subsidy. Hence, I offer to further amend the amendment of my colleague from Kentucky to require repayment of construction subsidies in proportion to the time spent in a previously unauthorized preference trade.

The 1936 act itself provides for such proportional repayment when subsidized ships are permitted to engage in the related coastwise trade, which like the offshore preference trades has no foreign competition and in which no construction subsidy is allowed to American vessels.

In his state of the Union message, the President stated: "We must improve the ability of our merchant marine to win a fair share of our cargo." It is my belief that the provisions of the amendment offered by Mr. Snyder will improve the ability of our subsidized carriers to become more commercially self-reliant by allowing them to enter, without subsidy support, the open marketplace where they may compete for cargoes.

It has been long alleged that receipt of subsidy payment carries with it a burden which, in many instances, is greater than the benefits which are conferred by the program. The measure before us creates an opportunity for our subsidized carriers to demonstrate their capacity to compete equally with all other carriers, whether flying the U.S. flag or not. I assure my colleagues, that, with the safeguards Mr. Snyder has included in his amendment, this parity is not being bought at the expense of domestic trade or other nonsubsidized operators, nor will the utilization of the provisions of the measure have anything but the most salutary effect on the cost effect on the cost of moving waterborne cargoes.

I urge my colleagues to join in supporting the initiative of my colleague from Kentucky, and I urge the adoption of this amendment.

☐ 1240

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

As I understand the gentleman's amendment to the principal amendment, it would require a proportional payback of the construction subsidy for the time during which one of these ships would be engaged in the very profitable preference trade. I think that this amendment to the principal amendment is probably fair in consideration of this new competition and its possible effects. Otherwise the original amendment could result in an operator receiving an unfair advantage. As the sponsor of the principal amendment, I have no objection to the acceptance of the gentleman's perfecting amendment.

Mr. MURPHY of New York. My colleague states the case equitably, and I appreciate his support of the amendment to the amendment.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding. The minority accepts the amendment to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy) to the amendment offered by the gentleman from Kentucky (Mr. Snyder).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Snyder), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SNYDER

Mr. SNYDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Snyder: On page 4, after line 5, insert:

Sec. 5. Section 27 of the Merchant Marine Act, 1920, as amended, 46 U.S.C. 883, is hereby further amended by adding the following new clause at the end thereof: ": *Provided further*, That until October 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination. This proviso shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.".

Mr. SNYDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. SNYDER. Mr. Chairman, my second amendment represents an attempt to allow U.S. operators to use certain U.S.-flag vessels between U.S. ports to relay cargo enroute to foreign destinations. Under the current law, a subsidized operator may stop in U.S. ports while enroute to a foreign destination, if it pays back a pro rata portion of its subsidy. However, as the law now stands, a foreign built, U.S.-flag vessel operating without any subsidy cannot transfer loaded containers moving in the U.S. foreign commerce at an interim U.S. port on their journey between another U.S. port and a foreign port. This impediment obviously goes to the benefit of the foreign-flag lines which now provide all water services on the routes where U.S.-flag carriers are now prevented from operating a transfer service.

This amendment is intended to correct this problem.

It is also important to note that the American-flag, American-owned containerships involved in such a movement under this amendment will have to be under the common operation of a single U.S. carrier and the cargo must have either a foreign origin or destination. Consequently, this amendment will not intrude on the Jones Act's coverage of domestic cargo.

As well as encouraging U.S. operators to bring their foreign built vessels under the U.S. flag and thus strengthening the ranks of the now dwindling U.S. merchant fleet this amendment will also create additional employment at U.S. transfer ports.

Consider, as an example, the trade between the U.S. west coast and Europe. There are no U.S.-flag containership operators offering direct all-water service in that trade.[1] However, there are four foreign-flag operators or consortia of foreign-flag operators providing direct service on this route. Sea-Land currently provides limited service in that trade by moving containers by rail between the west coast and the east/gulf coasts. Next year, Sea-Land would be in a position to provide a new U.S.-flag all-water service in this trade by relaying cargo at east coast ports. This new U.S.-flag service would be competitive with the foreign-flag operators in the trade. Section 27 prohibitions, however, prevent them from offering the service.

The latest available Maritime Administration statistics show that U.S.-flag participation in the west coast-Europe trade (TR 26) are as follows:

Cargo (long tons), U.S.-flag

[In percent]

1976:	
1,152,000	2
1975:	
1,076,000	1
1974:	
1,350,000	1
1973:	
1,433,000	1
1972:	
1,355,000	1

This proposed amendment to H.R. 2462 would amend section 27 without in any way detracting from the U.S.-flag, U.S.-built requirements for carriage of domestic cargoes. It will allow certain additional U.S.-flag vessels, sailing in foreign commerce, to provide additional service by transfer of containerized import/export cargo as part of the transportation by water in the foreign commerce.

Because this amendment is heretofore untested, I have placed the same time limitations on this amendment that appear in my first amendment. I believe this time constraint will give these American-flag operators an opportunity to demonstrate that this amendment is in the best interest of the American merchant marine.

Mr. MURPHY of New York. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky, which would permit the transfer of containers in foreign commerce between U.S.-flag ships in U.S. ports.

At the present time, the existing section 27 of the Merchant Marine Act of 1920 (the Jones Act) has the effect of diverting cargo from U.S.-flag carriers to foreign carriers, or to highway and rail modes. This is so because American companies operating unsubsidized U.S.-flag (foreign built) vessels are precluded by section 27 from transferring loaded containers moving in the U.S. foreign commerce at an interim U.S. port on their journey between another U.S. port and a foreign port.

The amendment under consideration would change the above mentioned proscription and would permit an unsubsidized U.S.-flag carrier with a foreign built vessel to transfer its loaded containers, moving in the U.S. foreign commerce, at an interim U.S. port on their journey between other U.S. ports and ultimately a foreign port.

The objective of this amendment is to remove unintended impediments to the efficient operation of these U.S.-flag operators, and to provide them with the necessary flexibility in their operations. This amendment will provide this needed flexibility by allowing these U.S.-flag vessels, involved in foreign commerce, to transfer containerized import/export cargo as part of the transportation by water in the foreign commerce.

While providing this necessary flexibility it is nevertheless necessary to exempt certain noncontiguous offshore domestic trade areas from the application of this amendment because of the implications of the Jones Act in the amendment. Without these exceptions the amendment would permit a foreign built vessel to go from the continental United States to Guam, Alaska, the Marianas, Hawaii, and Puerto Rico, in violation of the traditional and longstanding U.S. cabotage laws. For this reason, the amendment will specifically exclude from its application the areas mentioned above, while at the same time providing the desired flexibility by permitting the carriage of cargo between domestic continental U.S. ports in a U.S. foreign commerce movement.

For the reasons mentioned above, I would urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Snyder).

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[1] U.S. Lines provides a service in the trade by relaying cargo at East Coast ports using its Pacific and Atlantic service vessels.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 3, line 4, after "Defense" insert: ": *Provided further*, That no funds authorized by this paragraph may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, the American Maritime Officers Service, or to any other organization which engages in lobbying activities".

Mr. McCLOSKEY. Mr. Chairman, this amendment is intended to close one last area of public financing of lobbying activities. For those who are unfamiliar with the operating subsidy program, the way it operates is that if a U.S. seaman on a subsidized line is earning $20,000 a year and a foreign seaman is earning $8,000 a year, the U.S. Government under the operating subsidy pays the additional $12,000 so that the U.S. company is not penalized by having to pay for more expensive labor.

What has happened is that the maritime unions have negotiated, as part of their labor contracts in several instances, a required payment by the company into a so-called Research Institute, and the cost that is contributed to that Research Institute adds, of course, to the wages paid to those seamen as an operating cost and is paid for by the U.S. taxpayers.

Two years ago when we had the cargo preference fight, two such research organizations, the Joint Maritime Congress and the Transportation Institute, contributed $100,000 and $50,000, respectively, into the campaign for cargo preference. We could thus trace directly taxpayers' funds into seaman's wages that were subsidized, into an institute which then lobbied on bills before the Congress.

All this amendment does is prohibit any taxpayers' funds paid through the operating differential subsidy to be paid into an institution which is engaged in lobbying activities.

☐ 1050

This does not prevent the lobbying activities, it merely prevents Government funds from being used as part of those lobbying activities.

I yield back the balance of my time.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment on its surface has some appeal but suppose we examine just what it does.

We have an operational differential subsidy program that is designed for one specific purpose and that is to take care of the imbalance in pay between the pay of foreign seamen to the pay of American seamen. It is a differential carefully arrived at by the Department of Commerce. Then a subsidy is paid to 8 U.S. companies that apply for that subsidy so the United States can maintain an American flag fleet. Because the U.S. Government recognizes that imbalance in payment and we feel that the American seaman should be paid at a commensurate American industrial wage and that is where that subsidy figure comes from. It comes from an across-the-board evaluation of the industrial wages of American workers and we treat our American seamen the same way.

Mr. Chairman, we have many collective bargaining agents and agencies and unions involved in the seafaring trade. We have the Marine Engineers Beneficial Association, we have the Seafarers International, the National Maritime Union, all of these unions that properly represent members in the true and open American collective bargaining process. They represent hundreds of companies, not just the eight subsidized companies but hundreds of companies. These hundreds of companies sit down and they bargain collectively through the American free and open collective bargaining process.

In that process the Transportation Institute and certain other organizations that will speak definitively to the issues of that industry and labor industry, a certain portion of funds from all of those companies will go to support those activities.

This is a wholesome activity. I would support it. I think to say we do not want any ODS funds to be spent for this type of lobbying activity is almost a tertiary way of getting in a third-handed way at America's organized labor unions. I frankly do not think it is fair.

I think if we said to the teachers, "You can't have the United Federation of Teachers down here and you cannot permit any of the subsidy funds that go to American education that assist the teachers and the teaching profession and you cannot have a lobbying organization," that would not be acceptable. We pour billions of dollars into States and billions of dollars into cities and we should tell the National League of Cities that none of the funds that go to the cities can be used to support the National League of Cities, so that the voice of the cities could be heard in the national legislatures? I think it is a grossly unfair amendment and, therefore, I would hope that the committee would defeat it.

Mrs. FENWICK. Mr. Chairman, would the gentleman yield?

Mr. MURPHY of New York. I would be happy to yield to my colleague.

Mrs. FENWICK. I thank my colleague for so graciously yielding.

I would like to draw attention to the fact that the Federal Elections Commission has found that the action of the National Education Association in contributing some $400,000 in campaign funds was not desirable and not quite according to what they would hope.

I, therefore, Mr. Chairman, think it is clear that things like dues and wages and things cannot be really used for lobbying in that way.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I would be happy to yield to my colleague from Kentucky.

Mr. SNYDER. I was just looking at the amendment and recalling how the gentleman from California laid out what ODS is. That, if a foreign company pays $8,000 wages and we have to pay $20,000 then the subsidy is $12,000 or something like that.

As I read the amendment, even if it is adopted the contract could say, "OK, we are going to pay the fees to the respective organizations out of the $8,000 factor in their $20,000 wage and none out of the $12,000," and, therefore, it would be ineffective anyway. Am I correct?

Mr. MURPHY of New York. I think it would be discriminatory against the workers in those eight companies. They would be treated as second-class seamen.

Mr. SNYDER. Is it not also true that they could still go ahead and do it even if the amendment is adopted, just by allocating the fees out of the portion of the salary that is not subject to subsidy?

Mr. MURPHY of New York. It is possible they could do it but it would be a gross inequity and unfair to the workers in those eight companies.

Mr. McCLOSKEY. Mr. Chairman, would the gentleman yield?

Mr. MURPHY of New York. I will be happy to yield.

Mr. McCLOSKEY. Just to try to explain the amendment, all it does is, it would deny Federal subsidy for that portion of the negotiated wage which is going into the institute which engages in lobbying activities.

The gentleman is correct. The company could still pay it. They just would not receive a subsidy from the Federal Government. As it is now, this is Federal money.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. McCLOSKEY's amendment states, "Provided further no funds authorized for this paragraph may be paid for any item of wage costs that is paid to TI, JMC," and so forth. If three-fourths of the total wage is the amount of the subsidy, then that is the amount of funds authorized by this paragraph. Consequently, I think that the one-fourth that is not a portion of the subsidy could be used and earmarked for the purpose of paying these fees. That was the subject of my question. It strikes me it could still be accomplished that way.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. McCLOSKEY. I would respectfully say the gentleman is in error. In $20,000 of that wage cost, let us say $50 goes toward one of these institutes, instead of getting $12,000 from the Government subsidy, they would get $11,950. It would just mean the company would have to pay.

Mr. SNYDER. They could also say, "We are not going to pay any of the $50 out of the $12,000 but we are going to pay it all out of the $8,000."

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the McCloskey amendment.

Mr. Chairman, the United States is the single largest importing and exporting country in the world and yet less than 5 percent of our total commerce is carried on U.S.-flag ships.

These facts are staggering and embarrassing. They are embarrassing because the preamble of the Merchant Marine Act of 1936 clearly states that the United States shall have a merchant marine sufficient to carry a substantial portion of the waterborne export and import foreign commerce of the United States. I suggest that less than 5 percent is not a "substantial portion."

Mr. Chairman, I agree with the purpose of the Merchant Marine Act and I believe we have the capability of fulfilling these goals. What we need is the will.

Mr. Chairman, I would like to highlight the work of the Transportation Institute and the Joint Maritime Congress. These organizations fill the need for research and education organizations to analyze and offer solutions to the problems faced by a deteriorating maritime industry.

Both the Transportation Institute and the Joint Maritime Congress were created pursuant to a collective-bargaining agreement and they are exclusively funded and administered by ship operators. The structure and integrity of the collective-bargaining process has been protected from intrusions which violate fundamental rights of American workers through section 7 of the National Labor Relations Act. Any attempt to prohibit their activities by limiting their funding sources would, in fact, revise the basic structure of our collective-bargaining system and I do not believe that Congress intends to do that.

Let me remind my colleagues that in 1970 Congress specifically addressed the issue of subsidy payments and the uses to which they could be put. To create an incentive to hold down wages, Congress created an index system—wage increases above a certain amount would reduce the subsidy. It was thought that it would be unfair for Marad to determine that a collective bargaining agreement was "unreasonable" after negotiations had been conducted in good faith. Thus, subsidies would be based on collective bargaining costs rather than fair and reasonable wage costs. The Merchant Marine Act was then amended in 1970 so that the new operating subsidy provision clearly stated that all costs required of operators by collective bargaining agreements shall be part of collective bargaining costs and, therefore, eligible for subsidies. Note that a U.S. court of claims, in a ruling on this issue, concluded that the Federal Government is legally bound to subsidize collective bargaining costs which are negotiated at arms' length and in good faith.

Mr. Chairman, I support our merchant marine, the Transportation Institute and the Joint Maritime Congress, which are its research and education instruments, and I call upon my colleagues to do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The question was taken; and on a division (demanded by Mr. McCloskey) there was—ayes 9, noes 4.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Emery: On page 3, line 8, strike "$29,374,000" and insert in lieu thereof "$31,372,000".

On page 3, line 12, after "schools," insert "$1,998,000 for fuel oil for State marine school training vessels,".

Mr. EMERY. Mr. Chairman, I am introducing an amendment to H.R. 2462, the maritime authorization bill, to provide $1,998,000 to State marine schools for the purpose of purchasing fuel for training vessels.

The Maritime Administration projects that fuel costs will increase over the next year by at least 10 percent. Given our recent experience, this is a conservative estimate, indeed. Using last year's consumption as a basis for computing the cost and multiplying that figure by the current fuel price plus 10 percent, MarAd estimates that $1,998,000 must be spent in fiscal year 1980 in order to operate the marine school training vessels.

Many Members may remember that the fiscal year 1979 maritime authorization bill contained a provision which provided for increased fuel costs in the amount of $1.1 million. This aspect of State marine school expenses was not addressed this year, and consequently, unless my amendment is accepted, the schools have to come up with the amount themselves.

As a member of the Ad Hoc Select Subcommittee on Maritime Education and Training, I have had the opportunity to review the operation of many marine schools, and I have been impressed by the cost effective operation of most of them. They have, in my opinion, exhibited the ability to revise their budgets in light of increasing inflation and, yet, continue to train merchant seamen to a high level of excellence and competence. The training vessels are an integral part of a seaman's curriculum at the schools and cannot be dispensed with or minimized. For this reason, I feel that we should authorize $1,998,000 for State marine schools in order that they may purchase fuel for training vessels during fiscal year 1980.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the gentleman has brought up a very salient point when he offered this amendment, which the Committee supports. The cost of fuel for the State schools particularly has risen exorbitantly and the amendment is a necessary amendment.

☐ 1300

Mr. EMERY. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. Emery).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCloskey: On page 4, after line 5, add:

"Sec. 5. Notwithstanding any other provision of law, the Secretary of Commerce may, under the same terms and conditions applying to vessels built in the United States, make the operating-differential subsidy provided for in section 601 of the Merchant Marine Act, 1936 (46 U.S.C. 1171), and government-impelled cargoes provided for in section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241), available to any vessel that is contracted for or purchased by a United States citizen in fiscal year 1980 and subsequently documented under the laws of the United States.".

Mr. McCLOSKEY. Mr. Chairman, this amendment would allow U.S. steamship companies to purchase foreign built vessels for operation under the U.S. flag with U.S. crews while receiving operating subsidies and carrying preference cargoes.

The basis for this amendment lies in the admitted failure of the ship construction subsidy program to allow U.S. companies to purchase vessels at costs equivalent to their foreign competition.

We have authorized today three ships costing $46 million. Those same ships could be purchased for $20 million today, but they cannot be operated under operating differential subsidies.

The intent of this amendment is consistent with the intent of the omnibus bill that the chairman and I have joined in sponsoring.

I am hoping that the majority might accept this amendment, because it will allow us to get some experience in fiscal year 1980 with the effect of the bill that we are trying to pass.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I am glad to yield to the gentleman.

Mr. MURPHY of New York. I was going to ask the gentleman to withdraw the amendment in the same spirit as the gentleman's request to me, because of the fact that when the gentleman and I and the distinguished gentleman from Kentucky introduced the omnibus maritime bill just 2 weeks ago, this was one of the key provisions of concern to all segments of this industry.

We have already embarked on an in-depth set of hearings in the next 2 months, that is in September and October. We will have 15 hearings where we will develop this program. We will bring the private sector in. We will bring in Government witnesses. We will bring in labor. We are going to bring in the representatives, the American representatives of foreign flag interests and foreign commercial interests, to try and develop in this area a program to do exactly what the gentleman is trying to do, that is to unite the construction costs and the exorbitant construction costs that have made it virtually impossible for American flag operators to build in America without construction subsidies.

We have the Ways and Means Committee that has already finished the Rostenkowski task force report.

Chairman Ullman will take up the tax incentives to the American shipbuilding industry.

I would hope that we would wait until the maritime omnibus bill is moving into its final fruition, so that then we can try and test this concept and not have it interfere in a 1-year authorization bill that would interfere with the construction subsidy contracts that are tied and geared into the ODS programs on a 20-year basis.

Mr. McCLOSKEY. Well, Mr. Chairman, I value the point the gentleman makes. The operating subsidy application that has been made has been predicated on existing companies, both liner and bulk and the subsidies that they will ask for.

Presumably, if we include this in the authorization bill, this may stimulate some U.S. company to buy a foreign built ship, seek to bring it under the operating differential subsidy and ask for a supplemental appropriation this year.

I have no objection at all to what the gentleman is saying. This will not interfere with any existing operating subsidy. It might stimulate a company to try to buy a foreign built ship, put it under a U.S.-flag and get the advantage of this subsidy.

I do not think the gentleman and I are in any disagreement.

Mr. MURPHY of New York. Yes; but the gentleman's amendment would permit it like that and there would be no sanitizing period and they would be in on preference cargoes right away at this juncture before we had had the opportunity to fully analyze the impact of the proposal.

Mr. McCLOSKEY. Let me say to the gentleman, I agree with that, but I do not think any U.S. company may take advantage of this; but I think they will come before our committee and tell us why they will not take advantage of it. It will stimulate the testimony. It will stimulate the consideration of this bill from a practical standpoint.

I am afraid to buy a foreign built ship, we are going to have to remove that requirement of Coast Guard certification, for example, and accept a business standard as to whether the vessel is built to class, rather than to U.S. Coast Guard standards. If so, this kind of addition to the bill will stimulate a real look at the problem, rather than a theoretical look.

Mr. MURPHY of New York. I think the only thing it will stimulate would be a few coronaries in the industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The amendment was rejected.

Mr. EVANS of Delaware. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, since the Congress enacted the Fisheries Conservation and Management Act establishing the 200-mile economic zone, foreign catches of fish within that zone have declined substantially. Even so, seafood consumption in this country is largely provided for by import products.

There is much we can do to more fully realize the potential of the domestic seafood industry. At a recent Mid-Atlantic Fisheries Development Conference sponsored by the Department of Commerce much discussion focused on the need to develop shoreside commercial fisheries facilities. According to a resolution approved by the seafood committee of the Delmarva Advisory Council, a recent National Marine Fisheries Service study shows "that lack of processing capacity and shoreside fisheries facilities is high among those factors that are impeding the development of our seafood industry."

Mr. Chairman, when the Senate passed the Maritime Authorization Act of 1980, two amendments to the Merchant Marine Act of 1936 were approved pertaining to the financing of shoreside commercial fisheries facilities. In the Senate version, the loan obligation guarantee and capital construction fund sections of the Merchant Marine Act were amended to extend the benefits of those sections beyond commercial fishing vessels to include actual shoreside fisheries facilities. These provisions could provide a real boost to our domestic seafood industry.

The amendments as approved by the Senate will be considered in conference following passage of the House version of the Maritime Authorization Act. I urge those of my colleagues who will sit on the conference committee to recognize the importance and need for shoreside fisheries facilities.

● Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to the proposed amendment of the gentleman from California (Mr. McCloskey).

This amendment says that no operating subsidy funds may be paid for any item of wage costs paid to the Transportation Institute, Joint Maritime Congress, American Maritime Officers' Service, or to any other organization which engages in lobbying activities.

This amendment should be defeated for various reasons, the foremost being that it is based on the misconception that the named organizations in fact receive funds from the Federal Government. In reality, these worthwhile organizations which do engage in legitimate legislative activities have never received any funds from the U.S. Government.

In exchange for providing certain services and undertaking certain obligations, American shipping companies receive operating subsidy funds from the Federal Government. These companies, when paid by the Government upon the fulfillment of their ODS contractual obligations, have the same rights as all other American companies to use their lawfully earned income for any other legitimate and legal purpose.

These companies, pursuant to collective bargaining agreements with maritime unions, have agreed to make contributions to and to support the organizations named in this amendment. They contribute to these organizations like they pay employee wages—as determined through the federally protected collective bargaining process.

It is the longstanding policy of our Government to refrain from intruding into this process and from imposing unnecessary restrictions on the parties engaged in collective bargaining. I do not believe this policy should be violated in this case.

I would urge my colleagues to defeat this amendment.●

□ 1310

The CHAIRMAN. If there are no other amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Yates, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2462) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, pursuant to House Resolution 283, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them in gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

S. 640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000;

(2) For payment of obligations incurred for operating differential subsidy, not to exceed $256,208,000;

(3) For expenses necessary for research and development activities, not to exceed $16,360,000;

(4) For maritime education and training expenses, not to exceed $25,874,000, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at

Kings Point, New York, not to exceed $6,785,000 for financial assistance to State marine schools, and not to exceed $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1126(c)); and

(5) For operating expenses, not to exceed $35,598,000, including not to exceed $6,377,000 for reserve fleet expenses, and not to exceed $29,221,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Sec. 4. Section 30 of the Merchant Marine Act of 1920 (46 U.S.C. 922(a) (5), is amended by inserting after the words "United States" the words "or a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States".

Sec. 5. (a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) is amended to read as follows:

"(a) Agreement Rules.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k) (1)), or one or more fisheries facilities (as defined in subsection (k) (9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United State, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or

"(2) replacement, additional, or reconstructed fisheries facilities in the United States, and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b) (1) (A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k))."

(b) Ceiling on Deposits.—Subsection (b) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Qualified Withdrawals From the Fund.—Subsection (f) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or a fisheries facility," after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Tax Treatment of Qualified Withdrawals.—Subsection (g) of section 607 of such Act is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Definitions.—Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facilities' means new or used landing, receiving, processing, storage, and distribution facilities, together with all necessary equipment, including land where appropriate.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

Sec. 6. Section 1104(a) of the Merchant Marine Act, 1936 is amended by—

(1) redesignating paragraph (4) as (5);

(2) inserting after subparagraph (3) the following:

"(4) financing or refinancing fisheries facilities;" and

(3) inserting after paragraph (5) (as redesignated by this section) the following:

"For the purpose of this paragraph (4) the term 'fisheries facilities' means new and used landing, receiving, processing, storage and distribution facilities together with all equipment, including land where appropriate.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Murphy of New York moves to strike all after the enacting clause of the Senate bill, S. 640, and to insert in lieu thereof the provisions of H.R. 2462, as passed, as follows:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000: *Provided*, That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense: *Provided further*, That in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 per centum unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series: *Provided further*, That no funds authorized by this paragraph may be used to construct any vessel which will have a subsidized manning level 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessel;

(2) For payment of obligations incurred for operating-differential subsidy, not to exced $256,208,000: *Provided*, That no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense: *Provided further*, That an operator receiving funds under this paragraph may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if:

(a) the vessel is less than ten years of age,

(b) the suspension period is not less than twelve months,

(c) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce, and

(d) The owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

Any operator making such an election is entitled to full reinstatement of the suspended contract on request until October 1, 1984. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of this provision: *Provided further*, That no funds authorized by this paragraph may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, the American Maritime Officers Service, or to any other organization which engages in lobbying activities;

(3) For expenses necessary for research and development activities, not to exceed $16,360,000;

(4) For maritime education and training expenses, not to exceed $31,372,000, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,285,000 for financial assistance to State marine schools, $1,998,000 for fuel oil for State marine school training vessels, and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) For operating expenses, not to exceed $35,598,000, including not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Sec. 4. During fiscal year 1980 the aggregate amount of new loan guarantees authorized by title XI of the Merchant Marine Act, 1936, shall be limited to $1,500,000,000.

Sec. 5. Section 27 of the Merchant Marine Act, 1920, as amended, 46 U.S.C. 883, is hereby further amended by adding the following new clause at the end thereof: ": *Provided further*, That until October 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination. This proviso shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2462) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PROPOSED CONSIDERATION OF RESOLUTION IN THE MATTER OF REPRESENTATIVE CHARLES C. DIGGS, JR.

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. BENNETT. Mr. Speaker, I take this time to advise my colleagues that it is my intention to call up as the first order of business next Tuesday House Resolution 378, in the matter of Representative CHARLES C. DIGGS, JR.

It is my understanding that the House will convene at 10 a.m. on that day.

House Resolution 378 is a privileged resolution which, under the rules, may be discussed for 1 hour.

Because of the importance of this matter, I believe it would be proper that we have as full an attendance of the membership as possible when House Resolution 378 is under consideration. Copies of the report and the resolution were sent to the offices of all Members on Wednesday of this week.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE REPORT ON H.R. 4955, MIGRATION AND REFUGEE ASSISTANCE AUTHORIZATION FOR ADDITIONAL AUTHORIZATION, 1980 AND 1981

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight tonight to file a report on the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981, for migration and refugee assistance.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT MONDAY, JULY 30, 1979, TO FILE CONFERENCE REPORT ON H.R. 3363, DEPARTMENT OF STATE AUTHORIZATION ACT, 1980 AND 1981

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Monday, July 30, 1979, to file a conference report on the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND AUSTRALIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-169)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123 d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed Agreement Between the United States and Australia Concerning Peaceful Uses of Nuclear Energy and accompanying annex and agreed minute; my written approval, authorization and determination concerning the agreement; and the Memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary analysis of the provisions of the agreement, and the views of the Members of the Nuclear Regulatory Commission are also enclosed.

The proposed agreement with Australia is the first such agreement submitted to the Congress since enactment of the Nuclear Non-Proliferation Act of 1978, which I signed into law on March 10, 1978 and which, among other things, call upon me to renegotiate existing peaceful nuclear cooperation agreements to obtain the new provisions set forth in that Act. In my judgment, the proposed agreement for cooperation between the United States and Australia, together with its agreed minute, meets all statutory requirements.

I am particularly pleased that this first agreement is with Australia, a strong supporter of the Non-Proliferation Treaty and of international non-proliferation efforts generally. The proposed agreement reflects the desire of the Government of the United States and the Government of Australia to update the framework for peaceful nuclear cooperation between our two countries in a manner which recognizes both the shared non-proliferation objectives and the close relationship between the United States and Australia in the peaceful applications of nuclear energy. The proposed agreement will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *July 27, 1979.*

REQUESTS TO MAKE IN ORDER ON JULY 31, 1979, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3363, DEPARTMENT OF STATE AUTHORIZATION ACT, 1980 AND 1981

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that it shall be in order on Tuesday, July 31, 1979, or any day thereafter, to consider the conference report on the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and any amendment reported from the conference in disagreement between the two Houses of Congress, and said conference report or amendment in disagreement shall be considered as read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

REPORT ON RESOLUTION PROVIDING FOR SENDING H.R. 111, PANAMA CANAL ACT OF 1979, TO CONFERENCE

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 96-392) on the resolution (H. Res. 390) providing for sending the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, to conference, which was referred to the House Calendar and ordered to be printed.

NURSES TRAINING AMENDMENTS OF 1979

Mr. **WAXMAN**. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3633) to amend title VIII of the Public Health Service Act to extend for 1 fiscal year the program of assistance for nurse training, and for other purposes.

The **SPEAKER**. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3633, with Mr. SEIBERLING in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. When the committee rose on Monday, July 23, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 3633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NURSE TRAINING

SEC. 101. (a) This title may be cited as the "Nurse Training Amendments of 1979".

(b) Whenever in this Act (other than sections 205 and 314) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 102. Section 801 (relating to authorizations for construction grants) (42 U.S.C. 296) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $2,000,000 for the fiscal year ending September 30, 1980".

SEC. 103. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) (42 U.S.C. 296d) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 104. Subsection (f)(1) of section 810 (relating to capitation grants) (42 U.S.C. 296e) is amended by inserting after "fiscal year 1978" the following: "and $24,000,000 for the fiscal year ending September 30, 1980".

SEC. 105. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977," and by inserting before the period the following: ", and $17,000,000 for the fiscal year ending September 30, 1980".

SEC. 106. Subsection (b) of section 821 (relating to advanced nurse training programs) (42 U.S.C. 2961) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $13,500,000 for the fiscal year ending September 30, 1980".

SEC. 107. Subsection (e) of section 822 (relating to nurse practitioner programs) (42 U.S.C. 296m) is amended by srtiking out "and" after "1977," and by inserting before the period the following: ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 108. Subsection (b) of section 830 (relating to traineeships) (42 U.S.C. 297) is amended by striking out "and" after "1977," and by inserting before the period ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 109. (a) Subsection (b)(4) of section 835 (relating to loan agreements) (42 U.S.C. 297a) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loan funds) (42 U.S.C. 297c) is amedned (1) by striking out "and" after "1977," in the first sentence and (2) by inserting before the period in the first sentence ", and $13,500,000 for the fiscal year ending September 30, 1980", (3) by striking out "fiscal year 1979" and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (4) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) (42 U.S.C. 297e) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981, and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 110. (a) Subsection (b) of section 845 (relating to scholarship grants) (42 U.S.C. 297j) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking out "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

(c) The amendments made by subsections (a) and (b) do not authorize appropriations for the fiscal year ending September 30, 1979, for scholarships under section 845 of the Public Health Service Act in addition to the amount available for such scholarships under section 101(a) of Public Law 95-482.

SEC. 111. Subpart I of part B of title VIII (relating to traineeships) is amended by adding after section 830 (42 U.S.C. 297) the following new section:

"TRAINEESHIPS FOR TRAINING OF NURSE ANESTHETISTS

"SEC. 831. (a)(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Commissioner of Education, of licensed, registered nurses to be nurse anesthetists.

"(2) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

"(b) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1980.".

SEC. 112. Section 836(b)(3) (relating to student loans) (42 U.S.C. 297b(b)(3)) is amended (1) by inserting after "(3)" the following: "in the case of a student who received such a loan before the date of enactment of the Nurse Training Amendments of 1979,", and (2) by striking out "any such loan" and inserting in lieu thereof "any such loan made before such date".

SEC. 113. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study to determine the need to continue a specific program of Federal finanical support for nursing education, taking into account—

(1) the need for nurses under the present health care delivery system and under that system as it may be changed by the enactment of legislation for national health insurance,

(2) the cost of nursing education, and

(3) the availability of other sources of support for nursing education, including support under general programs of Federal financial support for postsecondary education, under State and other public programs, and from private sources.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through the Institute of Medicine, to conduct the study, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an arrangement with the Academy.

(2) If the Academy declines the Secretary's request to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Upon completion of the study, the entity conducting the study shall report the results of it to the Secretary and shall include in such report any recommendations for legislation which the entity determines are appropriate.

(4) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(5) The Secretary shall undertake such preliminary activities as may be necessary to enable the Secretary to enter into an arrangement for the conduct of the study at the earliest date authorized by subsection (d).

(c) Not later than six months after the date the arrangement for the conduct of the study is entered into under subsection (b), the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives preliminary recommendations respecting the need to continue a specific program of Federal financial support for nursing education and, if there is a need, the form in which the support should be provided. Not later than two years after such date, the Secretary shall report to such Committees recommendations respecting such need and form of support and the basis for such recommendations.

(d) The authority of the Secretary to enter into any contract for the conduct of the study under this section shall be effective (1) only on and after October 1, 1979, and (2) for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—OTHER HEALTH PROFESSIONS PROGRAMS

SEC. 201. Section 729(a) (relating to limits on Federal loan insurance and insured loans) (42 U.S.C. 294b(a)) is amended—

(1) by inserting before the period in the first sentence a comma and the following: "except that in the case of loans to students in schools of medicine, osteopathy, and dentistry, the Secretary may increase the total of such loans which may be covered by Federal loan insurance to $15,000 if he determines that the costs of education at such schools requires such increase"; and

(2) by inserting before the period in the second sentence a comma and the following: "except that the Secretary may increase such amount for borrowers who are or were students in schools of medicine, osteopathy, and dentistry to $60,000 if he determines that the costs of education at such schools requires such increase".

SEC. 202. Section 752(b)(5)(A) (relating to service requirements for National Health Service Corps scholarships) (42 U.S.C. 294u(b)(5)(A)) is amended by striking out "(not to exceed three years)" and inserting in lieu thereof "(not to exceed three years or such greater period as the Secretary, consistent with the needs of the Corps, may authorize)".

SEC. 203. Subsection (b) of section 756 (42 U.S.C. 294y) is amended to read as follows:

"(b) Of the sums appropriated under paragraph (1), not less than 9 percent shall be obligated for scholarships for dental students.".

SEC. 204. Section 781(c) (relating to requirements for participation of schools in area health education center programs) (42 U.S.C. 295g-1(c)) is amended by adding after and below paragraph (4) the following:

"The requirement of paragraph (3) shall not apply to a medical or osteopathic school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.".

SEC. 205. Section 802(a) of the Health Professions Educational Assistance Act of 1976 (relating to transitional provisions on area health education centers) is amended—

(1) by striking out "for the next fiscal year" and inserting in lieu thereof "for the next three fiscal years";

(2) by striking out "no payment shall be made to an entity under such a contract" and inserting in lieu thereof "no payment under such a contract shall be made to an entity which had not first entered into such a contract before October 12, 1976, (1)"; and

(3) by inserting before the period at the end thereof the following: ", or (2) for any fiscal year beginning after September 30, 1979".

SEC. 206. Paragraph (4) of section 788(b) (42 U.S.C. 295g-8(b)(4)) is repealed.

SEC. 207. Subparagraph (B) of section 788(e)(2) is amended by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 208. (a) Section 748(b)(3)(B) (42 U.S.C. 294e(b)(3)(B)) is amended (1) by striking out "or" at the end of clause (iv), (2) by striking out the period at the end of clause (v) and inserting in lieu thereof ", or", and (3) by adding after clause (v) the following:

"(vi) maternal and child health.".

(b) Section 792(a) (42 U.S.C. 295h-1(a)) is amended (1) by striking out "or" at the end of paragraph (3), (2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and (3) by adding after paragraph (4) the following new paragraph:

"(5) maternal and child health.".

TITLE III—PUBLIC HEALTH SERVICE ADMINISTRATION

SEC. 301. This title may be cited as the "Public Health Service Administrative Amendments of 1979".

SEC. 302. (a) Section 203 (42 U.S.C. 204) is amended by adding at the end thereof the following new sentence: "Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this Act and title 37, United States Code, to be a commissioned officer within the commissioned corps of the Service.".

(b) Section 205(b) (42 U.S.C. 206(b)) is amended by striking out "six" and inserting in lieu thereof "eight" and by inserting after "the Chief Dental Officer of the Service," the following: "the Chief Nurse Officer of the Service, the Chief Pharmacist Officer of the Service,".

SEC. 303. Section 205(c) (42 U.S.C. 206(c)) is amended to read as follows:

"(c)(1) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such temporary position, and while so serving they shall each have the title of Assistant Surgeon General.

"(2) Except as provided in this paragraph, the number of special temporary positions created by the Surgeon General under paragraph (1) shall not on any day exceed 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. If on any day the number of such special temporary positions exceeds such 1 per centum limitation, for a period of not more than one year after such day, the number of such special temporary positions shall be reduced for purposes of complying with such 1 per centum limitation only by the resignation, retirement, death, or transfer to a position of a lower grade, of any officer holding any such temporary position.".

SEC. 304. (a) The third sentence of subsection (a) of section 206 (42 U.S.C. 207(a)) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Officers of the assistant grade—first lieutenant;

"(6) Officers of the junior assistant grade—second lieutenant;

"(7) Chief warrant officers of (W-4) grade—chief warrant officer (W-4);

"(8) Chief warrant officers of (W-3) grade—chief warrant officer (W-3);

"(9) Chief warrant officers of (W-2) grade—chief warrant officer (W-2); and

"(10) Warrant officers of (W-1) grade—warrant officer (W-1).".

(b) Section 206(c) (42 U.S.C. 207(c)) is repealed.

(c) The first sentence of section 206(d) (42 U.S.C. 207(d)) is amended by striking out "junior assistant grade" and inserting in lieu thereof the following: "warrant officer (W-1) grade".

SEC. 305. (a) Section 207(a)(1) (42 U.S.C. 209(a)(1)) is amended by inserting immediately after "original appointments to the Regular Corps may be made only in the" the following: "warrant officer (W-1), chief warrant officer (W-2), chief warrant officer (W-3), chief warrant officer (W-4),".

(b)(1) Section 207(d)(1) (42 U.S.C. 209(d)(1)) is amended to read as follows:

"(d)(1) For purposes of basic pay of any person appointed under subsection (a) or (b), and for purposes of promotion of any person appointed to the Regular Corps under subsection (a) or any person appointed under subsection (b), such persons shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.".

(2) Section 207(d)(2) (42 U.S.C. 209(d)(2)) is amended by striking out "to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b)," and inserting in lieu thereof the following: "or (b)".

(3) Section 207(d)(3) (42 U.S.C. 209(d)(3)) is amended by striking out "to the senior assistant grade or above".

SEC. 306. Section 209(c) (42 U.S.C. 210b(c)) is amended by striking out "assistant grade" and by inserting in lieu thereof the following: "warrant officer (W-1) grade".

SEC. 307. (a) Section 210(d)(1) (42 U.S.C. 211(d)(1)), is amended by striking out "Officers in the junior assistant grade" and by inserting in lieu thereof the following: "Officers in the warrant officer (W-1) grade, chief warrant officer (W-2) grade, chief warrant officer (W-3) grade, chief warrant officer (W-4) grade, and junior assistant grade".

(b) Section 210(g) (42 U.S.C. 211(g)) is amended—

(1) in the first sentence by striking out "an officer of the Regular Corps in the junior assistant grade" and inserting in lieu thereof the following: "an officer of the Regular Corps in the warrant officer (W-1) grade or junior assistant grade";

(2) in the second sentence by striking out "an officer of the Regular Corps in the assistant, senior assistant," and inserting in lieu thereof the following: "an officer of the Regular Corps in the chief warrant officer (W-2), chief warrant officer (W-3), assistant, senior assistant,";

(3) in paragraph (1) by striking out "if in the assistant grade" in inserting in lieu thereof the following: "if in the chief warrant officer (W-2) or assistant grade"; and

(4) in paragraph (2) by striking out "if in the senior assistant grade" and inserting in lieu thereof the following: "if in the chief warrant officer (W-3) or senior assistant grade".

SEC. 308. Section 211(e) (42 U.S.C. 212(e)) is amended by striking out "a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded" and by inserting in lieu thereof the following: "a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded".

SEC. 309. (a) Section 214(c) (42 U.S.C. 215(c)) is amended by striking out the comma immediately after "nonprofit educational research" and inserting immediately after "Service" the following: "to any appropriate committee of the Congress".

(b) Section 214(d) (42 U.S.C. 215(d)) is amended by inserting after the first sentence the following new sentence: "In the case of detail of personnel under subsections (b) or (c) to be paid from applicable Service appropriations, the Secretary may condition such detail on an agreement by the State, subdivision, or institution concerned that such State, subdivision, or institution concerned shall reimburse the United States for the amount of such payments made by the Service.".

SEC. 310. (a) The first sentence of section

218(b) (42 U.S.C. 218a(b)) is amended to read as follows: "Any officer whose tuition, fees, and other necessary expenses are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to pay to the Service an amount equal to two times the total amount of such tuition, fees, and other necessary expenses received by such officer during such period, and two times the total amount of any compensation received by, and any allowance paid to, such officer during such period, if after return to active service such officer voluntarily leaves the Service within (1) six months, or (2) twice the period of such attendance, whichever is greater.".

(b) The third sentence of section 218(b) (42 U.S.C. 218a(b)) is amended by striking out "reimbursement" wherever it appears and by inserting in lieu thereof the following: "payment".

SEC. 311. Section 219(c) (42 U.S.C. 210-1 (c)) is repealed

SEC. 312. Section 221(a) (42 U.S.C. 213(a)) is amended by adding at the end thereof the following new paragraphs:

"(12) Section 1552, Correction of military records: claims incident thereto.

"(13) Section 1553, Review of discharge or dismissal.

"(14) Section 1554, Review of retirement or separation without pay for physical disability.".

SEC. 313. The Public Health Service Act is amended by inserting immediately after section 227 (42 U.S.C. 236) the following new section:

"RESERVE CORPS OFFICERS; SEVERANCE PAY UPON INVOLUNTARY RELEASE FROM ACTIVE DUTY

"SEC. 228. (a) Except as provided in subsection (b), a commissioned officer of the Reserve Corps of the Service who is released from active duty involuntarily pursuant to (1) program abolition or contraction requiring a reduction in strength of the commissioned corps, (2) nonavailability of other assignment or failure of promotion, or (3) any other reason other than separation for cause or retirement, and who has completed, immediately before such release, at least five years of continuous active duty in the commissioned corps of the Service, is entitled to a severance payment computed by multiplying the years of active service in the commissioned corps of such officer (other than in time of war or national emergency declared by Congress after January 1, 1979) by two months basic pay of the grade in which such officer is serving at the time of such release, except that no such severance payment to any officer shall exceed an amount equal to the amount of two years of basic pay of the grade in which such officer is serving at the time of such release. For purposes of this subsection—

"(1) a period of active duty is continuous if it is not interrupted by a break in service of more than thirty days; and

"(2) in the computation of severance pay, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

"(b) Subsection (a) shall not apply with respect to any officer referred to in such subsection who—

"(1) is released from active duty at the request of such officer;

"(2) is released from active duty for training;

"(3) upon release from active duty, is immediately eligible for retired pay from the Service; or

"(4) upon release from active duty, is immediately eligible for severance pay based on this section and any other provision of law and who elects to receive such severance pay under such other provision of law.

"(c) Any severance payment to which any officer becomes entitled under this section shall be reduced by the amount of any previous payment made to such officer under this section.".

SEC. 314. (a)(1) The table in section 201 (a) of title 37, United States Code, is amended by striking out "Surgeon General." in the fourth column of such table and by inserting in such column to correspond with pay grade O-9 the following: "Surgeon General.".

(2) Section 205(a) of such title is amended by striking out "and" at the end of clause (8), by striking out "Corps." at the end of clause (9)(C) and inserting in lieu thereof "Corps;", and by inserting immediately after such clause (9)(C) the following new clauses:

"(10) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a doctoral degree named in clause (11), who attains a masters degree before entry or re-entry into active service where such degree is required for appointment—one year; and

"(11) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a masters degree named in clause (10), who attains a doctoral degree before entry or re-entry into active service where such degree is required for appointment—three years.".

(b)(1) Section 1006(a) of title 37, United States Code, is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(2) Section 1006(b) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(3) Section 1006(c) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(4) Section 1006(c) of such title is amended by inserting immediately after "members of the armed forces" the following: "or of the Public Health Service".

(5) Section 1006(d) of such title is amended by inserting immediately after "from his armed force" the following: "or from the Public Health Service".

(6) Section 1006(e) of such title is amended by inserting before the period the following: "and the Public Health Service.".

(7) Section 1006(h) of such title is amended by inserting immediately after "members of an armed force" the following: "or of the Public Health Service".

(c) Section 415(d) of title 37, United States Code, is amended to read as follows:

"(d) An allowance of $250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

"(1) on active duty or on inactive duty training status; and

"(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection, except that an officer who has received one such allowance under this subsection may, upon transfer to or from the United States Coast Guard, be paid one additional such uniform and equipment allowance if pursuant to such transfer a different uniform is required.".

☐ 1320

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, will the gentleman tell us how many amendments he knows of that are to be offered?

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield to me, as I understand it, I am aware of four, only four amendments that will be offered.

Mr. BAUMAN. Further reserving the right to object, there will be no effort to close off debate on those amendments?

Mr. WAXMAN. No.

Mr. BAUMAN. Mr. Chairman, with that assurance, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 10, strike out "the Secretary shall report" and insert in lieu thereof "the Secretary and the entity conducting the study shall each report".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 14, strike out "preliminary recommendations" and insert in lieu thereof "their respective preliminary recommendations".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment

The Clerk read as follows:

Committee amendment: Page 8, insert before the period in line 23 the following: "and shall include in that report the report submitted to the secretary pursuant to subsection (b)(3)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 9, line 24, insert "(a)" after "202."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: After line 4 on page 10 insert the following:

(b)(1) Such section 752(b)(5)(A) is further amended by adding after the first sentence the following: "With respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of such period of time, as determined by the Secretary by regulation but not less than one year, as is required for the individual to complete an internship, residency, or other advanced clinical training".

(2) The last sentence of such section is amended by striking out "such".

(3) Section 752(b)(5)(B) is amended by striking out "other than a school of medicine, osteopathy, or dentistry" and inserting

in lieu thereof "other than a school referred to in subparagraph (A)".

The committee amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 2, strike out lines 9 through 24.

Page 3, line 1, strike out "105" and insert in lieu thereof "102".

Page 3, line 4, strike out "$17,000,000" and insert in lieu thereof "$1,743,000".

Page 3, strike out lines 6 through 10.

Page 3, line 11, strike out "107" and insert in lieu thereof "103".

Page 3, line 14, strike out "$15,000,000" and insert in lieu thereof "$13,000,000".

Page 3, strike out line 21 and all that follows through line 7 on page 6.

Page 6, line 8, strike out "112" and insert in lieu thereof "104".

Page 6, line 15, strike out "113" and insert in lieu thereof "105".

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, this amendment, I think, illustrates something that is well known in this institution; namely, when a program gets started in law for a very good reason, it builds its own constituency, and then, even though the reason which brought it into existence no longer is around, it is almost politically impossible to stop the program. It is with pleasure this afternoon that I can, in all candor, say to the Members that I am supporting my President in this amendment, because what I seek to do with this amendment is to, in effect, give life to what the President asked be done in this area for nurses training.

To give a little explanation, the committee has recommended that we spend some $103 million. My amendment would reduce that to some $14,700,000. That figure, by the way, is consistent with the amount that the President recommended in his budget for fiscal year 1980 for this program.

Historically, the authorization in fiscal year 1979 for this program was $106,250,000. Our President, on November 10, 1978, vetoed that authorization. In his letter of veto, he said, in part, as follows:

> Although I support a number of its provisions, this bill would continue several Federal nurse training programs whose objectives have been accomplished and for which there is no longer a need. Moreover, the funding authorizations are excessive and unacceptable if we are to reduce the budget deficit to help fight inflation. For the past 22 years, the Federal government has provided substantial financial support for nursing education. From 1956 through 1977, almost $1.4 billion was awarded for student traineeships, loans and scholarships for construction and basic support for nursing education programs or for projects to improve nursing education and retirement.

Then he goes on to conclude that, even though the scholarship money was eliminated by his projection for 1980, those who wanted to pursue nurses training would be able to do so by obtaining student loans, as any other student may do under those programs that are available.

He pointed out in his letter that from 1957 to 1978, one million nurses were trained in our country. Ten years ago, in 1968, there were 300 active nurses for 100,000 population. By the beginning of 1977, this ratio had risen to 395 per 100,000 population.

As a result, I submit that all that is needed now in the way of Federal assistance is precisely what the President has recommended, namely, $14,743,000. Most of that amount, $13 million, would go for nurse practitioners, and the rest, $1.743 million, would be for special projects—also as the President has recommended.

You may ask what happened to the Presidential veto of the authorization bill last November. I am told that before the pocket veto took place, the House passed a special supplemental appropriation to continue the program at the preceding level, so that act of continued appropriation is the reason that the program is continuing in the level that it is today.

If we are truly concerned about reducing public spending, where better is there a cause than a program that has been fulfilled by its very existence?

Our President has said to us he wants to reduce spending, so as to help fight inflation, and this is a good chance for the Members of the House to be consistent with what the President has asked. The basic purposes of the new training program have been served, which is the reason for this amendment.

I ask, in closing, for its adoption.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the support of the gentleman from California for the administration, but I think that he ignores the clear determination of the Subcommittee on Health and the Environment, the clear determination of the Committee on Interstate and Foreign Commerce, and the overwhelming sentiment expressed on the floor of the House in the last Congress in support of continuing programs of nurse training.

Our subcommittee carefully considered the proposal that the gentleman is now advancing, and we rejected it. Instead of drastically reducing the program, the committee took the more prudent course of bringing the authorization and the appropriation levels more realistically in line with one another.

I urge my colleagues to continue this course and to allow our very real health manpower needs to be met with realistic Federal expenditures.

I would like to remind my colleagues that the subcommittee has already cut the fiscal year 1980 authorization level by more than 50 percent of that authorized in the bill vetoed by the President last year.

□ 1330

Last year's Congress, by a vote of 393 to 12, passed a nurse training act, which unfortunately was vetoed, but its authorization for fiscal year 1980 was more than twice the amount that is now being proposed to continue those programs of nurse training for the next fiscal year.

Let me point out to my colleagues the impact of the gentleman's amendment, which I believe to be quite destructive. It would have the following consequences: Over 1,000 nursing schools will summarily lose a total of $24 million. This loss would take place at once and would place an unreasonable burden on institutions already pressed financially.

Almost 28,000 students would lose an important source of funds for student loans. Special projects such as upgrading the skills of paraprofessional personnel, developing training programs for nursing home employees and continuing education programs would drastically be cut back.

In the past few months, I have seen some 48 editorials and articles in California newspapers depicting a shortage of nurses in hospitals in California, my home State, and the home State of the gentleman who has offered this amendment.

The amendment would only increase an alreadv acute problem in California and a problem throughout the Nation.

I urge my colleagues to reject the amendment.

Mr. GREEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it was my opinion that the President's veto of last year's legislation was ill-advised, shortsighted, and in the long run would be costly rather than economical.

I say that because it seems to me very clear that if we are ever going to have an economical system for delivering medical care, we are going to have to do things like emphasizing preventive medicine. We are going to have to do things like deinstitutionalizing the elderly wherever possible. We are going to have to achieve economies generally in the delivery of health care.

I submit that the only way we are going to be able to achieve those results on a cost-effective basis is to make far more use of nurses and nurse practitioners in order to achieve these goals, because I think that is the only way we can have the broad network of health care that we need and at the same time achieve it in an economic way.

If we are going to move in the direction of better but more economical health care, I think we are going to have to rely increasingly on the nursing profession.

If that is the case, it would be foolish indeed to cut back on funds to see that we have the nurses there when we need them in order to deliver good health care.

Consequently, I was pleased to cosponsor the nurses training amendments earlier this year. The amendment before us would follow President Carter's request and drastically reduce the amount of money authorized for programs in this bill and I urge my colleagues to reject this amendment and vote yes on final passage of the bill.

Mr. CARTER. Mr. Chairman, I rise in strong opposition to the amendment.

If we look at the statistics, we find that at the present time there are 1,011,000 registered nurses in our country; however, of this total only 854,000 are "full-time equivalents." HEW projections show that we will need between 1.2 million and 1.7 million nurses by 1985.

Mr. Chairman, we must not discontinue a program which would deny us the nurses we need. Moreover, Mr. Chairman, we have had a shortage of nurses for many years and which continues in many parts of this country.

The gentleman from Texas (Mr. GRAMM) mentioned such shortages during our subcommittee's hearings; as did the gentleman from Texas (Mr. LELAND).

I find in my own State that we cannot get enough nurses. I understand in the great State of New York that they do not have sufficient nurses.

This legislation, Mr. Chairman, provides scholarships for poor individuals from disadvantaged backgrounds. It provides about 9,000 scholarships at a rate of $1,000 per year, for a total of $9 million, which would be taken away by this amendment from our needy youngsters.

We also have a loan program under this legislation. Approximately 66 percent of the $13.5 million authorized for loans goes to people whose incomes are under $10,000,

Not only that, Mr. Chairman, the amount of each loan is only about $800 per year. I would say, Mr. Chairman, that if we were to deny these funds to some of the finest young people in the world in my opinion, who become nurses and then take care of us when we are ill and who rub the sweat from our fevered brows, then certainly we would do a great disservice to wonderful people.

In addition, as I said in my statement Monday, this is a reasonable bill and one that has taken fiscal constraints into account.

The authorization for fiscal 1980 is one-half of the comparable amount included in last year's nurse training bill which was overwhelmingly approved by this Congress but later pocket-vetoed by the President.

The authorization level in this bill closely parallels fiscal 1979 appropriation and it is the same amount as the Senate has approved for nurse training programs.

To cut back to the levels proposed in this amendment would cause a severe and unwarranted hardship for our Nation's nursing programs.

So I stongly oppose the amendment of the gentleman from California, Mr. DANNEMEYER.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, with due respect to the gentleman who offered this particular amendment, when the President vetoed the previous bill, it was done so on the basis of congressional budget information and data that was actually out of date, based on 1972 statistics.

There is more current data, and as a member of the Subcommittee on Labor-Health, Education, and Welfare, appropriations, I have arranged a series of meetings with Dr. Foley, key members of the Office of Management and Budget, and appropriate people in the Department of Health, Education, and Welfare, to reveal new statistics and data that have been prepared and presented. This data updates the current definition of the so-called shortage of nurses of the United States.

I discover that there is insufficient evidence of a surplus. However, it is a fact that there exists a distribution problem.

OMB and HEW supported the President's veto, but that support was based on inaccurate information. The justification for the $103 million authorized in this bill is evident after review of the more current data.

I rise in strong opposition to this amendment.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am fortunate in my office to have a young woman working for us part time who is also a registered nurse, a nurse practitioner. She works half a day in a hospital here in Washington.

I asked her some time ago to take on an assignment and see how this bill would affect the district in which I live and which I serve. Let me give my colleagues some of the statistics as they relate simply to the territory about which I think I know the most.

There are approximately 3,000 nurses in the 17th Congressional District of Illinois. A brief survey of our hospitals show there is approximately an 8 to 10 percent shortage. The 1979 spring survey by the Illinois Hospital Association indicated that there are currently 3,570 vacant nursing positions in Illinois.

Of the seven colleges and universities within the 17th District, five would be so severely affected if the funding was cut, that these programs would most likely have to close.

According to the Illinois Nursing Association and HEW, Illinois is currently lacking one-third of the professional personnel needed. That is to say university-degree RN's, masters and doctorates, administrators, educators, and researchers.

The increased education of the nurse has demonstrated the increase of quality patient care, cost effectiveness, particularly in the realm of prevention, including patient care, teaching, and education.

Therefore, to me it seems essential this effort be continued.

I urge the defeat of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

I have spoken many times on the floor of this House about the need for nurses in this country.

You know, it is not until we get sick that we really realize we need a doctor or nurse. Just as soon as we get out of the hospital and begin to mend, we forget about the doctor and nurse and say, "You go on your own way," but when we are in the hospital and we need nurses, we certainly are very grateful that they are there to be with us and help us along to get well.

□ 1340

I think it certainly would be very shortsighted to vote for this amendment. I do not believe anyone who has been in the hospital recently and had nursing care of any kind, or has nurses in their part of the country that go into homes, that visit the elderly and help take care of them, could vote for this amendment. This amendment could hurt the nurse-practitioner, and also would cut out the money for those we are going to train to be the teachers of nurses in the future. If we adopt this amendment we would cut out all of those things and all of those who are going to be training our nurses in the training schools.

It would also hurt the training schools all over this land. I know in my State I have been told that one of our nurse training schools would probably have to close if this amendment would go into effect. We do need nurses in this country.

Just recently I was requested to help get eight nurses from Canada into America, which I did. Because of getting those eight nurses from Canada, a hospital was able to open up another floor, a floor for obstetrics that they could not have opened had it not been for those eight nurses. They could not get the nurses anywhere else, so the Immigration Service, recognizing the need, allowed the eight nurses to come in.

We do have a shortage of nurses. I think it would be very shortsighted to vote for the amendment to cut out nearly all of these programs.

We have a man at home in my district who is 104 years old. A nurse comes to visit him once a week. The family could not afford this at all, but she comes and takes care of him. His senses are good, he walks around and is able to do things, but without this nurse he would be just helpless.

There are plenty of other elderly people that I know all over America that need the help of nurses. Certainly I would not want to vote in any way to hurt this group and I would urge the House to overwhelmingly defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 3, noes 26.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present. A quorum is not present.

Mr. WAXMAN. Mr. Chairman, if the gentleman will withdraw the motion for a quorum we will give him a vote.

Mr. DANNEMEYER. Mr. Chairman, I withdraw my point of order that a quorum is not present.

The CHAIRMAN. The Chair has already announced that a quorum is not present. Did the gentleman demand a recorded vote?

Mr. DANNEMEYER. Mr. Chairman, I demanded a recorded vote.

The CHAIRMAN. The Chair has already announced that a quorum is not present, it is too late to withdraw the point of order.

A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 394]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1400

The CHAIRMAN. Three hundred fifty-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. DANNEMEYER) for a recorded vote.

A recorded vote was refused.

Mr. DANNEMEYER. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. DANNEMEYER and Mr. WAXMAN.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that we have a recorded vote.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes within which to record their votes.

The vote was taken by electronic device, and there were—ayes 12, noes 341, not voting 81, as follows:

[Roll No. 395]

AYES—12

Badham
Bauman
Collins, Tex.
Crane, Daniel
Dannemeyer
Hansen
Ichord
Kelly
McCloskey
McDonald
Miller, Ohio
Paul

NOES—341

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rosenthal
Roth
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walker
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—81

Addabbo
Anderson, Ill.
Bedell
Biaggi
Boland
Bolling
Bowen
Brooks
Broyhill
Chappell
Chisholm
Cleveland
Conable
Conyers
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Diggs
Duncan, Tenn.
Early
Edwards, Calif.
Evans, Ga.
Fish
Flood
Ford, Tenn.
Forsythe
Fowler
Garcia
Gibbons
Goldwater
Hanley
Hightower
Hillis
Holland
Horton
Huckaby
Jacobs
Jenrette
Johnson, Colo.
Latta
Lee
Lott
Lundine
McDade
McEwen
Maguire
Martin
Mathis
Mazzoli
Moffett
Mollohan
Murphy, Ill.
Murphy, N.Y.
Nolan
Pickle
Quillen
Railsback
Rangel
Richmond
Rodino
Rose
Rostenkowski
Rousselot
Russo
Santini
Sawyer
Skelton
Smith, Iowa
Stockman
Symms
Thomas
Treen
Vander Jagt
Walgren
Wampler
Weiss
Williams, Ohio
Wilson, Bob
Zeferetti

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1410

AMENDMENT OFFERED BY MR. LEDERER

Mr. LEDERER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEDERER: Page 12, insert after line 20 the following:

SEC. 209. Section 771(d)(5) (42 U.S.C. 295f–1(d)(5)) is amended by striking out "may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary" and inserting in lieu thereof "may—

"(A) in the case of a school of dentistry which increased its enrollment of full-time first-year students in accordance with paragraph (3), waive (in whole or in part and under such conditions as the Secretary may prescribe) application of the requirement of subsection (a)(1) that it maintain its increased enrollment of such students, and

"(B) in the case of any other school of dentistry, waive (in whole or in part) application of the requirement of any paragraph of this subsection,

if the Secretary determines".

Mr. LEDERER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania (Mr. LEDERER)?

There was no objection.

Mr. LEDERER. Mr. Chairman, last year an amendment to the health manpower law was enacted which permits the HEW Secretary to "waive" the enrollment increase requirements of the capitation grant program when it is determined that compliance with this requirement would adversely affect a dental school's accreditation. Unfortunately, the waiver authority which I have described was not enacted until several months after the date on which schools of dentistry were required to accept the additional first year students. As a consequence, one dental institution which was forced to comply with the enrollment increase provisions of the capitation grant program is now threatened with a loss of its accreditation. The purpose of my amendment is to allow a school of dentistry which is faced with such a dilemma to return to its original entering class size without jeopardizing its eligibility for future capitation grant support by applying to the Secretary of HEW for a waiver. This amendment authorizes the Secretary of HEW to grant such a waiver under such conditions as he or she may prescribe.

I have discussed this matter with my distinguished colleagues on the Subcommittee on Health and the Environment, Chairman HENRY WAXMAN, and ranking minority member, Dr. TIM LEE CARTER, both of whom, I understand, find this amendment an acceptable version of the nurse training amendments. I think it important that the House of Representatives also go on record against this practice of discrimination.

I urge my colleagues to support this amendment and end such discrimination that I have described.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I am willing to accept the amendment offered by the gentleman because of the unique situation he describes. No one wants to see a major health professions educational institution lose its accreditation if it can be prevented.

However, I am concerned both by the circumstances which lead to this particular problem, and the public policy implications it presents. I can assure you that the Subcommittee on Health and the Environment intends to carefully review the long-range implications of the program of capitation support for health professions education when we deal with the entire issue of health manpower later this year.

In that regard, I understand my distinguished friend and colleague, the ranking minority member of the subcommittee, Dr. CARTER, has additional comments he wishes to offer, and I am pleased to yield to him.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I am willing to accept the amendment offered by the gentleman from Pennsylvania but I would like to provide some clarification of its intent, which I understand is acceptable to the gentleman, and to our subcommittee chairman, Mr. WAXMAN.

First, it is not our intent by including this waiver provision to authorize substantial numbers of dental schools to receive capitation funds—without meeting any requirements to serve national health manpower needs.

Rather, we expect this waiver to be applied only in instances in which it can be shown that compliance with the capitation requirement or requirements—would have a direct—adverse effect on the accreditation status of the institution.

Second, it is our intent that should the Secretary decide to exercise this authority to grant a waiver we expect the Secretary to work closely with the school to identify particular activities which the institution should undertake to help meet national health manpower goals as long as these activities do not jeopardize the institution's accreditation status.

Thus it is our expectation that the Secretary would impose some reasonable conditions on the school should he decide to grant the waiver.

Finally, I would like to point out that our subcommittee will be reviewing the health manpower legislation later this year and we will be considering among other issues the capitation grant authority.

It is very possible that the subcommittee may make changes in the capitation authority as well as in the waiver provision—assuming it is approved by the Congress.

In fact, in my view this waiver should not be granted for more than 1 year to any dental school.

Mr. Chairman, I would just like to confirm that the distinguished gentleman from Pennsylvania and the distinguished chairman of our Health Subcommittee, Mr. WAXMAN, are in agreement with the intent of the amendment as I have explained it.

Mr. LEDERER. Mr. Chairman, that is the understanding and I thank the gentleman for his cooperation and support.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. LEDERER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEDERER

Mr. LEDERER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEDERER: Page 12, insert after line 20 the following:

SEC. 209. Section 401 of the Health Programs Extension Act of 1973 (42 U.S.C. 300a–7) is amended by adding at the end thereof the following new subsection:

"(e) No entity which receives, after the date of enactment of this paragraph, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Assistance and Bill of Rights Act may deny admission or otherwise discriminate against any applicant (including applicants for internships or residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions.".

Mr. LEDERER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania (Mr. LEDERER)?

There was no objection.

Mr. LEDERER. Mr. Chairman, this amendment is an important one. Its purpose is to prevent medical schools from asking prospective applicants what their views on abortion are.

A similar motion was approved by both Houses of Congress 2 years ago. At that time, the conference committee called for a study to be conducted on this problem.

HEW reported the findings of this study in August of last year. The conclusions of this study, subject to its limitations, are clear: that there is a small amount of overt discrimination against applicants on the basis of their personal or professional convictions regarding abortion.

Mr. Chairman, I think it should be pointed out that this discrimination can be practiced in two ways. Both proponents and opponents of abortion can be victims of these questions.

This two-edged sword was borne out by the results of this study. In general, HEW reported that the nature of discrimination evidenced itself in rejection of pro-abortion applicants at nursing schools and rejection of antiabortion applicants at medical schools.

Mr. Chairman, I find this evidence abhorrent. Such discrimination serves no purpose. Applicants should not be accepted or rejected because their personal beliefs happen to correspond or contradict those of the admissions office. Applicants should be accepted on the merits of being able to handle the work load of the medical or nursing school.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, we are willing to accept the gentleman's amendment and urge our colleagues to vote for it.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. LEDERER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, this amendment has already been approved by the Senate and is part of the Senate's nurse training bill. I have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. LEDERER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WAXMAN: Page 23, add after line 24 the following new section:
>
> SEC. 315. The amendments made by sections 303, 304, 305, 306, 307, 313, and 314 shall take effect on October 1, 1979.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. WAXMAN)?

There was no objection.

Mr. WAXMAN. Mr. Chairman, this amendment is simply a technical correcting amendment requested by the Committee on the Budget to bring this title into compliance with the provisions of the Budget Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment was agreed to.

Mr. PURSELL. Mr. Chairman, I move to strike the last word. Usually when a Member rises to speak in support of a piece of legislation under consideration by the House, it is because he is thinking of those Members who may not favor it and wants to help convince them to join in voting with him. This is not the case today. I would like to speak briefly at this time, not because I think the Nurse Training Amendments of 1979 now before us will fail to be passed, but because I am confident that they will be approved.

What concerns me is a situation that has become an all too common ritual during recent years—attempts by the administration to drastically reduce Federal support for nurse training, with Congress subsequently coming to the rescue of these vital programs.

Both Republican and Democrat Presidents have vetoed necessary authorization bills, including the Nurse Training Amendments of 1978, which were unanimously approved by the Senate and passed by the House on a vote of 393 to 12. Meanwhile, Congress has increased appropriations for programs in this area over administrations requests by 318 percent in fiscal year 1976, 344 percent in fiscal year 1977, 501 percent in fiscal year 1978 and almost sixfold in the current fiscal year.

As a new member of the House Appropriations Labor/HEW Subcommittee this year, I have been trying hard to determine why administration officials of both political parties have come to such different conclusions concerning this issue than have most Members of Congress, regardless of their party affiliation.

Frankly, after extensive discussions with many of those directly involved, I am convinced that, for the most part, both "sides" are trying very hard to do what is "right" to insure an adequate supply of competent nurses throughout the Nation. Unfortunately, despite all good intentions, the executive and legislative branches of the Federal Government have not been able to get their act together and agree upon a consistent, comprehensive, and effective approach for reaching this worthy goal.

I believe that one reason for this is the lack of a commonly accepted base of data. The administration asserts that there is no shortage of nurses—only various types of maldistributions. However, virtually every major newspaper across the country contains want ads for nurses, while the Government's own Occupations Outlook Handbook projects that "Employment opportunities for registered nurses are expected to be favorable through the mid-1980's" with growth expected to be faster than that predicted for the average of other occupations. Enactment of some form of national health insurance, continued inflation and other factors could very well lead to even greater demands for nurses.

In my view, another problem has been a lack of significant opportunities for participation of representatives from the nursing profession in the formulation of policy within the administration. It is my understanding that there are no nurses on the management staff of the Health Resources Administration, or at any level above HRA where decisions in this area are made. In this regard, I am pleased that a number of administration officials—at my request—have met with nurse leaders within the past few months.

The bill (H.R. 3633) before us today, provides a 1-year extension of nurse training authority, in effect creating a "holding pattern" while Congress examines and reevaluates the Federal program of support for nursing, as well as for medicine, dentistry, osteopathy, and all other health professions schools and students. One of the most important features of H.R. 3633 is the requirement that the Secretary of Health, Education, and Welfare arrange for "a study to determine the need to continue a specific program of Federal support for nursing education" mostly probably to be conducted by the National Academy of Sciences. It is intended that this study concentrate on an analysis of "ongoing studies and available information * * * rather than (be) a wholesale duplication of present undertakings," and that representatives of the nursing profession be included in the study group.

In their recent book, "The Advance of American Nursing," Phil and Bea Kalisch of the University of Michigan wrote:

> In the final analysis, the state of health care in the United States has always been and will continue to be strongly influenced by nursing. Highly developed nursing talent will remain essential for performing civilian nursing service, satisfying the requirements of national defense, and educating future generations of nurses. Because nurses are the largest and most inclusive health care providers, the nation's decisionmakers, in order to promote the health of the United States, have and will continue to have a particular responsibility to maintain the stability and advance of nursing education, research and practice.

It is my hope that the study provided for in this legislation will provide information necessary to enable the Nation's leaders to replace the atmosphere of confrontation that has characterized the decisionmaking process with respect to nursing training in the past and replace it with one of cooperation that will maintain a consistent, comprehensive, and effective national policy. For as the Kalischs went on to say:

> The investment made today in nurses and in the development of the future nursing talent is an investment in tomorrow—an investment which will have a tremendous impact on the basic quality of the lives of all Americans.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: At page 9, following line 3, add the following new section:
>
> "SEC. 114. Subsection (b)(5) of section 802 (relating to construction grants) is repealed."

Mr. ASHBROOK. Mr. Chairman, again I am offering an amendment to strike the Davis-Bacon Act. This one issue everyone understands. As has been pointed out, there is only $2 million worth of construction in this particular project but the principle is exactly the same.

I ask my colleagues to vote for this amendment and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Ohio stated, this is an amendment which the gentleman has introduced many other times on the floor in connection with other pieces of legislation. It would repeal the Davis-Bacon Act which provides that the prevailing rates of wages will be paid to people in the area on construction projects. In this case, it is construction for schools of nursing.

☐ 1420

For all the reasons that we have voted in the past to reject this amendment, we ought to again vote to reject it. It is inappropriate to have it stricken from this present law.

I would urge my colleagues to join me in opposing this amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I would be pleased to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I would also like to join my colleague in this. I notice the other body just recently this week was presented with this same amendment again and defeated it overwhelmingly, as I think we should defeat it right now.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for his comments.

I have lost count of how many times we have already defeated this amendment on this House floor. Let us do it again.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

● Ms. MIKULSKI. Mr. Chairman, I rise to speak in strong support of the 1-year extension of the Nurse Training Act. During the past 6 months, as a member of the Health Subcommittee, I have been impressed with the expanding role that nurses are playing in our health care delivery system. I would like to share with my colleagues some of the information that I have learned so that they will understand how important it is that we continue to increase the number of nurses. I am convinced that the role of nurses will continue to grow as we work toward the goal of providing quality health care for all Americans at a price they can afford. We must have an adequate supply.

For example, there are now 2,000 nurse-midwives—the number has doubled since 1970—who are caring for mothers during pregnancy, managing the labor and delivery and providing immediate care for the newborn. Many more women are choosing nurse-midwives, not because they are less expensive, but because they are getting better and more personal care.

According to one pediatrician, the pediatric nurses are capable of handling 70 to 80 percent of the problems that come to his office. It is not unusual for a pediatric nurse to conduct the major part of a routine physical, including weighing the child, testing reflexes, motor skills, mental perceptions, taking their blood pressure, and giving inoculation.

And the number of nurse practioners is expanding at an amazing pace. Many continue to work in cooperation with doctors and under their supervision, but about 15,000 have rejected the traditional concept of the nurse as handmaiden of the physician and are setting up independent practices. These nurses have moved in to broad range of services, particularly those relinquished by doctors in many areas, such as basic family care or care of the poor. In Memphis, for example, health care for the city's indigent population of 200,000 is provided mainly by public health nurses, with the city hospital serving as a back-up when needed.

From these few examples, I think that my colleagues can understand how important it is to the health of our society to insure that a sufficient number of nurses are trained. I urge my colleagues support for this legislation.●

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3633) to amend title VIII of the Public Health Service Act to extend for 1 fiscal year the program of assistance for nurse training, and for other purposes, pursuant to House Resolution 306, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 6, not voting 84, as follows:

[Roll No. 396]

YEAS—344

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Flippo
Foley
Ford, Mich.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walker
Watkins

Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—6

Collins, Tex.
Crane, Daniel
Dannemeyer
Kelly
McDonald
Paul

NOT VOTING—84

Addabbo
Albosta
Anderson, Ill.
Bedell
Biaggi
Boland
Bolling
Bowen
Brooks
Broyhill
Butler
Chappell
Chisholm
Clay
Cleveland
Conable
Conyers
Corman
Cotter
Crane, Philip
D'Amours
Devine
Diggs
Early
Edwards, Calif.
Evans, Ga.
Fish
Fithian
Flood
Florio
Ford, Tenn.
Forsythe
Fowler
Garcia
Gibbons
Hanley
Hansen
Hightower
Hillis
Holland
Horton
Huckaby
Hutto
Jenkins
Jenrette
Johnson, Colo.
Latta
Leach, La.
Lee
Lewis
Lott
Lundine
McDade
McEwen
Madigan
Maguire
Mathis
Mazzoli
Moakley
Moffett
Mottl
Nolan
Pickle
Quillen
Railsback
Rangel
Richmond
Rodino
Rousselot
Russo
Santini
Sawyer
Skelton
Smith, Iowa
Symms
Traxler
Treen
Vander Jagt
Walgren
Wampler
Weiss
Williams, Ohio
Wilson, Bob
Zeferetti

☐ 1430

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Treen.
Mr. Chappell with Mr. Railsback.
Mr. D'Amours with Mr. Vander Jagt.
Mr. Rodino with Mr. Forsythe.
Mr. Walgren with Mr. Conable.
Mr. Richmond with Mr. Anderson of Illinois.
Mr. Hanley with Mr. Broyhill.
Mr. Mottl with Mr. Rousselot.
Mr. Zeferetti with Mr. Butler.
Mr. Moakley with Mr. Cleveland.
Mr. Jenrette with Mr. Devine.
Mr. Rangel with Mr. Philip M. Crane.
Mr. Hutto with Mr. Fish.
Mr. Leach of Louisiana with Mr. Williams of Ohio.
Mr. Jenkins with Mr. Hansen.
Mr. Lundine with Mr. Hillis.
Mr. Mathis with Mr. Latta.
Mr. Nolan with Mr. Sawyer.
Mr. Pickle with Mr. McEwen.
Mr. Early with Mr. Lee.
Mr. Maguire with Mr. Madigan.
Mr. Evans of Georgia with Mr. Lewis.
Mr. Edwards of California with Mr. McDade.
Mr. Fithian with Mr. Quillen.
Mr. Mazzoli with Mr. Lott.
Mr. Diggs with Mr. Symms.
Mr. Florio with Mr. Bob Wilson.
Mr. Moffett with Mr. Horton.
Mr. Garcia with Mr. Johnson of Colorado.
Mr. Flood with Mr. Wampler.
Mr. Hightower with Mr. Smith of Iowa.
Mr. Russo with Mr. Weiss.
Mr. Fowler with Mr. Holland.
Mr. Traxler with Mr. Gibbons.
Mr. Ford of Tennessee with Mr. Huckabv.
Mr. Skelton with Mr. Bowen.
Mr. Biaggi with Mr. Clay.
Mr. Boland with Mr. Conyers.
Mr. Albosta with Mr. Bedell.
Mr. Brooks with Mrs. Chisholm.
Mr. Corman with Mr. Cotter.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of House Resolution 306, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the Senate bill (S. 230) to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill, S. 230, and to insert in lieu thereof the provisions of H.R. 3633, as passed, as follows:

TITLE I—NURSE TRAINING

SEC. 101. (a) This title may be cited as the "Nurse Training Amendments of 1979".

(b) Whenever in this Act (other than sections 205 and 314) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 102. Section 801 (relating to authorizations for construction grants) (42 U.S.C. 296) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $2,000,000 for the fiscal year ending September 30, 1980".

SEC. 103. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) (42 U.S.C. 296d) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 104. Subsection (f)(1) of section 810 (relating to capitation grants) (42 U.S.C. 296e) is amended by inserting after "fiscal year 1978" the following: "and $24,000,000 for the fiscal year ending September 30, 1980".

SEC. 105. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977," and by inserting before the period the following: ", and $17,000,000 for the fiscal year ending September 30, 1980".

SEC. 106. Subsection (b) of section 821 (relating to advanced nurse training programs) (42 U.S.C. 296) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $13,500,000 for the fiscal year ending September 30, 1980".

SEC. 107. Subsection (e) of section 822 (relating to nurse practitioner programs) (42 U.S.C. 296m) is amended by striking out "and" after "1977," and by inserting before the period the following: ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 108. Subsection (b) of section 830 (relating to traineeships) (42 U.S.C. 297) is amended by striking out "and" after "1977," and by inserting before the period ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 109. (a) Subsection (b)(4) of section 835 (relating to loan agreements) (42 U.S.C. 297a) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loan funds) (42 U.S.C. 297c) is amended (1) by striking out "and" after "1977," in the first sentence and (2) by inserting before the period in the first sentence ", and $13,500,000 for the fiscal year ending September 30, 1980", and (3) by striking out 'fiscal year 1979" and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (4) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) (42 U.S.C. 297e) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981, and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 110. (a) Subsection (b) of section 845 (relating to scholarship grants) (42 U.S.C. 297j) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking out "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

(c) The amendments made by subsections (a) and (b) do not authorize appropriations for the fiscal year ending September 30, 1979, for scholarships under section 845 of the Public Health Service Act in addition to the amount available for such scholarships under section 101(a) of Public Law 95–482.

SEC. 111. Subpart I of part B of title VIII (relating to traineeships) is amended by adding after section 830 (42 U.S.C. 297) the following new section:

"TRAINEESHIPS FOR TRAINING OF NURSE ANESTHETISTS

"SEC. 831. (a)(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Commissioner of Education, of licensed, registered nurses to the nurse anesthetists.

"(2) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

"(b) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1980.".

SEC. 112. Section 836(b)(3) (relating to student loans) (42 U.S.C. 297b(b)(3)) is amended (1) by inserting after "(3)" the following: "in the case of a student who received such a loan before the date of enactment of the Nurse Training Amendments of 1979,", and (2) by striking out "any such loan" and inserting in lieu thereof "any such loan made before such date".

SEC. 113. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study to determine the need to continue a specific program of Federal financial support for nursing education, taking into account—

(1) the need for nurses under the present health care delivery system and under that system as it may be changed by the enact-

ment of legislation for national health insurance,

(2) the cost of nursing education, and

(3) the availability of other sources of support for nursing education, including support under general programs of Federal financial support for postsecondary education, under State and other programs, and from private sources.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through the Institute of Medicine, to conduct the study, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

(2) If the Academy declines the Secretary's request to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Upon completion of the study, the entity conducting the study shall report the results of it to the Secretary and shall include in such report any recommendations for legislation which the entity determines are appropriate.

(4) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(5) The Secretary shall undertake such preliminary activities as may be necessary to enable the Secretary to enter into an arrangement for the conduct of the study at the earliest date authorized by subsection (d).

(c) Not later than six months after the date the arrangement for the conduct of the study is entered into under subsection (b), the Secretary and the entity conducting the study shall each report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives their respective preliminary recommendations respecting the need to continue a specific program of Federal financial support for nursing education and, if there is a need, the form in which the support should be provided. Not later than two years after such date, the Secretary shall report to such Committees recommendations respecting such need and form of support and the basis for such recommendations and shall include in that report the report submitted to the Secretary pursuant to subsection (b)(3).

(d) The authority of the Secretary to enter into any contract for the conduct of the study under this section shall be effective (1) only on and after October 1, 1979, and (2) for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—OTHER HEALTH PROFESSIONS PROGRAMS

SEC. 201. Section 729(a) (relating to limits on Federal loan insurance and insured loans) (42 U.S.C. 294b(a)) is amended—

(1) by inserting before the period in the first sentence a comma and the following: "except that in the case of loans to students in schools of medicine, osteopathy, and dentistry, the Secretary may increase the total of such loans which may be covered by Federal loan insurance to $15,000 if he determines that the costs of education at such schools requires such increase"; and

(2) by inserting before the period in the second sentence a comma and the following: "except that the Secretary may increase such amount for borrowers who are or were students in schools of medicine, osteopathy, and dentistry to $60,000 if he determines that the costs of education at such schools requires such increase".

SEC. 202 (a) Section 752(b)(5)(A) (relating to service requirements for National Health Service Corps scholarships) (42 U.S.C. 294u(b)(5)(A)) is amended by striking out "(not to exceed three years)" and inserting in lieu thereof "(not to exceed three years or such greater period as the Secretary, consistent with the needs of the Corps, may authorize)".

(b)(1) Such section 752(b)(5)(A) is further amended by adding after the first sentence the following: "With respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of such period of time, as determined by the Secretary by regulation but not less than one year, as is required for the individual to complete an internship, residency, or other advanced clinical training.".

(2) The last sentence of such section is amended by striking out "such".

(3) Section 752(b)(5)(B) is amended by striking out "other than a school of medicine, osteopathy, or dentistry" and inserting in lieu thereof "other than a school referred to in subparagraph (A)".

SEC. 203. Subsection (b) of section 756 (42 U.S.C. 294y) is amended to read as follows:

"(b) Of the sums appropriated under paragraph (1), not less than 9 percent shall be obligated for scholarships for dental students.".

SEC. 204. Section 781(c) (relating to requirements for participation of schools in area health education center programs) (42 U.S.C. 295g-1(c)) is amended by adding after and below paragraph (4) the following:

"The requirement of paragraph (3) shall not apply to a medical or osteopathic school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.".

SEC. 205. Section 802(a) of the Health Professions Educational Assistance Act of 1976 (relating to transitional provisions on area health education centers) is amended—

(1) by striking out "for the next fiscal year" and inserting in lieu thereof "for the next three fiscal years";

(2) by striking out "no payment shall be made to an entity under such a contract" and inserting in lieu thereof "no payment under such a contract shall be made to an entity which had not first entered into such a contract before October 12, 1976, (1)"; and

(3) by inserting before the period at the end thereof the following: ", or (2) for any fiscal year beginning after September 30, 1979".

SEC. 206. Paragraph (4) of section 788(b) (42 U.S.C. 295g-8(b)(4)) is repealed.

SEC. 207. Subparagraph (B) of section 788(e)(2) is amended by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 208. (a) Section 748(b)(3)(B) (42 U.S.C. 294e(b)(3)(B)) is amended (1) by striking out "or" at the end of clause (iv), (2) by striking out the period at the end of clause (v) and inserting in lieu thereof ", or", and (3) by adding after clause (v) the following:

"(vi) maternal and child health.".

(b) Section 792(a) (42 U.S.C. 295h-1(a)) is amended (1) by striking out "or" at the end of paragraph (3), (2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and (3) by adding after paragraph (4) the following new paragraph:

"(5) maternal and child health.".

SEC. 209. Section 771(d)(5) (42 U.S.C. 295f-1(d)(5)) is amended by striking out "may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary" and inserting in lieu thereof "may—

"(A) in the case of a school of dentistry which increased its enrollment of full-time first-year students in accordance with paragraph (3), waive (in whole or in part and under such conditions as the Secretary may prescribe) application of the requirement of subsection (a)(1) that it maintain its increased enrollment of such students, and

"(B) in the case of any other school of dentistry, waive (in whole or in part) application of the requirement of any paragraph of this subsection,

if the Secretary determines".

SEC. 210. Section 401 of the Health Programs Extension Act of 1973 (42 U.S.C. 300a-7) is amended by adding at the end thereof the following new subsection:

"(e) No entity which receives, after the date of enactment of this paragraph, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act, the Community Mental Health Centers Act or the Developmental Disabilities Assistance and Bill of Rights Act may deny admission or otherwise discriminate against any applicant (including applicants for internships or residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions.".

TITLE III—PUBLIC HEALTH SERVICE ADMINISTRATION

SEC. 301. This title may be cited as the "Public Health Service Administrative Amendments of 1979".

SEC. 302. (a) Section 203 (42 U.S.C. 204) is amended by adding at the end thereof the following new sentence: "Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this Act and title 37, United States Code, to be a commissioned officer within the commissioned corps of the Service.".

(b) Section 205(b) (42 U.S.C. 206(b)) is amended by striking out "six" and inserting in lieu thereof "eight" and by inserting after "the Chief Dental Officer of the Service," the following: "the Chief Nurse Officer of the Service, the Chief Pharmacist Officer of the Service,".

SEC. 303. Section 205(c) (42 U.S.C. 206(c)) is amended to read as follows:

"(c)(1) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such temporary position, and while so serving they shall each have the title of Assistant Surgeon General.

"(2) Except as provided in this paragraph, the number of special temporary positions created by the Surgeon General under paragraph (1) shall not on any day exceed 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. If on any day the number of such special temporary positions exceeds such 1 per centum limitation, for a period of not more than one year after such day, the number of such special temporary positions shall be reduced for purposes of complying with such 1 per centum limitation only by the resignation, retirement, death, or transfer to a position of a lower grade, of any officer holding any such temporary position.".

SEC. 304. (a) The third sentence of subsection (a) of section 206 (42 U.S.C. 207(a)) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Officers of the assistant grade—first lieutenant;

"(6) Officers of the junior assistant grade—second lieutenant;

"(7) Chief warrant officers of (W-4) grade—chief warrant officer (W-4);

"(8) Chief warrant officers of (W-3) grade—chief warrant officer (W-3);

"(9) Chief warrant officers of (W-2) grade—chief warrant officer (W-2); and

"(10) Warrant officers of (W-1) grade—warrant officer (W-1).".

(b) Section 206(c) (42 U.S.C. 207(c)) is repealed.

(c) The first sentence of section 206(d) (42 U.S.C. 207(d)) is amended by striking out "junior assistant grade" and inserting in lieu thereof the following: "warrant officer (W-1) grade".

SEC. 305. (a) Section 207(a)(1) (42 U.S.C. 209(a)(1)) is amended by inserting immediately after "original appointments to the Regular Corps may be made only in the" the following: "warrant officer (W-1), chief warrant officer (W-2), chief warrant officer (W-3), chief warrant officer (W-4),".

(b)(1) Section 207(d)(1) (42 U.S.C. 209 (d)(1) is amended to read as follows:

"(d)(1) For purposes of basic pay of any person appointed under subsection (a) or (b), and for purposes of promotion of any person appointed to the Regular Corps under subsection (a) or any person appointed under subsection (b), such persons shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.".

(2) Section 207(d)(2) (42 U.S.C. 209(d) (2)) is amended by striking out "to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b)," and inserting in lieu thereof the following: "or (b)".

(3) Section 207(d)(3) (42 U.S.C. 209(d) (3)) is amended by striking out "to the senior assistant grade or above".

SEC. 306. Section 209(c) (42 U.S.C. 210b(c)) is amended by striking out "assistant grade" and by inserting in lieu thereof the following: "warrant officer (W-1) grade".

SEC. 307. (a) Section 210(d)(1) (42 U.S.C. 211(d)(1)) is amended by striking out "Officers in the junior assistant grade" and by inserting in lieu thereof the following: "Officers in the warrant officer (W-1) grade, chief warrant officer (W-2) grade, chief warrant officer (W-3) grade, chief warrant officer (W-4) grade, and junior assistant grade".

(b) Section 210(g) (42 U.S.C. 211(g) is amended—

(1) in the first sentence by striking out "an officer of the Regular Corps in the junior assistant grade" and inserting in lieu thereof the following: "an officer of the Regular Corps in the warrant officer (W-1) grade or junior assistant grade";

(2) in the second sentence by striking out "an officer of the Regular Corps in the assistant, senior assistant," and inserting in lieu thereof the following: "an officer of the Regular Corps in the chief warrant officer (W-2), chief warrant officer (W-3), assistant, senior assistant,";

(3) in paragraph (1) by striking out "if in the assistant grade" and inserting in lieu thereof the following: "if in the chief warrant officer (W-2) or assistant grade"; and

(4) in paragraph (2) by striking out "if in the senior assistant grade" and inserting in lieu thereof the following: "if in the chief warrant officer (W-3) or senior assistant grade".

SEC. 308. Section 211(e) (42 U.S.C. 212(e)) is amended by striking out "a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded" and by inserting in lieu thereof the following: "a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded".

SEC. 309. (a) Section 214(c) (42 U.S.C. 215(c)) is amended by striking out the comma immediately after "non-profit educational research" and inserting immediately after "Service" the following: "to any appropriate committee of the Congress".

(b) Section 214(d) (42 U.S.C. 215(d)) is amended by inserting after the first sentence the following new sentence: "In the case of detail of personnel under subsections (b) or (c) to be paid from applicable Service appropriations, the Secretary may condition such detail on an agreement by the State, subdivision, or institution concerned that such State, subdivision, or institution concerned shall reimburse the United States for the amount of such payments made by the Service.".

SEC. 310. (a) The first sentence of section 218(b) (42 U.S.C. 218a(b)) is amended to read as follows: "Any officer whose tuition, fees, and other necessary expenses are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to pay to the Service an amount equal to two times the total amount of such tuition, fees, and other necessary expenses received by such officer during such period, and two times the total amount of any compensation received by, and any allowance paid to, such officer during such period, if after return to active service such officer voluntarily leaves the Service within (1) six months, or (2) twice the period of such attendance, whichever is greater.".

(b) The third sentence of section 218(b) (42 U.S.C. 218a(b)) is amended by striking out "reimbursement" wherever it appears and by inserting in lieu thereof the following: "payment".

SEC. 311. Section 219(c) (42 U.S.C. 210-1 (c)) is repealed.

SEC. 312. Section 221(a) (42 U.S.C. 213a (a)) is amended by adding at the end thereof the following new paragraphs:

"(12) Section 1552, Correction of military records: claims incident thereto.

"(13) Section 1553, Review of discharge or dismissal.

"(14) Section 1554, Review of retirement or separation without pay for physical disability.".

SEC. 313. The Public Health Service Act is amended by inserting immediately after section 227 (42 U.S.C. 236) the following new section:

"RESERVE CORPS OFFICERS; SEVERANCE PAY UPON INVOLUNTARY RELEASE FROM ACTIVE DUTY

"SEC. 228. (a) Except as provided in subsection (b), a commissioned officer of the Reserve Corps of the Service who is released from active duty involuntarily pursuant to (1) program abolition or contraction requiring a reduction in strength of the commissioned corps, (2) nonavailability of other assignment or failure of promotion, or (3) any other reason other than separation for cause or retirement, and who has completed, immediately before such release, at least five years of continuous active duty in the commissioned corps of the Service, is entitled to a severance payment computed by multiplying the years of active service in the commissioned corps of such officer (other than in time of war or national emergency declared by Congress after January 1, 1979) by two months basic pay of the grade in which such officer is serving at the time of such release, except that no such severance payment to any officer shall exceed an amount equal to the amount of two years of basic pay of the grade in which such officer is serving at the time of such release. For purposes of this subsection—

"(1) a period of active duty is continuous if it is not interrupted by a break in service of more than thirty days; and

"(2) in the computation of severance pay, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

"(b) Subsection (a) shall not apply with respect to any officer referred to in such subsection who—

"(1) is released from active duty at the request of such officer;

"(2) is released from active duty for training;

"(3) upon release from active duty, is immediately eligible for retired pay from the Service; or

"(4) upon release from active duty, is immediately eligible for severance pay based on this section and any other provision of law and who elects to receive such severance pay under such other provision of law.

"(c) Any severance payment to which any officer becomes entitled under this section shall be reduced by the amount of any previous payment made to such officer under this section.".

SEC. 314. (a)(1) The table in section 201(a) of title 37, United States Code, is amended by striking out "Surgeon General." in the fourth column of such table and by inserting in such column to correspond with pay grade O-9 the following: "Surgeon General.".

(2) Section 205(a) of such title is amended by striking out "and" at the end of clause (8), by striking out "Corps." at the end of clause (9)(C) and inserting in lieu thereof "Corps;", and by inserting immediately after such clause (9)(C) the following new clauses:

"(10) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a doctoral degree named in clause (11), who attains a masters degree before entry or re-entry into active service where such degree is required for appointment—one year; and

"(11) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a masters degree named in clause (10), who attains a doctoral degree before entry or re-entry into active service where such degree is required for appointment—three years.".

(b)(1) Section 1006(a) of title 37, United States Code, is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(2) Section 1006(b) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(3) Section 1006(c) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(4) Section 1006(c) of such title is amended by inserting immediately after "members of the armed forces" the following: "or of the Public Health Service".

(5) Section 1006(d) of such title is amended by inserting immediately after "from his armed force" the following: "or from the Public Health Service".

(6) Section 1006(e) of such title is amended by inserting before the period the following: "and the Public Health Service.".

(7) Section 1006(h) of such title is amended by inserting immediately after "members of an armed force" the following: "or of the Public Health Service".

(c) Section 415(d) of title 37, United States Code, is amended to read as follows:

"(d) An allowance of $250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

"(1) on active duty or on inactive duty training status; and

"(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection, except that an officer who has received one such allowance under this subsection may, upon transfer to or from the United States Coast Guard, be paid one additional such uniform and equipment allowance if pursuant to such transfer a different uniform is required.".

SEC. 315. The amendments made by sections 303, 304, 305, 306, 307, 313, and 314 shall take effect on October 1, 1979.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3633) was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3633, the bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 230

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 230, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and, without objection, appoints the following conferees: Messrs. STAGGERS, WAXMAN, SATTERFIELD, PREYER, BROYHILL, and CARTER.

There was no objection.

□ 1440

CONFERENCE REPORT ON H.R. 4057, FOOD STAMP ACT AMENDMENT OF 1979

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program:

CONFERENCE REPORT (H. Rept. No. 96–394)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

INCREASE IN 1979 AUTHORIZATION FOR APPROPRIATION; REPEAL OF AUTHORITY FOR CARRYOVER OF APPROPRIATIONS; METHOD OF REDUCING ALLOTMENTS IF APPROPRIATIONS ARE INSUFFICIENT

SECTION 1. Section 18 of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,158,900,000" in the first sentence of subsection (a) and inserting in lieu thereof "$6,778,900,000";

(2) striking out the third sentence of subsection (a) and inserting in lieu thereof of two new sentences as follows: "The Secretary shall, by the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.";

(3) striking out "If" in the second sentence of subsection (b) and inserting in lieu thereof "Notwithstanding any other provision of this Act, if"; and

(4) adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.".

EXCESS MEDICAL EXPENSE AND EXCESS SHELTER EXPENSE DEDUCTIONS FOR ELDERLY PERSONS AND PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS OR SOCIAL SECURITY DISABILITY PAYMENTS

SEC. 2. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) inserting in the fourth sentence after "Households" the following: ", other than those households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act,"; and

(2) adding at the end thereof a new sentence as follows: "Households containing a member who is sixty years of age or over or who receives supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act shall also be entitled to—

"(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by household members who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act or disability payments under title II of the Social Security Act, exclusive of special diets, that exceed $35 a month;

"(B) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of the preceding sentence, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

"(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.".

DEFINITION OF ALLOWABLE MEDICAL EXPENSES

SEC. 3. Section 3 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (q) as follows:

"(q) 'Allowable medical expenses' means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act, (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.".

PROVISION OF INFORMATION

SEC. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

"(f) The Secretary and State agencies may (1) require, as a condition of eligibility for participation in the food stamp program, that each household member furnish to the State agency their social security account number (or numbers, if they have more than one number), and (2) use such account numbers in the administration of the food stamp program. The Secretary and State agencies shall have access to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act that has been provided to the Secretary of Health, Education, and Welfare, but only to the extent that the Secretary and the Secretary of Health, Education, and Welfare determine necessary for purposes of determining or auditing a household's eligibility to receive assistance or the amount thereof under the food stamp program, or verifying information related thereto.".

REPAYMENT FOR FRAUDULENT CONDUCT

SEC. 5. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof two new sentences as follows: "After any specified period of disqualification pursuant to findings under clauses (1) or (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayment in cash under the provisions of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household of which such individual is a member shall be subject to appropriate allotment reductions.".

STATE SHARE OF RECOVERIES

SEC. 6. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: ", as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection".

GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

SEC. 7. Section 3 of the Food Stamp Act of 1977 is amended by—

(1) striking out in subsection (g) "and (5)" and inserting in lieu thereof "(5), and (7)";

(2) striking out in subsection (g) "and (6)" and inserting in lieu thereof "(6)";

(3) inserting immediately before the period at the end of subsection (g) the following: ", and (7) in the case of disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616 (e) of the Social Security Act,

meals prepared and served under such arrangement";

(4) inserting in subsection (i) after "elderly" the following: ", disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act,";

(5) inserting immediately before the period at the end of subsection (i) the following: "and shall be considered individual households"; and

(6) amending clause (2) of subsection (k) to read as follows: "(2) an establishment, organization, program, or group living arrangement referred to in subsections (g) (3), (4), (5), and (7) of this section,".

SEC. 8. Section 10 of the Food Stamp Act is amended by inserting after "programs" the following: ", and public or private nonprofit group living arrangements that serve meals to disabled or blind residents,".

DENIAL OF BENEFITS TO CERTAIN HOUSEHOLDS

SEC. 9. Section 6 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (i) as follows:

"(i) No household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of this Act.".

IMPLEMENTATION

SEC. 10. (a) The provisions of sections 2 and 3 of this Act shall be implemented in all States by January 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participant households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

(b) Notwithstanding any other provision of law, the Secretary of Agriculture shall issue final regulations implementing the provisions of sections 4 through 6 of this Act within one hundred and fifty days after the date of enactment of this Act.

(c) The provisions of sections 7 and 8 of this Act shall be implemented in all States by July 1, 1980, and shall not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

THOMAS S. FOLEY,
E DE LA GARZA,
ED JONES,
DAWSON MATHIS,
FREDERICK W. RICHMOND,
RICHARD NOLAN,
TOM HARKIN,
LEON E. PANETTA,
DAN GLICKMAN,
DANIEL K. AKAKA,
WILLIAM C. WAMPLER,
STEVEN D. SYMMS,
MARGARET M. HECKLER,
CHARLES E. GRASSLEY,
Managers on the Part of the House.

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
RICHARD STONE,
PATRICK J. LEAHY,
JOHN MELCHER,
JESSE HELMS,
S. I. (SAM) HAYAKAWA,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4057) to increase the fiscal year 1979 authoriation for appropriations for the food stamp program, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text. The committee of conference recommends a substitute for both the House bill and the Senate amendment.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

(1) EXCESS MEDICAL AND SHELTER EXPENSE DEDUCTIONS FOR HOUSEHOLDS WITH ELDERLY PERSONS OR PERSONS RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS OR SOCIAL SECURITY DISABILITY PAYMENTS

Both the House bill and the Senate amendment provide an excess medical expense deduction for households containing a member who is age sixty years or older.

(A) *Eligibility for excess medical expense deduction*

The Senate amendment also makes eligible for this deduction households containing a member who receives supplemental security income benefits or social security disability payments.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

(B) *Scope of excess medical expense deduction*

The House bill allows eligible households to deduct the medical expenses of all household members.

The Senate amendment allows eligible households to deduct the medical expenses of the elderly and disabled household members.

The conference substitute adopts the Senate provision.

(C) *Amount of excess medical expense deduction*

The House bill allows the deduction of medical expenses in excess of $10 a month.

The Senate amendment allows the deduction of medical expenses in excess of $35 a month.

The conference substitute adopts the Senate provision.

(D) *Indexing*

The Senate amendment provides that the $35 a month threshold for the excess medical expense deduction will be indexed semiannually beginning July 1, 1979, in the same manner as the standard deduction—according to Consumer Price Index changes for items other than food.

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision.

(E) *Definition of "allowable medical expenses"*

The Senate amendment defines "allowable medical expenses," for purposes of determining the excess medical expense deduction, to include all medical expenses previously allowed by the regulations and guidelines issued under the Food Stamp Act of 1964.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

(F) *Duration of the excess medical expense deduction*

The House bill makes the excess medical expense deduction effective for fiscal years 1979 and 1980.

The Senate amendment makes the excess medical expense deduction permanent.

The conference substitute adopts the Senate provision.

(G) *Excess shelter expense deduction*

The Senate amendment removes the ceiling on the allowable amount of the excess shelter expense deduction (currently $90 a month) for households containing a member who is age sixty or older or who receives supplemental security income benefits or social security disability payments.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

(H) *Effective date*

The Senate amendment provides that the provisions for the excess medical expense deduction and removal of the ceiling on the excess shelter expense deduction will take effect on the first day of the first month beginning after the date of enactment.

The House contains no comparable provision. The conference substitute adopts the Senate provision, but changes the date by which the deductions are to be implemented to January 1, 1980, with the understanding that every State should implement the new medical deduction and remove the shelter deduction ceiling as promptly as possible. However, no household would be entitled to use the new deduction system until such time as the State has implemented it. Thus, the Secretary and State agencies are not to provide retroactive benefits to applicant or participant households solely because of the implementation schedule for the excess shelter and medical expense deductions. In light of the urgent need for these new deductions, the conferees expect that every State will implement the deductions by January 1, 1980, and that the Secretary will vigorously pursue implementation and appropriate remedies to ensure compliance. To accomplish implementation in the swiftest manner possible, the Department of Agriculture should proceed quickly to complete the regulatory process for issuing the necessary regulations, including, where appropriate, waiver of notice and comment procedures under the Administrative Procedure Act as contrary to the public interest and unnecessary in light of the emergency and automatic nature of these provisions.

(2) PROVISION OF INFORMATION

The Senate amendment authorizes the Secretary and State agencies to (A) require submission of social security numbers as a condition of food stamp program eligibility and (B) have access to the data from other Federal programs regarding individual food stamp program applicants and participants who receive supplemental security income benefits that have been provided to the Secretary of Health, Education, and Welfare.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision with clarifying language limiting the access to data pursuant to regulations that specify when such access is necessary for purposes of determining or auditing a household's eligibility to receive food stamp assistance or the amount thereof or verifying information related thereto.

(3) REPAYMENT FOR FRAUDULENT CONDUCT

The Senate amendment requires that individuals disqualified because of fraud who wish to reenter the program after the period of disqualification must agree to repay the value of the food stamps fraudulently obtained, through either a cash payment or a reduction in the household's allotment, under a reasonable schedule prescribed by the Secretary. If a disqualified individual agrees to repayment in cash and fails to make the payments, that household's allotment will be subject to appropriate reductions.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

(4) STATE SHARE OF RECOVERIES

The Senate amendment allows each State to retain 50 percent of the funds it recovers or collects through prosecutions or other State activities directed against individuals who fraudulently obtain their food stamps. The Senate amendment further provides that the officials responsible for making determinations of fraud under the Act will not receive or benefit from State fraud recoveries.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

(5) ELIGIBILITY VERIFICATION

The Senate amendment prohibits the Secretary from precluding the State agencies from implementing verification procedures in addition to those issued by the Secretary under the Act. The Senate amendment requires that any supplemental State verification standards be (A) in the State's plan of operation, and (B) reasonably related to the Secretary's national standards. The Senate amendment also prohibits supplemental State verification standards from (A) resulting in violation of the Secretary's standards for timely provision of benefits; (B) subjecting households to home visits conducted in an unreasonable manner or during unreasonable hours; (C) being used for those persons whose State or Federal cash welfare eligibility has already been verified, or is being verified; (D) resulting in a denial or reduction of benefits because a household cannot verify matters outside of its control; and (E) resulting in households having to make unreasonable additional trips to the welfare office.

The House bill contains no comparable provisions.

The conference substitute deletes the Senate provision.

(6) REMOVAL OF AUTHORIZATION FOR APPROPRIATIONS CEILING FOR 1980 AND 1981

The Senate amendment removes the specific dollar authorization for appropriations ceilings for fiscal years 1980 and 1981.

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision.

(7) GROUP LIVING ARRANGEMENTS FOR THE DISABLED OR BLIND

The Senate amendment makes blind and disabled residents of small State-certified group living arrangements eligible for participation in the food stamp program under conditions equivalent to those applicable to narcotics addicts or alcoholics participating in treatment programs.

The House bill contains no comparable provisions.

The conference substitute adopts the Senate provisions.

In making residents of small group living arrangements eligible, the Senate amendment—

(a) includes within the definition of "household" disabled or blind recipients of social security disability payments or supplemental security income benefits who are residents in public or private nonprofit group living arrangements serving no more than sixteen residents, so long as they are certified by State agencies under section 1616(e) of the Social Security Act;

(b) provides that disabled or blind residents in small public or private nonprofit State-approved group living arrangements will be considered individual households;

(c) includes within the definition of "food," meals prepared and served to disabled or blind persons in small public or private nonprofit group living arrangements that are certified by State agencies under section 1616(e) of the Social Security Act;

(d) includes small, State-certified public or private nonprofit group living arrangements that serve meals to disabled or blind residents within the definition of "retail food store";

(e) provides that public or private nonprofit group living arrangements that serve meals to disabled or blind residents may not redeem those residents' food stamps through banks; and

(f) sets forth that the provisions dealing with group living arrangements for the disabled and blind will be implemented by July 1, 1980, and will not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

(9) EFFECTIVE DATE FOR ANTIFRAUD PROVISIONS

The Senate amendment requires the Secretary of Agriculture—within 150 days after the date of enactment of the bill—to issue final regulations implementing the sections of the bill on provision of information, repayment of fraud, State share of recoveries, and eligibility verifications.

The House bill contains no comparable provision.

The conference susbtitute adopts the Senate provision, with an amendment deleting the reference to eligibility verification.

(9) STRIKER ELIGIBILITY

The Senate amendment specifically provides that no household that contains a person involved in a labor-management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of the Food Stamp Act of 1977.

The House bill contains no comparable provision.

The conference substitute adopts the Senate provision.

THOMAS S. FOLEY,
E DE LA GARZA,
ED JONES,
DAWSON MATHIS,
FREDERICK W. RICHMOND,
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JESSE HELMS,
S. I. (SAM) HAYAKAWA,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO FILE CONFERENCE REPORT ON H.R. 3324, INTERNATIONAL DEVELOPMENT COOPERATION ACT OF 1979

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight tonight to file a conference report on the bill (H.R. 3324) to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 96-397)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3324) to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "International Development Cooperation Act of 1979".

TITLE I—DEVELOPMENT ASSISTANCE

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 101. (a) Section 103(a)(2) of the Foreign Assistance Act of 1961 is amended by amending the first sentence to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $659,000,000 for the fiscal year 1980.".

(b) Section 103(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Congress recognizes that the accelerating loss of forests and tree cover in developing countries undermines and offsets efforts to improve agricultural production and nutrition and otherwise to meet the basic human needs of the poor. Deforestation results in increased flooding, reduction in water supply for agricultural capacity, loss of firewood and needed wood products, and loss of valuable plants and animals. In order to maintain and increase forest resources, the President is authorized to provide assistance under this section for forestry projects which are essential to fulfill the fundamental purposes of this section Emphasis shall be given to community woodlots, agroforestry, reforestation, protection of watershed forests, and more effective forest management.".

(c) Section 103 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Congress finds that the efforts of developing countries to enhance their national food security deserves encouragement as a matter of United States development assistance policy. Measures complementary to assistance for expanding food production in developing countries are needed to help assure that food becomes increasingly available on a regular basis to the poor in such countries. Therefore, United States bilateral assistance under this Act and the Agricultural Trade Development and Assistance Act of 1954, and United States participation in multilateral institutions, shall emphasize policies and programs which assist developing countries to increase their national food security by improving their food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing postharvest food losses, and improving food distribution.".

POPULATION AND HEALTH

SEC. 102. (a) The first sentence of section 104(g) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $201,000,000 for the fiscal year 1980 to carry out subsection (b) of this section; and

"(2) $141,000,000 for the fiscal year 1980 to carry out subsection (c) of this section, of which amount not less than $4,000,000 shall be made available to assist in the development of the John Sparkman Center for International Public Health Education to be located at the University of Alabama at Birmingham.".

(b) Section 104(d)(1) of such Act is amended by inserting immediately before the period at the end of the second sentence the following: ", and through community-based development programs which give recognition to people motivated to limit the size of their families".

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 103. (a) The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $105,000,000 for the fiscal year 1980, which are authorized to remain available until expended.".

(b) Section 105(b) of such Act is amended by adding at the end thereof the following new sentence: "Assistance under this section shall also be provided for advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.".

DEVELOPMENT OF INDIGENOUS ENERGY RESOURCES

SEC. 104. (a) Section 102(b) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (5) by striking out "and" immediately after the last semicolon and by inserting "; and energy development and production" immediately before the period; and

(2) in paragraph (7) by inserting "the development, production, and" immediately after "promotes".

(b) Section 106 of such Act is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2), and

(B) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

(2) by redesignating subsections (a) and (b) as subsections (c) and (d), respectively; and

(3) by inserting the following new subsections (a) and (b) immediately after the section caption:

"(a)(1) The Congress finds that energy development and production are vital elements in the development process, that energy shortages in developing countries severely limit the development process in such countries, that two-thirds of the developing countries which import oil depend on it for at least 90 percent of the energy which their economies require, and that the dramatic increase in world oil prices since 1973 has resulted in considerable economic hardship for many developing countries. The Congress is concerned that the value and purpose of much of the assistance provided to developing countries under sections 103, 104, and 105 are undermined by the inability of many developing countries to satisfy their energy requirements. Unless the energy deficit of the developing countries can be narrowed by more fully exploiting indigenous sources of energy such as oil, natural gas, and coal, scarce foreign exchange will increasingly have to be diverted to oil imports, primarily to the detriment of long-term development and economic growth.

"(2) The Congress recognizes that many developing countries lack access to the financial resources and technology necessary to locate, explore, and develop indigenous energy resources.

"(3) The Congress declares that there is potential for at least a moderate increase by 1990 in the production of energy for commercial use in the developing countries which are not members of the Organization of Petroleum Exporting Countries. In addition, there is a compelling need for vigorous efforts to improve the available data on the location, scale, and commercial exploitability of potential oil, natural gas, and coal reserves in developing countries, especially those which are not members of the Organization of Petroleum Exporting Countries. The Congress further declares that there are many benefits to be gained by the developing countries and by the United States and other developed countries through expanded efforts to expedite the location, exploration, and development of potential sources of energy in developing countries. These benefits include, but are not limited to, the following:

"(A) The world's energy supply would be increased and the fear of abrupt depletion would be lessened with new energy production. This could have a positive impact upon energy prices in international markets as well as a positive effect upon the balance of payments problems of many developing countries.

"(B) Diversification of the world's supplies of energy from fossil fuels would make all countries, developing and developed, less susceptible to supply interruptions and arbitrary production and pricing policies.

"(C) Even a moderate increase in energy production in the developing countries would improve their ability to expand commercial trade, foreign investment, and technology transfer possibilities with the United States and other developed countries.

"(4) Assistance for the production of energy from indigenous resources, as authorized by subsection (b) of this section, would be of direct benefit to the poor in developing countries because of the overwhelming impact of imported energy costs upon the lives of the poor and their ability to participate in development.

"(b)(1) In order to help developing countries alleviate their energy problems by improving their ability to use indigenous energy resources to produce the energy needed by their economies, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to enable such countries to prepare for and undertake development of their energy resources. Such assistance may include data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production.

"(2) Of the funds made available to carry out this section, up to $7,000,000 for the fiscal year 1980 shall be used for purposes of paragraph (1) to facilitate geological and geophysical survey work to locate potential oil, natural gas, and coal reserves and to encourage exploration for potential oil, natural gas, and coal reserves in developing countries which are not members of the Organization of Petroleum Exporting Countries.".

(c) Section 119(a) of such Act is amended by amending the first sentence to read as follows: "The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act.".

TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS

SEC. 105. Section 106(d) of the Foreign Assistance Act of 1961, as so redesignated by section 104(b)(2) of this Act, is amended to read as follows:

"(d) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $125,000,000 for the fiscal year 1980, which are authorized to remain available until expended.".

HUMAN RIGHTS STUDIES AND ACTIVITIES

SEC. 106. Section 116(e) of the Foreign Assistance Act of 1961 is amended by striking out "the fiscal year 1979" and inserting in lieu thereof "the fiscal year 1980".

RENEWABLE AND UNCONVENTIONAL ENERGY TECHNOLOGIES

SEC. 107. (a) Section 119 of the Foreign Assistance Act of 1961 is amended by redesignating existing subsection (a) as subsection (b) and by inserting the following new subsection (a) immediately after the section caption:

"(a) The Congress finds that energy production and conservation are vital elements in the development process and that energy shortages in developing countries severely limit the development progress of such countries. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries, primarily through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.".

(b) Such section is further amended by redesignating existing subsection (b) as subsection (d) and by inserting the following new subsection (c) between subsections (b) and (d), as so redesignated by this subsection and subsection (a) of this section:

"(c) Such programs may include research on, and the development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.".

SAHEL DEVELOPMENT PROGRAM—IMPLEMENTATION

SEC. 108. Section 121 (c) of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence: "In addition to the amount authorized in the preceding sentence and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $25,000,000.".

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 109. Section 124 (c) (2) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "Amounts due and payable during fiscal year 1980 to the United States from relatively least developed countries on loans made under this part (or any predecessor legislation) are authorized to be approved for use, in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $18,800,000.".

DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION

SEC. 110. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 126. DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION.—(a) The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this chapter could address, as well as upon direct narcotics control efforts.

"(b) In planning programs of assistance under this chapter for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering this part should give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

"(c) In furtherance of the purposes of this section, the agency primarily responsible for administering this part shall cooperate fully with, and share its expertise in development matters with, other agencies of the United States Government involved in narcotics control activities abroad.".

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 111. Section 214(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c) To carry out the purposes of this section, there are authorized to be appropriated to the President $25,000,000 for the fiscal year 1980, which are authorized to remain available until expended.".

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

SEC. 112. (a) Section 222(a) of the Foreign Assistance Act of 1961 is amended—

(1) in the second sentence by striking out "$1,180,000,000" and inserting in lieu thereof "$1,555,000,000"; and

(2) in the third sentence by striking out "until September 30, 1980" and inserting in lieu thereof "through September 30, 1982".

(b)(1) Section 222A(a) of such Act is amended by striking out "five" and inserting in lieu thereof "six".

(2) Section 222A(c) of such Act is amended by striking out "$15,000,000" and inserting in lieu thereof "$20,000,000".

(3) Section 222A(h) of such Act is amended by striking out "until September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

(c) Section 223(f) of such Act is amended—

(1) by striking out everything after "not" in the first sentence through "exceeds" in the second sentence and inserting in lieu thereof "exceed"; and

(2) by striking out "such Department" and inserting in lieu thereof "the Department of Housing and Urban Development".

(d) Section 223(j) of such Act is amended—

(1) in the first sentence, by striking out "(1)" and all that follows through "(3)" and inserting in lieu thereof "are coordinated with and complementary to any development assistance being furnished under chapter 1 of this part and which"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Of the total amount of housing guaranties authorized to be issued under section 222 through September 30, 1982, not less than a face amount of $25,000,000 shall be issued for projects in Israel and not less than a face amount of $25,000,000 shall be issued for projects in Egypt.".

FAMINE PREVENTION AND FREEDOM FROM HUNGER

SEC. 113. Section 297 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a)(3) by inserting ", in the developing countries themselves to the maximum extent practicable," immediately after "university research"; and

(2) by amending subsection (c) to read as follows:

"(c) To the maximum extent practicable, activities under this section shall—

"(1) be directly related to the food and agricultural needs of developing countries;

"(2) be carried out within the developing countries;

"(3) be adapted to local circumstances;

"(4) provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries; and

"(5) emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of such countries.".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 114. (a) Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $267,280,000 for the fiscal year 1980, of which not to exceed $52,000,000 shall be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees, except that not more than $42,500,000 of this amount may be obligated unless the President certifies to the Congress that any contributions above this level have been matched by equivalent contributions by members of the Organization of Petroleum Exporting Countries.".

(b) Notwithstanding any other provision of law, funds appropriated for the fiscal year 1979 to meet the annual obligations of membership of the United States in the United Nations and its specialized agencies may be made available for the furnishing of technical assistance by the United Nations and its specialized agencies.

INTERNATIONAL DISASTER ASSISTANCE

SEC. 115. Section 492 of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for the fiscal year 1979" and inserting in lieu thereof "$21,800,000 for the fiscal year 1980".

ASSISTANCE FOR AFRICAN REFUGEES

SEC. 116. Section 495F of the Foreign Assistance Act of 1961 is amended in the second sentence—

(1) by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980"; and

(2) by striking out "$15,000,000" and inserting in lieu thereof "$14,920,000".

COMPLETION OF PLANS AND COST ESTIMATES

SEC. 117. Section 611(b) of the Foreign Assistance Act of 1961 is amended by striking out "Memorandum of the President dated May 15, 1962" and inserting in lieu thereof "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973".

REPRESENTATION OF THE DEPARTMENT OF ENERGY ON THE DEVELOPMENT COORDINATION COMMITTEE

SEC. 118. Section 640B(a) of the Foreign Assistance Act of 1961 is amended in the third sentence by inserting "Energy," immediately after "Agriculture,".

REIMBURSABLE DEVELOPMENT PROGRAMS

SEC. 119. Section 661 of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$3,000,000 of the funds made available for the purposes of this Act for the fiscal year 1979" and inserting in lieu thereof "$3,800,000 of the funds made available for the purposes of this Act for the fiscal year 1980".

OPERATING EXPENSES

SEC. 120. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980"; and

(2) in paragraph (1) by striking out "$261,000,000" and inserting in lieu thereof "$263,000,000".

REGISTRATION OF PRIVATE VOLUNTARY AGENCIES

SEC. 121. Sections 123(b), 607(a), and 635(c) of the Foreign Assistance Act of 1961 and sections 104(f) and 202(a) of the Agricultural Trade Development and Assistance Act of 1954 are amended by striking out "Advisory Committee on Voluntary Foreign Aid" and "Advisory Committee" wherever they appear and inserting in lieu thereof "Agency for International Development".

MISCELLANEOUS REPEALS

SEC. 122. Section 105(c), the last sentence of section 111, sections 113 (b) and (c), and section 118(c) of the Foreign Assistance Act of 1961 are repealed. Subsection (d) of section 113 of such Act is redesignated as subsection (b).

MINORITY RESOURCE CENTER

SEC. 123. Section 133 of the International Development and Food Assistance Act of 1977 is amended by adding at the end thereof the following new subsection:

"(c)(1) Upon the enactment of the International Development Cooperation Act of 1979, the section on minority business established pursuant to subsection (a) shall be redesignated as the Minority Resource Center (hereafter in this section referred to as the 'Center') which shall be responsible for increasing the participation of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (hereafter in this section referred to as the 'agency').

"(2) The Center shall—

"(A) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities in development assistance programs funded by the agency;

"(B) design and conduct programs to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, operation expatriate contracts, indefinite quantity contracts, subcontracts, projects, grants, and research and development contracts in order for such enterprises to participate in such development assistance programs;

"(C) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities in such development assistance programs;

"(D) develop support mechanisms which will enable socially and economically disadvantaged businesses to take advantage of business opportunities in such development assistance programs; and

"(E) enter into such contracts (to such extent or in such amounts as are provided in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

"(3) The Administrator of the agency and the Secretary of State shall provide the Center with such relevant information, including procurement schedules, bids, and specifications with respect to development assistance programs funded by the agency, as may be requested by the Center in connection with the performance of its functions under this section.

"(4) There shall be a Director of the Center who shall be the chief executive officer of the Center. The Director shall be appointed by the Administrator of the agency.

"(5)(A) For the purposes of this section, the term 'economically and socially disadvantaged enterprise' means a business—

"(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(ii) whose management and daily business operations are controlled by one or more such individuals.

"(B) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

"(C) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

"(6) Not later than February 1 of each year, the Administrator of the agency shall submit to the Congress a report concerning the activities of the Center during the preceding fiscal year.

"(7) Of the funds available to the agency for operating expenses, up to $950,000 for fiscal year 1980 may be allocated to the Center to carry out its functions under this section.

"(8) If the Administrator of the agency determines that such a consolidation would significantly further the purposes of this section and would eliminate unnecessary duplication of activity, the Administrator may consolidate the Center with the Office of Small and Disadvantaged Business Utilization established in the agency by section 15(k) of the Small Business Act. Any such consolidation shall ensure that all the functions specified in paragraph (2) of this subsection continue to be carried out. Before implementing any such consolidation, the Administrator shall submit to the Congress a detailed report setting forth the reasons for the proposed consolidation.".

PROHIBITION ON ASSISTANCE TO PANAMA

SEC. 124. None of the funds authorized to be appropriated by this title may be made available for assistance to the Republic of Panama, its agencies or instrumentalities, unless the President determines that assistance to Panama is in the national interest of the United States.

ASSISTANCE TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

SEC. 125. It is the sense of the Congress that the United States should place greater emphasis on public and private resources for development programs in Latin America and the Caribbean which address problems common to the Western Hemisphere. It is further the sense of the Congress that provision of such assistance to Latin American and Caribbean countries, including transitional developing countries, is consistent with the purposes of part I of the Foreign Assistance Act of 1961.

INCREASED CONTRIBUTIONS FOR DEVELOPMENT ASSISTANCE

SEC. 126. In recognition of the rapidly growing economic strength and ability to contribute to international development and security efforts of other nations, it is the sense of the Congress that the President should take all appropriate steps to negotiate with those nations with adequate financial resources to provide assistance to increase their contributions for development assistance through multilateral programs as well as through bilateral efforts.

TITLE II—FOOD FOR PEACE

INCREASING DEMAND FOR FOOD AND ENCOURAGING LOCAL FOOD PRODUCTION

SEC. 201. Section 103(f) of the Agricultural Trade Development and Assistance Act of 1954 is amended to read as follows:

"(f) give consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs by increasing the effective demand for agricultural commodities through the support of measures to stimulate equitable economic growth in recipient countries, with appropriate emphasis on developing more adequate storage, handling, and food distribution facilities;".

ROLE OF INDIGENOUS INSTITUTIONS AND WORKERS

SEC. 202. Section 202(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 is amended to read as follows:

"(2) In order to assure that food commodities made available under this title are used effectively and in the areas of greatest need, entities through which such commodities are distributed shall be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible, to assess nutritional and other needs of beneficiary groups, help these groups design and carry out mutually acceptable projects, recommend ways of making food assistance available that are most appropriate for each local setting, supervise food distribution, and regularly evaluate the effectiveness of each project.".

ALLEVIATING THE CAUSES OF THE NEED FOR TITLE II ASSISTANCE

SEC. 203. Section 206 of the Agricultural Trade Development and Assistance Act of 1954 is amended by amending clause (3) of the first sentence to read as follows: "(3) such agreement provides that the currencies will be used for (A) alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in section 103 of the Foreign Assistance Act of 1961, or (B) programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this title to the neediest individuals in recipient countries.".

INCENTIVES FOR ENTERING INTO FOOD FOR DEVELOPMENT PROGRAMS

SEC. 204. (a) Section 301(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in the first sentence, by inserting ", or the dollar sales value of the commodities themselves," immediately after "the local sale of such commodities"; and

(2) in the second sentence, by striking out "of funds from the sale of such commodities in the participating country" and inserting in lieu thereof "in the participating country of funds from the sale of such commodities or of the commodities themselves".

(b) Section 305 of such Act is amended by adding at the end thereof the following new subsection:

"(c) When agricultural commodities made available under this title are used by the participating country in development projects in accordance with the applicable Food for Development Program, the dollar sales value of such commodities shall be applied, in accordance with subsections (a) and (b) of this section, against repayment obligations of that country under this Act, with the value of the commodities so used being deemed to be disbursements made at the time of such use.".

(c) Section 303(a) of such Act is amended by striking out "for each year such funds are to be disbursed" in the second sentence.

PARTICIPATION OF AMERICAN AGRICULTURE IN FOOD FOR DEVELOPMENT PROGRAMS

SEC. 205. Section 302(c) of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new paragraph:

"(4) In developing and carrying out Food for Development Programs under this title, consideration shall be given to using the capability and expertise of American agriculture, in partnership with indigenous individuals and organizations, in furthering economic development and increased food production.".

FULL FORGIVENESS OF REPAYMENT OBLIGATIONS UNDER FOOD FOR DEVELOPMENT PROGRAMS

SEC. 206. Section 305(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following: "Disbursements of funds from the special account in an amount equivalent to the dollar value of the credit furnished by the Commodity Credit Corporation under section 304(a) shall be deemed to be payment of all installments of principal and interest payable thereon for the commodities purchased by the participating country for purposes of this title.".

REPORTS UNDER TITLE III

SEC. 207. (a) Section 306 of the Agricultural Trade Development and Assistance

Act of 1954 is amended by inserting in the first sentence "a detailed description of how the commodities were used or" immediately before "a specific".

(b) The first sentence of section 307(a) of such Act is amended to read as follows: "Each year the President shall review all agreements providing for the use under this title of the proceeds from the sale of agricultural commodities, or of the commodities themselves, with respect to which there was not full disbursement during the preceding fiscal year.".

AVOIDING INTERFERENCE WITH PRODUCTION OR MARKETING IN RECIPIENT COUNTRIES

SEC. 208. Section 401(b) of the Agricultural Trade Development and Assistance Act of 1954 is amended in clause (2)—

(1) by inserting "or interference with" immediately after "to"; and

(2) by inserting "or marketing" immediately after "production".

DETERMINATION OF COMMODITY NEEDS AND PROGRAM BENEFICIARIES IN EACH COUNTRY

SEC. 209. Section 404 of the Agricultural Trade Development and Assistance Act of 1954 is amended to read as follows:

"SEC. 404. (a) The programs of assistance conducted under this Act, and the types and quantities of agricultural commodities to be made available, shall be directed in the national interest toward the attainment of humanitarian and developmental objectives as well as the development and expansion of United States and recipient country agricultural commodity markets. To the maximum extent possible, either the commodities themselves shall be used to improve the economic and nutritional status of the poor through effective and sustainable programs, or any proceeds generated from the sales of agricultural commodities shall be used to promote policies and programs that benefit the poor.

"(b) Country assessments shall be carried out whenever necessary in order to determine the types and quantities of agricultural commodities needed, the conditions under which commodities should be provided and distributed the relationship between United States food assistance and other development resources, the development plans of that country, the most suitable timing for commodity deliveries, the rate at which food assistance levels can be effectively used to meet nutritional and developmental needs, and the country's potential as a new or expanded market for both United States agricultural commodities and recipient country foodstuffs.".

COMMODITIES FOR MULTIYEAR DEVELOPMENT PURPOSES

SEC. 210. Title IV of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 413. In order to best meet the humanitarian and developmental purposes of this Act, commodities provided under this Act for developmental purposes shall be made available, to the maximum extent practicable, on a multiyear basis when necessary for the most effective accomplishment of these purposes.".

TITLE III—PEACE CORPS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 3 of the Peace Corps Act is amended—

(1) in subsection (b), by striking out the matter before the first proviso and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act for fiscal year 1980 not to exceed $105,404,000"; and

(2) in subsection (c), by striking out "for fiscal year 1978 $1,069,000, and for fiscal year 1979" and inserting in lieu thereof "for fiscal year 1980".

PEACE CORPS PERSONNEL

SEC. 302. Section 7(a) of the Peace Corps Act is amended by adding at the end thereof the following new paragraph:

"(4) Until such time as the Congress enacts Foreign Service personnel reform legislation which amends or otherwise supersedes this paragraph, a person who has received a Foreign Service Reserve or staff appointment or assignment under this subsection may, not later than three years after the effective date of this paragraph or after separation from such appointment or assignment, whichever is later, be appointed to a position in any United States department, agency, or establishment—

"(A) in the competitive service under title 5, United States Code, without competitive examination and in accordance with such regulations and conditions consistent with this subsection as may be prescribed by the Director of the Office of Personnel Management, or

"(B) in an established merit system in the excepted service,

if such person (i) served satisfactorily under the authority of the subsection, as certified by the President, for not less than thirty-six months on a substantially continuous basis, and (ii) is qualified for the position in question.".

TITLE IV—INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

STATEMENT OF POLICY

SEC. 401. As declared by Congress in the Foreign Assistance Act of 1961, a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological capacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a stable world order.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on critical problems that impede development and limit the efficient use of the world's human, natural, and capital resources.

PURPOSES AND ESTABLISHMENT OF THE INSTITUTE

SEC. 402. (a) To strengthen the capacity the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is authorized to establish an Institute for Scientific and Technological Cooperation (hereafter in this title referred to as the "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

(b) The Institute shall be guided by the policies set forth in sections 101 and 102 of the Foreign Assistance Act of 1961 and shall direct a substantial share of its resources to those objectives.

FUNCTIONS OF THE INSTITUTE

SEC. 403. (a) In carrying out its purposes, the Institute shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

(b) In carrying out the functions specified in subsection (a), the Institute shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible.

(c) For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred by this title, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1946, title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the President deems necessary.

(d) The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries.

(e) The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

GENERAL AUTHORITIES

SEC. 404. (a) To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized

by this title while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of the purposes of the Institute;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this title;

(11) adopt, alter, and use an official seal for the Institute, which shall be judicially noticed; and

(12) take such other actions as may be necessary and incident to carrying out the functions of the Institute.

(b) Any authority provided by this section involving the expenditure of appropriated funds shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DIRECTOR OF THE INSTITUTE

SEC. 405. (a) There shall be a Director of the Institute (hereafter in this title referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate payable for level III of the Executive Schedule under section 5314 of title 5 of the United States Code.

(b) The President may exercise any authorities conferred upon him by this title through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

DEPUTY DIRECTOR AND OTHER STATUTORY OFFICERS

SEC. 406. (a) A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate payable for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(b) The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe.

(c) The President may establish up to two additional positions in the Institute to be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

COUNCIL ON INTERNATIONAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION

SEC. 407. (a) In order to further the purposes of the Institute, the President is authorized to establish a Council on International Scientific and Technological Cooperation (hereafter in this title referred to as the "Council").

(b) (1) The Council shall—

(A) advise the Director with respect to the policies, programs, planning, and procedures of the Institute;

(B) make recommendations to the Director on the use of the resources available to the Institute; and

(C) advise the Director on matters involving the activities of the Institute overseas and appropriate relationships with the private sector, within and outside the United States.

(2) The Council shall prepare an annual report setting forth the major recommendations made and advice given pursuant to paragraph (1) of this subsection.

(c) The Director shall seek the advice of the Council before making any decision with respect to the selection or termination of, or any significant change in, the areas and issues in which the Institute conducts its activities, and with respect to the transfer of specific programs and projects from any other Government agency to the Institute. The Council shall have the authority to review all new programs and initiatives before their implementation and to make recommendations with regard to the approval or disapproval of new programs and initiatives having a cost in excess of $500,000 or a duration greater than two years.

(d) The Council shall consist of up to twenty-five members appointed by the President, one of whom the President shall designate as Chairman. The members of the Council shall be appointed for terms of four years, except that the members first appointed shall be appointed for terms of one, two, three, or four years, as designated by the President at the time of their appointment, so that the terms of approximately one-fourth of the members of the Council expire in any year. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) officials of the United States Government, except that not to exceed five members of the Council may be appointed under this paragraph, one of whom shall be the Secretary of State or his designee.

(e) Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code, while in the performance of their duties under this title, and to reimbursement for expenses and per deim in lieu of subsistence while away from their homes or regular places of business in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(f) The Council may appoint from among its members an Executive Committee, and such other committees it deems necessary, to assist it in exercising its powers and functions. The Executive Committee shall consist of seven members, one of whom shall be the Chairman of the Council and not more than three of whom shall be employees of the United States Government. The Executive Committee shall exercise such powers and functions as are delegated to it by the Council.

INSTITUTE FELLOWSHIPS

SEC. 408. (a) The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) The amount of the awards made pursuant to this section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code. In addition, where appropriate, the President may make provisions for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this title.

(d) Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation of injuries under chapter 81 of title 5 of the United States Code and the tort claim provisions of chapter 171 of title 28 of the United States Code. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States, if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

CONFLICT OF INTEREST

SEC. 409. Members of the Council and Institute Fellows shall avoid any action, in their activities with respect to the Institute, which might result in, or create the appearance of, a conflict of interest, including but not limited to—

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this title in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 410. There are authorized to be appropriated to the President to carry out this title, in addition to funds otherwise available for such purpose, $23,750,000 for the fiscal year 1980. Funds appropriated under this section are authorized to remain available until expended.

ANNUAL REPORT

Sec. 411. (a) Within ninety days after the end of each fiscal year, the President shall submit to Congress a complete and detailed report of the Institute's operations during such fiscal year. Each such report shall include a detailed discussion of the impact of the programs of the Institute on development and shall specify what percentage of the Institute's funds (excluding funds used for operating expenses) were used during such fiscal year for activities which further the policies set forth in section 102 of the Foreign Assistance Act of 1961.

(b) Each such report shall include the report prepared by the Council pursuant to section 407(b)(2).

CONFORMING AMENDMENTS

Sec. 412. (a) Section 5314 of title 5 of the United States Code, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following:

"(70) Director, Institute for Scientific and Technological Cooperation.".

(b) Section 5315 of title 5 of the United States Code, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following:

"(128) Deputy Director, Institute for Scientific and Technological Cooperation.".

(c) Section 5316 of title 5 of the United States Code, relating to level V of the Executive Schedule, is amended by adding at the end thereof the following:

"(152) Additional officers, Institute for Scientific and Technological Cooperation (2).".

ESTABLISHMENT IN INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Sec. 413. Upon the establishment of the United States International Development Cooperation Agency pursuant to Reorganization Plan Numbered 2 of 1979, the Institute shall be established within such Agency.

EXPIRATION OF AUTHORITIES

Sec. 414. The authorities contained in this title shall expire on September 30, 1984.

TITLE V—MISCELLANEOUS PROVISIONS

EARMARKING FOR LEBANON OF UNOBLIGATED BALANCES IN THE MIDDLE EAST SPECIAL REQUIREMENTS FUND

Sec. 501. Of the funds continued available for the fiscal year 1979 for the Middle East Special Requirements Fund by section 103 of the Foreign Assistance and Related Programs Appropriations Act, 1979, which are unobligated on the date of enactment of this Act, $5,000,000 shall be available only for Lebanon and may hereafter be continued available only for such country.

MILITARY ASSISTANCE TO SUDAN

Sec. 502. In addition to the amount authorized to be appropriated for grant military assistance for the fiscal year 1980 by section 504(a)(1) of the Foreign Assistance Act of 1961, there is authorized to be appropriated to carry out the purposes of chapter 2 of part II of that Act for the fiscal year 1980 $1,700,000. Not more than $1,700,000 of the funds available to carry out that chapter for the fiscal year 1980 may be allocated and made available for assistance for Sudan. For purposes of the last sentence of section 504(a)(1) and for purposes of section 515(b)(1) of the Foreign Assistance Act of 1961, this section shall be deemed to be part of such section 504(a)(1).

UNIFIED PERSONNEL SYSTEM

Sec. 503. (a) Section 401(a) of the International Development and Food Assistance Act of 1978 is amended by striking out "March 15" and inserting in lieu thereof "May 1".

(b) The amendment made by subsection (a) shall be effective as of March 15, 1979.

HUMAN RIGHTS REPORTS

Sec. 504. (a) Paragraph (1) of section 116(d) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) the status of internationally recognized human rights, within the meaning of subsection (a)—

"(A) in countries that receive assistance under this part, and

"(B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act; and".

(b) Not later than November 15, 1979, the Secretary of State shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the impact on the foreign relations of the United States of the reports required by the Foreign Assistance Act of 1961 on the human rights practices of foreign governments.

PROHIBITION ON ASSISTANCE TO AFGHANISTAN

Sec. 505. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 620D. Prohibition on Assistance to Afghanistan.—(a) None of the funds authorized to be appropriated under this Act may be used to furnish assistance to Afghanistan nor may funds authorized to be appropriated under this Act before October 1, 1979, be expended for assistance to Afghanistan until the President certifies to the Congress that—

"(1) the Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs; and

"(2) the Government of Afghanistan agrees to provide adequate protection for all personnel of the United States Government in Afghanistan.

"(b) The provisions of subsection (a) shall not apply if the President determines that such assistance is in the national interest of the United States because of substantially changed circumstances in Afghanistan.".

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 506. Funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, or Cuba.

NON-PROLIFERATION OF NUCLEAR WEAPONS

Sec. 507. (a) In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.

(b) Not later than November 1, 1979, the Secretary of State shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report specifying, on a country-by-country basis, what efforts the Department of State has made to encourage nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.

ACCELERATED LOAN REPAYMENTS

Sec. 508. (a) Chapter 1 of part I of the Foreign Assistance Act of 1961, as amended by section 110 of this Act, is further amended by adding at the end thereof the following new section:

"Sec. 127. Accelerated Loan Repayments.—The Administrator of the agency primarily responsible for administering this part shall conduct an annual review of bilateral concessional loan balances and shall determine and identify those countries whose financial resources make possible accelerated loan repayments. In particular, European countries that were recipients of concessional loans by predecessor agencies to the agency primarily responsible for administering this part shall be contacted to negotiate accelerated repayments. The criteria used by the Administrator in making these determinations shall be established in conjunction with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.".

(b) The annual reports on foreign assistance which are submitted to the Congress in 1980 and 1981 pursuant to section 634 of the Foreign Assistance Act of 1961 shall describe the efforts made to negotiate accelerated loan repayments in accordance with the amendment made by subsection (a) of this section.

REFUGEE CRISIS IN SOUTHEAST ASIA

Sec. 509. (a)(1) The refugee crisis in Indochina is unfolding as one of the great human tragedies of our time.

(2) At least seven hundred and fifty thousand human beings have fled Vietnam, Kampuchea, and Laos since the spring of 1975.

(3) Approximately three hundred thousand human beings currently remain in refugee camps throughout Southeast Asia.

(4) As many as two hundred and fifty thousand human beings may have perished in their attempts to reach freedom and many thousands more face death should the present situation continue.

(5) The international borders are closing to the refugees fleeing from Indochina.

(6) The international community has failed to respond adequately to the crisis, despite the existence of adequate mechanisms to respond.

(b) It is the sense of the Congress that the President should continue to support the efforts of the Secretary General of the United Nations to use appropriate fora to deal with the refugee crisis in Southeast Asia.

(c) The President shall study the prospects for permanent resettlement of Indochinese refugees, in conjunction with bilateral and multilateral development assistance programs, so that no disruption of the economy of a host country would result. The President shall periodically report the results of this study to the Congress, with a preliminary report to be submitted no later than one hundred and twenty days after the date of enactment of this Act.

CERTAIN TRAVEL EXPENSES

Sec. 510. Section 5924(4)(B) of title 5, United States Code, is amended by striking out "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or" and inserting in lieu thereof "(i) in the case of dependents travelling to obtain secondary education, one annual trip, or in the case of dependents travelling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communications Agency, or of the Agency for International Development, or (ii)".

HUMAN RIGHTS

Sec. 511. Section 502B of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, funds authorized to be appropriated under part I of this Act may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.".

EFFECTIVE DATES

Sec. 512. (a) Except as provided in subsection (b) of this section and in section

503(b), this Act shall take effect on October 1, 1979.

(b) Sections 114(b), 123, 501, and 509 of this Act shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

Clement J. Zablocki,
Dante B. Fascell,
Charles C. Diggs, Jr.,
Lee H. Hamilton,
Cardiss Collins,
Jonathan B. Bingham,
Don Bonker,
D. J. Pease,
Wm. Broomfield,
Paul Findley,
John Buchanan,
Larry Winn, Jr.,
Managers on the Part of the House.
Frank Church,
C. Pell,
George McGovern,
John Glenn,
J. Javits,
Charles Percy,
Howard Baker,
For consideration of
Public Law 480
amendments:
Herman E. Talmadge,
George McGovern,
Richard (Dick) Stone,
Thad Cochran,
Bob Dole,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3324) to authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

The conference substitute contains authorizations for fiscal year 1980 appropriations of $1.979 billion: $1.848 billion for economic development assistance, $23.75 million for the Institute for Scientific and Technological Cooperation, $105.4 million for the Peace Corps, and $1.7 million for a military assistance program for the Sudan. The amount authorized to be appropriated in the conference substitute is $143.5 million less than the original House authorization or $38.7 million less than the House authorization as calculated with a 5 percent cut, $130.8 million more than the Senate authorization, and $230.6 million less than the original executive branch request.

The amounts contained in the conference substitute compared to the amounts requested by the executive branch and recommended by the House and Senate follow:

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

[In thousands of dollars]

	Executive branch request	House bill	Senate amendment	Conference substitute
Title I:				
Agriculture	715, 366	716, 131	583, 548	659, 000
Population	216, 321	216, 321	193, 630	201, 000
Health	146, 573	150, 301	[1] 128, 731	[1] 141, 000
Education	119, 497	132, 004	87, 646	105, 000
SDA	136, 122	136, 122	119, 747	125, 000
Sahel Development	160, 000	30, 000	30, 000	25, 000
ASHA	15, 000	25, 000	25, 000	25, 000
International organizations	277, 190	277, 190	279, 590	267, 280
Disaster assistance	25, 000	25, 000	25, 000	21, 800
Assistance to African refugees		15, 000		14, 920
Operating expenses	268, 000	268, 000	268, 000	263, 000
Subtotal, title I	2, 079, 069	1, 991, 069 [2] (1, 892, 765. 55)	1, 740, 892	1, 848, 000
Title IV: ISTC	25, 000	25, 000 [2] (23, 750)		23, 750
Title V: Peace Corps	105, 404	105, 404 [2] (100, 133. 8)	105, 404	105, 404
Other:				
Sudan MAP		950. [2] (902. 5)	1, 700	1, 700
Minority Resource Center				([4])
Total	2, 209, 473	2, 122, 423 [2,3] (2, 017, 551. 85)	1, 847, 996	1, 978, 854

[1] Includes $4,000,000 earmarked for the John Sparkman Center for International Public Health Education.

[2] Numbers in parentheses calculate the impact of the House 5-percent cut provision.

[3] House bill also included $1,895,000,000 for economic support fund for fiscal year 1980. The committee of conference agreed to include the fund in H.R. 3173, the International Security Assistance Act of 1979.

[4] The Minority Resource Center will be funded from existing funds, with a ceiling of $950,000.

The committee of conference is aware that the executive branch is considering the submission to Congress of requests for supplemental authorizations of appropriations to meet unexpected program requirements in several countries. The authorizations of appropriations included in this bill take into account those additional program requirements. The committee of conference strongly urges the executive branch to provide any funds required for these unexpected program requirements through the reprogramming of fiscal year 1979 or 1980 funds rather than through the submission of a request for additional authorizations of appropriations.

FIVE-PERCENT REDUCTION

The House bill provided for a 5-percent cut in expenditures under each title of the bill, with the exception of section 111 (American Schools and Hospitals Abroad), and funds earmarked in section 302 (Economic Support Fund assistance to Israel and Egypt).

The Senate amendment did not contain a similar provision.

The committee of conference agreed to the Senate position, with the impact of the 5-percent reduction reflected in the conference agreement on the total authorization level.

POPULATION

The House bill included, as an additional factor in the exemplary list of activities designed to build motivation for smaller families, community-based development programs which give recognition to people motivated to limit the size of their families.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

HIGHER EDUCATION

The Senate amendment specified that assistance under section 105 of the Foreign Assistance Act shall include assistance for advanced education and training in disciplines required for planning and implementation of development activities.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

The committee of conference is of the opinion that the effectiveness of development assistance funds will be improved if the Agency for International Development uses the authorities provided in section 617 of the Foreign Assistance Act for orderly termination of programs, to continue supporting bona fide students studying abroad through the completion of their studies or training for students whose course of study or training program began before aid was terminated.

ENERGY PROGRAMS

Capital and technology needs

The House bill noted that many developing countries lack the investment capital, as well as technology, necessary to exploit their energy resources.

The Senate amendment noted that many developing countries lack the technology and financing necessary to develop their energy resources.

The conference substitute combines the House and Senate provisions into a single provision—"(2) The Congress recognizes that many developing countries lack access to the financial resources and technology necessary to locate, explore, and develop indigenous resources."

Potential for production increases

The House bill recognized that there is "good potential" for production increases by 1990.

The Senate amendment recognized the "potential" for such increases.

The conference substitute is the same as the Senate provision.

Benefits of energy production

The House bill noted that the world's energy supply would be increased and fear of depletion lessened with "new energy production."

The Senate amendment did not mention "with new energy production".

The conference substitute is the same as the House provision.

Authorization of assistance

The House bill authorized assistance for energy programs involving research, pilot projects, and the collection and analysis of certain information.

The Senate amendment contained a comparable provision, authorizing assistance generally for energy resource development for commercial purposes and including specific reference to data collection and personnel training.

The conference substitute is the same as the Senate provision with an amendment adding the House list of ways in which the authority can be carried out to the Senate list and removing the language "for commercial purposes".

Funding levels

The House bill made up to $9 million specifically available to facilitate survey work and encourage exploration for energy reserves. Any Foreign Assistance Act section 106 funds could be used to provide assistance for development of energy resources.

The Senate amendment made available up to $5 million for assistance for the development of energy resources.

The conference susbtitute is the same as the House provision with an amendment reducing the funding level to $7 million and providing that the money will be used "for purposes of paragraph (1)". The principal purpose stated in paragraph (1) is to help developing countries alleviate their energy problems by improving their ability to use indigenous energy resources to produce the energy needed by their economies.

Renewable resources

The House bill amended Foreign Assistance Act section 119(a) to specify that authority under that section is only for renewable energy resources.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

Title

The House bill retained the existing Foreign Assistance Act section 119 heading, "Renewable and Unconventional Energy Technologies".

The Senate amendment redesignated Foreign Assistance Act section 119 to read "Energy Programs".

The conference substitute is the same as the House provision.

Department of Energy representation on the DCC

The House bill amended Foreign Assistance Act section 640B(a) to include a representative of the Department of Energy on the Development Coordination Committee.

The Senate bill did not contain a comparable provision.

The conference substitute is the same as the House provision.

FUNDING FOR HUMAN RIGHTS ACTIVITIES

The House bill authorized and encouraged the President to use not less than $1.5 million of development assistance funds in fiscal year 1980 for programs and activities to encourage or promote increased adherence to civil and political rights, as set forth in the Universal Declaration of Human Rights.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

Productive credit guaranty program

The House bill amended Foreign Assistance Act section 22A(a) to increase from five to six the number of Latin American countries in which the productive credit guaranty program operates and to raise the ceiling on the program from $15 to $20 million.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

HIG programs in Israel and Egypt

The Senate amendment raised the guaranty ceiling by an additional $50 million and provided $25 million each for Housing Investment Guaranty projects in Israel and Egypt.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision.

TITLE XII—AGRICULTURAL RESEARCH

The Senate amendment amended Section 297 of Title XII (Famine Prevention and Freedom from Hunger) of the Foreign Assistance Act in two respects: first, in subsection (a)(3) of that Section, after the words "university research", it inserted "in the developing countries themselves"; second, in subsection (c) of that section, it amended that section to state that to the maximum extent practicable, activities under that section shall be directly related to the food and agricultural needs of developing countries, be carried out within the developing countries, be adapted to local circumstances, provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries, and emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of developing countries.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision, with an amendment adding "to the maximum extent practicable" to the amendment to Subsection (a)(3) of Section 297. The committee of conference adopted the amendment to the Senate amendment to make it consistent with the amendment to section 297(c) and to avoid any complete prohibition against program support for long-term collaborative university research in the United States under Subsection (a)(3), while retaining the emphasis in the Senate amendment on closely and directly relating Title XII activities to the needs of developing countries.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

U.N. Relief and Works Agency for Palestine Refugees (UNRWA)

The Senate amendment put a $52 million ceiling on a fiscal year 1980 U.S. contribution to UNRWA, with contributions above $42.5 million to be made available only upon Presidential determination of matching contributions from members of the Organization of Petroleum Exporting Countries.

The House bill did not contain a similar provision.

The conference substitute is the same as the Senate provision. The committee of conference noted that the Executive branch should take into account pledges of contributions to UNRWA from OPEC member states in determining the U.S. matching contribution.

U.S. contributions to the United Nations Organizations for Technical Assistance

The House bill superseded the provision of the fiscal year 1979 State, Justice, Commerce, the Judiciary and related agencies appropriations act which prohibited use of the U.S. assessed contributions to United Nations organizations for technical assistance.

The Senate amendment did not contain a similar provision.

The conference substitute is the same as the House provision.

Contributions to UNEP and UNCDF

The committee of conference intends that, of the funds appropriated for international organizations programs, not less than $10 million shall be made available to the United Nations Environmental Program and not less than $3 million to the United Nations Capital Development Fund.

Organization of American States

Notwithstanding the funding cut below the executive request for voluntary contributions for international organizations, in fiscal year 1980, the committee of conference intends that not less than $17.5 million be allocated for the U.S. contribution to the programs of the Organization of American States. The committee applauds the efforts of the U.S. Ambassador to the OAS to reduce the U.S. percentage of the total assessed contribution to that organization.

ASSISTANCE FOR AFRICAN REFUGEES

The House bill amended Section 495F of the Foreign Assistance Act to authorize $15 million for fiscal year 1980 for the relief and rehabilitation of African refugees and other needy people located in Africa.

The Senate amendment did not contain a comparable provision.

The conference substitute authorizes $14.92 million for fiscal year 1980 for African refugees.

REPORTS ON EXCHANGES OF MATERIALS

The House bill required the President to report by February 1 of each year on steps taken to implement section 663 of the Foreign Assistance Act, which authorizes the President to provide foreign assistance or defense articles in exchange for necessary or strategic raw materials.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position.

The committee of conference recommends that any use of section 663 be reported in the annual report required by section 634 of the Foreign Assistance Act.

MINORITY RESOURCE CENTER

The House bill established a Minority Center in the Agency for International Development, with an authorization of $950,000 for fiscal year 1980 and $1,030,000 for fiscal year 1981, to serve as an information clearinghouse for minority business enterprises and to develop support mechanisms which would enable minority businesses to take advantage of the business opportunities involved in the implementation of AID programs.

The Senate amendment did not contain a comparable provision.

The conference substitute incorporates the House provision, with an amendment which eliminates the proposed Advisory Committee, reduces the reporting requirements, provides that the Minority Resource Center may be incorporated into the Agency for International Development's Office of Small and Disadvantaged Business Utilization, deletes the fiscal year 1981 authorization and changes the fiscal year 1980 authorization of appropriations to an authority to allocate to the Center up to $950,000 from funds authorized for the Agency for International Development's operating expenses.

The committee of conference intends that the Minority Resource Center direct its efforts primarily to small minority business enterprises, rather than to the wider range of economically and socially disadvantaged enterprises, in accordance with the original objectives of section 133 of the International Development and Food Assistance Act of 1977. The committee of conference notes that the Minority Resource Center should assist small minority business enterprises to compete for contracts in the full range of programs of the Agency for International Development of which an illustrative list is provided in subsection (c)(2) of the conference substitute.

PROHIBITING AID TO COUNTRIES SEIZING U.S. FISHING VESSELS

The Senate amendment contained a provision repealing section 620(o) of the Foreign Assistance Act. This section directs that in determining whether to furnish assistance under the Act, consideration shall be given to excluding from such assistance any country which seizes or penalizes any U.S. fishing vessel because of its fishing activities in international waters.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position.

ASSISTANCE TO PANAMA

The House bill prohibited fiscal year 1980 development assistance to the Republic of Panama, its agencies or instrumentalities.

The Senate amendment did not contain a comparable provision. The Senate committee report, however, recommended that no assistance be provided to Panama.

The conference substitute is the same as the House provision, with an amendment providing for a Presidential waiver if the President determines that it is in the U.S. national interest to provide assistance to Panama.

ASSISTANCE TO HAITI

The Senate amendment authorized up to $18.4 million in fiscal year 1980 development programs for Haiti if the President determines that Haiti has shown good faith in implementing fiscal reform and human rights measures.

The House bill did not contain a comparable provision.

The conference substitute is the same as the House position. The committee of conference notes the action taken by the executive branch postponing the implementation of a Public Law 480 Title III agreement with Haiti because long promised fiscal reforms have not been carried out. The committee also notes adverse comments concerning certain human rights practices by the Government of Haiti included in the annual human rights report produced by the Department of State. The committee questions whether U.S. development assistance can achieve its objective of helping poor people in Haiti if the fiscal reforms are not undertaken and the human rights record of the Government of Haiti is not improved. Although no part of this bill prohibits the provision of aid to Haiti, the committee of conference urges the U.S. Government and other donors to continue efforts to encourage the Government of Haiti to implement promised fiscal reforms and to improve its human rights record.

ASSISTANCE TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

The House bill states the sense of Congress that U.S. development aid to Latin American and Caribbean countries should be increased.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision, with an amendment to replace the directive to "provide significantly increased resources" which "place greater emphasis on public and private resources."

BURDEN SHARING

The Senate amendment stated the sense of Congress that the President should negotiate with other developed countries to increase their aid contributions.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision, with an amendment removing the reference to industrial and developed countries and inserting "nations with adequate financial resources to provide assistance".

PUBLIC LAW 480 FOOD FOR PEACE

Increasing demand for food and encouraging local food production

The House bill made no change in the existing section 103(f) of Public Law 480, 83rd Congress, the Agricultural Trade Development and Assistance Act of 1954 (hereinafter referred to as Public Law 480). The existing section 103(f) directs the President, in exercising Public Law 480 title I authorities, to "give special consideration to the development and expansion of foreign markets for United States agricultural commodities, with approprate emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth".

The Senate amendment amended section 103(f). It deleted the word "special". Instead of "foreign markets for United States agricultural commodities", it substituted "markets for United States agricultural commodities and local foodstuffs". It also inserted "equitable" before "economic growth".

The conference substitute is the same as the Senate provision.

Role of indigenous institutions and workers

The House bill amended section 202(b)(2) of Public Law 480 to provide that in order to assure use of title II commodities effectively and in the areas of greatest need, the entities through which the commodities are distributed shall be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible, to assess nutritional and other needs of beneficiary groups, to help these groups design and carry out their own projects, to recommend ways of making food assistance available which are most appropriate for each local setting, and to regularly evaluate the effectiveness of each project.

The Senate amendment was identical to the House provision except that it used the phrase "mutually acceptable projects" instead of "their own projects", and included supervision of food distribution among the indigenous activities to be encouraged.

The conference substitute is the same as the Senate provision.

Alleviating the causes of the need for title II assistance

The House bill did not change the existing section 206 of Public Law 480. This section prohibits agreements permitting foreign currency sales of title II commodities except under certain conditions. Clause (3) of these conditions requires that such agreements provide that the currencies generated from such sales will be used to increase the effectiveness of the programs of food distribution and to increase the availability of title II food commodities to the neediest individuals.

The Senate amendment amended section 206 of Public Law 480 to broaden the authority for local currency sales of title II commodities. It did so by amending clause (3) to allow title II commodity sales to be used for alleviating the causes of the need for assistance in accord with the policies and purposes of section 103 of the Foreign Assistance Act (which is designed to promote agriculture, rural development, and nutrition in developing countries). The amendment would continue the section 206 clause (3) authority to permit foreign currency sales for increasing the effectiveness of food distribution and increasing title II food commodity availability to the neediest individuals.

The conference substitute is the same as the Senate amendment.

Incentives for entering into food for development programs

Both the House bill and the Senate amendment contained comparable provisions amending various sections of title III of Public Law 480 so as to clarify that either the value of the commodities themselves or the proceeds from their sale may qualify for debt forgiveness if they meet the other criteria under food-for-development programs. Sections 204 and 207 of the conference substitute are a technical combination of the House and Senate provisions dealing with this issue.

Participation of American agriculture in food-for-development programs

The Senate amendment amended section 302(c) of Public Law 480 to provide that in developing and carrying out Food for Development programs under title III, consideration shall be given to using the capability and expertise of American agriculture in such programs in partnership with local individuals and organizations.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate amendment.

Full forgiveness of repayment obligations under food-for-development programs

The House bill amended section 305(a) of Public Law 480 to provide that disbursement of funds from the special account described in that subsection, as of the date of their original deposit, in an amount equivalent to the dollar value of the credit furnished by the Commodity Credit Corporation under a Food-for-Development program, shall be deemed to be payment of all installments of principal and interest payable by the participating country on the commodities bought for the program.

The Senate amendment was identical to the House provision except that it made no reference to the date of original deposit.

The conference substitute is the same as the Senate provision. It provides that full forgiveness applies to all interest charges accruing after the date of the original dollar credit, and that the participating country in receiving full forgiveness should not be affected by currency rate changes occurring after payment has been made into the special account. Thus if all proceeds are disbursed, there will be full forgiveness. It is intended that full forgiveness be applicable to disbursement of the commodities themselves, as well as by proceeds from their sale, as provided for under sections 204 and 207 of the conference substitute.

Avoiding interference with producton or marketing in recipient countries

The House bill amended Section 202(a) of Public Law 480 to require the President to take reasonable precaution to assure that Title II commodities furnished in emergency situations will not displace or interfere with local food production and marketing in the recipient country.

The Senate amendment amended section 103(n) of Public Law 480 to direct the President to take maximum precautions to assure that Title I shipments do not interfere with local food production and marketing in the purchasing country. The Senate amendment also amended section 107(b) of Public Law 480, to provide that in carrying out that section, the Secretary of Agriculture shall take reasonable precautions to safeguard the usual marketings of the agricultural commodities of the recipient country. Additionally, the Senate amendment amended Section 202(a) of Public Law 480 to require that the President shall take reasonable precaution to assure that the furnishing of Title II commodities, both in normal and in emergency situations, will not displace or interfere with local food production and marketing in the recipient country.

The conference substitute is an amendment to section 401(b) of Public Law 480. The existing section 401(b) provides that no agricultural commodity may be furnished under Public Law 480 except upon a determination by the Secretary of Agriculture that "the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country". The conference amendment amends section 401(b) to require that no Public Law 480 commodity may be furnished except upon a determination by the Secretary of Agriculture that "the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country".

Determination of commodity needs and programs beneficiaries in each country

Public Law 480 Objectives

The House bill made no change in the existing section 404 of Public Law 480 which provides that Public Law 480 assistance shall be directed toward attaining the humanitarian objectives and national interest of the United States.

The Senate amendment amended section 404 to provide that Public Law 480 assistance shall be directed toward attaining humanitarian and developmental objectives as well as the development and expansion of U.S. and recipient country agricultural commodity markets. To the maximum possible extent, either the commodities themselves, or the proceeds from their sales, are to be used for programs that benefit the poor.

The conference substitute is the same as the Senate amendment with an amendment retaining a reference to the national interest.

Country Assessments

The Senate amendment added a new subsection to section 404 of Public Law 480, providing that country assessments shall be carried out whenever necessary in order to determine what agricultural commodities are needed, the conditions under which they should be supplied, the relationship between U.S. food aid and other development resources, the development plans of the recipient country, the most suitable timing for commodity deliveries, the rate at which food assistance levels can be effectively used to meet nutritional and developmental needs, and the recipient country's potential as a market for U.S. and recipient country agricultural commodities.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate amendment.

Commodities for multiyear development purposes

The House bill did not amend the existing section 401(a) of Public Law 480, which provides that no commodity may be supplied under Public Law 480 if the Secretary of Agriculture determines such disposition would reduce the domestic supply of the commodity below that needed for domestic requirements, adequate carryover, and anticipated commercial exports. An exception to this limitation is authorized when the Secretary determines the Public Law 480 assistance should be used to carry out urgent humanitarian purposes of the law.

The Senate amendment added to the exception in section 401(a), the provision of Public Law 480 assistance for developmental purposes and provided that in periods of short supply, urgent humanitarian concerns will be given priority over developmental concerns. The Senate amendment also added a new section to title IV of Public Law 480 providing that in order to best meet the humanitarian and developmental purposes of the law, there shall be a relatively constant supply of commodities thereunder, to the maximum extent possible.

The conference substitute adds a new section to title IV providing that to the maximum practicable extent, Public Law 480 commodities provided for developmental purposes shall be made available on a multi-year basis when necessary for the most effective accomplishment of these purposes.

PEACE CORPS

Peace Corps organization

The House bill established the Peace Corps within the International Development Cooperation Agency, with authority to exercise the functions under the Peace Corps Act reserved to the Peace Corps Director and the Peace Corps Board of Directors established by the provision.

The Senate amendment did not contain a similar provision.

The committee of conference agreed to the Senate position. In reaching a decision on this issue, the committee of conference noted that it strongly supports maximum autonomy for the Peace Corps. In order to determine the extent to which Executive Order 12137 will effectively serve this end, the conferees request that a report on the steps taken to implement the Executive order be made to the House Foreign Affairs Committee and the Senate Foreign Relations Committee no later than January 1, 1980. This report should address in detail the reasons for continuation of any shared functions between Peace Corps and other branches of ACTION, the mechanisms by which Peace Corps' share of the budget for any such functions is to be determined and the division of authority between the Peace Corps and ACTION directors. The committee of conference recognizes that cost savings may be an argument for continuing some shared functions, but concern is expressed that in the long run effectiveness in meeting the needs of Peace Corps, particularly in a vital area such as recruitment, should be the dominant consideration.

The committee of conference requests the President to prescribe appropriate procedures to be followed by the Director of the International Development Cooperation Agency and the Peace Corps Director to assure coordination of Peace Corps development activities with other development activities which are carried out by the United States or in which the United States participates.

In the judgment of the committee of conference, the Peace Corps must be free from politicization to be effective. While the committee recognizes that the Peace Corps operates under the foreign policy guidance of the Secretary of State, the committee emphasizes that to the maximum extent possible Peace Corps must operate independently of short term foreign policy objectives. The committee of conference also agreed that the Director of the Peace Corps should determine what Peace Corps personnel will represent Peace Corps in meetings and conferences which may affect Peace Corps operations.

The committee of conference indicates the intention of the House Foreign Affairs Committee and the Senate Foreign Relations Committee to review carefully the reports requested above, and to reconsider the action taken by the House in H.R. 3324 if implementation of the Executive order does not provide sufficient autonomy and alleviate the problems which Peace Corps has been facing in recent years.

Peace Corps personnel

The Senate amendment waived the Civil Service competitive examination requirement and provided for appointment in established merit systems for former Peace Corps Foreign Service Reserve or staff personnel with 36 months of satisfactory, substantially continuous service with the Peace Corps.

The House bill did not contain a similar provision.

The committee of conference amended the Senate provision. As adopted by the conference, the provision gives the Director of the Office of Personnel Management authority to establish rules and conditions for such entry into the competitive service, and remains effective until such time as the Congress enacts foreign services personnel reform legislation which amends or otherwise supersedes this provision. The committee of conference notes that extension of this provision beyond that date is to be considered in conjunction with congressional action on the Foreign Service Reform legislation.

The committee of conference also stated its intention that nothing in this provision shall be interpreted to deprive any person of a competitive status acquired, prior to the date of enactment of this legislation, in the competitive service or in any established merit system in the excepted service.

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

The House bill contained a provision establishing an Institute for Scientific and Technological Cooperation to assume responsibility for A.I.D.'s development-related research with a global focus and to develop cooperative research and development arrangements with developing countries.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

BUDGET ACT REQUIREMENTS

The House bill provided that the authority to make payments for salaries and other personnel expenses under various sections of Title IV (Institute for Scientific and Technological Cooperation) of the House bill apply only to payments provided for in advance by appropriation acts, and it prohibited fiscal year 1979 appropriations for fiscal year 1979 under section 501(d) (Peace Corps) of the bill.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position.

MESRF EARMARK FOR LEBANON

The House bill provided that of the funds continued available for fiscal year 1979 for the Middle East Special Requirements Fund by section 103 of the Foreign Assistance and Related Programs Appropriations Act, 1979, and which were not obligated on the date of enactment of this Act, $5 million shall be available only for Lebanon.

The Senate amendment did not have a comparable provision.

The conference substitute is the same as the House provision.

MIDDLE EAST PEACE DEVELOPMENT FUND

The House bill stated the sense of Congress that the President shall take all appropriate steps to negotiate an agreement with other industrial nations for the creation of a Peace Development Fund to underwrite the costs of implementing a Middle East peace.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position. The conferees did not adopt the House provision in view of a similar provision already having been enacted by the Congress in the Special International Security Assistance Act of 1979.

MILITARY ASSISTANCE TO SUDAN

The Senate amendment provided for an increase of $1.7 million in the fiscal year 1980 authorization of appropriations under section 504(a)(1) of the Foreign Assistance Act, which authorizes military assistance funds, the increase to be for Sudan.

The House bill did not contain a comparable provision.

The conference substitute is the same as the Senate provision, with technical changes.

UNIFIED PERSONNEL SYSTEM

The House bill changed from March 15 to May 1, 1979, the date for Presidential submission of regulations establishing a unified personnel system for AID.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision.

FOREIGN LANGUAGE REQUIREMENT

The House bill required that designated positions in the executive branch authorized by this legislation, the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Arms Export Control Act, be filled by persons having the appropriate area and language knowledge.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the Senate position.

The committee of conference notes that the Foreign Assistance Act of 1961 already contains a similar provision, section 625(i), which provides that—

"* * * to the maximum extent practicable officers and employees performing functions under this Act abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience. * * *"

However, the committee of conference recognizes the importance and desirability of U.S. officials serving abroad attaining language competence and area knowledge relevant to their responsibilities. The committee of conference requests the heads of agencies responsible for maintaining missions abroad to review their requirements for language competence and area studies, and to report to the Congress any need for statutory changes which would improve the language capability and area knowledge of U.S. missions abroad.

HUMAN RIGHTS REPORTS

The House bill required annual reports by the Secretary of State on human rights conditions in all countries which are members of the United Nations and which are not otherwise the subject of a human rights report required in the Foreign Assistance Act.

The Senate amendment contained a similar provision.

The conference substitute is nearly identical to the House and Senate provisions. The substitute states specifically that reports are required for "other foreign countries which are members of the United Nations."

HUMAN RIGHTS STUDY

The Senate amendment directed the Secretary of State to report to Congress by September 15, 1979, on the impact of human rights reports required in the Foreign Assistance Act on U.S. foreign policy.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate provision, with an amendment setting November 15, 1979, as the reporting date.

ASSISTANCE TO AFGHANISTAN

The House bill prohibited fiscal year 1980 development assistance to Afghanistan unless the President determines that such assistance would be in the U.S. national interest.

The Senate amendment prohibited assistance under the Foreign Assistance Act, including funds authorized before October 1, 1979, to Afghanistan until the President has certified that the Government of Afghanistan has apologized officially and assumed responsibility for the death of Ambassador Adolph Dubs, and has agreed to provide protection for U.S. personnel in that country; or until the President has determined that furnishing assistance is in the U.S. national interest because of substantially changed circumstances in Afghanistan.

The conference substitute is the same as the Senate provision.

PROHIBITION ON AID TO VIETNAM, CAMBODIA, AND CUBA

The House bill stated that notwithstanding any other provision of law, appropriations authorized by this act shall not be used for any form of aid to Vietnam, Cambodia, or Cuba.

The Senate amendment did not contain a comparable provision.

The conference substitute is the same as the House provision, with an amendment deleting the notwithstanding clause. The amendment was agreed to in order to clarify that the aid prohibition is not intended to override the disaster assistance authority contained in sections 491 and 492 (chapter 9 of part I, International Disaster Assistance) of the Foreign Assistance Act.

NON-PROLIFERATION OF NUCLEAR WEAPONS

The Senate amendment contained a Congressional plea to all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to the treaty; and directed the Secretary of State to submit a report by September 1, 1979, to the Senate Foreign Relations Committee and House Foreign Affairs Committee chairmen, on State Department activities to implement this provision.

The House bill did not contain a comparable provision.

The conference substitute is similar to the Senate provision, with an amendment changing the reporting deadline from September 1, 1979, to November 1, 1979.

ACCELERATED LOAN REPAYMENTS

The Senate amendment added a new section to the Foreign Assistance Act directing the Administrator of the Agency for International Development to review concessional loan balances annually to identify countries with which accelerated loan repayment schedules may be negotiated and to require an annual report to Congress on the status of accelerated loan repayments.

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision with an amendment establishing the reporting requirement for only 2 years.

INDOCHINA REFUGEES

Prospects for refugee resettlement

The House bill required the President to report periodically on prospects for permanent resettlement of Indochina refugees, in conjunction with bilateral and multilateral development assistance programs.

The Senate amendment did not contain a similar provision.

The conference substitute is the same as the House provision.

International consideration of Indochina refugee problems

The Senate amendment contained a sense of the Senate provision urging the President to call for an emergency session of the U.N. General Assembly or to use other appropriate fora to deal with the refugee crisis in Southeast Asia.

The House bill did not contain a similar provision, although the House previously had passed House Resolution 321, containing similar language in a sense of the House resolution.

In recognition of the recent Geneva conference on refugees called by the U.N. Secretary General, the committee of conference agreed to a sense of the Congress provision urging the President to continue to support the efforts of the Secretary General to use appropriate fora to deal with the refugee crisis in Southeast Asia.

DEPENDENTS TRAVEL ALLOWANCE

The Senate amendment provided for travel expenses for up to two annual round trips to the United States of college student dependents of personnel of the Agency for International Development, the Department of State, or the International Communication Agency, stationed abroad.

The House bill did not contain a similar provision.

The conference substitute is the same as the Senate provision.

HUMAN RIGHTS WAIVER

The Senate amendment provided that notwithstanding any other provision of law, funds authorized under part I of the Foreign Assistance Act may be made available to any country the President finds has made significant improvement in its human rights record warranting lifting prohibitions in furnishing such assistance in the national interest of the United States.

The House bill did not contain a similar provision.

The conference substitute is the same as the Senate provision.

ECONOMIC SUPPORT FUND

The House bill included provisions for the Economic Support Fund in fiscal year 1980.

The Senate amendment did not contain ESF provisions. (The Senate included ESF provisions in security assistance legislation for fiscal year 1980).

The conference substitute is the same as the Senate position.

In agreeing that for fiscal year 1980, ESF will be in the security assistance rather than the economic assistance bill, the conferees decided that for fiscal 1981, authorizations under and amendments to the Foreign Assistance Act and to the Arms Export Control Act should be in one bill. The conferees therefore request the Executive branch, in its request to the Congress for fiscal year 1981, to submit draft legislation affecting the Foreign Assistance Act and the Arms Export Control Act in a single bill.

The decision of the conferees includes reaffirmation of Congress' intent that ESF accounts are designed to promote political and economic stability in areas where the United States has important economic, political and security interests. The conferees also reaffirm that, to the maximum extent feasible, that part of ESF assistance designed to promote economic development be consistent with the policy directions of section 102 of the Foreign Assistance Act.

CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
CHARLES C. DIGGS, Jr.,
LEE H. HAMILTON,
CARDISS COLLINS,
JONATHAN B. BINGHAM,
DON BONKER,
D. J. PEASE,
WM. BROOMFIELD,
PAUL FINDLEY,
JOHN BUCHANAN,
LARRY WINN, Jr.,
Managers on the Part of the House.

FRANK CHURCH,
C. PELL,
GEORGE MCGOVERN,
JOHN GLENN,
J. JAVITS,
CHARLES PERCY,
HOWARD BAKER,
For consideration of Public Law 480 amendments:
HERMAN E. TALMADGE,
GEORGE MCGOVERN,
RICHARD (DICK) STONE,
THAD COCHRAN,
BOB DOLE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1019, REMOVING PROHIBITIONS RELATING TO UGANDA

Mr. SOLARZ submitted the following conference report and statement on the Senate bill (S. 1019) to amend the International Development and Food Assistance Act of 1978 and the Foreign Assistance and Related Programs Appropriations Act of 1979, by striking out certain prohibitions relating to Uganda, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-395)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1019) to amend the International Development and Food Assistance Act of 1978 and the Foreign Assistance and Related Programs Appropriations Act, 1979 by striking out certain prohibitions relating to Uganda, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) the International Development and Food Assistance Act of 1978 (Public Law 95-424) is amended—

(1) in the section heading of section 602, by striking out "UGANDA,"; and

(2) in section 602, by striking out "Uganda,".

(b) Section 108 of the Foreign Assistance and Related Programs Appropriations Act, 1979 (Public Law 95-481), is amended by striking out all that follows after "*Provided, however,*" and inserting in lieu thereof the following: "That such prohibition with respect to Uganda shall apply only to funds appropriated or otherwise made available pursuant to this Act to carry out the Arms Export Control Act or part II of the Foreign Assistance Act of 1961 (other than funds appropriated or otherwise made available to carry out chapter 4 of part II of such Act).".

SEC. 2. (a) Subsection (a) and subsections (c) through (e) of section 5 of the Act entitled "An Act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund", approved on October 10, 1978 (Public Law 95-435), are repealed.

(b) Subsection (m) of section 4 of the Export Administration Act of 1969 (as added by section 5(d) of the Act entitled "An Act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund", approved on October 10, 1978 (Public Law 95-435)) is repealed.

And the House agree to the same.

CLEMENT J. ZABLOCKI,
STEPHEN J. SOLARZ,
CHARLES C. DIGGS, Jr.
CARDISS COLLINS,
DONALD J. PEASE,
WM. H. GRAY,
HOWARD WOLPE,
FLOYD FITHIAN,
WM. BROOMFIELD,
BILL GOODLING,
JOHN BUCHANAN,
MILLICENT FENWICK,
Managers on the Part of the House.

FRANK CHURCH,
C. PELL,
GEORGE MCGOVERN,
JOHN GLENN,
JACOB K. JAVITS,
CHARLES H. PERCY,
SAM HAYAKAWA,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1019) to amend the International Development and Food Assistance Act of 1978 and the Foreign Assistance and Related Programs Appropriations Act, 1979 by striking out certain prohibitions relating to Uganda, and for other purposes, submit the following joint statement to the House and to the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the committee of conference, and minor drafting and clarifying changes.

PROHIBITIONS ON ASSISTANCE TO UGANDA

International Development and Food Assistance Act of 1978 (Public Law 95-424)

The Senate bill repealed the fiscal year 1979 prohibition on development assistance to Uganda.

The House amendment authorized the President to waive this prohibition on assistance to Uganda if he determines and reports to the Congress that the Government of Uganda does not engage in a consistent pattern of gross violations of internationally recognized human rights and that furnishing assistance would further the foreign policy interests of the United States.

The conference substitute is the same as the Senate provision.

The committee of conference noted that on May 15, 1979, the President determined and certified that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

Foreign Assistance and Related Programs Appropriations Act, 1979 (Public Law 95-481)

The Senate bill repealed the fiscal year 1979 prohibition on all economic and military assistance to Uganda.

The House amendment authorized the President to waive this prohibition on assistance, except for assistance under the Economic Support Fund program; the International Military Education and Training program; and the Foreign Military Sales program, if he determines and reports to the Congress that the Government of Uganda does not engage in a consistent pattern of gross violations of internationally recognized human rights and that furnishing assistance would further the foreign policy interests of the United States.

The conference substitute is a compromise which would lift the prohibitions on assistance, including Economic Support Fund programs, but would prohibit assistance under the International Military Education and Training program and under the Foreign Military Sales program.

Trade restrictions

The Senate bill repealed the prohibitions on trade with Uganda.

The House amendment did not contain a similar provision.

The conference substitute is the same as the Senate provision.

The committee of conference noted that trade restrictions have already been lifted by Executive order, as permitted by the legislation which established those restrictions.

CLEMENT J. ZABLOCKI,
STEPHEN J. SOLARZ,
CHARLES C. DIGGS, Jr.
CARDISS COLLINS,
DONALD J. PEASE,
WM. H. GRAY,
HOWARD WOLPE,
FLOYD FITHIAN,
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Managers on the Part of the House.

FRANK CHURCH,
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GEORGE MCGOVERN,
JOHN GLENN,
JACOB K. JAVITS,
CHARLES H. PERCY,
SAM HAYAKAWA,
Managers on the Part of the Senate.

AUTHORIZING APPROPRIATIONS FOR INTERNATIONAL AFFAIRS FUNCTIONS OF DEPARTMENT OF TREASURY, 1980

Mr. NEAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 976) to authorize appropriations for the International Affairs Functions of the Department of the Treasury for fiscal year 1980, with a Senate amendment to the House amendment, and concur in the Senate amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That section 5 of the Act of November 8, 1978 (92 Stat. 3092) is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by inserting "and $22,375,000 for fiscal year 1980," after "1979"; and

(3) by adding at the end thereof the following:

"(b) In addition to the amount authorized by subsection (a), there are authorized to be appropriated for fiscal year 1980 not to exceed $800,000 which shall be available only for the payment of (1) any increase pursuant to the Federal Pay Comparability Act of 1970, or section 5382(c) of the Civil Service Reform Act of 1978, in salaries of employees engaged in the functions described in subsection (a) and for the payment of increases in agency contributions attributable thereto; and (2) any increases in allowances and benefits arising from increases in the cost of living authorized to be provided pursuant to section 2.".

Mr. NEAL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from North Carolina (Mr. NEAL) if an amendment which I offered here on the House floor, which would close the open end authorization, was accepted by the Senate and is now in the bill.

Mr. NEAL. If the gentleman will yield, the answer is yes.

Mr. WYLIE. Further reserving the right to object, I understand, also, that the House Banking Committee reduced the authorization by some $337,000. Is that correct?

Mr. NEAL. If the gentleman will yield, I believe that figure is correct, but I would urge my colleague to refer to my statement which fully details the particulars of this bill.

Mr. WYLIE. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, the minority members of the subcommittee are particularly pleased that the Wylie amendment, in essence, was maintained, and a large majority, if not the entire members of the minority on the subcommittee, do support the gentleman's unanimous consent request.

Mr. Speaker, I withdraw my reservation of objection.

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I do so for the purpose of engaging in colloquy with the gentleman from North Carolina (Mr. NEAL).

Is it my understanding that, as the bill came out of conference, we retained the cut that was put in on the House side and that that closed the open-ended funding mechanism that was originally in the bill?

Mr. NEAL. If the gentleman will yield, the answer to the gentleman's question is yes.

Mr. Speaker, this bill implements legislation enacted last year which requires that the administrative expenses for the international affairs functions of the Treasury Department be specifically authorized and appropriated by the Congress. In the past, those expenses were paid out of the Treasury's Exchange Stabilization Fund, with no oversight or control by the Congress.

For fiscal year 1979, the Congress authorized $24,000,000 for those expenses. The administration orginally requested, for fiscal year 1980, an authorization of $22,752,000, plus an open-ended authorization for such sums as might be necessary to cover nondiscretionary increases in those expenses, such as cost-of-living pay increases. It was, therefore, not possible to make a strict comparison between the sum authorized for fiscal year 1979, and the sums requested by the Treasury Department for fiscal year 1980. The former was a flat $24,000,000. The latter was a smaller number—$22,752,000—but included unspecified sums for nondiscretionary increases. An early estimate of what those increases might be was in the range of $1,500,000. If that estimate were correct, the original Treasury request would have represented, in effect, an authorization of $24,252,000 for fiscal year 1980, and thus a small increase over the $24,000,000 authorized for fiscal year 1979.

The Banking Committee, following the recommendation of its Subcommittee on International Trade, Investment, and Monetary Policy, voted to pare down Treasury's request for fiscal year 1980, even though that request represented, at most, a very modest increase over fiscal year 1979. The bill reported by the Banking Committee to the House cut Treasury's request from $22,752,000 to $22,375,000. Adding in the original estimate of about $1,500,000 for nondiscretionary increases would have yielded an estimated authorization of $23,875,000 for fiscal year 1980.

That represented a small cut from the $24,000,000 authorized in fiscal year 1979. Nonetheless, the House was wary of any open-ended authorization for "such additional sums" as might be necessary to cover nondiscretionary increases in administrative expenses, and struck from the bill the language authorizing those "additional sums." Thus, the House sent to the Senate a simple authorization of $22,375,000 for fiscal year 1980, with no scope for additional sums that would be required for nondiscretionary increases required by law. As it stood at that point, the House authorization represented a very significant cut below the fiscal year 1979 authorization.

The Senate has agreed that there should be no open-ended authorization of additional sums for nondiscretionary increases. It also agreed that, at present, the $22,375,000 for fiscal year 1980 is an appropriate level for the administrative expenses incurred by the Treasury Department in carrying out its international affairs functions. That level is a stringent ceiling, less than the amount authorized for fiscal year 1979, despite the high rate of inflation over the past year. The Senate also recognized, however, that there will be legally mandated increases in the Treasury's administrative expenses, and some provision should be made for them. Otherwise, those increases would all have to come out of the authorized $22,375,000, and would force an unreasonably drastic cutback in Treasury's ability to carry out its international functions. Thus, the Senate added an additional $800,000, and specified very carefully that it could be used only to meet nondiscretionary increases arising from cost-of-living adjustments mandated by law, or by the provisions of the Civil Service Reform Act of 1978.

The Senate action is a very reasonable approach. It provides some scope, though very modest, to meet nondiscretionary increases required by law. It also accepts the will of the House that there should be a real reduction in total Treasury administrative expenses for its international functions, compared to fiscal year 1979. Adding the Senate's $800,000 to the House's $22,375,000 yields $23,175,000 for fiscal year 1980, which is less than the $24,000,000 for fiscal year 1979. We now have, I think, a fine compromise on a real budget cut, and we should accept this bill, S. 976, as amended by the Senate.

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL GRANDPARENTS DAY

Mr. JOHN L. BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 244) to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, speaking as a grandfather, I would like to ask my colleague, the gentleman from California (Mr. JOHN L. BURTON), what this is and what he is going to do for us.

Mr. JOHN L. BURTON. If the gentleman will yield, this is the resolution that the gentleman cosponsored, so I am certain he is aware of what is in it. It has the necessary signatures of more than one-half of the Members of the House and about 90 percent of that side of the aisle. It clearly is a repetition of last year's measure, only this would allow the President to annually proclaim the first Sunday after Labor Day as Grandparents Day. It costs no money. It perhaps would be beneficial to those of us who have a little bit of Hallmark greeting card stock or FTD delivery.

We have to do this before the first Sunday after Labor Day or it will not happen this year.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would like to put a question to the gentleman from California that was put to me by my mother-in-law when she heard that this had been passed last year. She is a grandmother of six or seven children. She said: "Doesn't the Congress have anything better to do?"

Mr. JOHN L. BURTON. Yes. Unfortunately, this seems to be something that we can all agree on.

Mr. BAUMAN. Mr. Speaker, in that spirit, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 244

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the first Sunday of September after Labor Day as "National Grandparents Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1786 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION APPROPRIATIONS, 1980

Mr. FUQUA. Mr. Speaker, I call up conference report on the bill (H.R. 1786) authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1980.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 20, 1979.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Conference on the bill H.R. 1786, authorizing funds for the National Aeronautics and Space Administration for fiscal year 1980 has successfully concluded its work. The conference report before you includes changes in six NASA research and development program line items. The net result of the House and Senate conference is to increase the NASA amended budget request of $4,945,000,000 by $16,000,000 for a total recommended authorization of $4,961,000,000. This represents an increase of approximately three-tenths of 1 percent (0.32 percent) in the amount requested by the administration.

The original NASA budget request was for $4,725,000,000. On March 28, 1979, the House passed H.R. 1786, and authorized a total of $4,762,000,000 for NASA in fiscal year 1980 which amounted to a $37,000,000 increase over the administration's original request.

On May 14, 1979, the President transmitted to the Congress an amendment to the NASA 1980 budget which would increase by $220,000,000 the amount recommended for the Space Shuttle stating that the additional resources were needed to maintain the development and production pace necessary to meet civil and military requirements. The original budget request and the budget amendment request resulted in a total budget request of $4,945,000,000 for NASA in fiscal year 1980.

The conference report authorizes $1,586,000,000 for the Space Shuttle program which includes the $220 million budget amendment and deletes the $27,000,000 previously authorized by the House to maintain an option for a fifth Space Shuttle orbiter vehicle.

Five other items of disagreement were resolved by the conferees. The conferees adopted the House position on two items including a $4,000,000 reduction in space flight operations and a $4,000,000 addition for space applications to complete system definition studies and to conduct initial work on instruments for a national oceanic satellite system. The conferees adopted the Senate position on three items including a $9,000,000 increase in the administration request for aeronautical research and technology, a $3,000,000 increase to space research and technology for additional work on the development and testing of large space structures, and an addition of $2,000,000 to energy technology applications.

In conclusion, the conferees on both sides of the aisle are to be congratulated for their efforts in bringing the conference report to the floor. The conference report before you reflects the need to exercise prudent economy while encouraging full utilization of the potential of space. I urge adoption of this report.

COMPARISON OF BUDGET REQUEST, HOUSE ACTION, SENATE ACTION, AND CONFERENCE ACTION ON H.R. 1786, FISCAL YEAR 1980 NASA AUTHORIZATION

[Amount in dollars]

	Budget request	House action	Senate action	Committee of Conference
Research and development:				
Space Shuttle	1,586,000,000	1,393,000,000	1,586,000,000	1,586,000,000
Space flight operations [1]	467,300,000	463,300,000	467,300,000	463,300,000
Expendable launch vehicles	70,700,000	70,700,000	70,700,000	70,700,000
Physics and astronomy	337,500,000	337,500,000	337,500,000	337,500,000
Planetary exploration	220,200,000	220,200,000	220,200,000	220,200,000
Life sciences	43,900,000	43,900,000	43,900,000	43,900,000
Space applications [1]	332,300,000	338,300,000	334,300,000	338,300,000
Technology utilization	12,100,000	12,100,000	12,100,000	12,100,000
Aeronautical research and technology [1]	300,300,000	308,300,000	309,300,000	309,300,000
Space research and technology [1]	116,400,000	116,400,000	119,400,000	119,400,000
Energy technology [1]	3,000,000	3,000,000	5,000,000	5,000,000
Tracking and data acquisition	332,800,000	332,800,000	332,800,000	332,800,000
Total	3,822,500,000	3,639,500,000	3,838,500,000	3,838,500,000
Construction of facilities	157,600,000	157,600,000	157,600,000	157,600,000
Research and program management	964,900,000	964,900,000	964,900,000	964,900,000
Grand total	4,945,000,000	4,762,000,000	4,961,000,000	4,961,000,000

[1] Items in conference.

□ 1450

Mr. WINN. Mr. Speaker, I yield myself as much time as I may consume.

The chairman of the full committee (Mr. FUQUA) has done an excellent job of explaining what is in this conference report. Mr. Speaker, the minority has worked hard to bring this authorizing legislation to the floor. We were somewhat disturbed by the fiscal year 1980 budget amendment for the Space Shuttle program which was added after the House action. However, after an extensive evaluation by the subcommittee, including hearings, we feel that the additional $220 million is warranted. Let me state publicly, however, that this type of action is not condoned. It is imperative that NASA make realistic estimations of their annual funding requirements and avoid these costly overruns.

I am in support of the conference report. The compromise which has been established is reasonable and satisfies the objectives of the House. I encourage my colleagues to support this conference report on the National Aeronautics and Space Administration fiscal year 1980 authorization.

Mr. FUQUA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—yeas 72, nays zero.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute.)

Mr. MYERS of Indiana. Mr. Speaker, I ask to address the House at this time for the purpose of inquiring of the distinguished acting majority leader, the gentleman from California (Mr. MINETA) what the program will be for the remainder of this week and next week.

Mr. MINETA. If the gentleman would yield, the legislative calendar for today is complete.

For Monday, July 30, the House will meet at noon and vote on the following suspensions:

H.R. 4811, for the relief of Nenana, Alaska;

H.R. 3361, to establish the boundary location of Angeles National Forest;

H.R. 3509, safe drinking water authorizations; and

H.J. Res. 381, Ethics in Government Act amendments.

Then we will complete consideration on H.R. 4440, Transportation appropriations, fiscal year 1980, and also the conference report on H.R. 4388, energy/water appropriations, fiscal year 1980.

On Tuesday, July 31, the House will meet at 10 a.m. and consider H. Res. 378, in the matter of Charles C. Diggs, Jr.

Then there are three suspensions to be voted on:

S. 961, Speedy Trial Act amendments;

H. Con. Res. 80, Martin Luther King statue; and

H.R. 4476, Higher Education Technical Amendments of 1979.

The House will then complete consideration on S. 1030, gas rationing authority and conservation and then take up H.R. 4930, Interior appropriations, fiscal year 1980.

On Wednesday and Thursday, August 1 and 2, the House will meet at 10 a.m.

We will consider the following bills:

H.R. 3434, social services and child welfare amendments, under a modified rule, with 2 hours of general debate;

H.R. 4473, foreign assistance appropriations, fiscal year 1980, and complete consideration;

H.R. 3000, DOE authorizations, fiscal year 1980, on which we will complete consideration;

H.R. 3180, DOE authorizations, fiscal year 1979, with an open rule, with 1 hour of debate.

We will then take up:

H.R. 4040, DOD fiscal year 1980 authorizations, which is an open rule, with 4 hours of debate. The rule has already been adopted;

H.R. 3236, Disability Insurance Amendments of 1979, with a modified rule and 1 hour of general debate;

H.R. 4034, Export Administration Act Amendments of 1979, on which we will complete consideration;

H.R. 79, Postal Service Act of 1979, which has an open rule, with 1 hour of general debate.

Following that will be the conference report on H.R. 3224, International Development Cooperation Act of 1979.

The House will be in session until at least 7 p.m. on Monday and Tuesday.

At the close of business Thursday, August 2, 1979, the House will adjourn until noon on Wednesday, September 5, 1979, for its August district work period.

Conference reports may be brought up at any time. Any further program will be announced later.

Mr. MYERS of Indiana. Mr. Speaker, several questions arise.

First, there has been some discussion there is a possibility that there might be a motion to send the implementation of the Panama Canal Treaties to conference as well as the adjournment resolution. I notice both of those are left off of the program, as has been presented by the acting majority leader.

Would the gentleman give us some clarification if there is a possibility of those coming up, and if so, when?

Mr. MINETA. The plan and hope for both of those items, the adjournment resolution as well as the Panama Canal, will be for Monday.

Mr. MYERS of Indiana. We can be sure to depend that they will come up Monday. Will it come before the suspensions?

Mr. MINETA. I am not sure as to when they would be coming up, but they are planned for Monday.

Mr. MYERS of Indiana. We can depend on their coming up Monday?

Mr. MINETA. Yes, that is the plan.

Mr. MYERS of Indiana. The next question I have, Mr. Speaker, is the fact that from Wednesday on, I note that we have no time limitation. What would be an expectation of the leadership about what normal time we might expect to adjourn on those two evenings, particularly on Thursday when some Members may wish to have some plane schedules to get out of town?

Mr. MINETA. As the gentleman can see from the schedule, it is a very busy schedule, and so, on both of those evenings, they will be late sessions.

Mr. MYERS of Indiana. Thursday evening we can expect a late session, too, so possibly we will not be getting out of here until Friday then? Would that be a reasonable assumption?

Mr. MINETA. We could very well be late on Thursday as well.

Mr. MYERS of Indiana. I also note that from Wednesday on, it is a rather ambitious schedule. For example, foreign assistance appropriations, we have already spent the best part of two days already on that particular bill. In what particular order will these be taken up? In the order they are presented here? If so, what about DOE appropriations? It looks like they have a low priority.

Mr. MINETA. The present plan is to take them up in order as they are printed on this schedule.

Mr. MYERS of Indiana. It is going to be real late Thursday evening, it looks like to me.

I thank the gentleman for his comments.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask the gentleman further about the suspensions, H.J. Res. 381, I believe I heard him read the number, to separate certain former Presidential appointees. Am I correct this bill would in effect change the effective date of the Ethics in Government Act and would therefore permit Mr. Califano, Mr. Blumenthal, and Mr. Adams and others who have been fired in the massacre, to therefore practice law, engaging the agencies they have just been fired from? I think the Members should know that.

Mr. MINETA. It is my understanding that the gentleman from Maryland is correct.

Mr. BAUMAN. I thank the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his response. Wish us well next week.

HOUR OF MEETING ON TUESDAY, JULY 31, 1979

Mr. MINETA. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, July 30, 1979, it adjourn to meet at 10 a.m., Tuesday, July 31, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

Is that to come in at 10 a.m. on Tuesday?

The SPEAKER pro tempore. Tuesday, July 31.

Mr. BAUMAN. I object, Mr. Speaker.

Mr. MINETA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon, on Monday, July 30, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

INTRODUCTION OF TRADE REORGANIZATION ACT OF 1979

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Speaker, I rise today to introduce a major alternative to proposals already advanced to reorganize U.S. trade functions and responsibilities. The legislation I introduce today is titled the Trade Reorganization Act of 1979; it is a bill designed to centralize responsibility and authority for the formulation and direction of U.S. trade policy in a strengthened office of the Special Trade Representative.

I submit that a comprehensive and consistent trade policy for the United States—with clear lines of authority and responsibility—is long overdue. We have seen our share of the world export market decline steadily over the past two decades: from a 20-percent share in 1960 to 14 percent in 1978. We have seen the value of our dollar decline, and the trade role of the United States erode.

For many years, the United States was a successful "better mousetrap" country; we counted on American ingenuity and inventiveness, and on high technology production, to attract the world to our trade door.

Mr. Speaker, that era has passed.

In bare outline, the proposal I offer today will accomplish the following objectives. It will retain Cabinet-level status for the Special Trade Representative, and expand his duties to include enforcement against unfair trade practices, increased responsibility for all trade negotiations, and clear authority for development of export policy.

Like the plan introduced last week by the President, the Trade Reorganization Act I introduce today would transfer substantial trade authority out of the Departments of State and Treasury, but it would also leave trade functions of the International Trade Commission and the Department of Agriculture completely intact.

Although the Department of Commerce would lose principal responsibility for development of export policy, it would gain functional authority over foreign commercial attachés currently assigned to the Department of State.

I also propose to severely limit the number of people that the strengthened Special Trade Agency can employ, helping to insure, I hope, against a vast new Federal bureaucracy. The Department of Commerce currently has hundreds of people who are involved, in one aspect or another, in trade matters. Most, however, are involved at the functional, or operational level. Transfer of these workers, who are essentially implementers, to the strengthened agency would considerably, and unnecessarily, expand the number of the agency's employees, and expand the administrative workload. As long as the Commerce employees—including those transferred from State—implement an established policy, there is, at least for the immediate future, no compelling reason for transfer.

Mr. Speaker, the United States is the only major industrial nation in the world that does not have a centralized system—with clear leadership responsibility—for the conduct of trade negotiations, enforcement of mechanisms against unfair trade practices, and policy formulation.

The United States, on the contrary, has fragmented responsibility and functions among a number of Departments and Agencies, including the Department of State, Department of Commerce, Department of Treasury, Department of Agriculture, Export-Import Bank, Overseas Private Investment Corporation, International Trade Commission, and so forth. Some of these Departments—notably Agriculture—and agencies—notably the ITC—seem to be performing their missions adequately. Others, however, do not focus on trade as a primary mission. For instance, because of either competing interests, institutional constraints, or bureaucratic lethargy, both the Departments of State and Commerce have failed to play aggressive trade roles; similarly, the Department of Treasury has not proved to be an effective administrator or enforcer of U.S. laws against unfair trade practices.

As the result of competing missions and of dispersed functions, the United States does not have a comprehensive or consistent trade policy. The country, very simple, does not speak with a single trade voice. Because functional responsibility is divided, authority is similarly dispersed, making it easier for all involved to "pass the buck." The unasked question which President Truman's desk sign answered is, "Who is in charge?"

The President, on recommendation from the Office of Management and Budget, has presented his own trade reorganization plan which would transfer enforcement functions from Treasury to Commerce, commercial attachés from State to Commerce, and certain trade negotiations from State to the Special Trade Representative.

I applaud the President's initiative; reorganization is, I think we all agree, absolutely essential. I am happy to see that the President has recognized the utility of transferring certain functions out of State and Treasury.

Unfortunately, however, it seems to me as though the purpose of reorganization has been lost somewhere in the shuffle.

The purpose of reorganization—OMB's mission notwithstanding—is not to abolish the jobs, or to save the jobs, of a couple hundred federal employees. The purpose, I submit, is to establish a rational, consistent, and strong overall national trade policy for our country. The purpose is to help our country compete—compete fairly under international rules, to be sure—but nevertheless to compete for our fair share of the world trade pie. That, I submit, is the bottom line justification for reorganization and centralization of authority.

There is, under the President's proposal, still no single official who can be identified as the senior trade official. Is it the Secretary of Commerce? The proposed Undersecretary of Commerce for Trade? The STR? No clear answer can be found in the President's plan.

The division between policy development negotiations and enforcement envisioned in the President's proposal is, in the last analysis, inadequate and inefficient; it does not satisfy the purpose of reorganization. Institutionally, it is not defensible because it does not address the essential problem; the United States badly needs a trade advocate and an administrator of consistent policy.

The Department of Commerce currently administers a number of seemingly unrelated programs which distract attention from the primacy that trade deserves. From census counts to counts of whales, Commerce has become a "dumping ground" for programs that do not really "belong" anywhere. It has become a kind of "grandmother's attic" for various bits of miscellany and whimsy, and appears singularly inadequate as a structure for new trade initiatives.

Finally, few people either on Capitol Hill or in the private sector have confidence in Commerce's ability to conduct U.S. trade policy effectively or efficiently. There is little prospect for a rapid improvement in Commerce's efficiency or capability.

I am aware that other proposals introduced in the other body have recommended—in view of the importance of the matter—that the Congress create a Department of Trade instead of an agency. It seems to me that two arguments militate against creation of a new Department at this time—one political and one practical.

First, the President has stated firmly and repeatedly that he is opposed to the creation of any new Departments at this time.

Second, Congress is reluctant to create a new Department in view of the perceived inefficiencies and the problems associated with some of the newer departments. It seems more efficient, at least at this point, to expand—in a limited fashion—an existing agency with a proven leadership record: STR. If the delegation of primary authority and responsibility to STR proves by experience to be successful in the short term, then perhaps a further concentration and expansion can be considered by the Congress at a later date.

Mr. Speaker, my primary purpose in introducing this legislation is to help create a system that works. Because of conflicting missions or lack of interest, neither Commerce, State nor Treasury has exercised the kind of leadership, or performed its appointed tasks in the field of trade in a manner that is comprehensive or consistent. Complaints from the users of the services—mostly private business—are manifold and well documented. We cannot, I submit, continue to function in the international arena in a "business-as-usual" basis, because business has been off for us, and will not improve until we put our trade house in order.

THE PRESIDENT'S DEMAGOGUERY ON ENERGY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, President Carter's further blast against the oil company whipping boys and their profits failed to acknowledge one important fact.

The $12 billion Department of Energy bureaucracy and the new energy agencies that the President has proposed to create cost more to run each year than the combined profits of 94 oil companies.

Furthermore, the oil companies use their profits to conduct the very risky business of finding and producing more energy supplies for our people.

Despite the billions spent by the Department of Energy, this Federal Agency has not added a single Btu of energy in its 2 years of existence to the Nation's needs.

The President's demagoguery on the energy issue, and the massive bureaucratic failure of the Department of Energy, were succinctly stated in two recent editorials in the Arizona Republic.

I include them at this point in the RECORD:

[From the Arizona Republic, July 26, 1979]

CARTER'S DEMAGOGY

President Carter's first press conference in almost two months was an exercise in demagogy.

It's now clear what his strategy is. It's to attempt to rally public opinion behind his energy program by making the oil companies a whipping boy.

The president as much as charged that, if the Senate amends his windfall profits tax in any way, it will be doing so because of the oil industry's pressure. And he called on his listeners to exert counterpressure on the legislators.

He then went further, predicting dire consequences if the windfall tax bill is amended.

There will not then be enough money for the rest of his energy program, including the creation of a synthetic fuels industry and the expansion of mass transit.

This will cause the dollar to decline further, and inflation to continue, and the nation to plunge into a recession, and unemployment to mount, he said.

And it will all be the doing of the "oil lobby."

It was a horrendous scenario the president unfolded, with the oil industry playing the part of a reborn Dracula, sucking the nation's blood.

The strategy could work. The unthinking always look for a whipping boy on whom to place the blame for whatever ails the nation. And the oil industry has always been unpopular since the days of John D. Rockefeller Sr.

The fact is, the oil industry has a very plausible argument against the windfall profits tax, which neither Carter nor any of the men around him has ever even attempted to answer.

It needs the profits it will get from deregulation for increased exploration and development of both domestic oil and natural gas resources and oil and gas resources in non-OPEC countries.

Other critics of Carter's energy program have equally plausible arguments against his plan to use $88 billion of the revenue the windfall profits tax would bring to develop a huge synthetic fuel industry.

They cite the enormous technical, economic and environmental problems that must first be overcome, and they are dubious about the ability of a government bureaucracy to deal with them.

Nor can anyone blame them for their doubts. What has the Department of Energy, with its 20,000 employees and its $12 billion budget, done to alleviate the energy crisis?

The president's demagogy is compounded by the fact that creation of a synthetic fuels industry actually would be a bonanza for the oil companies.

Most of the major oil companies own coal companies that would profit immensely from the building of plants to produce oil from coal.

It's truly a cockeyed situation. On the one hand, Carter depicts the oil companies as consumed with greed for opposing his windfall profits tax; on the other, he proposes to give them windfall profits from coal.

Carter's energy program was ill-conceived. His demagogy doesn't make it look any better.

[From the Arizona Republic, July 26, 1979]

REMEMBER DOE?

Little wonder that President Carter's advisors are pleased with a new opinion poll showing 36 percent public support for his so-called new energy program.

What pleases them is that they've fooled so many people and gotten away with it.

The most convincing evidence that the president is playing politics with the public's gullibility is in the empire of energy bureaucracies he wants to build.

Indifferent to what he said as a candidate about bureaucracies, Mr. Carter has told Congress that if it will give him a new Energy Security Corp., and a new Energy Mobilization Board, the battle to save America from energy waste and shortages will be won.

He asks $142 billion over the next 10 years, money he would transfer from the profits and therefore further production incentives of oil companies, and into the hands of bureaucrats.

But the president and his advisers have studiously ignored talking about the existing Department of Energy, an agency he implored Congress to create in 1977 to end the energy crisis.

DOE now has 20,000 employees, and an annual budget of just over $12 billion a year—about the same funding as his new agencies will receive per annum. DOE's annual budget, moreover, is only a billion dollars or so below the total combined profits of 94 oil companies.

And, after two years, what has the Carter DOE done to solve the energy crisis?

Nothing.

It has not added a single BTU of energy to the nation's needs.

To the contrary, busybody auditors and inspectors have created confusion and spawned more paperwork. DOE's layers of rules and regulations have discouraged production, and shaved profits that could have gone into new exploration.

As a result, DOE has driven the nation deeper into the arms of foreign oil producers.

Now, if the dreary record of DOE is any indication of what an energy bureaucracy does, what can the nation expect of two new energy agencies with combined budgets equal to DOE's and powers more awesome?

America's energy problems are the byproducts of Mr. Carter's own Department of Energy. Its ineptness, its strangling redtape and its bureaucratic trifling are tributes to the economic illiteracy that abounds in Washington.

Rather than fund Mr. Carter's new bureaucracies, Congress could perform a service by yanking DOE's $12 billion budget, and allow natural forces of supply and demand lead the nation back to common sense distribution and energy resource development.

BRING ON THE 97TH CONGRESS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, if Ralph Nader were really serious, he would want to send the 96th Congress back to the factory. I rise today to express what I feel to be the sentiment of the American people, the same people who sent us here to represent them. I rise to say, "Bring on the 97th Congress."

This Congress was elected in the wake of proposition 13. When the voters in California wisely chose to slash their own taxes, the American people applauded. They want the same thing and this Congress has failed to grant their wish.

It is clear that the American people want a balanced budget. This Congress has failed to do that.

The American people did not want to give away the Panama Canal but the 96th Congress did it anyway.

It has been shown that 81 percent of the American people oppose the forced busing of their children. This week, the House of Representatives voted down a constitutional amendment which would outlaw this travesty.

An overwhelming majority of Americans opposed the recognition of Communist China at the expense of selling out our friend and ally on Taiwan. This Congress went along with the Carter-Vance sellout lock, stock, and barrel.

The American people have grave concerns about the Soviet threat to our freedom, yet everyday we heard of one more Senator who is getting ready to support SALT II no matter in what shape or form it ultimately comes before them.

The American people want to pay a lower price for consumer goods. Take chrome for instance. This Congress has approved continued sanctions against free Zimbabwe-Rhodesia, the nation which has the chrome. The Russians buy the chrome from Rhodesia and we buy the chrome from the Russians. That make sense, does it not?

The American people want to support our allies around the world yet this Congress has looked the other way while Iran falls to the bloodthirsty Khomeini and Nicaragua falls to the Marxist Sandinistas.

The American people want gasoline so that they can get to work in the morning. This Congress has watched while the Carter administration bungles our national energy nonpolicy.

Our elderly constituents want inflation to level off so that their fixed incomes can meet their basic human needs—needs like food, water, electricity. This Congress has continued to deficit spend in order to fuel inflation. This Congress has refused to grant them a tax break.

The business people of this Nation want less paperwork, less redtape, less regulation. This Congress has looked on while the bureaucracies in Washington create more.

This Nation wants to return to the work ethic which made us the greatest Nation on Earth. This Congress has increased welfare spending and food stamp appropriations at their expenses.

Mr. Speaker, the list goes on and on. I have only highlighted a few issues, a few of the taxpayers' concerns. Again, I say "Bring on the 97th Congress." It could not be much worse and it is bound to be a little better working partner for our new President in 1980.

HOW TO PRODUCE MORE U.S. OIL

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the newspaper headlines this past week shouted "Oil Company Profits Soar."

This liberal Democrat majority, which has controlled Congress for 25 years, is trying to pin the gasoline shortage onto the big oil companies back. So we ask, What are the facts?

I analyze the statement of Exxon which is the largest oil company in the United States. Here are some of the direct quotes:

> Worldwide operating earnings increased 27 percent. Earnings from oil and gas operations again decline in the U.S.
>
> Exxon's net income rose from the prior year primarily on the strength of the higher earnings from foreign operations. Earnings

from U.S. oil and natural gas operations in the quarter and the six months were below those of the comparable periods of 1978.

Commenting on the second quarter U.S. petroleum earnings, Mr. C. C. Garvin, Jr. Chairman of the Board, said: "In the U.S., Exxon's costs in the second quarter and year-to-date have risen much more than selling prices. As a result, U.S. refining and marketing earnings in the quarter were less than one-half those in the second quarter of 1978."

Earnings from total U.S. petroleum and natural gas operations were down 5 percent from first half of 1978. The decline was in U.S. refining and marketing earnings which were dollars 68 million, down from dollars 132 million in the prior year.

Foreign exploration and production earnings were up 18 percent to dollars 750 million. The major factor in the increase was higher crude oil production volume in Malaysia and the North Sea and higher natural gas production volume in Europe, the latter due in large part to an exceptionally cold winter.

Earnings from worldwide chemical operations were up 76 percent to dollars 217 million.

What these key statements report is that Exxon is doing great financially around the world. But here in the United States, they are not as successful in generating the cash needed for capital development.

When I saw Gov. Bill Clements, of Texas, he told me that Texas oil production was down 600,000 barrels a day from 3 years ago even though the industry is producing 100 percent.

As we use up oil, we need to produce new wells to take their place. Six years ago, the United States imported $33 billion in oil, yet this year, the United States will import $60 billion in oil.

The answer is the Plowback Tax Credit. Let the U.S. oil companies plowback all their U.S. earnings into producing more oil and gas in the United States.

SOLID WASTE DISPOSAL AND ENERGY PRODUCING FACILITIES

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I am today introducing a bill with my colleague, Mr. WHITEHURST, which will facilitate the development of solid waste disposal and energy producing facilities through the clarification of the existing tax laws.

The General Accounting Office in February issued a comprehensive report on the need for the development of urban waste to energy systems.

The GAO identified 131 municipal solid waste energy projects in the United States, 20 operational, 10 under construction, 30 in the planning stage, and 71 in preliminary study stages. The GAO estimated that if these 131 projects could become operational by 1985 they could process about 36 million tons or 18 percent of the urban waste produced and the Nation could realize energy savings equivalent to over 100,000 barrels of oil daily.

The bill which my colleague and I are introducing today provides that industrial development bonds issued by a tax exempt State or political subdivision may be used as a means of financing solid waste disposal facilities where steam or electric energy produced at such facilities are sold to and used by the Federal Government. The bill provides further that tax exempt industrial development bonds may be used to fund facilities which combine both solid waste disposal and energy production.

A project in Tidewater, Va., is in the group of those to which the Comptroller General refers as in the planning stage. The Southeastern Public Service Authority covers a combined population of approximately 750,000. It will collect solid waste from seven participating cities and counties, process the solid waste, convert it into steam which will then be converted to electricity, and sell the electricity to the Norfolk Naval Shipyard in Portsmouth, Va.

The local political subdivisions have already spent over $2.2 million in local tax dollars for feasibility studies and engineering design work. However, unless current tax provisions are clarified the plant may never be built.

If the authority were selling a product to a private user there would be no question as to its tax exempt status.

In view of the urgency of developing alternative sources within the Government, it seems logical to provide in the tax law that solid waste disposal facilities which sell their product to the Federal Government may be financed on a tax exempt basis.

Under Internal Revenue Service regulations tax exempt status is limited to the solid waste portion of the facility. Electrical generators, an integral part of the facility, are not currently permitted to be tax exempt under the regulations. If the entire facility is not tax exempt, the project would not be economically feasible.

The bill therefore permits tax exemption for the entire facility when it is an integrated process such as the Southeastern Public Service Authority.

Because of the importance of providing new sources of energy and of the urgent need for a new facility for providing energy to the Naval Shipyard in Portsmouth, Va. I urge the Committee on Ways and Means to give prompt attention to this bill.

INTRODUCTION OF BILL PROVIDING FOR TIMELY INFORMATION ON EXPORT SALES OF CERTAIN AGRICULTURAL COMMODITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

● Mr. GRASSLEY. Mr. Speaker, I introduce for appropriate reference a bill to provide family farmers and others with timely information concerning export sales of certain agricultural commodities. I am pleased to be joined on this measure by my distinguished colleague from Iowa (Mr. SMITH).

Ever since my election to the Congress, I have been interested in seeing that the export sales reporting system of the Department of Agriculture provides as accurate and timely information on foreign sales of U.S. agricultural commodities as is possible. Enacted as a part of the Agriculture and Consumer Protection Act of 1973 and as an aftermath of the 1972–73 grain sales to the Soviet Union, the export sales reporting requirement was designed to assure that American commodity exporters would promptly report their sales, thus providing an accurate picture of foreign demand for our crops. Unfortunately, the system has fallen short of expectations.

From my discussions with farmers, there is a general concern that there just is not adequate information available on export sales of grain. If my colleagues talk to their farmers back home about this, I think they will find that the farmers are convinced that people who are connected with the big grain companies or with the Department of Agriculture know more of what is going on in the grain trade than the individual farmer does. They feel, and I certainly agree, that the farmers are as much entitled to this information as the big grain traders or USDA.

There have been a number of studies which have pointed out some of the problems with the current system. In January of 1977 the Department of Agriculture's Office of Audit wrote a report calling for revisions and strengthening of the program. Five months later, in May 1977, the General Accounting Office issued an in-depth report, which concluded that the system "falls short of providing timely, accurate, reliable and complete agricultural export data."

As a result of these reports, and testimony on this matter before a House Agriculture Subcommittee, I introduced an amendment last year to the agricultural export promotion legislation intended to correct the defects in the reporting law. That amendment was approved by the Subcommittee on Department Investigations, Oversight, and Research. The full Agriculture Committee, however, substituted an amendment mandating still another study analyzing the effectiveness of the reporting system. Pursuant to this provision the Secretary of Agriculture appointed an interagency task force and an Advisory Committee.

The Advisory Committee issued its report on February 27 of this year. While the Advisory Committee recognized the important issues with regard to this matter, its primary recommendation to expand the export sales reporting system only in times of extremely tight United States or world supplies just does not, in my opinion, go far enough. Therefore, I have decided to introduce a bill which would basically require daily reporting of export sales by the large traders, whether located in this country or not, and deny use of our futures markets to such firms for failure to do so. In order to have all proposals considered by the Agriculture Committee, however, I would be willing to introduce the Advisory Committee proposal when it is drafted.

Mr. Speaker, now is an important time to expand the requirements of the export sales reporting system. Over the last few months brisk demand and reduced crop expectations have combined to create what some observers have described as the tightest world grain market since 1975. One cause of this tight situation has been the estimated reduction in the Soviet Union's 1979 grain crop. The Department of Agriculture in early June sharply reduced its estimate of such crop to between 170 and 210 million metric tons. Just a couple of weeks ago the Department reduced that estimate even more to between 165 and 195 million metric tons. This compares with last year's record crop of 237 million metric tons and an announced goal for 1979 of 226 million. As of last week, Soviet purchases of U.S. corn and wheat in the current buying year now total 14.8 million metric tons. This is higher than the 13.5 million metric tons the Soviets bought in 1972–73. Also, a USDA official has recently predicted that U.S. wheat exports in 1979–80 to all countries could top the 33 million metric ton record set in 1973.

As all of us are well aware, this kind of situation produces a very volatile market. At a time like this it is particularly important for producers and others to have accurate information with regard to the export sales that are made in order to be able to make informed decision concerning the marketing of their crops. Exports are a significant factor in the market. As Mr. Varel Bailey, vice president of the National Corn Growers Association, told USDA's Advisory Committee:

> For every forty million bushels exported, it changes the domestic price of corn about eight cents.

One of the problems with the current reporting system is its limited coverage. Under the present law, sales by foreign firms, including subsidiaries and affiliates of American firms, are not required to be reported. Under Secretary of Agriculture Dale E. Hathaway testified recently that it is possible for these firms to cover their sales in the international resellers market or to hedge them on our commodity futures markets. The basic transactions would not be reported until the foreign firm enters our cash market to purchase the commodity from a U.S. exporter. Mr. Hathaway admitted that this situation often results in significant delays in reporting information on the sale to the public.

In a recent study by USDA of the relationships between large export sales and futures trading, it was found that the futures market was used less than expected to cover export sales during the week the sale was reported. A possible explanation for the small amount of hedging observed was that futures were purchased several weeks before the sales were reported. This time lag was possible when the exporter's overseas affiliate made the sale. As Mr. Hathaway recently testified, in general the results of the study lend some support to the argument that exporters were able to benefit through the use of the commodity futures market between the time their sales were made and information with respect to such sales was included in summaries of export sales published by USDA. In my opinion, this kind of situation is extremely unfair to producers and users of agricultural commodities produced in this country.

In addition, the practice by many of our domestic concerns of having a foreign affiliate or other foreign firm make the sale has, in effect, practically converted a mandatory reporting system into a voluntary one. The pattern of sales to the Soviet Union is a good example of what has been happening. In recent years there has been a tremendous decline in the amount of grain sales made directly to the Soviet Union through the U.S. offices of domestic firms. In 1976–77, 35 percent of these sales were made directly. In 1977–78 this was down to 8 percent. In the current marketing year there are virtually no sales being made directly to the Soviet Union by domestic firms.

Mr. Speaker, the bill I am introducing today would close this glaring loophole. It would extend the current reporting requirement to foreign firms which use our futures markets and which hold positions on those markets in excess of the speculative limits established by the Commodity Futures Trading Commission. This same coverage would apply in the case of domestic firms. I believe this is the only equitable way to handle this situation. Requiring all of the large firms to report their export sales will eliminate the disadvantage American firms are now operating under and will provide sufficient information to the American people. It is my understanding that the bill would require reporting by approximately 30 large firms. In the case of grains 8 to 10 of the largest traders handle over 80 percent of the export sales.

This legislation would facilitate extension of the reporting requirements to foreign firms by changing the current criminal penalties to civil penalties which would be imposed by the Secretary after notice and opportunity for a hearing. Criminal penalties are just not effective in reaching persons located outside the United States. There is precedent, on the other hand, in statutes such as the antiboycott provisions of the Export Administration Act and the Commodity Exchange Act, for the application of civil penalties to foreign firms. My bill would authorize the Secretary to impose a civil penalty of $25,000 per day or 5 cents times the number of bushels involved for any violation of the reporting requirements.

Also, either in lieu of or in addition to this penalty, the Secretary would be authorized to issue an order finding that a person had violated the law and this order would be enforced by the Commodity Futures Trading Commission by denial of the right to trade on our commodity futures markets.

Furthermore, the Secretary would be authorized to submit a complaint to the CFTC which could deny trading privileges pursuant to such expedited procedures as it may establish. The CFTC has authority to deny foreign firms the use of our futures market and has recently done so. It took such action against Wiscope, S.A., a Swiss firm, which refused to provide information on its clients' involvement in the coffee futures market. Thus, there is a direct precedent for this aspect of the bill.

I believe that this combination of penalties will provide the Secretary and the CFTC with a sufficient arsenal to effectively enforce the expanded reporting requirements.

Since only the large traders would be required to report under my bill, the legislation requires daily reporting. This is important to farmers since our markets can move significantly in just a few days causing farmers to lose substantial amounts on commodities sold prior to public knowledge of export sales. Also, my bill would require reporting not only of actual sales for export but of agreements to sell for export. This would cover agreements which are firm enough that they will undoubtedly result in an export sale. Furthermore, the bill would provide for disclosure of the identity of the buyer and the buyer's relationship to the exporter. This should help improve export data reliability.

It is important to note that my bill retains the export sales reporting system in the Department of Agriculture. I think that this is important to farmers. The Department is currently responsible for providing the public with various kinds of statistics and projections with regard to production, supply, demand, and prices of agricultural commodities. To remove the export sales reporting function from the Department would run counter to efforts to develop a more comprehensive system of export market intelligence and forecasting.

The primary concern of those who oppose expanding the export sales reporting system is that they fear that requiring foreign entities to report sales of U.S. commodities may result in the loss of export markets for the United States. If I thought this were true, I would not be offering this bill. Frankly, I think that those who raise this issue have the wrong perception of how this would work.

While the Advisory Committee for some inexplicable reason concluded that expansion of the reporting system to foreign firms could result in loss of U.S. sales, the committee also found that:

> No objectively verifiable evidence was presented to the committee to either support or refute the connection that U.S. exports might be reduced by more complete and timely export sales reporting.

Mr. Speaker, that is the real key. No one is able to present any objective evidence that expansion of the reporting system will cause a loss of sales. Furthermore, many foreign buyers have nowhere to go but to the United States to obtain the grain that they need. For example, an official of USDA's Foreign Agricultural Service recently stated that if the Soviet Union is forced to import 30 million tons of grain next season, the bulk of it would have to come from the United States. Under these circumstances there is not going to be any loss of sales.

Mr. Speaker, timely and accurate export sales data are important to the American people. My bill would provide that kind of data. It does only what is necessary to achieve this result. It will not be burdensome to the exporters nor interfere in their legitimate activities. It will not cause any reduction in the volume of our agricultural exports. The basic question is whether we should make the export sales reporting system work, whether we should make it effective, and whether we should make it meaningful. I believe we should. Now is the time to act. I will be pressing for prompt consideration of this measure by the House Agriculture Committee.●

SELECT COMMITTEE ON ASSASSINATIONS AND GOVERNMENT PRINTING OFFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, I would like to draw the attention of my colleagues to the excellent work the Government Printing Office did in publishing the 28 volumes of hearings, staff reports and the final report of the Select Committee on Assassinations.

I am told that commercial publishers sometimes take 6 to 9 months to publish a single volume. Yet the small holdover staff of the select committee and the Government Printing Office printers were able to write and publish more than 17 volumes of materials since December. They must be congratulated for their herculean efforts.

I want to single out particularly Ben Guthrie of the Clerk's office and Larry Stickler and George R. Stephens of the Government Printing Office staff for their yeoman efforts to get our volumes printed. It was a job well done.●

THE 20TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the recent commemoration of the 20th anniversary of Captive Nations Week, July 15–21, was from all reports a huge success. The week was observed across the Nation and in foreign countries. Many segments of our society have not forgotten the captive nations in Central Europe, within the U.S.S.R., in Asia and in Cuba. Doubtlessly, this augurs well for our own future.

The following reports and proclamations indicate the extent of the week's observance: First, proclamations by Governors Edwin Edwards of Louisiana and Edward J. King of Massachusetts; Second, proclamations by Mayors Stephen P. Clark of Metropolitan Dade County, Fla., Marion Barry, Jr., of the District of Columbia and Gil Gunn of Sunnyvale, Calif.; Third, the program of the Captive Nations Congressional luncheon and co-hosts and cooperating organizations; Fourth, a letter to the editor by Vera A. Dowhan, executive secretary of the National Captive Nations Committee in the Catholic Standard and Fifth, two items from the July 19 issue of the News World in New York.

Proclamation of the State of Louisiana

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azrbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples,

Now, therefore, I, Edwin Edwards, Governor of the State of Louisiana, do hereby proclaim that the week commencing July 15, 1979, be observed as "Captive Nations Week" in Louisiana, and call upon the citizens of Louisiana to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

EDWIN EDWARDS,
Governor.

Proclamation of the Commonwealth of Massachusetts

Whereas: The week of July 15–21, 1979, is observed nationally as "Captive Nations Week", in accordance with Public Law 86–90; and

Whereas: This year marks the 20th anniversary of the Captive Nations Week, which was enacted by U.S. Congress on July 17, 1959; and

Whereas: The captive nations of Central and Eastern Europe—Armenia, Byelorussia, Estonia, Latvia, Lithuania, Ukraine, Georgia, and others—have not accepted the status of Soviet Russian enslavement and continue to struggle for their national and independent States; and

Whereas: The establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and to the freedom of all nations; and

Whereas: The 1979 "Captive Nations Week" serves as an appropriate forum to manifest public support for all captive nations;

Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 15–21, 1979, as "Captive Nations Week" and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

EDWARD J. KING,
Governor.

Proclamation of the Board of County Commissioners, Dade County, Fla.

Whereas: Imperialistic policies of International Communism have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba and others, and

Whereas: The enslavement of a substantial part of the world's population and the depravation of basic human rights have resulted in a constant threat to the security of the United States and all the free peoples of the world, and

Whereas: These enslaved people have kept a constant vigil of hope for freedom and look towards the United States as a stronghold of liberty, freedom and human rights, and

Whereas: It is vital to the national security of the United States that the desire for liberty, freedom and human rights of these conquered nations should steadfastly be kept alive;

Now, therefore: be it resolved that I, Stephen P. Clark, mayor of Metropolitan Dade County, Florida, do hereby proclaim the week of July 15–21, as "Captive Nations Week."

In observance thereof: I call upon the people of Metropolitan Dade County to join with me in saluting the bravery and courage of these peoples as they constantly strive to oppose International Communism and seek the freedom and rights which are theirs by birth.

STEPHEN P. CLARK,
Mayor.

Proclamation: Captive Nations Week, July 15–21, 1979

Whereas, by a joint resolution approved July 17, 1959, the Congress authorized and requested the President of the United States of America to issue a proclamation designating the third week in July as "Captive Nations Week," and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all captive nations of the world; and

Whereas, there is a strong belief that the observance of "Captive Nations Week" throughout our country and our community will serve the cause of America and the entire free world; that the keeping alive of the spirit of liberation is the free world's most effective instrument; and

Whereas, it is deemed appropriate and proper for the people of our community to extend to the peoples of the captive nations our support and sympathy for their just aspirations for freedom and national independence:

Now, therefore, I, the mayor of the District of Columbia, do hereby proclaim the week of July 15–21, 1979 as "CAPTIVE NATIONS WEEK" and invite the people of the Nation's Capital to participate in the observance of this period by offering prayers in their churches and synagogues for the peaceful liberation of the peoples throughout the world who are denied their fundamental human rights.

MARION BARRY, Jr.,
Mayor.

Proclamation of Sunnyvale, Calif.

Whereas, the republican form of government has resulted in the development of sympathy for the aspirations for freedom of peoples everywhere; and

Whereas, the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful co-existence between nations; and

Whereas, since 1918 the aggressive policies of the military depotisms of International Communism have resulted in the creation of a constant threat to the security of all the free peoples of the world; and

Whereas, it is vital to the national security of the United States and the other free nations of the world that the desire for liberty and independence on the part of the peoples in conquered nations should be steadfastly kept alive:

Now, therefore, I, Gil Gunn, Mayor of Sunnyvale, do hereby designate the week of July 15–21, 1979 as CAPTIVE NATIONS WEEK. Declared this 5th day of July, 1979.

GIL GUNN,
Mayor.

Captive Nations Congressional Luncheon, July 18, 1979, Commemorating the 20th Anniversary of Captive Nations Week

PROGRAM

Welcome: Dr. Lev E. Dobriansky, Chairman, National Captive Nations Committee.

Pledge of Allegiance: Lee Edwards, Secretary, American Council for World Freedom.

Invocation: The Rev. Edward Elson, Chaplain, U.S. Senate.

Remarks: Rep. Edward J. Derwinski of Illinois.

Luncheon

"Liberty Award" to Valentyn Moroz.

Response by Mr. Moroz.

"Liberty Award" to Ku Cheng-kang.

Response by Dr. Ku.

Cooperating organizations

AFL–CIO.

Alliance For Freedom, A Project of the American Conservative Union.

American Council For World Freedom.

The American Legion.

Cardinal Mindszenty Foundation.

Catholic War Veterans of the United States, Ladies Auxiliary—Department of D.C.

The Committee to United America, Inc.

Council Against Communist Aggression.

Council for Inter-American Security.

Freedom Leadership Foundation.

Institute of American Relations.

Young Americans for Freedom.

Co-hosted by: National Captive Nations Committee and Ukrainian Congress Committee of America.

[From the Catholic Standard, July 12, 1979]

Who Are the Captive Nations? And Why Should We Care?

The week of July 15th is Captive Nations Week.

Three years ago we had a spectacular birthday party; we celebrated our bicentennial. As a free people, we were all of 200 years old. That's really quite young. What many people don't realize is that some of these captive nations have existed as independent states for centuries.

Georgia in the USSR dates back to the 6th century; Ukraine to the 9th; Lithuania, the 13th. Yet, I've read reports on "the former nation of Lithuania." There's nothing former about it. Lithuania was, is and shall continue to be a nation. Her criteria for nationhood, as with all the captive non-Russian nations in the USSR were met long ago. It's independent statehood that has been lost.

This, then, obfuscates completely such yarns as "USSR," "Russia," and "Soviet Union" used interchangeably by far too many who regard them as one and the same. Or "Soviet people," "Soviet nation," "Soviet athlete," "Soviet dissidents" or "The Soviets" to automatically mean "Russia" or "Russian." In the April 27 exchange of five dissidents from the USSR for two Russian spies, Valentyn Moroz, one of the five, in one of his first press conference on free soil stressed, "I am not a Russian dissident, I am a Ukrainian."

For some reason, it is the captive non-Russian peoples in that land mass called the Union of Soviet Socialist Republics (and note that "Union" and "Republics" signify plurality) that far too many Americans refuse to recognize as the first victims, between the 1917–20 period, of the last remaining empire, the Soviet Russian Empire.

The Russian people, too, are victims of their own repressive system of government, else why would an Andrei Sakharov at great personal risk to his life, and Aleksandr Solzhynitsin, a Valdimir Bukovsky or an Andrei Amalrik speak out on violations committed against their own Russian people, yet never failing to mention the non-Russian peoples whose only crime is nationalism.

Pope John Paul II, at his investiture as pontiff of the Universal Catholic Church, gave his papal blessing in many languages, including a number of the languages of the non-Russian Republics in the USSR. During his recent triumphal visit to his native Poland, he fully recognized the suffering Church under Russian Communist domination by alluding to those of the faith who were not free to travel to Poland, or those of the "Silent Church." Ever cognizant of this, he mentioned Ukrainians, in his wisdom knowing all too well the complete genocide perpetrated against the Ukrainian Orthodox and Catholic Churches.

Captive Nations Week is an observance which reminds the free world of tyranny versus freedom. Thaddeus Kosciuszko, a Pole, and the Marquis de Lafayette, a Frenchman, volunteered their services to a fledgling young land whose people dared to want freedom, independence and self-government, a people who dared severance from an empire. Their distinguished services are recorded in the annals of our history. We gained our freedom but the captive nations, long before us, enjoyed this freedom.

By coercion, political chicanery or outright aggression and invasion, they were stripped of these inherent God-given rights. In our American tradition, it would seem terribly selfish for us as a people still fortunate enough to possess these rights to view them as our privilege alone.

Are we our brother's keeper? Why should this affect us? I think Thomas Jefferson answered this best when he said, most eloquently, ". . . have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of men . . ."

VERA A. DOWHAN,
Executive Secretary, National Captive Nations Committee, Inc.
WASHINGTON.

Captive Nations Week Puts Spotlight on Oppression

(By Hal McKenzie)

To oppose Soviet Russian imperialism, which has led to the subjugation of at least 1.5 billion people under totalitarian communist control, Captive Nations Week was established 20 years ago by an act of Congress signed into law by President Eisenhower. The resolution, signed on July 17, 1959, called on the president to issue a proclamation declaring the third week in July as Captive Nations Week every year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

President Jimmy Carter's proclamation this year, however, does not mention the Soviet Union by name, although a "captive nation" is defined by Dr. Lev Dobriansky, the author of the Captive Nations Week resolution and chairman of the National Captive Nation Committee (NCNC), as "any nation which has fallen under communist domination primarily as the result of Soviet Russian imperialism." Carter's proclamation extols "liberty and national independence" in general but can be applied to any nation in the world.

This retreat from America's original opposition to Soviet imperialism reflects the extent to which the U.S. government has accommodated itself to a modern empire which rivals any in history in the extent of territory and proportion of the world's population it controls. The NCNC's official list of captive nations, which includes Red China and its tributary Tibet, adds up to 30 nations with a population of at least 1.5 billion.

This list does not include the recently established Marxist states of Mozambique, Angola, Ethiopia, and Afghanistan which were taken over by local Soviet-backed Marxist dictators. Adding those countries to the list would tip the balance of people in captive nations to around half of the world's population—about 1.9 billion. This doesn't include the other countries that are threatened by Marxist takeovers, especially Rhodesia and Nicaragua.

But history has shown that every imperialist system has fallen apart eventually, and the Soviet empire is no exception. Behind the Iron Curtain, nationalist sentiment is gaining strength, despite decades of Soviet domination and attempts at "russification" of the national minorities, which make up nearly half of the Soviet Union's population.

RELIGION'S VOICE HEARD

Religion is a powerful nationalistic influence among all of the captive nations. This was demonstrated most forcefully in April by Pope John Paul II's visit to his homeland Poland. Religion is also a potent force in the Muslin areas of Turkestan, Soviet Armenia and Azerbaijan in Central Asia, as well as in Chinese-dominated Tibet, a country which for centuries was ruled by Buddhist lamas.

As Valentyn Moroz said at a dinner yesterday in Washington, D.C., to commemorate Captive Nations Week, "Nationalism is a great weapon in the hands of the West against the Kremlin." It is a weapon, however, which the Carter administration has decided not to use.

Captive Nations Week

Through 20 years, 11 congresses and six presidents, Captive Nations Week has been observed every year by tens of thousands of patriotic Americans. And, in accordance with the Captive Nations Week resolution passed by Congress and signed by President Eisenhower in April 1959, the president has issued a proclamation in honor of the occasion. President Carter issued the yearly proclamation, but with a curious omission. He did not mention the Soviet Union by name, although that country is the specific target of the Captive Nations Week resolution.

Carter's reticence reflects the extent to which the United Sattes has accepted the Soviet domination of Eastern Europe, China's subjugation of Tibet, the Soviet-Cuban armed intervention in Africa and the Mideast, and countless other examples of Soviet imperialism, including infiltration and espionage in our own country. America is concluding an arms limitation agreement with the Soviets, is continuing to expand trade and cultural exchanges, and is seriously considering giving the Soviet Union "most favored nation" status. Yet Soviet imperialism is as aggressive as ever. It hasn't changed—American policy has.

Nevertheless, the Captive Nations Week rises up every year like Banquo's ghost, reminding this country of its responsibility to the nearly 2 billion people throughout the world who have lost their freedom and national identity to totalitarian communism. As long as the United States keeps the hope of enslaved nations alive by observing Captive Nations Week, the communist giants can never be confident of ultimate victory.●

CONSERVATION IS THE KEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, the

United States is plagued by inflation caused largely by excessive consumption of high-priced energy. This excessive consumption continues, despite growing public awareness of the importance of conservation as a means to increase energy supplies without increasing inflation. Conservation is absolutely necessary if this country is to safeguard its economic strength.

I highly recommend to my colleagues an editorial from the July 26, 1979, edition of the Christian Science Monitor, entitled "Conservation is the Key." This extremely insightful article exposes the problem most central to our energy dilemma—excessive consumption—and presents the most economic and energy-efficient alternative available, conservation.

CONSERVATION IS THE KEY

Is that a Papermate pen in your pocket? It can now be produced for 30 percent less energy than in 1973. Is it a sacrifice to make or use such a pen? No. But somehow the idea of conserving energy has become confused with the idea of sacrifice, penalty, loss, lack of growth. A pocket pen is a tiny example of a message that is being written large in Washington this week. The Congress, the President, and the American people ought to read it carefully. For there are realistic limits on the conventional and new-form fuel production increases over the next decade, even with massive governmental support. Conservation produces more for less—immediately. It must have high priority both to get the United States through the transition period to reduced dependence on imported oil and to make sure that the energy of the future is used wisely and well.

A major disappointment in Mr. Carter's new energy proposals is the scant encouragement ($2 billion) given to conservation in comparison to, say, synthetic fuels ($88 billion). While direct comparison is difficult, his predicted conservation goal (500,000 barrels of oil a day) seems an obvious bargain compared to the synfuel goal of 2½ million barrels for 44 times that $2 billion conservation budget figure.

Now, indeed, the President seems more concerned about conserving the energy of Congress. After trying to make the nation believe it is in a state of crisis, he says it's okay with him if Congress takes August off and gets back to the crisis in the fall.

Fortunately some parts of Congress have not lost interest in developing an effective energy program. They are this week considering the views of a Harvard Business School team some of whose members are testifying on Capitol Hill on their report on a six-year project, "Energy Future," which is officially published today. They take account of all the possibilities for increased production but come back to conservation as "the key energy source."

Congress also has just been offered a legislative proposal on conservation by Senators Kennedy and Durkin. It would offer, among other things, quick and direct payments to people who insulate their homes, somewhat in the manner of a Canadian program that has resulted in substantial savings of fuel, according to a Canadian official involved.

The Harvard and Kennedy-Durkin proposals on conservation follow a growing cry from environmentalists and others to use the earth's resources with care. But sometimes the cry has been dismissed as romanticism or no-growth philosophy. We do feel that there is a moral question here. Waste by the affluent cannot be tolerated in a world haunted by poverty. Thrift, nonmaterialism, voluntary simplicity, as it has been called—these are virtues. Yet there is also a hard-nosed, dollars-and-cents, enlightened-self-interest case to be made for conservation. This is what is being made in Washington now.

Canada's experience with grants is instructive. When the national program began in 1977, the response fell far below forecasts. As fuel prices increased and energy became world topic number one, the response has increased. By the end of last year, some 60,000 grants had been made, and inquiries are coming in at the rate of 1,400 a day. In Nova Scotia and Prince Edward Island, particularly dependent on imported oil, grants were made nontaxable, and virtually all the homes in metropolitan areas are or will be insulated. But people seemed to need the push of higher prices with or without government help.

In the US an added question is—why should there be this kind of government expenditure for certain people and industries, including, say, the insulation industry which is benefited by residential insulation subsidies? The answer depends on how the public feels about any government subsidy for energy purposes. We believe the need is such that taxpayers will have to bear some of the load. If they are to underwrite industries producing fuels, they also ought to underwrite the saving of fuels, with its higher proportionate payoffs. Not only is the owner of the insulated home benefited but so are other Americans who now share in the extra energy released to go around.

Then comes the argument that America's way is to produce its way to the future, not to cut back its way to the future. Here is where the Harvard scholars and others demonstrate that economic growth is not incompatible with efficient use of energy and can indeed be enhanced by it. They cite examples abroad. They cite periods in US history when economic growth at lower expenditures of energy was higher than at times when energy expenditures were higher. There is a flexibility here that can be exploited.

Capital investment is required in many cases. But there is also much that can be done with little of it. For example, Colgate-Palmolive cut energy use by 18 percent over three years by "mostly housekeeping," according to Harvard. Western Electric's Kansas City plant cut by 38 percent in five years with "almost no investment."

Each of us around the house is finding out how much can be cut by better housekeeping. How a little more can be saved with weather-stripping. How another jump can be taken with insulation. As for those gas-hungry cars: It may be a sacrifice to sit in a gas line, but there is really no sacrifice in driving a car that gets good mileage. Keeping Detroit up to mileage standards required over the coming years is another way government can help. It is a common enterprise of the sort President Carter called for even if he has not yet gone to bat for conservation itself as we hope he will.●

THE SUCCESSFUL EXPERIMENT IS EXTENDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, yesterday the Subcommittee on Financial Institutions completed its action on H.R. 3864—the Consumer Checking Account Equity Act of 1979. As I said on July 16, consumers throughout this Nation should have the benefits which consumers in New England and New York have had. Interest-bearing transaction accounts—NOW accounts and credit union share drafts—have proven themselves. And consumers want to utilize that type of account.

In the markup the subcommittee approved the substitute amendment I offered. That substitute authorizes all federally insured credit unions to offer share drafts, authorizes federally chartered savings and loans to establish remote service units and to offer loans tied to NOW accounts, and extends the authority for commercial banks, savings and loans, and mutual savings banks to offer NOW accounts from New England and New York to the rest of the Nation. As amended by the Patterson amendment the bill authorizes automatic transfer accounts at commercial banks and delays the startup of NOW accounts until September 1980.

Mr. Speaker, this action is a victory for the consumers of this land who deserve the right to have ready access to their funds and to earn interest on them. The bill as reported provides the groundwork for such a choice.

At this point I include a section-by-section analysis and the text of the bill as reported by the subcommittee for the RECORD. For any of my colleagues who wish to cosponsor this bill, please call the subcommittee at 225–3851.

SECTION-BY-SECTION ANALYSIS OF BILL REPORTED BY SUBCOMMITTEE

SHORT TITLE—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1979

Sec. 2. (a) Amends section 19(i) of the Federal Reserve Act by adding a proviso that the prohibitions on paying interest on demand deposits shall not apply to automatic transfer accounts (checking accounts linked automatically to a savings account, provided the accounts are held by individuals) authorized by regulations of the Federal Reserve but overturned by the Court of Appeals for the District of Columbia.

(b) Amends section 18(g) of the Federal Deposit Insurance Act by adding a proviso that the prohibitions on paying interest on demand deposits shall not apply to automatic transfer accounts authorized by regulations of the Federal Deposit Insurance Corporation but overturned by the Court of Appeals decision.

Sec. 3. Amends Section 2(a) of Public Law 93–100 to authorize nationwide NOW accounts for commercial banks, savings and loan associations, mutual savings banks, and savings banks, limited to individuals and charitable organizations.

Sec. 4. (a) Amends Section 5(b)(1) of the Home Owners Loan Act to expressly authorize remote service units by Federally-chartered savings and loan associations.

(b) Amends Section 5(c)(1)(A) of the Home Owners Loan Act to allow pre-authorized extensions of credit tied to a NOW account at Federally-chartered savings and loan associations.

(c) Amends Section 5(A) of the Federal Home Loan Bank Act to require that members of the Federal Home Loan Bank system must maintain reserves against their NOW deposits in amounts determined by the Federal Home Loan Bank Board after consultation with the Board of Governors of the Federal Reserve System. The reserves would be held in the Federal Home Loan Banks.

Sec. 5. (a) Amends Section 101(5) of the Federal Credit Union Act to include the term "share draft deposit" in the definition of the term "member account".

(b) Amends Section 107(6) of the Federal Credit Union Act to expressly authorize the acceptance of share draft deposits by Federal credit unions.

(c) Amends Section 116 of the Federal Credit Union Act to require Federal credit unions to maintain reserves against their share draft deposits in amounts determined by the National Credit Union Board after consultation with the Board of Governors of the Federal Reserve System.

(d) Amends Section 117 of the Federal Credit Union Act to make technical and conforming changes in the dividend authority for Federal credit unions to reflect the authorization to accept share draft deposits.

(e) Amends Section 205 of the Federal Credit Union Act to expressly authorize the acceptance of share draft deposits by federally insured credit unions, from individuals and charitable organizations.

Sec. 6. Provides that the effective date of the Act will be December 31, 1979 with the exception that the authority to utilize NOW accounts in the remaining 43 States shall not be effective until September 30, 1980.

H.R. 3864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Checking Account Equity Act of 1979".

SEC. 2. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 3. Section 2(a) of the Act entitled "An Act to extend certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawal to be made with respect to any deposit or account on which any interest or dividend is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations, and for other purposes", approved August 16, 1973 (12 U.S.C. 1832(a)), is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), a depository institution may permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 4. (a) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations in accordance with regulations prescribed by the Board.".

(b) Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof "and loans specifically related to negotiable order of withdrawal accounts.".

(c) Section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a) is amended by adding at the end thereof the following new subsection:

"(g) Every member shall maintain reserves against its negotiable order of withdrawal accounts as defined by the Board in amounts not less than such percentages of its aggregate amounts of deposits in such accounts as may be prescribed by the Board, after consultation with the Board of Governors of the Federal Reserve System. Reserves held by a member to meet the requirements of this subsection shall be in the form of—

"(1) balances maintained for such purpose by such member in the Federal Home Loan Bank of which such member is a member; and

"(2) the currency and coin held by such member, or such part thereof, as the Board may prescribe by regulation.".

SEC. 5. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by striking out "or share certificate" each place it appears therein and inserting in lieu thereof ", share certificate, or share draft deposit".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominately low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

"(C) share draft deposits authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the board.".

(c) Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is amended by adding at the end thereof the following new subsection:

"(c) Each Federal credit union shall maintain reserves against its share draft deposits as defined by the Board in amounts not less than such percentages of its aggregate amounts of such deposits as may be prescribed by the Board, after consultation with the Board of Governors of the Federal Reserve System. Reserves held by Federal credit unions to meet the requirements of this subsection shall be in a form specified by rules and regulations prescribed by the Board.".

(d) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft deposits" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft deposits".

(e) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to receive short draft deposits in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft deposits and may permit the owner of such share draft deposit to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to accounts which consist solely of share draft deposits in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 6. The amendments made by this act shall take effect on December 31, 1979, except that the amendments made by section 3 of this Act shall take effect on September 30, 1980.●

INTRODUCTION OF LEGISLATION VALIDATING CERTAIN PLAN FOR THE DISTRIBUTION OF INDIAN JUDGMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, I have introduced today a joint resolution to validate several plans for the use and distribution of Indian judgment funds. This is emergency legislation, which is requested by the administration, and I hope to have the resolution reported by the Interior Committee on August 1.

From 1960 to 1973, special legislation was necessary to authorize the distribution of any money awards made to Indian tribes against the United States. This took a considerable amount of the time of the House and Senate committees responsible for Indian matters.

In 1973, we enacted legislation delegating much of that authority to the Secretary of the Interior. Under that act, the Secretary was required to develop a plan for use and distribution of such funds in consultation with the relevant Indian tribe or tribes.

He is required to submit such plans to the Congress within 180 days after appropriation of the funds. The act authorizes an extension of 90 days. After submission, either House may disapprove the plan by simple resolution within 60 days. If neither does, the plan becomes effective.

Since the passage of the act, approximately 54 such plans have been submitted to Congress. Almost without exception, the Secretary failed to meet the statutory deadlines. However, the plans were approved and, in most cases, the funds have been disbursed, either per capita to individual Indians or to tribes for tribal programs or both.

Early this year, the Seminole Tribe of Florida filed suit in the Federal district court against the Secretary of the Interior challenging the validity of a plan for the distribution of a judgment award to the Seminole. The plan provided for the division of the award between the Seminole of Oklahoma and the Seminole of Florida. The Florida Seminole contended that the plan was void for failure of the Secretary to meet the statutory deadlines for submission of the plan to Congress.

On July 9, 1979, the U.S. District Court for the District of Columbia, in an action entitled *Seminole Indian Tribe of*

Florida v. *Andrus* (Civil Action No. 78-994), held that the plan was void for failure to meet the deadlines and enjoined the Secretary from implementing the plan.

This decision has serious potential for the United States. Since the Secretary failed to meet the deadlines on most of the 54 plans submitted, even though technically approved by Congress, it is conceivable that these plans could be upset in litigation. In those cases where the funds have already been disbursed, the United States could possibly be liable for considerable monetary damages.

The joint resolution I have introduced will preclude that by congressionally validating all such plans, with the exception of the Seminole plan and a plan for the distribution of funds awarded to the Indians of the Warm Springs Reservation in Oregon, which is also in litigation.

We have the assurances of the administration that they will later be submitting legislation to amend the Indian Judgment Distribution Act to prevent any further occurrences of this nature.●

HEW REPORT ON HEALTH EFFECTS OF TOXIC WASTES AT THE LOVE CANAL, NIAGARA FALLS, N.Y.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, in March of this year I requested the Secretary of HEW and the Administrator of EPA to review diverse interpretations of health data collected at the Love Canal which had been rendered by the New York State Department of Health and Dr. Beverly Paigen, a scientist at the Roswell Park Memorial Institute.

HEW Secretary Joseph Califano released its findings yesterday. The report does offer great hope for future victims of hazardous waste exposure throughout the United States. However, it does pose a series of unanswered questions with regard to those residents of the "wet" areas surrounding the Love Canal.

I applaud HEW's creation of a task force of professional scientists to review the impacts that chemical dumps pose nationwide to public health. This is of great importance to the people living near the 50,000 chemical dumps across the Nation. I have called for such a nationwide approach to the problems of toxic wastes for some time, and HEW's order implementing my suggestion is good news. Over the long term, only a thorough national study of these problems can help resolve the questions of health problems and environmental damage due to hazardous waste dumping. I expect this study to be thorough both in its national scope and its scientific approach, and will expect the task force's report and recommendations to be completed in a timely fashion, according to them, 6 months.

However, I do have serious questions about other aspects of this report. When I called for this study, it was a result of discrepencies in studies done by the State Department of Health and Dr. Beverly Paigen. Although today's report clearly indicates that serious health dangers confront these residents, its recommended actions—to minimize exposures to the extent feasible—are too cloudy for public policy actions. Therefore, I have asked HEW to collaborate with the New York State Department of Health to define more specifically what actions ought to be taken to achieve this minimization of exposure, and then to inform all concerned parties.

Mr. Speaker, I am inserting the HEW-EPA report for the record so that my colleagues can be aware of the findings and recommendations of the EPA-HEW Scientists in detail and have a better understanding of the continued efforts of our Government to tackle the difficult questions involved concerning the effects of toxic wastes on the public health and welfare.

The report follows:

REPORT OF MEETINGS BETWEEN SCIENTISTS FROM HEW AND EPA, AND DR. BEVERLY PAIGEN AND SCIENTISTS OF THE STATE OF NEW YORK DEPARTMENT OF HEALTH CONCERNING LOVE CANAL

BACKGROUND

The Love Canal was to be a privately-owned, navigable, electric power producing canal that bypassed Niagara Falls. The Canal was begun in 1894, but the company went bankrupt after only a short section of the Canal had been dug. By the 1920's the excavation was used as a disposal site by chemical companies and the City of Niagara Falls. In 1953 chemical waste disposal ceased and the site was covered with earth and sold by the Hooker Chemical Company to the City of Niagara Falls Board of Education. A few years later, houses and eventually an elementary school were built at the site. Ultimately, almost 500 single family homes and a garden apartment complex of about 200 units (Griffin Manor) were built in this area.

Although residents sporadically noticed chemical odors in the area, heavy rainfall and the blizzard of 1977 exacerbated the problem. Residents' complained of odors and health problems led to the New York State Departments of Health and Environmental Conservation to begin a program of environmental sampling and health surveillance in the early spring of 1978.

Almost 100 chemicals, including 12 known carcinogens, were identified in the soil, air, and in the basements of some of the houses. Governor Carey announced in early August 1978 that the State would purchase the 239 houses in the first two rings of houses adjacent to Love Canal and would assist in relocating the families.

In addition to these houses, there is concern regarding the possible exposure to chemicals in houses in other "wet" areas—that is, houses located along swales and pond areas which may also be contaminated with toxic chemicals. These wet areas extend beyond the two rings of houses adjacent to the canal.

The Department of Health continued to survey the health of the residents in the area and hypothesized that excess health problems were associated with about 100 houses located in "wet" areas. However, the Love Canal Owners and Love Canal Renters Association felt that they were aware of health problems unrecognized by the State. Dr. Beverely Paigen of the Roswell Park Memorial Institute assisted the residents, tentatively identified additional houses as "wet" ones, and raised the question of moving more families or women of childbearing age from the Love Canal area, particularly from the "wet" areas.

Congressman John LaFalce requested that HEW and EPA assess the problems suggested by Dr. Paigen. A committee of scientists from HEW and EPA reviewed data developed by Dr. Paigen and the New York State Department of Health on the medical condition of residents living around Love Canal. The HEW and EPA scientists met with Dr. Paigen on April 12, 1979, and with representatives of the New York Department of Health on April 26.

COMMITTEE MEMBERS

The HEW and EPA scientists involved in this review were Dr. David P. Rall (Chairperson), Director, National Institute of Environmental Health Sciences (NIEHS), HEW; Dr. Robert S. Gordon, Jr., Special Assistant to the Director, National Institutes of Health (NIH), HEW; Dr. Robert A. Goyer, Deputy Director, NIEHS; Dr. Walter Rogan, Medical Officer, Biometry Branch, NIEHS; Dr. Carl A. Keller, Chief, Epidemiology Branch, National Institute of Child Health and Human Development, HEW; Dr. Philip B. Landrigan, Chief, Special Studies Branch, Chronic Diseases Division, Center for Disease Control, HEW; Ms. Kathleen Conway, Health Effects Division, U.S. Environmental Protection Agency (EPA); and Dr. Shelly Williamson, Epidemiologist, Health Effects Division, EPA.

SCOPE

The committee's review was directed solely to the data on the medical conditions of residents living around Love Canal, particularly those living in "wet" areas, and to recommendations arising therefrom.

FINDINGS

It was the consensus of the Committee that:

1. Data developed by the New York State scientists show an increase in miscarriages and the incidence of low birth weight babies in the "wet" areas. These studies are the product of state-of-the-art methodology which is necessarily conservative. Excess miscarriages reported by the New York State Department of Health may have been understated because the State included only those miscarriages confirmed by physicians whereas control groups used by the State had included self-reported cases.

2. Seventeen miscarriages were recorded by the State among residents in the first two rings of houses around the canal whereas only eleven or twelve would be expected in a control population. This is about 1.5 times the rate expected among members of the general population, and is 1.8 times the rate that these women experienced before moving to the Love Canal area. Both of these rates are statistically significant.

3. According to the New York State Department of Health, there was about a two-fold excess of children with low birth weight born to women living in the "wet" areas as compared to children born to women living in other parts of New York State (exclusive of New York City) or in the "dry" part of the Love Canal area.

4. Dr. Paigen has developed data that show an apparent increase in incidence of miscarriages, birth defects and various chronic diseases among residents of the Love Canal area, particularly those living in "wet" areas. Dr. Paigen's data were obtained indirectly from information collected by telephone interviews of residents. Although these data may be incomplete and contain potential biases, the concerns and questions raised by Dr. Paigen are important and merit attention.

5. Dr. Paigen has requested that studies be conducted to investigate the prevalence of chronic diseases and disorders, such as epilepsy, nervous breakdowns and urinary tract disorders. The Committee believes that there is not now sufficient data for it to reach a conclusion on whether the incidence of such disorders has been higher than normal. The New York State Department of Health has been conducting such studies on these disorders, but they are incomplete to

date. The committee believes that at this time measures of miscarriage rates and the birth weight of infants are the most sensitive indices of potential adverse health effects in this case, because these effects occur with little time lag. Birth weight is easily and accurately measured, though accurate recording of the number of miscarriages is more difficult.

The health effects data, including miscarriage rate data, are not likely to have sufficient statistical precision to serve as the sole criterion for defining which houses should be evacuated. This is because the population of the Love Canal is small and the occurrence or non-occurrence of relatively rare events such as miscarriages is not a suitable method for identifying individual homes with excessive exposure to chemicals.

7. Preliminary data from the State suggest that "wet" areas may not be contaminated as a result of surface water flow but rather as a result of use of contaminated Love Canal material as fill, and a continuing underground transport of chemicals due to water seepage. Geochemical mapping should serve to identify those areas which are contaminated by chemicals, and therefore are likely to cause adverse health effects in residents. Decisions regarding the Griffin Manor area should be based primarily on geochemical findings and not observed health effects since the population living there may be too mobile for the results of health effects studies to be meaningful.

8. It is acknowledged that the scientists conducting the ongoing studies are State employees. Therefore, although they are highly competent and are held in high esteem by their peers, the public may perceive a conflict of interest. For this reason, the involvement of outside scientists both in the interpretation of data and the formulation of recommendations to the State should be continued. In order to assure that all health effects are disclosed and considered, and to assure public confidence in findings, the State may also wish to include nonscientists, local residents and others in future deliberations.

CONCLUSIONS

1. From the health studies available for our review, particularly the miscarriage data, we conclude that the population in the Love Canal area has suffered certain adverse health effects as a consequence of exposure to a chemically contaminated environment. The data suggest a gradient of health effects, with the most severe occurring in residents of houses immediately adjacent to the Canal and in "wet" areas.

2. Prudent public health practice dictates that these exposures be minimized to the extent feasible.

3. Geochemical mapping should be pursued. These results, correlated with health effects data, should be helpful in determining where dwellings should be prohibited, or what other steps would be warranted.

4. Every effort should be made to find and utilize a suitable control population in order to assess precisely the health effects on the population. Studies of miscarriages and low birth weight rates should be continued.

5. In order to assure that the full health effects of Love Canal can be assessed, a mechanism for providing consistent, long-term health care to the residents, and a registry regarding medical information should be developed.

David Rall,
Chairperson.●

SPINAL CORD INJURY GROUP OPPOSES DINGELL ANTIAIRBAG AMENDMENT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, I wish to offer for the perusal of our colleagues a letter I received from the National Spinal Cord Injury Foundation. This group opposes the Dingell antiairbag amendment to the Department of Transportation appropriation bill. Their opposition is based on the fact that automobile crash injuries are the greatest cause of quadraplegia and paraplegia in this country.

They point out that the major reason for these spinal cord injuries in auto accidents is the failure of people to wear seatbelts. That is why the foundation is supporting passive belt systems or airbags, which will operate automatically in an accident.

The text of the letter follows these remarks.

July 23, 1979.

Dear Member of Congress: The National Spinal Cord Injury Foundation strongly opposes Mr. Dingell's proposed amendment to the Department of Transportation's Appropriations Bill (HR 4440).

Motor vehicle accidents are the single greatest cause of all quadraplegia and paraplegia in this country. The tragedy of these injuries is compounded by the fact that most of those who experience spinal cord injury are young people; sixty percent are between the ages of 16 and 30 at the time of injury. A wheelchair becomes their only way of getting about. A person injured at the age of twenty may face fifty or more years in a wheelchair.

The major reason for spinal cord injuries in auto accidents is that people refuse to wear safety belts. Efforts to educate, legislate or coerce people into wearing safety belts have been fruitless. Automatic crash protection, such as that offered by passive belt systems or air cushions, holds the greatest hope for preventing these catastrophic injuries.

Sincerely,

Robert R. Jackson, M.D.,
President.●

LEAVE OF ABSENCE

Leave of absence was granted as follows:

To Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

To Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

To Mr. Ford of Tennessee, from 4 p.m., July 26, 1979, for an indefinite period, on account of medical attention.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. Collins of Texas, for 20 minutes, today.

Mr. Grassley, for 15 minutes, today.

(The following Members (at the request of Mr. Hance) to revise and extend their remarks and include extraneous material:)

Mr. Stokes, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Dingell, for 60 minutes, today.
Mr. St Germain, for 5 minutes, today.
Mr. LaFalce, for 20 minutes, today.
Mr. Udall, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Stokes, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,351.

(The following Members (at the request of Mr. Edwards of Oklahoma) and to include extraneous matter:)

Mr. Collins of Texas in two instances.
Mr. Findley in two instances.
Mr. Symms in three instances.
Mr. Myers of Indiana.
Mr. Derwinski in two instances.
Mr. Lee.
Mr. Michel.
Mr. Snyder.
Mr. Sawyer.
Mr. Goodling.
Mr. Conte.
Mr. Lent.
Mr. Wydler.
Mr. Dornan in two instances.
Mr. Dickinson.
Mr. Hammerschmidt in five instances.
Mr. Bereuter.
Mr. Rousselot.
Mr. Shuster in two instances.

(The following Members (at the request of Mr. Hance) and to include extraneous matter:)

Mr. Edwards of California.
Mr. St Germain.
Mr. Simon in three instances.
Mr. Waxman in three instances.
Mr. McDonald.
Mr. Yatron.
Mr. Ottinger in two instances.
Mr. Traxler in two instances.
Mr. Garcia.
Mr. Obey.
Ms. Ferraro.
Mr. Markey.
Mr. Fountain.
Mr. Skelton.
Mr. Dingell in two instances.
Mr. Rosenthal.
Mr. Bonker.

ADJOURNMENT

Mr. HANCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Monday, July 30, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2129. A communication from the President of the United States, transmitting a draft of proposed legislation to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes (H. Doc. No. 96–170); to the Committee on Banking, Finance and Urban Affairs and ordered to be printed.

2130. A letter from the first vice president and vice chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with ALIA-The Royal Jordanian Airline Corporation exceeding $60 million, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

2131. A letter from the Acting Chairman, Council on Environmental Quality, Executive Office of the President, transmitting a copy of the recent Supreme Court decision in *Andrus* v. *Sierra Club*, supporting the Council's regulations interpreting the National Environmental Policy Act; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZEFERETTI: Committee on Rules. House Resolution 390. Resolution providing for sending H.R. 111 to conference. A bill to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977 (Rept. No. 96–392). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 998. A bill to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties; with amendment (Rept. 96–393). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of conference. Conference report on H.R. 4057 (Rept. No. 96–394). Ordered to be printed.

Mr. SOLARZ: Committee of conference. Conference report on S. 1019 (Rept. No. 96–395). Ordered to be printed.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Second Report on Monetary Policy for 1979 (Rept. No. 96–396). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee of conference. Conference report on H.R. 3324 (Rept. No. 96–397). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 4955. A bill to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance (Rept. No. 96–398). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself, Mr. Carr, Mr. Clausen, Mr. Lujan, Mr. Bingham, Mr. Eckhardt, Mr. Santini, Mr. Miller of California, Mr. Florio, Mr. Sharp, Mr. Kostmayer, Mr. Corrada, Mr. Murphy of Pennsylvania, Mr. Vento, Mr. Huckaby, Mr. Gudger, Mr. Howard, Mr. Patterson, Mr. Sebelius, Mr. Young of Alaska, Mr. Symms, Mr. Johnson of Colorado, Mr. Lagomarsino, Mr. Marriott, Mr. Marlenee, Mr. Edwards of Oklahoma, Mr. Cheney, Mr. Pashayan, Mr. Whittaker, Mr. Bereuter, and Mr. Evans of the Virgin Islands);

H.R. 4985. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. ST GERMAIN (for himself, Mr. Wylie, Mr. Reuss, Mr. Stanton, Mr. Moorhead of Pennsylvania, Mr. Gonzalez, Mr. Minish, Mr. Hanley, Mr. Mitchell of Maryland, Mr. Fauntroy, Mr. Patterson, Mr. Blanchard, Mr. LaFalce, Mrs. Spellman, Mr. Evans of Indiana, Mr. D'Amours, Mr. Lundine, Mr. Cavanaugh, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Watkins, Mr. Garcia, Mr. Lowry, Mr. McKinney, Mr. Hansen, Mr. Leach of Iowa, Mr. Evans of Delaware, Mr. Green, Mr. Paul, Mr. Campbell, Mr. Ritter, Mr. Hinson, Mr. Rousselot, Mr. Beard of Rhode Island, and Mrs. Fenwick):

H.R. 4986. A bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order of withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish savmote service units, and to authorize federally insured credit unions to receive share draft deposits, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ASHLEY (by request) (for himself, Mr. Reuss, Mr. Moorhead of Pennsylvania, Mr. St Germain, Mr. Hanley, Mr. Fauntroy, Mr. Patterson, Mr. AuCoin, Mrs. Spellman, Mr. Blanchard, Mr. Lundine, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. McKinney, and Mr. Green):

H.R. 4987. A bill to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROBERT W. DANIEL, JR. (for himself and Mr. Whitehurst):

H.R. 4988. A bill to amend the Internal Revenue Code of 1945 with respect to interest on certain governmental obligations the proceeds of which are to be used to provide solid waste disposal facilities; to the Committee on Ways and Means.

By Mr. ERDAHL:

H.R. 4989. A bill to amend the Mine Safety and Health Act by clarifying certain definitions; to the Committee on Education and Labor.

By Mr. GEPHARDT (for himself, Mr. Dodd, Mr. Downey, Mr. Glickman, Mr. Heftel, Mr. Holland, Mr. Jenkins, Mr. Mattox, Mr. Mineta, Mr. Obey, and Mr. Wirth):

H.R. 4990. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for Social Security taxes paid in 1980 and 1981; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 4991. A bill to provide for the recomputation of the annuities of certain individuals retiring under the Policemen and Firemen's Retirement and Disability Act of the District of Columbia as a result of a disability, and of the annuities of the survivors of such individuals; to the Committee on the District of Columbia.

By Mr. GRASSLEY (for himself and Mr. Smith of Iowa):

H.R. 4992. A bill to provide family farmers and others with timely information concerning export sales of certain agricultural commodities; to the Committee on Agriculture.

By Mr. HANSEN (for himself and Mr. Symms):

H.R. 4993. A bill to amend the Public Rangelands Improvement Act of 1978, to prevent the loss of economic grazing units, to prevent increased unemployment and food inflation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JENRETTE:

H.R. 4994. A bill to amend the Safe Drinking Water Act to provide Federal financial assistance to public water systems required to remove naturally occurring fluoride from drinking water; to the Committee on Interstate and Foreign Commerce.

By Mr. LONG of Louisiana:

H.R. 4995. A bill to reorganize various international trade functions of the Government, and for other purposes; to the Committee on Government Operations.

By Mr. MARRIOTT:

H.R. 4996. A bill to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian Tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MITCHELL of Maryland (for himself, Mr. Neal, Mr. D'Amours, Mr. Barnard, Mr. Mattox, Mr. Cavanaugh, Mr. Hansen, and Mr. Paul):

H.R. 4997. A bill to amend the Federal Reserve Act respecting the positions of chairman and vice chairman of the Federal Reserve Board; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MITCHELL of Maryland (for himself, Mr. D'Amours, Mr. Barnard, Mr. Mattox, and Mr. Cavanaugh):

H.R. 4998. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PETRI:

H.R. 4999. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of malthouses for purposes of the investment tax credit; to the Committee on Ways and Means.

By Mr. PURSELL:

H.R. 5000. A bill to amend title 39, United States Code, relating to nonprofit service clubs qualifying for third-class nonprofit rates of postage; to the Committee on Post Office and Civil Service.

By Mr. QUILLEN:

H.R. 5001. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 5002. A bill to establish a Commission on a North American Economic Alliance; jointly, to the Committees on Foreign Affairs, and Ways and Means.

By Mr. RUNNELS (by request):

H.R. 5003. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe; to the Committee on Interior and Insular Affairs.

By Mr. STOKES (for himself, Mr. Bevill, Mr. Buchanan, Mr. Clay, Mr. Conyers, Mr. Dellums, Mr. Dickinson, Mr. Diggs, Mr. Dixon, Mr. Evans, of the Virgin Islands, Mr. Gray, Mr. Hawkins, Mr. Leland, Mr. Mitchell of Maryland, Mr. Nichols, and Mr. Rangel):

H.R. 5004. A bill to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of General Daniel "Chappie" James Jr.; to the Committee on Education and Labor.

By Mr. UDALL:

H.J. Res. 383. Joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN (for himself, Mr. Hanley, and Mr. Derwinski):

H. Con. Res. 167. Concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the U.S. delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII,

Mr. HARRIS of Virginia introduced a bill (H.R. 5005) for the relief of Harry Stanley Spaulding, Jr., which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 160: Mr. Lewis.

H.R. 204: Mr. Rudd, Mr. Lent, and Mr. Paul.

H.R. 209: Mr. Dornan.

H.R. 1603: Mr. Frenzel, Mr. Jones of North Carolina, Mr. Long of Maryland, Mr. Quillen, and Mr. Broyhill.

H.R. 1918: Mr. Weaver, Mr. Sabo, and Mr. Wyatt.

H.R. 2157: Mr. Evans of Delaware, Mr. Evans of the Virgin Islands, and Mr. Dickinson.

H.R. 2158: Mr. Evans of Delaware and Mr. Evans of the Virgin Islands.

H.R. 2734: Mr. Bedell, Mrs. Chisholm, Mr. Clay, Mr. Diggs, Mr. Edgar, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. Garcia, Mr. Gilman, Mr. Gray, Mr. Guarini, Mr. LaFalce, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Patterson, Mr. Richmond, Mr. Scheuer, Mr. Simon, Mr. Stokes, Mr. Vento, and Mr. Weiss.

H.R. 3034: Mr. Rudd.

H.R. 3056: Mr. Simon.

H.R. 3407: Mr. Stenholm.

H.R. 3612: Mr. Roybal.

H.R. 3832: Mr. Atkinson, Mr. Bedell, Mr. Bonior of Michigan, Mr. Campbell, Mr. Carr, Mr. Collins of Texas, Mr. Devine, Mr. Dornan, Mr. Dougherty, Mr. Findley, Mr. Gudger, Mr. Hughes, Mr. Hutto, Mr. Jenrette, Mr. Lagomarsino, Mr. Lehman, Mr. Lewis, Mr. Mazzoli, Mr. Price, Mr. Rahall, Mr. Spence, Mr. Symms, Mr. Wolpe, Mr. Wylie, and Mr. Huckaby.

H.R. 4484: Mr. Perkins and Mr. Ichord.

H.R. 4512: Mr. Seiberling.

H.R. 4760: Mr. Mottl, Mr. Flood, Mr. Carter, Mr. McEwen, Mr. Oberstar, Mr. Applegate, Mr. Fazio, Mr. Long of Maryland, Mr. Emery, Mr. Addabbo, Mr. Gradison, Mr. Gilman, Mr. Hammerschmidt, Mr. Montgomery, Mr. Lewis, Mr. Annunzio, Mr. Price, Mr. Murtha, Mr. Lederer, Mr. Mineta, Mr. Stangeland, Mr. Kindness, Mr. Paul, and Mr. Green.

H.R. 4827: Mr. Montgomery, Mr. Regula, Mr. Burgener, Mr. Badham, Mr. Rudd, Mr. Andrews of North Dakota, Mr. Cleveland, Mr. Bevill, Mr. Solomon, and Mr. Chappell.

PETITIONS, ETC.

Under clause 1 of rule XXII,

182. The SPEAKER presented a petition of the Rocky Mountain Coal Mining Institute, Denver, Colo., relative to regulatory impediments to increased coal production and usage, which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4034

By Mr. BUCHANAN:

—Page 44, insert the following section after line 2 and redesignate subsequent sections accordingly:

PETITIONS FOR MONITORING OR CONTROLS

Sec. 109. Section 7 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity with respect to which an increase in domestic prices or a domestic, shortage has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Secretary requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material or commodity, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (1) that there has been a significant increase, in relation to a specific period of time, in exports of such material or commodity in relation to domestic supply and (2) that there has been a significant increase in the price of such material or commodity which may be related to exports.

"(2) Within fifteen days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall (A) include the name of the material or commodity which is the subject of the petition, (B) include the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (D) provide that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material or commodity which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material or commodity, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

"(3) Within forty-five days after the end of the thirty or forty-five-day period described in paragraph (2), as the case may be, or within seventy-five days after the publication in the Federal Register, pursuant to paragraph (2), whichever occurs later, the Secretary shall—

"(A) determine whether to impose monitoring or controls, or both, on the exportation of such material or commodity, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

"(B) publish in the Federal Register a detailed statement of the reasons for such determination.

"(4) Within fifteen days after making a determination under paragraph (3) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such proposed regulations, and after considering any public comments, the Secretary shall publish and implement final regulations.

"(5) For purposes of publishing notices in the Federal Register and scheduling public hearings, the Secretary may consolidate petitions, and responses thereto, which involve the same or related materials or commodities.

"(6) If a petition has been fully considered under this section and a notice has been published with respect to a particular commodity or group of commodities and in the absence of significantly changed circumstances, the Secretary shall have authority to determine that a petition for monitoring or control of such commodity or commodities does not merit the full consideration mandated under this section.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Secretary makes a determination under paragraph (3) if the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

"(9) The provisions of this subsection shall not apply in the case of any agricultural commodity which is subject to subsection (f) of this section.

"(10) The authority under this section shall not be construed to affect the authority of the Secretary under any other provision of this Act.".

Page 58, line 23, strike out "(d),".

Page 58, line 24, insert "(d)," after "(c)".

Page 59, line 3, strike out "and (h)" and insert in lieu thereof "(h), and (i)".

H.R. 4839

By Mr. KRAMER:

—Page 40, after line 23, insert the following:

"(3)(A) No amount appropriated pursuant to this Act shall be used to enforce or administer any regulation promulgated by the Secretary of Energy on or after the date of enactment of this Act unless any such regulation is approved by a majority vote of either the House or the Senate within 60 days of the date of promulgation of such regulation by the Secretary.

"(B) If neither the House nor Senate provides for the approval of such regulation during the applicable period following its promulgation, no amount appropriated pursuant to this Act shall be used to enforce or administer any identical or substantially similar regulation which has the same effect as the regulation terminated as a result of the operation of Section 201(b) (3) (A)."

S. 1030

By Mr. BIAGGI:

—Page 21, line 17, strike out the quotation marks and the period which follow:

Page 21, after line 17, insert the following: "In the determination of need pursuant to subparagraph (B), the President shall, to the maximum extent practicable, adjust the total volume of supply available to end-users in any State to take into account both consumption levels and any reduction in energy demand which is attributable to programs and guidelines development and implemented as part of the State energy conservation plan.".

By Mr. WYLIE:

—Page 43, after line 11, add the following new subsection:

(f) LIMITATION ON MEASURES REGULATING THE TEMPERATURE IN ANY BUILDING.—

The plan established under subsection (a) may not provide for any measures that would regulate building temperatures unless such plan permits an exemption for any building affected by such restrictions, to achieve an equivalent reduction in energy consumption by other means.

SENATE—*Friday, July 27, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. CARL M. LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Our Father-God, help us this day to remember Thy Son who went about doing good. Give us His strength, His courage, His wisdom, His winsomeness. Keep our faces toward the light of His presence and our feet from paths of failure. Walk with us. Work with us. Be our guide, our counselor, and our friend that nothing we say or do may need redoing. At the end grant us Thy peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 27, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL M. LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REASONABLE SURFACE MINING REGULATION

Mr. ROBERT C. BYRD. Mr. President, on Wednesday, July 25, a Federal district court judge extended an important deadline under the Surface Mining and Reclamation Act of 1977. He ordered that the States have until March 3, 1980, to submit surface mine reclamation plans to the Department of the Interior for approval. Prior to his ruling, States were faced with an August 3, 1979, deadline.

I raise this issue to focus attention on a thorny problem which is responsible for this delay in the implementation of the act. The clear intent of Congress when it fashioned the Surface Mining Act was to provide a set of specific guidelines which each State would use to craft its own reclamation plan. That plan would be tailormade for each State taking into account the special needs and unique features of each State. In this way, Congress sought to protect the environment and, at the same time, respect the rights and responsibilities of the States.

Unfortunately, Mr. President, the States have been unable to exercise the discretion due them under the act. The act has been interpreted by the Department of the Interior as requiring the States to comply with, and, in effect, duplicate every jot and title of the Federal regulations.

There are 115 performance standards contained in the Surface Mining Act. The entire act itself is far more detailed than the great bulk of statutes which we consider and approve every year. It is, in fact, a regulatory scheme in itself, not a broad outline of various environmental goals.

Laid on top of this already complex statute are literally thousands of regulations which must be copied by all the States, one at a time. Variations to the Federal rules and regulations are almost impossible for the States to justify, as the burden of proof has been incorrectly shifted to them from the Department of the Interior, where it belongs.

Faced with the prospect of an interminable stalemate or, worse, with the imposition of a burdensome Federal program on each State, the Committee on Energy and Natural Resources acted last week by ordering reported a bill to amend the Surface Mining Act. The bill contains provisions which will insure that each State has an opportunity to construct its own reclamation plan. The act would be, as Congress intended, the standard against which each State plan would be judged. If found wanting, the plan would be returned to the State for corrective action. That, Mr. President, is the system which Congress envisioned when the Surface Mining Act was adopted.

The Governors of the major coal-producing States, including Governor Rockefeller of West Virginia, support that process.

The distinguished Senator from Kentucky (Mr. FORD) and the distinguished Senator from Oregon (Mr. HATFIELD) have put forth great efforts in this matter.

Mr. President, let me say that I hope that all Senators will devote serious thought to this matter. We all recognize the contribution which coal will have to make to our energy future. Given a fair chance, I am confident that coal will be able to fulfill our expectations.

Mr. President, I yield back the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

SENATE REPUBLICAN ECONOMIC PROGRAM

Mr. BAKER. Mr. President, yesterday all 41 Senate Republicans reached agreement on a Republican economic policy statement—a "program for the decade."

Senator JAVITS was chairman of the Economic Policy Subcommittee of the Republican Policy Committee, and was accorded responsibility for guiding the development of this Republican economic statement.

In essence, it represents a declaration by Senate Republicans that our numerous and complex economic problems—including the acceleration of inflation; the stagnation of productivity; the fall of the dollar; the erosion of personal disposable incomes; the decline of real GNP; and, prospectively, the surge in already unacceptable unemployment—are not insolvable. They will yield to a creative program based on the fundamental resiliency and vitality of our economic and political system and to the cooperative action of Government and private industry.

The Republican economic program seeks to balance the Federal budget, reduce personal and business taxes to increase incentives for investment and improvement of productivity and curtail the regulatory excesses of the Federal Government.

The economic crisis of simultaneous recession and inflation into which we have now entered, coupled with the energy crisis was not inevitable. It is the direct result of deliberate and misguided policies. It will result in the loss of billions of dollars in personal incomes and of human and other productive resources, and it will expose our already weakened economy to the perils of a major downturn.

The present focus on the energy crisis has helped expose the fundamental structural weakness in our economy. Until we put in place effective, long-term programs to deal with these structural weaknesses, we will find ourselves prisoner to the twin evils of continued stagflation: Severe recession and endemic inflation.

Our position in the world economy, while still strong, is being severely challenged both by the strong competition of our trading partners and by the huge real transfers of income to the OPEC countries that the high energy prices are causing. Attempts to compensate for the damage caused to the U.S. economy by this competition and by high energy prices through quick-fix measures, such as tariffs, subsidies, and across-the-board tax cuts, will only paper over the problem and simply further fuel the fires of our double-digit inflation. Our freedom of economic action is further circumscribed by the dollar's role as the major key currency of the international monetary system and, hence, by our need for a strong and stable dollar.

While economic policy cannot be subservient solely to the dictates of the foreign exchange markets, the behavior of the dollar on these markets is an excellent litmus test of our economic performance. We must, therefore, mold our economic policies with one eye on their effect on the dollar.

Most importantly, the rampant inflation is having a debilitating effect on the social fiber of the American people, pitting one group against the other for a greater share of the shrinking real economic pie and submerging the national interest, which has guided this country for more than 200 years, to conflicting self-interests. All these factors make it imperative that economic policy focus on wringing inflation out of the economy.

Based upon these considerations and upon the present unstable economic environment, Senate Republicans have proposed a comprehensive economic policy program—an economic program for the decade—founded upon four principal themes:

The control of the present double-digit inflation is critical to the long-term health of the U.S. economy and depends importantly upon the adoption of policies—first, to foster improved capital investment, productivity, research and development and personal saving and investment in order to expand the productive capacity and efficiency of our economy; and second, to bring the Federal budget into balance as soon as possible as an integral component of stable monetary and fiscal policies;

The present and prospectively worsening problem of unemployment, bearing so heavily on minorities and youth newly entering the labor force can be remedied by placing greater reliance upon the private sector of our economy through expanded use of jobs tax credits for employers and vouchers for the structurally unemployed;

The crisis of confidence which has arisen in our country is reflected in a crisis of confidence in the health of the U.S. dollar, which has been battered by our inability to deal with the new wave of inflation and by a fundamental erosion in the overall position of the United States in the world. Restoration of the strength of the dollar internationally is of paramount importance and will require better control of domestic inflation, a massive export development drive and the establishment of a world capital fund to move capital for productive purposes to cooperating developing countries.

The U.S. tax system should not operate to reduce the real standard of living of the American people. Accordingly, Republicans support substantial phased reductions in Federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of Federal spending.

Republicans in the Senate believe that the present high rate of inflation is the result both of economic mismanagement in the past 3 years and of deeply rooted structural deficiencies in the U.S. economy which have not been attended to by the present administration. Consequently, purging inflation and establishing a firm foundation for economic recovery will require time and a steady course for our country.

Senate Republicans present this Republican economic policy statement as a pledge of their intention to introduce, work for and implement economic policies which truly are designed for the decade to come.

The statement follows:

REPUBLICAN ECONOMIC POLICY STATEMENT

INTRODUCTION

Today, a lack of confidence in the ability of the present Administration to develop consistent and reliable economic policies has bred a climate of uncertainty about the health of the U.S. economy and even about the position of the U.S. in the world.

Controlling inflation, cutting taxes, and increasing our national productivity are the main economic concerns of the American people. Senate Republicans are prepared to furnish fresh, optimistic, and decisive leadership to accomplish these objectives.

Our program for balancing the federal budget, reducing personal and business taxes to increase incentives for investment and improved productivity, curtailing regulatory excesses, and other measures to increase investment and job opportunities is in sharp contrast to current economic policies.

In recent months, economic uncertainty has yielded to genuine concern about the danger of a severe recession because:

(1) Inflation has reaccelerated to double-digit levels in this year,

(2) Unemployment has remained very high, and

(3) There is an almost total absence of a coherent national economic strategy and energy policy.

Inflation is eroding the value of savings and wiping out recent increases in personal incomes, while simultaneously increasing the tax burden by forcing Americans into higher tax brackets. Unemployment has persisted in the range of 6 percent for the last year and shows no signs of improvement any time soon. Indeed, it is now expected to worsen considerably. And youth unemployment continues at intolerable levels, particularly in the older cities.

Compounding the problems of worsening inflation and unemployment are the continuing weakness of the U.S. dollar; very high interest rates; the sharp fall-off of R. & D. investment; and the virtual stagnation of U.S. productivity growth—the key to jobs, rising standards of living and stable prices.

The economic danger before us is very real, therefore, but the Administration seems to lack either the ability or the will—or both—to deal with it. Instead of formulating the needed economic initiatives—to restrain inflation by increased productivity and enterprise; reduce unemployment; reduce the trade and payments deficits; increase the real GNP by bringing the national books into balance; and restore domestic and world confidence in the dollar—the Administration has seemingly chosen a policy of papering over the basic economic illness by market manipulation of the dollar, wage and price exhortation and surrendering on energy policy.

The Administration continues to rely principally upon an almost unintelligible, already unsuccessful program of half-mandatory/half-voluntary wage and price controls and a series of energy programs by which, even if approved, little will be gained in energy sufficiency. The economic history of the world proves the folly of continuance of wage and price controls which distort the economy and incur ultimately greater inflationary pressures. The imposition of wage, price or credit controls cannot be justified except in a time of true national emergency.

Clearly the loss of confidence in the leadership of the U.S. has its roots in a fundamental skepticism about the effectiveness of U.S. leadership.

Senate Republicans believe action is needed now, to avert what could be a major domestic and world economic disaster early in the course of the next decade. There is a need to put before Congress and the people an action program which would be directed to: securing the living standards of the people; reducing unemployment by providing permanent private sector jobs, particularly among minorities and youth; restoring confidence in the U.S. dollar; stimulating capital formation and U.S. productivity as the only enduring approach to stable prices and full employment; reducing the burden of unadjusted federal tax brackets on individuals and corporations; balancing the federal budget; and reducing our dependence on foreign energy sources.

Accordingly, Senate Republicans put forward this "Economic Program for the Decade"—an action program to begin to make right what is so wrong with the U.S. economy.

Budget and taxes

1. It is vitally important that the tax system not operate to reduce the real standard of living of the American people. Therefore, we support substantial phased across-the-

board reductions in federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of federal spending.

2. Our objective must be to bring the federal budget into balance and to curb future deficits.

3. There should be a mandatory limit on federal spending. A policy of no "real" growth in federal spending through FY 1982 is desirable. The spending limit needs to be sufficiently flexible to allow for national economic and other emergencies.

4. The excessive burden of the national debt must be reduced. Budgets must provide surpluses for this purpose. Receipts from the sale of certain federal assets such as oil leases and surplus federal properties could help accomplish this goal.

5. A thorough review of all federal entitlement programs is necessary to help reduce the rapid growth of federal spending.

6. It is of the utmost urgency that the Social Security system be reviewed and revised so as to ensure the continuation of our financial commitment to our older citizens, the solvency of the trust fund, and to be fair to our younger workers, with particular regard for eliminating fraud and abuse in the disability program and providing relief from escalating payroll taxes.

7. Federal accounting procedures must be changed. The hidden spending of "off-budget" agencies through loans and credits should be highlighted in the Congressional budget.

8. There should be a thorough review of federal budgetary and accounting procedures, with consideration given to applying the accounting procedures of the private sector to the operation of the federal government, to obtain a more accurate picture of the federal budget in terms of capital assets as well as outlays. In this connection, a Task Force on the Federal Budget should be formed to review and make recommendations to Congress and the people on federal budgetary concepts, procedures and standards.

9. To further reduce federal indebtedness, the U.S. should be more vigorous in the collection of its debts, domestic and foreign.

Capital formation and productivity

1. Personal savings and investment should be encouraged by incentives, rather than penalized through taxation. There should be universal eligibility for Individual Retirement Accounts of up to $1,500/year. By saving for their own future, Americans would be investing in a stronger, healthier economy.

2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

3. Government at all levels should revise regulatory systems which presently divert investment capital away from productivity and job creation and divert business enterprise into non-productive purposes.

4. Improved levels of productivity in the private sector are paramount if the United States economy is to make progress in winning the inflation battle. Business incentives toward increased capital formation and investment must be encouraged through business tax reductions, tax credits, and accelerated depreciation allowances. Realistic tax incentives spur investment. Depreciation allowances for plants and equipment, including equipment to meet environmental regulations, should be accelerated and adjusted for inflation, in order to permit depreciation allowances to approximate more closely the true replacement costs rather than historical costs of capital equipment.

5. To increase productivity, the United States must recover its former place as the world's leader in industrial research and development. Tax credits for new R & D expenditures would provide a significant incentive for improved research and development spending. The United States must increase properly conceived federal expenditures for accelerated research and development in order to replenish the nation's reservoir of technology and energy alternatives.

6. Sunset legislation for all federal regulatory agencies should guarantee the periodic review and, if necessary, adjustment of their scope and purpose.

7. The Congress should exercise effective but practicable control over proposed federal regulations to ensure that they carry out the intent of Congress. On the federal level, every proposed regulation should be subject to cost-benefit analysis to ensure that potential benefits are not outweighed by its economic impact.

Employment and unemployment

1. Full encouragement should be given to the highest priority need for work-study programs in high schools and colleges to attack the basic problems related to the high levels of unemployment among several groups, i.e., those lacking the training, education, and the desire to achieve the needed skills for productive employment.

2. Targeted tax credits for hiring the structurally unemployed—similar to the Targeted Jobs Tax Credit enacted last year—provide an important incentive to employers to hire the economically disadvantaged. Full use should be made of these and similar tax credit incentives to reduce unemployment among those segments of the labor force—youth—with disproportionately high unemployment.

3. Cash bonuses for employers should cover part of the costs of bringing jobless Americans into the productive economy. In this regard, CETA's voucher demonstration project, helping the private sector hire trainees most in need of jobs, should receive a greater percentage of CETA funds.

4. Labor and management should cooperate to strengthen and expand training and apprenticeship programs in the skilled crafts, especially in small businesses, and measures to improve productivity with appropriate participation by each in the avails of such improvements.

5. Labor-management councils, bringing employers and employees together to improve working life conditions, should be encouraged.

6. The Private Sector Initiative Program (Title VII of CETA) should be expanded, so that persons trained in this program can have better opportunities for career development.

7. The charter of the U.S. Employment Service should be revised to foster better coordination with other federal activities, especially those conducted under CETA.

8. Part-time and flexi-time work schedules deserve greater use to accommodate workers and their families with special economic and domestic situations.

9. A youth differential in the Minimum Wage, with appropriate safeguards against displacement and only for a limited period of time, could have a significant impact on youth employment.

10. Regulation and paperwork requirements must be simplified for all business and construction activities in order to increase employment opportunities through reduced overhead costs.

International trade and monetary policy

1. The Federal Government, with active participation by leadership from the private sector, should develop and implement a comprehensive national export policy to promote aggressively the export of U.S. goods and services and to defend U.S. trade interests.

2. Export licensing procedures should be simplified, streamlined, and better defined. There should be a firm commitment to control the export of advanced technology to non-market nations in accordance with the provisions of the Export Administration Act. We remain committed to the principles of free emigration before Most Favored Nation Status can be extended.

3. A broad effort should be launched to assist smaller businesses to participate in exporting, beginning with reform of the Webb-Pomerene Act.

4. We advocate elimination of export subsidies through international negotiations, acknowledging the impediments to this process. Until such subsidies are eliminated, we should take appropriate steps to support American industry in world markets through organizations such as the Export-Import Bank and the Commodity Credit Corporation.

5. Improved trade relations within the Americas are urgent and necessary for our States must begin to emphasize the importance of hemispheric trade. To that end, we urge the creation of a Western Hemispheric Economic Commission to study ways and means of joining together with our neighbors to ease and facilitate such trade to our mutual benefit.

6. The U.S. must work actively with Japan and other surplus countries to check continued undisciplined trade surpluses and also to remove nontariff barriers to trade. Failure to resolve this problem may cause political pressure for protective measures to become irresistible.

7. The DISC tax incentive for U.S. businesses should be retained, and other tax incentives for exports should be provided, as long as our overseas competitors maintain similar export subsidies. Special provision for U.S. citizens working abroad is essential to maintain our competitive position.

8. The Federal Government should systematically monitor imports to anticipate future trade problems before they cause the shutdown of American plants and the loss of jobs. To this end, we recommend trade adjustment assistance to provide more timely and equitable relief to labor and industry.

9. U.S. monetary policy must be based on a firm commitment to a strong and stable dollar. This means money supply growth based upon the real growth in the economy. A strong dollar requires improvement in our economic fundamentals: a lower inflation rate, an improved trade balance, and a significant reduction in oil imports through domestic production, conservation and effective measures to deal with the OPEC Trust.

10. In protecting the dollar from sudden or severe fluctuations on foreign exchange markets, we should support vigorous intervention in the operations of the foreign exchange markets. High interest rates are a direct result of inflation with its excess money supply growth. A strong dollar will mean lower interest rates and less inflation. To this same end, the desirability of gold sales by the Treasury and the policy of "demonetization" of gold should be reevaluated.

11. The International Monetary Fund should exercise more effective surveillance of surplus economies and should work more closely with commercial banks.

12. The transactions of U.S. banks in the Eurocurrency markets should be more closely evaluated.

13. The U.S. should resume its leadership role in the international monetary system. We should convene world financial leaders to develop a long-term plan for the evolution of the present monetary order into a

true multi-currency reserve system characterized by stability in exchange rates and minimal world inflation.

DEATH OF MRS. ANN MELL, MOTHER-IN-LAW OF SENATOR RIBICOFF

Mr. BAKER. Mr. President, it was with a special sense of sadness that Mrs. Baker and I learned of the death of the mother-in-law of our friend, the distinguished Senator from Connecticut, Mr. RIBICOFF.

It is well known to many of my colleagues that Joy Baker and Casey Ribicoff are close friends. In the last few months they have been brought even closer together by common personal trial and loss.

Both of their mothers were seriously ill for several months. Only last week, Joy's mother, Mrs. Louella Dirksen, passed away. And now we have the sad news of the passing of Mrs. Ribicoff's mother, Mrs. Ann Mell.

These days of common concern have also been days of mutual consolation. It is, I believe, a tribute to this institution that its Members and their families can rely on each other's strength, compassion, and friendship in difficult times.

I know all my colleagues will join me in expressing our deepest sympathy to Casey and ABE RIBICOFF in their time of sorrow.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed with the consideration of H.R. 4394, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4394) making appropriations for the Department of Housing and Urban Development and for sundry agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments as follows:

On page 2, line 12, strike "$1,160,474,000" and insert "$1,140,661,000";

On page 2, line 13, strike "$37,500,000" and insert "$50,000,000";

On page 2, line 17, after the colon, strike through and including the colon in line 25;

On page 3, beginning with line 5, insert the following:

RENT SUPPLEMENT

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701a), is reduced in fiscal year 1980 by the uncommitted balances of authorizations provided for this purpose in Appropriation Acts.

On page 5, line 19, strike "$77,000,000" and insert "$82,000,000";

On page 7, line 11, beginning with the comma after "1982" strike through and including "106(d) (2)" in line 14;

On page 8, line 4, strike "$400,000,000" and insert "$675,000,000";

On page 8, line 8, strike "$35,000,000" and insert "$50,000,000";

On page 8, line 13, strike "$140,000,000" and insert "$130,000,000";

On page 9, beginning with line 14, insert the following:

LIVABLE CITIES PROGRAM

For contracts, grants, and other assistance, not otherwise provided for, as authorized by the Livable Cities Act of 1978 (Title VIII, Housing and Community Development Amendments of 1978, Public Law 95–557), $3,000,000, to remain available until September 30, 1981.

On page 10, line 5, strike "$49,000,000" and insert "$50,300,000";

On page 10, line 20, strike "$543,495,000" and insert "$536,120,000";

On page 11, line 14, strike "$8,186,000" and insert "$7,603,000";

On page 12, line 13, strike "$41,250,000" and insert "$40,600,000";

On page 12, line 23, strike "$8,326,000" and insert "$7,611,000";

On page 13, line 15, strike "$506,748,000" and insert "$515,319,000";

On page 13, line 17, strike "$233,568,000" and insert "$232,568,000";

On page 13, line 21, strike "$475,809,000" and insert "$515,592,000";

On page 14, line 9, after "Expended" insert a colon and the following:

Provided, That none of the funds provided under this Act shall be used to enforce any regulation issued under the construction grants program which has the effect of retroactively applying project requirements or conditions not in effect at the time the grant for a project is awarded.

On page 14, beginning with line 15, strike through and including line 25;

On page 15, line 4, strike "$2,238,000" and insert "$3,238,000";

On page 15, line 20, strike "$3,026,000" and insert "$3,126,000";

On page 16, line 4, strike "$2,725,000" and insert "$2,625,000";

On page 16, line 23, strike "$131,121,000" and insert "$129,621,000";

On page 17, line 17, strike "$119,109,000" and insert "$118,709,000";

On page 19, line 9, strike "$3,799,500" and insert "$3,822,500";

On page 20, line 15, strike "$954,900,000" and insert "$964,900,000";

On page 21, line 7, strike "$5,000,000" and insert "$5,500,000";

On page 21, line 15, strike "$7,000,000" and insert "$8,900,000";

On page 22, beginning with line 3, strike through and including line 13, and insert in lieu thereof the following:

The amount which may be borrowed, from the public or any other sources except the Secretary of the Treasury, by the Central Liquidity Facility as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $300,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1980 shall not exceed $1,756,000.

On page 23, line 2, strike "$718,000" and insert "$750,000";

On page 23, line 14, strike "$56,600,000" and insert "$59,600,000";

On page 23, line 19, strike "$896,800,000" and insert "$915,300,000";

On page 23, line 20, strike "That not more than $59,400,000 shall be available for Applied Science and Research Applications: *Provided further*,";

On page 25, line 18, strike "$9,500,000" and insert "$12,000,000";

On page 26, line 16, strike "$6,854,924,000" and insert "$6,170,924,000, of which not to exceed $1,599,333,000 shall be allocated to State governments pursuant to 31 U.S.C. 1226, notwithstanding any other provision of law";

On page 27, line 5, strike "$1,034,000" and insert "$1,022,000";

On page 27, line 11, strike "$50,000,000" and insert "$48,100,000";

On page 29, line 10, strike "$127,847,000" and insert "$122,847,000";

On page 30, line 5, strike "$584,967,000" and insert "$588,392,000";

On page 31, line 21, strike "$1,700,000" and insert "$1,000,000";

On page 40, beginning with line 16, insert the following:

SEC. 409. None of the funds provided in this Act may be used to pay for travel if the employee elects to take annual leave while away from the official duty station.

The ACTING PRESIDENT pro tempore. Time for the debate under this bill is limited to 3 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Maryland (Mr. MATHIAS); with 30 minutes' debate on any amendment except an amendment by Senator PROXMIRE on cutting assisted housing by $700 million, on which there shall be 1 hour; a Mathias-Baker amendment on revenue sharing on which there shall be 1 hour and which shall be the first floor amendment taken up under this agreement; and the Javits amendment on flexible subsidies on which there shall be 1 hour; with 20 minutes on any debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the HUD-independent agencies appropriation bill for fiscal year 1980, as reported by the Senate Appropriations Committee, provides total new budget authority of $71,356,151,000, which is $607,324,000 below the amount contained in the House-passed version of the bill and $1,594,710,000 less than the budget estimate.

With budget authority of $71.4 billion, this is one of the biggest appropriation bills the Senate will consider this year. In fact, I think the only bills that are larger are the Defense appropriation bill and the HEW appropriation bill.

It is absolutely essential we make some reductions in the bill as reported by the committee because we are bound to be, before we are through this year, well over the budget resolution if we do not.

I say that in spite of the fact that the bill as reported, without regard to supplemental budget requests in the HUD-independent offices area, is $607,324,000 below the amount approved by the House-passed version of the bill and about $1.6 billion less than the budget estimate.

But I am going to explain shortly why despite those cuts we are going to have to make further sharp reductions, or exceed the budget resolution and accept a deeper deficit than we had promised with our budget resolution vote in May.

This legislation provides funding for the Department of Housing and Urban Development, the Veterans' Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, the Department of the Treasury's revenue sharing operations, and a number of smaller agencies, offices, and councils.

Each Senator will find on his desk an errata sheet that corrects certain minor mistakes in the committee's report on the bill, Report 96–258. As some of my colleagues may know, the report was filed shortly after the full committee acted on the bill last Tuesday, and these minor errors were inevitable under the circumstances. By making corrections through the use of an errata sheet rather than completely reprinting the committee's report, my colleagues will be happy to know that we have saved the American taxpayers $5,000.

That is a beginning, anyway.

Before I turn to a discussion of the bill as reported I want to serve notice on my colleagues that I intend to call up an amendment later in the debate to cut $34,300,000 in annual contract authority and $700,000,000 in new budget authority for assisted housing from the bill as it now stands. I will explain this proposed cut in more detail when I call up the amendment.

It is important that I point out to my colleagues that the budget authority recommend in H.R. 4394 as reported is only $44 million under the first concurrent resolution on the budget. I say that this is important because we can expect to consider an additional $1.1 billion in supplemental budget requests for veterans benefits, disaster relief and pay raise costs before the fiscal year is out. Virtually all of that supplemental money is going to be uncontrollable entitlement spending that we simply cannot turn down.

This means that we have the potential for being at least $1 billion above the first budget resolution even if the Senate approves the bill as reported. It is important to keep this in mind as we act on the legislation before us today.

REVENUE SHARING

Mr. President, I would normally begin my discussion of the bill with an explanation of the committee's actions with regard to the Department of Housing and Urban Development, but before I go into the intricacies of the bill let me mention the most significant change made by the committee in the bill as passed by the House—namely a $684,000,000 cut in the general revenue sharing program. This reduction is to be applied solely against payments to the States under the program and is made in recognition of the fact that a great number of States—19 to be precise—have cut taxes in the last 18 months because of surpluses while all of the States are taking in more money than they are spending.

I repeat that all States are taking in more money than they are spending.

The reduction would cut the State share by one-third, and not touch the counties, not touch the cities, but it would make a very substantial reluction in the overall obligations the Federal Government would have otherwise. After all, that is two-thirds of a billion dollars.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By the largest portion of the budget authority provided in the bill is devoted to the activities of the Department of Housing and Urban Development. This is because we are requirel by the Budget Act to provide long term budget authority for periods of up to 40 years for housing subsidy pograms. For example, although the total recommended by the committee for the Department's activities in fiscal year 1980 is $33,637,451,000 in new budget authority, most of this amount—$26,680,128,000 to be exact—represents the authority to enter into long-term contracts for assisted housing.

The committee has recommended two changes in the assisted housing program as approved by the other body. We have eliminated House language mandating that 60 percent of the units subsidized be new units and that 40 percent be existing units and have, instead, left this decision to local communities through their housing assistance plans. The current mix under the local plans is 66 percent new housing, 34 percent existing housing. The committee also increased the amount recommended for public housing modernization from $37,500,000 to $50,000,000.

The most significant change we have recommended in HUD's budget is an increase of $275,000,000 over the House bill for the urban development action grant program. That is what the President recommended. He recommended an increase in the UDAG program from $400,000,000 to $675,000,000. That is an assertion of faith in a brandnew program that has had only a year or so to get moving and has not given us the kind of results some of us expected to have. That was the committee's decision.

As a result of the committee's increase, the total recommended for UDAG is $675 million—an increase of almost 70 percent above current levels, and it is a mammoth increase.

The committee also has recommended the rescission of $5 million in annual contract authority and $200 million in long-term budget authority for the rent supplement program. This is a rather tentative rescission because it is based on HUD's assumptions as to how much contract authority will be recaptured under the program next year. In any event, since this is a rescission of existing contract and budget authority it does not affect the new budget authority figure recommended by the committee.

Other significant changes in the House-passed bill include: An increase of $15 million to a total of $50 million for the section 701 comprehensive planning grant program; the proposed initiation of a $3 million livable cities program; an increase of $5 million for the troubled projects operating subsidy program; a reduction of $10 million in the rehabilitation loan program in line with the housing authorization bill recently passed by the Senate; and a reduction of $7,375,000 in the amount provided by the House for HUD's salaries and expenses.

The total amount recommended by the committee for the Department of Housing and Urban Development is a mere $4,700,000 under the Department's budget request. That means that we have given them, in dollars, just about exactly what they requested. We have recommended much less than a 1-percent reduction. As I say, we are virtually giving them all they asked for.

RELATED AGENCIES

Turning now to the other agencies supported through this legislation, the most significant changes the committee has recommended are in appropriations for the Environmental Protection Agency, the National Aeronautics and Space Administration, and the National Science Foundation. We have proposed increases above the House-approved amounts for each of these three agencies.

The Environmental Protection Agency administers a great many extremely complex programs and the committee has recommended a number of changes in the EPA portion of the bill as approved by the House. The total EPA budget in the bill as reported is $4,668,142,000.

The committee increased the amount provided by the House for the Agency's abatement and control programs by $39,783,000. A significant part of this increase is attributable to a $19,429,000 budget amendment that was not considered by the House and which would be used to meet the problems created by hazardous waste sites. The committee also endorsed a $10,000,000 add-on to the House-approved appropriation for the section 208 areawide waste treatment management program. This would bring total funding for the program in fiscal year 1980 up to the budget estimate of $40,000,000. Other increases in the abatement and control account include an additional $5,600,000 for State air control agency grants resulting in a total recommendation of $85,600,000 for that program; the restoration of the $4,400,000 cut by the House from the administration's $7,795,000 request for the underground injection control grant program; $2,500,000 for spill prevention and response under section 104 of the Clean Water Act; $1,000,000 for the administration of the ocean outfall permit program under section 301(h) of the Clean Water Act; and $354,000 for a study of the Flathead River basin in Montana.

The committee also recommended the restoration of $6,000,000 in personnel compensation cut by the House from EPA's salaries and expenses request as well as the restoration of a House reduction of $6,000,000 in anticipatory research under the agencies research and development budget. The anticipatory research increase is offset in part by minor reductions in the amounts approved by the House for integrated pest management and air health and ecological effects research.

The most significant program funded by EPA is, of course, the waste treatment construction grant program. The committee has concurred with a House reduction of $400,000,000 in that program. The committee has included language in its report endorsing the so-called two-tier proposal, which would reward States effectively obligating their construction grant dollars with an additional allocation of grant support. Finally the committee has recommended the inclusion of language in the bill which would prohibit EPA from retroactively applying newly promulgated regulations to construction projects that have already been approved.

The committee has recommended an increase of $33,000,000 in the House-approved budget of the National Aeronautics and Space Administration with the bulk of the increase coming in NASA's research and development programs. The committee has included $17,000,000 for a number of activities that were not included in the President's budget including additional funding for a variable cycle engine, support for advanced rotorcraft technology and a budget add-on for a national oceanic satellite system. The bill as reported also restores $10,000,000 cut by the House from NASA's research and program management budget. The total of $4,943,500,000 recommended for NASA includes a budget amendment of $220,000,000 necessary because of cost overruns in the Space Shuttle.

Turning now to the National Science Foundation's budget, the committee has recommended the restoration of $18,500,000 cut by the House from research and related activities. This increase would make the NSF a billion dollar agency for the first time, with a budget of $1,005,500,000 in fiscal year 1980.

The committee has recommended relatively few changes in the Veterans' Administration budget as approved by the House. The total of $20,316,624,000 recommended by the committee is $2,750,000 below the House level because of the committee's decision to hold medical and prosthetic research to the budget request of $122,847,000, which is $5,000,000 below the House. Although the committee has made other minor changes in the VA portion of the House-passed bill, the most noteworthy action we took was to endorse a House add-on of $76,380,000 to the budget request for medical care. These added funds would support an additional 3,800 positions.

Of course, the bill before us today includes a number of smaller agencies. For example, the bill provides $441,930,000 for the new Federal Emergency Management Agency, a cut of $16,500,000 below the budget estimate and $1,900,000 below the House-approved amount. This total includes $6,114,000 for the staffing of the newly relocated Fire Academy—funds that were requested in a budget amendment that was not considered by the House.

Finally, the bill as reported contains general language which would prohibit agency employees from taking annual leave in the course of traveling on agency business. This limitation is the direct result of a committee investigations staff report which indicated that in a number of cases agency employees were taking extensive periods of annual leave following brief business visits to such distant points as the west coast of the United States and Western Europe.

Mr. President, that summarizes the major actions the committee has recommended. Obviously, there are a multitude of minor changes that time prevents me from discussing.

Before I relinquish the floor, I thank my distinguished colleague Senator MATHIAS, who not only is a highly capable Senator, but also is a joy to work with.

He has a great sense of humor. He also, unfortunately, has a knack for winning on almost all occasions and defeating the chairman of the committee. This is more of a Mathias bill than a Proxmire bill by a considerable amount.

I have great admiration and envy for his success, and I am going to do my very limited best to try to combat the damage he has done to this bill so far, but I am not too optimistic about the prospects for my success.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill, as thus amended, be regarded, for purposes of amendment, as an original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, let me first address myself to the very thoughtful and kind comments made by the distinguished Senator from Wisconsin. He has raised his reputation for charity and generosity, but he has done it by putting at risk his reputation for veracity, because he has been entirely too generous in his comments.

I do think we have a rather unusual climate in the subcommittee, in which we very vigorously disagree, but so far we have been able to avoid heat and anger in our disagreement. It is a great pleasure to work under those conditions, because we can hammer out intellectually our differences and then put them on the anvil of the voting process and bring them to some resolution.

I do not take quite as pessimistic a view of this bill as does the Senator from Wisconsin in terms of its frugality, because the record here is not bad. The bill recommends $71,356,151,000 in new budget authority, and that is an enormous sum of money. It is beyond the realm of the imagination of the average person, certainly beyond my imagination, to really conceive of $71,356,151,000.

Mr. PROXMIRE. Mr. President, if the Senator will yield, let me point out when I first came to the Senate—it seems only yesterday but it was a few years ago—$71.4 billion was virtually the entire budget of the United States. That would have taken care of all of HEW. It would have taken care of the entire Defense budget. It would have taken care of HUD, of course, and every other agency. That $71 billion is a mammoth amount, it is concentrated in a relatively few agencies, and this is only the third largest appropriation bill. It is a mammoth amount and it is too big.

Mr. MATHIAS. Mr. President, it is a mammoth amount. The question of whether or not it is too big or just enough or not quite enough is, of course, the issue that we are going to resolve today. In measuring that I think we have to keep in mind that that figure has been very carefully calculated by our colleagues in the Appropriations Committee and their calculations are so precise that this is $44 million below the first concurrent resolution. It is $1.6 billion below the budget estimate, $1.6 billion below the figure that the President of the United States requested to run the Department of Housing and Urban Development, and it is $607 million, more than half a billion dollars, less than the House of Representatives appropriated for the operation of the programs that are comprised within this bill.

I think that is a test of our concern about economy. It is a measure of our success in trying to meet the prudent objectives of fiscal restraint, which have been before us throughout this budget process. And I think the fact that we were able to do a little better than the President, a little better than the House of Representatives, and a little better than the Budget Committee is noteworthy. I think we should keep that in mind as we assess where this bill is strong and where it is weak, where it should be supplemented and when we give it final approval.

GENERAL COMMENTS

Mr. President, the bill recommends $71,356,151,000 in new budget authority, this is $44 million below the first concurrent resolution, $1.6 billion below the budget estimate, and $607 million below the House bill.

I would like to point out that the budget targets for the HUD Subcommittee assumed that $600 million in budget authority would not have been required due to anticipated legislation action—this action never materialized. The Budget Committee has also identified another $400 million that might have been added to the first concurrent resolution had the committee been aware of the changing requirements of several programs. Thus, for these two reasons alone, the assumptions made by the Budget Committee have resulted in a target $1 billion below what might otherwise have been expected. It is unfortunate that because of these assumptions made by the Budget Committee, there has been pressure to reduce some of the worthy programs contained in the HUD bill.

I do not believe that because assumptions made in good faith, but proven by events to have been made in error, should be allowed to shorten the appropriations for urban America which are absolutely necessary. After all, 85 percent of all Americans live in cities and I take very much to heart what the Senator from Wisconsin said about the fact that when he came to Congress the whole budget for the Nation could have been comprised within this single budget for one executive department today.

But for good or evil, for better or worse, we have assumed some national responsibilities for the cities. The national program itself reflects a concern for cities and responsibility for cities.

We having assumed that responsibility I think should do it well, or else we should waive that job, discharge ourselves from that obligation, disband the Department of Housing and Urban Development, and go back to an earlier period in American history. Until we do that, I think we should provide sufficient support for the programs that we undertake so that they can reach their objectives and not fall short of exactly what we hope to attain by those programs.

I shall comment very briefly on some of the points in dispute in this bill. When I discuss the points in dispute I wish to make it clear, Mr. President, that most of this bill has been written on the consensus principle, but there are some places where we still disagree, and one of those is in the level for housing assistance payments. The appropriation for housing assistance payments for the fiscal year 1980 is identical with the President's request. We are asking no more than the President's budget suggests is necessary, and that will be able to assist approximately 265,000 low- and moderate-income families to acquire basic shelter housing. Two hundred sixty-five thousand is less than half the national goal that Congress established for itself and tried to meet national housing needs. Housing, that fundamental necessity of human life in this climate, is a product in short supply in America. There are millions of American families who either do not have a home or who have inadequate homes, and this shortage was viewed by Congress as one of our serious national deficiencies. We set as a goal for ourselves the construction of 600,000 housing units a year. We have fallen far short of that goal, and this year in this bill we are only providing for 265,000 low- and moderate-income units. That is not a great deal considering the need. It is not a great deal particularly considering the current state of the housing market, where it is very difficult for young people just starting out or for elderly people whose incomes are severely limited to find reasonably priced rental units. I think that this particular program of 265,000 units for housing assistance payments is absolutely necessary, and I hope that the Senate will resist the suggestion that will be made shortly by my friend from Wisconsin to reduce that particular item in this budget.

We have another area of disagreement which will come to the Senate either by way of an amendment or by way of a point of order to certain language in this appropriations bill, and that is a section which the committee, after some vigorous debate, voted to reduce the share of the States in the general revenues by the amount of nearly $700 million. I am not going to go into detail on that point at this moment, because it will be discussed later at length but I wanted to put the Senate on notice that there will be a vote at some point on the question of the level of revenue sharing with the States, and this is a matter of vital concern to every State in the Union, and every Governor of every State I think has been alerted to the serious consequences if we do not restore the level of revenue sharing which was originally contemplated in the bill.

The portions of the bill which deal with the Veterans' Administration are, of course, of enormous concern to every Member of Congress because they deal with the commitment of the American people to the men and women who served in the Armed Forces and who have given a part of their lives in this patriotic service.

It is my philosophy that the veterans program should not only aim at compensation for the time spent in the armed services and for the hazards and hardship that may have been implicit in that service, but also for the loss of opportunities which young Americans necessarily experience when they give 2, 3, 4, 5 years of their most productive parts of their lives to military service.

So I feel we should provide adequately for the services which we have committed to the veterans of America. I believe this bill does reflect that kind of concern and a fulfillment of that kind of promise we have made.

The bill contains over $20 billion for the various programs of the Veterans' Administration. This is about $70 million above the President's budget request, and I think in this instance the judgment of the committee is better than the judgment of the administration, because we will take account of what we feel are certain needs, certain deficiencies in the veterans program, and I think we have strengthened the program by providing additional funds and additional personnel to serve the veterans' needs.

Now I would like to briefly highlight some of the major provisions in the HUD and related agencies appropriations bill.

HOUSING AND URBAN DEVELOPMENT

The bill includes $33,637,451,000 in budget authority for HUD. This is $4,699,750 less than the budget request.

In a major statement of policy the committee took exception to the House action which would change the mix of assisted housing. The House action would federally mandate a national ratio for new construction/substantial rehab and existing housing. The committee believed, as I do, that the Department should utilize the local housing assistance plans to determine the mix and distribution of subsidized housing. The Housing and Community Development Act of 1974, as amended, specifies that these local plans should be used "to the maximum extent practicable." The most recent data available to the committee indicates that 27 States have a need for a larger percentage of new/rehab units than would be permitted by the House action. In addition, many cities within the remaining 23 States have new/rehab goals above the 60 percent target established in the House bill. The House action was motivated by the belief that it would be less costly to meet the housing needs by using existing housing rather than by constructing new housing. Unfortunately, there is not sufficient existing housing to meet the need. For example, over the last 3 years the net annual loss of rental housing has been 2 percent. This translates to about 20,000 units lost last year. The loss of multifamily housing has been largely due to a decline in new production of rental units, abandonment and foreclosure of older dwellings and conversion of rental units to condominiums and cooperatives. It is estimated that vacancy rates of 5 percent to 9 percent are needed to provide normal housing mobility. Currently the Nations rental vacancy rate is below 5 percent, with an effective rate of 2 percent to 3 percent. This is the lowest it has been in 24 years for which the Census Bureau has kept such statistics. The consequences of this housing shortage translate to increased competition and demand for the shrinking number of existing units which will push rents upward and thus, will ultimately increase housing costs for the Department. It is important to highlight that HUD's multifamily programs are a basic force in maintaining the level of multifamily starts in this country. The most recent estimates are that about 50 percent of all multifamily activity is directly dependent upon HUD's insurance and subsidy programs. Once again, I believe that the subcommittee and the committee acted wisely in not additionally reducing the availability of housing in an already tight housing market. It is quite clear to me that in order to have a workable assisted housing program we must depend heavily upon a local assessment of suitability and availability of housing.

In a related issue, the subcommittee and the full committee rejected attempts to reduce the budget authority for section 8 assisted housing by $700 million. Such a reduction would preclude the reservation of approximately 15,000 housing units in fiscal year 1980. This would come on top of an estimated reduction of 60,000 units already included in the President's budget. The administration estimates that in fiscal year 1979 it will reserve a total of approximately 360,000 units. The fiscal year 1980 request is estimated by the Department to result in a reservation of 300,000 units—and this estimate is considered optimistic by the Congressional Budget Office by approximately 34,000 units. A further reduction in housing units at this time would go completely counter to the current trends in the housing market.

The committee has also recommended the full budget request of $675 million for the urban development action grants program. This is $275 million more than provided in the House bill. This program, authorized under the 1977 Housing and Community Development Act, is designed to encourage joint public-private ventures to combat local, economic and physical stress. To date the program has been one of HUD's most successful efforts, achieving a leverage of 6 to 1. For the 398 action grants awarded to date over $4.5 billion in private investment has been leveraged on the basis of $734 million in Federal funding. Based on 181 of these projects a total of $2.2 billion in increased property value and $80 million in property tax have resulted In addition, over 170,000 permanent jobs will be created through these existing projects and more than 78,000 jobs will be retained in distressed areas. Data on the 192 projects which have housing components indicate that over 24,000 housing units will be constructed and almost 27,000 units will be rehabilitated.

Currently there is a great unmet demand for additional funding in this program. HUD's projections indicate that requests totaling approximately $1 billion from 250 large cities are expected by September 30, 1979 and requests in excess of $500 million from approximately 300 smaller cities. In both the subcommittee and the full committee amendments were offered to reduce the action grants program below the amount requested. On both these occasions these amendments were rejected. If this amendment was accepted the estimated effect on the program would have been as follows:

It would reduce the number of additional projects that could be started by 75.

It would decrease the amount of private capital that could be levered by $775 million.

It would reduce the number of additional new permanent jobs by over 23,400.

It would reduce the number of housing units constructed or rehabilitated by 8,000.

It is also important to note that the pending "pockets of poverty" legislation, would require over $100 million to implement, leaving little or no funds to meet the demands of distressed cities and urban counties had the proposed cuts been sustained.

In addition to the above major actions, the committee has also recommended an additional $5 million for the troubled projects operating subsidy account. This important program provides operating subsidies for financially troubled multifamily subsidized projects where it can be demonstrated that projects are well managed or where improvements in management will be made. The purpose of the program is to insure the financial stability of existing rental housing projects and to prevent potential losses to the FHA fund resulting from project insolvency. The $4 million added by the committee brings this account up to the budget request for fiscal year 1980.

In another action the committee recommended an increase of $15 million for HUD's comprehensive planning grants program over the $35 million provided by the House. The amount recommended, while $10 million above the budget request, is $3 million below last year's appropriation. The committee recognizes that this program is the only Federal program which supports comprehensive planning assistance and that such assistance has played a vital role in the State and local decisionmaking for 25 years. These additional funds should help the Department to focus on such national policy objectives as the elimination of racism and discrimination, the development of efficient land settlement patterns, and the coordination of Federal funds from all sources.

The committee also provided $3 million for the livable cities program. The administration had requested $5 million for this program but the House failed to provide any funding. This program represents an important means of involving community-based organizations and the nonprofit sector in stimulating urban revitalization and in complimenting our efforts under the community development block grant program and the urban development action grant program. There is no doubt that art projects can be a catalyst for neighborhood revitilization, can build neighborhood and community identity, and expand economic opportunities for low- and moderate-income persons.

The committee also provided an additional $1.3 million above the House for HUD's research and technology program. With the additional funds provided by the Senate this account is still $2,700,000 below the administration's budget request. The additional funds provided by the Senate would, however, allow the Department to undertake high priority R. & D. activities which would not have been performed otherwise.

ENVIRONMENTAL PROTECTION AGENCY

The committee provided $4,668,142,000 for the Environmental Protection Agency. This is $441,096,000 less than the budget request and $46,354,000 greater than the House allowance. For salaries and expenses the committee has recommended an additional $8,571,000 above the House. Of this amount $2,571,000 was provided for enforcement actions against uncontrolled hazardous waste sites which pose an imminent hazard to public health or the environment. This item was not considered by the House. The remaining $6 million restores the cuts made by the House in personnel compensation and benefits. Had these funds not been restored EPA would be forced to reduce their work force by 245 work years. This, in effect, would eliminate the 237 work-year increase which was proposed for all EPA activities. If the House cut was sustained it would have severely curtailed EPA's ability to implement the Toxic Substances Control Act.

In the research and development account the committee has recommended full funding for the EPA's critical anticipatory research program. The House saw fit to reduce this program $6 million below the budget request. The House reduction, if sustained, would have prevented the start of five institutional centers of excellence, would have slowed the expansion of important research on environmentally caused cancer and acid rain and would have limited support for outside scientists to propose new and innovative approaches to identifying environmental problems and solutions.

Under EPA's abatement, control, and compliance account the Senate has recommended additions of $39,783,000 above the House. Of this amount, $19,429,000 and 70 positions was included in a budget amendment not considered by the House. This budget amendment covers the development and implementation of a program to discover, investigate, and take action to correct uncontrolled hazardous waste sites which are substantially endangering public health and the environment. EPA estimates that this budget amendment will enable the agency to discover and preliminarily investigate up to 500 sites and to fully investigate and take enforcement or other remedial action on as many as 70 sites. Currently there is no inventory of abandoned and inactive hazardous waste facilities, and in fact, there is precious little readily available information on past hazardous waste disposal practices. Rough preliminary estimates reveal, however, that there may be 32,000 to 50,000 abandoned and inactive hazardous waste sites, and as many as 2,000 of these sites could pose a significant threat to the public health and welfare. In funding this request, the committee realizes that this is a first phase of an effort in a longer term more intensive program involving hazardous waste sites.

Within the abatement control and compliance account the committee has also included the full $40 million request for the water quality management program. Under the House cuts of $10 million some of the agricultural and ground water projects to be undertaken in this program would not be funded. The Department's $40 million request for this program was already $12 million below last year's level of funding. It is quite clear that much needs to be done in this area to prepare local management agencies to adopt management practices suited to specific water quality problems and to develop ordinances and technical information which will sustain legal challenges.

The committee has also restored the $5.6 million cut by the House for air control grants. The Clean Air Act Amendments of 1977 have increased the responsibility of State and local air control agencies to develop and submit implementation plans to meet ambient air quality standards in nonattainment areas. As a result, almost all States must submit new plans which require extensive State and local agency planning. The preparation of such plans place a substantial drain on State and local resources. It was the committee's belief that failure to restore the House cuts would impede the development or approval of these plans. The committee also restored $4.4 million for the underground injection control grants program. The committee did not agree with the House action which recommended a cut of almost 60 percent in the $7.8 million request for this program.

In the construction grants area the committee recommended a funding level of $3.4 billion. This is $400 million below the budget request and $800 million below the 1979 level. Members of the committee expressed concern about the unobligated balances in this account and included language in the committee report noting that legislation is currently being considered which will provide a two-tier system of funding. The report further notes that the committee "would be prepared to look sympathetically on a supplemental appropriation which would be designed to restore full second-tier funding" for those States that have succeeded in obligating their full entitlement of funds under this account. Last year, the President announced a 10-year, $45 billion program to help clean up our Nation's rivers and streams. There is no question that we have a tremendous task in front of us and it is important that we resolve any difficulties that may exist in the administration and funding of the construction grants program in order that we may move ahead rapidly.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Within the hazard mitigation and disaster assistance account of the Federal Emergency Management Agency, the committee has provided $6,114,000 and 49 positions for the National Fire Academy. The budget request for the Academy was signed by the President after the House had acted on the bill. The National Fire Academy will conduct courses in fire loss prevention, fire science technology and in other management and technical areas having to do with fire control and loss reduction. Fires in the United States cause almost 9,000 deaths annually and result in property loss of over $20 billion. I personally look forward to the Academy's leadership in this area to reduce the loss and human suffering association with fires of all type, whether accidental or deliberate.

NASA

Mr. President, in a recent article by Arthur C. Clarke, the great science writer, entitled "The Best Is Yet To Come," he makes the following profound and thoughtful observations concerning the future of our space program:

> We have bequeathed the solar system to our children, not our great-grandchildren, and they will be duly thankful. At the very least, this gift will enable them to look back on such transient crises as energy and material shortages with amused incredulity.
>
> For the resources of the universe that is now opening up are, by all human standards, infinite. There are no limits to growth among the stars. Unfortunately, there is a tragic mismatch between our present needs and our capabilities. The conquest of space will not arrive soon enough to save millions from leading starved and stunted lives.
>
> Thus it is all the more urgent that we exploit to the utmost the marvelous tools that space technology has already given us. Even now, few Americans realize that the skills, materials and instruments their engineers devised on the road to the moon have paid for themselves many times over, both in hard cash and in human welfare.

The NASA budget as presented to Congress was a unique one, but unfortunately its uniqueness was due to the fact that there were no new starts recommended for this vital program. The program can stand this perhaps for 1 year, but I earnestly hope that when we are presented with the budget next year it is not again one which includes no new starts.

Mr. President, I am pleased to note, however, that the recommendations adopted by the committee do include items, which although not new starts, are initiatives which will surely demonstrate the truth of Clarke's statement that "the best is yet to come."

The committee's recommendation for NASA is $1.5 million below the budget request, but the committee has recommended some changes in the estimate.

It has included an additional $4 million for the variable cycle engine program which will allow us to begin the demonstration of the variable cycle propulsion concept, which is extremely important not only for the second generation of supersonic aircraft, but also important to subsonic flight. This particular item, which has been strongly supported by the authorizing committees, is the most advanced aeronautical propulsion system ever worked on.

The committee is recommending an unbudgeted $2 million for the multispectral resources sampler, a pointable remote sensing instrument that will obtain high resolution segments of Earth resources data. We need to initiate this in order to minimize the number of satellites in future systems, and this technology will result in an instrument with less complexity and hence lower cost and higher reliability.

We are recommending $4 million for the National Oceanic Satellite System (NOSS). This is a follow up to the SEA SAT program. The system is designed to provide ocean condition data on an operational basis, similar to weather data received from the operational weather satellites. NASA will develop the space system and other agencies, mainly the National Oceanic Atmosphere Administration and the Department of Defense, will provide for the ground system.

The most graphic illustration of the need for the additional $5 million the committee recommends for advance rotorcraft technology is a graph which appeared in the NASA task force report on advanced rotorcraft technology which shows that through 1976 free world helicopter production was 84 percent U.S. designed, whereas the current forecast of free world helicopter production, 1977 to 1983, shows a U.S. design percentage figure of 62 percent. Unless we do something now the Europeans, who have caught up to us in this technology, will surpass us with an obvious adverse effect on our balance-of-payments, and of course, the jobs involved with the production of helicopters.

Mr. President, the technology NASA has developed over the years, as pointed out in Clarke's article, has greatly affected our daily lives. On a very current topics, energy, the committee has recommended $2 million for energy technology, identification, and verification. Simply, this money will be used by NASA to identify technology that they have developed which may be applicable to our energy needs.

Mr. President, because we desire to stay within the President's budget these additions are off-set by reductions to programs which will not be harmed by a minor adjustment. I would like to point out at this point, and emphasize, that NASA's budget was severely cut on its trip through the Office of Management and Budget (OMB). OMB cut the overall NASA request by $208,200,000, including cuts to items added by the committee.

The overall recommendation will provide for the entire request for the shuttle, NASA's major development objective. We are also providing for the continued development of the space telescope, the Galileo mission, and the international solar polar mission.

Mr. President, I would again like to express the hope that future years will be better ones for NASA, and with the 10th anniversary of the Moon walk we will commit ourselves to this program, mainly and especially because of the applications it will have to better our lives on Earth. Let me refer to the account by Armstrong, Aldrin, and Collins on their mission to the Moon when they said:

> It may be that the old astrologers had the truth exactly reversed, when they believed that the stars controlled the destinies of men. The time may come when men control the destinies of stars.

NATIONAL SCIENCE FOUNDATION

Mr. President, if ever there was a time to support basic and applied research, such as is done by the National Science Foundation, now is such a time. I think most of my colleagues have heard from groups, both conservative and liberal, about the importance of basic research. This, of course, is the Foundation's mandate and it is estimated that NSF provides approximately 34 percent of all Federal support for basic research going to academic institutions. In some fields it provides the dominant share, such as 69 percent in ground based astronomy, 60 percent in environmental sciences, and over 50 percent in mathematics and engineering.

Mr. President, more and more we are coming to recognize that the path to solving so many of our problems is research, research, research. I am pleased to report that the committee has recommended virtually all of the administration's requests. It did go along with the House by making a minor reduction in the scientific activities overseas, special foreign currency program, but otherwise this bill calls for full funding.

Mr. President, I know that my colleagues are aware of the good and vital work NSF does so I do not think it is necessary at this time to detail those achievements. Suffice it to say that we must continue our efforts in these areas.

NEIGHBORHOOD REINVESTMENT CORPORATION

The committee has also included an additional $2.5 million over the House allowance for the Neighborhood Reinvestment Corporation. The committee believes that the Corporation's activities in establishing and supporting neighborhood housing services programs and preservation projects has paid significant dividends in the past.

REVENUE SHARING

Mr. President, the committee adopted an amendment which reduces the States allocation of general revenue sharing payments by one-third. The amount of funds involved in this amendment amount to $684 million. It is my position that this action by the committee was a most unfortunate one and I am prepared to offer an amendment to restore these funds. However, the amendment offered in committee is unquestionably legislation and I will be making a point of order against it on the basis that legislation is not in order on a general appropriations bill. Subsequent to that time I will have more to say about this issue.

VETERANS' ADMINISTRATION

The bill contains $20,316,624,000 for the various programs of the Veterans' Administration. This is $70,425,000 above the President's budget request. In the medical care account the committee has recommended concurrence with the House figure of $5,671,119,000. This amount will provide the funding for an additional 3,800 personnel during fiscal year 1980. At the end of fiscal year 1978 the VA staffing in the medical care area amounted to approximately 185,000 person years. At the end of fiscal year 1979 it is estimated that this will drop to around 181,000. This result is an actual decrease of around 3,700 staff years. The committee's action in providing the 3,800 staff years will serve to offset this reduction. The VA intends to use 1,500 staff years to remedy staffing deficiencies in their field operations, 1,000 staff years to provide additional services where workloads have increased, and 1,300 staff years to support new facilities.

The committee has also provided an additional $1,823,000 over the House allowance for the vet rep program. The committee believes that the outreach services provided through this program have been particularly useful in informing veterans as to their eligibility for benefits.

The bill also contains $75,090,000 for the VA replacement hospital in Baltimore, Md. In its report the committee voices it's concern about the future of the Fort Howard medical facility in Baltimore County. The report states "In light of the projected increase in the average age of the veteran population, the committee urges the VA during this interim period to continue to review the needs of the health care delivery system for veterans in the Baltimore area to insure that the VA is appropriately providing for it's health care problems with an eye toward keeping the Fort Howard facility open." I believe that in these days of rising costs, and increasing demand for services, it is important that we make full use of existing facilities as a way of meeting our future needs.

Mr. President, I will reserve the remainder of my time.

Mr PROXMIRE. Mr. President, I will reply just very briefly to my good friend from Maryland.

No matter what his arguments may be about how this is a fiscally responsible bill as it comes to the floor, and it is almost precisely on target with the budget resolution, he overlooks the fact that supplementals, which we simply cannot say no to—and I challenge my good friend from Maryland to agree to say he would now oppose—are going to come up, and they are going to raise by $1.1 billion the amount provided in this appropriation.

The expected requests are for veterans' benefits, for disaster relief and for pay raise costs. They are, as I say, inevitable; they are certain, they are sure, they are going to come, they are going to be affirmed, and the result is we are going to be nearly $1.1 billion over the budget resolution.

If, on top of that, the amendment which the Senator from Maryland indicates he is going to offer to eliminate our reduction in revenue sharing—this bill contains a $684 million cut in revenue sharing—is agreed to, then we will be about $1.7 billion over the mark we promised the country about 2 months ago we would try to adhere to in this one budget.

I think it has been the experience of Members of the Senate that this is typical. I have talked to the Senator from Maine (Mr. MUSKIE) about this, and the Senator from Oklahoma (Mr. BELLMON), and they are extremely concerned. I think most Senators have received a letter from them calling their attention to what is happening here.

I think the Senator from Maryland has made a marvelous argument for the programs funded by this bill. I am enthusiastically with him on this. We would like to be more generous. We would like to go higher if we possibly could. But I think we have to recognize we have a very clear responsibility to this country with respect to inflation. The overwhelming majority of the American people feel, and I think they are right about it, that excessive Federal spending is one important element—not the only one, but one important element—in the rise in prices, in keeping them as high as they are, and in keeping Government big, burdensome, and often as inefficient as it is.

For that reason, Mr. President, I do hope we will resist any additional burdens that will be imposed, and I hope Senators will do their best to support whatever measures are offered—if there are such measures—to reduce what is in the budget.

Incidentally, I expect to offer an amendment to do that. I am very hopeful that I can win majority support in cutting $700 million for assisted housing. We were not successful in the committee, and it is going to be an uphill battle on the floor. That is all the more reason why it is very important that we resist the effort to restore the $684 million the committee cut in revenue sharing.

Mr. President, I reserve the remainder of my time. I think the Senator from Maryland may want to call up his amendment now or take some other action with regard to revenue sharing.

Mr. MATHIAS. Mr. President, first of all let me just say to my chairman and to other Members of the Senate that we are all concerned about the necessity for fiscal restraint. But I think that the distinguished Senator from Wisconsin is stating the case in too stark terms. He says we are below but close to the first concurrent resolution, and he is, of course, absolutely right. We are $44 million below the first concurrent resolution, which, in dealing with figures of this size, is about as close as you can get to complying with the strictures of the resolution.

But what he does not explain to the Senate is that this is the first concurrent budget resolution. The Budget Committee is pragmatic. It understands that not all of the assumptions it makes when it begins a budget cycle are necessarily going to work out, and in this case, as I have already pointed out, the assumptions did prove to be in error, and therefore, in accordance with the regular practice of the Budget Committee, there will be another concurrent resolution somewhere later in the year, and it will contemplate the very needs which the Senator from Wisconsin has accurately predicted will arise.

I agree with him absolutely that there are going to be some other means which will arise in the general areas that are covered by this legislative bill, and the Budget Committee will assess those needs, and the Senate will then pass upon it, and then we will be at that time under a new legislative mandate to address the provision of the funds to meet those needs.

So while I think it is a prudent thing always to look ahead and see what kind of problems lie down the road, I think you do not want to look so far ahead that we become paralyzed and not be able to deal with the problems that are immediately ahead of us.

We do not want to be like the farmer with the load of hay who saw a bridge way, way down the road that looked so narrow to him that he just stopped the hay wagon then and there because he was sure he could never get that big wagon through that narrow bridge. Had he gotten up to where he saw it in close view, instead of in distant perspective, he would have seen there was plenty of room on that bridge for two or three hay wagons to pass without any difficulty.

I think that is the kind of trap that we want to avoid here today. Let us deal with the problems that are before us now. And there are real problems. The cities of America are, I think, making gallant and a valiant effort to revitalize middle America. Certainly I am extremely proud of what the city of Baltimore has done, and largely on its own initiative. The ideas and the creativity have come largely from within the city. The mayor of Baltimore, Bill Schaefer, has been largely the sparkplug for that revitalization of Baltimore.

But I say to you, Mr. President, the cities of America cannot do it alone. They have to provide their own initiative, vitality, and creativity, but they need the Federal Government to help bring those ideas to realization, to make it work.

That is all I am suggesting we should be doing in this bill: providing that absolutely vital element of help to make it work, so that the cities can do what they need to do for themselves.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I would like to call to the attention of the Senator from Maryland and other Senators the results we have had with the fantastic increase we have provided in funds for our cities.

In the last 20 years, the Federal Government has increased the amount of spending in cities from $2 billion a year to $85 billion a year. A Brookings Institution study indicates that back in 1957, the Federal Government contributed $1 for every $100 the cities raised themselves from property taxes and other revenues. Today the Federal Government contributes almost as much as the cities raise themselves.

The Senator might ask, "Well, what is wrong with that, if our cities are doing well?"

A study by Dr. Richard Nathan of the Brookings Institution indicated, just about 6 weeks ago, that on the basis of three objective criteria, jobs, housing, and the cost of living, the cities are doing worse.

Of course, that is not universally true. The Sun Belt cities, such as Houston and some others in the southern part of our country, may be doing a little bit better; but the overwhelming majority of the cities, including the cities of the Northeast, the Midwest, and elsewhere, are doing a good deal worse.

We are not solving this problem by just throwing more and more money at the cities. Some people may argue that the cities would have been doing even worse if we had not spent the money. I am not sure that is true. But we should be very hesitant about continuing or increasing the community support programs funded through this bill. I am not going to offer an amendment to change the UDAG figure. Perhaps other Senators will. But this bill, as I have pointed out, provides a 70-percent increase in 1 year for UDAG, from $400 million to $625 million.

We are 70 percent over the House in the UDAG program. That is a mammoth increase in spending for our cities in that particular area. I think we ought to put in perspective this notion that we are going ahead with a simpatico program that is going to be of help. The program has hurt the taxpayers and increased inflation, but it has not done very much for our cities. It is not working.

We need some hard, thoughtful, intelligent programs that do not cost so much, necessarily, but will do the job. If we simply move ahead as we have in the past, and give more and more money to these programs that are not working, it seems to me we are not performing as we should.

If the Senator wants to offer an amendment to actually raise the huge amount we are spending in our cities, I will be interested in hearing his proposal. I assume that is the first amendment we will have up.

Mr. MATHIAS. Before we get to that, the Senator has quoted Dr. Richard Nathan. He is a very persuasive witness, in my book; I have known him for many years, and I have high regard for his knowledge. I do not think I would have any quarrel with his conclusions, because it is obvious that cities in many parts of the country are in trouble.

Again I would like to point to the example of Baltimore, where we have had a maximum of local initiatives with Federal assistance, which is working out in a very successful way. Not everything is perfect by a long shot, but there is a remarkable movement in Baltimore; and I will take this opportunity to invite the Senator from Wisconsin to come to Baltimore with me, and we will take a look at some of those projects. I would remind the Senator that Baltimore is the gastronomical capital of the Union; we will have dinner, we will have Chesapeake Bay seafood, and the Senator will see, I think, that there is a good urban atmosphere developing in the city of Baltimore, which is the thing that has been missing in American cities for so many years.

But why has it been missing? Consider the magnitude of the problem that the cities of America have faced. There has been a migration in this country of between 20 million and 30 million agrarian workers, who have come to the cities of the North. This is one of the greatest migrations of human beings in the history of the human race.

There has been very little written about it; oh, there have been some stories about the "chicken bone special" which runs on a regular run from the South to the cities of the North, but we have had one history. Twenty million to 30 million of the greatest human migrations in history. Twenty million to 30 million people who, over a relatively short span of time, have moved from the agrarian South into the urban North, and this has presented the cities of this country with social and economic strains that were incredible. I think, as historians look back on this period of American history, they are going to wonder that the cities did as well as they did. It has been an extraordinary kind of scene.

So I think this is not the time to cut back on our support for cities, but rather to encourage them to go forward.

The Senator has raised the question of UDAG. I think it is an interesting case study in exactly the sort of thing we are talking about. If you put in $275 million for the urban development action grants program, you get a very different kind of result because the leverage in UDAG is about 6 to 1. For an investment of $125 million, we could get 75 additional projects, but for $275 million we get 175.

What does that mean in terms of stimulation of the economy? For $125 million, we would provide leverage of $775 million in private investment, but for the larger sum we would get $1.7 billion in private investment. That would mean if we provide the full request of $275 million over the House amount we would create about 50,000 additional jobs, produce over 17,000 new or rehabilitated housing units. This is the very kind of encouragement that the cities need in terms of private investment. This is what I think we should provide for in the appropriations process.

Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time to the Senator?

Mr. PROXMIRE. How much time does the Senator wish?

Mr. MOYNIHAN. Ten minutes will be more than enough.

Mr. PROXMIRE. I yield 10 minutes. I am sure the Senator will support my position. I yield 10 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 10 minutes.

Mr. MOYNIHAN. I thank the Chair and I thank our distinguished chairman, who has been such a good friend of my city of New York and of cities throughout this Nation.

I rise to suggest that 10 minutes is more than sufficient for the purpose that I require, which is to say that I will be supporting the amendment restoring revenue sharing funds which our friend, the distinguished senior Senator from Maryland, has submitted on behalf of a group of us.

I would like to make a simple point, which is that one of the things which we do not do well in our country, at least in some respects, at this level of Government, is staying with an adopted policy.

A most recent example of this kind of almost fecklessness is that we have no more than resolved that we will reduce the Federal deficit to a manageable or nonexistent level over a period of 2½ years and that we will restrain new initiativeness, but suddenly we hear talk of a tax cut coming from both sides of the aisle.

Another thing we do not do well is when we experiment, as we frequently do, and we have been experimenting for most of American politics, we have great difficulty undoing or discarding, or accepting, experiments that do not succeed and letting them go.

Mr. MATHIAS. Will the Senator yield at that point?

Mr. MOYNIHAN. I yield.

Mr. MATHIAS. I think that is an extremely important point.

If a great corporation tries a new product line and it fails, the public does not buy it, it does not make economic sense, it is just written off in a quarterly report as a line that did not sell and there is no big deal about it. They say, "We are sorry, the dividend is off a few pennies this quarter but we are going to do other research, we are going to go on with other things." Nobody gets terribly excited about that. It is done by General Motors, General Electric, and Westinghouse. Why is there reason to believe that the Government, which is not any more immune from making error than the corporate world, will not also have this kind of experiment failure?

Mr. MOYNIHAN. There is no reason at all, and it does. The great problem in Government is that experiments, once begun, tend to perpetuate interests which far exceed what they should be. A good example is the flood plain management of the Federal Government. It has been disastrous for several years, but it seems likely to go on for a full century of calamity. But the most bizarre thing is that when we do come upon a program that does work and works very well, some almost perverse instinct tells us this is the place to cut whenever the mood is upon us to reduce expenditures.

One of the reasons revenue sharing is under attack is that it works. It is not attacked, per se, because it works, but, rather, because it works, it is attackable. Let me explain this in a simple irony. Revenue sharing is simple, it is easy to understand, its benefits are conspicuous and direct, and it has created no bureaucracy. There is no bureau of revenue sharing. It is very small. It takes up about 5 percent of the time of an Assistant Secretary of the Treasury, who does it beautifully.

It has not created a large Federal establishment. One more harmonious fact: Because it was done for the precise reason that we did not want more large Federal establishments to transfer resources, it is widely accepted. It is beautifully efficient, and, therefore, it is attackable, unlike those endless prehistoric bureaucracies that inhabit the stygian glooms of the lower reaches of our departments like some still persisting paleolithic organism.

Remember why we developed revenue sharing. There were two reasons: One, we found that it was the nature of the Federal fisc and the progressivity of the income tax that for every 1-percent increase in GNP the Federal revenues increased by about 1½ percent. That 1-percent increase in GNP generates about a 1-percent increase in demand for government around the country, 1 percent more cars meaning 1 percent more roads, that kind of thing. But the revenues of local governments and State governments often fare at no more than unity and sometimes fare at less than unity. So as success drew power to Washington the Federal system was getting out of balance by virtue of its very success.

So we hit upon revenue sharing as a means for returning some measure of it. It has been successful. It ought not to be held against this measure that it has been successful. It will be held against us, if we should now, in a wholly inappropriate way, decide to discontinue or cut this program. We are not going to discontinue it.

I would remind my friend, the Senator from Wisconsin, that any number of State legislatures have already closed out the year and have gone home, and they have put in their budgets money that was expected under revenue sharing. It attains a condition of entitlement that the State and local governments know is coming to them. If it turns out to be a sum in response to whatever erratic enthusiasm seizes the Appropriations Committee, we will have spoiled one of the finest instruments ever sustaining federalism that was achieved during this decade. We do not have that much to show for the 1970's. For heaven's sake, let us not wreck one of the really fine pieces of intergovernmental exchange machinery which we have created. It seems to me to be an important point.

Mr. President, I am pleased to join Senator MATHIAS in the sponsoring of the amendment to restore the full funding of general revenue sharing to the States. I believe the action taken in the Appropriations Committee to be hasty and untimely. Hasty because the Senate Finance Committee, which has jurisdiction over the authorizing legislation, has not held hearings on this matter. These hearings are to be held in 1980, when the current authorizing legislation for all revenue sharing, not just States' share, expires. At that time, the entire program should be evaluated.

The action is also untimely, because we will be indiscriminately reducing payments to the States just at a time when the economy is heading toward a recession. It is well known that because of their dependence on sales and real estate taxes, States, and localities suffer more during recessions. Indeed, many of our cities have not yet recovered from the last recession, and look to both the State and Federal Government for assistance in maintenance of essential services. In recognition of this, just this week the Finance Committee reported out a bill establishing a standby countercyclical revenue sharing program to provide States and cities with additional funds when the recession occurs. In taking this action, the Appropriations Committee will have undone the actions of the Finance Committee, leaving many areas little or no better off than they were.

The justification for the committee's action is the tax reductions enacted in 19 States since January 1978, and the budget surpluses that some States are alleged to have. However, for many States, including my own, whose tax rates are among the highest in the Nation and which rates inhibit local economic growth and development, such tax cuts were long overdue. A tax foundation study notes that State and local income tax collections rose 59 percent between 1971 and 1976.

Further, although the Federal income tax bite has remained relatively constant over the last two decades, State and local income taxes measured as a percentage of personal income has tripled. Concurrently, the States have become more dependent on revenue sharing. The States got 23 percent of their general revenues from the Federal Government prior to the enactment of general revenue sharing. By 1976, this figure was up to 28 percent. It is logical to conclude that without this revenue sharing, there would have been even further increases in State income taxes.

The committee report also suggests that States are awash with billions of surpluses while the Federal Government is impoverished. This is a myth that would make CPA's shudder. At least part of this surplus arises from differences in bookkeeping methods. Many States are constitutionally required to maintain a balanced budget in their general funds. Hence, surpluses in these funds are a common phenomenon. At the end of its 1978 fiscal year even New York had a surplus of $5 million in this fund. However, the States also have capital funds, where all their debt is reflected. The debt does not count as an offset to the surplus that these States show. For New York, this was $4 billion. How much would our Federal deficit be reduced, if not eliminated, if its accounting method paralleled that of the States—if debt incurred to finance Federal buildings and highways, for tanks and destroyers, for planes and missiles, were not counted in our deficit.

All of this was confirmed by a January 1979 study of the Joint Economic Committee which concluded:

> The surplus that now exists in State and local budgets is not all it's cracked up to be, once appropriate adjustments are made in the data, and even then it is probably a transitory phenomenon * * * the surplus always seems to bounce around in the short run. It may rise today, but it seems likely to fall tomorrow. This is another reason for not altering policy judgments of underlying fiscal or economic needs because of short-term bulges in the surplus.

Mr. President, I urge us for once not to act precipitously in these matters and to defer any decisions until the matter can be fully explored.

I thank my friend from Wisconsin for his close attention. He knows that we are right in principle. I hope he can be persuaded to follow us in practice.

The PRESIDING OFFICER (Mr. FORD). The Senator from Maryland.

Mr. MATHIAS. Mr. President, following the eloquent remarks of the distinguished Senator from New York, I think it is appropriate to put to the Senate the issue that he has been illuminating. That is the question of the level of revenue sharing. This is a critical question for Governors, for State governments, for people all over the country. It is a critical question because there has been a certain degree of reliance upon the levels of revenue sharing. To alter those levels at this point would be to shake confidence in the whole system of revenue sharing and in the philosophy which induced us originally to create the system of revenue sharing.

I know it can be said, and I predict

that my friend from Wisconsin will say it, that the Federal Government is running a deficit and that the State governments are running in the black, and, therefore, they ought to be helping us rather than the Federal Government helping them, I think you have to be very, very careful about that argument, because that can be an apples-and-oranges comparison. The method of accounting can make a very great difference as to whether they use red ink or black ink.

The Federal Government, prudently, discounts its capital investments in preparing its annual fiscal reports. The enormous public works projects, of enormous value, incalculable value, acquired every year by the Federal Government do not show up as revenues or as increases in our revenues. Yet practically every State in the Union—I cannot testify to every one of the 50, but I understand it is common State practice to include the capital side of the account in calculating whether there is or is not a State deficit.

If the States were to operate on the Federal principle or if the Federal Government were to operate on the State principle, I think we might find a very different view of what the real fiscal situation of the country is. So I do not think we can say, just blithely, that there is no need for revenue sharing in the States.

But even if that argument would hold water, to suddenly and drastically reduce revenue sharing would be, a breach of faith with the people of the country who have been led to expect this as an ongoing program.

That does not mean we cannot change it. It does not mean it cannot be cut off totally some day if conditions require that it be cut off. But it should not be cut off at a point of time when there is not adequate lead in which local and State governments can prepare themselves for other means of financing the vital services of government.

We have two means of approaching this problem, Mr. President. One is by way of an amendment, which Mr. BAKER, Mr. MOYNIHAN, Mr. RIEGLE, Mr. BRADLEY, Mr. JAVITS, Mr. PERCY, Mr. MCCLURE, Mr. GARN, and Mr. HAYAKAWA have all indicated they are anxious to cosponsor. However, it occurs to me that there is another way to approach it, which is preferable, from a parliamentary point of view. That is to note that the language by which the Senator from Wisconsin would reduce revenue sharing is subject to a point of order.

I think we should address ourselves to that point of order and by supporting the point of order, by opposing any question of germaneness which the Senator from Wisconsin may raise, we shall negate his reduction of revenue sharing and we shall restore the sum of $684,000,000 to the revenue sharing fund, a sum which is vital to the operation of the States of the Union.

Does the Senator from Kentucky wish some time?

Mr. PROXMIRE. Mr. President, I yield 1 minute to the Senator from Kentucky.

Mr. FORD. Mr. President, I am compelled to ask for a minute to express my strong support for the amendment which restores the $684 million which the Senate Appropriations Committee cut from the general revenue-sharing allotment to the States. I join my distinguished colleague from New York when he says we always want to cut from the projects that are working and continue those which are not. I say that this is one that I believe is working. I support his remarks.

I certainly can appreciate the rationale behind the recommendation for this spending reduction, because there is not a Member of this body who is not attuned to the demand for fiscal responsibility in the expenditure of Federal tax dollars.

Time and time again, I have joined in supporting proposals that would help us accomplish that goal. But, Mr. President, this time I cannot go along because this is one of the few Federal programs that I can confidently say is working and fulfilling the expectations of those who created it.

As Governor of Kentucky from 1971–74, I saw how this program, through both the local and State allotments, filled many vital needs in community after community across my State. There are several other former Governors in this Chamber today—and they know as I do that the Federal revenue sharing program works because it shifts the decisionmaking process back to the local level where it should be. These are the people closest to the situation. They know what their commmunity goals and needs are—and they do not need Washington stepping in and pulling rank.

The general revenue sharing program is one program where the average citizen feels that he is receiving a good return on his Federal tax dollars. Here we have a program with no Federal strings attached and no Federal bureaucracy with which to deal.

This program has been immensely successful and I, for one, do not want to see it weakened. Even in the midst of this so-called austerity movement, I continue to support the general revenue sharing program because I believe in the concept on which it is based.

Instead of aiming our budget-cutting scissors at those programs which are productive and worthwhile, we should be paring those many other programs which have been shown to be riddled with fraud, mismanagement, and waste.

Shortsighted budget cuts are not the answer to our fiscal dilemma. Too many good programs—like Federal revenue sharing—will suffer irreparable harm.

Finally, Mr. President, let me say that approval of this amendment will not mean an increase above the fiscal year 1979 appropriations. Approval of this amendment simply will mean that the program will continue to be funded at current levels, in concurrence with the House of Representatives as well as the administration.

I urge that my colleagues show their support for the Federal revenue sharing program by casting their vote in favor of this amendment.

Mr. MATHIAS. Mr. President, I thank the Senator from Kentucky for his support, which has extra force, because of his experience as Governor of Kentucky.

Mr. PROXMIRE. Mr. President, I know Senator MUSKIE and Senator RIEGLE both would like to speak as soon as they can.

Mr. MATHIAS. And Senator BAKER.

Mr. PROXMIRE. They all have demands on their time. And Senator BENTSEN wishes to speak, too. Could the Senators indicate how much time they want so we can make it as convenient as possible?

Mr. RIEGLE. Seven minutes in my case.

Mr. MUSKIE. I think I can perhaps do mine in 7 minutes or less. This is an opening statement designed to put this bill into context with the budget resolution. I think that, given the nature of that relationship——

Mr. PROXMIRE. Will the Senator from Michigan permit the Senator from Maine to go ahead, because I think his comments relate to the overall bill, not to this specific amendment.

Mr. RIEGLE. Yes; I think it makes good sense for him to go ahead.

Mr. PROXMIRE. I yield whatever time he may require to the Senator from Maine.

Mr. MUSKIE. Mr. President, I thank the distinguished floor manager of the bill and also Senator RIEGLE for their understanding. Senator RIEGLE is, of course, a member of the Budget Committee and Senator PROXMIRE has been very supportive of the objectives of the budget process.

Mr. President, the bill as reported by the Appropriations Committee provides $71.2 billion in new budget authority. Outlays associated with the bill total $48.1 billion.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution for fiscal year 1980. The Appropriations Committee has allocated $71.4 billion in budget authority and $48.5 billion in outlays to the HUD-Independent Agencies Subcommittee.

The funds provided by H.R. 4394, plus other action completed or underway, put the subcommittee $0.2 billion under its section 302(b) budget authority allocation and $0.4 billion under its outlay allocation. However, possible later requirements which can be anticipated, could boost the subcommittee above its 302(b) allocation by $0.9 billion in budget authority and $0.6 billion in outlays. This outcome would seriously threaten the targets in the first budget resolution.

Mr. President, I ask unanimous consent that a table showing the relationship of this bill and possible later requirements be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD as follows:

H.R. 4394, HUD/INDEPENDENT AGENCIES APPROPRIATIONS BILL—RELATIONSHIP TO SUBCOMMITTEE ALLOCATION

[In billions of dollars]

	Budget authority	Outlays
Subcommittee sec. 302(b) allocation	71.4	48.5
Action completed or underway		17.6
H.R. 4394	71.2	30.5
Amount over (+) or under (−) subcommittee allocation	−.2	−.4
Possible later requirements:		
Function 450: Disaster relief	.2	.1
Function 700: Veterans compensation cost-of-living increase	.7	.7
Unallocated: October 1979 pay raises	.2	.2
Total, possible later requirements	+1.1	+1.0
Possible amount over (+) or under (−) subcommittee allocation	.9	.6

(Mr. FORD assumed the chair.)

Mr. MUSKIE. The details are spelled out in that table, Mr. President, and I shall be glad to go over them specifically, if Members wish.

Because of the potential threat of this bill to the budget targets, I must oppose it as reported by the Appropriations Committee. I will vote for it only if amendments are adopted by the Senate which reduce the bill's cost enough to eliminate the subcommittee's potential overage.

I understand that the distinguished floor manager of this bill (Mr. PROXMIRE) will sponsor an amendment to reduce the funding for assisted housing by $0.7 billion—to the level assumed in the first budget resolution.

While this amendment will not completely eliminate the HUD Subcommittee's potential budget overage, it will substantially reduce it. Therefore, I support this amendment and urge all Senators to do the same.

Furthermore, Mr. President, I urge Senators to join me in opposing any amendments to increase funding for any program in this bill unless such amendments include compensating reductions in other programs.

The likelihood that the HUD/Independent Agencies Subcommittee will exceed its section 302(b) allocation leads me to point out, as I have in connection with previous appropriations bills, that we now have several appropriations subcommittees that are likely to exceed their 302(b) allocations.

Further, it is likely that other subcommittees will exceed their allocations. And it appears very unlikely that the remaining subcommittees will have sufficient surpluses within their 302(b) allocations to compensate for these excesses.

It now appears that the Appropriations Committee may exceed the amount allocated to it in the first budget resolution by $6 billion in budget authority and almost $5 billion in outlays when all the regular appropriations bills and the fiscal year 1980 supplemental requirements are taken into account. As a result of these appropriations excesses, the fiscal year 1980 deficit may increase by almost $3 billion.

I recognize that this situation is to a large degree caused by the failure of other committees to realize savings assumed in the first budget resolution.

For example, $0.2 billion of the potential HUD Subcommittee overage is due to the failure of the Veterans Affairs Committee to report legislation reforming veterans entitlement programs. The first budget resolution assumed savings of this magnitude from such legislation.

As a result, the Appropriations Committee must provide $0.2 billion in funding that was not included in its crosswalk under the first budget resolution.

Mr. President, I have sent letters to other committees reminding them of their responsibility to report legislation reducing the cost of programs in their jurisdiction.

However, the Appropriations Committee cannot be held harmless for the failure of authorizing committees to achieve savings in entitlement programs.

I can understand the reluctance of the Appropriations Committee to act as the fall guy when other committees do not do the job called for by the budget resolution. But the Appropriations Committee alone has the power to do the job shirked by other committees.

For example, if the budget resolution calls for savings in an entitlement program which are not reported by the authorizing committee, the Appropriations Committee has two choices.

First, it can find compensating reductions in more directly controllable programs by including legislative language in appropriation bills.

The committee took this latter course of action in this bill in reducing the cost of the general revenue sharing program. While I generally oppose such action because it invades the prerogatives of authorizing committees, I regretfully come to the conclusion that no other course of action is available if authorizing committees refuse to carry out their responsibilities to enforce the Congressional Budget.

Mr. President, I wish to point out that two programs which I sponsored and I have strongly supported over the years would be funded in this bill at levels which I consider undersirably low.

The first of these programs is the general revenue sharing program, which the full committee cut by $0.7 billion. In my mind such a reduction amounts to reneging on a Federal commitment to the States.

The second program is the EPA wastewater treatment construction grant program. This bill funds this program at a level $0.4 billion less than was requested by the President and assumed in the first budget resolution, and $1.6 billion less than the estimated need when we last reauthorized the program in 1978. This level of funding could seriously slow our national commitment to clean up our Nation's waterways.

However, Mr. President, my strong concern over the proposed appropriation level in this bill for these programs is offset by my even stronger concern over the tight budgetary situation in which the Congress finds itself. While I regret that important and needed programs such as State revenue sharing and wastewater treatment plants should fall victim to spending excesses elsewhere in the budget, I will not attempt to add to the already too high fiscal year 1980 budget deficit by proposing an amendment to increase the funding for these programs.

As I have said time and time again, bringing Federal spending under control and balancing the Federal budget will not be easy. It is not simply a matter of cutting out a few programs that are clearly unnecessary or wasteful.

It means making deep and painful sacrifices in each and every area of Federal activity. Each of us here must accept such sacrifices in programs which we hold near and dear, or we will never get this budget under control.

One closing observation, Mr. President. Next week the Budget Committee begins markup of the second budget resolution. CBO's estimates indicate already that budget authority will be $9 billion in excess of the first budget resolution, not counting these excesses which I have been talking about here this morning.

It looks as though the deficits of the second budget resolution will approach $35 billion to $40 billion. The Senate will remember that after the conference on the first budget resolution we had reduced the deficit to $23 billion. We are unlikely to be able to reduce the deficit to a figure below that of 1979, the way we are going, and the way the economy is headed.

So, Mr. President, I want Senators to understand, they may challenge my numbers, they may challenge the assumptions, they may disagree with my conclusions, but I would find myself remiss if I waited until after the fact, after markup of the second budget resolution, to inform the Senate our deficit had climbed $10 billion to $12 billion.

Mr. President, I think the Senate would find that unacceptable. I think they would hold me responsible for not warning them in advance.

This constitutes such a warning, and if it means I must sacrifice my vote on two programs to which I have made a deep commitment over many years, so be it.

I must not only warn the Senate, but I must also set an example. I am going to do my best in the consideration of this bill before us today.

What I have had to say is not denigration of the position of Senator PROXMIRE. He is as unhappy with aspects of this pending bill as I am, I take it, and he is going to offer an amendment to reduce the housing by $700 million. That is an expression of his concern which parallels mine.

I simply want to indicate my support for that amendment and my effort, wherever my vote can make a difference, to hold down any increases in the present bill and to support decreases.

Mr. PROXMIRE. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. PROXMIRE. Mr. President, I warmly commend the Senator from Maine for doing what he has done so often. I hope and pray what he is saying will be heeded by Members of the Senate.

What he is telling us, as I understand it, is that unless we hold down spending in this bill, unless we find ways to reduce it, in fact, we are going to be about a billion dollars over the budget resolution which we passed only a couple of months ago.

Furthermore, that means we are going to deepen the deficit for the coming year. That means, far from being in any position to balance the budget or fight inflation by holding down spending, we will feed the fires of inflation, contradicting what we have done.

It is very painful, as the Senator points out, to make these reductions. All of us favor the programs in this bill. But I think what the Senator from Maine is telling us is right on target.

I hope Members recognize that however important it is for us to provide assistance for our cities, assistance for States and localities, and so forth, that our No. 1 priority is to find a way of fighting inflation, of holding down spending reasonably, and coming in with a fiscally responsible bill.

Nobody in the Senate, nobody in my knowledge, certainly, in the recent history of the Senate, has contributed more to this debate in a responsible way than the Senator from Maine. I think we are all in his debt for the statement he has just made.

Mr. MUSKIE. I thank my good friend from Wisconsin.

Mr. MATHIAS. Mr. President, I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Mr. President, I strongly support this amendment to restore full funding to the general revenue sharing program.

The bill now before the Senate would provide $684 million less than State governments are entitled to under the Intergovernmental Fiscal Assistance Act of 1976. That would mean that the general revenue sharing grant going to each State would be cut by one-third.

That cut was not proposed by the administration. It was not assumed in the first budget resolution that passed the Senate, and is not required by the first resolution conference agreement.

This cut was not approved by the House. It was not recommended by the Senate Appropriations Subcommittee, and it should be rejected today by the full Senate.

Mr. President, the Senate in recent months has been made very aware of the need to hold down Federal spending. Inflation remains a dangerous problem. It is important that Congress help cool inflationary expectations by showing a steady, long-term commitment to reduce waste and restrain spending. But we send out the wrong signals when we reduce the Federal deficit with rash, unexpected spending cuts that pass off the problem to others.

Mr. President, it is clear to everyone that the general revenue sharing program presents a very tempting target. At $6.9 billion, it is a big chunk of the Federal budget. Many in Congress have opposed it because it is "no strings" assistance. Many of our colleagues in Congress also resent the fact that some State and local officials have made cheap shot attacks on Federal deficits while their own budgets are balanced by the Federal grants they receive and by the way they keep their books. But this cut is an unjustified and gratuitous slap at State governments. The arguments for making this cut at this time are not sound.

First, Mr. President, it has been argued that the cut is necessary to remain within the first budget resolution targets. I would remind my colleagues that during the first resolution markup the Senate Budget Committee considered the possibility of a cut in the State share of general revenue sharing. The Budget Committee and then the full Senate adopted targets for function 850, mission 1 that would accommodate full funding of general revenue sharing. The House cut $2.3 billion from that mission, largely as a reaction to the move for a balance-the-budget amendment to the Constitution. The conference agreement essentially dropped the House position but assumed a $0.4 billion reduction in general revenue sharing.

Everyone was aware, Mr. President, that such savings were unlikely and could only be realized if the Finance Committee began to review and amend the Intergovernmental Fiscal Assistance Act this year, rather than when the law is due for reauthorization in the next session of Congress. The Finance Committee has not recommended amendments to this entitlement legislation. The impact of this cut has not been properly considered.

Moreover, as has been explained repeatedly in this Chamber, the budget resolution does not include line item decisions. The Appropriations Committee is already straining its first budget resolution allocation.

There are also possible later requirements that could cause the first resolution targets to be breached. But the first resolution does not require any specific cut. In fact we have a second resolution precisely because the Congress has a need to take a second look and consider these later requirements in light of later developments. The Budget Committee will begin to take that second look only 3 days from now.

This cut, therefore, is not required by the first budget resolution.

Second, Mr. President, it has been argued that this cut would give State government advance notice that they should not routinely build revenue sharing funds into their budgets beyond fiscal year 1980. However, the timing could hardly be worse for such a signal.

The cut is too early. We do not yet know how Congress will act on the reauthorization of general revenue sharing. Current law could be changed in many different ways. I, as one Senator, would prefer to have the fiscal assistance targeted better where it is needed. The program could be expanded, it could be reduced.

Hearings and debate on the reauthorization will properly give State and local budget officials advance notice of likely changes.

But this cut is also too late. By the middle of next week, 43 State legislatures will already have adjourned. Most State budgets have already been developed and enacted. A $684 million reduction in general revenue sharing funds would throw many State budgets into a deficit. That is not permitted by the States' constitutions.

I know that my own State of Michigan has built a carefully balanced budget that reflects months of planning and debate. The bill now before us would remove $32 million in revenues from that budget. Provisions of the State constitution would prevent those amounts from being raised elsewhere and would cause other imbalances in the budget. Program management would be disrupted.

It is clear that many other States would be forced into similar problems.

I believe it would be particularly unwise for Congress to make this cut now that evidence of a recession is beginning to emerge. State and local officials are increasingly concerned that revenues may fall below and expenditures may rise above projected levels. A large unexpected cut in general revenue sharing could trigger hasty decisions throughout the State and local sector that would complicate the efforts of Congress to maintain a measured, moderate Federal response to the recession.

Third, Mr. President, it has been argued that large surpluses in the State and local sector of the National Income and Product Accounts indicate that State governments can easily sustain an across-the-board cut in their general revenue sharing receipts. That argument could hardly be more misleading.

It is misleading because the State and local sector does not now have a large surplus. After social insurance funds are excluded, the fiscal position of State and local governments did swing from a deficit of almost $8.3 billion in the first quarter of 1975 up to a surplus of about $15.8 billion in the fourth quarter of 1976. The Bureau of Economic Analysis estimates:

> State and local governments will remain in surplus on the NIPA basis, but only because of the surpluses generated by the social insurance funds. The all-other-funds measure, which probably recorded a small deficit in the fourth quarter of 1978, will record a larger deficit in the first quarter of 1979, and remain in deficit throughout the year.

The argument is misleading because the NIA accounts cannot be used as a measure of State government fiscal health. The NIA accounts are based largely not on reports from individual governments, but on statistical projections of national data. Much of the base data is 2 to 3 years old, and NIA estimates must often be revised substantially as more reliable data becomes available. Initial estimates of State and local purchases in calendar 1975 were almost $8 billion too low.

A surplus of other funds in the NIA State and local government sector does not necessarily indicate that these governments have excess resources. The NIA differ from operating budgets in important ways. Even a financially distressed government can show a surplus calculated on an NIA basis.

It increases its surplus when it makes

sharp cuts in construction because of a reaction to the coming recession, adverse bond markets voter resistance to bond referenda.

A distressed government increases its surplus when it tries to repay previously heavy borrowing or tries to return to return to prudent levels of financial reserves. These are priority uses of funds by governments in anticipation of a recession or inflation although they are not counted as expenditures in the NIA.

A distressed government also increases its NIA surplus when it makes cuts in services and increases in tax rates. During the recession some of the most hard-pressed governments were forced to take measures that improve their 1976 and 1977 finances but may be damaging in the long run.

Finally, the argument is misleading because there are sharp differences in the fiscal health of States. I ask unanimous consent to have printed in the RECORD at this point a table that shows the fiscal year 1979 operating funds for each of the 50 States.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE GENERAL OPERATING FUND RESOURCES, EXPENDITURES AND BALANCES, FISCAL YEAR 1978

[Dollar amounts in millions]

State	1978 resources (including 1977 balances forward)	1978 actual expenditures	1978 actual balance [1]	1978 actual operating balance as percentage of 1978 expenditures
Alabama	$1,354.6	$1.269.4	$85.2	6.7
Alaska	1,767.0	1,115.9	651.1	58.4
Arizona	1,063.0	1,030.7	32.3	3.1
Arkansas	690.2	690.2	0	0
California	15,561.1	11,875.0	3,686.1	31.0
Colorado	1,106.0	1,002.0	104.0	10.3
Connecticut	2,011.5	1,917.8	93.7	4.9
Delaware	521.0	495.6	25.4	5.1
Florida	2,969.9	2,849.8	120.1	4.2
Georiga	2,399.8	2,262.9	136.9	6.0
Hawaii	864.9	862.5	2.4	.3
Idaho	291.0	291.0	0	0
Illinois	6,395.0	6,309.0	86.0	1.3
Indiana	1,769.2	1,550.8	218.4	1.4
Iowa	1,483.6	1,381.1	102.5	7.4
Kansas	995.8	840.9	154.9	18.4
Kentucky	1,583.9	1,496.3	87.6	5.8
Louisiana	3,729.1	3,667.6	61.5	1.6
Maine	451.4	416.2	35.2	8.4
Maryland	2,193.8	2,008.6	185.2	9.2
Massachusetts	4,194.0	3,974.6	219.4	5.5
Michigan	3,894.1	3,871.8	22.3	.6
Minnesota	2,867.0	2,841.0	26.0	1.0
Mississippi	865.6	761.6	104.0	13.7
Missouri	1,557.2	1,422.9	134.3	9.4
Montana	251.8	218.2	33.6	54.0
Nebraska	$512.1	$482.2	$29.9	6.2
Nevada [2]				
New Hampshire	236.0	212.0	24.0	11.3
New Jersey	4,128.8	3,859.0	269.8	7.0
New Mexico	687.0	608.2	78.8	13.0
New York	11,182.1	11,176.9	5.2	.1
North Carolina	2,347.4	2,162.5	184.9	8.5
North Dakota [2]				
Ohio	4,367.0	4,232.5	134.5	3.2
Oklahoma	747.2	674.6	72.6	10.8
Oregon	1,250.6	1,035.8	214.8	20.7
Pennsylvania	5,330.0	5,368.0	(−38.0)	(−.1)
Rhode Island	587.1	566.4	20.7	3.7
South Carolina	1,271.9	1,229.6	52.3	4.3
South Dakota	189.8	180.4	9.4	5.2
Tennessee	2,179.5	2,178.9	.6	0
Texas	4,020.0	3,344.1	675.9	20.2
Utah	567.3	545.8	21.5	4.1
Vermont	203.9	198.9	5.0	2.5
Virginia	2,101.6	2,061.9	39.7	1.9
Washington	2,753.1	2,488.4	264.7	10.6
West Virginia	949.2	896.1	53.1	5.9
Wisconsin	4,358.3	3,998.3	360.0	9.0
Wyoming	197.0	152.0	45.0	30.0
Total	113,008.4	104,075.9	8,932.5	8.6

[1] Balance does not equal resources minus expenditures in some States in view—of statutory provisions to transfer part or all of the year-end balance to separate fund for uses including debt service, capital outlay, tax refunds or rebates, and future-year expenditures.

[2] The reports from these States were incomplete and therefore were not included in this report North Dakota reported for fiscal year 1978 only. FY 1979 resources were $456,500,000, expenditures were $263,400,000, year-end balance was $193,100,000, balance as percent of expenditures was 73 percent. No data were available for fiscal year 1979.

Mr. RIEGLE. This table shows, Mr. President, that over 50 percent of the total operating surplus of all State governments was generated by only three States: California, Texas, and Alaska. The surplus in California is evaporating in the light of proposition 13. But even if it remained large, a big surplus in California does not help Michigan or any of the many other hard-pressed States pay their bills. The table also shows that many States have operating balances well below the 5 to 7 percent expenditures that is recommended by leading bond analysts. States also differ greatly in their tax effort and in the burdens placed upon them for services.

Mr. President, cutting the general revenue-sharing quota of all States by one-third would, therefore, be highly inequitable.

For these reasons I will vote for this amendment, and I urge my colleagues to support it, also.

Mr. MATHIAS. Mr. President, our distinguished Senator from Tennessee, the minority leader, is one of the advocates, sponsors, and authors of this proposal to restore the revenue sharing funds, and I yield him such time as he may request.

Mr. BAKER. Mr. President, I thank the Senator from Maryland.

I am pleased and honored to be a cosponsor with him and with other Senators on this amendment.

Mr. President, one of the first major political initiatives in my career was a proposal for what I then referred to as Federal tax sharing in my campaign for the U.S. Senate in 1964. I will not dwell on the fact that in 1964 I was not successful and neither was my proposal.

But there was another political opportunity for me, and I considered myself fortunate in that respect. I ran in 1966 for the Senate and was elected. One of the principal planks in my platform was support for Federal revenue sharing, as it became known by then and is known today.

I am not going to recount the history of the evolution and development of revenue sharing as such.

I wish to cite one or two points, however, that are useful, I believe, to this debate and important to the argument I am going to try to make in just a moment.

Revenue sharing is not nor has it ever been a partisan initiative. Indeed one of the major criticisms leveled against me by members of my own party in 1964 and 1966 was that Faderal tax sharing and later Federal revenue sharing was a Democratic initiative, having been first proposed by the chairman of the Council of Economic Advisers for President John F. Kennedy.

Revenue sharing has had a broad base of support among Republicans and Democrats, witness the fact that the late Senator Hubert Humphrey and I prevailed on both national conventions in 1968, to adopt identical platform planks in support of their proposal, as they did substantially in 1972 as well. I believe I am correct in saying that that is the only plank in the platforms of the two political parties that was not partisan.

It was my pleasure to stand in this Chamber with the late Senator Humphrey and with others to urge the adoption of revenue sharing as the initiative of President Richard Nixon and to see the broad base of support that developed for it.

In brief, Mr. President, this is not just another Federal program. This, in my view and judgment, was a determined bipartisan and sustained effort over the period of years to change the direction of the growth of the Government in the United States and to rebalance the relationship between the central government and State and local government.

I believe it was a significant, indeed a major effort to meet the criticism leveled by so many that the Federal Government had grown too big and too powerful and was too far in debt. Moreover, in supporting revenue sharing I felt that we could do something to refute the argument that local officials could not or would not govern.

That sentiment sometimes spoken, more often unspoken but implied in the action of the Federal system, was the biggest political mistake this country made in this century. Revenue sharing has been an effort to redress that imbalance.

Now, Mr. President, we are meeting the first significant challenge to that effort to strengthen the partnership of governments in this country. The challenge will come today in an amendment by the Senator from Wisconsin, which will be subject to a point of order in a few moments.

Mr. President, I am sure we will deal with this issue again as the Federal revenue-sharing program is reauthorized, as I trust it will be, and as we rebate the appropriateness of this program to these times, but I must say now and in advance I support the continuation of revenue sharing. I think rather than reduce it we should increase it. I think it was a step in the right direction and there should be more revenue sharing instead of less, for I have faith in the ability of the local government to share the responsibility for the creation of an orderly and beneficial society.

But at this moment, Mr. President, I would focus my attention on the narrower issue of the effect of this cut proposed by the amendment were it permitted to stand.

I was speaking to the National Conference of State Legislatures in San Francisco when I received word of the actions of the Appropriations Committee, and the reaction to that news was shock, dismay, and even anger among State legislators there in attendance.

Most of the Nation's State legislatures have already adjourned for this year. They have already allocated these revenues in their State budgets for the next fiscal year. They have a promise from the Federal Government through next year that they will receive a substantial sum of money in revenue sharing and we are being asked to renege on that promise.

In my State of Tennessee $43 million in general revenue sharing funds are scheduled to be spent in the next fiscal year by the State government and of that $43 million some $12 million would be forfeited if we adopted the Proxmire cut. Most of that money has been earmarked for funding of the Tennessee teachers retirement pension fund. Forty percent of it is to be passed through to local governments.

My State and virtually every State in the Union will be thrown into financial turmoil if we were to permit these cuts to stand today.

Mr. President, State tax collections were down last month in Tennessee, and the Governor of Tennessee informs me that they will be down again this month. And if the widely predicted recession hits with the full force that we expect, they will be down for a long time to come. The "surplus" being roundly denounced in this Chamber will evaporate very quickly in these States which have them, with or without revenue sharing.

We are approaching a time, Mr. President, when revenue sharing will be needed most to meet the very challenge it was designed to meet, to help States become and remain fiscally solvent. To abandon this program at this crucial time, when States have made good-faith efforts to use these funds wisely and well and when they face certain economic hardship in the months ahead, I believe is an irresponsible act.

Mr. President, the 40 percent pass-through to local governments is not peculiar to Tennessee. It is the national average for all 50 States. In short, if we adopt the Proxmire cuts, almost 40,000 units of local and State governments will be adversely affected, will be thrown into fiscal turmoil and will fail to meet the needs of their States, communities, and counties as they had planned to meet them in good faith.

We cannot allow this kind of national confusion and chaos to occur by our hands, and I urge that this amendment be supported or that the test on germaneness result and the restitution of the funds be reduced.

Mr. LONG. Mr. President, will the Senator yield at this point?

Mr. BAKER. I yield.

Mr. LONG. Let me commend the Senator for a fine statement. It seems to me that the Senator's statement very well points up the reason why it was thought by the President who first recommended this revenue-sharing program, which was President Nixon, that this should not be a matter subject to annual appropriations, that it should be a matter of the Federal Government sharing some revenue with the States and it should be over a long period of time so the States could plan on it.

The approach being suggested here in the Appropriations Committee bill is just what the President thought we should try to avoid where no one can depend on it. They might get something to help; then again they might not. The whole idea of the revenue-sharing bill was that this would be something that belonged to the States. It was their money.

The taxpayers who support the States are the same taxpayers who support the Federal Government, and in view of the fact that the Federal Government had the right to preempt all of these revenues, we would share some of that with the State governments.

The idea of saying, "Well, yes, we will share it but don't count on it, any day it might be cut off or might be reduced," is just the kind of thing we sought to avoid when we enacted the program. I think the Senator is right.

Mr. BAKER. Mr. President, I think the Senator is right. I remember distinctly working with him when our colleague, Senator MOYNIHAN, then a Presidential adviser, pointed out that this program had to be permanent and dependable.

The effort to cut these funds today and make them unreliable to States would result in turning general revenue sharing into a grant system, subject to the vagaries of every Congress. I think that would be a huge mistake, and I think we ought to defeat this effort.

Mr. PROXMIRE. Mr. President, I yield 7 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas has 7 minutes.

Mr. BENTSEN. I listened to a lot of talk about what great turmoil it would cause to the State governments if they lost an extremely small portion of their expenditures.

I think we have a tendency to overlook where the real problem is, and that is the financial situation of our Federal Government. Look what has happened to the value of the dollar. The dollar is in serious trouble, and we are facing inflation and a large deficit. The chairman of the Budget Committee has just told us they have very little chance of cutting the Federal deficit below what it was last year. Since we are going into a recession, you are going to have less income to the Federal Government than you had last year, so the budget deficit is going to increase some more.

There seems to be some kind of mystique about the fact that you can take this money and bring it up to Washington and, supposedly, it has gained weight before you send it on back to the State.

But I remember too often my distinguished friend from Louisiana telling his story about the fellow who said, "Next time, Dear Lord, don't send it through Washington; send it to me direct because something seems to happen to it when it comes through the Washington hands."

Now, my friends, I heard one of my distinguished colleagues, a former Governor, saying that he had a personal experience in this. But I know we have other Governors in this Chamber who feel just the contrary, who also have had their personal experience with revenue sharing.

I proposed eliminating the State portion of revenue sharing earlier this year. I did it at the time that the Governors' Conference was being held here in Washington, and I heard from Governors immediately. They were outraged. I can understand that. What is the easiest money to spend? Money you do not have to raise, money you are not accountable for raising. It is great fun to go down there and cut a ribbon and get the television cameras turned on to you and take full credit for it when you have used Federal revenue sharing and you are a Governor, and you have not had to tax the people to raise that money. That is money you get credit for.

Then you turn around and just really raise cain with those "spendthrifts in Washington" who are spending the taxpayers' money on all of these extravagances.

Well, I do not think you can have it both ways. As soon as I proposed cutting back revenue sharing for the States in S. 263, whom did I have before the Joint Economic Committee? I had three Governors representing the Governors' Conference.

They said, "Senator, you can't touch revenue sharing. Cut the categorical grants. That is what you ought to do."

I said, "Fine. Tell me which ones."

They said, "Oh, we wrote a letter on that one to the OMB, to Jim McIntyre."

I said, "But I read that letter."

And I said, "I know what categorical grants you said in that letter ought to be cut out."

They were listed this way: Cut out

waste, cut out extravagance, be prudent. I said, "That is what you said. You did not list one. Now tell me which categorical grants you want to cut."

I had them there for 2 hours. I asked that question time and time again. You know how many they listed? None, zilch, not one.

I said, "Well, maybe it takes some time for you to think that one out. So why don't you write me a letter and list the categorical grants that you think we should cut."

I know the mail is slow these days, but that has been several months, and I have not received that letter yet before the Joint Economic Committee. [Laughter.] So here we come up with a modest proposal, modest when you are talking about the individual States and how much it means for them, $684 million, but major when you are talking about the Federal budget and how much it means when we have this kind of a deficit facing the Nation.

Nineteen States cut taxes since January 1978. That is great fun for the Governors because they had surpluses. As of March of this year the cumulative State surplus was $2.6 billion. It makes little sense for the Federal Government to worsen its deficit position by paying billions of dollars in revenue sharing funds to States that are cutting taxes and running large surpluses. The $684 million reduction would be a constructive step toward eliminating this inequity.

You bet I oppose the State portion of revenue sharing. The Appropriations Committee has been very careful to avoid reducing revenue sharing for the cities and the towns where you have some real problems. The city of New York is a prime example of that. But that is not the same situation in the States where you have seen this kind of a surplus across the country.

I would strongly urge my colleagues to support the Appropriations Committee. It is my understanding that a point of order is going to be made on the question of germaneness, but the distinguished Senator from Wisconsin is going to come back with an amendment to cut this amount, and I think it is long overdue. I think it is a modest approach in the direction of fiscal responsibility in the Federal Government.

I would strongly urge the Members of the Senate to support the move of the distinguished Senator from Wisconsin and to back up the language of the chairman of the Budget Committee in trying to promote fiscal responsibility. I thank the Senator.

Mr. PROXMIRE. Mr. President, I want to thank the Senator from Texas for an outstanding statement. I deeply appreciate it. I think what he said is absolutely correct and unanswerable.

I have a little more to say myself, but I think he made about 90 percent of the answer to these arguments that we have to continue providing money to the States, money which was described by one witness as "put it on the stump and run," a complete lack of accountability.

The League of Women Voters made a 2-year study and they found most people, most members of the legislatures, most press people who cover the legislatures, most Governors, did not know where the money went.

Mr. President, I have a little study here I am going to refer to in a few minutes after other Members have had an opportunity to speak.

Mr. BENTSEN. Mr. President, will the Senator yield so that I can make a unanimous-consent request?

Mr. PROXMIRE. Yes.

Mr. BENTSEN. Mr. President, I ask unanimous consent that my staff member, Marty Clayton, be granted privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, I think the managers of the bill hope to bring this matter to an issue by around 11 o'clock.

I would only say to the distinguished Senator from Texas that it is not only the States that are involved here. Forty percent of this money passes through to the cities and towns of this country, and the uncertainty referred to by the Senator from Louisiana would be particularly devastating to these municipal budgets.

But the Senator from Texas referred to the experience of the Governors. We are fortunate that one of the sponsors of this effort is, in fact, a former Governor, a very distinguished former Governor, the former Governor of Akansas (Mr. PRYOR). I am wondering if 3 minutes would be adequate for the distinguished Senator from Arkansas?

Mr. PRYOR. I will say to the Senator that I will take only 2 minutes.

Mr. President, I rise in support of the amendment of the Senator from Maryland, and the Senator from Tennessee. I support this amendment basically on two grounds: First, I think it is untimely. We have a program that is about to expire, as I understand it, in 1980, and it is impractical and unfair for us to suddenly come in here and take this money away that has already been allocated to the States.

As a former Governor, I know what happens in a small State and a rural State like the State of Arkansas. I can only assume that we are going to see about 50 special sessions of the respective State legislatures in order to make up this balance.

Second, it has been stated on the floor of the Senate just a few minutes ago that many of the parties to this argument and many of the parties who make the observations on the whole process of revenue sharing do not know where the money goes. But in Arkansas we can speak to where the money goes, because in 1977 the State legislature said that the first $20 million that comes into the State of Arkansas in revenue sharing is put into the State highway program, and the spillover from that goes to a fund that promotes local, State, and Federal cooperation in highway construction.

The cities and counties in our State use this money and make it work in order to come back and match other State and Federal programs, and when we talk about losing just $7 million in the State of Arkansas, Mr. President, we are talking about losing a lot more than that, because of the multiplying factor.

In closing, Mr. President, I wish to say that I feel that taking away this program at this time is very unfair, because I know for a fact it is the heart and soul of many State highway programs in this country, especially in States like the State of Arkansas.

Mr. PROXMIRE. Mr. President, I yield 2 minutes to the ranking minority member of the Appropriations Committee, the Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I opposed revenue sharing from the start, because I did not think the Federal Government had any money to give away to the States. But when it was first proposed by President Nixon, it made some sense. He first wanted to do away with some Federal programs, and this revenue-sharing was to be in lieu of payments to the States for these programs.

But that concept was soon forgotten, and it has become a pure gift in the years since then.

In my own State of North Dakota, in the last 3 years, by initiative measures, they have reduced the State income tax, and they still had a big surplus. Later they reduced the sales tax, but on July 1 this year the end of the fiscal year we came up with a big surplus again. And that is not just the situation in my State. As I understand from the speech by the Senator from Texas, all the States have had balanced budgets now.

So the States can far better absorb the added cost than can the Federal Government. The deeper the Federal Government goes into debt, the less value the dollar has, the more inflation we have, and the more fiscal problems we have. So I think this is a good beginning, to take some of this money and pay for this program and let the States absorb some of the costs themselves.

Mr. PROXMIRE. I thank the Senator from North Dakota very much for his fine statement.

Mr. TSONGAS. Mr. President, I have been watching a number of urban legislative programs as they wend their way through the Congress.

It would appear that the administration and the Congress have found a mutually agreeable scapegoat: urban affairs. The cities of this country, and the people in those cities, are taking it on the chin.

Housing, mass transit, action grants, urban parks, CETA, revenue sharing are on a long list of programs singled out for an unfair share of our efforts to balance the budget.

We are expected to approve massive cuts in every key program affecting the cities of this country, and yet I hear few in this Senate willing to approve comparable cuts in the military budget. We are engaging in cost-cutting for certain citizens who happen to be poor, and for certain places which happen to be in economic distress. We are not suggesting that our defense establishment make the same sacrifices for the good of the national economy.

I suggest that the Senate has a very distorted sense of priorities. We are playing a dangerous and shortsighted game, The cities of the United States are at stake; the long-term losses will be irreparable.

The appropriation of HUD and for revenue sharing is a classic case in point.

Let me point out four areas where we can take action to maintain key urban programs.

Housing for low-income people. For 6 months, we have been debating whether or not we will continue our commitment to provide decent housing for the elderly and the poor. There are very few programs so needed, and yet so neglected.

HUD's assisted housing program has been reduced by 42 percent since 1976. This year the Senate Banking Committee authorized 300,000 units, but that level was reduced on the floor of the Senate to the administration's request for 264,000 units. The Appropriation Committee has given us a bill which also reflects the administration's request for 264,000 units. This figure is already too low, and it is vital that we prevent further reductions.

Urban development action grants. The President asked Congress for an increase of $275 million for a program to create jobs and foster economic development in our distressed cities. UDAG is the most important economic stimulus program that Congress has given to distressed areas. It has generated 171,511 new jobs and leveraged $4.5 billion in private investments during the first year of operation.

The Senate Banking and Appropriations Committees both have approved the President's request. The Senate should now follow this lead, and vote against any effort to delete the increased funds from the Appropriations bill.

General revenue sharing. The Appropriations Committee voted to cut $684 million from the general revenue sharing program, and to have the States absorb the entire reduction in funds. This cut represents a 30 percent reduction in the State revenue sharing program.

There seems to be a misconception about where State revenue sharing funds are spent. Over two-thirds of those funds go directly to local governments, for such programs as aid to education. The balance of the funds support vital services of benefit to the entire State population.

There has been discussion about a few States with surplus revenue sharing funds The way to solve that problem is not to cut off aid to States where every dollar is spent, and every dollar is needed.

There are many Members of the Senate, including myself, who have served in either State or local government. Any Member who thinks that revenue sharing is not critical should talk to those of us who have been through the process of providing the services, balancing the budget, and holding down the tax rate. Revenue sharing is an important tool which State and local governments must have to prevent economic collapse.

Assistance for State 236 projects. The appropriations bill has no provision for State participation in the troubled projects program. This is despite the fact that for 10 years, Congress has made it clear that this program should be available to State and Federal projects without distinction.

Without going into the court suits or the round-by-round sparring between the administration and the Congress on this issue, let me point out that once again this year, the Senate and House Banking Committees both made it absolutely clear to HUD that the States were to participate.

There are two basic issues here:

The first is a simple question of equity to the tenants. In Massachusetts we have a large number of both State and Federal troubled projects. The tenants in the State projects are bearing the same rental burden as their neighbors across the street in the Federal projects. It is ridiculous to arbitrarily say that State tenants cannot get help because their building happens to be insured by the wrong government.

The second point is that we have depended heavily on the States for the implementation of Federal housing programs. In Massachusetts, assisted housing is being developed almost exclusively through the State. The State is a partner to the Federal Government in housing, and we need that partnership.

Now, when State housing is undergoing the same difficulties as Federal housing, we are essentially telling the State to drop dead.

This is not an honorable way to treat the States, and it does not make sense to eliminate the States from this program if we want to rely on them for continued help in other areas of housing.

I hope that the Senate can begin today to reverse the mean-spirited trends in this Congress, by making a number of sensible decisions on urban programs.

If we fail, we will have an even greater urban crisis to deal with in years to come.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I would note that in addition to the distinguished Senator from Arkansas (Mr. PRYOR), Mr. LEVIN, Mr. PRESSLER, Mr. JEPSEN, and Mr. DURENBERGER have all indicated their strong support and sponsorship for our effort to restore these vital revenue-sharing funds.

POINT OF ORDER

At this point, Mr. President, to bring this issue to a decision by the Senate, I make the point of order that the committee amendment, on page 26, lines 16 through 19, is general legislation and not in order in a general appropriations bill under the provisions of rule XVI of the U.S. Senate.

The PRESIDING OFFICER. The item does contain language that makes it legislation on an appropriation bill, and the Chair sustains the point of order made by the Senator from Maryland.

Does the Senator from Maryland wish to be recognized under the order to offer the first floor amendment?

Mr. MATHIAS. Mr. President, in view of the fact that we have had an extended discussion on this subject, I will waive putting in the first amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. As I understand the decision of the Chair, which has not been contested and will not be as far as I am concerned, it simply knocks out the reduction made by the Appropriations Committee, also knocks out the language, and restores the sum to $6,854,924,000; is that correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 458

Mr. PROXMIRE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 458:

On page 26, line 16, strike "$6,854,924,000" and insert in lieu thereof "$6,170,924,000, of which not to exceed $1,599,333,000 shall be allocated to State governments pursuant to 31 U.S.C. 1226."

Mr. PROXMIRE. Mr. President, what this amendment does is simply change the figure in the bill from $6,854,924,000 to $684 million less than that and apply this cut to the State share. The $684 million cut is precisely what the Appropriations Committee did, except my amendment knocks out the language which was the point-of-order language and made the action taken by the Appropriations Committee vulnerable to a point of order.

So what we now have before us is a straight up and down reduction of 10 percent in revenue sharing funds, with the intention as expressed in the committee report and the language of the amendment that it be taken out of the States' share.

Mr. President, we have already had a spirited debate on this matter. One or two other Senators, I think, want to come to the floor to speak on it. I will speak briefly. Then I would suggest we can have a vote shortly. As I understand, there is a half-hour equally divided on this amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I think that the case for this amendment is clear on several fronts. In the first place, all of us are aware—heaven knows, the taxpayers are aware and the citizens of this country are aware—of out of the last 17 years we have had deficits. We have had expressions by State out of the last 17 years we have had deficits. We have had expressions by State legislatures; we have had expressions in California, in the Proposition 13 vote, and in many other States that the people are fed up with excessive Federal spending.

The Governors have zeroed in on the Congress particularly, and told us that we ought to cut back spending. They have called us wastrels. The Governor of New York has said that the Federal legislators ought to come to New York and find out that Government is not a growth industry. The Governors have been in the forefront, and I think they are right, that we should cut spending.

What spending, then, should we cut? It is hard to find a place more logical to consider reductions than revenue sharing. I say that for many reasons: First, because this is money that does not require accountability. As I remember, the League of Women Voters made a study and found that a very large portion of those most responsible for State expenditures could not say where the money went.

With that in mind, we required, in 1976, that there be an audit of revenue-sharing funds, to provide an accountability, so that at least there would not be corruption, so that people would not take the money and put it in their pockets, so that a mayor would not build a golf course near his home, use the money to buy Lincoln and Cadillac automobiles, or for other such purposes. We found that many employees in many States figured, "This is money with which we can increase our pay envelopes." They did not want to take it from other sources, because people would get rather testy about that.

Mr. President, this morning there was an article published in the New York Times, written by John Herbers, entitled "Revenue-Sharing Auditing Held Defied, Fraud Feared." Let me quote from that article:

> Auditing requirements enacted in 1976 to prevent misuse of general revenue sharing funds have been so widely flouted by state and local governments that a considerable amount of corruption may well have been concealed in the $7 billion a year program, according to a new study.
>
> The study was conducted by the Council on Municipal Performance, a non-profit research organization based in New York.
>
> Every state or local unit receiving $25,000 or more is required to provide an independent audit of its financial statements conducted "in accordance with generally accepted auditing standards, not less than once every three years." Failure to comply is ground for cutting off funds. So far, there has been no cutoff.
>
> T. Jack Gary, audit manager of the Office of Revenue Sharing, confirmed in a telephone interview that only half of the 11,700 required audits had been received.
>
> Most of the audits are done by independent accountants. A sampling of 200 of the audits showed that 100 were unacceptable and would have to be done over.

So, No. 1, half of the audits are not being complied with at all, and, in addition to that, those that are done are unacceptable.

Continuing:

> But John T. Marlin, president of the performance council and author of a paper on the study, wrote: "The requirements are being flouted." An undetermined number of municipalities are making no effort to comply, some states have unacceptable standards, and a large proportion of audits that have been made are being rejected for a number of reasons, he said.
>
> "This is an invitation to corruption," he said in a telephone interview. "It is like a broom that is not being used."

Mr. President, if there is any kind of spending which I think the overwhelming majority of taxpayers would agree should be reduced or eliminated, it is spending that permits corruption and fraud. Here we have the clearest kind of evidence that this unaccountable money, this money which can be taken and used for whatever purpose the States wish to use it, is being abused.

As has been said, this is a modest cut. It is a cut of only 10 percent. It is a cut which, as applied to the States, they can all handle. But it is a cut that means a great deal in this budget.

As I pointed out, we are well over the budget resolution. As Senator MUSKIE the chairman of the Budget Committee pointed out, we are getting to be in real trouble. We face a situation where we are likely to have a bigger deficit this coming year than we had last year. We are reversing all the good work we did earlier this year when we had a budget resolution which was responsible and which held down spending.

In the revenue sharing area, nobody can say that the funds go to the poor, nobody can say that they go to the needy, nobody can say that they go to a specific useful purpose, because nobody knows where they go. They cannot tell us.

The study I quoted from tells us that there is just no compliance with this audit requirement. We do not know where the money goes. So, Mr. President, I would hope that the Senate would support this limited amendment that does save $684 million.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Maryland.

Mr. MATHIAS. Mr. President, I oppose the amendment for reasons which have already been stated by the minority leader (Mr. BAKER), by a number of other speakers such as the distinguished Senator from New York (Mr. MOYNIHAN), the former Governor of Arkansas (Mr. PRYOR), and others in the Senate. But I oppose it not only because of the reduction in the dollar figure but because of the consequences which could flow.

I am a country lawyer, and I do not understand all of the fine points which may be involved in this amendment. It looks so simple. It looks so easy. But what would be the effect of this amendment if the words which were included in the original committee amendment, "notwithstanding other provisions of law," are omitted? Those, of course, are the words to which the ruling of the Chair addresses itself. Can the Senator from Wisconsin tell us what would be the result of trying to reduce revenue sharing without specifically addressing the conflicts which would occur as a result of other provisions of law?

It seems to me that we might be faced with the absolute necessity of coming back and appropriating this money at a later date if the Senator's amendment were to prevail, or, if we did not do that, there would be a proliferation of lawsuits on behalf of States, cities, and towns all over the country who feel that they are entitled as a matter of right to these moneys.

It seems to me that not only is this amendment unwise in introducing that element of fiscal uncertainty which the Senator from Louisiana has raised, but it is also unwise as a matter of law because it is going to raise legal uncertainties.

Mr. President, for that, and for the reasons I have already stated, I oppose the amendment and hope the Senate will defeat it.

Mr. EXON. Will the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. EXON. Mr. President, I wish to add my voice in support of full restoration of revenue sharing for fiscal year 1980. As a former Governor, I know how valuable revenue sharing has been to State and local governments, and I believe the concept of revenue sharing should be continued at least through 1980. I have always believed in providing State and local governments with maximum possible flexibility in the use of Federal funds, and the general revenue-sharing program meets this standard.

This is not to say, however, that I will always be in a position to support this program in the future. In fact, my patience is being tried on this very vote, for the promises of revenue sharing have not been fulfilled, and growing surpluses in some States make this a very tempting budget item to cut.

If it were not for the fact that many States have no significant surpluses, and have already budgeted revenue-sharing funds in their fiscal plans for the upcoming year, and could be faced with special legislative sessions or the cutting off of revenue sharing flow-through funds to local governments, I might support this reduction proposed by the Senator from Wisconsin.

When the Senate Budget Committee meets next week to consider revenue-sharing funds for 1981, I will have to reevaluate my support for the revenue-sharing program become of at least two factors: First, many States are accumulating large surpluses in their general fund, and I have difficulty sending Federal revenue sharing to a State which has a large surplus when I am committed to a balanced Federal budget, a goal I believe is achievable.

It is naturally of great concern to many of us when a large majority of the States have written us saying, "We want you to balance the Federal budget." Yet it is the same Governors and the same State legislatures which appeal to us time and time again for more and more money from the Federal Treasury which comes, of course, from Federal taxpayers.

Second, what has happened to the cutbacks and consolidations in Federal categorial grants which were to accompany the Federal revenue-sharing concept? Instead of cutting back on categorical grants, the Congress has continued both categorial and general revenue-sharing programs. One or the other has to go, and while I will continue to advocate categorial grant consolidations and cutbacks, if these are not achieved, I will have to support a phaseout of general revenue sharing, and view it as a noble effort that did not work. And maybe not just for States but local governments as well.

My main point here is I believe not enough consideration has been given to this matter, and I believe that the amendment offered by the Senator from Wisconsin would be particularly crippling and most difficult for the States at this particular time.

Mr. President, I certainly support the good efforts of my distinguished colleagues who, once again, are trying to face revenue sharing realistically at this time, but I will have to see some dramatic changes to be made by the Congress and in some of the States before I likely can support the continuation of the full revenue-sharing program for the next budget on which we are now working.

I thank my friend from Maryland.

Mr. MATHIAS. I thank the Senator for his contribution which is even more valuable because he speaks with his years of experience as a Governor, administering the affairs of a great State. I think he brings a very pragmatic point of view to this debate.

Mr. PROXMIRE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wisconsin has 8 minutes remaining and the Senator from Maryland likewise has 8 minutes remaining.

Mr. PROXMIRE. Mr. President, I have a request for time. I ask unanimous consent that we can have a short quorum call with the time not to be taken from either side until a Senator can come to the floor.

The PRESIDING OFFICER. Is there objection? If not, without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, may I ask the Senator from Oregon how much time he wishes?

I have only 8 minutes left. I will give him whatever he wishes.

Mr. HATFIELD. Four minutes.

Mr. PROXMIRE. I yield 4 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 4 minutes.

Mr. HATFIELD. Mr. President, I thank the Senator from Wisconsin for providing this opportunity for me to say a few words.

I only indicate that I happen to have been one of the Governors who exercised his responsibilities and duties providing sufficient revenues for State programs before revenue-sharing, not after revenue-sharing.

I must say that I have very strong philosophical viewpoints that when we separate the tax collecting from the tax spending responsibilities and authorities, we have not strengthened federalism, but we have weakened federalism, by making Governors and local governments more dependent on central Government, rather than less dependent.

I think we have to be realistic to recognize that where the purse string and management money is spent or granted, that there is power and authority that is yielded by the State and local governments to obtain that revenue, that money.

I voted against revenue sharing on this basic philosophical principle when it was proposed intially to this body. But I did also feel that it was improper to cut off the revenue sharing without due notice given the States and local governments to prepare for that day when they would have to assume those responsibilities themselves.

So, as we recall, we authorized a 5-year extension in 1976 and at that time it was the first of the 5 years we had a distribution of over $30 billion.

This money was distributed over 39,000 local government units, and today we are talking about money the States are entitled to—that is the statement I have heard most frequently. Yesterday I was informed by a Washington lobbyist that my State had obligated its share of revenue sharing for 1980.

Senator RIEGLE has discussed the possibility of reauthorizing of revenue sharing next year. Let me remind ourselves this morning that when we reauthorized this program in 1975, if my memory is correct, we said it was for the last time.

It seems to me, from talking to members of my State and local governments and other State agency representatives, that there is the same view given toward the action they will expect at the end of this period that they got at the end of the first period, that we will automatically, or with debate and discussion, ultimately renew.

They look upon it about as seriously as we look on the so-called debt ceiling limitation.

Therefore, it seems to me this is the first step to really tell the States and local governments we mean business, we are not going to reauthorize, and that we take the step to reduce the revenue sharing this year. Then it is a more honest approach than to dangle the States up to the last minute to the point of reauthorization becoming a reality, or if there are cuts. Then they will have to try to turn around and pick up the pieces and deal with the situation they find themselves in.

So I support the effort today to reduce the amount of revenue sharing as the most honest, forthright, frank manner to deal with this issue as a signal to the States and local governments that we are serious about the fact that when we reauthorized for another 5 years, that that was for the last time.

If it is not for the last time, if we really are playing games, let us be honest today and say that we are going to reauthorize and let the States plan ahead for it.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. JAVITS. Will the Senator yield me 2 minutes?

Mr. MATHIAS. I am happy to.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I think the point already made about States' surpluses has been clarified. But I simply wish to clarify it in my own name. That is, the surplus States we are talking about are food producers and energy producers, and not States like mine with enormous populations and nothing but trouble.

In addition, the fact that States by their constitution, like my own, are not permitted to have a deficit and, hence, not only have to have a balanced budget, but have to carry a cushion.

Mr. President, the main point I would like to make is that the reason the revenue sharing was such a gifted proposition was that it was the only way in which the Federal Government could really be a barrier to maintain federalism, exactly the thing Senator HATFIELD spoke about, and I know of no authority more prestigious on that subject than himself, because if the States are going to have anything left to local government, and their own government, they have to have the means to finance it and carry their responsibilities.

We can talk forever about the fact we want to break down government to the resource level, especially as to families, children, and so on, but if they do not have the resources, they cannot do it.

Many of them, including my own, do not have the resources to put up matching funds for Federal programs to which they are entitled.

For all these reasons, I will vote against the amendment.

The subcommittee report paints an incorrect picture of financially healthy States spending or returning giant surpluses in the face of a constrained Federal fiscal circumstance. Nothing could be further from the truth. It is crucial that the Congress understand clearly the nature and basis of State financial conditions today.

First, States do not have budget deficits because their constitutions generally prohibit such financing. Second, because of these constitutional restrictions, States are required to keep some cushion against cyclically declining revenues so that mandated expenditures do not force their treasuries into illegal deficit spending.

The size of that surplus is crucial to the judgment financial interests make in underwriting State obligations. And the measure of a "solid" surplus is better than a 5-percent surplus, according to Standard & Poor, the nationally recognized bond rating service.

Mr. President, only 15 States have such a surplus—and all but 2 are major energy and/or food producers, so their revenues may be expected to have risen with the skyrocketing inflation in these basic commodities. I ask unanimous consent that a table listing the 1979 surplus balances be printed in the RECORD as it shows how many States are in truly marginal financial condition.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1979 "SURPLUS" BALANCE AS A PERCENT OF EXPENDITURES

0 to 1 percent	1.1 to 3 percent	3.1 to 5 percent	Over 5 percent
Alabama	Arizona	California	Alaska
Arkansas	Illinois	Colorado	Indiana
Connecticut	Kentucky	Delaware	Iowa
Florida	Massachusetts	Georgia	Kansas
Hawaii	Rhode Island	Maine	Maryland
Idaho	Utah	Montana	Mississippi
Louisiana	Wisconsin	Nebraska	Missouri
Michigan		Ohio	New Hampshire
Minnesota		West Virginia	
New Jersey			New Mexico
New York			Oregon
North Carolina			South Dakota
Oklahoma			Texas
Pennsylvania			Washington
South Carolina			Wyoming
Tennessee			
Vermont			
Virginia			

Note: Nevada and North Dakota do not have completed reports.

From: National Governor's Association "Understanding the Fiscal Condition of States", 1979.

Mr. JAVITS. Not only must the fallacy of current State fiscal health be dispelled, but we must also analyze the final prospects for these governments. The figure has been used of a $2.6 billion State surplus in first quarter of 1979, to show how well States are fairing. Now, I must first point out that this indicator is claimed for it; $2.6 billion represents the revenue inflows greater than outflows for all State and local units of governments for quarter 1979 as reported by the Commerce Department Bureau of Economic Analysis. The correct way to find out a State's fiscal position is not to look at taxes paid in in one quarter versus the same 3 months' expenditures; rather one should examine the balance of revenues over total annual expenditures and only for States not including local units.

However, to take on the subject on its own grounds, for these sets of figures prove our point rather than the contrary. State governments are being undermined by the encroaching business slowdown. The same data series shows a $6.7 billion deficit for the second quarter of this year. While this figure could fall to as low as a $6 billion deficit when adjusted for some uncounted corporate tax receipts, the economic trend is clear—State and local government revenues are beginning to suffer a drastic reversal.

While these precise figures are not accurate reflections of true State balances, experts at the Department of Commerce Bureau of Economic Analysis have made it clear to us that these are clear indicators of fiscal trends. These sad events were foreseen in the 1978 "Survey of Business" issued by the Department of Commerce which predicted in 1979:

> State and local governments will remain in surplus only because of the surpluses generated by the social insurance funds (pension accounts), all other funds, which probably recorded a deficit in 4th quarter 1978 will record a larger deficit in 1st quarter 1979 and remain in deficit throughout the year.

Similarly, Robert Muller of Standard and Poor has suggested that the fiscal condition of States is far weaker today in real dollar terms than it was in 1973.

Mr. President, it should be clear by now that most States are in fiscal trouble and that their troubles will deepen with the coming recession. The question of whether they are moving to help themselves has also been raised. It is alleged States are cutting taxes, although the aggregate recent evidence is unclear. But Senators know full well that State tax structures are designed to be flexible and responsive. There have, indeed, been 25 cuts in State sales tax, 53 State income tax cuts, and 14 State corporate tax cuts since 1970, but there have also been 25 sales tax increases, 30 individual income tax increases, and 38 corporate tax increases in that period. State tax policies are rollercoaster-like, and designed to respond to current needs. Everyone admits the net effect of State tax reforms over the past decade is to make State tax systems infinitely more progressive and equitable than before. However, this also makes them more venerable to recessionary effects. And many States are seeking not to put their citizens in higher tax brackets as a sole consequence of inflation. I must add that, in the same decade, the fiscal courage of the Congress resulted in four tax cuts and not tax increases.

Mr. President, State government prosperity is a dangerous illusion. The States are entering a twilight economic period in which continued and stable Federal support is indispensable. There could be no worse moment to eliminate this vital assistance.

The PRESIDING OFFICER. The time has expired.

Mr. MATHIAS. I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I thank the distinguished Senator from Maryland.

Mr. President, I oppose the amendment of the distinguished Senator from Wisconsin.

I do, however, support a reduction in the State governments' position of general revenue sharing funds. It makes little sense to continue massive amounts of unrestricted funds to State governments that have fully recovered from the 1974–75 recession and that are now in sound financial condition while the Federal budget deficit continues to be $30 billion this year.

Mr. President, it seems to me we ought to rename this program, and call it general deficit sharing.

As far as I can determine, no State government will have an operating fund deficit this year. State government operating fund surpluses should instead be in the range of $4 to $6 billion. And as a result of improved finances, 36 State governments have been able to cut taxes by about $2.3 billion in 1978 according to recent information published. Indeed, indications are that aggregate State tax cuts, after all legislative sessions are finished this year, may run over $3 billion.

So, I congratulate State governments for showing fiscal restraint and reducing taxes. The Appropriations Committee vote to reduce the State portion of revenue sharing by over $600 million indicated that we would like to exhibit similar fiscal restraint in holding down the Federal deficit and eventually reaching a balanced budget—something which 30 State legislatures has asked us to do, indicating that unless a balanced budget is achieved, they will support a constitutional amendment to mandate that goal. Something, I might also add, Mr. President, that the National Governors' Conference has voted to ask us to do.

During the markup of the HUD appropriations bill I voted for the Proxmire position to reduce the State share of revenue sharing by $684 million. It was clearly the intent of the amendment that no funds were to be cut from local units of government, who need general revenue sharing funds to provide essential services and to prevent increases in the local property tax.

I have consequently reviewed the effect of this amendment. Currently about 35 to 40 percent of State general revenue sharing funds are passed through to local jurisdictions. So while the Proxmire amendment is aimed at reducing the State portion of revenue sharing it also potentially reduces revenue-sharing funding to local governments.

Because of this situation, I must vote against my distinguished colleague, the chairman of the Subcommittee on HUD Appropriations. I certainly support the intent of his position—to cut the State share of revenue sharing. But because the cut is provided on the appropriations bill in this manner and because there may not be an opportunity to make corrective changes in the authorization legislation this year, this bill could reduce local revenue sharing funds. Therefore, I must vote to restore these funds at this time.

However, Mr. President, I want to say that I will support future efforts to address this problem when the Senate considers the reauthorization of the general revenue-sharing program next year. I believe that the reauthorizing legislation can be amended to reduce the State portion of general revenue sharing without reducing support to local units of government. The Senate Subcommittee on Intergovernmental Relations which I chair is currently conducting oversight hearings on the general revenue sharing program, and I assure you that I plan to work on this matter in the future with the distinguished chairman of the subcommittee on HUD Appropriations so that we may be prepared to make the necessary corrective changes in the general revenue-sharing legislation early next year.

Mr. MATHIAS. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. GARN. I thank the distinguished Senator from Maryland.

Mr. President, I am opposed to the Proxmire amendment, not on the basis of the amount of money involved.

The argument being made here today—whether the States need it or not, whether they are in a surplus or in a deficit position—is not the line of argument I want to make.

When I was a mayor, we fought very hard for the principle of revenue sharing, because it was relatively free of strings and dictation by the Federal Government. That proved to be true.

We had a model cities program of $3.8

million in my city, when $3 million of it was used for administration and complying with the Government mandates. We had $4 million worth of revenue sharing, and we hired not one employee, no administration. The entire $4 million was used in programs. That has been essentially true at the State level, too.

There may be some argument for cutting aid to States, but if it comes, it should be categorical programs, where there is a great deal of waste when too much of the money is used for administration.

So I oppose the cutting of revenue-sharing funds on the basis of destroying a principle that many of us in local government worked very hard to achieve—to cut down the influence of Congress and the Federal Government dictating to locally elected officials and State-elected officials. That is why I oppose this amendment, without even dealing with the amount of dollars. We are starting to chip away at that principle.

My distinguished friend from Oregon said we are not going to reauthorize. I think it is a tragedy if we go away from that principle, and I am surprised that a former Governor wants to do away with it.

On the basis of dollars, maybe we are allocating too much to State and local governments, but let us cut them in the categorical programs, where all the strings are and where the Feds dictate, and not destroy a principle for which local government worked hard, to have less interference by the Federal Government.

Mr. MATHIAS. Mr. President, I yield 2 minutes to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, I oppose the amendment before the Senate, to cut the States share of general revenue sharing for fiscal year 1980.

Proponents of the reduction have cited a figure which indicates a $2.6 billion surplus in State and local budgets for the first quarter of 1979. Such isolated figures provide an inadequate measure of the fiscal conditions of States. In its report of January 12, 1979, the Joint Economic Committee recommended against "altering policy judgments of underlying fiscal or economic needs because of short-term bulges in the surplus," because such surpluses are a transitory phenomenon, soon to be erased in later quarters. Figures prepared by the Bureau of Economic Analysis indicate that State and local surpluses available to support government programs have been decreasing. During the first quarter of 1978, the surplus was $7.9 billion, as compared with the $2.6 billion surplus reported in the same quarter this year. Also, the National Governors' Association reports that a $6 to $7 billion budget deficit for State and local governments can be expected in the second quarter of this year with reasonable certainty, resulting in part from the recent slowdown in the economy.

As noted in the Economic Report of the President of 1979:

> Movements in this aggregate state and local surplus or deficit are dominated by national trends but conceal great diversity across states and among cities and areas within states . . . extreme care must therefore be used in drawing general conclusions about the fiscal condition of the state and local sector, or of individual areas within it, from the aggregate surplus or deficit.

A look at the unique fiscal conditions of States supports this position. Surveys conducted by the National Governors Association have shown that the bulk of the aggregate State surplus—indeed, a full one-half—is in three States. As many as 34 States accrued 1979 balances of less than 5 percent of operating fund expenditures, which is widely regarded as the minimum protection against unanticipated expenditures for emergencies.

My own State of New Jersey is among those States which have maintained austere budgets. And it would be affected seriously by a reduction in the State share of general revenue sharing. New Jersey's budget for fiscal year 1980 already has been approved. Out of a $4.6 billion budget, New Jersey's fiscal year 1980 budget surplus is projected to be $40 million, or less than 1 percent of total operating expenditures. This cannot be considered a surplus; it is the barest margin of safety for a State which is required by law to maintain a balanced budget. If the State share of funds cut by the committee is not restored, New Jersey would stand to lose almost $25 million, putting vital State and local programs in jeopardy.

Currently, the State budget supports more than one-third of all public spending in our major urban centers, including 76 percent of the Newark school budget and 79 percent of the budget in the city of Camden. Fifty-five percent of total State resources is paid out in direct aid to local communities, including 100 percent of the State income tax. A reduction in the State share would undermine both State and local programs across the board. Similar effects can be expected in other States which have finalized their budgets with the expectation of receiving their full entitlement of general revenue sharing funds for fiscal year 1980.

The State share of revenue sharing is used for vital State programs. Nationwide, 35 percent of the funds are earmarked for education; 26 percent for a variety of social services ranging from care to elderly and indigent to environmental health programs, to emergency medical services. Seven States—Arkansas, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, and West Virginia—use all of their revenue sharing funds for vital construction projects, such as vocational-technical schools, public hospitals and universities, and flood alleviation programs. Many States allocate revenue sharing funds directly to local governments.

Mr. President, I also suggest, as the chairman of the Subcommittee on Revenue Sharing of the Finance Committee, that this is an unnecessary and hasty response to the proposition 13 mentality. I hope that over the next year, when we are considering general revenue sharing, we will be able to have a full hearing and discuss the issue in full detail, and not rush to this judgment on the floor of the Senate in response to proposition 13.

REVENUE SHARING AND A BALANCED FEDERAL BUDGET

● Mr. CULVER. Mr. President, I hope that the Senate will agree to retain $684 million in the State portion of general revenue sharing funds. Such action would be consistent with both the President's recommendations and the House-passed measure.

Mr. President, during my service in the House of Representatives, I was a cosponsor of the legislation which created revenue sharing and I have supported it ever since. The basic argument for revenue sharing—that the Federal tax system is a superior mechanism for efficiently raising funds while States, counties, and cities can better administer them to meet local priorities—has not lost validity. Nor has there been any diminishment in the useful contribution which revenue sharing makes toward meeting State commitments in education, health, transportation, and tax relief.

What have changed are the tactics and rhetoric concerning the desirable goal of bringing the federal budget into balance. The rhetoric persistently points to a cumulative surplus in State and local government coffers as evidence of laudable frugality and fiscal restraint. The deficits which have characterized the federal budget in recent years, in contrast, are cited as proof of extravagance and insensitivity to inflation on the part of Congress and the President.

The facts, of course, are very different. That the bulk of the State surplus is concentrated in a very few States, that it might well disappear if Federal accounting methods were used, that the latest projections show an emerging deficit in State and local budgets have all been mentioned on this floor and in other forums. Whether they have made much impact on the debate is open to serious question.

But the factor most relevant to the issue we are debating this morning is the degree to which Federal deficits and State and local surpluses reflect revenue transfers from the Federal to State levels. The $6.85 billion in general revenue sharing—federally raised dollars used exclusively for State and local needs—is ony the most obvious example. Approximately $80 billion in grants in aid goes from the Federal Government to State and local units. Elimination of this cash flow would wipe out the Federal deficit overnight and allow us to make the superficially appealing claim to our constituents that we were paradigms of fiscal virtue. It would, at the same time, have devastating effects on the national economy, wreak havoc on vital domestic commitments, and throw into disarray the fiscal systems of our State and local governments.

The Appropriation Committee's recommended $684 million reduction in the State portion of general revenue sharing is, in my judgment, a predictable response to the movement by State legislatures to require a balanced Federal budget by constitutional amendment. When the Iowa Legislature was considering such a resolution just a few months ago, I noted to some of its members that revenue sharing, which has been a popular and useful program in our State, was likely to be one of the first targets for a cut. That was not a threat; it was a conclusion that followed reasonably from the logic of an amendment insisting on a balanced Federal budget. It is instructive, I believe, that fuller reflection after passing a balanced budget constitutional amendment resolution led a majority of the members of the Iowa Senate to repudiate publicly that action.

Mr. President, if this amendment is accepted, Iowa will lose almost $10 million which the Governor's office informs me is used largely for Iowa's homestead and agricultural land tax credits, high priority contributions to State property tax relief. With this amendment, the unpleasant choices are higher State taxes or an erosion of scarce operating funds.

Similar detrimental effects will be felt in other States. In some States, legislatures will have to come back into emergency session to rework budget plans. These States—and Iowa is among them—have completed action on their budgets. They have made reasonable assumptions based on the authorized levels of revenue sharing and the historical record of appropriations for that program. To force them to go back to the drawing boards at this late date is to invite fiscal chaos. The alternative is that the decision may have to be made for urgent needs to go unmet. I do not believe that these results are ones we should vote for.

In conclusion, Mr. President, I can understand what prompted the reduction in State revenue sharing funds recommended by the committee but I do not think the cut is in the interest of either State and local governments nor in the interest of the United States. I urge my colleagues to retain the full funding.●

● Mr. STEVENSON. Mr. President, I oppose the amendment offered by the distinguished manager of the bill, Mr. PROXMIRE. The amendment would reduce $684 million from the portion of the general revenue sharing program allocated to State governments. Though I do not believe revenue sharing funds should be dispensed to State governments, I oppose the amendment because of the manner in which the reduction would be imposed.

Revenue sharing has been perceived as an entitlement program on which State and local governments could rely to finance a wide range of programs. While I believe revenue sharing is flawed in concept, the program has nevertheless been perceived as one immune from review in the appropriations process. To adopt the amendment of the Senator from Wisconsin would be to take an action both unprecedented and unexpected. Until this week, State governments had every reason to believe they would receive their full revenue sharing allocations for fiscal year 1980. Many States had prepared their budgets accordingly. A sudden reduction in the funds would require a number of States to convene special legislative sessions in an attempt to alter their budgets. Hasty actions of this nature are rarely conducive to rational public policy.

Mr. President, I continue to oppose participation by the States in revenue sharing, and I intend to vote accordingly when the authorization for revenue sharing expires at the end of fiscal year 1980. I see no justification for increasing the Federal budget deficit in order to contribute to State budget surpluses. However, I do not favor reducing State revenue sharing funds now. To make a revenue sharing cut now would damage States which have relied in good faith on receipt of those funds during fiscal year 1980.●

● Mr. WILLIAMS. Mr. President, I rise in opposition to this amendment cutting general revenue sharing funds.

The Congress specifically enacted this program as an entitlement in order to provide advance assurance to States and localities of the moneys they could depend on when planning their fiscal affairs.

The dilemma of my own State illustrates why we should not take this type of action on an entitlement program. New Jersey will, in fiscal 1980, run a budget surplus of less than 1 percent—if it receives its full allocation of revenue sharing funds. If we accept this amendment the State legislature will have to come back into special session to rewrite the 1980 budget. New Jersey will already suffer a loss of 1980 Federal revenues of about $25 million because of our failure to continue the countercyclical antirecession assistance program, and of about $40 million due to changes in the social security deposit regulations.

This amendment will reduce Federal aid to the State by an additional $25 million. More than half of that money would ordinarily be allocated to local governments.

Mr. President, I believe that once we incur obligations for entitlement programs we should follow through on them, and not leave those who depend on these funds hanging in the lurch. Therefore, I oppose this amendment.●

● Mr. CRANSTON. Mr. President, I will support the Proxmire amendment to cut $684 million in general revenue sharing funds going to State governments.

It is not my intention to reduce any revenue sharing funds to county, city, and other local governments.

Unlike local governments, the states have full taxing powers. Their sources of revenue are many. Their needs can be met in ways far more equitable than by increasing property taxes—the primary source of local government revenue.

The States have been piggy-backing on the Federal deficit long enough. The Federal Treasury has been borrowing money and deepening the Federal deficit year after year while cash piles up in State treasuries.

Congress is not helping the States when it increases the deficit. The State governments are not immune from inflation. To the extent that an unbalanced budget contributes to inflation, it also contributes to a long-range worsening of State finances. The effort to balance the Federal budget is forcing those who are best able to sustain the necessary cuts in Federal funds to do so. This must include the State governments.

The proposed cut is modest in terms of its overall impact on any State. It is far less than the $2.3 billion cut I called for when I cosponsored S. 263 to eliminate completely the State share of general revenue early this year.●

● Mr. CHAFEE. Mr. President, I applaud Senator PROXMIRE's vigilant and constant efforts to hold down the cost of Federal programs, but I must oppose his amendment to cut $684 million from the general revenue sharing program.

This cut comes at a time when economic recession is a certainty and when, according to the National Governors Association, the States are projecting budget deficits for the rest of the year. If the Senator's amendment were adopted, the State of Rhode Island would lose $3 million to $4 million which it has already budgeted for the next fiscal year. And, Mr. President, like most other States, the Rhode Island Legislature has adjourned and would have to be reconvened to deal with this unexpected problem.

I am among the budget watchers in the Senate who look with dismay upon the proliferation in recent years of entitlement programs and State assistance programs provided by the Federal Government. But, Mr. President, by attacking the revenue sharing program, I believe we are attacking the wrong animal. Revenue sharing is the model we should be using for other fiscal assistance programs to provide the States a greater degree of flexibility to meet their own particular needs and priorities, whether in health, law enforcement, education or other public services. In fact, Mr. President, if we would apply the more flexible revenue sharing model to other areas of Federal assistance we would be much more effective in helping the States meet their needs, and as a result, I am confident that the Governors of our 50 States would be willing to forgo even more than $684 million a year in Federal assistance. If we would do that, we could save more than the sum Senator PROXMIRE seeks to save by his amendment.

As you know, Mr. President, later this year and next year the Finance Committee will be considering the reauthorization of the general revenue sharing program. Clearly, this would be the best time to study the ways in which we might reform the program. There have been suggestions that it would be better to target revenue sharing to the States and towns which have the more severe economic problems, rather than showering revenue sharing dollars on virtually every State government and municipality, regardless of need. This, too, could save the taxpayers a substantial sum of money. But I do not think the amendment offered today by the Senator from Wisconsin would be particularly constructive given our economic situation, and I will vote against it.●

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Alabama (Mr. Heflin), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Mississippi (Mr. Stennis), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Oklahoma (Mr. Bellmon), the Senator from South Dakota (Mr. Pressler), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The result was announced—yeas 31, nays 59, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—31

Bayh
Bentsen
Biden
Boren
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
DeConcini
Glenn
Hart
Hatfield
Helms
Humphrey
Johnston
Metzenbaum
Muskie
Nelson
Nunn
Proxmire
Ribicoff
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Talmadge
Young

NAYS—59

Baker
Baucus
Boschwitz
Bradley
Bumpers
Chafee
Church
Cochran
Cohen
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heinz
Hollings
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Morgan
Moynihan
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Stevenson
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—10

Armstrong
Bellmon
Eagleton
Heflin
Huddleston
Inouye
Pressler
Stennis
Stewart
Thurmond

So Mr. Proxmire's amendment (No. 458) was rejected.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator wish me to yield to him?

Mr. SASSER. Will the distinguished majority leader yield for a 30-second amendment which, I am told, the managers of the bill will accept?

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

UP AMENDMENT NO. 459

(Purpose: To prohibit the use of appropriated funds to contract for plant care or watering services)

Mr. SASSER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Nelson). The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Sasser) proposes an unprinted amendment numbered 459.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

Sec. 410. No part of any appropriation for the fiscal year ending September 30, 1980, contained in this or any other Act shall be used to contract with private firms to provide plant care or watering services.

Mr. SASSER. Mr. President, I am offering an amendment that would prohibit Federal agencies from using appropriated funds to contract with private firms to provide plant care and watering services.

Mr. President, on February 21, 1979, the Legislative Branch Appropriations Subcommittee—which I chair—conducted a hearing on the fiscal year 1980 budget of the Copyright Royalty Tribunal. This is a small Federal agency employing only 11 people. The function of the agency relates to certain aspect of the new copyright law which went into effect on January 1, 1979.

During the course of the hearing, I had occasion to inquire into a proposed expenditure of $2,000 for—and I quote—"other services, miscellaneous."

Mr. President, it was with some chagrin that I verified that this small agency—employing only 11 people—was spending eleven hundred dollars a year on—and you will not believe this—a plant care and watering service for their office plants: $632 for the plants and $468 a year for "maintenance."

At that time, Mr. President, I stated that I believe that almost any Government funds expended to purchase plants or to hire people to water them appears to be out of line.

Why not use homegrown plants? I water my own plants.

Subsequently, Mr. President, I contacted the General Accounting Office. I requested a listing of Federal agencies contracting with private firms for acquiring and maintaining indoor office plants.

In response to my request, the GAO provided a list of 26 Federal agencies. These agencies had spent $816,700 of taxpayers' funds during the period 1974 to 1978 on contracts with private firms—for acquiring and maintaining indoor office plants.

Mr. President, the average taxpayer from Tennessee pays $2,000 in Federal income taxes a year.

I wonder how those families from Tennessee would feel—to know that an amount equal to the entire tax bill—paid by 100 Tennessee families—over a period of 4 years—had been used by their Government to contract with private firms for acquiring and maintaining indoor office plants for Federal employees.

Mr. President, I ask unanimous consent that the tabulation appear in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. Mr. President, I am aware that—from time to time—there are reports in the media that Congress is guilty of acquiring "free plants" from the Botanic Garden.

Before bringing the whole matter of the taxpayers paying for plants to the attention of my colleagues, I took up the Senate experience with the distinguished chairman of the Joint Committee on the Library (Mr. Pell) whose committee has jurisdiction over these matters. The joint committee staff subsequently took the matter up with the Architect of the Capitol, who has jurisdiction over the Botanic Garden. The Architect has reported that no "free" plants are given to Members and their staffs. However, some of the plants grown at the Botanic Garden are, indeed, loaned to the various offices of the Senate under procedures approved by the Joint Committee on the Library.

Whereas, under existing procedures established by the joint committee, approximately $30 in plant material could be loaned to a Senate office in a year—this hardly compares with the expenditure of $1,100 for one small Federal agency with only 11 people.

Mr. President, in the final analysis, the question comes down to "Should the taxpayers pay for office plants for Federal employees."

Consequently, Mr. President, I am offering an amendment that would prohibit Federal agencies from using appropriated funds to contract with private firms to provide plant care and watering services.

With all the emphasis on cutting Federal spending to balance the budget, this certainly is one area where we can make progress. I am hopeful, Mr. President, that the distinguished manager of the bill will accept this amendment.

EXHIBIT 1

LISTING OF AGENCIES CONTRACTING WITH PRIVATE FIRMS FOR ACQUIRING AND MAINTAINING INDOOR OFFICE PLANTS DURING FISCAL YEARS 1974-77

Agency	1974	1975	1976	1977	Total
Department of the Treasury	$90,400	$74,000	$45,600	$12,700	$222,700
Department of the Interior	200	900	53,300	54,000	108,400
United States Postal Service	12,000	18,000	24,500	18,900	73,400
Department of Energy	3,500	4,500	34,200	30,600	72,800
Department of Transportation	5,300	16,400	16,000	15,900	53,600
Veterans' Administration		14,300	6,300	24,800	45,400
Department of Health, Education, and Welfare	4,400	13,700	12,700	8,800	39,600
Environmental Protection Agency	1,600	1,400	7,300	19,000	29,300
General Services Administration	10,000	1,100	9,500	8,400	29,000
Department of Agriculture		13,600	3,900	11,100	28,600
Department of Justice	4,300	2,400	8,600	8,500	23,800
Federal Reserve System			4,000	13,500	17,500
Department of Commerce	2,600	2,600	2,700	6,100	14,000
Inter-American Foundation	2,500	2,600	4,400	3,500	13,000
Farm Credit Administration	1,900	2,100	3,000	2,500	9,500
Federal Deposit Insurance Corporation	400	1,200	1,900	5,700	9,200
Department of Labor		$5,300			$5,300
Consumer Product Safety Commission	$2,200	800	$1,200	$1,000	5,200
Small Business Administration			1,900	2,000	3,900
Department of Housing and Urban Development			2,500	1,300	3,800
National Aeronautics and Space Administration		600	2,100		2,700
Federal Trade Commission		800	400	900	2,100
Federal Mediation and Conciliation Service				1,500	1,500
Federal Election Commission		500	300	500	1,300
District of Columbia	1,000				1,000
Pennsylvania Avenue Development Corporation		100			100
Total	142,300	176,900	246,300	251,200	816,700

Mr. PROXMIRE. Will the Senator give us some idea what savings will be involved in this amendment, roughly?

Mr. SASSER. I will advise the distinguished manager of the bill that—based on past experience—this would save approximately $200,000 per year.

Mr. PROXMIRE. Would this amendment apply to activities that would be conducted in city parks, and so forth?

Mr. SASSER. No; this would be activities which are conducted in the offices of various agencies wherein they contract with a private plant service to come by and water their plants.

Mr. PROXMIRE. I have no objection to the amendment, but I have not had a chance to discuss it with the Senator from Maryland, who is the ranking minority member of the subcommittee.

Mr. MATHIAS. Mr. President, I have not had the opportunity to review the matter carefully, either. I would not want to do anything that would impose upon the rights of cities, States, or counties to maintain their parklands. If it is limited, as the Senator says, to simply offices, I would see no great difficulty with it, but I think the legislative record ought to be clear.

Mr. SASSER. I would point out that it applies only to Federal agencies, and I was under the impression that it had been discussed with the distinguished manager of the bill, and he was agreeable to accepting it.

Mr. MATHIAS. It would not prevent the distinguished Senator from West Virginia, the Senator from Wisconsin, or the Senator from Maryland from watering the plants in our offices, would it?

Mr. SASSER. No; because the amendment goes only to contracts with private firms.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. PROXMIRE. I yield to the Senator from West Virginia.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the HUD appropriation bill now be temporarily laid aside, and that the Senate proceed to the consideration of Calendar Order No. 272, H.R. 4580, the District of Columbia appropriations bill, with the following provisos: That there be a time limitation on the District of Columbia appropriation bill of 1 hour, to be equally divided between and controlled by the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Mr. MATHIAS); that there be a time limitation on any amendment of 30 minutes; that there be a time limitation on any debatable motion or appeal or point of order, if such is submitted to the Senate, of 10 minutes; that on an amendment by Mr. HELMS dealing with abortion, there be an up or down vote; that that amendment not be subject to amendment; and that the agreement be in the usual form as to the division and control of time; and furthermore, that the D.C. appropriation bill not be subject to being pulled down by a call for the regular order during the consideration of the D.C. appropriation bill.

Mr. STEVENS. Mr. President, reserving the right to object, will the Senator from West Virginia leave his request pending and allow me 3 or 4 minutes to check with one Member on this side?

Mr. ROBERT C. BYRD. Yes. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I withdraw my reservation of objection to the time agreement. I have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished assistant minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

> **A bill (H.R. 4580) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes.**

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. MATHIAS. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on final passage of this measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I am pleased to have the opportunity to present to the Senate the committee recommendations on the District of Columbia Appropriations Act for fiscal year 1980. The recommendations are the result of 9 days of hearings to consider the city's request and the views of many citizens and taxpayers that wished to be heard. In addition to reviewing the original request contained in the President's budget, the committee also considered an $86.5 million budget amendment transmitted to Congress on May 31.

As you know, Mr. President, the lateness of the city's budget transmittal in the past has made it nearly impossible to consider enacting an appropriation bill in a timely manner. One reason that we are able to be here today with a bill is the fact that last year the committee insisted on a general provision establishing a due date of February 1 for submission of the ctiy's budget to Congress. That date was met for the fiscal year 1980 budget, and because it was the committee has been able to act in a timely manner.

The District of Columbia's budget request for fiscal year 1980 is $1,657,046,000, of which $1,480,505,700 is for operating expenses and the remaining $176,540,300 is for capital improvements. The committee analyzed these requests in great detail and the budget we are recommending is fully balanced and provides full funding for all the basic city needs. I would also point out that while the target ceiling in the first concurrent resolution for budget authority for the District of Columbia was $500 million, the total Federal funds recommended by the committee is $385 million, or $115 million less than the budget ceiling.

There are two major reasons why the committee is able to recommend a Federal funds total less than the target ceiling. First, the President's budget included a request of $317 million for the Federal payment, $17 million of which was subject to authorization. To date, no authorization increase has been proposed in the Senate. Accordingly, the committee sought the advice of the Mayor as to where the budget should be reduced by $17 million. In addition, the city will be able to fund some of the programs in fiscal year 1980 with cash balances remaining from previous years, thereby further reducing the need for a large Federal payment. These actions can be taken while providing for all the basic needs of the city and doing so with a fully balanced budget.

For fiscal year 1980 the committee recommends a total budget of $1,561,110,200, of which $1,395,754,900 is for operating expenses and $165,355,300 is for the capital improvements program. This represents an increase of $60,008,500 over the level provided last year for operating expenses and an increase of $88,140,300 over the level for capital outlay for a total increase of $148,148,800 compared with the level provided in fiscal year 1979. Although the recommended budget totals are higher than the House passed bill, it should be pointed out that the Senate committee has considered the $86.5 million budget amendment not considered by the House.

Instead of taking the Senate's time in going over each and every detail of the bill, I would like to provide a brief summary. The recommended Federal payment for fiscal year 1980 is $249,121,500, a reduction of nearly $68 million below the amount requested. As stated earlier, $17 million of the amount requested is not authorized, and further reductions were possible because of anticipated cash balances remaining at the end of the current fiscal year. This level for the Federal payment is only $3.4 million less than the amount provided in the current year. At the same time, it is the level necessary to provide for the basic needs of the city.

One of the major items the committee has included in its recommendation is funding for the implementation of a comprehensive financial management system for the District of Columbia. After years of planning, the efforts of the temporary commission on financial oversight for the District of Columbia and the D.C. Office of Financial Management will implement such a system on the first of October of this year. For the first time, the District's financial condition will be determined on a comprehensive basis. It is a much needed improvement, and Senator EAGLETON has worked hard over the years to see that it is done. The bill provides 44 permanent positions, 50 temporary positions, and $5.4 million to insure that the system is properly implemented during the critical first-year period.

The committee has recommended additional funding for the advisory neighborhood commission program and for the D.C. Commission on the Arts and the Humanities. The levels recommended are $150,000 over the House marks for the ANC program and $190,000 over the House mark for the Arts and Humanities Commission.

The recommendation includes funding for a summer jobs for youth program for the summer of 1980 as well as funding to initiate a jobs program for adults with dependents. The Committee plans to conduct hearings later this year to review the success of this year's summer youth jobs effort, and bill language has been included making the funding for next year's effort contingent upon approval of a plan for proposed expenditures by both the House and Senate Appropriations Committees.

Mr. President, there are several significant areas in which the committee is in agreement with the House. The first action relates to the city's police and fire retirement program. Although some improvement has been made in the past year, significant problems still exist. The committee believes that more could be done on the part of the city to correct serious deficiencies in administration of the disability retirement program. When compared with 15 other major U.S. cities, the number of disability retirements in the District rates poorly. Overall, disability retirements averaged 36 percent among the 15 cities compared with 79 percent in the District of Columbia. Accordingly, the committee has agreed with the House recommendation to reduce funds available for disability retirements by $5 million and has directed the city to implement needed administrative reforms.

Second, there is the matter of the welfare program in the District of Columbia. Mr. President, the committee was shocked to learn in hearings that the city had diverted employees assigned to uncover welfare fraud to other, less important work. Several years ago, the Congress specifically allowed 45 positions and related funding solely for the purpose of investigating welfare fraud cases. The city apparently thought that these positions could be better used elsewhere. How much the city lost by not being able to identify and recover erroneous payments is indeterminable. The committee has directed that these positions be used for the purpose intended by Congress. In addition, the additional $5.7 million requested for welfare payments has been denied, in agreement with the House.

Finally, Mr. President, the committee has deleted two general provisions added on the House floor related to funding for abortions. Due to the unique character of the District of Columbia, the annual appropriation bill includes not only Federal funds, but also locally generated revenues. Before the city can spend one dollar of its property tax, or its sales tax, or its local income tax, the Congress must appropriate the money. The provisions added by the House would deny the District's right to determine if its own money should be spent on abortions. Mr. President, the Congress has no right to make such a determination for any of the 50 States, and would never attempt to do so. The same argument, that of interfering with the rights of the States, should apply here. We have abortion restrictions on Federal funds granted through the Department of Health, Education, and Welfare, and these restrictions apply to the District as well as any of the States. These provisions are not an attempt to place the same restrictions on the District, but rather an attempt to place additional restrictions on the use of funds. On that basis, the Senate Appropriations Committee rejected a proposed amendment by a 2-to-1 margin.

Mr. President, I would at this point like to thank Senator MATHIAS, the ranking minority member of the subcommittee, for his excellent assistance and support in preparation of these recommendations. I would also be remiss if I did not compliment the committee staff who worked long, hard hours in an effort to get this bill before the Senate today; John Gnorski, the subcommittee clerk; Betty Hoem, his administrative assistant; and James Bond, the minority counsel.

Mr. President, I ask unanimous consent that a table detailing the committee recommendations be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980

					Senate committee recommendation compared with—		
Agency and item (1)	New budget (obligational) authority fiscal year 1979 (2)	Budget estimates of new (obligational) authority fiscal year 1980 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended by the Senate committee (5)	New budget (obligational) authority fiscal year 1979 (6)	Budget estimates of new (obligational) authority fiscal year 1980 (7)	House allowance (8)
TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA							
Salaries and expenses	$7,500,000	$500,000	$500,000	$500,000	−$7,000,000		
TITLE II—DISTRICT OF COLUMBIA FEDERAL FUNDS							
Federal payment	252,565,000	317,000,000	191,500,000	249,121,500	−3,443,500	−$67,878,500	+$57,621,600
Payment in lieu of reimbursement for water and sewer services to Federal facilities	12,200,000	10,500,000	10,300,000	10,500,000	−1,700,000		+200,000
Federal payment to retire RFK Stadium bonds	9,900,000				9,900,000		
Loans for capital investment		159,391,700	125,725,700	125,000,000	+125,000,000	−34,391,700	−725,700
Total, Federal funds to District of Columbia	274,665,000	486,891,700	327,525,700	384,621,500	+109,956,500	−102,270,200	+57,095,800

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980—Continued

Agency and item (1)	New budget (obligational) authority fiscal year 1979 (2)	Budget estimates of new (obligational) authority fiscal year 1980 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended by the Senate committee (5)	Senate committee recommendation compared with— New budget (obligational) authority fiscal year 1979 (6)	Senate committee recommendation compared with— Budget estimates of new (obligational) authority fiscal year 1980 (7)	Senate committee recommendation compared with— House allowance (8)
DISTRICT OF COLUMBIA FUNDS OPERATING EXPENSES							
Governmental direction and support	($66, 397, 900)	($70, 983, 200)	($67, 399, 700)	($64, 879, 000)	(−$1, 518, 900)	(−$6, 104, 200)	(−$2, 520, 700)
Economic development and regulation	(15, 070, 000)	(25, 673, 700)	(13, 810, 900)	(16, 009, 700)	(+939, 700)	(−9, 664, 000)	(+2, 198, 800)
Public safety and justice	(291, 569, 100)	(303, 024, 900)	(293, 247, 700)	(296, 177, 800)	(+4, 608, 700)	(−6, 847, 100)	(+2, 930, 100)
Public education system	(309, 564, 000)	(326, 162, 300)	(310, 596, 700)	(317, 379, 500)	(+7, 815, 500)	(−8, 782, 800)	(+6, 782, 800)
Human support services	(335, 498, 700)	(374, 156, 900)	(329, 110, 500)	(350, 432, 400)	(+14, 933, 700)	(−23, 724, 500)	(+21, 321, 900)
Transportation services and assistance	(83, 797, 900)	(95, 717, 600)	(91, 280, 100)	(92, 858, 600)	(+9, 060, 700)	(−2, 859, 000)	(+1, 578, 500)
Environmental services and supply	(76, 273, 200)	(81, 519, 200)	(77, 137, 800)	(79, 206, 100)	(+2, 932, 900)	(−2, 313, 100)	(+2, 068, 300)
Personal services	(34, 610, 600)	(81, 610, 600)	(47, 354, 500)	(58, 354, 500)	(+23, 743, 900)	(−23, 256, 100)	(+11, 000, 000)
Repayment of loans and interest	(120, 400, 000)	(121, 657, 300)	(120, 457, 300)	(120, 457, 300)	(+57, 300)	(−1, 200, 000)	
Demonstration expenses	(2, 565, 000)				(−2, 565, 000)		
Total, operating expenses	(1, 335, 746, 400)	(1, 480, 505, 700)	(1, 350, 395, 200)	(1, 395, 754, 900)	(+60, 008, 500)	(−84, 750, 800)	(+45, 359, 700)
CAPITAL OUTLAY							
Capital outlay	(77, 215, 000)	(176, 540, 300)	(132, 830, 200)	(165, 355, 300)	(+88, 140, 300)	(−11, 185, 000)	(+32, 525, 100)
Total, District of Columbia funds	(1, 412, 961, 400)	(1, 657, 046, 000)	(1, 483, 225, 400)	(1, 561, 110, 200)	(+148, 148, 800)	(−95, 935, 800)	(+77, 884, 800)
RECAPITULATION							
Grand total, new budget (obligational) authority	282, 165, 000	487, 391, 700	328, 025, 700	385, 121, 500	+102, 956, 500	−102, 270, 200	+57, 095, 800
Consisting of:							
Temporary Commission on Financial Oversight of the District of Columbia	7, 500, 000	500, 000	500, 000	500, 000	−7, 000, 000		
District of Columbia:							
Federal funds to the District of Columbia	274, 665, 000	486, 891, 700	327, 525, 700	384, 621, 500	+109, 956, 500	−102, 270, 200	+57, 095, 800
District of Columbia Funds	(1, 412, 961, 400)	(1, 657, 046, 000)	(1, 483, 225, 400)	(1, 561, 110, 200)	(+148, 148, 800)	(−95, 935, 800)	(+77, 884, 800)

Mr. LEAHY. That summarizes the committee action on this bill. Before I yield to the distinguished ranking minority member (Mr. MATHIAS), who has been, as always, extraordinarily helpful, I ask unanimous consent to correct one matter.

In the printing of the committee amendments, a minor error was made. On page 7, line 20, the amount of the Senate amendment should be $18,691,800 instead of $18,191,800, as printed. I ask unanimous consent that that error be corrected.

The PRESIDING OFFICER. Without objection, it will be corrected.

Does the Senator wish to request that the committee amendments be considered en bloc?

Mr. LEAHY. I was just about to make that request. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc for the purpose of further amendment, and that the bill as thus amended be considered as original text for the purpose of further amendment, provided that no point of order shall be waived by reason of such agreement.

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, the previous unanimous-consent request propounded by the distinguished majority leader did not include the provision that no point of order would lie in connection with my amendment.

Mr. LEAHY. Mr. President, I make that request, that no point of order lie by reason thereof.

Mr. HELMS. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 25, strike "$191,500,000" and insert "$249,121,500";

On page 3, line 4, strike "$10,300,000" and insert "$10,500,000";

On page 3, line 14, strike "$125,725,700" and insert "$125,000,000";

On page 3, line 24, strike "$67,399,700" and insert "$64,879,000";

On page 4, line 2, insert the word "and" immediately after the word "Mayor,"

On page 4, line 3, strike "and $300 for each member of the Council of the District of Columbia";

On page 4, line 23, strike "$13,810,900" and insert "$16,009,700";

On page 5, line 6, strike "$293,247,700" and insert "$296,177,800";

On page 6, line 5, strike "$310,596,700" and insert "$317,379,500";

On page 6, line 8, strike "$230,975,300" and insert "$236,540,700";

On page 6, line 10, strike "$47,115,200" and insert "$48,011,600";

On page 6, line 11, strike "$9,639,700" and insert "$9,770,700";

On page 6, line 12, strike $"161,500" and insert "$351,500";

On page 7, line 7, strike "$329,110,500" and insert "$350,432,400";

On page 7, line 20, strike "$20,919,500" and insert "$18,691,800";

On page 7, line 23, after "compensation" insert a colon and the following:

Provided further, That none of the funds appropriated for the summer youth jobs program shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved a plan submitted by the Mayor and the City Council detailing proposed expenditures.

On page 8, line 10, strike "$91,280,100" and insert "$92,858,600";

On page 8, line 19, strike "$77,137,800" and insert "$79,206,100";

On page 9, line 7, strike "$47,354,500" and insert "$58,354,500";

On page 10, line 5, strike "$132,830,200" and insert "$165,355,300";

On page 10, line 5, strike "$4,906,700" and insert "$5,288,100";

On page 14, line 23, strike "37,886" and insert "38,230";

On page 15, line 4, strike "33,659" and insert "34,003";

On page 15, line 5, strike "9,652" and insert "9,694";

On page 16, line 11, following the period, strike through and including the word "pertains" in line 18;

On page 17, beginning with line 7, strike through and including line 12.

Mr. LEAHY. Mr. President, I had earlier sent out a list asking unanimous consent for floor privileges for two staff members. Apparently there has been some confusion at the desk outside. Therefore, I ask unanimous consent that Martin Franks and Harry Jaffe of my staff have access to the floor throughout all matters involved in the consideration of the District of Columbia appropriations measure.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LEAHY. As soon as I get that unanimous consent request agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, the Senate is now considering H.R. 4580, which appropriates funds for the District of Columbia for fiscal year 1980. The bill is fiscally responsible and I support it.

I will just take a moment to point out the budgetary implications of the bill.

Mr. President, H.R. 4580, as reported, provides $0.4 billion in new budget authority. Outlays associated with the bill, including outlays from prior-year appropriations for these programs, also total $0.4 billion.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated $0.5 billion in budget authority and $0.5 billion in outlays to the D.C. Subcommittee.

The funds provided by H.R. 4580 as reported, plus prior action, put the subcommittee under its 302(b) allocations by $0.1 billion in both budget authority and outlays. I congratulate the subcommittee and its chairman, Senator LEAHY, for staying within its allocation.

Mr. President, I ask unanimous consent that a table showing the relationship of this bill to the subcommittee allocation be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 4580—DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1980—RELATIONSHIP TO SUBCOMMITTEE'S SEC. 302(b) ALLOCATION

[In billions of dollars]

	Budget authority	Outlays
Subcommittee's sec. 302(b) allocation	0.5	0.5
Action completed		(1)
H.R. 4580, as reported	.4	.3
Amount over (+) or under (−) subcommittee allocation	−.1	−.1
Possible later requirements: None anticipated.		
Possible amount over (+) or under (−) subcommittee allocation	−.1	−.1

[1] Less than $50,000,000.

Note: Details may not add to totals due to rounding.

Mr. MUSKIE. I also note that the bill has been reported early enough to permit enactment of the District of Columbia budget before the fiscal year begins. That is an important benefit of the timetable specified under the congressional budget process.

Although the subcommittee is likely to be below its allocation, I want to remind the Senate of the point I made when previous fiscal 1980 appropriation bills were before us. It appears that the full Appropriations Committee could exceed the amount allocated to it under the first budget resolution by about $6 billion in budget authority and $5 billion in outlays when all the regular appropriation bills and expected supplemental requirements are taken into account.

At the risk of belaboring the point, I note again that, taken altogether, these additional appropriations could increase the fiscal 1980 deficit by as much as $4 to $5 billion. In fact, the combination of these additional appropriations and the apparent economic slowdown threaten to drive the fiscal 1980 deficit higher than that of fiscal 1979.

Mr. President, as I have said before, I recognize that the failure of other committees to achieve savings in appropriated programs, uncontrollable increases in some programs, and new Presidential energy initiatives, are beyond the control of the Appropriations Committee. But I again urge the Senate to make appropriate reductions in future bills to avoid a significant increase over the first budget resolution targets. I also urge the Senate conferees on this bill to carefully consider the arguments of the House conferees for additional restraint in the Federal payment to the District of Columbia.

In conclusion, Mr. President, I repeat that I intend to vote in favor of H.R. 4580 as reported. I urge my colleagues to do likewise.

I congratulate the floor manager and the ranking minority member on bringing to the floor an appropriation bill that fits within the budget requirements.

Mr. LEAHY. I thank the distinguished chairman of the Budget Committee. I yield to the distinguished ranking minority member (Mr. MATHIAS).

Mr. MATHIAS. I thank the chairman of the committee, the distinguished Senator from Vermont (Mr. LEAHY), not only for his remarks here today but for his continuing interest in the problems of the District of Columbia. He leads this subcommittee with thoroughness and fairness, and I think it would not be inappropriate to add, courage. I look forward to our continuing work together on matters that deal with the District of Columbia.

Mr. President, I will not deal at any great length on the points of this bill except to note that while the bill appears to be over the sum appropriated by the other body, it must be pointed out that the Senate was faced with $86 million in budget amendments which were not considered by the House. Therefore, we must necessarily have had to deal with problems that were not before the other body.

Second, the recommendations contained in this bill are, in fact, $113 million under the District of Columbia's allocation for budget authority, and $121 million under the allocation for outlays. So, as the Senator from Maine, the chairman of the Budget Committee, has just pointed out, we have done our best to observe the principles of fiscal prudence here. It is, in fact, $102,270,200 below the budget estimate.

So by all the various tests of fiscal prudence, I think this budget is a lean one and I hope it is an adequate one.

The committee is recommending added resources to various offices in line with the appeals we have had from Mayor Barry and from the president of the City Council, Mr. Dixon. We are recommending all the funds that were requested for the D.C. General Hospital for, I believe, reasons which are obvious, and, likewise, we have provided the Department of Human Resources with the funds necessary to adequately carry out those vital programs.

The one thing that I would mention in particular concerns a recommendation for funding summer jobs for youth programs in the summer of 1980, not the current summer, but next year. I want to thank the chairman for planning to conduct hearings later this year to review the operation of the current program and to see what changes, if any, may be necessary. We ought not to get again into the kind of situation we found ourselves in this year when we were attempting to fund the summer jobs program when the temperature was rising, when the spring flowers had not actually only bloomed but had faded and we were really into the summer. That creates an atmosphere of uncertainty which we believe defeats the whole purpose of the summer jobs program.

I am happy that the committee will recommend full funding of the summer jobs program, and that bill language has been included which conditions funding upon approval by both the House and Senate Appropriations Committees.

Mr. President, I want to take particular note of the contributions which have been made to this bill by Members of the Senate staff, without whom we would have great difficulty in dealing with the bill as efficiently and as effectively as we have.

Mr. President, I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Maryland. I should say that I am also appreciative of the staff. Also, the matter of the summer jobs program could not possibly have gotten through as quickly as it did in the Senate without the strong support of the Senator from Maryland. I look forward to working with him in reviewing the program.

Mr. President, I understand that our distinguished colleague from North Carolina has an amendment. There is time reserved on that. I will reserve the remainder of my time and yield to the Senator from North Carolina.

UP AMENDMENT NO. 460

(Purpose: To conform funding of abortions in the District of Columbia to those funded under the Medicaid program)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment No. 460:

On page 17, line 7, insert the following:

"SEC. 220. None of the funds appropriated under this Act shall be used to pay for abortions for which Federal funds are not available under the Medicaid program."

Mr. HELMS. Mr. President, again this month it is necessary for the Senate to consider the use of taxpayers' money to finance the intentional destruction of innocent human life. It is nothing less than a scandal that last year there were 30,000 abortions performed in the Nation's Capital. Among residents of the District of Columbia there were 13,000 abortions performed. At the same time there were only 10,000 children born in this city. Among residents there were 130 percent more abortions than live births.

Mr. President, when will this discretionary killing of unborn children by means of abortion be ended? Thirty thousand abortions per year cannot by any stretch of the imagination be described as medically necessary abortions or abortions to save the life of the mother. These are simply convenience abortions.

Now it may very well be that there is some feeling that if the Federal Government is going to promote a policy of abortion on demand through the use of taxpayers' money that the District of Columbia is a good place to begin. But, Mr. President, a life is a life. And this Senator is going to fight just as hard for the right to life of children in the District of Columbia as he is going to fight for these children in other parts of this country.

Those of us who have continued to fight for the Hyde amendment in the House and the Helms amendment in the Senate continue to be told what a bargain abortions are for the poor. It is repeatedly said that abortions are the most efficient and effective way of dealing with the welfare problems which confront the District of Columbia. Even Albert Russo, Director of Human Resources for the District of Columbia, has reminded us of how much cheaper it is to pay for abortion rather than child care for the poor.

The basic implication of that argument is clear. It says, in other words, it is cheaper to the State to kill the unborn children of the poor than to let them be born.

Rev. Richard Neuhaus has been an outspoken critic of what he describes as "waging war on the poor" by means of abortion. Some of my colleagues may remember that Reverend Neuhaus was a founder of Clergy and Laity Concerned Against the War. He has written:

> A new twist in the debate is that pro-abortionists are becoming more candid about the usefulness of abortion in limiting the number of poor people in America. For a long time, Black leaders such as Jesse Jackson and Dick Gregory have contended that abortion on demand is a "genocidal" program aimed at Black America.

This Senator is going to be consistent in the defense of innocent human life wherever found.

Mr. LEAHY. Mr. President, I understand the concern of my colleague from North Carolina, but I will oppose this amendment, as I did a similar amendment in the committee markup. I would suggest to my friends and colleagues in the Senate that we are not dealing with the abortion question, as such, but basically what would be a States' rights question if it would fall any place but the District of Columbia.

This body and the other body voted for home rule, albeit a limited and hybrid type of home rule but home rule nonetheless, for the District of Columbia. Last year, we also went further and voted in this body, and in the other body, by the requisite constitutional number, for a constitutional amendment to give representation in the Congress to the District of Columbia.

Basically, I do not in any way fault the intentions of my distinguished colleague from North Carolina in this amendment. Essentially, this amendment would tell the District of Columbia that they cannot use their money for abortions, money they raised from the sales tax, from the corporate tax, from whatever source. Except for the anomaly of the home rule charter, I see no difference in that than for us to have an amendment here to say that the legislature of the State of Vermont could not determine how it would spend the money it collected from Vermonters for purposes within the borders of Vermont determined by the Vermont Legislature.

Basically, that is what we would be saying to the District of Columbia, that they could not determine how to spend their own money. They are restricted in medicare and medicaid funds by the same law which restricts the State of Wisconsin, the State of Vermont, or any other State in the use of medicare and medicaid funds on abortion. Those restrictions will apply no matter what we do today. Those restrictions will apply to medicaid funds used within the District of Columbia.

I would oppose this amendment on the basis that it interferes with the home rule rights of the District of Columbia. Aside from any other reason I might oppose it, I think that is justification enough to defeat it.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Will the Senator yield?

Mr. LEAHY. Yes.

Mr. RIEGLE. I must say to my friend from North Carolina I am astonished to see him offer an amendment which would attempt to dictate, which is what this does, dictate to a State or local unit of government, because it runs contrary to virtually everything else I have seen him try to do. I must say I am having a hard time reconciling because I do not think it is philosophically consistent with position after position after position that I have seen the Senator take. I, frankly, am very reluctant to see the Federal Government intrude in the decisions that I think are properly State or local decisions, whether it is in the areas of educational policy or whether it is the question of moneys that other jurisdictions might choose to spend on matters as sensitive as abortion, or anything else. How the Senator can, on one day, come in and take such a strong position against Federal intervention and, the very next day, be in here arguing for, in a sense, a very direct intrusion by the Federal Government is really beyond me. I would be opposed to the Senator's amendment, in part, for that reason. I hope that maybe, in the course of his comments, he can help at least this Senator understand how to make sense out of what I really think is a contradiction that just befuddles me.

Mr. HELMS. Mr. President, I yield myself such time as I may require. I shall be glad to try to make the Senator understand. I may not be successful.

In the first place, the District of Columbia is not a State, it is unique in one sense that the Senator should bear in mind: No other city, no other unit of government in the United States, has its budget reviewed by Congress.

I expected, Mr. President, that the question of home rule would be brought up by those who oppose this amendment, and what I am about to say I say with all deference to and respect for those who differ with me.

If the Senator from Michigan is going to be consistent, then he has to go through this entire bill and strike out a lot of things. The fact is that this bill contains page after page of restrictions approved by the committee, which makes similar limitations on the use of these funds. If the Senator wants some examples, section 205 reads:

> Appropriations in this title shall not be used for . . . the installation of meters in taxicabs.

Where did the Senator get the authority to do that? Why did he not respect home rule on that? The Senator from North Carolina is saying that the preservation of human life is a lot more important than a meter in a taxicab.

Mr. LEAHY. If the Senator will yield, I point out that provision has been included in this bill for several years. I should be happy to entertain an amendment to take it out.

Mr. HELMS. I leave that to the Senator's good judgment.

Mr. RIEGLE. I would cosponsor that amendment.

Mr. HELMS. I am simply saying that the arguments based on home rule do not hold water.

Mr. President, section 206 reads: "Appropriations in this title shall not be available for the payment of rates for electrical current for street lighting in excess" of congressionally set limits.

Section 210 reads: "No part of any funds appropriated by this title shall be used to pay compensation" for chauffeurs other than those for the Mayor, Fire Chief and Chief of Police.

These are just some of the restrictions contained in this bill which are similar in nature to the pending amendment.

Mr. President, why is it that the principle of home rule—which has risen to such lofty heights—does not bar the committee from regulating the most minute matters such as the operation of D.C. taxicab meters, electrical rates for street lighting and the number of chauffeurs government officials may have?

If the principle of home rule cannot tolerate any exception, then all of these provisions should be struck from the bill.

How can we say: Yes, we have the power and responsibility to regulate taxicabs and chauffeurs, but we are powerless to affirm the basic, fundamental responsibility of Government—the protection of innocent human life?

Do not let the issue of home rule be used as a smokescreen to hide the reality of the discretionary killing of thousands of innocent unborn children, Mr. President.

The problem is that the Federal contribution to the D.C. budget is so commingled with district revenues that a limitation restricted only to the Federal contribution is merely the illusion of a restriction.

Mr. President, there is no inconsistency whatsoever. I am delighted to hear the affirmation of States' rights by my friend from Michigan. I look forward to having him vote with us on questions that truly address themselves to States' rights in matters of future legislation. In this case, Congress has the authority and, I think, the duty to take the action contemplated by this amendment.

Mr. President, the yeas and nays have been ordered on the amendment, is that correct?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LEAHY. Mr. President, I am willing to yield back the remainder of my time.

Mr. HELMS. I shall yield back the remainder of my time after I say to my friend, the distinguished Senator from Vermont that I deeply appreciate his cooperation in this matter, even though I know he is opposed to it. I am grateful to him.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 34, nays 55, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—34

Biden
Boren
Boschwitz
Cannon
Church
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Melcher
Proxmire
Randolph
Roth
Schweiker
Stennis
Stone
Wallop
Zorinsky

NAYS—55

Baker
Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Glenn
Gravel
Hart
Hayakawa
Heinz
Hollings
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stevens
Stevenson
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young

NOT VOTING—11

Armstrong
Bellmon
Eagleton
Heflin
Huddleston
Inouye
Long
Pressler
Simpson
Stewart
Thurmond

So Mr. HELMS' amendment (UP No. 460) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, the distinguished Senator from Missouri (Mr. EAGLETON) is currently in his home State on important business. I have discussed at some length the matter of adding an amendment to the District of Columbia bill, the amendment that eventually was proposed by Mr. HELMS.

I wish to announce that were Senator EAGLETON here, he would have voted in favor of the Helms amendment.

UP AMENDMENT NO. 461

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 461.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1980, and for other purposes, namely:

TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Act creating the Temporary Commission on Financial Oversight of the District of Columbia (Public Law 94–399), $500,000, which shall be available until expended: *Provided*, That the Temporary Commission on Financial Oversight of the District of Columbia shall have the power to appoint, fix the compensation of, and remove an Executive Director and additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to the appointment in the competitive service. For purposes of pay (other than pay of the Executive Director) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as Congressional employees. The Executive Director may be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule.

TITLE II—DISTRICT OF COLUMBIA

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1980, $191,500,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code 47–2501d); and $10,300,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43–1541 and 1611).

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended, $125,725,700, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $67,399,700, of which $300,000 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia and $300 for each member of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That for the purpose of assessing and reassessing real property in the District of Columbia, $5,000 of this appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of $100 per diem: *Provided further*, That not to exceed $7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That not to exceed $500,000 of this appropriation shall be available for settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each: *Provided further*, That $500,000 of this appropriation, to remain available until expended, shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94–399, approved September 4, 1976.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $13,810,900.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of one hundred and thirty-five passenger motor vehicles for replacement only (including one hundred and thirty for police-type use and five for fire-type use without regard to the general purchase price limitation for the current fiscal year); $293,247,000, of which $5,863,400 shall be payable from the revenue sharing trust fund: *Provided*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further*, That funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93–412) for fiscal year 1980 shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That not to exceed $200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $310,596,700, of which $8,164,100 shall be payable from the revenue sharing trust fund, to be allocated as follows: $230,975,300 for the District of Columbia Public

Schools; $22,705,000 for the Teachers' Retirement Fund; $47,115,200 for the University of the District of Columbia; $9,639,700 for the Public Library, and $161,500 for the Commission on the Arts and Humanities: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $1,000 for the Superintendent of Schools and $2,500 for the President of the University of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That the $22,705,000 of this appropriation allocated for the Teachers' Retirement Fund shall be transferred to the Teachers' Retirement Fund, in accordance with the provisions of section 7 of the Act of August 7, 1946 (60 Stat. 879, as amended; D.C. Code, sec. 31-727): *Provided further*, That not less than $7,257,800 of this appropriation shall be used exclusively for maintenance of the public schools.

HUMAN SUPPORT SERVICES

Human support services, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, $329,110,500, of which $6,728,200 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate under such contracts shall not exceed $76 per diem and the outpatient rate shall not exceed $12 per visit except for services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act, and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to 24 U.S.C. 168a: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500: *Provided further*, That $5,807,100 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

TRANSPORTATION SERVICES AND ASSISTANCE

Transportation services and assistance, including rental of one passenger-carrying vehicle for use by the Mayor and purchase of one hundred and twenty-nine passenger carrying vehicles, of which seventy-eight shall be for replacement only, $91,280,100, of which $7,444,300 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles: *Provided further*, That $2,900,000 of this appropriation shall be available for the fiscal year 1978 Metrobus operating subsidy: *Providing further*, that $4,890,400 of this appropriation shall be available for the fiscal year 1979 Metrobus operating subsidy.

ENVIRONMENTAL SERVICES AND SUPPLY

Environmental services and supply, $77,137,800, of which $1,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

PERSONAL SERVICES

For pay increases and related costs, to be tranferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1980 from which employees are properly payable, $47,354,500.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with the Act of August 7, 1946 (60 Stat. 896), as amended; sections 108, 217, and 402 of the Act of May 18, 1954 (68 Stat. 103, 109, and 110), as amended; the Act of July 2, 1954 (68 Stat. 443); section 9 of the Act of September 7, 1957 (71 Stat. 619), as amended; section 1 of the Act of June 6, 1958 (72 Stat. 183), as amended; section 4 of the Act of June 12, 1960 (74 Stat. 211), as amended; and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198), as amended, including interest as required thereby, $120,457,300.

CAPITAL OUTLAY

For construction projects as authorized by the Acts of April 22, 1904 (33 Stat. 244), May 18, 1954 (68 Stat. 105, 110), June 6, 1958 (72 Stat. 183), August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 321); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, $132,830,200: *Provided*, That $4,906,700 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction Services, Department of General Services": *Provided further*, That the amount appropriated to the Construction Services Fund, Department of General Services, be limited, during the current fiscal year, to ten per centum of appropriations for all construction projects, except for Project Numbered 24-99, Permanent Improvements, for which construction services shall be limited to twenty per centum of the appropriation: *Provided further*, Notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 (Public Law 90-495, approved August 23, 1968), for which funds are provided by this paragraph, shall expire on September 30, 1981, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

SEC. 201. Except as otherwise provided in this title, all vouchers covering expenditures of appropriations contained in this title shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 202. Whenever in this title an amount is specified within an appropriation for particular purposes or object of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 203. Appropriations in this title shall be available, when authorized or approved by the Mayor, for allowances for privately-owned conveyances used for the performance of official duties at 17 cents per mile but not to exceed $60 a month for each automobile and at 11 cents per mile but not to exceed $40 a month for each motorcycle, unless otherwise therein specifically provided, except that one hundred and thirteen (eighteen for venereal disease investigators in the Department of Human Resources) such automobile allowances at not more than $935 each per annum may be authorized or approved by the Mayor.

SEC. 204. Appropriations in this title shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor.

SEC. 205. Appropriations in this title shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

SEC. 206. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of two cents per kilowatt-hour for current consumed.

SEC. 207. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided*, That no part of any funds so appropriated shall be used for the payment of any judgment entered by any court against the government of the District of Columbia requiring the payment for electric current for street lighting at a rate in excess of two cents per kilowatt-hour for current consumed: *Provided further*, That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, as amended.

SEC. 208. Appropriations in this title shall be available for the payment of public assistance without reference to the requirement of subsection (b) of section 5 of the District of Columbia Public Assistance Act of 1962 and for the non-Federal share of funds necessary to qualify for Federal assistance under the Act of July 31, 1968 (Public Law 90-445).

SEC. 209. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 210. No part of any funds appropriated by this title shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Mayor, Chief of Police, and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of any such officer or employee (other than the Mayor, Chief of Police, and Fire Chief). No part of any funds appropriated by this title, in excess of $1,000 per month in the aggregate ($12,000 per annum) shall be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Mayor, or for performing services as chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Mayor.

SEC. 211. Not to exceed 4½ per centum of the total of all funds appropriated by this title for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 212. The total expenditure of funds appropriated by this title for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed $225,000.

Sec. 213. Appropriations in this title shall not be available, during the fiscal year ending September 30, 1980, for the compensation of any person appointed—

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 37,886: *Provided*, That—

(A) positions within this city employment limitation shall be set aside as the maximum number of permanent, authorized employees as follows: Appropriated positions, 33,659 of which 9,652 shall be for Public Schools; reimbursable and revolving fund positions, 1,090; capital outlay positions, 781; District of Columbia General Hospital, 2,356; and

(B) the District of Columbia Public Schools and the District of Columbia General Hospital shall not exceed their respective employment limitations and are hereby required to report monthly to the Mayor, for the purpose of maintaining controls on city-wide employment, regarding the total number of current employees and the total number of separations and filling of positions within their respective employment limitations; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

Sec. 214. No funds appropriated in this title, for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community group during non-school hours.

Sec. 215. Appropriations in this title shall be available for services as authorized by 5 U.S.C. 3109, at rates to be fixed by the Mayor.

Sec. 216. The annual budget for the District of Columbia government for fiscal year 1981 shall be transmitted to the Congress by not later than February 1, 1980. Supplemental requests and budget amendments shall be transmitted to the Congress in a timely manner. Such supplementals duly submitted may be considered by the Congress in connection with a Federal supplemental or in a separate District of Columbia supplemental. Budget amendments duly submitted may be considered as a part of the annual District budget to which the amendment pertains.

Sec. 217. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, D.C. Law 2–20, approved September 23, 1977.

Sec. 218. None of the funds contained in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name and salary are not available for public inspection.

Sec. 219. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

This Act may be cited as the "District of Columbia Appropriation Act, 1980."

Mr. ROTH. Mr. President, this amendment would reduce the Federal payment recommended in this bill by $57.5 million. An appropriation of this amount was recommended by the House committee and passed by the House. I consider the $57.5 million increase recommended by the committee drastic and unwarranted.

Both the District's budget and the Federal payment have precipitously increased over the past 10 years. The District's operating expenses have increased at an average annual rate of 21 percent each year over the last decade.

Federal funds comprise almost one-fifth of the District's operating expenses. For all areas of the District's budget, the House bill allows generous increases which the Senate ought not to exceed.

Today, the District's budget supports over 46,000 permanent employees and about 9,000 temporary workers. The District government has 46 percent more employees per capita than the national average for State and local employees.

The city's population has decreased by 100,000 since 1969; nonetheless, over the last decade the Federal payment has increased from $131.0 million to the $249.1 million recommended in this bill. Both the General Accounting Office and the District government agree that personnel costs account for 57 percent of the annual D.C. budget. Personnel costs continue to absorb more and more of the budget. Consequently, public service funds have been jeopardized; the District has had to request increases in Federal moneys each year over the last decade far in excess of the inflation rate. The Federal Government must not continue to pay for the city's overblown payroll. It is imperative that sharp restraints be imposed on the growth of the District's government. We must not sponsor the unwarranted expansion of the District's governmental employment base beyond its already bloated size.

Mr. President, many of us in this body believe that the unnecessary growth of the Federal Government must be curtailed. More importantly, taxpayers all across this Nation demand we scrutinize the appropriations' process to more effectively insure the efficient expenditure of their tax dollars. We must encourage belt tightening and fiscal restraint in the District's government.

We must limit any further expansion of the District's already bloated bureaucracy. We must not promote unwarranted budget expansion. Mr. President, my amendment is modest; I strongly urge its adoption.

Mr. LEAHY. Mr. President, I oppose the amendment offered by the Senator from Delaware, for a number of reasons.

The committee has already made substantial reductions to the Federal funds portion of the budget. The Federal payment has been reduced $68 million from the city request. This represents a 22-percent reduction below the request.

The city has requested the authority to borrow $159,391,700 from the U.S. Treasury for the capital improvement program. The Senate has reduced this request by $34.4 million since cash balances are available to fund this program from previous borrowings due to the delay of several capital projects. This amounts to a 22-percent reduction.

The ceiling in the first concurrent resolution for the District of Columbia includes $500 million for new budget authority. The committee has recommended $384,621,500 of this total which is $102,270,200 less than the ceiling, or a 21-percent reduction in the ceiling.

The committee has done its work with great care. We have made these reductions only after hours of hearings and still more hours of analysis and great deliberations.

Further reductions would not be justified.

As the Members know, these Federal funds in the District of Columbia bill are just one source of funding and $1,067,000,000 of the funds for this bill come from local sources.

The budget recommended by the committee reverses the trend of the city's increasing and growing dependence on Federal funds. The recommended Federal payment is 17.85 percent of the total budget, the lowest percentage since 1966.

The Members should know that while the city will receive an estimated $795.5 million in Federal funds in fiscal year 1980 that only $384.6 million, or 48 percent, are appropriated through the District of Columbia bill. The balance of these Federal funds come to the District of Columbia from the various Federal agencies and we have no control over that in this bill.

Mr. President, I point out that the percentage of the Federal payment to the overall budget is the lowest since 1966.

Senator Muskie has noted, on behalf of the Budget Committee, that this is one of the few budgets to come through that is substantially below the Budget Committee's targets. The Federal payment is substantially below the request of the President. It is substantially below the amount that OMB recommended. It is substantially below the amount recommended by the authorizing committee.

I feel that I am in a somewhat anomalous situation. I do not think that by my recommendations I ever have been considered by the city as some sort of Santa Claus with respect to this budget. I know that has been the attitude of the two newspapers in Washington in this regard. I have cut and cut and cut in this budget.

We have considered amounts that the House did not have before it. I know the House has taken a very conscientious, very serious, very studious, and very careful look at this budget. We did have matters to consider that they did not have to consider. Of course, we still have the conference committee to go to.

So I hope that, inasmuch as we are so far below the budget targets already voted on and set by this body, this amendment will be rejected and that we will be allowed to take this bill to conference and work out the differences there.

I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I rise to oppose the amendment. I am wondering of the Senator from Delaware is advised that one of the principal reasons for the difference between the amount appropriated in the other body and the amount recommended by the committee here is the fact that there were budget amendments between the consideration in the other body and the consideration in the Senate. Those budget amendments totaled $86.5 million, and were legitimate requests, necessarily requests that the other body did not have an opportunity to act on because the budget amendment had not been made at the time that the House of Representatives acted.

So, even with that the Senate did not grant all of those budget requests, only a portion of them representing the difference between what the other body did and what the Senate did.

I think in addition to what the Senator from Vermont, the chairman of the committee, has already said about the frugality of this appropriation, which has been praised by the chairman of the Budget Committee, which is within the budget, which is within the first concurrent resolution, which is within the authorization, all of the tests of fiscal prudence have been met here, but even more than that I hope that the Senator from Delaware will not be trying to reach beyond a cut in the Federal funds, because under the principles of home rule what the City Council does in raising and expending revenue is certainly entitled to comity.

If the Senator from Delaware will look at the figures in the committee report, it will be clear that this appropriation represents more than a 20-percent cut in Federal funds requested by the budget. We have already cut the Federal share of this appropriation by more than 20 percent. We have already cut the District's share by 6 percent. So there has already been a substantial attempt to economize. It is my honest belief that any further cuts here are bound to represent a significant slash in services which can only be detrimental to the National Capital of this country.

Mr. LEAHY. Mr. President, I am ready to yield back my time, if Senator Roth is, and take a rollcall vote on his amendment.

Mr. ROTH. Mr. President, I say to the distinguished manager, and I will take only a couple additional minutes. I congratulate the committee, particularly the manager, who has been taking a hard look at many of the expenditures of the District of Columbia government. At the same time, I think it is only fair to point out that the House bill, together with the expenditures of the District of Columbia, amounts to over an 8.8-percent increase.

I do think that it is important that we recognize that GAO has reported that the District error rate in welfare payments exceed the national average twofold. I have already mentioned that they have the highest per capita employment in the country. According to the GAO, the District has no work force management system.

I personally think that as it is the Nation's Capital, the budget should be adequate, but we should have efficiency as an example for the remainder of the country.

I urge the adoption of my amendment.

I yield back the remainder of my time.

Mr. LEAHY. I yield back the remainder of my time.

I understand the yeas and nays have been ordered?

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Burdick). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Alabama (Mr. Heflin), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from South Dakota (Mr. Pressler), the Senator from Wyoming (Mr. Simpson), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "yea."

The PRESIDING OFFICER (Mr. Bradley). Have all Senators in the Chamber wishing to vote done so?

The result was anounced—yeas 28, nays 60, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—28

Bentsen
Boren
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chafee
Danforth
Dole
Exon
Ford
Garn
Goldwater
Hatch
Helms
Humphrey
Jepsen
Johnston
Laxalt
McClure
Metzenbaum
Nunn
Proxmire
Roth
Stone
Tower
Wallop
Warner
Zorinsky

NAYS—60

Baker
Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Durenberger
Durkin
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Hollings
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Talmadge
Tsongas
Weicker
Williams
Young

NOT VOTING—12

Armstrong
Bellmon
Domenici
Eagleton
Heflin
Huddleston
Inouye
Long
Pressler
Simpson
Stewart
Thurmond

So Mr. Roth's amendment (UP No. 461) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, H.R. 4580, which the Senate passed today, makes appropriations for the District of Columbia for fiscal year 1980, serves two very important functions. First, it provides a Federal payment to the city which is intended to help it meet its obligations as the Nation's Capital. Second, it provides funds for local programs operated by the city government.

I want to compliment the distinguished Senator from Vermont (Mr. Leahy), who is chairman of the District of Columbia Subcommittee, and the members of the subcommittee for the thorough and careful attention they have given to each of these areas.

As the Nation's Capital, Washington, D.C., plays a role unlike that of any other city. That is, it serves not only District of Columbia residents but also every citizen in the United States. Every Federal building, every national monument is maintained for the benefit of all Americans.

At the same time, however, the District must be responsive to the local community. Local agencies such as the Metropolitan Police Department, the Board of Education, the Department of Human Resources, and others, are responsible for seeing that local services are rendered efficiently and effectively.

In keeping with its twofold responsibility of addressing both the needs of the District of Columbia as it applies to its residents and as it applies to the Nation, the subcommittee, under the very able leadership of Senator Leahy and the ranking minority member, Senator Mathias, has reported a bill which is balanced in its budget targets and realistic in its recommendations.

Having served for 7 years as chairman of the District of Columbia Appropriations Subcommittee, I feel a kinship with, and a great respect for the accomplishments of Senator Leahy and Senator Mathias. Each has demonstrated great skill in tackling some complicated and longstanding problems concerning the relationship of the Federal Government to the District of Columbia.

The subcommittee has reviewed the budget requests for the District of Columbia item by item. As the report accompanying the bill indicates, every reduction in funds and every increase in funds is well documented.

Careful review of all areas led the subcommittee to recommend increases in selective areas. For example, additional funding is recommended for the Office on Aging. The elderly are among those hardest hit by inflation. The increases recommended by the subcommittee will go toward improvements in legal and long-term care services for the District's elderly, as well as toward improvements in transportation services for the elderly.

The committee recommends the requested amount for the new Pre-Vocational Center for the Handicapped, which is planned as a barrier-free facility that will serve the special needs of handicapped students seeking career educations.

The committee also made some very important recommendations in the bill. In an effort to avoid unnecessary administrative costs and duplication, the fiscal year 1980 budget proposes that consolidation efforts of recent years be continued.

Another recommendation, again reflective of the committee's interest in seeing the city government operate smoothly and efficiently, includes a directive that the Department of Human Resources continue to improve its welfare payment system and reduce erroneous welfare payments.

Mr. President, the District of Columbia appropriations bill for fiscal year 1980 is a well-balanced bill. It has been carefuly reviewed and contains important recommendations for more efficient operations of agencies and departments of the District government. Again, let me thank Senators LEAHY and MATHIAS and the members of the committee for their fine work.

Mr. LEAHY. Mr. President, I suggest a third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. LEAHY. Mr. President, the yeas and nays have been ordered. I yield back my time.

Mr. MATHIAS. I yield back all our time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. INOUYE), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), the Senator from South Dakota (Mr. PRESSLER), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to vote who have not done so?

The result was announced—yeas 77, nays 12, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—77

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatfield
Hayakawa
Heinz
Hollings
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Tsongas
Warner
Weicker
Williams
Young

NAYS—12

Cochran
Garn
Hatch
Helms
Humphrey
Jepsen
Laxalt
Proxmire
Roth
Tower
Wallop
Zorinsky

NOT VOTING—11

Armstrong
Bellmon
Eagleton
Heflin
Huddleston
Inouye
Long
Pressler
Simpson
Stewart
Thurmond

So the bill (H.R. 4580), as amended, was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. BRADLEY) appointed Mr. LEAHY, Mr. BUMPERS, Mr. DURKIN, Mr. MAGNUSON, Mr. MATHIAS, Mr. SCHMITT, and Mr. YOUNG conferees on the part of the Senate.

Mr. LEAHY. Mr. President, again I thank my colleagues, but especially I thank Senator MATHIAS, the ranking minority member of the subcommittee, for his help and consideration on this measure. I also especially thank Mr. Bond, Mr. Gnorski, and Ms. Hoem and others on the committee staff for their fine work.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1980

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 4394.

Mr. PROXMIRE. Mr. President, I yield 1 minute to the Senator from Vermont.

Mr. LEAHY. Mr. President, I call attention to an appropriation item included in the HUD-independent agencies appropriation. It is my feeling that this issue did not receive the close attention it deserves during committee deliberations. Therefore, I would like to speak briefly to the question at this time with the hope that Senate conferees will be mindful of my concern at the time they meet with House Members to resolve differences on the appropriations bill.

The appropriations request that I address is that for the President's Regulatory Council. The Council's budget is included as a line item within the larger budget of the environmental protection agency. It is my understanding that the budget request was handled in this manner because Mr. Doug Costle, the head of the Environmental Protection Agency, is also the designated head of the President's Regulatory Council. For reasons of convenience, the Council budget was included within EPA's larger request.

Mr. President, the Regulatory Council was created by Presidential directive on October 31, 1978. In conjunction with the President's Executive Order 12044 on regulatory reform, the Council was established for the very laudatory purpose, I believe, of providing coordination in the development and exercise of regulatory policy between executive agencies and departments. High ranking officials of all executive departments and certain executive agencies were made members of the Council and a small staff was created. As stated by the President in his Regulatory Council directive, the purpose of the Council is to "help insure that regulations are well coordinated, do not conflict, and do not impose excess burdens on particular sectors of the economy." An express role of the Council in this regard is to publish semiannually a regulatory calendar listing major regulations that agencies and departments intend to publish.

To assist in the larger and more complex task of regulatory reform, the Council is designed as an interagency coordinating mechanism. The President has wisely recognized that in light of the fact that departments and agencies often have overlapping jurisdiction in substantive policy areas, there is a need to coordinate regulatory policies so as to avoid economic waste caused by inefficient and duplicative regulations.

I heartily support the President's efforts for regulatory reform, and I do not disfavor the concept of a regulatory council. I do, however, urge the Senate conferees to take a closer look at the amount of money that is being requested for operation of the Regulatory Council.

As a member of the Senate Judiciary Subcommittee on Administrative Practice and Procedure, I am very interested in the substantive issues of regulatory reform. I am a supporter and cosponsor of bills on this subject, and I endorse the idea of a regulatory council.

Mr. President, the amount of money involved in the Council's appropriation request is small. They are asking for $3,238,000—a pittance, to be sure, in view of the dollar figures that are being discussed here today.

While the dollar figure involved here may be small, I would submit that the principle is significant. As we strive to simplify and make the regulatory policies of our Government more efficient and workable, we must be mindful of repeating the historic mistake of throwing money at our problems.

Approximately $1 million of the appropriation requested by the Regulatory Council is intended for the purpose of paying outside consultants to prepare studies of Federal Government regulatory policy in certain substantive areas. The Council requests money in incremental amounts ranging from approximately $65,000 to $268,000 to hire consultants to study so-called regulatory policy in areas such as the following: Steel, nonferrous metals, automobiles, carcinogens, hospitals, and housing.

Mr. President, the money requested for these consultant studies comes to approximately $1 million, and I think it is a waste. I urge Senate conferees to follow the House Appropriations Committee in their cut of the Regulatory Council budget request by $1 million.

The Council was created as an executive branch study group to assist executive department heads in coordinating regulatory policy. They were not created for the purpose of developing substantive policy expertise for certain regulatory subjects.

Without disputing the contention that perhaps there may be a need for consultant or Presidential task force studies such as the above, I strongly dispute that such a role was properly intended for this Council.

The Council argues that they cannot provide adequate advice from a coordination point of view unless they have in-depth knowledge of the substance of certain policy areas. My response is that their hiring of outside consultants to print up reports that will likely go unused by the relevant departments is a monstrous boondoggle. The departments themselves already have the capability to do such studies. The Regulatory Council's involvement in this area is duplicative to the tune of $1 million, and they should be cut back by this amount.

The executive branch of this Government, Mr. President, has traveled the "consultant road" too many times already. In the interest of saving shelf space and conserving on Government monuments for the collection of dust, I urge Senate conferees to follow the wise lead of the House committee in cutting the Regulatory Council's line item request along the lines I have suggested.

UP AMENDMENT 462

(Purpose: Reduction of $700 million in Assisted Housing)

Mr. PROXMIRE. Mr. President, I send and amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 462.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 12, strike "$1,140,661,000" and insert "$1,106,393,000".

On page 2, line 17, strike "$26,680,128,000" and insert "$25,980,128,000".

Mr. PROXMIRE. Mr. President, this, as I understand it, is a 1-hour amendment.

The PRESIDING OFFICER. The Senator has the right to offer one 1-hour amendment, with a half-hour on each side.

Mr. PROXMIRE. This is the amendment that may consume an hour. I hope it will consume substantially less.

I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Tony Arroyos may have the privilege of the floor for the remainder of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment would cut annual contract authority under the assisted housing program by $34.3 million and as I think I can explain, would have a minimal impact on the HUD's ability to reserve assisted housing units, certainly for the next year or so. Following congressional budget cuts in fiscal year 1977 and 1978 the Department carried over $98.6 million in unused annual contract authority from 1977 into 1978.

They carried the funds over and did not use them. I am proposing to cut only about a third of what they have carried over in the past. They carried over $84.8 million in unused authority in 1978 into the current fiscal year.

Although the amount of annual contract authority cut by this amendment is small, the amendment would reduce budget authority by $700 million over periods of up to 40 years, thus conforming this part of the bill to the assumptions made in the first concurrent resolution on the budget. To put the reduction in perspective it is a cut of only 2.6 percent in the request for assisted housing—less than 3-percent and a reduction of a mere 9,037 assisted housing units.

Despite past cutbacks, the Department has had great difficulty in effectively using the funds the Congress has made available to the section 8 program. For example 64 percent of all section 8 new construction/substantial rehabilitation reservations in fiscal year 1978 took place in the last month of the fiscal year.

Let me repeat that. Sixty-four percent—two-thirds—of the reservations—that is, of the commitments to build housing by HUD—took place in the last month of the fiscal year, the last one-twelfth of the fiscal year.

In the first three-quarters of the current year, 24,777 net new construction/substantial rehabilitation reservations were made while more than 25,000 past reservations fell out of the system.

They had made reservations because they were pushed to make them and they felt they had to spend the money that Congress had provided. Although they made commitments to spend the money, now they have found out that those commitments had been made so hurriedly in order to make a good record on spending the money, getting the money out, getting rid of it, that they were not able to follow through and deliver on the housing.

That indicates that many past reservations have been highly questionable. Furthermore the Department would have to reserve a net total of over 156,000 new construction/substantial rehabilitation units (86 percent of the total) in the last quarter of the fiscal year to meet its goals.

In the first place, Mr. President, I do not think they could make that many reservations. In the second place, if they could, they could only do so, on the basis of the past record, in a wasteful, extravagant way.

Last year, Mr. President, the Department was only able to reserve 110,000 units in the last quarter. It makes little sense in this context to give the Department the full amount they have requested.

What we are doing here is to make a practical effort to reduce the program, as I say, by only 9,000 assisted housing units and save in the long run, over the 40-year period to which contract authority applies, a total of $700 million.

Mr. President, this amendment would conform this part of the bill to the first concurrent budget resolution. It would move us in line with what we promised in that resolution with respect to housing. We are already way over the resolution in view of the action that we took on revenue sharing. We are way over it in view of the other spending decisions that the committee decided to make in the bill. My amendment would mean that, at least as far as housing is concerned, we would conform to what the budget resolution and a majority of Senators committed the Senate to 2 short months ago.

Finally, Mr. President, I call the attention of the Senate and the attention of my colleague from Maryland to the headline in the Washington Star tonight: "Six-Month Inflation Worst Since 1951."

That was a war year, the Korean war.

But right now, inflation is the worst it has been since 1951. Somehow, Members of the Senate are forgetting the fact that the No. 1 domestic issue facing this country, by far, is inflation. If we are going to continue to violate our promises of only 2 months ago and to violate them by hundreds of millions of dollars, there is no way we can say that we are meeting the fundamental problem that faces this country—inflation.

I agree that there are other elements that cause inflation besides government spending, but certainly that is a central element. The overwhelming majority of the American people, on the basis of every survey, feel it is the most important element.

Under those circumstances, what I am asking for is a relatively limited sacrifice—as I say, a cut of less than 3 percent in assisted housing. It would permit us to cut $700 million in budget authority, and would permit us to conform to the budget resolution we passed in May.

Mr. President, I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, the headline that the Senator from Wisconsin has held up is a very alarming headline—"Six Months Inflation the Worst Since 1951." It is discouraging and I think alarming.

But it seems to me that cutting an appropriation, which does not put this bill beyond the bounds of the rather strict fiscal limits that we have placed around it, is not an adequate response to that headline because inflation, of course, is the result of more than one factor.

Government spending is certainly one factor. But productivity, the level of imports as it relates to the level of exports, are equally important factors in creating inflation.

What this part of this appropriation bill is concerned with is providing sufficient housing for the people of the United States.

A long time ago, Congress looked at the housing shortage in this country and decided it was one of the most serious shortages that existed. We established for ourselves the goal of the construction of 600,000 new housing units per year. We have not met that goal. Very frankly, it would be a subject of real national concern if this amendment were to pass.

There is a rumor around the Senate today that my old friend, Moon Landrieu, the former Mayor of New Orleans, is at the White House looking over the prospects for his job, or perhaps being looked over.

Mr. PROXMIRE. Will the Senator yield on that subject?

Mr. MATHIAS. Yes.

Mr. PROXMIRE. I understand that at noon today the President announced the appointment of Mayor Moon Landrieu of New Orleans to be the new Secretary of HUD.

Mr. MATHIAS. Let me say that if I were Moon Landrieu and this amendment passed, I would reconsider my decision to accept that appointment because this would be a very tough program to administer with the kind of slash that would be made by this amendment.

I think Moon Landrieu, as talented as he is, and the genial and persuasive fellow that he is, would have a tough time in keeping peace either within HUD or in the cities of America if we had reduced the program to the inadequate levels that this amendment would result in doing.

First of all, I think we ought to take note of the fact that the housing portion of this bill represents less than 50 percent of the funds appropriated. We very carefully deliberated in both the subcommittee and in the full committee about the balance between the needs of all of the programs that were contained in the bill. This deliberation resulted in a recommendation of $1.5 billion below the budget for the nonhousing parts of the bill.

This was a tough value judgment and many valuable programs were sacrificed, but a hard sacrifice was made, hard choices, and $1.5 billion was saved.

So the committee has already explicitly recognized the importance of these housing programs.

Mr. PROXMIRE. Will the Senator agree that $684 million of that amount has just been put back into the budget, with the Senator leading the fight to do so? Does that not wipe out almost all of our reduction, about 95 percent of what the Senator has been——

Mr. MATHIAS. Less than 50 percent.

Mr. PROXMIRE. A sum of $684 million is about 95 percent of $700 million, is that not right?

Mr. MATHIAS. I think, perhaps, we are dealing with a slightly different set of figures. But I think we understand each other perfectly well.

But I would say further that the amendment comes at the wrong time.

We have, as I have just said, given our measure of the priorities here. Let us look at the timing, because there is not sufficient housing now to meet existing needs.

Over the last 3 years, the net annual loss of rental housing has been 2 percent. Here the population has been growing, but we have lost rental housing in this country, and particularly elderly people on limited incomes need rental units, new families just forming, young couples just married need rental units, and we have a loss of rental units.

This 2-percent loss translates to about 420,000 units lost last year.

The loss of multifamily housing has been largely due to a decline in new production of rental units, abandonment and foreclosure of older dwellings and conversion of rental units to condominiums and cooperatives. That spread like wildfire through this country. People who could formerly rent now find they are expected to buy their apartments, and a great many people do not have the capital to buy an apartment.

It is estimated that vacancy rates of 5 percent to 9 percent are needed to provide normal housing mobility. Currently, the Nation's rental vacancy rate is below 5 percent, with an effective rate of 2 percent to 3 percent. This, I believe, is the lowest it has been in 24 years for which the Census Bureau has kept such statistics.

Mr. President, I do not know what the correlation between the Washington Star headline on inflation and that fact is, but perhaps the economists might find some relationship, that the shortages—the shortages—of housing may be affecting the historically high cost of housing.

I think it is important to recall that HUD's multifamily programs are a basic force in maintaining the level of multifamily starts in this country. The most recent estimates are that about 50 percent of all multifamily activity is directly dependent upon HUD's insurance and subsidy programs. I believe that the subcommittee and the committee acted wisely by not additionally reducing the availability of housing in an already tight housing market.

Such a reduction would preclude the reservation of approximately 15,000 housing units in fiscal year 1980. This would come on top of an estimated reduction of 60,000 units already included in the President's budget. The administration estimates that in fiscal year 1979 it will reserve a total of approximately 360,000 units. The fiscal year 1980 request is estimated by the Department to result in a reservation of 300,000 units—and this estimate is considered optimistic by our advisers in the Congressional Budget Office by approximately 34,000 units—optimistic by perhaps as much as 30,000 to 35,000 units.

A further reduction in housing units at this time would go completely counter to the current trends in the housing market.

The consequences of this housing shortage translate to increased competition and to increased demand for the shrinking number of existing units. In fact, this will do just what I am fearing we will see as a result of the trends that the Star reports tonight: We will push rents upward and thus will ultimately increase housing costs, which is another way of saying we will fuel the fires of inflation. Of course, that does not even contemplate the human effects on the families that will not be able to obtain adequate housing.

Mr. President, during the course of the hearings on this subject, I addressed several questions to the Department on the exact needs in this area, and I ask unanimous consent to have those questions and the detailed answers printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Question. Has the Department looked at the aggregate need for low- and moderate-income housing in this country as spelled out in local Housing Assistance Plans? And if so, could you tell us, in approximate terms the magnitude of that need. How much of that total national low- and moderate-income housing need is proposed to be met through the Section 8 new construction/substantial rehabilitation program? How much of the national need is proposed to be addressed by the Section 8 existing housing program? How much through public housing? (*In percentages*). What percentage of that total national need will be met by the President's proposed budget?

Answer. The total annual housing goal identified in the latest available Housing Assistance Plan (HAP) data is 408,606 units. The FY 1980 Budget proposes the reservation of up to 300,000 units of Section 8 and Public Housing. This includes 147,400 units of Section 8 new construction and substantial rehabilitation, 102,600 units of Section 8 existing housing, and 50,000 units of Public Housing. The proportion of new and existing housing (66–34) is determined by the HAP ratio.

The estimates of total annual housing need range from 2.2 million units to 2.8 million units. The needs of low-income households (which include areas not covered by HAPs) is estimated at between 780,000 to 1,000,000 units. Total reservations under all housing assistance programs are estimated at 325,000 units in FY 1980, or 42 percent of the estimated 780,000 units needed.

Question. You have stated on several occasions that the Department's budget request for FY 80 is "lean." Further, the FY 80 request is the lowest since your arrival to the Department in 1977. I am deeply disturbed, then, that the Senate Budget Committee chose to cut budget authority for assisted housing even further—from $27 billion to $22.6 billion. Assuming the CBO's cost estimates and the current mix of new and existing housing units, that amount of budget authority will only produce 220,000 units—of which 145,000 would be new and substantial rehab. Would you please comment on this situation—and how these budgetary actions will affect the Department's mission of providing housing for low- and moderate-income people?

Answer. Regardless of which assumptions on average unit cost are utilized, the action by the Senate Budget Committee in reducing the amount of new budget authority available for the Subsidized Housing programs in FY 1980 from the Administration's request of $27 billion down to $22.6 billion would reduce substantially the Department's ability to provide additional Subsidized Housing in FY 1980.

The Administration's FY 1980 request for additional authority to support a program of up to 300,000 subsidized rental units in FY 1980 does represent a relatively lean budget and includes the impact of a number of proposals to hold down the spiraling cost of housing construction. In comparison with the current FY 1979 reservation estimate of approximately 360,000 units, the FY 1980 request already is a significant reduction. Although an increased level of activity could be justified, the Administration's Budget request ensures that the highest priority needs can be addressed within the context of the current requirement to constrain overall Federal spending.

The Administration's Budget request includes up to 197,400 new construction and substantial rehabilitation units with the remaining balance of 102,600 units representing moderate rehabilitation and existing housing. Utilizing the Department's assumptions on unit costs, the Senate Budget Committee action would reduce the program level to be supported to roughly 248,000 units. This reduction of approximately 52,000 units could involve a decrease of up to 34,400 units under the new construction and substantial rehabilitation components.

The Department believes that the Senate action, particularly with respect to the impact of new construction and rehabilitation activity, would simply add to the pressures already created by the tightening rental housing market. Rental housing vacancy rates on a national basis are below five percent which is a twenty year low.

It currently is estimated that, given current assumptions on new households entering the rental market, an additional 410,000 to 440,000 rental units must be added to the national housing inventory each year during the decade of the 1980's. In addition, the replacement or rehabilitation of substandard rental stock will add up to 156,000 units annually to this need. A substantial portion of this projected need represents low- and moderate-income households who, given the economics of housing construction, will not be served without Government intervention.

The Administration's Budget recognizes this need and represents an acceptable level of assistance for keeping pace with demand while recognizing the requirement for overall Federal fiscal restraint. Further reductions in the current production program will simply add to the need for additional rental units in the future.

Mr. PROXMIRE. Mr. President, I will reply briefly to the distinguished Senator from Maryland.

He has suggested a new and interesting economic theory: that the way to stem inflation is to spend more money, that we are not spending enough. He says we should spend more on housing and housing costs would go down. That is an interesting theory. He might be able to find some economists to support it. It is said that if you look hard enough, you can find an economist who will support any theory.

This headline says "6-Month Inflation Worst Since 1951." The Senator's argument is that one of the reasons for inflation is that we have not been spending enough money. He says we would not have as bad inflation if we spent a little more.

Is that the Senator's argument?

Mr. MATHIAS. I think the Senator has not listened accurately to what I said.

I said that the shortages of housing were causing rents to go up. The Senator could hardly contest that most ancient rule of the marketplace—that supply and demand affect price; that when there is a surplus of supply, prices tend to go down and that when there is a shortage, prices tend to go up.

We are seeing now a shortage of housing in America. I am not saying that spending money will reduce inflation. I am saying that productivity in the housing market, providing housing to meet the existing shortage, will relieve some of the economic pressure.

Certainly, one of the elements in this headline tonight is the cost of housing, the basic cost of shelter, which in this climate is an absolute necessity of life.

Mr. PROXMIRE. Absolutely; and all the evidence we have indicates that what is happening is that housing costs have risen when we have poured more and more money into housing in the government sector. This type of expenditure has driven up land costs, material costs, labor costs, financing costs all along the line. All those elements have risen as the Federal Government has gotten more into the housing picture.

Mr. MATHIAS. I ask the Senator this question: What is his solution? You can go around the world and find people living under a sheet of tin, with a little fire, and some mud piled up on the sides to keep out the wind. Is that the kind of solution?

We have to have housing for the human beings in existence. We are not talking about needs of a generation hence. We are talking about men and women in America who live here today.

Mr. PROXMIRE. I say to the Senator from Maryland that he knows I have supported housing, some housing, adequate housing, housing that made sense. But here we have a situation in which the administration has not been able to spend the money we have given them. Now, once again, we are going to provide more funds than they can spend.

The fact is that my amendment would cut $34 million next year. That is less than 3 percent of this program, as I say. In the past year, HUD carried over—they could not spend out of this program—$85 million. The previous year, 1977, they carried over $99 million.

Obviously, more houses are not going to be built if they cannot spend the money.

Furthermore, this is only a 9,000 unit cut in a program which involves 300,000 units. But in the long run, over the 40-year period for which this appropriation-authorization is effective, it will save $700 million, which will enable us to conform to the promise we made in the first budget resolution with respect to this particular program.

It obviously is a responsible posture for the Senate to take and for Senators to take. In my judgment, my amendment would provide—on the basis of the record in 1977, 1978, and 1979—all the money that HUD is likely to spend on assisted housing. But at the same time, it would provide a very practical, useful opportunity for us to hold down spending in this area, as we promised to do.

Mr. MATHIAS. Mr. President, I do not want to prolong this debate, because I suspect that the Senate already is thoroughly familiar with the basic principles that are involved here.

However, I have to question the wisdom of this amendment—and I am perfectly willing to be viewed as parochial in this matter—when we have a housing rate down to 1 percent in the city of Baltimore, Md. That is an indication that there is not adequate housing in this great city. That is not so only in Baltimore, Md. You can go around the country in such places as Hartford, Reno, Albuquerque, or Tulsa, and find areas where the vacancy rates are below what is considered to be the safe statistics to provide adequate housing choices for people.

Further, I think we should address the objection the Senator from Wisconsin has made to the existing programs on assisted housing.

I have checked the latest statistics on this, the latest available statistics.

For this year, it is indicated that HUD will convert into housing starts a higher percentage of its assisted housing reservations, on hand at the beginning of the year, than in any previous year. In fiscal 1976, 44 percent of the units in the pipeline at the beginning of that year were converted to starts. In fiscal year 1976 61 percent were moved to starts. This year—and I hope the Senator will listen—HUD will convert between 72 and 77 percent of the pipeline into starts.

There is a consistent record of improvement, from 44 to 61 percent somewhere in the neighborhood of 75 percent.

What about termination? It is said that they go ahead and put the starts in, but how many become terminated? How many really go on and provide walls and a roof for families to live in? Only 7.5 percent of all the units reserved in fiscal year 1976 and the prior years were terminated. That is for a period of 3 years. For reservations made in fiscal 1977, the percentage of units terminated went down from 7.5 to 6.5 percent. For reservations made in fiscal year 1978, it was down to 3.5 percent.

So here we see the steady rates of improvement in this program, in which the number of starts were moved up each year and the number of terminations has gone down each year.

I think that should get us the kind of confidence in the program which justifies the amount appropriated by the committee.

Mr. President, I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I ask time in opposition to the amendment, and I ask how much time remains, so that I will not take all the time, because I know others will want to speak.

The PRESIDING OFFICER (Mr. (BOREN). The Senator from Maryland has 17 minutes, and the Senator from Wisconsin has 21 minutes.

Mr. MATHIAS. I am happy to yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I certainly start with applause for persistence of the Senator from Wisconsin. He stays with it. This has been a subject which in this form has been heard at various levels, and has not been successfully heard, but here we are again. So my good friend, the chairman of the committee I have the honor to sit on, gets the golden award, for persistence.

Mr. PROXMIRE. We won on the budget resolution and I am hopeful we can win today.

Mr. WILLIAMS. Yes.

I want to give the reasons within this limited time why I feel strongly that it should be resisted.

Mr. MATHIAS. Mr. President, will the Senator yield for a minute?

Mr. WILLIAMS. I yield.

Mr. MATHIAS. Mr. President, following the remarks of the Senator from New Jersey, I yield 5 minutes to the Senator from Massachusetts (Mr. TSONGAS).

Mr. WILLIAMS. Mr. President, in my judgment this amendment is extreme and unnecessary, and I certainly strongly oppose it.

Misconception is usually born of truth, and the reasoning that spawned this proposal is a classic example. It is true that reduced Federal spending, under various conditions, can be a helpful response to inflationary pressures in the economy. Unfortunately, the sponsors of this amendment have taken this reality and twisted it out of shape. They would have us believe that cut backs in housing assistance beyond the already minimal amounts contained in the committee bill will somehow signal a victory in the fight against inflation. However, as a legislative body, we have a responsibility to base our actions on fact, not fiction and properly balance conflicting priorities of Government. We must lay bare the idea that the road to reduced inflation lies through greater hardship for the poor. We must expose this line of argument for the fraud it really is.

In plain truth, the sponsors of this amendment are trying to prescribe the wrong medicine for the wrong patient. The amendment seeks to force arbitrary budget cuts on a sector of the economy already reeling from depression. Earlier this year, witness after witness, in hearing after hearing before our Housing Subcommittee, attested to the deep trouble afflicting the multifamily housing industry. Rental housing is suffering from a critical lack of production. At the same time, the loss of rental units from the existing stock due to abandonment, conversion, and deterioration, is constricting still further an already tight supply.

The dimensions of this crisis in supply are alarming for renters of all income levels, but especially for low- and moderate-income people whose choices are always the narrowest. I have outlined some of the statistics in previous debates, and would like to reemphasize them because they are so important.

As many as 420,000 rental units are lost to the stock every year. Rental vacancies have plummeted to their lowest point in 24 years. Meanwhile, according to a Library of Congress report issued this month, the Nation must produce an average of 670,000 new and substantially rehabilitated units annually over the next 10 years, just to meet the needs of low and moderate income people. An additional 570,000 units a year, on the average, will need moderate rehabilitation.

Now, as any schoolchild knows, when demand goes up and the supply goes down, inflation results. This is basic economics and it describes conditions in the multifamily rental market today. Yet, despite the unchallenged fact that the supply of decent, affordable rental housing for moderate incomes is shrinking, the sponsors would cut back our already inadequate efforts to encourage multifamily housing production. What could be more inflationary than this? I cannot conceive of a proposal which contradicts its own purpose more than this one. The idea that less Federal housing assistance in the face of a housng shortage will somehow reduce inflation defies all reason.

This "less is more" philosophy has produced some other strange arguments. During the debate over the housing authorization bill, it was pointed out that inflation hurts the poor the most and that the best assistance we can provide them is to reduce inflation. This is true enough, and I am sure that this point will be made often today. However, there is a wide gap between an earnest desire to control inflation, and the notion that denial of rental assistance to 10,000 poor households will benefit us all.

The PRESIDING OFFICER. The time has expired.

Mr. WILLIAMS. Will the Senator yield 2 additional minutes?

Mr. PROXMIRE. I yield 2 minutes from my time to the Senator from New Jersey.

Mr. WILLIAMS. The average income of an assisted housing tenant is only about $4,500 a year, a marginal living at best. More than 12.9 million households in this country pay more than 25 percent of their income in rent, and among some groups the rent burden is devastating. People aged 75 and above typically pay out almost half their income in rent. Can anyone seriously believe that cutting back our housing budget will really make these individuals and all the other poor as well more financially secure?

The fact of the matter is that the sponsors of this amendment would have us enter a world of fantasy. According to them, if we can just cut the budget, our anti-inflation dreams will come true. Well, saying it does not make it so. Those who have strived over the months to slash housing funds have never presented one shred of worthwhile evidence that their efforts will produce anything but continued hardship for the most vulnerable members of our society.

It would be enlightening to examine the relationship between budget cuts and inflation. According to the Congressional Budget Office, in its report to the Budget Committee on the fiscal policy response to inflation, an across-the-board cut of $15 billion in Federal outlays for fiscal year 1980 could reduce inflation by a paltry .2 percent by the end of 1981. Of course, this spending reduction would not produce an equivalent reduction in the deficit. The resulting slowdown in economic activity would push up unemployment, and actually increase automatic payments, such as food stamps and unemployment compensation.

The amendment before us would reduce outlays by only $350,000 in fiscal year 1980. Even if we were to reduce housing assistance outlays for fiscal year 1980 by an amount equal to the long-term budget authority which the amendment proposes to save, the effect on inflation would be virtually immeasurable. In the final analysis, cuts in housing assistance on the order of this amendment would have painful impact for thousands of people while benefiting no one.

Another point that supporters of this amendment have made on several occasions is that we are really not cutting anything, that the number of federally assisted units will be increased. Again we must separate myth from reality. Housing is like any other consumer good in the sense that units wear out, are destroyed, or are converted to other uses. Units that are lost must be replaced and additional ones must be built to handle a growing population. One of the yardsticks by which we measure a progressive society is how well its people are housed. The true measurement of our federally assisted housing efforts is not how many units we have in place or whether we are adding to that number, but whether or not these efforts are making progress toward meeting the need—and by all accounts we are not, even under the appropriations committee bill.

Before I close, I would like to offer some perspective on the argument that the integrity of the congressional budget process is at stake here. It is not. The budget process was deliberately structured to be flexible, and to respect the independent judgments of the authorizing and appropriating committees about how specific programs are to operate.

This is the reason for at least two budget resolutions. The first budget resolution was never meant to be a rigid, unbending instrument of policy that takes precedence over all committees in the establishment of budget priorities. It was meant to be a guide, not an overseer. It is not infallible. In the area of assisted housing, the budget resolution makes assumptions that are inconsistent with the true housing needs of the country, and this body has a right to make the necessary corrections.

The real issue in the continuing debate over budget figures is whether or not the Federal Government will do its job with a maximum of efficiency at the least possible cost. The public has clearly expressed its desire for lean and thrifty Government budgets. In reporting this bill, the Appropriations Committee has responded vigorously to the public. In fact, in the area of housing assistance, I believe that the committee has overreacted in light of the housing market conditions we know to exist. Even without the proposed amendment, the committee bill provides the lowest level of housing assistance appropriated during this decade, yet at a time when we face the highest level of low income family formation in recent history. This bill involves $9.5 billion less in budget authority than would be needed to achieve the level of reservations HUD projects for fiscal year 1979.

Mr. President, this amendment is wrong, not just because it hurts only the poor, which it does, but also because it holds itself out as necessary to our effort to cut inflation, which it is not. The amendment substitutes appearance for substance. It is mistaken in concept and harmful in its consequence. This very amendment was rejected twice during Appropriations Committee markup. By putting it to rest once and for all, we do ourselves and our country a great service.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. TSONGAS. Thank you, Mr. President.

Let me just make a couple points. First, I am also intrigued by the issue of fighting inflation by cutting back on housing. Obviously the people who need housing the most—I do not know a U.S. Senator in public housing—are the poor people. And the way we are going to help them with inflation is to give them less housing. I submit that, since the other issue they have to be concerned with is food, why do we not help them with their hunger by producing less food? And we could pursue that to its equally illogical conclusion.

Let us talk about the figure of 264,000 units, which is, as you know, historically the lowest in 10 years with the exception of what happened in 1974. In the committee which I serve on and which my chairman obviously is the distinguished chairman, the committee authorized 300,000 units, and we were on the same floor in which the chairman came before the Senate and reduced that down to 264,000 despite the eloquence of myself, the Senator from New Jersey, and others. So all of a sudden 264,000, rather than being as it was indicated by my chairman a reasonable figure, is now excessive, and if we have 264,000 we will have more headlines like the one in the paper today. That argument obviously has no end.

Two hundred and sixty-four thousand units are what the Senate passed. It is what the Appropriations Committee has passed. It also, by the way, is what the President has requested. And to drop it down to 250 at this late stage is perhaps an interesting exercise, but it certainly violates any theory as to what authorization committees are all about and what the Appropriations Committee is all about. We could all stop here and simply have a Budget Committee and let it go at that.

The other thing that I wish to raise is the question of inflation in the budget and the issue of Federal spending.

There was an article in the paper yesterday in which one Senator indicated that he might support the SALT Treaty if, and the figures vary, there is a guaranteed 5-percent real growth in defense spending. And the President has indicated to NATO that he is prepared for a 3-percent real growth increase in defense, and I believe this is one issue in which the chairman and I are in reasonable accord. And that is how do you tell people who live in cities who cannot make it, who cannot afford housing, "Well, we are going to cut your housing back, but we are going to provide serious real growth in defense spending"?

How can you possibly argue that that enhances our national security? It seems to me if we are going to fight inflation by reduced Federal spending that that should not be limited to those programs that affect the poor. Indeed, as has been said, inflation affects the poor the most.

It seems to me that housing would be the last place we would go to cut back, not the first place. You go through this budget and you will find virtually no programmatic area that has been as severely slashed as housing. I think that is a rather sad commentary to make in both the Senate and in the country at a time when our cities are desperately crying out for revitalization.

I thank the Senator for yielding, and I yield back the remainder of our time.

Mr. PROXMIRE. Mr. President, I yield such time as the Senator from Maine may require.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I rise not so much to discuss the merits of this particular program as to remind the Senate that the budget implications have changed since I discussed the subject earlier today. We have already added to this bill $700 million in budget authority and outlays by restoring the full amount of revenue sharing to the States.

Now, that revenue-sharing program happens to be a program which I support. As a matter of fact, I think I introduced perhaps the first revenue-sharing bill ever introduced in the Senate, and conducted the first hearings in the Government Operations Committee. Yet I supported the amendment of the Senator from Wisconsin holding the amount for that program to the amount approved by the committee because this bill as it came to the floor, together with later requirements in these areas, threatened, and indeed, inevitably breached the budget targets.

Now we have added that $700 million and the numbers now are $1.6 billion in budget authority over the 302(b) allocation when you take into account later requirements, and $1.3 billion in outlays.

Mr. President, we started out this year with a program of fiscal restraint because we all believed, I thought, that inflation was the No. 1 problem facing the country.

Well, at the beginning of this fiscal year the annual rate of inflation was 9 percent. It is now between 13 and 14 percent. Has inflation become less important? And yet what we have already done prior to action on this bill threatens to breach the budget targets by $6 billion in budget authority and $5 billion in outlays independent of this bill—independent of this bill, let me repeat.

I was assured that when I raised this specter at the time we debated the first three appropriation bills it would be taken care of, it would be taken care of before the appropriations process was over.

Now, the District of Columbia appropriations bill, which we acted on a little while ago, is the only one that has not added to the problem, and I do not see any prospect that any of the remaining appropriation bills will alleviate the problem. So you cannot dodge the problem by saying, "Well, I will vote for this bill because I will take care of it later." It will not be taken care of later.

If the Senate votes for this bill with full knowledge of what I have just said, that is the Senate's prerogative. But I want to make it as clear as I can that this is the consequence, the budgetary consequence.

In addition, may I point out to my colleagues we are going into a markup on the second budget resolution next week. CBO reestimates—those reestimates are related to actual experience since the May 15 budget resolution—plus the worsening economic picture, show that we will go up by possibly $9 billion in outlays independent of what we do on the appropriation bills.

So what we are looking at when the second budget resolution is marked up by the Budget Committee is a deficit at least at the $35 billion figure, and probably higher, and when we passed the first budget resolution we reported a deficit of $23 billion.

If the Senate wants that, if that is the price the Senate is willing to pay, in order to follow its heart, to follow the pressures, to respond to the appeals, that is the Senate's prerogative. But I do not want somebody, I do not want any Senator, not a single one, coming up to me after we report the second budget resolution and saying to me, "Senator, why did you let that deficit climb from $23 billion to $35 billion or more?"

If that is what I am forced to do, because of the actions of this body and the other body in the meantime, I will do it, because that is my job. But I will not accept full responsibility for it, and I am going to share that responsibility with my colleagues by reminding them of what the computers show is the result, the potential result, of what we are doing on these appropriation bills, and of the deteriorating economy.

I like these housing programs, as the floor manager knows. I served with him on the Banking, Housing and Urban Affairs Committee when it was known as the Banking and Housing Committee, indeed when it was known as the Banking and Currency Committee, and I got involved deeply in these housing programs, and they helped my State. This amendment will hurt my State, but I do not know how you make cuts in any area of the budget with programs that are worthwhile without hurting somebody. There is not any way.

So either we stick to our fiscal policy of budgetary restraint or we abandon it, and once we abandon it, why then, Mr. President, should I not be able to restore the $400 million in waste treatment funds that this bill cuts from a program that had already been cut by $1.2 billion out of $5 billion? I accepted the cut to $3.8 billion without a murmur, in the name of budget austerity. Now it has been cut by $400 million more, and again I accepted it in the name of budget austerity.

If that same philosophy is not going to inhibit and restrain other programs, then I will be tempted to some back and start fighting for a restoration of those funds, and then where will we be? We will be the Senate of the pre-budget process days, each of us voting for every goody that comes along, keeping a mental budget in our minds with the determination somewhere down the line to vote for cuts that we can then justify to our constitutents as representing budget prudence.

It did not work then, and it will not work now, and that is the sum and substance of it.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, before the Senator yields, may I ask for the yeas and nays on this amendment?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. I yield 2 minutes to the Senator from Maine for the purpose of a colloquy.

Mr. CHILES. I just want to ask the Senator, I continue to hear people characterize what we have done in the Budget Committee figures that we had and what now is proposed in this amendment as being a cut in housing. You know, I think it is very hard to sort of get that across, but I note that we are talking about 286,000 units in our Budget Committee figures. This would be in addition to the 898,000 units that are already being assisted. Therefore, we are talking about from our budget resolution of a 32-percent increase in the number of households to be assisted under section 8, and a 32-percent increase at a time when we are talking about austerity, at a time when we are talking about how we can kind of hold the line, and at the same time we are talking about cash outlays to be upped 23 percent over 1979.

We talked about inflation or we put in a figure of 8 percent; we talked about real growth on top of that of 1 percent for programs, which would be 9 percent. Here we have a program that under our Budget Committee figures would be a 23-percent increase in cash, a 32-percent increase in assisted families, and yet we are sort of combatting what goes out saying this is a cut, this is a slash, we are cutting back on the housing programs, and again at a time where we are just trying to hold the line during a period of time where we are saying these units, not having been taken up, that we have a pipeline full.

This is one area that we do not cut. We are adding this amount, and it should be sufficient to add, and yet we are told it is not enough, that they have to have additional amounts of money. I just do not understand it.

Mr. MUSKIE. Mr. President, the Senator's statement illustrates a very frustrating fact. The fact is that the budget as a whole does not represent a cut. It represents a smaller increase than at any time, I think, overall, since the budget process came into being. But that was because the Senate mandated us to produce a balanced budget.

Mr. CHILES. Right.

Mr. MUSKIE. In 1981 if possible, and by 1982 at the latest, the Senate mandated a balanced budget, and in order to get it, you have to start by deescalating, not rolling back but deescalating the amounts of increases.

That is what we did. We did not put any cuts in here, or any slashes. The growth may not be as much as some Senators would like, but it is certainly not a cut.

Mr. PROXMIRE. Mr. President, I very much appreciate this colloquy. I think the Senator from Maine has told us exactly the correct story. The fact is that we are over the budget resolution by $6 billion in outlays, and this bill makes a colossal increase in that it is $1.6 billion over the budget resolution in budget authority and $1.3 billion over this resolution in outlays.

The Senator from Florida made the excellent point that the level recommended in the budget resolution for assisted housing is not a cut but an increase. Outlays are going up by 23 percent. Twenty-three percent. How can you say a proposal is unfair, is cutting back, is hurting housing, when it allows an increase of 23 percent?

The fact is that we have before us a 6-months inflation figure that is the worst since 1951, and 1951 was a war year. We were in the middle of the Korean war the last time we had the current rate of inflation. We have never had such inflation in peacetime, and we have to recognize that if we are going to do anything about it, we have to start right now.

Mr. MATHIAS. Mr. President, I take a somewhat different view of the answers to the Senator from Florida's questions.

The fiscal 1981 request actually reflects a net reduction when the prior year carryover is taken into account. From fiscal year 1979, approximately $34.2 billion will be available for new authority from prior years. In 1980, the comparable amount is $26.9 billion. I think the distinguished chairman of the Budget Committee will understand the impact of those figures.

Again let me address myself to the Senator from Florida's question. The committee bill is already one-fourth less than HUD's 1979 request. We are going downhill. We have already cut this program. The arguments of the Senator from Maine are very forceful, telling arguments, but we have already followed his advice. We reduced the units from 300,000 to 265,000. We did that in the authorization; we cut that. Now we are going to make a cut on top of a cut, and add, on top of a 15-percent cut, another 6- or 7-percent cut.

And who are the people who are being cut? The poor people of America, who need to have housing units.

I think we have to consider all of the elements that create inflation.

Mr. WILLIAMS. Mr. President, may I just ask the Senator a question?

Mr. MATHIAS. I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS. All of you—the Senator from Maine was honest, as always, when he said he is not going to deal with the merits here, but only the budget figures.

Mr. MATHIAS. That is right.

Mr. WILLIAMS. It is almost like with blinders on, looking only at the Budget Committee numbers, the columns of figures. He is giving us these——

Mr. MATHIAS. But they do it in the interest of fighting inflation.

Mr. WILLIAMS. If we do not get some rental housing out there for poor people, the supply is going down——

Mr. MATHIAS. And rents are going up.

Mr. WILLIAMS. And rents are going up; and if that is not inflation, I do not know what is. That is not the kind that is an academic exercise, out of a big volume of numbers in a book. These are poor people. The rents go up and up. People with 25 percent of their income already going for rent. That is hitting people with the worst kind of inflation.

Mr. MATHIAS. And hitting people where they are hurt the worst.

Mr. President, I ask unanimous consent to have printed in the Record a fact sheet on housing assistance payments provided in comparison with the need.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

Fact Sheet FY 1980 Housing Assistance Payments

Senate Appropriations Committee request level: $1.140 billion.

The entire HUD/Independent Agencies appropriations bill is: $44 million under the first concurrent budget resolution; $1.594 billion under the President's request; $607 million under the House appropriations level.

Low and moderate income households to be assisted by Sec. 8 in fiscal year '80: 265,000 households (C.B.O. estimate).

A sum of $1.140 billion includes: 6,000 units of Indian housing construction; 50,000 public housing units.

Estimated need: 670,000 units per yr. for next 10 years, low and moderate income families (C.R.S. estimate).

Who program serves: the poor, the senior citizen, those earning less than $4,500 per year (C.B.O. estimate).

Declining rental housing stock: an estimated 420,000 units are lost from the rental stock each year due to: razings, abandonment, and condominium conversions.

Private sector is no longer building rental housing because of limited return on investment, threat of rent control, more lucrative investments.

Vacancy rates in rental housing are at their lowest level since World War II. Apartments for rent are almost impossible to find in many metropolitan areas.

Note.—This is the lowest assisted housing request level by HUD since 1970, with the exception of the "housing freeze" year of 1973.)

Mr. MATHIAS. I yield the remainder of my time to the Senator from Minnesota (Mr. Durenberger).

Mr. DURENBERGER. Mr. President, I join the Senator from New Jersey and the Senator from Maryland in insisting that we not look at this in terms of budgetary figures, but in terms of the inflation that the gentlemen on the other side of the aisle are fighting to protect us from. I am going to give you a few statistics from a State that is probably rarely looked at as a very impoverished State.

Two weeks ago, the Senate reduced the funding for assisted housing from 300,000 units to 266,000 units. Now, we in the Senate are being asked to make further reductions in the section 8 assistance level. These additional cuts would have the effect of reducing the total units for assisted housing to about 255,000.

I opposed the earlier budget reduction and I am adamantly opposed to the cut in funding proposed today.

Adequate and affordable housing is essential to the welfare of all people. Yet, the housing assistance program has come under repeated attack and has borne more than a fair share of budget reductions. We cannot, in good conscience, accept further cuts at a time when there are increasing housing needs and extremely low vacancy rates.

The proposal before us today will have the effect in Minnesota of knocking out an estimated additional 150 housing starts. In addition to the previous cuts, today's measure would eliminate 400 new and badly needed units in my State.

In the Twin Cities metropolitan area, to cite but one example, there are very few vacancies for persons with low or moderate incomes. In 1973, there were 45 subsidized apartment complexes that had about 590 vacant units. In June of 1979 a survey of 82 developments indicated that there were only 23 vacant units.

In addition, the metropolitan HRA has a waiting list of over 4,000 persons needing subsidized housing. The story is much the same throughout the State. We will be fortunate if we are able to meet about 35 percent of the housing needs for low and moderate income persons.

There are no new apartment units being built to meet this need by the private sector without assistance. The section 8 new construction program has provided needed additional units and has assured adequate housing for the segment of our population in need of assistance.

The Minnesota Housing Finance Agency has been able to make the section 8 program work. Section 8 is the only program we have to meet our special housing needs. Further curtailment only serves to ignore a problem that will eventually have to be met, but at increased costs to all concerned.

Mr. President, there is no question, in the State of Minnesota, but that this cut, on top of the one we took several weeks ago, will have a substantial impact on my State.

I thank the Senator very much.

Mr. PROXMIRE. Mr. President, I yield 2 minutes to the Senator from Maine (Mr. Muskie).

Mr. MUSKIE. Mr. President, I find it interesting that the Budget Committee is accused of being focused on narrow numbers, and insensitive to human needs.

I do not know what kind of mail other Senators get on this question of inflation, but that mail comes from people, and particularly from the people that the opponents of this amendment are seeking to help. Because the people most vulnerable to inflation are the poor, the working poor, senior citizens, the beneficiaries of Federal programs like food stamps, assisted housing and on down the line.

With inflation increasing at the rate that it is this year, there is no way for Government spending programs to protect them against next month's increase in inflation. I mean, the idea that somehow there is a way for Government or those of us who have political muscle in this society to protect against inflation is the most old-fashioned, outdated, unworkable idea I have ever heard.

The Budget Committee is not a narrowly focused committee. I have never had a broader education into the workings of our Government, the interrelationship of programs, the impact of agencies upon each other and upon people, than I have had in my 5 years on the Budget Committee.

Let me tell you, gentlemen, I do not know how long I will be in politics or in this body, but I am sure that I will look back upon this period, when policymakers will determine whether or not inflation will become a permanent part of our economic lifestyle, as the most critical of my public career.

I have seen from a distance what inflation does to countries, to economies, to societies, and so have all of you. And it is threatening us. An inflation rate of 13½ percent, an inflation rate that makes an interest rate of 12 percent look reasonable because the lender cannot recover the rate of inflation from his money, is not sound public policy.

What I am talking about is not that more housing is inflationary. What I am saying is that an abrupt departure from a policy of budgetary restraint will raise inflationary expectations throughout the economy, and if the Congress calls off the signals in the fight against inflation, every labor contract in this country is going to see an escalation in demands to protect not against last year's inflation but against next year's and the year after and the year following that. So you are going to have written into these contracts assured inflation for as many years into the future as the labor negotiators can persuade industry to accept in order to get the bargaining over. That is the kind of a threat we are fighting.

Let us get that threat dealt with and licked. Then we can build housing, we can build waste treatment plants, to match the need. But ignore inflation, treat it as something that somebody else has to worry about, that some other program ought to absorb rather than your particular one, Mr. President, and we are not going to lick it.

Mr. President, that is my preoccupation. I do not want to leave my kids the legacy of permanent inflation, and we are threatened with that now.

● Mr. STEVENSON. Mr. President, I oppose the amendment offered by the distinguished manager of the bill to reduce funds for assisted housing. During consideration of the HUD authorizing legislation 2 weeks ago, the Senate reduced the 300,000 assisted housing units recommended by the Committee on Banking, Housing and Urban Affairs to 265,000 units. Today we are asked to cut housing even more; we are asked to reduce funding for the 265,000 units approved by the Committee on Appropriations. If we make this reduction, we ignore both sound economics and the housing needs of disadvantaged Americans.

Not even the 326,000 units we have funded for the current fiscal year can satisfy the housing needs of the poor. Though the amendment now before the Senate is offered in the name of combating inflation, cuts in housing are false savings which ignore long-term implications for the economy. We cannot dampen inflation in the housing market by restricting housing supply. The only long-term solution to inflation is to assure adequate supply. The housing dollars we spend today will boost supply, save money in the long run and provide useful, productive jobs for those who might otherwise be jobless. We cannot afford to deny these long-term economies to the Nation any more than we can afford to deny decent housing to the disadvantaged.

Mr. President, I urge my colleagues to reject the amendment.●

● Mr. BRADLEY. Mr. President, I rise in opposition to the Proxmire amendment.

I fully realize and commend the distinguished Senator from Wisconsin for his desire to combat inflation and keep excessive spending under control.

Yet, as much as I applaud the Senator, and his efforts, I feel a drastic mistake would be made in any further cuts to the section 8 program. It is important for the Senate not to lose focus of its objectives, of its responsibilities; and, by considering this amendment, we are doing just that.

We must not lose focus of our goal of 600,000 units of annual assisted housing production, established by the 1968 Congress. We must realize that over the course of a decade this figure has been cut by one-third, to the 400,000 units the administration had requested for fiscal year 1979. And finally, we must not allow any further reduction in the now dangerously low level requested by the administration.

The amendment before us would mean an additional reduction from the administration's figure. This reduction will not reduce inflation, but will only add to the increasing burden we are placing on our poor and elderly. For it is they who are affected the most by cuts in assisted housing.

I can safely say it is not the interest of this Senate to use its power in any way detrimental to the poor and elderly of this country. Yet, this is exactly what this amendment would do. Our Nation's vacancy rate is now less than 5 percent, the lowest figure in the 24 years that the data has been kept. The net annual loss of rental units is 2 percent; 20,000 thousand units were lost last year. These facts coupled with the administration's low level of units, the lowest in 10 years, and 400,000 units short of what the Library of Congress estimates to be our annual low income housing requirements for the next 10 years, puts our lower income citizens in a bind that is both unfair and un-American.

The poor of our country have suffered enough. We must prevent further suffering. There are 5.4 million low income persons living in substandard housing; 12.9 are paying excessive rent; 3.5 million people in this country are paying 50 percent, and I repeat, 50 percent of their income for rent.

The elderly are facing similar hardships. While they account for only one-ninth of our population, they constitute one-third of those HUD says are in need of assisted housing. Assisted housing is a necessity for these people. New Jersey, the State Division on Aging, Department of Community Affairs, shows in 1978 that there were 35,561 applicants on waiting lists for subsidized housing. This represents an increase of 4,833 since the previous study in 1975, while there was only a 3,423 increase in available units. Thus, the longer waiting lists and the decreased availability of assisted housing are having a double disaster effect on our elderly.

This trend of legislation is also catastrophic for multifamily housing. Again in the States of New Jersey the State Housing Finance Agency has 5,000 to 6,000 units of multi-family housing in the pipeline, ready to go. Yet, these units can not be constructed because New Jersey received only 2,000 units from this year's level of 366,000 units. Cuts, already made this year, could reduce our allocation to 1,500 units.

It is our duty to justly represent the poor and elderly, those whose voice so often lacks the strength it needs. High mortgage rates, low vacancy rates, and historically low levels of assisted housing are forcing these groups into substandard housing. It is time we open the door we are now closing on this program. It is time we get our priorities straight and start assuring these people of safe, decent housing, but it is not time to make further cuts in a program which so directly aids those who need aid the most.

I strongly urge the defeat of this amendment.●

● Mr. ROTH. Mr. President, I support Senator PROXMIRE's amendment to decrease appropriations for assisted housing programs. This reduction allows appropriations for the assisted housing programs to met their first budget resolution targets.

Assisted housing programs involve tremendous funding and are among the fastest growing Federal programs. It is staggering to read that without a single additional housing unit added beyond 1980, the Federal Government is committed to pay out approximately $231 billion for subsidized housing assistance over the next 40 years. The Congressional Budget Office estimates that the direct subsidy costs for one unit of section 8 new construction under 30 year commitments vary from $161,000 to $343,000.

We must stop committing ourselves to an ever increasing debt for housing without the assurance that housing programs are conducted in the most efficient and least costly manner. This amendment will force more wise and efficient spending, and it will encourage the use of less costly existing housing units, rather than new units, wherever possible. This decrease in funds should not jeopardize the availability of housing for the needy but should encourage a better allocation of resources.

I am concerned for the housing needs of the disadvantaged. However, no citizen can afford the inefficient use of taxpayers' dollars. Inflation is hurting the American people, particularly the poor, and Government deficit spending is largely responsible for our high rate of inflation. We must try to retard inflation by reducing Federal spending to help all our citizens, especially the poor.

Mr. President, I urge the Senate to adopt this amendment. In the time of budget austerity such cuts are necessary.●

Mr. PROXMIRE. Mr. President, if the Senator from Maryland is ready to yield back the remainder of his time, I am ready to yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STENNIS (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the Senator from Louisiana (Mr. LONG). If he were present and voting, he would vote nay. I had already voted "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), the Senator from South Dakota (Mr. PRESSLER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators present desiring to vote?

The result was announced—yeas 36, nays 52, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—36

Bentsen
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
DeConcini
Exon
Garn
Glenn
Hatch
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Muskie
Nelson
Nunn
Percy
Proxmire
Roth
Schmitt
Simpson
Stafford
Stone
Tower
Warner
Young
Zorinsky

NAYS—52

Baker
Baucus
Bayh
Biden
Boren
Bradley
Burdick
Byrd, Robert C.
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Ford
Goldwater
Gravel
Hart
Hatfield
Hayakawa
Heinz
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Packwood
Pell
Pryor
Randolph
Ribicoff
Riegle
Sasser
Schweiker
Stevens
Stevenson
Talmadge
Tsongas
Wallop
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, for.

NOT VOTING—11

Armstrong
Bellmon
Eagleton
Heflin
Huddleston
Inouye
Long
Pressler
Sarbanes
Stewart
Thurmond

So Mr. PROXMIRE's amendment (UP No. 462) was rejected.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, without losing my right to the floor, I yield to the distinguished Senator from Maine (Mr. MUSKIE).

UP AMENDMENT NO. 463

Mr. MUSKIE. Mr. President, I have an amendment and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MORGAN). The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine (Mr. MUSKIE) proposes an unprinted amendment numbered 463:
>
> On page 14, line 9; beginning with the word "Provided" strike out all the language through line 14.

Mr. MUSKIE. Mr. President, this is not a money amendment and it should not take much time.

Mr. President, during full committee markup of H.R. 4394, Senator BELLMON offered language to amend the construction grant portion of the appropriation to the Environmental Protection Agency. Senator BELLMON's language was accepted by the full committee and appears in the bill in italics on page 14, lines 9–14.

Mr. President, I ask unanimous consent that that language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> $1,500,000,000, to remain available until expended: *Provided*, That none of of the funds provided under this Act shall be used to enforce any regulation issued under the construction grants program which has the effect of retroactively applying project requirements or conditions not in effect at the time the grant for a project is awarded.

Mr. MUSKIE. Mr. President, what Senator BELLMON is concerned about is that after a grant is approved and the project underway, under construction, often EPA imposes new requirements that slow down the project, add to costs, and create problems especially for small towns.

The language as continued in the bill created some problems. So, at Senator BELLMON's request, I contacted EPA, with Senator BELLMON's agreement, and I received a letter from EPA proposing that, administratively, if construction begins within 6 months after a grant is approved, no additional requirements can be added.

I have discussed this matter with Senator BELLMON, and he is satisfied with EPA's commitment as expressed in the letter from Administrator Costle. Therefore, at my request, Senator BELLMON has agreed to withdraw the language he offered in committee. I have further assured Senator BELLMON that the Subcommittee on Environmental Pollution will review this problem when the Federal Water Pollution Control Act is next reauthorized.

Mr. President, I ask unanimous consent that the letter from EPA and Senator BELLMON's approval of the arrangement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., July 26, 1979.

Hon. EDMUND S. MUSKIE,
Subcommittee on Environmental Pollution, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Appropriations Committee, in the HUD-Independent Agencies Appropriations Bill for FY 1980 (H.R. 4394), included a provision which would retroactively apply project requirements or conditions not in effect at the time the grant assistance for a project is awarded. This prohibition could create severe confusion and disruption in the grants program and we believe that there is an administrative solution to the problem which would avoid a legislative change.

The purpose of the prohibition, as I understand it, is to avoid imposing new requirements which would delay projects that are quite far along in the process. The Agency agrees that delays of this kind must be avoided if the pollution control goals of the Clean Water Act are to be achieved. We have tried to conform with a similar policy for some time in the grants program. Our experience, however, is that on occasion a serious problem arises which requires immediate attention in all projects in the planning stage. We currently have over 6700 projects in planning and design. A restriction of our ability to change the course of this planning could affect adversely several billion dollars of new construction.

It is also possible that our policy on advanced treatment could be affected by the amendment. We required, in program guidance issued in 1978 and 1979, an intensive review of all grants projects involving treatment more stringent than secondary to ensure that the treatment level would result in substantial water quality improvement. This review resulted from growing concerns within EPA and restrictions placed on the Agency's FY 1979 funds by the Appropriations Committee. We feel it has already resulted in considerable savings to the communities.

In order to deal with the problem administratively, I will instruct the program that no new requirements are to be applied to a project with Step 3 grant assistance where construction is underway or likely to be underway within six months of the grant award. This approach would give communities an assurance that they can complete arrangements to finance the local share of their projects and move expeditiously through building, local contracting and construction without fear of costly delays from new requirements.

Sincerely yours,

BARBARA BLUM,
(For Douglas M. Costle, Administrator).

STATEMENT BY SENATOR BELLMON

It is of great concern to me that the construction of sewage waste treatment systems to clean up the nation's waters are being delayed because of retroactive changes in plans and design. The bureaucrats have a poor track record in not recognizing the problems of small communities in complying with the same requirements as cities with much more time and expertise.

Mr. Muskie, the Chairman of the Environmental Pollution Subcommittee of the Senate Committee on Environment and Public Works, has been reassuring in stating that his committee will, during the next authorization of the Federal Water Pollution Control Act, take steps to correct this problem. The Administrator of the Environmental Protection Agency has taken positive action by his directive to the agency that no retroactive design changes will be applicable to the construction grant phase as long as construction is underway within six months of the date of the grant award.

The recommendation by Mr. Muskie to delete the language inserted into the HUD-Independent Agencies Appropriations bill and Mr. Costle's action is reassuring and acceptable to me. Along with others, I will continue to monitor this problem and will recommend further action if that appears necessary. I thank my colleague, the distinguished Senator from Maine, for his attention to this matter.

Mr. MUSKIE. Mr. President, I also assured Senator BELLMON that if the 6-month period proves with experience to be too short, we would look at it again; and when we come to a reauthorization of the Water Quality Act, we will look at it again at that time.

The whole idea is to help problems move forward, avoid the redtape that frustrates small communities especially, and get the job done without adding to costs and slowing down the program.

I think Senator BELLMON's objective was a sound one and we seem to have agreed on a formula that deals with the problem effectively.

Mr. PROXMIRE. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. PROXMIRE. Mr. President, I recall very vividly that when Senator BELLMON raised this point in the Appropriations Committee I specifically asked if he had discussed it with the Senator from Maine. He said that he had not had a chance to do that but that he would.

I am sure, as the Senator from Maine has said, that this arrangement will meet the objectives of Senator BELLMON.

I understand he has agreed to the withdrawal of his language, which is exactly what the amendment of the Senator from Maine would accomplish.

So I am happy to accept the amendment.

Mr. SCHMITT. Mr. President, there is no objection on our side to it.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maine.

The amendment (UP No. 463) was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 386

Mr. CRANSTON. Mr. President, I call up amendment No. 386 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Messrs. RANDOLPH, DURKIN, MATSUNAGA, and THURMOND, proposes an amendment numbered 386.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 4, strike out "$5,671,119,000" and insert in lieu thereof "$5,696,215,000".

Mr. CRANSTON. Mr. President, this amendment, cosponsored by Veterans' Affairs Committee members, Senators TALMADGE, RANDOLPH, STONE, DURKIN, MATSUNAGA, and THURMOND, and also by Senators MCGOVERN, PRESSLER and HEINZ, would add $25,096,000 to the Veterans' Administration medical care account.

Mr. President, we are proposing this amendment to add sufficient funds to cover the fiscal year 1980 costs of implementing the Veterans' Health Care Amendment of 1979—Public Law 96–22—which was signed by the President on June 13, 1979. This new law, effective October 1, 1979, establishes new programs of readjustment counseling for Vietnam-Era veterans and preventive health-care services for certain veterans with service-connected disabilities, expands the VA's alcohol and drug treatment program, and makes certain other improvements in the VA health-care system. The VA, in its fiscal year 1980 budget documents and testimony before the Committee on Veterans' Affairs, indicated that 346 additional full-time equivalent employees—FTEE's—would be required in fiscal year 1980 for the new readjustment counseling program alone and would be requested when the authorizing legislation was enacted. The need for these additional personnel and the administration's intention to request funding specifically for them were confirmed in a June 15, 1979, letter from the Administrator of Veterans' Affairs to me, which was reprinted at page S7815 of the June 18, 1979, daily edition of the RECORD.

In a July 19, 1979, letter from Mr. John P. White, Deputy Director of the Office of Management and Budget, to the distinguished Senator from Wisconsin and very able chairman of the appropriations subcommittee on HUD-Independent agencies (Mr. PROXMIRE), OMB reiterated the administration's intention to submit a budget amendment very shortly and stated that "the $25,000,000 for the Health Care Amendments Act includes funding for an additional 346 FTEE's."

Mr. President, the Appropriations Committee, is its consideration of H.R. 4394 added $76,380,000 to the President's budget request for the VA's medical care account. I had recommended the addition of that amount; and it is the same amount that was added in the House-passed version of this legislation. However, in adopting this add-on to the VA medical care account, it clearly appears, from the committee's report, that the Appropriations Committee intended, as had the House of Representatives, that the $76.4 million add-on be used for an additional 3,800 FTEE's The Senate Appropriations Committee has found, as the House Veterans' Affairs and Appropriations Committees had found, that these additional employees are needed—personnel cuts already made in the VA health-care system so as to restore personnel cuts imposed by the administration in fiscal year 1979.

I emphasize that they are to restore personnel cuts already made in the VA medical care system. I applaud the action by the Appropriations Committee in adding these funds because the VA health-care system is suffering from serious program reductions that were brought on by the administration's refusal to utilize a $55 million add-on to the medical care account appropriated by the Congress last year for additional personnel.

Neither Appropriations Committee report, however, evidences any intention to provide for the additional personnel and other costs needed to implement public Law 96–22. This is due largely to the administration's inexplicable failure to submit, in time for the Senate Appropriations Committee markup of H.R. 4394. A budget amendment for the fiscal year 1980 costs of carrying out the extremely important programs established by this new public law.

Mr. President, if funds to implement Public Law 96–22 are not included in H.R. 4394 when it is enacted, the VA will face a Hobson's choice with respect to carrying out the programs provided for the new law. Either it must violate the authorizing law and delay those programs—including the already far-too-long delayed readjustment counseling program for Vietnam-era veterans far too many of whom badly need this long overdue readjustment assistance—until a supplemental appropriations bill is enacted, which is not likely to occur until late in fiscal year 1980; or it must, in controvention of the clear congressional intent expressed in the reports of the Appropriations Committees of both Houses, propose to divert resources appropriated for other purposes in order to carry out these programs.

Therefore, Mr. President, we are proposing this amendment to add an additional $25.1 million to the VA's medical care account for the specific purpose of funding 450 additional FTEE's and other related costs that we believe are necessary to begin implementation of the Veterans' Health Care Amendments of 1979. This amount is approximately the same amount that OMB indicated in its letter to Senator PROXMIRE is needed to implement Public Law 96–22.

The figure we are proposing, although approximately the same as the administration will apparently request, is to be allocated somewhat differently. We have included $3,092,000 in funding for the preventive health-care program, including 104 FTEE's—the amount initially proposed by the VA—and have reduced the dental care add-on from $5,888,000 to $2,796,000 in view of the Veterans' Affairs Committee's express intent, in adding the new dental care eligibilities for totally disabled service-connected veterans and ex-POW's, that this care be provided largely by realining the responsibilities of existing in-House dental staff and making minimal expenditures for fee care. We propose this $3.1 million reduction to the amount suggested by the administration as necessary to fund dental treatment for newly eligible veterans, because we believe that the administration's cost analysis of implementing this program is in error in two ways:

First, the number of individuals the administration believes will seek treatment next year under this new authority—19,840 out of 122,770 veterans with total service-connected disabilities and 8,000 out of 100,000 former POW's—appears to be unrealistically low; and, second, the administration's estimate is based on an assumption that all new eligibles would be treated on a contract fee basis, a result clearly at odds with our committee's intent. Thus, the amount we are proposing would not result in holding the new beneficiaries to such an unrealistically low estimate of those who would take advantage of their new eligibility so long as the provision of the necessary care is accomplished in accord with the recent amendments to sections 601 and 612 of title 38 made by Public Law 96–22 which are designed to reduce greatly the extent of dental care provided on a contract fee basis.

Under our assumptions, less than 10-percent of the newly eligible veterans would be handled on a fee basis, and even this amount of fee basis care seems excessive if the criteria governing provision of contract fee care are properly applied.

For all these reasons, Mr. President, and with this logic behind this approach, I strongly urge all my colleagues to support the amendment.

I am delighted to yield to the Senator from Pennsylvania, who is a staunch supporter of this effort.

Mr. HEINZ. I thank the Senator from California, the author of the amendment.

I compliment him on not only offering this amendment, which I wholeheartedly support, but also for having successfully brought about the enactment of absolutely vital health care legislation affecting the lives of millions of Vietnam-era veterans, who, as the Senator from California well knows, have been grievously ignored—not by the Senator from California but by this administration and others.

The money for the appropriation that the Senator from California is proposing is absolutely necessary to implement the readjustment counseling program that the Senator was instrumental in bringing into being through his actions on the Veterans' Health Care Amendments of

1979, which we passed in this body several weeks ago, and which was subsequently signed into law.

I hope we will see rapid action by the administration in implementing this program.

It has been some 5 or 6 years since all Americans left Vietnam. It is something of a tragedy, a great waste of human resources, that so many Vietnam-era veterans, so many men who fought in combat, who were stationed in Southeast Asia, have had to wait so long for the rather modest but significant help that the Senator from California has been able to provide through his actions as chairman of the Veterans' Affairs Committee.

Because of the divisive national debate on the Vietnam war, Vietnam-era veterans have, in many cases, experienced substantial psychological and readjustment problems. Veterans returning from Southeast Asia came home either to be scorned for participating in a conflict some considered immoral or to be ignored and forgotten in our haste to put the war behind us. During hearings on the Veterans' Health Care Amendments of 1979, psychiatrists and other mental health experts testified before the Veterans' Affairs Committee that Vietnam-era veterans have suffered enormously because of society's indifference and open hostility to the sacrifices these men and women suffered during their military service.

We have an unfulfilled obligation to these veterans, and I firmly believe that it is time that we act to meet that obligation. It is time we extend to these veterans the assistance they need to overcome their readjustment problems. It is time that we take steps to enable them to lead a productive life. It is time that we help them restore their full capacity, reduced as a result of the psychological impact of their experiences in Southeast Asia, to make a contribution to our Nation. They already have made a profound contribution, but in giving of themselves, many of them have lost the ability to realize their potential. It is time to remedy that loss and to restore that ability.

The Veterans' Health Care Amendments of 1979 correctly recognized the unique problems of Vietnam-era veterans. The legislation established a program of readjustment counseling for these veterans. Additionally, it provided for a pilot program for the treatment and rehabilitation of veterans with alcohol and drug problems. Although the legislation, in my view, did not go far enough, it was unquestionably a step in the right direction.

Thus, it is essential that the Senate appropriate the funds necessary to implement the programs authorized in the Veterans' Health Care Amendments of 1979. This amendment accomplishes that result by adding $25.1 million to the appropriation for veterans' medical care. If the Senate does not adopt this amendment, there will simply be no funds to implement essential veterans' programs authorized by existing law. This amendment will enable us to move forward with programs which are needed and which are reasonable.

So, Mr. President, I strongly support this initiative, and I ask unanmious consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Senator very much for his very gracious words about my efforts. I also thank him for his cooperation and his support, which can be very helpful, and for all he has done for veterans.

Mr. HEINZ. I thank the Senator from California. He is most generous and kind and wise.

Mr. PROXMIRE. Mr. President, I think this is an excellent program. I am all for it, but I think we should fund it out of the funds that are already in the bill. I think we can do that.

In its present form, I have to oppose the amendment by Senator CRANSTON. We are currently $76 million over the President's budget in medical care, and the amendment proposed would result in a total increase over the budget request for medical care of $100 million and would put the bill itself $700 million over the budget resolution.

However, I wonder if the senior Senator from California would consider a compromise. As the Senator knows, the funds we added for medical care in committee are for the purpose of increasing medical care staffing by 3,800 positions. As the Senator also knows, the administration is committed to a 2,000-position increase but is highly unlikely to provide the additional 1,800 positions. Would the Senator be willing to drop his amendment if he were able to get a commitment from the committee and the Senate that $25 million of the $76.4 million increase we have already approved is intended for the implementation of the Veterans' Health Care Amendments of 1979?

In this way, we could achieve the increase the Senator seeks—achieve funding for the program for which he has made an appropriate and eloquent plea—and at the same time not increase the total in the bill, which is already over the President's budget request in this particular category.

The administration is not going to spend this money, anyway, I say to the Senator from California, for 1,800 additional personnel. So why not use the amount currently in the bill for the purposes the Senator is asking? Would the Senator consider that?

Mr. CRANSTON. Mr. President, let me say I fully understand the Senator's concern about the size of the budget. I share those concerns. I voted for an important amendment of his a little while ago that was designed to come to grips with one form of expenditure, revenue sharing to the States, that I think is not consistent with our efforts to move toward a balanced budget. And I am sure I will be with him on many other budget-cutting efforts.

I share the Senator's concerns on this front, and I fully understand his concern about the increase already provided by his committee to the VA medical care account and about any expansion at this point. However, I really cannot accept the proposed compromise, and let me spell out very briefly why I cannot.

Both the House Appropriations Committee and the Senate Appropriations Committee have found that there is a need for 3,800 additional FTEE's to provide necessary staffing for the VA health-care system. I want to emphasize both the House and Senate Appropriations Committees have reached that conclusion. I do not believe that it is appropriate to fund the various programs authorized by the Veterans' Health Care Amendments of 1979 at the expense of personnel needs, as so clearly identified by the two committees, in other sections of the VA health-care system. Such an approach would exacerbate an already unacceptable situation in the VA's provision of medical care, and I just cannot agree to that kind of a result.

Moreover, I cannot agree with the Senator's suggestion that the administration is unlikely to provide the additional 1,800 positions. To the contrary, it is my understanding that, if Congress makes a decision, clearly and unambiguously stated, to provide additional funding for VA medical care staff, the administration will abide by that decision and provide the positions.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. CRANSTON. I yield.

Mr. PROXMIRE. Last year we did exactly that. We said we wanted more personnel and we made it clear that we were adding money for that specific purpose, but the administration simply refused to add the personnel. They used it for a pay raise. They did not use it for additional personnel. So we have the experience that maybe the faith of the Senator from California which in his judgment is awfully good, but on the basis of the record it is clear when they say they do not want to add more than 2,000 people that they are not going to. And, therefore, we can use this money for the very constructive purpose the Senator is proposing.

Mr. CRANSTON. It is true that they may not want to add them; but I am convinced, based upon my discussions, that the Administration will add the staff, if Congress makes plain that it wishes to have them added.

I also make the point that the President in a budget amendment that will be forthcoming shortly will be covering the sums that I am proposing now be added, and the only reason they are not in the bill is the failure of the administration to come up with a budget amendment in time for it to be considered in the Appropriations Committee's processes.

So I am not able to accept the Senator's proposed compromise, and I urge that we adopt this amendment and that the additional $25.1 million specifically to fund the provisions of Public Law 96-22 be earmarked in that way.

I point out that this morning our committee ordered reported the GI bill legislation with a net cost savings. So we are trying to be prudent and to recognize the need for savings wherever appropriate savings can be found.

Included in the bill we reported this morning, are provisions to prevent abuse and misuse of certain GI Bill programs with a cost saving of $31 million.

I have engaged, recently on the floor on another bill, in strenuous efforts that we made—successfully to some degree—to make other cuts were appropriate. But in this case I feel that we need the 3,800 additional personnel to insure quality care by restoring staffing cuts that were unwisely made and to insure that we have the personnel to carry out a law that has recently been enacted by Congress, that the administration supports, the funding for which it supports, and a program that is desperately needed by those veterans who have not yet been able to readjust after their Vietnam experience.

Mr. PROXMIRE. Mr. President, what I wish to do when the Senator completes his presentation and all time is yielded back is to offer an amendment to the Senator's amendment which would achieve what I have been arguing we should do so that instead of adding $25 million it would say on page 29 line 5 "including not less than $25 million for the implementation of Public Law 96–22," which would accomplish exactly what the Senator wants, put it right into the bill and achieve all this without an additional $25 million being appropriated.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. SCHMITT. Mr. President, I hope that the distinguished Senator from Wisconsin will not offer that amendment.

I think that the Appropriations Committee was quite explicit in its support for the $76.4 million for the particular purpose that we voted and considered and not in the least because of the eloquent letters and statements that the Senator from California made in support of that addition to budget.

I am afraid that if we earmark $25 million out of that $76.4 million we are going to complicate matters, not only on the issue of health care for veterans but also with our colleagues from the other body. So I hope that the Senator from Wisconsin will allow the Senator from California to have an up and down vote on his proposal to add things on. I am not saying how I will vote on that, but I think it would be better to do it that way than to try to earmark and complicate the process of the conference and also the process of just implementing the Appropriations Committee's position.

Mr. CRANSTON. I say that I welcome the statement by the distinguished Senator from New Mexico very much. I shall just read one paragraph from the report of the Committee on Appropriations that is relevant to this discussion:

> The Committee agrees with the House that an additional $76,380,000 above the budget request is needed to provide sufficient health care personnel for the VA's medical care activities. The action of the Committee will result in an additional 3,800 health care personnel (staff-years) during fiscal year 1980. The Committee shares the concern expressed by the House regarding the Administration's decision not to release any of the 2,375 staff-years added above the budget in fiscal year 1979. The Committee also notes that the fiscal year 1980 request proposes a further reduction in health care personnel. Additionally, the VA proposes reprograming staff-years from existing facilities in both 1979 and 1980. The Committee has included funds to restore these reductions and urges the Administration to release sufficient employment ceilings to make use of the increased staff-years provided in this bill.

So unless my amendment is adopted either this approach, endorsed by the Appropriations Committee in its report calling for 3,800 additional health care personnel, will be cut into and not met, or we will not have personnel to carry out the purpose of the readjustment counseling provisions of the other bill that needs implementation.

The only reason we do not have that in this bill, I am absolutely convinced, is the failure of the administration to come up with a budget amendment in time. So we are now seeking to remedy that deficiency in the actions of the administration.

Mr. President, in closing I would like to take this opportunity to note some other provisions in H.R. 4394 that differ from the House-passed provisions which I believe are very beneficial to the VA and which I urge the Senate conferees to defend very vigorously. The Appropriations Committee included funds in the VA's general operating expenses account to provide for an additional 30 FTEE's for the VA's Office of General Counsel to enable the General Counsel to establish a pilot program at 10 stations under which VA attorneys would manage files involving overdue debts to the Veterans' Administration, including litigating such cases in local courts. I believe there are many problems associated with the collection of overdue debts to Federal Government agencies and I believe that an appropriate pilot effort could provide significant information not only to the VA but to other agencies as well and therefore believe these positions should be added.

Mr. President, the Appropriations Committee also included funds for an additional 30 positions for the staff of the VA's Inspector General. I am a strong advocate of the new inspectors general in the Federal Government and believe Mr. Reynolds has made an excellent start at the VA. I support this effort to provide additional staff and will continue to monitor closely the staffing needs of the VA Inspector General's Office to determine if its staffing is adequate.

Finally, Mr. President, the Appropriations Committee differed from the House by providing for a more gradual phase-out of the vet rep program. I applaud the foresight this represents. I recognize that a reduction in the staffing of this program seems indicated as GI bill enrollments decline, but I believe that the Senate committee's proposed more gradual phase-down is by far the more appropriate course and urge the conferees to insist on that position in conference.

Mr. President, I ask unanimous consent that the text of my July 17 letter to the distinguished floor manager, containing recommendations for funding to which the pending measure is, I am delighted to say, very responsive, be printed in the Record at this point.

The letter follows:

Committee on Veterans' Affairs,
Washington, D.C., July 17, 1979.
Hon. William Proxmire,
Charirman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, Washington, D.C.

Dear Bill: I am writing to provide you with my recommendations on fiscal year 1980 appropriations for the Veterans' Administration. As you know, I greatly appreciate the close cooperation between our committees in pursuing our common goal of better serving the Nation's 30 million veterans.

With respect to fiscal year 1980, I strongly support the add-ons to the VA budget request for the various VA accounts as passed by the House on June 27 in H.R. 4394, and would like to stress in particular the great need for the $76.4 million added by the House over the President's request for the medical care account. This added funding is critical to the VA's ability to provide quality health-care services. As you know, the Administration required that $98.3 million of the amount provided in fiscal year 1979 appropriations for the VA's medical care account be diverted to pay for part of the costs to the VA of the October 1978 pay raise. The resulting reductions in personnel and other support for VA health-care programs, together with other administrative restrictions that were placed on those programs, have seriously impaired the VA's ability to meet the needs of our Nation's service-connected disabled, needy, and elderly veterans.

The House increase is intended by the House Appropriations Committee to be used for "an additional 3,800 health care personnel (staff years)" (H. Rept. No. 96–249, page 48). As I indicated during the June 18 debate on S. 1039, I believe that not less than 2,000 full-time equivalent employees (FTEE's) in addition to those provided for in the President's budget request are critically needed. In fact, the Administration confirmed the need for these additional employees in Administrator of Veterans' Affairs Max Cleland's June 15, 1979, letter to me (copy enclosed).

In addition, I urge that additional medical care account funds be provided for staff to implement Public Law 96–22, the Veterans' Health Care Amendments of 1979, signed by the President on June 13, 1979, which establishes new programs of readjustment counseling for Vietnam-era veterans and preventive health-care services for veterans with service-connected disabilities, expands the VA's alcohol and drug treatment program, and makes certain other improvements in the VA health-care system.

The VA, in its fiscal year 1980 budget documents and testimony before our Committee, indicated that 346 additional FTEE's would be required in fiscal year 1980 for the new readjustment counseling program alone and that the Office of Management and Budget had previously approved adding that number of FTEE's for this purpose when the legislation is (as it has been) enacted.[1] Based on those representations and the statements in Administrator Cleland's June 15 letter making clear that staffing to implement this legislation should be in addition to the other 2,000 FTEE's mentioned above, I expect the Administration to submit a budget amendment for those 346 FTEE's and other additional staff needed to carry out the other provisions of Public Law 96–22.

To assure effective implementation of this legislation without any adverse impact on existing programs, I strongly urge that the necessary funding be included in the regular appropriations for fiscal year 1980.

The additional medical care funds added by the House over and above the amounts needed for 2,000 FTEE's plus those needed for implementation of Public Law 96–22, are—in light of the reductions imposed during fiscal year 1979 and the very austere nature of the Administration budget request for fiscal year 1980—badly needed and should be provided for either additional employees or other program expenses that the VA may consider even more important to its ability to provide quality care.

With respect to the VA's medical and prosthetic research account, I believe that the modest $5 million increase approved by the House—over the fiscal year 1979 appropriations level and the President's "straight-line" request—is fully warranted for the VA's extremely valuable, successful health-care research program. I believe that this add-on is especially justified in light of the clear frustration of Congressional intent last year in adding $10.2 million to the fiscal year 1979 research appropriation. Despite the clear Congressional intent to provide for the enrichment of VA health-care research through this increase and vigorous protests on my part, the Office of Management and Budget directed that $4.2 million of that increase be used to pay for October 1978 pay raise costs and placed restraints on the manner in which the remaining $6 million could be used.

Thus, in order to provide, belatedly, for at least part of the program enrichment for VA health-care research that the Congress intended to provide for in fiscal year 1979, I fully support the House-passed level of appropriations for this account.

In one respect—the grants for construction of State extended-care facilities account—I recommend an increase over the House-passed level. The Congress appropriated $10 million for this account for fiscal year 1979; and both Houses have passed legislation, in H.R. 3892, authorizing appropriations of $15 million for fiscal year 1980. However, the President has requested and the House has approved appropriations of only $5 million for fiscal year 1980. I see no justification for such a reduction for this proven and cost-effective means of providing extended care for the substantial and growing numbers of eligible elderly veterans for whom the VA has insufficient capacity in its own extended-care facilities. In fact, the VA has assured the Veterans' Affairs Committee that applications in hand and expected from States willing to provide the 35-percent matching funds required will far exceed $10 million in fiscal year 1980. I, therefore, strongly urge a continuation of the $10 million level for fiscal year 1980.

With respect to the general operating expenses account, I fully support the President's request and recommend additional sums sufficient to enable the VA to initiate activity to pursue the collection of debts in amounts less than $600.

Thank you very much, Bill, for your interest and attention. I'd be happy to discuss these matters with you further, if you so desire.

Warm personal regards,

Cordially,

ALAN CRANSTON,
Chairman.

OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C., June 15, 1979.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to advise you that the Director of the Office of Management and Budget, by authority of the President, has approved my request for submission of a budget amendment for fiscal year 1980 to add an additional 2,000 full-time-equivalent-employees (FTEE's) for the Veterans' Administration's medical care account, subject to the enactment of certain cost-savings legislation which I will outline later. It is understood that this 2,000 staffing increment will be over and above the 356 additional FTEE's contemplated in the President's budget in connection with the enactment of S. 7.

The Director has likewise agreed, again subject to the enactment of the cost-savings legislation, to my request that this staffing add-on would be annualized in fiscal year 1981 for the purpose of maintaining the existing program level and that staffing needed for such new activations as may be proposed later would be considered separately from this employment base.

The request for additional staffing, however, is expressly contingent upon the enactment of the cost-savings provisions initially proposed by the Administration as they are included as part of S. 1039 as reported (and proposed to be further modified in your floor amendment) regarding beneficiary travel reimbursement, nonprescription drugs, medicines, and supplies, and dental benefits pertaining to the care of veterans without compensable service-connected disabilities.

We therefore strongly support the provisions in sections 201(a), 203, 204, and 207 of S. 1039 as reported and with the modifications which we have developed together to be presented when the bill is considered on the Senate floor.

Enactment of these provisions will free up resources to make possible additional VA medical facility staffing to assure a more adequate level of health care services for our Nation's veterans. The Administration is committed to a comprehensive budgeting effort to reassess existing programs in light of changing circumstances and economic constraints.

We appreciate your cooperation in working closely with us to develop this compromise which we believe will apply available resources in the most effective manner to strengthen the VA health care program.

Sincerely,

MAX CLELAND,
Administrator.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that time be taken equally out of both sides on the bill.

The PRESIDING OFFICER. In this situation the quorum call is not charged. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 464

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 464.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 29, line 5, following the word "reimbursements" insert the following: "including not less than $25,000,000 for this implementation of Public Law 96–22."

Mr. PROXMIRE. I have already explained the purposes of the amendment. I discussed this approach a moment ago. All this amendment would do would be to achieve the purposes that the Senator from California has argued so well for along with the Senator from Maryland and other Senators.

The PRESIDING OFFICER. The Chair would advise the Senator from Wisconsin that the amendment is not in order and that it does not address a pending amendment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 465

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 465.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 29, line 4, strike out "$5,671,119,000" and insert in lieu thereof "5,671,119,000, including not less that $25,000,000 for the implementation of Public Law 96–22."

Mr. PROXMIRE. As I started to explain earlier, what this amendment does is to keep the money amount at the same level it was at before. It does not add $25 million. It provides, in effect, that the money provided for the hiring of an additional 1,800 personnel, which the administration has indicated they will not hire, would be used for the purposes the Senator from California has just described.

Mr. President, in view of the discussion we have had, I do not think it is necessary to have a long debate on this amendment. I am ready to yield back my time and have a vote on it. In the event, which may develop, that I lose on this substitution, then we can have a voice vote on the amendment of the Senator from California.

Mr. CRANSTON. I am ready to yield back time.

Mr. PROXMIRE. I yield back my time on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. Yes.

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[1] The Congressional Budget Office estimated that enactment of P.L. 96–22 would require $37.2 million in budget authority in fiscal year 1980.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. PROXMIRE. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. (Putting the question.)

The amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from California. (Putting the question.)

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, if there are no further amendments, I suggest the absence of a quorum, and I ask that it be taken out of the time of neither side. I think there are other amendments Senators want to offer, but they are not on the floor at the moment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 466

(Purpose: To reinstate eligibility of State-assisted section 236 projects for flexible subsidies)

Mr. JAVITS. Mr. President, on behalf of myself and Senators MOYNIHAN, MATHIAS, WILLIAMS, TSONGAS, RIEGLE, SARBANES, BRADLEY, KENNEDY, and LEVIN, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New York (Mr. JAVITS), for himself and others, proposes an unprinted amendment numbered 466:
>
> On page 5, line 15, after the word "projects", insert "assisted,".

The PRESIDING OFFICER. The Chair would inquire of the Senator from New York if this is the amendment on which he desires 1 hour.

Mr. JAVITS. It is.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, this amendment raises the issue as to whether uninsured but assisted housing projects which exist under section 236, which are in 12 States, shall be entitled to participate in this aggregate relief fund for those that have trouble in terms of operation.

The authorizing statute of which this appropriation is the implementation permits exactly such assistance, but it has been omitted from the appropriations bills, and it is that which we are seeking to restore. That is the essence of our problem.

Mr. President, we do not feel, all of us, that this is equitable, that is, that the authorizing legislation has admitted the projects, which are essentially State projects, some of them insured by States, others assisted so they can be called State projects generically—we do not believe that it is fair, having been qualified under the authorizing legislation, for them to be barred from the appropriating legislation.

Let me emphasize that there is no additional money involved. All we ask is to be qualified so that we, too, in our respective States may seek this kind of assistance.

I respectfully submit that any third and fourth party arguments really should not be considered relevant. The fact is that the direct claims on this fund will not in any way increase the funding. There may be more claimants, but, again, it remains within the discretion of those administering the law to decide among various claimants. All we seek is to be eligible.

The States which have this kind of situations are Connecticut, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, Virginia, and Wisconsin.

Mr. President, I think that one thing is clear in this particular matter beyond all others, and that is that we are seeking to develop housing with all kinds of assistance that we can; and the section 236 program has had a beneficial effect in reaching out for more units than would otherwise have been possible under it, because it has encouraged States to come along with their own programs, and it is a fairly appreciable operation.

The fact is that there are now about 500,000, in round figures, section 236 projects. Of these projects, roughly 20 percent, or roughly 100,000—the exact count is allegedly 115,000—would qualify to seek some kind of help from the fund, and about 40 percent of those, to-wit something like 40,000, are projects which, if this amendment were adopted, would be eligible to seek that kind of assistance.

Mr. President, the reason that this section 236 interest subsidy program was set up was exactly as I said: To have more governmental entities brought in to encourage, develop, and assist housing, and specifically to encourage State housing finance agencies to provide financing; so Congress allowed subsidies to the State-financed projects that were not FHA-insured. Yet this appropriation seeks to confine the benefits of this particular section; notwithstanding the mandate of the authorizing legislation, this appropriation bill seeks to confine it only to the FHA-insured projects.

We believe that by recognizing what the authorizing legislation provided, the intent and purpose of the Congress in section 236 may be better attained, because it expands the availability of housing.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. JAVITS. I yield myself 3 additional minutes, Mr. President.

It extends the availability of housing for low- and moderate-income persons without bearing the risk of loss, which is passed on to the State if the project fails.

Mr. President, last year, in 1978, the housing authorization legislation created a new program for operating assistance to these troubled projects. It was only after extensive negotiations that the Housing and Urban Development Department agreed to support inclusion of State-assisted projects if participation were delayed until fiscal 1980 while data were collected and the extent of the need determined.

I agreed to this proposal, as did my colleagues from New York (Mr. MOYNIHAN), Senator WILLIAMS of New Jersey, Senator HEINZ of Pennsylvania, and then Senator BROOKE of Massachusetts, who joined me in offering an amendment to that effect, and the Senate concurred, as did the conferees. Earlier in this year, when the HUD-drafted reauthorization legislation was introduced, HUD had proposed deletion of the provision for State assisted project participation. Both the authorizing committees opposed the HUD proposal and supported inclusion, and we were upheld in both Houses of the Congress.

Now, if we do not uphold this agreement now, the people who will suffer will be the tenants because they, like tenants in the Federal projects, face escalating operating costs exactly the same way, and if the noninsured are not included in the flexible subsidy program the tenants will be faced with exceedingly high rents while similarly situated tenants in exactly the same kind of insured units will get relief, which they desperately need just like our constituents in the State projects need, too.

So, Mr. President, I strongly urge the Senate to make good on what our purpose and intent was in the authorizing legislation, pointing out again that it in no way increases the amount of money. It simply makes fair the participation which has already been assured by the authorizing legislation, but which is defeated and frustrated by this provision in the appropriations bill.

I am pleased to report that the National Governors Association and the Council of State Housing Agencies support our amendment, and I deeply feel that the adoption of this amendment would insure that the agreement originally made that come 1980 these projects of the States will be treated like the Federal projects will be kept if this amendment is carried as I hope the Senate will carry it.

Mr. President, I yield such time as he may desire to my colleague, Senator MOYNIHAN.

Mr. MOYNIHAN. Mr. President, I thank my distinguished senior colleague for giving me this moment to join with him on behalf of myself and a number of colleagues.

Mr. President, I am alarmed that a wedge is being driven between the Federal Government and the States in our efforts to meet the Nation's housing needs. I think that more, not less, effort should be made to foster cooperation between the two government levels, that the States should be encouraged, not discouraged, to continue and expand their role in providing housing.

Over the last 10 years more than half a million units of section 236 housing for low- and moderate-income people have been built nationwide. Over 100,000 of these units were constructed under a Federal financing scheme which the States were encouraged through the late 1960's and early 1970's to use, whereby a State would become the principal financial supporter of a project while the Federal Government provided the much needed additional assistance of an interest subsidy. Such substantial State participation in addressing the national housing goal has been, I think, a distinct asset to the national attempt to provide housing.

The precipitous rise in inflation since 1974 has hurt all the 236 projects, whether strictly Federal (FHA insured) or State assisted. Operating costs have risen so sharply that the increased rents needed to pay for them have often reached beyond the means of the tenants. An increasing number of both FHA-insured and State-assisted projects have been faced with default and foreclosure. Foreseeing this eventuality, the Congress in 1974 created an operating subsidy program intended to assist projects unable to meet the unexpected cost increases.

This assistance was redesigned in 1978 into a 2-year flexible subsidy program, under which State-assisted projects were to be eligible for assistance in fiscal year 1980. (The wholly Federal projects were eligible as of fiscal year 1979.)

Now we undertake the fiscal year 1980 HUD appropriations bill only to find that the House Appropriations Committee, after both the House and Senate authorizing committees emphasized the need for maintaining eligibility in State-assisted projects, has acted to exclude these projects from any chance for the operating assistance.

It must be kept in mind that all section 236 projects were built under the same Federal program and were intended to meet the needs of the same group of tenants, that inflation has been quite impartial in affecting the projects, and that operating assistance is needed by both FHA-insured and State-assisted projects and has in fact been available to both for years.

Suddenly to exclude section 236 projects built under one of the two financing mechanisms available for them in the National Housing Act will result in cutting off 20 percent of the Nation's total projects and leaving them to face a national inflation problem alone. Of course States ought also to assist these projects wherever they can. No one disputes that. But the Section 236 program has been a national effort in which—let us be thankful for it—many States have played an important part. We have instituted a national operating assistance program for section 236 projects; let us keep it open for use where the need is greatest, regardless of the auspices under which a project was constructed.

Our policy should be to ward off foreclosure wherever we can, as it is far less expensive to maintain existing housing than to build replacements after foreclosure. This much is common sense.

I suggest it is also wise to support a policy that encourages States to participate vigorously in meeting the Nation's housing needs, and to oppose one that would discourage their activity by mandating the Federal Government's withdrawal from cooperative efforts when problems arise. Federal policy is responsible for the decision of many States to share in the national program to construct and operate subsidized housing. To deny those State efforts the troubled projects subsidy that has been until now available for all the 236 projects is to discourage future State participation and State initiative, and to hasten the day when ony the Federal Government involves itself with important human needs.

There is a further argument to be made, that we are faced here with a question of equity. This appropriations bill before us would write into law a situation where a family in one 236 building is charged significantly different rental payments from a family of the same size and financial means living in an otherwise identical 236 building across the street.

Why the difference? It is not because one building has better management, or is better able to meet increased operating costs, or would benefit more from the limited assistance that is available. The two families will pay greaty differing rents—indeed, the one family may be pushed to the edge of insolvency—only because one happened to move into a building financed under subsection (j) of section 236, while the other family moved into a subsection (b) building.

Mr. President, this is indefensible. It is undoubtedly the case that we are short of funds, and must allow HUD the discretion to put what funds we have where they would be the most effective. But to exclude by policy a group of some 100,000 units of housing from any consideration for operating assistance—this is indefensible.

We must adhere to policies that encourage State participation in our national housing program, and that do not mandate glaring inequities for individuals living in the housing we are able to provide. I strongly urge my colleagues to support our efforts today to amend this bill in order to protect one such policy.

Mr. President, we will not detain the Senate overly long in this matter. There was one point not made by the senior Senator from New York that I wish to make, which is that he was the author of the amendment in 1968, which made possible the participation of States in the 236 program, and that it was part of a longstanding commitment of my senior colleague to enable State governments to do those things they can do as well or better as the Federal Government but for which they need certain resources which the Federal Government can provide by such simple measures as the one Senator Javits made possible in 1968.

Early today we heard from the Senator from Maryland, the distinguished comanager of this legislation, about the importance of revenue sharing as a principle of federalism, the effort to take an overloaded national Government and put at the State level functions that the States are entirely capable of performing and do perform. Under this program which Senator Javits made possible, they have performed, and a portion of those projects are having the same difficulties which the Federal projects are having. But for some bizarre reason the Office of Management and Budget has chosen to cast them aside at this moment, a very poor precedent for Federal-State partnerships in anything, a precedent which the U.S. Senate should reject—and reject, perhaps, with an element of censure of those who undertook it.

In good faith the State governments took the opportunity proposed to them by the Federal Government; now they are told they made a mistake. If it is our object to see that nothing is done in this country except by the Federal Government and at Federal expense, this bill as written is an excellent precedent for sending out that signal.

It was precisely to send the opposite message that Senator Javits rose on the floor of the U.S. Senate 11 years ago and commenced this sensible, modest, and constructive program.

Mr. President, I cannot imagine but that the Senate would wish to keep faith with the States that took the Federal Government at its word and took the initiative to do on their own things which they are perfectly capable of doing with moderate assistance.

I do not know that more need be said in such a case of obvious equity, excepting once again to thank my revered senior colleague for his initiative in the first instance and for his vigilance in this one.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. I yield such time as the Senator may desire.

Mr. WILLIAMS. I will not take long, Mr. President, because I believe that everything that could be said to indicate the equities here has been said.

I would like to associate myself with the remarks of my distinguished colleague from New York. I support this amendment and believe that it is simply a matter of equity and consistency to include State-financed section 236 projects as well as HUD-insured projects in the flexible subsidy program.

It was, after all, the Federal Government which encouraged States to produce section 236 units, and then relied and depended upon these same States to implement these projects. The Congress itself deemed that fairness required the eligibility of State financed 236 projects for these very reasons in the Housing and Community Development Amendments of 1978.

Thus, with the concurrence, and, indeed, the combined backing of the administration and the Congress, at that time, State Agencies began working with HUD in January of this year to bring about the implementation of this program. Denial, now, of this assistance to handle costs beyond the control of State housing finance agencies would jeopardize the good faith reliance upon which these programs have been implemented. It would set a bad precedent.

The tenants of these State-uninsured 236 projects are, after all, of the same low-income level as in the HUD-insured projects. The income qualifications are identical. The flexible subsidy program was meant to be a means of maintaining housing opportunities for low- and moderate-income persons. If that is the case, how can we possibly deny or discriminate against those living in State-financed projects?

In my State of New Jersey, for instance, 63 percent of all the section 236 units authorized have been uninsured, State-financed. In very great measure, the New Jersey State Housing Finance Agency had alleviated a considerable burden from the Federal Government's shoulders in sponsoring these projects. My State had acted to further HUD's goals, and has acted in good faith. Without passage of this amendment, we will meet my State's good will and trust unfairly. We will surely jeopardize the futures of the tenants living in the 11,984 uninsured State-financed units in my State.

As a matter of equity, I hope my colleagues will join me in supporting this amendment. Let me emphasize that this amendment will add no money, only eligibility.

Mr. PROXMIRE. Mr. President, unfortunately, I must resist this amendment. The distinguished senior Senator from New York said that it would not cost any money. No, not yet, but just wait.

Mr. President, the committee has recommended limiting the troubled projects operating subsidy program to multifamily housing projects insured only under the Federal Housing Agency. We recognize that many of these State projects are viable and well managed. We also know that some are not. That is the principal reason we have taken this action. While many of these State projects were developed with Federal-State involvement, the important point is that the States were responsible for the underwriting of the projects and they alone have the sole responsibility for overseeing and controlling project management and operations.

The only Federal obligation to these projects was its commitment to make interest reduction payments.

While the Federal Government is doing that, and will continue to do it for the balance of the contracts, we ought to keep in mind that what the troubled projects operating subsidy program is designed to do is to restore financial soundness to a project in order to protect the Federal Government from potential claims if a federally-insured project should fail to meet its mortgage payments. The key to the effectiveness of the flexible subsidy is the control over improvements in the management of projects. The Federal Government in insured projects has a direct relationship with the owners. It monitors operating expenses. It approves rent increases and disbursements from reserve funds. Therefore, it knows at first hand the operating details of the project. And it can determine the need for additional subsidy, if any exists.

How about State projects? The problem with State projects is that no such relationship exists between the Federal Government and the States. The whole purpose of the troubled projects operating subsidy is to upgrade the management of these projects in exchange for a Federal subsidy. How can we upgrade the management of the State projects when we have no control over that management, when that is a State responsibility?

With regard to State financed projects, if we make this subsidy available to them, the Federal Government has no control, no say, over the ultimate management improvements which may be required in those projects.

The Senator from New York says opening the program will require no more money but it will produce more claimants. But there obviously will be more pressure to provide more money under those circumstances, or what happens? In the 12 States which are eligible under the proposed language, some State projects will get benefits, but that means projects in the 38 other States will be hurt. They will have less of an opportunity.

The essential difference is, as I say, that we do not have control over the State projects and we do over the Federal projects, which the bill would cover and which the administration's budget request will cover.

(Mr. BAUCUS assumed the chair.)

Mr. JAVITS. Will the Senator yield?

Mr. PROXMIRE. In just a minute, I shall yield.

Mr. President, if the States want to, they have ways to assist projects financed by State agencies, either directly by providing rental subsidies to tenants or indirectly by providing relief through tax abatements or mortgage modifications.

But again, the point is that the States have direct management control over these projects. The Federal Government does not—and thus, it has no way to insure that these flexible subsidies are being used in the way the program was designed.

It is true that the authorizing committee, of which I am chairman, did provide that State troubled projects could be funded. But the fact, the important point, is that we are in the middle of a terrible battle to control inflation. The President took a long, hard look at the 1980 budget. He had to make some choices on how we are going to spend Federal dollars. One of those choices was that we would not use this program—troubled projects operating subsidies—to assist uninsured State projects.

The President had to make some choices. Not everything that he or other members of this administration or the last administration indicated we may fund one day. Not everyone of those things can be funded. By opening this program up to State projects, we are committing ourselves and the American taxpayer—just as surely as I stand here today—to a permanent new operating subsidy program—that in the case of State projects may have nothing to do with how they are managed. What we are trying to do here is simply to say—wait a minute—let us not make that commitment at this time.

We have to draw the line somewhere. I propose that we do it here. If we do not, we are going to commit ourselves to an additional $10 or $15 or $20 or $30 million of Federal subsidies, or, on the other hand, we are going to have a situation where FHA-insured projects simply do not get the share they are entitled to get.

Now I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, the Senator does not deny at all that when this was authorized, the intention was that it should be implemented by appropriation?

Mr. PROXMIRE. That is true.

Mr. JAVITS. He does not deny it?

Mr. PROXMIRE. I do not deny that. When we authorize programs, we put a ceiling on the authorization. The distinguished chairman of the Appropriations Committee has told us many times that there is no way we can fund the full implementation of all these programs. If we did, we would not have a $500 billion budget but a $1 trillion budget right now.

Mr. JAVITS. I think the Senator knows me well enough to know that I do not argue in the air; I am going to get to a point.

The point I am trying to make is that I think we may have a basis for fairness, because this is a generic exclusion. This is not a matter of having authorized $100 and appropriating $65. It is a generic exclusion. They are all excluded. That is what is troublesome.

When we debated originally, in July of 1978, this very amendment, I said the following about it because, remember, all we are doing is authorizing. We are not compelling the housing people to give this assistance to State projects. We are allowing them to try to qualify. When almost this argument was made at the same time—by the Senator from Wisconsin, by the way—this is what I said. This is at page S11264 of the RECORD:

> The amendment is conditioned upon the fact that within the discretion of HUD the owner or mortgagee of such State-backed projects should show their good faith by a contribution satisfactory to HUD. This assistance could take the form of the provision of various services, forbearance on delinquencies, tax considerations, rental subsidies, or capital contributions.

That was written in as the intention of the provision.

By the way, maybe the Senator would like to have a look at it.

Mr. PROXMIRE. I think that is fine as long as it does not include an operating subsidy. We have no objection.

Mr. JAVITS. I know that, but what I am getting to is the fact that, sometimes, it is necessary, in order to bail out some of these projects, to put a deal together in which the Federal Government, even if it took a very small part, would facilitate the continuance of a project.

I understand the Senator's objection. I do not agree with it, but I understand it. What I am trying to get at is whether or not, at the very least, it might not be fair to implement that particular opportunity so that if the administrators have the right to write the ticket for what is expected of the owner and the mortgagee, at least the door would be opened—perhaps—to be of some assistance, however marginal it might be, which would make it possible to preserve a project otherwise not preservable.

Mr. PROXMIRE. That might be possible. The Senator is suggesting a modification of his amendment.

Mr. JAVITS. That is right. Senator Moynihan has such a modification. I have gone over it and, as I listened to the Senator, it struck me that might be the basis of his objection; because then, if a State project came in for this kind of help, it would be subject to the conditions and the controls and the stipulations which the housing authorities would make. So I respectfully suggest that the Senator might, as he and I have done these things before right on the floor, look at that and see if that is not worthy of being considered and accomplished.

Mr. PROXMIRE. I am still not clear as to the import of this modification.

Mr. JAVITS. Could we take a minute if I got unanimous consent to have a quorum?

Mr. PROXMIRE. Let us have a little discussion first; then I think a quorum might be appropriate before we decide what to do with this proposal.

First, I should like the Senator to indicate why a State project, where the State has all of the authority and responsibility for management and oversight, should get assistance from a limited fund when, obviously, it is not possible to help all of the Federal projects that need assistance.

Mr. JAVITS. For two reasons. One, because the authorizing legislation says so and it is the business of the authorizing committees to determine what shall be the policy of the United States. They have specified the policy of the United States.

Second, because the purpose of 236 was to get more housing and the States stepped into that breach—12 of them—and did give us more housing.

Third, the protection which the Federal Government needs against imposition is built into that concept which I have just described, so that, if it considers something worthy of some assistance, it can make that marginal difference.

The Senator may remember that I was the author of a great project called the ADELA investment, which was designed to encourage greater investments in development in countries which we were helping through a marginal investment. Often, they invested as little as 3 percent, sometimes as much as 20 percent, in order to get something going, to get it underway, to be the initiator of an effort which otherwise would not have happened. That is the same concept— and it is not mine. I credit Senator Moynihan with it fully. It is so relevant to the argument which the Senator made that I propose it as a way which would be fair to us because of the original intention of the Congress as expressed in the authorizing legislation, often at no real risk to either the other projects or to the administrator of the law.

He would have complete discretion. I have read the amendment carefully.

Mr. PROXMIRE. I think the Senator's proposal is something we might be able to consider and discuss during quorum call, but I would say I am very troubled. The Senate has just voted to maintain what I think is a very high level of revenue sharing. The States are in excellent fiscal shape compared to the Federal Government. The Governor of New York, in his inaugural address, said that Federal officials should come to New York to see that their government is not a growth industry and learn how to hold down spending. Then he comes to us and says, "We want you to spend an additional $7 billion in revenue sharing to help out New York."

Mr. JAVITS. I say to Senator Proxmire, nobody knows about New York better than he. He does not need an education on that one.

Mr. PROXMIRE. The point is that the Federal Government is providing, as the Senator from New York knows very well, tremendous support for housing, including the section 236 program, which is a strictly federally funded program.

For that reason, I do have considerable reluctance.

But, Mr. President, I suggest the absence of a quorum so that we may discuss this, and I ask unanimous consent that the time not be taken out of either side on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment offered by the senior Senator from New York is withdrawn.

UP AMENDMENT NO. 467

(Purpose: To assist State-assisted troubled projects)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment on behalf of Senator Javits and myself, and I ask that the same cosponsors on the previous amendment be made cosponsors on this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. Moynihan), for himself and Messrs. Javits, Mathias, Williams, Tsongas, Riegle, Sarbanes, Bradley, Kennedy, and Levin, proposes an unprinted amendment numbered 467.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 21, before the period insert ": *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development".

Mr. MOYNIHAN. Mr. President, this is a more modest and nonbinding measure to accomplish the purpose of the amendment of my senior colleague.

It will give the Secretary of HUD the opportunity to negotiate with and to set terms under which Federal assistance to troubled projects that are State financed under this Federal program would be possible.

It is my understanding that the distinguished managers of the legislation see the equity in it and are willing to accept this matter, for which we certainly accept their graciousness.

Mr. PROXMIRE. Mr. President, this is, I think, a much more moderate approach. It is a permissive approach.

Mr MOYNIHAN. It is.

Mr. PROXMIRE. It is not mandatory, as the Senator already pointed out. It does not require action by the Federal Government, but it does permit them to help in the event we have a catastrophic situation.

I cannot resist pointing out, however, that the two great Senators from New York are about as skilled at getting action out of the Federal Government as any two Senators I have ever seen.

Once again, they have been triumphant. I congratulate them.

Mr. JAVITS. That is why we get such huge salaries.

Mr. MATHIAS. Mr. President, it seems to me this compromise does reach what is one of the very important purposes of this whole program, and that is to provide some incentive for the States to get into the business.

If a State administrator were to observe that he had a project which was beyond all help from this source, it would be a very discouraging prospect. It would be a disincentive to having the States carry some of this housing load.

So, at least, we have kept the door open. We have kept hope alive. I hope, as a result of this discussion in the Senate today, those who administer the program would understand that it is the purpose of the Senate that we should provide some equity between the projects federally sponsored and those State sponsored, because the people who live in them are very much the same people, and the burden should not fall unequally between them.

● Mr. BRADLEY. Mr. President, the flexible subsidy program should be made available to all projects developed under the Federal 236 program, be they insured or uninsured. With this view in mind, I support the amendment to include State-financed uninsured 236 projects in the flexible subsidy program.

The flexible subsidy program, formerly called the troubled projects program, was authorized as a part of the Housing and Community Development Amendments of 1978. This program addresses deferred maintenance problems and operating deficits in multi-family housing projects under the HUD 236 program. As initially proposed, 236 projects financed by State agencies without Federal insurance were not included in the program. The program was originally limited only to federally insured 236 projects. During the deliberations on the 1978 housing bill, it was pointed out that there were no essential differences between the uninsured (State) and insured (HUD) projects except for the insurance factor. All 236 projects are designed for low and moderate-income persons, and the same basic contract procedures apply. As part of this agreement accepted by the Conference Committee on the Housing and Community Development Amendments of 1978, Congress decided to fund the insured projects only in fiscal year 1979, and to allow the State agency-financed uninsured projects to qualify beginning in fiscal year 1980.

S. 1149, the Housing and Community Development Amendments of 1979, passed by the Senate 2 weeks ago, also affirms the right of State-financed uninsured projects to be included in the program for fiscal year 1980. This position is identical with the House-passed version of the Housing and Community Development Amendments of 1979.

It was largely through the efforts of State agencies that the 236 program was begun more than 10 years ago. As the Congress fashions a program to assist projects developed under the 236 program, we should not make artificial distinctions between those which are insured or uninsured. Those who have made a good-faith effort to make the 236 program work should not be denied assistance when it is made available.

The New Jersey Housing Finance Agency has produced almost 12,000 units housing approximately 30,000 tenants under the 236 program. All of these units have been uninsured. The flexible subsidy program aims to help projects developed under the 236 program. If we are excluding a majority of the units developed under the 236 program, we cannot be devising a sound basis for the distribution of flexible subsidy assistance. Yet, this is precisely what we are doing in New Jersey's case.

I support the amendment to include State-financed uninsured 236 projects in the flexible subsidy program. Without this amendment, the Congress will be unfairly discriminating against thousands of 236 tenants across the Nation.

Mr. JAVITS. Mr. President, I yield back my time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 467) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 385

Mr. RANDOLPH. Mr. President, I have a printed amendment at the desk, No. 385, and I ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for himself and Messrs. CRANSTON, DURKIN, THURMOND, STAFFORD, HUMPHREY, and STONE, proposes an amendment numbered 385.

The amendment is as follows:

On page 31, line 11, strike "$5,000,000" and insert in lieu thereof "$10,000,000".

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Senators MATSUNAGA and SIMPSON be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, these two additional cosponsors join myself and Senators CRANSTON, DURKIN, THURMOND, STAFFORD, HUMPHREY, and STONE.

Mr. President, I have had the privilege of discussing this subject with the Senator from Wisconsin, the chairman of the committee (Mr. PROXMIRE). He told me that he would consider the amendment very carefully.

We desire in the amendment to extend the matching grant program for construction of State extended care facilities by $5 million.

Section 5033(a) of title 38 authorizes appropriations for the program of matching grants of up to 65 percent of the costs to the States for the construction of State home facilities for furnishing hospital, domiciliary, and nursing home care to veterans who are eligible to receive similar Veterans' Administration care.

Congress appropriated $10 million for this account for fiscal year 1979. Earlier this year both Houses passed legislation, H.R. 3892, authorizing appropriations of $15 million for fiscal year 1980. However, the President requested $5 million for fiscal year 1980 and the House on June 27 and the Senate Appropriations Committee on July 24 agreed to the President's request of $5 million.

Mr. President, the administration position to cut the appropriation for the State home program directly contradicts the Veterans' Administration assertion that we need to expand existing facilities to accommodate the increasing number of elderly veterans who will need nursing home and domiciliary care. The Veterans' Administration has said that present VA facilities are not adequate to cope with the special needs of today's elderly veterans in that the VA's 88 nursing homes are filled to capacity with extensive waiting lists for admittance. The State nursing homes and domiciliaries also are operating at near capacity, at almost 100 percent capacity.

In testimony before the Veterans' Affairs Committee on April 10, 1979, the Veterans' Administration testified that there are approvable applications from 17 States on hand willing to provide the 35-percent matching funds required for participation in the program. These requests total $18,560,000 as of March 31, 1979. The VA testified it would only be able to fund three States' requests if the proposed $5 million appropriation is approved. During the next 12 months the VA expects 22 States to submit applications totaling $29.2 million.

The amendment I am proposing today would add $5 million to the House-approved level placing the fiscal year 1980 appropriation at the present funding level, $10 million.

Today's veterans population numbers 30 million. A year ago the number was 29,879,000. The increase is due to the fact that discharges from military service have been exceeding the number of deaths among veterans. The lower death rate, in turn, is a reflection of the increased life expectancy in the past few years.

The largest group of living veterans are those who served in World War II. These numbered 12,866,000 in November and their average age was just over 58 years. Only 653,000 veterans of World War I are still alive, with their average age 83.

The number of veterans 65 years of age or over will grow from 2.2 million in 1975 to 7.8 million by the year 2000. Assuming we are able to avoid major armed conflicts in the remainder of this century, these 7.8 million veterans will constitute almost 60 percent of all veterans.

These statistics justify a greater commitment to this program than the $5 million that has been approved to date.

It was my privilege to chair a Veterans' Affairs Committee field hearing in Beckley, W. Va., on January 11, 1978. At the hearing we focused on the greatest challenges facing the VA and the aging veteran. The Veterans' Affairs Committee has committed itself—as Senator STAFFORD and others know—to the improvement of long-term care and the care of our elderly veterans.

A recent National Academy of Science report found the quality of VA nursing home care—particularly in its own facilities, and in community nursing homes with which it contracts—superior to the care provided in community nursing homes generally. Specifically, it found the overall quality of care to be adequate or better in half the VA nursing homes that it surveyed.

Health, education, and welfare data shows that the need, by men, for nursing home care increases from 0.06 percent before age 65, to 1.1 percent between ages 65–74, 4.1 percent between ages 75–84, and 18.0 percent after age 85. The need, by veterans, will increase throughout the remainder of this century and into the next. The VA has a large and growing program of long-term care. The State home program is a cost effective means of providing extended care for the substantial and growing numbers of eligible veterans.

Since enactment of legislation authorizing VA participation in the cost of constructing State nursing home care facilities in August 1964, the VA has obligated funds in the amount of $68,303,597 to support construction of 5,403 nursing home care beds. This averages $12,642 for the VA's share of the cost of a bed, less than a third of what it would cost the VA to construct a similar facility.

The American Legion, Disabled American Veterans, and the Veterans of Foreign Wars support our amendment. Some might say that is natural, but these are the organizations that know the needs of the veterans. These are the organizations which, through their spokesmen, came before the Veterans' Committee and told us of these problems.

I urge my colleagues to support the amendment to add $5 million to the committee approved level of $5 million for a fiscal year total of $10 million. In so doing, justice will be served.

Mr. PROXMIRE. Mr. President, I think we can act on this amendment one way or the other, up and down, very quickly. However, I do want to indicate why I must reluctantly oppose the amendment.

I have great respect for the Senator from West Virginia, and I think he made a most eloquent plea for helping our veterans. We should do so whenever we can.

We have to recognize, however, that this bill is already $95 million over the amount the President requested for the veterans. This will make a $100 million increase. The amendment would double the particular amount. It would raise it from $5 million to $10 million.

So I must resist the amendment, although, as I say, it certainly is for a superb purpose, and the Senator argues his case very well.

I think we can all agree that the construction of State extended care facilities for our veterans is most important. However, the amendment would double the administration's budget request for this program at a time when we are facing a $1.7 billion increase in the amount allocated to us by the first concurrent resolution on the budget. Furthermore, I understand the VA plans to submit a more generous budget for this program in fiscal year 1981. Finally, a reauthorization of this program is currently pending before the Congress. As we indicate in our report, the committee is prepared to re-evaluate the needs of the program after the pending legislation passes. Given all of these circumstances, I would hope that the Senator would not press his amendment, and that we could wait until we have an opportunity to reconsider it as a part of the 1981 budget.

Mr. STAFFORD. Mr. President, will the Senator from West Virginia yield me 1 minute?

Mr. RANDOLPH. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. RANDOLPH. I yield the Senator from Vermont, a member of the Committee on Veterans' Affairs, such time as he requires.

Mr. STAFFORD. I appreciate the Senator's yielding to me.

Mr. President, the Senator from Vermont is a coauthor of the pending amendment, and I had hoped that the managers of the bill might accept this amendment.

I say to the distinguished manager on the majority side that I marched in his column twice this afternoon on very large amounts, and I regret that we did not win.

With respect to this very small amount, the Senator from Vermont thinks we are being pennywise and pound foolish if we do not make this extra $5 million available for the purposes intended.

There is a State extended care facility for aged veterans in the State of Vermont, and our experience with it has been very good. Provision of living quarters and nursing care in this type of facility, as the distinguished Senator from West Virginia has pointed out, is much less expensive than doing it directly through the Veterans' Administration, with Veterans' Administration nursing homes.

In this particular instance, I hope that, in view of the sum involved, in part, the manager of the bill might see fit to accept the amendment.

Mr. PROXMIRE. Mr. President, I am ready to yield back the remainder of my time if the Senator from West Virginia is ready to yield back his time. We could then have a voice vote.

Mr. RANDOLPH. Mr. President, I appreciate the careful attention given to this amendment by Senator Proxmire and Senator Mathias.

I do not want to be one to stand here and say that if we do not do this, we are letting the veterans down. I do not want to do that. But I think the need for the kind of care that the amendment proposes for the veterans will help us in a continuing commitment for justice to the men and women who served in the armed forces of the United States, to keep our Nation free and safe from outside interference.

I am very grateful for the consideration of my colleagues and for the cooperation of Senator Stafford and others.

● Mr. CRANSTON. Mr. President, I join the distinguished Senator from West Virginia (Mr. Randolph), my colleague on the Veterans' Affairs Committee, in the amendment to add $5 million to the amount approved by the Appropriations Committee in the HUD-independent agencies appropriation bill for fiscal year 1980 for grants for construction of State extended-care facilities.

Mr. President, I realize that this amount is an increase over the $5 million amount requested by the administration and approved by the House of Representatives and recommended by the Senate Appropriations Committee for this account. However, I believe such an increase is necessary. The funds under this account are used to assist States to construct extended-care facilities which, once constructed, provide badly needed facilities for a substantial and growing population of eligible elderly veterans. The funding of the construction of these State homes is on a matching fund basis with participating States paying 35 percent of the total costs.

Mr. President, for fiscal year 1979, the Congress appropriated $10 million for this account. In this Congress, both Houses have passed legislation, in H.R. 3892, authorizing appropriations of $15 million for fiscal year 1980. I can see no justification for a reduction to only $5 million for fiscal year 1980. This program is a proven and cost-effective means of providing extended-care facilities for our elderly veteran population. In fact, the VA has assured the Veterans' Affairs Committee that applications in hand and expected from States willing to provide the matching funds will far exceed even the $10 million level in fiscal year 1980.

Mr. President, in my July 17 letter to the distinguished floor manager, I urged that this amount be appropriated. I regret that the committee did not agree.

Therefore, Mr. President, I strongly urge my colleagues to support the amendment which the Senator from West Virginia (Mr. Randolph) and I are offering to add an additional $5 million to the account for grants for construction of State extended-care facilities.●

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 468

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. Williams) (for himself, Mr. Domenici, Mr. Sarbanes, Mr. Riegle, Mr. Kennedy, Mr. McGovern, Mr. Randolph, Mr. Stewart, Mr. Schmitt, Mr. Cranston, Mr. Weicker, Mr. Bayh, Mr. Tsongas, Mr. Heinz, and Mr. Levin) proposes an unprinted amendment numbered 468:
>
> On page 3, line 18, strike out "$800,000,000" and insert in lieu thereof "$860,000,000".

Mr. WILLIAMS. Mr. President, this amendment is cosponsored by the distinguished ranking minority member of the Committee on Aging (Mr. Domenici) and 13 more of our colleagues. It will add to the fiscal 1980 loan fund for the section 202 elderly and handicapped housing program that amount of money which, according to the Congressional Budget Office, is necessary to reserve the same number of units in 1980 as we will in 1979.

This is not an expansion of this program. It is, rather, a modest—7½-percent—increase in funding to counterbalance the effect of inflation

This increase is less than the overall rate of inflation.

This increase is less than inflation in housing construction costs.

The $860 million loan figure which

we are proposing is less than the authorization level in both the bills that have been reported out, gone to the floor, from the Senate Committee and the House Committee on Housing. The authorization bill is higher than this figure that is in this appropriations amendment.

It is, I reiterate, a modest increase over last year. But it is needed to stabilize production under the 202 program while Congress awaits the cost reduction study and recommendations from HUD which were mandated by the 1979 housing authorization bill. And it is also needed as a sign that Congress wants to draw the line against the year-by-year cutbacks which have been eating away at this program.

I wish to briefly review the production record for my colleagues, for this Record, and for this debate.

In 1976, the year in which Congress reactivated section 202, funds were provided sufficient to reserve 29,857 units. This was close to the 30,000 annual unit level which had been envisioned by Congress.

By 1978, actual reservations had dropped by one-third, to 19,973 units.

The Congressional Budget Office estimates that the $800 million appropriated for fiscal 1979 will reserve only 18,800 units. Thus, in 4 years the program has already been cut back nearly 40 percent.

CBO informed the Banking Committee that, if we do not go beyond the $800 million level, we can expect section 202 reservations in 1980 to drop again, by nearly 10 percent, to 17,400 units.

There is certainly nothing in the record of this program to justify this constant attrition, year by year, cutting it back. In fact, there is wide agreement that the 202 program may well be HUD's finest. The quality of the housing built is exceptional, and there have been virtually no sponsor defaults in its entire history. This exemplary record is largely due to the high degree of community participation which is guaranteed through the sponsorship of dedicated, expert, nonprofit service organizations.

And the need of the elderly and the handicapped for decent, affordable, and appropriate shelter is certainly not declining.

In the case of the elderly, we know that their numbers will steadily increase through the end of this century and into the next. We know that housing is the number one expense for older Americans, and that 5 million elderly have been identified by HUD as in need of housing assistance. We know that waiting lists for existing 202 projects range in length from 2 to 5 years around the Nation. And we know that older homeowners are in need of shelter alternatives as the cost of maintaining their homes goes up due to increased energy and maintenance costs, and as our supply of rental housing is reduced by abandonment and conversions to condominiums.

This amendment will not meet all of the need that is out there. It will not get us back to the 30,000-unit level at which the program started. It will not even begin to move us toward the 120,000 annual unit level which was recommended by the 1971 White House Conference on Aging. But at least it will hold the line against further cutbacks.

We may hear objections that this amendment will put the Housing appropriations bill above the budget. It is my understanding—and I know that Senator Domenici can with authority, add to this, as he was there—that the Budget Committee, during its markup, envisioned an $875 million funding level for section 202 housing. Further, the budget impact will be mitigated. First, none of this money will be laid out for several years—initial project costs, such as land acquisition and site preparation, are paid out of the revolving fund consisting of repayments on past 202 loans. Second, all of this money will be repaid to the Federal Government, with interest equal to our cost of borrowing.

We should also keep in mind that constantly declining levels of production discourage the submission of applications to this program by those groups with limited financial resources—specifically, minority and rural sponsors, organizations seeking to assist the handicapped, and community groups wishing to use 202 projects as a centerpiece for neighborhood revitalization.

This level of 202 funding has been endorsed by the ad hoc Coalition for Housing for the Elderly—a group of 20 national organizations representing more than 15 million older Americans—and by the task force on housing of the consortium concerned with the developmentally disabled.

Mr. President, I ask unanimous consent that a communication dated July 27, 1979 to me from the American Association of Homes for the Aging and the ad hoc Coalition for Housing for the Elderly be printed in the Record.

There being no objection, the communication was ordered to be printed in the Record, as follows:

American Association of
Homes for the Aging,
Washington, D.C., July 27, 1979.

Hon. Harrison A. Williams, Jr.,
U.S. Senate, Chairman, Subcommittee on Housing and Urban Affairs, Russell Senate Office Building, Washington, D.C.

Dear Senator Williams: On behalf of the American Association of Homes for the Aging and the Ad Hoc Coalition for Housing for the Elderly, we write to encourage your continued efforts to increase the borrowing authority for the Section 202 Housing for the Elderly and Handicapped program from the Senate Appropriations Committee recommended level of $800 million in fiscal year 1980 to $860 million during the fiscal year.

The proposed slight increase in borrowing authority for the Section 202 program will just about sustain a current year operation production level of 18,860 units during the coming year. Inflation has seriously eroded the purchasing power of the Department. Per unit costs have escalated twofold during the past five years. The Section 202 program confronts an uncertain future where quality projects might be squeezed out of the marketplace, and/or reliable community responsive not-for-profit providers might be forced not to apply for funds because of the fiscal constraints imposed. The slight adjustment proposed by Senate advocates of quality housing programs makes a modest cost-of-living increase to the appropriation level. The economic impact of this proposed change is slight, in as much as the Section 202 program is repaid by the sponsor. Additionally, as housing is an investment and a source of employment, the total macroeconomic impact is favorable.

Considerable public attention has been directed at the development of non-institional alternative living arrangements for the elderly. The Senate has directed sizable investments in community service programs. In perspective, however, unless there is suitable housing, these approaches will suffer. The basic cost-conscious alternative to medical institutionalization for the elderly is quality housing. The Section 202 program has produced such quality shelter.

Your continued advocacy on behalf of older Americans is deeply appreciated.

Respectfully,

David C. Crowley,
ACSW Executive Vice President, The American Association of Homes for the Aging.

William D. Hughes,
AAHA Director for Housing and Executive Secretary, Ad Hoc Coalition for Housing for the Elderly.

Mr. WILLIAMS. Mr. President, everyone of us is aware of the need for fiscal restraint in this time of inflation. But, in our efforts to curb the increase in the cost-of-living, we must be careful not to cut back on our assistance to those Americans most in need, and these are the young handicapped, and the older Americans struggling to make ends meet on small, fixed retirement incomes. So I urge upon my colleagues this amendment and their support. It is a modest step to prevent further declines in production in one of our best and most needed housing efforts.

I am very pleased again this year to have been joined in this effort by the most able Senator from New Mexico, Senator Domenici.

Mr. President, I ask unanimous consent to point out and correct a technical flaw and modify the amendment to read, "on page 4, line 5," rather than "on page 3, line 18".

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modified amendment is as follows:

On page 4, line 5, strike out "$800,000,000" and insert in lieu thereof "$860,000,000".

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. WILLIAMS. I will yield as much as the Senator needs that I may allow.

Mr. DOMENICI. Mr. President, I am pleased to join my good friend the distinguished Senator from New Jersey (Mr. Williams) in offering this amendment to provide $860 million for section 202 housing for the elderly and handicapped.

As everyone is aware, the section 202 program is the Department of Housing and Urban Development's primary Federal financing vehicle for providing specialized housing for the elderly and handicapped under nonprofit sponsorship. As I stated during the debate on the authorizing legislation, this program has been HUD's most successful housing effort because of the absence of defaults, and because tenant turnover in existing projects is extremely low, indicating that the section 202 projects and programs are meeting a real need in a cost-effective manner.

Our aging population is growing at a rapid rate, and yet we are not providing a supportive and specialized living environment so they can remain self-sufficient and independent members of our society.

In spite of a committee directive during the 1976 reauthorization of the section 202 lending authority that a minimum of 35,000 new units be constructed annually, the program peaked at a mark nearly 10,000 units fewer than the congressional mandate. In 1977, only 24,791 units were funded; in 1978, 19,973 units; and in 1979, 21,200 units. The administration's proposed 1-year reauthorization of the program is estimated to fund approximately 19,700 units in fiscal year 1980. However, even this proposal for a decrease in the Federal commitment is overly optimistic, since HUD has used an inflation rate for only 4 percent in making its calculations. Thus, in the 3 years since the previous reauthorization, production of units under the section 202 program has fallen nearly one-third short of its target.

The impact of this failure to comply with the congressional mandate falls heavily on the scores of elderly individuals who are in desperate need of suitable housing. And the situation can only get worse:

> By the year 2000, 30.6 million people will be age 65, or over, one in 9 Americans. This constitutes a 35 percent increase (8 million persons) over the current population.
>
> In 1975, four-fifths of all older persons living alone or with non-relatives had annual incomes under $6,000, while less than one-half of non-elderly individuals are in that income category. Combining "poor" and "near poor" categories, we find 25 percent of all elderly in this category, versus 17 percent for the non-elderly.
>
> Five million of the fifteen million households identified by HUD as in need of housing assistance are elderly. Their problems include both physically-deficient housing—a potential threat to health—and housing which costs more than they can afford.
>
> Elderly households comprise 17 percent of all renter households, but they account for 35 percent of those with incomes below $3,000. In 1976, 1.4 million elderly renters were at this very low income level. Similarly, elderly households are 22 percent of all owners, but 53 percent of all owners with incomes below $3,000. In 1976, there were 1.6 million elderly owners with incomes below $3,000.
>
> Housing is the number one financial expenditure for the elderly. It accounts for over one-third of their budget. The very old—age 75 and over—pay 48 percent of their income for housing on the average.

Mr. President, these facts argue persuasively for the development of a specialized housing program for elderly persons. If the acute housing needs of the elderly in our country are going to be recognized and attempts made to alleviate them, then we in Congress must pay close attention to the needs of our rapidly rising elderly population and the effectiveness of our public policies in meeting those needs. Surely we have room to improve our commitment to the elderly in terms of providing more suitable housing.

Mr. President, I believe this amendment enhances our commitment to continue to provide adequate housing for elderly individuals desperately in need of such assistance. I respectfully urge my fellow colleagues to give their support to this amendment.

We are going to hear over the next few months, constant and repeated concern about the impact of ever-increasing energy costs on our senior citizens. We are going to hear proposals to provide help through the energy crisis. I think it would be rather ironic if while we attempted on the floor of the Senate and in the House to develop new programs to assist our senior citizens on fixed incomes through the energy crisis, that we cut the program that provides housing at a reasonable cost through nonprofit institutions and did not maximize the utilization of it for our senior citizens.

I understand this program also will help our handicapped. But, for the most part, it is the senior citizen on fixed income. I think we ought to go ahead with those programs such as section 202 that work, even if we had to say that part of this program would come out of the funds that we hope someday to be spending for senior citizens and our poor people who are adversely affected by the energy crisis.

But since we do not have that all put together, it seems to me we ought to support the Williams amendment today and set a higher rather than a lower goal for this type of housing.

Mr. President, I hope the Senate will go along with this amendment. As I indicated, it is a viable and successful program. The aforementioned usually indicates that it is being managed well. Those who live in 202 housing are responding well to the program.

I hope the Senate will adopt the Williams amendment. I thank him for yielding.

Mr. PROXMIRE. Mr. President, I will be very brief. I realize the arguments for this amendment are very appealing. All of us have 202 programs in our States. They are very successful. The elderly who will occupy them are delighted with them. The communities all welcome them, and they are probably the happiest and most successful housing programs we have ever had. They are good and wholesome programs, and it is tough to oppose them. But, once again I must point out that we already have a bill here that is $1.7 billion over the budget resolution and the cruelest thing we can do to our senior citizens is to fuel the fires of inflation by spending more money.

The fact is more than 9 out of 10 of the elderly do not participate in the section 202 program and are not going to be in this program. They are outside of this program. They are going to be hit by inflation and are not going to be helped by this kind of additional funding.

Furthermore, Mr. President, of all those who need housing, the elderly are the ones who have been given the greatest consideration and the greatest help. The Government provides long-term loans to finance the construction and management of elderly housing projects under the section 202 program and the section 8 program, also funded through this bill, and provides the tenants of these projects with a rental subsidy. So we should not further sweeten the pot and burst the budget by increasing the section 202 portion of this equation above the President's budget request.

This amendment provides $60 million more than the President has requested, and it busts the budget.

Furthermore, every housing expert I have talked to has indicated that the one needy group that has been most helped by our housing programs has been the elderly. Eighty percent of the new section 8 units made available for occupancy since the program began have been for the elderly. Families are, of course, less attractive to the community because they bring with them education burdens, crime problems, and so forth. Their children have energy, and many of them create problems of various kinds. Families are not wanted, and family housing programs move very slowly. But the elderly are welcome and, consequently, those programs move ahead. We should not further skew the housing mix away from families and toward the elderly by boosting funding for the section 202 program above the budget request.

Incidentally, the Appropriations Committee acted on a similar amendment by voting against it, and I think we should consider that we have, as I said, done our best already for the elderly. They are taxpayers, too. Most of them would not benefit from this program, and would be hurt by the inflation, the additional taxes, and the additional burden that this program represents.

So I must rise in opposition to the program.

Mr. President, I think I am ready to yield back my time if the Senator from New Jersey is ready to yield back his time. I think there will be a substitute amendment for his amendment, if he is ready for that. It cannot be offered until our time is yielded back.

Mr. DOMENICI. Do we have the yeas and nays on our amendment? Has anybody asked for it?

Mr. PROXMIRE. We will not have to.

Mr. WILLIAMS. We need to yield back time to get to the substitute.

I think the Senator from Michigan wanted to speak, perhaps now or on the substitute, either way.

Mr. RIEGLE. I think I prefer to wait.

Mr. WILLIAMS. I yield back my time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. Yes, all time is yielded back.

I understand the Senator from Florida has a substitute amendment.

UP AMENDMENT NO. 469

Mr. CHILES. Mr. President, I send to the desk an amendment, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 469.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 4, line 5, strike "$800,000,000" and insert in lieu thereof "$860,000,000."

Page 2, line 12, strike "1,140,661,000" and insert "1,135,191,000"

Mr. CHILES. Mr. President, the effect of this amendment would be to add 1,300 units of 202 funds and to cut 1,300 units of section 8 funds, so the effect of it would be—the numbers actually differ from that in order to get that kind of a substitution.

Mr. President, I listened to the arguments of the distinguished Senator from New Jersey. I agree with those arguments. I listened to the arguments of the distinguished Senator from New Mexico, and the ranking member of the Committee on Aging, and I certainly agree with those. I want to associate myself with the arguments.

I think 202 is the most effective and efficient program we have had. Certainly in section 8 and certainly for subsized housing, it has been a boon to the elderly, and it needs more units, and it is not a program we should be cutting back. It is a program that I certainly want to see have more units, and I strongly want to support it having more units.

But the one thing the elderly in this country need in addition to housing, and many of them need that, is that they need some relaxation on inflation, and they certainly do not need any addition of inflation.

The thing that hurts the elderly more than anything else is the continually increasing and escalating rate of inflation. For us to be dealing with a budget here today that is adding to the inflationary pressures—and that is what this budget overall is doing—and to see that we have been unable to make any kind of cuts, whether they be revenue sharing or whether they be section 8 grants or whether they be anything else, and then say, "We are going to do something great for the elderly because we are going to add some more housing," you would be doing something good for the people who would get those houses, and it would be great for them, but you sure would not be giving a boon or a favor to the elderly, because you are saddling additional rates of inflation on them, and they are choking to death on it now.

I have had an opportunity, from the platform of sorts which I now have as chairman of the Senate Committee on Aging, to listen to many of the aging groups. The No. 1 problem that they raise, whether it is the National Council of Senior Citizens or any of the others that come before me, is the one on the basis of which they are choking, and they continually ask why are we not doing something about inflation, and they now talk more and more about doing something about this problem as well.

Mr. President, I think we will be able to provide those additional needs, to see that we do not cut back on the number of 202 units, which I do not want to do and I do not believe most Senators want to do, and at the same time at least not inflate this bill any more; we will at least be able to stay within the numbers that have come out of the committee. And those numbers, I remind the Senate, are above the budget figures, the figures on which we based our budget.

We are now getting ready to move to the consideration of the second budget resolution, and we have already been told by the chairman of the committee that we are getting ready to face a $35 billion deficit on the basis of the increases in some of the economic assumptions, the fact that many of the budgets are going above what was targeted for in the first budget resolution, and the fact that we have not been able to achieve the savings that we were projecting in the first budget resolution.

It seems to me that if we are concerned about keeping the 202 program at least at the level where it now is—and I am concerned about that—then we would want to adopt this substitute amendment, because we would keep it at that level and at the same time not be inflating this budget any further.

I would remind the Senate again that we had an amendment to cut section 8, because it was above the Budget Committee recommendation, and that amendment failed. This would mean that again we would stay with that overall number on section 8, but we would be transferring or at least reserving a portion of those funds, to see that we were going to build the right number of 202 units.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I know it is important to be very brief, because some who want to vote on this measure will not be here.

The PRESIDING OFFICER. The Chair must inform the Senate that the amendment offered by the Senator from Florida is not in order as a substitute. It is broader than the pending amendment in that it purports to amend a portion of the bill not touched by the amendment offered by the Senator from New Jersey.

Therefore, the amendment is not in order.

Mr. WILLIAMS. I call for the yeas and nays on the amendment I have offered.

The yeas and nays were not ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be taken out of either side. Only for a couple of minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Is the parliamentary situation that, the Chair having ruled that the Chiles amendment was not in order, the question reverts to the Williams amendment that was pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. The vote is up or down on the Williams amendment?

The PRESIDING OFFICER. On the Williams amendment.

Mr. PROXMIRE. Mr. President, I guess all remaining time is yielded back and we are ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. WILLIAMS).

The amendment (UP No. 468, as modified) was agreed to.

Mr. PROXMIRE. Mr. President, as I understand it, there are no more amendments. We had a list of amendments. If any Senator has additional amendments, I assume he will let us know.

Does the Senator from Maryland know of other amendments?

Mr. MATHIAS. I know of no further amendments.

Mr. PROXMIRE. If there are no further amendments, let me make one brief statement before I yield back the remainder of my time. With a heavy heart I am going to vote against the bill that I managed, a bill that came out of the subcommittee of the Appropriations Committee of which I am chairman.

I know it is unusual for a bill manager to vote against his own bill but I have no other alternative. This bill is $1.8 billion over the budget resolution. Today we added $684 million in revenue sharing funds, $25 million for veterans medical care, $5 million for veterans State homes and $60 million for the 202 housing program. That excessive amount over the budget resolution just makes it impossible for me to support this bill. I say so with reluctance but I must take that position.

Mr. MUSKIE. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MUSKIE. I appreciate the statement the Senator has made. As I indicated in my statement earlier this morning, if the bill was not reduced, I, too, would oppose it. It has been increased by some $700 million, so I will join the Senator in voting against the bill. I know of no other way to indicate that we are going to substantially breach the budget if we start with this momentum in the first appropriations bill and we are continuing. I do not know what the end will be, but I expect the Senate will be shocked when we get to the second budget resolution which will increase a sharply increased budget deficit.

Mr. PROXMIRE. I yield to the Senator from Idaho.

Mr. CHURCH. I have just listened to the statements made by the manager of the bill and by the able chairman of the Budget Committee. I am inclined very much by the force of their argument to follow their example. I do not know how we are going to bring Federal spending under control unless we heed our own actions when we pass the budget resolutions.

In view of the provisions now in the bill before the Senate—$700 million over the budget resolution—the course of action decided upon by the two Senators to vote against this bill is one that I, too, will follow.

Mr. MATHIAS. Mr. President, I respect, certainly, the concern which has been expressed by the distinguished Senator from Wisconsin, the manager of the bill, the distinguished Senator from Maine, and the distinguished Senator from Idaho because the concerns they express are very real and they are concerns that I share. But it seems to me we have to look at life as it is, not as life has been portrayed somewhere.

In looking at the housing needs of the country, the President sent us a budget request which was almost $800 million more than the bill as it stands at this moment in the Senate. The President's judgment as to what we were going to need to spend were nearly $800 million more than the Senate at this point is being asked to appropriate. The committee has worked its way through the bill at various committees levels. The Senate has taken some actions today which have affected the spending levels in the bill. These are the corporate judgments of this institution as to what we need to do to provide shelter for Americans, a very basic human need.

The fact that it is exceeding the budget resolution is a matter, I think, that we can take for granted, but we are talking about two different legislative actions. There is the legislative action involving the budget resolution and there is the legislative action that we are proposing to take here. Both of them cannot be right. It may be that we are more nearly right in our judgment here than we were in the budget resolution. In fact, it is perfectly clear that there were some assumptions which went into the first concurrent budget resolution which have proven to be in error. Those assumptions, having proven to be in error, should not necessarily be the criteria by which we make our decision here today. This decision, it seems to me, has to be governed by that careful balance of fiscal prudence and human need which is represented by the final version of this bill which is now before the Senate, and which, in about 60 seconds, will be voted upon.

Before we close this debate, however, I want to renew my thanks not only to my distinguished colleague from Wisconsin but also to the members of the staff without whom I think we could hardly have brought this bill to this point. It has taken many, many hours of arduous work on behalf of the staff. Their contribution here should certainly be recognized. I want to express my appreciation to them.

Mr. President, I think this bill, as finally worked out, certainly is not going to satisfy everyone. It is not going to satisfy a lot of the people of America looking for shelter. It is not going to satisfy those who would like to see the Federal pursestrings tighter than they are. But it does represent the best compromise, the best balance, that we could achieve. I think it is deserving of support from a majority of the Members of the Senate.

Mr. PROXMIRE. Mr. President, I want to say what a pleasure it always is to work with the Senator from Maryland. He is tremendously effective, wise, and intelligent—even though he is often wrong, as he is in this case. I admire and respect him. I am ready to yield back my time, if the Senator is willing to yield back his. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, I am pleased to support this bill to appropriate funds to meet this Nation's housing and community development needs for 1980.

As Chairman of the Subcommittee on Housing and Urban Affairs, I have a very specific and profound concern for the needs of our citizens, especially those who are forced to live in inadequate, substandard shelter or shelter beyond their financial means.

As we enter a period of continuing and even increasing inflation, the cost of decent housing has become almost prohibitive for many Americans. Many families' ability to set aside even a constant proportion of their budget for shelter has been eroded, especially in light of steep rises in energy costs. More than any other segment of our society, the elderly, the unemployed, the handicapped, and those on fixed incomes are the most susceptible, and, increasingly, the displayed victims of an unstable economy.

Mr. President, those factors, brought out in testimony before my subcommittee, created apprehensions on my part when efforts were made in this body to change the mix of unit types from the Department's proposed levels as reflected in the housing assistance plans. These recommendations, had they been accepted, would surely have exacerbated the pattern of problems which have had such an effect on housing in this country.

We developed the concept of housing assistance plans initially to provide a mechanism to reflect local housing requirements. In this way, we could respond flexibly to each community's need, rather than imposing an inflexible and unresponsive Federal standard. It was made clear to our committee that we have a grave shortage of housing stock in virtually every region of this country. If changes in this legislation, to reduce assistance for new and substantially rehabilitated units, were to be enacted, it would not only be a repudiation of our recognition of local requirements and expertise, but would have an immediate as well as long-term adverse impact on all of us. By not increasing the housing stock in a manner consistent with needs, we would surely inflate housing costs in nearly every community where we were unable to approach the HAP goals. Not only would those in need of shelter have a smaller market to choose from, but as vacancies dried up, costs for all housing would almost surely increase at a level much more rapid than even the distorted rate of the last 18 months.

Consequently, I am pleased at the committee bill's retention of the HAP mix, just as I commend the committee members for rejecting the attempt to lower still further the level of assisted housing.

Although the committee level for assisted housing represents a higher amount than some Members had sought, it is nowhere near adequate to meet the estimated annual requirements over the next decade. Thus, although I recognize the need for prudent Federal spending, I am concerned that this year will see a shortfall of some 300 to 400,000 units. Many of those excluded by this shortfall will be newly formed families with few, if any, alternatives but to join the long line of those who have been promised decent shelter, but have never received more than a promise. It is tragic that rather than making progress toward our commitment, it appears we are straying farther and farther from our goals of providing decent shelter to all Americans in need.

I would like to mention other areas of the bill about which I am particularly concerned.

The urban development action grant program has been increased by $275 million to reflect the substantive benefits this program has demonstrated in establishing a partnership between the private sector and the Federal Government to rejuvenate our distressed urban areas. This program has brought unique opportunities for employment and new life to many inner city areas that would, prior to this program, simply have been written off, and forgotten.

The committee also wisely funded the congregate housing services program, which I was pleased to author last year. This program is an effort to prevent the unnecessary and costly institutionalization of our elderly and handicapped. It is designed to encourage the development of specially designed residential housing through the guarantee of long-term support services. The funding approved by the committee will allow the program to continue for a second year.

Appropriations for the troubled projects program has been maintained. Although I am disappointed that State housing finance agency projects are excluded, this program will serve to insure the financial stability of existing rental housing projects, thereby protecting tenants from higher rents: It will preserve and improve existing projects and their impacted neighborhoods, and it will prevent potential losses to the insurance funds resulting from project insolvency.

I am grateful for the committee's inclusion of $3.7 million for fair housing. Despite the existence of fair housing laws in 37 States which reflect the intent of title VIII, only 9 States have had the financial resources to accept cases referred by HUD. Many State and local fair housing agencies have done outstanding jobs, such as the Fair Housing Council of Bergen County in my State of New Jersey, but these efforts to assist women, to assist the handicapped, to assist minorities have been severely hampered by the lack of adequate resources. Through the committee's actions—and particularly thanks to Senator BAYH and Senator MATHIAS—many of these agencies will now be given an opportunity to carry out the Federal law.

Finally, I would like to commend the committee for its appropriation of construction funds for the Veterans' Administration hospital planned for Camden, N.J. This project has been envisioned by the people of my State for almost a decade, and it is indeed gratifying to see it move significantly closer to reality as a result of the committee's endorsement.

The hospital is to be built in conjunction with the Cooper medical facility and the southern extension of the New Jersey School of Medicine, thereby providing a fine, new and badly needed modern medical complex for veterans and others throughout southern New Jersey. The medical facility will also mean new jobs and economic activity in a city that has more than its share of problems.

Mr. President, the committee has produced a bill that contains the funding necessary to maintain a variety of essential agencies and programs. While I personally feel that some issues addressed by the bill should have received additional appropriations in light of the pressing needs that exist, particularly in the area of housing, I am willing to lend it my support, and urge my colleagues to do the same.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Maryland (Mr. SARBANES), the Senator from Arkansas (Mr. PRYOR), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Carolina would vote "nay."

The PRESIDING OFFICER (Mr. TSONGAS). Are there other Senators who wish to vote?

The result was announced—yeas 60, nays 25, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—60

Baker
Baucus
Bayh
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Packwood
Pell
Randolph
Ribicoff
Riegle
Sasser
Schmitt
Schweiker
Stafford
Stevens
Stewart
Talmadge
Tsongas
Williams

NAYS—25

Bentsen
Boschwitz
Byrd, Harry F., Jr.
Chiles
Church
Exon
Garn
Hatch
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Muskie
Nunn
Proxmire
Roth
Simpson
Stone
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—15

Armstrong
Bellmon
Eagleton
Goldwater
Huddleston
Inouye
Long
Percy
Pressler
Pryor
Sarbanes
Stennis
Stevenson
Thurmond
Weicker

So the bill (H.R. 4394), as amended, was passed.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. TSONGAS) appointed Messrs. PROXMIRE, STENNIS, BAYH, HUDDLESTON, LEAHY, SASSER, DURKIN, MAGNUSON, MATHIAS, BELLMON, WEICKER, LAXALT, SCHMITT, and YOUNG, conferees on the part of the Senate.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, today the Senate has completed action on H.R. 4394, the fiscal 1980 appropriations bill for the Department of Housing and Urban Development and 20 independent agencies.

None of us need to be reminded that the chairman of the Appropriations Subcommittee with jurisdiction over this area, and able manager of the bill, Mr. PROXMIRE, also serves as chairman of the Banking, Housing, and Urban Affairs Committee. Senator PROXMIRE thus brings unique expertise leadership to the area of housing and community development policy.

Two weeks ago the Senate passed the authorizing legislation for housing and community development programs. In considering that bill, Members were of different minds as to what the optimum funding levels should be. The quality of debate which ensued could not have been more informative for those Senators, such as myself, who do not serve on the Housing Committee. The issues involved in balancing the need for fiscal restraint against the needs of the housing assistance, particularly for the poor and elderly living on fixed incomes, are not easily resolved.

The measure which passed the Senate represented a lower level of authorization than the bill reported. However, it was a good bill when it was reported and a good bill when it was passed.

The bill before the Senate is a complicated bill. It provides funding for a wide range of programs in addition to those of housing and community development. Senator PROXMIRE and Senator MATHIAS, the ranking minority member of the Department of HUD and Independent Agencies Appropriations Subcommittee, have effectively worked together to produce an excellent bill. The two Senators often find themselves in friendly disagreement. Once again, the Senate and public benefit from a process which encourages expression and resolution of competing and innovative ideas. The expertise and concern which Senators PROXMIRE and MATHIAS bring to this area—and their different viewpoints—have constructively helped shape this bill.

Funding provided by the bill will touch the lives of many Americans. It provides sufficient funding to continue the Federal commitment to help both urban and rural Americans find a decent place to live. It continues the Federal effort to fight for and maintain the quality of this country's air and water. It funds medical and other services to this Nation's veterans. It continues Federal research efforts in such agencies as the National Science Foundation and the National Aeronautics and Space Administration.

I want to thank the members of HUD and Independent Agencies Subcommittee, and of the full Appropriations Committee for the time and efforts they have devoted to reporting this bill.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULES COMMITTEE ACTS ON AIRLINE COUPONS—COMMENDATION TO SENATORS PELL AND HATFIELD

Mr. PERCY. Mr. President, I would like to commend the Senate Rules and

Administration Committee for its action on July 13 when it adopted an amendment to the travel regulations of the Senate regarding the use of discount coupons received by Senators and Senate employees when on official travel.

On June 6 I introduced, along with Senator GOLDWATER, a resolution directing Senators and Senate employees to turn in any discount coupons received during official travel to offset the cost of further official trips. At that time, I was concerned that these coupons, obtained with public funds, might be used to purchase airline tickets at reduced cost for personal travel, depriving the taxpayers of savings that are rightfully their own. My intention was to bring this matter to the attention of my colleagues and ask the Senate to adopt a clear-cut policy on the use of these coupons so there would be no misunderstanding about who should be the proper beneficiary of future discount travel.

On June 14 in a meeting of the Senate Rules Committee, the distinguished chairman and ranking minority members, Senators PELL and HATFIELD, addressed the subject of this resolution and agreed that an amendment to the Senate travel regulations would be appropriate to clarify and reinforce Senate policy on this matter.

At its next meeting, which was July 13, the committee adopted the amendment and the text reads as follows:

> Discount coupons or other evidence of reduced fares, obtained on official travel, shall be turned in to the office for which the travel was performed, so that they may be utilized for future official travel.

This new regulation clearly states the policy of the Senate regarding the use of these coupons or any other form of discount fares for all modes of public transportation.

Again, Mr. President, I commend Senators PELL and HATFIELD for their leadership in this matter and the Rules Committee as a whole for its action on behalf of the taxpayers of this country.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT BETWEEN THE UNITED STATES AND AUSTRALIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 90

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources, jointly by unanimous consent:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123 d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed Agreement Between the United States and Australia Concerning Peaceful Uses of Nuclear Energy and accompanying annex and agreed minute; my written approval, authorization and determination concerning the agreement; and the Memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary analysis of the provisions of the agreement, and the views of the Members of the Nuclear Regulatory Commission are also enclosed.

The proposed agreement with Australia is the first such agreement submitted to the Congress since enactment of the Nuclear Non-Proliferation Act of 1978, which I signed into law on March 10, 1978 and which, among other things, calls upon me to renegotiate existing peaceful nuclear cooperation agreements to obtain the new provisions set forth in that Act. In my judgment, the proposed agreement for cooperation between the United States and Australia, together with its agreed minute, meets all statutory requirements.

I am particularly pleased that this first agreement is with Australia, a strong supporter of the Non-Proliferation Treaty and of international nonproliferation efforts generally. The proposed agreement reflects the desire of the Government of the United States and the Government of Australia to update the framework for peaceful nuclear cooperation between our two countries in a manner which recognizes both the shared nonproliferation objectives and the close relationship between the United States and Australia in the peaceful applications of nuclear energy. The proposed agreement will, in my view, further the nonproliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *July 27, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, received earlier today, relative to a proposed agreement between the United States and Australia concerning peaceful uses of nuclear energy, be jointly referred to the Committees on Foreign Relations, Governmental Affairs, and Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:28 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 4389, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. FLOOD, Mr. SMITH of Iowa, Mr. PATTEN, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. WHITTEN, Mr. MICHEL, Mr. CONTE, Mr. O'BRIEN, and Mr. PURSELL were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

> H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

At 3:20 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 1786, an act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

> H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

> H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin; to the Committee on Labor and Human Resources.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

> H.R. 3996. An act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for Amtrak for 3 additional years, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which are referred as indicated:

EC–1870. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Family Farmers Need Cooperatives—But Some Issues Need to be Resolved," July 26, 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1871. A communication from the Assistant Administrator for Management, Policy, and Budget, General Services Administration, transmitting, pursuant to law, a Statistical Supplement Stockpile Report, October 1978 through March 1979; to the Committee on Armed Services.

EC–1872. A communication from the Deputy Secretary of Defense, reporting, pursuant to law, on corporations which come under the provisions of Office of Management and Budget Policy Letter No. 78–6, Wage and Price Standards for Federal Contractors; to the Committee on Armed Services.

EC–1873. A communication from the President of the United States, transmitting a draft of proposed legislation to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–1874. A communication from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a statement with respect to a credit of $63,750,000 available to ALIA—The Royal Jordanian Airline Corporation (ALIA) to facilitate the purchase in the United States by ALIA of four new Boeing 727–200 jet aircraft, spare engines and related parts and services; to the Committee on Banking, Housing, and Urban Affairs.

EC–1875. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to render a final decision in Docket No. 37105, Increased Rates on Coal, Colstrip and Kuehn, MT to Minnesota, within the initially specified 7 month period; to the Committee on Commerce, Science, and Transportation.

EC–1876. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to render a decision in Docket No. 37093, Joint Rates Via the Ann Arbor Railroad System, December 1978, within the initially specified 7 month period; to the Committee on Commerce, Science, and Transportation.

EC–1877. A communication from the Secretary of the Interior, transmitting, for the information of the Senate, his views on the bill S. 14 (which amends the Reclamation Act) and possible amendments thereto; to the Committee on Energy and Natural Resources.

EC–1878. A communication from the Secretary of the Interior, transmitting, pursuant to law, an application by the Lewiston Orchards Irrigation District of Lewiston, Nez Perce County, Idaho, for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC–1879. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement (FEIS) and supplemental information on Kaskaskia Island Drainage and Levee District, Illinois, project; to the Committee on Environment and Public Works.

EC–1880. A communication from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to authorize additional appropriations for the Department of State for Migration and Refugee Assistance for fiscal years 1980 and 1981; to the Committee on Foreign Relations.

EC–1881. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Civilian Audit Organizations Have Often Been Unsuccessful in Obtaining Additional Staff," July 27, 1979; to the Committee on Governmental Affairs.

EC–1882. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a summary of responses (proposals for action or reasons for inaction) for the report of the Board of Visitors to the United States Air Force Academy made to the President on 22 December 1977; to the Committee on Governmental Affairs.

EC–1883. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–1884. A communication from the Comptroller General of the United States, reporting, pursuant to law, on a comprehensive study of the Senate's and House's financial disclosure systems; to the Committee on Governmental Affairs.

EC–1885. A communication from the Director, Office of Administration, Nuclear Regulatory Commission, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–1886. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–1887. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Passive Restraints for Automobile Occupants—A Closer Look," July 27, 1979; to the Committee on Governmental Affairs.

EC–1888. A communication from the President, United States Capitol Historical Society, transmitting, pursuant to law, the Society's financial report for the year ended January 31, 1979; to the Committee on the Judiciary.

EC–1889. A communication from the Director, National Institute of Corrections, transmitting, pursuant to law, the Institute's third annual report; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–408. A resolution adopted by the Senate of the Legislature of the State of Massachusetts; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent:

"RESOLUTIONS

"Whereas, many Americans are denied medical treatment because of the escalating costs of hospitalization, physician fees and insurance coverage; and

"Whereas, the health plan of President Carter would use private insurance firms to finance health care with the premiums coming mostly from employers, employees and general tax revenues with no increase in payroll taxes; would include steps to control costs and stress preventive medicine, including a pilot program in preventive care; would expand coverage for the poor, the nearly poor, the elderly and disabled; would expand and reform medicaid and medicare; would cover catastrophic costs of a family above twenty-five hundred dollars a year; and would be the basis for a later comprehensive program; now, therefore, be it

"Resolved, that the Massachusetts Senate wholeheartedly applauds President Carter's tireless efforts and endorses the Carter health plan as best addressing the goal of health care for all Americans, and respectfully urges the United States Congress to enact such legislation this year; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the clerk of the Senate to each Member of Congress from the Commonwealth."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a resolution adopted by the Massachusetts State Senate, relative to the President's national health plan, be jointly referred to the Committees on Finance and Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

POM–409. A resolution adopted by the City Council of Lakewood, Ohio, urging the appropriate elected representatives to the Congress of the United States to support H.R. 2215 to eliminate the reduction in Social Security benefits for spouses and surviving spouses receiving certain Government pensions; to the Committee on Finance.

POM–410. A petition of the Passaic County Grand Jury, Paterson, New Jersey, relating to the presentment of the Paterson Task Force for Community Action, Incorporated; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment and an amendment to the title:

S. 689. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes (Rept. No. 96–260). Referred to the Committee on Appropriations for not to exceed 15 days, pursuant to section 401 (b)(2) of Public Law 93–344.

FOOD STAMP ACT AMENDMENTS OF 1979

By Mr. McGOVERN, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4057, an act to increase the fiscal year 1979 authorization for appropriations for the food stamp program (Rept. No. 96–261).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment:

H.R. 3824. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval (Rept. No. 96–262).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

H.R. 3914. An act to amend the National Capital Transportation Act of 1969 to remove the limitation on the amount authorized for District of Columbia contributions for the cost of construction of the rapid transit system of the National Capital Region (Rept. No. 96–263).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 198. A resolution increasing the limitation on expenditures by the Select Committee on Intelligence for the procurement of consultants (Rept. No. 96–264).

S. Res. 201. A resolution increasing the limitation on expenditures by the Committee on Commerce, Science, and Transportation for the training of professional staff (Rept. No. 96–265).

S. Res. 204. A resolution increasing the limitation on expenditures by the Committee on the Budget for the procurement of consultants and authorizing expenditures by such committee for the training of its professional staff (Rept. No. 96–266).

S. Res. 208. An original resolution relating to the purchase of calendars (Rept. No. 96–267).

S. Res. 209. An original resolution authorizing the printing of a compilation of materials entitled "History of the Committee on Rules and Administration," as a Senate document (Rept. No. 96–268).

S. Res. 210. An original resolution temporarily suspending paragraph 1 of rule IV of the Rules for the regulation of the Senate Wing of the United States Capitol to permit a photograph of the Senate in session.

S. Res. 211. An original resolution to pay a gratuity to Johanna B. Salvetti.

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Special Report entitled "Allocation of Budget Totals for Fiscal Years 1979 and 1980" (Rept. No. 96–269).

By Mr. BURDICK, from the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs, jointly, with an amendment:

S. 914. A bill to provide public works, business financing, and other development assistance to alleviate economic distress (together with additional views) (Rept. No. 96–270).

By Mr. FORD, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 1403. A bill to amend sections 502(d), 503(a), and 504(a) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87), and to provide a 7-month extension for the submission and approval of State programs or the implementation of a Federal program (together with additional and minority views) (Rept. No. 96–271).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 212. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 914. Referred to the Committee on the Budget.

Mr. PROXMIRE. Mr. President, the Senator from West Virginia is a tremendously persistent and more effective majority leader, and I say that because he has been so persistent getting me to get some action on this EDA bill, and I am delighted to tell him I am filing a budget waiver resolution right now to permit us to act on the EDA bill very promptly.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. PROXMIRE. I am doing that primarily because the majority leader has been so insistent in asking that we get action on it.

So I send a waiver to the desk and ask for its appropriate reference.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Wisconsin has always been most cooperative and understanding of the problems and cooperative with the leadership in attempting to expedite the legislation in a reasonable way, and I think what he has done in this instance is typical and demonstrative with his fine attitude and splendid worksmanship and teamwork that he demonstrates.

Mr. PROXMIRE. I thank the Senator.

Mr. ROBERT C. BYRD. I thank him for his good work.

The PRESIDING OFFICER. The resolution will be received.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

George Herbert Patrick Bursley, of Maryland, to be a Member of the National Transportation Safety Board.

Stuart M. Statler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I also report favorably sundry nominations in the National Oceanic and Atmospheric Administration and the Coast Guard which have appeared previously in the RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on July 9 and July 16, 1979, at the end of the Senate proceedings.)

AUTHORITY FOR COMMITTEE ON ENERGY AND NATURAL RESOURCES TO FILE A REPORT UNTIL 7:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until 7:30 p.m. this evening to file the report on S. 1403, a bill to amend the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STONE:

S. 1591. A bill to amend the Internal Revenue Code of 1954 to permit individuals to deduct separately-stated State and local utility taxes on amounts paid for heating and cooling their homes, whether or not they itemize deductions; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. HEINZ and Mr. LUGAR):

S. 1592. A bill entitled the "Financial Regulation Simplification Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 1593. A bill for the relief of Panivons Norindr; to the Committee on the Judiciary.

S. 1594. A bill for the relief of Panisovk Norindr; to the Committee on the Judiciary.

By Mr. MORGAN (for himself and Mr. TSONGAS) (by request):

S. 1595. A bill to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL:

S. 1596. A bill to consent to the institution of an action in the United States District Court for the District of Rhode Island for the adjudication of the claim of Charles E. Day, Sr. and Mary Day, husband and wife against the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE:

S. 1591. A bill to amend the Internal Revenue Code of 1954 to permit individuals to deduct separately-tested State and local utility taxes on amounts paid for heating and cooling their homes, whether or not they itemize deductions; to the Committee on Finance.

● Mr. STONE. Mr. President, today I am introducing legislation which would provide for a Federal tax deduction in the amount of State and local taxes individuals must pay on their utility bills for heating and cooling their homes, This deduction would be available for those taxpayers who do not itemize their deductions as well as those who do.

Mr. President, in this time of spiraling energy costs, especially utility bills, my bill is one way we can ameliorate the impact of these costs, especially for those living on low or fixed incomes. In Florida, for example, the average utility customer would be permitted a deduction of $37 in computing his Federal income tax liability.

With taxes so high, in addition to unrestrained inflation, it is unfair for taxpayers to have to pay taxes twice on the same income. Under present law individuals pay State and local utility taxes and then are required to pay Federal tax on that same income, which is used to purchase needed electricity or gas. We must relieve this burden.

I believe we must provide relief, espechally to our elderly who are on fixed incomes. These people must heat and cool their homes. With double-digit inflation, how can we expect them to continue to meet the costs of these necessities? Unfortunately, it is unlikely that fuel prices themselves can be controlled in the short term. Therefore, we must look for every reasonable approach to ease the burden of utility expenses for the American consumer.

Mr. President, my bill is not a great drain on the U.S. Treasury. For fiscal year 1980, the revenue loss is estimated to be less than $128 million. The following table gives the calendar year and fiscal year revenue loss estimates for 1980–84. These estimates are overstated because telephone utility taxes are included, and they will not be deductible under my bill.

Given the fairly low revenue loss estimates, I feel that this is a must-pass piece of legislation. We have to assist our low-income and fixed-income families to meet their energy needs without suffering undue sacrifices and hardships.

Mr. President, I ask unanimous consent that the table and the text of my bill be printed in the RECORD.

There being no objection, the table and bill were ordered to be printed in the RECORD, as follows:

Estimated Revenue Loss *

[Dollars in million]

	1980	1981	1982	1983	1984
Calendar ----	778	933	1,120	1,344	1,612
Fiscal -------	128	803	964	1,157	1,388

* Source: Joint Committee on Taxation.

S. 1591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF DEDUCTION.

(a) IN GENERAL.—Section 164 of the Internal Revenue Code of 1954 (relating to taxes) is amended—

(1) by inserting immediately after paragraph (4) of subsection (a) the following new paragraph:

"(5) Certain State and local utility taxes.", and

(2) by adding at the end of subsection (b) the following new paragraph:

"(6) CERTAIN STATE AND LOCAL UTILITY TAXES.—The term 'certain State and local utility taxes' includes only a separately-stated State or local tax imposed on or for the use of electrical energy, gas, or steam for heating and cooling the principal residence of an individual.".

(b) DEDUCTION WITHOUT REGARD TO ITEMIZED DEDUCTIONS.—

(1) IN GENERAL.—Section 63 of such Code (relating to definition of taxable income) is amended—

(A) by striking out "and" at the end of subparagraph (A) of subsection (b)(1),

(B) by inserting after subparagraph (B) of subsection (b)(1) the following new subparagraph:

"(C) the deduction allowed by section 164 with respect to certain State and local utility taxes, and",

(C) by striking out "and" at the end of paragraph (1) of subsection (f),

(D) by striking out the period at the end of paragraph (2) of subsection (f), and inserting in lieu thereof a comma and the word "and", and

(E) by adding at the end of subsection (f) the following new paragraph:

"(3) the deduction allowed by section 164(a)(5) with respect to certain State and local utility taxes.".

(2) Conforming amendment for withholding purposes.—Subsection (m) of section 3402 of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(A) the sum of—

"(i) the estimated itemized deductions, and

"(ii) the deduction allowed by section 164(a)(5) with respect to certain State and local utility taxes, over", and

(B) by striking out "section 151" in paragraph (2)(A) and inserting in lieu thereof "section 151 and section 164(a)(5)".

SEC. 2. EFFECTIVE DATE.

The amendments made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1978, and with respect to State and local utility taxes paid or incurred after that date.●

By Mr. DOLE (for himself, Mr. HEINZ, and Mr. LUGAR):

S. 1592. A bill entitled the "Financial Regulation Simplification Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. DOLE. Mr. President, today I am introducing the Financial Regulation Simplification Act of 1979. This bill was originally introduced in the House by Congressman STANTON, the ranking minority member of the House Banking Committee, and has received broad support there.

Our bill is aimed at eliminating unnecessary costs and burdens imposed on the economy by Federal regulation.

Mr. President, this bill both complements and corrects an omission of President Carter's Executive order of March, 1977, "improving government regulation," by requiring the Financial Regulatory Agencies to initiate the same type of regulatory reform as all other executive agencies are now required to undertake.

The Financial Regulation Simplification Act requires that the Federal Financial Regulatory Agencies periodically review existing regulations in light of the bill's policy goals. Six specific policy criteria must be used as a standard in issuing any new regulations.

First, the need for and purpose of the regulation are to be established clearly.

Second, meaningful alternatives to the regulations must be considered before any regulation is issued.

Third, compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are to be minimized.

Fourth, conflicts, duplications, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided.

Fifth, participation and comment by other agencies, financial institutions, and consumers must be available. This does not mean, however, that formal, trial-type hearings on each and every proposed regulation are required.

Finally, when regulations are issued they shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

Each agency is required to establish a program to insure the periodic review of existing regulations in order to achieve the objectives of the bill. So that agencies are held accountable to the Congress for implementing the provisions of this bill, each agency is to provide an annual report of its progress to the House and Senate Banking Committees. I would like to emphasize that we are not looking for another major report from the financial regulatory agencies. The required progress report can be included in the regular annual report each agency submits to Congress.

COSTLY AND DUPLICATIVE REGULATIONS

Over the years, financial regulations have provided significant benefits to consumers. But, at the same time, Federal financial regulatory agencies have not achieved their regulatory objectives in an efficient and cost-effective manner. The result, all too often, has been the imposition of costly, duplicative and unnecessary burdens on both financial institutions and consumers. At least 83 Federal agencies now issue regulations which directly affect financial institutions, and 216 Federal Government agencies have issued regulations which indirectly affect them. There are 64,000 pages of regulations which constitute an excess of 4,000 regulations that are time consuming and often inconsistent.

There is a growing library of research which demonstrates how staggering are the costs of Government regulation of business. However, the most disturbing aspect of this trend is that much more is involved than just direct costs of regulatory activities. Regulations contribute to our Nation's severe inflation problem. Productivity growth, a necessary ingredient of a healthy economy, is eroded. Innovation is stifled because of the smothering effect of cumbersome regulations.

While no accurate data is available as to the total cost of Federal financial regulation, the costs are certainly substantial. It is clearly a responsibility of Congress in its oversight activities of financial regulatory agencies to carry the regulatory process only to the point where these added costs equal the added benefits of regulation. This legislation would help do that by requiring the agencies to consider the impacts of regulations on the financial community and consumers.

This bill has received broad, bipartisan support in the House, where the Banking Committee passed it unanimously last fall only to see it lost in the end-of-the-year crunch. It also has the backing of every major financial regulatory agency—the Federal Depository Insurance Corporation, the National Credit Union Administration, the Federal Reserve Bank and the Federal Home Loan Bank Board. This support indicates a growing awareness that this type of reform is much needed.

By approving this bill, we can confidently say that we have contributed to restoring our Nation's economic health. We can begin to ease the regulatory burden facing our financial institutions and streamline the regulatory process that now binds them in redtape at every turn. I urge my colleagues to adopt this legislation for the sake of both our financial institutions and the American consumer.●

By Mr. MORGAN (for himself and Mr. TSONGAS) (by request):

S. 1595. A bill to establish a Solar Energy Development Bank to help make available below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SOLAR ENERGY DEVELOPMENT BANK

● Mr. MORGAN. Mr. President, I am today introducing with great pleasure and pride the President's promised Solar Energy Development Bank Act. I am proud to be joined in this effort, on behalf of the administration, by Senator Tsongas, my colleague on the Senate Banking Committee which should be considering the bill shortly.

Earlier this year, Representative Steve Neal and I introduced identical bills in the House and Senate (H.R. 605 and S. 524) to set up a solar bank that would make long-term, low-interest loans to people who want to utilize solar energy in their homes or places of business. The President in June, in his solar energy message to the Congress, called for creation of a national solar bank similar in many respects to that proposed by Representative Neal and me. While today's bill differs in some ways with the earlier proposals, I want to stress that we all now agree on the essentials. The bank would be authorized to provide interest subsidies for home improvement loans and mortgages to finance the purchase and installation of approved solar energy systems. The bank would pay upfront subsidies to banks and other lending institutions which would in turn permit them to make home improvement and mortgage loans for solar investments at interest rates below the prevailing market rates.

Moreover, the interest subsidy would be provided for only that part of the home improvement or mortgage loan which directly finances the solar investment. The availability of the subsidy would be conditioned on an appropriate warranty against defects. At least 60 percent of the bank's subsidy payments would have to go to residential loans.

The bank would be established within the Department of Housing and Urban Development, with corporate powers similar to the Government National Mortgage Association—"Ginnie Mae"—and the Secretaries of Housing, Treasury, and Energy would be ex officio members of the bank's board, along with board members chosen from the public.

The President estimated that in its first year of operation, the solar bank would be able to finance over 100,000 new and retrofitted solar units, if funding for the bank at the recommended level of $100 million is provided by the Congress. The solar equipment contemplated is any equipment which uses either active or passive solar design and construction technologies; for example, solar hot water heating, solar heating and cooling, passive solar design, or some combination of these.

Utilizing solar energy in place of precious fossil fuels, particularly imported oil, is an objective, I believe, with which none of us disagrees. In the months and years ahead, we must find alternatives to oil and decrease our dependence on foreign governments for our energy supplies. Developing solar energy seems one of the best substitutes if we can find a way to use it effectively. Its applications in the home benefit citizens directly.

We in the Senate Banking Committee this week have heard testimony from the Congressional Office of Technology, the Congressional Budget Office, and the Harvard Business School energy project that solar technologies are available now for ready application, and that what is necessary are the proper Government incentives. A solar bank which can disperse low-interest loan funds for energy-saving solar installations is one of these appropriate incentives. Moreover, tax credits for solar equipment—one of the existing incentives to move solar energy—have not been of much benefit to moderate- and low-income families. I believe the loan provisions of the Solar Bank Act will help overcome this problem and that the two incentives working together will be effective.

No one item, program, or single technology will resolve America's present energy problems. As the President announced in his oil import reduction program 2 weeks ago to the Congress and to the American people, we must look to many actions, programs, and technologies: better conservation, increased recovery from domestic oil and gas deposits, applications of new technologies in the synthetic fuels area, increased utilization of our abundant coal resources, and applications of alternative energy forms, such as wind, ocean thermal, geothermal, and solar. Our proposed solar bank will assist significantly and immediately in this endeavor.●

ADDITIONAL COSPONSORS

S. 1075

At the request of Mr. Kennedy, the Senator from Pennsylvania (Mr. Schweiker) and the Senator from California (Mr. Cranston) were added as cosponsors of S. 1075, the Drug Regulation Reform Act of 1979.

S. 1328

At the request of Mr. Hatfield, the Senator from Michigan (Mr. Levin) and the Senator from Washington (Mr. Jackson) were added as cosponsors of S. 1328, a bill to amend the Water Pollution Control Act to provide an additional allotment of funds to certain States, and for other purposes.

S. 1411

At the request of Mr. Chiles, the Senator from Connecticut (Mr. Ribicoff) and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

S. 1488

At the request of Mr. Nelson, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 1488, the Individual Savings Act of 1979.

S. 1543

At the request of Mr. Nelson, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1543, a bill relating to the tax treatment of qualified dividend reinvestment plans.

SENATE JOINT RESOLUTION 41

At the request of Mr. Burdick, the Senator from Idaho (Mr. McClure) was added as a cosponsor of Senate Joint Resolution 41, to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

SENATE RESOLUTION 206

At the request of Mr. Exon, the Senator from Nebraska (Mr. Zorinsky), the Senator from South Dakota (Mr. McGovern), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Pryor), the Senator from South Dakota (Mr. Pressler), th eSenator from Mississippi (Mr. Cochran), the Senator from Kansas (Mrs. Kassebaum), the Senator from Wyoming (Mr. Wallop), the Senator from Wyoming (Mr. Simpson), and the Senator from Montana (Mr. Melcher) were added as cosponsors of Senate Resolution 206, relating to the set-aside program for wheat for the 1980 crop.

SENATE RESOLUTION 208—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 208

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $52,000 for the purchase of one hundred and four thousand calendars. The calendars shall be distributed as prescribed by the committe.

SENATE RESOLUTION 209—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE PRINTING OF "HISTORY OF THE COMMITTEE ON RULES AND ADMINISTRATION" AS A SENATE DOCUMENT

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 209

Resolved, That a compilation of materials entitled "History of the Committee on Rules and Administration", prepared by Floyd M. Riddick with the assistance of Louise M. McPherson, be printed, with illustrations, as a Senate document, and that there be printed one thousand seven hundred additional copies of such document for the use of that committee.

Sec. 2. The document specified in section 1 of this resolution shall be printed and bound with a paperback cover of the style, design, and color as the Committee on Rules and Administration shall direct.

SENATE RESOLUTION 210—ORIGINAL RESOLUTION REPORTED TO PERMIT A PHOTOGRAPH OF THE SENATE IN SESSION

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 210

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate chamber) be temporarily suspended for the sole purpose of permitting the United States Capitol Historical Society to photograph the United States Senate in actual session.

Sec. 2. The Sergeant at Arms of the Senate is authorized and directed to make necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE RESOLUTION 211—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 211

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Johanna B. Salvetti, widow of Amelio Salvetti, an employee of the Architect of the Capitol assigned to duty in the Senate Restaurant at the time of his death, a sum equal to eleven months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 212—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 212

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 914. Such waiver is necessary because this legislation was not transmitted to the Congress until April 4. This did not allow sufficient time for the Committee to give full consideration to the bill before May 15. The Committee notified the Budget Committee of this fact and, as an interim measure, reported by May 15 a bill, S. 1150, containing the major authorizations but leaving other matters unresolved. S. 914, as amended, provides for a slightly higher authorization level but is still substantially below the amount provided in the First Congressional Budget Resolution.

The effect of defeating consideration of this authorization will be to impede the extension of the Public Works and Economic Development Act and to prevent the establishment of a major new development financing program under that Act.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee hearing regarding oversight of the Department of Energy Organization Act has been changed from 10 a.m. to 2 p.m. on Tuesday, July 31. There will be two witnesses: James Schlesinger, Secretary of Energy, and Charles Curtis, Chairman of the Federal Energy Regulatory Commission. The hearing will take place in room 3302, Dirksen Senate Office Building. The DOE oversight hearing scheduled for Wednesday, August 1, has been canceled.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Small Business Committee will hold a hearing on August 2, beginning at 9:30 a.m., in the Russell Building, room 424, on small business and innovation. Witnesses will include the Small Business Administration's Chief Counsel for Advocacy, Milton Stewart, and innovation task force members.

Further information on the hearing is available from the committee office, 224-5175.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on S. 1215, the patent policy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, July 31, 1979, beginning at 2 p.m. to hold an oversight hearing on the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 1, 1979, to hold an executive session on the SALT II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 2, 1979, to hold a hearing on SALT II.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JOHN CONNALLY

● Mr. McGOVERN. Mr. President, sometimes in politics our personal passions take precedence over objective judgment. May I cite a case in point.

In 1972 when I was the Democratic Presidential nominee, Mr. John Connally headed an organization called Democrats for Nixon. This group sponsored a series of television ads depicting me in what I thought then and still think was a painful distortion of my views. I was angry at the whole operation. So, when Mr. Connally announced his candidacy for the Republican Presidential nomination a few months ago, I "lowered the boom." I frankly overdid it. John Connally is not as bad a candidate as I made him out to be.

In any event, I have just finished reading an interview of Governor Connally by Alan Baron which appeared in the May–June 1979 issue of Politics Today. While I disagree with some of Mr. Connally's points, I find much of what he says to be good commonsense.

I request that Mr. Connally's interview with Mr. Baron be printed in the Record.

The interview follows:

JOHN CONNALLY

"If you were producing a movie and asked central casting to send over a president," observes Washington political consultant Mark Shields, "they would probably send John Connally."

Indeed, Connally does look "presidential." His healthy complexion, excellent build, silver-white hair and pin-striped suits are part of it. But Connally also walks, talks and acts like a leader. And the qualities we usually identify with strong leadership—self-confidence, determination, toughness—come through in every appearance he makes. No one ever accused Connally of being a lightweight.

During the last presidential campaign, Connally's image might have conveyed a bit of arrogance too. Back then, Americans were still recovering from Lyndon Johnson and Vietnam and Richard Nixon and Watergate. They were looking for other qualities—humility, decency, humanity and normalcy—in their candidates.

Thus, Gerald Ford made headlines when he buttered his own toast in the White House breakfast room. Jimmy Carter carried his own luggage and received high marks on the editorial pages of the New York Times for staying overnight in the spare bedrooms of supporters, and making his own bed the next morning. Carter, in fact, carried humility and decency further than anyone else. He promised never to tell a lie. And he told audiences that he was "no more qualified than many of you to be president."

Now, however, the polls report that people have concluded Carter was *indeed* telling the truth—that he is no more qualified than many of them for the presidency. But they no longer find that an advantage. Americans are reacting against the very qualities they said they were looking for in 1976. Now they're seeking the strength, determination, shrewdness and political savvy that frightened them in candidates the last time around.

They want a leader. And politicians who give off leadership "vibes" appear to be doing very well. In the Democratic party, Sen. Edward Kennedy is drawing far stronger responses than he did when he tested the waters, briefly, in 1974. Chappaquiddick seems less important now than then. In the Republican party, more and more pros are turning to Connally and downplaying his indictment over the "milk fund" scandal and his identification with the Nixon administration.

Americans are a bit schizophrenic on the integrity-in-government issue. They want leaders who are honest, but they also want leaders who are shrewd. Ask a resident of a small town whether he believes his banker or his minister is more honest, decent, humble, open and fair, and chances are he'll say his minister. But ask him who he wants running the government and odds are he'll say his banker.

It is the "banker" in John Connally to which his rise can be attributed. During Connally's various terms in public office—as Secretary of the navy under President

Kennedy, governor of Texas and secretary of the treasury under President Nixon—he made both friends and enemies; he was loved and hated; but never was he called naive, or indecisive, or wishy-washy.

By Republican standards, John Connally is a moderate. The CBS News poll taken in March at the Midwestern Republican Leadership Conference in Indianapolis showed him doing better among former Ford backers than among former Reaganites. But he didn't do badly with any ideological subgroup, a fact that brings to mind another Connally asset. Like Carter in 1976, Connally is not clearly identified with either of the ideological factions of his party. He is, in fact, drawing support from the broad middle of the Republican party—the same people who provided Richard Nixon's base.

Connally's positions on the issues bear out the "moderate" tag. He opposes big government on grounds of efficiency rather than ideology. On the social issues (ERA, abortion, marijuana, gays), his positions are similar to those of Jimmy Carter. On foreign policy, he talks very tough—but few Connally supporters believe his policies on such issues as the Panama Canal and SALT would be different than those of Jerry Ford.

Because of some of these positions, and because he was a Democrat until a few years ago, Connally is particularly disliked by rightwing purists in the GOP. They are expected to launch an anti-Connally campaign fairly soon (although one key conservative, direct mail czar Richard Viguerie, won't be part of it; he likes Connally).

The conservatives will, no doubt, concentrate on the ethics issue. Connally has a good answer—he tells audiences he is the only candidate who has been proven not guilty and he reminds them that his jury was mostly black. But questions are still being raised whose real impact may not be felt until next year's primaries.

Until then, Connally will be traveling throughout the country, meeting with GOP pros and potential 1980 delegates. Recently he did just that in Boston and New Hampshire. This interview was conducted in his car and his hotel suite by Alan Baron, who is Washington editor of *Politics Today*.

POLITICS TODAY: Let's start with foreign policy. Few people have been publicly critical of the president's role in the recent Middle East negotiations, but a lot of private doubts are being expressed. What do you think the president's role should be from here on in?

CONNALLY: I would like to see the president's withdrawal from the direct personal role that he is playing. Of course, withdrawal is not easy when one has been heavily involved. But I would like to see it happen because I think the ultimate solution is going to have to be one arrived at between the Arabs and the Israelis. In the meantime, we have to recognize that the Israelis occupy a strategic position in the Middle East today that is far more critical for our nation than even the strategic position they occupied in the past.

PT: What about our relations with the Arab states other than Egypt?

CONNALLY: I had hoped that this agreement could have been brought about in such a way that at least the Saudis would have supported it. I certainly don't want to try to second-guess what the president has done. I just think that Americans should not assume that the problems in the Middle East have been solved. We will have to continue to work on them.

PT: Do you agree with those who blame the shah's fall on the Carter administration's pressure on him to loosen up his control of the country?

CONNALLY: I think that certainly contributed to it. And I think President Carter's indecision in the final days was a clear signal that we were abandoning the shah. I don't remember the precise words, but you'll recall that the president was saying that we strongly support the shah, then in a matter of a week was saying he doubted that the shah could survive. Well, this was interpreted as a clear signal to the shah's enemies. Perhaps that is what the president intended, although he gave the impression to most of us that he was trying to support the shah.

I doubt that, in the final days, there was anything the president or anyone else could have done, because the United States itself was almost as much a target as the shah, and the mobs were in the streets at that point. I think they probably were uncontrollable, although who knows? I am not privy to everything that went on. But we certainly played a role in it. I am not criticizing that interference, I am just saying that we can't wash our hands and say we had no part of it.

It seems to me that the decision should have been under consideration at least a year ago. Other countries of the world knew the shah was in trouble. The Israelis knew it six months or a year ago, I know. So did the French. And we should have known it. We should have been dealing with the shah then. We should have been telling him to hold his ground or leave the country or broaden his government or relinquish the throne or something, if we were indeed going to protect our own interests. We should have had some policy, which obviously we didn't.

PT: But our failure to foresee developments in Iran cannot be placed solely with Carter, can it?

CONNALLY: No, I suspect that part of it goes back to the time when we were instrumental in reestablishing the shah on the throne. I am sure some of it went back that far, so I don't intend to imply that all of it is President Carter's fault. Not at all. I think some of the underlying weaknesses of the shah's position certainly predate President Carter's inauguration.

PT: How do you feel about our policy in Africa?

CONNALLY: I think the policy with respect to South Africa, Southwest Africa and Rhodesia is all wrong. All three countries are trying to bring about democratic rule. We insist on a one-man, one-vote concept, yet when they had an election in Southwest Africa—in which 80 percent of the people voted—we claimed it didn't count, that it would have to be done under UN supervision. We want to bring in a Marxist terrorist from Angola and have him participate. In Rhodesia, Ian Smith, however belatedly, came to recognize that he had to change his structure of government and turn over control to the blacks in his country. So he got an interim settlement, but we say that's not good enough, that we're not going to support that interim settlement until they bring in a self-confessed Marxist terrorist operating out of Mozambique.

Now there's pressure for economic sanctions against South Africa, and I think it's counterproductive. I don't think it helps the black man of South Africa one bit and that's who we're trying to help. We are trying to bring about a change in the structure of that government. I think it's a legitimate objective of this nation to try to see that there is an expansion of human rights and human freedoms. But we ought not to confuse our commitment to principles with the application of policies against particular countries where it is counterproductive and harmful to that country and to ourselves as well.

PT: Let's switch to some domestic issues. Some people have suggested that American wheat should be used as a weapon in world trade, much as the Arabs use oil. Would you favor a "wheat cartel"?

CONNALLY. I don't like cartels. And I have to say that I would not want to see us initiate nor create a wheat cartel. But I think we, in this country, are first going to have to learn the *value* of economic power. Second, we're going to have to learn how to use economic power. We still live with the myth that foreign policy is dictated solely by armies or by the mystique of diplomacy. The truth is that armies are maintained by sound economies. If you don't have a sound economy and a sound currency, you're not going to have any of the other things.

PT: Governor Brown and others are pushing for a constitutional convention. What's your view?

CONNALLY. I don't favor a constitutional convention unless it can be limited to one item relating to deficit spending.

PT: You were a friend and supporter of Lyndon Johnson's. What do you think—in retrospect—of the Great Society? Was the concept wrong, or the implementation?

CONNALLY. Unfortunately, I think President Johnson's motives were never quite translated into effective action. During the mid-sixties, when I was governor of Texas. I tried to tell him then that he was passing too many programs, instituting too many changes. We had to administer many of these programs, but we were not equipped to effectively and efficiently administer them. They came too fast. People couldn't assimilate them. We couldn't organize to cope with them. Expectations were built beyond the hope of realization. It resulted not only in frustrations, but inefficiencies, fraud, corruption and waste.

The assistant attorney general told a congressional committee, just a few days ago, that the Justice Department could turn in any direction and find fraud and corruption. He estimated that loss to the government might run as high as 10 percent of the total budget. That is an incredible figure—$50 billion a year. Congress has to make up its mind that it must now reconstitute the administration of those programs, redefine the purposes of many of them, tighten the entire operation from the congressional act itesif right through the entire administration of the programs to the ultimate beneficiary.

PT: Then is your basic objection to these programs pragmatic—or do you oppose them on a conceptual or ideological basis?

CONNALLY. I think that there is a role for government to play and that the human needs of some people in this country have to be met. I think there are certain people in this society who can't provide for themselves, and I think we've progressed as a people and a society to the point where none of us want to see them heartlessly dealt with.

I do think there are limits, so my argument is not with the stated purpose of many of these programs. My argument is that they have gone to excess, they're too expensive, the administration is too loose, there's too much fraud, waste and inefficiency in the whole system and it has to be curtailed because it puts a tax burden on too many people who don't deserve it.

We ought to approach our problems basically from the standpoint that we're going to try to provide an economic system in this country that's expansive enough to give everybody who's able-bodied and wants to work an opportunity to find a productive job. That ought to be our principal goal. That perhaps, once we've done that, we ought to have criteria that do not reward the indolent, the lazy, the shiftless or the chiseler. But on the other hand, we ought to devise criteria that make available governmental programs to the truly needy of this country.

PT: Some conservative Republicans say you're not really one of them. How would you categorize yourself politically?

Connally: Well, you know, I've always tried to refrain from categorizing myself. I don't like people who try to put you in little pigeonholes. What is a conservative? What is a liberal? What is a moderate? What is a libertarian? Everyone has their own definition of those terms. I've always tried to avoid that. I simply say, "Ask me whatever you like, whatever issue concerns you. I'll give you my views. You then make up your own mind what I am." Because on some things, on financial matters, no question but what I'm conservative. On many of the so-called libertarian civil rights issue, I think I'm a liberal in the Jeffersonian sense. I'm not a collectivist. This is where I fall out with those who today call themselves liberals. I don't think they're liberals; I think they're collectivists. Here again, I'm using one of those expressions, but I believe in individual human rights, personal freedoms and personal opportunities. Individual opportunities.

PT: Let me ask you about some specific civil rights and civil liberties issues. To start with, the voting rights act, which allows the federal government to supervise election rules in areas where a low proportion of the population votes—was it needed?

Connally: I don't really know. I think in a way it was an attempt on the part of a lot of politicians to point the finger at certain parts of the country and I certainly don't think we needed to apply it to Texas. Blacks were voting there and had been for a long, long time. The very idea that we were put under it I thought was ridiculous. I don't think it hurt us any, but I just thought it was an insult to the state that need not have been.

PT: But outside of Texas . . . what about in Georgia, where only about 5 percent of the blacks voted before the federal law?

Connally: If indeed there was some state restriction, either expressed or implied, that either prevented them from voting or made it uncomfortable for them to vote, then I think it might well have been justified. I think we have long since passed the point where we can justify any restraints on the right of people to vote in this society.

PT: The Supreme Court's Bakke decision outlawed quotas in university admissions policies, but it allowed race to be taken into consideration on an individual basis. How did you feel about that decision?

Connally: I think I agree with the Bakke decision, although I think that some of the criticism from both sides is probably justified—which tells me that the Bakke decision was probably a wise one. I'm not sure it's wise to determine entrance requirements solely on the basis of students' ratings on particular tests. When we look at young lawyers coming into our law firm, our tendency is to take the easy route, to look at grades. But grades don't always tell the story and many of the best lawyers in our firm made mediocre grades in law school. People develop differently and at different stages of their lives. So I think there's some justification for giving the university latitude in applying standards other than grades alone. The part of the Bakke decision that particularly appeals to me is the outlawing of quotas. I'm against quotas and I don't think we ought to establish quotas in any sense, in any form, in any situation that I know of.

PT: As governor of Texas, did you take affirmative action—did you make special efforts to reach out to minorities?

Connally: I did. I appointed the first black ever to serve on the Board of Corrections, which governed our prison system. I found a very qualified black and when I first announced the appointment, the feeling in the State Senate (which had to confirm him) was overwhelmingly negative. We worked, we worked and we worked and—I've forgotten the precise vote—but I think there were only three votes against him. I named the first Mexican-American secretary of state, which was my top appointment. I made a number of other appointments, particularly from the black community, and I named four women to the boards of regents at universities.

PT: Let me ask you about some of the so-called social issues, such as marijuana . . .

Connally: I don't know enough about marijuana. If I thought somebody were pushing it, somebody were importing it, yes, I'd throw them in jail. If I thought it was an innocent kid smoking it for the first time, or smoking it for a kick, or to see what effect it would have on him, no, I wouldn't. But I don't want to leave the thought that I'd be permissive. I'm a square when it comes to things like that.

PT: How about the issue of gay rights? California rejected a proposal to ban gay teachers from the schools. Those in opposition to the proposal included both Ronald Reagan and President Carter. How do you feel?

Connally: Theirs would be my position too, although again, I'm not comfortable with the idea that things such as homosexuality should be treated permissively. It's not normal, natural human behavior. But I know that there are a number of homosexuals in society and I certainly don't think that they ought to be denied the right to make a living. I think it is a question of individual behavior. If they don't bring it into their classrooms, if it doesn't influence their teaching, and particularly if it doesn't result in any kind of an impact on the students, then I certainly don't think that they ought to be prevented from teaching. But if indeed it does have some impact on children, particularly young children, then I would look at it differently.

PT: Abortion?

Connally: I am against any federal funding of abortions. I'm also against any constitutional amendment relating to the subject in one way or the other.

PT: The ERA?

Connally: I'm for it.

PT: You're known to have some strong feelings about reforming governmental processes. How do you feel about the investigation into Carter's peanut operations? Do you think a special prosecutor is needed?

Connally: My basic feeling is that Griffin Bell and the people in the Justice Department are competent, that they are able, that they're honest and that they have a duty to investigate such things. I think they have the capacity to do it, I think they have the courage to do it, and I think they have the dedication to do it. I'm not opposed to a special prosecutor, but I'm not advocating one.

PT: You've made some suggestions about limiting the terms of elected officials . . .

Connally: I think, frankly, that we've reached the point where the country would be better served by a president serving one six-year term, who didn't have to run for reelection. At the same time, though, I don't think we ought to restrict just the president, who's already restricted to two four-year terms. I think we ought to restrict senators to one six-year term or one eight-year term and representatives to four two-year terms.

I think this would change the whole process of government. It would have an enormous impact on the number of bills that are considered, the manner in which statutes are written, the manner in which regulations are permitted. I think it would have an impact on the size of congressional staffs.

If a senator never had to be reelected and had an eight-year term, I think that he would then be willing to address himself to the fundamental problems of this country such as energy, an intelligent farm program, programs that encourage savings and reinvestment, programs that stimulate research and development that will have an impact five, ten, fifteen years from now. Under the present system, officials constantly look at a problem in terms of how it's going to impact their own political future. I think it's time we quit looking at the political future of individuals and started looking at the national interest of the country.

PT: Wouldn't that cut into the power of unions and other interest groups?

Connally: I don't think it necessarily would, no. They would all have an opportunity to elect the senators. They'd probably study them a little closer than they do now.

PT: One final question. You've talked quite a bit about reforming the system. If you're the nominee, would you change the current system, if that's what it can be called, for selecting vice-presidential nominees?

Connally: Yes. At least 30 days before the date of the convening of the convention, I would submit three names, any of which would be perfectly agreeable with me, and then let the delegates and the press have 30 days to look at them, to write about them, to question them, to probe their backgrounds. That's a minimum. I haven't fully decided, but I might go even further.

I think the matter of the selection of a vice-president has been both haphazard and unfortunate—haphazard in nearly all cases and unfortunate in some recent instances. I think it is a job that should have more deliberate consideration by the convention and I would certainly do at least that much.

As to who I'd choose, I would want someone that I think would make an excellent president. And I wouldn't be the least concerned about him being smarter or more able than I was, or more politically acceptable. I think this idea of a president being afraid of his vice-president is ridiculous. I would choose the ablest man I could get my hands on.●

THE SENATE REPUBLICAN LEADER

● Mr. LUGAR. Mr. President, the July 30, 1979, issue of U.S. News & World Report contains an excellent article which gives well-deserved recognition to our distinguished Republican leader, Howard Baker. The article, written by John W. Mashek, reviews events and accomplishments in Howard Baker's life, as well as some of the positions he has taken as a U.S. Senator. I know that there will be great interest in this article, and I ask that it be printed in the Record.

The article follows:

Howard Baker Takes Aim At Carter's Southern Turf

Howard H. Baker, Jr., is all for keeping a Southern accent in the White House—his own, not Jimmy Carter's.

The boyish-looking Tennessean is promoting himself as the Republicans' best hope in 1980 of wiping out the President's vital power base in Dixie, an edge that enabled Carter to nearly sweep the South and Border states en route to a narrow victory over Gerald Ford in 1976.

Baker's team today concedes only Georgia, Carter's home state, in a match-up between the two below the Mason-Dixon Line. "We'd give Carter fits in the South, and the White House knows it," an aide asserts.

In the expanding field of nine Republican candidates, Baker lacks the strong name identification of frontrunner Ronald Reagan, the aggressive flamboyance of John Connally or the experienced campaign staff of George Bush.

Yet many analysts are predicting that when the race for the presidential nomination goes down the stretch, Baker will be one of the contenders.

Cited as the Senator's prime assets: A centrist political approach that is acceptable to a broad range of Republicans, a campaign style described by admirers as one of "quiet and reassuring competence" and an enviable public pulpit as minority leader for 41 GOP members of the Senate.

SALT OPPONENT

In that leadership capacity, Baker already has announced his opposition to the strategic-arms-limitation treaty with the Soviet Union. The 53-year-old lawmaker denies that his decision is tied to his presidential campaign or is an attempt to placate GOP voters still angry over his vote last year to approve the Panama Canal treaties.

While Baker does not plan to enter the presidential race officially until autumn, he makes clear on the campaign trail that his announcement is only a formality. As he told an audience in New Hampshire recently: "I am a candidate for the Republican nomination, and I plan to win. I think I have the best chance of being elected."

Baker's political career has come a long way since he was elected to the Senate in 1966. Although that victory marked the first popular election of a Republican senator from Tennessee, he was known primarily in those days as "Ev Dirksen's son-in-law."

In 1951, Baker married Joy Dirksen, daughter of Senator Everett McKinley Dirksen of Illinois. Dirksen, who died in 1969, served as Senate Republican leader for 10 years and was acclaimed by friends and foes as one of the most gifted orators in congressional history.

It wasn't until 1973 that Baker became a national figure in his own right—then under distasteful circumstances as ranking Republican on the select Senate committee investigating the Watergate scandal and its cover-up in the Nixon White House.

"WHAT . . . WHEN?"

Millions watching the televised hearings saw Baker prod patiently and persistently into the tangled case, finally—in the most remembered question of the investigation—demanding of John Dean, Nixon's chief accuser: "What did the President know, and when did he know it?"

Zealous Nixon supporters accused Baker of hounding the President, while Nixon foes complained that he leaned in favor of the White House in the committee's closed sessions. The senator insisted that he viewed his Watergate role as a "down the middle" interrogator, playing no favorites.

Throughout the investigation, one of Baker's associates recalls, "It was painful for him to see friends come up to testify and unravel the story."

In speeches today to Republicans, Baker recalls the "humiliation and embarrassment" he felt for his party during the Watergate period. But he quickly adds that, with a conservative trend, the GOP not only survived, but "today the country is singing our song," and Republicans have an opportunity in 1980 to win the White House and control of the Senate.

Baker is no stranger to the rigors of public life. His family is rich in political tradition in the mountains of East Tennessee, and he often refers to himself as a "congressional brat."

Baker's father was elected seven times as U.S. representative from Tennessee's second district. When the lawmaker died in office in 1964, Baker's stepmother, Irene Bailey Baker, won a special election and completed the term. Both of Baker's grandfathers held public office; one as a judge, the other a sheriff.

ORATOR AT 11

It wasn't surprising when Howard H., Jr., born in Huntsville, Tenn., on Nov. 15, 1925, won a public-speaking contest at age 11. In such a politically oriented family, he recalls, it was necessary to speak up.

Baker attended public schools in Huntsville but finished high school in 1943 at a military academy in Chattanooga. He volunteered at 17 for the Navy's V-12 program during World War II to study electrical engineering. He went on to serve aboard a PT boat in the South Pacific and was discharged as a lieutenant (junior grade) in 1946.

When he returned from service and entered the University of Tennessee, Baker says, he intended to get an engineering degree. "The engineering line was too long on registration day," he reports. "The line for law school wasn't, so I ended up there. I'm ashamed to admit it, but it's true."

Baker got his LL.B. degree in 1949, having served as president of the student body in his final year.

Joining a Huntsville law firm started by his grandfather in 1885, Baker gained such a courtroom reputation as an able speaker and tough cross-examiner that several times the state hired him as a special prosecutor.

In one case, Baker represented four major coal companies against the United Mine Workers and won a 1-million-dollar settlement. He also found time to engage in banking and land-development businesses.

Under a federal ethics law, Baker recently filed a financial statement that reported assets of at least $625,000. His income from January 1, 1978, to April 30, 1979, was $313,000, in addition to his senator's salary of $57,500 annually.

Baker's first run for public office was unsuccessful. He passed up near-certain election to his father's House seat to run for the Senate in 1964. In a special election for the late Senator Estes Kefauver's seat, Baker lost by 50,000 votes to Democrat Ross Bass but piled up a record vote total for a Republican candidate in Tennessee.

Two years later, Baker came back to win a Senate seat by defeating former Democratic Governor Frank Clement by 100,000 votes.

Baker went on to two comfortable reelection victories, beating Democrat Ray Blanton in 1972 by some 275,000 votes and turning back a challenge by wealthy Democrat Jane Eskind last fall by more than 175,000 ballots.

In the Senate, Baker has focused more on the Republican leadership and organization than issues, although he took a top role in winning approval of legislation for revenue sharing.

Baker attempted to succeed father-in-law Dirksen as minority leader in 1969 and ran again in 1971, losing narrowly both times to Senator Hugh Scott of Pennsylvania. Baker won the post by one vote in 1977 by defeating Senator Robert Griffin of Michigan after Scott retired. He was re-elected earlier this year without opposition.

As GOP leader, Baker has cultivated friendships in all wings of his party. Three close Senate associates are liberal Charles Mathias of Maryland, moderate Bob Packwood of Oregon and conservative John Tower of Texas.

An admiring colleague says that Baker "does not lead by forcing people together and leading a charge, but leads more by nudging people from the side." A conservative senator, however, criticizes him for being too cautious and not partisan enough at times.

Baker's voting record over the years matches his philosophical image. The conservative Americans for Constitutional Action has given him a 67 percent rating while the liberal Americans for Democratic Action has scored him with 13 percent.

BLACK SUPPORT 30 PERCENT

Baker calls himself a moderate. He has opposed busing for integration of schools but has favored open housing and voted for the constitutional amendment giving congressional representation to residents of the District of Columbia. In Tennessee, Baker was able to capture some 30 percent of the black vote in his last Senate race.

Baker's support last year of the Panama Canal treaties remains a sore point among some conservative activists, who view it as a disloyal act to the Republican Party. Questioned about it now, Baker responds: "I think it was the right vote, not a Republican or Democratic vote. I was not pulling Jimmy Carter's chestnuts out of the fire."

On the stump, Baker is an articulate, but low-key, performer. He ad-libs most speeches, at times with his hands stuffed in his pockets. He rarely raises his voice—to the despair of some backers who think that he should be more animated.

PARTY UNITY STRESSED

Baker likes to tell jokes and is not reluctant to make himself the target. A theme that he keeps bringing up on the road is the necessity for party unity, reminding fellow Republicans of their disputes of the past: "The only way we can snatch defeat from the jaws of victory in 1980 is through intraparty savagery."

A favorite Baker sally on the issue of inflation: "It's the biggest unpunished crime in the country today."

At 5 feet 7 inches tall, Baker can get lost in a crowd. But he handshakes his way comfortably through a mob of voters, makes small talk with ease and has a good memory for names.

Baker is aware of another problem that he may have to confront in the campaign—gossip about his wife who is a reformed alcoholic and has publicly acknowledged her battle with the bottle. Friends report that she hasn't had a drink in more than three years.

Intimates say that Mrs. Baker blamed her drinking problem for her hubsand's being passed over for the GOP vice-presidential nomination at the Kansas City convention in 1976. Baker was widely known to be one of the finalists, but President Ford finally chose Senator Bob Dole of Kansas for what insiders say was Dole's strength in the farm belt.

"It was the low point of his political career," recalls a Baker aide.

Although a dedicated and ambitious politician, Baker doesn't spend all his time on public platforms or in smokefilled rooms. He is an avid photography buff who maintains darkrooms in his Washington and Huntsville homes and has exhibited his photographs, with older people and historical landmarks as specialties. He likes to turn the tables on the press and snap pictures of startled reporters when they approach him.

Baker makes frequent trips to his Huntsville home to stay in contact with Tennessee voters.

The Bakers have a married son, Darek, 26, working in a bank in Murfreesboro, Tenn., and a daughter, Cynthia, 23, who is an assistant television producer in Nashville.

Fighting a tendency to grow pudgy, Baker turns to tennis for exercise. He is a nonsmoker but will drink an occasional gin and tonic.

Associates report that the senator prefers to deal with staff members in person rather than by memorandum. He has a temper, aides say, but it usually is confined to quick bursts of anger when confronted by what he regards as sloppy work.

Most recent public-opinion polls rank Baker second or third among Republican presidential candidates—not bad, his strategists say, for a man who still has not officially announced.

While Baker's name is hardly a household word across the country, his supporters were cheered by a recent ABC News-Harris survey that showed the Tennessean edging Carter

46 percent to 45 percent in a head-to-head test.

Thats' just a sample, say the senator's backers, of why Republicans should select their kind of Southerner—Howard Baker—to lead them back into the White House in 1980. ●

ILLINOIS BRICK DECISION

● Mr. HART. Mr. President, S. 300, legislation designed to reverse the Supreme Court's decision in Illinois Brick Co. against Illinois, is once again on the Senate Calendar. I am a cosponsor of this bill and urge my colleagues to give it careful consideration.

In Illinois Brick, the Supreme Court held that indirect parties, such as State governments, do not have the right to sue and seek damages for violations of Federal antitrust laws. This decision has had serious consequences for State governments across the Nation. Its effect has been to put an end to a long and responsible history of State antitrust enforcement activity.

S. 300 is supported by all 50 State attorneys general. In a recent letter, J. D. MacFarlane, the attorney general of my own State of Colorado, summarized the ways in which the Illinois Brick decision affects the State of Colorado and its citizens. His letter vividly demonstrates what is at stake for every State in the Nation and every American taxpayer. This letter makes a compelling case for the passage of legislation to overturn Illinois Brick. I urge my colleagues, in the course of the debate on this issue, to consult with the attorney general of their own State to see just what their State has to lose if the Illinois Brick decision is not reversed. I request that Attorney General MacFarlane's letter be printed in the RECORD.

The letter follows:

THE STATE OF COLORADO,
DEPARTMENT OF LAW,
Denver, Colo., July 12, 1979.

Re S. 300 Illinois Brick Legislation.

Hon. GARY HART,
Washington, D.C.

DEAR SENATOR HART: I am writing to encourage your continued support for S. 300, the bill which you are co-sponsoring for the purpose of overturning the Supreme Court's 1977 decision in the Illinois Brick case. As you know, the Illinois Brick case, which took away from indirect purchasers the right to recover damages under the antitrust laws, has seriously impeded antitrust efforts at the state level. I want you to know exactly how serious that impact has been in the State of Colorado.

The State of Colorado has benefited significantly from its antitrust program. For example, in the Tetracycline litigation, in which the state and consumers within the state who purchased price-fixed drugs were all indirect purchasers, the state and consumers recovered $754,274.00. The unclaimed portion of the Colorado fund has been used for a number of years as a trust fund for drug rehabilitation within the state.

In the recent Master Key antitrust litigation the State of Colorado participated in a distribution of over $15 million to states and local governmental entities throughout the nation who had purchased, indirectly, master key systems and finish hardware for use in public buildings. Colorado was allocated $188,167.06, which was distributed to all public entities within the state. The distribution amounts ranged from a low of a few dollars to certain small towns up to significant amounts for school districts within the state (e.g., Jefferson County School District received $15,923.57, Denver schools received $13,707.69). Not one cent of these recoveries would have been possible had the Illinois Brick ruling applied to the Master Key case.

Fortunately, the case was settled during the trial in late 1976 before the Supreme Court decided Illinois Brick. Attached to this letter is a list of institutions of higher education and school districts in a great number of states which received significant amounts of money in the Master Key settlement. Each school district and institution of higher education listed in the enclosure would have been unable to recover a single dollar of its taxpayers' money if the same case were filed today.

The Illinois Brick rule significantly impacts on pending cases also. Faced with dismissal of all indirect claims in the Western Sugar Antitrust Litigation, Multidistrict Litigation No. 201, the State of Colorado together with nine other states recently entered into a settlement agreement with the defendant sugar companies. The amount of the settlement was significantly lower than we had anticipated would be the recovery at the outset of the case in 1975. However, the vast majority of states had no direct purchases at all, and Colorado had an extremely limited number of such purchases. Therefore rather than face virtually certain dismissal of the indirect claims by the judge in the case, we agreed to settle with the defendants at what we considered a significant discount on our anticipated return in that litigation.

We face similar problems in our Cement litigation and Fine Paper litigation. Thus far we have been able to stay alive, for example, in the Cement litigation because of a number of cost-plus contracts which are a significant exception to Illinois Brick. However, it is too early in either of those cases to determine whether or not we will be able to press our claims since a great number of our purchases are, at least in traditional terms, indirect purchases.

The Illinois Brick rule also significantly impacts upon the decisions our office makes regarding cases in which we will become involved. For example, the United States Department of Justice has in the past several months filed a criminal antitrust action against major manufacturers of gas meters, and another against manufacturers of water heaters. It goes without saying that the end users of each of these products—the persons who absorb the overcharge without having the ability to pass it on—are consumers. Yet there has not been one consumer action filed under the Sherman Act against these manufacturers because consumers always purchase these items indirectly, through retailers or other middlemen.

Let me summarize, then the ways in which the Illinois Brick rule significantly impacts the State of Colorado and its citizens:

(1) Colorado citizens and governmental entities who absorb overcharges from antitrust violations cannot recover those overcharges.

(2) Substantial recoveries from earlier cases which have been returned to consumers and local governmental entities can no longer be recovered in future cases.

(3) Antitrust enforcement at the state level, particularly against large manufacturers who sell into the state, is significantly weakened.

(4) Collusive activities which prior to Illinois Brick could have been stopped or would have been discouraged by the threat of treble damage actions by indirect purchasers may now flourish.

(5) An important inflation-fighting tool has been removed from those most likely to use it.

(6) Pending cases have been seriously affected and in some instances compromised at far less than they might have been without the advent of Illinois Brick.

It goes without saying, of course, that every state with an active antitrust program is suffering the same disabilities as a result of Illinois Brick.

It is important to emphasize that reversal of Illinois Brick will simply return the law to what it was prior to June, 1977. It is not true that S. 300 creates a novel and horrendous anti-business procedure. There is nothing new about injured parties recovering damages from price-fixers—no matter where the injured party appears on the chain of distribution. Innumerable cases during the sixty-five years of the Clayton Act demonstrate that far from being a novel procedure indirect purchaser suits have a time-worn heritage.

I appreciate your strong support for this important legislation.

Very truly yours,
J. D. MACFARLANE,
Attorney General,
State of Colorado.●

TIME BOMB

● Mr. HUMPHREY. Mr. President, we are all concerned and saddened by the tragedy of hundreds of Utah citizens who were exposed to heavy doses of radiation fallout during tests of atomic bombs by the Government of the United States in the 1950's. During the recent congressional hearings before the Subcommittee on Health of the Senate Judiciary Committee, many of these great Americans testified to what had befallen them and reiterated their continued belief in the good of our Government and country.

Senator ORRIN HATCH, my gracious colleague who works so long and hard to represent the good people of Utah, recently wrote an article that appeared in the Washington Post which dealt with the character of these people who have suffered so much. I was moved by the words spoken by the fallout victims, by their sincerity and patriotism, and I was moved as well by the empathy and caring so well expressed by my colleague as he pondered the sacrifices and resolution of his fellow Utahans. I commend this article to all of my colleagues.

The article follows:

TIME BOMB

The radiation issue drags on.

Last week, those of us on the health subcommittee of Sen. Edward Kennedy's Judiciary Committee held further hearings on the problem. Everyone is doing their best. Yet we have not yet satisfactorily resolved what I personally find the most distressing political question of my career.

I usually get up early. But at 5 a.m. on April 20, even my metabolism was unsure about the new day. It wasn't helped by technical difficulties with the feed to ABC's "Good Morning America" show in New York, which had us waiting on camera for 25 minutes in KTVX's Salt Lake City studio, grimly contemplating the subject of the upcoming interview—the increasing evidence that fallout from atomic weapons tests in Nevada in the 1950s has been responsible for abnormal rates of cancers and leukemia in southern Utah.

On the show with me was Elmer Pickett, a farmer from the small town of St. George, Utah. St. George has been hard hit. I had held a town meeting there three days earlier, and knew Pickett had lost nine members of his family to these diseases.

Yet when the program began and host Tom

Schell finally turned to him, Pickett leaned forward and with great natural dignity emphasized that he still believed there was a need for the nuclear tests. Obviously, things had gone wrong. But he wanted it understood that he was not bitter against America, the greatest country in the world.

It is one thing to read, in the clinical language of the Atomic Energy Commission's Fallout Branch, that "if, for certain purposes, the RBE [Relative Biological Effectiveness] of alpha rays is taken to be 10, this implies that, for these processes, an alpha ray dose of one-tenth Rad will produce the same degree of biological effect as an X-ray dose of one Rad . . . Dose in 'Rem'=Dose in Rad x RBE. . . ."

It is another to see consecutive sections of your audience break down in tears as the terminal sufferings of their loved ones, who were in some cases exposed in one day to 12 times the millirems now considered permissible for a whole year, are recalled from the witness stand.

The issue is particularly agonizing for conservatives like myself. (In 1978, the quarterly magazine "Politics" ran a survey and awarded me the ambiguous accolade of being one of the five most conservative senators). For years, we have advocated a strong national defense. We have instinctively tended to favor the tough-minded practical and economic case for nuclear power over the frequently emotional counterarguments. Now, the contentions of those we dismissed have apparently returned to haunt us, in peculiarly horrible form.

Even worse, we can see no easy escape from the nightmare. Our need for energy cannot be solved without nuclear power. The defense fears of the early 1950s, when weapons testing began, were very real. Contemporary scientific opinion was sincerely mistaken about the risk—and some risk is unavoidable, as it is in most human activity. The sort of bureaucratic coverup that seems to have continued under every administration since then, while appalling, cannot ultimately be eradicated without a change in the nature of men—or, at any rate, of civil servants.

I have proposed blanket compensation for victims of cancer in the affected area. This is admittedly a profligate, Great Society-type approach. It has been criticized, fairly, by those who point out that it is impossible to distinguish between radiation-caused cancers and ones that would have occurred anyway. I find myself on the left of permanent officials at HEW, a rare moment that is disorienting to all of us.

Even my press aide, the 1972 McGovern delegate of whom we are very proud—we keep him in a special glass display case, and he worries about the environment—has reservations. These, incidentally, are shared surprisingly widely in Utah itself.

Yet how else can we treat a community of Elmer Picketts? For, despite all the publicity, southern Utahans have remained calm. They are not even making any concerted demand for help with their medical bills, asking only that a medical center specializing in cancer be established nearby. In an era when patriotism has been unfashionable, they still remember their country. In a society where importunity is institutionalized and rewarded, they have remained patient. Other nations need whips and scorpions to inspire this sort of social discipline.

Forget about the ideology and the agitated politicians. The forbearance of ordinary Americans in the face of all their government's vacillations and mistakes is on any reckoning an awe-inspiring phenomenon that truly distinguishes this country.

At the climax of "The Bridges at Toko-Ri," James Michener's powerful novel of the Korean War, when the Navy pilot is shot down and killed, in a war he questions, of which his countrymen are barely aware, his admiral asks rhetorically, "Why is America lucky enough to have such men? They leave this tiny ship and fly against the enemy. Then they must seek the ship, lost somewhere on the sea. And when they find it, they have to land upon its pitching deck. Where did we get such men?"

In the stoicism with which these men and women of southern Utah are facing the most profound personal tragedies, we see again the same ultimate political mystery.●

SOVIET SALT POLITICS

● Mr. KENNEDY. Mr. President, the current debate over the SALT II Treaty has thus far paid too little attention to Soviet SALT politics. Some seem to feel that the only relevant political process on SALT takes place here in the United States.

In a recent op-ed article in the Washington Post, former CIA Director William Colby effectively counters this self-centered view. Mr. Colby points to Soviet concessions during the SALT II negotiations and states that the new SALT Treaty "is the culmination of a series of mutual compromises and concessions, to which the Soviets contributed in substantial measure." He warns, I believe correctly, that a failure to ratify SALT II could seriously affect a future leadership transition in the Soviet Union.

Failure of U.S. ratification thus could open a political interstice in which strategic weapons would be without agreed controls during a Soviet succession struggle. Wholly new policies and positions could be advocated by contenders for power and for support within the Soviet leadership. An agreement fully ratified before the passing of Brezhnev could, of course, be subject to actual if not legal repudiation by his successor, but that would be a much more difficult and dangerous defiance of American power than drastic proposals for Soviet "amendments" of a text still not formally adopted by the two governments.

Mr. President, I request that this thoughtful and important article be printed in the RECORD.

The article follows:

SOVIET SALT POLITICS

(By William E. Colby)

Weapons systems, military forces and intelligence machinery are the stuff of SALT II. Debate rages over each of these to the bewilderment of the public and the delight of the experts. But there is another dimension to the debate, which is as important as any single detail. The political background of the treaty, within the Soviet Union and in the international arena, must be factored into the eventual decision on ratification, amendment or rejection. Only by including this dimension can its individual details be given their proper weight.

The Soviet Union's political process is certainly different from the American. But different interests and points of view do exist in the Soviet system, and there are procedures for resolution of those differences within the bureaucracy, the party apparatus and the leadership councils. From the record of negotiations of SALT II, it is clear that a number of balancing trade-offs took place in the Soviet negotiating position and in Soviet acceptance of the final version. Hard-headed Soviet insistence on retaining the heavy missile was balanced by Soviet acceptance of equal aggregate force totals, despite earlier arguments that our Europe-based and allied nuclear forces that can strike the U.S.S.R. should be included in the American count. American insistence on counting rules was accepted despite their penalizing some single-warhead Soviet missiles and launchers by counting them as multiples because their prototype was so tested.

Some Soviet concessions were more apparent than real, such as the agreement to abandon the mobile SS16, which was apparently a dud. But others will require substantial changes in established Soviet practices, such as the destruction of 250 existing Soviet launchers, the limit to one new missile instead of the usual four per generation, the exchange of data on forces and test notifications despite longstanding Soviet paranoia about secrecy, and the restriction of the heavy missile to 10 warheads rather than allowing it to be improved to carry its full capability of 30 or more. The final text also represents Soviet acceptance of future improvements in America's forces through the MX missile and cruise missiles, the latter compromise balancing American agreement that the Soviet Backfire not be counted, with limitations imposed on each side's weapon.

These Soviet concessions reflect a Soviet political decision that the benefits of SALT II to the U.S.S.R. outweigh them. The primary benefit was the cap it put on the American arms race and the danger that the American sleeping giant might arise and outdistance the Soviets in this technology in the same dramatic way it did in the 1960s space race. Recognition as an essentially equal superpower also represents a long-sought Soviet goal, and SALT II's numerical and qualitative provisions make this plain.

But a sense of the bargaining that occurred among Soviet decision-makers can be seen from the Soviet reaction to President Carter's March 1977 suggestion to "amend" the agreement reached in 1974 at Vladivostok to reduce the Soviet heavy-missile force from 300 to 150 launchers. The reaction was sharp and harsh, showing that the 1974 trade-offs were viewed as firm rocks in the negotiated balance, not subject to later rearrangement. Americans blithely contemplating similar amendments now should recall the criticism of the naiveté and brashness of the American diplomacy in that instances.

The final text of SALT II reflects these compromises made within the Soviet government, just as it reflects the compromises made within the U.S. government. The treaty before the Senate thus does not satisfy every Soviet interest, as it does not satisfy every American. But it is the culmination of a series of mutual compromises and concessions, to which the Soviet contributed in substantial measure. The Soviet political consensus this reflects is a fact that must be weighed as the Senate now judges the treaty.

Ratification, of course, is different subject in the two countries, but the review required for Senate ratification could find an analogy on the Soviet side if the treaty is not ratified and an obviously ailing President Brezhnev dies. The succession crisis then would seize the Soviet leadership. Previous successions suggest that this would produce an interim period of confusion and maneuvering, followed by the rise a few years later of a new leader and the possible adoption of new policies.

Failure of U.S. ratification thus could open a political interstice in which strategic weapons would be without agreed controls during a Soviet succession struggle. Wholly new policies and positions could be advocated by contenders for power and for support within the Soviet leadership. An agreement fully ratified before the passing of Brezhnev could, of course, be subject to actual if not legal repudiation by his successor, but that would be a much more difficult and dangerous defiance of American power than drastic proposals for Soviet "amendments" of a text still not formally adopted by the two governments.

American allies, the Soviet Union and its allies and the uncommitted nations closely observe the firmness and competence of the American management of the strategic arms relationship between the United States and the U.S.S.R. Brinksmanship and provocation would draw criticism, but indecision and weakness would create doubts. As concern has grown over American leadership in the fields of energy, international finance and assistance to embattled friends, so disarray and lack of an American consensus in the strategic nuclear field could cause qualms about basic alliance relationships and could bring about shifts in the center of political gravity from the United States toward the U.S.S.R.

As the debate moves to include these broad political dimensions beyond the details of SALT II, it should also stimulate consideration of the other problems America faces with respect to the Soviet Union. These must include our conventional-force imbalance and the problem of dealing with Soviet subversion and Cuban proxies. We must also face up to the need for firm support of our friends and allies against outside siren songs or internal turmoil, despite cries for our noninterference.

This dimension need not "link" all our problems with the Soviets to SALT II and make it hostage to our satisfaction across the board. But it should alert us to the need to fashion appropriate policies, programs and weapons to protect ourselves and our allies at each level of threat. In this larger political dimension, the benefits of SALT II can be better appreciated for the talents and resources it will free to devote to other purposes. The "small step for man" presented in SALT II can then be firmly taken by Americans as a component of a "giant step for mankind" that a stable U.S.-U.S.S.R. relationship could produce.●

CAPTIVE NATIONS WEEK

● Mr. SCHWEIKER. Mr. President, 20 years ago, President Eisenhower instituted the celebration of Captive Nations Week as an annual tribute to the peoples of Eastern Europe who were forcibly subjected to Soviet-style totalitarian communism and denied the development of their cultural identities. Belying their official designation as "people's democracies," Soviet satellite states have systematically suppressed the human rights of their citizens and deprived them of those political liberties central to genuine democracy. Attempts to cast off the stifling yoke of tyranny or otherwise promote gradual social and political reform have been brutally crushed by governments who perceive in these yearnings an unacceptable challenge to their own legitimacy. Hungary in 1956 and Czechoslovakia in 1968 stand as but two testaments to the valor of those willing to suffer in pursuit of freedom as well as to the ruthlessness of those desperate to eradicate it.

Nevertheless, it is a revealing commentary on the resilience of this undying quest for a liberalized system—and the bankruptcy of the Communist system itself—that, even as the forces of repression have grown more pervasive and sophisticated in their application, the spirit of freedom is not destroyed but rekindled. While the West seems transfixed by the specter of enhanced Warsaw Pact military power in Europe, a Polish Pope elicits frenzied acclamations in his native land by observing simply that no political regime can deny the spiritual essence of freedom. The aspirations embodied in the human rights provisions of the Helsinki Final Act cannot be restrained by cynical governmental resistance to honoring international obligations.

On this 20th anniversary of the proclamation of Captive Nations Week, the United States must reaffirm its commitment to encouraging political liberalization in Eastern Europe and respect for basic human rights. Indeed, the progress made to date in relaxing state control appears an inevitable concession to the intensity of popular feeling and expression. Unlike the pious but unrealistic declarations of the past concerning physical rollback of the Iron Curtain, the liberation we see unfolding involves the more immediate and effective manifestation of an unfettered will to survive in freedom. No measure of physical oppression, however ruthlessly enacted, can quell the independent spirit nourishing hopes for a life free of coercion. The governments of Eastern Europe contemplate with trepidation the restiveness of ethnic minorities and others whose indomitable yearning for independence threatens a supposedly tightly woven political fabric. Each act of repression only encourages further defiance and inflames nationalist sentiment.

In commemorating Captive Nations Week, we honor our own commitment to democratic pluralism and the extension of political liberties to those unjustly deprived thereof. Beyond a natural defense of the democratic concept, our concern for the welfare of "captive" peoples reflects an appreciation of the enormous contributions made toward strengthening our own democracy by those Eastern Europeans who emigrated to our shores. Our efforts today testify to the courage of those "prisoners of conscience" who share with us the hope that the chains of political and cultural bondage will someday be broken and the freedoms we cherish will be realized.●

THE FRAUD HOTLINE

Mr. SASSER. Mr. President, I wish to take this opportunity to report to my colleagues on the progress of the fraud hotline established last January.

My colleagues will recall that this hotline was established at my request, and with the strong support of the former ranking member of our Legislative Appropriations Subcommittee, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER).

The hotline was installed at the General Accounting Office with the cooperation of Comptroller General Elmer Staats.

I first made the suggestion for the hotline at a December 4, 1978 hearing which we conducted on fraud in Government.

The hotline allows any concerned citizen with knowledge of fraud and abuse—in any Federal program—to report that knowledge to a General Accounting Office Special Task Force for the Prevention of Fraud. The anonymity of any caller will be respected—the name of the caller need not be given to the task force. In 62 percent of the cases, the caller has chosen to remain anonymous.

Mr. President, I ask unanimous consent that the fraud hotline number be printed in the RECORD.

There being no objection, the number was ordered to be printed in the RECORD, as follows:

FRAUD HOTLINE

The national toll free fraud hotline is 800-424-5454. In the Washington, D.C., metropolitan area the number is 633-6987.

Mr. SASSER. Mr. President, I ask unanimous consent that a description of the GAO fraud hotline procedures be printed in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

GAO TASK FORCE HOTLINE PROCEDURES

Each caller on the GAO "Fraud Hotline" is interviewed following the general format of a data collection form, with a separate control number assigned to each call. This will be used to track those allegations which appear substantive through later verification of facts and investigation if warranted. The type of information GAO is attempting to record is:

Federal agency or source of Federal funds/material involved in the allegation.

Specific locations where the action is alleged to be taking place.

Recurring or one time?

Length of time activity has been going on.

Extent of activity (some idea of number of people involved).

Estimate of dollar value involved.

The GAO Task Force will provide an initial screening of the calls to eliminate those which are obviously non-substantive. Those which appear to be substantive but relate to program effectiveness and efficiency rather than fraud will be referred to the operating divisions of GAO for consideration in their audit work. Those which appear to be allegations of fraud will be coordinated with the appropriate agency Inspector General for investigation. In the event the agency Inspector General is unable to respond in a timely manner because of manpower limitations or priority of on-going work, GAO will perform a verification of facts relative to the allegation utilizing regional offices. This data will be evaluated by GAO and a decision made relative to referral to the Department of Justice for possible prosecution.

FIRST 6 MONTHS PROGRESS

Mr. SASSER. Mr. President, during the first 6 months of operation—the period of January 18 through July 23, 1979—over 6,000 allegations had been written up by GAO Task Force personnel.

The task force is now in the process of classifying the 6,000 allegations—as to materiality, agency, and program involved, and geographic location.

Initial computer analysis of the first 5,437 allegations is complete. The follow-up on these hotline leads has begun. Additional calls are being received daily, and will be handled by the same process.

MIX OF CALLS

Of the 5,437 allegations reviewed so far, 3,611 or 66 percent appear to have sufficient substance to merit further consideration for audit or investigation.

(The other 34 percent relate to non-Federal activities or lack sufficient factual information to justify further consideration for audit or investigation at this time.)

The 3,611 allegations that merit further consideration for audit or investigation have been received from 50 States, the District of Columbia, and overseas locations.

Mr. President, I ask unanimous consent that a State-by-State listing of the locations of these 3,611 hotline allegations be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

Location of reported activity

Washington, D.C	207
Alabama	72
Alaska	12
Arizona	50
Arkansas	47
California	366
Colorado	74
Connecticut	21
Delaware	6
Florida	180
Georgia	108
Hawaii	7
Idaho	17
Illinois	97
Indiana	53
Iowa	31
Kansas	18
Kentucky	56
Louisiana	59
Maine	18
Maryland	87
Massachusetts	73
Michigan	121
Minnesota	26
Mississippi	52
Missouri	120
Montana	23
Nebraska	17
Nevada	10
New Hampshire	16
New Jersey	74
New Mexico	25
New York	177
North Carolina	68
North Dakota	16
Ohio	180
Oklahoma	54
Oregon	27
Pennsylvania	177
Rhode Island	14
South Carolina	20
South Dakota	19
Tennessee	158
Texas	133
Utah	15
Vermont	1
Virginia	146
Washington	86
West Virginia	30
Wisconsin	44
Wyoming	2
Overseas	18
Missing State Codes	84

AFFECTED FEDERAL AGENCIES

Mr. SASSER. Mr. President, the 3,611 hotline allegations that have been selected for further consideration for audit or investigation affect virtually every major department or agency in the Federal Government. We have compiled a list of the affected Federal agencies. I ask unanimous consent that an agency-by-agency listing of the affected Federal agencies be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

LIST OF AFFECTED FEDERAL AGENCIES

Department of Agriculture	132
Department of Commerce	41
Department of Defense (other than Air Force, Army, Navy)	96
Department of the Air Force	120
Department of the Army	182
Department of the Navy	199
Department of Energy	42
Department of Health, Education and Welfare (other than SSA, OE)	299
Social Security Administration (Welfare SSI)	501
Office of Education	39
Department of Housing and Urban Development	263
Department of the Interior	126
Department of Justice	92
Department of Labor	331
Department of State	16
Department of Transportation	102
Department of the Treasury (other than IRS)	51
Internal Revenue Service	236
Community Services Administration	36
Environmental Protection Agency	60
General Services Administration	98
National Aeronautics and Space Administration	17
Small Business Administration	28
Tennessee Valley Authority	18
United States Civil Service Commission	19
United States Postal Service	134
Veterans Administration	184
All other	149

TYPES OF ALLEGATIONS RECEIVED

Mr. SASSER. Of the 3,611 allegations selected for further consideration, about 38 percent are instances of apparent mismanagement. Generally, these allegations will be dealt with through the audit process rather than the investigative process.

In contrast, the remaining 62 percent—2,249 allegations—appear to be instances of intentional wrongdoing or fraud.

Mr. President, I ask unanimous consent that a table and a short narrative categorizing the 2,249 allegations of intentional wrongdoing be printed in the RECORD.

There being no objection, the table and narrative were ordered to be printed in the RECORD, as follows:

	No. of Allegations	Percent of total
Participant category:		
1. Federal employees only	693	30.8
2. Federal employees in conjunction with others	212	9.4
3. Federal contractors or grantee organizations	523	23.3
4. Corporate recipients of Federal financial assistance	11	.5
5. Individual recipients of Federal financial assistance	500	22.2
6. Other individuals or corporate entities	310	13.8
	2,249	100.0

The "Federal employees only" category included 84 allegations of theft, 68 allegations of private use of government property, 178 reports of employee working hour abuses, 178 reports of improper financial transactions, and 185 reports of other improper activities.

The "Federal employee in conjunction with others" included 122 allegations of a bribe or kickback having been paid, 3 allegations of extortion and 87 miscellaneous other allegations.

The "Federal contractor/grantee" category included 208 allegations of improper expenditure of Government grant funds, 47 allegations of contract nonperformance, 52 reports of the theft of Government funds or property and 216 other allegations of various natures.

The category "Corporate recipients of Federal financial assistance" involved 11 instances of improper receipt of subsidy funds.

The "Individual recipients of Government financial assistance" included 133 allegations of welfare cheating, 95 of cheating on social security benefit eligibility, 94 of collecting inappropriate disability benefits, 35 of cheating on veterans benefits, 24 instances of food stamp cheating, 38 of medicare/medicaid cheating and 81 miscellaneous allegations.

The sixth and final category, "Other individuals or corporate entities" included 186 allegations of personal and corporate income tax cheating and 124 other allegations of improper activity.

WIDESPREAD REPORTS OF WRONGDOING

Mr. SASSER. Mr. President the instances of alleged intentional wrongdoing is widespread throughout the Federal Government. Intentional wrongdoing has been reported involving the funds of every one of the 12 Cabinet departments of the Federal Government. These cases involve activity in all 50 States and the District of Columbia.

REFERRAL OF CASES TO AGENCY INSPECTORS GENERAL

Mr. President, we are now getting close to the bottom line. I hope my colleagues will be encouraged to hear that the General Accounting Office has already referred 1,174 of these cases to agency Inspectors General for their action.

What this means is that there are 1,174 cases of intentional wrongdoing now in the hands of Inspectors General—cases that probably would never have been investigated had it not been for the establishment of the fraud hotline in January 1979.

LIST OF REFERRALS

I ask unanimous consent that an agency by agency list of the 1,174 cases that have been referred to agency Inspectors General or their equivalents be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD as follows:

Department or agency and cases referred

Health, Education and Welfare	284
Labor	141
Housing, Urban Development	171
Defense	154
IRS	76
Veterans Administration	56
General Services Administration	58
Agriculture	43
Post Office	26
Interior	27
Environmental Protection Agency	23
Transportation	19
Energy	13
Commerce	11
Justice	15
Treasury	16
Small Business Administration	8
NASA	7
Law Enforcement Assistance Administration	11
GAO	10
Community Services Administration	4
Office of Manpower and Budget	1
Total referrals	1,174

In addition, 15 cases have been referred directly to the Department of Justice of their investigation or prosecution.

Mr. President, I urge the various agency Inspectors General to actively follow these cases to their conclusion.

Mr. President, I want to extend my thanks to the Comptroller General, Mr. Elmer Staats, who has aggressively pursued our suggestion for a nationwide hotline.●

HEALTH CARE

● Mr. DURENBERGER. Mr. President, sometimes our best intentions go awry. Try as we might to build a better life for all citizens, we occasionally find ourselves with egg on our faces and asking, "What went wrong?"

Such is too often the case with our confusing system of health care. The irony and waste of our present system is not hidden in pages of statistics. Examples abound in our everyday world. Just ask 66 Roman Catholic priests in Spokane, Wash., who are required by a Supreme Court decision to pay for maternity insurance as part of their group policy.

The changes in Roman Catholicism during the past two decades have been dramatic. Among other innovations, we have a Polish Pope and English has replaced Latin. I will guarantee you, however, that maternity insurance for priests is as unnecessary as a gold watch for extended service for members of President Carter's Cabinet.

Our health care system too often treats everyone the same. Consumers of health care have too few choices. For most of us our health care costs are covered by a single group policy offered by our employer or by medicare. The options are few. We pay for benefits we do not need, as in the case of the 66 priests, or we are unable to obtain benefits that are necessary.

The results are unnecessary expenses or inadequate coverage for consumers and extra costs for employers and the Government.

On July 12 I introduced the Health Incentives Reform Act of 1979 that would change this system. Under this proposal, consumers would have the option of choosing the best coverage for their situations. Their benefits would be no more and no less than they actually need. Once we have given consumers the ability to choose the plan that suits their purposes, we have established a system in which all members of the health care industry are competing for the available business. Time and again we have seen the effects of competition in the marketplace—better quality service and lower costs.

An important goal of the Health Incentives Reform Act is to make the consumer's choice a knowledgeable one. According to this plan, most consumers will be able to select from among three competing options—each one printed in easy-to-understand language.

Mr. President, the inherent waste in our present system must be eliminated. As a reminder of the state of our current system, I ask that the story of the 66 priests as related in the July 27 Washington Post be printed in today's RECORD.

The article follows:

POLICY FORCES PRIESTS TO PAY FOR MATERNITY

SPOKANE, WASH., July 26.—The comptroller of Spokane's Roman Catholic Diocese says he nearly "fell off his chair" when he learned that all 66 priests covered on a group medical policy now have to pay 30 cents a month extra—for maternity benefits.

The priests are required to pay because a U.S. Supreme Court antidiscrimination ruling mandates that employers holding a group medical policy covering 15 or more workers must pay for maternity benefits for all employees, the same coverage as for any other illness.

Since there are 66 priests on the diocesan policy, they must pay for the maternity benefits even though they do not need them.

"It's crazy. I just about fell off my chair. It is silly to be paying for benefits we will never collect," said the Rev. Theodoric DeJong, diocesan comptroller. "We are paying something for nothing. It's not so much the money, it's the principle of the thing."

"It would have to be a double miracle," DeJong said jokingly. "First of all a priest would have to have a baby, and then—because of the celibacy vows—it would have to be an 'Immaculate Conception'."

The priests were covered by a plan that excluded maternity coverage until April 1977 when Blue Cross of Washington and Alaska incorporated the diocesan policy with policies covering about 1,600 other groups in a community rating package.●

NATIONAL HEALTH INSURANCE AND RURAL AMERICA

● Mr. BAUCUS. Mr. President, the United States Department of Agriculture just released a report entitled "Health Care in Rural America." This report confirms that nonmetropolitan areas have fewer health resources available to them than metropolitan areas. Nonmetropolitan residents have greater unmet health needs than metropolitan residents. These special needs include larger aged populations, lower incomes, hazardous occupations, and lower educational levels.

Mr. President, we are failing to improve conditions for those areas greatest in health needs—this Nation's rural areas.

Congress will continue to debate the issue of a national health insurance program. The Finance Committee, of which I am a member, will be intimately involved with the development of some form of program designed to provide greater health insurance coverage to Americans.

Central to the discussion over the parameters of expanding the Federal Government's role in health care is the issue of cost and affordability. How much can we afford to invest in a new venture and is our goal to make health care financially affordable to every United States resident?

A less obvious issue, but just as crucial, is improving the availability of health care to those located in medically underserved rural areas. If these residents do not have access to basic primary health services, then all the money in the world will not improve their health status.

The Health Care in Rural America report demonstrates once again that we have failed to attract and retain health care providers in rural areas in an effort to raise the health status for rural America.

This fact, this reality, must be a key component of our dialog over enlarging the Government's participation in health care. I would urge that any new program address the acute health care shortages for rural communities.●

NOTICES OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Murray Zweben, Parliamentarian of the Senate, to participate in the visitors program of the press and information section of the Federal Republic of Germany during the period from August 20 to September 1, 1979. It has been determined that Mr. Zweben's travel, at the expense of the Government of the Federal Republic of Germany, is in the interest of the Senate and the United States.

Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Frank Bray of Senator HUMPHREY's staff and Nancy Wolicki of Senator DECONCINI's staff, to participate in a program sponsored by a foreign educational organization, Tunghai University, Taipei, Taiwan from August 10 to August 18, 1979. It has been determined that traval by the above-named individuals, at the expense of the University, is in the interests of the Senate and the United States.

Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics had received a request for a determination under rule 43 which would permit Abe Shulsky of Senator MOYNIHAN's staff, to participate in a program sponsored by a foreign educational organization, Soochow University, Taipei, Taiwan from August 5 to August 13, 1979. It has been determined that Mr. Shulsky's travel at the expense of the University, is in the interest of the Senate and the United States.●

BROAD SUPPORT FOR TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, a short while ago my colleague, Senator METZENBAUM, inserted in the RECORD numerous editorials published in newspapers throughout the country urging congressional action on trucking deregulation. At a time when Members of Congress are being lobbied extensively by representatives of the trucking industry and the Teamsters Union, it is important that we realize the overwhelming support for deregulation among opinion leaders in the media and in vast segments of the public.

Numerous additional editorials have appeared in recent months which underscore the importance of this issue and its broad public support. In the coming days, I will be inserting in the RECORD, for the benefit of Members and their staff, these editorials and other materials which indicate why decisive congressional action is so urgently needed.

The editorials I am today inserting are from the States of Alabama, Arizona, California, and Colorado.

Mr. President, I ask that they be printed in the RECORD.

The editorials follow:

[From the Huntsville (Ala.) Times, June 29, 1979]

ANOTHER DEREGULATION

Just as deregulation of airlines brought immediate savings to American travelers, the deregulation of the trucking industry could bring widespread changes to both manufacturers and consumers, and certainly to the industry itself.

Some of the regulations that govern the trucking business are simply archaic and should have been repealed years ago. For instance, some trucks can haul two gallon cans of paint but cannot transport five-gallon cans of paint. One truck line can haul pineapples only if it carries a load of bananas at the same time.

Truckers often drive hundreds of miles with their trucks empty simply because another line has the authorization to travel over the same highway with goods. The regulations of the Interstate Commerce Commission, like those of the airline industry, have tended to restrict and stifle the trucking industry and to maintain artificially high rates.

President Carter's suggestions for dropping many of the federal controls on the trucking industry, outlined Thursday afternoon, will alleviate some of the problems truckers have been protesting for the last several weeks. There is no reason why the trucking industry should be exempt from competitive rules that govern other industries.

In almost any situation in which the government seeks by deliberate regulation to protect some industry from imagined ills or faults, the consumer ends up footing the bill. The greater flexibility offered in the trucking business as a result of the proposed changes could reduce the cost of transporting thousands of products. That savings could end up benefitting the consumer who is now paying for the archaic rules the ICC has been enforcing.

The deregulation of the trucking industry follows promises made by Carter when he was campaigning to make competition—and not government protection—a major part of American business life. The latest proposals are sound and should be implemented.

[From the Phoenix Republic, Mar. 10, 1979]

ON THE RIGHT TRACK

Unlike the airlines industry, which fought deregulation, and the trucking industry, which is fighting it now, the nation's railroads have launched a drive to get out from under the iron hand of the government.

The Association of American Railroads has come up with a deregulation plan that goes far beyond anything the Carter administration has contemplated.

The railroads were largely responsible for the creation of the Interstate Commerce Commission in the first place, and for years, they prospered under regulation, but they have since fallen on hard times. They are now the sick man of the U.S. economy.

During the past decade, the rate of return on the investment of Class I railroads in transportation property has averaged 2.8 percent. This is not enough to enable them to maintain adequate service. In the Northeast, the once mighty Penn Central and five other Class I railroads are in bankruptcy.

Not all the railroads' troubles are the result of government regulation. Bad management, surrealistic work rules, imposed by the unions, competition from trucks, airlines and barges, and changes in the economy also play a part.

However, the majority of the members of the AAR have finally come to the conclusion that getting rid of regulation would be a major step toward solving their other problems.

The AAR plan calls for a major relaxation of the ICC's control of railroad rates, freight-car operations, efforts to abandon unprofitable business, and plans for mergers.

The railroads believe this would make it possible to integrate on a more rational basis, and thus save money while at the same time improving service. This would make them more capable of competing with trucks and barges.

They also believe it would result in a rate structure based on economic rather than political considerations.

The AAR plan is bound to run into opposition from small towns, which believe they might lose rail service, from small shippers, who fear they would have to pay higher rates from barge owners and from truckers. Some railroads, which look on the ICC as a security blanket, also will fight it.

In addition, the administration may find some of the specific AAR provisions objectionable.

The small towns can switch to trucks for transportation. The small shippers will suffer, true, but there's no valid reason for a rate structure that, in effect, subsidizes them. Nor is there any valid reason for preventing the railroads from competing with other forms of transportation on a more equal basis.

A healthy railroad system is essential to the economy. Some of the specific AAR proposals may not be wise, but the railroads are on the right track.

[From the Phoenix Gazette, July 2, 1979]

TRUCKING TRAUMA

Trucks are as big in the news as they are on the highways. In the midst of a nationwide independent truck strike, President Carter and Senator Kennedy shifted into high promotion gear on their proposals to deregulate the trucking industry.

While there are connections between the strike and deregulation, they are basically separate issues. The shutdown by the independent truckers is an explosion of protest over fuel policies.

Deregulation is a long-simmering issue, brought to boil by the success of deregulation of the airlines last year.

By breaking the distribution link in the nation's food supply chain, the truck strike poses the more pressing danger. This break must be repaired quickly by Carter and the Democratic-controlled Congress lest it wreck the economy.

Deregulation of the trucking industry is not of such immediate concern. But, in the long run, it is as essential to maintaining the economy in good running condition as is ending the truck strike emergency.

There's a grand irony to the coincidence of these two trucking traumas. Carter, Kennedy, et al, not known as defenders of the free enterprise system, want to deregulate trucking for the very good reason that it will foster competition in the marketplace, tending to produce lower prices and better services.

But this same crowd of Democratic leaders has been regulating fuel supplies and prices with a passion. The result has been the mess that has led frustrated independent truckers to stage their massive, self-destructive protest.

Let Carter, Kennedy and Congress get together and demonstrate their belief in the value of deregulation by ending their efforts to control energy supplies and prices. A free market would soon sort things out.

[From the Fairfield (Calif.) Republic, June 28, 1979]

PUBLIC INTEREST

It's hard to believe that the U.S. government is interested in fighting inflation and conserving fuel when its own regulations can force a truck bound from Denver to Albuquerque to go by way of Salt Lake City—a 300-mile detour. But that's the kind of costly and wasteful nonsense that occurs with the blessing of the Interstate Commerce Commission.

President Carter has now added deregulation of the trucking industry to the agenda of the 96th Congress. It should get a high priority to bring its benefits to bear as quickly as possible. The president estimates that over-regulation and lack of competition in truck transportation are costing consumers as much as $5 billion a year.

Among other things, the deregulation plan would allow easier entry into the trucking business, and provide greater freedom in raising and lowering rates. It would end many restrictions on what trucks can carry, permit them to take the most direct routes to a destination, and lift the rules which often force trucks into long "deadhead" runs carrying no cargo.

The case for a free, competitive market in the truck industry speaks for itself, but major trucking companies and the Teamsters Union, which represents most of their drivers, are digging in for a fight. Deregulation would end route monopolies and the legalized price-fixing which protect established operators. On the other hand the president's plan is supported by independent truck operators who stand to gain from being able to comepte with bigger companies.

[From the Los Angeles Herald-Examiner, June 26, 1979]

LET'S KEEP ON TRUCKIN'

"Cheaper crude or no more food": we've heard the song, now we're learning what it really means. It means that the nation's independent truckers, pushed to the wall by soaring fuel prices and an unresponsive regulatory system, have decided to deny food—not to the Arabs but to us.

This simply does not make sense. The truckers are understandably incensed with the high cost of diesel, and with the Interstate Commerce Commission's (ICC) inability to approve rate changes with the same speed the Arabs are raising the price of fuel.

The price problem is compounded by short diesel supplies, which add costly hours to trips and thus eat up even more profits. The obvious solution to the problem is to dismantle the maze of regulations which governs the trucking industry. Those regulations date back to—and reflect the leisurely pace of supervision warranted by—an era of 2 percent inflation, 70-mph speed limits, gas wars and nickel coffee. But those days are gone—and with them have gone the rationale and relevance of a regulated trucking industry.

The situation demands the kind of reforms presented to Congress by President Carter in his truck deregulation package. Carter's improvements would end authorized price-fixing in the regulated sector of the market; would make it easier to get into the business; would facilitate fluctuating rate changes resulting from increased competition; and would eliminate some of the industry's more Byzantine practices.

Instead of constructively lobbying for deregulation, the independents are goring themselves and the economy by going on strike. The strike isn't going to affect OPEC one way or the other; just as Washington's order to change diesel priorities isn't going to make more gas available. Meanwhile, food rots in the fields, slaughterhouses close down, workers all across the country are laid off, and what promises to be but the first of the stragglers is shot. Republic Van Lines announces it is going out of business.

We would suggest that the appropriate target for the independents' wrath is that sector of the market which is regulated. That is the sector of the market which is staunchly opposed to deregulation: the influential American Trucking Associations, Inc., and the highly visible Teamsters Union. While the independents go broke trying to cope with the mindless and mindboggling regulatory caveats institutionalized by these groups, the regulated truckers insist that all is well. In fact, they go one step further. They invoke the specter of disaster if regulation ends.

Needless to say, this is precisely what the airlines predicted when the government started talking about deregulating the wings of man. But the airlines weren't ruined by deregulation. Not at all.

The trucking industry desperately needs the same kind of flexibility that our airlines now have. That's why we're supporting the president's truck deregulation plan, and urging Congress to do the same. Given current government policies, we cannot expect to exert meaningful downward pressures on the world price of oil. So if diesel prices are high now, they're only going to get higher. Therefore, we should do everything in our powers to make the trucking industry as flexible and responsive to those fuel price pressures as we can. The president's plan is the best solution to those pressures we've seen yet.

[From the Sacramento (Calif.) Bee, July 6, 1979]

Trucking Deregulation

If ever an industry is ripe for deregulation, it is trucking. For 40 years it has been subject to Interstate Commerce Commission regulations which have kept competition low and freight rates high.

Approximately 16,000 interstate motor carriers are licensed by the ICC, which seems to suggest there's a lot of competition in the business. But the fact is that under ICC regulations truckers are allowed to set rates jointly, immune in this respect from antitrust laws, and that a few large trucking companies carry the bulk of the freight. A study done several years ago estimated that less than 1 percent of the regulated carriers earn more than half of the trucking industry's revenues.

Federal regulations now make it difficult for newcomers in the industry to obtain licenses to transport goods. This increases the value of existing franchises. The result is that persons wanting to enter interstate trucking frequently have to buy licenses, at high prices, from those who hold them.

Some regulations require truckers to take circuitous routes when shorter and cheaper runs could be made. Others prohibit certain truckers carrying one kind of goods to a city or a town from picking up a load of some other kind of goods for the return trip. The result is that many trucks make the return trip empty.

Recognizing these things and fulfilling a pledge he made more than two years ago at a town meeting in Clinton, Mass., where he said his administration favored deregulation of all aspects of the transportation industry, President Carter has submitted proposed legislation which would stimulate competition in the trucking industry and save consumers $5 billion a year in shipping costs.

Carter's proposals would outlaw the now-legal price fixing among truckers and would remove the restrictions that bar truckers from carrying certain commodities or taking the most direct routes. They would allow easier entry into the trucking business and give greater freedom in raising and lowering prices without ICC approval.

Although Carter has been joined by Sen. Edward Kennedy in his efforts to deregulate the industry, and the president's proposals are endorsed by the Independent Truckers Association, the National Association of Manufacturers, the National Farmers Organization and Common Cause, it won't be easy to get the bill through Congress.

Trucking interests that thrive under federal regulation, such as the large firms represented by the American Trucking Association, and the Teamsters Union whose members drive for them, are sponsoring an all-out lobbying campaign against the bill. If they are successful in defeating the measure, the $100 billion industry will be free to set rates and continue charging what the traffic will bear. Nonetheless, there is a good possibility that under the growing political pressure to stem inflation the legislation will pass. Carter and Kennedy may thus be able to accomplish a task that should have been undertaken long ago.

[From the Sacramento (Calif.) Union, June 25, 1979]

Carter Proposal: Trucking De-control Promises Big Fight

Aside from the merits of the plan, President Carter had two good reasons for proposing gradual deregulation of the nation's trucking industry. One, it would benefit many of the 100,000 independent truck owner-operators, who have been conducting violent strikes and blockades in support of demands for more and cheaper diesel fuel. Maybe this would encourage them to go back to work.

Another reason was that deregulation could be expected to be welcomed by consumers, i.e. voters, and thus perhaps bolster the president's sagging popularity. In a message to Congress, Mr. Carter said his Council on Wage and Price Stability estimates that consumers pay some $5 billion extra each year because of federal regulations that protect the trucking industry.

Administration aides are quick to remind us that Mr. Carter supported and signed legislation deregulating airlines last year. The result has been dramatic reductions in some air fares and increases in service on many routes. Airline company profits soared as ridership skyrocketed.

Whether truck deregulation would have the same happy result is difficult to forecast, but the prospects seem bright. Mr. Carter's plan includes ending legalized price-fixing among trucking owners, a phase-out by 1984 of all federal restrictions on the commodities they may carry and the routes they must follow, and authorization to cut rates as much as 20 percent a year without government interference.

One obvious saving would result from eliminating restrictions on "backhauls," the loads truckers seek to carry on return trips. The Interstate Commerce Commission (ICC) says more than 20 percent of all truck miles are driven empty because of regulatory restrictions.

Ending restrictions on commodities by Dec. 31, 1983, would mean, for example, an end to such foolishness as allowing one trucker to haul pineapples only if they are mixed with a load of bananas. Another can haul two-gallon paint cans but not five-gallon paint cans.

ICC activities and red tape would be drastically curtailed. Truckers applying to offer a new service would not have to prove in years-long trials that the service is required for the public's convenience and necessity.

The "agricultural exemption" would be expanded, allowing unregulated hauling of many more food and farm products than at present.

Many airlines originally opposed deregulation, and truckline owners don't like the idea either, calling it counter-productive. Industry spokesmen believe federal regulations have prevented cutthroat competition that would enable strong firms to drive out competitors and raise prices to new highs.

We foresee a battle of economic theories as the administration and trucking industry argue the issue before congressional committees. But based on the experience of airline deregulation and, indeed, the history of the American free enterprise system, we come down on the side of the principle that the more competition, the better.

[From the San Diego (Calif.) Tribune, June 26, 1979]

Truck Competition Will Help Consumer

The recent airport trading in "half-price coupons" issued by two major airlines is merely the most dramatic of the consumer bonuses resulting from the lifting of regulations on the airline industry.

Fares have dropped. Routes and schedules have been made more responsive to passenger needs.

Now President Carter and Senator Edward M. Kennedy, D-Mass., have proposed similar deregulation of the trucking industry, which would eliminate mandatory practices that place a burden on both truckers and their clients.

If Congress concurs, legalized price-fixing will be phased out by 1984. Restrictions on what cargoes truckers may carry will be lifted. The truckers will be able to follow the shortest routes. They will be allowed to cut rates by as much as 20 percent a year.

The American consumers will share in an estimated $5 billion savings in trucking charges every year. The president's Council on Wage and Price Stability estimates the average benefit to each family at $100 a year.

The Carter plan will allow independent truckers access to new markets and permit more minorities to enter the business.

The powers of the Interstate Commerce Commission to control trucking operations too often have been used to inflate industry profits and stifle competition. Consumers have little voice in the regulatory process.

Deregulation in the trucking industry will help break the stranglehold on markets enjoyed for years by firms protected from competition in price and services by a federal umbrella.

But these firms and the Teamsters who work for them will not release their stranglehold willingly or easily. The truckers association and the labor union have threatened to launch an all-out campaign to block congressional approval of deregulation of the industry. They fear that competition will impair their "sweetheart" deal, and they couch their opposition in high-sounding terms. But nothing should be allowed to conceal their naked self-interest.

Congress should respond quickly and positively to the president's plan in the interest of its constituency—the consumers.

[From the San Diego (Calif.) Union, Mar. 17, 1979]

THE GOLDEN GOOSE

There are disquieting reports out of Washington that the White House is holding back on legislation to deregulate the trucking industry because of current contract talks between the Teamsters and the industry.

We are told that the administration hopes the Teamsters will abide by the President's voluntary wage guidelines, which include a seven percent ceiling on annual increases in wages and benefits. With the two-million member Teamsters union vehemently opposed to deregulation, the White House apparently believes that delaying introduction of the legislation might moderate the union negotiators' wage and benefit demands.

There is nothing new, of course, about such political trade-offs. They are the meat and potatoes of Washington politics. And, if a modest delay in introducing the administration's deregulation bill could, in fact, induce the Teamsters to settle for a noninflationary three-year contract, the public interest would be well served.

However, as the President and his aides cannot have but noticed, the Teamsters appear decidedly unmoved by the administration's stalling on deregulation. It has been learned that the Teamsters are demanding a wage and benefit package that adds up to a whopping 71 percent increase over three years. So much for observance of President Carter's seven percent per year voluntary guidelines.

Frankly, we never entertained any great hope that the Teamsters' traditional militance at the bargaining table would be bartered away for anything as transitory as a delay of a few months in the administration's laudable drive to deregulate the nation's trucking industry. Nevertheless, it is hardly fair to rebuke the administration for trying. After all, the inflationary effects of a new Teamster contract anything like the one put forward by the union would be considerable.

These new inflationary pressures would far outweigh the deleterious effects of a brief delay in introduction and enactment of trucking deregulation legislation. But now that the administration's strategy has proved barren, we see nothing to be lost by prompt introduction of the deregulation measure. Indeed, that is what we expect.

The only other possibility is that the administration might decide to scrap its deregulation proposal altogether in exchange for incremental moderation in the zeal with which Teamster negotiators pursue their 71 percent wage and benefit package. We worry about this because it would be a deal the Teamsters might conceivably accept.

The Interstate Commerce Commission's regulation of the trucking industry shields Teamsters from the competitive pressures that help restrain wages in other industries. Regulation is a golden goose for the Teamsters no less than for their protected employers. Union negotiators might well be tempted to settle for much less than a 71 percent increase should the Carter administration quietly promise an indefinite stay of execution for their regulatory goose.

The Teamsters would be happy and the administration could claim a "victory" for the President's battered anti-inflation campaign.

Should signs of such a deal develop, Congress and the country ought to rise in indignation. Washington's maladroit regulation of the trucking industry costs consumers up to $3 billion a year in unnecessary costs. For the Carter administration to perpetuate this burdensome waste for the sake of an, at best, partial triumph in the Teamster-industry negotiations would amount to a surrender of the public interest.

[From the Santa Ana (Calif.) Register, Mar. 14, 1979]

TRUCK GROUP DEFENDING REGULATION

(By Sam Campbell)

Politics is the art of depriving your enemies, rewarding your friends and looting the neutrals.

And government is mostly politics.

Sometimes the reward is conferred by means of a congressional appropriation which, like a heavenly blessing, may seem to shower dispassionately upon all alike. But on closer examination, you characteristically find that a favored few were more blessed than others.

In other instances, legislation is used to prohibit the many from a specific line of work or market activity in order that the few will not be overly pressed by hungry competitors. Unions undertake to mark off an employment preserve for themselves without express legislation. Businessmen occassionally strive to ensconce themselves by direct anointment of Congress, or to maintain themselves in such a favored status.

An example of such a business combine is the membership of the American Trucking Association, Inc. You can't really blame them for being "in." That's the way the system was set up when most of them were born. The only alternative that any of them had was to conform to the existing rulebook or stay out of the transportation business.

The real surprise is not that numbers of businessmen have learned to live with the coercive system, but that any of them would have the gall to defend it. Yet that is exactly what happened.

Such a defense came Monday from Donn McMorris, chairman of the American Trucking Associations, Inc. Addressing the Air Freight Motor Carriers Conference, McMorris attacked individuals who happen to oppose his particular point of view.

"Deregulation is becoming an obssesion with certain people in this country," he declared, "and they are determined to force their obsession on the rest of us whether needed or not."

He noted that the trucking industry continues to oppose deregulation efforts supported by the Carter adminisrtation and Sen. Ted Kennedy.

If you read McMorris' statement carefully, you will find a basis for harmony. Obviously, there are two opinions on the subject. Some—like McMorris—wish to continue regulation; others would prefer to end it. McMorris indicates that he doesn't want the deregulators to force their obsession on him. Just as obviously the deregulators don't want McMorris to force his viewpoint on them.

In the interest of peace, therefore, the deal could be this: If McMorris and company will stop enforcing regulation on others as they have been doing for the last 50 years, they who favor deregulation will not insist that McMorris et al be deprived of it. In other words, neither party forces his will upon the other. Let all compete, and may the best set of operators win.

If coercion is as offensive to McMorris as he indicates, he won't be able to turn this offer down.

[From the Vista (Calif.) Press, June 25, 1979]

DEREGULATE TRUCKING INDUSTRY

There can be no doubt that President Carter's proposals to deregulate the trucking industry are sound and should have been carried out years ago. It is nothing short of amazing how such nonsensical New Deal regulations could have endured for the past 40 years.

One of the most ridiculous regulations is the fact that the Interstate Commerce Commission won't allow truckers to return home with a load. That is, a trucker making a haul from Atlanta to San Diego is not allowed to haul goods on his return trip to Atlanta.

Another ridiculous regulation of the ICC is that of not allowing truckers to go directly from one point to their destination, but take a round-about route which sometimes adds thousands of miles to their trip, and therefore to their costs.

President Carter cited one example of these senseless regulations where an ICC license required one trucker to go from Denver to Albuquerque, N.M., by way of Salt Lake City, detour of 300 miles.

All this regulation not only is unnecessary, but downright foolish and expensive. All the costs added to the shipment of goods and materials in this country are added to the price of products which the consumer pays. This unnecessary cost adds an estimated $5 billion a year to consumer prices.

In addition, among the regulations proposed by Mr. Carter is one that would outlaw large trucking firms from getting together and fixing prices, a practice that has been going on for many years.

In spite of the common sense embodied in the deregulation proposals, they were immediately attacked by the large carriers that have benefited from the regulations and by the Teamsters Union whose members drive for them.

The president of the American Trucking Associations is quoted as saying Mr. Carter's proposals were a "radical approach" and could lead to waste instead of efficiency. This is reminiscent of the anguished cries heard a few years ago when demands escalated to deregulate the airlines, which was done.

And Sen. Howard Cannon of Nevada, chairman of the Senate Commerce Committee, predicted it might take two years to get the Carter proposals to a vote.

We believe the Congress should make this a priority item and get to work on it immediately. It is nothing short of insanity to continue such harmful regulations which benefit the big firms and the Teamster drivers.

[From the Colorado Springs (Colo.) Gazette-Telegraph, July 3, 1979]

FREE THE TRUCKERS!

As produce spoiled in the fields, as truckers became more violent in their protestations, as the truck strike began to be felt by the consumer, President Carter stepped forth with his deregulation plan.

It seemed to be a masterful job of timing.

That recent afternoon in the rose garden at the White House, the president told what he wanted Congress to do in the trucking industry: gradually end the federal regulations that protect the industry from competition and cost consumers an estimated $5 billion a year.

Administration officials say the proposals will save consumers money, conserve fuel and help blacks and other minorities get into the trucking business.

The proposals would end legalized price-fixing among truckers, phase out by 1984 all federal restrictions on the commodities they may carry and the routes they must follow, and allow rate cuts of up to 20 percent a year without government interference.

They also would make it far easier for truckers to offer new services and greatly increase the kinds of agriculture products that may be hauled without federal rate regulation.

Truckline owners who have grown lazy depending upon regulations to protect them from competition will put up a fight to kill the bill but a good portion of the nation's 100,000 independent owner-operators, some of whom are now involved in protests, generally would benefit from a greater operating flexibility they would have under the Carter plan.

The truckerline owners have said they are against deregulation because they believe many small towns and cities no longer would be served if the law did not require it.

They have been regulated so long they forget that free enterprise has worked, does work and will continue to work. If there is a need for a service, someone will step forth and offer it at a reasonable price. And somebody else will be there to see if it can be done a little better at a little better price.

The big truckers might not like the idea of having to fight to hold on to what they have but that's what makes for strong companies. It's when the government steps in with rules and regulations that industrial sinews grow weak and limbs grow flabby.

For once, Carter is on the right track.

Free the truckers and let the free market work.

[From the Colorado Springs (Colo.) Sun, June 24, 1979]

Truckers and Owners Fear the Effects of Deregulation

Deregulation of the interstate trucking industry, which was proposed—perhaps promised is not too strong a term—by President Carter this week is long overdue, as anyone who has examined the effects of the myriad regulations involved will agree.

But it is not going to be accomplished easily. Its primary opponents are the very people who might be expected to rejoice in the prospect—almost everyone in the trucking industry, from drivers to the owners of the major truck lines.

Whenever the obsolete, never-sensible practice of featherbedding is discussed, the railroads usually come in for some of the criticism. They still have a few examples to cite. But the worst case of featherbedding in America today is probably in the truck industry—except that it does not prevent overwork, long hours of overtime, or any of the other abuses which were the basis of the original featherbed rules of long ago.

The regulations are, as President Carter said, a case of government regulation gone wild. They specify what cargo can be picked up, what can be deposited, what routes must be taken, and thousands of other details. If the routing were merely a matter of weight, considering the capacity of pavements and bridges, it would fall within the bounds of what most of us consider necessary regulation. But one truck line, for example, may have a shipment from Dallas to Memphis, and not be licensed for the direct route. It can, however, haul the goods from Dallas to St. Louis and then down to Memphis, quite legally. Multiply this by tens of thousands of similar rules and you begin to understand how much fuel waste is involved, in a time of fuel shortages.

A 1975 study, after the oil embargo crisis, reported that as much as 30 percent of the fuel used by interstate trucks is burned on trips that produce no revenue, because the trucks cannot haul return loads. That was apart from the inability, under the regulations, to schedule all shipments by the most direct routes.

At first glance, it would seem that all truckers would be eager to be rid of such regulations. But that padding which burns all that extra fuel also requires many extra drivers and helpers. It keeps a lot of extra trucks on the roads. The Teamsters, quick to cry "Foul!" at Carter's suggestion for decontrol, fear that many jobs would be lost if the industry were able to contract itself into the most efficient possible truck fleets. Related to this fear is the secondary worry that if many unnecessary or uneconomical runs are eliminated, there will be a surplus of drivers, and that could lead to lower wages—although that is an unlikely scenario today.

Owners of truck lines worry that major parts of their expensive fleets might become surplus property, although many rigs are not paid for and carry substantial mortgages. The bankers who have financed the purchases of those fleets are also worried, and thus tend to favor continued regulation.

Add all these to the inertia of bureaucracy where regulations are concerned and it becomes apparent that Carter is not going to secure deregulation of the truck industry overnight.

[From the Denver (Colo.) Rocky Mountain News, Mar. 1, 1979]

Open Road for Truckers

The Interstate Commerce Commission has taken another step toward encouraging greater competition in the trucking industry.

The ICC has already lowered some of the barriers that restrict competition among intercity truckers and tend to keep out new owner-operators. It now says that, beginning about the middle of March, when considering applications for operating rights it will give preference to truckers who pledge to provide cut-rate service.

The commission believes the new policy will stimulate innovative pricing and service options by trucking companies, and at the same time promote efficient and well-managed operations.

Predictably, the announcement brought groans from the industry. Some spokesmen called the ICC's action a kind of end run around Congress, which this session is expected to take up the issue of deregulation.

Viewing that prospect, trucking executives have been ringing many of the same alarm bells sounded by the airline executives when deregulation of their industry was first proposed a few years ago.

According to Bennett C. Whitlock, president of the American Trucking Associations, deregulation would "plunge the trucking industry into chaotic rate wars, drastically reducing the number of firms engaged in the business."

This would hurt many small towns, whose only link with the outside economy is truck transport, he says. Moreover, it would be impossible for the shipping public to know with any degree of certainty the transportation charges on the thousands of commodities which the 16,500 ICC carriers regularly transport throughout the country.

In short, regulation has served both the industry and the nation well. Don't mess with it.

Pardon us if we don't buy these arguments. "Chaos and confusion" presently reign among the airlines, but it is a kind we think the flying public rather likes. We know the airlines are enjoying it, for the advent of more open route and fare competition has resulted in the biggest boom in their history.

We agree, of course, that truckers and airlines can't be compared exactly, and certainly don't advocate that all the regulations be wiped out in one fell swoop.

But as for the general concept of deregulation, we say to the trucking industry: Try it. We think you'll like it, too.●

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from South Dakota.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, and upon the recommendations of the majority and minority leaders, pursuant to Public Law 86–42, appoints the following Senators to the Canada-United States Interparliamentary Group, to be held August 9–17, 1979, in Canada/Alaska: the Senator from Maryland (Mr. Sarbanes), the Senator from Montana (Mr. Baucus), the Senator from Idaho (Mr. McClure), and the Senator from Rhode Island (Mr. Chafee).

FOOD STAMP ACT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. McGOVERN. Mr. President, I submit a report of the committee of conference on H.R. 4057 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the Bill (H.R. 4057) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. McGOVERN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of the conference report on H.R. 4057: Henry Casso, Carl Rose, Bill Lesher, Steve Storch, George Dunlop, and John Bode.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, H.R. 4057, as reported by the committee of conference, addresses the two immediate emergencies that face the food stamp program. The emergencies are that changed economic conditions have rendered the existing ceiling on the authorization for appropriations for the 1979 food stamp program insufficient to provide full benefits to program participants for the remainder of the fiscal year, and the changes contained in the Food Stamp Act of 1977 regarding program eligibility and benefit levels, which have only recently been implemented, are causing severe hardships for elderly and disabled recipients who have high medical or shelter expenses.

I believe the conferees dealt in a fair and equitable manner with these two matters as well as the program integrity.

H.R. 4057 addresses both of these emergency situations. It would raise the 1979 appropriations ceiling on the food stamp program to a point where current food stamp benefits may continue through this fiscal year. Further, it includes provisions that should help deal with this type of situation in the future. Under the conference substitute, monthly reports on food stamp program expenditures will forewarn Congress of any future funding shortfalls.

The emergency situation now being faced by elderly and disabled recipients with high medical and shelter costs—forcing them to choose between food and absolutely necessary medical or shelter expenses—is ameliorated by providing that these expenses can be deducted when they consume excessive amounts of recipients' income.

PROGRAM INTEGRITY

In addition, H.R. 4057 makes a number of significant changes in the operation of the food stamp program.

The conference substitute contains three antifraud provisions that would—

Allow the Secretary and State agencies to require the presentation of social security numbers as a condition of program eligibility;

Make repayment of fraudulently obtained food stamps a prerequisite to reentry into the program for individuals who are found to have fraudulently obtained stamps; and

Allow States to retain 50 percent of the funds they recover from prosecutions or other State activities directed against individuals who fraudulently obtain their food stamps.

These three provisions will provide the impetus and the means to attack the perceived fraud in the food stamp program.

The conference substitute also removes the carryover authority contained in existing law.

The Lugar amendments on reporting requirements and the method of reducing allotments if appropriations are insufficient are included in the conference substitute. The report of the Senate Committee on Agriculture, Nutrition, and Forestry on S. 1309, a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, contains a discussion of these provisions. In implementing these provisions, it is intended that the Department of Agriculture be guided by that language. I request unanimous consent that the pertinent language from the committee report be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Under the amendment, the Secretary is also required to submit reports, by the 15th day of each month, on food stamp program costs for the second preceding month. In each monthly report, the Secretary is to state whether there is any reason to believe that reductions in the value of allotments will be necessary due to any insufficiency of appropriated funds.

Not less than 60 days after the issuance of a monthly report in which the Secretary expresses his belief that reductions in allotments will be necessary due to the insufficiency of appropriated funds, the Secretary is required to take the requisite action to reduce allotments.

Within 7 days of taking any action to reduce allotments due to the insufficiency of appropriated funds, the Secretary would be required to submit a statement to the congressional agriculture committees setting forth the basis for his determination, the manner in which allotments will be reduced, and the action he has taken to reduce the allotments.

The Secretary would, of course, be expected to exercise reasonable judgment in arriving at a belief that benefit reductions would be necessary. In this regard, the Secretary may consider a variety of factors, including seasonal fluctuations in program participation, economic forecasts, cumulative expenditures, and supplemental appropriations. Obviously, reductions in benefits should not necessarily commence after the first monthly report showing that more funds were expended in a particular month than an amount equal to 1/12 of the funds previously appropriated for the program for that fiscal year.

The Lugar amendment—while authorizing the Secretary to develop a manner for reducing food stamp allotments on other than a pro rata basis and requiring monthly reports from the Secretary intended to keep Congress informed of program expenditures and the availability of appropriated funds—does not change the standard to be followed by the Secretary in making a finding that the requirements of participating States will exceed available appropriations. Section 18(b) of the act currently requires the Secretary to direct State agencies to make reductions in the value of allotments to be issued to households certified as eligible to participate in the food stamp program, if the Secretary finds that insufficient appropriations are available. In this connection, the committee notes that the Acting General Counsel of the Department of Agriculture, in his memorandum opinion of March 16, 1979, to Assistant Secretary Carol Tucker Foreman, stated that "the Secretary would be expected to make such finding at such time as he has information reasonably leading him to the conclusion that it is necessary to act in order to avoid exceeding the statutory limitation."

GROUP LIVING ARRANGEMENTS FOR THE DISABLED AND BLIND

Mr. McGOVERN. Mr. President, the conference substitute contains the amendment offered by Senators Stafford and Dole, which makes blind and disabled residents of small State-certified living arrangements eligible for participation in the food stamp program under conditions equivalent to those applicable to narcotics addicts or alcoholics participating in treatment programs. Under the provisions of the amendment, the Department would treat disabled recipients of social security disability payments or supplemental security income benefits who are residents in small State-approved public or private nonprofit group living arrangements as independent households if they, for example, purchase or prepare their own food.

CONCLUSION

The House conferees were unable to accept the provision in the Senate amendment that would have removed the ceilings on the authorization for appropriations for the 1980 and 1981 fiscal years. While I am disappointed that these provisions are not included in the conference substitute, I am confident that this issue will be satisfactorily resolved and Congress will provide the necessary funds to run the food stamp program.

Mr. President, of the four amendments that were offered in the substitute bill on the Senate floor by the Senator from North Carolina (Mr. Helms), we retained three and yielded on the fourth one, which has to do with the State verification procedures.

By and large, I believe the Senate conferees represented the wishes of the Senate very well. We did yield on perhaps a very fundamental point: The lifting of the ceiling on the fiscal 1980 and 1981 programs. But that was necessary in view of the very firm commitments that had been made by the House conferees to their colleagues.

I thank the other Senate conferees on H.R. 4057 for their excellent efforts. Senator Stone authored and guided through the Senate and conference the provisions on the excess medical and shelter expense deductions for the elderly and disabled. Senator Helms, the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry, made valuable contributions to the conference deliberations. Chairman Talmadge, and Senators Leahy, Melcher, Lugar, and Hayakawa aided in assuring the acceptance of the overwhelming protion of the Senate provisions by the conference committee.

I would be remiss if I did not congratulate Chairman Foley of the House Committee on Agriculture, who chaired this conference, for his management of the conference. His efforts and the cooperation of the House conferees allowed us to consider systematically and thoroughly the complex issues before the conference.

I urge my colleagues to join me in supporting the conference report on H.R. 4057.

I request unanimous consent to have printed at this point in the Record a section-by-section analysis of H.R. 4057, as agreed to by the committee of conference.

There being no objection, the material was ordered to be printed in the Record, as follows:

Section-by-Section Analysis of H.R. 4057, as Reported by the Committee of Conference

Section 1(1).—Increase in the fiscal year 1979 authorization for appropriations for the food stamp program.

Section 1(1) amends the first sentence of section 18(a) of the Food Stamp Act of 1977 to increase the fiscal year 1979 authorization for appropriations by $620 million. The new appropriations ceiling for the 1977 program would be $6,778,900,000.

Section 1(2).—Removal of carryover authority; Secretary's reporting responsibilities.

Section 1(2) strikes the third sentence of section 18(a) of the Food Stamp Act of 1977 to remove the specific language, beginning with fiscal year 1980, providing for the carryover of unexpended appropriated funds from one fiscal year to the next, and inserts two new sentences. The Secretary of Agriculture would be required to file monthly reports, by the 15th day of each month, setting forth the Secretary's best estimate of the second preceding month's expenditure, including administrative costs, as well as the cumulative totals for the current fiscal year. In each monthly report, the Secretary would also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the program will be necessary due to any insufficiency of appropriated funds. (It is anticipated by the committee that each monthly report will include the number of individuals participating in the program and the cost of administering the program at the State level and at the national level.)

Sections 1(3) and 1(4).—Manner in which allotments may be reduced when appropriated program funds are insufficient.

Section 1(3) amends the second sentence of section 18(b) of the Food Stamp Act of 1977 to remove the requirement that the only available method for reducing program benefits when insufficient funds are available is on a pro rata basis.

Section 1(4) would add new subsections (c), and (d) to section 18 of the Food Stamp Act of 1977. New subsection (c) would require the Secretary to ensure that reductions in the value of allotments, when required under section 18(b), will reflect, "to the maximum extent practicable," the ratio of household program income to the income standards of eligibility for households of the same size with higher-income households bearing more of the reductions. The Secretary may establish (1) special provisions for the elderly, handicapped, and disabled and (2) minimum allotments after any reductions are otherwise determined.

New subsection (d) requires the Secretary to take the requisite action to reduce the value of allotments issued to households certified to participate in the food stamp program within 60 days after the issuance of a report, under section 18(a) as amended by the bill, in which the Secretary expresses his belief that such reductions will be necessary.

New subsection (d) also requires the Secretary, within 7 days of any action to reduce the value of allotments issued to households certified to participate in the program, to furnish the congressional agriculture committees with a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the value of the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

Section 2. Deductions for households containing an elderly person or a person receiving Supplemental Security Income benefits or social security disability payments.

Section 2 amends section 5(e) of the Food Stamp Act of 1977 to provide households that contain an elderly person (60 years of age or older) or a person receiving Supplemental Security Income benefits, including those who receive only State supplementary payments, under title XVI of the Social Security Act or social security disability payments under title II of the Social Security Act with an excess medical expense deduction and to remove the ceiling on the excess shelter expense deduction for those households.

In addition to the standard deduction and the dependent care deductions, these households would be entitled to (1) an excess medical expense deduction for the actual cost of allowable medical expenses incurred by the elderly or disabled recipient household member that exceed $35 per month and (2) an excess shelter expense deduction to the extent that the monthly amount expended by the household for shelter exceeds 50 percent of monthly household income after all other applicable deductions have been allowable. Currently, there is a ceiling of $90 per month on the amount of the excess shelter expenses deduction that may be claimed.

Section 3. Definition of "allowable medical expenses."

Section 3 adds a new subsection (q) to section 3 of the Food Stamp Act of 1977 to define "allowable medical expenses" as used to determine the excess medical expense deduction.

New subsection (q) defines "allowable medical expenses" as expenditures for (1) medical and dental care (this would include other remedial care recognized by State law), (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding costs of health and accident or income maintenance policies, (5) medicare coverage, (6) dentures, hearings aids, and prosthetics (including securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aid, housekeeper, or child care services due to age, infirmity, or illness.

Section 4. Provision of information.

Section 4 adds a new subsection (f) to section 16 of the Food Stamp Act of 1977.

New section 16(f) authorizes the Secretary and State agencies to (A) require submission of social security numbers as a condition of food stamp program eligibility and (B) have access to the data from other Federal programs regarding individual food stamp program applicants and participants who receive supplemental security income benefits that have been provided to the Secretary of Health, Education, and Welfare (but only to the extent that the Secretary and the Secretary of Health, Education, and Welfare determine necessary for purposes of determining or auditing a household's eligibility to receive assistance or the amount thereof under the food stamp program, or verifying related information).

Section 4 would permit an individual to be barred from receiving food stamps if that individual has been assigned a social security number but refuses to provide it to the State agency. Individuals not previously assigned a social security number could also be prevented from participating in the program unless the individuals apply for and subsequently furnish social security numbers. They would be eligible to participate while waiting for the numbers to be assigned.

The income and resources of the individual disqualified for failure to provide a social security number would be counted in the same way an individual's income and resources are counted when a person is disqualified for fraud or for failure to meet the student work registration requirement during the school year. New section 16(f) will facilitate the use of computer matching techniques that compare the earnings reported by food stamp households against available wage records and thus allow States to identify more readily those households that have unreported earnings or have reported their earnings incorrectly.

In addition, States will be able to match social security numbers to prevent duplicate participation. An individual entitled to emergency service under section 11(e)(9) of the Act would be permitted to furnish a social security number after receiving his first allotment. In this way, an individual who cannot furnish his social security number, or the numbers of all members of his household, before the timeliness standard elapses for providing expedited service will not have benefits delayed simply because a social security number cannot be immediately furnished.

Section 5. Repayment for fraudulent conduct.

Section 5 amends section 6(b) of the Food Stamp Act of 1977 to require that individuals disqualified because of fraud who wish to reenter the program after the period of disqualification must agree to repay the value of the food stamp fraudulently obtained, through either a cash payment or a reduction in the household's allotment, under a reasonable schedule prescribed by the Secretary. If a disqualified individual agrees to repayment in cash and fails to make the payments, that household's allotment will be subject to appropriate reductions. The income and resources of the individual disqualified for failure to repay the fraud claim would be counted in the same way an individual's income and resources are currently counted when that person is disqualified for fraud or for failure to meet the student work registration requirement during the school year.

In order to collect fraud claims, States must currently rely on voluntary repayment by the household or incur the expense of initiating a civil court action to obtain repayment. Section 5 provides a simple and efficient mechanism for collecting fraud claims and provides a penalty if repayment is not made. As a result, it is anticipated that the percentage of fraud claims collected will substantially increase without increasing the administrative costs of collecting these claims. These collection procedures should also discourage persons from committing fraud.

Section 6. State share of recoveries.

States are currently required to return to the Federal Government all funds collected from households that have repaid the value of any food stamps overissued to them. Section 6 would amend section 16(a) of the Act to allow each State to retain 50 percent of the funds it recovers or collects from persons that have committed fraud as determined in accordance with the Act. This provision will provide an incentive for States to pursue collection of fraud claims, particularly in those cases where recoupment or disqualification is ineffective because the household is ineligible.

The amendment provides that persons involved in making fraud determinations are not to benefit from the amount of such recoupments or collections. This prohibition on the use of revenues collected in this manner will assure the impartiality of officials making fraud adjudications.

Sections 7 and 8. Group living arrangements for the disabled or blind.

Sections 7 (1), (2), and (3) amend section 3(g) of the Food Stamp Act of 1977 to include within the definition of "food" meals prepared and served to blind or disabled persons in public or private nonprofit group living arrangements that are certified under regulations issued under section 1616 (e) of the Social Security Act.

Section 7(4) amends section 3(i) of the Food Stamp Act of 1977 to include, and thereby make eligible for food stamp program participation, within the definition of "household" disabled or blind recipients of benefits under title II or title XVI of the Social Security Act who are residents in a public or private nonprofit group living arrangement (which serves no more than sixteen residents) that is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act.

Section 7(5) further amends section 3(i) to provide that residents of federally subsidized housing for the elderly, disabled or blind residents in public or private nonprofit groups living arrangements that are certified under regulations issued under section 1616(e) of the Social Security Act, and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program, will be considered individual households. This amendment is in accord with current program practices for the elderly and narcotics addicts and alcoholics in treatment programs.

Section 7(6) amends section 3(k) of the Food Stamp Act of 1977 to include public or private nonprofit group living arrangements that serve meals to disabled or blind residents within the definition of "retail food store".

Section 8 amends section 10 of the Food Stamp Act of 1977 to provide that public or private nonprofit group living arrangements that serve meals to disabled or blind residents may not redeem those residents' food stamps through banks. This is the same prohibition that is currently applicable to drug addiction or alcoholic treatment and rehabilitation programs.

Section 9. Denial of benefits to certain households.

Section 9 adds a new subsection (i) to section 6 of the Food Stamp Act of 1977.

New subsection (i) provides that no household that contains a person involved in a labor management dispute shall be eligible to participate in the food stamp program unless the household meets the income guidelines, asset requirements, and work registration requirements of the Food Stamp Act of 1977.

Section 10. Implementation.

Section 10(a) provides that the provisions of sections 2 and 3 of the bill (the provisions for the excess medical expense deduction and removal of the ceiling on the excess shelter expense deduction for households containing an elderly or disabled member) will be implemented in all States by January 1, 1980, and will not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

Section 10(b) requires the Secretary of Agriculture—within 150 days after the date of enactment of this bill—to issue final regulations implementing sections 4 through 6 of the bill, the provisions of the bill on provision of information, repayment for fraud, and State share of recoveries.

Section 10(c) provides that the provisions of 7 and 8 of the bill, the provisions dealing with group living arrangements for the disabled and blind, will be implemented in all States by July 1, 1980, and will not affect the rights or liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1977 in effect on July 1, 1979, until implemented.

Mr. McGOVERN. Mr. President, I yield to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, I say to the Senator from South Dakota that it has been a pleasure to work with him on this measure. We have had some differing opinions; but, as always, we have agreed to disagree agreeably. I congratulate him for the fine work he has done.

I join him in paying tribute to other Senators on the committee and to the conferees of the House and the Senate, because a great deal of work was involved.

Mr. President, I am pleased with some improvements in this bill as reported by the conference committee. The Senate's three antifraud amendments with the amendment requiring early implementation of those provisions, will save millions of tax dollars and help establish credibility with the food stamp program by reducing fraudulent participation.

Also, the bill still contains some worthwhile program improvements that were adopted in the Senate. Senator LUGAR's amendment to the bill protects the truly needy in the event of benefit reductions. Also, it makes clear Congress intention of tolerating no more contortions on the part of the Food and Nutrition Service in order to delay benefit reductions until the point of crisis is reached, as Assistant Secretary Foreman and FNS did earlier this year. Senator TALMADGE's amendment changed the program so that unused budget authority will revert at the end of each fiscal year, thus lending greater significance and practical support to the concept of the spending ceiling.

Though some reservations are in order because the food stamp program is perhaps not the proper vehicle for such a provision, relief for the high medical costs of our Nation's elderly is provided in this bill in the form of the Stone amendment.

Finally, the House conferees also accepted the Stafford-Dole amendment, which permits the blind and disabled residents of small State-certified group living arrangements the same benefits in the program as are afforded narcotics addicts or alcoholics participating in treatment programs.

It is interesting that the House conferees also recognized the value of the Senate's eligibility verification amendment. But to the frustration of the House conferees the proxies of absent Senate majority conferees rejected the proposed compromise by receding to the House position. This meant no provision of this type at all.

I cannot understand how Members of this body can oppose verification of eligibility in the food stamp program when those verification procedures are subject to the approval of the Secretary of Agriculture. Clearly, dedication to the prevention of overissuances in this program is lacking on the part of those Members.

I am also pleased that the House conferees could not accept the Senate's hastily conceived and, I feel, unwise decision to eliminate authorization limits on the program for fiscal years 1980 and 1981. So, Senate conferees receded to the House position on this matter and, thereby, preserved that important congressional budgetary control.

Finally, Senator McGOVERN's substitute for Senator THURMOND's so-called striker amendment was adopted as a clear restatement of present program operations. As a condition to accepting that amendment, Senator THURMOND was assured that Senator McGOVERN and I would exhort the Secretary to provide information detailing program participation and cost impacts that result from the eligibility of households with Members who have voluntarily stopped working because of a labor-management dispute. I ask unanimous consent that the letter sent by Senator McGOVERN and me requesting such reporting be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, a point remains that should not go unmentioned. This bill authorizes the expenditure of funds that would not have been needed had it not been for the inept administration of the program. Assistant Secretary Foreman and FNS officials have consistently disregarded fiscal responsibility in administering this program. Their decision to ignore congressional intent by eliminating the purchase requirements months before implementing participation-restricting provisions of the 1977 act—that is, not implementing those features simultaneously—cost in excess of $275 million, according to the Congressional Budget Office. This sort of mismanagement continues and is reflected in the program's regulations.

Mr. President, because of this serious problem, I pledge to my colleagues and constituents my continued activity in this legislative area. This program is in need of the closest legislative oversight. I intend to do my part to insure that the Senate has ample opportunity to exercise its responsibilities in the future.

I regret that I cannot support this bill.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C. July 26, 1979.

Hon. BOB BERGLAND,
Secretary, U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: During its consideration of the bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program, the Senate debated several issues. Of interest and concern was the fact that persons may be participating in the food stamp program or receiving larger benefits as a result of participating in a labor-management dispute.

Among those Senators active in floor debate, there seemed to be a consensus that the mere fact that a household member is involved in a labor-management dispute should not render that household ineligible for food stamps. However, many of those Senators raised questions about the number of households that participate, and how many households receive increased food stamp benefits because a household member is participating in such a dispute (lockouts excluded), as well as the resulting costs.

In order that Congress may be better informed on this issue, we would appreciate your providing the Committee by November 1, 1979, and semi-annually thereafter, your best estimate of actual program participation and costs attributable to household members participating in a labor-management dispute for the previous one-half fiscal year.

With every good wish, we are
Sincerely,
GEORGE S. McGOVERN,
JESSE HELMS.

● Mr. TALMADGE. I support H.R. 4057 as reported by the committee of conference.

I am pleased that three of the four antifraud provisions that were offered by Senator HELMS and included in the substitute that passed the Senate are also contained in the conference substitute.

The food stamp program works. It allows the truly needy to obtain food purchasing assistance. However, it has gotten out of hand in many instances. The adoption and implementation of the antifraud provisions contained in the conference substitute will, hopefully, go a long way toward rooting out persons who wrongfully receive program benefits.

These provisions, when coupled with the Lugar amendment and the repeal of the authority for the carryover of appropriated funds, strengthen the program and give Congress a better handle on evaluating program performance. I would hope that the Department of Agriculture moves quickly to get these provisions implemented. The congressional Agriculture Committees and Congress as a whole want the integrity of the food stamp program restored. Only through effective administration at the Federal, State, and county levels can this goal be achieved. If the actual, as well as the perceived, abuse of the program is to be removed, vigorous administration will be necessary.

Only two provisions of the Senate amendment are not included in the conference substitute. Those are the provisions first, removing the ceilings on the authorization for appropriations for fiscal years 1980 and 1981 and second, allowing the States to adopt supplemental eligibility verification procedures. I support both of these provisions. While I favor full funding for the food stamp program, I also want program benefits to go only to the truly needy. When these objectives are joined together, lower total program funding will be necessary.

The increase in the authorization for appropriations for the 1979 program and the provisions on the excess shelter and medical expense deductions are necessary to address immediate concerns. The provisions on the "cap" and allowable deductions contained in the Food Stamp Act of 1977 were based on estimates and assumptions on the economic circumstances in the Nation during the period of 1977 through 1981. These estimates and assumptions were wrong. We cannot close our eyes to the needs of others or to changing circumstances. The conference substitute addresses these issues in a responsible manner.

Chairman FOLEY of the House Committee on Agriculture presided over the conference in his usual efficient and professional manner. Senator MCGOVERN is to be congratulated for his fine work on this legislation. Senator HELMS was most cooperative during all deliberations and his suggestions have greatly improved this bill. Senators STONE, LEAHY, MELCHER, LUGAR, and HAYAKAWA ably represented the Senate in the conference.

I urge my colleagues to join me in supporting the conference report on H.R. 4057.●

Mr. McGOVERN. Mr. President, I urge my colleagues to join me in supporting the conference report, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The moton to lay on the table was agreed to.

NOTIFICATION FROM EXPORT-IMPORT BANK REGARDING EXPORT OF AIRCRAFT

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $126,405,000 to assist the export from the United States of two 747–200B jet aircraft and related spare parts and engines to China Air Lines (CAL), the government-held commercial air carrier of Taiwan. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in the amount of $100,000,000 or more, at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan to cover 90 percent of the 747 transaction and the loan will be unconditionally guaranteed by the Coordination Council for North American Affairs, acting on behalf of the governing authorities of Taiwan. The sale has a total estimated U.S. export value of $140,450,000. Moreover, in addition to the two above-mentioned aircraft, CAL is also purchasing two Boeing wide-bodied jet aircraft without Eximbank financing. The Eximbank credit will bear interest at the rate of 8¼ percent per annum and be repayable in 20 semiannual installments beginning December 15, 1981.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 13, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Taiwan:

A. Description of Transaction.

1. Purpose: Eximbank is prepared to make a credit of $126,405,000 available to China Airlines Limited (CAL) to facilitate the purchase in the United States by CAL of two new Boeing 747-200B jet aircraft, related spare engines and parts. The engines for the aircraft are manufactured by Pratt and Whitney, a subsidiary of United Technologies Corporation. The total U.S. export value for this transaction is estimated to be $140,450,000.

2. Identity of the Parties.

(a) Borrower:

CAL is the commercial air carrier of Taiwan and its shares are held by its directors and senior officers on behalf of the government. Eximbank has previously made eleven loans to CAL and repayments have been made on a timely basis. CAL currently flies to 16 cities in 10 countries, mainly in the western Pacific but also in the Middle East, and to Honolulu, Los Angeles and San Francisco in the United States. The Eximbank credit will be made through a U.S. commercial bank or, as permitted under the Taiwan Relations Act and Executive Order No. 12143 through the American Institute on Taiwan to the Coordination Council for North American Affairs on behalf of CAL.

(b) Guarantor:

The Coordination Council for North American Affairs, acting on behalf of the governing authorities on Taiwan, will unconditionally guarantee payment of CAL's indebtedness under the direct credit.

3. Nature and Use of Goods and Services.

The principal goods to be exported from the United States are two commercial jet aircraft to be used by CAL on its western Pacific and Middle East routes. The airframes for the 747's will be manufactured in the Seattle-Renton-Everett area by The Boeing Company of Seattle, Washington. The engines for the aircraft will be manufactured by the Pratt and Whitney Aircraft Group of United Technologies Corporation in Hartford, Connecticut. In addition, other U.S. firms will furnish spare parts.

B. Explanation of Eximbank Financing.

1. Reasons:

The Eximbank credit of $126,405,000 will facilitate the export of $140,450,000 of United States goods. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40% of total U.S. aircraft sales. Eximbank's financial support for exports of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80% of the world market for commercial jet aircraft.

Boeing estimates that the export of the two financed aircraft will provide 2.9 million man/hours of work for Boeing and its subcontractors. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

It should be pointed out that due to the nature of CAL's routes, where many of its long distance flights are broken by intermediate stops, CAL seriously considered the purchase of the Airbus Industrie's A–300. CAL was offered more generous financing terms for the competing aircraft than those offered by Eximbank for the U.S. aircraft. CAL currently operates a nearly all U.S. manufactured fleet of aircraft, with past Eximbank support having financed many of these aircraft.

Moreover, in addition to the two aircraft to be financed by the Eximbank credit, CAL is also purchasing two Boeing wide-body jet aircraft, a 747 freighter and a new Boeing 747SP, which together with related spares have an estimated U.S. cost of $128,000,000, without Eximbank's financial support. CAL intends to use these two aircraft on long distance routes on which the A–300 could not be used, and therefore Eximbank offered only its guarantee and not a direct credit to finance these two aircraft. CAL decided to finance this purchase without the Eximbank guarantee. Boeing estimates that the export of these two aircraft will provide 2.9 million man/hours of work for Boeing and its subcontractors.

Furthermore, Eximbank has issued a preliminary commitment in connection with the potential sale to SAL of two Boeing 767–200 jet aircraft and related spare parts.

2. The Financing Plan.

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

Percentage of U.S. Costs	*Totals*
Cash Payment 10.0 percent	$14,045,000
Eximbank Credit 90.0 percent	126,405,000
Total	$140,450,000

(a) Eximbank Charges.

The Eximbank credit will bear interest at the rate of 8¼ per annum, payable semi-annually. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms.

The Eximbank credit will be repaid by CAL in 20 equal semiannual installments beginning December 15, 1981.

Sincerely,

JOHN L. MOORE, Jr.

EVENTS IN AFGHANISTAN SHOW NEED FOR U.S. HUMAN RIGHTS COMMITMENT

Mr. PROXMIRE. Mr. President, reports have recently come to the attention of U.S. officials concerning gross violations of human rights in Afghanistan. The July 22 edition of the Washington Post carried an account of the harsh conditions under the present regime. According to the Post, over 300 religious business leaders were taken to a prison in Kabul last October following uprisings in one of the provinces. They were subsequently blindfolded, robbed, beaten, and executed by firing squads.

The United States has begun to take significant action against the Government of Afghanistan, particularly after the assassination of Ambassador Adolph Dubs this past February. Among other things, we have halted new aid to the country and recently have voted against granting it loans from various international agencies.

Of course, Mr. President, the United States has the moral duty to take such actions. Not only because of the tragic loss of Adolph Dubs but also because of the gross abuses of human rights in Afghanistan, we are right in showing that we will not tolerate such actions.

Yet, if we are to take such steps in the name of basic human rights, then I have a request of my colleagues: Let us act from a position of maximum credibility in this area. If we are to comment on the atrocities in other nations, we must first demonstrate our own commitment to the most basic of all rights—the right to live. We can show our commitment by ratifying the Genocide Convention.

Mr. President, I do not intend to equate the events in Afghanistan with genocide. As deplorable as they are, they do not fit the accepted definition of the crime.

Rather, I cite them because they remind us of the need for an even greater commitment to human rights by our Nation. Let us begin this commitment by ratifying the Genocide Convention.

I ask that the text of the Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUMAN RIGHTS IN AFGHANISTAN STIR STATE DEPARTMENT CONCERN

(By Don Oberdorfer)

More than 3,000 political prisoners have been executed and many thousands more locked up in overcrowded prisons by the shaky revolutionary regime in Afghanistan, according to reports reaching U.S. officials.

The reports depict regular executions, estimated at 20 to 50 a night, at Pol-I-Charki prison outside Kabul, capital of the remote, mountainous country. Victims of the imprisonment and executions, according to the reports, are military personnel, religious leaders, major figures in previous governments, large land owners and a variety of others considered hostile to the rulers.

"We are deeply concerned about the situation," said Assistant Secretary of State Patt Derian, who heads the State Department's human rights activities. "The human rights situation in Afghanistan is not widely known, but we are receiving continuing reports of mass arrests and executions."

A leftist government headed by Nur Mohammed Taraki, a former press attache in the embassy in Washington, took power in a coup in April 1978. The new regime quarreled with traditional leaders and with many tribal groups, conducted internal purges against factions of the small revolutionary party, and turned increasingly for support to the Soviet Union.

American officials estimate that the ruling regime now controls less than half the country and much of that only in daylight hours. A variety of insurgent groups, including tribal units based in neighboring Pakistan, are reported taking a heavy toll of embattled government forces.

American officials believe the Taraki government is under subtle or overt pressure from the Soviets to broaden the regime rather than risk collapse in the deepening insurgency. With the past several weeks Soviet news media have begun speaking of an Afghan "united front," though none is visible to other observers.

Soviet pilots have been reported flying helicopters and transport aircraft, but there is no indication that the Taraki regime has turned to the Russians for combat or occupation troops. Such an action would be a desperation move with uncertain consequences among the independent-minded Afghans, according to American observers.

Many prominent Afghans reportedly were executed shortly after last year's coup. Roundups of opponents and executions are reported to have continued as the regime faced growing conflict with broad segments of Afghan society. According to the reports reaching American officials:

Some 390 religious and business leaders from Kandahar Province were taken to Pol-I-Charki prison last October after uprisings in that area. They were blindfolded, their watches and money removed, then beaten and executed by firing squads 10 at a time. Their bodies were thrown into a common grave and bulldozed.

Two busloads of condemned military officers overpowered their guards on the way to the execution site two months ago. More than 80 persons were killed in the ensuing battle, which spread into the prison and was suppressed by government troops. Some of the prisoners escaped.

Pol-I-Charki prison, originally built for no more than 6,000 persons, is overflowing with about 15,000. Prisoners sleep on a rotation system.

Among the few positive signs are recent reports that around 70 members of the Parcham party, one of two original factions of the ruling regime, have been released from prison. A number of Parchamite leaders, who were initially posted as ambassadors after the revolution, have taken refuge in East European countries.

The United States has cut off all new aid to Afghanistan, withdrawn the Peace Corps and reduced official personnel, especially after the killing of U.S. Ambassador Adolph Dubs in Kabul last Feb. 14. The United States recently voted against several loans for Afghanistan in international financial agencies and made high-level presentations in Kabul about human rights abuses.

UNITED NATIONS EMERGENCY FORCE

Mr. HATCH. Mr. President, the mandate of the Security Council of the United Nations Emergency Force, better known by its abbreviated name, UNEF, that was set up in 1973 to supervise the two Sinai disengagement agreements negotiated by then Secretary of State, Dr. Henry Kissinger, expired on July 24, 1979. The Carter administration's hope that the Security Council of the United Nations would renew this mandate was dissipataed by the Soviets firm refusal to go along with the American proposal. The latest rejection came in Vienna where Carter failed to convince Soviet President Brezhnev of the positive effect that such an eventual Soviet approval would have on the SALT debate in the United States. The Soviet Union maintained her well-known position which condemns the separate peace treaty negotiated with American help between Egypt and Israel. Because of this Soviet approach, the United States did not introduce any proposal to the Security Council concerning the renewal of the mandate of UNEF.

On the other hand, President Carter deeply committed himself to the idea of an armed force supervising all of the steps taken in accordance with the treaty in a letter to Israeli Prime Minister Menachem Begin on March 26, 1979. In this letter which accompanied the treaty, President Carter confirmed the strong desire of the United States for provision of such armed forces to insure the implementation of the peace treaty. The letter also included a promise that, if the Security Council would reject an American proposal to renew the mandate of the UNEF, the United States would take steps to set up a multinational military force.

In light of these facts, the Israeli Government requested the establishment of a multinational military force. This request was rejected by the White House and the State Department as contrary to the intention of the United States. American officials claim that the letter written by President Carter provided for such a measure only after the expiration of 3 years from the signing of the peace treaty. The Israelis deny any such interpretation and emphasize the need for a military force that is capable of stopping terrorist intrusion along the borders.

Most recently, the Carter administration came up with a proposal that is clothed in the guise of a private diplomatic agreement reached with the Soviet Union. The gist of this agreement would include a provision to turn over initial supervision of the Egyptian/Israeli peace treaty to a few hundred United Nations truce observers. Israel immediately asked the United States to abandon any such agreement.

The Carter administration refused, and, according to the Washington Post, said it would push ahead with its efforts to implement the Russian-approved observers plan which both superpowers apparently hope will improve the chances of Senate approval of the Strategic Arms Limitation Treaty.

The facts described above indicate that the Carter administration has not yet learned its lesson from events like the Communist takeover in Afghanistan, the collapse of the Shah of Iran, and the most recent political changes in Nicaragua. By pushing both Egypt and Israel too hard, President Carter appears to be more concerned about his personal political success than the well-being and the vital interests of this country.

As a result, the United States faces a situation that can easily destroy the achievements of the peace treaty. First, the Carter administration, unnecessarily and against the will of the parties involved, linked the success of the implementation of the peace treaty with the entirely detrimental political intentions of the Soviet Union. Thus, the United States unnecessarily and unwisely brought into this process the Soviet Union, a superpower openly hostile to both Egypt and Israel. This was done contrary to the expressed desire of Egyptian President Sadat and Israeli Prime Minister Menachem Begin. A direct Soviet involvement at this stage would be also contrary to the best interests of the United States.

Second, in the private diplomatic agreement proposed, truce observers would be responsible to the Secretary General of the United Nations and not to the Security Council. This, in turn, would create a volatile political situation in which the Secretary General would become extremely vulnerable to direct Soviet and, through it, to indirect Arab pressure.

Third, the Carter administration again managed to push the United States into a very precarious situation in which it can easily again appear as a country that does not live up to its commitments. These are grave concerns that obviously cannot only hurt the United States, Egypt, and Israel but also the cause of peace in the Middle East.

For these reasons, I believe that it is time for a more sober analysis of the entire situation in this part of the world. Such an analysis must start with closer cooperation among the countries immediately involved and not by exporting problems which arise out of the implementation of this treaty. The involvement of the Soviet Union, which does not even recognize the State of Israel, can only have a detrimental effect on any peaceful effort in the Middle East.

MORMON PIONEERS 132D ANNIVERSARY

Mr. HATCH. Mr. President, this week is a special week for the people of Utah, being the 132d anniversary of the entrance of the Mormon Pioneers into the Great Salt Lake valley on July 24, 1847. This event is commemorated annually by Utahans as well as the 4 million members of the Mormon Church worldwide. I join my fellow Utahans and other Americans in extending tribute and reverence to those hardy pioneers who took a desert no one wanted and transformed it into the beautiful place it now is.

The Mormon religion has deep roots in American history, having had its origin on American soil. It was organized with six members in 1830 by Joseph Smith in western New York, which at that time was on the edge of the American frontier. The new church grew rapidly, buoyed by the successes of hardy church missionaries who carried the message of the church across America and to many foreign nations. In spite of misunderstanding and religious persecution that developed because of the beliefs of this new religion, the Mormons united behind their leaders and moved west, settling at different times in the bountiful State of Ohio, Missouri, and Illinois. Although eventually forced to abandon these settlements, the industrious Mormons made lasting contributions toward frontier America in their search for religious freedom.

These tenacious souls followed the traditions of earlier "pioneering" ancestors who had migrated from the Old World to the New World in order to practice their religious convictions in peace.

Eventually settling in Illinois, the Mormons took a swamp on the banks of the Mississippi River no one else wanted and transformed it into a beautiful and progressive city named Nauvoo, then the largest city in the State. However, their peaceful stay in Nauvoo did not last for long. Following the murder of their leader, Joseph Smith, the Mormons chose to leave their comfortable homes and newly-built temple behind rather than compromise their cherished convictions. Forced by mob pressure to abandon their beloved city in the middle of February, the residents of Nauvoo crossed the Mississippi and sought refuge in Indian territory on the other side before beginning their arduous treck to the Rocky Mountains.

Brigham Young, perhaps the greatest organizer in U.S. history, led the group of Mormon pioneers westward. Folk songs from these pioneers tell of the trials and tribulations and of sickness and death that accompanied that excursion as they trod the hot, dusty trails with only scanty preparations. The dead were buried in shallow, often unmarked graves along the way as the survivors were forced to leave the bodies of their loved ones behind.

But it was the character of these American pioneers to make the best of any situation. Despite near starvation the first winter and a grasshopper plague that nearly destroyed the crops of the second summer, the Mormons once again transformed a land, this time a land considered as uninhabitable, arid wasteland, referred to on maps of the day as the great American desert, into a thriving State. In time, the first 143 Mormons who arrived in the Salt Lake valley on July 24, 1847, were joined by thousands from every corner of the world. Some could not afford wagons and had to push their belongings in wheel-like handcarts. Although one handcart company alone lost one-third of its members when they were caught in the snows of an early winter, the dangers of crossing the Great Plains did not deter them. The flow continued until Mormons settled every corner of the West and played an enormously important role in the early histories of Arizona, New Mexico, Colorado, Wyoming, California, Idaho, and Nevada.

Life was not easy for these early pioneers. Snakes, sagebrush, and Indian skirmishes were only some of the problems they faced. Yet they confronted these obstacles with a cheerfulness and optimism that remains a shining example for us today. At every crisis, their unity as families and as a people helped them to triumph over every difficulty. Even today the Mormon people continue this tradition of family unity by emphasizing the importance of strong families as the foundation of a great nation.

The example of the early Utah pioneers is an inspiration for us to follow in conquering the problems we face as a nation. These courageous people never lost faith in their religious beliefs or in the constitutional privileges that they sacrificed to preserve. By following their example, this great Nation will also be able to overcome any adversities that confront us. I join others throughout the land at this time in commemorating this holiday and acknowledging the great contributions of the Mormon pioneers to our American heritage.

LOW LEVEL RADIATION HEALTH EFFECTS

Mr. HATCH. Mr. President, many of us have been concerned about the health effects of low level radiation. The Health Subcommittee of the Labor and Human Resources Committee, on which both Senator HUMPHREY and I serve, has held two hearings on the subject this year alone. Senator HUMPHREY and I have been investigating this problem in depth, especially as it affects our constituents. I have been concerned about civilians exposed to fallout during bomb tests in Utah in the 1950's, while the distinguished Senator from New Hampshire has been investigating claims that radiation exposure at the Portsmouth Naval Shipyard in New Hampshire has harmed workers there.

Senator HUMPHREY has written an excellent article, appearing in the June 29, 1979, edition of the Portsmouth Herald, which addresses many of the issues that are raised about low level radiation exposure. This article brings the problem into perspective, and I commend it to the attention of my colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Radiation Scare Stories

Many have been misled in the past year or two about the health effects of low level radiation. To be sure, no excess of radiation is completely safe.

But scare stories concerning radiation in the Three Mile Island incident and Dr. Narjarian's supposed findings at Portsmouth Naval Shipyard have misled the public. Facts not hysteria, must win out.

First, let's review the facts about radiation exposure to the population surrounding the Three Mile Island nuclear facility.

The current best estimate of the highest possible dose to any one individual is 83 millirem.

This is the dose that would have been received by a hypothetical person standing out-of-doors the entire week of the incident at the spot of highest concentration of radiation. Of course, no one was at this spot, but this will allow estimates of risk to err on the high side. Now, 83 millirem is a hard concept to grasp.

Let's look at it this way. The risk associated with radiation at this level is comparable to the risk of an individual smoking fourteen cigarettes.

Another way of looking at this risk is to examine radiation dosage received from natural background radiation such as cosmic rays. Such radiation cannot be avoided. A person living in Pennsylvania receives about 125 millirem-year of this background radiation.

Such a person would receive an additional 85 millirem, the excess dose received by our hypothetical individual at Three Mile Island, simply by living for one year in North Dakota. Natural background radiation in North Dakota is 210 millirem.

Preceding the scare stories on Three Mile Island was the inaccurate study of Portsmouth Naval Shipyard by Dr. Thomas Najarian. This study, which received spectacular treatment by the Boston Globe and grabbed headlines in other papers across the country, claimed that workers exposed to occupational levels of radiation were dying of cancer at twice the national average.

Last week, Dr. Najarian came before the Health Subcommittee on which I serve, and told the committee that his earlier results were in error. A more careful reanalysis of his data by Dr. Colton of Dartsmouth showed no significant statistical difference in overall cancer rates. Thus, Dr. Najarian's earlier study has been substantially repudiated.

The shipyard has an excellent safety record, and its radiation protection procedures are first-rate. The average lifetime exposure to workers exposed to shipyard radiation is less than these same personnel have from exposure to natural background radiation or to medical sources such as X-rays.

I submit that this risk is small compared to the risks in other industrial activities and is small compared to the risks normally accepted in daily life outside work.

Let me add two items of personal interest. My office building here in Washington is constructed of granite blocks which contain a small amount of uranium. The measured radiation from these blocks combined with the natural background radiation and the radiation I have received from X-rays is about the same as the exposure that shipyard workers receive.

In addition, the radiation I received from cosmic rays as an airline pilot exceeds the levels which most shipyard workers receive. Because I flew at altitudes where there was less protection from these rays, I often received higher-than-average doses of radiation. Radiation has become a fact of life for many occupations.

My purpose in this article is not to dismiss the risks of low level radiation. Every activity has risks. Americans must weigh the risks versus the benefits with all the information available. We must not let scare stories blind us to the real benefits of nuclear power.

Mr. HATCH. I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, all the nominations with the following exceptions: Calendar Order No. 270 and Calendar Order No. 274.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, all of the items identified by the majority leader are cleared on our calendar, and we have no objection to proceeding to their consideration and their confirmation.

I observe, Mr. President, that one of the names included in the request, the list identified by the majority leader, is that of W. Graham Claytor, which is one of those positions recently filled by the President, pursuant to his request that we try to move these new nominations as soon as possible and in any event prior to the August recess.

I am happy to say that we are in a position to clear that.

But there is another item on the Calendar, and that is the nomination of Mrs. Patricia Roberts Harris.

Did I understand that the majority leader did not include that one at this time?

Mr. ROBERT C. BYRD. Yes, I did include it.

Mr. BAKER. That is included?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. We are pleased to report, Mr. President, that there is no objection to that.

I see, further, that the distinguished Senator from North Carolina is present, and maybe he wishes to reserve on that particular one.

Mr. HELMS. Mr. President, if the Senator will yield, I met with Mrs. Harris this afternoon in my office. We had a frank and candid discussion about a number of issues, two of which particularly are of concern to me, one being the tobacco campaign conducted in a way that resembled vendetta by Mrs. Harris' predecessor, and the other is the difficulty between the Department of Health, Education, and Welfare and the University of North Carolina.

Mrs. Harris and I discussed this issue, as I say, quite extensively, and I was very pleased with the assurances that she gave me.

This lady strikes me as being not only intelligent but levelheaded. She has agreed that the Federal Government is not competent to run the University of North Carolina, and she has no obsession about the tobacco issue that would prompt her to refuse even to listen to opinions and facts with which she may differ.

With that in mind, Mr. President, I am delighted to have the majority leader call up the Harris nomination, and I am sure it is reported in good faith just as I accepted her assurances in good faith earlier this afternoon.

I have no objection to her nomination.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to the consideration of executive business.

The nominations will be stated.

NATIONAL AERONAUTIC AND SPACE ADMINISTRATION

The assistant legislative clerk read the nomination of Eldon D. Taylor, of Virginia, to be Inspector General, National Aeronautics and Space Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Patricia Roberts Harris, of the District of Columbia, to be Secretary of Health, Education, and Welfare.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed out of order to the consideration of Calendar Order No. 258.

There being no objection, the Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of W. Graham Claytor, of the District of Columbia, to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominations, with the exception of Calendar Nos. 270 and 274 on the Executive Calendar be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

OFFICE OF PERSONNEL MANAGEMENT

Alan Keith Campbell, of Texas, to be Director of the Office of Personnel Management.

Jule M. Sugarman, of Virginia, to be Deputy Director of the Office of Personnel Management.

FEDERAL LABOR RELATIONS AUTHORITY

H. Stephen Gordon, of Maryland, to be General Counsel of the Federal Labor Relations Authority.

Leon B. Applewhaite, of New York, to be a member of the Federal Labor Relations Authority.

POSTAL RATE COMMISSION

A. Lee Fritschler, of the District of Columbia, to be a commissioner of the Postal Rate Commission.

DEPARTMENT OF COMMERCE

Vincent P. Barabba, of New York, to be Director of the Census.

FEDERAL EMERGENCY MANAGEMENT AGENCY

John W. Macey, Jr., of Virginia, to be Director of the Federal Emergency Management Agency.

DEPARTMENT OF LABOR

William P. Hobgood, of Virginia, to be an Assistant Secretary of Labor.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there are, I believe, five orders, are there not, for the recognition of Senators on Monday?

The PRESIDING OFFICER. That is right.

ORDER FOR THE RECOGNITION OF SENATORS JAVITS, PACKWOOD, AND DOLE ON MONDAY, JULY 30, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that preceding those five orders the following Senators be recognized, each for not to exceed 15 minutes: JAVITS, PACKWOOD, and DOLE.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr President, does that make a total of seven orders for the recognition of Senators, each order being for 15 minutes?

The PRESIDING OFFICER. I believe it is eight.

Mr. ROBERT C. BYRD. Eight. I thank the Chair.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JULY 30, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that whatever time remains between the completion of the orders for the recognition of Senators on Monday, and the hour of 12:30 p.m., that such time be utilized for the transaction of routine morning business, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, I believe I am authorized, after consultation with the minority leader, to call up the military construction authorization bill at any time at the beginning of Monday?

The PRESIDING OFFICER. The Senator is correct.

AUTHORIZATION FOR THE MAJORITY LEADER TO CALL UP THE MILITARY CONSTRUCTION AUTHORIZATION BILL ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I have consulted with the distinguished minority leader, and so I will proceed to call that bill up at 12:30 p.m. on Monday.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Senator.

I will advise him that the Member on this side who will manage this bill is apprised of that fact and will be on notice.

Mr. ROBERT C. BYRD. Very well. Just to make it by unanimous consent, I ask unanimous consent that at 12:30 p.m. on Monday the Senate proceed to the consideration of the military construction authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 490

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 190, S. 490, the archeological resource bill, is made the pending business before the Senate that there be a time agreement on it as follows: 30 minutes on the bill to be equally divided between Mr. BUMPERS and Mr. HATFIELD; that there be a 20 minute limitation on any amendment, debatable motion or appeal; a 10 minute limitation on any point of order if such be submitted to the Senate for discussion, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 490 (Order No. 190), debate on any amendment debatable motion or appeal shall be limited to 20 min., to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any point of order, which is submitted or on which the Chair entertains debate shall be limited to 10 min., to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 30 min., to be equally divided and controlled, respectively, by the Senator from Arkansas (Mr. Bumpers) and the Senator from Oregon (Mr. Hatfield): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 10 a.m., following the recess. There are orders for the recognition of eight Senators, each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business during which Senators will be permitted to speak up to 5 minutes each. That period will end not later than 12:30 p.m.

At 12:30 p.m., in any event, the Senate will proceed to the consideration of the military construction authorization bill. There is a time agreement thereon. Rollcall votes will occur.

Next week shapes up as another busy week. It is hoped that during the week the Senate can dispose of, among other things, S. 1145, a bill to amend the Public Works and Economic Development

Act; S. 1150, a bill to provide business financing and other development assistance to alleviate economic distress; S. 835, a bill to extend the Appalachian Regional Development Act, and for other purposes; S. 490, a bill to protect archeological resources owned by the United States; S. 712, a bill to amend the Rail Passenger Service Act; the Treasury-Postal Service appropriation bill; hopefully the Military Construction appropriation bill, if the House acts thereon and sends the bill over in time; the Transportation appropriation bill, if the House acts on that bill; and other measures that may be cleared for action.

It is possible that the House will act on a standby gasoline rationing program, and I hope the House will do that. If that occurs, it is possible that the Senate would have an opportunity to take up that measure and dispose of it before we go out.

I would anticipate some long days next week, with rollcall votes daily, because there remains a good bit of work to be done.

RECESS UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock on Monday morning next.

The motion was agreed to; and at 6:05 p.m. the Senate recessed until Monday, July 30, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 1979:

NATIONAL CONSUMER COOPERATIVE BANK

The following-named persons to be Members of the Board of Directors of the National Consumer Cooperative Bank for terms of 3 years (new positions).

William A. Clement, Jr., Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration.

Graciela (Grace) Olivarez, Director, Community Services Administration.

FEDERAL RESERVE SYSTEM

Paul A. Volcker, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1978, vice G. William Miller.

Paul A. Volcker, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years (new position).

THE JUDICIARY

Gene E. Brooks, of Indiana, to be U.S. district judge for the southern district of Indiana, vice a new position created by Public Law 95-486, approved October 20, 1978.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class of Career Minister:

John Gunther Dean, of New York.
Samuel W. Lewis, of Texas.
Stephen Low, of Ohio.
William H. Luers, of Illinois.
Richard W. Murphy, of Maryland.
James W. Spain, of Florida.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, for promotion to the class of Career Minister for Information.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Adams, Frank S., [redacted].
Akin, Jere H., [redacted].
Alexander, Joseph D., [redacted].
Alhouse, Robert D., [redacted].
Allen, Kenneth D., [redacted].
Allen, Lee, [redacted].
Allen, Richard H., [redacted].
Allen, Wayne C., [redacted].
Amend, William B., [redacted].
Andreson, Ronald K., [redacted].
Appling, David A., [redacted].
Apruzzese, Vincent, [redacted].
Archer, John R., [redacted].
Arnold, Wallace C., [redacted].
Arwood, Thomas B., [redacted].
Bair, Arthur H., [redacted].
Baker, Larry A., [redacted].
Banks, John W., [redacted].
Banning, Robert D., [redacted].
Barkley, Craig C., [redacted].
Barnes, William R., [redacted].
Barrere, Richard P., [redacted].
Barrett, William M., [redacted].
Barrow, John P., [redacted].
Bauer, Anthony G., [redacted].
Baxter, Thomas R., [redacted].
Bayha, William T., [redacted].
Beavers, Leslie E., [redacted].
Behm, Peter S., [redacted].
Bellows, Ronald L., [redacted].
Bennett, Richard C., [redacted].
Berdux, Sylvester C., [redacted].
Best, James W., [redacted].
Bihn, Marvin A., [redacted].
Bissell, Norman M., [redacted].
Blair, John D., [redacted].
Blakely, Clyde H., [redacted].
Bliss, Richard A., [redacted].
Bloedorn, Gary W., [redacted].
Bloom, John D., [redacted].
Boes, Richard W., [redacted].
Bogart, William V., [redacted].
Boice, Craig H., [redacted].
Boice, William M., [redacted].
Boles, Wayne T., [redacted].
Bomar, Hobby J., [redacted].
Bond, Nelson B., [redacted].
Bons, Paul M., [redacted].
Boyd, Leo S., [redacted].
Boylan, Peter J., [redacted].
Boylan, Steven V., [redacted].
Bradin, James W., [redacted].
Bradley, William A., [redacted].
Brailsford, Marvin, [redacted].
Bridgwater, Tom W., [redacted].
Brintnall, Clarke M., [redacted].
Broocke, Nathan I., [redacted].
Brooks, Colleen L., [redacted].
Brown, Charles L., [redacted].
Brown, Harold L., [redacted].
Brown, Joe M., [redacted].
Browning, David B., [redacted].
Browning, Philip Y., [redacted].
Brownlee, Romie L., [redacted].
Brunelle, Pierre V., [redacted].
Brunkow, Richard O., [redacted].
Bubon, John J., [redacted].
Buczek, Richard C., [redacted].
Bullard, Monte R., [redacted].
Bunting, Willis R., [redacted].
Buono, Daniel P., [redacted].
Burke, Allan R., [redacted].
Burleson, Grady L., [redacted].
Burrell, Raymond E., [redacted].
Burrus, William S., [redacted].
Byrd, Melvin L., [redacted].
Byrom, Seymour B., [redacted].
Cadoria, Sherian G., [redacted].
Callender, William, [redacted].
Campbell, George C., [redacted].
Campbell, John G., [redacted].
Campbell, Luther U., [redacted].
Cancienne, Louis G., [redacted].
Carbone, Anthony J., [redacted].
Carlton, Terry M., [redacted].
Carmichael, Roderick L., [redacted].
Carney, Thomas P., [redacted].
Carpenter, Maxey B., [redacted].
Carter, Bobby J., [redacted].
Cavoli, Ivo J., [redacted].
Chaudrue, Robert G., [redacted].
Chavis, Langley J., [redacted].
Chelberg, Robert D., [redacted].
Chesher, Phillip B., [redacted].
Chesney, Ted S., [redacted].
Childers, Jerry W., [redacted].
Chisholm, John J., [redacted].
Clark, Howard W., [redacted].
Clark, Niles C., [redacted].
Clarke, Robert G., [redacted].
Cloy, Richard C., [redacted].
Cockill, Michael J., [redacted].
Cockly, Dale S., [redacted].
Cole, John W., [redacted].
Cook, Donald M., [redacted].
Cook, Larry Jr., [redacted].
Cook, Robert W., [redacted].
Corcoran, Gordon G., [redacted].
Corliss, William D., [redacted].
Cote, Joseph R., [redacted].
Cotts, David G., [redacted].
Courts, Philip E., [redacted].
Covault, Marvin L., [redacted].
Covington, Henry H., [redacted].
Cox, Ronald D., [redacted].
Cox, Wallace R., [redacted].
Cramer, Rockwell C., [redacted].
Creighton, Francis, [redacted].
Cremer, John C., [redacted].
Creviston, Mark S., [redacted].
Crysel, James W., [redacted].
Cummings, Ezra C., [redacted].
Custer, Leslie L., [redacted].
Daley, John M., [redacted].
Daniel, Howard, Jr., [redacted].
Daniel, William D., [redacted].
Danner, Billy G., [redacted].
Dantzscher, David D., [redacted].
David, Ronald C., [redacted].
Davis, Roy J., [redacted].
Deamusategui, Joseph, [redacted].
Deasy, William T., [redacted].
Dechristopher, Edward, [redacted].
Delbuono, John A., [redacted].
Delrosso, Louis J., [redacted].
Delumpa, Felix M., [redacted].
Dembinski, Mark L., [redacted].
Demyanenko, Serge P., [redacted].
Dethlefsen, James D., [redacted].
Detlie, Douglass S., [redacted].
Dey, Robert A., [redacted].
Dice, Jack W., [redacted].
Dicke, Diane, [redacted].
Dickinson, Kenneth, [redacted].
Digiacinto, Joseph, [redacted].
Dimauro, Philip V., [redacted].
Dixon, Leon E., [redacted].
Doehle, Douglas A., [redacted].
Dominy, Charles E., [redacted].
Donlon, Roger H., [redacted].
Donovan, Robert T., [redacted].
Downing, Wayne A., [redacted].
Downing, William R., [redacted].
Dreska, John P., [redacted].
Drosdeck, John S., [redacted].
Dunham, David L., [redacted].
Dunn, Earl N., [redacted].
Durham, James M., [redacted].
Durian, Ronald S., [redacted].
Dyer, Travis N., [redacted].
Edwards, Richard I., [redacted].
Eggleston, Howard C., [redacted].
Endy, Clarence E., [redacted].
Ennis, Harry F., [redacted].
Enright, Joseph F., [redacted].
Espin, Howard E., [redacted].
Estep, Ronald C., [redacted].
Evans, Francis T., [redacted].
Evans, George O., [redacted].
Evans, Jacky R., [redacted].
Evans, Robert D., [redacted].
Farquharson, William, [redacted].
Felter, Joseph H., [redacted].

Ferguson, James C., [redacted]
Fernandes, Virgil S., [redacted]
Ferrick, John F., [redacted]
Field, Charles N., [redacted]
Fielden, William C., [redacted]
Fields, Clinton A., [redacted]
Fiero, Robert S., [redacted]
Filer, Robert E. [redacted]
Fisher, Luke C., [redacted]
Flanagan, Thomas P., [redacted]
Foley, Thomas C., [redacted]
Foote, Evelyn P., [redacted]
Forbes, Maynard C., [redacted]
Fowler, John G., [redacted]
Fox, James H., [redacted]
Foy, William H., [redacted]
Freeman, Bobby H., [redacted]
Freitag, Merle, [redacted]
Friedenwald, Robert, [redacted]
Frink, Robert K., [redacted]
Funk, David L., [redacted]
Fyffe, Carroll M., [redacted]
Galbreath, Carlton, [redacted]
Gall, Robert P., [redacted]
Galliers, Richard J., [redacted]
Gallo, Anthony J., [redacted]
Gardella, John L., [redacted]
Garlick, Richard D., [redacted]
Gaspard, Galudis P., [redacted]
Gauntner, Donald E., [redacted]
Gear, Edward R., [redacted]
George, James T., [redacted]
Gergulis, John G., [redacted]
Gess, William D., [redacted]
Gibbings, Leslie G., [redacted]
Gingras, Ronald W., [redacted]
Gongola, Victor J., [redacted]
Good, William K., [redacted]
Gorden, Fred A., [redacted]
Gordon, Thomas B., [redacted]
Grabowski, Norbert, [redacted]
Graham, Joseph E., [redacted]
Granrud, Jerome H., [redacted]
Gray, Joseph M., [redacted]
Gray, Michael K., [redacted]
Gray, Peter A., [redacted]
Gray, Ted J., [redacted]
Green, Charles S., [redacted]
Greenberg, Paul L., [redacted]
Greene, Therman R., [redacted]
Greenwalt, Randall, [redacted]
Griffin, Turner D., [redacted]
Griffith, Allen L., [redacted]
Griffith, Jack H., [redacted]
Griffith, Jerry R., [redacted]
Griffitts, Richard, [redacted]
Groh, Peter J., [redacted]
Gross, Gerald D., [redacted]
Grove, Robert N., [redacted]
Guglielmo, Eugene M., [redacted]
Guild, William B., [redacted]
Guillory, Kenneth R., [redacted]
Gustafson, Carl S., [redacted]
Hackett, Robert T., [redacted]
Hackney, Edward C., [redacted]
Hamby, Jerrell E., [redacted]
Hamilton, Bruce M., [redacted]
Hammett, Jack C., [redacted]
Hanson, Charles K., [redacted]
Harmon, Charles P., [redacted]
Harmon, James J., [redacted]
Harmon, William E., [redacted]
Harris, Donald M., [redacted]
Harris, William K., [redacted]
Harvey, Thomas H., [redacted]
Hastings, Clark W., [redacted]
Hawkins, Eugene D., [redacted]
Hawn, Darryl R., [redacted]
Hawranick, Theodore, [redacted]
Hawthorne, Raymond, [redacted]
Hayden, Leroy R., [redacted]
Hayes, James S., [redacted]
Hendrix, Charles W., [redacted]
Henry, John F. [redacted]
Herzig, Charles W., [redacted]
Heseman, Virginia L., [redacted]
Hickey, William C., [redacted]
Hidalgo, Peter D. [redacted]
Hiland, Bobby A. [redacted]
Hill, Orland K. [redacted]
Hines, Charles A., [redacted]
Hines, Frank E., [redacted]
Hock, Neil S., [redacted]
Hogan, Edward M., [redacted]
Hogan, Jerry H., [redacted]
Holcombe, Jerry V. [redacted]
Holloway, Havis L., [redacted]
Houston, Darrell G., [redacted]
Huber, Thomas H., [redacted]
Hudson, Ronald E., [redacted]
Hudson, William K., [redacted]
Huges, William L., [redacted]
Hummel, Theodore W., [redacted]
Humphrey, Johnny M., [redacted]
Hutcheson, Samuel Z., [redacted]
Hutton, Paul C., [redacted]
Hyers, James E., [redacted]
Ioanidis, Gabriel J., [redacted]
Irwin, Allan S., [redacted]
Isaacson, Roy W., [redacted]
Iverson, George R., [redacted]
Ivey, Charles E., [redacted]
James, James D., [redacted]
Jebavy, Ronald J., [redacted]
Jernigan, Cecil L., [redacted]
Johnson, Bradley J., [redacted]
Johnson, Darel S., [redacted]
Johnson, Henry O., [redacted]
Johnston, Alexander, [redacted]
Johnston, Carl F., [redacted]
Joiner, Robert E., [redacted]
Jolley, Charles A., [redacted]
Jones, Colonel B., [redacted]
Jones, Julius E., [redacted]
Jones, Robert P., [redacted]
Jordan, Josef C., [redacted]
Kail, Richard L., [redacted]
Kaine, George R., [redacted]
Kane, Paul N., [redacted]
Karegeannes, Harry, [redacted]
Kaye, Francis, [redacted]
Keene, Kurt L., [redacted]
Keighler, Howard V., [redacted]
Kelly, Jacquelin J., [redacted]
Kelly, Patrick J., [redacted]
Kelly, Peter J., [redacted]
Kennedy, Stanley W., [redacted]
Kernan, James J., [redacted]
Kierstead, Dana S., [redacted]
King, Jack E., [redacted]
King, Stanley L., [redacted]
Kirwin, Patrick J., [redacted]
Kite, Paul L., [redacted]
Klein, Frank J., [redacted]
Klose, John A., [redacted]
Kolasheski, Richard [redacted]
Kosmider, Gary L., [redacted]
Kubo, Arthur S., [redacted]
Kuklinski, Norman J., [redacted]
Kulik, Frederick W., [redacted]
Kulmayer, Joseph L., [redacted]
Kunard, Donald D., [redacted]
Kyle, David S., [redacted]
Ladner, Donald A., [redacted]
Lajoie, Roland, [redacted]
Lamarche, Bertrand, [redacted]
Lamb, John C. [redacted]
Lambert, Jerry V. [redacted]
Langendorff, Herbert, [redacted]
Larson, Henry S., [redacted]
Laubscher, Alan L. [redacted]
Lawson, Edward K., [redacted]
Leach, James E., [redacted]
Leary, Donald B., [redacted]
Leclere, Dick T., [redacted]
Leedy, Eugene B., [redacted]
Lehmann, Clark T., [redacted]
Lemere, Charles E., [redacted]
Licht, William R., [redacted]
Lidy, Albert M., [redacted]
Lincoln, James B., [redacted]
Lindsey, Richard C., [redacted]
Lindstrom, Frank V., [redacted]
Linver, Sidney L., [redacted]
Locklear, James P., [redacted]
Lockwood, Edward D., [redacted]
Longarzo, William L., [redacted]
Lopresti, Vincent A., [redacted]
Love, Heilbron B., [redacted]
Loyd, David R., [redacted]
Lozano, William, [redacted]
Lucas, Robert H., [redacted]
Luchino, Gerald T., [redacted]
Lufkin, Linwood E., [redacted]
Lunday, Donald E., [redacted]
Lunt, Robert G., [redacted]
Luther, William A., [redacted]
Lydahl, Gustav T., [redacted]
Lynch, David J., [redacted]
Lyons, Calvin G., [redacted]
MacDonald, Robert W., [redacted]
Mace, Arthur F., [redacted]
MacLeod, Roger T., [redacted]
Madigan, Eugene F. [redacted]
Madigan, John J. [redacted]
Mahler, Michael D. [redacted]
Makowski, Paul, [redacted]
Malave, Garcia S., [redacted]
Mallory, Glynn C [redacted]
Mallory, Philip H., [redacted]
Malloy, Shaun T., [redacted]
Manbeck, Jackie L., [redacted]
Manganaro, S. Joseph, [redacted]
Manges, Duff, G., [redacted]
Marsh, Caryl G., [redacted]
Marshall, Thomas J., [redacted]
Martin, Donald R., [redacted]
Mason, John T., [redacted]
Massabni, Fadlo M., [redacted]
Massey, Lee T., [redacted]
Masterson, Peter H., [redacted]
Mathis, Robert N. [redacted]
Mauk, Gerald F., [redacted]
Maxson, Stanley A., [redacted]
McAllister, James H., [redacted]
McCall, Gerald T., [redacted]
McCarty, Billy W., [redacted]
McClintic, Patrick, [redacted]
McCluskey, William, [redacted]
McConville, Frederick, [redacted]
McCord, Patricia A., [redacted]
McDonnell, Joseph M., [redacted]
McGaw, Charles D., [redacted]
McGlockton, William, [redacted]
McIlwain, Charles P., [redacted]
McKinney, Dickey R., [redacted]
McKinnon, Graham, III, [redacted]
McLain, David P. [redacted]
McLaurin, Ronald O., [redacted]
McLeod, Roger L. [redacted]
McMaster, Ronald R., [redacted]
McNamara, Michael J., [redacted]
McNerney, John C., [redacted]
McVey, Peter M. [redacted]
Meckel, Peter S. [redacted]
Mellin, James P. [redacted]
Mercer, Warren H. [redacted]
Mickelson, Roger W. [redacted]
Micol, Victor E. [redacted]
Miles, Paul L., Jr. [redacted]
Miller, John D. [redacted]
Miller, Thomas H. [redacted]
Mitchell, Gerald C. [redacted]
Montgomery, Kenneth, [redacted]
Mooradian, Moorad, [redacted]
Moore, John E. [redacted]
Moore, John W. [redacted]
Morgan, George A., [redacted]
Morgan, Jack E., [redacted]
Morris, James H. [redacted]
Mosbrooker, Michael, [redacted]
Moscatelli, Robert, [redacted]
Mosley, Howard R. [redacted]
Mountel, William E., [redacted]
Muhlenfeld, William, [redacted]
Mulcahey, Francis L., [redacted]
Mullen, Charles F., [redacted]
Mulvaney, Merle L. [redacted]
Mumford, Jay C. [redacted]
Murphy, Charles E., [redacted]
Murray, Hershell B., [redacted]
Napper, John L., [redacted]
Neale, Larry W. [redacted]
Nelson, Richard E., [redacted]
Newberry, Milton S., [redacted]
Northquest, William, [redacted]
Norton, Grahman J., [redacted]
Novak, Jerry R. [redacted]
Nowak, Leonard G., [redacted]
Nuffer, Frederick L. [redacted]

Nulk, Robert A., [redacted].
Nydam, David A., [redacted].
Odell, Ersal D., [redacted].
Okane, Michael L., [redacted].
Oliver, John H., [redacted].
Olson, Ronald C., [redacted].
Olson, Stanley R., [redacted].
Omeara, Andrew P., [redacted].
Ondecker, Lawrence, [redacted].
Orndorff, John F., [redacted].
Ostermeier, William, [redacted].
Ota, Harry S., [redacted].
Owens, Ira C., [redacted].
Packard, Bruce S., [redacted].
Pagonis, William G., [redacted].
Parsons, Ralph W., [redacted].
Partlow, Frank A., [redacted].
Paschall, Jim R., [redacted].
Patrick, Harold L., [redacted].
Patterson, Joseph M., [redacted].
Payne, Moses, [redacted].
Peay, James H., [redacted].
Pellicci, Jack A., [redacted].
Peppers, John S., [redacted].
Perkins, Claude D., [redacted].
Perkins, Randall A., [redacted].
Perrenot, Frederick, [redacted].
Perry, Charles C., [redacted].
Pertain, George H., [redacted].
Peterson, Humphrey, [redacted].
Pettersen, Clifford, [redacted].
Pfabe, Richard K., [redacted].
Pfeiffer, Richard W., [redacted].
Phillips, Roberts L., [redacted].
Piff, Walter F., [redacted].
Pike, Verner N., [redacted].
Place, Berwyn L., [redacted].
Plummer, Michael T., [redacted].
Polk, Paul G., [redacted].
Pollard, Gordon K., [redacted].
Pomeroy, Mae E., [redacted].
Pond, Kenneth S., [redacted].
Ponton, Hector R., [redacted].
Poole, James R., [redacted].
Porter, Kelly A., [redacted].
Powers, Byron L., [redacted].
Powers, Richard J., [redacted].
Pratt, Joseph, [redacted].
Prentice, Leland E., [redacted].
Pugmire, James H., [redacted].
Putman, Gerald H., [redacted].
Putnam, John D., [redacted].
Putnam, Sidney F., [redacted].
Rachels, Ray H., [redacted].
Ramey, Harold M., [redacted].
Ramsden, James H., [redacted].
Rash, Stephen E., [redacted].
Raymond, John A., [redacted].
Reed, Henry M., [redacted].
Rees, Warren K., [redacted].
Renner, John A., [redacted].
Resa, Philip E., [redacted].
Rhame, Thomas G., [redacted].
Rhodes, Robert G., [redacted].
Rice, James W., [redacted].
Rice, Robert C., [redacted].
Ricketts, Thomas L., [redacted].
Riley, William H., [redacted].
Rinkel, Marcia L., [redacted].
Rives, William T., [redacted].
Roache, Nathaniel R., [redacted].
Roberts, Howard H., [redacted].
Roberts, Joel E., [redacted].
Roberts, Thomas D., [redacted].
Robinson, James C., [redacted].
Roche, David, [redacted].
Rogers, Richard E., [redacted].
Root, Duane B., [redacted].
Roppo, Leo J., [redacted].
Roth, Howard W., [redacted].
Rowe, Terry E., Jr., [redacted].
Ryburn, Glenn O., [redacted].
Sampson, John B., [redacted].
Sanders, Paul B., [redacted].
Sanders, Rabun C., [redacted].
Saul, Gordon E., [redacted].
Saulnier, Philip J., [redacted].
Saunders, Otis H., [redacted].
Schiermeier, John J., [redacted].
Schlapak, Benjamin, [redacted].
Schlieper, David P., [redacted].
Schneebeck, Gene A., [redacted].
Schneeweis, Harold, [redacted].
Scholes, Edison E., [redacted].
Schow, Robert A., [redacted].
Schroder, Romayne E., [redacted].
Schumann, Lawrence, [redacted].
Schurtz, Gerald P., [redacted].
Schwar, Joseph H., [redacted].
Schwarz, Robert L., [redacted].
Scillian, Billie H., [redacted].
Serchak, William E., [redacted].
Shackelford, William, [redacted].
Shaffer, Malcolm S., [redacted].
Shaneyfelt, Stanley, [redacted].
Sharp, John B., [redacted].
Shepard, George T., [redacted].
Shevlin, George L., [redacted].
Shuttleworth, Charles W., [redacted].
Sibert, George W., [redacted].
Siderius, Robert R., [redacted].
Simmons, Herbert S., [redacted].
Simmons, Ruth L., [redacted].
Singleton, Richard, [redacted].
Sivert, William D., [redacted].
Slagle, James V., [redacted].
Smart, Lee D., [redacted].
Smith, Allen D., [redacted].
Smith, Robert T., [redacted].
Snead, Robert S., [redacted].
Snider, Don M., [redacted].
Snowden, John R., [redacted].
Socks, Hugh J., Jr., [redacted].
Soland, Donald J., [redacted].
Solomon, John K., [redacted].
Solomon, William V., [redacted].
Solymosy, Edmond S., [redacted].
Sowell, Lewis C., [redacted].
Sowell, Mark S., [redacted].
Spaulding, Albert R., [redacted].
Spaulding, Richard, [redacted].
Spears, Tom C., [redacted].
Spurrier, Robert E., [redacted].
Stafford, Benjamin, [redacted].
Stalcup, Billy J., [redacted].
Standridge, Lanny, [redacted].
Stanton, James D., [redacted].
Starley, Vernon B., [redacted].
Starsman, Raymond E., [redacted].
Statler, James B., [redacted].
Stearns, Henry A., [redacted].
Stem, David H., [redacted].
Stephans, Richard A., [redacted].
Stevens, Eulin L., [redacted].
Stewart, James T., [redacted].
Stewart, Robert G., [redacted].
St John, John E., [redacted].
Stofft, William A., [redacted].
Stone, James E., [redacted].
Stone, John B., [redacted].
Streeter, William F., [redacted].
Strong, Edward M., [redacted].
Stroud, Lamar A., [redacted].
Struck, Larry D., [redacted].
Stuart, James E., [redacted].
Sullivan, Gordon R., [redacted].
Sullivan, John H., [redacted].
Talkington, Thomas, [redacted].
Tanner, Walter D., [redacted].
Tate, George W., [redacted].
Taylor, Alfred E., [redacted].
Taylor, Paul W., [redacted].
Tengler, John A., [redacted].
Tennis, Gaylord L., [redacted].
Theuer, Paul J., [redacted].
Thiessen, Derek J., [redacted].
Thomas, Billy M., [redacted].
Thomas, Golden L., [redacted].
Thompson, Charles A., [redacted].
Thompson, John T., [redacted].
Tillar, Donaldson P., [redacted].
Tipton, Carl W., [redacted].
Todd, Alan R., [redacted].
Todd, John J., [redacted].
Tolcher, James A., [redacted].
Tomberlin, John R., [redacted].
Tomlinson, Raymond, [redacted].
Toner, Richard M., [redacted].
Toomey, Francis X., [redacted].
Toye, John E., [redacted].
Tredway, Robert N., [redacted].
Trent, William E., [redacted].
Trevino, Francisco, [redacted].
Tribe, Donald S., [redacted].
Turner, Robert A., [redacted].
Vanderels, Theodore, [redacted].
Vaneynde, Donald F., [redacted].
Vanfleet, Townsend, [redacted].
Vanherpe, William H., [redacted].
Varallo, Francis V., [redacted].
Vazquez, Jose A., [redacted].
Venzke, Gene A, [redacted].
Waggoner, Robert N., [redacted].
Wakefield, Samuel N., [redacted].
Wakelin, John D., [redacted].
Waldack, Albert C., [redacted].
Walker, Philip A., [redacted].
Waller, Calvin A., [redacted].
Warmath, Julius G., [redacted].
Washington, Charles, [redacted].
Waskowicz, Francis, [redacted].
Wassom, Herbert M., [redacted].
Wasson, James V., [redacted].
Webb, James R., [redacted].
Webb, Richard B., [redacted].
Webb, Robert H., [redacted].
Weekley, Robert M., [redacted].
Weis, James H., [redacted].
Welch, Elliot J., [redacted].
Wellman, William H., [redacted].
Wentworth, Eugene G., [redacted].
Wetzel, Gerald R., [redacted].
Wharton, Terrance D., [redacted].
Whedbee, John S., [redacted].
Wheeler, Edward W., [redacted].
Wheeler, Jack C., [redacted].
White, Jerry A., [redacted].
Whitley, James R., [redacted].
Whitmarsh, Donald B., [redacted].
Wickliffe, Paul T., [redacted].
Wiersema, Kenneth E., [redacted].
Williams, Charles E., [redacted].
Williams, David K., [redacted].
Williams, Francis M., [redacted].
Williams, John B., [redacted].
Williams, Phillip J., [redacted].
Williams, Robert B., [redacted].
Williamson, Donald, [redacted].
Willis, James S., Jr., [redacted].
Wilson, Carroll R., [redacted].
Wilson, David G., [redacted].
Wilson, Donald E., [redacted].
Wilson, Gifford D., [redacted].
Wilson, John S., [redacted].
Winslow, Robert A., [redacted].
Wise, Paul E., [redacted].
Wist, Fred C., [redacted].
Wittenberg, Kenneth, [redacted].
Wolfe, Rodney D., [redacted].
Wollenberg, William, [redacted].
Womack, Daniel, Jr., [redacted].
Wood, Robert D., [redacted].
Woolweaver, Robert, [redacted].
Wooten, R. J., [redacted].
Wright, Dean W., [redacted].
Wright, Willie F., [redacted].
Wulff, Roy A., [redacted].
Xenos, Michael J., [redacted].
Yamaguchi, Phillip, [redacted].
Yarborough, William, [redacted].
Yaugo, Edward O., [redacted].
Young, Leon A., [redacted].
Zachary, James L., [redacted].
Zouzalik, Ervan E., [redacted].

CHAPLAINS

To be colonel

Andrews, Joel E., [redacted].
Bagnal, William K., [redacted].
Bell, Berdon M., [redacted].
Bowers, Curtis R., [redacted].
Carey, John C., [redacted].
Deveaux, John A., [redacted].
Easley, Howard A., [redacted].
Einertson, Norris L., [redacted].
Ennis, Robert J., [redacted].
Greene, Everett H., [redacted].
Grubb, Hugh M., [redacted].
Hill, Charles F., [redacted].
Hoogland, John J., [redacted].
Hughes, Marvin C., [redacted].
Jalbert, Armand N., [redacted].
James, Leroy, [redacted].

Kohl, Richard W., [redacted].
Lembke, Paul W. [redacted].
Libby, Billy W., [redacted].
Linderman, James R., [redacted].
Ness, Leroy T., [redacted].
Prout, Gordon R., [redacted].
Roque, Francis X., [redacted].
Thomas, Everette J., [redacted].
Thompson, James G., [redacted].
Todd, Ermine, Jr., [redacted].
Walker, Norman G., [redacted].

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

Boller, Richard R., [redacted].
Coker, James R., [redacted].
Dahlinger, Richard, [redacted].
Downes, Michael M., [redacted].
Gray, David T., [redacted].
Haight, Barrett S., [redacted].
Hamel, Robert D., [redacted].
Johnson, Jeremy R., [redacted].
Kucera, James, [redacted].
McCune, James N., [redacted].
Murray, Robert E., [redacted].
Myers, Walter K., [redacted].
O'Brien, Francis D., [redacted].
Rice, Paul J., [redacted].
Stewart, Ronald B., [redacted].
Subrown, James C., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Bayne, Calvin, [redacted].
Bishop, Garland G., [redacted].
Black, Edward J., [redacted].
Brand, Fred C., [redacted].
Brown, George L., [redacted].
Bryant, Robert J., [redacted].
Cobbs, John R., [redacted].
Corn, Poe R., [redacted].
DePonte, Joseph P., [redacted].
Dryden, David D., [redacted].
Ellingson, Mayo K., [redacted].
Emmons, Bobby B., [redacted].
Fechner, Ruben F., [redacted].
Habeck, Edgar J., [redacted].
Hanson, Robert L., [redacted].
Harris, Cecil B., [redacted].
Hayes, John D., [redacted].
Helser, Carl W., [redacted].
Herek, Robert L., [redacted].
Jackson, Thomas C., [redacted].
Jones, Ronald C., [redacted].
Joyce, Brendan E., [redacted].
Kennan, James S., [redacted].
Korte, Thomas H., [redacted].
LaFleur, George J., [redacted].
Ockert, Carroll A., [redacted].
O'Donnell, Frank P., [redacted].
Pedersen, Edward R., [redacted].
Picha, Norbert O., [redacted].
Pollock, Archie D., [redacted].
Redman, David E., [redacted].
Rengstorff, Roy H., [redacted].
Reuter, Leroy H., [redacted].
Roberts, John E., [redacted].
Schiefer, Donald D., [redacted].
Slyman, George L., [redacted].
Sobocinski, Philip, [redacted].
Story, Jack P., [redacted].
Summary, Robert J., [redacted].
Taylor, Edward J., [redacted].
Tuten, William R., [redacted].
Uemura, Edward H., [redacted].
Wilson, Jack R., [redacted].
Wood, Malcolm H., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Appleby, Howard A., [redacted].
Carmona, Louis S., [redacted].
Fritsch, Ann D., [redacted].
Iacoboni, Frances A., [redacted].
Mount, Dorothy M., [redacted].
Sakson, Donald A., [redacted].

VETERINARY CORPS

To be colonel

Bellamy, Albert D., [redacted].
Carraway, Claude W., [redacted].
Clark, William H., [redacted].
DePaoli, Alexander, [redacted].
Droite, James E., [redacted].
Huxsoll, David L., [redacted].
Keefe, Thomas J., [redacted].
Kovatch, Robert M., [redacted].
Loizeaux, Peter S., [redacted].
Ottenberg, John C., [redacted].
Stedham, Michael A., [redacted].

ARMY NURSE CORPS

To be colonel

Butkiewicz, Edward, [redacted].
Frederico, Anna K., [redacted].
Goshling, Bernadine, [redacted].
Hammer, Joyce A., [redacted].
Harvey, John J., [redacted].
Hill, Perry J., [redacted].
Hoover, Mary P., [redacted].
Hoppe, Jeanne, [redacted].
Huber, James O., [redacted].
Jones, Addie B., [redacted].
Messerschmidt, Mary, [redacted].
Miller, Teryl R., [redacted].
Romeo, James J., [redacted].
Seufert, Helen J., [redacted].
Sinclair, Janie A., [redacted].
Soltys, Anthony W., [redacted].
Sullivan, Barbara A., [redacted].
Vineys, Eugenia A., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Deuarona, Jose R., Sr., [redacted].
McGrail, Francis J., [redacted].
Middleton, Thomas C., [redacted].
Mize, William F., Jr., [redacted].
Reid, John F., [redacted].
Watt, Murray B., [redacted].

IN THE NAVY

The following-named commanders of the U.S. Navy for temporary promotion to the grade of captain in the line, pursuant to title 10, United States Code, sections 5769 and 5791, subject to qualification therefor as provided by law:

Adkins, James N., Jr.
Adler, Roy W.
Akers, Max N.
Albrecht, Carl J.
Alexander, Edward E., Jr.
Alexander, Hershel D.
Alexander, Corington A., Jr.
Allender, George R.
Alvarez, Raoul
Anckonie, Alex III
Anderson, Bryan R.
Anderson, Donald R.
Armbruster, William A.
Bailey, Fred W.
Ball, Ronald F.
Barnes, Fletcher J., III
Barnhart, Don H.
Barringer, Larry E.
Bennett, David G.
Bennett, David M.
Berg Robert P.
Bitoff, John W.
Blasch, Lynn P.
Blatt, Russel N.
Bloh, William C.
Boecker, Donald V.
Boland, Joseph E., Jr.
Boorda, Jeremy M.
Borcik, David E.
Bowles, Vivian K.
Brandt, Robert T.
Brickner, John S.
Briggs, Roger C.
Brooks, Paul E.
Brown, Michael J.
Brown, Ronald L.
Bruce, Malvin D.
Brune, Charles M.
Bull, Lyle F.
Bunting, Keith M.
Burcher, Philip E.
Burns, Charles E.
Burns, John J.
Buss, Richard H.
Butcher, Bradley A.
Butterfield, John A.
Calhoun, John F.
Calvert, John F.
Calvin, Donald U.
Carlson, William C.
Carpenter, John E.
Carson, Aubrey W.
Carson, Richard L.
Catalano, Peter R.
Chadick, Wayne L.
Chambers, Leroy
Chiles, Henry G., Jr.
Christensen, Robert
Clardy, Herman S., Jr.
Clarity, Michael G.
Clinton, John C.
Coldwell, Thomas
Cole, Gerald L.
Colley, Michael C.
Collins, James E.
Collins, John F.
Connerton, James E., Jr.
Cox, David R.
Cox, Kenneth H.
Coyne, George K., Jr.
Crowninshield, George W.
Curry, James D.
Curtin, James M.
Dafoe, James L.
Daniels, Shane P.
Davis, Walter J., Jr.
Dawson, William H.
Delpercio, Michael, Jr.
Desko, Daniel A.
Dipalma, Robert F.
Dittrick, John J., Jr.
Dombrowski, Renry R.
Dressler, Joseph A.
Driver Ace C., Jr.
Drude, Leonard J.
Duff, Karl M.
Duffey, Russell G.
Dunbar, Douglas P., Jr.
Dundon, Alan M.
Dykeman, Charles J.
Edgemond, John W., III
Eglin, James M.
Eikel, Harvey A.
Elliott, George M.
Ellison, Paul E.
Evans, Ronald A.
Farnham, David W.
Farrar, Bobby C.
Ferguson, Robert H.
Fisher, James R.
Fitzgerald, Thomas A., Jr.
Flanagan, George T.
Fleming, James J.
Fleming, Thomas E.
Forst, Ronald J.
Franklin, John S.
Gamboa, John F.
Gatje, Peter H.
George, Hugo C.
Gerrish, Donald A., Jr
Gibson, David B.
Gies, Leo C.
Gillett, Robert M., Jr.
Given, Philip R.
Goldenstein, Gordon R.
Gomez, Alvaro R.
Goodwin, Robert L., Jr.
Gorham, David S.
Gorham, Milton R., Jr.
Grafel, Lynn H.
Gram, Emil G.
Guilbault, Roland G.
Gunter, Billie G.
Haag, Ernest V.
Hagan, Wayne E.
Hahn, Donald L.
Hahn, Dwight E.
Haines, Donald A.
Hallier Manuel A.
Halye, Lawrence A.
Hardy, Ray S., Jr.
Harrison, Joe P.
Harriss, David J.
Hayes, William V.
Hebert, Larry
Henderson, Arnold H.
Hendricks, Paul V.
Henry, Robert L.
Hernandez, Jesse J.
Herold, Lance
Heuberger, Nathan A.
Hill, Martin G.
Hill, Virgil L., Jr.
Hilt, John W.
Hoech, Donald G.
Holland, John D., Jr.
Holt, William C.
Horn, Leslie J.
Howard, William S., III
Huff, Douglas
Hunter, Harold C.
Huntington, Stuart L.
Jackson, Milton, Jr.
Jacobs, Paul H.
Jacobs, Selby W.
Jampoler, Andrew C. A.
Jones, Arden W. F., Jr.
Jones, Howard R., Jr.
Kaup, Robert C.
Kelley, Robert D.
Kenney, James A.
Kerr, Daryl L.
Kersh, John M.
Kight, James R.
Killelea, Francis R.
Kinnier, John W.
Kirby, Raymond E.
Kletter, David M.
Klinedinst, Paul R., Jr.
Knott, Richard C.
Konkel, Harry W.
Kuhlke, Robert E.
Kunkel, Barry E.
LaChance, George M., Jr.
Lamoureux, Robert J.
Langdon, Stewart D.
Larzelere, Charles W., III
Lavallee, William F.
Lee, Leonard F.
Lehmberg, George R., Jr.
Lesesne, Henry D.
Leshko, Thomas J.
Lineberger, Preston H.
Lisle, George F.
Lloyd, George T.
Lowe, Larry T.
Lowery, Needham H.
Lucas, Robert P.
Ludwig, Ronald E.
Lyon, Edward, III
Macke, Richard C.
Mackenzie, Franklin F.
Magee, James A.
Maier, Peter T.
Major, James A.
March, Daniel P.
Mathews, James P.
Matthews, Gary D.
Mauz, Henry H., Jr.
May, Wesley
Mayo, Ned H.
McCandless, Bruce, II
McCartney, Roy S., Jr.
McCarty, Kenneth R.
McCorry, John H.
McCullough, Martin L.
McEwen, Robert M.
McFerren, Robert W.
McGhee, Kenneth B.
McGuire, Michael L.
McKinney, Charles J., Jr.
McLaughlin, Bruce C.
McNulla, James E., III
McVadon, Eric A., Jr.
Melanson, Edward J., Jr.
Mercer, Thomas A.
Merriken, Stuart A.
Meyer, Dale A.
Mezzadri, Francis X.
Midgarden, Peter N.
Midtvedt, Harold L.
Miller, Hawkins G.
Miller, Robert D.
Milligan, Richard D.
Molenda, Paul H.
Monroe, Philip A.
Monteath, Gordon M., Jr.
Moore, James B.
Moore, Thomas J.
Morris, Clyde C.
Mosher, Norman G.
Mosman, Donald E.
Munsinger, Melvin D.
Murphy, John C.
Musgrove, Robert W.
Nakagawa, Gordon R.
Nash, Norman B.
Newton, George B., Jr.
Nutting, Roger M.
Obeirne, Frank, Jr.
O'Neal, Edward A.
Ong, Richard E.
Osborne, Robert B.
Otto, Carl H.
Pabst, Howard L.
Pape, Jerry L.
Parcells, Paul W.
Patrick, Meredith W.
Pauole, Alvin H.

Pearce, Michael A.
Pease, Charles C.
Peden, Joe D.
Pellerin, Alfred E., III
Peltz, Theodore A.
Penny, Lawrence A.
Perkins, Robert S., Jr.
Peters, John D.
Peterson, Charles A.
Petroske, Kenneth C.
Phelps, George T.
Phillips, Robert E.
Pippenger, William W.
Pivarnik, William D.
Polski, Paul A.
Powell, Richard A.
Proctor, Robert R.
Putnam, Wayne A.
Pyle, Ronald W.
Rager, Richard R.
Rasmussen, John D.
Rauch, Leo A.
Ready, John K.
Reed, William H., Jr.
Rehder, William A.
Reister, Walter A.
Render, Ronald W.
Renner, William S.
Ressler, Paul M.
Rice, William L.
Riley, Roy G.
Riley, William E.
Robinson, Kenneth F.
Roche, James G.
Roder, Peter S.
Rodgers, John M.
Rogers, Gerald W.
Rohrbough, John D.
Roper, Vincent W.
Rose, Clifford A., Jr.
Rosen, Robert S.
Roth, James E.
Runzo, Melvin A.
Ruppert, Noel L.
Russell, Harold B.
Sawdey, Phillip G.
Sawyer, Tommy D.
Schluntz, Frank R.
Schmidt, Arnold C.
Schramm, William G.
Schroeder, Gerard R.
Schulz, William J.
Searcy, William P.
Sheehan, James E.
Sherburne, Douglas M.
Sherman, John E.
Shope, Theodore L.
Silverman, Richard A.
Skezas, George C.
Slaven, Robert K., Jr.
Slye, Richard E.
Smith, John S.
Smith, Leighton W., Jr
Smith, Nepier V.
Smith, Ralph E.
Smith, William P.
Sorensen, Richard S.
Sorna, Ronald E.
Springer, Judson H.
Starbird, Gary L.
Staudenmayer, Frederick G.
Steckler, Charles T.
Stokes, Carl J., Jr.
Streeter, Gregory F.
Strickland, Virgil E., Jr.
Strohsahl, George H., Jr.
Stubbs, George R.
Stumcke, Frederick B., Jr.
Sullivan, Gerald F.
Sullivan, George E., III
Summers, Carl R.
Susag, Gary R.
Svoboda, Henry D., Jr.
Taft, Denis J.
Taggart, Donald J.
Taylor, James R. C.
Taylor, Jimmie W.
Taylor, John K.
Taylor, Raynor A. K.
Tedder, James E.
Templeton, Felix E.
Tenefrancia, Ambrose J., Jr.
Terry, Bert D.
Thomas, James P. L.
Thomas, Richard W.
Thomas, Robert D.
Triebes, Carl J., Jr.
Troutman, Darrell C.
Truesdell, William M.
Truly, Richard H.
Tucker, Robert E., Jr.
Tuft, Markham D.
Turpin, Thomas J., Jr.
Vanatta, Jerry L.
Vaught, Clarence T.
Vick, John C.
Victor, Alfred E.
Vogt, Larry G.
Waples, John M.
Warren, Robert L.
Watson, Ian M.
West, Ward L.
Whitby, Ralph E., Jr.
White, Steve C.
Whitmire, Robert L.
Whittaker, Thomas K.
Wile, Alan R., Jr.
Wiley, Robert C.
Wilson, Alger L.
Wilson, Richard J.
Witherspoon, Emanuel E.
Wood, Phillip R.
Woodbury, David E.
Wright, Arthur S.
Wright, Leo C.
Wright, William A.
Young, Ernest T., Jr.
Young, Howard L., Jr.
Young, Robert B.
Yow, John S.
Zimdar, Robert E.

The following-named women commanders of the U.S. Navy for permanent promotion to the grade of captain in the line, pursuant to title 10, United States Code, section 5771 and 5791, subject to qualification therefor as provided by law:

Acosta, Delores Y.
Dupes, Yvonne M.
Suse, Barbara J.
Vail, Doris R.
Yeomen, Majorie A.

Lt. Robert L. Caldwell, Medical Corps, of the Reserve, of the U.S. Navy for temporary promotion to the grade of lieutenant commander, in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5793 and 5791, subject to qualification therefor as provided by law.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and various staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line), 5773 (staff corps), and 5791, subject to qualification therefor as provided by law:

LINE

Arterburn, George K., Jr.
Bentleysmith, Thomas G.
Butcher, Marvin E., Jr.
Gustafson, Walter A.
Reish, Robert A.
Wells, Roderick A.

SUPPLY CORPS

Mullen, Peter L.
Newell, William M.
Schneeberger, Rudy L.
Skinner, Thomas B., Jr.

CIVIL ENGINEER CORPS

Kucinski, John M.

The following-named lieutenant (junior grade) of the line, of the U.S. Navy, for appointment in the Supply Corps as permanent ensign and temporary lieutenant (junior grade), pursuant to title 10, United States Code, section 5582(b) and 5791, subject to qualification therefor as provided by law:

Presto, Anthony F.

The following-named lieutenant (junior grade) of the Supply Corps, of the U.S. Navy for appointment in the line, as permanent ensign and temporary lieutenant (junior grade), pursuant to title 10, United States Code, section 5582(a) and 5791, subject to qualification therefor as provided by law:

Russell, Henry G.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 27, 1979:

National Aeronautics and Space Administration

Eldon D. Taylor, of Virginia, to be Inspector General, National Aeronautics and Space Administration.

Department of Health, Education, and Welfare

Patricia Roberts Harris, of the District of Columbia, to be Secretary of Health, Education, and Welfare.

Office of Personnel Management

Alan Keith Campbell, of Texas, to be Director of the Office of Personnel Management for a term of 4 years.

Jule M. Sugarman, of Virginia, to be Deputy Director of the Office of Personnel Management.

Federal Labor Relations Authority

Leon B. Applewhaite, of New York, to be a member of the Federal Labor Relations Authority for a term of 3 years.

H. Stephan Gordon, of Maryland, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years.

Postal Rate Commission

A. Lee Fritschler, of the District of Columbia, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1982.

Department of Defense

W. Graham Claytor, of the District of Columbia, to be Deputy Secretary of Defense.

Bureau of the Census

Vincent P. Barabba, of New York, to be Director of the Census.

Federal Emergency Management Agency

John W. Macy, Jr., of Virginia, to be Director of the Federal Emergency Management Agency.

Department of Labor

William P. Hobgood, of Virginia, to be an Assistant Secretary of Labor.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

THE OLYMPIC PRISON AT LAKE PLACID

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. CHARLES H. WILSON of California. Mr. Speaker, I would like to share with my colleagues an article which appeared in last month's issue of Politics Today dealing with the issue of the "Olympic Village" at Lake Placid.

The article follows:

Gold Medals, Steel Bars

(By Cary Goodman)

(Note.—After the athletes go home from the 1980 winter games, Lake Placid's Olympic Village will become a federal prison—a plan that's attracted an international chorus of critics.)

It's to be called a village, and the press guide describes it as a campus. But, in fact, the athletes' quarters for the 1980 Winter Olympics in Lake Placid, New York, will be a prison. Construction is 70 percent complete, and already there are steel bars on the windows and doors of 1½-inch heavy metal frames. The electrical outlets will be "tamper-proof." Everything down to the blue, rust and gold graphics used to decorate the buildings has been chosen by the site's owner, the Federal Bureau of Prisons.

The bureau is not normally in the business of providing opportunities for Nordic skiing or housing accommodations for the world's best athletes. When it comes to famous whitecollar criminals like Mitchell, Halderman and Dean, there might be some golf or tennis provided at a "resort" like Allenwood. But, for most of the 23,000 inmates in the federal system, recreation is usually confined to boxing and basketball. Typical of the federal system, the medium security facility at Ray Brook, near Lake Placid, is designed for younger felons serving time for crimes like car theft, bank robbery and drug dealing. It is not the sort of place the U.S. Government would go out of its way to show to foreign visitors. Yet, through the eyes of participating athletes and the TV cameras that will cover the 1980 Winter Olympics, Ray Brook will do much to shape America's image abroad.

The rooms that will house nearly 1,000 of the expected 1,800 competitors and coaches are only 13 feet long, 7 feet wide and 9½ feet high, with a single, barred 14-inch window. Two international sportsmen or women are expected to occupy whatever space is left after each room is furnished with a writing desk, chair, closet, toilet, and bunk bed. There won't be room for skiers or bobsledders to check their equipment. For that, athletes will have to leave the turret-shaped buildings, trek outside through snow and subzero temperatures, and enter a trailer where their equipment will be stored.

Although conditions in the 7-x-13-foot rooms will be far from ideal, some Olympic teammates will have even worse accommodations. At least 500 skiers, skaters and sledders will be housed in what will eventually become the industrial area of the federal prison. They will sleep sometimes three to a room in a space 13 by 11 feet. These quarters resemble the interrogation rooms shown in grade-B prison and police movies. In one corner of the ceiling is a five-inch exhaust fan. In the middle hangs a single 60-watt bulb. There are no toilets, sinks, showers or windows in these room, although some have "pass-throughs"—heavy iron trays used to pass food through the door.

Many athletes and delegation officials are appalled by the facilities. "Just about every country has taken a shot at us," says Tom Hanrahan, who works in public relations for the Lake Placid Olympic Organizing Committee. Despite the criticism, he believes that most will find it "comfortable, very enjoyable and different."

Horst Heinlein, a four-time Olympian (twice as a bobsledder and twice as a bobsled coach) from East Germany, agreed that the facilities will be different. "The rooms have not enough light or space," he said with a grimace. "There are many problems for athletes." Another bobsledder, Helmuth Saischek of the Austrian team, said, "The rooms are too small for us, our luggage and our equipment." Bruce Kidd, a professor of physical education at the University of Toronto, and himself a former world-class athlete, summed the problem up this way:

> When an athlete wants to compete at his best, he needs to be completely at ease before competition, so he can rest and prepare himself mentally for maximum effort. Different athletes prepare themselves in different ways, but almost all need the assurance that when necessary they can rest or read without being unduly disturbed, or let off steam without interfering with anyone else. Athletes in Lake Placid will have to contend not only with the noise, long lineups for washrooms and lack of privacy, but also with the knowledge that they're living in cages designed to remove other human beings from all normal social contact. Hardly the atmosphere conducive to feeling their best.

Peter Spurney, a 44-year-old attractions consultant who is being paid $100,000 to coordinate the 1980 Winter Games, disagrees with Kidd, Heinlein and the others who've criticized the dormitory/cellblock accommodations. He sees the conversion of the Olympic site into a prison as a plus. "By being built here and by being modified, the structure provides a village format. The village will become the major area of staging and training for the athlete. Incorporated in the facility will be massage rooms, whirlpools and those types of things, and there'll also be major dining facilities, a bank, a post office and a discotheque." All this, as Spurney and the other hosts of the Lake Placid games contend, will enable the athlete to attain what they call "the perfect performance state."

Spurney and the 32-member Lake Placid Olympic Organizing Committee (LPOOC) think the idea of a prison is a unique solution to the "after-use" problem. When Congress initially earmarked over $49 million for the '80 Winter Olympics back in 1976, it specified that any facility built needed to have an "after-use," a purpose for the time beyond February 1980 when the games will close. Spurney and the LPOOC believe that the Ray Brook after-use meshes perfectly with the security needs of the games. "I needn't remind you of Munich," Spurney says. "We have a responsibility to those athletes—to provide them with a living forum and also to protect them."

But some say that the security question has been stretched too far in an effort to draw public attention away from a bizarre mismatching of institutions. One critic on the security issue is Brian Wilson, founder and cochairperson of an organization called STOP, which stands for Stop the Olympic Prison. "This whole Munich thing is a scare tactic," said Wilson, speaking for his group, which includes the New York State Council of Churches, the Fortune Society, the ADA, former Attorney General Ramsey Clark, Rev. William Sloan Coffin and the American Friends Service Committee. "The security issue is sheer poppycock. The Lake Placid Committee has confused the total construction of a prison and its interiors with the International Olympic Committee requirements for external security." "The IOC," according to Wilson, "requires three security elements: (1) a perimeter fence which is flood-lit, (2) a single entranceway, and (3) 24-hour security at the entrance." He feels these requirements could easily have been met by encircling a group of buildings constructed as a senior citizen center, a college dormitory or a permanent training site for year-round athletic training. "This is not an Olympic Village planned for and by athletes," he notes angrily. "It's a prison built for and by the managers of prisons, on loan to the games for a month. The LPOOC and Congressman Robert McEwen (R-New York) wanted the games so badly, they were so greedy for the big media event and the money it would mean, that they were willing to do anything to get the games." What they've done, according to the STOP people, is "insult the Olympic ideal."

Dr. Phil Shinnick, a two-time Olympian and a former world-record holder in the long jump, agrees with STOP. He recently testified before the U.S. Olympic Committee's Athlete's Advisory Council that the after-use plans are "a grotesque mockery of the essences of international sport, namely cooperation, peace and harmony. Sport," he said, "is intended to create community whereas prisons destroy it or serve as the most visible signs of its destruction."

Kerry Baker, a rabbi from Plattsburg, New York, who also serves as chaplain at the Clinton Correctional Facility at Dannemora, agrees with Shinnick's concern for community. "Lake Placid, like its sister village, Saranac Lake, is a dying community," according to Rabbi Baker. "For years, these two places have been in economic decline. People talk about the place as if it were dead, and there is a sense of despair, decay and hopelessness which permeates the atmosphere. This aura," he predicts, "will be reinforced—not eradicated—by reliance on a prison for what some believe will be the economic salvation of the town. At Dannemora, where the whole town is dependent on the prison for its livelihood, a pall hangs over the community. The guards see the prison as the prisoners do, 'as a dungeon,' and they carry the feelings of being in a dungeon around with them even after work. The end result is a narrowing of life, a death of the human spirit." Rabbi Baker and 61 other clergy from northern New York have signed a statement of conscience calling upon President Carter to intervene and change the proposed after-use.

The townspeople of Lake Placid don't express themselves as eloquently as Rabbi Baker, but they are nonetheless upset. They're upset about having another prison in the area. They're worried about possible escapes, as well as damage to the town's image as a resort. And, they're both angered and concerned about the chaos when the Winter Olympics open next January.

Ray La Hart is a 72-year-old semiretired handyman who was a bellhop during the 1932 Winter Olympics in Lake Placid. Those games took place in the middle of the Depression and are best remembered for the charm of Norwegian gold-medalist Sonja Henie, the "problems" caused by Prohibition, and the relatively cozy small-town atmosphere that the area provided for the international games. Those games put Lake Placid on the map and brought a sense of pride to its residents. "Now," according to Ray La Hart, "it's gonna be a helluva pain in the ass during and after the games. I certainly don't like the idea of a prison, and what about the traffic? It will be tough to even cross the street, because there's not enough space. People will park their cars on the sidewalks and to get around 'em you'll have to go out in the road. It's dangerous." La Hart feels so betrayed that he refuses to believe that the people on the Olympic Committee are "from around here. If they were, I'd think they'd be against it."

He's not the only one who feels deceived. Lena Downie, the owner of Ruth's Diner, down the hill from the Town Hall, says she's sorry she voted for the games. She—along with 54 percent of her fellow villagers who voted for the Olympics—was unaware of the Olympic Committee's plans to build a prison. In fact, the after-use question wasn't settled until well after the games had been awarded to Lake Placid by the International Olympic Committee back in 1974. "I don't like the idea of the prison being so close. I'd rather see a college or a housing development," said Lena, who's lived in Lake Placid for 55 of her 61 years. "It's a beautiful site; it's a beautiful town; it's too bad they're gonna use it as a prison."

Lena is upset both about the prison and the effect of the games on everyday life in the town. "It's chaos here now," she says. "Prices are going up all the time—food, gas, rent. My help can't afford to live here no more. Every day last summer there was another person leaving because the Olympics was driving the rents up so high that they had to move out of town."

But for those who will be able to cash in on them, the 1980 winter games make a lot of sense. For the exclusive TV rights, ABC has forked over $15 million. The federal appropriation is steadily climbing and, as of mid-February, stood at a whopping $73 million, a full $24 million above the original authorization. Everything seems to be up for sale. Coke is the official soft drink; a Japanese-made car has been designated as the Olympic auto; and other manufacturers have acquired the official seals of approval on skis, hamburgers and clothing. Private homeowners are renting their homes to tourists during the games, at rentals as high as $35,000 a month. The pursuit of the fast buck has engulfed Lake Placid. In fact, the situation has gotten to the point that even Rev. Bernard Fell, a former policeman who is now executive director of the LPOOC, has become disgruntled. He told one reporter, "No, I'm not happy with what's come with the Olympics. In some people it has generated avarice and greed and a meanness you didn't expect to exist here." With this criticism, Reverend Fell joins his arch-enemy, Brian Wilson of STOP, who said, "The Olympics represent something profound, lasting. I don't think Coke and prisons piggybacked on that meaning can do anything but erode it."

The way in which the Olympic games and the federal prison wound up in the same place goes to the very nature of both institutions. Both are political creations. Nowhere is this more evident than in the international gold rush called the Olympics. Every four years, people wearing sneakers and short pants from one part of the world compete against similarly dressed folk from elsewhere. The outcome is hailed as proof of the superiority of one ideology over the others. During the Winter Olympics, the same scenario is played out on skis, skates and bobsleds, with cold-weather gear replacing shorts. This emphasis on national political ideology, which has been around since at least the thirties and the Berlin Olympics, will certainly be on display at Lake Placid.

The site selection process itself is a political issue. In this quiet corner of upstate New York, just as in the rest of the United States, the local congressman plays the role of procuring patronage. Elsewhere, defense plants, army bases and federally funded programs owe their lives and locations to astute members of Congress motivated by desire to "do something for my district." When it came to the needs of Lake Placid, Congressman McEwen rose to the occasion. Never mind that a prison built at Lake Placid would be over 300 miles from the homes of the inmates. Never mind that such a location would contravene existing guidelines established by the Bureau of Prisons itself. And never mind that most of the prisoners would be blacks and Hispanics guarded by rural whites with only limited contact with minorities. The bureau needed a new northeastern facility; Lake Placid needed some year-round jobs; and Congressman McEwen needed an afteruse for the games that would showcase his district. It was, as one congressional staffer put it, "a marriage of convenience."

The courtship began nearly 30 years ago, when Lake Placid pursued designation by the US Olympic Committee as the site for the 1960 winter games. Failing in this attempt, they sought selection for the 1968, 1972 and 1976 games. Each effort was either rebuffed by the US Olympic Committee or by the International Olympic Committee. Finally, in 1974 they were awarded the games for 1980, and one year later Gov. Hugh Carey committed New York to support of at least $13 million. In the same year, 1975, the Lake Placid Committee approached the federal Economic Development Administration for approximately $50 million.

The final plan for the village had not actually been decided when President Ford signed the Olympic Games Authorization Act of 1976, committing $49 million to the project. The Office of Management and Budget was concerned about after-use; the Environmental Council had general concerns about housing in the area and the "lack of choice . . . especially for elderly and low-income families" and a "shortage of rental units"; Congressman McEwen's main concern involved mating the needs of his constituents with the federal government's demand that Olympic housing be of utility after the games. In the spring and summer of 1976, the idea of a federal prison became attractive to McEwen when he learned that the bureau was searching for a northeast venue. He took immediate action. According to Mike Awn, a public information officer for the bureau, "(McEwen) honchoed the project through."

And, as far as STOP and members of Congress like Elizabeth Holtzman (D-New York) and Robert Drinan (D-Massachusetts) are concerned, McEwen's rush might just be the prison's undoing. From the spring of 1976 until the spring of 1977 when construction began, there was, according to the Lake Placid News, "no community consultation, debate, or approval whatsover." True, the voters had approved a referendum on the Olympics back in 1973, but the after-use matter was not considered at the time, nor did it ever become a matter of public debate before the decision was made. Similarly, there was little opportunity for those in Congress to oppose the prison plan. As Congressman Drinan put it, "This decision (to build the prison in tandem with the Olympic village) was made without the benefit of a full and open discussion." Representatives Yvonne Burke (D-California) and Joseph Early (D-Massachusetts) were also troubled by what they called "the lack of documented planning or a record of public discussion concerning . . . the intended uses." But the outcry was too little, too late.

On February 9, 1977, the House Appropriations Subcommittee on State, Justice, Commerce and Judiciary approved the Bureau of Prison's request for $4.75 million in construction start-up funds for the Lake Placid site. With only the dissent of members Burke and Early, the subcommittee voted up the bill the same day it was introduced. Ordinarily, a prison requires many stamps of approval before it can be built. Part of this process is review by the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice. However, because only the "primary use," that of housing for athletes, required congressional authorization, the "secondary use" as a prison was not reviewed by this subcommittee or its counterpart in the Senate. Thus, once McEwen and the bureau got past the House Appropriations Subcommittee, they were home free. The funding then became merely a shuffling of paper.

In addition to their earlier objections, critics are now pointing to some serious new problems with the project. The original concept was an Olympics in perspective, with cost containment taken as seriously as the correct angle of a ski jump. But, true to form, cost containment has been abandoned for cost overruns and fiscal permissiveness. New York state has contributed over $19 million, $6 million more than it initially intended. Salary increases ranging from 12.5 to 44 percent have been granted to top LPOOC officials by other top LPOOC officials. The entire Olympics budget—including federal funds, private contributions, state allocations and the Olympics lottery—now totals $200 million plus, a far cry from the original plan of spending no more than $75 million. Another sour note is the projected prices of tickets for Olympic events, with some as high as $60.

Opposition is also growing to the plan to utilize the village as a medium security prison for offenders. A host of foreign newspapers, including some in Canada, England, and Germany, have editorialized against the prison plan. The *New York Times* has endorsed Lake Placid as "a sensible site for the permanent winter sports training camp long sought by the United States Olympic Committee" instead of as the home for some 500 inmates. And New York state Sen. Carl McCall of Harlem recently offered an amendment to the New York state deficiency budget that would have blocked the use of "additional state funds for the Olympic site development . . . unless plans for post-Olympics use of it as a youthful offender prison are changed." The amendment failed, garnering 20 votes of the 31 necessary for passage.

The issues in the battle over the facility's after-use are both penological and political. STOP and its various supporters contend that the United States has a surfeit of prisons to begin with, and that the Lake Placid prison is just one more example of our misguided criminal justice policies. Only 11 percent of all the people incarcerated each year, according to Michael Kroll of STOP, are committed for violent offenses. "Most prisoners should be given jobs, not jails," he says. The proposed Lake Placid prison is seen as particularly odious by Kroll, former Attorney General Ramsey Clark and other antiprison advocates. In being so far from the homes of the people who will be imprisoned there, it will deny them contacts with their families and their communities—contacts which most penologists agree are necessary for rehabilitation.

Most who will come into Lake Placid when the athletes go out will be minority young men from New York City, Boston, Washington and perhaps Philadelphia. "In effect," according to Senator McCall, "the complex will become an isolated ghetto for minority youngsters from inner cities." There's no railroad into Lake Placid and only two buses arrive per day. For a friend or a family member who wants to travel from Harlem, Roxbury or El Barrio to Lake Placid, it will mean an eight-hour trip one-way and the cost of bus tickets, taxis to the site, lodging and meals eaten out in restaurants with inflated prices.

"If we accept the idea of rehabilitation, and we agree that a prisoner's connection to his community and family is crucial in rehabilitation, then this prison," says Rabbi Baker, "is an outrage."

On the other side are the arguments put forward by the Bureau of Prisons, McEwen and the LPOOC. All admit that the Ray Brook site is not "ideal." But, they claim, it is not nearly as remote as some of the other prisons in the system. "The bureau has been looking for years to build a facility in the Northeast," says bureau PIO Mike Awn, "but we've had great difficulty getting local acceptance. People want prisons, but they don't want them in their backyard." Another argument McEwen advances for the prison is that it will create new jobs for the severely depressed economy of the region.

In fact, the prison will create over 100 new jobs for local residents, but STOP members have argued that the mix of white, rural prison guards with minority prisoners makes for a racist atmosphere that breeds confrontation. "We think our staff is professional enough to swallow whatever prejudices they have and treat the inmates fairly," says Awn. Finally, the group asserts that this new prison will do much to relieve the terrible overcrowding that plagues the system as a whole and that the modern facility will be better for people who must be under lock and key.

Despite the claims and counterclaims in the realm of corrections philosophy, it is on the political side of the ledger where the Lake Placid prison argument will be resolved. Congressman Robert Kastenmeier (D-Wisconsin) regards the prison proposal as a bad idea, and that might be the key. Kastenmeier is chairman of the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice. In that capacity, he has the power of authorization for all subsequent Bureau of Prisons requests. If he is moved to make a stand on the Lake Placid prison, he could use his leverage as chairman to force the bureau to reconsider the site. With bars removed and walls knocked out, prison critics feel it might still make a workable year-round athletic training center. As of the end of March, Kastenmeier was saying that he "wasn't happy with the Lake Placid plan," noting that it "defies all present guidelines on new facilities." He said that it was a "bad idea to build a prison and use it for Olympic athletes," and one of his aides noted that the controversy about the prison has generated a tremendous amount of mail. But, Kastenmeier also seems reluctant to lead congressional action against the prison. The STOP people are hoping that if he won't take the lead, then at least he'll follow someone like Rep. Elizabeth Holtzman, who is sending out signals that she's ready to act on this issue.

And, of course, there's the White House and what remains of President Carter's human rights campaign and its credibility. The Lake Placid prison has started to become an embarrassment to the administration, especially when seen in the light of the 1980 summer games. Moscow is planning to turn the Russian Olympic village into a model Soviet city, and the athletes' housing will become an apartment complex immediately after the games. Their efforts at projecting a positive image of their country are proving so successful that Colonel F. Don Miller, executive director of the United States Olympic Committee, was moved to say, "The Olympic village in Moscow is the best that I have ever seen. Everything that is being provided is outstanding."

The United States may have more to lose than a few races and jumps in 1980. While budget watchers may applaud the ingenious after-use of the Lake Placid village, US critics abroad will be quick to point out the Olympic hosts' poor hospitality, and America's lapse from the Olympic ideals.●

THE GOAL OF NONPARTISANSHIP IN THE SALT II DEBATE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. McKINNEY. Mr. Speaker, the Senate is currently scrutinizing the Strategic Arms Limitation Treaty recently signed by President Carter and Brezhnev in Vienna. Congress and the public at large are aware of the importance of that agreement and the weight it will have in determining the development over the next 6 years of our international relations and national security. In the past, the success of U.S. foreign policy has always rested heavily on the ability of those in public life to cast aside political self-interest and join together in pursuit of the long-term interests of the country. A matter of such overriding concern as SALT II cannot be constrained by the narrow indentification of party affiliation.

Testifying in support of SALT II before the Senate Foreign Relations Committee last Thursday, Ambassador Averell Harriman demonstrated his continuing concern for the Nation's security by advising the committee of the great value for European allies place on the treaty's ratification. He spoke from the view of one who had an outstanding diplomatic career spanning 10 administrations, Democratic and Republican. The Ambassador recalled the late Republican Senator Vandenberg's observations on a similar effort launched in the Senate some 30 years ago to establish the North Atlantic Treaty Organization. It was not, the Senator explained, an issue important enough merely to warrant bipartisan support, but rather an issue so vital as to remove the considerations of party affiliation completely from the process. As a student of history, I can say that the Senate at that time did indeed put aside the narrow and limited perspective of elective politics to summon the vision and courage required to consummate that undertaking. I exhort my colleagues in the Senate now to do the same, and examine the SALT II agreements solely on the basis of whether they will serve the purpose of slowing the proliferation of nuclear armaments without diminishing our capacity for national defense. I firmly believe the treaty does, and I trust in the ability of the Senate to follow the example of previous generations to recognize the ultimate sense and responsibility of the approach taken by the Strategic Arms Limitation Treaty.

FINANCIAL TROUBLES AT LAKE PLACID

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. CHARLES H. WILSON of California. Mr. Speaker, I would like to share with my colleagues an article which appeared in this morning's edition of the Philadelphia Inquirer. The article deals with the lack of accountability with regard to the Lake Placid Olympic budget.

Lake Placid Board Rejects Move for Financial Review

Lake Placid, N.Y.—The full board of the Lake Placid Olympic Organizing Committee handily defeated a move Wednesday night calling for additional scrutiny of its finances.

But the committee's chief executive then promised that he would make more financial information available to board members in the future.

Debate preceding the 33–3 defeat of a motion to appoint an independent group to review the committee's budget with outside professionals was unusually lengthy and heated for a public session of the privately run group.

"There is no budget," complained Jack Wilkins, one of only three board members to back the resolution.

During the debate, Wilkins, a member of the LPOOC's finance and executive committees and head of a splinter faction on the board, which strongly opposed hiring Peter Spurney as LPOOC general manager, said he had "never seen a line-item budget."

Wilkins said he had been shown was what Spurney termed a "rolling budget."

"There's no accountant that I've been able to ask yet that knows what a rolling budget is," Wilkins said.

Although the motion was defeated, Spurney promised that in the future he would give regular board members some of the same information he provides to the executive and finance committees that watch over the LPOOC's spending. He explained that a "rolling budget" was one that was amended regularly as conditions changed.

Jim Brooks, an executive board member who voted against the motion, said the U.S. Economic Development Administration and Peat, Marwick and Mitchell, one of the world's largest accounting firms, had found nothing wrong with the committee's accounting.

Although state and federal money will pay roughly two-thirds of the cost of staging the 1980 Winter Olympics in Lake Placid, the LPOOC must privately raise between $40 million and $50 million to pay administrative expenses.

Spurney said he was trying to reduce administrative expenses from their current level of $46 million so they would not exceed expected revenues of $43.6 million.

The LPOOC's operating money is from private sources such as the sale of television rights and concessions for the Games, which will be held in February. The committee has declined to open its financial books to the public.●

CAPTIVE NATIONS WEEK ADDRESS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, throughout the long course of human history, freedom has been on the defense. Wherever strict totalitarian regimes arise, they tend to oppress human liberties in order to maintain their own power. The peoples of the captive nations, whom we now salute, are today's unfortunate evidence of this.

The United States is dedicated to the principle that without freedom, a man is not receiving all that he is entitled to as a human being. This dedication has led us to open our doors to the friendless of the world. It has led us to extend a helping hand to the suffering on every continent. Grateful for our own lot, we have traditionally felt it a duty to seek freedom for those less fortunate than us; to thwart the spread of tyranny; and to carry liberty to the far corners of the Earth. Perhaps John F. Kennedy best articulated the profoundness of the American will to fend for freedom:

> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

To my dismay, I now submit to my colleagues that this high spirit of America seems to be slipping away. No longer do we appear willing to be the upholders and guarantors of liberty. In the recent past, we merely dawdled as nations such as Hungary, Czechoslovakia, and Poland rebelled against the Soviet's neocolonial empire. And today, we watch in repose as nations in Africa and Southeast Asia fall subject to Communist imperialism. At every turn, we now appear inclined to turn a passive back on those who ask only for our vigilance and support.

I call on the Nation to strongly rededicate itself to the ideals of its republican heritage. It is time for us to undertake a strong commitment to foster world freedom. At present, Mr. Carter's foreign policy is random and ineffective. Too often he treats our friends as enemies, and our enemies as friends. Unfortunately the President, who time and again has professed his devotion to human rights, has not improved the lot of any of the peoples of captive nations. Clearly Mr. Carter must now hasten to mark out a bold and serious course, make it known that we will oppose all enemies of freedom, and begin to heed the cries of the oppressed around the world. Mr. Carter must again manifest the American belief that all men everywhere have the same inherent right to freedom that we enjoy today.

As well, to effectively counter the aggressive totalitarian states, I feel that it would be wise to join in our endeavor with the other free nations of the world. Since it is the immediate challenge of the free world to collect itself, perhaps even a confederation of free nations is in order. As the great Spanish philosopher, Salvador de Madariaga said:

> The trouble today is that the Communist world understands unity but not liberty, while the free world understand liberty but not unity.

He continued:

> Eventual victory may be won by the first of the two sides to achieve the synthesis of both liberty and unity.

Finally, I suggest that, as the leaders of this great Nation, we are to display not only industry and intelligence, but more importantly, courage. So too, it is courage, not hesitation, which we must display in leading the free nations of the world in the fight against oppression. Courage is what the more than 100 million people in Eastern Europe who have lost their personal and national freedom so desperately need from us. Courage is what the dissident in a Soviet jail needs from us. Courage is what the family in a totalitarian state wanting, but unable, to emigrate, needs from us. Indeed, it is the courage we show in countering tyranny which will sustain the hopes of the oppressed for freedom.

Mr. Speaker, we do a great disservice to the peoples of the captive nations, to the cause of freedom, and to humanity herself, if we continue to shrink from the challenge which confronts us. We must recommit ourselves to that great dedication which made this Nation a beacon of hope to mankind. Let us address a richer support to the millions who refuse to resign themselves to the oppressive plans of the aggressive totalitarian states. This task is ours, for again in the words of John F. Kennedy:

> We in this country, in this generation are—by destiny rather than choice—the watchmen on the walls of world freedom.●

COL. HOLLIS D. MESSER, U.S. ARMY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. ANDERSON of California. Mr. Speaker, early next month San Pedro, Calif., will lose one of its finest community leaders when Col. Hollis D. Messer, U.S. Army, relinquishes his duties as commander of Fort MacArthur. Colonel Messer will be departing for specialized training in Washington, D.C., before assuming his new duties as the U.S. Defense Attaché in Saudia Arabia. With great pleasure, I bring to the attention of my colleagues the military career of this fine officer. It is a record of accomplishment which exhibits the best qualities of dedicated service.

Colonel Messer has served in a variety of command and staff positions. Before assuming command at Fort MacArthur on March 27, 1978, he was Director of the Fort Knox Directorate of Reserve Components. He has also commanded a tank platoon and company, an armor battalion, and the support battalion of an infantry brigade. His staff assignments include service with the Army's Office of Personnel Operations and the Four-Party Joint Military Commission in Vietnam.

He has received numerous awards attesting both to his courage and capability. They include two awards of the Silver Star for heroism in combat, two awards of the Bronze Star, the Combat Infantryman's Badge, two awards of the Meritorious Service Medal, the Air Medal, Army Commendation Medal, and several other foreign awards and service medals.

Though Colonel Messer's term of service at Fort MacArthur has been a brief one, it has been a beneficial one, not only to the installation itself, but also to the surrounding community. In following orders from the Pentagon to wind-down the fort's operations for its eventual closing in 1982, he showed a genuine concern for what this would mean to the people of San Pedro. He has worked closely with local business and government leaders to make the transitional period smooth and orderly.

My wife, Lee, joins me in congratulating Colonel Messer on his impressive tenure as commander of Fort MacArthur. We hope his new assignment in Saudia Arabia is equally successful. We also extend our best wishes for a bright and prosperous future to his wife, Alyce Joe; their daughter, Sharon; and their two sons, David and Randy.●

MORRIS WENICK COMMITTED CIVIL SERVANT

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1979

● Mr. DOUGHERTY. Mr. Speaker, after 35 years of devoted service with the Federal Government, Morris Wenick of Philadelphia, Pa., deserves commendation. Before retiring from the position of contract administrator for the Department of Defense in Philadelphia in January 1977, Morris Wenick achieved numerous awards and honors in recognition for his services beyond duty. Mr. Wenick is the proud recipient of the "Suggestor of the Year" for his adopted suggestions that promoted efficiency and economy in Government operations. In addition, Mr. Wenick received citations from the Commonwealth of Pennsylvania, recognition from the Department of Defense and from the mayor of the city of Philadelphia for excellent service to the Federal Government. He was chosen as the "Man of the Year" by the Military Order of the Purple Heart and has been appointed to the "Legion of Honor." Thus, time and again, Morris Wenick has been unselfish in the sharing of himself through his creativity and imagination as a civil servant.

In these days of questions, evaluations in regard our civil servants, a more timely recognition could not be given to Mr. Morris Wenick for his devotion, patriotism, and accomplishments as a civil servant of the American people.●

WALL STREET JOURNAL SUPPORTS DINGELL/BROYHILL PASSIVE RESTRAINT AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. DINGELL. Mr. Speaker, I enclose in the RECORD the following editorial from the Wall Street Journal which is an excellent commentary on the basic reasons why the House should adopt the amendment we are offering to the Department of Transportation appropriations bill for fiscal year 1980, H.R. 4440.

Our amendment does exactly what the Wall Street Journal editorial board calls for and agrees with—more research, testing, and development of passive restraint devices, such as air bags, which are mandated for installation on model year 1982 passenger automobiles. Our amendment also provides for such research and development on the passive safety belt system.

We especially question whether the device known as the air bag is or will be developed to the degree that it can be assured to be safe, reliable, and effective for motorists in the front seat positions where the bag is only designed to afford protection. Safety belts, of course, afford the best all around protection.

We are committed to improving automobile safety for motorists with proven devices that are safe and effective.

We urge support, with our cosponsors, of the amendment.

LIST OF COSPONSORS

James T. Broyhill, Thomas L. Ashley, William M. Brodhead, Carl D. Pursell, John B. Anderson, James J. Blanchard, Clarence J. Brown.

John D. Dingell, Lucien N. Nedzi, Bob Traxler, Bob Carr, Phil Gramm, Carlos J. Moorhead, Tim Lee Carter.

William D. Ford, James M. Collins, David Satterfield, Dave Stockman, Samuel L. Devine, Matthew J. Rinaldo.

The Wall Street Journal editorial follows:

THE AIR BAG IN HOT WATER

The House will get a chance today or tomorrow to put Ralph Nader's and Joan Claybrook's favorite invention, the automobile air bag, on hold for yet another year. We would urge it to do exactly that and save itself from a great deal of future embarrassment.

The opportunity will come in the form of an amendment offered by John Dingell of Michigan to the Department of Transportation appropriations bill. It would extend for another year the present ban that prohibits Ms. Claybrook's National Highway Traffic Safety Administration from enforcing or implementing its occupant restraint rule as it applies to air bags.

There are very sound reasons for not pushing the auto industry into making air bags standard in the 1982 model year, as NHTSA has hoped to do. Indeed, there have always been such reasons, but NHTSA has chosen to ignore them out of its blind fervor for this particular invention.

The core reason is that the air bag is expensive and unreliable. Ford Motor Co. has just estimated that the air bag if installed on 1982 model cars would cost buyers $825. And should the air bag deploy in a small collision, it would cost some two and a half times the original cost, or $2,100, to replace, according to General Accounting Office investigators, who will soon release a major study of the air bag's problems.

More importantly, the air bag does not afford the kind of safety its proponents have claimed for it. First of all, it does not deploy in other than frontal crashes. Second, passengers in the front seat who are out of position—small children in particular—are put at risk by the air bag itself, according to recent studies. General Motors and Volvo have conducted tests using pigs as surrogates for small children that show very serious dangers with the air bag when a child is standing at the dashboard or lying on the front seat. Nine pigs have been killed in these tests.

Mr. Dingell is only asking to delay the implementation of any air bag standard until there is further research on its problems. It is a small thing to ask, considering the findings that already are coming to light, as well as the progress that auto makers are making on other forms of restraint, such as passive belts that fasten automatically when car doors are closed. Congress would be wise indeed to support the delay he requests.●

PURPLE WORDS OF POPULISM

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. PASHAYAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

PURPLE WORDS OF POPULISM

The Carter administration, speaking through Secretary of the Interior Cecil Andrus, is unwisely taking a stand in full opposition to modernization and reform of the 1902 Reclamation Act with its 160-acre limitation provisions.

Andrus has written a letter nine pages long denouncing a bill by Senator Frank Church that would lift many of the 1902 act's restrictions on farms benefiting from federally subsidized water. There is a lot of populist cant in these nine pages, and we are disappointed to hear that kind of rhetoric from Andrus.

His warning that the reclamation program Church is sponsoring "would become enshrined as a bastion of special interests, of a few, large, wealthy firms privileged by special subsidies from the federal government" is hackneyed and inexcusably unrealistic. No one in the Agriculture Department or anywhere else in government with an appreciation of how California's agricultural industry is organized to take advantage of the "economy of scale" could be persuaded by such a gallus-snapping, purple-phrased statement of the issue.

The Church bill modernizes 1902 law by setting a limit of 1280 acres for family land irrigated by the Bureau of Reclamation's subsidized water. It allows leasing of unlimited acreage on a yearly basis—in this way corporate farms could take up leases depending on water availability without harm to the "family farm" ownership concept, which would enjoy water priority, and with benefit to the state's total farm production.

This is so sensible an accommodation that Church's bill has won the support of Governor Brown, in a turnaround from his former position in the matter, and of Senator Alan Cranston, the Senate majority whip.

Church's bill abolishes the unworkable, therefore unjustified, requirement that owners live on the land they farm. It also resolves a very old controversy by exempting the Imperial Valley from acreage limits.

This issue has been many years coming to a head. The 1902 act goes back to a day when Americans still thought in terms of homesteading the great open spaces of the West. In an August, 1977, comment on the 160-acre straightjacket, The Chronicle said:

"What we need is a new law from Congress, one that matches the modern agricultural economy and that gets away from the unreal ideology that deludes its true believers with the notion that the tremendous, world-important job of California agriculture can be done perfectly well by family-size units." In the Church bill, S. 14, we have such a measure. Congress should overrule the Carter administration and pass it.●

IS HUMPHREY ATKINS THE ANSWER IN NORTHERN IRELAND?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of the considerable number of my colleagues interested in Northern Ireland a recent editorial which appears in the highly respected London Economist. The editorial provides an assessment of the new Secretary of State for Northern Ireland, Mr. Humphrey Atkins. The assessment indicates that Mr. Atkins has a long way to go before he will positively impact on the effort to bring peace and justice to Ireland.

The message at this point is sadly clear—there is no new initiative forthcoming from the new British Government on Ulster. Mr. Atkins prefers to plod onward with quiet personal type of initiatives and have them magically turn into a plan. The fact is the Ulster problem has been permitted to fester by 10 years of British Government indifference. There were hopes that the new Secretary of State might bring with him new ideas. Thus far, these have been false hopes.

I am chairman of the 131-member Ad Hoc Congressional Committee for Irish Affairs, In that capacity I am working on what I consider to be an essential ingredient to moving the Irish question off of dead center—American involvement. An example of this is our committee's plan to conduct a peace forum in late September where all parties to the dispute in Ireland would be invited to present and discuss peace proposals. Our function would be as sponsors. No position or support would be given to any group or proposal.

Further in the months ahead I will be working for the passage of House Concurrent Resolution 122 which calls upon the British Government to embark on a new initiative for Northern Ireland which restores human rights and promotes self-determination.

At this point in the RECORD I wish to insert the article entitled "Try Harder: The Northern Ireland Secretary Should Put More New Ideas for Ulster Up His Sleeve Than He Was Able To Display This Week":

TRY HARDER: THE NORTHERN IRELAND SECRETARY SHOULD PUT MORE NEW IDEAS FOR ULSTER UP HIS SLEEVE THAN HE WAS ABLE TO DISPLAY THIS WEEK

The week before Protestant loyalists in Ulster celebrate Orange Day, the new Northern Ireland secretary has made what was rumoured official: there will be no new political initiative on Ulster in the foreseeable future. Mr. Humphrey Atkins, in his first formal statement to the British house of commons on Ulster policy, declared that there is still too much disagreement between the two political traditions and two sets of aspirations in Northern Ireland for him even to suggest the possible shape of an acceptable structure of government for the province.

So direct rule, from Westminster, introduced in 1972, lives on—and with it the Emergency Provisions Act that allows detention without trial or bail and trial without jury.

Mr. Atkins accuses some of the confusing "initiative" with a "solution" for Ulster. He believes that he is making quiet initiatives of his own that could yield a plan—in time. It was, he reminded his hearers, the Conservatives, who had tried before and would try again. (In 1974 they created a Northern Ireland assembly, which survived for five months into Mr. Wilson's vacillating government until Protestant hostility to sharing power with Catholics brought it down, and direct rule had to be reintroduced.)

But Mr. Atkins, a former chief whip, is in danger of being over-cautious. He needs soon to make a clear attempt to revive Ulster's political life, either in the 26 local district councils, in regional councils or in a new assembly—even if sectarian opinion threatens to sabotage his efforts. The province cannot continue indefinitely in the limbo of direct rule. As things stand, the district councils have hardly more power than to collect rubbish and mow grass, while neither locally nor in Belfast do young Ulster politicians have a forum where they can confront each other and mature.

So far, Mr. Atkins has retreated even from the promises of restoration of local government made by Airey Neave, who would have become Northern Ireland's secretary had he not been assassinated by the Irish National Liberation Army. (Neave had incorporated the prospect of regional councils into the Conservative election manifesto but Mr. Atkins withdrew it from the Queen's speech, not wanting to be tied down.) It now seems that any new ideas Mr. Atkins may come up with on a lower tier of administration will not be ready in time for Ulster's local government elections in 1981.

REALISTIC EXPECTATIONS

So what can the new secretary do to justify the expectations that accompanied him into office? These have been real, if not high, not only in Britain but in the Irish republic and the United States. For unlike his predecessor, Mr. Roy Mason, Mr. Atkins has a solid party majority behind him, a secure stretch of office ahead of him and no need to court favour among the 12 Ulster MPs sitting round him.

Many practical suggestions have accumulated in the long waiting period for a new government that could act. None of them needs be burdened with the label of "initiative". Some have come from this newspaper, others from quasi-official bodies such as the Northern Ireland Economic Council and the Standing Commission on Human Rights. Some of the most solid came from Mr. Garret FitzGerald, leader of Fine Gael, the Irish republic's main opposition party, earlier this year. (1) Why not, for example, design a unique-to-Ulster Tory economic policy? Allow it to offer even more generous and clearer (instead of the present complex) investment incentives to compete with the highly successful tax holidays offered to new industry by the republic south of the border. (2) Why not alleviate the harshness of the non-jury courts in Ulster, by letting three judges sit on cases instead of only one? (3) Why not build every imaginable bridge to cross-border cooperation—from agriculture to electricity to tourism to border police? A network of these arrangements could lead gradually, provided both sides want it, toward a loose confederation of independent states of north and south, whose community of interests is accentuated within the EEC. And in a lower key, why not improve the two universities in Northern Ireland, to attract more foreign students and research grants?

Mr. Atkins has already taken some useful steps. He has accepted, almost in their entirety, the recommendations of the Bennett report on improving the interrogation procedures of the Royal Ulster Constabulary. He visited Dublin last week and brought home some hopeful new possibilities of north-south co-operation in catching terrorists (whose resurgence, in a new more virulent form, is a common problem to the police forces of north and south).

But "buts" remain. He could have moved further on civil liberties. The Royal Ulster Constabulary is still permitted to question suspects for 48 hours before they can see a solicitor (and under the emergency laws in Northern Ireland, suspects can be convicted on the strength of a confession during questioning). Mr. Atkins has so far rejected a special economic treatment for Ulster; the overall Tory budget strategy, he said, should be sufficient to stimulate small business in the province. He was unable to shield Ulster from its share—£35m—of cuts in government expenditure.

Mr. Atkins has what it will take in Ulster. He is an engaging, mannerly Tory who should go down well with the Catholic Social Democratic and Labour party (which did better under the Tories than under Labour, which gave the Protestant unionists more seats in Westminster) and with the present Dublin government. That government says openly (Irish-Americans, please note) that a united Ireland is attainable only with the consent of the majority in Northern Ireland. All in all, Mr. Atkins has an opportunity for boldness which he eventually must seize and be seen to seize.●

REPRESENTATIVE JACK KEMP PRAISES THE TUITION TAX CREDIT EFFORTS OF SENATOR PAT MOYNIHAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. KEMP. Mr. Speaker, Henry George once warned that we cannot safely leave politics to politicians, or political economy to college professors. He said this, undoubtedly, not having known the likes of a Daniel Patrick Moynihan.

For years now Senator Moynihan has, with great verve and wit and forthrightness, confronted a number of key issues crucial both to New York and to our Nation. Nowhere have his insights been more perceptive or his arguments more challenging than with the issue of tuition tax credits.

In the August 3, 1979 issue of the National Review, the Senator writes of the constitutional smokescreen now surrounding the tax credit issue:

> There can be few areas of public policy as muddled as that of government aid to non-government schools, and perhaps only an unwary person in public life will venture too far into the field.
>
> I wonder if others have been struck, as I have been, by the contradictions of public policy in this area. For a generation now, from the time the Supreme Court called for severe restraints on public assistance to non-public schools, various levels of government have both imposed these restraints and fairly excelled themselves in devising ways, small or even symbolic, to get around them. One would say there is a considerable disjunction between what we say and what we do in this field, save that the whole business is so muddled as to preclude the very thought of anything being distinct.

Mr. Speaker, as an advocate of tuition tax credits, and a sponsor of a tax credit plan in the House of Representatives, I believe it is time for Congress to clear the contradictory and muddied thinking surrounding this important educational proposal.

As I said in this chamber slightly less than a year ago in strong support of tuition tax credits they would help us "honor our tradition of plurality and freedom of choice in directing the education of our children."

Last year, at the time tuition tax credits were being considered in the Senate, Senator Moynihan said:

> This is an historic vote. The House of Representatives has overturned the religious bigotry of the 19th century, and I am sure that the Senate will now do the same.

As we all know, tuition tax credits were defeated in the Senate, and many have described the tremendous pressure from the Carter administration and from individuals in Congress as the anti-Catholic sentiment. I would call it antifamily sentiment as well. Every American family, no matter what race or religion, will lose out if we allow the option of participating in the richness of private and parochial education to fall by the wayside.

But as Senator Moynihan points out:

> There are those who just don't like church-related schools and aren't going to change their minds. But many more persons are genuinely worried as to what might happen to the public schools if aid is provided to what they see as a competing system.

They need answers, too. Our job today is to "begin with a common concern for education." And with that concern, we need to clear the air of the confusion, and make a firm and sound decision on this important issue.

At this time, I would like to submit Senator Moynihan's outstanding article for the Record:

Private Schools and the First Amendment

(By Daniel Patrick Moynihan)

There can be few areas of public policy as muddled as that of government aid to non-government schools, and perhaps only an unwary person in public life will venture too far into the field.

I wonder if others have been struck, as I have been, by the contradictions of public policy in this area. For a generation now, from the time the Supreme Court called for severe restraints on public assistance to non-public schools, various levels of government have both imposed these restraints and fairly excelled themselves in devising ways, small or even symbolic, to get around them. One would say there is a considerable disjunction between what we say and what we do in this field, save that the whole business is so muddled as to preclude the very thought of anything being distinct.

Such murkiness is properly a warning to office-holders. Even so I have become involved—perhaps to my cost, perhaps not—out of a combination of personal experience and public concerns which it may be useful to explain more fully, if only that others might understand why I go on so about this issue.

My experience begins with my having attended such schools—specifically the Catholic parochial schools of New York City—as a child, and the fact that when I did so there seemed nothing in the least unusual about them. They were the normal schools of my youth, in every sense parochial, and to the child's perception entirely public. Like pre-phylloxera wine, you might say I was a pre-*Everson* parochial-school student. I was an adult before that Supreme Court decision in 1947 placed these schools, inevitably imbued with a public purpose, in a defensive, almost suspect position.

In the 1950s, with Nathan Glazer, I began to study ethnic relations in the United States and learned how greatly different both doctrine and practice were in the early history of the nation, indeed almost into the twentieth century. Thus it was fairly easy for me to feel that the Supreme Court rulings of the 1940s and after were ahistorical.

Allow me to call attention to this point. There are two kinds of people: those who believe that the Court's decisions in the school cases reflect a clear or at least discoverable purpose of the First Amendment, and those who think that much of what the Court has said, as Erwin Griswold has it, is "sheer invention." As between such persons there is a considerable gulf of understanding.

My concern in this area has different origins. We face a great contraction in the non-government sector in education. I feel this will be a loss to pluralism, and yet another instance of the conquest of the private sector by the public sector about which Schumpeter wrote a quarter-century ago. I also feel that this contraction poses fundamental problems for many cities in the Northeast, and perhaps especially for those of my own state.

Hence I have been an advocate of tuition tax credits, which almost passed in the last Congress and may well pass in the present one. In the meantime, I have become ever more aborbed by the contradictions in public policy even at the level of the national government.

This came to me with special force on April 9, on the occasion—the second within a week's span—when the Senate voted to deny the Supreme Court jurisdiction over questions concerning prayer in the public schools. Now this action seemed to me genuinely to involve—and probably to violate—the basic law of the land. Prayer prescribed by public authorities, whether voluntary or not, gets very close to the notion of the establishment of religion, which the Constitution forbids. Publicly prescribed prayer is, for practical purposes, what established religion is all about. On that we need not have the least doubt concerning the intentions of the framers of the First Amendment. (In the course of our debate that day, one of my colleagues rose "to speak as a Christian" about what he called the "secular humanism that abounds in our children's schools today." He did not like this and thought "we Christians" should do something about it. It seemed to me that constitutional niceties were rather absent from our deliberations that day.)

The Vice President was present, on hand to cast a vote in the unlikely event of a tie.

(The outcome was 51 to 40 in support of school prayer.) He and I talked a bit about the debate, and I remarked that while I was opposed to the amendment I could readily understand how Americans, a religious people, would be uncomprehending of a government that seemed to deny them what they would regard as the free exercise of religion in the schools, which they would regard as the most important of all government institutions.

I said to the Vice President that it was with just this difficulty in mind that Senator Packwood and I had introduced legislation in the previous Congress calling for tuition tax credits. A plural school system, with a strong church-related sector, would avoid just the kind of agonizing choice the Senate was facing that day, the choice between seeming to thwart the religious preferences of the people and seeming to circumscribe the power of the Supreme Court to rule on whether our fundamental rights are being infringed by government. There was the Vice President vainly trying to prevent the latter. Perhaps, I said, the Administration should not have been quite so vehement and quite so complacent in its opposition to tuition tax credits.

Vice President Mondale is a friend of diversity and pluralism and, if my impression is not mistaken, one of the few friends we have in the Administration in this matter. (I say this from a long acquaintance rather than from any specific undertaking. Of course he supports the President on the specific issue.) I having mentioned tuition tax credits, he proceeded to say that the Administration could do a great deal more than it does to provide assistance to Catholic schools. He mentioned a provision of the Emergency School Assistance Act of 1970, which he helped draft, which he said could provide aid for inner-city Catholic schools with large minority enrollments. He urged me to get on to the Department of Health, Education, and Welfare and ask them to put up $25 million for this purpose, which he said they could easily do, and do with complete legality.

I called HEW. They fumbled and mumbled, which is what they do at HEW. Yes, there is such a provision. Yes, there is such money. Perhaps church-related schools would get some. At least perhaps their students can obtain "educational services" with the help of this money.

The money is not important. The point I am trying to illustrate, however, is important.

Observe the Vice President sincerely trying to get more money for Catholic schools, when scarcely six months earlier the Administration of which he was a member had allied itself with a coalition of groups opposed to tuition tax credits that denounced our purposes in language that was not at all restrained and sometimes scarcely civil. The least that was implied of Catholic schools by this coalition was that they harbor "ideological viewpoints in violation of the Constitution and American principles." The least the Administration could have done was to dissociate itself from such rhetoric. It did nothing of the sort. Yet here was the Vice President proposing to help the very cause which his Administration had been so determined to hinder.

How did we get into these seeming contradictions as to the direction of public policy?

A conundrum?

I think not. Such at least is my impression after a long and lengthening involvement with the subject.

To recapitulate, it was only in 1947 that the Supreme Court ruled on public aid to non-public schools, setting up standards that were considerably at odds with long and varied practice.

In the years since 1947, seeking to accommodate theory to practice (by which I imply that the Court has steadily retreated from its original position), the Court's decisions have become ever more confused and contradictory, so much so that Philip Kurland of the University of Chicago could write that "the Court is thoroughly unprincipled in the area" of public aid to church-related schools (by which, of course, he means that the decisions reveal no coherent principle). In testimony before the Senate Committee on Finance in January 1978, his colleague Professor Antonin Scalia—who was previously the Assistant U.S. Attorney General, Office of Legal Counsel, and thus the senior constitutional authority in the Executive Branch—stated, "It is impossible, within the time allotted, to describe with any completeness the utter confusion of Supreme Court pronouncements in the church-state area. . . ."

These pronouncements contain a series of extraordinary distinctions. In Tilton v. Richardson (1971), for example, the Chief Justice ruled that it is permissible to provide federal aid to church-related colleges and their students but not to parochial high schools and their students because, he wrote, "There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination." Now if you will believe that, in the sense of believing there is a scientifically valid distinction between the susceptibility to indoctrination of 18-year-olds as against 19-year-olds, you will believe anything. And, of course, there is not.

In Wolman v. Falter (1977), Mr. Justice Blackmun on behalf of the Court found it constitutional to provide non-public-school pupils with "books" but unconstitutional to supply them with "instructional materials and equipment." In other words a book may be provided, but not a map. The Court has yet to rule on atlases, which are books of maps.

I have offered the thought that the rulings of the Supreme Court on the establishment clause and on the issue of aid to church-related schools are strikingly parallel to the long, tormented, and in the end absurd rulings concerning the Fourteenth Amendment and labor legislation.

From the last decade of the nineteenth century on into the fourth decade of the twentieth century, the United States Supreme Court solemnly declared that the due-process clause of the Fourteenth Amendment forbade labor legislation. Thus the State of New York, for example, could not require that bakers work no more than ten hours a day.

This was solemn nonsense, as Holmes tried in vain to point out as early as 1905 in Lochner v. New York. But it had to run its course. By the 1930s almost everyone knew it was solemn nonsense, and eventually the Court realized it also. In 1955, in Williamson v. Lee Optical Co., Mr. Justice Douglas declared:

"The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought."

Or, as Mr. Justice Black put it in 1963 in Ferguson v. Skrupa:

"The doctrine that prevailed in Lochner, Coppage, Adkins, Burns, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded."

I stress this because it is sometimes necessary to remind ourselves that the Supreme Court does change its mind, a point on which we have long had Mr. Dooley's testimony. I spoke to this matter in an address to the Scripps-Howard Foundation Awards Luncheon on April 27 and put it as plainly as I know how:

"Our first duty to the Court is to obey it, and this we do with loving fealty. But a second duty, surely, when we think the Court to be wrong, is to seek to persuade it of this."

The point is that any mildly diligent scholarship would have established that the Fourteenth Amendment had nothing to do with labor legislation. But for a complex of reasons the Court, for a period, said that it did. I hold that in just this way the First Amendment has nothing to do with schools. It says that there shall be no established national church. Nothing more, nothing less. Nothing, certainly, to prohibit public aid to the only kind of schools which existed at the time the First Amendment was adopted. Edwin Griswold, then Dean of Harvard Law School and later to be Solicitor General of the United States, wrote in the Utah Law Review in 1963:

"It is perfectly true, and highly salutary, that the First Amendment forbade Congress to pass any law "respecting an establishment of religion or prohibiting the free exercise therof." These are great provisions, of great sweep and basic importance. But to say that they require that all trace of religion be kept out of any sort of public activity is sheer invention."

Even so, here has arisen, in the course of recent generations, a body of opinion in our society which is sincerely opposed to the influence of religious belief and religious institutions in the secular activities of the society. In some cases it is particular religious beliefs and particular religious institutions that are objected to, but it is the more general attitude that is the more important. One has the impression that this attitude is not so self confident today as it may once have been, but surely it persists. The attitude is nowhere so strong as in education. It has produced, unwittingly perhaps, the conviction that education is not safe until it is a public monopoly free altogether of "pre-modern" religious practice or profession.

I would wish to stress that in my view it is entirely legitimate to raise this proposition. There is a clear argument to be made for a single secular school system, just as an equally clear argument can be made for a plural school system. My objection is to the use of the constitutional issue to prevent resolution of the issue of public policy.

I dare to say I speak from some experience. I was a member of the Administration of President Kennedy and involved with the issue then. His effort to establish federal aid to education came to stalemate because his advisors would not include church-related schools, and the churches would not support his legislation without it.

In 1964 I was involved in the negotiations which led up to the inclusion, in the Democratic platform of that year, of the simple plank which stated:

"New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and, to the extent permitted by the Constitution, to all schools."

This removed opposition to federal aid, and within months the Elementary and Secondary Education Act of 1965 (ESEA) was law.

The law was passed with the support of the non-public schools, and could not have been passed without that support.

The ESEA was a promise. Was it kept? No.

I offer you the observations just last year of Monsignor Francis B. Shulte, Superintendent of Schools of the Archdiocese of Philadelphia, urging the House Ways and Means Committee not to make Congress "a party to pledges of improved ESEA benefits offered as a sop" to the parents of Catholic-school children. "Such a parent," Monsignor Shulte explained, "knows that, after 13 years, Health, Education, and Welfare is only now getting the first benefits to eligible non-public-school students in several of our states; he knows how limited the number of beneficiaries of that law are; and that ESEA will not help his burden of tuition and taxation."

Why? Because the education professionals who took over the program, and the extensive support networks in the nation at large, did not as a matter of policy want assistance to go to non-public schools. I truly believe that there are those who in fact would as soon see these schools more or less disappear as a major educational alternative. And indeed these schools are, if not disappearing, then surely declining. In 1965 there were 13,292 of them, enrolling 5.6 million students. In 1977, there were only 9,797 schools with 3.3 million pupils.

In the meantime, however, the influence of others—of people who want to see the non-public schools survive and even prosper—is also to be seen at work. Successive national political candidates, successive national party conventions, successive national Administrations have endorsed such measures.

Our beloved former colleague, the late Senator Hubert Humphrey, who was the Democratic candidate for the Presidency in 1968, stated: "I favor the creation of a system where parents would be able to receive a tax credit when their children attend approved private schools." He was a co-sponsor of the tuition-tax-credit bill which Senator Packwood and I introduced in the 95th Congress.

In 1972, Senator George McGovern, the Democratic Party's presidential candidate of that year, declared his "support of the tax-credit approach to aid the parents of children attending parochial and other bona-fide non-public schools." In 1973, Treasury Secretary George Shultz, testifying on behalf of the Nixon Administration, stated: "The non-public school system educates a tenth of our schoolchildren. In order to preserve this vital national asset and to provide needed tax relief for the many low- and middle-income families who bear a large part of the cost, we recommend enactment of a refundable income-tax credit for non-public elementary and secondary school tuition."

In 1976, both party platforms promised aid to non-public education. The Republicans said: "We favor consideration of tax credits for parents making elementary and secondary school tuition payments. . . . Public schools and non-public schools should share an education fund on a constitutionally acceptable basis." The Democrats said: "The party renews its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in non-segregated schools in order to ensure parental freedom in choosing the best education for their children."

On October 19, 1976, Jimmy Carter wrote to the Chief Administrators of Catholic Education about his own support for aid to non-public education. He said: "Throughout our nation's history, Catholic educational institutions have played a significant and positive role in the education of our children. . . . Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

Yet here we are two and one-half years later, and once again nothing has happened.

Although it will seem presumptuous, I think finally that I understand why.

The opponents of aid to non-government schools have once again effectively blocked consideration of the issue as public policy—i.e., the question whether it is desirable to provide such aid—by interposing the question of whether it is constitutionally possible to do so.

This is a repeated pattern. Whenever the issue of aid to non-public schools arises, those who are opposed to such aid manage to interpose the question of constitutionality. Invariably, at least until now, this has smothered the issue of public policy.

And this is the point I wish to make. As I see it, the issue of public policy properly comes first. Until that is settled, there can be no resolution of the issue of constitutionality. But by insisting on the primacy of the constitutional issue, the opponents of aid to non-public schools have effectively prevented either issue from ever being settled.

What are we to do?

I have two comments, and one proposal.

My first comment is that supporters of non-public schools would be within their rights to grow just a shade less patient. Ours, after all, is the only English-speaking democracy in the world that does not provide public assistance to church-related schools.

Not long ago I was discussing these matters with Professor Edward Shils, the distinguished sociologist, who was in Washington to deliver the Jefferson Lecture, the most prestigious lectureship in the gift of the United States Government. His topic was the relationship between education and the Federal Government. I spoke with him about some of the Supreme Court decisions in this area. He replied, in his direct way, that, very simply, Catholic schools in the United States are "persecuted."

Certainly some of the Supreme Court decisions verge on being troubling. Consider the instances in which Mr. Justice Douglas supported his opinions with references to a book called Roman Catholicism by Loraine Boettner, published in Philadelphia in 1962. (Presumably, all church-related schools are governed by these decisions, but one would have to be blind not to see that, alas, Catholic schools seem to be the issue.) This volume has been characterized by Professor Douglas Laycock of the University of Chicago Law School as an "elaborate hate tract." Mr. Boettner's views on Catholicism generally may be summarized in the following brief quote:

"Our American freedoms are being threatened today by two totalitarian systems, Communism and Roman Catholicism. And of the two in our country Romanism is growing faster than is Communism and is the more dangerous since it covers its real nature with a cloak of religion."

That particular passage is not cited by Mr. Justice Douglas, but here is one that he quotes in footnote 20 of his concurring opinion in Lemon v. Kurtzman (403 U.S. 602, 635, 1971):

"In the parochial schools Roman Catholic indoctrination is included in every subject. History, literature, geography, civics, and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools, the very reason for going to all of the work and expense of maintaining a dual school system. Their purpose is not so much to educate, but to indoctrinate and train, not to teach Scripture truths and Americanism, but to make loyal Roman Catholics. The children are regimented, and are told what to wear, what to do, and what to think."

Ponder the implications of Mr. Boettner's charge that Catholic schools do not teach "Scripture truths" !

One cannot easily imagine such "evidence" being used against the interest of any other major religious or ethnic group in our nation without raising puzzled eyebrows, if not indeed holy hell.

Here—my second point—there is a task of advocacy which advocates of tuition tax credits, or whatever, must assume. Let me illustrate. On Tuesday, April 3, the New York Times reported the Supreme Court's refusal the preceding day to "continue a lower-court order that has prevented New York State from reimbursing parochial schools for complying with state-mandated tests and record-keeping tasks." Some paragraphs later the article stated, "The federal Constitution specifically forbids aid to parochial schools. . . ." Of course the Constitution does no such thing. There is no mention either of schools or of education in the Constitution.

Upon encountering this, my first and probably professorial impulse was to write a letter to the Times, pointing out the error. Then I thought no, I would wait to see if the Times would correct itself, or if some representative of Catholic education—or someone—would write in to say, "But this isn't so." To my knowledge, no one has. At least I have seen no correction in the Times, which would have been more than willing, would have been actively desirous of correcting an innocent but not unimportant mistake. And so one asks: If we do not respond, who will do it for us? If we are so lax in our reading of the Constitution, who will counter those who use the Constitution to avoid discussing social policy?

To repeat, if our experience with tuition tax credits in the 95th Congress taught us anything, it is that those who prefer not to help our schools are wont to interpose the Constitution between any specific proposal and the issue of social policy that it properly addresses. It is not that we wish to avoid the constitutional question to the contrary, we welcome the court test, and have asked only that we be given our day in court. But the constitutional issue cannot be resolved until appropriate enabling legislation is passed, and legislation will not be passed until our proposition is dealt with in the domain of public policy.

In this regard, I believe one must fault President Carter. In 1976 he declared himself in favor of "finding constitutionally acceptable ways of providing aid to parents whose children attend parochial schools." This could only mean one thing: tuition tax credits. But when the opportunity presented itself of finding out whether tax credits are constitutional, the President, through his Secretary of HEW, asserted they were not, and so opposed enactment of our bill, which was the only possible way of finding out whether they were. To repeat, the pattern persists.

Hence I would hold that those who, as a matter of policy, do not favor educational pluralism, or who do not want public funds to assist non-public schools and their students, should be obliged to say so and not be permitted to avoid that question by substituting predictions of what the Supreme Court would or would not say if in fact legislation were passed to provide such assistance.

Unless legislation passes in this Congress, the issue will, unavoidably, be raised in the 1980 election. I remind you that the last three Democratic candidates pledged to provide aid in some form. Republican candidates have done the same. They will be asked to do so again, and in all likelihood will.

I would like to suggest that this time around the questioning be a bit more sophisticated. I do not conceal my feelings that the commitments made by my party's platform in 1964 were not kept by President Johnson. Nor has President Carter kept the commitment he made—not in any meaningful sense.

If, then, the matter is not resolved beforehand, I would suggest that in 1980 it ought not to be enough for candidates simply to indicate a warm disposition toward a popular cause. Candidates who wish to be understood as favoring some form of aid should be expected to say just what form they intend, and then to say that they will press the matter through Congress in order that it may be tested in the Supreme Court. They should be asked to specify that they will not use the constitutional question as an excuse to avoid the question of public policy.

It seems to me that this is a reasonable expectation. It may be that when it is put in this manner no candidate will want to be associated with support for non-public schools. In which event, fair enough. It is an important issue, and very much an urban issue. (I happen, for example, to think the survival of the Catholic school system in New York City is essential to the future of the city.)

This would scarcely be the only issue in an election, and I would certainly hope that it does not join that growing list of "single issues." If we are disappointed, so be it. But that is better than being misled. There is too much of that: probably always has been, but there is no point settling down to a kind of agreed-upon deception such as is practiced in the quadrennial pledge to repeal the Taft-Hartley Act.

The springs of democracy should run clear. We have rather muddied them in this matter, and should do better.

Finally, I would hope we all might be a bit more ecumenical on this issue than we have been. There are those who just don't like church-related schools and aren't going to change their minds. But many more persons are genuinely worried as to what might happen to the public schools if aid is provided to what they see as a competing system. (They deserve answers, just as we do.)

We begin with a common concern for education. Surely that should lead to a shared dialogue on how best to advance it.●

AMERICA'S MINUTEWOMEN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. FINDLEY. Mr. Speaker, I welcome this opportunity to participate in Congresswoman PAT SCHROEDER's recognition of America's minutewomen. It presents me with an opportunity to call the attention of the House to the brave and selfless deeds of two American heroines who made their homes in west central Illinois and who are laid to rest there.

The first is Mary Harris Jones, known as Mother Mary Jones. Like Johnny Appleseed, she traveled America planting seeds. But rather than apple trees, hers were seeds of hope and courage planted in the hearts of working men and their families. We see the fruit of her toil in today's vigorous labor union movement, improved working conditions, reasonable working hours, and a higher standard of living for all.

Mother Jones was particularly interested in calling attention to the evils of child labor. In 1903 she led a 145-mile march of striking children who worked in the mines to President Theodore Roosevelt's home at Oyster Bay, N.Y. The President refused to see Mother Jones and "her" children, but they won the hearts of the people. They had to return to the 10-hour work shifts in the mills but Congress eventually outlawed child labor.

What an inspiration Mother Jones offers today's labor leaders. She went where she was needed and did what she had to do without complaint or hesitation. She had no fancy offices, no army of staff assistants, no salary. She was motivated by love for the workers she called her sons. Just as Lincoln serves as an example for those who hold public office, Mother Mary Jones provides a similar example for those who hold union office. History must not lose appreciation for Mother Jones, the undaunted sower of future prosperity and well-being. She now lies buried in a small cemetery in Mount Olive, Ill. I welcome this opportunity to keep her memory alive.

Lesser known but equally as heroic was Annie Louise Keller of Centerville, Ill. When she awoke on that warm spring morning in 1927, this midwestern school teacher had no warning of impending disaster. However, as she walked to school, the day turned dark, with noise in the distance like a freight train.

Cyclones are no strangers to Midwesterners and most of us have seen the destructive results. When, during the school lunch period, the pony shed blew away, a look at the southwest told Annie what was coming. She rushed the children to safety, but tragically did not have time to do as much for herself. The building was demolished before she could escape and the falling center beam struck her across the shoulders, killing her instantly.

It has been more than 50 years since Annie took that brave action and sacrificed her own life for the children in her school. We are still blessed by the inspiring example of love that she gave to each of us.●

TRIBUTE TO W. E. "ED" WILLIAMSON

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. BROYHILL. Mr. Speaker, W. E. "Ed" Williamson, the clerk of the Committee on Interstate and Foreign Commerce for the last 22 years, has left us. He fought a valiant battle with that scourge of mankind so much in the view of and on the minds of the members of the committee—cancer. Ed asked no quarter, made no complaint and for many, many months seemed to fight the killer to a standstill. At the same time, he continued to be the efficient, amiable, congenial staff leader that he has been through the years.

Much could be written about Ed Williamson as a coach, a soldier, a county official, a mayor, a master of ceremonies for any and all occasions and a general hail fellow well met. No one who met Ed and certainly no one who came to know him well could ever find a harsh thing to say about him. Conversely, Ed was never known to say harsh things about anyone else. You might be the momentary victim of his sharp, but gentle wit and his gift of repartee, but never of his anger or disdain. Ed loved all people and they loved him.

It is not uncommon for the minority member of a committee, and more particularly, the minority staff of a committee to be constantly and pointedly reminded that they are the minority and should expect treatment accordingly. To Ed, members were members and staffers were staffers and if he could help them, he would. No one got short shrift from Ed.

Life will go on and the committee will function, but after 22 years of Ed and the imprint which he has made upon its operation, it can never again be quite the same.

We mourn the loss of a good man and a good friend.●

CORPORATE RESPONSIBILITY AND HAZARDOUS MATERIALS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. MILLER of California. Mr. Speaker, nearly 40 years ago, Dr. Wilhelm C. Hueper, commonly regarded as the father of environmental cancer prevention, wrote:

> Industrial concerns are in general not particularly anxious to have the occurrence of occupational cancers among their employees or of environmental cancers among the consumers of their products made a matter of public records. Such publicity might reflect unfavorably upon their business activities and oblige them to undertake extensive and expensive technical and sanitary changes.

Over 200 years earlier, the Italian physician Bernadino Ramazzini, who is considered the founder of occupational medicine, noted:

> 'Tis a sordid profit that's accompanied by the destruction of health . . . Many a workman has looked upon his craft as a means to support life and raise a family, but all he has got from it is some deadly disease, with the result that he has departed this life cursing the craft to which he has applied himself.

Today, we must face a fact which is both chilling and depressing: A number of products and industrial processes pose enormous health hazards to millions of people who work with them, purchase them, live near the sites where they are manufactured or disposed of.

In recent months, we have become aware that corporate officials, in numerous cases, have known about these hazards, sometimes for decades, and yet have remained silent. As a result, hundreds of thousands, even millions, of people have been exposed to hazardous materials and processes which can cost them their health and even their lives.

There are many reasons why this situation has developed and why it has continued largely unchecked for so many years. One of the major reasons is that the responsible individuals who have consciously made these decisions to cover-up hazards have little to fear from the justice system. Too often, offending companies have been fined nominal amounts; in some cases, they have been awarded tax benefits allowing them to write off liability losses. This situation cannot continue.

When someone makes a decision to conceal information about a product or an industrial process, knowing full well that the product or processes jeopardizes someone's life, health or safety, I believe a criminal act has occurred. Consequently, I am today introducing legislation which would make such concealment a criminal offense, punishable by a substantial fine and/or jail term. I am very proud to have as cosponsors of this landmark legislation 41 of my colleagues, including the distinguished chairman of the House Judiciary Subcommittee on Crime, JOHN CONYERS, JR., who has led a major investigation into corporate white-collar crime in this country, and who, for the past 2 years, has been conducting several lines of inquiry which have helped establish the basis for this legislation.

ASBESTOS COVER-UPS

Over the course of the past year, I have personally led the investigation of health hazards in the asbestos industry. Relying on documents and statements of the companies themselves, we have pieced together a legacy of four decades of cover-up which has resulted in the exposure of millions of people to cancer-causing asbestos materials.

As long ago as the mid-1930s, the attorney for one of the major asbestos companies commented on medical studies on asbestos recently conducted at the Saranac Laboratory in New York:

> My own idea is that it would be a good thing to distribute the information among the medical community, *providing it is of the right type and would not injure our companies.* [Emphasis added]

The cover-up continued through the following decade. In the early 1950s, the medical director of one of the major companies recommended that a warning label be placed on asbestos; his advice was rejected by the corporate officials who had hired him for his medical expertise:

Later that decade, the Asbestos Textile Institute rejected a recommendation by Dr. Kenneth Smith of Johns-Manville that the institute fund a study of the correlation of asbestos exposure in nonprimary workers and lung cancer. His recommendation was rejected, among other reasons, because ATI feared that it would "stir up a hornet's nest."

Although some in the asbestos industry claim that no certain correlation between asbestos and lung cancer was proven prior to Dr. Irving Selikoff's study of insulation workers in 1964, documents of the British Thermal Insulation Contractors Association illustrate that this information was being discussed in the trade in the mid-1940's.

Executives of the Johns-Manville Co. have testified that a formal corporate policy required that employees whose chest X-rays revealed abnormalities be told of the problem and relocated to less dusty areas of the factory. Yet documents, including the minutes of the Health Review Committee from the Manville, N.J. plant, and the testimony of the former manager of the Pittsburg, Calif., plant, indicate that these policies were not followed. In fact, many individuals were not told that their X-rays indicated possible lung damage attributable to asbestos exposure.

As late as last summer, there was a discussion among the members of the European Advisory Committee of the Asbestos International Association at which corporate representatives discussed ways to minimize hazard warning labels on asbestos products shipped to the European continent because—

> A label would put the continental industry in a difficult position . . . (There are) countries where it was felt it wâs still too early to start voluntary labelling, in fear of a possible negative influence on sales." (Emphasis added.)

POISONING OF WATER WELLS

Asbestos is not the only example of this kind of corporate indifference to human health and safety. Recently, subcommittees of this Congress revealed the longstanding poisoning of underground water wells by the Occidental Chemical Corp. in Lathrop, Calif., beginning in 1973. In April, 1975, a memo had been circulated within the company noting,

> Our laboratory records indicate that we are slowly contaminating all wells in our area.

By June, 1976, the company was discharging 10,000 tons of waste water per year containing five tons of contaminants into the ground. "I believe that we have fooled around long enough and already overpressed our luck," a company official warned in an internal memo. Almost a year later, the State Water Quality Control Board, the appropriate regulatory agency, had still not been warned, according to the company's own memos, and the dumping continued for more than another year.

DBCP AND STERILITY

The pesticide DBCP has also been associated with causing sterility in workers. As early as 1957, chemical producers knew that DBCP was dangerous. In 1961 and 1962, physicians found that DBCP caused testicular atrophy, liver and kidney damage in laboratory animals. Yet the manufacturing continued and workers were not warned.

KEPONE

Even before kepone was marketed, the Allied Chemical Co. subjected the substance to extensive laboratory tests which revealed its potential for causing cancer, liver damage and reproductive system failure. Despite tests which suggested numerous problems, Allied increased its production of kepone in the mid-1960s. Heavy amounts were dumped into the James River. In 1975, workers at the subcontracting factory, LSP Co. became ill, and in the resulting inspection, 75 cases of acute kepone poisoning were documented. Soil, air and water in the vicinity were contaminated.

BENZIDENE

In 1936, Dr. Wilhelm Hueper told officials of the DuPont Co. that benzidene was carcinogenic. At the time, Hueper was an employee of DuPont.

In 1948, the chief medical officer of the DuPont Co. presented a paper at an international medical conference in London at which he argued that benzidene was not a carcinogen. Three years later, according to Dr. Michael Williams, the medical officer to the Imperial Chemical Industries Dyestuffs Division, was told by the same company official that,

> We here know very well that benzidene is causing bladder cancer, but it is company policy to incriminate only the [other] . . . substance, Beta-naphthylamine.

TIRES

Product hazards and cover-ups are not limited to carcinogens like asbestos or chemicals. In 1973, 1 year after production of the Firestone 500 tire began, that company's director of development was given a memo in which he was warned,

> We are making an inferior quality radial which will subject us to belt-edge separation at high mileage.

Nevertheless, Firestone produced 24 million such tires over the subsequent 5 years, insisting publicly that there were no design defects in the tire. In 1977, a company memo noted that over a quarter of the 500s had been returned to the manufacturer in 1 year.

PINTO AUTOMOBILES

In late 1977, "Mother Jones" magazine reported an alleged 8 year cover-up by Ford of a design flaw in the siting of the gas tank on Pinto automobiles. It has been estimated that 500 deaths, or more, could be attributed to the improper location of the gas tank, which may rupture, causing the gasoline to ignite.

In an internal corporate memo, entitled "Fatalities Associated with Crash Induced Fuel Leakage and Fires," a Ford employee reportedly argued there was no financial benefit in complying with Government safety standards. Allegedly, someone believed that it was cheaper to cover-up the hazard and even to pay the liability claims than to retool the production machinery or retrofit the unsafe automobiles.

Mr. Speaker, these case histories describe a pattern of corporate behavior which cannot be tolerated. Let me state very clearly that I do not believe that these sorts of cover-ups constitute a normal practice for most industries or most businessmen in the United States. But neither can one conclude, given the collective evidence, that Love Canal, or asbestos, or DBCPs, or Pintos, or any of the others, that these are merely isolated incidents.

There are numerous reasons why these hazards were not fully disclosed. As Dr. Hueper wrote in 1943,

> It is, therefore, not an uncommon practice by the parties financially interested in such matters to keep information on the occurrence of industrial cancer well under cover.

In several situations, corporate officials cited fears of possible litigation or compensation claims by affected workers; in other cases, the costs of cleaning up or fixing a product was a factor. But in each case, certain corporate officers made a conscious decision to subject unsuspecting and innocent people to hazards which could imperil their safety and even their lives.

The legislation which we are introducing today is targeted at the serious situations I have described. Failure to notify employees and appropriate regulatory agencies can lead to the exposure of millions of individuals to hazardous materials, as in the case of asbestos where as many as 11 million people may have been exposed in the last 30 years. Who knows what limitations might have been placed on its use had manufacturers shared information they possessed about asbestos' carcinogenic properties? Would we have installed it in schools? Would we have used it in hair dryers? Would we have waited until the toll of potential cancer deaths had grown to such proportions before undertaking safety precautions?

This legislation does not require any additional testing of products; it does not expand Government regulatory activity; it does not impose exhaustive paperwork burdens on companies.

All this legislation requires is this: When a corporate manager, officer, or director, possesses information concerning the hazards of his product or industrial process, he must notify potentially affected employees and the appropriate Federal regulatory authorities.

We cannot depend on Government to identify each hazard in every product or process which emerges. There are already 43,000 chemical compounds on the market, and 1,000 new ones appear annually. The entire Environmental Protection Agency spends just $103.3 million annually to regulate the $126 billion a year chemical industry.

Unless we are prepared to advocate a massive increase in Federal regulatory activities, we must find alternative ways to assure that serious hazards are brought to public attention. I believe that burden properly belongs with corporate officers who are aware of these problems.

This legislation is very timely. A uniform Federal statute is needed to protect unsuspecting employees and the general public. This legislation, which has been carefully drafted with the comments and recommendations of criminal justice experts, occupational safety specialists, and others is a concept which must be incorporated into the Federal code. I look forward to hearings in the House Subcommittee on Crime on this legislation in the near future, and I welcome additional support from other Members of the House.

The text of the bill and the list of cosponsors follow:

H.R. 4973

A bill to amend title 18 of the United States Code to impose penalties with respect to certain nondisclosure by business entities as to dangerous products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 89 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1822. Nondisclosure of certain matters by certain business entities and personnel

"(a) Whoever—

"(1) is an appropriate manager with respect to a product or business practice;

"(2) discovers in the course of business as such manager a serious danger associated with such product (or a component of that product) or business practice; and

"(3) knowingly fails to so inform each appropriate Federal agency in writing, if such agency has not been otherwise so informed, and warn affected employees in writing, if such employees have not been so warned, before the end of 30 days after such discovery is made; shall be fined not less than $50,000 or imprisoned not less than 2 years, or both, but if the convicted defendant is a corporation, such fine shall be not less than $100,000.

"(b) As used in this section—

"(1) the term 'appropriate manager' means a person having management authority in or as a business entity with respect to a particular product or business practice, if such authority extends to informing Federal agencies and such business entity's personnel about serious dangers associated with such product (or any component of such product) or such business practice;

"(2) the term 'product' means a product of the business entity with respect to which the relevant accused person is the appropriate manager;

"(3) the term 'business practice' means a business practice with respect to which the relevant accused person is the appropriate manager;

"(4) the term 'discovers', used with respect to a serious danger, means obtains information that would convince a reasonable person in the circumstances in which the discoverer is situated that it is probable the serious danger exists;

"(5) the term 'serious danger', used with respect to a product or business practice, means that the normal or reasonably forseeable use of, or the exposure of human beings to, such product or such business practice will cause death or serious bodily injury to an individual;

"(6) the term 'serious bodily injury' means an impairment of physical condition, including physical pain, that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ;

"(7) the term 'warn affected employees', used with respect to a serious danger, means give sufficient description of the danger to all individuals working for or in the business entity who are likely to be subject to the serious danger in the course of that work; and

"(8) the term 'appropriate Federal agency' means a Federal agency having regulatory authority with respect to the product or business practice and dangers of the sort discovered.".

SEC. 2. The table of sections for chapter 89 of title 18 of the United States Code is amended by adding at the end the following new item:

"1822. Nondisclosure of certain matters by certain business entity personnel."

ADDITIONAL COSPONSORS

Mr. Conyers, Mr. Gore, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Beilenson, Mr. Bonior of Michigan, Mr. Brown of California, Mr. Buchanan, Mr. Carr, Mrs. Chisholm, Mr. Dellums, Mr. Dixon, Mr. Dornan, Mr. Downey, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of California, Mr. Glickman, Mr. Gray, Mr. Guarini, Ms. Holtzman, and Mr. Lent.

Mr. Long of Maryland, Mr. Maguire, Mr. Markey, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Neal, Mr. Nolan, Mr. Ottinger, Mr. Pepper, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Vento, Mr. Waxman, Mr. Weaver, Mr. Weiss, and Mr. Wolpe.●

HAPPY BIRTHDAY GERRI MAJOR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. RANGEL. Mr. Speaker, I rise to inform my colleagues that on Sunday, July 29, Gerri Major celebrates her 85th birthday.

Gerri's career spans more than 60 years as a publicist, journalist, and writer-editor for such publications as the Pittsburgh Courier, Amsterdam News, Ebony, and Jet. During these decades of active communications service, Gerri has been a model of inspiration to those thousands of people who have come to know and love her. Gerri has provided guidance to all of us in her ending quest for truth in journalism.

We should all celebrate the birthday of this great American, because she represents the hard work and dedication that this country is built on. I hope my colleagues appreciate the tremendous contributions made by Ms. Major and will join with me in this tribute.●

TEACHER BURN-OUT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. MICHEL. Mr. Speaker, one of the untold stories of our time, one of the real crises that we rarely hear about is what has happened to American education in the past 10 or 15 years. It is no exaggeration to state that at no previous time in our history has education, at every level, been so threatened with disaster. Violence in the schools, a decline in standards, low test scores, parent and taxpayer dissatisfaction: These have been among the problems facing American education in the brave new world of increased Federal interference and increased teacher militancy.

The Wall Street Journal recently discussed one of the major problems: Teachers are "burning-out", for example, the pressures of teaching in today's schools are so great that many teachers lose their energy and enthusiasm.

At this point I wish to insert in the RECORD, "Teacher Burn-Out", the Wall Street Journal, July 25, 1979:

TEACHER BURN-OUT

A movie called "The Blackboard Jungle" caused a bit of a stir back in 1955. It was about a group of delinquents who relentlessly terrified a high-school teacher. The film was scary because the sense of terror in its classrooms was so far from ordinary experience. But it is now evident that a substantial number of high-school teachers and principals believe the atmosphere in their schools is approaching or even exceeds the tension in "The Blackboard Jungle." Many want to quit. The National Education Association says a third of the teachers they polled wish they could be doing something else. Another association, representing high-school principals, is about to report that many principals will quit this year. The latest Gallup survey of public confidence in major institutions shows the schools falling further out of favor with the public.

To explain the increasing despair of its members, the NEA cites a new phenomenon called "teacher burn-out." A burned out teacher is one in whom the energy and enthusiasm needed to teach children is going or gone. It is probable that a lot of teachers are holding on now mainly for their paychecks and union benefits. Even those incentives are losing their power. When the New York City and Los Angeles school systems opened last year under court orders to reassign teachers to achieve racial balance, thousands of teachers quit, fearing physical assault in inner-city schools.

The NEA cites a number of reasons for teacher burn-out, but the big one is the pervasive sense that teachers have lost effective control of their classrooms. There is general agreement that as in the past the major disruptions are caused by a small percentage of the school population. The difference now is that it is very difficult to bring those students under effective control. The result is that more inner-city schools are in a state of recurring chaos, with weapons prevalent, often carried for self defense. Fewer physical assaults occur in suburban schools, but the level of unruliness is without precedent, and vandalism against school property and teachers' property is a serious problem. At the suburban extreme, parents have consented to unannounced police searches for drugs inside schools.

The bitter irony of this state of affairs is that it is a direct result of efforts by good-minded people who in the 1960s decided that the public-school system was so imperfect that it required large-scale reform. They initiated the student's rights movement. Its purpose, explained the ACLU, was to challenge "practices which school administrators claim are necessary to control their schools." The movement took the schools to court. As a result, a large and complicated body of state and federal law now governs what schools can or cannot do to students. The most important Supreme Court decision in this area established that a suspended student has a right to an official hearing. It seems that school officials in New York State were getting around the hearing requirement by transferring undisciplined students to another school, but Gov. Carey has just signed a bill requiring a due-process hearing for these transfers. The ACLU says such requirements curb "administrators' moral and political judgments about students' lives [which] had little to do with education."

The practical effect of these lawsuits was not foreseen by their supporters. Teachers do not know the details of all the law regulating their conduct. Unsure of their own rights, many teachers now impose less discipline or none at all. Teachers believe that the once-reliable principle of *in loco parentis* has been abolished. Meanwhile, the kids know they have the courts behind them in some vague way and challenge teachers more often and with less restraint.

The NEA says a major complaint of teachers is that principals won't back them up. That is because the reform movement has given principals other, presumably more important things to do. Deciding whether to suspend a bad student and commit work time to a due-process hearing is but one of the principal's new duties. He is now on the front line administering nearly every new program, rule and law mandated by federal and state agencies and the courts. There are detailed regulations for affirmative action on teacher recruitment, special education, school-lunch programs and more. This used to be a prestigious job, but many principals now feel they've become low-level bureaucratic robots at the beck of legislators, parents and pressure groups. Thus, more are closing their doors on the hallway chaos, or quitting.

Not much will change soon. The new regulations must be complied with to the last time-devouring letter. Teachers' unions will not take action to protect their members against the worst students in city schools for fear of being called racist, though we suspect much teacher burn-out is caused in no small part by the frustration of seeing the lives of so many intelligent minority kids chewed up by this mess. All of this has been a favorite subject for dinner-party debate between conservatives and reformers for some time now. But if too many good teachers and principals walk away from the schools or "burn out," the debate will become academic.●

ORIGINS OF THE DAVIS-BACON ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. LAFALCE. Mr. Speaker, during this Congress, many business organizations have made the repeal of the Davis-Bacon Act one of their major priorities. Essentially, this is the act which requires the payment of prevailing wages in construction contracts involving Federal funds.

In the discussions that are taking place concerning the act, several assumptions concerning its origins seem to be prevalent. For example, since the act was signed into law in 1931, it has been assumed that it was addressed to the conditions that existed during the great depression. Similarly, it is assumed that this was New Deal legislation. And finally, it is often claimed that it was intended primarily as pro-labor union—and implicitly anti-industry—legislation.

During a recent seminar held by the Congressional Research Service, a presentation was made by William G. Whittaker, a CRS staff analyst, which seriously questioned each of these assumptions. To help "set the record straight" concerning the genesis of the Davis-Bacon Act, I believe it to be worthwhile to reprint Mr. Whittaker's presentation. I sincerely hope that any debate concerning the repeal and/or modification of the Davis-Bacon Act will take place based upon the facts, not on mere rhetoric, and I urge our colleagues to review this study carefully.

Mr. Whittaker's statement follows:

COMMENTS UPON THE ORIGINS OF THE DAVIS-BACON ACT [1]

Often, in contemporary comment about the Davis-Bacon Act, one finds, either directly or by inference, several assumptions about the origins of the Act: (a) that it was Depression-inspired legislation and, therefore, by implication, that it is out-of-date and ought to be repealed; (b) that it was New Deal legislation—if not directly so, then at least in spirit; and (c) that it was primarily a labor/trade union act, by inference, Democratic and anti-industry.

If fact, it would appear, each of these assumptions is subject to question.

The roots of the Davis-Bacon Act go back into the late 19th century and are an outgrowth of a variety of wage and hour statutes enacted by the several states. While the states (and the Federal Government) encountered constitutional problems in the creation of wage and hour standards applicable to the private sector, they found less difficulty in establishing such protections for their own direct employees. In part, since higher standards thus obtained for public employees than for private sector employees, state agencies, in order to cut costs, began to contract-out construction and related public work, frequently to the lowest private bidder. By means of the contracting-out process, government found itself a party to the promotion of sub-standard conditions of labor—ultimately, it would appear, to the profit of "fly-by-night" contractors little concerned with the quality of construction, the stability of the industry or the welfare of the workers.

In 1891, Kansas adopted a law which required that "not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, and other persons so employed by or on behalf of the State of Kansas" or of other local jurisdictions. At least six other states enacted prevailing wage statutes for public construction prior to the enactment of the Davis-Bacon Act at the Federal level in 1931. The effect, often, of the several statutes was to remove direct wage costs very largely as an element of competition among contractors bidding for public work.[2]

Early in 1927, Congressman Robert L. Bacon (R-N.Y.), a banker prior to his election to Congress, introduced legislation to require that local prevailing wage standards be met in Federal public construction—a precursor of the Davis-Bacon Act of 1931.

This was not a period of depression.

William J. Tracy, Secretary-Treasurer of the Building Trades Department of the A. F. of L., writing in the January 1927 *American Federationist*, observed:

"The building industry is, at the present time, enjoying the greatest prosperity in its history—with wages and hours of labor and improved working conditions better than ever before." [3]

Tracy's views were echoed by Frank Duffy, General Secretary of the United Brotherhood of Carpenters and Joiners of America. "Altogether, 1926 has been a very prosperous year," Duffy noted, "and 1927 holds the glowing promise of becoming equally as prosperous if not more so." [4]

During hearings before the House Committee on Labor in February of 1927, Congressman Bacon emphasized not depression but, rather, the maintenance of prevailing local standards and the stability of the industry.

Labor standards, then, in New York, were high, the Congressman affirmed, "wages are fair and there has been no difficulty in the building trades between employee and employer . . . for some time." When construction of a veteran's hospital in Bacon's district was announced, local contractors submitted their bids taking into account wages prevailing locally. But the award, Bacon explained to his colleagues,

". . . was let to a firm from Alabama who brought some thousand non-union laborers from Alabama into Long Island, N.Y.; into my congressional district. They were herded onto this job, they were housed in shacks, they were paid a very low wage and the work proceeded. Of course, that meant that the labor conditions in that part of New York State where this hospital was to be built were entirely upset. It meant that the neighboring community was very much upset."

In Bacon's view, the very least the Federal Government could do, when engaging in construction work, "is to comply with the local standards of wages and labor prevailing in the locality where the building construction is to take place." In drafting his bill, Bacon sought not to inflate wages artificially but, rather, to define the prevailing

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Footnotes at end of article.

local standard so that the Federal Government might adhere to it.[5]

Similar prevailing wage legislation was introduced again in 1928—still prior to the Great Depression. This time, Bacon won strong support from the Department of Labor in a memorandum to Labor Secretary James J. Davis—a Republican—the Commissioner of Labor Statistics, Ethelbert Stewart, pointed out:

"The essence of the thing as I see it is: Is the Government willing for the sake of the lowest bidder to break down all labor standards and have its work done by the cheapest labor that can be secured and shipped from State to State?"

Commissioner Stewart expressed his full support for the Bacon bill—and Secretary Davis concurred.[6]

Although apparently enjoying wide bipartisan support (and support from industry and from labor) the Bacon proposal of 1928 was not enacted. Nor was parallel legislation, offered in 1930 by Bacon and by Congressman Elliott Sproul (R.-Ill.), the latter a Chicago-area building contractor prior to his election to the House.[7]

Late in 1930, after nearly a decade as Secretary of Labor in three Republican administrations,[8] James J. Davis was elected to the U.S. Senate from Pennsylvania. Among his first acts was to introduce prevailing wage legislation—a companion bill being offered in the House by Congressman Bacon. The precise language of the Davis-Bacon legislation had been worked out in an interdepartmental committee "representing all the departments" of the Hoover administration and had been "unanimously agreed on" by that committee.

William N. Doak, Davis's successor in the Hoover cabinet as Labor Secretary,[9] testifying for the Davis-Bacon legislation, advised the Senate Committee on Manufacturers that current contracting practices were "not only disturbing to labor but disturbing to the business community as well."[10] The Committee, presided over by Senator Robert LaFollette (R-Wisc.), in reporting the legislation, agreed:[11]

"Local artisans and mechanics, many of whom are family men owning their own homes, and whose standards of living have long been adjusted to local wages scales, can not hope to compete with this migratory labor. Not only are local workmen affected, but qualified contractors residing and doing business in the section of the country to which Federal buildings are allocated find it impossible to compete with the outside contractors, who base their estimates for labor upon the low wages they can pay to unattached, migratory workmen imported from a distance and for whom the contractors have in some cases provided housing facilities and food in flimsy, temporary quarters adjacent to the project under construction."

The report noted that the Secretary of Labor and representatives of the Treasury and War Departments had appeared before the Committee to emphasize the Hoover Administration's support for the legislation, that representatives of labor had "indorsed the measure as it stands" and that builders from "throughout the country have advised the committee that they favor the principle involved in this bill." The Committee report concluded:

"This measure does not require the Government to establish any new wage scales in any portion of the country. It merely gives the Government the power to require its contractors to pay their employees the prevailing wage scales in the vicinity of the building projects. This is only fair and just to the employees, the contractors, and the Government alike. It gives a square deal to all."[12]

The House Committee on Labor, Chaired by Congressman Richard J. Welch (R-Calif.), filed a similar report.[13]

Although there was dissent and although amendments were urged (notably concerning the manner and timing of wage rate determinations), the Davis-Bacon Act was adopted by both the House and the Senate without rollcall votes and, on March 3, 1931, was signed into law by President Herbert Hoover.[14]

While the Davis-Bacon Act was ultimately passed during the Great Depression, its roots clearly go much further back. The immediate conception of the legislation by Congressman Bacon was in response to conditions which pre-dated the Depression and which obtained during a period of prosperity.

Equally clear, the Davis-Bacon Act would not qualify in any strict sense as "New Deal" legislation—except that it dealt with economic problems which prevailed through that era.

Finally, the Republican influence in the origins of the Davis-Bacon Act appears clear as does the view, based upon current research, that the sponsors were as concerned with the stability of the construction industry as with the level of wages to be paid to the construction workers.

Whether conditions now, in the 1970s' justify the continued application of the principles set forth in the Davis-Bacon Act, is currently a subject of dispute, the resolution of which must be left to the judgment of the Congress. The issues, pro and con, we will leave to our distinguished guests this evening, Mr. Philip Abrams of the Associated Builders and Contractors and Mr. Robert Georgine of the Building and Construction Trades Department, AFL-CIO.

FOOTNOTES

[1] Comments made during the Congressional Research Service seminar/dinner for Members of Congress, on "The Viability of the Davis-Bacon Act," June 25, 1979, by William G. Whittaker, CRS Analyst in Labor Economics, edited from the oral presentation.

[2] David B. Johnson, "Prevailing Wage Legislation in the States," Monthly Labor Review, August 1961, pp. 839–845.

[3] William J. Tracy "The Building Trades," American Federationist, January 1927, p. 39.

[4] Frank Duffy, "A Happy New Year," The Carpenter, January 1927 p. 36.

[5] Hours of Labor and Wages on Public Works, Hearings before the Committee on Labor, U.S. Congress, House of Representatives 69th Congress, Second Session, on H.R. 17069, February 18, 1927 p. 2.

[6] Preferences in the Employment of Labor on Federal Construction Works, Hearings before the Committee on Labor, U.S. Congress House of Representatives, 70th Congress, First Session, on H.R. 11141, March 19, 1928, pp. 4–5.

[7] Employment of Labor on Federal Construction Work, Hearings before the Committee on Labor, U.S. Congress, House of Representatives, 71st Congress. Second Session, on H.R. 7995 and H.R. 9232, March 6, 1930. Concerning Congressman Sproul, See Biographical Directory of the American Congress, 1774–1961 (Washington: Government Printing Office, 1961), p. 1641.

[8] Davis had been appointed Secretary of Labor in 1921 by President Warren Harding (a choice about which the American Federation of Labor seems not to have been especially enthusiastic). He was reappointed by Presidents Calvin Coolidge and Herbert Hoover, serving until late 1930 when he was elected to the United States Senate from Pennsylvania—as a Republican. See Robert H. Zieger, "The Career of James J. Davis," The Pennsylvania Magazine of History and Biography, January 1974, pp. 74–76.

[9] William N. Doak, a Virginian out of the railway brotherhoods, sometimes described as a "conservative Republican," was appointed Labor Secretary over the rumored objections of the AFL, winning the nod over John L. Lewis of the United Mine Workers of America who seems to have been a leading candidate for the post. See Robert Sobel (ed.), Biographical Directory of the United States Executive Branch, 1774–1977 (Westport, Conn.: Greenwood Press, 1977), pp. 97–98; James P. Egan, "Comment on the National Show," Machinists' Monthly Journal, January 1931, p. 45; David Burner, Herbert Hoover: A Public Life (New York: Alfred A. Knopf, 1979), pp. 208–209; and Melvyn Dubofsky and Warren Van Tine, John L. Lewis: A Biography (New York: Quadrangle/The New York Times Book Co., Inc. 1977), pp. 172–173.

[10] Wages of Laborers and Mechanics on Public Buildings, Hearings before the Committee on Manufactures, U.S. Congress, Senate, 71st Congress, Third Session, on S. 5904, February 3, 1931, pp. 2–3.

[11] Although Senator LaFollette chaired the Committee on Manufactures, the report was actually filed by Senator Davis.

[12] Regulation of Wages Paid to Employees by Contractors Awarded Government Building Contracts, U.S. Congress, Senate, Committee on Manufactures, Report No. 1445, 71st Congress, Third Session, to accompany S. 5904, January 26, 1931. Reference to "a square deal," one might argue, could link the Davis-Bacon Act philosophically to turn-of-the-century Republican President Theodore Roosevelt rather than to the New Deal of President Franklin Roosevelt, a Democrat.

[13] Regulation of Wages Paid to Employees by Contractors Awarded Government Building Contracts, U.S. Congress, House of Representatives, Committee on Labor, Report No. 2453, 71st Congress, Third Session, to accompany H.R. 16619, January 31, 1931.

[14] Congressional Record, permanent set, February 4, 1931, pp. 3918–3919, February 28, 1931, pp. 6504–6521, and March 3, 1931, p. 6906.●

TONY GALENTO: MORE THAN JUST A BOXER

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. MINISH. Mr. Speaker, I rise to pay tribute to my friend and constituent, Tony Galento.

Like most people, I first heard of "Two Ton" Tony Galento in 1939 when he fought Joe Louis for the heavyweight championship of the world. The parallels between this fight and the contemporary movie "Rocky" are obvious—a supposedly outclassed opponent, an invincible champion, and an unbelievable knockdown. But anyone who has seen the films of the Galento-Louis fight knows that drama pales in comparison to the real life events that took place in the second round of that fight. The electricity of that moment leaps across 40 years as Galento, bald and carrying his usual 240 pounds on a 5-foot, 8-inch frame flattens Louis with a single, lunging left hook. Never mind that Louis gets up, never mind that he goes on to knock Galento out two rounds later. That one moment has to be one of the greatest in boxing.

The newspaper stories that reported his death all dealt with the public Tony Galento—his beer drinking, his blustering. Over the years, I came to know another man—the private Tony Galento, who did so much for the kids in his neighborhood, who was deeply involved with our community. Unlike some of the wealthy professional athletes of today, Tony always seemed to be spending what money he had on others.

In the last year of his life, Tony proved once again just how tough he really was. He had a worsening case of diabetes which required the amputation of one of his legs. He came back from that, learned to walk with an artificial limb and continued to live his life. He was a fighter to the very end.

When Tony Galento died, I lost a friend. I join the rest of the world in mourning his passing.

At this point, I would like to insert in the Record several articles about him which appeared in the Newark Star Ledger:

[From the Star Ledger, July 22, 1979]

Galento Dies; Floored Louis

"Two-Ton" Tony Galento, the stocky, beer-guzzling bartender from Orange who—40 years ago last month—was nine seconds away from the most unbelievable boxing upset in heavyweight championship history, died early yesterday of a heart attack. He was 69.

Galento, whose "I'll moider da bum" infuriated opponents, was just another "bum of the month" when he fought Joe Louis in a June 28, 1939, Yankee Stadium title fight. He reached the apex of his career by flooring Louis before being knocked out in the fourth round.

Galento had just undergone surgery last week for the amputation of his right leg after losing his left foot in a similar operation one year ago. A circulatory disorder, caused by a worsening diabetes condition, led to Galento's death, which occurred at 4:50 a.m. in St. Barnabas Medical Center, Livingston.

Just another "easy mark" for Louis, the 5-8 Galento, who weighed between 233 and 255 pounds for his fights, had one great asset—a left hook that could knock down a horse.

Galento tagged Louis squarely on the jaw with one of those hooks in the second round of their title bout at Yankee Stadium.

Louis went down and 34,852 persons rose as one to see the supposedly-invincible champion on the canvas. And over him was a funny looking fat man, who predicted before the bout "I'll moider the bum."

It was the greatest moment of Galento's career but he paid dearly for it. Rising from the canvas, Louis backpedaled through the round and then, in the fourth, rained blow after blow on the out-classed Galento. One veteran boxing writer calculated that Louis landed 27 consecutive blows without a return. Finally, the fat man went down, his arms clutched around Louis' legs, and was counted out by referee Arthur Donovan.

One of the longest shots in boxing history, Galento had failed by nine seconds to pull off what might have been regarded as the sport's greatest upset.

Galento, who liked to amuse patrons in his Orange gin mill by popping the caps off beer bottles with his thumbs, became one of boxing's showcase individuals after that bout. He traveled to hundreds of hospitals, rest homes and Army camps—always at his own expense—telling the story of that single spine-tingling moment.

Galento was an unorthodox fighter. He chewed on cigars he never lit and usually could be found the night before a bout in the local tavern of the town in which he was fighting.

Carmine Bilotti, the only public relations man Galento ever employed, recalled "Two-Ton's" scheme for getting free beer sent his way.

"Before we checked into a town for a fight, Tony would find out the name of the local brewery," Bilotti related. "He would be interviewed on the radio before the fight and always said, 'I love coming here because I love such and such beer.' The next day Tony would receive a couple of cases at the hotel."

What Galento lacked in ring finesse he more than made up for in punching power. He registered 59 of his victories by knockout and holds the record for the quickest KO in history, stopping his opponent with one punch at four seconds of the first round.

"I belted him across the chops with my first punch and down he went like a sack of beans," Galento said then. "I fought the best of them, like Lou Nova and Max Baer. I KOd Nova, but busted my left hand on Baer's thick skull and lost by a TKO in the eighth round."

Galento always felt he was born too soon. Recently retired heavyweight champion Muhammad Ali was the man he would have liked to have fought.

"Why I'd moider de bum," Galento said in a recent interview. "I'd knock the bum out in three. Rope-a-dope with me? If I hit him on the arms he'd have his arms in splints."

After retiring from boxing, Galento appeared with Marlon Brando in "On The Waterfront," had a role in the movie, "The Everglades," and played Nathan Detroit in a road show of "Guys and Dolls."

He teamed with the late promoter Willie Gilzenberg during his final years in the ring and the two put Galento's name to good use after his retirement. Galento fought wrestlers, bears and even an octopus.

"Gilzenberg was sitting in a restaurant in Washington getting drunk with some writers in the '40s," Bilotti said. "There was this 100-pound octopus in the window. The writers had Gilzenberg arrange a fight between Galento and the octopus.

"Tony was told he was fighting an octopus and he thought it was the name of a local wrestler," he continued.

"When we got to the restaurant, Galento tried to get out of going into the water with the octopus. Gilzenberg told him he was getting $1,500 for the fight. He got in the water and the octopus scratched him on the head. Galento got out of the water and Gilzenberg forced him back in.

"Tony then got cut on the arm and had to go to the hospital for shots. The octopus died a week later," Bilotti said.

To impress the world with his boxing abilities, Max Waxman, his sixth manager, signed him to fight three heavyweights in Detroit on the same night. He knocked out Joe Brian and Frankie Kits, each in a single round, and Paul Thierman in three on Aug. 6, 1931.

Funeral mass for Galento is scheduled for Wednesday morning at Our Lady of Mt. Carmel Church in Orange. Burial will be at St. John's Cemetery in Orange following the Mass.

Galento is survived by his wife, Mary, his son, Anthony, his brother, Russell and sisters Jenny Aiello Pino and Lena Petrillo.

In all, Galento fought 112 bouts, scored 59 knockouts, won 22 decisions and also won one fight on an opponent's foul. He fought six draws, lost 17 decisions, two bouts by fouls and was knocked out six times.

Recalling the great Louis in later years, Galento always had the same comment.

"I'd have moidered the bum," he'd say, "if my manager had let me fight my own fight."

Manager Joe Jacobs had Galento fighting in a crouch against Louis. Galento's natural style was stand-up with a devastating left hook off a short lunge.

Galento was a stickler for training. He was always in the gym and played handball—four-wall-style—for hours on end. The only unorthodox part of his training was doing roadwork at 3 in the morning.

He'd tell you, "I fight at night so what's wrong with doing roadwork at night?" But everyone knew that Galento waited to check out the cash registers at his bar before going out on the road.

Galento's first fight came by accident. He had just finished working on his father's ice truck and gone to see a movie in Orange. Suddenly he was tapped on the shoulder and told "Tony, there's a break in the fight card tonight. Do you want to sub?" Tony jumped out of the seat, walked to the arena and kayoed Babe Farmer in three rounds to start his career.

Galento changed managers often. He had nine in all. "If you can't get me the title bout you're through," he would tell them. Jacobs was able to get Tony the Louis fight. So Jacobs was able to keep his job. Jacobs died before Galento was to meet the late Max Baer in Jersey City.

In later years, Galento and Louis became fast friends. Only a year ago Louis made a special trip from Las Vegas to Newark to attend a Galento testimonial. Asked how much his expenses for the trip were, Louis answered, "Nothing. I wouldn't miss my pal Galento's dinner."

[From the Star-Ledger, July 26, 1979]

Galento Eulogized as Friend of All

Two-Ton Tony Galento went out the way he always wanted to go. "I was born here, raised here and one day I'll die here." Galento, who stunned the boxing world when he floored Joe Louis in their 1939 Yankee Stadium title bout, was buried yesterday at St. John's Cemetery, just a few hundred yards from where he was born in Orange.

People from all walks of life were among his mourners during the time his body was on view at the Ippolito Funeral Home. There were church people, lawmen, politicians, boxing commissioners, businessmen and, of course, boxers past and present.

"He was truly a famous citizen of this city," said Dr. Alexander Cecere, a retired dentist who had seen Galento grow through a successful career as an amateur boxer to heavyweight contender in the pro ranks in an era when the incomparable Louis ruled the roost.

"It was one of the biggest funerals ever here," said Paul Ippolito, the funeral home proprietor. "Auxiliary Bishop John J. Dougherty, former president of Seton Hall University, was here last night."

Former world heavyweight boxing champion Jersey Joe Walcott, now the state athletic commissioner, escorted the widow, Mary. Former world welterweight champion Fred Cochrane, ex-champion Tippy Larkin, and ex-outstanding boxers Mario Centi, Ernie Durino, Champ Snell, Joe Bonito and Wallace Cross were pallbearers.

So was Abe J. Greene, former state boxing boss and now commissioner of the World Boxing Association, who played a large role in Galento's climb to the top. "I recall that my predecessor had barred Galento for life because he was a disgrace to boxing," Greene noted.

"I sent for Tony. I held a hearing. I lectured him, counselled him. You want to be a boxer, but you can't do it by being offensive. He raised his hand to me and said commissioner you'll never have any trouble with me. On that promise I reinstated him."

At the graveside after funeral services at Our Lady of Mt. Carmel Church, mourners stood by as Mario Centi, secretary of the New Jersey Boxing Hall of Fame, gave the eulogy. He said, "A quiet death in St. Barnabas Hospital in Livingston was a dignified end to a celebrated life. The infection after surgery had spread, streaking through his once strong legs. But he did not need a ticker-tape parade to see that he is without a doubt a legend."

Rev. Charles Mott presided at the church services, praising Galento for his humanity and kindness to others.

"Tony was a man who loved and did wonderful things people don't know about," Mott said, "It's not in any history books. But recorded in the book of life. He admired all members of society and God blessed him with qualities that made him an outstanding pugilist."

The highlight of Galento's boxing career came on June 28, 1939, against Louis. "Two-Ton" Tony, a fitting name considering his 5-9 frame which carried anywhere from 230 to 254 pounds, knocked Louis to the canvas in the third round. But the "Brown Bomber" staggered to his feet. Then Louis, who didn't take Galento seriously up to that point, regrouped in time to stop Galento in the fourth round. Louis didn't attend yesterday because of illness.

"He earned more money after he retired from the ring," recalled his one and only press agent, Carmine Bilotti. "He turned into a one-man sideshow, boxing bears, kangaroos, an octopus. He turned to wrestling and had parts in films, including "On The Waterfront," and "The Everglades." He also toured as Nathan Detroit in the stage play, "Guys and Dolls."

Galento is gone, but the legend will live forever.●

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORT MISLEADS CONGRESS AND THE PUBLIC ON AIRBAG EFFECTIVENESS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. DINGELL. Mr. Speaker, in April 1979, the National Highway Traffic Safety Administration published what can only be called a self-serving and misleading document that results in a fraud against the Congress and the public. The document, entitled "Occupant Protection Program Progress Report No. 2," purports to describe the current status of research and development of passive automobile restraint systems, including airbags and safety belts.

A serious flaw in the NHTSA document that misleads Congress and the public is the reproduction of a table of statistics, taken out of context, from an analysis by University of Michigan, researchers entitled, "Effectiveness of Current and Future Restraint Systems in Fatal and Serious Injury Auto Crashes." The authors are D. F. Huelke, H. W. Sherman, M. J. Murphy, R. J. Kaplan, and J. D. Flora, Society of Automotive Engineers paper No. 790323, February 1979.

The University of Michigan study shows that in reducing both fatalities and serious injuries, belt systems and airbags are nearly equal in protection.

However, upon a careful reading and evaluation of the NHTSA April 1979 progress report, it is apparent that NHTSA has carefully selected certain statistics which tend to suggest that adequate testing of the reliability, effectiveness, and safety of airbags has been accomplished, and that airbags are shown to be far better at insuring motorists life saving protection in automobile crashes.

This is not true.

The illustrative case in point appears on page 12 of the NHTSA report citing the University of Michigan study of February 1979. The study is described under the caption "Other Air Bag Effectiveness Studies." NHTSA states that it addresses air bag effectiveness and compares this effectiveness with the other restraint systems. According to the data published by NHTSA, the study showed air bags to be 56 percent effective in right side impacts while lap-shoulder belts are 52 percent effective. In frontal crashes, NHTSA reports that the study found air bags to be 71 percent effective over 68 percent for lap-shoulder belt systems.

But, this data is not what NHTSA says it is.

Mr. Harold Sherman, coauthor of the Michigan study, informed us this week that "without the assumptions stated in the full (University of Michigan) study, the table used by NHTSA is misleading when taken alone."

According to Mr. Sherman, there was no independent testing of airbags or any other restraint system. The University of Michigan study was simply an evaluation of 80 crashes involving 101 front-seat occupants to determine on a purely judgmental basis whether various restraint systems might have saved lives or prevented serious injury.

The projections of success in various crash directions, such as frontal, left side, right side, rollover, or rear end, were based on the assumption that the airbags were fully deployed in all accidents. The author acknowledges that this is not representative of the way airbags are designed to operate or protect but was used by the University of Michigan researchers as an assumption for their study. Airbags, of course, deploy only in frontal collisions.

It must be pointed out that:

First. In the university's study, there was no testing involved of any of the restraint types;

Second. The statistics of effectiveness in the university's study are based only on the judgment of the authors as to what might have happened if airbags or belts had been used;

Third. That the results published by NHTSA in its April 1979 progress report purports to be valid tests of effectiveness and no mention of the faulty assumption that airbags offer protection in all car crash collisions was stated by NHTSA; and

Fourth. NHTSA selectively included only the table on serious injuries of the Michigan study and not the table on fatalities.

The effectiveness in fatal accidents, according to the Michigan study, shows a significantly poor performance of airbags in rear end and rollover crashes, based on the researchers' judgment, compared to safety belts. In these crash situations according to the University of Michigan study, and assuming the airbag is fully deployed, the airbag is only effective in 4 percent of the cases while lap-shoulder belts are judged effective in 36 percent of the cases. The researchers judged the airbags and safety belts equally effective in preventing death in frontal crashes as well as right side crashes. On left side crashes, they judged the airbags effective in only 9 percent of the crashes while lap-shoulder belts were judged effective in 20 percent.

NHTSA has distorted the truth of the airbag research and real world testing of airbags. It appears NHTSA only wants to release information supportive of airbags.

This kind of statistical and factual manipulation by NHTSA is misleading and raises serious questions as to the accuracy of information on this issue from NHTSA upon which Congress is expected to make sound decisions.

The truth is that airbags have not been sufficiently tested and developed. All the tests to date say the same thing—that there is still much we do not know and more research and testing is needed. The General Accounting Office report confirms this.

That is the reason for the Dingell-Broyhill amendment providing for more testing of passive restraints to be conducted during fiscal year 1980. We must have answers to the reliability, safety, and effectiveness questions facing us today before the mandate for airbags in millions of our Nation's cars takes effect.

It is the safety of motorists and their confidence in the reliability, safety, and effectiveness of this airbag system that Mr. BROYHILL and I and others are so concerned about.

NHTSA is and has been overzealous in its lobby effort and drive to insist on a conclusion not based on facts and test results.●

CAPT. JAMES E. KAUNE, USN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. ANDERSON of California. Mr. Speaker, in 1949, the Congress recognized the need for a naval shipyard on the west coast and authorized the establishment of the naval dry docks at Terminal Island, Calif. Its mission was to provide top quality ship overhaul, maintenance, repair, and modernization work—all so vital to keep our U.S. Navy vessels "at the ready."

Throughout the years, the naval dry docks, now known as the Long Beach Naval Shipyard, has carried out this heavy responsibility, contributing greatly to our national defense. From personal observations and knowledge of the shipyard's performance, I know that the mission assigned long ago continues to be carried out in an exemplary fashion.

But success such as this does not come easy. It takes tremendous leadership to pull together millions of dollars of material and a work force of over 7,400 employees to accomplish a mission. Today, I would like to share with my colleagues the career of one individual, Capt. James E. Kaune, who has demonstrated just such leadership capabilities as commander of the Long Beach Naval Shipyard for the past 2 years and throughout his entire 34 years of service in the U.S. Navy.

James E. Kaune first enlisted in the Navy in 1945. A year later, he received a fleet appointment to the U.S. Naval Academy. Following his graduation in 1950, he was assigned to a tour of duty aboard the destroyer U.S.S. *Floyd B. Parks*.

Ed Kaune's formal education was continued by the Navy at the Massachusetts Institute of Technology, where he earned the degree of naval engineer, and later at the Carnegie Institute of Technology where he was awarded a degree in metallurgy.

His military assignments immediately prior to assuming command of the Long Beach Naval Shipyard in 1977, were as production officer at the Philadelphia Naval Shipyard, and as ship material officer with the Naval Air Forces Command, Atlantic.

At each step of his career, the U.S. Navy recognized Captain Kaune's outstanding performance. Fortunately for us in California's South Bay area, he was assigned as commander of the Long Beach Naval Shipyard. In 2 years' time, he put to use his vast knowledge and experience, and brought about tremendous improvements in the shipyard's productivity. His work alone with the use of computers in automatic data processing yielded significant dollar savings to our taxpayers while enhancing the yard's cost effectiveness. He strove for standardization of the overhaul and planning process to improve reliability and completion of yard work on or ahead of schedule. He greatly advanced professionalism of the naval shipyard work force by the fostering of employee development and recruitment of graduate engineers.

To the people of Long Beach and the surrounding harbor area communities, the benefits of this man's dedication are readily apparent. The tight management he brought to the shipyard insured its continuation as an active naval shipyard, and thus maintained it as a welcome source of thousands of jobs and millions of dollars in income to the South Bay area. His retirement from the military service on September 1, 1979, will also have a significance for all his fellow countrymen. His achievements and contributions to shipyard operation will have left long-lasting benefits to a profession vital to the security of our Nation.

My wife, Lee, joins me in congratulating Captain Kaune on the completion of a most successful career in the military service. As he moves on to other endeavors, we hope he and his wife, Pauline, their children, Bradford, Audrey, and Jason, enjoy a future of continued prosperity and happiness. And we are certain they will continue to make significant, meaningful contributions to their country.●

SEVENTEENTH ANNUAL QUESTIONNAIRE RESULTS

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. BROYHILL. Mr. Speaker, I am pleased to take this opportunity to share the results of the 17th annual public opinion poll which has been conducted over the past couple of months in the 10th Congressional District of North Carolina. In my first campaign for the U.S. House of Representatives in 1962, I promised to solicit the opinion of my constituents, and I have done this each year. I have always found this grassroots opinion to be very helpful to me, and I hope that it will be of interest to my colleagues in the House.

For the second time, I utilized a different format which asked 10 questions and gave a brief discussion on both sides of each issue. I hoped that this would result in more interest and more informed answers to the questions. My constituents seemed to like this format, and a number of them wrote comments to that effect.

Approximately 14,200 of my constituents took the time to answer my request for their views and several thousand gave me the benefit of more detailed thinking on a number of questions by writing the reasons for their answers.

The strongest sentiment in my district was the opposition to partial public financing of congressional campaigns and to foreigners purchasing U.S. farm land. Also receiving a heavy dose of opposition were the Mideast Peace Treaty and the proposed Department of Education.

Receiving heavy support were the reinstitution of the draft and the continuation of nuclear power. There has been considerable debate and publicity about both of these issues, and the heavy degree of support for these two issues was surprising.

A majority of my constituents also oppose mandatory controls on prices and wages and do not favor raising the speed limit on intrastate highways. The margin of support for both was relatively close.

The controversial question concerning whether Federal action requiring bottle deposits is necessary drew the closest tally, with 7,475 supporting Federal action and 6,468 opposing it. However, a number of those who voted "no" indicated that they favored State action along the same lines.

The question on abortion drew a mixed reaction. Supporting the right of the individuals involved and their doctors to decide were 7,034 respondents. Drawing the second highest number of answers, 4,996, was the position that abortions should be illegal except when pregnancy endangers the mother's life or if the pregnancy were the result of incest or rape. One thousand and thirty-seven said abortions should be illegal except when the life of the mother would be endangered if the pregnancy were carried to term. Only 634 said abortions should be illegal in all cases.

I am very pleased, Mr. Speaker, with the responses which we received this year. The responses and the detailed opinions will be very helpful to me as I study the issues during the 96th Congress.

The detailed results of the poll are as follows:

WHERE DO YOU STAND?

(1) Legislation has been introduced which would use taxpayers' money to partially finance Congressional campaigns. Proponents feel it would reduce the influence of special interest groups because candidates would be less dependent on their financial assistance. Opponents argue existing law limiting contributions and requiring full reporting of all expenditures and contributions are sufficient. Also they feel taxpayers should not be financing the candidacies of people who might represent a different political philosophy. Should Federal tax dollars be used to finance campaigns for the U.S. Congress?—Where do you stand? Yes 1,430; no 12,636.

(2) The President has instituted a voluntary program of wage and price guidelines in an effort to reduce double-digit inflation. Some have proposed that mandatory controls be placed on wages and prices. Proponents of that position argue that voluntary controls are not working and action is needed to hold down the cost of living. Opponents of wage and price controls say they have not worked in the past, would take a huge bureaucracy to enforce them, and there would be inequities as thousands of bureaucrats attempted to enforce such a program. Should mandatary controls be placed on prices and wages?—Where do you stand? Yes 5,925; no 7,568.

(3) Since 1973, the United States has maintained its military force on a volunteer basis. Proponents of reinstituting the draft claim that the volunteer concept is not working and the Armed Forces have severe deficiencies in their state of readiness. They also point out that almost 40 percent of those who enlist fail to finish their first term. Opponents of the draft state that the volunteer force is working well and that the program has not been in effect long enough to prove its worth. Should the draft be reinstituted?—Where do you stand? Yes 9,263; no 4,313.

(4) Legislation setting the maximum speed limit on all highways throughout the United States at 55-miles-per-hour was passed in 1974. Proponents say that continuing that speed limit saves energy and lives. Opponents feel the 55-mile-per-hour limit is too low, is not being enforced, and is unfair to those who drive for a living. Should the 55-mph speed limit be increased on Interstate highways?—Where do you stand? Yes 5,456; no 8,503.

(5) Federal legislation has been introduced to control the disposal of beverage containers through a refundable deposit, such as five cents on all beer and soft drink containers. Proponents feel a cleaner countryside would result. Opponents believe that such a law would lead to higher costs to consumers, while failing to substantially reduce the amount of litter. Do you favor Federal legislation requiring bottle deposits?—Where do you stand? Yes 7,475; no 6,468.

(6) Egypt and Israel have signed a peace treaty which should end 30 years of war and hostility. Costs to the U.S. taxpayers may approach $4.8 billion in direct aid loans. Proponents state this is a small cost compared to the effect continued war in the Mideast will have on the U.S. economy because of the possibility of another oil embargo. Opponents state that spending the money will not guarantee that lasting peace will result and that it is an unfair burden on the U.S. taxpayers.

Should the Congress approve the appropriation of funds for the treaty?—Where do you stand? Yes 3,796; no 9,692.

(7) The President has proposed the creation of a new, separate Department of Education. Proponents feel that such an agency would reduce the maze of bureaucracy which presently exists in the Department of Health, Education, and Welfare, streamlining operations so as to give education its proper visibility and emphasis within the governmental structure. Opponents feel that such an action would mandate unneeded, increased federal involvement in education and would increase federal bureaucracy without certainty of better education since this is primarily the responsibility of state and local governments. Do you favor the creation of a separate Department of Education?—Where do you stand? Yes 3,620; no 9,880.

(8) The issue of abortion continues to be a concern to many Americans. Do you feel abortions: (A) Should be left up to the individuals involved and their doctors? (B) Should be illegal in all cases? (C) Should be illegal except when the life of the mother would be endangered if the pregnancy were carried to term? (D) Should be illegal except where pregnancy endangers the mother's life or if the pregnancy were the result of incest or rape? Where do you stand? A 7,034; B 634; C 1,037; D 4,996.

(9) Recent reports indicate that foreign acquisition of U.S. farm land is increasing, prompting some to suggest placing a limit on foreign ownership of U.S. land. Proponents point out that foreign purchases of U.S. farm land limit opportunities for U.S. investment and could drive up real estate prices. Opponents feel that the percentage of U.S. land owned by foreign entities is not large enough to threaten our economy. They point out that Congress enacted a law last year to require reporting, and they feel no further action should be taken until these results are in and are analyzed. Should Congress act at this time to limit foreign purchases of U.S. farm land?—Where do you stand? Yes 12,441; no 1,519.

(10) As energy problems continue to grow, the issue of nuclear power remains of great interest. Proponents of nuclear power point out that closing down nuclear power plants will result in substantial blackouts since 13 percent of our power is nuclear, no fatalities have occurred as a result of nuclear power, and it is considerably cheaper to consumers. Opponents point to the recent accident at Three Mile Island which they say raises serious questions about the safety of nuclear power. Should the United States continue to use nuclear power?—Where do you stand? Yes 11,000; no 2,515.●

TESTIMONY OF LT. GEN. EDWARD L. ROWNY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, on July 12, 1979, the Senate Foreign Relations Committee met to hear testimony regarding the SALT II Treaty. An enlightening session was provided by Gen. Edward L. Rowny, U.S.A. (Ret.), an accomplished and oft decorated senior officer, who exemplifies the spirit and zeal of a great American.

He was a negotiator on the SALT II negotiations for the Joint Chiefs of Staffs the past 6 years. He sacrificed his illustrious career to make known his concerns with the SALT II agreement and the shotgun politics employed to package this accord. He is uniquely suited to offer criticism. Moreover, he succinctly offered the viewpoint of an "insider." He delivered an excellent argument against the SALT II Treaty.

His firsthand knowledge sheds important light on the vital issue of Strategic Arms Limitation Talks. I take great pleasure in submitting his testimony for the RECORD. I recommend it to one and all.

The testimony follows:

TESTIMONY OF LT. GEN. EDWARD L. ROWNY

Mr. Chairman: For more than six years I was the Representative of the Joint Chiefs of Staff at the Strategic Arms Limitation Talks. I was told I had been selected for this job because of my experience as Chief of the Mutual and Balanced Force Reductions (MBFR) Working Group in NATO and because I had on numerous occasions expressed my belief in the utility of limiting strategic arms. I continue to hold this belief.

As the representative of the Joint Chiefs of Staff I have tenaciously supported their goals aimed at achieving significant reductions in strategic arms consistent with maintaining our security. If such goals were to be achieved, our longterm objectives of enhancing deterrence and strengthening global stability would be served. I believe that an agreement which reduces the strategic arms of the Soviet Union—equal to those of the United States in numbers as well as in overall capability—is in our nation's interest.

Over the six year period that I was the JCS Representative to SALT, I expressed my views to the Joint Chiefs of Staff in numerous messages and memoranda. At their request I submitted an assessment of SALT in a classified memorandum dated 6 January 1978. I brought that assessment up to date on 5 January 1979 and again on 27 March 1979. On 21 May 1979, after the announcement that "agreement in principle" had been reached on the remaining issues of SALT II, I made a final assessment. I concluded that—even though the contributions to the negotiations by the Joint Chiefs of Staff made it a considerably better Treaty than would have otherwise emerged—that this Treaty does not meet minimally acceptable standards. The agreement we now have before the Senate and the Nation establishes the conditions which threaten our security for the years to come. I stated in my assessment that it was my judgment, based on years of continuous negotiation with the Soviets, that a Treaty meeting the criteria of the Joint Chiefs of Staff was—and is—attainable. However, as negotiations were concluded on less than satisfactory terms, I asked to be relieved of my duties and requested retirement. My request was approved and I was retired from active military service on 30 June.

I would like to state at the outset that there are some positive aspects of the Treaty which was signed in Vienna on 18 June 1979. The Treaty establishes the principle that there should be equal and lower ceilings of strategic offensive arms. It calls for numerical reductions that will bring the Soviet Union down to levels closer to our own. It would establish, to the extent that numerical limitations contribute to that goal, a degree of increased predictability concerning the strategic programs of the Soviet Union. It limits the Soviet Union's heavy missiles and new light ICBMs to a maximum of ten warheads per missile. In theory, the Soviets are limited to one new light ICBM for the period of the Treaty. The Treaty contains certain provisions which are an aid to verifiability of missile launchers. Finally, for the first time, a strategic arms limitation treaty provides for an exchange of data concerning numbers of strategic offensive arms.

However, most of these positive features are, regrettably, more theoretical than actual, and moreover have serious negative aspects. Additional other useful features which a second arms control treaty could and should have treated, were not dealt with because of Soviet intransigence which could in my opinion have been overcome.

The agreement in principle that there be equal ceilings of strategic arms remains an achievement more in theory than in practice because a significant number of Soviet strategic systems are allowed to go uncounted. Moreover, the ceilings are set at such high levels—again at Soviet insistence—as to be virtually meaningless. Indeed, the JCS were in the forefront in seeking substantially larger reductions for both sides. Further, the capabilities of the Soviet systems are so great that the reductions agreed upon have little military significance. The Soviets will have to reduce to the lower ceiling of 2250 by 1982. The United States, having at that time only about 2050 less capable operational systems, would still need to build up if it were to achieve equality with the Soviet Union. Since qualitative improvements are virtually unrestricted by the Treaty, the numerical limitations imposed upon the Soviet Union will not give us any meaningful degree of predictability. That is, the qualitative improvements allowed, because they are more difficult to verify, could afford us less predictability and hence less stability. The freeze on the number of warheads per existing MIRVed missile and the limitation to ten warheads on a new type ICBM allows the Soviets a total number of warheads far greater than are needed by the USSR to destroy the ICBMs and other military and hard targets in the United States. There is an important point with regard to the fractionation limits which is frequently overlooked: these are limits which expire with the Treaty in 1985.

While it is our hope that these fractionation limits can be extended beyond the expiration of the Treaty, it is difficult to imagine what leverage the United States will have for assuring that these fractionation limits are continued. Moreover, in view of our argumentation that the Protocol should not establish precedents for the future, it is clear the Soviets will apply this same argument to the post-Treaty period and argue that fractionation limits expire after 1985. After 1985 the current throw-weight potential of Soviet missile systems will permit them to deploy still greater numbers of reentry vehicles on their ICBMs and up to 20 to 30 on their heavy ICBMs. In sum, it may be a relatively meaningless limitation. By 1985 the Soviets will have been permitted under the Treaty a level of MIRVed warheads which places the U.S. in jeopardy while leaving them in the position to go even higher. While the Treaty in theory limits the Soviets to one new type of light ICBM, in practice the provisions of the Treaty permit the Soviets to deploy several new types of missiles. Finally, the provisions regarding verifiability are insufficient to make the Treaty adequately verifiable.

The net result, therefore, is an agreement which gives a superficial impression of being a positive step in the direction of arms control but which in fact contravenes fundamental and vitally important arms control principles—such as securing meaningful reductions and leaving the signatories with a stable strategic balance. The following paragraphs develop these views in more detail.

A sound, objective, and unemotional approach would be to test the Treaty against standards by which its worth could be measured. The Joint Chiefs of Staff, establishing such criteria, have maintained that a SALT

Treaty would enhance our military security and hence would be in our national interest if it were equitable and verifiable, if it contributed to deterrence and stability, if it strengthened European security, and if it contributed to Allied coherence.

The emerging Treaty, in my view, is not in our interest since it is inequitable, unverifiable, undermines deterrence, contributes to instability and could adversely affect NATO security and Allied coherence.

Let me look at each of these points in greater specificity.

First, the Treaty is not equitable. To cite only three major examples:

(1) The Treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBMs. While the Joint Chiefs of Staff recognized from the outset that Soviet heavy missiles would pose a serious problem, we did not press hard enough for the elimination of the SS-9s and SS-18s. Further, the United States was not even compensated for this large asymmetry. These 308 Soviet heavy missiles alone possess more detructive power than all of our ICBMs and SLBMs combined. To say that the Soviets can have heavy missile launchers and we cannot is comparable to having said in the naval disarmament conference in the 1930s: "You can deploy battleships but we agree only to deploy destroyers."

It has been stated that we accepted this inequality in a trade for the Soviets not counting our so-called "forward-based systems" (FBS) and the nuclear systems of our Allies. Evidence of such a trade is not supported by the record. I personally clearly recall the days just before Vladivostok when the Soviets sent us signals in Geneva that they would drop their FBS arguments. Once they were told that by insisting on including our FBS, the Soviets would be required to count their more numerous systems (which could strike our systems and our troops in Europe, as well as our NATO partners), the Soviets realized it was to their advantage to drop the FBS argument.

(2) The second example of inequity is that the Treaty fails to count in the aggregate some 375 Soviet BACKFIRE bombers with intercontinental capability. These BACKFIRE bombers, which our intelligence community estimates can strike targets in the US on one-way unrefueled missions, will thus not be counted and will be allowed to run free while all our bombers (to include mothballed B-52s and prototype B-1s) will be counted. The record shows that the Joint Chiefs of Staff gave consistent advice that the BACKFIRE should be counted in the Soviet aggregate. The principle violated in this Treaty is that all intercontinental systems should be counted in the aggregates. The so-called "assurances" on BACKFIRE are militarily worthless. It has been stated that the BACKFIRE would add only a marginal capability to the total Soviet capability for causing destruction in the United States. To add one-third to the already large destructive power that the Soviets can inflict upon the United States can hardly be called marginal. Importantly, by not being required to count these 375 central systems, the Soviets will then not need to reduce an equal number of ICBMs or SLBMs from the 2250 total. Those who would denigrate the BACKFIRE as a slow-arriving, follow-on strategic force would then have to accept that our own B-52s are in a similar second-class category. Those unfamiliar with the negotiating record tend to sell the FBS horse again and again and have used it here again as a rationalization for not counting BACKFIRE. The simple fact is that the Soviets dropped their FBS argument because it was in their own self-interest to do so. If we were to count our FBS the Soviets would be required to count their systems. These Soviet systems are several times as numerous and an order-of-magnitude greater in destructive power than our FBS and Allied nuclear systems combined. To give credence to the Soviet FBS argument—which is not an issue with the Soviets in this SALT agreement—is to undermine our support to NATO and our commitment to Article V of the NATO Treaty that an attack on one of our Allies is an attack on all.

(3) The third major inequality is that the Treaty, even if one believes overall equal aggregates are achieved—a point I have just disputed—still fails to provide, as called for in Public Law 92-448, for equal levels of strategic forces. Under the Treaty's provisions as written, the Soviet Union will stay ahead of the United States in strategic capability. Even the limits on the number of warheads per missile will still afford the USSR significant advantages—at least three-to-one—in the most critical area, that is, the ICBM reentry vehicle category. The definition of a new type light ICBM is so loosely drawn that during the life of the Treaty it will not effectively preclude the USSR from developing and deploying more than one new type of ICBM. Thus the large unconstrained potential of the USSR which will put the USSR strategically ahead of the U.S. in the early 1980s can be further exploited once the Treaty expires.

The Treaty is not sufficiently verifiable. Certain aspects of the Treaty are simply unverifiable, for example, cruise missile ranges. Moreover, many of our difficulties in verification stem from the differences between the closed society of the USSR and the open society of the U.S. The Soviets play their poker hands close to the chest whereas our cards are face-up on the table. Soviet intelligence collectors have relatively free access to our defense plans and activities, while we must rely upon highly sophisticated but vulnerable national technical means for our verification. The Soviets' penchant for secrecy has prevented the inclusion in the Treaty of cooperative measures which would greatly improve the ability to verify the provisions of the agreement. The USSR has consistently refused to agree to provisions necessary to assure sufficient verification of mobile ICBMs, MIRVed ICBMs and SLBMs, new types of ICBMs, heavy bombers, and cruise missiles. Moreover, the USSR unlike the US, has been encrypting telemetry of its ICBM tests. The Treaty expressly permits the Soviet Union to encrypt telemetry in the future, thus seriously inhibiting our ability to verify that not more than one new type of ICBM is being tested. Encryption has only one purpose: to deny information. Moreover, using verification as a pretext, the Soviets have obtained our agreement to provisions that could restrict not only strategic but our non-strategic systems—for example, conventionally-armed cruise missiles.

The Treaty undermines deterrence. It permits the USSR a three-to-one numerical and five-to-one throw-weight asymmetry in ICBM warheads—the quickest arriving, the most powerful and the most destabilizing of all strategic systems. Rapid improvement in Soviet ICBM forces is causing our ICBMs to become increasingly vulnerable, further undermining deterrence. This vulnerability will not be corrected during the life of the Treaty. Even our plans to deploy the M-X missile do not help, as it cannot be deployed in a multiple basing mode until 1986 at the earliest.

My main concern with deterrence is not that a future Soviet leader may feel he can launch an all-out attack against the United States. I believe any rational Soviet leader would know that such an action would wreak untold damage on the Soviet Union by our survivable remaining forces. What I am concerned with is that a future Soviet leader, looking at the overall strategic calculus, would be encouraged to take greater risks in pursuing his political goals than he might otherwise be. Thus, I link deterrence closely to restoring stability in the event of the inevitable crises which will occur.

The Treaty does not contribute to stability. Because the Treaty does not actually put a brake on the momentum of the massive Soviet buildup, the United States will for the first time not be able to maintain essential equivalence or nuclear parity. This, and forcing Soviet efforts into unconstrained and unverifiable qualitative improvements, will undermine predictability and hence stability. This strategic inferiority will inhibit favorable solutions in any future crises, such as the Cuban missile crisis, the Berlin crisis, or the October 1973 War. There will be a growing realization at home and abroad that the Soviet Union has a decisive advantage in capabilities which allow it to be more confident and thus less inhibited in its foreign policy initiatives and to move against nations friendly to the United States with greater certainty.

The Treaty could weaken NATO. The Protocol to the Treaty constrains, for the most part, United States systems; precedents established by that Protocol constraining our systems are, at the insistence of the Soviets, likely to be carried forward after expiration of the Protocol. These dangers, magnified by the ambiguity in the Treaty's provision on non-circumvention, could preclude the transfer of technology and weapons to our Allies and thus weaken NATO.

The crucial problem facing the United States is the large and continuing buildup of Soviet strategic forces. This momentum has continued unabated while SALT I and SALT II were being negotiated and there is no evidence it will slacken as a result of agreement on SALT II. The false expectation that the strategic arms negotiations would result in constraining Soviet momentum explains in part the cancellation of the B-1 and delays in U.S. programs such as cruise missiles and M-X. Even if SALT did not explicitly prohibit any of our programs, the greater momentum of the USSR will cause the United States to fall behind the USSR strategically. By any objective measure the United States will become strategically inferior to the Soviet Union in the early 1980s. Thus, the Treaty would sanction and codify the strategic inferiority of the United States. This is not only important to our own political relationship with the Soviet Union but to our relationship with our Allies as well. We must recognize that since its inception, NATO has recognized that it must rely upon the strategic power of the United States to deter a theater nuclear war in Europe, or indeed, even a conventional war.

It has been stated that without this SALT II agreement the Soviet Union could increase their number of strategic nuclear delivery systems by a third—to 3,000. While theoretically possible, the Soviets would in my judgment not choose to increase the number of their strategic systems. Why? Simply because we expect them to have by the early 1980s sufficient numbers of warheads to place at least two powerful and accurate ICBM weapons on every hard target, and sufficient numbers of SLBM and bomber weapons to cover all the other targets in the United States. I cannot over-emphasize the importance of the consequences of the Soviet Union having by 1985 three times as many RVs and ICBMs as will we. Each of these Soviet reentry vehicles will be more powerful and as accurate as our ICBM reentry vehicles. Reentry vehicles on ICBMs are much more significant than other nuclear weapons because they are the ones possessing greater destructive power, high accuracy, and almost complete reliability.

A prudent Soviet planner would not increase his numerical advantage any further—he would move into the relatively uninhibited area of enhancing qualitative improvements. Thus, in the absence of a Treaty the Soviets probably would not increase numerically because they have no need to do so and can prepare to exploit their large throw-weight potential by improving their existing forces qualitatively. Thus, as I mentioned earlier, they will be able to quickly deploy a greater number of SNDVs shortly after 1985 when the Treaty expires. Accordingly, it behooves us to act now to convince the Soviets that it is in their long-term interest to curb their continued buildup in Soviet strategic offensive arms and to divest themselves of their huge potential for further qualitative improvements which this Treaty sanctions.

The challenge facing us, therefore, is to make it clear to the Soviet Union that the United States will not enter into a Treaty which is unequal and which will sanction their strategic superiority. The Soviets want and need a SALT Treaty because of their desire to be recognized as a superpower and because it will allow them to enjoy the advantages they receive from a continuation of détente. Moreover, they feel a Treaty is a necessary step on the way to achieving most-favored nation status and acquiring credits. Finally, SALT legalizes a condition they will soon achieve: strategic superiority. President Brezhnev is personally committed to pursuing a SALT agreement and thus we can expect him to enter into a more evenhanded agreement—one which is equal and which provides for essential equivalence on both sides.

The Soviets will only do so, however, if we make it clear that the United States will do whatever is necessary to stay even. We must make it clear we will not accept strategic inferiority. The less expensive solution for the United States and the Soviet Union as well—indeed the more sensible solution—is for the Soviets to scrap those systems which give them strategic superiority. Should they elect not to do so, then we have no choice but to enter into a vigorous program to restore parity. From my experience in dealing with the Soviets they understand and even respect this kind of stance.

If they think we are bluffing, we possess the capability to prove them wrong. We can afford to do so—in fact we cannot afford not to. Otherwise the risks which a prolonged period of United States inferiority will bring about will prove destabilizing and entail serious military and political consequences. If we succeed in persuading the Soviets to slow down and to reverse their momentum, we can then start on the road towards achieving the type of arms control which is consistent with maintaining our security. If we fail we must take immediate and vigorous steps to insure our security as an overriding priority.

Six years at the negotiating table convinces me that a Treaty meeting the criteria of acceptability established by the Joint Chiefs of Staff was—and still is—attainable. Like the Joint Chiefs of Staff, I strongly favor arms control. I do not accept the view that attempting to improve a flawed Treaty will result in any more than a temporary hiatus in the relationship between the United States and the Soviet Union. Nor will it for long keep the two sides from returning to the negotiating table to seek a more even-handed agreement which will be in the long-term interest of both sides.

My assessment of this SALT Treaty indicates that it contains pluses and minuses. Something as complicated as this SALT Treaty cannot be—nor should it be—characterized in black or white terms. Having said this, the Treaty, as it now stands, heavily tilts the balance against the United States. This Treaty will not enhance our security. I am concerned that if SALT is a continuing process of which this agreement is an example, then our weaker leverage and negotiating power in SALT III will only result in a continuation of the strategic inferiority of the United States. Agreeing to a bad agreement is worse than no agreement: a poor SALT II will make it impossible to negotiate a good SALT III.

Mr. Chairman, I repeat my previously stated considered and professional military judgment that as currently drafted this Treaty is not equal and not adequately verifiable. It will neither enhance deterrence nor add to stability. It could detract from NATO security and Allied coherence. This SALT Treaty is not in the interest of the United States.

Thank you, Mr. Chairman.●

INTRODUCTION OF CAMPAIGN CONTRIBUTION REFORM ACT OF 1979

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 26, 1979

● Mr. OBEY. Mr. Speaker, it is my honor today to introduce, on behalf of more than 120 Members of the House, the Campaign Contribution Reform Act of 1979.

This measure is designed to restrain the increasing role of special interest money in House elections and, as a result, in the legislative process.

Candidates for the House are becoming increasingly dependent on interest group money to finance their campaigns. Consider, for example, the following facts:

The amount of PAC money in House campaigns in 1978 totaled $25 million—an increase of 70 percent over the $14.7 million in 1976 and 400 percent over 1972 when PAC spending in House races totaled $5 million.

In 1972 special interest money represented 14 percent of the campaign funds of House candidates; in 1978 it represented more than 25 percent of the campaign dollar for all House candidates and 33 percent of the campaign funds of incumbents.

The number of candidates receiving more than $50,000 in PAC money has increased dramatically—from 57 in 1976 to 176 in 1978.

Twenty-two candidates (14 incumbents and 8 nonincumbents) received over $100,000 in PAC funds. One candidate received $172,000; another $153,000.

The average freshman Member elected in 1978 received more interest group money than the most powerful Members of the House—committee chairmen. Freshmen received an average of $54,000 each while committee chairmen received an average of $42,000.

Better than half of the 1978 freshmen Members (45 of 77) received in excess of $50,000 from special interest PAC's. In 1976, only 5 of 66 freshmen Members received more than $50,000.

Freshmen elected in 1978 received more than twice the amount of special interest contributions received by freshmen elected in 1976 ($54,000 to $24,000).

There is nothing improper about business, labor, trade associations, and professional groups supporting candidates who are sympathetic to their concerns and opposing those who are not. Such groups represent the legitimate concerns of millions of American citizens.

However, while we support this legitimate role of special interest groups, we also believe their role must be kept in balance to protect the integrity of the congressional process and the rights of all Americans.

The Supreme Court agreed with this point of view 4 years ago when it upheld the constitutionality of limits on the amount a special interest group may contribute to a candidate for the House or Senate.

These limits, however, are only a partial safeguard against undue influence because PAC giving is giving with a purpose. It is money given by groups who then follow up their contribution with lobbying activities in behalf of their particular interests. Frequently, however, these interests coincide, such as when an issue effects an entire industry and all of the companies and labor unions in that industry.

When that occurs, when a large number of groups which have made substantial contributions to Members are all lobbying on the same side of an issue, the pressure generated from those aggregate contributions is enormous and warps the process. It is as if they had made a single, extremely large contribution.

And occasionally interest groups will attempt to maximize their combined influence by collaborating in joint lobbying efforts even though some of the groups involved do not have a strong interest in the issue at hand.

The result of such activities is to negate the basic purpose of contribution limits on individual PAC's, and the only effective way to deal with such a problem is to put an overall limit on such contributions such as is proposed in the Campaign Contributions Reform Act of 1979.

The bill would apply to House candidates only and would accomplish the following objectives:

First. Cut in half the maximum amount a PAC may contribute to a candidate for the House. Presently PAC's may give a candidate $5,000 per election (primary, runoff, general) or a maximum of $15,000. Under the proposed change, PAC's would be limited to a maximum contribution of $5,000 overall unless the candidate was involved in a runoff in which case the PAC could contribute up to $7,500.

Second. Limit the aggregate amount a House candidate may receive from all interest group PAC's combined to $50,000 per election sequence (that is from one general election to the next).

Third. Prohibit PAC's, political consultants, and other vendors from extending credit or otherwise incurring a debt in excess of $1,000 for more than 30 days with respect to campaign services involving media advertising or direct mail fundraising for a House candidate.

We believe these are reasonable restraints which will allow special interests to play an appropriate role in the political system while protecting the integrity of the legislative process and the rights of all citizens.

But we must act now because the longer we wait, the harder it will be to kick the PAC habit. In fact, there is legitimate concern that unless PAC's are restrained now, they may become too influential to curb in a few years.

Fortunately, the prospects for approval are excellent. The bill has broad bipartisan support led on the Republican side by my colleague, Congressman TOM RAILSBACK, plus the strong support of House Administration Chairman THOMPSON who is one of the prime sponsors of the bill. Other prime sponsors are Representatives BARBER CONABLE, JOHN BRADEMAS, JOHN ANDERSON, PHILLIP BURTON, JOHN BUCHANAN, MORRIS UDALL, HAMILTON FISH, JR., ROBERT GIAIMO, and THOMAS TAUKE.

Second, there is the fact that even Members who are major recipients of PAC funds recognize the need for this legislation. In fact, 30 of the sponsors received more than $50,000 in PAC contributions in the 1978 election and numerous other Members who received more than $50,000 in PAC support have indicated they would vote for the bill.

Following, Mr. Speaker, is a complete list of the sponsors of the Campaign Contribution Reform Act of 1979:

Mr. Obey, Mr. Railsback, Mr. Thompson, Mr. Conable, Mr. Brademas, Mr. Anderson of Illinois, Mr. Phillip Burton, Mr. Buchanan, Mr. Udall, Mr. Fish, Mr. Giaimo, Mr. Tauke, Mr. Barnes, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Bereuter, Mr. Beilenson, Mr. Bingham, Mr. Blanchard, Mr. Bonior.

Mr. Bonker, Mr. Brodhead, Mr. Brown of California, Mr. Burlison, Mr. Butler, Mr. Carr, Mr. Coughlin, Mr. D'Amours, Mr. Danielson, Mr. Daschle, Mr. Dellums, Mr. Dicks, Mr. Dodd, Mr. Donnelly, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Emery, Mr. Erlenborn.

Mr. Ertel, Mr. Fascell, Mrs. Fenwick, Ms. Ferraro, Mr. Findley, Mr. Fisher, Mr. Flood, Mr. Gephardt, Mr. Gilman, Mr. Glickman, Mr. Gore, Mr. Guarini, Mr. Hall of Ohio, Mr. Harkin, Mr. Harris, Mr. Hillis, Mr. Hollenbeck, Mr. Horton, Mr. Hughes, Mr. Hutto.

Mr. Jacobs, Mr. Jeffords, Mr. Kastenmeier, Mr. Kostmayer, Mr. LaFalce, Mr. Leach, Mr. Lehman, Mr. Leland, Mr. Lowry, Mr. Lundine, Mr. McCloskey, Mr. McHugh, Mr. McKinney, Mr. Madigan, Mr. Maguire, Mr. Markey, Mr. Mavroules, Mr. Mica, Mr. Mikva, Mr. Miller of California.

Mr. Mineta, Mr. Mitchell of Maryland, Mr. Mitchell of New York, Mr. Moakley, Mr. Moffett, Mr. Moorhead of Pennsylvania, Mr. Nelson, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Petri, Mr. Pritchard, Mr. Preyer, Mr. Price, Mr. Quayle, Mr. Regula, Mr. Reuss.

Mr. Richmond, Mr. Rosenthal, Mr. Roybal, Mr. Sabo, Mr. Scheuer, Mrs. Schroeder, Mr. Seiberling, Mr. Sharp, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stack, Mr. Stark, Mr. Studds, Mr. Swift, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Williams of Montana, Mr. Wirth, Mr. Won Pat.●

DR. MUDD CLEARED IN LINCOLN ASSASSINATION

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. TRAXLER. Mr. Speaker, I am very pleased to call my colleagues' attention to recent action taken by the President of the United States to correct one of the greatest miscarriages of justice imposed on any citizen of this country. President Carter has formally expressed his belief that Dr. Samuel Mudd, the physician who set the broken leg of Lincoln assassin John Wilkes Booth, was innocent of any involvement in the assassination of President Lincoln.

The President's declaration came in a July 24 letter to my constituent Dr. Richard Mudd of Saginaw, Mich., grandson of the late Dr. Samuel Mudd. For more than 50 years, Richard Mudd has called upon Presidents to clear the name of his grandfather. The phrase "His name is mud" grew out of the erroneous conviction of Dr. Samuel Mudd.

Dr. Samuel Mudd, a civilian, was the victim of an unfair military commission which convicted him as an accomplice to the Lincoln assassination and sentenced him to life in prison. Although Mudd had met Booth prior to the assassination, Booth was in disguise when Mudd treated him. The next day Mudd learned of the assassination and reported the suspicious Booth visit to soldiers. Eight days later Mudd was arrested.

Dr. Samuel Mudd was held for 19 days before any formal charges were brought against him. The trial began the next day and Mudd was unable to get a lawyer until after the trial began. They were not given any time to prepare a defense.

Dr. Mudd spent 4 years in prison, where he administered aid to prisoners during a yellow fever outbreak, before he was granted a pardon by President Andrew Johnson.

The expression of President Carter this week indicating his belief in Dr. Mudd's total innocence is the strongest action ever taken by a President to clear the Mudd name. Finally, the highest office of the Nation has recognized the unfairness and error of Dr. Mudd's conviction. This action is a tribute to the more than 50 years of hard work and tireless efforts of Dr. Richard Mudd and other descendants of the wronged doctor to set the record straight once and for all.

Following is the text of the letter from President Carter to Dr. Richard Mudd:

THE WHITE HOUSE,
Washington, D.C., July 24, 1979.

TO DR. RICHARD MUDD: I am aware of your efforts to clear the name of your grandfather, Dr. Samuel Alexander Mudd, who set the broken leg of President Lincoln's assassin, John Wilkes Booth, and who was himself convicted as a conspirator in the assassination. Your persistence in these efforts, extending over more than half a century, is a tribute to your sense of familial love and dedication and is a credit to the great principles upon which our nation was founded.

Your petition and the petitions submitted to me on behalf of your grandfather by numerous members of Congress, several state legislatures, historians and private citizens have been exhaustively considered by my staff over the past two years. Regrettably, I am advised that the findings of guilt and the sentence of the military commission that tried Dr. Mudd in 1865 are binding and conclusive judgments,' and that there is no authority under law by which I, as President, could set aside his conviction. All legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon on February 8, 1869.

Nevertheless, I want to express my personal opinion that the declarations made by President Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment.

While a pardon is considered a statement of forgiveness and not innocence, the Johnson pardon goes beyond a mere absolution of the crimes for which Dr. Mudd was convicted. The pardon states that Dr. Mudd's guilt was limited to aiding the escape of President Lincoln's assassin and did not involve any other participation or complicity in the assassination plot itself—the crime for which Dr. Mudd was actually convicted. But President Johnson went on to express his doubt concerning even Dr. Mudd's criminal guilt of aiding Lincoln's assassins in their escape by stating:

". . . it is represented to me by intelligent and respectable members of the medical profession that the circumstances of the surgical aid to the escaping of the assassin and the imputed concealment of his flight are deserving of a lenient construction, as within the obligations of professional duty and, thus, inadequate evidence of a guilty sympathy with the crime or the criminal;

"And . . . in other respects the evidence, imputing such guilty sympathy or purpose of aid in defeat of justice, leaves room for uncertainty as to the true measure and nature of the complicity of the said Samuel A. Mudd in the attempted escape of said assassins . . ."

A careful reading of the information provided to me about this case led to my personal agreement with the findings of President Johnson. I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Sincerely,

JIMMY CARTER.●

WYANDOTTE WELCOMES KOMAKI, JAPAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. DINGELL. Mr. Speaker, the city of Wyandotte, Mich., which is in my 16th Congressional District, has for several years participated in a unique program fostering friendship and understanding between peoples of all nations. This year the city is hosting representatives from Komaki, Japan, in celebration of the International Year of the Child. I would like to insert in the RECORD a welcoming letter prepared by City Councilman Richard T. Kelly:

WYANDOTTE, MICHIGAN, *July 25, 1979.*

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: The City of Wyandotte, Michigan, is pleased to host representatives from its Sister City, Kamaki, Japan, in celebration of the International Year of the Child. These representatives will arrive in Wyandotte on August 4th and will remain until August 8th. We ask that every privilege and courtesy be extended to these guests while they are in the United States.

Wyandotte and Komaki entered into the Sister City Exchange in March of 1963 and we welcome our friends from Komaki as a part of our continuing program.

Sincerely,

RICHARD T. KELLY,
Councilman.●

NATIONAL AGRICULTURE DAY

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SAWYER. Mr. Speaker, I wish to call to my colleagues attention House Joint Resolution 382 which I have introduced to proclaim March 20, 1980, as National Agriculture Day.

"Thought for Food" is 1980's theme for Agriculture Day, March 20, 1980—sponsored by the nonprofit Agriculture Day Foundation to salute agribusiness and make the nonfarming consumer aware of agriculture's importance.

Agriculture Day's main goal is to alert 96 percent of the American population that does not farm, aware of the challenges facing agriculture and its impact on all of our lives. In addition, Agriculture Day alerts the American public of the challenges agriculture faces in continuing to meet the world's food and fiber requirements. Consumers must be made aware of pressing farm issues, such as marketing restrictions, environmental pressures, inflation, fuel shortages and shrinking farm land, and the impact these issues have on each individual's life.

Although only 4 percent of the American population actually farms, 4 out of 10 Americans are involved in the food and fiber production and distribution chain. American agriculture has assets nearly equal to the total assets of all the stocks listed on the New York Stock Exchange ($790 billion) and is the Nation's largest employer.

Across the Nation, activities to increase "agriculture awareness" such as shopping mall displays, radio and television interviews, and agriculture equipment parades are being planned by farm youth, civic and agribusiness groups. Agricultural Day, launched in 1973 by a Minneapolis agribusiness publishing firm, is coordinated on a regional and local level by National Agri-Marketing Association (NAMA) chapters across the country.

The J. I. Scott Co. of Grand Rapids, Mich. has volunteered its creative efforts to develop a comprehensive consumer education campaign for the March 20 observance. I commend, Jim Scott who will serve as National Agriculture Day Chairman and Vice President of the Agriculture Day Foundation.

A copy of my resolution follows:

H.J. RES. 382

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1980 is hereby proclaimed National Agriculture Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.●

PARISH CELEBRATES 75 YEARS OF COMMUNITY SERVICE

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Ms. FERRARO. Mr. Speaker, next month marks the 75th anniversary of an outstanding parish in my district, the St. Mary Gate of Heaven Parish in Ozone Park. This church, which was founded on August 11, 1904, by the Reverend Rene LeClair, is one of the oldest and most active in the area. It serves over 3,500 families and also provides an education to 679 students through its school.

In these days of high inflation, social turmoil, and the psychological malaise that has afflicted so many of us, it is helpful for us to step back and take a look at the values of the people who built our great Nation. Primary among those values was the belief in the forceful role the church has in the cohesiveness of a community.

St. Mary Gate of Heaven Parish has a long record of community service. It was originally organized to serve the spiritual needs of the Irish and German immigrants living in the area. Following World War I, the church reached out its arms to the influx of Italian families which arrived in the country at that time. The commitment this church made to unifying the many diverse ethnic groups in the community during those days has been carried on throughout the years.

The Reverend Eugene Lynch, the 17th pastor of St. Mary Gate of Heaven, firmly believes that the church has an invaluable contribution to make not only in its traditional role of spiritual guidance, but in the promotion of community harmony and in providing a focal point for family unity as well. His commitment to the tradition of community and spiritual services provided by the church is evidenced by the prominent role Father Lynch has assumed in promoting efforts to preserve the economic and social stability of Ozone Park.

For the past 75 years, St. Mary Gate of Heaven has been remarkably well attuned to the total needs of its community. I am proud to have such an active parish in the Ninth Congressional District.●

REPORT ON SENIOR INTERN PROGRAM

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. OTTINGER. Mr. Speaker, in May, I was pleased to have Mr. and Mrs. Samuel Schmuckler of New Rochelle, N.Y., join my staff as part of the annual senior citizen intern program. Upon returning home, Mr. and Mrs. Schmuckler prepared a comprehensive report on their internship. I would like to include this report in the CONGRESSIONAL RECORD for the benefit of my colleagues:

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

(By Miriam and Sam Schmuckler)

Two vital weeks in May, 1979 will become a time to remember for 165 older Americans from 46 states of the United States who have assembled in Washington, D.C. for participation in the 7th Annual Congressional Senior Citizen Intern Program. Over 100 House and Senate members have sponsored this group, whose members comprised senior power and leadership from the grassroots. They are here to learn from top government officials what can be done legislatively to remedy problems facing the Nation's aging population.

A red carpet welcome was afforded us by Congressman Richard Ottinger and his office staff. We were to begin an enriched series of meetings with top government agencies and Congressmen. This has been a "filled to the brim" learning project; as former educators, we feel this intern program to be an example of excellent teaching. It is an entirely creative action-oriented project, focusing on future positive accomplishments. Numerous concomitants have evolved as a result of this education. Discussions through questions and answers; suggestions; collecting and researching materials; interviewing members of our intern group; getting to see some Senators and Representatives all became daily procedure.

Indicative of the positive aspect of internship enthusiasm is the seven-year period over which this yearly two-week spring session program has occurred. Starting with the sponsorship of four members of Congress, nine interns participated; this year many more senior advocates applied for internships than could be accommodated. Congressman Elwood Hillis, a sponsor of the program, is seeking support for legislation which will make the plan an official and permanent function of the House and Senate. Identical bills in the Congress are S. Con. Res. 1 and H. Con. Res. 15.

The need to establish communication between older Americans and lawmakers is a significant fact when one considers that the elderly population has more than doubled since 1900, growing from 4.1 percent to a projected 10.6 percent by the year 2000. By then senior power might well become viable enough to elect a President of the United States!

SERVICES TO THE AGING

Increased services to the aging have been provided, particularly under provisions of the Older Americans Act of 1965, as amended. New emphasis in gerontology has the goal of improving the quality of life for a graying population who do not want to count the years but rather make the years count.

An "Aging Overview" was presented by a panel of speakers, who keynoted our sessions. The Honorable Claude Pepper, chairman of the House Select Committee on Aging; Nelson

Cruikshank, Counsellor to the President on Aging; and Dr. Clark Tibbets, Special Assistant to the Commissioner on Aging, proposed the following legislation: elimination of requirements on earnings by seniors on Social Security, expansion of Health Maintenance Organizations (HMOs), increased availability of part-time work, and extension of mandatory retirement beyond 70 years.

We have heard that seniors are becoming a new national resource as advocates for better living and humaneness. Our achievements can negate stereotypes of the older population. We are being challenged to accomplish good for all citizens. Edmund Burke said it well, "All that is necessary for evil to triumph in this world is for good men to do nothing."

Unfortunately, one-sixth of our aged live below the poverty line. Further, 23 million older people have vital needs for health, social services, nutrition programs, counseling, housing and transportation. Expenditures on Social Security have been referred to as a "graying of the budget," when, in fact, elderly persons themselves have contributed to the benefits they receive.

"Older Americans have given more to our society than any other age group. Yet they have less than ½ of the national median income and often are forced to retire at 70," said Congressman Pepper. He urged an end to age discrimination in retirement, expanded home health and mental health care under Medicare, protection in the sale of "medigap" health insurance, elimination of Social Security earnings limitations, and improved nursing home care by setting up stricter standards. Inflation is enemy number one for older persons, especially those on fixed incomes.

There has been no containment for soaring hospital costs; this is evidenced enough in inflation effects. A strong example of tremendous medical price increases can be noted in a General Motors statement that it paid more for hospital bills of workers than is paid out for steel in its cars!

THE CONGRESSIONAL SCENE

Another session explored the Congressional scene, during which we heard the Honorable Lawton Chiles, chairman of the Senate Special Committee on Aging, and others speak on the prevention of fraud and abuse in the sale of private health insurance to supplement Medicare which has been proposed by the "Medigap" bill, H.R. 2602; abolition of mandatory retirement for all ages is the essence of H.R. 4; H.R. 638 which would permit Medicare payments for HMOs; H.R. 640 would sanction Medicare payments for mental illness and H.R. 2565 would expand counselling for the elderly under the Older Americans Act. Naturally, priorities will be decided by the Appropriations Committee.

ADMINISTRATION ON AGING

The need for comprehensive data in the area of aging has been growing for many years. The Older Americans Act of 1965 specified that the Administration on Aging should serve as a clearinghouse for materials relating to problems of the aging. Donald Smith, director of the National Clearinghouse on Aging, cited Congressional interns as a group of perceptive seniors who could utilize the services of a data center.

With the 4th White House Conference on Aging set for 1981, materials on income, taxes, energy, inflation, home care for ill, health, crime, consumer aids, employment, etc. will be compiled by the clearinghouse. We made a visit to Mr. Smith's office, where we had the opportunity to have a further discussion with him and receive considerable statistical data.

CONSUMER PROBLEMS

There is no dearth of information in the halls of government. Midge Shubow, director of consumers information and education for the White House, suggested we write the Consumer Information Center in Pueblo, Colorado 81109 for a free copy of "National Consumers' Buying Alert." This is a must publication for seniors, containing tips on auto repairs, hospital costs, energy, simple language for insurance policies, boycotting of high priced items, etc.

HEALTH/MEDICARE/MEDICAID

Continuing our group meetings we attended a session on Medicare, Medicaid and health. Patricia Schoeni, director, Office of Public Affairs, Health Care Financing Administration, explained the high costs attributed to doctors' services to be caused by lack of competition among doctors. We do not shop for doctors. While Medicare won't cover costs of catastrophic illness, such insurance is being considered in a National Health Plan proposed by several representatives.

The possible alternatives must be studied. Would a national health plan cost less in a time period? Are the Administration and Representatives ready for a complete changeover in health care? Are medical lobbyists blocking national health insurance? How much assistance would catastrophic illness insurance offer the average person? The questions are many.

The costs of health care, according to our research, have increased over 275 percent in the last 10 years and, if present rates continue, 10.2 percent of the Gross National Product will be committed to health care by 1985. At these rates, cost increases are averaging $1 million per hour! Within the last 2 years, the costs of the Medicare and Medicaid programs have risen over 40 percent, mostly due to inflation and not to the costs of new beneficiaries or new benefits.

Out-of-pocket costs for the elderly have more than doubled in the 10-year period from 1967-77. The Medicare hospital deductible has almost quadrupled in the years from 1969-79. These costs have outpaced the increases in prices of other goods and services. The Hospital Cost Containment Act of 1979 would allow hospitals to bring their costs down voluntarily during 1979, with mandatory controls imposed only if the voluntary action fails to meet the reasonable goals established in the bill.

Our further research concerned catastrophic covereage needed by the elderly. The National Retired Teachers Association and the Association of Retired Persons would like a restructuring so that more money is diverted to less expensive alternatives, such as home health care and health maintenance organizations.

The opinion expressed is that catastrophic plans would not cover the costs of nursing home care. In the long run the cost of providing catastrophic protection would inevitably exceed the cost of providing the same protection under a national health plan.

TRIP TO THE WHITE HOUSE

As a rare interlude between the end of our first week of meetings and the beginning of our second week of sessions, we were privileged to meet with President Carter in the Rose Garden of the White House. Hemmed in by security guards, the President greeted us most graciously.

He stressed the solvency of Social Security funds; this would be true for many years to come.

Urging our support for passage of the Hospital Cost Containment Act and S.A.L.T. agreement, he told of their impact on older people. As a first group of senior interns to be greeted by a President of the United States, President Carter hoped we would continue to learn about government and would have the benefit of our educational experiences here.

The President considered us a vigorous and aware group of concerned citizens. Younger generations can benefit greatly from what we can suggest. He cited his 81-year old mother for her activities. As he talked, we were reminded of that quotation from Oliver W. Holmes—"I had much to learn at 85 and found new business opening all around me."

VOLUNTEER PROGRAMS

While all older citizens are aware of the soaring cost of living, some "well heeled" seniors comprise a group of persons relatively better off than their predecessors; nevertheless, retirement for many persons still significantly increases the probability of severe income loss, decline in living standard and impoverishment. Six million older citizens exist at the poverty level.

Twenty states do not offer supplementation of SSI. Poverty among America's aged, as researched by Rep. Pepper's Committee, deserves Congressional action to alleviate this situation.

Yet economic trials do not keep seniors from their vital work as volunteers in so many public service areas. The federal agency ACTION sponsors older American volunteer programs. These include: Foster Grandparents (FGP), Retired Senior Volunteers Program (RSVP), Service Corps of Retired Executives (SCORE) and Action Corps of Executive (ACE).

Erma Bombach, in a serious vein, calls the volunteer program, "the last dream of a decent civilization." Perhaps, the way to really transmit values in our society is through our senior volunteering. What better way to work with intergenerational groups of individuals, offsetting stereotyping of older people. It is significant that senior volunteers save our taxpayers thousands of dollars through their efforts in assisting others.

"Seniors have been becoming inflation reducers," said Congressman Elwood Hillis. Older citizens can claim to be non-self-serving. Aristotle said it meaningfully, "The measure of a man lies in that part of himself that he gives in service to his fellowmen."

HOUSING

One more primary illustration for improving senior living conditions was given by HUD. Housing is one of the major expenditure items in the budgets of older Americans. With demand outstripping housing supply, adequacy of housing has become an issue, particularly for the low-income elderly. Federal loans are being made for construction or rehabilitation of multifamily rental housing for the elderly (age 62 and over). Tenants may qualify for rent supplements under the Section 8 program of the amended 1959 Housing Act—Section 202.

The federal government insures against loss on mortgages for construction and rehabilitation of multi-family rental housing for the higher income elderly (section 231, of the 1959 act). The federal government makes direct and guaranteed insured loans to construct, improve or repair rental or cooperative housing in rural areas for low-income seniors.

Local housing authorities receive federal loans to aid in purchase, rehabilitation, leasing or construction of multi-family housing for low-income families or individuals 62 or older. Rents may not be more than 25 percent of the family's income (1937 Housing Act, amendment, section 504).

Federal loans and grants are given low-income homeowners, age 62 and over, to repair or rehabilitate their homes so as to remove dangers to health and safety. (Housing Act of 1949 as amended, sec. 521). Helen Holt, Departmental Advisor for Consumer Affairs and the Elderly, Department of Housing and Urban Development, and Robert Wilden, Director, Program Development of the same department were our speakers on housing.

TRANSPORTATION

Still, another illustration for improving senior living conditions lies in the transportation area. Kay Regan, of the Urban Mass Transit Authority, spoke to us. She felt adequate transportation is an essential service and must be part of all state-funded programs for the elderly.

The Urban Mass Transportation Act of 1964, as amended, authorizes UMTA to make capital grant funds available for equipment for the elderly. Under the Capital Assistance Program (sec. 3) grants are made to states and local public agencies to provide transportation. Applications for such grants may be made to UMTA regional offices. Grants are also made under Section 16(b)(2) of the UMTA for private non-profit organizations.

These funds are only made available through the states. Under the act, mass transportation companies receiving federal funds for either capital or operating expenses must charge elderly no more than ½ fare during off-peak hours. A listing of state contacts may be received from the Urban Mass Transportation Administration, 400 7th Street, SW., Washington, D.C. 20590.

CLOSING BREAKFAST

Robert Ball, senior Scholar, Institute of Medicine, National Academy of Sciences and former long-term Social Security Commissioner, gave us good and bad news concerning the future of Social Security. Echoing President Carter's optimism, he said the Social Security system is on a sound financial basis for 50 years, at least. But tension, he feels, exists between the desire to improve the system, on one hand, and to fence it in, on the other.

There are four categories that can influence negative results for the elderly:

Reduce rights of seniors by direct reduction of benefits.

Increase age of eligibility.

Lower paid people on Social Security to be paid minimum amount, regardless of earnings.

Stabilize benefits to recent wages.

Dr. Ball says that seniors sustain losses of many kinds as they age, why add more through Social Security losses. There is a real danger of pitting workers against the recipients—this must be avoided.

OUTLOOK FOR THE FUTURE

It has been gratifying to hear how many of the speakers who addressed our group showed genuine concern for human needs. It's as though there is a Renaissance, an awakening to age and its dignity. Following passage of the Older Americans Act amendments, the Administration on Aging considered its major objective to be the provision of a network on aging, offering the opportunity for those who wish to voice their needs and concerns.

These could be considered when drawing up regulations for implementing new amendments. Since it became law, almost 14 years ago, the Older Americans Act has become the focus of federal activity on behalf of the elderly.

As seen by the National Aging Clearinghouse, the outlook for senior priorities over the next two years include: (1) restructuring Social Security, (2) insulation of financing of programs and incomes for seniors from present high inflation, (3) discouraging of early retirement and elimination of age discrimination, (4) humane and cost-effective health care for all, a national health insurance program, and (5) home health care implementation, drugs, lab tests, costs supplementation under Medicare.

Certainly implementation of the priorities listed above would offset the Catch 22. 1984 Orwellian situation that older Americans on limited incomes are now facing. A 206 percent increase in hospital costs in the last 10 years is a prime example of an "Alice in Wonderland" America.

As Senator Ted Kennedy has said, "Special interests are doing their best to buy every Senator and Representative on issues. Corporations have been creating political action lobbies this year at the rate of one a day." With a growing over 65 population, for example, it is unbelievable to find only one endowed chair of geriatric medicine in the United States; it is established at the Cornell Medical Center in New York.

It is also startling to realize that drug companies spend $2,400 per doctor in their advertising and in advising the medical profession to use brand name drugs rather than their generic equivalents in prescribing medications.

"If I want to know what the future will be, we had better have a hand in shaping it," said Eric Hoffer, longshoreman philosopher. Certainly our two-week Congressional Senior Citizen Internship program has offered us the knowledge and inspiration to reach out to other seniors in arriving at enriched living for all Americans.

Certainly our people-to-people conferences with government leaders and local community workers for senior citizens' welfare have generated our increased interest and enthusiasm to bring back to our community the many facts and ideas we gleaned for the purpose of keeping our older citizens young. It has been especially gratifying to note how much our Representatives and interns care about building a better society for seniors, strengthening senior rights thereby. This has been the humanities in action.

May we express our deep appreciation to Congressman Richard Ottinger for inviting us to participate in this unique and excellent Congressional Senior Intern program. We are most grateful to Jo Merrill and Oren Teicher for their gracious welcome. They assisted us beyond the call of duty during our stay here.

The experience has motivated us to implement the many ideas gathered here. T. S. Eliot's poem has lines in "The Hollow Man" which might be rephrased to describe an optimistic attitude expressed by many in our group, as our sessions here conclude: "The world ends not with a whimper but with a bang," for we are not apathetic but eager to accomplish results.

MAY 18, 1979.●

FAYETTE FIRE DEPARTMENT MARKS 50TH ANNIVERSARY

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. LEE. Mr. Speaker, it is a high personal privilege to call to your attention the anniversary of a fine organization that has been of service to its community night and day for over one-half century.

This year marks the 50th anniversary of the Fayette Volunteer Fire Department, Inc., from Fayette, N.Y. I ask you to join with me in recognizing the achievements of an organization that exemplifies the true spirit of volunteerism in America.

In 1929 a group of men joined together and formed a volunteer unit to provide mutual fire protection to their families, friends, and neighbors. They did so without Government handouts or interference.

During the next five decades the Fayette Volunteer Fire Department has grown and prospered. Through the years a formal fire protection district was formed, fire trucks, alarms, pumps, and uniforms were purchased, and a firehouse bought, renovated and paid for. All this growth can be attributed to the hard work and dedication of its members. The vast majority of the money the department has received comes from fundraising functions like chicken barbecues, where the members of the company pitch in to do the cooking. These same members are called on day and night, winter, and summer to fight fires, protect property, and often save lives.

Much has changed in this country over the last 50 years. It is good to note the spirit of cooperation, volunteerism, and community pride still flourishes.

The present officers of the department are:

Lewis J. Sorrentino, chief; Leland J. Abbott, assistant chief; Kenneth Poorman, first assistant chief; James Brown, second assistant chief; Arthur Davis, secretary; Howard E. Poorman, treasurer; Clare Stahl, director; Victor Stahl, director; Howard Poorman Sr., director; Leon Litzenberger, finance committee; William Trout, Jr., finance committee.●

PRESIDENT, CONGRESS, TOO RELIANT ON POLLSTERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SIMON. Mr. Speaker, in my weekly column written for my constituents in southern Illinois, I have suggested that President Carter would have been well-advised to begin his staff shakeup by getting rid of his pollster, Patrick Caddell.

As I state in the column, I like Pat Caddell but the President seems to be relying too much on poll results to determine national policy rather than on a careful assessment of national needs

And let me hasten to add that we in the Congress are often guilty of the same thing.

I would like to share the full text of my column with my colleagues:

A NATIONAL NEED: MORE LEADERSHIP, LESS POLLING

Washington continues to rock from the President's cabinet actions, and while Washington is not typical of the nation, attitudes developed by political leaders and media people here gradually filter out to the rest of the nation.

What does it all mean?

It is too early to judge the significance of the change at the Federal Reserve, but otherwise it must be said that the new people selected will run things pretty much as before, with the exception of the Department of Energy where substantal improvement is hoped for.

There will, however, be greater top-level reluctance to differ with the President, privately or publicly, and that will hurt President Carter somewhat.

But my conclusion is that one change

could have done much more good than all the other much-publicized changes. He should have quietly dropped pollster Pat Caddell.

I like Pat Caddell. He is also one of the best pollsters in the nation.

But the Carter administration, to much too great a degree, has been determining national policy by studying national polls rather than national needs. And that does not result in effective leadership.

If the media reports are correct, the Carter decision to have a Camp David Summit, and to fire some cabinet members after asking all to submit resignations, grew out of recommendations made by Carter's pollster.

Two days after his resignation, Secretary of the Treasury Michael Blumenthal spoke in Chicago, generally supportive of the President's fiscal policies, but he carefully worked in a criticism of "timid politicians and mindless pollsters."

And while this particular criticism is directed at the President and Pat Caddell, the same criticism can be leveled at much of Congress. We are collectively holding our finger to the wind to learn the latest direction in public opinion. And then we act, or decline to act.

The nation is ill served by that shaky type of performance.

In the recent issue of the magazine *Foreign Affairs*, former Sen. J. William Fulbright speaks about this problem, and while he is writing of Congress, his words apply with eual validity to the presidency.

He writes:

"Our elected representatives . . . study and analyze public attitudes by sophisticated new techniques, but their purpose has little to do with leadership. . . . Their purpose, it seems, is to discover what people want and fear and dislike, and then to identify themselves with those sentiments. They seek to discover which issues can be safely emphasized and which are more prudently avoided. This approach to politics is the opposite of leadership; it is followership, for purposes of self advancement . . ."

The President could etrixcate himself from the problem by stopping all poll-taking and simply ask himself two basic questions: What are the most pressing needs of this country? How can we in government help to meet those needs?

Interestingly, in the area where the President relies least on polling for establishing policy—foreign affairs—in that area he has done best. Where he is weak—domestic policy—he relies heavily on the polls.

I doubt that the President will move away from his polling reliance. And Congress will have an equally hard time extricating itself from the polling quicksand.

Because members of the House and Senate have discovered that polling breeds success—if you measure success by winning elections.

But it does not breed quality leadership. And unfortunately I could cite some "good" examples.

We need people—in the executive branch and in Congress—who are willing to sail against the winds of public opinion, who are willing to make the tough decisions this nation needs.

Whether President Carter has it within himself to really become an effective leader it is difficult to know. He is a decent man with fundamentally good instincts, but that does not automatically equal leadership.

My feeling is that whatever leadership potential he has is being impaired by those who hand him endless reams of polling statistics.

We yearn for effective leadership, and polls will not provide it.●

CANCER-CAUSING CHEMICALS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. OBEY. Mr. Speaker, there has been a very heated and longstanding controversy within the scientific community over an issue which is of immense importance in the policies established to protect the public from cancer causing chemicals.

One side in this controversy has argued that chemicals proven to cause cancer in heavy dosages do not necessarily cause cancer at more typical low-dose levels, and that for many or perhaps all cancer causing chemicals there is a level of exposure low enough to pose no risk to human beings or in other words a "safety threshold." This would mean that requiring industry to reduce exposure to known carcinogens to the lowest possible level would be placing an unnecessary burden on industry. The regulation would be more severe than needed to protect the health of consumers or workers and that would be a strong argument to require regulatory agencies to establish safe threshold levels with each chemical proven to be cancer causing at high exposure levels.

Others have argued that any chemical that causes cancer at one level of exposure can be expected to pose some risk of cancer causation at any level. If millions of Americans are exposed to an air pollutant or food additive in only trace amounts we have only two ways to estimate whether significant harm is being done—either test a number of animals equal to the number of people exposed at precisely the same exposure level or test a small number of animals at a considerably higher exposure level. Since the first alternative would use all of the Nation's laboratories, toxic chemical researchers, and test animals for conducting a test on a single chemical, it really is not practical at all. So currently there is potentially only one way to identify such a hazard, feed it in heavy doses to a relatively small number of test animals and then make the assumption that a risk exists at lower exposure levels. It is precisely such tests and precisely that assumption that has been at the root of all the controversy.

The National Center for Toxicological Research, under the Food and Drug Administration, has recently conducted a massive and unprecedented experiment to examine the validity of the "threshold" and "no threshold" theories. A report on that experiment was printed in the June 28, 1979, "Occupational Safety and Health Reporter."

The report follows:

No Carcinogenesis Threshold Found at Low Dosage Levels in NCTR Study

The theory that there is no "threshold dose level" below which a carcinogenic substance would be safe was supported by a recently completed carcinogenesis study using more than 24,000 mice.

The study, conducted by the Food and Drug Administration's National Center for Toxicological Research (NCTR) "has provided a massive and overwhelming experimental profile and data base which lends support to regulatory policies," according to Thomas Cairns, NCTR acting director.

One such regulatory policy is the Occupational Safety and Health Administration's proposal for regulating carcinogens in the workplace, which states "there is presently no means to determine a safe exposure level to a carcinogen."

"Explanation of the dose-response relationship at low doses is fundamental to the regulatory agencies' posture that there is no threshold level below which a carcinogen cannot exert its carcinogenic effect." Cairns said at June 15 symposium in Washington, D.C., announcing the preliminary results of the study.

The study, using the carcinogen 2-acetylaminofluorine (2-AAF), was designed to determine with precision the effects of a known carcinogen at low dose levels, according to NCTR.

Among significant findings of the study were the following:

No threshold response effect was found at the lowest dose level used in the study.

The mice in the study developed a significant number of liver tumors which did not appear until after 18 months, at which point many current bioassay tests are ended.

The incidence of bladder tumors in the dosed mice dropped substantially when feeding of 2-AAF was stopped after the first nine months of the study. However, liver tumors continued to develop after 18 months, even when dosage was ended at nine months.

800 CANS OF DIET SODA

The concept of a threshold dose level has been debated by regulatory agencies and industry groups concerned with cancer risk assessment.

The controversy arises from the standard practice of testing suspected carcinogens by administering massive doses of a substance to a relatively small number of test animals. The results of such experiments are extrapolated to predict the effect of very low exposure levels on human populations.

Such tests, Cairns said, "have been challenged on scientific grounds and are confused, even distrusted, by laymen who see only the differences between the experimental process and ordinary life situations."

"The '800 cans of diet soda' perception of toxicological research and its validity is undoubtedly a serious impediment to the credibility of our research and the regulatory decisions that may be based on it," Cairns said.

NCTR scientists are still examining the data generated by the study. Detailed results will be reported in scientific journals.

For further information, contact Jeffrey Staffa, Associate Director for Research Operations and Planning, NCTR–FDA, Room 9–39, 5600 Fisheries Lane, Rockville, Md., 20857, telephone (301) 443-3155.●

LETTER OF EXPLANATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SKELTON. Mr. Speaker, I wish to explain to you and my colleagues the reason for my absence from activities of the House of Representatives during the week beginning July 9, 1979. A death in the family necessitated my being in Missouri for several days. All votes missed during the week of July 9 are a result of this personal loss.●

A WRONG TURN ON THE ROAD TO OUR ENERGY FUTURE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

• Mr. MARKEY. Mr. Speaker, yesterday, by a voice vote, the House defeated an amendment which was crucial for our energy future. I refer to the Udall-Bingham substitute to the Fuqua-Brown amendment to title I of H.R. 3000, the Department of Energy Authorization Act for fiscal year 1980. This amendment would have deleted funds for premature deployment of breeder reactors, a technology which is decades away from being needed.

We heard much debate claiming that, since there is now an energy shortage, we need to produce energy. We cannot reject, we heard, any measure that would establish an energy production plant, no matter what the problems with it might be, no matter if it is really needed, no matter when it would be needed, and no matter how much it diverts us from confronting today the real opportunities within our grasp for providing necessary energy resources for Americans.

Let us cut through the haze and realize that the breeder option is a long-term energy solution, and anything we discuss today will mean nothing for the short-term energy crisis. We need a coherent, intelligent, productive, and safe energy system in the next century. We are beginning to plan for that now. Let us nct waste billions of dollars on short-term, irrelevant answers, like building a breeder today.

The administration was absolutely correct when it said it wanted to eliminate the Clinch River breeder reactor program. By all reliable estimates, breeder reactors will not be commercially viable for at least 20 years; some say as many as 40. As the Harvard Business School points out,

> Even the world's most technically advanced breeder reactor development program (in France) is decades away from making any significant addition to that country's nuclear power supply.

Why, then, should we invest hundreds of millions of dollars now in a commercial plant? Technology, particularly in this industry, moves at a rapid pace. Are we so prescient that we can predict what will be technically optimal 40 years hence?

Some, including the Department of Energy, say that Clinch River is already outmoded. The Department concluded that:

> It would not be a sound candidate for deployment in the post-2020 period.

This conclusion followed a detailed discussion of components which are already obsolete.

I see no reason why taxpayers should pay another $183.3 million into this doomed project. They will reap absolutely no benefits from this investment. This Congress will justly be called the greatest wastrels in history since we authorized that money.

The administration made sound recommendations concerning Clinch River. Yet it, and the authors of H.R. 3000, wanted to spend an additional $200 million on another commercial breeder design. Yesterday we voted to authorize that money. I fail to see why this year's model will be any more technically viable in the year 2020 than Clinch River would be.

Obsolescence is not the only issue here. The current state of the art, which is what Clinch River and the administration's proposed design are based on, is a big safety question mark. We have seen the uncertainty that surrounded the Three Mile Island accident; we may not be able to afford to make the same mistake twice. Why rush headlong into something that could result in a disaster?

Breeder reactors contain 4 to 5 tons of plutonium, one of the most deadly substances known to man. The dangers inherent in plutonium, from the standpoints of domestic safety and world proliferation, are unconscionable. We must commit ourselves to a better technology, one which is less dependent on, if not completely independent of, plutonium.

We have the luxury of time. Breeder reactors only produce electricity. Breeders would not solve our present oil crisis. Anyway, oil will only produce 5 percent of our electricity by 1985.

With this breathing room, we should concentrate our efforts on a large, broad-based nuclear breeder research and development program. That is exactly what the Udall-Bingham amendment would have provided. The $330 million that that amendment would have authorized would have guaranteed that the United States has far and away the largest breeder R. & D. budget in the world.

As Senator Everett McKinley Dirksen used to say, spend a billion here and a billion there, and pretty soon you are talking about real money. Well, we are talking about real money. We should have spent where it will do the most good—in research and development. We would not see the fruit of our efforts for another 40 years, but we must look carefully down that road. It would be dangerous to have white elephants standing in our path.

The Clinch River project and the other $200-million commercial project are nothing more than white elephants. This House misdirected our energy program yesterday, and in so doing will waste hundreds of millions of taxpayers' dollars, all in the illusion that it will solve our very real energy crisis. In the Senate, I believe, wisdom on this matter may yet prevail, at least with respect to the proposed building of Clinch River. At the time of the conference committee on this bill, I sincerely urge my colleagues to reconsider their unfortunate action in yesterday's vote. The breeder reactor today marks a tragic wrong turn on our path to a sane future.•

BUSING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

• Mr. STOKES. Mr. Speaker, last Tuesday was one of the most gratifying days I have had in my years in the House of Representatives. On that day, my colleagues in the House overwhelmingly defeated one of the most insidious threats to our Constitution and to equal rights in the history of this country. I refer, of course, to the Mottl anti-busing constitutional amendment proposal.

I think it fair to say that the margin by which that measure was defeated was a very pleasant surprise to many of us. The convincing margin of victory was largely due to the superb lobbying efforts by such groups as the American Civil Liberties Union, the Society of American Law Professors, the NAACP, the National Bar Association, the National Conference of Black Lawyers, and the Greater Cleveland Interchurch Council. That pressure consisted both of stimulating citizen input into the debate and of preparing excellent policy analyses on the issue.

I would like to introduce for my colleagues' benefit some examples of those position papers. The analyses, prepared by some of the organizations which I have mentioned and by Harvard law Prof. Laurence Tribe, are excellent examples of the type of citizen input and assistance which is so vital to all of us.

JULY 19, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: As practitioners and teachers of law, we are profoundly concerned about House Joint Resolution 74, a proposed constitutional amendment which would undermine the principle of racial equality in this nation by banning the use of busing to desegregate public schools. Because it would eviscerate the Fourteenth Amendment's guarantee of equal protection of the laws and unwisely tamper with the Constitution itself, we strongly urge the defeat of H.J. Res. 74.

There are several reasons why the proposed amendment represents a dangerous and ill-considered assault on the Constitution.

A constitutional change affecting the slow process of school desegregation would counteract efforts made in the past three decades to eliminate racial discrimination in the United States. Equality in this country is dependent on equal educational opportunity. Equal opportunity in employment and in the society as a whole hinges upon the availability of education in the public schools which do not discriminate. This is the meaning of the Supreme Court's historic 1954 decision in *Brown* v. *Board of Education* and the efforts in the federal courts over the last twenty-five years to implement that decision. In 1955 the Court explained in Brown II that every municipality in the country must "effectuate a transition to a racially nondiscriminatory school system". H.J. Res. 74 would reverse this important process.

This point was forcefully repeated by the Supreme Court just this month in two major desegregation decisions involving the school systems of Columbus and Dayton, Ohio. In the Columbus case, seven members of the Court recognized that if the promise of equality in the Fourteenth Amendment is to have any meaning at all, citizens and municipalities must be held to "a continuous obligation" to integrate their schools. Pupil assignment policies and transportation plans are constitutional remedies for enforcing racial equality where systematic and intentional discrimination has been proved and no other desegregation remedies are available.

Finally, and above all, the process of amending the Constitution was meant to be slow and deliberate. If that process can be circumvented by a "discharge petition" which forces Congress to consider making a fundamental change in the Bill of Rights without any legislative record and after only eighty minutes of debate, the constitutional process itself will be severely damaged. If this kind of hasty and haphazard tinkering with the Constitution is permitted when H.J. Res. 74 comes to a vote next week, the door will be opened to amending or eliminating any number of unpopular constitutional provisions to protect minority rights. Once opened to speedy and ill-considered changes by Congress, the Bill of Rights could become a political football which competing interests would seek to control through constant amendment.

The House of Representatives should reject H.J. Res. 74. Otherwise, it will reverse more than a quarter century of constitutional development, sweep away slow and long-overdue gains in achieving equal rights under the law for all citizens in this country, and place in jeopardy the careful and deliberate process of amending the Constitution itself.

Yours sincerely,

John H. F. Shattuck, American Civil Liberties Union; Merrill E. Clark, Jr., Association of the Bar of the City of New York; Charles A. Bane, Lawyers Committee for Civil Rights; John Crump, National Bar Association; Theodore C. Miller, National Conference of Black Lawyers; David Chambers, Society of American Law Teachers; Elaine Jones, NAACP Legal Defense Fund; Esther Herst, National Committee Against Repressive Legislation; Brooksley Landau, Former Chairperson, Individual Rights and Responsibilities Section, American Bar Association (identification only); Wiley A. Branton, Dean, Howard University Law School; Chesterfield Smith, Lawyer.

SOCIETY OF AMERICAN LAW TEACHERS,
Ann Arbor, Mich., July 16, 1979.

STATEMENT OF THE BOARD OF GOVERNORS OF SALT

The Board of Governors of the Society of American Law Teachers opposes House Joint Resolution 74, the so-called anti-busing amendment. This amendment seeks to reimpose and solidify racial separation in the public schools by depriving the Federal Courts of perhaps the most effective means of eliminating illegal racial segregation. Today, under Supreme Court decisions, decrees imposing student transportation—busing—may be issued only when other methods will not be effective and only when the time and distance involved will not have any adverse effect on the children or on the educational process. In this setting, H.J. Resolution 74 simply seeks to permit states to maintain illegally segregated schools, which the Supreme Court has found to deny minority children equality of educational opportunity.

The Board of Governors of the Society of American Law Teachers strongly urges its rejection by the House.

DAVID L. CHAMBERS,
President.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y.

H.J. RES. 74 COMPOUNDS THE MYTHS ABOUT SCHOOL DESEGREGATION

Some proponents of H.J. Res. 74 will premise their support upon one or several of the many myths which have been created to undermine support for desegregation. Chief among the myths about school desegregation are: that desegregation interferes with our long tradition of walk-in neighborhood schools; that most busing is caused by desegregation; that busing is dangerous; and that desegregation harms the educational achievement of white students. Each of these myths is directly contrary to fact. Based on the facts, H.J. Res. 74 can be supported only by proponents of legally enforced segregation.

A. NEIGHBORHOOD SCHOOLS

Quite apart from school desegregation, the majority of school children in the United States do not walk to school. They ride, usually on a school bus.

Decades ago, during the tremendous growth of public education in this country, parents demanded and received free school bus transportation for their children. Responsive state legislatures across the country enacted state laws ensuring the availability of free busing for any student attending school more than a mile-and-half from home. With white families moving to the suburbs following World War II, low density required more busing.

Studies performed by HEW and by the Metropolitan Applied Research Center show that busing doubled in the 1930s, increased 70% during the 1940s, and increased by yet another third during the 1950s; by the 1960s, the rate of increase had slowed considerably. Nonetheless, by the 1973–74 school year, 52% of all public school students rode buses. Another 15% rode public transportation or were driven in cars. None of these students can be tied to the model of the neighborhood school.

According to the Brookings Institution, fewer than half of all children at the elementary school level and only one-fourth of the older students attend neighborhood schools.

To be sure, there are neighborhood schools. But most students do not attend them. Regardless of desegregation, most students ride some form of transportation out of their neighborhood to attend school.

B. STUDENT BUSING

The overwhelming majority of students who ride buses to school are not being bused for purposes of desegregation.

The studies performed by HEW and by the Metropolitan Applied Research Center indicate tremendous increases in the amount of busing from the 1930s through the 1950s. By the 1960s, the growth had slowed. This latter period, of course, is when school desegregation finally began to be implemented. During the five years after desegregation busing began, the annual increase in the nation's school bus fleet remained exactly the same as during the previous five years. Moreover, the proportion of school funds spent on busing declined between 1965 and 1971, down from previous years.

Overall, the studies performed by HEW and by the U.S. Commission on Civil Rights, show that less than 5% of all students who are bused to public schools are bused for purposes of school desegregation. And most of the students who do ride buses for school desegregation are minority students.

The overall statistics on public school busing do not accurately reflect the entire scope of school busing. Millions of students, including many who have fled temporarily from desegregated public school, attend private schools. On the average, private school students must travel considerably further to school than their public school counterparts. According to the Department of Transportation, fully 81% of all high school level students in private schools reside more than two miles from their school. And many private school students ride buses on public funds. In fact, the number of private school students bused on public funds increased from 146,000 in 1955 to more than 600,000 during the 1973–74 school year.

The foregoing studies rather conclusively demonstrate that there actually can be little opposition to busing per se. Rather, the opposition is only to that form of busing used for desegregation.

A study for the National Science Foundation, reviewing the creation of private "segregation academies" in eight southern states, confirms this conclusion. According to the study, less than 50% of all public school students were riding buses to school, while the average segregated private school bused 62% of its students. Additionally, the bus rides to the segregation academies averaged 70% longer than the public school bus rides.

In the late 1960s, a number of Georgia politicians followed Lester Maddox's lead by decrying busing for public school desegregation. They apparently were not interested in the facts. A study of forty-two desegregating school districts conducted by the U.S. Commission on Civil Rights from the onset of desegregation in 1965 through its near completion in 1969, showed that, although total public school enrollment had increased by 92,000, total busing mileage had decreased 473,000.

C. BUSING SAFETY

The widespread existence of busing, apart from busing for desegregation, obviously enjoys a certain popularity with parents. That popularity flows at least in part from the proven safety record of school busing.

Reports by the National Highway Traffic Safety Administration from the early 1970s show that more than 50,000 people, including a substantial number of children walking to and from school, were killed by automobiles. During the same years, the total number of passengers killed annually in the operation of more than a quarter of a million school buses was seventeen persons.

According to a study by the National Association of Motor Bus Owners, people traveling in buses are much less likely to be killed or injured than those engaged in other forms of transportation. People traveling in airplanes and by railroad are twice as likely to be killed; for those in automobiles, the fatality rate is forty times higher.

Busing for school children has been shown to be much safer for them than walking to school. The Pennsylvania Department of Education has found that children who walk to school are in three times more danger than children who ride buses. The National Safety Council confirmed this by reporting that children walking to school face two to three times the danger of an accident than those who ride buses.

Busing is hardly dangerous. As millions of parents know, it is the safest means for children to get to school.

D. STUDENT ACHIEVEMENT

A final myth is that white students perform less well on achievement tests in desegregated settings than in all-white segregated schools. Christopher Jencks, an opponent of busing for desegregation, believes that this myth is based primarily upon white parents' perceptions that black schools are inferior places to be. As Jencks points out, these white parents tend to see schools as physical entities, and not as social institutions made up of students, teachers, and administrators. When desegregation occurs, the composition of the social institutions change: there are new students, teachers, and administrators. In this new desegregated setting, white students continue to obtain high achievement scores while minority students increase their scores.

In the most comprehensive study of the literature ever undertaken, Nancy St. John concluded that desegregation has no adverse affects on white achievement. In her words, the data show "in every case that racial mixture in the schools had no negative consequences for majority group pupils."

The findings reported by Nancy St. John are agreed with by two of the nation's most vocal opponents of busing for desegregation. Christopher Jencks, in his book Inequality, reported that although desegregation has only a limited positive affect on black achievement scores, it has no negative effect whatsoever on white scores. David Armor, another opponent, also has conceded that the evidence shows "no worsening of achievement for white students" in desegregated schools.

Some studies of performance in desegregated schools have shown increases in white achievement. For example, a study by Thomas Pettigrew, a proponent of desegregation, shows that the achievement not only of blacks but also of whites actually increases in desegregated classrooms, a fact that he attributes to the general educational improvements usually adopted at the same time as desegregation.

On the bottom line, there is an overwhelming consensus in the literature: white achievement is not adversely affected by desegregation.

Without the support of myths, we are back to square one. Based on the facts, the proponents of H.J. Res. 74 can premise their support only by favoring racially separate educational facilities.

AMERICAN CIVIL LIBERTIES UNION
New York, N.Y.

H.J. RES. 74 UNDERMINES THE CONSTITUTIONAL PRINCIPLE OF EQUAL PROTECTION OF THE LAWS

The purpose of H.J. Res. 74 is to prevent public school desegregation, that is, to deny equal treatment under law to minority students and to white students alike. H.J. Res. 74 thus directly undermines the constitutional principle of equal protection of the laws established by the Fourteenth Amendment.

Adopted in 1868, the Fourteenth Amendment enshrined as constitutional doctrine the promise of equality made nearly a hundred years earlier in our Declaration of Independence. In the words of our Fourteenth Amendment, no state shall "deny to any person within its jurisdiction the equal protection of the laws."

Despite the intent of its framers, the Fourteenth Amendment lay dormant for nearly sixty years. From *Plessy* v. *Ferguson* in 1896, until *Brown* v. *Board of Education* in 1954, racially segregated public schools were somehow thought to be consistent with the guarantee of equal protection of the laws. Belatedly, Brown recognized reality. There, the Supreme Court unanimously recognized that "[s]eparate educational facilities are inherently unequal." The following year, in 1955, the Court in Brown II explained that every school district that practiced intentional segregation was required to "effectuate a transition to a racially non-discriminatory school system."

Despite the clarity and correctness of these principles, implementation of equal protection in the twenty-five years since Brown has met with repeated white resistence. In 1958, in the Little Rock case, the Court was forced to chastise defiant local officials by stressing that the "constitutional rights of [black children] are not to be sacrificed or yielded" because of opposition to those rights. In 1963, the Court reemphasized the affirmative duty of local school systems by rejecting voluntary transfer plans that allowed white students to transfer out of desegregated schools. A year later, the Court required the reopening of a school system which chose to close its schools rather than to desegregate. In 1965, the Court banned the use of a new delaying strategy, one-grade per-year desegregation plans. In 1968, the Court invalidated freedom-of-choice plans, reminded school districts of their "affirmative duty" to desegregate their schools "root and branch," and emphasized that school districts were required "to come forward with a plan that promises realistically to work, and promises realistically to work now." Rejecting other delaying tactics, the Court in 1969 reiterated that the duty of every school board was to desegregate its classrooms "at once."

In 1971, the Court reviewed and approved an effective desegregation plan, feeling constrained to add that a desegregation plan must "be judged by its effectiveness." In 1973, the Court made clear that intentional school segregation in the North, just as in the South, required immediate desegregation. And most recently, in 1979, the Court again was constrained to remind school boards that they have "an affirmative duty to desegregate."

With considerable prodding from the Supreme Court, thousands of school districts across the country have desegregated their previously segregated school systems. In these school districts, hundreds of thousands of school children are being given an integrated education. They are, in short, being provided equal protection of the laws.

H.J. Res. 74 seeks to turn back the clock. It would allow school boards to engage in intentional school segregation. It would in effect prohibit desegregation. And, because some families tend to reside close to where their children attend school, it would facilitate even greater residential appartheid than currently exists.

In 1857, Dred Scott was resolved with a declaration that black people were "altogether unfit to associate with the white race." For years thereafter, our nation was in the throes of a bloody civil war.

In 1896, Plessy eviscerated the Fourteenth Amendment by declaring that segregation of the races was not a denial of equal protection. For decades thereafter, legally enforced segregation became the norm not only in the South, not only in our nation's capital, but throughout most of the United States.

Now, in 1979, H.J. Res. 74 seeks to open the doors once again to legally enforced segregation. This invitation, should it be engrafted onto our Constitution, is one from which our nation may never recover.

Twenty-five years ago, in Brown, the Supreme Court recognized the special place that education has in our society:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

Recognizing the considerate importance of public education in American life, the Brown court compassionately understood that "we cannot turn the clock back to 1868 when the [Fourteenth] Amendment was adopted, or even to 1876 when *Plessy* v. *Ferguson* was decided."

Twenty-five years later, H.J. Res. 74 now seeks to turn the clock back to 1868 and earlier. It disputes the unchallengeable wisdom in Brown that "[s]eparate educational facilities are inherently unequal."

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y.

H.J. RES. 74 CREATES IMPOSSIBLE STANDARDS FOR PUBLIC EDUCATION

A major problem with H.J. Res. 74 does not directly concern school desegregation at all. Rather, it pertains to the Resolution's imposition of impossible standards for public education.

Proponents of H.J. Res. 74 appear to have blinded themselves to the practicalities of public education. They seem to believe, contrary to practice and often contrary to feasibility, that every student would be assigned to the school nearest to his/her residence which provides the course of study pursued by such student—were it not for desegregation. So strong is this belief that the proponents of H.J. Res. 74 would prohibit school boards from assigning any student to a school other than the one nearest to his/her residence which provides the desired course of study.

The practical infeasibility of this approach is suggested by the actual way in which school zones are drawn, the unanticipated growth or decline of neighborhoods, the unexpected destruction or deterioration of a school building, and the enormous costs to school districts of maintaining underused schools while having to construct new ones.

School zones and feeder patterns (grade schools feed into junior high schools which in turn feed into a high school) are drawn only very roughly around existing school facilities. Many factors enter into the drawing of such zones, e.g., natural boundaries such as rivers, lakes, and major highways; the student capacity of the school facilities; and all too often, the racial composition of neighborhoods (with zone lines being drawn between a white and black neighborhood). Although the latter is an element of intentional segregation, the former factors often are matters of legitimate educational planning. Under H.J. Res. 74, these factors would become irrelevant. School zones would have to be precisely drawn, maybe even with a tape measure. Despite the presence of a highway a block away, and despite the overcrowding at a school one block past that highway, a grade school student nonetheless could not be assigned to another school if that overcrowded school in fact is nearest to his/her residence.

Residential patterns are constantly changing in the United States. A new highrise apartment building may add hundreds of school children to a neighborhood. Commercial development in another part of town may drain school children from a neighborhood. If students had to be assigned only to the nearest school—as they are not now—both overcrowded and underutilized schools would result. Educational planning would become irrelevant. Distance would become the sole criterion.

School facilities sometimes are damaged in part by fires or by natural causes. School facilities, like buildings in general, deteriorate and need rehabilitation. If assignment by distance is the only criterion, students in these schools could not be assigned to any other school when partial restoration takes place. Again, local planning and discretion become irrelevant.

School districts try to minimize costs

while maximizing education by maintaining their school facilities at close to enrollment capacity. Overcrowded schools hamper effective education. Underutilized schools increase educational costs and raise local taxes. H.J. Res. 74 deems these considerations irrelevant. The resulting educational costs of bringing school to students rather than students to schools would be overwhelming.

The impracticality of H.J. Res. 74 could have a potentially devastating impact on compulsory education in this country. Legally unable to assign students to schools farther than the nearest school, financially unable to build new school buildings while maintaining underutilized ones, and educationally unwilling to assign students to nearby overcrowded schools, school districts would be unable to provide any education at all for unforeseen numbers of students. And it is the school children who would suffer.

H.J. Res. 74 represents an unconscionable and unwarranted interference with local schools.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y.

HOUSE JOINT RESOLUTION 74: WHY IT MUST BE OPPOSED

H.J. Res. 74, a proposed amendment to the United States Constitution, states: "No student shall be compelled to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student."

This Resolution, offered to the House of Representatives during the 25th anniversary of *Brown* v. *Board of Education*, seeks to return our country to the pre-Brown days of legally enforced, separate educational facilities. Nothing could more quickly accelerate the return of our nation to the "two societies, one black, one white—separate and unequal" warned against a decade ago by the Kerner Commission. And nothing could more visably demonstrate to the predominantly non-white population of the world a totally bankrupt human rights policy here at home.

H.J. Res. 74 must be defeated—not just because it eviscerates the Fourteenth Amendment's guarantee of equal protection of the laws but because it unwisely tampers with the Constitution itself.

1. WEAKENING THE PRINCIPLE FOUNDATIONS OF OUR CONSTITUTION

Our Constitution is not a statement of social policy. It is an expression of principles guaranteeing the rights of individuals against the tyranny of the majority.

Our Constitution has survived largely because the Founders, in their wisdom, enacted no specific social or economic dogma but rather only defined the structures by which we govern ourselves and proclaimed the fundamental human rights that government must respect.

There is no room in our Constitution for permanent enshrinement of divisive social policy. Those who believe otherwise should recall that slavery is the only social arrangement our Constitution ever endorsed and that prohibition is the only social policy it expressly sought to implement.

H.J. Res. 74 is not legislation. It is a proposed constitutional amendment that seeks to engraft the social policy of segregation onto our Constitution.

2. PAVING THE WAY FOR QUICKLY CONSIDERED CONSTITUTIONAL AMENDMENTS

School desegregation is hardly the only social event that has met with unpopularity. Thirty years ago, during the McCarthy era, there was an overwhelming majority that may have wanted to repeal the First and Fifth Amendments. In earlier times, there have been majorities that would have withdrawn constitutional protections for persons of Japanese descent, for Jews, for Catholics.

In times ahead there may be majorities favoring a constitutional amendment limiting federal spending, an amendment prohibiting any woman from obtaining an abortion, an amendment prohibiting the use or development of nuclear power, and so on.

Depending upon the mood of the people, we could legislate by constitutional amendment. H.J. Res. 74 would create a dangerous precedent.

3. ADOPTING INSTANT CONSTITUTIONAL AMENDMENTS

Major and even minor bills ordinarily are subject to months and even years of consideration by Congress. Proceeding through a discharge petition, proponents of H.J. Res. 74 seek to amend our Constitution with only several hours of debate in the house. Adoption of the Resolution not only would demean the legislative process but would open the way for instant constitutional amendments.

4. UNDERMINING THE CONSTITUTIONAL PRINCIPLE OF EQUAL PROTECTION OF THE LAWS

In *Brown* v. *Board of Education*, the Supreme Court unanimously recognized that "[s]eparate educational facilities are inherently unequal." In the twenty-five years since Brown was decided, the Court has repeatedly emphasized the affirmative duty of school boards to desegregate their intentionally segregated school districts.

The Brown decision was based on the unassailable wisdom that "education is perhaps the most important function of state and local governments," and that education is "a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment."

Just as the Court recognized in Brown that "we cannot turn the clock back to 1868 when the [Fourteenth] Amendment was adopted, or even to 1896 when *Plessy* v. *Ferguson* was decided," we today cannot allow the clock to be turned back to segregation through adoption of H.J. Res. 74.

5. REPEALING THE GAINS MADE THROUGH SCHOOL DESEGREGATION

School desegregation already has been implemented throughout most of the South and in fact throughout most of the country. To be sure, pockets of school segregation remain. But for the most part, school desegregation has already occurred throughout most of the United States.

H.J. Res. 74 seeks to undo twenty-five years of history. It would force a return to segregation from the current reality of desegregation.

6. COMPOUNDING THE MYTHS ABOUT SCHOOL DESEGREGATION

There are many prevailing myths about school desegregation. Chief among the myths are: that desegregation interferes with our long tradition of walk-in neighborhood schools; that most busing is caused by desegregation; that busing is dangerous, and that desegregation harms the educational achievement of white students. Each of these myths is directly contrary to fact.

H.J. Res. 74 compounds these myths. Adoption of the Resolution would, in Orwellian fashion, create a new reality.

7. CREATING IMPOSSIBLE STANDARDS FOR PUBLIC EDUCATION

The distance of a school from a child's home is only one element in school zoning and student assignment. Very often, school zoning follows natural barriers such as rivers and highways. And student assignment is primarily a factor of capacity.

Blind to the realities of the practicalities of public education, H.J. Res. 74 would require students to be assigned according to a single criteria: distance. Under H.J. Res. 74, children would have to be assigned to the nearest school even though it is across a river or a highway, and even though it is overcrowded.

H.J. Res. 74 is detrimental to education. It represents an unprecedented interference with local control of public education.

HARVARD UNIVERSITY LAW SCHOOL,
Cambridge, Mass., July 2, 1979.

MEMORANDUM

Re: Proposed Constitutional Amendment to Prohibit Busing

To: Congressman Don Edwards, Chairman, House Judiciary Subcommittee on Civil and Constitutional Rights

From: Laurence H. Tribe, Professor of Law

As you requested, I have reviewed the text of the proposed anti-busing amendment. I have considered its implications for the Constitution as a whole and am setting forth my conclusions in this memorandum, copies of which I am sending to Senators Birch Bayh and Edward Kennedy. I have deliberately confined my attention to the constitutional dimension, and have omitted consideration of the pros and cons of busing as such, both because my expertise is as a constitutional scholar rather than as an educational sociologist or as an urban planner, and because it seems vital for members of Congress to think seriously not only about which policies they favor but also about what sorts of goals should be sought through constitutional amendments and what sorts should not.

Whatever views any member of Congress might hold on the complex policy issues posed by court-ordered school busing to achieve racial integration, I believe that all members should vote against the proposed amendment for three distinct, and independently compelling, reasons of constitutional principle.

First, the amendment would make the grave error of writing a detailed social policy preference into the Constitution. As Justice Holmes stressed at the turn of the century, our Constitution has endured as a source of unity rather than division largely because it has enacted no particular social or economic dogma and has gone no further than to define the structures by which we govern ourselves and to proclaim the most fundamental human rights that government must respect. Those who would depart from this wise precedent should recall that slavery is the only social arrangement our Constitution has ever specifically endorsed, and prohibition the only social policy it has ever expressly sought to implement. An anti-busing amendment would be an anomaly not only in view of the Constitution's mission, but also in light of its history.

Second, the specific policy embodied in the amendment would unavoidably erode principles of equality under the law—principles the amendment's proponents claim they respect. For the amendment would forbid pupil assignments beyond nearby schools even when it is demonstrable that no alternative exists to remedy de jure segregation by one or more of the school districts involved. The Supreme Court has held, as recently as today, that busing may at times be required to eliminate racial segregation from a previously unlawful system. When nothing less will suffice to honor the mandate of *Brown* v. *Board of Education*, enshrining an anti-busing policy in the Constitution means at least a partial sacrifice of the Brown decisions' basic promise. It is one thing to specify, by legislation, that busing must truly be a last resort; it is quite another to mandate, by constitutional amendment, that even when needed to eliminate deliberate segregation, busing is ruled out.

Third, the amendment would ironically undermine not only principles of equality but norms of state and local autonomy fundamental to our governmental structure. By mandating pupil assignment to the nearest in-district school which provides the pupil's course of study, the amendment would prevent school districts and other local bodies from taking such temporary measures as assigning some students to more distant schools to cope with overcrowded educational facilities or to deal with such problems as teacher strikes. For obvious reasons, the authors of the anti-busing amendment have not limited the reach of the provision to racially motivated busing; by sweeping more broadly, however, they have unjustifiably intruded on local sovereignty. For equally obvious reasons, the amendment's authors have provided, in § 2, that Congress "shall have the power to enforce this article by appropriate legislation and to insure equal educational opportunities for all students."

But the result of such language would be to arm Congress with power to restructure the ways in which cities and towns raise revenues for public education, and the ways in which such local bodies expend these revenues, all in the name of equalizing educational opportunity. Even if the current Congress would be disinclined to take up this invitation to invade what have long been state and local prerogatives, a future Congress might be more ambitious—and, since it is a Constitution we are amending, we cannot afford to think only of the present.

In sum, the proposed amendment would freeze too specific a policy into the Constitution—and would do so at great cost to more general norms of equality under law and of federal-state relations. Even those who strongly oppose court-ordered busing would thus be ill-advised to support the amendment in question.

Statement of the National Bar Association on House Joint Resolution 74

The National Bar Association would like to take this opportunity to express our view on House Joint Resolution 74, a proposed amendment to the Constitution.

As a nation we must be willing to affirm that desegregation in public education is important, a worthy aim, a national priority. We must recognize that no action is truly neutral with respect to desegregation and that affirmative steps must be taken to advance this interest.

H.J. Res. 74 states, "no student shall be compelled to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student."

Separate but equal is no longer the law of the land. This pronouncement in *Brown* v. *Board of Education*, twenty-five years ago gives rise to the hope that segregated schools would be discontinued and integrated schools would replace these institutions. H.J. Res. 74 attempts to re-direct our efforts towards judicially enforced, separate educational accommodations.

This amendment as written, would serve to undermine the principles of equality and disrupt the norms of state and local independence considered essential to our governmental composition.

In Brown, the Supreme Court unanimously acknowledged that "separate educational facilities are inherently unequal." In the twenty-five years since that decision, the court has continuously enforced efforts to desegregate segregated school districts.

The gravamen of Brown was based on the concept that, "education is perhaps the most important function of state and local governments," and that education is "a principal instrument in awakening the child to cultural values, in preparing him [sic] for later professional training, and in helping him [sic] adjust normally to their environment."

H.J. Res. 74 seeks to undo twenty-five years of educational struggle, we can not allow this to occur through the adoption of this constitutional amendment.

For the foregoing reasons, the National Bar Association stands in opposition to House Joint Resolution 74.

National Conference of
Black Lawyers,
Washington, D.C.

NCBL Opposes Mottl Amendment

The National Conference of Black Lawyers vehemently opposes the adoption of House Joint Resolution 74, as part of the Constitution of the United States. We would urge every member of the House, no matter what his or her view on the merits of "busing" to oppose this amendment on Tuesday, July 24th.

Persons opposed to "busing" for desegregation purposes should understand that, contrary to the claims of the amendment's author, Mr. Mottl of Parma, Ohio (where no court-ordered busing is going on), this is not an "anti-busing" amendment. There is no mention of "busing" or "transportation" in the amendment, as written. Instead, this provision would ban the assignment of students to other than the school nearest to where they reside. Such a prohibition will tie the hands of state and local officials in making all student assignments, not just student assignments made for the purpose of desegregation.

If enacted, this amendment will severely disrupt the efficient and cost effective operations of the Nation's public schools. It will generate numerous law suits by parents challenging school board decisions regarding student assignments and could conceivably require greater busing of all students than is currently being done at this time.

Most importantly, the National Conference of Black Lawyers is opposed to H.J. Res. 74 because its unstated purpose is to turn back the clock to 1896 and cause black school children to suffer the demeaning and racist doctrine of "separate-but-equal."●

WPIX EDITORIAL CONTEST

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. OTTINGER. Mr. Speaker, WPIX-TV recently held a high school editorial contest which was open to students throughout the New York metropolitan area. More than 75 high schools took part in the competition and the entries were judged by the station's editorial board. The six finalists were then invited to appear on the television program "Youth Speaks" to present their editorials.

I am pleased to report that one of the three winners, Eric Rubin, is a resident of my district. At this time I would like to share with my colleagues the winning entry written by Eric:

Eric Rubin's Editorial

The recent fracas over the proposed institution of minimum competency tests for New York State's public school teachers raises a number of important questions about the nature of these tests, and of the teaching profession itself. With the "back to basics" movement now in full swing in classrooms across the nation, and with minimum competency tests for high school students becoming increasingly common on both the state and local level, the issue of mandated standards for new teachers has taken on new relevancy and importance.

What are the causes of our country's declining test scores, functionally illiterate high school graduates, and violence-ridden classrooms? Many critics, among them numerous leaders of the teaching profession, have singled out bad television programming, poor home environments, large class sizes, and inadequate school budgets as the educational villains, yet, somehow, the teachers themselves rarely, if ever, address the issue of their own responsibility for these problems.

The denunciation of the proposed tests by a teachers' union leader last month is of questionable validity; if the teachers hired by our state's school systems are indeed well-qualified and well-prepared, they have little, if anything, to fear from such exams. Could it be that the union leaders themselves know that our schools are hiring incompetent people to teach the children of our state?

That there are some unqualified and incompetent teachers in our state's schools cannot be denied, nor can it be denied that such teachers are at least, in part, responsible for the failure of many high school seniors to pass the minimum competency tests. For the leaders of our state's teachers to decline to accept responsibility for such failure is almost understandable, but for them to try to block efforts to weed out future unqualified and unfit applicants for the small number of new teaching positions that open up each year in New York State is irresponsible and morally unjustifiable.●

CEREMONY HELD COMMEMORATING FRANCIS SCOTT KEY

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. ST GERMAIN. Mr. Speaker, on the 1st of August, the State of Rhode Island will hold a ceremony to commemorate the birth of Francis Scott Key, the poet and patriot whose words have served as an inspiration to millions of Americans. This date will mark the 200th anniversary of the birth of Key and I invite you and my other distinguished colleagues to join with me and my fellow Rhode Islanders in commemorating this important day in our Nation's history.

As part of the celebration, Mrs. Virginia Louise Doris of Rhode Island composed a poem, entitled "Song of Francis Scott Key" which I would like to share with you:

Song of Francis Scott Key—A Tribute

(Composed by Virginia Louise Doris,
June 13, 1979)

Remember how it was: the enormous shot-ridden ensign
Flying high over Fort McHenry, long-continued ordeal
Of bombardment, to be the Star-Spangled Banner,
To be the patriotic fervor, be the immortal poem;
Thrilled by the victory to be his "song of confidence" come

O'er the ethers to be composition of intense emotion,
An anthem-link, and the sloop Minden in eternal witness—
And the glorious rejoicing, sensing from the heartfelt paean.
Flaming and thunderous, long-continued "bursting shells",
It reaches up, becomes the banner, the besieged
As it became the "dawn's early light"—the "still there"
Of the poet's fibre, within, the joy, four stanzas,
Anthem-link, four stanzas . . . and where the rejoicing has been
A link of confidence, a rejoicing link, purely Americana.

Mrs. Doris, an antiquarian and historian, has researched Key and found that a Rhode Island statesman and Member of this body was instrumental in raising the Nation's awareness of Francis Scott Key and his contributions to the Nation. George Francis O'Shaunessy, who served in the Congress from 1911 through 1919, introduced a resolution honoring the author of our national anthem, calling Key "the ultimate poet."●

CONSUMER ALERT: AIRBAGS DO NEED MORE TESTING, GAO REPORT RELEASED TODAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. DINGELL. Mr. Speaker, the Members of the House have received communications from some of our colleagues and a few organizations urging defeat of the amendment that our friend and colleague, JIM BROYHILL, and I will offer to the fiscal year 1980 DOT appropriations bill Monday, July 30.

It is surprising to me that some who claim to be consumers are opposing our amendment, which is a consumer-oriented, motoring consumer protection amendment, designed to provide one more year of further testing, research and development of the controversial automatic occupant protection device known as the airbag, which will be one device manufacturers must install on certain 1982 model year passenger cars to meet the DOT (MVSS 208) crash performance standard. The General Accounting Office report on such passive restraint devices, being released today, substantiates the conclusion and recommends that more research, testing and development must be done on airbags by DOT and the National Highway Traffic Safety Administration, which says they will only monitor the safety and effectiveness of airbags after they are installed on 1982 cars.

I was, therefore, most concerned to read that the Special Assistant to the President for Consumer Affairs, Esther Peterson, in writing to Members of Congress on behalf of the President, has misconstrued what our amendment will do for consumers. And, I also find it hard to believe that the respected consumer advisor and the President would oppose further testing of the airbag device, which shows potential dangers to out-of-position children, for one more year, well before the device has to be installed. There is no choice for some cars as most large size cars—several hundred-thousand—will require airbags in dashboards and steering wheels in 1982 automobiles in order to meet the standard.

In further answer to Mrs. Peterson and the White House, it is inaccurate for the administration to have written that our amendment is "prohibiting viable technology." The amendment does nothing of this kind and does nothing to "disable" the DOT/NHTSA performance standard, which provides that manufacturers may choose what passive or automatic occupant restraint system will be used. However, it is common knowledge that today's available technology to meet the standard only includes the airbag or passive safety belts, the latter of which are equally protective as airbags in frontal collisions and offer much more all around protection in all automobile crash situations at a much lower cost—$100 or less—than the $400 to $581—or even $825—estimated costs per car of airbags.

As it is equally discouraging to learn that the administration has no plans to further test airbags and that there is no developed test dummy resembling small children for testing the very serious out-of-position occupant problem, it is therefore imperative that the House adopt our amendment so we can have more conclusive information regarding airbags.●

THE FUTURE IN NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. McDONALD. Mr. Speaker, the press never made clear what was really at stake in Nicaragua in recent weeks. It was all cast in terms of "let's get rid of bad old Somoza," without saying what was likely to follow. Needless to say, the busy elitists at the State Department did nothing to clear away the fog. Constantine Menges, in a "Point of View" column in the Washington Star of Saturday, July 21, 1979, stated what the stakes are and what will probably happen. He is a seasoned observer of Latin America and not some writer just assigned by his paper to cover Nicaragua. So his words should be read with care. The column follows:

THE FUTURE IN NICARAGUA

A major objective of American policy in Nicaragua should be support for political groups which have genuinely democratic and reformist objectives. The question—never answered with sensible American diplomacy—is how to do this in a timely and effective way.

Cuba may provide a clue. Since the 1930s, there had existed democratic reformist groups which opposed the successive military dictatorships. There also was an orthodox communist party with a clandestine apparatus. In 1953, Fidel Castro understood that he needed to build a revolutionary coalition which included both elements.

In 1957, as his guerrilla band of several hundred seemed to be succeeding, Castro issued the Manifesto of the Sierra Maestra, which proclaimed the goal of "truly free, democratic, impartial elections." It also proposed a Civilian Revolutionary Front consisting of all opposition parties and groups.

It worked—Batista was isolated politically, there was no independent organization of democratic groups and Castro kept tight control over the military forces within his "coalition." After his victory, Castro established a totalitarian regime far more repressive than the one he had overthrown and became a bridgehead for political warfare against both the democracies and dictatorships of Latin America.

This warfare included the Sandinistas in Nicaragua and similar groups in neighboring Guatemala, El Salvador and Honduras. In recent years, as the wave of radical leftist terror and murder has increased, some of these governments have used increased brutality to fight back. This is precisely what the revolutionary groups want because violence polarizes society into a small governing elite and an opposition which is led and ultimately controlled by the armed guerrillas.

Last August when the Sandinistas began open war against the Somoza government, an American journalist reported that the guerrillas were busy removing communist literature and insignia from their hideouts. One young guerrilla was quoted as saying, "We have been instructed to say nothing about Marxism-Leninism or the Cuban help we have received all these years."

What is clear in Nicaragua today is that the Sandinistas will be followed by a Cuban-type process from which pro-Castro guerrilla leaders will emerge. At present, they alone have the guns, unity and experience.

This communist victory might be disguised for some months through the usual techniques of impotent "coalition government" and propaganda in order to make it easier to provide immediate military help for their friends in El Salvador and Guatemala. Of course, success in Central America would create the political base and momentum for beginning revolutionary warfare against Mexico during the early 1980s.

But, the future could be much brighter for the people in Central America and for our vital interests. In each country, there are important social and political groups genuinely dedicated to democratic reform—including political parties, labor unions, business groups and a good part of the Catholic and other religious leadership. With other democratic nations, the United States should encourage a process of transition which would gradually and peacefully increase the participation and power of these forces.

Every victory of a communist-led movement has brought greater suffering and death than either the civil wars or the previous governments. Must Central America and Mexico follow this tragic path?

In the other nations in the region, there is still time for the democratic countries to use their most significant resource—the appeal of their political values and their pluralist institutions such as church, labor and business groups—to aid the gradual and peaceful transition toward genuine democracy and greater social justice.

Mr. Menges has frequently visited and lived in Latin America while doing research and writing on economic and political development issues.●

CONTINUE NATIONAL COMMITMENT FOR BREEDER REACTOR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SHUSTER. Mr. Speaker, in the unanimous vote by the Republican Policy Committee, which I chair, a formal policy statement points out, graphically, the compelling need to retain a national commitment to build the Clinch River breeder reactor. The committee strongly opposes the Carter administration's unilateral decision to terminate this project. I should like to insert into the RECORD, the text of the Policy Committee position statement on this vital issue.

The statement follows:

H.R. 3000—DOE AUTHORIZATION FOR CIVILIAN PROGRAMS FOR FISCAL 1980 (CLINCH RIVER BREEDER REACTOR)

H.R. 3000 authorizes Federal expenditures in Fiscal 1980 for civilian research and development of fossil energy, nuclear energy, solar and geothermal energy, conservation, environment and safety programs and other energy R&D activities, including $183.8 million for the Clinch River Breeder Reactor Project (CRBRP). The bill also authorizes funding for the administration, regulatory and commercialization activities of the Department of Energy (DOE).

The Republican Policy Committee strongly opposes the Carter Administration's unilateral decision to terminate the CRBRP ostensibly for the purpose of influencing an international nuclear nonproliferation policy. In 1978, the Carter Administration proposed to replace this breeder plant commitment by a paper study on the basis that the plant size is too small and the design obsolete.

The Administration's position that termination of the CRBRP is an effective signal of our nonproliferation concern to other nations has been already proven wrong. Those nations have indicated they will proceed with their own breeder reactor programs whether or not the United States proceeds with the Clinch River Breeder Reactor Project. In fact, the Japanese announced fifteen months ago that they will have their spent fuel reprocessed by the British and the French if the United States elected to defer demonstration of breeder technology. They recognize that deferring breeder technology and reprocessing is a decision to ignore a nearly limitless energy supply in natural uranium. A recent GAO report states that building the CRBRP will have no effect on weapons proliferation, the plant size is an advantage in terms of breeder safety and that the design is a prudent next step in breeder development.

The Republican Policy Committee also is concerned over the proliferation of nuclear weapons but feels that modern technology and safeguards are adequate protection, such as the CIVEX diversion-resistant scheme to reprocess nuclear fuel which will blunt any terrorist threat. Thus, the Policy Committee does not believe that continuation of CRBRP activity will accelerate proliferation.

In the past year there have been many projections of this nation's future energy requirements against our energy resources. In recent months, the long gasoline lines have reminded us of our unstable sources of energy supply, yet Americans are asked by the Carter Administration to turn our backs on nuclear power when each 1000 megawatt plant could save over 25,000 barrels of oil per day. The fact is that our supplies of oil, natural gas and even coal are exhaustible. And, it is too early to assess the real promise of solar and fusion power. In view of these facts, Congress has a responsibility to continue development of breeder technology and reprocessing to a level of large-scale technical demonstration. To abandon or defer such a major and promising source of energy at this time would be irresponsible. As a positive response to our domestic energy supply problem Congress should retain funding for the Clinch River Breeder Reactor Project in H.R. 3000. Deferring development of the CRBRP in view of our growing domestic energy demand could result in abondoning an energy option essential to meeting this nation's future requirements. We must retain a national commitment to build a breeder reactor plant; we cannot settle for a paper study.●

DEATH OF HENRY HALL WILSON, JR.

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 23, 1979

● Mr. FOUNTAIN. Mr. Speaker, several of my colleagues and I joined to pay tribute earlier this week to the late Henry Hall Wilson, Jr., of Monroe, N.C., who passed away on Sunday, July 22. Many Members of this House will remember Henry Hall's very able and competent service here as a White House congressional liaison official during the Kennedy and Johnson administrations.

At this point, I would like to print in the RECORD two obituaries of Henry Hall Wilson from the Washington Star and the Washington Post, as well as an editorial from the Raleigh News and Observer.

The material follows:

HENRY H. WILSON DIES; EX-PRESIDENTIAL AIDE

Henry Hall Wilson, Jr., 57, an administrative assistant to Presidents John F. Kennedy and Lyndon B. Johnson, died yesterday in Presbyterian Hospital in Charlotte, N.C.

Mr. Wilson had been in declining health for almost a year, his family said, and he had been in the hospital since July 3.

Mr. Wilson received a B.A. degree from Duke University in 1942, served in the Army during World War II and returned to Duke and received his law degree in 1948.

He returned to his native Monroe in Union County to practice law and served three terms in the North Carolina General Assembly between 1953 and 1959. He also was a member of the Democratic National Committee during that time.

In 1960, he was North Carolina chairman for Kennedy's presidential campaign. When the Kennedy administration was searching for bright young liberals to work for the government, Mr. Wilson was selected as an administrative aide for Kennedy, working directly under Lawrence O'Brien, the liaison between the White House and Congress.

Mr. Wilson's specific assignment was as liaison between the executive branch and the House of Representatives.

Because of the successful operation of the administrative team in getting bills moving in Congress, Johnson asked Mr. Wilson to stay on as an aide following the assassination of Kennedy.

As administrative aide to Johnson, Mr. Wilson was one of the White House's top lobbyists on Capitol Hill. He acted as troubleshooter and coordinator and helped guide the administration's bills through congressional mazes and also helped keep the president informed about the mood of Congress.

He resigned in 1967 to become president and chief executive officer of the Chicago Board of Trade. In 1968, Johnson appointed Mr. Wilson head of a commission to travel to Eastern European countries to promote international trade.

In 1973, Mr. Wilson quit his $115,000-a-year job in Chicago to run for the U.S. Senate seat then held by Sam Ervin, but he came in third in the Democratic primary which was won by the current holder of the seat, Sen. Robert Morgan.

After that campaign Mr. Wilson was a business consultant and was at work on a book about relations between presidents and congresses when he died.

He leaves his wife, Mary, two daughters, Jean and Nancy; and a son, Henry H. 3rd.

HENRY H. WILSON, EX-LEGISLATIVE AIDE WITH KENNEDY AND JOHNSON

Henry Hall Wilson Jr., 57, a former legislative aide to presidents John F. Kennedy and Lyndon B. Johnson, died of a gastro-intestinal ailment Sunday in a Charlotte, N.C., hospital.

He came to Washington in 1961 to serve under Lawrence F. O'Brien, who then was special assistant to the president for congressional relations. Mr. Wilson's responsibility was liaison work with the House of Representatives, especially the Southern delegations.

Mr. Wilson was an administrative assistant to President Johnson in 1967 when he left the government service to become president of the Chicago Board of Trade. He left the Board of Trade eight years later to run unsuccessfully for the Senate from North Carolina.

He was a native of Monroe, N.C., and a graduate of Duke University and its law school. He served in the North Carolina state legislature for six years before coming to Washington.

Survivors include his wife, Mary, of the home in Monroe; two daughters, Jean Mulvihill, of Durham, N.C., and Nancy E. Wilson, of Cambridge, Mass., a son, Henry Hall Wilson III, of Charlotte; a brother, John, of Toledo and a sister, Anne Yard, of Upper Montclair, N.J.

WILSON DISTINGUISHED HIMSELF

North Carolina lost a distinguished citizen Sunday with the death at age 57 of Henry Hall Wilson Jr., of Monroe. Wilson served Presidents John F. Kennedy and Lyndon B. Johnson in the 1961–67 period in a congressional liaison role. He later became president of the Chicago Board of Trade, returning to North Carolina in 1973 to make an unsuccessful bid for the U.S. Senate.

Wilson's statewide public involvement went back to 1960 when he figured strongly in Terry Sanford's gubernatorial campaign and also served as Kennedy's state campaign manager. President Johnson kept Wilson after Kennedy's assassination and used him extensively in pushing his "Great Society" programs through Congress, with special attention to members of Congress from the South.

The Union County man got extensive praise for his work as chief executive officer with the Chicago Board of Trade, although he had no previous experience with commodities trading when he took the job. But North Carolina and politics were his first love, drawing him home to run for the Senate in the Democratic primary, a race he lost to then Attorney General Robert Morgan.

Wilson died before completing a book entitled "A More Perfect Union," based on relations between the presidency and the Congress. His more than 13 years of public service, including six years in the N.C. General Assembly, assure Wilson a place in this state's history.●

JUSTICE FINALLY DONE FOR DR. MUDD

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SIMON. Mr. Speaker, for the past 2 years, I have been working with a dedicated and persistent man to right a century-old injustice. Dr. Richard Mudd of Saginaw, Mich., has spent more than 50 of his 80 years in a campaign to clear the name of his grandfather, Dr. Samuel Mudd, who was convicted of conspiracy to assassinate Abraham Lincoln.

Samuel Mudd's crime was to set the broken leg of a bearded man who came to his home in southern Maryland on the evening of April 14, 1865. That man turned out to be John Wilkes Booth, who had earlier that night mortally wounded Lincoln and then broken his leg as he fled. The beard he wore to Dr. Mudd's home was a disguise. He gave the doctor a false name, and he said he had fallen off his horse.

There is no evidence that Dr. Mudd committed any crime. His trial by a military commission was unfair and illegal. His sentence to life imprisonment was a travesty of justice. It shows the type of irrational actions we, as a nation, can take in times of passion.

The doctor was granted a full pardon by President Andrew Johnson in 1869, and now—110 years later—another President has taken a stand against the injustice that was done to Samuel Mudd.

Yesterday, (Wednesday), President Carter signed a letter to Dr. Mudd's grandson, Richard Mudd, expressing his personal belief in Dr. Mudd's innocence.

The letter was in response to a petition sent to the President in 1977 by Senator CHARLES McC. MATHIAS and myself, along with 26 of our colleagues, asking that the case be overturned.

This case is of little importance to most people but is extremely important to the many descendants of Dr. Mudd who lived with a shadow over their name because of the injustice done to their ancestor. The term, "Your name is mud," grew out of the conviction of this quiet country doctor who was only doing his duty.

Dr. Mudd first heard of Lincoln's assassination after he had treated the visitor's leg. After Booth and his companion left the Mudd home, Mrs. Mudd told her husband one of the visitors wore a fake beard. She had seen it slip.

His suspicions aroused, Dr. Mudd reported to authorities that he treated the leg of a stranger who might possibly have been the assassin. Eight days later, despite his full cooperation with investigators, the doctor was arrested.

The authorities subjected Dr. Mudd to cruel treatment while he awaited trial. They chained him, packed his eyes and ears with cotton and covered his head with a heavy canvas bag. Dr. Mudd was held for 19 days before formal charges were filed. The charges were finally announced the day before the trial, and Dr. Mudd could not get a lawyer until after the trial had started.

A military commission appointed by President Johnson heard Dr. Mudd's trial, although he was a civilian and there was no reason to sidestep a jury trial which the Constitution guarantees. The commission refused to let the doctor testify on his own behalf, witheld relevant evidence and intimidated a witness.

After serving 4 years of his life sentence, Dr. Mudd was pardoned for heroism in fighting a yellow fever epidemic in prison.

In granting the pardon, President Johnson expressed doubts about the validity of Dr. Mudd's conviction. The pardon states that Dr. Mudd aided the escape of President Lincoln's assassins, but was not involved in the assassination plot itself.

Dr. Mudd's descendants had hoped President Carter would declare their ancestor's conviction null and void. They gained the support of seven State legislatures and many of us in Congress who are interested in both history and justice. Unfortunately, the President has found that he lacks the authority to act further in the case, but his expressed support for the efforts of the Mudd family and his personal affirmation of the doctor's innocence are to be congratulated.

I include President Carter's letter to Dr. Richard Mudd at this point in the RECORD:

THE WHITE HOUSE,
Washington, D.C. July 24, 1979.

TO DR. RICHARD MUDD: I am aware of your efforts to clear the name of your grandfather, Dr. Samuel Alexander Mudd, who set the broken leg of President Lincoln's assassin, John Wilkes Booth, and who was himself convicted as a conspirator in the assassination. Your presistence in these efforts, extending over more than half a century, is a tribute to your sense of familial love and dedication and is a credit to the great principles upon which our nation was founded.

Your petition and the petitions submitted to me on behalf of your grandfather by numerous members of Congress, several state legislatures, historians and private citizens have been exhaustively considered by my staff over the past two years. Regrettably, I am advised that the findings of guilt and the sentence of the military commission that tried Dr. Mudd in 1865 are binding and conclusive judgments, and that there is no authority under law by which I, as President, could set aside his conviction. All legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon on February 8, 1869.

Nevertheless, I want to express my personal opinion that the declarations made by President Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment.

While a pardon is considered a statement of forgiveness and not innocence, the Johnson pardon goes beyond a mere absolution of the crimes for which Dr. Mudd was convicted. The pardon states that Dr. Mudd's guilt was limited to aiding the escape of President Lincoln's assassins and did not involve any other participation or complicity in the assassination plot itself—the crime for which Dr. Mudd was actually convicted. But President Johnson went on to express his doubt concerning even Dr. Mudd's criminal guilt of aiding Lincoln's assassins in their escape by stating:

"* * * it is represented to me by intelligent and respectable members of the medical profession that the circumstances of the surgical aid to the escaping of the assassin and the imputed concealment of his flight are deserving of a lenient construction, as within the obligations of professional duty and, thus, inadequate evidence of a guilty sympathy with the crime or the criminal;

"And * * * in other respects the evidence, imputing such guilty sympathy or purpose of aid in defeat of justice, leaves room for uncertainty as to the true measure and nature of the complicity of the said Samuel A. Mudd in the attempted escape of said assassins * * *."

A careful reading of the information provided to me about this case led to my personal agreement with the findings of President Johnson. I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Sincerely,

JIMMY CARTER.●

ANARCHY UNDER THE DOME

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. MICHEL. Mr. Speaker, there have been volumes written in recent months concerning the causes of what President Carter refers to as a national "malaise". The President blames it on Congress and "special interests"; others blame it on the President.

A recent editorial in the Journal-Star of Peoria discusses this issue and comes to the conclusion that "the process isn't processing," that is, we are so involved with extreme and non-negotiable positions on many issues that we cannot get to a point where our democratic process begins to function.

I commend this thoughtful editorial to your attention.

At this point I wish to insert in the RECORD, "Anarchy Under the Dome," the Peoria Journal-Star, July 22, 1979:

ANARCHY UNDER THE DOME

(By C. L. Dancey)

What's wrong in Washington?

Why is it "leaderless?"

Why do we have a runaway bureaucracy, a runaway media, Kilkenny Cats for a Congress, and presidential programs that drop down the well and are never heard from again, while the problems they were supposed to deal with grow like weeds and threaten us with crisis after crisis, shortage after shortage?

Is it lack of leadership in the personality of Jimmy Carter? Or is it the collapse of the Congress into political anarchy right there under the Capitol Dome, itself?

Republican Presidents got more consideration from Democratic Congresses than this Democratic Congress gives to its Democratic President.

This is the politics of the '70s which have emerged since the street politics of the '60s.

The old coalition often had contrary interests and contrary views—but they had one thing in common. They really believed in a democratic society, and knew that this required some measure of tolerance, of understanding, and hence of mutual cooperation.

The new coalition talks a good deal about tolerance, understanding and the virtues of keeping an open mind—but display those qualities never.

They take an all-or-nothing approach to a series of single issue dogmas in which you are either a True Believer or a Heretic and they are ready to burn heretics at the stake.

There are the Naders, the Bella Abzugs, the Jane Fondas, some of the labor leaders, the anti-nukes, the macho "feminists" biting and scratching for ERA, the military haters against any new weapon, the corporation-killers who want to transform any problem into a socialist solution, the Black Caucus, and the Back-to-Nature gang that have made a religion out of environmentalism.

And there are their brothers and sisters under-the-skin, the Red-baiters, the Panama Canal shouters, the anti-abortionists, the Tax Revolutionists, the Gun Lobby, the 'Law and Order' lower-the-boom group, the energy at-any-price nuts.

Each of these breaks down into sub-cells—as impervious to all else as the larger groups. Take energy alone. It breaks down into the nuclear fans, the solar energy fans, the fusion fans, the electric car fans, the magic carburetor believers, the windmill fanatics, the gasohol zealots, the propane proposers, the coal lobbyists (union and company), the mass transit proponents, and even, still, the "there's really lots more oil" dreamers.

What they all have in common is a total lack of tolerance, open-mindedness or understanding—a total unwillingness to cooperate with anybody else—and hence a total incapacity to respect the democratic process.

Result: the process isn't processing.

The bureaucracy rolls along with all its semblance of perfect, inflexible, paper order screwing things up across the land in a very structured fashion—giving us the illusion of a government in command . . . but it is really a bureacracy running out of control. It has no head. It issues contradictory orders and makes contradictory demands. It does one thing through one branch and cancels it out through another. It has no direction, no priorities, and no loyalties.

The media have no pretense of either order or control—least of all self-control—and simply boasts of being the runaway Fourth Estate of government, chasing off for anything that either does spectacular damage or presents the newsman, himself, as superior to all those clunkers with serious responsibilities in business management, political administration or military command.

The Congress continues the surface show of committees, bills filed, witnesses called, speeches made—but turns out to be an exercise in political anarchy under the Dome of the Capitol, itself.

People whose lives are in government have turned to the practice of anarchy instead of democracy in those halls. They are no longer in politics. They are in Show Biz. They will sell out their mother for a 30 second exposure on national TV, and they do sell out the national interest for a "grabber" headline on the front page.

There is no longer a value system on the Hill, except the dubious values of the "media"—which are not based on performance results—but on the dictum "Don't be boring."

Facts, especially a real gathering of detail facts, are usually boring.

People, ergo, who deal in facts, who probe things with some depth, are boring.

And in this International Year Of The Child, that's the key value judgment on the Hill.

It is every man for himself. It doesn't really matter who proposes a program, you can't get on TV or the front pages just agreeing with him! So, everybody has a "better plan"—and no plan ever gets done.

Is this Jimmy Carter's fault?

We shouldn't kid ourselves that we can just change faces at the other end of Pennsylvania avenue and a booming voice and commanding presence—with a few perks on the side—will turn them all into purring pussycats and give everything a sense of direction again.

The real cure is needed at the other end of that avenue.

Or, perhaps, the real cure is on the street where you live.

We have to have an end to these extremists dominating the national dialogue and drowning out the voice of reason.

We have to find a value system solider than what flows from bubble-heads with a flair for drama or the collected wisdom of a Johnny Carson's anonymous joke writers.

And we are training our politicians, daily, in the Wild-And-Crazy-Guy school of economics, history, foreign policy, military defense and future technology.

What we need, friends and fellow countrymen, is to be bored for a while—to listen to somebody who is boring, for once, somebody who knows what he's talking about, and lays it out carefully, fully and responsibly.

What we don't need are all these ideologues, who, like Carson's Carnak the Magnificent, in their wondrous and mystical way divine the answers before the questions are even known. Under such a system, who needs facts? Who needs analysis? You know what you are going to choose to believe in advance.

So long as this is the approach to problems in this society, about all you can say is that this is, indeed, The International Year Of The Child.●

ANOTHER VIEW OF SYNTHETIC FUELS

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, while we are seeking to identify solutions to our country's energy difficulties, I feel it very important that all sides of the various proposals considered in the legislative arena be heard.

As the record shows, I have been a strong proponent of pilot programs in synthetic fuels which could help us along toward self-sufficiency in petroleum-based products.

Most recently, during House consideration of synthetic fuels legislation on June 26, I strongly supported an authorization that hopefully will bring us a 2 million barrel a day of crude oil equivalent in the next 10 years.

The President has approved a somewhat larger program, moving basically in the same direction.

Nevertheless, it is my feeling that all of us who are neither engineers or scientists need to examine other sides of the question as well.

A colleague, Mr. Stockman of Michigan, has expressed his ideas in an article entitled, "The Senseless Stampede to 'Synfuels,'" which is made available here for the Record:

The Senseless Stampede to "Synfuels"

(By Dave Stockman)

The current synfuels stampede is official Washington's version of tank-topping—a momentary eruption of the herd instinct based on yesterday's news and today's apprehensions. Fortunately, the nation's gasoline lines are already diminishing in response to improving news, marginally better fuel supplies and the recovery of public composure.

Our best interests now will be served if the synfuels line on Capitol Hill dissipates and if President Carter, if he is to avoid yet another bad idea, forswears support for the synfuel stampede in his televised speech scheduled for tonight.

To be sure, synthetic fuels produced from heavy oils, tar sands, shale or coal will someday be as commonplace as imitation brick fireplaces. The energy appetites of industrial societies, the prodigious deposits of these substitutes that are available and our existing technical knowledge virtually guarantee this. But what will happen someday is not the issue.

The question is whether, on this side of the horizon, a $60 billion to $150 billion program to turn out 2 million to 4 million barrels a day of synthetic fuels would accomplish any of its backers' aims. The answer, despite all the rhetoric and breast-beating, is that it wouldn't.

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980s and little impact in the 1990s. It would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian-type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

Yes, there may well be reason for Washington to promote a few demonstration synfuel plants at present, and there are other important steps we can take. But the last thing we need is a multibillion-dollar illusion to satisfy our national macho, to stroke ourselves with the mistaken belief that, finally, we are "doing something" about the energy problem.

What's happened amid the current synfuels euphoria is that many inconvenient facts have been ignored. The proposed plants, for example, wouldn't come off some Department of Energy cookie cutter. They would require massive emgineering and construction feats for "first of a kind" projects.

Coal-liquids and shale-plant technologies, feed-stock characteristics and site potentials vary so widely that they are not likely to become standardized any faster than lightwater nuclear reactors have been. Yet there are only a handful of world-scale engineering firms with the resources and specialized manpower to handle detailed, final plant designs and construction management.

These plants would also result in major environmental assaults, involving many air and water pollutants and, in the case of shale, the disposal of massive volumes of toxic tailings. Even a fast-track approval process by environmental regulators would likely take two to three years because of the irrational complexities of Clean Air Act preconstruction requirements.

In addition, simultaneous construction of 10 to 25 such plants would severely tax the skilled manpower and manufacturing capacity for a long list of critical components and sub-systems. Finally, we should not ignore the experience of the only large-scale syncrude plant functioning today, the 130,000-barrel Canadian tar sands facility: It has been plagued with start-up problems for nearly a year and is currently producing at substantially below rated capacity.

All this should make it clear that a massive synfuels program authorized this summer would not affect the world oil price by so much as a dime before 1987. We would be fortunate to have 500,000 barrels a day of reliable output by the end of the next decade. That would be less than a 1 percent addition to the 50 million-barrel-a-day world petroleum market—not much of a lever on oil prices. Even if we managed to turn out 2 million barrels a day by the early 1990s—which would take an estimated 40 synfuel plants—it would increase world supply by only 3 percent, again with only a modest impact on price.

Whatever the long-run prospects, then, a major U.S. synfuels program would do practically nothing about OPEC, and precious little about the world oil price, for at least a decade and a half.

Or you might want to consider the cost-benefit equation another way: A 2-mile-a gallon increase in the average fuel economy of the U.S. auto fleet in 1985 would equal the annual output of 10 synfuel plants.

ESTIMATES VERSUS REALITY

Another misleading notion of the synfuels crusaders is that the world oil price now is rising fast enough and production costs will be low enough for coal and shale liquids to be competitive by the time the synfuel plants are operating. The ease of taking giant risks with other people's money, of course, often makes bureaucrats and politicians overlook critical distinctions that private investors can ignore only at the peril of losing their own money.

Private investors, for example, do not believe the cost estimates derived from their own DOE-financed pilot projects. There is a world of difference between back-of-the-envelope estimates drawn from small-scale experiments and the detailed engineering specifications needed for full-scale plants.

The experience of the Colony Group that planned to build a surface retort shale plant shortly after the first oil embargo is instructive. The back-of-the-envelope estimate before November, 1973, was under $7 a barrel. By the time the detailed engineering specifications had been completed in August 1975, the break-even price had jumped to $22 a barrel. That figure is now nearly $30 a barrel, and that doesn't include additional expenses stemming from toxic-substance and environmental regulations.

There should be no illusions, therefore, that most synfuels would cost anything less than the equivalent of $30 to $40 a barrel of crude oil—and that is in real dollars. If we keep inflating our economy at 10 percent a year, the nominal dollar cost would double to the $60 to $80 range before 1985.

Indeed, the naive assumption that the world oil price is rapidly closing in on the range at which synfuels will become competitive stems from our habit of measuring the world oil price in terms of the counterfeit money we print at home. What matters to foreign oil sellers, naturally, is not the nominal dollar price but the real terms of trade—the command over western steel, engineering services and foodstuffs held by each exported barrel of a wasting assets.

In the context of that buying power, a substantial share of the oil price increase this year was necessary just to restore the terms of trade established in the fall of 1975. From then until last December, the real OPEC oil price—adjusted for dollar-exchange value loss and western inflation—declined by a full 20 percent. If the new $19 average price sticks, by year-end the real price of oil will have risen by less than 9 cents a gallon over the past four years.

In short, it would take a 4 percent annual increase in the real oil price over the next 15 years to close the present competitive gap. In light of the prospects for new production outside OPEC and continued fuel substitution and energy efficiencies around the world, that rate of real price escalation is by no means guaranteed. Scratch another argument.

THE IRANIAN SYNDROME

What the synfuel stampeders fail to recognize is that our current vulnerability does not stem from price pronouncements following the theatrics of oil ministers' meeting in Geneva. The real dangers for us are unplanned and undesired convulsions in the producing areas themselves—the Iranian syndrome—and our failure to be prepared for them. The synfuels panacea would do almost nothing to ease this problem.

Our vulnerability lies in the *structure* of the world oil production system, not in our absolute level of daily imports. There is simply no spare production capacity available now anywhere in the world, with the questionable exception of Saudi Arabia. This means that the mammoth free world oil supply system is balanced precariously on a "ragged edge." Any significant production curtailment will touch off a worldwide scramble for suddenly scarcer supplies, with enormous upward pressure on prices until production is restored or a new price equilibrium is reached.

The key question here is whether the proposed new synfuel plants, if and when they are ever built, would be held in reserve as *spare* capacity or would simply become part of the world's *base* capacity.

It is inconceivable to me that synfuel crusaders intend for these multibillion-dollar giants to stand idle most of the time, waiting for a bomb-thrower in Baghdad to require a throttle-up to full production. Just a million barrels a day of stand-by synfuel capacity would cost nearly $100 million a week to maintain in idle plants, even at today's optimistic estimates of capital costs.

Given the determination of politicians and others to keep plants operating and feeding local economies, it seems much more probable that any new synfuel production would be immediately absorbed in a fuel-hungry world marketplace. True, such production would back out a modest equivalent volume of U.S. oil imports. But the effect would be to lower marginally the average world price and thereby increase global consumption, rather than to create spare production capacity abroad and stand-by protection against sudden supply disruptions.

In a world in which the marginal sources of petroleum supply carry an exceedingly high cost, the only way to get off the "ragged edge" is with low-cost *storage*.

Crude petroleum can be stored in salt domes and other geological formations for substantially less than $1 a barrel. An internationally coordinated, 2-billion-barrel storage program for all the non-communist industrialized nations that are members of the Organization for Economic Cooperation and Development (OECD) would cover a production outage of up to 5.5 million barrels a day for a year—or two years' worth of last winter's net loss from the Iranian interruption.

Spread over annual petroleum consumption in the industrial world, that amounts to an insurance premium of less than a half penny a gallon. Admittedly, periodic storage filling would subtract from current consumption and raise oil prices. But the alternative—with or without synfuels—is in effect to own a flammable house without fire insurance. If only a fraction of the political energies now being expended to grease the synfuels pork barrel were devoted to a domestic and international stockpile program, our energy security would be substantially greater for the rest of the century.

PAYING THE PRICE

This is not all we can do to ease our oil problems. First and foremost among other practical solutions is the need to pay the full world price for petroleum, particularly gasoline. Regardless of the rhetoric of so-called consumer spokesmen, consumption responds powerfully to price. In the five years from 1973 through 1978, energy consumption in the OECD area dropped by a staggering 5.5 million barrels a day relative to the pre-embargo relationship between real economic growth and energy demand. Moreover, these efficiencies will persist and grow over time simply because of the long turnover cycle for the major energy-consuming capital stock—homes, autos and industrial plants.

We also must realize that there are numerous ways to use our most abundant domestic fuel resource—coal—far more cheaply than via multibillion-dollar liquefaction plants. Substantial amounts of residual and heating oils could be freed up from the steam-generation sector for transportation and chemical feedstock use if we were to adopt sensible sulphur-control rules for direct coal combustion. Moreover, clean coal conversion technologies are already commercially proven and will increasingly penetrate industrial and commercial markets in the years ahead.

Finally, we need to get off our home-canning kick. The best prospects for moderately priced liquid hydrocarbons do not lie in the coal of Appalachia or the shale of Colorado. Instead, they lie in the vast heavy oil and tar sand reserves of the Western hemisphere and in unexplored sedimentary basins throughout the non-OPEC developing world. The development of these former resources is already proceeding apace, with two Canadian tar sands plants already on-stream and three more on the way.

In the latter case, there remains a political and institutional barrier: the reluctance of developing nations to share their irreplaceable hydrocarbon resources with the likes of Exxon or Mobil. But U.S. dollars invested in the World Bank program designed to bridge this barrier are likely to do far more to improve our future energy condition than all the grain ethanol, solar power towers and coal liquid plants that the congressional pork barrel can possibly build at home.

There may well be a persuasive rationale for a few demonstration synfuels plants at present. But the suspicion that these plants are not yet competitive could be readily tested simply by taking bids at a guaranteed purchase price of no more than $5 a barrel above the world price over the life of the plants. If such a limited arrangement does not coax private capital out of the banks, it would be good reason to keep billions in public capital in the Treasury.●

HELICOPTERS—TIME OF TRANSITION

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SNYDER. Mr. Speaker, these are the days of supersonic, wide-bodied jet aircraft, and we keep hearing about the many positive aspects of those particular planes. We also hear about the many airport facilities and navigational aids needed to keep these aircraft flying.

However, I believe it is time we seriously consider the attributes of yet another aircraft—the helicopter. The following speech given by Mr. Gerald J.

Tobias of Sikorsky Aircraft to the American Helicopter Society presents a very timely view on the many uses and possibilities of the helicopter.

The speech follows:

HELICOPTERS—TIME OF TRANSITION

(Address by Gerald J. Tobias)

The helicopter industry has made tremendous strides in technology during the last ten years. We have stimulated new patterns of transportation, we enjoy a new helicopter economics that is competitive with our fixed-wing aircraft colleagues, and we stand on the verge of large market gains in sectors that have been the province of small turboprops.

But it seems to me that we are always on the verge; it isn't happening. The reason it isn't happening is that the infrastructure is still unprepared for this technology. Part of this infrastructure is the responsibility of the private sector. For example, the banking community could open the marketplace to small helicopter operators, and the established fixed-wing operators could maximize their own long-range profits by beginning now to integrate rotary-wing equipment.

However, my concern this morning is with the responsibilities of the government. There is no question in my mind that the most important constraints on the development of the civil helicopter business are those imposed by federal, state, and local governments; whether through their failure to take initiatives, or by their insistence that rotary wing must fit the technical and procedural box that was created solely for the fixed-wing industry.

My thrust today is not toward things that the government shouldn't do, but rather toward things that it can and should do, to relieve constraints on the development of civil helicopters. We'll consider two areas in which something can and should be done. One is the development of appropriate heliports in city centers, and the other is the establishment of an appropriate system of air traffic control and IFR airways for helicopters.

Before we address that, let's quickly review the bidding. In 1969 civil sales were only 8% of the total helicopter market. The industry has come a long way in the last ten years, hardened and enlightened by two recessions, made smarter and more creative by the forced technology jumps of the Vietnam War, still hungry for the growth and stability potential in the civil helicopter market.

The civil helicopter business is now the fastest growing sector of the aerospace industry. It is somewhat of a paradox, but the factors behind this recent growth are precisely those that dampened the civil sector in the preceding years: They are technology, capacity, and demand.

First, composites, new alloys, new construction techniques, and more efficient engines make today's products of our industry much more than a wish list. Secondly, with the wind-down on the military side, the industry has pursued the civil business in earnest. And finally, people now take the helicopter seriously: High-technology military helicopters and trunk-airline involvement stimulated an interest in post-war helicopters; because of this interest, increasing world affluence, and the healthy growth of civil aviation, the demand for helicopter services has grown exponentially.

The first big surprise for the owners of the new helicopters was that there was no place to land them.

The federal government has always accepted its responsibilities to the driving public by creating the roads on which cars must travel: It would be patently ridiculous to ask automobile owners to chip in for a highway before it was built.

Similarly, with the airplane's increasing acceptance in the 1920s and 30s, the Federal Government encouraged the creation of a comprehensive airport system so that individual airplane owners would not be confronted by an impossible requirement for a prohibitive front-end investment.

There can be no doubt that downtown heliports fall into the same category of essential infrastructure for an essential public service. Yet, while the cities in some cases have accepted their responsibilities in this regard, the federal government has not yet come forward with the kind of capital or even procedural encouragement that could bring about heliports of the size needed to serve the public in a meaningful manner.

There are more than 700 civil helicopters based within 250 miles of Washington that are unable to land downtown because there is no public heliport; in order to serve this city, they must use conventional fixed-wing facilities at National, and add to the congestion in the airways and the airport access system.

Of the major Northeast Corridor cities who published real or imagined plans for helicopter facilities in the CAB's 1969 Northeast Corridor Case, only New York City has public heliports downtown, and only New York has proceeded with a substantive heliport plan.

As traffic in the hub cities grows, and the possibilities of additional airports becomes a necessity, we recall that ten years ago the Port of New York Authority was ready to pay $375 million in 1969 dollars for the privilege of constructing another airport. Today that would cost 700 million dollars. We would do well to remember that a properly supported helicopter system could carry the incremental traffic at a fraction of the cost of conventional fixed-wings.

At the same time, let's not forget the general aviation traffic, which is the major factor in airport congestion. Today there is unquestionably a large component of biz-jet users that would be more than happy to fly helicopters if there were only a place to land downtown. And one result of airline deregulation will most certainly be a dramatic increase in biz-jet traffic.

What we are looking for is capital grants for heliport construction, modest by comparison with railroads, highways, or runways; regulatory understanding; and uniform, realistic requirements with regard to noise, zoning, and safety.

The second area in which something could and should be done is the development of the airways themselves. The industry has encouraged the development of non-interfering helicopter airways for many years, on the premise that low-altitude flight profiles, relatively low air speeds, and the ability to stop before you land, should permit the helicopter to operate freely in unused IFR airspace, and to relieve the all-purpose IFR system of some of its present congestion instead of adding to it.

Like many of you, we also operate helicopters routinely in the conduct of our daily business; and our corporate S-61N and SPIRIT aircraft are among the best IFR-capable helicopters in the world today. We too have had the frustration of flying IFR to New York City via fixed-wing airways that subject us to both adverse winds and holding patterns as we line up behind fixed-wing transports.

These are real problems that translate into costly delays, high operating costs, and frequent cancellations. Moreover, our presence in these fixed-wing IFR airways contributes to their overall congestion and has an adverse impact on the fixed-wing aircraft that truly belong there.

With the cooperation of the helicopter operators' community, the FAA has developed an experimental area navigation route for the Northeast Corridor. In September, the FAA approved Copter RNAV route 241, a truly appropriate helicopter IFR approach to New York City's 34th Street helipad. Hopefully, similar approaches will be developed to JFK and Boston's Logan Airport, and I am aware that the FAA—particularly the New England and Eastern Regions—are currently working this problem.

We urgently need a national airways system that incorporates rules, routes, equipment, and air traffic control procedures appropriate to helicopters. Our objective should be no less than IFR performance equal to our VFR performance.

We in the industry can continue to provide requirements and to suggest directions, and we can participate in the development, but the cost of the system and the organization effort should be borne by the Government. And these objectives must be addressed quickly if we are to capitalize on the potential of the civil helicopter, and help head off the imminent increase in fixed-wing airways congestion.

In the near term we need low-level helicopter routes and ATC procedures, and lower helicopter minimums and reserves. For the long term we need to move forward quickly to an appropriate navigation system, such as NAVSTAR, which appears to promise the most benefit to the total aviation system at the least cost. We are told it could be operational in five years. But the project is being delayed by some military agencies that are reluctant to phase out their present systems, and by some short-sighted fixed-wing interests who would prefer to have the R&D effort concentrated on nearer-term alternatives.

These alternatives, however, don't accommodate the helicopters, do nothing to accelerate the development of appropriate helicopter IFR airways, therefore do nothing to relieve fixed-wing airways congestion.

A month ago, the Administration proposed airport and airways improvements of $6.6 billion over the next five years and to allocate a billion dollars of trust-fund money to ATC operations. I am concerned that these sizeable sums of money may be spent on reinforcing the present inadequate systems of airports and airways thus making it even more difficult to bring about a system that can fully and effectively integrate rotary-wing aircraft.

I would recommend to the Federal Government—both the military and civil authorities who are working this problem—the importance and urgency of developing a navigation system within which fixed-wing and rotary-wing aircraft can go their separate, less congested, and less costly ways.

We in the helicopter business acknowledge and appreciate the objectives set by FAA Administrator Langhorne Bond in this regard, and the efforts that he has directed toward the Agency's helicopter operations development program. We are encouraged; and we, in turn, encourage Congressional and Administration support for an accelerated program.

These, then, are two areas in which government has a clear and immediate responsibility to the helicopter industry. We have made tremendous strides in the development of economic, effective, and appropriate civil helicopters during the past ten years; and we will continue to advance the state of the art of the quality and effectiveness of civil helicopters.

But further development of this section is now largely beyond the manufacturers' control.

It is now time for the government to acknowledge the strides that industry has made and restructure the airspace and total aviation environment that is solely under its control, to exploit the modern helicopter to its fullest potential today.

If we can get that together, then we will make it happen! ●

TRIBUTE TO CHARLES KROWN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. WAXMAN. Mr. Speaker, it is with pride and pleasure that I take this opportunity to pay tribute to a very special human being—Charles Krown of Los Angeles. On September 9, 1979, Mr. Krown will receive the Jerusalem Award from the Shaare Zedek Medical Center at a dinner being given in his honor at the Beverly Hilton hotel.

Whether engaged in a business enterprise or a philanthropic project, hard work, perseverance, and success have been the hallmarks of all that Mr. Krown has undertaken in his long and illustrious life.

Charles Krown was born in Odessa, Russia, December 25, 1898. At the age of 4 he came to the United States with his family and lived in various cities before settling in Chicago. He began his pharmaceutical studies as an apprentice in 1912, but they were interrupted by World War I, at which time he joined the Army Medical Corps. After his discharge in 1918 he was licensed as a pharmacist in the State of Illinois and operated a number of pharmacy stores in Chicago. In 1937 he expanded his business interests into other fields such as marketing photographic equipment and book manufacturing. He developed a well-known line of books, Krown-Kraft, which were sold nationwide and throughout Canada, Mexico, and Hawaii.

In 1946 Charles Krown retired completely from the business world in order to devote himself more fully to community and philanthropic work which involved his favorite areas of interest—institutions of higher learning and the State of Israel. At UCLA he was instrumental in establishing a department of Hebrew letters and literature.

Mr. Krown is a member of the board of counselors of the USC School of Pharmacy. He is a major benefactor of the school and was recently named an honorary alumnus. In 1953 Mr. Krown launched the school of pharmacy at Hebrew University in Jerusalem. Besides making major financial contributions he started a fund raising campaign in Israel for the school through the Israel Pharmaceutical Association. In 1954, in recognition of his activities, Hebrew University named him an honorary fellow for deserving individuals. Charles Krown is on the board of governors of both Hebrew University and the Technion, Israel's Institute of Technology. A fervent supporter of the State of Israel he has purchased more than $1,000,000 in Israel Bonds.

Since 1948, Charles Krown has made Los Angeles his home and has involved himself with many community activities including the Jewish Community Council (forerunner of the Jewish Federation Council), the University of Judaism and Hebrew Union College, among others.

I ask the Members to join with me, his wife Charlotte "Chic" and his daughter Elaine Krown-Klein in congratulating Charles Krown on all that he has accomplished. He is a first-class citizen, in the finest sense, of his community, his country and, indeed, the world.●

THE CASE FOR A BALANCED BUDGET AMENDMENT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. FINDLEY. Mr. Speaker, when an idea's time has come, its diehard opponents often raise a last-minute flurry of objections. That is just what has happened to the rising demand for a constitutional amendment to require a balanced Federal budget.

Proposed amendments, including my own, knocked around Congress for years, never gaining much attention. But this past year a grassroots movement put new life into the cause. A large number of State legislatures passed resolutions calling for a constitutional convention to draft a balanced budget amendment. Although the convention method has not been used since the original Constitutional Convention, the total number of States demanding action climbed to 30, just four short of the needed 34.

The atmosphere for fiscal reform is now charged. Early this year the Senate voted to balance the budget in 1981, and the House of Representatives came within two votes of considering a procedure to insure balanced budgets.

Yet nay-sayers, including prominent economists and politicians, are raising their voices too. And President Carter set up recently a White House office to coordinate an effort to turn public opinion sour on the idea.

The American people, however, remain committed. A February Gallup poll showed 78 percent in favor of a balanced budget amendment. And recent Associated Press/NBC and New York Times/CBS polls produced results nearly as overwhelming—those in favor were 70 percent and 73 percent respectively.

Americans are deeply concerned about the resurgence of double-digit inflation. After dropping from a high of 12.2 percent in 1974 to 4.8 percent in 1976, the inflation rate shot up again to 9 percent last year and hit a startling annual rate of 15.4 percent in February of this year and has stayed above 13 percent since.

Inflation hurts especially those whose incomes do not increase as fast as living costs. Nonsupervisory workers felt the spending power of their weekly earnings actually drop by 4 percent between 1973 and 1978.

If a family bought a new house last year at the average price, it cost them $56,000, 65 percent more than the 1973 price of $34,000. A new car cost an average of $6,775 last year, 72 percent more than the $3,930 paid 5 years earlier. And American families had to spend nearly $75 for a shopping cart of weekly groceries in 1978 that would have cost just $50 to clear the checkout stand in 1973.

Nor does the future look better for the average worker. If inflation continues at around ten percent, family purchases will cost nearly 60 percent more in 1983 than last year.

The typical family sees little advantage in saving money when inflation is high. The Federal Government prevents savings and loan institutions from paying more than 5¾ percent interest on short-term deposits, and U.S. savings bonds pay 6 percent at best. Thus the interest a family gets on savings does not begin to compensate for inflation. At a 10 percent inflation rate $1,000, even though earning interest, declines to about $800 in real purchasing power after 5 years in a savings account.

A strong thread in the American social fabric has been the willingness of citizens to put money aside for a rainy day and retirement. The steady grind of inflation on the value of those savings, however, makes millions of Americans unwilling wards of the State during their senior years.

And they find that burgeoning interest costs on a growing national debt, which the Government cannot avoid paying, weaken their Government's ability to help them. Last year the national debt of $780 billion cost the U.S. Treasury interest payments of $44.0 billion, nearly $740 for each American family. Unchecked deficit spending and inflation at the same rate as during the last 5 years will result in a national debt of almost $1.3 trillion in 1983 and annual interest cost of over $96 billion, more than $1,300 per American family.

Clearly inflation is the gravest danger we face—more serious than the Soviet threat, instability in the Middle East, or the energy crisis. America's leaders need to apply the same dedication toward bringing inflation under control that Abraham Lincoln gave to saving the Union over 100 years ago.

A long-range inflation-fighting program must be based on a constitutional amendment to require a balanced budget. Only a constitutional restraint can prevent elected officials from indulging in the too-easy temptation of deficit financing to win support from various special interests. All of the arguments against a balanced budget amendment fall before that compelling logic.

Examine them:

Argument. Balanced budgets will not necessarily cure inflation.

Inflation does have causes other than Federal deficit spending. These include Government mandated increases in personal income like minimum wage; oil price increases by the Organization of Petroleum Exporting Countries (OPEC); environmental, safety and other Federal regulations that boost costs to consumers; and the strong demand for goods and services created during high peaks in the business cycle. But a backbreaker that helps transform moderate inflation into intolerable double-digit inflation is Federal red-ink.

The Federal Government finances deficits in part by creating new money through the Federal Reserve System.

That spurs inflation, especially when skilled labor and capital are fully in use. Too much money chases too few goods and services. And that pushes prices up.

Keynesian economists cannot have it both ways. If deficit spending stimulates the economy is a recession, then we must keep it from overstimulating when the economy gets too hot. Milton Friedman is right. We are all Keynesians now, at least in that respect.

Argument. We need deficit spending during recessions. Balancing the budget during an economic slowdown could lead to an unplanned surplus, further depressing the economy.

Granted. That is why a balanced budget amendment must include an escape clause. Under most proposals Congress could incur a deficit by declaring a national emergency by a two-thirds vote of the House and Senate. Congress has proven sensitive in the past to protecting economic prosperity and faced with widespread unemployment would surely use the national emergency provision.

Argument. Under a balanced budget amendment Congress could not use fiscal policy to "fine tune" the economy, to smooth the hills and valleys of the business cycle.

Fiscal policy is too cumbersome for fine tuning. Budget experts, working months in advance, cannot predict spending and revenues any closer than a few billion dollars. Recession and double-digit inflation during the last decade proved that Congress is totally inept at fine tuning.

The Federal Reserve System could still counter recessions by putting more money into circulation and cool inflation by reducing the money supply. And it needs much less leadtime to make monetary adjustments than Congress needs to change the budget.

Argument. Congress cannot predict tax receipts well enough in advance to keep the budget in balance.

Estimates of tax receipts will, of course, prove too high in some years and too low in others. Over several years these errors in forecasting will tend to balance, and fiscal policy will have a neutral impact on the economy. A minor imbalance in any 1 year would cause no more inflation than the Government could easily correct through monetary and other policies.

Argument. Constitutional amendment is unnecessary since Congress and the President will respond to obvious public demand for a balanced budget.

Neither has so far. I introduced the first bill calling for a congressional budget procedure in 1972 with high expectations. Congress, I had hoped, would control deficits if it were required to weigh in a simple resolution total spending against total revenue. Congress had decided past fiscal policy piecemeal through separate bills, usually letting spending slide sharply out of balance with revenue.

Instead of encouraging fiscal responsibility, however, the congressional budget procedure has been perverted to legitimize unprecedented deficits in peacetime as large as those of World War II. In the past 4 years Congress used its new budget procedure to vote three deficits above $40 billion and a fourth almost that large—adding $171.2 billion in new debt in just 4 years.

Presidents have performed nearly as badly. White House occupants submitted red-ink budget proposals in 8 of the last 10 inflation-packed years.

Even if public pressure forces politicians to balance the budget for 1 or 2 years, a slide back into deficit spending would be likely after the public clamor dies down. Only a constitutional amendment can assure balanced budgets in the years ahead.

Argument. There is no safe way to amend the Constitution. Congress will not pass a balanced budget amendment, and a constitutional convention cannot be trusted to confine its actions to the purpose for which it is called.

Congress has moved closer to passing a balanced budget amendment than many of us would have dreamed a year ago. And Congress can certainly draft an amendment more quickly and easily than could a convention.

But if Congress does not act, a constitutional convention could do the job responsibly. Proposals by a convention would need approval by three-fourths of the State legislatures before becoming part of the Constitution. That provision provides an effective brake if the convention should act irresponsibly.

My home State of Illinois held a constitutional convention in 1970. The convention was charged with revising the entire State constitution, not simply proposing amendments. Yet it used that blank check with great restraint and responsibility. Delegates kept their work acceptable for ratification. There is no reason to expect a national constitutional convention to act less sensibly.

Argument. Budgeting is a technical process, too complex to be governed by a constitutional amendment.

A balanced budget amendment should be worded in constitutional language that is direct and uncomplicated. It should state simply that planned expenditures shall not exceed expected revenues except when Congress declares a national emergency by a two-thirds vote in both the House and Senate.

A balanced budget amendment should not and need not contain cumbersome verbage in an attempt to cover every conceivable contingency. The judicial branch will settle questions of constitutional interpretation.

Argument. We should not clutter the Constitution with prescriptions on fiscal matters not central to the basic principles of government.

Nothing is more basic to government than taxing and spending, especially now when Federal fiscal irresponsibility threatens our economy and national well-being. The 16th amendment gave Congress the power to tax income, a power that clearly concerns fiscal matters.

Lord Acton said that power corrupts and absolute power corrupts absolutely. The Constitution prevents the absolute abuse of political power. Our citizens have as much right to use their Constitution to control the absolute abuse of economic power.

They need and deserve a constitutional provision to curb inflation and preserve their economic future. Their leaders ought to get on with the job of carrying out that mandate.●

UNITED STATES SHOULD ENTER SALT II CAREFULLY

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. MYERS of Indiana. Mr. Speaker, our former colleague William G. Bray of Indiana, who served in this body for 24 years completed this article on Salt II the day before he was stricken fatally ill on May 31. His wife Esther, released it to the Indianapolis Star where it appeared in its July 22 edition.

The article follows:

U.S. Should Enter Salt II Carefully

(By William G. Bray)

Those who cannot remember the past are condemned to repeat it.—George Santayana—"Life Of Reason."

Russia and the United States have been dicussing phases of a possible SALT II (Strategic Arms Limitation Treaty II). The making of a treaty should be entered into with the greatest care, caution and knowledge possible, especially when that treaty limits or abandons weapons and methods of U.S. defenses that are important to the safety and wellbeing of our people.

Apparently the Soviets are quite interested in such a SALT treaty. The *Moscow News* information publication, printed in English and sent around the world by air, in its Oct. 17–20, 1978, issue carried the following in its "Viewpoint" column:

" . . . But we still don't have a SALT agreement, despite the fact that there is quite an adequate basis for signing it . . .

"All signs point to the fact that there are rather influential groups in the USA representing mainly the militarist circles and the military-industrial complex which want to hinder the signing of the agreement or to torpedo it altogether.

"The USSR is working consistently to complete the talks and get the agreement signed as quickly as possible."

The U.S. and Russia signed SALT I in 1972, a fact that has resulted in increasing controversy in America both as to our signing of a treaty which many believe lowers our defense capabilities and the fact that the Soviets have been and are violating their commitments under SALT I. It is to be hoped that American leaders are most seriously and carefully considering what might be the implications of signing another such treaty with the Soviets.

All too many national leaders and diplomats take great pride of accomplishment in announcing the signing of a treaty as a great diplomatic victory when the Soviets have in fact only negotiated such a treaty to weaken the defenses of our country. Treaties must be based on mutual trust and good faith in order to be effective. A treaty that is not going to be kept by both parties is a deterrent to peace and should be avoided. We must judge other countries on the basis of what they are and what their record in history shows them to be—not what they tell us they are.

The American officials today who are insisting on the signing of SALT II with Russia apparently "cannot remember the past" of Russian treaty violations. For those whose memory of the past is very short, we have the record of the SALT I of 1972. For the enlightenment of those Americans who today are working toward having the United States sign another SALT agreement with Russia, they should study the unfavorable results to our country from the 1972 agreement.

In the December 1977 issue of Reader's Digest, its lead story was headlined "Arms Control—The Russians Are Cheating!" The sub-head read, "Long-withheld Evidence Proves That, By Repeatedly Violating the SALT I Accords, the Soviets Are Posing a Grave Threat to U.S. Security."

This story was written and documented by Melvin R. Laird, a longtime authority on national defense, having been a member of the Defense Appropriations subcommittee of the House of Representatives before becoming secretary of defense, the post he had held when the United States entered into the SALT I accord.

Secretary Laird was in an excellent position to understand the negotiations leading to SALT I and to see how Russia took advantage of the terms of the accord. In this article, Laird wrote:

"As Secretary of Defense at that time (1972) I felt that the prospective benefits of mutual cooperation justified our taking a chance. But today, five years later, I must report that our hopes have not been realized and that our worst fears are rapidly becoming reality. The evidence is incontrovertible that the Soviet Union has repeatedly, flagrantly and indeed contemptuously violated the treaties to which we have adhered.

"This evidence has been withheld from the Congress, the press and the public. I believe there no longer is any excuse for denying the American people and their elected representatives facts whose suppression profits only our enemies."

The United States fails to understand that the Soviet Union and its predecessor, the Russian Empire, have, for centuries, been the most consistent violators of political promises and treaties of any nation that still exists.

A study made and published by Jan F. Trisca and Robert M. Slusser in *Theory, Law and Policy of Soviet Treaties* (Stanford University Press, 1962) concluded that:

"No agreements that the Soviet government makes to desist from Communist propaganda, subversion, or efforts to undermine the political, economic, and social systems of its treaty partners are in our view of any value . . ."

Early leaders of the Soviet Union took great pride in and boasted of their broken treaties. Said Lenin, in his *Selected Works, Vol. III* (page 301), "Yes, of course we are violating the (Brest-Litovsk) treaty; we have violated it thirty or forty times."

Josef Stalin bragged, in his *Works, Vol. II* (page 277): "A diplomat's words must have no relation to action—otherwise, what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for the concealment of bad needs. Sincere diplomacy is no more possible than dry water or iron wood."

As a specific example of Soviet infidelity, at the close of the Potsdam Conference in August 1945, it should have been apparent that unless Britain and the United States took a firm and positive stand against Russian territorial aggression, Russia would soon have absolute control of Poland, Hungary, Rumania, Bulgaria, Czechoslovakia, East Germany, Yugoslavia and Albania.

However, despite the clear evidence, a substantial number of Western leaders had an abiding faith that if we continued to yield to Russia, appealing to her on a basis of "high morality," she would change her pattern of aggression and would carry out the spirit expressed at Yalta. The futility of appealing to Russia on this basis soon became apparent. Russia absorbed these small countries and made them satellites within the Russian orbit.

These countries had several points in common. Each was a free country before World War II. In the case of each, Russia had promised the United States, Britain and the countries involved that she would not interfere in their internal national affairs, quoting as her pledge the Yalta Declarations on Liberated Europe. Russia broke her word and with violence, subversion and either armed force or the threat of it, installed a puppet government in each country. To this day the Soviet Union holds these countries in its grasp.

The Russian pattern of aggression has been successful over the last five centuries. It has enabled her to take over 46 distinct races speaking 61 languages. And still her territorial hunger remains unquenched.

History discloses that it is extremely rare that Russia has attacked a reasonably strong country which is determined to protect its freedom. It is unfortunate that so many countries have been unaware that Russian attacks usually are against nations that trust her and with whom there are ties of friendship and responsibility.

Are U.S. leaders being naive in again trusting Russian promises? Will the United States or the world be any nearer peace and freedom of mankind for the signing of another SALT treaty that has so little chance of being kept?●

THE DANIEL JAMES MEMORIAL CENTER FOR PREVENTIVE HEALTH EDUCATION ACT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. STOKES. Mr. Speaker, on February 25, 1978, America lost a great leader, Gen. Daniel "Chappie" James, Jr., the first black American to hold four-star rank in the Armed Forces of the United States. Today I am introducing legislation which will authorize funds to construct a lasting tribute to his memory.

General James was born February 11, 1920, as the youngest of 17 children. He attended Tuskegee Institute in Tuskegee, Ala., where he received a bachelor of science degree in physical education. There he joined the campus branch of the Army Air Corps aviation cadet program and was commissioned an officer. At that time, the Air Corps flight training was segregated. However, General James, along with other black airmen, staged a sitin at the officer's club helping to bring an end to Jim Crow in the armed services. Thus, while climbing the military ranks, he assisted in paving the road to equality in the military and continued to struggle for racial equality at home and abroad.

General James served with distinction and flew over 200 combat missions in World War II, the Korean war, and the Vietnam war. His heroism is evidenced by the many decorations he won for combat and leadership, including the Department of Defense Distinguished Service Medal (the highest noncombat award which can be presented to a member of the Armed Forces), the Air Force Distinguished Service Medal with one oak leaf cluster, the Legion of Merit with one oak leaf cluster, the distinguished Flying Cross with two oak leaf clusters, and the Air Force Outstanding Unit Award with three oak leaf clusters. Additionally, he became the commander in chief of the North American Air Defense Command (NORAD, a binational military command consisting of the United States and Canadian air defense forces), and commander in chief of the U.S. Air Force Aerospace Defense Command (ADCOM, the U.S. element of NORAD). In this dual capacity, General James was responsible for surveillance and air defense of North American airspace and for providing warning and assessment of hostile attack on the continent from bombers or missiles.

While General James was known worldwide for his military achievements, he will also be remembered for his community service for which he was awarded several civilian awards including the George Washington Freedom Foundation Medal, the United Nations' Service Medal, Veteran of Foreign Wars (VFW) Commander in Chief's Gold Medal Award and Citation, and the United Negro College Fund's Distinguished Service Award. And he was awarded an honorary doctor of laws degree from several universities including the University of West Florida, the University of Akron, Virginia State College, and St. Louis University.

Mr. Speaker, Gen. Daniel "Chappie" James was obviously a man of strong character and profound beliefs. In reaching his goal, he withstood the imperfections of the American society without losing his faith in the democratic system of government. As Defense Secretary Brown stated,

> We are wiser, more tolerant and stronger because of "Chappie."

I believe that Gen. Daniel "Chappie" James should be ranked among the most notable men in American history. His achievements, were for himself, his family, for Tuskegee Institute, for Blacks, and for the U.S. Air Force. More important, however, were his achievements for America. Thus, for America, Gen. Daniel James should be tangibly memorialized for posterity.

Because of the personality and the character of the man, the Daniel James Monument should be a functional facility. Thus, a very fitting monument would be the establishment of "The Daniel James Memorial Preventive Health Education Center" at Tuskegee Institute.

This monument should be at Tuskegee Institute for several reasons. First, it was the ROTC program at Tuskegee Institute that pointed General James in the direction of the Air Force and provided the basic fundamental training. Second, it was Tuskegee Institute that established the first pilot training that sent him on his admirable performance in three wars. And finally, Tuskegee Institute has already been recognized as a national resource, as evidence by its being designated a national historic site/district.

During the fiscal year, the Tuskegee Institute National Historic Site attracted 35,000 visitors and it is conceivable that this number will increase when this center, which would be erected adjacent to these historic structures, is completed.

In America, when the word "health" is used, it customarily evokes images of hospitals, clinics, physicians, technicians, cobalt machines, and multiplicity of high level professional skills and expensive technologies. All of these elements, together with the almost sacred image of the research scientist with his test tubes turning out a marvelous array of new drugs and "cures," are seen as epitomizing the best medical "care" available in the world. Only recently and prodded by the staggering costs of attempting to provide these sophisticated services and technologies to the broader American populace, have we paused to recognize that these resources are in fact designed for "after the fact" intervention in disease processes, many of which are preventable.

For example, consider lung cancer and arteriosclerotic heart disease—two major killers in America. Both usually arise after decades of abuse to the body, with years of heavy smoking, drinking, high carbohydrate and fatty diets, obesity and lack of regular exercise playing a major role. We have begun to face the fact that nothing that can emerge from a clinic or a test tube can do as much to moderate such self-inflicted diseases as the adoption of self-imposed health changes in the way that people live.

Thus, by contrast to our highly advanced technologies methods for detecting disease and coping with its effects on the organism, our national concepts and national experience in the principles of effective health maintenance are still embryonic. This is particularly true in the area of health education where the existing models are few and of unproven effectiveness. Health and the elaboration of functional mechanisms for promoting and maintaining it will gradually become a primary national focus over the next several decades. This will be paralleled by a relative deemphasis of disease curative procedures based on prohibitively expensive technology. This swing of the pendulum will not be dramatic, abrupt or revolutionary, but it has already been set into motion by health planners at the Federal level.

I believe that leadership in this movement should come from the higher education sector and that an important facet of that leadership should and must come from those relatively few institutions that are firmly rooted by mission, by tradition, and by proven effectiveness in the service of those disadvantaged populations who currently bear the brunt of inequitable access to the high technology "curative" system of medical are—populations that, accordingly, have the most to gain from the effective introduction of health education and health maintenance systems. Tuskegee Institute is a prime example and might with some justification even be considered prototypical of those few truly unique institutions of higher learning.

Given the above facutal base and major opportunity for leadership in a nationally important area, Tuskegee Institute proposes a bold new kind of health education center—a facility that architecturally, philosophically, and in the programmatic activities that it will support, will provide a major new focus on those categories of activities designed to promote and reinforce those behaviors that lead to the optimum state of physical and mental well-being that we recognize as "health."

The following is an outline of the key program components and related concepts that will be served in the health education facility:

A. PHYSICAL EDUCATION

Physical fitness is but one aspect of physical health; however, it is a very important one and one that is generic to the concept of the optimally healthy person. Exercise is an essential element achieving physical fitness. Strength, stamina, endurance, and other desirable physical qualities are best developed through vigorous activity. Colleges and universities have a responsibility to their student bodies to provide programs and facilities that permit all students—men and women—to achieve and maintain adequate fitness levels. The President's Council on Fitness for Leadership has made structured suggestions for colleges and universities in this area. These recommendations include:

First. Provide for student health appraisals, interpretation of results and counseling of students.

Second. Require all students to demonstrate or acquire a satisfactory knowledge of sound health practices.

Third. Use physical achievement tests to assess student needs and measure progress. Provide special help for physically underdeveloped students.

Fourth. Require students to demonstrate or develop proficiency in swimming, conditioning exercises in several forms of sport, dance, and other activities.

Fifth. Provide leadership, programs, and facilities which will encourage students and faculty members to maintain a high level of physical fitness at all times.

The preventive importance of physical fitness is well known and centers on cardiovascular capacity, an increase in which is an observable and predictable benefit of exercise training. It is proposed that the health education facility would greatly enhance the capability of the institute to provide a structured physical education and physical fitness program. And, in keeping with one of the basic concepts outlined above, the facility would also serve in this regard as a center where individuals in the immediate and outreach communities may be instructed in and participate in such programs.

B. RECREATION

Recreation may be conceived at two levels, both of which would be served by the health education facility. First, the availability of and participation in a wide variety of social, creative, cultural, and related general activities arranged for the broad community. At the second and more precise level, recreation can be therapeutically prescribed to meet specific needs of specific individuals and/or groups. Tuskegee Institute currently sponsors activities at both these levels, including the preclinical training of students in the field of recreational therapy. Both will be strongly augmented by the availability of the health education facility as designed.

C. CORE CURRICULUM FOR THE HELPING PROFESSIONS

There is a basic core of concepts, principles, and information about the human condition that should be shared by all those entering the helping professions. It is envisioned that the Health Education Center would serve structurally as the focus for the conduct of special courses, seminars and other teaching-learning activities that would make up such a core curriculum.

D. HEALTH EDUCATION AND INFORMATION

A regional community health educational materials center will be an important function of the Health Education Center. Selected categories among the 30,000 voumes and 300 journals and serials that make up the Tuskegee Institute health sciences library collection would be housed at the center to support the structured educational activities to be conducted in the center.

E. COMMUNICATIONS

Since effective use of mass communication media for health education is a still relatively unexplored potential in health education, it is planned that future oncampus radio, television, or other related communications training programs could profitably be conducted utilizing the Health Education Center as a functional base.

F. HEALTH MAINTENANCE

In one sense, all of the above activities are relevant to the promotion and maintenance of health; however, there are important specific and discrete functions that should be included in the facility. One of these is physical assessment. Certain cardiorespiratory tests are fundamental to the understanding of an individual's "physical fitness" and/or prerequisites for the subsequent evaluation of an individual's progress in a health maintenance program. This type of assessment is sometimes carried out in traditional medical care settings; but more appropriately should be seen as part and parcel of a health maintenance offering. Such assessment should be an ongoing part of the Health Center's program and its utilization should be encouraged broadly in the campus and outreach communities.

There are two basic concepts underlying and buttressing the development of this facility and Health Education Center:

First. The center is conceived as serving not only the 3,500 young men and women who constitute the institute's student body at any given time, but shall serve as a major active interface between the institute and the local community, as well as between the institute and that broader "community" constituency that represents a major segment of the Alabama black belt. This concept has significant architectural ramifications. While a strong institute-community interface is a prominent feature of Tuskegee Institute, the specific community needs and institute programs that make up this Health Education Center interface can be expected to change many times over the anticipated 40–70 year life span of the proposed facility. Spatial flexibility and adaptability to multiple purposes are hallmark features of the factility.

Second. The facility should not only provide for new programmatic thrusts in the health education and health maintenance arena, but should augment the much needed integration of a number of the substantial and important existing programs that fall naturally under the health maintenance enterprise.

In conclusion, this center will have local, regional, national, and international significance. It will provide an atmosphere for educational and cultural enrichment to numerous students, local citizens, and visitors. Tuskegee Institute is well "positioned" in its history and in experience to assume a key leadership role in a major new thrust in American life—that is, the promotion and maintenance of the health of our citizenry as opposed to the cure and remediation of disease engendered by "unhealthy" attitudes and behaviors that constitute an important component of the American "life-style." The assumption of this leadership role, with its prerequisite pulling together of the institution's already substantive but fragmented programs and activities relative to health education and health maintenance, will necessitate a new facility having the characteristics and capabilities described in this concept paper.

The investment in such a facility promises tremendous returns over the next several decades in terms of the strong health orientation of the thousands of Tuskegee Institute students who will graduate during that period and bring these positive influences to bear tertiarily in those communities nationwide and worldwide where they do their life's work. A successful program thrust can, through the institute-community interface in health education, more directly affect the "health" of a significant segment of the outreach population in the black belt.

It is only proper that such an edifice to house this innovative idea in health should be constructed at Tuskegee Institute, which provided physical education and Air Force training to Gen. Daniel "Chappie" James, Jr., who in return gave so much to this country. He believed in this country and the democratic ideals for which she stands. In a 1967 letter that merited the Freedom Foundation's George Washington honor medal, he stated,

> * * * I am a citizen of the United States of America. I am not a second-class citizen and no man here is unless he thinks like one, reasons like one, or performs like one. This is my country, and I believe in her, and I believe in her flag, and I'll defend her, and I'll fight for her and serve her * * *.

Mr. Speaker, I ask my colleagues to join me in passing this legislation which will authorize funds to erect a lasting memorial to this outstanding military leader and great American, Gen. Daniel "Chappie" James, Jr.●

HELICOPTERS—TIME OF TRANSITION

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, as the 96th Congress gropes for a balanced transportation policy to serve the citizens of this Nation, I would like to bring to the attention of my colleagues an enlightening address by Gerald J. Tobias, president of Sikorsky Aircraft, which was delivered to the American Helicopter Society.

I invite you to take a few moments of your time to learn about the tremendous economic and effective developments this industry has accomplished over the past decade, which was partly because of our intensive reliance on helicopters during our involvement in Vietnam, and how we can best channel the civil helicopter to increase our mobility throughout society. Mr. Tobias explains in clear and simple language why hundreds of helicopters are unable to land in the midst of our Nation's Capital and are relegated to already overcrowded surrounding airports. The text of his speech follows:

HELICOPTERS—TIME OF TRANSITION

(By Gerald J. Tobias)

The helicopter industry has made tremendous strides in technology during the last ten years. We have stimulated new patterns of transportation, we enjoy a new helicopter economics that is competitive with our fixed-wing aircraft colleagues, and we stand on the verge of large market gains in sectors that have been the province of small turboprops.

But it seems to me that we are always on the verge; it isn't happening. The reason it isn't happening is that the infrastructure is still unprepared for this technology. Part of this infrastructure is the responsibility of the private sector. For example, the banking community could open the marketplace to small helicopter operators, and the established fixed-wing operators could maximize their own long-range profits by beginning now to integrate rotary-wing equipment.

However, my concern this morning is with the responsibilities of the government. There is no question in my mind that the most important constraints on the development of the civil helicopter business are those imposed by federal, state, and local governments; whether through their failure to take initiatives, or by their insistence that rotary wing must fit the technical and procedural box that was created solely for the fixed-wing industry.

My thrust today is not toward things that the government shouldn't do, but rather toward things that it can and should do, to relieve constraints on the development of civil helicopters. We'll consider two areas in which something can and should be done. One is the development of appropriate heliports in city centers, and the other is the establishment of an appropriate system of air traffic control and IFR airways for helicopters.

Before we address that, let's quickly review the bidding. In 1969 civil sales were only 8 percent of the total helicopter market. The industry has come a long way in the last ten years, hardened and enlightened by two recessions, made smarter and more creative by the forced technology jumps of the Vietnam War, still hungry for the growth and stability potential in the civil helicopter market.

The civil helicopter business is now the fastest growing sector of the aerospace industry. It is somewhat of a paradox, but the factors behind this recent growth are precisely those that dampened the civil sector in the preceding years: They are technology, capacity, and demand.

First, composites, new alloys, new construction techniques, and more efficient engines make today's products of our industry much more than a wish list. Secondly, with the wind-down on the military side, the industry has pursued the civil business in earnest. And finally, people now take the helicopter seriously: High-technology military helicopters and trunk-airlines involvement stimulated an interest in post-war helicopters; because of this interest, increasing world affluence, and the healthy growth of civil aviation, the demand for helicopter services has grown exponentially.

The first big surprise for the owners of the new helicopters was that there was no place to land them.

The federal government has always accepted its responsibilities to the driving public by creating the roads on which cars must travel: It would be patently ridiculous to ask automobile owners to chip in for a highway before it was built.

Similarly, with the airplane's increasing acceptance in the 1920s and 30s, the Federal Government encouraged the creation of a comprehensive airport system so that individual airplane owners would not be confronted by an impossible requirement for a prohibitive front-end investment.

There can be no doubt that downtown heliports fall into the same category of essential infrastructure for an essential public service. Yet, while the cities in some cases have accepted their responsibilities in this regard, the federal government has not yet come forward with the kind of capital or even procedural encouragement that could bring about heliports of the size needed to serve the public in a meaningful manner.

There are more than 700 civil helicopters based within 250 miles of Washington that are unable to land downtown because there is no public heliport; in order to serve this city, they must use conventional fixed-wing facilities at National, and add to the congestion in the airways and the airport access system.

Of the major Northeast Corridor cities who published real or imagined plans for helicopter facilities in the CAB's 1969 Northeast Corridor Case, only New York City has public heliports downtown, and only New York has proceeded with a substantive heliport plan.

As traffic in the hub cities grows, and the possibility of additional airports becomes a necessity, we recall that ten years ago the Port of New York Authority was ready to pay $375 million in 1969 dollars for the privilege of constructing another airport. Today that would cost 700 million dollars. We would do well to remember that a properly supported helicopter system could carry the incremental traffic at a fraction of the cost of conventional fixed-wings.

At the same time, let's not forget the general aviation traffic, which is the major factor in airport congestion. Today there is unquestionably a large component of biz-jet users that would be more than happy to fly helicopters if there were only a place to land downtown. And one result of airline deregulation will most certainly be a dramatic increase in biz-jet traffic.

What we are looking for is capital grants for heliport construction, modest by comparison with railroads, highways, or runways; regulatory understanding; and uniform, realistic requirements with regard to noise, zoning, and safety.

The second area in which something could and should be done is the development of the airways themselves. The industry has encouraged the development of non-interfering helicopter airways for many years, on the premise that low-altitude flight profiles, relatively low air speeds, and the ability to stop before you land, should permit the helicopter to operate freely in unused IFR airspace, and to relieve the all-purpose IFR system of some of its present congestion instead of adding to it.

Like many of you, we also operate helicopters routinely in the conduct of our daily business; and our corporate S–61N and SPIRIT aircraft are among the best IFR-capable helicopters in the world today. We too have had the frustration of flying IFR to New York City via fixed-wing airways that subject us to both adverse winds and holding patterns as we line up behind fixed-wing transports.

These are real problems that translate into costly delays, high operating costs, and frequent cancellations. Moreover, our presence in these fixed-wing IFR airways contributes to their overall congestion and has an adverse impact on the fixed-wing aircraft that truly belong there.

With the cooperation of the helicopter operators' community, the FAA has developed an experimental area navigation route for the Northeast Corridor. In September, the FAA approved Copter RNAV route 241, a truly appropriate helicopter IFR approach to New York City's 34th Street helipad. Hopefully, similar approaches will be developed to JFK and Boston's Logan Airport, and I am aware that the FAA—particularly the New England and Eastern Regions—are currently working this problem.

We urgently need a national airways system that incorporates rules, routes, equipment, and air traffic control procedures appropriate to helicopters. Our objective should be no less than IFR performance equal to our VFR performance.

We in the industry can continue to provide requirements and to suggest directions, and we can participate in the development, but the cost of the system and the organization effort should be borne by the Government. And these objectives must be addressed quickly if we are to capitalize on the potential of the civil helicopter, and help head off the imminent increase in fixed-wing airways congestion.

In the near term we need low-level helicopter routes and ATC procedures, and lower helicopter minimums and reserves. For the long term we need to move foward quickly to an appropriate navigation system, such as NAVSTAR, which appears to promise the most benefit to the total aviation system at the least cost. We are told it could be operational in five years. But the project is being delayed by some military agencies that are reluctant to phase out their present systems, and by some shortsighted fixed-wing interests who would prefer to have the R&D effort concentrated on nearer-term alternatives.

These alternatives, however, don't accommodate the helicopters, do nothing to accelerate the development of appropriate helicopter IFR airways, therefore do nothing to relieve fixed-wing airways congestion.

A month ago, the Administration proposed airport and airways improvements of $6.6 billion over the next five years and to allocate a billion dollars of trust-fund money to ATC operations. I am concerned that these sizable sums of money may be spent on reinforcing the present inadequate systems of airports and airways thus making it even more difficult to bring about a system that can fully and effectively integrate rotary-wing aircraft.

I would recommend to the Federal Government—both the military and civil authorities who are working this problem—the importance and urgency of developing a navigation system within which fixed-wing and rotary-wing aircraft can go their separate, less congested, and less costly ways.

We in the helicopter business acknowledge and appreciate the objectives set by FAA Administrator Langhorne Bond in this regard, and the efforts that he has directed toward the Agency's helicopter operations development program. We are encouraged; and we, in turn, encourage Congressional and Administration support for an accelerated program.

These, then, are two areas in which government has a clear and immediate responsibility to the helicopter industry. We have made tremendous strides in the development of economic, effective, and appropriate civil helicopters during the past ten years; and we will continue to advance the state of the art and the quality and effectiveness of civil helicopters.

But further development of this sector is now largely beyond the manufacturers' control.

It is now time for the government to acknowledge the strides that industry has made and restructure the airspace and total aviation environment that is solely under its control, to exploit the modern helicopter to its fullest potential today.

If we can get that together, then we will make it happen.●

ZERO ENERGY DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. GOODLING. Mr. Speaker, I would like today to bring to the attention of the House an event that occurred in my district on Independence Day. As a timely precedent to the President's recent call for patriotism and energy conservation, the citizens of Littlestown, a rural community in Adams County, Pa., declared July 4 Zero Energy Day (ZED). The event marked their own independence from unreliable energy sources.

In conjunction with the town's Fourth of July observance, a proclamation by Mayor Monroe J. Stavely asked the citizens of Littlestown to curtail use of any motor vehicles or appliances and banned many streets from traffic. In addition to the traditional food, games, and entertainment, the ZED committee, organized by Mr. Chris Renner, planned bicycle tours, innovative energy-use exhibitions, a "Zero Energy Day Theme Song," and a "general assembly" which I had the honor of addressing.

At this meeting, signed pledges were presented by the citizens of Littlestown, pledging to symbolically limit their energy use while calling on other Americans to do likewise.

To the best of my knowledge, the people of Littlestown are unique in this observance, yet very similar to most Americans in their energy concerns. In informing the Congress of Littlestown's Zero Energy Day, I would like to urge other communities to do the same. The strength of the American system lies in the people of every district vocalizing and displaying their concerns—a Zero Energy Day is a fine way to demonstrate a willingness to conserve energy in these difficult times.

I ask unanimous consent that these articles from the Hanover Evening Sun of July 2 and July 5, 1979, be reprinted in the RECORD at this point.

ACTIVITIES SCHEDULED FOR ZERO ENERGY DAY

LITTLESTOWN.—As the gas lines get longer, the gas supplies get shorter, Zero Energy Day gets closer.

Committee members in charge of the arrangements for the one-day "energy awareness" event are working to get all the last minute details worked out.

To date the schedule is as follows: 8 a.m. coffee and doughnuts in Crouse Park; 8:30 a.m. bicycle ride will leave from the high school parking lot, tours will continue throughout the day; 9 a.m. children's games at Crouse Park, games for all ages at the community pool and a volleyball tournament at the community pool; 9:30 at the community park relay races and a half-mile run for persons under 12 and a one-mile run for all ages; 10 a.m. 10,000-meter run from the community park area. Persons participating in the events will be required to sign a permission slip. Committee members will not be responsible for any injuries resulting from activities.

Lunch, Ronald Harrison will be serving a pork barbecue dinner at Crouse Park; 1:30 p.m. the general assembly at Memorial Field, Richard Selby will serve as master of ceremonies. Scheduled speakers are Judge John A. MacPhail, State Rep. Kenneth Cole, U.S. Rep. William Goodling, a representative from the Exxon Co. and a representative from the governor's energy council. After the general assembly there will be a pie-eating contest at Crouse Park and picnic supper will be available; 6 p.m. at Crouse Park, the Hanover Barbershop Chorus will kick off the evening's program of entertainments; 6:30 p.m. Bill McGowen will lead the group in a sing-a-long; 8 p.m. a block dance will be held at the Community National Bank parking lot at center square. Disc jockeys from radio Hanover will be in charge of the dance.

Release of the "Zero Energy Day Theme Song" will be made during the evening and will be introduced by local talent. Zero Energy Day badges are still available and Zero Energy Day T-shirts will be available Wednesday.

Energy exhibitors will be located on East King Street on the borough parking lot. Ron Noel of Enco Products of Hanover will have a solar energy and wood stove display. Gary Koontz will display a solar water heater and Tim Sullivan of Terra-Sol will have a solar home display.

Mayor Monroe Stavely has proclaimed July 4 as Zero Energy Day in Littlestown. Because of the required amount of manpower needed to close the town down, it has become impossible to prohibit driving of motor vehicles through the borough.

The committee is therefore asking local residents and visitors to refrain from using motor vehicles within the town from 8 a.m. to 8 p.m. The Littlestown Borough Council has approved the following streets to be closed to traffic: Newark Street, East Myrtle Street, Locust Street, Little's Alley, Maple Avenue, Park Avenue, and the intersections of Glenwyn Drive and Ocker Avenue. Public parking will be available at Schottie's Restaurant and the Super Thrift Markets.

Camping facilities will be made available by the Littlestown Jaycees at their park located off Route 97 one mile outside the borough limits.

Littlestown Residents Cited For Initiating ZED Program

(By Carlotta Strevig)

Littlestown.—Reevaluation and changing of lifestyles appeared to be the main theme of four speakers discussing the energy situation during the Zero Energy Day General Assembly Wednesday.

Originally scheduled to be held in the Littlestown Community Park, weather forced the program to be moved to the St. Aloysius Catholic Church parish hall.

Rep. Kenneth Cole (D-91st), Commonwealth County Judge John MacPhail and Ms. Lucy Lott of the Governor's Energy Council, were main speakers at the assembly, a highlight of the ZED festivities.

Goodling complimented the ZED originators and residents of the borough for attempting such a project stating, "Littlestown has taken the step. There is no way to stop the problem unless we face the problem."

The congressman gave a short background of the origin of the present problem which has its roots in the 1973 Middle East turmoil and following embargo. He stated the United States has become a "hostage" to its dependence on fossil fuel and noted Americans "don't control their own destiny," as they must reckon with the problems of who has fuel, do they want to sell it, and how much will they sell it for.

He added that Middle East politics have a great deal to do with the present problem, not only in each country's internal strife, but also with its external relationships with the United States. He claimed the oil-producing countries of OPEC do not wish to drain themselves of their oil supplies as they want to guarantee themselves an income for many years to come.

Goodling reported that the House's recent passage of a synthetic fuel bill now makes it evident that government officials are no longer taking the oil and gas supplies for granted and are encouraging the experimentation of synthetic fuels. He also noted that he encourages the experimentation of synthetic fuels. Goodling reported he is encouraged by the President's policy of deregulation in its application to domestic fossil fuels.

The lawmaker told Chris Renner, who was instrumental in organizing ZED, that the matter of a Zero Energy Day will be included in the Congressional Record and his colleagues will be encouraged to carry the project to their districts.

Rep. Cole applauded the intentions of the ZED celebration by stating "the people of Littlestown are telling the world it is time we all recognize that energy shortages are here to stay and we must revolutionize our living habits and devote our efforts to conserving energy as a means of survival."

He added that such observances, if initiated throughout the country, could indeed have an effect on the OPEC nations whose recent price increase threatens to erode our economy.

Cole likened the people of Littlestown to the "patriots of old, who stood up for what they believed and the patriots will show the oil-producing people that we can lessen our dependence on that energy."

He emphasized the current feeling that "nuclear energy is not the answer to our energy needs" and cited the recent Three Mile Island incident in support of that claim.

"Zero Energy Day will be meaningless unless we can let the word go out from Littlestown that there is a new America willing to cut down on its use of energy" and Cole concluded that the inception of the ZED could "be the start of a new revolution against excessive use of energy and that all of us working together will find a solution to what has become our number one problem in this nation."

Judge MacPhail told the audience it is "rewarding to be a part of this observance."

He noted a major personal attitude is "our problem with the problem of energy is that it is so big to be unable to cope with it."

MacPhail added that America has become a "they" society where the citizens expect "them" to do everything and so when something goes wrong Americans can blame the "they" persons who caused the problem.

He localized the measures an individual can take to help in the energy crunch such as walking, turning off the lights and the "ultimate sacrifice would be the television set."

MacPhail noted the individual must adjust his thinking to effect a change, but added a positive decision must be made so "everyone is going to be part of the solution—not part of the problem."

He commended the Littlestown residents by saying you have brought to our attention, very forcefully, something that we should do something about."

Ms. Lott presented the explanation of the allocation system implemented by the Governor and noted that a percentage of the oil brought into the state is held in reserve as an emergency measure on a monthly basis. Allocations are then made on the basis of need in emergency situations. She included that persons having an emergency need of these allocations must apply through their legislators.●

TURKEY: A DEMOCRACY UNDER SEIGE, PART I

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. FINDLEY. Mr. Speaker, as we consider in Congress the proper U.S. approach to Turkey, we should ponder the current Turkish political and economic situation. Jean-Pierre Clerc, in a two-part article for Le Monde which was reprinted in the July 15 edition of the Guardian, reviews the domestic stresses and strains Turkey faces today. His articles are extremely disturbing and should serve as a warning to all of us that the situation in Turkey is critical and that it is imperative that we take this situation seriously and take steps to help Ankara resolve some of these problems. Before it is too late, we must recognize the importance of Turkey to the United States, to the West, to our interests in Europe and in the Middle East. A Turkey in turmoil, a nondemocratic Turkey, a Turkey that must solely preoccupy itself with overwhelming and threatening domestic problems could well be unable to help find a constructive solution to the Cyprus situation.

I shall place part II of this article in a subsequent Record.

The article follows:

Turkey—A Democracy Under Seige

(By Jean-Pierre Clerc)

Since the beginning of the year, 403 people are estimated to have died as the result of political assassinations in Turkey. The figure for the number of killings over the two years before that is thought to be about 2,000.

Clashes between right-wing and left-wing extremists are compounded by religious and ethnic confrontations. And the state of unrest is being kept alive by economic difficulties such as unemployment and a very high foreign debt.

Turkey's geographical position makes it particularly vulnerable to pressure from the two Great Powers. The American House of Representatives' recent unwillingness to approve a $50 million gift of military aid to Ankara resulted in the Turkish government refusing to let American U-2 planes take off from its territory to verify that the SALT-2 clauses were being properly respected.

The present Turkish Prime Minister, Bulent Ecevit, is finding it increasingly difficult to control a ship buffeted from so many sides at once, particularly as his governing majority is at the mercy of a handful of independent deputies, who strike a hard bargain in return for their support.

Ankara—The expression "state of seige" is not merely a metaphor in Turkey. It was first proclaimed after politico-religious clashes last December in the south-eastern town of Karaman resulted in well over 100 deaths, and prolonged every two months since then by the Turkish parliament.

On April 26, the state of seige was extended from 13 to 19 of the country's 67 provinces. The area involved includes Turkey's two largest cities, Ankara and Istanbul, where terrorism from both Left and Right is particularly rife, and virtually the whole of the eastern third of the country, along the borders of Iran and Iraq, where a high proportion of the inhabitants are Kurds.

ARMY'S PRESENCE

Martial law in Turkey has nothing of the false modesty that so often characterises it in South America, where unless a coup d'etat is actually under way the army keeps a low profile. The Turkish armed forces make their presence felt almost obsessively in Ankara and Istanbul: they are everywhere, walking in pairs or on combined service patrols (a soldier, a sailor and an airman), striding the streets in ordinary uniform, battledress or camouflage suits, rifles on their shoulders or submachine guns in their hands, roaring past in jeeps and lorries, or guarding banks and public buildings.

The philosophy underlying this show of military strength could well be that the more you rattle your sabres the less likely you are to have to use them. The Turkish army, which burned its fingers in two occasions in the not so distant past when it intervened in political life, in 1960 and in 1971, was less than delighted to be drawn into the present state of emergency.

The army, called upon within strict limits laid down by the Constitution to play its part in maintaining martial law, seems concerned not to get caught up in a process which would turn it into the last bastion of law and order in the country.

Thus, the martial law commander in Istanbul, who on May 1 enforced a 29-hour curfew with extreme strictness and banned any demonstration to celebrate Labour Day, has just come out in favour of a subtler form of emergency legislation than the present martial law, whereby the civil authorities would retain a greater number of their usual powers. As one observer put it to me: "Compared with 1971, this is a most gentlemanly state of siege."

The arrest in Istanbul on May 1 of several dozen political and trade union leaders who had tried to form a procession is certainly a worrying event. But they were handed down only token sentences. The universities, once the main hotbed of agitation in the country, have been brought to heel without scenes of brutality. But here again there has been a considerable show of force: the entrance halls of all the universities I visited were bristling with heavily-armed soldiers.

These tactics, which one might describe as "a velvet hand in an iron glove," do not seem to have antagonised the population so far. It should be remembered that the fear and irritation caused by terrorism had reached such a pitch that the way was open for intervention by the army, an institution which, by the way, has traditionally enjoyed considerable prestige in Turkey.

Prime Minister Ecevit, leader of the Republican People's Party (RPP) and a sincere democrat, baulked for a long time at proclaiming martial law in part of the country. He dragged his feet for too long according to his conservative opponents, who, quoting figures for the number of dead, show that law and order deteriorated steadily in 1978 during the present government's first 12 months in office.

They also claim that the disturbances in Karaman had been preceded by a whole series of incidents which suggested the likely course of future events. Yet surely it was not obvious that the expulsion of two schoolboys would first lead to the murder of the teachers responsible, and then degenerate into bloody clashes.

Dozens of members of the Alevi sect (a Turkish designation for Shi'ite Muslims, who form a large though minority community in largely Sunni Turkey) were massacred by Sunnis whose fanaticism had been fanned by right-wing groups. It was only after this case of "genocide," as Ecevit called this blood-curdling episode, that he started talking about the possibility of introducing martial law.

SHAH'S DOWNFALL

At the time, the Shah's days as head of the Iranian state were numbered. It could be argued that the prospect of his fall and the arrival in power of Ayatollah Khomeiny caused the Turkish authorities to fear that the religious upheavals which were being encouraged by the Shi'ite clergy in Turkey's neighbor to the East might spread to their own territory. But this theory was discounted by everyone I spoke to.

Members of the Alevi sect are regarded by most fair-minded Turks as being free of any religious sectarianism. Politically, they are thought to hold more progressive views than many Sunnis, and nothing could be more foreign to their way of thinking than the notion of an "Islamic state," along Iranian lines, which they consider with much more apprehension than the non-religious republic founded by Mustapha Kemal.

But the disturbances in Iran did, on the other hand, revive the Turks ancestral fear of unrest on the eastern marches of the country. All the indications were that the collapse of the Pahlevi dynasty would awaken centrifugal forces among the peoples whom the successive Persian rulers had subjugated but had never succeeded in assimilating.

KURDISH PROBLEM

One such people are the Kurds. There are Kurds in eastern Turkey, too—from five to 10 million, it is believed, out of the country's total population of 43 million. And on more than one occasion in the past (notably in 1925 and 1932) they have made life difficult for the central government.

For many years, the notion that such a problem even existed was dismissed by successive governments in the capital. Turkey, as created by Mustapha Kemal in the '20s and '30s, was the last refuge of the Ottoman empire when it was finally dismembered after the First World War: it was "a country in which Turks lived and Turkish was spoken."

As a result, the Kurds found themselves reduced to a state of cultural and national nonentity. They were given the vague label of "mountain Turks," and their language, one of the essential ingredients of their distinctiveness, was allowed no official existence, though it was impossible to stop people speaking it at home among themselves.

Central governments were aware of the existence of an "eastern question," as it is now referred to, in their country, but they persisted in defining it merely as a disparity in development between the richer, more dynamic West and the more backward East, which was poorer because of its continental climate, mountainous terrain, and isolation.

But the idea that citizens from those regions may have fallen victim to segregation of any kind has always been hotly, and sincerely denied by the Turks. To prove their point, they simply quote the number of Kurds who have attained the very highest public office.

Over the last few months, however, one taboo has been swept away: the word "Kurd" has begun to appear in the press. There have been increasing numbers of newspaper features on eastern Turkey, and they have emphasized its specific characteristics. One minister of Kurdish origin, Serafettin Elci, even went so far as to reveal that Kurdish was sometimes spoken in his department (his remarks produced an outcry of protest, of course).

It is by no means easy to know exactly what is going on in the East of the country. Travellers returning from there say that on the surface at least everything seems quiet. In some towns, a few separatist slogans have been scrawled on walls (and quickly removed). Groups of young people have tried to organize marches, without much success; others have disrupted ceremonies where the Turkish national anthem has been played. But it does not amount to much more than that.

Events in Iran have caused a spate of gunrunning, in an area where every family has a rifle on the wall or a pistol under the mattress. According to one observer, it is simply the bore of the firearms that has increased.

It is widely believed in Turkey that arms from East Europe find their way into the country via its very long border with Syria (despite the fact that it has been mined for years), and are then sent on their way at a higher asking price, towards Iran. But some weapons, apparently, never continue on the second leg of their journey . . .

Several rival groups of Kurds, of different ideological persuasions, infiltrated into Turkish territory from Iraq and Iran last year. There were even armed clashes between them, which took place under the watchful eye of the chiefs of staff in Ankara. The army decided, however, not to intervene.

Incidents of that kind, occurring in a region where there is always some form of fighting going on, where banditry remains endemic, and where it is is regarded as unsafe to travel after nightfall, were bound to cause the central government increased concern.

RIVAL FACTIONS

One long-term danger is very real: if the Iranian Kurds manage to obtain the autonomy they are negotiating with Mehdi Bazargan's government, their counterparts in Turkey will be sorely tempted to follow suit.

But the immediacy of that threat is tempered by the fact that the Turkish Kurds are deeply divided. It is claimed, unofficially, that there are no less than nine rival factions. What is more, no credible leader has apparently emerged. Observers in Ankara point out that neither the Iraqi Jalal Talabani nor the Iranian Abdel Rahmal Ghassemlou is believed to carry much weight with the Turkish Kurds.

Paradoxically, the same observers, while admitting that pro-Soviet factions have the most influence, accuse Western secret services more readily than they do Moscow of having a hand in the affair. The Turkish prime minister has himself charged the forces of "capitalism" with trying to stir up trouble in the area so as to "take the heat off Israel."

In some circles there is the temptation to exaggerate this very real problem so as to galvanise the nation's energies at a time when Turkey is faced with political, economic and diplomatic problems. "Nowadays it is easier to mobilise the army's support for the government over the question of the Kurds than over the Communist threat," I was told by a rather melancholy academic, who had been introduced to me as the prototype of a "well-integrated Kurd."

The foreign observer, then, arrives in Turkey convinced that terrorism is the reason for martial law, only to realise immediately that the Kurdish question cannot be overlooked. But perhaps the two problems are connected. It is certain that extreme leftwing groups all over the country have sheltered behind the Kurdish banner in order to put across their message.

But to go as far as to say, as one "Grey Wolf (extreme right-wing nationalist) did to me, that "left-wing ideology is conveyed chiefly by ethnic and religious differences," in other words by the presence in Turkey of Kurdish and Alevi minorities, looks very much like incitement to hatred. And it has no support among responsible-minded Turks.

That terrorism has become part of people's daily lives is blindingly obvious, yet it is a curiously elusive phenomenon. At present there are on average three "political" killings a day, yet they no longer get any space in newspapers.

JUDGE'S FUNERAL

The day after I arrived in the country, I was invited to a moving little ceremony in the little mosque of Hadji-Bayram, in Ankara: it was the funeral of a judge who had been assassinated in Mersin, a town in the southern Turkey. According to the leader of the conservative opposition, Suleyman Demirel, there have been more than 1,500 killings over the last 18 months—which suggests that martial law has not done much to dampen the bloodthirsty zeal of the extremists.

"Just give me time," pleads Ecevit. It is true that the trial of the rioters in Karaman began only on June 4. The prime minister attaches great importance to the reorganisation of the police force—or "police forces," as one cynic put it to me: "One on the Left and one on the Right!"

The police are not only extremely politicised, but often quite out of their depth. A Turkish journalist said to me: "Imagine the reactions of your ordinary policeman, generally very young, who in his home town usually has to deal with the theft of a chicken or two, when he is suddenly faced with an invasion by well-trained groups of young people from Istanbul or Ankara, armed with Kalashnikovs, who carry out their coup and disappear as quickly as they came."

Nobody really knows who the terrorists are. Emin Colashan, a reporter on the independent daily, Milliyet, recently carried out an investigation into more than 300 people in prison who had been charged with or sentenced for subversive offences. Half of them said they were Marxist-Leninists, and the others nationalists. Colashan's conclusions are interesting. Most of the prisoners were young people (aged between 16 and 24), usually students from a poor background in one of the villages or small towns of Anatolia, in central Turkey. At a very early age, they had come to cities like Istanbul, Ankara and Izmir with their parents, who hoped to enjoy a better standard of living there than in the country.

Unlike the image commonly attributed to their counterparts in Western countries, the majority of Turkish extremists from both the Right and the Left do not come from a bourgeois background. They tend, rather, to be the children of Turks who have got a very poor deal out of the economic upheavals of the last 25 years, and who have come to detest Western capitalism: they hold it responsible for the introduction of a model of development which is not only inhuman but incompatible with the Turkish national genius.●

AMERICAN FREEDOM AND THE IDEA OF WORLD GOVERNMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. DORNAN. Mr. Speaker, the idea of a world government has been discussed from time immemorial. But a young constituent of mine, Paige Korenich, of Rancho Palos Verdes, has addressed the major drawback of this proposal in a succinct speech on the subject, "Can American Independence Survive Under a World Government?" An eighth grade graduate, Paige is also a competitive ice skater as well as a champion of the literary arts. For her speech, she won the Herbert Albright Americanism Essay Contest and I was proud to present her the award at the traditional Palos Verdes Peninsula Fourth of July picnic. Paige was a first prize winner in both the sixth and seventh grades as well. I would like to commend her remarks to the attention of my colleagues in the House of Representatives. I have no doubt that with young people like Paige Korenich willing to take a strong stand in behalf of our country's traditions of personal freedom and national independence, America will have a bright future.

The speech follows:

CAN AMERICAN INDEPENDENCE SURVIVE UNDER A WORLD GOVERNMENT?

The subject of developing a world government is a proposition that has been debated at numerous points in our history. It is an idea that has many opposing viewpoints. Keeping our independence under a system of world government is one of the many "subtopics" that must be considered.

A world government would be an extremely difficult system to sustain. Within our known world, there are many different governments, major and minor. To join these governments together and uphold the beliefs and principles of each one, would be virtually impossible.

The activities in the United States are examples of the difficulties produced by conflicting economic and political beliefs. Sometimes ideas will clash: each country will have to give in. That which we might have to give in may be our independence.

Our independence was fought for by our forefathers to release us from British power. Americans worked for freedom in our beliefs. Under a world government, many of these beliefs would be sacrificed, including, possibly, our freedom and independence.

Under a world government, we would not be a separate union, we would be a small piece of the world, much like a state is a small piece of our nation, and as such, we stand a chance of losing, or at least compromising some of the very important freedoms we fought for long and hard over the two hundred years of our nation's existence.●

SS-19 LOOPHOLE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, during this time of debate and discussion of the SALT II Treaty, I wish to call to my colleagues attention the following article by the prestigious syndicated columnists Rowland Evans and Robert Novak.

The article follows:

[From the Washington Post, July 27, 1979]

THE SS19 LOOPHOLE

(By Rowland Evans and Robert Novak)

A reading of the fine print in the SALT II treaty after it went to the Senate has revealed, to the horror of supporters of the arms-control pact, an uncanny repetition of the worst U.S. blooper in the 1972 SALT I treaty.

The 1972 mistake, not discovered until long after ratification, failed to pin down specific limits on the size of a replacement for the SS11 intercontinental ballistic missile (ICBM). Now, in a new negotiating blooper discovered as the Senate ratification debate begins, SALT II does not clearly define the size of Moscow's mainstay SS19 ICBM, which it sets as the limit on the size of any new missiles.

That history should be so sadly replayed is explicable only by this fact: The Russians simply refused to agree on a specific definition of the size of the SS19. This adds new evidence that U.S. negotiators, under orders from Washington for an agreement at almost any cost, bowed to the iron will of their Soviet counterparts.

Ironically, the 1979 mistake occurred in an effort to correct the effect of the 1972 negotiating blunder. By failing to pin down the size of the new Soviet ICBMs, SALT I contributed to the vulnerability of land-based U.S. missiles. Limiting future Russian ICBMs to the size of the SS19 is an effort to protect the land-based U.S. missile force.

But if there was no agreement on the size of the SS19, how can Moscow legally be held to the terms of the treaty?

The answer: It cannot, any more than it could be forced to comply with the clear understanding of limits on "new" missiles in the 1972 treaty, negotiated by Henry Kissinger.

Kissinger relied, to his later dismay, on what he called the "safeguard" of Soviet assurance "that no missiles larger than the heaviest light missile that now exists can be substituted." In 1972, that was the SS11. But after SALT I took effect, the SS11 was replaced by the SS19, which was almost three times as big.

President Carter's negotiators retraced Kissinger's slippery footsteps, relying on their own understanding of the size of the SS19. The Soviets typically refused to agree or disagree with the U.S. definition.

The State Department virtually admits that it could not nail down the Soviets. Its "detailed analysis" of the treaty, sent to all senators, spells out this country's position: the United States "considers" the SS19 to have a launch-weight (weight in the silo) of 90,000 kilograms and a throw-weight (weight of the warheads) of 3,600 kilograms. These are key measurements of size.

"These figures are based on our estimate for the SS19," the senators were told. "The Soviet Union did not respond to this statement [but] the United States will regard these figures as the limits for the one new type of . . . ICBM permitted to the United States."

But will the Russians? Realists here doubt it, anymore than in 1972. Kissinger learned the hard truth slowly, as U.S. monitors in Iran began to accumulate data on the true size of the new SS19 being tested to replace the old SS11.

Trapped by Soviet duplicity three years later, Kissinger found himself lamely explaining away the sudden appearance of the big SS19. "We obviously did not know in 1972 what missiles the Soviet Union would be testing in 1974," Kissinger told a State Department press conference on Dec. 9, 1975.

But there was no way to stop SS19 development. Moscow blithely kept insisting its new missile was just a slightly updated model of the old SS11. Now, following SALT II, the Rusians have a loophole to sustain their own version of a "legal" follow-on missile to the SS19 by claiming that the U.S. definition of the SS19's size is simply wrong, and that Moscow never agreed to it.

This would not come up if the Russians played fair and square. But they play to win; they take advantage of whatever opportunity is granted.

Discovery of Soviet deception on the SS19 by the Nixon-Ford administration long after SALT I took effect depended on America's ally, Iran. But the true size of the SS19 almost certainly would have eluded U.S. intelligence for even longer had it not been for U.S. monitoring stations in northern Iran, just south of the main Soviet test range.

Those stations no longer exist, and the United States is not close to duplicating them. This enhances the strong probability that the one new Soviet missile permitted under the treaty will not only greatly exceed limits set forth by U.S. negotiators but also that the Soviets will not reveal its full launch-weight and throw-weight until it has been tested repeatedly—ready to enter the Soviet missile force.

This undermines the SALT-sellers' argument that the treaty, while not accomplishing all that much, does no harm. On the contrary, this new revelation of non-Yankee bargaining suggests that the Soviet Union, under SALT II as under SALT I, will loophole its way to nuclear supremacy while Americans play by the rules.●

WE MUST HAVE AIRBAGS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. ROSENTHAL. Mr. Speaker, I wish to share with my colleagues a letter I have received from the American College of Preventive Medicine. The college expresses its opposition to the amendment Mr. DINGELL plans to offer to the Department of Transportation appropriation bill. This thoughtful letter explains why this important health care organization supports the airbag as an injury preventing device. I commend this group for making what I find to be an irresistably persuasive case for airbags.

I recommend to my colleagues that we examine this issue in terms of the established lifesaving and injury reducing capability of airbags. These reasons are sufficiently compelling for me to oppose the Dingell amendment and I urge my colleagues to do so.

The letter follows:

American College of
Preventive Medicine,
Washington, D.C., July 25, 1979.

Dear Member of Congress: The American College of Preventive Medicine is deeply committed to the promotion of health and prevention of disease. Automobile related deaths and injuries in this country are of epidemic proportions.

It has been proven that the use of automatic crash protection in automobiles would save enormous costs both in terms of human suffering and health care delivery. As physicians we are appalled that the U.S. Congress would entertain an amendment, such as that offered by Mr. Dingell, to deprive the American public of proven, lifesaving technology which could substantially reduce the number of deaths and disabilities which occur as a result of automobile accidents.

There is clear and compelling need for the government to act when 50,000 citizens are killed annually in automobile accidents. The Safety Administration's requirement of automatic crash protection in automobiles is not a case of capricious or frivolous regulation.

In light of the foregoing, we therefore strongly urge you to oppose Mr. Dingell's amendment to the Department of Transportation's Appropriations Bill (H.R. 4440).

Respectfully,
H. Bruce Dull, M.D., S.M. Hyg.,
President.●

TRIBUTE TO AL BENEDICT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. YATRON. Mr. Speaker, on August 10, the Honorable Al Benedict, auditor general of the Commonwealth of Pennsylvania, is being honored with the 1979 Golden Young Democrat Award at the annual Pennsylvania Young Democrats Banquet.

The list of Al Benedict's outstanding accomplishments is truly astounding. He is a graduate of Temple University in the field of business. He was a member of the U.S. Army airborne from 1949 to 1950 and from 1953 to 1956 when he served as a commanding officer, an adjutant, and an administrative officer in Okinawa, Japan, and Korea. For 10 years, Al worked as an information director and news commentator at WSEE–TV in Erie, Pa., where he also served as city controller from 1974 to 1976.

Al has served on the board of directors of the Controllers' Association of Pennsylvania; League of Cities; Municipal Finance Officers Association of America; Intergovernmental Audit Forum; National Association of State Auditors, Controllers, and Treasurers; Council of State Governments; Phi Alpha Delta; and he was a 10-year member of the NABET, AFL–CIO, Local 28; the American Federation of Musicians, Local 624; and the East Side Boys Club of Erie.

Pennsylvania's auditor general has been cited for his highly commendable volunteer community service with the United Fund, YMCA, Boys Club of America, U.S. Jaycees, Kiwanis, and the Crippled Children's Association, as well as many others.

Al was cited for his excellent service as a municipal public official by the mayor and city council of Erie, Pa.; honored by the Woodrow Wilson Birthday Association; and was elected to the Pennsylvania Democratic State Committee in 1974 and reelected in 1976, and was a member of their executive committee.

The Honorable Al Benedict was elected auditor general of Pennsylvania in November of 1976 and since that time has served the Commonwealth of Pennsylvania in that capacity with excellence and distinction.

I know that my colleagues will join me in paying tribute to Al Benedict, a truly outstanding public servant.●

EMERGENCY MEDICAL TECHNICIANS SUPPORT AIRBAGS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. WAXMAN. Mr. Speaker, at stake in the debate over airbags is nothing less than the question of saving human lives, and preventing needless injury. Airbags have and will make a significant contribution to highway safety. Airbags will save 9,000 people per year from death in traffic accidents, and will reduce automobile injury rates by 50 percent.

The members of the National Association of Emergency Medical Technicians have to cope with the carnage on the roads every day. Their letter of opposition to the Dingell-Broyhill amendment to H.R. 4440 deserves the most serious attention of my colleagues.

The letter follows.

National Association of
Emergency Medical Technicians,
Newton Highlands, Mass., July 27, 1979.

Dear Member of Congress: The shock of seeing the traumatized victim of an automobile accident is a day-to-day event for the Emergency Medical Technicians. What is even more shocking is the EMT's knowledge that many of the injuries could have been prevented with the use of appropriate passive restraints.

On behalf of the 200,000 EMTs and EMT-Paramedics in the United States, we urge you to support the full implementation of the Department of Transportation's passive restraint standard and to oppose Congressman John Dingell's amendment to DOT's appropriations bill (HR 4440). This lifesaving standard will not only do away with unnecessary injuries but save untold lives and prevent injuries of innocent victims of automobile accidents.

Recently, I had to respond to an automobile accident in Boston in which an eighteen year old girl was thrown through the front windshield. Her flight ended with the side of a brick wall. Her face was beyond recognition. The look of her mother (who was driving) and the look of the nineteen year old boy who was driving the other car shall never be forgotten. If you could have seen her face and the faces of the others, you would realize how important this standard is. That girl, if appropriately restrained, should not have died.

Again, the members of NAEMT urge your opposition to the Dingell amendment to HR 4440.

Sincerely,
Jeffrey S. Harris, REMTA,
Executive Director.●

ARGENTINA

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. COLLINS of Texas. Mr. Speaker, one of the strongest friends that our country has is the country of Argentina. Their progressive spirit and dependable loyalty have always been important to our country in our South American relations. The United States has watched and taken pride in the outstanding program of development in Argentina during the past few years. Much of this credit goes to Dr. Jose Alfredo Martinez de Hoz. He led a country where inflation had run as high as 1,000 percent a year and cut it back to 100 percent. I found it most interesting to read a summary by Ronald Reagan on the commonsense of our neighbors in Argentina. I believe you will also find it stimulating to read the basic sections of the story from King's Syndicate which was published throughout our country and was so well written by Ronald Reagan:

Dr. Martinez de Hoz was given the responsibility of rebuilding Argentina's ruined economy when, in March 1976, the armed forces took over the government of Juan Peron's widow. The country was on the verge of anarchy and terrorists had declared virtual civil war against the population.

Today, Argentina is at peace, the terrorist threat nearly eliminated. Though Martinez do Hoz, in his U.S. talks, concentrates on economics, he does not shy from discussion of the human rights issue. He points out that, in the process of bringing stability to a terrorized nation of 25 million, a small number (and nowhere near the estimates U.S. critics claim) were caught in the crossfire, among them a few innocents. Today, the number of people detained for suspicion of terrorist links is steadily declining and it is fair to point out that enraged U.S. accounts of alleged human rights violations are almost always based on third-party claims, not interviews with actual victims.

Martinez de Hoz makes the point that you can't have true political freedom without economic freedom and that, until the new economic policies began to take shape, Argentina has been on a 30-year roller-coaster ride of massive inflation (over 1,000 percent a year at one point); big budget deficits; negative balance of trade; a currency black market; protected industries with almost no competitive incentive to improve products or services; and nationalization (always with the excuse of saving jobs, i.e., votes) of any industry that failed because of its own inefficiency. By early 1976, the average Argentine's peso was worth next to nothing.

The dips in the roller coaster were deeper and the intoxicating highs higher than here, but the symptoms were similar to the ones we are wrestling with today.

Can we learn from Argentina's experience? Consider this: Since 1976, Argentina has decontrolled interest rates on savings. The rates went up and so did the savings. Today, the average Argentine saves 27 percent of his pay—one of the highest rates in the world. Thus, new capital is provided for economic growth.

Rent controls were causing a chronic housing shortage. They were scrapped and buildings shot up. Exchange controls on currency were lifted and the black market in money disappeared. State-owned industries have been sold off to private enterprise and new competition has been encouraged. Trade protection measures have been cut and foreign competition is now forcing domestic industries to become more productive and customer-oriented.

Nature blessed Argentina with a good climate and natural resources. Martinez de Hoz notes it does not suffer from four problems which plague most nations of the earth to one degree or another: population explosion (their birth rate is 1.5 percent per year); food shortages (they are net exporters); energy (virtually self-sufficient); and adverse balance of payments (in three years the new government has turned a perilous deficit into a growing surplus).●

AMTRAK REPRESENTS ENERGY CONSERVATION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. BEREUTER. Mr. Speaker, the recent action recommended by the Amtrak Board of Directors and carried out by the Interstate and Foreign Commerce Committee with regard to the San Francisco Zephyr was a positive step forward in clamping down on the already escalating energy crisis. I would like to express my support of the recently passed authorization bill to extend the appropriations for Amtrak for an additional 3 years. Included in this authorization bill was $20 million to provide for the continuation of five major trains, including the Zephyr, which services five communities in Nebraska; Omaha, Lincoln, Hastings, Holdrege, and McCook. Maintaining these routes is one of the bright spots in an otherwise disastrous restructuring of the Nation's passenger rail service by the Department of Transportation.

It is my belief that we have grossly overlooked the fact that Amtrak can become one of the best energy conservation measures we now have at our disposal. To eliminate much of this system will only increase our dependence on automobiles, thus hindering our efforts to conserve energy. The good people of Nebraska and the Midwest are increasingly showing their support for Amtrak, and it is attracting many cross-country riders. In fact, the number of passengers riding the Zephyr rose from an April 1978, figure of 142,384 to 157,469 in April 1979, an increase of 10.6 percent. This figure does not even reflect the tremendous recent surge in passengers brought about by the scarcity of gasoline in some areas and the increase in summertime tourist travel. During the month of May 1979, according to Amtrak, 6.8 million calls were attempted in trying to make reservations nationwide. Of those calls attempted, 440,000 callers received a reservation and 756,000 were turned away. These figures also constituted an overall increase in revenue by 28 percent, and the increase for June is even larger.

I would like to make one further point relating to the San Francisco Zephyr. In a recent letter to the chairman of the Subcommittee on Surface Transportation, the president of Amtrak, Mr. Alan Boyd, was quoted as saying:

> On this restructured route (the San Francisco Zephyr), Amtrak again would be offering service that is longer in endpoint mileage and overall running time and slower in average speed. I would question whether this is really what we had hoped route restructuring would achieve.

Mr. Speaker, the decision to temporarily save one of the most efficient, cost-effective forms of transportation is a sign to this Nation that we are serious about energy conservation. Preserving all commuter trains at least until April 1, 1981, rather than adopting the Department of Transportation's original plan of eliminating many commuter trains in October, will provide us with the needed time to fully assess the consequences these cuts will have on solving the current energy crisis. Given the current fuel shortage, commonsense demands that we maintain the Zephyr and other vital routes.●

OPPOSITION TO AIRBAGS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. CONTE. Mr. Speaker, I wish to draw to my colleagues' attention a letter I received from the American Medical Association. This letter, from the Association's Commission on Emergency Medical Services, describes their opposition to the Dingell antiairbag amendment to H.R. 4440. This letter describes airbags as "lifesaving mechanisms." This is how I view these devices and for this reason I intend to oppose the Dingell amendment.

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., July 23, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: As Chairman of the American Medical Association's Commission on Emergency Medical Services, I must tell you that we are distressed by Congressman Dingell's proposed amendment to the Department of Transportation's Appropriations Bill (H.R. 4440) and we deplore the rationale prompting this amendment.

Ten years of testing both in the laboratory and on the road of these passive restraint mechanisms is sufficient. The mechanisms are reliable.

Congress must not act to deny these lifesaving mechanisms to our citizens.

Human life and limb are too important to cast aside because of equipment costs or for a symbolic vote against Government regulation.

On behalf of the American Medical Association's Commission on Emergency Medical Services, I would strongly urge you to defeat the Dingell amendment.

Sincerely,
JOHN A. RUPKE, M.D.,
Chairman.●

A SERIOUS PROBLEM: THE IMAGE OF ITALIAN AMERICANS IN AMERICAN TELEVISION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. LENT. Mr. Speaker, I would like to direct the attention of my colleagues to a matter which is causing growing concern among many of my constituents in the Fourth Congressional District of New York and throughout our Nation. I refer to the continual—and growing—practice in television programs supposedly created for "entertainment" of creating character stereotypes which cast derogatory reflections on certain ethnic groups and create negative impressions of such ethnic groups among those who watch the TV programs.

Such a negative portrayal of Italians and Italian Americans has become more and more frequent on television programs with unfortunate results throughout our society; a society which seems ever more receptive to the images flashed on the TV tube.

Mr. Speaker, this growing problem has been analyzed in a most thoughtful and professional manner by Father Andrew Brizzolara, C.S., assistant director of the Center for Migration Studies of New York. In a scholarly address to the Italian Historical Association of New York, Westbury, N.Y., Father Brizzolara gives a very clear and very frightening documentation of this menace to our society. I commend Father Brizzolara for this most impressive presentation.

I urge every one of my colleagues to give careful attention to Father Brizzolara's remarks. I urge the producers of television programs and TV network executives to give it thoughtful study.

Mr. Speaker, I insert Father Brizzolara's address, in its entirety, in the RECORD at this point.

The address follows:

THE IMAGE OF ITALIAN AMERICANS IN AMERICAN TELEVISION

(By Andrew Brizzolara)

The impact of visual images on Americans over the past twenty years has been steadily increasing. There is rarely time during a day when the individual is not assailed by a veritable barrage of Madison Avenue messages. Magazines, newspapers, vehicles, buildings and books all seemingly address the powerless observer with a continuous variety of impressions, options and alternatives. In this confused market place of ideas, television emerges as one of the loudest voices. It has the advantage of captivating the undivided attention of its viewers in the intimacy of their own homes.

Television's ability to permeate the lives of millions, particularly over the past two decades, has inaugurated what many have called the "Visual Age". John Harrington (Rhetoric of Film, 1973, p. v.) published statistics demonstrating that the average American by the age of eighteen will have accumulated nearly 17,000 hours of viewing experience. Eventually this viewing will be equivalent to ten years of that person's life.[1]

The ramifications of such a large portion of the population participating in this

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Footnotes at end of article.

phenomenon have not fully been explored. However, a growing distrust of the present system of television production is emerging. What was once praised as an innovative means of disseminating knowledge and fostering a healthy plurality of ideas is now suspect of manipulating the viewer's ultimate attitudes and behavior.[2] With an almost intimidating power and authority, television enters into the private lives of each viewer and establishes itself as totally unique from any other medium of communication. According to a recent publication by Jerry Mander entitled Four Arguments for The Elimination of Television, television often serves as a babysitter, a tutor, a huckster and 'it creates its own mesmeric reality and alters our attention span and even our ability to absorb."[3]

The variance between this "mesmeric reality" and truth is the crucial consideration of any study on the impact of television. It is also the concern of this paper with particular regard to the stereotypical images of Italians and Italian Americans presented to the viewers of commercial television. Whenever the image of Italians on television does not reflect the rich diversity of that particular ethnic minority, a disservice is committed against all ethnic groups by fostering prejudicial attitudes based on false assumptions.

The portrayal of Italians and Italian Americans on television has been increasingly frequent. In recent years, with an ever greater accumulation of popular fictional literature on organized crime, television has lost no time in reflecting a concurrent, but unfortunate, preoccupation with Italians. Andrew Greeley contends that the mass media have finally recognized the Italians as a marketable consumer item and it is presently making the most of the product.[4] Not only has "Godfather I" been aired four times over network television, but an expanded version of "Godfather II" has been shown along with many other offerings from the same genre including, "The Gang Who Couldn't Shoot Straight" and "The Valaci Papers." In addition to this Hollywood material, television has produced its own collection of Italian American types in the guise of cops, detectives and rebellious teenagers.

Despite the variety of examples available for discussion and observation, there is no clear consensus of agreement charging that prejudice toward Italians does exist on television. There are many voices which deny the problem. Newspapers such as the New York Times refuse to even consider the accusation that prejudice is still a problematic realty.[5] Even as a general principle, there are those who do not contend that such discrimination or prejudice exists against Italian Americans in any sector of society.[6]

A similar attitude is voiced by non-Italians whenever public outcry denounces particularly offensive portrayals of Italians on television crime dramas. Italians are then accused of being immature, oversensitive and of deliberately condoning crime.[7] This response is itself born out of the same stereotypical image which the ethnic group is trying to condemn. However, this may very well be the type of image which has been suggested and nourished by television as popular fare for viewers across the country.

The potential danger of the pervasiveness of television was discerned in pertinent literature as far back as 1964. As a creator of opinions, issues and priorities, television was criticized as being dangerously linked to an inherent preoccupation with its own economic survival.[8] As long as controllers of this medium aim merely at cultivating or attracting large audiences, the market will always remain the ultimate test of what shall be disseminated. Once these assumptions are inculcated in the very rationale of television production, the only response of executives to disgruntled ethnic minorities will be, "We give the public what it wants."

Unfortunately, in the decades of the 50's and 60's, television executives were correct in claiming that Americans were fascinated with violence and criminality.[9] Television lost no time in reading these signs and produced "The Untouchables" as one of its most successful dramas. Italian American groups across the country began to condemn the program. Nevertheless, this television series was backed by historical documentation that cannot be disputed or hidden, that many Italians were lured, enticed or forced into a criminal lifestyle by the pressures, mitigating circumstances and environmental forces of the 1920s. Because of this "The Untouchables" was not the best program to single out as a blatant example of Italian American prejudice in the medium.

According to Randall Miller, Italian stereotypes still exist on television. In a medium where time is a precious commodity and a dramatic plot must be presented within a predetermined block of air time, stereotypes can serve as shortcuts to what might otherwise be long, complicated, but more authentic character development. Stereotypes never complicate a personality. They rely on a viewer's preconceived idea of how a particular person or ethnic group should act and merely fulfill these expectations. External signs and cues are used to indicate and suggest the veneer of culture. Dress, eating habits and language accents are exaggerated to surround the character with an outer framework which is shallow, one dimensional and unreflective of reality. Unable to validly portray the unique qualities of a culture, the stereotypes merely reinforce the popular caricature of that particular ethnic group for the television viewers.[11]

Commercials are prime reinforcers of stereotypes because of the tight thirty second formats which they must utilize. In a recent television ad for pizza, the viewer is bombarded with both the name of the product and innumerable stereotypical cues referring to Italian American ethnicity. The scene is a kitchen. There is a crucifix on the wall. An elderly Italian matron is cooking as she is surrounded by a confusion of family members singing, yelling and greeting guests. The grandmother wears a print dress, her hair is in a bun and she welcomes the newcomers with the words, "Abundanza." This type of image on commercial television not only serves to sell the pizzas but, on a totally subliminal level, projects Italian Americans as outsiders to American culture. They appear as strangers in a new land.[12]

The gangster image is an Italian stereotype which has been in less use now than it was in the late 50s and early 60s. Today, the powers in control of television are attempting to populate the medium with a host of law abiding Italian Americans. This move can be attributed to television's desire to ruffle as few feathers as possible. With the need to attract the largest possible viewership, producers cannot afford to anger any segment of a potential or real audience.[13] This resulting policy has given viewers Columbo, Toma, Baretta and Petrocelli.

Both Richard Juliani and Andrew Greeley feel that this is by no means an improvement. All that television has done is change the "roles" of Italian American characterizations. They have altered one variable out of a legion of stereotypes which still remain in effect. Unfortunately, according to Greeley, many Italian American groups consider this ploy by television executives to be a true victory against Italian prejudice. In fact little gain has been made at all. "Even though the new heroes are frequently law enforcement agents, they typically engage in violent, questionable or illegal tactics themselves. In these roles, then, they continue to express an older stereotype of Italian American behavior. Other aspects of their personalities, such as their arrogance, or their physical characteristics, such as their short stature, reinforce the stereotype."[14]

This apparently positive image of Italian Americans on television is nothing more than a change of external clothing from one stereotype to another. The medium has not ventured into the realm of authentic, indepth portrayals of life in all of its complexity and diversity. Once producers choose the preferred combination of external "apparel" to be worn by television's typical Italian American in order to suit or create the current trend, carbon copies are distributed and the same old stereotypes are displayed in new wrappings. Even with the current image of Italian Americans on the side of the law, the image is oversimplified and offensive.[15]

Television has recently resorted to resurrecting an Italian American characterization left over from a 1940s "Dead End Kids" movie. It's a character which has risen in popularity over the past four years and has seen numerous facsimilies appearing in the movies and on the legitimate stage. His name is "The Fonz." While some may find him lovable and good-natured, he embodies all of the qualities which have traditionally been associated with Italian Americans on television. Little has changed. The Fonz hates school, he overreacts to situations which threaten his peer image and he is constantly preoccupied with the preservation of his aggressive control over those around him through fear and intimidation.[16]

This popular characterization has a stage and screen counterpart in "Grease." The black leather jacket, the arrogance and the exaggerated preoccupation with his own self image, produces a main character in the same mold as the Fonz. This incorporation of idiosyncrasies into a composite personality, transforms a particular type of individual into a representation of an entire ethnic group. This is the destructive power of a stereotype. As a composite image it almost never fails to trigger an ethnic association in the mind of the viewer. The one, small kernel of truth, so essential to any stereotype, and limited in its applicability, is then generalized out of proportion creating a wide rift between reality and the television image.

Michael Parenti does not find this crisis of credibility unusual for the medium of television, given its social function. Television strives to entertain the members of the society while doing everything in its power to encourage and maintain the status quo.[17] Its present format is designed to attract the greatest number of people to a particular program and avoid upsetting them. Nothing must ever cause the viewer to think, to disagree with a particular viewpoint or to cause the viewer to switch channels or turn off the set. Since social problems might create uneasiness and lower the receptivity of an audience toward the station's commercials, it will never be appropriate to discuss the hardships of immigration, cultural and class conflicts, second and third generation struggles or the disillusionment which minority groups may feel toward America.[18]

The effects of this type of programming and the lack of any viable viewing alternatives on American television are best articulated in a report submitted to the New York Senate, this past year, by Senator John D. Calandra. The report states that many young Italian Americans attending city high schools, parochial high schools, and the various campuses throughout CUNY suffer from "the emotional handicap of a negative self-concept."

"These students are bombarded with the anti-intellectual stereotyping of Italians as portrayed by the mass media through the characterization of buffoons, crime figures, and overweight women garbed in black".

"The young high school students aspire to the recent television lead in the program "Happy Days." This character is a slick high school drop-out who speaks incorrect English, cares only about girls and motorcycles, never is without his black leather jacket, exhibits his short temper at regular intervals in addition to his lack of manners. In essence, he is the embodiment of many stereotypes the mass media has dubbed on the Italian American population."

It is unfortunate that these impressionable youngsters have negative images to cling to for lack of any other. This emulation of anti-intellectual figures is metamorphosed into shame and self-hate when Italian American students continue their educational career in the City University."[19]

With the advent of television, a new duality has entered the experience of the American public. One may truly ask which "reality" has the greatest impact on our lives, that which we experience in our daily confrontations with the world around us, or that which we see on television? Which experience is more authentic? For a great many Americans of all nationalities, television is a large portion of their experiential environment. It not only presents the viewer with an image of the world but it also edits, selects, categorizes, qualifies, and establishes priorities among the aspects of the world which it deems worthy of attention. If an event does not appear on television, then it was not important enough for consideration. If a particular point of view, issue or characterization is given prominence, then it must be valid.[20]

This is not to say that there are no beneficial effects of television. For millions of viewers, television is literally a window onto the world of ideas and events that would otherwise be inaccessible.[21] However, every powerful influence on life must be recognized as a potential for both harm and benevolence. The acute need for such an awareness was emphasized by Daniel J. Boorstin in a New York Times article dated February, 1978. Viewers must cultivate an awareness of television's economic motivations and effective ability to transform their perceptions. Television already regulates when Americans eat, sleep; how they raise their children; what Americans do and buy; what society thinks about lawyers, doctors, policemen, criminals and itself.[22]

All of these elements contribute to a growing concern for the future of television when discussed in the context of Italian American stereotypes. If State Senator Calandra's report on the development of a negative self-concept in Italian American youth is an indication of what future research will uncover, widespread use of stereotypical images will inevitably lead to subliminal feelings of shame. Shame, once it is embodied into a person's consciousness, becomes a primary factor in an individual's self-image. What an Italian American sees on television as the medium's image to his ethnic group, becomes his barometer of reality. Stereotypical portrayals which are an embarrassment to Italian Americans are never-the-less powerful influences in the absence of any simultaneous artistic showing of truthful images. Shame cannot be expiated by punishment, it stays with a person, or ethnic group, forever.[23]

The first step in counteracting the force of television's intimidating influence, is to be aware of Italian American prejudice on this powerful and pervasive medium. The second is to improve not only the real life fiber of Italian American communities across the country, but also to improve the new reality of television experience. These two versions of experience constitute independent variables.

FOOTNOTES

[1] Randall M. Miller, (ed.), Ethnic Images in American Film and Television (Philadelphia): The Balch Institute, 1978), p. xiii.

[2] Herbert I. Shiller, The Mind Managers (Boston: Beacon Press, 1973), p. 1.

[3] Karl E. Mayer, "The Beast in The Box," Saturday Review, p. 42, April 1, 1978.

[4] Andrew M. Greeley, "TVs Italian Cops Trapped in Old Stereotypes," New York Times, July 27, 1975 (section 2), p. 1, 17.

[5] Salvatore J. LaGumina (ed.) WOP: A Documentary History of Anti-Italian Discrimination in the United States (San Francisco: Straight Arrow Books, 1973). p. 9.

[6] LaGumina, p. 9.

[7] LaGumina, p. 298.

[8] Denys Thompson (ed.) Discrimination and Popular Culture (Baltimore: Penguin Books, Inc., 1964), p. 11.

[9] LaGumina, p. 17.

[10] LaGumina, p. 299.

[11] Miller, p. xiv.

[12] Miller, p. xv.

[13] Richmard N. Juliani, "The Image of the Italian in American Film and Television." Ethnic Images in American Film and Television, ed. by Randall M. Miller (Philadelphia. The Balch Institute, 1978), p. 100.

[14] Juliani, p. 100.

[15] Juliani, p. 100.

[16] Michael Parenti, "The Italian American and The Mass Media," Ethnic Images in American Film and Television, ed. by Randall M. Miller (Philadelphia: The Balch Institute, 1978) p. 107.

[17] Parenti, p. 105.

[18] Schiller, p. 18.

[19] John D. Calandra, A History of Italian American Discrimination at CUNY (New York State Senate, 1978). p. 32.

[20] Daniel J. Boorstin, "The Road to Diplopia," T.V. Guide, (October 14, 1978), p. 13.

[21] Mayer, p. 42.

[22] Daniel J. Boorstin, "The Great Electronic Dictator," New York Times. February 19, 1978 (section 7), p. 10, 35.

[23] Joseph Papaleo, "Ethnic Pictures and Ethnic Fate: The Media Image of Italian Americans," Ethnic Images In American Film and Television, ed. by Randall M. Miller (Philadelphia: The Balch Institute, 1978) p. 44.

BIBLIOGRAPHY

Boorstin, Daniel J. "The Road to Diplopia," T.V. Guide, October 14, 1978.

Boorstin, Daniel J. "The Great Electronic Dictator," New York Times, (section 7), February 19, 1978.

Calandra, John D. "A History of Italian American Discrimination at CUNY: A Report of the Italian American Legislators Caucus," Albany: New York State Senate, 1978.

Greeley, Andrew M. Why Can't They Be Like Us? New York: E. P. Dutton.

LaGumina, Salvatore J. Wop: A Documentary History of Anti-Italian Discrimination in the United States, San Francisco: Straight Arrow Books, 1973.

Meyer, Karl E. "The Beast in the Box," Saturday Review, April 1, 1978.

Miller, Randall M. (ed.) Ethnic Changes in American Film and Television, Philadelphia: The Balch Institute, 1978.

Schiller, Herbert I. The Mind Managers, Boston: Beacon Press, 1973.

Thompson, Denys (ed.) Discrimination and Popular Culture, Baltimore: Penguin Books, 1965.

Background materials

Leinwand, Gerald (ed.) Racism, New York: Pocket Books, 1972.

Moquin, Wayne. A Documentary History of the Italian Americans, New York, Praeger Publishers, 1974.

Newfield, Jack. Bread and Roses Too, New York: E. P. Dutton & Co. Inc., 1971.

Steinfield, Melvin. Cracks in The Melting Pot: Racism and Discrimination in American History, Beverly Hills: Glencoe Press, 1970.●

CONGRESSMAN JOHN WYDLER HAILS PROPOSED VISIT TO THE UNITED STATES OF POPE JOHN PAUL II

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. WYDLER. Mr. Speaker, the selection of Cardinal Karol Wojtyla, Archbishop of Krakow, Poland as Pope of the Roman Catholic Church last fall was joyous news for all Christians and all the world. The recent reports that he is planning to visit the United States within the next few months bring excitement and gratitude to every citizen of our country.

Pope John Paul II was the first Pole in history to be elevated to the papacy and the first non-Italian in 456 years. The choice was a happy one.

The life of Pope John Paul II has been a mirror of Poland's fate for much of the new pope's 58 years. Although buffeted by the German invasion of 1939 and later subjected to brutal occupation and to Stalinist terror, Poland has maintained its national faith largely through adherence to the church.

These words also summarize the life of John Paul II.

He was born the son of poor parents and was studying Polish language and literature at Jagiellonian University when World War II broke out. The university was closed by the Nazis and Wojtyla worked at forced labor. When he resumed his university studies, Wojtyla prepared for the priesthood.

After his ordination, Wojtyla traveled to Rome, where he earned a doctorate in philosophy at the Angelicum College in 1948.

Karol Wojtyla's return to Poland coincided with the rise of the Communist Government and he was forced to work under severe restrictions as a parish assistant in Krakow. His first parish in Poland was in the village of Niegowic. Its remoteness may have spared him the repression that many other priests suffered under the Communist regime. He worked his way through the ranks of Krakow's hierarchy and, when he was made cardinal in 1967, Wojtyla, at 47, was the second-youngest member of the College of Cardinals.

Throughout his life, John Paul II has shown himself to be a man of faith in a time and place where faith was not easy to come by.

He is a man of youth, who has suffered forced manual labor. But he has also steeped himself in the philosophy of his church and of his native land, and has published three books and dozens of scholarly articles.

As archbishop of Krakow, Cardinal Wojtyla earned not only the dutiful reverence of religious Poles, but also their friendship. He is a man of proven political skill and personal dynamism.

Polish Americans took special pride in Karol Wojtyla's selection as the leader of the Roman Catholic Church. Throughout history, Poland has been a bulwark of Christianity, even as far back as when it fought against the Turks and Tartars. More recently, of course, it has been a wall against an atheistic ideology. The selection of Karol Wojtyla as Pope was a tribute to the strength of the Catholic Church in the countries of Eastern Europe, and to the faith of the Polish people.

I rejoiced in Cardinal Karol Wojtyla's selection. He took up the reins of his awesome responsibilities with the prayers and good wishes of Christians the world over.

In 1969, as Archbishop of Krakow, Pope John Paul II visited the United States. He did so again in 1976 when he participated in the International Eucharistic Congress in Philadelphia and then traveled around the country.

If his plans to visit the United States later this year come to fruition, it will be the first papal visit to this country since Pope Paul addressed the United Nations in New York in 1965.

On behalf of the Congress and the people I represent, I extend the warmest possible welcome to Pope John Paul II. His visit reminds us all of the importance of God in our daily lives and in the life of our country.

Pope John Paul II is a son of Poland of whom all Poles can be proud, but now he belongs to the world.

Niech Bóg bogoslawić tego syna Polski.●

TRIBUTE TO JACK T. BRADFORD, SAN MARINO HIGH SCHOOL TEACHER, COACH, FRIEND

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. ROUSSELOT. Mr. Speaker, today I ask my colleagues to join with me in paying tribute to a professional educator who has made a special and unique contribution to this community that will not soon be forgotten.

Jack T. Bradford, affectionately known as "The General" by his students, retired from San Marino High School on June 15, 1979, bringing to an end a remarkable teaching career that has spanned the last 30 years. His excellence as a teacher has been affirmed again and again by both his students and peers. His classes in contemporary world history, world history, and international relations were considered both challenging and interesting. Former students pay the ultimate tribute to his ability, returning year after year to thank him for the uplifting influence he had upon their lives.

His special talents were similarly recognized by his colleagues. When the San Marino high school faculty senate was first formed, he was the unanimous choice as its first chairman. In 1966 he achieved national recognition when he was named as one of the top five high school teachers in the United States by Yale University.

Jack Bradford was an outstanding classroom teacher. He was also, without doubt, one of the best coaches in the California Interscholastic Federation (CIF). His teams in tennis, golf, cross country and track won 20 Rio Hondo league titles.

Ten of his teams became CIF champions: tennis in 1956, 1960, and 1962; cross country in 1963, 1964, 1965, 1966, 1970 and 1974. Seven other Bradford teams have finished as CIF runners-up.

Many attribute Jack Bradford's coaching success to an original and renowned system of "weekly bulletins" based on each individual athlete's performance as well as team goals and expectations. As a result of this communication, every one of his athletes knew exactly what was expected of him and performed accordingly. His style of coaching stressed the development of not only the body of the athlete, but also the character and the mind.

Jack Bradford grew up in San Marino. He graduated from the San Marino-South Pasadena High School in 1941, where he lettered 3 years in tennis, 2 years in track, and 1 year in basketball. He was captain of the tennis team and a member of the league doubles champions.

At Pomona College, Bradford lettered 2 years in track, 1 year on the cross country team, and 1 year each in tennis and basketball. In 1943 he was SCIAC mile champion. His formal education was cut short by World War II and he did not finish his undergraduate degree until after the war in 1947. He went on to receive his general secondary teaching credentials and master of science degree in physical education from the University of California, Los Angeles.

As a marine during World War II, Jack Bradford was wounded twice in the line of duty, the second time while at Iwo Jima. He subsequently received the Purple Heart with a Gold Star. He resumed his military career during the Korean conflict as an instructor at Camp Pendleton for 12 months.

Jack, his wife Barbara, and children Kim, Ruth Ann, Leslie and Jim, have all been active in the community of San Marino. After 25 years of teaching, instructing and guiding the youth of the city, Jack and Barbara are planning on retiring to their home in Laguna Beach where they will doubtlessly resume a similarly active, more recreational lifestyle.

Mr. Speaker, Jack "the General" Bradford will be missed by the residents of San Marino. However, his accomplishments in preparing his students to lead active, productive lives will long be remembered. Jack T. Bradford has made a contribution to his community that will not be forgotten.●

TIME TO END DEMOCRAT HYSTERIA OVER ENERGY CRISIS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

Mr. SHUSTER. Mr. Speaker, the Republican policy committee, which I chair, has, in its wisdom, pointed out the "quick fix" and "scatter gun" approach by the Democrats to the energy crisis. It is reflected in S. 1030, the 'Emergency Energy Conservation Act of 1979." I should like to insert into the RECORD the complete text of the policy committee statement, which details the Democrat hysteria over the energy crisis:

S. 1030—EMERGENCY ENERGY CONSERVATION ACT OF 1979

The "Emergency Energy Conservation Act of 1979" represents the product of Democrat hysteria over the energy crisis generally and the long gasoline lines specifically, rather than a constructive or detailed solution to our energy problems. The bill fails to squarely address the problems of the gasoline price and allocation system or energy conservation and instead, adopts a scatter gun approach which results in bad energy policy with potentially disastrous economic consequences.

S. 1030 is a dangerously broad grant of authority to the President and/or the Governors in three separate areas; gasoline rationing, state and federal conservation plans and the imposition of a minimum purchase requirement on gasoline.

Republicans are not unmindful of the energy crisis confronting these United States. We recognize that the most effective way to deal with this crisis is to increase the domestic production of energy. We propose to do this initially through the immediate decontrol of the price of oil and natural gas with a windfalls profits tax and plowback provision. We also propose to encourage domestic production of alternate energy sources.

The Republican Policy Committee believes that the provisions of S. 1030 as a part of the President's total energy program are unnecessary and workable. The Policy Committee supports four amendments to improve the bill as follows: (1) the Broyhill amendment providing that a rational and reasonable standby gasoline rationing plan be subject to Congressional review and approval prior to implementation with periodic review and updating rather than Congressional acquiescence in an "emergency" or crisis atmosphere; (2) the Stockman amendment which will strike the redundant and sweeping "martial law" powers delegated by the bill for the implementation of energy conservation targets and programs; (3) the Carlos Moorhead amendment which provides for a Congressional veto over the implementation of any federal energy conservation plan for any state; and (4) the Rinaldo amendment which strikes the "standby sticker plan" because it unfairly penalizes and imposes an unequal burden on suburban and rural sections of the country which do not have mass transit systems, it poses a hardship for those who perform shift-work, work irregular hours, rotating days, seasonal workers and those holding two jobs. The "standby sticker plan" would aggravate a worsening unemployment problem in the recession we are now facing.

In response to the President's displeasure at the rejection of his bizzare gasoline rationing plan, the Democrat majority now removes Congressional review and approval over the substance and procedures of a gasoline rationing plan yet to be developed. The bill authorizes the President to implement gasoline rationing if he determines that a 20 percent supply interruption of petroleum products exists, or is likely to exist for 30 days or longer and if Congress does not veto implementation of the plan within 15 days after the Presidential determination. In effect, the bill approves a gasoline rationing plan in advance, sight unseen, with details of the plan both unknown and largely unlimited. Without congressional review there is no guarantee that the rationing plan is or would be workable to sustain this nation through a 20 percent shortfall of petroleum products.

Section 3 of the bill authorizes the establishment of federal and state conservation plans. The bill authorizes the President to establish "conservation targets" on motor fuels or any other energy source he determines to be in "severe" short supply with no guidelines on the percentage reduction necessary for implementation. This section also authorizes the Department of Energy (DOE) to step in and supersede the Governor or state legislature for failure to meet the Presidentially set targets and to deny federal funds already authorized for expenditure for state energy conservation programs for failure to develop state plans. In addition, this section gives DOE carte blanche authority to develop mandatory conservation measures such as mandatory closing of retail gasoline stations during the week on a rotating basis and authorizes the "standby sticker plan" prohibiting driving of all automobiles on public roads one day per week.

The powers delegated to the President and/or the Governors under Section 3 of the bill are virtually unrestrained. Such unbridled power poses an immediate threat to representative government and our nation's economy because the amount and purpose of all energy consumed in the United States could come under government control. There are few constraints on the authority delegated by this section, but more importantly, both the Congress and state legislatures are expressly precluded from reviewing or modifying federal and state conservation programs. The authority given to DOE to deny funding for state energy conservations plans provides DOE with excessive discretion on the content of state energy conservation programs. It was this kind of delegation of authority which permitted the President to declare an energy shortage existed when he ordered the building temperature restriction plan into effect.

Another provision of S. 1030 permits the President or the Governors, on request, to impose a minimum purchase requirement for gasoline of $7.00 for 8 cylinder cars and $5.00 for other cars. This provision would be enforced by the States and allows service stations to collect the full minimum charge even if a lesser amount is needed or delivered into the vehicle.

S. 1030 is the Democrat "quick-fix" to give the American people the impression that the Democrat-controlled Congress and the Democrat Administration are responding to our energy crisis. It places "blind trust" in the Executive branches of federal and state governments to deliver our country from future energy shortfalls.

The Republican Policy Committee believes that the delegation of broad discretionary powers as contained in S. 1030 with no guidelines may complicate rather than reduce our energy problems. Congress should not, in one careless sweep, grant the President and Governors these powers to control all energy consumption under the guise of an "emergency" and solving the current shortage of motor fuels.●

HEALTHY ECONOMIC CLIMATE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, the industrial and population growth occurring throughout the Southern "Sun Belt" States, has been contributing to the economic health of western Arkansas for over two decades.

The city of Fort Smith, located near the Arkansas-Oklahoma border, was listed by the Bureau of the Census as the nineth fastest growing Standard Metropolitan Statistical Area (SMSA) during the 1970–75 period.

At a recent gathering of Chamber of Commerce officials from Fort Smith and across the border in Oklahoma, some observations about and comparisons to Fort Smith's economic climate were made, which I commend to the attention of my colleagues.

The text of a resultant newspaper article entitled "Industrial Growth Comes to Stop at Right-to-Work Boundary," written by Robert E. Lee and published in the May 27th edition of the Sunday Oklahoman, follows:

INDUSTRAL GROWTH COMES TO STOP AT RIGHT-TO-WORK LAW BOUNDARY

(By Robert E. Lee)

FORT SMITH, ARK.—Looking out the wall-sized windows of the new Fianna Hills Country Club, the visitors were obviously impressed with the view. Below them, past the new 18-hole golf course, lay the wide valley of industry that has become the hallmark of this community on the Arkansas-Oklahoma border.

Eighty members of the Oklahoma City Chamber of Commerce had come to dine with members of the Fort Smith chamber as a part of their Goodwill Tour of southeastern Oklahoma.

In the gathering dusk they could see many of the city's 210 industrial plants, the interstate highway and railroads, the city's airport which once served as gateway for thousands of displaced Vietnamese, the adjoining residential addition . . . and a curious phenomenon.

Running through the valley was a line dividing light and dark. East of this line was the lighted industrial area, west of the line was darkness, with only the lights of cars on the highway invading that darkness.

Why the distinct border between lighted areas and darkness? "That's the Right-to-Work line," said Richard Sugg, our host.

Sugg, assistant manager of the Fort Smith chamber, explained:

"Arkansas has two state laws that you do not have in Oklahoma—Right-to-Work and Anti-Violence. That line you see is State Line Street; east is Arkansas, west is Oklahoma.

"Right down there," he said, pointing, "is one of our huge industrial tracts. All of the land on the Arkansas side has been sold to various industries at $20,000 an acre. Identical land, across the street in Oklahoma, is priced at $2,000 acre and we can't sell it.

"Industries want to locate in Arkansas with its Right-to-Work and Anti-Violence laws, not in Oklahoma which has neither," Sugg said.

The visitors from Oklahoma City understood Right-to-Work (a law prohibiting any company-union contract that would require workers to be union members in a union shop), but asked about Anti-Violence.

"That means just what it says," Sugg said. "For instance, during a wildcat strike if a single tack is thrown in a worker's driveway, that's a felony, not just a misdemeanor."

Sugg gave this historical background:

For years, Fort Smith's major (and almost only) industry had been its Army base, Ft. Chaffee. When the government closed Ft. Chaffee in 1958, Fort Smith Chamber of Commerce knew it had to replace the lost payroll. It hired Paul Latture away from the Tulsa chamber, giving him an unlimited budget to seek industry.

Latture had two state laws going for him. Right-to-Work, passed by the Arkansas Legislature in 1947, and Anti-Violence, passed in 1943. Latture and associates went to work and soon industries became interested in Fort Smith and a few moved there.

A year after Ft. Chaffee's first closing, it was re-opened and became competition against the new industries for labor. Industries didn't like that, and the Fort Smith chamber decided industry was better than military for long-term growth.

A group of Fort Smith civic leaders got an audience with then-Secretary of Defense Robert McNamara, flew to Washington and asked him to close Ft. Chaffee and keep it closed. He ordered the base closed, it has stayed closed and the growth of Fort Smith is almost a textbook lesson in securing industry.

Latture conceded it hasn't been easy, but declares the industry search has been made "tremendously easier" with the Right-to-Work and Anti-Violence laws. "We hope Oklahoma never passes them," an aide declared, and it was obvious he was not entirely joking.

Today, Fort Smith is a city of 68,000 population by night, 145,000 by day. The 77,000 during the daytime are workers who drive in to man the city's 210 major industries.

About 43 percent of those 77,000 drive-to-work employees live in Oklahoma and work in Fort Smith. That's 33,110 Oklahomans earning their living in Arkansas. "The Oklahomans are good people; we appreciate them," Latture added as an afterthought.

Hundreds of the factory workers live on acreages or farms which do not provide enough income to support their families. Many work in Fort Smith factories at an average $5.10-per-hour salary.

Eighty of the 210 industries hire 100 or more employees. The list reads like a roll call of American business—Whirlpool, 4,000 employees; Rheem, 2,000; Riverside Furniture, 1,200; Baldor Electric, 1,500; Gerber, 500; Planter Peanuts, 550; General Electric, 900; Dixie Cup, 800, and on and on.

With the industry has come satellite industries, warehouses, trucking firms, shopping centers, motels, state office buildings and housing developments.

Herman Udouj, principal owner of Riverside Furniture, bought a strip of rolling hill land and had it developed into 800 building lots, 400 of which back up to the 18-hole golf course. Houses ranging from $55,000 to $125,000 are scattered among the trees, giving each privacy.

Fianna Hills Country Club is in the middle of this development. All 800 lots have been sold, and Udouj is starting another 800-lot development.

Latest housing development is being built on rolling land adjoining the new 1,000-acre industrial tract. "When gasoline gets to $2, those folks can walk to work," Latture explained.

Fort Smith has 28 furniture factories, making it once the main industry, but that title now goes to the metal-fabricating firms (Whirlpool, GE, etc.).

Most big firms are non-union. In the union factories, the unions have about 53 percent membership among the employees.

Latture likes to drop little bits of trivia about Fort Smith industries . . . "Planters' $25 million processing plant could use up the annual peanut production from President Carter's farm in just 17 hours." . . . "Hiram Walker had 16 unions and no two contracts due on the same date in their Illinois plant, so they are moving to Fort Smith and building a $37 million plant." . . . "Planter was concerned about natural gas, but we have a 22- or 23-year reserve. Why, they had to cap two wells to blacktop Planters' parking lot."●

INDIVIDUAL ENTERPRISE IS STILL ALIVE IN IDAHO

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SYMMS. Mr. Speaker, a few years ago a young enterpreneuer in Coeur d'Alene, Idaho, named Tom Soumas saw a potential market for intrastate air service within Idaho. Having the initiative and the willingness to take risks—something that many would argue is all too lacking in America today—Tom put together what is now Gem State Airlines.

A recent newspaper story about this endeavor appeared in the July 22, 1979, Idaho Statesman. The story reads as follows:

IDAHO AIRLINE CONTINUES TO GROW: YOUTHFUL DREAM TURNS INTO "GEM"

(By Steven K. Wagner)

When Tom Soumas set out to realize his version of the American dream, people laughed.

But Soumas, at 25, didn't listen. He was too busy buying million-dollar airplanes and gearing up Gem State Airlines to become a major regional air carrier.

"It's a remarkable story," Soumas said, one he claims aged him decades beyond his years as he founded and built the airline into a $16 million enterprise.

Even Soumas is not sure how it happened. It stemmed from former Gov. Cecil Andrus' (the current Secretary of Interior) criticism of Idaho's deficient intrastate air service and evolved through propitious timing and a series of auspicious partnerships.

"We just kind of grew into it," he said, adding he was helped along by the advent of higher auto fuel prices, better airplanes, and high-frequency flight service, all of which are helping him succeed where others have failed.

Soumas is a San Francisco product who moved to Idaho as a teen-ager and attended North Idaho College. He studied music and political science while working as a deputy sheriff in Kootenai County.

"I had always had an interest in transportation," he said, describing his unlikely transition from music student to deputy sheriff to airline founder.

"It came up in a conversation while I was working the midnight shift with another deputy (Jim Alexander, then a pilot on leave from a Caribbean commuter airline and now a vice president at Gem State)."

In typical college fashion, Soumas several years ago took the idea and wrote about it in a term paper.

"I thought about (Andrus' comments) for a couple weeks, then thought about them some more, and started to research the project to study the possibility of forming an intrastate airline."

His research taught him that interstate air transportation revolved around Boise, served by United Airlines and Hughes Airwest. There was secondary service, also furnished by Airwest, but no major intrastate air service to the area's top industrial, mining, business and tourist areas.

In 1975, Soumas left school "for a semester to see how we could do." He recruited investors, came up with $45,000, and formed Gem State Airlines Inc.

"We thought early on we could start an airline with about six people and $55,000," he laughed, adding he soon realized that was impossible for the type of service he had in mind.

Less than 7 months after Gem State's Dec. 1, 1978, beginning, there are 130 employees and a $16 million total investment.

The big hurdle was turning the $45,000 into high financing and a workable corporate plan. Soumas was introduced to Harry Kimbriel, a former American Airlines vice president who evaluated the Gem State Airlines plan and led Soumas to investment banker Justin Colin of New York.

Colin agreed to finance the airline with $6 million of his own money and $2 million from other sources. Some $4.5 million was used to buy aircraft and $2.5 million for initial operating costs.

Costs included a Coeur d'Alene Airport hangar, a reservations system, corporate offices, maintenance facilities and staffing.

With financing in hand, things started happening. Soumas began operations with three 19-passenger Swearingen Metro II planes, pressurized—ideal for Idaho's high terrain—with two turboprop engines.

Soumas figured an airline like his was needed for three reasons:

To get businessmen to an intrastate destination in time to start the business day.

To return businessmen home by the close of the same business day.

To provide timely connections to areas served by the major airlines.

"Professionalism is the key word," Soumas said. "First class or not at all, that's how we try to do it."

"We are a business and we have a very perishable commodity," Soumas said. "Seats. They are more perishable than any product. When a plane takes off with an empty seat, that seat is lost forever and can never be recovered."

The airline currently runs four Swearingens and on July 1 began running two 50-passenger Convair 580s—purchased for $1 million each. By the end of October, the airline expects to have nine or 10 planes in service.

Included on Gem State's itinerary are Boise, Twin Falls, Idaho Falls, Pocatello, Coeur d'Alene, and Sun Valley, Idaho; Lewiston-Clarkston and Moscow-Pullman on the Idaho-Washington border, and Salt Lake City. Expansion plans include Reno, Nev., and "other areas in the Pacific Northwest."

"We've had some losses, but at this point we're doing better than we expected," he said, not disclosing finances of the privately held corporation. "We're performing better than a lot of others have in similar situations."

But Gem State's overall performance is mirrored in statistics from its nearly 7 months of operation. In that time, the airline has carried some 30,000 people and 60,000 pounds of air freight.

"You wake up and find yourself committed," said Soumas, who will not refer to Gem State as a commuter airline.

"We're not a commuter. We're striving to be a regional carrier and to drop the commuter title. We're the only all-pressurized small airline in the region. We're a first class airline that does things the commuters can't."

Soumas has learned a lot about how to run an airline. It is not unusual to find him mingling with his youthful-looking pilots, talking with the ticket clerks, lecturing the plane maintenance crew or handling general public relations chores.

"I don't even know how to write up a ticket, though," he said.

When he is not flying Gem State, Soumas is living it. And that is the way he plans to keep it, right up until it becomes a major air carrier.

Asked if he has his sights set on a Hughes Airwest-type service, Soumas said, "You bet. Only we want to keep the smaller planes. High frequency service in a low density market is the best way to go."●

FISH RESOURCES MUST BE PROTECTED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. BONKER. Mr. Speaker, today I have sent a letter to Representative JOHN DINGELL, chairman of the Subcommittee on Energy and Power, which includes my suggestions and proposed amendment to the Pacific Northwest Electric Power Planning and Conservation Act.

Since this legislation will be coming before Representative DINGELL's subcommittee as well as the Interior Subcommittee on Water and Power Resources, chaired by Representative KAZEN, and at some point the House will be voting on the legislation, I am taking the opportunity to include my letter to Mr. DINGELL and proposed amendment printed in the CONGRESSIONAL RECORD:

Hon. JOHN DINGELL,
Chairman, Subcommittee on Energy and Power.

DEAR JOHN: The Pacific Northwest Electric Power Planning and Conservation Act that will be considered soon by the Subcommittee on Energy and Power and the Subcommittee on Water and Power Resources offers us an opportunity to correct the tremendous deleterious effect that dams on the Columbia River and its tributaries have had on the anadromous fish resources of the region.

There is universal agreement that harnessing the water resource to produce hydroelectric power has severely impacted fish runs. While the actual numbers may be in dispute in one quarter or another, there are sufficient data to indicate a substantial mortality level is sustained by migrants at each structure. The number of fish killed varies each year. Many factors, including the loss of nearly one half of the spawning areas because of dam construction, have reduced salmon runs to the point that some are being considered for designation as threatened species under the provisions of the Endangered Species Act. Such action would be intolerable because of its effect on every aspect of water related activities. Fishing in all areas of the states of Washington, Oregon and Idaho and in adjacent ocean waters, navigation, irrigation, transportation and power generation would be affected by such action. Naming some salmon as threatened species is unnecessary because we can overcome the dam impact on fish resources if we resolve to do so.

Although study and research continue to evaluate the effect of various protective devices and enhancement proposals, enough knowledge is available to proceed immediately with initiatives that would have beneficial impact. The only component that seems absent is a different mandate from Congress to require consideration of fish needs when allocating water resources to generate hydroelectric power or for other purposes.

The river can never be returned to the conditions that existed before construction of the dams. But, since man has interferred and interrupted the natural flow, it is incumbent that he now coordinate the operation of his dams to imitate as nearly as possible the flow that would occur during the different seasons. Such a shift in policy on the Columbia and its tributaries would recognize the importance of other resources, and would discontinue the myth that production of hydroelectric power need not take into account hidden costs—including damage to fish resources.

The mortalities sustained by fish at each of the dams are a function of a range of things. Nature timed the outmigration of salmon to coincide with the spring freshet provided by the melt of the mountain snowpack. The collection of the run-off behind dams causes a meandering migration during which the smolts are susceptible to high predation. If the stored water is then run through the turbines, fish are further decimated unless proper screening and bypass systems are in place. On the other hand, any spill over the dam to facilitate fish passage over the dam rather than through the turbines must be accompanied by modification of the structure by spillway deflectors to reduce supersaturation. Any flow fluctuation that changes abruptly the level of water in the river could serve to wash away spawning gravel, dry out reeds, strand juveniles, or unduly stress fish. In short, any operation of the dam without consultation among the various resource managers and consideration of all needs will result in a continuation of the status quo.

I propose to amend the act to provide a framework within which a council with membership drawn from many interests, including fish management entities, will develop an energy plan that is responsive to fish needs. Such a council, patterned after the Fishery Management Councils established by the Fishery Conservation and Management Act of 1976, would guarantee meaningful public participation in the process.

In addition, the legislation should allow for implementation of specific measures recommended to the council to protect fish resources, and mitigate the present and historical losses that have occurred. Such protection measures would include: requiring instream flow consistent with fish management recommendations to facilitate outmigrant passage through slack water reservoirs; screening devices and bypass systems to prevent forced passage through turbines; spillway operation sufficient to attract upstream migrating adults; modification of all structures where spills occur to provide deflectors to reduce supersaturation; fishways and/or collection and transportation programs to augment passage at all structures. To mitigate fish losses, we should expand existing research programs to seek answers to all outstanding questions, and to improve on existing technology to protect and enhance fish resources. All artificial production through hatcheries, spawning channels and other accepted means to rebuild fish stocks that have been included in the various water projects as mitigation proposals but have not been undertaken should be initiated as quickly as possible.

By recognizing the federal obligation to protect fish resources and develop a balance between anadromous fish production and hydroelectric production and changing the philosophy of the Bonneville Power Administration, Army Corps of Engineers, and Bureau of Reclamation to reflect that obligation we can continue to be blessed in the Pacific Northwest with anadromous fish resources unmatched in the world and cheaply produced hydroelectric power sufficient to meet the region's needs.

The language that follows is Senator Church's amendment as adopted by the Senate Energy Committee, with the changes that reflect my commitment to protect and enhance fish resources. Finding 2(b) "The participation and consultation of . . . users of the Columbia River System including fisheries agencies . . . are essential in the development of regional plans and programs. . . ."

PROPOSED FISHERIES AMENDMENT

4(g) The Council shall request annually from the region's state and Federal fisheries agencies and the appropriate Indian tribes and fisheries agencies their recommendations (1) of measures which would contribute to the preservation and enhancement of the fish resources of the Columbia River and its tributaries for inclusion in the plan and (2) for the funding of research and development which has the potential of providing improved passage for anadromous fish migrants at and between the region's hydroelectric dams.

The Council shall implement such recommendations in the preparation of the plan or modifications to the plan.

Upon adoption of the plan, the Administrator shall (1) include in his annual budget funds for fisheries research and development to be paid from the Bonneville Power Administration fund, or from appropriations and to provide for:

(a) Coordinated operation of dams to protect fish resources to implement measures that include, but are not limited to:

(1) providing uniform instream flow consistent with fish management recommendations to facilitate outmigrant passage needs sufficient to prevent forced passage through turbines and to flush through slack water reservoirs

(A) Such instream flow levels shall be the product of consultation between fish management entities and the Regional Power Council.

(B) Fluctuation of instream flow shall be initiated only after coordination between the Regional Power Council and fish management entities.

(C) Establishment of instream flow shall be responsive to specific fish migration needs.

(2) providing spillway operation sufficient to attract and facilitate upstream adult migration

(3) providing sufficient water in all spawning areas whenever redds or juveniles are present to prevent any drying of redds or stranding of juveniles

(4) providing for protecting spawning beds gravel by minimizing flow surges sufficient to change greatly water levels over short period of time

(5) providing for sequential, phased operation of turbines to provide coordinated protection of fish as they pass through a series of dams

(b) Modification of existing structures to protect fish resources including, but not be limited to, measures that:

(1) deter fish from passage through turbines (screens) to divert fish to bypass systems

(2) prevent supersaturation (spillway deflectors)

(3) facilitate passage of fish around structures to spawning grounds by construction or modification of existing fishways

(c) Collection and transportation of migrants shall be continued and expanded upon to reduce mortalities at all structures

(d) Expanded research programs to:

(1) continue development of programs and devices to maximize protection of fish resources

(2) collect a body of data that provides sufficient information to answer outstanding questions on:

(A) range of conditions that contribute to mortalities

(B) alternative passage systems and comparative benefits of each

(C) multiuse concept of competing uses of river and analysis of each.

(D) cost analysis of fish resource losses for generation of different levels of power.

(e) Construction and operation of artificial production facilities to compensate for fish resources losses based on:

(1) documented historical mortalities and lost spawning area

(f) opening and enhancement of natural spawning areas that have not been in production by:

(1) Protecting water quality and quantity of existing streams

(2) assisting in removal of obstructions to passage to such areas

and (2) acquire and dispose of power and utilize the flexibility of the resources available to him in a manner which will result in the preservation and enhancement of the anadromous fisheries resource while meeting his other obligations.●

OUTSTANDING WOMAN SERVES PEOPLE FOR 25 YEARS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. DICKINSON. Mr. Speaker, I would like to share with my colleagues an article which appeared in the Dothan Eagle, Dothan, Ala., about an outstanding woman who has served people in my district for the past 25 years.

Julia Smith began her public career in the extension service in Crenshaw County, Ala., in 1955. In this capacity she provided invaluable leadership and service with the 4-H Club girls of the county.

In 1957 Miss Smith began her service as home demonstration agent for Houston County, Ala., a position she held for 22 years through her recent retirement.

Julia Smith typifies the outstanding public servant who has contributed so much to her people. I take pleasure in sharing the following article about Miss Smith with my colleagues:

[From the Dothan Eagle, July 22, 1979]

FROM "JAILHOUSE LETTERS" TO ADULT EDUCATION, A TRUE INSPIRATION

For a person who does not enjoy cooking, house cleaning, sewing or handwork, Julia Smith has had an unwarranted influence on the people of Houston County during the 22 years she has been affiliated with the Houston County Extension Service.

Even though she is not naturally domestic, Miss Smith has become a "mother and a grandmother" to numerous young homemakers.

With her ability to answer almost any question, within reason that is, the alert brown-haired woman has captivated the admiration of the young and old alike.

Looking back on her years of service with the extension service, Miss Smith feels she has learned about as much from the homemakers as she has tried to teach them. "I feel the most important thing about my job has been helping people in Houston County," the Auburn University graduate who officially retired this month.

Beginning her career with the extension service in Crenshaw County, Miss Smith became an assistant home agent there in 1955.

She worked with girls involved in 4-H for one year.

About a year later she came to Houston County as an assistant home agent and worked with the 4-H'ers here for a while.

At this time the extension service was located in the Courthouse Annex building and the Alabama native said she "often received mail from 4-H girls—addressed to Miss Julia Smith, Jailhouse."

In 1957 Miss Smith became the home demonstration agent for Houston County and was responsible for the entire adult home economic program.

Her job entailed conducting programs about foods, money management, clothing and other family economic programs, for clubs and organizations.

In 1965 Alabama was selected by the Department of Agriculture to participate in a federal program instigated for the lower income families.

And Houston County was one of four counties chosen in the state to test the Pilot Program.

"At this time the extension service was geared to the middle income families, Miss Smith explained, "and through the Auburn Extension Service we employed aids who were trained in home economics to work with the poorly educated women in low income brackets."

"The founders of the program felt the practical homemaker could help women in a low income more than professional home economist," she continued.

Houston County Agent Allen Mathews says Miss Smith was a pioneer of the Pilot Program and was greatly responsible for the program's success.

"The outstanding program reached a lot of low income people and taught them how to buy groceries on a budget," Mathews said, "and because it was so successful it was adopted by all states."

A major change occurred in the late 60's involving the extension homemakers clubs, and the leader training program was developed.

Previously, Miss Smith had gone to individual clubs and presented programs, now, representatives from each club learned programs and presented the programs to their clubs.

"Representatives of the clubs were able to come to the extension office and then return to their clubs and present programs."

According to Mrs. Clifton Hughes who is president of the Kinsey Extension Homemakers Club, Miss Smith has been "most helpful with club members and others who seek advice about such things as health family life and hand crafts."

Associated with the club for a number of years, Mrs. Hughes says "every woman should take advantage of the adult leadership program."

"A precious person," says Mrs. Wade Clark, "Miss Smith has been a great help to the Selma Club."

"Anytime I asked for information she would tell me exactly what to do and I frequently went to her office and spoke with her."

Most all members of the 12 organized extension clubs in Houston County agree with Mrs. Melbourne Ivey, president of the Webb Club.

"As a friend and leader of all the clubs, Miss Smith has been an inspiration to us all," Mrs. Ivey said.

As times change the extension service has developed programs to meet the needs of women within the county. Demonstrations about energy conservation, rape protection, money management, and nutrition sites for the elderly in Madrid, Columbia and Dothan have been added to the program.

"Within the adult program we now have women from the city as well as the rural areas," the avid reader said.

"Because of the conveniences we have there is very little difference in the urban and rural women."

Miss Smith, who has taken calls at home and at the office, said she also strove to "seek out answers to any questions I did not know."

Often it would be a young mother who said "I've just taken the laundry out of the dryer and left Johnnie's crayons in his pockets. What can I do?"

Or the vacationing family who upon returning discovered that the freezer had been accidentally cut off and all the food was thawed and, in most cases, ruined.

"These are the saddest callers," she noted, "because there is almost nothing they can do about it—even though a lot of work and money was involved."

Other calls include anything from food preservation to money management.

Reflecting on progress the Houston County Extension Service has made over the last 22 years, I'd say—for a woman who isn't naturally domestic—Miss Smith deserves the praise and admiration of her cohorts.●

REPRESSION OF HUNGARIANS IN COMMUNIST ROMANIA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. DORNAN. Mr. Speaker, it has come to my attention that 2.5 million Hungarians residing in Communist Romania are suffering overt cultural genocide. The human rights of this significant minority are violated continuously—despite Romanian acquiescene to the Helsinki agreement and the International Covenant on Political Rights. This ethnic group with a rich and unique culture is being forcibly socialized into Romanian ways—its mother tongue is stifled and its schools are closed. The freedom of these people to perpetuate their precious tradition is violated. Rather, the Communist Romanians attempt to assimilate Hungarian subjects and do so by ruthlessly resorting to oppression, persecution, and economic neglect.

Mr. Speaker, I would like to take this opportunity to read into the record a memorandum of the American Hungarian Federation on the situation of the Hungarians in Romania.

The memorandum follows:

MEMORANDUM OF THE AMERICAN HUNGARIAN FEDERATION ON THE SITUATION OF THE HUNGARIANS IN ROMANIA

During his visit to the United States, one of the leading Transylvanian intellectuals left the message: "Don't let Hungarian education perish in Romania!"

His anguished cry was a reflection of the fact that the cultural, political and economic oppression of the 2.5 million Hungarians in Romania, living mostly in Transylvania, has become both an international and a national issue for the government of the Socialist Republic of Romania.

For a thousand years the Hungarian population of Transylvania constituted the governing elite of the province which was connected with Hungary in the Kingdom of St. Stephen. It is now the subject of both Communist and chauvinist oppression. It is not our intention to gloss over the general political and cultural oppression in Romania. We know well that Romanian intellectuals and freedom-loving people are badly oppressed and that human rights violations against them occur daily.

We would like, however, to bring to the attention of the United States Congress the second tier of oppression imposed upon the Hungarian population of Transylvania. In order to mask its economic and political failures, the present government is stirring the members of nationalist bias in order to win tolerance, or even the allegiance of Romanian chauvinists, be they Communists or even anti-Communists. The government does this in contravention of its own Constitution which bars any discrimination on the basis of national origin.

THE PATTERNS OF DISCRIMINATION IN TRANSYLVANIA

Despite the generally rocky road of Romanian-Hungarian relations in Transylvania there was a short period of attempted reconciliation between the Communist elites of the two groups at the expense of the middle classes of both nations between 1946 and 1958. As a result, the Hungarian educational system (although under strict ideological control) was continued, "Socialist realism" promoted even in the Hungarian language and theaters flourished in order to educate the Hungarians in ideologically reliable plays and comedies.

The situation started to deteriorate between 1958 and 1968 by the forced merger of the Hungarian Bólyai University with its Romanian counterpart (Babes University) in Cluj (Kolozsvár), by the persecution of many Hungarian university students and intellectuals under the pretext of counterrevolution and nationalist deviation in the wake of the anti-Communist revolution in Hungary that had repercussions in Transylvania in 1956. In the early 1960s the independent Hungarian secondary and primary school system in Transylvania was forcibly merged with the Romanian one and the surviving classes became "sections" of Romanian schools. Economic development neglect of the Hungarian region of southeast Transylvania was continued and the Romanization of the cities accelerated.

While during the 1968–73 period some improvements were made by the Romanian Government which had at that time feared a Soviet invasion, the situation is now rapidly approaching a nadir for the 2.5 million Hungarians in Romania.

Hardest hit is the educational system. Since 1974 the ratio of academic and scientific lycées (prep schools) to vocational high schools changed from 70/30 to 30/70 in Romania. The repercussions for Hungarian-language education were horrendous. In the lycées about 10 percent of the students were Hungarians in 1974, now their percentage dropped to 3.6 percent. In the vocational high schools their percentage in 1974 was 1.8 percent and despite the general change in the educational system, their percentage only rose to 3.5 percent in 1977.

The percentages do not, however, explain the damage done. In the vocational high schools textbooks are only now being printed in Hungarian and many of them are still Romanian textbooks with Hungarian glossaries. Teachers (sometime of the Hungarian nationality) have been unable to teach the technical language in Hungarian having learned the terms and using the terms all their life in Romanian only. In addition, the percentage of classes in Hungarian language in the "Hungarian sections" of the vocational schools usually do not exceed 50–60 percent while in the old lycées all but Romanian language, history and geography were taught in Hungarian. Since this year even the teacher supply is cut as no student can take Hungarian language and literature as major without taking a second major in Romanian language and literature. In practice, there is no guarantee at all that a Hungarian teacher qualified to teach Hungarian will not be assigned to a Romanian section.

There is still considerable pressure to close Hungarian sections and to increase the subjects taught in Romanian in the remaining sections. Only about half of the Hungarian children in Transylvania attend Hungarian sections, and less 35 percent attend Hungarian sections in the high schools in general. The percentages are shrinking year by year. On the university level the number of Hungarian students expanded only 20 percent in the last 15 years as compared to about 200 percent for Romanians.

Hungarian bilingual signs are unknown outside of the three counties of the "Székely area" and even there they are sparse. Despite the constitutional guarantee of the use of the mother tongue in official correspondence and contacts, no such opportunities exist except in the purely Hungarian villages. Many of the towns and cities with Hungarian majority or substantial Hungarian majority or substantial Hungarian minorities have mayors who do not speak Hungarian. The once flourishing Hungarian theaters are also merged with Romanian ones except in Cluj (Kolozsvár) and Sfintu Gheorghe (Sepsiszentgyörgy).

The situation could be described in similar terms of systematic and forced retrenchment of any Hungarian culture in other fields. The history of the province has been falsified not only according to Marxist-Leninist dogma, but sometime in contravention of it in the spirit of Romanian chauvinism. Most of the Hungarian history of the province is completely ignored, the few instances quoted are completely distorted to stress "Romanian contribution." The questionable "Daco-Romanian theory" has become a matter of creed which Hungarians have to parrot admitting that the Romanians and not they were the autochtonous population despite their incredence of the theory.

The newest assault on the Hungarians is the systematic plan to dilute the last Hungarian bloc of about 750,000 in southeast Transylvania. Ending economic neglect the area is now being industrialized. But the workers brough in are not from the neighboring' villages but from the Romanian parts of Transylvania and often from outside Transylvania. The plan has not yet succeeded in its objectives but the gleichschaltung has already begun in the Szekely area toward the permanent local minority status of the Hungarians.

Atrocities also occur. A professor in the *lycée* at Brasov was either killed or driven to suicide in 1977 for opposing the abolition of the Hungarian section in his school (Szikszay). Arrests and persecutions are not uncommon and the leading dissenter, former member of the Communist Party's presidium, Károly Király, was severely harrassed upon publically criticizing the policies toward the nationalities in 1978.

THE INTERNATIONAL AND NATIONAL ISSUE OF OPPRESSION IN ROMANIA

The Kirâly letters which were also published in the West were not the only sign of resistance of the Hungarian leadership in Transylvania. Former Rector of the Bòlyai University, Professor Lajos Takacs formulated the demands of the minority within the framework of Communist ideological principals but fearlessly as far as Romanian chauvinism is concerned. Memorandum was sent by 63 Hungarian intellectuals in Transylvania to their Romanian colleagues asking for improvements and the leading Hungarian writer Andras Sütö also addressed an appeal to the party organs.

The Western press, especially since the Kirâly letters, is also taking note of the continued persecution of the Hungarian minority. Articles were published in leading American, British, Swedish and German newspapers and magazines in the period of 1977–1979.

The American Hungarian Federation has addressed the problem ever since 1963 to the members of Congress and the Administration. We are not against the principle of foreign trade, nor against the principle of most favored nations treatment to Romania. But in our opinion, granting the concessions rewards a country where human rights violations are daily occurring against all citizens, where free emigration does not exist and where the autochtonous Hungarian minority of 2.5 million is cruelly oppressed. We do not believe that Congress should renew the most favored nations treatment of Romania at this time until guarantees for improvements have not been received by the President and Congress that the provisions of the Helsinki Agreement on human rights will be observed and the national minorities assured the rights they enjoy under the Helsinki Agreement and the International Covenant on Political Rights.●

YE OF LITTLE FAITH

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 1979

● Mr. SYMMS. Mr. Speaker, the July 22, 1979, Idaho Statesman contains an editorial commenting on President Carter's order imposing temperature regulations on heating and cooling of nonresidential buildings. I feel that the Statesman editorial makes some very good points.

Further, I strongly suspect that the energy savings—specifically oil—resulting from these regulations will be minimal. One gets the feeling that the real reason for the regs is to create a public psychology of "crisis."

The editorial reads as follows:

YE OF LITTLE FAITH

The Department of Energy's program to enforce restrictions on heating and cooling non-residential buildings in an affront to the American people and a waste of money.

The department has announced that Idaho might receive approximately $52,000 to enforce the regulations, which require all non-residential buildings to be cooled no lower than 78 degrees in summer and heated no higher than 65 degrees in winter. The money would be used by the state to monitor compliance with the regulations. Those found in violation could be subjected to fines up to $10,000 a day.

How incredibly small-minded of Washington. President Carter tells us it is our duty as citizens to sacrifice so our country might overcome the energy crisis. Then, the first thing the federal government does is seduce state governments with federal money and beat the people about the head and shoulders with threats of what will happen if they don't comply.

That's like saying, "You ought to be patriotic, but we don't think you have it in you. We have no faith in you."

Idaho ought to refuse the money and ignore the threats. The people of Idaho do have it in them, as citizens of the nation, to respond without threats. Idahoans will respond because they understand the gravity of the situation. They will heed to call of their president and the regulations passed by Congress without being threatened into it. True, some will cheat under any circumstances. But we predict more cheating will result from the heavy-handed federal threats than would otherwise be the case. Intimidation is counterproductive: it begets rebellion.

In his speech last Sunday, President Carter spoke of Washington as an island. This attempt to muscle the American people certainly shows how much of an island that city on the Potomac has become. The carrot and stick approach is entirely inappropriate to the tenor of the day. The people just do not need federal intimidation. They are ready to respond. They may grumble a bit, but they are ready to sacrifice. Just treat them like sensible human beings, not like naughty children.

The human animal normally performs to expectations. Expect little and you will get little. Expect much and so shall you receive. If it is true, as we believe, that Americans must regain a sense of self-confidence and faith in their nation, it follows that the government must risk a demonstration of that same faith, Programs such as this are a poor way to start.●

SENATE—*Monday, July 30, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL T. HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord whose grace is sufficient for all our need, grant to each of us an abiding sense of Thy presence that we may have Thy correction, Thy wisdom, and Thy support.

We pray for all persons in places of authority, the President, his counselors, the Members of Congress, all judges, all diplomats, and those who make and execute national policies. May they have a vivid sense of ruling under Thy providence, and a holy remembrance that where there is no vision the people perish.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 30, 1979.

To the Senate:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL T. HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Nebraska (Mr. EXON).

SENATE RESOLUTION 206—SET-ASIDE PROGRAM FOR 1980 WHEAT CROP

Mr. EXON. Mr. President, I rise this morning to ask for the immediate consideration of Senate Resolution 206, which the Senator from Nebraska introduced last week. Before proceeding, if the majority leader will yield, I would like to ask him a question regarding procedure.

Mr. ROBERT C. BYRD. Mr. President, I will be glad to answer the Senator's question.

Mr. EXON. Mr. President, by unanimous agreement on both sides, as the majority leader knows, the ranking member of the Agriculture Committee and the chairman of the Agriculture Committee in consultation on the floor on Friday last, about 6 p.m., agreed that the committee would be discharged. I ask the question: Would it not be proper at this time to move for the discharge of the committee before I move adoption of the resolution?

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished Senator will not press his request at the moment. If he would wish to have some time to speak, I will be glad to yield.

Mr. EXON. Mr. President, let me proceed with my remarks and we can work out the matter in the meantime.

Mr. ROBERT C. BYRD. Yes.

Mr. EXON. Mr. President, let me begin by expressing my gratitude to the distinguished chairman of the Agriculture Committee and the distinguished ranking minority member of the committee for their expeditious action on this resolution. In light of the fact that the administration will be announcing its decision in the next few days, it is critical that we in this body have the opportunity to send the Secretary of Agriculture a message. This resolution is such a message expressing the desires of the U.S. Senate.

Mr. President, when I first learned that the administration was contemplating a decision which would eliminate the voluntary wheat set-aside for the 1980 crop year, I was shocked. For the last 2½ years, the U.S. Department of Agriculture has been the target of criticism from virtually every segment of the agriculture industry for what was believed to be a shortsighted agriculture program which was doing little to address the immediate needs of our farmers. In recent months, this stagnation appears to have broken and we have seen a decided improvement in market prices brought on by improved export demand and the policy of reduced planting; namely, the set-aside.

It is too soon, Mr. President, to take the steps the Secretary of Agriculture is contemplating in the elimination of the voluntary set-aside for wheat and later this year for feed grains. The Nation's harvest reports are indicating that when the last bushel of wheat is harvested, this Nation's wheat farmers will have produced some 2.15 billion bushels, much of which will certainly go into our surplus. To eliminate the set-aside, in my opinion, will put this Nation's farmers on the road to a fence-row-to-fence-row planting policy which will only serve to end the current market price improvements and force prices to decline. This will, once again, put our food plant in a state of stagnation and further the continued evolution of the international cheap food policy.

Mr. President, the time to act is short and the importance of this action is undisputed. The U.S. Senate, should it approve this measure, will go on record in support of the continued voluntary set-aside for the 1980 wheat crop and by this action show its continued support for our food plant.

Mr. President, this completes my remarks at this point. I ask for the early consideration of the resolution as presented.

Before I yield back to the majority leader, I do want to point out that I will offer a technical amendment to correct a typographical error, an amendment which is now at the desk. During the drafting of this resolution, a minor error occurred in paragraph 3. The figure of 215 million should read 2.15 billion.

I will offer that amendment at the appropriate time as a technical correction.

Mr. ROBERT C. BYRD. Mr. President, as I understand the distinguished Senator, he will seek to discharge the Committee on Agriculture from further consideration of the resolution, Senate Resolution 206.

Mr. EXON. The Senator is correct.

Mr. ROBERT C. BYRD. And he would wish to proceed to its immediate consideration.

Mr. EXON. The Senator is correct.

Mr. ROBERT C. BYRD. And then he would wish to offer an amendment which would correct a typographical error.

Mr. EXON. The Senator is correct.

Mr. ROBERT C. BYRD. It will have to be cleared on the other side before we can proceed. Have I any time remaining.

The ACTING PRESIDENT pro tempore. The Senator has 4½ minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair. I will reserve that time in the event that I wish to yield to the Senator.

Mr. BAKER. Will the distinguished majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I have asked the majority leader to yield to me only long enough to say that I believe this matter has been cleared by our ranking member on the Agriculture Committee, the distinguished Senator from North Carolina (Mr. HELMS). If the Senator would forbear just for a moment, I would like to touch one or two other bases and then I think we will be prepared to go forward.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, there was a conversation on the floor, I believe last Friday, involving Mr. TALMADGE, the chairman of the committee, Mr. HELMS, the ranking member, Mr. EXON, and myself. I think the matter was cleared at that time. But we will not pursue the matter until the distinguished minority leader has further cleared the matter.

Mr. EXON. If the Senator will yield, I am glad to wait as requested by the majority leader.

Mr. President, I ask unanimous consent at this time that Senator BOSCHWITZ be made a cosponsor of the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, are there special orders this morning?

The ACTING PRESIDENT pro tempore. There are special orders, yes.

Mr. BAKER. Mr. President, am I included in that list?

The ACTING PRESIDENT pro tempore. The Senator is included.

Mr. BAKER. Mr. President, I have no need for more than the time provided by the special order, and I am willing to yield back my time under the standing order. If I could suggest the absence of a quorum or otherwise utilize that time in order to gain just a moment to complete my check, I would be willing to try to dispose of the matter offered by the Senator from Nebraska.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

SENATE RESOLUTION 206—SET ASIDE PROGRAM FOR 1980 WHEAT CROP

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I might say for the benefit of our colleague from Nebraska and the majority leader that this item, it now appears, is fully cleared by the ranking minority member of the Committee on Agriculture, the distinguished Senator from North Carolina (Mr. Helms). We know of no other problems with the measure, and I am prepared at this time to proceed to agree to the Senator's request.

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from consideration of Senate Resolution 206 and that it be immediately considered.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the immediate consideration of the resolution.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 206) relating to the set aside program for wheat for the 1980 crop.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

UP AMENDMENT NO. 470

The ACTING PRESIDENT pro tempore. Does the Senator wish to submit his amendment?

Mr. EXON. Mr. President, I have sent to the desk a minor corrective amendment that I should like to have incorporated in the Record. I referred to it in my remarks a few moments ago, a typographical error changing the words "215 million bushels" as originally inserted to "2.15 billion bushels." I ask unanimous consent that that corrective language be made part of Senate Resolution 206.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. Exon) proposes an unprinted amendment numbered 470.

In the third paragraph of the preamble strike all after "harvest" and insert in lieu thereof: "which includes a 20 percent set-aside, produced some 2.15 billion bushels of wheat which will add to this nation's current domestic surplus".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 206) was agreed to.

The preamble, as amended, was agreed to.

The resolution, with its preamble as amended, is as follows:

S. Res. 206

Whereas the Secretary of Agriculture has been given the responsibility by law to establish crop set-aside programs for the 1980 crop year for certain agricultural commodities; and

Whereas the Secretary of Agriculture will be making his decision on the wheat set-aside program for the 1980 crop year on or before August 15, 1979; and

Whereas the 1979 wheat harvest, which includes a 20-percent set-aside, produced some 2.15 billion bushels of wheat which will add to this Nation's current domestic surplus.

Whereas a decision to not have a wheat set-aside for the 1980 crop year can only result in fence-row-to-fence-row planting practices similar to those that occurred in the mid-1970's and resulted in excessive surpluses during a time of reduced world demand and in financial ruin for a large segment of this Nation's wheat producers; and

Whereas official Department of Agriculture estimates indicate that seventy-eight million acres will be planted to wheat in the absence of a set-aside program, an estimate by industry of eighty-two million acres is far more realistic; and

Whereas eighty-two million acres of wheat production in 1980, a substantial increase over the estimate of the Department of Agriculture, would drive market prices down from their presently improved level and result in significant savings only to foreign buyers at the expense of domestic producers; and

Whereas it is the responsibility of the Secretary of Agriculture to use the authority granted him by law to protect the Nation's agriculture sector through the formulation of policies designed to improve production practices and ultimately eliminate the cheap food philosophy which has permeated our Federal Government for too many years: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should, and is hereby urged and requested to, establish a minimum wheat set-aside for the 1980 crop year of not less than 5 per centum of the 1980 wheat acreage.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. EXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I ask unanimous consent that time allocated to me under a special order for this morning may be assigned to the distinguished Senator from New York, so that he can maintain control of an orderly colloquy on this important subject.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

THE REPUBLICAN ECONOMIC PROGRAM

Mr. JAVITS. Mr. President, my purpose in addressing the Senate this morning is to detail the elements of an economic program just adopted by all 41 Republican Members of the Senate for presentation to Congress and to the country. The economic program is designed to offer the American people alternatives to the economic proposals of the administration. We felt it our duty, if we were going to be critical, to offer positive alternatives ourselves. This is what we shall be presenting this morning.

These statements were released late last week. My presentation will be followed by that of Senator Danforth of Missouri and other Republican Senators who will present a package of bills implementing part of this program. Other bills will be forthcoming in due course. In addition, there are measures already introduced which deal with the implementation of elements of the program.

Mr. President, the ideas which we present and which we shall endeavor to implement by legislation, both in original measures and amendments to bills which may be brought in here by committees and to recommendations which may be made by the President, are based upon a number of fundamental concepts. These are four, and they are as follows:

One, that the control of the present double-digit inflation, which we all agree is critical to the long-term health of the economy, depends upon the adoption of the following policies: To foster improved capital investment, productivity, research and development, personal savings, and personal investment in order to expand the productive capacity and efficiency of our economy; and, two, to bring the Federal budget into balance as soon as possible as an integral component of stable monetary and fiscal policies.

Second, the present and prospectively worsening problems of unemployment, which bears so heavily on youth and on minorities and those newly entering the labor force, can be best remedied by placing greater reliance upon the private sector of our economy through expanded use of tax credits for employers who give jobs, the issuance of vouchers by Government making that program easier to administer, and especially adapting to the problems of the structurally unemployed.

Third, that a crisis of confidence having arisen in our country, which is reflected in a crisis of confidence in the health of the U.S. dollar, which has been battered by our inability to deal with a new wave of inflation and by a fundamental erosion in the overall economic position of the United States and the world, its restoration requires better control of domestic inflation and a massive export development drive.

We also urge the establishment of a means for moving capital for productive purposes to developing countries which are willing to cooperate in the foreign trading system of the world.

Fourth, and last, the U.S. tax system should not operate to reduce the real standards of living of the American people.

Accordingly, we Republicans support substantial phased reductions in Federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of Federal spending.

Mr. President, these themes are incorporated in the Republican economic policy statement which has already been printed in the RECORD, but which, for the purpose of unified reading, I ask unanimous consent it may again be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REPUBLICAN ECONOMIC POLICY STATEMENT

INTRODUCTION

Today, a lack of confidence in the ability of the present Administration to develop consistent and reliable economic policies has bred a climate of uncertainty about the health of the U.S. economy and even about the position of the U.S. in the world.

Controlling inflation, cutting taxes, and increasing our national productivity are the main economic concerns of the American people. Senate Republicans are prepared to furnish fresh, optimistic, and decisive leadership to accomplish these objectives.

Our program for balancing the federal budget, reducing personal and business taxes to increase incentives for investment and improved productivity, curtailing regulatory excesses, and other measures to increase investment and job opportunities is in sharp contrast to current economic policies.

In recent months, economic uncertainty has yielded to genuine concern about the danger of a severe recession because:

(1) Inflation has reaccelerated to double-digit levels in this year,

(2) Unemployment has remained very high, and

(3) There is an almost total absence of a coherent national economic strategy and energy policy.

Inflation is eroding the value of savings and wiping out recent increases in personal incomes, while simultaneously increasing the tax burden by forcing Americans into higher tax brackets. Unemployment has persisted in the range of 6 percent for the last year and shows no signs of improvement any time soon. Indeed, it is now expected to worsen considerably. And youth unemployment continues at intolerable levels, particularly in the older cities.

Compounding the problems of worsening inflation and unemployment are the continuing weakness of the U.S. dollar; very high interest rates; the sharp fall-off of R & D investment; and the virtual stagnation of U.S. productivity growth—the key to jobs, rising standards of living and stable prices.

The economic danger before us is very real, therefore, but the Administration seems to lack either the ability or the will—or both—to deal with it. Instead of formulating the needed economic initiatives—to restrain inflation by increased productivity and enterprise; reduce unemployment; reduce the trade and payments deficits; increase the real GNP by bringing the national books into balance; and restore domestic and world confidence in the dollar—the Administration has seemingly chosen a policy of papering over the basic economic illness by market manipulation of the dollar, wage and price exhortation and surrendering on energy policy.

The Administration continues to rely principally upon an almost unintelligible, already unsuccessful program of half-mandatory/half-voluntary wage and price controls and a series of energy programs by which, even if approved, little will be gained in energy sufficiency. The economic history of the world proves the folly of continuance of wage and price controls which distort the economy and incur ultimately greater inflationary pressures. The imposition of wage, price or credit controls cannot be justified except in a time of true national emergency.

Clearly the loss of confidence in the leadership of the U.S. has its roots in a fundamental skepticism about the effectiveness of U.S. leadership.

Senate Republicans believe action is needed now, to avert what could be a major domestic and world economic disaster early in the course of the next decade. There is a need to put before Congress and the people an action program which would be directed to: securing the living standards of the people; reducing unemployment by providing permanent private sector jobs, particularly among minorities and youth; restoring confidence in the U.S. dollar; stimulating capital formation and U.S. productivity as the only enduring approach to stable prices and full employment; reducing the burden of unadjusted federal tax brackets on individuals and corporations; balancing the federal budget; and reducing our dependence on foreign energy sources.

Accordingly, Senate Republicans put forward this "Economic Program for the Decade"—an action program to begin to make right what is so wrong with the U.S. economy.

BUDGET AND TAXES

1. It is vitally important that the tax system not operate to reduce the real standard of living of the American people. Therefore, we support substantial phased across-the-board reductions in federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of federal spending.

2. Our objective must be to bring the federal budget into balance and to curb future deficits.

3. There should be a mandatory limit on federal spending. A policy of no "real" growth in federal spending through FY 1982 is desirable. The spending limit needs to be sufficiently flexible to allow for national economic and other emergencies.

4. The excessive burden of the national debt must be reduced. Budgets must provide surpluses for this purpose. Receipts from the sale of certain federal assets such as oil leases and surplus federal properties could help accomplish this goal.

5. A thorough review of all federal entitlement programs is necessary to help reduce the rapid growth of federal spending.

6. It is of the utmost urgency that the Social Security system be reviewed and revised so as to ensure the continuation of our financial commitment to our older citizens, the solvency of the trust fund, and to be fair to our younger workers, with particular regard for eliminating fraud and abuse in the disability program and providing relief from escalating payroll taxes.

7. Federal accounting precedures must be changed. The hidden spending of "off-budget" agencies through loans and credits should be highlighted in the Congressional budget.

8. There should be a thorough review of federal budgetary and accounting procedures, with consideration given to applying the accounting procedures of the private sector to the operation of the federal government, to obtain a more accurate picture of the federal budget in terms of capital assets as well as outlays. In this connection, a Task Force on the Federal Budget should be formed to review and make recommendations to Congress and the people on federal budgetary concepts, procedures and standards.

9. To further reduce federal indebtedness, the U.S. should be more vigorous in the collection of its debts, domestic and foreign.

CAPITAL FORMATION AND PRODUCTIVITY

1. Personal savings and investment should be encouraged by incentives, rather than penalized through taxation. There should be universal eligibility for Individual Retirement Accounts of up to $1,500/year. By saving for their own future, Americans would be investing in a stronger, healthier economy.

2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

3. Government at all levels should revise regulatory systems which presently divert investment capital away from productivity and job creation and divert business enterprise into non-productive purposes.

4. Improved levels of productivity in the private sector are paramount if the United States economy is to make progress in winning the inflation battle. Business incentives toward increased capital formation and investment must be encouraged through business tax reductions, tax credits, and accelerated depreciation allowances. Realistic tax incentives spur investment. Depreciation allowances for plants and equipment, including equipment to meet evironmental regulations, should be accelerated and adjusted for inflation, in order to permit depreciation allowances to approximate more closely the true replacement costs rather than historical costs of capital equipment.

5. To increase productivity, the United States must recover its former place as the world's leader in industrial research and development. Tax credits for new R & D expenditures would provide a significant incentive for improved research and development spending. The United States must increase properly conceived federal expenditures for accelerated research and development in order to replenish the nation's reservoir of technology and energy alternatives.

6. Sunset legislation for all federal regulatory agencies should guarantee the periodic review and, if necessary, adjustment of their scope and purpose.

7. The Congress should exercise effective but practicable control over proposed federal regulations to ensure that they carry out the intent of Congress. On the federal level, every proposed regulation should be subject to cost-benefit analysis to ensure that potential benefits are not outweighed by its economic impact.

EMPLOYMENT AND UNEMPLOYMENT

1. Full encouragement should be given to the highest priority need for work-study programs in high schools and colleges to attack the basic problems related to the high levels

of unemployment among several groups, i.e., those lacking the training, education, and the desire to achieve the needed skills for productive employment.

2. Targeted tax credits for hiring the structurally unemployed—similar to the Targeted Jobs Tax Credit enacted last year—provide an important incentive to employers to hire the economically disadvantaged. Full use should be made of these and similar tax credit incentives to reduce unemployment among those segments of the labor force—youth—with disproportionately high unemployment.

3. Cash bonuses for employers should cover part of the costs of bringing jobless Americans into the productive economy. In this regard, CETA's voucher demonstration project, helping the private sector hire trainees most in need of jobs, should receive a greater percentage of CETA funds.

4. Labor and management should cooperate to strengthen and expand training and apprenticeship programs in the skilled crafts, especially in small businesses, and measures to improve productivity with appropriate participation by each in the avails of such improvements.

5. Labor-management councils, bringing employers and employees together to improve working life conditions, should be encouraged.

6. The Private Sector Initiative Program (Title VII of CETA) should be expanded, so that persons trained in this program can have better opportunities for career development.

7. The charter of the U.S. Employment Service should be revised to foster better coordination with other federal activities, especially those conducted under CETA.

8. Part-time and flexi-time work schedules deserve greater use to accommodate workers and their families with special economic and domestic situations.

9. A youth differential in the Minimum Wage, with appropriate safeguards against displacement and only for a limited period of time, could have a significant impact on youth employment.

10. Regulation and paperwork requirements must be simplified for all business and construction activities in order to increase employment opportunities through reduced overhead costs.

INTERNATIONAL TRADE AND MONETARY POLICY

1. The Federal Government, with active participation by leadership from the private sector, should develop and implement a comprehensive national export policy to promote aggressively the export of U.S. goods and services and to defend U.S. trade interests.

2. Export licensing procedures should be simplified, streamlined, and better defined. There should be a firm commitment to control the export of advanced technology to non-market nations in accordance with the provisions of the Export Administration Act. We remain committed to the principles of free emigration before Most Favored Nation Status can be extended.

3. A broad effort should be launched to assist smaller businesses to participate in exporting, beginning with reform of the Webb-Pomerene Act.

4. We advocate elimination of export subsidies through international negotiations, acknowledging the impediments to this process. Until such subsidies are eliminated, we should take appropriate steps to support American industry in world markets through organizations such as the Export-Import Bank and the Commodity Credit Corporation.

5. Improved trade relations within the Americas are urgent and necessary for our mutual well-being. Therefore, the United States must begin to emphasize the importance of hemispheric trade. To that end, we urge the creation of a Western Hemispheric Economic Commission to study ways and means of joining together with our neighbors to ease and facilitate such trade to our mutual benefit.

6. The U.S. must work actively with Japan and other surplus countries to check continued undisciplined trade surpluses and also to remove nontariff barriers to trade. Failure to resolve this problem may cause political pressure for protective measures to become irresistible.

7. The DISC tax incentive for U.S. businesses should be retained, and other tax incentives for exports should be provided, as long as our overseas competitors maintain similar export subsidies. Special provision for U.S. citizens working abroad is essential to maintain our competitive position.

8. The Federal Government should systematically monitor imports to anticipate future trade problems before they cause the shutdown of American plants and the loss of jobs. To this end, we recommend trade adjustment assistance to provide more timely and equitable relief to labor and industry.

9. U.S. monetary policy must be based on a firm commitment to a strong and stable dollar. This means money supply growth based upon the real growth in the economy. A strong dollar requires improvement in our economic fundamentals: a lower inflation rate, an improved trade balance, and a significant reduction in oil imports through domestic production, conservation and effective measures to deal with the OPEC Trust.

10. In protecting the dollar from sudden or severe fluctuations on foreign exchange markets, we should support vigorous intervention in the operations of the foreign exchange markets. High interest rates are a direct result of inflation with its excess money supply growth. A strong dollar will mean lower interest rates and less inflation. To this same end, the desirability of gold sales by the Treasury and the policy of "demonetization" of gold should be reevaluated.

11. The International Monetary Fund should exercise more effective surveillance of surplus economies and should work more closely with commercial banks.

12. The transactions of U.S. banks in the Eurocurrency markets should be more closely evaluated.

13. The U.S. should resume its leadership role in the international monetary system. We should convene world financial leaders to develop a long-term plan for the evolution of the present monetary order into a true multi-currency reserve system characterized by stability in exchange rates and minimal world inflation.

Mr. JAVITS. Mr. President, the statement, which is backed by individual analyses of the individual subject heading made by task forces which functioned in this matter on our behalf, is available at the policy committee office of the Republican minority in the Senate.

The subject headings appear as follows:

Budget and taxes, for which Senators BELLMON and DOLE were responsible.

Capital formation and productivity, for which Senators DANFORTH and PERCY were responsible as a task force.

Employment and unemployment, for which Senators HATCH and CHAFEE were responsible as a task force.

International trade and monetary policy, for which Senators ROTH and GARN were responsible as a task force.

The first heading, Budget and taxes, the highlights there are really three concepts.

One, that we believe that the American people will be best served right now, not as their demand or their consumption of goods and services is built up.

We have been through that phase and we have reaped nothing but what can only be described as a deplorable or galloping inflation because our productivity has not kept pace.

So we consider the highest priority of the United States, even including the energy problem, to be an improvement in its productivity.

This can only be obtained through greater modernization of the American industrial plant, which in terms of newer industrial nations, like Japan and Germany, and even Britain and France, is getting seriously obsolescent.

They are the ones who built, after the destruction of World War II. We have not built a steel plant in this country since the Fairless works in 1947. That is the only one. Hence, we are being beaten in world competition for very good reasons.

The only way in which this can be corrected is by giving real benefits for capital growth. That means giving a tax benefit to savers on some part of their interest, a tax benefit to investors on some part of their dividends, greater than they get today, and what they get today is very small.

The encouragement of research and development, in which we are falling behind. Almost two-thirds of the patents granted last year in this country were granted to foreigners, not Americans, an unheard of situation.

We are in the cellar in terms of saving in this country. The President pointed that out in his address about a week ago, or 10 days ago, and he is absolutely right. He did not know what to do about it. We do, in terms of making it attractive to save by making some of our savings interest tax free.

We also seek an investment retirement account with a maximum of $1,500 a year for everybody. Today, many may have it due to certain provisions in the ERISA law, of which I am one of the two authors, but we propose it be made universal, again in order to encourage saving.

So that is one. Then we feel that the depreciation rate in American plant and equipment is completely archaic and needs to be advanced by being cut at least in half.

The general rubric which that goes by is 3, 5, and 10. That is, 3 and 5 for different types of machinery, in terms of years in which the cost may be written off, and 10 years for structures.

There is no slavish adherence to those terms, but it expresses the concept.

The second element which we propose, which we think is critically important, is a readjustment of income tax brackets in order to reflect the fact that dollar incomes made larger by inflation incur very much higher tax rates because of the progressive income tax, without any improvement in the standard of living, or any real gain on the part of the taxpayer.

This is a minimum upon which we Republicans agree. There is some difference in our ranks over whether there should be a major tax cut now, generally put in terms of a 30-percent tax cut over 3 years, or whether there should not.

So we have arrived at a consensus among ourselves to go for a substantial phased across-the-board reduction in Federal income taxes, leaving the number of years to be determined by conditions, and the percentages to be determined by conditions, and we will deal with that as we go along in this year.

But, basically, committing ourselves, certainly, to a readjustment of brackets, and to whatever else we can do and agree on in terms of reductions in our income tax burden.

The third aspect of our recommendations deals with the Federal budgetary and accounting procedures.

We believe that our Federal Government is not picturing for itself its true economic situation because we treat all expenditures for capital assets as outlays. This is completely archaic. It is not business practice and it tends to distort very materially our whole budgetary operation and the amount of our deficit.

We also urge reduction of the national debt through more vigorous collection of our debts, both domestic and foreign, and through applying on our national debt some of the avails of the sales of U.S. assets.

For example, offshore oil leases, or sales of Federal real estate.

We suggest that the avails be directed to the reduction of the national debt, and we strongly commend that to our colleagues and the country.

I have already dealt, in the main, with what we recommend under capital formation and productivity. I pass now to employment and unemployment.

Mainly, there, we are committed to targeted tax credits for hiring the structurally unemployed as an incentive to employers, the hiring and training.

We are also willing to see cash bonuses given employers for the cost of bringing jobless Americans into the production economy, particularly as to private sector involvement in the CETA program, which is the Government employment and training program, in order to help with serious unemployment.

We are also committed to labor-management councils, picking up the experience of World War II, as a means of bringing employees and employers together to improve working life conditions, to deal with absenteeism and drug addiction and a general slackening of morale and productivity as they relate to the individual.

We are committed to part-time and flexi-time work schedules to pick up the working ability of men and women who cannot devote the traditional 8 hours in a consecutive way to employment. We think this can employ very many more people and also increase the productivity of the American industrial machine.

Finally—although personally I differ with my fellow Republicans on this, but I join them because I go with the whole statement—we are for a youth differential in the minimum wage. But they have agreed that there must be appropriate safeguards against displacement of adult workers and that this differential should obtain only for a limited period of time.

Under the heading of international trade and monetary policy, our main effort is directed toward retaining those elements of our law which favor exports. That is the only way in which we effectively can balance the tremendous amount of national resources which is devoted to payment for imported oil.

Indeed, it is the key to how we deal with the energy situation, in the sense of making ourselves more able to seek substitutions and more able to engage in conservation.

We are very strong for an export trade drive and for retaining the reforms which help small business in exporting, with respect to the Webb-Pomerene Act, which affects our antitrust laws, and the so-called DISC program, which deals with making it beneficial taxwise to engage in exports in which one might otherwise not engage.

Also, we urge, as a basis for greater economic unity in the Western Hemisphere, the establishment of a Western Hemisphere Economic Commission, in order to determine how we may best proceed to reduce tariff barriers and facilitate trade in this hemisphere.

This picks up the experience of Europe for seeding the European Common Market, which also effectuated this great advance through the economic cooperation for Europe. So we suggest a comparable economic commission for the United States.

Second, and most important, we come out very strongly for using all means for a strong and stable dollar. I consider that one of the most important elements of our program. That sounds trite. One does not think anybody could differ with the idea that the U.S. dollar should be strong and stable in value. But our dollar has suffered a tremendous buffeting and probably is worth half what it was worth a year ago. If we calculate the period before Warld War I, we are talking about 10 or 15 cents on the dollar. The reason, we believe, is that the country has not watched what makes the dollar strong. What makes the dollar strong is not only a balanced budget and decent Government finance—and we have suggested ways in which that can be done, including a reformation of the way in which we calculate whether we have a balanced budget, in which, as I say, we are completely obsolescent in the whole world—but also in terms of keeping a very strong watch on the productivity of the American business machine, which has deteriorated catastrophically, and by fighting in world markets for our share of the exports of the world, in which we have lost an enormous amount of ground, as well as by protecting the dollar from activities by speculators and by others who would bring down its value, through our own and international action, such as we had to take on an emergency basis last November 1.

We think this is a critically important aspect of our national life, that it has been much neglected by the administration, and that the time has come for us in the minority to take this as a cause which deserves to rank in all our priorities.

Finally, we pledge ourselves to work actively with the surplus countries in the world, with particular reference to Japan, which has an enormous trade surplus with us, to check continued, undisciplined trade surpluses, and to further remove nontariff barriers to trade as a matter of the highest importance, both for economic and for political reasons.

Mr. President, no one Republican Member agrees with this entire program, and I already have expressed some of the areas in which I disagree. But we are together as a party here in the Senate on what we know must be accomplished in order to save our country economically and how to accomplish it.

While one or another detailed measure may not be particularly agreeable to me or to some other Member—and we certainly have not met as a caucus; we no longer do that here on either side of the aisle—we are committed to this total program as the way to bring about a result. When you want to bring about a result, you often have to swallow hard and take a little medicine with it.

This country is very sick. That is one thing on which the President and we agree. We believe that in the way we have prescribed to deal with its illness, we are following not just traditional American values—the President can claim he is doing that, too—but we also are building upon traditional American strengths, and that is the way we see this picture.

If we are going to change the economic direction of our country, it is going to be changed only if we build upon the things in which we are strong. We are strong in innovation. We are strong industrially. We are strong in young and vital and virile people, if given a chance. We are strong in the best articulated and most efficient private sector in the world. We have not built upon those strengths. On the contrary, we have torn them down.

So we, as Republicans, pledge ourselves now to a program for building them up.

Mr. President, for me, this is one of the greatest developments I have seen in all the years I have served in the Senate, and the most helpful for our country.

I should like to give very great credit, among ourselves, to our minority leader, who has led in this effort, as he should, as in his duty; to the chairman of our Republican conference, Senator PACKWOOD; to the chairman of the Policy Committee, under whose auspices I have worked, Senator TOWER; to my own committee, which is the Subcommittee on Economic Policy of our Republican conference, of which I am the chairman; and to stalwarts such as the Senator from Missouri (Mr. DANFORTH), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), and many others in our ranks, including the task forces I have described.

They took very scarce time and, under great pressure, the necessary time and energy and intelligence in order to draft what I feel is a major contribution to the constructive development of the economy of the United States.

Mr. President, I pledge myself, so long as I am here, to keep our feet to the fire on the Republican side and to see that we do these things in which we believe.

I am delighted to be able to say that Senator DANFORTH, who will succeed me in the special orders, will be proposing a number of measures in which many of us have joined in order to implement at least part of this program.

As I said when I began, other measures are pending.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BAKER. Mr. President, I thank the Senator from New York for yielding.

I begin by paying to him special tribute for his leadership in serving as chairman of the subcommittee for the Policy Committee to draft this statement.

I do that so often that there is risk that it may sound less genuine or less heartfelt than it really is.

I have an extraordinary respect not only for the Senator from New York as a person but for his consummate skill and extraordinary ability in legislative draftsmanship and political judgment.

I wish to express to him my thanks for his initiative and leadership in bringing this economic statement, this policy statement, to the floor of the Senate as a unanimous statement of the Republicans in this body, 41 strong.

I have often said, Mr. President, that it is no small measure to try to bring together a group as divergent and energetic as Senate Republicans are today. The ability to do that has depended to a large extent on the good faith efforts, the dedication and diligence of men like the Senator from New York, particularly in the case of this economic policy statement. Senator JAVITS has spent an enormous amount of time on this project, and he has brought us a historic document.

Mr. President, I say, parenthetically, that it may be of interest to legal scholars or political scientists only, but I rather think it is worth remarking that this is not a parliamentary system in the United States. We are a constitutional system, and in terms of the lawmaking responsibility in this country we are a presidential-congressional system, and unlike party systems in a parliamentary arrangement we do not attempt to impose party discipline.

That has proved to be a good thing and a bad thing. It is a good thing in that it permits the flowering and flourishing of initiative and individuality. It permits us to have two broad-based national parties which synthesize diverse views into powerful and efficient instruments of public policy. Sometimes this system seems confused and in disarray, and we despair that the constitutional or presidential-congressional system can truly perform in times of crisis or meet the great challenges of our time.

But statements of this sort, I believe, give the lie to that concern. We have published a unified statement of policy by the entire body of Republicans in the Senate. Notwithstanding that every Member did not agree with every aspect of that statement, as the Senator from New York points out, we have adopted a unanimous statement of fundamental importance.

In its most basic form, it is a reiteration in our belief in the free enterprise system and a rededication to the idea that we must embellish and extend the strengths of this free enterprise system, this market system, in order to free ourselves and our economy from the stultifying effects of too much government, too many taxes, and too much regulation.

This is not an exercise in futility. It is a practical statement. It is not an idealistic exercise. It deals with particularity, with the questions that command our national attention.

Mr. President, this statement, is the latest in a series of statements of position adopted by Senate Republicans beginning in March 1977. It is an important statement of an alternative course available to this country. It is an exercise of the highest responsibility of a political party, not merely to oppose but to suggest alternatives. In making this effort in good conscience and good faith, we have made the Republican Party, I believe, a cohesive and effective political force in this city and in this Government.

I believe this description of our effort is not an overstatement, and I believe its importance is not overdrawn. And I believe our debt of gratitude to the Senator from New York for making it possible today is impossible to overestimate.

So, Mr. President, I pay my special respects to the Senator from New York and to all who participated. Every single Republican in this group demonstrated willingness to subordinate his or her own particular views and to come together with a statement of economic principles that we can and do support unanimously.

There is a step beyond this, Mr. President, and that is the old saying that the proof of the pudding is in the eating. It would not do to simply make this statement and leave it there for the country to consider and for scholars to examine. It is important to implement it, and following on in this course this morning will be the first step in the legislative implementation in the bill that is about to be introduced by the distinguished Senator from Missouri, and may I point out that there are 41 cosponsors of that bill, all Republicans.

Mr. President, this is a statement of the Republican Party's sense of responsibility, of our prescription for the future, of our restatement of our confidence in ourselves and our system, and it is the exercise of the highest sort of responsibility in a constitutional system. I believe it is little short of historic, and again I pay my special respect to the Senator from New York for his leadership efforts in that respect.

Mr. JAVITS. Mr. President, I thank Senator BAKER for his eloquence and thank him for his support.

The ACTING PRESIDENT pro tempore. The time of the Senator from Tennessee has expired.

Mr. BAKER. Mr. President, might I inquire what is the sequence of special orders remaining?

The ACTING PRESIDENT pro tempore. The next special order is a special order to the Senator from Oregon; the next is a special order to the Senator from Kansas; and the next is a special order to the Senator from Missouri.

Mr. BAKER. Mr. President, if I might interrupt the Chair at this time, I ask unanimous consent that the time allocated under the special orders for the Senator from Oregon, and the Senator from Kansas be combined and the allocation of that time for the purpose of further colloquy be given to the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair and I thank my colleague.

Again, may I say I thank him for his eloquence and I thank him for his leadership here on our side. Without that fundamental overarching leadership nothing is possible in doing our work here in this economic policy statement. And I thank him for his personal friendship.

But as he says and as we all know, this is attributable to the totality of our party here in the Senate.

I, also, just as he, take enormous gratification in our ability to come together on so important a document. I think it has very great potential for help to our country, which is our sole consideration.

Mr. President, I yield 2 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I thank my good friend from New York for yielding to me to indicate to the Senator from Missouri that I must return to the Energy Committee where we are going to confirm the new Secretary of Energy. I do not know that I can be here when the Senator introduces, with 41 cosponsors, one of whom will be this Senator, an important part of this economic package. I commend him for it, and I am totally committed to its adoption.

I say at the beginning that I compliment our leader, Senator BAKER, with reference to this second economic package of the Republican Senate. I vividly remember immediately after he was elected to be our leader that he and I discussed the fact that we should move ahead with an alternative and put something positive on record that spoke for our concern for our country, its economy, and basically its economy's ability to help and supply its people with a standard of living second to none.

Because of the suggestion, he and his distinguished leadership immediately started the process which brought us a package of proposals in 1977, as he clearly indicated, March 1977, and then today finds us here again with a superb analysis of an alternative for the continuation, the revitalization and progression of the free enterprise system as the basic economic tool for prosperity in America. I commend him for that. And, obviously, with that commendation I commend all those who have worked so hard to bring it about.

From my standpoint—and I will not talk long this morning because I must return to the committee—we spend too much time in the U.S. Congress, and national leaders spend too much time, telling the American people what the Government is going to give them.

If you look back on the last 25 years, each time we have told them what the Government was going to give them, we have said to the private sector of the productivity of our people that somehow or other that is going to supply us with all that magic resource that we seem to think will solve the American problems.

In the process we have insulted, in my opinion, the free enterprise system without even knowing it. I do not mean insulting it, as my good friend from Illinois would be angry at me if I said something about him, but what I mean is we continue to detract from its ability to produce for us without taking cognizance of some basics.

I think that is what our economic package is, a reanalysis of the basics that make the free enterprise system work, and then saying what have we done to them? Where are they? Where has our policy detracted from them?

In our proposal we are attempting to put them back into the mainstream of policy: Capital formation, savings by the American people, involvement in growth and in Government concerns, and in productivity concerns, research and development, the cornerstone of America's progress over the decades.

This policy is saying to those concepts that to the extent that our tax laws, our Government policies have ignored or deflated them as impactors on our growth, we want to reinstate them legislatively and, in that respect, it is genuinely a far, far-reaching document that we must pursue, and that ultimately will, we predict, become the law of the land, whether it is under our leadership, under our auspices, or new people coming in and out of the White House, who will find the truth of it, the reality of it, to be something we must confront and we must proceed with.

So I thank you for yielding, my good friend from New York. I commend you for pulling these ideas together. I commend all of those who worked on the committee and, in particular, our Republican leader, for seeing the wisdom of encouraging this kind of activity by the U.S. Senate Republicans.

Mr. JAVITS. Thank you very much, Senator. Without you and the other members of the task force, two of whom are on the floor, Senator PERCY and Senator DANFORTH, this would simply have been impossible. I thank you for the volitional cooperation which brought this result, and for your support of it, and for the fact that you will, like the others, move heaven and Earth and get done what we think needs to be done economically for the United States of America.

Mr. DOMENICI. I thank my friend.

Mr. JAVITS. I would like to now yield 5 minutes to the Senator from Illinois (Mr. PERCY), and to yield the remainder of my time, for such disposition as he may deem desirable, to the Senator from Missouri (Mr. DANFORTH). I ask unanimous consent that I might be able to do that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. I thank my distinguished colleague.

While the minority leader is here on the floor I would just like to make the statement that in the some 30 years I have worked as a Republican and had occasion to work with the U.S. Senate in many different capacities, with all of the discussions we have had around the country of dissension in Washington and dissension between the executive branch and the legislative branch, and the dissension in the Congress over policy, energy, and so forth, in my own experience I have never seen more unity among Republican Senators than right today.

This is not the first time under the leadership of our distinguished minority leader, HOWARD BAKER, we have come together on a policy. We came together on a policy on military strategy and foreign policy. To have JESSE HELMS, JACK JAVITS, BARRY GOLDWATER, and LOWELL WEICKER agree on policy in the field of military strategy and foreign policy was a remarkable and unique thing, but a tremendous example to the country that men of good will, with common objectives and goals, can carve out areas of agreement.

Now we have rampant inflation running 13.4 percent, unemployment running deeper than we would want, energy prices zooming up, people worried about the value of their savings, their insurance and their whole future, particularly elderly people living on fixed income. In having 41 Republicans under the leadership of our minority leader, HOWARD BAKER, and JACK JAVITS, as chairman of the Subcommittee on the Economy, working with the Policy Committee under the leadership of JOHN TOWER, once again grappling for months now on the problems of inflation, the problems of productivity, the problems of balance of trade, the problems of a weakening dollar, we have demonstrated that though we do not each agree with every single provision or sense of priority we can come together on a statement of policy that can be supported by every single Republican.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. PERCY. I am happy to yield.

Mr. BAKER. Only for just a moment.

I wish to express my appreciation to the Senator from Illinois and the Senator from New Mexico for their remarks.

This is the product, however, of a unified Republican party in the Senate, and I am proud to see this result today and to have some small part in it, and it is just a small part to play in it. But it is men like the distinguished Senator from Illinois, who brought the sense of urgency and the spirit of understanding, to this subject that permits us to bring unity to the party, and I am grateful for his remarks.

Mr. PERCY. I express appreciation for that, and I will just recall from the memory books that in 1957, when President Eisenhower asked me to head a committee called the Committee on Program and Progress of the Republican Party, which led then to my chairmanship of the Platform Committee in the 1960 convention, the whole concept was to get Republicans of varying ideologies together. The distinguished father-in-law of the minority leader, Senator Everett Dirksen of Illinois, served on the committee at that time, as did Bob Taft, as did many, many other Republicans: Governors, Senators, Congressmen, and State legislators. Forty-five Republicans pulled together and wrote a report called Decisions For A Better America, published by Doubleday in a paperback edition. We cordially invited the Democrats to orbit ideas, to contest our ideas, to see if they could do a better job of thinking through ways of having the economy grow, ways to have our national security insured, ways for us to better carry out our foreign policy. I think it is in that spirit we now have a rejuvenation of the idea that political parties should orbit ideas.

It was just not the idea of getting and gaining office; the question is what do you do, as the candidate, when you get that office? You can act individually, as many of us have, Senator DANFORTH has, Senator DOLE has, Senator SCHMITT has, Senator BAKER has, in an individual sense; but I think it is the greater spirit of the two-party system when the party comes together and unites on a policy and presents a solid front and says, "This is the direction in which this country ought to go."

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PERCY. I just simply feel the country ought to know that spirit is so deep and so strong in the Republican Party in the Senate of the United States that we intend by that spirit and that thrust and the power of those ideas to carry forward and become the majority party here in the Senate of the United States.

I am happy to yield.

Mr. BAKER. Mr. President, I would only remark a little further on one point made by the Senator from Illinois. It is the responsibility of a political party to orbit ideas, and that is a very special and descriptive way to put it. It is fortunate that we arrive at this place to make an economic statement unanimous, as we have, and we are all proud of it. But it is something else, too. It is the further evolution and development of the two-party system in our country, because we are still trying to define in many ways how a party should perform, how we should make that balancing judgment between party discipline, on the one hand, and a party position, on the other, or the individuality of a Senator or Governor or Congressman, still on the other.

I believe that in the cutting and fitting and trying for special efforts to reach accommodation, to publish detailed statements, as the Senator from Illinois has done in years past, in the 1960 convention, those efforts have contributed to the growth and development of a unique American system, the two-party system within the framework of the constitutional Government. I think what we have done here is the best of all worlds; that is, a statement of party position with the maximum opportunity for individual contribution. I thank him for making that point.

Mr. PERCY. I thank the Senator.

In conclusion, I woud like to turn to Senator DANFORTH.

The PRESIDING OFFICER (Mr. DECONCINI). Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 15 minutes.

Mr. DANFORTH. Mr. President, I yield 1 minute to the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague. I would like to say that having worked with Senator DANFORTH on parts of this package, I was extraordinarily pleased when we approach the problem of taxation. We had sort of a blanket approach from the administration, that taxes cannot and should not be cut. I think here again Senator DANFORTH and I tried to demonstrate that we can find a way to cut taxes in a way that will be stimulative to the economy, to reducing inflation, to increasing productivity, and to generating savings. Giving individuals an incentive to save by reducing taxes on dividend income and savings income, is a way to cut taxes for the individual that stimulates the economy in the right way. Increasing amortization and depreciation allowances will increase also the productivity of America, reduce inflation, lower our selling costs, and increase our shipments abroad.

I expect and hope that the new Secretary of the Treasury, Mr. Miller, will be supportive of those concepts and ideas. I thank my distinguished colleague for his great leadership in this field.

Mr. DANFORTH. Mr. President, I appreciate the comments of the Senator from Illinois.

Mr. President, today the American economy is in a recession. This was admitted by the chairman of the Federal Reserve Board and the nominee for Secretary of the Treasury, William Miller, before the Senate Finance Committee last week.

The question is, What are we as a country going to do about it?

S. 1597—SAVINGS AND INVESTMENT ENCOURAGEMENT ACT OF 1979

The Republicans in the Senate have some ideas. They are not new ideas. The bill that I have introduced this morning with 41 Republican Senators as cosponsors is actually a composite of three other bills which have been introduced: S. 1542, introduced by Senator PERCY, relating to personal savings; S. 1435, introduced by Senator NELSON, with respect to depreciation, and my own bill, S. 700, with respect to tax credits for research and development.

As a matter of fact, Republicans in the Senate have been talking about these concepts of encouraging savings, of encouraging more investment in new plants and equipment, and more investment in research and development for the past 2½ years. Although we are just now entering a recession, the economy has been suffering through a prolonged period of what has been called stagflation.

The present administration has opposed virtually every proposal advanced to lay the groundwork for sustained, broadbased economic growth. It has looked instead toward "quick-fix" solutions like passing out $50 bills to to all Americans, or increasing the ranks of public service employees. These ideas have been soundly rejected by the Congress, and they have also diverted our attention away from the long-range needs of the economy and of our people.

The private enterprise system will be the source of jobs, income, and a rising standard of living in the future. Yet, since the mid-1960's, there has been a gradual erosion of the vitality and independence of the private sector. We are now paying a terrible price for past policy failures. It is our hope, and the intent of the legislation we are introducing today, that we can reverse this trend and help set the economy back on a course of productive growth.

The strategy to be employed is the creation of a policy of savings and investment. The combination of high inflation and current tax policy encourages people to spend all their income, and borrow more. That is a perverse—no, a dangerous—result. We must change it.

Perhaps the nomination of G. William Miller to be the Secretary of the Treasury signals a change of heart by the administration. We hope so. The widely respected Mr. Miller, the current chairman of the Board of Governors of the Federal Reserve System, has consistently advocated a policy of savings and investment during his tenure at the Fed.

We encourage President Carter to embrace Chairman Miller's philosophy, and join with the Congress in a dialog aimed toward the development of a new economic policy course.

Mr. President, I am heartened by the developments of the past week where there have been some indications that the designation of William Miller as Secretary of the Treasury is more than just a change of faces in that Department, but is, instead, a change in economic policy on the part of the administration.

A week ago today a number of administration officials, including Stewart Eizenstat and Alfred Kahn, met with maybe a half dozen or more Republican Members of the Congress, both Senators and Representatives, to talk about the economy. During that meeting the administration officials asked the Republican Members of Congress who were present what the reaction of the Republicans in the Congress would be to a change in economic policy, particularly a change relating to depreciation.

The response that we gave at that time was encouraging. The response that we give today is that 41 Republican Senators would enthusiastically endorse such a change in the administration policy.

Then it was reported in the press that last Thursday morning the President met with certain Members of the Congress and himself at least hinted at the possibility of a change in tax policy. Again, it is the hope in this bill to encourage such a change in the administration's policy, and to let the President know that if he joins us in such an effort we would be more than supportive.

There is nothing wrong, Mr. President, with changing your mind. If you are convinced that the present economic policies of the country, of the administration, do not work—and they do not work—there is nothing wrong with changing your mind and adopting new policies which will work. Therefore, it is the hope of the Republican Members of the Senate, 41 strong, unanimity in endorsing this bill and cosponsoring this bill, to encourage such a change, such a reversal, such an about face, in the administration's economic policies and tax policies.

The President will have 41 Republican allies along with many of our Democratic colleagues.

What we are proposing, and why? The legislation we are introducing today represents only a piece of the total strategy, but a piece which is aimed directly at reversing several very disturbing economic trends—namely, first, a very slow rate of growth in real GNP, second, a decline in productivity, third, inadequate savings by individuals, and fourth, a low rate of corporate investment in future growth.

(1) SLOW GROWTH OF GNP

Between 1962 and 1977, our GNP grew 3.5 percent as compared with 8.3 percent in Japan, and 4 percent in West Germany. In 1978 our GNP grew 3.9 percent. In the first quarter of 1979 it increased at an annual rate of only .8 percent. Preliminary indications are that real GNP declined slightly in the second quarter.

(2) DECLINE IN PRODUCTIVITY

Between 1962 and 1977 productivity in America grew 2.7 percent compared to 8.4 percent in Japan, 5.5 percent in West Germany, 2.7 percent in the United Kingdom, and 5.7 percent in France. In 1978, our productivity grew only 1.1 percent. In the first quarter of 1979 it fell at an annual rate of 3.5 percent.

(3) INADEQUATE PERSONAL SAVINGS

As individuals, Americans are consumers, not savers. Americans save a meager 6.5 percent of disposable income compared to 25 percent by the Japanese, 15 percent by the West Germans, and 13 percent by the British.

(4) LIMITED INVESTMENT IN FUTURE GROWTH

From 1966 to 1976, America invested 13.5 percent of its GNP in plant and equipment compared to 26.4 percent in Japan, 17.4 percent in West Germany, 14.9 percent in the United Kingdom, and 16.7 percent in France. In 1978, we invested only 10.6 percent and in the first quarter of 1979, 10.8 percent (annual rate.) We are spending a smaller percent of GNP on research and development than we have historically. We now spend 2.25 percent on R. & D. compared to 2.84 percent in 1968.

These are by no means the only problems facing our economy. With a 13.2-percent inflation rate since January, unemployment expected to go to 7 percent or higher by next year, and a Federal deficit of over $30 billion annually, action on a variety of fronts is called for.

Last week Senate Republicans released an economic policy statement with a program for the future. This bill would implement an important piece of that economic program—capital formation, increased personal savings, and increased productivity.

The Savings and Investment Encouragement Act of 1979 would do three things:

First. Encourage individuals to save more money for the future through tax incentives;

Second. Encourage corporate investment in new, more efficient plants and equipment by providing a liberal, streamlined method of accelerated depreciation; and

Third. Encourage corporate investment in research and development by providing a tax credit for such spending.

The three titles of the bill would do the following:

Title I would provide a tax exclusion for interest earned in a savings account. The amount excluded would be $100 per person and $200 per return—the same as the existing exclusion on dividends. In addition, up to $400 additional would be excluded for interest and dividends if the amounts are reinvested.

Title II would create a simplified, accelerated depreciation method for recovering capital costs in which there is a 10-year writeoff for buildings, a 5-year writeoff for equipment, and a 3-year writeoff for limited investment in cars and light trucks.

Title III would provide a tax credit equal to 10 percent of all research and development spending by business.

We are encouraged by statements made by Secretary of the Treasury nominee William Miller. He has consistently advocated an accelerated depreciation scheme similar to the one in title II of our bill. He has also talked about the chronic problems of low levels of personal savings and lagging productivity growth.

If, in fact, his nomination signals a new direction in this administration's thinking about the future course of the economy, we invite the President to work with us in designing an economic program oriented toward savings and investment—the kind of program Republicans have been talking about for the past 2½ years. But we are not inflexible. We are open to suggestions and willing to modify our proposals.

The key thing is that we start moving in this new direction. The country is looking for leadership. We intend to provide it.

Mr. SCHMITT. Will the Senator yield?

Mr. DANFORTH. I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I congratulate the Senator from Missouri and others of my colleagues who have joined together in this innovative, hopefully successful effort. It is not my feeling that there is any malaise across this land. There is concern—clearly, there is concern. But Americans are always concerned about their future and their children's future. I think the only thing we can say for sure is that there has been a lack of commonsense in Government policy, particularly those policies addressed by the Senator from Missouri and others this morning, policies related to the economics of this great land.

There is also a lack of confidence in leadership, and it is with an understanding of that lack of confidence that Republicans today and in the future will continue to try to restore confidence by policies such those being articulated here this morning.

The basic question that we face economically in the immediate future is how to create deflationary pressures in an economy that has gone from less than 4 percent inflation at the beginning of the Carter administration to one now estimated to be running at about 13 percent inflation, and rising.

There are a number of ways to create deflationary pressures. We can decrease the money supply, which has not worked too well with a high rate of increase of Federal spending. We can increase goods and services, or we can increase productivity. All of those would serve us very well.

Research and development by the Federal Government in many areas can be inflationary, and we must remember that as we attempt to cut the Federal deficit. But research and development in the private sector has been and should be the principal foundation by which we work toward creating deflationary pressures in our economy; for the private sector is the sector that can most rapidly increase goods and services. It is the sector of our Nation that can most rapidly increase productivity. But the regulatory and tax policies of recent times have inhibited this effort by the private sector. It is the intent of the Senator from Missouri and certainly the intent of all his cosponsors to see that that changes.

The Republican economic policy and the bills which are being introduced to implement it, now and over the next several weeks, will provide a vehicle to change the adverse trends now causing inflation.

Most importantly, the policy will restore flexibility to the American people in the use of their disposable income. Increased tax reductions over a period of time, tax incentives for savings, tax incentives for employment and investment, new plans and techniques, all are designed to accomplish that purpose of increasing Americans' ability to use their own income and the fruits of their labor. The policies we are talking about this morning and will continue to talk about are designed to rapidly reduce inflationary pressures by creating new goods and services that can use up the money supply that is in excess. This can be accomplished by an increase in savings, increased productivity of the American worker and industry, and by decreases in the rate of growth of Federal spending. Tax reductions phased to avoid inflationary pressures can be instituted so that we can reduce the budget deficits over the next several fiscal years.

As related actions, it is clear we must also gain control over energy supply and energy economics. This is going to be addressed by the Republicans in the near future. It is an extremely important part of this total picture. Production and energy efficiency must go hand in hand as we approach the economic policies of this country.

Mr. President, during the last session

of the Congress and the 1st session of the 96th Congress, the Commerce Committee conscientiously fulfilled its responsibility for science and technology oversight by holding a probing series of hearings on the state of research and development and innovation in the United States.

During the 20 years following World War II, American technology contributed to an annual rate of productivity increases of 3.4 percent. Since 1966, that rate of increase has been cut in half. While America is still the most productive country in the world, it is clear that our leadership is being challenged. Other countries are spending higher percentages of their gross national product on research and development, and they are gaining the benefits of greater innovation and high productivity increases.

The hearing records developed by the Commerce Committee to date has clearly pointed to excessive regulation and inappropriate tax policies as the major impediments to innovation. We have only begun to recognize the role that R. & D. plays in our economy and what effect productivity has in this regard.

Testimony in previous subcommittee hearings cited various indications of lagging U.S. industrial innovation. Most of these indicators reflect only a part of the innovation process—for example, R. & D. expenditures—are subject to very different interpretations—for example, international patent "balances" or are influenced by many factors other than technological innovation—for example, productivity growth and trade balances. However, two recent trends are more directly related to innovation and are disturbing from the point of view of U.S. economic growth, productivity, and international trade competitiveness:

First. There has been an astonishing drop in the formation of new small high-technology companies which have been responsible for a disproportionate share of innovations. Several years ago, 200 to 300 new venture companies entered the market with new issue underwritings each year; in 1975 there were four.

Second. Existing first in R. & D. intensive leading industries have shifted their investments from major new product and manufacturing innovations to relatively minor product and process improvements promising short-term returns. Not only has there been a shift from research to development, although total industrial R. & D. spending has generally kept pace with inflation, but there has also been a decline in investments in new plant and equipment which may incorporate new technology.

Both trends represent reduced risk taking on the part of investors and corporate managers in the face of slow economic growth, inflation, and general economic uncertainty. Witnesses have asserted that various Government policies and changing Federal R. & D. priorities create a new disincentive to industrial R. & D. and innovation; but we have taken relatively little action to try to alleviate some of the roadblocks currently hindering innovation.

Mr. President, I believe we are finally beginning to recognize some of the factors that contribute to our Nation's economic well-being. Productivity and innovation are concepts that are being talked about, and we must now make a conscious effort to offer incentives to spur innovation so that the 1980's will not be a time of living off of past achievements but a time of creatively dealing with current and future situations.

Mr. President, I ask unanimous consent to have printed in the RECORD an article dated January 16, 1978, by Louis Harris describing a poll that was taken on what Americans feel makes America great. I think it is extremely important in the context of this morning's discussion. The first three items at the top of the list are rich natural resources, a hard-working people, and scientific research; then such other factors as technological genius, industrial know-how, and a government that responds to people's needs. Those are in fact what made America great. It is clear that the American people understand that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan 16, 1978]

CHANGES AHEAD IN FACTORS THAT MAKE AMERICA GREAT

(By Lou Harris)

Americans believe the combination of factors that will make this country great in the future is somewhat different from the one that made it great in the past.

In order of importance, the public attributes America's present greatness to "rich, natural resources," "a hard working people," "scientific research," "industrial knowhow" and "technological genius." As they look ahead, people are convinced the United States will depend more on scientific research, industrial know-how and technological genius, and work.

Also gaining importance as factors in the future are "government that responds to people's needs," "giving every race and creed an equal chance to get ahead," and "a free, unlimited education to all qualified."

Of 20 major factors tested in a Harvard Survey of 1,520 adults nationwide, six are projected to be more important over the next 25 years than they were in the past. The shifts:

At the top of the list is "scientific research." While 89 per cent think this was an important factor in past greatness, 91 per cent believe it will be a major factor in America's future success.

"Technological genius" is felt to have been a key element in America's past greatness by 75 per cent. Seventy-eight per cent believe it is a key to future national greatness, while 80 per cent continue to think that industrial know-how will also be crucial.

"A government that responds to people's needs" is named by 61 per cent as having made a major contribution to the country's greatness in the past. Seventy per cent think this will play a more important role in the future.

While 59 per cent believe the "giving every race and creed an equal chance to get ahead" has been a major contributor to this country's greatness in the past, 70 per cent think that this will be a key factor in the future.

In the past, according to 72 per cent, a major contributor to the country's greatness was a "free, unlimited education to all qualified." In the future, 75 per cent think it will be important.

Mr. DANFORTH. Mr. President, I thank the distinguished Senator from New Mexico for his comments. They are exactly on the point. Today the President has opposed any kind of tax cut on the theory that any kind of tax cut is a revenue loss.

The effect of this has been to artificially stunt the natural growth and development of the private sector of our economy.

It is a maxim of taxation that for every point of increase in the rate of inflation, Federal income taxes go up 1.5 points. Therefore, the effect of the high rate of inflation has been a rapid growth in tax receipts by the Federal Government and, with that, an increasing share of the gross national product that is consumed by Federal taxation.

It is our view, and it is a view which is consistent with the position taken by the Joint Economic Committee in a report that was issued several months ago, that in battling inflation we must pay attention to what is called the supply side of the economy and encourage growth and productivity.

If people's wages go up 10 percent and productivity goes up 10 percent, there is no inflation. What we have had, though, is a decline in productivity and, with the decline in productivity, inflation has gone up.

What we are suggestingg today is a reversal of economic policy by the administration, a reversal of economic policy in a way which inspires and encourages growth in the private sector, growth of gross national product, growth in the economic pie, growth in productivity.

With that, we believe we can restore economic health to this country.

Mr. SCHMITT. Will the Senator yield for 30 seconds?

Mr. DANFORTH. Yes.

Mr. SCHMITT. I agree completely with what the Senator said, but add that the exciting thing about the policy that is contained in these three bills, that are the three titles he has introduced, is that it instantly, if passed into law, will create the incentive to increase research and development, increase productivity and increase job creation.

At the same time, it phases in any effect of a tax reduction.

So it is an exciting concept and I think it will work.

Mr. DOLE. Mr. President, will the distingiushed Senator from Missouri yield to the Senator from Kansas for 5 minutes?

Mr. DANFORTH. I am happy to yield to the Senator from Kansas as much time as he needs.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, as others have indicated, I certainly extend my appreciation to the distinguished Senator from New York for his work on the Republican economic policy statement. There is no doubt that does give credence to the way Republicans can operate as a party.

More specifically, the proposals of Senator DANFORTH and all the other Republicans give us an alternative to consider.

I commend the distinguished Senator from Missouri, who is recognized on the Senate Finance Committee as the tax expert on the Republican side—and I expect we could even extend it to include the entire committee.

After a great deal of thought and a great deal of work, as the distinguished minority leader said earlier, 41 Republicans have come together on proposals which can be supported together. The introduction of a bill which provides faster depreciation, extends the investment credit for certain research and development expenditures, and increases incentives for saving is a step in the right direction.

These three major proposals indicate a degree of support and commitment on the Republican side.

Some will ask how much revenue loss will be incurred if, in fact, we might pass these Republican proposals. It is a legitimate question and one I am certain can be answered satisfactorily.

Without doubt, the economy of the country is at a critical crossroad. It is not enough for us on the Republican side or, for that matter, on the Democrat side, to stand up and find fault at every turn with the President, the administration, or some Cabinet official.

It is, as the distinguished minority leader (Mr. BAKER) pointed out earlier, our responsibility to provide alternatives, to provide leadership as a party.

It is my opinion that the American people right now are not concerned with Republicans, Democrats, or Independents. They are looking for someone, or some group, to provide some leadership, particularly in the economic field.

There is great interest in this Republican proposal. The press, I'm sure will give it the attention it deserves. That, however, does not make policy. Policy is made in the committees, policy is made on the Senate floor, and policy is made in the Congress.

With 41 Republicans in agreement, and like-minded Democrats searching for leadership, we can find our way out of the current economic morass.

The Congress, through bold action, can make sure we choose the road to recovery.

Mr. President, the ills which besiege the American economy are chronic and severe. The inflation rate has almost tripled in the last 3 years. Currently prices are increasing at an annual rate of nearly 14 percent. As a result, Americans are finding it increasingly more difficult to meet the necessities of everyday life. Budget deficits plague the Federal Government and distort the economy. The Federal Government has not balanced its budget in this decade and seems to run a deficit regardless of the prevailing economic conditions. The value of the dollar has diminished in the international market. The stock market is sluggish, the price of gold, which reflects the instability and lack of confidence in our economy, has hit record levels. American productivity has been sorely lagging, especially compared to other industrial competitors. Our productivity increased by 3.3 percent a year from 1948 to 1967, but from 1967 to 1977 the increase was only 1.8 percent a year.

Productivity in the last several years has not even been that high.

The savings rate, previously addressed by other Senators, in this country is one of the lowest in the world. Consequently, we do not have the capital that industry needs to modernize, expand, and compete internationally.

It seems to this Senator and, I am certain to other Senators on both sides of the aisle, Mr. President, this country can no longer afford to pursue the worn-out economic and regulatory policies of the past, whether in the current administration, a Republican or Democratic administration, or the next administration. It is evident that polices of increasing Government regulation and manipulation have thwarted the spirit of free enterprise in this country.

Mr. President, the program launched in the Senate today is a first move toward restoring America to its rightful position as the world's greatest economic power.

Mr. President, as the ranking member of the Senate Finance Committee, I certainly support what the Senator from Missouri specifies in reference to increases in the depreciation allowances. Increased capital recovery will be a useful tool revamping and upgrading American businesses. Increased depreciation is particularly needed in these times of inflation because historical cost recovery is inefficient to cover replacement costs.

America has fallen behind as the leader in technological advancement. Our research and development expenditures, for both pure and applied research, as a percent of national product has steadily eroded.

It seems to me these proposals are but the first step. Increased savings is a critical step. We should and will provide, more incentive through the tax system.

I do not know when the next tax cut will occur. It is a question I am not sure anyone can answer. However, I would not want this discussion to end without some mention of the distinguished Senator from Delaware (Mr. ROTH). He has been a pioneer and the leading advocate of tax cuts to promote economic growth. It has been his leadership and his efforts, together with the efforts of a distinguished Member of the House, JACK KEMP, who have put the Republicans in the forefront of across-the-board tax cuts.

The distinguished Senator from Delaware (Mr. ROTH) has provided leadership in the past and will provide leadership in the future in this vital area.

There is one additional area the Senator from Kansas wishes to address. I recall the distinguished Senator from New York speaking about tax indexing and the effects of inflation. I am not certain whether the Senator from New York really believes tax indexing is the answer. But, again, his words are a demonstration of the give and take involved in working out the policy statement.

Many Americans are disturbed by the fact that if they receive a cost-of-living adjustment, they do not have any more purchasing power, because they end up in a higher tax bracket.

A taxpayer earning $15,000 a year in an economy with an 8-percent inflation rate, with a cost-of-living adjustment, will receive $16,200 per year. The worker might think, as he went home that day, after that pay raise, he is keeping up with inflation. The truth is the taxpayer has been pushed into a higher tax bracket. The taxes are going to be $258 more than the previous year. There is no increase in buying power. In fact, there is a loss because of taxing the American people on inflation.

I do not suggest tax indexing is solely a Republican idea. It is an idea whose time has come.

The distinguished Senator from Colorado (Mr. HART) has been working on indexing, on the Democratic side. A number of Republican Senators who previously were in the Senate, such as Senator GRIFFIN, Senator BROOKE, and Senator BUCKLEY, has supported indexing. In fact, Senator BUCKLEY pioneered the idea of indexing the tax system.

I have introduced S. 12, with 19 cosponsors, which attacks the question of whether or not we should tax the American people on inflation.

Six States now have some form of indexing their State income taxes: Colorado, Arizona, Iowa, Minnesota, Wisconsin, and California. Two years ago, not one State had indexing in any form.

So indexing is happening on a State level. It is going to happen on a Federal level one of these days, if we can find strong bipartisan support.

Mr. President, I ask unanimous consent that a statement on the Tax Equalization Act be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TAX EQUALIZATION ACT

QUESTIONS AND ANSWERS

(1) What is taxflation?

As inflation increases the cost of living, a taxpayer's income must also increase to enable the family to buy the same amount of goods and services. But, as the nominal income level rises, the taxpayer is pushed up into higher and higher tax brackets—thus, paying a larger tax bill—despite the fact that no gain in purchasing power has been realized. Because of our progressive tax system, the taxpayer is required to pay a higher percentage of his earnings in taxes. Thus, although the taxpayer is earning more money, his real standard of living may actually decline.

(2) How does taxflation affect a typical family?

Consider the dilemma of a typical family of four who earns $15,000 in 1979. Being conservative, assume an inflation rate of 8 percent in 1979. The family will have to earn $1,200 more in 1980 or $16,200 just to stay even with inflation. But, the family does not really stay even. While their income increases by 8 percent, their income taxes actually increase by $258 or about 12.6 percent.

The impact of tax inflation becomes even more dramatic as the taxpayer continues to climb the economic scale. A family with a $30,000 a year income in 1979 will have to earn $2,400 more in 1980 to keep pace with an 8 percent inflation rate. But, at an income of $32,400 the family tax bill will rise about $888 or 14.2 percent.

(3) What is the Tax Equalization Act?

The Tax Equalization Act is designed to insulate taxpayers from the tax impact of inflation by automatically adjusting tax liabilities each year to reflect increases in the cost of living. The Tax Equalization Act would adjust the personal income tax rates, the personal exemption, and the zero bracket amount (i.e., the standard deduction) to reflect increases in the cost of living during the previous year as measured by the Consumer Price Index. The Tax Equalization Act is effective beginning with taxable year after 1980, and will remain in effect through December 31, 1983, at which point Congress will have an opportunity to review and determine whether to continue the indexing adjustments.

(4) How will indexing ease the impact of taxflation?

The Tax Equalization Act corrects automatically the income tax system to prevent inflation from pushing taxpayers into higher and higher tax brackets. It establishes a procedure that widens all tax brackets by a proportion equal to the rate of inflation. It also adjusts the personal exemption and the zero bracket amount. This has the effect of holding the real value of the tax rates constant and prevents taxpayers from being pushed up from one bracket to another, unless their real incomes have increased. The hypothetical family of four that earns $15,000 in 1979 with an 8 percent increase in earnings in 1979, will be saved about $94 in the first year by the Tax Equalization Act. The family earning $30,000 would save about $498.

(5) Does the Government have a vested interest in inflation?

The Federal treasury is the prime beneficiary of inflation. Many economists have stated that when the cost of living goes up by 10 percent, the increased taxes flowing into the Federal treasury go up by as much as 16 percent. According to the Joint Committee on Taxation, in 1978 taxes were increased by nearly $9 billion. Indexing is not a real tax cut but denies the government this yearly windfall tax bonus.

(6) Will indexing be inflationary?

Tax indexing will not cause nor will it cure our inflationary problems. However, indexing may help keep wage increases down. Without indexing, a worker realizes that a wage increase that just keeps pace with inflation will push him into a higher tax bracket. In order for him to achieve a real gain, his wages must rise faster than the cost of living. The inflation penalty inherent in the present tax structure is one of the basic causes for inflationary wage demands, since workers must receive inflationary wage increases in excess of the cost of living increase simply to maintain the actual value of their take-home pay.

(7) Didn't Congress just pass a tax cut?

Because of inflation, Congress has passed tax cuts in each year since 1975. The Revenue Act of 1978 provides an $18.5 billion in tax reduction. However, because of inflation and other factors, 80 percent of our 88.5 million taxpayers will experience a tax increase in 1979.

(8) Does indexing preclude the Congress from changing the Tax Code?

Indexing the personal income tax is not intended to be a correction for all the inequities in the income tax law. Adoption of tax indexing does not prevent any other changes which the President wishes to propose or which the Congress wishes to enact Even with indexation, the Congress could still change the degree of progressivity in the tax system or the amount of income tax revenues collected. The Tax Equalization Amendment simply guarantees that taxpayers will not be subject to non-legislated tax increases.

(9) Has indexing been tried anywhere else?

A number of other countries have already adopted some form of indexing their individual income tax rates. These countries include Canada, France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and recently, Australia. Under the Canadian approach—which took effect in 1974—the personal exemptions in the tax bracket are adjusted annually by the rate of charge in the Consumer Price Index for the year ending the previous September. As a result, the Canadians have adjusted their tax system by 6.6 percent for 1974, 10.1 percent for 1975, 11.3 percent in 1976, and 8.6 percent in 1977.

In the United States, Colorado, Arizona, Iowa, Minnesota, Wisconsin, and California have initiated indexed systems for the collection of their state income tax.

(10) Does the public favor indexation?

The Roper Organization, in a study released to the Senate Finance Committee in July of 1978, indicated that the public would prefer an annual inflation adjustment factor built into the tax system by a fairly wide margin. According to the study, 57% of the American public preferred indexation to the periodic tax cuts that the government has made from time to time to keep taxes in line with inflation. Only 32% of the public preferred the periodic tax cuts.

(11) Why does the tax equalization amendment index only individual income taxes?

The Tax Equalization Act is designed to establish a simple and modest approach which will offer both the Congress and the American people an opportunity to evaluate indexing on its merits. Indexing for capital gains, depreciation and debt involves more complex indexing procedures and would require substantial changes in the present law. The Tax Equalization Act is simple and equitable. It would not require any changes in the present tax form. For these reasons, the Tax Equalization Act is the first step that needs to be taken for indexing.

(12) Does indexing represent a change in fiscal policy?

Fiscal policy since the early 1960's has focused on reductions of the personal income tax rates. Congress has legislated tax reductions in personal income taxes in 1962, 1964, 1969, 1975, 1976, 1977, and 1978. However, since 1965, the Congress has not cut taxes enough to offset the inflation-based tax increases that have occurred over that period.

(13) Some economists have stated that a progressive tax system acts as an automatic stabilizer on the economy during periods of high inflation. Would indexing remove this automatic stabilizer?

The automatic stabilizer theory is based on the assumption that inflation is the result of an excess aggregate demand. This requires full employment and the sum of all our individual demands will be greater than the available supply of goods. The aggregate demand theory, however, ignores the fact that inflation may be caused from other sectors of the economy, for example, food and energy.

In addition, if inflation and unemployment are occurring simultaneously, the automatic stabilizer becomes a destabilizer. It would be counterproductive during periods of high unemployment, to reduce purchasing power that might be used for investment or consumption. Indeed, the failure to index the tax system made the sharp recession of 1974–1975 far more severe than it otherwise would have been.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired. Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that the time allocated to Senator STEVENS under the special order be given to the Senator from Missouri, for his control, for a continuation of this colloquy.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Missouri is recognized for not to exceed 15 minutes.

Mr. DANFORTH. I yield to the Senator from Kansas.

Mr. DOLE. As inflation increases the cost of living, and everyone understands that this is happening, the taxpayers' income has to increase to keep up, to buy the same amount of goods, the same amount of gasoline, the same amount of anything, just to stay even.

As I have indicated through the example, as you receive more money just to stay even, because of the tax system, you are driven into a higher tax bracket and pay a higher marginal rate. That is the nature of our progressive tax system. Because the taxpayer may be earning more money, his standard of living actually is going down because of this concept of "bracket creep."

For a typical family of four earning $15,000 if their income increases by 8 percent, their income taxes increase by about 12.6 percent.

The impact of tax inflation becomes even more dramatic as the taxpayer continues to climb the economic scale. A family of four with a $30,000 a year income in 1979 will have to earn $2,400 more in 1980 to keep pace with an 8 percent inflation rate. But, at an income of $32,400, the family tax bill will rise about $888, or 14.2 percent.

It seems that even though we are off to a good start with the proposal, introduced today, there are other areas should be addressed.

As the distinguished Senator from New Mexico mentioned, other bills will be introduced by other Members, with widespread support, to put meat on the bones of the Republican economic package.

There is no quick and easy solution. Where possible, you will find Republicans for the most part supporting the efforts of the President to get a handle on inflation. Inflation is not a partisan matter. It affects Republicans, Democrats, and independents. Inflation will stop by the efforts of the American people, along with Congress and the executive branch. It will be stopped by businessmen, working men and women, professional people, and farmers. It is going to take a united effort, and it will not be easy.

We are at the crossroads; we are at a very important point in American history. I hope that the signal that may go out as a result of the efforts of the task force of Senator JAVITS and the leadership of Senator BAKER and the leadership of Senator DANFORTH and every other Republican will be that the Republicans are ready, willing, and able to provide alternatives and to cooperate with this administration and this Congress.

So I conclude as I began, by suggesting that this is a positive effort. It is an effort in which I believe every Republican has had a hand. The distinguished Senator from North Carolina (Mr. HELMS) made an excellent contribution to the task force economic package.

The point is that the statement cuts across philosophical lines on the Republican side. Moderates have had input, liberals have had input, and conservatives have had input. The final package is a Republican package, a balanced package, and a package that the Senator from Kansas believes deserves support.

I thank the Senator for yielding.

Mr. DANFORTH. Mr. President, I appreciate the comments of the Senator from Kansas. They are typical of the kind of leadership he has provided in the Senate Finance Committee.

The Senate Finance Committee truly is a major committee. It deals not only with tax policy but also with such other important matters as hospital cost containment, health insurance, and welfare reform.

For the past half year, the Senator from Kansas has served as the ranking minority member on that committee and has provided real leadership for us. He has put together a first-rate staff. He has worked with other Republican members of the Finance Committee to weld us together into an effective working unit. Now he has characteristically provided leadership with respect to economic policy.

There is today, I regret to say, a vacuum of economic leadership in this country. What we have said, as Republican Members of the Senate, is that we are willing to fill that vacuum; and by the introduction of this bill and by the release of our policy statement last week, we are filling that vacuum.

It would be easy, in a partisan setting, simply to attack the administration for lack of leadership, simply to rejoice in the catastrophes that befall us, to criticize the high rate of inflation and the decline in productivity, to be negative.

But we are not being negative. We are being positive. We are being affirmative. We are making specific proposals for change in economic policy. We are filling the leadership vacuum.

We would hope that the administration would join us. We would hope that the administration would reverse the present trend or lack of trend and would endorse and embrace the kind of concepts which we are presenting today and which have been presented by the nominee for Secretary of the Treasury, William Miller, in many speeches, including one made in San Francisco on the day on which he was nominated, where he proposed exactly the kind of thing that is in this bill.

If the administration changes its view and reverses its position, we are all with it. In introducing this bill and in making the proposals we did last Thursday, it is our hope that there will not be such myopic attention to each specific detail of each bill and each proposal that they will be torn apart.

This bill that has been introduced today is simply the embodiment of three concepts with respect to capital formation, savings, and investment in the future.

The specific points in the strategies of the bill are, of course, open to negotiation and change. But what we say to the administration is let us get off dead center. Let us not stay fixed in the current spot we are in. Let us end the drift in economic policy. Let us get moving. Let us get the country moving. Let us join together in a bipartisan effort, and if the leadership in joining together in a bipartisan effort is not going to be furnished anywhere else, then we, although we are the minority in the Senate, are willing to assume such leadership and we do so today.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think the remarks of the Senator from Missouri and those of the distinguished Senator from Kansas are an appropriate capstone for this discussion this morning.

It is clear that by the proposals being made that the Republicans recommend a positive economic policy to get away from wringing our hands about inflation. And let us do something about it. Let us create the incentives that we know work for this country to increase goods and services and to increase productivity. If we do that we are starting to cut away at the fundamental causes of inflation. There are other causes of inflation. But if we really get down to fundamentals, it is a lack of goods and services to use up the available money that people are being forced to spend and it is a lack of productivity that further increases the costs of those goods and services. So we must do that.

The Senator from Kansas is entirely right about the need for the tax cut, either as an indexing proposal or as an across-the-board tax cut. This is unlike the proposals of the Senator from Missouri that we cosponsored that would require and must require a simultaneous reduction in Federal spending. Whereas in the proposals that we are talking about this morning, in addition to those tax cuts, it is not clear at all that there is any net revenue loss, as the Senator from Kansas mentioned earlier. In fact there probably will be a net revenue gain.

I think it is clear from historic measurements that there will be such a gain. But we must do these things.

Private investment in R. & D. has been high, but most of that investment is brought on by requirements the Federal Government has placed on the private sector on what normally would be done to increase goods and services and productivity.

So again I congratulate the Senator from Missouri.

I see the distinguished minority leader is here again. In my earlier remarks I failed to pay proper attention to his great leadership role in this effort and that of Senator JAVITS and others who have joined together today in what I think is clearly the right thing and positive thing for the country.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. DANFORTH. I yield.

Mr. BAKER. Mr. President, I thank the Senator from New Mexico who is a special talent in the Senate and he brings special freshness of insight and ability, and I am especially grateful for his remarks today.

I listened with great interest to the remarks of the distinguished Senator from Kansas (Mr. DOLE). He, also, is a special talent in the Senate and especially so as the ranking minority member of the Finance Committee, which probably is more directly involved in the effort and undertaking that is described now by the Senator from Missouri than any of the remainder of us. And we could not have better leadership on the Finance Committee than we do in the distinguished Senator from Kansas. His vitality, his energy, and his understanding of complex issues will do us a great service in the months ahead as we consider these proposals and as we continue with our effort to implement a Republican plank.

I wish to thank him now for what he has done and in advance for what I am sure he will do in this and in other fields in the days to come.

Mr. President, it is a special privilege for me to see these happenings this morning in the Senate. In particular, I am delighted to see the presentation by the distinguished Senator from New York (Mr. JAVITS) of another in a series of comprehensive policy statements and adopted unanimously, in this case, by Republicans on a major concern of this Nation, our economic policy. It is especially encouraging now to see the followon, the proposal for specific statutory enactment of a program to implement a part of that undertaking, introduced by the distinguished Senator from Missouri and cosponsored by every one of the Republican Members of the Senate.

That is truly an astonishing thing. It has become the rule, I believe, rather than the exception, that in the last 2 or 3 years Republicans try to get together on general policy statements, and we have done so with remarkable unanimity. But I cannot recall a single time when we have unanimously cosponsored a particular precise piece of legislation to carry out those proposals. In the past it has been my privilege to introduce bills to try to implement a general range of objectives but usually that has been in my role as floor leader and without the endorsement or cosponsorship of many, sometimes not any, Republican Senators.

Heretofore, we have placed our show of togetherness on the policy statement. But this is quite different.

I commend the Senator from Missouri for what he has done in drafting this piece of legislation, in dealing with the problem with great particularity, and in translating the universal Republican support for a policy statement to unanimous Republican backing for a specific statutory proposal.

Mr. President, this bill goes far beyond the commonplace efforts to administer a quick fix to America's economic distress. Instead it represents, as we have come to expect from the Senator from Missouri, a thoughtful, imaginative approach to solving both the short-term and the long-range causes of our economic distress.

The PRESIDING OFFICER. The time

controlled by the Senator from Missouri has expired.

Mr. BAKER. Mr. President, I inquire of the Chair what time remains under the series of standing orders?

The PRESIDING OFFICER. Under the previous order the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that the time allocated to the distinguished Senator from Texas (Mr. TOWER) be assigned instead to the Senator from Missouri and under his direction and control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator from Missouri yield now so I may complete this statement?

Mr. DANFORTH. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the Senator.

This legislation holds the promise of beginning a new era of economic vitality and stability in the United States, unleashing the powerful forces of private enterprise, making capitalism more than the exclusive preserve of the well-to-do, making it instead a functioning and rewarding economic security program for the average American citizen.

I recommend that my colleagues on both sides of the aisle pay particular attention and give special consideration to the proposals being made today by the distinguished Senator from Missouri. I hope they will contribute to a new national economic policy which will serve this country in good stead in the months and years ahead.

Mr. President, if the Senator from Missouri will permit me just another moment, I pay my respects to those Republican Senators who engaged in this colloquy this morning, first, under the leadership of Senator JAVITS and now under the leadership of Senator DANFORTH. It has taken most of the morning. But I think it has been worthwhile, not just to celebrate the political unity and togetherness of Republicans in the Senate, but also to identify our particular proposals, and to reiterate our faith in our system and our country. Our program offers Americans a clear choice in the formulation of future public policy in the field of economic affairs.

I commend all of my colleagues on this side of the aisle for their willingness to cooperate, to concur in the statement of principles, and so cosponsor proposals made by the Senator from Missouri.

May I express my appreciation to the majority leader for arranging the schedule of the Senate this morning so that we could have a rather extended period for presentation of this Republican initiative.

Mr. President, I thank the Senator from Missouri for yielding.

Mr. DANFORTH. I thank the minority leader. He has provided the kind of leadership for the Republicans in the Senate that has encouraged exactly the kind of initiative we have had today. I join with him in expressing our appreciation to the majority leader for arranging this schedule.

We have taken a great deal of time, most of the morning, in expressing our views, but I think they could really be summed up in a single question which the American people are going to have to answer, and that question is: Do we still believe in growth? Do we believe in the growth of this country? Do we believe in the growth of our economy? Do we believe in future opportunity for people or instead do we believe that our best days as a country are behind us, that we have stopped growing, and that the role of Government should be increasingly larger and acting as an arbiter, a referee, as Americans fight among each other and muscle each other aside in an effort to pick over the bones of a once great country?

I think what we have indicated this morning is that 41 of us believe in growth, 41 of us believe in the future, 41 of us believe that Government policy can do more than act as a referee, that it can provide the kind of framework which will permit the growth and the expansion of the rest of the country, of the private sector. It is such growth that is so important to the future of our people.

• Mr. DURENBERGER. Mr. President, the program we have proposed today is an important step in the development of a sound, stable economic policy of growth for this country. This Republican initiative eschews the wornout Keynesian theory that promotes economic growth through deficit public spending and inflationary stimulation of demand. Instead, we are advocating a real growth policy based on capital formation, improved productivity through research and development, and greater rewards for savings and investment.

For too long, we have based economic policy on increasing demand. This policy has resulted in inflation and a distorted business cycle. Consequently, the 1970's have been a period of stagflation. As this country enters a new recessionary period with double-digit inflation, it is time to set a new course for our national economic policy.

The proposals we are introducing today represents the second phase of the new tax policy which the Congress adopted last year. The Revenue Act of 1978 included the first real deduction in the tax on capital formation since the mid-1960's. It was a recognition of the fact that the economic and tax policies that we had been pursuing during this decade were wrong. Our economic policy was based on theories designed to fight the depression of the 1930's. The problems today are quite different from those of the 1930's. Our economic policy has to be revised to reflect contemporary problems.

A new approach is being developed. It is based on the supply side of the economy. Supply economics argues that only through increased savings and improved productivity will we have sustained economic growth in a stable environment. The bill I am cosponsoring today is not the ultimate answer. There are other approaches we should also look at such as capital cost recovery accounting, capital gains rollovers, higher exemptions and tax credits for savings, and eliminating the tax bias in favor of consumption through a value added tax.

I include with my remarks an editorial from today's Wall Street Journal which provides an interesting insight to our current economic problems.

The editorial follows:

SNAPPING BACK

Anyone who might be wondering about the effects of last year's reduction in capital gains tax rates would do well to look at the venture capital revival that has since occurred. We particularly urge a look by those who argued then—and still do in some cases—that you can't improve capital formation by lightening the tax burden on it.

Venture capital is money raised by entrepreneurs whose only assets are their new ideas. Even if they turn out to be successful, investors must expect their capital to be locked up for 5 or 6 years. A decade ago venture capital was thriving. But along came the Tax Reform Act of 1969 which together with its subsequent revisions raised the maximum tax on capital gains from 25 percent to 49 percent, reduced the write-off of capital losses by 50 percent, and sharply curtailed the deduction of interest expense on borrowed funds used to make an investment. All in all, the rewards for success were cut in half, and the penalties for failure were doubled.

The effect on venture capital was devastating. The ability of small companies to raise equity capital by public stock issues declined drastically, and by 1973 small company issues had practically ceased. In 1977 when the maximum tax on capital gains hit 49 percent, equity capital from all sources dried up.

The tax reformers who sold this bad bill of goods to the Congress said the purpose of it was "to make the rich pay taxes." Congress expected to score some easy political points, not to dry up important wellsprings of economic progress. New small companies account for a disproportionate amount of new products and technologies, and they contribute substantially to the growth of the economy as a result of their own rapid growth and the productivity gain that they introduce into the economy.

By 1978 Congress realized what it had done, and Rep. Bill Steiger found majority support in both houses for his proposal to reduce the capital gains tax. In November the rate was reduced to 28 percent.

The response from venture capital was instantaneous and began in May before the law was passed when Senator Hansen rounded up 60 Senate cosponsors of the Steiger bill. By the end of the year venture capital raised by firms specializing in the activity rose eleven-fold over the previous year. In 1979 venture capital is back where it was 10 years ago.

The snapback is easy to understand. In 1969 Congress began adding to the costs of failure on risky new ventures, while reducing the rewards of success. With risk taxed at the same rate as corporate salaries, fewer people left comfortable employment to go off on their own with the ideas they couldn't sell to their employers. Those still willing could find few financial backers. In 1978 Congress restored incentives for assuming risk, and people began assuming risk once more.

There is evidence that lowering the capital gains tax rate had wider ripple effects. The Dow Jones Industrial average rose 130 points from March to August last year as it became evident that there were enough votes in Congress to cut the capital gains rate. The market has since lost some of that exurberance but still is well above March 1978 despite rampant inflation and a recession threat.

Equally impressive, in light of recession fears, is the fact that corporate expenditures for new plant and equipment and for research and development are once again showing signs of life after a long period of stagnation. Shareholders can once again look with favor on managers plowing back earnings rather than paying them out in dividends.

These signs that the economy would like to get back on its growth track are encouraging challenges to the gloomy predictions that the growth era is over. They indicate that the economy responds to incentives, and is not in the clutches of some inexorable process of decline. More encouragement of its inclinations to grow would no doubt produce further benefits.

We have in mind cutting tax rates on personal income in order to lower the high marginal rates on real income that a decade of inflation has brought about, altering taxes on interest and dividend income in ways to lessen the tax bias against saving and passing something like the Jones-Conable Capital Cost Recovery Act so that businesses can recover their investment capital before inflation eats up their depreciation allowances. A little good tax law and the economy as a whole will snap back as rapidly as venture capital.●

ORDER FOR ALL NOMINATIONS TO REMAIN IN STATUS QUO DURING AUGUST RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all nominations currently being considered by the Senate or received by the Senate be considered as remaining in status quo during the recess of the Senate from August 1979 until September 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time under all orders for the recognition of Senators be yielded back, including my own.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to extend beyond the hour of 12:30 p.m. with statements therein limited to 5 minutes.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business?

There being no morning business, morning business is closed.

RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:30 p.m. today.

There being no objection, the Senate, at 11:59 a.m. recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. NELSON).

MILITARY CONSTRUCTION AUTHORIZATIONS, 1980

The PRESIDING OFFICER (Mr. NELSON). Under the previous order, the Senate will now proceed to the consideration of S. 1319, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1319) to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. THURMOND), with 1 hour on any amendment, with the pending question to be the Williams amendment, with no other amendment to be in order, except an Exon amendment, and any germane amendment thereto, and with 30 minutes on any debatable motion, appeal, or point of order.

AMENDMENT NO. 322

The PRESIDING OFFICER. The pending amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself, Mr. JAVITS, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. CRANSTON, Mr. RIEGLE, Mr. HART, Mr. MELCHER, Mr. MOYNIHAN, and Mr. LEVIN, proposes an amendment numbered 322.

On page 49, strike lines 5 through 13.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, let me summarize briefly for the Senate where we stand at this point in time on the military construction bill.

On July 12, 1979, the Senate considered this bill and completed work on all amendments except those relating to the Davis-Bacon issue. A unanimous-consent agreement was reached which sequentially referred the bill to the Committee on Labor and Human Resources for the purpose of reviewing the Davis-Bacon question only. On July 26, 1979, the Committee on Labor and Human Resources reported the bill back to the Senate recommending against any revisions to Davis-Bacon Act provisions.

The bill is now before the Senate under a time agreement of 2 hours on the bill and 1 hour each on two amendments. Those two amendments are: First, an amendment by Senator WILLIAMS to strike section 810 from the bill, and second, an amendment by Senator EXON, to revise the threshold of coverage of the Davis-Bacon Act from contracts costing $2,000 or more to contracts costing $50,000 or more. Under the unanimous consent agreement, those are the only amendments that will be considered.

The PRESIDING OFFICER. The present amendment is not directed to section 810. It strikes lines 5 through 13 on page 49.

Mr. HART. I stand corrected, Mr. President. I was just trying to get the factual situation clarified.

I remind the Senate that this is an important bill, containing nearly $4 billion in new authority to provide for the construction program of our Armed Forces. I would hope to complete action expeditiously.

I yield to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I send a technical amendment to the desk, so that the pending amendment is directed at the lines of the bill as it is now before us.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 49, strike lines 19 through 25, and lines 1 and 2 on page 50.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WILLIAMS. Mr. President, I yield myself such time as I may use, within my allotted time.

The question of whether the Davis-Bacon Act should continue to be applied to direct Federal construction activities of the military departments was referred to the Committee on Labor and Human Resources by the Senate on July 12, 1979, for its consideration.

Our committee has done its work in connection with this bill promptly and completely. In the brief 2 weeks which the Senate gave us, we have had hearings on this issue, and we have studied it closely. We have issued a report, which has been filed with the Senate, and which is available to all members.

Based on the committee's examination of this important question, I believe that we must continue to apply the Davis-Bacon Act to these contracts. I am pleased that I am joined by 12 of the 15 members of the Committee on Labor and Human Resources in this conclusion.

It is our recommendation that section 810 of the pending bill be deleted—and that the direct Federal contracts authorized for the military departments continue to be subject to the requirements of the Davis-Bacon Act.

Mr. President, the committee's recommendation is based on a number of considerations.

Primarily, however, we believe that waiving the Davis-Bacon Act's requirements for these contracts would result in tremendous hardship for the workers in this highly volatile and unstable industry, and in distinct disadvantage to employers, especially small employers, in the construction industry.

The purpose of the Davis-Bacon Act is to prevent the exploitation of laborers by Government contractors by insuring that those contractors pay laborers on Government contracts the wages which prevail in the locality.

The Davis-Bacon Act means that the Government will not be a party to wage cutting. The act represents the Government's commitment to the welfare and well-being of American workers and to the stability of the construction industry.

The Davis-Bacon Act means that when the taxpayers are party to a contract, they do not want the workers on that project to be exploited.

This was an enlightened public policy in 1931, and I do not believe that it is any less enlightened now than it was 48 years ago.

Mr. President, not only do the same moral and ethical reasons for the Davis-Bacon Act remain, but the same practical considerations exist which call for the continued application of this act to direct Federal construction.

These practical considerations are centered on the chronically high and cyclical unemployment in the construction industry. This industry is marked by large upswings and downswings in construction activity, and is largely populated by small and marginal employers. In short, the industry is rife with instability. It was so in the 1930's, and it is no less so in the 1970's.

Employment characteristics in the construction industry are inherently uncertain. Employment varies by as much as 30 percent between the peak construction month of August and the low construction month of February. While only 2.7 million construction workers were employed in February of 1978, that figure rose to over 3.8 million workers in August of that year. Over a million workers enter and leave the construction industry workforce every year. Moreover, the unemployment rate in the construction industry fluctuates radically even in a stable year. The unemployment rate in the construction industry was in excess of 17 percent in February 1978, declined to 6.6 percent in August and rose again to 17.5 percent in February 1979. At the peak of the recent recession, the unemployment rate for construction workers was 21.6 percent in May 1975, while the rate for all workers was 9.1 percent.

These workers are employed by half a million businesses, many of them small, and divided into more than 30 crafts or trades.

Typically, these are not long-term employment relationships. A contractor will bid successfully for a contract and obtain his skilled labor from the local construction market. Construction workers are particularly susceptible to wage cutting competition during periods of high unemployment due to short-term fluctuations in employment and unemployment. This industry has limited job security, high skill requirements, and a preponderance of small locally oriented firms who exhibit keen business competition due to a lack of control over many nonlabor construction costs.

Mr. President, the testimony at our hearing indicates that not only do the workers in the construction industry feel a continuing need for the protection and stability offered by the Davis-Bacon Act, but the employers in the industry also see a continued need for the protection, and stability, which the Davis-Bacon Act assures.

At our hearings, representatives of the National Electrical Contractor's Association told us that they opposed waiving the Davis-Bacon Act.

Those contractors said that prevailing wage requirements in Federal construction contracts enable them to bid on those contracts with the reasonable assurance that they will be able to recruit the skilled workers they need to perform the contracts.

Without that assurance, many of these small contractors would be unable to bid on and receive Federal contracts.

The committee received similar views from representatives of the Tile Contractors Association and the Mason Contractors Associations.

We can therefore disabuse ourselves of the idea that the Davis–Bacon Act protects only workers. In fact, its protections are valuable to employers in the construction industry, and most especially, small employers.

It is also clear from our hearings that any hypothetical cost savings which have been claimed if the Davis-Bacon Act is made inapplicable to military construction is largely illusory. When the prevailing wage determinations under the Davis-Bacon Act are correctly made, there should be no inflationary impact. The rates actually prevailing in the area are simply identified and reflected in the competitive bids on Government work. Claims that the act has an inflationary impact tend to be based on the assumption that determined wage rates may be higher in some cases than those which actually prevail. In fact, rather than realizing savings as a result of reduced costs, the Government may very well encounter increased costs due to a lower quality of construction, increased project defaults, and increased maintenance as a consequence of the use of unskilled labor.

The report of the Armed Services Committee notes that Defense Department witnesses testified that, based upon General Accounting Office estimates, cost reductions of 5 to 15 percent are possible if Davis-Bacon was waived. However, these estimates are based on a 1971 GAO report. I questioned the GAO on those estimates in hearings before the Committee on Banking, Housing, and Urban Affairs earlier this year. At that time, the GAO testified that the projects selected in the 1971 study were not randomly selected, but were targeted projects and presumably were not representative of any hypothesized budgetary impact. Moreover, the 1979 GAO report estimates an average of slightly over 3 percent savings on 12 of 30 projects surveyed. This GAO report specifically notes on page 100 that its sample size was insufficient for projecting the results of that study to construction costs generally with any statistical validity.

The fact of the matter is that the Department of Defense has made no independent estimate of any hypothetical savings by waiving the Davis-Bacon Act for military construction projects. To the contrary, the Assistant Secretary of Defense specifically opposes section 810 or the military construction bill, and points out that "equal application of the act provides a stable relationship with contractors that undertake Federal construction and prevents possible labor difficulties and attendant delays or stoppages."

If the prevailing wage protections of the Davis-Bacon Act were waived, and wage cutting competition ensued, there is no evidence that any savings in wage costs will in fact be passed through to the Government. In fact, if the contractor pays less than the prevailing wage, he is likely to be able to attract only underpaid and unskilled workers.

Mr. President, what does the Government get for its money when its contractors use underpaid, underskilled workers on construction projects? Let us make no mistake about it—when you offer low pay, you attract low-skilled workers, highly trained, highly skilled, highly efficient workers do not grow on trees, and they do not work for nothing.

So, what can the Government expect from these underpaid, underskilled workers? The answer is shoddy, deficient, even defective work. Witnesses at our hearings on this bill testified that the work on those contracts was often defective and, in some cases, even dangerous.

Mr. President, these military construction projects are just too vital to the defense of our Nation to be sloppily built. Our military personnel have the right to expect that our missile sites and radar stations will be well constructed, and will be built according to specification. When the need is there, they must know that these vital installations will function properly. If not, the few pennies saved in construction, at the cost of reliable buildings will be a poor bargain indeed.

Mr. President, the Davis-Bacon Act has been instrumental in opening the door of the construction industry to minority group members and women. Requirements associated with the act, such as apprenticeship training programs, and established journeymen-apprenticeship ratios, have assisted in the development of job opportunities for the disadvantaged elements of our society. Waiving the Davis-Bacon Act for nearly one-fifth of direct Federal construction activity will surely set back this admirable progress which has been made.

By building our military structures in a manner which will insure the well being of our citizens, in a manner which will insure that Government contractors do not exploit their laborers, in a manner which will provide hope for a brighter future for all our citizens—we will be getting true value for our dollar.

Mr. President, for these reasons, I join with the overwhelming majority of the Committee on Labor and Human Resources in recommending that the Senate strike section 810 from this bill.

The PRESIDING OFFICER (Mr. STEWART). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to associate myself altogether with the eloquent incisive remarks of the chairman of the Committee on Labor and Human Resources, our greatly admired neighbor from New Jersey.

I wish to remark on a statement he made toward the end of his address about the relevance of the decision we are about to make today about the construction of the facilities for strategic warfare.

This is not a bill about building barracks. This is a bill about constructing the most complex pieces of machinery the United States knows, the infrastructure of our strategic nuclear defenses.

I have just come, as it happens from a meeting of the Select Committee on Intelligence in which we have dealt with the question of verification of the SALT II agreement. We have been in secret session for a month on this, and we have just about now concluded.

I have to say that there is something that strains credibility that we should have spent a month in the Capitol Dome going over the precise technical questions about what is our capacity to verify, what is our capacity to retailiate, what is the level of condition of our forces, and come down to the Chamber and find before us a proposal to turn the construction of that intensely complex infrastructure over to unskilled and underqualified workers. It is as if one leaves one world of reality for the world of unreality, although one might think it would be just the opposite.

Mr. President, this amendment is offensive. It comes with ill grace a year after the President presented the Senate with a proposal to make the first advances in labor legislation since the New Deal. The Senate did not act. Despite the noble efforts of Senator WILLIAMS, our Senate did nothing. Now finding that we did not advance on the New Deal, it is proposed that we repeal the labor legislation of the Hoover administration.

Davis-Bacon is an enactment of President Hoover's administration, and a very important one. It has brought stability to an industry that did not have it and has greatly advanced the capacities for production in this field.

Those who do not know what it is like to have instability in the construction industry will not think much of it. I can put it very simply: It is something you do not miss until you do not have it.

In the 1950's, we had to build the great nuclear weapon defense system of this country. If we did not have skilled workers protected by Davis-Bacon for over a generation, we would not have been able to do it. We did do it. I remember being in the Department of Labor in the early 1960's under President Kennedy and the extraordinary involvement of the trade union movement with the Defense Department in constructing our Minuteman silos, and other similar efforts like that. This was possible because we had a stable industry and a highly skilled workforce.

What will we have if this bill goes through? I will tell you what we will have. We will deplete yet another American resource, and do not be surprised if the day comes when we start importing our construction as well as other things in manufacturing.

But another point is to be made, and that is this: There is an unfortunate regional bias in these matters about which I am prepared to speak. I represent a State, Mr. President, where one out of every seven members of the AFL-CIO lives, and we are proud of the social legislation we have adopted. We are proud of our effort to extend that legislation to other parts of the country, and we have supported the kinds of Federal expenditure that go with such legislation. Senators from my State and my part of the country have stood on this floor for 50 years and said, "Yes, let us increase the Federal budget for this purpose and that purpose, more public works," always supporting defense, never to any significant advantage of our region at all.

I see the distinguished manager of the bill, the Senator from Colorado, who has made such an important contribution both to this subject and to the Armed Services Committee is here, and I would like to tell him something I said to the Building Trades Department of the AFL-CIO just earlier this year when this whole issue began to be discussed. I said to them:

> As far as the Senators from the Northeast are concerned, if there is going to be no Davis-Bacon let there be no public works.

If anybody supposes that the Federal budget is a bonanza for States such as mine, just give us the chance to do without a Federal budget altogether and see how much better off we would be and how quickly we would accept it.

No more dams, no more highways, no important electrification, no more canals. Why clone the Mississippi River if we are going to do it under these circumstances? We do not have to clone the Mississippi River. Nobody is cloning the Hudson River. The pork barrel of this body goes places other than ours. All we have asked is that decent labor standards go with it, and if they cannot, then we can do without it and will do without it.

We can stand on this floor and fight these propositions with exactly the same weapons that others have fought other propositions. It is bad enough that we will not make one step beyond the New Deal, but to start repealing the labor legislation of Herbert Hoover suggests an atmosphere in this body which had better be turned around or the American people are going to wonder what is going on on Capitol Hill. At least I am on the verge of agreeing with President Carter about our isolation, and having suggested that maybe it is time for me to sit down.

But there is just one more thing. It is also important to understand the characteristics of the industry about which we speak today.

Mr. President, the Davis-Bacon Act is the most important wage stabilizing piece of legislation in the construction industry. It requires that Federal construction contractors pay the prevailing wage for labor in the area where the construction is to occur. The Davis-Bacon Act has served to stabilize the volatile construction industry by discouraging cut-throat competition by construction contractors who would slash out at labor standards in their bidding. It affirms that our Federal building programs will not be undertaken at the expense of the worker who performs the building. By protecting the prevailing living standards of the construction worker, the act provides equality of opportunity for contractors and prevents the disturbance of the local economy.

Under this standard, contractors are free to compete against each other's efficiency, know-how and skill rather than in wage rates and fringe benefit levels.

To understand the importance of the Davis-Bacon Act, it is necessary to understand some aspects of the construction industry. In this country the construction industry has always been volatile and intermittent in its business volume, and in the employment opportunities it provides. Over 4 million workers are attached to the construction labor force. They are employed by about one-half million businesses, and divided into more than 30 crafts or trades. Unlike most other industries, these are not long-term employment relationships: Workers move from job to job, site to site, rarely forming permanent attachments to a single employer. The intermittent nature of the work diminishes the effect of a sometimes seemingly high wage rate. Unemployment has been persistently higher in this industry than in most others: Recently averaging more than 50 percent higher than the national average (10 percent construction against 6 percent national average).

The potential for severe wage competition is always present in the construction industry. The half million small construction contractors are engaged in one of the most competitive businesses in the country. Because of the relatively high unemployment rate, the workers are particularly vulnerable. In fact, the 1972 Commission on Government Procurement Study Group No. 2, a group that would likely be more concerned with procurement than worker protection found that "the wages of construction workers on Government construction would likely be adversely impacted without prevailing wage protection." The employer has less control over other major cost factors in construction such as land, materials, and interest rates and thus is more likely to look at wage rates for cost cutting. Moreover, the cost of these factors has been increasing at higher rates than labor costs. If the economy moves toward a period of slow growth of recession, there is a much greater likelihood that the pressures for wage competition will intensify given the volatility of the construction industry.

The Davis-Bacon Act which was enacted in 1931 was part of a trend that began much earlier. Kansas had adopted a prevailing wage statute in 1891. Forty States have now adopted "little Davis-Bacon" laws, many of them in the 1950's and 1960's. The Davis-Bacon Act was a major force in preventing the complete disintegration of the construction industry in the 1930's. Its importance in preserving labor standards during a period of economic decline cannot be understated. In this regard, it is significant to note that construction industry housing starts for February were at their lowest level in 2½ years. It is beyond belief that at a time when many forecasters are predicting a recession that we would seriously entertain the possibility of abolishing one of the major stabilizing influences in the construction industry.

Yet, there are those who would suggest that the construction worker should be sacrificed in the battle against inflation.

However, the annual percentage increases in hourly wage rates over the last 7 years for construction workers has already been lagging behind the all-industry increases. Between 1971 and 1977, the construction workers' increases were 5.9 percent per year, compared to the all-industry average of 7.3 percent. Between 1975 and 1977 the gap widened: The construction workers' increases were 5.5 percent per year, and the all-industry increases were 7.17 percent. The April 1977-78 wage rise for construction workers was the smallest 12-month increase since 1967. It is obvious that the construction industry wage increases are hardly a major inflationary force in our economy.

Under these conditions, it is apparent that the altering of the Davis-Bacon Act would risk serious economic and social costs. It would create havoc in the construction industry, giving rise to a degree of cut-throat competition we have not seen for 50 years. In the end, it is not only the construction worker who would fall victim to this false fight of inflation.

Indeed, it is our local construction industries who could very well fall victim to the low wage itinerant contractors who move from contract to contract undercutting local standards in their ruthless search for Government contracts.

Mr. President, no one denies that the Davis-Bacon Act played an important, indeed vital, role in preventing the complete disintegration of the construction industry in the 1930's. Since that time, Congress has repeatedly affirmed the importance of this law in stabilizing wage patterns in the construction industry by including the Davis-Bacon Act provision in nearly all of our laws authorizing federally funded construction.

It would be a rash action in the extreme to alter this act as we enter a period of likely economic uncertainty over the next few years.

Mr. President, for these reasons, I urge my colleagues to vote to strike section 810 from the military construction legislation.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Texas as much time as he desires.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I am not surprised at the action taken by the Labor and Human Resources Committee recommending deletion of section 810 of the military construction authorization bill. Although I was unable to attend the committee's hearings personally, I have reviewed the testimony offered by the various witnesses. From this reading, it appears to me that relatively little attention was given to the question of saving money on defense construction, which is the purpose of section 810, and that the committee chose to focus instead on preserving the integrity of the Davis-Bacon Act.

Even in its anticipated response to the committee, the Department of Defense does not make one reference to cost savings. Instead, Assistant Secretary Robert Pirie states that:

> I do not approve of the inclusion of section 810 into this bill because I do not favor the singling out of the military construction program from other Federal construction.

In other words, what he is saying is "Don't put the monkey on my back. The big unions do not want this act repealed in any form or fashion or waived in any form or fashion. Don't single us out there over in Defense to incur the wrath of organized labor."

I would reiterate again my previous statement that this language does not repeal Davis-Bacon; it does not amend Davis-Bacon; nor does it affect the application of the act to any other type of Federal construction. The purpose of section 810 is very simple—it will save tax dollars on defense construction projects.

As my colleagues are well aware, the Senate Armed Services Committee is presently holding hearings on the SALT II Treaty. In terms of our relative defense preparedness, even among those who favor the treaty, there is a strong consensus that a real growth in the level of defense spending must occur over the next few years.

Right now, Mr. President, we have a backlog in military construction of nearly $35 billion. These projects, located in dozens of States, cannot be implemented because the defense budget simply cannot be stretched any farther to accommodate them and in the years ahead, the list will grow.

By enacting section 810, we might make some headway in reaching these projects. Let me cite a few examples of how this would work:

At the Indiantown Gap Military Reservation in Pennsylvania, a tank trail was built in 1977. The cost of that project under Davis-Bacon was $188,400. The same project without Davis-Bacon would have cost $150,720.

At that same location a rifle range was also built. Under Davis-Bacon, the cost was $217,900. The cost without would have been $174,320. Conservative estimates show that both of these projects could have been completed for 20 percent less.

At McGuire Air Force Base in New Jersey, a composite squadron facility constructed under Davis-Bacon cost $117,500. Without Davis-Bacon, the cost would be $86,750. Considering the fact that 50 percent of the project cost was for labor, estimates show a potential saving of $30,750, or 27 percent of the total cost.

Examples from testimony before the Human Resources Committee show similar waste. One witness cited the Davis-Bacon rates for constructing one lock on the Tennessee-Tombigbee waterway increased labor costs on that project between $2 to $3 million—and that was just one lock.

And in Frederick, Md., where no local contractors would even bid on a construction project for the Frederick Cancer Research Center at Fort Detrick, the low bid was over 100 percent above the amount budgeted by the Federal Government.

I cite these examples to show, Mr. President, that the cost estimates presented before the Armed Services Committee by Deputy Assistant Secretary Fliakas bear some careful consideration. During his testimony, Secretary Fliakas projected a cost savings range of $70 to $210 million under section 810. These are estimates. They could be lower, and they could be higher. But there would be savings, and no one has disputed that fact.

The list of unfunded projects is extensive, and even if we could realize $50 million in savings, maybe we could get to those projects in Florida, Nebraska, Alaska, Georgia, California, and a number of other States.

Now, Mr. President, when we discussed the military construction authorization earlier this month, I moved to refer the bill to the Human Resources Committee for review. This was not a jurisdictional matter, and we could have proceeded to a vote that day on the motion to strike section 810. I doubt that the outcome of that vote will vary.

But since the committee had not availed itself of the opportunity to review the cost aspects of Davis-Bacon, I thought they should have the chance to do so. Unfortunately, the committee has seen fit to treat section 810 as a frontal assault on Davis-Bacon, which it is not.

I would therefore remind my colleagues once again that the purpose of this language is to curtail waste in defense spending. Perhaps the Human Resources Committee will take—or be given—other opportunities to consider amendments to the Davis-Bacon Act. I for one hope they will. But for the present, let us not confuse far-reaching amendatory efforts with this present motion to cut wasteful Government spending.

I was interested to note that my distinguished friend from New Jersey has, in effect, said 80 percent of the construction work in this country is shoddy. That is to say private sector construction work not covered by Davis-Bacon is shoddy and defective, but under Davis-Bacon all the Federal construction work that is done is not shoddy; it is not defective. What in effect he is saying is that nonunion work is shoddy and union work is always the best. Moreover he is in effect saying that even union work done in the private sector, uncovered by Davis-Bacon, is shoddy and defective, and yet if it is done on Federal projects under Davis-Bacon, it is not shoddy and defective. So apparently the proper conclusion as to the soundness of construction work done across this country, according to the Labor and Human Resources Committee, would be that all private construction work done in this country is shoddy and defective.

Mr. President, I suggest we do not need Davis-Bacon application to insure that construction work done is done well and done properly. I can cite some construction projects around Capitol Hill which have had some rather substantial cost overruns, and in some instances the work has not been entirely satisfactory.

Mr. President, I am a realist, and I know what is going to happen here. I am reasonably sure, although I would hope that on the way to the Chamber to vote my colleagues might suddenly be afflicted with what happened to St. Paul on the road to Damascus and see the light, and vote overwhelmingly against the amendment of the Senator from New Jersey.

Being a realist, I know that is not likely to happen; but what we are doing here today, if the amendment of the Senator from New Jersey prevails, is saying that in combating inflation there are certain untouchables that must prevail, that cannot be tampered with, regardless of what we must do to combat inflation in terms of basic costs.

Davis-Bacon does have an inflationary impact. There is no proof that Davis-Bacon does not cost us more money for construction. No one has asserted that it effects any cost savings. All the evidence is quite to the contrary. Therefore, should this amendment prevail, I think the Senate will have said this is an untouchable element in the cost of the inflation.

I think we should identify these untouchables. There will be some of them identified by other amendments offered to the bill to try to save the Government money, that will try to foreclose Government activity that tends to drive up costs in the private sector because of the enormous power of organized labor.

When you think of the most influential single political force in the United States, it is the AFL–CIO; and it not likely that we are ever going to prevail against them. Anybody who thinks business has an inordinate influence on government is nuts or is uninformed, because in fact it is organized labor, with its control and discipline, that has the greatest impact on public policy—greater than any other special interest group in this country. I would say greater than all of them combined.

They have decreed that section 810 will not prevail and will not be permitted to remain in the bill, and my guess is that probably that decree will be honored.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nineteen minutes and seven seconds. The Senator from New Jersey has 7 minutes and 50 seconds.

Mr. TOWER. Mr. President, I might suggest to the Senator from South Carolina and the Senator from New Jersey that the Senator from Nebraska (Mr. EXON) wants to propose an amendment. For my part, since I am primarily responsible for section 810 in this bill, I would be prepared to see some time yielded back so Senator EXON could be accommodated.

Mr. WILLIAMS. Mr. President, perhaps that can be done, but before I would yield back I would like to point something out to the Senator from Texas.

We are good friends, and we have worked together on many things; and we oppose each other on many things, too, always in the best of dignity and good spirits. But I am rather disappointed that the Senator from Texas did not listen to my remarks as closely as I had hoped he would have. If he had, he would not have been saying some of the things he said that suggested I had said all nonunion labor is shoddy labor. I did not have anything in my remarks that would lead the Senator to say that.

All I am saying is that if we do not have the community-prevailing wage as a requirement on Government construction contracts, we have a situation where there will be contractors who will undercut the community-prevailing wage; they will get the job, and they will get it because they do not have fully qualified and skilled workers coming in under the prevailing community wage. That is all I have said.

If the Senator will look at our report, it will show that the prevailing wage determinations are about equally divided between union and nonunion rates. So it is not a union versus nonunion question, it is a question of applying the community wage that prevails for like workers on like construction jobs to our federally assisted construction. I just wanted that clarified, Mr. President. I know that the Senator from Texas will appreciate that when I found error I pointed it out to him.

Mr. TOWER. Mr. President, will the Senator from South Carolina yield me 2 minutes?

Mr. THURMOND. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, the fact is that Davis-Bacon, in many instances, establishes a higher wage than what is actually the prevailing wage, because it has been acknowledged by various departments of the Federal Government that the data base that is used by the Labor Department in making these determinations is inadequate. Secretary Harris, when questioned about it before the Committee on Banking, Housing, and Urban Affairs, said they were seeking a better means for determining what the prevailing wage ought to be.

I think there is a great deal wrong in the application of Davis-Bacon that could be cured by administrative action, but we have seen no movement in that direction. There have been complaints against—complaints about it.

Let me note that in instances where Davis-Bacon has determined a lower prevailing wage than that actually prevailing in an area, in every instance—and we have not found anything to the contrary—the prevailing wage has been paid anyway, in the few instances where the Davis-Bacon determination was too little.

So the net result has not been or would not be for wages to fall below the established minimum wage in a given area, but what happens is that contractors, particularly in small towns, cannot meet the union wages which the Labor Department determines are the prevailing wage when indeed they are not.

For example, a project 100 miles from Dallas, in a small town, might have to pay wages that are really based on the highest union-negotiated rate in Dallas, when that is not the prevailing wage in that area.

Really, the effect of Davis-Bacon has been directly contrary to the original intent of the bill. I am a little bit touched to hear my good friend from New Jersey or my good friend from New York say how wonderful this Hoover legislation was.

I wish they were as dedicated to preserving the legislation of the Hoover administration in other areas as they are this one. In fact, the original intent was to prevent big city contractors from coming into small towns and bidding low because they could undercut local wages. Now the opposite has happened. The big city contractors are the only ones who can afford to bid in many instances and the small-town contractor is thrust out of the job. The record is replete with examples of this.

Mr. President, I hope that we will consider all these things when we vote on the Williams amendment.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute, or less. I want to clear up a matter for my good friend from Texas and point out to him that on a county by county basis for the great State that he represents prevailing wage determinations in residential construction—of course, residential construction is major in Texas because of its rapid growth—reflected union rates in 31 counties, and nonunion prevailing wage rates in 223 counties. I just want the Senator from Texas to realize that prevailing wage determinations are not necessarily union or nonunion, but are the community prevailing wage found by the statistical methods that the Department uses.

Mr. TOWER. Will the Senator yield 1 minute?

Mr. THURMOND. I yield.

Mr. TOWER. Texas is a right-to-work State and workers are not compelled to join a union as a condition to the right to earn their daily bread. Because of the favorable labor-management climate and the high productivity of Texas labor, that is to say, of the major industrial States Texas gives a higher return on the labor dollar than any other State, that is why we have this enormous growth and why industries are moving to Texas. I would suggest that might be an example to the States in the Northeast to follow, those which are faced with economic stagnation.

Mr. WILLIAMS. When there are pockets of poverty in the great State of Texas we too will respond.

Mr. JAVITS. Will the Senator yield me 2 minutes?

Mr. WILLIAMS. I yield 2 minutes.

Mr. JAVITS. Mr. President, the key point here, and we have argued this time and again, is that Davis-Bacon is an essential effort to stabilize wage patterns, like the Fair Labor Standards Act and other comparable acts. I think Senator Tower really answered the issue. The point is how is the prevailing wage determined. We have begun now to look into that very carefully with the Secretary of Labor. The finding of the General Accounting Office, surveying 30 cases, showed that the prevailing wage was exceeded in 12 cases and was under the prevailing level in 18 cases.

I wish to say to the Senate that what we should do is to accept the Williams amendment and not throw out the principle of Federal stabilization of wage levels, because we do not like the way it is administered, but that we in the Labor and Human Resources Committee should zero in upon that question and see whether it is fair or whether there are any elements of unfairness. I assure the Senator that whatever may happen, it is my intention to do precisely that.

Mr. TOWER. If the Senator from New York will yield——

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield 1 minute.

Mr. TOWER. I appreciate the remarks of the distinguished Senator from New York. I feel that if the act had been more appropriately and more equitably administered over the years there would not be the great pressure now to repeal Davis-Bacon or to leave it in terms of some Federal construction project.

Mr. JAVITS. There are always great pressures. The rights of labor are still very much a struggle. But all I say, and I fully respect the views of the distinguished Senator from Texas, is that this is an established pattern and it is in my judgment unwise to shake up the whole structure by taking this piece out of it. I think the way to proceed is to move into the administrative area. I am giving my assurance that I will determinedly do that.

Mr. TOWER. I appreciate that.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment which would remove from the fiscal year 1980 military construction authorization bill the Davis-Bacon amendment approved by our committee in an 11–5 vote. I repeat, the Armed Services Committee placed this amendment in the bill by a 11–5 vote.

The purpose of this amendment is simple—it will allow us to save money. The Senate Armed Services Committee is charged with the responsibility of meeting our military construction requirements in the most efficient and economical manner possible.

ANNUAL SAVINGS OF $70–$210 MILLION

The Deputy Assistant Secretary of Defense, Mr. Perry Fliakas, testified during our hearings that by waiving the $1.4 billion in this bill which comes under the Davis-Bacon Act we could save from $70 to $210 million in this 1 year alone.

Mr. President, if we can save the taxpayers from $70 million to $210 million this year by waiving the Davis-Bacon Act, do we not have a duty to do that?

Thus, a considerable amount of the taxpayer's hard earned dollars can be saved by simply allowing the military construction projects to come under the same wage guidelines that any private citizen pays when a project is constructed. Why should the Senate want to add to the costs of tax funded projects when a cheaper, yet equitable, course is open to us?

INFLATION FIGHTER

The Nation is now reeling under the impact of double digit inflation. Every American's paycheck is buying less.

The General Accounting Office has found without qualification that outmoded Davis-Bacon laws are feeding that inflation without good cause. We must protect the interests of the taxpayer, only Congress can do that and our responsibility is clear.

CHANCE FOR SAVINGS

Thus, by retaining this amendment we can reduce the costs of the Defense Department without any degradation in our military strength. Here is an opportunity to cut defense costs. Here is an opportunity to test the impact of the Davis-Bacon law in our current economy. Here is an opportunity to eliminate an unnecessary expense which serves no useful military purpose whatsoever. Here is an opportunity to fight inflation, the No. 1 enemy of the President, the No. 1 enemy of the Congress, and the No. 1 enemy of the American people.

CONGRESS HAS RESPONSIBILITY

Mr. President, the Congress is solely responsible for the Government having to pay to contractors higher construction costs than that paid by private builders. We can no longer afford this two-tier system where the Government pays a higher price to construct the same building. To do so cheapens the tax dollar. To do so is an inefficient use of tax revenues. To do so feeds the fires of inflation.

Presently in this country 25 percent of all construction work is covered under Davis-Bacon, that work being those buildings in which Government money is involved. Why should the Government be inflating costs to itself when most of the remaining construction industry is operating outside of this law and still paying a fair wage?

NOT ANTI-LABOR

This is not an anti-labor amendment, it is a pro-taxpayer amendment. Many laws now protect the construction worker and other workers which were not in place in 1931 when this law was passed. We have minimum wage laws, overtime laws, and many other regulations to assure wages are fair for the working person.

GAO FINDINGS CLEAR

The recent General Accounting Office report on Davis-Bacon urges repeal of Davis-Bacon. That is a Government office, responsible to the Congress. GAO has studied this situation for over a decade, and their recommendation is sound. They have found the act impractical to administer after 50 years of effort.

They have found the act inflationary on the local and national economy. They have found the act having the opposite effect of its original authors. They have found the act harmful to the interests of minority groups and small business operations. These findings come from our Nation's most respected audit agency, the agency which is an arm of the Congress and free of any political pressures.

WAIVER OFFERS TEST

Mr. President, I also point out to the Senate that our committee is not urging repeal of the act in this bill, we are simply waiving its coverage for the purpose of military construction.

This would merely be a test; its effect would be minuscule compared to the wide ranging Davis-Bacon coverage now in effect.

In this particular military construction bill, we are only talking about around 5 percent of all U.S.-aided construction which comes under the Davis-Bacon Act. This amounts to about 1.5 percent of total U.S. construction. There is presently a $35 billion backlog in military construction projects. Acceptance of this waiver could help address that huge backlog. Can we afford not to make this simple, very narrow test to determine whether the savings would be 5 percent and $70 million or 15 percent and $210 million? I cannot believe the Senate is opposed even to this minor effort to constrain Federal costs, to fight inflation, to reduce unnecessary defense spending, to get for the taxpayer's dollar the same thing the private builder's dollar can buy.

Mr. President, I urge rejection of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from South Carolina has 8 minutes and 44 seconds; the Senator from New Jersey has 2 minutes and 33 seconds.

Mr. THURMOND. Mr. President, I ask unanimous consent that some examples of Davis-Bacon increasing construction costs be printed in the Record at this point in my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Example of Davis-Bacon Increasing Construction Costs

SOURCE: APRIL 1979, GAO REPORT

Project determination 76–TN–88, Dickson County, Tenn.

This determination was used on a project for construction of a chlorine room addition to the City of Dickson's domestic water treatment plant. Construction costs amounted to $44,130.

Labor had never made a survey of prevailing wages paid in this county. Instead, Labor adopted construction union wage rates from Nashville, Tennessee, as the prevailing rates for Dickson County—which is a rural noncontiguous county about 30 miles from the Nashville metropolis.

Also, four of the seven bidders (including the successful bidder) were from the nonadjacent county—none were from Dickson. One of the three subcontractors was local, the other two were from communities about 24 and 28 miles, respectively, from Dickson.

All but 4 of the 32 rates issued by Labor were union-negotiated rates based on a survey, completed in 1972, of projects in the nonadjacent county. Our survey in Dickson County showed that nonunion rates prevailed and that all were substantially lower. The following are some examples of differences we noted:

Classification	Labor hourly rates issued	Prevailing hourly rates in locality	Difference
Bricklayer	$8.00	$4.50	$3.50
Carpenter	8.26	4.50	3.76
Electrician	8.65	5.00	3.65
Labor, unskilled	4.65	2.50	2.15
Painter, brush	6.95	3.88	3.07
Plumber	8.94	4.50	4.44
Truck driver	4.90	3.75	1.15
Bulldozer operator	8.15	4.25	3.90

Labor costs paid on the project at the rates required by Labor amounted to $10,546—about 36 percent more than those prevailing in the locality. Labor costs at prevailing rates in the locality totaled $7,759. Total construction costs may have been increased by about 6.7 percent.

Project determination 76–CA–7, Kings County, Calif.

This determination was used on two exterior painting contracts at the Naval Air Station at Lemoore, California. The total costs of the two projects amounted to $286,352. Although the invitation for bids was sent to local contractors, the majority of the bidders (six of eight on one contract and all the bidders on the other) were located 180 miles or more from the air station. The successful bidders were from the Los Angeles area (200 miles away) and the San Francisco area (180 miles away). Each employed some local workers, but most were from Los Angeles, San Francisco, Arizona, Nevada, and one was even from New York.

Labor had made a survey of Kings and adjacent Tulare counties in 1974. The wage specialist recommended to the Washington headquarters that the rate for painters not be issued, since the nonunion rate determined was higher than the current union basic rate and appeared out of line with rates paid to other crafts. However, the wage specialist later recommended, and headquarters issued, rates obtained from this survey on these projects.

Following are the differences between the rates obtained in our survey and those issued by Labor.

Classification	Labor hourly rate issued	Prevailing hourly rate in locality	Differences (labor rate lower)
Painter	$8.80	$7.27	$1.53
Laborer	3.50	4.19	(.69)

While Labor's rates are both higher and lower than prevailing rates, total wage costs on the contract were increased from $71,821 to $83,379—16 percent. Total construction costs were increased by about 4 percent.

We asked both contractors what effect a lower wage rate by Labor would have had on their bids. Both stated that if the wage rates had been lower their bids would have been correspondingly lower, because lower rates would be paid to their workers.

Presented below is an example of prevailing rates determined in our survey, which were substantially lower than those issued by Labor.

Project determination 76–NY–89, Otsego County, N.Y.

This determination was used on a project that involved reconstruction (paving, grading, and drainage) of an existing highway at a cost of $577,253. The contractor was from a city located in an adjacent county about 70 miles from the project. Work was about 50-percent complete at the time of our fieldwork.

Labor issued union-negotiated rates not supported by a survey in the locality for each of the 9 classifications of workers we compared on the determination. With one exception we obtained substantially lower nonunion rates in our survey of wages paid on similar private construction in the county. For the exception, our survey showed a union-negotiated rate about $2.00 an hour higher for cement masons than the rate issued by Labor. Following are the differences we noted:

Classification	Labor hourly rate issued	Prevailing hourly rate, locality	Difference
Backhoe operator	$10.70	$5.87	$4 83
Roller operator	10.40	4.50	5.90
Bulldozer operator	10.40	4.75	5.65
Paver operator	10.70	6.58	4.12
Truckdriver	8.44	5.72	2.72
Carpenter	11.25	7.85	3.40
Asphalt raker	8.99	5.49	3.50
Laborer	8.59	3.48	5.11
Cement mason	9.70	11.71	(2.01)

For nearly all of the classifications the nonlocal contractor paid workers at precisely the amounts required by Labor.

Labor costs paid on the project at the rates required by Labor amounted to $84,302—123 percent more than those prevailing in the locality. Labor costs at prevailing rates would have totaled $37,865. Total construction costs may have been increased by nearly 9 percent because of these higher rates.

Mr. THURMOND. I call attention to just two or three projects.

For example, in Dickson County, Tenn.—this is from the GAO report that I am quoting—for a bricklayer, the labor hourly rates issued were $8, whereas the prevailing hourly rates in Dickson County were $4.50. That is a difference of $3.50. The Labor Department found the prevailing wage to be $3.50 higher than it actually was. That is a fact found by the GAO.

A carpenter in the county, the GAO also found, earned $4.50 an hour, a difference of $3.76 from what the Labor Department found a carpenter getting, $8.26. The actual prevailing wage was $4.50. In other words, $3.76 difference.

For an electrician, the Labor Department found $8.65; the prevailing wage was only $5, a difference of $3.65.

I just give those as illustrations to show how far off base the Labor Department has been. They have not been getting the prevailing wages. As the able Senator from Texas stated, if they had been actually using the prevailing wage, it would be one thing, but they are not doing it. They are inflating those wages.

For instance, another one is a bulldozer operator. The Labor Department found $8.15. The actual prevailing wage is $4.25. That is a difference of $3.90.

Who is paying that, Mr. President? The taxpayers of the country are paying it. The citizens of Dickson County, Tenn., had to pay it in this case.

Here is another example: In Otsego County, N.Y., the Labor Department found that a backhoe operator made $10.70 an hour. The actual prevailing wage is only $5.87, a difference of $4.83.

A roller operator, the Labor Department found was making $10.40, but the actual prevailing wage was $4.50, a difference of $5.90. A bulldozer operator, the Labor Department found to have an hourly wage of $10.40, but the prevailing wage is actually $4.75, a difference of $5.65.

Mr. President, I think that is typical of the way this law is being administered. How are they going to correct it? The Labor Department will not correct it. So we are asking here simply that we waive this law in this particular instance. The General Accounting Office recommends it. The unions, of course, have axes to grind, but our first duty is to the taxpayers of this country. Our first duty is to the public. It seems to me that we ought, in this case, to waive this act and save the taxpayers $70 to $210 million this year, on this particular bill alone. That is what the GAO said we can do.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, DOD has testified that Congress could save up to 15 percent of military construction costs in fiscal year 1980 if the Davis-Bacon waiver remains on this bill.

The Members should realize that we have a $35 billion military construction backlog—$35 billion in needed projects we are unable to fund. A savings such as that proposed through this waiver would enable many high priority projects to be constructed.

The Defense Department has supplied to the Senate Armed Services Committee a list of these high priority projects. These are badly needed military construction projects which could be funded this year if we did not have to pay the higher Davis-Bacon costs. These projects are located in many States. I would like to list a few:

ARMY

Installation, project, and cost:

Rock Island Arsenal, Illinois, Improve Hdq Facility, $7.5 million.

Fort Hood, Texas, Company Adm and Supply Buildings, $2.6 million.

Military Ocean Terminal, New Jersey, Electrical Power Distribution Improvement, $.6 million.

Fort Campbell, Kentucky, Woodlawn Vehicle Bridge, $1.0 million.

Fort Bragg, North Carolina, Military Operations in Built-up Areas, $1.7 million.

Fort Sill, Oklahoma, Troop Support Facilities, $3.8 million.

Fort Stewart/Hunter Army Airfield, Georgia, Battalion Hdq and Classroom Buildings, $2.1 million.

Fort Bragg, North Carolina, Tactical Equipment Shop, $2.4 million.

NAVY

Naval Submarine Base, New London, Connecticut, Utility Improvements, $4.2 million.

Naval Shipyard, Philadelphia, Pennsylvania, Berthing Wharf Rehabilitations, $9.4 million.

Naval Station, Adak, Alaska, Fire Station, $3.3 million.

Naval Air Station, Moffett Field, California, Taxiway Overlay, $4.1 million.

Naval Air Rework Facility, Jacksonville, Florida, Aircraft Acoustical Enclosure, $3.6 million.

AIR FORCE

Barksdale Air Force Base, Louisiana, Alter Unaccompanied Enlisted Personnel Housing, $2.9 million.

Offutt Air Force Base, Nebraska, Alter Unaccompanied Enlisted Personnel Housing, $3.0 million.

Holloman Air Force Base, New Mexico, Alter Unaccompanied Enlisted Personnel Housing, $2.0 million.

Tinker Air Force Base, Oklahoma, Energy Conservation Investment Program, $3.5 million.

Castle Air Force Base, California, Composite Medical Facility/Dental Clinic, $14.6 million.

Wurtsmith Air Force Base, Michigan, Composite Medical Facility/Dental Clinic, $10.4 million.

Hill Air Force Base, Utah, Energy Conservation Investment Program, $3.2 million.

Homestead Air Force Base, Florida, Energy Conservation Investment Program, $1.5 million.

● Mr. GLENN. Mr. President, because I believe that it is poor public policy to attempt to significantly modify major legislation in random and piecemeal fashion without the benefit of full balanced and careful consideration of all of the issues and implications involved, I support Senator WILLIAMS' effort to strike from the military construction authorization bill the waiver of Davis-Bacon requirements from military construction projects.

It is time, at the executive and legislative levels, to thoroughly examine the operation of the Davis-Bacon Act. The act has been in existence since 1931, it has been sharply criticized in recent GAO reports as being out of date and in need of overhaul. There are other issues in need of full analysis, such as the impact of the act's provisions on small and minority contractors. With the Nation running at unprecedented levels of inflation, it is incumbent upon us to thoroughly examine all governmental requirements and regulations to assess inflationary impact, and to save as much money as possible on Government contracting. But the administration and Congress should do this in a deliberate, coherent manner. We should not go about wildly and randomly dismantling fundamental pillars of labor-management relations in ill-considered, poorly substantiated actions. I therefore support the Williams amendment.

I also intend to support Senator MELCHER in his attempt to raise the threshold application of Davis-Bacon to a more reasonable, modern-day level of $10,000. This is a reasonable recognition of contract levels that have changed markedly since 1931. This amendment will have the effects of fighting inflation by eliminating much red-tape with respect to smaller contracts while not harming smaller contractors who rely on Davis-Bacon protections.●

● Mr. RIEGLE. Mr. President, I strongly support the amendment offered by the Senator from New Jersey (Mr. WILLIAMS), striking the proposed exemption of military construction from the labor standards established by the Davis-Bacon Act. As a member of the Labor and Human Resources Committee, I have carefully weighed the evidence presented at our recent hearings on this subject, and I am convinced that the exemption would be unwise as a matter of labor policy, of military construction policy, and of fairness and equity for workers and contractors alike.

Exempting military construction from the labor standards provisions of Federal law would induce contractors bidding on military projects not only to undercut a community's prevailing wages, but also to employ workers with less experience and skills than required for high-quality work. The Davis-Bacon Act encourages competition based on efficient management, design, and engineering rather than on undercuttintg local wages and employing less productive wages. In military construction as with other Federal projects, high-quality work and high productivity should be our goals.

Speaking for the Department of Defense, Assistant Secretary Robert Pirie said:

> I do not approve of the inclusion of Section 810 into this bill because I do not favor the singling out of the Military Construction Program from other federal construction. Equal application of the act provides a stable relationship with contractors that undertake federal construction and prevents possible labor difficulties and attendent delays or stoppages.

Secretary of Labor Ray Marshall also expressed the administration's support for Davis-Bacon across the board. "We oppose the waiver of the Davis-Bacon Act for military construction as provided in section 810 of S. 1319 as strongly as we oppose the repeal of the Davis-Bacon Act itself," Secretary Marshall said, adding that changing the threshold for coverage would not reduce paperwork requirements, since Davis-Bacon requires no additional records not required under other laws.

I hope my colleagues realize that many contractors' associations also support the stability and quality assurances provided by the Davis-Bacon Act. The National Electrical Contractors' Association noted:

> The law acts to stabilize the industry and to provide the government and the American taxpayer with value for each construction dollar spent. It is not inherently inflationary. Indeed, a strong case can be made that it actually brings down construction costs while maintaining quality in the actual work. And it is needed—as much today to protect the government as the construction tradesman.

I want to emphasize that this is the position of the National Electrical Contractors' Association, representing the employers who we are told suffer from the requirements of this act. The Electrical Contractors went on to ask:

> What happens if Davis-Bacon is removed? If a contractor bids a job extremely low, based on undercutting prevailing wages in one or more trades, he is simply not going to get skilled employees to man the job. And with unskilled personnel, perhaps working under the supervision of one or two skilled craftsmen, the result is going to be an incredible dropoff in productivity, a slowdown in construction costs, or a drastic lowering of quality—probably all three. Lower productivity or job delay means increased costs to the owner. Reduced job quality means the builder—and the taxpayer—do not get full value for their money. Davis-Bacon, by requiring the payment of the prevailing wage, assures that quality workers will be on the job, that productivity will not be drastically reduced, and the construction schedule and building quality will not suffer.

Another contractors' organization, the Tile Contractors' Association of America, stated:

> We feel that it is imperative that the Davis-Bacon standards be maintained in the Military Construction Bill. The elimination of the Davis-Bacon standards would only lead to confusion, instability and a climate where the contractor would be encouraged, if not forced, to hire workmen based on the cheapest wages possible, not on the skills that the workmen bring to a job.
>
> Since many tile installations are relatively small in dollar volume, the Association is also strongly opposed to any attempt to raise the present $2,000 threshold for Davis-Bacon coverage. Such a move would not only tend to discriminate against those types of contractors, such as tile contractors, who frequently perform smaller projects, but would encourage the splitting up of small-to-medium-size projects into even smaller segments which would increase the cost of the overall project.

I am sure that each of my colleagues has received one or more copies of the Heritage Foundation's pamphlet entitled, "Davis-Bacon: A Costly Contradiction." Interestingly, even the Heritage Foundation's arguments—which openly attack the very concept of a minimum wage in federally financed construction—note:

> If there was no minimum rate, contractors would, at some wage, be willing to give up the expertise and expense of the skilled craftsman in favor of the inexpensive unskilled laborer.

What, I ask, would be the impact on the quality of our military construction projects if skilled labor were dispensed with? How much would our military projects suffer? I have not yet heard the proponents of this exemption satisfactorily answer these questions.

It has been said that the country is turning to the right, perhaps back to the era of Herbert Hoover. Yet, ironically, the attempt to repeal or whittle away at the Davis-Bacon Act takes us back even farther. Herbert Hoover, in fact, signed the Davis-Bacon Act after being advised that he could not establish similar wage standards by Executive Order. In 1931 as today, construction laborers are vulnerable to wage-cutting attempts by contractors more concerned with submitting a low bid than they may be in the quality of construction or the living standards of their employees.

Finally, I wish to address the question of inflation. We have heard over and over again that Davis-Bacon is inflationary—that, by refusing to allow Federal money to be spent to drive down wage levels already prevailing within a locality, we fail to consider the impact of inflation. Yet I find it ironic that the opponents of the Williams amendment seem interested in fighting inflation only by decreasing the take-home pay of construction workers whose families must continue to live with the effects of this runaway inflation. Driving down wages is not the answer to this country's inflation problems, and we should not pretend that it is.

I urge my colleagues to support our amendment. The Labor and Human Resources Committee held 2 days of hearings on this exemption and received testimony on both sides. The evidence presented to our committee supports the position of the administration, of construction workers, of civil rights organizations, and even of some major contractors' associations in opposition to any exemptions from the Davis-Bacon Act for military construction. In the interests of high quality and high productivity in military construction, and at least as importantly in the interests of the workers who work on these projects, the Davis-Bacon exemption should be deleted from this bill.●

Mr. WILLIAMS. Mr. President, I am prepared to yield back my time. I know an amendment is waiting.

The PRESIDING OFFICER. Is all time yielded back? The Senator from South Carolina has a little over 3 minutes.

Mr. THURMOND. Mr. President, unless a Senator on this side wants some time, I yield back my time.

UP AMENDMENT NO. 471

(Purpose: To waive the application of the Davis-Bacon Act in the case of all government contracts of $50,000 or less)

Mr. EXON. Mr. President, I send to the desk an amendment to the language proposed to be stricken and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) for himself and Mr. ZORINSKY proposes an unprinted amendment numbered 471.

Mr. EXON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken, insert the following:

SEC. 810. Subsection (a) of the first section of the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a(a)), commonly referred to as the Davis-Bacon Act, is amended by striking out "$2,000" and inserting in lieu thereof "$50,000".

Mr. EXON. Mr. President, what are the time limits on this amendment?

The PRESIDING OFFICER. One hour; the Senator has 30 minutes.

Mr. EXON. I yield myself whatever time necessary for opening remarks and following that, I reserve the remainder of my time.

Mr. President, I am offering this amendment to increase the Davis-Bacon threshold from $2,000 to $50,000. If we can pass such a measure, it will be the first time in nearly half a century that we have had the courage to modernize this act.

Are we to believe that Davis-Bacon was—or is—so perfect in the beginning that it is untouchable?

I, for one, am not in favor of repeal of Davis-Bacon. I am not even in favor of the amendment that was proposed by the Senator from Texas, although I did support that in the Armed Services Committee because I thought we had better send a message very loud and very clear to the administration pointing out the fact that it has been pointed out now in reports for over 20 years that Davis-Bacon, while it had some good merits, was not being effectively, efficiently, or fairly administered by the Labor Department.

When I say that, I mean the Labor Department under this administration, and the one before that, and the one before that, and the one before that.

What I am proposing here today is that we recognize that some changes and modernization should be made. I am in hope we can pass the amendment that I offer as an important step to correct and improve some of the deficiencies that have been pointed out.

Support for increasing the threshold can be found from various informed groups who have objectively evaluated the Davis-Bacon Act, and its administration by the Department of Labor for years. These groups include the General Accounting Office, the National Academy of Sciences, three study groups of the Commission on Government Procurement of the Office of Management and Budget, the Interagency Task Force of the Department of Labor on Government Procurement, the Commission on Federal Paperwork, and the Department of the Interior.

The major problem with the Davis-Bacon Act is lack of effective administration of the law by the Department of Labor. My amendment would eliminate about 50 percent of the number of contracts DOL would have to administer, thus allowing the Department to concentrate their efforts on the remaining larger contracts which would amount to over 95 percent of all Federal construction money.

In a 1971 report, the Comptroller General recommended that the threshold be increased to somewhere between $25,000 to $100,000 for exactly the reasons outlined above. The report said that the reductions in the number of wage determinations resulting from the threshold increase would allow DOL to: First, make more thorough investigations, second, conduct more frequent on-site wage surveys, and third, adequately resolve protests and problems that arise in making factual determinations.

By freeing DOL from administering small contracts, where no incentive exists to disrupt a community's wage scale, my amendment will give the agency the management flexibility to significantly improve its ability to effectively administer the Davis-Bacon Act.

Another group which supported raising the threshold is the Interagency Task Force on Government Procurement of the Department of Labor. This group cited increases in costs since 1935 and administrative savings as reasons to support an increase in the threshold. This position was supported by the Veterans' Administration and the Small Business Administration.

When the Department of the Interior looked at the Davis-Bacon Act, it came to the same conclusion that the threshold should be lifted, and was joined in that opinion by the General Services Administration.

When the Commission on Federal Paperwork made its report to the Congress and the President, it too called for an increase in the Davis-Bacon threshold. But I suggest that Congress has done nothing.

Mr. President, my amendment will increase the threshold to $50,000. The various groups which have objectively looked at this issue have recommended thresholds varying from $10,000 to $100,000. My level of $50,000 would not be at the extremes in this range, but would be a figure which would provide, in my opinion, maximum exemption of paperwork and administrative costs, while leaving a very high percentage of Federal construction money—over 95 percent—still subject to Davis-Bacon requirements.

Again, Mr. President, I believe the major problem with Davis-Bacon, and the reason the GAO has found it to be inflationary in April, this year, is the lack of effective administration by the Department of Labor, not essentially because of the law itself.

By passing this amendment, the Department will be able to concentrate on larger contracts and improve its wage determinations and therefore both cut paperwork and reduce unnecessary inflation in Federal construction projects.

Mr. President, I yield to the Senator from Colorado.

Mr. HART. Mr. President, I ask unanimous consent that the time in opposition to the amendment be under the control of the Senator from New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I yield myself such time as I use to reply to the Senator from Nebraska, my good friend. He is conscientious and has made me work a little harder on this than I first anticipated.

But, in great respect, I rise in strong opposition to the amendment of the Senator from Nebraska. In one stroke, this amendment would increase the jurisdictional limit of the Davis-Bacon Act 25-fold.

This amendment, which would raise the jurisdictional threshold from $2,000 to $50,000 would seriously affect an important program in the jurisdiction of the Committee on Labor and Human Resources. For that reason, the Committee on Labor and Human Resources received evidence and testimony on the effects of the amendment when it held hearings on section 810 of the military construction bill. Based on the testimony and statements received, the committee voted to recommend to the Senate that this amendment be rejected.

The effects of this amendment would not be limited to military construction alone.

This is a substantive amendment to the Davis-Bacon Act itself and would affect construction under that act and nearly

80 related acts. By our best estimates, this amendment would deprive one quarter of our workers on nearly 55 percent of our federally assisted construction projects from the prevailing wage protections of the Davis-Bacon Act. The amendment would have a substantial adverse impact for the workers on these projects by subjecting them to unfair competition from lower wage workers from outside the locality or who would not otherwise possess the skills or qualifications to compete in the construction market. I would ask the Senator from Nebraska, what good reason is there for providing wage protection for construction workers on large contracts and denying wage protection to construction workers on small contracts?

It is likely that this amendment would have a disproportionate impact on workers and contractors on small construction contracts, such as those engaged in painting, masonry work, tiling and the like, and a less severe impact on other skilled trades workers on large construction contracts. I firmly believe that we must not take such an uneven and, I suggest, discriminatory approach.

At the time of our hearing we heard testimony from the Secretary of Labor and others that it is the workers on small contracts who most need the prevailing wage protections of the Davis-Bacon Act and whose wages are most likely to be jeopardized in the competitive procurement process without statutory protection. Workers on smaller construction contracts are likely to have very limited job security and intermittent employment. These are precisely the construction workers who are most needful of the wage stabilizing effects of the Davis-Bacon Act.

It is important to note that these concerns are not merely the concerns of the workers on small construction contracts. In fact, many of the smaller contractors are deeply worried about the effects that this amendment would have on them. Since the introduction of this amendment, we have received letters and telegrams from contractor associations and their representatives from across the country expressing concern about the effects of this amendment on them. From the mason contactors we received the following telegram:

> Mason contractors in all 50 States wish to oppose the amendment to the military construction bill (S. 1319) which would exempt such construction from coverage under the Davis-Bacon wage standards.
>
> Any elimination of these provisions would lead to disruption, inconsistency and provide an unstable climate in the construction field that undoubtedly would bring an influx of unskilled workmen producing end products of an inferior quality.
>
> Mason contractors, for the most part, are small business firms and any provision to raise the present $2000 requirement for Davis-Bacon coverage would only create greater chaos in the industry and certainly would end as an inflationary, undesirable provision.

We have also heard from other contractors and their associations such as the Tile Contractors Association of America and the National Electrical Contractors Association expressing grave concern about the effects of this amendment.

It is important to understand why these contractors are concerned about this amendment.

The Davis-Bacon Act requires no more than the payment of at least the prevailing wage in the locality on federally financed construction projects. Smaller contractors often do not permanently retain skilled construction workers, but hire these workers from the local labor pool when they successfully bid for a contract. In order to be competitive in the local construction labor market, small contractors must pay at least the prevailing wage in the area. Because the Davis-Bacon Act has the effect of taking wages out as a factor in the competitive bidding process, the small local contractor who is trying to start or maintain a business and attract qualified skilled workers at the prevailing rate can compete successfully with larger contractors. If small contractors are not competitive in paying at least the locally prevailing wage, they would lose their access to skilled workers who would be more likely to work for larger contractors who do pay the prevailing wage.

Indeed, the committee found that by raising the jurisdictional threshold of the Davis-Bacon Act, many smaller contractors would be seriously impeded in their bidding on federally assisted construction contracts.

This amendment would have an especially adverse impact on minority contractors and their workers, many of whom are just now achieving entry into the construction market.

The National Association for the Advancement of Colored People (NAACP) has recently recognized the importance of maintaining the prevailing wage protections of the Davis-Bacon Act for minority workers. At their 70th annual convention in June, 1979, the NAACP adopted the following resolution:

> Whereas the Davis-Bacon Act protects construction workers from exploitation by requiring that prevailing wages be paid to employees working on federally financed construction projects; and
>
> Whereas, through the efforts of the NAACP, the labor movement and other interested parties, blacks are at long last gaining employment in the construction trades; and,
>
> Whereas, there is a well financed and highly publicized effort on the part of the construction industry to secure repeal of the Davis-Bacon Act.
>
> Be it resolved that the NAACP goes on record against any effort to repeal the act and deny workers in the construction industry a fair wage.
>
> Be it further resolved, that we call upon the national office and all affiliate units to contact their legislative representatives expressing our concerns.

It is also clear that raising the threshold of coverage of the Davis-Bacon Act would have virtually no effect in reducing paperwork or administrative costs.

The requirement that contractors submit a photocopy of payroll records to contracting agencies is imposed not by the Davis-Bacon Act, but by the Copeland Anti-Kickback Act. The Copeland Anti-Kickback Act was passed to protect the integrity of employee wages and to assure that employees would not be coerced into making kickbacks of a portion of their wages.

Raising the threshold requirement of the Davis-Bacon Act in itself would have no effect on the reporting requirements of the Copeland Anti-Kickback Act.

The other significant administrative cost attributed to the Davis-Bacon Act is the requirement, by regulation, that construction contractors on federally financed projects retain their payroll records for 3 years. However, this basic recordkeeping requirement is already imposed under the Fair Labor Standards Act. There is no dollar volume coverage test for construction contractors under the FLSA: That is, all construction contractors are subject to its recordkeeping requirements. Thus, raising the jurisdictional threshold of the Davis-Bacon Act would have virtually no effect on the administrative recordkeeping and reporting requirements of Government contractors, since similar reports must be made in any event under the above-mentioned statutes.

It was for these and other reasons that the Committee on Labor and Human Resources wisely urged that the Senate reject this amendment.

It is our hope, of course, that the Senate will follow that recommendation. Those who believe that protecting the stability of employment through the Federal Government paying the prevailing wages on construction in the community is a wise policy should join in rejecting this very damaging amendment. This policy has been a wise policy for 48 years. Nothing has been shown to indicate that we should change this policy now. With respect to this amendment, raising the threshold to $50,000 would shut off, over 50 percent of all contracts from coverage of Davis-Bacon.

Mr. THURMOND. Mr. President, I yield to the Senator from South Dakota.

Mr. EXON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes and 50 seconds.

Mr. EXON. How much time does the Senator from South Carolina seek?

Mr. THURMOND. The Senator from South Dakota wanted a few minutes, and then I will want about 5 minutes.

Mr. EXON. And the Senator from South Dakota?

Mr. PRESSLER. Two minutes.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. PRESSLER. I thank the Senator from Nebraska.

I support the Senator's amendment. In a State such as South Dakota, some of the Davis-Bacon variations have proved to be very distorting and perhaps unnecessary.

I have two or three questions I would like the author of the amendment to respond to, if possible.

The Senator from South Carolina (Mr. THURMOND) did agree to yield me time so that we could do it on our time.

First, in smaller towns and rural areas, does the amendment of the Senator from Nebraska have any unusual application?

Second, there has been a charge that by this supposed weakening of Davis-Bacon, it would be opened to fly-by-night contractors who would seek contracts by paying workers the minimum wage or thereabouts.

Those are two questions, but I strongly support the amendment, and I commend the Senator from Nebraska for offering it.

Mr. EXON. Mr. President, I am very pleased to answer those two questions by the Senator from South Dakota.

This bill simply says that in the future any Government contract that is under $50,000 will not be covered by Davis-Bacon.

I traced the history on this a little bit. It goes back to the fact that when Davis-Bacon was passed in 1931, a threshold was set of $5,000. In 1935 that threshold was forced back down to $2,000.

So, nearly a half-century ago, in 1931, they set a threshold of $5,000.

If Senators had listened to the arguments that have been made in the Chamber, they would have thought that they set that limit in 1931 at $5,000 to penalize someone. No. I think the answer to the basic question that the Senator raises is one that I wish to have answered. If a threshold were necessary in 1931 and it was $5,000, then why is not a modernized, up-to-date, inflation-oriented threshold allowable today?

The Senator from New Jersey indicated that my amendment was a rather dramatic increase of something like 25 times from the figures that he used, and those are scary figures. The reason that the threshold has to be raised so dramatically now is the fact that Congress has done nothing over these highly inflationary times to correct the threshold that obviously they should.

My point is that if the threshold were not necessary to eliminate the smaller contracts and the paperwork as a result thereof, then certainly there would not have been a threshold established in the first instance.

I say that when we look at $5,000 today, and while it is still a lot of money, if we compare that with the situation that existed in 1931, when some of us were alive and some of us remember those days, I suggest that a house that cost $5,000 in 1931 would cost $25,000 today in most places in the country and it would be double that in Washington, D.C. A Chevrolet automobile, the best one you could buy in 1931, was $550, and today I suggest you cannot buy any kind of a Chevrolet of the standard make for less than $7,000.

So let us not be scared away by what appears to be a large increase.

The facts of the matter are that the paperwork that my distinguished friend from New Jersey says would not be eliminated would be primarily eliminated because half of the contracts that the Department of Labor certify us that they enter into under Davis-Bacon would be under $50,000. The paperwork would be eliminated primarily in the Government bureaucracy, and I suggest there is not a Member of the Senate who does not somewhere along the line feel that we should start at least a tiny first step, a first step for a U.S. Senator, if you will, to start cutting down on some of the paperwork.

The second part of the question of my colleague from South Dakota had to do with the regulations; is that right?

(Mr. PRYOR assumed the chair.)

Mr. PRESSLER. The point has been raised that this amendment might cause contractors from out of State or somewhere who would win contracts by paying workers the minimum wage.

Mr. EXON. I say in answer to that question I have heard that point and I have also read the committee report, as has the Senator from South Dakota.

Does he think that the Davis-Bacon Act was responsible for all of the high quality building that we have done in the United States of America?

I suggest that maybe in some instances that point could be well taken. But if we are going to rely on Davis-Bacon for that I suggest to him it was not the original intent of that act, in the first instance, and if we are going to rely on Davis-Bacon to assure us quality in our building, then I have to say that our procurement and contract procedures and inspection must be in terrible shape in the U.S. Government.

Once again back to the point I made a few moments ago, if we could eliminate a lot of this paperwork, that shuffling that they are doing over here in the Department of Labor, maybe we could get them to go out and do a better job on wage surveys than they have been doing in the past.

Does that answer the Senator's question?

Mr. PRESSLER. That answers my question, and I commend the Senator for offering the amendment and I join in strong support.

Mr. EXON. I thank the Senator from South Dakota.

Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the distinguished junior Senator from Nebraska (Mr. Exon) which would provide that only those projects valued at $50,000 or more be covered under the Davis-Bacon Act.

Mr. President, this amendment is just what the Defense Department has recommended as revealed in the Military Construction Subcommittee hearings. Mr. Perry Fliakas, Deputy Assistant Secretary of Defense for Installations, testified before our subcommittee that the Defense Department had recommended the statutory threshold of $2,000 be increased.

This recommendation was made by the Defense Department, the Department responsible for the military construction program. It is one of four recommendations made. On page 119 of our hearings DOD recommends that there be an "increase in the statutory threshold of $2,000 of the Davis-Bacon Act to a more realistic level in view of present-day costs."

Mr. President, the need for this increase was also cited by the other military witnesses appearing before our subcommittee. Adm. D. G. Iselin, head of Naval Civil Works, testified as follows:

> We may run into some more difficulties than some of the other services with the $2,000 limit. It really does not get you much done these days and requires a considerable amount of additional work in the form of contract document preparation. We would have that limit raised significantly.

Mr. President, the report of the Committee on Labor and Human Resources states on page 16 that—

> Raising the threshold of coverage of the Davis-Bacon Act would not result in any appreciable reduction in paperwork and administrative costs.

This finding is exactly counter to the testimony of the witnesses before the Military Construction Subcommittee. Apparently the very people who administer this program in the Defense Department were not called as witnesses. Their opinion is clear, it is in the public record, and it refutes the findings of the Labor Committee.

Mr. President, I urge that the Senate accept this very modest change in the Davis–Bacon Act as a beginning toward saving the already greatly overburdened taxpayer some of the dollars used for construction projects in this country.

Mr. President, I ask unanimous consent that testimony by Mr. Fliakas, Deputy Assistant Secretary of Defense, on this very subject be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

TESTIMONY AND ANSWERS FOR THE RECORD BY DEPUTY ASSISTANT SECRETARY OF DEFENSE PERRY J. FLIAKAS ON FY 1980 MILITARY CONSTRUCTION BILL

Senator Strom Thurmond posed this question to Sec. Fliakas: What would be saved if military construction was removed from coverage under the Davis-Bacon Act?

Mr. Fliakas. Yes, sir. I can expand on that for the record. I have estimated in the past, based on various studies including one of the University of Pennsylvania, that our estimates include anywhere from 5 to 15 percent, depending on the regional area, premium, if you will, or addition as the result of adherence to Davis-Bacon.

Senator Thurmond. 5 to 15 percent?

Mr. Flaikas. Yes.

(The information to be furnished follows:)

Approximately $1.4 billion of fiscal year 1980 Military Construction Program is located within the United States and is thereby subject to the provision of the Davis-Bacon Act. The estimated construction cost increase due to the Davis-Bacon Act has been estimated to be between 5 and 15 percent. Using this range, approximately $70 to $210 million might be saved in the cost of construction if military construction was removed from coverage under the Davis-Bacon Act. The most recent study of the Davis-Bacon Act conducted by GAO and scheduled for publication on April 27, 1979, indicates that the increase of construction costs due to the Davis-Bacon Act for all government construction is estimated to be between 1 and 9 percent. Using the 1979 GAO figures, the overall range of increased cost due to the Davis-Bacon Act would be $14 to $126 million for DoD construction. GAO states that the sample size was insufficient for projecting the results to all Federal or federally assisted construction costs during the year with statistical validity. However, the random project sampling is representative of the increased costs of construction totaling several hundred million dollars annually for all Federal or federally assisted construction.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. EXON. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, section 810 of the Military Construction Authorization Act, 1980, waives the provisions of the Davis-Bacon Act as they apply to military construction contracts. I strongly support the waiver.

On July 12, 1979, I addressed the Senate regarding waiver of the Davis-Bacon Act as it applies to military construction contracts. In my remarks, I discussed the conclusions of a report by the U.S. General Accounting Office entitled "The Davis-Bacon Act Should Be Repealed." This report, based on almost two decades of oversight by the GAO, contains some very interesting examples of wasteful Government spending resulting from application, or should I say misapplication, of the Davis-Bacon Act.

Today, the U.S. Senate has an opportunity to stop some of the wasteful Government spending that has been going on. The Committee on Labor and Human Resources, in its majority opinion, would have us refrain from such fiscal responsibility. But I am not persuaded by the committee's report. GAO officials were not even invited to testify before the committee. Despite this, the committee failed to produce any evidence during 2 days of hearings to rebut the conclusions of the GAO report.

Mr. President, the Armed Services Committee, which first considered this legislation, projected savings of between 5 and 15 percent to taxpayers as a result of waiving the Davis-Bacon Act as it applies to military construction. I am committed to saving taxpayers' money whenever and wherever I can. I intend to vote against the amendment to make military construction contracts subject to the Davis-Bacon Act, and encourage my colleagues to do likewise.

I thank the Senator for yielding.

Mr. EXON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HUDDLESTON). Who yields time?

Mr. WILLIAMS. Mr. President, how much time does remain in opposition to the Exon amendment?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. WILLIAMS. I am ready to yield time to anyone who wants to speak in opposition.

Mr. JAVITS. Mr. President, will the Senators yield me 2 minutes?

Mr. WILLIAMS. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, the fact is that this issue is very clear; $50,000 would cut out such an appreciable number of workers and such an appreciable number of contractors as to represent in principle a breakdown of the Davis-Bacon Act as to these Defense Department contracts. The issue of principle being so clear, this is not a question of whether $2,000 in the 1930's is an analogous figure to today.

I am sure it has been mentioned already that even at the extreme rate of inflation of the dollar it would only be about $10,000 on the new construction side.

So as the issue of principle is so clear, I might say to my colleague who controls the time I think the thing to do is to get at this fundamental issue as soon as we can and decide how the Senate feels about it.

I hope very much that all of the arguments which have been made, which are very valid arguments to this particular proposition, are remembered in connection with this vote, which will make such an appreciable change as to break down the structure. The structure should not be broken down. It is stable and conducive to settled and stable labor relations and to the quality of work which is done, and I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. EXON. I reserve the remainder of my time.

At this time I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. I believe I would be willing to yield back the time, if that is agreeable to the Senator from Nebraska.

Mr. EXON. Mr. President, I see no one else who wishes to speak either for or against this measure, and I am prepared to yield back also the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

UP AMENDMENT NO. 472

Mr. MELCHER. Mr. President, I have an amendment at the desk, a perfecting amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 472.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 2 of the amendment UP–471 delete " '$2,000' " through the end of line 3, and insert in lieu thereof the following: " 'in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration and/or repair, including painting and decorating of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia,' and inserting therefor the following language: 'to which the United States or the District of Columbia is a party, in excess of:

(1) Except as provided in paragraphs (2) and (3), $10,000 for construction of public buildings or public works of the United States or the District of Columbia;

(2) $2,000 for any construction on existing public buildings or public works, including but not limited to alteration and/or repair, painting and decorating, and new additions to such buildings or works; and

(3) $2,000 where such contract is for a part of a construction project in excess of $10,000: within the geographic limits of the States of the Union or the District of Columbia,'."

Mr. MELCHER. Mr. President, the amendment of the Senator from Nebraska, my good friend, calls to our attention the fact that the jurisdictional threshold of the Davis-Bacon Act has remained the same since 1935. We are all aware that the economic facts of life have changed somewhat since then, and in my opinion there is a need to adjust the threshold of the Davis-Bacon Act to reflect these changed economic conditions.

However, I am deeply concerned that there has been too little study done of what an appropriate jurisdictional limit should be. I, for one, believe that the wage-stabilizing effects of the Davis-Bacon Act serve an important function in our construction industry. The prevailing wage concept is important not only to protect construction workers, but to protect small contractors in maintaining their ability to bid for competent and qualified skilled workers in the local construction market.

We should therefore not entertain a radical departure from our long established jurisdictional thresholds without careful consideration of what the effects of such a change would be.

The figure proposed by my friend, the Senator from Nebraska, $50,000, is a figure derived from somewhere and is not necessarily the result of lengthy study or a considered judgment on what the amount should be. No one knows, in fact, what the effects of his amendment would be on workers, on the Government's contracting, and on the small businesses which predominate the construction industry. Moreover, it is possible that such a radical change in the jurisdictional threshold could have a devastating effect on those skilled trades workers and contractors, such as painters, masons, and tile layers, who spend a significant amount of time engaged in the repair and alteration of existing structures. Clearly, such a precipitious action would be unwise. I would also note that such a change is far more than what would be justified by inflation.

While results vary depending on what index is used, $2,000 in 1935 dollars translates to $10,540 in 1979 dollars if we are to use the Consumer Price Index prepared by the Department of Labor, and in that part of their preparation which considers the all-items index.

Thus, the large increase proposed by Senator EXON would not be justified due to changed economic conditions, if we accept this Department of Labor Consumer Price Index.

I must say, Mr. President, that of all the indexes we have used during the past several decades, this index has some credibility and has some reliability, and it is because of that I offer my amendment today.

However, it is not necessary for us to act in blind ignorance in this area. The fact of the matter is that there exists recent research and consideration on the question of what the appropriate threshold level of the Davis-Bacon Act should be. In 1978, the National Academy of Sciences, through the Building Research Advisory Board of the Federal Construction Council, completed a review of the Davis-Bacon Act, and concluded that the jurisdictional limit should be increased to no less than $10,000.

The research advisory group pointed out that a $10,000 limit would permit the use of simplified small purchase procedures under the Armed Services Procurement Act and the Federal Property and Administrative Services Act. Also, the $10,000 figure is consistent with the recommendations of the Commission on Federal Paperwork in its final report of June 1977.

Now, the $10,000 threshold is consistent with these two findings and is a much preferable threshold than the much larger one that is presented by the Senator from Nebraska's amendment.

For these reasons, I believe we should move to increase the jurisdictional threshold to $10,000 for all new construction. I must point out to my colleagues that we are dealing here with all new Federal construction, not just military procurement, but because of the wording of the amendment of my friend from Nebraska we are complying with his wording, fitting this jurisdictional level of $10,000 to apply to all new Federal construction.

I believe we should temper the effect of such a change by maintaining the existing limit for repair or alteration of existing structures. That would be $2,000. We must also assure that new construction contracts cannot be broken up so as to avoid the jurisdictional threshold. My amendment would accomplish these desirable results.

Mr. President, I do not believe that we should be making radical and substantive changes to our basic labor standards without a full understanding of the ramifications of our actions. However, I believe that we can act responsibly and judiciously, and in a manner which is at least consistent with the available research and study. The available studies conclude that the $10,000 threshold limit is an appropriate limit for application of the Davis-Bacon Act on new construction. I believe it is appropriate to act now at that level, but we should do so on the basis of the best information available, and that is why the amendment goes to just $10,000, rather than a larger amount.

For these reasons, I would urge the Senate to support my amendment to the amendment from the Senator from Nebraska. It is clearly the more responsible and judicious course for us to follow.

Mr. President, I yield to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, how much time does the Senator have remaining?

Mr. MELCHER. How much time do I have?

The PRESIDING OFFICER. The Senator has 22 minutes remaining.

Mr. MELCHER. I yield the Senator from New Jersey such time as he may require.

Mr. WILLIAMS. I thank the Senator for yielding.

Mr. President, I have been making the argument and I feel very strongly that the Davis-Bacon Act was wise public policy when it was enacted into law in 1931, and it is wise policy today.

The threshold amount included, in the first Davis-Bacon Act, was $5,000. In 1935 it was reduced to $2,000. This figure has stood the test of time for 44 years. I am very reluctant to suggest a change in this figure, but if there is to be any recognition of the inflationary years that we have been through, it would probably be best now.

I recognize that there is a strong feeling for maintaining Davis-Bacon, but also for raising the threshold from $2,000 to $10,000.

I therefore join the Senator from Montana in support of his amendment.

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. MELCHER. I yield the Senator from New York whatever time he requires.

Mr. JAVITS. Mr. President, I support this amendment. It is simply an acknowledgement of what has happened in the economy. The result will be just about the same as when the originally drafted $2,000 provision was adopted. It might deprive about 8 percent of workers employed on Federal construction of protection under the Davis-Bacon Act. That is not something that makes you happy, but there already is an exemption, which is now out of date, and this is a recognition of the need for updating that exemption.

I support it, and I think, for all friends of Davis-Bacon, it is the right conclusion to support; and I hope that Senators will.

There is an old adage that you cannot beat something with nothing. What the Senator from Nebraska has done, I think, cuts into the bone in this matter. What the Senator from Montana proposes, I think, is a fair effort to deal with the situation as we find it, and I hope very much that those who believe that Davis-Bacon is the right course will rally to its support.

Mr. HART. Mr. President, will the Senator from Montana yield to me?

Mr. MELCHER. I am delighted to yield the Senator from Colorado whatever time he needs.

Mr. HART. I thank the Senator from Montana.

Mr. President, I have resisted the efforts to legislate changes, particularly massive changes, in the application of the Davis-Bacon Act on the military construction bill. We have not had adequate hearings. We have not had a record created which is sufficient to let us know what we are doing.

But it is clear that any legislation that has economic consequences must be subject to reconsideration depending on changes in the economy that have occurred. Clearly, today a contract of $2,000 which was based on the economy of 50 or 60 years ago or more is not the same as it was then. I think the proposal put forward by the Senator from Montana—even though it is a change in the act, and one I wish we could have avoided on this bill, which will shortly come to a vote—because the proposal he makes is a modest one, will give the Senator from New Jersey and his committee time to consider the act more thoroughly, and I think it should have modernization, at least in administration, if not in its content.

So when the vote on the amendment offered by the Senator from Montana occurs, I intend to support it.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I rise briefly to say——

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Will the Senator from Montana yield me 2 minutes?

Mr. MELCHER. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to state that in the judgment of the Senator from New York the proposal of the Senator from Montana is a sensible and workable compromise, and ought to be supported. It avoids a collision on a matter of principle which, one would have thought, long since would have been resolved in the Senate. It has not been. It is sensibly resolved by the substitute amendment of the Senator from Montana, which I most surely will support.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, do I have some time? Who has time on this amendment? Obviously the Senator from Montana has 30 minutes.

The PRESIDING OFFICER. The Senator from South Carolina and the Senator from Montana have the time.

Mr. EXON. Will the Senator from South Carolina yield me 5 minutes?

Mr. THURMOND. Mr. President, I yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I have been very much interested in the discussion here.

First, I would like to say that one of the Senators on the floor a moment ago said "You cannot beat something with nothing." Well, if the amendment that has been offered by the Senator from Montana is successful, then we will have disproved that old adage, because, with all due respect to my friend from Montana, I would like to point out that his amendment to my amendment actually does nothing at all to the act.

Let us look at what the situation is. Maybe I do not understand the amendment that he offered, but right now we have a threshold of $2,000 below which Davis-Bacon does not apply. If I understand his amendment, $2,000 applies as the threshold under his amendment, but he is going all the way up to $10,000—in other words, to $9,999 Davis-Bacon would not apply—for the construction of a new building.

I would suggest, if my interpretation of his amendment is accurate, then I would just have to say that his amendment does little if anything except allow the U.S. Senate to go through the motions of making a change in the Davis-Bacon Act, when in effect we would not be doing that.

When this matter comes to a vote, if it does, I intend to vote against the amendment offered by my friend from Montana, because I do not think it begins to accomplish the desired end.

The Senator from New York said that my amendment cut to the bone. I do not know whether he was here or not when I explained earlier the fact that in 1931 the threshold of $5,000 was established, and then nearly half a century has gone by and we have not touched it. It seemed to be one of those untouchables.

It seems to me that if my amendment cuts to the bone, then the compromise amendment—and I use that word advisedly; I do not know whose compromise it is, but the compromise amendment offered by the Senator from Montana—the blade of that compromise does not even touch the skin, because, practically and honestly speaking, it will do nothing.

I thank my friend from South Carolina for yielding me 5 minutes, and I assume that I have used my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. My President, I would like to inquire of the distinguished Senator from Montana on two points here, if he has time enough to answer.

Will the distinguished Senator from Montana tell us what percent of the Davis-Bacon projects this amendment would cover?

Mr. MELCHER. Mr. President, 24.7 percent of the Federal construction contracts are for $10,000 or less. That is about one-fourth.

Mr. THURMOND. What is the Senator's dollar value of the Davis-Bacon projects, the total value?

Mr. MELCHER. It would be a very small percentage of the total of the contracts let. It would be less than 1 percent rather than 2 percent, that is affected by the $50,000 figure offered by the Senator from Nebraska.

Mr. THURMOND. Mr. President, I think that answers the question as to whether this amendment ought to pass or not. It will not do any good. It is not helping the taxpayers any if we pass an amendment that affects only 1 percent of the dollar value.

Mr. EXON. Will the Senator yield?

Mr. THURMOND. I will be pleased to yield.

Mr. EXON. I would like to clarify something. I am sure that my friend from Montana would not intentionally mislead the Senate, but I think he made a statement that cannot be backed up in fact. If I heard him correctly, he said that if his amendment would pass, it would cover about 24.8 percent of the contracts that the Government presently passes out. He has overlooked taking into consideration the other part of his amendment, the $2,000 amount, and that covers by far the largest amount. So I think it is not accurate to say that if his amendment becomes law, it would eliminate 24.8 percent of the Davis-Bacon contracts. For the record, if he cares to, I would certainly like to have a correction of that point.

Mr. MELCHER. I will be happy to respond to the Senator from Nebraska so that it is clear. The $10,000 threshold in my amendment will not exclude 24.7 percent of all of the Federal contracts that are let. If I did not make that clear before, I am delighted to have the chance to do so now.

Mr. EXON. If I did not understand the Senator correctly, I want to apologize and correct the RECORD. How much would it cover? Does the Senator have any figures on that?

Mr. MELCHER. The $10,000 threshold would not mean that 24.7 percent of all of the Federal contracts for construction would not be covered. Under my amendment some repair other than new construction would be included, even though the contracts might be for less than $10,000.

Mr. EXON. If we can enter into a little colloquy by splitting time, it would be agreeable to me. That might be right, because the figures the Senator from Montana is using are basically the same figures that we used in developing the Exon amendment, which had the $50,000 threshold. I would remind the Senator from Montana that in addition to $10,000 for new construction, he is leaving the present threshold of $2,000, as I understand it, on all repairs, painting, upkeep, electrical work so forth and so on. If I am wrong on that, I would like to be corrected.

Mr. MELCHER. I thank the Senator for his patience. I will attempt to make this very clear because I believe he has made a point which is well taken and one I had not correctly expressed.

Of all contracts, which would include some that are maintenance and repair, 24.7 percent are below $10,000 or less.

Mr. EXON. The Senator is correct, according to the figures I have.

Mr. MELCHER. We agree on those figures?

Mr. EXON. Yes.

Mr. MELCHER. I unfortunately cannot respond to the Senator to indicate how many of those would be for repair and maintenance falling between the $2,000 threshold, which my amendment would leave in place for those contracts, and the $10,000 figure.

Mr. EXON. I guess it is well that we——

Mr. MELCHER. I am indebted to my friend from Nebraska for pursuing that.

Mr. EXON. To go back to my point I made earlier, I would suggest that placing the construction threshold increase from $2,000 up to the magnificent total of $10,000, with which the Government is going to build a building, will have little, if any, effect whatsoever on Davis-Bacon implementation. I am sure I have overused my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 23 minutes and the Senator from Montana has 14 minutes.

Mr. MELCHER. Mr. President, very briefly, I think the point of legislating a change in this threshold at some figure we do not have experience with, and which has not been adequately studied, is exemplified in the discussion we have just completed, the discussion between myself and my friend from Nebraska. While we know how many contracts are let for $10,000 or less, we are not really sure of how many of those are repair or similar types of contracts. But we do know, based on the studies I have previously cited, that the $10,000 threshold for new construction is a very good figure and one that is indicated by those previous studies. I think we are wise to use that as the threshold now.

I think we are also wise to leave the threshold for repairs and maintenance in place at $2,000, and for the same reason. We are just not sure of where these thresholds should be changed.

I might point out that the maintenance and repair contracts are, in fact, by their nature, much more similar to service contracts than most construction contracts. That is why my amendment is designed to leave those contracts at the $2,000 threshold. Those contracts may be for touchup painting, which is more akin to a cleaning or janitorial contract than it is to the construction of a dam or missile site or some other Federal construction.

Congress saw fit to apply a $2,500 threshold to service contracts in 1965. It is reasonable to retain a similarly low threshold for the "cousin" of the service contract—the maintenance and repair contracts in the construction industry.

My amendment also contains a provision which would make it impossible to break contracts into artificially small pieces in order to come under the $10,000 floor. The reason for raising the threshold in the first place is to take care of inefficiencies which would result from applying Davis-Bacon provisions to very small contracts. It would be ironic indeed if the result of modifiyng the threshold would be an increase in the number of these small contracts; thus, some provision to prevent the fragmentation of Federal contracts is vital. We move from the threshold for all new Federal construction at the present $2,000 threshold to $10,000. That is, after all, a fivefold increase in the floor on new construction contracts. I think that is adequate. I think that is not in any way lending itself to the illusion made by my friend from Nebraska, that we were not even getting a knife blade on the hide.

I think we have applied the scalpel in a proper way. We have made some adjustment in this amendment, which I think is reasonable and it is adequate. I hope the Senator can concur in it.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Will the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I am pleased to yield to the Senator from Nebraska such time as he may need.

Mr. EXON. I thank the Senator from South Carolina.

Mr. President, I do not want to beat a dead horse or even cut to the bone, but the facts of the matter are that we do not need a study to see what would be affected by the amendment offered by the Senator from Montana. I am very new in the U.S. Senate, but one of the things I have learned in the very short period I have been here is that, all too often, rather than doing something, we shuffle it off into a study.

Once again, I do not want to beat a dead horse, but the facts of the matter are that the amendment that has been offered by the Senator from Montana to make the only change in Davis-Bacon on the threshold level is to leave it at $2,000 on everything—on everything except the construction of a new building.

I should think that most of us could sit here and figure out that there are not going to be very many new buildings built with Federal money that do not cost more than $10,000. So the real answer is that, in net effect, the amendment offered by the Senator from Montana is a big zero. It would make essentially no change whatsoever. If that is what the U.S. Senate wants to do in its wisdom, then it has the right to do that. But I hope that the words that I am saying will be heard very loud and clear in the U.S. Senate and the message will go out that we went through some maneuvering, but we really made no changes whatsoever.

I thank my friend from South Carolina.

Mr. THURMOND. Mr. President, I just want to say that the statement by the distinguished Senator from Montana is self-explanatory. He said that less than 1 percent of the dollars would be affected. That shows that this amendment is of no significance. If the Senate really wants to help the taxpayers of this Nation, they ought to waive the Davis-Bacon Act here and save the taxpayers what the GAO and the Department of Defense have estimated—between $70 million and $210 million. If they do not want to do that, they certainly ought to adopt the amendment of the able Senator from Nebraska, who has raised this threshold from $2,000 to $50,000.

What can you build today even for $50,000? You can hardly build a house today, a small house, for $50,000. How are we going to save the taxpayers of this country any money? This amendment will amount to nothing.

If we want to help the taxpayers, we at least ought to make it $50,000. That would help the small business people a little bit.

Mr. President, I urge that the amendment of the Senator from Montana be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, first of all, I want to clarify what this involves. This is not just building a new Federal building; this is any Federal construction. That may be grading, it may be paving, in addition to construction of a new building. That is new construction. It is not necessary to create a brand new Federal project.

The fact is that there was a reason for a threshold for Davis-Bacon. If we are going to change that threshold, it is a little bit odd, first of all, to have it come up on a military construction bill, because it should come up on basic legislation. But, since it is here and the amendment of the Senator from Nebraska is offered to increase this threshold to $50,000, I think it is much more reasonable to take the cautious, prudent approach to this change by using some reasonably understood basis for the change in the threshold.

I have cited the two studies that indicated that the $10,000 threshold is the best threshold. For that reason, I am offering this amendment. I would find it rather awkward to think that the amendment should offer a $50,000 threshold, which would affect all painting in a Federal building, or just a little paving at a Federal building, because we are going to knock out, then, by that threshold, almost all of the contracts that are involved for those types of operations.

Finally, while the $10,000 threshold does not involve too many employees of the building trades, which I think is meritorious, the larger amount of $50,000 would involve 24 percent of the employees in the building trades. I think that, perhaps, is a little bit too much.

Last, Mr. President, I think the amendment I am offering is advantageous to the small contractor. I think we should bear in mind the testimony of Robert L. White of the National Electric Contractors Association on the effect of raising the jurisdictional threshold. It is particularly important in this regard. These are small contractors, by and large, represented by this association. Mr. White, testifying for them at the hearing before the Labor and Human Resources Committee, said:

> Mr. WHITE. If you eliminate the Davis-Bacon provisions from something falling below that $50,000 level, you have opened this up primarily where it affects small businesses very badly. And, you have unethical people bringing in unskilled labor and letting them into that whole area where the small business could do a very good job; and let the ethical contractors who would be employing people at the prevailing wage be subject to competition from more unethical and unscrupulous contractors.

I think his testimony bears on this point. That is in the report of the Committee on Labor and Human Resources. Mr. President, I think we have offered a very reasonable approach.

I yield to the Senator from New Jersey.

Mr. WILLIAMS. I thank the Senator from Montana.

Mr. President, I indicated, early in the debate, after the Senator presented his amendment, that I will support his amendment. We considered the military construction bill a couple of weeks ago, and the Senate by unanimous consent sent this bill, with the provision repealing Davis-Bacon, back to our committee. At that time we also had notice that the amendment, which would increase the jurisdictional threshold to $50,000, would be offered. Within the last 2 weeks, Mr. President, Members of the Senate from the North, from the South, from the East, and the West, from the teeming metropolitan States, from the rural States, have discussed the threshold with me. They said:

> You know, isn't that threshold figure of $2,000 way out of date? Shouldn't it at least go up to what $2,000 in 1935 is worth in dollars today, as reflected by the Consumer Price Index, or something?

I will say, Mr. President, I tried to explain that there is nothing inflationary about Davis-Bacon. Davis-Bacon does not say to the contracting agencies, "Go in and pay the highest wages." It says to the contracting agencies through the prevailing rate determination, "Pay the worker on this federally assisted construction project what the same kind of workers on the same kind of projects are getting in the community."

So whether it is $2,000 or no threshold for all Federal work, it seems to me the prevailing wage makes all the sense.

It has been said that the Davis-Bacon Act is inflationary. It is not inflationary if the prevailing wage determination is properly found and the survey is accurate.

It has been argued that Davis-Bacon is inflationary because the prevailing wage determinations are wrong, that they are higher than the wages that actually prevail.

Maybe some are. I recall that 12 out of 120,000 projects were found to have high rate determinations by the GAO. However, 12 determinations out of 120,000 is not a very good sample on which to conclude that the Davis-Bacon Act is inflationary.

There should be a constant vigilance to make sure that the Department is accurately determining the prevailing wage.

If they have been lax or inaccurate it should be pointed out, and steps taken to improve the administration of the act.

That, in my judgment, is the way to go. We must make absolutely certain that the Department of Labor accurately establishes the true prevailing wage where the jobs and the contracts will be let.

That is the way I feel as chairman of the Labor Committee. I feel very deeply that we should do everything possible to make sure workers on our Government construction projects are not paid below what skilled workers in their trade should be getting, and also that we do not allow our federally assisted construction projects to destabilize the construction industry through the introduction of cutthroat wage cutting competition.

I still believe that the threshold should stay where we have it now. But this is a time for realism and I have heard the concerns of my colleagues.

So I have to commend the Senator from Montana for coming to the Senate with a practical and realistic proposal. This proposal would adjust the threshold for new construction to reflect changed economic conditions; $2,000 in 1935 dollars is roughly $10,000 in today's dollars.

For that very practical reason, I join my colleague, one of the great contributing Members of the Senate in legislative debate.

I thank my friend from Montana for his realistic proposal to increase the threshold of the Davis-Bacon Act to $10,000.

Mr. MELCHER. I thank the very gracious Senator from New Jersey, the chairman of the Labor Committee.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. EXON. Will the Senator from South Carolina yield me more time?

Mr. THURMOND. I yield to the distinguished Senator from Nebraska such time as he may need.

Mr. EXON. Mr. President, it would appear that we are coming down to a vote on this matter very soon. I just hope that when the Members of the Senate vote on this, they are not fooled and misled into believing they are really doing something, because they are doing nothing at all.

In essence, Davis-Bacon would maintain its near half century of being one of the untouchables.

As I said before, I am not for repeal of Davis-Bacon. I think it has a place in our society. But I think it is about time we recognize that unless the U.S. Senate speaks out and sends a message to the administration and, particularly, to the Department of Labor, that we will never get it corrected.

There has been a great deal of discussion here today about the fact that the wage surveys that have been done by the Department of Labor in some instances have not been satisfactory.

I believe there are wholesale interests all over the United States of America where the Department of Labor has not done an adequate or fair job with regard to wage surveys.

As I said earlier, if my amendment would be adopted, it would take half of all of this tremendous workload off their shoulders that they have under Davis-Bacon with the present threshold of $2,000, then they could do a much better job, perhaps, in properly and intelligently enforcing the law as it presently exists.

But another thing, before we vote on the amendment offered by my friend from Montana, I want to correct one other thing that I am afraid kind of threw me for a loop—maybe I am wrong, I do not know, maybe I did not interpret it correctly—but I thought the Senator said that the $10,000 threshold was more meaningful than I thought it would be because he explained—I believe the record will show—a few moments ago that there would be all kinds of public works, paving, and all these kinds of things.

Well, that may well be true. But just for the record, let us understand that part 2 of the amendment that is lying on the desk, that we are about to vote on, says that it will be $2,000 for any construction on existing buildings or public works, but not limited to alteration and/or repair, painting and decorating, and new additions to such buildings or works.

Mr. President, I am not a lawyer, but I suggest that the way that is worded, the facts of the matter are that we are leaving in effect Davis-Bacon to the $2,000 threshold where it is now. When we go back and talk about those days of yesteryear and how wise they were and how terrible it is to modernize it from $2,000 way up to Senator Exon's figure of $50,000, once again I say, let us remember that in 1931 when the Davis-Bacon Act was passed—and I think it was necessary then and I think it is necessary today—the threshold was not $2,000, it was $5,000.

So this magnificent amendment in which we are going to make the first significant change in half a century raises it all the way—all the way—from $5,000 in 1931, all the way up to $10,000 in 1979.

It seems like a very insignificant change to me.

I have been talking too much this afternoon, but if I may have a couple more minutes from my friend from South Carolina, I will just say that I certainly am hopeful the Senate will not accept the amendment offered by my friend from Montana because I do not honestly think it does a thing. If we do that, if this is the only step we are going to take on Davis-Bacon, then I suggest we are ignoring the recommendation from the GAO, from the National Academy of Sciences, from the Commission on Government Procurement, the Office of Management and Budget, the Interagency Task Force of the Department of Labor on Government Procurement, the Department of the Interior, and the Commission on Federal Manpower.

I wonder how much funds of the taxpayers have been used and appropriated by the U.S. Senate to all those agencies to do all these studies. In essence, we propose not even to take a tiny step to correct some of the wrongs that I think we have with Davis-Bacon.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. EXON. I yield.

Mr. WILLIAMS. I missed the last point as the Senator was listing many of the agencies of the Federal Government. What was the point.

Mr. EXON. My point was that if we accept the amendment of the Senator from Montana, I feel that we would be doing nothing about some of the complaints about Davis-Bacon that have been enumerated by these various agencies.

Mr. WILLIAMS. Let us get into that. What agencies have made these complaints?

Mr. EXON. The GAO, for one.

Mr. WILLIAMS. I am very familiar with the GAO's findings.

In 1971, the GAO summarized a series of investigations of targeted projects where there were complaints that the determined rates were high. How many were there? Seven investigations since 1962. Out of that 1971 report of the GAO, the generalization has been made that cost savings of 5 percent to 15 percent can be made by repealing Davis-Bacon.

Then, in 1979 came another GAO report. They found error in 12 out of 30 projects surveyed and felt that could make a 3-percent difference in the cost of the projects. They admitted, however, that their statistical sample was so small that the results could not be projected to the universe of federally assisted construction with my statistical validity.

That is all in the record that has been made on this debate, 2 weeks ago and again today.

So strike GAO as making any general conclusions on Davis-Bacon inflationary impact.

What are the others?

Mr. EXON. Mr. President, will the Senator yield? Is the Senator saying that the General Accounting Office is now saying that we should not make any changes in Davis-Bacon?

Mr. THURMOND. Mr. President, on whose time is this?

Mr. WILLIAMS. They did say that wage determinations should be done carefully.

The PRESIDING OFFICER. On the time of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I understand that this time is charged to me, and I would like the Senator to use his own time.

Mr. WILLIAMS. I do not have any time.

The PRESIDING OFFICER. The Senator from New Jersey has no time on the amendment.

Mr. MELCHER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Montana has no time on the amendment.

The Senator from South Carolina has 10½ minutes.

Time remains on the bill.

Mr. THURMOND. I yield the Senator 1 minute.

Mr. WILLIAMS. As to the GAO, they are opposed to Davis-Bacon on what they admit is statistically an inadequate survey, and that again is in the record.

But you mentioned other agencies as complaining, and I did not hear them all when the Senator read them off.

Mr. EXON. My point was that the General Accounting Office has done a great deal in studies of the Davis-Bacon Act. I believe that was the point of the question by the Senator from New Jersey.

The other organizations I have mentioned are the National Academy of Sciences, the Commission on Government Procurement, the Office of Management and Budget, the Interagency Task Force of the Department of Labor on Government Procurement, the Department of the Interior, and the Commission on Federal Paperwork. For the record, once again, most of those organizations indicated substantial increase in the level of the threshold that has been left untouched since back in 1935.

Mr. WILLIAMS. I would like to have further direction as to where in the record all those agencies have made the comments about which the Senator is talking.

Mr. EXON. I do not know whether the Senator from New Jersey was here when I began my remarks. I referred to each in my opening remarks.

Mr. THURMOND. Mr. President, if the Senator from Nebraska——

Mr. WILLIAMS. Certainly, the Defense Department does not say that.

Mr. THURMOND. Mr. President, I do not yield.

Mr. EXON. I did not say the Defense Department said that.

The PRESIDING OFFICER (Mr. Pryor). The Senator from South Carolina does not yield.

Mr. THURMOND. If the Senator from Nebraska wants to make a statement in closing, he may do so.

Mr. EXON. I think I have said all I have to say.

I thank the Senator from South Carolina.

Mr. THURMOND. Mr. President, I hope the Senate will not adopt the amendment offered by the distinguished Senator from Montana. This amendment is a sham; it is a camouflage. It is calculated to lead the Senate to believe that it is doing something to help the middleman, to help the little contractor, to help the taxpayer. They are doing nothing.

The Senator admits that less than 1 percent of the dollars involved in Davis-Bacon would be affected by his amendment.

The Senator from Nebraska has offered an amendment, and I believe even that is too low—$50,000. Forty years ago, it was $5,000, and $50,000 today is little enough.

If Senators really want to help the taxpayer, they at least should adopt the amendment of the Senator from Nebraska.

It is almost impossible to get anything pertaining to labor bills through the House or the Senate. I do not know why—whether labor unions have made such big contributions that people feel obligated, or what the trouble is.

Here is a list of bills that have been introduced here year after year.

In the 94th Congress, to amend the Davis-Bacon Act, 12 bills. In the 95th Congress, to amend or repeal the Davis-Bacon Act, 16 bills. In the 96th Congress, to amend or repeal the Davis-Bacon Act, 13 bills.

What relief do the taxpayers get? None. The bills cannot be brought out of committee. The Labor Committee here will not bring out a bill pertaining to labor. The House Labor Committee will not bring them out. How are the people going to get relief?

The labor unions of this country are entirely too powerful. We are not trying to repeal the Davis-Bacon Act. We are just asking that it be waived on this particular military construction bill for this year. If that were done, it would save from $70 million to $210 million, according to the General Accounting Office.

Mr. President, the proposal of the Senator from Nebraska is even less than that, and I do not know how much his amendment would save. Does the Senator have an estimate on the value of that?

I am going to support his amendment. At least it will give some relief.

The amendment of the Senator from Montana is ridiculous. I would just as soon have nothing as have that. If Senators want to help the taxpayers, they will at least go for the minimum of the Senator from Nebraska.

I hope the Senate will not make it appear to the people of this country that they are doing something for the taxpayer when it is doing nothing. That is pure deception. I hope the amendment of the Senator from Nebraska will be adopted.

Mr. President, I believe the time of the Senator from Montana has expired.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Mr. President, I yield my time to the Senator from Nebraska. I believe he wants to make a motion.

Mr. EXON. Mr. President, I move to table the amendment offered by the distinguished Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment offered by the Senator from Montana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. Inouye) and the Senator from North Carolina (Mr. Morgan) and necessarily absent.

Mr. BAKER. I announce that the Senator from Alaska (Mr. Stevens) is necessarily absent.

The PRESIDING OFFICER. Are there Senators still wishing to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—40

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
Dole
Exon
Ford
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Nunn
Roth
Schmitt
Simpson
Stennis
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—57

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Jackson
Javits
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stewart
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—3

Inouye
Morgan
Stevens

So the motion to lay on the table Mr. Melcher's UP amendment No. 472 was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Montana.

Mr. EXON. Mr. President, point of order.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Senator will state his point of order.

Mr. EXON. Mr. President, I would like to ask the Chair if it would be in order for me to withdraw my amendment.

The PRESIDING OFFICER. The Chair states that it will require unanimous consent to withdraw it.

Mr. EXON. I ask unanimous consent that my amendment be withdrawn.

Mr. JAVITS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HART. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. The Chair hears objection.

Mr. EXON. Mr. President, I renew my request that my amendment be withdrawn. I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from North Carolina (Mr. Mor-

GAN), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—68

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—28

Armstrong
Baker
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Dole
Exon
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Simpson
Stevenson
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—4

Inouye
Long
Morgan
Stevens

So Mr. MELCHER's amendment (UP No. 472) was agreed to.

(Later the following occurred:)

Mr. WARNER. Mr. President, I ask unanimous consent that my vote on rollcall vote 234 be changed from "yea" to "nay." It will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above rollcall vote has been changed to reflect the foregoing order.)

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Nebraska (Mr. EXON). The yeas and nays have been ordered.

Mr. HART. Mr. President, I ask unanimous consent that this rollcall vote be a 10-minute vote.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining rollcall votes for today be limited to 10 minutes, with a warning bell to sound after 2½ minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from North Carolina (Mr. MORGAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—92

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—3

Armstrong
Baker
Jepsen

NOT VOTING—5

Inouye
Long
Morgan
Stennis
Stevens

So Mr. EXON's amendment (UP No. 471), as amended, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the precedents of the Senate, the amendment offered by the Senator from New Jersey fails.

Under the previous order, the Senate will now proceed to third reading of the bill.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

DAVIS-BACON ON MILITARY CONSTRUCTION

● Mr. DOLE. Mr. President, contained in S. 1319, the military construction authorization bill, is a very important cost-saving provision which applies to military constructon projects. This provision became part of this bill when the Senate Armed Services Committee voted overwhelmingly to waive application of the Davis-Bacon Act to military construction projects.

DAVIS-BACON WAIVER

Mr. President, the Armed Services Committee amendment will provide the provisions of the Davis-Bacon Act of 1931 not apply to the wages paid to the laborers and mechanics for any work or services performed under any contract for the construction of any project authorized by the fiscal year 1980 or any other military construction authorization if such contract is entered into on or after the date of enactment of this act.

GAO CONFIRMS COST SAVINGS ON DAVIS-BACON WAIVER

Mr. President, the Senate Armed Services is to be commended for taking this cost-saving action. According to the April, 1979 General Accounting Office study on Davis-Bacon, the value of construction accomplished in the United States in 1977 totaled $37 billion was financed in some way by the Federal Government and therefore, covered by the Davis-Bacon Act.

While this bill totals $3.7 billion, only $1.4 billion of that amount is for new construction in the United States and is subject to Davis-Bacon requirement. The waiver of Davis-Bacon coverage for the $1.4 billion of new construction in this bill affects about 5 percent of the total construction effort now subject to Davis-Bacon.

DEPARTMENT OF DEFENSE AND DAVIS-BACON

Mr. President, even the Department of Defense is on record with respect to cost savings if Davis-Bacon is waived from military construction. In the DOD annual report, fiscal year 1980, Harold Brown, the Secretary of Defense said:

> When we do contract for construction or services, pay rates under the contracts should not be artificially inflated by operation of the Davis-Bacon and service contract acts; the Davis-Bacon Act alone results in increased costs of up to 15 percent in DOD construction contracts.

Mr. President, very simply, the Senate Armed Services Committee action will save the American taxpayer between $70 to $120 million. The Senator from Kansas urges Members of this body to support this "inflation-fighting" action, as reported by the Senate Armed Services Committee, and further urges opposition to any attempt to remove the Davis-Bacon waiver from this bill.●

Mr. ROBERT C. BYRD. Mr. President, the military construction authorization bill is a matter of signal importance, and one that has properly commanded the attention of two Senate committees—the Armed Services Committee, and the Labor and Human Resources Committee—as well as the full Senate.

On behalf of the Senate, I wish to thank these two committees, and in particular, I want to thank Senators STENNIS, HART, and TOWER of the Armed Services Committee, and Senators WILLIAMS and JAVITS of the Labor and Human Resources Committee, for the excellent work they have done in overseeing the review of this bill.

With Senator HART's special urging, the Armed Services Committee paid particular attention to energy conservation in the field of military construction. The committee encouraged the military services to continue an aggressive energy program, and the committee highlighted the special "energy showcase" bases in each of the services.

The Armed Services Committee also noted that the military's solar design program will involve over 300 firms of architects and engineers, and that the program will have a very beneficial "spill over" effect into the civilian construction industry.

In other areas, the Armed Services Committee reviewed in detail proposed military construction of everything from child care centers to the housing of our Air Defense Command.

The Armed Services Committee noted that there are disturbing lags in general military construction, and, in particular, in shipyard construction.

I know that the Armed Services Committee will keep a careful eye on these problems.

I also wish to commend the Armed Services Committee for recommending a funding level that is under the level proposed by the President, and under the ceiling set by the first concurrent resolution.

In addition, I would like to extend the thanks of the full Senate to the Labor and Human Resources Committee, for its special consideration of the Davis-Bacon provisions of this bill.

At the request of the Senate, this committee, under the leadership of Senator WILLIAMS, made a speedy but thorough review of these provisions, and reported back to the full Senate within the time limit set by the Senate. All of this was done during a busy period of the Senate Calendar, when the Senators on the Labor and Human Resources Committee undoubtedly had many other duties to perform.

In these and many other ways, these two committees have made a very significant contribution to the work of the Senate.

Mr. BAKER. Mr. President, I would like to commend my colleagues on both the Armed Services Committee and the Labor and Human Resources Committee for the work they have done in examining the question of continuing application of the Davis-Bacon Act to military construction projects. Their efforts have given us our first true insight into this complex and controversial subject.

While I believe these efforts have increased the Senate's knowledge in this area, I do not believe the Davis-Bacon Act should be changed through this "piecemeal" method. I fully support and am anxious to see a thorough examination of the Davis-Bacon Act take place in the appropriate committee. I would urge my colleagues to address this question as rapidly and thoroughly as possible.

However, on a question of such great complexity, I believe we must not act until such a comprehensive examination has taken place. Because changes in this act have such a potentially devastating impact on our Nation's workplace, no less a review should be considered acceptable.

I therefore stand by my previously announced commitment not to support changes in the Davis-Bacon Act until the Senate has thoroughly examined this question and presents a bill designed to make all of those changes that are necessary to insure fair, equitable, and noninflationary application of this act. I would like to assure my colleagues that at that time, I will support changes, modifications, or outright repeal of the act if the evidence merits such a move.

The PRESIDING OFFICER (Mr. CULVER). Is all time yielded back?

Mr. HART. I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (S. 1319) was passed, as follows:

S. 1319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $1,250,000.

Fort Campbell, Kentucky, $18,200,000.

Fort Drum, New York, $690,000.

Fort Greely, Alaska, $820,000.

Fort Hood, Texas, $13,650,000.

Fort Hunter, Liggett, California, $1,550,000.

Fort Lewis, Washington, $7,400,000.

Fort Meade, Maryland, $18,500,000.

Fort Ord, California, $17,380,000.

Fort Polk, Louisiana, $26,810,000.

Fort Richardson, Alaska, $5,250,000.

Fort Riley, Kansas, $28,350,000.

Fort Sheridan, Illinois, $1,200,000.

Schofield Barracks, Hawaii, $2,750,000.

Fort Stewart/Hunter Army Air Feld, Georgia, $39,900,000.

Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camy Perry, Ohio, $1,000,000.

Fort Belvoir, Virginia, $2,420,000.

Fort Benning, Georgia, $12,800,000.

Fort Bliss, Texas, $30,000,000.

Fort Eustis, Virginia, $6,410,000.

Fort Benjamin, Indiana, $4,450,000.

Fort Knox, Kentucky, $22,815,000.

Fort Leavenworth, Kansas, $540,000.

Fort Lee, Virginia, $3,960,000.

Fort Rucker, Alabama, $2,080,000.

Fort Story, Virginia, $2,450,000.

Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $2,700,000.

Anniston Army Depot, Alabama, $4,850,000.

Badger Army Ammunition Plant, Wisconsin, $650,000.

Corpus Christi Army Depot, Texas, $1,560,000.

Crane Army Ammunition Activity, Indiana, $2,490,000.

Detroit Arsenal, Michigan, $4,400,000.

Harry Diamond Laboratories, Maryland, $2,800,000.

Dugway Proving Ground, Utah, $520,000.

Indiana Army Ammunition Plant, Indiana, $1,010,000.

Iowa Army Ammunition Plant, Iowa, $2,060,000.

Joliet Army Ammunition Plant, Illinois, $5,800,000.

Kansas Army Ammunition Plant, Kansas, $650,000.

Lake City Army Ammunition Plant, Missouri, $3,800,000.

Letterkenny Army Depot, Pennsylvania, $1,200,000.

Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.

McAlester Army Ammunition Plant, Oklahoma, $1,470,000.

Michigan Army Missile Plant, Michigan, $2,550,000.

Fort Monmouth, New Jersey, $1,650,000.

Newport Army Ammunition Plant, Indiana, $1,550,000.

Picatinny Arsenal, New Jersey, $9,750,000.

Radford Army Ammunition Plant, Virginia, $6,100,000.

Red River Army Depot, Texas, $8,600,000.

Redstone Arsenal, Alabama, $7,200,000.

Riverbank Army Ammunition Plant, California, $1,100,000.

Rock Island Arsenal, Illinois, $5,900,000.

Rocky Mountain Arsenal, Colorado, $6,500,000.

Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.

Seneca Army Depot, New York, $8,350,000.

Sharpe Army Depot, California, $1,650,000.

Sierra Army Depot, California, $770,000.

Tobyhanna Army Depot, Pennsylvania, $10,410,000.

Tooele Army Depot, Utah, $1,050,000.

Volunteer Army Ammunition Plant, Tennessee, $810,000.

Watervliet Arsenal, New York, $1,300,000.

White Sands Missile Range, New Mexico, $5,750,000.

Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.

Indiana Army Ammunition Plant, Indiana, $10,490,000.

Lawe City Army Ammunition Plant, Missouri, $140,000.

Lone Star Army Ammunition Plant, Texas, $1,890,000.

Longhorn Army Ammunition Plant, Texas, $170,000.

Louisiana Army Ammunition Plant, Louisiana, $670,000.

Milan Army Ammunition Plant, Tennessee, $450,000.

Radford Army Ammunition Plant, Virginia, $67,350,000.

Riverbank Army Ammunition Plant, California, $280,000.

Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $1,150,000.

Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ADADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.

Oakland Army Base, California, $1,100,000.

Sunny Point Terminal, North Carolina, $31,290,000.

OUTSIDE THE UNITED STATES

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,160,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $117,990,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various Locations, $2,800,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Represenatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $51,970,000.

TITLE II

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction.

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Logistics Base, Barstow, California, $3,900,000.

Marine Corps Base, Camp Lejeune, North Carolina, $24,630,000.

Marine Corps Base, Camp Pendleton, California, $14,200,000.

Marine Corps Air Station, Cherry Point, North Carolina, $8,410,000.

Marin Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.

Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.

Marine Corps Air Station, Tustin, California, $3,400,000.

Marine Corps Base, Twentynine Palms, California, $5,700,000.

Marine Corps Air Station, Yuma, Arizona, $9,700,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $14,970,000.

Naval Support Activity, Mare Island, California $1,050,000.

Trident Submarine Support, Thames River, Connecticut, $5,500,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Charleston, South Carolina, $3,600,000.

Naval Amphibious Base, Little Creek, Virginia, $1,670,000.

Naval Submarine Base, New London, Connecticut, $15,850,000.

Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.

Naval Amphibious Base, Coronda, California $1,600,000.

Naval Air Station, Lemoore, California, $6,300,000.

Naval Air Station, Miramar, California, $4,050,000.

Naval Air Station, Moffet Field, California, $860,000.

Naval Air Station, North Island, California, $1,450,000.

Naval Station, San Diego, California, $9,200,000.

Navy Submarine Support Facility, San Diego, California, $3,200,000.

Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.

Naval Training Center, Great Lakes, Illinois, $6,000,000.

Naval Air Station, Memphis, Tennessee, $4,700,000.

Fleet Anti-Submarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.

Naval Air Station, Pensacola, Florida, $820,000.

Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.

Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.

Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.

Naval Weapons Station, Charleston, South Carolina, $5,000,000.

Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.

Naval Weapons Center, China Lake, California, $4,350,000.

Naval Weapons Station, Concord, California, $3,950,000.

Naval Weapons Support Center, Crane, Indiana, $690,000.

Navy Fuel Depot, Jacksonville, Florida, $1,400,000.

Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.

Long Beach Naval Shipyard, Long Beach, California, $8,250,000.

Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.

Naval Ordnance Station, Louisville, Kentucky, $1,850,000.

Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000.

Naval Supply Center, Norfolk, Virginia, $25,960,000.

Naval Air Rework Facility, North Island, California, $3,200,000.

Naval Air Test Center, Patuxent River, Maryland, $4,540,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.

Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $12,500,000.

Naval Ocean Systems Center, San Diego, California, $8,800,000.

Navy Supply Center, San Diego, California, $11,600,000.

Naval Weapons Station, Seal Beach, California, $960,000.

Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.

Mare Island Naval Shipyard, Vallejo, California, $16,220,000.

Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Unit, Cutler, Maine, $950,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700,000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.

Naval Station, Keflavik, Iceland, $17,650,000.

Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.

Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,080,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,990,000.

Kelly Air Force Base, Texas, $6,350,000.

Newark Air Force Station, Ohio, $860,000.

Robins Air Force Base, Georgia, $10,750,000.

Tinker Air Force Base, Oklahoma, $15,600,000.

Wright-Patterson Air Force Base, Ohio, $15,500,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.

Eglin Air Force Base, Florida, $5,100,000.

Hanscom Air Force Base, Massachusetts, $8,600,000.

Johnson Space Center, Texas, $12,400,000.

Maui Optical Site, Hawaii, $3,650,000.

White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.

Lackland Air Force Base, Texas, $5,400,000.

Laughlin Air Force Base, Texas, $4,500,000.

Mather Air Force Base, California, $1,650,000.

Sheppard Air Force Base, Texas, $2,050,000.

Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.

Kirtland Air Force Base, New Mexico, $3,470,000.

Little Rock Air Force Base, Arkansas, $510,000.

McChord Air Force Base, Washington, $4,100,000.

Pope Air Force Base, North Carolina, $5,400,000.

Richards-Gebaur Air Force Base, Missouri, $1,100,000.

Scott Air Force Base, Illinois, $10,060,000.

Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $3,850,000.

Ellsworth Air Force Base, South Dakota, $17,530,000.

Grand Forks Air Force Base, North Dakota, $4,900,000.

Griffiss Air Force Base, New York, $8,080,000.

Grissom Air Force Base, Indiana, $4,700,000.

K. I. Sawyer Air Force Base, Michigan, $5,200,000.

March Air Force Base, California, $6,600,000.

Minot Air Force Base, North Dakota, $5,100,000.

Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $65,800,000.

Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.

Cannon Air Force Base, New Mexico, $6,480,000.

Davis-Monthan Air Force Base, Arizona, $5,540,000.

England Air Force Base, Louisiana, $6,390,000.

George Air Force Base, California, $18,350,000.

Holloman Air Force Base, New Mexico, $2,600,000.

Homestead Air Force Base, Florida, $9,870,000.

Langley Air Force Base, Virginia, $2,500,000.

MacDill Air Force Base, Florida, $3,120,000.

Moody Air Force Base, Georgia, $1,990,000.

Mountain Home Air Force Base, Idaho, $60,000.

Myrtle Beach Air Force Base, South Carolina, $970,000.

Nellis Air Force Base, Nevada, $3,690,000.

Seymour Johnson Air Force Base, North Carolina, $2,650,000.

Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.

Various Locations, $2,350,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.

Kunsan Air Base, Korea, $4,010,000.

Osan Air Base, Korea, $20,080,000.

Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $4,500,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, Various Locations, $13,990,000.

United Kingdom, Various Locations, $22,520,000.

Various Locations, $7,170,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1981, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $29,310,000.

SEC. 304. (a) Section 301 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 368), is amended by striking out "$97,905,000" in the item relating to the authorization for acquisition and construction at various locations under the heading "UNITED STATES AIR FORCES IN EUROPE" and inserting in lieu thereof "$77,905,000".

(b) Section 602(3) of such Act is amended by striking out "$147,942,000" and "$421,249,000" and inserting in lieu thereof "$127,942,000" and "$401,249,000", respectively.

DEPARTMET OF DEFENSE SHARE FOR WATER POLLUTION CONTROL FACILITIES

SEC. 305. There is authorized to be appropriated, in accordance with section 808 of this Act, the sum of $2,400,000 for the Department of Defense share for the upgrading of the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

DEFENSE MAPPING AGENCY

Various Locations, Panama Canal Zone, $2,600,000.

OFFICE OF THE SECRETARY OF DEFENSE, DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS

Atsugi Naval Air Facility, Japan, $580,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Misawa Air Base, Japan, $5,070,000.

Seoul, Yongsan, Korea, $3,290,000.

Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $2,000,000,000: Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

Sec. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section including real estate actions pertaining thereto.

MINOR CONSTRUCTION

Sec. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

DEFICIENCY AUTHORIZATION

Sec. 404. (a) Public Law 95–82 is amended under the heading "Inside the United States" in section 401 as follows:

With respect to White Sands, New Mexico, strike out "$33,449,000" and insert in place thereof "$40,749,000".

(b) Public Law 95–82 is amended by striking out in clause 4 of section 602, "$55,909,000" and inserting in place thereof, "$63,209,000".

Sec. 405. (a) Public Law 95–356 is amended under the heading "Outside the United States" in section 401 as follows: With respect to "North Atlantic Treaty Organization Infrastructure" strike out "$120,000,000" and insert in place thereof "$140,000,000".

(b) Public Law 95–356 is amended by striking out in clause (4) of section 602, $217,610,000," and inserting in place thereof, "$327,610,000,".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

LEASING OF FAMILY HOUSING

Sec. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Tinker Air Force Base, Oklahoma, three hundred thirty-two units, $12,000,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

Sec. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "17,000".

AUTHORIZATION OF APPROPRIATIONS

Sec. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction or acquisition of sole interest in family housing, including minor construction, $15,000,000 and for planning an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,662,525,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in sections 502(a) (1), (2), and (3) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

Sec. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

Sec. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: inside the United States $545,875,000; outside the United States $149,850,000; minor construction $51,970,000; for a total of $747,695,000.

(2) for title II: inside the United States $373,690,000; outside the United States $55,440,000; minor construction $33,080,000; for a total of $462,210,000.

(3) for title III: inside the United States $373,210,000; outside the United States $79,930,000; minor construction $29,310,000; for a total of $482,450,000.

(4) for title IV: a total of $256,635,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,683,425,000, including $3,000,000 for minor construction.

COST VARIATIONS

Sec. 603. (a) Overall Title Total Limitation.—Notwithstanding the provisions of subsections (a), (b), (c), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) Variations in Installation Totals—Unusual Variations in Cost.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) Variations in Installation Totals.—Only One Project at an Installation.—When the amount named for any construction or acquisition in title, I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) Variations in Installation Totals—Reports by the Secretary of Defense.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) Cost and Scope Variations of Individual Projects; Reports to Congress.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) Annual Report to Congress.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) Cost and Floor Area Variations—Solar Energy.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost of floor area of a project authorized by this Act shall be in addition to any other increases in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

Sec. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS: EXCEPTIONS

Sec. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1979 (Public Law 95–356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gerzweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii, (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93–166; 87 Stat. 668) and extended in section 605(b) (H) of the Military Construction Authorization Act, 1976 (Public Law 94–107; 89 Stat. 565) and in section 605(b) (4) of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 376).

(8) Industrial Waste Collection in the amount of $2,650,000 at the Naval Torpedo Station, Keyport, Washington, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 363).

(9) Municipal Sewer Connection in the amount of $2,100,000 for the Long Beach Naval Shipyard, Long Beach, California, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 363).

(10) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 363).

(11) Municipal Sewer Connection in the amount of $2,200,000 for the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 363).

(12) Alter Sewage Treatment and Disposal Facilities in the amount of $631,000 at King Salmon Airport, Alaska, authorized in section 301 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 366).

(13) Small Aircraft Maintenance Facility in the amount of $1,928,000 for Moody Air Force Base, Georgia, authorized in section

301 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 367).

(14) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 369).

(15) CIDC Field Operations Building at Fort Hood, Texas, in the amount of $890,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(16) Radar Operations Facility at Redstone Arsenal, Alabama, in the amount of $962,000 authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133, of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army:

(a) Army National Guard of the United States, $18,237,000.

(b) Army Reserve, $24,824,000.

(2) For the Department of the Navy: Naval and Marine Corps Reserves, $16,090,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $29,500,000.

(b) Air Force Reserve, $9,500,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SEC. 703. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000", and inserting in lieu thereof, "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Section 2674 of title 10, United States Code, is amended as follows:

(a) At the end of subsection (b) add the following: *"Provided*, That such approvals are not necessary for projects at specified locations that have been identified in the annual military construction program submitted by the Department of the Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

(b) At the end of subsection (f) add the following: *"Provided*, That such notice is not necessary for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS AMENDMENT

SEC. 802. Section 803 of the Military Construction Authorization Act, 1979 (Public Law 95–356) is amended as follows:

(a) Delete the title and in lieu thereof insert: "DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS".

(b) In subsection (b)(1) after the word "jurisdiction" insert "or on private property".

USE OF ROI-NAMUR ISLAND

SEC. 803. The Secretary of Defense, or the Secretary's designee, is authorized to pay to the land owners of Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, such an amount as the Secretary of Defense determines to be in the public interest for the use after 1960 Roi-Namur Island by the Government of the United States to the extent or in such amounts as may be provided in appropriation Act.

LAND EXCHANGE, KING COUNTY, WASHINGTON

SEC. 804. (a) The Secretary of the Air Force (hereinafter referred to as the "Secretary") is authorized to convey to King County, Washington, all right, title, and interest of the United States in and to the land and improvements which comprise the 143d Combat Squadron, Washington Air National Guard, leased site located at Boeing Field, Seattle, Washington. Such conveyance shall be made subject to such terms and conditions pursuant to an Exchange Agreement as the Secretary considers appropriate, but may not be made until a replacement facility for such Air National Guard unit is available in accordance with subsection (b).

(b) In consideration for such conveyance by the Secretary under subsection (a), King County shall—

(1) make available to the Secretary a leasehold interest in land and funds for the purchase or making of improvements on such land which are acceptable to the Secretary as a replacement facility for such Air National Guard unit pursuant to an Exchange Agreement; or

(2) convey to the United States unencumbered fee simple title to land in the area of Seattle, Washington, which contains improvements acceptable to the Secretary as a replacement facility for such Air National Guard location.

(c) Funds made available under subsection (b)(1) or (2), and land conveyed under subsection (b)(1), shall be subject to terms and conditions which shall be agreed upon by the Secretary and King County and which the Secretary considers to be in the public interests. If the cost of the replacement facility is less than the fair market value or the appraised value dated February 20, 1978, by Roland James Hoefer and Associates of the existing facility for the Air National Guard unit, King County shall pay the amount of the difference between such costs to the United States, and such amount shall be deposited in the Treasury as miscellaneous receipts.

CONTRIBUTION TO THE INTERNATIONAL INSTITUTE OF STRATEGIC STUDIES

SEC. 805. The Secretary of Defense may authorize the expenditure of up to $500,000 from funds authorized to be appropriated for minor construction in title I, II, III, or IV for the purpose of a capital contribution to the International Institute of Strategic Studies.

USE OF FORMER ENT AIR FORCE BASE BY THE OLYMPIC COMMITTEE

SEC. 806. Notwithstanding the provisions of the Federal Property and Administration Services Act of 1949, as amended, the Administrator of General Services is authorized to convey the excess 5.6 acres of land and improvements on the remaining portion of the former Ent Air Force Base, Colorado Springs, Colorado, to the United States Olympic Committee without compensation. The Committee may accept and administer such property in furtherance of the United States Olympic amateur athletic activities. If the property ceases to be utilized by the United States Olympic Committee for conduct of such activities, it shall be returned to the Administrator of General Services for disposition.

USE OF MASS TRANSIT ON MILITARY INSTALLATIONS

SEC. 807. (a) Notwithstanding any other provision of law, the Secretary of Defense may authorize the use of mass transit vehicles on any military installation if the use of such vehicles on such installation is determined, in accordance with regulations issued by the Secretary of Defense, to be efficient, practical, and in the best interest of the United States. In determining whether the use of mass transit vehicles on any military installation is in the best interest of the United States, the Secretary of Defense shall require that careful consideration be given to the potential for saving energy and reducing air pollution.

(b) All costs of operating and maintaining mass transit vehicles on military installations shall be borne by the users of the vehicles by means of a fare schedule established in accordance with regulations issued by the Secretary of Defense. Funds accruing under the fare schedule shall be retained by the military installation to the extent necessary to offset operating and maintenance costs. Any funds accruing under the fare schedule that are in excess of such costs shall be transferred to the Treasury as miscellaneous receipts.

(c) Mass transit vehicles used on any military installation under authority of this section may be Government-owned vehicles operated by Federal employees or contractor-owned and operated vehicles, whichever is more cost efficient, as determined under regulations issued by the Secretary of Defense.

(d) This section shall not apply to the transportation of personnel by mass transit vehicles on any military installation if the transportation of such personnel is incident to training or other operational activities on such installation.

PAYMENT OF DEPARTMENT OF DEFENSE SHARE FOR UPGRADING WASTE TREATMENT FACILITIES UTILIZED BY MILITARY INSTALLATIONS

SEC. 808. (a) Subject to the provisions of subsection (b), in any case in which a waste treatment facility is being altered, remodeled, improved, or extended for the purpose of complying with the provisions of section 201(b) of the Federal Water Pollution Control Act (33 U.S.C. 1281) and such facility treats the waste from any military installation under a contract arrangement with the Department of Defense, the Secretary of Defense shall pay to the appropriate authority, as the Department of Defense's share for the upgrading of such facility, an amount agreed upon by the Secretary of Defense and the appropriate authority.

(b) Funds may be used for the purpose of paying the Department of Defense's share in connection with the alteration, remodeling, improvement, or extension of a waste treatment facility, as authorized by subsection (a), only if such funds have been specifically authorized to be used for such purpose by legislation enacted on or after the date of enactment of this Act.

PROHIBITION ON THE REALIGNMENT OF LORING AIR FORCE BASE

SEC. 809. With respect to the base realignment decisions announced by the Secretary of the Air Force in March 1979, no funds authorized to be appropriated by this or any other Act shall be obligated or expended for the purpose of the realignment of the Strategic Air Command's (SAC) Loring Air Force Base.

DAVIS-BACON WAIVER

SEC. 810. Subsection (a) of the first section of the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a(a)), commonly referred to as the Davis-Bacon Act, is amended by striking out "in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration and/or repair, including painting and decorating of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia," and inserting therefor the following language: "to which the United States or the District of Columbia is a party, in excess of:

"(1) Except as provided in paragraphs (2) and (3), $10,000 for construction of public buildings or public works of the United States or the District of Columbia;

"(2) $2,000 for any construction on existing public buildings or public works, including but not limited to alteration and/or repair, painting and decorating, and new additions to such buildings or works; and

"(3) $2,000 where such contract is for a part of a construction project in excess of $10,000;

within the geographic limits of the States of the Union or the District of Columbia,".

ALABAMA SPACE AND ROCKET CENTER

SEC. 811. (a) Section 2 of Public Law 90-276 is amended—

(1) by inserting "(1)" immediately before "A certain tract or parcel of land containing 35.69 acres";

(2) by striking out the period immediately after "Secretary of the Army" and substituting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(2) A certain tract or parcel of land containing approximately 300 acres, less that land occupied by the Department of the Navy on the date of enactment of this paragraph, lying within range 1 west, township 4 south, parts of sections 8 and 9, more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north side of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning. The exact description of such property is to be determined by an accurate survey and approved by the Secretary of the Army.".

(b) Section 3 of Public Law 90-276 is amended by—

(1) inserting "and related educational and recreational purposes" after "instrumentalities"; and

(2) striking "purpose" and substituting "purposes".

PROPOSED CLOSURE OR THE REALIGNMENT OF FORT INDIANTOWN GAP AND NEW CUMBERLAND ARMY DEPOT IN PENNSYLVANIA

SEC. 812. No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

Mr. HART. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1319.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the bill, as passed, be printed in full with amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I wish once again to thank my colleague from South Carolina, the ranking minority member on our subcommittee, for his cooperation; our excellent staff on the subcommittee and the full committee for their help and indulgence; and, of course, the Senator from New Jersey and others who have helped.

Mr. THURMOND. Mr. President, I wish to express my appreciation for the able leadership provided on this bill by the distinguished Senator from Colorado, and the staffs on both sides for the fine work they did.

(The remarks of Mr. KENNEDY and Mr. BELLMON in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—NOMINATION OF ROBERT N. CLEMENT, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that there be a 3-hour time limitation on the nomination of Mr. Clement—I cleared this with Mr. HEFLIN, Mr. BAKER, and Mr. SASSER—that the Senate go into executive session upon the completion of the orders for the recognition of the two leaders on Thursday, or the completion of orders for the recognition of Senators, whichever situation may obtain, and that the time be equally divided between Mr. HEFLIN and Mr. RANDOLPH, the chairman of the committee, or his designee, and that, upon the expiration of that time, or upon its being yielded back, the vote occur on the nomination; and that upon the disposition of the nomination the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 265

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the time that Calendar Order No. 267, S. 265, the Equal Access to Justice Act, is made the pending business before the Senate, that there be a time agreement as follows: 2 hours to be equally divided between Mr. THURMOND and Mr. DECONCINI; 1 hour on any amendment; 30 minutes on any second degree amendments 10 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 265 (Order No. 267), a bill entitled "Equal Access to Justice Act," debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from South Carolina (Mr. THURMOND) and the Senator from Arizona (Mr. DECONCINI): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ARCHEOLOGICAL RESOURCES PROTECTION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1090.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—this item has been cleared on our side. It will take a few minutes to get the Senator here who will manage the bill on this side, and I assume the situation is the same on the other side.

Mr. ROBERT C. BYRD. I will be glad to put in a quorum call, with the time not to be charged to either side.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 490) to protect archeological resources owned by the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

TABLE OF CONTENTS

SEC. 1. Short title and table of contents.
SEC. 2. Findings and purpose.
SEC. 3. Definitions.
SEC. 4. Excavation and removal.
SEC. 5. Custody of resources.
SEC. 6. Prohibited acts.
SEC. 7. Penalties.
SEC. 8. Civil damages.
SEC. 9. Rewards; forfeiture.
SEC. 10. Confidentiality.
SEC. 11. Regulations; intergovernmental coordination.
SEC. 12. Savings provisions; mining; rock collection.
SEC. 13. Report.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness; and

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage.

(b) The purpose of this Act is to protect, for the present and future benefit of the American people, the archaeological resources and sites which are on public lands and Indian lands.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such archaeological resources shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, nonfossilized and fossilized paleontological specimens when found in an archaeological context, and any portion or piece of any of the foregoing items. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least fifty years of age.

(b) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(c) The term "public lands" means—

(1) lands or interests in lands which are administered as part of—

(A) the National Park System,

(B) the National Wildlife Refuge System, or

(C) the National Forest System; and

(2) all other lands the fee title to which is held by the United States other than lands on the Outer Continental Shelf;

(d) The term "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(e) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688).

(f) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of an Indian tribe or of any State or political subdivision thereof.

(g) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interests;

(3) the archaeological resources derived from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution; and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Secretary of the Interior, before issuing such permit the Secretary shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 10.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act, to insure compliance with other applicable provisions of law, and to protect other resources involved.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of section 6, or the terms and conditions of the permit. Any such permit may be revoked by such Federal land manager assessment of a civil penalty under section 7(a) against the permittee or upon the permittee's conviction under section 7(b).

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431) for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe: *Provided*, That, in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section or under the Act of June 8, 1906 (16 U.S.C. 431).

(2) In the case of any permits for the excavation or removal of any achaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribes.

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433) for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917, 16 U.S.C. 470f).

CUSTODY OF RESOURCES

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(a) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and, with the consent of the Indian or Indian tribe, Indian lands pursuant to this Act, and

(b) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Following promulgation of regulations under this section notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

PROHIBITED ACTS

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a); or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State, or local law.

(d) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

PENALTIES

SEC. 7. (a)(1) Any person who violates any prohibition contained in a regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under the subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account—

(A) the archaeological or commercial value of the archaeological resource involved; and

(B) the cost of restoration and repair of the resource and the archaeological site involved. Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person.

The amount of any penalty assessed under this subsection shall not exceed $1,000 for each violation or $2,000 in the case of a second or subsequent violation.

(3) Any person aggrieved by an order assessing a civil penalty under paragraph (1) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(5) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Any person who knowingly violates, or solicits or employs any other person to violate, any prohibition contained in section 6 shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both. If the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $5,000, any person who knowingly violates, or solicits or employs any other person to violate, any prohibition contained in section 6 shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent violation under this subsection the penalty shall be $100,000, or five years, or both.

CIVIL DAMAGES

SEC. 8. (a) Any person who violates a prohibition contained in section 6 shall be liable to the United States for any damage to the archaeological resource involved and may be sued civilly in the United States district court for the district in which the resource in located.

(b) For purposes of this section, damages to an archaeological resource include—

(1) the archaeological value of the resource;

(2) the commercial value of the resource; and

(3) the cost of restoration and repair of the resource and the site involved.

REWARDS; FORFEITURE

SEC. 9. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay, from penalties and fines collected under section 7, an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of civil violation or the conviction of criminal violation with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders services in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 7(b);

(2) assessment of a civil penalty against such person under section 7(a) with respect to such violation; or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to an Indian or Indian tribe involved of all damages collected pursuant to section 8 and forfeitures under this section.

CONFIDENTIALITY

SEC. 10. Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(a) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c); and

(b) not create a risk of harm to such resources or to the site at which such resources are located.

REGULATIONS; INTERGOVERNMENTAL COORDINATION

SEC. 11. (a) The Secretaries of the Interior, Agriculture, and Defense, after consultation with other Federal land managers, Indian tribes, and representatives of concerned State agencies, and other public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996).

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

SAVINGS PROVISIONS; MINING; ROCK COLLECTION

SEC. 12. (a) Nothing in this Act shall be construed to repeal or modify the mining or mineral leasing laws of the United States.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock or mineral which is not an archaeological resource, as determined under uniform regulations promulgated pursuant to this Act.

REPORT

SEC. 13. As part of the annual report submitted to the Congress under section 5(c) of the Archaeological Recovery Act of 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall include a report to the Congress respecting the activities carried out under this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Daniel Dreyfus, Michael Harvey, Tom Williams, Laura Beaty, and Tony Bevinetto of the Energy and Natural Resources Committee staff have the privilege of the floor during the consideration of S. 490.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 473

Mr. BUMPERS. Mr. President, I send three amendments to the desk.

The PRESIDING OFFICER. Does the Senator ask them to be considered en bloc?

Mr. BUMPERS. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 16, line 17, delete the semi-colon and add "and lands under the jurisdiction of the Smithsonian Institution.".

2. On page 16, beginning on line 18 through line 22, delete subsection (d) and insert in lieu thereof the following: "The term 'Indian lands' means land the fee title to which is held by Indian tribes, or Indian individuals, either in trust by the United States or subject to a restriction against alienation imposed by the United States.".

3. On page 22, following line 11, add a new subsection (e) as follows: "(e) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I yield to the Senator from Oregon for a unanimous-consent request.

Mr. HATFIELD. I thank the Senator from Arkansas.

Mr. President, I ask unanimous consent that Cindy Calfee, Steve Crow, and George Ramonis be given the privileges of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, on May 15, the Energy and Natural Resources Committee reported S. 490, the pending measure. The amendments which I am offering are of a technical nature and are consistent with the intent of this proposal.

The first amendment would insure that persons in lawful possession of archeological resources prior to the date of enactment of this act may retain or dispose of those resources as they wish, without fear of prosecution.

The second amendment would exempt the lands under the jurisdiction of the Smithsonian Institution from the definition of public lands.

The third and final amendment clarifies the term "Indian lands" to mean those lands in which fee title is held by Indian tribes, or Indian individuals.

On February 26, 1979, S. 490 was introduced by Senators DOMENICI, SCHMITT, DECONCINI, GOLDWATER, and EAGLETON. The Subcommittee on Parks, Recreation, and Renewable Resources, of which I am chairman, held a hearing on May 1, 1979. Subsequent to that hearing, the bill was virtually redrafted based on testimony and further considerations by the sponsors and ordered it reported, with amendments.

The purpose of S. 490 is to provide greater protection than currently exists for archeological resources located on public lands and Indian lands by providing penalties commensurate with the value of the resources damaged or removed from those lands. It is hoped that this legislation will serve as a deterrent to the increasing incidence of looting archeological treasures found on those lands. Because of certain deficiencies in existing law, it has become evident that new authority is critically needed to insure adequate protection of these priceless resources.

Several important amendments were adopted by the committee during consideration of this proposal. I believe that a brief discussion of those changes would be beneficial to my colleagues. As introduced, S. 490 would have made it illegal to possess archeological resources. This provision was felt to be too onerous, and inconsistent with the purpose of the legislation—which is to stop illegal activities occurring on public lands and Indian lands. Therefore, the committee deleted "possession" as a prohibited act.

Next, the committee modified the penalty section by including a misdemeanor provision for violations involving archeological resources with a value of less than $5,000. Felony prosecutions would therefore be limited to major violations of the act.

I want my colleagues to be aware of a situation which now exists on the public lands, especially in the Southwest region. A handful of individuals have found it very profitable to enter inadequately patrolled public lands with backhoes or similar equipment and excavate sites of ancient ruins in search of artifacts. Some of the pottery which is removed is known to bring the sellers up to $20,000 on the national and international art market. Even more important than the loss of these artifacts, however, is the loss of the scientific information which is destroyed when sites are excavated by pottery hunters. Although no law currently exists to prohibit the sale of these illegally obtained artifacts, if enacted, section 6(b) of S. 490 would make that act illegal.

During the committee consideration of the civil penalty provision, the "ticket writing" enforcement authority for minor offenses administered by Federal land managers was thoroughly discussed. While the committee believes it is necessary to provide Federal land managers with a variety of enforcement measures appropriate to situations involving those who might unknowingly violate the act, the committee also recognizes the difficulties associated with adopting civil penalties.

The committee is aware that the potential may exist for abuse of this citation authority and expressed concern that the protection of individuals afforded by the presumption of innocence could be eroded by an arbitrary or excessive administrative application of civil penalties in contested situations. The committee, therefore, emphasized in its report that civil penalties should be used sparingly, and then only in situations which clearly warrant an enforcement action. This authority should not be used to harass those citizens in the normal use of public lands or those who inadvertently infringe on regulations in minor ways.

I wish to make clear that no provision of S. 490 would affect existing laws dealing with mining or mineral leasing. Some have been concerned that S. 490 might interfere with previously approved activities on public lands. Under the rules and regulations issued pursuant to the Antiquities Act of 1906, permits are issued to carry out surveys prior to the issuance of leases for uses of the public lands. This procedure would continue as it has in the past. But, once an activity in underway, other existing laws become applicable. Section 12 of S. 490 is designed to specifically protect multiple use activities on the public lands. In addition, this proposal would not interfere with field casting of paleontological specimens on the public domain. This activity is presently carried out under separate authority of the local land managing bureau which has immediate jurisdiction on the land in question.

Many members of the committee are concerned about the education of the visitors to our public lands, and I urge Federal land managers to publish information regarding the significance of archeological resources and the importance of their protection. While specific sites should not be signed, signs should be posted at popular access points to public lands to inform the visitor that such sites exist within the area and further, that such sites contain valuable information and are protected by law. Education of the visitor, may, in the long run, reduce the number of incidents on public lands.

Mr. President, I urge the adoption of these three amendments.

Mr. DOMENICI. Mr. President, has the Senator offered the three en bloc?

Mr. BUMPERS. Yes, they have been offered en bloc, and if the Senator from New Mexico wishes to discuss any part of those three amendments, I would be happy to yield to him for that or any other purpose.

Mr. DOMENICI. I merely wanted to say that, as the principal sponsor of the bill, I support them. I would only want to make the point that your first amendment, the one that makes sure that people in possession of artifacts not be prosecuted under this new statute, will define and make valid a constitutionally effective statute, in that we did not intend that they be subject to it when we reported it. Is that not correct, Senator Bumpers?

Mr. BUMPERS. The Senator is correct.

Mr. DOMENICI. The Senator's amendment will clarify and make that more certain to others that it is precisely what we intended and what I intended.

I have no objection.

Mr. BUMPERS. I would say for the record that the two Senators from Arizona (Mr. Goldwater and Mr. DeConcini) both express strong support for the amendment. As a matter of fact, Senator DeConcini had the amendment prepared, and we just introduced it as one of the three being offered en bloc.

Mr. President, I ask for the adoption of those three amendments.

The PRESIDING OFFICER. Have the Senators all yielded back their time?

Mr. BUMPERS. I yield back the remainder of my time on the amendments.

Mr. HATFIELD. I yield back all our time.

The PRESIDING OFFICER. All time having been yielded back, the vote occurs on agreeing to these amendments.

The amendments were agreed to.

Mr. BUMPERS. Mr. President, I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I express my appreciation to the chairman of our subcommittee and the comanager of the bill today, Mr. Bumpers.

Mr. President, the Antiquities Act of 1906, which has provided the legal basis for protecting America's prehistoric and historic heritage, is no longer adequate. Artifact hunters and collectors have been descending on national forests, parks, and public lands in ever increasing numbers. Depredations have occurred primarily in the Southwest but extend to all States including my own State of Oregon.

The drafters of the 1906 act could not have anticipated the lucrative market in these artifacts nor could they anticipate the use of bulldozers and backhoes in eliminating a piece of history to get a pot.

I fully support Senator Domenici's efforts to correct this problem. I would also point out that he has offered several refinements to his bill, S. 490, to strengthen and improve it. The committee unanimously accepted these amendments. The sponsors have offered other amendments which would conform with House-passed language. One amendment would assure those persons who now lawfully possess artifacts of their right to sell, transport, purchase, exchange, transport or receive archeological resources. I support this amendment along with the other two submitted en bloc.

Mr. President, S. 490, the Senate reported bill, has three additions that the sponsors and the distinguished floor manager have accepted and explained. I urge passage of S. 490 with the amendments, and also H.R. 1825, as amended to reflect the provisions of S. 490.

Mr. President, I merely want to take this opportunity to underscore that I personally am grateful to Senator Domenici, from New Mexico, for having given the initial thrust to this bill in our committee and in introducing the bill.

Senator Domenici has been long involved in this matter, and once again has demonstrated unique leadership in bringing this to a point where we now have a bill that I think people can live with without being subject to the severe and harsh penalties that were once considered important for this kind of legislation.

So I want to commend not only the initial idea by the Senator from New Mexico, but also his willingness to compromise and work out a bill now that I believe, once passed and once it is signed into law, will be enforceable and will protect the national treasures that have now been subject to vandalism and just plain being carried off by souvenir hunters and others who are not thinking of tomorrow or the next generation.

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. BUMPERS. I would be happy to.

Mr. DOMENICI. I thank the Senator from Arkansas and the Senator from Oregon for bringing this matter through the committee to a final conclusion, and to the floor. I particularly want to thank the distinguished Senator from Arkansas. He is chairman of the subcommittee of the Committee on Energy and Natural Resources that has jurisdiction over this subject matter.

Frequently, unless a Senator has a particular interest in his State or his region, as busy as we have been, it is difficult for some Senators to find time to take up matters that are really of national interest, but another part of this great Nation is affected more than theirs. That was the case here.

Serious thieveries of American artifacts off of public domain lands are occurring, both Federal public domain and Indian trust lands, and it is not a small item; it is not just a little vandalism. It is a major industry in crime.

They actually are finding ways to get on to public domain with bulldozers. They have schemes to hire Mexican nationals and pay them on a concession basis, that if they will steal these valuable artifacts of our past history, they will pay them a kind of finder's fee.

The way the law is drawn today, in one whole section of the country, because of a circuit court opinion, we have no laws that can be enforced against that kind of public domain thievery. This was called to our attention out in the Southwest by U.S. attorneys who could not prosecute, who were very much concerned about finding a constitutional way to define an artifact, which would permit them to prosecute.

Senator Bumpers took the time and put forth the effort because he saw it to be very important for our country, if not for his State, to enact this measure into law, and I thank him for that.

I also would like to say, lest there be some concern that this bill is intended to thwart the legitimate endeavors of people like Boy Scouts and the like to go onto the public domain and, as a matter of ethnic interest and, in pursuit of their educational growth, be looking for arrowheads and the like, that we do not have any intention to interfere with such legitimate pursuits, nor does this bill intend that.

For many years it was a crime to steal valuable artifacts. It is just that a court has ruled that, since we did not define the term "artifact," we were going to have to let criminals loose. The purpose of this bill is to plug that loophole, and at the same time grant those who have a reasonable and logical right to use the public domain to further their education and knowledge of American history to do so, without taking from it valuable artifacts.

Mr. President, as I say, recent court decisions have made the 1906 Antiquities Act unenforceable in certain States. In order to reinstate protection of archeological sites on public lands and to provide a more streamlined system for enforcement, this legislation was introduced. Joined by my distinguished colleagues in the Senate from New Mexico and Arizona, this legislation was introduced in February 26, 1979, as S. 490. The House passed a version of this legislation on July 10, 1979.

Since 1906, the law has stated that any antiquity found on public land is the property of the United States. Land managers were given authority to protect such finds with criminal prosecution of violators.

In recent years, the rise in prices of prehistoric Indian artifacts and other archeological resources has created a large international demand. Professional looters have been active in the Southwest and elsewhere pirating these sites on public lands, in some cases with bulldozers. Virtually tens of thousands of dollars worth of artifacts have been taken from public lands in New Mexico. Mimbres pots are being illegally dug out on consignment and sold in the international art market. And since the court decision, prosecutors in certain States are powerless to protect these national resources.

The general intent of this legislation is to deter this sort of criminal conduct by restoring the enforcement provisions of the old act.

The bill provides that no archeological resources may be disturbed or removed from public lands without first receiving a permit from the Secretary of the agency whose lands are involved. In order to be able to enforce this provision, both criminal and civil procedures are provided. The civil prorcedures are designed to insure that casual, unwitting violators are protected from criminal prosecution. I believe this a significant improvement over the old act.

Other changes in the revised language of S. 490 which we consider today demonstrate a concern for those uncertainties raised by citizens of the Southwest in recent correspondences.

I am concerned as are Senators Goldwater, DeConcini, and Schmidt about the rights of the legitimate private collector and private museums. I agree with Senator DeConcini in his recommendation to delete possession of an object as one of the prohibited acts.

Another change that may be needed which is included is to insure that protection and deterrence is provided without infringing on Indian land rights and contributing to the destruction of Indian religious, cultural, or historical values. If a site is currently used for religious purposes, we must respect that use.

I want to make sure that the permitting procedures in this bill do not lay out another cumbersome, time-consuming constraint on legitimate mining, exploration and other activities on public lands. This bill in no way requires or obligates or burdens mining companies. I say that in no uncertain terms and with the concurrence of all committee members.

Finally, I say to the agencies which will be administering this law that it is incumbent upon them to educate the publice about these provisions. The old act was generally unenforced and little understood by the public. Perhaps the reluctance to subject a naive citizen to criminal prosecution was the reason for this. This new language will no longer necessitate such drastic measures. Enforcement has been greatly simplified yet retains the teeth necessary to deter the criminal. However, only proper promulgation of this bill and a conscientious educational effort to inform the citizens of what is expected of them on public lands will insure its practicability.

Mr. President, this bill embodies a workable, enforceable law to protect our national archaeological heritage while at the same time expanding the enjoinment of using the public lands by our citizens.

I ask unanimous consent to have printed in the Record an editorial from the Santa Fe New Mexican, dated Thursday, March 1, 1979, indicating that the adoption of this measure is a matter of considerable importance for our area, and an article published in the Albuquerque Journal of April 15, 1979, outlining the dimensions of the problem.

There being no objection, the article were ordered to be printed in the Record, as follows:

[From the New Mexican Opinion, Mar. 1, 1979]

Adopt Artifacts Act

New Mexico's U.S. Sen. Pete V. Domenici and Arizona's U.S. Rep. Morris Udall have introduced measures in Congress which would prohibit the raiding of archaeological sites for profit.

The bills would have a direct effect on the looting and plundering of old Indian sites in New Mexico by collectors seeking priceless pottery, carvings and other artifacts.

The prices and demand for these prehistoric Indian materials have risen so high that unscrupulous collectors and dealers are using mechanical equipment to rip open sites.

Because of this greed and careless destruction of archaeological sites, important scientific information is being lost forever.

Domenici and Udall have introduced identical measures which would make raiding Indian ruins a federal offense punishable by up to two years in prison and up to $20,000 in fines. Any archaeological resources which are recovered would be confiscated.

This proposed federal act contains several features which make it a good law which both federal and state officials can use to protect archaeological sites.

If enacted, the law would dovetail with existing state laws, such as New Mexico's, so that offenders could not skip to another state to avoid prosecution.

The bill would provide for civil penalties such as light fines and confiscation of artifacts for pottery hunters who accidently violate the law.

The bill would provide a $2,500 reward to people who report illegal activity. Hunters, hikers and other outdoor recreation enthusiasts would be encouraged to report archaeological raiding if they knew they would be eligible for a reward.

This act is needed to prevent the wholesale destruction of our Indian heritage by persons bent on profits not preserving history. Legitimate archaeological research would be permitted through an Interior Department permit system.

Congress should act favorably on this measure as soon as possible to provide the umbrella of federal jurisdiction needed to adequately protect these sites.

[From the Albuquerque Journal, Apr. 15, 1979]

Looters Destroying Unwritten History; New Bill Supported

(By Larry Brown)

Professional and amateur archaeologists, who have been watching with mounting rage and frustration as looters destroy America's unwritten past in the southwest, are applauding the course through Congress of a bill aimed at stopping the pillage.

Today the systematic looting of archaeological sites is a high-profit, small-risk venture.

Looters find eager markets for pottery, shards, effigies, stone tools and other relics on the east and west coasts, in Japan and in Europe. They are leaving behind trails of desecration.

Reportedly one pottery bowl taken from a Mimbres cultural site in southwest New Mexico was marketed on the east coast for $20,000.

Prices ranging from $1,000 to $4,000 are not unusual.

Professional looters rip into sites using backhoes and bulldozers, and, says Jerry Brody, head of the Maxwell Museum at the University of New Mexico, "They literally destroy the site and completely ruin any possibility of scientific investigation."

Current law, the Antiquities Act of 1906, provides only a $500 fine and 90 days in jail as a maximum penalty for such looting, and, in addition, has come under attack as being constitutionally vague.

The U.S. Tenth Circuit Court of Appeals, with jurisdiction in New Mexico, Kansas, Oklahoma, Colorado, Utah and Wyoming, has upheld the act in the case of two Deming pottery dealers sentenced in U.S. District Court in Las Cruces in January to serve 90 days on each of 11 counts after being found guilty of excavating Mimbres Indian bowls.

Tenth Circuit Court of Appeals judges ruled the act "gives a person of ordinary intelligence a reasonable opportunity to know that excavating prehistoric Indian burial grounds and appropriating 800- to 900-year-old artifacts is prohibited."

The Ninth Circuit Court of Appeals, which has jurisdiction in states west of the Tenth Circuit states, ruled the 1906 act unconstitutional.

In Albuquerque U.S. Magistrate Peter Gallagher found the law unconstitutional in the trial of a man charged with excavating pottery pieces at a 900-year-old Zuni ruin. In August 1977, Gallagher dismissed charges against a 25-year-old Harvard medical student because he said the law was vague.

Because of the conflict between the rulings by the Ninth and Tenth Circuit Courts of Appeals the issue may go to the Supreme Court.

Even when the law has been enforced, authorities say professional "pothunters"—the term most often used—see the penalties as part of the cost of doing business.

The new bill is being pushed in Congress by a number of sponsors from southwestern states, including all New Mexico senators and House members. New penalties could range as high as $100,000 in fines and five years in prison for two or more violations.

The maximum penalty for a first conviction is $20,000 and two years in prison.

And the bill—the "Archaeological Resources Protection Act of 1979"—seeks to overcome the fact that many sites are remote and there is a lack of federal manpower to police them by adding rewards up to $2,500 for information leading to the conviction of violators.

Brody said prior to the passage of a state law last year, which made the use of bulldozers at archaeological sites illegal, much of the fragile Mimbres culture which thrived around 950 to 1150 A.D. near Silver City was destroyed.

"Much of it was completely wiped out," he said. "Bowls were buried with individuals under the floors of rooms, and to reach them pothunters went in with bulldozers and zip, zip, zip—it's gone.

"We're not talking about a family out on a picnic picking up a piece, but big business that can afford bulldozers and expecting to make a couple of hundred thousand in their enterprise," he said.

Brody is especially distressed about the Mimbres Culture because he has studied it for years, and last year published a book about it. But other sites in the state have suffered a similar fate.

Richard Bice of Albuquerque, a member of the New Mexico Archaeological Society, said other areas raided by professional pothunters include the lava beds near Grants and a site on Forest Service land in the Jemez Mountains.

"It is primarily of concern in the Mimbres area because of the type of pottery the ancient peoples made was very well decorated with animal and human figures, and the price a bowl decorated like that can bring is in the thousands of dollars," Bice said.

The New Mexico Archaeological Society has strongly endorsed the proposed bill.

The proposed law is not without detractors, however.

Ironically, two people who have spoken out against it are amateur members of the Grant

County Archaeological Society, who have studied the Mimbres Culture around Silver City.

Mrs. Joe Haymes, of Silver City, calls the bill "a thievery act."

"Because it's retroactive they can take away private collections," she said. "The way it's written, a fossil collector can't even pick up an ordinary rock without ending up in the penitentiary."

She said because the bill identifies an "archaeological resource" as something at least 50 years old, the bill is going to hurt salvage operators, junk dealers, barbwire collectors, bottle collectors and other amateurs.

Kenneth Cookin, also of Silver City, said he is concerned about a section of the bill that requires such resources be preserved "for a satisfactory period of time" by a university, museum or other scientific or educational institution.

Cookin claims priceless items have passed through museums and universities after a "satisfactory period" to other countries.

A collection once at Western New Mexico University is now in Mexico City in a museum, he claims, and another collection given to the University of New Mexico is now in London, England.

"The real pothunters are from the universities," Cookin said, "and these people are a big marketing factor in pottery and artifacts. They are also interested in turning what belongs to us all into their own private collections."

Cookin said the bill will hurt "amateurs," and makes a strong case for amateur archaeologists.

"King Tut's tomb was found by an amateur," he said. "The old Viking coin, the Folsom sites over in Texas, all found by amateurs. In many cases amateurs are doing a finer, more dependable job, than professionals from universities."

Mrs. Haymes also claims university archaeologists . . . take the cream from sites they explore.

"Did you ever visit an archaeologists's home?" she asked. "Barry Goldwater has a fabulous collection—I've seen it."

Sen. Barry Goldwater, R-Arizona, is one of the sponsors of the bill.

"If this bill passes we'll have to stand by and watch our country be raped by pothunters with doctor's degrees behind their names," Mrs. Haymes said.

To support their argument against the bill, Mrs. Haymes and Cookin use exactly the same argument as those who support the bill.

"These things on federal land belong to all the people," they said, and the sentiment was echoed by Mark Michel, one of the bill's strongest supporters.

Michel, of Santa Fe, is also a member of the New Mexico Archaeological Society.

"These things are the property of the United States and should only be removed by a permit," Michel said. "Instead they are finding their way into the international market, in Japan, Paris, New York."

As far as the law allowing the government to take private collections, Michel said, "The government could seize them right now if they could prove they were taken illegally."

Michel said the chances of this happening are "not likely. It would be pretty hard to prove."

Brody, who supports the bill, defends the "professional" archaeologists from universities.

"We have a different philosophy, usually conservative and conservation minded. Amateurs frequently are not," he said.

POTHUNTERS OBLITERATE MIMBRES PAST

(By Dr. Jerry Brody)

Jerry Brody tenderly cradled a rough clay bowl in his hands.

Brody was in the basement of the Maxwell Museum standing in front of shelves of pottery and artifacts.

"We don't like to discuss the appraised value of a piece because when we put it on display we want people to think about the artifact and not think of dollar bills," Brody said.

He was talking about the fact a Mimbres bowl was reported sold to a dealer on the east coast for $20,000.

"We don't put a price tag on pots," he said, "but if we did . . ."

The outside of the Mimbres pottery bowl was earth colored and unfinished, but the inside was as smooth as glass and depicted two mountain sheep in a swirling pattern.

"I have personally handled about 4,000 Mimbres pots and if I didn't know where this came from I would be suspicious. It's in almost too fine a condition, but it is documented."

The pot was discovered by Steve LeBlanc, a member of the private Mimbres Foundation. The ancient Pueblo culture placed such pots over the heads of deceased people when they buried them.

"After he found it, it took him two days just to dig it out," Brody said. "If it had been found by a professional pothunter it would just have been grabbed. They don't consider that with documentation it would be more valuable, they are after the quick buck."

Brody said Mimbres pottery is particularly valuable to researchers because the execution is remarkably fine and because it fits the ideals of what a work of art is.

The pottery has pictures of life forms, animals, people, birds, interaction, and Brody said, "Not only carries an awful lot of information about people but appeals to our humanity." The ancient culture near Silver City was unique to the southwest, he said. Evidence shows there was considerable trade with other parts of the southwest.

Unfortunately, many intriguing questions raised by Mimbres research may never be answered. Looters systematically destroyed sites searching for artifacts to market.

Brody reaches down another bowl, holding it up to show three holes smashed through the bottom.

"Sometimes when we find a hole in a pot we know it was a kill hole, and the pot was placed over a dead person. But what happened here is that a pothunter, probably using an eight to 10 foot long iron bar, poked around in the ground.

"The pothunter hopes to hear a clink as a reward to tell him he'd found something," Brody continues, using the crafts of his trade to read the actions of a 20th century man.

"The hunter tried and missed, but he hit this pot three times," he said. "The vandalism at the site is terrible, and these pothunters are stealing property that belongs to all of us."

Mr. DOMENICI. I thank both Senators for their efforts, and for yielding me time.

Mr. BUMPERS. Mr. President, I ask unanimous consent that a statement by the Senator from Arizona (Mr. DECONCINI) be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DECONCINI

ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979

Much of this Country's cultural heritage has evolved on what is now federally owned land, especially in the West and Southwest. The physical remnants of those cultures, including our own immediate past, remain on public lands and in public ownership. We share this heritage and share the responsibility and obligation to treat this great resource with respect, and in a manner that will best serve the present and future public interest.

American archaeological and historic artifacts have a great deal of cultural and sociological value; and, of course, monetary value. These artifacts are valued not only in the United States but throughout the world by public institutions, private collectors, and investors. Because of this wide interest, there has been, in recent years, a massive assault on archaeological sites and other historic resources which remain on Federal lands. Profit-minded looters, using sophisticated equipment, are stealing and destroying the last vestiges of our heritage.

Contributing to this deplorable situation has been the lack of the legal protection originally intended by Congress through the Antiquities Act of 1906. Relevant provisions of the Antiquities Act have been held unconstitutionally vague in the Ninth Circuit by the U.S. Court of Appeals, (which includes Arizona). In effect, this ruling invites professional looters to raid the public lands in nine Western States by tying the hands of Federal enforcement agencies.

I commend my distinguished colleague, Senator Bumpers and his capable staff, for their dedication to the purposes of this act. Through their efforts, a legislative proposal has been reported that is structured enough to meet our objectives, but flexible enough to accommodate the many and sometimes conflicting demands on our public lands and resources.

The Archaeological Resources Protection Act clearly defines, for the first time, the term "Archaeological Resource." Artifacts and objects which have historical significance are included, but the Act differs from the Antiquities Act by excluding the paraphernalia of our present-day society. It should be stressed that this proposal includes only those objects which are already on public lands and which are already in public ownership. Certain specific exemptions have been recommended, but it should be pointed out that simply omitting a class of objects from this definition of an archaeological resource, and from the scope of this Act, would not allow the acquisition of those objects by private individuals. To infer otherwise would be misleading.

From the letters and comments I received from my constituents after the bill was introduced, it became clear that certain provisions of the Act as originally drafted would unintentionally affect some individuals and businesses who have legitimate concerns and interests. Most of conflicts were addressed and corrected in committee mark-ups.

However, my greatest concern with the bill as reported, was with the prohibition against selling or exchanging resources currently in private possession. It was the intent of this sponsor to prevent the future destruction of archaeological treasures and not unjustly punish private collectors and others who have acted legally in the past. It has been my concern that the provisions of Section G, subsections (b) and (c) should not be applicable with respect to any archaeological resource, if the resource was removed from the public land or Indian lands prior to the date of enactment of this Act.

Since the bill has been amended to include the "grandfather" provision, I am satisfied that it can be workable and practical. This amendment insures museums, institutions, and thousands of individuals who legally own archaeological artifacts that they will not be in violation of Federal law if they wish to sell, exchange, or transport those artifacts. There should be, of course, no exemption for the sale of artifacts taken illegally from the public lands after the date of enactment of this act.

The bill as reported by the committee, and amended, differs in several respects from the companion bill reported by the House of Representatives, (H.R. 1825). Some of the differing provisions of the House bill are not without merit and should be given consideration by the conferees. For example, the House bill would permit a Governor of any State to receive a permit on behalf of the state or its educational institutions, for any designee as the Governor deems qualified. I could support such a provision if the designee is required to possess the same qualifications or meet the same requirements as any other individual who would apply for a permit through regular channels. Protection of our public resources is a responsibility willingly shared by our State governments and by the citizens of the State. This law, like any other law, can only work if it has the active support of the local people. The people of Arizona are known for their respect of the public lands. They have done much over the past 100 years to protect the character and vitality of the public lands and Indian lands while promoting the careful and rational use of our natural resources.

In that regard, nothing in this Act is intended to restrict public access to the Federal lands or modify multiple use activities now permitted under existing laws.

I truly regret that it is necessary to legislate to protect the interests of the vast majority from the reckless greed of a relative few, but I am pleased to note the bill is an improvement over the Antiquities Act in several positive aspects. It not only eliminates criminal penalties for most minor violations, it expands the permit process and will have the positive effect of including a greater segment of our population in orderly excavations. It will also promote a greater knowledge and understanding of our heritage through an expanded exchange program between museums and other institutions.

In total, it is my belief that this Act will serve notice that our common heritage should be shared openly and that the plundering of our publicly owned archaeological and historic resources will no longer be tolerated.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1825, the House companion measure to S. 490.

The PRESIDING OFFICER. Will the Senator withhold for a moment on that? The bill is open to further amendment. Are there further amendments?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, if there be no further amendments, I move the adoption of the committee amendment, as amended.

Mr. GRAVEL. Mr. President, I wonder if I might be recognized at this point.

The PRESIDING OFFICER. Does the Senator from Arkansas yield time to the Senator from Alaska?

Mr. BUMPERS. Are we under controlled time?

The PRESIDING OFFICER. We are under controlled time. The Senator has 8 minutes remaining on the bill.

Mr. BUMPERS. How much time does the Senator need?

Mr. GRAVEL. How much time is there on amendments?

The PRESIDING OFFICER. Twenty minutes, equally divided, on each amendment.

Mr. GRAVEL. If I may have about 8 or 10 minutes, it is not my purpose to delay. I just want to raise some items for the RECORD that are very important to me and my State. I would hope I might have this time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Arkansas and the distinguished Senator from Oregon may have an additional 10 minutes each on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I yield 10 minutes to the Senator from Alaska.

Mr. GRAVEL. Mr. President, although the people putting this bill together apparently took deliberate effort to avoid direct amendment of the 1906 Antiquities Act, the major effect of the legislation before us would be to amend the original act to include a more comprehensive list of prohibited activities, such as purchasing and transporting artifacts, and more severe penalties for such activities.

I wholeheartedly concur that such revisions are necessary to deal more effectively and realistically with the problems of the theft and destruction of our historical and archeological heritage on Federal lands. But, just as the Antiquities Act is not effective today in doing what it was intended to do, other portions of the act are being used for purposes which were never envisioned or intended by the original authors. I submitted testimony to the committee when hearings were held on this measure encouraging the members to examine all the intents and provisions of the 1906 Antiquities Act to see if it is working in the way it was designed. I sincerely feel the following amendments are vital to make this act truly responsive to the goals of protecting historic and archéological resources:

HISTORIC AND SCIENTIFIC INTEREST

The act gives the President authority to withdraw "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" as national monuments. Yet, on December 1, 1978, the Secretary of the Interior proclaimed 56 million acres in Alaska as national monuments which have long been studied and acclaimed by the Interior Department and environmental groups for their scenic, recreational, wilderness, and fish and wildlife values. In only a very few distinct areas have historic and archeological values been of prime concern. In the House and Senate reports on the Antiquities Act it is clear that the purpose of the act is to protect distinct archeological areas and sites and "objects," not for the far broader purposes attributed to our national park or wildlife refuge systems.

Thus, I would recommend the definition of "objects of historic or scientific interest" be amended in the act to include only historic, archeological remains associated with human behavior.

SIZE OF WITHDRAWALS

The act further provides that the land withdrawn "shall be confined to the smallest area compatible with the proper care and management of the objects to be protected." In a floor colloquy on the bill in the House in 1906, the following exchange took place:

> Mr. STEPHENS of Texas. How much land will be taken off the market in the Western States by the passage of the bill?
>
> Mr. LACEY. Not very much. The bill provides that it shall be the smallest area necessary for the care and maintenance of the objects to be preserved.
>
> Mr. STEPHENS of Texas. Would it be anything like the forest-preserve bill, by which seventy or eighty million acres of land in the United States have been tied up?
>
> Mr. LACEY. Certainly not. The object is entirely different. It is to preserve these old pueblos in the Southwest, whilst the other reserves the forests and the water resources.
>
> Mr. STEPHENS of Texas. I hope . . . this bill will not result in locking up other lands.

Despite this clear intent, the President in his proclamation last year in Alaska withdrew 56 million acres of land. The 56 million acres—over half the area of California—is by no stretch of the imagination the "smallest area" necessary for the "objects" protected. Clearly the Congress needs to clarify the limits of this authority. I would strongly recommend that any proposal to create a monument greater than 5,000 acres be submitted to Congress for approval by joint resolution under expedited procedures similar to those under the Alaska Natural Gas Transportation Act. The 5,000-acre provision conforms to the limits of the discretionary authority granted the Secretary of the Interior for land classification decisions under the Federal Land Policy and Management Act of 1976—the BLM Organic Act. These provisions should also be made retroactive to the end of the last Congress to cover the President's actions in Alaska.

LAND USES

Because the designation of national monuments places the units within the National Park System, the areas by definition fall under prescribed rules and regulations governing park units. One such prohibition, that on hunting, has presented an especially capricious and onerous situation in Alaska. There appears no clear reason why the protection of historic or scientific artifacts or other objects should, by definition, be lessened by such land uses as hunting and perhaps other activities. Rather than arbitrarily ruling out various land uses validly existing at the time of proclamation, the act should be modified to permit such uses to the extent that they do not interfere in the protection of or result in harm to archaeological or historic resources.

Mr. President, I ask unanimous consent to have printed in the RECORD S. 1176, which I introduced earlier this year, which contains the specific amendments I have discussed along with related background material. This measure has been cosponsored by 14 other Senators. It has received the backing of the Alaska State Legislature, the National Cattlemen's Association, the Public Lands Council, the National Wool Growers Association, the Western States Legislatitve Forestry Task Force, and other Alaskan and national organizations. I ask unanimous consent to have printed in the Record resolutions from these organizations.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "the Antiquities Act and Federal Land Policy and Management Act Amendments of 1979".

ANTIQUITIES ACT AMENDMENTS

Sec. 2. (a) The first section of the Act of June 8, 1906, (34 Stat. 225; 16 U.S.C. 433), is amended to include the following:

"(a) For purposes of this Act, the term—'objects of historic or scientific interest' means historic or prehistoric specimens or structures such as pottery, bottles, weapons, dwellings, rock paintings, carvings, graves, human skeletal materials, and non-fossilized and fossilized paleontological specimens when found in an archeological context. Such objects shall be directly associated with human behavior and activities.

"(b) (1) Any proclamation for reservation of public lands as national monuments by the President pursuant to section 2 of this Act in excess of 5,000 acres shall be transmitted to the Congress. Such proclamation shall not become effective unless within sixty calendar days of continuous session of the Congress after the proclamation has been transmitted, the Senate and the House of Representatives pass a concurrent resolution approving such proclamation.

"(2) For purposes of this section—

"(A) continuity of sessions of Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(C) the term 'resolution' means a concurrent resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the proclamation by the President reserving public lands as the National Monument submitted to the Congress on 19 .'; the blank spaces therein shall be filled with proper name of the National Monument which corresponds to a legal land description available for public inspection and with the date on which the President submits his proclamation to the Congress.

"(3) Except as otherwise provided in this section, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of such resolution."

(b) Such Act is further amended by adding at the end thereof the following new section:

"Sec. 5. Notwithstanding any other laws or regulations, any uses of the public lands included within any monument proclaimed under this Act validly occurring at the time of creation of the monument shall be permitted to continue to the extent that the uses do not destroy, disturb, or otherwise adversely impact on the historic or prehistoric sites or specimen to be protected by the establishment of the national monument. Such uses may include hunting, guiding, hiking, boating, and use of motorized vehicles.

"Nothing in this paragraph shall be construed as limiting in any way valid existing rights of owners or holders of property or claims within any monument under existing law."

(c) The provisions of subsection (d) of the first section of such Act of June 8, 1906, as added by this section, shall be deemed to have taken effect as of October 14, 1978, and any proclamation proclaiming a monument under such Act and after October 14, 1978, shall be subject to the provisions of such subsection (d).

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 AMENDMENT

Sec. 3. Section 204(c) (1) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2752: 43 U.S.C. 1714) is amended by striking out the second sentence and inserting in lieu thereof the following sentence: "The withdrawal shall become effective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such proposed withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House approves the withdrawal."

Summary of Proposed Amendments to the Antiquities and Federal Land Policy and Management Acts

(1) The bill requires that any proposal to create a monument greater than 5,000 acres be submitted to Congress for approval by joint resolution under expedited procedures similar to those under the Alaska Natural Gas Transportation Act. The bill would be retroactive to October 14, 1978 (the date the 95th Congress adjourned) in order to include the monuments created in Alaska December 1, 1978. The 5,000-acre provision conforms to the limits of the discretionary authority granted the Secretary of the Interior for land classification decisions under the Federal Land Policy and Management Act of 1976 (the "BLM Organic Act").

(2) The bill provides that land uses validly occurring at the time a monument was established would not be prohibited unless they directly impact historic or archaeological sites or remains. Thus, an activity such as hunting, which is prohibited automatically under current law, would be permitted to the extent it did not impair the values for which the monument was established.

(3) The bill defines "objects of historic or scientific interest" as used in the Antiquities Act to include only historic, archaeological remains associated with human behavior. The intent of this definition is to limit the President's use of the Antiquities Act to protect only areas of unique historic or archaeological value, not fish and wildlife, scenic, recreational or wilderness areas. We have other laws relating to establishment of these areas.

(4) The bill amends the Federal Land Policy and Management Act of 1976 (the "BLM Organic Act") to provide more direct positive congressional review of administrative land withdrawals. The Act now enables the Secretary of the Interior to withdraw any amount of land for up to 20 years subject to a congressional veto under expedited procedures. The Secretary currently proposes to use this authority (section 204(c)) in Alaska to create 12 new wildlife refuges of approximately 40 million acres. This bill would make such action effective only after congressional approval by joint resolution under expedited procedures.

THE "EMERGENCY"

Under the terms of section 17(d) (2) of the Alaska Native Claims Settlement Act, the Secretary of the Interior was authorized to withdraw up to 80 million acres of land from all appropriations for potential addition to either the national park, wildlife refuge, forest, or wild and scenic rivers system. If Congress did not act before December 18, 1978, these withdrawals would lapse.

However, at the time the (d) (2) withdrawals were made, the lands were also withdrawn under section 17(d) (1) of the Claims Act. After the December 18, 1978 deadline expired, the "D–1" withdrawals provided the same protection to the land as that occurring under section 17(d) (2). There is no expiration date for the D–1 withdrawals. In addition, most other federal land in Alaska is withdrawn under the D–1 authority.

In a letter sent prior to the December 18 expiration date to solicit public comments on a draft Environmental Impact Statement analyzing several possible administrative actions—including possible use of the Antiquities Act—Cynthia Wilson, Special Assistant to the Secretary, stated:

Although the Administration is confident that the protective land withdrawals which will remain after the expiration of "D–2" withdrawals in December are capable of continuing to preclude the entry, location or selection of the national interest lands, the lands are so significant to the nation that prudence dictates that they be protected as fully as possible under existing executive branch authorities, pending final congressional action.

Despite the protection afforded by D–1, the Secretary withdrew approximately 110 million acres of land in Alaska under the provisions of section 204(e) of the Federal Land Policy and Management Act of 1976 (the "BLM Organic Act") on November 16, 1978. This section of FLPMA authorizes the Secretary to make "emergency" withdrawals of public land from all forms of entry and appropriation for a period of up to three years. This withdrawal affected virtually all the lands under consideration by the Congress during the past session.

Yet, even with this action, which duplicated protection already provided by D–1, the Secretary urged the President to proclaim 56 million acres of land as national monuments under the 1906 Antiquities Act. These national monuments are not just temporary withdrawals until Congress acts, they are permanently designated conservation system units with extremely restrictive land use policies. In particular, such areas are closed to sport hunting, trapping, and related guiding. In Alaska this affects hundreds of people who have had their livelihoods wiped out with the stroke of a pen. Hunting guides, trappers, miners, air taxi operators and recreationists have all been displaced. They are essentially "regulated out" of these vast areas.

Thus, the use of the Antiquities Act can only be viewed as an extreme abuse of power designed to punish and intimidate those who oppose the Administration's proposals for the use of Alaska land.

Antiquities Act Provisions

The Antiquities Act was originally intended to prevent the removal of artifacts and further destruction of archaeological sites in the Southwest. It gives the President authority to withdraw "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" as national monuments. The law further provides that the land withdrawn "shall be confined to the smallest area compatible with the proper care and management of the objects to be protected." In a floor colloquy on the bill in the House in 1906, the following exchange took place:

Mr. Stephens of Texas. How much land will be taken off the market in the Western States by the passage of the bill?

Mr. Lacey. Not very much. The bill provides that it shall be the smallest area necessary for the care and maintenance of the objects to be preserved.

Mr. Stephens of Texas. Would it be anything like the forest preserve bill, by which seventy or eighty million acres of land in the United States have been tied up?

Mr. Lacey. Certainly not. The object is entirely different. It is to preserve these old pueblos in the Southwest, whilst the other reserves the forests and the water resources.

Mr. Stephens of Texas. I hope . . . this bill will not result in locking up other lands.

The areas which were designated monuments in Alaska have long been studied and acclaimed by the Interior Department and environmental groups for their scenic, recreational, wilderness, and fish and wildlife values. In only a very few distinct areas have historic or archaeological values been of prime concern. The 56 million acres withdrawn is by no stretch of the imagination the "smallest area" necessary for the "objects" protected.

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16 U.S.C. Sec. 431 (Antiquities Act)

§ 431. National monuments; reservation of land; relinquishment of private claims.

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is authorized to accept the relinquishment of such tracts in behalf of the Government of the United States. (June 8, 1906, ch. 3080, § 2, 34 Stat. 225.)

[Report No. 3797]

Preservation of American Antiquities

REPORT

The Committee on Public Lands, to whom was referred the bill (S. 4698) for the preservation of American antiquities, having had the same under consideration, beg leave to report it back with the recommendation that the bill do pass.

This measure has the hearty support of the Archeological Institute of America, the American Anthropological Association, the Smithsonian Institution, and numerous museums throughout the country, and in view of the fact that the historic and prehistoric ruins and monuments on the public lands of the United States are rapidly being destroyed by parties who are gathering them as relics and for the use of museums and colleges, etc., your committee are of the opinion that their preservation is of great importance.

This bill is carefully drawn, and the committee are unanimously in favor of its passage.

[Report No. 2224]

Preservation of American Antiquities

REPORT

Your committee to whom was referred the bill (H.R. 11016) for the preservation of American antiquities, report the same back with the following amendments:

In line 3, page 1, after the word "shall," insert the words "willfully or wantonly."

In line 9, page 1, after the word "shall," insert "be guilty of a misdemeanor and."

On page 2, at the end of line 14, insert the following proviso: "*Provided further*, That no expense shall be incurred for special custodians under this act."

The various archeological societies of the United States in the Fifty-eighth Congress presented the subject of the enactment of a bill along the lines proposed in the present bill. A full hearing was had on the matter by the Committee on the Public Lands, and a bill was reported to carry out the purpose proposed, but the bill did not receive action in the House in the last Congress.

The bill as above amended will, in the opinion of your committee, accomplish the purpose desired. There are scattered throughout the Southwest quite a large number of very interesting ruins. Many of these ruins are upon the public lands, and the most of them are upon lands of but little present value. The bill proposes to create small reservations reserving only so much land as may be absolutely necessary for the preservation of these interesting relics of prehistoric times.

Practically every civilized government in the world has enacted laws for the preservation of the remains of the historic past, and has provided that excavations and explorations shall be conducted in some systematic and practical way so as not to needlessly destroy buildings and other objects of interest.

The United States should adopt some method of protecting these remains that are still upon the public domain or in Indian reservations. The following-named persons, during the Fifty-eighth Congress, communicated with or appeared before your committee in behalf of this legislation: Prof. Thomas D. Seymour, of Yale University; Charles P. Bowditch, esq., of Boston, Mass.; Prof. Francis W. Kelsey, of the University of Michigan; Prof. Mitchell Carroll, of George Washington University; Dr. A. L. Kroeber, of the University of California; Dr. G. B. Gordon, of the University of Pennsylvania; Prof. M. H. Saville, of Columbia University; Hon. John W. Foster, of Washington, D.C.; Prof. William Henry Holmes, of the Smithsonian Institution; Dr. Henry Mason Baum, president Institute of Historical Research, of Washington, D.C.; Prof. F. W. Putnam, of Harvard University; Prof. Edgar L. Hewett, formerly president of the Normal University of New Mexico; Msgr. Dennis J. O'Connell, rector of the Catholic University of America, and others.

Professor Seymour, of Yale University, president of the Archaeological Institute of America; Mr. Charles P. Bowditch, of the Boston society; Prof. Franz Boas, of the New York society; Miss Alice Fletcher, of the Baltimore society; Mrs. Sara Y. Stevenson, of the Pennsylvania society; Dr. George A. Dorsey, of the Chicago society; Dr. George William Bates, of the Detroit society; Prof. M. S. Slaughter, of the Wisconsin society; Prof. H. N. Fowler, of the Cleveland society; Dr. George Grant MacCurdy, of the Connecticut society; Dr. W. J. McGee, of the Missouri society; Prof. M. Carroll, of the Washington society; Dr. Duren J. H. Ward, of the Iowa society; Hon. H. K. Porter, M.C., of the Pittsburgh society; Mr. Charles F. Lummis, of the Southwest society; Dr. A. L. Kroeber, of the San Francisco society; Mrs. W. S. Peabody, of the Colorado society; Prof. F. W. Putnam, of the Peabody Museum; Mr. W. H. Holmes and Dr. J. W. Fewkes, of the Smithsonian Institution; Hon. J. W. Foster and Dr. Henry Mason Baum, of Washington, D.C.; and Hon. L. Bradford Prince, of Santa Fe, N. Mex.

These gentlemen are men of high character who have given the subject much consideration, and their opinions are entitled to most serious consideration.

Prof. Edgar L. Hewett prepared and presented your committee with a very interesting memorandum on the ruins in Arizona, New Mexico, Colorado, and Utah, which is here incorporated as a part of this report:

PRESERVATION OF AMERICAN ANTIQUITIES

Mr. Patterson. I am directed by the Committee on Public Lands, to whom was referred the bill (S. 4698) for preservation of American antiquities, to report it favorably without amendment, and I submit a report thereon. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that any preson who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined a sum of not more than $500 or be imprisoned for a period of not more than ninety days, or shall suffer both fine an dimprisonment, in the discretion of the court.

Section 2 authorizes the President of the United States, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected, but when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Permits for the examination of ruins, the excavation of archeologicial sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: *Provided*, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings shall be made for permanent preservation in public museums.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Preservation of American Antiquities

House, June 5, 1906.

Mr. Lacy. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 4698.

The clerk read as follows:

A bill (S. 4698) for the preservation of American antiquities.

Be it enacted, etc., That any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon convinction, be fined in a sum of not more than $500 or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

Sec. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: *Provided*, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Sec. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: *Provided*, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gathering shall be made for permanent preservation in public museums.

Sec. 4. That the Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this act.

The Speaker. Is there objection?

Mr. Stephens of Texas. Mr. Speaker, I desire to ask the gentleman whether this applies to all the public lands or only certain reservations made in the bill?

Mr. Lacey. There is no reservation made in the bill of any specific spot.

Mr. Stephens of Texas. I think the bill would be preferable if it covered a particular spot and did cover the entire public domain.

Mr. Lacey. There has been an effort made to have national parks in some of these regions, but this will merely make small reservations where the objects are of sufficient interest to preserve them.

Mr. Stephens of Texas. Will that take this land off the market, or can they still be settled on as part of the public domain?

Mr. Lacey. It will take that portion of the reservation out of the market. It is meant to cover the cave dwellers and cliff dwellers.

Mr. Stephens of Texas. How much land will be taken off the market in the Western States by the passage of the bill?

Mr. Lacey. Not very much. The bill provides that it shall be the smallest area necessary for the care and maintenance of the objects to be preserved.

Mr. Stephens of Texas. Would it be anything like the forest-reserve bill, by which seventy or eighty million acres of land in the United States have been tied up?

Mr. Lacey. Certainly not. The object is entirely different. It is to preserve these old objects of special interest and the Indian remains in the pueblos in the Southwest, whilst the other reserves the forests and the water courses.

Mr. Stephens of Texas. I will say that that bill was abused. I know of one place where in 5 miles square you could not get a cord of wood, and they call it a forest, and by such means they have locked up a very large area in this country.

Mr. Lacey. The next bill I desire to call up is a bill on which there is a conference report now on the Speaker's table, which permits the opening up of specified tracts of agricultural lands where they can be used, by which the very evil that my friend is protesting against can be remedied. It is House bill 17576, which has passed both bodies, and there is a conference report for concurrence as to one of the details upon the Speaker's table.

Mr. Stephens of Texas. I hope the gentleman will succeed in passing that bill, and this bill will not result in locking up other lands. I have no objection to its consideration.

The Speaker. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading, read the third time, and passed.

On motion of Mr. Lacey, a motion to reconsider the vote by which the bill was passed was laid on the table.

[Public Law 94–579—Oct. 21, 1976]

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

An act to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

WITHDRAWALS

Sec. 204. (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b) (1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c) (1) On and after the dates of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon a request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reported, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) Within the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which lead to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional,

State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present, and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable or a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within fifteen years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)).

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l)(1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

PUBLIC LANDS COUNCIL,
Washington, D.C.,
NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo.,
NATIONAL WOOL GROWERS ASSOCIATION,
Washington, D.C.,
JULY 12, 1979.

Senator MIKE GRAVEL,
Dirksen Building,
Washington, D.C.

DEAR SENATOR GRAVEL: A formal note to insure our support for your bill S. 1176, "An Act for The Preservation of American Antiquities."

Please keep us informed as to any action which you feel we could undertake to enhance enactment of this measure.

Sincerely,

RONALD A. MICHIELI,
Director, Government Affairs for Land and Natural Resources-NCA, Executive Director-PLC.

[Western States Legislative Forestry Task Force]

A RESOLUTION RELATIVE TO LIMITING PRESIDENTIAL POWERS UNDER ANTIQUITIES ACT

Whereas, the "property clause" of the U.S. Constitution reserves unto Congress the authority to appropriate federal lands; and

Whereas, the 95th Congress considered legislation directed to appropriation of large quantities of federal lands in Alaska and refused to pass such legislation; and

Whereas, the 96th Congress is again considering such federal land appropriation proposals; and

Whereas, in December of 1978, notwithstanding the appropriate provisions of the U.S. Constitution, acted to declare 17 National Monuments in Alaska totaling some 56 million acres, relying upon provisions of the Antiquities Act of 1906; and

Whereas, the Antiquities Act is intended to grant to the President the authority to protect "objects of historic or scientific interest" in the "smallest area compatible with the proper care and management of the objects"; and

Whereas, the President in declaring such 17 National Monuments clearly exceeded the authority granted pursuant to the Antiquities Act of 1906 and usurped authority reserved to Congress; and

Whereas, the Secretary of Interior withdrew an additional 40 million acres of federal lands in Alaska as wildlife refuges in reliance upon authority granted the Secretary of Interior by the BLM Organic Act with respect to emergency situations; and

Whereas, the action of the Secretary of Interior was precipitous and not for the purpose of dealing with a true emergency; and

Whereas, the actions of the President and his Secretary of Interior resulting in the incredibly large federal land withdrawals have caused substantial harm to many Alaskans as well as clouding the ability of our nation to realize important energy and mineral potential contained in such lands; and

Whereas, the Congress may remedy the harm caused by the precipitous acts of the President and the Secretary of the Interior

Now, Therefore, Be It Resolved that the Western States Legislative Forestry Task Force does hereby support legislation that would:

1. Require any proposal to create National Monuments aggregating more than 5000 acres of federal land located in any one state be submitted to Congress for approval by joint resolution under expedited procedures similar to those under the Alaska Natural Gas Transportation Act; and

2. Provide that land uses validly occurring at the time a National Monument is established will not be prohibited unless they directly impact historic or archaeological sites or remains; and

3. Define "objects of historic or scientific interest" as used in the Antiquities Act of 1906 to include only historic, archaeological remains associated with human behavior; and

4. Provide more direct, positive congressional review of administrative land withdrawals

Be It Further Resolved that the Executive Director be and he is hereby authorized and directed to forward copies of this Resolution to the President of the United States, the Secretary of Interior, the Congressional Delegations and Governors of the Task Force member states.

Upon motion by Representative Oral Freeman of Alaska, seconded by Senator Lowell Peterson of Washington, the foregoing Resolution was unanimously passed and adopted by the Western States Legislative Forestry Task Force at a regular meeting thereof on March 26, 1979, held in the Rayburn House Office Building in Washington, D.C.

RICHARD A. ROBYN,
Executive Director.

RESOLUTION

Be it Resolved by the House of Representatives:

Whereas the vast areas of land in Alaska withdrawn under the 1906 Antiquities Act and the Federal Land Policy and Management Act of 1976 by the President of the United States and the Secretary of the Interior far exceed any reasonable concern for the temporary protection of the land until such time as Congress can dispose of it as provided for in 17(d) (2) of the Alaska Native Claims Settlement Act of 1971; and

Whereas the 1906 Antiquities Act was originally intended to protect archaeological sites in the Southwest, and not to close large tracts of land to exploration for and development of oil, gas, minerals, and other natural resources; and

Whereas the effect of creating 17 national monuments in Alaska, covering approximately 56,000,000 acres under the 1906 Antiquities Act, and withdrawing approximately 40,000,000 acres under sec. 204(c) of the Federal Land Policy and Management Act of 1976, not only prevents the exploration for and utilization of natural resources for the benefit of the whole Nation, but also blocks access to adjacent areas which have high natural resources potential; and

Whereas it makes no sense that while the Nation is experiencing a continuing and increasing dependency on foreign oil at great cost, and frequently from unstable and unreliable foreign sources, the Nation should foreclose opportunities for development of energy resources and non-fuel minerals at home; and

Whereas a majority of the American public favors exploration for energy resources within federal wilderness areas;

Be it resolved that the Alaska House of Representatives wholeheartedly supports proposed legislation presently being circulated in Congress that would curb the powers of the President of the United States and of the Secretary of the Interior to arbitrarily withdraw federal land under the 1906 Antiquities Act and the Federal Land Policy and Management Act of 1976 without Congressional approval; and be it

Further resolved that the Alaska House of Representatives favors an amendment to the 1903 Antiquities Act to require that the creation of any national monument in excess of 5,000 acres under the Act be approved by Congress by concurrent resolution; and be it

Further resolved that existing land uses, including hunting, mining, guiding, hiking, boating, and use of motorized vehicles, not impacting the historic or archaeological sites or remains for which a national monument was created under the 1906 Antiquities Act, be allowed to continue; and be it

Further resolved that a more precise definition of "objects of historic or scientific interest" as used in the 1906 Antiquities Act be required to avoid having almost any land proclaimed a national monument; and be it

Further resolved that sec. 204(c) of the Federal Land Policy and Management Act of 1976 be amended to require Congressional approval for administrative land withdrawals instead of the existing Congressional veto.

Copies of this resolution shall be sent to the Honorable Jimmy Carter, President of the United States; the Honorable Cecil D. Andrus, Secretary of the Interior; the Honorable Henry S. Jackson, Chairman of the Senate Committee on Energy and Natural Resources; the Honorable Morris K. Udall, Chairman of the House Committee on Interior and Insular Affairs; the Honorable John B. Breaux, Chairman of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment; the Honorable John M. Murphy, Chairman of the House Committee on Merchant Marine and Fisheries; the members of the Special Task Force on Alaska Lands; John W. Katz, Special Counsel to the Governor of Alaska on (d) (2) Lands; Earl Miller, President of the Citizens for the Management of Alaska Lands; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Mr. GRAVEL. The distinguished chairman of the Parks and Recreation Subcommittee, Senator BUMPERS, has most graciously offered to hold hearings on S. 1176 in the near future and I would hope that the issues I have raised here could be thoroughly examined by the committee at that time. I am sure that they also will come to the conclusion that the 1906 Antiquities Act has been greatly abused and that changes are required most expeditiously.

I would just like to state that I am very grateful to the floor managers for this opportunity to present my thoughts on this legislation. The efforts of my staff have been coordinated with those of the staff of the Senator from Arkansas, and I believe the minority as well, to seek a date for hearings on the bill that I had introduced (S. 1176).

Apparently, those hearings have been scheduled tentatively for the 13th of September. I wonder if there has been a final decision made on that. It was my hope originally to couple my efforts with this legislation, but this legislation has moved along faster than I could have my legislation move. Obviously, this bill before us has merit and should go forward. But I am deeply concerned that we can arrive at some focus on this other legislation for a lot of reasons, not the least of which, Mr. President, is that the President is misusing the law.

For those Senators who want to avail themselves of the information, I am placing in the RECORD a colloquy that took place in 1976 between Mr. Stephens and Mr. Lacey where they talked about the intent of the Antiquities Act. It is very clear that the intent of that act was not to set aside large blocks of Federal domain, but to set aside small sites to protect artifacts, and scientific sites. That use has been totally exaggerated. In fact, I think it would be better if we called it misuse.

In the case of Alaska the Secretary of the Interior and the President of the United States were pressing for passage lands legislation in the Congress and Secretary Andrus and even the President had said repeatedly, "If that legislation does not pass the Congress, we are going to invoke the Antiquities Act." It was a clear threat and had nothing to do with the merits of what that Antiquities Act was intended for; those merits being a protection of a scientific or historic site. When legislation was not effected in the Congress the President of the United States, in my mind, totally breached the law.

His actions are now being litigated by the sovereign State of Alaska, by the Anaconda Co., and a Native corporation of Alaska, all litigating the Federal Government over this abusive use of existing law. It becomes almost ironic that the President would cite that law for the taking of 56 million acres of land in Alaska creating national monuments when in no other part of Federal law can the President unilaterally and permanently take more than 5,000 acres. In this particular case he took 56 million acres. The impact of this and other withdrawals is to take 40 million acres of sedimentary basins out of U.S. inventory of potential oil and gas.

So that you, Mr. President, may understand what 40 million acres of sedimentary basins means in Alaska, the Prudhoe Bay find, which has one-third of all the oil in the U.S. reserve and one-fourth of all the U.S. gas in the U.S. reserve, occupies 190,000 acres. Forty million acres will be taken out of inventory. Frequently in meetings I have had with the White House staff, we are told, "Even if we had gotten all the money we needed through oil and gas, oil and gas are not out there to be discovered. Therefore, we do not need the money in that area of our economy." What an irony, that they have established a self-fulfilling prophecy by withdrawing this kind of acreage through the specious exercise of a law which was not intended for this purpose.

I thank my colleague from Arkansas for giving me this time. I have essentially stated my piece. My hope is that the committee will grant us the hearing so that the State of Alaska can make its case and so that the Secretary of the Interior can come before the Energy Committee and state his reasons for the use of the Antiquities Act on the scale that it was used in Alaska. I think that would be edifying to the Senator from Arkansas. It would also be edifying to the committee, to the Congress, and to anybody else who is concerned about the misuse of power.

I make that respectful request with regard to those hearings and thank my colleague for the accommodation he has already indicated both publicly and privately to me in this regard.

Mr. BUMPERS. I would say to the Senator from Alaska that we have set September 13 as the date for the hearings I promised him on the Antiquities Act.

Mr. President, I move adoption of the committee amendments to S. 490.

The PRESIDING OFFICER. If there is no further amendment, the question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. BUMPERS. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1825, Calendar No. 252.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1825) to protect archeological resources on public lands and Indian lands, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. BUMPERS. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the language of S. 490, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 1825), as amended, was passed.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate bill S. 490 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 30 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business extend for not more than 1 hour and that Senators may speak therein up to 20 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

MESSAGES FROM THE HOUSE

At 10:08 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 976) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 640. An act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 244. A joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day.

ENROLLED BILLS SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills:

S. 976. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980; and

H.R. 1786. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the bill (S. 230) to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes, with an amendment; that the House insists upon its amendment and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. WAXMAN, Mr. SATTERFIELD, Mr. PREYER, Mr. BROYHILL, and Mr. CARTER were appointed managers of the conference on the part of the House.

The message also announced that Mr. Boland was appointed a manager of the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 4389, an act making appropriations for the Departments of Labor, and Health, Education, Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes, vice Mr. FLOOD, resigned.

At 5:28 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House disagrees to the amendments of the Senate to H.R. 111, an act to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MURPHY of New York, Mr. DINGELL, Mr. BOWEN, Mr. HUBBARD, Mr. BONIOR, Mr. WYATT, Mr. ZABLOCKI, Mr. FASCELL, Mr. HANLEY, Ms. HOLTZMAN, Mrs. SCHROEDER, Mr. HARRIS, Mr. MCCLOSKEY, Mr. BAUMAN, Mr. CARNEY, Mr. Mr. BROOMFIELD, Mr. DERWINSKI, and Mr. FISH were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 244. A joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 168. A concurrent resolution providing for an adjournment of the House from August 2 to September 5, 1979, and a recess of the Senate from August 3 to September 5, 1979.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 244. A joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 30, 1979, he presented to the President of the United States the following enrolled bill:

S. 976. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 885. A bill to assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes (Rept. No. 96–272).

By Mr. LONG, from the Committee on Finance, with an amendment:

S. 566. A bill to authorize a targeted fiscal assistance program for payment to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes (Rept. No. 96–273).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

S. 1204. A bill to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes (Rept. No. 96–274).

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 213. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 566. Referred to the Committee on the Budget.

By Mr. PELL, from the Committee on Rules and Administration:

S. Res. 170. A resolution to require documentation for reimbursements out of Senators' official office expense accounts from the contingent fund of the Senate (Rept. No. 96–275).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Charles William Duncan, Jr., of Texas, to be Secretary of Energy.

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, I am today filing the report of the Committee on Energy and Natural Resources on the President's nomination of Charles W. Duncan, Jr., to be Secretary of Energy. The committee unanimously recommends that the Senate confirm Mr. Duncan for this critical job. The committee held hearings on Mr. Duncan's nomination this morning and concluded by recommending approval by a 17 to 0 vote.

As a member of the Committees on Armed Services, I participated in Mr. Duncan's confirmation hearings for his present position. I was impressed at that time by his record of accomplishment in private industry. Since then, Mr. Duncan has performed well at the Department of Defense.

The broad array of programs administered by the Department of Energy, many of which are highly controversial, present a management challenge of the highest order. The Secretary of Energy must be both capable and credible. Mr. Duncan's background indicates that he has the capablity to meet that challenge.

I ask unanimous consent that a biographical sketch of Mr. Duncan be printed in the RECORD at this point.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

Charles William Duncan, Jr., Deputy Secretary of Defense, nominated by President Jimmy Carter, January 13, 1977, confirmed by U.S. Senate, January 31, 1977, took oath of office same day at the Pentagon; born in Houston, Tex., September 9, 1926; son of Mr. and Mrs. Charles William Duncan, Sr., of Houston, Tex.; attended public schools in Houston; B.S., chemical engineering, Rice University, 1947; 2 years of graduate study in management, University of Texas; roustabout and chemical engineer, Humble Oil & Refining Co.; served in U.S. Army Air Corps in World War II; joined Duncan Coffee Co., predecessor of Duncan Foods Co., 1948; elected administrative vice president, 1957; president, 1958; elected to the Coca-Cola Co. board of directors when Duncan Foods Co. merged into the Coca-Cola Co., 1964; lived in London, England, for 3 years and had responsibility for the company's European operation; elected executive vice president of Coca-Cola Co., May 1970; elected president, November 1971; resigned in May 1974 to return to Houston; held following positions and board memberships when nominated Deputy Secretary of Defense: chairman and director, Rotan Mosle Financial Corp.; board of directors: A.P.S., Inc., Coca-Cola Co., Great Southern Corp., Southern Railway System; advisor-director, Texas Commerce Bank Shares. Inc.; Advisory Council, Trust Co. of Georgia; member, vice chairman, Rice University; board of trustees: Rice University, St. John's School, Texas Children's Hospital, all of Houston, Tex.; Emory University, Atlanta, Ga.; board of directors: Houston Chamber of Commerce, Rice Center of Community Design and Research, Houston Symphony Society; board of visitors, Cancer Foundation, University of Texas; married to the former Anne Smith; two children: Charles William Duncan III, 19; Mary Anne, 17.

ORDER FOR JOINT REFERRAL—S. 1574

Mr. FORD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Oklahoma (Mr. BELLMON), S. 1574, to amend the Food, Drug, and Cosmetic Act, the Federal Alcohol Administration Act, to provide for health warning labels on alcoholic beverages, which was referred to the Committee on Labor and Human Resources, be re-referred jointly to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation, with instructions that when ordered reported by the Committee on Labor and Human Resources, the Committee on Commerce, Science, and Transportation then have 20 days in which to report the bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—this request has been cleared with the majority, the minority, and the committee chairmen?

Mr. FORD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. ARMSTRONG, Mr. BAKER, Mr. BELLMON, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JAVITS, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LAXALT, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. PACKWOOD, Mr. PERCY, Mr. PRESSLER, Mr. ROTH, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, and Mr. YOUNG):

S. 1597. A bill to amend the Internal Revenue Code of 1954 to provide for the economic stimulation of the economy through increased savings and investment; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. EXON, Mr. MOYNIHAN, Mr. BAUCUS, Mr. HOLLINGS, Mr. LEAHY, Mr. NUNN, Mr. TALMADGE, Mr. COCHRAN, Mr. COHEN, Mr. RANDOLPH, Mr. EAGLETON, Mr. ROTH, Mr. JAVITS, Mr. CHILES, Mr. GOLDWATER, Mr. SCHMITT, Mr. BELLMON, Mr. MCGOVERN, Mr. ZORINSKY, Mr. SARBANES, Mr. LUGAR, Mr. DANFORTH, Mr. WILLIAMS, Mr. STEWART, Mr. DOLE, Mr. HAYAKAWA, Mr. DECONCINI, Mr. LEVIN, Mr. PACKWOOD, Mr. GRAVEL, Mr. DURENBERGER, Mr. Domenici, Mr. Bentsen, Mr. Hatfield, Mr. Pressler, Mr. Bradley, Mr. Stone, and Mr. Huddleston):

S. 1598. A bill specifying the period within which contributions, equivalent to social security taxes, should be made by States having in effect agreements for social security coverage of State and local employees under Section 218 of the Social Security Act; to the Committee on Finance.

By Mr. GRAVEL:

S. 1599. A bill entitled the Federal Water Projects Financing Act of 1979; to the Committee on Environment and Public Works, with instructions that if and when reported then it be referred to the Committee on Energy and Natural Resources for 15 calendar days exclusive of periods when the Senate is out for more than 3 days.

By Mr. KENNEDY (for himself, Mr. Bellmon, Mr. Baker, Mr. Boschwitz, Mr. Bumpers, Mr. Cochran, Mr. Cranston, Mr. Culver, Mr. Danforth, Mr. Domenici, Mr. Durkin, Mr. Helms, Mrs. Kassebaum, Mr. McClure, Mr. Metzenbaum, Mr. Nelson, Mr. Randolph, Mr. Riegle, and Mr. Simpson):

S. 1600. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER:

S. 1601. A bill to assure that the Department of Energy Organization Act collects and compiles sufficient and timely information from oil companies with which to monitor a steady supply of needed crude oil and derived products; to the Committee on Energy and Natural Resources.

S. 1602. A bill to provide for the appointment by the President of a Special Investigator of Petroleum Fuels Shortages; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself, Mr. Nelson, Mr. Riegle, Mr. Jackson, Mr. Burdick, Mr. Levin, Mr. Tsongas, Mr. Goldwater, Mr. Weicker, Mr. Danforth, Mr. Hayakawa, Mr. Warner, Mr. DeConcini, Mr. Percy, and Mr. Javits):

S.J. Res. 99. Joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

By Mr. SASSER:

S.J. Res. 100. Joint resolution authorizing the President to proclaim May 1, 1980, "National Bicycling Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. Armstrong, Mr. Baker, Mr. Bellmon, Mr. Boschwitz, Mr. Chafee, Mr. Cochran, Mr. Cohen, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Garn, Mr. Goldwater, Mr. Hatch, Mr. Hatfield, Mr. Hayakawa, Mr. Heinz, Mr. Helms, Mr. Humphrey, Mr. Javits, Mr. Jepsen, Mrs. Kassebaum, Mr. Laxalt, Mr. Lugar, Mr. Mathias, Mr. McClure, Mr. Packwood, Mr. Percy, Mr. Pressler, Mr. Roth, Mr. Schmitt, Mr. Schweiker, Mr. Simpson, Mr. Stafford, Mr. Stevens, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Warner, Mr. Weicker, and Mr. Young):

S. 1597. A bill to amend the Internal Revenue Code of 1954 to provide for the economic stimulation of the economy through increased savings and investment; to the Committee on Finance.

(The remarks of Mr. Danforth when he introduced the bill appear earlier in today's proceedings.)

By Mr. NELSON (for himself, Mr. Exon, Mr. Moynihan, Mr. Baucus, Mr. Hollings, Mr. Leahy, Mr. Nunn, Mr. Talmadge, Mr. Cochran, Mr. Cohen, Mr. Randolph, Mr. Eagleton, Mr. Roth, Mr. Javits, Mr. Chiles, Mr. Stone, Mr. Goldwater, Mr. Schmitt, Mr. Bellmon, Mr. McGovern, Mr. Zorinsky, Mr. Sarbanes, Mr. Lugar, Mr. Danforth, Mr. Williams, Mr. Stewart, Mr. Dole, Mr. Hayakawa, Mr. DeConcini, Mr. Levin, Mr. Packwood, Mr. Gravel, Mr. Durenberger, Mr. Domenici, Mr. Bentsen, Mr. Hatfield, Mr. Pressler, Mr. Bradley, and Mr. Huddleston):

S. 1598. A bill specifying the period within which contributions, equivalent to social security taxes, should be made by States having in effect agreements for social security coverage of State and local employees under section 218 of the Social Security Act; to the Committee on Finance.

STATE SOCIAL SECURITY DEPOSIT ACT OF 1979

Mr. NELSON. Mr. President, today I am introducing a proposal to allow States to deposit social security contributions related to the employment of State and local employees within 30 days following the end of the calendar month in which covered wages are paid.

Presently, State and local governments and their employees are covered under the social security system through agreements entered into between the Federal Government and the States. Liability for the collection and payment into the Treasury of contributions for local government employees as well as State government employees rests with each State. Payments from local entities are made by the locality to the State which, in turn, is responsible for assuring the correctness of those payments and depositing them with the Treasury.

Currently States deposit their social security contributions four times a year, 45 days after the end of each calendar quarter. However, on November 20, 1978, the Department of Health, Education, and Welfare published final regulations designed to require more frequent deposits.

Under the new regulations which become effective July 1, 1980, deposits will be required within 15 days following the end of the first and second months in a calendar quarter and 45 days following the close of the third month in the quarter.

As chairman of the Social Security Subcommittee, I conducted a hearing on January 29, 1979, to examine the impact of the new HEW regulations on State and local governments and on the social security trust funds.

HEW and the State witnesses offered entirely different views as to the impact of the new depository regulations on State and local governments, both financially and administratively. In particular, there was a significant difference between each side's estimate of the amount of interest income State and local governments would lose as a result of the new regulations and whether these governments would incur an increase in paperwork and administrative costs.

HEW argued that the continuation of the quarterly deposit system would permit the States to retain about $200 million a year in interest income which HEW contends should go to the social security trust funds. Commissioner Ross testified that even under the new regulations, the States would continue to earn some $75 million in interest income, more than enough to offset any increase in the States' administrative costs. He also said that if the States employed more efficient collection procedures, they should have no difficulty in complying with the new 15-day deposit schedule.

State witnesses alleged they could not possibly comply with the new deposit schedule. They testified they would need a minimum of 22 working days following the end of each month to deposit their social security contributions. The States also challenged HEW's estimate of the amount of interest income the States would continue to earn under the new regulations. State witnesses did not offer their own estimate of continued interest earnings, but they indicated their administrative costs would increase by $5 million a year.

After reviewing the hearing record, I am convinced the present quarterly deposit schedule should be changed. There is no justification for allowing the States to retain some $200 million a year in interest income at the expense of the social security trust funds. This is far in excess of what is needed by the States to cover their reporting and collection expenses. However, any change in the schedule must be reasonable and must take into account the administrative problems and costs the States and municipalities incur.

State governments have taken great care over the years to verify the accuracy of payments made for each social security participant. They have maintained highly accurate records in the reporting of earnings on which social security benefits are calculated. Based upon hearings and extensive discussions with State and local representatives, 15 days is simply not enough time to allow verification of reports from the hundreds of thousands of cities, towns, and local school districts participating in the social security program.

A 30-day deposit schedule would be a fair compromise between HEW's proposal and the present quarterly system. Representatives of State and local governments agree they can meet this 30-day schedule.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1598

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That (a) this Act may be cited as the State Social Security Deposit Act of 1979.

(b) subparagraph (A) of section 218(e) (1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the 30-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and.

(c) The amendment made by subsection (b) shall be effective with respect to the payment of taxes (referred to in section 218(e) (1) (A) of the Social Security Act, as amended by subsection (b)) on account of wages paid on or after July 1, 1980.

(d) The provisions of section 7 of Public Law 94–202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (b) of this Act.●

● Mr. STEWART. Mr. President, I am pleased to join with the Senator from Wisconsin (Mr. Nelson) and others in introducing the State Social Security Deposit Act of 1979. This bill will permit States to deposit social security contributions from State and local employees within 30 days following the end of the month in which covered wages are paid.

Mr. President, this legislation is a response to the Department of Health, Education, and Welfare regulations that will require States to make deposits within 15 days following the end of the first and second months within 45 days after the close of the quarter. These regulations will result in administrative chaos for State and local governments. It would also increase the cost to State and local governments of participating in the social security system.

I believe that the Social Security Deposit Act of 1979 is a responsible alternative to those regulations. This bill represents a compromise between the existing deposit scheme whereby States make quarterly deposits and the HEW proposed deposit scheme. This bill would insure that States make timely deposits of social security contributions, yet it would not impose unreasonable time constraints on them. It would permit States to make their deposits without disrupting their existing administrative mechanisms and procedures.

Mr. President, I urge my colleagues to support this legislation. It is an opportunity for us to show our concern for and responsiveness to the needs of our State and local governments while maintaining the fiscal integrity of the social security trust fund.●

By Mr. GRAVEL:

S. 1599. A bill entitled the "Federal Water Projects Financing Act of 1979"; to the Committee on Environment and Public Works, and if and when reported, then to the Committee on Energy and Natural Resources for 15 calendar days, exclusive of periods when the Senate is out of session for more than 3 days, by unanimous consent.

FEDERAL WATER PROJECTS FINANCING ACT OF 1979

Mr. GRAVEL. Mr. President, today I am introducing legislation proposed by the President to implement cost sharing reforms for Federal water projects in accordance with his message to the Congress of June 6, 1978.

The proposed bill would apply to projects constructed by the Bureau of Reclamation, the Corps of Engineers, the Soil Conservation Service, and the Tennessee Valley Authority.

States would be required to commit at the front end of project development 10 percent of project costs attributable to vendible outputs. States would be responsible for 5 percent of the project costs attributable to nonvendible outputs, such as flood control, navigation, and fish and wildlife protection. The committed financing share would be spent on a pro rata basis, directly proportionate to Federal expenditures.

The legislation would impose a "cap" on a State's contribution of one-quarter of 1 percent of its general revenues per project per year, thus protecting small States.

In addition to contributing to project costs, States would receive a 10-percent share of revenues derived from sales of water and power. Again, they would be paid back on the same schedule and proportion as is the Federal agency.

In cases where more than one State would benefit from a project, the home State would serve as agent and obtain cost contributions from other benefiting States.

The proposed bill would also standardize cost-sharing for localities in the construction of flood protection projects. Currently, localities are responsible for 20 percent of the cost of nonstructural flood control projects and land, easements and rights-of-way for structural projects. The legislation would equalize cost sharing for all local flood control projects at 20 percent. This would eliminate a bias toward structural flood control solutions prompted by the possibility of the Federal Government assuming a greater share of the project cost.

The State share under this proposal is considerably lower than some of the options suggested in December 1977 by the administration task force on cost-sharing established among the Federal agencies during the President's water resources policy review.

The legislation is not primarily intended to alleviate the burden on the Federal budget. The major objective is that the State's responsibility for the kind of projects, their dimensions and timing be decidedly increased.

In January, I had the opportunity to review a draft of the President's cost-sharing proposal. At that time, I felt the draft proposal was unworkable. I made my concerns known to the administration and was assured those concerns would be addressed. Considerable reworking of the draft followed.

The final proposal demonstrates the cooperative attitude with which these major issues were resolved. I commend President Carter and his administration for this attitude. I am pleased with the final proposal which was transmitted to the Congress. Cost sharing, or joint financing, of major Federal water projects is an idea which has been recommended for years, and it is clearly time now to consider it actively, and move a workable plan forward. The administration's bill is a good place to begin. This is not to say, however, that all of my concerns or the concerns of my colleagues have been satisfied. Nevertheless, I feel the President's proposal can be worked with as a basis for the development of cost-sharing legislation which will be acceptable to both the President and the Congress.

In March I joined 23 Senators in support of Senate Resolution 83, relative to national water resources policy. That resolution expressed "the sense of the Senate" that water resources policies developed by the executive branch should be implemented through congressional action.

Many have indicated that they "support the concept" of cost sharing, but the time has now come to put the support into practical and positive terms. I believe the administration has provided us with a reasonable beginning, and it is my intention to move forward to develop a final program based on many of their concepts.

I personally feel the most positive feature of this legislation is that relating to local flood protection. This proposal would replace existing local flood control cost-sharing requirements by requiring local entities to pay for 20 percent of project costs allocated to flood control no matter how the flood control is achieved, whether by structural or nonstructural means and no matter which agency does the construction. This change in flood control cost sharing follows the 20-percent rule now established in section 73 of Public Law 93–251, the Water Resources Development Act of 1974 which concerns cost sharing by nonstructural means. The local entities responsible for the 20-percent payment would be allowed to provide lands, easements, and rights-of-way—or a combination of both—to meet the requirement. This improvement in local cost sharing would be separate and apart from the State cost sharing established by the bill.

I would urge my colleagues in the Congress to review the President's proposal on cost sharing and would welcome their comments and recommendations regarding this legislation.

Mr. President, I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Federal Water Projects Financing Act of 1979."

DECLARATION OF POLICY

Sec. 2. It is hereby declared to the intent of Congress that States should have a greater involvement in decisions affecting the development and management of water and related land resources, and an increased responsibility in the financing of Federal and Federally-assisted water projects and programs, and that the conflicting rules governing cost sharing for flood damage reduction should be reconciled; therefore, the Congress hereby establishes new financing, cost and revenue sharing levels for various project purposes.

DEFINITIONS

SEC. 3. For the purpose of this Act:

(a) The term "project" means a land acquisition or construction activity which is financed, wholly or in part, from appropriated funds by the Corps of Engineers of the Department of the Army, the Bureau of Reclamation of the Department of the Interior, the Tennessee Valley Authority, or the Soil Conservation Service of the Department of Agriculture, as an independent unit or a separable addition to an existing facility within a specified area for the conservation, utilization, control, development, or management of water and related land resources.

(b) The term "non-Federal entity" means a State or any public entity now existing or henceforth created under State law or interstate compact, or any private entity, having authority to contract with the Federal Government in the implementation of a project.

(c) The term "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam or the Northern Mariana Islands.

(d) The term "agent State" means a State in which a project is wholly or partially located.

(e) The term "vendible outputs" means the beneficial products, services, or activities listed below:

1. Agricultural water supply—the provision of water, including storage, distribution, and drainage facilities, for the production of agricultural commodities.

2. Municipal and industrial water supply—the provision of water, including storage facilities, for domestic, municipal and industrial uses, including all other uses except agriculture.

3. Hydroelectric power—the provisions for production of electricity by converting the energy of flowing water, including Federal transmission and marketing facilities.

(f) The term "in kind" means those lands, easements, rights-of-way, relocations and other real property interests necessary to and a part of a project.

(g) The term "implementation" means all planning and development activities occurring subsequent to authorization of a project for construction and which are necessary to produce the intended products, services, or activities. It does not include operation and maintenance of a project.

(h) The term "financing share" means the division among Federal entities and States of those funds necessary for implementation of a project.

(i) The term "cost share" is differentiated from financing share in that cost shares may be satisfied by in kind contributions or by monetary contributions over time in lieu of cash payments at the time that costs are incurred.

(j) The term "revenue sharing" means the division among Federal entities and States of net operating revenues from vendible outputs of a project.

(k) The term "net operating revenues" means gross receipts from vendible outputs less all operation and maintenance costs allocated to vendible outputs.

STATE FINANCING AND REVENUE SHARING FOR VENDIBLE AND NONVENDIBLE PROJECT OUTPUTS

SEC. 4. (a) Participation by the Corps of Engineers of the Department of the Army, the Bureau of Reclamation of the Department of the Interior and the Tennessee Valley Authority in the acquisition of land for, or construction of a Federal water resource project shall be contingent upon the receipt of a binding commitment from one or more of the agent States to fund the total State financing share consisting of:

(1) Ten percent of all implementation costs allocated to vendible outputs as defined in Section 3(e); and (2) 5 percent of all implementation costs allocated to nonvendible outputs, except as limited by subsection (b) below.

(b) For each project subject to the requirements of subsection (a) an agent State's annual financing share is not to exceed ¼ of 1 percent of its general revenues in the State's fiscal year preceding the fiscal year in which financing share payments are required.

(c) The total State financing share as required by subsection (a) shall be determined by the Federal agency responsible for the project. The State's share shall be paid to the Federal Government by the agent State or States and contributions to defray this requirement in whole or in part may be made by other benefiting States to an agent State. If an agent State does not wish to contribute, with its consent, other States may contribute the required total State financing share.

(d) The State financing share described in subsection (a) through (c) of this section shall be based on the amount of Federal obligations for the project for each fiscal year commencing with the initiation of land acquisition or construction, whichever comes first. Payments of such share shall be made to the Treasury of the United States no later than 6 months after the end of the fiscal year in which such Federal funds have been obligated and shall be credited to miscellaneous receipts. Federal obligations for implementation activities carried out prior to initiation of land acquisiton or construction shall be treated as if they occurred during the year in which land acquisition or construction funds were first obligated.

(e) A share of the net operating revenues from the sale of vendible outputs of a project affected by this act shall be paid annually to each agent State participating in the financing of the project. The State's share of net operating revenues for each project shall be determined by the Federal agency responsible for marketing the project's vendible outputs pursuant to the guidelines promulgated by the Water Resources Council under section 6. Each State's share of net operating revenues shall bear the same ratio as that State's share in financing of project implementation as specified in this section. This sharing shall continue as long as revenues are produced by the project.

(f) There are hereby authorized to be appropriated to each agency responsible for a project such sums as may be necessary to carry out subsection (e) of this section.

NON-FEDERAL ENTITY COST SHARES FOR FLOOD DAMAGE REDUCTION

SEC. 5. (a)(1) Participation by the Corps of Engineers of the Department of the Army, the Bureau of Reclamation of the Department of the Interior, the Soil Conservation Service of the Department of Agriculture and the Tennessee Valley Authority in the acquisition of land or the construction of a project to reduce flood damages shall be contingent upon the receipt from one or more non-Federal entities of a binding commitment for payment of a total of 20 percent of structural or non-structural project implementation costs allocated to flood damage reduction. The cost sharing requirement is in addition to the financing requirements of Section 4 and supersedes all other costs sharing requirements for implementation of flood damage reduction projects.

(2) The non-Federal payment required by this Section may be made in cash or in kind (i) prior to commencement of project construction, (ii) during project construction, or (iii) in annual installments if the non-Federal entity enters into a binding contract with the United States Government to pay its proportionate share of implementation costs in not to exceed 10 annual installments beginning with commencement of project construction. When the Federal Government finances the required non-Federal cost share for a project, such financing shall have the effect of a loan, and the amount of such financing shall be repaid by the non-Federal entity on an annual basis and at the rate of interest determined by the Secretary of the Treasury for each fiscal year, beginning with the fiscal year in which project construction commences. The interest rate for each fiscal year shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding the beginning of each fiscal year on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 per centum. The computation shall be made as of the first day of each fiscal year, and the rate thus computed shall be used during the succeeding 12 months.

(b) The requirements of subsection (a) in excess of lands, easements and rights-of-way and relocations may be waived in whole or in part in the case of temporary services or facilities provided under existing emergency legislative authorities.

(c) For purposes of this section the 20 percent non-Federal entity cost share may include any combination of monetary and in kind contributions.

GUIDELINES AND REGULATIONS

SEC. 6. To ensure uniformity among the Federal agencies in implementing this Act, the Chairman of the Water Resources Council shall promulgate, within ninety days of enactment of this legislation, guidelines for the Federal agencies' rules necessary to implement this Act. Each of the responsible agencies shall promulgate final rules to implement this Act no later than one-hundred eighty days after its enactment.

WRITTEN AGREEMENT

SEC. 7. After the date of enactment of this Act, a written contract must be entered into between the appropriate Federal department or agency and non-Federal entities prior to initiation of land acquisition or construction specifying the financing, revenue and cost sharing arrangements for each project affected by this Act. Each written agreement shall provide that in the event an agent State does not remit its current cost or financing share, as provided in section 4, for any project to which it is a party, all implementation activities on that project within such State and subject to the requirements of this Act shall be terminated at the earliest practicable date, as determined by the appropriate Federal entity, until such time as the obligations of the State are made current.

TERMS OF THE ACT

SEC. 8. The provisions of this Act shall be applicable to all projects authorized after the date of enactment of this Act.

VOLUNTARY STATE CONTRIBUTIONS

SEC. 9. Voluntary State financing, as described in section 4, of projects authorized prior to enactment of this Act is authorized and encouraged to assist Federal authorities in setting priorities in the implementation of projects previously authorized but for which no construction funds have been appropriated.

INDEPENDENT AND SEPARATE REQUIREMENTS

SEC. 10. The financing and cost sharing requirements of sections 4 and 5, respectively, shall each be separate from and in addition to the other; and, except as provided in subsection 5(a), both shall be in addition to other cost and financing sharing required of non-Federal entities by law or administrative practice.

CHANGES TO EXISTING LAW

SEC. 11. Existing provisions of law and administrative rules which are in conflict with this Act are hereby repealed or superseded to the extent of such conflicts.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. GRAVEL, that the bill introduced by Mr. GRAVEL to implement cost-sharing reforms for Federal water projects, in accordance with the President's message to Congress, or any bill dealing with costsharing for water resources development projects which affects Bureau of Reclamation projects, when reported by the Committee on Environment and Public Works, be referred to the Committee on Energy and Natural Resources for a period of 15 calendar days, exclusive of any period for which the Senate is in recess or adjournment for more than 3 days.

I understand this has been cleared with the Energy Committee and with the minority.

Mr. TOWER. That is my understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. KENNEDY (for himself, Mr. BELLMON, Mr. BAKER, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. COCHRAN, Mr. CRANSTON, Mr CULVER, Mr. DANFORTH, Mr. DOMENICI, Mr. DURKIN, Mr. HELMS, Mrs. KASSEBAUM, Mr. MCCLURE, Mr. METZENBAUM, Mr. NELSON, Mr. RANDOLPH, Mr. RIEGLE, and Mr. SIMPSON):

S. 1600. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan program so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL STUDENT LOAN REFORM ACT

Mr. KENNEDY. Mr. President, I send a bill to the desk, on behalf of myself, Senator BELLMON, and others, and ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. KENNEDY. Mr. President, today I am introducing, for myself and Senator BELLMON, as well as Senators BAKER, CRANSTON, BOSCHWITZ, BUMPERS, COCHRAN, CULVER, DANFORTH, DOMENICI, DURKIN, HELMS, KASSENBAUM, MCCLURE, METZENBAUM, NELSON, RANDOLPH, RIEGLE, and SIMPSON, the National Student Loan Reform Act of 1979.

Mr. President, as a member of the Education Subcommittee since I have come to the U.S. Senate, I have reviewed and worked on a variety of education programs.

I have seen the needs of young people, needs which must be answered. I have seen the needs of their parents, needs which must be answered. And, I have seen the needs of our country for a better educated people—needs which must be answered.

We believe that this particular program, Mr. President, is going to offer new opportunities to young Americans to attend college. It is going to strengthen educational opportunity for millions of Americans who today are denied that opportunity because they have been denied the financing for it. And by strengthening this opportunity we strengthen our country.

The legislation introduced today will help us achieve our objectives and will do so at the same cost as the present student loan programs.

This program is good for the student. It is good for their parents. It is good for higher education. And it is financially sound.

Mr. President, it has been a pleasure to have the opportunity to work with the distinguished Senator from Oklahoma (Mr. BELLMON) on this legislation. I welcome the opportunity to work closely with him and our cosponsors when the Senate Education Subcommittee will consider the higher education legislation this fall in a series of hearings.

Enactment of this legislation will strengthen higher education.

Mr. President, the bill we are introducing today will improve the Federal higher education loan effort, an effort which is an important part of the way in which we help our society to become better educated.

The legislation contains the following features:

It assures the availability of loans to all students who need them;

It assures an amount which will let all students go to college and will let those students go to the college of their choice;

It will make payback mechanisms more flexible so that students will not be suddenly overburdened just as they graduate, when their incomes tend to be lower;

It will take the loan collection burdens off of the colleges and will cut down on defaults by placing collection responsibility in banking agencies; and

It will provide a supplemental loan program for parents of college students who are not able to meet the expected family contribution.

This legislation will cost the same amount as the current collection of student loan programs, which it is reforming: The national direct student loans, the guaranteed student loans and the federally insured student loan programs. There will be no additional cost to the Treasury.

Mr. President, the education of our students cannot be a game of chance; the repayment of loans to the Government cannot be a game of chance. Yet, now, students do not know if they will find a loan to go to school. Yet, now, students do not know if they will get enough to go to school. Yet, now, we do not employ the most effective ways of collecting those loans.

Under the legislation we are submitting today, a regular process will be set up, so that students can know they will get a loan they need, know that it will cover the difference between a reasonable contribution and the cost of going to school—and the Government can know that it is going to be repaid.

I hope that we can incorporate the measure proposed today in the higher education programs which will be reauthorized in the coming months.

The legislation proposed today would work as follows:

The Student Loan Marketing Association (Sallie Mae), a currently existing institution, would expand its activities. It will raise funds through the Federal Financing Bank for dispersal, through the State education agencies, to colleges and universities. The financial aid officers at the campuses would, in turn, provide a loan to every college student who needs one. Need, and the top amount of the loan would be determined by this formula:

First. Cost of going to college—tuition, room and board, fees, books, et cetera,

Minus second. Scholarship and other aid (such as work study funds) granted to the student.

Minus third. A reasonable parental contribution, as figured in the manner in which the contribution is figured for the basic education opportunity grant program.

For instance, if a student goes to a school whose costs are $5,000, and he has a scholarship for $1,000 and a parental contribution of $1,000, he could take a loan of up to $3,000.

Such loans would be due after the student graduated from college or graduate school. They would be payable at 7 percent interest, but no interest would accrue during the time that the student is an undergraduate, nor would interest accrue for undergraduate loans while the student is in graduate school.

The State agencies and Sallie Mae would be responsible for collection of the loans. They would be able to consolidate various loans that the student had taken into one repayment. They would also be able to provide optional repayment terms to the student—adjusting the time repayment for the size of the loan, graduating the repayment schedule, and providing for much lower payments where a student's income is low.

The legislation would also provide a new program for parents. They would be able to borrow an amount of up to the parental contribution from private lenders. This loan would be guaranteed by the Federal Government. Parents would pay the Treasury rate minus 1 percent, while the banks would get the special allowance for these loans that they now get under the guaranteed student loan program.

We need to take this step to assure access to higher education for all the young people of our country. We will allow students to go to college when and where they want—and to repay the loans when they are able.

Mr. President, I ask that the background and explanation statement, as well as the sectional summary of the bill, be printed in the RECORD following my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibits 1 and 2.)

EXHIBIT 1

THE NATIONAL STUDENT LOAN REFORM ACT

BACKGROUND AND EXPLANATION

I. What are the current programs that this program would replace:

Currently, the federal government provides loan aid to students in institutions of higher education through two main means.

First, it provides loan guarantees and subsidies to private lenders to enable them to lend their funds to students. This is the Guaranteed Student Loan Program (GSL). This is the largest federal program. Private lenders choose which college students will receive loans. A loan of up to $2,500 is made. The student repays the loan, after graduation, at 7 percent interest. The federal government guarantees the loan, and provides the lender interest calculated at the Treasury rate plus 3.5 percent. Thus, during the time that the student is in school, the government pays the lender all of the interest which is due; when the student begins repaying, the government pays the difference between 7 percent and the Treasury rate plus 3.5 percent.

The second government program is the National Direct Student Loan Program (NDSL). This provides capital contributions to institutions of higher education. These institutions make backup loans for students who need more money for school than they have been able to get elsewhere. The availability of these loans is very limited, and the loans are much smaller than under the GSL program, averaging $700.

II. What are the advantages of the New legislation over the current programs:

The new legislation provides a program which contains the following advantages over the current programs:

LOAN ASSURANCE

The Guaranteed Student Loan program cannot assure to a prospective college student that he or she will get a loan, which may be necessary before the student can go to the college of his choice, or to college at all. In certain regions of the country, like the west, few banks participate. In certain cycles in the economy, such as the current period, competing demands for capital make loans difficult to obtain in many places. And in all regions and in all cycles, banks have an incentive to loan to better credit risks and those who are more likely to establish other relationships with the bank. Some 70 percent of the loans are made to those who have a prior relationship with the bank.

The NDSL program has limited funds and provides no assurance to students. At 2,700 of the 6,000 institutions which award Federal grants, no student can obtain any NDSL loan.

Under the proposal introduced today, students would be assured that they will get a loan to cover their needs, at all eligible institutions, regardless of region, point in the economic cycle, or poorer economic background.

LOAN AMOUNT

Neither the GSL nor the NDSL program assure that the funds which are provided are related to the need of the student. Under the GSL program, private lenders can usually lend up to $2,500 to anyone, in any economic circumstance—but no more than that to anyone. Nor need it lend any particular amount to anyone. The amount of the NDSL loan is usually much smaller, around $700, and depends upon the amount of the funds available at a particular time at the particular institution and the demands of other students.

Under the proposal introduced today, the financial aide officer will systematically determine an amount available to the student and this amount will cover the student's needs. The formula will be: Cost of attendance at the institution, minus scholarship and other aid, and also minus a reasonable parental contribution.

LOAN PAYBACK

Both the Guaranteed Student Loan and the NDSL programs have straight mortgage payback provisions. The loan is paid, at the respective interest rates, over a ten year period, in equal installments. The rigidity of this schedule places burdens on the students as they are just entering the work world. Those burdens place a great weight on the student who tries to meet them; they contribute to student defaults.

Under the proposal introduced today, the borrower will be able to choose among repayment options. If he chooses, he may repay more of the loan at a time when he is better able to do so. The time to repay will be larger if the loan is larger. The student will be able to graduate repayments over the course of time. Repayments will be lower if the student is earning little money; repayment will be cancelled upon death or total disability.

DEFAULTS

GSL loans are fully guaranteed by the government. NDSL loans are collected by educators rather than financial specialists. These factors contribute to a relatively high default rate. In the GSL program the rate is 10 percent; in the NDSL program it is 17 percent.

Under the proposal introduced today, collection for all loans will be placed in the hands of the state agencies, or, where there is no state agency, or the state agency does not handle such functions, in the hands of Sallie Mae. Experienced financial specialists and collection specialists should reduce the default rate.

PARENTAL PROGRAM

Neither the GSL nor the NDSL programs provide funds for parents of college students. Parents are expected to make a contribution to their children's education. But, often they are unable to come up with this contribution.

Under the proposal introduced today, Sallie Mae will guarantee private lender loans to parents for up to the contribution, and will provide a subsidy to the lenders to make these loans. Lenders should be more willing to lend to parents, who will usually receive smaller amounts than do students under the current programs and who are usually more permanent residents in the community.

CAMPUS FOCUS

The main aid program, the GSL program, is administered off-campus. By putting student loan programs on campus, we give a greater opportunity for the student to receive counseling by the college financial aid officer. We make it easier to consolidate all loans into one repayment schedule.

III. How Will The New Program Work:

A) The program for students would work as follows:

The Student Loan Marketing Association (Sallie Mae), a currently existing institution, would expand its activities. It will raise funds through the Federal Financing Bank for dispersal, through the state education agencies, to colleges and universities. The financial aid officers at the campuses would, in turn, provide a loan to every college and graduate student who needs one. Need, and the top amount of the loan would be determined by this formula:

(1) Cost of going to college (tuition, room and board, fees, books, etc.),

Minus (2) Scholarship and other aid (such as Work Study funds) granted to the student,

Minus (3) A reasonable parental contribution, calculated in the manner in which the contribution is figured for the Basic Education Opportunity Grant program.

For instance, if a student goes to a school whose costs are $5,000, and he has a scholarship for $1,000 and a parental contribution of $1,000, he could take a loan of up to $3,000.

Such loans would be due after the student graduated from college or graduate school. They would be payable at 7% interest, but no interest would accrue during the time that the student is an undergraduate, nor would interest accrue for undergraduate loans while the student is in graduate school.

The state agencies and Sallie Mae would be responsible for collection of the loans. They would be able to consolidate various loans that the student had taken into one repayment. They would also be able to provide optional repayment terms to the student—adjusting the time repayment for the size of the loan, graduating the repayment schedule, and providing for much lower payments where a student's income is low.

B) The program for parents would work as follows:

Parents would be able to borrow an amount of up to the parental contribution from private lenders. This loan would be guaranteed by the federal government. Parents would pay the Treasury rate minus one percent, while the banks would get the "special allowance" for these loans that they now get under the Guaranteed Student Loan Program.

IV. What Will The New Program Cost:

The new program will cost the same amount as the existing programs. Currently, the federal government spends $1.3 billion for existing programs. This is made up of a $970 million expenditure for the GSL program and a $329 million expenditure for the NDSL program.

Improvements can be made without increasing costs for the following reasons:

First, students who borrow under the NDSL program currently repay loans at 3 percent interest. This amount is far below the cost of money to the government and below the 7 percent rate charged under the GSL program. The new proposal would charge all students 7 percent.

Second, the government today pays a heavy subsidy to private lenders to lend under the GSL, the primary program. They receive the Treasury bill rate plus 3.5 percent and only 7 percent of this is paid by the student. The new proposal shifts the lending to the campuses, and uses the Federal Financing Bank rather than private lenders. The government will only pay the difference between 7 percent and the Treasury rate. The new parental program will be smaller than the current GSL program, and in addition, each loan under it will require a smaller subsidy.

Third, the new program should cut defaults. Such defaults in the NDSL program now total over $700 million.

Fourth, in some instances, where the need is less than the current NDSL ceiling, the loan might be smaller than the current subsidized loan.

V. What Will Happen to Independent Students:

Independent students will be expected to provide a reasonable amount from "self-help" to replace the parental contribution. Such self-help might come from summer or school term jobs. Independent students would be able to borrow an amount to make up for the self-help expectation. This amount will be available at the campus, but will be repaid at the rate available to parents in the parental loan program. Such students would continue to get their basic loans at the same rate as that paid by other students, 7 percent.

VI. What Role Will the State Education Agencies Have:

State agencies, which enter into contractual relations with Sallie Mae, will distribute funds to institutions, monitor and audit student loan activity, collect loans, provide information and assistance to students, parents and institutions, and facilitate bank participation in the parental loan program.

VII. What Is the Legislative Timetable:

The higher Education programs—loans, scholarships and institutional aid—are up for reauthorization in this Congress. The House Subcommittee on Post-Secondary Education has been holding hearings on the reauthorization and will continue those hearings this week. The Senate Subcommittee on Education will hold hearings in the fall.

The authors of the proposal introduced today intend to incorporate the National Student Loan Reform Act of 1979 into the higher education reauthorization which emerges from Congress.

Exhibit 2

Sectional Summary

Section 1: Short Title: National Student Loan Reform Act.

Section 2: Statement of Purpose.

To ensure capital availability for student loans by strengthening the campus-based direct loan program.

To adjust repayment schedules, and otherwise improve collection procedures, to make repayment sensitive to ability to repay and to reduce the default rate.

To guarantee loans to eligible borrowers so as to facilitate providing the expected family contributions (or, in the case of independent students, the expected self-help contribution) to the cost of higher education.

Section 3: Amends existing student loan legislation.

A. Phases out existing student loan programs, terminating the authority to make loans under those programs six months after the date of enactment; and

B. The Student Loan Marketing Association (Sallie Mae) is converted to a non-profit corporation. The Federal Government will purchase the existing shareholders' equity. Sallie Mae's powers are expanded, so that it becomes a direct lender to students—in the case of the campus-based program; and it becomes the guarantor of loans made to eligible borrowers—in the case of the bank-based program.

SUBPART I

Authorizes the Association (Sallie Mae) to enter into agreements with eligible institutions, for the purpose of making low-interest loans to students in need, to pursue their course of study.

A. The agreement shall provide that the Association will make payments to eligible institutions.

B. Institutions shall make loans available to all eligible students.

C. The Association shall receive, in return for such payments, notes or other evidence of loans to eligible students orginated by the institution.

D. The Association shall manage cash flow, to minimize the accumulation of the funds not needed immediately for student loans.

Loans must be made subject to such forms, conditions, limitations and requirements as the Association shall prescribe by regulation.

A. Loan amount equals:

Cost of attendance minus the aggregate of . . .

1. Financial assistance under other titles of this Act (basic education opportunity grants, supplemental education opportunity, and college work study).

2. Scholarships, grants, or other loans.

3. The expected family contribution (or, in the case of independent students, the expected self help contribution).

B. Loans will be made only to students:

1. Who have been accepted for enrollment at an eligible institution—or in the case of students already in attendance, who are in good standing academically.

2. Who are carrying at least one-half the normal academic workload.

C. All loans shall be made in accordance with the following terms and conditions:

1. Repayment begins not more than 9 months after the student ceases to carry at least one-half the normal academic workload, and continues a maximum of 15 years; and

2. Repayment may be either in equal installments, or in graduated installments over the term of the loan, at the option of the borrower; and

3. The loan may be repaid in full, at any time, without penalty, at the option of the borrower; and

4. The interest rate shall be 7 percent.

a. except that no interest shall accrue on loans made for undergraduate education, so long as the student borrower is enrolled at least half-time at an eligible institution.

b. interest shall accrue, for loans made for graduate education only, while the student is in school, but that interest may be deferred until repayment begins.

5. No security, nor cosignor, shall be required—except in the case of a student borrower who is a minor unable under law to enter into a billing agreement.

6. Loans will be cancelled, in the case of death of the borrower.

7. Repayment is not required while the student is in school; or for up to three years while the borrower is in the armed forces, is a Peace Corps volunteer, or is a volunteer under the Domestic Volunteer Act of 1973. These periods of deferral do not count toward the 15 year maximum repayment period.

8. The Association may extend the repayment period, in individual cases, for good cause.

9. For low-income individuals, repayment may be extended to 25 years with payments adjusted to reflect income.

10. Borrowers may be required to pay penalties and bear the cost of collections, in the case of delinquent loans.

There is provision for partial cancellation for each year of service in certain high-priority, low-paid, public service careers, e.g., teachers of disadvantaged students in Title 1 and Head-Start programs, teachers in handicapped programs in public and non-profit schools, members of the Armed Forces in combat.

SUBPART II

Established a guaranteed loan program to enable eligible borrowers to obtain loans, on behalf of students to meet the expected family contribution to the cost of the student's education; and provides for the payment of special allowances to the commercial lending institutions which make such loans.

Loans shall be guaranteed by the Association (Sallie Mae).

Loans under this program can be made only to meet the cost of the expected family contribution.

A. The institution the student is attending must certify to the lender the amount of the expected family contribution; and

B. Loans shall be 100 percent insured.

Terms and Conditions of Insured Loans, under the Act.

A. The student must be enrolled at least half-time and must be in good standing, academically.

B. Loans shall be made without security and without cosigners.

C. Repayment of principal shall be over a period not less than five, nor more than ten years beginning no more than nine months after the student ceases to attend an eligible institution at least half-time.

D. Interest shall accrue and be paid during the entire term of the loan, except that interest payment may be deferred until repayment of principal begins.

E. Principal payments need not be paid, but interest shall accrue and be paid, if the student on whose behalf the loan was made, is enrolled at least half-time in school (including graduate school), or if the student is in a training program for the rehabilitation of the disabled, or (for a period of up to 12 months) if the eligible borrower is seeking and unable to find full-time employment.

F. The Association and lenders shall enter into agreements providing for payments by the Association to the lenders, in the event of death or permanent disability of the borrower—or in the event the borrower is relieved of the obligation to repay the loan through a discharge in bankruptcy.

The Association shall issue certificates of insurance, upon application by an eligible lender, containing such information as the Association may require.

These certificates need not be made separately for each loan, but the Association may issue to a lender a certificate of comprehensive coverage to cover all qualifying loans made by the lender within a specified time period and up to a specified aggregate maximum.

Procedures for recovery by the lender, upon default of an eligible borrower; and definition of recoverable costs.

Establishes the insurance fund.

Proscribes the powers and responsibilities of the Association, including (A) repayment by the Association of loans of bankrupt, deceased, or disabled borrowers; and (B) the payment of special allowances.

Special allowances will equal the Treasury Bill rate minus 3.5 percent minus the difference between the rate for guaranteed loans (in the quarter for which the payment is being made) and the student loan rate (7%).

T − (3.5) − (Parent loan rate − student loan rate) = special allowance.

C. Credit unions may participate as lenders under the program.

D. Definitions section.

E. Terminates lending activity under existing programs 6 months after enactment of this bill.

A. Gives institutions the choice of 4% administrative cost based on College Work Study, plus Supplemental Education Opportunity Grants, plus new loan program—up to a maximum of $350,000; or 4% of Supplemental Grants and College Work Study up to a maximum of $350,000, plus $30 loan origination fee on loans made under the new program.

B. Defines "Association" as Student Loan Marketing Association.

Section 4: Expands Sallie Mae and proscribes the purposes, structure, powers, and functions of the Association.

Sallie Mae may contract with State Guarantee agencies for some or all of the following; and Sallie Mae may compensate the state agencies for services performed by the state agencies under contract.

A. To distribute funds to institutions within the states or multi-state area covered by the contract; and to collect from the institutions notes and other evidence of loans made to eligible students with such funds.

B. To collect loans made to students within the state or multi-state area covered by the contract.

C. To monitor and audit student loan activity at institutions within the area covered by the contract.

D. To provide information and technical assistance to students and to institutions, within the area covered by the contract.

E. To facilitate guaranteed loans to eligible borrowers on behalf of students in the area covered by the contract.

F. For any other functions of the Association, as agreed to by the Association and the state agencies.

The Treasury will purchase the present shareholders' equity in Sallie Mae and the Association is authorized to assume the existing assets (except for the shareholders' equity) and obligations of Sallie Mae.

The obligations of the Association shall constitute general obligations of the United States. The Association may—in consultation with the Secretary of the Treasury—issue notes, debentures, bonds or other obligations, in such amounts as shall be necessary to carry out its functions. The Secretary of the Treasury may direct that such insurance be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

Proscribes regular audits and reports to Congress and to the President.

Section 5: Transition provisions for winding down the activities of the existing Student Loan Marketing Association—and their assumption, together with expanded responsibilities by the non-profit Sallie Mae.

Section 6: Effective date—October 1, 1980.

Mr. BELLMON. Mr. President, I am very pleased to join the distinguished Senator from Massachusetts in introducing this important legislation. Along with other Members, I have long been convinced that sound spending for education of young people is the wisest investment government can make. This investment includes making funds available to students and their families, to insure that qualified individuals have the financial means to attend institutions of higher education of their choice. I am convinced that neither existing programs, nor tuition tax credits, are the best or most cost-effective way of meeting that objective.

In August last year, both Senator KENNEDY and I introduced bills, each of which would have created student loan banks. At that time, a Germond and Witcover column in the Washington Star, entitled "There are Some Alternatives to 'Free Lunch' Tuition Tax Credit" said of the then separate Bellmon and Kennedy bills:

> Each plan would require initial federal outlays but would replace existing, limited federal loan programs, and in a few years, at least in concept, would be nearly selfsustaining. Each would provide real relief to all taxpayers, middle-class and otherwise, by making the student responsible for his own education.

Mr. President, I ask unanimous consent that the Germond and Witcover article be printed in the RECORD, following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, having let Germond and Witcover blow their horns for us, let me point out a few things about the bill we are introducing today. The Kennedy-Bellmon bill is the result of many meetings and hearings Senator KENNEDY and I each held between the end of the last Congress and the convening of this one. It is the result of many hours of thought and discussions, between our staffs—and with many other interested institutions and individuals. It is also the product of compromise. It comes as no surprise, I am sure, to any Member of the Senate that the distinguished Senator from Massachusetts and I do not always see eye to eye on everything. On the other hand, I like to think our different points of view have helped to make this a better bill.

I believe our bill balances the issues of equity and capital availability with concerns about affordability. Under this act, all qualified individuals will be able to borrow the funds they need to attend the school of their choice. Repayment terms will be tailored to reflect after-college income—so that people can afford to repay. The expanded Sallie Mae—which under this bill becomes a national student loan bank—will be able to ascertain from the Internal Revenue Service the current addresses and places of employment of borrowers; so collections should improve substantially as compared to existing programs. And, maybe surprising to most of us, preliminary estimates indicate that this bill will cost less than the programs it will replace.

Mr. President, all of our higher education programs are scheduled for reauthorization this year. The chairman of the Education Subcommittee on Labor and Human Resources, Mr. PELL, has assured Senator KENNEDY and me that the subcommittee will hold hearings in the near future on this bill—in conjunction with that reauthorization. I look forward to working with the subcommittee, with the full Labor and Human Resources Committee and with all of my colleagues—and I sincerely hope our efforts will see enactment of this important legislation in time for students to take advantage of the new program during the 1980–81 school year.

As Senators may know, Mr. President, the Education Subcommittees, on both sides of the Hill, are working actively right now—trying to get a bill passed to increase the interest subsidies we pay to banks, under the existing guaranteed student loan program. There are many good things to be said about the programs now in place, but we cannot continue much longer to place ourselves—and our young people in the position of emergency reaction to head off potential shortages of capital to fund loans for higher education. It is a sad but true fact that when capital dries up, it is inevitable that children from low-income families are those who are left out. So long as the existing programs remain in place, this will continue to be a recurring problem.

The solution to this dilemma, Mr. President, is to act—and to act quickly—on this bill. I want to take this opportunity to invite all of our colleagues to join Senator KENNEDY and me in working toward this goal. Also I would like to take this opportunity to thank and commend Carol Cox for the dedicated and creative staff work she has done in working out this bill with members of the staff of Senator KENNEDY.

Mr. President, I commend the distinguished Senator from Massachusetts for the leadership he has given in this field. It has been a pleasure to work with him in developing this proposed legislation, which is a combination of bills introduced separately by Senator KENNEDY and myself during the last session. I believe that, by working together, we have a bill that will gain the support of a majority of the Senate.

EXHIBIT 1

THERE ARE SOME ALTERNATIVES TO "FREE LUNCH" TUITION TAX CREDIT

(By Jack W. Germond and Jules Witcover)

Congress has handed President Carter an ideal vehicle with which to demonstrate his celebrated new "toughness." The Senate's approval of a tuition tax credit, after similar action in the House, calls him on his pledge to veto a proposal that is popular but deserves rejection on several counts.

In a vain attempt to deter the Senate from voting for the tax credit, Sen. Edmund Muskie dug out the old bromide that "there is no such thing as a free lunch." His point was that the taxpayers, as always, would pick up the tab. But the scheme is indeed a free lunch for many middle-to-upper-income American families who send their children to college. At the same time, it offers meager help to lower-income families who really need tuition help. And it is a ripoff of the childless and the elderly who already have sweated to send their kids to school but still pay taxes.

Anyone who is sending a child off to college next month knows that the $250 parents would get in the first year of the Senate plan and the $500 in late 1980 is hardly the answer. Few colleges and universities charge less than $3,500 for tuition, room and board, and in the elite schools such as Harvard it is up to $7,500. So what the tax credit really amounts to is a massage of the middle-class taxpayer by a Congress hellbent on proving that the echoes of California's Proposition 13 tax revolt have been heard along the Potomac.

William Roth, the chief Senate sponsor, argues that for every $100 in aid, 2 to 3 percent more students are able to enroll. That may apply to the lower-tuition colleges, but $500 isn't likely to make a difference for a student accepted at one of the more costly institutions. Not every university is as cheap as Roth's University of Delaware, where tuition is only $940 a year for in-state students and $2,200 for out-of-state students.

The tuition tax credit actually flies in the face of much conservative gospel. According to the Congressional Budget Office, it could add $14 billion to the federal deficit by 1983. It would increase federal support to parochial schools, raising the constitutional question of separation of church and state. And what about the good old conservative doctrine of self-reliance?

Tuition being such a monster, however, it is no longer feasible for many men and women to work their way through college waiting on tables as they did in the old Mickey Rooney movies. So it is clear that some way must be found to assist those qualified students who can't pay the costs themselves, or don't have parents who can.

At least two such schemes are before Congress, but in the pell-mell rush to soothe the middle class, neither is destined to get anywhere soon. One is the proposal of Sen. Henry Bellmon of Oklahoma, a Republican, for a public National Student Loan Bank. The other is a plan for a Tuition Advance Fund sponsored by two Massachusetts Democrats, Rep. Michael Harrington and Sen. Ted Kennedy. Each follows the principle that the student be responsible for his own four-year tuition, to be paid after graduation when he enters the work force.

Bellmon's plan would permit any student to borrow his full tuition, room and board costs regardless of his own or his parents' income. Starting nine months to a year after graduation, he would repay the loan at a low-interest rate, on the basis of 1 percent of his taxable income.

The Harrington-Kennedy bill, the brainchild of Boston University President John Silber, would enable any student to borrow his tuition plus $1,000, up to $5.000 a year. He would repay the loan after graduation at the rate of 2 percent of gross income until he had paid 150 percent of the loan at an interest rate of no more than 3.5 percent.

Each plan would require initial federal outlays but would replace existing, limited federal loan programs, and in a few years, at least in concept, would be nearly self-sustaining. Each would provide real relief to all taxpayers, middle-class and otherwise, by making the student responsible for his own education.

Labor Department statistics have indicated that the average college graduate makes $232,000 more in his lifetime than a non-graduate, so both the incentive and the money are there. If independence and individual enterprise remain sought-after American characteristics, these proposals ought to be popular among the same conservative legislators now clamoring for the free lunch of a tax credit. A Carter veto could be the first step toward serious consideration of such a comprehensive and fair loan program—and, for Jimmy Carter, it might be good politics, as well.

By Mr. SASSER:

S. 1601. A bill to assure that the Department of Energy Organization Act collects and compiles sufficient and timelv information from oil companies with which to monitor a steadv supply of needed crude oil and derived products; to the Committee on Energy and Natural Resources.

S. 1602. A bill to provide for the appointment by the President of a Special Investigator of Petroleum Fuels Shortages; to the Committee on Governmental Affairs.

● Mr. SASSER. Mr. President, today I am introducing two bills which respond to problems created by the delayed and insufficient information on oil production with which Congress and the public have been supplied. If we are to maintain a consistent policy on energy, we must have current and up-to-date facts.

I have been disturbed to read in recent days that the oil companies are reporting substantial increases in their earnings. Their profits have shot up in the last quarter, with gains ranging up to 132 percent.

The memory of the gasoline shortage during which our Nation was filled with angrv motorists fuming in gas lines is still fresh in our minds, and I am outraged to learn of these enormous profits while the Nation was suffering. But, it is some consolation, Mr. President, to have learned immediately of this profit situation. No information was delayed and no statistics were withheld. I may not enjoy what I read, but at least I was kept informed. The oil companies tell us their profits quickly, but not their production statistics.

A few weeks ago, we learned from the news media that production of crude oil in this country had dropped dramatically at the same time that Iran cut off its exports to us. Only a steady flow of domestically produced oil could have warded off a potential shortage. Instead, we lost 22.8 million barrels of crude oil. That supply could have eased the gasoline crunch with an estimated 11.5 million barrels of refined product.

Yet, the people, whose lives were disrupted by the resulting supply shortage, were not informed of the drawdown in production until months after it occurred. Moreover, the Department of Energy, which has the duty to predict and if possible to avoid such national panics, did not learn of the lowered production until spring.

Frankly, I am disturbed about such a delay in discovering and reporting this essential information. I believe the bills which I am introducing today will hasten the process of revealing the truth about our energy situation. I fail to accept further neglect from the Department of Energy in compiling timely statistics.

The monthly reports now published by DOE contain figures which are 3 to 4 months out of date at best. Many of the most recent numbers are based on sources outside DOE and are not independently audited by the Department. The final reports which do emerge contain aggregated figures rather than the company-by-company detail which would allow monitoring of the production procedure.

My first bill requires that DOE meet its responsibility to inform the public about current and future supplies of crude oil. Comprehensive studies on each company's oil supplies, actual capacity, and final output of gasoline, distillates and other petroleum products would be collected monthly for use by the DOE and Congress. This information is necessary for consistent Government policy.

The bill also authorizes DOE to set production schedules after consultation with each company. These reasonable quotas will be based on facts which DOE received. If any company fails to produce at least 95 percent of the agreed amount, the Secretary of the Department may penalize that company by revoking entitlement rights or by suspending mineral leases. These measures are designed to encourage domestic production of oil.

My second bill will create the position of Special Coordinator of Investigations to look into the causes of the fuel shortages. The Departments of Energy and Justice have endlessly delayed a joint study of the crisis. I believe it is imperative to speed along this review, to expedite future investigations, and to establish an investigator who is directly accountable to the people.

Without this information, we can have no control over our energy resources nor over our daily lives. We are left at the mercy of the oil companies who certainly, as we have read, have not suffered much in the past few months.

Finally, I ask unanimous consent that several articles relating to the recent profits of the oil companies and the shortages be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

This Spring Most Profitable for Oil Industry

TEXACO EARNS 132 PERCENT MORE DURING SECOND QUARTER

(By William H. Jones)

Final second-quarter earnings reports by major oil companies yesterday showed that the April–June period this year was the most profitable for those months in industry history.

With Texaco Inc., the third-largest oil firm, posting an increase of 132 percent, and No. 11 Sun Co. reporting an advance of 57 percent, all of the 20 biggest petroleum companies (and 23 of the top 26) had reported second-quarter results by last night.

According to a Washington Post compilation, second-quarter profits of the 23 reporting companies totaled $5.47 billion—an increase of 66 percent over profits of $3.28 billion reported for the same months last year, when oil prices had been depressed by an oversupply of crude oil.

In contrast a Wall Street Journal survey of 367 industrial companies that have reported on second-quarter results showed an average increase of 20.3 percent. Only mining and nonferrous metal businesses reported a larger percentage gain—91.8 percent—than that of the oil industry.

Moreover, Wall Street analysts have forecast that petroleum profits will continue at high levels during the rest of 1979 and for next year, even though national recession will trim most corporate profits.

Although levels of spending for exploration and expansion by oil firms are at record levels, soaring world crude oil prices have brought about sharp increases in the petroleum firms' revenues.

Crude prices of the Organization of Petroleum Exporting Countries are now 60 percent above last December's level, according to a Chemical Bank assessment. And nationwide gasoline retail prices have jumped 40 percent over the same period.

A number of oil company executives noted this week the difference between a higher rate of increase in OPEC prices and other costs than for prices at gasoline pumps. An Exxon official said "we deliberately held back somewhat in our pricing in the first six months. We exercised some restraint."

Shell Oil President John Bookout said that with costs rising so rapidly, it is unlikely that profits from sales of gasoline and other products will be up for the full year. "While gasoline and other refined product prices increased substantially for the first half of the year, price increases have been offset by higher costs and lower volumes . . ." Bookout asserted.

Similarly, Exxon Chairman Clifton Garvin said costs for the recent quarter and six months rose "much more than selling prices." Exxon's second-quarter refining and marketing earnings were less than a half of those in the 1978 period, he added. At the same time, Exxon wrote off some of its investment in the search for oil off New Jersey, in the Atlantic Ocean, and that trimmed reported profits.

With Carter administration pressure being applied on Congress for passage of a "windfall profits" tax, the oil companies have become an obvious target with their glowing earnings statements—even if many of the companies' gains were the result primarily of foreign operations or a substantial recovery from a depressed period last year.

And the controversy is expected to continue because oil profits will benefit in future months from higher domestic crude oil prices, under phased decontrol.

"We think the political rhetoric may get worse but we don't think in the final analysis anything very serious is going to come out of that," said analyst Bill Randol, of Blyth Eastman Dillon, of the tax legislation and proposals to ban non-energy acquisitions by oil firms.

Texaco Chairman Maurice Granville emphasized yesterday that his firm's sharp 1979 profit increase—the greatest among the biggest firms—partly show that earnings last year were "abnormally low."

Second-quarter profits were $365.4 million ($1.35 a share) compared with $157.4 million (58 cents) in the 1978 period, for a gain of 132 percent as sales rose 25 percent to $8.5 billion. Granville noted that Texaco had earned $222.7 million (82 cents) in the similar 1977 period.

For the first six months, Texaco earnings were up to 105½ percent from last year to $672 million ($2.48 a share) compared with $327 million ($1.21) and sales climbed 22 percent to $17 billion. Granville made these points:

Texaco profits had been reduced in 1978 because of generally weak prices worldwide, inflationary cost increases and large losses from foreign currency translation.

The firm's rate of return on investment was at an annual rate of 6.6 percent in the first half, on total assets of $21 billion. According to government data, the return on assets for all U.S. manufacturing firms last year was 7.9 percent.

Texaco's return on average stockholders' equity (stock investment) in the firm of $9.6 billion was 14 percent; the average return on equity for all manufacturing industries was 16.5 percent last year, not counting petroleum, according to regular Citibank surveys.

"The company's earnings are not excessive in relation to the large and growing amount of funds needed for reinvestment in the business, for capital and exploratory expenditures and for other increasing cash needs," Granville stated. "In the final analysis," only profits can generate such funds, he added.

Sun Co., of Radnor, Pa., said yesterday its second-quarter profits were $158.5 million ($2.74 a share) compared with $101.2 million ($1.74) a year ago, a gain of 57 percent. Sales rose from $1.86 billion to $2.5 billion.

Getty Oil Co., of Los Angeles, said second-quarter profits rose to $139.5 million ($1.70 a share) from $56 million (67 cents), and American Petrofina Inc., of Dallas, reported second quarter earnings of $16.2 million ($1.52) vs. $6.2 million (58 cents).

INDUSTRY SAYS EARNINGS NOT OUT OF LINE

Several major oil companies yesterday followed the industry trend in announcing huge profits for the second quarter of 1979, a time when many drivers were waiting in gas lines.

Mobil, the nation's second largest oil firm, said profits had risen 38 percent in the period. No. 6 ranked Standard Oil of California reported a 61 percent rise; No. 7 ranked Atlantic Richfield announced a 23 percent increase and No. 8 ranked Shell Oil Co. said its profits were up 55 percent in the second quarter.

In addition, Exxon, the nation's largest oil company which announced a 20 percent increase in second quarter profits at the start of the week, yesterday raised its quarterly dividend from 90 cents a share to $1.

The companies listed several reasons for the big increases, including rising prices of gasoline, better results from chemical operations and more profits from overseas operations.

Among the oil company profits announced yesterday:

Mobil said profits rose to $404 million ($1.91 a share) compared with $293 million ($1.38) a year ago. Revenues rose to $10.6 billion from $8.8 billion.

In the first half, Mobil said, income was $841 million ($3.97) compared with $534 million ($2.52). Sales were $21 billion compared with $17.5 billion.

Mobil Chairman Rawleigh Warner Jr. said most of the company's gain came from foreign operations.

Standard Oil of California said its worldwide earnings increased primarily also on the strength of foreign operations offsetting a decline in earnings from domestic petroleum activities.

Net income was $412 million ($2.41) against $256 million ($1.51) a year ago. Sales were $7 billion against $6 billion.

First half profit was $759 million ($4.44) on sales of $13.9 billion compared with $499 million ($2.93) a year ago on sales of $11.7 billion.

Atlantic Richfield attributed its gain primarily to an increase in production and price of oil from Alaska. Strong downstream petroleum markets and an improved chemical business also enhanced earnings.

The company reported a record $260 million in earnings (or $2.12), up from $211 million ($1.73) last year. Sales rose to $3.7 billion from $3.1 billion a year ago.

Earnings for the first six months were $503 million ($4.10) on revenues of $7.2 billion, compared with $361 million ($2.97) on sales of $6.1 billion last year.

Shell credited higher oil and natural gas prices, as well as more sales of chemical products, for its gains. But Shell President John Brookout said rising costs would make it unlikely that the company's profits on sales of gasoline and other products will be up for the year.

In the second quarter, Shell's profits rose from $179 million last year to $277 million in this year's second quarter. Earnings per share climbed from $1.21 to $2.80, and revenues from $2.8 billion to $3.5 billion.

For the first six months, Shell said profits were up 35 percent to $501 million, ($3.27) from $372 million ($2.52). First half revenues totaled $6.5 billion compared with $5.4 billion last year.

Conoco Inc. had quarterly earnings of $215.8 million ($2.01), up 40 percent from $153.8 million ($.43) last year. The ninth-ranked oil company reported sales of $3 billion, compared with $2.5 billion a year ago.

Phillips Petroleum, ranked 11th, had profits of $214.6 million ($1.39), up 44 percent from $149 million (97 cents) last year. Revenues rose to $2.2 billion from $1.7 billion.

For the first half, Phillips' profits were $391.6 million ($2.54) up from $319.8 million ($2.08) last year. Revenues were $4.20 billion compared to $3.47 billion.

Higher prices and greater sales also pushed up profits for Union Oil Co. of California. Union, the nation's 13th largest oil firm, reported quarterly earnings of $128.2 million ($1.48) up 48 percent from $88.6 million (99 cents) a year ago. Revenues rose to $1.9 billion from $1.6 billion.

Sixth month earnings for 1979 were $242.3 million compared to $165.9 million last year. Per share earnings were up to $2.79 from $1.87 last year, and revenues rose to $3.6 billion from $3.1 billion.

Cities Service Co., ranked 16th in the industry, reported a 90 percent jump in second quarter profits over the same period last year.

Quarterly earnings for Cities Service were $76.7 million ($2.77) on revenues of $1.44 billion compared with $40.4 million ($1.45) on revenues of $1.15 billion last year.

First half earnings were $155.2 million ($5.60) on revenue of $2.90 billion compared with $95.7 million ($3.45) on revenue of $2.33 billion last year.●

By Mr. CRANSTON (for himself, Mr. NELSON, Mr. RIEGLE, Mr. JACKSON, Mr. BURDICK, Mr. LEVIN, Mr. TSONGAS, Mr. GOLDWATER, Mr. WEICKER, Mr. DANFORTH, Mr. HAYAKAWA, Mr. WARNER, Mr. DECONCINI, Mr. PERCY, and Mr. JAVITS):

S.J. Res. 99. A joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

NATIONAL LUPUS WEEK

● Mr. CRANSTON. Mr. President, today I am introducing a resolution providing for the designation of the week of September 16 through 22, 1979 as "National Lupus Week." This resolution has been introduced each of the last three years by my good friend and colleague GLENN M. ANDERSON, the representative from California's 32d District, and each year I have been happy to facilitate Senate action to agree to action taken in the House on his resolution. This year the Judiciary Committee policy requires a Senate-introduced bill before it will act on a bill designating special weeks such as "National Lupus Week." Once again, I am happy to provide my assistance to my colleague in his efforts to focus national attention on the serious nature of the disease lupus erythematosus and am introducing a bill identical to that reported from the House Post Office and Civil Service Committee. I am delighted to have as cosponsors of this resolution the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from Michigan (Mr. RIEGLE), the distinguished Senator from Washington (Mr. JACKSON), the distinguished Senator from North Dakota (Mr. BURDICK), the distinguished Senator from Arizona (Mr. DECONCINI), the distinguished Senator from Michigan (Mr. LEVIN), the distinguished Senator from Massachusetts (Mr. TSONGAS), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from Connecticut (Mr. WEICKER), the distinguished Senator from Missouri (Mr. DANFORTH), the distinguished Senator from California (Mr. HAYAKAWA), the distinguished Senator from Virginia (Mr. WARNER), the Senator from Illinois (Mr. PERCY), and the Senator from New York (Mr. JAVITS).

Mr. President, I would like to explain briefly the nature of lupus erythematosus and the intent of the resolution.

Lupus erythematosus is a disease of the connective tissue of the body including the skin. It causes are unknown. It is essentially a disorder of the body's immune system, which is the first line of defense against infection and inflammation anywhere within the body. Its main target is women in the early and young adult age bracket—ages 14 to 40. There may be as many as 500,000 cases in the United States with approximately 50,000 new cases diagnosed each year. The majority of the cases can be effectively treated, however, tragically, lupus causes 5,000 deaths annually.

The intent of the resolution is to help the American Lupus Society, the volunteer organization, make the public aware of the tragedy of lupus erythematosus. The American Lupus Society is a nonprofit organization originally founded in 1973 in California. The purpose of the organization is to assist lupus patients and their families in their fight against the disease, to develop and engage in programs aimed toward making the public aware of lupus, and to raise funds for lupus research and patient care. With a nationally proclaimed week, the chances for success of the voluntary organization's efforts are considerably heightened. A national week gives its members a focus for their efforts to increase public awareness of lupus.

President Carter has designated a National Lupus Week in 1977 and in 1978.

This resolution calls on him to make that designation again in 1979.

I urge my colleagues to support this resolution.●

By Mr. SASSER:

S.J. Res. 100. A joint resolution authorizing the President to proclaim May 1, 1980, "National Bicycling Day"; to the Committee on the Judiciary.

NATIONAL BICYCLING DAY

● Mr. SASSER. Mr. President, today I am reintroducing a joint resolution to authorize the President to proclaim May 1 as National Bicycling Day. I believe the benefits to be derived from bicycling are of such importance that this simple, human-powered machine deserves national recognition.

I introduced a similar resolution last February, which would have authorized the proclamation of May 1, 1979, as National Bicycling Day. That resolution, however, was not considered by the Senate.

I have brought to the Senate's attention on previous occasions a number of facts about bicycling: That there are approximately 92 million bikes in use, compared to 114 million automobiles; that bicycle riding "earns" about 17 cents a mile in energy savings; that the Senate has made a commitment to biking in its authorization of $20 million to be spent on bikeways and bike facilities.

Mr. President, every day one of my distinguished colleagues rises to discuss some aspect of the Nation's energy problem—long gas lines, rising prices, our dependence on oil imports, the need to reconcile our lifestyles with the reality of diminishing energy supplies.

The bicycle represents a viable supplement to motor transport, under certain circumstances. Indeed, it is estimated that some 131 million gallons of gasoline can be saved each year if only 1 percent of all short trips of less than 5 miles are made on a bike, rather than in an automobile.

On May 1, 1979, I participated in a small tribute to the bicycle held just outside the Russell Building, Mr. President. The tribute was in honor of National Bicycling Day, and to kickoff American Bike Month, which has been recognized by American bicycle manufacturers for over 20 years. It is estimated that approximately 105 million Americans in some small way celebrated American Bike Month during May. Mr. President, I ask unanimous consent that my statement, as well as those of Senator JEPSEN, Congressman GLENN ANDERSON, and Mr. Randolph Swart be entered in the RECORD at this time.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JIM SASSER, MAY 1, 1979

I am delighted to have this opportunity to welcome all of you to Washington today for this dramatic exercise in cycling. I appreciate your interest and I appreciate the cooperation from the Bicycle Manufacturers Association and the Washington Area Bicylists Association.

Bicycling today is growing by leaps and bounds—or I should say by wheels and gears. There are bicycles today that do everything but send up smoke signals at intersections.

With the energy crisis and the emphasis on exercise, bicycling is coming into its own. There are now about 92 million bikes in use in the United States. This compares with 114 million automobiles.

Bicycles are moving up on the cars statistically—and if they keep adding gears—perhaps even on the road.

Bicycling is popular around Capitol Hill. And, if all employees are required to pay for parking on the hill, it will be even more popular.

We may wind up with the most athletic office force in the country before this energy crisis is resolved.

I think it is appropriate that the Congress promote bicycling across the country.

Our Nation will be healthier, our air cleaner and our gasoline consumption lower.

In this connection, I have cosponsored legislation introduced by Senator Stafford of Vermont to require bike parking and locking facilities at every Federal building. Such a development encourages people to bring their bikes to work.

Other innovative promotions for bike riding are being conducted here in the Washington area. Bike lockers are now available at numerous metrorail stations so commuters can "park 'n ride." The Washington Area Bicyclist Association is also involved in creating effective commuting routes into Washington with the help of area bicyclists. The "pedal pool", as it is known, is rapidly becoming a huge success.

Congress has also been involved in bicycling. Last year, we recognized the increasing role of bicycles as a viable means of transportation through the Surface Transportation Assistance Act of 1978. This act authorized $200 million annually for fiscal years 1979 through 1982 for grants to be used in the construction of bicycle paths and projects which enhance the safety of biking. Unfortunately, no funds have yet been appropriated. It is my hope that the benefits to be derived from an additional Federal investment in bikeways will soon be made.

American Bike Month starts today, and I commend the industry for promoting the health, safety, commuting and recreation purposes of the bicycle.

STATEMENT OF SENATOR ROGER JEPSEN, MAY 1, 1979

I'm here today to demonstrate my support for National Bicycling Month and to tell you of the tremendous interest in bicycling that exists in my home State of Iowa.

Iowa's bicyclists are among the Nation's most devoted.

Each summer, two columnists for the Des Moines Register, Donald Kaul and John Karras, organize a one week "Register's Annual Great Bike Ride Across Iowa", otherwise known as Ragbrai. In the six years of its existence, Ragbrai has attracted thousands of riders from across the country.

This summer, Ragbrai riders will trek across 480 miles of scenic Iowa countryside in six days. They will be fed, bedded and cheered on by each small town through which they pass.

To me, Ragbrai's success and the many bicycle clubs in Iowa demonstrate the increasing national popularity of bicycling. The number of bicycles in this country may soon outnumber cars. While the bicycle cannot be a total solution to our increasing energy problem, expanded bicycle use together with other energy-saving programs can help this Nation achieve greater energy independence.

I'd like to recognize all bicycle enthusiasts and encourage Americans to bike their way to fun and fitness. Ride on!

STATEMENT OF CONGRESSMAN GLENN ANDERSON, May 1, 1979

WASHINGTON'S THIRD ANNUAL BIKE WEEK

The variety of Bicycle related events in Washington during the past 4 days shows the versatility of the bicycle and suggests the many ways in which it can help to enrich life in America. The bicycle has important contributions to make in saving scarce energy, in helping to improve public health through regular exercise, and in cutting pollution and congestion on urban streets.

Last year Congress took the first major step by passing the bicycle provisions of the Surface Transportation Assistance Act to turn the bicycle's promise into reality. This Spring Congress should take the second big step by appropriating the full $20 million authorized under that Act for bicycle facilities and programs. I have testified in support of that full appropriation.

But Congress can only make the general policy. The Executive branch must do its share. The Environmental Protection Agency has already shown leadership by urging inclusion of the bicycle in urban transportation planning under the Clean Air Act. The Federal Highway Administration needs to demonstrate that it has grasped the great potential of the bicycle, by moving swiftly to develop new design standards that include the bicycle as part of the traffic flow on the entire road system, and not merely on separate bicycle paths and lanes.

State and local governments also must move forward. They need to remove the many unnecessary obstacles and hazards in our road network that now inhibit daily bicycle use by millions of Americans. They need to create better and more widely available programs to teach bicyclists and motorists to share the road safely and amicably.

The energy situation in which the nation finds itself will put increasing pressure on everyone, and especially on the Federal Government, to develop new solutions to the problem of energy conservation. I am proud to have been the author of last year's principal legislation in the bicycle field, namely Section 141 of the Surface Transportation Assistance Act. The new program under Section 141 can serve as one important way of addressing the energy shortage. Short trips of five miles or less use up vast amounts of gasoline. Each 1 percent of the short-trip mileage that can be switched from the auto to the bicycle will save 131 million gallons of gasoline per year. There is no reason why we should not set a target of switching the next 1 percent of these short trips in each of the next three years, for an annual saving in the third year of nearly 400 million gallons.

But, you the cyclists, will have a keep the pressure on if this is to happen. The League of American Wheelmen has helped the Congress to legislate for bicycling by speaking up clearly and forcefully for the needs of the cyclists, but the league and other groups such as the Bicycle Manufacturers Association of America, Inc., cannot do this job alone. It is up to every individual cyclist to tell his or her Congressman or Senators, and the President, that the time has come to make the bicycle a full partner in American transportation. The next move, my bicycling friends, is up to you. Thank you!

STATEMENT OF RANDY SWART, PRESIDENT, WASHINGTON AREA BICYCLIST ASSOCIATION, MAY 1, 1979

Thank you, Senator Sasser, for your encouraging words.

Although the primary focus of the Washington Area Bicyclist Association is the improvement of the cycling environment in Washington, D.C., we are inevitably drawn, as are all bicyclist activist organizations, to the source of Federal Government involvement in our effort—the U.S. Congress. We count on a few forward-looking individuals in the Congress for the support which moves bicycle legislation through the maze of committee study and eventually onto the floor for a vote.

In the present Congress we have identified three Bills which are vital to our members' needs. The first two relate to the provision of adequate bicycle parking facilities for Federal buildings. They are S. 460 (Senator Stafford) and H.R. 2118 (Congressman Mineta). Those bills are essential to the effort to make it possible for more Federal employees to reach their jobs each day without wasting our precious fossil fuel resources, and to enjoy the health benefits which accrue to the regular cyclist.

The second major area of concern to us is the appropriation for the bicycle-related portions of the Surface Transportation Assistance Act. The authorization of these progressive programs last year excited bicycle groups such as WABA with the prospect of a greatly enhanced Federal response to the needs of transportation cyclists throughout the country. The program must now be funded, however, and we are concerned that it may be shoved aside in this year of pressure on the Federal budget. The programs to be funded represent an investment in an improved transportation system for American cities, an investment which will repay itself many times over in relieving traffic congestion, saving irreplaceable petroleum resources, and reducing air pollution. We must make an effort to provide safer and more useful bicycle facilities for those who are willing to give up their cars and pedal for a better city environment. In addition we can add an important element of flexibility to our transportation mix by allowing commuters and other travelers the option of using a bicycle when gasoline is scarce, relieving pressure on the dwindling supply. The appropriation for the bicycle-related parts of the Surface Transportation Assistance Act is vital to that effort.

WABA thanks the Senators and Congressmen who came on this ride today to emphasize their recognition of the value of the bicycle in our transportation system. We will look to you in coming months for the working support of the legisaltion which will evidence your commitment to our cause, and will pledge in turn the active support of the bicycle community in your future election campaigning to ensure that bicycling voters are well-informed of your good work here and the fine legislative record you are compiling here on their behalf. You have earned the WABA salute—"Ride On!"

Mr. SASSER. In closing, Mr. President, I again want to stress versatility and convenience of the bicycle in such areas as commuting, shopping, and recreation. However, I hope the Senate will recognize the importance of this inexpensive mode by approving this resolution.●

ADDITIONAL COSPONSORS

S. 742

At the request of Mr. Percy, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 742, the Nuclear Waste Management Reorganization Act of 1979.

S. 1046

At the request of Mr. Moynihan, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1046, a bill to amend the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act of 1976) to establish a program for the identification and reclamation of abandoned hazardous waste sites, to establish a fund to be used for the reclamation of hazardous waste sites and for the compensation of persons injured by hazardous waste, to provide a Federal cause of action for damages caused by hazardous waste, and for other purposes.

S. 1287

At the request of Mr. Goldwater, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older.

S. 1427

At the request of Mr. Schmitt, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 1427, the United States-Mexico Good Neighbor Act of 1979.

S. 1465

At the request of Mr. Talmadge, the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 1465, the Farm Credit Act Amendments of 1979.

S. 1533

At the request of Mr. Tower, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of S. 1533, to amend the Investment Company Act to provide an exemption for qualified venture capital companies.

SENATE RESOLUTION 213—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following resolution, which was referred to the Committee on the Budget:

S. Res. 213

Resolved, (a) That pursuant to section 402(c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill S. 566 to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes, or with respect to the consideration of an amendment the substance of which is the same as the substance of such S. 566 as reported by the Committee on Finance of the Senate; and

(b) That waiver of such section 402(a) is necessary in order to enable the Senate to consider legislation which will establish a program of targeted and antirecession fiscal assistance; and

(c) That it was infeasible to complete action on this legislation within the usual time limits prescribed by such section because the program is so particularly related to economic conditions as to make it highly desirable to delay action beyond the usual deadline in order to obtain as accurate a view of present economic trends as possible; and further

(d) That, although the legislation was not reported by the date established in such section, action on this program was anticipated and considered in the fiscal 1980 budget process as evidenced by a specific discussion of the legislation in the statement of managers accompanying the conference report on the first concurent resolution on the budget for fiscal year 1980.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS HEARINGS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 930, a bill to amend the National Energy Conservation Policy Act to prohibit free Federal employee parking, on Wednesday, August 1, 1979.

The hearings will begin at 9 a.m. in room 3302 Dirksen Senate Office Building. There will also be an afternoon session beginning at 2:30 p.m.●

DEPARTMENT OF EDUCATION CONFERENCE

Mr. RIBICOFF. Mr. President, I wish to announce that the committee on conference, House and Senate, will meet Wednesday, August 1, at 2 p.m., in room H328 of the Capitol, to consider S. 210, the Department of Education Organization Act of 1979.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Production, Marketing and Stabilization of Prices Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the sessions of the Senate today and Tuesday, July 31, 1979, to hold hearings on agricultural transportation problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate this week to continue markup of pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate this week to consider the SALT II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AN UNLEARNED LESSON FROM SALT I

● Mr. GARN. Mr. President, I would just briefly like to call the attention of my colleagues to a recent article, "The SS–19 Loophole", published in the Washington Post. It highlights one of the key weaknesses of the proposed SALT II treaty and the American negotiating position vis-a-vis the Soviet Union.

It seems that we have failed to learn from our experience with the Soviets after the signing of SALT I. Too often we relied on unilateral statements regarding important aspects of the SALT I. Too often we relied on unilateral statements regarding important aspects of the SALT I accords. And, without exception, the Soviets have rejected our assertions on the grounds that they were never regarded as binding on Soviet actions. We have heard time and again that SALT is not the cause of our land-based ICBM vulnerability problem. Yet, the failure of SALT I to prevent the Soviets from replacing their light SS–11 ICBM with the much larger SS–19, has, indeed, contributed to the vulnerability problem we will face in the near future.

Now it seems that the United States is once again determined to rely on unilateral interpretations—this time for the SALT II provisions—in the curious hope that the Soviets will be more accommodating this time around. The Soviets refuse to agree on a specific definition of the size of the SS–19, yet the SS–19 is intended as the limit on the size of the one new-type ICBM allowed under the terms of SALT II. In negotiating SALT II, we have ignored the lessons of SALT I, and the U.S. Senate must not legitimize this error by ratifying SALT II as presently proposed.

Mr. President, I ask that the Washington Post article by Evans and Novak, "The SS–19 Loophole," be printed in the Record.

The article follows:

[From the Washington Post, July 17, 1979]

The SS19 Loophole

(By Rowland Evans and Robert Novak)

A reading of the fine print in the SALT II treaty after it went to the Senate has revealed, to the horror of supporters of the Arms-control pact, an uncanny repetition of the worst U.S. blooper in the 1972 SALT I treaty.

The 1972 mistake, not discovered until long after ratification, failed to pin down specific limits on the size of a replacement for the SS11 intercontinental ballistic missile (ICBM). Now, in a new negotiating blooper discovered as the Senate ratification debate begins, SALT II does not clearly define the size of Moscow's mainstay SS19 ICBM, which it sets as the limit on the size of any new missiles.

That history should be so sadly replayed is explicable only by this fact: The Russians simply refused to agree on a specific definition of the size of the SS19. This adds new evidence that U.S. negotiators, under orders from Washington for an agreement at almost any cost, bowed to the iron will of their Soviet counterparts.

Ironically, the 1979 mistake occurred in an effort to correct the effect of the 1972 negotiating blunder. By failing to pin down the size of the new Soviet ICBMs, SALT I contributed to the vulnerability of land-based U.S. missiles. Limiting future Russian ICBMs to the size of the SS19 is an effort to protect the land-based U.S. missile force.

But if there was no agreement on the size of the SS19, how can Moscow legally be held to the terms of the treaty?

The answer: It cannot, any more than it could be forced to comply with the clear understanding of limits on "new" missiles in the 1972 treaty, negotiated by Henry Kissinger.

Kissinger relied, to his later dismay, on what he called the "safeguard" of Soviet assurance "that no missiles larger than the heaviest light missile that now exists can be substituted." In 1972, that was the SS11. But after SALT I took effect, the SS11 was replaced by the SS19, which was almost three times as big.

President Carter's negotiators retraced Kissinger's slippery footsteps, relying on their own understanding of the size of the SS19. The Soviets typically refused to agree or disagree with the U.S. definition.

The State Department virtually admits that it could not nail down the Soviets. Its "detailed analysis" of the treaty, sent to all senators, spells out this country's position: the United States "considers" the SS19 to have a launch-weight (weight in the silo) of 90,000 kilograms and a throw-weight (weight of the warheads) of 3,600 kilograms. These are key measurements of size.

"These figures are based on our estimate for the SS19," the senators were told. "The Soviet Union did not respond to this statement [but] the United States will regard these figures as the limits for the one new type of . . . ICBM permitted to the United States."

But will the Russians? Realists here doubt it, anymore than in 1972. Kissinger learned the hard truth slowly, as U.S. monitors in Iran began to accumulate data on the true size of the new SS19 being tested to replace the old SS11.

Trapped by Soviet duplicity three years later, Kissinger found himself lamely explaining away the sudden appearance of the big SS19. "We obviously did not know in 1972 what missiles the Soviet Union would be testing in 1974," Kissinger told a State Department press conference on Dec. 9, 1975.

But there was no way to stop SS19 development. Moscow blithely kept insisting its new missile was just a slightly updated model of the old SS11. Now, following SALT II, the Russians have a loophole to sustain their own version of a "legal" follow-on missile to the SS19 by claiming that the U.S. definition of the SS19's size is simply wrong, and that Moscow never agreed to it.

This would not come up if the Russians played fair and square. But they play to win; they take advantage of whatever opportunity is granted.

Discovery of Soviet deception on the SS19 by the Nixon-Ford administration long after SALT I took effect depended on American's ally, Iran. But the true size of the SS19 almost certainly would have eluded U.S. intelligence for even longer had it not been for U.S. monitoring stations in northern Iran, just south of the main Soviet test range.

Those stations no longer exist, and the United States is not close to duplicating them. This enhances the strong probability that the one new Soviet missile permitted under the treaty will not only greatly exceed limits set forth by U.S. negotiators but also that the Soviets will not reveal its full launch-weight and throw-weight until it has been tested repeatedly—ready to enter the Soviet missile force.

This undermines the SALT-sellers' argument that the treaty, while not accomplishing all that much, does no harm. On the contrary, this new revelation of non-Yankee bargaining suggests that the Soviet Union, under SALT II as under SALT I, will loophole its way to nuclear supremacy while Americans play by the rules.●

THE UNIVERSITY OF RICHMOND

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to call to the attention of the Senate a remarkable institution on the occasion of its 150th anniversary.

Over that span of time, the University of Richmond has provided superior education to Virginians.

The university was founded in 1830 by the Virginian Baptist General Association as a seminary to train candidates for the ministry. Over the years the University of Richmond has changed dramatically. It has grown from a small church school of 35 students to the largest, privately endowed college or university in Virginia. This prodigious growth has only been interrupted once in 150 years.

During the War Between the States, the university was closed. The university buildings served in the early part of the war as a Confederate hospital and later as barracks for Union soldiers.

Paralleling the University of Richmond's growth in size has been a diversification of the school's curriculum. Throughout this expansion the university has never lost sight of its founding tenet—to provide a sound, Christian education.

At present the University of Richmond operates a fine undergraduate program in addition to a comprehensive graduate program which includes a graduate school, a school of law, and a school of business administration. In both programs, undergraduate and graduate, emphasis is placed upon individual achievement and scholarship.

The University of Richmond provides an important service to the Commonwealth of Virginia and to the United States. It is through the dedication to education exemplified by the Univeristy of Richmond's 150-year history, that the State and Nation will continue to benefit from trained and effective leadership.

I am confident that this leadership will continue to be available as long as persons such as the University of Richmond's president, Dr. E. Bruce Heilman, remains involved in education.

As a Virginian, I am proud of the University of Richmond.●

STEMMING THE TIDE OF STOLEN SECURITIES

● Mr. PERCY. Mr. President, I have spoken out on the floor of the Senate before concerning white-collar crime in general, and in particular, crimes involving stolen securities.

Between 1971 and 1974, the Permanent Subcommittee on Investigations, on which I serve as the ranking minority member, held hearings concerning the connection between organized crime and the trafficking in stolen and counterfeit securities. At these hearings, expert witnesses testified that perhaps more than $50 billion worth of bogus securities could be found in the Nation's brokerage houses, banks, and other financial institutions.

On June 20 of this year, along with Senators Thurmond, Biden, Ribicoff, Jackson, Nunn, Javits, and DeConcini, I introduced S. 1380, the Securities Protection Act of 1979. This bill is designed to insure the vigorous pursuit, arrest, and prosecution of those involved in fraudulent securities transactions.

Since that date, additional attention has been focused on this problem. In an article appearing in the Wall Street Journal on July 10, Burt Schorr described the system already in effect, under the management of the Securities and Exchange Commission, that monitors trade in securities. This SEC reporting system attempts to keep track of all securities that have been reported as lost, missing, or stolen. If, at any time, someone attempts to trade a security which had previously been reported as missing, the SEC can instantly inform law enforcement officials.

As I noted in my original floor remarks, this system meshes perfectly with the legislation we have proposed. S. 1380 is designed to bring the full weight of the Federal Government to bear on those white-collar criminals who attempt to traffic in stolen or counterfeit securities. Recent articles have identified securities theft and fraud as one of the top three white-collar crimes.

This important legislation is neither capricious nor burdensome. It has been carefully drafted to complement law enforcement and regulatory procedures that already exist.

With this SEC system operating so effectively, along with increased attention from the FBI, we have won half the battle. S. 1380 would help win the war.

Mr. President, at the conclusion of my remarks, I request that Mr. Schorr's article, entitled "Uncle Sam's Securities Recovery Plan Proving Simple, Cheap, and Efficient" be printed in the RECORD.

The article follows:

UNCLE SAM'S SECURITIES RECOVERY PLAN PROVING SIMPLE, CHEAP AND EFFICIENT

(By Burt Schorr)

NEW YORK.—Date: July 13, 1978. Time: 10:10 a.m. Edward Collins, 19 years old, waits behind the wheel of the Bradford Securities Processing Service Inc. station wagon parked on Maiden Lane in Manhattan's financial district. Suddenly, a bearded man in blue jeans approaches the vehicle. The man, with a pistol in his belt, says, "Move over before you get hurt." Mr. Collins complies and the stranger slides in behind the wheel.

A moment later, a Bradford messenger that Mr. Collins is waiting for emerges from 110 Maiden Lane with two satchels full of stocks and bonds valued at more than $5 million. A confederate of the bearded man steps behind the messenger and forces him into the back seat of the station wagon. Then the vehicle is driven to a nearby alley where the holdup men grab the satchels and disappear.

Thefts of stocks and bonds have cost securities firms and banks or their insurers hundreds of millions, if not billions, of dollars during recent decades. Strong-arm tactics like those used in the Bradford heist are rare; usually securities find their way into the wrong hands through the connivance of financial-district insiders. But this case is memorable for another reason.

In the months following the Maiden Lane robbery, a computer system recently established by Uncle Sam to track lost or stolen securities helped law-enforcement agencies block attempts to put the Bradford loot back into circulation at no less than eight locations around the country.

OVER DOZEN ARRESTS

Although the two holdup men are still at large, more than a dozen individuals have been arrested so far and more than $3.3 million of the stolen stocks and bonds recovered, largely with the computer's help. The Federal Bureau of Investigation expects to make still more arrests in the case. The FBI has also acquired valuable leads on how stolen securities move in underworld conduits through Las Vegas and other cities.

Indeed, the securities-recovery program is proving itself an anomaly among made-in-Washington ideas. It's simple, it's cheap—and it works.

Under Securities and Exchange Commission regulations, the more than 17,000 participating securities firms and banks must advise the computer center in Wellesley, Mass., whenever any of the generally traded stocks, bonds or other securities in their possession are stolen or turn up missing. (The certificates are identified by the numbers printed on their face.) Every time a subscriber takes in more than $10,000 of securities from a customer, foreign bank or other source outside the reporting network, it must inquire of Wellesley whether the securities are listed as lost or stolen.

In its first 17 months of operation, through May 31 this year, the computer tallied 623 "hits," with a subscriber's inquiry matching another subscriber's lost-or-stolen report, says Securities Information Center Inc., the Itel Corp. subsidiary that runs the system for the SEC. The information prevented crooks from passing off more than $15 million of securities, and many of those have been recovered. As SEC officials see it, the record thus far is ample justification for the $1 million in annual fees that subscribers are paying the center for the service.

POLICE ENTHUSIASTIC

The police are enthusiastic, too. "Now a Wall Street house finds out right away when it's got a problem and can give us a quick call," says Vincent Hogan, head of the New York Police Department's bond and property recovery squad. Before the tracking program began, securities thefts usually wouldn't be reported "until after someone lost a lot of money," Lieutenant Hogan adds.

Eugene Howard, director of security for Bradford National Corp., the parent of Bradford Securities Processing, sees the Wellesley computer center as discouraging securities thefts by insiders. "Once you take away the market on the outside, you take away the motive to steal," he believes.

Uncle Sam's computer eye has its blind spots, however, and security men for Wall Street brokerage firms fear organized crime already is on to them. For example, the Wellesley data bank retains subscriber inquiries for only 21 days. If a loss or theft isn't discovered during that time, inquiries that could provide leads to crooks passing stolen securities would be erased before the theft report actually came in.

Gregory Yadley, the SEC attorney who oversees the checkup on lost or stolen securities, acknowledges that longer retention of subscriber inquiries would be helpful in tracking down thieves. But he says that the idea has been turned down for now as too costly.●

SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 1979

● Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources reported the Surface Mining Control and Reclamation Act Amendments of 1979, S. 1403, on Friday, July 27.

Over my objections and those of several other Senators, the committee adopted a substitute text offered by Senators HATFIELD and FORD. Whereas the text of the bill which I introduced would have extended the deadlines in the act by 7 months as requested by the administration and recommended by the National Governors' Association, the substitute text would delay the timetable in the act by an additional 5 months and make other changes in the law. These changes are highly controversial. So controversial in fact that the Secretary of the Interior has written to me indicating that he will recommend a veto of the legislation if it reaches the President's desk in its present form.

I want Senators to be aware of the Secretary's letter because I think that his strong feeling on this issue makes a convincing argument by itself against adopting the substitute text.

I ask that the Secretary's letter be printed in the RECORD.

The letter follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am extremely disappointed by the action of the Committee in passing the Hatfield-Ford substitute to S. 1403.

This substitute language would do such harm to the Surface Mining Control and Reclamation Act of 1977 and to the Administration's effort to assure that coal be mined in a safe, environmentally acceptable manner that, if the bill is ultimately sent to the President in its present form, I will recommend that it be vetoed.

As you know, the Administration supports a simple amendment to the Act which would give back to the States the seven months that were lost due to the late appropriation to the Office of Surface Mining Reclamation and Enforcement (OSM) and the consequent seven-month delay in promulgation of the permanent regulations. This would push back the date for submission and approval of State programs by seven months, providing time for more orderly preparation and review of these programs. We believe ours was a very logical and fair proposal and I deeply appreciate your personal support of it.

The substitution to your bill passed by the Committee has, at a minimum, the following adverse effects on the Act and program:

1. Twelve-month extension of State program approval deadlines.—The substitute language not only extends the time period for filing State programs by 12 months, but leaves intact the option of an additional six-month extension, should a State indicate that legislative action is necessary—a total extension of 18 months (not 12 months, as some reports on the substitute language have indicated).

It extends the period of dual Federal/State enforcement. Although desirable during the initial program to accomplish some national uniformity and allow for a period of transition, this extension prolongs the opportunity for Federal/State conflict. Such conflict, when it occurs, gives operators mixed signals and different interpretations of the law at the same time they are expected to expand coal output to meet our Nation's energy policy and needs.

It delays implementation of the full public safety and environmental protection standards thereby continuing the damaging effects of mining which the Act is intended to prevent.

It delays the time when the State abandoned mine land programs may be approved, thereby delaying the correction of hazards and detrimental effects of blighted, polluting and dangerous abandoned mine sites.

2. Removal of the requirement that the States' regulations be consistent with the Secretary of the Interior's regulations.—

This change removes my ability to compare a State program submittal against a standard (OSM's regulations) that sets forth acceptable interpretations of the minimum requirements the Act mandated. Without this standard, which was developed after considerable consultation with all interested parties, public hearings and thousands of pages of comments, my decisions on program approvals may well appear arbitrary and capricious, thus increasing the likelihood of litigation. If implementation of a State program is enjoined as part of that litigation, the Act requires me, after twelve months, to place a Federal program in that State. This is clearly a result none of us wants.

Court challenges of some State programs are probable, in any event, but the effect of the amendment is to multiply these challenges. Current litigation on OSM's regulations will resolve a number of issues subject to challenge; whereas, without these regulations, the issues will arise in the context of each separate State program, resulting in a proliferation of conflicting judicial interpretations on any number of the Act's critical elements.

The Act requires the concurrence of the Environmental Protection Agency, U.S. Army Corps of Engineers, Mining Safety and Health Administration, and the Department of Agriculture, as well as coordination under other Acts (Fish and Wildlife Service, Heritage Conservation and Recreation Service, and Advisory Council on Historic Preservation). OSM's regulations have achieved these concurrences and coordinations. Since State programs would have to meet the requirements of these agencies, extraordinary delays would be encountered under the substitute language, unless the State submission was consistent with OSM's regulations, as the Act presently requires.

With the provision in OSM's regulations for flexibility in State programs allowed by the "State Window," the frequent allowance of State discretion in the choice of alternative design criteria, the broad authority to institute experimental departures from the environmental protection performance standards, and my ability to approve a State program conditionally, it is my considered judgment that the amendment is unnecessary, since sufficient flexibility already exists.

3. Delay of implementation of a Federal Lands Program in a State until implementation of a State program in that State.

This amendment makes a substantive change behind an innocent appearing coinciding of dates. In fact, the change could well result in the elimination of the interim performance standards on Federal lands, a retreat from the environmental protection presently occurring as a result of OSM's interim regulations. This could occur from the deletion of the words "and implement" from the first sentence of Section 523(a) of the Act, which language I have relied upon to put into place the interim program on Federal lands.

Tying the Federal Lands Program implementation scheme to the implementation scheme devised by Congress for State programs not only delays the effective date of the former program eight months beyond the date of State program approval (Section 506(a) of the Act), but also eliminates one of the incentives for States to assume primacy and enter into cooperative agreements at an early date—i.e., to reduce the Federal presence in a State and shorten the period of dual enforcement under the interim program.

The amendment undercuts the basis and assumption used in my approval of a new Federal Coal Management program and new competitive leasing schedules for Federal coal lands. That program is predicated on strong regulation of the impact of future coal mining.

Putting off my authority to apply the tests required by Section 510 on Federal lands may be interpreted by courts in a manner which would constrain or preclude my ability to disapprove a mine plan where the area could not be reclaimed, in areas where Congress precluded mining on alluvial valley floors, on prime farmlands and where material damage to the hydrologic balance is a possibility.

In summary, Mr. Chairman, the enactment of S. 1403, as amended, would so seriously jeopardize my ability to carry out the mandates and the requirements of the Surface Mining Control and Reclamation Act that I will be forced to recommend its veto.

Sincerely,

CECIL D. ANDRUS,
Secretary.●

IMPACT ON NATO OF AMERICAN FOREIGN AND NATIONAL SECURITY POLICIES

● Mr. TOWER. Mr. President, last Thursday the Senate Armed Services Committee received testimony on the proposed SALT II Treaty from Gen. Alexander Haig, the distinguished former Supreme Allied Commander to Europe. Al Haig presented powerful testimony on the weakness and confusion which exists in American strategic thinking and national leadership. He painted a distressing picture of the impact on our NATO allies of this drifting in American foreign and national security policy.

Last Friday, in the Washington Post, I noted that his concerns are being echoed, openly now, in Europe.

Alois Mertes, a leading member of the German Parliament and one of the most significant foreign policy experts of the Christian Democratic Party, said yesterday in Bonn that the Carter administration's inability to bring cohesion to its international leadership was "endangering the life" of the North Atlantic Alliance.

I know that European leaders do not like to be critical of American leadership with respect to our great alliance of democracies, but recent events such as the mishandling of the enhanced radiation warhead decision have been painful to our NATO allies. And now, in the SALT debate, they see evidence of those very developments they have most feared.

The weakening of the American strategic nuclear umbrella and its linkage to deterrence in Europe.

The use of theater weapons systems such as ground- and sea-launched cruise missiles to shore up a weak bargaining position at SALT.

The exclusion of intercontinental systems such as the Backfire bomber based upon assurances that they will be aimed only at our allies.

The unwillingness of the present American administration to live up to its commitment to increase defense spending by a real 3 percent.

Mr. President, I wish to point out to my colleague Michael Getler's article "West German Says Carter Moves Threaten NATO" and ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, July 27, 1979]

WEST GERMAN SAYS CARTER'S MOVES THREATEN NATO

(By Michael Getler)

BONN.—A leading figure in West Germany's main opposition party said today that President Carter's policies and the personnel upheaval in his administration are alarming West Europeans, cutting to the core of European security and "endangering the life" of the North Atlantic alliance.

"The belief in the American security guarantee for Europe does not only stand on power," said Christian Democrat member of parliament Alois Mertes, a party specialist on foreign and security policy. "It stands especially on the trust of Europeans in the political leadership, capability and calculability of the American president. The constant insecurities and uncertainties, are for that reason, endangering the life of NATO," he said.

Mertes, a frequent visitor to the United States, is well known among U.S. congressmen and has a reputation as a supporter of strong U.S.-West German ties. He said these concerns must be openly discussed and that he spoke as an act "of well-understood loyalty which was the opposite of anti-Americanism."

Mertes' views appeared in an interview on the front page of the respected Frankfurter Allgemeine newspaper today and Mertes' office confirmed the accuracy of the report.

It was the first major public criticism of recent events in Washington by a leading West German politician. The Christian Democrats, although in opposition, are the largest single party in West Germany and form the nucleus of the conservative bloc.

In the current situation, Mertes said, one was forced to sound the alarm because "Soviet policy is coming to be more effective toward the European allies of America—because it was more disciplined, competent and calculable—than the one coming from Washington."

Mertes portrayed Soviet strategy toward Western Europe as skillful, switching from the tactic of confrontation to one of influence, which had as its long-term goal the estrangement of Europe from America.

Soviet policy, he said, "speculates on a slow worsening of the German trust in the dependability of the geographically distant and, for the first time, militarily vulnerable America and at the same time a discreet intimidation of the Europeans by enormous military superiority of neighboring Russian forces."

Mertes said he doubted that Carter and his White House chief of staff, Hamilton Jordan, recognized sufficiently what he called "this Russian masterpiece."

Mertes said he did not see any acceptable alternative for West German politics other than the alliance with Washington. Change could only come about if Moscow completely overturned its policy toward the entire German nation, meaning East and West, and under present conditions yielding to Moscow "would be suicidal" for West Germany.

In West Germany today, he said, trust in the United States "is still alive, but I know from many talks with people from all social levels that it is greatly endangered." Trust, he said, cannot be decided or come about by praying. It rather has to grow from inner conviction and must root in credibility.

In view of what he called the obvious weakness of American leadership, Mertes said it was necessary for both Chancellor Helmut Schmidt and opposition leaders to balance more closely their foreign policy views. Schmidt, and opposition challenger Franz Josef Strauss, have one thing in common, Mertes said: a "great concern about America."

Mertes' comments came one day after Chancellor Schmidt returned from a private vacation in the United States that, nevertheless, turned out to be politically interesting. Schmidt was invited to California to visit his long-time friend George Schultz, who was Treasury Secretary under president Nixon at the time Schmidt was finance minister in Bonn.

The trip was arranged before the Carter Cabinet upheaval.

While in California, Schmidt was Shultz' guest at an elite club of industrialists and diplomats and had discussions with former secretary of state Henry Kissinger and former NATO commander Gen. Alexander Haig.

In 1976, Schmidt let it be known that he favored President Ford over the challenger, Jimmy Carter, primarily on the ground that Ford was a known quantity in Bonn.

West German officials are playing down Schmidt's meetings in California. They tend to emphasize that the chancellor also met with Carter's nominee to head the Treasury, William Miller, and had an airport meeting in Washington with National Security Affairs Adviser Zbigniew Brzezinski and a telephone conversation from the airport with President Carter.

No substantive details of Schmidt's California discussions have been revealed.●

PROFESSIONAL ENGINEERS

● **Mr. SCHMITT.** Mr. President, it is an honor for me to take this opportunity to congratulate Herbert G. Koogle, P.E., who was recently elected as vice president of the southwestern region and selected as the chairman of the prestigious Legislative and Government Affairs Committee of the National Society of Professional Engineers, a nationwide organization which represents nearly 80,000 individual members working in all engineering fields.

Herb has a remarkable history of service to his profession, having served on a national level as chairman of the Professional Engineers in Private Practice Division of NSPE and president of the New Mexico Society of Professional Engineers. He was also president of the Albuquerque chapter.

A registered professional engineer and land surveyor in New Mexico, Herb is president and chairman of the Board of Koogle and Pouls Engineering, Inc., located in Albuquerque.

It is with great pleasure and great pride for the State of New Mexico that Herb has been selected for these positions within NSPE. I would like to extend my best wishes and luck.●

ORDER FOR RECESS TODAY UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME TO FILE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance have until midnight to file a report on S. 566, the countercyclical revenue-sharing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

NURSE TRAINING AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 230.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 230) entitled "An Act to amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

TITLE I—NURSE TRAINING

SEC. 101. (a) This title may be cited as the "Nurse Training Amendments of 1970".

(b) Whenever in this Act (other than sections 205 and 314) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 102. Section 801 (relating to authorizations for construction grants) (42 U.S.C. 296) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $2,000,000 for the fiscal year ending September 30, 1980".

SEC. 103. (a) Subsections (a) and (b) of section 805 (relating to loan guarantees and interest subsidies) (42 U.S.C. 296d) are each amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (e) of such section is amended by inserting after "in fiscal year 1978" the following: "and in each of the next two fiscal years".

SEC. 104. Subsection (f)(1) of section 810 (relating to capitation grants) (42 U.S.C. 296e) is amended by inserting after "fiscal year 1978" the following: "and $24,000,000 for the fiscal year ending September 30, 1980".

SEC. 105. The first sentence of subsection (d) of section 820 (relating to special project grants and contracts) is amended by striking out "and" after "1977," and by inserting before the period the following: ", and $17,000,000 for the fiscal year ending September 30, 1980".

SEC. 106. Subsection (b) of section 821 (relating to advanced nurse training programs) (42 U.S.C. 296l) is amended by striking out "and" after "1977," and by inserting after "for fiscal year 1978" the following: ", and $13,500,000 for the fiscal year ending September 30, 1980".

SEC. 107. Subsection (e) of section 822 (relating to nurse practitioner programs) (42 U.S.C. 296m) is amended by striking out "and" after "1977," and by inserting before the period the following: ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 108. Subsection (b) of section 830 (relating to traineeships) (42 U.S.C. 297) is amended by striking out "and" after "1977," and by inserting before the period ", and $15,000,000 for the fiscal year ending September 30, 1980".

SEC. 109. (a) Subsection (b)(4) of section 835 (relating to loan agreements) (42 U.S.C. 297a) is amended by striking out "1978" and inserting in lieu thereof "1980".

(b) Section 837 (relating to authorizations for student loan funds) (42 U.S.C. 297c) is amended (1) by striking out "and" after "1977," in the first sentence and (2) by inserting before the period in the first sentence ", and $13,500,000 for the fiscal year ending September 30, 1980", (3) by striking out "fiscal year 1979" and inserting in lieu thereof "the fiscal year ending September 30, 1981", and (4) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1980".

(c)(1) Subsection (a) of section 839 (relating to distribution of assets) (42 U.S.C. 297e) is amended by striking out "September 30, 1980, and not later than September 30, 1977" and inserting in lieu thereof "September 30, 1981, and not later than December 30, 1983".

(2) Paragraph (1) of such subsection is amended by striking out "1980" and inserting in lieu thereof "1983".

(3) Subsection (b) of such section is amended by striking out "1980" each place it occurs and inserting in lieu thereof "1983".

SEC. 110. (a) Subsection (b) of section 845 (relating to scholarship grants) (42 U.S.C. 297j) is amended (1) by striking out "next two fiscal years" in the first sentence and inserting in lieu thereof "next four fiscal years", (2) by striking cut "1979" and inserting in lieu thereof "1981", and (3) by striking out "1978" and inserting in lieu thereof "1980".

(b) Subsection (c)(1) of such section is amended (1) by striking out "next two fiscal years" in subparagraph (A) and inserting in lieu thereof "next four fiscal years", (2) by striking out "1978" in subparagraph (B) and inserting in lieu thereof "1980", and (3) by striking out "1979" in such subparagraph and inserting in lieu thereof "1981".

(c) The amendments made by subsections (a) and (b) do not authorize appropriations for the fiscal year ending September 30, 1979, for scholarships under section 845 of the Public Health Service Act in addition to the amount available for such scholarships under section 101(a) of Public Law 95–482.

SEC. 111. Subpart I of part B of title VIII (relating to traineeships) is amended by adding after section 830 (42 U.S.C. 297) the following new section:

"TRAINEESHIP FOR TRAINING OF NURSE ANESTHETISTS

"SEC. 831. (a)(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Commissioner of Education, of licensed, registered nurses to be nurse anesthetists.

(2) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

"(b) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1980.".

SEC. 112. Section 836(b)(3) (relating to student loans) (42 U.S.C. 297(b)(3)) is amended (1) by inserting after "(3)" the following: "in the case of a student who received such a loan before the date of enactment of the Nurse Training Amendments of 1979,", and (2) by striking out "any such loan" and inserting in lieu thereof "any such loan made before such date".

SEC. 113. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study to determine the need to continue a specific program of Federal financial support for nursing education, taking into account—

(1) the need for nurses under the present health care delivery system and under that system as it may be changed by the enactment of legislation for national health insurance,

(2) the cost of nursing education, and

(3) the availability of other sources of support for nursing education, including

support under general programs of Federal financial support for postsecondary education, under State and other public programs, and from private sources.

(b)(1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through the Institute of Medicine, to conduct the study, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

(2) If the Academy declines the Secretary's request to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity to conduct such study.

(3) Upon completion of the study, the entity conducting the study shall report the results of it to the Secretary and shall include in such report any recommendations for legislation which the entity determines are appropriate.

(4) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(5) The Secretary shall undertake such preliminary activities as may be necessary to enable the Secretary to enter into an arrangement for the conduct of the study at the earliest date authorized by subsection (d).

(c) Not later than six months after the date the arrangement for the conduct of the study is entered into under subsection (b), the Secretary and the entity conducting the study shall each report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives their respective preliminary recommendations respecting the need to continue a specific program of Federal financial support for nursing education and, if there is a need, the form in which the support should be provided. Not later than two years after such date, the Secretary shall report to such Committee recommendations respecting such need and form of support and the basis for such recommendations and shall include in that report the report submitted to the Secretary pursuant to subsection (b)(3).

(d) The authority of the Secretary to enter into any contract for the conduct of the study under this section shall be effective (1) only on and after October 1, 1979, and (2) for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—OTHER HEALTH PROFESSIONS PROGRAMS

Sec. 201. Section 729(a) (relating to limits on Federal loan insurance and insured loans) (42 U.S.C. 294b(a)) is amended—

(1) by inserting before the period in the first sentence a comma and the following: "except that in the case of loans to students in schools of medicine, osteopathy, and dentistry, the Secretary may increase the total of such loans which may be covered by Federal loan insurance to $15,000 if he determines that the costs of education at such schools requires such increase"; and

(2) by inserting before the period in the second sentence a comma and the following: "except that the Secretary may increase such amount for borrowers who are or were students in schools of medicine, osteopathy, and dentistry to $60,000 if he determines that the costs of education at such schools requires such increase".

Sec. 202. (a) Section 752(b)(5)(A) (relating to service requirements for National Health Service Corps scholarships) (42 U.S.C. 294u(b)(5)(A)) is amended by striking out "(not to exceed three years)" and inserting in lieu thereof "(not to exceed three years or such greater period as the Secretary, consistent with the needs of the Corps, may authorize)".

(b)(1) Such section 752(b)(5)(A) is further amended by adding after the first sentence the following: "With respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of such period of time, as determined by the Secretary by regulation but not less than one year, as is required for the individual to complete an internship, residency, or other advanced clinical training.".

(2) The last sentence of such section is amended by striking out "such".

(3) Section 752(b)(5)(B) is amended by striking out "other than a school of medicine, osteopathy, or dentistry" and inserting in lieu thereof "other than a school referred to in subparagraph (A)".

Sec 203. Subsection (b) of section 756 (42 U.S.C. 294y) is amended to read as follows:

"(b) Of the sums appropriated under paragraph (1), not less than 9 percent shall be obligated for scholarships for dental students.".

Sec. 204. Section 781(c) (relating to requirements for participation of schools in area health education center programs) (42 U.S. 295g–1(c)) is amended by adding after and below paragraph (4) the following:

"The requirement of paragraph (3) shall not apply to a medical or osteopathic school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.".

Sec. 205. Section 802(a) of the Health Professions Educational Assistance Act of 1976 (relating to transitional provisions on area health education centers) is amended—

(1) by striking out "for the next fiscal year" and inserting in lieu thereof "for the next three fiscal years";

(2) by striking out "no payment shall be made to an entity under such a contract" and inserting in lieu thereof "no payment under such a contract shall be made to an entity which had not first entered into such a contract before October 12, 1976, (1)"; and

(3) by inserting before the period at the end thereof the following: ", or (2) for any fiscal year beginning after September 30, 1979".

Sec. 206. Paragraph (4) of section 788(b) (42 U.S.C. 295g–8(b)(4)) is repealed.

Sec. 207. Subparagraph (B) of section 788 (e)(2) is amended by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

Sec. 208. (a) Section 748(b)(3)(B) (42 U.S.C. 294e(b)(3)(B)) is amended (1) by striking out "or" at the end of clause (iv), (2) by striking out the period at the end of clause (v) and inserting in lieu thereof ", or", and (3) by adding after clause (v) the following:

"(vi) maternal and child health.".

(b) Section 792(a) (42 U.S.C. 295h–1(a)) is amended (1) by striking out "or" at the end of paragraph (3), (2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and (3) by adding after paragraph (4) the following new paragraph:

"(5) maternal and child health.".

Sec. 209. Section 771(d)(5) (42 U.S.C. 295f–1(d)(5)) is amended by striking out "may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary" and inserting in lieu thereof "may—

"(A) in the case of a school of dentistry which increased its enrollment of full-time first-year students in accordance with paragraph (3), waive (in whole or in part and under such conditions as the Secretary may prescribe) application of the requirement of subsection (a)(1) that it maintain its increased enrollment of such students, and

"(B) in the case of any other school of dentistry, waive (in whole or in part) application of the requirement of any paragraph of this subsection,

if the Secretary determines".

Sec. 210. Section 401 of the Health Programs Extension Act of 1973 (42 U.S.C. 300a–7) is amended by adding at the end thereof the following new subsection:

"(e) No entity which receives, after the date of enactment of this paragraph, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Assistance and Bill of Rights Act may deny admission or otherwise discriminate against any applicant (including applicants for internships or residences) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions.".

TITLE III—PUBLIC HEALTH SERVICE ADMINISTRATION

Sec. 301. This title may be cited as the "Public Health Service Administrative Amendments of 1979".

Sec. 302. (a) Section 203 (42 U.S.C. 204) is amended by adding at the end thereof the following new sentence: "Warrant officers may be appointed to the Service for the purpose of providing support to the health and delivery systems maintained by the Service and any warrant officer appointed to the Service shall be considered for purposes of this Act and title 37, United States Code, to be a commissioned officer within the commissioned corps of the Service.".

(b) Section 205(b) (42 U.S.C. 206(b)) is amended by striking out "six" and inserting in lieu thereof "eight" and by inserting after "the Chief Dental Officer of the Service," the following: "the Chief Nurse Officer of the Service, the Chief Pharmacist Officer of the Service,".

Sec. 303. Section 205(c) (42 U.S.C. 206(c)) is amended to read as follows:

"(c)(1) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such temporary position, and while so serving they shall each have the title of Assistant Surgeon General.

"(2) Except as provided in this paragraph, the number of special temporary positions created by the Surgeon General under paragraph (1) shall not on any day exceed 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. If on any day the number of such special temporary positions exceeds such 1 per centum limitation, for a period of not more than one year after such day, the number of such special temporary positions shall be reduced for purposes of complying with such 1 per centum limitation only by the resignation, retirement, death, or transfer to a position of a lower grade, of any officer holding any such temporary position.

Sec. 304. (a) The third sentence of subsection (a) of section 206 (42 U.S..C 207(a)) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Officers of the assistant grade—first lieutenant;

"(6) Officers of the junior assistant grade—second lieutenant;

"(7) Chief warrant officers of (W–4) grade—chief warrant officer (W–4);

"(8) Chief warrant officers of (W–3) grade—chief warrant officer (W–3);

"(9) Chief warrant officers of (W–2) grade—chief warrant officer (W–2); and

"(10) Warrant officers of (W–1) grade—warrant officer (W–1).".

(b) Section 206(c) (42 U.S.C. 207(c)) is repealed.

(c) The first sentence of section 206(d) (42 U.S.C. 207(d)) is amended by striking out "junior assistant grade" and inserting in lieu thereof the following: "warrant officer (W–1) grade".

Sec. 305. (a) Section 207(a)(1)(42 U.S.C. 209(a)(1)) is amended by inserting immediately after "original appointments to the Regular Corps may be made only in the" the following: "warrant officer (W–1), chief warrant officer (W–2), chief warrant officer (W–3), chief warrant officer (W–4),".

(b)(1) Section 207(d)(1) (42 U.S.C. 209(d)(1)) is amended to read as follows:

"(d)(1) For purposes of basic pay of any person appointed under subsection (a) or (b), and for purposes of promotion of any person appointed to the Regular Corps under subsection (a) or any person appointed under subsection (b), such persons shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.".

(2) Section 207(d)(2) (42 U.S.C. 209(d)(2)) is amended by striking out "to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b)," and inserting in lieu thereof the following: "or (b)".

(3) Section 207(d)(3) (42 U.S.C. 209(d)(3)) is amended by striking out "to the senior assistant grade or above".

Sec. 306. Section 209(c) (42 U.S.C. 210b(c)) is amended by striking out "assistant grade" and by inserting in lieu thereof the following: "warrant officer (W–1) grade".

Sec. 307. (a) Section 210(d)(1) (42 U.S.C. 211(d)(1)) is amended by striking out "Officers in the junior assistant grade" and by inserting in lieu thereof the following: "Officers in the warrant officer (W–1) grade, chief warrant officer (W–2) grade, chief warrant officer (W–3) grade, chief warrant officer (W–4) grade, and junior assistant grade".

(b) Section 210(g) (42 U.S.C. 211(g)) is amended—

(1) in the first sentence by striking out "an officer of the Regular Corps in the junior assistant grade" and inserting in lieu thereof the following: "an officer of the Regular Corps in the warrant officer (W–1) grade or junior assistant grade";

(2) in the second sentence by striking out "an officer of the Regular Corps in the assistant, senior assistant," and inserting in lieu thereof the following: "an officer of the Regular Corps in the chief warrant officer (W–2), chief warrant officer (W–3), assistant, senior assistant,";

(3) in paragraph (1) by striking out "if in the assistant grade" and inserting in lieu thereof the following: "if in the chief warrant officer (W–2) or assistant grade"; and

(4) in paragraph (2) by striking out "if in the senior assistant grade" and inserting in lieu thereof the following: "if in the chief warrant officer (W–3) or senior assistant grade".

Sec. 308. Section 211(e) (42 U.S.C. 212(e)) is amended by striking out "a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded" and by inserting in lieu thereof the following: "a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded".

Sec. 309. (a) Section 214(c) (42 U.S.C. 215(c)) is amended by striking out the comma immediately after "nonprofit educational research" and inserting immediately after "Service" the following: "to any appropriate committee of the Congress".

(b) Section 214(d) (42 U.S.C. 215(d)) is amended by inserting after the first sentence the following new sentence: "In the case of detail of personnel under subsections (b) or (c) to be paid from applicable Service appropriations, the Secretary may condition such detail on an agreement by the State, subdivision, or institution concerned that such State, subdivision, or institution concerned shall reimburse the United States for the amount of such payment made by the Service.".

Sec. 310. (a) The first sentence of section 218(b) (42 U.S.C. 218a(b)) is amended to read as follows: "Any officer whose tuition, fees and other necessary expenses are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to pay to the Service an amount equal to two times the total amount of such tuition, fees, and other necessary expenses received by such officer during such period, and two times the total amount of any compensation received by, and any allowance paid to, such officer during such period, if after return to active service such officer voluntarily leaves the Service within (1) six months, or (2) twice the period of such attendance, whichever is greater.".

(b) The third sentence of section 218(b) (42 U.S.C. 218a(b)) is amended by striking out "reimbursement" wherever it appears and by inserting in lieu thereof the following: "payment".

Sec. 311. Section 219(c) (42 U.S.C. 210–1(c)) is repealed.

Sec. 312. Section 221(a) (42 U.S.C. 213a(a)) is amended by adding at the end thereof the following new paragraphs:

"(12) Section 1552, Correction of military records: claims incident thereto.

"(13) Section 1553, Review of discharge or dismissal.

"(14) Section 1554, Review of retirement or separation without pay for physical disability.".

Sec. 313. The Public Health Service Act is amended by inserting immediately after section 227 (42 U.S.C. 236) the following new section:

"RESERVE CORPS OFFICERS; SEVERANCE PAY UPON INVOLUNTARY RELEASE FROM ACTIVE DUTY

"Sec. 228. (a) Except as provided in subsection (b), a commissioned officer of the Reserve Corps of the Service who is released from active duty involuntarily pursuant to (1) program abolition or contraction requiring a reduction in strength of the commissioned corps, (2) nonavailability of other assignment or failure of promotion, or (3) any other reason other than separation for cause or retirement, and who has completed, immediately before such release, at least five years of continuous active duty in the commissioned corps of the Service, is entitled to a severance payment computed by multiplying the years of active service in the commissioned corps of such officer (other than in time of war or national emergency declared by Congress after January 1, 1979) by two months basic pay of the grade in which such officer is serving at the time of such release, except that no such severance payment to any officer shall exceed an amount equal to the amount of two years of basic pay of the grade in which such officer is serving at the time of such release. For purposes of this subsection—

"(1) a period of active duty is continuous if it is not interrupted by a break in service of more than thirty days; and

"(2) in the computation of severance pay, a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

"(b) Subsection (a) shall not apply with respect to any officer referred to in such subsection who—

"(1) is released from active duty at the request of such officer;

"(2) is released from active duty for training;

"(3) upon release from active duty, is immediately eligible for retired pay from the Service; or

"(4) upon release from active duty, is immediately eligible for severance pay based on this section and any other provision of law and who elects to receive such severance pay under such other provision of law.

"(c) Any severance payment to which any officer becomes entitled under this section shall be reduced by the amount of any previous payment made to such officer under this section.".

Sec. 314. (a)(1) The table in section 201(a) of title 37, United States Code, is amended by striking out "Surgeon General." in the fourth column of such table and by inserting in such column to correspond with pay grade O–9 the following: "Surgeon General.".

(2) Section 205(a) of such title is amended by striking out "and" at the end of clause (8), by striking out "Corps." at the end of clause (9)(C) and inserting in lieu thereof "Corps;", and by inserting immediately after such clause (9)(C) the following new clauses:

"(10) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a doctoral degree named in clause (11), who attains a masters degree before entry or re-entry into active service where such degree is required for appointment—one year; and

"(11) for a commissioned officer of the Public Health Service, other than a medical or dental officer named in clause (7) or (8) or an officer who attains a masters degree named in clause (10), who attains a doctoral degree before entry or re-entry into active service where such degree is required for appointment—three years.".

(b)(1) Section 1006(a) of title 37, United States Code, is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(2) Section 1006(b) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(3) Section 1006(c) of such title is amended by inserting immediately after "member of an armed force" the following: "or of the Public Health Service".

(4) Section 1006(c) of such title is amended by inserting immediately after "members of the armed forces" the following: "or of the Public Health Service".

(5) Section 1006(d) of such title is amended by inserting immediately after "from his armed force" the following: "or from the Public Health Service".

(6) Section 1006(e) of such title is amended by inserting before the period the following: "and the Public Health Service.".

(7) Section 1006(h) of such title is amend-

ed by inserting immediately after "members of an armed force" the following: "or of the Public Health Service".

(c) Section 415(d) of title 37, United States Code, is amended to read as follows:

"(d) An allowance of $250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

"(1) on active duty or on inactive duty training status; and

"(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection, except that an officer who has received one such allowance under this subsection may, upon transfer to or from the United States Coast Guard, be paid one additional such uniform and equipment allowance if pursuant to such transfer a different uniform is required.".

Sec. 315. The amendments made by sections 303, 304, 305, 306, 307, 313, and 314 shall take effect on October 1, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. Kennedy, that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Kennedy, Mr. Williams, Mr. Nelson, Mr. Cranston, Mr. Pell, Mr. Schweiker, Mr. Javits, and Mr. Hatch conferees on the part of the Senate.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE Z, 96TH CONGRESS, 1ST SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with the Republic of Panama on the Execution of Penal Sentences, signed at Panama on January 11, 1978 (Executive Z, 96th Congress, 1st session), which was transmitted to the Senate today by the President of the United States. I ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Republic of Panama on the Execution of Penal Sentences which was signed at Panama on January 11, 1979.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentences in their home country; in each case, the consent of the offender would be required.

This Treaty represents the fulfillment of a commitment undertaken by both nations in the Panama Canal Treaty of 1977. It would complement the wide range of protections and benefits afforded United States Government personnel under the Panama Canal Treaty and related agreements during the life of that Treaty, and would establish a mechanism for other nationals of both countries to serve their sentences in their home countries. Its ratification would provide our personnel stationed in the Republic of Panama further assurance that their interests will be fully protected upon the entry into force of the Panama Canal Treaty.

I recommend that the Senate give prompt and favorable consideration to this Treaty.

Jimmy Carter.

The White House, *July 30, 1979.*

TIME-LIMITATION AGREEMENT—S. 712, AMTRAK AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 194, S. 712, the Amtrak authorization, is called up and made the pending business before the Senate, and with the understanding it will not be called up before Wednesday of this week, there be a time agreement thereon as follows: Two hours on the bill, equally divided between Mr. Long and Mr. Packwood; 40 minutes on any amendment; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; that there be 20 minutes on an amendment by Mr. Sasser relating to train fares; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That not before Wednesday, August 1, when the Senate proceeds to the consideration of S. 172 (Order No. 194), a bill to amend the Rail Passenger Service Act, debate on any amendment (except an amendment to be offered by the Senator from Tennessee (Mr. Sasser)), on train fares on which there shall be 20 min.; shall be limited to 40 min., to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 min., to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana. (Mr. Long) and the Senator from Oregon (Mr. Packwood): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—S. 1119

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar No. 221, S. 1119, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: One hour on the bill, to be equally divided between Mr. Jackson and Mr. Hatfield; 30 minutes on any amendment; 1 hour on an amendment by Mr. Glenn; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1119 (Order No. 221), debate on any amendment (except an amendment to be offered by the Senator from Ohio (Mr. Glenn)) on which there shall be one hour; shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Jackson) and the Senator from Oregon (Mr. Hatfield): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to consider nominations on the calendar beginning with "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The assistant legislative clerk proceeded to read nominations beginning with "New Reports."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations beginning with New Reports and going through page 2 be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

George Herbert Patrick Bursley, of Maryland, to be a Member of the National Transportation Safety Board.

CONSUMER PRODUCT SAFETY COMMISSION

Stuart M. Statler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND THE COAST GUARD

National Oceanic and Atmospheric Administration nominations beginning with Herbert R. Lippold, Jr., to be rear admiral (upper half), and ending Stephen L. Carlson to be ensign.

Coast Guard nominations beginning John P. DeLong to be Chief Warrant Officer, W-2, and ending Lionel R. Munsey, to be lieutenant (jg).

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

SALT II: DOES IT ENHANCE SECURITY OF UNITED STATES?

Mr. HARRY F. BYRD, JR. Mr. President, all great civilizations confront during their course challenges which require strength of will and clarity of vision. These challenges have not always been met. Even in our own time, we have seen nations and peoples voluntarily lay down the burden of leadership.

In this highly dangerous nuclear age, it is vital that the United States not be lured into a false sense of security.

The Strategic Arms Limitation Treaty must be viewed with that in mind. We must be aware of what has occurred since the approval of SALT I.

First, let me say that those who tend to approve SALT II and those who tend to oppose that instrument all, I feel, seek the same objective.

I know of no Member of this Congress—or for that matter, any American—who wants nuclear war. Indeed, it is abhorrent to the basic concept of Americans.

The question is how do we best prevent it. Involved is not the question of motive, but the question of judgment.

Which policies and programs will meet the test of time? Which policies and programs will meet the needs of this nuclear age?

The Strategic Arms Limitation Treaty thus challenges the Nation and its Senate to decide properly a question of much importance to future generations. The outcome will inevitably affect, and will either improve or hinder, opportunities for freedom in a world of increasing oppression.

The basic issue is:

> Does the proposed treaty enhance the security of the United States and its free allies; does it confirm Soviet strategic superiority, thus increasing the likelihood of war or the probability of diplomatic defeat?

This vital issue must be analyzed from the broad perspective of the record of the Soviet Union and its long record of aggression and deception.

As a young newspaper editor I remember 1939 as the year of the Soviet-Nazi Pact and the year that the Russians attacked an almost defenseless Finland. After World War II and before they attained nuclear weapons, I remember the Soviets blockading Berlin—and who can forget that in 1956 Soviet tanks crushed the Hungarian uprising. And I remember Russian tanks entering Czechoslovakia in 1968.

Perhaps the most important confrontation between the United States and the Soviet Union was the Cuban missile crisis in 1962 when the Russians decided to place nuclear-tipped missiles 90 miles from the United States. If the Soviets had had strategic nuclear superiority at that time, what would have been the fate of the United States?

These and similar incidents in recent history cause me to question Soviet intentions. That is why I believe it is necessary to view SALT II as simply one component of the overall policy of the Soviet Union whose history is, I believe, replete with instances of aggression and geopolitic expansion.

I must say, frankly, I do not trust the Soviet leadership.

I am convinced that the Russian people—as a people—are equally as peace-loving as are the American people. But under the Russian dictatorial form of government where only a few persons make the great decisions, the Russian people have no real way to influence the actions of their government.

We must, thus, never forget the plain reality of Soviet intentions made manifest in a program of unrelenting aggression.

SALT II deals with offensive intercontinental nuclear weapons.

SALT II does not address conventional forces; SALT II does not address strategic defensive systems; SALT II does not address advanced weapons technology; SALT II does not address international terrorism and subversion; SALT II does not address economic warfare, embargos, and strategic shortages; SALT II does not address human rights for the enslaved peoples of Europe and Asia.

My remarks today, therefore, cover in equal detail both the terms of the proposed SALT treaty and some of the many other facts and factors which must also be reviewed in order to form an accurate judgment of SALT II and of its potential impact.

CONVENTIONAL FORCE IMBALANCE

The Soviet Union maintains a total armed force of 4,800,000. The United States, on the other hand, maintains a total force of 2,069,000, over 2 million below Russian strength.

I do not contend that this country needs or should have a manpower level of that magnitude; however, the Soviet Army alone equals total U.S. manpower—Army, Navy, and Air Force.

The numerical advantage of the Soviet Army could permit it to overwhelm U.S. forces in NATO, a result which might be achieved even without calling up an estimated 25 million Soviet reserves, of which 7 million have served in active forces within the last 5 years. The Soviet advantage in armor in Europe is 10 to 1.

The Soviet Navy has expanded rapidly and now includes over 240 major surface combatant ships. It has 333 submarines of which at least 155 are nuclear powered, and 159 contain launchers of nuclear missiles. An additional 29 major surface combatants and 117 submarines, some nuclear powered, are in reserve.

The U.S. Navy can now count only 172 major surface combatants, 75 attack submarines, and 41 missile submarines. It has no cruise missile submarines, and only 38 major surface combatants and 4 submarines are in reserve.

For a maritime nation, our Navy is not adequate. For a continental power, the Soviet Navy is awesome.

Equally awesome is the Russian Air Force which is organized into 28 tactical air armies utilizing 8,126 combat aircraft and 1,300 military air transports. Particularly significant is the extremely large number of MIG-23/27 Flogger aircraft, of which an estimated 1,500 are already deployed. This aircraft is produced at a high rate, and it is capable of shooting down cruise missiles in flight.

The Russian aircraft industry manufactures every 3 months the same number of combat aircraft as are in service in the entire British Royal Air Force.

The U.S. Air Force, by comparison, counts only 4,163 combat aircraft. Air defense of North America is marginal to nonexistent. One HAWK battery in Florida and 331 obsolescent NORAD fighters could present no real challenge to a determined attack. Moreover, our 25 fighter squadrons in Europe, with a total of only approximately 500 aircraft, are certain to be at a disadvantage in any conflict involving the numerically superior Soviet Air Force. Valor alone cannot make up for 5-to-1 odds.

Few military analysts doubt seriously the ability of Russia to win a conventional war in Europe. SALT II must be viewed in light of that unfortunate reality.

THEATER NUCLEAR FORCE IMBALANCE

The imbalance in conventional forces between the Soviet Union and the United States is magnified by the advantage enjoyed by the Russians in theater nuclear forces. These Soviet forces include intermediate nuclear weapon systems which are not intercontinental in range. These forces also include 20 g-class intermediate range ballistic missile submarines, at least 69 nuclear-armed cruise missile launcher submarines, at least 150 Tu-26 Backfire-B bombers, and about 300 SS-20 ballistic missiles, all of which could attack the United States. Nevertheless, both categories of weapons were considered theater nuclear weapons by our negotiators and were excluded from SALT II. In any event, whether any of these weapons are intended to be used against the United States or not, they could all certainly be used to overwhelm Western Europe.

Since the withdrawal by the United States of our Thor and Jupiter missiles from Europe, our own defense planning concept for fielding a theater nuclear force has been essentially to divert strategic systems to theater uses and to deploy some short-range tactical nuclear weapons. However, unlike the Soviet systems, our diverted strategic systems are counted under SALT II.

In essence, the United States has not developed a true theater nuclear weapon program. The United States is limited in NATO to the short-range Lance and Pershing systems. Similarly, only a limited strength and, therefore, largely ineffective theater aircraft force (66 FB-111A bombers) is devoted to the theater nuclear mission.

Unlike Russia, in lieu of developing and fielding intermediate range ballistic missiles (IRBM's) and medium range ballistic missiles (MRBM's) for the theater nuclear mission, the United States has relied on diversion of strategic forces and on rhetoric and discussion with our NATO allies regarding the need for theater nuclear force modernization. Nothing of substance has happened.

Meanwhile, Russia has pursued a vigorous program of modernization and development of IRBM's, MRBM's, chemical warfare systems, and nuclear-capable theater aircraft.

Thus, in addition to Backfire, g-class ballistic missile submarines, and nuclear-armed cruise missile submarines, Russia has also deployed in excess of 890 IRBM's and MRBM's in Western Russia or Eastern Europe for use in European theater missions. This force includes at least 90 SS-5 IRBM's, possibly as many as 300 SS-20 IRBM's (mobile), and at least 500 SS-4 MRBM's. The SS-4 has a range of 2,000 kilometers, the SS-5 has a very large warhead and a range of 3,500 kilometers, and the SS-20 has multiple warheads and a potential range of over 5,500 kilometers, the range definition of an ICBM under SALT II. But in addition to these missiles, approximately 1,300 tactical nuclear missile launchers are in units organic to basic Army formations. These include the SS-21 and SS-12.

Conversely, and in contrast to the MRBM and IRBM force of the Soviet Union, the United States has maintained only the short-range low-yield Lance tactical nuclear missile and very limited numbers of the short-range Pershing. Our inaction has been compounded by the Carter administration decision not to produce the neutron bomb.

In summary, while the United States has ignored the necessity for developing separate theater nuclear systems and has relied instead on the diversion of strategic forces to the theater role, the Soviet Union has devoted a balanced effort to developing and modernizing theater nuclear and chemical weapons as a complement to conventional and strategic nuclear forces. Finally, the air defensive systems of the Soviet and Warsaw Pact forces are sufficient to guarantee that the limited threat posed by nuclear-capable NATO aircraft is held at a minimum.

STRATEGIC DEFENSIVE SYSTEMS

Now, any analysis of the strategic capability of nations must include study of both strategic offensive capability and strategic defensive capability. SALT II ignores issues involving strategic defenses.

The Soviet citizen, unlike his American counterpart, is not hostage to the nuclear forces of a potential enemy. The Soviet leadership has worked diligently for more than three decades, and particularly under SALT I, to improve and strengthen Soviet air defenses and Soviet missile defenses.

Additionally, a massive civil defense program provides significant passive strategic defense to the Soviet public.

Having limited through the SALT process the U.S. offense, Russia now finds a strategic defense economically feasible and highly effective. According to Secretary Brown, Russia has spent $100 billion on strategic defensive systems.

The combination of active Soviet air and missile defenses with passive but extensive population defense thus makes a major contribution to the strategic imbalance now existing between the United States and Russia.

Soviet leaders have, by intense efforts in strategic defense, sought to remove the word "mutual" from the formulation "mutual assured destruction"—a formulation expounded in America by a generation of State Department strategists who have argued that the best way to avert nuclear war is to assure unacceptable losses. Because of strategic defenses potential Russian war loses may be approaching damage limits which the Soviet dictatorship considers acceptable.

The foregoing result has been achieved in large measure through vigorous exploitation of Western-supplied technology.

For example, the SA-5 ABM system, which may now protect in a damage limiting role as many as 110 Soviet cities and missile fields, is a system based on technology developed in the U.S. Nike-X ABM program. The SA-5 radar, in apparent violation of the ABM treaty, was tested in 1974 in an ABM mode. Similarly, the SA-X-3 mobile ABM system, also apparently developed in violation of the ABM treaty, also relies on Western technology.

But, in addition to capitalizing on unused Western defensive technology, the Russians have on their part emphasized quantity, diversity, and overlap in defensive systems.

Thus, the Soviet Union has deployed more than 10,000 surface-to-air launchers at more than 1,000 sites throughout Russia. Moscow itself is defended by 64 acknowledged ABM missiles (Galosh), a system deployed in addition to the even more effective SA-5 and SA-X-3 systems.

The SA-5, SA-X-3, and Galosh ABM's are all believed to be armed with high-yield nuclear warheads fully capable of destroying incoming RV's. A fourth new, even more advanced, very large ABM may also be ready for deployment in hardened launchers, perhaps as part of the SA-X-3 system.

The 1972 ABM treaty appears to have had little impact on Soviet actions. By comparison, in 1976, the ABM treaty was a major factor in the decision to dismantle the U.S. Safeguard ABM system.

But other formidable defenses protect Russia. Conventional SAM batteries on ships at sea, in Eastern Europe, and finally on the perimeters of the Soviet Union itself make it highly probably that only a few U.S. manned strategic bombers, even those armed with short-range attack missiles (SRAM's), could successfully complete their mission. Seven thousand early warning radars coupled with 10,000 SAM launchers should be more than enough to do the job, but in addition, some 2,720 Air Defense Force interceptors would be airborne to clean up any residual U.S. bomber force. Perhaps the B-1 could have penetrated these defenses; the B-52 probably cannot. And, indeed Secretary of Defense Brown admitted before the Senate Committee on Armed Services that the American manned bomber would not be able to penetrate Soviet defenses in 1985.

By comparison, the United States for strategic defense purposes has only one HAWK battery in Florida and 331 NORAD interceptors—including 190 interceptors in National Guard squadrons. This fact and the unilateral decision to dismantle the Safeguard ABM system mean that there is no active defense of U.S. strategic offensive forces and that the American population is held hostage to Soviet offensive forces.

In this analysis, it is important to remember that the ABM treaty permits the United States and Russia each to deploy ABM's at one ABM site. The United States has unilaterally elected not to deploy the system permitted to it under the treaty. Similarly, there is no prohibition on fielding air defenses in North America, yet through unilateral decision of the United States, these air defenses have in the main not been deployed.

North America is defended from nuclear attack only through the threat of retaliation after an attack. Unlike the Soviet Union, no real effort has been made to defend actively the United States through active defenses against attacking nuclear systems.

Our only defense is the threat of hitting back. Thus, in a strategic sense, unlike Russia, North America is essentially undefended.

WESTERN ASSISTANCE TO SOVIET WEAPON DEVELOPMENT

While our guard has dropped, the Soviet Union has worked hard on both strategic offensive and defensive systems. It has not been able, however, to develop systems such as the SA-5 or SA-X-3 without massive infusions of advanced technology from the West, primarily from the United States.

Communist economic systems do not produce the level of innovative and advanced thought which occurs in a free economy. Nevertheless, Communist systems are able to assimilate and explore the inventiveness of others.

An important reason, therefore, for the ability of Eastern bloc nations to maintain high technology is the wholesale transfer of technology which occurs between the West and the East, or rather, from the West to the East.

In this transfer process, the Western bloc nations, primarily the United States. touch along the top of the technology curve and skip from one new technology to the next. In the process they turn over the benefits of the previous technology to the East while failing to exploit significantly, in a military sense, very many of the discoveries made.

In short, the pioneer work is done by Western scientists, and the military exploitation of their research—the deployment of weapons systems—occurs in Russia and other Eastern bloc nations.

A classic example of the foregoing is in laser and particle beam research and development. The United States refuses to exploit vigorously technologies it has developed in these areas, but has provided many of these same technologies to the Soviet Union on the theory that our scientists are already moving ahead to new and better concepts.

Meanwhile, the Soviet Union has taken basic Western technology and immediately and forcefully diverted it to military applications. Thus, the Soviet space-based laser program for destroying U.S. satellites and possibly intercontinental ballistic missiles may have been unwittingly assisted by technology transfer from the United States.

The permissive policies of the Department of Commerce, adopted in the interests of trade, have allowed the export licensing of military-related technology to the Soviet Union and to other potential enemy nations. This state of affairs has been particularly evident recently in the leading role played by the Department of Commerce officials in diplomatic negotiations with Russia and with mainland China. Technology transfer has internationalized the Department of Commerce in the same manner foreign aid has internationalized the Department of State. An institutional bias at Commerce in favor of permitting the transfer of critical technologies has had grave military consequences.

In addition, the impact of Cocom, a committee of 14 Western nations and Japan designed ostensibly to prevent military technology transfer to Communist nations, has been insignificant.

First, many critical strategic technologies are not listed as prohibited by Cocom agreement. Only 149 items are on the Cocom list, and the list itself is classified secret. Nevertheless, it is known to be particularly deficient in new computer technologies.

Second, if a product or technology is listed, the prohibition against its export is all too often waived.

Finally, several member nations of Cocom, perhaps including the United States, apparently feel free to violate the Cocom agreement in secret bilateral agreements with Communist nations.

Thus, a Cocom nation in a hidden agreement with a Communist nation provided to the Communist nation a complete semiconductor plant and related technology which helped to upgrade the Communist nation's ability to use modern electronics in its military machinery. Because of secrecy surrounding export licensing, similar bilateral arrangements are often effectively hidden, both from Cocom and from the public.

In summary, Cocom is ineffective because: First, the list of prohibited items is not sufficiently inclusive; second, waivers are routinely granted; and third, the Cocom agreement is often violated through secret bilateral transactions.

Frankly, this subject has received little public attention, perhaps because we have assumed for years that Western military export policies were handled carefully.

The following examples of critical technology transfer should help to dispel that unfortunately erroneous notion:

First. The recent export to a Soviet bloc nation of the C-20B component of the 250 series Detroit diesel Alison engine, which is a cruise missile engine component;

Second. The sale to Russia of 164 Centalign-B precision miniature ball-bearing machines which apparently assisted in perfecting the guidance of the reentry vehicles of the SS-18 ICBM, Russia's most powerful missile;

Third. The reported sale of entire plants for making integrated circuits to a variety of Communist countries, thereby permitting the production of semiconductor devices for military purposes;

Fourth. The massive transfer of computer technology to the Soviet Union and recently to mainland China which contributed to Soviet and Chinese advancement in ABM systems, satellite surveillance systems, and ballistic missile and cruise missile guidance systems;

Fifth. The sale of array transform processors which aided the Soviet Union in improving shipboard computers for antisubmarine warfare;

Sixth. The sale by a NATO country to the Soviet Union of technology useful in reducing the vulnerability of submarines to acoustical detection;

Seventh. The sale by a NATO country to mainland China of an advanced jet aircraft engine;

Eighth. The sale of advanced infrared sensors to mainland China which could assist military reconnaissance and missile guidance, pointing, and tracking.

The foregoing list could be expanded and amplified. But the point is that the Senate must bear this pattern of behavior in mind in considering arguments that we can afford to grant strategic nuclear superiority to Russia because our technology is ahead of Russian technology and acts to hedge a grant of Russian supremacy in deployed weapons.

The plain fact is that Western technology very soon becomes the world's technology and that, unlike the United States, Russia exploits Western developments to the hilt.

In recognition of these problems the Senate on July 21 passed the Export Administration Act amendments to seek to limit technology transfer to potential enemies.

EXPERIENCE UNDER SALT I

In 1972, I voted for the SALT I interim agreement. I did so on the basis of arguments regarding the prospects for a balanced arrangement within 5 years under SALT II. I also voted for the antiballistic missile treaty in the belief that a follow-on SALT II agreement would make rational the concessions made by the United States to Russia in that treaty.

Experience over the 5 years of SALT I, and during President Carter's unilateral 2-year extension of it following its expiration on October 3, 1977, has convinced me that doubts about SALT I have proven well founded.

In the joint resolution approving SALT I is the following provision:

> Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interest of the United States.

Thus, in 1972, the Congress recognized the danger to world peace if Russia could achieve, as it has now or soon will have, the ability to destroy the U.S. land-based ICBM force.

I point out these facts because after 7 years it is easy for the Senate and the country to forget the fine language which was used in 1972 to convince the Congress that SALT I was acceptable.

I, for one, decided to vote for SALT I only after it was amended to require equality in the follow-on SALT II agreement.

What has Russia done since SALT I was approved?

During the time since SALT I was approved, the Soviet Union has produced and deployed the SS-16, a mobile, single warhead ICBM, with a range of about 10,000 kilometers; the SS-17, a large throw-weight ICBM which is MIRVed and with a range of 10,000 kilometers; the SS-18 an extremely large ICBM with 16,000-pound throw weight and 10 warheads, each with a range in excess of 10,500 kilometers; the SS-19, a large ICBM, with multiple warheads and a range of 9,000 kilometers; the SS-N-17, a submarine-launched ballistic missile (SLBM) with MIRV capability; the SS-N-18, a very large SLBM with multiple warheads and a range of 9,500 kilometers; the SS-20, a MIRVed ballistic missile which is mobile and is known to have a range in excess of 5,500 kilometers; the SS-21, a new tactical nuclear missile the SS-N-12, a new relatively long-range naval cruise missile; and SS-XZ, a new mobile ICBM, possibly MIRVed and with a range in excess of 6,000 kilometers and a very large throw weight.

Additionally, under SALT I, the Soviet Union has had under development an entire new fifth generation of ICBM's, of which the Department of Defense acknowledges five under full-scale development. These missiles are in addition to the fourth generation, which is composed of the awesome SS-17's, 18's, and 19's.

The Soviet Union has under SALT I developed two antisatellite systems. The Soviet Union has developed cold launchers for ICBM's to permit rapid reload of stockpiled ICBM's. The Soviet Union has developed an advanced mobile ABM missile. The Soviet Union has deployed thousands of surface-to-air missiles and more than 1,500 Mig-23/27's.

The Soviet Union has deployed ground-launched cruise missiles (GLCM's) with nuclear warheads, has tested from the Backfire bomber an air-launched cruise missile (ALCM) firing at a range of more than 1,200 kilometers, and has deployed long-range sea-launched cruise missiles (SLCM's), also with nuclear warheads.

Quantitatively, Soviet military procurement under SALT I has been equally impressive. The list of major weapons procurement since the SALT process began is, frankly, astonishing. It includes the following items of hardware acquisition which Russia has or soon will have:

(1) Several hundred late-model SS–11's with multiple warheads;

(2) 800 fourth generation, large, liquid-fueled ICBM's (SS–17, 18, and 19) with MIRVed warheads;

(3) 300 mobile SS–20 MIRVed IRBM launchers and up to 1,000 SS–20 missiles, also a reported 100 mobile SS–16's;

(4) 20 Y-class and 30 D-class SSBN's with a total of some 700 missile tubpes;

(5) At least one new Typhoon-class SSBN and probably more building;

(6) At least 150 Backfire bombers with several hundred ASMs for this and older-model bombers, plus at least another 150 Backfires to be permitted under the new agreement;

(7) More than 60 new major surface ships and other lesser surface combatants, for a net increase of one million metric tons in surface warships;

(8) Naval SAMs and cruise missiles for new surface combatants;

(9) Approximately 25 nuclear-powered attack submarines equipped with anti-ship cruise missiles;

(10) More than 6,600 SAM (SA–3, SA–4, SA–5, SA–6, SA–8, and SA–9) launchers and more than 12,000 missiles compared with zero for the strategic defense of the United States;

(11) Substantially more than 1,000 new high-performance interceptors, some with "look down, shoot down" capability;

(12) Several thousand air-to-air missiles of various types; together with associated radars and equipment for ground control; including at least two types of over-the-horizon radars;

(13) 30,000 tanks and more than 30,000 armored personnel carriers and other armored vehicles;

(14) More than 20,000 artillery pieces and heavy mortars;

(15) Approximately 2,100 fighter bombers and high-performance reconnaissance aircraft for frontal aviation, plus 600 helicopter gunships, plus literally thousands of associated air-to-surface and anti-tank missiles;

(16) Approximately 4,000 ZSU–23/4 anti-aircraft guns; and

(17) About 250 AN–22 and IL–76 transport aircraft and more than 1,000 cargo/troop transport helicopters.

This list is available from sources in the public domain. Much is missing, yet it should be sufficient to illustrate the point.

All this has occurred under SALT I.

In the same time period, the United States has dismantled its Safeguard ABM system, has canceled the B–1 bomber program, has delayed development of the Tomahawk sea-launched cruise missile, has declined to produce the neutron warhead, has slowed development of an antisatellite system, *has not* developed a single new land-based ICBM, and has moved at a snail's pace in developing the Trident C–4 missile which still has not completed testing.

Basic defense procurement has, to be sure, continued, but the simple truth is that the United States has not met the challenge of Soviet military expansion since the beginning of the SALT process.

On July 24, in response to a question I asked in the Committee on Armed Services, Gen. David C. Jones, Chairman of the Joint Chiefs, stated that "SALT I acted as a tranquilizer." He also testified that there is as well "a risk that SALT II could be allowed to become a tranquilizer." I agree that the danger is serious.

Finally, in analyzing our experience under SALT I, the Senate should also recognize that, in performing the terms of SALT I, the Soviet Union has repeatedly acted against both the spirit and the terms of the agreement. Similarly, Soviet compliance with the ABM treaty is questionable.

At least six articles of the ABM treaty appear to have been violated. Russian activities in violation of these articles are as follows:

(1) Testing in 1974–1975 of the SA–5 air defense system in an ABM mode;

(2) Deployment of new ABM radars;

(3) Camouflage of certain ABM research and development efforts; and

(4) Official falsification of the number of test range ABM launchers reportedly dismantled in 1973.

Soviet actions contrary to SALT I are also apparent. The Russians broke the express intent, spirit, and purpose of article II prohibiting the replacement of light ICBM's and heavy ICBM's by deploying the heavy SS–19.

As you know, the SS–19, with a throw weight comparable to the Titan II, is a heavy missile under the understanding of SALT I, yet cleverly, under the new definitions of SALT II, it will be classed a light missile. In a sense, the Soviets have been rewarded for violating the intent of SALT I by an inclusion in SALT II of a heavy missile under a redefined light missile category.

Soviet leaders also violated the article of SALT I constraining submarine deployment by falsifying the initial baseline level of submarines claimed. Moreover, the Soviet Union has expressly acknowledged that it failed to deactivate ICBM's on time in accordance with the agreement. Data on the deactivation of ICBM's was falsified three times during 1976. The deployment of new command and control silos during SALT I violated the spirit and intent of article I which was designed to freeze the ICBM force level.

Additionally, a massive program of deliberate concealment of testing and deployment of offensive forces has blatantly violated article V of SALT I prohibiting interference with national technical means of verification. Violations of article V of SALT I include:

First. Encryption of ICBM telemetry;

Second. Camouflage and concealment of ICBM testing, production, and deployment;

Third. Concealment of submarine construction and berthing; and

Fourth. Construction of dummy submarines which are themselves concealed.

Finally, the Russians have violated the SALT I protocol by building 3 submarines more than the 62 permitted under the protocol.

There are many other examples of Soviet disregard for the SALT I accords. The list goes on and on if the analysis is made of Soviet behavior under not only the specific terms of the agreements reached but also under the agreed interpretations of both the ABM Treaty and the interim agreement.

I will cite here only three examples.

First, under the agreed interpretations of the interim agreement, the range definition of an ICBM would include the SS–20, a mobile MIRVed, "intermediate"-range missile, yet Russia has deployed these missiles in violation of the SALT accord and its agreed interpretation.

Second—and this is perhaps the clearest example—in March 1976 the Soviet leadership actually admitted that they had deliberately violated the agreement requirement to deactivate old ICBM's (SS–7's) while replacement submarines were on sea trials.

Third, this overt admission was soon followed by the deployment of an ABM radar at a ballistic missile test range in direct conflict with an agreed interpretation of the ABM Treaty and without making the prior agreement with the United States required thereby.

These foregoing actions—and there are others—do not even reach the issue of U.S. unilateral statements made in connection with the approval of SALT I. Suffice it to say that unilateral statements made by the United States have, in the main, been ignored by Russia to an extent that one questions whether the other side even bothered to read them.

Why should we expect Russian compliance with SALT II to be different than it has been with SALT I? At the very least, the Senate in considering SALT II, and the wording of its provisions, must assume the worst—must assume that Russia will resolve any treaty ambiguity in favor of Russia and will take full advantage of any loophole.

I can summarize our experience under SALT I with this statement: The Soviet Union under SALT I—and at times in violation of SALT I—has deployed at least 10 entirely new strategic systems and has advanced the quantity and quality of its weaponry at all levels to the maximum extent permitted by the Soviet economy.

BUDGETARY CONSIDERATIONS

Proponents of the SALT II treaty have already begun a campaign to propagandize the American public on the alleged virtues of SALT II, warning of dire consequences of its failure in the Senate.

A primary argument made by the Carter administration, is that without SALT II there will be an arms race of unparalleled proportion and great expense to the United States.

The fact is that Russia, during the past 7 years, has to an unprecedented degree, already increased its military might.

The Soviet Union in 1980 is expected to expend up to 18 percent of its gross national product on defense. Even the Central Intelligence Agency, which for more than 30 years has consistently underestimated Soviet military spending, now admits that between 11 and 13 percent of the Russian GNP is devoted to the military and that the Soviet Union expends $40 billion more than the United States spends for defense purposes annually.

Then, too, unlike the United States, the great bulk of the Soviet defense budget goes to the procurement of hardware. In a police state, manpower costs do not compete with procurement costs as they do in a free society.

In our country manpower consumes nearly two-thirds of the defense dollar, weapons procurement accounts for less than 30 percent. In Russia the opposite is true, with less than 30 percent going for manpower costs.

But, in my judgment, the Soviet Union may nevertheless be at the point of diminishing returns in defense expenditures. Further significant defense expenditures probably cannot be achieved in real terms since to increase the defense share of the Russian economy beyond its present staggering percentage could cause the Russian economy to falter, and the actual GNP of Russia could decline along with actual funds available for military systems.

The Russian economy is not likely to sustain military expenditures greater than those presently being made. It follows that the limits imposed by SALT I and proposed to be imposed by SALT II do not, in fact, bring about any fiscal limits on Soviet defense spending. Those limits are imposed by the Soviet economy itself.

SALT II may, however, permit a shift in Soviet strategic expenditures from offensive strategic systems to defensive strategic systems. On the surface, this change might appear desirable; but, in fact, it could increase the chance of war by enabling a damage denial or damage limiting defense of the Soviet homeland.

American defense expenditures will not be constrained by SALT II, but by the realities of a democratic system of government. Present U.S. expenditures for defense are about 5 percent of the U.S. gross national product. Defense procurement, that is, the purchase of military hardware, does not exceed 2 percent of the U.S. GNP. With or without SALT II, it is highly unlikely that the United States would match or even spend anywhere near the levels of the Soviet Union. The restraining factor would be, quite properly, the American political system, not SALT II.

It follows, Mr. President, that SALT II would not constrain defense spending, either in the United States or in the Soviet Union.

This view is held by analysts of the Soviet economy most qualified to predict future performance on the basis of past experience. Thus, for example, an acknowledged leading American authority on Soviet defense spending, W. T. Lee, states as follows:

> The burden of Soviet defense expenditures has risen over the years and it is contributing to the decline in the overall growth of the Soviet economy. Soviet defense expenditures have increased very rapidly since the SALT process began in 1969. Indeed the case can be made that SALT has stimulated the growth of Soviet defense expenditures on the grounds that Soviets saw SALT as the means of catching up with and surpassing the U.S. in military capabilities and have made the most of it. In order to finance the heavy burden on Soviet economy the Soviet leaders have had to make an unprecedented (in peacetime) diversion of resources from investment to defense. While the impact on investment has been eased by imports of machinery and technology, much of which has been financed by NATO, the burden of defense on the Soviet economy has never been so heavy in peacetime. Ironically, the burden has grown much more rapidly in the SALT decade than during the previous 13 years.

Mr. Lee questions, as I do, the ability of the Soviet Union to increase significantly its defense spending above its current level. He states:

> We do not have a good measurement of how much economic growth has been foregone by the steady increase in the share of GNP devoted to defense over the past two decades. The effect thereof on capital investment is evident, as has been discussed. Clearly, this is one of the reasons for the decline in growth rate of Soviet GNP, but how much of the decline has been due to the rising defense burden? What would the growth rate have been if the Soviet defense outlays had been held, say, to 9 to 10 percent of GNP instead of rising to about 18 percent or less? Were reduced to the U.S. share of 5 percent or less? We cannot answer these questions with precision, hence, it is difficult to say how much Soviet economic growth would be reduced by increasing the defense share to 20 percent or more of GNP, or at what point growth would cease and GNP might even decline if the defense share were to go beyond 18 percent. Surely, however, there is a peacetime limit, and the Soviets may be approaching it. It is hard to believe they can go much above 18 percent of GNP for defense. On the other hand, can the Soviets maintain defense at about 18 percent of GNP and still achieve growth in GNP? Perhaps.

Basic considerations of gross national product and allocation of resources are, thus, determinative of Soviet defense spending, not limits specified in SALT. This result, Mr. Lee concludes, is inescapable:

> To put it mildly, SALT has had no discernible effect on Soviet defense expenditures.

LINKAGE

It has been suggested by the administration that it would for some reason be improper to consider the proposed Strategic Arms Limitation Treaty in connection with our experience of Russian aggression and Communist expansion. The idea apparently is that SALT II must be isolated and examined in a vacuum.

I reject that approach. Obviously, this treaty was not negotiated in a vacuum, and there is nothing whatsoever isolated about its content or its intent.

The Senate should not feel constrained in discussing SALT II as a document linked and intertwined with an ongoing history of Russian aggression and Communist expansion.

Looking only at the time since the coming into force of SALT I, the Senate can and should remember, in passing judgment on SALT II, the rampant expansionism of Russian imperial policy.

I will list here a few of many examples.

The United States failed in its efforts to defend South Vietnam. The Soviet Union is now seeking to develop Pacific Fleet naval bases provided by Vietnam.

U.S. policy elsewhere has suffered similar defeat. We have acquiesced in Communist victories in Angola and Mozambique. We have cooperated while Russian-oriented terrorists have sought to destroy the new majority rule government in Rhodesia. We have done nothing to forestall Cuban-trained terrorists in Nicaragua. We have watched the spectacle of Cuban troops keeping in power a Communist dictatorship in Ethiopia. A revolution in Iran has eliminated a government friendly to the United States, and we have witnessed the communization of Afghanistan and Russian-inspired and fomented insurrection and insurgency elsewhere.

Yet, in the face of this clear evidence, the administration and others have suggested that if the United States will only show further restraint—how often we hear that word restraint—if the United States would only show further restraint, then the aggressive Russian policy would be curtailed.

Let us examine that from a historical perspective. If we go back to 1964, the United States had 1,054 ICBM's. Russia had 200. The same argument was made then . . . that if we froze our forces at that figure, Russia would not increase her missile strength.

After all, Russian policy, we are told, has always been defensive in nature. It is only because Russia, we are told, is threatened that Russia seeks power in Central America; it is only because Russia feels threatened that Russia maintains a naval presence in southern Africa, at Maputu and at Cabinda, and in the horn of Africa, at Socotra; it is only because Russia feels threatened that Russia seeks a naval base at Camranh Bay and fortifies the Kuriles; it is only because Russia feels threatened that Russia supports its stooges in Cuba.

Restraint, restraint, we are told, is required of the United States or else Russia will, out of fear, out of fear alone, be compelled to expand even further—but always, of course, acting in her own self-defense.

Now this process ought to be familiar to the West. Hitler, we were told in the late 1930's, needed Austria and Czechoslovakia only so that Germany would not feel threatened.

So, I believe it would be a mistake during the debate of SALT II to attempt to determine Russian intentions rather than to focus on Russian might.

TERMS OF SALT II

The Jackson amendment to the SALT I interim agreement required the President to seek quantative equality in any future SALT agreement with Russia. SALT II appears on the surface to satisfy the requirement of the Jackson amendment.

In fact, however, the equal upper limits specified in SALT II are purely cosmetic and do not result in actual equality in the strategic offensive forces of the two parties to the treaty. In short, the fundamental treaty formula is an illusion.

OFFENSIVE LIMITS

The upper limit for the total number of strategic offensive weapons is 2,400.

This limit is to be reduced to 2,250 by December 31, 1981.

The first subtotal, 1,320, is the number of ICBM's and submarine-launched ballistic missiles (SLBM's) that may be MIRVed. Also included are all heavy bombers equipped with ALCM's or air-launched ballistic missiles (ALBM's). This subtotal is also to be reduced on December 31, 1981, to 1,200.

The next sublimit is 1,200, and it limits the number of ICBM's and SLBM's which may be MIRVed without regard to manned bombers.

Finally, 820 is the number of land-based ICBM's which may have MIRVed warheads.

Again, outwardly these limits appear to impose identical constraints on Russia and on the United States. In fact, they do not.

First, the Soviet Union is granted a special right to 308 heavy ICBM's of the SS–18 class.

These missiles are the missiles designed to destroy, and which are capable of destroying, the U.S. ICBM force.

They are truly awesome in size, firepower, and accuracy, and the United States would be prohibited by SALT II from seeking to develop a comparable missile.

In effect, this prohibition guarantees a Russian advantage in the most critical aspect of the strategic balance, namely, that aspect directly affecting the ability to destroy an opponent's forces in a first strike.

Second, the treaty formulas do not provide for equal aggregates for other, less immediately obvious reasons. These reasons are associated with the failure of the American negotiators to include in the negotiations all of the strategic forces of Russia. Since these strategic systems were not included in the first instance, obviously these systems and their potential for growth make a mockery of the stated equal aggregates in the treaty. Known Soviet strategic systems not counted under SALT II include:

(1) The SS–20;
(2) The SS–N–3;
(3) The SS–N–12;
(4) The SS–N–4;
(5) The G-Class SS–N–5; and
(6) The Backfire bomber.

These special exclusions granted to Russia mean that, even after the Soviets have reduced the number of their strategic offensive weapons to the SALT II specified limits, almost 1,000 additional strategic nuclear weapons will be outside the SALT II formula with no SALT-imposed limits on further growth.

In contrast, every conceivable strategic system of the United States is included in the U.S. count under the treaty. Thus, obsolete B–52 bombers in the Arizona desert boneyard are included in the U.S. total, notwithstanding the fact that more than a year would be required to bring these aircraft into operational status.

In summary, although the numbers specified are the same, disparity in the method of counting invalidates the equation.

DEFENSIVE LIMITS

SALT II does not limit defensive strategic systems.

SALT I included as a component part the ABM treaty limiting defenses against ICBM's and SLBM's.

Thus, the SALT I package limited ICBM's and SLBM's both by offensive- and defensive-related restrictions. Manned bombers were not included in SALT I, and consequently, no defensive limitations were imposed on those systems used to counter a manned bomber threat.

SALT II does include manned bombers, primarily those of the United States, yet no effort was apparently made to include in the treaty strategic air defense systems.

U.S. air defenses are very thin. Russia, in round numbers, has almost 3,000 interceptor aircraft, 7,000 air defense radar systems, and 10,000 strategic air defense SAM launchers.

These defensive forces in the Soviet Union tend to nullify the heavy bomber threat of the United States. And the exclusion of Backfire from the SALT limits exaggerates the vulnerability of a relatively defenseless North America to heavy bomber attack.

In addition, the massive Soviet civil defense program and the extensive Soviet activity in developing and deploying new antiballistic missiles in violation of the ABM treaty add further to the strategic impact of Soviet defenses.

The failure of U.S. negotiators to obtain an agreement with Russia which would limit Russian strategic defensive systems, and their corresponding failure to include the most potent Russian bomber while carefully counting the most obsolete and useless American bombers, combine to produce a result totally inconsistent with the doctrine of mutual assured destruction and clearly at odds with the principle of equal aggregates.

Russia will be in a position to strike North America with impunity in a bomber attack, whereas without B–1, it is doubtful that more than a few U.S. bombers could complete their mission.

All this within the cosmetic equal aggregates of SALT II.

BACKFIRE NOT LIMITED

The Backfire is a bomebr capable of reaching the United States. The aircraft is 2½ times heavier than the U.S. theater nuclear bomber, the FB–111A. Its payload and unrefueled range are both only about 10 percent below the B–52.

Russia, throughout the negotiation of the SALT II agreement, insisted that the Backfire was not an intercontinental weapon and was deployed in a theater nuclear and maritime role. Their position prevailed, and the Backfire is not included in the total aggregates specified in the proposed SALT II agreement.

But the point is not whether the Backfire is deployed for theater nuclear missions or whether it is deployed for intercontinental missions. The fact is that the Backfire is capable of an intercontinental mission. Not only is it capable, but it could prove highly effective in an intercontinental mission, especially since, as I have noted before, there is very little in the way of air defense protecting North America.

Further, since Backfire can attack the United States and since this aircraft is comparable to the B–52, many of which are in the Arizona boneyard yet are counted, Backfire should also be counted in the equal aggregates specified in the SALT II treaty. But it is not.

Mr. Brezhnev has provided President Carter an unsigned letter stating that Backfire production will not exceed the present rate of 30 aircraft per year, and that the bomber will not be used against the United States. Yet by 1985 Russia will still have at least 400 Backfire aircraft. Mr. Brezhnev's unsigned letter does not provide a defense.

CRUISE MISSILES LIMITED

The United States has achieved some advantage in developing cruise missile technology for the accurate targeting of a variety of types of cruise missiles. The Soviet Union has long possessed cruise missiles, both ground-launched and sea-launched. Chiefly, the Soviet Union has relied on the SS–N–3, the SS–C–2, and the SS–N–12. The Soviet Union has tested an air-launched cruise missile with the Backfire bomber.

Nevertheless, Russian cruise missile technology is thought to be behind American technology in the same type systems. On the other hand, to reach high value targets in the United States with sea-launched or air-launched cruise missiles, Soviet launch vehicles are not required to penetrate defenses to the same depth as are U.S. delivery systems.

In short, because of basic geography, cruise missiles launched against the Soviet Union would be required to travel greater distances to reach their targets, than cruise missiles launched against the United States.

Article II of the protocol to the SALT II treaty prohibits deployment of ground- or sea-launched cruise missiles with a range in excess of 600 kilometers. As previously noted, it is not clear what will happen to existing Soviet ground- and sea-launched cruise missile systems with ranges in excess of 600 kilometers—360 miles—but it is clear that the development by the United States of sea-launched and ground-launched cruise missiles will be slowed. If the protocol is extended, as it is likely to be, these systems will be stopped.

Article IV, section 14 of the proposed SALT II treaty provides that neither party may deploy a number of air-launched cruise missiles more than the product of 28 and the number of aircraft equipped to launch cruise missiles.

The second agreed statement to article IV, section 14 states that, in the case of the B–52, not more than 20 cruise missiles will be permitted on each B–52 equipped to launch cruise missiles.

Yet neither the Backfire nor the new advanced Soviet bomber now under development are subject to the 20 missile limit. Again, with an appearance of equality, in fact, asymmetry is imposed by the SALT II treaty.

Moreover, a limit of twenty cruise missiles per B–52 is likely to present a manageable threat to Russia. The intense air defense systems of the Soviet Union could permit the Russians to defend successfully against that level of cruise missile attack.

The SA-5, the SA-10, and the SA-X-3 are all likely systems for downing cruise missiles. Similarly, the "look-down shoot-down" capabilities of the MIM-23/27's, the forward-looking infrared capabilities of the MIG-25, and the battle management systems of Soviet AWACS and netted radars further enhance Russian defense against the cruise missile. Finally, new types of antiaircraft guns and other new technologies could provide terminal defenses to negate the U.S. cruise missile potential.

Yet the B-1 scrapped on the basis that the cruise missile made the new bomber unnecessary.

MODERNIZATION

The SALT I interim agreement, in a loosely worded provision, sought to limit increases in the size of light ICBM's. At that time, the predecessor missiles to the SS-17 and SS-19, that is, the SS-11 and SS-13, had throw weights of approximately 2,000 pounds. SALT I purported to hold the Soviets to missiles of that size, when in fact, under the definition of light missiles in SALT I the Soviet Union managed to develop both the SS-17 and SS-19, the former with a throw weight of 7,000 pounds and the latter with a throw weight of 8,000 pounds—both more than three times larger in throwweight than the light missiles they replaced.

SALT II has solved the embarrassing problem for U.S. negotiators created by these two new heavy Soviet ICBM's simply by including both as "light missiles" and failing to define a light missile. This clever feat of draftsmanship does not change the fact that these two new heavy ICBM's are aimed at the United States, nor does it change that fact that no apparent effort was made by the United States in SALT II to gain a counter advantage to that obtained by Russia in developing these missiles contrary to the intent of SALT I.

I raise this issue fully realizing that it is now a matter of history, because I believe the definition of permissible modernization set forth in the SALT II agreement will permit the Soviet Union to field its new fifth generation of IBCM's. These fifth generation missiles are well along in their development and will be available for deployment well before the expiration of SALT II.

In my judgment, at least three new ICBM's will be introduced by Russia in the near future, and if it has been approved by the Senate, SALT II will have no effect in prohibiting their deployment.

This latter fact results from the loose definition of modernization of missiles set forth in article IV, section 9 and in the understandings thereto. These three new "modernized" ICBM's would be in addition to the one new light ICBM which is specifically permitted to be flight-tested or deployed under the treaty.

This latter provision permitting deployment of a new ICBM before 1985 is of limited value to the United States because it is now obvious that the MX missile program has been sufficiently delayed to make a provision for its deployment during the term of SALT II of little consequence. The earliest date now estimated for MX is 1986.

Finally, in connection with the issue of strategic missile modernization and deployment of new types of light ICBM's, it must be understood that under the provisions of article IV, section 7 of the proposed treaty, the United States would not be permitted to "develop, test, or deploy ICBM's" which have a launch weight or throw weight greater than the throw weight of our largest missile which is 8,000 pounds, a value substantially equivalent to that of the SS-17 and SS-19, and one-half the Soviet upper limit established by the 16,000 pound throw weight of the SS-18.

Secretary of Defense Brown testified that this and other provisions of the treaty grant Russia the special right to 308 SS-18's but forbid the United States to have any ICBM's of comparable size.

We must understand further that inasmuch as the word "light" is nowhere defined in the treaty, the Soviet Union is free to deploy one new "light" ICBM of a size limited only by the provisions of article IV, section 7, namely, limited only be the unspecified launch weight or throw weight of the massive SS-19.

COLD LAUNCH

Russia has developed the ability to reload rapidly missile silos. Both the SS-18 and the SS-17 are launched by compressed gas; their rocket motors do not fire until the missile has left the silo. The silo is thereafter reusable and can be reloaded in a process requiring no more than a few hours.

The SALT II agreement imperfectly seeks to curtail the rapid reloadability of Soviet rocket forces. The SALT II agreement, in its article IV, section 5, provides that ICBM "launcher deployment areas" are not to be equipped with missiles excess to "normal deployment, maintenance, training, and replacement requirements." It further provides that neither party is to "develop, test, or deploy systems for rapid reload of ICBM launchers."

The Soviet Union—according to Dr. William Perry, Undersecretary of Defense for Research and Development—has already developed the capability for rapid reload of ICBM launchers. The prohibition contained in the treaty will, therefore, only inhibit the United States.

Additionally, I note that, unlike many other provisions of the treaty, this critical provision does not have the normal laundry list of agreed statements and common understandings. Only the term "normal deployment requirements" is defined to prohibit additional missiles immediately at an ICBM launch site. Other terms are not defined. "Launcher deployment area" is not defined. "Normal—maintenance, training, and replacement requirements" are not defined. It becomes, then, entirely a question of subjective judgment as to what constitutes a violation of this provision of the treaty.

Russia is free to define normal deployment practices, especially with respect to maintenance, training, and replacement requirements, in such a manner as to generate a reload capability of strategic significance.

Frankly, the Senate would display great naivete if it were to believe that the Soviet Union would have invested the development effort it has into cold launch techniques if it did not intend to take advantage of those techniques regardless of a poorly drafted treaty provision which seeks to restrict their use. We already have seen the Russian use of ambiguity to skirt the terms of SALT I.

Indeed, a first step in a strategic confrontation by the Soviet Union seeking to gain a diplomatic advantage could well be to move excess reload missiles to the vicinity of a launch site in the moment of crisis. At that stage, the treaty provision would have little meaning.

VERIFICATION

The problem I have just outlined with respect to rapid reload and cold launch technique typifies the type of issue which is fundamentally not subject to verification without ongoing, onsite inspection.

The Soviet Union stretched, if not violated the terms of SALT I. Some of the violations were discovered in a timely fashion, some were not, and some may yet remain to be discovered. Secretary of Defense Brown stated to the Committee on Armed Services that we must consider the likelihood that the Soviets would violate the treaty.

Yet, SALT II, a far more complicated and detailed agreement than was SALT I, is in the same degree far more complex and onerous in its verification. This is apparent in the provisions in the treaty which seek to require functionally related observable differences and externally observable differences which are, in effect, admissions of defeat in an effort to verify by National Technical Means. In such instances, in fact, we are simply trusting the Russians to be honest with us in telling us what they are doing.

The administration has recognized that Soviet compliance with the proposed SALT II treaty cannot be verified with certainty. The administration has proposed a legalistic and definitional solution to this real problem by simply redefining what is an acceptable degree of verification. The administration has postulated acceptance of a standard of verification based on adequacy in lieu of certainty.

But all witnesses seem to agree that even to achieve "adequate" verification we must rely on the permission of third countries to establish and maintain monitoring sites. This is a thin reed on which to rest a matter of such importance.

NATIONAL STRATEGY AND TRUE PARITY

The United States has long accepted the basic concept of parity with the Soviet Union in strategic forces, but the United States now has moved rapidly to the new concept of "essential equivalence" with Soviet strategic force, a doctrine which permits acceptance of strategic inferiority.

True parity is an acceptable condition. Obviously, it is not as desirable as superiority. However, the concept of parity has been in SALT II confused with the principle of "equal aggregates." This confusion results from the incorrect assumption that if aggregate numbers are equal, then parity is achieved.

The United States, as a matter of doctrine, adheres quite rightly to a policy of deterrence and retaliation. The United States, as a matter of doctrine and as an outgrowth of the democratic process, will not initiate a nuclear war.

Because the United States relies only on retaliation as a deterrent to attack by an opponent, it must have either more weapons than its opponent or it must have survivable weapons. Of the two choices, survivable weapons are preferable.

To achieve parity, then, the United States must have more rather than less or must have survivable weapons rather than vulnerable weapons.

The Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, and the Chief of Naval Operations, Adm. Thomas B. Hayward, have both testified that the United States will not even be able to maintain essential equivalence, much less parity, during the term of SALT II.

I do not suggest a change in a wise policy seeking to avert nuclear war by refusing the option to plan for initiating a first strike. I do believe, however, that, in assessing SALT II and the facade of equal aggregates which would be established by it, we must continually bear in mind that simple equality in numbers does not provide parity in strategic capability. This I view as a fundamental defect in SALT II and in the SALT process itself as conducted in recent years.

ASSURED MUTUAL DESTRUCTION

I have always felt that mankind would benefit from the development of defensive systems designed to counter nuclear weapons. To me defending against weapons of mass destruction has always seemed a desirable goal.

I have discovered, however, that there are those who prefer to seek to prevent nuclear war by guaranteeing the total destruction of both Russia and the United States in the event war did occur. I obviously appreciate and approve the motive behind this doctrine, a doctrine which is known under the acronym "MAD" for mutually assured destruction. The motive is the prevention of war. I question, however, that the doctrine will work if the destruction of one side can be assured while that of the other cannot.

The United States has dismantled all strategic defenses. On the other hand, Russia has developed and expanded its ability to defend its people. In fact, Secretary of Defense Brown testified that Russia has spent $100 billion on its strategic defenses.

The pervading influence of the doctrine of mutually assured destruction on the American side of the negotiating table has produced a proposed treaty which purports to limit strategic offensive arms, but does not limit strategic defensive arms. This I consider important.

TECHNOLOGY BREAKOUT

During the SALT process the United States has moved from a position of superiority to a position of vulnerability.

For every offense, we are told, there is a defense. Many of us—and certainly, I include myself in this category—believed that the intercontinental ballistic missile was the ultimate weapon for which there could never be devised a defense to protect man and return our endangered planet to a condition of relative security. This belief no doubt spawned the nation of hostage populations and averting war through assuring destruction in the event of war.

Radically new technologies may offer during the term of SALT II a radically new defense against ballistic missiles.

The press with increasing frequency has discussed the possibility of space-based laser systems designed to destroy ICBM's in flight. The press has discussed with increasing frequency the advanced state of existing technology which could be utilized in a laser system designed to destroy an ICBM during initial boost. Other media accounts have discussed the potential of high-energy particle beam weapons and have predicted the use of these weapons in terminal defense of high-value targets.

Russia is reported by some to possess already the ability to blind U.S. reconnaissance satellites with laser light.

There is no doubt in my mind that the Soviet Union is vigorously pursuing all aspects of new defensive technologies. There is no doubt in my mind that the Soviet Union is seeking to take full advantage of any related Western technology it can obtain.

As I see it, during the evolution of these new strategic defensive systems, one of two things can occur. Either the United States will achieve technological breakthrough first and deploy a related weapon system first, or Russia will achieve a technological breakthrough first—or exploit a Western breakthrough—and deploy a related weapon system first.

In the former case, no doubt a similar system will soon be deployed by Russia, and parity could be maintained in a world less subject to nuclear destruction.

In the latter case, Russia could seize the unilateral advantage obtained and deny to the United States a similar system. Under SALT II, Russia would have a sufficient advantage in strategic offensive systems to deny the American deployment of a new technology Russia achieved first, because the remaining offensive deterrent left to the United States under SALT II could be countered by the new high-technology defensive system.

Achieving technological breakthrough in defense against the SLBM and ICBM, Russia would be certain to use any advantage to the hilt, and if put in a position to dictate terms in SALT III by having achieved a new defense, Russia would undoubtedly require the United States to forgo a similar advanced development.

This fact is a great danger of SALT II.

SUMMARY

First. SALT II cannot be considered alone. It must be evaluated against a background of greater Soviet military might and global expansion. Would ratification of this unequal treaty constitute new evidence of U.S. acquiescence?

Second. What has happened since the SALT I agreement was signed 7 years ago? Russia has achieved a massive military buildup in both conventional and nuclear weapons, has spent, according to Secretary of Defense Brown, more than $100 billion on strategic defenses, and has deployed the most powerful of all missiles, the SS–18. SALT II gives the Soviets special and unmatched rights to 308 of these heavy intercontinental ballistic missiles.

Third. Militarily, the United States is much weaker today compared with Russia than was the situation 7 years ago. The Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, stated categorically, in replying to a question by me during the Armed Services Committee hearings, that SALT I lulled the American people into a false sense of security. Why should we expect anything different from SALT II?

Fourth. The Joint Chiefs of Staff, while supporting the treaty, advised the treaty negotiators that a limitation on cruise missiles is not in the best interests of the United States. That view did not prevail.

Fifth. The United States is limited to 20 air-launched cruise missiles for bombers; Russia is likewise limited for its Bisons and Bears. Both countries are unlimited on the number of cruise missiles on a new bomber. The difference, however, is this: General Jones testified that Russia, during the life of the treaty will have a new bomber, but that the United States will not.

Sixth. The treaty counts U.S. manned bombers, but it does not cover the massive Soviet air defense system which virtually negates the American bomber threat. By 1985 our bombers will not be able to penetrate effectively these defenses, according to testimony by Secretary of Defense Brown.

Seventh. The treaty does not count the Soviet Backfire bomber, yet this aircraft is capable of attacking the United States.

Eighth. Russia has 1,000 strategic weapons not covered by SALT II. Since the 6 systems of which these 1,000 are a part are not covered under the treaty, the number could grow virtually without limit.

Ninth. The treaty will not prevent the Soviet Union from deploying a new fifth generation of ICBM's.

Tenth. The treaty will permit both sides to deploy "modified" new ICBM's, but on the U.S. side the new missiles must not exceed a throw weight of 8,000 pounds while Russia's new missiles would be allowed up to 16,000 pounds in throw weight.

Eleventh. The ban in the treaty on developing rapid-reloading launchers will not apply to Russian launchers of this type which already exist. We have none.

Twelfth. The SALT I Treaty was simple and uncomplicated in its terms, yet the U.S. Arms Control and Disarmament Agency found that Russian "concealment activities associated with strategic weapons programs increased substantially." SALT II is far more complex and detailed than SALT I and therefore more difficult to verify and far easier to violate deliberately and to conceal that action.

Thirteenth. Defensive weapons are not covered by the treaty. Yet it would permit the Soviet Union to have a first strike offense with the potential to knock out the bulk of our strategic forces. The United States itself has virtually no defenses to an attack. It was decided years ago that this Nation would rely on its ability to retaliate to forestall an attack. But with U.S. offensive forces strictly curtailed by the treaty, Russia is left free to spend much of its military budget on defensive systems—including systems in space if it so desires—thus sharply reducing the retaliatory threat.

Fourteenth. As part of SALT I the U.S. Senate on September 14, 1972, approved the Jackson amendment requiring equality in intercontinental strategic forces in negotiating SALT II, meaning equality of numbers of launchers taking into account throw weight. The amendment stated that—

> Were the survivability of the strategic deterrent forces of the United States to be threatened as the result of such failure of equality, this could jeopardize the supreme national interest of the United States. . . .

Yet, the Chairman of the Joint Chiefs of Staff, General Jones, stated categorically that in terms of numbers of launchers and taking into account throw-weight the United States does not have equality in intercontinental strategic forces.

At the beginning of this speech I cited two basic issues:

One, does approval of SALT II enhance the security of the United States and our free allies? In my judgment, it does not.

Two, does it confirm Russia's strategic superiority? I have become convinced that it does.

While I have no quarrel with those who take a different view and assign to them the same motives that I assign to myself, I have concluded that I cannot vote for the Strategic Arms Limitation Treaty as submitted to the Senate by the Senate by President Carter.

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there are no orders for the recognition of Senators on tomorrow, are there?

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR CONSIDERATION TOMORROW OF S. 835, APPALACHIAN REGIONAL DEVELOPMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators have been disposed of on tomorrow, the Senate proceed to the consideration of Calendar No. 183, S. 835, a bill to extend the Appalachian Regional Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 265, EQUAL ACCESS TO JUSTICE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Appalachian regional development bill tomorrow, the Senate proceed to the consideration of Calendar No. 267, S. 265, the Equal Access to Justice Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF S. 1119, PLANS AND PROJECTS AFFECTING THE TERRITORIES AND POSSESSIONS OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition tomorrow of the Equal Access To Justice Act, the Senate proceed to the consideration of Calendar No. 221, S. 1119, a bill to direct the Secretary of the Interior to report to Congress on plans or projects affecting the territories and possessions of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON WEDNESDAY, AUGUST 1, 1979, AND THURSDAY, AUGUST 2, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday and Thursday, after the two leaders have been recognized under the standing order, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUMAN RIGHTS AND THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the United States has long been an advocate of human rights. The notion of protecting the vital integrity of all human beings, regardless of race, religion, or nationality, has been an underlying current in American foreign policy for many years.

In recent times, however, this concern has come to play more than just a supporting role. In fact, new emphasis and new concern for human rights was declared a basic tenet of the present administration's foreign policy.

One of the ways this increased emphasis has taken form is through a restructuring of the Department of State's institutional attention to human rights. With the encourgament of Congress, a Bureau of Human Rights and Humanitarian Affairs was created in 1977 to specifically address the issue of international human rights.

Another manifestation of this renewed human rights interest is the examination of U.S. bilateral economic assistance programs to assure that such aid benefits the needy people of that nation and does not strengthen the hold of repressive governments. "Economic oversight" of human rights violations has also been legislated through such measures as the Omnibus International Financial Institution Act of 1977. This act requires our representatives to advance the cause of human rights with their voice and vote in the international financial institutions, including seeking to channel assistance toward nations not guilty of human rights violations.

A third example in this far from conclusive list of renewed human rights commitments are the recent passage of human rights treaties including the International Convention on the Political Rights of Women and the Inter-America Convention on the Granting of Political Rights to Women.

Yet, while all these acts have demonstrated our Nation's concern for human life, there remains a major omission. The late Senator Hubert Humphrey summarized this omission well:

> At a time when support for human rights has assumed its proper role as a central tenet of American foreign policy, even the moral leadership which the United States could exercise in this critical area is diminished by our failure to ratify numerous human rights covenants, including that most fundamental of documents—the Genocide Convention.

Mr. President, the Genocide Convention is a most fundamental document of human rights. And even though we have made many other steps toward furthering the cause of human rights, our failure to ratify this particular treaty only serves to call into question the extent of our commitment to human life.

I, therefore, urge my colleagues to ratify the Genocide Convention. Let us uphold our increased commitment to the integrity of life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET OPPOSITION TO SALT II

Mr. CRANSTON. Mr. President, the Soviet Union has signed the SALT II Treaty and the issue now is whether the Senate will give its advise and consent to ratification of the treaty.

As we engage in the ratification process, we will be deluged by the views of various American proponents and opponents of SALT II. And we have been subjected to gratuitous admonitions from Soviet proponents. However, less obvious is the view of the Soviet opponents of SALT II. We in the Senate should be aware that, indeed, there have been Soviet opponents to the SALT process from the very beginning of the SALT negotiations in 1969, and that there are, today, substantial forces in the Soviet Union which hope that this U.S. Senate does not ratify the SALT treaty.

There is substantial evidence that after the humiliation of the Russians in the Cuban missile crisis, the Soviet military and Soviet party leadership embarked on a strategy to achieving strategic superiority so that such humiliation would never occur again. They also felt they must deal with the growing threat from Communist China. As the hearings before the Foreign Relations and Armed Services Committees demonstrate, Soviet tactical and strategic forces now have drawn level with the West and, with respect to some strategic indicators, may have overtaken the West or will do so by the time of the so-called "strategic window" of the 1980's.

One of the principal arguments of the proponents of SALT II is that ratification of the treaty will allow the United States an opportunity to catch up in those areas of strategic forces where necessary, and to maintain the overall essential equivalence with the Soviet Union in strategic forces that now exists. One of the principal arguments of the Senate opponents of SALT II is that the Soviets are now ahead of the United States in strategic capability and we cannot afford to ratify SALT II. I do not share the view that the Soviet strategic forces are superior to those of the United States; but I do share the view that without SALT II we will be engaged in an apparent endless arms race with the Soviet Union to maintain strategic parity.

We should be fully aware in the SALT ratification debate that there are substantial and influential groups in the Soviet Union which would favor a continued and endless arms race with the United States in both tactical and strategic nuclear forces, as well as conventional forces. These groups are primarily centered in the military, and the deep sense of insecurity which drives these groups appears to stem from the purge by Stalin of Russian military leadership in 1937–38 and Stalin's massive dismissal of military leaders in 1949–52.

The history of these anti-SALT, anti-arms control groups within the Soviet power structure has been concisely and authoritatively traced by Roy Medvedev, a Soviet dissident historian, in a report recently published in the London Observer. That report, centering on the differences in the Soviet hierarchy over the SALT II agreement, was republished in the Sunday, July 29, 1979, edition of the Washington Star in a front page article entitled "Soviet Policy Reported Reversed by SALT II."

The reversal of Soviet policy which historian Medvedev finds to have occurred, is "the abandonment of the earlier goal of superiority ('to catch up and overtake') in favor of that of 'parity'."

If the analysis of historian Medvedev is correct, and I personally believe it is both authoritative and substantially meritorious, then it supplies strong evidence that the ratification of SALT II will ensure the parity and essential equivalence of Soviet and U.S. strategic forces. Equally important, I believe that rejection of SALT II would have profound effect on the internal power structure of the Soviet Union, a profound effect that probably would be adverse to the national security of the United States.

Because of the obvious importance of the effect of the ratification of SALT II and the status of the current Senate debate on ratification, I ask unanimous consent that the entire text of this article be printed in the RECORD for consideration by each of us.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET POLICY REPORTED REVERSED BY SALT II

(By Roy Medvedev)

Many articles are now appearing in the Soviet press about the opponents of SALT II in the American Senate and their attempts to stop ratification. Less obvious is the fact that there were strenuous behind-the-scenes arguments in the Soviet Union before the treaty was put forward for signature.

Under the American system of government the decisive debate continues after the president's signing of a treaty. In Russia the argument all happened before the signing, although what was said may never come to light.

The enemies of detente have certainly made their presence felt inside the Soviet party leadership. Differences over Soviet President and Communist Party Chairman Leonid Brezhnev's policy were a reason for the removal from the Politburo of Pyotr Shelest in 1972 and Alexander Shelepin in 1975. Critics of SALT II in the present Politburo appear to have included Mikhail Suslov and Ivan Grishin. It also seems that the minister of defense, Dmitri Ustinov, and the KGB chief, Yuri Andropov, were able to drag out the preliminary negotiations on SALT by submitting endless details for expert approval.

It is unclear whether Foreign Minister Andrei Gromyko was involved in their efforts. But he too managed to spin out the talks under different pretexts, and his recent declaration that the Soviet Union will not countenance any amendments by the Senate can only have been premeditated. He is too old a hand not to have realized that it was bound to antagonize Congress and prejudice the chances of ratification.

One naturally asks: Wouldn't a hitch in ratification favor a particular Moscow power group, especially at a moment of possible leadership changes? Some attentive observers have already sensed a link between certain events and attempts to complicate the SALT negotiations.

Thus 1977 saw provocatively timed arrests of well-known dissidents on the eve of the arrival in Moscow of Secretary of State Cyrus Vance (whose SALT mission was doomed in advance because of President Carter's human rights statements).

And in 1978, several times postponed, the trials of Yuri Orlov, Alexander Ginzburg and Anatoly Shcharansky finally opened. The event coincided with talks between Vance and Gromyko in Geneva. The trials obliged Carter to take a number of economic and political actions, with the result that many people thought that SALT II was put at risk.

What actually happened was that American foreign policy responses to internal Soviet events allowed the Soviet Union to take a harder line in the negotiations.

In the event, it was the Americans who showed greater impatience to conclude an agreement. Only later did the Soviet leadership make a series of liberal gestures (the exchange of political prisoners, the easing of Jewish emigration) that were obviously calculated to create a more favorable atmosphere in the American Congress.

All the same, the treaty as signed in Vienna is a compromise between its supporters and opponents in the Soviet ruling elite, and a check to its ratification could be a defeat for the principal supporters of Brezhnev's policies, as well as a political and strategic setback for the United States administration.

A quick comparison of the growth (both quantitative and qualitative) of American and Soviet strategic potential between 1970 and 1979 suggests that the present position of relative equality is due to the latter's more rapid development, and that in 1980–82 the balance will turn into a clear advantage for Russia.

Watching the debate on SALT II in America, one has the impression that it is mainly those who buy weapons (the administration, some senator military figures) who are "pro" the treaty, and those who sell weapons (the defense industry and its lobbies) who are "anti."

In Russia such disagreements can be gauged only indirectly. The armed forces and the military-industrial complex have clearly been against arms limitation, while the economic planners and all those concerned with nonmilitary industry, consumer goods production and the development of agriculture, have been for it.

Modern weapons are becoming an increasing brake on the development of the Soviet civil economy. Whereas 10 to 15 years ago many military-industrial enterprises assisted in the production of ordinary consumer goods, the picture has now changed.

In 1960–67 it was quite normal, given the difficulty of fulfilling economic plans to order many kinds of "peaceful equipment" (tractor parts, for example) from military factories. Army construction battalions even built ordinary civilian apartment blocks in Moscow and other cities. Now the reverse is more common: enterprises producing for the civil economy often receive military orders for special components and spares.

Lack of finance or technology has caused the production of consumer goods to fall behind plans (not to mention demand) for five or six years now. The economy is suffering from lack of skilled labor, the rate of increase in consumer goods output has sharply declined, and agricultural production is in a state of stagnation that makes it impossible to keep pace with the urban population increase.

As a result, those responsible for these branches of the economy, as well as the party leaders at republic and regional level (who have no concern for international politics) have a strong interest in reducing military spending and improving the financing of the civil economy.

But the armed forces and the military industry can advance powerful arguments through their representatives in the Politburo. One must not forget that in 1941–45 a large part of the Soviet Union endured enemy occupation from which it was freed only at the price of huge human and material losses. The military decided that only strategic superiority could guarantee future security.

Another ground for the political influence of the military is the huge losses they suffered in the Stalinist terror of 1937–8. Nearly nine out of every 10 generals were arrested and shot in that period—men famous since the revolution.

Nearly every military district chief, nearly every official in the army political directorate, numerous admirals, six deputy commissars of defense, the head of every military academy and many chiefs of military planning staffs were disposed of.

Suffice it to say that of 199 divisional commanders on active duty in 1936, 136 were arrested and shot in 1937–8. No army in a single war could lose so many senior commanders.

After the war Josef Stalin systematically retired all those commanders who had been promoted and become famous, beginning with the most famous of all Georgi Zhukov. When Stalin died it was these men who became mainly responsible for the liquidation of the Lavrenti Beria group and for strengthening the power of Nikita Khrushchev.

In 1957 it was Zhukov as minister of defense who assured Khrushchev of victory over the politically more influential group of Vyacheslav Molotov, Georgi Malenkov, Lazar Kaganovich and Nikolai Bulganin.

Similarly, in 1964 it was the army which helped the party group that organized Khrushchev's removal after he had lost its support. (The removal was prepared by Suslov, who was supported by the party apparatus, and by Shelepin using the KGB. But it was Brezhnev who emerged as leader, with military support).

A "NEVER-AGAIN" MENTALITY

These actions by the military to create the sort of party leadership and security service they wanted were a direct reaction to the repression of 1937–38 and the mass dismissals of 1949–52. They and the military-industrial complex determined never again to be in a position of total dependence on the party dictatorship and to acquire real influence in national decision-making.

However, in the post-war period the Soviet Union was technologically and economically weak. The West had absolute strategic and economic superiority and could conduct policy from a position of strength, a fact driven home by Russia's humiliation in the Cuban missile crisis. After Cuba, the military apparatus received a much broader base for its development and priority in the use of national resources.

The object of this was the achievement of strategic superiority, particularly in view of the growing threat from China. In 1977–79 Soviet tactical and strategic forces for practical purposes drew level with those of the west and in some cases overtook them.

The SALT II agreement signifies the slowing down of this tendency and the abandonment of the earlier goal of superiority ("to catch up and overtake") in favor of that of "parity."

The difficulties which arose during the long drawn-out negotiations over SALT were due to this change of aim. Brezhnev and his circle had to convince the military of the necessity of compromise, which the economic interest of the country in general demanded.

In contrast to the situation in the American Senate, no group in the Soviet Union could now stop SALT II ratification. Nor is there any likelihood that the Soviet Union would violate the treaty once it enters into force.

But there are influential groups in the USSR who would not mind at all if the U.S. Senate refused to ratify the treaty, since that would represent a fiasco for Brezhnev's policies.

Mr. CRANSTON. I hope that each Senator, regardless of his or her position on SALT, will take the time to read and consider this most important analysis of the effect of the SALT process on the power structure of the Soviet Union.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CARTER

Mr. HUDDLESTON. Mr. President, tomorrow President Carter will travel to my State of Kentucky to conduct a town hall meeting and to tour an electrical generating plant that is among the Nation's leaders in the clean use of coal.

This along with his program for synthetic fuels, greater coal use, and limits on foreign imports, demonstrates the President's commitment to an energy policy that will establish this Nation's independence from any cartel.

Without doubt, energy is the most complex and perplexing problem to come before the Senate since I arrived here in 1973, and no matter what policy is pursued it is bound to be controversial.

And in many cases those policies which are most necessary are also those which are the most painful and most unpopular. Just consider the following policies adopted or recommended by this administration.

Import restrictions. This is absolutely essential for stability of the dollar, for reduction in our dependence on foreign oil, and for the continued cooperation and goodwill of our Western European allies.

It is necessary to assure that long-range and expensive programs are not undermined by capricious actions of foreign suppliers. Yet import restrictions could be potentially hazardous if long gasoline lines appear again.

Pricing policies. President Carter has embarked on a policy of correcting the distortions of the marketplace by bringing the price of the product more in line with its true replacement cost. This has been done to promote conservation and discourage waste and unnecessary use of foreign oil. There is not one person in the entire country who likes to pay more for gasoline at the pump, or more for home heating oil, or the variety of other products made from petroleum.

The President has called for an Energy Mobilization Board and for an Energy Security Corporation. Some, as I do, think the Energy Mobilization Board should be stronger but the environmentalists and certain consumer groups are opposed to this Board and to the synthetic fuels program altogether. Again, any pluses are offset by the minuses.

The President is moving toward greater coal utilization, and those of us from coal States hope he will go much further much faster. But even here, where coal is the only short-term answer to lessening our dependence on foreign oil, certain groups are concerned because use of coal has some adverse—but certainly manageable—environmental side effects.

The President, while seeking stronger and more effectively safety measures for nuclear powerplants, has refused to join the current popular movement of opposing nuclear power and calling for a moratorium. That is always the easy course: Jump on the bandwagon and reap the political benefits. Again, the President has resisted the easy, popular course.

Mr. President, I mention those examples not because I think the President has always been right on energy. I have been critical at times, and I still have some strong concerns about the latest program he enunciated.

But I mention these policies as examples of how difficult and often unpopular the choices are that have to be made by the President.

He has not chosen the easy way out, and he has paid a heavy price politically.

The hard but unpopular decisions have been numerous under President Carter's administration: The Panama Canal treaties; Saudi Arabian arms sale; the Middle East policy of evenhandedness; the SALT II Treaty; recognition of the Republic of China; Labor reform, and many others.

And as a member of the Appropriations Committee, I get a taste for what any President goes through in seeking an economic policy designed to slow inflation while maintaining growth and prosperity.

Everybody wants a balanced budget, but no one wants his or her project and program cut. And I count myself among those who have been guilty of this inconsistency.

Everybody wants inflation halted, but nobody wants a tight money policy or high interest rates. Everybody wants a strong national defense but few want to pay for it.

I point these things out not only in defense of President Carter but to again remind my colleagues that under current circumstances any President is going to make a lot of people unhappy if he makes any decisions at all—and he will make even more unhappy if he makes some right decisions.

There are those within the media and even within the Democratic Party—including the Senate—who are ready to write the President's political obituary. I am not among them.

I believe it is both premature and unfair—not to mention fainthearted—to be jumping ship at this time.

As I have already mentioned, many of the President's problems result from taking on tough issues which, no matter which side he came down on, were bound to make a lot of people unhappy. And he suffers from many things he is powerless to affect.

The President did not raise the OPEC oil prices, but he is getting the blame. The President did not cause the fall of the Shah of Iran, but he is suffering the consequences of that revolution. The President did not cause the accident at Three Mile Island, but he is saddled with the antinuclear crusade.

So I would call on my colleagues and the press to bring a sense of fairness to their critiques of the President and his administration.

A fairminded evaluation would suggest that a great deal of his current political problems are either the result of action's beyond the President's control or decisions which, while necessary and correct, are also very unpopular.

All of us have disagreements with the President, as we would have with any occupant of the White House. But the fact that we are in disagreement on some issues—the fact that the President's standing in some popularity polls is not as high as it might be—does not cause me to abandon him and start looking for another candidate.

The President is dedicated, he works hard, he is not afraid to make tough decisions, and he is certainly a well-meaning man of great personal integrity.

He deserves much better than he is receiving—both from the press and from Members of Congress. And I would say to my Democratic colleagues that continual statements of doom and gloom can have a way of becoming self-fulfilling. I do not plan to be a party to those statements of abandonment, and I urge my colleagues to reject them.

The statement of some Members of Congress and some representatives of the media seem to suggest to the American people that the difficult and painful decisions we face would somehow be less painful and less difficult under someone else; that some miraculous consensus would emerge for all the complex problems we face and public sacrifice would not be necessary.

These assertions are not realistic and do a disservice to the citizens of the country.

The political obituary of Jimmy Carter has been written before—it proved to be premature.

The political processes will unfold in due time. The need at present is to put the interest of the country first—with unity and support for the President.

The need is for those of us in responsible positions of leadership in the Senate and House to give the President a fair chance, reject the temptation to bail out of the ship when the first leak appears, and give him the kind of support necessary to solve some of the problems we are facing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senate will take up the bill S. 835, to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act. There will undoubtedly be rollcall votes in connection with that bill or amendments thereto.

Upon the disposition of that bill, the Senate will take up S. 265, the Equal Access to Justice Act, on which there is a time agreement. There will be rollcall votes, in all likelihood, in connection with that bill.

The Senate will then go to Calendar Order No. 221, S. 1119, a bill to direct the Secretary of the Interior to report to the Congress on plans or projects affecting the territories and possessions of the United States. There is a time agreement on that measure.

Tomorrow will be, I venture to say, a long day, because every effort will be made to dispose of those three measures, if at all possible, tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and, at 6:12 p.m., the Senate recessed until tomorrow, Tuesday, July 31, 1979, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1979:

NATIONAL TRANSPORTATION SAFETY BOARD

George Herbert Patrick Bursley, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 1979.

CONSUMER PRODUCT SAFETY COMMISSION

Stuart M. Statler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1979.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Herbert R. Lippold, Jr., to be rear admiral (upper half), and ending Stephen L. Carlson, to be ensign, which nominations were received by the Senate on July 5, 1979, and appeared in the CONGRESSIONAL RECORD of July 9, 1979.

IN THE COAST GUARD

Coast Guard nominations beginning John P. Delong, to be chief warrant officer, W-2, and ending Lional R. Munsey, to be lieutenant (jg), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1979.

HOUSE OF REPRESENTATIVES—*Monday, July 30, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

But be ye doers of the word, and not hearers only, deceiving your own selves. —James 1: 22.

Heavenly Father, we laud and praise Your holy name that You have given us our traditions and history and the heroes and leaders who have testified to the faith. We thank You for all people whose words and wisdom encourage us and inspire us each day.

O gracious Lord, help us not only to hear the right word or listen to the truth, but give us the strength to demonstrate our beliefs in deeds of good will and acts of mercy to those in need. Save us from inaction or a lack of will, but teach us always to live our faith as we serve You and our neighbor.

In the name of the Lord, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4057) entitled "An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested bills of the House of the following titles:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4394) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. DURKIN, Mr. MAGNUSON, Mr. MATHIAS, Mr. BELLMON, Mr. WEICKER, Mr. LAXALT, Mr. SCHMITT, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4580) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. BUMPERS, Mr. DURKIN, Mr. MAGNUSON, Mr. MATHIAS, Mr. SCHMITT, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Vice President, and upon the recommendations of the majority and minority leaders, pursuant to Public Law 86-42, appointed Mr. SARBANES, Mr. BAUCUS, Mr. MCCLURE, and Mr. CHAFEE to the Canada-United States Interparliamentary Group, to be held August 9–17, 1979, in Canada/Alaska.

THE DISAPPEARANCE OF ETAN PATZ

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, as we in the Congress approach our recess this week, I am asking that all Members do an act of kindness for a family in New York. Two months ago, 6-year-old Etan Patz disappeared while walking 2 blocks to his schoolbus. A 500-man police search has not revealed one clue. It is now assumed that Etan may have been taken away from the New York area, and is somewhere in the United States.

A poster is being delivered today to each Member's office in the hope that each Member will be able to go home and give this to his local media and ask them if they will carry this story together with a description of Etan. Perhaps someone, somewhere, has seen this young man and can help bring him back to his family.

MARGARET HIGGINS SANGER, 1883–1966

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as a young woman Margaret Higgins Sanger embraced the radical causes of her day—most passionately the complete emancipation of women.

One of eleven children and mother of three children, Margaret Sanger became interested in the issue of family planning. Beginning with a series of articles in 1913 on "What Every Girl Should Know," she crusaded zealously for birth control. In 1920 Margaret Sanger published a book entitled "Women and the New Race," which urged women to create their own destiny, their own roles.

After visiting Europe to learn firsthand what was being done in the modern family planning clinics of England and Holland, Margaret Sanger founded America's first contraceptive clinic in 1923 and organized similar centers in Asia. She lobbied to repeal a Federal law which classified birth control information as obscene.

Berated by the political and religious establishment of her time, arrested for her militancy, Margaret Sanger confidently stood as a woman for all women.

THE LATE HONORABLE JOHN B. BRECKINRIDGE

(Mr. PERKINS asked and was given permission to address the House for 1 minute).

Mr. PERKINS. Mr. Speaker, the name Breckinridge is as old or older than politics and government in the Commonwealth of Kentucky, and the latest bearer of the name to serve in this Chamber, John B. Breckenridge, who died yesterday, added distinction and luster to it.

John was not the first Breckinridge to serve here. Preceding him were Breckinridges who represented Kentucky, as well as other States, with John Cabell Breckinridge, who was the youngest man ever elected Vice President of the United States, perhaps the best known in our early history.

Our John Breckinridge served in three Congresses, the 93d through the 95th, and he concentrated his work on the subjects which were most important to the people of central Kentucky: agriculture and small business.

But he had a distinguished prior career in the State—he was attorney general twice, an indication that the people approved of his efforts and his achievements in that highly important position. He also served in the general assembly, at a time when innovation was needed, and he was among the legislators who helped move Kentucky ahead. Additionally, he was corporation counsel for his home town, Lexington, and at one time was a special attorney in the Antitrust Division of the Department of Justice.

It is a remarkable career when you look at the total work—service on the local community level, in several important positions on the State level, in important posts on the Federal level, including the executive as well as the legislative, and also service in assistance of numerous organizations and groups seeking public improvement.

He served in World War II, and rose to colonel, and in between this service and private law practice, he raised a family.

His counsel was always astute, his efforts were never hesitant, he was eager to fight the good fight and do well at it, and he did do well at it. Kentucky and the Nation are better because of John's life, and we will miss him very much.

● Mr. O'NEILL. Mr. Speaker, I would be greatly remiss if I did not take this opportunity to recognize the untimely passing of the late Honorable John Breckinridge of Kentucky.

John came from a great and distinguished family. Both sides of his ancestry were replete with men who served their State and country in offices of the public trust and confidence. Born in 1913, John Breckinridge, to the fullest measure, came to live up to the lofty standards manifested in the lives of his forefathers.

Graduating from the University of Kentucky in 1937, John Breckinridge went on to pursue the study of law. World War II interrupted his plans to open his own practice, but he so distinguished himself under arms that he left the Army at the noble rank of colonel.

His desire to continue in the family tradition to serve the public trust brought him to the Kentucky House of Representatives in 1956, where he remained until 1960. While serving in the Kentucky State Legislature, John led the fight to improve education and highways—a fight in which he was largely successful. In 1960, John left his legislative post to serve as the State's attorney general.

My friendship with John Breckinridge began when he was elected to the U.S. House of Representatives in 1972. During his tenure in the "People's House," John Breckinridge served on the Committees on Agriculture and Small Business, where he chaired the Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business.

Those of us who had the privilege to serve in the House with John Breckinridge remember him as a man of strong moral character and integrity, unpretentious in style yet committed to the rural interests of his beloved Kentucky, and a member who always kept his word. He was a guiding light in the founding of the rural caucus, the key ad hoc organization in the House which monitors agriculture policy and makes informal recommendations on farming interests to the House Agriculture Committee.

John Breckinridge was a popular Member of the House who worked diligently and conscientiously for the benefit of Kentucky's Sixth District.

I join my colleagues in extending my sincere condolences to the family and friends of John Breckinridge.●

Mr. HOPKINS. Mr. Speaker, it is with great sadness that I rise to advise my colleagues of the passing of a former Member of this House, John Bayne Breckinridge, of Kentucky. John was stricken last evening at his home in Lexington.

Although, as Congressman Breckinridge's successor, I was not privileged to serve alongside him in this Chamber, many of my colleagues were fortunate to have done so. You will remember, no doubt, how hard he worked to represent the people of central Kentucky. I remember too, but from a different perspective. For John Breckinridge was my Congressman for 6 years, from 1973 to 1979.

I had the highest regard for his honesty, integrity, scholarship, and dedication to the principles in which he so strongly believed. Here was a man who unselfishly put his background, training, and experience to work in the service of his fellow citizens throughout a long and outstanding career in public life. The fifth Breckinridge from Kentucky to serve in Congress, John extended his forebears' legacy in a way which could only have made them proud.

Born in Washington, D.C., on November 29, 1913, his path to the U.S. House of Representatives was an honorable one. John graduated from the University of Kentucky in 1937, and from its law school 2 years later. From Lexington, he returned to Washington in 1940 as a young attorney in the Department of Justice. The early days of World War II found John in the U.S. Army, and there too he excelled, attaining the rank of colonel before resigning his commission to return to civilian life.

Kentucky beckoned, and so did politics. Several terms in the State legislature led to his election as Kentucky's attorney general. We in the State knew John to be an able public servant, and, therefore, we were pleased and proud when his peers elected him president of the National Association of Attorneys General.

In 1973, John Bayne Breckinridge took his seat in this Chamber for the first time. In January of this year, he left it for the last time. During the intervening years, John rendered an everlasting service to the Nation he loved, and to the people he loved. But his contribution did not stop there. Citizens in Kentucky's Sixth Congressional District continued to reap the benefits of John Breckinridge's dedication well into the 96th Congress. For when this Member was elected to succeed him, John made every effort to effect a smooth transition between the two of us and our respective staffs. Party labels were not important to him then; effective representation in Washington for the constituents he loved was.

Mr. Speaker, the Honorable John Bayne Breckinridge was a fine Congressman, a fine American, and a fine man. I am sure my colleagues join me in extending our deepest sympathy to his wife, Helen, and the rest of his family.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the life, character, and public service of the late Honorable John B. Breckinridge.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

HAPPY BIRTHDAY, CONGRESSWOMAN SCHROEDER

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, we have just heard the distinguished gentlewoman from Colorado in another one of her talks about distinguished American women. Today happens to be her birthday, I understand, and it seems to me that we ourselves have the privilege of having in our midst one of America's most distinguished women, namely, the Congresswoman herself.

I do not need to recount to the Members her many achievements as a Member of this body, but I can tell the Members that before she ever came here she distinguished herself as a leading person in the field of women's rights, as an airplane pilot, as a distinguished scholar, and as a wonderful mother and wife to her family.

It is a great pleasure for me to be able to call that to our colleagues' attention today.

VOTE AGAINST ADJOURNMENT RESOLUTION UNTIL ENERGY AND INFLATION PROBLEMS ARE SOLVED

□ 1210

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, later today the Members of the House will be asked to vote on an adjournment resolution for the August district work period. I would take this time to urge my colleagues to join with me in voting against that resolution.

I think it is extremely important that the American people see that the Congress recognizes the seriousness of the problems with which we are faced today, primarily energy and inflation, and that we should stay on the job until we have gotten these problems licked. Editorial opinion supports this view. I think it is important for the Members of this House to respond to what the public is looking for and create a climate of confidence and end the crisis of confidence.

Two editorials on this subject follow:

[From the Atlanta Journal, July 20, 1979]

LEAVE THE BATTLEFIELD?

We applaud the appeal that Rep. Elliott Levitas of Georgia's 4th Congressional District has made to his colleagues in the House, but we're not optimistic that the appeal will be heeded.

The congressman from DeKalb County urged the House to forgo its August vacation—officially known as "August District Work Period" in order to mislead the voters.

Instead of departing Washington for home districts—or wherever—the members of Congress should remain in session in order to get cracking on finding solutions to the energy crisis, Levitas asserted.

"Soldiers don't go on leave when they are on the battlefield," the Georgian declared. "We must roll up our sleeves and go to work."

It's an interesting thought. And as far as Congress has been concerned for the past several months—and for the past several years—there has been no energy crisis worthy of the name. Congress has either resorted to foot-dragging on energy or it has rejected the energy proposals put forth by President Carter.

Now in the aftermath of the Camp David summit and the Carter national address on the energy crisis more people are willing to accept the fact that there really is a crisis.

Perhaps if enough people accept that as fact, enough members of Congress will do the same.

But even if they do, we're inclined to doubt that Rep. Levitas' words will be heeded. Insofar as being soldiers on the battlefield is concerned, members of Congress are noted for their rear-echelon mentality.

[From the Atlanta Constitution, July 24, 1979]

STAY IN SESSION

Congress, forget the August recess. Stay in Washington and move forward on the pressing issues and problems facing America.

It is the least you can do.

To take the entire month of August off, for a little resting and politicking at home while there's so much that urgently needs attending to in Washington, would be highly irresponsible.

Senators and representatives, stay in session and:

Complete work on the oil profits windfall tax legislation. This is the money fuel needed to make much of President Carter's new energy program work.

Proceed rapidly with consideration and/or approval of the aspects of Carter's energy program that need congressional action. Movement is needed now on solving the energy crisis. Congress has resisted for six years already in joining with the White House to fashion a strong energy program; the nation is in the energy mess it's now in because of that delay. To delay longer is almost criminal; for sure, delay is reason to vote delaying congressmen and senators out of office.

Consider and approve or reject President Carter's new Cabinet appointments. All of them are well known and congressional consideration should not take long. Take action on them, so they and their departments will not linger in limbo but can move on with their programs.

In addition, there are numerous other bills and issues—Alaskan lands bill, the SALT II treaty—that Congress could make progress on during August, were senators and congressmen not wasting precious time at home. There was a time, when the nation was more settled and there was not so much coming down the pike, that Congress could justify taking the whole month of August off to escape Washington heat. But no longer.

Stay in session during August, Congress, and deal with our problems—problems that grow more severe daily. Congressmen and senators, be the leaders you said you were, stay in Washington and work.

It's the least you can do.

THE ADMINISTRATION REJECTS HOUSE REPUBLICAN LEADERSHIP'S PROPOSALS TO RESTORE HEALTH TO OUR ECONOMY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, a little over 2 weeks ago the House Republican leadership unveiled its proposals for a $36 billion tax cut to soften the impact of the oncoming recession and restore some health to our economy by helping to create more capital for use in the economy. The administration's response was a resounding "no way."

As recently as last Wednesday night when President Carter held his televised news conference, the President said he intended to continue the same economic, monetary, and budgetary policies that have helped to bring on this recession. Since then, however, it appears that the President may have gone through yet another of his now familiar reassessments. According to a column in this morning's Washington Post, the President is now considering the possibility of a $20 billion tax cut to take effect in January. If this is true, I do not know whether to cheer or cry. On the one hand, a $20 billion tax cut in January is better than nothing. On the other hand, if that is all we can hope for, it will be another case of the Democrats charging to the rescue with too little and too late.

DEADLINE FOR THE TRANSBUS DESIGN FOR THE HANDICAPPED AND ELDERLY MUST BE EXTENDED

(Mr. ROYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYER. Mr. Speaker, the recent firing of Secretary of Transportation Adams, coupled with the approaching October 1 deadline for the Federal mandate of the transbus design, compels me to speak out and request that the Acting Secretary of Transportation, W. Graham Claytor, Jr., extend that deadline.

In 1973 Congress, pursuing a laudable goal, mandated that buses purchased with Federal money be accessible to handicapped and elderly persons. Accordingly, the Department of Transportation embarked on an ambitious plan to design a new bus, known as transbus, which would meet these requirements. But the Department of Transportation's inconsistent policies to implement this goal over the past decade have left the bus manufacturers as well as the local transit authorities in disarray.

Eventually, the Department did settle upon an allegedly appropriate design and mandated that all buses purchased with Federal funds be transbuses. However, the first attempt by local transit authorities to purchase transbuses ended in disaster. Earlier this year, when a three-city consortium put out a bid for 530 transbuses, no company bid on the buses. The mandated low floor design is simply not technologically or economically feasible. Meanwhile, the bus companies were manufacturing advanced design buses incorporating most of the features of the transbus, except the low floor, but including wheel chair lifts which make them accessible to handicapped and elderly persons.

Mr. Speaker, with our current energy crisis, we simply cannot allow this situation to continue. In hearings before the Subcommittee on Surface Transportation we learned that America is producing about 3,000 fewer transit buses per year then are needed. If the October 1 deadline is not extended transit authorities will be precluded from purchasing advanced design buses with Federal funds even though there is no acceptable alternative. Accordingly Mr. Speaker, I strongly urge Acting Secretary Claytor to immediately extend the deadline for 3 years so that the advanced design buses can be purchased and a thorough study of the transbus design can be made.

A RESOLUTION TO EXPEL CONGRESSMAN CHARLES DIGGS TO BE INTRODUCED TODAY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, this past Friday the chairman of the Ethics Committee first announced that the motion to censure the gentleman from Michigan (Mr. DIGGS) would be taken up tomorrow.

In view of the grave importance of this matter, Congressman DANNEMEYER and I wrote a letter—cosigned by 40 other Members—to the Speaker and the chairman of the Rules Committee.

We asked that debate on this matter be extended for at least 3 hours.

We asked that a motion to expel be allowed to be considered as a substitute for the motion to censure.

We now understand that the Rules Committee will not act.

Mr. Speaker, we did not ask these things frivolously.

The committee's motion to censure will allow only 1 hour of debate.

One hour is not enough time to settle the outcome of a man's career, let alone set precedent for certain grave constitutional questions which may very well come up again this session.

The committee's motion to censure will not allow the question of expulsion to be considered.

Again, the record should be clear on this subject: First, because of its importance on its own merits; second, because it may be used as a guiding precedent in the not too distant future.

Mr. Speaker, in fairness to everyone involved and to allow a single up or down vote on the question of expulsion, we must alert the House to the fact that a resolution to expel will be introduced this afternoon for consideration of the House.

CASE OF REPRESENTATIVE CHARLES C. DIGGS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANNEMEYER. Mr. Speaker, as I need hardly remind anyone this morning, the House of Representatives is scheduled to consider tomorrow, the case of Representative CHARLES C. DIGGS, JR., and his confessed misuse of House funds. Having had indication earlier this morning that the Rules Committee is not inclined to offer the full membership of this body an opportunity to vote on a motion to expel, as a substitute for a motion to censure, it seems to me that there is little alternative but to offer a privileged motion of expulsion.

One wishes, of course, that none of this had happened and that such a possibility would not have to be considered. However, the reputation of the House of Representatives itself is at stake. Under the Constitution, one of its responsibilities is oversight over the expenditure of public funds to see that they are not misused. To permit one of its own Members to use those very same funds for his own purposes without anything more in the way of penalty than censure and mandatory repayment is to cloud that reputation. What with confidence in public officials being as low as it is, we cannot afford to leave the impression we either condone such behavior or are unwilling to punish it as severely as we would others guilty of a similar offense.

To make matters worse, the gentleman from Michigan, despite prior precedent, continues to vote while his conviction is on appeal. That being the case, anything short of expulsion suggests the trappings of punishment but not the substance.

SOME OF THE RESPONSES OF HOOSIERS TO PRESIDENT CARTER

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, last Wednesday evening the President prefaced his news conference with a request of the American people that they contact Members of Congress. I was home over the weekend, and remembering that the President 2 weeks ago last night read from some remarks that the American people had been telling him, I would like to share with the President some of the things that the people from Indiana told me in response to his request that they contact Congress. I share with the Members now some of these responses:

The Cabinet should have asked for the President's resignation.

Gasoline rationing is the moral equivalent to a bankrupt energy program.

Naming Hamilton Jordan as White House Chief of Staff is like naming Gomer Pyle Secretary of State.

I find it more and more difficult to listen to President Carter. Must he always take the best TV shows off the air?

Mr. Speaker, there are a number of others, but I will not take time to read them. The American people are responding to the President's request, and I do not think those responses are quite what the President had anticipated.

NO LAUGHING MATTER

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, news reports today indicate that the Sandinista terrorists who deposed Nicaragua's elected government have officially requested military arms support from the United States.

Certainly the President should reject such overtures from the Castro-supported terrorists.

Journalists attending the meeting where the Sandinistas announced their U.S. arms request reportedly greeted the proposal with loud laughter.

However, it would be no laughing matter if the administration seriously considered the request.

It is the solemn duty of our Government to help maintain the stability and peace of Central America—not to give encouragement, aid, and comfort to guerrilla brigands who are waging terror and mayhem against duly constituted governments of the people in our hemisphere.

THE LATE HONORABLE JOHN B. BRECKINRIDGE

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, about 11:30 o'clock last night mutual friends of the late Congressman John Breckinridge's and mine began to call me and inform me of his tragic and sudden death. I would be remiss if I did not join my colleague, the gentleman from Kentucky (Mr. PERKINS), the dean of our delegation, in expressing shock and sadness upon the death of John Breckinridge and extending to his widow, Helen, and the other members of his family my sincere sympathy.

It was in the summer of 1961 that John Breckinridge, then attorney general of Kentucky, gave me my first job in government as a law clerk in the attorney general's office in Frankfort.

As a freshman Congressman in 1975, it was John Breckinridge who, among others, was extremely kind and helpful to me. I am deeply saddened by his passing.

□ 1020

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I want to join the gentleman in condolences for the late John Breckinridge. It was from the gentleman's words that I have just now learned that Mr. Breckinridge had a serious heart attack which took him away.

It was my pleasure to serve with the gentleman for several years in the House of Representatives. I found him to be a congenial gentleman and a man of high honor. I deeply regret this loss to our country.

I thank the distinguished gentleman for yielding.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a record vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. BADHAM. Mr. Speaker, I move a call of the House and make a point of order that a quorum is not present.

The SPEAKER. The gentleman is aware of the rules of the House and the Chair does not have to recognize the gentleman for that purpose at this time.

Mr. BADHAM. I realize that.

The SPEAKER. The gentleman is aware of that.

Mr. BADHAM. May I be recognized for that purpose, Mr. Speaker?

FOR THE RELIEF OF NENANA, ALASKA

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4811) for the relief of the city of Nenana, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the municipal reserves, streets, and alleys shown on United States Surveys Numbered 1127, 1503, and 4026, except for the Alaska Railroad right-of-way one hundred feet on either side of the centerline of the existing Railroad mainline, are hereby conveyed to the city of Nenana, Alaska.

SEC. 2. Subsection (b) of section 12 of the Act of January 2, 1976 (Public Law 94–204) as amended by the Act of October 4, 1976 (Public Law 94–456) and by the Act of November 15, 1977 (Public Law 95–178), is hereby amended to add at the end thereof the following new paragraph:

"Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Administrator of General Services do not complete the nominations of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C)(1)(b) and I(C)(2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for twelve months beyond the period set in section 3(a) of Public Law 95–178.".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Thank you, Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, this is not a controversial matter, but it is one of considerable importance to the city of Nenana, Alaska, and to the Cook Inlet Regional Corp., one of the native corporations that was formed under the requirements of the Alaska Native Claims Settlement Act.

First, as to Nenana, which is dealt with in section 1 of the bill, the town of Nenana is on the Alaska Railroad line from Seward to Fairbanks. The townsite was laid out in 1917 by the Alaska Engineering Commission, which carried out such surveys and other work in connection with the development of the railroad. The townsite provided for streets, alleys, and municipal reserves, and these areas were dedicated to public use when the first lot in the townsite was sold, pursuant to the Townsite Act of March 12, 1914.

So far, all this was in accord with the pattern of such townsite throughout the country. However, the other States and territories have had State or territorial laws providing that upon the sale of the first lot in a townsite, the land covered by the streets, alleys, and municipal reserves becomes the property of the town itself; but Alaska has not had such a law. As a result, there has been some confusion concerning the exact status of the lands in the streets, alleys, and municipal reserves in Nenana.

Now, the city of Nenana is in the process of moving forward with the building of a sewage collection and treatment system, as required under the Clean Water Act and other laws. They are having trouble in arranging the financing for this project because of the uncertainty about the title to the streets, alleys, and municipal reserves. What this bill does is quitclaim to the city all right, title, and interest of the United States in those areas.

Of course, this land, in fact all of the land in Alaska at one time belonged to the United States. The purpose of this is to clear up any possible claim that the United States has not transferred its interest in that land to the city.

The bill does exempt from this quitclaim, however, the lands which are being used by the Alaska Railroad, which of course is a Federal agency.

The second section of the bill deals with the problems faced by the Cook Inlet Regional Corp. This is the corporation which has been organized, under the mandate of the Alaska Native Claims Settlement Act of 1971, to represent the Natives of the Cook Inlet Region. That is the part of Alaska—including the Anchorage metropolitan area—which has been most heavily developed and urbanized. Thus, it is the part of Alaska in which it has been most difficult to identify sufficient unreserved Federal land to fulfill the entitlement of the Natives under the Settlement Act. In the 95th Congress, legislation was passed to deal with this problem by providing that the Secretary of the Interior, in connection with the Administrator of General Services, would locate and nominate Federal surplus or excess real estate which could be made available for the Native Corporation in exchange for Federal lands that the corporation would otherwise receive under the Settlement Act. The legislation provided that this must be done by July 15, 1979.

Unfortunately, the deadline was not met.

A recent report by the Bureau of Land Management offices in Alaska indicates that only about 5 percent of this entitlement has been conveyed or placed in the pool of properties available for the Native Corporation's selections. Other additional properties have been identified for possible inclusion in the pool, but even if all these properties were made available for selection, it is estimated that approximately 100,000 acres of its equivalent, will still remain to be fulfilled.

This delay is due in large part to the difficult time that the Department of the Interior has had in locating appropriate properties to place in the pool. It also appears that the processing of lands to be placed in the pool has been done in a lengthy and time-consuming manner.

If no remedial legislation is passed, Federal properties in Alaska could be disposed of under the provisions of the existing statutes, thus depriving the corporation of a valuable right. Accordingly, it could occur that several suitable properties would not be available for the fulfillment of the Secretary's and the Federal Government's obligation to the Native corporation.

Accordingly, section 2 of this bill extends the deadline for 1 year, that is until July 15, 1980.

The administration supports both sections of this legislation. As far as the second section is concerned, the Department of the Interior suggested that perhaps that extension of the deadline should be for 2 years rather than 1; they certainly did agree with our committee that the deadline should be extended so that the Cook Inlet Natives could receive their entitlement under the Settlement Act and the other congressional mandates.

As I said, the bill is not controversial, but it is important to fulfillment of congressional mandates as they affect these areas in Alaska.

I urge its passage and I reserve the balance of my time, Mr. Speaker.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4811, a bill designed to solve two important problems in the State of Alaska.

This legislation results from a series of unfortunate circumstances whereby the city of Nenana, Alaska, found itself hampered in an attempt to build an EPA-mandated water and sewer system to protect the health of city residents.

When the original Nenana townsite was laid out by the former Alaska Engineering Commission, the survey showing the location and boundaries of various municipal reserve lands was never recorded. Subsequent surveys which added to the townsite were also left unrecorded. Unfortunately, this error escaped the notice of the Federal Government when the townsite was granted to the city.

At present, any sewage which is not discharged into private septic tanks flows directly into the Tanana River. Although this is allowed under a temporary NPDES permit granted by the EPA, the permit will expire in 1981. Therefore, the city wishes to construct a water and sewer system which will protect the health of the residents and will also prevent environmental damage to fish and wildlife resources in the area, many of which are used for commercial and subsistence purposes. Such a system will require the use of the streets and alleys in Nenana. Without clear title to those streets, the city would find itself subject to a series of nuisance suits. This bill resolves that problem by granting title to municipal reserves, streets, and alleys directly to the city of Nenana.

The other problem covered by the bill was identified during recent congressional debate on the Alaska lands issue. Cook Inlet Region Inc., an Alaska Native corporation established under the Alaska Native Claims Settlement Act, is in the process of selecting its land grant in the State of Alaska. Because of the complex land ownership pattern in the Cook Inlet area, the corporation has had to move slowly and to work carefully with the State, the Federal Government, other Native groups, and private owners. Unfortunately, the land reserved for selection will shortly be released from its "holding pattern." Cook Inlet has asked and others involved have agreed, that the holding pattern be extended for 1 additional year to resolve the selection issues remaining. The second section of this bill will provide that 1-year extension.

This bill was unanimously passed by both the Subcommittee on Public lands and the Committee on Interior and Insular Affairs. It is agreed to by all parties involved, including the administration. The second section of the bill, dealing with Cook Inlet, has been approved by the the Senate Energy Committee as a separate piece of legislation and also by this body as part of the Alaska lands bill. Including it here is simply a matter of insuring a quick resolution to a pressing problem.

Mr. Speaker, this is a good bill that deserves support. I hope that all Members will do so.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I gladly yield to the gentleman from Ohio.

Mr. SEIBERLING. I think we should recognize the gentleman from Alaska has made a strenuous effort to protect the rights of the city of Nenana and the Cook Inlet Natives and to expedite this bill. I want to say the reason why we have not provided for extending this for 2 years instead of 1 is so as to put the pressure on the Department of the Interior to do its end of the job expeditiously and I hope they will take that as a message that we want more expedited action in fulfilling the Federal Government's promises to the Natives.

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Mr. YOUNG of Alaska. Mr. Speaker, I appreciate the gentleman's efforts on behalf of the city of Nenana.

Mr. Speaker, I reserve the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time on this side. I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 4811, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill for the relief of the city of Nenana Alaska, and to amend the Act of January 2, 1976, as amended, and for other purposes.".

A motion to reconsider was laid on the table.

TO ESTABLISH THE BOUNDARY LOCATION OF ANGELES NATIONAL FOREST

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 3361 to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, California, on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16.

The Clerk read as follows:

H.R. 3361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The north one-half of section 16, township 4 north, range 10 west, San Bernardino meridian, was conveyed by the United States to Harry M. Miller by patent recorded August 13, 1923, in book 2511 at page 336, official records of Los Angeles County as to a portion thereof, and the remainder to Herbert Colbeck by patent recorded December 4, 1923, in book 2883 at page 144, official records of said county; and

(b) The south one-half of section 16 and section 17 of said township and range are now part of the Angeles National Forest. A question has arisen as to the true location of the common boundary of the Angeles National Forest and the private lands in said section 16; and

(c) The section corners and quarter-corners of said section 16 were established by the United States Government surveyors and depicted upon the official plats of said township approved by the United States Surveyor General on April 24, 1905, and December 4, 1917; and

(d) The southeast, northeast, and northwest corners and the north and east quarter-corners have been recovered; however, the southwest corner and the south and west quarter-corners of said section 16 have been thoroughly searched for on several occasions by both public and private surveyors without success; and

(e) The Los Angeles County surveyor, while running the boundary of the Angeles National Forest in 1933, being unable to find the original west quarter-corner of said section 16, set a monument marked "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J–249–FB", at the theoretically correct location of said west quarter-corner to wit: one-half mile south of the found northwest corner and one mile west of the found east quarter-corner of said section 16; and

(f) Numerous surveyors and private parties have accepted said county surveyor's monument marked "Forest Reserve Corner" for the past forty years as the true west quarter-corner of said section 16 and have subdivided, resubdivided, and improved such private lands by constructing houses, roads, wells, utilities, and pipelines within the north half of said section in relation thereto; and

(g) There are currently numerous parcels of land in private ownership within the north half of said section 16, the boundaries of which would be seriously disrupted should the west quarter-corner of said section be reestablished in any location other than that of the 1933 county surveyor's monument marked "Forest Reserve Corner".

SEC. 2. (a) In order of dispel any uncertainty and to insure that the boundaries of said private land not be needlessly disrupted, it is hereby found and declared that the 1933 county surveyor's monument marked "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J–249–FB", which was set at a point one-half mile south of the northwest corner and one mile west of the east quarter-corner of said section 16, as said corners and monument are shown on the county surveyor's map B–745 on file in the Office of the County Engineer of the County of Los Angeles, is at the true location of said west quarter-corner as originally set by the Government Land Office Survey or in 1912 and depicted upon the plat of township 4 north, range 10 west, San Bernardino meridian, approved December 4, 1917.

(b) It is further found and declared that the south line of the north half of said section is a line connecting the east and west quarter-corners hereinabove mentioned and that the center quarter-corner of said section is located at the mid-point of the south line of the north half of said section 16 as hereinabove established.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill which is simple but important. The same bill was passed here in the House during the last Congress, but died when the congestion of proposals in the Energy and Natural Resources Committee of the other body blocked it from coming to a vote.

The bill corrects a situation which has arisen from two conflicting surveys of the boundary of a section of the Angeles National Forest, in California. Both surveys were done by Government entities, so the fault, if any, is a fault of Government.

Because of the conflicting surveys, a serious cloud has been cast on the title of a considerable number of private parties whose holdings are "tied" to the boundary of the national forest.

What this bill does is to affirm the boundary of the forest, and therefore the boundaries of the private lands which are outside the forest but which are "tied" to its boundary, in accordance with the survey upon which all parties have relied since 1933.

Let me briefly outline the background of this measure, for the information of the House:

In December 1912, the U.S. Land Office made the first boundary survey of the relevant section, setting notched stone and iron posts as monuments.

The Los Angeles County Surveyor made a retracement survey in 1933 of a portion of the section. Being unable to recover any evidence of the west one-fourth corner, the surveyor set a monument with a brass cup marked "County Surveyor's Monument—Forest Reserve Corner R.E. 62 J–249–FB." The posted forest boundary follows this survey line. This J249 monument became the basic reference point used when section 16 was subdivided. The 1959 U.S. Geological Survey "Juniper Hills" quadrangle map depicts the forest boundary as the line from the NW corner of section 16 to J249. These maps in conjunction with the posted forest boundary have been used by the original and succeeding property owners for over 40 years.

The problem which necessitates legislation stems from a 1972–73 survey by the Los Angeles County engineer for a Juniper Hills area master highway plan. The surveyor was unable to locate corner markers and set new and quite different corner markers.

Unless there is legislation such as this, and if the new corners set by the county engineer are established as the official corners for section 16, it will not only affect the individual lot boundaries, but it will place 13 homes, 11 wells, 6 garages and numerous outbuildings on the property of others. That would also change the location of the posted Angeles National Forest boundaries. The relocation of the property lines would destroy building sites for which the land has been purchased; many parcels would be relocated into ravines which are adjacent to property boundaries; and many easements for roads and utilities would become worthless.

When the Subcommittee on Public Lands held a hearing on this bill earlier this month, a representative of the private homeowners involved testified that because of the uncertainty of the surveys involved here, the title insurance companies will not issue title insurance for the lands involved; as a result, there is no practical way for the lands to be sold or purchased.

Stripped of all technical discussions concerning the problem, the bill amounts to a boundary line agreement between the United States and the private owners. Admittedly, there exists a question as to the correct location as to such boundary lines; this bill simply adopts into law what has actually existed on the ground for 45 years without cost to the United States or the private owners. The private owners have no desire to acquire land owned by the United States; they simply ask Congress to cut through all the technical arguments and redtape and set to rest, by a very commonsense approach, a problem not of their making. As a matter of fact, the United States has acquiesced in the location of the boundary lines of the Angeles National Forest as established by the 1933 survey for 45 years, both by affirmative acts and by its silence in not making known to the public that there was a problem.

Of course, because of the sovereign immunity of the United States, the doctrine of adverse possession does not apply here—otherwise the private landowners might be found by a court to have already gained the boundary which would be established by this bill.

Given all this, Mr. Speaker, I suggest that it is appropriate and right that the House of Representatives again pass this bill, as it passed the same bill in the last Congress. I regret that the Senate did not act on this matter in the last Congress, and I have reason to believe that there is a much better likelihood that they will do so in this Congress; but in any event, I believe that we should pass the bill, in the interest of resolving this matter equitably and expeditiously.

Mr. Speaker, let me say that the National Forest Service has proposed to conduct a resurvey of this particular boundary and to have it completed by sometime this fall. That resurvey will cost them an estimated $10,000 and if it should result in a still different boundary, it could cost the property owners $100,000 in court and other legal fees to try to unsnarl the mess that was created by an original mistake of a government surveyor in the first place. If we can enact this bill promptly these expenses may be avoided.

The amount of Federal land here is very small. As I recall, it is around 8 acres. It is not land of any particular value and, therefore, this bill would not cause a loss to the United States, either financially or otherwise, and would bring a considerable savings to the property owners.

It is important that the Senate act promptly in order that these property owners may have the same rights as others to convey their property free of this cloud on their title.

I certainly urge acceptance of this bill.

The SPEAKER. The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I again compliment the chairman of the subcommittee for bringing forth this important legislation. Unfortunately, it was needed and it will solve a problem, will save the property owners in this small area a great deal of cost in dollars. It was the same legislation this body passed last year and because of the lateness of the session it was delayed and not passed into law.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from California (Mr. THOMAS), the author of the bill, H.R. 3361, and the gentleman who really has played a major role in the passage of this legislation.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Alaska for yielding. I certainly will not take the 5 minutes, because the gentleman from Ohio, the subcommittee chairman, has outlined almost totally and absolutely accurately all of the problems facing these individuals in a predicament not of their own making, but actually a problem created by Government.

I realize that a legislative remedy is an extreme remedy, but given the alternative, I think it is the appropriate remedy.

The approximate 8 acres that we are talking about that are in dispute are on a hill slope of about 30 degrees and are of no practical use to anyone.

The idea that at least 13 homes are going to be displaced along the boundaries if we either accept the newer boundaries were discovered in a private survey in 1977 that were surveyed by

Los Angeles County in 1973 or expending the money for a new survey with no guarantee that they will not come up with a third line or agree to the 1973 line is, in fact, a waste of everyone's time and the taxpayers' money. I feel assured that the House will move rapidly on this measure since it is not a new question before us. In addition, both the California Senators fully understand and are in support of a legislative remedy of the problem that has been created by Government.

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Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, I rise to support H.R. 3361 since I feel it is the best way to resolve a very difficult situation that is causing uncertainty and hardship to many residents of the Juniper Hills area.

This bill provides an opportunity to resolve a boundary conflict and survey discrepency resulting from a 1973 survey which would alter boundaries that have been used for 45 years. To accept the 1973 survey would place 13 homes, 11 wells, 6 garages, and numerous outbuildings on the lands of others, destroy longstanding land descriptions, make road and utility easements worthless and keep boundaries on vacant property in question until the dispute is settled possibly through yet another survey.

It simply does not make good commonsense to delay resolution of this problem any longer since passing this legislation means that we would be accepting the boundaries used by the people when they purchased their property over the last 45 years. The private owners have no desire to acquire land owned by the United States, they are simply asking that the redtape and technical argument be resolved at this time on a problem that was not of their making.

The basic purpose of the bill is to have the United States agree that the 1933 county surveyor's monuments should indicate the permanent boundaries of the disputed area. Admittedly there exists a question as to the correct location of the boundary lines, but the bill adopts into law what has actually existed on the ground for 45 years and avoids further legal and surveyors costs to the Government and private owners.

Surveyors have been unable to recover the original west quarter marker of Section 16 but this was replaced by the Los Angeles County surveyor in 1933. Some of the 1933 markers were destroyed in a 1953 forest first but the Forest Service has replaced them in their same locations. Deeds issued on subdivided land over the years were based on boundaries accepted by the Forest Service until the discrepency of the 1973 survey was discovered in 1977.

The practical effect of the existence of the questionable boundaries is that private owners have been unable to sell and refinance their homes. Prospective buyers and lending institutions are not anxious to become involved in this unresolved problem, and homeowners are not able to obtain title insurance under these circumstances.

This bill H.R. 3361, would resolve the problem now. Mr. Speaker, I ask for an "aye" vote.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 3361, and also on the bill previously passed today by the House, H.R. 4811.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3361.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SAFE DRINKING WATER ACT AUTHORIZATIONS

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3509) to extend for 3 fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

The Clerk read as follows:

H.R. 3509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The first sentence of subsection (e) of section 1442 of the Public Health Service Act (42 U.S.C. 300j–1(e)) is amended by striking out "; and" and substituting a semicolon and by inserting the following before the period at the end thereof: "; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such subsection (e) is amended by striking out "and 1979" and substituting "through 1982".

SEC. 2. (a) Paragraph (7) of subsection (a) of section 1443 of the Public Health Service Act (42 U.S.C. 300j–2(a)(7)) is amended by striking out "and" and by inserting the following before the period at the end thereof: ", $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982".

(b) Paragraph (5) of subsection (b) of such section is amended by striking out "and $10,000,000" and substituting "$10,000,000" and by inserting the following before the period at the end thereof: ", $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982".

SEC. 3. Paragraph (2) of subsection (f) of section 1441 of the Public Health Service Act (42 U.S.C. 300j(f)) is amended by striking out "1979" and substituting "1982".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, H.R. 3509 is a simple authorization bill that would extend the authorities of the Safe Drinking Water Act for 3 fiscal years, 1980 through 1982.

Our work of providing safe drinking water to all Americans is just beginning. Federal interim primary drinking water regulations became effective in June of 1977. To date, some 41 States and territories have assumed primary enforcement responsibility over their public water systems. This means that these States are enforcing Federal regulations pertaining to coliform bacteria, several inorganic contaminants and a few organic contaminants. Several other States are expected to attain primacy this year.

Our sources of drinking water are contaminated by a number of point sources such as industrial effluent discharge, leachate from waste dumps, and nonpoint sources of contamination which come from pesticide residues from agricultural runoff and heavy metal residues from urban runoff. The Environmental Protection Agency is in the process of developing an integrated program to attack these environmental insults which threaten drinking water.

The funding levels in this bill assure the continuation of the Environmental Protection Agency's drinking water programs that are just getting off the ground. Section 1 of the bill provides funding to continue the Agency's pollution abatement and control activities which encompass the determination of human exposure to water borne contaminants and attendant health risks; the establishment and implementation of national primary drinking water regulations; the development of revised primary drinking water regulations; the provision of technical assistance and guidance to the States and the training of personnel; and the development of an effective and balanced underground injection control program.

During the past 2 years the Agency has been working on several studies mandated by Congress in the 1977 amendments to the Safe Drinking Water Act. These studies focus on: health effects of the reaction of chlorine and humic acids which forms trihalomethanes several of which are carcinogenic; polychlorinated biphenyl contamination of actual or potential sources of drinking water; and the anticipated costs of compliance with interim and revised national primary drinking water regulations and methods by which States and units of local governments can implement those regulations. All of these studies will be completed shortly and will assist the Environmental Protection Agency in the performance of its mission, and will help Congress determine how States are progressing in meeting drinking water regulations.

For purposes of section 1 $21,405,000 would be authorized for fiscal year 1980, $30 million for fiscal 1981, and $55 million for fiscal 1982.

Section 2 of the bill would provide authorizations for public water system supervision grants. This program enables the Agency to provide start-up and continuation grants for States that assume primacy over their public water systems. The program is necessary to assist States in attaining and maintaining the essential components of a drinking water program. The authorization would provide $29,450,000 for fiscal 1980, $32 million for fiscal 1981, and $34 million for fiscal 1982.

Additionally, this section would provide authorizations for grants to States to assist them in formulating underground water source protection programs. Recently, the Agency designated 22 States as requiring underground injection control programs to protect ground water. By the end of 1980, all States will be so designated. The bill would authorize $7,795,000 for fiscal 1980, $18 million for fiscal 1981, and $21 million for fiscal 1982.

Finally, the bill also would authorize funds to be utilized by the Administrator to help remedy an emergency situation faced by a municipality or public water system that is beyond its financial or technical capability to remedy without such assistance. Eight million dollars would be authorized for fiscal years 1980 through 1982 for this purpose.

Mr. Speaker, we must demonstrate to the States our commitment to assure for our citizens the provision of safe drinking water. The mechanism Congress envisioned in 1974 when the Safe Drinking Water Act was enacted is in place and is working. However, more work needs to be done to improve the program. The States need guidance and assistance in establishing and running their programs and more work is needed in identifying and in assessing the health effects of hundreds of contaminants that find their way into our sources of drinking water. Also, the Center for Disease Control reports that there are still more than 3,000 waterborne illnesses per year in this country. The Subcommittee on Health and the Environment is going to hold hearings in the near future on a number of difficult issues that face the Environmental Protection Agency and the States in their joint effort to assure the provision of safe drinking water. Of primary interest will be the problems faced by small systems in attempting to meet drinking water standards.

Mr. Speaker, this bill would enable the EPA and the States to continue to provide safe drinking water for the people of this country. I respectfully urge my colleagues to support H.R. 3509.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, let me ask the gentleman, how many deaths did the Center state were due to drinking water? I believe the gentleman mentioned that in his presentation.

Mr. WAXMAN. Mr. Speaker, the Center for Disease Control reported there are still more than 3,000 waterborne illnesses per year in this country.

Mr. VOLKMER. That is 3,000 waterborne illnesses?

Mr. WAXMAN. The gentleman is correct.

Mr. VOLKMER. But we do not know how many deaths have occurred as a result of drinking water?

Mr. WAXMAN. I do not know that.

Mr. VOLKMER. Is there any way that we could find out?

Mr. WAXMAN. Perhaps we could inquire of the Environmental Protection Agency. They might have the statistics.

Mr. VOLKMER. All right. Can the gentleman tell me, is there anyone who knows approximately what it is going to cost ultimately to implement the new regulations that are being proposed?

Mr. WAXMAN. Mr. Speaker, we do not know the cost of the proposed new regulations, but the subcommittee is watching those new regulations with a great deal of interest. There are members of our subcommittee who are concerned about two drinking water regulations; one member in particular introduced legislation that would prohibit those regulations from taking effect.

Before those regulations take effect, we will hold oversight hearings on them.

Mr. VOLKMER. I would appreciate that.

Mr. WAXMAN. One of the key questions that will be in our minds will be the cost of those regulations, as well as the benefits we will receive from the regulations.

Mr. VOLKMER. Mr. Speaker, that is exactly my concern. There have been some figures used in my State which show theoretically if the charcoal-type system was used, it would cost upward of $1 billion for those cities. That applies to cities over 75,000, and it would cost this amount to implement that. Then we might get little benefit because of the fact, as far as we know, in the last 4 or 5 years there have been no deaths attributed to drinking water in the State, and yet we are going to spend this kind of money.

So although I do not disagree that there is a need for identifying pollutants within the drinking water, I do seriously question whether or not the benefits are going to be worthwhile as far as the cost is concerned.

Mr. Speaker, I appreciate the subcommittee's looking into that matter.

Mr. WAXMAN. Mr. Speaker, I appreciate what the gentleman is referring to, and that is the cost of those particular regulations that would apply to local governments.

Mr. VOLKMER. Yes. And as far as what is going to be done and as to the benefits received, if we do not have related illnesses and related diseases, then I question the necessity of also bringing on this new type of filtration.

Mr. WAXMAN. Mr. Speaker, I share the gentleman's concern, and our subcommittee is going to look very carefully at these regulations before they go into effect.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, prevention and health are two words which have become strongly linked in the past decade. Clearly, prevention of illness is a more effective means of promoting continued good health than remedial treatment following the onset of disease. As a physician, I have supported legislation which is preventive in nature. The Safe Drinking Water Act is one such important measure, designed to safeguard the health of Americans by preventing their exposure to unsafe drinking water. Under this law, the Environmental Protection Agency and States are encouraged to work together in insuring a safe supply of drinking water.

This bill, H.R. 3509, provides for a simple extension of the authorities of the Safe Drinking Water Act for 3 years. I support H.R. 3509 because of its preventive nature, and I urge that it be approved expeditiously.

Mr. Chairman, our supply of drinking water is something many of us take for granted. We simply turn a tap and draw a glass. But the safety of this water is not something we should take for granted. Not when more than 700 organic chemical contaminants have been identified in some sources of drinking water. Moreover, we hear frequent reports of incidents in which toxic chemicals have been discovered in drinking water supplies. Just recently in California, high levels of a toxic pesticide were found in drinking water and irrigation wells. The pesticide had been banned from use in that State for the past 2 years. Clearly, findings like this indicate the need for continued monitoring of our drinking water supplies.

The Safe Drinking Water Act grew out of concern over the safety of our drinking water supply. That was in 1974, when the number of identified organic contaminants was 66. Today the number stands at over 700, and it continues to grow. Clearly, we must reinforce our original commitment to assuring a safe quality of drinking water. Therefore, I urge prompt approval of this bill to safeguard the health of the American public by protecting its drinking water supply.

□ 1250

Mr. Speaker, I would also say that I included in this bill $8 million for taking care of places such as the Valley of the Drums in Louisville, Ky., where people have placed contaminants from their factories, and the identity of these people cannot be immediately found. We have another such situation existing near Buffalo, N.Y., where many people have become ill from toxic substances which have been buried beneath their homes, prior to the building of their homes, of course, and as a result of this there were many miscarriages and many of the youngsters born in that neighborhood had many deformities.

I included this $8 million in this legislation to help in alleviating these conditions, but, actually, Mr. Speaker, this is only a small amount. It will take a great deal more money to clear up this situation throughout our country.

A great many pure water supplies have been contaminated by numerous "Valleys of the Drums" throughout our country. The $8 million authorized will not nearly be enough—but it will be a start—I urge a vote for pure drinking water.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the cooperation to date of my colleague from California, Mr. Henry Waxman, and my colleague from Kentucky, Dr. Tim Lee Carter, in consideration of problems of my constituents related to the presence of barium found naturally in public drinking water supplies.

The Safe Drinking Water Act provided that standards should be established by the Environmental Protection Agency following scientific studies by the National Academy of Sciences or another independent scientific organization. However, it was also provided in this statute that the EPA could establish a standard for a questioned substance which "in the judgment of the Administrator, may have any adverse effect on the health of persons."

Mr. Speaker, the scientific studies which seem to be required under the provisions of the statute appear not to have been met or at least have been insufficiently met—in my view. According to a report issued by the National Academy of Sciences in 1977 entitled "Drinking Water and Health" the subject of barium in drinking water was very equivocal and indefinite insofar as posing any specific hazard to human health.

It is my understanding that the standard adopted by the Federal EPA of 1.0 mg/l of barium is derived from a 1962 standard established by the Public Health Service. That standard was established not on the basis of studies made with drinking water but were based upon studies related to the presence of barium in the air and these studies were thereafter translated into a standard applicable to drinking water.

Mr. Speaker, it would seem to me that to establish and impose a standard with which the communities of Cary, Algonquin, Burlington, Crystal Lake, Hampshire, St. Charles, Wauconda, and West Dundee in my congressional district are required to comply, some more valid scientific studies should be conducted and empirical data should be secured upon which a standard might thereafter be developed. With such a valid standard, I am confident the officials of the communities in my district would thereafter be willing and anxious to comply.

Mr. Speaker, I therefore request that oversight hearings be held at the earliest possible date in order that we may work together with the U.S. EPA to make sure that drinking water standards are reasonably accurate and necessary. I agree that the ideal is to be ultrasafe if this is economically feasible. But for small communities up to 15,000, the high cost of treatment is illogical if there is doubt that this is really necessary in order to preserve and maintain good health. At present there appears to be fairly widespread doubt among knowledgeable scientists that the low level of 1 milligram per liter of barium presently required by the U.S. EPA is really necessary. Some feel that 4.5 or 5 milligrams per liter of barium would be within safe limits. My constituents are disturbed at being forced to comply with regulations based on information which is not generally accepted. Since at present there are no Federal or State grants available to them, this compliance would be at burdensome costs.

You may be aware that there is a barium treatment which is reasonable in cost, water softening by use of sodium. This process would be financially feasible for a small community, it is true. However, the major health problem suspected to be related to barium ingestion is a possible cardiovascular effect evidenced by hypertension. There is mere speculation of such an effect. As many of you may also be aware, it is an accepted fact that the so-called remedy, salt addition to the water, increases hypertension. Thus, the low-cost reasonable remedy presently known, zeolite or salt addition, appears to be worse than the original, barium. Thus, my constituents are rightly resisting the solution of water softening by means of zeolite or salt addition. Other solutions for removal of barium involve digging another well, building a treatment plant utilizing lime softening and hiring a full-time operator, or adopting some other potentially expensive remedies.

Mr. Speaker, I appreciate this time to briefly explain some of the real problems faced by small communities in meeting safe drinking water act regulations and hereby request oversight hearings during or following the recess. I believe we should be reasonably sure requirements are necessary and we should also make it financially feasible for small communities to comply if it is necessary.

Mr. WAXMAN. Mr. Speaker, Will the gentleman yield?

Mr. McCLORY. Mr. Speaker, I am pleased to yield to the chairman of the subcommittee.

Mr. WAXMAN. Mr. Speaker, I have enjoyed working with the gentleman from Illinois and have been most impressed with his knowledge of the difficult question of the health effects of the ingestion of barium in drinking water. I am very sympathetic to the plight of small communities such as Cary, Ill., which, in order to comply with the existing State and Federal standard, must make substantive financial investments. I agree with the gentleman that additional research is needed to determine the health effects of long-term ingestion of low levels of barium.

If the gentleman will yield further, I would like to assure the gentleman from Illinois that oversight hearings of our subcommittee will be conducted as soon as possible—with the likelihood that at least one of the hearings will be held in an area convenient to the gentleman's congressional district in Illinois. Meanwhile, it is my hope that other scientific research studies will be conducted and that empirical data will be gathered which will either confirm the adequacy of the existing standard or demonstrate that a new standard should be set which assure safe drinking water for water supply systems such as that in Cary, Ill., and other communities in the gentleman's Illinois district—as well as elsewhere in the Nation. I am very aware of the plight of the small communities in particular, which are now confronted with the requirements of the Safe Drinking Water Act and the need for meeting a standard of water quality by 1981. Some further consideration may be needed to determine whether to delay that date, where the risk to human health posed by the contaminant is minimal, the expected cost of a water treatment facility is beyond the capability of the communities, and the community has demonstrated that it has acted in good faith to comply with the standard, but was unable to do so.

Mr. McCLORY. Mr. Speaker, I appreciate the chairman's assurances, and I wish to indicate my support of this legislation.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. Abdnor).

Mr. ABDNOR. Mr. Speaker, I thank the gentleman from California and I thank the distinguished chairman for his time and his staff's time in reviewing this legislation. It is my understanding the Subcommittee on Health and the Environment will hold oversight hearings later this year on the Safe Drinking Water Act.

Mr. WAXMAN. Yes; the subcommittee is in the process of examining issues relating to the implementation of the act in preparation for oversight activities.

Mr. ABDNOR. Is it the subcommittee's intent to give particular attention to the difficulties experienced by smaller systems in complying with the act?

Mr. WAXMAN. Yes; a primary issue for the subcommittee will be problems faced by small systems in attempting to meet drinking water standards.

Mr. ABDNOR. I understand EPA is conducting analysis of the financial implications of the standards of each level of government—Federal, State, and local.

Mr. WAXMAN. That is correct. We are awaiting receipt of a nearly completed study mandated by the Safe Drinking Water Act Amendments of 1977 which will assess the anticipated costs of compliance with interim and revised national drinking water regulations and the anticipated costs to States and units of local government in implementing such regulations. This report, in conjunction with oversight hearings, should be a valuable tool in helping us assess the problems confronting small systems and in determining appropriate mechanisms to assist small systems in meeting drinking water standards.

Mr. ABDNOR. I thank the chairman and look forward to the subcommittee's full consideration of a number of issues including: First, financing of water system improvements in those instances where such improvements would be cost prohibitive to the users; second, attention to the needs of the millions of Americans who obtain their water from sources which are not covered by the act; and third, insuring that the standards are reasonable from the standpoint of costs and benefits.

The importance of an adequate supply of good quality water for our citizenry is paramount. The Safe Drinking Water Act is a landmark in that respect; but it seems to me that, at least in terms of experience in my State, the existing program leaves much to be desired.

I am, therefore, encouraged to have the chairman point out that in passing H.R. 3509 today, to extend the Safe Drinking Water Act, it is not our intent to close the book on this important issue.

Mr. WAXMAN. I will be more than happy to work with my colleague from South Dakota to examine the specific issues he has raised. I feel it is important to hear the views of those in South Dakota who are confronted with problems in attaining drinking water standards. Of course, I would welcome your testimony about the drinking water situation in South Dakota. I look forward to working together on this issue.

Mr. ABDNOR. Again, I thank the chairman; and I request permission to revise and extend my remarks for the purpose of explaining a measure I have introduced today to amend the Safe Drinking Water Act and the Rural Development Act. Hopefully, this legislation would address the inadequacies in the program and facilitate the delivery of good quality drinking water to all Americans.

When the Safe Drinking Water Act was before the House in 1974, I was prepared to offer an amendment to protect the interests of my constituents and to promote a cooperative regulatory atmosphere.

That amendment stated:

> A public water system which has made application under a program of Federal financial assistance to complete improvements which would bring the system into compliance with this Act shall not be required to comply with the provisions of this Act until the completion of such improvements or until the Administrator shows that the system can comply without such assistance and without unreasonable cost to the users.

I was dissuaded from offering the amendment by members of the committee who assured me that the exemptions and variances allowed under the act were sufficient to address my concerns. It has become clear, however, that is just not the case; and Assistant EPA Administrator Jorling has acknowledged as much.

As pointed out in the minority views contained in the committee report (H. Rept. 96–186, p. 14), Mr. Jorling has characterized as "needed" an amendment to extend exemption compliance deadlines, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities.

Still, my original amendment is superior to that suggested by the Assistant Administrator because it would allow case-by-case extensions when justified, rather than a broad and arbitrary extension based on time instead of need.

According to South Dakota's water hygiene administrator, Mark Steichen, by early June about two-thirds of the 400 community water systems in our State had been tested for compliance with maximum contaminant levels (MCL's) for inorganic chemicals. Of those tested to that point, 40, or about 15 percent, had drinking water which exceeded the standards. Others had received notice from EPA of violation of regulations pertaining to bacteriological analyses, and more violations are expected as sampling for radiological contamination proceeds.

Perhaps my colleagues noted the recent article headlined "Town in Alaska Shuts Sewage Plant, Dares U.S. To Do Something About It," which appeared on page A3 of the July 25 edition of the Washington Post. Sadly, the incident it relates is all too typical of the conflict which has been fostered by the regulatory philosophy which prevails at EPA and in the statutory authorities the Congress has provided.

The Skagway, Alaska, mayor and town council do not believe the benefits of the $3.5 million wastewater treatment plant they have been forced to construct to serve their community of 870 people justify the diesel fuel it will consume or the expense of operating the facility. For having the courage of their convictions, the council members face a possible $10,000-a-day fine; and EPA is pressing the matter in Federal court.

Under the existing provisions, I fear it is only a matter of time before similar confrontations develop with respect to the Safe Drinking Water Act; and that is one reason I introduced legislation in the 95th Congress to amend the act. I have reintroduced that measure today.

The Institute for Rural Sanitation Services commented on my bill in the December 8, 1978, issue of their newsletter, FYI:

Environmental Protection Agency—Farmers Home Administration Coordination on Rural Water Projects; Is There Hope?

It has long been evident to those in poor, rural communities that money for small water and sewer projects is pretty hard to come by. The U.S. Environmental Protection Agency (EPA), under the Federal Water Pollution Control Act, has been providing grants for the establishment of wastewater treatment works only since 1972 and has had full responsibility for drinking water quality since 1974. The Farmers Home Administration (FmHA), under the Consolidated Farmers Home Administration Act and the Rural Development Act, has been providing grants and loans for community water and wastewater facilities since 1961. The two agencies really never have been in a position to consolidate their efforts to serve the rural poor—until now.

EPA and FmHA believe that their present community water facilities programs are adequate in terms of their mandated objectives. But they realize the need for improvement in the management of their programs. At the insistence of many congressmen, rural-interest organizations, and small communities, FmHA and EPA released a joint policy statement in July of this year amending the FmHA priority system for grants. First priority goes to improvements or additions to water treatment systems needed to meet the requirements of the Safe Drinking Water Act. Second, the quality of drinking water for projects financed in whole or in part by FmHA must meet the applicable primary drinking water standards after completion of any proposed improvements.

This policy statement is a much-needed recognition of past problems caused by the lack of coordination between EPA and FmHA. It is a welcome first step toward reducing these problems. However, a great deal of work remains to be done if EPA and FmHA programs are to deal efficiently with the water-sewer needs of rural America.

THE PROBLEM OF SAFE DRINKING WATER

Under the Safe Drinking Water Act (SDWA) of 1974, EPA was given the mandate of guaranteeing the safety of drinking water supplies throughout the United States. A substantial amount of data had been collected by this time showing that people in rural areas of the country suffered from inferior water quality to a much greater extent than those in urban areas due to their use of self-supply water systems such as individual wells and cisterns. Many of these systems, as well as a number of small community water systems, are known to supply poor quality water.

EPA's first objective under the SDWA was to define the water quality problem. As a part of this effort to define the problem, the agency provided substantial financial and technical assistance to states and local communities so that they could undertake various research and study programs. However, the Act authorized no funds to improve the water quality situation. There was no money for the construction of new water treatment systems, nor were funds available for upgrading existing treatment systems in order to meet the National Interim Primary Drinking Water Regulations.

Thus, in 1977, new drinking water regulations were imposed on existing water systems having 15 or more connections and regularly serving 25 or more individuals. While this size limit left millions of people unprotected by the regulations, the small community water systems that were covered suddenly were faced with rigid testing and quality requirements demanding a lot of time, attention, and financial resources.

The requirements of the EPA drinking water regulations have been a significant burden to a number of these water systems. Many of the strict requirements have been questioned by both water suppliers and scientists. The Council on Wage and Price Stability has declared that EPA's new rules are not worth the money and are void of any cost/benefit analysis. In addition, there seems to be no solid, scientific basis for many of them. EPA admits that there is no hard evidence linking the low level of trihalomethanes and synthetic organic chemicals found in drinking water with a low occurrence of cancer. Yet the agency asks local communities to spend millions of dollars (maybe even a billion) to curb the level of these chemical contaminants. Of course, smaller communities are affected the most by this; they simply do not have the resources that larger communities have to upgrade and monitor their water supplies.

The Farmers Home Administration is usually the only source of funds for improving rural water systems, and it is therefore the only agency the communities can turn to in trying to comply with safe drinking water regulations. This applies both to existing systems which simply need upgrading and to those which have yet to be built. If a small community water system cannot sustain EPA's low limits for bacteria, turbidity, certain inorganic chemicals, pesticides, and radiological contaminants, then FmHA may reject an application for funding it. One does not want to deny the users of that system the safety regulations promulgated by EPA. On the other hand, the fact that the system is in noncompliance means that perhaps money is needed more for it than for other water systems, regardless of their size. In addition, FmHA has limited amounts of grant funds available and must attempt to use them to meet the needs of all rural communities—those with quality problems in existing systems and those with no system at all.

STEPS TOWARD A SOLUTION

The problems associated with implementation of the Safe Drinking Water Act are due partly to poor coordination between FmHA and EPA. This is the premise underlying the July joint policy statement. Many states moved prior to this statement to establish a coordinating mechanism that would assist rural communities in dealing with the new water quality standards. Vermont, for example, can boast an outstanding cooperative effort between FmHA and EPA in providing water facilities. EPA regularly sends lists of communities which are not in compliance with their safe drinking water regulations to FmHA, which can contact the communities directly. Once communities are aware of the funds available, they are more likely to heed EPA's warning of noncompliance.

Congressional concern has been expressed. Congressman Jim Abdnor of South Dakota, in introducing amendments to the SDWA and the Rural Development Act (RDA), noted that:

"If the Federal Government is going to mandate such standards upon a particular system, it is also incumbent upon the Federal Government to provide financing on a basis the users can afford to pay."

We couldn't agree more. FmHA enters the picture here as the principal funding source for communities with populations of 5,500 and under. It has a special responsibility to assist these localities in providing appropriate water facilities that comply with EPA's standards.

Similarly, the Congressional Rural Caucus (CRC) requested the Administration in September to "develop federal, state, and local intergovernmental mechanisms to improve coordination and reduce the difficulties, delays and red tape small cities and towns must undergo to obtain development assistance." Moreover, CRC recommended that the administration address the need to "develop within USDA a program to help FmHA, EDA, CSA, HUD, Labor *and other programs* used in rural communities to improve the accessibility to and delivery of their services" (emphasis added).

Congressman Abdnor expressed his recommendations in the form of legislation which he introduced this past summer. Although no action was taken on his and similar bills, they probably will be reintroduced in January. H.R. 13752 was a bill amending the Safe Drinking Water Act and the Rural Development Act "to provide additional assistance to small communities and rural water systems in meeting drinking water standards." In addition to increasing grant authority for water systems to 90 percent (from the present 50 percent) and authorizing grants for those systems which have experienced "higher than anticipated expenses," the bill would have required certain EPA–FmHA cooperation.

First, it sought to prohibit the Administrator of EPA "from acting against a public water system which is not in compliance with SDWA if it has a pending application with FmHA to finance the necessary improvements." Second, associations proposing to construct water systems would be permitted to ask EPA to test the supplies of proposed users for compliance with SDWA standards. If present supplies do not meet the SDWA standards, then the proposed system would qualify for grant assistance from FmHA on the same basis as existing systems.

It is heartening to see the perception and awareness that Congressman Abdnor manifests towards the rural water problem. He addresses the most common problems effectively, and even tackles some that are not so common. He advocates rearrangement of FmHA's grant priorities so that communities faced with unanticipated deterioration of water supplies can receive immediate action. Those communities which request money for the sole purpose of compliance with SDWA primary drinking water standards would become second on the list. H.R. 13752 would prohibit EPA from requiring a water system to notify its users of noncompliance with SDWA standards if the community has applied for assistance in order to comply. The fact that states are supposed to assume the responsibility for notifying systems and their users in the event of noncompliance has been a major point of contention with EPA since the SDWA became law. Because of their inability to control the funding source, states often do not want to exercise their right to primacy, and certain states have denied it completely (South Dakota, Wyoming and Utah are examples.) The state's view is that they should not have to bear the burden of explaining noncompliance to owners of water systems and their users when they have no power to extend the resources necessary for compliance. Congressman Abdnor saw it, too, when he stated: "EPA writes the rules and the water users pay the expenses," H.R. 13752 attempted to go far beyond the concept of EPA–FmHA coordination. It proposed specific solutions to a number of problems implicit in the provision of rural water supplies and, the solutions were based on the use of present program mechanisms.

The thrust of both the Abdnor legislative proposals and the EPA–FmHA policy statement is essentially the same: making the best of a bad situation through coordination and other programmatic changes. This may be the best that can be done and, given the fact that the present situation can only be improved, better coordination and program management would be no small accomplishment. However, the root of the problem may well be something quite different. On the one hand, the Congress has decided that the nation's drinking water quality must be improved substantially. On the other, the Carter administration has decided that there will be no costly new programs and no significant increases in those which already exist. This was the administration's position two years ago and it continues to be stated in light of continuing inflation. There simply may be no way even with all the coordination in the world, that both objectives—improved quality and economy—can be achieved. In the end, something is going to have to give—either the Carter administration will have to agree to a new, or greatly expanded, program to help small communities meet the drinking water standards or it will have to agree to soften the standards or delay their implementation. Coordination can only do so much.

The obvious implication of FYI's conclusion is that more money will be required if the goal of safe drinking water is to be met, and that may be so. While my bill does not provide for an increase in total Federal funding for water system improvements at this time, it would establish a more rational regulatory process within which the need for such an increase could be assessed and would become apparent.

Writing in the May/June 1979 edition of Outdoor America, Deputy EPA Administrator Barbara Blum made several pertinent remarks in an article entitled "EPA, Economics and the Environment." Among the points Ms. Blum endeavored to convey were the following:

> The Environmental Protection Agency considers itself part of President Carter's administration and part of his anti-inflation team. EPA administers laws covering drinking water and their economic impact has not been lost on an economy racked by unremitting inflation. EPA is committed to administering the law as inexpensively and efficiently as possible.
>
> Resources—including clean water tend to become less plentiful as society becomes more densely populated, more urbanized. It is wrong, therefore, to think of our current problems as either primarily environmental or primarily economic. History teaches us that they are both at once.
>
> We cannot afford an unhealthy environment, nor can we afford an economy plagued by inflation or racked by unemployment. We must debunk the myth that free enterprise and environmental regulation are natural enemies.
>
> EPA fights and will continue to fight inflation four basic ways: through improvement of the regulatory process itself; through increased cooperation with industry and state, local, and foreign governments; through improvements in the enforcement process; and through the introduction of flexible marketplace incentives.
>
> EPA is working to have state governments assume administrative responsibilities at the local and state levels so that those closest to a problem will make the required regulatory decisions, presumably in the most cost-effective manner possible.
>
> EPA helped pioneer the new Regulatory Council. The council aims to increase cooperation within the bureaucracy and reduce rulemaking.

Cooperation within the bureaucracy and reduced rulemaking are admirable goals, but the cooperation of those who are regulated is even more important. The best way to get such cooperation is to have rules which are reasonable and well justified, and I believe there is room for a great deal of improvement in this regard.

Indeed, on page 42247 of the July 19 Federal Register, EPA itself admits:

> While the Safe Drinking Water Act calls for issuance of revised regulations shortly after completion of the National Academy of Science's study, it was the Congress' expectation that the National Academy of Science's report would provide sufficient bases for such revised regulations. However, the Academy was unable to make specific recommendations as to safe levels of contaminants in drinking water to be used as a basis for maximum contaminant levels. Rather, NAS provided background information, recommendations for further research, and recommen-

> dations regarding acceptable daily intakes for certain compounds.
>
> Conversion of these recommendations and information into drinking water regulations is therefore a more lengthy and complex process than originally anticipated, and issuance of revised regulations in the prescribed time-frame became unrealistic.

Furthermore, EPA acknowledges:

> The States have encountered several problems with respect to the microbiological MCLs and the monitoring requirements for small public water systems. Greater latitude has also been urged with respect to requirements applicable to non-community systems and with the requirement of public notification through the media for all MCL violations applicable to community water systems.

Finally, EPA states:

> All existing MCLs will be re-evaluated in light of recently acquired data, particularly that contained in the National Academy of Sciences' report "Drinking Water and Health," and other information including a comprehensive follow-up study by the National Academy of Sciences now underway. Resulting changes will be reflected in Revised National Primary Drinking Water Regulations to be proposed subsequently."

In concluding her remarks in Outdoor America, Deputy EPA Administrator Blum said:

> As we move into the 1980's, it is imperative our economic investments are environmentally sound and our environmental investments economical. Success depends upon our keeping that equation balanced.

That is exactly what my bill is designed to do with respect to drinking water in rural areas and small towns. I have a sense that reason must prevail—eventually; but, in the meantime, that is little relief to those who are faced with the impossibility or excessively costly prospect of having to comply with the existing law and regulations. Nor is it of much comfort to those who are ignored by the act.

I urge my colleagues and particularly the members of the Subcommittee on Health and the Environment to give this matter further, serious consideration. For those who might be interested, my previous remarks on this issue mav be found on pages 24743, 30222, and 37267–37268 of the August 7, September 19, and October 14, 1978, CONGRESSIONAL RECORD, respectively. The text of the bill is on pages 24745–24746 of the August 7, 1978, RECORD.

The goal of safe drinking water for all Americans is unquestioned. The question is how best to maximize achievement of that goal. I believe the first step which must be taken is to reduce the attitude of confrontation which exists between the regulators and the regulated. My bill would do so and, hopefully, would encourage both to work together toward responsible and cost-effective solutions to our Nation's drinking water problems.

☐ 1300

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Kentucky (Mr. CARTER), who is our ranking member and is so keenly concerned with the health of America.

I am keenly concerned, too, but I believe this bill is a step backward instead of a step forward.

You know, we have so many health regulations in this country, we just cannot hardly afford to live anymore.

I remember in our own district down there, this is where the Indians got started, down in Texas. We have 300 old camps in our area where Indians lived.

We have the Lewisville Man, that is supposed to be the oldest man. The Indians had a very healthy society. Nobody was any stronger physically or had a greater physique than Indians.

I want to tell my colleagues, if you remember back, you heard of very few Indians who lived past 40 years of age. They had fresh air, fresh water, fresh grass, but they just did not have the American way of life.

We are just about to price this American way of life out of business. We have got so many gimmicks. In fact, when my friend talked about water, the first thing that came to my mind was the drinking water here in Washington.

I cannot stand this tap water myself. I have to carry a gallon jug. I go down to buy completely natural water in the grocery store to drink. This is plain water just as it comes out of the spring. But Washington has been meeting all these requirements; they have to add chemicals for EPA standard water.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will yield to the gentleman from Kentucky.

Mr. CARTER. What would it cost the public if they, like the gentleman from Texas, went to the grocery store and bought their water? Would it not cost millions and millions more? This bill will save millions.

Mr. COLLINS of Texas. I want to tell the gentleman this. The reason I do not drink this Washington water is that it is meeting the regulations that we have written. I have just had all these congressional regulations that I need. Washington water meets the regulations that we have mandated. I do not want any more of this water that meets these regulations. I would just rather have plain water from the spring.

Now, in addition to what we have demanded in drinking water and what meets its requirements, another thing that concerns anybody that is from an oil-producing State is what they are going to do to secondary recovery of oil. They estimate in this report that it will cost $665 million. I have never seen an estimate yet where they do not miss at least twice.

In other words, if they say $665 million, that means it will run a billion and a half dollars more to meet regulations.

What they are doing in order to recover oil from these old oilfields all over the country way out in the sticks, is to go in, and they take water and pump it back down underneath the oil sand. I saw one well the other day, 7,000 feet deep, they pumped it down in there, and then the water makes the oil float. And because they are paid what you call a stripper well basis of $18 which they are getting on it, they are able to make money even though 98 percent of the pump back is water and 2 percent oil.

Now with this particular requirement, by the time they get through meeting these Government regulations, the oil producers will not be able to water flood all of these oil reserves that we have all over the country.

We are hoping that secondary and tertiary oil recovery is going to be the major answer where we can help increase production in the United States. EPA water regulations are going to mean more and more costs. Excessive rules provide an unbearable situation on these producing people, and what we are going to do, we are going to force America to continue to be more dependant on imports of the OPEC oil.

Just to remind you, again, and we seem to forget it, 6 years ago our country was importing $3 billion in oil. This year we are importing $60 billion in oil. If we pass this particular provision, we are going to close out the potential that we have for tremendous secondary and tertiary oil recoveries. It is going to be economically impossible to water flood all of these large oil reserve areas. This does not mean anything about pure water. Most of these oilfields are 50 miles out in the country, but with the requirements, you would think you were right under Main Street in downtown New York.

Think about it. The name of the bill is a good name—Safe Drinking Water Act. But what we should do, we ought to think first of the future of America, and the future of America is to send this bill back to committee.

The following are the remarks with the full minority views:

MINORITY VIEWS ON H.R. 3509 SAFE DRINKING WATER ACT AUTHORIZATIONS

H.R. 3509 extends for 3 fiscal years the authorization for programs under the Safe Drinking Water Act. Because the bill is nothing more than a straight-out authorization bill without substantive amendments to the act itself, any amendments not tied to the authorization period could be ruled out of order as nongermane. However, the brevity and scope of the bill mask a number of controversial issues flowing from EPA's administration of the statute.

The contention was made in Committee that the best course of action was oversight coupled with a three-year authorization in light of the ongoing administrative process with respect to some of these matters. The problem with that approach is that it is for practical purposes and instruction to EPA to continue on its course absent effective Congressional input. This is so because the Senate as of now also has a 3-year authorization bill and the prospect of opening up the Act should problems arise in the interim is remote due to lack of leverage—as witness the situation with respect to the Clean Air Act. In light of the significance of the potential disruptive activities of certain aspects of the Act, it would be far preferable to have a one-year authorization to keep EPA on a shorter leash.

Briefly, at least three major problems have cropped up regarding this Act. That is, the proposed national interim primary drinking water regulations on organics, the underground injection regulations (particularly dealing with oil and gas), and certain obstacles in the administration of the program. As previously mentioned, the bill unfortunately does not address these vital matters. A short outline of these extremely complicated issues follows:

Organics.—In February 1978, EPA proposed regulations to limit organic chemicals in drinking water. The final regulations will probably be promulgated this summer. The regulation addressed trihalomethanes (which are formed during disinfection with chlorine of water containing naturally occurring materials) and other man-made compounds caused by urban, agricultural, and industrial pollution. Trihalomethanes would be subjected to a maximum contaminant level of 100 parts per billion. This standard would initially apply to systems serving populations of 75,000 or more. Systems serving 10,000 to 75,000 people would have to meet certain monitoring requirements, and those serving less than 10,000 people would be exempt initially. Coverage will be extended to all systems when feasible.

EPA proposed to restrict synthetic organic chemicals by requiring the installation of granular activated carbon (GAC) or some equivalent technology. This requirement woud apply to systems serving greater than 75,000 people when monitoring indicates that a given water supply is vulnerable to this sort of contamination.

Not only is the scientific basis for the regulation questionable, but GAC for the proposed purpose with frequent on-site regeneration is not a demonstrably effective treatment technique. GAC would be extremely costly as reflected in larger rate increases for debt services for uses of public dinking water systems; would exacerbate our unfavorable energy situation because it is quite energy intensive; and could cause health hazards of its own. Of course, the impact of GAC would be widespread since many of the affected municipalities are centers of food processing for nationwide distribution.

Underground Injection Control (UIC).—Regulations to control the underground injection of contaminants were first proposed in August of 1976. They were withdrawn after being subjected to numerous adverse comments. They were reproposed on April 20, 1979 with a 120-day comment period. Extensive comments on this subject were received in the 1977 hearings before the Subcommittee and some material was submitted for the record in this year's hearing.

The regulations would establish the technical criteria and standards to be used in implementing the underground injection control program. The regulations propose certain minimum requirements to contain injected and formation fluids. Wells divided into five classes for purposes of regulation, to wit: (1) Waste disposal below lowest underground source of drinking water by industrial, municipal, and nuclear concerns; (2) oil and gas disposal, recovery and storage; (3) special processes such as Frasch sulfur, solution mining, and gasification; (4) hazardous waste into or above lowest underground source of drinking water; and (5) all others such as drainage and recharge.

In the future, EPA proposes to consolidate its regulations for its permit programs under the hazardous waste management program under the Resource Conservation and Recovery Act, the UIC program under the Safe Drinking Water Act, and the National Pollutant Discharge Elimination System under the Clean Water Act.

EPA estimates that the proposed program costs for 5 years would be about (807.9 million of which about $665.2 (or more than 80 percent) would fall on class II wells (oil and gas).

Because most of the cost of the regulations would be borne by the oil and gas industry, the bulk of the attention has focused there. The EPA cost estimate is too low because loss of reserve due to operating costs was not included in the economic study. Aside from aspects of the regulations, a more fundamental objection goes to the threshold question as to whether or not regulations are needed at all. Studies which were prepared by the Interstate Oil Compact Commission in response to a statement by a member of the National Drinking Water Advisory Council reported that petroleum injection operations were not harming underground sources of drinking water in the producing States of Texas, Arkansas, Louisiana, and New Mexico. If States have sound injection control programs relating to oil and gas production, then the existing programs should not be hampered by Federal interference. To the extent that the regulations are unnecessary, they will be a constraint on energy production, divert funds from energy development, and represent an inflationary factor in energy costs.

Administrative Obstacles.—In his statement before our Subcommittee on March 26, Tom Jorling, Assistant Administrator for Water and Waste Management of EPA, mentioned that there were some matters of timing and procedure that warrant attention at this time. This is so, he said, because "unintended obstacles in the administration of the program, particularly to the States, are being caused." At the end of his formal statement, he gave a brief summary of what he styled as "needed" amendments. These amendments would: (1) Provide more time for States to amend their regulations to correspond with amended Federal regulations, thereby ensuring continuity of grants support and primary enforcement responsibility; (2) extend exemption compliance deadlines for interim primary regulations to the time frame already established in the act relative to the revised regulations, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities; and (3) adjust the statutory deadline for prohibiting all unregulated injection practices in view of the delay in promulgating final regulations and link the eligibility of States to receive underground injection control grants to the promulgations of final regulations, thus ensuring that they have grant support while seeking to achieve primary enforcement responsibility. Regrettably, these obstacles have not been removed.

James T. Broyhill.
James M. Collins.
Edward R. Madigan.
Dave Stockman.
Tom Loeffler.
Gary A. Lee.
William E. Dannemeyer.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Speaker, would the gentleman from California (Mr. Waxman) yield for a question?

Mr. WAXMAN. I would be pleased to yield.

Mr. DANNEMEYER. Would the gentleman explain a little, if he would, as to why the authorization in this bill is for more than 1 year? What is the rationale for that?

Mr. WAXMAN. I am sorry. I did not hear the gentleman's question.

Mr. DANNEMEYER. Would the gentleman explain why there is a need legislatively speaking for an authorization longer than 1 year in this bill?

Mr. WAXMAN. Why there is an authorization longer than 1 year for this program?

Mr. DANNEMEYER. That is right.

Mr. WAXMAN. This is an ongoing program. We are authorizing it for a 3-year period. That means we are making a commitment to continue the safe-drinking water period for a 3-year period. However, there are a number of issues that have been raised today and other issues on the minds of all of us about regulations that are being proposed and the directions the EPA may take.

In dealing with those questions, I have clearly expressed my intent to have the subcommittee hold hearings and go into further legislative action on the Safe Drinking Water Act itself without having to wait for an authorization period to expire.

Mr. DANNEMEYER. Would it not make more sense from the standpoint of good legislative policy to limit the authorization for just 1 year to insure that at the expiration of this year that Congress would be able to exercise its appropriate review and oversight function?

Mr. WAXMAN. I do not think we need to exercise the review and oversight function. It seems to me that is an ongoing responsibility. Particularly this legislation, I think, requires of us to continue an oversight investigation into a lot of new areas that they plan to undertake, even before that year is up, so that we might decide whether we want to take further legislative action on the Safe Drinking Water Act itself.

Mr. DANNEMEYER. If I understand the chairman correctly that some time next year the subcommittee would concern itself with this legislation and would hold hearings of oversight on this specific act?

Mr. WAXMAN. The gentleman is correct.

Mr. DANNEMEYER. Could the gentleman indicate about what time during the year he intends to have those hearings?

Mr. WAXMAN. If the gentleman would yield further, I hope to have those oversight hearings before the subcommittee by the fall of this year, which will enable us to act legislatively early next year, if necessary.

Mr. DANNEMEYER. One of the reasons that I ask this question and these questions relates to the question that the gentleman from Texas (Mr. Collins) earlier raised as to just how extensive is this going to impact upon the ability of oil producers in this country to recover oil from marginal fields. It was my feeling that it is appropriate for the Congress to continue oversight, certainly within the year, to determine if really we have priced ourselves out of the ability to recover oil from some of these fields that would be classified as marginal.

I thank the gentleman for his comments.

Mr. WAXMAN. On that very point which was raised by the gentleman from Texas (Mr. Collins) in the full Energy and Foreign Commerce Committee. I want to point out that the regulations that both of the gentlemen have expressed concern about are now in a period of 120-day comments before EPA.

Therefore, EPA will have 120 days further before they do anything with the regulations, and the regulations will not take effect for 2 years. It is my intent not to wait that long a period of time but to have us make a very clear examination of the impact of that regulation on a whole range of concerns that are before us; and if need be, we will act legislatively to change the law if the subcommittee and the Congress feel that is appropriate, but we will act before those regulations ever take effect.

Mr. DANNEMEYER. I thank the chairman for his comments.

□ 1310

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some remarks were made about clean water. How in the world could any intelligent man be opposed to clean, pure, crystalline water?

Not too long ago the gentleman from Texas (Mr. Gonzalez) asked that we protect the aquifers containing this pure water about the city of San Antonio, and we did that. Water being injected, of course, must be controlled. We have had some very serious trouble with water being injected in New Jersey in the aquifers, and it is my understanding that it will be years before this water can be purified.

Not only that, where we have injections to save oil we can also pollute aquifers and have water rendered not potable for many years. We must protect the pure water system in our country.

I strongly support this legislation and I urge its approval.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I wonder if I could ask the distinguished chairman of the subcommittee if he would clarify his intentions regarding this particular area of authorization. Do I understand that prior to the 3-year expiration of the authorization undertaken by this suspension bill that there will be additional legislation reaching the floor?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. WAXMAN. There is a great deal of concern about the proposed regulations under the Safe Drinking Water Act which has led our subcommittee to the desire to hold hearings on the proposed regulations and to look at the substance of the Safe Drinking Water Act itself. I expect that we will have legislation before the expiration of the authorization period which will deal with these substantive questions in the act itself.

What we propose to do in this legislation merely is to continue the financial authorization for the safe drinking water program, with the understanding that Members will have legislation before them to make substantive changes in the law.

Mr. FOLEY. Does the gentleman assume when the legislation reaches the floor if it deals with any part of the Safe Drinking Water Act that the germaneness rule would not be applied to limit amendments to other parts of the authorization act?

Mr. WAXMAN. If the gentleman will continue to yield, it is always my understanding and would be clearly my intent that the legislation which would make substantive changes in the Safe Drinking Water Act would open up the whole Safe Drinking Water Act to changes. In subcommittee consideration of H.R. 3509, we did not have the opportunity to look into the complicated questions raised by some about the law itself. We were faced with the May 15 authorizing deadline. So what we propose to do is reauthorize the existing drinking water program with the clear commitment that we will then examine the legislation itself to see what changes would be made.

Mr. FOLEY. Does the gentleman assume that it would happen in this Congress?

Mr. WAXMAN. If the gentleman will yield, I would assume it would.

Mr. FOLEY. I thank the gentleman for his assurances.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. WAXMAN. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FOLEY. I thank the gentleman for yielding. Mr. Speaker. I am concerned in some areas of the legislation about the effort of many to provide for some form of overview on programs within the jurisdiction of the various committees through sunset legislation being effectively vitiated in committee rather than holding legislation within their jurisdiction to report changes or authorization extensions by the Suspension Calendar, prohibiting Members on the floor from offering relevant amendments. Therefore, I am delighted with the gentleman from California, the distinguished chairman of the subcommittee's assurances that this will be an area where the House will be provided with an opportunity within the near future to work its will on my appropriate amendments to the basic authorization act. I hope that will be a standard followed by other committees with respect to legislation dealing especially with regulations of the kind involved in the Clean Water Act. I thank the gentleman for his assurances.

Mr. WAXMAN. I thank the gentleman for his comments and I appreciate his indulgence in having our subcommittee look into the substance of the Safe Drinking Water Act during our oversight hearings, and at this time, allowing the authorization of that program to go forward.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. CARTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to this bill, not because, as maybe the gentleman from Kentucky implied, that those of us who rise against this bill might be against safe drinking water, for nobody in this chamber is against safe drinking water. But No. 1, because it is on the Suspension Calendar, and No. 2, because we do not have the opportunity to deal with some of these very serious questions that ought to be dealt with.

Quite obviously the chairman of the subcommittee, the gentleman from California (Mr. Waxman) trusts and feels that EPA is going to be a responsible agent of the people of our country. Let me tell the gentleman that he will find otherwise as he serves as chairman of the subcommittee for a long time, as we discovered in the Agriculture Committee. The Members will find that EPA is a bunch of lawyers. They do not know much about the things they are dealing with. They are a group of idealists and eccentrics and we need to put them under control once in awhile. I am a member of the Agriculture Committee, and I ask the subcommittee chairman to listen to the gentleman from Washington, the chairman of the Agriculture Committee, Mr. Foley. The subcommittee chairman will find out the only way we were able to get EPA to listen to the members of the Agriculture Committee on the Federal Pesticide Act, was to give a year-to-year extension of the authorization of that program, not a 3-year program as the gentleman is endeavoring to do here for the Safe Drinking Water Act. He may trust the EPA, and he may have them listening to him, and he may have them being responsible. But I think the gentleman had better question whether or not he really does. A 3-year authorization has given EPA a free reign that the agency should not have.

Had we given them that with the Federal Pesticide Act we would never have gotten any reforms brought about in that act. I think the irresponsibility of EPA is best illustrated by the rules and regulations they promulgated under the Safe Drinking Water Act in February 1978. Those rules were very irresponsible. They only allowed one way of purifying water. They applied it to all cities over 70,000. That is irresponsible, and because of that activity we need an opportunity to amend this act. That is why I ask the Members to vote down this bill on suspension so we can gain an opportunity to propose a 1-year-only authorization.

Mr. CARTER. Mr. Speaker, I strongly support the legislation that is before us today. Again. I strongly support pure, clean, crystalline water, water that is healthful and wholesome, and water that satisfies a person when he is suffering from thirst. Water which drops as the gentle rain from heaven. It is twice bless; it blesses the one who gives and the one who receives.

I strongly support pure drinking water and this legislation, Mr. Speaker.

● Mr. JENRETTE. Mr. Speaker, I have discussed with the gentleman from California (Mr. Waxman) a problem we are facing in South Carolina. As he knows, the interim primary drinking water regulations set a maximum contaminant level for fluoride. Many small towns and cities in my district have determined that they do not meet the fluoride standard, and that it will be very costly for them to install and operate the requisite technology so that they might meet the standards. They further question whether the negative or adverse effects of natural fluoride in water has on a small percentage of the population warrants the massive investments required to filter it out. This is especially true during these hard economic times.

It is my understanding that EPA is aware of this situation and is engaging in discussion with officials of South Carolina to assess the effect of fluoride on human health, especially on teeth. It is also my understanding that his committee plans to hold oversight hearings on a number of different issues pertaining to drinking water, including the problems facing small systems. We need some assistance and the people need relief. Toward this end I have introduced a bill to provide relief until the true effects on the population in question can be closely examined to determine if the negative impact is sufficient enough to warrant these extreme measures.

I am pleased that the chairman, Mr. WAXMAN, feels it would be very helpful to the Subcommittee on Health and the Environment to focus on the problem posed by naturally occurring fluoride during oversight hearings and that he is willing to work with South Carolina and other States to this end. Further, I understand, the committee will give my bill every consideration. I understand EPA is presently studying the health effects of fluoride and I look forward to receiving the report when the study is concluded. Finally, I want to thank Mr. WAXMAN and his subcommittee for the consideration shown me.●

The **SPEAKER**. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 3509.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER**. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RESIGNATION AS CONFEREE AND APPOINTMENT OF CONFEREE ON H.R. 4389, LABOR-HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1979

The **SPEAKER** laid before the House the following resignation as a conferee of the House-Senate Conference Committee on the bill, H.R. 4389, Labor-Health, Education, and Welfare Appropriations:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 30, 1979.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, D.C.

DEAR "TIP": On July 27, 1979 I was appointed by you as a Conferee to the House-Senate Conference Committee for Labor-Health, Education, and Welfare Appropriations.

In light of my continued hospitalization, I would like to authorize you, at your discretion, to appoint a substituted Conferee for that Conference.

With best wishes, I am,
Sincerely yours,
DANIEL J. FLOOD,
Member of Congress.

The **SPEAKER**. Without objection, the resignation is accepted.

There was no objection.

The **SPEAKER**. The Chair appoints the gentleman from Massachusetts (Mr. BOLAND) to serve as a conferee to fill the vacancy, and the Clerk will notify the Senate of the action of the House.

□ 1320

CALL OF THE HOUSE

Mr. **ASHBROOK**. Mr. Speaker, I make a point of order.

The **SPEAKER**. The gentleman will state it.

Mr. **ASHBROOK**. Mr. Speaker, because of the controversy surrounding House Joint Resolution 381, I make a point of order that a quorum is not present, and move a call of the House.

The **SPEAKER**. The Chair cannot entertain a point of order at this stage.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. **DANIELSON**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 397]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan, Oreg.
Duncan, Tenn.
Earlv
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1330

The **SPEAKER** pro tempore. On this rollcall, 372 Members have recorded their presence by electronic device. Under the rule further proceedings under the call are dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on the motion on which further proceedings were postponed.

A vote will be taken on H.R. 3509.

SAFE DRINKING WATER AUTHORIZATIONS

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3509.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill H.R. 3509, on which the yeas and nays are ordered.

☐ 1340

PARLIAMENTARY INQUIRY

Mr. BAUMAN. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, what happens with this last bill which was listed on the Suspension Calendar today, the Califano-Adams-Blumenthal Relief Act?

The SPEAKER. The gentleman is not seeking recognition on that matter.

Mr. BAUMAN. It is not to be called up?

The SPEAKER. That is the plan.

SAFE DRINKING WATER AUTHORIZATIONS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3509.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 3509, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 319, nays 76, not voting 39, as follows:

[Roll No. 398]

YEAS—319

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Folev
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Sheiby
Simon
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—76

Applegate
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bennett
Broyhill
Butler
Carney
Cavanaugh
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Edwards, Okla.
Evans, Ga.
Evans, Ind.
Findley
Gingrich
Glickman
Goldwater
Grassley
Hall, Tex.
Hansen
Holt
Huckaby
Ichord
Jeffries
Jenrette
Jones, N.C.
Kelly
Kindness
Kramer
Lagomarsino
Leath, Tex.
Lewis
Livingston
Loeffler
Lungren
McDonald
Montgomery
Moore
Myers, Ind.
Pashayan
Paul
Quayle
Quillen
Roberts
Robinson
Rousselot
Rudd
Runnels
Satterfield
Sensenbrenner
Shumway
Shuster
Skelton
Smith, Nebr.
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Ullman
Volkmer
Williams, Mont.
Wilson, Bob
Wydler
Young, Mo.

NOT VOTING—39

Ambro
Bereuter
Bolling
Breaux
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Diggs
Dixon
Dougherty
Duncan, Oreg.
Fish
Flood
Forsythe
Garcia
Giaimo
Hawkins
Holland
Hyde
Johnson, Colo.
McKay
Marlenee
Martin
Mathis
Nolan
Oakar
Patterson
Pease
Railsback
Rhodes
Rodino
Rostenkowski
Sebelius
Treen
Vander Jagt
Williams, Ohio
Wright

☐ 1350

The Clerk announced the following pairs:

Mr. Rodino with Mr. Vander Jagt.
Mr. Ambro with Mr. Railsback.
Mr. Rostenkowski with Mr. Treen.
Mrs. Chisholm with Mr. Sebelius.
Mr. Giaimo with Mr. Johnson of Colorado.
Mr. Clay with Mr. Marlenee.
Mr. McKay with Mr. Fish.
Mr. Wright with Mr. Forsythe.
Mr. Pease with Mr. Hyde.
Mr. Hawkins with Mr. Williams of Ohio.
Mr. Breaux with Mr. Martin.
Mrs. Collins of Illinois with Mr. Dougherty.
Mr. Corman with Mr. Bereuter.
Mr. Dixon with Mr. Holland.
Mr. Conyers with Mr. Garcia.
Mr. Duncan of Oregon with Mr. Mathis.
Mr. Nolan with Ms. Oakar.
Mr. Patterson with Mr. Flood.

Messrs. LIVINGSTON, EVANS of Georgia, HUCKABY, and KINDNESS changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1146) to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for 3 fiscal years the authorization for appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1444 of the Public Health Service Act is amended by adding a new subsection (e), which shall read as follows:

"(e) The administrator shall establish demonstration projects for the abatement and control of drinking water contaminants, including both synthetic, organic and inorganic substances, in water supply systems serving five thousand persons or less. For purposes of this subsection, there are authorized to be appropriated $1,000,000, which shall remain available until expended.".

SEC. 2. (a) Section 1442(e) of the Public Health Service Act is amended by striking "and" immediately following "1977;" and by inserting after "1979" and before the period: "; $21,405,000 for fiscal year 1980; $24,647,000 for fiscal year 1981; and $30,485,000 for fiscal year 1982.".

(b) Section 1443 of the Public Health Service Act is amended—

(1) by striking "and" immediately following "1978" in paragraph (a)(7) and inserting after "1979" and immediately following the period: "; $29,000,000 for fiscal year 1980; $30,000,000 for fiscal year 1981; and $35,943,000 for fiscal year 1982.".

(2) by striking "and" immediately preceding "$10,000,000" in paragraph (b)(5) and inserting after "1979" and immediately before the period: "; $7,795,000 for fiscal year 1980; $14,453,000 for fiscal year 1981; and $15,172,000 for fiscal year 1982.".

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike out all after the enacting clause of the Senate bill (S.

1146) and to insert in lieu thereof the provisions of H.R. 3509, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 3509, was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE ON TUESDAY, JULY 31, 1979

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries be permitted to sit on Tuesday, July 31, 1979, during the 5-minute rule, for the purpose of holding a hearing, and a hearing alone, to explore the problems of liability and compensation related to the marine transportation of hazardous substances.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. Biaggi)?

There was no objection.

PROPOSED MOTION FOR EXPULSION OF CONGRESSMAN DIGGS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I take this time to announce to my colleagues my intention to call up a privileged motion immediately after this 1 minute, a motion for the expulsion of the gentleman from Michigan (Mr. Diggs).

The reason I take this time is to explain why we are doing this. We found out officially Friday for the first time that the committee recommendation on censure would be taken up as the first order of business on Tuesday. Under the manner in which it will be brought up, there will not be an opportunity for a motion for expulsion to be considered in the nature of a substitute or for debate.

□ 1400

The gentleman from California (Mr. Dannemeyer) and I signed a letter, cosigned by 40 other Members of this House, requesting that more time be granted during the course of that debate and also that a special rule be allowed so that the question of expulsion might be considered after a just and fair debate in this matter. We were informed this morning by the Speaker that this was not possible, and that the Committee on Rules would not meet to consider our request.

Therefore, since many of us feel that the question of expulsion is a serious one that ought to be considered on an up-or-down vote, we feel that we have no recourse but to present it at this time so that we will avoid what would happen otherwise; that is, a consideration of the committee recommendation, a final vote on the committee recommendation, and then the consideration of a moot point, which would be the consideration of expulsion at that time.

PRIVILEGES OF THE HOUSE—IN THE MATTER OF CHARLES C. DIGGS, JR.

Mr. LUNGREN. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 391) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That Charles C. Diggs, Jr., a Representative from the Thirteenth District of Michigan, is hereby expelled from the House of Representatives.

BRADEMAS MOTION TO TABLE—CONGRESS MOTION ON DIGGS

● Ms. HOLTZMAN. Mr. Speaker, it is with reluctance that I support the motion to table the resolution calling for the expulsion of Mr. Diggs. After all, I believe firmly that the issue ought to be debated—and debated fully. But because the issue of expulsion is so grave and momentous, the House of Representatives should follow an orderly, and fair, procedure in considering it.

The Ethics Committee has studied the Diggs case and will be reporting its conclusions and recommendations tomorrow. Although the committee unanimously (and on a bipartisan basis) recommended censure of Mr. Diggs. The question of why expulsion should not be ordered must and will be dealt with during the debate at that time. I think orderliness dictates that the House should hear from the Ethics Committee first.

Furthermore, the motion to expel is a privileged one and can be brought up tomorrow, after the debate on the censure resolution. If the Members feel that censure is an inappropriate remedy after hearing from the committee there will be ample opportunity to renew the expulsion motion then.

We lose nothing by one day's delay and gain the assurance that the case will be dealt with properly and firmly.●

MOTION TO TABLE OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Speaker, I move that the resolution be laid on the table.

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Speaker, I have a parliamentary inquiry.

Mr. Speaker, I will ask the Chair, is the gentleman's motion in writing?

The SPEAKER. The Chair will inform the gentleman that motion is in writing.

The question is on the motion offered by the gentleman from Indiana (Mr. Brademas) to table the resolution offered by the gentleman from California (Mr. Lungren).

The question was taken; and the Speaker announced that ayes appeared to have it.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 197, not voting 32, as follows:

[Roll No. 399]

YEAS—205

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Beard, R.I.
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Cheney
Clay
Coelho
Conte
D'Amours
Danielson
Davis, S.C.
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Drinan
Duncan, Oreg.
Early
Edwards, Calif.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gonzalez
Gradison
Gray
Guarini
Gudger
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hutto
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kogovsek
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCormack
McHugh
McKinney
Markey
Marks
Matsui
Mattox
Mavroules
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Reuss
Richmond
Roberts
Roe
Rose
Rosenthal
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spence
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—197

Abdnor
Albosta
Anderson, Ill.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Bethune
Bevill
Boner
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard

Derwinski
Devine
Dickinson
Dornan
Downey
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fenwick
Findley
Flippo
Frenzel
Gephardt
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Hughes
Ireland
Jeffords
Jeffries

Jenkins
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
Madigan
Maguire
Marriott
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nelson
Nichols
Panetta
Pashayan
Paul
Perkins
Petri
Pritchard

Pursell
Quayle
Quillen
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Walgren
Walker
Wampler
White
Whitehurst
Whittaker
Wilson, Bob
Winn
Wydler
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—32

Ambro
Bereuter
Bolling
Breaux
Chisholm
Collins, Ill.
Conyers
Corman
Diggs
Dougherty
Eckhardt

Fish
Flood
Forsythe
Garcia
Giaimo
Holland
Hyde
Johnson, Colo.
McKay
Marlenee
Martin

Mathis
Nolan
Railsback
Rodino
Rostenkowski
Sebelius
Treen
Vander Jagt
Williams, Ohio
Wright

☐ 1410

Messrs. YOUNG of Missouri, SKELTON, and VOLKMER changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I was unavoidably detained in Chicago this morning, attending the hearing of the Select Committee on Narcotics chaired by the gentleman from Illinois (Mr. MURPHY). My plane arrived at 5 minutes after 3, and I missed the vote on the privileged motion offered by the gentleman from California (Mr. LUNGREN).

Had I been present, I would have voted in support of the Lungren resolution and voted "no" on the motion to table offered by the gentleman from Indiana (Mr. BRADEMAS).

PROVIDING FOR SENDING H.R. 111 TO CONFERENCE

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 390 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 390

Resolved, That upon the adoption of this resolution the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, with the Senate amendments thereto, is taken from the Speaker's table to the end that the House disagrees to the Senate amendments and requests a conference with the Senate thereof.

☐ 1420

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), and, pending that, I yield myself such time as I may consume.

Mr. Speaker, generally after passage of a House bill which is in disagreement with the companion passed bill in the Senate the chairman or chairmen of the committee or committees involved will ask the House to request a conference. This is usually done by unanimous consent so as not to take up the valuable time of the House.

However, last week on a motion to send House Resolution 111 to conference an objection was raised by an opponent of the measure. In this instance it would require the four committees who have jurisdiction over this bill to meet and vote on whether to direct the chairmen of these respective committees to offer a motion on the floor to request a conference. Unfortunately, such a procedure would require a significant amount of time and would have delayed further consideration of this bill.

The Rules Committee has been informed by the chairman of the Merchant Marine and Fisheries Committee that it is imperative for the House and Senate conferees to begin deliberation immediately so as to effectively come to agreement at the earliest possible date.

To remedy this situation the Rules Committee has reported out House Resolution 390 to effectively allow the legislative process on House Resolution 111 to progress without any further delays.

Mr. Speaker, House Resolution 390 is a very simple rule, permitting the House to request a conference on House Resolution 111. The conference procedure after the adoption of this rule will move forward, allowing the conferees to come to some form of agreement, and giving the House opportunity to vote up or down this important piece of legislation.

The House of Representatives has already spent numerous days and countless hours on this measure and I believe it is about time we brought this bill to some form of conclusion and move forward to the other issues we presently have pending before us.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland did indeed object to sending this bill to conference when the request was made to do so on last Friday.

I agree that the House has a limit on its valuable time and we should be using it on many issues, but I think in this particular situation, the objection was justified. This is a very important issue.

Under rule 701(d) of the Rules of the House, the Speaker of the House has almost unlimited discretion to name conferees on any matter, and that discretion cannot be challenged in the House. But he also has the discretion to limit the jurisdiction of individual conferees to those parts of the bill that deal directly with the jurisdiction of their committees.

It is proposed that when later today we finally reach the point of naming conferees, at least 18 conferees will be named from four different committees of jurisdiction. I can tell the House, and I think I have some proper judgment, having dealt with this issue in some detail for many months, that the majority of those conferees are not necessarily in favor of the House's position.

I say that without prejudice to the fact that any Member has the right to cast his vote, but I have examined their voting patterns on this legislation; and I do not think that is an unfair estimation of what could happen.

Now I certainly do not criticize the Speaker of the House in any way for using the powers at his command. That is the way the House is run. That is as it should be when you are in the majority. But in this case it could seriously harm the best interests of the American people.

I would suggest to the House that this issue is one of major importance to this country, particularly in light of the ominous developments that are occurring in Latin America even as we debate this today.

When this bill was first brought before the House, H.R. 111 was the product in the most part of the Committee on Merchant Marine and Fisheries, of which the gentleman from New York (Mr. MURPHY), is the distinguished chairman.

The other three committees had limited jurisdiction over parts of the bill and dealt mainly with those parts dealing with Foreign Affairs, Post Office and Civil Service, and Judiciary. And when the rule that was granted by the Rules Committee was brought before the House, it even limited their committee amendments to the areas of their jurisdiction.

Now, what is proposed by the Speaker, and, as I say, it is within his rights that all of the conferees, is that all 18 conferees vote on all parts of the bill. I have no doubt that the other body will name conferees opposed to the House bill; and what may well happen is the House's position will not be upheld.

I suggest to the House that what we are seeing here today on these conferees is part and parcel of a legislative plan of action that was laid out by representatives of the administration, the State Department, the Defense Department early this year, and has been known to us in various forms. We knew what the plan was, and that plan was to introduce legislation in the Senate that would give Panama, the State Department, and the administration free hand in administering the canal for the balance of this century without control of Congress.

I remind my colleagues that under the treaties, the United States has the right jointly with Panama to administer that canal until the year 1999.

The administration plan was to allow the so-called Murphy bill, as we have referred to it in the House, to be reported to the floor, and not to challenge it in any respect, and at no time during the debate or the 5-minute rule was there any amendment offered by opponents of the bill to change any of the elements in the Murphy bill.

In the other body as planned, just the opposite happened. The bill that was reported from the Armed Services Committee by one vote completely guts the House position in almost every respect, and it particularly takes away from the Congress of the United States the right to vote each year on appropriations and authorizations for the canal for the remainder of this century. It completely negates the House's joint right to pass upon the ceding of property under treaties which the Murphy bill upheld. It completely removes the various provisions that would allow the U.S. taxpayers to be protected against unwarranted expenditures from our Treasury.

In other words, the other body's bill bears no relationship to the view that the majority of this House held.

You can go back and look at the debate, which was extended over several days in this House, and you will find the gentleman from New York, the gentleman from Maryland and others said that if a bill was finally before us in conference report form, that did not uphold the House's position, that he would oppose it, that I would oppose it, and we both would urge the majority of the House to oppose it. That could yet happen.

I have to tell my colleagues that I think the President of the United States is in the instance playing roulette with the future of the Panama Canal, because if we do not have by October 1st implementing legislation, the President of Panama has made clear his intentions in a letter which he sent on July 10 to the President of the United States, and I would refer my colleagues to page 20822 of the RECORD of last Thursday, where that letter is introduced into the other body's proceedings.

President Royo has made it clear in that letter that he has already rewritten the Panama Canal treaties. In many important respects he has already negated the understanding of the two parties, and he views the legislation before the conference as a test of whether or not Panama may abrogate the treaty from the beginning and even appeal to international forums.

So I think we do need legislation, but what you are seeing in the issue of appointing these conferees is an attempt to surrender the House's position before the meeting ever is held; an attempt to come back with legislation that would negate the House position. I would rather go to conference and write a bill. I am going to support the House position. I think most of our conferees from the Merchant Marine and Fisheries Committee, which had the jurisdiction over the major part of this bill, would do the same.

I opposed the bill when it passed the House, but I am willing to support it in conference now that the House position is known.

But I can tell my colleagues frankly this is another step in the sell-out of the American interests in the Panama Canal. It is a legitimate one in the sense of our rules, but it is not one that we ought to support, and when the time comes and a motion to instruct is offered, I hope that you will support it with your vote.

I reserve the balance of my time.

□ 1430

Mr. ZEFERETTI. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Merchant Marine Committee.

Mr. MURPHY of New York. Mr. Speaker, the provisions of the bill that provide for authorization and appropriation control over all obligations and expenditures by the Panama Canal Commission go to the heart of the bill. Under the Senate amendments to the bill substituting a Government corporation for the appropriated fund agency established by the bill as it passed the House, the Commission would not be subject to any general limitation on the amount of its expenditures and obligations, other than an annual limit on selected administrative expenses. The provisions of the bill as it passed the House require all revenues from tolls and other sources to be paid into the Treasury, and require both authorization and appropriations. Appropriations are limited to the amount of revenues paid into the Treasury. Without such requirements revenues collected by the Commission could be increased by changes in rates of tolls, and spent freely in the discretion of the Commission.

As a result the canal operation under the new treaty, far from continuing on a self-supporting basis, would tremendously increase the burden on the U.S. taxpayers.

The Panama Canal Treaty provides that the United States will operate the canal for the next 20 years through a U.S. Government agency established by and in conformity with the laws of the United States. H.R. 111, as it passed the House, establishes such an agency subject to the laws applicable to Government agencies generally. As is the case with other Government agencies, the bill locates the agency in the Federal organization by making the Commission subject to direction by the Secretary of Defense.

As the bill passed the Senate, the form of agency established by the House is discarded and an agency in corporate form is substituted. The characteristic attribute of a corporation is that it is an entity separate from its owners and has independent rights and authority. The Senate bill clearly contemplates that the Panama Canal Commission will be such a separate entity, distinct from its owner, the United States, and exercising powers of disposition of assets of the United States vested in the Commission by the bill. The provision for direction by the Secretary of Defense is also omitted.

The House should insist on the retention of the provisions of the House bill on these points, particularly in view of the official position of the Government of Panama that under the treaty the Commission is not subject to any higher authority in the Government of the United States.

Under the Panama Canal Treaty, Panama is to receive: First, a payment of $0.30 per Panama Canal net ton, an amount that will be adjusted for inflation; second, a fixed annuity of $10 million; and third, a public service payment, which initially will be $10 million and will be adjusted for inflation. Additionally, Panama is to receive a contingent payment of up to $10 million per year out of surplus revenues.

The fact that the House version of House Resolution 111 sets standards for the reception of the contingency payment is not at all remarkable. Within the text of the Senate bill and even the earlier language proposed by the administration, standards are set. The Panama Canal Commission, by the terms of article III of the treaty, is to be an agency of the U.S. Government. As such, it will determine the priorities for its payments in accordance with the laws constructed to guide its operation. Moreover the understandings to the Panama Canal Treaty give the United States discretion in this matter. Conceptually there is no difference between the views of the executive branch, the Senate, and the House on this issue—although President Royo's letter to President Carter makes it clear that Panama feels they must receive the payment.

Finally, with respect to the property transfer provisions contained in sections 373 and 374 of the House bill, significant constitutional issues involving powers of the House are at stake. If the House does not act as the trustee for its own significant powers, these powers will atrophy.

The Edwards against Carter case is not an overriding precedent against a House role in property transfer because: First, the Supreme Court, which refused to hear the case on appeal, has never overturned decisions which say the property transfer power belongs exclusively to Congress; and second, the Edwards decision said the property power was concurrent, which of course in no way precludes legislation on the subject of property transfer.

The disposition of Panama Canal property has always been accomplished in accordance with legislative authorization. The Panama Canal Treaty and the Executive have sought to skirt the Congress on this matter. We cannot allow that to happen. It would be a disaster for one of the principal powers conferred on this body by the Constitution.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I am surprised that this issue of possibly instructing conferees and of selection of conferees became such a major issue since it had gone through the Rules Committee. It is my understanding that when this side of the aisle designated Mr. BAUMAN as one of our members of the Rules Committee, that he would totally dominate that body. I am surprised that a rule would be brought to the floor that would not please Mr. BAUMAN. But since he did prevail the way he should have, I can understand the need for a motion to instruct conferees.

Also, as I listened to the gentleman from Maryland, I must take exception to some of his slightly critical comments about the President. I happen to think that President Carter, even with the many faults that he has, is an intellectually honest individual. On the canal issue he is doing what he thinks is best for the country. I happen to think it is best for the country to pass the implementing legislation.

However, the issue before this body is a bit different under any normal procedure, and even the implementing legislation, there should be an honest effort in conference to protect the position of this body. That is something that we expect of conferees, but that is something we do not always get because too often what happens is that a conference is dominated by people who go a little beyond the House position or short of the House position. In this particular case I think my friend from Maryland is correct, that the intention is that the House conferees would not, in fact, fight for a fair portion of the House bill, but would, for all practical purposes, acquiesce to the other body's version.

Now, the other body passed their implementing legislation in an almost perfunctory fashion. I do not think they gave it a good, hard look, as they did, of course, 2 years ago when they passed the treaty. So I would think, keeping in mind the priority, and the priority should be first and foremost protecting to a degree possible the House position, that I believe, as a supporter of the implementing legislation, as a supporter of the President's basic diplomatic effort vis-a-vis Panama, I believe that the motion to instruct should be adopted. I do not think that does a disservice to the position of the President, nor do I think it will do a disservice to the final legislation that we must have in place to implement the treaties.

As one who stuck his neck out in support of the implementing legislation, I would recommend to all of my fellow colleagues that they give our conferees the first expression of support that they deserve. Please accept the motion to instruct. The motion will be limited to specific items that I think will equip them well to deal with the other body. The final version, as always, will be a compromise between the two bodies. I would urge support for the forthcoming motion to instruct.

Mr. ZEFERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I do not think we need to take a great deal of time at this particular moment today to debate the issue of instructing conferees. It is my understanding that an hour will be available when the gentleman from Maryland offers his motion to instruct conferees, and I will oppose the motion at that time.

□ 1440

But, I do hope that Members will proceed as rapidly as possible at this stage to approve House Resolution 390 so that we can proceed to the conference and resolve this matter. It would be of great value to this Nation if we could complete the conference this week and bring back a conference report.

I have served on a good many conference committees during the 7 years that I have served in this House. I have never found it to be desirable to instruct conferees. I happen to feel that we could much more easily arrive at a desirable conclusion in that conference if we did not instruct.

The Senate, incidentally, has adopted 61 out of the 100 sections of the bill passed by the House. I think the Senate has done rather well in agreeing to a great deal that is in the House bill. Certainly, there are some significant items—very significant items—which of course the Senate did not agree with us on, but I think there is room for compromise in that conference. I hate to have to disagree with the position taken by my good good friend, the gentleman from New York, the chairman of the Committee on Merchant Marine and Fisheries (Mr. MURPHY), and I am probably more often in a position of disagreeing with my friend, the gentleman from Maryland (Mr. BAUMAN), but I must oppose the motion to instruct. I do hope now that we can proceed rapidly to a vote on this resolution. Then, we will have an appropriate debate, I think, for the purpose of deciding whether or not we will instruct the conferees.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I think it is good for us to refresh our memories as to what has happened since the House of Representatives first voted on June 21 to implement the Panama Canal treaties by passing H.R. 111.

Since then, an allegedly secret memo from U.S. intelligence agencies to the Department of State was made public. The memo dated May 2, 1979, was cited heavily by members of the national press. The memo was circulated widely in press and governmental circles, and has subsequently been validated by the State Department. The memo clearly affirms that Cuba and Panama were in constant collaboration since September of 1978, to subvert and communize the rest of Central America with current major efforts being focused in the upper tier nations of Nicaragua, El Salvador, Honduras, and Guatemala.

Since then, Cuban weapons and military advisers (including members of Castro's elite Africa Corps) were flown into Costa Rica on Panamanian Air Force planes to help the Sandinistas in their final offensive.

Since then, large quantities of arms were also provided to the terrorists by Iran, Libya, Iraq, and the Palestine Liberation Organization, which believed that the Somoza regime was pro-Israel and was receiving weapons from Jerusalem.

Since then, Panama, has been running guns, both legally with the complicit knowledge of the State Department as well as illegally, from the United States to the Castro-backed Marxist Sandinista revolutionaries operating in Costa Rica, Nicaragua, and neighboring countries.

Since then, the countries first recognizing the Sandinista junta were: Panama, Grenada, Syria, Iraq, South Yeman, Libya, and Iran.

Since then, Panamanian officials have been blatantly brazen about their involvement in terrorist activities, claiming that such involvement has brought great pride to the Panamanian people.

Since then, in the July 2 issue of Newsweek the administration claimed—

> That leaders of two of the three guerrilla factions had received training in Havana and that Cuba had channeled Soviet-made arms to the Sandinistas through Costa Rica and Panama.

Since then, on June 25 an EFE Wire Service report stated that a captured Costa Rican flight crew testified that the traffic of arms to the Sandinistas was intense. The crew said that the arms were being provided by Panama and Venezuela and sent to Costa Rica for delivery into Nicaragua.

Since then, the Consul General of the Dominican Republic in Philadelphia was arrested with three accomplices on charges that he plotted to sell arms and ammunition to the Sandinista guerrillas in Nicaragua. This gunrunning was being financed by the sale of cocaine in the United States. The weapons were again to be transported to the terrorists with the assistance of the Panamanian Government.

Since then, Panama assisted in an outright invasion of Nicaragua from Costa Rica in direct violation of the charters of both the United Nations and the Organization of American States, as well as the terms of the new Panama Canal treaties.

Since then, the House found out that it had the right and power to deal with the merits of treaties, even to amending or repealing them.

Since then, the revolutionaries began the blooodbath in Nicaragua with eight executions.

Since then, the Marxist revolutionaries shut down even the leftist press in Nicaragua.

Since then, the Marxist government in Nicaragua asked the United States for military assistance.

Since then, the Marxist revolutionaries arrested 5,000 soldiers from Red Cross centers for trial on charges of antirevolutionary activity.

Since then, major Sandinista leaders flew to Havana to celebrate the July 26th birthday of Marxist revolution in Cuba.

Since then, the Soviets put a combat brigade into Cuba.

Since then, Cuba shifted 3,000 combat troops from its Africa Corps to Costa Rica.

Since then, Mexico privately urged the United States to prevent the fall of Nicaragua to a Red revolutionary government.

Since then, Panamanian President Aristedes Royo lied to the American people and the Congress when he stated in a letter dated June 5, 1979, to President Carter that "Panama is not intervening (in Nicaragua) and will not intervene in the internal affairs of any country." The May 2 intelligence memo clearly exposes the untruth of this statement.

Recent events in the Caribbean are alarming. The Soviets have established a command structure in Cuba for a 6,000-man brigade of combat-ready troops in violation of the Kennedy agreement. Marxist revolution laps at the very door of Mexico. Cuba has its Africa Corps in Costa Rica and deep involvement in Nicaragua and other nations. How long will it be before we abandon the absurd notion that we can win friends among leftist revolutionary countries to the south by the bribery of giving away the Panama Canal and with it our own safety and our economic stability?

Panama itself has been the gunrunner for Central American Marxist revolutionaries with direct involvement with Cuba, the PLO, and other leftist Arab States, and in violation of U.S. law.

Whatever this body judges best about implementation, I urge that it be done on the merits and not in haste under the lash of contrived deadlines caused by the administration's own dilatory tactics.

Mr. Speaker, last Thursday the Senate passed the administration's Panama Canal implementation bill which it deceptively called H.R. 111 as amended. By Friday, an attempt was already underway to have the real H.R. 111 and the disguised administration bill rushed into conference under circumstances which would have seriously undermined the House position.

Only a delay caused by the vigilance of Merchant Marine and Fisheries Committee Chairman JACK MURPHY and ranking Panama Canal Subcommittee member BOB BAUMAN and others slowed this railroad job down, otherwise, this House might today be considering a conference report to recede and accept the administration's implementing legislation.

This should not surprise us. The President told a delegation of House members, including Mr. MURPHY, and Mr. BAUMAN, even before we considered H.R. 111 that, since he could not get his bill in the House, he would take H.R. 111 here and then replace it with the administration bill in the Senate. Even knowing of this strategy, the House ironically voted to play the President's game and now we are considering a rule designed to complete the farce of making us participate in our own humiliation.

It is well known that I have always opposed the new Panama treaties and their implementation. Despite my misgivings, with the support of many Members, I offered amendments to limit the damage of the treaties to our economic and defense interests. Many other Members offered amendments with the same general goal of curing the defects in what even Mr. MURPHY has called a vague and unsatisfactory treaty.

Almost without exception, meaningful perfecting amendments were defeated. The ones with which I was associated lost by the narrowest of margins. Members will remember that the principal elements of those defeats was the insistence by Mr. MURPHY that H.R. 111 had to be preserved intact as the best and, indeed, only vehicle for saving the American position in the light of the defective treaties and because it had administration support.

It is in this state of the case that I rise to ask this body to protect itself and preserve what remains of its integrity, its prerogatives, and its rights by rejecting this rule. If Mr. MURPHY's statements of June 20 and 21, 1979, are to be believed and I accept his sincerity without reservation, there is no possibility of honorable compromise between H.R. 111 and the fake which has come from the Senate. On June 20, Mr. MURPHY said:

> The gentleman from New York has no intention of going to a House-Senate conference and caving in to any position that is short of H.R. 111.

On June 21, he said:

> We will come back with a conference report, and I will guarantee the gentleman from Idaho and the gentleman from Maryland and every member of this House that we will keep intact the principles which we establish in H.R. 111.

Trusting the gentleman's word, with any hope of guarding the House position, how can we send him to conference when everyone in this Chamber knows that the House delegation to the conference is being selected from among those who will not object to the gutting of H.R. 111. There is no other reason for this rule being before us now. For what reason was the unanimous-consent route withheld if not the attempt to load the conferees with supporters of the administration bill as passed by the Senate. No one doubts Mr. MURPHY's intentions. But we are receiving a clear signal from the White House that we can be manipulated and that we can do nothing about it. The President said he would play it this way and we are gullibly letting it happen.

If this House has no real power to influence the course of the Nation in so crucial a matter as the transfer of the Panama Canal, why are the very people who tell us we are impotent so anxious to rush us into accepting less than H.R. 111. There is an orderly and even-handed way to adjust the differences between the two versions—if they can be adjusted at all. But we are being told that we must hurry. That there is no time to stop and think, and that we have little authority anyway.

I ask the House to remember that the Senate debated implementing legislation for less than a day and the House for less than a day and a half. A total of less than three days were devoted to implementing treaties which will change the history of the Western Hemisphere if not the world. Right to the very end, we are rushed to prevent reflection on what we are doing.

June 21 is only a few weeks ago. Yet in just that brief period of time since passage of H.R. 111, our position in the Western Hemisphere has materially eroded. Cuban-backed Marxists have taken over several Caribbean nations and are beginning the assault on others.

Even worse, we now know that the House was denied critical facts by the administration. The President of Panama before June 21 denied that his government was exporting revolution in Central America. Now, after the House vote, he freely admits it. Before House action, Cuba denied its involvement, now it boasts of training, organizing, and supplying revolutionary activities in the Caribbean. This has all been officially corroborated by a May 2 intelligence document withheld from Congress by the State Department during our hearings and consideration of Panama Treaty implementing legislation.

I refuse to believe that this House will accept the role of children to be gulled, lied to, and manipulated to force upon us a treaty which even the author and principal supporters of H.R. 111 consider a disaster. We must here decide whether in a matter which clearly concerns the very survival of the Nation we can be relied upon to put responsibility above partisanship and the self-destructive inertia of the system.

Much has been made over the legal limitations of the Congress in implementing treaties. There are two simple answers to such doubts and concerns. First, there is clear evidence that the Congress has always possessed and exercised the right to review, amend, repeal, and repudiate treaties. There is no substantive basis for avoiding our duty to protect and preserve the Nation.

And second, beyond legalities, there is a much more profound question. Are those who suggest that we must blindly rubberstamp this treaty prepared to say that, even had we the sure knowledge that the treaty would imperil the Nation, that we would be compelled to accept potential destruction rather than carry out our oaths of office? For we are surely endangering the safety of the Nation in implementing this treaty.

This rule is an affront to the deliberations of this House on H.R. 111. It is an attempt to make Judas goats out of honorable people by subverting us to an acceptance of the administration bill which we so totally rejected more than 6 months ago.

I strongly urge the defeat of this rule.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, on June 21 I voted for the implementing legislation, H.R. 111. I also voted for the Hansen and Montgomery honesty amendments, because I believe that H.R. 111 was the minimum that we could do, and still discharge our responsibilities. But, I did believe and I do believe now, that H.R. 111 was the maximum that we should do. After that day's proceedings I advised the committee chairman that I had done all that I could do on the House bill.

I did that in good faith. As the gentleman from Illinois said, I stuck my neck out on that issue. But, I do not think in all honesty that the bill would have gotten my vote, and I do not think it would have passed this House, had the representation not been made over and over that H.R. 111 would remain intact, and that we would fight for it when we got to the conference committee. So, I want to make the point again that if this implementing legislation comes back to the floor in a more liberalized form, or closer to the President's position, that I shall vote against it.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, hundreds of hours have been spent on this bill, both in subcommittee, full committee, and on the floor of this House. In an unprecedented move, this House went into secret session to further debate the issue.

It is no secret that this Member opposed the bill, H.R. 111. I opposed it in subcommittee; I opposed it in full committee; and I voted against it on the floor of the House. But, I think we are getting down to a crucial time in our history, and I think that if we have any intentions to have any type of implementing legislation passed by October 1, the only way we can proceed to do that is to support the motion to instruct the conferees to support the House-passed bill.

It is the best of two totally unacceptable bills in the eyes of the majority of Americans.

□ 1450

I think it is a matter of record that many Members of Congress who voted for H.R. 111, will not support the conference report unless the bill remains essentially the same. As my colleague, the gentleman from Arkansas (Mr. BETHUNE) who just got up in support of the motion to instruct said, these Members will switch their votes and not support implementing legislation, and that perhaps could be the worst thing that could happen at this time and at this date for our country.

Mr. BAUMAN. Mr. Speaker, it is not my intention necessarily to ask for a vote on the rule. I think we could pass on to a motion to instruct conferees. I yield back the remainder of my time.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BAUMAN moves that the conferees on the part of the House on the disagreeing votes of the two Houses on the bill H.R. 111, be instructed to adhere to the language of sections 101, 102, 103, 104, 105, 110 of chapter 1; sections 231, 232, 233, 234, 235, 236, and 250 of chapter 5; sections 371, 372, 373, and 374 of chapter 9 of H.R. 111 as passed by the House with respect to the matters considered therein.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) is recognized for 1 hour.

Mr. BAUMAN. Mr. Speaker, as I yield throughout whatever time we may consume, I yield only for the purpose of debate. I yield 30 minutes to the gentleman from New York (Mr. MURPHY) for purposes of debate only.

Mr. Speaker, I understand that there will be several speakers on this motion, some in opposition, and I will only briefly explain the terms of the motion. A number of the sections of H.R. 111 read are unitary in the sense that all deal with one of four topics which were addressed in the "Dear Colleague" letter that the gentleman from New York (Mr. MURPHY) and I sent around on Friday and which I think most Members have before them.

First of all, the most important part of this motion to instruct is to insure that during the life of the Panama Canal treaties until 1999 this House and the other body will have, on an annual basis, the right to pass on authorization and appropriation legislation controlling the entire budget of the Panama Canal. Without this, I think that this legislation should be rejected by this House, and the other body's bill does not provide that protection for the taxpayers of the United States.

Second, this motion will insure that the Panama Canal Commission, which will administer the affairs of the canal with a 5-to-4 American majority, will remain an agency of the Federal Government as the treaties require. The other body's position is contrary to this and allows the Commission to operate as an independent corporation.

Third, and very importantly from a constitutional viewpoint, the motion will require that the right of the House of Representatives to pass upon the ceding of territory of the United States is vindicated, which is part of the Murphy bill, and has been rejected by the other body. Lastly, and I think this is important to the taxpayers, the motion insists upon those provisions of the bill which will assure that there would be no contingent payments made to the Government of Panama under article XIII(c)4 of the treaty during the life of these treaties unless and until all costs of the U.S. taxpayers in running the canal are paid first. The other parts of the bill, which are considerable, are open to negotiation between the conferees. I would like to have instructed on more matters, but these are the essential points that the gentleman from New York and I discussed last week and agreed on as a minimum to be included in the motion.

I reserve the remainder of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, in reading the "Dear Colleague" letter which I received on this subject, I find that I am in agreement with several of the principles that are stated there. Last year, for example, I signed, I think, just about every petition and voted for every resolution that came before us supporting the position that the House should have a direct voice in the disposition of property of the United States.

The point that I am making to you today in opposing the motion to instruct is simply that I believe that we can work out language which the House will approve more easily and more effectively if we do not set ourselves in concrete on the issue.

I think we can establish the principle that the gentleman who offered the motion would want to see established, that we here in the Congress should have annual authorization and appropriation control over the budget of the Panama Canal Commission, if we are not bound rigidly to one position, with no flexibility over change in language or detail of wording.

In short, what I am saying to the Members is that I do not believe that we will get the kind of cooperation out of the Senate which we want if we throw the gauntlet down to them in this fashion. I think we are going to want the Senate to recede to us on a number of matters, and I think they can be just as stubborn and hardheaded as we can be here in the House.

I regret that, but I am afraid we are going to have to ask them to give in to us in a number of areas, and I hope that they will. But I believe that supporting a motion of this kind simply presents a challenge to the Senate to see if they cannot instruct their conferees, too, and to see how long we can protract this conference, just how long we can drag it out, see if we can drag it out with failures to compromise, see if we can remove any possibility for any face-saving compromises, see if we can draw this thing out until after the recess, and if we do that, then, of course, we are faced with a situation in which we are creating great jeopardy for the national interests of this country.

We would be creating a situation in which the employees of the Panama Canal Company have no idea what is going to happen to them, and we would make it much more difficult to pass legislation and have it in place by October 1 if we fail to complete this conference and bring back the resultant conference report to both Houses and pass it this week.

So I sincerely think that by nailing down our position in this rigid fashion we make it more difficult for the Senate to make some of the concessions that I think are always needed in a conference.

I think I probably do agree with most of what the gentlemen supporting this motion want to come out of conference. I just happen to think we can achieve it more effectively and more quickly if we go at it without providing these instructions.

I would mention to the Members that one of the problems that we would be creating for ourselves if we do accept the resolution is that we will have to be voting constantly on transfers of property. I think we can establish a principle that the House has the right to have a voice in the transfer of property without coming back here with dozens and dozens, and perhaps hundreds of votes over the next few years on property transfers.

Let me give the Members an example. If we pass this, and if the conference report contains that language, as spelled out in the House bill, within 1 year we will have to come back in, and all of us are going to have to vote on the disposition of three Defense Mapping Agency buildings; within 2 years, two Army Meddac warehouses; within 30 months, the Balboa Police Station complex, the Balboa Magistrates Court, and the Balboa and Coco Solo commissary buildings; within 3 years, family housing units, two warehouses, an antenna farm, and barracks facilities.

One after another these things are going to have to come before us in the House until the year 2000. I think we have enough business to keep us well occupied here in the House of Representatives without having to vote on these issues, item after item, year after year after year.

I am simply saying we can arrive at a compromise in the conference if we retain for ourselves the flexibility we want. The Senate, as I said, can be just as hardheaded about it as we can.

I feel that it will be easier to bring back a good compromise and more easily assert the House position if we do not adopt this motion.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I appreciate very much my colleague, the gentleman from Mississippi, yielding. I certainly have great respect for him and the tough position he has taken on this treaty issue. But I am a little confused. The gentleman in the well told me a few months ago the reason that he had taken this position.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MURPHY of New York. I yield 2 additional minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. MONTGOMERY. If the gentleman would yield further, the gentleman told me that he opposed the treaty that was hammered out in Panama by the administration because he thought it was a bad treaty.

Mr. BOWEN. That is correct.

Mr. MONTGOMERY. And I think he told the people in Mississippi that.

Mr. BOWEN. That is correct.

Mr. MONTGOMERY. Now he tells us today that he did adopt some of the amendments, and he did a lot of work on the House position. I am confused as to why he does not support the House position and give more strength in instructing the conferees.

Mr. BOWEN. The reason is very simple. While I think we are very wise here in this House, I think there might be some respository of knowledge in the other body. I have taken the position, I think, with every conference I have ever served on that there should not be rigid instructions provided. I just do not like the principle of providing instructions for conferees, and I think that we can more easily bring back to this House an acceptable conference report, which is absolutely necessary, without this motion. I think the legislation is necessary although I opposed the treaties. Some kind of treaty management legislation must be passed.

☐ 1500

Mr. MONTGOMERY. If we do not, what happens then?

Mr. BOWEN. If we do not have legislation, then, of course, as I have pointed out to the gentleman, and as others have in this well, then at some point later this year the Panama Canal will be transferred to the Republic of Panama, the United States will give up its right to administer the canal, we will have to withdraw our military forces and instead of our staying there until the year 2000, it will be their canal this year.

Mr. MONTGOMERY. I do not want to put the gentleman on the spot but what the gentleman says is if the Senate position prevails, the gentleman will support that position?

Mr. BOWEN. I am not going to that conference to support the Senate position. I expect to support the House position. I do not happen to believe it is wise to try to provide instructions of this kind which simply toughen and harden the Senate position, make them less willing to yield to the points on which the gentleman from Mississippi is addressing me and which both he and I support.

Mr. MONTGOMERY. I understood the President to tell a group, and I am not sure whether you were in the group, at the White House, that the administration position was going to prevail and the President would not support the House.

Mr. BOWEN. There is no way the administration position can prevail because the Senate has already adopted 61 out of 100 of the sections in the House bill, H.R. 111.

We have a bill and I have supported a bill which differs substantially from the White House bill. There is no way we are going to bring anything that looks very much like the White House bill back here to this House. I have worked for these differences, and I believe we have a bill far superior to the original White House bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MURPHY of New York. I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, I would like to reiterate some of the points that my colleague from Mississippi has listed for you here this afternoon. It just seems to me by instructing the conferees on this important piece of legislation that we will be, if you will, tightening both sides in terms of how we resolve the issue. I think that, in fact, could be damaging to the legislation and to the treaty, itself, but it is even more damaging when we consider the fact that the implementation of this treaty goes into effect on October 1. That gives us about 2 months in which to have something on the books in which the present Governor of the Panama Canal Zone and his people down there can begin to implement the legislation we have before us.

I think the gentleman from Mississippi is correct whn he speaks about the political implications in what we are going to do. I do not think the Members of this House want to come back and face this issue time and time again, year after year, with the disposition of property.

Let me point, also, to the fact if we do not reach an agreement this week by the time we adjourn, it seems to me this issue will be with us, it is going to linger, it is going to fester, it is going to be an issue which I do not think too many Members of this body want to carry with them into the coming election year, to be very frank and honest with you.

Mr. Speaker, it seems to me we need some room for movement, we need some room for flexibility in this conference. The issue that the gentleman from New York (Mr. MURPHY) my distinguished chairman, refers to as the guts of the bill: The corporation form versus the appropriated agency form, is one which I think we can work out, despite the differences we had between the House and the Senate on this issue. There have been compromises offered in this body and in the Committee on Merchant Marine and Fisheries that I think resolves the issue and gives the House the authority to deal with the question of operation of the canal through the authorization and appropriations process which we have not had a chance to express ourselves on the floor or to vote on it in the full body.

I would hope, Mr. Speaker, as a matter of principle, we do not instruct our conferees, we do not put our feet in cement, that we have that flexibility because the flexibility is tremendously important in view of the fact we only have 3 or 4 days in which to reach a compromise so we can get the implementing legislation into effect.

Thank you, Mr. Speaker.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I truly want to thank the gentleman from New York for yielding to me and

I really want to compliment him for the time and the energy he has spent on this Panama legislation. This has been a long year, working hard, and I think the gentleman has made some tremendous improvements in what we saw when we began the hearings on the Panama Canal implementation legislation.

My committee, the Committee on Post Office and Civil Service, held extensive hearings in Panama and also worked very hard on this legislation. There have been many committees in the House who have worked very hard on this legislation. The whole House has also had a historic secret session on Panama. I think the House and Members are probably more informed about the issues surrounding Panama than almost any other issue we have had before us this year.

That is why I think the motion to instruct is really not needed at this time. I think, first of all, it does several things. It sets our side in cement. It is almost saying to the Senate, "We assume you are a sell-out to the administration, only we can be trusted."

I do not know any Senator who really feels he has sold out and I think they would be offended if we imply that by passing these instructions. Please allow the conferees a little flexibility in dealing with the Senate. I guess I have always been a person who believes you do better to take carrots rather than great big sticks. This heavy set of instructions is a stick.

If the conferees get there and we find out the Senate is being terribly reticent and will not listen to anything we say, then we can come back and say, "Give us a motion to instruct. To show our solidarity."

I plead with the House to give the conferees a chance. We should allow free and open discussion to work before we prejudge. The Senate has already accepted 61 of 100 House provisions and 61 percent is not bad before you even get to conference.

If we decide on every bill we pass that the House is going to insist on its position and the Senate is going to insist on their position then we are not going to get anywhere legislatively. It will be a parliamentary gong show.

What is at issue and why is it so important? First of all, we are looking at October 1 as a very important date. It is the date the canal treaty is supposed to take effect.

We know how serious energy has been to this country. We know how difficult things are in that part of the world at the moment. What would happen if it appears the Americans were not going along with the treaty? What would happen if the canal shut down? What would happen to us getting oil supplies through? How much more energy would we have to expend to send our shipping down through Tierra del Fuego? I think if that were to happen because this body did not get legislation out because of gamesmanship we would certainly be faulted. After all the work the House has done we have to be worried about it being derailed now.

I hear many Members who are very concerned about the political stability in Panama, Nicaragua, and that part of the world. I understand what they are saying. All of us are concerned. Even the Senate is concerned.

Let me talk a little bit about some of the things we have seen in history. We do not talk about history enough. I can think of over 22 different nations that we thought at one time were fully in a Marxist mold who have since changed. I think some of the ones that come to mind the most are countries such as Egypt, Indonesia, Sudan. There were times when those and at least 22 other countries we had almost written off and been very worried about.

When people say there is no way to work rationally in that area of the world, it has gone down the tubes, write it off forever; history shows that could be the worst strategy possible. There is a lot of potential for positive input in Central America and I think it is all the more important that we as a legislative body appear calm, cool, and collected. We should not react hysterically and go out there with 435 different Secretaries of State deciding what our policy should be, amending and changing it at will every day.

All House conferees are going to go to conference under the leadership of the gentleman from New York (Mr. MURPHY). We are going to fight very hard for the House position. We have already been very persuasive, and I think this notion to instruct is not needed. If we find it is needed we can always come back and ask for instructions.

At this time I think we set a dangerous precedent. We are only asking the Senate to show that they can be just as stubborn. We could end up having some kind of a standoff that might not be so important except for the impending August recess and the impending October 1 deadline on which date the canal treaty goes into effect whether or not we have acted.

I plead with my colleagues to think long and hard before they vote to instruct. I hope they give the conferees maximum flexibility to deal with the Senate. Remember, if we do not get what we want we always have the option of being able to turn down the conference. It is not like the House is giving unbridled authority to conferees to go off and negotiate any way that we want to and that the House will never have another say about it.

☐ 1510

The responsible vote is to proceed to conference and to proceed in the way that we normally proceed in conferences, giving both sides a chance to work out an agreement.

Mr. MURPHY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, I will not take the entire 3 minutes.

I think we all know what this is about. The administration knows that they simply could not have passed the Panama Canal enabling legislation on the floor of the House without the bill being in the form that the House passed. Now they hope to take it to conference, and with a rather convoluted method of appointing members they feel they have conferees who will recede to the Senate on all the important points.

Now, what we are really talking about this afternoon is something no one has yet mentioned; Panamanian adventurism in the affairs of other Central American countries. Nicaragua was first, and I do not think there is any question but that Guatemala and El Salvador will be second and third.

Are we in the House going to say, "Yes, Mr. Torrijos, we approve of your adventurism. We approve of your effort to export your revolution. We approve of your effort to destabilize your neighbors."

If that is what we want to do, then we will vote against the instruction motion. If we want to say, "No, we think that your actions in the last 6 months have been such that we do not have confidence," then I think that our proper action will be to vote for it.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I certainly do.

Mrs. SCHROEDER. Mr. Speaker, I am fascinated by how the gentleman characterizes all this. I am a conferee and I am totally unaware of any great plot or little plot by the administration to resurrect their bill. I do not understand where the gentleman is getting these rumors. Could the gentleman tell me where he is getting them?

Mr. CHARLES WILSON of Texas. I think I can explain it to the gentlewoman. I am not sure that I can understand it for her.

It is reasonably simple to me. The administration simply does not think that Panama will accept this legislation as the House passed it and they do not think that the House will pass it the way Panama will accept it; so now the effort is to go to conference to get the Senate bill, and the gentlewoman knows that.

Mrs. SCHROEDER. Well, if the gentleman will yield further, though, I resent the implication that those of us who are conferees have met secretly and agreed to be administration lackeys.

Mr. CHARLES WILSON of Texas. Well, it is my time, and I will tell the gentlewoman that I could not be more distressed with the gentlewoman's distress. I am just beside myself.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. BAUMAN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. Speaker, so that we can let the gentlewoman from Colorado in on the deal, may I explain to the gentlewoman that earlier this year when the Committee on Merchant Marine and Fisheries was considering the Murphy bill, it became apparent to the lobbyists for the State Department and the administration that there was no chance that their dear little piece of implementing legislation, which turned the canal over to Torrijos for the rest of the century, would see the light of day.

There was, therefore, held in the inner councils of the administration a series of conferences out of which several points were made. First of all, it was decided that the administration's bill would not even be submitted on the House floor as an amendment.

Second, they decided that the only issue that they would really fight would be the Hansen amendment, the so-called honesty amendment.

Third, they decided that the provisions of the bill of the gentleman from New York (Mr. Murphy) would not be challenged separately by any amendments on the floor.

We did not see the gentleman from Mississippi (Mr. Bowen) or anyone else who has been cooperating with the State Department throughout this period offer any amendments to strip any of these provisions out of the House bill.

The internal administration decision was made that all the issues would be fought instead on the floor of the other body.

Now, the President of the United States indiscretely told us that was the plan at a meeting at the White House several weeks after this strategy had been plotted; so from the beginning the deal has been, squeak the bill through the House in any form you can get it; even if it has an ugly face on it from the viewpoint of the Panamanians and the State Department, and once you get it in the other body, then the administration would really go like gangbusters. And that is the scenario they have followed to this day.

That is what the naming of these conferees is, all part of that arrangement to undermine the stand taken by this House.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I appreciate the gentleman clarifying the situation for the gentlewoman from Colorado. I was unable to explain it properly.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield further?

Mr. CHARLES WILSON of Texas. Yes, I yield.

Mrs. SCHROEDER. Mr. Speaker, I find this wonderful, but it sounds more like a script from Walt Disney than something that actually is going on or has gone on. This is all fantasy.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I think the gentlewoman has it exactly and I would like to associate myself with the gentlewoman's remarks.

Mr. BAUMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Idaho (Mr. Hansen).

Mr. HANSEN. Mr. Speaker, I rise in support of the motion to instruct the conferees on H.R. 111. There can be no doubt that the areas for instruction laid out by Chairman Murphy and Mr. Bauman must be preserved in any report returned by the committee. However, I remind the Members that there is much more which the other body has changed than these areas.

Undoubtedly, it is only because of the sheer volume of change that the motion limits itself to those matters. But, as Mr. Murphy himself has said in floor debate on H.R. 111, "We will keep intact the principles which we establish in H.R. 111." The very first priority of importance in H.R. 111, established by Mr. Murphy himself is, "It puts the Department of Defense in control of this Panama Canal Commission." It is, therefore, urgent that the conferees not recede from the provisions of H.R. 111 which make the Secretary of Defense the dominant force in the Commission and place the canal under the control of the military in circumstances of threat of war.

Section 250(g) of H.R. 111 expressed the concern of the House, later abundantly justified, that Panama was violating terms of the Neutrality Treaty. To recede from conditioning the contingency payments to Panama in view of its admitted major role in bringing down the government of a neighboring state would be a reward for misconduct.

One of the major thrusts of the narrowly defeated amendments which I offered to H.R. 111 and which in other terms is in the House-passed version is the requirement that interest on the U.S. investment in construction of the Panama Canal continue to be paid. The Senate version waives this and other payments. Nearly half a billion dollars is saddled on the taxpayers by this simple waiver. It is difficult to see how this House could agree to casting such a monstrous burden on our already overburdened constituents.

I remain deeply opposed to the Panama Canal Treaty and to H.R. 111 as the vehicle for implementing it. Although other voices prevailed in the House, Members will remember by what a small margin and with what effort H.R. 111 survived. Since the House acted on June 21, many of the worst fears of the bill's opponents have been realized.

I am not pleased that the predictions of misfortunes were so soon proved accurate. Nor is it a time for recriminations that one was right and another wrong. We are charged with taking the world as it now is and discharging our responsibilities in the light of existing circumstances. We now face a Marxist Central America, dominated by the avowed leftist regimes of Torrijos and Castro. Our decisions of what to do about H.R. 111 and indeed, the treaty itself must take into account these new certainties. The motion to instruct is but a small step from the final consideration of what our role should be in the unfolding tragedy of the new realities of Marxist domination of the Caribbean.

These minimum instructions should not be viewed as the only factors of concern to Members of this body. But this motion and your vote to support it should serve notice that the House retains its active role in determining the course of this Nation in the coming decades. It would also demonstrate that our vote can no longer be conditioned by the misrepresentations of the State Department.

Our vote for Panama Canal Treaty implementation and any conference report will now be with the full knowledge that Panama concedes that it is a Marxist regime. And the whole world now knows that the events of recent weeks, putting another Marxist regime even closer to our border, were arranged by a combination of nations and forces, whose reputations speak for themselves. Actively collaborating to install the Marxist's takeover of Nicaragua were Cuba, Panama, the PLO and other leftists of the Arab world.

Our vote should not be colored by the vain anticipation that by giving away the canal we can buy friends in the Western Hemisphere. Since the success of the coup in Central America, there is scarcely a country of Central America which has not condemned us for real or fancied grievances. While our strength earned respect if not affection, our weakness has drawn scorn from the very nations whose love the gift of the canal was supposed to buy.

Our final vote, yet to come, on the conference report will be with the full knowledge that the canal will not buy friendship. Moreover, the people of our own Nation do not understand that huge sums of money are to be paid along with the canal to a petty dictator. The argument that our defense is somehow enhanced by giving the Marxists control of one of the key waterways of the world is rapidly evaporating.

That last vote will be in the full pitiless glare of the facts. We will only agree to the treaty because we are told to by an administration whose foreign policy record demands our trust—a trust now badly shopworn. We cannot even claim that we have no options. The very pressures exerted here to force a conference prearranged to force aside the will of the House and endorse the administration bill speaks loudly that the people who claim we have no power do not believe it themselves.

I intend to vote for the motion to instruct. I will do so with the clear understanding that I cannot bind myself to vote for the report unless it protects the people from tax burdens, limits the inflationary impact on canal users, and protects the defense and commercial interests of the United States. Those goals as of this moment seem most unlikely of achievement.

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I might say one other thing, Mr. Speaker. We all know the fact that there was a deal cut, that the White House was attempting an entrapment of the House. We all know there is grave danger in making changes in the status of the Panama Canal, especially now with the recent successes of the Sandinista Marxists and the Cubans.

We are worried about compromising away safeguards with the Senate and what is likely to follow when we visualize how the administration will probably act and further compromise with the Panamanian Government of Mr. Royo. This is spelled out visibly in the terms set forth in Royo's letter to President Carter, printed in the July 6, 1979, Record by Senator Helms, where it shows the severe degree by which Panama disagrees with even the administration's very liberal proposal for implementation legislation.

We must insist on the tightest possible safeguards in any legislation we approve. This is why the conferees must be given basic mandatory instructions.

Mr. BAUMAN. Mr. Speaker, it is my great honor to yield to one of the premier foreign experts in the Congress of the United States, the outstanding gentleman, a great orator, the laconic gentleman from Illinois (Mr. DERWINSKI).

The SPEAKER pro tempore. The Chair wishes to inquire, after that eulogy, how much time the gentleman yields to the gentleman from Illinois (Mr. DERWINSKI).

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, may I first point out the issue before us. There is a motion to instruct. Now, we cannot tell the players without a scorecard this afternoon, since we have been on different sides of this bill and different sides of this issue, and we are all taking different sides here.

I am supporting the motion to instruct. I think it is good tactics. I think it is good legislation. I think it is a practical way to support the basic House position.

When I say that, however, I want to emphasize that I do not feel there is any conspiracy afoot. I do not think there has been any deal. The chairman of the committee, the gentleman from New New York (Mr. MURPHY), was masterful in passing a bill through the House. It was really a wonderful exhibition of legislative leadership, and he will show that same leadership in conference.

I think the motion to instruct strengthens the hands of the House conferees.

As I mentioned earlier, the Senate passed the bill in a rather perfunctory fashion. We ought to have a good honest conference. I want the implementing legislation passed, and I want all the diplomatic good will that will come with it to follow.

I will say to my good friend, the gentleman from Idaho (Mr. HANSEN), that the issue of what has happened in Nicarugua does not have any direct relationship to the implementation legislation for the canal treaties. I deplore the takeover by the Sandinistas in Nicaragua, but we should not blame President Royo. If there was any wrongdoing, it was by the Sandinista sympathizers within the Panamanian structure, not President Royo himself. I point out that President Royo, not Torrijos, is heading that country. Secondly, it is technically and politically inaccurate to describe the Panamanian Government as "Marxist." They may have some sympathies with what went on in Nicaragua, but they are technically not a Marxist government. So, if we can keep our facts straight, we will have a better view of the entire picture.

Last but not least, as I see the situation, it would be a drastic diplomatic setback for the United States if we would not have implementing legislation by October 1.

So as a supporter of the legislation, I support this motion to instruct and send the House conferees with a good solid position to enable them to work expeditiously to bring back the most practical bill. By instructing the conferees and supporting the gentleman from Maryland (Mr. BAUMAN), we do away with the doubts of some of the Members in this House that there is a conspiracy, or that the White House cut a deal.

Let us keep this open and aboveboard. By this particular vote they will still have the flexibility within the conference to work out the best possible language.

Mr. Speaker, as a supporter of the implementing legislation, I urge the Members to support the motion to instruct.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Mr. BAUMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. CHARLES WILSON of Texas. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Speaker, may I ask, is the gentleman serious in his advocacy that the Government of Panama was not directly involved in the Nicaraguan situation?

Mr. DERWINSKI. Mr. Speaker, what I said was that there may have been elements in the Government that were involved. The Government officially I do not believe was involved.

Mr. CHARLES WILSON of Texas. The Government of Cuba officially probably was not involved either, or the Government of Costa Rica.

Mr. DERWINSKI. I do not compare the two. The Government of Cuba is a totally different situation.

Mr. CHARLES WILSON of Texas. Is the gentleman aware that officials of the Government were indicted for gunrunning?

Mr. DERWINSKI. Yes.

Mr. CHARLES WILSON of Texas. Does the gentleman think, then, that the officials of the Government in Panama were not acting with the approval of the government?

Mr. DERWINSKI. Our Government officials sometimes act without the approval of the President. We cannot blame the President for that.

Mr. CHARLES WILSON of Texas. Is the gentleman aware that Fidel Castro at one time said that he did not have to furnish arms to the Sandinistas as long as Panama was doing it?

Mr. DERWINSKI. I do not believe that is a quote I saw officially.

Mr. CHARLES WILSON of Texas. That is the meaning of what was said, I believe.

Mr. DERWINSKI. Mr. Speaker, I am not going to have the gentleman place me in the position of defending a nonexistent government position for Panama. All I am saying is that regardless of the involvement or, in my opinion, the lack of direct involvement of the Panamanian Government, that is not an issue in the implementation legislation.

Now, everything the gentleman says about the tragedy in Nicaragua is true. Everything the gentleman worries about as to what may happen after that is true, but that does not directly relate to the issue before us, which is the implementing legislation.

Mr. CHARLES WILSON of Texas. Mr. Speaker, let me ask the gentleman one more question.

If arms were transmitted from Cuba to Panama and if then the Panamanian Government facilitated the transfer of these arms by water to the Sandinista training camps in Costa Rica, would the gentleman then think that the Government of Panama was directly involved?

Mr. DERWINSKI. That would depend on whether it was the Government itself that was involved. But let me remind the gentleman that despite his attempt to booby-trap me here, he and I share the same position in support of the motion to instruct.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

Mr. BAUMAN. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. DERWINSKI) so that he may have the last word.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, is the gentleman familiar with the May 2 intelligence document received from an intelligence agency by the State Department regarding Cuban and Panamanian involvement in the Sandinista effort?

Mr. DERWINSKI. Mr. Speaker, if the gentleman is speaking of the report of transmission of certain weapons from Miami, yes.

Mr. HANSEN. No, this is not from Miami; this is from Havana by Panamanian Air Force planes. Our own intelligence has laid out the time, the place, and the amount of weapons, and this has all been done in the last 6 months or so.

Mr. DERWINSKI. I am not familiar with that.

Mr. HANSEN. This has been in the CONGRESSIONAL RECORD, and it has been in the national news media that there is a direct official connection, and that Panamanian Air Force planes were moving those weapons from Cuba.

Mr. DERWINSKI. Mr. Speaker, I think that we have to draw the line on the degree of officialdom involved. The Panamanian military is run by General Torrijos. They are not necessarily directed by the civilian leaders of the Panamanian Government.

Mr. HANSEN. Who runs the country?

Mr. DERWINSKI. De facto, General Torrijos; de jure, President Royo.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the motion to instruct the conferees, and I commend my two colleagues, the gentleman from New York (Mr. MURPHY) and the gentleman from Maryland (Mr. BAUMAN) for offering this motion.

I would also like to take this time to thank our good friend, the gentleman from Idaho (Mr. HANSEN) for all the hard work he has done on the Panama Canal treaties, working for the people and trying to come up with some type of treaty that would be acceptable to most of us. The gentleman has certainly worked hard.

Mr. Speaker, for many months during the debate that was going on in the Senate pertaining to ratifying the treaty, a number of us felt that we should have a vote in the House as far as transferring the Federal properties that were included in the Panama treaties. As the Members know, we were left out; we were not given this privilege.

However, we were given the opportunity to vote on implementing the treaty, and some good amendments were added by the House of Representatives. Some of us had amendments that were not added, but still there were some beneficial amendments adopted by the majority of the House, and we did try to save the taxpayers some money.

As I understand it—and the gentleman from New York (Mr. MURPHY) may correct me if I am wrong—in the Senate version it does not set any firm limits on costs of the treaties to the American people. They only included a sense of the Congress provision that it should exceed $1 billion in costs, but would not legally limit costs to this amount. And what is even worse, in my opinion, is that this nonbinding $1 billion limit is even more than the legally binding limits on costs in the House bill. In effect, the Senate bill provides no protection for the American taxpayer and that is why we must insist on the House position.

But, Mr. Speaker, my major concern is, like that of the other Members, what effect this treaty has on the American people.

☐ 1530

For a number of years, nothing but gloom and doom and "What is wrong with the Government?" comes out of Washington. President Carter's speech, when he came down off of the mountain on that Sunday, was full of "What is wrong with the Nation? and "What is wrong with the Congress?" The Vietnam war was a bad experience for all of us. Then we had the energy crisis in 1973, and now in 1979. Inflation is upon us. We hear, and it comes out from Washington every day, that the Russians are coming, how strong militarily the Russians are. The people hear this.

Now we come along with the final action on Panama Canal. Really, the people are ready to hear something good coming out of our Capitol. They are tired of hearing about gloom and doom and what is wrong with the Nation.

So, Mr. Speaker, I think if we instruct the conferees to stay with the House position, this will make the people feel better and reaffirm their faith in our Government. If we lose our position in conference, then I think the House position would be to defeat the conference report, and this will make the people feel even better, because this House would have stood up for the American people and their views on the giveaway of the Panama Canal.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Idaho.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Speaker, I would just like to take a moment to commend the gentleman from Mississippi (Mr. MONTGOMERY), who has been one of those right in the very forefront of the fight to save the Panama Canal and who probably has worked as hard or harder than anyone I know with regard to this legislation, as he does in all such matters in the House. I commend him for his ongoing, continuing interest in trying to make sure that America's interests are best served.

Mr. BOWEN. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Mississippi.

Mr. BOWEN. I thank the gentleman for yielding.

Mr. Speaker, I understand that the gentleman said he hoped that, under certain circumstances, we might defeat a conference report that came back, and that would make the people of the country feel good.

Mr. MONTGOMERY. Feel better, and reaffirm their faith in our Government.

Mr. BOWEN. Would it really make the people of this country feel good if we turned the canal over to General Torrijos this fall because of our inability or unwillingness to pass implementing legislation? Does the gentleman think that would make the people of this Nation feel good?

Mr. MONTGOMERY. I think the people have been very disappointed in the treaties. Someone who served in the Ford and Nixon administrations told me that we should negotiate on the Panama Canal but not just give in completely without receiving anything in return. I do not think the people want to give up the Panama Canal.

But I think the people have just about given up as a result of the treaties. They do not want to send Americans down to fight and to take the canal back over. I do not think they would want to lose one life. They are generally disappointed. I think they have just kind of marked it off.

Mr. BOWEN. If the gentleman will yield further, I certainly do agree with the fact that you and I wish we could have kept this canal in perpetuity; but since the Senate and the President have determined that we cannot, I know the gentleman agrees with me that it would be desirable if we could at least hold onto the canal and keep it out of General Torrijos' hands until the year 2000, when he may not be in any position of authority. We no longer have the option the gentleman and I both would like, that of renegotiating the treaties and coming away with a better deal. We now have a choice only of keeping the canal under American management and protection until the next century, or turning it over to Panama this year. I prefer to keep it in American hands as long as possible.

Mr. BAUMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. I thank the gentleman for yielding.

Mr. Speaker, I would ask my good friend if he does not deem it to be true that Torrijos cooperated with the guerrillas who overthrew Nicaraguan President Anastasio Somoza?

Mr. MONTGOMERY. If the gentleman will yield, that is exactly right.

Mr. CARTER. Also, is it not true that Cuba, with Torrijos and Panama, assisted in the rebellion which took place in Nicaragua? Is that correct?

Mr. MONTGOMERY. The gentleman is exactly right.

Mr. CARTER. What does the gentleman think is going to happen to Guatemala, which, I understand, is the next country in Central America on the hit list?

Mr. MONTGOMERY. The gentleman from Texas (Mr. CHARLES WILSON) covered that area. I got the impression, and I think the gentleman is right, and also the gentleman from Idaho (Mr. HANSEN), that that country could fall. It is the domino theory.

Mr. CARTER. Is it the gentleman's belief now that we will lose all of Central America as a result of our ineptness in the past several months?

Mr. MONTGOMERY. I certainly agree with the gentleman from Kentucky.

Mr. CARTER. I thank my distinguished and patriotic colleague.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Is it also true that, on July 28, 1978, Mr. Torrijos said that the policy of Panama was to return Guantanamo Bay to the Cubans? That is also a statement of fact.

Mr. CARTER. Again, we are dealing with Communists who would turn all of this area over to communism and be just as Cuba is today, I regret to say.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, I have sat here for several weeks and listened to the gentleman from Mississippi (Mr. BOWEN) makes this absurd statement that if we fail to act, everything is going to be chaos and Torrijos will march in and occupy the canal.

Such a possibility would have to be predicated upon the attitude and actions in the White House as to what would be allowed or transpire. However, there is plenty and ample proof to say that if these treaties are not implemented, the old treaties and laws remain in place and there will be no such thing happen. The Congress should work its will without such intimidation which has long been a tactic of the State Department to bully through the legislation it desires.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. MURPHY of New York. Mr. Speaker, I rise in strong support of the motion offered by the gentleman from Maryland to instruct the conferees in very narrow areas—in very narrow areas. I do so in the interest of time.

The day this Congress convened, I introduced H.R. 111, which very clearly laid out a regime to protect America's interest in the Panama Canal Zone area for the next 20 years. It took the administration more time to make their legislative recommendations. They had 2 years to get their act together and they could no get it together. So a month after the Congress convened they came in with a bill, and then insisted upon immediate action by the House.

This legislation went to four committees of the House. It went to the Committee on the Judiciary and to the Committee on Post Office and Civil Service, which dealt with the vital elements of the American Canal personnel and their future, and, of course, the contributions they made in the past, and what their future working conditions would be in Panama. Of course, the bulk of the bill went to the Committee on Merchant Marine and Fisheries, which has legislative responsibility for the Panama Canal and inter-ocean canals generally. Of course, the Committee on Foreign Affairs had

We thought hearings were necessary, that in-depth hearings were necessary, its responsibilities.

and 9 days of hearings were held by the Panama Canal Subcommittee. But we also made a commitment to finish this legislation in that committee before the Easter break, because I understood, and the members of the committee understood, that time was of the essence, because the BROOKE amendment to the treaty of 1977 very clearly meant that October 1, of this year, was the trigger date—the trigger date—to implement the Panama Canal treaty regime.

So we undertook our responsibilities under a time frame necessary to properly legislate. We were ready to come to this floor right after the Easter break. But what happened? We did not get much cooperation from the administration. Then we saw certain foreign aid bills come up, and we saw Panama's military aid pulled out from one bill and economic aid pulled out from another, all of which were messages from this House to the administration and to the people in Panama that this Congress understood what type of regime they had in Panama, and what type of operations of subversion and revolutionary exploitation that they were perpetrating not only in Nicaragua, but in El Salvador and Guatemala, and other countries as well.

So the Committee on Merchant Marine sent it subcommittees and task force to Panama. It went down there because it found out that the Panamanian representatives, those who negotiated the treaties, were renegotiating and were trying to use this vehicle of implementing legislation to effectively renegotiate this treaty.

So we came to the House, and the gentleman from Arkansas (Mr. BETHUNE), in the debate on this rule, clearly laid out the situation we face in the House. We must relate to the good faith of the Members of the House who, by a narrow margin, about 20 votes, passed legislation to implement the Panama Canal treaties. But as the House acted it did so by very clearly protecting a number of items: Item No. 1, the operational control of the canal; No. 2, the fiduciary integrity of the canal, its revenues, and the welfare of the American taxpayers and the obligations thereto; and, finally, the defense of the canal and the protection of American workers.

So we do not have a broad instruction by the gentleman from Maryland. We have his very narrow instruction, a narrow instruction which goes to the question of timing.

Here we are going to adjourn for a break on Friday of this week. We will not come back until after Labor Day. October 1 comes in quickly after that, in a matter of 3½ weeks after Labor Day, and we are supposed to have in place a conference committee report by that time. This conference report and this implementing legislation is going to require a number of things that must take place prior to October 1. First is a toll increase. When we get into the administrative law and Federal registry requirements under the House bill, 60 days are necessary of notice in order to have a toll increase that is necessary to implement this canal treaty and make the payments of $75 million-plus annually to Panama.

So we should have been at this stand a long time before today. We should have been here months ago. But you can thank this administration and its dilatory tactics. You heard the gentleman from Maryland respond to the gentlewoman from Colorado as to the reason for the delays.

□ 1540

Well, I think somebody thinks there is going to be a quick fix over in the conference, and all of a sudden we are going to come back with that 1-month delayed package the administration had.

Well, we are not going to do that. I think the instructions to these conferees, as narrow as they are—and I will just state them for you, so you know they are narrow—are necessary. We know there may be issues that are outside the treaty and legislation that has been passed on both the Senate side and on the House side, and we should clean those up. But none of these issues, none of these issues in these instructions are extra to the implementation or to the treaty itself.

I made a commitment to the President that we would pass legislation in this Congress, in this House, that was within the letter of the treaties and I intend to keep the commitment.

The instructions by the gentleman from Maryland deal with the Panama Canal Commission. It is a commission of nine commissioners who are going to run that canal, five Americans and four Panamanians and the key supervisory position associated with it, the fact that the U.S. members will receive the advice and consent of the Senate, that they will operate under the Defense Department and that the American Commissioners will vote en bloc. It is not too onerous a provision.

Concerning the question of Canal Zone funds and accounting and dealing with the key appropriations issue, the administration told the people of America that the taxpayers would not pay a cent for the implementation of this bill. Then, all of a sudden, they said only $800 million or $600 million or $700 million is involved. Well, in the House version of H.R. 111 we go to the protection of the appropriations process and a very wise recommendation of the gentleman from Maryland, and, third, we go back to Edwards against Carter, wherein the constitutional prerogative of this House that was swept aside when the Supreme Court would not hear the case. What we do in the House version of H.R. 111 is we say that on October 1, by law, we transfer the necessary property under the 1977 treaties to Panama and we say that future property transfers will be done by act of Congress, thus reestablishing the constitutional right of the House in the treaty-related process, a right that we should have established before.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I would like to compliment the gentleman on his statement. Let me clear up one point. Both the gentleman from New York (Mr. MURPHY) and the gentleman from Maryland (Mr. BAUMAN), have implied that some of us were in on some kind of conspiracy or quick fix scheme. Maybe the two gentlemen were at a meeting at the White House and heard something. I was not. As a conferee I was not part of any quick fix scheme conspiracy.

I think we ought to state that there was not a conspiracy among conferees. I understand that some representatives are upset that members of other committees can vote on the entire package, but having chaired the civil service portion of the bill, I think the commission issue is very important, because they are Federal employees' and are crucial to the entire package.

A lot of this implementing legislation overlaps and gets intertwined among different jurisdictions, maybe it was a mistake to allow different committees to vote on different parts of the bill, but I am not aware of any kind of conspiracy.

If the two gentlemen are aware of one, fine. But I want to make it absolutely clear for the record that I know of no conspiracy.

Mr. MURPHY of New York. If the gentlewoman is interested in a fast conference, give me a proxy and we will complete it all in about 2 days.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I do respect the time and effort the gentleman has put in on this issue and the guidance of this legislation through the House. With respect to the gentleman's comments about delay on the part of the administration, the fact of the matter is, and I think the gentleman knows this, we did not have the votes for this implementing legislation in April during the Easter recess. They just were not there.

I think I followed this legislation as closely as anybody on this side in terms of where we stood with the Members. It is unfortunate that we are at the point now where we have 2 months to go before the implementation takes effect, and we have to get a conference report back to this House before we adjourn.

The other point I would like to mention is the chairman's comment that these issues are narrow. Well, we debated the rule approximately an hour ago. The gentleman from New York, my distinguished chairman, mentioned that the guts of this bill, the heart of this bill, was the first instruction that the gentleman from Maryland offered which deals with the appropriations versus the corporation concept. That is, in my opinion, in no way narrow. It is probably as broad and as important an issue as we could face in this legislation.

I would like to hear the gentleman's response to that aspect of the legislation.

Mr. MURPHY of New York. I would say to my colleague that it was not until late May and early June that the extensive gunrunning support by Panama to the Sandinista movement in Costa Rica and then into Nicaragua had become public. The votes were there for this legislation in May. We would not have had this problem; Panama brought this upon itself, if the gentleman will go back and examine his calendar.

I think the question of the Commission versus corporate form is probably the greatest protection for the interests of the United States.

But, in conclusion, I would say this vote and the size by which the House should pass this vote will be a clear message to the conferees that the House itself wants an implementation bill, but it wants an implementation bill that does protect the prerogatives of the House and, of course, of the American people in the implementation of the 1977 Canal Treaty and operation of the canal for the next 20 years.

Mr. BAUMAN. Mr. Speaker, in closing, I would just say that the surest way to make this a quick and efficient conference is an overwhleming vote in favor of this motion to instruct, so the other body will understand precisely the parameters of what this House desires on this issue.

I urge those who opposed the legislation, and some of us did, and those who supported it, to join together in instructing these conferees.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Maryland.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 308, nays 98, not voting 28, as follows:

[Roll No. 400]

YEAS—308

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonker
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marriott
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Ottinger
Panetta
Pashayan
Paul
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NAYS—98

Alexander
Anderson, Ill.
Ashley
Aspin
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Bonior
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Dellums
Dixon
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Fascell
Fenwick
Foley
Ford, Tenn.
Giaimo
Gray
Green
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Holtzman
Howard
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lowry
Lundine
McHugh
Maguire
Markey
Matsui
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Moorhead, Pa.
Nedzi
Oberstar
Obey
Patten
Patterson
Pease
Pepper
Rangel
Reuss
Richmond
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Stack
Stark
Stewart
Stokes
Studds
Thompson
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weiss
Wirth
Wolpe
Yates
Zablocki

NOT VOTING—28

Ambro
Bolling
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Diggs
Emery
Fish
Flood
Forsythe
Garcia
Holland
Horton
Johnson, Colo.
McKay
Marlenee
Martin
Mathis
Nolan
Railsback
Rodino
Rostenkowski
Sebelius
Treen
Williams, Ohio
Wright

☐ 1600

Messrs. ALBOSTA, WEAVER, and LONG of Maryland changed their vote from "nay" to "yea".

Mr. ULLMAN changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MURPHY of New York, DINGELL, BOWEN, HUBBARD, BONIOR, WYATT, ZABLOCKI, FASCELL, HANLEY, Ms. HOLTZMAN, Mrs. SCHROEDER, Messrs. HARRIS, MCCLOSKEY, BAUMAN, CARNEY, BROOMFIELD, DERWINSKI, and FISH.

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 2759, TO PROMOTE ORDERLY DEVELOPMENT OF HARD MINERAL RESOURCES IN DEEP SEABED

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until 5 p.m. on August

17, 1979, to file a report on H.R. 2759, to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

GENERAL LEAVE

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct conferees just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my motion to table the resolution in the matter concerning the gentleman from Michigan (Mr. Diggs).

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT OF HOUSE FROM THURSDAY, AUGUST 2, 1979, TO WEDNESDAY, SEPTEMBER 5, 1979, AND RECESS OF SENATE FROM FRIDAY, AUGUST 3, 1979, to WEDNESDAY, SEPTEMBER 5, 1979

Mr. BRADEMAS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 168) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 168

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 2, 1979, it stand adjourned until 12 o'clock meridian on Wednesday, September 5, 1979, and that when the Senate recesses on Friday, August 3, 1979, it stand in recess until 12 o'clock meridian on Wednesday, September 5, 1979.

The SPEAKER. The gentleman from Indiana (Mr. Brademas) is recognized for 1 minute.

Mr. BRADEMAS. Mr. Speaker, the purpose of the concurrent resolution I have offered is simply to implement that provision of the Legislative Reorganization Act which provides, and I quote from section 132 of the Legislative Reorganization Act of 1946, as amended:

> Sec. 132. (a) Unless otherwise provided by the Congress, the two Houses shall—
>
> (1) adjourn sine die not later than July 31 of each year; or
>
> (2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by rollcall vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day.

Mr. Speaker, the purpose of this concurrent resolution is to provide that when the House adjourns on Thursday, August 2, it stand adjourned until noon on Wednesday, September 5; and that the same, with 1 day's difference, obtain with respect to the other body.

The SPEAKER. The question is on the concurrent resolution.

Under the rules, a rollcall is automatic.

The vote was taken by electronic device, and there were—yeas 338, nays 70, not voting 26, as follows:

[Roll No. 401]

YEAS—338

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
de la Garza
Dellums
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Holtzman
Horton
Howard
Huckaby
Hutto
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kindness
Kogovsek
Kramer
LaFalce
Latta
Leath, Tex.
Lederer
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Roberts
Roe
Rose
Rosenthal
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Scheuer
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—70

Abdnor
Andrews, N. Dak.
Applegate
Archer
Atkinson
Bafalis
Bereuter
Bethune
Brinkley
Butler
Campbell
Clinger
Conable
Coughlin
Courter
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Edwards, Okla.
Fenwick
Florio
Gilman
Gingrich
Goodling
Grassley
Gray
Hall, Tex.
Hammerschmidt
Hollenbeck
Hopkins
Hubbard
Hughes
Hyde
Jacobs
Jeffries
Kemp
Kildee
Kostmayer
Leach, Iowa
Lagomarsino
Leach, La.
Lee
Levitas
McKinney
Mica
Miller, Ohio
Mottl
Murphy, Pa.
Neal
Nowak
Petri
Pritchard
Rhodes
Rinaldo
Ritter
Robinson
Roth
Sawyer
Schroeder
Schulze
Sensenbrenner
Skelton
Smith, Nebr.
Solomon
Spence
Tauke
Wampler
Yatron

NOT VOTING—26

Ambro
Bolling
Chisholm
Collins, Ill.
Conyers
Corman
Davis, S.C.
Diggs
Fish
Flood
Forsythe
Garcia
Holland
McKay
Marlenee
Martin
Mathis
Nolan
Railsback
Rodino
Rostenkowski
Sebelius
Treen
Williams, Ohio
Wilson, C. H.
Wright

☐ 1620

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CALL OF PRIVATE CALENDAR, WEDNESDAY, AUGUST 1, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to call the Private Calendar on Wednesday, August 1.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO 10 A.M., TUESDAY, JULY 31, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, it adjourn to meet tomorrow at 10 a.m.

The SPEAKER. Is there objection to the request of the gentleman from Indiana (Mr. Brademas)?

Mr. BAUMAN. Reserving the right to object, I wonder if the distinguished majority whip could tell us whether or not any certain time has been set for the close of business on Thursday. This was raised last Friday when the program was announced.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I would say to the gentleman from Maryland it is our intention to adjourn at 6 o'clock on Thursday.

Mr. BAUMAN. Mr. Speaker, in an effort to expedite that, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 4389

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 4389, making appropriations for the Departments of Labor, Health, Education, and Welfare and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois (Mr. Yates)?

There was no objection.

INTERIOR APPROPRIATIONS, FISCAL YEAR 1980

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 389

Resolved, That during the consideration of the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6, rule XXI are hereby waived: beginning on page 22, line 11 through page 24, line 8; and beginning on page 34, line 5 through page 37, line 23.

The SPEAKER. The gentleman from New York (Mr. Zeferetti) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi, Mr. Lott, and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 389 provides for the consideration of H.R. 4930, the Department of Interior and related agencies appropriation bill for fiscal year 1980.

This rule grants waivers of points of order against portions of H.R. 4930 for failure to comply with clauses 2 and 6 of rule XXI. Clause 2 of rule XXI requires that all appropriations must have an authorization and prohibits the inclusion of legislation in an appropriations bill. This waiver is necessary since the bill includes appropriations for which authorizing legislation has not as yet been enacted. H.R. 3000, the Department of Energy Authorization Act for fiscal year 1980 is presently under consideration in the House. H.R. 3354, which provides authorization for the naval petroleum and oil shale program and H.R. 3930 which authorizes the synthetic fuel program have both passed the House but are awaiting action in the Senate.

In addition, a waiver of clause 2 of rule XXI is necessary since the appropriating paragraph "Office of Territorial Affairs" contains legislative language.

Clause 6 of rule XXI prohibits the inclusion in appropriations bills of reappropriations of unexpended balances of appropriated funds. The paragraph of the bill pertaining to "energy conservation" contains a reappropriation of unexpended funds. Thus, a waiver of clause 6 of rule XXI is necessary.

Mr. Speaker, H.R. 4930 provides a total of $10.2 billion in new budget authority for fiscal year 1980 for the Department of Interior and other agencies. This amount is $1.8 billion more than the administration requested, but $1.6 billion less for the fiscal year 1979 appropriation level. The bill provides for several major programs in the Department of Energy, including $1.5 billion for synthetic fuels development. Appropriations are also made in the bill for the Indian health and education functions of HEW, the Smithsonian Institution, the National Foundation on the Arts and Humanities, among other agencies.

Mr. Speaker, I urge the adoption of House Resolution 389 in order that we may discuss and debate H.R. 4930.

☐ 1630

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of H.R. 4930, the Department of the Interior and related agencies appropriation bill for fiscal year 1980. The resolution waives all points of order against certain provisions of the bill for their failure to comply with clause 2 of rule XXI. Under this provision of the rules, no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized. The clause also prohibits legislation in an appropriations bill.

In addition, the resolution waives clause 6 of rule XXI against specified provisions of the bill. This provision of the rules prohibits the consideration of a general appropriations bill if it contains a provision reappropriating unexpended balances of appropriations.

H.R. 4930 provides $10,195,553,000 in new budget authority for the Department of Interior and other agencies, including the Forest Service, Department of Energy, the Smithsonian Institute, and the National Foundation on Arts and Humanities. The amount recommended in the bill is $1,754,783,000 above the budget request for fiscal year 1980, but it is $1,568,950,000 below the appropriation for these purposes for fiscal year 1979. One item of special interest is the inclusion of $1.5 billion for the purchase or production of synthetic fuels under the authority of the House-passed H.R. 3930.

Mr. Speaker, I have no objection to the passage of this resolution.

Mr. Speaker, I have no requests for time. I support the resolution.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. McDade) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Illinois (Mr. Yates)?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Yates).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4930, with Mr. Mineta in the chair.

(By unanimous consent, the first reading of the bill was dispensed with.)

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois (Mr. Yates) will be recognized for one-half hour, and the gentleman from Pennsylvania (Mr. McDade) will be recognized for one-half hour.

The Chair recognizes the gentleman from Illinois (Mr. Yates).

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. YATES. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the Science and Technology Committee last year adopted my amendment for $5.4 million to initiate a comprehensive oil That money was appropriated for fiscal heat R. & D. and marketing program. year 1979 and this year DOE requested $3.85 million for their follow-on activity. This is a vital program for people in the Northeast who depend heavily on oil to heat their homes.

The $500,000 of the DOE request was set-aside by our committee from the important oil-fired unit demonstration to the space conditioning in research project activity at Brookhaven National Laboratory. This demonstration activity was designed in three phases, the first two of which require Federal stimulation.

The redirection of funds in this program will speed the introduction of advanced combustion concepts and furnaces to raise efficiency 40 to 50 percent. This is a vital R. & D. program for the Northeast and deserves strong support.

FOSSIL ENERGY (COAL-OIL COMBUSTION RESEARCH)

This $250,000 is for restoration of the university research on coal-oil mixtures which was funded last year under advanced research and supporting technology but was not included in the fiscal year 1980 request. The coal-oil mixtures program was reduced by $2,950,000 in fiscal year 1980 and there are insufficient funds to complete important activity on contracts outside the energy technology centers. This set-aside is specifically for Adelphi College Center for Energy Studies and complements a smaller program sponsored by EPA which is directed at reducing emissions by coal/oil combustion. The work consists of coal desulfurization during combustion of coal-oil water emulsions. This is an economic alternative to clean liquid from coal.

SYNTHETIC FUELS PRODUCTION

This bill, as the Moorhead bill before it and the DOE authorization H.R. 3000, is a genuine energy supply bill. I recall 3 years ago when our Science and Technology Committee struggled vainly to push major initiatives for synthetic fuels production.

Outside of projects at the pilot plant scale, this country has made little progress since then because industry has not been given the incentive. I believe that setting production goals of 500,000 barrels a day by 1985, as in H.R. 4930, is the incentive that should catalyze the synthetics programs.

In the Northeast we are particularly interested in major liquefaction projects but advanced gasification techniques cannot be ignored because they are a vital source for petroleum substitutes.

I urge my colleagues to support this bill. I also want to congratulate Mr. McDade and Mr. Yates for bringing it to the floor. It is a genuine energy supply bill.

Mr. YATES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, we are proud and privileged to bring the Interior appropriations bill to the floor, a bill that the late Congressman from Ohio, Mike Kirwan, once described as the "all American bill." It is a bill about the land, our land, the land of the United States of America, it is the bill of and for America the beautiful—the majestic purple mountains, the fruited plains, the scenic rivers, the placid lakes, and the stately forests. It supports the national heritage of all Americans—the Nation's parks, forests, mountains and natural resources, the national heritage that we want to pass on to our children, our grandchildren and to the generations to come—a land that is better than the one we enjoy. Unfortunately, for many years and generations we despoiled the land. We cut, we gouged, we defiled—we took much from the land and returned little or nothing. This bill continues this committee's revolt against that kind of selfish unnecessary despoilation and we have gone over the President's budgetary recommendations to protect the Nation's resources.

This bill is more than $10 billion of which $3.4 billion is for the Department of Energy, and I will talk about that in a minute.

I said it is a good bill—and it is—even though it is almost $2 billion over the budget; $2 billion, Mr. Chairman. And yet I say that. This is a tight bill, a bill that has received the careful scrutiny of our subcommittee, not once but three times.

We held oversight hearings; we held our regular hearings; we held special hearings with outside witnesses whom we invited to obtain additional information. For example, we are over budget by $141 million for Navy Petroleum No. 4. The administration strongly opposed extension of the drilling program on Navy Petroleum Reserve No. 4. It was a program the administration wanted to—close down for—transfer to a private leasing program. It would cost a very substantial sum to continue that program over the budget. We called the Husky Oil Co. in to tell what was going on. On the basis of Husky's testimony and on the basis of the testimony from the Geological Survey, we were convinced the program should be continued—and we put the money in this bill. I would observe that when the House considered a deferral on the same matter June 19, that was rejected by a vote of 409 to 3.

Or take another aspect of the energy programs. We have added $1.5 billion over the budget to move the synthetic fuels program forward under the authority of the Moorhead bill which passed the House by an overwhelming margin.

And we also added $54 million without OMB approval to continue development of two plants which will make clean solids from coal and oil from coal—SRC I and SRC II. We think it is critically important to move our energy program ahead.

Take a look at our report—it is a good report. Look at page 5. You can see there, listed specifically, where the committee agreed to exceed the budget. On page 5 you will see an explanation of why the committee acted as it did.

Now you probably have been hearing from your State conservation directors complaining about the cut made by the committee to the land and water conservation fund. Yes, the committee would have liked to put more money into this fund this year—the full amount of $598,000,000 and more because we are very much aware of the importance of acquiring the park lands, the forest land, the Fish and Wildlife refuge expansions before they are gobbled up by burgeoning development.

We cut the fund by $150 million. This year, we said, this fund will have to wait while we take care of other priorities. You should know though, we put back in about $70 million of the cut in specific recommendations—for the Santa Monica Mountains in California, one of the most beautiful areas in the country where development is threatened unnecessarily—for Lake Tahoe, for Cuyahoga—and for other areas. Next year we'll take another look and try to be more helpful.

At page 6 of the report there is a list of new programs and continuing initiatives included in earlier budgets. What is not shown in that table are the decreases recommended by the subcommittee in order to provide fiscal balance. On the basis of the hearings contained in 12 published volumes taken over 46 days from more than 800 witnesses from the administration, Members of Congress, and the private sector, the subcommittee is proposing reductions in 171 programs for a total of $633,545,000. I will want the Members to be aware of this if the gentleman from Ohio (Mr. Miller) offers his amendment to reduce this bill by 2 to 5 percent.

I would also like to call to your attention the table at the bottom of page 3 of the report which shows the revenues generated by the agencies in this bill. They are expected in fiscal year 1980 to be slightly more than $5 billion. Thus, it should be remembered that many of the programs in this bill for which additional amounts are recommended should not be treated as simple increased Federal expenditures, but as increased investments in the assets of America.

I would like now to highlight the subcommittee's recommendation program by program. For the Bureau of Land Management the subcommittee recommends a total of $499.8 million, an increase of $7 million over the budget request. That increase is principally in the areas of range management, recreation management, and cadastral survey programs of the Bureau of Land Management. BLM is responsible for the multiple use, management, protection, and development of about 417 million acres of public lands onshore, 840 million acres of federally owned subsurface rights and 1,100,000,000 acres of the Outer Continental Shelf.

For the Office of Water Research and Technology the subcommittee recommends $30,977,000. This is a net increase of $238,000 over the budget which represents several decreases and an additional $1 million for accelerated development of saline water demonstration facilities—one in Virginia Beach, Va., the other in Alamogordo, N. Mex.

For the Heritage Conservation and Recreation Service the subcommittee recommends a total of $637,715,000, a reduction of $170,239,000 below the budget request. Of that amount $150.9 million is in the land and water conservation funds, which I mentioned earlier and $25 million is in the urban park and recreation fund. These reductions are offset by increases of $702,000 in the salaries and expenses account which result from the transfer of a new program for this agency which has previously been administered by the National Park Service. In addition the subcommittee recommends a $5 million increase over the budget for the historic preservation fund—for a total of $50 million. For the urban park and recreation fund the subcommittee recommends a total of $125 million for the first full year's operation of the program. The supplemental which has just cleared the House includes $20 million for the balance of fiscal year

1979. The subcommittee feels that the amount included in the supplemental, $20,000,000, coupled with the $125,000,000 recommended in this bill will be about all the agency can handle in its first full year of operation.

For the United States Fish and Wildlife Service the subcommittee recommends a total of $278,582,000, an increase of $13,753,000 over the budget. Of that, $5,000,000 is associated with the acquisition of 42,000 acres of land along the Texas gulf coast from the migratory bird conservation account which will be repaid in future years. The balance of $8,753,000 is in the Fish and Wildlife construction program. The Fish and Wildlife Service is responsible for the conservation, protection, and enhancement of fish and wildlife and their habitat. It is responsible for a wildlife refuge system of over 46 million acres consisting of 410 refuges and 7 wetlands management districts, 88 fish hatcheries, a spawning channel, 5 fisheries development centers, 2 training schools, 12 fisheries research laboratories, and 19 biological stations. Over 6 million pounds of fish a year are produced from this national hatchery system.

The subcommittee is recommending appropriation of $500,312,000 for the National Park Service, a reduction of $575,000 from the budget request—that is net of increases and decreases in the construction, maintenance, and a fee account which also provides maintenance support in the national parks. The administration had submitted a budget proposing that both additional and increased fees be charged at the national parks. The budget proposed that these increased fees be used principally for maintenance in the national parks. The House has adopted legislation freezing the fee level for national parks, thus this increased maintenance cannot be supported from the fee account. However, the subcommittee has recommended changes in the budget for the national park system which permit increases in the maintenance program of the National Park Service above that proposed in the budget request.

The recommendation for the Geological Survey is $594,217,000, an increase of $138,769,000 over the budget. Of this, $141,500,000 is associated with the development of the national petroleum reserve in Alaska, as discussed previously, offset by reductions of $2.7 million in the regular program. In addition the subcommittee is recommending that the Survey spend $2,000,000 to make greater use of a new map-data gathering technique known as synthetic aperture radar—SAR. This technique, using radar, will permit a rapid gathering of data for relatively inaccessible areas, in places such as Alaska. In addition it provides a more accurate map of geological features; $134,883,000 is recommended for the Bureau of Mines, a net of $311,000 below the budget. In addition the subcommittee again recommends rescission of $47,500,000 of permanent contract authority for the helium fund which will become available in fiscal year 1980.

For the Office of Surface Mining the subcommittee recommends $196,936,000, a net increase of $1,700,000 over the President's budget. This includes an increase of $4,200,000 to expand the mineral institutes so that a total of 30 States will have the institutes. The eight new institutes recommended in this bill are for the States of Louisiana, Georgia, Virginia, Iowa, North Dakota, South Dakota, Nevada, and Washington.

For the Bureau of Indian Affairs the subcommittee is recommending a total of $992,527,000, an increase of $18,407,000 over the President's budget. Of this amount, $17,674,000 is in facility and road construction. The subcommittee in fiscal year 1978 required the Secretary to develop, independently of the BIA, a priority program for construction, and the subcommittee has adhered to the priorities for school construction established by that program. This will fund 8 additional school projects over the budget, a total of 11 school projects.

For territorial affairs the subcommittee recommends an appropriation of $196,921,000, an increase of $51,107,000 over the budget request. Of that, $37,357,000 is in the Office of Territories and is principally composed of $9 million for construction grants in the Northern Marianas, $18,600,000 for health care grants in the Virgin Islands, and $10,000,000 for operation grants for the Virgin Islands. This latter grant is made contingent upon the Virgin Islands increasing their revenues by a similar amount in order to eliminate their projected deficit of $20,000,000. The legislation authorizing this grant intended that a grant be made only after the Virgin Islands had exhausted other remedies. Information provided to the subcommittee is that the legislature has refused to raise additional revenues from such areas as property taxes, sales taxes, and industrial taxes. This grant, on a matching basis, will help the Virgin Islands to understand that they must meet their legislative requirements, as well as providing an orderly transition in meeting their financial responsibilities.

For the Office of Secretary of the Interior and the Solicitor of the Department of Interior the subcommittee recommends a total of $71,660,000, a net increase of $6,280,000 above the budget. This is mainly made up of an increase of $9,400,000 to establish an office of construction management to monitor the construction programs of the Department, principally those of BIA discussed earlier, offset by a $2,000,000 reduction associated with a proposed publications distribution center at a departmental facility in Beckley, W. Va. The fiscal year 1979 supplemental bill proposes transfer of that facility from the Department of Interior to the Department of Labor.

As I mentioned earlier the subcommittee has provided an increase over the budget of $243,251,000 for the Forest Service. This provides a total of $1,486,058,000 for the Forest Service, a reduction of $26,156,000 below the fiscal year 1979 level. That reduction is associated primarily with the Youth Conservation Corps which I also had mentioned earlier. This proposal will provide a total of 12.2 billion board feet of timber scheduled for sale with 11.5 billion board feet to be harvested. This is an increase of half a billion board feet over the budget level. The timber produced from the national forest lands represents about one-fourth of the total timber and 30 percent of the soft wood timber cut for industrial purposes annually and is equivalent to the construction of about 1 million average size homes. In addition to timber production the Forest Service administers the grazing of 3.7 million head of livestock and 3.5 million big game animals which graze on national forest lands. The subcommittee has included in their recommendation $10,891,000 to implement provisions of the Boundary Water Canoe Area Wilderness. This is $3.3 million over the amount requested by the administration. It is also in addition to the amount budgeted for land acquisition in this area in the land and water conservation fund which the subcommittee also recommended. Other outputs from the Forest Service that the subcommittee expects to be achieved within this allowance are: Reforestation of 221,000 acres; timber stand improvement on 277,000 acres; silvicultural examinations of 8,000,000 acres; habitat restoration and development on 3,300,000 acre equivalents; range improvements on an additional 3.1 million acres; 145,000 acres of soil and water restoration and improvement; and 1,100 additional miles of land line location.

For the Department of Energy the subcommittee recommends $3,354,311,000, an increase of $1,462,681,000 over the budget. Of this, $1,500,000,000 is associated with the synthetic fuels program discussed previously. From that it can be seen that, except for the synthetic fuels program, the subcommittee's recommendation for energy programs is $37,319,000 under the budget proposed by the OMB. This reduction still permits work to progress on two solvent refined coal demonstration plants, a high Btu gasification demonstration plant, and a low Btu utility gasification demonstration plant. In the conservation area demonstrations of technology for increasing efficiency and using urban waste have been supported above the budget level.

In fossil energy, as well as the previously mentioned funding of additional demonstration plant activity, totaling $61 million, the subcommittee has recommended increases of $9 million in mining R. & D., $16.5 million for existing gasification plants, $6.5 million for fuel cells, $3 million for magnetohydrodynamics (MHD), $3.2 million for a new tar sands program, and $5.5 million for enhanced gas recovery. These increases were offset by several decreases, the largest of which was $40 million in plant construction funds not needed because of delay or cancellation of planned projects.

In conservation programs, research and development activity was increased by $24 million and offset by reductions of $36 million in grant programs at State and local levels. The added funds will allow for increased emphasis on urban waste, fuel cells, and industrial efficiency technology.

Energy information and regulation are recommended at a level of $213 million which, although a decrease of $35 million from the budget because rationing funds were cut, still remains $52 million, or about 33 percent above fiscal year 1979 appropriations.

Finally, no additional funds except for administration are recommended for the strategic petroleum reserve. The subcommittee does, however, believe the reserve should still be filled and did not recommend rescinding funds as was assumed in the first budget resolution.

For the Indian health and education programs administered by the Department of Health, Education, and Welfare, the subcommittee recommends total appropriations of $691,626,000, a net increase of $29,395,000 above the budget request. These increases are associated with construction of new and replacement hospitals and clinics, outpatient care facilities, and personnel quarters for the Bethel, Alaska, and Redlake, Mont., hospitals. In addition, increases are provided for contract care, ambulatory care, urban Indian care, and other medical programs.

The subcommittee recommends $10,900,000 for the Institute of Museum Services, the budget estimate.

For the Smithsonian Institution, the subcommittee recommends $139,548,000, a reduction of $5,442,000; $4,000,000 of that amount is associated with a historic preservation program in Pakistan to which the Government of Pakistan has not yet agreed. An additional $500,000 is associated with planning for two structures known as the south quadrangle complex which would house an oriental art gallery to complement the Freer Gallery and another building to house, among other things, the Museum of African Art which recently became a part of the Smithsonian Institution. This building program is not yet authorized and, in addition, the overall cost and financing does not yet appear to be adequately developed. The subcommittee recommends the amount of $22,311,000 for the National Gallery of Art and $1,611,000 for the Woodrow Wilson International Center for Scholars. There are minor reductions made in the budget requests of those programs but they will impose no impairments on the excellent programs of those institutions.

The subcommittee conducted extensive and exhaustive hearings in connection with the National Foundation on the Arts and the Humanities and concluded that the grant review and award processes of both institutions are sound. No reductions are proposed for those programs although additional administration funds are proposed at the expense of the matching grant programs in offsetting amounts as explained in the subcommittee report.

Mr. Chairman, this is a good bill, a balanced bill, and I recommend that it be reported to the House by the committee.

□ 1640

Mr. McDADE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 4930 making appropriations for the Department of the Interior and related agencies and to urge its approval by the Members of this House.

Mr. Chairman, over the years this bill has been described as an all American bill—a resource bill and an energy bill. It is all of those things. In my judgment, it is one of the most important bills we consider each year because it gets right to the heart of the two major concerns of every American—inflation and energy. It does this by funding the management of our Nation's natural, cultural, energy, and human resources of the millions of Americans on Indian reservations and in the trust territories.

To steer the diverse programs of this bill through the House our committee is fortunate to benefit from the leadership and the skill of my friend from Illinois, SID YATES. The gentleman always conducts our hearings, our markups, and our activities in a most thorough, bipartisan manner and with, I might say, an incredible amount of patience. The result has been a bill that each year reflects the maximum input of all of this subcommittee.

Mr. Chairman, the bill we bring before you today is the very careful product of many months of deliberation as to how we can best meet the national mandate to develop and replenish our national resources. The delay in bringing this bill before you is testimony to a major dilemma we faced this year. We undertook this task with a budget submitted to our committee that was totally deficient in the critical areas of energy. We could have brought to you a bill that went along with that budget and ignored those resource programs that we have initiated and which Congress has supported through the years. Or we could choose to meet those budget problems head on. We chose the latter.

Our chairman, SID YATES, has told you about some of those decisions. He noted that the committee did not just add funds here and there. We cut, too, and we made some cuts that are going to hurt some popular programs. We cut $633.5 million out of 171 programs contained in this bill. But we did it to stress our desire to rewrite this bill to bring you a product that clearly backs up our Nation's goals with the dollars to realize them.

For example, while it is true that we bring to you a bill that is $1.7 billion over the budget—$1.5 billion of which is to fund the recently passed Moorhead bill, H.R. 3930. It is probable that the $1.5 billion will never add to this year's outlays. But our committee has served public notice to the Nation that we are serious about creating a synthetic fuel industry, and we intend to provide the dollars as soon as possible.

We were presented with budget estimates that did not respond to the national sense of emergency that confronts us with regard to our energy dilemma. We considered a budget that eliminated funds for additional oil exploration on the national petroleum reserve in Alaska. These funds were cut by OMB in the name of "budget austerity." And we made a decision that will keep the U.S. Government in the business of drilling for oil on Federal lands. The other choice was to sit back and do nothing. We chose to go forward and we added $141 million above the budget to keep Husky Oil Co. drilling on the North Slope.

I commend the additional views at the end of the report to your attention. Twenty-four Members signed them to express the committee's strong belief that we can serve a key role in future congressional deliberations on the synthetic fuels question. While our committee did proceed to fund the provisions of the Moorhead bill, we should have gone farther in creating a synthetic fuels industry through this appropriations bill. The additional views and the testimony heard before the committee, which I would also urge you to read, makes a compelling and convincing case for fast action now. The members of our committee will watch the progress of synthetic fuels legislation in the coming months and will offer our proposal to the Congress as an acceptable vehicle to create this vital industry.

I urge the Members of this House to examine our actions on the energy budget. We believe we invested tax dollars wisely on projects with the most realistic chances of success in the short and long term. Forty percent of this budget, $4.2 billion, funds the Energy and Interior Department's energy agencies. We provided $3.3 billion directly to the Department of Energy to move forward on both solvent refined coal processes, a high Btu gasification demonstration plant, and a low Btu plant. These processes are at the heart of our Nation's effort to convert coal to clean-burning solids, liquids and gas for use as a substitute for high-priced OPEC oil. Again, the administration being pennywise and pound foolish wanted to fund only one SRC plant until it got its energy security trust fund. We said no, we cannot wait. We need them both. And we provided $54 million for both plants.

In addition to this activity, the committee did not neglect the new initiatives designed to provide alternate sources of energy from oil. We added $3 million for MHD, $3.2 million to begin a new program to extract oil from tar sands, an additional $6 million for urban waste research and more funding for fuel cells, $6.5 million to test their effectiveness as a residential and industrial source of heat and power. This is a good energy budget and one you can support with enthusiasm.

The committee was faced with the painful choices that were contained in the administration's budget for the U.S. Forest Service, a budget so inadequate that it could not possibly meet the President's publicly expressed goal of a 12.7 billion board feet timber cut. The administration wants to cut the timber, but it does not want to build the roads, conduct the research, and reforest the timber stands that would allow that cut to happen. We could have chosen to accept the budget's recommendation that we fund an 11.7 billion board foot timber cut or we could increase the funding to accommodate a larger cut, and we did to 12.2 billion board feet. In addition, the committee decided to take the first steps to fund, at a vastly reduced level from last year, the very successful and very popular YCC program. We added plus $27 million to provide employment for 18,000 young people next summer on our Nation's public lands. The YCC provides $1 in return for every dollar spent in needed conservation. Nevertheless, our funding level is still $32 million below last year's level.

We are spending $1.6 billion for programs designed to open new educational economic and health improvement opportunities for our Native Americans. Forty-five thousand Indian children benefit directly from the educational programs you approve here today, while another 325,000 children and adults have renewed opportunity to get a better education and better job opportunity because of the programs advanced by the Office of Indian Education.

Perhaps the best way to measure whether or not your dollars are being put to work by the Indian Health Service is the statistics showing over the past 20 years we have increased the life expectancy of Indian children by 5 years; we have reduced the death rate from influenza and pneumonia by 65 percent and 72 percent respectively, and we have practically eliminated the threat of death from tuberculosis to Indian children. There are other meaningful numbers which indicate the great progress we are making here.

I am certain that many of you have heard about the committee's actions regarding the fish, wildlife, parks, and recreation items in this bill—accounts which total nearly $1.5 billion. One of the most unpleasant choices the committee was forced to make was to reduce the State share of funding under the land and water conservation fund by $159 million. We made this cut to try to bring some symmetry to our bill to offset some vital increases in energy and the Forest Service and to try to avoid the prospect of a veto down the road. To offset some of the difficulty we may be causing the States, we funded the urban parks program at $125 million, a reduction of $25 million below the budget request. However, the Congress has just given final approval to the fiscal year 1979 supplemental appropriations bill containing $22 million for this initiative and this, when combined with the money here, will give the HCRS an active program this year and next.

The committee also reaffirmed its support for the historical preservation program by adding $5 million, bringing the program to a $50 million level—a level which is still $10 million below what we approved last year.

The three major items of note to the members in the National Park Service are the committee's denial of the proposal to purchase the concession at Yellowstone National Park—a $15 million saving made possible by the lack of sufficient information available to the committee. In addition, because the House has adopted legislation freezing the fee levels for the national parks we reduced the fee account by $12.6 million. In addition, the committee made a $24 million commitment to complete 300 miles of the Natchez Trace Parkway.

The committee will also note that we devote one-half billion dollars in this bill to the management of our Nation's land and water activities in the Bureau of Land Management and the Office of Water Resources Research. The $7 million increases in the BLM highlight the committee's desire to improve recreation, range management, and cadastral survey programs on the 417 million acres of land on shore and 1.1 billion acres on the Outer Continental Shelf. You will note that the committee also gave the go-ahead to the OWRT to accelerate the development of their saline water facilities in Virginia Beach, Va., and Alamagordo, N. Mex.

In summary, I hope you will give your support and your endorsement of the actions taken by the committee. This bill deserves support from both sides of the aisle because it is a bill that meets the recreational, cultural, energy, and national resource needs of our Nation.

Mr. Chairman, this bill contains some very significant amendments designed to assist the National Park Service in the long overdue development of the Delaware Water Gap National Recreation Area. This park, which borders on my congressional district, has endured tremendous growing pains because of the uncertainty surrounding construction of the Tocks Island Dam.

Much of that uncertainty has been eliminated because of the actions of the Congress by enacting legislation to include the Delaware River in the National Wild and Scenic Rivers System. Now we can proceed to accurately define the park boundary, identify carefully just what lands will be acquired and what lands will be left in private ownership and, most importantly, we can proceed to develop the facilities to make the park more attractive to visitors.

Millions of visitors are coming to the DWGNRA from all across the Nation, and because it is one of the largest of the eastern parks so close to the major population centers, we desperately need to improve the services available to these new visitors. The amendments which are contained in this bill will accomplish that improvement.

This bill contains $2 million for improvements in the park, including historic site restoration, road repairs, and other development activities. In addition, the committee provided $250,000 to be made available for cleanup and law enforcement activities in the five counties adjacent to the upper Delaware. This money, $50,000 for each of the counties, will implement my legislation enabling them to be assisted in meeting the expected increase in campers, canoeists, and other tourists that will certainly come to the upper Delaware to enjoy its many attractions.

Mr. YATES. I want to insert the following table:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980

Agency and item	New budget (obligational) authority, fiscal year 1979 [1]	Budget estimates of new (obligational) authority, fiscal year 1980	New budget (obligational) authority, recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1979	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1980
(1)	(2)	(3)	(4)	(5)	(6)
TITLE I—DEPARTMENT OF THE INTERIOR					
LAND AND WATER RESOURCES					
Bureau of Land Management:					
Management of lands and resources	$335,003,000	$287,931,000	$295,361,000	−$39,642,000	+$7,430,000
Acquisition, construction, and maintenance	19,011,000	16,343,000	16,343,000	−2,668,000	
Payments in lieu of taxes	105,000,000	108,000,000	108,000,000	+3,000,000	
Oregon and California grant lands (indefinite, appropriation of receipts)	55,000,000	55,000,000	55,000,000		
Range improvements (indefinite, appropriation of receipts)	8,665,000	10,900,000	10,900,000	+2,235,000	
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000		
Service charges, deposits, and forfeitures (indefinite, special fund)	13,750,000	13,750,000	13,750,000		
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000		
Total, Bureau of Land Management	536,829,000	492,324,000	499,754,000	−37,075,000	+7,430,000
Office of Water Research and Technology: Salaries and expenses	28,357,000	30,739,000	30,977,000	+2,620,000	+238,000
Total, Land and Water Resources	565,186,000	523,063,000	530,731,000	−34,455,000	+7,668,000
FISH AND WILDLIFE AND PARKS					
Heritage Conservation and Recreation Service:					
Salaries and expenses	15,174.000	14,954,000	15,656,000	+482,000	+702,000
Urban park and recreation fund	20,000,000	150,000,000	125,000,000	+105,000,000	−25,000,000
Land and Water Conservation Fund (indefinite)	737,025,000	598,000,000	447,059,000	−289,966,000	−150,941,000
Historic preservation fund	60,000,000	45,000,000	50,000,000	−10,000,000	−5,000,000
Total, Heritage Conservation and Recreation Service	832,199,000	807,954,000	637,715,000	−194,484,000	−170,239,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980—Continued

Agency and item (1)	New budget (obligational) authority, fiscal year 1979[1] (2)	Budget estimates of new (obligational) authority, fiscal year 1980 (3)	New budget (obligational) authority, recommended in bill (4)	Bill compared with— New budget (obligational) authority, fiscal year 1979 (5)	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1980 (6)
FISH AND WILDLIFE AND PARKS—Continued					
U.S. Fish and Wildlife Service:					
Resource management	$200,629,000	$207,055,000	$207,055,000	+$6,426,000	
Construction and anadromous fish	97,856,000	47,574,000	56,327,000	−41,529,000	+$8,753,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000	15,000,000	+5,000,000	+5,000,000
Development and operation of recreation facilities (indefinite, special fund)	150,000	200,000	200,000	+50,000	
Total, U.S. Fish and Wildlife Service	308,635,000	264,829,000	278,582,000	−30,053,000	+13,753,000
National Park Service:					
Operation of the national park system	386,806,000	382,777,000	383,512,000	−3,294,000	−735,000
Construction	118,488,000	85,358,000	97,144,000	−21,344,000	+11,786,000
Planning, development, and operation of recreation facilities (indefinite, special fund)	15,478,000	28,465,000	15,781,000	+303,000	+12,684,000
John F. Kennedy Center for the Performing Arts	4,055,000	4,287,000	3,875,000	−180,000	−412,000
Total, National Park Service	524,827,000	500,887,000	500,312,000	−24,515,000	−575,000
Total, Fish and Wildlife and Parks	1,665,661,000	1,573,670,000	1,416,603,000	−249,052,000	−157,061,000
ENERGY AND MINERALS					
Geological Survey:					
Surveys, investigations, and research	418,606,000	451,021,000	448,290,000	+29,684,000	−2,731,000
Exploration of national petroleum reserve in Alaska	231,048,000	4,427,000	145,927,000	−85,121,000	+141,500,000
Total, Geological Survey	649,654,000	455,448,000	594,217,000	−55,437,000	+138,769,000
Bureau of Mines:					
Mines and minerals	148,507,000	135,194,000	134,883,000	−13,624,000	−311,000
Helium fund (permanent contract authority)		47,500,000			−47,500,000
Total, Bureau of Mines	148,507,000	182,694,000	134,883,000	−13,624,000	−47,811,000
Office of Surface Mining Reclamation and Enforcement:					
Regulation and technology	53,944,000	81,320,000	85,520,000	+31,576,000	+4,200,000
Abandoned mine reclamation fund (definite, trust fund)	61,451,000	113,916,000	111,416,000	+49,965,000	−2,500,000
Total, Office of Surface Mining Reclamation and Enforcement	115,395,000	195,236,000	196,936,000	+81,541,000	+1,700,000
Total, Energy and Minerals	913,556,000	833,378,000	926,036,000	+12,480,000	+92,658,000
INDIAN AFFAIRS					
Bureau of Indian Affairs:					
Operation of Indian programs	792,052,000	792,020,000	792,753,000	+701,000	+733,000
Construction	126,554,000	67,721,000	83,395,000	−43,159,000	+15,674,000
Road construction	79,253,000	58,379,000	60,379,000	−18,874,000	+2,000,000
Alaska native fund	30,000,000	30,000,000	30,000,000		
Trust funds (definite)	3,000,000	3,000,000	3,000,000		
Trust funds (indefinite)	23,000,000	23,000,000	23,000,000		
Eastern Indian Land Claims Fund	3,500,000			−3,500,000	
Total, Bureau of Indian Affairs	1,057,359,000	974,120,000	992,527,000	−64,832,000	+18,407,000
TERRITORIAL AFFAIRS					
Office of Territorial Affairs:					
Administration of territories	53,517,000	46,804,000	84,161,000	+30,644,000	+37,357,000
Trust Territory of the Pacific Islands	114,706,000	99,010,000	112,760,000	−1,946,000	+13,750,000
Micronesian Claims Fund, Trust Territory of the Pacific Islands	12,600,000			−12,600,000	
Total, Office of Territorial Affairs	180,823,000	145,814,000	196,921,000	+16,098,000	+51,107,000
SECRETARIAL OFFICES					
Office of the Solicitor: Salaries and expenses	15,085,000	15,619,000	15,500,000	+415,000	−119,000
Office of the Secretary:					
Departmental management	43,100,000	48,761,000	45,760,000	+2,660,000	−3,001,000
Construction management			9,400,000	+9,400,000	+9,400,000
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000	1,000,000		
Total, Office of the Secretary	44,100,000	49,761,000	56,160,000	+12,060,000	+6,399,000
Total, Secretarial Offices	59,185,000	65,380,000	71,660,000	+12,475,000	+6,280,000
Total, title I, new budget (obligational) authority, Department of the Interior	4,441,770,000	4,115,425,000	4,134,484,000	−307,286,000	+19,059,000
Consisting of:					
Appropriations	4,441,770,000	4,067,925,000	4,134,484,000	−307,286,000	+66,559,000
Definite appropriations	3,588,302,000	3,338,210,000	3,568,394,000	−19,908,000	+230,184,000
Indefinite appropriations	853,468,000	729,715,000	566,090,000	−287,378,000	−163,625,000
Permanent contract authority		47,500,000			−47,500,000
TITLE II—RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service: Forest management, protection and utilization:					
Forest research	110,969,000	105,064,000	109,490,000	−1,479,000	+4,426,000
State and private forestry	54,870,000	37,938,000	65,964,000	+11,094,000	+28,026,000
National forest system	761,235,000	752,137,900	847,151,000	+85,916,000	+95,014,000
Total, Forest management, protection and utilization	927,074,000	895,139,000	[2] 1,022,605,000	+95,531,000	+127,466,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980—Continued

Agency and item (1)	New budget (obligational) authority, fiscal year 1979[1] (2)	Budget estimates of new (obligational) authority, fiscal year 1980 (3)	New budget (obligational) authority, recommended in bill (4)	Bill compared with—	
				New budget (obligational) authority, fiscal year 1979 (5)	Budget estimates of new (obligational) authority, fiscal year 1980 (6)
DEPARTMENT OF AGRICULTURE—Continued					
Construction and land acquisition	$36,177,000	$337,438,000	[2] $425,823,000	+$389,646,000	+$88,385,000
Youth conservation corps	60,000,000		27,400,000	−32,600,000	+27,400,000
Forest roads	243,466,000			−243,466,000	
Forest roads and trails	231,392,000			−231,392,000	
Timber salvage sales	3,000,000			−3,000,000	
Acquisition of lands for national forests:					
Special acts (special fund, indefinite)	385,000	325,000	325,000	−60,000	
Acquisition of lands to complete land exchanges (special fund, indefinite)	239,000	155,000	155,000	−84,000	
Rangeland improvements (special fund, indefinite)	5,400,000	5,900,000	5,900,000	+500,000	
Assistance to States for tree improvement	1,522,000			−1,522,000	
Construction and operation of recreation facilities (indefinite, special fund)	3,459,000	3,850,000	3,850,000	+391,000	
Rights of way (indefinite)	100,000			−100,000	
Total, Forest Service	1,512,214,000	1,242,807,000	1,486,058,000	−26,156,000	+243,251,000
DEPARTMENT OF ENERGY					
Fossil energy research and development	[3] 578,189,000	[4] 675,592,000	699,377,000	+121,188,000	+23,785,000
Fossil energy construction	99,709,000	77,050,000	71,250,000	−28,459,000	−5,800,000
Energy production, demonstration and distribution	[5] 169,415,000	[6] 124,299,000	125,971,000	−43,444,000	+1,672,000
Energy conservation	707,455,000	[7] 557,995,000	545,552,000	−161,903,000	−12,443,000
Reappropriation		[8] 200,000,000	197,500,000	+197,500,000	−2,500,000
Economic Regulatory Administration	[10] 100,333,000	[9] 159,646,000	125,697,000	+25,364,000	−33,949,000
Strategic petroleum reserve	[11] 3,007,071,000	8,391,000	8,391,000	−2,998,680,000	
Energy Information Administration	[12] 60,544,000	88,657,000	87,273,000	+26,729,000	−1,384,000
Synthetic fuels production			1,500,000,000	+1,500,000,000	+1,500,000,000
Total, Department of Energy	4,722,716,000	1,891,630,000	3,361,011,000	−1,361,705,000	+1,469,381,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
Health Services Administration:					
Indian health services	489,493,000	535,116,000	541,449,000	+51,956,000	+6,333,000
Indian health facilities	76,960,000	50,240,000	74,302,000	−2,658,000	+24,062,000
Total, Indian health	566,453,000	585,356,000	615,751,000	+49,298,000	+30,395,000
Office of Education: Indian education	71,735,000	76,875,000	75,875,000	+4,140,000	−1,000,000
Office of the Assistant Secretary for Education: Institute of Museum Service	7,852,000	10,900,000	10,900,000	+3,048,000	
Total, Department of Health, Education, and Welfare	646,040,000	673,131,000	702,526,000	+56,486,000	+29,395,000
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION					
Salaries and expenses	8,752,000	950,000	950,000	−7,802,000	
SMITHSONIAN INSTITUTION					
Salaries and expenses	98,202,000	104,740,000	103,498,000	+5,296,000	−1,242,000
Museum programs and related research (special foreign currency program)	3,700,000	7,700,000	3,700,000		−4,000,000
Science Information Exchange	2,063,000			−2,063,000	
Construction and improvements, National Zoological Park	3,900,000	6,550,000	6,500,000	+2,600,000	−50,000
Restoration and renovation of buildings	2,100,000	4,900,000	5,250,000	+3,150,000	+350,000
Construction	575,000	21,100,000	20,600,000	+20,025,000	−500,000
Subtotal	110,540,000	144,990,000	139,548,000	+29,008,000	−5,442,000
Salaries and expenses, National Gallery of Art	19,281,000	22,577,000	22,311,000	+3,030,000	−266,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,588,000	1,648,000	1,611,000	+23,000	−37,000
Total, Smithsonian Institution	131,409,000	169,215,000	163,470,000	+32,061,000	−5,745,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES					
National Endowment for the Arts:					
Salaries and expenses	102,160,000	97,000,000	97,000,000	−5,160,000	
Administrative expenses	9,925,000	10,500,000	12,000,000	+2,075,000	+1,500,000
Subtotal	112,085,000	107,500,000	109,000,000	−3,085,000	+1,500,000
Matching grants (indefinite)	37,500,000	46,900,000	45,400,000	+7,900,000	−1,500,000
Total, National Endowment for the Arts	149,585,000	154,400,000	154,400,000	+4,815,000	
National Endowment for the Humanities:					
Salaries and expenses	98,300,000	100,300,000	100,300,000	+2,000,000	
Administrative expenses	10,431,000	10,800,000	11,400,000	+969,000	+600,000
Subtotal	108,731,000	111,110,000	111,700,000	+2,969,000	+600,000
Matching grants (indefinite)	36,500,000	39,000,000	38,400,000	+1,900,000	−600,000
Total, National Endowment for the Humanities	145,231,000	150,100,000	150,100,000	+4,869,000	
Total, National Foundation on the Arts and the Humanities	294,816,000	304,500,000	304,500,000	+9,684,000	
COMMISSION OF FINE ARTS					
Salaries and expenses	263,000	271,000	268,000	+5,000	−3,000
ADVISORY COUNCIL ON HISTORIC PRESERVATION					
Salaries and expenses	1,204,000	1,672,000	1,350,000	+146,000	−322,000

See footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980—Continued

Agency and item	New budget (obligational) authority, fiscal year 1979 [1]	Revised budget estimates of new (obligational) authority, fiscal year 1980 [2]	New budget (obligational) authority recommended in bill	Bill compared with—	
				New budget (obligational) authority, fiscal year 1979	Budget estimates of new (obligational) authority, fiscal year 1980
(1)	(2)	(3)	(4)	(5)	(6)
TITLE II—RELATED AGENCIES—Continued					
NATIONAL CAPITAL PLANNING COMMISSION					
Salaries and expenses	$2,019,000	$2,193,000	$1,975,000	−$44,000	−$218,000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION					
Salaries and expenses	20,000	10,000	40,000	+20,000	+30,000
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA					
Salaries and expenses	594,000			−594,000	
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION					
Salaries and expenses	1,659,000	1,856,000	1,811,000	+152,000	−45,000
Land acquisition and development fund (borrowing authority)	33,000,000	17,000,000	17,000,000	−16,000,000	
Public development	30,255,000	20,110,000	20,110,000	−10,145,000	
Total, Pennsylvania Avenue Development Corporation	64,914,000	38,966,000	38,921,000	−25,993,000	−45,000
Total, title II, new budget (obligational) authority, related agencies	7,384,961,000	4,325,345,000	6,061,069,000	−1,323,892,000	+1,735,724,000
Consisting of:					
Appropriations	7,351,961,000	4,108,345,000	5,846,569,000	−1,505,392,000	+1,738,224,000
Definite appropriations	7,268,378,000	4,012,215,000	5,752,539,000	−1,515,839,000	+1,740,324,000
Indefinite appropriations	83,583,000	96,130,000	94,030,000	+10,447,000	−2,100,000
Reappropriation		200,000,000	197,500,000	+197,500,000	−2,500,000
Borrowing authority	33,000,000	17,000,000	17,000,000	−16,000,000	
RECAPITULATION					
Total, new budget (obligational) authority, all titles	11,826,731,000	8,440,770,000	10,195,553,000	−1,631,178,000	+1,754,783,000
Consisting of:					
Appropriations	11,793,731,000	8,176,270,000	9,981,053,000	−1,812,678,000	+1,804,783,000
Definite appropriations	(10,856,680,000)	(7,350,425,000)	(9,320,933,000)	(−1,535,747,000)	(+1,970,508,000)
Indefinite appropriations	(937,051,000)	(825,845,000)	(660,120,000)	(−276,931,000)	(−165,725,000)
Reappropriation		200,000,000	197,500,000	+197,500,000	−2,500,000
Borrowing authority	33,000,000	17,000,000	17,000,000	−16,000,000	
Permanent contract authority		47,500,000			−47,500,000

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[1] Includes fiscal year 1979 supplemental appropriations contained in H.R. 4289 as passed by the House.

[2] Includes budget amendment of $7,600,000 contained in H. Doc. 96-145 as follows: Forest research, $400,000; State and private forestry, $1,750,000; National Forest system, $3,559,000; and construction and land acquisition, $1,891,000.

[3] Excludes $79,200,000 from programs previously included in "Energy Conservation" and $1,613,000 from programs previously included in "Energy, Science and Defense Activities—Operating Expenses" which are now included in fiscal year 1980 estimates.

[4] Includes $5,000,000 transferred from "Energy Supply, Research and Development—Operating Expenses" account.

[5] Excludes $2,284,000 from "Energy, Science and Defense Activities—Operating Expenses" which are now included in fiscal year 1980 estimates.

[6] Includes $2,000,000 transferred from "Departmental Administration" account.

[7] Includes $79,200,000 for programs transferred to "Fossil Fuel—Operating Expenses" in fiscal year 1980 estimates and excludes $2,503,000 from programs previously included in "Energy, Science and Defense Activities—Operating Expenses" which are now included in fiscal year 1980 estimates.

[8] Includes $2,700,000 transferred from "Energy Supply, Research and Development—Operating Expenses" account.

[9] Reappropriation of funds for conservation grants for schools and health care facilities, appropriated in Public Law 95-240, the availability of which is due to expire on Sept. 30, 1979. Budget proposes extension of availability—a reappropriation under concepts agreed to between the Office of Management and Budget and the Appropriations Committees.

[10] Includes $4,100,000 for programs transferred to "Energy Information Administration" account in fiscal year 1980 estimates.

[11] Excludes $675,000 from programs previously included in "Energy, Science and Defense Activities—Operating Expenses" which are now included in fiscal year 1980 estimates.

[12] Excludes $4,100,000 for programs previously included in "Energy Regulatory Administration" account which are now included in fiscal year 1980 estimates.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. McDADE) has expired.

Mr. McDADE. Mr. Chairman, I yield myself 2 additional minutes.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

There are two matters that have concerned me on the subject of forests, and one of them involves the problem of increasing desiccation by overgrazing on our forest lands. I wondered if that had been taken into consideration by the committee or whether that would be more in the purview of the authorizing committee.

Mr. McDADE. Mr. Chairman, perhaps the gentlewoman noticed the article that appeared in the New York Times Sunday.

Mrs. FENWICK. Yes.

Mr. McDADE. It concerned both the Bureau of Land Management and the U.S. Forest Service, both of which have grazing areas.

I want to assure the gentlewoman that this is a problem that has been of great concern to us for the past 10 years. This committee, without ever getting a budget request, has engaged in a program in both the BLM and in the U.S. Forest Service to try to get those lands in shape.

Let me say that a group instituted a court action which prevented the funds we had appropriated from being spent on the land. Happily, that dispute is now resolved, and we can look forward to improvements in both ranges.

Mrs. FENWICK. Mr. Chairman, I have one further question, if the gentleman will yield?

Mr. McDADE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, this refers to page 5 of the report, to which the gentleman from Illinois (Mr. YATES) suggested we should turn.

The OMB recommended no funds to continue the Youth Conservation Corps and recommended instead the Youth Adult Conservation Corps.

What were the considerations involved in keeping the Youth Conservation Corps in favor of the recommendations of the OMB that it be discontinued?

Mr. McDADE. Mr. Chairman, the YCC is the only program on the books that provides an 8-week work experience in our national forests, parks, woodlands, and certain urban areas. It is partly administered by the Labor Department.

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For every dollar invested in employing those youngsters and in giving them the work experience, we get a dollar back in benefits, because indeed they do work on our national assets.

Mrs. FENWICK. What is the difference between the two?

Mr. McDADE. One of them is a limitation to youngsters; the YCC is 15 to 18, and an 8-week course, and the YACC is a program that applies to older children and has a different time period.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Illinois.

Mr. YATES. YACC is a year-round program. The YCC program is a summer program only.

Mr. McDADE. They are targeted at different groups. The administration recommended zero. We have it in as a committee consensus.

● Mr. WYDLER. Mr. Chairman, the Science and Technology Committee last year adopted my amendment for $5.4 million to initiate a comprehensive oil heat R. & D. and marketing program. That money was appropriated for fiscal year 1979 and this year DOE requested $3.85 million for their follow-on activity. This is a vital program for people in the Northeast who depend heavily on oil to heat their homes.

The $500,000 of the DOE request was set-aside by our committee from the important oil-fired unit demonstration to the space conditioning in research project activity at Brookhaven National Laboratory. This demonstration activity was designed in three phases, the first two of which require Federal stimulation.

The redirection of funds in this program will speed the introduction of advanced combustion concepts and furnaces to raise efficiency 40 to 50 percent. This is a vital R. & D. program for the Northeast and deserves strong support.

FOSSIL ENERGY (COAL-OIL COMBUSTION RESEARCH)

This $250,000 is for restoration of the university research on coal-oil mixtures which was funded last year under advanced research and supporting technology but was not included in the fiscal year 1980 request. The coal-oil mixtures program was reduced by $2,950,000 in fiscal year 1980 and there are insufficient funds to complete important activity on contracts outside the energy technology centers. This set-aside is specifically for Adelphi College Center for Energy Studies and complements a smaller program sponsored by EPA which is directed at reducing emissions by coal/oil combustion. The work consists of coal desulfurization during combustion of coal-oil water emulsions. This is an economic alternative to clean liquid from coal.

SYNTHETIC FUELS PRODUCTION

This bill, as the Moorhead bill before it and the DOE authorization H.R. 3000, is a genuine energy supply bill. I recall 3 years ago when our Science and Technology Committee struggled vainly to push major initiatives for synthetic fuels production.

Outside of projects at the pilot plant scale, this country has made little progress since then because industry has not been given the incentive. I believe that setting production goals of 500,000 barrels a day by 1985, as in H.R. 4930, is the incentive that should catalyze the synthetics programs.

In the Northeast we are particularly interested in major liquefaction projects but advanced gasification techniques cannot be ignored because they are a vital source for petroleum substitutes.

I urge my colleagues to support this bill. I also want to congratulate Mr. McDADE and Mr. YATES for bringing it to the floor. It is a genuine energy supply bill.●

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Chairman, I rise to thank the distinguished chairman of the committee, the gentleman from Illinois (Mr. YATES), and his fine ranking minority member, the gentleman from Pennsylvania (Mr. McDADE), for developing a truly comprehensive bill and report.

I also take this time to inquire of my chairman if I am correct to understand that the demonstration of a new coke-making technique, described by the committee in its discussion of industrial energy conservation on page 76 of the committee report, refers to the Inland Steel Corp.'s proposed project in East Chicago, Ind.?

Mr. YATES. If the gentleman will yield, the gentleman is correct.

Mr. BENJAMIN. Originally, a request for $5 million was made for this project for fiscal year 1980. Does the committee's decision not to fund this project during the coming fiscal year reflect its disapproval of the project?

Mr. YATES. No, I would say to the gentleman that is not a disapproval. The committee has taken no action because the Department of Energy has asked for time to review the proposal. That is the reason that the committee took no action. We are waiting for the report from the Department of Energy.

Mr. BENJAMIN. I thank the chairman.

I wonder if the ranking minority member would have a comment on that.

Mr. McDADE. If the gentleman will yield, I am delighted to respond to him.

I echo the sentiments of the gentleman from Illinois (Mr. YATES). We await the report. We appreciate the fact that the gentleman from Indiana brings it to our attention. We are interested in it.

Mr. BENJAMIN. I thank the gentleman very much.

A final question, Mr. Chairman.

In its report, the committee states they expect a comprehensive report on this process, its energy-saving potential and its benefits and costs in time to be considered in the fiscal year 1981 congressional budget process. As chairman of the Interior Subcommittee, what date does the gentleman believe the subcommittee should release its report in order to allow for a full and careful review prior to the consideration of the fiscal year 1931 legislation?

Mr. YATES. If the gentleman will yield, I will tell the gentleman that I would expect that report to be provided to the subcommittee early next year and it will be considered during the hearings on the fiscal year 1981 budget.

Mr. BENJAMIN. I thank the chairman and the ranking minority member.

Mr. McDADE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I will not take the 5 minutes, but I do want to commend the chairman, the ranking minority member, and the other members of this subcommittee for an excellent bill. This is a difficult bill, because we deal with a lot of matters of great interest to many groups. For example, this bill funds the Bureau of Indian Affairs. They have great needs. There is never enough money to go around for the national parks and forest development and the many other responsibilities of Government that are funded in this bill. A strenuous effort was made to bring out a balanced bill. The results are responsible in terms of building for the future and in terms of our national interest, and yet doing so with a concern for the budgetary impact.

The YCC program is funded in the amount of $27 million. Just today I received a letter from a group in the 16th district, saying what an excellent job had been accomplished this summer by the YCC group. They worked hard. They accomplished a number of items of lasting benefit in our community.

Also, it should be pointed out that an effort has been made in this bill to increase funding for the urban parks, a recognition that the urban parks have great value to people because of the proximity to our population centers. The pressures will continue to grow as people pay a high cost for fuel and as shortages continue. There is a need for recreational facilities close to the location of population centers. Historically, we have developed magnificent national parks that are scattered around the country, but in many instances they have been distant from the population centers. In this bill we have attempted to address that problem by giving strong support to the urban parks development.

There will be an increase in timber cutting that will result from the increased funding. This is vital if we are to maintain accessibility to lumber at a reasonable cost to those who want to build. It will be helpful in reducing the inflationary growth of the costs in the building industry.

The funding of the two SRC demonstration plants is important. We have gone beyond just the R. & D. stage and said, "Let us get on with the program that will produce synthetic fuels," recognizing that down the road this becomes a very vital part of the fuel needs of this Nation.

In terms of the Forest Service, there is a provision for multiple use, again a recognition that there is a growing need for the recreational aspects of forest lands.

On balance, if you take the bill as a total, it represents a good stewardship of a vital American resource, and that is the public lands. Most people do not realize that we have over 750 million acres of land that is owned by the U.S. Government. This represents one-third of all of the land in the United States, and this does not include the offshore areas that are under control of the U.S. Government, also.

As we all recognize, land is growing tremendously in value. Land is an asset that is precious to all of us, and what we have tried to do in this bill is to manage the public lands wisely for the benefit of present users and also to preserve these assets for the future.

I certainly commend to all of my colleagues the support of the bill that is before us today.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, first of all I want to say that I commend the distinguished chairman, the gentleman from Illinois (Mr. YATES), and the ranking minority member, the gentleman from Pennsylvania (Mr. MCDADE), for the outstanding leadership they have provided on this bill.

I think this bill in its totality is an outstanding piece of legislation that addresses the natural resource problems of this country, it does much for our national parks, and it funds and takes care of the critical problems facing our need to develop energy alternatives for our country.

I have one small reservation about this bill which I have expressed to my two distinguished leaders on this committee, and that deals with the National Petroleum Reserve of Alaska.

The administration does not support funding included in this bill for next year's fiscal year 1980 budget of $141.5 million to drill 5 additional wells as part of this project.

Today we have already funded drilling of 19 wells in Alaska. The administration says it is prepared now to present its view that we ought to go ahead and have private exploration and, thus, the expenditure of an additional $141.5 million simply is not required.

Now, that is just the beginning. There is money in this bill for four wells for next year, and that might cost another $191 million, plus the eventual termination cost of some $50 million, for a total expenditure of $381 million over the next 2, 2½ years.

Quite frankly, at a time when we cannot fund fully the Land and Water Conservation Fund of this country, at a time when we cannot fund the very important Youth Conservation Corps program, I am hard pressed to rationalize or justify this kind of a massive expenditure for only five additional wells.

I think it is time to turn over the National Petroleum Reserve of Alaska to the private sector so that we can get busy and develop the oil potential of this important area.

I hope when we begin dealing with amendments my colleagues will pav attention to an opportunity not to add to this bill, but to subtract from it, and to subtract from it in the two following fiscal years. This is a chance to save the taxpayers of this country approximately $381 million. I think it is the right course of action. I intend, later on, to offer an amendment to that effect.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BURGENER).

□ 1700

Mr. BURGENER. I thank my colleague for yielding.

Mr. Chairman and my colleagues, I rise in wholehearted support of this bill in its entirety. As a new member of the committee assigned for the first time this year to this committee, it has been a real privilege to serve with the chairman of the committee, the gentleman from Illinois (Mr. YATES), with the gentleman from Pennsylvania (Mr. MCDADE) and all of the members of the subcommittee.

I am pleased particularly that this bill addresses itself on the one hand to energy, to things that we must extract from the ground, for our economy and our lifestyle and our security, and on the other hand in the very same document it deals with the conservation and the management of our resources and our public lands and acquisition of more public lands and the protection of our great resources. It deals in a responsible manner with both great needs.

So I think all in all it is an excellent document and a bill that should receive the overwhelming support of this committee.

Mr. YATES. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. First, I congratulate the chairman of the subcommittee, the gentleman from Illinois, and the ranking minority member, the gentleman from Pennsylvania, for their efforts in preparing this very important bill. I am disappointed that the schedule change bringing H.R. 4930 to the floor for consideration today has made it impossible for me to offer an amendment which would have restored $159 million to the land and water conservation fund of the Heritage Conservation and Recreation Service. If the bill had been brought before the House in the orderly manner scheduled, I would have submitted an amendment. Such an initiative on my part is, of course, unrealistic when the bill is presented so suddenly and ahead of schedule.

A few words should be said about the history and public benefits of the land and water conservation fund.

A special fund to acquire public parklands and related recreation resources and to aid in the development of State and local recreation resources was a central element of the report of the bipartisan Federal Outdoor Recreation Resources Review Commission in 1962. The Land and Water Conservation Fund Act was passed in 1965, again with strong bipartisan support. In the first 13 years of the fund some 22,000 State and local planning, acquisition and development projects have been undertaken with assistance from this program. Resources made available through the land and water conservation fund annually reach every State in the Union, the District of Columbia, and the territories through a population-based formula. From time to time since its original passage the Congress has recognized the constructive social and environmental significance of the fund, and has increased authorization levels for the program consistent with escalating acquisition and construction costs. In 1976 the Congress, by the overwhelming vote of 392 to 3 approved the present ceiling of $900 million.

State and local projects are essentially selected by the respective State, with Federal overview; thus, there is a direct relationship between the perceived needs of the people and application of resources.

Let me speak directly to a concern that I personally share with most of the Members of Congress—fiscal responsibility. If we were to look closely at every single program—Federal, State or other—the land and water conservation fund stands out as one of the Nation's more responsible and responsive, for several reasons: First. The Federal State matching ratio remains at 50 percent. Those familiar with Federal assistance will recognize that this is favorable to the Federal Government when compared to most other programs. While some users and potential users are concerned with this ratio, it remains one of the most conservative of all grants-in-aid programs.

Second. All of the long-term costs of project operation and maintenance are borne by State or local participants. They make that legal commitment when they receive the grant. The Federal Government has no further obligation.

Third. The program leverages significant amounts of local financial support; frequently more than five times as much as the Federal contribution.

Fourth. Funds allocated to each State must be legally obligated within a 3-year period. While the demand is such that over 90 percent of the funds are obligated in the first year, the program allows State and local governments to more rationally plan and arrange for their fiscal contributions.

Mr. Chairman, in the current situation of energy shortages and rapidly rising gasoline costs, visitor use of more close-to-home recreation and tourism resources has substantially increased, while use of more distant parks—accessible principally by auto—has dropped substantially. This seems to me no time to be cutting back on quality recreation facilities which can be made available close to home for most people.

I believe that the cuts made by the Appropriations Subcommittee, however well-intentioned they may have been, were ill-advised and unfortunate. I hope that they will be restored in the other body, and that the conferees on the House side will agree to adequate funding for these programs, at least at the level requested by the administration.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. YATES. I would like to assure the gentleman that the members of the subcommittee are as fully appreciative of the value of the land and water conservation fund as is our good friend from Washington.

It was only the budgetary constraints in this bill which required us to make the reduction in the fund for this year. I would like to assure the gentleman that, except for those restrictions, we would not have made that cut.

I would also like to assure the gentleman that it is my anticipation that if the Senate does restore that part of that funding, that it will receive very serious and sympathetic consideration from this committee when the committee goes to conference.

Mr. McCORMACK. The gentleman has already answered the question I anticipated asking him: If the other body does fund the program to the administration level, will he support it?

Mr. YATES. Well, I do not think that any Member of the House likes to precondition his going into a conference, but as I indicated to the gentleman, I anticipate the Senate may put additional funds in, and as conferees, we will give that figure our very serious and sympathetic consideration.

Mr. McCORMACK. I thank the gentleman.

I wonder if the gentleman from Pennsylvania has any sort of response.

Mr. McDADE. Well, the land and water fund is a program we all support. You support it. I support it. Everybody here does. As the gentleman knows, this is a very difficult bill with which to deal. We are now over the budget, far beyond our widest expectations because of the inadequate budget that was sent to us from downtown.

I am not going to offer the gentleman a commitment. The land and water fund is a marvelous vehicle. We all regret the fact that it had to be cut. We will look to see what the Senate does and try to work out agreements.

Of course, we all claim some partnership with the land and water fund. We all think it is a marvelous institution. We support it, and we intend to support it to the best of our abilities.

Mr. McCORMACK. I thank the gentleman.

I would like to comment that I believe that going over the budget as you have was a commendable thing to do. I have dealt with parts of this budget myself and very much agree with the gentleman that the programs were unconscionably underfunded by the Department of Energy, in particular with which the gentleman was dealing. So in this case I think you are serving America well by providing the adequate funding.

Mr. McDADE. I thank my friend. I want to assure him as well that I know that the chairman and I expected this bill to be on the floor tomorrow, so I just want to assure the gentleman that there was no effort on our part that this bill was called up for reasons that are beyond my knowledge, but we thought we were going to be on the floor tomorrow.

I want to assure the gentleman there was no effort to prevent him from having any full discussion about it.

Mr. McCORMACK. I completely understand.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. YATES. Mr. Chairman, I yield 15 additional seconds to the gentleman from Washington.

Mr. McCORMACK. I was going to say that if the bill had been considered on Wednesday, I would have submitted the amendment. As it is, I will trust now to the gentleman's judgment and leadership.

Mr. GINN. Mr. Chairman, I share the Member's deep concern about the committee's recommendation on the land and water conservation fund. This program has, since it inception, been one of the most effective of all Federal programs. The lay public strongly supports it and public officials responsible for general government and park system planning and development hail its social and environmental benefits.

I submit for the RECORD, Mr. Chairman, a table which shows, on a State-by-State basis, the difference between the administration's funding level and that of the Appropriations Committee.

Mr. Chairman, I sincerely hope my colleagues will, in the final analysis, report a bill which more closely resembles the administration's request.

LAND AND WATER CONSERVATION FUND ASSISTANCE TO STATES, ESTIMATED FISCAL YEAR 1980 APPORTIONMENTS

State	Level	Level	Difference
Alabama	$5,907,571	$3,240,744	$2,666,827
Alaska	2,841,988	1,712,354	1,129,634
Arizona	4,777,345	2,674,188	2,103,157
Arkansas	4,198,452	2,392,677	1,805,775
California	26,396,943	13,396,780	13,000,163
Colorado	5,224,978	2,895,791	2,329,187
Connecticut	6,049,593	3,302,836	2,746,757
Delaware	3,122,718	1,851,495	1,271,223
Florida	11,477,293	5,999,073	5,478,220
Georgia	6,975,666	3,775,649	3,200,017
Hawaii	3,467,163	2,022,045	1,445,118
Idaho	3,071,018	1,829,465	1,241,553
Illinois	14,412,081	7,461,872	6,950,209
Indiana	7,727,098	4,145,420	3,581,678
Iowa	4,778,450	2,684,246	2,094,204
Kansas	4,446,773	2,515,608	1,931,165
Kentucky	5,360,917	2,973,054	2,387,863
Louisiana	6,116,366	3,344,388	2,771,978
Maine	3,327,690	1,957,176	1,370,514
Maryland	7,007,814	3,780,464	3,227,350
Massachusetts	9,271,172	4,899,566	4,371,606
Michigan	12,235,043	6,379,939	5,855,104
Minnesota	6,274,003	3,422,649	2,851,354
Mississippi	4,206,190	2,400,052	1,806,138
Missouri	7,074,463	3,822,052	3,252,411
Montana	3,068,448	1,827,402	1,241,046
Nebraska	3,823,123	2,203,709	1,619,414
Nevada	3,168,891	1,873,810	1,295,081
New Hampshire	3,248,993	1,915,785	1,333,208
New Jersey	10,850,325	5,685,008	5,165,317
New Mexico	3,405,265	1,995,691	1,409,574
New York	22,572,906	11,507,838	11,065,068
North Carolina	7,026,535	3,807,072	3,219,463
North Dakota	2,989,589	1,787,856	1,201,733
Ohio	13,843,893	7,181,109	6,662,784
Oklahoma	4,964,609	2,771,992	2,192,617
Oregon	4,656,059	2,616,789	2,039,270
Pennsylvania	15,055,276	7,782,593	7,272,683
Rhode Island	3,606,292	2,090,553	1,515,739
South Carolina	4,919,759	2,751,559	2,168,200
South Dakota	2,985,954	1,786,696	1,199,258
Tennessee	6,477,826	3,524,677	2,953,149
Texas	15,222,471	7,865,932	7,356,539
Utah	3,798,167	2,186,742	1,611,425
Vermont	2,807,335	1,697,308	1,110,027
Virginia	7,295,492	3,930,936	3,364,556
Washington	6,074,830	3,320,704	2,754,126
West Virginia	3,940,823	2,264,065	1,676,758
Wisconsin	6,787,121	3,680,104	3,107,017
Wyoming	2,750,125	1,668,163	1,081,962
District of Columbia	1,309,701	704,376	605,325
Puerto Rico	4,659,282	2,550,848	2,108,434
Virgin Islands	103,109	58,400	44,709
Guam	111,523	63,166	48,357
American Samoa	34,489	19,534	14,955
Contingency	12,000,000	12,000,000	0
Total	359,307,000	200,000,000	159,307,000

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I would like to sincerely commend the distinguished gentleman from Illinois, the chairman of this committee and the ranking member, the gentleman from Pennsylvania, for the genuinely outstanding job that they did in putting this bill together.

I want to note that this bill appropriates a modest $4 million to start implementation of the Tribally-Controlled Community College Assistance Act of 1978.

In the report accompanying the bill, the Bureau of Indian Affairs is instructed to give priority in grants to academic institutions serving Indians which are already accredited, and to give "special consideration * * * to those institutions with financial difficulties which, without a grant, would be unable to operate during the upcoming school year."

Since institutions in this "special consideration" category are most in need of prompt action in making those grants by the Bureau of Indian Affairs, I would like to propound a question to the distinguished chairman of the subcommittee (Mr. YATES):

I understand that the Bureau of Indian Affairs has already conducted some preliminary feasibility study work under contract in order to implement the Tribally-Controlled Community College Assistance Act when it was funded by an appropriation.

In fact, the College of Ganado, as one example, was the subject of two separate visitations by the BIA contractors earlier this year.

As you know the fiscal year starts in October, the school year in September.

Owing to the short period of time remaining to consider and approve grants for those financially threatened institutions, eligible for support under the committee's "special consideration" category, is it the intention of the committee that the BIA will satisfy the law by utilizing the preliminary feasibility study work, already conducted, in order to get funds approved for these eligible institutions promptly? This is necessary so that they will know their circumstances and be able to count on support at the beginning of the academic year.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Illinois.

Mr. YATES. It is my understanding the law requires feasibility studies. It is my understanding that studies that have been partially made, and when completed, should satisfy the requirements of the law.

Mr. RUDD. I thank the chairman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I want to commend my friend for bringing this matter to our attention. I share the views expressed by my friend from Illinois. The gentleman can be assured we will do our very best to work with him.

Mr. RUDD. I thank the gentleman.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, when I came before the Subcommittee on Interior of the Committee on Appropriations in May, I said to our colleagues that the time has come to pay the piper on the matter of the Boundary Water Canoe Area Act of 1978. The House last year promised the people of northern Minnesota that in exchange for converting the BWCA into total wilderness, the House would provide funding for programs to ease the economic burden caused by imposing virtual total wilderness status on the area.

This House gave final approval to the Boundary Waters Canoe Area Wilderness Act of 1978 in the last hours of the 95th Congress.

I opposed the legislation because I felt it was not in the best interests of the people I represent in the House. While I supported the termination of logging and mining in the Boundary Waters, I could not support the extensive restrictions that legislation imposed on existing motor use of the area.

The Congress, however, determined that the restrictions were in the national interest. Those restrictions are now law.

In enacting those restrictions, the Congress recognized the impact they would have on the economy and the way of life of the people of the rural area surrounding the Boundary Waters Canoe Area, and included programs to mitigate that impact in Public Law 95–495.

That law specifically recognizes that our economy in northern Minnesota is heavily dependent on timber-harvesting and a recreational/tourism economy which consists of small, locally owned and operated businesses.

Northeastern Minnesota needs programs designed to help individual businesses adjust to the restrictions imposed on the use of the BWCA, to help the small communities and the region adjust to the changes imposed by the law, and to replace the lost timber yield of the Boundary Waters Canoe Area.

Congress made a commitment to the people of my district to ease the adverse economic impact of the conversion to wilderness. Many of my colleagues in the House relied upon that commitment in voting for this legislation during the 95th Congress. They felt the people would be well cared for, economically, under the new law.

To the people I represent, the mitigating programs of economic adjustment are just as integral to the law as the restrictions.

To the private citizen in Minnesota, the difference between authorization and appropriation means little, if anything.

I speak not just of those who opposed restrictions, but for Minnesotans of all opinions on the BWCA issue. Full appropriations have been endorsed by not only the people of the area but by the advocates of total wilderness as well—including the Friends of the Boundary Waters Wilderness.

Our Minnesota congressional delegation stands united behind the appropriation of funds for the programs authorized under Public Law 95–495.

□ 1710

The Appropriations Committee has done a commendable job on a bipartisan basis in providing those promised funds. I want to thank the chairman of the subcommittee, Mr. YATES, for his diligence in putting up with the numerous meetings I have had with him and requests and pleas that I have made to him and to the gentleman from Pennsylvania (Mr. McDADE) the ranking minority member of the subcommittee, and the gentleman from Ohio (Mr. REGULA). They have spent a considerable amount of time helping work out funding for the programs that are so needed to do justice to the people of northeastern Minnesota.

The committee has recommended $10,891,000 in direct appropriations and $3,000,000 from the Land and Water Conservation funds for the purchase of resorts as provided in section 5 of Public Law 95–495.

In recommending $13.9 million, the Appropriations Committee added $3.3 million to the administration fiscal year 1980 budget request. I commend the committee for this addition. As the report to accompany the bill notes, the committee did not feel the administration request was adequate. The report understates the deficiency of the administration budget request.

The entire Minnesota congressional delegation requested and continues to support an appropriation of $17.4 million. The Forest Service has developed a program for implementing the law which would require that appropriation.

While the Appropriations Committee did not fund our full request, it made additions to the administration budget in the most critical areas and provides full funding for the State of Minnesota's intensive forest management program and for assistance under section 19 to resorters and outfitters impacted by the law.

During the coming fiscal year, the Forest Service should use appropriated but unobligated funds for BWCA programs in addition to the specific appropriation.

The issues of timber and of recreational trails construction are two components of the committee recommendation that raise a question. The committee has provided substantial funding above the rather penurious request made by the administration, but left a gap between what I proposed and what was actually appropriated by the committee for timber haul and access roads to actually go into the areas of the Superior National Forest outside of the Boundary Waters Canoe Area and harvest the timber that is available. The chairman has advised me funds could be made available if the Superior National Forest were to request those funds from the U.S. Forest Service national appropriation beyond the special BWCA funds, and I refer to the additional $88 million increase the committee has provided for the Forest Service. I wonder if the chairman could amplify on that.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the chairman of the subcommittee.

Mr. YATES. Mr. Chairman, I would certainly be of the opinion that the funds we have made available to the Forest Service for all programs that make up the Forest Service would be available to the Superior National Forest as well, and that the funds that we have itemized specifically for carrying out the agreement for the Boundary Water Canoe Area of the Forest Service would certainly not limit the application of funding to that area.

Mr. OBERSTAR. I want to thank the chairman for that elaboration. The Forest Service then is not limited to those specifically mentioned funds, but can draw upon the additional increase provided by the committee? That will be so important to northeastern Minnesota. I must say that with these funds and those approved by the House in the Agriculture Appropriations bill for direct loans to small businesses, we are beginning to meet the commitment made to the people of Minnesota.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. YATES. I yield the gentleman 1 additional minute.

Mr. OBERSTAR. I also want to thank the gentleman for his consideration of the peat gasification program, which means so much to northeastern Minnesota and the whole country. Minnesota has about half of the Nation's reserves of peat. The peat gasification work that will continue under the $6.7 million recommended by this committee will be enormously significant to the Nation's energy program.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, the Interior appropriations bill for fiscal year 1980 is a comprehensive and meaningful bill deserving of our fullest support.

I would like to applaud my colleagues on the House Appropriations Committee for their willingness to address a number of key issues in a realistic and responsible fashion.

I am particularly grateful to the distinguished chairman of the Interior Subcommittee, the gentleman from Illinois (Mr. YATES), for the opportunity he afforded me to have direct input in the development of this legislation from its earliest stages. The open fashion in which his subcommittee considered the bill permitted me the opportunity to address a number of key issues affecting the management of our public lands, the conservation of our natural resources, our efforts to achieve energy independence and the educational and health needs of our Native Americans.

In submitting its budget request earlier this year, the administration chose a different set of priorities. The changes the committee has made to reestablish priorities which we in the Congress believe represent a sound investment in our natural resources. Dollars spent wisely and cautiously today to develop renewable resources will greatly increase the strength and wealth of our Nation.

The bill provides funding for a number of programs of particular significance to the north coast of California. Of particular note is the recognition given to the reforestation needs on our national forests. The bill provides the funding necessary to implement a more effective reforestation effort. For many years, we have sought to increase the dollars available for this work and I am pleased to be a part of this effort.

The budget recommended for the Forest Service will give them the tools they need to do the kind of job we expect of them and will allow us to protect the valuable investment we hold in our forests.

At the same time, the bill provides funding which will permit the U.S. Forest Service to increase timber sales to 12.2 billion board feet in fiscal year 1980 in line with the President's recommendations made on June 11.

I support the administration's efforts to increase timber supplies as a means of holding down housing costs and reducing inflation. The increase in the allowable cut on our public lands will be balanced by our increased reforestation program, sound wildlife management, soil protection and water quality enhancement.

Another item of great importance to northern California is the payments-in lieu-of-taxes program administered by the Department of the Interior. As originally setup by those of us on the authorizing committee, the payments go to our counties to help offset the loss in revenue associated with public ownership of land. I applaud the willingness of my colleagues on the Appropriations Committee to provide adequate funding for the program and I support their interest in insuring the most accurate and up-to-date information on which the Department bases its payments each year.

Another issue of concern to all rural areas such as our north coast is the animal damage control program administered by the U.S. Fish and Wildlife Service. The bill maintains the 1979 funding level for the on-the-ground portion of the program. This ongoing program has a direct impact on the ability of our ranchers and farmers to minimize losses to predators and can often mean the difference between staying in business and going under.

In addition, the budget for the Fish and Wildlife Service contains funding for a propagation program for the endangered California condor. Many of my constituents have worked hard to protect this species and I commend the committee for moving ahead in this area.

Funds provided in the bill will also finance the construction and rehabilitation of fish hatcheries and wildlife refuges giving us the means of preservnig and enhancing our anadromous fish resources.

We are in the process of initiating a major effort in northern California for the revitalization of anadromous fish habitat through watershed protection and stream improvements. The program funded under this legislation coincides with our ongoing efforts and increases our ability to meet our goals.

Our energy needs are also addressed in this legislation. The committee has rightfully stated our need to face up to the threats to our security imposed on us by the OPEC oil cartel. Critical research and development goals and major conservation initiatives are set forth in the bill.

As a major energy consumer, the Federal Government is being called upon to foster greater conservation in its own facilities. The Department of Energy is also directed to undertake an aggressive fuel savings program by developing wood energy as a safe, economical, and environmentally acceptable alternative energy source.

The action being taken by the House today also closely coincides with previous action taken to develop a synthetic fuels program. A meaningful energy package would be incomplete without addressing this energy source.

The committee has given careful consideration to all the facts and details made available to them by more than 40 days of hearings and countless witnesses. I believe the end product of their work is a balanced and responsive bill. I urge my colleagues to support its passage.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I want to express my appreciation to the members of the Subcommittee on Interior Appropriations for their favorable consideration of my request to include funding the acquisition and reconstruction of the Thomas Stone National Historic Site which is located in my district in Charles County, Md. Last year my amendment to the omnibus national parks bill authorized the Park Service to proceed to acquire this historic building, but no funds were provided in the President's budget this year to carry out this project.

Through the wisdom of the subcommittee and with the guidance of the gentleman from Illinois (Mr. YATES) and the gentleman from Pennsylvania (Mr. McDADE), the full funding for this worthwhile project has been included in the bill. I know that the citizens of Maryland, particularly those in Charles County, the members of the Maryland Historical Trust, and those interested in historic preservation will applaud this action as I do.

Mr. Chairman, I would again remind the House that located only a scant 25 miles from Washington, D.C., the Thomas Stone site will be within easy access to the many hundreds of thousands of citizens who would enjoy seeing an authentic working colonial plantation which has as its major feature a home unique in its architecture. On the grounds are buried Thomas Stone, one of Maryland's four signers of the Declaration of Independence and a leader in our colonial history, and many of his family.

I am informed by officials of the National Park Service that with this funding they will be ready to proceed to immediate acquisition and eventual restoration and I again thank the committee for making this progress possible.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Chairman, this is the bill that Mr. Kirwan, that great old gentleman from Ohio, the former chairman of this subcommittee, used to call the bill for all America.

It goes without saying that I support this bill. I want only a few moments to tell the House what I think of the chairman of this committee and his work. Most of us come to the House representing a fairly narrow congressional district, and we bring with us parochial views which reflect that constituency.

Our chairman, Mr. YATES, may have had those characteristics at one time; I do not know. But I do know that during the period of time that I have served with him on this committee his attitudes and his actions have been characterized by the converse of parochialism. His views are most cosmopolitan; whether the subject matter is art or trees, the environment or the economy, energy or antiquities, the chairman displays the empathy and the understanding of the Nation's problems that characterized his understanding of international problems during his service at the United Nations. He has been a great chairman, and he is a great Member of this body, and he has produced another bill that we can truly call a bill for all America.

Mr. YATES. Would the gentleman like another 10 minutes to continue?

Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, it is difficult to follow up on what the gentleman from Oregon has just said.

I would ask the gentleman from Illinois (Mr. YATES) if he might clarify something in the committee report on page 100. It indicates there is approximately $40,000 appropriated for the Franklin Delano Roosevelt Memorial Commission. As a former leader of my party, I naturally want to commemorate him. But a couple of my constituents notified me that in front of the Archives there is a memorial and it quotes the former President as saying "If any memorial is erected to me, I know exactly what I want it to be. I should like it to consist of a block about the size of this (putting his hand on his desk) and placed in the center of that green plot in front of the Archives Building. I do not care what it is made of, whether limestone of granite, or whatnot, but I want it plain without any ornamentation but the simple carving 'In memory of ——.' "

Mr. Chairman, on April 12, 1965, 20 years after the death of the former President, that memorial was placed in front of the Archives. So I would ask the chairman what is the purpose of the Memorial Commission and how long has it been appropriated, and what does the chairman expect to come out of it?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the chairman.

Mr. YATES. The Memorial Commission is in existence pursuant to legislation passed by the Congress.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. YATES. Mr. Chairman, I yield myself 1 additional minute.

The Commission has been laboring year after year to produce a monument that will satisfy not only the memory of the great President, but also the tastes and the esthetics of the various groups and bodies that have to approve that memorial. I would say to the gentleman that earlier this year the Franklin D. Roosevelt Memorial Commission proposed a plan that would have cost in the neighborhood of $46 million to $50 million, but it was made clear to those who proposed the plan that while it may have been esthetically desirable it was not economically attractive and so funds to construct that design were rejected.

May I say to the gentleman the Commission is still in operation because the legislation is still in operation, still in force and effect and the Commission is working. The funds we have appropriated pay only the minimum expenses for keeping the Commission in existence.

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Mr. Chairman, I yield 1 minute to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I want to associate myself with the comments made by the gentleman from Washington (Mr. MCCORMACK) earlier in the colloquy this afternoon. In addition, I feel that the gentleman from Oregon certainly hit the nail on the head in addressing, I think with some eloquence, the tremendous accomplishments of the chairman of the committee in this bill.

Mr. Chairman, I would like to bring to the attention of my colleagues the recommendation of the Interior Committee regarding the land and water conservation fund.

I feel that the committee's recommendation of $200 million for the State/local portion of this fund is terribly inadequate. This funding is essential for State and local park and recreation programs for the acquisition and development of park projects. I know of several instances where these funds enabled a park project to be built where it otherwise would not have been possible.

The committee approved $447,059,000 for the land and water conservation fund, $162,941,000 below the administration's $610 million request. Under this proposal $200 million would be available for grants to State and local governments, and $6.693 million would go for HCRS administrative costs. The committee's action represents a reduction of about $150 million in the administration's recommended funding for State and local grants. If this reduction is sustained in further appropriation actions each State share would be reduced by about 45 percent below the current fiscal year. South Dakota will be reduced from $2.99 million to $1.79 million.

In this period of energy shortages it has become essential that recreational facilities are available to people within their community. The reduction in funding for this program would seriously curtail the development of local facilities. Therefore, I ask the conferees to strongly consider the restoration of $159 million for this program.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I take this time to congratulate my colleague from Illinois (Mr. YATES) and the gentleman from Pennsylvania (Mr. MCDADE) for the excellent job that they have done in the field of energy, particularly as it concerns my subcommittee. I had sent out a "Dear Colleague" letter, together with the ranking minority member on the subcommittee, the gentleman from New York (Mr. FISH), the gentleman from Iowa (Mr. HARKIN), and the gentleman from California (Mr. BROWN) expressing some concerns about where more funds could be used very advantageously to advance energy efficiency, particularly for more efficient automobile engines, industrial efficiency, cogeneration, conversion of waste to energy, and appropriate technology.

I am pleased to report that the gentleman from Illinois and the gentleman from Pennsylvania agreed to go a substantial way in meeting those concerns and will offer an amendment to expand the conservation appropriation in this area. Unfortunately we were not able to come to agreement on appropriate technology, and there will be an amendment offered which shows great promise.

This bill recognizes the importance of balancing energy production and energy conservation. Though I am concerned about the impacts of an excessive synthetic fuels program, it is definitely time to move ahead in this area.

The chairman and members of the committee have done a generally fine job with respect to this bill, and I am very pleased to give them my wholehearted support.

The July 23, 1979, "Dear Colleague" letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1979.

Subject: Interior Appropriations Floor Amendment.

DEAR COLLEAGUE: There is a source of energy that produces no waste, nothing in the way of petro dollars, reduces pollution and directly benefits the user be they individuals, companies or communities. It is also much cheaper than imported oil or domestic synthetic fuels. Unhappily this energy source has not received the attention it deserves. The source might be called improved energy efficiency, but more commonly it is known as conservation technology.

We are deeply concerned that in addition to the Department of Energy the Appropriations Committee has not recognized the priority this program merits. The reported conservations appropriations are far from that considered necessary to meet the President's short term energy goals!

Because of this situation we plan to support a floor amendment which will increase the interior and related agencies appropriation by $70.2 million.

The increase is shown by specific project on the reverse side of this letter.

Should you be unfamiliar with the merits of these increases we have summarized them below:

Transportation energy research, plus $20.9 million.

More efficient automobile engines for improved mileage and fuel flexibility including alcohol.

Industrial efficiency and cogeneration, plus $14.5 million.

By the year 2000 the expected payoff of these additional projects will be a 1.6% reduction in energy demand equivalent to $3.2 billion a year.

Conversion of waste to energy, plus $23.3 million.

If the energy in waste were recovered it could provide an additional two quadrillion BTU's of energy by 1985 which is equivalent to 13.4 billion automobile miles.

Appropriate technology, plus $11.5 million.

The one federal energy program which supports energy innovations proposed by individuals. Two-thirds of the evaluated good ideas will be dropped because of inadequate funding.

We thank you for your interest and would appreciate your support.

TOM HARKIN, M.C.
GEORGE E. BROWN, Jr., M.C.
RICHARD L. OTTINGER, M.C.
HAMILTON FISH, Jr., M.C.

Mr. YATES. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I want to associate myself with the remarks of my colleague from Oregon, BOB DUNCAN, as to the great leadership that Chairman SID YATES has given this committee. I also want to say that the ranking minority member, the gentleman from Pennsylvania (Mr. MCDADE) has steadfastly given leadership in this committee in the path that is a very right and good one.

I want to thank both of these gentlemen and all members of the committee for what they have done for the forestry community, for the Forest Service, and for the funding of this great national agency which manages our great national forests.

I also would like to inform the Members of the House that I will be offering two amendments, however, to the bill. One is to strike $1.5 billion for synfuels, and the other amendment is to strike $18 million for synfuels and add it to reforestation and slash energy from our forests.

Mr. FISH. Mr. Chairman, I rise to support an amendment to H.R. 4930 which will allow an extremely promising energy option to be funded at an appropriate level. This amendment will provide $5 million for the loan guarantee program for constructing municipal waste-to-energy demonstration facilities. The municipal waste-to-energy program offers the potential for making fuel out of waste materials which otherwise would be discarded, and at the same time contributing to meeting our future energy needs. Our Nation can obtain 2 quads of energy from this resource by 1985, enough to provide an additional 1,000,000 barrels of oil per day.

Driven by the increasing demand for disposal sites to dump the waste generated by our cities, as well as by the need for cheap, domestic sources of energy, our Nation has become increasingly aware of the promise of "trash power." Waste materials from cities represent a large resource of energy, and I believe that we would be remiss if we did not expedite the building of additional facilities that can put this resource to use.

I was deeply disappointed to see that the Administrations Committee has not recommended any funding for the loan guarantee program. Consequently, I am afraid that the committee has overlooked a strong tool that can help us tap the promising energy contribution which can be made by the municipal waste-to-energy program. Substantial progress has been made in the loan guarantee program, and the regulations for this program have now been finalized and released. As a result, I think the program has reached the stage where funds should be provided for actual loan guarantees for the construction of demonstration facilities.

Many municipalities cannot afford to construct municipal waste-to-energy plants by themselves. We must find ways to help these municipalities take advantage now of the energy potential of urban wastes. Several municipalities have already expressed much interest in the municipal waste-to-energy program, and are anxiously awaiting the time when they can apply for Federal loan guarantees. In fact, as many as 30 to 40 communities would probably apply for loan guarantees if funding were available now. On numerous occasions my staff has been contacted by various executives as to when loan guarantee budget authority would become available. Without this authority, I am afraid that municipalities will not press forward at the present time with the construction of these facilities.

We can produce substantial amounts of energy from this resource in the immediate future if we permit Federal loan guarantees for the construction of facilities to convert municipal waste-to-energy. In its authorization bill for fiscal year 1980, the Committee on Science and Technology has recognized this fact, and has authorized over $10 million for the loan guarantee program. We need money in the Federal Treasury account now in order to underwrite the $300 million in budget authority provided for the program. Otherwise, no bank will accept at the present time any Federal loan guarantee as valid. Our energy shortage is a national problem and the solution should not be an expense solely on any one municipality.

Mr. Chairman, the facts about this program indicate that this is an investment that we should not reject. For this reason, I urge my colleagues to support this amendment.

● Mr. CORRADA. Mr. Chairman, while I support this legislation, I am greatly disturbed by the cut of $160 million from the land and water conservation fund. This cut represents a 45-percent reduction in funds for this program; and yet there is not one objection that has been raised as to the value of this program for our cities and States. All States will be affected by this cut. The reason given for the cut was budget constraints.

I am sure we all agree that the budget does need some trimming, but not at the expense of programs such as those under the land and water conservation fund.

I hope that this action today does not set a precedent for further cuts in this important program. Should the House again have the opportunities—through a supplemental appropriation or in the fiscal year 1981 budget to consider this program, that we calmly and collectively explore the merits of the program. I trust that this study will lead to a restoration of full funding for this program.●

● Mr. CONTE. Mr. Chairman, I rise in support of H.R. 4930, the Interior and related agencies appropriations bill for fiscal year 1980. This was my first time sitting as a member of this subcommittee and it was a great pleasure for me to work with the very distinguished chairman (Mr. Yates) and ranking minority member (Mr. McDade) and indeed with all of the members of the subcommittee. This is a very able and dedicated subcommittee.

This particular appropriations bill covers a broad range of Federal programs which are of interest to every American. Included in this bill are funds for the preservation and restoration of millions of acres of forest and rangeland, funds for national parks and local recreation projects; for wildlife preservation; for assistance to Indian tribes and to the territories; funds for the continuation and extension of our cultural programs and funds for a myriad of fossil fuel development and energy conservation programs.

I think I can say without any exaggeration that this bill provides funds to continue and initiate programs that are of immediate and vital concern to the economic growth and stability of this country.

Dramatic increases in funding are required for a number of energy programs so that we may develop our domestic energy capacity. We are going to move ahead with a synthetic fuels industry in this country. It is long overdue. This bill provides $1.5 billion for synthetic fuels development but I would encourage all of my colleagues to take the time to read the additional views included in the report. We have the technology to produce synthetic fuels. We know from just our most recent experiences that our dependence on OPEC oil is such that even a minor disruption can cause chaos in the country. We are going to develop a synthetic fuels industry in order to control our own destiny. We must recognize that the issue we face is independence from OPEC. Yes; it is going to cost a lot of money but what price should be considered too great to insure the security and continued economic prosperity of this Nation?

And if we look askance at cost estimates of $25 to $40 a barrel for different types of synthetic fuels, we would do well to note the recent Joint Economic Committee report which indicated that when we consider the indirect costs of paying for imported OPEC oil, the cost of that OPEC oil is actually $90 a barrel.

I would also commend to my colleagues' attention the committee's action in including in this bill $141.5 million not requested by the administration for continued exploration activities on the national petroleum reserve in Alaska. The reserve is one of the few remaining unexplored onshore areas in the United States with potential for a significant discovery of oil. Even if the administration is serious about turning the reserve over to private drilling and exploration, I do not think it is wise for us to discontinue all exploration activities for the 2 to 6 years it might take to gear up for private industry exploration.

Several weeks ago this House rejected by an overwhelming margin an administration deferral request pertaining to exploration of the reserve in fiscal year 1979. I trust the sentiment of the House has not changed.

This bill also contains increased funding for reforestation. I strongly support the committee's efforts to eliminate the reforestation backlog and believe that this will become of increasing importance to the Nation.

Finally, I would like to say that even as we attempt to address our massive energy needs while protecting as best we can our natural resources, we remain aware that inflation is a serious problem that we cannot neglect. Holding the line on Government spending is critical to our efforts to contain inflation. We have gone over the budget in this bill in several areas which we felt were of absolute necessity to the well-being of this country. We did make some program cuts, most notably in the State grant portion of the land and water conservation fund. These were not easy decisions but they were necessary.

We have tried through this bill to provide the funds necessary to build our energy capacity while keeping in mind the need for budgetary restraint to control inflation. I ask my colleagues to keep this in mind when amendments are offered later to increase funding for certain programs.

Mr. Chairman, this is a well balanced bill and I am pleased to support it.●

Mr. McDADE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. YATES. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read title I.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the bill be read by title, and that title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

For necessary expenses in carrying out the provisions of section 104 of Public Law 94–258, $145,927,000, to remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. Dicks: At page 15, line 35, strike line 15, beginning with the word "EXPLORATION"; all of line 16; all of line 17; all of line 18; and all of line 19, ending with the word "expended".

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Chairman, I rise with an amendment today to strike $141.5 million in this budget which is earmarked for the national petroleum reserve in Alaska for drilling five additional wells. Now, in offering this amendment I must say that I took some time to investigate this program. Up to this point, in the national petroleum reserve of Alaska we are already drilling 19 wells. We have more drilling information about this area than we have had for almost any other area that we have leased and developed in the history of this country.

What is in this budget for next year is money for five additional wells, and also money to drill four in the following year. What is that going to cost the American taxpayers? It is going to cost the American taxpayers potentially another $190 million plus the $141.5 million I previously mentioned. Then, in the following year, to terminate the drilling program we would have to spend an additional $50 million, for a total of somewhere around $381 million of taxpayers' money.

Now, I am just as concerned as anyone is about trying to do something about the energy problems of this country. I think the best way to do it is to let the private sector take over this project as soon as it can. I am told by the Department of the Interior that they are going to come to the Congress asking that we approve private exploration in the national petroleum reserve of Alaska, and they are going to forward legislation to that effect.

In my judgment, that is the way to proceed. We can do that; let the private sector invest the money necessary for exploration. It will not just be the kind of exploration we are doing here, which is very minimal. It will be complete commercial exploration which I think makes a lot more sense, and can save us over this next 3 years the amount I have mentioned, some $381 million.

I would also like to mention that the drilling we are doing is not likely to determine whether this is really a commercial quantity of oil available. This is merely just to do exploratory drilling in various areas of the Reserve. The resource assessment based on the 19 wells to be drilled through 1979, plus the 11,000 miles of geophysical data which has already been gathered, I think is adequate to do the job. I do not think we need to invest this additional amount of public money.

In summary, Mr. Chairman, I would just like to say that I have been deeply concerned about several programs in this budget that have not been funded sufficiently. One is the land and water conservation fund, and the other is the Youth Conservation Corps. I just ask this question to all the members of the committee: Are our priorities correct? Should we not at this time be giving full funding to the Youth Conservation Corps instead of funding it at less than half its authorized rate; and should we not be doing more for the land and water conservation fund, which is $159 million short of its authorized level? These are programs that affect all Americans in this country, and provide jobs for our young people, and make it possible for people to go out into the parks. Instead of that, we are going to be spending $141 million. Five million dollars of the taxpayers' money to drill five wells, five wells that are not even of a commercial quality.

□ 1730

So I say it is time to stop this program. It is time to let the private sector develop these oil wells, and it is time to take that additional money and use it for the Youth Conservation Corps and the land and water conservation fund.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

How long have we been in this program of trying to develop oil in Alaska and drilling wells? Does the gentleman know?

Mr. DICKS. I have got the figures here in the back of my work. As I recall, we have been drilling up there for the last 4 to 5 years, since 1974.

Mr. VOLKMER. It has been several years?

Mr. DICKS. Yes. We will have 19 wells by the end of this fiscal year that will have been drilled, which will give us a sizable amount of information.

Mr. VOLKMER. Are these for oil or gas, or neither?

Mr. DICKS. They are taking samples on both accounts. We have had five core samples that I am told have very good commercial prospects. This is not a commercial-type well; it is really core drilling.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VOLKMER, and by unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. DICKS. As I was saying, they are doing core samples, and, as I understand it, five of these core samples are very, very promising. The Department of the Interior says that they have got all the information they need. We do not need to spend another $141.5 million of the taxpayers' money to drill five more unnecessary wells.

Mr. VOLKMER. Because they have already done enough drilling to determine the necessary information.

Mr. DICKS. That is right. And next year we will do another four at approximately $160 million to $190 million, plus $50 million in termination costs. That is $381 million of the taxpayers' money that I think can be better spent on parks and on the Youth Conservation Corps and other priority needs in this bill. That is why I, frankly, feel we are making a very serious mistake in continuing this program. The Department of the Interior is operating the program, and they do not even want the money. So I do not see why we should continue it.

Mr. Chairman, I yield back the remainder of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Washington's amendment, although it sounds admirable to the taxpayer, is definitely out of tune and time with the situation we are faced with in these great United States today, and that is the shortage of oil.

Less than 3 months ago the gentleman voted on this floor to lock up approximately 65 percent of the known oil resources in Alaska under the guise of protecting the environment, and not let it be available to the people of the Lower 48 as we are going to need it. Now we have the gentleman from Washington (Mr. DICKS) trying to delete the money in this budget supposedly to save the taxpayers' dollars. But let us look at the facts. The gentleman is talking about saving possibly $350 million, supposedly saving that much money if it is cut from the budget. But in reality, with the attitude of the Secretary of the Interior, they have been fighting this all the way along the line, trying to stop further exploratory work in these 23.5 million acres of land.

The fact is the good chairman had to come down with the resolution requiring them to spend the money in this year's budget, and they have stood before our committee and said—the Committee on the Interior—"we are going to come down with a plan." That plan is overdue today, supposedly for private development, and which I support. I support it wholeheartedly, but in fact they are not going to come down with that plan. If they do, it is going to be 5 or 6 years from now, and I say the committee, my good chairman, came down with a sound investment of American dollars to make sure after this plan is brought into fruition that we continue to gain the knowledge that we need when they do open it up for competitive bidding, and I say that the taxpayers will be reimbursed tenfold over what they will have if they have to bid in the dark.

A case in point is the field in Alaska, Prudhoe Bay, raised $1 billion because there had been some exploratory work done in the Prudhoe Bay area. This, Mr. Chairman, is why that went so high. I have information on the wells that have been drilled. Contrary to what the Department of the Interior is saying, the core samples are very promising. The company doing the drilling, Husky Oil, has told me privately off the record that if they had an opportunity right now, they would bid.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I will gladly yield for a short period of time.

Mr. DICKS. I thank the gentleman for yielding, and I will get him additional time if he needs it.

If the gentleman is correct, then why should we continue to invest taxpayer money in drilling another five wells? If the samples are good, let us go ahead. The Department of the Interior in a letter to me states that they can have a program underway by the end of 1981. They want to get moving. They say right here:

> How soon private exploration could begin would depend largely on how soon Congress acts on our recommendation. It is our intention to move ahead rapidly with a private program as soon as the necessary authorizing legislation is enacted.

Mr. YOUNG of Alaska. Let me reclaim my time to answer the gentleman's question. I can tell the gentleman for every five wells that are drilled, we will return our money tenfold. I do not trust this administration and their endeavors to produce oil for this great Nation. They, in fact, came to our committee, and they said they would have the report that was due to us, and they have not done so. We are dealing with an area, I think, if I am not mistaken, larger than 17 of our States. They say they have drilled 19 wells. The Department of Energy says there is no oil and gas there.

Let us go ahead with this program, use the company in place now, and gain that information. It is strange to me that we are going to try to save taxpayers' dollars for this, when we are sending abroad $60 billion for foreign oil. And we have this competitive bidding. I wonder if the Department of the Interior will ever get off its duff. They have done nothing in 2½ years to produce oil, and this is another example of the mentality of the Secretary of the Interior, Cecil Andrus, and those around him who say that we do not have to have any oil from the Arctic Slope region. He said that before our committee, that the Arctic Slope is the last place we will ever drill. The same mentality is saying, really, this is another wilderness area we ought to lock up.

In fact, it is a reserve. It was set aside as a reserve, as the gentleman from Washington (Mr. Dicks) knows. The junior Senator, Mr. Melcher, is the one who originally raised the money for this program. It is a program, I think, that has strong merit, and I urge the Members to defeat this amendment and get oil to the American people where it belongs.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Dicks, and by unanimous consent, Mr. Young of Alaska was allowed to proceed for 2 additional minutes.)

Mr. DICKS. If the gentleman will yield, I would like to point out that we have already spent $600 million of the taxpayers' money, and the gentleman, I think, knowing he is a strong believer in the private enterprise system, would like to see private development on the National Petroleum Reserve in Alaska. If the gentleman is correct and the core samples are good, then why do we not go ahead and spend this money? I am told that as long as the Federal Government is drilling there that we will not get a private sector program underway. The sooner we terminate the public sector activity, the faster we will get private exploration development which will do some good.

Mr. YOUNG of Alaska. Mr. Chairman, this administration wants no development of oil on those 23.5 million acres of land. The only way we are going to have it is if exploratory work goes forward, if the pressures become great enough upon this Congress, and we act, because this administration is not going to act.

Mr. DICKS. If the gentleman will yield further, why, then, does the Assistant Secretary state this?

Mr. YOUNG of Alaska. Who signed the letter?

Mr. DICKS. Assistant Secretary for Policy, Budget and Administration, Larry E. Meierotto. He says they want to go ahead with a private program.

Mr. YOUNG of Alaska. Nothing precludes them from doing that. Where is the program they had in advance to bring it before us? We have not got it here. Or are they going to wait until we freeze?

Mr. DICKS. I say let the private sector develop it and save the taxpayers' money.

Mr. YOUNG of Alaska. I agree with the gentleman, but let us go forward with the program at this time.

Mr. BURGENER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the testimony before the committee was to the effect that if we terminate this exploration program, No. 1, there will be very large termination costs, upward of $100 million. No. 2, there would be a delay of 5 to 6 years to start it up again. No. 3, the field is not proven and is not ready for private lease.

I cannot understand this administration. I respect the fact that the gentleman is attempting to carry out the administration's position, but just by way of reference on another matter, we have the most massive invasion of illegal aliens the Nation has ever seen, and they want to cut the border patrol. We have a crisis in petroleum, a potential crisis should there be a cutoff of imports, and they want to terminate exploratory drilling or delay it for 5 to 6 years at a very large termination cost.

Before they proved Prudhoe Bay, I am told that there were many dry holes drilled and that the advance exploration and proving of the field is absolutely essential before we can go forward with private leasing. I think it would be a serious mistake, and I certainly oppose the amendment.

□ 1740

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would like to say first off that the gentleman from California has been an outstanding member of our committee. I just want to make this point. Under the Naval Petroleum Reserve Production Act of 1976, Public Law 94–258, the Department of the Interior is directed to continue the ongoing Navy exploration program and then to submit a plan to the Congress about what it is going to do. They have stated here they are going to submit a plan that calls for private development.

Now, I know my friend from California is a strong supporter of the free enterprise system. I would be surprised if he thinks the Government can actually do this job better than the private sector. I think if we want to solve the energy problem of this country let us get busy, let the private sector come in and not let this thing drag on for 2 or 3 more years at a cost of $381 million to the taxpayers.

Mr. BURGENER. Mr. Chairman, if I could reclaim my time, it is being done privately. It is under private contract right now. The Federal Government is not drilling for oil; it is under contract to private enterprise.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Illinois.

Mr. YATES. Is not the important thing to find out whether there is oil there? We have a private enterprise company doing the drilling and it is going forward. The important thing is for the American people to know whether there is oil there because if there is, and we may find that there is, we are well ahead of the game in trying to cut down our dependence on foreign imports.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for his contribution and I yield back the balance of my time.

Mr. McDADE. Mr. Chairman, I move to strike the requisite number of words.

I think my colleagues have pretty well covered the situation. If I have ever seen the wrong amendment at the wrong time in the Nation's history this is it. Here we sit in the middle of the greatest energy problem we have ever faced, an energy problem that cuts across every single phase of our human life whether it is inflation, the production of food, transportation, the cost of housing, or foreign policy, not matter what it is, this energy crisis we face today cuts across it.

Yet, my very able friend sees fit to come and offer an amendment. Surely, he is being loyal to the administration but the administration is wrong and this House with only 30 against disapproved by affirmative action the efforts by the administration to stop drilling on this, the most promising petroleum province left in the United States. That is not my testimony, by the way; that is the testimony of this administration's head of the U.S. Geological Survey which is in charge of the geological development of this property. Their testimony is that under the worst case we know exactly what kind of a province we have when we finally can get to private leasing and private bidding and get the private contractor demobilized.

The best case is, you could have a strike of Prudhoe Bay magnitude in our own country. The estimated reserves—again the testimony is here from the U.S. Geological Survey—10 billion barrels of petroleum owned by the people of the United States on our shores, and the gentleman seeks to stop that program. It is absolutely the wrong amendment at the wrong time.

My friend from Illinois (Mr. Yates) said it eloquently. Think of this. If you take this contractor out you are going to be 6 years down the road before you are able to get somebody back in there to resume drilling on this province.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we ought to remind ourselves that it was not long ago we took the military reserves in Elk Hills and began to pump them for a public purpose, for the general public. We set aside this piece of territory up there as a potential for our military reserve, the naval reserve. Now we need to get into it. The purpose was military. Our military have been cutting back as much as 20 percent.

We need to cut back; we need more conservation in buildings and housing but we are also cutting back on training of our troops. We are going into simulators. We cannot be ready to go to war in simulators. We have got to be ready with the real thing. We have to have those reserves and we have to have them proven and the Government has to prove them up.

Now, let me give you a few figures. There is 37,000 square miles up there we are dealing with. That is roughly the size of the State of Indiana. It took 307 dry holes to discover the overthrust belt out in the Western part of these United States and we have only drilled eight or nine? The gentleman himself admits that it will be 2 years before they will drill another hole if they stop it today. We cannot stand 2 years' wait in this country. We have to move now. We are being pressed by countries who are providing oil for us, threatening us with our foreign policy and here we stand saying we are going to cut it off and not drill those holes? It is ridiculous.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make an inquiry. I am somewhat confused. I know we have just decontrolled oil. My understanding was, that was to make capital available to private companies to do drilling. Now, as I understand the gentleman's amendment, it is to ask that the private companies do what we are supposed to have them do with respect to decontrol and yet I see opposition to it based upon the fact we ought to spend our own tax money in order to do it.

I wonder if the gentleman from Washington would explain to me whether there should be substantial capital available to private companies in order to do this drilling.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Washington.

Mr. DICKS. The gentleman is absolutely correct. The administration, the Carter administration, has said, "We have already spent $600 million drilling 19 wells."

Now, the committee has recommended an appropriation for five more wells next year at $141.5 million.

I can understand why Husky Oil wants to do the drilling. Would you not, at that kind of a rate per well? It is outrageous. Deregulation is giving the oil companies billions; let them do their own exploration.

Mr. McDADE. Mr. Chairman, will my friend yield?

Mr. DICKS. I am not going to yield to the gentleman at this time.

The gentleman from Alaska already said that Husky Oil has said that they have made very significant finds already, quality finds, so let us stop having the Federal Government pay taxpayer money to do this. Let us turn it over to the private sector. The administration has testified and given us a letter that says within a 1½-year timeframe, they can have private exploration underway.

Now, what we are talking about here are wells that are not even commercial quality wells. These are just wells to try and find the likelihood of discoveries.

The gentleman is absolutely correct. The oil companies have the money to do this. The administration is correct. We have spent all the money we need. Let us turn it over to the private sector; let us get this area developed. That is the recommendation they are going to make under the law.

Mr. JEFFORDS. Mr. Chairman, am I not also correct in understanding there are sufficient wells already operating to keep the Alaska pipeline full for a substantial length of time?

Mr. YOUNG of Alaska. Mr. Chairman, would the gentleman yield?

Mr. JEFFORDS. It is my understanding we cannot even get full production out of Prudhoe Bay because we do not have a way to move the oil across the country.

Mr. YOUNG of Alaska. You are asking someone who knows nothing about the oil line, and you know it. If you wanted to get information get it from somebody who knows what it is about.

Mr. DICKS. Mr. Chairman, I thought the gentleman had yielded to me.

Mr. JEFFORDS. Mr. Chairman, I had yielded to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I was of the opinion the gentleman had yielded to me.

Mr. Chairman, the really central question here is, do we want to spend $381 million of Federal taxpayer money to develop nine more wells? Now, figure out what that is. That is well over $40 million per well. I just think that is too expensive. It is better to have the private sector do it. Husky has already said they have had some significant finds. The bidding by the oil companies will be substantial to develop this resource.

It just seems to me that when we cannot fund the Youth Conservation Corps, when we cannot fund fully the land and water conservation fund, we have a question of priorities here and I do not see how we can give one oil company $141.5 million of the taxpayers' money. It just does not make any sense.

Mr. JEFFORDS. Is my understanding correct that if the gentleman's amendment passes then he might offer amendments to increase the funding for the Youth Conservation Corps and for the water conservation fund?

Mr. DICKS. Mr. Chairman, I know for a fact in the other body amendments to that effect are under consideration. If we could reduce the spending here we would be in a position—I am only speaking except for myself—in conference to maybe get some more of that money for those very important human and natural resource priority programs.

□ 1750

I want to emphasize that I am for oil exploration and the administration states the fastest way to get it started is to turn it over now to the private sector and stop this endless Government drilling program at a massive cost to the taxpayers.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, to answer the gentleman's question on Alaska oil and the pipeline, my good friend remembers that the gentleman voted to lock up most of the State, the oil that is needed in the gentleman's State. You cannot live on wood forever.

To answer the gentleman's question specifically, in 1985 the oil line is going downhill. The 1,200,000 barrels that you are going to get and you are getting today is going downhill. By 1987, if we are lucky, it will be 700,000 barrels a day. It takes at least 6 or 7 years just to explore a field and develop it.

Now, we are talking about stopping it, so when the gentleman says is there enough in the pipeline, my God, I cannot believe this body when we say we will put it off until 10 years down the road. Where is the future of America? It is there today, not tomorrow.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in opposition to the amendment.

Mr. Chairman, I think it is appropriate at this juncture to at least set the legislative record straight with regard to prior considerations by this body and the United States Senate on this issue. The Senate Budget Committee report of April 12, 1979, supported our House committee.

The House Budget Committee report of April 13, 1979, supports our committee.

The Mines and Mines Subcommittee of the Committee on the Interior and Insular Affairs, an eminent committee of the House of Representatives, supports the position of the committee.

The Public Lands Subcommittee of the Committee on Interior and Insular Affairs supports the committee.

The Committee on Interior and Insular Affairs supports the position of the committee.

The Subcommittee on Interior and the House Committee on Appropriations supports the position of the committee, and the Senate Committee on Energy and Natural Resources supports this committee.

Now, this is just another in a series of forays to frustrate oil and gas exploration at a critical time in our Nation's history when some might feel that oil and gas exploration has relevancy.

I commend the committee chairman. I commend the committee. I commend all the enlightened bodies that have already endorsed this exploration and urge the Members to resist the amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I would be happy to yield to the gentleman.

Mr. YATES. Mr. Chairman, this is the second time we have debated this issue. The first time was on June 19 when I brought to the floor of the House a deferral resolution. The administration wanted to defer the expenditure of $1.8 million for drilling on the national petroleum reserve in Alaska.

The gentleman from Vermont (Mr. JEFFORDS) voted in favor of postponing the deferral and my good friend, the gentleman from Washington, who is a distinguished and valuable member of our subcommittee, not only voted against the deferral, but participated in the discussions in our committee. He voted in favor of postponing the deferral in our committee, voted in favor of postponing the deferral when the bill came to the floor and is now taking an opposite position.

The fact is that it is a question of time. Sure, private enterprise will ultimately move into the program, but under the law there has to be a report filed by the first of the year in which the Department of the Interior can propose legislation to the Congress.

The testimony before our committee was to the effect that if the administration's request were agreed to and the Husky Oil Co. were required to close down its drilling, pack up its rigs, take up its equipment, and leave the premises, we would have to pay the Husky Oil Co. at least $60 million in termination costs and that it would be at least 5 or 6 years before a private contractor having bid on a Government program would be able to start drilling. Husky Oil Co. is in that position at the present time.

The question is one of time. How important is it to this country that we continue a drilling program that may result in our finding oil on the petroleum reserve?

Is it not of utmost importance that this program be continued? I say it is and I say this is an ill-timed amendment.

Mr. SANTINI. I think the chairman has said it and said it very well. I would urge the House to continue the position it expressed on June 19, 1979, wherein it voted 409 to 3 to reject the position presently proposed by the gentleman from Washington.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I am happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I thank the gentleman for yielding.

I just want to clear up one statement that was made in the record that carried with it an innuendo that I found very offensive. To say we are really continuing this program for the sole benefit of the Husky Oil Co., which is the private contractor drilling on the reserve is wrong. The record should reflect at this point that that contract was entered into in a competitive bid in which the major oil companies were excluded from bidding.

What we looked at was the interest of the Nation and the way for Husky Oil to collect $64 million is to do what this administration wants to do, close them down and have them leave town and leave us as a nation continuing to hold the energy bag.

I think the gentleman owes the members of the subcommittee an apology for the gentleman's remarks.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Washington.

Mr. DICKS. Well, I certainly did not intend to impugn the integrity of any member of the committee, all of whom have acted very honorably on this issue. If that was the gentleman's impression, if the gentleman accepted that as my remark, I apologize; but I want to tell the gentleman this, that I do think when we can justify $141 million for five wells, that is awfully expensive at a time of budget austerity.

I want to say one thing about my chairman, who is correct in everything the gentleman has stated to a certain degree. I admit error. I did not look at this program carefully enough at first, but when I saw what was going on, I changed my view.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Dicks).

The amendment was rejected.

AMENDMENT OFFERED BY MR. RUDD

Mr. RUDD. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance or from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government; relief of Indians, without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391) including cash grants: *Provided*, That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary.

The Clerk read as follows:

Amendment offered by Mr. Rudd: On page 21, line 22, after the period, insert:

"SALT RIVER PIMA-MARICOPA SETTLEMENT

"For settlement of the Salt River Pima-Maricopa Indian Reservation boundary dispute, pursuant to Public Law 95–399, $1,965,000 to be paid to the Salt River Pima-Maricopa Indian Community and $1,952,000 to be paid in accordance with the second sentence of section 5(b) (2): *Provided*, That notwithstanding any other provision of law, the payments provided herein shall constitute a complete release and satisfaction of any claim which any person may have against the United States, the Salt River Pima-Maricopa Indian Community, or holder of any interest with respect to any right, title, or interest in any portion of the parcels of land described in paragraphs 1 through 9 of section 3(b) and/or subparagraphs (A), (B), or (C) of section 3(a) (2) of Public Law 95–399 which are located north of the boundary line referred in section 3(a) (2) of Public Law 95–399.".

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman and our illustrious colleague, the distinguished minority leader from Arizona (Mr. Rhodes), have talked to the committee about this amendment. We considered it in committee very carefully and we did not put the funds into the bill at the time we marked up the bill because there was some question in the committee's mind as to whether the settlement of this boundary dispute was a final settlement.

The language in this amendment is intended to assure that the amounts received by the Salt River Pima-Maricopa Indian community and by all members of the Salt River Pima-Maricopa Indian Reservation boundary dispute accept the funds that are a part of this amendment in full settlement of any and all claims. That is the gentleman's understanding as well, is it not?

Mr. RUDD. That is my understanding.

Mr. YATES. Mr. Chairman, with that understanding, the committee accepts the amendment.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I would be happy to yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr Chairman, I want to commend my friend, the gentleman from Arizona. The gentleman has worked long and hard on this amendment.

I agree, as the chairman has said, we believe we have come to a final resolution of a very difficult problem. It is because the gentleman and his colleagues have worked so hard, we are delighted to accept the amendment on this side of the aisle.

Mr. RUDD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Chairman, this amendment provides for an appropriation of $3.9 million to implement Public Law 95–399, the redesignation of the southern boundary of the Salt River Pima-Maricopa Indian Reservation in Maricopa County, Ariz., which was unanimously approved last year by the Congress, and signed by the President.

This amendment has been discussed with the distinguished chairman of the subcommittee (Mr. Yates), and the distinguished ranking minority member (Mr. McDade), and has been accepted by both sides.

I would like to yield now to the distinguished chairman for any comment that he might like to make, and urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. Rudd).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

LAND AND WATER CONSERVATION FUND

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including $7,693,000 for administrative expenses of the Heritage Conservation and Recreation Service during the current fiscal year, and acquisition of land or waters, or interest therein, in accordance with the statutory authority applicable to the State or Federal agency concerned, to be derived from the Land and Water Conservation Fund, established by section 2 of said Act as amended, to remain available until expended, not to exceed $447,059,000, of which (1) not to exceed $200,000,000 shall be available for payments to the States in accordance with section 6(c) of said Act; (2) not to exceed $3,690,000 shall be available to the Bureau of Land Management; (3) not to exceed $41,573,000 shall be available to the Forest Service; (4) not to exceed $20,600,000 shall be available to the United States Fish and Wildlife Service; and (5) not to exceed $173,503,000 shall be available to the National Park Service: *Provided*, That not to exceed $12,000,000 of the amount provided for State assistance may be available as a contingency reserve to be administered by the Secretary to meet unforseen needs of the States: *Provided further*, That the $12,500,000 available to the Forest Service in fiscal year 1979 for acquisition of the Kahle and Jennings properties may be used to acquire other properties in the Tahoe Basin of California and Nevada with no matching requirement.

The Clerk read as follows:

Amendment offered by Mr. Florio: Page 8, after line 15, insert the following:

PINELANDS NATIONAL RESERVE

For expenses necessary to acquire lands and waters or interests therein pursuant to the authority of section 502(h) of the National Parks and Recreation Act of 1978 (Public Law 95–625) $12,000,000, to remain available until expended.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, last year when section 502 of the National Parks and Recreation Act of 1978 was enacted, the Congress made a commitment to protect, preserve, and enhance the significant values of the land and water resources of the Pinelands area of southern New Jersey.

The Pinelands contain approximately 1 million acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, which provides important ecological, natural, cultural, recreational, educational, agricultural, and public health benefits. A 27,000-acre dwarf forest in the midst of the Pinelands is biologically unique, an example of an ecosystem shaped by forest fires.

Incredible as it may seem, 50 million people live within a day's drive of this vast, sprawling tangle of pitch pine and oak, pure streams and rivers, rare plants and animals. The U.S. Department of the Interior has called the Pinelands "the most extensive wildcat tract in the Middle Atlantic seaboard region."

For more than 100 years New Jersey has valued the Pinelands' great underground freshwater reservoir. The State has established a number of public forests and parks in the region that have helped to preserve the water as well as the plants and animals. Unfortunately, however, the forest soil is so porous that pollutants could easily reach the underlying water deposits. Haphazard development on private lands in the Pinelands would certainly cause this polluting.

Rising taxes, increased costs of farming, and a general disinterest in farming among younger people have caused many farmers who work the fertile lands surrounding the Pinelands to sell their homesteads. It is estimated that 90 percent of these farms go to land speculators.

If the Pinelands are left in the hands of speculators, their future will be written in asphalt.

Section 502 of the National Parks and Recreation Act of 1978 recognized that there is a demonstrated need to combine the capabilities and resources of the local, State, and Federal Governments and the private sector to provide an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

Section 502 also recognized the need to provide assistance to the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area.

Most significantly, was recognition of the need to provide, during the development of a comprehensive plan, Federal financial assistance for the acquisition of lands in the area that have a critical ecological value in immediate danger of being adversely affected or destroyed.

Mr. Chairman, while matters of form and style are being resolved to deal with the development of the comprehensive plan, the purchase of lands of critical ecological value must be undertaken as rapidly as possible.

The purpose of my amendment is to provide the funds to purchase these critical ecological areas. The amendment calls for $12 million only of the $23 million authorized to be appropriated under section 502 of Public Law 95–625, the National Parks and Recreation Act of 1978.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I am happy to yield to the distinguished gentleman.

Mr. YATES. Mr. Chairman, this is an amendment that has been approved by the Office of Management and Budget.

The reason that the committee did not approve this amendment originally was because of a dispute within the New Jersey delegation itself. The committee thought that the members of the New Jersey delegation should work out their differences before approval was given to the amendment. It is our understanding that the members of the New Jersey delegation are in unanimous agreement on this amendment, in view of the fact that it proposes a program that is innovative and imaginative and should be undertaken. With the understanding that it has the agreement of the New Jersey delegation, we have no objection to the amendment.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for accepting the amendment.

I would like to put on the record that the amendment is being offered by myself, my colleagues, the gentleman from New Jersey (Mr. Hughes) and the gentleman from New Jersey (Mr. Forsythe) as well.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I would be happy to yield to my colleague, the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I rise in strong support of the amendment offered by myself and my distinguished colleagues from New Jersey, Congressmen Jim Florio and Ed Forsythe.

This amendment appropriates $12 million to acquire land in the critical core of New Jersey's Pinelands. In so doing, it carries out one of the most important elements of the Pinelands Protection Act which Congress enacted into law last year.

For those of my colleagues who are not personally familiar with the Pinelands, I would like to take a minute to describe this region. This magnificent range of forests and bogs, located in southern New Jersey, constitutes one of the largest stretches of undeveloped land along the entire eastern seaboard. Within this forest of pine and oak trees, cedars and shrubs, live a rare collection of plants and animals which scientists tell us exist nowhere else in the world today.

At the center of the Pinelands, or Pine Barrens, is a forest of dwarf pines and oaks which have adapted to being burned about once every 8 years—a natural phenomenon which enables new seedlings to burst forth from the parent trees. In the surrounding lowland bogs and marshes, farmers cultivate some of the Nation's most bountiful harvests of both blueberries and cranberries.

Unfortunately, this unique wilderness area is under siege by developers. Located in the heart of the highly urbanized Northeast, the Pinelands represent one of the last remaining frontiers to be conquered by our ever growing population. In fact, developmental pressures are so intense that it is a wonder the Pinelands have even survived this long.

In an effort to relieve this developmental pressure, Congress last year enacted into law one of the most innovative and imaginative conservation programs that has ever been conceived. This program rejected the outdated method of protecting valuable wilderness areas through massive Federal acquisition of land.

Instead, it outlined for the first time ever a unique partnership among the local, State, and Federal Governments to carry out a conservation program in the Pinelands. To the largest extent possible, this program enhances the concept of home rule and encourages continued private ownership of land. It is an approach to wilderness protection which I hope will someday be applied to open space areas all across our country.

This Pinelands legislation focuses on the establishment of a 15-member planning commission, whose members represent all levels of government as well as farmers, environmentalists, and other residents of the area. This commission is charged with the responsibility of developing a conservation plan which looks beyond municipal boundaries, and takes into account the overall ecological importance of the region.

As part of this conservation program, we determined that it was necessary to bring into the public domain approximately 30,000 to 50,000 acres which are located in the central core of the Pinelands. Some of this land is already owned by the State. The rest of the land is so crucial to the environment, and to the huge acquifer which underlies the Pinelands, that it must be acquired as well. That is what this $12 million will be used for.

It has always been my firm belief that the Government has an obligation to pay for land which it considers to be in the public interest. At one time, proposals were being considered which would have protected this core region through the imposition of massive regulations. In a sense, private property would have been confiscated by law without just compensation. That is not an acceptable approach in the Pinelands or anywhere else, in my opinion. I am pleased that this amendment enables us to carry out our responsibilities fairly, by paying for land which is taken out of private ownership.

I might add that land will only be acquired in the critical core of the Pinelands, and that this land will have to meet the test of being "environmentally sensitive and in immediate danger of being destroyed."

In sponsoring this amendment, I want to make it clear to my colleagues and to the people of New Jersey that I am not entirely satisfied with the Pinelands legislation which recently passed the State legislature. I believe the State bill goes far beyond what is necessary to protect the Pinelands, and that certain elements of it are not consistent with the Federal Pinelands Act. Most troubling to me was the State's decision to impose a blanket moratorium on all development within a 1 million acre area of New Jersey—an area which includes thousands of private homes and entire towns and cities. This moratorium was rejected during the drafting of the Federal Pinelands legislation, and I regret that it has since been imposed by the State. In the months ahead, I hope to continue my discussions with State legislators to revise this and other provisions of the State law which I feel undermine our efforts to develop a conservation program in the Pinelands that is both fair and reasonable.

□ 1800

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to commend my colleague, the gentleman from New Jersey (Mr. FLORIO), and all the New Jersey delegation. This is indeed a unique piece of land left in the most urban State in the Nation.

We have discussed this, and we are delighted that the delegation has come to an accord. We are happy to accept the amendment on this side.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, as a member of the New Jersey delegation I, too, would like to compliment my colleague, the gentleman from New Jersey (Mr. FLORIO), on this amendment. Not everybody may agree, but I do. I think this is one of the most valuable things that could be done for our State.

Mr. FLORIO. Mr. Chairman, I thank the gentlewoman very much, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will read.

The Clerk proceeded to read title II.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

Hearing none, the Chair will inquire, are there any amendments to title II?

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

DEPARTMENT OF ENERGY

SYNTHETIC FUELS PRODUCTION

For expenses necessary to carry out the provisions of the Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.), $1,500,000,000, to remain available until expended, for the purchase or production of synthetic fuels and synthetic chemical feedstocks, to be derived from an energy trust fund as established by H.R. 3919 or equivalent legislation: *Provided*, That if no such fund has been established upon enactment of this bill, funds for such program shall be derived from general funds of the Treasury not otherwise appropriated, to be reimbursed from the funds at such time as the fund is established: *Provided*, That this appropriation shall not be used for the construction of facilities: *Provided further*, That the President is authorized to contract for purchases of or commitments to purchase, or to resell synthetic fuels and synthetic chemical feedstocks to the extent of appropriations provided herein.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 34, line 11, after "feedstocks" strike out all through the word "established" on page 34, line 17 and insert: ", to be derived from the Energy Trust Fund established by H.R. 3919 or a fund or segregated account or equivalent mechanism established by equivalent legislation: *Provided*, That if no such fund, account or mechanism has been established upon enactment of this bill, funds for such program shall be derived from general funds of the Treasury not otherwise appropriated, to be reimbursed from such fund, account or mechanism at such time as it is established".

Mr. YATES. Mr. Chairman, the purpose of this amendment is to permit the funding of the synthetic fuels program through the energy trust fund if and when that fund is established. The language has been worked out with the Office of Management and Budget and provides that the funds come from an equivalent mechanism in the event the trust fund itself is not established pursuant to the windfall profits tax bill that was passed by the House a short time ago.

For that reason, Mr. Chairman, we are satisfied that the language is desirable, and I ask for a vote on the amendment.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, the gentleman from Illinois (Mr. YATES) has worked hard to get this amendment in shape and negotiated with the Office of Management and Budget. We think it is a good amendment, and we support its adoption.

Mr. YATES. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was agreed to.

Mr. ADDABBO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it was my intention to offer an amendment on the Pennsylvania Avenue Development Corporation. It has been brought to my attention by some personal friends of mine and by relatives that the Pennsylvania Avenue Development Corporation was not actually fulfilling the directives of the Congress.

I have had a meeting with them and have spoken to the chairman of the subcommittee, the gentleman from Illinois (Mr. YATES), and he has assured me that his committee will carefully monitor the Pennsylvania Avenue Development Corporation and see to it that they fulfill all the obligations of the original directive given to them by the Congress.

Therefore, Mr. Chairman, I will not be offering my amendment at this time.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $545,552,000, to remain available until expended: *Provided*, That of the total amount of this appropriation, not to exceed $1,450,000 shall be available for a reserve to cover any defaults from loan guarantees issued for electric or hybrid vehicle research, development, and production as authorized by section 10 of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (15 U.S.C. 2509): *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $16,000,000: *Provided further*, That $180,000,000 appropriated in Public Law 95–240 for conservation grants for schools and health care facilities and $17,500,000 appropriated in Public Law 95–240 for conservation grants for local government buildings shall remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 35, line 21, delete "$545,552,000" and insert in lieu thereof "$566,052,000".

And on page 36, line 10 after "expended" insert the following: ": *Provided further*, That of the total amount of this appropriation, not to exceed $5,000,000 shall be available for a reserve to cover any defaults from loan guarantees issued for financing the construction of facilities to convert municipal wastes into synthetic fuels as authorized by Section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.): *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $50,000,000".

Mr. YATES. Mr. Chairman, the purpose of this amendment is to add funds to various energy conservation programs that we have worked out together with members of the authorizing committee, the Committee on Science and Technology.

Additional funding has been made available for various programs in transportation energy research, industrial efficiency, and cogeneration and conversion of waste to energy. We believe the additional funding will permit the Department of Energy to make advances in each of those funded areas, and inasmuch as conservation in all of its forms is the best source of protecting and preserving our energy resources today, we think this is a desirable amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the amendment to which I referred earlier. As I said, it adds $6.5 million for industrial cogeneration, $5 million for urban waste loan guarantees, as described by the gentleman in the amendment itself, and $9 million for transportation. I do appreciate the gentleman's working with us on this matter, and I am satisfied with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

(For the portion of the bill to which the amendment relates, see prior proceedings of the Record today.)

The Clerk read as follows:

Amendment offered by Mr. Weaver: On page 34, strike lines 6 through 22, inclusive.

Mr. WEAVER. Mr. Chairman, I again want to thank this committee and the Subcommittee on Interior of the Committee of Appropriations for the fine job they have done on the Forest Service in raising the amounts from the President's budget, and I thank the subcommittee chairman and the ranking minority member.

However, I do feel compelled to offer this amendment which strikes the $1 billion 500 million in the budget in this bill for synfuels. I recognize that I was in the very small minority when the House voted on the Moorhead amendment, but I still feel that we are going in the wrong direction by funding now the synfuels with this much money because it is going to break the budget and put us over our budget limits.

☐ 1810

Mr. Chairman, in the matter of Germany's use of synfuels in the Second World War, they did fuel the Wehrmacht with synfuels, but we forget what those planes were like and the amount of synfuels that Germany produced at that time were 50,000 barrels a day. It took an all-out national effort for them to do that, but it was 50,000 barrels a day, and that is not what we are aiming at now. It is a much larger figure, with much more disastrous consequences for our economy.

I would like to say that it is essentially the wrong direction to go in.

Today the primary cause of the Consumer Price Index rise is our excessive use of extremely high-priced energy. That is what has made the Consumer Price Index go up 10 percent and 12 percent and 14 percent a year.

Now the Government has come along and printed the money, through deficit spending and other means, to cover the cost of this increased energy. In other words, instead of letting our people buy higher cost energy and doing without some place else, they said, "No, we are going to have both our cake and eat it too, and we are going to print the money."

This has been extremely inflationary. In other words, we have the printing presses out loaning the people money instead of buying high-priced energy, so we go on and live as if we are still buying oil at $2 a barrel instead of $20 a barrel that imported oil now costs and instead of $40 that synfuels will cost, the most inflationary thing we could possibly do.

If we cut down on our use of high-cost energy, we would lick inflation, we would break OPEC, we would force Detroit to build a cost-fuel efficient car. We are going in the wrong direction.

So I move to strike that $1.5 billion for synfuels, which, again, fuels the fire of inflation and breaks the budget.

I would like to ask the distinguished chairman of the subcommittee, first of all—if the gentleman will deign to answer my question—what this $1.5 billion is going to be used for in this fiscal year.

Mr. YATES. If the gentleman will yield, I am informed by the Department of Energy that, in all probability, the money will not be expended during this fiscal year. It was placed in the bill because representatives of the Department of Energy testified that private business, which is going to be asked to participate in the synfuels program by furnishing synthetic fuel by 1985 at the rate of 500,000 barrels a day and 2 million barrels a day by 1990, needs evidence of purpose on the part of Government in its determination to go forward with a synthetic fuels program.

There is a possibility, I will say to the gentleman, that $1 billion of the $1.5 billion could be committed to a program referred to as the ANR coal gasification plant. It may be eligible for funding during the year.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. Weaver) has expired.

(On request of Mr. Yates and by unanimous consent, Mr. Weaver was allowed to proceed for 2 additional minutes.)

Mr. YATES. The additional one-half billion dollars is for the purpose of seeking invitations to bid by private industry for the kind of synfuel programs authorized by the so-called Moorhead bill and the total amount of $1.5 billion could be used for it if not committed to the ANR project.

Mr. WEAVER. Mr. Chairman, I want to thank the always distinguished chairman for his very frank answer. I really appreciate his candor.

In other words, do not know what the money is going to be spent for; we do not know whether it is needed. It is a pledge, in effect, off in some distant vague future, and I urge the committee to vote for this amendment to strike the $1.5 billion, the budget-breaking item.

Mr. McKAY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think those who have been working with synthetic fuels will recognize that unless there is some incentive there for somebody to get a contract to get started, they are not going to get into these synthetic fuels. We were through this cycle in 1973, and then we went to sleep again. So we are behind. We need to keep sufficient funds in to get this on line.

This committee has been dealing with synthetic fuels for about 15 years, hearing testimony referring to pilot plants and research and development for years, and we have not gotten a barrel of oil.

We have to be serious about it. The Members might be interested to know that, in fact, at the instigation of the chairman, we proceeded to put in a section in this bill to provide for $25 billion so that people knew we were serious about getting contracts and, instead of pushing the chain through grants, to offer a contract to purchase, to decide which process is available, and to get the thing started and to get it on the road. Every year and every month we wait, every year we postpone the funding of it, we cost ourselves more money. We are putting out $60 billion a year in a balance-of-payments deficit overseas. We have the resources here. Why do we keep abusing ourselves with inflationary costs? We can pay out that kind of money today and still make money. Those overseas barrels of oil are costing us, in related costs, as much as $99 a barrel. We need to get it here. We can afford to put at least this pittance in to get something started.

Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Weaver).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

(For the portion of the bill to which the amendment relates, see prior proceedings of the Record today).

The Clerk read as follows:

> Amendment offered by Mr. Weaver: On page 34, line 9, strike "$1,500,000,000" and insert in lieu thereof "$1,481,540,000".
>
> On page 30, line 1, strike "$847,151,000" and insert in lieu thereof "$865,611,000"; and, also in line 1, strike "$188,218,000" and insert in lieu thereof "$197,748,000".

Mr. WEAVER. Mr. Chairman, I would like to tell the committee that I am very serious about this amendment and would hope that the committee would seriously consider accepting it.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, may I read to the gentleman a letter I received from the head of the Forest Service, dated July 26, 1979. I am sure the gentleman knows of the determination by this committee to do everything that it can to assure that reforestation shall proceed as promptly as possible.

Mr. WEAVER. I compliment the gentleman for his great efforts. I have always said that the Forest Service owes a great deal to Chicago.

Mr. YATES. This is what the gentleman said, and this is from R. Max Peterson, Chief of the Forest Service:

> Dear Congressman Yates: This is in response to your inquiry concerning possible increases in reforestation for 1980.

We wanted to know whether he could use more money for reforestation, after the gentleman from Oregon told me about it.

He says this:

> Our reassessment of anticipated planted stock indicates that the 221,000 acres targeted for reforestation and associated funding, as contained in the House actions, are the maximum we can reasonably handle in fiscal year 1980.

I will tell the gentleman that if the chief had told us that he could use more money for reforestation, if he had told us that he had talked to the gentleman from Oregon (Mr. Weaver) and that the gentleman was insisting that he put more money in, and if he would have said, "I agree with Mr. Weaver, we should have more money," had he told us that, we would have put more money in. But the gentleman knows that we have a program for reforestation, we adhere to it even though the Office of Management and Budget refuses to put funds in it. We put it in because we think it is vitally important to the people of this country.

Mr. WEAVER. Mr. Chairman, the gentleman speaks the truth. I thank the gentleman for the hard and great work he has done in reforesting the national forests of this country. We owe a debt to the gentleman.

I will not say, in deference to the esteem in which I hold the chairman, that this is simply a pledge, a pledge to somebody to plant trees. I could say that, because that was the gentleman's response to how the money was going to be spent for synfuels. The gentleman did not know how the $1.5 billion was going to be spent for synfuels. But the $9.53 million that is in my amendment for reforestation actually will go for timber stand improvement, which the Forest Service says, is the amount they could effectively spend this year for timber stand improvement. As, of course the committee knows, the line item on reforestation is also timber stand improvement.

☐ 1820

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. I would hope the gentleman would withdraw his amendment. He has the committee assurances respecting reforestation.

I will even go further than my subcommittee. I do not know whether they would agree with me. I share the gentleman's concerns to some extent about the synfuels programs. I know about the so-called greenhouse effect that Prof. Roger Ravel and others have talked about. I do recognize that as a possible threat.

I do want the gentleman to know that I appreciate, too, the need for the growth of more and more trees to withstand that possibility. I would want the gentleman to know he has my assurance, and I am sure the assurances of the members of our committee that we are determined that the trees shall continue to stand and that for every tree cut, I would like to see a tree planted and more trees planted.

Mr. WEAVER. I again appreciate very much the remarks of the gentleman. There is no question, I agree with him completely. He is saying the truth.

I do want, however, to say that if you want energy today, we are burning slash in our forests today, burning it and polluting our air.

In the forests in my district right now, the air you can hardly see through it because of the smoke from some forest fires but also the slash that is being burned.

Mr. YATES. Is this taking place in the great State of Oregon?

Mr. WEAVER. It is taking place in the great State of Oregon.

Mr. YATES. That is not the way the great State of Oregon was explained by the gentleman in our committee, the gentleman from Oregon (Mr. Duncan).

Mr. WEAVER. Right now we are burning slash, burning this wood waste.

My amendment not only gets additional trees out of the forest, from thinning operations, but right now what do we do? You have $9 million or $10 million in the bill to burn the slash.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. Weaver was allowed to proceed for 2 additional minutes.)

Mr. WEAVER. You have $9 million or $10 million in the bill to burn the slash in the forests. The additional $9 million in my amendment will not burn the slash in the forests. It will take it out.

Now, I have gotten my local utility, the Eugene Water and Electric Board, a contract with the Forest Service to set up a generating plant to use this slash.

We are going to start producing electricity with it, and we can produce gasohol with it also. People can just simply burn it in their homes, but it has got to be brought out of the forest.

So if you want energy now, this moment, and if you want more produce from our forests, then vote for my amendment, because it will get the energy immediately.

I am just asking for $18 million of this $105 million in here for synfuels. Frankly, it will produce more energy, the $18 million, than the other $1,482,000,000.

The chairman made my final point, which was to simply say that when we burn synfuels, we put carbon dioxide in the air, jeopardizing the world's climate. Trees take carbon dioxide out of the air, and so if you are determined to build synfuel plants, please at the same time plant lots of trees.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Ohio.

Mr. REGULA. Is it not a fact that slash is used in many different ways depending on the proximity to manufacturing facilities, and otherwise it might be used in paper board? It might be used in the production of various other wood byproducts, so that in reality it is the economics in many instances that dictates the use of slash? It might well be that some of the slash is totally inaccessible to transportation and therefore not economical in terms of removal?

Mr. WEAVER. We can take this out of the forest, but the policy right now, and the money in here, is simply to burn it.

My amendment would take it all out of forests and make it available for energy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. Weaver).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

> FOSSIL ENERGY RESEARCH AND DEVELOPMENT
>
> For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), $699,377,000, to remain available until expended: *Provided*, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

The clerk read as follows:

> Amendment offered by Mr. Goldwater: On page 35, line 2, strike "$699,377,000" and insert in lieu thereof "$703,377,000."

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman was kind enough to discuss this amendment with the committee before we came to the floor, and I want to tell the gentleman the committee is most sympathetic to the purposes of the amendment.

We do have a letter from the Department of Energy in which they discuss the molten salt gasifier program. This is in a letter addressed to me by Mr. John Deutch, dated July 25. It says:

> As you know the Department requested and received $1 million in fiscal year 1979 to place the molten salt gasifier PDU in standby status. It appears that this technology may have some promise and we are currently evaluating what role the molten salt gasifier could play in the overall third generation R&D program. Sufficient funds to continue this evaluation are available within the fiscal year 1980 budget. We do not believe that the $4 million additional proposed is necessary since no decision has been made to modify the PDU facility and expand this project beyond its current scope.

May I say to the gentleman there are approximately 61 gasifiers that are commercially available, under commercial development, or that the Department of Energy has among its programs today. Nevertheless, I know of the interest in this molten salt gasifier. I would like to say to the gentleman that in the event the Senate decides to put this program into effect, the committee would be glad to seriously consider it.

Mr. GOLDWATER. I appreciate the chairman's sympathetic feelings on this. I know he understands the importance of it. I appreciate his understanding about it.

Mr. YATES. Might I request the gentleman might want to withdraw his amendment at this time.

Mr. GOLDWATER. The gentleman will take that under consideration.

Mr. YATES. I thank the gentleman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. OTTINGER. I would like to say that our subcommittee did include the amount for the molten salt gasifier, with virtually unanimous consent of the subcommittee. Our own staff feels this is one of the more promising technologies. I do understand the concern of the gentleman from Illinois (Mr. Yates) with respect to the number of gasification projects being funded by the Department of Energy, but I would urge upon him that everything we have seen indicates this is a very promising technology.

I hope he would urge upon the Department of Energy to fund it, and if it does come up in the Senate, he would, as he said he would—and I certainly believe it—very seriously consider adding the funds in conference.

I thank the gentleman. I think he has an excellent amendment.

Mr. GOLDWATER. Mr. Chairman, let me just point out what I am trying to do. This amendment would raise the fossil energy research and development authorization by $4,000,000 to allow funding for molten salt gasification research for fiscal year 1980.

The molten salt furnace is a highly efficient means of burning coal with very little pollution to the environment. The Energy Technology Engineering Center of the Department of Energy is currently operating a process demonstration unit utilizing this technology with very promising results. In this facility, salt under pressure is heated to 1,800 degrees. Coal is partially combusted in the salt which releases a low-Btu fuel gas while capturing the sulfur and the ash. The salt is then regenerated and the sulfur is captured as elemental sulfur.

The molten salt process has a number of advantages over most of the other gasification technologies. It can use a wide variety of coals. The product gas is also extremely low in sulfur, tar, heavy hydrocarbons, ammonia, and NO_x. The efficiency of the system is also much higher than the current generation of Lurgi gasifiers.

If we do not act to fund this project, a facility which was completed in mid-1978 and which has run well will be abandoned prematurely. It is true that we have learned quite a lot about the merits of the motion salt technology as a source of low-Btu gas but this is not where the need or the market is. The 1980 authorization which I am calling for will permit examination of the technology's applicability to medium Btu gasification which is a much more versatile fuel.

Medium-Btu molten salt gasification has been demonstrated at laboratory scale, but there is currently no PDU-size facility in the free world where it can be tested. Yet, for $50,000 to $60,000 the DOE facility can be modified, after completion of the currently scheduled low-Btu tests, to perform this work. The balance of the $4,000,000 would be spent on operating the facility during fiscal year 1980.

I ask your support and that of the rest of our colleagues on this amendment so this important, but relatively low-cost research can be performed.

□ 1830

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Goldwater).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WOLPE

Mr. WOLPE. Mr. Chairman, I offer an amendment.

(For the portion of the bill to which the amendment relates see prior proceeding of the Record today.)

The Clerk read as follows:

Amendment offered by Mr. Wolpe: On page 35, line 21, increase the dollar amount shown by $6,000,000.

Mr. WOLPE. Mr. Chairman, I want to commend the chairman of the committee and the membership of that committee for an excellent piece of work. I want to indicate in advance that the amendment I offer at this point should not be taken in any way as a comment on the overall work product of that committee. But there is one area of the committee's work that I feel does demand attention by this body at this point, and that is the appropriate technology program.

What this amendment before us would do would be to increase the dollar amount for the appropriate technology grant program by $6 million, which would raise the appropriate technology program to the existing authorization of $18 million. I should indicate that the Science and Technology Committee had originally recommended a $23 million figure for the authorization, and the $18 million authorization amount was a product of a compromise that was negotiated between the Committee on Interstate and Foreign Commerce and the Committee on Science and Technology. I mention this because the $23 million recommendation of the Committee on Science and Technology was an indication of the enthusiastic support of the committee for this particular effort within the Department of Energy.

What is involved in that program is the offering of grants to communities, to small businesses, to individuals to support innovative conservation and energy production ideas. It is really the only program within the Department of Energy that is specifically tailored to support the efforts of individuals and that is not tailored to support the activities and the work of the largest corporate interests.

There is a limit of $50,000 for any grant that is awarded under this program over a 2-year period. An indication of the tremendous support that this program has received nationally is the number of requests that have come in under this authorization. In fiscal year 1979 there were over 12,000 requests received by the Department of Energy totaling a requested allocation of $343 million. Yet, the current funding level that is being proposed presently under the appropriations bill of $12 million would allow only 2.3 percent of those requests to be funded.

Recently the Department of Energy in region 9 of this country undertook an evaluation to assess the worth and the value of the projects that were initiated under this grant program and came to the conclusion that 20 percent of the proposals were, in fact, worth funding, that they were meritorious. The evaluation of that region 9 program indicated that the average funded project created an energy saving far in excess of the cost of that initiative.

This is the most innovative energy program that we have within the Department of Energy. More importantly, I would submit, what is at issue here is whether or not we are going to successfully tie the efforts by individuals in local communities all across this country to the national mobilization effort to which all of us within this body are committed. The simple fact is that many people do not recognize how much can be accomplished at the individual level. We have not yet truly tapped the creative resources of the individuals within our local communities. To the extent we can begin to get people individually generating ideas, putting to work those ideas within local communities, we can begin to get a truly personal identification, I submit, with our need nationally to move in a much more effective way toward conservation and toward the development of solar technology.

I would like to give just one example briefly from my own district where an individual came forward with a proposal for his own particular business establishment, a very small business, which was located physically adjacent to a local powerplant. He proposed to take the waste heat from this local powerplant and to link it into his establishment and use that waste heat; this is one example of cogeneration. It made sense from every standpoint. The dollars simply were not available.

If the dollars had been available to support this kind of an initiative, this individual small business was only one of a number of prospective small business establishments that were being developed in what is a larger industrial park within this region, and if we could get that one demonstration accomplished, we could have a massive impact on the entire pattern of industrial growth within this particular part of my congressional district.

That is just one example. Fortunately there are other examples that have been funded involving the use of solar technology to accelerate the growth of fish, to the development of alternative transportation programs involving community-based bus service.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. OTTINGER, and by unanimous consent, Mr. WOLPE was allowed to proceed for 3 additional minutes.)

Mr. WOLPE. Other examples of programs that have been funded under the appropriate technology program include projects that have helped to make much more efficient use of solar hot water and solar space heating by demonstrating how the two, if joined together, can yield a cost effective way of using solar energy in home construction.

In short, we have an opportunity through this program to make real and personal and local the effort at mobilizing energy resources in this country. I think we have much to gain by extending the appropriation that has been requested to that which has been authorized.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman from New York.

Mr. OTTINGER. I congratulate the gentleman for his amendment. This was a program that was expanded at the initiative of the gentleman from California (Mr. BROWN) to $23.5 million in the Energy Development and Applications Subcommittee by an overwhelming vote. This is the one program in the entire Government that funds the little guy with the good ideas.

Most of the inventions that have come into this country have not come from the large corporations but have come from individual inventors. Individual inventors most times do not have money to exploit their ideas. This program takes proven ideas, for instance, ideas that have gone through the small inventors' program and have been shown to be promising and allows $50,000 to be put behind them in order to be able to move that idea and get the small inventor started.

Every one of us in our districts have had people come to us with ideas that really sound good, and they sometimes can get them proven and get the endorsements for them by reputable scientists. This puts a little money behind them and gives us an opportunity to help that kind of constituent.

I strongly urge support for this amendment. I know the gentleman from Illinois has been very generous to us, he has added $3 million from what the committee originally provided for this program, but with $343 million in applications sitting out there, and some of the ideas already funded being so successful that they would pay for the entire program, I would hope that he would reconsider and he would support the program.

Mr. WOLPE. I thank the gentleman from New York for his very helpful observations. I yield back the balance of my time.

□ 1840

Mr. LONG of Maryland. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

There is no shortage of energy resources in America. We are simply bursting with energy all around us—the Sun, coal, the tides, oil, oil shale, peat, and on and on. In oil alone we have only been able to get out 15 percent of all the oil that is known or believed to exist on this planet, certainly in the United States.

Why then do we have a shortage? We have a shortage because we do not have the capital to capture this energy and put it to work. The New York Stock Exchange estimates that we have a $600 billion capital shortage right now, over the next couple of years. I put together a list not long ago of roughly $2 trillion worth of capital shortages for all the needs we have—for housing, for roads, for mass transit, for synfuels, for flood control, and on and on.

Now, one of the reasons why we have a capital shortage, of course, is because we are spending vast sums on military; we are spending a lot on foreign aid, and then we find ourselves short of the capital we need to do the job. But, it is also because we have been putting vast quantities of capital into projects in which we are overcapitalized; we are wasting capital.

In my district we are building a subway 10 miles long at a cost of $1 billion. If we wanted to save capital and get the job done, we have five rail lines where we could have put rail lines out in five different directions for a few hundred million dollars. But no, we had to do it the expensive way. Where does that come in?

The point I want to make is that what we need to do is reach for our brains instead of our pocketbooks. We are spending too much money, overcapitalizing, and what we need to do is to go back to the simple ideas of the ordinary people, the Eli Whitneys, that kind of person capable of doing the same thing for us. I have people come to me once a week, once a month, with an idea that sounds good, but they do not have the money. I will admit that a lot of those ideas are cockeyed ideas. We all know this, but let me tell the Members this: I spent my life in research, and the great majority of research is not worth a darn. But, one project that is worth a darn pays over and over again for all the rest. That is why I think this small grants project is important.

Let us let the ordinary guy who is close to a problem, who sees a solution, let us let him have a little money to develop it. We already know that we have many, many times more applications for grants than we have money to hand out. This program was authorized for $18 million—I believe that was the full authorization. In the committee I was able to get this raised up to $3 million above what the committee wanted, which I believe was $12 million. But, we still lack another $6 million, and I think this would pay for itself over and over again.

Let us give the ordinary person a chance to see what he can do, to come up with his ideas and his solutions, instead of giving it to the big corporations or instead of giving it to the Government where a lot of it is going to be spent on bureaucratic overcapitalization. So, I support this amendment and I say, let us reach for our brains instead of our pocketbooks.

Mr. BEDELL. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I will not take the 5 minutes, but I am reminded, as we have this debate, of what someone said to me as we were talking recently about efforts to procure gasohol. He said, "Here in the Congress we swallow camels and gag on gnats."

I think that is the problem we have right here. We are talking about $6 million in a program in which we are at this time spending some $45 billion per year for the oil we import. Now, the question is, when most of our inventiveness has come from small operations such as this and from small business, are we going to invest $6 million in small grants of less than $50,000 per grant in order to help to get that great help that we have available from those small inventors to help solve this problem, or are we going to say, "No, we cannot afford $6 million to help to solve a $45 billion problem."

I would hope that we would vote to add that $6 million to get up to the full amount of the authorization so that we can show the people of America that we do have an energy problem and that we are willing to invest in the area where most of the creativity has been shown in our society.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I just want to rise also in support of this very valuable amendment. I commend the gentleman from Michigan for offering it. I want to say that in my study of the Northwest energy situation, in which I have been involved for many years, it shows untold possibilities of wood waste, biomass, of wave action in the water, that can give us much more energy than we are getting now from so-called conventional sources.

This can produce more energy, perhaps, than the one and a half billion dollars in there for synfuels if we discover an Edison with an idea that is really going to work.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman also. I supported the efforts in the committee for the added $3 million. When we see the money we are spending on other approaches, I think this is a very modest amendment, and I would hope that the committee would accept it.

Mr. YATES. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, the committee would have liked to provide funds for every one of the energy programs. We had to draw the line somewhere. We are almost $2 billion over the budget in this bill.

The gentleman from New York says that there are $343 million worth of requests in the so-called appropriate technology program. How many of these requests are good? How many of them are bad? Should we fund the entire $343 million in requests? Should we go over the budget further by an additional $343 million? What is the answer?

We do not know, if we were to put the additional $6 million that the gentleman proposes into the budget, that the right programs would be funded. We do not know which of the applications are going to be excluded. The committee is very sympathetic to the program. We have gone over the budget by almost 50 percent for this program. We have gone over last year's level by 50 percent in this bill.

Just as we did not fund the land and water conservation fund to the extent that we might have done, we pointed out in the debate on that program that the budgetary constraints really governed our actions in that case. We have gone over the budget in other programs that we thought, in our list of priorities, we should have funded. There are, somewhere in this country, inventors who have answers with respect to the energy program. What has happened in the past is that when the inventions have had some prospect of tangible benefits, they have been able to find people with capital to fund those programs.

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I have looked through the program book for these various programs. I have seen what they have funded, and I must say that I do not find the selections that the Department of Energy has made under this program as being the kind that I would want to put extra funds into.

Mr. McDADE. Mr. Chairman, will the distinguished chairman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding. The gentleman has made the point, and I hope everybody has heard it, that the committee is almost 50 percent above what the budget request is. We have exceeded the budget request. It raises a very important point. What happens when you throw money at an agency, when you force it at an agency? Let us look at some of these.

Here is a fellow who got a grant for $15,700, and he is going to test a system in his warehouse to bring in, and I quote from his grant, "ideal air." He is going to fill his warehouse with ideal air, and then he is never going to have to worry about heating it or cooling it.

I do not know how many Members in the House like to play handball, but here is a fellow who got $13,700 to test a lighting system on a handball court to decide whether or not he could make it sensitive to the fact that a human being might walk in and the lights might go on. I do not know what happened to switches.

Here is another one. Here is a fellow who is going to develop a fan system to take cold air into the attic of a house and move hot air out. I thought that had been done 100 years ago.

I know we promised the Speaker we would try to be done by 7 o'clock. We have given the bill good discussion. We have gone over the budget. We have been very generous with this program, and we can go the other way, too.

Let us support that person out there who is working. Let us vote for this amendment and get on with this bill.

Mr. WEAVER. Mr. Chairman, I move to strike the last word. I will only take one minute. In response to somebody using "ideal air" for $13,700, it is straight crazy. I agree. There are going to be a lot of crazy ideas, including the one of Armand Hammer's for synfuel for $200 million. That is just as crazy, with the idea of burning oil shale inside, down under the ground. They have found out it burns not evenly, but through fissures. So they spent $200 million and threw it out the window. We are about to spend $1.5 billion, which is really breaking this budget, on some crazy ideas, and I say let us give these people a chance.

Mr. McDADE. If the gentleman will yield, how would the gentleman like a program in here to melt beeswax with solar energy?

Mr. YATES. If the gentleman will yield, the $200 million Mr. Hammer spent was not Government money; it belonged to the corporation.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentlemen for yielding. I hope we keep things in perspective. You can find any Government program where there have been some mistakes. I do not think that is the argument in this case. I think the argument is, are we going to have the funds so that the small inventors, if they do have ideas that might solve our energy problems, will not be denied the opportunity to help us solve those problems? I think every one of us here would do everything we could to see that those funds are then spent wisely, but for us not to make them available I think would be a serious mistake.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

The committee agrees with that thought. That is why we went over the budget for the appropriate technology program by almost 50 percent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WOLPE).

The question was taken; and on a division (demanded by Mr. WOLPE), there were—ayes 15, noes 27.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

(For the portion of the bill to which the amendment relates, see prior proceedings of the RECORD today.)

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 35, line 2, strike "$699,377,000, and insert in lieu thereof "$701,377,000".

Mr. LAGOMARSINO. Mr. Chairman, I am today offering an amendment to H.R. 4930, appropriating funds for the purpose of heavy oil conversion technology. I offer this amendment on behalf of myself and my colleagues, Congressmen LEWIS, THOMAS, LUNGREN, COELHO, MINETA, CLAUSEN, and ROUSSELOT. This amendment is identical to an amendment I offered, and which was accepted and adopted, to the DOE authorization bill, H.R. 4839.

Estimates indicate that there are 100 billion barrels of heavy crude oil in place in the United States and 1 trillion barrels of heavy crude oil reserves in Canada. Although this resource is vast, most of it is presently unrecoverable because current refining methods are inadequate, costly, and environmentally hazardous. Presently refining techniques produce unacceptable levels of difficult to dispose of waste, including threatening sulfur emissions. New and innovative refining techniques could permit us to utilize this wealth of crude oil at our disposal, to meet present and future energy demands.

As you know, the President, in his energy message July 15, proposed to immediately decontrol heavy oil, exempting it from the windfall profits tax. This action will, of course, result in long-term incentives for heavy crude refining investment, as well as production. However, it has come to my attention that there is already a cost-effective technology to facilitate the development of heavy crude oil refining methods. One such project, proposed by a small refiner in my district in California, provides an encouraging approach to manufacturing gasoline feedstock and other high-value products from the thick high sulfur crude oils, abundant in our Nation, without producing hard to dispose of wastes and significant environmentally threatening emissions. This demonstration refinery plant in California has the capacity to convert 5,100 barrels of heavy crude oils and residual oils a day into valuable natural gas and gasoline, while removing sulfur. All residual oil is eliminated and, as already mentioned, the process is nonpolluting.

Unfortunately, the project was presented late in the DOE budget process. Although DOE has expressed strong interest in this concept it simply does not now have the funding authorization with which to proceed. My amendment would allow DOE to assist in developing this technology. At a time when we cannot afford to overlook any technologies which might assist in enhancing vital domestic energy supplies, it is crucial that we expedite those projects which are economically and environmentally appropriate. This process, in fact, would be possible on a quicker time scale and at a lower cost than massive coal conversion programs.

Mr. Chairman, unless the fiscal year 1980 Interior appropriation bill is amended to enable DOE to fund such projects, or it is made plain that they may use available funds for such purposes, at least one crucial year will be wasted in developing technology paramount to tapping our vast domestic heavy crude oil reserves. However, this vitally important project came to our attention only within the last several days. Although I had originally intended to offer an amendment authorizing $30 million for the purpose of developing heavy oil conversion technology, I realize that the Subcommittee on Energy Development and Applications and the full Science and Technology Committee, responsible for this portion of the bill, has not had an ample opportunity to explore and review this project.

I have asked DOE to set the specific gravity to define heavy oil at 20 degrees. The entitlements program has already utilized 25 degrees for definition of heavy oil.

Mr. Chairman, I would strongly urge that my colleagues support this amendment.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding. I want to say to my friend, the gentleman from California, that he has discussed the amendment with me, and I know he has discussed it with my very able friend, the gentleman from Illinois, the chairman of the committee. We are willing to make legislative history that the Department of Energy shall earmark not less than the amount of the amendment for experimentation on heavy oils. The gentleman has found a very important area that they are not working on, and we believe his amendment has absolute merit. So I know my friend, the gentleman from Illinois (Mr. YATES), wants to comment in support of earmarking this amount.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the distinguished chairman of the subcommittee.

Mr. YATES. I thank the gentleman for yielding. Yes, I want to say to the gentleman that there is about $700 million available for funding various programs, and I would think that in an area of the importance that the gentleman's amendment is addressed to that there would be enough money to take funds out of that for the gentleman's program. I would urge the Department to undertake that program from existing funds.

Mr. LAGOMARSINO. So the legislative history would show that it is the intent of the subcommittee that this money be used for that purpose?

Mr. YATES. That is correct.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding. Could I ask the distinguished chairman, when we are talking about "heavy oil," and I have heard this mentioned—the President's speech contained the term "heavy oil"—do we have some idea of what we mean by "heavy oil"?

I represent an area in California that is currently producing about 50 percent of the oil in California, and I have heard varying descriptions of what heavy oil is. I would very much like to know what heavy oil is. I will ask the distinguished subcommittee chairman.

Mr. YATES. If the gentleman will yield, the gentleman has the amendment. As I understand it, there is no exact definition of heavy oil agreed upon, but there are various formulas used for this definition. I am sure that in connection with the amendment offered by the gentleman from California (Mr. LAGOMARSINO), the Department of Energy will know what is meant.

Mr. THOMAS. If the gentleman will yield further, let me indicate to the gentleman that as soon as the President mentioned heavy oil in his Sunday night speech, the following Monday morning I called the Department of Energy, and they indicated that they were talking about heavy oil at about 10 on the specific gravity scale. I indicated that that is oil you almost have to mine. It is almost impossible to get down in a secondary or tertiary process. The entitlements program has defined heavy oil as 25. We have 10 specific gravity oil, and 25 which will not flow through a pipeline without being heated.

Mr. YATES. It is my understanding the Moorhead bill defines it as a specific gravity of 15.

Mr. THOMAS. If we are going to define it at 15, I want it understood that deals with one-third of the oil that was produced in California in 1977.

Most of the oil in my district has to be moved through heated pipelines. My point is that we understand the potential contained in the heavy oil concept. We have literally trillions of barrels of oil underground now. If we are talking about decontrolling and removing from windfall profits "heavy oil," we have an interim area here between synthetic fuels and current oil that can meet our needs for some time to come. The critical question is just what is heavy oil?

Mr. LAGOMARSINO. If I may take back some of my time, I might say I have asked the Department of Energy to set the specific gravity for heavy oil at 20. There are various things. The amendment does not speak to that definition, but we think that 20 would be the minimum.

Mr. THOMAS. If the gentleman will yield further, if heavy oil is defined as 20, I think we will find a drilling boom in California that will produce by 1982 the 500,000 barrels a day that the President discussed as a potential by 1990. If we can define an 18 to 20 definition for heavy oil, we can have that half million barrels of oil a day within 2 years.

Mr. LEWIS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. LEWIS. I thank the gentleman for yielding.

I thank the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from Illinois (Mr. YATES) for their cooperation in this matter. As a practical matter, I think it is important for the House to be aware of the fact that most of OPEC's oil is in a specific gravity category of the 30's, in places like Indonesia in the high 30's and 40's. That is very, very pure oil. Within our own country we have a tremendous potential of what is known as heavy oil.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LEWIS, and by unanimous consent, Mr. LAGOMARSINO was allowed to proceed for 2 additional minutes.)

Mr. LEWIS. I will not take much more of the gentleman's time, if he will yield further.

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. LEWIS. I thank the gentleman for yielding. As a practical matter, there are processes that are reasonably well proven, with some further experimentation that not only can refine some of these heavy oils in the 25 category, but that can do so in processes that are really essentially pure in terms of questions relating to air pollution and emissions that do not concern people like myself from southern California.

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This money for experimentation purposes could be a tremendous asset and boon in our effort to solve this problem.

I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for his contribution. I also want to thank the chairman and the ranking member. I think their understanding of what we are doing here and their acceptance of what we are trying to do will be of great help.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. LAGOMARSINO)?

There was no objection.

AMENDMENT OFFERED BY MR. COURTER

Mr. COURTER. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

ECONOMIC REGULATORY ADMINISTRATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $125,697,000: *Provided*, That none of the funds herein appropriated shall be available to pay the expenses of parties intervening in regulatory proceedings before the Economic Regulatory Administration.

The Clerk read as follows:

Amendment offered by Mr. COURTER: Page 36, line 17, insert ": *Provided Further*, that none of the funds herein appropriated may be used to promulgate, administer or enforce any regulation or to issue or enforce any order which would continue any mandatory allocation or price control of motor gasoline" after "Economic Regulatory Administration".

Mr. COURTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey (Mr. COURTER)?

Mr. YATES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. YATES. Mr. Chairman, I make a point of order against the amendment on the grounds it is legislation on an appropriations bill and it deprives the department officers of authorities that are conferred upon them by law.

The CHAIRMAN. Does the gentleman from New Jersey care to be heard on the point of order?

Mr. COURTER. Yes, Mr. Chairman.

Mr. Chairman, that particular amendment obviously has to do with allocation and the price control of gasoline. Very specifically, it has to do with limiting of the funding to the Department of Energy with regard to that.

As drafted the amendment as proposed addresses itself to a limitation of funding. The bill itself has to do with funding and as such is germane.

I direct the Chair's attention to Deschler's Procedures, chapter 28, section 27, restrictions on use of funds, there is precedent for such limitation. Chapter 28, section 27.16, to be specific, and I quote:

> To a program authorizing Federal financial assistance, an amendment limiting the uses to which those funds may be put is germane. 120 Cong. Rec. 28423, 28438, 28439, 93rd Congress, 2nd Session, August 15, 1974.

That particular ruling by the Chair had to do with H.R. 12859, the Federal Mass Transportation Act of 1974.

The CHAIRMAN. Does the gentleman from Illinois (Mr. YATES) wish to be heard further?

Mr. YATES. Mr. Chairman, I have nothing to add.

The CHAIRMAN. The Chair is ready to rule.

The language that is offered by the gentleman from New Jersey does not restrict the authority of the President but does restrict the use of the funds in the language of the bill. The point of order is not well taken and is overruled.

The gentleman from New Jersey is recognized for 5 minutes in support of his amendment.

Mr. COURTER. Thank you very much, Mr. Chairman.

Mr. Chairman, obviously this particular amendment has to do with a problem with which we are all familiar. This particular amendment has to do with the allocation system and the price control system that has been placed into effect by the Department of Energy.

Basically, as far as I am concerned, the price control system and the allocation system has aggravated a problem and created a problem that would otherwise not have existed.

I want to point out that this particular amendment has nothing to do with gas rationing. It has nothing to do with perhaps a matter we have already discussed. It has nothing to do with the gas-rationing matter that we will be discussing perhaps tomorrow or some other day this week or when we return from our summer recess. Basically it has to do with allocation and price control.

The particular formula as adopted by DOE wreaked havoc on the Northeastern section of the United States. There were areas in the United States where there were no lines and areas where there were lines 4 and 5 hours long. Mr. Schlesinger, as the head of the Department of Energy, indicated that, unfortunately—and this is paraphrasing him when I spoke to him at one particular time, that the allocation formula broke down. It was putting gasoline where cars were not. The urban areas, I think, are burdened with misappropriation. There was particularly under this system, substantial bias against urban areas. The price of gasoline was likewise controlled at the pump. You had a situation whereby one particular dealer could charge *x* amount of dollars and another one down the street 4, 5, 6, 7 or even 10 or 12 or 14 cents more and that formula was based on a formula derived by DOE and the particular gasoline dealer was locked into a system back in 1973 or 1974.

It also, Mr. Chairman, created a situation and a tremendous amount of pressure on small, independent gasoline dealers such that it was forcing him out of the system altogether, so that the large oil companies were buying up the small independents. A number of them in New Jersey and throughout the United States actually were forced to close.

The price system, Mr. Chairman, has retarded capital investment and particularly when it has to do with refineries, improving systems in refineries.

Mr. Chairman, obviously, this particular amendment has to do with the allocations formula and price control formula. An allocation formula that really took a 5- or 6-percent shortfall and increased that shortfall because of the 5-percent State set-aside, because of a growth formula, a formula that did not take into consideration the fact that some gasoline stations would be closing which in prior history served the particular area, a situation such that there was a growth formula that had a tilt to a different part of the country. It created a shortfall that was approximately 5 or 6 percent in gasoline in this country and increased that shortfall to 22 and 25 percent, thus creating gas lines 4 or 5 hours.

Mr. Chairman, I hope everyone gets behind this amendment, an amendment that really has to do with getting the sticky fingers and the long arm of Government away from a situation where it does not need to be.

Obviously, Mr. Chairman, if there is going to be a dramatic shortfall in gasoline or crude oil, if there is going to be as we often say a catastrophic shortfall, there has to be some sort of an allocation process.

This amendment deals with the situation we had this past month. It deals with the situation when the shortfall is 5, 6 and 7 percent and I urge upon my colleagues the adoption of this amendment.

I yield back the balance of my time.

Mr. YATES. Mr. Chairman, I move to strike the last word and will speak in opposition to the amendment.

May I say first there are no funds in this bill which can be used for the regulation of price controls of gasoline. Therefore, the amendment will really not apply to any funding in this bill.

It is kind of a back door through which the gentleman has moved in order to eliminate price controls on gasoline. This is not the subject for an appropriations bill. We had no hearings on this subject. We do not know what the effect is likely to be. We do not know what the impact of removing such controls is likely to be. It is a complicated, detailed subject that ought to be before a legislative committee and should have thorough hearings before the House is called upon to take any action.

I think we would be acting precipitously. I respect the power of the gentleman's argument and yet I submit this is not the forum for this kind of an argument. It ought to be a legislative committee that passes upon this kind of an amendment after having had the benefit of experts in the field, after having had the opportunity to hear witnesses to see what the effect of this is likely to be.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Minnesota.

Mr. VENTO. I would like to concur with the gentleman from Illinois (Mr. YATES).

We are in a situation where we do not control absolutely the supply end of the energy equation and we do not control the demand end of it and we have, of course, some allocation control systems in between which, incidentally, bear the brunt for a lot of the problems and perhaps rightly so for some of them. They deserve a part of it and I think President Carter's move to change energy secretaries, in my judgment, is a prudent one and we probably ought to do a better job of administration. But I think the American people do expect this Congress to maintain a voice in this, not just leave it up to the multi-national oil companies and OPEC and the demand which, of course, I do not think anyone intends to control or at least is addressing themselves to that and, of course, this bill modestly tries to deal with the synfuels and the supplies side of the equation.

We really have a responsibility here, I think, to maintain a voice and I would hope we would reject that amendment for that reason.

Mr. YATES. Mr. Chairman, I thank the gentleman for his contribution.

I again repeat, this is a subject for an authorizing committee and should not be part of this debate.

I request a no vote on this amendment.

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The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Courter).

The question was taken; and on a division (demanded by Mr. Courter) there were—ayes 15, noes 29.

So the amendment was rejected.

The CHAIRMAN. If there are no further amendments, the Clerk will read title III.

The Clerk proceeded to read title III.

Mr. YATES. Mr. Chairman, I ask unanimous consent that title III be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

The Chair hears none.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I would like to enter into a colloquy with my distinguished colleague from Oregon, Mr. Duncan, on language dealing with a prohibition on exporting logs harvested from Federal forests.

Mr. DUNCAN of Oregon. I believe the language was inserted originally by the then chairman Mrs. Hanson, with support of our former colleague, Mr. Wyatt of Oregon—but I have supported the continued prohibition in subsequent appropriation bills and do in this one.

Mr. WEAVER. Does the language in this bill cover substitution of Federal timber for logs from private lands which are exported?

Mr. DUNCAN of Oregon. It does.

Mr. WEAVER. Could this language in the bill be construed to prohibit not just direct substitution but also prohibit third party substitution?

Mr. DUNCAN of Oregon. I believe it could be so construed, although it has not been.

Mr. WEAVER. So therefore, the U.S. Forest Service could, based on the present language in this bill, promulgate regulations prohibiting third party substitution.

Mr. DUNCAN of Oregon. Well, I believe, even the present rules could be so read, but they have not been, and administrative interpretation and practice over the years does have some legal weight in interpreting published ambiguous language. I further understand that the Forest Service has published notice of intent to promulgate regulations on third party substitution.

Mr. WEAVER. Is it your expectation that these regulations will clarify congressional intent to prohibit third party substitution?

Mr. DUNCAN of Oregon. There will be hearings on 15, 16 and 17. I cannot predict the results.

Mr. WEAVER. I thank the gentleman.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to commend the chairman of the Appropriations Interior Subcommittee and the other members of that subcommittee for their efforts. The careful deliberation that they extended in the careful consideration of the wide variety of issues, areas, and priorities contained in this bill is reflected in the quality of H.R. 4930. I want to commend the subcommittee particularly for their actions in relation to the Boundary Waters Wilderness Area and the funds appropriated to implement Public Law 95–495.

This act, designed to provide the essential protection for the popular wilderness area in Minnesota, has affected the traditional means of livelihood for some residents in the area. When Congress passed this important legislation, it realized that adjustments would be necessary and made the commitment through the establishment of programs to assist the local communities to make the needed transition. I am glad to see that the subcommittee and the full Appropriations Committee, at the urging of Congressmen Sabo, Oberstar, myself, and all members of the Minnesota delegation as well as the Friends of the Boundary Waters Wilderness, have recognized that commitment and have provided the funding necessary to meet the needs of the local communities.

The programs authorized and funded by Congress will be important for both the resource and the residents in that area. Assistance will now be available to resort owners to make the transition to activities which are compatible with wilderness. New programs will be developed which will expand the opportunities to utilize the resource to new users, as the handicapped.

In addition, this appropriation will provide funding to strengthen and increase the role of logging in the local economy. Under the wise management of the Superior National Forest and State lands, and the better utilization of hardwoods, the contribution of the woods products industry to the local economy of northeastern Minnesota will increase.

This appropriation is an important step for the Boundary Waters Canoe Area, for the local residents and for all Americans.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Danielson) having assumed the chair, Mr. Mineta, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BADHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 42, not voting 48, as follows:

[Roll No. 402]

YEAS—344

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip

Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Corcoran
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Symms
Taylor
Thomas
Thompson
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—42

Archer
Ashley
Badham
Bauman
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Devine
Edwards, Okla.
Evans, Ind.
Frenzel
Giaimo
Gramm
Hance
Holt
Jeffries
Jones, Okla.
Kelly
Kemp
Latta
Lee
Lungren
McDonald
Martin
Mattox
Moore
Mottl
Myers, Ind.
Paul
Petri
Roth
Sensenbrenner
Shumway
Solomon
Stump
Synar
Tauke
Volkmer

NOT VOTING—48

Alexander
Anderson, Ill.
Ashbrook
AuCoin
Boggs
Bolling
Bonker
Chisholm
Collins, Ill.
Conyers
Corman
Derrick
Diggs
Fish
Fithian
Flood
Ford, Mich.
Forsythe
Garcia
Holland
Jeffords
Luken
McCloskey
McHugh
Marlenee
Mitchell, Md.
Moffett
Mollohan
Nichols
Oakar
Pepper
Quayle
Railsback
Rangel
Rodino
Rostenkowski
Sebelius
Slack
Stockman
Traxler
Treen
Udall
Ullman
Walgren
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright

☐ 1930

The Clerk announced the following pairs:

Mr. Wright with Mr. Anderson of Illinois.
Mr. AuCoin with Mr. Quayle.
Mr. Corman with Mr. Williams of Ohio.
Mr. Mollohan with Mr. Ashbrook.
Mr. Slack with Mr. McCloskey.
Mr. Rostenkowski with Mr. Bob Wilson.
Mr. Rodino with Mr. Railsback.
Mr. Nichols with Mr. Sebelius.
Mr. Moffett with Mr. Forsythe.
Mr. Mitchell of Maryland with Mr. Jeffords.
Mrs. Boggs with Mr. Fish.
Mrs. Chisholm with Mr. Marlenee.
Mr. Luken with Mr. Udall.
Mrs. Collins of Illinois with Mr. Walgren.
Mr. Charles Wilson of Texas with Mr. Ullman.
Mr. Holland with Mr. McHugh.
Mr. Pepper with Ms. Oakar.
Mr. Rangel with Mr. Traxler.
Mr. Bonker with Mr. Alexander.
Mr. Derrick with Mr. Ford of Michigan.
Mr. Fithian with Mr. Garcia.
Mr. Conyers with Mr. Flood.

Mr. HARSHA changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, and that I may be permitted to include tables, charts, and other material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PLOWBACK—THE ANSWER

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the gentleman from Georgia (Mr. LEVITAS) raised a good point about our adjourning. I want to tell the Members one good reason why we should adjourn is to go home and find out what is going on in this country. For 25 years the Democrats have run Congress. They created the energy problem, and they do not know the solution. The best solution of all would be the plowback tax credit.

Mr. Speaker, energy is Congress big problem, but the House failed to provide the "plowback" which is the best answer. The Senate, in its wisdom, can rectify this situation.

The Republicans strongly urged the plowback credit but missed by a few votes. The energy crisis in American has not been faced by this Democrat dominated Congress. Congress makes the laws and for these past 25 years the Democrats have controlled this Congress. Today the Democrats dominate by 276 to 159.

Why does the majority party not face up to the need for more oil and gas to be produced in the United States? Just 6 years ago the United States was importing $3 billion a year in oil, but this year the United States will import $60 billion of oil in this 1 year.

Oil is short, but the country keeps importing and ruining our financial stability.

Congress placed price controls of $5.50 a barrel on U.S. oil. But OPEC oil from abroad went right on up and today OPEC oil landed at a U.S. port at $22.40 a barrel.

Now there are several price tiers on U.S. oil.

But as U.S. oil is allowed to move up to the world price, the House passed a 60-percent tax on U.S. oil, but a 0-percent tax on OPEC oil. How can American oil companies get the capital they need when their own Government taxes Americans 60 percent on rising prices and taxes OPEC 0 percent on rising prices.

This Carter administration plan called windfall profits solves nothing. This is a tax on U.S. companies for rising prices caused by the OPEC oil producing countries. The tax is not on profits but on prices. If producing costs go up 45 percent and a 60 percent tax is added, the company could lose 5 percent despite a higher price.

America needs oil.

Remember that we only recovered 30 percent of the oil when the well was drilled with primary production. But now with $22.40 a barrel that we are paying OPEC, we could pay American oil companies $22 and they can recover 30 percent more out of all of America's oil wells by secondary and tertiary recovery.

But the capital funds must be available. There is capital if oil is deregulated and the price increases are "plowback" capital for the U.S. oil companies. The plowback credit requires all money from this credit to go back into U.S. oil exploration and development.

The oil companies have a great record

of reinvestment in seeking more oil. Let us review actual records that we have:

1. 1978 Sun Oil Company:

$365 million, net income.

$453 million, capital expenditures.

2. 1977 Top U.S. Oil Companies—Reinvestment:

$7.87 billion, net income.

$15.57 billion, capital investment and exploration costs.

3. 1976 v. 1975 Sample of 44 Representative Oil Companies:

$28.6 billion, cash flow from profits plus depreciation.

$28.8 billion, capital expenditures; 7.1 percent increase in capital expenditures.

To finance the cash flow shortfall, long term debt for the 44 company group was expended 10.9 percent by outside borrowing.

4. 1975 v. 1974 43 Oil Company Group:

Capital and exploration expenditures increased 4.6 percent despite decreased earnings. $26.9 billion reinvestment versus $11.6 billion in earnings.

5. 1973 v. 1972 43 Oil Company Group:

$11.8 billion, net income.

$16.3 billion, capital and exploration expenses; 14.0 percent increase in capital expenditures.

6. 1969 1. 1968 36 Oil Company Group:

$6.8 billion, net income.

$12.87 billion, capital and exploratory expenditures.

OBJECTION TO THE AUGUST RECESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Courter) is recognized for 5 minutes.

● Mr. COURTER. Mr. Speaker, I object. This House, this Congress cannot recess in the face of this energy crisis. There are too many important energy bills requiring our attention to justify our time away from Washington. To turn our backs on this legislation—no matter for how short a period—is to turn our backs on the American people. The people are crying out for a short-term solution to the gas lines. They want assurances that they will have the fuel oil to keep their homes warm this winter. They are demanding that we do everything in our power to insure the energy independence of America.

Mr. Speaker, if our predecessors in the Continental Congress had shown this eagerness to escape the heat and the problems in Philadelphia in 1776, we would still be a part of the British Empire.

Breaking our ties with OPEC today, is as important as the severing of the apron strings with England in 1776—our freedom to act as we choose, our self determination as a nation, the independence of America depends on it.

Our citizens have always held dear the unique American qualities of will and determination. Yet this Congress lacks the will and the determination to face and resolve our Nation's energy crisis. We have a sworn commitment to the people of the United States to provide them with the leadership and the guidance they need in these trying times. Consider what needs to be done. I urge you to stay here and act on the substantive and effective energy legislation that this country needs.●

THE MURDER OF FEDERAL DISTRICT JUDGE JOHN W. WOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise for the purpose of giving an interim report on the progress or lack of progress in the solution of the unprecedented murder of Federal District Judge John W. Wood, nor is there a proximation of solution to the attempted murder of the Assistant Federal District Attorney, James W. Kerr last November.

I will remind the House that Judge Wood was assassinated in the waning hours of the month of May and, regretfully, I must report that no more progress has been made indicating any kind of a lead of any substance or any kind of a lead leading to a solution of this very dastardly crime. It is an unprecedented crime. No Federal district judge has been assassinated in this century, and there has been one case, perhaps, in the entire history of the judiciary before it.

The involvement I have described on prior occasions. The case gets a little bit more complex. But what I am firmly resolved and pledged to do is not to let this case go into the penumbra of forgetfulness, into the dust of history, as in the case of the Hoffa mystery where we have the disappearance of a most prominent American, with no trace, and the law enforcement agencies with no ability to solve that case over the course of years.

Mr. Speaker, I am determined and I will persist until the case involving the murder of John W. Wood and the attempted assassination of James W. Kerr are resolved fully and completely. In the meanwhile, the manifestations of the presence of the most sophisticated and organized elements of crime are quite apparent, even to the most naive of laymen. The case seems to be tied in by law enforcement agents with one pending in the jurisdiction of El Paso, some 600 miles away from the scene of the murder, but one in which Judge Wood was to be the presiding judge. The defendant in this case has very tight connections with organized crime based in Las Vegas, and I think it is very instructive to say that his lawyer happens to be the personal lawyer for the No. 1 chieftan of organized crime or the syndicate, Meyer Lansky, which shows the relative range of importance involved in all of these transactions.

Mr. Speaker, I must, though, in truthfulness, report to the House that no progress up to date has really been made leading to the solution of these two crimes.

THE 1979 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, the 1979 Captive Nations Week—the 20th anniversary of this Nation's tradition—was successfully proclaimed and observed in all parts of our country and abroad. This reminder of America's natural alliance with over 1 billion captive people in Central Europe, within the U.S.S.R., in Asia, and Cuba is in the fullest spirit of human rights and represents an Achilles Heel to all the illegitimate Communist regimes, particularly the imperialist Moscow one. Going into the 1980's, we must continue with this tradition more than ever before.

As reports continue to flow in on the 1979 week, I shall select examples for my colleagues to indicate the scope of the observance. I commend to their attention the following: First, proclamations by Governors Hugh L. Carey of New York and Ed Herschler of Wyoming; second, those by Mayor Stanley A. Cmich of Canton, Ohio, Thomas J. Early of Worcester, Mass., and Gerald W. Graves of Lansing, Mich.; third, a salute to Boston by NCNC Chairman, Dr. Lev E. Dobriansky and items from the Boston Captive Nations Committee; fourth, an editorial and report in the Catholic Standard, July 5 and 12; fifth, an article on "Understanding Russian Fears"; and sixth an article by Spotlight on "Patriots Plan Observances of Captive Nations Week.

The material follows:

Proclamation—State of New York

The greatness of the United States is in large part attributable to its ability, through the democratic process, to achieve a harmonious national unity among its citizenry, which has sprung from infinitely diverse backgrounds.

The harmonious unification of our society has led the free people of our Nation to champion understanding and sympathy for the aspirations of peoples in other nations throughout the world.

The commemoration of Captive Nations Week is dedicated to the spirit and hope of enslaved peoples in their continuing quest for freedom and self-determination in their beloved native lands.

The freedom-loving people in captive lands look to the United States as a citadel of freedom and to the American people as a source of guidance and inspiration.

The Captive Nations Committee of New York will hold appropriate activities throughout the week to commemorate this annual observance and to address the issue of human rights and justice on behalf of the oppressed peoples in captive nations.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim the week of July 15–21, 1979, as "Captive Nations Week" in New York State.

Proclamation

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and.

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, Therefore, I, Ed Herschler, Governor of the State of Wyoming, do hereby proclaim that the week commencing July 15, 1979 be observed as "Captive Nations Week" in Wyoming, and call upon the citizens of Wyoming to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Wyoming to be affixed this twelfth day of July, 1979.

"CAPTIVE NATIONS WEEK" JULY 15–21, 1979

Whereas; the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others, and

Whereas; the desire for liberty and independence by the overwhelming majority of the peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas; the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas; the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as the citadel of human freedom and to the people of the United States to observe such week with appropriate prayers, ceremonies and activities;

Now, Therefore, I, Stanley A. Cmich, Mayor of the City of Canton; do hereby proclaim the week of July 15–21, 1979 as "Captive Nations Week" and urge that all citizens support this annual recognition of the intent and purpose of the Communist dominated and oppressed peoples of the world to regain their freedom.

PROCLAMATION

Whereas: The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders and initiate a major war; and

Whereas: The freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States, by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Thomas J. Early, Mayor of the City of Worcester, do hereby proclaim the week of July 15–21, 1979, to be "Captive Nations Week" in the City of Worcester, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas: The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czech-Slovakia, Lativa, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Gerald W. Graves, Mayor of the city of Lansing, by the power vested in me, do hereby proclaim the week of July 15, 1979, to July 21, 1979, as "Captive Nations Week" in Lansing, and call upon all citizens to join with me in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

ALEXANDRIA, VA., *July 15, 1979.*

Dear friends of the captive nations, as National Captive Nations Committee chairman, I most warmly congratulate your Captive Nations Committee for its contributions and achievements in implementing Public Law 86–90 for the past two decades. For the northeast region of our country your efforts, led particularly by Orest Szczudluk, have been outstanding, and thus vitally contributory to the overall national effort to show that the captive nations in toto, especially those in the USSR, are the Achilles heal of Moscow and the hope of the west. We'll persevere for the good and just.

Sincerely,

LEV E. DOBRIANSKY.

PRESS RELEASE

The week of July 15–21, 1979, will be observed as "Captive Nations Week" in the nation and in Massachusetts, according to proclamations issued by President Jimmy Carter and Governor Edward J. King. The purpose of the Captive Nations Week is to salute captive nations under Russian communist domination and reaffirm our support for their freedom and national independence.

On Wednesday, July 18, 1979, starting at 11:30 a.m. a special commemorative program will be held in Doric Hall—Massachusetts State House, Beacon Hill, Boston, in observance of the "Captive Nation Week" in Boston. The program will include prayers, reading of proclamations, a talk about captive nations and their aspirations for national independence and some cultural entertainment.

During the program, a plaque of appreciation will be presented to the Honorable John W. McCormack, retired Congressman from Boston and Speaker of the U.S. House of Representatives for his contributions to the enactment of the Captive Nations Week Resolution in July 1959.

The public is cordially invited to attend the observance at the State House.

This year marks the 20th anniversary of the enactment of the Captive Nations Week Resolution, known as Public Law 86–90. The resolution listed 22 original captive nations: Ukraine, Lithuania, Latvia, Estonia, Armenia, Azerbaijan, Beylorussia, Idel-Ural, Cossackia, Turkestan, Poland, Hungary, Czechoslovakia, Rumania, Bulgaria, Albania, Georgia, East Germany, Mainland China, North Vietnam, North Korea, Tibet. Added to the list were: Serbia, Groatia, Slovenia, Cuba, Cambodia, South Vietnam and Laos.

In his 1979 "Captive Nations Week" proclamation, President Jimmy Carter stated: "Americans now, as at all times in our history, remain steadfast in our belief that liberty and national independence are among the universal birthrights of mankind."

Governor King's proclamation noted: "The establishment of national and independent States by all captive nations and the the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and to the freedom of all nations."

This year's observance of the "Captive Nations Week" in Boston is sponsored by the 1979 Captive Nations Week Committee and active participation of Lithuanian American Council of Boston, American National Latvian League in Boston and Ukrainian Congress Committee of America—Boston Chapter. "This year's observance of the 'Captive Nations Week' provides yet another opportunity to use to manifest our concern for freedom and national independence of all captive nations under Russian communist domination," stated Orest Szczudluk, a spokesman for the Captive Nations Week Committee and vice president of the Ukrainian Congress Committee of America in Boston.

BOSTON, MASS., *July 6, 1979.*

20TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

This year's observance is sponsored by: Lithuanian American Council of Boston, American National Latvian League in Boston, Inc., and Ukrainian Congress Committee of America—Boston Chapter.

President Jimmy Carter and Governor Edward J. King designated the Week of July 15–21 as "Captive Nations Week" in the nation and in Massachusetts respectively.

In his proclamation of June 22, President Carter stated: "Americans now, as at all times in history, remain steadfast in our belief that liberty and national independence are among the universal birthrights of mankind. Remembering our democratic heritage and our commitment to human rights, let us take this occasion to reaffirm our admiration for all men and women around the world who are committed to the cause of freedom. And mindfall of our own rich and diverse heritage, let us express our compassion and respect for persons around the world still seeking the realization of these ideals in their own lands."

Governor King's proclamation stated: "The captive nations of Central and Eastern Europe—Armenia, Byelorussia, Estonia, Latvia, Lithuania, Ukraine, Georgia and others—have not accepted the Soviet Russian enslavement and continue to struggle for their national and independent states. The establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and to the freedom of all nations."

The "Captive Nations Week Resolution" of July 17, 1959, enumerated 22 original captive nations in the following order (year of communist domination is in the brackets): Poland (1947), Hungary (1949), Lithuania (1940), Ukraine (1920), Czechoslovakia (1948), Latvia (1940), Estonia (1940), Byelorussia (1920), Rumania (1947), East Germany (1949), Bulgaria (1946), Mainland China (1949), Armenia (1920), Azerbaijan (1920), Georgia (1920), North Korea (1948), Albania (1946), Idel-Ural (1920), Tibet (1951), Cossackia (1920), Turkestan (1922), North Vietnam (1954). Added since were: Cuba (1960), Cambodia (1975), South Vietnam (1975), Laos (1975).

[From the Catholic Standard, July 5, 1979]

BRAVE LITHUANIANS

It is easy to be a Catholic in the United States but there are many places in the world where being a Catholic requires courage.

It may take the most courage of all in Lithuania where a nation is totally in the control of the Soviet Union and just being a faithful Catholic may bring you imprisonment or death.

So consider the tremendous courage of 522 Catholic priests in Lithuania. They have taken a public stand against a Decree on Religious Associations where Soviet government officials are given virtual control over churches and their organizations.

The protest statement was signed by 522 of Lithuania's 708 priests—there may have been good reasons the others did not sign. What these brave priests told Soviet authorities was that they cannot obey laws which contradict the Church. Their first loyalty is to the Church, its laws and its bishops, the priests said in their statement, and they asked for a repeal of anti-religious laws and an end to state interference in the appointment of priests.

They are joined by Lithuanian Catholics, who are under the same oppressive rule that threatens their lives and freedom if they are openly Catholic.

It is a time for us to remember the people in captive nations, pray for them, support them in every way we can—and, most of all, to reflect on how we in our religious freedom fail so often to appreciate how fortunate we are and fail to unite ourselves in loyalty to the Church, its laws and its bishops. Where the Church is under persecution, Catholics recognize how basic this loyalty is to our unity.—D.F.

[From the Catholic Standard, July 12, 1979]

CAPTIVE NATIONS WEEK

We were a week early with our cartoon on Captive Nations Week—it is observed July 15–21. But the situation that is observed in this week is one that should be close to our hearts.

When 20 years ago President Eisenhower proclaimed the first Captive Nations Week, it was to unite us with the longing for freedom of those once free and independent nations in Central and Eastern Europe, including the non-Russian nations absorbed under Communist domination into the USSR.

President Eisenhower said that our nation should keep in mind this injustice "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

In those 20 years since the first proclamation none of the captive nations have regained freedom or independence. But our dedication to the cause of their freedom should be stronger than ever.

Among the human rights to which we are dedicated is the right of nations to be free. Captive Nations Week is a reminder to us that nations are not free, that still many are under Russian domination, and with the reminder we must commit ourselves to support oppressed peoples in their captivity.—D. F.

[From the King Features Syndicate, May 25, 1979]

UNDERSTANDING RUSSIAN FEARS

(By Ronald Reagan)

Most Americans probably think of the Soviet Union as "Russia," a country populated by "Russians." The Russians wish it were so, but today they make up less than 50 percent of the population of the vast U.S.S.R. and the birthrate doesn't favor them.

There are 50 nationality groups in the U.S.S.R. with populations of 100,000 or more 22 of them have more than a million each. Andrei Amalrik, who left the Soviet Union to take up a new life at Harvard's Russian Research center, wrote recently, "This variety of nationalities, part of which were independent states or belonged to other states during the past century, contradicts the unitarian Soviet system. The conflict is somewhat mitigated by the existence of national republics, but their autonomy exists largely on paper; the central authorities always try—sometimes cruelly sometimes subtly—to replace the national languages and traditions with common Soviet traditions and the Russian language."

When those two Russian diplomats who had been caught spying in the U.S. were exchanged recently for five men freed from the Gulag, one of those men, a Ukrainian, brought home to the free world just how crushing this "Russification" program can be to a proud nationality.

Valentyn Moroz had spent 14 of his 43 years in Soviet jails. A scholar and historian. Moroz had defied "Russification" of his native Ukraine by presenting the facts about how the Russians were trying to smother its nationality.

Amalrik says, ". . . 'Russification' is due less to the strength of the Russian central authorities than to their weakness. Their weakness is caused first by a fear of the decreasing percentage of Russians in the national demographic balance and second by a crisis of ideology."

Valentyn Moroz—one brave voice—clearly rubbed the Russian authorities the wrong way, for he demanded cultural freedom for the Ukraine. Indirectly he was speaking for such other distinct nationalities within the Soviet empire as the Georgians, Byelorussians, Estonians, Latvians, Lithuanians and Armenians—not to mention the satellite communist states of central and eastern Europe.

Soviet policies designed to wipe out national consciousness from among their subjects range from mass deportations from ancestral homelands all the way to murder, according to Moroz.

And nothing is sacred, he says. A few years ago holy Ukranian icons were "borrowed" for use by the Soviet government. Even though their return had been guaranteed in writing, the people of the Ukraine have not seen them since 1963. In another case a Soviet official in charge of "cultural affairs" ordered the burning of highly-prized, centuries-old graphics in the Lvov museum.

Valentyn Moroz, as he stepped into the light of freedom, set an example for the rest of us, it seems to me. He has learned important truths from terrible experiences. Undaunted, he kept on writing and speaking out for the freedom of his people's heritage and culture, despite the dangers to him personally. He has proved that the longing for freedom can be stronger than the weapons of tyranny. It is often ignored in international relations, but it is a power in the human spirit to be reckoned with.

PATRIOTS PLAN OBSERVANCES OF CAPTIVE NATIONS WEEK

WASHINGTON.—The 20th anniversary of Captive Nations Week will be observed throughout the free world July 15–21, affording patriots their foremost opportunity this year to rally in support of the victims of Soviet imperialism.

In at least a dozen American cities, and in many foreign countries, mammoth demonstrations on behalf of the captive peoples of Europe, Asia and Latin America are planned.

The House of Representatives will also consider the plight of the Captive Nations and their oppressed peoples. Each year, a "special order" sets aside in advance time during the week for members to speak out in aid of the 30 Captive Nations. (This is the conservative, official congressional count, and does not include some nations under strong Soviet influence, such as Panama.)

Rep. Edward J. Derwinski's (R-Ill.) office told The Spotlight on June 26 that the special order will be on July 18. Derwinski is a leader of the Captive Nations Week movement.

CAPTIVE 59 YEARS

The Captive Nations are defined as those which have come under communist domination primarily as a result of Soviet imperialism.

The first bloc of these have been prisoners for 59 years; in 1920, the Bolshevik government of Soviet Russia began conquering independent nations adjacent to Russia proper.

These nations—including part of Armenia, Ukraine, Byelorussia and Georgia—were organized as captives in the USSR.

Throughout the following years, in successive waves, Soviet Russia added additional nations to its empire; its single largest acquisition took place in the late 1940s, when Presidents Franklin Roosevelt and Harry Truman signed Eastern Europe over to the Red Army.

The Spotlight (June 27, 1977) has examined in detail the creation of Soviet Russia's empire of Captive Nations. The Spotlight's "Christian Holocaust" series (Sept. 18, Oct. 9 and 23, 1978; Jan. 1 and 8, Feb. 19, March 5, April 23 and May 14) has also documented the Soviets' calculated murder of scores of millions of Christians.

INCENSES COMMISSARS

Captive Nations Week was established by a Joint Resolution of Congress in 1959. The law declaring the third week of July as Captive Nations Week was passed after years of spontaneous demonstrations on their behalf by anticommunists in the U.S. and abroad.

(Communist reaction to any display of support for the captive peoples has always been particularly hysterical; in 1959, the Hungarian revolt of 1956 (Spotlight, Oct. 17, 1977 and Oct. 23, 1978) and the East German and Polish rebellions of 1953 were still fresh in the minds of the Kremlin's kagans.)

Soviet dictator Nikita Khrushchev was outraged by the establishment of Captive Nations Week and vilified it both personally and through the Soviet propaganda machine.

The Captive Nations Week resolution, in addition to defining Congress views on the Soviet empire, directed the president to annually issue a Captive Nations Week proclamation; President Eisenhower did so, forcefully, in 1959 and 1960.

Ike issued his first proclamation the very day the Joint Resolution passed Congress. Eisenhower affirmed U.S. support for "the many nations throughout the world (that) have been made captive by the imperialist and aggressive policies of Soviet communism."

PROCLAMATION GUTTED

Ike issued the same proclamation—complete with denunciations by name of Soviet Russia—in 1960.

President John Kennedy, however, gutted the Captive Nations Week proclamation; the mush which Kennedy produced left out any reference to communism, Russia, Soviet policy, Soviet imperialism, "Soviet-dominated nations," the plight of the Captive Nations and everything else which made Ike's proclamations so forceful and which so enraged the Kremlin. The Spotlight (June 27, 1977 and May 29, 1978) has examined the decline of the proclamations.

The Kremlin continued to denounce the annual observances after 1960 (despite the fact that Kennedy's proclamations were bland and weak); because Congress still independently championed the Captive Nations, and patriotic Americans demonstrated in support of them.

After Kennedy gutted the spirit of the Captive Nations proclamation, subsequent presidents could not have strengthened the language without being attacked for "escalating" the "cold war" and increasing "international tension."

ABANDON CAPTIVE PEOPLES

President Jimmy Carter, however, sought to go Kennedy one better. Carter tried in 1977 to forgo issuing any proclamation at all (Spotlight, Aug. 8, 1977).

This, remember, was during the time when Carter's pious "human rights" rhetoric was a daily feature of the liberal Establishment media.

Patricia Derian, the State Department's designated "human rights expert," said then she was "not overly concerned" that Carter was not issuing a Captive Nations proclamation. "It's not as if we were sending money to Chile," she said (Chile has a strongly anti-communist government).

Miss Derian was identified as a Marxist a few months ago by Nicaraguan President Anastasio Somoza, who is battling to prevent his country from becoming another Captive Nation.

Carter's 1977 attempt to ignore the Captive Nations miscarried after patriotic citizens and members of Congress brought pressure to bear; Carter grudingly issued the proclamation a few hours before the members of the House were scheduled to roast him.

RALLIES PLANNED, CONGRESS ACTIVE

Captive Nations Week observances are planned this year in (at least) New York City; Chicago; Phoenix; San Diego; Buffalo; Pittsburgh; Boston; Cleveland; Syracuse, N.Y.; Philadelphia and New Orleans. In addition, South Korea, the Philippines and the Republic of (Free) China on Taiwan will hold observances.

Meanwhile, representatives are already actively preparing for Captive Nations Week; in addition to Derwinski's plan, Rep. Daniel J. Flood (D-Pa.) has placed two speeches and two lengthy articles on the Captive Nations in the "Congressional Record."●

THE PROTECTION OF PRIVACY ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 10 minutes.

● **Mr. BINGHAM.** Mr. Speaker, I am today introducing a bill which would require a court order before law enforcement officials could break and enter into private premises to install eavesdropping equipment. My bill, the Protection of Privacy Act of 1979, shares the same goal as H.R. 4854, introduced last week by my friend, the able gentleman from New York, Mr. Weiss. I am a cosponsor of the Weiss bill and I am happy to have the gentleman as a cosponsor of mine.

I am including in the Record, at this point, an editorial from the Philadelphia Inquirer which summarizes the recent Supreme Court decision in Dalia against United States and argues persuasively for enactment of the type of legislation which I am introducing to protect "a basic right of privacy."

My bill differs from the Weiss bill in a number of important details. In general the Protection of Privacy Act would give the courts greater control over the activities of law enforcement officials while they are on private premises without the consent of the occupant. It also sets tighter standards for the issuance of a break-in order.

Unlike the Weiss bill, the Protection of Privacy Act expressly provides criminal penalties for an unauthorized break-in. It would require all applications for a break-in order to originate with the Attorney General of the United States or an assistant which he designates or the chief prosecuting attorney of a State or political subdivision.

In addition to the requirements which the applicant must meet under the Weiss bill, the Protection of Privacy Act would require the applicant to explain why means less intrusive than a break-in would not be successful.

The applicant would not only have to describe the premises to be entered, but would have to name those areas within the premises which he believes must be entered.

An estimate of the amount of time which the break-in should last would also have to be supplied. Finally, the applicant would have to advise the court of any previous actions known to him concerning a break-in involving the same persons or premises.

All of these factors should be known to a judge so that he may better determine the need for a break-in.

My bill would require a break-in order to be in writing. It would have to specify the areas within the premises which may be entered and the date and time (allowing for one alternate time and date) when the break-in may be carried out so that the intrusion would be minimized to the greatest possible degree. It would prohibit law enforcement officials from opening any locked enclosures, such as a locked desk drawer or closet, located within an area approved for entry.

My bill would give a judge the authority to require an applicant for a break-in order to report back to him after the break-in to insure that the authority had not been exceeded. The bill would provide for exclusion of evidence obtained as a result of an unauthorized break-in, or if the order was insufficient on its face.

Perhaps the two most important protections offered by my bill would be the provisions giving a judge the discretion to deny permission for a break-in and prohibiting the use of a break-in order in conjunction or in concert with a warrant or order other than an eavesdrop order.

Protecting the private premises of an individual is extremely important to our American way of life. It is possible that an applicant could meet all the requirements of this bill but, in the opinion of the judge, the facts of the case still might not justify allowing an intrusion of the magnitude of a break-in.

My bill gives a judge the discretion to turn down an application in such an instance.

The need for individuals to have some private place to escape from the problems of the modern world, where they can reflect, relax, study, or just be themselves is greater now than ever.

The authors of our Constitution were wise enough to recognize this when they included the fourth amendment as a part of the Bill of Rights.

I hope Congress will reaffirm its belief in this constitutional principle respecting individual privacy and promoting individuality by passing legislation along the lines of the Protection of Privacy Act and/or H.R. 4854.

Supreme Court Erodes a Basic Right of Privacy

The United States Supreme Court, in a technically complex case involving the restraints under which police authorites must proceed in implementing court-authorized electronic eavesdropping, has established a doctrine which erodes the privacy rights of all Americans. It leaves to the Congress the responsibility to reestablish explicitly the protections which the court, in a split decision, has taken away.

The decision came in *Dalia v. U.S.*, involving the conviction of a New Jersey man for receiving stolen property. In seeking evidence against Lawrence Dalia, agents of the Federal Bureau of Investigation obtained a court order, under the provisions of the 1968 Omnibus Crime Control Act, which allowed them to use electronic eavesdropping devices.

Fine, that is what the law allows, and it is a valuable weapon, especially in cases of organized crime and political corruption. But taking the principle a step beyond the specifics of either the statute or the judge's order, the FBI agents pried open a window in Dalia's office and planted a "bugging" device in the ceiling. The conversations thus recorded eventually contributed to his conviction.

In their appeal, Dalia's lawyers contended his rights were violated at three levels: (1) That the Fourth Amendment's prohibition of unreasonable search and seizure made all covert entry into private property unacceptable; (2) That since the 1968 law is specifically silent on the question of covert entry in order to install eavesdropping equipment, it does not give police agents or the warrant-issuing courts the power to authorize covert entry; and (3) That even if the power to authorize breaking and entering falls implicitly to the judge, he then is required to issue a separate, explicit order permitting it.

Properly, the Supreme Court unanimously rejected the first argument. To have done otherwise would have been to deny the Congress and the states the right to pass laws allowing, under reasonable protections, searches and seizures which are fundamentally important to responsible law-enforcement. The court also rejected the second contention, on a vote of 6-to-3, and the third, 5-to-4.

In their dissent on the second point, Associate Justices John Paul Stevens, William J. Brennan Jr. and Thurgood Marshall contended that since the statute does not explicitly allow covert entry, the majority's opinion "converts silence into thunder." Justice Potter Stewart joined the dissent on the third point.

The dissenting justices went back into the history of the Congress's evolution of the 1968 act and found, in the language of Justice Stevens, that "the legislators never even considered the possibility that they were passing a statute that would authorize federal agents to break into private premises without any finding of necessity by a neutral and detached magistrate . . . I fear that the court's holding may reflect an unarticulated presumption that national police officers have the power to carry out a surveillance order by whatever means may be necessary unless explicitly prohibited by the states or by the Constitution. But surely the presumption should run the other way."

Surely, it should. In ruling to the contrary, a majority of the Supreme Court has, once again, taken away an important protection of individual liberty and privacy which at the very least should be determined, with the greatest caution, by the Congress.

The majority has thus laid on the steps of the Capitol a challenge—and a responsibility—to enact legislation which will, at the very least, require that specific and explicit cases be made by police authorities who seek to break into private premises, and that judges empowered to issue warrants for electronic eavesdropping be required to consider as a separate and even more demanding question whether breaking and entering can be permissible in order to do so.●

ENERGY ARTICLE NO. 1: GASOHOL IS COMING ON STRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, in order to secure the U.S. energy future, the national energy strategy must be based on a multiple-energy source policy. Among those energy sources which we can now start bringing on the line—aside from expanded drilling and enhanced recovery of domestic oil, full utilization of nuclear power, and continued encouragement of conservation in the home, business, industry and transportation—are alcohol fuels, particularly ethanol, derived from agricultural biomass.

The new National Alcohol Fuels Commission, on which I serve as one of the congressional members, will be assessing the full potential of alcohol fuels. However, within certain agricultural regions, including my State of Arkansas, the movement is already well underway to produce alcohol fuel, primarily for blending with gasoline to produce "gasohol."

There appears to be little question that gasohol is becoming a popular fuel with the motoring public. I believe this demonstrates that the public is ready to accept the alternatives necessary to kick the foreign oil habit.

Attesting to the popularity of gasohol, I would like to share with my colleagues an article which appears in the current issue of the magazine Changing Times.

The article follows:

Fill'er Up with Gasohol

(NOTE.—In the states where it is available, motorists are snapping up this gasoline-alcohol blend for their cars. Can it help ease the oil shortage? Could your car run on it?)

On a balmy evening early last April, President Carter proclaimed on national television his first widely recorded official endorsement of an oil-conserving fuel that has been powering automobiles successfully for more than 60 years. "From the products of our forests and croplands," he declared in his address announcing the decontrol of domestic oil prices, "we can produce more gasohol—already being used to replace gasoline in several midwestern states."

As it turns out, the President wasn't strictly accurate. Gasohol doesn't really "replace" gasoline. In fact, 90 percent of it is unleaded gasoline. The remaining 10 percent is alcohol—200-proof ethyl alcohol, or ethanol, to be precise. And in that portion of the blend lies the basis for some appealing claims for this hybrid fuel.

Gasohol, say its advocates, burns cleaner than either leaded or unleaded gasoline and cuts carbon monoxide emissions by as much as 30 percent.

It makes many cars run more smoothly, reducing engine knock and eliminating "dieseling," the tendency of some engines to keep running after the ignition has been turned off.

In some tests gasohol has delivered more miles per gallon than straight gasoline.

Since the alcohol component of gasohol can be brewed from practically anything that grows—corn, sugar cane, potatoes—it is a renewable energy source that can help us reduce our dependence on imported oil.

Fermenting the alcohol from farm crops would create a new market for farmers, thus easing the problem of persistent farm surpluses and saving the money the government now pays farmers not to grow certain crops, such as corn and wheat.

If there is truth to such claims—and there is—then why haven't we embarked on a full-scale gasohol production program so that everyone's car can use it? The answer comprises something of a mixture itself: part technology, part economics and part politics.

Not everyone agrees that gasohol is as promising a fuel as its advocates say, but no one disagrees with the claim that it works. If your car runs well on gasoline with an octane rating of about 90, it will run well on gasohol with no alteration of your engine. Some retailers do advise motorists to keep an eye on the fuel line filter when they first make the switch because in a dirty engine the alcohol loosens sludge and sediment, which can clog the filter.

At one time gasohol opponents warned that the alcohol would have a tendency to separate from the gasoline in the car's tank, causing hard starting in winter and vapor lock in summer. But millions of miles of driving in the seasonal extremes of the Midwest haven't supported that argument, and such warnings aren't heard much anymore.

The fact that gasohol works so well makes it difficult for an oil-hungry nation to resist. Gasohol seems to offer us a way to stretch gasoline supplies by 10% without having to discover a single additional drop of oil. Its advocates insist that that is exactly what it would do. Its opponents—who have been found mostly in the large oil companies and, until recently, in the federal government—argue that too many roadblocks stand between the relatively small scale production of today and a program large enough to make a significant contribution to our energy needs.

HOW MUCH MORE CAN WE MAKE?

Right now most of the alcohol going into gasohol comes from a single plant in Decatur, Ill., operated by the Archer Daniels Midland Co. A couple of smaller plants elsewhere in the country add a little bit more. Altogether these distilleries are making enough ethanol to mix up about a million gallons of gasohol a day—less than ½ of 1% of the country's daily gasoline consumption. Before those numbers can grow significantly, gasoholics will have to convince potential investors in new plants that they can resolve a number of disputes in their favor.

Raw materials. Opponents of a large-scale gasohol program say that producing enough ethyl alcohol to replace a significant amount of gasoline would require such huge crops that too much of the country's farm acreage would have to be diverted from food production. Gasohol defenders insist that the millions of acres the government keeps out of production deliberately each year are sufficient to grow the crops needed for an alcohol fermentation program that could replace 10% of all the gasoline we burn. Furthermore, they say, the land wouldn't be lost for food production entirely. Fermentation of such starchy crops as corn yields a high-protein by-product that could be sold on world markets, thus helping to reduce the troublesome deficit in our balance of payments.

Cost. It costs about three times as much to make a gallon of ethanol in today's plants as it does to refine a gallon of gasoline. Thus, adding ethanol to gasoline raises the price at the pump. But most dealers have been selling gasohol as fast as they can get it, thanks in part to tax breaks that bring down the fuel's price. It is exempt from the 4-cents-a-gallon federal gasoline tax until September 1984, and in Iowa, where it sells best, gasohol was voted an exemption from the state levy on gasoline. The results of these and other tax breaks is that in most places gasohol sells at about the same price as unleaded premium gas. Gasohol backers say that technological advances in new plants will bring the price down even more. Nevertheless, conservation, not economy, will continue to be gasohol's strongest selling point.

Energy balance. Perhaps the most stinging charge gasohol's detractors make is that the production of ethanol consumes more energy than the fuel eventually delivers in your car. Gasoholics say this criticism misses the point. The alcohol from distillation plants burning coal, municipal refuse or some other plentiful commodity would extend our supply of gasoline, which is scarce. Besides, they say, studies showing a negative energy balance were made at old plants producing beverage-grade alcohol. Producers of fuel-grade alcohol needn't be as fussy about purity, and new plants would incorporate technological improvements that deliver the alcohol with a favorable energy balance. So far, though, such a plant has not been built.

GETTING FROM HERE TO THERE

For most Americans the debate over gasohol is purely academic, since the fuel is probably not sold at their local filling stations. Of the 600 to 700 gasohol stations in the country, most are in one state, Iowa. Nebraska, Illinois and Indiana sport a number of outlets, and a few stations are located in each of about a dozen other states. The reason for the fuel's popularity in the farming states is simple: The ethanol going into gasohol so far has been distilled almost exclusively from corn, and corn is a very big farm crop.

Farm crops aren't the only source of alcohol. Timber, coal, even solid municipal wastes can be made into a form of alcohol called methanol through a gasification process that bypasses fermentation. Methanol backers point out that it, too, can be used as a gasoline extender, and they have figures to show that it is cheaper to make than ethanol. The Mobil Oil Co. has even demonstrated a successful, though very expensive, way to convert methanol into high-octane gasoline.

The struggle over gasohol is now centered in Washington, since federal incentives for building alcohol plants of one sort or another may make the difference between a regional gasohol program and a national one. Gasoholics think the tide is running in their favor. "The President's endorsement gave us recognition and a sense of legitimacy in other people's eyes that we didn't have before," says Richard Merritt, an unpaid lobbyist for the National Gasohol Commission. "It is now socially acceptable in Washington to favor gasohol."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachussetts (Mr. Drinan) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a longstanding commitment to serve as a panelist in a "National Town Meeting" on privacy, which was held at Washington's Kennedy Center, I was unavoidably absent from the House for a brief period on July 26 during consideration of House Resolution 379, a rule providing for the consideration of H.R. 3000. Had I been present for rollcall No. 389, on approval of the resolution, I would have voted "yea." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Mr. Murphy of Illinois (at the request of Mr. Wright), for today, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Duncan of Tennessee, for 30 minutes, today.

Mr. Courter, for 5 minutes, today.

(The following Members (at the request of Mr. Glickman) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Ms. Holtzman, for 5 minutes, today.
Mr. Alexander, for 10 minutes, today.
Mr. Van Deerlin, for 5 minutes, today.
Mr. Alexander, for 10 minutes, today.
Mr. Drinan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ginn, to revise and extend his remarks immediately following the remarks of Mr. McCormack today in the Committee of the Whole.

Mr. Hughes, immediately following the remarks of Mr. Florio on his amendment to H.R. 4930 in the Committee of the Whole today.

(The following Members (at the request of Mr. Erdahl) and to include extraneous matter:)

Mr. Royer.
Mr. Philip M. Crane in two instances.
Mr. McCloskey in two instances.
Mr. Michel in two instances.
Mr. Wydler.
Mr. Hillis.
Mr. Paul in two instances.
Mr. Tauke.
Mr. Grassley.
Mr. Anderson of Illinois.
Mr. Rinaldo.
Mr. Gilman.
Mr. Hammerschmidt in two instances.
Mr. Davis of Michigan.
Mr. Solomon.
Mr. Jeffords.
Mr. Hopkins.
Mr. Bob Wilson in two instances.
Mr. Bereuter in two instances.
Mr. Collins of Texas.

(The following Members (at the request of Mr. Glickman) and to include extraneous matter:)

Mr. Anderson of California in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Ms. Holtzman in 10 instances.
Mr. Jones of Tennessee in 10 instances.
Mr. Boner of Tennessee in five instances.
Mr. Conyers in two instances.
Mr. Biaggi in 15 instances.
Mr. McCormack in three instances.
Mr. Mazzoli.
Mr. Mavroules.
Mr. Preyer.
Mr. Vento in two instances.
Mr. Garcia in two instances.
Mr. Gephardt in two instances.
Mr. Gaydos.
Mr. Simon.
Mr. Mottl in two instances.
Mr. Richmond.
Mr. Van Deerlin.
Mr. Murphy of New York.
Mr. Luken.
Mr. Russo.
Mr. Harris.
Mr. Rosenthal.
Mr. Waxman.
Mr. Lowry.
Mr. Patterson.
Mr. Wolpe.
Mr. Ottinger.
Mr. O'Neill.
Mr. Jenrette.
Mr. Skelton.
Mr. Dingell in three instances.
Mr. Weiss.
Mrs. Schroeder.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1786. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 976. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On July 25, 1979:

H.J. Res. 373. Recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

On July 26, 1979:

H.R. 4537. To approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes;

H.R. 4591. To make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes; and

H.R. 4712. To delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court, and for other purposes.

ADJOURNMENT

Mr. GLICKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Tuesday, July 31, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2132. A letter from the Governor, Farm Credit Administration, transmitting the 45th annual report of the Farm Credit Administration and the Cooperative Farm Credit System, including the report of the Federal Farm Credit Board, pursuant to section 5.18(3) of Public Law 92–181, as amended; to the Committee on Agriculture.

2133. A letter from the Deputy Secretary of Defense, transmitting notice of approval of annual compensation rates, exceeding $45,000 for officials of various Federal Contract Research Centers, pursuant to section 407(b) of Public Law 91–121; to the Committee on Armed Services.

2134. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of defense equipment to Jordan (Transmittal No. 79–62) pursuant to Section 813 of Public Law 94–106; to the Committee on Armed Services.

2135. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of defense equipment to the United Kingdom (Transmittal No. 79–66) pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2136. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to Saudi Arabia (Transmittal No. 79–73), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2137. A letter from the first vice president and vice chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during June 1979 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2138. A letter from the Mayor of the District of Columbia, transmitting the annual report for fiscal year 1978 on the District of Columbia's alcoholism program, pursuant to section 13(a) of the act of August 4, 1947, as amended (82 Stat. 623); to the Committee on the District of Columbia.

2139. A letter from the Secretary of Health, Education, and Welfare, transmitting the family contribution schedules for the basic educational opportunity grant program for academic year 1980–81, pursuant to section 411(a)(3)(A)(ii) of the Higher Education Act of 1965, as amended; to the Committee on Education and Labor.

2140. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 79–11, finding that the sale of defense articles and defense services to the Government of Barbados will strengthen the security of the United States and promote world peace; to the Committee on Foreign Affairs.

2141. A letter from the Acting Assistant Secretary of State for Congressional Relations; transmitting a report on political contributions made by Ambassador-designate James W. Spain, and his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2142. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Thomas J. Watson, Jr., and his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2143. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Australia for permission to transfer certain U.S.-origin defense articles to the Government of Papua New Guinea, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2144. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Jordan (Transmittal No. 79–62), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2145. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to the United Kingdom (Transmittal No. 79–66) pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2146. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Saudi Arabia (Transmittal No. 79–73), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2147. A letter from the Comptroller General of the United States, transmitting a report reviewing the progress Government agencies have made in obtaining sufficient audit staff, (FGMSD–79–43, July 27, 1979); to the Committee on Government Operations.

2148. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during June 1979, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2149. A letter from the Secretary of the Interior, transmitting a copy of an application by the Lewiston Orchards Irrigation District of Lewiston, Nez Perce County, Idaho, for a loan under the Small Reclamation Projects Act, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

2150. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the Nisqually Tribe judgment funds in docket No. 197 before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

2151. A letter from the General Counsel of the Department of Energy, transmitting notice of meetings realted ot the International Energy Program to be held August 7 and 8, 1979, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2152. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

2153. A letter from the General Counsel of the Navy, transmitting a report on the investigation of allegations of mismanagement at the Naval Weapons Center, China Lake, Calif., persuant to 5 U.S.C 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

2154. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting revised notice of the proposed reprograming of funds between various categories of Agency appropriations for fiscal year 1979, pursuant to section 2(c) of Public Law 95–477; to the Committee on Science and Technology.

2155. A communication from the President of the United States, transmitting the energy tax initiatives of his oil import reduction program (H. Doc. No. 96–171); to the Committee on Ways and Means and ordered to be printed.

2156. A letter from the Comptroller General of the United States, transmitting a report on the need for the Department of Agriculture to establish an enforcement and monitoring system to insure that farm cooperatives do not use monopolistic or other unfair trade practices (CED–79–106, July 26, 1979); jointly, to the Committees on Government Operations, Agriculture, and the Judiciary.

2157. A letter from the Comptroller General of the United States, transmitting a report on needed improvements in the Selected Reserve training program of the Department of Defense (FPCD–79–59, July 30, 1979); jointly, to the Committees on Government Operations and Armed Services.

2158. A letter from the Comptroller General of the United States, transmitting a report on needed improvements to the collection of unemployment statistics (GGD–79–79, July 27, 1979); jointly, to the Committees on Goverment Operations and Education and Labor.

2159. A letter from the Comptroller General of the United States, transmitting a report on passive restraints for automobiles (CED 79–93, July 27, 1979); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 5006. A bill to provide assistance to rural water systems in achieving compliance with title XIV of the Public Health Service Act, and for other purposes; jointly, to the Committees on Agriculture and Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself and Mr. Weiss):

H.R. 5007. A bill to amend title 18 of the United States Code to require court orders for trespass incident to legal interception of wire and oral communications; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 5008. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to apply the provisions of chapter 5 of title 5, United States Code, to the rules, regulations, and orders of the Veterans' Administration; to provide for the use of a reasonable fee for attorneys in rendering legal assistance to veterans with claims before the Veterans' Administration; and for other purposes; jointly, to the Committees on Veterans' Affairs and the Judiciary.

By Mr. LOWRY:

H.R. 5009. A bill to provide that attorneys fees and other reasonable costs shall be reimbursed to taxpayers who substantially prevail in any proceeding, litigation, or court action which is brought by or against the United States for the determination, collection, or refund of any tax, interest, penalty, or other matter arising under the Internal Revenue Code; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. THOMPSON (for himself, Mr. Brademas, Mr. Hawkins, Mr. Annunzio, Mr. Gaydos, Mr. Jones of Tennessee, Mr. Mollohan, Mr. Van Deerlin, Mr. Minish, Mr. Davis of South Carolina, Mr. Rose, Mr. John L. Burton, Mr. Peyser, Mr. Ratchford, Mr. Fazio, Mr. Dickinson, Mr. Cleveland, Mr. Frenzel, Mr. Stockman, Mr. Badham, Mr. Gingrich, Mr. Lewis, Mr. Campbell, and Mr. Loeffler):

H.R. 5010. A bill to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, and for other purposes; to the Committee on House Administration.

By Mr. McCORMACK:

H.R. 5011. A bill to limit the size of the Conboy Lake National Wildlife Refuge in the State of Washington to certain lands acquired with the consent of the owners, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MOORE:

H.R. 5012. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. MURPHY of New York:

H.R. 5013. A bill to provide for the entry of certain relatives of U.S. citizens and aliens lawfully admitted for permanent residence; to the Committee on the Judiciary.

H.R. 5014. A bill to amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit, fictitious, altered, lost, or stolen airline tickets; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.R. 5015. A bill to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PATTERSON:

H.J. Res. 384. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling the attendance of a student in a public school outside the school district in which the student resides; to the Committee on the Judiciary.

By Mr. VENTO:

H.J. Res. 385. Joint resolution 500th Anniversary Celebration Commemorating Christopher Columbus' First Voyage to the Americas; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE (for himself, Mr. Kogovsek, Mr. McDade, Mr. Carter, Mr. Staggers, Mr. Frenzel, Mr. Whittaker, Mr. Buchanan, Mr. Miller of Ohio, Mr. Goodling, and Mr. Cleveland):

H. Res. 392. Resolution to express the sense of the House of Representatives that the United States of America should establish and actively and immediately pursue a national energy plan that emphasizes and demands the use of domestic coal as a means of displacing current foreign energy imports, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHNSON of California:

H.R. 5016. A bill for the relief of David Roland Weaver; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 5017. A bill for the relief of Simon Stroh; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 473: Mr. Edwards of Alabama, and Mr. Shumway.

H.R. 545: Mr. Patterson, Mr. Badham, Mr. Levitas, Mr. Carr, Mr. Ginn, Mr. Buchanan, Mr. Mottl, Mr. Robert W. Daniel, Jr., Mr. Mitchell of New York, Mr. Ambro, Mr. Green, Mr. Patten, Mr. Stokes, Mr. Mikva, Mr. Price, Mr. Blanchard, Mr. Gephardt, Mr. Evans of Georgia, Mr. Yatron, Mr. Hagedorn, Mr. Wyatt, Mr. Dan Daniel, Mr. Dornan, Mr. Hall of Texas, Mr. Derwinski, Mr. Jacobs, Mr. Walker, Mr. Andrews of North Dakota, Mr. Murphy of Pennsylvania, Mr. Hamilton, Mr. Devine, Mr. Winn, Mr. Runnels, Mr. Lagomarsino, Mr. Whitehurst, Mr. McDonald, Mr. Rahall, Mr. Zeferetti, Mr. Kramer, Mr. Edwards of Oklahoma, Mr. Spence, Mr. Lott, Mr. Rose, Mr. Lee, Mr. Jeffords, Mr. Burgener, and Mr. Applegate.

H.R. 809: Mr. Sabo.

H.R. 811: Mr. Clausen, Mr. Corcoran, and Mr. Lujan.

H.R. 1677: Mr. Downey, Mr. Florio, Mr. Lee, Mr. Petri, Mr. Pritchard, Mr. Sabo, Mr. Solomon, and Mr. Stanton.

H.R. 2040: Mr. Treen.

H.R. 2501: Mr. Richmond.

H.R. 2759: Mr. Evans of the Virgin Islands and Mr. Hughes.

H.R. 2812: Mr. Coughlin.

H.R. 3181: Mr. Bailey and Mr. Bethune.

H.R. 3612: Mr. Heftel.

H.R. 3958: Mr. Clausen.

H.R. 4055: Mr. Treen and Mr. Edwards of Oklahoma.

H.R. 4265: Mr. McCormack, Mr. Yatron, Mr. Simon, Ms. Mikulski, Mr. Patterson, Mr. Patten, Mr. Treen, Mr. Bailey, Mr. Kostmayer, Mr. Gilman, Mr. Santini, Mr. Marlenee, and Mr. Cleveland.

H.R. 4279: Mr. Gephardt, Mr. Evans of Delaware, Mr. Marriott, Mr. Corrada, Mr. Montgomery, Mr. Bevill, Mr. Dannemeyer, Mr. Burgener, Mrs. Holt, Mr. Whitley, Mr. Bedell, and Mr. Dornan.

H.R. 4598: Mr. Weiss, Mr. Won Pat, Mr. Boland, Mr. Vento, Mr. Lehman, Mr. Flood, Mr. Yatron, Mr. Sabo, Mr. LaFalce, Mr. Daschle, Mr. Stokes, Mr. Downey, Mr. Ottinger, Mr. Staggers, Mr. Lowry, Mr. McCormack, Mr. Pritchard, Mr. Patterson, Mr. Carter, Ms. Ferraro, Mr. Coughlin, Mr. Jenrette, and Mr. Maguire.

H.R. 4986: Mr. Conyers, Mr. Akaka, Mr. Traxler, Mr. Heftel, Mr. Whitehurst, Mr. Kildee, Mr. Weaver, Mr. Dixon, Mr. Brown of Ohio, Mr. Gaydos, Mr. Neal, Mr. Kogovsek, Mr. Trible, Mr. Snyder, Mr. Burgener, Mr. Shelby, Mr. Gray, Mr. Yatron, Mr. Baldus, Mr. Fazio, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Wolpe, Mrs. Schroeder, Mr. Davis of Michigan, Mr. Thompson, Mr. Pritchard, Mr. Wirth, Mr. Symms, Mr. Dellums, Mr. Cleveland, Mrs. Heckler, and Mr. Ambro.

H.J. Res. 53: Mr. Winn.

H.J. Res. 161: Mrs. Spellman, Mr. Pritchard, and Mr. Dicks.

H.J. Res. 202: Mr. Dornan, Mr. Grassley, and Mr. McDonald.

H. Res. 36: Mr. Treen.

PETITIONS, ETC.

Under clause 1 of rule XXII,

183. The SPEAKER presented a petition of the city council, Miami, Fla., relative to the proposed Condominium Act of 1979; which was referred to the Committee on Banking, Finance and Urban Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4034

By Mrs. FENWICK:

—Page 27, add the following after line 24 and redesignate the subsequent subsection accordingly:

"(k) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(1) Such country has repeatedly provided support for acts of international terrorism.

"(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism."

H.R. 4040

By Mr. CHARLES H. WILSON of California:

—Page 2, line 14, strike out "$7,816,190,000" and insert in lieu thereof "$7,384,290,000".

Page 4, strike out lines 5 through 11 and insert in lieu thereof the following:

Sec. 103. The Secretary of Defense shall provide to the Congress at the earliest practicable date, and not later than the end of the 120-day period beginning on the date of the enactment of this Act, a report on—

—Strike section 810, title VIII of H.R. 4040.

H.R. 4930

By Mr. LAGOMARSINO:

—Page 35, line 2, strike "$699,377,000," and insert in lieu thereof "$701,377,000".

S. 1030

By Mr. MOORHEAD of California:

—Page 43, after line 11, insert the following new subsection:

"(f) Congressional Review of Standby Plan.—(1) After promulgation of a standby Federal emergency conservation plan, the Secretary shall transmit such plan to the Congress, together with his findings in support of such plan, in accordance with section 551(b) of the Energy Policy and Conservation Act. Such plan may become effective only if either House of the Congress has not disapproved (or both Houses of Congress have approved) such plan in accordance with the procedures specified in section 551 of such Act."

EXTENSIONS OF REMARKS

WE STILL NEED TO RESOLVE THE CLINCH RIVER BREEDER REACTOR CONFLICT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. BROWN of California. Mr. Speaker, the vote last week against the Fuqua-Brown compromise on the Clinch River breeder reactor project will not be the last vote this body will have on this issue. While I do not intend to rehash the issues here, I would like to state that we will all be called upon to reconsider our positions if a resolution is ever to be reached.

The Los Angeles Times carried an editorial in today's edition which sums up the situation. I urge my colleagues in the House and the Senate to review this item and the issue itself.

The editorial follows:

[From the Los Angeles Times, July 30, 1979]

A Breeding of Nuclear Fuel—And Trouble

If the House of Representatives had displayed the same vigor in dealing with truly needed energy legislation that it has shown in keeping alive the dangerous, costly and unnecessary Clinch River nuclear project in Tennessee, the country would be better off.

Last week, the House ignored Administration objections and voted to authorize the controversial project, which involves construction of an experimental breeder reactor that would be designed to produce more nuclear fuel than it consumes.

For three years President Carter has been trying to kill the $2.6 billion project, and for three years the House has refused to sign the death warrant. This is a case where the President is clearly right.

The attraction of breeder reactors is that they would use fuel processed from spent fuel rods taken from conventional nuclear power plants. In the process, they would breed still more fuel. Thus they hold the promise of stretching out world uranium supplies.

The Administration, however, looks on the project as a costly and dangerous boondoggle for the nuclear industry, and properly so. Even by optimistic estimates, power production from breeders won't be economically feasible until well into the 1990s, if then. And there is even less sure knowledge about the environmental safety of breeders than there is about that of conventionally designed reactors.

The Administration points out that the $2 billion that would be required to complete the project could be much better spent on other modes of energy production.

Most serious of all, however, the type of breeder planned for Clinch River would burn plutonium, which also is the principal material of nuclear weapons.

Any substantial reliance on plutonium-burning reactors to meet the energy needs of the United States and other countries means that terrorists would have only to intercept a fuel shipment to have the ready-made ingredient for a blackmail nuclear bomb. It would also be next to impossible to erect an international inspection system that would prevent governments from diverting plutonium from breeder reactors and uranium fuel reprocessing plants into nuclear weapons manufacture.

For this reason, Washington is seeking to persuade other nations to join the United States in forgoing the construction of plutonium-burning power plants and to develop, instead, new types of breeders that will use some other, less dangerous, fuel.

The House members who are determined to push through the Clinch River project anyway are playing a dangerous and irresponsible game. We urge the Senate, which will act next on the authorization bill, to support the President.●

ETHICS LAW AMENDMENTS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. ANDERSON of Illinois. Mr. Speaker, I applaud the decision to remove from the suspension calendar House Joint Resolution 381, amendments to the Ethics in Government Act. When I looked at this bill to exempt the recently fired Cabinet members from the provisions of the ethics law, I could not help but offer a paraphrase of the poem about the famous ax murderer, Lizzie Borden. The modern day version might read as follows:

Jimmy Carter took an ax
And gave his Cabinet forty whacks;
When he saw what he had done,
He gave them all an ethical exemption.

How inappropriate it would be, Mr. Speaker, that we should be considering this bill under a suspension of the rules, so that the President could suspend the rules of the new ethics law so his former Cabinet members could swing right into that lucrative revolving door of lobbying their former departments. Why not the best, indeed? Never let it be said that this President is not compassionate. Never let it be said that life is unfair to those at the top who topple. We fortunately will not have a chance here today to prove that we too are compassionate and fair by passing this "rolling head relief act." The authors of this misbegotten legislation feel that we should look into our hearts and ask ourselves what better way there is to comfort these poor, starving, homeless, and jobless former Cabinet members than to suspend the ethics law for their sake so they might find gainful employment. The sooner we get them off the breadlines and on to the lobbying lines the less chance there is that they will be spending their idle time bad mouthing Hamilton Jordan. For those of you who are not so compassionate and perhaps more politically cynical, look on this as a hushpuppy bone. Throw this bone to the purged puppies and maybe they will hush up.●

FINANCIAL DISCLOSURE STATEMENT OF REPRESENTATIVE ROMANO L. MAZZOLI

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial statements in April of each year, I continue to file a more detailed report every summer. In this way, my constituents and other taxpayers are kept informed as this statement becomes a matter of public record.

The financial statement follows:

ROMANO L. AND HELEN D. MAZZOLI RECAPITULATION OF INCOME AND EXPENSES FOR CALENDAR YEAR 1979

INCOME	
Interest and dividends:	
Lincoln Federal Savings and Loan	$606.09
Liberty National Bank and Trust Co	127.06
American United Life Insurance Co	36.16
Government Services S&L Association	254.14
Northern Virginia S&L Association	254.34
Law practice:	
Income	---------
U.S. House of Representatives:	
Salary	57,500.00
Gross income	58,777.79
EXPENSES, DEDUCTIONS, EXEMPTIONS, AND FEDERAL TAXES	
Gross income [1]	59,354.00
Business expenses	2,738.00
Adjusted gross income	56,616.00
Itemized deductions	10,574.00
Taxable income	46,042.00
FEDERAL INCOME TAX	
Tax withheld	16,658.00
Tax due	11,823.00
Refund	4,835.00
Cash on deposit:	
Liberty Nat. Bank and Trust Co., No. 09013390	1,468.18
Lincoln Federal S&L Co. Acct. No. 37339–5	12,078.42
Northern Va. S&L Co., Acct. No. L–6084	1,642.40
Northern Va. S&L Co., Acct. No. L–50021	1,357.61
Northern Va. S&L Co., Acct. No. L–80507	1,350.00
Government Service S&L Assn., Acct. No. 01–112091–0	4,161.22
Securities, stocks, and bonds:	
U.S. Government Bonds, Series E	1,094.16
Real Property:	
Residential:	
939 Ardmore Drive, Louisville, Ky., assessed value	28,250.00
Less: Mortgage, Portland Federal S&L	10,139.55
Net value	18,110.45
1030 Anderson Street, Alexandria, Va., assessed value	68,600.00
Less: Mortgage, Cowger and Miller	50,512.33
Net Value	18,087.67
Household goods and miscellaneous personalty (est.)	6,500.00
Cash surrender value of life insurance policies: [2]	
American United Life Insurance Co., policy No. 1011729	4,080.14
Federal employees retirement system:	
Contribution to fund	29,235.77
Automobiles:	
1965 Rambler; fair market value	150.00
1973 Chevrolet; fair market value	2,425.00
Net assets	101,741.02

[1] Includes Kentucky State Income Tax Refund of $577.00 for Tax Year 1977 and is rounded.

[2] Includes $520.73 cash on deposit.●

DECONTROL OF CRUDE OIL PRICES

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MAVROULES. Mr. Speaker, President Carter's recent speech has once again focused attention on our Nation's serious energy problems. While I agree with much of what the President has said, I am distressed by his continued emphasis on decontrol of crude oil prices.

There is, as yet, no convincing evidence that decontrol will increase our domestic petroleum supplies, or even keep them from dwindling further. What we do know, without a doubt, is that decontrol will greatly enrich the major oil companies, at the expense of the average American.

In view of this deplorable situation, I strongly support Congressman MOFFETT's resolution restoring controls on oil prices. We in the Congress must assert our authority. If we fail to act, we do ourselves and our constituents a great disservice, for I believe that President Carter's decision to lift controls is unwise and unnecessary.

I have long opposed decontrol, because of its potentially disastrous effect on low- and fixed-income consumers throughout the Nation. In my own home region of New England, which relies heavily on home heating oil, and where oil prices are already among the highest in the country, the impact would be particularly great. Decontrol would shift the burden of our energy crisis to those who can least afford to bear it. This situation would, in my mind, be unjust.

As we all know, the President has the power to lift these price controls. In fact, the process has already begun. But before we allow it to continue without protest, there are several basic questions we must ask ourselves, questions that may well determine to a large extent the future of our Nation.

Can we trust the oil companies to decide what is best for all Americans? Can we trust them to act in the national interest? Should we allow them to determine the success or failure of our energy program, as they may well do under the present plan?

I strongly believe that we must not allow the petroleum industry to dictate the terms of our national energy plan. If we permit this, we will write one of the sorriest chapters in our proud history. I reject the notion that the only way to increase our domestic oil production is through further enrichment of the major oil companies, at the expense of the average citizen. This is a nation in which the ultimate power belongs to the people, and it is our duty to safeguard it, not throw it away. While I hardly agree with those who call for nationalization of the petroleum industry, I can understand the sense of frustration that moves them, fostered by the apparent inability of their Government to deal with these crucial problems.

In addition to the points I have already raised, there is another important reason for my opposition to decontrol. As all of us know, inflation is one of our most pressing concerns. And yet, decontrol will add greatly to inflation, placing even more of a strain on the finances of the average American family. For this reason as well, it is clearly unacceptable.

Of course, the major argument in favor of decontrol is that it will increase our domestic oil production, something all of us agree is badly needed. According to the Congressional Budget Office, however, decontrol will result in added production of only 250,000 barrels of oil per day, at a cost of $17 billion. Clearly, when we talk about massive increases in domestic production, we are misleading the public.

Our emphasis on a windfall profits tax is misleading as well, for the real issue remains decontrol. Only if decontrol is an irreversible fact should we resort to a windfall profits tax. I voted for the Ways and Means Committee's version of the windfall profits tax which, unfortunately, was replaced by a weaker substitute. Not only was the tax rate reduced from 70 percent to 60 percent, but the measure would expire in 1990, thus imposing only a minor, temporary, inconvenience on the major oil companies. Profits from decontrolled domestic oil would be unjustifiably high, and thus the bill would fail to achieve its stated purpose. If decontrol is inevitable, if we must have a windfall profits tax, let it be a fair one, but a strong one.

It is impossible to predict what kind of bill the Senate will produce, but we can act now to eliminate the need for any kind of windfall profits tax. I strongly believe that Congressman MOFFETT'S resolution is in the best interest of the American people, and I urge my colleagues to move to prevent the unjust situation that decontrol will create.●

DISTILLATE MONITORING SERVICE IMPERATIVE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. TAUKE. Mr. Speaker, during my investigation of this spring's middle distillate shortage, I discovered that the Department of Energy (DOE) has no reliable heating oil or diesel fuel monitoring system. The DOE surveys the distillate inventories only at the refineries. Once the fuel leaves the refinery, the DOE does not know where it goes nor where it is needed. Each State is forced to estimate possible distillate shortages. As a result, confusion often surrounds the existence of shortages and Federal efforts to relieve them are often too late.

The distillate shortage which threatened the planting season in the Midwest this spring may hit the Nation this fall and winter. Supplies of heating oil and diesel fuel are essential to the harvest of the Nation's farm crops this fall and to the heating of our Nation's homes this winter. Yet supplies at the refinery remain 12 percent below last year's levels and the summer fill programs are reportedly well behind last year. Spot shortages of distillate could occur this fall and winter. But the DOE will have no idea of the location of stalled machinery or cold homes until after the fact. We need to prevent any inordinate hardship. In order to do that we must identify the shortages so that action can be taken to move supplies to where they are needed.

I plan to offer an amendment to S. 1030 to establish a State-by-State distillate market survey service in the DOE. That way shortages can be quickly spotted and relieved during the critical harvesting and heating seasons when distillate users cannot afford to wait.

The July 29 Washington Star included an excellent article by Ross Evans which reaffirms my call for an immediate and continuing assessment of the middle distillate supply and demand situation throughout the country. I commend this article to the attention of my colleagues and invite support for my amendment to S. 1030. We must make certain that the DOE begins to keep track of middle distillate supplies.

The text of the article is as follows:

WHY ENERGY DEPARTMENT CAN'T KEEP TRACK OF HEATING OIL

(By Ross Evans)

Nearly six years after the first energy crisis and just three months before next winter's heating season, there is still a lot the government doesn't know about how much heating oil the Nation has or where it is stored.

The Energy Department has begun a crash effort to estimate the supplies, but until that estimate is obtained no one can be sure what the government's stockpile target really means.

The new estimate will come too late to affect the planning for this year's target, and government and industry officials say privately the goal could be adequate, too low, or even too high.

The much-publicized goal of a supply of 240 million barrels of distillate oil for heating and diesel fuel by the end of October is keyed to the only stocks the government measures—those held by refiners, pipelines and major terminals. This "primary storage" has a total capacity of at least 270 million barrels.

The government hasn't yet measured so-called "secondary storage"—stocks held by wholesalers, middlemen, retailers, home consumers and industry—which theoretically could be almost as large as the "primary" number.

Rough estimates of secondary capacity show that home tanks alone could hold 115 million barrels, and there is additional capacity of 50 million barrels or more in wholesale and retail tanks. There is no reliable estimate at all for industrial storage capacity.

Even if total secondary capacity were known, the government has no idea how much of it is filled, or how much should be filled at this time of year to keep pace with normal deliveries.

Whatever amount there is in secondary storage, government planners don't know how much of it is being hoarded by middlemen, large industrial customers, or even home consumers maneuvering to beat projected price increases and possible shortages.

Thus despite government assurances that the 240-million-barrel "primary" target for major refiners will be met on time, serious doubts remain about the overall supply picture.

"We could get to 240 million in October and everybody would go, 'hooray.' And then it could get sucked down by 40 million barrels in a few weeks," says John H. Zentay, a Washington lawyer who represents oil terminals and distributors.

Wholesale and retail heating oil dealers are particularly critical of the Energy Department's 240-million-barrel target.

"That figure is going to be made at the expense of secondary storage," said Ed Morgan, vice president for fuel oil at the National Oil Jobbers Council.

The trade association, representing most of the wholesalers and retailers in the country, has just begun its own survey of members' stocks. Several state dealers' associations in the oil-dependent Northeast have conducted preliminary studies of their own.

The early reports the dealers maintain, show their stocks below what they normally would be at mid-summer.

The New England Fuel Institute says a mid-June survey showed its members' stocks 32 percent below last year's level. A similar industry study in New Jersey showed a 48 percent reduction in inventories for early July.

In New York, the biggest fuel oil consuming state, the Empire State Petroleum Association's preliminary survey showed that upstate members were 45 percent below last year's levels and downstate members 30 percent.

The survey showed that heating oil "was not moving in the normal fashion through distribution channels," said Robert D. Lynch, executive vice president of the New York group.

The problem with such figures is that they only show the percentage—not volume—of dealers' shortages. Since dealers' stocks traditionally are low at the beginning of the summer, the shortfall in the actual amount of oil needed would not seem as large.

OIL TANK-TOPPING FEARED

Dealers complain, however, that if their supplies continue to be cut by current proportions, the shortfall will be great by the time the season starts.

Energy Department spokesmen say the department's projection for the 240-million-barrel target is based on the "conservative" assumption that secondary stocks will be 20 million barrels short at the beginning of the heating season.

Energy Secretary James R. Schlesinger acknowledged last week, however, that there is still "a very significant question" about how much of the target is being met at the expense of secondary supplies.

While government planners say they are watching the dealers' predicament closely, there is another concern:

Building up stocks down the distribution chain—from wholesalers through consumers—has the same drastic effect on primary supplies as tank-topping did during the recent gasoline shortage.

Current figures don't come close to providing information on that problem. The government knows how much fuel is drawn out of refiners' stocks, but it doesn't know where it's going.

To whatever extent large industrial customers have been stocking up on fuel oil, that amount will not be available for the consumer distribution network.

Similarly, to whatever extent home customers fill their tanks early in the year, such tank-topping could pull overall supplies toward or below their minimum levels.

DOE CALLED NEGLIGENT

The immediate problem, short of producing as much heating fuel as possible, is to find out where it goes. Industry spokesmen complain that the government has waited too long to get the answer.

"I think this is something that they've been negligent on in the Department of Energy," said Lynch of the New York dealers' group. "They always felt that as long as the major companies had the oil that the rest of the system would take care of itself."

The department's Energy Information Administration, acknowledging that it doesn't have the answers about the complex distribution system, has enlisted the aid of state governments and the U.S. Census Bureau to gather the new data.

The state price survey will start adding inventory information for businesses and customers in August. And a new census survey of retailers and wholesalers, using statistically sampled estimates rather than actual measurements, is expected to show in September what this June's actual inventories were.

But information on what the historical pattern has been—which must be known before the government can interpret this year's figures—won't be ready until "sometime later," an EIA official conceded.

By that time, this year's critical heating season will be starting. Experience then will show whether the department's assumptions were accurate. ●

ROCCO SCOTTI

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MOTTL. Mr. Speaker, I would like to take this occasion to pay tribute to one of Cleveland's finest assets—Rocco Scotti.

Mr. Scotti has been thrilling audiences for years with his singing of the national anthem at various events.

His stirring rendition fills Cleveland Stadium with patriotism before Cleveland Indians' games.

In addition to appearing at Cleveland Stadium Mr. Scotti has sung on the "Ed Sullivan Show," in Yankee Stadium, the "Mike Douglas Show," and the operatic stage.

This recording star has also won the Mario Lanza Award and was described by Walter Winchell as "sensational."

I urge you, Mr. Speaker, that if the occasion ever arises and you have an opportunity to hear Mr. Scotti sing, you take advantage of it. It will be a stirring experience. ●

PRESIDENTIAL LEADERSHIP

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GRASSLEY. Mr. Speaker, on Sunday, July 15, President Carter came down from the mountain to speak to America.

He adopted a new and more forceful style to persuade the people that he is committed to a higher and more vigorous form of leadership. Skeptics wondered if it was an act; a posture designed with the 1980 elections in mind. Across the land and across the aisle, however, we welcomed this purpose and prayed for a permanent manifestation of positive leadership.

At the same time, I found myself puzzled and distressed by the fact that he chose to assert his leadership in a message of such gloomy and accusatory content.

Leaders inspire. When the American spirit was troubled by the depression, President Roosevelt looked on it as a challenge to be met by strong leadership. In England's darkest hour, Winston Churchill spoke inspiringly of blood, sweat, and tears and the English were solidified in their determination to win out over adversity.

Mr. Carter dwelled despairingly on America's "crisis of spirit" and when we waited expectantly for some inspirational uplift to help us meet the "crisis," he spoke vaguely of "working together" and announced his latest energy program. In our longing for positive Presidential leadership, we applauded Mr. Carter's display of oratorical vigor. At the same time we and our allies were dismayed, and the Soviet Union was elated at the spectacle of our President denouncing the spirit and the morality of the American people with neither a remedy nor a redeeming word.

We are not a morally corrupt people. With the proper inspiration and leadership, the great spirtual and moral values that have always characterized America will remanifest themselves both at home and throughout the world. Unfortunately, however, Mr. Carter's speech has done great harm by lending credibility to the Marxist-Leninist perception of the capitalistic system in general and U.S. capitalism in particular. The degree to which the Soviet Union has seized on his July 15 speech to increase this damage is suggested in the following news item which appeared in the July 23 issue of the Washington Star newspaper. What can Mr. Carter's new leadership produce to put this egg back in its shell?

SOVIETS GIVE WIDE COVERAGE TO CARTER'S "CRISIS OF SPIRIT" REMARKS

MOSCOW.—President Carter's Cabinet reshuffle and his worry over a "crisis of the American spirit" are getting wide coverage in the Soviet Union's state-controlled news media.

The apparent reason: Carter—with the authority of the presidency behind him—is saying many of the things Soviet propagandists have been saying about America for years.

In his July 15 speech, Carter listed many of the specific ills of U.S. society that Soviet commentators regularly cite as signs of an American decline. These include low voter turnouts, disrespect for schools and government, a fall in labor productivity, the slide of the dollar and growing national pessimism.

The Carter "crisis of confidence" speech received lavish space in the Communist Party daily newspaper Pravda, which relied mainly on direct quotations without additional comment. The speech was also the subject of press and television commentaries all last week. Soviet television broadcast clips of Carter delivering his address.

The Soviet news media, reinforcing the impression of serious alarm in Washington, have stressed that the resignation of all Cabinet members was a startling, highly unusual development. Pravda spoke of a national "emergency" in the United States.

The Soviet government daily Izvestia wrote that the erosion of confidence in the future "and the crisis of spirit" in Washington—both phrases from Carter's speech—stem from overspending on the U.S. military and underspending on social needs.

The paper concluded that the "specter of collapse" hangs over not only America, but the entire capitalist world.

Soviet news accounts have generally ignored the optimistic passages in Carter's remarks, including his assertion that "working together (to solve problems), with our common faith, we cannot fail." ●

REPORT ON THE INTERNATIONAL WHALING COMMISSION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. McCLOSKEY. Mr. Speaker, having had the privilege of serving for the third consecutive year as the Congressional Delegate to the International Whaling Commission (IWC), I am pleased to report on the proceedings of the 31st meeting of the Commission, held in London July 9 through 13.

I might say at the outset that the passage of the House Concurrent Resolution 143, coauthorized by our colleagues DON BONKER, LES AUCOIN and others, calling for a worldwide moratorium on commercial whaling and enacted by the House and Senate just prior to the Commission meeting, played an important part in such success as was achieved.

It may seem strange that at a time of increasing technology and increasing commercial interdependence, at a time when two great nations, ourselves and the Soviet Union, hold enough nuclear warheads to destroy mankind, that at such a time the human race wants to see its governmental representatives preserve vanishing species—eagles, condors, caribou, mountain sheep, and, perhaps more than any other species, the whales and porpoises. This philosophy, reflected in House Concurrent Resolution 143, seemed to have gained increased support at this year's meeting of the IWC. I suspect that had the United

States been willing to give up our insistence on bowhead whaling over the past several years, we might have been able to achieve the full moratorium on commercial whaling, which both the President and Congress have firmly stated it is our purpose to achieve.

In any event, the IWC's progress this year was substantial.

The major accomplishments of this meeting were as follows:

First. An indefinite moratorium was imposed on use of factory ships to harvest whales, excluding the minke. This should effectively limit whaling to offshore coastal operations by the countries involved.

Second. A whale sanctuary was created in the Indian Ocean, with a 10-year moratorium imposed on taking of all whales therein.

Third. All stocks of whale species are now regulated by IWC.

Fourth. This year's total quota for commercial whaling was reduced to 15,656 from last year's total of 19,526, or by 20 percent. The total tonnage caught will be at least 50 percent less due to the relatively small size of the minke.

Fifth. There was a substantial decrease in the sperm whale quota, from 9,360 last year to 2,203 this year, a reduction of 77 percent. Last year, sperm whales made up about 50 percent of the total whale quota; this year they are only 14 percent of the total quota.

Sixth. The 31 percent increase in the minke whale quota, from 9,173 last year to 12,006 this year, causes minke whales to make up 77 percent of the total whale quota, as compared with last year's 50 percent. Minke whale stocks were considered to be in healthy condition by the Scientific Committee. Currently, their population seems to be increasing and its control may help in the recovery of the blue whale and other larger species approaching extinction since they eat the same food.

Seventh. The IWC budget was more than doubled, to 300,000 pounds sterling, about $625,000.

Eighth. The IWC supported a U.S. resolution that all member nations cease importing whale products from nonmember nations and cease export of vessels and equipment to nonmember nations. The chief offender and purchaser of whale meat, Japan, adopted a new law prohibiting such purchases effective July 5, 1979, obviously as a gesture to placate IWC disapproval.

Ninth. The International Observer Scheme was expanded to provide nonwhaling nations the opportunity to observe whaling operations, and to include more Japanese and Eskimo whaling operations.

Tenth. Recommendations for improvements in the technology to reduce cruelty of the whale hunt were adopted by the Commission without change.

I would particularly like to commend Commissioner Richard Frank, Deputy Commissioner Tom Garrett, Mr. Eldon Greenberg and Dr. Bill Aron from the Department of Commerce, and Mr. Morris Busby and Ms. Jan Barnes from the Department of State. The accomplishments listed above are proof of their hard work, long hours, and true dedication to the preservation of the great whales of the world. Were it not for the effort that these individuals made toward a complete commercial whaling moratorium, the successful proposals offered by Panama for a pelagic moratorium and the Seychelles for a moratorium on all commercial whaling in the Indian Ocean might not have appeared as the compromises they were.

I want to add a special compliment to Assistant Secretary Pickering of the State Department's Bureau of Environmental and Scientific Affairs. Earlier this year, Chairman JOHN BREAUX and ranking minority member EDWIN B. FORSYTHE of the Fish and Wildlife Conservation and the Environment Subcommittee and I requested more State Department expertise and assistance at the IWC. Commerce is historically the lead agency. The State Department's contribution, both prior to and during this year's meeting, appears to have been substantially greater than in years past, and it is my personal judgment that future success in finally ending commercial world whaling will depend, in large part, on their continuing involvement and commitment.

Despite the progress I have enumerated, much work remains to be done. First, because of the one-nation, one-vote procedure at the IWC, it is imperative that the United States do whatever it can to bring more nonwhaling nations into the Commission. I have attached a table—appendix I—of the member nations and how they voted on four major issues. Note that four of the six new member nations are whaling nations.

Although it is, of course, of great benefit to bring those whaling nations such as Chile, Peru, South Korea, and Spain—and I again wish to commend the State Department and the Commerce Department for their work in insuring these nations' admittance—we still must do whatever we can to counter these whaling nations' votes with that of new nations who would urge the protection of whales. For example, the State Department could begin with some of our friends in the South Pacific, such as Fiji, Papua New Guinea, and Tonga. A change in our attitudes and juridical position on highly migratory species at the Law of the Sea could aid in this regard.

Second, the United States should work toward an amendment to the IWC schedule, prohibiting all whaling activities by nations which fail to supply data on those activities. The United States has experienced a similar problem domestically in the last several years with regard to the tuna/porpoise problem. During congressional debate on this issue several years ago, the most important point made was that, without good data from the tuna industry on the porpoise mortality rate, no sound judgments could be made. Similarly, it is impossible to determine changes in populations of whales without the data required from whaling nations. I was greatly disappointed that the IWC did not accept the U.S. proposal to prohibit whaling by nations which fail to supply this data.

Third, in order to put additional teeth into the decisions of the IWC, an organization which is voluntary in nature, the United States could enact into law a provision denying fishing rights within our 200-mile zone to any nation which fails to abide by IWC quotas, or which engages in whaling without belonging to the IWC and conceding its jurisdiction.

Fourth, and perhaps most important, the United States, particularly Congress, must reexamine its position regarding bowhead whales and the Scientific Committee's recommendations that bowheads are truly an endangered species. As you know, the United States holds two positions: That the recommendations of the Scientific Committee be followed, and that subsistence whaling should be treated separately from commercial whaling.

In the instance of our native Alaskans subsistence taking of a few bowhead whales, the Scientific Committee has indicated that the bowhead whale is as near to extinction than any other whale population with the possible exception of the blue whale, and therefore that no bowheads should be taken at all. For 4 years, the United States has pushed for a total moratorium on commercial whaling, but at the same time remains adamant that our own natives be allowed to take one of the most endangered of the whale species. This puts the United States in the position of seeking to protect all whales, except our own, and in light of this year's experience where only seven were taken by the Alaskan Natives in the spring hunt, although 15 were struck—against a quota of 18 taken or 27 struck—it would seem we are giving up a great deal in order to obtain eight or nine bowheads.

In my judgment, our own Marine Mammal Protection Act and Endangered Species Act provide the administration with the power to end bowhead whaling under these circumstances. I have attached the pertinent sections on subsistence from those two laws—appendix II.

The IWC has for many years debated the number of whales to be taken; the time and events make these issues almost irrelevant. What the people of the world ask is that we show ourselves capable of refraining from cruelty, of granting kindness to helpless beings, creatures that are in our power to destroy, whether they be Blacks in Africa, Indians in America, Palestinian refugees, or refugees from the long holocaust in Southeast Asia.

While we may not be capable of helping all peoples, or even all refugees, we have it within our power to save the great whales and set an example of hope for saving other helpless beings. It seems to me we have a great opportunity to set this kind of an example for mankind at a time when the people of our world badly need reassurance that those in power care.

With all due respect to the native peoples of Alaska and their historic reliance on bowhead hunting, the primary whaling nation, Japan, has an equally long history of reliance on whale meat, and we are asking Japan to terminate such reliance. I strongly believe we should reexamine our bowhead policy in this light.

The material follows:

APPENDIX I

VOTES ON MAJOR ISSUES AT THE IWC [1]

Member nations	Commercial whaling moratorium (U.S. proposal)	3-yr sperm whale moratorium (Seychelles proposal)	Pelagic/ factory ship moratorium (Panama proposal)	Coastal moratorium (Panama proposal)
Whale conservationist nations:				
Australia	Yes	Yes	Yes	Yes.
France	Yes	Yes	Yes	Yes.
Netherlands	Yes	Yes	Yes	Yes.
New Zealand	Yes	Yes	Yes	Yes.
Panama	Yes	Yes	Yes	Yes.
Seychelles [2]	Yes	Yes	Yes	Yes.
Sweden [2]	Yes	Yes	Yes	Yes.
United Kingdom	Yes	Yes	Yes	Yes.
United States	Yes	Yes	Yes	Yes.
Other nonwhaling nations:				
Canada	Abstain	Abstain	Yes	Abstain.
Mexico	Yes	Yes	Yes	Yes.
Argentina	Yes	Yes	Yes	Yes.
South Africa	Abstain	Abstain	Yes	Abstain.
Whaling nations:				
Brazil	Abstain	Abstain	Abstain	Abstain.
Chile [2]	No	Absent	Yes	No.
Denmark	Abstain	No	Yes	Abstain.
Iceland	No	No	Yes	No.
Japan	No	No	No	No.
South Korea [2]	No	No	Abstain	No.
Norway	Abstain	Abstain	Yes	Abstain.
Peru [2]	No	No	Yes	No.
Spain [2]	Abstain	Abstain	Abstain	Abstain.
U.S.S.R	No	No	No	Abstain.
Result	11–6–6	11–6–5	18–2–3	11–5–7.

[1] Inclusion of a proposal on the IWC schedule requires a ¾ majority vote.

[2] New members since the last IWC meeting.

APPENDIX II

EXEMPTIONS FOR ALASKA NATIVES

(b) The provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) is for subsistence purposes by Alaskan natives who reside in Alaska, or

(2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided*, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further*, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, drawing, and painting; and

(3) in each case, is not accomplished in a wasteful manner.

Notwithstanding the preceding provisions of this subsection, when, under this chapter, the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts, or Eskimos to be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this chapter. Such regulations shall be prescribed after notice and hearing required by section 1373 of this title and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared.

ALASKAN NATIVES

(e) (1) Except as provided in paragraph (4) of this subsection the provisions of this chapter shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Non-edible byproducts of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term "subsistence" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacking, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this chapter. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 1373 of this title, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared.

Pub. L. 93-205, § 10, Dec. 28, 1973, 87 Stat. 896.●

IS SAC SUFFERING FROM OLD AGE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MICHEL. Mr. Speaker, the Strategic Air Command (SAC) is flying "obsolescent bombers." One SAC officer says that the B-52's now flying are older than their crews.

These are among the findings of Drew Middleton, distinguished writer on military affairs for the New York Times. Middleton, having recently visited SAC bases, came away with the impression that while SAC personnel had high morale, the equipment they work with is terribly out of date.

At this time I wish to insert in the RECORD, "SAC Is Concerned Over Aging of Bombers," by Drew Middleton, the New York Times, July 27, 1979:

SAC IS CONCERNED OVER AGING OF BOMBERS

(By Drew Middleton)

OFFUTT AIR FORCE BASE, NEBR.—The Strategic Air Command, the United States' primary weapon to deter or to fight a nuclear war, appears to have reached a critical point at which its obsolescent bombers and increasingly vulnerable missile force are balanced only by the high morale of its personnel.

The Government has promised short-term improvements in the weaponry and long-term initiatives in the development of missiles and bombers. These promises, which would insure the nuclear balance of power into the 1990's if fulfilled, are probably the main reason the strategic arms limitation treaty with the Soviet Union has been cautiously endorsed by senior Air Force officers.

But it is evident from talks with officers that if the Carter Administration or its successor and the Congress do not deliver on the promised improvements, the United States' weakness in relation to the Soviet nuclear forces will grow and as an officer phrased it, "There'll be a bumper crop of resignations—and they won't be corporals either."

A note of anxiety permeates any discussion of what the relative American and Soviet military strengths, nuclear or conventional, will be in the next decade. Officers refer to "the window," the period in the early 1980's when they fear the United States will be inferior to the Soviet Union in the nuclear field and when they say they expect the Russians to use their superiority to launch conventional forces in pursuit of national objectives in the Middle East, the Persian Gulf and Africa.

TO VISITOR, SAC APPEARS POWERFUL

To the casual observer the Strategic Air Command may appear as powerful as ever. There are the B-52's and FB-111's nesting on their airfields. There are intercontinental ballistic missiles standing ready in their silos. There are thousands upon thousands of devoted, enthusiastic young men and women serving the weapons. There are experienced and zealous officers directing them.

Then an officer comments that some of the B-52's are older than their crews. The first B-52 was delivered to the Air Force in 1952 in the Presidency of Dwight D. Eisenhower, the last in 1961 when John F. Kennedy occupied the White House.

The B-52 was designed as a turboprop bomber. Generally its airframe has lasted remarkably well. But maintenance is expensive. Spare parts no longer in production have to be located or, if out of stock, manufactured. Short cuts have to be made in modernizing the electronic systems. New engines, radar and television systems add to the expense.

When President Carter halted the development of the B-1 bomber in 1977, the FB-111 took on new importance, which increased as the Russians deployed a new bomber known in the West as the Backfire. This plane, whatever the Soviet Union says, is regarded by the Air Force as having an intercontinental bombing capability. The FB-111 remains a medium-range bomber.

The American fleet of land-based missiles is threatened by the growing accuracy of Soviet missiles. Hardening silos and increasing the accuracy of the Minuteman III are necessary steps. But most officers believe that the American land-based missile force, as now constituted, would be at grave risk in war.

No military force is ever 100 percent effective and efficient, although officers in every service grumble that the public expects it to be. But even the casual visitor learns about mechanical failures in B-52's, about the ancient tankers that serve the heavy bombers, the inordinate amount of time and effort needed to keep the Minuteman and Titan missiles viable.

When a major effort, such as the recent exercise by the entire SAC network, is prepared and carried out, bomber squadrons report a high percentage of serviceable aircraft and missile officials say that all their "birds" are ready to go. But the conditions of long and meticulously prepared exercises should not be confused with those that would exist in a war situation.

NEED FOR MODERNIZATION STRESSED

Modernization is the obvious answer, but "we waited too long to modernize," according to Gen. Richard H. Ellis, the scholarly, soft-spoken head of the Strategic Air Command.

The two modernization programs likely to strengthen SAC in the short term are the development of the air-launched cruise missile and modification of the FB-111 to increase its range, double its payload and lengthen its fuselage and install the engine designed for the B-1.

General Ellis believes that by late in the 80's the B-52's armed with cruise missiles should be used in a stand-off role—that is the bombers would fire their missiles outside the reach of hostile defenses. These bombers will be B-52G's, which by that time would be unsuited to the role of penetration armed both with cruise missiles and short-range attack missiles. This mission might be left to the surviving B-52H's.

By early next year, it is hoped in SAC, the competition between General Dynamics and Boeing for the contract for air-launched cruise missiles will have been decided and progress will be made toward production.

The FB-111, once modified, would also be a cruise-missile carrier. This plane is faster than the B-52 and has a smaller profile on radar. SAC has 89 of them and expects others to be transferred from the Tactical Air Force.

Missile modernization is more complicated and expensive. It involves not simply the production and deployment of a new missile, the MX mobile ICBM, but the hardening of silos containing the present fleet of Minuteman and Titan weapons and their modernization.

The sincerity of the officers who insist that SAC needs these improvements if it is to keep pace with the Russians cannot be doubted. Neither can their anxiety over the possibility that political or economic changes may intervene to delay the modernization program.

"I consider the next few years to be pivotal" General Ellis has said. "Despite the positive aspects of SALT II, we must not allow the lenthening shadow of the treaty to soften or hide the very real threat posed by the massive military machine of the Soviet Union. History has shown that wars most often occur because of different perceptions of power." ●

OUTSTANDING NUTRITIONISTS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. RINALDO. Mr. Speaker, two constituents of mine, Mrs. Ruth Moskowitz and Mrs. Donna D'Amato, were recently the subjects of an important news story in the Daily Journal, published in my district.

Both these women have earned outstanding reputations as nutritionists, and they have made tremendous contributions to Union County and to the Elizabeth educational system. Only recently, Mrs. Moskowitz was commended by representatives of the American School Food Service Association as "one of the finest school food service directors with whom we have had the opportunity to work, a leader in her profession." By the same token, Mrs. D'Amato is widely known and respected throughout Union County as an exceptional professional in her field.

Both these women justly deserve the praise and recognition they have received, and I would like to bring to my colleagues' attention the activities in which they have been so deeply and successfully involved.

The article follows:

SCHOOLS OFFER EARLY START ON TRAINING IN NUTRITION

School cafeterias in Elizabeth are more than just places to eat. They are nutrition centers, a recent and growing concept in nutrition education.

This statement comes from Mrs. Donna C. D'Amato, nutritionist with the Union County Chapter of the Heart Association, who cooperated with Mrs. Ruth Moskowitz, director of food service for the Elizabeth Board of Education in setting up menus suitable for the just-concluded observance of Heart Month.

The menus emphasize the primary goal of the school lunch program, which is the promotion of good nutrition throughout the school year.

The foods chosen meet the recommendations of the American Heart Association for the maintenance of low blood cholesterol levels, being low in total fat, saturated fat and cholesterol.

Along with eating properly, students are urged to exercise regularly to keep fit.

In their consultations, Mrs. D'Amato and Mrs. Moskowtiz sought to make choices that would be popular with students besides achieving the goal of fat control.

Originally the government legislation for the Type A lunch menu pattern required five groups of foods which included butter and whole milk. This pattern has been modified to eliminate the fat requirement and include a choice of low-fat, skim and buttermilk—changes which favor the American Heart Association dietary recommendations.

In addition, menus planned by Mrs. Moskowitz have deemphasized the use of meats and emphasized poultry, fish and beans. Fridays are meatless days which include fish burgers and pizza. Whole-grain products, fruits and vegetables in salads, soups, juices and fruit desserts round out the bills of fare and make an important contribution to nutritional requirements.

Another innovation in the school nutrition program is the availability of breakfast prior to classes in all secondary schools.

The school breakfast is composed of a choice of three items, including a fruit or juice, cereal or bread equivalent and milk types.

The breakfast program is growing in popularity and has improved attendance and punctuality. Studies have shown that eating breakfast improves performance, alertness, attention span and social behavior in the classroom.

The menus for March call attention to National Nutrition Week which begins Sunday and promote the slogan, "Eat to Learn and Learn to Eat," developed by the American School Food Service Association.●

AUTOMATIC CRASH PROTECTION

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GEPHARDT. Mr. Speaker, the House of Representatives will soon consider appropriations for the Department of Transportation. One of the important issues to be discussed at that time will be automatic crash protection. To assist Members in their preparation on this subject I submit the article "Automobile Restraint Systems—What They Can Mean To You" Which appeared in the Sheet Metal Workers Journal this month.

AUTOMOBILE RESTRAINT SYSTEMS—WHAT THEY CAN MEAN TO YOU!

The Problem. In 1977 an average of 128 persons were killed every day in traffic accidents in the United States, totalling more than 46,800 during the year. The number of non-fatal injuries was many times more than these figures. Of these deaths, the majority, as would be expected, were drivers or front seat passengers in automobiles.

Studies show that more than 50 percent of all passenger car occupant fatalities involve a frontal impact by at least one vehicle. Consequently if occupants could be protected in a frontal crash, there would be a dramatic reduction in both deaths and serious injuries, eliminating much tragedy for too many American families.

What happens in these frontal collisions can be explained by Isaac Newton's laws of physics, familiar to those of us who were made aware of them in high school science courses. As applied to motor vehicle crashes, these laws hold that if you are riding in a vehicle that is moving at a given speed (say 40 miles per hour) and the vehicle is brought to an abrupt stop, then you and any other passengers in the vehicle will continue travelling at 40 mph until something stops you. That "something" is usually the steering column, the dashboard, the windshield, or a combination of them. The human injuries occur, thus, in what is known as "the second collision."

Auto safety engineers and designers have tried to deal with these physical laws by installing padded dashboards, energy absorbing, collapsible steering columns, and laminated safety windshields. While these devices have been extremely helpful in reducing some injuries and deaths, they do not deal with the basic problem of how to prevent occupants from striking the interior of the car.

Fortunately, the means of solving the problem of the "second collision"—or greatly easing it—are available to all of us.

The Solution. The safety engineers' answer to the problem of preventing automobile occupants from being flung forward into lethal objects have been promoted and made available for many years. Since 1964, most new cars have had to have lap belts, and since 1968 all new cars have had to have both lap and shoulder belts as standard equipment.

The major drawback to this solution is that these active restraint systems require the individual's action in fastening a buckle every time he or she gets in a car, before they can provide any protection. Studies have shown that only about 12 percent of front seat occupants and drivers wear both their lap and shoulder belts, and 7 percent wear lap belts alone. Despite all the publicity about the value of the belts, it is now known that 8 out of every 10 front seat occupants fail to fasten their safety belts.

Recognizing the unwillingness of auto users to take the necessary action to belt themselves into their vehicles, a second solution is now at hand with automatic devices called "passive restraint systems." These passive systems provide protection against injury or death without the car occupant having to take any action at all. They are simply there and available automatically whenever a frontal crash occurs.

THE AUTOMATIC, PASSIVE RESTRAINT SYSTEMS

One of the basic types of automatic restraint systems is a refinement of the long-available belt system. The latest safety belt system is designed to move into place as each front seat occupant enters the vehicle and closes the door. There is no requirement for any action on the part of the occupant. Unfortunately, these have become "standard" in only a few models.

Most automatic belt systems have a single diagonal belt which fits across the chest, plus a padded knee bolster below the dashboard. The bolster prevents the occupant from submarining or sliding out from under the belt in a crash. Some systems also have an active lap belt which the occupant can buckle to increase the level of protection in other than frontal crashes, such as rollovers. There is also an emergency release for the diagonal belt if needed.

The other, and perhaps best known type of passive restraint is the air cushion system, often called the "air bag."

An air cushion restraint system is composed of a sensor in the area of the front bumper, and in some systems a second sensor on the firewall; a passenger air bag and inflator hidden on the right side of the dashboard; a driver air bag and inflator packaged in the hub of the steering wheel; and padded or inflatable knee restraints for the driver and the passenger.

This system has an indicator lamp on the dashboard, which will glow for a few seconds to let you know the system is working. If the car is involved in a serious frontal crash (equivalent to a 10–12 mph crash or greater into a solid barrier) the sudden impact causes the sensor to activate a nitrogen gas inflator. This inflates the bag instantly to cushion the occupants from striking the interior of the vehicle. Thus at the same time the occupants move forward into the air bags which absorb the impact forces, the knee restraints or special knee restraint bags keep them from sliding under the bags.

Most people do not realize the tremendous speed with which the entire process operates. The air cushions are fully inflated and partially deflated in about 1/25th of a second. The porosity of the bags allows the air to escape even as they are being inflated. The complete process occurs so rapidly that if you were to blink your eyes, you would miss the bag inflation. However, it is that instant, which without the restraints, is all it takes for serious injury or death to occur.

QUESTIONS AND ANSWERS

There are likely to be a number of questions about the actual operation of passive restraint systems. The National Highway Traffic Safety Administration offers the following questions and answers in helping public understanding of these automatic systems:

Q. Since passive belts restrain occupants automatically, how does one remove the belt in an emergency?

A. Passive belts have an emergency release which is easy to use.

Q. How much will air bags cost me as a car buyer?

A. The Department of Transportation estimates that a full front system, which will meet the requirements of the federal standard, need not cost much more than $100 to $150 above the present cost of safety shoulder belts. This added cost will be offset by expected savings in annual insurance costs for cars equipped with automatic protection systems.

Q. Are these systems really worth the money?

A. Best estimates are that if all cars were equipped with air cushion systems, we would save 9,000 lives and prevent tens of thousands of moderate to serious injuries each year. Every traffic fatality costs society at least several hundred thousand dollars, not including the immeasurable costs of suffering and human loss to families of victims.

Q. Is there a danger that the air bags might go off without reason and cause the driver to lose control?

A. Only 3 such deployments have occurred in more than 620 million miles of over-the-road use, none of which caused loss of control. But even if this did occur, the small size of the driver's air bag and the split-second inflation and deflation is so rapid that it should not cause loss of vehicle control.

Q. What if the air bag fails to inflate in a crash?

A. In all the years of testing, and with 335 known crashes involving the air bag equipped cars, none have failed to inflate in production cars.

Q. Will the air bag damage my hearing when it inflates?

A. In all the crashes to date there has not been a single complaint of injury to the ear or hearing. Most occupants have told crash investigators that they did not hear the air bag inflate over the sound of the crash itself.

Q. Is the gas used to inflate the air bag poisonous?

A. No! In most systems the gas is nitrogen which makes up 78 percent of the air we breathe. In some systems, the nitrogen has been generated from a solid chemical called sodium azide. In its solid form, this chemical is toxic, but in the air bag unit the chemical is hermetically sealed until it is changed into nitrogen by an electrical impulse during a crash.

According to the National Highway Traffic Safety Administration the automatic restraint systems have undergone more research, development and testing than any auto safety device ever proposed. Further the passive restraint systems represent the most significant advance in auto safety in decades, and truly offer "a breath in life" to American motorists. ●

INCUBATOR FOR YOUNG BUSINESSES

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. VENTO. Mr. Speaker, small businesses in the United States are the country's prime job-generating firms, but the lack of management expertise and shortcomings in financial planning of entrepreneurs often doom these businesses to premature death.

Control Data Corp., one of Minnesota's innovative, technology-oriented companies, is embarking on a system of business technology centers to make available these important elements to small business managers. St. Paul is the site of the first such center because William Norris, chairman of Control Data Corp., and his colleagues find the climate there conducive for innovation. Innovation has been encouraged in St. Paul by Mayor George Latimer, his able staff, and the business and community leaders of the city.

I include, as part of my remarks, an article from the Washington Post of July 28, 1979, which describes the business technology center concept and its goals:

INCUBATOR FOR YOUNG BUSINESSES

(By Neal A. Peirce)

ST. PAUL.—A remarkable incubator for fledgling businesses in innovative technology fields is taking form in a refurbished eight-story building within St. Paul's Lowertown redevelopment project.

It is called a "business and technology center" by its founder-landlord, Control Data Corp., the Twin Cities' multi-billion-dollar computer and technology firm. If the St. Paul center succeeds, it could well be the prototype for scores of similar centers, helping small businesses get off the ground in cities across the country.

A pipedream? Perhaps. But Control Data founder-board chairman William Norris and his colleagues don't believe they're engaged in a "do-good" charitable enterprise. They expect business and technology centers to become modest money-makers for their owners, even while they generate desperately needed jobs in the nation's inner cities.

The rationale behind the concept—one of the many innovative ideas Norris has spawned in his belief that urban economic problems can be turned into opportunities—is rather simple. Urbanologists, such as Jane Jacobs, have long noted that it was thousands of embryonic businesses which gave cities their vitality and that urban decline parallels a falloff in entrepreneurial starts. And fresh research by David Birch of the Massachusetts Institute of Technology reveals that small firms—those with 20 or fewer workers—have accounted for a startling two-thirds of all new jobs created in the nation since 1960.

But job generation in the cities has fallen well behind their employment needs. The obstacles to entrepreneurial success—ranging from lack of capital to often-fatal lack of management expertise and financial planning—are both legion and legendary.

To lower the mortality rate of new, small enterprises, the business and technology centers will offer them— under one roof and at reasonable prices—an array of services generally expensive, difficult, or on occasion impossible for an entrepreneur to obtain. The regular lease, for office and laboratory spaces ranging from 100 to 20,000 square feet, will include, at a competitive $8.95 per square foot monthly, rental, cleaning services, utility, security, telephone answering service and receptionist, mail processing, conference rooms, a technical laboratory and library facilities.

But the real benefit to small firms may come from the optional in-house professional services provided by Control Data on a fee basis. For example, financial counseling will be offered in such areas as venture capital, risk management, taxes, insurance and qualifying for government small business loans. In the personnel area, Control Data will have available counsel on recruiting, labor relations, employee counseling and payroll management. Advice will be offered on coping with government regulations and on advertising and promotion.

Expecting many technology-oriented firms, Control Data will offer, also in-house, compressed air and vacuum lines, extended venting and plumbing, steam and chilled water and de-ionized water—services often exhorbitantly expensive for freestanding small businesses.

Finally, the business and technology centers will make available in-house training and education, using Control Data's successful computerized skills teaching method, "PLATA," which offers several courses directly relevant to small business needs and also permits a business owner to play "what-if" games simulating his or her business's situation.

For some executives of small firms, the most valuabe element of the center may be peer interchange—the talks across the hallways with other entrepreneurs facing similar difficulties and challenges.

"Success breeds success in entrepreneurism," says Control Data's senior vice president for urban affairs, Herbert Trader. "Any time you see two or three successful businesses, you will see many times more get started." And the goal of the centers, Trader said, "is to have people medium-sized and established and strike out on their own.

Control Data hopes to realize its BTC profits not as a landlord, but in the sale of optional services—creating many new customers for its products along the way. Full occupancy of the St. Paul center isn't expected until next year, but several tenants—a medical graphics firm, a Control Data Institute, an acoustical tile cleaning company and others—are already signed up.

How fast might the business and technology center concept spread? Control Data has already announced other such centers in Minneapolis and Toledo, and Philadelphia appears a strong candidate for a fourth location. Norris believes Control Data itself will eventually be unable to meet the demand and will arrange to franchise small-business persons to operate the centers.●

VETERANS' ADMINISTRATION HOSPITALS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. HILLIS. Mr. Speaker, for over 2 years, the various veterans organizations have been unanimous in their testimony before the House Committee on Veterans' Affairs and have been telling us, and all Members of Congress, of the rapid deterioration of service to our Nation's veterans at both VA hospitals and regional offices. Because of their testimony and because of my concern that our Nation's veterans should not be penalized in the name of economy, I recently made an inspection of the VA's regional office and medical center in Indianapolis.

I want to share with my colleagues the results of my tour at these facilities. At the outset, I want to commend both William H. Brewster, director of the regional office, and W. Maurice McHaffie, director of the medical center, and their very able staffs. In truth, they are doing their very best with the resources given them by the VA's Central Office and the Administration. The comments which follow are in no way intended to be critical of these fine public servants.

The House Committee on Veterans' Affairs and its subcommittees have conducted many hearings this year on the VA medical system, the VA's Target system, and in general, the services performed by the VA for the benefit of America's veterans.

Mr. concern had been heightened by recent hearings of the Subcommittee on Special Investigations on the VA's Target computer system. For the benefit of my colleagues, the system was envisioned to increase the efficiency of the Department of Veterans Benefits with fewer personnel. When fully operational all regional offices of the VA will be tied in to one computer network with information instantly retrievable.

However, several problems have occurred in the system so that phase I of the program is already months behind schedule with the Department of Veterans' Benefits being forced to use significant amounts of overtime to make up the difference. Through May of this year, DVB had spent $2,843,000 in overtime alone—a 237-percent increase over the amount spent through May 1978—and more than twice the amount obligated for the entire year in fiscal year 1978. In fact, in order for the system to be even partially functional, 15 regional offices in the eastern region were removed from the computer network late last month. When asked to predict when phase I would be operational, the VA representatives were unable to do so with any certainty.

Mr. Speaker, the decision to cut back personnel within the Department of Veterans' Benefits was not made by the Chief Benefits Director, but rather at a higher level within the Veterans' Administration—and probably within the Office of Management and Budget as well. It is unconscionable for either OMB or the Administrator of Veterans' Affairs to cut this vitally important section of veterans services before the Target system had proven itself. It is hardly cost effective, yet the Administrator has repeatedly assured the committee that implementation of Target would indeed be "cost effective." Let me point out, Mr. Speaker, that we are toying with the survival of the disabled veteran and his family—a check received late may be a number on a chart to the VA, but it is a tragedy to the veteran.

In my visit to the regional office in the Federal Building in Indianapolis, I was most graciously received by Mr. William Brewster, the director, together with his staff. They gave me a briefing and demonstration of the Target system in operation and a number of varied applications.

It was disconcerting to learn, however, on that day alone, Monday, July 23, the system had been down or nonoperational over 20 percent of the time. Mr. Brewster explained that the more the system seemed to be utilized in the operation of the regional offices, the greater the down time. This appears to be due to rapid installation throughout the system and an overloading and overtaxing of the system.

I did get to see the system in operation and was most impressed as I watched a VA counselor talking by telephone with a young veteran who was making an inquiry concerning his educational benefits. Immediately, the counselor was able to summon through the Target system the records of this veteran from the Houston Records Center and thereby, was able to explain to him the reason why the payments had been temporarily suspended.

Apparently, the morale of the employees of the VA is affected by the Target system. It is of tremendous assistance to them in serving the veterans. When it is not operational, it is highly frustrating to each person involved in the system because it delays the procurement of needed information to serve the veterans.

Again I commend Mr. Brewster and his staff for their dedicated service to three-quarters of a million veterans who are residing in Indiana.

The purpose of my inspection of the medical center was prompted by repeated complaints received from veterans that they are being denied proper treatment at VA facilities. I am afraid that this may, in fact, be true.

We are all too familiar with the budget restrictions imposed upon all Federal agencies, and in particular, the Veterans' Administration. For the past 2 years, the administration has recommended inadequate funding for the VA and its programs. Twice the Congress has come to the aid of our Nation's veterans over the administration's objections. The VA's Department of Medicine and Surgery is the finest in the world and we cannot sit idly by and permit it to be dismantled piece by piece, benefit by benefit. The Congress must once and for all tell the administration that enough is enough—we will not tolerate any further reductions in services rendered to and benefits earned by those who fought in the defense of their country.

I might personally reflect on my visit to the 10th Street Hospital. Although my visit was brief due to the shortage of time available, I was well received by Mr. Maurice McHaffie, the director, accompanied by Mr. Connlley and was shown many of their facilities. The hospital was clean, neat, and well operated—a credit to the Veterans' Administration. I was most interested in the new facilities that will be available as soon as the new wing presently under construction is open in the fall of 1980.

The 10th Street Hospital is certainly a fine facility for our Nation's veterans. It is most important that we keep it that way by providing the best equipment and personnel that we possibly can in this and similar facilities throughout our country.

Finally, Mr. Speaker, last week the President sent a series of shock waves throughout America in his attempt to bolster his ratings in the public opinion polls. I am not convinced the actions taken will in any way remedy our Nation's energy problems and it is doubtful that they will have the effect desired by the President. However, if the President insists that replacing ineffective public servants will, indeed, restore confidence in Washington, then perhaps he should include the Administrator of Veterans' Affairs and replace him with someone who will represent the needs of America's veteran population, who will resist OMB's unwarranted attempts to legislate, and who will stop the continued erosion of the VA and its programs.●

THE AMERICAN LEGION'S STAND ON NUCLEAR WASTE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. WYDLER. Mr. Speaker, one of the dangers of living and working in Washington is that we sometimes make the mistake of thinking that all of the possible answers to this Nation's problems are arrived at by policymakers right here. The American Legion has sent me a copy of a resolution passed in Indianapolis, Ind., by their National Executive Committee on the subject of nuclear waste. It is very valuable for all of us in the Congress to obtain perspectives on critical questions such as this by organizations which take an interest in a broad range of national issues.

The American Legion's recommendations are sensible and worthy of serious consideration. They conclude that nuclear energy must continue to be a major producer of this Nation's electrical power, but that the Federal Government must demonstrate that waste material can be stored safely and they list several suggestions in this regard. I share their concern about nuclear waste and hope the administration will adopt a policy to solve the problem since the technology is available. I have inserted the Legion proposals for the information of all my colleagues:

Resolution No. 12: Nuclear Waste Isolation Pilot Project

Whereas, The demand for electrical energy will continue to increase, and having sufficient generating capacity to meet this demand is necessary to avoid blackouts, economic disruption, and social disorder; and

Whereas, In order to avoid even larger imports of oil, the only alternatives available to generate the needed electricity are coal and nuclear; and

Whereas, It is important to have a balance between nuclear and coal-fired generating units in the future, and the development of nuclear generating units is being seriously delayed by lack of a policy for dealing with high level nuclear wastes; and

Whereas, Since the initial inception of commercial nuclear power and the military nuclear program, the ultimate disposal of high level nuclear waste has been reserved by the federal government as its responsibility; and

Whereas, It is now almost 35 years since the beginning of the military nuclear program, and 20 years since the first commercial nuclear power plant began operation, and still the federal government has no plan for disposal of these wastes; now, therefore, be it

Resolved, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, May 2-3, 1979, That the Congress and the Administration through legislation and policy decisions should develop a plan for the safe interim and permanent disposal of high level nuclear wastes; and, be it further

Resolved, That the interim storage program should be endorsed by the Congress in 1979 and contain, among others, the following features;

1. A clear statement by the government of the United States that these wastes can be safely disposed of in permanent underground storage facilities.

2. A commitment to have a permanent disposal facility operational as soon as possible and a firm time table for the licensing, design, construction, and testing phases of the project leading to full operation no later than the late 1980's.●

WHOSE MALAISE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MICHEL. Mr. Speaker, President Carter's recent reference to a "national malaise" has resulted in numerous questions about where and when and how such a malaise came to be. Columnist Joseph Kraft recently addressed that question. His conclusion is that we do not have some single, all-encompassing national sickness of the spirit. Rather, he writes, we have areas of our national life that seem to be thriving while others decline.

Kraft claims that "Big America"—the producers and managers and industrialists—is suffering from doubts and loss of self-confidence. He asks: "But is tilting away from Big America, a good way to solve the problems of energy scarcity and inflation? Is it even a recipe for increasing national self-confidence?"

At this point I wish to insert in the Record, "Whose Malaise?" by Joseph Kraft, the Washington Post, July 24, 1979:

Whose Malaise?

(By Joseph Kraft)

Detroit.—Jimmy Carter speaks of the "national malaise" as though it were creamy peanut butter spread evenly across the land. In fact, while some groups and sections have waned in self-confidence, others have surged. There is a structure to the American distemper, and a good place to observe it is this capital of the industrial heartland, Detroit.

Twenty-five years ago the managers of the auto industry could fairly claim to run the country. Harlow Curtice, the boss at General Motors, was Time's Man of the Year in 1955. The chief politico in the Eisenhower administration was a Michigan Chevrolet dealer, Postmaster General Arthur Summerfield. Fiscal matters were dominated by a Detroit banker, Joseph Dodge, who served as director of the Bureau of the Budget. Defense Secretary Charles Wilson, a former head of GM, only asserted what seemed obvious when he said, in effect, what's good for General Motors is good for America.

Now all that is changed. Chrysler verges on bankruptcy, and its chairman, John Riccardo, complains that "there has been built up around our industry a most unfortunate stereotype."

Detroit makes money, but chiefly from foreign sales—60 percent of profits from the first quarter of this year, and 48 percent in 1978. Henry Ford II is abandoning his operational role under a cascade of legal actions brought by his wife, his nephew and a group of minority stockholders.

GM remains the world's leading industrial corporation, and its chairman, Thomas Murphy, is a missionary for the business creed. But even Murphy complains about an illogical suspicion of business success," which is translated into "increased government regulation that compounds the cost disadvantages under which American business is forced to compete."

Across town from GM, at the United Auto Workers, however, there are no such hang-ups. UAW President Douglas Fraser opened negotiations for a new labor contract last week in a relaxed frame of mind. "We know who we are, and we know who they are," he said easily in an interview. "We know we can conduct a strike. We know they can take a strike. There's nothing to prove anymore." Fraser used the opening of negotiations with GM to draw attention to an election in a new plant in Oklahoma City—an election the union won by a 2-to-1 vote. He opened talks with Chrysler by calling on the government to bail out the company and take a piece of its equity.

Equally sure of himself is the black mayor of Detroit, Coleman Young. Mayor Young acknowledges that the country is slipping into a recession that could mean for Detroit harder times than the downturn of 1974 when local unemployment hit 23 percent. Still, he says, "the mood of the town is upbeat."

As reason for the upbeat mood he cites a coalition among business leaders, the unions and minority groups. Thanks to that coalition the city now enjoys a downtown building boom, based around Renaissance Center, the $300 million skyscraper complex along the Detroit River, which was financed by federal funds and grants from the Ford and Rockefeller families.

Young cites with even more enthusiasm affirmative action, which has increased the number of blacks on the police force from less than 15 percent at the time of the 1967 race riots to about 50 percent. "People aren't afraid to talk to the police now," he says. "We have a phenomenal rate of arrests—98 percent of all crimes lead to arrests. And since 1977 crime is down by 30 percent."

What emerges from all this, I believe, is a clear sense of the morphology of national malaise. Those primarily concerned with improving the quality of life, the group I have called Little America, are clearly in the ascendant. They are increasingly turning productive enterprise to the advantage of better race relations and more leisure time and high pensions for workers.

Those primarily concerned with increasing output, the group I have called Big America, are on the defensive. Far from concentrating on production, the managers who once used Detroit as a base for running the nation now have to worry about race relations, the inner city, Sun Belt plants like the one in Oklahoma, government regulations, gasoline availability and foreign competition.

The trick in running the country is to strike the right balance between those two groups. President Carter came to power thanks to a populist coalition of southerners, minorities and reformers from Middle America. He is now drawing closer to his original constituency. Probably that is good politics.

But is tilting away from Big America a good way to solve the problems of energy scarcity and inflation? Is it even a recipe for increasing national self-confidence?●

INFLATION CONTROL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GAYDOS. Mr. Speaker, the inflationary spiral which continues to ravage our Nation, and our people, is of growing concern to me as I am sure it is to my colleagues. Every segment of our society, from the largest corporation to the average working man and woman, sees its dreams and plans for the future battered anew each month beneath the hammer blows of rising prices.

Families and businesses alike sacrifice plans for a brighter future on the altar of today's necessities. Food, clothing, shelter, and energy take a deeper bite each month from the money available, leaving little or none for growth and development.

For the senior citizen, caught between the anchor of a fixed income and the rising tide of inflation, the world is a dark and forboding place. Unless that tide is checked he faces the very real possibility that he will drown in a sea of bills. A time of life which should be a reward for a job well done becomes instead a daily struggle to survive in an increasingly hostile world.

For the average working family, plans for a college education for their children, a new car next year, or some improvements to their home must give way to the increasingly difficult task of putting food on the table, buying gasoline for necessary trips to work and paying utility and heating bills which are climbing much faster than income.

For our young people—the real hope for our future as a free society—that future must look bleak indeed. The dream of marriage, a home of their own and a chance to participate fully in what they have been told is the American dream is becoming instead a financial nightmare.

Business and industry across our land face the same kinds of problems multiplied manyfold. As chairman of the Congressional Steel Caucus, I am intimately familiar with the challenges our steel industry must meet in a climate of mounting foreign competition and reduced capital flow. Modern, efficient foreign plants backed by government subsidies are able, in all too many cases, to outproduce the tired facilities still on line in many of our own steel plants. The steel companies need capital to finance the expansion and modernization programs which would make them competitive but, in a time of double digit inflation, people are putting their money into goods and services instead of into the kinds of savings programs which normally could be counted upon to provide industrial capital.

Thus, inflation becomes a self-perpetuating phenomenon. Once people perceive that money in a 5-percent savings account will not keep up with double digit inflation, they begin to spend that money on things which they feel will appreciate in value. Indeed, they go into debt to make purchases which they intend to pay for with inflated dollars. More and more of those dollars chasing fewer and fewer goods push prices up again until another round of inflation is touched off and the process repeats itself.

We cannot and must not, Mr. Speaker, permit this disastrous inflationary spiral to continue. Make no mistake, this Nation is today locked in an economic life and death struggle. Either we will solve the problem of mounting inflation and all its attendant evils or it will destroy American society as we know it.

We will get little argument on the need for solving our inflation problem, Mr. Speaker. I am sure the Members of this Congress, as well as the people in the administration, are unanimous in their acceptance of that basic premise. Our differences lie not in our perception of the seriousness of the disease but in the kind and strength of the medicine needed to cure it.

The administration's prescription of voluntary wage and price guidelines has not effected a cure. Indeed, the inflationary fever burns higher each month and the patient sinks deeper toward a coma from which he may not recover.

Stronger medicine may be required, Mr. Speaker, and it may have to be administered soon if it is to be effective. Administration spokesmen say recent economic indicators show the economy is beginning to cool off and they expect inflation to be dampened without serious damage to our employment picture. I hope fervently that is true. But if it is not, it will be the responsibility of this Congress to take steps to freeze wages and prices where they are while we search for a permanent solution.

Legislation to again give the President standby authority to apply mandatory wage and price controls has been suggested and that step may have to be taken if conditions do not soon show improvement. If that becomes necessary, we must be absolutely certain that they are applied fairly and firmly to all segments of the economy.

We must be sure, if we are forced to take this step, that those workers and companies which have complied with the voluntary guidelines do not have to live with the results of 13- or 14-percent inflation. We must also be sure that such controls be applied equitably to wages, prices, profits, and interest rates. Above all, we must be sure that they are not applied too late and taken off too soon as they were the last time they were used.

Those who oppose mandatory wage and price controls say they do not work. They argue that when they are finally removed, the economic pressures built up during the period of controls will only create a new round of inflation. I suggest, Mr. Speaker, that this does not have to be true.

We are faced today with an economic threat of crisis proportions. We need a way to stop the rising spiral of wages and prices dead in its tracks while we devise ways and means of making our economy strong and stable over the long haul. Mandatory controls will give us that breathing space and their removal can be handled in a gradual and controlled manner which need not trigger a new round of inflation.

For example, wage and price increases after controls are removed could be tied by law to the real increase in our gross national product. Such increases would not be inflationary but would provide incentives for both labor and industry to increase wages and profits by increasing production.

Another alternative would be to remove controls gradually with wage and price increases tied to a mandatory percentage instead of voluntary guidelines. In either case, the Government could retain the the power to reimpose controls if inflation should begin to heat up again.

Other industrial nations in the Western World have followed this procedure with success—imposing controls to halt the wage-price spiral while the necessary steps were taken to restore their economy to an even keel and establish the necessary climate for a gradual and controlled return to a free market economy.

What has been done successfully in other nations can be done in America, Mr. Speaker. My faith in the American people and the American system remains high. I am confident both will respond to any program which is perceived to be necessary and fair.

It is up to Congress and the administration to provide that kind of program. If we do, I am sure we will find that faith justified.●

OIL COMPANIES' MANIPULATION OF THE OIL CRISIS OF 1979

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. CONYERS. Mr. Speaker, the public anxiety about oil is not only directed at its soaring price and uncertain supply, but also reflects their perception of the lack of control over this fundamental resource. The picture of a small number of oil-producing countries and a handful of giant oil companies arrogantly lording over this essential resource is understandably an infuriating one.

Fred Cook, the veteran investigative reporter, has examined carefully the most recent oil shortage and boost in oil prices, and has concluded that it is yet another example of the private power of the oil companies subduing the general interests of consumers and citizens. His analysis is noteworthy for two reasons in particular. He dispels the myth of an oil shortage, that serves so well the industry, and raises pertinent questions about the adequacy of the President's recently announced energy program, that has failed to come to terms with the lack of public accountability of the oil industry.

I highly recommend the following article by Fred Cook, "That Great Oil Crisis of 1979 Is No Crisis," which appeared in the Washington Post on July 29:

That Great Oil "Crisis" of '79? The Numbers Spell Out Fraud

The Great "oil crisis" of the summer of 1979 may well go down in history as one of the greatest frauds ever perpetrated on a helpless people. The reality is that there was no shortage of oil; this is verified by every responsible source. Indeed, solid statistics show that there was more oil available than there had been in 1978 when there were no gas lines, no murders of frustrated motorists—in a word, no "crisis."

President Carter's Sermon from the Mount on Sunday night, July 15, ignored this reality. He insisted that the shortage was "real." To have admitted that it was not would have entailed an admission of the culpability of Big Oil and of Preisdent Carter's own recumbent Department of Energy.

The naive may say to themselves, "Why, this cannot be." So let's begin by citing some sources: A Federal Trade Commission study concluded on May 30 that gasoline supplies were up from 4 to 8 percent (depending on the month in which the comparison was made) during the first four months of 1979 over the comparable period in 1978. U.S. Customs figures, independently verified by House of Representatives researchers, show that the "Iranian shortfall" so widely trumpeted to validate the "crisis" was a red herring, because imports of oil during the first five months of 1979 actually increased 10 percent over 1978. A world energy assessment by the Central Intelligence Agency shows that world oil production in the first quarter of 1979 was up despite the Iranian disruption; that U.S. imports through May showed a big increase over 1978 figures—and that American firms, in this time of supposed "crisis," were exporting more oil than they had in 1978.

When President Carter came down from the Mount, he thumped the table in the Oval Office and announced that he was not going to permit the importation of a single gallon of oil more than we had imported in 1977. But we imported so much oil in 1977 that Big Oil suffered acute glut pains and couldn't get those prices up.

The industry's own figures show total crude oil stocks (in millions of barrels) at yearend 1977 reached 339.859, a 19.1 percent increase over 1976. At yearend 1978, total stocks had dropped to 314.462, a decrease of 7.5 percent, bringing us into 1979 with a potentially short situation.

But, as in almost every facet of this story, things weren't what they seemed. In addition to the normal crude oil supplies, the federal government has established a strategic petroleum reserve. Into this reserve, stored in salt domes in Louisiana, it had poured literally billions of gallons of imported oil; and the Department of Energy, with its usual efficiency, has dumped all that oil into the caverns without thinking about installing pumps to get it out.

If one includes the extra millions of barrels that were committed to the government's strategic reserve in 1978, the figures on the nation's total petroleum stocks, expressed in millions of barrels, read this way: 381,322 at end of 1978 compared with 347,689 at the end of that 1977 "glut" year.

In other words, the nation came into 1979 with 9.7 percent more crude stocks on the market and in the reserve than it had had at the start of 1978, when the industry was moaning because it had so much oil it couldn't even get gasoline prices up to the permitted ceilings. It is enough to make one ask, "What the devil goes on here?" What went on is fairly obvious, though only the naive would expect to get a straight answer from James L. Schlesinger's Department of Energy.

Big Oil drew down stocks during 1978 and by late fall had created a situation where there began to be alarming talk of shortages. Shell Oil led the way, imposing drastic cuts on the delivery of gasoline to its retailers; Mobil, Citgo, the whole tribe fell into line behind the force play. Retail gasoline dealers roared their outrage; there was a nasty flareback of damaging publicity, and the big oil companies backed off for the moment, restoring deliveries to nearly normal.

Then, heaven sent, came Iran. The Iranian revolution closed down the oil fields, and the myth of the "Iranian shortfall" was born. Actually, only 5 percent of our imported oil came from Iran, and this shortage was quickly offset by stepped-up production in Saudi Arabia, increased Alaskan supplies and lesser increases from other sources. CIA figures show that free world production (expressed in thousands of barrels daily) rose to 46,515 in the first quarter of 1979 compared to 46,305 in 1978. Customs figures, as recorded by the Bureau of Census, show that imports through May increased 10 percent over those for the first five weeks of 1978.

Indeed, the imports for these first five months of 1979 almost matched the levels established in the "glut" year of 1977. The CIA in-depth study echoed the Customs Bureau's findings. It showed imports in the first five months of 1979 outstripping 1978. During the first three months, imports averaged well over 8 million barrels a day, and in April and May they were only slightly below that figure. By contrast, in 1978 imports reached the 8 million-barrel-a-day figure in only two of the first five months, and in the remaining months, they trailed considerably behind the 1979 import figures.

The CIA assessment revealed another curious fact. In this 1979 year of "crisis," American firms actually exported more oil in every one of the first five months than they had in either 1977 or 1978. Exports ranged from 329,000 barrels daily in January to 445,000 barrels daily in both April and May. Yet, in lush 1977, exports had ranged from only 192,000 barrels daily to 288,000. The fact that we were exporting more oil in 1979 than we had in the two previous non-crisis years would seem to indicate manipulation of the market.

This suspicion, shared by more than two-thirds of the American people, according to public opinion polls, is reinforced when one reads the Federal Trade Commission memo of May 30. Reporting on a study made by the commission's staff, the memo said:

"The data indicates, among other things, that gasoline supplies in 1979 were up by 4–8 percent, depending on the time period, over 1978's. Net supply of gasoline in April was particularly plentiful compared to the previous April (up by 22.9 percent). Significantly, however, every time period—month, quarter, third—shows increased supplies and no indication of a shortage." Not only were supplies of gasoline more plentiful in 1979, but demand was down. According to figures from the OECD (Organization for Economic Cooperation and Development) in Paris, United States oil consumption in the period from January to April, 1979, was nearly 1 percent below the level of the same period in 1978.

Yet it was in late April and early May that the gasoline pumps in California suddenly went dry, beginning the drought that was to spread across the nation to New York, Washington, D.C., and cities in between. In a nation whose whole economy since World War II has been structured around networks of superhighways on which federal and state governments have lavished billions of dollars, panic struck, accompanied by frustration and fury.

The evidence established that none of this was necessary; it suggests that this was a "crisis" carefully orchestrated by Big Oil, aided and abetted by the complacent non-watchdog in the DOE and even by the president himself.

Jack Anderson, the Washington columnist, has published excerpts from secret White House minutes indicating that President Carter deliberately cut back gasoline supplies to keep his pledge to other industrial nations that the United States would reduce oil consumption by 5 percent. At a May 7 meeting, just as motorists were queuing up for miles in California, Carter told his Cabinet: "Our priority will continue to be some heating, agriculture and emergency needs over highway driving . . . There will be less gasoline, and it will cost more." Those last words confirm Jack Anderson's scoop. They match word for word the public presidential refrain that all of us have heard for months: "There will be less gasoline, and it will cost more."

Cost More! That is what this scenario is all about. The Carter administration for months has backed every move that would make gasoline and other fuel products more costly, on the theory that higher prices would "force" conservation. For months, the administration talked about $1-a-gallon gasoline. Privately, it was scripting an even more brutal program.

Jerry Ferrara, the outspoken executive director of the New Jersey Retail Gasoline Dealers Association, described in a television appearance on July 2 how he and his associates had "pounded on every door" in Washington seeking adoption of a more sensible policy. He said he had met face to face with Schlesinger, and he added: "He [Schlesinger] said that, if gasoline got up to $2 a gallon by 1981, the American people would have to conserve. And then he walked out of the room."

Justice Department antitrust lawyers have been trying to find out why it was that, just at this time of supposed shortages, crude oil production went into its steepest decline in seven years. In a preliminary and relatively unnoticed report, Justice Department attorneys, concluded that, from December through April, the falloff in domestic drilling had cost the nation some 11 million barrels of gasoline.

This falloff in domestic production came at a time when oil company profits in the first quarter of 1979 were going through the roof. While the companies were demanding price decontrol as a prerequisite for increased domestic production, first quarter profits at Exxon were up 37 percent; Gulf was up 61 percent and other majors like Standard Oil of Ohio were registering increases of more than 300 percent.

The drop in domestic drilling was accompanied by a second cutback, a reduction of refinery output. "That is where it all hangs out," one industry critic says. It does, indeed. Refineries capable of operating at 91 to 92 percent of capacity (this is virtually full-out considering inevitable maintenance delays) dropped their runs in this season of our travail to 84 percent. The American Petroleum Institute itself acknowledged that, in the second week of June, refineries were operating at 84.1 percent of capacity. The following week, the runs were stepped up to 84.5 percent—still far below capacity at a time when, all reliable evidence shows, crude stocks were in plentiful supply, waiting to be processed.

The situation infuriated Rep. Benjamin S. Rosenthal (D.-N.Y.), chairman of the subcommittee on commerce, consumer and monetary affairs of the powerful House Committee on Government Operations. It also upset Schlesinger, who, in June, confessed that he found the disparity between abundant crude oil stocks and low refinery runs distressing" and "disturbing." He threatened action against oil companies that had poor refinery performance.

The sequel is perhaps best told in the words of Rep. Rosenthal as recorded in the Congressional Record of June 29. The Congressman said:

"Following the hearing on June 14, Secretary of Energy Schlesinger admitted that we had more than adequate oil inventory stock and that he would undertake to use the Department of Energy's allocation authority to urge recalcitrant refiners in the direction of serving the consuming public. . . . On Thursday, June 24, Secretary Schlesinger reversed his stand, expressing that the U.S. multinational oil companies might retaliate by withholding oil from the United States. Thus, it becomes obvious that much of the blame for the current gasoline shortages must also be ascribed to deliberate actions by the oil companies and the Department of Energy. This "blackmail" threat by the U.S. multinational oil companies that ship crude oil to Europe instead of the United States calls for a vigorous response by ths nation."

It would be difficult to find a clearer demonstration of the power of the oil forces that hold this nation in thrall, but what Rep. Rosenthal called "this 'blackmail' threat" is not the only indication of the contempt in which Big Oil holds the government and the people of the nation.

The brutal price escalation, which puts Schlesinger's $2 gasoline in our immediate future, has been achieved through the delightful collaboration between Schlesinger's DOE and the oil industry. All during 1978, when the gas glut made it impossible to sell gasoline at ceiling prices, individual gas station owners were allowed to "bank" on their records the differential.

Came 1979, the "shortage," zooming OPEC prices; and, with frustrated motorists on gas lines willing to pay anything, those deferred, spurious "banked" sums were tacked on to the already zooming prices. As usual, the consumer got zonked. The DOE has now ended this "banking" system, but prices have already been driven to levels from which it is almost certain they will never come down.

All of this has taken place during the administration of a president who, in his first fireside chat in 1977, pleaded with the average American to sacrifice for the national good. Wear heavier sweaters. Turn down the thermostat. Car pool. Drive at slower speeds. "Sacrifice" one and all like a band of brothers for everyone's good and the national welfare.

Coming down from the Mount in July, the president is still saying that if we all band together and sacrifice, we can lick the devil dogs of OPEC. One has to wonder where the president has been all these years. Whatever gave him the idea that Big Oil considers itself part of a national brotherhood? The record is undeniable. Big Oil has just one concern—the bottom line. When it comes to "sacrifice," let the poor average American schnook do it.

The latest severe OPEC price hike, announced while President Carter and leaders of the industrial nations were conferring in Tokyo, seems to have shocked those statesmen to the tips of their toes. One has to marvel.

Before the previous price increase earlier in the year, OPEC spokesmen had put the blame squarely on the consuming nations, and Radio Riyadh, before this last bit of extortion, returned to the theme by charging that oil shortages were due to "the operation by certain major powers of huge stockpiles [those salt domes in Louisiana?] or price manipulations by the companies."

What the Arabs were saying quite clearly was:

"You asked for it, and you'll get it." ●

CANCER: THE DIFFERENCE LIFE STYLE MAKES

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GEPHARDT. Mr. Speaker, earlier this year I introduced H.R. 3374, the Disability Tax Surcharge and Rollback Act of 1979, to help defray the $1 billion price tag for social security disability benefits attributable to smoking. HEW has found that smoking annually costs the United States approximately $8 billion in health care expenses and $18 billion in lost productivity, wages, and absenteeism.

Alcohol abuse and alcoholism, according to HEW, cost the United States nearly $43 billion in 1975, including $12.14 billion in health and medical costs and $19.64 billion in lost production.

The International Agency for Research on Cancer, established in Lyon, France in 1966, has recently reported that life styles in industrialized societies, especially tobacco and alcohol consumption, are responsible for the "carcinogenic soup" in which we live. Here follows Daniel S. Greenberg's expose on this costly disease, which appeared in the Washington Post, Tuesday, July 17, 1979:

CANCER: THE DIFFERENCE LIFE STYLE MAKES

(By Daniel S. Greenberg)

LYON, FRANCE.—The widely held notion that industrialization has immersed mankind in a "carcinogenic soup" is now regarded as simplistic, misused and misleading by the physician-scientist who 20 years ago raised the concept of environmental factors as the principal cause of cancer.

He is John Higginson, founding director of the 11-nation International Agency for Research on Cancer, established here in 1966 to collect and sift worldwide cancer statistics for clues as to the origin of the disease. It was on the basis of his studies during the 1950s of South African black and U.S. cancer rates that Higginson hypothesized that probably two-thirds of non-skin cancers "are environmental in origin and therefore theoretically preventable."

This easily repeated but actually quite complex idea has burned bright in cancer politics ever since. It is a sacred tenet of the environmental movement, has been embodied in cancer-control legislation in the United States and other nations, and has contributed to popular despair over the presumed prevalance of cancer-causing menaces in food, air and water.

Industry, which is the villain of this chemical drama, might seek to find exoneration in Higginson's expressions of concern over how his thesis has fared during the past two decades. But it should be understood that Higginson is neither clearing industry nor disowning his earlier findings. Rather, with the benefit of an additional 20 years of numbers collecting and anlysis, he has concluded that the environmental assaults on the human organisms are only part of the mystery of cancer—and perhaps a relatively small part in terms of total cases. And, as offensive as it may be to environmental purists, he believes that an accumulation of evidence suggests that the manner in which people live—diet, stress, sexual and childbearing patterns, and, especially, tobacco and alcohol consumption—accounts for the striking variations that are found in cancer rates around the world. These factors, he now strongly suggests, may be far more important than the chemical pollution and may, in fact, have become objects of relative neglect through concentration on industrial malefactors.

At the nub of Higginson's conclusions are studies showing that in countries with similar levels of industrialization, cancer incidence and mortality rates vary enormously. For example, in 1971, mortality from cancer of the prostate totaled 18.4 per 100,000 in Sweden, 11.2 in England and 1.9 in Japan. "Even if lung cancer is excluded," Higginson and a colleague observed in a recent paper, "cancer patterns within Europe show no correlations with industrialization. "Thus," they noted, "the incidence in nonindustrialized Geneva is as high as in urbanized England. * * * Childhood cancers, which globally tend to be similar in incidence, do not correlate with industrialization."

Other statistics cited by Higginson invite awe about the depth of the mystery of this disease—and also suggest that cancer is an affliction waiting for a Newton or an Einstein to come along and make sense out of multitudes of seemingly incoherent data. Thus, excluding skin and lung cancers, the incidence per 100,000 for all other cancers in males in Singapore is 197 for Chinese, 119 for Indians. In two hard-drinking populations, Sweden and Geneva, the incidence of liver cancer varies greatly—2.9 and 9.4, respectively, per 100,000 from 1968 to 1972. In reference to these variations, Higginson recently wrote, "Instead of accepting these observations with some relief as scientific facts that imply no immediate environmental, universal catastrophe, many would prefer to regard such a conclusion as smug and lacking in responsibility, since it contradicts certain political, societal, and quasi-scientific dogmas."

In a conversation here, Higginson said, "I've returned to where I was 20 years ago," by which he meant, he explained, "We've got to look at the facts. It's easy to get a lot of mileage out of saying that environmental and carcinogenic control would solve this problem. There is no doubt that high exposure in industrial settings is a serious danger. But for the general population, we simply need a lot more information."

Higginson continued: "We have an awful lot of confusing data that add up to a nasty muddle. We now have lots of information about where cancer is occurring, but what is becoming clear is that we lack data on the social side."

The danger of this, he said, is that the public is lulled into believing that effective measures are being taken against cancer, when, very likely, the most debated and publicized measures will be relatively ineffective.

Said Higginson, father of the theory of environment as the main source of cancer: "I'm prepared now to yield to the facts." ●

CATHERINE FILENE SHOUSE, LIVE FROM WOLF TRAP

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. RICHMOND. Mr. Speaker, I wish to share with my colleagues the exceptional achievements of Mrs. Catherine Filene Shouse, a civic and cultural leader and philanthropist whom I have known, respected, and loved for many years.

Kay Shouse is well known to many of my colleagues, primarily for her donation of the Wolf Trap Farm Park and Filene Center to the Government for use a performing arts center and for her leadership in chairing the executive committee of the Wolf Trap Foundation.

All of us who know her have been consistently impressed by Kay Shouse's boundless drive, imagination, strength of conviction, and creativity.

Recently, on May 27 of this year, in recognition of her exemplary career and contributions, Kay Shouse received an honorary degree of "Doctor of humane letters" from Skidmore College in Saratoga Springs, N.Y.

I am sure that all of my colleagues will be interested in reviewing the achievements of Kay Shouse's remarkable life and the citation which accompanied her honorary degree:

CATHERINE FILENE SHOUSE

Catherine Filene Shouse, a pioneer in civil and cultural activities both in the United States and abroad, was awarded the Medal of Freedom by President Gerald Ford in 1977.

A native of Boston and daughter of Lincoln and Therese Filene, she honored her parents' love of music when she donated the 117-acre Wolf Trap Farm Park and Filene Center to the government for use as a performing arts center. She continues to serve the Wolf Trap Foundation, chairing its Executive Committee.

Mrs. Shouse received her B.A. degree from Wheaton College and earned her master's degree in education from Harvard, the first woman to do so. Her interest in occupational opportunities for women began in her undergraduate years and continued in Washington, D.C., where she served as Assistant to the Chief of the Women's Division, U.S. Employment Service. She helped to found the Women's National Democratic Club and the Washington, D.C. Chamber Music Society.

Increasingly concerned about the plight of young people throughout Europe during and after World War II, Mrs. Shouse organized volunteer assistance for youth-oriented activities for which she was presented distinguished service awards here and abroad. In recognition of her contribution to Anglo-American relations, Mrs. Shouse was made Honorary Dame Commander of the Order of the British Empire in 1976.

Among her other contributions to the civic and cultural community are: serving on the board of the National Symphony Orchestra Association, organizing the Pension Fund Concert for the Musicians' Retirement Fund, serving on the boards of the National Cultural Center, the American Symphony Orchestra League, Tufts University's Lincoln Filene Civic Education Center, the Fairfax County Cultural Association, the Opera Society of Washington and the Lincoln and Therese Filene Foundation.

CITATION FOR CATHERINE FILENE SHOUSE, SKIDMORE COLLEGE—MAY 27, 1979

Catherine Filene Shouse, live from Wolf Trap, internationally recognized patron of the arts, by example and by precept a trailblazer for women, civic leader, philanthropist of an estate your own acumen has accumulated, recipient of the Presidential Medal of Freedom in recognition of "half a century of invaluable voluntary service" to your country.

The bulging catalogue of your accomplishments is starred with "firsts" for your sex * * * first woman to be appointed to the National Democratic Committee from the Commonwealth of Massachusetts, the first to win a master's degree in education from Harvard University; first woman appointed by President Coolidge as chairman of the first Federal prison for women * * *.

What you have exemplified you have helped others to do. After a pioneering role in expanding career opportunities for women, you wrote the first textbook on that subject in 1920. You later founded the Women's Professional Institute and became its chairman.

But one career was never enough of a challenge. You have been active as a Democrat and then as a Republican. You have served on the board of the National Arbitration Board. Your volunteer work on their behalf has won you decorations from France, Germany, and Austria, and you have been dubbed dame Commander of the order of the British Empire by Queen Elizabeth II.

But it is your role as a patron and shaper of the arts that is most resplendent in recent years. While you have ably served governing boards of arts organizations, yours is no passive role and it is your brave vision, iron will, dauntless enthusiasm, unstinting generosity, tough-minded bargaining skills, political gifts, and sensitive hand on the public pulse that have enabled Wolf Trap Farm Park to become the enobling cultural force it now is, both for Washington and the Nation. You gave the land, funded the construction of its magnificent amphitheater, the Lincoln and Therese Filene Auditorium, in the honor of your parents, and inspired the construction workers to rebuild it after a tragic fire only weeks before its scheduled opening. But it is the varied, tasteful, and imaginative programing, also your creation, which have filled it with performances that millions now watch on television.

Such magnificent accomplishments would have been impossible without your incredible force, will, and acuity. But these traits have always been the servants of a loving heart, for your goal has consistently been that of giving to others—a noble goal also characterizing your sister, Skidmore's own beloved Helen Filene Ladd.

In appreciation of your exemplary career and contributions, by virtue of the authority of the State of New York, vested by the regents in the trustees of Skidmore College and by them delegated to me, I hereby confer upon you the degree of "Doctor of Humane Letters," and declare you fully entitled to all of its rights, honors, and privileges * * *.●

EARLY WARNING REPORT, WEEK OF JULY 30, 1979

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. SIMON. Mr. Speaker, in order to inform the House of the relationship of appropriations and other spending bills to amounts targeted in the first budget resolution for fiscal year 1980, the Budget Committee places in the Monday RECORD materials on the spending bills anticipated for floor action during the coming week. This week's package includes summaries of the transportation, interior, and foreign assistance appropriations bills; the conference report on the energy-water development appropriations bill; Disability Insurance Amendments of 1979; Social Services and Child Welfare Amendments of 1979; Higher Education Technical Amendments of 1979; and a small entitlement contained in the Department of Defense authorization for fiscal 1980:

H.R. 4930—INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1980

(H. Rept. 96–374)

Committee: Appropriations.

Subcommittee: Interior.

Chairman: Mr. Yates (Illinois).

Ranking Minority Member: Mr. McDade (Pennsylvania).

Scheduled: Tuesday, July 31, 1979.

I. DESCRIPTION OF BILL

This bill covers seven functional categories and provides Fiscal Year 1980 appropriations for the Department of Interior (except the Bureau of Reclamation) and for other related agencies including the U.S. Forest Service, the Department of Energy, the Smithsonian Institution, and the National Foundation on the Arts and Humanities. In total, the bill provides $10,196 million in budget authority and $5,094 million in outlays.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

This bill as reported, combined with spendouts from prior appropriations, exceeds the subcommittee targets by $2,868 million in budget authority and $1,043 million in outlays (line 11 below).

Explanation of Problem: The major difference between the subcommittee targets and the bill is contained in the energy function (Function 270).

First, the First Budget Resolution assumed a $1 billion rescission of budget authority and an outlay reduction of $1 billion in the strategic petroleum reserve program, which the Appropriations Committee did not include. Second, the Appropriations Committee added $1.5 billion in budget authority over the resolution assumptions for a program to encourage the development of synthetic fuels. Third, the Committee added $141 million in budget authority for exploration of the National Petroleum Reserve in Alaska.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	10, 196	5, 094
2. Prior action		5, 129
3. Action to date	10, 196	10, 223
4. Target	7, 428	9, 280
5. Over	2, 768	943
6. Under		
7. Action to date	10, 196	10, 223
8. Amount assumed but not yet reported	100	100
9. Possible total	10, 296	10, 323
10. Target	7, 428	9, 280
11. Over	2, 868	1, 043
12. Under		

(a) Explanation of Difference from Target (line 11 above).

The bill provides $2,868 million in budget authority and $1,043 million in outlays above the amounts assumed in the First Budget Resolution (line 11). The difference is primarily due to the Appropriations Committee bill not providing a rescission of budget authority and an outlay reduction for the Strategic Petroleum Reserve ($1 billion), adding $1.5 billion in budget authority for a synfuels program, and adding $141 million for exploration of the National Petroleum Reserve in Alaska.

(b) Amounts Assumed in Budget Resolution but Not Yet Considered (line 8 above).

Amounts assumed in the Budget Resolution but not yet considered total $100 million in budget authority and outlays for additional funding of forest firefighting (line 8). A supplemental budget request for this item is usually submitted in the spring.

IV. BUDGETARY FLOOR AMENDMENTS

Several amendments are expected with the bulk concerning the energy area of the bill. Most likely there will be amendments on the synfuels program, fossil fuel programs, and funds to explore the National Petroleum Reserve in Alaska.

Only one specific amendment is known at this time, which is sponsored by Reps. Harkin, Ottinger, Brown, and Fish. This amendment would add $70.2 million in budget authority for additional energy conservation. The amount added would provide the total authorized level of funding for programs including transportation energy research, industrial efficiency and cogeneration, conversion of waste to energy, and energy innovations.

V. COMPARISON WITH PRESIDENT

This bill is $1,803 million in budget authority over the President's request of $8,393 million. The difference is primarily attributable to funds added for a synfuels program ($1.5 billion).

H.R. 4476—THE HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1979

(H. Rept. 96–318)

Committee: Education and Labor (via Appropriations).

Subcommittee: Postsecondary Education (Labor–HEW).

Chairman: Mr. Bill Ford (Michigan).

Ranking Minority Member: Mr. Buchanan (Alabama).

Scheduled: Tuesday, July 31, 1979 (suspension).

I. DESCRIPTION OF BILL

H.R. 4476 amends the Guaranteed Student Loans Program (GSLP) by removing the 5 percent per annum cap on the special allowance rate paid to holders of insured or guaranteed loans. This provision is effective beginning with the third quarter payments for Fiscal Year 1979. In addition, H.R. 4476 extends for one year numerous higher education programs. The extensions do not have any budgetary effect. New entitlement authority in the bill is estimated at $78 million.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

This bill is $78 million above the amount assumed in the First Budget Resolution.

Explanation of Problem: Costs associated with removal of the cap on the GSLP special allowance rate involve $78 million in new entitlement authority, which was not assumed in the First Budget Resolution. Since the 5 percent rate is paid in addition to the 7 percent rate paid by, or on behalf of, the student borrowers, the resolution assumed interest payments to lenders at a total of 12 percent. The need to modify the existing program developed because the 5 percent per annum ceiling was reached in the third quarter of Fiscal Year 1979. Therefore, under the limitations provided in current law, fourth quarter payment rates to lenders would be depressed. H.R. 4476 would correct the problem.

Explanation of Potential Problem: The First Budget Resolution allocated to the Education and Labor Committee negative NEA of −$581 million, reflecting House assumptions that legislative savings would be achieved in various Function 600 child nutrition programs and in Function 500 vocational rehabilitation programs. The amount of negative NEA assumed in the resolution but not yet reported, remains at −$581 million. If these legislative savings are not realized, and if H.R. 4476 is enacted, that committee's target would be breached by $659 million. Because H.R. 4476 exceeded the NEA allocated to the Education and Labor Committee in the First Budget Resolution, the bill was referred to the Appropriations Committee, which reported it without amendment.

III. SUMMARY TABLE

[In millions of dollars]

	New entitlement authority
1. Amount in bill	$78
2. Prior action	
3. Action to date	78
4. Target	−581
5. Over	659
6. Under	
7. Action to date	78
8. Amount assumed but not yet reported	−581
9. Possible total	−503
10. Target	−581
11. Over	78
12. Under	

(a) Explanation of Difference from Target (line 11 above).

The Education and Labor Committee would exceed its target by $78 million in NEA because this amount was not assumed in the resolution.

(b) Amounts Assumed in Budget Resolution but Not Yet Considered (line 8 above).

To date, the Education and Labor Committee has not reported any legislation reflecting savings associated with child nutrition and vocational rehabilitation programs; the First Budget Resolution assumed savings of $581 million in those programs.

IV. BUDGETARY FLOOR AMENDMENTS

None allowed under suspension of the rules.

V. COMPARISON WITH PRESIDENT

Regarding the GSLP proposal, the President has submitted draft legislation which would raise the current 5 percent cap to 6 percent effective for two quarters. Estimated cost of the administration's proposal is $35 million.

H.R. 4473—FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS BILL, 1980

(H. Rept. 96–273)

Committee: Appropriations.

Subcommittee: Foreign Operations.

Chairman: Mr. Long (Maryland).

Ranking Minority Member: Mr. Young (Florida).

Scheduled: Wednesday and Thursday, August 1 and 2, 1979.

I. DESCRIPTION OF BILL

The bill provides for the foreign assistance programs administered by the Agency for International Development, Military Assistance, Contributions to International Financial Institutions, and the Peace Corps.

The bill totals $7,889 million in budget authority and $2,731 million in outlays.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The bill is below the budget resolution targets by $267 million in budget authority; however, it is over by $181 million in outlays.

Explanation of Problem: The major factor causing the outlays to exceed the budget resolution is the later than assumed availability of the fiscal year 1979 supplemental to implement the Middle East Peace Package. The resolution targets assumed a June 1, 1979 start-up for the Israeli military construction projects but it now appears that start-up will slip until July 1 or later. As a result of the late start on this and other fiscal year 1979 programs, some $100 million in outlays will slip over into fiscal year 1980.

The bill also includes an economic support fund program for Sudan, which was requested by the President subsequent to the preparation of the first budget resolution. This program adds $40 million to the fiscal year 1980 outlays estimates.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	7,889	2,731
2. Action to date		3,768
3. Amounts assumed but not yet reported		
4. Possible total	7,889	6,449
5. Target	8,156	6,318
6. Over		181
7. Under	267	

Explanation of Difference From Target (lines 6 and 7 above).

The major reason for the difference in budget authority is that the bill provides a lower level of funding for International Financing Institutions than had been assumed in the resolution.

As stated above, the major factor causing the increase in outlays is the later than anticipated availability of fiscal year 1979 supplemental funds and the inclusion in the bill of a $40 million economic support program for Sudan.

As a result of these and other changes in fiscal year 1980 outlays, it is now estimated that the outlays in the International Affairs function will exceed the budget resolution targets by $150 million.

IV. BUDGETARY FLOOR AMENDMENTS

None known.

V. COMPARISON WITH PRESIDENT

The bill is a reduction of $1,152 million in budget authority from the President's request of $9,040 million for these programs. Most of the reduction ($903 million) is in Contributions to International Financial Institutions.

H.R. 3434—SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS OF 1979

(H. Rept. 96–136)

Committee: Ways and Means (via Appropriations).

Subcommittee: Public Assistance and Unemployment Compensation (Labor-HEW).

Chairman: Mr. Corman (California).

Ranking Minority Member: Mr. Rousselot (California).

Scheduled: Wednesday and Thursday, August 1 and 2, 1979.

I. DESCRIPTION OF BILL

The bill would (1) increase the entitlement authority for the social services (Title XX) program from a permanent level of $2.5 billion to $3.1 billion beginning in Fiscal Year 1980; (2) provide for a separate Title XX entitlement of $16 million for Puerto Rico, Guam, the Virgin Islands, and the

Northern Marianas; (3) provide an annual entitlement of $266 million for child welfare services ($141 million in Fiscal Year 1980); (4) establish a program of Federal support to encourage adoption of children with special needs; and (5) cap State and local training funds for social services, which would save $18 million in Fiscal Year 1980. Total new entitlement authority in the bill is $745 million.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The bill is generally consistent with the provisions of the First Budget Resolution except that the Resolution assumed a $3.0 billion entitlement ceiling for the Title XX program, while the bill would provide for a $3.1 billion ceiling.

Explanation of Potential Problem. The amounts assumed in the Resolution but not yet considered by the Ways and Means Committee (line 8, below) include $263 million in legislative savings to be achieved through a series of modifications to the AFDC and SSI programs. Should these legislative savings not be realized, the Committee's NEA target would be breached. The Public Assistance Subcommittee in its welfare reform proposal has reported certain legislative savings to the full Ways and Means Committee. However, the amount of the savings is unavailable until CBO completes its cost analysis of the bill.

III. SUMMARY TABLE

[In millions of dollars]

	New entitlement authority
1. Amount in bill	$745
2. Prior action	184
3. Action to date	929
4. Target	798
5. Over	131
6. Under	---
7. Action to date	929
8. Amount assumed but not yet reported	−180
9. Possible total	749
10. Target	798
11. Over	---
12. Under	49

(a) Explanation of Difference From Target (line 12 above).

The CBO cost estimate for H.R. 3434 is $49 million less than the amounts assumed by the Ways and Means Committee for the bill in its 302(b) report.

(b) Amounts Assumed in Budget Resolution But Not Yet Considered (line 8 above).

Savings totaling $263 million in the AFDC and Child Support programs were included in the Committee's 302(b) report, offset by $83 million in spending for the SSI program. Certain of these items are included in the Welfare Reform proposal (H.R. 4904) reported from the Public Assistance Subcommittee to the full Committee on July 23.

IV. BUDGETARY FLOOR AMENDMENTS

The Rules Committee has granted a modified closed rule providing for the consideration of Committee amendments only. The Ways and Means Committee has a series of nonbudgetary technical amendments.

V. COMPARISON WITH PRESIDENT

The President proposed similar legislation which would have required $433 million in budget authority to accommodate a $2.9 billion Title XX ceiling, $141 million child welfare services program, $16 million social services program for the territories, and a cap on State and local training for social services programs.

H.R. 4440—TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1980

(H. Rept. 96–272)

Committee: Appropriations.

Subcommittee: Transportation.

Chairman: Mr. Duncan (Oregon).

Ranking Minority Member: Mr. Conte (Massachusetts).

Scheduled: Monday, July 30, 1979.

I. DESCRIPTION OF BILL

This bill funds the Department of Transportation and related agencies. It provides $9,523 million in budget authority (of which $425 million is advance appropriations for urban mass transit in 1981 and $9,098 million for fiscal year 1980) and $5,846 million in outlays.

II. COMPARISON WITH 1ST BUDGET RESOLUTION SPENDING TARGET

This appropriations bill, combined with spendouts from prior appropriations and amounts assigned to the subcommittee but not yet considered, is below the subcommittee targets by $490 million in budget authority and $2 million in outlays.

Explanation of problem. No major budget problem with the bill as reported.

Explanation of Potential Problem. The potential problem with this bill is that floor amendments are very likely, and if passed will cause the possible total to exceed the Transportation subcommittee outlay target (see III. Summary Table, line 12). Further, the Function 400 targets may be breached as well (see VI. Functional Projection, line 8).

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	9,098	5,846
2. Prior action		11,655
3. Action to date	9,098	17,501
4. Target	9,771	17,677
5. Over		
6. Under	673	176
7. Action to date	9,098	17,501
8. Amount assumed but not yet reported	183	174
9. Possible total	9,281	17,675
10. Target	9,771	17,677
11. Over		
12. Under	490	2

(a) Explanation of Difference from Target (line 12 above).

The possible total is under the target by $490 million in budget authority. Of that, $98 million represents real program reductions. The remainder results from a financing approach which affects budget authority, but which is consistent with the program level and outlays assumed in the Resolution. It is explained as follows: The President's Budget and the Budget Resolution both assume a funding level of $700 million for the Interstate Transfer Grant program. That $700 million consists of $320 million in new budget authority and $380 million in unobligated balances of contract authority. However, the Transportation bill proposes the direct appropriation of the requested $700 million, offset by the rescission of all carryover balances of contract authority (totaling $713 million). By rescinding $713 million of unobligated balances of contract authority, the reported bill permits funding of a $700 million interstate program with a net reduction of $13 million in budget authority and makes unnecessary utilization of $380 million provided in the budget resolution.

(b) Amounts Assumed in Budget Resolution but not yet Considered (line 8 above).

The bill provides for the Panama Canal Commission on a six-month basis and is $157 million in budget authority and $149 million in outlays below the amounts assumed in the Resolution for full-year operation of the Commission. The bill does not reflect $25 million in budget authority and outlays for proposed legislation involving establishment of an oil pollution liability and compensation fund.

IV. BUDGETARY FLOOR AMENDMENTS

Congressman Howard has proposed a highway-mass transit amendment of $152 million in budget authority and an estimated $75 million in outlays. A substitute to the Howard Amendment may be offered of $243 million in budget authority and $95 million in outlays. Congressman Alexander proposes $120 million in budget authority and $25 million estimated outlay in his rural transportation amendment. AMTRAK amendments are anticipated to range from $40 million for additional routes to $200 million to freeze the system as is.

V. COMPARISON WITH PRESIDENT

This bill provides budget authority of $9,098 million, $170 million below the total requested in the President's budget. It provides $280 million more in budget authority for the Panama Canal, $347 million less for mass transportation, $150 million less for rail rehabilitation initiatives and miscellaneous increases of $47 million. The prior and new outlays associated with the bill total $17,501 million, $337 million above the President's budget. Additional outlays of $249 million are projected for the Panama Canal, $80 million for urban mass transportation programs, and $8 million miscellaneous.

VI. FUNCTIONAL PROJECTION

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill (function 400)	9,084	5,832
2. Prior action	9,196	11,068
3. Other passed and reported	877	1,123
4. Amounts assumed but not yet considered:		
Unfunded portion of Panama Canal Commission	157	149
Rescission of highway trust fund BA	−250	
5. Possible total	19,064	18,172
6. Function 400 target	19,450	18,200
7. Over		
8. Under	386	28

Prior action (line 2 above) includes permanent (mostly highway trust fund amounts), outlays from prior-year appropriations, and receipts attributable to the Panama Canal bill.

Other passed and reported bills (line 3 above) include the HUD and State-Justice Appropriations bills, which passed, and the Air Noise bill which was reported.

Amounts assumed but not yet considered (line 4 above) include $157 million in budget authority and $149 million in outlays for the unfunded portion of the Panama Canal Commission, and also a reduction of $250 million through the rescission of Highway Trust Fund budget authority. If this rescission, included in the budget resolution assumptions, is not effected, then the amount remaining in this function is significantly decreased.

H.R. 4388—CONFERENCE REPORT ON ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1980

(H. Rept. 96–338)

Committee: Appropriations.

Subcommittee: Energy and Water Development.

Chairman: Mr. Bevill (Alabama).

Ranking Minority Member: Mr. Myers (Indiana).

Scheduled: Monday, July 30, 1979.

I. DESCRIPTION OF BILL

The conference report for this bill provides Fiscal Year 1980 appropriations for all Department of Energy programs except those related to fossil fuel research and energy conservation; for water resources programs of the Corps of Engineers and the Bureau of Reclamation; and for a variety of independent agencies and commissions. In total, the conference report provides $10,799 in budget authority and $5,866 million in estimated outlays.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The conference report for this bill, combined with spendouts from prior appropriations, is under the subcommittee targets by $434 million in budget authority and $113 million in outlays.

Explanation of Problem: No major budget problem with the bill as reported.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
1. Amount in bill	10,799	5,866
2. Prior action		3,984
3. Action to date	10,799	9,850
4. Target	11,583	9,913
5. Over		
6. Under	784	63
7. Action to date	10,799	9,850
8. Amount assumed but not yet reported	350	−50
9. Possible total	11,149	9,800
10. Target	11,583	9,913
11. Over		
12. Under	434	113

(a) Explanation of Difference from Target.

The difference between the possible total and the subcommittee target consists of: $191 million attributable to energy programs because of program reductions, the use of unobligated balances, and deferral of funding for the Clinch River Breeder; $238 million attributable primarily to water resources programs because of incremental funding as opposed to full funding for the new water project construction starts; and $61 million related to the Department of Energy's defense activities.

(b) Amounts Assumed in Budget Resolution but Not Yet Considered.

Amounts assumed in the Resolution but not yet considered consist of two items. The first is $300 million in budget authority assumed for the Spent Fuel Storage Fund. Funding of this item was deferred pending enactment of authorizing legislation. The second item is $50 million for emergency flood control.

There are two additional contingencies not specifically assumed in the First Budget Resolution. First is the funding for continuation or termination of the Clinch River Breeder project, which depends on the outcome of the Department of Energy Authorization Bill for Fiscal Year 1980 now being considered by the House. Some level of appropriations may be required for this project in a supplemental.

A second contingency is an item reported in disagreement by the conferees of the Energy-Water Appropriations Bill which, if the House recedes to the Senate position as stated in the conference report, will add another $57 million to the bill total for funding of the new Hart Senate Office building. The addition of this last item will still allow the bill plus items assumed but not yet considered to remain significantly below subcommittee targets.

IV. BUDGETARY FLOOR AMENDMENTS

Not applicable to conference reports.

V. COMPARISON WITH PRESIDENT

The conference report is $701 million in budget authority below the President's request of $11,500 million.

H.R. 3236—DISABILITY INSURANCE AMENDMENTS OF 1979

(H. Rept. 96-100)

Committee: Ways and Means.

Subcommittee: Social Security.

Chairman: Mr. Pickle (Texas).

Ranking Minority Member: Mr. Archer (Texas).

Scheduled: Wednesday and Thursday, August 1 and 2, 1979.

I. DESCRIPTION OF BILL

This bill amends the Social Security Act to provide better work incentives and improved accountability in the Disability Insurance (DI) program. Fiscal year 1980 benefit savings are estimated by CBO to be $80 million in outlays but administrative costs and the impact on other programs in the first year of implementation will be $104 million. Total annual savings in fiscal year 1984 on a unified budget basis will be $1.1 billion.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The Resolution assumed legislative savings of $62 million in the Disability Insurance program, as recommended by the Committee on Ways and Means in the March 15 report. Primarily because of reestimates by the Social Security Administration of the administrative costs associated with the bill, the first year savings to the Disability Insurance Trust Fund will be $17 million.

III. SUMMARY TABLE

Impact on disability insurance trust fund outlays

[In millions of dollars]

1. Amount in bill	−$17
2. Action to date	0
3. Amount assumed but not yet reported	0
4. Possible total	−17
5. Target (legislative savings)	−62
6. Over	+45
7. Under	0

(a) Explanation of Difference From Target (line 6 above).

The bill exceeds the target primarily because of a reestimate by the Social Security Administration of the administrative costs associated with the bill.

(b) Amounts assumed in Budget Resolution but not yet Considered (line 3 above).

No additional legislation pertaining to Social Security is assumed in the Resolution.

IV. BUDGETARY FLOOR AMENDMENTS

Mr. Simon may offer an amendment to delay the implementation of section 13 of the bill by one year. That section would reimburse state vocational rehabilitation agencies for having rehabilitated a disabled recipient only if that recipient has successfully returned to work. This provision would become effective in fiscal year 1981 under the reported bill.

V. COMPARISON WITH PRESIDENT

The President proposed to save $34 million through changes to the Disability Insurance program and $608 million through changes to the Old Age and Survivors Insurance program.

H.R. 4040—DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1980

(H. Rept. 96-166)

Committee: Armed Services.

Chairman: Mr. Price (Illinois).

Ranking Minority Member: Mr. Bob Wilson (California).

Scheduled: Wednesday and Thursday, August 1 and 2, 1979.

I. DESCRIPTION OF BILL

The entitlement provisions of this bill would provide $16 million for increased stipends for members of the Armed Forces Health Scholarship program and special pay for medical officers serving on active duty obligation resulting from a medical education program.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The new entitlement authority (NEA) provisions of the bill are consistent with the Budget Resolution and the NEA target of the Armed Services Committee.

Explanation of Problem: No major budget problem with the bill as reported.

III. SUMMARY TABLE

[In millions of dollars]

	New entitlement authority
1. Amount in bill	$16
2. Prior action	--
3. Action to date	16
4. Target	99
5. Over	--
6. Under	83
7. Action to date	16
8. Amount assumed but not yet reported	83
9. Possible total	99
10. Target	99
11. Over	--
12. Under	--

(a) Explanation of Difference From Target (line 12 above).

No difference.

(b) Amounts Assumed in Budget Resolution But not Yet Considered (line 8 above).

The resolution included $128 million for a variety of personnel benefits and for a revision of the Officer Personnel Act. In addition, the resolution assumed a legislative saving of $45 million by changing the cost-of-living adjustment for military retirees from semi-annually to annually.

IV. BUDGETARY FLOOR AMENDMENTS

None known at this time.

V. COMPARISON WITH PRESIDENT

The President's budget did not include the budgetary impact of this legislation.●

TRIBUTE TO GEORGE E. NORMAN, JR.

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PREYER. Mr. Speaker, in sharing with my colleagues remarks about an outstanding citizen, I do not do so in the usual sense of saluting a fine member of a particular community, but I address myself to the larger sense of commitment of one whose high standards and personal involvement in civic affairs epitomize the kind of citizen of whom all in America can be proud. One who has successfully combined an outstanding business career with involvement in and advocacy of so many goals important in our society. The fine qualities which I address today are embodied in George E. Norman, Jr., of Greensboro, N.C.

George made time, for we do not just "find" time for such pursuits to aid those less fortunate through his presidency of both Goodwill Industries Rehabilitation Center and the United Way of Greater Greensboro and his board membership of the Greensboro Cerebral Palsy School; he made time to further excellence in education through board membership of Greensboro College, Oak Ridge Academy, Guilford College, Appalachian State University, the North Carolina State University Engineering Foundation and as president of the Greensboro YMCA; he made time to enhance our appreciation of the arts through board membership and chairmanship of the North Carolina Symphony Society, the United Arts Council of Greensboro and the Eastern Music Festival. He made time to work toward cohesiveness between business and government through his leadership in the North Carolina Textile Manufacturers Association, North Carolina Energy Policy Council, American National Metrics Council, and the Greensboro Chamber of Commerce. These are some of the areas George Norman is active in and they exemplify his expansive approach to living. It is not a wonder that in 1973 he was designated outstanding Civic Leader of Greensboro.

George Norman made time to improve the quality of life and that is why I have made time to honor him on the occasion of his retirement from Burlington Industries, Inc. During his 41 years as an executive with Burlington, his expertise proved invaluable in myriad areas including his most recent role as vice president of public affairs. This role was particularly suited to him since he has always held the belief that personal involvement as well as corporate involvement in the community and all levels of government is essential. He proved many times that business and government can work as partners instead of as opponents and he proved that one individual can make a difference. George Norman's total emersion in all aspects of life bring to mind the phrase "a man for all seasons." I salute George Norman and on behalf of the citizens of North Carolina use this public forum to express my best wishes to a good friend on his retirement.●

AID TO COMMUNIST COUNTRIES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PAUL. Mr. Speaker, the House is in the midst of debating a foreign aid bill which includes funds for international banks and eventually Communist countries. It is also debating the Export Administration Act amendments which would loosen up the controls over the export of our security-related technology, and committees of the House are holding hearings on legislation to grant credits, loans, and loan guarantees to Communist countries.

In the midst of this I would like to call the Members' attention to some words from Lenin that recently appeared in the Daily News Digest, published by W. A. Johnson, P.O. Box 39027, Phoenix, Ariz. 85069. When are we going to stop this policy of national suicide?

LENIN PREDICTED WE WOULD

In the July 3 Chicago Sun-Times appeared an AP story which said: "In late summer, along the Volga River 500 miles east of Moscow, work will begin on a factory that eventually will turn out thousands of oil drill bits. The $144 million facility is being designed and equipped by Dresser Industries of Dallas.

"One critic contends that the factory, built solely with U.S. technology, one day could make projectiles that could penetrate the latest American tank. Others contend the drill bits will help increase Soviet oil production, which eventually could hurt U.S. interests."

This, and other stories like it dealing with ball-bearing plants, truck plants (Kama River plant), etc., are getting some press, but—for the most part—the American people are not aware of just how heavily dependent upon us the Soviets really are.

When they find out about high-technology computer sales or critical optional equipment sales, they are surprised our Government would not only allow such a thing, but encourage it! Now, the same type of sales will begin with Red China.

There was one person who knew this would happen. Lenin!

From a newspaper column your editor wrote in early 1965, comes the following as translated by Yury P. Annekov. Said Lenin:

"The so-called cultured elements of Western Europe and America are incapable of comprehending the present state of affairs and the actual balance of forces; these elements must be regarded as deaf-mutes and treated accordingly.

"A revolution never develops along a direct line, by continuous expansion, but forms a chain of outbursts and withdrawals, attacks and lulls, during which the revolutionary forces gain strength in preparation for their final victory.

"It is necessary to resort to special maneuvers capable of accelerating our victory over capitalist countries. We must:

"(A) In order to placate the deaf-mutes, proclaim the (fictional) separation of our government and governmental institutions (the Council of Peoples Commissars, etc.) from the Party and Politburo and, in particular, from the Comintern, declaring these latter agencies to be independent political groups which are tolerated on the territory of the Soviet Socialist Republics. The deaf-mutes will believe it.

"(B) Express a desire for the immediate resumption of diplomatic relations with capitalist countries on the basis of complete non-interference in their internal affairs. Again, the deaf-mutes will believe it. They will even be delighted and will fling wide open their doors, through which emissaries of the Comintern and Party intelligence agencies will quickly infiltrate into these countries disguised as our diplomatic, cultural and trade representatives.

"Speaking the truth is a pretty bourgeois prejudice. A lie, on the other hand, is often justified by the end. Capitalists the world over and their governments will, in their desire to win the Soviet market, shut their eyes to the above-mentioned activities and will thus be turned into deaf-mutes.

"They will furnish credits, which will serve us a means of supporting the Communist parties in their countries, and by supplying us with materials and techniques which are not available to us, will rebuild our war industry which is essential for our future attacks on our suppliers.

"In other words, they will be laboring to prepare their own suicide."

Startlingly accurate, wasn't he? Those words were written sometime before Lenin died on January 21, 1924. Documents published in the mid-60s which now appear in "Lenin's Collected Works, Vol. 42", reveal that he had formulated the above stated theme as early as December 21, 1920.

All this should be considered by our Senators while they are "debating" the SALT II treaty.

A letter of encouragement from our readers to their Senators will help things greatly. If your Senator doesn't believe Lenin actually said these things, tell him to have the Library of Congress research it for him.

No Communist, whether Soviet or Red Chinese, means us any good. Either Washington realizes this for the fact that it is, or we're doomed to suicide or slavery. It's just that simple.●

MONDALE AT GENEVA: A CLARION CALL FOR JUSTICE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. SOLARZ. Mr. Speaker, I was privileged to participate as one of the congressional members of the U.S. delegation to the United Nations' sponsored conference on refugees in Geneva last week. This conference will go down in the annals of history not only as the most successful international refugee conference of all times, but as the only successful refugee conference ever held.

The success of the Geneva Conference was in large measure due to the outstanding leadership of the President and the Vice President of the United States whose tireless efforts and diligent diplomacy focused the attention of the world community on alleviating the human tragedy which has engulfed Southeast Asia with over 375,000 Indochinese refugees.

Vice President MONDALE, in an outstanding address to the delegates of the 65 nations at Geneva, sounded a clarion call for this conference to go beyond the posturing and legalisms of previous refugee conferences. He reminded the world of the disasterous results of the Evian Conference of 1938, which failed to alleviate the plight of 500,000 German Jews and thus facilitated Hitler's implementation of the "final solution"—the destruction of 6 million European Jews.

It is a tribute to the strong human rights commitment and moral integrity of this administration, so ably demonstrated by the Vice President in Geneva, that the U.S. efforts this time produced concrete actions that will alleviate the sufferings of the Vietnamese, Laotians, and Cambodians forced to flee from their homelands. And this time our leadership produced a significant humanitarian response from the other nations of the world, who pledged to resettle 100,000 more refugees and to meet the increased costs for care and maintenance of the refugees provided by the United Nations High Commission on Refugees.

Mr. Speaker, I include the text of the Vice President's statement at Geneva to be included in today's RECORD so that my colleagues who may not have had an opportunity to read it, might do so. I think this brief speech is one of the clearest indications that we in the United States have learned from history, and will never again allow a "holocaust" to systematically destroy thousands of human beings while we sit idly by.

The statement follows:

Once again the countries of the world turn to the United Nations. When problems touch the whole human community, no other forum provides a vision more encompassing. When national interests conflict and collide, no institution convenes us with greater moral authority. The United Nations is often criticized, and sometimes even maligned. But the common ground it provides us deserves our thanks and our praise. On behalf of the United States—and, I believe, on behalf of all nations in the world community—I thank Secretary-General Waldheim and High Commissioner Hartling for their leadership in convening us here today.

Mr. Secretary-General, some tragedies defy the imagination. Some misery so surpasses the grasp of reason that language itself breaks beneath the strain. Instead, we grasp for metaphors. Instead, we speak the inaudible dialect of the human heart.

Today we confront such a tragedy. In virtually all the world's languages, desperate new expressions have been born. "A barbed-wire bondage," "an archipelago of despair," "a flood-tide of human misery": with this new coinage our language is enriched, and our civilization is impoverished.

"The boat people." "The land people." The phrases are new, but unfortunately their precedent in the annals of shame is not. Forty-one years ago this very week, another international conference on Lake Geneva concluded its deliberations. Thirty-two "nations of asylum" convened at Evian to save the doomed Jews of Nazi Germany and Austria. On the eve of the conference, Hitler flung the challenge in the world's face. He said, "I can only hope that the other world, which has such deep sympathy for these criminals will at least be generous enough to convert this sympathy into practical aid." We have each heard similar arguments about the plight of the refugees in Indochina.

At stake at Evian were both human lives—and the decency and self-respect of the civilized world. If each nation at Evian had agreed on that day to take in 17,000 Jews at once, every Jew in the Reich could have been saved. As one American observer wrote, "It is heartbreaking to think of the . . . desperate human beings . . . waiting in suspense for what happens at Evian. But the question they underline is not simply humanitarian . . . It is a test of civilization."

At Evian, they began with high hopes. But they failed the test of civilization.

The civilized world hid in the cloak of legalisms. Two nations said they had reached the saturation point for Jewish refugees. Four nations said they would accept experienced agricultural workers only. One would only accept immigrants who had been baptized. Three declared intellectuals and merchants to be undesirable new citizens. One nation feared that an influx of Jews would arouse antisemitic feelings. And one delegate said this: 'As we have not real racial problem, we are not desirous of importing one.'

As the delegates left Evian, Hitler again goaded 'the other world' for 'oozing sympathy for the poor, tormented people, but remaining hard and obdurate when it comes to helping them.' Days later, the 'final solution to the Jewish problem' was conceived, and soon the night closed in.

Let us not re-enact their error. Let us not be the heirs to their shame.

To alleviate the tragedy in Southeast Asia, we all have a part to play. The United States is committed doing its share, just as we have done for generations. 'Mother of exiles' it says on the pedestal of the Statue of Liberty at the port of New York. The American people have already welcomed over 200,000 Indochinese. Their talent and their energies immeasurably enrich our nation.

We are preparing to welcome another 168,000 refugees in the coming year. The governors and the Members of Congress in our delegation—as well as outstanding religious and civic leaders throughout America—are a symbol of the enduring commitment of President Carter and the American people.

Many nations represented here have risen to history's test, accepting substantial numbers of refugees. The ASEAN states, China, and Hong Kong have offered safety and asylum to over half a million refugees from Vietnam, Laos and Kampuchea since 1975. And others have opened their doors.

But the growing exodus from Indochina still outstrips international efforts. We must work together, or the suffering will mount. Unless we all do more, the risk of fresh conflict will arise and the stability of Southeast Asia will erode. Unless this conference gives birth to new commitments, and not simply new metaphors, we will inherit the scorn of Evian. It is a time for action, not words.

I would like to outline seven areas where action is needed.

First and foremost, the fundamental responsibility must rest with the authorities of Indochina, particularly the government of the Socialist Republic of Vietnam. That government is failing to ensure the human rights of its people. Its callous and irresponsible policies are compelling countless citizens to forsake everything they treasure, to risk their lives, and to flee into the unknown.

There must be an immediate moratorium on the further expulsion of people from Vietnam. We must stop the drownings and establish a humane emigration program. The policy of expulsion which has led to so many tragic deaths must end. It must be replaced by a policy which enables those who wish to leave their homes to do so—in safety, and by choice and in an orderly manner.

At the same time, we must not forget the land people driven from their homeland by conflict and foreign invasion. The nations of the world must promote a political settlement in Kampuchea. The survival of a whole people is in grave doubt. Neither the Pol Pot nor Hang Samrin regimes represents the Cambodian people. The conflict, and the human tragedy in its wake, must stop. The international community must not tolerate forced expulsion of entire populations. I call on all governments to allow normal free emigration and family reunification. My government supports efforts to negotiate a program of orderly direct departures from Vietnam—but not at the expense of those in camps elsewhere in Southeast Asia already awaiting resettlement, and not as part of a program of expulsion of ethnic or political groups.

Second, I urge the countries of first asylum to continue to provide temporary safe haven to all refugees. The compassion these nations have shown earn them the respect and admiration of the world's community. But these nations cannot bear this responsibility alone. We call on them to persist in their spirit of humanity so that our common effort can proceed.

Therefore, third, the rest of us must provide assurances to first-asylum countries that the refugees will find new homes within a reasonable period of time. To meet this objective, we call on all nations to double their resettlement commitment, as the United States has already done. Moreover, we must all be prepared to commit ourselves to multi-year resettlement programs—for the problem will not be solved quickly. The United States government is now seeking that authority.

Fourth, each of us must make a greater contribution to the relief efforts of the United Nations High Commissioner for Refugees. The UNHCR will need increased resources now and in the coming years to care for growing refugee populations, and to alleviate the misery in refugee camps. The UNHCR may require an estimated $400 million for its Indochina programs in 1980.

To do our part to help, I am privileged to announce today that my government will ask our Congress to allocate $105 million for those programs—more than double our current effort. We are also ready to assign highly qualified Peace Corps volunteers to work in the camps in Southeast Asia—to work not only with the individual countries, but also in the programs of the UN High Commissioner. We urge other nations to undertake similar programs of support.

Fifth, it is essential that we relieve pressures on existing camps and create a network of new transit centers for refugees destined for permanent resettlement elsewhere. Given the magnitude of the refugee population, such centers must accommodate at least 250,000 refugees. My government has endorsed the initiative of the ASEAN states for UN-sponsored refugee processing centers. President Carter applauds the government of the Philippines for the bold and exemplary steps it has taken—a model of responsible world leadership. Today I am especially pleased to announce that we are requesting more than $20 million from the Congress to finance our share of such new UNHCR facilities.

Sixth, we must extend refugee resettlement to nations who are ready to receive them—but who do not have the resources to do so. Today, on behalf of the United States government, I propose the creation of an International Refugee Resettlement Fund. If other nations join us, we will ask our Congress for contributions to the Fund totalling $20 million for the first year. We ask today that other nations match us. We recommend that the Fund be capitalized at $200 million. This Fund could, for example, endow an international corporation which would help developing countries embark on their planning and secure additional resources for this high humanitarian purpose.

Seventh, and above all, we must act to protect the lives of those who seek safety. The United States is acting vigorously to save refugees from exposure and starvation and drowning and death at sea. As Commander-in-Chief of the military, the President of the United States has dramatically strengthened his orders to our Navy to help the drowning and the desperate. Today the President has ordered four additional ships from the Military Sealift Command to be dispatched to the South China Sea—where they will be available both to transport tens of thousands of refugees from camps to refugee processing centers, and to assist refugees at sea. At the same time, the President has also ordered long-range Navy aircraft to fly patrols to locate and seek help for refugee boats in distress. And the President is asking our private shipping industry and unions to persist with their time-honored efforts to help refugees at sea. We appeal to other governments to do the same—and to accept for resettlement those who are picked up.

Mr. Secretary-General, fellow delegates, in conclusion let me reiterate two points.

First, the international community must not tolerate this forced expulsion. We call upon Vietnam to cease those policies which condemn so many to flee. There must be an immediate moratorium on expulsions.

The freedom to emigrate is a fundamental human right. But no nation is blind to the difference between free emigration and forced exodus. Let us impose a moratorium on that exodus. Let us have a breathing spell during which all of us—governments, voluntary agencies, and private individuals alike—mobilize our generosity and relieve the human misery. And let us urge the government of Vietnam to honor the inalienable human rights at the core of every civilized society.

Second, our children will deal harshly with us if we fail. The conference at Evian forty-one years ago took place amidst the same comfort and beauty we enjoy at our own deliberations today. One observer at those proceedings—moved by the contrast between the setting and the task—said this:

"These poor people and these great principles seem so far away. To one who has attended other conferences on Lake Geneva, the most striking thing on the eve of this one is that the atmosphere is so much like the others."

Let us not be like the others. Let us renounce that legacy of shame. Let us reach beyond metaphor. Let us honor the moral principles we inherit. Let us do something meaningful—something profound—to stem this misery. We face a world problem. Let us fashion a world solution.

History will not forgive us if we fail. History will not forget us if we succeed.●

HOUSE SHOULD EXPEL DIGGS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. BEREUTER. Mr. Speaker, due to transportation problems, I was absent from part of today's session and missed the vote on the motion to table a resolution calling for the expulsion of Congressman CHARLES DIGGS. Had I been present, I was prepared to speak in support of the motion to expel Mr. DIGGS. I would, therefore, like to have the text of my remarks placed in the RECORD at this point:

The House Committee on Standards of Official Conduct has reported a resolution, H.Res. 378, which is to be considered tomorrow. The resolution provides for the censure of Mr. DIGGS and requires him to repay the House for funds from his clerk-hire allowance which were used illegally.

In view of the fact that Mr. DIGGS has been convicted in U.S. District Court on 29 counts of mail fraud and false statement and in view of his own admission of guilt to the House Committee that he had misused the taxpayers' money, I believe the motion to censure is far too lenient and that a motion to expel should also be in order.

Indeed, I find it totally unacceptable that the House Leadership has persistently thwarted our efforts to seek a vote on a motion to expel Mr. DIGGS. It did so earlier this year by allowing the entire matter to be referred to the Standards Committee. Now that the committee has made its recommendations, our motion to expel should also be in order.

The misconduct of Charles DIGGS reflects on the House of Representatives as a whole. Each member should have an opportunity to cast a vote—for expulsion or censure. As it is, the Leadership would have us vote only on the motion to censure—a parliamentary maneuver that only clouds the true feelings of the House on the serious charges and actions of Mr. DIGGS.

Our institutions of government, and has been operating under a cloud of suspicion specifically the Congress of the United States, for many years, largely because of various scandals involving its membership. Americans demand and have every right to expect that their elected representatives serve with dignity, integrity and honor. When one member disgraces those traditions, it reflects poorly on every elected official. It, therefore, becomes the duty of the institutional body in question to take appropriate action to insure that the public's trust in our elected officials is not violated by the inexcusable actions of one.

I do not believe a convicted felon (as is Mr. DIGGS at this point, pending appeals) should be allowed to serve in the Congress of the United States. This is particularly true of an individual whose conviction relates to his service in the House of Representatives.

His admission of guilt with respect to the misuse of his staff allowances, coupled with his earlier conviction, in my view, indicate that he has violated the public's trust, and that he should no longer serve in this body. I hope that we will have an opportunity to vote on the motion to expel.●

An editorial appearing in the Omaha World Herald earlier this year stated: "It is no advertisement for democracy that the United States has a convicted felon helping to write its laws." I suggest that this is the crux of the decision facing each member of the House of Representatives as we decide what action to take against Mr. DIGGS.

TRIBUTE TO WILLIE MAYS

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. ROYER. Mr. Speaker, today I want to recognize a great athlete and a great American who will be inducted into the Baseball Hall of Fame on August 5, 1979, Willie Mays. I consider it a great privilege to count Willie Mays among my closest friends, and it will be with great pride that I will be accompanying Willie to Cooperstown next month where he will receive the highest honor that organized baseball can accord a player.

Of course, it is most appropriate that Willie Mays be placed in the Baseball Hall of Fame, because he has been not only an outstanding athlete during his full and lengthy career, but also because he was and is a model of the highest caliber for our Nation's youth. Willie is an honest, humble, man, a man possessed not only of great athletic ability, who gave his all in every game, but also a man who possesses and shares great personal warmth and spirit.

Willie Mays was not a bonus baby; he was not a dilettante or free-agent, big-money specialist. He was, and is, only the best center-fielder ever to wear a uniform. In this day and age of the petulant performer, of player strikes and hair-dryer clauses in player contracts, it is refreshing and invigorating to look back fondly at Willie Mays playing his heart out, every day, so well, so often, to the thrill and admiration of all who watched him on the field or listened to the broadcast, huddled close to the family radio. How we all wanted to play like Willie Mays.

We cannot go back to those days—they are gone forever. But we can and must honor the man who most symbolizes true sportsmanship and ability in American baseball—Willie Mays—and it is my great honor and privilege to do so today.●

OIL IMPORT QUOTAS, CRUDE OIL DECONTROL AND HIGHER PRICES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. ROSENTHAL. Mr. Speaker, I wish to bring to my colleagues' attention a very cogent statement prepared by Frank Collins of the Oil, Chemical, and Atomic Workers. The statement is worthy of your full consideration since history supports this presentation.

CRUDE OIL DECONTROL AND THE OIL IMPORT QUOTA

The decontrol of domestic crude oil combined with an oil import quota as proposed by President Carter would be far more costly to consumers and more dangerous to the economy than most people seem to be aware of at the present time.

The cuts in imports over the next ten years of the size proposed by Carter cannot possibly be made up for by increased domestic production, conservation or by synfuels within this time frame. This means that there would be a long continuing crude oil shortage for refiners. As the level of crude imports would be set by the quota, refiners would bid up the price of available domestic crude. The OPEC price would thus become the floor for the price of domestic crude, not the ceiling.

Under the condition of a permanent shortage of crude oil in the U.S. produced by the proposed import quota, it is clear that crude costs in the U.S. would reach levels far above those of the rest of the world. Deregulation of U.S. crude would therefore not only place control of U.S. crude oil pricing in the hands of OPEC, it would be far worse. U.S. crude prices would be the arbitrary prices of OPEC plus an incalculable amount because of bidding up in the U.S. market under scarcity conditions. The more severe the import quota cutback, the higher would be the differential between the OPEC and the U.S. price.

The cost to the consumers would be magnified by the effect of an oil imports quota on top of the phased deregulation of crude oil. The figure of $209 billion by 1985 which is the latest estimated cost of crude oil decontrol is predicated on OPEC prices rising no higher than $23.50. The sum of $209 billion already represents $1000 per person in the U.S. or $4000 for a family of four.

The existence of an import quota scheduled to reduce oil imports by 4.5 million b/d by 1990 would guarantee U.S. oil prices rising far beyond $23.50 by 1985. Deregulation of crude oil plus an oil imports quota would insure an economic disaster, unless reversed by Congress.

American business, outside of foreign oil importers and domestic oil producers, will be gravely harmed by the Administration's crude oil decontrol plus crude oil import quotas. As one example, domestic refiners using high priced domestic crude will be competing against oil product imports from foreign refiners using lower cost OPEC crude. Similarly, petrochemical producers will be competing against foreign producers using lower priced feedstocks.

U.S. industry is highly energy intensive. If the Administration program for oil decontrol and import quotas is allowed to continue, American industry will be at an impossible competitive disadvantage against foreign industry using lower priced oil outside the quota barrier.

The Administration proposal for oil import quotas makes the continuation of price controls on domestic crude absolutely imperative.●

GREENING THE SOUTH BRONX

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GARCIA. Mr. Speaker, I found an article in the most recent edition of the Sierra Bulletin, the magazine published by the Sierra Club, which asks probably the most important question that may be asked about community self-help in the south Bronx. That question is, "What can we do to help?" While the efforts of our community based groups have been widely recognized in the areas of community and tenant organization, appropriate technology and urban revitalization, they need, and no less than yesterday, the continued support of the Federal Government. But the task with which they are faced, and which they have taken on, is not only one of urban revitalization. It is the task of their personal and community revitalization—a regeneration of their personal and community pride. And the answer to the question asked by the Sierra Club is not only an answer to the people of the south Bronx, it is an answer to all urban America.

At a time when economic difficulties are pervasive and growing, we should all be asking this question, and actively seeking the answer.

GREENING THE SOUTH BRONX

(John Holtzclaw)

From City Care in Detroit I ventured back to the burned out, impoverished South Bronx to watch neighborhood people transform the carcasses and rubble of old tenements into living neighborhoods.

At the conference, Ramon Rueda, head of People's Development Corporation (PDC, 500 E. 167th St. New York, 10456), had spoken powerfully for conservation, solar power, neighborhood control and elimination of nuclear power. I went to visit PDC, where it is happening.

PDC's headquarters (and workshop) is a beehive of activity when I arrive. Job assignments are being meted out to workers. Ramon prepares to leave for a meeting with city officials. Others are writing a financial proposal. The payroll is being prepared. A planning conference is in session. The office hums. All are Puerto Ricans and blacks from the neighborhood. It is hard to believe that these were "unskilled" and unmotivated until recently—in an area written off as hopeless.

Victor, assigned to show me around, manages the crew rehabilitating a gutted old apartment house on Washington Avenue. The workers' spirits and enthusiasm are high; they are building spacious modern apartments that they can purchase with "sweat equity" (equity earned by labor) or rent at reasonable prices. Many materials recycled from nearby buildings are used; cabinets and other parts are built in PDC's woodshop.

Down the street stands a handsome six-story apartment house PDC recently completed. It is well-insulated; on its roof, solar panels heat water for direct use and for central heating. Don't tell these people that solar power isn't ready!

Fresh out of high school and unskilled, Victor helped build an earlier apartment house; now he manages construction of this one—only the second apartment house he's worked on—and attends college. His sights are set on law school. This is not the too-common ghetto story of helplessness, of residents victimized and worn down by a brutal world over which they have no control. This is a story of residents in a nine-block area rebelling, organizing, and building a future for which they take responsibility.

PDC has helped to organize tenants in other buildings to weatherize and improve those structures, and thus stabilize their tenancy. They've built parks on abandoned lots: they run a recycling program and are starting a solar greenhouse to grow organic vegetables, fish, earthworms, rabbits and poultry. They are seeking additional federal and city funds to expand even further, they want their neighborhood enterprises to include a laundromat, a pharmacy, a food service, a restaurant, a bakery, a security service, a credit union and child-care and youth-training programs.

Thoroughly inspired, I then visit the office of another dynamic friend from City Care—Irma Fleck, head of the Bronx Frontier Development Corporation (1080 Leggett Ave., New York 10474). This is another neighborhood success story.

In their newly rehabilitated offices above a railroad yard, recently "unskilled" black, Puerto Rican and white workers are busy preparing the Bronx Frontier's annual report and planning this year's work and activities.

From here, Irma takes me to "The Ranch" along the East River with its excellent view of Manhattan, where they compost leaves and the wastes from vegetable markets and sewage plants. A windmill is being constructed to power the huge composting operation, to sell electricity to Con Edison and as a model for teaching the fundamentals of wind power.

Irma drives me by an abandoned lot. Though wedged between apartment houses, it is blossoming as a neighborhood garden. With Bronx Frontier's botanical advice, the neighbors cultivate and harvest crops for their own consumption. Beats those high grocery bills.

A half-block down the street, Irma stops in front of a rubble-strewn lot, the ruins of a previous building. From a stoop next door two women yell, "Why don't you help us make a garden here?" Irma yells back. "We'll have the bulldozers here in three weeks!" And they will. With neighborhood help, they'll clear the lot, crush the rock and brick and mix it with their composted fertilizer. Neighbors will plant another urban garden.

Bronx Frontier has converted an old bookmobile into a traveling kitchen. They teach cooking and nutrition to more than 500 people each week. They are developing job-training programs for young minority adults and helping law "offenders" return to society as productive workers.

By organizing and taking control of their local environment, neighborhoods are creating skilled, proud and responsible residents, improved environments, cleaner air, reduced crime, green spaces, food and power. And they are helping to reduce sprawl and to conserve land, energy and resources. Certainly an urban environmentalist's dream.

What can we do to help? We can get involved in our own neighborhoods. Direct interested people to those, like Ramon Rueda and Irma Fleck, who have succeeded, and to environmental organizations such as the Sierra Club, the Trust for Public Land (82 2nd St., San Francisco, California 94105) or the Institute for Local Self-Reliance (1717 18th St. NW., Washington, DC 20009).

GAO REPORT SUBSTANTIATES NEED FOR RESEARCH AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. DINGELL. Mr. Speaker, I am pleased to insert in the CONGRESSIONAL RECORD my statement regarding the release Friday, July 27, 1979, by the General Accounting Office of its report which includes major findings, conclusions, and recommendations that automatic occupant restraint devices, such as airbags, require more testing, research, and development.

I commend this information to my colleagues and further suggest they obtain a copy of the GAO report itself. The document clearly underscores the need for more testing and research and substantiates the necessity that the House adopt the amendment that Congressman JIM BROYHILL and I will offer to the Department of Transportation appropriation bill, H.R. 4440.

The statement follows:

Congressman John D. Dingell (D-Mich.), announced Friday that the Report to the Congress, "Passive Restraints For Automobile Occupants—A Closer Look," as released by the General Accounting Office Friday, substantiates the absolute necessity for the House to adopt the research, testing and development amendment that he and Congressman Jim Broyhill (R-N.C.), will offer to the DOT Appropriations bill scheduled Monday, July 30.

Their amendment delays for one year, fiscal year 1980, any further funds for implementation or enforcement of the Federal automobile standard that requires devices, such as air bags, in automobiles. The amendment would not restrict actions on the portion of the standard that would permit safety belts. The amendment further requires more research, testing and development of passive or automatic restraint devices. Dingell and Broyhill agree that this is the major purpose of their amendment—to ensure safe and effective restraint devices for motoring consumers.

One of the main concerns Dingell has expressed and which is expressed in the GAO report, is the as yet unsolved problem of air bags injuring or killing out-of-position occupants, especially children, in front seats of cars. Recent General Motors and Volvo car crash tests, using pigs as surrogates for children, resulted in pigs being killed. Seven died of liver damage or other causes in the GM tests.

Dingell added that he is suspicious that there may be other evidence of problems with air bag tests buried in DOT files and that he is conducting a full research investigation of NHTSA.

Dingell has advised his colleagues in the House, "GAO has provided excellent responses to the DOT/NHTSA comments on the report."

Dingell released the major findings, recommendations and conclusions of GAO regarding the problems found in the DOT/NHTSA handling of the mandatory automatic occupant restraint standard, Motor Vehicle Safety Standard 208, which mandates air bags or automatic safety belts in model year 1982 passenger cars.

The GAO report says:

"Passive restraints offer life-saving and injury-prevention potential. However, Transportation's specific quantification of the benefits lends a degree of certainty not fully supported by the test data.

Moreover, testing conducted after the mandate indicates a potential danger from a deploying air bag may exist for out-of-position occupants.

Many questions are unanswered concerning the health and safety risks of using the chemical sodium azide to inflate air bags. In addition, the estimates of air bag cost and insurance savings are optimistic.

Because of the potential danger for out-of-position occupants, GAO recommends that the Secretary require additional testing by the National Highway Traffic Safety Administration on this problem. Depending on the outcome of this testing, the Secretary should consider appropriate modifications to the passive restraint standard including, if warranted, additional performance requirements covering the out-of-position occupant problem."

Dingell said the GAO recommends that the Secretary of Transportation establish a "task force" to develop an evaluation plan to ascertain the safety and effectiveness of passive restraints, like the air bag and automatic belts and that the Secretary "make modifications to the standard where warranted."

GAO also recommends that the Environmental Protective Agency and the Secretary of Labor, Occupational Safety and Health Administration, give "high priority . . . to additional research on sodium azide to measure its health and safety risks." It is suspected that sodium azide, used to deploy air bags in frontal crashes, may be a cancer causing agent.

GAO criticizes DOT/NHTSA for relying too heavily on "laboratory test data and engineering judgments." NHTSA has little field test data.

GAO says:

"The Safety Administration's estimate that passive restraints, when installed in all cars, will prevent about 9,000 deaths and 65,000 serious injuries annually may not prove to be accurate in actual experience. Although passive restraints have been tested extensively, most testing was on air bags rather than automatic seat belts. Results of these tests support the conclusion that air bags offer potential to save lives and prevent injuries in frontal collisions. However, the conclusion as to the extent of these benefits and the benefits in other types of crashes was based largely on subjective judgment. This introduces a great deal of uncertainty into the estimates because:

Laboratory crash conditions provide a simplified and limited simulation of real crash conditions.

Emphasis on testing air bag systems in small cars is lacking and extrapolating test data from large cars to small cars is difficult.

Biomechanical knowledge about human responses in crashes and human tolerances to injuries is limited.

The uncertainties involved in trying to estimate passive restraint effectiveness is compounded by the lack of field data depicting system performance in the real world. Current real world data for air bags is still too limited to support a reliable estimate of effectiveness in reducing serious and fatal injuries. Although more real world data exists on automatic seat belts, the data must be reviewed with caution because experience is limited."

"What this GAO report released today clearly recommends to Congress is that the amendment Congressman Broyhill and I will offer to the DOT Appropriations bill should be enacted to ensure consumers that another year of testing, at least, is required on passive restraints, especially the costly and questionable air bag," said Dingell.

"It is obvious from the report that further information as to the effectiveness of these occupant safety devices is needed by insurance companies regarding the claim by some that they will offer savings on insurance premiums to consumers who insure cars equipped with such passive restraints.

"What is a shocking revelation in the GAO report is tnat NHTSA and, I will quote the report, 'the Department (DOT) disagrees that the Safety Administration should perform additional testing on the out-of-position occupant problem. It (DOT/NHTSA) believes the appropriate way to handle this problem is to monitor the industry's development and testing programs and to test the production systems when they become available.' "

The GAO report continues:

"The Safety Administration has had independent testing done in establishing performance criteria for the normally seated front seat occupants. GAO does not understand its reluctance to carry out further testing to determine whether similar performance criteria is needed for the out-of-position occupant.

The Department must also do its own independent testing to assess the seriousness of the problem and develop, if necessary, requirements for out-of-position occupants in the passive restraint standard."

The GAO report also states:

"The National Transportation Board also commented on GAO's draft report and found no points of contradiction or conflict between the data presented in the report and the Board's material on the passive restraint mandate."

Dingell concluded, "Congress must ensure the consumer that safety devices are no hazard themselves to occupants and that they are effective."●

REGULATIONS TO ESTABLISH A MORE UNIFORM PERSONNEL SYSTEM IN THE AGENCY FOR INTERNATIONAL DEVELOPMENT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. HARRIS. Mr. Speaker, I would like to direct the attention of my colleagues to the regulations which have been promulgated in the Agency for International Development (AID) pursuant to enactment of the International Development and Food Assistance Act of 1978. Under the act, AID was directed to establish a unified personnel system for AID employees.

Cognizant of the overseas mission of the agency and the fact that regular rotation of the overseas element is an important factor in the career development of the Foreign Service, a number of Washington-based positions have been designated for overseas people back in the United States on rotation. It should be noted that Washington-based employees who currently hold positions which have been designated for this purpose will not be adversely affected since an indefinite "grandfather" clause correctly serves as their protection unless a voluntary option for overseas service is exercised.

Despite my support for the concept of a more uniform system which has been created pursuant to enactment of the law, I would like to express my concern over the impact of this system on EEO and upward mobility programs. The system would encumber the more important and senior positions for the overseas component on rotation. Thus, Washington-based AID employees could be stymied in their career progression due to the existence of designated positions.

I will be closely monitoring the effects of the new system on the Washington-based corps. I want to be sure that the opportunity and incentive to move into the overseas component of AID is afforded to those employees who are currently in the Washington component. I believe all qualified AID employees who aspire to the Foreign Service should be provided with ample opportunity for career development within the Agency for International Development.●

OIL IMPORTS VERIFICATION ACT OF 1979

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. GARCIA. Mr. Speaker, today I am introducing legislation which will provide us with critical information on our oil imports. This legislation, entitled, "Oil Imports Vertification Act of 1979," reinstitutes the data gathering functions of the Customs Service which was lifted by Customs Commissioner Chasen, following President Carter's temporary duty suspension on oil imports. While duties were being collected on oil imports we were provided with a basis of comparison for the data provided to us by the Energy Information Administration, which is provided to them by the oil industry. However, when the President suspended the duty on imported oil, Customs Commissioner Chasen relieved customs inspectors of their data gathering responsibilities so that we now have the same information coming out of the Treasury Department that comes out of the Department of Energy—oil company figures.

Commissioner Chasen justified this administrative change by saying that it would save us the cost of overtime salaries of customs inspectors which sometimes far exceed regular salaries. This is one solution to the problem of tremendous overtime costs, however the decision to implement the administrative change could not have taken into account the impact it would have on our oil import information. Instead of decreasing this information we should be making every effort to increasing and clarifying it. This can be done by making a comparison between the oil industry supplied information and the information collected by customs inspectors on a regular basis, and accounting for the differences between them. And as long as our oil import dependency continues to threaten us with the degree of economic disruption that we have recently experienced, we should seek reasons for any discrepancies in the information that the American people are receiving.

The Oil Imports Verification Act of 1979 would, therefore, require Customs to continue to collect oil import information, regardless of the status of duties. In addition, it would require the General Accounting Office, on a quarterly basis, to make a comparison between the data reported to the Commerce Department by Customs and the data reported to the Energy Information Administration by the oil companies on a quarterly basis.

The legislation I am introducing follows:

H.R. —

That section 501 of the Energy Policy and Conservation Act (42 U.S.C. 6382) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c)(1) The Comptroller General shall establish a program to determine and reconcile any differences in—

"(A) the data on the volumes of petroleum products imported into the United States which is collected and published by the Energy Information Administration of the Department of Energy, and

"(B) such data which is collected by the United States Customs Service of the Department of the Treasury and published by the Bureau of the Census.

"(2) Each calendar quarter, the Comptroller General shall prepare and transmit to the Congress a report setting forth any differences in petroleum product import data identified under such program together with explanation of such differences.".

SEC. 2. (a) Within 90 days after the date of the enactment of this Act, the Commissioner of Customs shall establish and implement a program for the collection and verification of data on the total volumes of all petroleum products imported into the United States. Such program shall—

(1) provide for the collection of such information by actual examination (and bills of lading and other evidence of imports) or by any other reasonable method designed to assure the most accurate data is collected, and

(2) remain in effect whether or not any tariff or other fee on the importation of petroleum products is in effect.

(b) Until the program under subsection (a) is implemented, the United States Customs Service shall collect and verify data on the volumes of imported petroleum products to the same extent and in the same manner as that data was collected and verified by the Service before March 31, 1979.

(c) For purposes of this section, the term "petrolelum product" has the meaning given it in section 3(3) of the Energy Policy and Conservation Act (42 U.S.C. 6202(3)).●

TRIBUTE TO THE AMVETS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MOTTL. Mr. Speaker, I would like to take this opportunity to pay tribute to the AMVETS on the occasion of this organization's 35th anniversary of dedicated and distinguished service to the Nation and its veterans.

The AMVETS' motto is: "We fought together, now let's build togeter for a greater America." That is just what the men and women of AMVETS have been doing since a small group of World War II veterans met in Kansas City, Mo., to form this national veterans organization.

The charter of AMVETS as a World War II veterans organization was signed by President Truman, after congressional enactment, on July 23, 1947. The AMVETS charter was subsequently amended in 1951 and 1966, to incorporate veterans of the Korean and Vietnam wars. Now nearly every State and several foreign countries have AMVETS posts. In areas including rehabilitation, employment and education of veterans, and in general community service, the AMVETS has built an exemplary record of public service. AMVETS works closely with subsidiary organizations, the Auxiliary, the Sons of AMVETS, the Junior AMVETS, the Sad Sacks and the Sackettes.

As a member of the House Committee on Veterans' Affairs, I am particularly honored and pleased to have the AMVETS 35th Anniversary National Convention in Cleveland, scheduled for August 19–26. I believe I am expressing the sentiments of all my colleagues in the House, when I extend AMVETS all good wishes for a fine August convention.●

ENERGY ANSWER MAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PAUL. Mr. Speaker, Mr. Lynn Ashby, the Houston Post's popular columnist, recently wrote an article on the President's energy program that struck a responsive chord in many Houstonians.

I would like to bring it to my colleagues' attention:

[From the Houston Post, July 18, 1979]

LYNN ASHBY: ANSWER MAN

A lot of you are confused over the president's latest energy program, including the proposed new federal agencies he wants to establish. I wish for once you'd stop relying on me for leadership. Anyway, once again, as the Answer Man, I shall take questions from the audience. Fire away:

How does President Carter plan to solve the energy shortage?

He wants to create three new federal agencies, an Energy Security Corp., an Energy Mobilization Board and a Solar Bank.

What will they do?

They are specifically designed to cut through government red tape and thus make it easier, save time and streamline our pursuit of energy.

How will they do that?

Simple. Say you want to drill for oil. You go to the Energy Mobilization Board (EMB) which will contact the Energy Security Corp. (ESC), the Department of Energy (DOE), the Environmental Protection Agency (EPA) and touch base with the Solar Bank, sending copies to the Pentagon, FBI and EEOC. They will then reach a decision on whether there is any oil down there, and respond.

Respond to whom?

Your grandchildren.

Do we really need more federal agencies?

Yes. Not only will it solve the energy problem, but it will make great inroads into the unemployment problem. There are now 2,776,000 civilian federal employees. Each new job means one more vote, and will help the president with his own unemployment problem.

But we already have the new Department of Energy. Why can't it do the job?

The DOE has 20,000 employees and a budget of $10.4 billion. That's more money than the profits of the nation's seven largest oil companies. Since creation of the DOE, America has assumed a unique position.

What's that?

We are the only country in the world with lines at gas stations.

Was creation of the DOE one of the president's campaign promises?

No. He only promised what he could realistically achieve. He promised to cut taxes, balance the budget, restore confidence in government and reduce the federal bureaucracy.

Anything else?

Well, yes. He promised the National Education Association (NEA) that he would create a Cabinet-level Department of Education. It is about to clear Congress and will have a first-year budget of $14.5 billion with 15,000 employees.

Who wants a Department of Education?

Mostly the leaders and employees of the NEA.

Why?

Chiefly because leaders and employees of the NEA will then become leaders and employees of the Department of Education.

How do the people who actually run our schools, colleges and universities feel about a new Washington educational agency?

Those who are not testifying before various federal judges and bureaus, or who are not filling out forms and meeting quotas, tell me that if Washington, George, had operated like Washington, D.C., we'd all be driving on the left-hand side of the street.

Getting back to energy, what will these new federal agencies do?

For one thing, they will handle money from the windfall profits tax, which the president says will raise between $146 billion and $270 billion. It comes to $650 to $1,205 per person.

But the oil companies are making a lot of money They can afford it.

Actually, they won't pay a penny of it. It will be money you pay at the gas pump—taxes disguised as profits. The oil companies will keep about a third of it and pass the rest on to the federal treasury. In effect, the oil companies will be tax collectors for Uncle Sam.

Why don't we just pay Washington direct?

You obviously don't know much about politics. If Congress passed a law making your family of four pay the government an extra $4,820 in before-tax dollars, there'd be a revolution. This way, you will be mad at the oil companies instead of President Carter and Congress.

Will the oil companies suffer?

Yes. Some of them may have to postpone entry into the U.N.

But if the government is going to get most of the money, then whose "windfall" is it?

Next question.

But if the oil companies are coming out ahead, and the government is coming out ahead, the president gets lots of votes out of it, who's looking after us?

Funny you should ask. President Carter plans to establish a Cabinet-level Federal

Oil Consumers Protection Bureau and Anti-Ripoff Department. It will have a work force of 43,000 and an annual budget of $4.5 billion. It will also seek new ways to cut taxes, balance the budget, restore confidence in government and reduce the federal bureaucracy.●

PLEDGE TO HOLD PRICES A RESTRAINT OF TRADE?

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. RUSSO. Mr. Speaker, I am taking the floor today to describe a situation that has me mystified. I do not know whether I should break out into tears or laughter.

Recently, a group of homebuilders in Chicago decided to try and join the fight against inflation as we all have been encouraged to do. They all signed a voluntary pledge to hold their prices for a period of 60 days. No one agreed to fix prices, merely not to raise current ones. This was publicly acknowledged by all who signed the pledge. Did they receive congratulations for their efforts? No, instead "Big Brother" arrived at the door.

The regional director of the Federal Trade Commission wrote all the signers and said there were implications of restraint of trade. In addition, he was concerned they might be harming consumers. He asked them to withdraw from the pledge by signing a draft letter he had enclosed or severe actions would follow.

I am putting the pertinent correspondence in the RECORD so everyone can see the sorry state we are in. Here is another case of the Federal Government talking out of both sides of its mouth:

PASQUINELLI CONSTRUCTION CO.,
Lansing, Ill., July 11, 1979.

Hon. MARTY RUSSO,
Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN RUSSO: This year, we have all been concerned over the effects of inflation. I have been hearing Alfred Kahn's remarks on television with regard to fighting inflation. He insisted that everyone seems to think that curbing inflation is "the other persons" job.

At our General Membership Meeting of the Home Builders of Greater Chicago, a thought occurred to us that it would be a good time to offer the President of the United States, through his representative, Jay Janis, Undersecretary of HUD, a pledge, wherein each individual homebuilder would pledge to at least hold his prices for the next 60 days. At subsequent meetings of the group, I suggested that other industries, such as retailers, distributors, in fact, anyone concerned with fighting inflation, be encouraged to sign such a pledge. It was my thought that all signatories would at least hold their prices for 60 days, and lower them to fit market conditions.

In the past, in the face of recession, the business community, instead of stabilizing prices and reducing prices have, in fact, raised prices in an attempt to compensate for lost profits. The term for the condition caused by this type of philosophy is stagflation. It was my hope to prevent this condition and have our economic markets more closely adhere to supply and demand conditions.

I am enclosing a copy of a letter received by our company from the Federal Trade Commission, Chicago Regional Office, from a Mr. Paul W. Turley, Regional Director, where he indicated, and I quote, "We are seriously concerned about the restraint-of-trade implications arising from this pledge. It is illegal for two or more companies to act together to affect prices, regardless of whether prices are raised, depressed, fixed, pegged, or stabilized. We are also exploring the possibility that some consumers may have been economically injured by the pledge."

My attorney's reply is also enclosed. You will note that in his reply to the Federal Trade Commission, he quotes from Alfred Kahn's prepared text delivered to the Board of Directors of the National Association of Home Builders on May 22, 1979 as follows:

"I would like, in closing, to call your attention to the pledge this month by a number of builders in the Chicago area to hold their prices for a period of at least 60 days, while maintaining the quality and overall integrity of their product. Only a gesture? Perhaps. But it is a reflection of the fundamental truth that is going to take the efforts of all of us, working together, to bring inflation under control. When we succeed—and we will—every one of us will have reason to be just a little bit prouder—of himself, and of our country."

It seems in this country, you're damned if you do and you're damned if you don't. For 20 years, I have been trying to build homes for the first home buyer market. I am very concerned about the effects of inflation on the ability of the 60 to 70% of the market to buy homes. That 60–70% of the market is the first home buyer.

I would appreciate your calling this to the attention of the Federal Trade Commission and airing my concern of the over-regulation and over-anticipation of every crtizens' acts by government bureaucracies and the stiflement of the good intention of the public.

Yours very truly,
BRUNO A. PASQUINELLI,
President.

FEDERAL TRADE COMMISSION,
Chicago, Ill., June 15, 1979.

BRUNO PASQUINELLI,
President, Pasquinelli Construction Co.,
Lansing, Ill.

DEAR MR. PASQUINELLI: The Chicago Regional Office of the Federal Trade Commission is conducting an investigation of the pledge by the members of the Builders Committee to Fight Infation to hold prices for at least sixty days. Enclosed is a copy of the pledge, which includes your name as a signatory.

We are seriously concerned about the restraint-of-trade implications arising from this pledge. It is illegal for two or more companies to act together to affect prices, regardless of whether prices are raised, depressed, fixed, pegged, or stabilized. We are also exploring the possibility that some consumers may have been economically injured by the pledge.

Unless the signatories are able to establish that each of them has withdrawn from the pledge and that they will not engage in discussions of pricing or other sales policies with any competitor in the future, we will recommend that the Commission seek an injunction. Enclosed is a model letter which a signatory could use to establish these facts. Each signatory, acting independently, should present this office with such a letter by June 25, 1979. This letter is being requested to assist Commission staff in determining the need to seek an injunction. Submission of the letter will not terminate the investigation.

If you or your attorney has any questions regarding this matter, please contact one of the following staff attorneys: Jim Leonard, 353–5576 and Peggy Summers, 353–3775.

Sincerely yours,
PAUL W. TURLEY,
Regional Director,
Chicago Regional Office.

Mr. PAUL W. TURLEY,
Regional Director, Federal Trade Commission, Chicago, Ill.

DEAR MR. TURLEY: On [date] I responded, as [your title] of [your company], an [correct state] corporation, to a request by the Builders Committee to Fight Inflation that I join them in a pledge to hold prices on my company's product for at least 60 days, while maintaining all standard items as well as quality of materials and overall integrity of the product. In signing the pledge I did not intentd to engage in any activity or behavior that would be contrary to the best interest of the public and did not believe that our pledge to hold prices was improper.

The staff of the Federal Trade Commission has called to my attention the possibility that the pledge may be in violation of the laws enforced by that agency. In response to that notification I hereby withdraw my signature from the document titled "Builders Anti-Inflation Pledge". The future actions of [your company] will in no way be governed by that pledge. Neither I nor [your company] will engage in any activity regarding pricing policy or any other sales policies with any competitor.

This letter may be used by the Federal Trade Commission or its staff for purposes of notifying the other signatories or the general public of [your company's] withdrawal from the aforementioned pledge.

Very truly yours,
——— ———.●

LEGISLATION TO PROHIBIT THE INTERSTATE TRANSPORTATION AND USE OF STOLEN AIRLINE TICKETS

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. MURPHY of New York. Mr. Speaker, one of the most pressing criminal problems faced by the American transportation industry today is the use of counterfeit, altered, fraudulent, lost, or stolen airline tickets, particularly those which have been channeled through a travel agency. The cost to the airlines, and ultimately to the American traveler, runs into many millions of dollars per month. The legislation which I introduct today addresses the problem directly by amending the United States Code to specifically include such tickets within title 18's prohibition of the transportation or use of such negotiable instruments.

While one would presume such tickets, if stolen, to fall under the ordinary criminal codes, the law does not operate on such presumptions. There exists a somewhat grey area in the theft of a blank ticket which has no specific value attached to it until it is filled in with a travel itinerary and then actually used in interstate commerce. Such blanks might be used for just a few dollars in excess baggage charges, or for a few thousand dollars for a round-the-world trip.

My legislation would expand the definition of the term "security" in title 18 to include airline tickets and the blank ticket forms. Since airline tickets are as good as cash, or stolen securities, they should be treated as negotiable instruments under Federal law. It is urgent that such items be included in the criminal code so that travel agencies, the commercial air travel industry, and the traveling public at large can be protected in an effort to halt this immense diversion of tickets for criminal use. Until it becomes a Federal criminal offense, the FBI is effectively blocked from entering the investigation of what is generally considered to be a local crime.

Up until now, ticket thieves have been handled simply as petty offenders. A very basic problem is that there has been no central control of airline tickets; each carrier operates its own accounting system independently, and accepts on good faith the value of every other carrier's tickets without so much as a passing inquiry as to the legitimacy of each ticket. Even more critical is the fact that each theft is handled locally, by a police department with no cooperative methods of cross-checking such tickets—each investigative acts and reacts independently.

My bill would allow the Federal Bureau of Investigation and the Justice Department to investigate and prosecute those involved in trafficking in stolen and counterfeit tickets. Under the penalty provisions of section 2315, title 18, violators would be subject to a $10.000 fine and/or 10 years in jail for the theft, sale, or receipt of stolen tickets. Additionally, because this activity generally involves the crossing of State lines, a separate $10,000 fine and/or 10 years is added for interstate trafficking, per section 2314 of title 18.

There is presently no effective legal control over the printing, issuance or distribution of airline ticket stock. The Air Transport Association's efforts to institute such controls have been less than effective. Traffic in stolen and counterfeit tickets has become quite commonplace, with the bulk of the problem attributed to organized crime. The professional criminal has spotted a lucrative business with a very low profile, a low chance of being caught, and he has moved into the field with a vengeance.

While outright counterfeits are a definite problem, the main source of illegal supplies is the theft of ticket stock, both from the individual airlines and from ATA stocks generally handled by travel agencies. All ATA tickets are printed by an outside firm, and then distributed in bulk directly to travel agencies which handle airline business. It is that distribution process which spawns the greatest percentage of losses, with tickets disappearing between the printers and the agencies.

Transporters such as United Parcel Service and Wings and Wheels have exhibited atrocious records of tickets stolen in transit, whether from theft by conspiracy or by simple mishandling. The subsequent sale and/or use of these stolen and lost tickets costs the airlines millions of dollars, which, in the long run, is subsidized by the paying passenger in increased costs of tickets.

Although the ATA generally limits the number of tickets on hand in an agency, a popular criminal gambit has been to simply purchase a small agency, sell all the available ticket stock in a short period of time, make no payments to the airlines, and close up the agency. The airlines must honor the tickets without compensation, since they are legitimate and are generally used for travel well before the nonpayment by the agency is discovered in the accounting process. Then the agency claims corporate financial difficulties or declares bankruptcy. The operation is so familiar to police that they have given it a special name: a "bustout operation."

Recent cases in my own city of New York illustrate the scope of the problem: Seven thousand stolen tickets and 175 persons involved in one case; 900 tickets missing from one agency; 250 tickets from another; 1,500 from yet another, and 1,825 from another.

Other cities have been hit just as hard: Los Angeles airport had $3 million in stolen tickets go through just that single location recently; police indicate it is not at all unusual to turn up theft rings with over $1 million in tickets on hand.

The problem is quite clear, and I believe a major step toward its solution is incorporated in this legislation. Tickets have been poorly handled and accounted for in transport; armed robberies have plagued travel agencies; and Federal, State and local law enforcement agencies have been hampered by an indefinite status of stolen tickets, as well as a lack of coordination in handling a racket which, by its very nature, ranges not only nationwide, but worldwide.

The legislation which I propose today will place such tickets in the realm of Federal law, and thus add some teeth to the prosecution of criminals who are heaping massive economic losses on the transportation industry and on the American public.●

PROBLEMS—SAME EVERYWHERE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. BOB WILSON. Mr. Speaker, I draw your attention to the following editorial:

[From the Times Advocate, July 8, 1979]

PROBLEMS THE SAME EVERYWHERE

What became crystal clear a few days ago when Rep. Clair Burgener addressed more than 100 persons in Grape Day Park was that Escondido's problems are identical to those of Americans from all 50 states.

What also surfaced for the sixth consecutive year at the Escondido Chamber of Commerce's annual Congressional Luncheon is that Burgener is more than a cut above your average veteran politician. Burgener was well-prepared and quick to answer a barrage of questions tossed at him by area newspeople.

Despite some tough questions, Burgener was ready. He obviously relished the challenge; the congressman was at his best, doing what he likes best—facing his constituents and addressing them on a personal basis.

Burgener made it clear throughout his question-answer session that our problems are every American's problems: inflation, energy, mortgage rates, housing, etc. He tackled each of the nation's problem areas thoughtfully, and once again he displayed his class by refusing to blame a Democratic president for all of the country's ills.

When asked for his comments on President Carter's surprising decision to cancel his scheduled energy talk on television last Thursday night, Burgener said the action caught him off-guard, but that Carter was wise to delay the address if he wasn't fully prepared or if all of the new issues regarding the crisis weren't in full focus. "I hope that he just needed a little more time before sharing new solutions with the American public," Burgener said.

The congressman also defended Carter when it was pointed out that his most recent rating in the area of leadership (an ABC–TV–Harris Poll survey) placed him lower than Richard Nixon during his darkest days in the White House.

"I believe Congress is as much to blame as the president for many of our problems," Burgener bristled, "especially in the areas of the economy and energy. We have to do our part, too. I didn't support Mr. Carter in the last election and I won't be supporting him next year, but I take no delight or glee in the failures of our president. I want him to succeed, just as I want all of our presidents to succeed."

That's the Clair Burgener that voters have supported so strongly at the polls in past elections. He was admitting that the United States is facing one of the most difficult periods in its history, and he was asking Congress, the press and the public to share with this administration and past administrations in the blame for the difficulties.

Burgener was laying it on the line. It was painful to some, but it was forthright and honest, two of the congressman's greatest traits.

Clair Burgener was telling the small gathering in Grape Day Park that we DO have common problems in this country and that we have to address those problems as a team. With people like Burgener in Washington, D.C., perhaps we can yet conquer many of these crises.●

CITY OF LOS ANGELES WATER RIGHTS LEGISLATION

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PATTERSON. Mr. Speaker, H.R. 4938, which I introduced on July 24, 1979, will remove restrictions on Federal lands in Mono County, Calif. Additionally, the bill will protect major investments of the city of Los Angeles in water aqueducts and hydroelectric generation facilities. H.R. 4938 is identical to H.R. 13521, introduced during the 95th Congress, which was supported by both the Los Angeles City Council and the Mono County Board of Supervisors.

Because of the semiarid desert characteristics of southern California, the city of Los Angeles depends on long aqueducts to deliver over 85 percent of its water supply. It is fitting to note that both the Owens Valley aqueduct and Mono Basin aqueduct extension were constructed exclusively with city of Los Angeles funds. No Federal financial assistance was involved. Additionally, in this era of chronic energy shortages, the hydroelectric generation facilities of the system produce a major portion of the energy needs for the city of Los Angeles. Because the transmission of water through the aqueduct is a gravity system, the energy production by the aqueduct's hydroelectric generation facilities is a completely energy efficient by-product of the project. Additionally, the operation of the entire aqueduct and hydroelectric system is closely coordinated with State and Federal agencies to maximize fish, wildlife, and recreational opportunities.

Because much of the rural land in California is in Federal ownership, Congress in 1906 passed legislation to aid the city in gaining the necessary rights-of-way over Federal lands intersected by the first aqueduct built to carry water from the Owens Valley to Los Angeles. Similar legislation was passed to aid the metropolitan water district in gaining rights-of-way for the construction of the Colorado River aqueduct. In June 1936, Congress passed additional legislation which authorized the sale of certain Federal lands to the city of Los Angeles for the construction of the Mono Basin extension of the Los Angeles Owens River aqueduct. H.R. 4938 will repeal the 1936 act, since the sale of Federal lands to the city of Los Angeles is no longer necessary, while preserving to the city of Los Angeles all of its existing rights.●

LAND AND WATER CONSERVATION FUND CUT

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. DAVIS of Michigan. Mr. Speaker, it was with disappointment that I learned of the adoption by the Interior Appropriations Subcommittee of a funding level for the Land and Water Conservation Fund $159 million below what was budgeted for fiscal 1980.

While I applaud the efforts of the subcommittee to contribute to the effort at cutting wasteful spending, I believe they have made a mistake in selecting this program as one which justifies a cut. The Land and Water Conservation Fund has proved to be a popular, responsible and successful program and is of tremendous importance to local units of government. The need for an adequate level of funding for the program cannot be stressed enough. In my home State of Michigan, the proposed cut would result in a funding level of $6.2 million, compared to the current level of $12.4 million. Applications for the coming year in Michigan total at this time $20.5 million. At a period when we are all experiencing the effects of inflation and recognizing the fact that rising costs extend to construction and development projects, one can only describe the effect this cut would have as devastating.

It should be pointed out, also, that this program has already experienced a cut. The administrations budget request represented a proposed funding level for the Land and Water Conservation Fund 19 percent below the actual fiscal 1979 level.

This program is especially important to small communities that must work within extremely tight budget constraints. The ability to utilize this source of matching funds presents an opportunity to these small communities to provide recreational facilities to local residents that are easily accessible, an important point when considering our current energy situation.

Perhaps most important of all to me is the capacity of this program to encourage increased employment opportunities. In my congressional district which includes counties experiencing an unemployment rate of as high as 25 percent, the prospect of jobs is our most important priority. The State portion of the Land and Water Conservation Fund has proven to have a much greater impact on creating new jobs; when a locality commits money and resources to provision of a new recreational area, it also commits itself to hiring the personnel needed for operating and managing these new facilities.

Mr. Speaker, again let me state my support of the intentions of the subcommittee in looking for ways to cut back on spending, however this is one program that should not be reduced. I hope that the Senate provides for a funding level at least equal to the budget request and urge House conferees on this bill to agree to an adequate level of funding for the program.●

THE LITTLE-KNOWN HISTORY OF ATOMIC ACCIDENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. WEISS. Mr. Speaker, along with several of my colleagues I am today initiating a public information project that will offer the most comprehensive available account of the health consequences of nuclear research and development in our Nation.

This little-known history of atomic accidents will provide a context in which Congress and the American people will be better able to make informed judgments about the future course of atomic energy and weaponry.

Each day throughout the remainder of this session of the 96th Congress, I or one of my fellow participants in this project will introduce into the CONGRESSIONAL RECORD a detailed, documented account of a particular mishap involving nuclear materials. This catalog of atomic accidents, some of which have had profound environmental and public health consequences, has been compiled by Mr. Leo Goodman who has consented to share his work with us and with the American people.

Mr. Goodman's survey is the product of more than 25 years of painstaking research. Each of the incidents is a matter of public record and every one has been checked for authenticity. Sources and supporting data are cited in each case.

Many of the accidents Mr. Goodman presents went unreported at the time of their occurrence. Some were deliberately covered up by officials who feared the governmental and public response to the incidents. Others were initially classified as secret and have since been released. All have been previously recorded in various publications, although several of the accidents are discussed in technical journals or esoteric works not readily available to interested parties.

Mr. Goodman's work is unique and of enormous value in that it catalogs in one place some 1,400 atomic incidents involving radiation contamination.

As we will see, thousands of people have been seriously contaminated as a result of these radiation releases. Many individuals have died, while an unknown number have suffered debilitating illnesses caused by their exposure. Unfortunately and quite crucially, there is no way of knowing exactly how many persons have received these radiation dosages, nor is it possible to state with any real accuracy how all of these people were affected.

Because of the shroud of secrecy that has cloaked atomic research over the past three decades, we will probably never know who has developed what illnesses during the course of this 35-year undertaking.

But we will now—at long last—have some idea of the extent and frequency of atomic accidents and their consequences.

I believe and hope that publication of this little-known history will give us all a much deeper understanding of atomic fission's awesome potential for destruction and death. We will learn, for example, that the recent events at Three Mile Island were not unprecedented nor even particularly unusual. The radiation release there differed from hundreds of others compiled by Mr. Goodman only in that it contaminated more people and a larger area than has previously been the case.

I hope, too, that many of my colleagues and many Americans who have remained supportive of or at least neutral toward atomic energy development will begin to reconsider their position as this chronicle unfolds. In any event, I am sure that Mr. Goodman's work will spur needed discussion of the dangers inherent in our attempts to harness the atom for both energy and weaponry purposes.

Despite his exhaustive research in compiling this history, Mr. Goodman points out that the record is not yet complete. I ask that any of my colleagues or any readers of the RECORD who may have additional information about these incidents or others contact me.

Here, then, is the first installment in the little-known history of atomic accidents:

[Excerpt]

ATOMIC ACCIDENT NO. 1—MELTING URANIUM SPRAYS WORKERS IN DETROIT

Development of the extruding technique for uranium was partly done in Detroit, where the senior metallurgist of Wolverine Tube Company, James F. Shumar, was recruited for the uranium project by Ed Creutz of the Chicago group. The workers at Wolverine never learned exactly what this peculiar metal that Schumar referred to only as "tuballoy" was. It sparked so beautifully, however, that machinists began taking pieces to make flints for their cigarette lighters. When the horrified Schumar discovered this, he immediately confiscated their highly radioactive flints.

The metallurgists did not know much more than the machinists. When Creutz first visited Wolverine, bringing a uranium billet to be extruded, nobody knew what pressure to use. After Creutz and Schumar had put the billet into the container, the press operator asked them, "You want me to give it five hundred pounds of pressure, or the full seven hundred and fifty tons?"

The two metallurgists hadn't the slightest idea. Creutz decided to go down into the pit beneath the extrusion press where he could observe what happened as the operator gave the uranium billet five hundred pounds of pressure. Nothing happened, so the operator turned on the full seven hundred and fifty tons of pressure, and suddenly sparks showered the whole area as the billet shattered into a million pieces. Creutz and a helper, their clothes smoking from the sparks, stumbled out of the pit. Creutz almost wept when he realized that the uranium, which had melted like butter, was lost beyond all recovery. "I've spent three weeks making that damned thing!" he moaned. "Now I'll have to cast another billet and come back again."

Source: "Manhattan Project," by Stephane Groeuff, Little, Brown & Co., 1967, pages 146–7.●

REGISTERING FOR THE DRAFT

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. SOLOMON. Mr. Speaker, a vital issue, which the Congress will soon face was, in my opinion, placed in proper perspective by an editorial in the Washington Star, is the issue of July 30, entitled "Registering for the Draft." In view of the urgency of this matter to the security of our Nation I would like to call it to my colleagues' attention.

The article follows:

[From the Washington Star, July 30, 1979]

Registering for the Draft

The recent debate about resuming some form of the draft or instituting national service has been fitful. The opposition often has been virulently rhetorical, while proponents have often presented their case clumsily.

Thoughtful discussion has, however, gone on in the interstices, to a degree that there is no need any longer, we think, to defer conclusion. We must pull our heads from beneath the blanket.

Pending in the House, as a rider to a weapons authorization bill, is a proposal by Rep. Sonny Montgomery, D-Ala., that would require registration of all 18-year-old males beginning in January 1981. In the Senate, a bill sponsored by Sen. Sam Nunn, D–Ga., would also require registration, but beginning next January. Neither is a draft bill. The requirement simply would be for those eligible to get on the rolls.

The White House does not want registration and, on Friday, Speaker O'Neill said he would support removal of the amendment from the weapons bill.

But we think registration is a sensible and necessary first step to dealing with a military manpower situation that is potentially devastating. "In a real sense," Senator Nunn has said, "the choice is between realistic preparation of our conventional forces, including peacetime registration, or more and more reliance on quick use of nuclear weapons."

To those still suffering from extreme post-Vietnam blahs, the possibility of American military involvement, anywhere or in any degree, is intolerable. If only the world were so simple.

Right now, U.S. military manpower deficiencies are so pronounced that we could not respond adequately to a national-security emergency. Senator Nunn does not pussy-foot: The Defense Department's present contingency mobilization plans is, he says, a "hoax."

Peacetime registration will not, of course, make whole a flawed mobilization plan and severely inadequate numbers of trained Reservists. But a peacetime registration would be a constructive approach to shoring up these shaky timbers of national defense.

Representative Montgomery has drafted a separate bill that would go beyond registration. It would provide for a partial draft—of up to 200,000 men a year for the Ready Reserve. These men would serve four to six months on active duty and then would be subject to active-duty calls for six years. Draftees would be chosen from a no-deferment lottery pool and those drafted for the Ready Reserve would receive GI educational benefits. His proposal would quickly address the deficiencies in Reserve units which would be a primary resource in an emergency.

There is nothing wrong with the Montgomery bill. But it's more feasible now to begin with registration.

Senator Nunn's proposal has been approved by the Armed Services Committee and, under a unanimous consent agreement, will become the Senate's pending business once the House acts on its registration measure. Senator Nunn wants his bill to provide a forum for full public debate on this crucial and sensitive matter, and he thinks the timing is urgent. He is right on both counts.

Is the question here—the obligation of a citizen to his nation—really as controversial among those who would be affected as shrill opponents would have us believe? ●

LETTER TO THE PRESIDENT ON THE USE OF PENALTY MAIL ENVELOPES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mrs. SCHROEDER. Mr. Speaker, on occasion, I am sure that the Members receive letters from some Federal employees who have used the frank envelope to voice their opinions on matters we are considering or to seek their assistance. In responding to their constituents, the Member may wish to advise them that they have violated the law (18 U.S.C. 1719) in using the penalty mail envelope. This law reads as follows:

§ 1719. Franking privilege.

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined not more than $300. (June 25, 1948, ch. 645, 62 State. 783.)

The proper use of penalty mail is discussed in 18 United States Code 3202 and the restrictions are found in 18 United States Code 3204. The text of these sections are as follows:

§ 3202. Penalty mail

(a) Subject to the limitations imposed by sections 3204 and 3207 of this title, there may be transmitted as penalty mail—

(1) official mail of—

(A) officers of the Government of the United States other than Members of Congress;

(B) the Smithsonian Institution;

(C) the Pan American Union;

(D) the Pan American Sanitary Bureau;

(E) the United States Employment Service and the system of employment offices operated by it in conformity with the provisions of sections 49–49c, 49d, 49e–49k of title 29, and all State employment systems which receive funds appropriated under authority of those sections; and

(F) any college officer or other person connected with the extension department of the college as the Secretary of Agriculture may designate to the Postal Service to the extent that the official mail consists of correspondence, bulletins, and reports for the furtherance of the purpose of sections 341–343 and 344–348 of title 7;

(2) mail relating to naturalization to be sent to the Immigration and Naturalization Service by clerks of courts addressed to the Department of Justice or the Immigration and Naturalization Service, or any official thereof;

(3) mail relating to a collection of statistics, survey, or census authorized by title 13 and addressed to the Department of Commerce or a bureau or agency thereof; and

(4) mail of State agriculture experiment stations pursuant to sections 325 and 361f of title 7.

(b) A department or officer authorized to use penalty covers may enclose them with return address to any person from or through whom official information is desired. The penalty cover may be used only to transmit the official information and endorsements relating thereto.

(c) This section does not apply to officers who receive a fixed allowance as compensation for their services including expenses of postage. (Amended Pub. L. 94–553, § 2113(e), Oct. 19, 1976, 90 Stat. 2599.)

§ 3204. Restrictions on use of penalty mail

(a) Except as otherwise provided in this section, an officer, executive department, or independent establishment of the Government of the United States may not mail, as penalty mail, any article or document unless—

(1) a request therefor has been previously received by the department or establishment; or

(2) its mailings is required by law.

(b) Subsection (a) of this section does not prohibit the mailing, as penalty mail, by an officer, executive department, or independent agency of—

(1) enclosures reasonably related to the subject matter of official correspondence;

(2) informational releases relating to the census of the United States and authorized by title 13;

(3) matter concerning the sale of Government securities;

(4) forms, blanks, and copies of statutes, rules, regulations, instructions, administrative orders, and interpretations necessary in the administration of the department or establishment;

(5) agricultural bulletins;

(6) lists of public documents offered for sale by the Superintendent of Documents;

(7) announcements of the publication of maps, atlases, and statistical and other reports offered for sale by the Federal Power Commission as authorized by section 825K of title 16; or

(8) articles or documents to educational institutions or public libraries, or to Federal, State, or other public authorities.

Because I, too, have received such mail, I have sent the following letter to President Carter:

U.S. House of Representatives,
Washington, D.C., July 30, 1979.
Hon. Jimmy Carter,
President, The White House, Washington, D.C.

Dear Mr. President: It has been recently brought to my attention that the use of penalty mail privileges by Federal employees for submitting job applications for vacancy announcements is widespread.

In my capacity as a member of the House Committee on Post Office and Civil Service, I believe it may be advisable for you to arrange a reminder to all Federal departments and agencies of the sanctions contained in 18 U.S.C. 1719 for the misuse of penalty mail. Such a reminder would be in the best interest of all taxpayers, since they ultimately pay the postage of the franked mail sent by Federal agencies.

With kind regards,
Sincerely,
Patricia Schroeder,
Congresswoman.

I hope that the President will send a memorandum to his acting top aides on this matter. These top officials should notify their personnel offices—who would see these violations more often—that such use of penalty mail is illegal. These abuses should be brought to the attention of the top officials, who, in turn, should notify the Postal Service and originating agency of the infraction. Violators should be properly reprimanded and this practice should cease.●

THE "SECRETS" OF THE IMMIGRANTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. BOB WILSON. Mr. Speaker, I call attention of my colleagues to the following editorial:

THE "SECRETS" OF THE IMMIGRANTS

(By Michael Novak)

Persons in one ethnic group tend to do better than others in specific lines of activity, often because their own culture has for centuries carried with it special cultural training, cues, practices and even "secrets."

For example, in three important categories, immigrants from Greece are now ranked one or two among all Americans: in ownership of their own businesses; in per capita income and in years of higher education for their children. Like the Jews, Lebanese, Armenians and other Mediterranean peoples, the Greeks have long shared the culture of merchants and traders.

Families pass on the relevant attitudes, disciplines, skill and methods to their children. More than that, the families often provide capital so their children can go into business for themselves.

Indeed, one of the most important "ethnic secrets" of the Greeks might be called "ethnic banking." Ethnic banking occurs when, for finance needs one tends to turn rather to members of ones family than to banks or other public institutions. Families are their own bankers.

On the island of Crete, for example, for over 400 years, Greek families were fearful of a sudden piratical invasion in which they could lose everything. Consequently, many families kept a "buried treasure" somewhere, enough capital to get started again.

Such persons—from many ethnic groups, too—loathe having public institutions know too much about them. So when relatives need capital, the family tends to provide it privately.

Even among workingclass families, membership in a large kinship group can be worth thousands of dollars a year to each individual. One brother-in-law does aluminum siding, another is an electrician, a third is a roofer. They take care of jobs for other members of the family. Each member family benefits.

Annual income, in such circumstances, is not merely in dollars.

A second "ethnic secret" of many groups is the importance of capital formation. Self-discipline and rigorous savings are put into property and businesses whose capital value, over the years, will increase.

One Greek family in Washington puts the entire family to work six days a week, 12 hours a day, in a tiny restaurant. Other restaurants fail, at a high rate. By the end of the year, this family clears $35,000. Divided by the labor of two parents and three children, one might say they are working far too long and far too hard for an average of $7,000 per year per person. That is barely the minimum wage for an eight-hour day, let alone a 12-hour day.

But the family sees it differently. The family now owns its own home, too, as well as the business. Soon the children will be buying homes. Within 20 years, this family hopes to own a small conglomerate of properties, which will represent a source of capital to each succeeding generation. Of course, being Greek, they also will tell you, with a worried look, that things look prosperous today, but tomorrow it might all be taken away. Pessimism makes their creative juices run.

A third "ethnic secret" consists in attitude. Here activism in business is quite different from activism in politics. A Greek father toiling in a restaurant will hear many patronizing remarks, even supposedly humorous ethnic slurs, from well-meaning patrons. He will swallow his anger and smile and thank the customer. Everytime the customer comes back, he will receive a smile. "Don't get angry, get even" is the long-range motto. Each sight of such a customer reminds the owner: "You think you are better than I am now. But one day I will buy a house better than yours, and my children will go to better schools. And your patronage will help pay for it all."

To succeed in the economic order is 90 per cent a matter of attitude. Learning the attitudes that make for success in economic independence is at least as hard as learning those that make for political independence.

Economic activism is the natural inheritance of many ethnic groups, including the ethnic Chinese, the "boat people," who the Soviets are callously permitting their North Vietnamese clients to push out on the boiling sea. May these new immigrants enrich America with their skills and their attitudes. This is the way to get even.●

PERSONAL EXPLANATION

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. BEREUTER. Mr. Speaker, because my flight back to Washington from a weekend in my congressional district was unavoidably delayed, I missed part of today's proceedings of the House of Representatives. Two rollcall votes occurred during my absence. I wish to state for the Record how I would have voted in each instance:

"Yea" on H.R. 3509, the Safe Drinking Water Authorization; "nay" on the motion to table Congressman Lungren's resolution to expel Congressman Diggs. I personally support the resolution to expel Mr. Diggs and have submitted a statement for the Record.●

WHILE THE SLICK SPREADS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday July 30, 1979

● Mr. BIAGGI. Mr. Speaker, the lead editorial in Friday's New York Times is entitled, "While the Slick Spreads." It refers to the oil slicks from the well blowout in the Gulf of Mexico and the recent collision of two supertankers off Trinidad. Each of these incidents has resulted in massive oil spills.

The editorial highlights the fact that we have delayed too long in acting to minimize oil spills and in providing a system for compensation and cleanup. The subject has been extensively researched, studied, and analyzed. I have devoted a great deal of my time in three Congresses to it. The bill I introduced in this Congress, H.R. 85, would effectively deal with the problem. It is the Comprehensive Oil Pollution and Compensation Act referred to in the Times editorial. It has wide support.

Now is the time to act. I urge my colleagues to aid me in moving forward with this legislation as soon as possible. Why should we wait for more tankers to collide and more oil to be spilled?

The editorial follows:

WHILE THE SLICK SPREADS

The highest price the world pays for its reliance on petroleum may turn out to be the environmental damage caused by oil spills. A new record is almost certain to be set this year for the amount of oil disgorged into the seas through spills, blowouts and tanker collisions. And while the slick spreads, remedial legislation languishes in Congress.

Plain bad luck may account for Mexico's inability to cap an offshore oil well near the Yucatan that has been gushing as many as 1.2 million gallons a day into the Gulf of Mexico. But luck cannot be blamed for the succession of five tanker collisions in three months in the Caribbean, the North Atlantic and Delaware Bay. The worst of these took place last week when two supertankers carrying well over 2 million barrels of crude smashed into each other during heavy rains east of the island of Tobago.

Why do such accidents recur? However bad the storm or dense the fog, modern supertankers are equipped with advanced navigational aids and sail in well-charted waters. Size and design have little to do with tanker collisions. Earlier disasters, like the 1976 wreck of the Argo Merchant on Nantucket shoals, were attributed to safety deficiencies on aging ships. But Congress has now empowered the Coast Guard to inspect tankers that travel in American waters for compliance with safety codes.

Tanker collisions invariably result from carelessness and misjudgment. Seafaring nations moved belatedly last year to establish international standards for seamanship that would specify the training and experience needed for each grade in the merchant marine. The accord they reached, however, will not become binding until it is ratified by 25 nations, and the United States Senate has yet to consider it.

Meanwhile, under United States law, the Coast Guard can pass upon the quality of seamanship on American-manned vessels and, as 1980, will be able to appraise standards on every oil tanker using American waters. The Coast Guard wants to evaluate the training procedures of foreign fleets, but at the moment it is still grappling with the job of translating their training manuals into English.

Yet there are more immediate steps Washington can take. A big one would be to create real incentives for oil companies and shippers to improve the quality of crews and seamanship. A powerful way to do that would be to increase liability for damage caused by deep-water spillages. That is the intent of the proposed Comprehensive Oil Pollution and Compensation Act, a measure—backed by the Administration—that would make companies pay up to $30 million in damages when spills pollute American waters. A Federal revolving fund of $200 million would be available for additional compensation, the money deriving from a three-cent-a-barrel assessment on imported oil.

Environmentalists sought a tougher measure, and the compromise means that consumers would share in paying the bills. But the cost would come out to a pittance per gallon and would help provide prudent insurance against these all-too-likely disasters. Some 700 supertankers are now in service, and oil shipments are at a record level. A similar liability measure was introduced in the last Congress but ended as unfinished business. How much more oil must be spilled, how many more ships must collide, before Congress moves?●

RABBI AND REBITZEN SIMCHA WASSERMAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. WAXMAN. Mr. Speaker, Rabbi Simcha Wasserman's name is associated with the development of yeshivas in Europe and America, as well as wartime and post-war rescue activities.

Rabbi Simcha Wasserman is the son of the late sage, scholar, and martyr, Rabbi Elchonon Wasserman, of blessed memory. This great leader of Lithuanian Jewry knowingly sacrificed his life during the holocaust in the service of God and His Holy Torah. His son, Rabbi Simcha Wasserman, has carried on the tradition of selfless dedication.

Founded by Rabbi Wasserman in 1952, the West Coast Talmudical Seminary is from high school through a Beis Hamedrosh program and combines quality Jewish and secular teaching.

Rabbi Wasserman was born in Poland, ordained in 1929, and quickly earned a high place among the Talmudical scholars of Europe.

In 1933, he embarked on his lifelong pioneering task of establishing new yeshivahs, first in France, and after his wartime escape to the United States in Spring Valley and Washington Heights, New York and Detroit.

His organizational talents turned from the classroom to the postwar surviving remnant of European Jewry during and after the war. He helped found the Vaad Hazala, the rescue organization for European Jews set up by the American orthodox community.

In 1946, as officer for UNRRA (United Nations Relief ad Rehabilitation Administration), he worked together with top French Government leaders to aid the Jews fleeing Russia and Poland to reach haven in Palestine and the United States.

Characteristically, Rabbi Wasserman set up a string of yeshivahs in transit at that time.

In 1953, he answered a call to establish the West Coast Talmudical Seminary, thus opening an era of Torah education in this part of the country.

The new Yeshiva Ohr Elchonon in Jerusalem is the present recipient of his intense involvement.

In all of Rabbi Wasserman's challenging endeavors he has had at his side, since 1930, his illustrious wife Rebitzen Fanny Wasserman. Mrs. Wasserman is the descendant of one of Jewry's most illustrious families. Her father, the late Chief Rabbi of Navaridok, is the famed author of an authoritative commentary on the Jerusalem Talmud. Mrs. Wasserman has been not only the proverbial "Woman of Valor" to her husband, but has also pursued her own fruitful career as a Torah educator and community leader.

I ask my congressional colleagues to join me in thanking Rabbi and Mrs. Simcha Wasserman for all they have contributed during their many years in the United States. I ask also that the fellow Members join me in wishing Rabbi and Mrs. Wasserman great success in their new undertakings in Israel.●

TAXPAYERS LITIGATION AND EQUITY AWARD ACT OF 1979

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. LOWRY. Mr. Speaker, I am privileged today to introduce the "Taxpayers' Litigation and Equity Award Act of 1979."

As, Americans, we are proud that we are a Nation governed by laws. And, we are proud that our tax system, so necessary to support the justifiable aims of Government, is one that usually functions without seizures or impoundments though dependent upon the willingness to pay of those taxed.

But, in recent years, while disenchantment with Government in general has grown, disenchantment with the tax system has, in many instances, become angry resentment.

Unfortunately, most taxpayers, when they are confronted with an audit, are both reluctant and helpless to challenge a finding, even when the law would uphold their point of view. Applying their rights has in many cases become too expensive for the average American, particularly when he/she must litigate against the seemingly unlimited resources and expertise of the U.S. Government, and particularly when the costs of contesting IRS claims quickly exceeds the amount of tax in dispute. Most persons do not have the staying power of two of my constituents, Phil and Sue Long, who successfully have represented themselves nine times, only resorting to hired counsel in the last round before the Ninth Circuit Court. (Please see attachment.)

The legislation which I am introducing today is intended as a step toward restoring confidence in the tax system. It would allow any taxpayer who prevailed in an administrative appeal or in a judicial proceeding to recover the costs of litigation including any administrative appeals. Those taxpayers who thought it reasonable that they might prevail, could now challenge with the expectation that the remedy for their wrong would not result in only a pyrrhic victory, a victory which cost more to litigate than it was originally worth in tax recovery.

This bill, in most instances, provides for a limit on legal fees and a limit for hourly rates paid. The exception is those cases where the Government unreasonably focuses its vast resources in litigating an issue against a litigant of unequal bargaining power. In that instance, the taxpayer, if his assets are below a certain amount, may recover fees equivalent to that amount which the Government has spent. If there is a determination that the Government has acted unreasonably, the award comes out of IRS' appropriation.

The legislation also requires a report by the Commissioner of IRS, by the appropriate officer of the Tax Court, and by the Director of the Administrative Office of the U.S. Courts on the number of appeals and the number of awards to prevailing parties.

The report will allow an evaluation as to the effect of the legislation so that the decision required by its sunset clause may be made in an informed manner. The reporting provision will also allow Congress to keep track of whether the IRS as an Agency is making responsible decisions as to when to litigate, responsible not just in the sense of wringing more money from an already harassed taxpayer, but more reasonable in that it is more just.

Mr. Speaker, in closing, I would like to emphasize that the imbalance between the bureaucracy and the power of the average American taxpayer must be redressed. Those individual citizens of moderate income who bear the brunt of the taxes of this Nation must be able to check arbitrary Agency actions by contesting them.

Through the device of shifting the fees to the prevailing individual taxpayers, this legislation will improve our citizens access to courts and administrative proceedings. It will encourage them to vindicate their rights and not to acquiesce in a ruling which they believe to be arbitary, misguided, or unfair. And, it will, I hope, make the tax structure more responsible in its exercise of power.

The attachment follows:

[From the Washington Star, July 21, 1979]

COUPLE WIN SUIT, INTENSIFY IRS DATA BATTLE

(By E. Edward Stephens)

Susan B. Long and her husband, Philip H., of Bellevue, Wash., on May 2 won a unanimous decision in the 9th Circuit U.S. Court of Appeals at San Francisco. This "freedom of information" decision is so important that on July 6, the Internal Revenue Service asked for a rehearing by the full court.

Three days later Stephen K. Strong, Seattle lawyer for the Longs, filed a motion to strike down "the numerous false assertions of fact" stated in the rehearing petition. The motion and petition now are under consideration by the court.

Trouble started when Sue and Phil, as the Longs are widely known, invoked the Freedom of Information Act, asking IRS officials in Washington to let them examine all the information IRS had compiled in Phases 2, 3 and 4 of its Taxpayer Compliance Measurement Program, launched in 1962. TCMP is a continuing series of statistical studies on a national scale designed to measure the level of compliance by American taxpayers with federal tax laws.

When IRS officials flatly refused to let the Longs see any part of the TCMP documents, Sue and Phil hauled them into the U.S. District Court in Seattle.

As a result of this suit, they won access to TCMP statistics. But District Judge Walter T. McGovern held that IRS could not be compelled, under Freedom of Information, to disclose computer tapes and check sheets on which the statistics are based.

McGovern's primary reason for so holding was this: IRS officials had submitted to him sworn statements explaining that all of the tapes contained individual taxpayer identities, all of which would have to be removed by IRS before the Longs could see the tapes. The judge concluded that removal of the identification would be too burdensome.

It looked as if IRS had won the case. But Sue was later amazed to discover that the sworn statements of the IRS officials were false.

The truth is the original tapes made by IRS did contain taxpayer identities. But IRS had routinely and regularly made copies without such identifying information, and these copies were secretly in IRS's possession when the Longs were asking for the tapes.

Sue and Phil appealed to the 9th Circuit Court of Appeals, where Sue lost no time in revealing the truth. She demonstrated what the Longs always had emphasized—that they did not want to identify taxpayers.

She made it crystal clear that she and Phil would very seldom need to see check sheets, which did contain taxpayer identity information. She explained that it would be very easy for IRS to remove such identity data in the few instances when they might call for particular check sheets.

Not surprisingly, the three-judge circuit court reversed the district judge's decision and remanded the case to McGovern for appropriate action. Circuit Judge Anthony M. Kennedy's opinion doesn't mention the false affidavits. But, Sue said, the proof is in the record for anyone who wants to check.

Apparently irritated, the circuit court left no room for IRS officials to wriggle through the net. The court held that, even if it had been necessary for IRS to remove taxpayer identity information from the tapes, this would not have been sufficient ground for withholding the tapes and check sheets.

Sue and Phil Long are formidable foes. This is the ninth time they have beaten IRS in freedom of information cases, and it's the first time they've been represented by counsel.●

STATEMENT CONCERNING THE PALESTINIANS AND EGYPT-ISRAEL NEGOTIATIONS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, earlier this year, I had the honor of addressing the national executive committee of the Zionist Organization of America in Chicago. During the meeting, Mr. Alleck A. Resnick, chairman of the executive committee, issued a statement concerning the Palestinians and the Egypt-Israel negotiations. The statement was made in response to an announcement by Secretary of State Cyrus Vance stating U.S. policy on the negotiations. I do not believe that the United States should attempt to impose a solution. We should insist on face-to-face negotiations without preconditions. This country can serve the parties best by providing our good offices for mediation. Those principles are embodied in Mr. Resnick's statement, which follows.

STATEMENT BY ZIONIST ORGANIZATION OF AMERICA

The president of the Zionist Organization of America, Ivan J. Novick, and Alleck A. Resnick, Chairman of its National Executive Committee, meeting in Chicago, May 27th, issued the following statement, in response to the announcement made by Secretary of State Vance regarding the Palestinians and forthcoming Egypt-Israel negotiations:

1. The Carter Administration has now publicly made clear that it is prepared to take a position relative to the Palestinians more far-reaching than previous Administrations. The statement made by Secretary of State Vance, directly and by implication, repeats the invitation for the terrorist PLO to participate in the negotiations between Egypt and Israel.

This is contrary to the spirit of Camp David, where it was decided that these sensitive issues will be carefully and cautiously negotiated during a five-year period.

The statements by Vance are an ill-conceived, unwarranted and counterproductive intrusion by the United States that could severely jeopardize the possibilities for the continuation of the peace process.

2. The statements by the American Secretary of State violate the often repeated assurances by President Carter that the Administration will maintain objectivity and impartiality. Only Egypt and Israel, conducting negotiations together and directly, without outside interference, can achieve peace. Unfortunately, the statements' by Secretary Vance place the power, prestige and influence of the United States squarely on the side of Egypt. Therefore the negotiating stage is heavily weighted against Israel at the very start of the negotiations.

3. By giving outright support to the demands of the PLO, the Secretary has deprived the U.S. of its role as mediator and has turned itself into an ally of the Arab rejectionist front thereby undermining its ally Israel and to a great extent President Sadat.

4. Although Mr. Vance represents the Administration, we raise serious questions of this trend towards accommodation of the PLO truly represents the best interest of our nation or in effect is even supported by the American people.

The issues pertaining to Judea, Samaria and Gaza are directly related to the integrity of Jerusalem as the capital of Israel. Therefore, it is not only Israel which is confronted with the Administration's stance, but every Jew throughout the world is thereby challenged.

We question if the future of the Jewish nation, as well as the future of all the Jewish people, should be decided for all time by the will and judgment of a solitary individual, be he the President of the United States or the Secretary of State. We must ask if the judgment is proven incorrect, how will Israel and the Jewish people regain what has been taken away from them and which cannot be retrieved.

5. The Zionist Organization of America, which for 81 years has been in the forefront of the struggle for Zionism and for the establishment of the Jewish State fifty years before its birth, meeting in executive session in Chicago, calls upon the President of the United States to make clear that it will not pressure Israel to accept a PLO state—now, or in the future.

We call upon Israel's friends in the Congress of the United States, the American people and all people of goodwill everywhere to recognize the inadvisability of pressuring Israel to make concessions directly detrimental to its future and equally dangerous to America's own position in the Middle East.

The Zionist Organization of America calls upon the American Jewish community now, to voice its unalterable rejection of present Middle East policy and end this appeasement of the enemies of the United States and of Israel. The United States should live up to its commitment not to impose solutions, and reaffirm traditional American morality by rejecting the terrorist PLO, thus allowing Egypt and Israel to negotiate their own future.●

A LIQUEFACTION PLANT SYMBOLIZES PROBLEMS

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

○ Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to invite my colleagues to take a close look at an article which appeared in Sunday's Washington Post, by Jerry Knight, entitled "A Liquefaction Plant Symbolizes Problems." While I have supported the initial legislative effort in the House to develop synthetic fuel pilot programs I believe it incumbent on all of us to constantly monitor all views available on this very expensive proposal. The text of the article follows:

[From the Washington Post, July 29, 1979]

A LIQUEFACTION PLANT SYMBOLIZES PROBLEMS

(By Jerry Knight)

Outside Cattletsburg, Ky., where mountains of coal loom over a forest of oil refineries, construction workers are forging a stainless steel link between America's most abundant energy resource and the nation's most critical energy need.

In a few months, coal from the Appalachian mountains will be dumped into one end of that link—a $200 million chemistry set—and oil will flow out the other end into a nearby refinery.

Making oil from coal is the heart of President Carter's synthetic fuels program, and the Cattletsburg complex will be the biggest coal liquefaction plant in America. It is designed to turn 250 tons of coal a day into 625 barrels of "syncrude" that can be refined into gasoline and heating oil.

Cattletsburg's 625 barrels of synthetic oil will make barely enough gasoline to supply a single service station, let alone contribute significantly to the President's goal of producing 1 million to 1.5 million barrels of coal-derived synfuels a day by 1990.

The Cattletsburg coal liquefaction plant is symbolic of how far the nation has to go to meet the president's target of energy independence. It also is symbolic of the obstacles that are faced—it is at least a year behind schedule and is costing nearly four times as much as expected.

"If you look at the growing pains of the whole national energy situation, you'll see what happened in this development," say Bronek Dutkiewicz, who is in charge of commercializing the coal-to-oil conversion process patented by Hydrocarbon Research Inc., a subsidiary of Dynalectron Inc., of McLean.

Known as "H-coal" Dynalectron's process was developed by Hydrocarbon Research scientists and tested in three laboratory-size pilot plants at Trenton, N.J., for more than 10 years before the Department of Energy agreed to finance the "scale up" project in Kentucky with Ashland Oil and half a dozen other companies as partners.

Since the project was started, the DOE has changed its objectives several times, has switched project managers twice and has picked up the tab for more than $135 million of cost overruns.

Though the Cattletsburg plant has yet to squeeze its first drop of oil from a lump of coal, Dynalectron and some of its partners already are asking the federal government to provide $7 million in planning money for a full-scale commercial plant, a 50,000-barrel-a-day facility that will cost upwards of $2 billion.

Thirty or 40 similar-sized synfuel factories will have to be built in the next decade to achieve the president's energy independence goal.

Dynalectron's H-coal process is one of five coal liquefication techniques that are struggling toward commercialization, and the coal liquids industry is but one of the alternative energy businesses that will need to be created under Carter's plan.

To eliminate the need for 2.5 million barrels of imported oil a day by 1990, the president proposes producing the equivalent of 1 million to 1.5 million barrels of oil from coal liquids and coal gasification—making a natural gas substitute from coal.

Another 400,000 million barrels a day would come from the infant oil shale industry under the White House plan, and about 100,000 barrels a day from a virtually-non-existent "biomass" business under which crops would be cooked into alcohol and other fuels.

Carter also is counting on replacing half a million to a million barrels of oil a day with natural gas from sources that cannot be tapped with today's production methods and with using solar collectors, windmills, co-generation plants and a host of other nascent technologies to "back out oil."

Achieving energy independence will require creation of a whole new alternative energy industry, a business as big as nuclear power or aerospace.

To a great extent the new energy industry will be the same old energy industry. In the emerging coal liquefactions field, Dynalectron's competitors include Exxon, Mobil, Gulf and the Government of South Africa. Virtually every major oil and energy company already owns a piece of the rock that one day may replace conventional oil as America's chief fuel.

At least four other methods of converting coal to liquid fuels are roughly the same distance from commercial feasibility as H-coal; they work on paper, they produce oil a barrel or two at a time in the laboratory; they appear to be economically eligible for full-scale testing.

The five processes are rivals, but not competitors, DOE officials insist. It is possible—likely if the president's accelerated energy independence program is adopted—that full-scale commercial plants will be built using all five technologies. Development of all five processes is proceeding simultaneously.

Exxon—the world's largest corporation—has invested heavily in a process called Exxon Donar Solvent and later this year will open a federally financed synthetic fuel plant about the same size as Cattletsburg's at Baytown, Tex.

Exxon's EDS process is chemically similar to Gulf's Solvent Refined Coal, which is known as the SRC II process because Gulf is already into the second generation of its development. Gulf runs what is currently the biggest coal liquifaction plant in the nation, converting 30 tons a day into oil at a research facility outside Tacoma, Wash.

By the end of July, Gulf will complete a DOE contract for Phase Zero—the planning—of the nation's first full-scale coal liquification plant which Gulf hopes to build at Morgantown, W. Va. DOE approval of that project could come this fall.

The South Africans are the world leaders in synfuel production, regularly producing 20,000 barrels a day. But their SASOL process—being pushed in this country by Fluor Corp.—has political, technical and economic problems.

Mobil has yet to get its M-gasoline process out of the laboratory stage, but may be able to scale up faster than the others because 85 to 90 percent of the M-gasoline system uses off-the-shelf equipment already proved in commercial use.

Scale-up is the name of the game in synfuels. The trick is to take a process that works in the laboratory or small pilot plant and do it in a big enough way to make it economically feasible. That can require building a plant 50,000 times bigger than a laboratory demonstration unit—the equivalent of going from building lifeboats to building an ocean liner.

But along with efficiencies come risks. Tiny amounts of coal ash that cause no problems in a laboratory coal-to-oil process can clog filters and shut down a 50,000-barrel-a-day plant. Micropollutants unnoticed when they leak from a one-ton-a-day coal cooker can be an ecological disaster in a full-scale plant. Under hundreds of pounds of pressure and intense heat, valves break, 8-inch-thick stainless steel tanks corrode and computer models prove useless.

Environmental and health questions also are being answered by the pilot plant operations, where workers are monitored closely for long-term and short-term medical problems. Virtually all coal liquid products are toxic, most of them more toxic than ordinary petroleum products, and many coal liquid products—including fuel oils produced from coal—are known cancer-causing agents. The danger to production workers is not yet known.

"The only way you learn these things is to build a full-scale plant and run it," said Dynaelectron's Dutkiewicz. But, he added, "The risks are too great for even the largest corporations to do that with their own money."

Carter's plan calls for the government to take the risk of building the first two or three plants and for private enterprise to put up the rest with some sort of government financing. A number of federal subsidies are under consideration in Congress, ranging from loan guarantees to government contracts to purchase synfuels at a premium above petroleum prices to accelerated depreciation and tax credits for synfuel investments.

The money would come from the president's windfall profits tax on the oil companies, which would finance the president's "moral equivalent of war" to launch the synfuels industry by 1990.

Ironically the government program to protect against the risks of launching a new synfuels industry may also exaggerate those risks, warns a Rand Corp. study. Jumping directly from the laboratory to full-scale plants in a crash program requires plant construction to start before designs are completed, before environmental rules are written, before all the contengencies have been accounted for, the Rand study said.

Those factors are part of why first-generation energy facilities have proved to cost an average of 2.5 times as much as estimated and why several multi-million-dollar projects have been built and abandoned because they did not work, Rand warned.

"For government officials, cost growth has made (research and development) decisions difficult, has increased the uncertainty in supply planning and has hampered commercialization," Rand said. If cost estimates of coal liquification plants prove to be as far off as the Rand study suggested, plants expected to cost $2 billion could cost upwards of $5 billion, and the contention that synthetic fuels can compete with imported oil would prove false.

Until Carter launched his crash program to develop alternatives to oil earlier this month, the DOE was scaling up its coal conversion projects in steps, providing funds for a sequence of increasingly larger plants—with daily outputs of one, 20, 250 and 10,000 tons—gradually approaching commercial scale.

DOE analysts say it isn't necesary to build that sequence of plants for each of the five promising coal liquification processes because many technical problems are common to all the processes, permitting much leapfrogging.

Intermediate-size plants like the Cattletsburg H-coal facility and Exxon's Baytown EDS facility, both utilizing some commercial-scale components, can answer many of the engineering problems, but they can provide only clues about the most difficult question, and the greatest risk—the cost of producing synthetic fuels.

The price of the product that will flow from Exxon's plant "isn't a relevant question," a corporate spokesman said. "That's not what we expect to learn there."

The most recent estimate of how much synthetic fuels will cost to make was issued this month by the Engineering Societies Commission on Energy (ESCOE), which has made a series of studies of alternative energy technologies.

Because the various processes turn out different products—gasoline, natural gas, boiler fuel and others—the engineering study estimated how much it would cost to produce 1 million BTUs of energy by each process: $3.58 from H-coal, $3.62 with Gulf's SRC–II, $3.96 via Exxon's EDS, $4.84 via Mobil's M-gasoline and $4.99 by the Fischer-Tropsch process used in South Africa.

Those prices are competitive with an equivalent amount of energy from a barrel of imported oil, which yields 5.8 million BTUs and costs $20 to $24 delivered in the U.S.

But spokesmen for the companies involved in building coal liquefaction plants are skeptical of those estimates, calling them lower than their own estimates of synfuel costs, which range from $25 to $35 a barrel.

DOE analysts point out that the price of an equivalent amount of energy may not be the right question to ask when comparing synfuels processes because the products of some processes are in greater demand than the output of others.

The competing coal liquids processes yield varying quantities and qualities of products.

Technically the Exxon, Gulf and Dynalectron processes are known as direct coal liquefaction; Mobil and South Africa use indirect liquefaction, first turning the solid coal into a gas, then converting the gas into a liquid.

Exxon and Gulf dissolve finely powdered coal in a liquid solvent, then process it to add more hydrogen to the coal, converting it to a liquid. The big difference between the two processes is the solvent used; each has its own patented product.

Mobil contends M-gasoline can be commercialized more quickly than the others because only the final step involves new technology. A DOE study of where to locate synfuel plants assumes that indirect liquefaction plants will be built first, but only a couple of years ahead of direct liquefaction.

Conoco (Continental Oil Co.) advocates short-cutting the M-gasoline process and simply converting coal into methanol on a large-scale basis. Methanol, or methyl alcohol, can be burned directly as a fuel in powerplants or internal combustion engines, although both require modification.

Conoco officials say methanol is a highly desirable substitute for imported oil in urban powerplants because it is clean-burning, and the company is promoting the fuel for use in California where pollution regulations rule out burning coal.

The ESCOE synfuels evaluation concludes that, on cost factors alone, the South African process "has a severe disadvantage." Among the others, the engineering analysis said, "The choice of fuel process depends strongly on the desired products.

"The M-gasoline process appears both competitive and relatively free of process risk. If industrial boiler fuel (to replace oil for powerplants) is the needed fuel, the H-coal, EDS, or SRC are all serious contenders." ●

ENERGY NEEDS AND LESSONS LEARNED

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. JENRETTE. Mr. Speaker, as we all know, the recent incident at the Three Mile Island nuclear plant in Pennsylvania has cast a shadow over the future of nuclear power in this country. Because my home State of South Carolina has been a leader in the nuclear industry, and will soon be dependent upon nuclear power for some 50 percent of its energy needs, I have taken a strong interest in the subject. I have followed the work of the Kemeny Commission and developments in the analysis of Three Mile Island with care.

One of the best discussions of the subject I have seen is an article by Dr. Jim Colby of the Allied Chemical Corporation, which appeared in the May-June issue of the Morris Today newspaper in New Jersey. In Dr. Colby's opinion, the lessons we will learn from the incident at Three Mile Island will be "invaluable in reducing the possibility of future occurrences." And he concludes that, even in an incident as serious as this one, "the back-up systems worked despite a number of failures." In short, this incident does not demonstrate that nuclear power is unsafe.

And it is as evident to me as it is to Dr. Colby that we must start a program to build a new energy base in this country now. And while the future of the nuclear option appears cloudy, it is clear to us that it must be a significant and growing part of that base.

At this point I would like to include Dr. Colby's remarks in the RECORD so my colleagues will also have the benefit of his views.

THE NUCLEAR ENERGY ALTERNATIVE

(By L. J. Colby, Jr.)

The events that took place at Three Mile Island at the end of March clearly brought to the forefront the fears, the genuine concerns and the emotional issues which surround nuclear energy.

The concerns over nuclear energy are very real. There is no question that risks come with benefits no matter what form of energy we choose. The major problem with nuclear energy is that it is grossly misunderstood. Radiation is not detectable by our natural senses but is detectable at extremely low levels by modern instrumentation. It often is believed that radiation from a nuclear plant is harmful no matter how long the level, whereas radiation from cosmic rays, mineral deposits, medical X-rays, coal-fired plants and other sources to which we are all exposed day in and day out is somehow acceptable. This simply is not the case. Radiation from different sources cause about the same effects. *It is the level of radiation that is important*. With respect to the Three Mile Island accident, the maximum radiation exposure to the general public near the plant was less than the natural background radiation received by those individuals during a 30 day period. It was about equal to a chest X-ray or long airplane ride.

The concern, therefore, should be focused on the real risks associated with a major accident, the expected damage from such an accident, the benefits from reliable electric power, a comparison of risks from alternative choices, and comparison of actual risks to date from each of the energy alternatives. When all these issues are weighed clearly and objectively, the answer is quite clear that the risks of nuclear energy are substantially less than the risks of any other source of electrical energy other than possibly natural gas flowing from the well to a power station. The risks for natural gas increase substantially when importation of liquid natural gas (LNG) is required.

LESSONS INVALUABLE

The lessons from Three Mile Island will be invaluable in reducing the possibility of future occurrences. Changes in equipment design, instrumentation, regulation, operating procedures, information dissemination and Federal Government capabilities will likely all occur to insure increased safety for the general public. The fact is that even with a serious incident at Three Mile Island, the back-up systems worked despite a number of failures. The bottom line is that no one outside the plant was hurt. The nuclear industry is safe and continues to strive for improved safety, reduction of risk and understanding of its benefits.

The importance of nuclear energy to the United States can be summarized with a few statistics. Today about 13 percent of the nation's electrical energy comes from 72 nuclear power plants. In the Northeast, one third of all electricity came from nuclear reactors during 1978. A recent peak electrical load in February, 1979, was filled by 42 percent nuclear energy again for the Northeast region.

The use of oil to produce electricity and heat homes must be reduced if the United States is gonig to remain a world power, independent of the whims of others such as OPEC. One of the United States' greatest strengths has been its energy independence and abundance. Today we are facing a great threat to our energy abundance. We lost our energy independence about five years ago!

A deliberate program to build a new sound energy base in the United States must be instituted now. The conservation path and the pursuit of only soft technologies such as solar, geothermal, and wind, is very appealing—especially to those who pursue primarily dreams, idealization and avoid reality.

Fortunately, the free enterprise system still survives and is based on reality and the facts of life.

FUELING OPTIONS

During the next 20 to 25 years, the options for fueling our power plants are primarily oil, coal and nuclear. If we are to regain our energy abundance, as well as independence, then coal and nuclear should be relied upon for essentially all new generating plants. However, the order books for new power plants, coal or nuclear, are stagnant due to a very high degree of uncertainty unique to each of these energy sources.

The growth of nuclear power certainly is in question. The Department of Energy believes that the United States should have about 25 percent of its electrical needs filled by nuclear by the year 2000. Depending on the growth in total electrical demand, that could represent a 5 or 6 fold increase in the number of nuclear reactors currently operating. It should also be noted that the Carter Administration views nuclear power as "the energy source of last resort", and therefore, projections generally are made on the basis of minimizing nuclear energy while maximizing coal and conservation. In the past, the nuclear industry was moving to a position wherein it could build and service as much as 50 percent of the United States' electrical needs by the year 2000. This might still be possible but is highly speculative. In fact, if new orders for nuclear power plants are not received in the next few years, the United States' nuclear industrial capability to meet the minimum energy projections may wither away. It should be noted that a decision to go nuclear today means that electricity is available from that plant at least a decade later. If decisions are not made now, then our energy problems in the 1990's will be fierce. The energy crunch has been predicted to hit in the 1983–85 period. It is too late to avoid it now through construction of new power plants that do not burn oil or natural gas. The United States can ill afford to continue to procrastinate, and by default make the same mistake again.

URANIUM CONVERSION

Although Allied Chemical does not build or supply equipment for nuclear power plants, Allied has been involved in the nuclear industry since 1955, when Allied successfully bid on a government request for conversion of uranium oxide to uranium hexafluoride and proceeded to build a plant for this purpose at Metropolis, Illinois. Today the Metropolis plant is the world's largest uranium conversion plant. The chemical operations there are necessary to purify uranium and produce a chemical compound, UF_6, which is required as feed by the Federal Government for its enrichment facilities.

Because of the experience gained in uranium and fluorine technology, Allied became interested in spent-fuel reprocessing. The first venture into this area of the nuclear fuel cycle was to become operating contractor for the Department of Energy's Idaho Chemical Processing Plant (ICPP) located at the Idaho National Engineering Laboratory near Idaho Falls, Idaho.

On September 30, 1979 Allied's participation at the ICPP will come to a voluntary close after twelve successful years. Incidentally, the ICPP is an excellent model for the treatment, handling, and storage of nuclear wastes primarily from the Navy Nuclear program.

Allied Chemical, along with its partner, General Atomic, invested $362 million in a private reprocessing facility at Barnwell, South Carolina. The facility was completed and undergoing check-out when in 1977 President Carter "indefinitely deferred" commercial reprocessing. After years of encouragement by several administrations, both Republican and Democratic, the rules of the game were unilaterally changed. It became clear that the management of spent fuel from commercial reactors had become a government responsibility rather than a private industrial responsibility. Since the Federal Government does not even today have any facilities for handling spent fuel or nuclear wastes from commercial reactors, Allied believes that the transfer of the Barnwell facilities under appropriate terms to the Federal Government will eventually take place.

As you can see, Allied's role in the nuclear field is primarily in those portions of the fuel cycle that require extensive chemical technology. Allied's future in nuclear energy will be to maintain its leadership position in the uranium conversion business and related service. Allied does not see a viable future for privately owned and operated reprocessing facilities such as Barnwell.

NUCLEAR ESSENTIAL

A company or individual does not have to be involved in the nuclear industry to come to the conclusion that nuclear energy is essential for the United States. A case in point is the series of ads run by Mobil Oil, a company which incidentally is not in the nuclear business.

The abundance of coal in this country provides the United States with an apparent alternative to nuclear power. The arguments rage as to coal versus nuclear while neither is really advanced. Prudence dictates that the balanced use of both coal and nuclear will be required to meet the United States' needs. Other countries facing the energy crunch that have no options are moving forward on their nuclear programs. Unfortunately the United States is still debating the issue.

It is true that nuclear energy has its "China Syndrome". It is likewise true that deaths due to coal as a fuel are extensive and well documented. The medical and environmental effects of the combustion products of coal could lead to the "Dioxide Syndrome". It is clear that SO_2, NO_2, and CO_2 do have significant effects on health and the environment. Because of these risks, it is prudent to work to understand and control their emissions. It would not make sense to abandon coal because it has real problems that must be solved. It likewise does not make sense to abandon nuclear energy because it has its problems. The record of nuclear energy, although not spotless, is excellent and improving. No member of the public or employee of the commercial industry has been killed by radiation during the 30 year history of the nuclear industry.

When all is said and done, the most serious problem facing the nation today is inflation. This is the true danger to you, your children and your grandchildren. Unless something is done to halt inflation, it may rob you and your descendants of their future.

To some considerable extent, the future of the fight against inflation in this country and the elimination of our dependence on foreign oil, the elimination of the outflow of American dollars and the strengthening of the dollar, depends on having an adequate domestic supply of energy—and for the next quarter of a century that means coal and nuclear. Neither can do the job alone!●

ANOTHER RETREAT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, a few weeks ago, the State Department disclosed a memorandum confirming that the Sandinista insurgents had been trained in Cuba and armed with AK–47's carried to them by the Panamanian Air Force. Recently the Government of Nicaragua surrendered to these same guerrillas.

I must ask the question of Alexandr Solzhenitsyn: "How many more countries are there for the West to abandon?"

Iran, Angola, Rhodesia, Taiwan, and now Nicaragua.

In Iran, Angola, Rhodesia, Taiwan, and now Nicaragua, we withdrew when we were most needed. Instead of standing behind American interests, we are always the first to concede. It is time we had an American President and Secretary of State more concerned with U.S. interests than with helping Soviet-supported Rhodesian and Nicaraguan rebels. American interests and principles are being sacrificed to an incoherent sense of internationalism. This is the real crisis of confidence. Our Secretary of State seems to lack the confidence that America can lead in the world. He is instead leading our retreat around the world.

Ironically the House only recently finished dealing with another symbol of that unprincipled message from Secretary Vance. He sent us a request for money for foreign assistance. In that request he asked for massive amounts of money for the international financial institutions, like the World Bank. It is outrageous for America's leaders to take tax money from a truckdriver in Topeka, Kans., and send it to a World Bank, which will give it to Vietnam, Angola, Cuba, and others. Where is our fabled human rights policy when we support the same government that is driving the boat people into the sea in Southeast Asia?

This body will soon deal with another measure with similar implications, that is, most-favored-nation trading status for the repressive governments in Romania, Hungary, China, and soon even the Soviet Union. Are we going to aid those that most enjoy watching us flounder and grovel? Again I ask: "Is this an indication that we revere human rights?"

We must not stand for this any longer. We are dishonoring the principles this Nation was founded upon. It is time to stop retreating and dig in.●

WHAT COUNTS IS RESULTS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. COLLINS of Texas. Mr. Speaker, too many Americans are concerned with their appearance as an intellectual. We have reached a point in America where folks would like for everyone to think of them as being an academic genius.

Sometimes we are able to convey this feeling by using four syllable words even when a one syllable word would be better. Other times, we write profound letters with deep philosophy to show the depth of our intellectual perspective.

There is much talk today about how many college degrees one has. I thought about that the other day as I heard one of our colleagues speak. He never finished high school, but he has more commonsense than anyone who went to college. Yet, today there are those who value four college degrees more than they do the substance of the work they accomplish.

I am always reminded of the proverb, "Judge a man not by his ability, but by his results."

I would like to pass on to you an interesting story that I heard down in Texas.

A sales manager received a sales letter from a new salesman he had hired a few days before.

"Dear Boss: I seed this outfit which they ain't never got a penny's worth of nuthin from us before. I sole them hunnered thousand dollars of guds. I am now going to Oklahomee."

Three days later, a second letter reached the home office.

"Dear Boss: I cum here to Tulsee and I sell these cuntry chane hedqartirs half a milyon."

The sales manager posted both letters on the bulletin board with a note added by the company president. "We've been spendin to much time trying to spel, instead of trying to sell. Let's take a fue tips from Gooch who is on the rode doing a grate job for us and you go out and do like he done."●

DINGELL CHARGES NHTSA WITH COVERUP OF AIRBAGS TESTS THAT EXPLODED AND BURNED DUMMIES REPRESENTING 6-YEAR-OLD CHILDREN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. DINGELL. Mr. Speaker, I enclose my statement regarding new documents that have come to light from the Department of Transportation and the National Highway Traffic Safety Administration files regarding a new problem uncovered in connection with airbag tests.

STATEMENT OF REPRESENTATIVE DINGELL

Congressman John D. Dingell, (D-Mich.), today charged the DOT with withholding information from the Congress and the American people concerning the risk that air bags can explode in flames and severely burn occupants of motor vehicles.

Dingell will be seeking in the House today the adoption of the research, testing and development amendment that he and Congressman Jim Broyhill, (R-N.C.), will offer to the DOT Appropriations bill, H.R. 4440.

Their amendment delays for one year, fiscal year 1980, any further funds for implementation or enforcement of the Federal automobile standard that requires devices, such as air bags, in automobiles. The amendment would not restrict actions on the portion of the standard that would permit safety belts. The amendment further requires more research, testing and development of passive or automatic restraint devices. Dingell and Broyhill state that this is the major purpose of their amendment—to ensure safe and effective restraint devices for motoring consumers.

Dingell said, "NHTSA's favored air bag contractor—Minicars, Inc., of California—conducted a series of tests in 1977 and 1978 concerning the effectiveness of air bags. In 12 percent of these tests, the air bag exploded into flames. One of the most sensitive and embarrassing tests was conducted in February, 1978, resulting in an explosion and fire that blew the air bag apart, projecting molten sodium azide into the face and chest of a dummy representing a six year old child."

Dingell said that:

"In the aftermath of this failure, Minicars, Inc., sent a misleading Progress Report to NHTSA.

"Contrary to normal procedures, the contractor did not send the films of this test to NHTSA.

"NHTSA did no independent analysis of these failures.

"NHTSA terminated the contract shortly after these accidents, prior to the problem being solved.

"No final report was written on this test series by the contractor.

"Nothing was put in the public file on these particular tests.

"NHTSA withheld the file with the sensitive documents when I requested it.

"A former Minicars engineer who was the project manager on this contract claims that both Minicars and NHTSA failed to inform the public of the risk of explosion and fires in the deployment of air bags."

The following are excerpts from a March 14, 1978 letter from Minicars to Thiokol, the major manufacturer of air bag inflators for the auto industry who supplied the defective inflators to Minicars:

"The condition experienced during the test was a blow out of the air bag and resultant blasting of the occupant's face and chest with hot gas from the inflator. The results of this test were total degradation of the air bag's restraint capabilities and subsequent burning of the occupant's face and chest; i.e., his shirt caught on fire and had to be extinguished by a test technician.

"I have experienced this problem twice since January, 1978. Once at Minicars, the bag blew apart and burnt the 50 percent adult male occupant.

"This blowby has occurred at least ten times in this Simca project in 86 tests or 11.6 percent of the time."

Dingell stated, "It is interesting to note that in Minicars monthly Progress Report to NHTSA regarding test No. 1933 (conducted February 1978) which involved the burned dummy (six year old child), there is not a single word to indicate that this test involved flames or a charred dummy. The report contains only one post-crash photograph—a back view of the dummy indicating no burns. According to established procedures, the films of these tests are sent to NHTSA shortly after the tests are conducted. NHTSA admitted to me last Friday that they had never received the film of test No. 1933. Those films have now been flown to NHTSA in Washington from Minicars in California this past weekend and I viewed them this morning."

Dingell said, "In a staff interview, the former program manager at Minicars claimed that he was told by top management to 'modify' the Progress Report and not to send the films to Washington. This engineer was so concerned about the results of these tests that in subsequent correspondence to NHTSA he included the Thiokol correspondence and photographs of the charred dummy that were deleted from the Progress Report to NHTSA.

"On Friday, July 27, the NHTSA engineer in charge of this contract could not assure me the problems that resulted in these explosions and fires had been resolved or that they would not occur in production models. NHTSA never independently investigated these problems—but were satisfied with a two paragraph letter from the manufacturer—Thiokol—assuring NHTSA that they should not be concerned, that Thiokol had found a 'temporary fix' and that corrections would be designed into the production model of the air bag inflator device.

"The flaming problem continued over a six to eight month period. Mysteriously, the testing ended and the contract was terminated in the Spring of 1978 with no final report being issued on the later testing series that included the controversial test No. 1933.

"On July 8, 1979, I asked NHTSA for the results of all tests involving air bags and seat belts since 1977. On July 13, 1979, I received a leter from Ms. Claybrook responding to that request. Again, mysteriously, the contract involving these explosions and fires was missing from the material supplied. When we finally identified this contract and requested it, NHTSA initially refused to supply the document.

"I can only conclude that we have merely scratched the surface concerning what happened on this contract and possibly other damaging test results that are being covered up at NHTSA.

"These risks regarding air bags should be known by the Congress. We have no assurance from independent government analyses that this problem has been solved regarding fires in air bag devices.

"There seems to be a pattern at NHTSA for ignoring bad news about the air bags. Both Volvo and General Motors have killed pigs used as surrogates in tests to ascertain the impact of air bags on out-of-position children. The pigs died of ruptured livers, spinal cord injuries and brain trauma and apparently in one GM test, the air bag blew one pig out the back window of the test vehicle.

"However, there is not a single document in NHTSA files relating to these tests by Volvo and GM. In fact, when my staff investigators asked NHTSA officials if they had the Volvo and GM test documents, NHTSA officials responded that they did not have the documents and had not asked the manufacturers for the information."

Dingell added, "The GAO Report on passive restraints, released Friday, July 27, in its final form, clearly underscores and recommends that more research and testing development must be done by DOT." ●

ZIMBABWE-RHODESIA STILL RUN BY WHITES

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. WOLPE. Mr. Speaker, the article which appeared in the Washington Star on July 22, 1979, "New Rhodesia Remains Nation Run by Whites" describes recent developments in Zimbabwe-Rhodesia.

As cochairman of the MCPL Rhodesia Task Force, I commend this article to the attention of my colleagues. It is evident that very little political power has thus far been transferred to the country's black majority, and that the new constitution remains a significant barrier to the achievement of genuine majority rule. Bluntly stated, the provisions of the constitution perpetuate white minority control. (See the MCPL paper on the Rhodesian Constitution, July 26, 1979, Hon. WILLIAM GRAY. Extensions, 3262). The article reveals where the true power lies in Zimbabwe-Rhodesia, the pretensions and aspirations of Bishop Muzorewa nowithstanding.

The article follows:

NEW RHODESIA REMAINS NATION RUN BY WHITES

(By Lawrence E. Pintak)

SALISBURY, ZIMBABWE-RHODESIA.—Three months after Bishop Abel Muzorewa was elected as the country's first black prime minister, and seven weeks after he took office, Zimbabwe Rhodesia remains a nation whose economic and military course continues to be charted by whites.

And while the cabinet has assumed a black face, those same whites who have ruled for 90 years still run the machinery which will play a major role in determining the political future of this rebel British colony.

Behind each black minister stand his white civil service, whose members have been guaranteed their jobs by the present constitution.

The members of the all-white Public Services Board, responsible for hiring, firing and promotions within the public service, are also guaranteed their tenure, as are those who sit in the all-white judiciary.

Whites continue to dominate the police and military (there are presently 32 black commissioned officers) and are likely to do so for some time.

The attitude of the bulk of the white officer corps to their new black colleagues is one of disdain. A newly commissioned black officer recently assigned to one unit was ignored by his fellow officers, who refused to even provide him with an office until direct orders came down from the very top.

At the pinnacle of the military hierarchy sits Lt. Gen. Peter Walls, commander of combined operations in overall charge of the army, police and air force.

Although Muzorewa has assumed the title of minister of defense, largely for reasons of appearance, Walls is the man running the war against the guerrilla forces of Joshua Nkomo and Robert Mugabe.

Since taking over, Muzorewa has reportedly commented that the military could not be expected to come to him for permission each time they acted, and has generally skirted the question of whether he personally approves cross-border raids on guerrilla bases in Zambia and Mozambique.

Some critics go so far as to argue that Walls is the real power behind the throne. Muzorewa sees the general for a military briefing each morning, and unlike in the days of Ian Smith, it is the prime minister who goes to Walls' office, rather than vice versa.

On the streets of Salisbury there is little change evident. Whites perhaps use the derogatory phrase "kaffir" a little less frequently since June 1, when Muzorewa took office. Blacks are seen a bit more often in the capital's fashionable restaurants. And a few rich Africans are beginning to move into formerly all-white suburbs. Otherwise, white Rhodesia is largely unaffected by the black takeover.

White farming regions and African purchase areas are no longer designated on the new maps, but in the bush Africans still complain about land distribution as they till the often inferior fields they have always worked.

WHITES AT THE TOP

At the offices of the country's business and industry, perched atop the high rises of the city center, mail rooms and typing pools are being "Africanized." But aside from a few chosen blacks, the faces at the conference tables in the pine paneled board rooms remain white.

One of the greatest grievances of the country's blacks has always been the fact that in those situations where they did have the same job as a white, they were paid significantly less than their counterparts.

With majority rule, all that was expected to change. But Muzorewa now says across-the-board salary increases must wait until sanctions are lifted if they are not to have a disastrous effect on the economy.

"I know you are hungry, I know you are thirsty, I know you are suffering," the bishop, a leopard-skin cloaking his rainbow colored waist-coat, told a crowd on earlier this month as he prepared to set out on his symbolic ox wagon trek through the city.

Speaking in the local Shona dialect, Muzorewa promised that Africans would have "the fat of the land and sufficient money" once sanctions were lifted.

For now, he added, "pray to God that we will discover oil in this country."

But some are not prepared to wait.

A PROTEST ON SALARIES

One day last week, a group of about 300 black teachers marched through the capital carrying signs protesting the fact, that they received an average salary of $188 a month, compared with as much as $500 paid to their counterparts.

Some black officials argue that as long as whites control the bureaucracy, significant change will be stymied.

Even black ministers complain about the lack of cooperation they receive from civil servants in their departments.

"I send down an order and find a week later that nothing happened," said one Muzorewa minister. "I ask why and am told it got tied up somewhere."

Just how much of that delay can be attributed to normal bureaucratic red tape and how much to deliberate sabotage is not known. But it is clear that many white civil servants have contempt for their new black bosses, some of whom have no expertise in the field of their portfolio.

At the prime minister's office, Smith's former press secretary continues in that role, as does the white cabinet secretary. A white advertising executive authors major policy pronouncements—which Muzorewa sometimes has problems delivering—while a white civil servant, whose particular area of expertise is American politics, often ghost writes speeches and statements for Foreign Minister David Mukome.

RAMPHAL DRAWS FIRE

One such release this week attacked Commonwealth Secretary General Shridath Ramphal for his criticism of the Salisbury government.

It read in part: "While totally rejecting Mr. Ramphal's right to level any criticism, I should just like to point out to him that what he terms changes of marginal or cosmetic consequence we regard as major development in our evolution.

While he may make minor changes—such as in his own office—Muzorewa is helpless to alter the overall white role.

With his party splintering the prime minister is now left with just 44 seats in the 100 member parliament. The Rev. Ndabaningi Sithole and eleven other parliament members from his Zimbabwe African National union continue to boycott the government, increasing the weight of the 28 white votes.

In order to change or eliminate any of the entrenched constitutional clauses protecting whites, Muzorewa needs the support of all 60 black parliament members now serving, as well as that of at least 18 whites to reach the 78 votes required for such legislation.

There is no real consensus on just how much change white Zimbabwe Rhodesians—the name itself reflects the level of the white influence—would be willing to accept in return for international recognition.

Some leading white politicians insist, for instance, that the removal of Smith from the government—something being demanded by Washington and London—would spark a massive "flight" among whites, thus crippling the economy.

As it is, whites continue to "take the gap," —the local slang expression for emmigrating—at an average of 1,000 a month, as they have done since late 1976 when Smith accepted the principle of majority rule.

It is the war more than the loss of their privileged status which is driving many to seek new homes overseas.

Virtually the entire white male population between 17 and 60 is subject to call-up in the territorial army. For men under 38, that means spending 120 days a year on active service in the bush.

An average of two white "troopies" die a day in the guerrilla war along with several more black soldiers, 15 or 20 insurgents and a dozen innocent African civilians.

Several white farmers each week also end up as statistics in the daily military communiques.

For those who survive, divorce is rampant, careers and businesses are often left in ruins, and alcoholism is a common danger.

"They have black rule, now let them fight," said one young man, bitter about his impending six-week tour in the bush. The burden of the six and a half year war has worn many whites down and is probably most responsible for the fact that even those among the remaining hard core whites continue to flee.

"If they're still calling us up in December," said a young husband expressing the attitude of many who want to stay but are tired of fighting, "I'm gapping it."

Yet for some, there is little alternative but to remain behind and "help make it work," as the orange and purple bumper stickers say.

"Some of us don't even have enough to buy a plane ticket, much less take anything out," said a white secretary, referring to the $3,000 emigration allowance.

"Unless they start shooting in the streets, we've got to stay." ●

SIG OLSON

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. VENTO. Mr. Speaker, in recent years the American people have recognized the complex interrelationship between man and his environment and the long lasting and often irreversible impact that man has on the environment. We have also became aware of the value of protecting our land as wilderness and other units of our conservation system for our own enjoyment and for the benefit of future generations. As a result we have witnessed such legislation as the Wilderness Act, the creation of many new parks, wild and scenic rivers and national scenic trails, the Boundary Waters Canoe Area Wilderness Act of 1978, and this year's House action on Alaska National Interest Lands. These actions will insure that one of our Nation's most important treasures, its land, is not lost.

These congressional actions are fairly recent events. They would not have been possible without the efforts of a few visionaries who recognized the need to set aside a few acres for our descendants and who worked toward that goal long before it became popular.

One such environmental pioneer is Sig Olson. Sig has dedicated his life to the protection of wilderness and to achieving a better understanding of man's role in his environment. His books have provided many with insight on those subjects and have helped to increase our country's environmental awareness. I urge my colleagues to read one of his works. They describe the joys of the experience in the wild and will reaffirm our need to protect and care for our environment.

At this time I would like to draw my colleagues' attention to a recent interview with Sig Olson. This article discusses Sig's life and his view of the future.

The article follows:

SIGURD OLSON'S CONTINUING LOVE AFFAIR WITH NATURE

(By Ben Kern)

ELY, MINN.—As Sigurd F. Olson, friendly, grinning, shakes your hand, you know that all is well with this wilderness habitue, now 80, author of sage and colorful chronicles.

No longer dean of the local college. No longer shepherding students on a biological or geological field trip. No longer packing, frying fish, paddling and nursemaiding greenhorns through the wilds.

He did that for years as a professional guide. The money helped at home.

He'll never forget the first article he sold to the magazine Field and Stream. "And they paid me 25 bucks. Wow! That was something. It paid the hospital costs of delivering our second son." (Today he and his wife, Elizabeth, have two great-grandchildren.)

No more striving to break into the writing world. He's an established author. Letters come in from across the nation. Readers even show up at his door.

Author of "The Singing Wilderness," "Listening Point," "The Lonely Land," "Runes of the North," "Open Horizons," "Wilderness Days," "The Hidden Forest," "Reflections From the North Country"—fresh, vivid, glowing.

Today, with his wife, he continues writing and communing with nature, sometimes through a broad picture window in their comfortable home on the edge of Ely, or again paddling around Burntside Lake from their log cabin.

From his autobiographical "Open Horizons" I knew much of his early struggles before I interviewed him in the Ely house looking out at the tall spruce and red pines, planted by the Olsons 50 years ago.

His love affairs with nature began in Wisconsin. His father, a Baptist minister, preached all over Wisconsin before he became "a sort of a bishop in charge of regional parishes," Olson said.

The boy Sigurd did farm work in northern Wisconsin among "the barrens, sandy glaciated ridges and outwash plains" in one of "the final remnants open for homesteading."

One of those remnants belonged to Soren and Kristine Urenholdt, natives of Denmark. They had eight children, one of whom was Elizabeth.

Farther north at Ashland, Wis., Olson attended high school and junior college, then went on to Madison, Wis., and the University of Wisconsin.

In the back of his mind always lay the love of wild country. From Madison he went north to teach high school agriculture at Nashwauk, Minn., where, camping out, he happened upon Al Kennedy, "one of the finest woodsmen" he had ever met.

Kennedy had a cabin in which a sack of wild rice, "parched like the Indians do it," hung from a rafter. Olson was delighted.

Kennedy: "Take a look at the lake country east of the Vermilion Range. Put a canoe in anywhere. Follow those lakes and rivers up to Hudson Bay. Or west toward Lake of the Woods . . . Flin Flon. . . . You'll never come back."

Olson was impressed.

"After three weeks of traveling some of the major routes . . . I knew I would follow those waterways for the rest of my life, not only in the Quetico-Superior, but far into the Canadian north," he recalls in "Open Horizons" (published by Alfred A. Knopf, New York, in 1969).

Studious, nevertheless, he returned to college, somehow to prepare himself for making a living near the back country. He took graduate work in geology and biology with one eye on a new junior college being established at Ely.

And he landed a good job—head of the biology department at Ely Junior College.

There followed the geology and biology field trips with his classes. They visited an old gold mine, with assays too low to warrant development. That was geology. For biology (see "Open Horizons").

"Budding shrubs and trees, fiddlehead ferns growing out of the black muck, mink we had seen, blue mayflowers, golden marsh marigold, and flaming stems of dogwood, the whole vast complex of the ecological system . . ."

Still, chafing under schedules and responsibilities, he listened to Kennedy, who invited him to a Flin Flon, Manitoba, gold rush. And then to see the country to the northwest. Olson was tempted, but:

"How could I leave Elizabeth and our two young sons and the home we had established, leave my friends and co-workers and embark on an expedition for a year or possibly two or three . . . see the far country I had dreamed about and make a fortune Al was sure we would? I was tempted."

Paddling alone, he arrived at an answer. This wouldn't be his only chance. There were many years ahead. He wanted to be a good wilderness guide. Spend summers in the bush working and getting the guides' feel of the land.

Eventually, he got to Flin Flon, the Northwest Territories, Yukon and a lot of other places.

He also worked through the school years and became dean of Ely Junior College (now Vermillion Community College).

In summer between college sessions he did a lot of guiding. It helped fatten his college pay of "a couple thousand a year, instead of the 15, 20 or 30 which I'd have gotten now."

We sat at a table by the wide window in the Ely house. I ventured: "Guiding must be a testing occupation."

"It is, but I loved it."

Did he do the cooking?

"The guide not only did all the cooking and all the routine around the camp, but he had to know how to take care of people . . . had to watch them like a hawk. Start early morning. Work until 10 at night. So much to do. So much to get ready. But I thought . . . doggone . . . it's a shame to take my guide's wages—I enjoyed myself so much."

The wages ran $6 to $8 a day—not per person, for the whole bunch. Sometimes they helped with the dishes.

His canoe ranged far and wide. "I've covered a good part of the Northwest Territories. The Yukon. Alaska—northern part."

He has also been in the high Sierras, Sherwood Forest in England and the Black Forest of Germany, where he experienced a storm that felt like the destruction of the world.

For Olson, storms have a special meaning.

From "Open Horizons": "Once during a violent midsummer storm, sky black as night . . . I lay there waiting for the wind to strike. It came in an all-engulfing roar through the high tops, and as the pine swayed, its roots moved, too. . . . There was a tremendous crash as one of the largest lost hold and fell, the ground shuddering . . . I knew fear and wonder and an inner exaltation . . . of being at one with the elements, the trees and all the wild forces they bow to."

But the storms weren't always exalting.

I reminded him of a storm he experienced among the spruce by the Hayes River near Hudson Bay.

"That was a cold, miserable trip," he recalled.

I asked him whether the elements, with man's help, might be taking us into a nuclear holocaust.

"It's a frightening thing," he said. "Living under a cloud of suspense. Never knowing what's going to happen. . . . This world won't be worth living in, even though the Russians don't expect to kill everyone in it and say they'll survive.

"We were lucky who were born during a period when we didn't have such terrific problems. I look at the young people today. . . . It's hard growing up in a period of such tensions . . . uncertainty. I wonder about my great grandchildren."

One of his sons, Sig Jr., and family recently had come visiting from Alaska, where Sig Jr. is in charge of wildlife habitat for the U.S. Forest Service.

What can they do for wildlife habitat in Alaska?

"They can protect it," Olson said. "Get the bulldozers out of there. And the miners and the prospectors. And the oil money. Invading the refuges."

Even without holocaust, will the environment survive?

There are encouraging signs, he said.

"There's a great growth in ecological understanding. Of the world we live in. Especially among young people. I see it when they come in here—their concern with the out-of-doors, all aspects of it.

"They've developed a greater sensitivity to beauty and the meaning of out-of-doors. That's encouraging to me.

"There seems to be a renaissance, a new feeling, regarding nature. It's come within the last generation or so. For a long time people didn't know what 'ecology' meant.

"Now these young people are aware of the ecological relationships, and it gives me a great deal of happiness and satisfaction.

"Some day these young people are going to be in positions of power. They'll be running the country. And with that background and feeling, they'll do things that weren't done by their predecessors. That's encouraging.

"So many kids come in here. Sit down in this room. Tell me their experiences. How much this country needs.

"They come from all over the country. They're up here to take a canoe trip, or with a camp."

They know him through his books. His correspondence is heavy.

Somehow, one looks to him for general wisdom. I asked him how he felt the world was coming along.

"I don't know exactly how to answer that. In one sense, the future looks pretty bleak. With our shortage of fossil fuels. It's encouraging to hear that Congress is going to appropriate some millions for solar research. It's high time.

"We're starting in awfully late. I've always said that America never moves until its back is against the wall. Until we have a crisis.

"Well, we have one, and we're beginning to react. It's late, but if we pour ourselves into it, put our tremendous expertise to work. . . . No one knows what could happen. It's encouraging in that respect."

He had praised the young people. What about their parents?

"We have become an urban civilization, but at the same time we're hungry to get back to the earth, get our feet on the ground.

"Witness the enormous hegira of people leaving the cities every weekend. Just to get a good hold of the countryside, to get a different vista.

"And they wear themselves out doing it, especially if they have a flock of kids.

"Nevertheless, that one glimpse of the outside natural world is enough to lift their spirits, to give them something to satisfy that eternal quest within."

Speaking of the eternal quest, how did it all begin?

"Nobody has delved deeply enough into it to know exactly what happened. These ideas of exploding, recreating, the universe. . . .

"I like what Einstein said. Paraphrasing—'The more I look at the universe, the more I'm sure that there is some logical, reasonable power, and explanation, behind everything.'

"We've never figured it out, but the feeling that there is some great immutable power controlling the universe—and whatever happens—is enough for me.

"To me the beauty and magnificence of the universe means that there's got to be a God of some kind. There's got to be something. Everybody's got to have something like that."

Do you remember your first published work?

"Vividly. I was guiding up here in the early 1920s, and my brother Ken was a reporter on the Milwaukee Journal. He wrote to me: 'Say, why don't you write a story about your adventures? I'll see that it's published in the Milwaukee Journal.'

"Well, I thought that was great. I hadn't done any writing to speak of, but between canoe trips I did myself a story called 'Wilderness Canoe Trip' and sent it to Ken. Back from my next trip, couple of weeks later, here was a copy of the Milwaukee Journal. 'Wilderness Canoe Trip' by Sig Olson. Wow! I thought, 'Holy smokes! Imagine. I'm a writer!' I have a copy of the thing, and it's filled with more cliches and horrible stuff than you could ever imagine.

"From then on I tried to hit the outdoor magazines, and I had a terrible time. I'd try and try and try. It came, but very, very slowly. But for some reason I kept at it.

"Field and Stream was my first big breakthrough—a story called 'Fishing Jewelry.' It was about an old lumberjack who made fun of all my lures. He said, 'That stuff is just fishing jewelry. Go out and get some angleworms and fish like a man should.' "

With that boost, the writing career flourished. Brother Ken, I learned, had been my favorite journalism professor at the University of Minnesota and later headed the journalism school at Northwestern. He, too, wrote books—a journalism textbook and another on world affairs.

Elizabeth and Sigurd Olson's second son, Robert Keith, is also a writer.

"Bob was with the foreign service," Olson said. "Went all over the world."

A few years ago Bob Olson retired to a tree farm in Wisconsin. He's studying for a doctorate, and Sigurd Olson said, "he's written an article for the Atlantic Quarterly. Six thousand words. The whole thing will nearly cover an issue."

Admiring the Ely house, I asked Sigurd about its origins.

"We lived downtown, but the boys wanted to ski, so we moved out here."

They bought the house and added to it. Was it just the boys who wanted to ski?

No, Olson admitted: "I was one of the first cross-county skiers around here. I had a pair of skis from Finland. Still have them." There was an Olympic racer in the group, whose name escapes him.

"In the early days this was sort of a headquarters. There'd be a gang. In a race on the way to Burntside there was a big hill. A chap ahead of me fell at the bottom. I stopped, got out of my skis and went over. Thought he might have broken a leg. He jumped to his feet, got ahead of me, and I never caught up to him." Olson laughed. Usually, he said, he came in second.

Olson is a fishing and hunting conservationist who is happy with certain Boundary Waters Canoe Wilderness Area regulations restricting the use of boat motors in certain lakes.

This nettles many resorters and Ely businesspeople who cater to motorboating tourists.

I asked whether he feels uncomfortable going downtown among the motorboat partisons. His reply was prompt:

"No. I was downtown yesterday. Half a dozen oldtimers came up and greeted me. Gaily. Even though they know I'm on the opposite side of the fence.

"The time is coming when the canoeists will bring more revenue than the motorboaters. They'll discover this in due time. . . .

"Congress signed the bill last October. Creating a Boundary Waters Wilderness Area. Up to that time the Boundary Waters Canoe Area wasn't a wilderness.

"So, it was a good move. A good bill.

"Things have quieted down. Some will fight it to the last ditch. . . . But they've never been rude to me."

So life and time go on, and so does work. He's still working.

When Olsen was in high school in Ashland, the chamber of commerce sponsored a high school essay-writing contest. The subject: "The Purpose of the Chamber of Commerce."

"I didn't know anything about chamber of commerce. Couldn't care less," Olson recalled.

"But I wrote a little essay. By gosh I got first place. I must have been about a sophomore. All those other kids, more reputable than I, just a little kid—I won! A five-dollar gold piece.

"I haven't the slightest idea what I said about the chamber of commerce, but the whole thing appealed to something inside of me. Kindled something. Gave me a hint that some day maybe I could write something."

He could. And did.

And so today, at Ely, time still passes. And today, at 80, Sigurd Olson is working on a ninth book.

Tentative title: "The Time and the Place." ●

THE SOFT DRINK FRANCHISOR BILL

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. LUKEN. Mr. Speaker, it is an infrequent occurrence when there are about 300 cosponsors of a bill in the House. It is probably even more unusual when this same bill receives no action in committee.

This is the situation we are faced with concerning the bill, H.R. 3567, the Soft Drink Interbrand Competition Act introduced by our colleagues, Mr. Hall of Texas and Mr. Mollohan of West Virginia. The fact is that this bill has received no action in the Monopolies Subcommittee of the House Judiciary Committee despite the overwhelming support of the House membership.

It is for this reason that I am writing to the chairman of the Monopolies Subcommittee and the Judiciary Committee, Mr. Rodino, and ask that he hold hearings immediately on this bill and the several others that have been referred to his subcommittee. As many of my colleagues know, action has already begun in the Senate where a similar bill has almost 80 cosponsors.

As the author of another bill on the same subject, H.R. 3573 and a cosponsor of H.R. 3567, I feel that this action by the Judiciary Committee is a first step to amend a wrong action taken by the Federal Trade Commission. These FTC decisions would have forced soft drink bottlers to offer an unlimited number of franchises in a given geographic area. The effect would have been utter chaos in the soft drink industry and would have done significant harm to the small businessmen who now are providing excellent service as soft drink franchisers.

These are the sort of bills that the American people expect the House to act on. We are all tired of the intervention into the private sector by uncontrolled Government agencies. The chief culprit in this is the Federal Trade Commission. The House must send a message to the Federal Trade Commission that these sort of interventionist regulations and rules must stop. Our free enterprise system will work much better with less regulation not more. This sort of regulation, promulgated by the FTC will reduce competition. It will allow for the major soft drink companies to take over the distribution of their product rather than leaving it with the small businessman.

This bill cries out for action and I will be contacting the chairman of the House Monopolies Subcommittee and the House Consumer Protection Finance Subcommittee in the hopes that action will begin shortly. A clear and impressive majority of House Members have spoken on this and action is necessary.●

ANOTHER APPROACH TO ENERGY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. OTTINGER. Mr. Speaker, recent reports, including the newly published Energy Future book written by professors at the Harvard Business School, have convinced me that the Congress must have a wholly new way of looking at energy production in the coming decade, and that is to promote the "production" of energy by saving it. This becomes even more important when one considers that virtually all of the major energy proposals pending in the Congress, particularly those promoting synthetic fuels, will not provide any meaningful energy supplies for at least a decade.

In short, we need to do something about energy—and about our people's economic well-being—in the short term. And, as Professors Yergin and Stobaugh, who authored the Harvard book have noted, the best short-term energy opportunity is conservation. "Indeed," they write, "conservation—not coal or nuclear energy—is the major alternative to imported oil. It could perhaps supply up to 40 percent of America's current energy usage * * *."

I am drafting legislation which is designed to help the American people meet their energy needs—while improving our lifestyles and protecting and creating jobs. Under the legislation I am preparing, Congress would establish a program the purpose of which would be to use existing institutions to assist all consumers of energy—industrial, commerical and individual—to enhance productivity and the utilization of renewable energy resources to back up oil.

I have today sent a memo to a wide variety of outside energy experts, seeking their comments and suggestions. I would like to request permission at this point to insert my memorandum in the Record, with the hope that my colleagues, too, will provide me with suggestions and comments.

The memorandum follows:

House of Representatives,
Washington, D.C., July 30, 1979.

Memorandum to Whom It May Concern.

From Representative Richard L. Ottinger.

Subject: Another look at energy production subsidies.

Virtually all of the energy proposals relating to production of new oil and gas, coal or synthetic fuels—including the proposals offered two weeks ago by President Carter—fail to address the real needs of real people for energy and some economic relief in the short term. In fact, no meaningful energy supplies would be produced by any of the proposed programs for at least a decade.

There is a building consensus, however, that there can be fast relief, in the form of improved energy efficiency and conservation measures which do *not* need to reduce our standard of living at all. By "mining buildings to produce oil and gas," as has been suggested by Bob Williams of Princeton and Mark Ross of the University of Michigan, estimates show that the Nation could save as much as four to six million barrels of oil equivalent a day—well before 1990. As Daniel Yergin, of the Kennedy School at Harvard, wrote recently, "If the United States were to make a serious commitment to conservation, it might well consume 30 to 40 percent less energy than it now does, *and still enjoy the same or an even higher standard of living.*" (emphasis supplied.) [1]

Most of the active energy proposals pending in the Congress involve massive Federal subsidies for traditional energy "production" and that means giving a lot of money to the energy industries (which already are doing quite well, according to second quarter earnings reports). What those subsidies do not do is provide any reasonable cost energy; indeed, not only will synthetic fuels be frightfully expensive by all accounts, but they won't even be available for at least 10 years!

I am preparing legislation which I am convinced will provide a valuable new way of looking at energy—from the energy consumer's standpoint rather than from the energy producer's standpoint. Rather than subsidizing big energy corporations to produce energy, we should be subsidizing consumers of energy—whoever they are. There really ought be nothing sacred about providing all the big Federal outlays to defense and energy; we should be providing financial assistance to improve efficiency and increase our reliance on renewable energy resources in all the consuming sectors—residential, commercial, industrial and transportation—as the best short-term way to decrease our reliance on imported oil. I am convinced that we can "get there from here" without discomfort and, what's more, without massive outlays of Federal dollars.

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[1] Stobaugh, Robert and Daniel Yergin, Energy Future, Random House (New York: 1979), p. 137.

My first proposal involves an amendment to the National Energy Act to require that electric and gas utilities undertake residential retrofit programs ranging from insulation to solarization. In addition to major conservation efforts obviating or slowing the need for new powerplant construction—which inevitably drives consumers' bills up—utility involvement will ease financing for consumers, assure quality work and provide maintenance, particularly for solar equipment.

Under my second proposal, Congress would authorize a program designed to attract private capital for investments in energy efficiency, building retrofits, industrial retooling, production of energy from waste, etc. The vehicle for the program would be a corporation with all the usual power given such an entity, including the possibility of issuing bonds or notes. Any capital so raised would then be moved out through existing banking institutions (both commercial banks and savings and loans) to be lent at a subsidized interest rate—say 6.50 percent—to persons borrowing to improve energy efficiency or to increase the use of renewables. The Federal commitment would amount only to the difference between the interest paid to the investor and the rate at which the ultimate borrower would obtain his/her loan. If, as an example, $10 billion in capital were raised at 11 percent, the interest for one year (not compounded, for simplicity's sake) would be $1.1 billion, with the Government owing half, or $550 million. Relative to some of the numbers circulating for synthetic fuels, that seems a very low figure, indeed.

On the borrower's side, let us assume that a homeowner learns that $1,700 in retrofitting his/her home would reduce energy consumption by 50%—which is well established as being achievable. With heating oil at $1.00 per gallon and a consumption of 1,350 gallons for the season, the current bill for our homeowner is $112.50 per month for heating oil. If the $1,700 is borrowed at 6 per cent for 20 years and consumption is halved, then the monthly bill is reduced to $56.25, with an added $12.18 for monthly payments of interest and principle on the loan. In the end, the $1,700 investment, including the loan, means our homeowner would be paying $68.43 per month for heating, or 39% less than before the investment.

Similar gains could be achieved in the industrial, commercial and transportation sectors, with savings running into the millions of dollars. Under my program subsidized interest loans would be available to these sectors either for improved efficiency in manufacturing processes or, for that matter, to assist in retooling to make more efficient products, where those products are, themselves, energy users, such as toasters, other appliances, automobiles and the like.

The legislation will be refined to assure that some of the capital available through the issuance of bonds and notes will be made available to all four of the consuming sectors on a basis that makes sense—both in energy-saving terms and in terms of meeting other important social goals, such as economic stability and preservation (and additional creation) of jobs.

Numerous individuals in industry, finance, labor, consumer and environmental groups have been most helpful in making suggestions for the program I have outlined here. In preparing this memorandum, I am hoping for the widest possible comment, criticism, suggestion for alteration, improvement, etc. on the concept. I would appreciate any comments you might have.

I am convinced the United States can make meaningful reductions in its reliance on imported oil, and that we can do so while saving money and living as well as, if not better than, we now do.●

VERMONTERS VOICE OPINIONS ON KEY ISSUES IN CONGRESS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. JEFFORDS. Mr. Speaker, this spring I mailed to all Vermont households a questionnaire seeking public opinion on major issues before Congress. Responses were returned, in time for tabulation, by 10,095 Vermonters. The general issues covered were the economy, energy, national health insurance, and RARE II wilderness designations in Vermont.

The results have now been tabulated, and I would like to share them with my colleagues. Although the numbers speak for themselves, there are a couple of conclusions to be drawn which, I believe, should be emphasized.

First, there is a virtual consensus in my State that the Federal budget should be balanced; if not right away, as soon as feasible. My constituents clearly believe that waste is pervasive in virtually all aspects of the Federal budget, and most believe substantial savings can be made without sacrificing necessary or valuable programs.

Second, on the issue of energy, Vermonters believe this country must take firm and decisive action to develop domestic energy sources such as wood, hydro, solar, and coal. The overwhelming majority does not support decontrol of oil prices, with or without a windfall profits tax. A large majority also believes that caution must be exercised in the licensing of new nuclear fission plants.

The questionnaire results follow:

QUESTIONNAIRE

1. The economy. Please check the statements with which you generally agree. You may check more than one.

A. Congress should balance the budget this year, even if that means eliminating or significantly cutting back services which are now provided. 34.6 percent.

B. Congress should cut costs by making programs more efficient, moving toward a balanced budget as soon as possible but without significantly injuring worthwhile programs. 70 percent.

C. Military spending should be reduced by Congress. 42.1 percent.

D. Military spending should be increased by Congress. 27.9 percent.

E. Spending for domestic programs should be reduced by Congress. 49.7 percent.

F. Spending for domestic programs should be increased by Congress. 19.1 percent.

G. The government should exert more control over business. 27.7 percent.

H. The government should exert less control over business. 51.9 percent.

2. Energy. In dealing with our energy problems, which of the following steps should we take? You may check more than one.

A. Remove price controls on oil to discourage use and encourage additional production, without a windfall profits tax. 11.8 percent.

B. Remove price controls on oil, taxing half of the windfall profits and allowing the oil companies to keep the other half to encourage production, as the President has proposed. 23 percent.

C. Keep price controls on oil, and provide more incentives and assistance for alternative energy sources such as wood, hydro, solar, and coal. 69.1 percent.

D. Speed up licensing of new nuclear fission power plants. 21 percent.

E. Slow down licensing of new nuclear plants, and assess the problems. 63.4 percent.

3. Health. Which of the following statements closest to your opinion on National Health Insurance? Check only one.

A. The government should provide mandatory, comprehnsive health insurance, to assure the medical needs of all Americans are met. 20.2 percent.

B. The government should provide "catastrophic" health coverage to assure families will not face bankruptcy due to illness or injury. 43.9 percent.

C. The government should not play any increased role in providing health insurance coverage. 26.4 percent.

4. Wilderness. The arguments in Vermont's current wilderness controversy are summarized elsewhere in this newsletter. Which of the following statements is closest to your opinion? Check only one.

A. No additional areas of the Green Mountain National Forest should be designated as wilderness. 28.8 percent.

B. Only one of the six regions that were considered should be designated as wilderness. (The Breadloaf area is reportedly being considered.) 11.7 percent.

C. Two or more of the areas of the Green Mountain National Forest should be designated as wilderness. 52.1 percent.●

PLANS TO MODIFY THE CONBOY LAKE WILDLIFE REFUGE IN WASHINGTON STATE

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. McCORMACK. Mr. Speaker, today I am introducing a bill designed to redress unjust action by the U.S. Fish and Wildlife Service in its development of the Conboy Lake National Wildlife Refuge in the Fourth District of Washington State. There is substantial evidence to demonstrate that the Fish and Wildlife Service's development of this particular refuge is ill-advised and without significant merit, and when weighed against the human hardships it will create, should be halted.

Conboy Lake National Wildlife Refuge was approved in 1964 by the Migratory Bird Conservation Commission, pursuant to the Migratory Bird Conservation Act of 1922. Its original size was to have been 10,245 acres; it was subsequently reduced to its current proposed size of 9,266 acres.

The Fish and Wildlife Service has acquired through purchase 5,516 acres and through condemnation 1,215 acres. Condemnation action began in 1971 and has been upheld twice by the Ninth Circuit Court of Appeals, San Francisco, with Fish and Wildlife to take possession November 1, 1979.

In 1967–68 the GAO conducted an investigation of the acquisition of migratory waterfowl refuges by the U.S. Fish and Wildlife Service which included an examination of Conboy Lake. Several of the findings were not favorable to the agency's proposed acquisition of land at Conboy Lake:

First. Even though Fish and Wildlife expected to attract 39 percent fewer waterfowl than they considered the refuge capable of handling, their original acreage requirements were not modified. With 10,500 acres, the refuge could have supported 5.1 million use-days per year, yet the Service projected a requirement for only 3.3 million use-days per year. When this was noted, Fish and Wildlife informed GAO that they planned to reduce the refuge size by 2,300 acres, but it was subsequently reduced by only 1,000 acres.

Second. Approximately 37 percent of the refuge are lands not necessary for the function of the refuge as recommended by the Fish and Wildlife ascertainment biologist. The cost of acquiring these lands would amount to 41 percent of the total cost.

Third. In the wetlands inventory taken in April 1954, Conboy Lake was not recognized as of high or moderate value to waterfowl. This 1954 report included 90 percent of all significant wetlands in the State, and the remaining 10 percent equaled 25,000 acres of marginal habitat in higher mountainous areas.

Fourth. In 1961 the Pacific flyway representative recognized the marginal value of Conboy Lake when, using a numerical rating format to establish priority sites for refuges, he rated Conboy the lowest of 86 sites within the flyway because of unfavorable biological and administrative characteristics. On a scale of 0-41 biological characteristics, Conboy rated 7.

While one of the primary purposes of the Fish and Wildlife Service in establishing the refuge was to attract waterfowl away from crops on private lands, the rating for this factor was 0. Further, tract appraisal reports show that the 10,500-acre site contains only 144 acres of water and marsh.

Fifth. In 1963, the Region I Land Acquisition Review Committee ranked Conboy Lake low, due to its location between the existing Toppenish and Ridgefield refuges, and the then-planned development at Umatilla.

In its 1964 presentation to the Migratory Bird Conservation Commission, the Fish and Wildlife Service stated the following reasons for establishing the refuge:

(1) To facilitate the orderly expenditure of duck stamp funds;

(2) To take advantage of the willingness of land owners to sell; and

(3) To provide an additional refuge site in Washington.

The Fish and Wildlife Service did not disclose to the Commission:

First. That there were other areas of higher value to waterfowl not yet acquired in the flyway.

Second. The basis used by the Service in determining that the refuge was required to satisfy the needs of waterfowl.

Third. The fact that an additional 4,200 acres recommended for purchase were biologically unessential for the refuge.

The negative economic impact of the proposed refuge on the area is substantial. For example, 715 head of cattle have been displaced from the land already purchased by the Service; an additional 325 head have been displaced from the condemned lands; and another 500 head will be displaced from the remaining lands to be acquired. At approximately $600 per head, this represents a loss of $924,000 value. An additional 60 milk cows were displaced. At $800 per head, this is an additional $48,000. In just one category—value of livestock—establishment of the refuge means a loss of close to $1 million in assets to the area.

Additionally, the Klickitat County Commissioners have expressed concern that the amount the county will receive in "in-lieu-of-taxes" funds will be substantially less than the revenues which would be generated from property taxes under the current assessed value of the land involved.

The personal hardships created for the three families involved in the condemnation proceedings cannot be minimized. The Kreps family, represented by Mr. and Mrs. Bill Giersch, will lose 333 acres through condemnation already completed, and an additional 400 acres which are within the proposed boundary of the refuge; Mrs. Agnes Miller will lose 657 acres, which is her entire ranch, including her home; and Mr. Wally Davis will lose 225 acres, one portion of his ranch holdings.

It is difficult for me to understand, Mr. Speaker, how an agency can justify continuing development of a project of marginal value for wildlife enhancement in the face of this kind of adverse impact on people who have made their homes and living in this area for years.

The House Interior Appropriations Committee has already seen fit in its report of July 18, 1979, to delete any funds for operation of the Conboy Lake National Wildlife Refuge in fiscal year 1980. This action will halt development of the refuge, but, the Fish and Wildlife Service is moving forward with its plans to take the condemned property and evict the three families. That is why the matter is of some urgency, Mr. Speaker.

The bill which I am introducing today would permit the Fish and Wildlife Service to maintain a refuge of reasonable size—the 5,516 acres which it has acquired by purchase, and to acquire real property by exchange in order to make that parcel contiguous. But it would force the Fish and Wildlife Service to return any real property acquired by condemnation—land which is excess to the needs of the refuge anyway—to the owner or owners from whom such property was acquired, upon payment by such owners of the amount, if any, paid by the United States as compensation for such property. In the interests of justice, I hope that the Congress can act quickly on this legislation.●

A CLOSE LOOK AT OUR SYNTHETIC FUELS STRATEGY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, as we prepare to consider the various energy proposals that might help lead the United States out of the wilderness of energy dependence, which could amount in dollars and impact to the largest single peacetime government initiative in U.S. history, I feel it is indeed appropriate to closely scrutinize these measures. This article by John Berry from the July 29th Washington Post sets out some interesting thoughts on the matter.

[From the Washington Post, July 29, 1979]

GOAL MAY PROVE ELUSIVE, COST TOO HIGH

(By John M. Berry)

President Carter and the Congress are fast committing the nation to a massive, expensive, risky new program to develop energy alternatives to imported oil.

The appeal is undeniable, for the goal is nothing less than to free America from the dictates of an avaricious world oil cartel that is using the "oil weapon" not just to extract dollars but foreign policy concessions as well.

But there is a real chance that the goal will prove elusive and the costs extraordinarily high, not just in government spending, but also in the form of higher inflation, added pollution, decreased non-energy investment by business and at least a temporarily lower standard of living for many Americans.

Opposition to some parts of the program has been overwhelmed by the sudden political need to respond to the long lines at gasoline stations and rapidly rising prices at the pump. Now, however, skeptics are emerging even in Congress. They are wondering out loud whether the nation may not be leaping unawares into the synthetic fuels production plans that are the heart of the new program.

Administration officials acknowledge the uncertainties, but say enough is known to push ahead. "There are no substitutes to imported oil other than the range of production alternatives we've proposed," says one.

Today, the Washington Post begins a series of occasional articles that will explore the costs, the risks and the benefits of this mammoth commitment of national purpose for the decade of the 1980s.

The first article deals with coal liquification—the process of turning part of the nation's abundant coal deposits into liquid fuel, either crude oil, a form of alcohol called methanol, or directly into gasoline. Five groups of companies with five different processes each claim to be able to do the job—if the government somehow will help to finance a $2 billion commercial-scale plant turning out 50,000 barrels of fuel each day.

No plant of that size using any of the five processes exists. The largest in the United States produces only about 150 barrels a day. There is a 20,000-barrel-a-day plant in South Africa that uses one of the processes to produce gasoline, and a larger plant under construction there will produce an estimated 120,000 barrels daily.

All of the synthetic fuels, like coal liquifaction, involve changing a source of energy from one form to another. All of them are expensive, with only oil shale likely to cost little more than oil at current prices.

Because something has never been done is hardly a sign that it cannot be, of course. But doing something for the first time, and in a great hurry, can lead to some unpleasant surprises, particularly in terms of costs.

President Carter put the cost of his program at $142 billion over 10 years, but that estimate is not really based on costs at all. Rather it is simply a figure close to the minimum amount of money the administration calculates its proposed windfall tax on domestic crude oil will bring in. "Any reduction in the receipts . . . will require reductions in these program levels," said a footnote to the While House fact sheet describing the program.

At this point, anybody's figures probably should be taken with a grain of salt. As a recent Rand Corp. study for the Department of Energy put it, "Estimates of capital costs of pioneer energy process plants have been poor predictors of actual capital costs."

Early estimates, even adjusted for inflation, "have routinely understated definitive-design or ultimate costs by more than 100 percent for oil shale, coal gasification and liquefaction (liquids), tar sands, solid waste and nuclear fuel reprocessing plants," the study warned.

Anyone can recall story after story about weapons systems cost overruns. Yet the Rand study concluded that, on average, the actual cost of weapons systems was much closer to original estimates than the actual cost of energy process plants to original estimates. First-of-a-kind plants always cost far more than expected, and building them on a tight schedule—as will have to happen to meet Carter's 1990 goals—"can cause both higher cost and poor system performance," the study concluded.

Building the plants—most of which will have to be located in relatively remote parts of Montana, Wyoming, Colorado and North Dakota—may strain the nation's supply of skilled construction manpower. Construction wages could soar, adding sharply to the costs not just of the plants themselves but also other projects such as chemical plants and oil refineries. Production of some of the equipment needed in the plants also could means that other types of process plants might have to do without.

All that could add to inflation generally.

Nevertheless, Carter has earmarked $90 billion with which to spur production of the energy alternatives. About half of the remaining $50 billion is supposed to be used to help low-income families bear the burden of higher energy costs. More than $16 billion will be used for mass transit and some as yet unspecified program to increase automobile mileage efficiency. The remainder is destined to aid utilities in switching power plants from oil to coal, to speed energy conservation measures in residential and commercial buildings, and to give new incentives to use of solar energy.

Little of the $90 billion would be used directly by the government to construct the coal, oil shale and "biomass"—a catch-all phrase covering organic materials ranging from wood chips to corn to garbage—conversion plants. A new Energy Security Corp. is supposed to use a combination of loans, loan guarantees, price guarantees and purchase agreements to entice private industry to build the 30 to 40 plants with 50,000-barrel-a-day outputs needed to meet Carter's goal.

Even a $2 billion each, that's $60 billion to $80 billion. If the Rand study is right, the total could be far more. In addition, the continuing cost to the government as a result of its price or purchase guarantees could run into the billions of dollars every year once a plant starts operating.

Outgoing Energy Secretary James Schlesinger predicted last week, "It will be a hard struggle to get the Energy Security Corp. passed on Capitol Hill." Other administration officials are resigned to the fact that Congress will be making major changes in the ESC proposal. Those officials are worried that Congress may try to tie the new group's hands and require specific appropriations for the guarantees extended each plant.

Ironically, if the Organization of Petroleum Exporting Countries imposes big oil price increases in coming years, it will swell receipts from the windfall tax—unless Congress fails to make it permanent, as it well may do—and reduce any future outlays as a result of price and purchase guarantees.

In short, no one knows what the costs of Carter's program will turn out to be.

No one knows, either, what the environmental bill will add up to in the end.

A DOE study released July 12 found that only 41 counties in the entire country have coal reserves adequate to supply a 100,000-barrel-a-day plant for 25 years, with enough water resources within 50 miles, and with sufficient room under present federal air quality standards that the plants could be built.

Most of the sites are in the West where water is already in short supply, obtaining enough rights to water use for the plants probably would mean buying large blocks of ranch and farm land whose owners now control those rights.

The coal and oil shale supplying the plants would come largely from surface mines in semi-arid areas in which reclamation is still highly uncertain.

And most of the counties have only very small populations that might be overwhelmed by the influx of workers needed to build and operate the plants. Including workers, employes of support facilities and their families, a 100,000-barrel-a-day plant would mean a 20,500-person increase in population, the DOE study said. Some of the 41 counties have populations as low as 1,000 people.

To cope with the population influx associated with a single 50,000-barrel-a-day plant, the added community facilities could cost more than $70 million.

Beyond that sort of impact, the range of unanswered environmental questions is still enormous. The same DOE study cautioned:

The accelerated commercialization schedule (set by Carter) may require that the first commercial plants be constructed before environmental concerns are assessed fully.

If problems exist, the number of these first commercial plants in specific locales can lead to an increased risk that a primary health standard will be violated.

Small laboratory and pilot plant facilities may fail to indicate pollution problems that would surface in the larger scale of a commercial operation.

Carter is counting on displaying 500,000 to 1 million barrels of oil imports with such gas, which is locked so tightly in rocks that they generally must be fractured in some way before the gas will flow in any quantity. The gas dissolved in deep reservoirs of brine along the Texas and Louisiana coasts also falls into this category, but that gas carries with it far more uncertainties than that held tightly in the Devonian shales of West Virginia.

All of the energy alternatives—liquids from coal, "natural" gas from coal, oil shale, gasohol, garbage, wood, wind, geothermal, heavy oil and tar sands, and solar—will be covered in the articles to come. Some of the questions raised will be answered. Some will not be, because for them there are as yet no answers.●

THE MARRIAGE TAX—AN EXAMPLE OF THE HARM IT CAUSES

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. McCORMACK. Mr. Speaker, I recently received a letter from a gentleman who worked for the Internal Revenue for nearly 30 years before retiring. He now aids individuals in the preparation of their tax returns. He commented on my bill to eliminate the so-called marriage penalty tax. As the Members know there have been repeated calls for repeal of this unfair tax. The accompanying illustration shows how the marriage penalty tax effects a real-life middle-income couple.

The letter says, in part, ". . . your bill on not taxing couples more than singles is excellent. I recently had a case where the couple stated that they shouldn't have gotten married because it cost them $1,138."

He went on to illustrate:

MARRIED COUPLE

(1978 Rates/Standard Deduction)

His income: $17,983.62.
Her income: $14,148.20.
His tax if single: $3348.
Her tax if single: $2227.
Single tax total: $5575.
Tax paid as a married couple, joint return: $6713.
Extra tax paid due to marriage (In other words, Marriage Penalty Tax). $1138.●

MRS. CECIL (TOOTIE) McCLUEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. SKELTON. Mr. Speaker, Missouri State Representative Jerry Burch wrote a guest editorial about Mrs. Cecil (Tootie) McCluey, who recently passed away. She was truly a fine person, one who made our democracy work. The editorial from the Nevada Daily Mail is as follows:

[From the Nevada (Mo.) Daily Mail, July 24, 1979]

TOOTIE McCLUEY

(EDITOR'S NOTE: The following editorial was written by State Representative Jerry Burch at the invitation of the Nevada Daily Mail)

"Tootie" McCluey was a delight to everyone who knew her, and to a politician she was a pearl indeed. So when Mrs. Cecil McCluey died on June 28, I shared with her friends and neighbors at Lamar a sense of loss, a sad feeling that there is an empty place that will never quite be filled again.

When I set out to run for state representative last summer, I was looking for someone to help me in Lamar and Barton County. Almost the first one suggested was Tootie McCluey. It was a great day for me when she ushered me into her kitchen and poured me a cup of coffee.

"You're not the first politician to sit at that table and talk about campaigning," she said.

She ticked off some names: Symington, Litton, Eagleton, Randall, Kirkpatrick and—of course—Harry Truman. If she worked as hard for them as she did for me it is no wonder they were elected.

I never will forget that scorcher of a day last September when Lamar's annual Free Fair came to its climax with a parade around the square. There was Tootie, sweat streaming down her face and arms, blowing up campaign balloons and handing them out to the kids who came to our booth. You couldn't have hired anyone to work that hard or so enthusiastically.

She was a big woman, the widow of the owner and operator of Lamar's rather legendary and now extinct broom factory. One of the strongest remembrances of her in Lamar is that if she decided something needed doing it got done. Particularly in Lamar's Fourth Ward.

Tootie created a ruckus in the Fourth Ward Democratic Caucus last winter, and it was probably one of the few times she had any political ambitions for herself. She wanted to be the ward's Democratic committeewoman. She complained that nominations were closed improperly before names could be submitted from the floor. She persisted until she won her point. The caucus had to be reconvened. But she did not get elected.

Although much involved, Tootie did not get hyped up about pet causes or political issues. No one ever worked harder and I have hardly ever been more obligated to anyone, but there was always the feeling that Tootie would never ask me to vote for or against a bill, would never ask for a job or for a personal favor. She never did!

So why did Tootie get involved? Why did she love to have politicians in her kitchen? Probably because she felt the best way she could discharge her obligation to vote intelligently was to get involved with the people who were running and got elected.

On our bicentennial Independence Day—on Sunday the Fourth of July, 1976—Jerry Litton gave the sermon at Independence Boulevard Christian Church in Kansas City. Here is just a little bit of what he said:

"Some are suggesting that politicians are not addressing the issues. But I think the people are wanting to look deeper than issues. They want to know the people behind those issues. I think they want to know the man, the woman, the candidate, the public official. They want to know how they feel about others. They want to know whether or not they are believers. Are they Christians? Do they believe? How do they feel toward their fellow man?

"Somehow we've lost faith in our God and our country, and it's making it very difficult for a free system and a free society to work. For a free system and a free society and a democracy to function, people must believe. People must want to follow, since they are not forced to follow. The fact that our people have not wanted to follow the past few years has weakened the basic structure of our democracy."

I came to look upon Tootie McCluey as one who dared to follow. Once she had determined which Democrats were worthy of her loyalty, whether they were believers, how they felt toward others—once she knew them and they satisfied her—she was not distracted by issues or what might be in it for her. With a lot more like her, we would not have to have doubts about our democracy working.●

JUSTICE DEPARTMENT'S EFFORTS LAGGING AGAINST WHITE-COLLAR CRIME

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. CONYERS. Mr. Speaker, for the past 2 years, the Subcommittee on Crime has been conducting oversight regarding the capabilities of the U.S. Department of Justice to detect, investigate, and prosecute corporate and white-collar crime. In an insightful article by Philip Taubman, the New York Times recently analyzed this subject in a lengthy front page article appearing on Sunday, July 15, 1979. As chairman of the Subcommittee on Crime, and as one who has undertaken a comprehensive analysis of the resources devoted by the Department of Justice to combat corporate crime, I found this article to be particularly significant and valuable, appearing as it did on the eve of the appointment of Benjamin Civiletti to be our new Attorney General. I commend this article to the attention of all of my colleagues in the House:

U.S. ATTACK ON CORPORATE CRIME YIELDS HANDFUL OF CASES IN 2 YEARS

(By Philip Taubman)

WASHINGTON, July 14.—The Justice Department has developed only a handful of criminal cases against major corporations in the two years since the Carter Administration promised to crack down on corporate and white-collar crime.

Government experts estimate that violations of antitrust, tax, fraud, bribery, pollution and other Federal laws by the nation's thousand largest corporations cost the economy billions of dollars a year.

But the Justice Department still lacks the manpower, the expertise and, in some cases, the motivation to conduct successful criminal investigations and prosecutions against major corporations or their top executives, according to a score of current and former Justice officials and corporation lawyers.

Harold R. Tyler Jr., a former Federal district judge and Deputy Attorney General in the Ford Administration, said, "The Justice Department doesn't even know the magnitude of what it's missing in terms of corporate crime. It was a very serious problem for the Government when I was there, and it still is."

Top officials of the department say that its efforts against white-collar crime in general and corporate crime in particular have intensified.

"I'm pleased with the progress we've made in recent years," said Deputy Attorney General Benjamin R. Civiletti. "We now have more emphasis on fighting white-collar crime than in the history of the United States, and we've undertaken more sophisticated prosecutions than ever before."

Most officials, however, while agreeing that the Justice Department is trying harder, say that the effort is having minimal success against the enormous obstacles involved in investigating and prosecution major corporations.

One top Justice Department official said, "It's just a lot easier for us to pick on the small guy" because the major companies, with their extensive resources and complex operations, require an extensive commitment of investigative time and expertise, both of which are in short supply.

RECORDS OF VARIOUS AGENCIES

An examination of Government records showed the following:

In the last two years, Internal Revenue Service investigations led to 3,360 indictments for criminal violations of Federal tax laws. Nine involved major corporations. The I.R.S. devoted 2.5 percent of its investigative time last year to major corporations, which it defines as those with assets of $250 million or more.

The Securities and Exchange Commission has referred 420 cases involving questionable domestic and foreign corporate payments by major corporations to the Justice Department in recent years. Ten have resulted in guilty pleas and 30 are under investigation, according to officials in the fraud section of the Justice Department. The rest have been dropped. No corporate executives have been prosecuted individually, although many were named in the S.E.C. files.

Of 23 criminal antitrust cases brought by the Justice Department this year, three involved major corporations.

Though the Department of Energy estimates that fraudulent oil transactions run into the billions of dollars every year, the one major oil company charged with such a transaction was able to plea bargain for a modest fine because the Justice Department, according to Congressional critics, delayed an investigation until the statute of limitations had almost run out.

In the half-decade since major air and water pollution laws were enacted, the Environmental Protection Agency has referred about 130 criminal cases to the Justice Department for prosecution. Half a dozen have involved major corporations. The Government has filed criminal charges against one, Allied Chemical, which pleaded no contest three years ago to charges that it dumped large quantities of the toxic chemical Kepone into the James River in Virginia. The case arose when about 80 people became ill. "We're just not set up to handle these kinds of cases, and our record is awful," said an official in the land and natural resources division of the Justice Department.

OTHER SOURCES OF DELAY

Present and former Government officials say that in some cases, a snail's pace by regulatory agencies or other problems not directly related to law enforcement have brought about the limited record of criminal prosecutions against major corporations. In the pollution area, for example, they note, regulations for toxic waste disposal have only recently been drafted.

There is little argument about the cost of white-collar crime. The Joint Economic Committee of Congress estimates that such crime costs the United States economy $44 billion a year; crimes against property cost about $4 billion.

If the costs associated with antitrust price-fixing and fraud against Government programs are included, the total annual cost of white-collar crime exceeds $200 billion, according to Government estimates.

Experts say that while crimes committed by the 1,200 major corporations listed by the I.R.S. account for only part of the total cost, that part runs into billions of dollars a year.

SEVERITY OF PROBLEM ACKNOWLEDGED

President Carter and Attorney General Griffin B. Bell have frequently acknowledged the severity of corporate and white-collar crime in speeches and policy pronouncements. Last year Mr. Carter said, "Powerful white collar criminals cheat consumers of millions of dollars. Too often these big-shot crooks escape the consequences of their acts."

Mr. Bell has increased the staff of the Justice Department's fraud section and is creating special economic crime enforcement units in 27 United States Attorneys' offices.

But the emphasis and effort, Justice officials said, have yet to solve the myriad problems that the Government encounters when it tackles a major corporation in a criminal case. From detection to prosecution, these cases confront the Government with a nearly immobilizing web of problems, some inherent, others created by the Government itself.

These problems fall into three main categories: problems produced by policy, problems of investigation, and problems of prosecution.

POLICY AND GOALS CLASH

While combating white-collar crime is called a high priority goal in the Carter Administration, specific policy within enforcement agencies does not make major corporations a leading target for investigation.

In the fraud section, for example, one of the main centers for investigating corporate wrongdoing, "our first priority was going after fraud in welfare, Medicare, Medicaid and other Federal programs," said Richard Beckler, chief of the fraud section until he left last month to enter private practice.

The tax division of the Justice Department is handicapped by the enforcement policy of the I.R.S., which, according to Thomas J. Clancy, director of criminal investigations, tries to spread its enforcement net as widely as possible to create a deterrent.

That policy left corporations, which paid 16 percent of the taxes collected by the Federal Government last year, subject to less than five percent of the I.R.S.'s investigative time. "Most of the cases referred to the tax division by the I.R.S. are against doctors, lawyers and other owners of a sole-proprietorship business," said Cono R. Namorato, once a revenue service agent and, until recently, Deputy Assistant Attorney General in the tax division.

ANOTHER SERIES OF OBSTACLES

When it does investigate a major corporation, the Justice Department faces another series of obstacles.

"One of our biggest problems is lack of investigative resources," said Robert B. Fiske Jr., United States Attorney for the Southern District of New York.

In the case of the Federal Bureau of Investigation, the Government's main source of investigative manpower, the difficulty is lack of training to unravel economic crimes. "This is an area that has only recently received emphasis at the F.B.I.," said Mr. Fiske. "The bureau is taking steps to recruit and train people in this area, but it takes time. You can't take a group of agents who have investigated street crimes for years and turn them into financial experts overnight."

The Federal investigators who do have such expertise, the agents of the I.R.S., are unavailable to help with non-tax criminal cases because of a provision in the 1976 Tax Reform Act. To protect the privacy of third-party financial records, such as tax information and bank records, the law forbids the I.R.S. to share its findings with other criminal investigators without a court order.

"The I.R.S. can't even tell us whom they're investigating, much less work with us," said Mr. Fiske.

HUGE MOUNDS OF EVIDENCE

Manpower shortages are compounded by the volume of documentary evidence produced in most cases involving major corporations. "The amount of paper is staggering," said Andrea S. Ordin, United States Attorney for the Central District of California, which includes Los Angeles.

Mrs. Ordin cited a case in her district in which half a million pages of documents were collected as part of an investigation into alleged bribery of an Alaskan telephone official by two California-based companies that are subsidiaries of Japanese corporations.

"It can take weeks of following the paper trail before we even know if there is a case worth pursuing," Mrs. Ordin said.

The combination of extensive documentary evidence and limited investigative manpower appears to account for the Justice Department's conduct in the fraudulent oil transfer case. Two years ago, executives of the Continental Oil Company, the nation's ninth largest oil corporation, voluntarily told the Government about an alleged scheme within the company to circumvent price controls on the sale of crude oil.

When the Federal Energy Administration eventually referred the case to the Justice Department, it was assigned for three months to an attorney in the fraud section, Gerald P. Egan, who was then deeply involved in prosecuting a land fraud case in Florida. "I was in trial," recalled Mr. Egan, "and I just didn't have time to work on the Conoco case."

Representative John Conyers, chairman of the House subcommittee on crime, has charged that the Government neglected the case until the statute of limitations had nearly run out, forcing the Justice Department to settle for a plea bargain and modest fine in the end. Officials say the case was handled as expeditiously as possible.

The 60 lawyers assigned to criminal tax cases must review about 2,400 cases a year. "The load is brutal," said a tax division official. "We're missing good cases against big corporations because we lack the manpower." Tax division requests for increased staff in the criminal section have been turned down by the attorney general's office the last two years.

"ALL-OUT GLOBAL WAR" IN COURT

The difficulties encountered in investigations are often eclipsed by problems that develop once a corporate crime case moves to court. Here, according to lawyers for both the Government and large corporations, the Government can be outmanned, outgunned and outmaneuvered in many ways.

"Any criminal case is war," said Mr. Ferguson of the tax division. "A criminal case against a major corporation is all-out global war. Corporations use every weapon they can afford, and they can afford a lot.

The major weapon is expert defense counsel. While the Government often goes to court with young, inexperienced lawyers, according to Justice Department officials, companies in trouble can hire such Washington lawyers as Judah Best, Arthur F. Mathews and Herbert J. Miller, who have years of experience handling corporate cases and who can frustrate the Government at every turn, say lawyers in Government and in the private sector.

In litigation of a case involving illegal tax havens, for example, defense attorneys, invoking the Freedom of Information Act, asked for an index of thousands of pieces of documentary evidence collected by the Government. It took 30 Government lawyers and investigators six weeks to prepare the index, according to Mr. Ferguson.

TRACING RESPONSIBILITY DIFFICULT

Pinning responsibility on specific corporate executives is another obstacle. "When you get into a big corporation, with multiple levels of supervision, it is hard to trace responsibility for misconduct," said Mr. Namorato.

The complexity of corporate cases also causes problems. Richard Blumenthal, United States Attorney for Connecticut, said, "The applicable laws in corporate cases are frequently the most complex, producing cases that are difficult to reduce to issues a jury can easily grasp."

When legal strategy fails, corporations can try using political leverage.

Given these problems in dealing with corporate crime, the Justice Department often finds a plea bargain an attractive compromise. Though department officials say they prefer to push for trial and conviction, the record shows a preponderance of plea bargains in corporate cases.

ATTRACTIVENESS OF A PLEA

"You almost go for a plea bargain unconsciously because of all the problems," said Mr. Namorato. "Given the choice between setting on a plea up front versus going to trial for six months and ending up with a hung jury, the average Government prosecutor would take the plea."

Frequently, records show, plea bargains include a substantial reduction in charges. In some cases involving felony violations, the Government has accepted a guilty plea on misdemeanor charges.●

THE DRAFT—A DIFFICULT CHOICE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. McCLOSKEY. Mr. Speaker, the difficult choice between a nonworkable All Volunteer Army and returning to the draft could not have been more poignantly stated than in a letter I received recently from the wife of a career army staff sergeant following a published discussion of the issue between our colleague from Ohio, Mr. SEIBERLING and myself.

The letter follows:

STOW, OHIO.

DEAR REPRESENTATIVE McCLOSKEY: The Akron Beacon Journal published your feelings on the future of the Draft and I felt compelled to write to you because although I am against the Draft I know that it is probably the only solution for the Armed Services.

My husband is a Staff Sgt. in the U.S. Army with 14 years of service. I have seen the Army up close in the 11 years we have been married.

Everything you mentioned as being wrong with the Volunteer Army is in fact true. Today's Army is made up of minority groups. They are people who don't want to work but want to draw a paycheck, of unemployables, of misfits and social outcasts. Nobody who can get a job as a civilian goes into the low paid Army.

In 1974 the pay was pretty good. Now, with inflation the past five years, I have to work to keep the bill collectors from our door and I can no longer afford to go with my husband as he is transferred from one place to another. We moved five times in the last ten years and each time it cost us more out of our own pocket for expenses that were not covered by moving allowances.

We returned from a tour of duty in Germany a year ago and what I saw there scared me a lot. On any given day of any given week, we could not have put 50% of our troops into combat. Drugs and alcohol are used on duty and officers and NCO's look the other way. In fact the Army actually encourages the use of alcohol and never is a Company party or picnic held that alcoholic beverages are not the central attraction. The Army could even be accused of pushing alcohol.

Drugs were a terrific problem when we were there. One barracks on one of the compounds was well known for its daily OD requiring an ambulance from the dispensary.

My husband is "old Army" and a Vietnam veteran. He likes the Army the way it use to be. He doesn't understand "Today's Army". We have seen a lot of 10–12 year men get out because they wouldn't have their families around the situations that exist at bases today.

I can confirm your belief that the Military is greatly out of shape and would be slaughtered just like the Divisions sent against North Korea at the beginning of the war. It scares the life out of me that my husband would have to lead and depend on the men in his company. They would be worthless.

I hate the idea of the Draft. I won't let my daughter go, I will personally take her to Canada first and unless the Army changes drastically my son will not go either.

The Military use to put homosexuals of both sexes out of the service as undesirable. They no longer do this. I will not have my children forced to be exposed to things they and not old enough to handle or worldly enough to be able to know what they are getting exposed to.

My children are being raised as middle class, well educated children. You cannot say the Army is composed of middle class, well educated people. It's more like lower class illiterate. If given the free choice now even at their age they would not choose to live in Watts over the suburban neighborhood we live in and for which I work to keep us in.

As much as I hate it, Draft is probably the only solution but things must change when the Draft resumes. Homosexuals must not be forced together with our children. The

Army's attitude about alcohol must take a 360° turn and a campaign to discourage drinking taken up. Stress on physical and mental fitness must be the order of the day, not how many drinks it takes to put the Sgt. under the table and who is the Company Macho drinker. Pay has to improve. A Family cannot live on today's pay. You are asking people to voluntarily live on the poverty line, how can you in good conscience force them to live that way. A man feels a failure if he cannot give his wife and children the things they need. He then drinks and the family eventually breaks up. This is good for society?

Careful planning must go along with any resumption of the Military Draft.

Sincerely,

ELIZABETH MCCULLEY.

[From the Akron Beacon Journal, June 25, 1979]

Compulsory National Service: A Cure or a Curse?

IT'S VITAL WE BE PREPARED

(By PAUL N. MCCLOSKEY, JR.)

The bill for a National Youth Service System is predicated on several basic premises.

First, the all-volunteer force concept is too expensive. We cannot afford to increase our manpower share of the defense budget above the present 55 percent in order to attract more volunteers. To do so, against the Soviet manpower percentage of only 23, would be to court disaster over the next two decades.

Any additional manpower expeditures should be at the staff non-commissioned officer levels and to attract re-enlistments, not new recruit. The key to this bill is the reduction of pay for junior enlisted personnel with less than two years of service back to subsistence levels.

Second, the all-volunteer force concept is not providing a combat ready army. The reserve and National Guard forces are not combat-ready. No one, even in the Defense Department, denies this admitted failure of the all-volunteer force concept.

In the event of a major war, the Selective Service System could not be reactivated quickly enough to deliver the additional 650,000 personnel required.

In December for the first time the Air Force was unable to meet its enlistment quotas with reasonably qualified applicants, a problem which has plagued the Army and Marine Corps for some time. For the last quarter of 1978, the percentage of qualified recruits for all of the four armed services dropped below established goals. The Air Force met only 95 percent of its quota, the Army 93 percent, the Marines 86 percent and the Navy 85 percent.

The Army has just asked for standby reinstitution of the Selective Service System, and a recent General Accounting Office report recommends this action as well.

These problems threaten our constitutional responsibility for the national defense. We are sorely in need of a system of military recruitment that can provide essential manpower. At the same time, we are failing to utilize a vast reservoir of the nation's youth to meet social, economic and environmental needs.

Combat readiness in 1979 means the readiness to go into combat on 24 hours' notice. It requires the physical fitness to run 10 miles at a stretch, training in the desert and jungles in the summer, and in arctic areas in the winter. How many reasonable young men and women today are going to volunteer to be combat-ready given the pursuit-of-happiness options otherwise available on all sides?

The whole purpose of the armed services of the next 20 years is hopefully not to fight, but to constantly be ready to fight. Combat readiness is a deterrent to foreign adventurism, unreadiness is an invitation to such adventurism.

Combat service requires a minimum of six months' basic combat training; it requires a minimum of six months' hard physical preparation. We are not in the situation, as in World Wars I and II, where oceans protected our ability to organize and train expeditionary forces, or, as in Vietnam, where circumstances permitted a gradual buildup against a poorly equipped indigenous force, essentially without airpower, tanks or naval support.

The early days of the Korean War provide a much more pertinent lesson. There, the sudden attack of the North Koreans forced President Truman to commit troops into combat who were neither physically in shape nor trained for the terrain and weather they encountered.

Four U.S. divisions, fat and comfortable from garrison duty in Japan, were originally no match for hard, tough North Korean soldiers. Many young U.S. soldiers were killed or captured as a direct result of their nonreadiness. The crack First Marine Division was not ready for the weather conditions it encountered at the Chosen Reservoir.

I was one of the first reserve officers to finally reach the battlefront, seven months after the initial attack, when we finally began to turn the tide. It was the reserves who turned the tide, but I stress again that it took six months at the very least to prepare those reserves to have even a minimum chance of survival.

To be combat ready, the training must come very close to combat conditions. It must sometimes be even more arduous than combat.

It is this disparity between the pleasures of present civilian life and the nature of combat training which should convince all of us that we are not going to get enough reasonable young men and women to volunteer to be combat ready.

Congress' responsibility

A combat ready army is perhaps the first responsibility of the Congress. We should never forget that the primary purpose behind our own Constitution was to give the power to the Congress to raise an army and provide for a navy.

We were not at war in 1787 when the Constitutional Convention convened, but it was clear that the independence earned in eight years of war against Great Britain was about to be lost unless the Congress was given power to protect the national security, a power lacking under the original Articles of Confederation. And that power was not one to be entrusted to the executive branch.

I trust the Defense Department's current statements that "the all-volunteer Army is working" about as much as I trusted their seven years of statements that we were "winning" in Vietnam.

Third, if for the above reasons a draft of U.S. citizens is inevitable, it is best that the armed forces of the United States represent a cross-section of the nation, from every walk of life and from every economic and intelligence level.

One of the tragedies of Vietnam was the heavy burden placed on minorities as a result of the congressionally imposed exemption for college students. With perhaps 21 percent of the U.S. population either black or Mexican-American, some 44 percent of the combat casualties were borne by those two minorities.

The same would be true today, since the Army's combat units contain an even more disproportionate share of minorities than they did during the Vietnam War. Recent recruiting scandals give credence to the suggestion that the poor and the poorly educated are much more subject to the blandishments of a recruiting team than are the white, well-educated and well-to-do.

A sense of obligation

Fourth, if the draft is indeed inevitable, at a time when perhaps only one out of six is needed—4.3 million young people turn 18 each year and 700,000 are needed—would it not be fair to ask all young people to accept the concept of a duty to the country?

It is my feeling that today's youth are not opposed to national service, they may well oppose the use of conscription to support undeclared wars such as Vietnam, but the young idealists who opposed Vietnam in 1969 were the same type of individuals who volunteered to serve in the Canadian Armed Forces in 1939, before the United States entered the war against Germany.

Duty, honor, country and a sense of obligation to serve the nation and mankind are very much a part of the ethic of today's youth.

Providing 700,000 men and women for the regular forces and a similar number for the reserves (may require) only one out of three young Americans for this national necessity. But this also involves a division of burden.

The active combat forces require at least two years of service. The ready reserve can well do with six months of full-time service and 5½ years of active reserve duty.

Why not also recognize a sense of duty for national service for everyone?

It is on this premise that a spirit of idealistic service has always characterized the best of our young people that the national youth service concept is based.

LIBERTY WOULD BE THE LOSER IF CONSCRIPTION FORCES WIN

(By JOHN F. SEIBERLING)

Compulsory inductions into the armed forces of the United States ended in December 1972. Six months later, with certain exceptions, the authority of the President to order inductions also expired.

Yet today, less than six years after the end of the draft, and with our nation at peace, we are once again hearing a rising chorus of calls for a resumption of compulsory military service.

I was recently asked if I thought a consensus exists in Congress for a return to the draft. In my opinion, such a consensus does not exist, but a few members of the House and Senate are doing their best to create one.

The current debate on the draft revolves around three issues: compulsory registration of young men (and, perhaps, of young women) with the Selective Service System; the draft itself; and so-called "universal national service."

The House Armed Services Committee recently approved an amendment to the annual Defense Department authorization bill (HR 4040) which, if enacted, will require all males turning 18 on or after Jan. 1, 1981, to register beginning in 1981.

The Senate Armed Services Committee has held hearings on whether to follow the same approach. Thus the first step has been taken in a campaign to revive the draft.

Let's take a look at some of the claims used to support proposals for registration, the draft and universal service, and the facts which, in my view, clearly refute them.

Registration

Besides requiring registration of all 18-year-old males, the committee's amendment would require the President to prepare a plan for reforming the Selective Service System, including such issues as drafting women and whether to register people in person or by culling names from school records, driver registration and other sources, after waiving application of the Privacy Act.

All registered persons would be required to notify the Selective Service whenever they change address, plan to leave the country or, in some cases, change jobs. It is unclear when, if ever, these reporting requirements would cease.

Historically, amendments or extensions of draft laws have been brought up as separate legislation—never before as part of a defense authorization. Certainly, an issue of such far-reaching implications should be handled separately.

Yet, after only limited hearings, the committee casually tacked the registration amendment on to the regular annual Department of Defense authorization bill.

What justification is offered for this unprecedented handling of such an unfair approach to a serious invasion of the privacy of a future generation of young Americans?

Supporters of peacetime draft registration claim that the Selective Service is incapable of meeting the Defense Department emergency manpower mobilization timetable, raising doubts that draftees could be delivered quickly enough in the event of a nonnuclear war (presumably in western Europe).

Yet the Selective Service System has said repeatedly that it can develop the capability to meet the mobilization timetable.

Acting Director Robert Shuck recently said his agency "is firmly convinced that we can develop and demonstrate a capability to register and deliver inductees within 30 days," without peacetime registration.

The Congressional Budget Office, in a November 1978 report, concluded that the Selective Service, with a small increase in funds and without peacetime registration is capable of delivering the first inductee in 25 days—five days ahead of the Pentagon's requested schedule. That brings us to the draft itself—the ultimate purpose of registration.

The draft

Supporters of the draft say the all-volunteer force isn't working—that it has failed to provide sufficient numbers of capable, intelligent men and women to meet the needs of a peacetime defense.

I find it strange indeed that some members of Congress argue that the volunteer force isn't working in the face of a comprehensive Defense Department report ("America's Volunteers," Dec. 31, 1978) which concludes that the volunteer force "has provided the military services with a full-strength active force of a quality equal to or superior to that achieved under the draft."

The same report goes on to say that, since the end of the draft, the active forces have remained within 1.5 percent of their congressionally authorized levels (in fact, by the end of last year they actually exceeded their planned manpower levels).

It further states that the quality of those serving on active duty has "not declined as popularly believed but has markedly and steadily improved since the end of the draft"; that retention of enlisted personnel has increased and is well above pre-Vietnam levels; and that disciplinary problems have declined. The Defense Department itself opposes a return to the draft, concluding that the "draft is not necessary."

Draft advocates also charge that we are facing a crucial shortage of personnel in the reserve force. They argue that a limited draft of 200,000 young people each year would solve the manpower problems in the reserves. The Defense Department estimates that the cost of such a limited draft would be $785 million a year (or $3,925 for each person inducted).

One would think it would be less costly to provide more incentives to encourage volunteers for the reserves.

A recently released report from the General Accounting Office concludes that "nearly 25 percent of the Army's deployable reserve has no assigned missions during the first six months following mobilization."

The report suggests that maintaining "unnecessary and unsupportable units in the reserves . . . is a misapplication of scarce resources and a burden to the management structure."

The Defense Department says that a "draft focused solely on the selected reserve or the Individual Ready Reserve" would involve practical difficulties. A selected reserve draft . . . could undermine community support for the reserves. An IRR draft would require that personnel with as little as 12 weeks of training be available for combat duty within 30 days of mobilization for a period of six years following this training.

"It is unclear whether such individuals could achieve and retain the necessary skills and physical conditioning with so little training."

The Defense Department concludes that "program changes being tested and implemented for the reserves . . . should be given a chance to work."

Since the evidence suggests that a limited draft would do little to solve the alleged problems of the reserves, it seems to me that we should at least give the Defense Department a chance to find more desirable alternatives.

Universal service

Promoters of so-called "universal national service" claim that by requiring every young man and woman to perform some type of national service the inherently discriminatory aspects of the draft will be eliminated. Moreover, they claim that universal service proposals are voluntary in the sense that they offer a number of choices, thus eliminating the coercive elements of the draft.

Under universal service, as exemplified by two bills introduced in the House, every young man and woman (except conscientious objectors) would be required to register with a National Service Board, to choose either civilian or military service (or participate in a lottery like that near the end of the Vietnam War), and be required to serve for from one to two years. The alternative, should one decline to register, would be up to two years in jail.

If there is doubt about the constitutionality of a peacetime military draft, there can be little doubt that a non-military draft in peacetime is unconstitutional—involuntary servitude, pure and simple, with no national defense need to peg it on.

Cost estimates of universal service range from $12 billion to $23 billion, according to the Department of Defense. A huge new bureaucracy would have to be created to assign all the "draftees" to their chosen jobs and make sure they performed them. At a time when Congress is subjecting every federal program to intense fiscal scrutiny, and cutting back even basic human services, promotion of universal national service is either unrealistic or unconscionable—or both.

The debate on Selective Service registration, the draft, and universal service will probably continue for some time. Those involved would do well to reflect on the words of the 13th Amendment to the Constitution: "Neither slavery nor involuntary servitude, except as punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

This unequivocal prohibition can be overridden only by the imperatives of national survival—when nothing short of compulsory service will suffice.

Yet the military hasn't even begun to demonstrate that its actual or anticipated manpower problems cannot be solved with better personnel management, more energetic recruiting, more women recruits, higher enlistment bonuses, and improvement of other benefits. On the contrary, the available facts show that registration and the draft are not necessary at this time.

This is not a partisan issue or a question of whether you favor or oppose increases in the defense budget.

The matter was well put by Congressman Ron Paul, a very conseravtive Republican from Texas, when he said:

"In today's world, we don't need an armed force of green kids to defend our country. Not to mention the cost inefficiency of spending billions to train one-hitch soldiers . . . using an authoritarian method such as the draft demeans our armed forces and our Constitution. It is a sign of military and societal weakness, not strength."

The ultimate in government intervention in people's lives is the draft, whether for military or civilian purposes. To accept a peacetime draft or registration is to accept the permanent regimentation of America's youth.

It strikes at the very heart of the American concept of personal liberty and a free way of life. The only justification for either registration or the draft is a clear necessity from the standpoint of national defense.

The burden of establishing the necessity should always be on those who would impose such a drastic curtailment of individual liberty. Its advocates have failed to meet that burden.●

AIRBAGS AND OPINION POLLS

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 1979

● Mr. VAN DEERLIN. Mr. Speaker, I chaired the Subcommittee on Consumer Protection and Finance during the 94th Congress.

I became convinced, during the course of exhaustive hearings, that airbags in all automobiles would significantly reduce the carnage on our highways. This slaughter is a national disgrace and, for many families, a great personal tragedy.

However, I felt there might be reluctance on the part of motorists to passive restraint systems. But public attitudes have matured. Five separate polls, the results of which follow, show that the public wants better crash protection.

A great number of well-respected groups also support airbags, and I have also included a list of the National Committee for Automotive Crash Protection. These groups will oppose the Dingell anti-airbag amendment.

Since I think action on auto safety is long overdue, I will oppose the amendment as well.

The material follows:

PUBLIC ATTITUDES TOWARD AUTOMATIC CRASH PROTECTION SYSTEMS

ABC NEWS-HARRIS SURVEY

January 1979—"Despite the public's reluctance toward more government spending, there are some federal programs, mainly those concerning health and safety, in which Americans would like to see the government make a more vigorous effort. These include programs dealing with auto safety." Some 86 percent of those surveyed felt that the federal government is "moving too slow" or at "just the right pace" in efforts to make automobiles more safe. More than half (51 percent) said the federal government is moving "too slow," while 35 percent said the pace is "just right."

PETER D. HART RESEARCH ASSOCIATES

May 1978—(for the U.S. Department of Transportation)—58 percent favor the automatic protection standard. Of those surveyed, 35 percent would choose an air bag at $350 extra, while 37 percent would choose an automatic belt even if there were no price difference. The public rates air bags above automatic or active belt systems for their safety protection, comfort, ease of use and appearance.

HARRIS AND ASSOCIATES

March 1978—(for Amtrak)—By 83 percent, auto safety is the most important improvement needed in the U.S. transportation systems (similar results were obtained in the Hart survey). For trips over 100 miles, 56 percent of those polled said they would choose the auto. Sixty-three percent said the government should spend more money to improve auto safety.

THE GALLUP POLL

July 1977—Although most drivers fail to use their seat belts—and overwhelmingly oppose laws that would fine a person for failing to do so—they nevertheless vote in favor of automatic protection in cars in the form of air bags. Some 46 percent of those surveyed favored requiring automakers to install air bags in cars. The standard allows for automatic belts as well as air bags, but this issue was not raised in the survey.

YANKELOVICH SURVEY

September 1976—(for Motor Vehicle Manufacturers Association)—Of the 62 percent who knew what an air bag is, 35 percent said they would pay $100 or more for one. Of that 62 percent group, 76 percent said they perceived at least one or more benefits from air bags.

NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

LIST OF MEMBERS

Allstate Insurance Companies.

American Academy of Pediatrics.

American Association of Physical Medicine and Rehabilitation.

American Coalition of Citizens with Disabilities.

American Congress of Rehabilitation Medicine.

American Family Insurance Group.

American Insurance Association.

American Nurses Association, Division on Medical Surgical Practice.

American Public Health Association.

American Trauma Society.

Amica Mutual Insurance Company.

Association of Massachusetts Consumers.

The Atlantic Companies.

Automobile Club of Missouri.

Automobile Owners Action Council.

Susan P. Baker, Associate Professor, Johns Hopkins School of Hygiene and Public Health.

Cal Farm Life Insurance Company.

Center for Auto Safety.

Center for Concerned Engineering.

Center for Independent Living.

Chubb & Son, Inc.

Colonial Penn Insurance Company.

Commercial Union Assurance Companies.

Congress Watch.

Craig Hospital, Denver, Colorado.

Crum & Forster Insurance Companies.

Disability Rights Center.

Employers Insurance of Wausau.

Epilepsy Foundation of America.

Farmers Insurance Exchange.

Government Employees Insurance Company.

Harleysville Insurance.

The Hartford Insurance Group.

International Association of Chiefs of Police.

League Insurance Group.

Liberty Mutual Insurance Company.

Maryland Institute for Emergency Medical Services.

Mid-Atlantic Emergency Medical Services Council.

Ralph Nader, Attorney.

National Association of Emergency Medical Technicians.

National Association of Independent Insurers.

National Association of Mutual Insurance Companies.

National Association of Professional Insurance Agents.

National Consumers League.

National Safety Council.

National Spinal Cord Injury Foundation.

Nationwide Insurance Company.

Norte Vista Medical Center., Hobbs, New Mexico.

Ohio Farmers Insurance Company.

Physicians for Auto Safety.

Physicians National Housestaff Association.

Prudential Insurance Company of America.

Prudential Property & Casualty Insurance Company.

Safeco Insurance Company of America.

Saint Paul Fire & Marine Insurance Company.

State Farm Insurance Companies.

S. Lynn Sutcliffe, Attorney.

Travelers Insurance Companies.

United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).

United Services Automobile Association.

Wisconsin Consumers League.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 31, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 1

9:00 a.m.

Governmental Affairs

To hold hearings on S. 930, to restrict free Federal employee parking.

3302 Dirksen Building

9:30 a.m.

Environment and Public Works

Business meeting on pending committee business.

4200 Dirksen Building

Labor and Human Resources

Business meeting, to resume consideration of S. 446, to provide legal protection to the employment rights of handicapped citizens.

4232 Dirksen Building

*Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

2228 Dirksen Building

10:00 a.m.

Armed Services

To continue hearings on the military implications of the SALT II Treaty.

318 Russell Building

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 524, 581, 730, 932 (as passed the House), 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.

5302 Dirksen Building

Budget

Business meeting, to continue markup of the second concurrent resolution on the Congressional budget for fiscal year 1980.

6202 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Finance

To resume consideration of proposed Internal Revenue Service procedures on tax-exempt schools, pertaining to the deduction of certain charitable contributions and IRS collection procedures.

2221 Dirksen Building

Foreign Relations

To continue hearings, in closed session, on the SALT II Treaty.

S-116, Capitol

Joint Economic

To hold hearings to examine the proposal to establish a regulatory budget relating to the need for a cost effectiveness requirement for major government regulations.

1202 Dirksen Building

11:00 a.m.

Judiciary

Constitution Subcommittee

Business meeting, to consider S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.

5110 Dirksen Building

1:30 p.m.

Conferees

On S. 237, to clarify and expand jurisdiction of U.S. magistrates and improve access to the Federal courts.

S-207, Capitol

2:30 p.m.

Governmental Affairs

To continue hearings on S. 930, to restrict free Federal employee parking.

3302 Dirksen Building

3:00 p.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the management and implementation of hazardous waste programs under the Resource, Conservation, and Recovery Act, 1976.

1224 Dirksen Building

Select on Ethics

To hold an open and closed business meeting.

EF-100, Capitol

4:00 p.m.

Conferees

On S. 544, to revise and extend, through fiscal year 1982, programs administered under the Public Health Service Act.

H-139, Capitol

AUGUST 2

8:30 a.m.

Veterans' Affairs

To hold hearings on S. 1518, to allow for the disclosure of certain information by the Veterans' Administration to consumer reporting agencies in order to make assessments in cases of outstanding debts.

457 Russell Building

9:00 a.m.

Foreign Relations

To continue hearings on the SALT II Treaty.

318 Russell Building

9:30 a.m.

Select on Small Business

To hold hearings on small business and innovation.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 524, 581, 730, 932 (as passed the House), 1377, and 1409, all of which provide for the development, production, and financial assistance of energy resources programs.

5302 Dirksen Building

Budget

Business meeting, to continue markup of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Governmental Affairs

Civil Service and General Services Subcommittee

To hold hearings on S. 1340, to provide for closer comparability between Federal and non-Federal employee compensation relating to the President's proposed program to reform the Civil Service System.

3302 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the activities of the Indian Health Service, Department of Health, Education, and Welfare.

5110 Dirksen Building

Joint Economic

International Economics Subcommittee

To hold hearings to examine the scope of U.S. export policy.

S-207, Capitol

10:30 a.m.

Judiciary

To hold hearings to examine the policy and intent of a statutory charter which defines the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

2:30 p.m.

Conferees

On H.R. 3875, to amend and extend through fiscal year 1980 certain Federal laws relating to housing, community and neighborhood development and preservation programs.

H-137, Capitol

AUGUST 3

10:00 a.m.

Budget

Business meeting, to continue markup of the second concurrent resolution on the congressional budget for fiscal year 1980.

6202 Dirksen Building

Judiciary

To resume hearings on S. 1246, to protect against the growth of a monopoly power among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

Select on Indian Affairs

Business meeting, to mark up S. 751, to provide for the relocation and resettlement of the Navajo and Hopi Indians.

357 Russell Building

Joint Economic

To hold hearings on the employment-unemployment situation for July.

6226 Dirksen Building

SEPTEMBER 6

9:30 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume hearings on S. 568, to promote the advancement of women in scientific, professional, and technical careers.

4232 Dirksen Building

SEPTEMBER 10

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 11

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 12

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

457 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1979.

235 Russell Building

SEPTEMBER 13

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1581 and 1582, bills authorizing funds through fiscal year 1990 for airport development aid programs under the Airport Airway Act, 1970.

235 Russell Building

SEPTEMBER 18

9:30 a.m.

Labor and Human Resources

To hold hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 19

9:30 a.m.

Labor and Human Resources

To continue hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

Veterans' Affairs

To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 20

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.

235 Russell Building

SEPTEMBER 25

11:00 a.m.

Veterans' Affairs

To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.

5110 Dirksen Building

OCTOBER 1

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

OCTOBER 3

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All

Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

OCTOBER 10

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

CANCELLATIONS

AUGUST 1

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

Governmental Affairs

To continue joint oversight hearings with the Subcommittee on Energy, Nuclear Proliferation, and Federal Services, on the activities of the Department of Energy.

3302 Dirksen Building

AUGUST 2

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building